

REPORTER'S RECORD

VOLUME 8 OF 9 VOLUMES

TRIAL COURT CAUSE NO. 296-83565-2025

COURT OF APPEALS NO. 05-26-00840-CR

STATE OF TEXAS	)	IN THE DISTRICT COURT
	)	
VS.	)	COLLIN COUNTY, TEXAS
	)	
KARMELO SINCERE ANTHONY	)	296TH JUDICIAL DISTRICT

JURY TRIALJUNE 9, 2026

On the 9th day of June, 2026, the following proceedings came on to be held in the above-titled and numbered cause before the Honorable John Roach, Jr., Judge Presiding, held in McKinney, Collin County, Texas.

Proceedings reported by computerized stenotype machine.

Jan Dugger, CSR
296th District Court

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(Reporter's note: "*" denotes for record purposes only)

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P R O C E E D I N G S

THE COURT: We are on the record in State versus Anthony. Present in the courtroom are counsel for the State, counsel for the Defense, and the Defendant. Both sides have closed, as of yesterday. The Court has been working off the record with the attorneys with regard to the proposed jury instructions. I have a copy of that in front of me, as do counsel.

Does the State have any objections?

MR. WIRSKYE: No, Your Honor.

THE COURT: Does the Defense?

MR. HOWARD: Yes, Your Honor.

THE COURT: Okay. Let's do them one at a time. And, hey, we are going to do lavalier-time.

MR. HOWARD: I just realized.

Can you hear me, Judge?

THE COURT: Yes, sir.

MR. HOWARD: Yes, Your Honor. The Defense objects to the charge as it includes what is commonly referred to as the provoking the difficulty instruction that's included in, I believe, 931 of the Texas Penal Code. That, I believe, being included on what is now page four of the proposed jury charge under the self-defense/deadly force heading, where it says the use of force against another is not justified -- and I'm

09:17:42 1 referring, specifically, to subsection 2A and B on page
09:17:46 2 four -- that the actor provoked the other's use or
09:17:49 3 attempted use of unlawful force unless the actor
09:17:51 4 abandons, et cetera. Through A and B.

09:17:56 5 THE COURT: And you filed a brief with
09:17:58 6 the Court, for record purposes only, Defense -- did I
09:18:01 7 hear A?

09:18:01 8 MR. HOWARD: Yes, it is -- at this time,
09:18:03 9 I would offer Defense Exhibit-15A for record purposes
09:18:07 10 only.

09:18:08 11 THE COURT: It is admitted.

09:18:09 12 MR. HOWARD: This is the brief. The case
09:18:12 13 law is in there. I will quickly just summarize. Under
09:18:16 14 the Smith v. State factors, which are summarized in the
09:18:23 15 brief, and then expanded upon under Elizondo, which is
09:18:27 16 also cited in the brief, we believe that while there has
09:18:33 17 been evidence that some act or words could be construed
09:18:36 18 as provocation in a general sense, under Smith factor
09:18:44 19 one and possibly two, that they do not satisfy factor
09:18:50 20 three.

09:18:51 21 And that that being that the -- in order
09:18:55 22 to even instruct the provoking the difficulty, the Court
09:18:58 23 has to find that a reasonable juror could find beyond a
09:19:03 24 reasonable doubt from the evidence all three factors.
09:19:05 25 we believe that that is not the case on factor three --

09:19:09 1 I think it is two or three, but definitely three.

09:19:14 2 I would point out that our facts track
09:19:17 3 the facts in Elizondo --

09:19:18 4 THE COURT: No, they don't.

09:19:19 5 MR. HOWARD: Well, my argument being that
09:19:21 6 they track the facts in Elizondo very much. I believe
09:19:24 7 there is -- reasonable minds can differ about specifics,
09:19:29 8 but at the end of the day, I believe the analysis by the
09:19:32 9 Court of Criminal Appeals in Elizondo holds, and that it
09:19:39 10 is error to include it and it will cause harm. I
09:19:44 11 believe under the harm analysis that -- as is explained
09:19:48 12 in Elizondo, it is some harm, one of the factors is
09:19:53 13 arguments by counsel.

09:19:55 14 I don't know what counsel is going to
09:19:57 15 argue, and obviously, I can't make a harm analysis right
09:20:01 16 now, but I find it very difficult to believe that the
09:20:05 17 government or I won't go into provocation. Being that
09:20:08 18 the government gets to close after me, I feel like I
09:20:11 19 must go into provocation, being that they get to go
09:20:16 20 after me. And so just the inclusion itself will make me
09:20:20 21 go into it, and I think it would be ineffective
09:20:23 22 assistance not to; and therefore, I think that harm
09:20:26 23 analysis gets triggered and is reversible error. So I
09:20:30 24 will offer 15A.

09:20:32 25 THE COURT: 15A has already been admitted

for record purposes only.

Does the State want to be heard?

MR. WIRSKYE: Just briefly, Your Honor.

I think counsel's argument primarily focused around the third prong of Elizondo, which is the pretextual prong. We believe there is plenty of evidence that a rational jury could find beyond a reasonable doubt that there was provocation and pretext in this case. I specifically direct the Court to multiple statements by the Defendant, touch me, see what happens; touch me, find out what happens; the evidence from multiple witnesses that the Defendant sat there with an already-open folding pocket knife in his backpack ready to go; the lack of defensive wounds, which showed the stab was near immediate to the touch; and then finally, we have witness testimony that he sat there, and it was the witnesses' impression that he looked like he had a plan.

So for those reasons, we think provocation should be included in the Court's charge.

THE COURT: Okay. The Court is going to deny that request by the Defense.

MR. HOWARD: Yes, Your Honor. And just to preserve -- you know, I mean often, when something is offered, at the time it is offered in front of the jury,

09:21:40 1 I would have to object at that time, I have never in a
09:21:44 2 trial been asked if there is an objection to the charge
09:21:47 3 before the Court reads it. I don't know how to handle
09:21:50 4 that in order to preserve.

09:21:52 5 THE COURT: What are you asking me?

09:21:54 6 MR. HOWARD: Just procedurally, does Your
09:21:56 7 Honor, before you read the jury charge, ask either side
09:21:59 8 if there is objections?

09:22:00 9 THE COURT: I am asking you now.

09:22:02 10 MR. HOWARD: No, I know. But, I mean,
09:22:03 11 sometimes -- I know that courts have held in other
09:22:06 12 situations where if you lodge an objection outside the
09:22:11 13 presence of the jury, and then when that thing comes up
09:22:13 14 in front of the jury, if you don't re-urge your
09:22:15 15 objection, that you can waive. So I guess, just for
09:22:19 16 simplicity, may I have a running objection so that I
09:22:23 17 don't need to awkwardly offer an objection at a time
09:22:25 18 that I wouldn't be asked for one?

09:22:27 19 THE COURT: Yes, sir.

09:22:28 20 MR. HOWARD: Thank you. So before the
09:22:29 21 Court's jury charge, I will just give my running
09:22:32 22 objection at that time, before it is read.

09:22:34 23 THE COURT: Okay.

09:22:34 24 MR. HOWARD: Thank you, Judge.

09:22:36 25 THE COURT: Are there any other

09:22:36 1 objections?

09:22:36 2 MR. HOWARD: No other objections, other
09:22:38 3 than previously stated.

09:22:39 4 THE COURT: You had asked for another
09:22:51 5 lesser-included offense yesterday.

09:22:54 6 MR. HOWARD: Oh, thank you, Your Honor.
09:22:55 7 Yes. The Defense would also object that the Court has
09:23:00 8 not included the lesser-included offense of criminally
09:23:04 9 negligent homicide. The -- as the Court is well aware,
09:23:07 10 the difference between manslaughter and criminally
09:23:10 11 negligent homicide is simply awareness or lack of
09:23:12 12 awareness of the substantial and unjustifiable risk. I
09:23:17 13 believe that because the evidence is murky on that,
09:23:24 14 that --

09:23:25 15 THE COURT: On what? What's that?

09:23:28 16 MR. HOWARD: I'm sorry, Judge. On the
09:23:28 17 issue of whether or not Mr. Anthony was -- was aware,
09:23:36 18 that the safest thing to do, and the legally correct
09:23:42 19 thing to do, to allow the jury to make reasonable
09:23:48 20 deductions from the evidence, to decide that factor, is
09:23:50 21 to include both. So I would object without --

09:23:53 22 THE COURT: Both manslaughter and
09:23:54 23 criminally negligent homicide?

09:23:55 24 MR. HOWARD: Both manslaughter and
09:23:57 25 criminally negligent homicide.

09:23:59 1 MR. WIRSKYE: As we discussed yesterday,
09:24:00 2 Your Honor, just very briefly, we believe the evidence
09:24:04 3 isn't murky; there just isn't any evidence in the record
09:24:07 4 that the Defendant was unaware of the risk. And for
09:24:10 5 those reasons, we objected to the inclusion of negligent
09:24:12 6 homicide, and do so now.

09:24:16 7 THE COURT: Okay. The Court is going to
09:24:17 8 deny the Defendant's request to include criminally
09:24:19 9 negligent homicide in the jury instructions.

09:24:23 10 MR. HOWARD: And, Your Honor, may I have
09:24:24 11 that same running objection on this issue as well?

09:24:27 12 THE COURT: Yes, sir.

09:24:28 13 MR. HOWARD: Thank you, Judge.

09:24:29 14 THE COURT: Are there any other
09:24:31 15 objections by the Defense with regard to the jury
09:24:34 16 instructions?

09:24:35 17 MR. HOWARD: No, Your Honor.

09:24:36 18 THE COURT: Okay. All right. What we
09:24:38 19 are going to do, is we are going to bring in the jury.
09:24:40 20 I am going to read the jury instructions out loud to
09:24:44 21 them -- go ahead and get them lined up -- and then once
09:24:47 22 I conclude that, we will go into closing arguments. The
09:24:51 23 Court has allotted 35 minutes per side with regard to
09:24:56 24 the timing of their closing arguments. Once that's
09:24:59 25 done, we are going to turn it over to the jury.

09:25:03 1 Counsel and the Court had an agreement
09:25:06 2 yesterday that we would divide the alternates from the
09:25:10 3 main jury. Y'all have that list. We are going to do
09:25:14 4 that in the back. We are going to put the alternates in
09:25:18 5 one spot and the deliberating actual jury in another.

09:25:23 6 Is that your agreement, Mr. Wirskey?

09:25:27 7 MR. WIRSKYE: Yes, Your Honor.

09:25:27 8 THE COURT: Mr. Howard?

09:25:28 9 MR. HOWARD: Yes, Your Honor.

09:25:29 10 THE COURT: Okay.

09:26:09 11 THE BAILIFF: All rise.

12 (Jury present.)

09:26:22 13 THE COURT: All right. Good morning,
09:26:24 14 ladies and gentlemen. Everyone be seated.

09:26:26 15 As we ended yesterday, I told you, you
09:26:31 16 have heard all of the evidence that you are going to
09:26:33 17 hear in this case, and that is true. What you have not
09:26:35 18 heard is the jury instructions, which we have talked
09:26:37 19 about a couple of times during this process, and closing
09:26:40 20 arguments of counsel.

09:26:41 21 The law requires me to read the jury
09:26:44 22 instructions out loud to you in open court, which I am
09:26:46 23 about to do. At times, I read it kind of fast, okay?
09:26:49 24 But remember, you do not have to memorize this. The
09:26:52 25 actual -- the jury instructions that I am reading from

09:26:55 1 will be placed into the jury room that will guide you in
09:26:57 2 your deliberations. So you don't have to memorize it,
09:27:00 3 but I do have to read it out loud, okay? Once we
09:27:03 4 conclude that, then we will move into closing arguments.

09:27:06 5 (Court's Charge read aloud.)

09:40:52 6 THE COURT: All right. Ladies and
09:40:53 7 gentlemen, we are going to turn it over to the lawyers
09:40:56 8 for their closing argument. We are going to start with
09:40:58 9 the State of Texas.

09:40:59 10 Mr. Wirskeye.

09:40:59 11 MR. WIRSKYE: Your Honor, ladies and
09:41:01 12 gentlemen, at this time, we would waive our right to
09:41:03 13 open and reserve our right to respond.

09:41:05 14 THE COURT: Okay. Mr. Howard.

09:41:08 15 MR. HOWARD: Thank you, Your Honor. May
09:41:08 16 it please the Court --

09:41:10 17 THE COURT: Yes, sir.

09:41:10 18 MR. HOWARD: -- Counsel.

09:41:11 19 Ladies and gentlemen of the jury, Austin
09:41:25 20 Metcalf had no legal right to use force to eject Karmelo
09:41:35 21 Anthony from that tent. He had the right to ask him to
09:41:42 22 leave, but he didn't have any right to use illegal force
09:41:49 23 to eject him. He is not defending himself. He's not
09:41:52 24 defending a third party. He is not ejecting Melo from
09:41:56 25 his home. He had no legal right to put his hands on

09:42:02 1 Karmelo. Karmelo Anthony is in a public place.

09:42:07 2 Before I go into the facts, this jury
09:42:15 3 charge is extremely important. It is why the judge just
09:42:18 4 read it to you. It is why you get to take it back with
09:42:20 5 you to help you guide -- to guide you through your
09:42:25 6 deliberations. There is a reason why we start talking
09:42:30 7 about this stuff in jury selection, and then I say it
09:42:33 8 over and over throughout the trial, and then you hear it
09:42:35 9 again in the jury charge, and then you get to take a
09:42:38 10 copy back, and it even starts at the very top of the
09:42:41 11 jury charge, when it talks about all persons are
09:42:42 12 presumed innocent and no person may be convicted unless
09:42:46 13 each and every element of the offense is proved beyond a
09:42:49 14 reasonable doubt.

09:42:50 15 It is the government's burden to rule out
09:42:55 16 very logical, possible reasonable doubt, including
09:42:58 17 self-defense, as it has been raised and you've been
09:43:02 18 charged; and if they can't, the verdict has to be not
09:43:06 19 guilty. The presumption of innocence alone is
09:43:08 20 sufficient to acquit the Defendant, unless you are
09:43:12 21 satisfied beyond a reasonable doubt. The government
09:43:16 22 must rule out every logical, possible reasonable doubt,
09:43:20 23 including self-defense, or your verdict must be not
09:43:25 24 guilty.

09:43:25 25 It is required that the prosecution's

09:43:28 1 proof excludes all reasonable doubt, including the
09:43:31 2 Defendant's guilt. This is such an important thing that
09:43:34 3 we tell you over and over and over in the law in
09:43:37 4 different ways, because we know that it is not the way
09:43:41 5 we, as human beings, normally think. It is normally not
09:43:45 6 the answer is definitely this unless I have no
09:43:49 7 reasonable doubt in my mind about it, right? That's not
09:43:52 8 the way human beings think.

09:43:53 9 But when we asked you guys to come down
09:43:56 10 here and answer the call and perform your civic duty --
09:43:59 11 that you have, and we all appreciate -- we ask you this
09:44:06 12 incredibly tough task, and that is to follow the law,
09:44:08 13 which you told us you will, and I know you will.

09:44:11 14 And then you can take this back there,
09:44:15 15 but if you go to page five, then when it talks about
09:44:24 16 reasonable doubt, when it talks about self-defense, it
09:44:27 17 goes and says, if you further find from the evidence or
09:44:29 18 have a reasonable doubt thereof that it was
09:44:34 19 self-defense, you must acquit the Defendant.

09:44:36 20 So let's talk about this case. The
09:44:44 21 government wants to make this case about Melo could have
09:44:50 22 just left. And I understand that; it is a natural thing
09:44:55 23 to think. And he could have. It is true. He didn't
09:44:59 24 have a legal duty to; he didn't have to, but he could
09:45:02 25 have. I'm sure he wishes he did. We all do.

09:45:06 1 You heard that a track event is a social
09:45:12 2 event. Everybody but the Memorial team seems to believe
09:45:20 3 that before -- on April 2nd, 2025 and before, it was
09:45:25 4 completely common for kids to be milling about to see
09:45:28 5 their friends that they went to middle school with or
09:45:31 6 their friend that happens to be friends with their
09:45:33 7 girlfriend, or whatever, and go by and say hi. Stop
09:45:38 8 into the tent, sit down maybe 30 seconds, maybe 10
09:45:42 9 minutes, and that it was perfectly okay.

09:45:44 10 We know that it was raining. I don't
09:45:49 11 know why we had to have this argument about rain, but in
09:45:53 12 opening statement, the government said it was a light
09:45:55 13 rain. It is not a big deal, but you saw it and you
09:45:59 14 heard testimony from their own witnesses from Memorial
09:46:01 15 about hard rain, on-and-off ominous clouds, dark clouds
09:46:07 16 coming in. And we all know we can use our reasonable
09:46:13 17 common sense, we are all here in Texas. We know how
09:46:16 18 Texas weather is. It pours and then it stops, and you
09:46:19 19 think it is done, and then it pours again. So it is
09:46:23 20 reasonable to think, boy, I better get out from under
09:46:26 21 this rain, and even when the rain stops, like, yeah, but
09:46:29 22 I don't know.

09:46:29 23 Now, in their opening statement, Mr.
09:46:37 24 wirsky, for the government, says that Karmelo slipped
09:46:42 25 into the tent, like it was some sneak, except his own

09:46:45 1 witnesses said, oh, yeah, I saw him; he walked right up,
09:46:48 2 sat down next to me, said to [REDACTED] crazy weather,
09:46:55 3 huh. That's not exactly sneaking in, slipping in.
09:46:59 4 Multiple of their own witnesses said he was called over
09:47:02 5 by [REDACTED] Multiple witnesses said it was friendly; they
09:47:09 6 seemed friendly. They talked, they dapped each other
09:47:13 7 up; they talked. [REDACTED] said that he thought
09:47:18 8 Melo was taking shelter from the rain. [REDACTED]
09:47:20 9 said, yeah, we had no problem with him being under the
09:47:28 10 tent while it was raining.

09:47:29 11 So the charge that you have read and you
09:47:34 12 have heard and you will read, I'm sure, says over and
09:47:38 13 over that you have to consider the facts from Karmelo's
09:47:45 14 shoes. You have to put yourself in his shoes when you
09:47:49 15 make these important decisions about whether the
09:47:53 16 government has ruled out the logically-possible
09:47:56 17 reasonable doubt that he was defending himself.

09:47:57 18 And so you start under that tent. You
09:48:01 19 walk, you are trying to get out of the rain, you are
09:48:04 20 looking for a spot. We have heard the Liberty tent was
09:48:08 21 packed to the gills. Right next to it is the Memorial
09:48:12 22 tent; hey, I know people from Memorial. You walk over
09:48:14 23 there, and sure enough, one of the people you know from
09:48:17 24 Memorial says, hey, man, come on over: [REDACTED]
09:48:21 25 You sit down; crazy weather, huh. You talk; it is

09:48:24 1 friendly. Everything seems fine. Everything is fine
09:48:27 2 for several minutes. After all, you have been there
09:48:31 3 before and there was no problem before. After all, it
09:48:36 4 is super common for kids to walk around and see their
09:48:39 5 friends.

09:48:39 6 And then all of a sudden, [REDACTED]
09:48:42 7 or Austin, a little unclear which one was first,
09:48:48 8 confronts and says, who are you? You need to leave.
09:48:54 9 And I think it is reasonable in that situation for you
09:48:57 10 to be confused. Wait a minute, what do you mean? It is
09:49:00 11 raining. I have got no tent. I am just here talking to
09:49:04 12 my friend.

09:49:04 13 You heard testimony that Melo said no one
09:49:08 14 has a problem with me being here but y'all, talking to
09:49:11 15 [REDACTED] and Austin. It is reasonable to think, why are
09:49:15 16 they so mad? You heard testimony that it started out
09:49:19 17 medium mad, and then [REDACTED] got more and more mad as he
09:49:23 18 said it over and over. So it is reasonable to think,
09:49:25 19 are you kidding? We've all had someone joke with us and
09:49:31 20 they do it super serious and we don't know for half a
09:49:35 21 second and then we are, like, oh, okay. So, is he
09:49:37 22 kidding? Oh, no, he is really mad.

09:49:39 23 And then ask yourself, as multiple people
09:49:43 24 are around you in this 15-to-20-person tent, where there
09:49:49 25 is not much room for anybody else to fit unless you, as

09:49:52 1 [REDACTED] said, cram them in, as [REDACTED] is getting more and
09:49:57 2 more mad and Austin is joining in, these guys who are
09:50:01 3 much bigger than you, [REDACTED] is seated right in front of
09:50:04 4 you, turned around, telling you to leave, angrily, more
09:50:08 5 and more angry, do you turn your back and walk away and
09:50:14 6 take the chance that these angry teenage boys with the
09:50:18 7 raging hormones and all of their teammates around them,
09:50:21 8 do they grab you from behind where you can't defend
09:50:27 9 yourself? Do their teammates jump in?

09:50:32 10 I think it is a really important fact,
09:50:36 11 that you have heard over and over, that Melo was seated
09:50:40 12 throughout this. And I will be fair; there was some
09:50:43 13 witnesses who said that he stood. But I think it is
09:50:45 14 pretty clear, from all of the witnesses, over and over,
09:50:49 15 Melo was seated. He was still seated. As they stood
09:50:52 16 up, he was still seated. As they came towards him, he
09:50:55 17 was still seated. As they stood over him, he was still
09:50:58 18 seated. So sure, Austin and [REDACTED] and their
09:51:05 19 friends had a right to tell Melo to leave -- of course
09:51:09 20 they did -- but they didn't have the legal right to use
09:51:13 21 force to eject him.

09:51:15 22 You heard testimony that although there
09:51:17 23 wasn't a coach under their tent right that second, that
09:51:21 24 there are coaches everywhere. There are coaches right
09:51:25 25 by the Liberty tent, coaches walking around. You can

09:51:28 1 easily go get a coach and say, hey, we have got this kid
09:51:31 2 in our tent, we don't want him there, and he is not
09:51:35 3 leaving; and then an adult can come over and handle this
09:51:38 4 situation. But a hit, shove, a push is the unlawful use
09:51:43 5 or attempted use of force, and Melo had an absolute
09:51:49 6 right to defend himself against that.

09:51:51 7 Now, ladies and gentlemen, the thing
09:51:55 8 about self-defense is that, of course, you can't use it
09:52:01 9 too early, before it is justified. But you can't use it
09:52:06 10 too late, either. And the rub, the devil of the
09:52:12 11 details, is how you know in a split second of chaos when
09:52:16 12 it is too late. Because if you wait until it is too
09:52:20 13 late to defend yourself, self-defense is meaningless; it
09:52:25 14 is an empty right.

09:52:27 15 The law says that you are justified to
09:52:31 16 use even deadly force when and to the degree you
09:52:35 17 reasonably believe that it is immediately necessary
09:52:42 18 against someone's use or attempted unlawful use of
09:52:47 19 deadly force. And, of course, deadly force, as defined
09:52:51 20 in the jury instructions, is force that is capable of
09:52:54 21 causing death, but also serious bodily injury, which is
09:52:58 22 also defined for you, right?

09:52:59 23 So we heard all the way back in jury
09:53:07 24 selection -- which I know feels like a month ago; it
09:53:10 25 does to me, too -- but all the way back in jury

09:53:13 1 selection, veneer person number 19 on the first row
09:53:17 2 happened to be a law enforcement officer, police
09:53:21 3 officer, said if someone punches me in the face and I
09:53:23 4 fall and break my neck, yeah, a punch can kill you. It
09:53:28 5 can also break your jaw. Serious bodily injury,
09:53:31 6 especially when someone is so much bigger than you,
09:53:37 7 six-one, 213 pounds versus five-seven, five-eight, 130,
09:53:44 8 especially when six-one, 213, is multiplied by two, with
09:53:52 9 10 or 15 or 20 of their teammates around them.

09:53:55 10 Now, ladies and gentlemen, we heard a lot
09:54:03 11 of differing accounts from the kids that were under that
09:54:07 12 tent.

09:54:07 13 Judge, I don't think I asked for a
09:54:08 14 warning. Can I have a five-minute warning?

09:54:11 15 THE COURT: Yes.

09:54:12 16 MR. HOWARD: Thank you, Judge.

09:54:12 17 We heard a lot of different accounts from
09:54:14 18 the kids under the tent. I know it is obvious, but let
09:54:19 19 me just say it. Every single one of them are Memorial
09:54:23 20 kids. That doesn't mean they are liars; it doesn't mean
09:54:26 21 they are bad. Of course not. But it does mean, and it
09:54:28 22 is common sense, that we should be on guard for them
09:54:32 23 having a bias, because of course they would. Austin was
09:54:36 24 their teammate, their brother, their leader. They
09:54:40 25 looked up to him.

09:54:41 1 There is nothing wrong with that at all.
09:54:45 2 But it is completely logical to ask yourself, well, I
09:54:51 3 don't know, are they telling this story completely
09:54:53 4 neutrally and fairly? That doesn't mean you have to
09:55:01 5 think they even are intentionally changing their story,
09:55:02 6 because, of course, we know that unconscious bias,
09:55:06 7 sometimes we want something to be true so much, we are
09:55:09 8 so hurt that we convince ourselves of something
09:55:14 9 differently, especially when we are all talking to each
09:55:16 10 other and hearing what they said happened.

09:55:18 11 So we heard a very jumbled account of
09:55:23 12 what happened under that tent. Where is Melo sitting?
09:55:25 13 He is in the top-right corner, he is in the center, he's
09:55:29 14 at the bottom, he is left, he is right. Where are
09:55:31 15 Austin and [REDACTED] They are to his left, they are to
09:55:34 16 his right, they are right below him, they are two rows
09:55:36 17 down, they are five rows down.

09:55:38 18 How hard was the contact? It was just a
09:55:41 19 nudge, it was light, it was hard, it was a shove, it was
09:55:44 20 a hit, it was a lineman drill, it was a linebacker --
09:55:47 21 like a linebacker hit.

09:55:50 22 We heard a jumble of what Melo did when
09:55:55 23 he left the tent. He ran, he walked calmly away, he
09:56:01 24 tried to escape, he tried to blend in, he went to the
09:56:05 25 track to a coach. But thankfully, we have a video, and

09:56:11 1 the State's very first witness, Mark Porter, their
09:56:15 2 expert on video, highlighted when he's -- when Melo is
09:56:22 3 scrambling down the bleachers. He falls, he goes down,
09:56:27 4 he slows down on the slick bleachers. When he is trying
09:56:32 5 to make the transition onto the concrete path, he then
09:56:36 6 speeds up again. He then slows down again as he nears
09:56:40 7 where the exit out of the stadium is and the entrance to
09:56:45 8 the field is. And Mark Porter was asked could he have
09:56:48 9 just continued out towards the parking lot? Yes, he
09:56:51 10 could, he said. What did he do? He turned back to the
09:56:54 11 field, not exactly escaping, like the guilty do, as I
09:56:58 12 think was said in opening statement.

09:57:00 13 You also heard through Mark Porter's
09:57:01 14 testimony that kids were running in all directions to
09:57:06 15 get out of that stadium, but not Melo. Melo had every
09:57:10 16 opportunity to go right out that exit. But instead, he
09:57:14 17 turns right on to the field and directly to Coach
09:57:18 18 Hooper.

09:57:18 19 Mark Porter highlighted something that
09:57:23 20 I'll tell you, in the hundreds of times I have watched
09:57:25 21 those videos, I had never seen, until he highlighted it
09:57:28 22 for us, and it is clear as a bell, that while Hooper has
09:57:33 23 Melo and they are walking around, Hooper lets go of Melo
09:57:37 24 and walks away. And, he said, Melo walks further out
09:57:41 25 onto the track; not out -- he doesn't, oh, I can get

09:57:45 1 away now. No. He walks further onto the track, where
09:57:50 2 there are coaches, and then turns around and walks right
09:57:55 3 back to Hooper and into his arms.

09:57:56 4 We heard about Melo's emotion. Every
09:58:01 5 single person who saw him down on that track said he was
09:58:05 6 crying or emotional or hysterical or distraught. All
09:58:12 7 words that were used by various witnesses. Coach
09:58:15 8 Whiteaker, Memorial, he was crying. Coach Hooper,
09:58:19 9 Heritage, he was crying. Coach Starr, Memorial, he was
09:58:23 10 hysterical. [REDACTED] from Centennial, he was
09:58:28 11 crying. Officer Cortez, he was emotional; and although
09:58:32 12 he said he didn't know what the crying sounded like,
09:58:36 13 finally admitted that yes, he was crying. Everyone but
09:58:46 14 Starr, Coach Starr, said that his emotions were genuine.

09:58:49 15 Both Hooper and [REDACTED] actually used the
09:58:55 16 word "genuine." Starr said he was calm, and then when I
09:58:59 17 asked him what did you do -- and, of course, he admitted
09:59:03 18 that he was very angry, as he had every right to be.
09:59:07 19 But when he yelled at the 17-year-old kid what did you
09:59:12 20 do, he said he went from calm to hysterically crying. I
09:59:17 21 guess the implications being that they were crocodile
09:59:22 22 tears, that he was faking it? I don't know.

09:59:23 23 But, ladies and gentlemen, you can make
09:59:25 24 reasonable deductions from the evidence, and I ask you,
09:59:28 25 what do we know about somebody who is distraught,

09:59:32 1 crying, emotional? They go to somebody like Hooper, who
09:59:37 2 even though he didn't know this young man, was doing
09:59:40 3 everything he could to comfort him, had his arm around
09:59:44 4 him. God bless Coach Hooper. And then what did he say?
09:59:49 5 I turned him over to the Centennial coaches. why?
09:59:51 6 Because they know this kid; they can comfort him more.

09:59:54 7 So this emotional person, this kid, is
09:59:57 8 going from incredibly distraught, he's calming down,
10:00:01 9 because Hooper is a calming influence. I think we all
10:00:05 10 saw that. And then he is given to his own coaches.
10:00:07 11 They calm him down. Now, okay, I am safe, I know these
10:00:11 12 guys.

10:00:11 13 And then Coach Starr walks up, and again,
10:00:13 14 I understand, but, you know, he asks him aggressively,
10:00:17 15 what did you do? He throws his hat. Yeah, yeah, he got
10:00:23 16 emotional in that moment. Does that mean they are fake
10:00:27 17 tears? No.

10:00:28 18 what else did you hear from Hooper?
10:00:33 19 Hooper says, you know, if -- if you -- if that young man
10:00:38 20 dies, your life just changed. True words. What did he
10:00:43 21 say Melo said? He's not going to die. And Hooper was
10:00:51 22 asked, what did you think he meant by that? And Hooper
10:00:53 23 said it was clear that he didn't think that he had
10:00:57 24 stabbed him in a place where he would die. I think that
10:01:01 25 tells you a lot about the state of mind throughout all

10:01:04 1 of this; about intent, about knowledge.

10:01:07 2 And then what did Officer Cortez say?

10:01:14 3 That Melo asked him is he going to be okay. So now

10:01:18 4 Hooper has put in his mind, you know, that kid could

10:01:22 5 die. And the first adult he gets a chance to talk to,

10:01:25 6 is he going to be okay? I think that tells you a lot

10:01:28 7 about his state of mind, whether this was intentional or

10:01:34 8 not.

10:01:34 9 We heard a lot of different accounts from

10:01:37 10 the kids under the tent, all Memorial. But I will tell

10:01:41 11 you, [REDACTED] -- I know there was 30-something

10:01:45 12 witnesses. You may not remember him, specifically, but

10:01:48 13 the poor young man who had to go take the SAT and then

10:01:52 14 come down here and testify. The State didn't call him.

10:01:55 15 We did. And I felt terrible doing it, but this is the

10:01:58 16 most important day in everyone's lives. And bless him,

10:02:04 17 he did what he needed to do. He came down here and he

10:02:07 18 told the clearest story, the most neutral and fair

10:02:11 19 story, when asked about what he said back then; yeah,

10:02:15 20 that's what happened. And what did he say? He said

10:02:22 21 Austin, as this is triggering and escalating and getting

10:02:25 22 more and more heated, that Austin stands up and says, if

10:02:29 23 you don't move, I will move you, or if you don't move, I

10:02:34 24 will beat your ass.

10:02:36 25 I think that says a lot about -- if you

10:02:41 1 are putting yourself in Melo's shoes, as the law
10:02:44 2 requires you to, what fear you would have been dealing
10:02:48 3 with, as a much smaller person with this much larger
10:02:51 4 person, who is getting more and more angry and
10:02:54 5 threatening to beat your ass.

10:02:56 6 And as Officer Cortez, Officer Shalz,
10:03:01 7 Officer Riley, and our friend, number 19 from jury
10:03:07 8 selection, who was also an officer, all told you, a
10:03:10 9 punch by itself can cause death or serious bodily
10:03:14 10 injury, especially when you are so big and strong and
10:03:17 11 angry.

10:03:19 12 And as those very same officers, Officers
10:03:23 13 Cortez, Officer Shalz, Officer Riley all told you, as
10:03:27 14 much as we may or may not like it, Texas law is very
10:03:32 15 clear. Even a 17-year-old kid can have a
10:03:35 16 five-and-a-half inch knife, or under, a pocket knife, a
10:03:40 17 utility tool, a Leatherman, just like the one he had,
10:03:45 18 which was three-and-a-half inches, in a public place.
10:03:49 19 Even in a high school stadium. Yes, is it a violation
10:03:54 20 of policy? Yeah. Were they notified? I'm sure they
10:03:59 21 were. Were there signs? I don't know if you see a sign
10:04:03 22 when you walk into a stadium, but sure. Let's say they
10:04:08 23 all did, but it is not a crime. It is not engaging in
10:04:10 24 criminal activity, and that is an important factor,
10:04:13 25 because it comes into consideration in self-defense.

10:04:18 1 Texas law does not require that you wait
10:04:23 2 until you get hit, that you wait until you see if that
10:04:29 3 punch is going to knock you out, because that's absurd.
10:04:32 4 Because the thing about self-defense is you can't wait
10:04:34 5 until it's too late. So ask yourself, has the
10:04:43 6 government ruled out your reasonable doubts when you put
10:04:48 7 yourself in Melo's shoes in that split second of chaos,
10:04:51 8 under that tent, as it rained, as the ominous clouds
10:04:58 9 roll in, as you have got people to your left, to your
10:05:04 10 right, in front of you.

10:05:05 11 [REDACTED] said that he was on the
10:05:10 12 row behind him. So although the government went out of
10:05:12 13 their way to say that nobody had gone around him, like a
10:05:16 14 sneak attack, like they are trying to surround him,
10:05:19 15 well, their own witness said he was behind him. Was
10:05:25 16 that his intent? I don't know, I am sure it wasn't.
10:05:27 17 But put yourself in Melo's shoes in that moment. You
10:05:30 18 have got kids to your left, to your right, in front of
10:05:35 19 you, and maybe behind you. And they are getting more
10:05:37 20 mad, more mad, more mad. And at first, you don't
10:05:40 21 understand why, because I just wanted to get out of the
10:05:43 22 rain. I got pulled over here by [REDACTED] he is my
10:05:48 23 friend, I thought. I was just talking. We were just
10:05:53 24 talking; it was friendly. Crazy weather, huh? why is
10:06:03 25 this guy so mad? Is it for real?

10:06:05 1 And then by the time he realizes, oh, he
10:06:07 2 is for real, it is too late. Are you going to turn your
10:06:10 3 back on this much bigger kid, who is angry, angrier than
10:06:14 4 you realized? And you, unfortunately, let him get that
10:06:17 5 angry. Maybe he is justified being that angry, sure.
10:06:22 6 But is it reasonable to think, oh, maybe I don't want to
10:06:25 7 turn my back on these kids? You ask yourself in that
10:06:30 8 split second of chaos, is it reasonable to worry that
10:06:35 9 these kids might join in, that [REDACTED] might pop in to
10:06:41 10 defend his brother, like one of the Memorial kids said?
10:06:44 11 If the kid right to your left is going to join in, if
10:06:49 12 the kid right to your right? Who knows?

10:06:51 13 The thing about a split second of chaos
10:06:55 14 is the law understands that you can't know what is
10:06:57 15 unknowable. You can't know what is about to happen. I
10:07:02 16 don't know what's in you guys' hearts right now. You
10:07:05 17 don't know what's in someone's heart when they are in
10:07:07 18 front of you. Are they bluffing, are they not, are they
10:07:11 19 really that mad, or are they just performing for their
10:07:14 20 buddies?

10:07:15 21 So is it reasonable to fear that it is
10:07:19 22 what you -- what you are terrified it is? That this guy
10:07:23 23 is going to jump me and that his buddies are going to
10:07:26 24 jump me and I am going to get trapped under this
10:07:29 25 bleacher, unable to defend myself? In that split second

of chaos, you must put yourself in his shoes.

Now, you didn't hear the word "motive" in the jury charge, and you can read it from front to back a hundred times and you won't find that the State has to prove motive. But you can make reasonable deductions from the evidence in how that applies to intent, to the charge of murder, to the charge of manslaughter, to self-defense. And I put to you that Karmelo Anthony had absolutely no motive, other than that he felt that he was in danger, to harm Austin.

It doesn't make sense that he came to the tent with some design to provoke a fight. It doesn't even make sense. Why would he provoke a fight against a kid who is so much bigger than him, who has got a twin who is so much bigger than him, that is backed up by 20 of his buddies, when you have got no one there? The closest backup you have from Centennial is [REDACTED] on the field, 30 yards away.

When you think about motive, remember, everyone agreed that Austin and [REDACTED] and Karmelo Anthony had never met before. There is no background. There is no animosity. And this is why we talked about the social media and all of that being so crazy, because, you know, the evidence is very clear these kids didn't know each other. Just like it is not about race.

10:09:13 1 As much as people on the outside may want to try to make
10:09:17 2 it about it, on one side or the other, it is not.

10:09:20 3 I don't know why we talked about, through
10:09:29 4 the government's witnesses, you know, what happens in
10:09:32 5 Dallas County or crime in Minneapolis or Duncanville. I
10:09:39 6 don't know. But what I do know is that there is no
10:09:45 7 evidence that Karmelo did anything but really think he
10:09:51 8 was defending himself in that split second of chaos.

10:09:55 9 I want to call your attention to the
10:10:01 10 Medical Examiner. Mr. Shook asked her about that
10:10:06 11 lateral wound. And I could show you with the actual
10:10:14 12 knife, but I would waste time putting on gloves and
10:10:16 13 doing all of that, and I am frankly not good with
10:10:19 14 knives. So let me just walk you through this.

10:10:21 15 She said it was a lateral wound. Almost
10:10:26 16 perfectly lateral, just a little bit, but a tilt up, but
10:10:28 17 definitely not vertical. So ask yourself -- this little
10:10:37 18 cap right here is the blade, okay? If I intentionally
10:10:44 19 want to stab somebody with an icepick grip, some of us
10:10:51 20 have seen the movie Psycho, this is intentional. This
10:10:54 21 is intentional. They are both vertical stab wounds.
10:10:59 22 But the physical evidence is that this wound is this way
10:11:06 23 or maybe it is this way. But either way, it is this
10:11:12 24 very awkward position to have yourself in.

10:11:14 25 So ask yourself, this is -- the

10:11:19 1 reasonable deduction from the evidence is that this, in
10:11:22 2 and of itself, the direct physical evidence by the
10:11:26 3 government's own medical examiner, is that this is a
10:11:30 4 moment of a defensive action. You don't intentionally
10:11:35 5 stab someone like this. You do if you think you are
10:11:42 6 losing time, before it is too late to defend yourself;
10:11:45 7 if you have your hand in the bag, you have your hand on
10:11:48 8 the knife, and you don't have any opportunity, you have
10:11:51 9 the last second to defend yourself as he comes at you
10:11:54 10 and he grabs you and he hits you, and you do that.

10:11:59 11 THE COURT: You have five minutes.

10:12:00 12 MR. HOWARD: The law requires you to put
10:12:07 13 yourself in Melo's shoes, so let's talk about it. It is
10:12:12 14 raining. The tent is crowded. The Liberty tent is
10:12:20 15 full. You walk over; Memorial, I know them. Okay,
10:12:24 16 cool. I've been to their soccer game. I have multiple
10:12:29 17 friends at Memorial. I have been under that tent
10:12:31 18 before, just the last meet, as you heard from a Memorial
10:12:35 19 kid and a Centennial kid. And, oh, wait, as I walk by,
10:12:44 20 my, who I think is my friend, [REDACTED] calls me over. You
10:12:48 21 know, [REDACTED] who may be the best, clearest example of,
10:12:55 22 whether he means to or not, how these Memorial kids are
10:13:00 23 biased.

10:13:01 24 And I think [REDACTED] is very intentional. I
10:13:04 25 think the rest -- you know, I understand where they are

10:13:07 1 coming from. They lost a brother. I get it. But [REDACTED]
10:13:11 2 was willing to lie about even the most insignificant
10:13:15 3 details. I have only met this guy two or three times;
10:13:18 4 even to the officer, he called him the kid. But then
10:13:23 5 when showing photo after photo of here's your
10:13:27 6 grandmother with Karmelo, here's your family with
10:13:30 7 Karmelo, here's where he is playing basketball with the
10:13:33 8 family, here's, you know, a double-date you went on,
10:13:35 9 here's when you invited him to a soccer game, here is
10:13:38 10 yet another family event, da-ta-da-ta-da, picture
10:13:42 11 picture, picture, picture, and they are in evidence, you
10:13:44 12 can see them, he still says two or three times.

10:13:47 13 So that guy who you thought was your
10:13:51 14 friend invites you to sit down, and you sit down. You
10:13:54 15 think everything is okay. You are talking. Everything
10:13:56 16 is okay. Cranky weather, huh? And then this guy tells
10:14:02 17 you to leave. You are not sure if he is for real at
10:14:07 18 first, and then he is angry, and then he is more angry.
10:14:09 19 And maybe you mouth off, but you are a 17-year-old dumb
10:14:13 20 kid. And that makes him more angry. And now he's right
10:14:18 21 in front of you, and if you turn your back on him, who
10:14:21 22 knows what happens?

10:14:23 23 And now his twin brother, who is even
10:14:25 24 bigger than him, joins in. And now they are both after
10:14:29 25 you, telling you to leave. People are standing up.

10:14:34 1 Austin stands up, if you don't move, I will beat your
10:14:37 2 ass.

10:14:37 3 Now, multiple Centennial -- or Memorial
10:14:41 4 kids said, I also told him to leave. Yeah, me, too; me,
10:14:45 5 too; me, too. So now we have this chorus of people.
10:14:49 6 But it is too late to turn your back because what's
10:14:52 7 going to happen? I don't know. But you remain seated.
10:14:59 8 You remain seated. And even when Austin stands, you
10:15:03 9 remain seated. Even when Austin threatens to beat your
10:15:06 10 ass, you remain seated. You put your hand in the bag.

10:15:11 11 Now, we heard about provoking. I put my
10:15:16 12 hand in my bag, every kid who testified saw it as a
10:15:20 13 clear -- a warning, a bluff; you know, back off, don't
10:15:23 14 come over here. He didn't hide that. He didn't, you
10:15:28 15 know, yeah, hey, man, come on over. No, no, no. He
10:15:32 16 showed them his hand in his bag. When they said you
10:15:35 17 ain't got nothing in that bag, I do have something in
10:15:39 18 that bag. You heard that from a Memorial kid.

10:15:43 19 THE COURT: One minute.

10:15:44 20 MR. HOWARD: One minute?

10:15:45 21 Thank you, Judge.

10:15:46 22 Even when we get to the touch me and find
10:15:48 23 out, ladies and gentlemen, if I look you in the eye as I
10:15:52 24 repeatedly tell you don't touch me, don't touch me, I
10:15:55 25 really do have something in this bag, and you say no,

10:15:58 1 you don't and you start coming towards me, and I say,
10:16:01 2 touch me and find out, with my hand in the bag, as I
10:16:05 3 look you in the eye, that is the ultimate warning. It
10:16:08 4 is not provocation. It is the ultimate back-off.

10:16:11 5 The government's case comes down to
10:16:14 6 whether Melo used force -- use of force was legally
10:16:18 7 justified in his shoes during that split second of
10:16:22 8 chaos. So ask yourself what was going to happen next
10:16:25 9 when Austin grabbed him and did the lineman drill with
10:16:30 10 him? Was he going to deescalate and let him go? Who
10:16:33 11 knows? Is it reasonable to fear that he wouldn't? Is
10:16:37 12 it reasonable to fear that this was going to be this? I
10:16:41 13 don't know.

10:16:41 14 You heard from a bunch of 17-and-16 and
10:16:47 15 17-and-18-year-old kids that it was provoking, that it
10:16:51 16 wasn't self-defense. But here's the thing. Ladies and
10:16:52 17 gentlemen, we have the jury system for a reason. It is
10:16:56 18 your job and your job alone to decide. Those kids are
10:16:59 19 kids and they understandably miss and love their buddy.
10:17:03 20 But, you guys -- they don't know the law. You guys now
10:17:07 21 know the law. You've been given the law, and you have
10:17:09 22 told us you will follow the law; and that is, that the
10:17:13 23 government must rule out every logically possible
10:17:18 24 reasonable doubt, including self-defense.

10:17:22 25 THE COURT: wrap it up.

10:17:23 1 MR. HOWARD: Thank you, Your Honor.

10:17:23 2 And I will end it with this. Ladies and
10:17:26 3 gentlemen, I don't think we are ever going to know
10:17:29 4 exactly what happened under that tent. Even though you
10:17:34 5 have 15, or whatever, Memorial kids with all of their
10:17:38 6 stories and all of how convoluted it is, even though
10:17:43 7 they all agree it wasn't self-defense and all agree it
10:17:46 8 was provocation, right or wrong, they are 17-year-old
10:17:50 9 kids. We don't ask the decedent's friends who is right
10:17:55 10 and wrong and make a decision based on that.

10:17:57 11 This is America. We have a jury system
10:17:59 12 and we respect your job, and I ask you to do it and hold
10:18:03 13 the government to its burden and ask yourself that one
10:18:06 14 question: have they ruled out every logically possible
10:18:11 15 reasonable doubt, including self-defense. And I submit
10:18:15 16 to you that they haven't, and I really appreciate your
10:18:19 17 service.

10:18:20 18 THE COURT: Thank you, Mr. Howard.

10:18:21 19 Mr. Wirskye.

10:18:30 20 MR. WIRSKYE: Thank you. May it please
10:18:32 21 the Court, Counsel.

10:18:35 22 Just a few remarks about what you just
10:18:46 23 heard. Do not let them turn a threat into a warning.
10:18:54 24 Do not let them turn a taunting, provocative, provoking
10:18:58 25 threat into some type of benign warning. You heard the

10:19:05 1 testimony. You know it was a threat. It wasn't a
10:19:09 2 warning. It was a threat.

10:19:11 3 They say the nearest help is 30, 40 yards
10:19:18 4 away: [REDACTED] Folks, the nearest help is 20
10:19:21 5 feet away or one yell. That's Coach Rebmann. Remember
10:19:26 6 his testimony. If you are scared, just yell "Coach."
10:19:31 7 Do you have any doubt Rebmann couldn't have taken care
10:19:33 8 of things out there, if you are really scared?

10:19:35 9 And then they try to turn -- you heard my
10:19:40 10 question and answers with Dr. Ventura, this
10:19:43 11 re-enactment. They try to make an orientation of a
10:19:47 12 knife wound evidence that it is self-defense and not
10:19:50 13 murder? That's ludicrous. Ludicrous. This is not TV,
10:19:56 14 although I have no doubt there is some people in the
10:20:00 15 courtroom today that wish it were TV.

10:20:06 16 I don't want to talk about no motive. I
10:20:10 17 told you from on day one, when I was up here, for reason
10:20:13 18 or reasons unknown, what's not important is motive.
10:20:15 19 what should be important to you is mind-set, okay?
10:20:19 20 Mind-set. He took a knife to a track meet. He had a
10:20:26 21 secret. He kept it hidden until he used it. He no
10:20:31 22 doubt felt empowered that he was going to come out on
10:20:34 23 top of any, any hostile encounter. Because there is a
10:20:40 24 no-weapon policy. And he had a secret; he had it
10:20:42 25 hidden. He was the only one with a knife that day. He

10:20:46 1 was always, always going to come out on top. That's
10:20:51 2 mind-set, and that's what you need to consider when you
10:20:54 3 listen to what you have just heard.

10:20:57 4 Now, let me tell you this. This is one
10:21:02 5 of those rare cases where every important fact in every
10:21:07 6 piece of applicable law can be boiled down to one
10:21:12 7 sentence. One sentence. And the sentence is this: you
10:21:19 8 don't get to meet a shove with a stab, especially if you
10:21:25 9 provoke the shove, okay? You do not get to meet a shove
10:21:31 10 with a stab, especially if you provoked the shove.

10:21:37 11 I told you from day one this case is
10:21:39 12 simple, and it is indeed that simple. That's all the
10:21:44 13 relevant facts, with all the relevant law, and that
10:21:47 14 equals murder, plain and simple. Unjustified, provoked
10:21:55 15 murder. That's what you folks have heard from all of
10:21:58 16 these witnesses: unjustified. Not self-defense.
10:22:01 17 Provoked. You can't provoke your way into using deadly
10:22:05 18 force. And we are going to talk about that here in a
10:22:09 19 few minutes, okay?

10:22:10 20 One sentence, I know it is not easy, you
10:22:13 21 are on a murder jury, but I am telling you, it is clear.
10:22:17 22 It is crystal, crystal clear. The facts are simple.
10:22:21 23 The law is simple. You don't get to meet a shove with a
10:22:26 24 stab, especially if you provoke the shove, okay?

10:22:32 25 Let's talk a little bit about opening

10:22:35 1 statements. what did I tell you? And I just wrote it
10:22:39 2 up here. I don't like to read, necessarily, but I am.
10:22:43 3 On that day, for reason or reasons unknown, he decided
10:22:45 4 to bring a knife to a track meet, provoke an encounter
10:22:48 5 with yet another young man, a young man he hadn't even
10:22:51 6 met, provoke, bait, taunt, and goad this young man into
10:22:56 7 touching him first, and then in an unjustified, sudden,
10:22:59 8 and swift motion, pulled a knife he had hidden in a
10:23:03 9 backpack, and swiftly and suddenly plunged it
10:23:07 10 intentionally into the chest of another young man, so
10:23:14 11 much so that it ended his life.

10:23:16 12 That's exactly what the evidence showed.
10:23:19 13 That is exactly what the evidence showed. You heard
10:23:22 14 another opening statement and, of course, I took notes,
10:23:25 15 so I am going to use them. They said, he was confused
10:23:31 16 because the twins were coming at him. They said maybe
10:23:36 17 it was a "if you don't touch me, we're cool." Again,
10:23:42 18 trying to turn the threat into a warning.

10:23:45 19 what else did they tell you? The other
10:23:48 20 kids stand up. You have seen the video. You can recall
10:23:51 21 it. It was normal. There was no fuse on this thing.
10:23:54 22 It went from zero to a hundred, like that, in all the
10:23:58 23 time it took for him to produce his hidden knife and
10:24:01 24 bury it in the chest of Austin Metcalf.

10:24:05 25 what else did they promise you? Memorial

10:24:07 1 kids all around him, turning on him, and coming towards
10:24:11 2 him. Thank goodness we have the video. That's why I
10:24:14 3 told you the video tells the story. In conjunction with
10:24:18 4 the eyewitnesses, the video tells the story. And
10:24:23 5 importantly, they asked this question in opening -- and
10:24:25 6 it is a great question, and I am not sure it has been
10:24:28 7 answered with the evidence -- why didn't he just not
10:24:31 8 walk away?

10:24:34 9 You see, he had a choice to walk away and
10:24:37 10 abandon the encounter that he had provoked. He could
10:24:41 11 have left the tent at any time. He didn't. He didn't
10:24:46 12 abandon the encounter. What else did they tell you
10:24:50 13 about the video? State's first witness, Mr. Shook on
10:24:54 14 cross, a video is nothing but a series of snapshots.
10:24:57 15 And that's true, as far as it goes. But do you think
10:25:02 16 the series of snapshots was so slow -- this is Mr.
10:25:06 17 Shook's question -- that it missed him being surrounded
10:25:09 18 by Austin and [REDACTED] and other Memorial
10:25:13 19 athletes? That's ludicrous. That's ludicrous. The
10:25:19 20 video tells the story supported by the eyewitnesses and
10:25:28 21 corroborated by the Defendant's actions and words. We
10:25:35 22 are going to talk about each of those here in a second.
10:25:37 23 First I want to visit with you about the
10:25:39 24 Court's charge. A couple of things you should know. We
10:25:43 25 have alleged two ways to commit murder: what we call

10:25:47 1 intentional murder, intentionally taking a human life;
10:25:50 2 what we call act clearly dangerous murder, intending to
10:25:53 3 cause serious bodily injury you commit an act clearly
10:25:58 4 dangerous that results in the loss of life. Both of
10:26:00 5 those apply here. What's important for you, though, is
10:26:04 6 you don't have to agree on which method we chose. Six
10:26:07 7 of you can think intentional murder, six of you can
10:26:11 8 think act clearly dangerous. As long as you are
10:26:13 9 unanimous that the State has proven one of those means
10:26:16 10 of murder, you find the Defendant guilty of murder.

10:26:20 11 You heard there is a lesser included
10:26:23 12 manslaughter. A couple of things I want you to know
10:26:25 13 about that. You don't even reach manslaughter unless
10:26:29 14 all 12 of you acquit him of murder. Is there evidence
10:26:33 15 of manslaughter? I commend to you, the only evidence of
10:26:37 16 a reckless action is Mr. Shook's impalement scenario
10:26:43 17 that he tried to develop with Dr. Ventura. And, of
10:26:45 18 course, she had to say yes, because virtually anything
10:26:49 19 is possible. But yet, remember her testimony. None of
10:26:54 20 it is, necessarily, probable.

10:26:55 21 And I don't know what to say about the
10:26:58 22 impalement theory. If you think that Austin Metcalf
10:27:01 23 impaled himself on Karmelo Anthony's knife, find him
10:27:05 24 guilty of manslaughter. I don't know what else to tell
10:27:07 25 you. It is a simple case, and the evidence has been

crystal, crystal clear, okay?

I told you, self-defense, one sentence, you don't get to meet a shove with a stab, especially if you provoked it. So let's talk about -- I think, depending on how you count, there is four reasons why self-defense does not apply in this case. The first big one, and the words you have heard your entire time in that jury box, is provoke. Is provoke. You do not get to provoke an encounter, and then as soon as someone touches you, get to use deadly force.

And that's what this case is. That's exactly what this case is. It is why we have that limitation on self-defense, so people don't go around provoking someone, drawing them off sides, so they can jump from force up to deadly force. That's why we have provoking. And what did every witness tell you? This is why I asked those questions. Who provoked it? Who provoked it? And what did they all say? We are going to talk about their testimony in a minute. They all said Karmelo Anthony provoked it.

If you find he provoked the encounter, self-defense is off the table, and you are left with murder. In fact, that's the only logical, rational result in this case. If you follow your oath and follow the law and do your duty, you will find him guilty of

murder, and you will find self-defense simply does not apply.

what's the second reason self-defense doesn't apply? It is what we call forced disparity or forced proportionality. You can meet force with force, a shove with a shove. You can meet deadly force with deadly force in Texas, and I'm glad we have those laws. That's why some of us live in Texas. But what you can't do, and what happened here, is you can't meet force, a shove, with deadly force, a stab. It has to be proportional. It has to be proportional. You can't use deadly force in response to force. I hope that makes sense to you.

The instruction is in here. I will read you a passage in just a second. And they are aware of it. How did they seek to bridge the chasm between force and deadly force? Size differential. That's why we heard all of this testimony about size differential. Austin is big, muscular, he is a linebacker; Karmelo is small, tiny; and [REDACTED] is about the same size, and then you double it. The size differential, it doesn't work in this case. You don't get to hurt somebody or kill somebody just because they're bigger than you. And I, for one, I'm glad we have that law. But that's the law, okay, folks. That's the law. There is disproportionate

10:30:16 1 use of force.

10:30:20 2 what else are you going to hear in this
10:30:22 3 charge about self-defense? self-defense has to be a
10:30:24 4 reasonable belief. what is a reasonable belief?
10:30:28 5 Counsel hinted at it, but he didn't read the entire
10:30:31 6 definition, so I want to read it to you. A reasonable
10:30:34 7 belief means -- it is on page four of your jury charge,
10:30:37 8 when you get back there. Reasonable belief means a
10:30:39 9 belief that would be held by an ordinary and prudent
10:30:43 10 person in the same circumstances as the Defendant. What
10:30:50 11 would you have done if you were in Karmelo Anthony's
10:30:53 12 shoes? That's what they ask you.

10:30:55 13 The real question is, what would an
10:30:56 14 ordinary and prudent person do in Karmelo Anthony's
10:30:59 15 shoes that day. And I submit to you any ordinary,
10:31:02 16 prudent, reasonable person would not have plunged a
10:31:08 17 knife into the chest of Austin Metcalf. You know it.
10:31:12 18 You have seen it. I told you this case was senseless.
10:31:15 19 Perfect example of why it is senseless: a shove met
10:31:19 20 with a stab.

10:31:20 21 One of the other reasons it is not
10:31:24 22 self-defense, and you will see it in the charge, it has
10:31:27 23 to be immediately necessary. The use of deadly force in
10:31:31 24 response to deadly force -- you will see it in the
10:31:33 25 charge -- not force -- deadly force to deadly force, has

10:31:37 1 to be immediately necessary. Where was the immediate
10:31:43 2 necessity for him to plunge a knife into the chest of
10:31:46 3 another -- an unarmed young man? There is no immediate
10:31:53 4 necessity to do that. Again, he had a secret. He had a
10:31:56 5 knife hidden. He was going to come out on top. He
10:31:58 6 could provoke away all day. With that knife, he was
10:32:02 7 going to come out on top. This is not self-defense,
10:32:06 8 folks. It is murder; murder, plain and simple.

10:32:10 9 I mentioned the three types of evidence.
10:32:14 10 we have got the videotape, we have got all of these
10:32:17 11 eyewitness, and then we have the Defendant's actions and
10:32:19 12 words. I want to talk about them a little bit, in turn.

10:32:23 13 what does the video show you? Probably
10:32:26 14 most importantly, you see the -- the just normalcy under
10:32:32 15 that tent; how normal it was. Until you see that shove
10:32:36 16 met with a stab, that bit of movement from left to
10:32:40 17 right, right to left, it is a normal day under that
10:32:43 18 tent. No one is standing up. No one is surrounding
10:32:47 19 Karmelo Anthony. No one even thinks a fight is going to
10:32:52 20 break out. If they had, they would have stood up and
10:32:55 21 they would have gathered around.

10:32:55 22 And Coach Rebmman would have heard that.
10:32:57 23 Coach Rebmman is corroborated by the videotape, and vice
10:33:00 24 versa. Vice versa. He wasn't surrounded by anybody.
10:33:03 25 Not everybody was on their feet. The Memorial kids

10:33:06 1 hadn't turned on him. The video is so, so important to
10:33:12 2 corroborate the testimony you heard from the
10:33:15 3 eyewitnesses and so you can see with your own eyes how
10:33:23 4 normal that day was; how normal that critical few
10:33:25 5 minutes were, until he made the split-second decision to
10:33:28 6 produce his hidden, secret knife, and use it. He didn't
10:33:31 7 just pull it out and show it, like a scared person
10:33:35 8 would. Hey, back off. Huh-uh. It was ready to go.
10:33:38 9 You have seen it. It is a folding knife, right?

10:33:40 10 He had to, in his bag -- I submit to you
10:33:44 11 no one would carry an open, folding knife in a bag so
10:33:48 12 that you would reach in and grab it and cut yourself.
10:33:50 13 At some point, when he reached into the bag, he opened
10:33:55 14 it and had it ready to go in a split second.

10:33:59 15 Remember what I asked Dr. Ventura? Were
10:34:01 16 there defensive wounds; and, she said, no. What else
10:34:04 17 did I ask her? The person -- the person has to see it
10:34:07 18 coming. If you see a knife coming at you, I guarantee
10:34:10 19 you, you are going to throw your hands up. That is what
10:34:13 20 the doctor described. Did Austin Metcalf have defensive
10:34:16 21 wounds? No, nothing. He never saw it coming. Some of
10:34:20 22 the kids said it was almost simultaneously, a shove with
10:34:24 23 a stab. I don't know; and legally, it doesn't matter,
10:34:27 24 because it is still murder at the end of the day.

10:34:32 25 well, what else does the video give us?

10:34:36 1 It gives us a great timeline. It shows his actions
10:34:41 2 before and after the murder. He pops up out of that
10:34:44 3 tunnel once, looks down there, sees Liberty, sees
10:34:46 4 Memorial, goes back under. If this case were really
10:34:50 5 about a young man trying to get in from out of the rain,
10:34:53 6 stay under the bleachers. If you are really just
10:34:56 7 looking for a tent, go to Liberty. We have heard it is
10:34:59 8 overflowing with people. Maybe, maybe not.

10:35:02 9 Maybe he went to the Memorial tent to see
10:35:04 10 [REDACTED] maybe he went to the Memorial tent because
10:35:07 11 there was no coach at the Memorial tent. But the video
10:35:10 12 does show us he walks right past Coach Rebmman, who is
10:35:15 13 talking to at least two other coaches twenty feet away.
10:35:20 14 Twenty feet away.

10:35:21 15 what does the video show us? It shows us
10:35:25 16 his actions after the murder. You know, I don't know
10:35:27 17 what you think, if he was trying to leave the stadium,
10:35:29 18 get on the field. What is so critically important for
10:35:32 19 you to understand, when he bolts out from under that
10:35:35 20 tent, what does he do? Remember the video. He turns to
10:35:39 21 his left.

10:35:40 22 what's to the left? If you are scared,
10:35:43 23 to the left is Coach Rebmman. It is Coach Rebmman
10:35:46 24 twenty feet away. He's not turning to Coach Rebmman for
10:35:51 25 safety. He turns to his left and then he realizes, oh,

10:35:55 1 my gosh, I can't get out that way; and then he turns to
10:35:59 2 the right. And then he speeds it up and then he slips,
10:36:01 3 and then he goes fast and then he goes slow and blends
10:36:06 4 in. Again, his actions after the murder are indicative
10:36:11 5 of his mind-set. It is a guilty, guilty mind-set.

10:36:14 6 Let me talk a little bit about his words,
10:36:21 7 because all the testimony you heard, all of the lawyers
10:36:26 8 talking, no one has really focused on his words. And
10:36:30 9 the words are such -- they provide such important clues
10:36:34 10 that his words alone corroborate everything that the
10:36:37 11 video shows you and the State's witnesses have shown
10:36:40 12 you.

10:36:40 13 Okay, what do I mean by that? What do I
10:36:44 14 mean by that? You kept hearing quotes, you know, he
10:36:48 15 touched me; he did this, he did that. If it had been
10:36:53 16 Austin and [REDACTED] what would you have heard? What
10:36:55 17 would he have said instantly when first confronting,
10:36:59 18 when he is crying or not crying to these coaches? When
10:37:01 19 he is meeting Officer Cortez, what would he have said if
10:37:05 20 he was literally surrounded or even confronted by both
10:37:06 21 of the twins? They, them. What did he say? He, he.
10:37:11 22 Over and over, every statement you've heard that he
10:37:17 23 makes, he said, he did this, he did that.

10:37:18 24 His words alone belie the fact that this
10:37:23 25 was a one-on-one incident that he provoked. Don't buy

10:37:28 1 into this he was surrounded and there was a mob of
10:37:31 2 Memorial kids that may chase him down from the back. If
10:37:35 3 that were true, what do you think he would have told the
10:37:37 4 coaches? what do you think he would have told officer
10:37:39 5 Cortez? They, them. Instead, he uses the singular:
10:37:44 6 he. No one has talked about it, and I didn't want to
10:37:48 7 talk about it until right now, but I guarantee you, that
10:37:51 8 fact alone should just reinforce how crystal clear the
10:37:56 9 facts are. Crystal clear the facts are.

10:37:59 10 Let's talk a little bit about the
10:38:02 11 witnesses. And as in any case, you have small
10:38:08 12 inconsistencies, you have big inconsistencies. You know
10:38:10 13 what's not inconsistent? what did each of these kids
10:38:13 14 tell you in their own way? who was in the right and who
10:38:15 15 was in the wrong; who provoked, who didn't provoke; who
10:38:19 16 committed murder, and who didn't act in self-defense.
10:38:21 17 Eyewitness after eyewitness came in and told you that.

10:38:26 18 They say we only called Memorial kids.
10:38:29 19 Did they forget about [REDACTED] that poor young
10:38:34 20 lady in the Liberty tent that didn't talk to the police
10:38:36 21 that day, but she saw the unfair coverage hours after
10:38:39 22 the murder, picked up the phone, decided to do the right
10:38:42 23 thing? She told you what she saw, and she came in here.
10:38:46 24 Do you remember her testimony, how hard it was for her
10:38:48 25 to sit on that witness stand, with him in the courtroom,

10:38:50 1 and all of these people, and relate what she saw; who
10:38:57 2 was in the right, who was in the wrong, who provoked.
10:39:01 3 [REDACTED] just like every other witness you heard
10:39:03 4 from, was in agreement that this was murder.

10:39:05 5 quickly [REDACTED] touch me and find
10:39:11 6 out, make me move. [REDACTED] is critically
10:39:14 7 important. He was our second witness. He said Karmelo
10:39:17 8 looked suspicious and he was serious about not moving.
10:39:21 9 And what did he tell you with respect to the secret
10:39:26 10 knife and what did he tell you about this young man's
10:39:29 11 mindset that day?

10:39:30 12 I hope y'all picked it up. He had it in
10:39:34 13 his mind what he was going to do; he had it in his mind
10:39:41 14 what he was going to do. Y'all remember [REDACTED]
10:39:47 15 had the deep voice, very chill personality? One of the
10:39:51 16 calmer witnesses out there that day, he had it in his
10:39:55 17 mind what he was going to do.

10:39:58 18 He went on to say Austin's push wasn't
10:40:01 19 that hard. [REDACTED] didn't get involved. [REDACTED] was
10:40:04 20 seated through all of this. There was no threatening
10:40:06 21 talk from [REDACTED] or Austin. Karmelo Anthony was asked
10:40:09 22 10 to 15 times to leave. [REDACTED] was almost ignoring and
10:40:14 23 completely disengaged. [REDACTED] words, not mine. And he
10:40:20 24 also told you that Karmelo Anthony stood up
10:40:22 25 simultaneously as Austin. Again, it doesn't matter

10:40:26 1 legally, but that's what [REDACTED] saw, that's what [REDACTED]
10:40:29 2 heard.

10:40:29 3 [REDACTED] Austin was not angry, he was
10:40:31 4 frustrated. Karmelo Anthony was frustrated and he
10:40:33 5 escalated. Austin didn't want to fight. What did he
10:40:39 6 say about his actions afterwards? He was trying to get
10:40:42 7 away from anyone that saw him do it. Austin likely
10:40:46 8 pushed his shoulder.

10:40:47 9 [REDACTED] remember the poor young man
10:40:50 10 that lost his father in a murder in California; that
10:40:55 11 witness? I am not going to fight you, bro. Touch me
10:40:58 12 and see what happens. He was trying to blend in with
10:41:01 13 the crowd after the murder. He didn't sense there was
10:41:04 14 going to be a fight because Austin didn't want to fight.
10:41:07 15 [REDACTED] was not involved. He was watching. Not
10:41:10 16 self-defense. Who provoked it? Karmelo Anthony.
10:41:13 17 Austin didn't get a chance to grab him; he got stabbed
10:41:16 18 first. These are all direct quotes from the evidence
10:41:20 19 you heard.

10:41:20 20 And [REDACTED] we've talked about
10:41:23 21 her. If you want me to move -- the Liberty student --
10:41:27 22 if you want me to move, you are going to have to move
10:41:30 23 me. Karmelo Anthony said that to Austin Metcalf.
10:41:34 24 Karmelo Anthony was more aggressive. What did she tell
10:41:36 25 you? Austin didn't want to fight.

10:41:40 1 [REDACTED] touch me and see what
10:41:42 2 happens. Don't touch -- he is worried about him. He's
10:41:43 3 worried about him, [REDACTED] so he tells his friend Austin,
10:41:49 4 hey, don't touch him. Don't touch him. What else does
10:41:52 5 he say? Austin tried to be nice, but Anthony wasn't
10:41:54 6 cooperating, wasn't listening. Austin not aggressive.
10:41:57 7 No one surrounding Karmelo Anthony. Every was seated.
10:42:01 8 Austin didn't want to fight.

10:42:02 9 [REDACTED] Austin was
10:42:05 10 asking him to leave. He was not aggressive or angry.
10:42:07 11 Karmelo said make me move. Anthony looked suspicious.
10:42:12 12 No one was crowded around Anthony. No one surrounded
10:42:15 13 him. Everyone was seated. And what did he say when I
10:42:20 14 asked him if it was self-defense -- I doubt he knows the
10:42:24 15 law, but these are very, very common sense words -- he
10:42:27 16 used lethal force against non-lethal force. He gets it.
10:42:32 17 He knows what he saw and he knows what he saw wasn't
10:42:34 18 right. He doesn't know what the law is, but he was
10:42:37 19 right. That is the law.

10:42:38 20 [REDACTED] Anthony got
10:42:38 21 irritated. Make me move. Touch me and see what
10:42:45 22 happens. He was instigating, he was stubborn, he
10:42:48 23 refused to leave. Austin was not angry. [REDACTED] was not
10:42:50 24 involved. This was a one-on-one confrontation between
10:42:53 25 Austin and Karmelo Anthony. Again, remember his words.

10:42:56 1 He, he, he -- not they, not them -- he.

10:42:59 2 Let's just keep going. [REDACTED] I

10:43:05 3 am not leaving, fuck y'all, y'all are a bunch of

10:43:08 4 pussies, y'all are not going to do anything. Austin,

10:43:11 5 about five times: Bro, just leave; bro, just leave.

10:43:14 6 Touch me and see what happens, touch me and see what

10:43:18 7 happens, four or five times. I am not going to fight

10:43:22 8 you, Austin says multiple times. Austin was unwilling

10:43:25 9 to fight. Austin didn't deserve it. It was murder.

10:43:27 10 [REDACTED] the common denominator,

10:43:31 11 whether he is a close friend or not, either way, he is

10:43:34 12 the closest thing to a common denominator. He is the

10:43:37 13 closest person that, I guess, could be unconsciously

10:43:40 14 biased -- whatever that word means in this context --

10:43:43 15 against Karmelo Anthony.

10:43:45 16 Karmelo Anthony provoked Austin, touch

10:43:50 17 me. It was a small shove. Austin was frustrated,

10:43:52 18 [REDACTED] was not standing up, no one surrounded Karmelo,

10:43:55 19 he thought it was just trash talk. Karmelo: Y'all are

10:44:00 20 ass. They are not arguing, just asking him to leave.

10:44:05 21 Karmelo: show me I'm a bitch. It wasn't a hard push,

10:44:10 22 it was a small shove.

10:44:12 23 [REDACTED] Anthony, stubborn,

10:44:15 24 wouldn't leave, touch me and see what happens, directed

10:44:18 25 solely towards Austin. Karmelo Anthony trying to be a

10:44:21 1 tough guy. Austin: I am not going to fight you. And,
10:44:24 2 you know, they mentioned [REDACTED] the young SAT man
10:44:28 3 that they called. And he is really a State's witness.
10:44:31 4 Recall his testimony. Austin had a moderate tone, no
10:44:37 5 one else stood up, he thought it was going to be a
10:44:41 6 shoving match, at most. What does he say again? Touch
10:44:44 7 me, see what happens.

10:44:45 8 significantly, the man who knew Karmelo
10:44:48 9 Anthony under the tent that day, what does he tell you
10:44:52 10 about Karmelo Anthony? Karmelo Anthony was trying to
10:44:57 11 prove that he could do a violent act. Well, he sure
10:45:01 12 did, folks. He sure did.

10:45:02 13 The two other witnesses we saw, [REDACTED]
10:45:05 14 and [REDACTED] I'm sorry, I get those names confused.
10:45:12 15 The first young man was wrong. When I first met with
10:45:16 16 him and showed him the video, he realized that he missed
10:45:19 17 the stabbing and what he thought was preceding the
10:45:23 18 stabbing was actually after the stabbing, and that's why
10:45:27 19 Karmelo Anthony, he thought, was surrounded, because
10:45:29 20 people had already stood up. I didn't show him the
10:45:32 21 other part of the video, which you saw, that shows he
10:45:35 22 wasn't even looking in the direction of the Memorial
10:45:39 23 tent at the time of the stabbing.

10:45:42 24 Do I think these people are lying? No, I
10:45:43 25 think they are nice and from good families; they are

10:45:45 1 just mistaken. They saw what they saw, their attention
10:45:48 2 was where it is, and they pieced together the story.
10:45:51 3 And I hated to unravel them in realtime, but you saw it.
10:45:54 4 [REDACTED] what did he say right out
10:45:57 5 of the gate to counsel? I am just guessing, I am just
10:46:00 6 guessing. Poor [REDACTED] was very confused. By his own
10:46:04 7 testimony, he was fifty yards away. He puts the
10:46:07 8 altercation down in the lower-right part of the tent.
10:46:10 9 Again, these kids aren't lying. They are not trying to
10:46:14 10 help Karmelo Anthony. They are simply, simply mistaken.
10:46:18 11 All the witnesses on all the ultimate
10:46:24 12 issues that you need to decide all told you the exact
10:46:29 13 same thing: it is not self-defense, it is murder, he
10:46:33 14 provoked it, Austin didn't want to fight. Austin didn't
10:46:37 15 want to fight.
10:46:38 16 You know, there has been a lot of talk
10:46:45 17 around this case, and you hear it a lot out there,
10:46:48 18 outside the courtroom -- sometimes inside the
10:46:51 19 courtroom -- this case is a tragedy. It is a tragedy
10:46:54 20 for everyone involved. It is a tragedy for everyone
10:46:58 21 involved, and there is a lot of truth in that statement
10:47:02 22 outside this courtroom, okay? Outside this courtroom.
10:47:07 23 It is a little bit different in here. There are people
10:47:11 24 whose lives have been changed irrevocably; completely
10:47:17 25 changed. It is a tragedy for them. It is a tragedy for

10:47:19 1 the victims, it is a tragedy for the friends and family
10:47:22 2 that's left behind.

10:47:23 3 But don't be sloppy in your thinking,
10:47:27 4 don't think "it is a tragedy for all" includes Karmelo
10:47:33 5 Anthony. It is not a tragedy for him. These are the
10:47:37 6 decisions he made and he has to come face to face with
10:47:41 7 the decisions he made that day, okay?

10:47:44 8 There is tragedy in this case, but the
10:47:47 9 tragedy is for the victims, for those left behind, for
10:47:51 10 the one taken. It is not a tragedy for the man that had
10:47:55 11 intentional, conscious acts, the mind-set that took a
10:47:59 12 knife to a track meet, the knife that he kept hidden,
10:48:01 13 the knife that he opened, the knife he didn't even show,
10:48:05 14 he just immediately plunged it into Austin's chest.
10:48:10 15 That's not tragedy. That's an intentional act. That's
10:48:13 16 a crime in this state, in this case. It is nothing but
10:48:18 17 plain and simple murder, just like I told you folks last
10:48:22 18 week.

10:48:23 19 And finally, you know, I told you last
10:48:27 20 week, and I mentioned it today, that the case -- this
10:48:30 21 murder is simple and senseless. And we have spent a lot
10:48:35 22 of time talking about how simple it is, but let me spend
10:48:43 23 a few minutes with you, before I sit down, to talk with
10:48:45 24 you about how senseless it is.

10:48:48 25 It is senseless that Austin Metcalf lost

10:48:52 1 his life on a wednesday morning, ten o'clock, at a high
10:48:57 2 school track meet. Dying, bleeding out externally and
10:49:02 3 internally, lost his life on a pair of high school
10:49:05 4 bleachers because of decisions this man made. That's
10:49:11 5 what is senseless about this case. Should this case
10:49:14 6 have never happened? Sure, it should have never
10:49:16 7 happened. We don't take weapons to school events. With
10:49:20 8 his mind-set, he did. He did.

10:49:22 9 And ultimately, this case is about
10:49:25 10 accountability. What type of community do you want to
10:49:29 11 live in? Counsel mentioned there was this talk about
10:49:32 12 Dallas County -- I live in Dallas County -- versus
10:49:34 13 Frisco. That testimony developed because our community,
10:49:40 14 this county, this City of Frisco, is a special place.
10:49:44 15 It is a special place.

10:49:46 16 What kind of county do you want to live
10:49:49 17 in? What type of city do you want Frisco to be? What
10:49:52 18 type of community do you want? You represent the
10:49:57 19 community today. As unpleasant as it may be, even
10:50:03 20 though the facts are crystal clear, it is your duty to
10:50:06 21 follow your oath and follow the evidence, and take pen
10:50:10 22 in hand and hold this young man accountable for this
10:50:13 23 senseless, senseless murder; and send the message this
10:50:19 24 isn't going to be tolerated in our community.

10:50:22 25 And I beg you to be strong. I know it is

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296th District Court

10:50:25 1 not easy; but again, the facts are crystal clear. I beg
10:50:31 2 you to make justice sure in this case and I beg you to
10:50:35 3 make justice swift in this case.

10:50:39 4 Thank you very much.

10:50:40 5 THE COURT: Thank you, Mr. Wirskeye.

10:50:42 6 All right. Ladies and gentlemen, what I
10:50:44 7 am about to do is hand Mr. Rollins the charge of the
10:50:46 8 court. As you probably know by now, there are some
10:50:50 9 alternates in this case. And so what Mr. Rollins is
10:50:53 10 going to do, with the agreement of counsel, is take you
10:50:55 11 back in the hallway. He is going to put the main jury
10:50:58 12 in one room and is going to put the alternates in the
10:50:59 13 other.

10:51:00 14 with regard to the alternates, you are
10:51:02 15 not allowed to discuss the case amongst yourselves. If
10:51:05 16 we need you, you will go back in with the main jury and
10:51:10 17 the deliberations have to start all over again. But in
10:51:12 18 the meantime, you are not allowed to discuss the case.
10:51:15 19 You are not allowed to do any of the other things that
10:51:17 20 I've talked about for the last two weeks.
10:51:19 21 Unfortunately, you just have to sit there. But we will
10:51:23 22 make sure that you are taken care of, okay?

10:51:25 23 Once you get there, we look forward to
10:51:28 24 your verdict. Thank you.

10:51:31 25 THE BAILIFF: All rise.

1 (Jury not present.)

10:51:32 2 THE COURT: Let the record reflect the
10:51:55 3 jury and alternates have left the courtroom. The Court
10:51:58 4 will be in recess until the jury reaches its verdict.

10:52:01 5 Ladies and gentlemen, on your exits,
10:52:03 6 please listen to security staff. Thank you.

7 (Recess in proceedings.)

14:28:52 8 THE COURT: Everyone be seated, please.

14:28:52 9 We are back on the record in State versus
14:28:55 10 Anthony. Present in the courtroom are counsel for the
14:28:58 11 State, counsel for the Defense, and the Defendant. The
14:28:59 12 Court has been notified by the jury that it has reached
14:29:02 13 a verdict.

14:29:02 14 Is the State ready to receive that
14:29:04 15 verdict?

14:29:04 16 MR. WIRSKYE: The State is ready, Your
14:29:05 17 Honor.

14:29:06 18 THE COURT: Is the Defense ready?

14:29:07 19 MR. HOWARD: Yes, Your Honor.

14:29:08 20 THE COURT: Okay. Bring in the jury,
14:29:09 21 please.

14:29:09 22 Ladies and gentlemen, we've had this
14:29:11 23 conversation before. We are about to get a verdict in
14:29:15 24 this case. I know it is highly emotional for everyone
14:29:17 25 in this room. If you were to outburst in my courtroom,

14:29:20 1 unfortunately I am going to put you -- I am going to
14:29:21 2 hold you in contempt and put you up. We are not going
14:29:23 3 to tolerate that, okay? You can express your emotions
14:29:26 4 somewhere else, but we are not going to do it in here.
14:29:30 5 Does everybody understand?
14:29:32 6 Thank you very much.
14:30:14 7 Counsel, we are going to bring the
14:30:16 8 alternates in with the jury. I am representing to you
14:30:19 9 that the alternates did not participate in the
14:30:22 10 deliberations whatsoever, period. But it is just the
14:30:25 11 best way we can move people around, okay?
14:30:29 12 Any objections by the State?
14:30:31 13 MR. WIRSKYE: No objection.
14:30:32 14 THE COURT: By the Defense?
14:30:39 15 MR. HOWARD: No, Your Honor.
14:31:56 16 THE BAILIFF: All rise.
17 (Jury present.)
14:32:24 18 THE COURT: Everyone be seated, please.
14:32:25 19 All right. Sir, it looks like, since you
14:32:30 20 have the jury charge in your hand, you are the
14:32:32 21 foreperson?
14:32:33 22 PRESIDING JUROR: Yes, sir.
14:32:34 23 THE COURT: Has the jury reached a
14:32:35 24 verdict?
14:32:36 25 PRESIDING JUROR: Yes, sir.

14:32:37 1 THE COURT: Can you hand the verdict form
14:32:38 2 to the bailiff, please.

14:32:55 3 If the Defendant will please rise?

14:32:56 4 In Cause Number 296-83565-2025, the State
14:33:02 5 of Texas versus Karmelo Sincere Anthony: We, the jury,
14:33:06 6 find the Defendant guilty of murder as charged in the
14:33:11 7 indictment, signed by the foreperson.

14:33:13 8 Please be seated.

14:33:14 9 Ladies and gentlemen, as has been
14:33:17 10 explained to you before, announced, this is a two-phase
14:33:20 11 process. If your first verdict is guilty, the second
14:33:23 12 phase is the punishment phase of the case. It is
14:33:25 13 very -- it is set up just like the other phase. We have
14:33:28 14 opening statements, we have evidence, we have closing
14:33:29 15 statements, we have the charge. We have to reset, kind
14:33:32 16 of, things to get ready for that, so if you will please
14:33:35 17 go with the bailiffs until you get further instructions.

14:33:38 18 Thank you.

14:33:40 19 THE BAILIFF: All rise.

20 (Jury not present.)

14:33:41 21 THE COURT: Let the record reflect the
14:34:01 22 jurors have left the courtroom. Everyone be seated.

14:34:04 23 Is the State ready to proceed with
14:34:09 24 punishment?

14:34:09 25 MR. WIRSKYE: The State is ready, Your

14:34:11 1 Honor.

14:34:11 2 THE COURT: Is the Defense ready?

14:34:12 3 MR. HOWARD: Yes, Your Honor.

14:34:13 4 THE COURT: Okay. How do y'all want to
14:34:13 5 do this? Do y'all need a break? Didn't y'all say that
14:34:16 6 y'all needed a break, or no?

14:34:18 7 MR. WIRSKYE: I think we need a break
14:34:20 8 after evidence.

14:34:20 9 THE COURT: After evidence.

14:34:20 10 MR. WIRSKYE: After evidence.

14:34:20 11 THE COURT: Otherwise, you are ready to
14:34:22 12 go?

14:34:23 13 MR. WIRSKYE: Yes, sir.

14:34:24 14 THE COURT: Okay. Y'all have a seat,
14:34:26 15 please.

14:34:26 16 Rollins.

14:34:49 17 (Discussion with the bailiff.)

14:34:49 18 THE COURT: Sit down.

14:35:10 19 MR. HOWARD: Judge, can we have a moment?

14:35:13 20 THE COURT: Yes, sir.

14:35:13 21 Mr. Howard, he has been found guilty.

14:35:16 22 His bond is extinguished. He is now in the custody of
14:35:18 23 the Collin County Sheriff's Office. Things move
14:35:20 24 differently right now. As a result, you can go, but he
14:35:24 25 is remanded into the custody of the sheriff's office.

14:35:30 1 Rose, take him, please. Take them back
14:35:31 2 and take them with their client, please.

14:35:35 3 Ladies and gentlemen, the Court is going
14:37:55 4 to take a break. If you leave the courtroom now you are
14:37:59 5 not coming back, okay?

14:38:01 6 THE BAILIFF: All rise.
7 (Recess in proceedings.)

14:45:32 8 THE COURT: All right. The State is
14:45:34 9 still ready and the Defense is still ready. We're ready
14:45:37 10 for the jury, please.
14:45:37 11 still ready, everybody?

14:45:39 12 MR. WIRSKYE: The State is ready.

14:45:41 13 THE COURT: Bring in the jury, please.

14:47:56 14 THE BAILIFF: All rise.
15 (Jury present.)

14:48:08 16 THE COURT: Everyone be seated.
14:48:08 17 All right. Ladies and gentlemen, as I
14:48:09 18 explained to you, it is kind of the same process in the
14:48:12 19 punishment phase of the case, where there is opening
14:48:14 20 statements, evidence, the charge of the Court, closing
14:48:17 21 arguments of counsel, and deliberations. So exactly the
14:48:19 22 same thing.

14:48:19 23 Both sides have announced ready to
14:48:22 24 proceed to the punishment phase, so we are going to do
14:48:25 25 that now.

14:48:26 1 Mr. Wirskeye, your opening statement,
14:48:27 2 please.

14:48:27 3 MR. WIRSKYE: May it please the Court,
14:48:27 4 members of the jury, the state will waive its opening.

14:48:32 5 THE COURT: Okay. The Defense?

14:48:33 6 MR. HOWARD: We'll waive our opening,
14:48:33 7 Judge.

14:48:33 8 THE COURT: Call your first witness.

14:48:34 9 MR. WIRSKYE: May it please the Court,
14:48:36 10 members of the jury, the state will rest in punishment.

14:48:38 11 THE COURT: Okay. Thank you. What says
14:48:38 12 the Defense?

14:48:39 13 MR. HOWARD: The Defense calls Kayla
14:48:41 14 Hayes.

14:48:42 15 THE COURT: Okay. Ms. Hayes.

14:48:46 16 Ms. Hayes, if you would, come towards me,
14:48:49 17 and you are going to -- you are good -- and then you are
14:48:50 18 going to walk across the courtroom and head to this
14:48:51 19 black chair over here to my right, okay? That's the
14:48:53 20 witness chair, as you know.

14:48:54 21 Before you sit down, please turn to me
14:49:03 22 and raise your right hand.

23 (Witness sworn.)

14:49:06 24 THE COURT: Put your hand down and be
14:49:07 25 seated, please.

14:49:08 1 All right. Mr. Howard.

14:49:13 2 MR. HOWARD: Judge, may I approach the

14:49:15 3 witness?

14:49:16 4 THE COURT: Yes, sir.

5 KAYLA HAYES,

6 having been first duly sworn, testified as follows:

7 DIRECT EXAMINATION

14:49:16 8 BY MR. HOWARD:

14:49:42 9 Q Are you ready?

14:49:42 10 Can you please state your name and introduce

14:49:45 11 yourself to the jury?

14:49:46 12 A My name is Kayla Hayes.

14:49:48 13 Q And you are Karmelo Anthony's mother?

14:49:53 14 A Yes, I am.

14:49:53 15 Q And Hayes is your maiden name; you never

14:49:55 16 changed your name?

14:49:56 17 A That's correct.

14:49:58 18 Q The jury has heard that you have four

14:50:01 19 children. Is Karmelo the oldest, the middle, the baby?

14:50:06 20 A He is my oldest. He is my first-born. He

14:50:12 21 will always be my baby. I love him very much.

14:50:19 22 Q Okay. Do you believe that Melo regrets what

14:50:28 23 he did?

14:50:31 24 A Yes. I know my son, and he is very sorry for

14:50:37 25 what he did.

14:50:42 1 Q Is there anything that you want this jury to
14:50:45 2 know, to consider, in making a decision of what a --
14:50:49 3 what a -- what the right decision is?

14:50:52 4 A Please have mercy on my son.

14:50:57 5 MR. HOWARD: Pass the witness, Judge.

14:50:59 6 THE COURT: Mr. Wirskye?

14:51:02 7 I'm sorry. Go ahead, sir.

8 CROSS-EXAMINATION

14:51:04 9 BY MR. WIRSKYE:

14:51:04 10 Q Ma'am, I have just a few questions for you,
14:51:06 11 okay?

14:51:07 12 Like any mother, I suppose you love your son?

14:51:13 13 A Yes.

14:51:14 14 Q And you realize, of course, regardless of what
14:51:18 15 happens in this trial, you will still get to be a part
14:51:22 16 of your son's life and he will still get to be a part of
14:51:26 17 your family? You realize that?

14:51:28 18 A Yes, I do.

14:51:30 19 MR. WIRSKYE: Thank you, ma'am. I'll
14:51:31 20 pass the witness.

14:51:32 21 THE COURT: Mr. Howard?

14:51:33 22 MR. HOWARD: No further questions.

14:51:34 23 THE COURT: Okay. Ma'am, you may step
14:51:41 24 down. Thank you.

14:51:42 25 Mr. Howard, call your next witness,

14:51:47 1 please.

14:51:51 2 MR. HOWARD: Judge, ladies and gentlemen,
14:51:52 3 the Defense rests.

14:51:54 4 THE COURT: What says the state?

14:51:55 5 MR. WIRSKYE: The State will close, Your
14:51:57 6 Honor.

14:51:57 7 MR. HOWARD: The Defense will close.

14:51:58 8 THE COURT: All right. Have a seat.

14:51:59 9 Ladies and gentlemen of the jury, what
14:52:00 10 that means is we just did the entire punishment phase of
14:52:03 11 the case, okay? And like we did before, we are going to
14:52:06 12 take a short break and work on the -- what we call the
14:52:08 13 punishment charge, which is the jury charge that governs
14:52:12 14 the punishment phase of the case. And so please wait
14:52:15 15 there. Do not discuss that in advance. I know you
14:52:17 16 deliberated about other things. You are not to
14:52:18 17 deliberate with regard to punishment until you have the
14:52:22 18 instructions by the Court.

14:52:23 19 Please go with the bailiffs.

14:52:28 20 THE BAILIFF: All rise.

14:52:28 21 (Jury not present.)

14:52:28 22 THE COURT: Let the record reflect the
14:52:45 23 jury has left the courtroom. Everyone be seated,
14:52:47 24 please.

14:52:48 25 So I had asked Ms. Braxton to -- she has

14:52:56 1 kind of been our scribe for the jury charges -- to get
14:52:58 2 us a draft, so I am waiting on a draft for that, okay?
14:53:01 3 And then we'll review that together, like we did
14:53:04 4 yesterday, and have our formal charge conference, and
14:53:07 5 then we'll get ready, okay?

14:53:09 6 Take the Defendant, please. We'll be in
14:53:24 7 recess.

8 (Recess in proceedings.)

15:29:37 9 THE COURT: Everyone be seated. Bring in
15:29:39 10 the Defense and the Defendant.

15:29:40 11 We are going to hand you, if you don't
15:29:42 12 have them already, hard copies of the proposed charge.

15:29:45 13 I believe that -- did the State agree to
15:29:47 14 put in sudden passion?

15:29:49 15 MR. WIRSKYE: We did.

15:29:50 16 THE COURT: Okay. We're off the record.

17 (Off-the-record discussion.)

18 (Recess in proceedings.)

15:55:07 19 THE COURT: We're back on the record in
15:55:07 20 the State versus Anthony. Present in the courtroom are
15:55:10 21 counsel for the State, counsel for the Defense, and the
15:55:12 22 Defendant. The jury is not present in the courtroom.
15:55:14 23 Both sides have closed the evidence as to punishment.
15:55:16 24 As a result, we are having our formal charge conference.
15:55:19 25 The Court has provided copies of the punishment jury

15:55:22 1 instructions proposed in this case.

15:55:23 2 Does the State have any objection?

15:55:26 3 MR. WIRSKYE: No objection, Your Honor.

15:55:26 4 THE COURT: Does the Defense have any

15:55:27 5 objection?

15:55:28 6 MR. HOWARD: No objection, Your Honor.

15:55:30 7 THE COURT: Okay. Bring in the jury,

15:55:59 8 please.

15:56:43 9 THE BAILIFF: All rise.

10 (Jury present.)

15:56:44 11 THE COURT: Everyone be seated, please.

15:57:03 12 All right. Ladies and gentlemen, I sound

15:57:05 13 like a broken record, but I do appreciate your patience,

15:57:07 14 every time I say it. So I do appreciate your patience

15:57:10 15 this afternoon.

15:57:11 16 We are ready to go, read the charge on

15:57:13 17 the punishment phase of the case, and then turn it over

15:57:16 18 to the lawyers for their closing arguments, and then I

15:57:19 19 will finally get you out to deliberate as to punishment,

15:57:21 20 okay?

15:57:21 21 (Court's Charge read aloud.)

15:57:21 22 THE COURT: That concludes the reading of

16:03:22 23 the punishment jury instructions, which, as you know,

16:03:25 24 will be put on the desk or table in the jury room when

16:03:28 25 you begin your deliberations. We're now going to move

16:03:31 1 to closing arguments. We are going to start with Mr.
16:03:32 2 Wirskye -- I'm sorry, with Mr. Mitchell.

16:03:34 3 Give me just a second.

16:03:38 4 Mr. Mitchell.

16:03:42 5 MR. MITCHELL: Thank you, Your Honor.

16:03:42 6 May it please the Court --

16:03:44 7 THE COURT: Yes, sir.

16:03:44 8 MR. MITCHELL: -- Counsel. Ladies and
16:03:47 9 gentlemen, it is good to see you, good to speak to you,
16:03:51 10 again, this afternoon.

16:03:52 11 I want to take you back to Wednesday when
16:03:56 12 we all met. Something unique happened when we all got
16:04:01 13 in that big room. Y'all remember we had -- I don't
16:04:04 14 know -- 500-something people, and we all talked. And
16:04:08 15 everybody came from different paths; everybody had
16:04:10 16 different opinions. But something -- something kind of
16:04:13 17 amazing happened, because there was this sense of a
16:04:19 18 bunch of people coming together and just wanting justice
16:04:22 19 to be done, right?

16:04:22 20 And y'all are the product of that. I
16:04:24 21 don't know if you realize it or not, but y'all are the
16:04:27 22 product of this community coming together and picking
16:04:30 23 people that say, I will not care about anything other
16:04:34 24 than just trying do what's right. And that's an amazing
16:04:38 25 thing. And if -- I don't know for you, but to me, it

16:04:41 1 felt like community, right? It felt like I -- we got to
16:04:44 2 be part of something important that day. And I want to
16:04:50 3 get back to that in a second.

16:04:52 4 But then we came into trial on Thursday,
16:04:54 5 and a phenomenon happened on Thursday that I am sad to
16:05:00 6 say happens in every single homicide case we try. And
16:05:03 7 it is one where we focus on the person who committed the
16:05:08 8 offense, committed the crime, took a life, and we kind
16:05:12 9 of forget about the person that was lost. And there
16:05:18 10 is -- it is nobody's fault, no one does it on purpose,
16:05:20 11 but it just happens in these types of cases.

16:05:23 12 Y'all will remember on Thursday, Mr.
16:05:25 13 Howard stood in front of you, the very beginning of his
16:05:28 14 opening statement, Karmelo Anthony is a student, Karmelo
16:05:32 15 Anthony is a son, Karmelo Anthony is, is, is, is. And
16:05:37 16 so now, you know, we stand here and we start talking
16:05:40 17 about what do you do as a jury. And I feel like I
16:05:43 18 should start with Austin Metcalf was a son, Austin
16:05:52 19 Metcalf was a brother, Austin Metcalf was the type of
16:06:01 20 kid that y'all remember when -- when that young man sat
16:06:05 21 up here and talked about how he had lost his father, and
16:06:08 22 he started crying and, he said, Austin Metcalf was one
16:06:12 23 person who believed in me.

16:06:13 24 But it doesn't quite fit, right? Because
16:06:17 25 we spent a week talking about Karmelo Anthony. And --

16:06:21 1 and, quite frankly, the other half of everything you
16:06:23 2 have heard about Austin Metcalf came from the
16:06:25 3 questioning by the Defense, right? We had to hear,
16:06:27 4 well -- Austin Metcalf, well, I mean, he is an outside
16:06:31 5 linebacker, he's a big guy, he is full of testosterone.
16:06:33 6 And then, of course, somehow, during the trial of this
16:06:36 7 case, that didn't apply to Karmelo Anthony, right?
16:06:39 8 Karmelo Anthony wasn't a defensive back who had to throw
16:06:43 9 his body into running backs and wasn't full of -- like,
16:06:46 10 none of that stuff counted. It was just Austin. We had
16:06:49 11 to talk about Austin that way.

16:06:49 12 So how else do we see Austin? In a
16:06:53 13 minute, I think you are going to hear a lot about the
16:06:56 14 age of this defendant. And we talked about that
16:06:59 15 Wednesday, didn't we? Somebody asked, well, can we --
16:07:01 16 we can't consider age in guilt/innocence, but can we
16:07:05 17 consider it in punishment? And I told you all
16:07:08 18 absolutely, right? You would have to be blind not to
16:07:10 19 recognize the age of this defendant.

16:07:12 20 What I'm going to ask you to do, as you
16:07:14 21 go back there and you start talking about what do we do
16:07:18 22 in this case, is be fair to both sides with that.
16:07:21 23 Absolutely, talk about his age. That has to affect how
16:07:26 24 you make your decision. It would be unfair for me to
16:07:29 25 say otherwise. But at the same time, I'm going to ask

you to consider the age of the victim in this case, and I want you to think about what that means.

Austin Metcalf -- while we have been in this room, and you all know it because you have gotten back to your cars, and you have seen the rain that has come through this part of North Texas on a couple of the days of this week, that rain has washed over a young man's grave. That kid that we saw running in front of the bleachers, with his brother kind of jumping on his back, after seeing his middle school coaches, and going up and looking forward to a day of a track competition, the same kid that we know left the track competition the week earlier to go fishing with his buddies, there is no more laughter, there is no more breath inside that body. And that's why we are here.

Nothing you do with your verdict -- no matter what it is -- nothing you do will take more from Karmelo Anthony or his family than he took from the Metcalfs. See, Karmelo Anthony is going to have the opportunity to continue to be a son, to continue through his life and find out what he is interested in, maybe meet the love of his life, have children. Those are all opportunities Karmelo Anthony has.

So when we start talking, or you start listening to someone talk about his age, let's be fair

16:09:08 1 about that. Because Austin Metcalf did not have the
16:09:12 2 opportunity to meet the love of his life, didn't have
16:09:15 3 the opportunity to know what it felt like to hold a
16:09:18 4 plaque of graduation, doesn't -- isn't going to know
16:09:21 5 what it is like to have children with someone he loves.
16:09:24 6 He is never going to have the time with his parents
16:09:28 7 where he grows up and he gets out of those teenage
16:09:31 8 years, where you know it all, and he actually enjoys
16:09:34 9 that adult relationship. That's gone for him. And
16:09:38 10 Karmelo Anthony will still have that, no matter what you
16:09:41 11 do.

16:09:42 12 So I want to go back to Thursday, after
16:09:48 13 those days when we started hearing from witnesses. And
16:09:51 14 I -- I spoke to you about community. And when I thought
16:09:53 15 about community in this case, there was a moment
16:09:56 16 during -- during this case where it really hit me. And
16:09:58 17 I'm going to show you State's Exhibit-76A.

16:10:02 18 Judge, if I may?

16:10:03 19 This is actually a still shot from that
16:10:09 20 officer out there that day, and you see Coach Rebmman
16:10:15 21 and you see Tiffany Whiteaker trying to save that young
16:10:20 22 man's life. But did y'all notice what was going on on
16:10:23 23 the track? What do you see?

16:10:27 24 Well, I see Coach Starr. I know what he
16:10:32 25 is doing. I will tell you what. I don't know who these

16:10:37 1 people are. I know they are not wearing the same colors
16:10:42 2 and the same -- from the same teams. But I will tell
16:10:48 3 you what it looks like. It looks like they are praying.
16:10:53 4 That's community.

16:10:55 5 And I will tell you what they are
16:10:58 6 praying -- or at least in this moment, right? Like, not
16:11:00 7 to make it too much -- but in that moment, they were
16:11:02 8 praying for healing, right? No question about it. They
16:11:05 9 were praying for that young man's life; they were
16:11:08 10 praying for healing.

16:11:09 11 And you heard from parents -- or, I'm
16:11:13 12 sorry -- you heard from teenagers, and you saw their
16:11:16 13 parents. And you heard from first responders and you
16:11:18 14 heard from coaches, and you heard about a small part of
16:11:23 15 our community. And when I look at those people praying,
16:11:30 16 I wonder, what should we be praying for out of this.

16:11:34 17 And I am telling you, I don't know that
16:11:37 18 it is much different. I think we should be praying for
16:11:42 19 some healing, too. And how do you do that in what you
16:11:46 20 are about to do?

16:11:47 21 well, I will tell you this. You don't do
16:11:49 22 it through vengeance. So as a proponent for the State
16:11:50 23 of Texas, let me tell you now, this is not about
16:11:56 24 vengeance. And it is not about leniency, either.
16:12:01 25 Because as I talk about a community, understand, you are

16:12:04 1 representatives of our community. And community -- the
16:12:07 2 thing about community is, it is not just taking care of
16:12:10 3 each other. There is another part of community -- and
16:12:13 4 you are fulfilling this in your service -- but there is
16:12:16 5 another part of community which makes us feel safe, and
16:12:19 6 that is having people take accountability for their
16:12:23 7 actions.

16:12:23 8 And I'm sorry that it landed upon you,
16:12:25 9 I'm sorry that you were the ones picked; but you stepped
16:12:29 10 up, and you have done your duty, and you are going to
16:12:32 11 continue to, through the most important part of this
16:12:35 12 trial. But that's part of community. And I don't know
16:12:40 13 how you all got here, right? Like, I don't know whether
16:12:42 14 you walked out of an apartment or you left a
16:12:45 15 neighborhood; but somehow, you got here, you passed
16:12:48 16 other people that were taking their kids to daycare or
16:12:52 17 that were going to their jobs or that were, you know,
16:12:57 18 exercising.

16:12:57 19 whatever it is, and you saw those people,
16:12:59 20 and I am telling you right now, those people have no
16:13:01 21 idea what you have been through. Those people don't
16:13:04 22 know the evidence you have heard. Those people live in
16:13:07 23 a society where we enjoy the safety that are given to us
16:13:13 24 by jurors, because we trust that jurors will hold people
16:13:22 25 accountable. And that's what your job is going forward.

16:13:26 1 Your job is to be representative of the community in
16:13:30 2 deciding what do we do in this case. And, quite
16:13:34 3 frankly, what you are deciding is, in Collin County,
16:13:41 4 what's the price of taking a life.

16:13:43 5 Because I will tell you, and -- and, I
16:13:48 6 mean, I will really tell you, there are going to be
16:13:54 7 bleachers in baseball fields tonight around Collin
16:13:58 8 County where families are going to watch their kids play
16:14:02 9 in spring ball. In a couple of months, those same
16:14:09 10 bleachers are going to be filling up with families
16:14:12 11 watching their kids play football. And the reason --
16:14:16 12 one of the reasons they are in our community, the
16:14:19 13 community where we live, the community where we worship,
16:14:22 14 the community where we raise our kids, is because we
16:14:28 15 feel safe.

16:14:29 16 And that's your job. And by giving a
16:14:35 17 fair, just verdict -- not vengeance, but at the same
16:14:38 18 time, not leniency -- a fair, just verdict, at least my
16:14:46 19 prayer is, that's how we find healing.

16:14:49 20 Godspeed in your verdict.

16:14:52 21 THE COURT: Thank you, Mr. Mitchell.

16:14:53 22 Mr. Howard.

16:15:03 23 MR. HOWARD: Thank you, Your Honor. May
16:15:10 24 it please the Court --

16:15:12 25 THE COURT: Yes, sir.

16:15:13 1 MR. HOWARD: -- Counsel. I cannot and
16:15:26 2 will not stand here and tell you what the right thing to
16:15:31 3 do is. I've stood here in front of many juries
16:15:37 4 throughout my career, in many cases, some big, some
16:15:45 5 small --

16:15:46 6 THE COURT: Speak up a little bit, Mr.
16:15:49 7 Howard.

16:15:49 8 MR. HOWARD: -- and I've had this
16:15:51 9 conversation many times. And it is never easy for me,
16:16:00 10 it is never easy for anyone, but I know it is the least
16:16:04 11 amount easy for y'all. I couldn't begin to tell you
16:16:11 12 what the right thing to do is in this moment. You will
16:16:17 13 know that in your hearts; in your own hearts.

16:16:20 14 We respect your verdict. That's --
16:16:26 15 that's what living in our society is. And we respect
16:16:35 16 your role, the fact that you answered your call of duty.
16:16:41 17 You came down here and served, in spite of everything
16:16:45 18 outside, all of the noise.

16:16:49 19 The people in this room -- the judge, the
16:16:59 20 attorneys, the families -- we know what we are asking,
16:17:03 21 and I'm sorry that we are asking this. Anyone who
16:17:17 22 stands up here and tells you, you know, that puts a
16:17:23 23 number on what the right thing to do is, clearly doesn't
16:17:27 24 understand how hard your job is, how important your role
16:17:31 25 is; how, you know, unfair it is to tell other people

16:17:47 1 what's right, but that's what our system is.

16:17:52 2 Earlier, I talked about the importance of
16:17:54 3 a jury system. We, as Americans, trust in our
16:18:02 4 community. And I will agree with Mr. Mitchell.
16:18:09 5 Community, that's an important word; and we put our
16:18:12 6 faith in y'all. Both sides. And I know it is a heavy
16:18:18 7 burden, I know it is a heavy weight that you are being
16:18:21 8 asked to carry, and I can't imagine. I can only ask you
16:18:29 9 to consider both sides and follow your heart and follow
16:18:38 10 the law.

16:18:39 11 I am going to talk to you about some of
16:18:41 12 the things in this jury charge. So in Texas, we have
16:18:47 13 this concept called sudden passion. And the judge read
16:18:51 14 it to you. And as the judge said, you are going to have
16:18:54 15 copies -- a copy or copies back there in your
16:18:58 16 deliberation room to be able to go through, to
16:19:00 17 understand exactly how it works.

16:19:03 18 Texas does define these terms so you can
16:19:07 19 understand them. Because again, like a lot of things in
16:19:10 20 the law, we use words that have common definitions and
16:19:13 21 then we give them a particular legal definition. So let
16:19:17 22 me talk you through this.

16:19:18 23 The issue of sudden passion has been
16:19:23 24 raised, and you are instructed that if you unanimously
16:19:29 25 believe that the Defendant caused the death of Austin

16:19:32 1 Metcalf under the immediate influence of sudden passion
16:19:36 2 arising from an adequate cause, okay? So sudden
16:19:45 3 passion. Sudden passion means a passion, an emotion, a
16:19:52 4 feeling, that is directly caused by and arising out of
16:19:59 5 provocation by the individual killed, or another acting
16:20:04 6 with the person killed, which passion arises at the time
16:20:09 7 of the offense and not solely the result of former
16:20:13 8 provocation.

16:20:14 9 what always worries me, when we use terms
16:20:18 10 in the law that have common definitions that don't
16:20:23 11 perfectly match up, is that we can give people the wrong
16:20:28 12 impression. And that's why lawyers give you legal
16:20:31 13 definitions, and we go over it and we tell you this is
16:20:34 14 what this word means. And that seems silly, and people
16:20:38 15 make lawyer jokes about how we split hairs about what a
16:20:42 16 word means, but this is why we do this, because sudden
16:20:46 17 passion doesn't mean blaming Austin Metcalf or [REDACTED]
16:20:50 18 [REDACTED] or any of those Memorial kids under that tent.

16:20:54 19 You don't see the word "blame" in there.
16:20:58 20 This is not about blaming a victim, because it is not
16:21:06 21 Austin's fault, obviously. It is not [REDACTED] fault,
16:21:10 22 obviously. It is none of those kids' fault. You have
16:21:15 23 decided, in accordance with the law and your duty, to
16:21:20 24 hold Karmelo Anthony responsible, and that's the law.
16:21:25 25 So now I ask you to follow the law, and your hearts,

again, and decide whether a sudden passion directly
arose in that immediate moment, in that split second.

so let's talk about adequate cause,
because I think that's where the rubber really meets the
road. Adequate cause means cause that would commonly
produce a degree of anger, rage, resentment or terror --
and I think, in this case, terror probably most fits --
but that's a decision for you to make, not me -- in a
person of ordinary temper sufficient to render the mind
incapable of cool reflection.

The law understands that even though we
may be responsible legally for our conduct, even though
self-defense may not apply, maybe we're -- our action is
not legally justified, that maybe -- not maybe -- that
when we make a decision, when we react in a moment when
our mind has not had time to process, to calm down, when
we have not had time for cool reflection, that that is
different than when we have time to think, and we still
do something bad.

It doesn't mean that blame doesn't rest
with a person, it doesn't mean they are not responsible,
because you have decided that already. What it means is
that decisions made in the heat of the moment are
different than decisions that come after cool
reflection.

16:23:24 1 So when something happens, when Austin
16:23:34 2 and [REDACTED] kids in the Memorial tent, when that
16:23:41 3 happens, and if you believe that Karmelo Anthony felt
16:23:49 4 terror in that moment, such that it rendered his mind
16:23:54 5 incapable, that he didn't have time for cool reflection
16:24:00 6 and he acted legally unjustifiably, but he acted in that
16:24:06 7 moment, in that state of mind, then sudden passion
16:24:10 8 applies.

16:24:10 9 And the burden is on us -- not the
16:24:15 10 government, us -- but the burden is much lower. The
16:24:21 11 burden is preponderance of the evidence, which simply
16:24:25 12 means -- the definition says greater weight of the
16:24:28 13 credible evidence. Leave it to lawyers; I don't know
16:24:30 14 how helpful that is. We usually say, you know, just
16:24:34 15 greater than fifty percent; 50.01 percent. You tip the
16:24:40 16 scales towards yeah, yeah, I think there is more
16:24:45 17 credible evidence that way than the other way, that's a
16:24:49 18 preponderance of the evidence.

16:24:50 19 So you don't have to be sure of sudden
16:24:55 20 passion, okay? If you find by a preponderance of the
16:25:00 21 evidence that the evidence you've heard thus far makes
16:25:06 22 you think that that applies, that there was terror -- or
16:25:10 23 anger or rage, but I think terror -- that rendered
16:25:16 24 Karmelo's mind incapable of cool reflection and that
16:25:20 25 that was the moment he acted in -- and I think the video

16:25:24 1 helps really show that, because for all this talk about
16:25:30 2 what happened and how long it takes us to go through
16:25:33 3 with witness after witness and ask them questions and
16:25:35 4 try to make it as clear as we can, both sides, of making
16:25:39 5 their points, at the end of the day, that video was mere
16:25:43 6 seconds. There was a build-up, sure. But where things
16:25:49 7 got, I would say, truly terrifying for everyone, was in
16:25:56 8 a split second. So I ask you to consider both sides.

16:26:05 9 Like I said, I am not asking you to do
16:26:20 10 what I want, what they want, or what anybody else wants.
16:26:24 11 You have to follow your heart and the evidence. I ask
16:26:28 12 you to consider both sides. Yes, the Metcalfs have been
16:26:38 13 irrevocably changed by this. I think all of our hearts
16:26:43 14 go out to them. The Anthonys have also been irrevocably
16:26:49 15 changed, and there are innocent people on both sides who
16:26:53 16 have lost significantly, and you absolutely should
16:26:59 17 consider that on both sides.

16:27:01 18 I think Karmelo's age is a relevant
16:27:10 19 factor for you to consider. I don't know if it is a big
16:27:13 20 factor or a little factor, or what. That's, again, you
16:27:17 21 guys' decision, and I am not going to sit here and tell
16:27:21 22 you how to do your job, because I understand exactly how
16:27:24 23 hard your job is.

16:27:25 24 I want to thank you on behalf of our
16:27:29 25 system, on behalf of the Anthony family. Thank you for

16:27:35 1 doing your duty. And I -- again, I am going to agree
16:27:38 2 with Mr. Mitchell. I think, you know, healing is what
16:27:42 3 we need. And you guys -- and again, I'm sorry we are
16:27:47 4 putting this weight on your shoulders -- but you guys
16:27:50 5 are going to decide what that is. And I ask you to take
16:27:54 6 it very seriously and I have the utmost faith that you
16:28:01 7 will.

16:28:01 8 Thank you.

16:28:10 9 THE COURT: Thank you, Mr. Howard.

16:28:11 10 Mr. Wirskeye.

16:28:13 11 MR. WIRSKYE: Thank you, Your Honor.

16:28:17 12 May it please the Court --

16:28:19 13 THE COURT: Yes, sir.

16:28:21 14 MR. WIRSKYE: -- Counsel. Ladies and
16:28:22 15 gentlemen of the jury, I will be brief, this afternoon,
16:28:26 16 with you. Just a couple of matters I would like to
16:28:29 17 discuss with you at this stage of this trial.

16:28:32 18 Let me start with this issue of sudden
16:28:35 19 passion. It is in the jury charge. Again, the burden
16:28:40 20 of proof is on the Defense, unlike every other phase of
16:28:44 21 this trial. Let me show you a couple of definitions.
16:28:49 22 You are going to have this in the Court's charge when
16:28:51 23 you go back, but I want to tell you why sudden passion
16:28:54 24 is completely inapplicable to this case and this set of
16:28:59 25 facts and why you, frankly, shouldn't consider it once

16:29:05 1 you understand what the law is.

16:29:07 2 There is the definition of sudden
16:29:12 3 passion: directly caused by or arising out of
16:29:17 4 provocation by the individual killed. What do we know?
16:29:23 5 what did you decide? What did you hear? The
16:29:27 6 provocateur, the person doing the provoking that
16:29:31 7 morning, was Karmelo Anthony. Sudden passion doesn't
16:29:35 8 fit here. They've got it wrong. Sudden passion is when
16:29:42 9 the victim, the dead person, provokes someone. It is
16:29:47 10 not when the murderer provokes someone. Sudden passion
16:29:54 11 doesn't apply.

16:29:55 12 Let's look at the next definition:
16:29:56 13 adequate cause. Adequate cause means cause that would
16:30:03 14 commonly produce. Who caused this? Not Austin Metcalf.
16:30:10 15 It was Karmelo Anthony. Sudden passion doesn't fit
16:30:15 16 here.

16:30:16 17 You know, earlier this morning, I talked
16:30:19 18 to you about the reasonable person standard: ordinary
16:30:22 19 and prudent person. Sudden passion has a person of
16:30:26 20 ordinary temper. That's the standard. You think a
16:30:31 21 person of ordinary temper would have done what Karmelo
16:30:34 22 did that morning and buried the knife in Austin
16:30:38 23 Metcalf's chest? Of course not.

16:30:40 24 But I think it is so vitally important
16:30:45 25 that you understand the situation that sudden passion is

for and you understand completely, and a hundred percent these facts, this murderer, this murder, sudden passion doesn't apply, okay?

Let me next show you the verdict form I have circled. The top one is for sudden passion; the bottom one is for murder. You set the punishment in this case, and I am here to tell you, don't worry about the fine. Worry about the sentence; do not worry about the fine.

Mr. Howard tells you your job is hard, and it is. But I have got to refocus you now as to what your reality -- where we are in this case, where we are in this courtroom, where you are as jurors. You've got to focus.

You did your duty this morning; I have no doubt you will do your duty this afternoon. But the reality is, whether you like it or not, in this case, like every murder case, mercy to the guilty is cruelty to the innocent. Mercy to the guilty is cruelty to the innocent. That's a tough fact, but that's why we are here. That's your duty, okay? That's what we are talking about.

I want to refocus you a little bit on the victims, on the victims, why we are really here: Austin Metcalf. And there he is: Austin, and [REDACTED] This is

16:32:27 1 why we are here today. You spent a lot of time in this
16:32:31 2 courtroom looking at Karmelo Anthony. You spent very
16:32:34 3 little time looking at these photos.

16:32:36 4 You are about to go back and consider
16:32:40 5 what the proper sentence is, and you can't help but
16:32:43 6 visualize the Defendant: Karmelo Anthony. What I would
16:32:46 7 ask you to do, what I would beg you to do, and what I
16:32:49 8 would beseech you to do, is when you talk about Karmelo
16:32:52 9 Anthony, talk about Austin Metcalf. When you consider
16:32:56 10 his family, Karmelo Anthony's, consider the Metcalfs:
16:33:00 11 Meghan, Jeff, [REDACTED]

16:33:04 12 You know, counsel mentioned the scales of
16:33:10 13 justice, and it's not a bad metaphor for what we do.
16:33:13 14 The judge himself has this. You are balancing. You are
16:33:19 15 balancing: what is a life worth. A permanent, just
16:33:27 16 unfathomable loss, what is that worth? A life for a
16:33:33 17 life? A life lost for a life sentence?

16:33:37 18 There is a lot of wisdom there. There is
16:33:41 19 a lot of symmetry there. I am not suggesting,
16:33:43 20 necessarily, that's what you do; but understand, if you
16:33:47 21 want to think about your job as a scale, that is what
16:33:51 22 you are balancing. That is what you are balancing.

16:33:53 23 Let's talk a little bit about -- you
16:34:04 24 know, I have mentioned a life sentence. And make no
16:34:08 25 mistake, regardless of what you do today, plenty of life

16:34:12 1 sentences have already been handed out in this case,
16:34:15 2 okay? Meghan Metcalf, life sentence. Jeff Metcalf,
16:34:20 3 life sentence. [REDACTED] life sentence. A life
16:34:25 4 sentence of loss, a life sentence of void, a void in
16:34:28 5 their family, a void in their heart, a void in their
16:34:32 6 home.

16:34:32 7 So if you think life may not be
16:34:37 8 appropriate, I commend you to understand that life
16:34:43 9 sentences have already been handed down in this case
16:34:46 10 long before we swore you in as jurors. Long before we
16:34:50 11 swore you in as jurors.

16:34:52 12 Everybody has touched on community. I
16:34:54 13 touched on it this morning. Today, you are the
16:34:56 14 conscience of that community. Mr. Mitchell says today
16:35:00 15 you set the price for a life lost in Collin County, and
16:35:06 16 that is true. There is so much truth in that.

16:35:09 17 You are the twelve that represent the
16:35:12 18 community in this case; you speak for the community. It
16:35:17 19 is up to you to determine how we in Collin County, how
16:35:22 20 we in this community respond to senseless violence,
16:35:27 21 respond to senseless loss, respond to senseless murder,
16:35:31 22 and respond to senseless murderers.

16:35:34 23 How do we respond? Do we tolerate it or
16:35:42 24 do we hand out an appropriate sentence, a lengthy
16:35:47 25 sentence, that while it can never take away the hurt, it

16:35:50 1 can't take away the life sentences that have already
16:35:53 2 been handed out, perhaps it will at least dignify the
16:36:00 3 unfathomable loss. It will never fill the void in the
16:36:05 4 family, in the heart, but it might dignify the loss.
16:36:09 5 whatever you do in this case, and I
16:36:15 6 submit to you only a lengthy, lengthy prison sentence is
16:36:21 7 appropriate here, that can even begin to dignify or
16:36:28 8 acknowledge the loss that these people and our community
16:36:34 9 has felt in this case. That's the only, only
16:36:37 10 appropriate verdict at this point.
16:36:39 11 They say it is hard. I don't know. I
16:36:43 12 know it is not easy. But I want you to think -- instead
16:36:48 13 of hard and easy, I want you to think about clear. Your
16:36:53 14 duty is clear. You did your duty this morning. You
16:36:55 15 took pen in hand and found him guilty of murder. I beg
16:36:59 16 you to do your duty this afternoon. Take pen in hand
16:37:02 17 and hand out a sentence that is meaningful, that is
16:37:06 18 lengthy, that can begin to heal these people and begin
16:37:12 19 to heal this community.
16:37:14 20 And make no mistake about it, whether you
16:37:17 21 like it or not, what you do here sends a message. All
16:37:22 22 of these people in the courtroom, as soon as you come
16:37:25 23 back with your verdict, the message gets out. It could
16:37:28 24 be the bleachers at the Little League games tonight, but
16:37:31 25 it is going to go out throughout the State, and probably

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16:37:34 1 throughout the country, how does our community respond
16:37:37 2 to senseless violence, senseless loss, and senseless
16:37:41 3 murder.

16:37:42 4 I have no doubt you know both in your
16:37:48 5 heart and in your head the wisdom of what I say, and I
16:37:55 6 trust you to go back and do the right thing on behalf of
16:37:59 7 everyone in the community.

16:38:00 8 Thank you, folks.

16:38:01 9 Thank you, Your Honor.

16:38:02 10 THE COURT: Thank you, Mr. Wirskeye.

16:38:03 11 All right. Ladies and gentlemen, I am
16:38:06 12 going to excuse you to deliberate the punishment in this
16:38:09 13 case. Please follow the directions of the bailiff
16:38:12 14 staff, and if you have any questions, let us know.

16:38:14 15 You are excused. Thank you.

16:38:17 16 THE BAILIFF: All rise.

17 (Jury not present.)

16:38:17 18 THE COURT: Let the record reflect the
16:38:36 19 jury has left the courtroom. We will be in recess until
16:38:38 20 the jury has reached a verdict.

16:38:40 21 Listen to the instructions from security
16:38:42 22 staff. Thank you.

23 (Recess in proceedings.)

19:28:52 24 THE BAILIFF: All rise.

19:28:52 25 THE COURT: Everyone be seated, please.

19:28:53 1 We are back on the record in State versus
19:28:55 2 Anthony. Present in the courtroom are counsel for the
19:28:56 3 State, counsel for the Defense, and the Defendant. The
19:28:58 4 Court has been notified that the jury has reached a
19:29:01 5 verdict as to punishment.

19:29:02 6 Is the State ready to receive that
19:29:04 7 verdict?

19:29:04 8 MR. WIRSKYE: The State is ready, Your
19:29:09 9 Honor.

19:29:10 10 THE COURT: Is the Defense ready?

19:29:12 11 MR. HOWARD: The Defense is ready.

19:29:16 12 THE COURT: Okay. Bring in the jury,
19:29:20 13 please.

19:30:44 14 THE BAILIFF: All rise.

19:30:44 15 (Jury present.)

19:30:44 16 THE COURT: Everyone be seated, please.

19:31:02 17 All right. Sir, it is my understanding
19:31:09 18 the jury has reached a verdict; is that correct?

19:31:12 19 PRESIDING JUROR: Yes, sir.

19:31:13 20 THE COURT: If you will hand the verdict
19:31:14 21 form to the bailiff, please.

19:31:36 22 Will the Defendant please rise?

19:31:40 23 In Cause Number 296-83565-2025, in the
19:31:46 24 State of Texas versus Karmelo Sincere Anthony: We, the
19:31:50 25 jury, having found the Defendant guilty of murder do

19:31:54 1 further unanimously find that the Defendant did not
19:31:58 2 cause the death under the immediate influence of a
19:32:00 3 sudden passion arising from an adequate cause, and we
19:32:05 4 assess his punishment at confinement in the
19:32:07 5 Institutional Division of the Texas Department of
19:32:10 6 Criminal Justice for 35 years and a fine of zero
19:32:14 7 dollars, signed by the foreperson.

19:32:17 8 Have a seat, please.

19:32:19 9 Ladies and gentlemen, on behalf of the
19:32:25 10 Court, the court system, and the parties and the
19:32:28 11 community, I want to thank you for your service to
19:32:32 12 Collin County these last two weeks. You -- I gave you
19:32:35 13 plenty of instructions throughout this entire trial, and
19:32:38 14 as I told you before, I am releasing you now from all of
19:32:42 15 those restrictions. You are free to talk to anybody
19:32:44 16 about the case, if you want to, and you are free not to
19:32:47 17 talk to anybody, if you don't want to.

19:32:49 18 I do make it a policy of my court to come
19:32:51 19 back right now, when I dismiss you, to talk to you and
19:32:54 20 answer any questions that you have, and so I will do
19:32:56 21 that in just a second. Again, thank you for your
19:33:02 22 service. You are excused.

19:33:04 23 THE BAILIFF: All rise.

24 (Jury not present.)

19:33:18 25 THE COURT: Let the record reflect the

19:33:19 1 jury has left the courtroom. Everyone be seated,
19:33:22 2 please.

19:33:22 3 AS I mentioned to the members of the
19:33:24 4 jury, I am going to step back there and answer any
19:33:27 5 questions that they have. In that period of time, while
19:33:29 6 I am out, if y'all will get ready for the victim impact
19:33:31 7 statements, please. Thank you.

19:33:33 8 we'll be in recess.

9 (Recess in proceedings.)

19:47:56 10 THE BAILIFF: All rise.

19:47:58 11 THE COURT: Everyone be seated.

19:48:01 12 The Court needs to formally announce
19:48:02 13 sentence to the Defendant. We're back on the record in
19:48:09 14 State versus Anthony. Present in the courtroom are
19:48:11 15 counsel for the State, counsel for the Defense, and the
19:48:14 16 Defendant.

19:48:14 17 will the Defendant please rise?

19:48:16 18 Mr. Anthony, the jury having found you
19:48:21 19 guilty of the first degree felony offense of murder, the
19:48:24 20 Court formally sentences you to 35 years confinement in
19:48:28 21 the Texas Department of Criminal Justice, Institutional
19:48:28 22 Division.

19:48:30 23 The Court now remands you into the
19:48:33 24 custody of the Collin County Sheriff's Office, where you
19:48:36 25 will remain until you are provided to a transferring

agent on behalf of that department, who will take the
convict, now in custody, and carry out this court's
judgment and sentence.

Have a seat.

We're going to go off the record for
victim impact statements.

(Victim impact statements presented.)

MR. WIRSKYE: That's it, Your Honor.

THE COURT: All right. Take the
Defendant.

The Court is closing the courthouse
parking lot at 8:45, except as to press and, obviously,
employees. Please listen to security staff as you leave
the courtroom and the courthouse grounds.

The Court is adjourned.

(Proceedings concluded.)

1 STATE OF TEXAS

2 COUNTY OF COLLIN

3 I, Janet L. Dugger, Official Court Reporter in and
4 for the 296th District Court of Collin County, State of
5 Texas, do hereby certify that the above and foregoing
6 contains a true and correct transcription of all
7 portions of evidence and other proceedings requested in
8 writing by counsel for the parties to be included in
9 this volume of the Reporter's Record in the above-styled
10 and numbered cause, all of which occurred in open court
11 or in chambers and were reported by me.

12 I further certify that this Reporter's Record of
13 the proceedings truly and correctly reflects the
14 exhibits, if any, offered by the respective parties.

15 Certified to this 24th day of July, 2026.

16
17 /s/ Janet L. Dugger

18 Janet L. Dugger, CSR
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Expiration: 8/1/2027

Jan Dugger, CSR
296th District Court