

**2016
MAINE
HIGH SCHOOL
MOCK TRIAL
CASE**

IN THE SUPERIOR COURT
OF NEW JUSTICE COUNTY
STATE OF MAINE

State of Maine

)

)

v.

)

)

Fran Lewis

)

Criminal Action

CR-2016-MT

NOTE: The names of the characters, places, events, and circumstances in this mock trial case are intended to be fictitious.

*This year's case has been adapted from case materials developed by The Honorable Terry Lewis, Circuit Court Judge for the 2nd Judicial Circuit of Florida, sponsored by The Florida Law Related Education Association, Inc. with special assistance from the Florida Bar Foundation Interest on Trust Accounts Program and The Florida Bar..

STATEMENT OF THE CASE

The Pinnacle Paper Company is not only the largest employer in New Justice County; it is the largest single owner of real estate in the State of Maine. For over fifty years, it has exercised considerable economic and political influence in the region. In addition to the economic boost it brings to the county, the company has won awards for its innovative pollution control techniques and technology, has made substantial contributions to many charitable organizations, has donated land for community parks, and in general is considered a good corporate citizen. In recent years, it has begun to develop some of its real estate holdings into residential and leisure communities, bringing needed jobs and economic activity to these sparsely populated areas.

Not everyone, however, is enamored with The Pinnacle Paper Company. A small but vocal minority claim that the company's heralded pollution control is a public relations sham. They blame the company for water and air pollution, which they say has caused unusually high incidences of cancer in the residents of Lawville, especially those who live near the plant or along the banks of the Salmon River, into which the company discharges its effluent.

Members of a group of local environmental activists known as "The Swamp Rats" have engaged in several protest activities against the plant, including marches, rallies, sit-ins at the plant, human blockades at some of the company's real estate development sites, and various lawsuits seeking injunctions and damages. Several weeks ago, members of the group were arrested and convicted of trespass and vandalism for an incident during which the company administration building was spray painted with graffiti, and a truck load of manure was dumped on the front steps. The group has also claimed credit for vandalizing tractors and other equipment at construction sites of the company. The leader of the Swamp Rats is Fran Lewis, who blames the plant for the death of his/her wife/husband two years ago from cancer.

When the vice president of the plant, Richard Braswell, is found dead on the front steps of the company's administration building one night, law enforcement officials conclude that it is the result of another trespass and vandalism spree gone awry, and the circumstantial evidence leads them to conclude that Fran Lewis is the murderer. But will it be enough to convince a jury?

STIPULATIONS

1. All exhibits included in the problem are authentic and accurate in all respects and no objections to the authenticity of the exhibits will be entertained.
 - a. The chain of custody of evidence may not be contested.
 - b. The absence of lab reports may not be questioned.
 - c. The absence of photographs may not be questioned.
2. The fact summary provides background information only. Witnesses may testify to information contained in the fact summary only if it is also found in their witness statement.
 - a. All physical evidence and witnesses not provided for in the case are unavailable and their availability may not be questioned.
 - b. Beyond what's stated in the witness statements, there was no other forensic evidence found in this case.
 - c. All witness statements were taken in a timely manner.
3. Any examination, analysis, or experimentation conducted by any expert witness is presumed to have been conducted consistent with generally accepted scientific principles pertaining to the field of expertise of the witness.
4. The signatures on the Witness Statements and other documents are authentic. If asked, a witness must acknowledge signing the document(s) and must attest to the contents of the document(s) and the date(s) indicated thereon. The statements are deemed to be given under oath or affirmation.
5. No *Miranda* issues exist.
6. No motions to dismiss the indictment, nor any other motions, are allowed.
 - a. Parties are to proceed as if there was a pre-trial motion hearing on constitutional issues and that the Court ruled that all acts by the state were constitutional.
7. The following *facts* are stipulated to by both parties, and may be read into the record at any time:
 - a. The victim was a Caucasian male approximately 5'11" in height and weighing approximately 235 pounds.
 - b. The cause of death was blunt trauma to the back of the head, caused by a smooth rounded object, cylindrical in shape, consistent with a tire iron.
 - c. The blow to the head lacerated the skin, causing substantial bleeding and crushed the skull, causing bone fragments to become embedded in the brain.
 - d. The time of death is estimated to have been between 10:00 and 11:30 p.m. on Friday, July 8, 2016.
 - e. The defendant's criminal record includes convictions for the misdemeanors of battery, disorderly conduct, trespass, and vandalism, and the felony offense of cultivation of marijuana. The first two convictions were in 2009 and grew out of a bar room fight. The trespass and vandalism convictions relate to a protest by the defendant and several others at the Pinnacle Paper Company on Memorial Day 2016 during which windows and doors were spray painted with red paint and a load of manure was dumped at the entrance of the administrative building. The drug conviction was in 2006.
 - f. Of the registered vehicles in New Justice County, there are 414 Ford F150 1/2 Ton Pickup Trucks, 227 GMC 1/2 Ton Pickup Trucks, and 259 Chevrolet 1/2 Ton Pickup Trucks. There are an additional 717 light utility trucks of various makes and models. There is no information as to how many of these trucks are white in color, nor how many have customized "MAINE" paint jobs representing the University of Maine logo.

- g. A criminal record check of Jamie Lewis shows a conviction for misdemeanor passing a worthless bank check in March 1986, and for cultivation of marijuana in 2006.
- h. The shoes the defendant was wearing at the time of his/her arrest were Dr. Martens, size 8 UK (9 US). The tires on his/her truck were Cooper Cobras. Both are fairly common.

WITNESSES

The following witnesses will be called by the parties:

Prosecution

- Pat Winter
- Lynn Barnes
- Dale Williams

Defense

- Robin Dillard
- Jamie Lewis
- Fran Lewis

All witnesses may be female or male.

EXHIBITS

The following exhibits may be used by teams in competition. They are pre-marked and are to be referred to by letter, as follows:

- A. Photo of Spray Painted Window, Ex. A1; Can of Spray Paint, Ex. A2
- B. Photo of Footprints, Ex. B1; Defendant's shoes, Ex. B2
- C. Photo of Tire Tracks, Ex. C1; Defendant's tires, Ex. C2
- D. Photo of Tire Iron, Ex. D
- E. Map/Diagram of Crime Scene, Ex. E
- F. Map/Diagram of Mini-Mart Parking Lot, Ex. F
- G. Official University of Maine logo, Ex. G (permission for use granted by the University of Maine)

STATE OF MAINE
NEW JUSTICE, ss.

SUPERIOR COURT
CRIMINAL ACTION
DOCKET NO. CR-2016-MT

STATE OF MAINE

v.

INDICTMENT

FRAN LEWIS

THE GRAND JURY CHARGES:

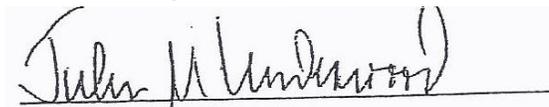
COUNT 1:

**17-A M.R.S.A. §201(1)(A)
MURDER**

On or about July 8, 2016, in Lawville, NEW JUSTICE County, Maine, **FRAN LEWIS**, did intentionally or knowingly, cause the death of another human being, Richard Braswell.

DATED: August 5, 2016

A TRUE BILL

A handwritten signature in black ink, appearing to read "Julian W. Anderson", is written over a horizontal line.

FOREMAN

AFFIDAVIT OF PAT WINTER

1
2
3 My name is Pat Winter. My address is 334 Moccasin Swamp Road, Lawville, Maine. For the past
4 twelve years I have worked for the Pinnacle Paper Company in the security division. Recently I was
5 promoted to Vice President in charge of security and special projects, a position formerly held by Rick
6 Braswell.

7 I know Fran Lewis, the defendant, very well. We grew up together, played sports in high school
8 together, and I used to date his/her sister/brother. I consider Fran to be a good friend. Unfortunately, we
9 have been on the opposite side of things this past year as Fran has become the leader of a group known
10 as The Swamp Rats. Its members have been involved in several protest activities against the Pinnacle
11 Paper Company, which have included sit-ins and road barricades at some of the plant construction sites,
12 in addition to vandalism of plant equipment and property. Fran and The Swamp Rats have filed a
13 lawsuit, and an administrative complaint with the Department of Environmental Protection, alleging
14 violation of certain land use and environmental regulations. The group seeks to stop construction of our
15 coastal development project, "Pinnacle Point."

16 Fran has also filed a wrongful death suit against the company in which he/she alleges that the company's
17 pollution caused the cancer that killed his/her wife/husband. Of course, all of this is nonsense. The
18 Pinnacle Paper Company, as all reasonable persons in the county know, is a model corporate citizen and
19 is in full compliance with all laws and regulations concerning the plant's operation and its real estate
20 development projects. We've not had a single citation from any federal or state agency for any pollution
21 law violation of any kind.

22 Fran has, unfortunately, just become irrational after the loss of his/her wife/husband, and has gotten
23 some of those environmental nuts whipped up into a frenzy.

24 Before he was killed, Rick Braswell was the point man at Pinnacle for all of this litigation, and was in
25 charge of preventing, controlling, or disrupting the protests of The Swamp Rats. Unfortunately, this
26 might be what got him killed. Although Rick was just doing his job, Fran seemed to take it personally. I
27 remember several weeks ago, on Memorial Day, they had a confrontation at one of the protests. I could
28 hear them arguing, but I couldn't make out what was being said until I got close enough, towards the end
29 of the argument. That's when I heard Fran say, "You won't know when or where or how, Braswell, but I
30 promise you, you are a dead man walking." Rick didn't say anything in response. He just smiled, turned
31 his back, and walked away. Fran has always had a mean streak, but I didn't think he/ she would go this
32 far.

33 On the night of July 8, 2016, I was the security supervisor for the plant facility. I was, on that night,
34 filling in for one of my security guards who had taken ill, and was working the 11:00 p.m. to 7:00 a.m.
35 shift. At around 11:45 p.m., as I was making my rounds, I drove by the administration building of the
36 plant. As I approached the building, I could see that one of the front windows had been painted with red
37 spray paint. I could make out the letters, "PIG." As I got closer, I could also see that there was a person
38 lying at the front entrance of the building. I detected no one else in the vicinity. I immediately radioed
39 the three security guards on duty to meet me there, and then approached cautiously. When I got closer, I
40 could see that the person was Rick Braswell. I knelt over Rick and felt for a pulse, but there was none.
41 There was a large pool of blood around his head, which appeared to be coming from a wound at the
42 back of his skull.

43 I called EMS and the Sheriff's office. By this time, the security guards had arrived. I stationed one at the
44 front of the building, sent one around to the back entrance, and took one guard with me through the front
45 door, which was unlocked, into the office building and searched it. I noticed that, except for the light in
46 the reception area, all of the lights were off in the building. We did not find anyone in the building.

47 It was at this time that I remembered having seen Fran earlier that evening, on my way into work. It was
48 about 10:45 p.m., and I was headed north on County Road 153. As I passed the Mini-Mart which is
49 about a half mile from the plant, I noticed Fran's pickup truck in the parking lot. It was parked in front of
50 the pay telephone there at the corner of the building. I didn't think much of it at the time, but I am sure it
51 was Fran's truck. Everybody knows his white truck. It has one of those customized "MAINE" paint jobs
52 - with blue lettering and a bear face painted on the tailgate. And then I saw Fran as well. He/she was
53 using the phone. Like I say, I didn't think much of it at the time but when I saw the vandalism there at
54 the plant, it clicked. It was nighttime, of course, but it was a clear evening and the lights from the store
55 in the parking lot made it pretty bright in that area. I wish I was mistaken, but I am sure it was the
56 defendant and the defendant's truck that I saw.

57

58 /s/ Pat Winter

59

48 home or work place. The defendant's truck was gone as well. I alerted all law enforcement in the area to
49 be on the lookout for the defendant and his/ her truck. I also spoke with the defendant's father/mother,
50 who advised that he/she had not seen the defendant in a couple of days and did not know where he/she
51 was.

52 The following day, I spotted the defendant traveling in an easterly direction on a dirt road in a wooded
53 area near Angel Creek. I had been traveling north on another dirt road and was approximately 25 yards
54 from where the two roads intersected when I spotted the defendant's truck. I turned on my siren and
55 lights and initiated pursuit. The defendant sped up but was forced to stop his/her vehicle when the road
56 ended at the Angel Creek campsite. The defendant surrendered without further resistance. He/she was
57 advised of his/her Miranda Rights and declined to give a statement or answer any questions. He/she was
58 taken to the New Justice County Jail and booked.

59 Evidence seized pursuant to the search warrant included several pairs of shoes and boots located at the
60 defendant's residence, the shoes that he/she was wearing at the time of his/her arrest and the tires from
61 his/her truck. After receiving the report from the medical examiner as to the cause of death and likely
62 mode of weapon, I also seized a tire iron located in a tool box on the defendant's truck.

63 I processed the crime scene, specifically in the area of the front porch around the entrance and a window
64 on which there was spray paint. I also processed the spray paint can found in the woods as well as the
65 tire iron taken from the truck of the defendant for latent prints. I submitted all evidence collected,
66 including the latent prints recovered, to the Maine Department of Corrections Laboratory for analysis.
67 Reports are pending.

68 I am aware of the Lewis family's accusations pertaining to my relationship with Pinnacle Paper
69 Company. It is true that the company was a major donor to my election campaign, and I am good friends
70 with the company's president. It is also true that I have a private contractual arrangement as a security
71 consultant with the company. That is, however, a side job that supplements my income as sheriff and in
72 no way interferes with the performance of my duties as an impartial enforcer of the laws in New Justice
73 County. Anybody that knows me knows that I follow the evidence wherever it leads and let the chips
74 fall where they may. I have investigated this case thoroughly. I checked on the whereabouts of other
75 suspects, specifically members of The Swamp Rats, and discovered that they all had strong alibis. I
76 personally have nothing against the defendant, but the fact is, the evidence led to him/her and to him/her
77 alone.

78
79 /s/ Lynn Barnes

80

1 **AFFIDAVIT OF DALE WILLIAMS**

2
3 My name is Dale Williams. My address is Route 3, Box 245, Turpentine Road, Augusta, Maine. For the
4 past 10 years I have been employed by the Maine Department of Corrections as a laboratory analyst or
5 examiner. My areas of specialty or expertise include analysis of fingerprints, shoe prints and tire tracks.
6 I received my training in these areas at the FBI, and worked there as an examiner for two years before
7 MDOC.

8 In this particular case, I was asked to compare certain latent prints recovered from the crime scene and
9 from certain objects seized pursuant to a search warrant, with known inked prints identified as belonging
10 to the defendant, Fran Lewis, and the victim, Richard Braswell. I was also asked to analyze photographs
11 and plaster casts of shoe prints and tire tracks found at the scene and to compare them with shoes
12 identified as coming from the defendant and tires identified as taken from the defendant's vehicle.

13 Inked, or rolled prints, as they are sometimes called, are processed by having the subject roll each finger
14 on an ink pad and then carefully press or roll each finger on a smooth surfaced fingerprint card, creating
15 a clear, distinct impression. Latent prints, on the other hand, are sometimes referred to as prints of
16 chance. Sometimes, depending on the amount of sweat or oils on our fingers or hands, and the type of
17 surface we touch, we may leave a print or a partial print, even though the prints will often not be visible
18 to the naked eye.

19 It is impossible to determine when and under what circumstances a latent fingerprint might have been
20 left on an object. Under controlled climate and conditions, a print can remain on an object for several
21 months. If the item is exposed to extreme temperatures or other elements, it may remain for only a very
22 short time.

23 There are various procedures and chemicals that are used to discover and recover latent prints from
24 various objects. In order to be of value, or of practical use in comparing a latent print to a known inked
25 print, the latent must have a ridge structure that is discernable and legible - or can be made so. There
26 must be a sufficiency of clear detail in order to make a comparison. A common misconception, however,
27 is that there must be some minimum number of ridge characteristics in common in order to make
28 identification. The so called twelve point standard or rule is a misconception as there is no valid
29 scientific basis for requiring a minimum number of ridge characteristics in order to make an
30 identification. The key or essential part of making any identification is the absence of unexplained
31 dissimilar characteristics. There has never been any reported case in history in which two people were
32 found to have the same fingerprint.

33 In examining the prints submitted to me, I determined that there had been no prints of value taken from
34 the area of the front door or the window of the plant administration building, except for one which was
35 found on the door handle of the front door. I was able to match this print with the inked prints of the
36 deceased, Richard Braswell. No prints of value were recovered on the tire iron, either. In fact, the tire
37 iron had absolutely no prints or even smudges on it, and appeared to have been thoroughly cleaned
38 recently. On the paint can, however, I did find a latent print of value. Based upon my analysis I was able
39 to determine that the latent print on the paint can matched the known inked print of the right forefinger
40 of the defendant, Fran Lewis. I also noted that the spray paint can had no rust on it, and was free of dirt
41 and debris.

42 The individual uniqueness of fingerprints that allows for such a high degree of certainty in identification
43 is not present relative to shoe and tire impressions. But, while not as exact as fingerprint comparisons,
44 impression examinations can be very valuable not only in making an identification or match, but also in
45 eliminating or excluding certain footwear or tires.

46 Two methods of comparing impression evidence that are routinely used are a side-by- side comparison
47 and superimposition. Side-by-side comparison consists of placing a questioned impression alongside a

48 known impression, where respective areas of the two can be examined. Superimposition includes
49 placement of a transparency of a known impression over the questioned impression, and allows for
50 comparison of several areas of the impression at once. Generally, the side-by-side examination allows
51 one to quickly determine if the known impression and the questioned impression appears similar in size,
52 shape and design. The superimposition method can then be used for further, more detailed examination.
53 There are four areas that are considered during each comparison. They are (1) the design, including any
54 significant manufacturing characteristics; (2) the physical shape and size; (3) the wear characteristics;
55 and (4) the individual identifying characteristics.

56 The design of a shoe or tire is the first and most obvious feature one sees. Both shoes and tires are made
57 in many different ways, and variations can potentially occur even when they have the same design. Here
58 I am talking about the tread design of a car tire or the sole of a shoe, the parts that will leave an
59 impression. Given sufficient detail in an impression, it is possible to determine a specific manufacturer
60 and model. We maintain a data base that contains the outer sole design of every major brand of shoe
61 sold in the United States and a similar data base for the tread design for every major brand of tire.
62 This comparison of the physical shape and size of an impression goes hand in hand with, and is usually
63 conducted simultaneously, with comparison of the design. Sometimes, of course, when the impression is
64 very faint, only the physical shape and size characteristics can be compared. Positive identification of a
65 shoe with a questioned impression cannot be made based on physical size and shape characteristics
66 alone. On the other hand, a footwear impression of a particular physical size and shape, and of a specific
67 design, is going to be owned by only a very small fraction of one percent of the general population. To
68 make a positive identification one must have individual identifying characteristics. Individual
69 identifying characteristics are those that randomly occur on the tire tread or the shoe outer sole. By
70 randomly, I mean those characteristics that were not planned or intentionally manufactured. For
71 example, there may be a small pebble or other object caught between the tread on the shoe or tire, or a
72 tire may have a plug in it. The outer sole of the shoe may have been cut or marked in some way that
73 makes the impression left unique.

74 In the present case, as to the footwear impressions, I compared the shoe prints found at the
75 administration building and the logging road with the known impression of the defendant's shoes,
76 specifically those the defendant was wearing at the time of his arrest. I determined that the questioned
77 impressions correspond in design, physical size and shape, and general condition with the known shoes.
78 Due to the limited detail retained in the impressions and the lack of observable individual identifying
79 characteristics, a closer association was not made between the impressions and the shoes. The possibility
80 exists that another right and/or left shoe of the same specific design, physical size and general condition,
81 made these impressions.

82 I also compared the tires taken from the defendant's vehicle, and the known impressions thereof, with
83 the unknown or questioned impressions found at the scene. Two of the impressions found near or on the
84 logging road were of sufficient detail to make a comparison. It was determined that the questioned
85 impressions correspond in design, physical size and shape, and specific conditions found on the front
86 and rear right tires of the defendant's vehicle. In addition, the correspondence of two random individual
87 characteristics (specifically a plug found in the right front tire and a rock embedded in the tread of the
88 right rear tire), indicate that it is highly probable that the impressions at the scene were made by the tires
89 taken from the defendant's vehicle. It is very unlikely that another tire of the same design, physical size
90 and shape and in general condition would also share the aforementioned characteristics.

91 As to both the shoe prints and tire tracks found at the scene, I cannot say with any certainty when they
92 were made. If undisturbed by other foot or vehicular traffic, or adverse weather conditions, the
93 impressions could have been there for several days, or even a few weeks.

94
95 /s/ Dale Williams

AFFIDAVIT OF ROBIN DILLARD

1
2
3 My name is Robin Dillard. My address is 1412 Middlebrooks Circle, Augusta, ME. I am a civil engineer
4 with the firm of Jones/Collins, P.A. I graduated from the University of Maine in 2005 with a degree in
5 civil engineering, and have been employed with Jones/ Collins ever since. My specialty is in road and
6 bridge construction, and I have been the project manager for several of these projects. I also have
7 significant experience in programming traffic light systems for several towns and cities. I have
8 conducted several studies in which I have calculated the visibility of road signs and signals by motorists,
9 giving due consideration for angle, speed, distance and other factors. I have testified as an expert witness
10 several times in this district.

11 I was retained by the defense in this case for the purpose of conducting experiments to determine the
12 likelihood that a person driving along County Road 153, under circumstances substantially identical to
13 those described by the witness for the prosecution, Mr. /Mrs. Pat Winter, would be able to observe and
14 make the identification as stated by that witness.

15 Specifically, Pat Winter had stated, either in his/her deposition or in his/her sworn statement that he/she
16 was traveling at a "normal" rate of speed along County Road 153, in a northerly direction and passed the
17 Mini Mart located thereon at approximately 10:45 p.m. on the night of July 8, 2016. He/She has
18 described the weather conditions as being dry and clear and that lighting at the store and in the parking
19 lot illuminated the area he/she observed.

20 Attached to this statement is a diagram of the Mini Mart and immediate surrounding area. As you can
21 see, to the immediate south of the Mini Mart is a tire store. The location of the tire store building and the
22 substantial landscaping and tall wooden fence along its southern boundary with the Mini Mart, obscures
23 any view of the public phone booth that is located at the southwest corner of the Mini Mart. For any
24 person traveling in a vehicle north on County Road 153, the phone booth would not be visible until such
25 time as the vehicle approached the entrance of the Mini Mart. This would be at a 20 degree angle,
26 looking to the left towards the Mini Mart. The view of the phone booth continues for 35 feet until
27 blocked by a large live oak tree on the right of way in front of the Mini Mart.

28 Thus, the time within which a person traveling north on County Road 153 in a motor vehicle could view
29 the area surrounding the public telephone outside the Mini Mart would be
30 1.5 seconds if the vehicle was traveling at a rate of 25 miles per hour and .75 seconds if the vehicle was
31 traveling 50 miles per hour. The speed limit on this stretch of road is 45 miles per hour.

32 In addition to these calculations, I also attempted to recreate the conditions described by the witness and
33 conduct an experiment to see whether certain subjects were able to make similar identifications. In
34 conducting the experiment, the following procedures were followed: My assistants and I parked a truck
35 of the same make and model as described by Pat Winter in front of the pay phone at the Mini Mart. One
36 of my assistants, whose height and weight is substantially similar to that of the defendant, stood at the
37 phone booth. At times he/ she faced west, then north, south, and east; presenting his/her back, two
38 profiles and his/her front for view from the road.

39 Ten of my assistants, all in pickup trucks, and driving at various speeds ranging from 25 miles per hour
40 to 50 miles per hour in 5 mile increments, drove by the store. All of these drive-by's were conducted
41 within ten minutes of the time of 10:45 p.m. on evenings in which the weather conditions were similar to
42 those described by the witness, i.e., clear and dry. The drivers were told that they should look in the
43 direction of the Mini Mart and the phone booth as they passed and to note and identify any vehicle
44 and/or person they observed.

45 For eight of the ten drive-by experiments, the drivers were able to correctly identify the vehicle as a
46 truck. Three times the color was correctly identified. On no occasion were the drivers able to identify the
47 person standing at the phone booth, despite the fact that it was someone they knew, and despite the fact

48 that they were specifically told to look in that direction and try to make such an identification. Three of
49 the drivers reported that they saw a person, but could not say the person was male or female.
50 Obviously, it is impossible to replicate exactly all of the circumstances that might have been present at
51 the time the witness says he/she made the purported identification. It is also impossible to account for
52 any differences in the powers of observation between my assistants and the witness. I thus cannot say
53 that it was physically impossible that the witness could observe what he/she has testified to but, based
54 upon my calculations, and the experiment conducted, I conclude that such identification would be very
55 difficult to make.

56

57

 /s/ Robin Dillard

AFFIDAVIT OF FRAN LEWIS

1
2
3 My name is Fran Lynn Lewis. My family has been in New Justice County for five generations. I work
4 with my father/mother in his/her real estate agency, but my real avocation is photography, specifically
5 nature photography. I have sold many of my photographs to regional and national magazines. I have
6 always loved the outdoors, camping, fishing, and hiking. It is not unusual for me to take a camping trip
7 of several days in order to get the photographs that I want.

8 I had planned such a trip to begin in the early morning of Thursday, July 9, 2016. I spent the night
9 before with my father/mother who had, at first, planned to go with me, but became ill and decided not to
10 go. I went to bed around 10:30 p.m. on the night of July 8th. I awoke at approximately 4:30 a.m.,
11 dressed, packed, and was gone by 4:45 a.m. on July 9th. I went to a campsite on Angel Creek, which is
12 located in Moccasin Swamp, a good 15-20 miles from downtown Lawville. I went canoeing and hiking,
13 and used three rolls of film that day.

14 On Thursday afternoon I went into Lawville to get some more film and other supplies. While there, I
15 took my truck into a service station to check for a leak. The mechanic on duty did find the leak, and
16 plugged it. I didn't think to get a receipt - it wasn't that much money anyway. When all of this came up, I
17 went back to the gas station to see if I could get a statement from the mechanic, but he had left, and they
18 didn't know how to get in touch with him. Apparently he pocketed the cash I paid him because they
19 didn't have any record of it. I then went back to the campsite.

20 Just before I got there, I noticed in my rearview mirror the sheriff's car. He/she did not have a siren or
21 lights flashing. He/she got out of his/her car with gun drawn and made me lie down on the dirt. I didn't
22 know what was going on but I complied voluntarily. I gave no resistance at all. I was not trying to flee
23 from the sheriff.

24 When the sheriff told me I was being arrested for the murder of Ricky Braswell, I was shocked. I had
25 heard nothing about the murder as I had been in the woods most of the time, and I certainly would never
26 kill anyone. When the sheriff told me that Pat Winter said he/she saw me at the Mini Mart just before
27 the murder, I knew I was being set up so I refused to say anything else.

28 I did not kill Rick Braswell, and I do not know who did. I was not at the Mini Mart on County Road at
29 any time on the evening of July 8, 2016, nor anywhere even close to the Pinnacle Paper Company.
30 Further, I had no contact, directly or indirectly, with Rick Braswell that evening. The tire iron that was
31 retrieved from my truck is the same one that came with the truck and its equipment when I purchased it,
32 and I have never used it.

33 I do belong to a group called The Swamp Rats, and I have participated in protest activities against
34 Pinnacle Paper Company on several occasions over the past year or so. We have also filed an
35 administrative complaint with the Department of Environmental Protection and a regular lawsuit in
36 court here in New Justice County concerning violations of environmental laws by the company. I also
37 have a wrongful death suit pending against the company because their pollution of the Salmon River and
38 the underground water supply is what caused my wife/husband to develop cancer and die. He/She grew
39 up living along the Salmon River.

40 Right now, the lawsuit is on hold because the company got to my expert witness. He was going to testify
41 to the connection between the pollution and the cancer, but they bought him off, and he's changed his
42 mind all of a sudden. I'm looking for another expert with some integrity.

43 I did participate in a protest activity in which I, and several other members of The Swamp Rats, went
44 onto Pinnacle's property at night, spray painted windows and doors with the word "PIG" and dumped a
45 truckload of manure on the front steps of the administration building. As a result of that, I was arrested
46 and charged with trespassing and vandalism. I pled guilty to both of those charges -- because unlike
47 now, I was guilty.

48 I have never threatened Rick Braswell. I am a peace loving, passive person. I would never resort to
49 violence unless it was in self-defense. Pat Winter is either mistaken, or lying. I can tell you that he/she
50 has never liked me ever since he/she and my sister/brother split up.
51 He/she blames me because I told my sister/brother that Winter was cheating on him/her. And contrary to
52 what Winter has said, I have no personal animosity against Ricky Braswell. We were longtime friends.
53 I do know that the two of them did not get along at all. In fact, during one of our protests, where we
54 were blocking access to a construction site, I overheard Ricky tell Winter that he/she was lazy,
55 incompetent and a liar, and that if he had his way he/she would be looking for another job soon. That
56 was a couple of months before Ricky was killed. I wouldn't put it past Winter to have killed Braswell
57 and framed me for it. I don't know that for sure, of course, but all I can tell you is that I was not there
58 and I did not kill the man. If my fingerprint is on that can, and those are my shoe prints and tire tracks at
59 the scene, it must have been from that previous trespass and vandalism incident. In addition, anybody
60 that knows me knows that I would never hit somebody from behind.

61
62 /s/ Fran Lewis

AFFIDAVIT OF JAMIE LEWIS

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My name is Jamie Lewis. I have lived in New Justice County all of my life. I am a real estate agent by profession, and my son/daughter, Fran, works with me. My wife/husband is deceased and I live alone. On the night of July 8, 2016, Fran slept over at my house as we had planned to go on a camping trip together the next day. We both enjoy the outdoors. He/ she was planning to take some photographs, and I was planning on doing a little hiking and fishing. I became fairly sick after dinner that evening, however, and told Fran that I was not going to go. We had supper together, watched some TV, and then I went to bed around 10:00 p.m. Although I am 70 years old and a bit hard of hearing, I feel confident that I would have heard Fran if he/she had left the house that night after I went to bed - and I didn't. I did, however, hear his/her truck pull off at approximately 4:30 a.m. the next morning. The sheriff came by the house later that day, looking for Fran. He/she didn't have the courtesy to tell me what it was about, nor did he/she mention the fact that he/she had already gotten a search warrant for the office. When I went down later, the place was a mess. They had ransacked everything with no consideration for my property rights at all. From my way of thinking, this was just one more harassment of Fran because of his/her protest activities. When the sheriff asked me where Fran was, I told him/her that Fran was camping somewhere out in Moccasin Swamp. I didn't say I didn't know where Fran was at all, just that I had not seen Fran since the day before. This is not the first time the sheriff and his goons have harassed me and my family at the behest of the Pinnacle Paper Company. Fran has been arrested for trespass and vandalism on plant property three other times in the past year - and none of them stuck, except the last one, and that's because Fran pled guilty. The other two were thrown out by the judge before it went to trial. I myself have been stopped for speeding three times in the past six months, when I wasn't speeding at all. When I complained to the sheriff, he/she said, and I quote, "Maybe if you could exercise some control over that eco-terrorist son/daughter of yours, I could get control over some of my over eager deputies." Everybody knows that Sheriff Barnes is in the back pocket of the Pinnacle Paper Company. They got him/her elected, you know, and continue to pay him/her cash under the table to do their bidding. Everybody knows this, but they either don't care, or are afraid to say it out loud. My family goes back five generations in New Justice County. We were part of the original settlers. There has never been a Lewis in all that time that wasn't good for his or her word, or who wouldn't stand up for what is right, whatever the cost. This thing with the paper company has divided the community, that's for sure. A lot of people don't like what Fran and The Swamp Rats have been doing, because their jobs, their livelihoods, are dependent upon the company. The Lewis and Braswell families have been close for years. Fran and Ricky have been friends since they were children - were on the yearbook staff together in high school -and Ricky used to date my youngest daughter. The sheriff is trying to say that Fran hated Ricky because he was always facing off against The Swamp Rats, and fighting Fran on the lawsuit against the plant. But that's simply not true. Fran never took any of that personally. Besides, that was all a show by Ricky, so he wouldn't lose his job. Secretly, he was on Fran's side. He didn't want to be seen talking directly to Fran, to avoid suspicion, so I was the go between. About two weeks before he was killed, Ricky came by my office. He told me he had seen documentary proof that Pinnacle had been polluting the Salmon River for years and covering it up. He was going to figure out how to get copies to us without anyone at the plant knowing about it. Ricky said as soon as he had them, he would set up a meeting. When I told Fran about this, he/she was very excited and happy about the possibility of getting the proof he/she needed to nail Pinnacle to the wall. No, Fran was the last person to want to see Ricky Braswell dead.

48 I am also very familiar with my son/daughter's character. He/she is very mild mannered, and not
49 aggressive at all. I have never known him/her to be violent towards any person for any reason, unless it
50 was in self-defense. It is true that Fran took the death of his/ her wife/husband, Jean/Gene, really hard.
51 She/he only lived about four months after the diagnosis of pancreatic cancer was made, but those last
52 four months were very painful for her/him, and torture for Fran. He/she never got over it. Maybe his/her
53 protest activities against the plant are a little emotional, irrational to some degree, but who can blame
54 him/her? I know my son/daughter well, and I know that he/she would never intentionally hurt another
55 human being. I don't know who, or how, but I know somebody is trying to frame Fran.

56
57

/s/ Jamie Lewis

EXHIBIT A1

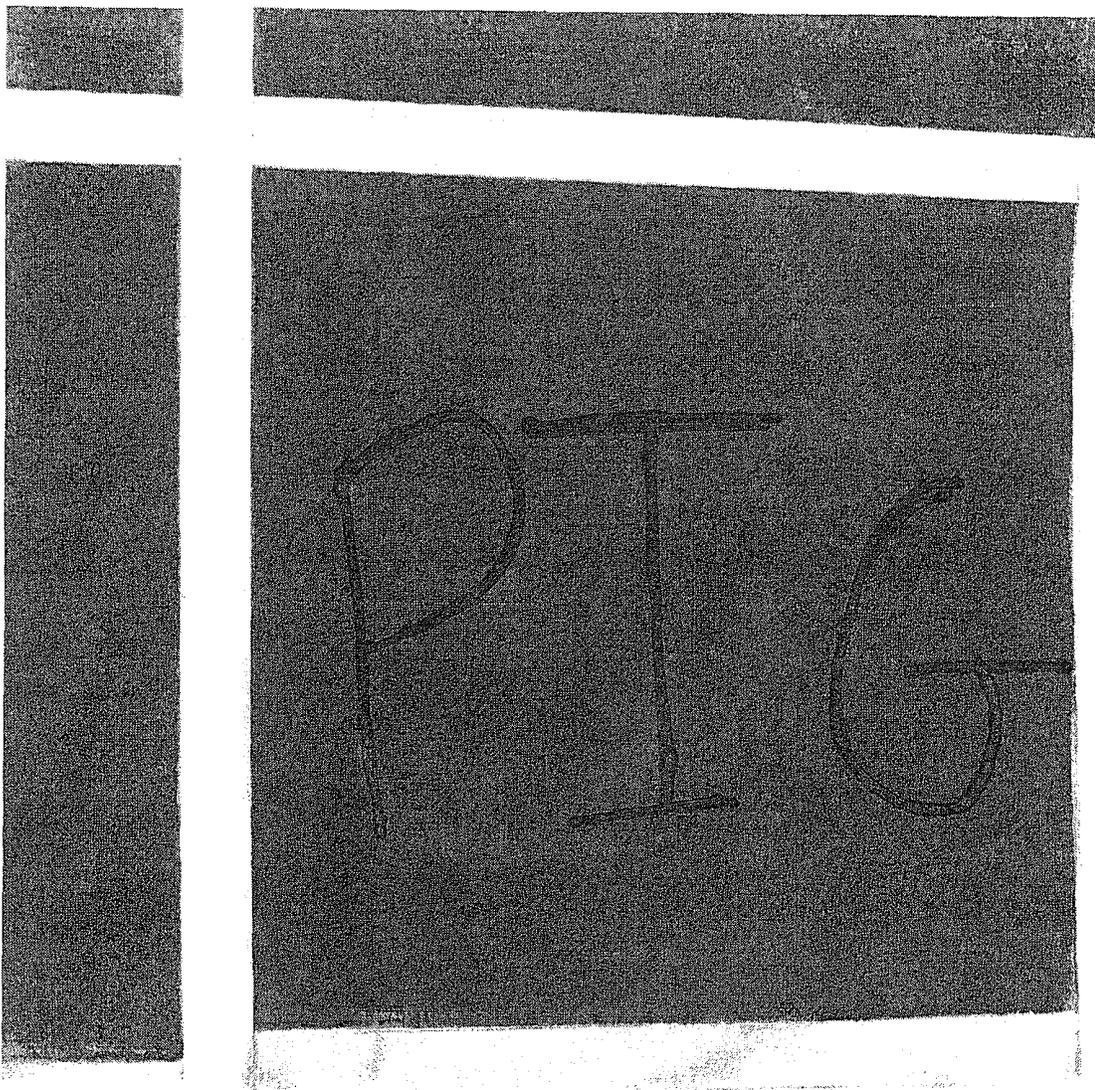


EXHIBIT A2



EXHIBIT B1



EXHIBIT B2

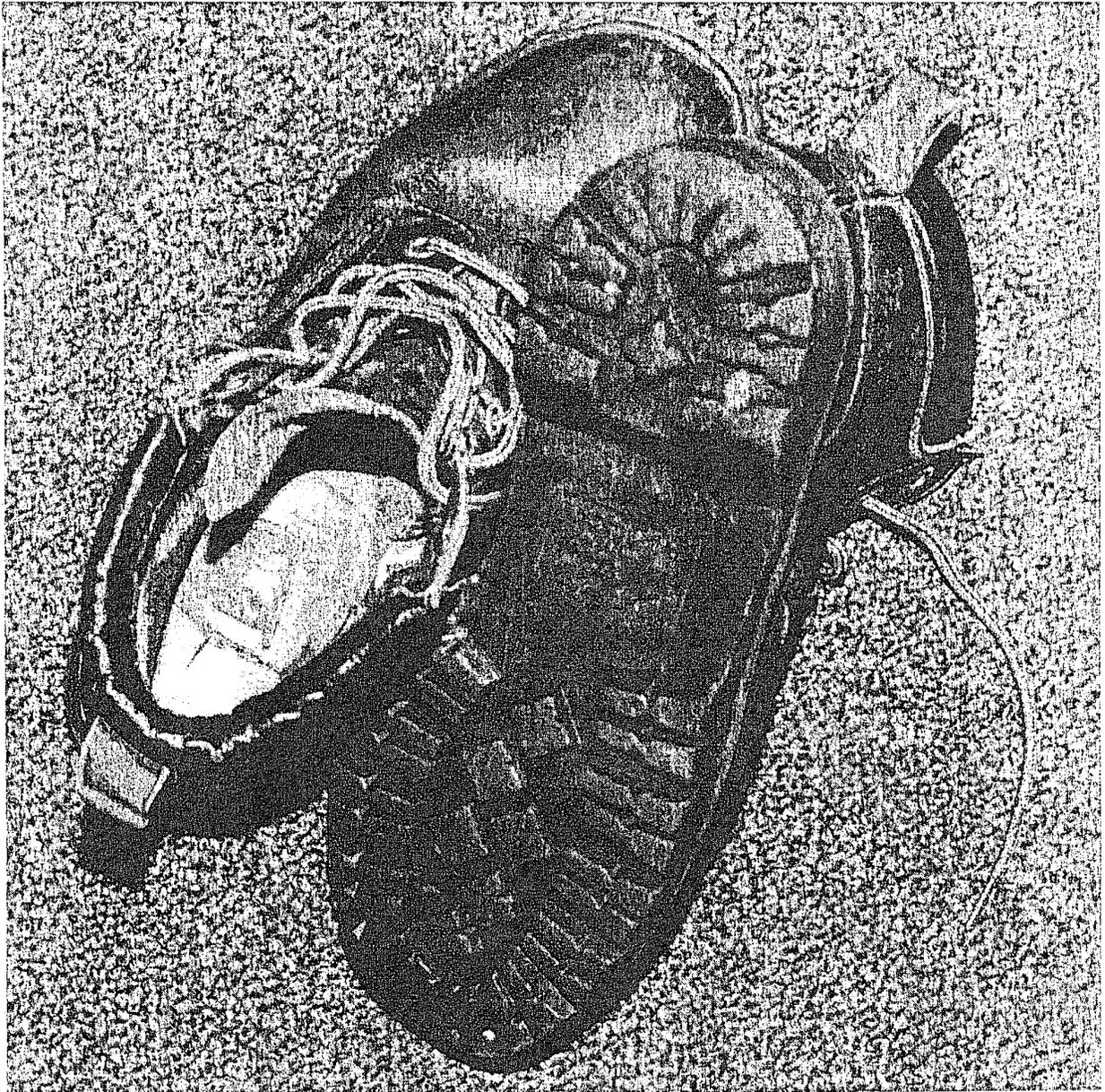


EXHIBIT C1

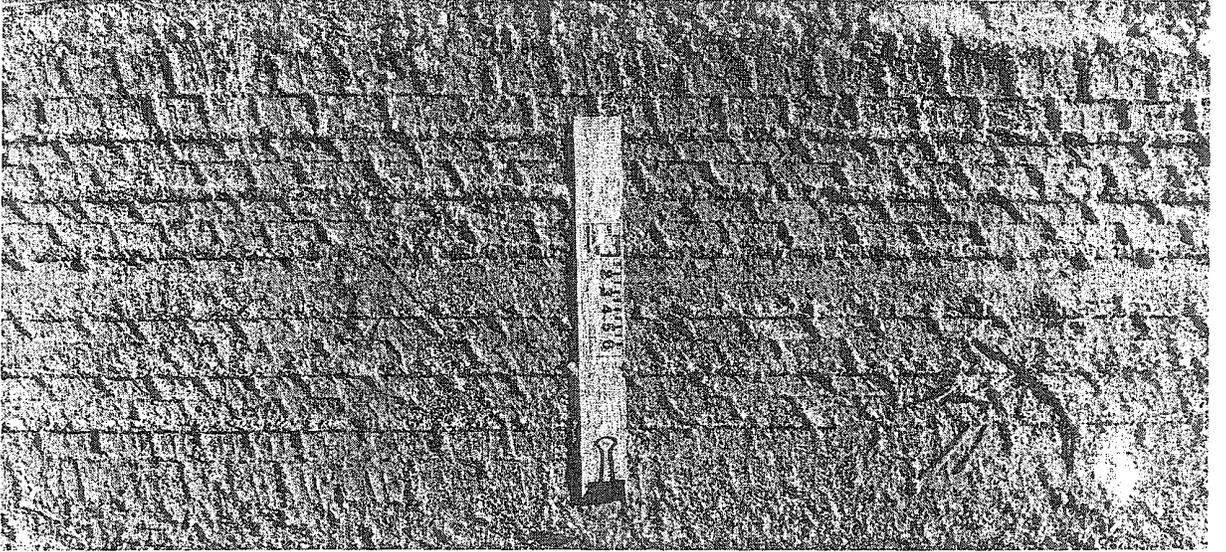


EXHIBIT C2



EXHIBIT D

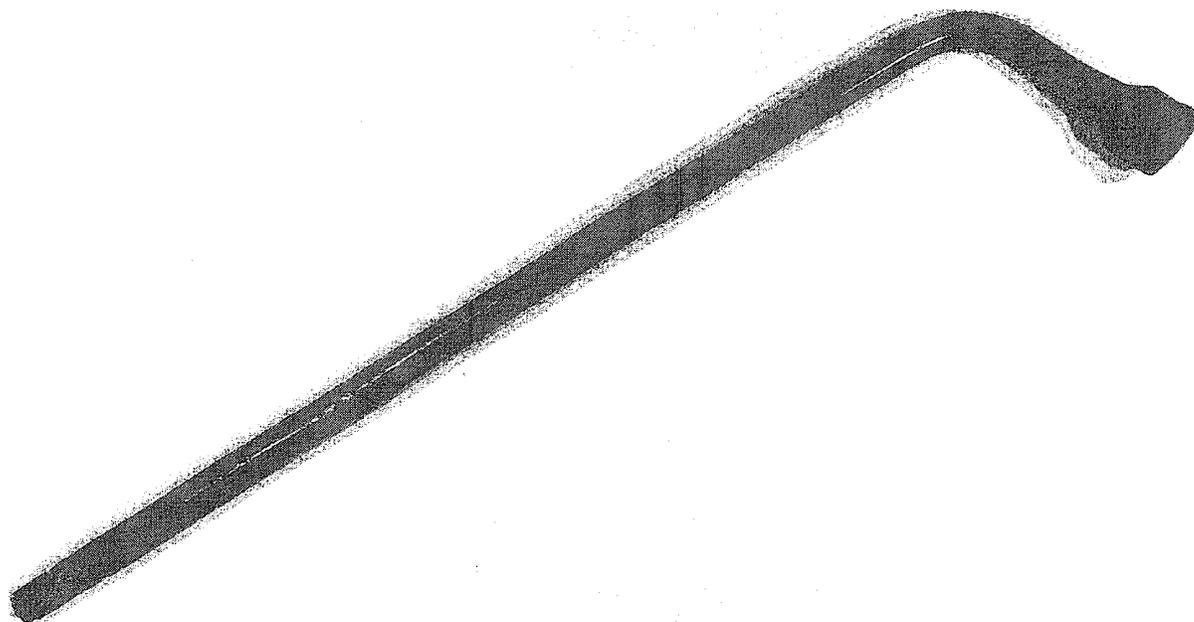
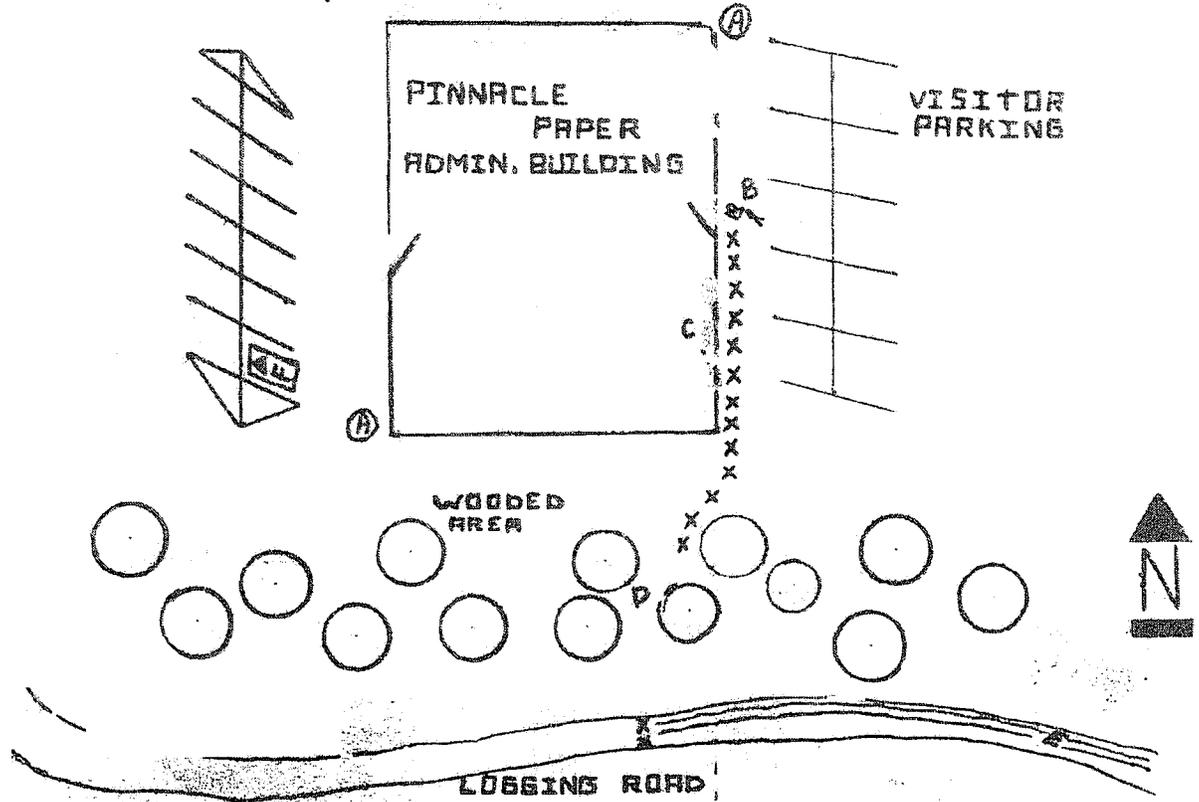


EXHIBIT E

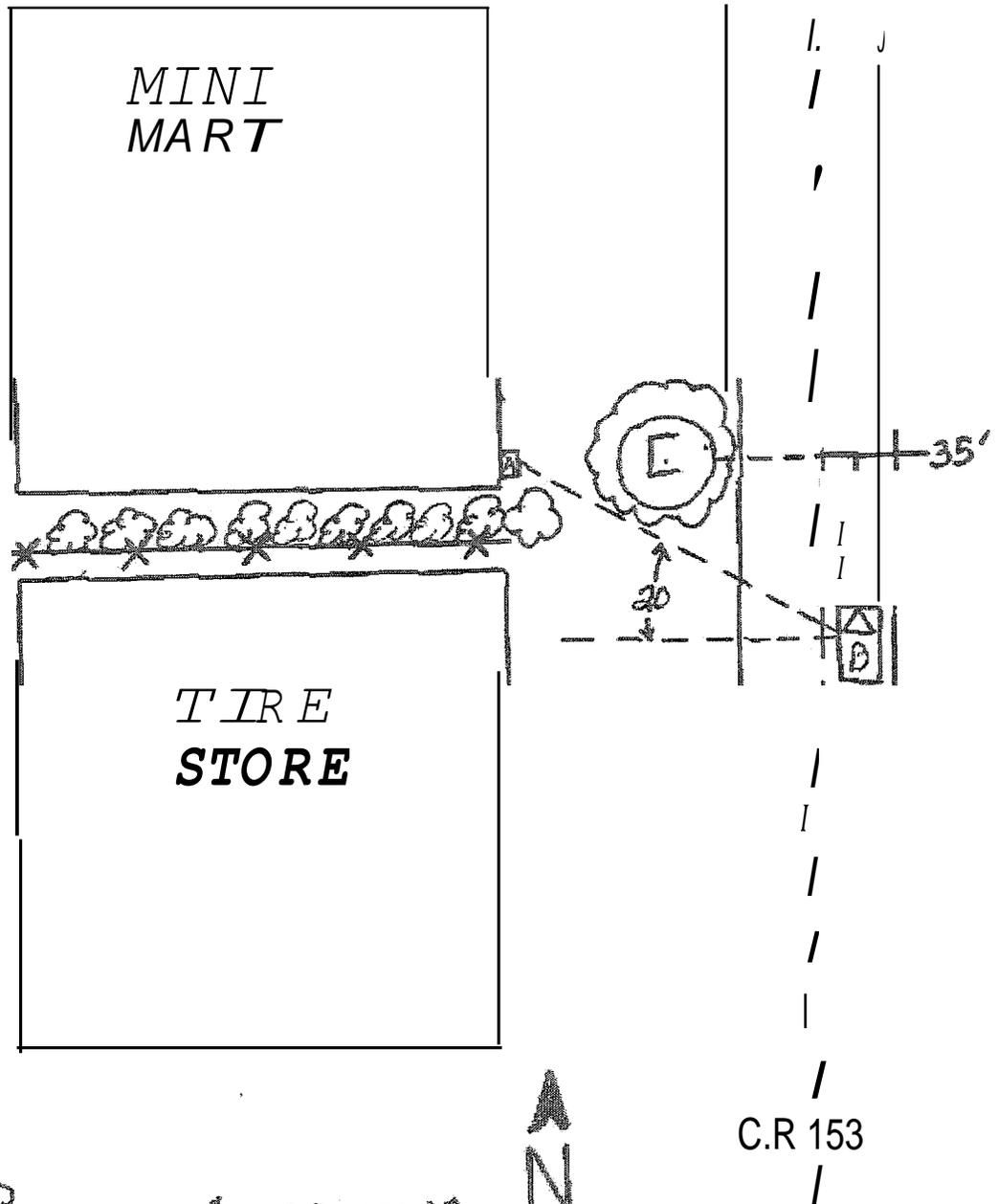
NOT DRAWN TO SCALE



KEY

- xxxx Footprints
- Windows
- A = Security Guards
- B = Body of Richard Braswell
- C = Window Where "PIG" is painted
- D = Approximate location of can of spray paint
- E = Tire tracks on logging road
- F = Deceased's automobile

EXHIBIT F



-  FOLIAGE/LANDSCAPING
-  FENCE
- A = PHONE
- B = WITNESS VEHICLE



C = LIVE OAK TREE

EXHIBIT G



LEGAL AUTHORITIES

Statutory Law

§32. Elements of crimes defined

A person may not be convicted of a crime unless each element of the crime is proved by the State beyond a reasonable doubt. “Element of the crime” means the forbidden conduct; the attendant circumstances specified in the definition of the crime; the intention, knowledge, recklessness or negligence as may be required; and any required result.

§34. Culpable state of mind as an element

A person is not guilty of a crime unless that person acted intentionally, knowingly, recklessly or negligently, as the law defining the crime specifies, with respect to each other element of the crime.

§201. Murder

1. A person is guilty of murder if the person:
 - A. Intentionally or knowingly causes the death of another human being; Violation of this paragraph is a Class A crime;

§202. Manslaughter

1. A person is guilty of manslaughter if that person:
 - A. Recklessly, or with criminal negligence, causes the death of another human being. Violation of this paragraph is a Class A crime;

§13-A. Included offenses

1. The court shall not instruct the jury to consider, nor shall the court as factfinder consider, a lesser included offense, as defined in subsection 2, unless on the basis of the evidence there is a rational basis for finding the defendant guilty of that lesser included offense.
2. For purposes of this section, a lesser included offense is an offense carrying a lesser penalty which...
 - A. As legally defined, must necessarily be committed when the offense or alternative thereof actually charged, as legally defined, is committed.

LEGAL AUTHORITIES

Case Law

State v. Waterman, 995 A.2d 243 (ME 2010).

The court must “...view the evidence in the light most favorable to the State to determine whether the fact-finder could rationally find each element of the crime proved beyond a reasonable doubt...Circumstantial evidence, even if contradicted by direct evidence, may support a criminal conviction and the proof need not eliminate all alternative explanations of innocence, as long as the record as a whole supports a conclusion of guilt beyond a reasonable doubt...” (citations omitted) “A person is guilty of murder if the person...intentionally or knowingly causes the death of another human being.” 17-A M.R.S.A. §201(1)(A). Intent to kill can be shown by circumstantial evidence. Evidence from which intent to kill may be inferred includes such matters as the nature of the weapon used, the presence or absence of adequate provocation, previous difficulties between the parties, the manner in which the homicide was committed, and the nature and manner of the wounds inflicted...[E]vidence tending to implicate another person, and deflect guilt from the defendant, must be admitted if it is of sufficient probative value to raise a reasonable doubt as to the defendant’s culpability...To have ‘sufficient probative value’ admissible evidence incriminating another person ‘must be more than speculative and conjectural’; it ‘must be competent and confined to substantive facts which create more than a mere suspicion’ in the other person, and it must reasonably establish a connection between the alternative suspect and the crime.” (citations omitted).

State v. Kirk, 873 A.2d 350 (ME 2005)

“Manslaughter is a lesser included offense of intentional and knowing murder because the two offenses are identical except for the state of mind of the defendant that the State is required to prove. Intentional and knowing murder requires proof beyond a reasonable doubt that the defendant *intentionally* or *knowingly* caused the death of another person. In contrast, manslaughter requires proof beyond a reasonable doubt that the defendant caused the death of another person *recklessly* or with *criminal negligence*.”

“...evidence of prior bad acts is admissible to prove conformity therewith *if* the defendant in a criminal case opens the door with direct testimony regarding a character trait pertinent to the crime charged. M.R. Evid. 404(a)(1)...In *all instances* in which character evidence is admissible for any reason, Rule 405 unambiguously sets out the only permissible ways in which such character may be shown. It provides in pertinent part: ‘in all cases in which evidence of character or a trait of character of a person is admissible, proof may be made by testimony as to reputation. On cross-examination, inquiry is allowable into relevant specific instances of conduct.’ M.R. Evid. 405(a). A ‘reputation witness must be testifying from personal knowledge on the subject of what the defendant’s reputation for the pertinent trait of character involved is in the community to which the defendant belongs or among his associates.’”(citation omitted).

“Thus, when a defendant seeks to offer evidence of her nonviolent character, which may open the door to the admissibility of rebuttal evidence by the State, both the defendant and the State are limited by Rule 405 as to how such evidence may be offered. The defendant is permitted to offer character evidence only in the form of reputation testimony. The state is permitted to offer rebuttal character evidence only by cross-examining the defendant’s character witness regarding specific instances of conduct, or by offering reputation evidence through other witnesses. These are the exclusive means by which character evidence may be offered.”

State v. Dumas, 930 A.2d 1080 (ME 2010)

“The applicable statute defines the culpable state of mind of ‘intentionally’ without mentioning time: ‘A person acts intentionally...when it is the person’s conscious object to cause...a result.’ 17-A M.R.S. § 35(1)(A) (2009). The statute says nothing about how long an actor must harbor a conscious object to cause a particular result before he actually accomplishes it. It requires only that the intent to cause the result exist before the act. The time interval between intent and causation could be days, minutes, or, as the trial court instructed, ‘the instant before’ the result is produced.”

IN THE SUPERIOR COURT
OF NEW JUSTICE COUNTY
STATE OF MAINE

State of Maine

)

v.

)

Fran Lewis

)

Criminal Action

CR-2016-MT

THE CHARGE OF THE COURT

[For information *only* – not to be read in open court]

Members of the Jury:

You are considering the case of the State of Maine versus Fran Lewis. The Defendant in this case has been indicted by the Grand Jury of this county for the offense of Murder.

The indictment reads as follows: (*Cover allegations of indictment*)

This indictment was returned into Court on the 5th day of August, 2016.

To this indictment the Defendant has entered a plea of Not Guilty, and this makes the issue which you have been selected, sworn, and impaneled to try.

I caution you that the fact that this Defendant has been indicted by the grand jury is no evidence of her/his guilt. You should not consider the indictment as evidence or implication of guilt. Neither are the pleas of Not Guilty to be considered evidence.

This Defendant is presumed to be innocent until proven guilty. The Defendant enters upon the trial in this case with a presumption of innocence in her/his favor. This presumption remains with the Defendant unless and until it is overcome by the State with evidence which is sufficient to convince you beyond a reasonable doubt that the Defendant is guilty of the offenses charged

No person shall be convicted of any crime unless and until each element of the crime is proven beyond a reasonable doubt.

The burden of proof rests upon the state to prove every material allegation of the indictment and every essential element of the crime charged beyond a reasonable doubt.

There is no burden of proof upon the Defendant whatsoever, and the burden never shifts to the Defendant to prove innocence. When a defense is raised by the evidence, the burden is on the state to negate or disprove it beyond a reasonable doubt.

However, the state is not required to prove the guilt of the accused beyond all doubt or to a mathematical certainty. A reasonable doubt means just what it says – it is a doubt of a fair-minded, impartial juror,

honestly seeking the truth. It is a doubt based upon common sense and reason. It does not mean a vague or arbitrary doubt, but is a doubt for which a reason can be given arising from a consideration of the evidence, a lack of evidence, a conflict in the evidence, or any combination of these.

If after giving consideration to all the facts and circumstances of this case, your minds are wavering, unsettled or unsatisfied, then that is a doubt of the law, and you should acquit the Defendant; but if that doubt does not exist in your minds as to the guilt of the accused, then you would be authorized to convict the Defendant.

If the state fails to prove the Defendant's guilt beyond a reasonable doubt, it would be your duty to acquit the Defendant.

You must determine the credibility or believability of the witnesses. It is for you to determine what witness or witnesses you will believe and which witness or witnesses you will not believe, if there are some you do not believe.

In passing upon their credibility, you may consider all the facts and circumstances of the case, the witnesses manner of testifying, their intelligence, their interest or lack of interest, their means and opportunity for knowing the facts which they testify about, the nature of the facts which they testify about, the probability or improbability of their testimony, and of the occurrences about which they testify. You may also consider their personal credibility insofar as it may legitimately appear from the trial of this case.

When you consider the evidence in this case, if you find a conflict you should settle this conflict, if you can, without believing that any witness made a false statement. If you cannot do this, then you should believe that witness or those witnesses you think most entitled to be believed.

You must determine what testimony you will believe and what testimony you will not believe.

Members of the jury, it is my duty and responsibility to ascertain the law applicable to this case and to instruct you on that law, by which you are bound. It is your responsibility to ascertain the facts of the case from all the evidence presented. It then becomes your duty and responsibility to apply the law I give you in the charge to the facts as you find them to be.

Evidence is the means by which any fact which is put at issue is established or disproved. Evidence includes all the testimony of the witnesses and the exhibits admitted during the trial. It also includes any facts agreed to by counsel. It does not include the indictment or the opening statements and closing arguments by the attorneys.

Evidence may be either direct or circumstantial or both. Direct evidence is evidence which points immediately to the question at issue. Evidence may also be used to prove a fact by inference. This is referred to as circumstantial evidence. Circumstantial evidence is the proof of facts or circumstances, by direct evidence, from which you may infer other related or connected facts which are reasonable and justified in the light of your experience. To warrant a conviction on circumstantial evidence, the proven facts must not only be consistent with the theory of guilt but must exclude every other reasonable theory other than the guilt of the accused. The comparative weight of circumstantial evidence and direct evidence, on any given issue, is a question of fact for the jury to decide.

Testimony may have been given by certain witnesses who, in law, are termed experts. The law permits with expertise in certain areas to give their opinions derived from their knowledge of that area. The weight which is given to the testimony of expert witnesses is a question to be determined by the jury. The testimony of an expert, like that of any other witness, is to be received by you and given only such weight as you it is properly entitled to receive. You are not required to accept the opinion testimony of any witness, expert or otherwise.

You are not required to accept the opinion testimony of any witness, expert or otherwise.

To impeach a witness is to prove that he witness is unworthy of belief. A witness may be impeached by:

- a. Disproving the facts to which the witness testified;
- b. Proof of general bad character;
- c. Proof that the witness had been convicted of a crime involving moral turpitude;
- d. Proof that contradictory statements have previously been made by the witness regarding matters relevant to the witness' testimony and to the case.

If you find that a witness is impeached by b., c., or d., above proof of the general good character of the witness may be shown. The effect of the evidence is to be determined by the jury.

If any attempt has been made in this case to impeach any witness by proof of contradictory statements previously made, you must determine from the evidence:

- A. First, whether any such statements were made;
- B. Second, whether they were contradictory to any statements the witness made on the witness stand; and
- C. Third, whether it was material to the witness' testimony and to the case.

If you find that a witness has been successfully impeached by proof of previous contradictory statements, you may disregard that testimony, unless it is corroborated by other creditable testimony, and the credit to be given to the balance of the testimony of the witness would be for you to determine.

It is for you to determine whether or not a witness has been impeached and to determine the credibility of such witness and the weight the witness's testimony shall receive in the consideration of the case.

Should you find that any witness, prior to the witness's testimony in this case from the witness stand has made any statement inconsistent with that witness' testimony from the stand in this case, and that such prior inconsistent statement is material to the case and witness' testimony, then you are authorized to consider that prior statement, not only for purposes of impeachment, but also as substantive evidence in the case.

This Defendant is charged with the offenses of Murder. *(Cover elements and definitions on the "LEGAL AUTHORITIES: Statutory Law page of the materials)*

If, after considering the testimony and evidence presented to you, together with the charge of the Court, you find and believe, beyond a reasonable doubt, that the defendant did, on or about the date and time alleged, commit the offenses alleged, you would be authorized to find the defendant guilty of the offenses, and, in that event, the form of your verdict would be: "We, the jury, find the defendant Guilty."

If you do not believe that the defendant is guilty of any offenses, or if you have any reasonable doubt as to the defendant's guilt, then it would be your duty to acquit the defendant, in which event the form of your verdict would be: "We, the jury, find the defendant Not Guilty."

You are only to be concerned about the guilt or innocence of the defendant. You are not to concern yourselves with punishment.

Whatever your verdict is, it must be unanimous, meaning agreed to by all jury members. The verdict must be signed by one of your members as foreperson, dated, and returned to be published in open Court.

One of your first duties in the jury room will be to select one of your members to act as foreperson, who will preside over your deliberations and who will sign the verdict to which all twelve of you freely and voluntarily agree.

You should start your deliberations with an open mind. Consult with one another and consider each other's views. Each of you must decide this case for yourself, but you should do so only after a discussion and consideration of the case with your fellow jurors. Do not hesitate to change an opinion if convinced that it is wrong. However, you should never surrender an honest opinion in order to be congenial or to reach a verdict solely because of the opinions of the other jurors.

No ruling nor comment which the Court has made during the progress of the trial is to be viewed as the Court's opinion upon the facts of this case, the credibility of the witnesses, the evidence, nor the guilt or innocence of the Defendant.

You may now retire to the jury room, but do not begin your deliberations until you receive the indictment and any evidence which was admitted during the course of this trial.

Bailiff, please escort the jury to their room for deliberations.