



NATIONAL  
ANIMAL LAW  
COMPETITIONS

CLOSING ARGUMENT  
COMPETITION

2013 PROBLEM

**TRIAL RECORD**  
**(May 1 and May 2, 2012)**

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**State v. Beatrice Garner**  
**Griffith County District Court Case No. 12-0158**  
**State of South Arctica**

**Charges:**

**Count I:** First Degree Aggravated Cruelty to Animals as to Rabbit No. G11-01 (Class C felony)  
**Count II:** Cruelty to Animals as to Rabbit No. G11-02 (Class B misdemeanor)  
**Count III:** Cruelty to Animals as to Rabbit No. G11-03 (Class B misdemeanor)  
**Count IV:** Cruelty to Animals as to Rabbit No. G11-04 (Class B misdemeanor)  
**Count V:** Cruelty to Animals as to Rabbit No. G11-05 (Class B misdemeanor)  
**Count VI:** Possession of a Schedule III Controlled Substance - Ketamine (Class B felony)

**Witnesses for the State:**

Animal Code Enforcement Officer Cathy Catcher  
Dr. Michael Goodman, DVM  
Lindsey Belushi

**Witnesses for the Defense:**

Ted Garner  
Dr. Helen Craft, DVM

**List of Exhibits:**

**State's Exhibits No. 101 to 107:**

101 – Aerial photo of property  
102 – Outdoor cooling unit and close-up of cooling unit vents  
103 – Interior of rabbit shed  
104 – Deceased rabbit #G11-01  
105 – Rabbits #G11-02, G11-03, G11-04 and close-up of dish  
106 – Rabbit #G11-05 and close-up of matted fur  
107 – Ketamine and syringe

**Defense Exhibits No. 201 to 202:**

201 – Rabbit #G11-17  
202 – Rabbit #G11-20  
203 – Beatrice Garner with award and trophies

The jury has been selected and sworn. The attorneys have presented their opening statements. After a short recess, court reconvened and the following events transpired.

CLERK: All rise.

JUDGE: Thank you. Please be seated. Is the State ready?

PROS. ATTY: Yes, Your Honor.

JUDGE: And is the Defense ready?

DEF. ATTY: We are, Your Honor.

JUDGE: Counsel for the State, you may call your first witness.

PROS. ATTY: Thank you, Your Honor. The State calls Animal Code Enforcement Officer Cathy Catcher.

CLERK: Please approach the witness stand and raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?

CATCHER: I do.

CLERK: Officer Catcher, please state your full name and spell your last for the record.

CATCHER: My name is Cathy Catcher, spelled C-A-T-C-H-E-R.

Direct Examination of Cathy Catcher

PROS. ATTY: Officer Catcher, what is your occupation?

CATCHER: I am an animal code enforcement officer assigned to the Griffith County Sheriff's office.

PROS. ATTY: What are your daily duties?

CATCHER: I take calls throughout the day regarding animals. For example dogs running at large, barking dogs, and abused or neglected animals. I also do public presentations and educate people regarding the ownership of animals.

PROS. ATTY: How long have you been employed as an animal code enforcement officer?

CATCHER: Just over four years.

PROS. ATTY: What kind of training did you have to receive in order to become an animal code enforcement officer?

CATCHER: Griffith County has only one real requirement and that was to become certified as an enforcement officer. Other than that, it was mostly on-the-job training.

PROS. ATTY: Are you certified by any agency or group?

CATCHER: Yes.

PROS. ATTY: Please describe.

CATCHER: There is an internet website called the United States Coalition of Animal Code Enforcement Officers. I had to take an on-line course for two days and then pass an on-line examination. Griffith County paid for it and I became certified within the first month that I was hired. I have to go back to USCACC once every two years for a four-hour refresher to maintain my certification. I was just recertified two months ago.

PROS. ATTY: Can you estimate how many animal cases you have been involved in over the last four years?

CATCHER: It's hard for me to say. Probably five to six hundred total cases.

PROS. ATTY: Do you work around animals in any other capacity?

CATCHER: Yes. I volunteer at a local animal shelter. I assist them with free spay / neuter clinics and I teach puppy classes – I help new owners with basic obedience skills. I've been volunteering there for ten years.

PROS. ATTY: On September 15, 2011 did you have the occasion to respond to the Velvet Bunny Ranch located at 2831 River Highway in Griffith County, South Arctica?

CATCHER: Yes I did. We received a call the day before via "Crime Watchers" from an anonymous source indicating that they had purchased a rabbit from Velvet Bunny Ranch about a year ago and that the barn and cages were filthy and ...

DEF. ATTY: Objection, Hearsay.

PROS. ATTY: Your Honor, it is not being offered for the truth of the statement, but rather for the effect it had on Officer Catcher and what she did next.

JUDGE: Overruled. You may continue with your answer.

CATCHER: As I was saying, the caller said the barn where the rabbits were kept was disgusting and it appeared to her that some of the rabbits were sick or dying, so I decided that I needed to do what we call a welfare check.

PROS. ATTY: What did you do then?

CATCHER: I went to the Velvet Bunny Ranch to check for myself.

PROS. ATTY: Was that location then and is that location now within Griffith County, South Arctica?

CATCHER: It was then and it is now.

PROS. ATTY: With the Court's permission, I am handing you what has been marked for identification purposes as State's Exhibit 101. Do you recognize this?

CATCHER: Yes, it is an aerial photograph of Velvet Bunny Ranch. It shows Beatrice Garner's residence and the barn where the rabbits were kept.

PROS. ATTY: Does it fairly and accurately represent the property at that time?

CATCHER: Yes.

PROS. ATTY: The State offers Exhibit 101.

DEF. ATTY: No objection.

JUDGE: State's 101 is received.

PROS. ATTY: What time did you get to the Ranch, and how was the weather?

CATCHER: Around 10:00 a.m. on September 15<sup>th</sup> - it was a clear and mild day.

PROS. ATTY: What did you do then?

CATCHER: I drove up to the driveway and noticed that there was no gate blocking the driveway so I drove up to the house. I went to the front door and knocked but no one answered. I walked around the south side of the house and I saw what appeared to be the rabbit shed.

PROS. ATTY: What did you do?

CATCHER: I walked around the shed looking for Ms. Garner. While I was walking, I made several observations that concerned me. First of all, I couldn't see through the windows at all. They weren't covered with any drapes or shades. They were so filthy that I couldn't see into the inside of the shed. I also noticed an odor coming from the entrance to the shed. Based on my experience and training it smelled like built up urine and feces. Additionally, I saw what appeared to be the back of a cooling unit and it was full of dirt and mold...

DEF. ATTY: Objection. No foundation. Speculation.

JUDGE: Sustained.

PROS. ATTY: Officer Catcher without telling us what you think the substance was, could you describe it for the jury?

CATCHER: Yes. I got up close to the cooling unit and looked between the grates. I saw a solid chalky looking substance and a green substance. It also gave off a noxious odor – different from the odor coming from the shed.

PROS. ATTY: With the Court's permission, I am handing you what has been marked for identification purposes as State's Exhibit 102. Do you recognize this?

CATCHER: Yes, it is a picture of the cooling unit and a close-up of what I saw between the grates.

PROS. ATTY: The State offers Exhibit 102.

DEF. ATTY: Objection. No foundation, no authentication. We don't know where or when the photo was taken, who took it, what it was of and what the supposed substance is. I'd like to incorporate my voir dire into my cross-examination.

JUDGE: Very well. Exhibit 102 is not admitted at this time.

PROS. ATTY: What happened then?

CATCHER: At about the time I came around the shed – back to the entrance of the shed, I then saw a young man at the back door of the house. I asked him if I could see Ms. Beatrice Garner. He said that he was her son and that she wasn't home. I asked when he expected her and he said she'd be back by lunchtime. He told me his name was Ted Garner but that everyone called him "Tex." He said that he lived there at the property with his mother and that from time to time he'd help her sell rabbits to prospective buyers. I asked him if I could take a look around the shed.

PROS. ATTY: Did you force him or pressure him in any way? Did you tell him why you were there?

CATCHER: Well, I was in full uniform – it clearly shows that I am an animal code enforcement officer. I told him that I had information that there may be some sick rabbits and I wanted to do a welfare check.

PROS. ATTY: What did he say?

CATCHER: He said he probably shouldn't let me in but really didn't see any harm in it. He then came over to the shed, opened the door and allowed me to enter.

PROS. ATTY: What did you see and do?

CATCHER: The first thing that I noticed was that it was unbelievably hot. The air was heavy. The smell of urine and feces was extreme. There were a couple of fans in the shed but I'm not sure if they were even working. It was dingy. It was hard to see and hard to breathe in there. There were a lot of flies buzzing around. I think I estimated that there were about 25 rabbits in the cages in the shed. Some of the larger, furrier rabbits seemed to be panting like they were having a heatstroke.

DEF. ATTY: Objection. Speculation.

JUDGE: Sustained. The jury is directed to disregard that last statement related to heatstroke.

PROS. ATTY: Please continue.

CATCHER: I didn't see any fresh water whatsoever. All of the water bowls were either empty or filled with feces or filth – like food pellets had gotten into the water and rotted. I then noticed a dead rabbit in one of the cages, and I saw a rabbit with its fur totally matted with feces. It was disgusting.

PROS. ATTY: What did you do then?

CATCHER: I called for help. There were too many rabbits in distress and I knew I needed assistance right away. I called for other animal code enforcement officers and I called for a veterinarian. As soon as I was off the phone I asked Tex to help me give water to the rabbits. He refused to help me – he said that all he did with the rabbits was help with the sales – he did not help with any of the daily care. He said that they were filthy beasts and he rarely went into the shed. I asked him if his mother ever got veterinary care for the rabbits. He told me his mother never brought in a veterinarian because they were too expensive.

DEF. ATTY: Objection. Hearsay.

JUDGE: Sustained. The jury is directed to disregard that last statement.

PROS. ATTY: Did you actually provide the rabbits with water?

CATCHER: Yes. They were so thirsty that several of them jumped in the water bowls as we were filling them. We couldn't even clean the bowls before we filled them as it was so urgent to get them the water.

PROS. ATTY: Were you able to take some photographs at the scene? Including the shed, the cages and the rabbits?

CATCHER: Yes I did.

PROS. ATTY: Do these photographs truly and accurately depict the shed, the cages and the rabbits as you found them back on September 15, 2011?

CATCHER: Yes they do.

PROS. ATTY: With the Court's permission, I am handing you what has been marked for identification purposes as State's Exhibit 103. Do you recognize this?

CATCHER: Yes, it is an overall picture of inside the shed. It shows some of the cages and one of the fans inside. It also shows the poor lighting and lack of ventilation.

PROS. ATTY: The State offers Exhibit 103.

DEF. ATTY: No objection.

JUDGE: Exhibit 103 is received.

PROS. ATTY: In Exhibit 103 there appear to be several plastic bottles attached to the outside of the cages. Were you able to figure out what they were for?

CATCHER: Yes. It appeared that there was a system that Ms. Garner used in the rabbit shed. The white plastic containers had nozzles on them that came down and were supposed to provide the rabbits with water if the rabbit licked the end of the nozzle.

PROS. ATTY: Did you check out this "watering system"?

CATCHER: Yes. Most of the containers were empty. If they were not empty, they didn't have enough water in them to allow it to work properly. We couldn't get any water to come out of any of the nozzles. Several of them were simply broken or the nozzles were faced outside the cages rather than inside the cages.

PROS. ATTY: Did any of the cages have appropriate water – clean water and ample enough water?

CATCHER: Maybe but not that I can recall.

PROS. ATTY: What other observations did you make about the rabbit shed?

CATCHER: There was no ventilation. That fan that is in the photograph was not operating while I was in the shed. I looked at the fan and the blades were not moving. It was hot. There were no windows to allow airflow. The floor of the shed was actually dirt. The air was dusty and thick – full of dust, feces dust, food dust, and rabbit fur that had been shed. The rabbits' cages were made of wire. Even the floors of the cages were wire. The rabbits had nowhere to sit or rest that was solid. The pans designed to collect their feces were overflowing into the cages.

PROS. ATTY: You testified that you saw a deceased rabbit in one of the cages. Did you take a photograph of that rabbit?

CATCHER: Yes I did.

PROS. ATTY: Is it a true and accurate representation of how that rabbit appeared to you on that date and at that location?

CATCHER: Yes.

PROS. ATTY: With the Court's permission, I am handing you what has been marked for identification purposes as State's Exhibit 104. Do you recognize this?

CATCHER: Yes, it is a picture of the deceased rabbit in the cage where we found it. We assigned that rabbit an identification number – Number G11-01. G stands for Griffith County; 11 stands for the year 2011; and this was rabbit number 01. The photograph also accurately shows the condition of that rabbit's cage exactly how we found it.

PROS. ATTY: The State offers Exhibit 104.

DEF. ATTY: No objection.

JUDGE: Exhibit 104 is received.

PROS. ATTY: What else is shown in Exhibit 104?

CATCHER: It is a fair representation of how we found most of the cages. The overall cage was filthy, the feces were up into the cage, there was no food, and no drinkable water. The water dish was full of a disgusting liquid.

PROS. ATTY: Did you also see examples of multiple rabbits in one cage?

CATCHER: Yes.

PROS. ATTY: With the Court's permission, I am handing you what has been marked for identification purposes as State's Exhibit 105. Do you recognize this?

CATCHER: Yes, it is a picture of three rabbits that we found in one cage. They are rabbits numbered G11-02, G11-03, and G11-04.

PROS. ATTY: is it a true and accurate representation of how you found those rabbits on that date?

CATCHER: Yes.

PROS. ATTY: The State offers Exhibit 105.

DEF. ATTY: No objection.

JUDGE: Exhibit 105 is received.

PROS. ATTY: What else can you tell us about those three rabbits?

CATCHER: I noticed them in particular because they were all huddled in a corner in the only area of the cage that seemed somewhat free of feces. I also remember that their



food dish was among the worst that we saw. Exhibit 105 also shows a close-up of their so-called food dish.

PROS. ATTY: Did you remove any of the rabbits from the shed?

CATCHER: Yes. I waited for my cover officers and for the veterinarian to arrive. To be honest with you I didn't have much experience with rabbits before. Of all of my cases, I only had a handful of rabbit cases and those cases only involved one or two rabbits. It turns out that there were 28 rabbits at Velvet Bunny Ranch. The rabbits and cages were in varying states. I thought it would be best if we took all of the rabbits because the overall conditions were awful. I was afraid some of the rabbits would die if we didn't remove them.

DEF. ATTY: Objection. Speculation.

JUDGE: Sustained as to the last comment made by Officer Catcher.

PROS. ATTY: What was your plan for removal?

CATCHER: My cover officers arrived very quickly. Once Dr. Mike, I mean Dr. Michael Goodman arrived, he told me that none of the rabbits were in immediate danger other than their need for fluids. He indicated that it was a good thing that we gave them water immediately. The dead rabbit was already gone so there was nothing we could do for that rabbit. I decided to secure the premises and I got a search warrant to remove all of the rabbits, including the body of the dead one.

PROS. ATTY: Did you get a warrant and was it authorized by a judge?

CATCHER: Yes.

PROS. ATTY: Was the warrant to search the shed or the shed and the residence?

CATCHER: Just the shed.

PROS. ATTY: What did you do then?

CATCHER: I called for even more assistance to be able to remove all of the rabbits safely and to inventory them. We set up a staging area and each rabbit was seen preliminarily by Dr. Goodman or one of the other veterinarians. They were photographed and tagged.

PROS. ATTY: What happened to the rabbits?

CATCHER: We transported all of them to a nearby animal shelter called Good Buddies Animal Shelter.

PROS. ATTY: Were all of the animals photographed in their cages?

CATCHER: No, some were photographed at the staging area and some at Good Buddies.

PROS. ATTY: Isn't it true that one of the rabbits was so matted with urine and feces that it had to be shaved?

DEF. ATTY: Objection. Leading.

JUDGE: Sustained.

PROS. ATTY: Were there any rabbits with matted fur? If so, could you describe?

CATCHER: Yes. There was one rabbit in particular, Rabbit G11-05 that was extremely matted. There appeared to be caked urine and feces all over its underside. Dr. Goodman said

DEF. ATTY: Objection. Hearsay.

JUDGE: Sustained.

PROS. ATTY: Officer Catcher without telling us what he said, what did you observe?

CATCHER: The rabbit smelled horrible. We were not able to conduct a thorough exam without shaving it. Someone shaved the fur and I saved it. Prior to the shaving, the vet tech noticed maggots in the feces in the matted fur. This same rabbit also had extremely overgrown toenails.

PROS. ATTY: With the Court's permission, I am handing you what has been marked for identification purposes as State's Exhibit 106. Do you recognize this?

CATCHER: Yes, it is a picture of the rabbit with matted fur, Rabbit G11-05. It shows the rabbit being held by the vet tech and a close-up of the matting, and a picture of its nails.

PROS. ATTY: is it a true and accurate representation of how you found this rabbit on that date?

CATCHER: Yes.

PROS. ATTY: The State offers Exhibit 106.

DEF. ATTY: No objection.

JUDGE: Exhibit 106 is received.

PROS. ATTY: While you were executing the search warrant did you see anything else, anything besides the rabbits that you felt you should seize?

CATCHER: Yes. I was checking out the cages in Exhibit 103 and I saw a bottle and a syringe in the middle cage on the left. It was tucked into the side of the cage and was kind of hard to see. I just knew it wasn't a rabbit. I looked closer and the bottle said Ketamine. I know about Ketamine because it is an anesthetic agent used by veterinarians. It is also a drug that can be abused and it is illegal to possess.

PROS. ATTY: What did you do with the drug and the syringe?

CATCHER: I put it into the property bureau for later analysis.

PROS. ATTY: Does the Defendant, Ms. Beatrice Garner, have a license to practice veterinary medicine or any other legitimate license to have Ketamine?

CATCHER: No, she has no lawful license to have Ketamine.

PROS. ATTY: Officer Catcher, I have no further questions for you at this time.

JUDGE: Is there any cross-examination?

DEF. ATTY: Yes, thank you.

Cross-Examination of Cathy Catcher

DEF. ATTY: Officer Catcher, your certification was an on-line class for two days that anyone can take?

CATCHER: Yes.

DEF. ATTY: Are you aware that the class is no longer being used by accredited law enforcement agencies because it was not peer reviewed?

CATCHER: That must have happened recently.

DEF. ATTY: And, you have no special training with regard to rabbits, including during your "on the job training," correct?

CATCHER: That is correct.

DEF. ATTY: And, you are aware are you not that Ms. Garner has been raising rabbits for over 30 years?

CATCHER: That's what I heard.

DEF. ATTY: As a matter of fact she raises them for pets, for show, for fiber – meaning for their fur, and for food for the wildlife preserve.

CATCHER: Yes I did hear that.

DEF. ATTY: Back to the original call you received. The caller was anonymous and you don't even know who they are or where they live. Isn't it part of your protocol to try to determine the truth of an allegation before you go to the suspect's home?

CATCHER: Yes but there was no way to find out.

DEF. ATTY: So you don't even know if the caller even purchased a rabbit from Ms. Garner.

CATCHER: That is true.

DEF. ATTY: Isn't it also true that the report came in within days of Crime Watchers accepting reports and offering sizable rewards for reporting animal-related incidents?

CATCHER: I'm not sure.

DEF. ATTY: But you do know that this anonymous caller received \$2,000.00 for simply making the call and that there are rabbit breeders out there that compete with Ms. Garner in the rabbit trade and would like to see her put out of business.

CATCHER: I'm not sure.

DEF. ATTY: How long were you in the rabbit shed before you decided to take the entire herd?

CATCHER: Less than five minutes.

DEF. ATTY: Had you seen all and evaluated all of the rabbits in less than five minutes?

CATCHER: No, of course not.

DEF. ATTY: The simple fact that there were a large number of rabbits by itself is no indication of any problems correct?

CATCHER: Correct.

DEF. ATTY: As an animal code enforcement officer you carry a thermometer with you at all times. You carry them when you check on reports of dogs left in hot cars so that you can testify to the exact temperature, correct?

CATCHER: Yes.

DEF. ATTY: And, you had your thermometer with you on that date?

CATCHER: Yes.

DEF. ATTY: But you didn't take it into the shed to determine the actual temperature.

CATCHER: That's right.

DEF. ATTY: So we really don't know how hot the shed was, or if it was the proper temperature for rabbits.

CATCHER: It felt really hot to me.

DEF. ATTY: You said the fan wasn't operating. Did you check to see if it was on a timer?

CATCHER: No.

DEF. ATTY: How much water does a rabbit need every day?

CATCHER: It probably depends on the size and the amount of fur. I really don't know.

DEF. ATTY: You didn't know Ms. Garners watering and feeding schedule did you?

CATCHER: No but it looked like...

DEF. ATTY: Just answer the question please.

JUDGE: Officer Catcher just answer the question, the prosecutor can follow up later if they wish.

DEF. ATTY: Animal control enforcement officers are law enforcement officers – like the police.

CATCHER: Yes we are peace officers.

DEF. ATTY: When Mr. Tex Garner allowed you to enter the shed, you didn't have him sign a written consent form did you? And, wouldn't this be a proper protocol for a law enforcement officer?

CATCHER: I don't carry consent forms.

DEF. ATTY: Isn't it true that he asked you to leave the property until his mother returned home but you insisted on seeing the shed?

CATCHER: That is not true.

DEF. ATTY: You seized all 28 rabbits?

CATCHER: Yes.

DEF. ATTY: But the vast majority of them were in good shape correct?

PROS. ATTY: Objection. May we approach the bench?

JUDGE: You may. Ladies and gentlemen of the jury, the Court will take a moment at the bench to take care of a short matter. Please talk among yourselves until the lawyers return to their desks. The following bench conference was not heard by the jury:

*PROS. ATTY: Your Honor I object to defense counsel bringing up the rabbits about which no charges were filed. We discussed this at length at pretrial motions and you issued an order strictly outlining what would be admissible at trial. Counsel has poisoned the water by this question.*

*DEF. ATTY: You ruled that we could introduce evidence showing a couple of the well rabbits and I was just setting the stage.*

*JUDGE: I ruled that you could very briefly address the fact that some rabbits appeared in good shape. I also said that if you opened this issue beyond this, then the prosecutor could talk about the fact that the Defendant relinquished ownership of all of the rabbits and tore down the rabbit shed because she was told by the health department that it was unsafe for any living creatures – humans and rabbits. I also said that you cannot use this in closing argument beyond the limitation of briefly mentioning it.*

*DEF. ATTY: I will withdraw and rephrase Your Honor.*

JUDGE: Ladies and Gentlemen we will now resume.

DEF. ATTY: Judge I withdraw the last question.

JUDGE: Very well, Members of the jury shall disregard it.

DEF. ATTY: Officer Catcher. Do you know the differences between an Angora rabbit and a Lop rabbit or what each should weigh, or eat, or look like?

CATCHER: Not until that day.

DEF. ATTY: Officer I am now showing you State's Exhibits 104 and 105. Each of these

photos show metal bowls with a substance or liquid in them. Did you seize these bowls, put them in property and have the contents analyzed?

CATCHER: No I didn't. We left the bowls and the cages in the shed.

DEF. ATTY: You could have taken them, but you chose not to, correct?

CATCHER: Yes.

DEF. ATTY: With the Court's permission, I am handing you what has been marked for identification purposes as Defendant's Exhibits 201 and 202. Do you recognize these?

CATCHER: Yes, they are pictures of a couple of the rabbits from the shed. I believe Exhibit 201 is rabbit G11-17, and Exhibit 202 is rabbit G11-20.

DEF. ATTY: Are they true and accurate representations of how you found these rabbits on that date?

CATCHER: Yes.

DEF. ATTY: The Defense offers Defendant's Exhibits 201 and 202.

PROS. ATTY: No objection.

JUDGE: Exhibits 201 and 202 are received.

DEF. ATTY: You took these two photos on that date and they show accurately how these two rabbits were living?

CATCHER: I'm not sure if the photo was taken before or after I gave them water.

DEF. ATTY: So, you are saying that some of the rabbits had water before you arrived?

CATCHER: I'm not positive.

DEF. ATTY: You learned, did you not that stress can cause a rabbit to become sick and that strangers in the shed handling them and transporting them from a familiar environment can cause illness?

CATCHER: You'll have to ask the veterinarian.

DEF. ATTY: And you were shining flashlights, and were touching the bowls and bottles?

CATCHER: Yes we did that but I'm not sure if it stressed them out.

DEF. ATTY: Officer Catcher, regarding State's Exhibit 107, did you put in a request to have the vial of Ketamine fingerprinted?

CATCHER: No.

DEF. ATTY: I have no further questions.

JUDGE: Any redirect?

PROS. ATTY: Nothing further.

JUDGE: Officer Catcher you are excused. Call your next witness.

PROS. ATTY: Thank you, Your Honor. The State calls Dr. Michael Goodman.

CLERK: Please approach the witness stand and raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?

GOODMAN: I do.

Direct Examination of Dr. Michael Goodman

PROS. ATTY: Dr. Goodman, please state your name and spell your last name.

GOODMAN: I'm Dr. Michael Goodman, G-O-O-D-M-A-N.

PROS. ATTY: How are you employed?

GOODMAN: I am the staff veterinarian at the Good Buddies Animal Shelter here in Griffith County. Everyone calls me "Dr. Mike." I have been there for the last 12 years.

PROS. ATTY: Please describe your training and education.

GOODMAN: I received my undergraduate degree from the University of South Arctica in 1991. I graduated first in my class with honors and then I went to Arctica State Veterinary College. I graduated in 1994 and received my South Arctica license to practice veterinary medicine that same year. I am board certified in veterinary anatomic pathology and internal medicine.

PROS. ATTY: What types of positions have you held since your graduation?

GOODMAN: I spent the first two years as an instructor at Arctica State Veterinary College. I did this after I became board certified. I taught pathology and internal medicine to the first and second year veterinary students. I then went into private practice for several years. I had a small animal practice and handled mostly small companion animals.

About three years ago I became interested in shelter medicine and decided that I wanted to work with lost, abandoned and relinquished animals. I also felt that I would be able to help the community in dealing with animals that had been victimized.

DEF. ATTY: Objection, relevance.

JUDGE: Overruled.

PROS. ATTY: Please continue.

GOODMAN: While teaching and while at the shelter, I became quite proficient at anatomy and I conducted hundreds of necropsies.

PROS. ATTY: What is a necropsy?

GOODMAN: It is the animal equivalent of an autopsy. We examine the body of the deceased animal to determine the cause of death. We do an external and internal examination. My board certification in anatomic pathology – that is precisely the field that deals with necropsies.

PROS. ATTY: What species of animals did you treat in your practice and do you treat now at the shelter?

GOODMAN: In my practice I treat primarily dogs and cats. The other common pets were birds, gerbils, guinea pigs and rabbits. We also saw aquatic life – fish – but we had a vet that specialized in that. Since I started at the shelter I have seen a few more exotic pets like giant lizards, sugar gliders, and chinchillas to name a few.

PROS. ATTY: Are you able to treat most of those species?

GOODMAN: Most but not all. If I am not able to treat them I will find a veterinarian specially trained in that area.

PROS. ATTY: Can you estimate how many animals you have evaluated and treated over the course of your career?

GOODMAN: I really cannot – tens of thousands I'd guess.

PROS. ATTY: Have you ever testified as an expert witness before? And if so, where and on how many occasions?

GOODMAN: I have been qualified as an expert witness on a total of 8 occasions including county court, district court and federal court.

PROS. ATTY: Your Honor at this time I'd offer Dr. Goodman as an expert witness in the field of veterinary medicine in general and in anatomic pathology and internal medicine in particular.

DEF. ATTY: No objection.

JUDGE: Dr. Goodman will be received as an expert and will be allowed to render expert opinions.

PROS. ATTY: Dr. Goodman did you have the occasion to respond to Velvet Bunny Ranch on September 15, 2011 at the request of Officer Catcher?

GOODMAN: Yes. I was at the shelter when I received her call. It was around noon – maybe before maybe after. I had to finish up some vaccinations and then I drove down there with a couple of vet techs. It's about 6 miles from the shelter in a fairly remote area. We drove right by it the first time, as the shed she described was not visible from River Highway.

PROS. ATTY: Did you know from her phone call that this was a case with a number of rabbits.

GOODMAN: Yes. I was okay with this because I have some training and experience with rabbits.

PROS. ATTY: What were your initial impressions when you arrived at the scene?



GOODMAN: Well, we didn't do much until the search warrant was signed. I didn't treat any of the animals at the scene. There was one deceased rabbit but there was obviously no emergency to get that body out right away. Some of the live rabbits needed care and the environment was substandard.

PROS. ATTY: Describe what you mean by substandard.

DEF. ATTY: Objection to the form of the question. Substandard as to a home, as to a clinic, as to a breeding herd...

JUDGE: Sustained. Please rephrase the question.

PROS. ATTY: Substandard as to a shed used to house approximately 25 rabbits.

GOODMAN: Well, it was oppressively hot. Rabbits do thrive in warmer temperatures but this was extreme. The longer haired rabbits were really suffering. Next, there was little or no ventilation. The air in the shed was not circulating at all and it was full of dust. The source of the dust was likely feces, rabbit dander, rabbit fur, and dust from the dirt floor. The air was stifling. I had some difficulty breathing myself. Also, there was insufficient lighting – you could not see into the cages without using an additional source of light. We used flashlights.

The rabbits were in cages with wire flooring causing the toes of their feet to go through the mesh. They should have had some solid flooring in the cage. I saw no food or only remnants of food in the cages. The feces build up in some of the cages was extreme. There was fresh water in some of the cages but Officer Catcher told me that she had...

DEF. ATTY: Objection. Hearsay.

JUDGE: Sustained.

PROS. ATTY: Without telling us what she said, what other observations did you make?

GOODMAN: Um. There were cages with bowls that had what appeared to be rotten food or water in them. There were cages with more than one rabbit in them. The cages were too small for that particular breed of rabbit. The rabbits didn't have enough room to turn around.

PROS. ATTY: Once the signed search warrant arrived did you assist with the removal of the rabbits to the staging area?

GOODMAN: Yes. It was there that I conducted a preliminary evaluation of all of the rabbits.

PROS. ATTY: Did you notice a deceased rabbit?

GOODMAN: Yes. It was dead in the cage. I had it transported to the clinic at the Good Buddies Animal Shelter so that I could perform a necropsy on it.

PROS. ATTY: Doctor I'm now showing you what has been admitted as State's Exhibit 104. Is this the rabbit you are testifying about?

GOODMAN: Yes.

PROS. ATTY: What were the results of your necropsy on Rabbit G11-01?

GOODMAN: It was a complex case as I was not able to rule out two possible causes of death. I did an external examination and noted that the rabbit was emaciated – way too thin. The body was not showing much decay so I estimated that the rabbit had died within 24 hours of the time I saw it in the cage. I then took a radiograph of the rabbit because the head seemed unattached to the body. The result of the radiograph is that the rabbit had a broken neck. It, therefore, seemed it died of a broken neck.

However, I then did an internal examination by making an incision through the fur and skin. I did confirm the broken neck but I also noted changes in the liver, kidney and lining of the stomach consistent with starvation. I did a gross review of these internal organs and a microscopic study of tissue removed from these organs. The results were consistent – this rabbit could have also died from starvation.

PROS. ATTY: Was there any medical condition that could have caused this?

GOODMAN: No on both counts. There was no evidence that the rabbit broke its own neck or that it had an accident resulting in that type of trauma. Also, there was ample evidence that this rabbit was not given food enough to sustain it.

PROS. ATTY: How much force would it take to break a rabbit's neck – a rabbit like this rabbit?

GOODMAN: Not much.

PROS. ATTY: Did this rabbit suffer or feel pain?

GOODMAN: It certainly suffered regardless of the cause of death.

PROS. ATTY: Now take a look at State's Exhibit 105. Do you recall these three rabbits?

GOODMAN: Yes I do. They were in an overcrowded cage. They didn't have enough space for any quality of life. They couldn't move freely. I evaluated each rabbit separately when we got to Good Buddies.

PROS. ATTY: Tell us first about Rabbit G11-02

GOODMAN: I think G11-02 is one of the rabbits on the left – the one closest to the front of the cage. May I refer to my notes to be sure?

PROS. ATTY: Your Honor I am now tendering a copy of Dr. Goodman's veterinary records for him to use to refresh his memory. Defense counsel was provided with a copy in discovery.

DEF. ATTY: No objection.

JUDGE: Go ahead.

PROS. ATTY: If you have had enough time to review your records, please continue.

GOODMAN: Yes, thank you. That helps as there were so many rabbits. At any rate, I

determined that G11-02 was a female. She was suffering from an elevated body temperature and an upper respiratory infection. She was also very underweight and dehydrated. I gave her antibiotics and IV fluids and she seemed to respond well. The IV contained nutrients and water.

PROS. ATTY: Was she hospitalized in the clinic?

GOODMAN: Yes, we have a fully functional clinic at Good Buddies. She remained in the clinic for three days.

PROS. ATTY: Do you have an opinion as to whether or not this rabbit was provided with sufficient food and drink?

GOODMAN: Yes I do.

PROS. ATTY: What is that opinion?

DEF. ATTY: Objection. Foundation.

JUDGE: Sustained. Counsel please lay a foundation.

PROS. ATTY: Upon what do you base your opinion?

GOODMAN: I am able to render an opinion that is based upon my years of education, training and experience, and based upon my personal examination and evaluation of this rabbit. I did a thorough physical examination which included feeling the animal all over, testing its gums and eyes, nose, mouth, ears, feet, genitals, etc. For example, when I touched the gums, they were dry and tacky... like a human that is dehydrated. I also conducted laboratory tests – including blood, urine and feces.

PROS. ATTY: What is your opinion?

GOODMAN: This rabbit was not provided with sufficient food or drink – neither one.

PROS. ATTY: Did this rabbit suffer or feel pain?

DEF. ATTY: Objection. Foundation.

JUDGE: Overruled. Doctor you may answer the question.

GOODMAN: The rabbit suffered. She was starving and dehydrated and sick with an infection. It would have been a horrible way to die, but somehow the little thing pulled through.

PROS. ATTY: How about rabbit G11-03?

GOODMAN: That was one of the other rabbits in the cage in the photograph. It is pictured on the left side in the back of the cage. I examined and evaluated this second female rabbit and I came to the same conclusion as the rabbit I have just testified about.

PROS. ATTY: What is that conclusion?

GOODMAN: She was starving, dehydrated, and had an upper respiratory infection. This rabbit was even sicker than the other as she had mucous draining from her nostrils. She had not been provided with sufficient food or drink. And, apparently neither rabbit had been taken for veterinary treatment.

PROS. ATTY: How about the third rabbit in State's Exhibit 105?

GOODMAN: I specifically remember this rabbit. It is the darkest rabbit, the black rabbit on the right in the cage. It is a male. What struck me was when I examined him at the shed it was obvious that he had been stitched up but whoever did the surgery did a sloppy and poor job of it. It looked like he had either been attacked or had cut himself on rough wires or metal in the cage. At any rate he had received a big gash on his abdomen.

PROS. ATTY: How were you able to come to this conclusion?

GOODMAN: First of all I noticed his belly was partly shaved but the fur had grown over a bit. I was able to visualize and palpate the area – I felt the area with my fingers – and I could see and feel the sutures and the partially healed incision. I shaved the area to take a closer look at it. The wound was not healing properly. It appeared it was sewn shut with some type of thick thread – like yarn almost, and some of his intestines were popping through. Part of the yarn was still in place – it looked like an attempt to keep the wound closed.

PROS. ATTY: What did you do about that?

GOODMAN: Nothing at the time so as not to stress him further. When we got him to the clinic I performed surgery – I removed the sutures that someone else had made and I cleansed the area and sewed him up. His wound confirmed my suspicions that it was likely a result of a fight with another animal or an injury from something in his cage.

PROS. ATTY: Is this the type of injury and suturing that would require some type of anesthetic?

GOODMAN: Yes, otherwise the rabbit would not stay still and would be in extreme pain.

PROS. ATTY: Would he need pain medication as well as an anesthetic.

GOODMAN: Absolutely.

PROS. ATTY: Was there anything else you noted about this male rabbit?

GOODMAN: Yes, he too was dehydrated and emaciated. It's really hard to tell with furry creatures. You really have to put your hands on them and feel them. I could feel his ribs protruding just like the two others. Also, he did have an upper respiratory infection too. We treated this as well at the clinic.

PROS. ATTY: Were you ultimately able to treat the other two rabbits from this cage – the two females we have already discussed here?

GOODMAN: Yes, they had the same therapy as the male rabbit and were discharged from the clinic after three days. The one that had surgery stayed a few days longer.

PROS. ATTY: And what about rabbit G11-05 – the rabbit depicted in State's Exhibit 106?

GOODMAN: This rabbit, a male Angora, was severely matted. It is a longhaired breed and must be groomed regularly. His coat was full of dried urine and caked-on feces. It was so thick that it was compromising his ability to urinate and defecate. He had impacted feces which is a very painful and serious condition. He had urine scald which is also very painful. In addition, he had terribly overgrown nails.

PROS. ATTY: Is the overall condition of this rabbit dangerous? And if so, why?

GOODMAN: It can be life threatening. If he cannot defecate for too long a time it can result in a perforated bowel which causes sepsis – a system wide infection. Also rabbits groom with their front paws so long nails can harm them and could get caught in the wire flooring.

PROS. ATTY: Did this rabbit suffer or feel pain?

GOODMAN: Certainly. And in addition he too was emaciated, dehydrated and had an upper respiratory infection.

PROS. ATTY: What did you do to treat him?

GOODMAN: We had to shave off his coat and give him antibiotics, and fluid therapy. We also had to give him a suppository to assist him with passing his feces. He was in the clinic for five days before release.

PROS. ATTY: Do these breeds of rabbits require regular grooming as part of the care required for this type of rabbit?

GOODMAN: Absolutely.

PROS. ATTY: Now doctor, have you heard of the drug called Ketamine?

GOODMAN: Of course, I have used it for years. It is an anesthetic used specifically for animals.

PROS. ATTY: Is it used on rabbits?

GOODMAN: Yes. It is used to alleviate pain and it can be used to anesthetize an animal during surgery.

PROS. ATTY: Is it the kind of drug you would use during a procedure to neuter a rabbit?

GOODMAN: I use a gas, but some veterinarians use injectible Ketamine in combination with other drugs.

PROS. ATTY: How is it packaged?

GOODMAN: In a vial or as a powder. Veterinarians typically get it in liquid form, in a vial.

PROS. ATTY: Is it also a drug that can be abused, isn't it one of the drugs called a "date rape" drug?

DEF. ATTY: Objection. Foundation and relevance.

JUDGE: Sustained.

PROS. ATTY: Dr. Goodman, were you in the shed when Officer Catcher found the vial of Ketamine?

GOODMAN: Yes I was. I told her what it was for.

PROS. ATTY: No further questions.

Cross-Examination of Dr. Michael Goodman

DEF. ATTY: Good afternoon Doctor.

GOODMAN: Good afternoon.

DEF. ATTY: Doctor, you and Officer Catcher work together all the time do you not?

GOODMAN: I'm not sure what you mean.

DEF. ATTY: Well, she's an animal code enforcement officer and most of the animals she seizes are brought to the Good Buddies Animal Shelter where you are the chief veterinarian, correct?

GOODMAN: Yes, that is true.

DEF. ATTY: So you do work closely together.

GOODMAN: I guess you could say that.

DEF. ATTY: And you don't have a regular veterinary practice – with private parties who bring their pets to you.

GOODMAN: True.

DEF. ATTY: You testified that you have some training and experience with rabbits. You don't specialize in rabbits, do you?

GOODMAN: No, not really.

DEF. ATTY: You are aware that there are folks that raise herds of rabbits for purposes other than pets?

GOODMAN: Yes.

DEF. ATTY: For their fur?

GOODMAN: Yes.

DEF. ATTY: For show?

GOODMAN: Yes.

DEF. ATTY: For food for other animals, like endangered species at the South Arctica Zoo?

GOODMAN: Yes.

DEF. ATTY: And with large numbers of animals it can be a challenge and many owners do the best they can to take care of them.

GOODMAN: I guess so.

DEF. ATTY: And, the animal owner may well be getting veterinary advice and support without it being obvious.

GOODMAN: I guess that's possible.

DEF. ATTY: Isn't it also true that rabbits can become ill and have symptoms due to being stressed?

GOODMAN: That is true.

DEF. ATTY: They can be stressed by having lights shined in their eyes unexpectedly? Or by large numbers of people in their normally calm shed? Or by being handled over and over....

PROS. ATTY: Objection. Compound question.

JUDGE: Sustained.

DEF. ATTY: They can be stressed by flashlights being shined in their eyes

GOODMAN: I suppose so.

DEF. ATTY: By large numbers of humans talking and shuffling around their normally quiet shed?

GOODMAN: I can't answer that question.

DEF. ATTY: By being moved from their cages to a strange environment?

GOODMAN: That could be stressful.

DEF. ATTY: By being handled over and over and over.

GOODMAN: I guess it depends on whether they are show animals.

DEF. ATTY: At any rate, isn't it safe to say that rabbits can be stressed due to a number of reasons?

GOODMAN: Yes.

DEF. ATTY: And when stressed they can manifest themselves as if they were truly sick...for example they could develop an upper respiratory infection.

GOODMAN: It's possible.

DEF. ATTY: Isn't it safe to say that the three rabbits in the same cage were thin?

GOODMAN: It's an oversimplification, but yes.

DEF. ATTY: And just like humans some rabbits could be thin, and some could be fat.

GOODMAN: That's true for any species.

DEF. ATTY: Doctor you also evaluated Rabbits G11-17 and G11-20 shown in Defendant's Exhibits 201 and 202.

GOODMAN: That is correct.

DEF. ATTY: And they were in fine shape. There was nothing wrong with them.

GOODMAN: That is true.

DEF. ATTY: You testified that rabbit G11-04 had been poorly sutured. You have no idea when, or where that happened, or by whom.

GOODMAN: That is correct.

DEF. ATTY: Doctor, none of the live rabbits died, did they?

PROS. ATTY: Objection. Relevance.

JUDGE: Sustained.

DEF. ATTY: I withdraw the question and have no further questions of this witness.

JUDGE: Any redirect?

PROS. ATTY: Yes, Your Honor.

Dr. Goodman, defense counsel has asked you about the various reasons why someone may raise large numbers of rabbits. Is there ever any reason to allow an animal to be denied food or water?

GOODMAN: No, never.

PROS. ATTY: Is there any precedent for that, or are there any teachings in veterinary medicine which address that?

GOODMAN: Yes. It's called the Freedoms for Animals. It applies to all animals in captivity.

PROS. ATTY: What are they?

GOODMAN: Freedom from hunger and thirst, freedom from pain, disease and suffering, and freedom from discomfort.

PROS. ATTY: Nothing further.

JUDGE: Dr. Goodman you are excused. The State may call its next witness.

PROS. ATTY: The State calls Lindsey Belushi.



CLERK: Please approach the witness stand and raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?

BELUSHI: I do.

Direct Examination of Lindsey Belushi

PROS. ATTY: Ms. Belushi please state your name and spell your last name.

BELUSHI: I'm Lindsey Belushi, B-E-L-U-S-H-I.

PROS. ATTY: How are you employed?

BELUSHI: I'm a forensic chemist at SABI.

PROS. ATTY: What's that?

BELUSHI: South Arctica Bureau of Investigation.

PROS. ATTY: Please describe your training and education.

BELUSHI: I received my undergraduate degree in 2008, a Bachelor of Science degree from UCLA. I then studied at Quantico, Virginia at the FBI institute. I studied forensic chemistry. I received certification as a forensic chemist.

PROS. ATTY: What is forensic chemistry and what is your specialty in forensic chemistry?

BELUSHI: A forensic chemist is a professional chemist who analyzes evidence that is brought in from crime scenes and reaches a conclusion based on tests run on that piece of evidence. My specialty is to examine powder, liquids, tablets, capsules and vegetable materials looking for the presence or absence of controlled substances.

PROS. ATTY: What types of positions have you held since your certification?

BELUSHI: After I completed my studies with the FBI I was hired by SABI and I've been working there ever since.

DEF. ATTY: We have no objection to Ms. Belushi being received as an expert in forensic chemistry.

JUDGE: Very well, Ms. Belushi will be received as an expert and will be allowed to render expert opinions.

PROS. ATTY: Ms. Belushi, on or about September 20, 2011, did you have the occasion to analyze a liquid substance placed into the property bureau by Officer Catcher?

BELUSHI: I did. I remember it clearly because we don't normally receive requests from animal code enforcement officers.

PROS. ATTY: I'm now showing you State's Exhibit 107 – is this the evidence you are referring to? If so, what did you do?

BELUSHI: Yes it is. I checked the evidence out of the property bureau and I analyzed it. It

was in what appeared to be a medical vial. I withdrew some of the liquid and I placed it into the gas chromatograph analyzer.

PROS. ATTY: Is this a normal procedure?

BELUSHI: Yes it is.

PROS. ATTY: What happened?

BELUSHI: Well, the testing took about 12 minutes and then I saw a result on the computer monitor. It said that the substance was positive for Ketamine.

PROS. ATTY: What is Ketamine?

BELUSHI: Ketamine comes in either a clear liquid or a white or off-white powder form.

PROS. ATTY: How is Ketamine used?

BELUSHI: Ketamine is a tranquilizer or anesthetic most commonly used on animals. The liquid form is usually injected. It is a pharmaceutical product – which means it can only be acquired through a pharmacy or someone who has legitimately acquired it through a pharmacy. There has been a recent trend of veterinary clinics that have been robbed of Ketamine.

PROS. ATTY: Is Ketamine a controlled substance? Is it illegal to possess unless someone is a physician or veterinarian or pharmacist?

BELUSHI: Yes, it is a Schedule III controlled substance and only certain licensed professionals can possess it.

PROS. ATTY: No further questions.

#### Cross-Examination of Lindsey Belushi

DEF. ATTY: Good afternoon Ms. Belushi.

BELUSHI: Good afternoon.

DEF. ATTY: You weren't at the scene where the Ketamine was discovered were you?

BELUSHI: No I was not.

DEF. ATTY: So you have no idea who put it where it was discovered?

BELUSHI: Correct.

DEF. ATTY: And Ketamine has uses other than its intended use, correct?

BELUSHI: Yes it is also known as "jet," "super acid," and "Special K." It became popular at dance clubs and "raves." In humans, the short term effects include slurred speech, out-of-body experiences, shifts in perception of reality, an enhanced sense of connection with the world, euphoria, a sense of calm and serenity, and a pleasant mental and/or body high.

DEF. ATTY: Is Ketamine similar to any other drugs?

BELUSHI: Yes, Phencyclidine (also known as PCP), Ecstasy (MDMA), and Rohypnol (also known as "Roofies") produce similar effects.

DEF. ATTY: No further questions.

JUDGE: Any redirect?

PROS. ATTY: No Your Honor.

JUDGE: Ms. Belushi you are excused.

PROS. ATTY: Judge, the State rests.

DEF. ATTY: Your Honor, I have a matter for the Court.

JUDGE: Ladies and gentlemen, the Court will take a short break to attend to some procedural matters that do not concern you this afternoon. We will reconvene as soon as I am able to attend to these other issues.

[Jury is escorted to the jury room]

*JUDGE: Counsel, make your motion.*

*DEF. ATTY: We move for a judgment of acquittal on the grounds that the State has failed to prove the elements of each of the crimes beyond a reasonable doubt.*

*JUDGE: State, what do you say in response?*

*PROS. ATTY: Your Honor at this point in the trial the Court has to view the evidence in the light most favorable to the State and the case should proceed and the jury should be allowed to deliberate.*

*JUDGE: Defense motion is denied. Does the Defense intend to put on a case?*

*DEF. ATTY: Yes, Your Honor, we do.*

[Jury is escorted back into the courtroom]

DEF. ATTY: The Defense calls Ted "Tex" Garner.

CLERK: Mr. Garner please come on up the witness stand. Please raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?

GARNER: Yes.

CLERK: Please state your name and spell your last name for the record.

GARNER: My name is Ted Garner, G-A-R-N-E-R, but everyone calls me "Tex"

Direct Examination of Ted Garner

DEF. ATTY: Mr. Garner where do you reside?

GARNER: With my mom, Bea Garner – everyone calls her Aunt Bea.

DEF. ATTY: How long have you lived there?

GARNER: About three years.

DEF. ATTY: Why do you live with your mother?

GARNER: I was working for South Arctica Electric Company for about 2 years when I fell off a ladder and broke my back. I was never the same after that. I couldn't go back to work.

DEF. ATTY: Does your mom work?

GARNER: Yes. She works at Wal-Mart part-time and she also raises rabbits to help make ends meet.

DEF. ATTY: What does she do with the rabbits?

PROS. ATTY: Objection, foundation.

JUDGE: Overruled. You may answer the question.

GARNER: She teaches young people how to raise them – she's a volunteer with Future Ranchers of South Arctica. She raises them for rabbit shows, for pets, and she gives some of them to the zoo to feed the big animals there.

DEF. ATTY: With the Court's permission, I am handing you what has been marked for identification purposes as Defendant's Exhibit 203. Do you recognize this?

GARNER: Yes, it is picture of my mom when she got one of her awards and it also shows some of her rabbit trophies.

DEF. ATTY: Defendant offers Exhibit 203.

PROS. ATTY: Objection. Relevance and may we approach?

JUDGE: Yes you may. This will be heard at the bench outside the hearing of the jury.

*PROS. ATTY: Your Honor this is highly prejudicial for the prosecution. It paints the Defendant as a sweet, community-minded innocent person. We have no way to refute this.*

*DEF. ATTY: Judge one of the key issues for the jury to decide is whether she is knowledgeable about what rabbits need on a daily basis. It is highly relevant and the relevance outweighs the prejudice.*

*PROS. ATTY: She also had a prior warning for poor conditions of the rabbits 8 years ago. If he gets to introduce the photo would I be able to introduce the prior warning?*

JUDGE: *I'm going to allow the defense exhibit. I will not allow the prosecution to introduce the warning – it is too remote in time. Please return to your seats.*

JUDGE: Objection overruled. Defendant's Exhibit 203 will be received.

DEF. ATTY: Do you help her take care of the animals?

GARNER: Not really. I'm under strict doctor's orders not to do anything strenuous.

DEF. ATTY: Do you remember the day Officer Catcher came to your house in September?

GARNER: Yes.

DEF. ATTY: Isn't it true that you did not consent to allow her to enter the shed?

PROS. ATTY: Objection. Leading

JUDGE: Sustained.

DEF. ATTY: Tex, Mr. Garner, what happened when Officer Catcher arrived?

GARNER: She asked me if she could look around the shed. I told her my mom was at work and that I shouldn't let her in. She pushed past me and went in anyway.

DEF. ATTY: Did you try to stop her?

GARNER: I couldn't – I didn't want to strain myself.

DEF. ATTY: Did you help her water the animals?

GARNER: Most of them already had water so I didn't understand why she needed my help. We did water a couple of the rabbits who had drunk all the water.

DEF. ATTY: Do you remember the three rabbits in the cage together?

GARNER: Yes.

DEF. ATTY: Why were they together?

GARNER: We was getting ready to take them to the zoo. They like them live to feed to the big animals.

DEF. ATTY: Were they sick at all?

GARNER: No, they was just old.

DEF. ATTY: Did you ever see your mom do any surgery on any of the rabbits?

GARNER: No way.

DEF. ATTY: Wouldn't she treat the rabbits if they got sick or injured?

GARNER: Sure, we keep a first aid kit in the kitchen. It has everything we needed, Bactine, gauze, antibiotics, everything.

PROS. ATTY: So you could even sew them up if they got a cut?

GARNER: Mom did that kind of stuff. The sight of blood makes me sick to my stomach.

PROS. ATTY: Mr. Garner did you see the rabbit that was really dirty with all its fur matted?

GARNER: Yes. My mom took it in from a neighbor just the day before the police came. We just hadn't gotten around to cleaning it. My mom took in all sorts of strays.

DEF. ATTY: One last thing Mr. Garner. I know this is difficult for you, but do you have any felony convictions?

GARNER: Yes I do and I'm not proud of it.

DEF. ATTY: What is it for and when did you get it?

GARNER: It's for possession of Ecstasy from 2009. I was in pain from my back injury and this drug gave me some relief from the pain and depression. I've been clean since I was busted back then.

DEF. ATTY: Did you know about the drug in the rabbit's cage? The Ketamine?

GARNER: No I never heard of it. All I can figure is that I let some old drug buddies of mine spend the night in the shed about a year ago but I kicked them out when they didn't pay me for the food they ate.

DEF. ATTY: Nothing further.

Cross Examination of Ted Garner

PROS. ATTY: Mr. Garner you're 23 years old?

GARNER: Yes.

PROS. ATTY: Old enough to take care of yourself?

GARNER: Sure.

PROS. ATTY: Yet, when I called you and asked to meet with you before this trial began, you told me you'd have to ask your mother before you could talk to me.

GARNER: Yes but ...

PROS. ATTY: Judge, please advise the witness to just answer the question.

JUDGE: Mr. Garner please just answer the question if you can.

PROS. ATTY: And you never did call me back did you?

GARNER: No I didn't. My mom told me....

PROS. ATTY: Please Mr. Garner just answer my questions.

PROS. ATTY: However, you met with your mother's lawyer before you testified, correct?

GARNER: Yes I did.

PROS. ATTY: And that was to review your testimony for this very trial, wasn't it?

GARNER: Yes.

PROS. ATTY: Isn't it true that you wanted your mom's attorney to have an advantage and be fully prepared and you wanted the State to be caught off guard?

GARNER: Hey I didn't want to talk to you. It's that simple – make what you will of that.

PROS. ATTY: Let's move on then. You say that you kept supplies in the house to treat the rabbits?

GARNER: Yep.

PROS. ATTY: These were for medical issues, correct?

GARNER: Mostly.

PROS. ATTY: And she had bandages and gauze and syringes?

GARNER: I can't remember.

PROS. ATTY: And your mother didn't like going to the veterinarian because it was too expensive?

GARNER: They cost a lot of money.

PROS. ATTY: And she got her antibiotics from Dr. Craft correct?

GARNER: Yea. They are really good friends.

PROS. ATTY: But Dr. Craft doesn't even have a clinic in our state – as a matter of fact she lives 200 miles from your ranch doesn't she?

GARNER: I'm not sure.

PROS. ATTY: Why don't you tell us about your drug buddies? How did you meet them and what are their names?

GARNER: I met them at the halfway house I was sent to after my problem with X. I can't remember their names.

PROS. ATTY: By "X" you mean the drug Ecstasy?

GARNER: Yes.

PROS. ATTY: How many buddies? Since you can't remember their names, can you at least recall if they were male or female?

DEF. ATTY: Objection. Relevance.

JUDGE: Overruled. The witness may answer the question.

GARNER: My memory is a little fuzzy. They were only at the shed for a couple of days a long time ago. Maybe it was two guys or a guy and a girl. I'm not sure.

PROS. ATTY: Mr. Garner, take a look at State's Exhibit 105. You testified that your mom took that rabbit in from a neighbor the day before Officer Catcher discovered the situation – that would have been September 14<sup>th</sup>. Mr. Garner, who was the neighbor that you claim gave your mom the rabbit the day before?

GARNER: I don't want to say – I'm invoking my right to the Fifth Amendment.

PROS. ATTY: You and your mother are angry with Officer Catcher for taking the rabbits, correct?

DEF. ATTY: Objection, compound question.

JUDGE: Sustained.

PROS. ATTY: You are angry are you not with Officer Catcher?

GARNER: Not really. I kind of liked it when those dirty critters were gone. But I must admit that mom and I had to cut corners without the added income from the rabbits.

PROS. ATTY: No further questions.

JUDGE: Any redirect?

DEF. ATTY: Yes, briefly. Mr. Garner, you wouldn't lie for your mother would you?

GARNER: No way.

DEF. ATTY: Nothing further.

JUDGE: Mr. Garner you may be excused. Does the defense have any more witnesses?

DEF. ATTY: Yes, Your Honor. The defense calls Dr. Helen Craft

CLERK: Please approach the witness stand and raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?

CRAFT: I do.

Direct Examination of Dr. Helen CRAFT

DEF. ATTY: Dr. CRAFT, please state your name and spell your last name.

CRAFT: I'm Dr. Helen CRAFT, C-R-A-F-T.

DEF. ATTY: How are you employed?



CRAFT: I am a veterinarian in private practice in Dodge County, North Arctica.

DEF. ATTY: What kind of a practice?

CRAFT: Small animals, mostly dogs and cats but I do specialize in rabbits.

DEF. ATTY: Please describe your education and experience

CRAFT: I received my undergraduate degree from North Arctica State in 2002. After I graduated I went to St. Aruba Veterinary School in the Caribbean and graduated from there in 2006. I came back to the states and took the national examination and received my license to practice veterinary medicine in North Arctica in 2007. South Arctica has reciprocity so I was licensed in this state a few months later in 2007.

DEF. ATTY: What types of positions have you held since your graduation from veterinary school?

CRAFT: I spent the first two years as an associate veterinarian for a private practice in Dodge County, North Arctica. I began my own practice in late 2009.

DEF. ATTY: Do you have a specialty?

CRAFT: Yes I have always loved rabbits so I developed a specialty for that species.

DEF. ATTY: Have you ever testified before as an expert witness.

CRAFT: No, this is my first time and I'm kind of nervous.

DEF. ATTY: Have you written any publications about rabbit husbandry, which is the care and raising of rabbits?

CRAFT: Yes. I have written several on-line articles for various national rabbit associations.

DEF. ATTY: Judge, at this time I'd offer Dr. CRAFT as an expert witness in the field of veterinary medicine in general and also in rabbit husbandry.

PROS. ATTY: No objection.

JUDGE: Dr. CRAFT will be received as an expert and will be allowed to render expert opinions.

DEF. ATTY: Do you know the Defendant, Beatrice Garner?

CRAFT: Yes. She's a client of mine.

DEF. ATTY: Do you treat her rabbits?

CRAFT: Yes I do. I periodically see them at rabbit shows and she calls me if they have any symptoms of being sick. I then can prescribe her some medications and a course of action. For example, I send her Baytril – a mild antibiotic. I also recommend food for any special diets and I give her advice for breeding and taking care of the litters.

DEF. ATTY: Are you familiar with Velvet Bunny Ranch?

CRAFT: Yes.

DEF. ATTY: Can you tell the jury why it may appear dirty and dusty?

CRAFT: Well, rabbits shed naturally and their fur becomes airborne. It is a natural occurrence and is not harmful to the rabbits. Also it is better for rabbits to be kept in a shed with a dirt floor rather than carpeting or grass. It is easier to keep it free of pests and mold.

DEF. ATTY: What about the wire cages?

CRAFT: Over time, the metal appears to become discolored. That is simply a product of oxidation. Rabbits should have wire floors in their cages so that their feces can fall through to the catch pan.

DEF. ATTY: Isn't it stressful for rabbits to have flashlights shined in their faces?

PROS. ATTY: Objection. Leading.

JUDGE: Sustained

DEF. ATTY: What causes stress in rabbits?

CRAFT: Anything out of the ordinary. Too many strangers handling them, abrupt changes in their environment such as lighting and temperature. Also noises like thunder, or new rabbits in their cages...things like that.

DEF. ATTY: Would you please take a look at State's Exhibit 106 – does there appear to be anything wrong with that rabbit?

CRAFT: No, it's just a little dirty that's all. Longhaired rabbits often look like this just prior to a show or a sale.

DEF. ATTY: And the three rabbits in State's Exhibit 105?

CRAFT: I'm familiar with these particular rabbits as they were part of my herd. That photo doesn't show the rest of the cage. They are scared and huddled together because of the flash on the camera. I just gave Aunt Bea, I'm sorry – the Defendant, these critters a couple of weeks ago and they were fine.

DEF. ATTY: What about the deceased rabbit in State's Exhibit 104?

CRAFT: When you raise a herd for food, fiber, show or pets, it's unfortunate but some just get old and pass away naturally. It's part of the rabbit business. It's sad but true.

DEF. ATTY: Are you aware of Dr. Goodman's findings as to the deceased rabbit depicted in State's Exhibit 104 – that this rabbit was starved to death and had a broken neck?

CRAFT: Yes I am.

DEF. ATTY: Do you agree with that finding?

CRAFT: I certainly do not. In order for Dr. Goodman to diagnose starvation, he would have had to do tissue testing and perhaps even a bone marrow fat analysis. Dr. Goodman did neither. Further, as to the broken neck, Dr. Goodman's report and his testimony today fails to make any attempt at differentiating between post- and anti-mortem injury. In other words, Dr. Goodman can't say that this rabbit's neck injury was inflicted before or after it's passing away.

DEF. ATTY: Nothing further.

JUDGE: Cross-examination?

Cross-Examination of Dr. Helen CRAFT

PROS. ATTY: Hello Dr. Craft.

CRAFT: Hello.

PROS. ATTY: You're pretty good friends with Ms. Garner?

CRAFT: We're friends.

PROS. ATTY: As a matter of fact you call her "Aunt Bea" don't you?

CRAFT: I do.

PROS. ATTY: You trade rabbits? You give her some of yours and she gives you some of hers?

CRAFT: Yes.

PROS. ATTY: You awarded her the most recent trophy she received?

CRAFT: Yes.

PROS. ATTY: Yet, you have never been to Velvet Bunny Ranch.

CRAFT: That is correct. But I've ...

PROS. ATTY: Please answer the question.

CRAFT: That is correct.

PROS. ATTY: And, she's never been to your clinic in North Arctica, correct?

CRAFT: Correct.

PROS. ATTY: The clinic that is over 200 miles away from her ranch...and in another state?

CRAFT: Yes, but we "Skype."

PROS. ATTY: So you diagnose illness, injury and disease via a camera?

CRAFT: Most of the time.

PROS. ATTY: You don't have a clinic or practice in South Arctica do you?

CRAFT: No I don't.

PROS. ATTY: Other than at rabbit shows you never touch Ms. Garner's rabbits?

CRAFT: That is true.

PROS. ATTY: Doctor, you use Ketamine in your practice?

CRAFT: Yes, all veterinarians use it.

PROS. ATTY: It is an anesthetic and usually comes in a vial?

CRAFT: Yes it is an injectible.

PROS. ATTY: Rabbits feel pain when they are subjected to a surgical procedure, correct?

CRAFT: Of course. They are sensitive little critters.

PROS. ATTY: It's inexcusable to starve a rabbit to death isn't it?

DEF ATTY: Objection. Argumentative.

JUDGE: Sustained.

PROS. ATTY: And you have heard of the Freedoms for Animals. It applies to all animals in captivity?

CRAFT: Yes, I learned about it in veterinary school.

PROS. ATTY: They are freedom from hunger and thirst, freedom from pain, disease and suffering, and freedom from discomfort, correct?

CRAFT: Yes.

PROS. ATTY: And these freedoms apply to Ms. Garner's rabbits?

CRAFT: Yes, but....

PROS. ATTY: You admit to prescribing and supplying the Defendant with antibiotics that require a medical degree – be it an MD or a DVM. So let me ask you this: Do you have a Drug Enforcement Agency (DEA) license that allows you to acquire or dispense controlled substances?

CRAFT: Yes I do, of course.

PROS. ATTY: And if it got out that you were allowing a client-friend "off the books" access to a drug like Ketamine, the DEA would pull your license, right?

CRAFT: Yes, they would do that.

PROS. ATTY: Would you still be able to practice veterinary medicine without access to a DEA

license?

CRAFT: No—that would shut me down.

PROS. ATTY: Thank you. No further questions.

JUDGE: Any redirect?

DEF. ATTY: No, none.

JUDGE: Call your next witness

DEF. ATTY: The Defense rests.

JUDGE: Any rebuttal from the prosecution?

PROS. ATTY: No Your Honor.

JUDGE: Thank you, Counsel. The Court will take a short recess and then we'll hear closing arguments.

\*\*\*\*\* END OF TESTIMONY \*\*\*\*\*

# STATE V. GARNER

## EXHIBITS

# STATE'S EXHIBIT 101



# STATE'S EXHIBIT 102





# STATE'S EXHIBIT 103





# STATE'S EXHIBIT 104

(Rabbit G11-01)



# STATE'S EXHIBIT 105

(from left to right Rabbit G11-02, Rabbit G11-03, and Rabbit G11-04)





# STATE'S EXHIBIT 106

(Rabbit G11-05)



# STATE'S EXHIBIT 107



# DEFENDANT'S EXHIBIT 201

## (Rabbit G11-17)



# DEFENDANT'S EXHIBIT 202

(Rabbit G11-20)





# DEFENDANT'S EXHIBIT 203



**JURY INSTRUCTIONS**  
*State v. Beatrice Garner*  
*Griffith County District Court Case No. 12-0158*  
*State of South Arctica*

<b>Instruction Number</b>	<b>Instruction Description</b>
1.	Preliminary Instructions
2.	Functions of the Court and Jury
3.	Presumption of Innocence of Defendant and Proof Beyond a Reasonable Doubt
4.	Definition of Direct and Circumstantial Evidence
5.	Credibility of Witnesses
6.	Defendant's Statements
7.	Witness False in Part
8.	Witness's Prior Felony Conviction
9.	Absence of Evidence
10.	Expert Witnesses
11.	Non-expert Witnesses
12.	Defendant Not Testifying
13.	Criminal Charges (Count I: Aggravated Cruelty to Animals; Counts II, III, IV and V: Cruelty to Animals; Count VI: Possession of a Controlled Substance)



**INSTRUCTION No. 1**  
**PRELIMINARY INSTRUCTIONS**

*(Note: Instruction No. 1 was given by the Court to the members of the jury prior to taking testimony.)*

*Introductory Paragraphs*

Ladies and gentlemen: You are now the jury in this case, and I want to take a few minutes to tell you something about your duties as jurors and to give you some instructions.

At the end of the trial, I will give you more detailed instructions. Those instructions will control your deliberations.

One of my duties is to decide all questions of law and procedure. From time to time during the trial and at the end of the trial, I will instruct you on the rules of law that you must follow in making your decision. You should not take anything I may say or do during the trial as indicating what I think of the evidence or what your verdict should be.

*Order of Trial*

The trial will proceed in the following manner:

First, the State's attorney may make an opening statement. Next, the Defendant's attorney may make an opening statement. An opening statement is not evidence but is simply a summary of what the attorney expects the evidence to be.

After the opening statements, the State will call witnesses and present evidence. Then, the Defendant will have an opportunity to call witnesses and present evidence. The Defendant is presumed innocent and has no obligation whatsoever to call any witnesses and present any evidence. After the parties' main cases are completed, the State may be permitted to present rebuttal evidence. After the evidence has been presented, I will instruct you on the law that applies to the case and the attorneys will make closing arguments. After that, you will go to the jury room to deliberate on your verdict.

*Charges and Defenses*

The positions of the parties can be summarized as follows:

This case involves criminal charges by the State of South Arctica against the Defendant, Beatrice Garner. The Defendant has been charged with First Degree Aggravated Cruelty to Animals (Count I of the Indictment), Cruelty to Animals (Count II, Count III, Count IV and Count V of the Indictment) and Possession of a Controlled Substance (Count VI of the Indictment).

The Defendant has pleaded not guilty to each of these six charges.

*Evidence in the Case*

The evidence consists of the testimony of the witnesses, the exhibits admitted in evidence, and any facts that I may instruct you to find or that the parties may agree or stipulate to. A stipulation is an agreement between both sides that certain facts are true.

### *Credibility of Witnesses*

You will have to decide whether the testimony of each of the witnesses is truthful and accurate, in part, in whole, or not at all. You also have to decide what weight, if any, you give to the testimony of each witness.

### *Inferences*

You should use common sense in weighing the evidence and consider the evidence in light of your own observations in life.

In our lives, we often look at one fact and conclude from it that another fact exists. In law we call this “inference.” A jury is allowed to make reasonable inferences. Any inference you make must be reasonable and must be based on the evidence in the case.

### *What is Not Evidence; Evidence for a Limited Purpose*

The following things are not evidence, and you must not consider them as evidence in deciding the facts of this case: the attorneys’ statements, arguments, questions, and objections; any testimony that I instruct you to disregard; and anything you may see or hear when the Court is not in session even if what you see or hear is done or said by one of the parties or by one of the witnesses.

Evidence that is admitted for a limited purpose may be considered by you for that limited purpose only.

### *Rulings on Objections*

From time to time during the trial I may be called upon to make rulings of law on objections or motions made by the lawyers. You should not infer or conclude from any ruling or other comment I may make that I have any opinions about how you should decide this case. And if I should sustain an objection to a question that goes unanswered by a witness, you should not guess or speculate what the answer might have been, and you should not draw any inferences or conclusions from the question itself.

### *Objections of Counsel*

The lawyers for the parties in this trial have a duty to object to what they feel are improper questions asked of the witnesses. You should not draw any conclusion for either side from the fact that an objection was made to any question and that the witness may not have been permitted to answer it.

### *Jury Conduct*

All jurors must follow certain rules of conduct.

First, you must not discuss this case with anyone, including your fellow jurors, members of your family, people involved in the trial. You must not let others discuss the case with you. If anyone tries to talk to you about the case please let me know about it immediately.

Second, you must not read any news stories or articles or listen to any radio or television reports about the case or about anyone who has anything to do with it.

Third, you must not do any research – such as consulting dictionaries, searching the Internet or using other reference materials – and do not make any investigation about the case on your own.

Fourth, you must not make up your mind about the verdict until after you have gone to the jury room to decide this case and you and your fellow jurors have discussed the evidence. Keep an open mind until then.

## **INSTRUCTION No. 2 FUNCTIONS OF THE COURT AND THE JURY**

Members of the jury, you have seen and heard all the evidence and arguments of the attorneys. Now I will instruct you on the law.

You have two duties as a jury. Your first duty is to decide the facts from the evidence in the case. This is your job, and yours alone.

Your second duty is to apply the law that I give you to the facts. You must follow these instructions, even if you disagree with them. Each of the instructions is important, and you must follow all of them.

Perform these duties fairly and impartially.

Nothing I say now, and nothing I said or did during the trial, is meant to indicate any opinion on my part about what the facts are or about what your verdict should be.

## **INSTRUCTION No. 3 PRESUMPTION OF INNOCENCE OF DEFENDANT AND PROOF BEYOND A REASONABLE DOUBT**

The Defendant is presumed innocent unless and until the Defendant is proven guilty beyond a reasonable doubt. The burden is on the State to prove the guilt of the Defendant beyond a reasonable doubt.

Reasonable doubt is doubt based on common sense and reason. Reasonable doubt means an honest uncertainty as to the guilt of the Defendant. Reasonable doubt exists when, after careful and impartial consideration of all the evidence or lack of evidence in the case, you are not convinced to a moral certainty that the Defendant is guilty. Reasonable doubt is not a vague, speculative or imaginary doubt. The Defendant is never required to prove his innocence or to produce any evidence at all.

## **INSTRUCTION No. 4 DEFINITION OF “DIRECT” AND “CIRCUMSTANTIAL” EVIDENCE**

You may have heard the phrases “direct evidence” and “circumstantial evidence.”

Direct evidence is proof that does not require an inference, such as the testimony of someone who claims to have personal knowledge of a fact. Circumstantial evidence is proof of a fact, or a series of facts, that tends to show that some other fact is true.

As an example, direct evidence that it is raining is testimony from a witness who says, “I was outside a minute ago and I saw it raining.” Circumstantial evidence that it is raining is the observation of someone entering a room carrying a wet umbrella.

The law makes no distinction between the weight to be given to either direct or circumstantial evidence. You should decide how much weight to give to any evidence. In reaching your verdict, you should consider all the evidence in the case, including the circumstantial evidence.

### **INSTRUCTION No. 5 CREDIBILITY OF WITNESSES**

You must decide whether the testimony of each of the witnesses is truthful and accurate, in part, in whole, or not at all. You also must decide what weight, if any, you give to the testimony of each witness.

In evaluating the testimony of any witness, including any party to the case, you may consider, among other things:

- the ability and opportunity the witness had to see, hear, or know the things that the witness testified about
- the witness’s memory
- any interest, bias, or prejudice the witness may have
- the witness’s intelligence
- the demeanor and manner of the witness while testifying
- the reasonableness of the witness’s testimony in light of all the evidence in the case

### **INSTRUCTION No. 6 DEFENDANT’S STATEMENTS**

When a witness testifies about statements made by the Defendant, you should consider such testimony with caution.

In reviewing such testimony, you should consider, among other things, the following:

- (1) Did the Defendant make the statement, and, if so, did the Defendant clearly express what she intended to say?
- (2) Did the witness correctly hear and understand what the Defendant said?
- (3) Did the witness correctly remember and relate what the Defendant said?
- (4) Did the witness intentionally or mistakenly alter some of the words used by the Defendant, thereby changing the meaning of what was actually said?

If, after weighing such factors, you conclude that the Defendant said what she intended to say and that the witness to the statement correctly understood, remembered, and related to you what the Defendant said, then you are authorized to consider such statements for what you deem them to be worth.

**INSTRUCTION No. 7**  
**WITNESS FALSE IN PART**

A witness who lies under oath in some part of his or her testimony is likely to lie in other parts of his or her testimony. Therefore, if you find that a witness has lied in some part of his or her testimony, then you may distrust the rest of that witness's testimony.

Sometimes witnesses who are not lying may give incorrect testimony. They may forget matters or may contradict themselves. Also, different witnesses may observe or remember an event differently.

You have the sole responsibility to determine what testimony, or portions of testimony, you will or will not rely on in reaching your verdict.

**INSTRUCTION No. 8**  
**WITNESS'S PRIOR FELONY CONVICTION**

If you find that a witness has been convicted of a felony, you may consider this conviction only for its bearing, if any, on the believability of the witness's testimony.

**INSTRUCTION No. 9**  
**ABSENCE OF EVIDENCE**

The law does not require any party to call as a witness every person who might have knowledge of the facts related to this trial. Similarly, the law does not require any party to present as exhibits all papers and things mentioned during this trial.

**INSTRUCTION No. 10**  
**EXPERT WITNESSES**

You have heard witnesses give opinions about matters requiring special knowledge or skill. You should judge this testimony in the same way that you judge the testimony of any other witness. The fact that such person has given an opinion does not mean that you are required to accept it. Give the testimony whatever weight you think it deserves, considering the reasons given for the opinion, the witness's qualifications, and all of the other evidence in the case.

**INSTRUCTION No. 11**  
**NONEXPERT OPINION EVIDENCE**

Although a witness may be allowed to state his or her opinion, you are not required to accept that opinion. To determine what value, if any, you will give to a witness's opinion you should consider such things as the witness's opportunity and ability to form the opinion, the witness's believability, and how the witness reached the opinion.

**INSTRUCTION No. 12**  
**DEFENDANT NOT TESTIFYING**

A defendant has an absolute constitutional right not to testify. Therefore, a defendant's decision not to testify cannot be considered as an indication of guilt. It should not be commented on or in any way considered by you in your deliberations.

### **INSTRUCTION No. 13 CRIMINAL CHARGES**

#### **THE CHARGE - THE INDICTMENT**

The indictment in this case is the formal method of accusing the Defendant of an offense and placing the Defendant on trial. It is not evidence against the Defendant and does not create any inference of guilt.

The Defendant has been charged with First Degree Aggravated Cruelty to Animals (Count I of the Indictment), Cruelty to Animals (Count II, Count III, Count IV and Count V of the Indictment) and Possession of a Controlled Substance (Count VI of the Indictment). The Defendant has pleaded not guilty to each of these three charges.

#### **SEPARATE CHARGES**

In this case separate offenses are charged against the Defendant in each count of the Information. Each count charges a separate and distinct offense and the evidence and the law applicable to each count should be considered separately, uninfluenced by your decision as to the other counts. The fact that you may find the Defendant guilty or not guilty of one of the offenses charged, should not control your verdict as to any other offense charged against the Defendant. The Defendant may be found guilty or not guilty of any one or all of the offenses charged.

#### **FIRST DEGREE AGGRAVATED CRUELTY TO ANIMALS IN VIOLATION OF STATE STATUTE (Count I)**

In the State of South Arctica, it is unlawful for any person to intentionally kill an animal. An animal is defined as "any living dumb creature."

The State contends that the Defendant violated the South Arctica First Degree Aggravated Cruelty to Animals statute. The Defendant is entitled to the presumption of innocence unless the State proves, beyond a reasonable doubt, all elements of the crime of First Degree Aggravated Cruelty to Animals. Accordingly, it is the State's burden to convince you beyond a reasonable doubt that:

- The Defendant intentionally killed an animal.

A person acts "intentionally" or "with intent" when that person acts with a conscious objective either:

- (1) To cause a particular result
- or
- (2) To engage in particular conduct

If you find from your consideration of all the evidence that each of the above elements are satisfied beyond a reasonable doubt, then you should find the Defendant guilty of First Degree Aggravated Cruelty to Animals in violation of state statute.

### **FIRST DEGREE AGGRAVATED CRUELTY TO ANIMALS - LESSER INCLUDED OFFENSE OF SECOND DEGREE AGGRAVATED CRUELTY TO ANIMALS**

As to Count I, when you deliberate, you should first consider the charged offense of First Degree Aggravated Cruelty to Animals. Only if you find the Defendant not guilty of the charged offense may you consider the lesser included offense of Second Degree Aggravated Cruelty to Animals.

The crime of Second Degree Aggravated Cruelty to Animals is a lesser included offense of First Degree Aggravated Cruelty to Animals. Second Degree Aggravated Cruelty to Animals is the unlawful and reckless or negligent killing of an animal. An animal is defined as “any living dumb creature.” A person acts “recklessly” when she consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists. A person acts “negligently” when, through a gross deviation from the standard of care that a reasonable person would exercise, she fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

If you find from your consideration of all the evidence that each of the elements of Second Degree Aggravated Cruelty to Animals are satisfied beyond a reasonable doubt, then you should find the Defendant guilty of Second Degree Aggravated Cruelty to Animals in violation of state statute. The Defendant is otherwise presumed innocent.

### **CRUELTY TO ANIMALS IN VIOLATION OF STATE STATUTE (Counts II – V)**

In the State of South Arctica, it is unlawful for any person to recklessly or negligently deprive an animal of necessary sustenance; or having the charge or custody of an animal to fail to provide it with proper food, drink or protection from the weather; or otherwise to mistreat or neglect an animal. An animal is defined as “any living dumb creature.” "Mistreatment" means every act or omission which causes, or unreasonably permits the continuation of, unnecessary or unjustifiable pain or suffering. "Neglect" means failure to provide food, water, protection from the elements, or other care generally considered to be normal, usual, and accepted for an animal's health and well-being consistent with the species, breed, and type of animal.

The State contends that the Defendant violated the South Arctica Cruelty to Animals statute. The Defendant is entitled to the presumption of innocence unless the State proves, beyond a reasonable doubt, all elements of the crime of Cruelty to Animals. Accordingly, it is the State's burden to convince you beyond a reasonable doubt that:

- The Defendant recklessly or negligently deprived an animal of necessary sustenance; or having the charge or custody of an animal failed to provide it with proper food, drink or protection from the weather; or otherwise mistreated or neglected an animal.

A person acts “recklessly” when she consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists. A person acts “negligently” when, through a gross deviation from the standard of care that a reasonable person would exercise, she fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

If you find from your consideration of all the evidence that each of the above elements are satisfied beyond a reasonable doubt, then you should find the Defendant guilty of Cruelty to Animals in violation of state statute.

### **POSSESSION OF A CONTROLLED SUBSTANCE (Count VI)**

In the State of South Arctica, it is unlawful for any person to knowingly possess more than one gram of the controlled substance Ketamine. "Possession" does not necessarily mean ownership, but does mean the actual, physical possession, or the immediate and knowing dominion or control over the object or the thing allegedly possessed. "Possession" need not be exclusive, provided that each possessor, should there be more than one, actually knew of the presence of the object, or thing possessed, and exercised actual physical control or immediate, knowing dominion or control over it.

The State contends that the Defendant violated the South Arctica Possession of a Controlled Substance statute. The Defendant is entitled to the presumption of innocence unless the State proves, beyond a reasonable doubt, all elements of the crime of Possession of a controlled substance. Accordingly, it is the State's burden to convince you beyond a reasonable doubt that:

- The Defendant knowingly possessed more than one gram of the controlled substance Ketamine.

A person acts "knowingly" with respect to conduct or to a circumstance described by a statute defining an offense when she is aware that her conduct is of such nature or that such circumstance exists.

If you find from your consideration of all the evidence that each of the above elements are satisfied beyond a reasonable doubt, then you should find the Defendant guilty of Possession of a Controlled Substance in violation of state statute.

This concludes the instruction phase of the case and after the clerk administers the oath prior to deliberations, you will be escorted into the jury room to begin your work. A unanimous verdict, meaning all twelve of you must agree on a verdict, is required in this State. The Court thanks you for your attention to this important matter.

\*\*\*\*\* END OF INSTRUCTIONS \*\*\*\*