



NATIONAL
ANIMAL LAW
COMPETITIONS

CLOSING ARGUMENT
COMPETITION
2011 PROBLEM

TRIAL RECORD

**State v. Richard "Dickey" Pringle
Bemis County Circuit Court Case No. 10-4041
State of Newfoundland**

Charges:

**Count 1 & 2 Aggravated Animal Cruelty
Count 1 Burglary**

List of Received Exhibits:

**State's No. 1 (note), 2 (photo-dog) and 3 (photo-cat)
Defense's (no exhibits)**

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. We call Betty Orr.

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?

ORR: I do.

CLERK: Thank you. Please be seated--state your name, and spell your last name for the record.

ORR: Betty Jean Orr, O-R-R.

PROS. ATTY: Ms. Orr, where do you live?

ORR: I live at 1059 West Lake Street, in Winston, here in Newfoundland.

PROS. ATTY: And is your home located in Bemis County, Newfoundland?

ORR: Yes, it is.

PROS. ATTY: If I may ask, how old are you Ms. Orr?

ORR: I'm 26 years-old.

PROS. ATTY: What do you do for a living?

ORR: I work as a personal fitness coach, self-employed.

PROS. ATTY: Do you know the defendant?

ORR: Unfortunately, yes.

PROS. ATTY: How did you meet him?

ORR: Well, a few years ago, my then-boyfriend, Dale, beat me up pretty badly. I met Mr. Pringle because he was the prosecutor in charge of the case against Dale.

PROS. ATTY: Okay, and how much education do you have?

ORR: I've got a GED and close to two years of community college under my belt, plus my fitness instructor's certificate from Wayne's World of Fitness.

PROS. ATTY: Now, let's shift focus a bit and turn your attention to the night of March 4, 2010. Back in March were you living at the same address... 1059 West Lake Street, in Winston?

ORR: Yes I was.

PROS. ATTY: Did you work that day?

ORR: Yes, at that point in time, I had just gotten off from work at the gym at about 7 p.m. and I came home to take a quick shower before going to meet some friends. I had to meet them by 10 p.m. Plus I needed to grab my cell phone—I left it at home by accident and was expecting an important call from a girlfriend who was going through a tough time with her mother.

PROS. ATTY: So you arrived home at what time?

ORR: I got home at about 7:15 that evening.

PROS. ATTY: What did you find when you got to your house?

ORR: Well, when I first walked in, everything seemed normal. [witness crying]

JUDGE: Ms. Orr, do you need a moment to compose yourself?

ORR: Yes, please your honor.

JUDGE: The Court will take a 10-minute recess.

JUDGE: Mr. Smith [the court clerk], are we back on the record [nodding yes]? Okay, counsel please continue.

PROS. ATTY: Ms. Orr, I understand that this is difficult for you to talk about but, you said that everything seemed normal at first. What did you mean by that?

ORR: Well, when I first walked in, everything appeared normal. But, then I found a note taped to my bathroom door that read “Fuck you, bitch! You’re next and it will not be as fast for you as it was for your precious little pets!” I was scared to death, but I pushed open the door to the bathroom and I found my dog, Scout—he was still alive but had a knife sticking out of his back—he was just lying there looking up at me with those eyes... And I found Betsy, my cat, dead—she was in the bathroom sink.

PROS. ATTY: What did you do when you found this horrific scene?

ORR: In hindsight, I panicked--I was scared so I ran into the street, crying and then I called 9-1-1 on my cell phone... I was afraid that the monster who did this might still be in my house.

PROS. ATTY: What happened next?

ORR: I waited for the police and stood there crying on my neighbor’s shoulder—my neighbor Wayne Snow, who must have come outside in response to hearing me screaming and crying.

DEF. ATTY: Objection, your honor. The witness is speculating here about Mr. Snow’s motives and actions.

JUDGE: Sustained.

PROS. ATTY: Thank you, your honor. Now, Ms. Orr, let’s get the timeline down tight so the jury has a clear understanding of the events of March 4th. Let’s start from when you first woke up that day... What time did you get up?

ORR: I would have gotten up at about 11:30 a.m., I had been out late with friends the night before.

PROS. ATTY: And when you awoke that day, your house was in good order, your pets were in good health?

ORR: Oh, yes. I took Scout for a run in the park around noon and came home to do some chores before I had to be at the gym.

PROS. ATTY: What time did you leave your house for the gym?

ORR: About 4:00—had to be there by 4:30 for the first clients who arrived at 5:00 that afternoon.

PROS. ATTY: So you got up at about 11:30 a.m., took Scout for a run, came home and remained home until you left at 4:00 p.m., is that all correct?

ORR: Yes.

PROS. ATTY: And when you returned home from working at the gym, you arrived home at about 7:15 p.m. and found what you’ve already described to the jury—the note and your stabbed dog and dead cat?

ORR: Yes, that’s correct.

PROS. ATTY: Ms. Orr, I am handing you what's been marked as State's EXHIBIT 1. Can you identify this?

ORR: Yes, that's the note I found taped to my bathroom door.

PROS. ATTY: We offer State's EXHIBIT 1.

DEF. ATTY: No objection.

JUDGE: Thank you, EXHIBIT 1 is received.

PROS. ATTY: As the Court is aware, based on your prior ruling and via the stipulation of counsel, at this time I offer State's EXHIBITS 2 and 3, depicting the condition of Scout the dog and Betsy the cat, and we appreciate counsel's willingness to stipulate to foundation here to avoid the need to show these photos to Ms. Orr.

DEF. ATTY: Correct, your honor, we have no objection to State's 2 or 3.

JUDGE: There are received as well.

PROS. ATTY: Your Honor, we ask that the Court allow the jury to see these photos now.

DEF. ATTY: We would object to this. It's disruptive and prejudicial.

JUDGE: Thank you counsel, but these exhibits have been received and the jury is entitled to see them.

PROS. ATTY: What happened to Scout?

ORR: He died from the stab wounds. He lost too much blood and the vet couldn't get his left lung to re-inflate. There was just no saving him....

PROS. ATTY: How old were your pets?

ORR: Scout was five and Betsy was seven. I've had them both since September 11, 2008, when I got them both on the same day from the local shelter. It was love at first sight.

PROS. ATTY: Okay, I need to shift focus back to the evening of March 4, 2010. After the police processed your home, or I should say the crime scene, what did you do?

ORR: I started to clean the bathroom to get rid of the blood.

PROS. ATTY: What about your dog and cat?

ORR: The police had taken Scout to a vet clinic where he died pretty quickly, and they also had Betsy's body and told me they were going to do an autopsy on both of them.

PROS. ATTY: Right, thanks.... We will get to Dr. Foot's testimony and her necropsy findings a bit later. Now, to be clear, at this point in the case, as of the end of the night on March 4th, did you have any idea who might have done this to you and your animals?

ORR: I couldn't focus on that then. I couldn't believe what was happening and in looking back at it all now, I was in just in such a state of shock.

PROS. ATTY: When did you first learn that the defendant Dickey Pringle was a suspect in your case?

ORR: When Detective King told me the results from some of the tests the police did.

DEF. ATTY: Objection, assumes facts not in evidence and hearsay.

PROS. ATTY: Not offered to prove the truth of the matter, merely to flesh-out the timeline.

JUDGE: Facts not yet in evidence—I'll sustain the objection.

PROS. ATTY: Now, Ms. Orr, as you heard in opening statements, the defendant is asserting that you had a very strong romantic interest in him and that after you flirted with him and he initially showed interest in you, he then refused your advances. Did you and the defendant ever have a relationship with any romantic overtones?

ORR: No! No! No! It was Mr. Pringle who wanted a romantic relationship with me, but I said no. When he was prosecuting the domestic abuse case against my ex-boyfriend, he started sending me a lot of text messages that made me feel very uncomfortable.

PROS. ATTY: What about the text messages made you feel uncomfortable?

ORR: Well, in one of the messages, he called me a "tall, hot, young nymph" and asked if I would enjoy secret contact with a married district attorney. In another text message, he told me he was "the prize" because he "lived in a "\$350,000 house." I made a complaint against him to the Board of Attorney Discipline.

PROS. ATTY: How many text messages did Mr. Pringle send you?

ORR: He sent me a total of 30 text messages over a period of a few days.

PROS. ATTY: Did you respond to his messages?

ORR: Yes, I did respond to them, because I was worried that if I ignored them he would drop the charges against my boyfriend, Dale.

PROS. ATTY: But to be clear, you and the defendant were never romantically involved, correct?

ORR: Yes, that's true.

PROS. ATTY: And, to be clear, it was you who rejected his advances, not the other way around?

ORR: Oh yes! Absolutely. I had no romantic interest in him at all.

PROS. ATTY: No further questions.

JUDGE: Cross.

DEF. ATTY: Ms. Orr, when you first met my client, you flirted with him, didn't you?

ORR: No, I didn't flirt with him. I have a very outgoing personality, and sometimes men misperceive that as flirting.

DEF. ATTY: But you responded to this text messages, didn't you Ms. Orr? I have the text messages right here. Have a look and if you would please count the number of text messages from your cell to my client's phone. Take your time, we'll wait.

ORR: [Counting]. Looks like you're right, I responded to all 30 of his text messages, but I did that because I felt uncomfortable and didn't know what to do. Also, I tend to text message more than use my phone because I have an iPhone on AT&T and that dang thing drops calls more frequently than Timothy Leary dropped acid.

DEF. ATTY: Thank you Ms. Orr. Now, is it your testimony that you were not trying to get my client to think you were interested in him sexually?

ORR: No! I was not interested in him sexually!

DEF. ATTY: These text messages that my client sent to you were sexual in nature, weren't they?

ORR: Yes.

DEF. ATTY: And you responded to those messages, didn't you?

ORR: Yes, but I already explained that....

DEF. ATTY: And you want this jury to believe that my client, who was the district attorney for this county at the time, that he sent those text messages to you totally unsolicited?

PROS. ATTY: Objection, argumentative.

JUDGE: Sustained, move on counsel.

DEF. ATTY: So, for the record, you deny wanting to have intimate contact with my client, ever?

ORR: Yes, I deny that.

DEF. ATTY: One thing we can agree on: you turned my client in to the Board of Attorney Discipline didn't you?

ORR: Yes, I felt uncomfortable.

DEF. ATTY: But, the Board of Attorney Discipline found that my client's text messages weren't a problem, isn't that true?

ORR: I don't know what the Board of Attorney Discipline thought about those messages.

DEF. ATTY: Well, you know that the Board of Attorney Discipline did not take any action against my client for sending you those text messages, don't you?

ORR: That's true.

DEF. ATTY: For the record, Ms. Orr, and with the reminder that you are under oath, is it your testimony that you have never had a desire for an intimate—and by intimate, I mean sexual—relationship with my client?

ORR: That's correct.

DEF. ATTY: Ms. Orr, nothing was taken from your home, isn't that correct?

ORR: Well, if you consider the lives of my pets as "nothing."

DEF. ATTY: Ms. Orr, I'm sorry. Of course, that fact is obvious, but what I'm trying to establish is that nothing else was taken during this incident involving your pets, true?

ORR: Yes, that's true.

DEF. ATTY: And, in fact, there was no sign of a forced entry into your home, was there?

ORR: Well, someone came into my home without my permission! And I don't know how they got in my house—so it was forced entry as far as I am concerned.

DEF. ATTY: So, wouldn't you agree that the evidence in this case would suggest rather strongly that the person who did these acts gained entry to your house somehow without breaking into it?

ORR: I can't say how the person got into my house.

DEF. ATTY: Ms. Orr, you have three prior criminal convictions don't you?

ORR: I was poor, young and dumb, but I needed money for food.

DEF. ATTY: Thank you for that editorial, Ms. Orr, but the fact remains that you've been convicted of three separate misdemeanor crimes, namely: identity theft, negotiating a bad check and second degree forgery.

ORR: True, but as I said, I was starving and I've paid all the money back as restitution.

DEF. ATTY: Just two more questions for you, Ms. Orr. You have filed a civil lawsuit against my client for the death of your pets, haven't you?

ORR: Yes, I have.

DEF. ATTY: And, Ms. Orr, could you tell the jury how much money you are seeking from my client in that lawsuit?

ORR: The complaint my attorney prepared asked for one million dollars.

DEF. ATTY: Your honor, with the express reservation of the right to recall this witness in the defendant's case-in-chief, I have no further questions on cross for this witness.

JUDGE: Counsel, any redirect?

PROS. ATTY: No, your honor.

JUDGE: You may step down. State, call your next witness.

PROS. ATTY: Thank you. The State calls Detective William King.

CLERK: Detective, please come forward and raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?

KING: I do.

CLERK: Thank you. Please be seated--state your name, and spell your last name for the record.

KING: Detective William Ian King, spelled K-I-N-G.

PROS. ATTY: Detective King, how long have you been a peace officer?

KING: Twenty-two years.

PROS. ATTY: And of those twenty-two years, how many with the Winston Police Department?

KING: All twenty-two, sir.

PROS. ATTY: Please describe for the jury your training and experience in the area of burglary investigations and the methods you use in these types of cases.

KING: Sure. I have had over 40 hours of training at the academy in the investigation of burglary cases. That training included the collection of latent finger prints, locating and collecting trace genetic evidence for later DNA testing, fiber sample collection and even shoeprint sample collection—including making shoe print castings from tracks left in the soil. I've also been trained in methods used to trace and locate stolen property taken during a burglary by a host of different means, including pawn shop receipt reviews and tracking Craig's List and E-Bay postings by IP addressing to trace unique items taken during a break-in. Over the years, I have investigated no less than 200 residential burglary cases.

PROS. ATTY: In this case, did you process the crime scene for latent evidence—fingerprints, shoe prints, genetic material?

KING: Yes, I did.

PROS. ATTY: What did you find, detective?

KING: First off, if I may digress from your question just a bit, we had to deal with the victim, Ms. Orr who was quite upset, so we had a victim assistance specialist—Lynne Whitman—from the DA's office come to the crime scene to calm and assist Ms. Orr. Second, we wanted to deal with the stabbed dog and try to save him—the cat was already dead. So, I instructed Officer Kent, who arrived shortly before I did, to take the dog—later identified as Scout—to the 24-hour ER vet clinic on 23rd Street, which he did. Meanwhile, I seized the note taped on the outside of the victim's bathroom door. With gloved hands, I removed the note and placed it in an evidence bag for later processing at the lab. I seized the dead cat body as well for later transport and subsequent necropsy. I dusted for prints

in the bedroom, bathroom and at the point of entry—the backdoor. I also lifted a smudged shoe print off the backdoor. That shoe print was too smudged to get a tread pattern for comparison, but I hoped it was detailed enough to at least get a shoe size from it.

Once I completed my work inside, I located Ms. Orr, who was much calmer by then and I took her statement.

PROS. ATTY: Would you please tell the jury how it is that Dickey Pringle became defendant Pringle?

KING: We got the lab reports back and the conclusion of the handwriting expert was that the note we found on the bathroom door was written by a male. After we questioned Ms. Orr about whether there was anyone she could think of who was extremely angry with her, she gave us two names – the name of her ex-boyfriend, Dale, and the name of the defendant, Dickey Pringle.

PROS. ATTY: Did you find any finger prints that you could use to tie either of those gentlemen to the scene?

KING: Well, I'm a certified print examiner as well—I've been so certified for 15 years. Whoever did this knew what they were doing, because we did not find any useable finger prints, other than Ms. Orr's fingerprints. We, of course, did not find anything odd about Ms. Orr's own fingerprints being there, since she lived there.

PROS. ATTY: Detective King, what about the crime lab report on the handwriting analysis of the note?

KING: The report was inconclusive in matching to a specific person, but the analyst did opine that the handwriting was very likely that of a male author and that the note has similar handwriting characteristics as those of the defendant's handwriting.

DEF. ATTY: Your Honor, may I inquire in aid of objection?

JUDGE: You may.

DEF. ATTY: Detective King, is it not true that the state's handwriting analyst is of the professional opinion that my client did not write that note?

KING: Counsel, that's overstating it a bit. The report states that the defendant's sample has some similar characteristics to the handwriting in the note, but no exact match could be made.

DEF. ATTY: No match, right?

KING: Correct.

DEF. ATTY: Then no objection, judge.

PROS. ATTY: Detective King, while not a "match" per se, the note had characteristics consistent with the defendant's handwriting, true?

KING: True.

PROS. ATTY: And in your experience with handwriting cases, when a person who knows they are a suspect in a criminal investigation is asked to give a handwriting sample, have you found that some will attempt to alter their normal writing to confuse, conceal or mislead the investigation?

KING: Yes, I have seen that happen on many occasions.

PROS. ATTY: Thank you Detective King. Now, let's shift from handwriting and fingerprints to the shoe print...

KING: As I mentioned the shoe print was too smudged to make a tread-pattern ID off of, but we were able to get a size range and manufacturer based on the tread type.

PROS. ATTY: And?

KING: The shoe size range for that print is size 11-13 and the likely manufacture is Nike.

PROS. ATTY: Thank you Detective King. No further questions.

JUDGE: Defense, care to cross?

DEF. ATTY: Yes, thank you. DNA is better—and by better, I mean more accurate—than fingerprint comparison isn't it?

KING: Actually, counsel, I'd have to disagree. DNA in identical twins is the same, but the fingerprint patterns of identical twins are different, so for that reason, I would say you're wrong.

DEF. ATTY: Okay, then, but in cases that don't involve identical twins as suspects, DNA is more discriminating and therefore more accurate than fingerprints or handwriting, isn't that true.

KING: I would have to agree with that statement.

DEF. ATTY: The State did absolutely no DNA testing in this case, did they?

KING: Correct. But, this case involved animal victims, not human victims. And, we just can't spend very much in terms of our resources on these kinds of cases.

DEF. ATTY: Thank you officer, you've answered my question. And you found absolutely no evidence that my client's DNA was in the alleged victim's bedroom or bathroom, correct.

KING: In my opinion, not finding genetic material suitable for DNA analysis can often support the more reasonable inference that we are dealing with a cautious offender, rather than proving anything else.

DEF. ATTY: Officer King...

KING: Actually, counsel, my formal title is detective.

DEF. ATTY: Thank you. Detective King, did the State ever bother to consider whether the alleged victim had, herself, killed these animals?

KING: What? Of course not. We had absolutely no reason whatsoever to believe that Ms. Orr had killed her own pets!

DEF. ATTY: But, you never even considered the possibility, so you don't know one way or another, do you?

KING: Well, you are correct, that Ms. Orr was never the focus of our investigation.

DEF. ATTY: So, it is possible, since the investigation never determined one way or another, that Ms. Orr was the one who killed her pets.

KING: Well, anything is possible, but that seems extremely, extremely unlikely to me.

DEF. ATTY: Just one last question Detective – you confirmed that there was no sign of a forced entry into Ms. Orr's home, didn't you?

KING: Yes, that's correct. There was no sign of forced entry.

DEF. ATTY: Thank you – I have no further questions.

PROS. ATTY: No redirect. With the Court's permission, the State calls Steve Payno.

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?

PAYNO: I do.

CLERK: Please state your full name and spell your last.

PAYNO: My name is Steven Q. Payno, spelled P-A-Y-N-O.

PROS. ATTY: Mr. Payno, please tell the jury what you do for a living.

PAYNO: For the last seven years, I have worked as a forensic analyst of cellular communications data for civil and criminal attorneys. I was trained in this discipline by the FBI where I served for 22 years where I worked on bank robbery cases. When I retired from the FBI, I began consulting on cellular data issues for all members of the state bar.

PROS. ATTY: So you work in civil cases, criminal cases and have no loyalty to any side, plaintiff, prosecution or defendant?

PAYNO: Yep, I'm just about getting the right facts out on the table.

PROS. ATTY: And what do you charge for your consulting services?

PAYNO: Normally, I charge \$150 an hour for my time, but as you know, counsel, I'm a huge animal lover and when I was asked to work this case, I opted to reduce my fee to \$65 an hour.

PROS. ATTY: Thank you, Mr. Payno. Now as to this case, have you had a chance to review the cellular tower data from the two cellular towers nearest to the victim's home, with the data limited to the time frame of March 3 through March 5, 2010?

PAYNO: Yes, I did.

PRO ATTY: What did you learn in examining this data?

PAYNO: This case was rather easy, as we already knew the carrier identity and cellular telephone numbers at issue. Armed with that information it was just a matter of checking the towers' ping and GPS data as to these two AT&T cell phones to see if and when either phone was on the tower and if so what the GPS coordinates of the phones were. With the date, time and GPS data, I can tell you where a person's cell phone is plus or minus 30 feet. The advent of incorporating GPS chips into cell phones has basically converted a cell phone into a personal tracking device when one pulls the tower data.

PROS. ATTY: You mentioned ping data. What's that?

PAYNO: When a cell phone is turned on but not being used, it will transmit a short burst of data—a ping—to the carrier's nearest towers so that the carrier's computers know where the phone is so that incoming calls can be correctly routed and data can flow without dropping packets. In the old days we had to triangulate off the closest three towers to get an area in which a phone was located based on signal shape, but now with GPS it's much easier and way more accurate. In this case, in compliance with the proper court orders issued under the Electronic Communications Privacy Act, I pulled the tower data from March, 3, 4, and 5 for the two AT&T towers closest to the victim's home. Based on my review of that data, I was able to learn that the victim's cell phone was at or within 30 feet of her home all day on March 4.

As for the defendant's cell phone, he had an iPhone but had the location and by that I mean GPS service turned off. So, using tower triangulation, I can say that the defendant's cell phone was in a 1.5 square mile area that includes the location of the victim's home from 3:25 p.m. through 7:27 p.m. on March 4th.

PROS. ATTY: Mr. Payno, let me see if I correctly understand what you've just told us.... First, from your review of the cellular data, the defendant's phone—and likely the defendant—was in the area of the victim's home during the only time of the day when these crimes could have been committed, right?

PAYNO: That is correct.

PROS. ATTY: And the defendant had his phone's GPS services completely turned off, correct?

PAYNO: Again, that's correct.

PROS. ATTY: And the victim's cell phone was at her house all day on March 4th, plus or minus 30 feet.

PAYNO: True.

PROS. ATTY: Based on your review of the defendant's cell phone tower transmission history, if he was in possession of his phone, then he was within the area of the victim's home at the time that these crimes were committed.

PAYNO: Yes, that's right.

PROS. ATTY: Nothing further.

JUDGE: Counsel, do you have any cross?

DEF. ATTY: I do – thank you, your Honor. Mr. Payno, based on the data you reviewed, you don't know whether my client was, in fact, in Ms. Orr's home on March 4, do you?

PAYNO: Well, that's correct. I am able to state with certainty that your client was within 1.5 miles of the victim's home during the same time that her pets were killed, but, no, the data I reviewed does not allow me to say with certainty whether your client was in Ms. Orr's home that day and time.

DEF. ATTY. But, you are able to tell the jury with certainty that Ms. Orr's cell phone was in her home on March 4th at the time that her pets were killed, isn't that true?

PAYNO: Yes, that's true.

DEF. ATTY. Mr. Payno, you're familiar with West Lake Street, aren't you?

PAYNO: Yes, I'm generally familiar with it.

DEF. ATTY. And, you are aware then that there is a Starbucks within 1.5 miles of Ms. Orr's home on West Lake Street?

PAYNO: Yes, that's correct. There is a Starbucks in that location.

DEF. ATTY. Thank you, Mr. Payno. I have nothing further.

JUDGE: Any redirect?

PROS. ATTY: Yes, your Honor, thank you. Mr. Payno, you mentioned that you were able to tell that Ms. Orr's phone was at her home all day, is that correct?

PAYNO: Yes, that's correct.

PROS. ATTY: Are you able to tell based on the data whether Ms. Orr's phone was moved around within her home that day?

PAYNO: No, we're not able to tell that. The data is not that specific. We are simply able to confirm that her cell phone was at the location of her home all day on March 4.

PROS. ATTY: I have nothing further your Honor.

PROS. ATTY: Your Honor, that State now calls Dr. Melinda Foot.

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?

FOOT: I do.

CLERK: Please state your full name and spell your last.

FOOT: Melinda E. Foot, spelled F-O-O-T.

PROS. ATTY: Dr. Foot, what do you do for a living?

FOOT: I practice veterinary medicine at the 24-hour Veterinary Clinic over on 23rd street.

PROS. ATTY: Have you ever consulted on a criminal case before or testified in court.

FOOT: Nope, neither.

PROS. ATTY: How did you get involved in this case?

FOOT: I was working the evening shift on March 4th, when Officer Kent brought in a dog belonging to Ms. Orr—Scout—who had been stabbed and lost a lot of blood.

PROS. ATTY: Where you able to save Scout?

FOOT: No, we tried everything we could but his injuries were just too overwhelming. As I mentioned he lost a large volume of blood and had a collapsed lung. He was showing signs of brain compromise due to oxygen deprivation due to poor O2 saturation rates and low blood volume. We transfused blood and tried a chest tube to reinflate Scout's lung. Sadly we had no luck and the poor guy died about 7:45 p.m. on the 4th. The formal cause of Scout's death was non-accidentally induced trauma—a stab wound that compromised major vascular capacity and damaged the left lung causing brain function cessation.

PROS. ATTY: And can you give the jury a time range on when the fatal injuries were inflicted?

FOOT: Yes, based on the amount of bleeding and the degree of trauma in Scout, he couldn't have lasted long with this wound. I doubt that the stabbing occurred any time before 7:00 p.m. on March 4th.

PROS. ATTY: Let's move to Betsy the cat. Did you have occasion to see this cat's body?

FOOT: Yes, Detective King brought Betsy in to the clinic for us to examine since we were already involved in the case based on Scout's trauma. I did a full necropsy on Betsy and determined that the cause of death to Betsy was a combination of blunt force trauma to the head as evidenced by a skull fracture and strangulation based on the degree of tissue damage to the throat and neck.

PROS. ATTY: Can you offer any date or time range on Betsy's death?

FOOT: In Betsy's case, that's a bit harder. First off, we didn't see Betsy's body until later the next day—March 5th. Sadly Betsy's body hadn't been properly refrigerated, but rather had been stored in the trunk of Detective King's car for more than 14 hours. While not ideal, the temperatures weren't too high during that time frame, but still that makes it harder to pin down the time of death. The best I can do on this issue as to Betsy is say that the time of death would have been at any time within the 36 hours prior to Detective King's observation of Betsy's body.

PROS. ATTY: Thank you Dr. Foot.

FOOT: You're welcome.

DEF. ATTY: Dr. Foot, thank you for testifying here. I only have a couple of questions for you. First, there is no way for you to tell who did this to these animals, right?

FOOT: That's absolutely true.

DEF. ATTY: Am I correct in understanding from your testimony that Detective King's failure to properly handle evidence in the form of Betsy's body by leaving biological evidence in the trunk of his car absolutely compromised your ability to do your job in narrowing down the time frame of when Betsy died?

FOOT: Well, that's a rather harsh way to phrase it, but yes, technically that's correct.

DEF. ATTY: Last question: how much is the State paying you to testify?

FOOT: Nothing, I agreed to appear without charge—I feel it's my duty to our community.

DEF. ATTY: Thank you Dr. Foot. Nothing further.

JUDGE: Any other witnesses for the State?

PROS. ATTY: No your honor.

JUDGE: Alright, Defense, call your first witness.

DEF. ATTY: Your honor, we call Sally Johnson to the witness stand. [The witness is sworn in]

CLERK: Please state your full name and spell your last.

JOHNSON: Sally Jo Johnson, spelled J-O-H-N-S-O-N.

DEF. ATTY: Good afternoon. Will you please introduce yourself to the jury.

JOHNSON: Why, of course. My name is Sally Jo Johnson. I am a forensic handwriting specialist self-employed with my own company called "Whodunit, Inc."

DEF. ATTY: Ms. Johnson, first of all, can you explain to the jury what a forensic handwriting specialist does?

JOHNSON: Why sure. Well, there are lots of times in legal cases, both criminal and civil, where it is important to know who wrote a particular thing. So, what I do is to look at characteristics of handwriting, and applying my background, training and experience as a forensic handwriting specialist, I can tell certain things based on my review of a handwriting sample.

DEF. ATTY: Thank you. Ms. Johnson, were you asked to do a handwriting analysis in this case?

JOHNSON: I was.

DEF. ATTY: What, specifically, were you asked to do?

JOHNSON: Well, I was asked to review the note that was left at the scene of the brutal killing of these poor defenseless pets, and to provide any insight that I could, again, based on my expertise, about who may have written that note.

DEF. ATTY: And, based upon that review, Ms. Johnson, were you able to make any determinations about who wrote that note?

JOHNSON: Yes, I was able to determine—it is my opinion that whoever wrote that note was a female.

DEF. ATTY: Ms. Johnson, why is it your opinion that the author of the note was a female?

JOHNSON: Well, female handwriting tends to, generally speaking, have certain characteristics, such as loops and curves that are not typical in male handwriting.

DEF. ATTY: Were you able to tell who, specifically, authored the note?

JOHNSON: Well, no, I could not get a precise read on that. The reason is because sometimes when people try to write things, and to not make it look like their normal handwriting, they try to disguise it by making the handwriting different. Here, I examined Ms. Orr's handwriting to see if I could get a match with the note left at the scene of this crime. And, I could not conclusively say that she was the one who wrote that note, but I can conclusively say that a woman, not a man, wrote that note. I am absolutely certain of that. 100%.

DEF. ATTY: Thank you, Ms. Johnson.

PROS. ATTY: Ms. Johnson, it is your opinion that the author of the note left at the crime scene was a woman, did I get that right?

JOHNSON: Yes.

PROS. ATTY: But, you're not saying that Ms. Orr wrote that note, are you?

JOHNSON: Oh no, I cannot say that for sure one way or another.

PROS. ATTY: In fact, you can't say that at all, can you Ms. Johnson?

JOHNSON: Well, I can tell you that the author of the note was a woman and Mr. Pringle is a man, so he could not have written that note.

PROS. ATTY: Ms. Johnson, you and Mr. Pringle are close personal friends, aren't you?

JOHNSON: Why yes, but that doesn't have anything to do with my opinion here today!

PROS. ATTY: I have nothing further, your Honor.

JUDGE: Any redirect?

DEF. ATTY: Just briefly, your Honor. Ms. Johnson, do you believe your personal friendship with Mr. Pringle has clouded your objectivity?

JOHNSON: Absolutely not! If I thought for a minute that Dickey had done this, there is no way that I would testify on his behalf!

PROS. ATTY: Objection your honor! This witness may not testify as to the credibility of another witness. This is totally improper!

JUDGE: I agree. Jurors, you must disregard the answer that Ms. Johnson just gave. The credibility of any witness in this case is solely up to you and it was entirely improper of Ms. Johnson to make any statement at all about the defendant's credibility. You should disregard her statement, and judge the defendant's credibility for yourselves. Are we done here now?

DEF. ATTY: I have nothing further your honor.

JUDGE: Alright, call your next witness.

DEF. ATTY: Your honor, I call Mr. Pringle to the witness stand. [The witness is sworn in]

CLERK: Please state your full name and spell your last.

PRINGLE: Richard Pringle, spelled P-R-I-N-G-L-E.

DEF. ATTY: Can you please introduce yourself to the jury?

PRINGLE: Yes, my name is Dickey Pringle.

DEF. ATTY: Mr. Pringle, do you have a family?

PRINGLE: I do.

DEF. ATTY: Can you tell the jury about your family?

PRINGLE: Of course, I have been married to my lovely wife, Jennifer, for 30 years. We have two beautiful children, my son Jeffrey who is 22 years-old and my daughter, Elizabeth, who is 24 years-old. We also have two grand-dogs, Lilly and um, well, my son named his dog "Lumpty Potato." He's the funniest little dog you ever saw—a cute little bulldog. We just call him Potato for short. He's a riot.

DEF. ATTY: Dickey, do you and your wife have any pets?

PRINGLE: Sadly, no, we don't right now. When our golden retriever, Prince, died about three years ago, we just decided that given our ages, and our desire to travel, that it really wasn't fair for us to get another dog. So, we just love our grand-dogs to pieces, and we don't have any critters of our own right now.

DEF. ATTY: Dickey, I want to get this out of the way right away – did you send Ms. Orr text messages calling her a "hot young nymph" and asking her to have a sexual relationship with you?

PRINGLE: I wish the answer to that question were no, but, yes, I did do that. I'm so embarrassed about it. My wife and I were going through a challenging time, and here this young woman expressed interest in me, and, I just had really bad judgment. I should've have done it, but she was flirting with me and it made an

old guy like me feel pretty special. So, in answer to your question, yes, I did send those text messages. Regretfully, yes.

DEF. ATTY: Dickey, I want to talk about your career as a prosecutor. How long were you the district attorney for this county?

PRINGLE: Wow, almost twenty years. It was quite a career too. I just loved my job, getting those bad guys, prosecuting horrible crimes, including animal cruelty crimes, those had a special place in my....

PROS. ATTY: Objection your honor. The witness isn't answering the questions, he's doing nothing but self-serving rambling. I'd ask the Court to direct the witness to answer the questions and to direct counsel to stop asking questions calling for a narrative.

DEF. ATTY: Your honor, I haven't been asking for a narrative! I asked the witness how long he'd been the district attorney for this county.

JUDGE: Gentlemen, enough. Mr. Pringle, you are instructed to answer the question posed and nothing else. Do you understand?

PRINGLE: I do your Honor. My apologies.

JUDGE: That's okay – I know it's hard for attorneys to stop talking about themselves.

DEF. ATTY: Mr. Pringle, let's talk about March 4th. Where were you that day?

PRINGLE: Well, I honestly can't recall what I did that day. Nothing about the day seemed unusual, until later, when the detectives started asking me questions.

DEF. ATTY: Notwithstanding the fact that you don't recall what you did during the day, do you recall what you did that afternoon and into the night?

PRINGLE: I do. My wife was out of town visiting our kids. They are both students at the University of Iowa – Go Hawkeyes! I wanted to go with, but I was too busy with work and everything, so I stayed behind. Anyway, I had gone to Starbucks on West Lake Street that afternoon around 3:25 p.m. to work.

DEF. ATTY: Dickey, why did you go to Starbucks to work?

PRINGLE: Well, I'm a bit addicted to those delicious Frappuccino drinks they have. I know they're not good for me – loaded with sugar those things. But, I went there to work, and since they have wireless internet, it was a pretty convenient location.

DEF. ATTY: Dickey, how long did you stay at the Starbucks that day?

PRINGLE: Too long. Four hours and three Frappuccinos later, I took off around 7:30 p.m. and went home to catch some basketball – March Madness playoffs were just starting, and I was hoping to get an early read on the good teams for my brackets.

DEF. ATTY: Dickey, at some point did you become aware that Ms. Orr's pets had been killed?

PRINGLE: I did.

DEF. ATTY: How did you become aware of those facts?

PRINGLE: Well, the first knowledge of that came when a detective came to see me and started asking me questions about where I was on March 4th. I've been through the drill a million times as a DA, so I demanded to know why they were asking. The detective told me that a dog and cat belonging to someone named Betty Orr had been killed in the area of West Lake Street.

DEF. ATTY: Dickey, did you recognize the name Betty Orr?

PRINGLE: I did, but I couldn't figure out why. But, then I saw a story in the paper about the killing, and her picture was with the story. I recognized her right away, she was something else, you couldn't forget that girl if you tried.

DEF. ATTY: Dickey, is Ms. Orr suing you?

PRINGLE: She is – she filed a lawsuit against me asking for money for the death of her pets.

DEF. ATTY: Dickey, how much has Ms. Orr demanded in damages from you?

PRINGLE: She's seeking one million dollars.

DEF. ATTY: I have nothing further for you, Dickey.

JUDGE: State, he's your witness.

PROS. ATTY: Mr. Pringle, you are no longer the district attorney are you?

PRINGLE: No, I'm not.

PROS. ATTY: And, that's because after the story went public about the text messages you sent to Ms. Orr, the public demanded that you resign, isn't that true?

PRINGLE: No, it's not true. I resigned for my own reasons. The public wasn't happy about what I'd done, but the decision to resign was my own, and I did it for personal reasons having nothing to do with Ms. Orr.

PROS. ATTY: Now, since you resigned your position as district attorney, you haven't been employed, have you?

PRINGLE: That's true. I'm not currently employed.

PROS. ATTY: But, it is your testimony that you were holed up at a Starbucks for almost four hours working on March 4th?

PRINGLE: Well, I still do lots of volunteer work and it keeps me very busy.

PROS. ATTY: Mr. Pringle, let's talk about the case that you served as prosecutor for when Ms. Orr was a domestic abuse victim. As district attorney, you were in charge of marshalling the evidence used in the prosecution, correct?

PRINGLE: Yes, that's correct.

PROS. ATTY: And, one of those pieces of evidence was a key to Ms. Orr's apartment, wasn't it?

PRINGLE: I, um, I don't remember that, no.

PROS. ATTY: Well, you remember that the night of the assault, Ms. Orr's boyfriend had gained access to her apartment with a key she had given him, you remember that, don't you?

PRINGLE: Oh, yes, now that you mention it, I do remember that.

PROS. ATTY: And, you remember that when Ms. Orr's boyfriend was apprehended, the key to her apartment was one of the items of evidence that was collected, true?

PRINGLE: Yes, that's true.

PROS. ATTY: So, as the district attorney prosecuting the case, you would have had access to the key to Ms. Orr's apartment, true?

PRINGLE: Well, I suppose that's true. I could have had access to that key since it was evidence in the prosecution, but I never did.

PROS. ATTY: Now, Ms. Orr made a complaint about you to the Board of Attorney Discipline, didn't she?

PRINGLE: Yes, she did.

PROS. ATTY: And, as a result of that complaint, you ended up writing a letter to the Board of Attorney Discipline fessing up to those text messages you sent, didn't you?

PRINGLE: Yes, I took responsibility for the text messages.

PROS. ATTY: And, it was embarrassing to have to write letter to the Board of Attorney Discipline admitting that you'd called a victim in a case you were prosecuting a "hot young nymph" – wasn't it?

PRINGLE: I have no one to blame for my actions. Yes, it was embarrassing, but I caused the embarrassment to myself.

PROS. ATTY: And, the story about those text messages and the text messages themselves eventually became public didn't they?

PRINGLE: They did, yes.

PROS. ATTY: And, there were petitions going around demanding that you be removed from the office of the district attorney, weren't there?

PRINGLE: Yes, there were.

PROS. ATTY: You were publicly embarrassed, weren't you?

PRINGLE: Yes, I was publicly embarrassed.

PROS. ATTY: And, you were embarrassed in front of your family, weren't you?

PRINGLE: Yes, but, as I said, it was my bad judgment that was the problem.

PROS ATTY: And, as the district attorney prosecuting Ms. Orr's case, you knew that her pets were the most important thing to her in the world, didn't you?

PRINGLE: I don't recall knowing that, but having pets myself over the years, I wouldn't be surprised if that were the case.

PROS. ATTY: I have nothing further, your Honor.

JUDGE: Any redirect?

DEF. ATTY: Yes, your Honor, just briefly. Dickey, the State's attorney asked you about a key to Ms. Orr's apartment – if that key had been evidence in a prosecution, where would it be today?

PRINGLE: Well, it would still be in the possession of the police department. We retain evidence until the criminal trial and all appeals are concluded. I happen to know that Ms. Orr's boyfriend was convicted of domestic abuse, but that he filed an appeal of his conviction, and that appeal is still pending.

DEF. ATTY: I have nothing further your Honor.

JUDGE: Alright folks. It's late, the jury has been very attentive. How many more witnesses do you have for the Defense?

DEF. ATTY: Just one your honor.

JUDGE: Okay, any anticipated rebuttal from the State?

PROS. ATTY: Just one your honor.

JUDGE: Alright then. Let's resume in the morning with the last two witnesses, and plan to go right into closing arguments after that. Jurors, you may go home for the evening. You should not discuss this case with anyone. And you should not read the newspaper or go on the internet. We'll see you in the morning, at 8:30 a.m. sharp.

* * * * *

JUDGE: Good morning everyone. Are we ready to roll?

DEF. ATTY: Yes, your honor. We call Police Officer Jason Jenkins. [The witness is sworn in]

DEF. ATTY: Please state your name and spell it for the court reporter.

JENKINS: Jason J. Jenkins, spelled J-E-N-K-I-N-S.

DEF. ATTY: How are you employed?

JENKINS: I am a police officer for the Bemis County Police Department.

DEF. ATTY: How long have you been employed with the Bemis County Police Department?

JENKINS: About 15 years.

DEF. ATTY: Officer Jenkins, is one of your duties and responsibilities as a Bemis County Police Officer to maintain custody of evidence relating to criminal prosecutions?

JENKINS: Yes.

DEF. ATTY: Can you describe to the jury how evidence is maintained?

JENKINS: Sure. Essentially, when we get evidence in connection with a case, we log it in and it is secured in lockers at the police department. We do that to maintain something we call the "chain of custody." In other words, to make sure that evidence isn't tampered with and to make sure it is safely retained until the conclusion of a criminal investigation, including any prosecutions and/or appeals.

DEF. ATTY: In the course of your duties and responsibilities as a Bemis County Police Officer, did you have occasion to maintain the custody of evidence in connection with a case involving Betty Orr?

JENKINS: I did. I was responsible for maintaining the security of evidence relating to a criminal prosecution against Ms. Orr's boyfriend, Dale, for domestic abuse.

DEF. ATTY: And, was one of those pieces of evidence a key to Ms. Orr's apartment?

JENKINS: Yes, it was.

DEF. ATTY: Police Officer Jenkins, when did you last see that key?

JENKINS: I viewed it this morning, before coming here to testify. I did not bring it with, because there is a process we have to go through to get authorization to take an item of evidence outside of the police department's custody. I got a call last evening on my cell phone after 6 p.m. about that key, so I just didn't have enough time to secure authorization to bring the key with me today.

DEF. ATTY: But, you saw the key to Ms. Orr's apartment this morning?

JENKINS: I did.

DEF. ATTY: And that key was in the possession of the Bemis County Police Department?

JENKINS: Yes sir.

DEF. ATTY: Thank you, I have nothing further.

JUDGE: Any redirect?

PROS. ATTY: No your honor, it's not necessary.

JUDGE: Try to avoid the commentary. Okay, does the Defense rest?

DEF. ATTY: No your honor, we have one further witness. The Defense calls Betty Orr to the stand. [The witness is sworn in]

DEF. ATTY: Ms. Orr, you've sued my client, Mr. Pringle, haven't you?

ORR: Yes, I sure did. After what he did to my pets, he deserves to pay for it.

DEF. ATTY: Ms. Orr, how much did you pay for Scout?

ORR: I didn't pay for Scout, I got him for free from the pound.

DEF. ATTY: And, what about your cat? Was your cat free too?

ORR: Yes. Why does that matter?

DEF. ATTY: But, you've sued my client for \$1 million dollars, for two pets that you got for free?

ORR: I sure did – I know he's good for it. He told me his house was worth \$350,000.

DEF. ATTY: And, that's why you killed your own pets, isn't it? For money?

ORR: Wait! What? No! I didn't kill my pets! I would never do that! Never!

DEF. ATTY: Ms. Orr, did Scout bark at strangers?

ORR: Yes, he was very protective of me.

DEF. ATTY: I have no further questions for this witness.

JUDGE: Any cross?

PROS. ATTY: Yes, your Honor. Ms. Orr, did you kill your own pets?

DEF. ATTY: Absolutely not. I would never do something like that – I loved Scout and Betsy.

PROS. ATTY: Why did you sue the defendant for \$1 million?

ORR: Well, I wanted him to pay for what he did. And, he told me his house was worth \$350,000, so I felt that I had to sue him for an amount of money that would punish him, and my lawyer suggested that we sue for \$1 million. But, even that amount of money couldn't replace my animals. They could never be replaced.

PROS. ATTY: I have no further questions.

JUDGE: Any redirect?

DEF. ATTY: None your Honor.

JUDGE: Alright, call your next witness.

DEF. ATTY: Your honor, the Defense calls Wayne Snow.

[The witness is sworn in]

DEF. ATTY: What is your name?

SNOW: Wayne Thomas Snow. That's S.N.O.W. God knows we get enough of it here in Newfoundland.

DEF. ATTY: Mr. Snow, you just partially answered my next question -- where do you live?

SNOW: 1057 West Lake Street in Winston, in Newfoundland.

DEF. ATTY: Do you know Betty Orr?

SNOW: Yuppers.

DEF. ATTY: How do you know Ms. Orr?

SNOW: Everybody knows Betty Orr, because that damn dog, Scout, of hers barks up a storm every time he sees someone he doesn't know. Drove me mad, it did.

DEF. ATTY: Mr. Snow, did you live near Betty Orr?

SNOW: Well, her address is 1059 and mine is 1057, what do you think?

JUDGE: Mr. Snow, please just answer the questions and this will all go much more quickly.

DEF. ATTY: Mr. Snow, you are here today pursuant to a subpoena, is that correct?

SNOW: Well you can rest assured that I wouldn'ta come down here on my own free will. I have things to do, and I don't have to time to waste being here. Do you know that I had to sit outside in the hallway here for a half hour waiting to come in here and testify. I bet in that half hour you made \$200 based on your rate, but, me, nuttin, just sitting here, coolin my heels and wasting my time.

JUDGE: Mr. Snow! That is enough. You are instructed to simply answer the questions posed to you and nothing more. Do you understand me?

SNOW: Yes sir.

DEF. ATTY: Mr. Snow, you said that Scout barks up a storm, what do you mean by that?

SNOW: Do I really have to waste time answering questions that I already answered? He barked, barked, barked, barked, barked every time he done see someone he didn't know. He knew me, so he didn't bark at me anymore. But, anyone new, Yap! Yap! Yap! Wouldn't shut up, that damn dog.

DEF. ATTY: Mr. Snow, do you remember what you did on March 4, 2010?

SNOW: I only remember because it's the reason I am here. That was the day Betty came over sobbing and told me her pets were dead.

DEF. ATTY: Mr. Snow, were you home that day?

SNOW: Yup. Fixin' my car out in the garage.

DEF. ATTY: Mr. Snow, I have just one further question for you – that day, March 4, 2010, did you hear Scout bark at all that day?

SNOW: Nope. Not once, because I remember thinking it was strange.

DEF. ATTY: I have no further questions.

JUDGE: Any cross?

PROS. ATTY: Yes, your Honor. Mr. Snow – you are Betty’s neighbor?

SNOW: I already said that, what is with you lawyers and not rememberin’ what a person already says?

PROS. ATTY: Mr. Snow, bear with me for a second. When you were fixing your car on March 4, 2010, were you listening to any music?

SNOW: Hell yea, I was. “All ABOARD!!! HA, HA, HA, HA, HA, HA.”

PROS. ATTY: So, you were listening to Ozzy Osbourne that day?

SNOW: [Gesturing to the judge] I like this lawyer already. Any lawyer that listens to Ozzy is good with me. Yep, I was listening to Ozzy that day, fixin’ my car, and enjoying a few brews.

PROS. ATTY: You just answered my next question – so, you were drinking that day?

SNOW: Yuppers. PBR me ASAP.

PROS. ATTY: Mr. Snow, did you talk to Betty Orr that day?

SNOW: Yuppers.

PROS. ATTY: When did you talk with her that day?

SNOW: She came over to my house crying buckets and told me Scout and her cat were dead. Crying buckets I tell you. Gave that girl a shoulder to cry on, felt so bad for her, even though that damn dog did drive me mad.

PROS. ATTY: I have no further questions your Honor.

JUDGE: Any redirect from the Defense.

DEF. ATTY: Yes, your Honor. Mr. Snow, you testified earlier that you didn’t hear Scout bark at all that day, do you remember that testimony?

SNOW: I just said it! So, course I remember it!

DEF. ATTY: Mr. Snow, if Scout had been barking that day, would you have heard it over the music you were listening to?

SNOW: Unfortunately, yup, I woulda. I’ve tried before to drown that dog’s barking out with some Ozzy. Didn’t work. That damn dog barks so loud that even Ozzy doesn’t drown him out. So, nope, he didn’t bark that day. I’m positive.

DEF. ATTY: Thank you, Mr. Snow.

JUDGE: Very well. The Court will take a short recess and then we'll hear closing arguments.

STATE'S EXHIBIT 1

(the note)

FUCK YOU,
BITCH!
YOU'RE NEXT AND
IT WILL NOT BE AS
FAST FOR YOU AS IT
WAS FOR YOUR PRECIOUS
LITTLE PETS!

STATE'S EXHIBIT 2

(Scout the dog)



STATE'S EXHIBIT 3

(Betsy the cat)



Defendant's Exhibits

NONE

STIPULATED JURY INSTRUCTIONS
State v. Richard "Dickey" Pringle
Bemis County Circuit Court Case No. 10-4041
State of Newfoundland

Charges:

Count 1 & 2 Aggravated Animal Cruelty

Count 3 Burglary in the First Degree (Unoccupied Dwelling)

Instruction Number	Instruction Description
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.	Testimony of Witnesses (Deciding What to Believe)
6.	Defendant's Statements
7.	Witness False in Part
8.	Witness's Prior Conviction
9.	Absence of Evidence
10.	Expert Witnesses
11.	Non-expert Witnesses
12.	Definition of Intentionally
13.	Criminal Charges (Counts I & II: Aggravated Animal Cruelty; Count III: Burglary in the First Degree of an Unoccupied Dwelling)

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, 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. 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 then 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 Newfoundland against the Defendant, Richard "Dickey" Pringle. The Defendant has been charged with aggravated animal cruelty (Counts I and II of the Indictment) and Burglary in the First Degree of an Unoccupied Dwelling (Count III of the Indictment).

Defendant has pleaded not guilty to each of these three 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 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 of the attorneys; 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.

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, and you must follow them, too.

First, you must not discuss this case with anyone, including your fellow jurors, members of your family, people involved in the trial, or anyone else. 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 what the verdict should be 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 from 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 in the case, you are not convinced to a moral certainty that the defendant is guilty. 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
TESTIMONY OF WITNESSES (DECIDING WHAT TO BELIEVE)

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 manner of the witness while testifying; and
- 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 [he / 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 [he / 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 CONVICTION

If you find that a witness has been convicted of a crime, 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
DEFINITION OF INTENTIONALLY

INTENTIONALLY AND WITH INTENT

A person acts “intentionally” or “with intent” when that person acts with a conscious objective either (a) to cause a particular result; or (b) to engage in particular conduct.

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 is charged with the two counts of aggravated animal cruelty (Count I as to Betsy, a cat and Count II as to Scout, a dog) and one count of Burglary in the First Degree of an Unoccupied Dwelling. The defendant has pleaded not guilty to each of these three charges.

AGGRAVATED ANIMAL CRUELTY IN VIOLATION OF STATE STATUTE
(Count I)

In the State of Newfoundland, it is unlawful for any person to intentionally kill an animal (and “animal” is defined as all nonhuman vertebrates) in such a manner as to cause the animal to feel, experience or otherwise suffer exceptional pain for a protracted period of time.

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 Aggravated Animal Cruelty (Count I) in violation of state statute. The defendant is otherwise presumed innocent.

AGGRAVATED ANIMAL CRUELTY IN VIOLATION OF STATE STATUTE
(Count II)

In the State of Newfoundland, it is unlawful for any person to intentionally kill an animal (and “animal” is defined as all nonhuman vertebrates) in such a manner as to cause the animal to feel, experience or otherwise suffer exceptional pain for a protracted period of time.

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 Aggravated Animal Cruelty (Count II) in violation of state statute. The defendant is otherwise presumed innocent.

FIRST DEGREE BURGLARY OF AN UNOCCUPIED DWELLING (Count III)

In the State of Newfoundland, the crime of First Degree Burglary is defined as the unlawful breaking, entering or remaining in a dwelling with the intent to commit a crime therein—in this case the crime allegedly intended is aggravated animal cruelty—the entirety of said breaking, entering, or remaining therein occurring at a time when no other human (other than the person making the entry now at issue) is present within said dwelling.

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 Burglary of an Unoccupied Dwelling (Count III). The defendant is otherwise presumed innocent.

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.