

1 accompanied by his counsel, Prosecuting Attorney,
2 Assistant Prosecuting Attorney and representative of
3 the Sheriff's Department are present.

4 Ladies and gentlemen, we now turn to the final
5 argument on behalf of the defendant, Clarence "Skip"
6 Roberts.

7 Mr. Tingle, you may address the jurors on your
8 final argument.

9 MR. TINGLE: May it please the Court, on May 17, 1997, he did
10 cause the death of another, to wit: Leo Sinnett as a
11 proximate result of committing or attempting to commit
12 the offense of robbery. Those words were said by the
13 Prosecutor not about "Skip" Roberts but about John
14 LaFollete. That was the statement of facts upon which
15 LaFollete was found guilty in this Court of
16 involuntary manslaughter. Confusion? You have every
17 right to be especially after seeing and hearing John
18 ~~LaFollete's testimony here in this court. Now, early~~
19 on the Prosecutor told you that John LaFollete is not
20 on trial in this case. Technically, that's correct.
21 And, unfortunately, he never will be. But you have
22 every right, in fact, you have the duty to judge John
23 LaFollete and his credibility.

24 Now, "Skip" Roberts and John LaFollete both took
25 the same oath on that witness stand. They both can't

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be telling the truth. One of them is lying. And how do you decide which one it is? When we first started this case clear back in selection of the jury and we questioned each one of you we talked about the presumption of innocence that every person has who is in this courtroom charged with a crime. Each one of you agreed that you believed in that principle. Each one of you agreed that you can look on "Skip" Roberts as an innocent person, that you weren't just paying lip service to that philosophy of the law. That presumption of innocence is evidence. It goes in the jury room with you the same as all of these exhibits if you want to take them too.

Let's look at John LaFollete. The Judge instructed you earlier. Use his testimony with great caution. View it with grave suspicion. That's what you first look at John LaFollete with, grave suspicion and great caution. ~~Does John LaFollete have a reason to lie? Does he have a reason to want you to convict "Skip" Roberts of this crime? Some questions really don't need an answer.~~

Remember Trooper Stolarick when he testified about the traffic stop and then being one of the first on the scene at Leo Sinnett's house? Remember him telling the investigators about the traffic stop and

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the individuals that he had stopped and he warned the investigators don't get tunnel vision from what I'm telling you. Meaning, don't get locked in on something, don't limit your investigation. That was his fear of what would happen and it did happen.

Mr. Plummer asked "Skip" when he was on the stand: This is the first time you've told that story. Well, obviously telling the story to investigators would have done no good because "Skip" was charged even before LaFollete was even caught in Pennsylvania. And what better lace to tell that story of what happened, what actually happened, than to you?

The tunnel vision even as late as the motel registration question. That tunnel vision still applying. You heard Ms. Eibel on the stand say she looked for the name of "Skip" Roberts, Clarence Roberts, in her register, couldn't find it. She was never asked, never once asked to look for John LaFollete's name. I wonder if she was asked to look for Josh Pierce's name. You recall that's the name he used with the Sheriff when LaFollete was asked who he was.

There has been a situation from day one of forcing facts to fit their theory and sometimes the facts don't fit. Did they analyze anything from John

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1 LaFollete in this case? You would be hard pressed to
2 find something. Did they dust the house for
3 fingerprints? No. They sent a few items in and had
4 them looked at but that's it. And like the
5 technicians told you from BCI, they don't check for
6 fingerprints except on those things that they're
7 requested to check. They took a picture of a dresser
8 drawer. Did you hear any testimony about fingerprints
9 being checked on this? Any place else in the house,
10 and this house was supposedly trashed by whoever was
11 looking for money. Did they check any place else
12 other than the few items they sent in? No.

13 The State doesn't want to subject John LaFollete
14 to very close scrutiny in this case because he can't
15 stand up to it. And the reason for that is that John
16 LaFollete is a liar. As much as they want you to
17 believe otherwise, proving their case beyond a
18 ~~reasonable doubt requires that you believe John~~
19 LaFollete. It's as simple as that. You have to
20 believe him to get past the burden of beyond a
21 reasonable doubt and to do that creates a real problem
22 because you can't accept his testimony without calling
23 Shirley Stillions and Jodey Dolan liars. Very simple.
24 They cannot be telling the truth if John LaFollete is
25 telling the truth.

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1 When we started this case the Prosecutor told you
2 that in some cases circumstantial evidence can be as
3 compelling as eyewitness testimony. Well, that's not
4 the case here because you have eyewitness testimony.
5 You have Jodey Dolan testifying before Mr. Sinnett
6 died she observed the car go past with yelling. Three
7 occupants in that car just before. What did John
8 LaFollete say? They went from Mia Andrews' house
9 straight to Leo Sinnett's house. They didn't pass go,
10 they didn't go any side streets. Straight. That
11 doesn't correspond with what Jodey Dolan saw. Is
12 Jodey Dolan telling the truth or is John LaFollete?

13 After Mr. Sinnett was attacked Jodey Dolan saw
14 this car come down the street again. The two front
15 occupants "Skip" Roberts, "Chip" Andrews were yelling
16 at each other back and forth loud enough for her to
17 hear, loud enough to be noticed as they went by.

18 ~~What's John LaFollete say? "Chip" Andrews didn't say~~
19 anything. He just drove. He was quiet. Who's
20 telling the truth? Jodey Dolan, John LaFollete? Ask
21 yourself what reason does Jodey Dolan have to lie to
22 you about what she saw and what reason does John
23 LaFollete have to lie to you about what happened?

24 How about Shirley Stillions? By John LaFollete's
25 own testimony he's out of the car in front of Leo

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1 Sinnett's house. By his testimony he says he walks
 2 around the right side of the house to go back and
 3 looks at a tree. Then he walks back to the front of
 4 the house and as he's passing the front entrance he
 5 sees "Skip" Roberts comes out of the front door. By
 6 all accounts that would just take moments. Walk to
 7 the back, walk back to the front, get in the car and
 8 he even ran to the car. What does Shirley Stillions
 9 say? No, that car was parked there for quite some
 10 time. She saw it parked there for quite some time.
 11 Not just moments. What else does she say? She saw
 12 "Skip" Roberts. That "Skip" Roberts wasn't coming out
 13 the front door, he was coming from the back of the
 14 house around the left side of it back to the car. Was
 15 he running? No. He was walking. He didn't seem to
 16 be concealing himself. He was walking normally. What
 17 fits? John LaFollete, Shirley Stillions? What reason
 18 does Shirley Stillions have to come in here and tell....
 19 you something that's not true? And what reason does
 20 John LaFollete have to come in and lie to you?

21 When you look at the condition of the house from
 22 the pictures, when you consider that Leo Sinnett was
 23 cut 45 times does it fit with John LaFollete's
 24 testimony that all of that occurred in the moments of
 25 walking to the back of the house and walking back to

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1 the front? No. Does it fit with what Shirley
2 Stillions told you that she observed - the car was
3 there for quit some time? Does it fit with what
4 "Skip" Roberts told you that John LaFollete said? I
5 can get some money from this guy. I can get an
6 advance on this tree job I'm going to do. They pulled
7 up and they stopped. LaFollete gets out and some time
8 passes. Does that correspond to anybody else? Yes,
9 it does, Shirley Stillions. They wait. LaFollete
10 doesn't come back, "Skip" gets out, he walks down the
11 left side of the house to the back looking for him and
12 then comes back. Does that correspond to anybody?
13 Yes, Shirley Stillions. He walks back to the car and
14 at that point LaFollete is already back in the car in
15 the back seat just where Shirley Stillions saw him.
16 The time fits with what "Skip" Roberts told you. The
17 time doesn't fit with what John LaFollete told you.

18 What else did they say? Jodey Dolan. There was
19 one person in the back seat and he was crouched down.
20 What did Shirley Stillions say? There was one person
21 in the back seat and he was crouched down. What did
22 "Skip" Roberts tell you? John LaFollete was in the
23 back seat and he was crouched down bent over forward.
24 They correspond.

25 Mr. Padden said that "Skip" Roberts had the

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1 opportunity to sit in this court and make up a story
2 after listening to all the witnesses. How could he
3 make up the testimony of Shirley Stillions about him
4 walking down the left side of the house or Jodey Dolan
5 about them driving past the first time and driving
6 past the second time yelling? One of the problems
7 that John LaFollete has in this case is he didn't
8 count on Jodey Dolan and Shirley Stillions. Why would
9 he say he went down the right side of the house?

10 State's Exhibit "JJJ" is this computer generated
11 drawing of the house. It's not to scale but it gives
12 you an idea of the layout of the house. Here's the
13 front porch, here are the front steps, here's the
14 front door.

15 By all the testimony the car was parked out in
16 front here. "Skip" got out of the car and walked
17 straight back to the back of the house. John
18 LaFollete says no, I didn't go straight back behind
19 the house and look at this tree. I went way around
20 this way and to the back. Why does he say he chose
21 the right side? It wasn't the closest way. Obviously
22 because if he's seen coming out the front door it
23 corresponds with his story that he says he went down
24 the right side and coming because there's the front
25 door and somebody would have seen him in that area.

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That's the only logical explanation for that testimony.

John LaFollete said he ran to the car. Why? Why would he run to the car? But he didn't say "Skip" did. Mrs. Stillions said "Skip" wasn't running to the car, he was walking normally.

Where else could John LaFollete lie? How about when Sheriff Carpenter picked him up? "Skip" is talking to the Sheriff not concealing himself and when asked who he was what does John LaFollete say? I'm Josh Pierce. Why?

In the courtroom you heard John LaFollete testify and you heard him fabricate a story about conversation in a car two days before because that fits his needs. But what doesn't make sense is he says that "Skip" Roberts came by and picked him up and said let's go for a ride and gets in the car and nobody says a word and they drive straight to Leo Sinnett's house without saying a word. That just doesn't make sense. Does he have a reason to lie about it? Yes, he does.

Who knew Leo Sinnett? "Skip" Roberts didn't. John LaFollete did. Who had a reason to go to the house to begin with? "Skip" Roberts didn't. John LaFollete did.

A lot has been said about the license plates being

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1 taken off the car but this occurred before LaFollete
2 and "Chip" Andrews even got in the car. It occurred
3 earlier in the afternoon when Jake LaFollete, a
4 brother of John, was riding around. Trooper Stolarick
5 agreed with what "Skip" said. Obviously take the
6 plates off it's less serious than driving with
7 fictitious plates. He should have had them off
8 earlier. I wish he had taken them off earlier but to
9 take that simple act and attribute it to prior
10 calculation and design simply flies in the face of all
11 of the other evidence in this case. It would be
12 absolutely ludicrous to say that that was the act in
13 furtherance of the prior calculation and design when
14 you listen to the testimony of Jodey Dolan on the
15 witness stand that the entire day "Skip" Roberts had
16 been driving around Buffalo honking his horn, waving,
17 yelling and even when all three or them were in the
18 car the yelling was going on. Is there any, any
19 question in anybody's mind that that car was connected
20 with "Skip" Roberts earlier in the day? He wasn't
21 concealing himself and had he been planning to go to
22 Leo Sinnett's later that day do you think he would
23 have been riding around honking at everybody where
24 they could see his car? The license plates meant
25 nothing. Taking those plates off didn't mean his car

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1 wouldn't be identified or he wouldn't be identified as
2 the one who was driving the car earlier. Buffalo is
3 not that big of town.

4 We heard John LaFollete's sister and
5 brother-in-law testify. It's obvious they're trying
6 to help her brother but interestingly they
7 mentioned -- did not mention seeing any quantity of
8 blood on anybody when they were with them in and out
9 of the car in the bar, any place. The one thing that
10 Kim said, this is John LaFollete's sister, I know
11 better than to argue with him when he's been drinking.
12 She knows better. Unfortunately, Leo Sinnett didn't
13 know that. The other witnesses, the bartender at the
14 spirit, John Tuttle. Did you hear any testimony about
15 observing blood from them? No. Sgt. Stolarick
16 testified that he really didn't have any opportunity
17 to get a good observation of John LaFollete during
18 this traffic stop but the opportunity he had was
19 better than Vierstra's was, Trooper Vierstra.
20 Vierstra may have testified he didn't see any blood on
21 John LaFollete but he didn't see John LaFollete. He
22 didn't examine John LaFollete. Why? Because John
23 LaFollete stayed in the car and as he admitted on the
24 witness stand he avoided contact with the troopers.
25 He turned away from them and when it came time to get

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out of car, what did he do? You can remember Sgt. Stolarick's testimony, and Mr. Plummer tried to question him twice to get him to maybe minimize that, but he didn't. He stuck to what he saw when John LaFollete got out of that car to go into Tuttle's. Trooper Stolarick confirmed he didn't waste no time going into the house. He was on his way in. He didn't look back. He didn't give anybody a chance to look at him. Not at all. Contrast that with "Skip". "Skip" was not concealing himself during that whole traffic stop. He walked straight up to the troopers face to face asking about the knife, asking about his car. So Trooper Vierstra didn't have an opportunity at the scene, he couldn't make any observation about blood.

Sgt. Stolarick did confirm the type of knife that he observed, something called a boot knife. It's a short knife. It goes in a sheath and the sheath clips on. It doesn't go through a belt. It clips on. "Butch" Duche' from the Airport Inn confirmed the same kind of knife. It clips onto the belt just exactly as "Skip" told you it did.

Mr. Padden mentioned the money that "Skip" had on him. Just doing a little subtraction. "Skip" said he had about \$200.00 to save back and pay bills because

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1 he has three children at home and he had to pay his
 2 bills and if he's out drinking these people will hound
 3 you to death until you use your money. So he keeps it
 4 hidden in the back of his wallet. What did he have
 5 when they stopped him when they arrest him? About
 6 \$130.00. Subtract what was paid out during that day
 7 or day and a half. That would leave about \$140.00.

8 Now the prosecution has attached significance that
 9 "Skip" threw the knife. There's only one explanation
 10 for that. I wish it were a better one but it's not
 11 and that is that "Skip" was scared. LaFollete had
 12 used his knife which he had taken from the back seat
 13 and it had blood on it and he threw it away. This
 14 knife was taken from the jacket in the back seat from
 15 an upper pocket and as far as the sheath it had to
 16 come with it too. What did LaFollete do? Walk into
 17 the house brandishing a knife like this? No. He
 18 would have concealed it. He came back to the car and
 19 he's got it in front of him. He's bent over and he
 20 won't let go of it. "Skip" demonstrated how he had to
 21 go over the seat to get this knife away from him and
 22 with the amount of blood LaFollete had on him yes, he
 23 got blood on himself, too. There's no question about
 24 that. He's not denied that. He got it on his hands,
 25 he got it on his clothes. He tried to wipe his hands

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1 off and it was on him. He hasn't denied that to you.
 2 And when he took that knife away and he clipped it
 3 back on his belt it's obvious how that blood got on
 4 the seat. The downward spike that was testified to
 5 put that blood on the seat. Not a blunt impact of the
 6 knife against the seat but a swipe downward which is
 7 consistent with the State's testimony. We have no
 8 argument with the DNA testing in this case. That's
 9 Leo Sinnett's blood. But if the blood on "Skip"
 10 Roberts was so bad why didn't they check more of that
 11 car? Why didn't they even get into the back seat and
 12 take a good look instead of just peering through
 13 windows and observing through a distance? Why didn't
 14 they collect the door handles? Obviously somebody
 15 with hands like this is going to leave blood on door
 16 handles. Did they check any of that? No. They could
 17 have collected the back door handles too. After
 18 seeing the blood on his hands the Trooper also saw
 19 dark stain what he thought was blood on the front of
 20 "Skip's" jeans and seeing that he assumed that was
 21 blood also. But what about the grease that Jessica,
 22 the baby-sitter, testified was on the front of
 23 "Skip's" jeans when he left and in the same area where
 24 the Trooper is testifying? It's a dark stain too. No
 25 question there was blood on "Skip" but maybe not the

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quantity that's been testified to.

Then we come to the shirts and this may be the most incredible part of John LaFollete's testimony. He says they pull out to Farm & Fleet because "Skip" wants a new shirt, needs to change his shirt because he has blood on his old one and he says that "Skip" gives him money and tells him to go in and get a shirt and "Skip" tells him get one for yourself. Now come on. Why would you buy two shirts? Because LaFollete didn't need a shirt, according to his testimony. He didn't have blood on him so he didn't need to change his shirt but he changes his shirt in the car too because his sister said they looked like twins and he picks out two shirts identical with a dog or a wolf on it and a moon, black shirts. Now, this is somebody who is saying that the other person he's with has just killed someone and he has the opportunity to go in and pick out two shirts. Will somebody please tell me why you would want to dress exactly like somebody you're accusing of killing another person? Why would you for any earthly reason want to be confused with that person? You want to put as much distance between yourself and that person as you can. You want to look so different nobody could mistake you but he buys two shirts identical and they both put them on. What is

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1 more believable about that is that John LaFollete
2 wanted people to confuse "Skip" with him because John
3 LaFollete was the one that had done this and any
4 confusion he could create was to his benefit. If they
5 confuse "Skip" with him because of the identical
6 shirts so much the better.

7 You must have noticed too that John LaFollete has
8 a memory of convenience. He remembers an awful lot
9 about the situation all the way through this except
10 for a couple points and he has this gap in his memory.
11 He admitted that he had been with "Skip" all that
12 night until he took off in the woods the next day. He
13 admitted that he drove "Skip's" pickup truck. They
14 ran out of gas but he doesn't remember ever being at a
15 gas station and he has absolutely no explanation about
16 that paint can with Leo Sinnett's wallet in it and a
17 fire. He doesn't remember any fire. why? why this
18 gap in his memory? He's not telling you he passed out
19 from drinking because he doesn't know how to answer
20 that because he did it. That's why he's not answering
21 you. He did it. He burned the wallet in the can just
22 like "Skip" told you he did it. This is in the
23 vicinity between Old Washington and Lore City and the
24 Airport Inn. It's in the area. He has no explanation
25 on how that can with Leo Sinnett's wallet burned up

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and ever got there. He doesn't know. He knows.

He also has really no memory about checking in at the motel. "Skip" told you what happened. He went in to register, he came back because he doesn't have an ID "Skip" gives him his I.D., they go back in and LaFollete registers. Not "Skip", LaFollete. If there's a wrong name or false name on there who's been doing that all night? John LaFollete.

LaFollete is afraid of "Skip". Afraid to say anything? Hardly. They were with the Sheriff. All LaFollete had to do was say here's what happened. I want out of this. They were with the state parole before that. Mr. Plummer asked "Skip" why didn't you say something at the traffic stop, go back and help Leo. Ask the same question of John LaFollete.

He had 30 days in Pennsylvania sitting there all by himself to make up whatever story he wanted to make up while "Skip" was in jail. And do you really think John LaFollete would be here today on his own except for that manhunt and catching him in Pennsylvania? That's the only reason he's here he. He wasn't going to volunteer anything to anybody and he was going to be willing to sit back and let somebody else get convicted for what he did. Did he step out in the road waving his hand, say stop and subject himself to

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1 being taken into custody? No.

2 A lot has been said about prior calculation and
3 design in this case. A plan. A scheme. Where?
4 Where is it? The only place it comes in this case is
5 from John LaFollete and that goes to the burden the
6 State has of proving their case beyond a reasonable
7 doubt because that's one of the elements they must
8 prove beyond a reasonable doubt to your satisfaction.
9 If you're not satisfied with their proof of that case
10 of that element then a not guilty verdict is the only
11 one that is acceptable, if they haven't proved it to
12 your satisfaction. You are the judge of that. Even
13 with LaFollete's situation the prior calculation and
14 design isn't there.

15 I think the evidence clearly shows that this was a
16 robbery that went wrong. Mr. Sinnett would not give
17 up that money belt and, as Officer Follock testified,
18 he had a death grip on it. What happened? Just like
19 his sister said, she knew better than to argue with
20 John LaFollete when they'd been drinking. Leo Sinnett
21 didn't know that and he argued with him. He held onto
22 that belt. He wouldn't give it up and John LaFollete
23 started and Leo Sinnett wouldn't give it up and John
24 LaFollete kept on and Leo Sinnett wouldn't give it up
25 and finally he killed him, not out of a plan but out

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1 of anger.

2 The Judge will instruct you, and has previously
3 told you, about reasonable doubt in this case and the
4 State's burden of proving it beyond a reasonable
5 doubt. Evidence of such a nature that you would be
6 willing to rely and act upon it in the most important
7 of your own affairs. Is John LaFollete the kind of
8 evidence that you want to rely and act upon in the
9 most important of your own affairs? I certainly would
10 not want to. Because John LaFollete is not capable of
11 telling the truth in this case because if he tells the
12 truth it doesn't fit to what he has said.

13 The Court will instruct you at some point about
14 what's called a lesser included offense. The charge
15 of murder and that charge is similar but it doesn't
16 contain the requirement of finding that this occurred
17 with prior calculation and design. It's the killing
18 of somebody but without that prior calculation and
19 design. That's for you to consider.

20 But the most puzzling thing in this whole case is
21 that John LaFollete did what you and I did on the jury
22 view - got out of our cars, walked around to Leo
23 Sinnett's house, went back and got back in our cars
24 and for that John LaFollete has agreed to spend the
25 next eight years of his life in prison. Talk about

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1 something that doesn't make sense. And when he was
2 asked about it what did John LaFollete say? There's
3 more to it than that. Those are his words. There's
4 more to it than that. Yes, there is more to it than
5 that but unfortunately John LaFollete is not going to
6 tell you what that more to it is.

7 Leo Sinnett's death is a tragedy. Leo Sinnett
8 didn't deserve to die the way he did. I truly
9 apologize if it seems throughout this case that we
10 haven't paid that kind of respect to him or given it
11 that kind of respect. That is certainly not the case.
12 But the tragedy of his death should not be the basis
13 of another one. Mr. Padden said it would be a tragedy
14 not to convict "Skip" Roberts. The tragedy in this
15 case is going to be convicting the wrong person.

16 Thank you.

17 THE COURT: Thank you, Mr. Tingle. That completes the final
18 argument on behalf of the defendant, Clarence "Skip"
19 Roberts.

20 Mr. Plummer, do you wish to move to final
21 argument? We've been in session 35 minutes.

22 MR. PLUMMER: Yes, Your Honor. I'll hopefully be rather
23 brief.

24 THE COURT: Any objection?

25 MR. TINGLE: No.

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