

1 Scrutinize them as you are charged as jurors to do.

2 You've been told once by the judge, you'll be  
3 told again, perhaps more than once after this, it is  
4 your job to judge the credibility of the witnesses  
5 because you're going to be making an important  
6 decision not only to the defendant but to the People  
7 of the State of Michigan about a vicious crime that  
8 fortunately left only property damage and not dead  
9 human beings.

10 This evidence, especially the testimony of Rob  
11 Mason and Anthony Thomas, will convince you beyond a  
12 reasonable doubt the defendant is guilty as charged in  
13 the Information.

14 Thank you.

15 **THE COURT:** Okay. Mr. Gust.

16 **MR. GUST:** Thank you, Your Honor.

17 Good morning, ladies and gentlemen. Again, I  
18 remind you about our basic concepts here of  
19 presumption of innocence and burden of proof.  
20 Remember that if you had to vote right now you'd have  
21 to vote not guilty because you haven't heard any  
22 evidence yet because statements of the lawyers,  
23 opening statements and the closing arguments are not  
24 evidence. We're just commenting on the evidence in  
25 the opening statement that we believe will be

1 presented.

2 Now, I ask you to think about the presumption of  
3 innocence and reasonable doubt and their burden. I  
4 ask you to think like this: Imagine somebody that you  
5 know, a friend or relative, someone close to you, that  
6 you believe in your heart would never steal anything  
7 from anyone. Never, you know. Each of you could  
8 imagine that person that they know, and you just know  
9 it.

10 Well, if someone presented you with a statement  
11 or came to you and said, hey, you know, your friend,  
12 your relative here just stole something from my garage  
13 or I saw him stealing something from the store, in  
14 your mind you would presume them innocent because you  
15 know they're not like that and they wouldn't steal.  
16 So in your mind you have a presumption of innocence  
17 about this friend. It's the same kind of presumption  
18 you must have about the defendant in a criminal case  
19 although you don't know the defendant.

20 And if you were to come to believe that your  
21 friend or relative who you would think would never  
22 steal, if anyone was ever to convince you that that  
23 did occur, that theft occurred, you'd make them prove  
24 it to you. You wouldn't run right to your friend and  
25 say, hey, prove to me you didn't do this. You'd make

1 the accuser prove it to you, and you'd make them prove  
2 it to you beyond a reasonable doubt. You would have  
3 to be pretty darn sure before you would change your  
4 impression of that friend or that relative.

5 That's what we have here only instead of  
6 imagining a friend or relative, just imagine the  
7 defendant although you don't know him. That's the  
8 same way you must look at this defendant and their  
9 burden, the prosecution's burden.

10 Now, Mr. Duggan gave you a brief summary of what  
11 the evidence -- he believes the evidence is going to  
12 show. There is an alleged confrontation between  
13 Anthony Thomas and Mr. Wicker which we deny occurred.  
14 He will give some testimony about a threat being made  
15 to him and some other things and that there was a  
16 search warrant executed. No charges were ever brought  
17 as a result of that incident, so someone didn't  
18 believe that that had occurred.

19 Mr. Thomas and Mr. Mason are the individuals that  
20 are the accusers of this matter. I think when you  
21 listen to their testimony you're going to find that  
22 they've given different statements at different times.  
23 At first when the police first interviewed Mr. Thomas  
24 he testified or he made a statement -- he wasn't under  
25 oath at the time, but he told the police that he

1 didn't know who these individuals were that were  
2 shooting at him. Later on he said, well, yes, it was  
3 Mr. Wicker.

4 Mr. Mason during his statement to the police, a  
5 recorded statement, he indicated that he's almost sure  
6 that this -- that one of the individuals there that  
7 day shooting at him was Mr. Wicker. Well, later on he  
8 goes from almost sure to now he's sure. I don't know  
9 what changed his mind.

10 There will be numerous other inconsistencies in  
11 their testimony, and it's kind of an unusual case. If  
12 something occurred there that day as Mason and Thomas  
13 allege, it appears that maybe there's some drug  
14 overtones here, that somebody ransacked this house and  
15 they even took out the ceiling tile, you know. I  
16 think that the normal individual doesn't stash things  
17 in his ceiling, but for some reason whoever was in  
18 that house that Mr. Mason occupied and Mr. Thomas was  
19 visiting, whoever was in that house thought there was  
20 something more than just property there. I think it  
21 will be obvious to you.

22 The other thing is after you hear the testimony,  
23 their testimony, and all the inconsistencies, two  
24 things will come to mind: One, did this even happen?  
25 There will be some -- after you look at the

1 evidence -- and we'll go over this again in closing  
2 argument -- I think it will be apparent that you might  
3 even have a doubt whether the incident even occurred.

4 And the other doubt I think you will have is even  
5 if it did occur, there's no way that you will not have  
6 reasonable doubt regarding who did it. The victims  
7 themselves have reasonable doubt if, in fact, it even  
8 did occur now because it just appears that it's just a  
9 strange, strange occurrence as they allege it.

10 At the end of this trial, when you look at all of  
11 the evidence, there's just no doubt in my mind you  
12 will not be able to find Thomas Wicker guilty beyond a  
13 reasonable doubt.

14 Thank you.

15 **THE COURT:** Okay, you may call your witness,  
16 first witness.

17 **MR. DUGGAN:** We call Anthony Thomas.

18 **THE COURT:** Mr. Thomas, if you'll come forward  
19 and raise your right hand.

20 Do you swear to tell the truth, the whole truth  
21 and nothing but the truth, so help you God?

22 **MR. THOMAS:** Yes.

23 **THE COURT:** Please be seated.

24 ANTHONY THOMAS,

25 Being first duly sworn at 9:36 a.m., testified on