

1 is just that, a doubt based on reason and common
2 sense. He indicates well, it's not just a mere
3 possibility of someone didn't do it. Well, I kind of
4 dispute that. I mean, if you can think of a reason to
5 believe that Mr. Wicker did not commit this offense
6 beyond a reasonable doubt, you would have to find him
7 not guilty. It's as simple as that.

8 Now, because he has this high burden of proof,
9 Mr. Duggan is going to get another opportunity to
10 stand up here and talk to you, and I will not. So he
11 may say something that I would wish to respond to
12 later, however, the rules are such that someone has to
13 have the last word, and because he has the high burden
14 of proof, he gets the last word. That's why he gets
15 to go first, that's why traditionally the prosecutor
16 sits next to the jury, that's because he has this high
17 burden of proof.

18 Now, a couple things I would like to comment on
19 first here about what Mr. Duggan has said. It's
20 unfortunate that Mr. Duggan makes this argument about
21 who has the motive to lie. Can you see that any one
22 of you could be charged with a crime that you didn't
23 commit, and you could get on the witness stand and say
24 no, I didn't do this. Mr. Duggan can stand up and say
25 well geez, who has the motive to lie. He could do

1 that in any case about any one of us in this society.
2 It's just an unfair argument.

3 Also the argument about well, implying that maybe
4 his grandmother or his girlfriend would lie. The
5 unfortunate thing about being charged with a crime, if
6 you try to look around for somebody to say no, they
7 couldn't have done it because they were with me, we
8 hang out with family and friends. Any one of you
9 could be charged with a crime, and if you are
10 somewhere else, who do you suppose would come to court
11 and say that you were with them. I would say that
12 most of the time it would have to be a family member
13 or a friend. Because we don't hang around with
14 enemies and strangers. That's just the nature of our
15 lives.

16 As far as the date, well, why do we remember the
17 date. A few days after something, your grandson is
18 arrested. They immediately know well, what do they
19 say you did. Well, last Thursday or Wednesday they
20 said that this happened. That's how you remember.
21 They know that within a week after the arrest, Thomas
22 Wicker was arrested. It's pretty easy to play back in
23 your mind a few days and go well gee whiz, we were
24 fishing that day. That's how we keep track of days.

25 Mr. Duggan implies that well, they have got

1 police reports. And that I guess every time you do
2 something every day you should write it down, had
3 friends over, my brother came to the house and write
4 it down and date it, so just in case someone charges
5 him with a crime that he didn't commit, you can
6 produce a document. That's a stupid argument. Who
7 keeps track of things like that.

8 Now, this incident that happened in March, I
9 don't know really what that has to do with anything
10 here in a way. I mean, it just seems odd that when
11 Mr. Wicker, of course being angry, who wouldn't be
12 angry? You seen his grandmother up there, seems like
13 a nice lady. She says well, they weren't very nice,
14 the police. You can imagine they busted into a house,
15 tearing your house apart, looking for something, she
16 said putting cigarettes out on her floor. Of course
17 she was angry. Who wouldn't be angry about that.

18 But when Mr. Wicker became aware of that, did he
19 go oh my god, they are on to me, I better go hide,
20 they are going to do something to me. He calls
21 Detective Sanchez and says hey, what's up here. Why
22 did you search my grandmother's house? He wanted to
23 know. If he would have been at this other incident
24 and thought that he was involved in threatening
25 somebody, and that's interesting too, there is no

1 charges here regarding that incident, and there never
2 has been any charges. It happened before this. Who
3 didn't the police believe that night there? Do you
4 possibly think maybe the police didn't believe Anthony
5 Thomas, what he was telling them. Because there is
6 something there that's funny too. People pull up and
7 he runs right away. What's he up to? What does he
8 have to be afraid of? Why is he afraid of people?
9 Just pulling up in a car, not even knowing who they
10 are. Is Anthony out there in the street doing some
11 bad things that people want to hurt him for?
12 Something is odd about that. The police were right
13 there with a car pulled over.

14 Well, Thomas Wicker is kind of an average build
15 kind of guy, you know. The physical description
16 matches some of the jurors here, although you are
17 white males rather than black, but it's kind of an
18 average size person, five ten to six foot, kind of
19 medium build, you know. How many black males in town
20 have that description? A lot. But, no, it must have
21 been Thomas Wicker then because he kind of fit the
22 description. But again, he's not charged with that.
23 He's charged with this. And you would think in a
24 month he would have figured out a better way to get
25 Anthony Thomas anyway. And why are they over at this

1 house if it's Thomas Wicker. It doesn't make any
2 sense.

3 Now, if you look at what happened over at that
4 house, this house is ransacked. They took the ceiling
5 tile out. What are they looking for? How many people
6 have ever hid anything in their ceiling tile, you
7 know. They took all the ceiling tile out. Nice place
8 to hide drugs, probably. But, you know, they didn't
9 take anything. Well, Mason said there was nothing
10 there to take.

11 Well, you heard the police officer say well,
12 there is TV's and there is electronic equipment,
13 things that could have been taken. None of that was
14 touched. Mason said he had a ring and a watch or
15 something, probably because he could turn it into his
16 insurance company and make a claim. I don't know.
17 But there were things there to take and he didn't take
18 anything really, accept maybe this ring and watch.
19 But there was other things there, if they weren't
20 looking for drugs, they would have taken something
21 else.

22 Now, let's look at the testimony and the
23 statements. You know, Mr. Mason first tells the
24 police that as he approached the back door he noticed
25 a black male standing by the door. He saw Mr. Wicker

① in the backyard with a hood. That's the statement he
② gives at the time.

③ Then a couple days later then he says he walked
④ to the rear door, someone came around the side of the
⑤ building and started shooting. He was fumbling with
⑥ his keys and shooting just broke out everywhere from
⑦ three directions. He thought it was somebody because
⑧ he had given testimony in a federal case against
⑨ somebody, you know, what's that about, I don't know.
⑩ Obviously he must have thought somebody had reason to
⑪ kill him.

12 But more importantly he says again I am almost
13 certain it was Peter Rabbit. He wasn't certain then.
14 But he sure did seem like he wanted to be certain
15 during this trial. And I don't know what all that
16 means. Thomas Wicker says he didn't know the guy.
17 Mason said he didn't know him. He had just seen him
18 around, he said.

19 During his statement to the police he said now
20 Peter Rabbit came around from the side of the RV. He
21 said he had his back to him. Then he rolled on the
22 ground and didn't look up any more. I think he did
23 say though that he looked up and Peter Rabbit had a
24 gun on him shooting. Somebody shooting from across
25 the street. Shooting from three different directions.

① Mr. Thomas, when he was interviewed, said he
② didn't recognize anybody. Told the police that as he
③ walked to the back shooting broke out. Well then
④ later on he never got out of his car. He's saying
⑤ that well, he ran away, then Mr. Mason came and picked
⑥ him up at an apartment. Mr. Mason said no, I met him
⑦ in a parking lot and he walked back. Why did they do
⑧ that? Be in the parking lot of a store and Mason
⑨ drives back and Thomas walks back. You know, this
⑩ doesn't add up. What's that all about? Mr. Mason
⑪ said that -- or Mr. Thomas said well, I was looking
⑫ for Mr. Mason all day. Mr. Mason says well, we spent
⑬ the day together. You know, they were going to get to
⑭ that or were they going to take the dad somewhere. In
⑮ his statement Mr. Thomas indicated to the police that
⑯ he was coming back to drop Mason off because Mason's
⑰ car was there. You know, now they are coming back in
⑱ cars. Thomas has him pulling in like this behind each
⑲ other. Mason has them side by side. There is just so
⑳ many inconsistencies that don't make any sense, that
㉑ they just don't have their story together. It's not
㉒ things that you would forget. Is your car side by
㉓ side or is one behind the other? I would think during
㉔ a shooting you would remember that.

㉕ What's also confusing to me, is how Mason's car

1 wasn't hit. You know, we have got bullet holes in
2 this motor home, in the back of the motor home, coming
3 in like this. We have got bullet holes in the side of
4 the house, we got bullet holes in the back of the
5 car, but Mason's car is not hit. And how did the
6 bullet holes get to the back here anyway? Because
7 supposedly we have guys back here shooting this way,
8 how do bullet holes get in the back of the motor home?
9 Well, Mason said well, there was a guy across the
10 street shooting too. Well, so then Thomas jumps out
11 and runs right towards the guy shooting the gun at
12 him? You know, Thomas didn't testify yeah, somebody
13 was right there with a gun and he must have missed me.
14 You know, none of this adds up.

15 And the real telling thing is this, he has Thomas
16 Wicker with an assault weapon with a magazine this
17 long, an automatic the police say. There is no other
18 weapons but automatics that are like that. An
19 automatic is kicking out shells all the time, empty
20 shells. Where in the heck are the empty shell
21 casings? They find three, three shell casings, and I
22 think one came from across the street. We don't even
23 know if it's involved in this case. Where are all the
24 shell casings? As many gunshots as they say were
25 fired? Well, I suppose they could have had revolvers

1 and fired six rounds and didn't reload. But the way
2 that they described this automatic weapon fire,
3 especially the one at least that they say Mr. Wicker
4 had, we know the shells got to be shooting out the
5 side during all this time. The empty casings, where
6 in the heck are they? The police scour the area for
7 them. They look as far as even across the street.
8 They find three 380's which are from a pistol, an
9 automatic pistol. I think that the officer testified
10 that all 380's that he knew of were automatics.
11 Again, where are all the shell casings? It doesn't
12 make any sense.

13 And when the shooting stops, Mason supposedly
14 stays here, doesn't know where anybody goes, but they
15 just disappear. In a minute or two he's in a car
16 driving away, the police stop him, where did all these
17 guys go? Did they have a car or did they just run
18 away?

19 And then when you look at the photograph, the
20 windshield on Thomas' car is obviously something was
21 thrown on it and pushed it in. You can just tell.
22 Look at it. The police testified well, no, bullets
23 don't do this. He even described that the police
24 officer said something hit the windshield. Well, if
25 Mason is laying by his car, when did these guys come

1 over and smash the windshield like that with an object
2 or something. It just doesn't add up.

3 Did this really happen? You know? They are not
4 out there picking up the shell casings with these guys
5 after the incident because Mason says they just
6 disappeared, and how could you find the shell casings
7 at night anyway. Now Thomas, he remembered being
8 there before, remember? He said oh, it was really
9 bright out there, and that's how I could see, really
10 bright. Well, the police and Mason both say that the
11 flood lights were knocked out. And in Mason's earlier
12 testimony it was relatively dark in the backyard.
13 Well, Thomas is saying it was a bright light because
14 he had been there before, and I don't think he was
15 there that night when this happened. I don't know
16 what those two guys are up to. It's not for us to
17 convince you what they were up to, but it seems like
18 they are up to something.

19 No one wants to call the police. You know, you
20 get shot at by a bunch of people and you don't want to
21 call the cops. Well, you know, Mr. Duggan says well
22 geez, the police didn't believe them before, they
23 didn't do anything before, so I guess now he's going
24 to take it into own hands. Anthony Thomas doesn't
25 look like the kind of guy that takes things into his

1 own hands. Maybe Mason. He's trying to be a tough
2 dude up there, you know, not wanting to answer
3 questions, and as Mr. Duggan indicated, the Judge will
4 say you can use that as kind of a gauge as to whether
5 someone is telling the truth, you know, whether they
6 argue with the lawyers. And I am just trying to go
7 over his prior statements that don't add up.

8 It reminds me when my children were younger, you
9 know, you start questioning them about something and
10 the more solid facts that you come up with that, no,
11 this can't be true because of this over here. And
12 then they get angry and say they don't want to talk
13 about. That's kind of what he wanted to do. I don't
14 want to talk about this any more, you know, and I
15 don't care what you do.

16 A search warrant is executed, no guns are found.
17 You don't see any guns in here. You think if they
18 would have found guns some time, either when they
19 searched before, after the March incident or after
20 they searched during the April incident, do you think
21 that you would see guns here? Do you think they would
22 have brought guns with them and said here, these are
23 the guns we found with Thomas Wicker. Of course they
24 would have brought guns if they existed.

25 Just look at this. Did this really happen? And

1 it's not for you to determine well, and sort out about
2 all this, and all the inconsistencies and why are the
3 bullet holes in the wrong side, you know, why didn't
4 Mason's car get hit when it was right there. You
5 know, Mason is such a big guy with all those bullets
6 going around, you would think he would have just got
7 struck by a stray bullet. You know, you could almost
8 just close your eyes and just shoot in his general
9 direction, you got to hit the guy he's so big.

10 And his car, that's what really gets me, his car
11 didn't have any bullet holes in it. And again, if we
12 got bullet holes in the back of the Cadillac, where is
13 the guy shooting with those bullets if Thomas is
14 running this way toward the guy with the gun. Nothing
15 adds up as to the shooting. The bullet holes aren't
16 in the right places. The windshield is smashed, not
17 by a bullet. There is no shell casings. I don't
18 know. It just seems like that didn't happen.

19 And there sits Thomas Wicker. And he has a
20 reason to lie according to Mr. Duggan, and his grandma
21 does too. He has the burden of proof. And the best
22 he can do is say well, everybody that is on
23 Mr. Wicker's side has a reason to lie. If that's
24 their case, and it kind of must be because that's what
25 he's bringing up all the time. Just remember what

1 Mason told the police. Well, I am almost certain I
2 seen Peter Rabbit. I am almost certain it was Peter
3 Rabbit. And he didn't say in his statement well, it
4 was Peter Rabbit doing this or that. I am almost
5 certain I seen Peter Rabbit there. Mr. Thomas didn't
6 recognize anybody, because he wasn't there.

7 It's kind of a sad case as far as I am concerned
8 when I look at the little evidence that they have here
9 and the quality of their witnesses, and there sits
10 Thomas Wicker having to defend this. You know, they
11 got all the police, and they got investigators and
12 they got crime labs and everything. You didn't hear
13 much of that. Thomas Wicker has me. That's all you
14 get when you are charged with a crime. We don't get
15 investigators and everything. They had them and still
16 couldn't produce any evidence, no physical evidence.
17 They haven't met their burden. They haven't proven
18 this beyond a reasonable doubt. Thank you.

19 **MR. DUGGAN:** Just as in the trial of a criminal
20 case, the People begin the case and end the case with
21 what you heard was rebuttal when the Court asked me
22 after the defense rested we had any rebuttal, I did.
23 I recalled Agent Cowley. So too is the argument
24 that's presented. I start the argument because the
25 People have the burden of going forward and proving