

tell you what questions remained unanswered. He says that elements of the crime were not proved. What elements of the crime were not proved? Every single solitary element was proved, and proved with very strong and convincing evidence. If there are any questions, I ask you, in your own mind, are there any questions in your mind that those two little girls were raped? Absolutely not. They were raped; they were brutally; they were raped by that defendant, Vincent Simmons. Ladies and gentlemen of the jury, when we started this case, and I first talked with you, I told you that we were going to bring evidence here and testimonies here, to prove to you the guilt of this defendant beyond a reasonable doubt. I submit that we have far -- far exceeded the criteria for reasonable doubt, and we have just about proved it to you to an absolute certainty. Indeed, this crime has been proved beyond a reasonable doubt. Now, I have done my job. Now, it's time for you to go into deliberation and do your job. And, I ask that you come back with a just and equitable verdict in this matter. You come back with verdicts of guilty as charged on count one, Attempted Aggravated Rape of Sharon Sanders; and count two, Attempted Aggravated Rape of Karen Sanders. Once you've done that, you will have done your duty. I think you.

**(COURT'S CHARGES TO THE JURY BEFORE DELIBERATION)**

**BY THE COURT:**

Members of the Jury, now that you have heard the evidence and the arguments, it becomes my duty to give you the instructions of the court as to the law, which is applicable in this case. It is your duty as jurors to follow the law as stated in the

instructions of the court, and apply the rules of law so given to the facts as you find them from the evidence in the case. You are not to single out one instruction alone, as stating the law, but you must consider the instruction as a whole. Neither are you to be concerned with the wisdom of any rules of law stated by the court. Regardless of any opinion, you may have as to what the law ought to be. It would be a violation of your sworn duty to base a verdict upon any other view of the law, than that given in the instructions of the court. Just as it would be a violation of your sworn duty as judges of the facts to base a verdict upon anything but the evidence in the case. Justice through trial by jury must always depend upon the willingness of each individual juror to find the truth as to the facts from the same evidence presented to all the jurors, and to arrive at a verdict by applying the same rules of law, as given in the instructions of the court. You have been chosen and sworn as jurors in this case, to try the issues of fact, presented by the indictment or the bill, which was read to you at the beginning of the trial and the denial of guilt by the defendant. You are to perform this duty without bias or prejudice as to any party. The law does not permit jurors to be governed by sympathy, prejudice or public opinion. Both, the accused and the public, expect that you will carefully and impartially consider all the evidence in the case, follow the law as given by the court, and reach a just verdict, regardless of the consequences. You will recall that the charge here, is a charge of "Attempted Aggravated Rape" on two people. The names are given in the indictment, is Sharon and Karen Sanders; they are twin girls.

The court will read to you, what the law is, with reference to attempt. That is defined by Article 27 of our Criminal Code. Any person, who, having a specific intent to commit a crime, does or omits an act for the purpose of intending directly and towards the accomplishing of his object, is guilty of an attempt to commit the offense intended. And, it shall be immaterial, whether, under the circumstances, he would have actually accomplished his purpose. Mere preparation to commit a crime, shall not be sufficient to constitute an attempt. But lying in wait with a dangerous weapon with the intent to commit a crime, or searching for the intended victim with a dangerous weapon, with the intent to commit a crime, shall be sufficient to constitute an attempt to commit the offense intended. An attempt is a separate but lesser grade of the intended crime. And any person may be convicted of an attempt to commit a crime, although it appears on the trial, that the crime intended or attempted, was actually perpetrated by such person, in pursuance of the attempt. Since the crime of Attempted Aggravated Rape, or rapes, are involved, here, the court will read to you what constitutes rape. As last amended in our law, a heterosexual -- that's a rape between persons of different gender, between male and female, is the act of sexual intercourse with a female person, not the wife of or judicially separated from bed and board from the offender, committed without her lawful consent, emission is not necessary and any sexual penetration, vaginal or anal, however slight, is sufficient to complete the crime. Then, we have the charge. This is rape, and we have attempted aggravated rape. So, I'll read the law to you, with reference to Aggravated rape. Aggravated

rape is a rape heterosexual or homosexual committed where the sexual intercourse is deemed to be without the lawful consent of the victim, because it is committed under any one or more of the following circumstances. 1) When the Victim resists the act to the utmost, but whose resistance is over come<sup>d</sup> by force; 2) When the victim is prevented from resisting the act, by threats of great and immediate bodily harm, accompanied by apparent power of execution. The law presumes a defendant to be innocent of crime, plus, a defendant, although/<sup>he</sup>is accused, he begins the trial with a clean slate, with no evidence against him. And the law permits nothing but legal evidence presented before the jury, to be considered in support of any charge against the accused. So, the presumption of innocence, alone, is sufficient to acquit the defendant, unless the jurors are satisfied beyond a reasonable doubt of the defendant's guilt from all of the evidence in the case. A reasonable doubt is a fair doubt. It is a doubt that you can give a reason for. It must be based upon reason and common sense, and arising from the State of the evidence. It is rarely possible to prove anything to an absolute certainty. Proof beyond a reasonable doubt, is such, as you would be willing to rely and act upon, in the most important of your own affairs. A defendant is never to be convicted on mere suspicion or conjecture. A reasonable doubt may arise not only from the evidence produced, but also from the lack of evidence. Since the burden is always upon the prosecution to prove the accused guilty, beyond a reasonable doubt, of every essential element of the crime charged, a defendant has the right to rely upon the failure of the prosecution to establish such proof. A defendant

may also rely upon evidence brought out on cross examination of witnesses for the prosecution. The law never imposes upon a defendant in a criminal case, the burden or duty of producing any evidence. A reasonable doubt exists in any case, when after careful and impartial consideration of all the evidence in the case, the jurors do not feel convinced to a moral certainty that the defendant is guilty of the charge. An indictment or bill is but a formal method of choosing the defendant of a crime. It is not evidence of any crime against the accused, and does not create any presumption or permit any inference of guilt. There are two types of evidence, <sup>from</sup> which a jury may probably find a defendant guilty of crime. One is direct evidence, such as the testimony of eye witnesses. The other is circumstantial evidence, the proof of a chain of circumstances pointing to the commission of the offense. As a general rule, the law makes no distinction between direct and circumstantial evidence. But simply requires that before convicting a defendant, the Jury must be satisfied of the defendant's guilt beyond a reasonable doubt from all of the evidence in the case. And, if the evidence is entirely circumstantial, it must exclude every reasonable hypothesis of innocence. Statements and arguments of the lawyers are not evidence in the case, unless made as an admission or a stipulation of fact. Unless you are otherwise instructed, the evidence in the case always consists of the sworn testimony of the witnesses, regardless of who may have called them, and all exhibits received in evidence, regardless of who may have produced them; and all applicable presumptions stated in these instructions. Any evidence as to which an objection was sustained

by the court, and any evidence ordered stricken by the court, must be entirely disregarded. Anything you may have seen or heard, outside of the courtroom, touching upon this case, is not evidence, and must be entirely disregarded. You are to consider only the evidence in the case. But, in your consideration of the evidence, you are not limited to the bald statements of the witnesses. In other words, you are not limited, solely to what you see and hear the witnesses testify. On the contrary, you are permitted to draw from the facts which you find have been proved such reasonable inferences as seemed justified in the light of your own experiences. Inferences or deductions or conclusions, which reason and common sense lead the jury to draw from the facts, which have been established by the evidence in the case. Presumptions or deductions or conclusions which the law requires the jury to make, under certain circumstances, in the absence of evidence in the case, which leads the jury to a different or contrary conclusion. You as jurors are the sole judges of the credibility of the witnesses and the weight their testimony deserves. Ordinarily, it is assumed that a witness will speak the truth, but this assumption may be dispelled by the appearance and conduct of the witness; or by the manner in which the witness testifies, or by the character of the testimony given, or by evidence to the contrary of the testimony given. You should carefully scrutinize all the testimony given; the circumstances under which each witness has testified; and every matter in evidence which tends to indicate whether a witness is worthy of belief. Consider each witness' intelligence; his motive; his state of mind; his demeanor and manner while on the witness stand. Consider also

any relation each witness may bear to either side of the case. The manner in which each witness might be affected by the verdict; and the extent to which, if at all, each witness is either supported or contradicted by other evidence in the case. Inconsistencies or discrepancies in the testimony of a witness or between the testimony of different witnesses, may or may not cause the jury to discredit such testimony. Two or more persons, witnessing an incident, or a transaction, may see or hear it differently. And, innocent misrecollection, like failure of recollection, is not an uncommon experience. In weighing the affect of a discrepancy, always consider whether it pertains to a matter of importance, or an unimportant detail, and whether the discrepancy results from innocent error or intentional falsehood. [ After making your own judgment, you will give the testimony of each witness such credibility, if any, as you may think it deserves. A witness may be discredited or impeached by contradictory evidence, or by evidence, that at some other time, the witness has said or done something, or has failed to do or says something which is inconsistent with the witness' present testimony, or he may be impeached by evidence that that witness has been convicted of crime. ] If you believe that any witness has been impeached it is your exclusive province to give the testimony of that witness such credibility, if any, as you think it deserves. If a witness is shown knowingly to have testified falsely, concerning any material matter, you have a right to distrust such witness' testimony in other particulars, and you may reject all the testimony of that witness, or you may give it such credibility as you think it deserves. A defendant who wishesto testify is a competent

witness. And, the defendant's testimony is to be judged in the same manner as that of the other witnesses. In a crime such as is now before the court, there must exist a union or joint operation and act with an intention; burden is always upon the prosecutioner to prove both, the act and the intent, beyond a reasonable doubt. A person, who knowingly does an act, as the law forbids, or knowingly fails to do an act, as the law requires it to be done, intending with that purpose, either to disobey or disregard the law, may be found to act with a specific intent. Intent may be proved by circumstantial evidence; indeed it can rarely be established by any other means. While witnesses may see and hear and be able to give direct evidence as to what a defendant did or failed to do, of course there can be no eye witness account of the state of mind with which the acts were done. But, what a defendant does, or fails to do, may indicate intent or lack of intent, to commit the offense charged. As a general rule, it is reasonable to infer that a person ordinarily intends all the natural and probable consequences of acts knowingly done. So, unless the evidence in the case leads the jury to a different or contrary conclusion, the jury may draw the inference and find the accused intended all the natural and probable consequences which one, standing in like circumstances, and possessing like knowledge, should reasonably have expected to result from any act knowingly done or knowingly omitted by the accused. It is the duty of the attorneys on each side of a case to object when the other side offers testimony or other evidence which the attorney believes is not properly admissible. Upon allowing testimony or other evidence to be introduced over the objection of an attorney,



the court does not indicate any opinion as to the weight or the affect of such evidence. As stated before, the jurors, you, are the sole judges of the credibility of all witnesses, and the weight and the affect of all evidence. When the court has sustained an objection to a question addressed to a witness, the jury must disregard the question entirely, and may draw inference from the wording of it, or speculate as to what the witness would have said, had he been permitted to answer the question. You are here to determine the guilt or the innocence of the accused from the evidence in this case. You are not called upon to return a verdict as to the guilt or innocence on any other person. So, if the evidence in the case convinces you beyond a reasonable doubt of the guilt of the accused, you should so find. But, if any reasonable doubt remains in your mind, after impartial consideration of all the evidence in the case, you should acquit the accused. You have noted that in the bill before you, that there are two separate charges or counts in the indictment. Each offense and the evidence applicable thereto, should be considered separately by you. The fact that you may find the accused guilty or not guilty as to one of the offenses charged, should not control your verdict as to the other offense charged. In other words, you will be called upon to return a verdict on two different charges, contained in the same bill. There are two persons involved, and so you will be required to make a verdict as to each one. The verdict must represent the considered judgment of each juror. In order to reach a verdict, it is necessary that 10 of you agree on the verdict. This is not a case of majority rule. It requires that these 10

of you, out of the twelve, to agree on a verdict. It is your duty as jurors to consult with one another; to deliberate with a view of reaching an agreement, if you can do so without violence to your own individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence in the case with your fellow jurors. In the course of your deliberations, do not hesitate to re-examine your own views and change your opinion, if you are convinced it was erroneous. Do not surrender your honest convictions as to the weight or effect of the evidence, solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict. Remember, at all times, you are not partisans. You are judges — judges of the facts. And, your sole interest is to ascertain the truth from the evidence in the case. There is nothing peculiarly different in the way a jury should consider the evidence in a criminal case, from that in which all reasonable persons treat any questions depending upon evidence presented to them. You are expected to use your good sense; consider the evidence in the case for only those purposes for which it has been admitted, and give it a fair and reasonable construction, in the light of your common knowledge and of the natural tendencies and inclinations of human beings. Upon retiring to the jury room, you will select one of your number to act as your foreman. The foreman will preside over your deliberations and will be your spokesman here in Court. The court is permitted to let you take in the jury room, forms of verdict or verdicts, which you can render in this case. Remember, I told you before, that you had two charges to pass upon. So, I will read to you the various possible verdicts

render. Whatever verdict you agree upon, you  
the back -- the foreman will write it upon

sheet of paper, upon which I have written the  
possible verdicts on the front. And, he will select -- remember,  
there will have to be at least two verdicts, because there's two  
charges. So, the foreman will write each of the verdicts on each  
charge, and sign it by the foreman, or by all of you who agree  
on the verdict. I'll read the verdict so that you will under-  
stand the possible verdict.

"We, the jury, find the defendant guilty of attempted  
aggravated rape on Sharon Sanders." "We, the jury, find  
the defendant guilty of attempted simple rape of Sharon  
Sanders." "We, the jury find the defendant not guilty  
on the charge relating to Sharon Sanders."

So, you see, that's on one charge. One of these three -- you  
have more than one verdict -- one of these three for each. The  
same for the other.

"We, the jury, find the defendant guilty of attempted  
aggravated rape of Sharon Sanders." "We, the jury, find  
the defendant guilty of attempted simple rape of Sharon  
Sanders." "We, the jury, find the defendant  
not guilty on the charge relating to Sharon Sanders."

So, the court will permit you to take ...

BY MR. KNOLL:

Your Honor, may we approach the bench?

BY THE COURT:

Yes, sir. So, the court, I repeat, it  
a verdict, regardless of what it might be.

BY MR. BROUILLETTE:

That's correct.

BY THE COURT:

Allright.

BY MR. BROUILLETTE:

Now, with respect to the -- with respect to the responsive verdicts, prior to the possible verdicts being presented to the jury, defense made known its objection to the court's failure and refusal to include, as a responsive verdict, the offense of the verdict of guilty of attempted forcible rape.

BY THE COURT:

Yes, sir.

BY MR. BROUILLETTE:

And, the court overruled the objection, and that was not presented to the jury; and we wish to object to the ruling by the court, at this time.

BY THE COURT:

Allright, this is correct. That was objected to, and that will be entered on the record. The court refused to give that, because ~~the~~ the expressed declarations of 814, of the Code of Criminal Procedure, as last amended, that Article ~~---~~, I should not give it. So, I didn't give it.

BY MR. BROUILLETTE:

And, it's the position of the defense that since forcible rape is responsive to the crime of Aggravated rape, that the attempt would necessarily follow; and that this is either a printing or typographical error, and that the court should take cognizance of so obvious an error.

BY THE COURT:

Allright, let the objection be noted.

(RESUMING AFTER DELIBERATION OF JURY)

BY THE COURT:

The record will show that the jury has been deliberating for some time on its verdict. The court was informed that they had reached a verdict. The record will show that at this time, the District Attorney and his assistant are present. The defense attorney and the defendant are present in court. And, the twelve jurors have filed back in the jury box. Have y'all agreed on a verdict, sir?

BY MR. FOREMAN: Yes, sir.

BY THE COURT:

Would you send it and let me look at it?

Allright, Madame Clerk, you will read the verdict.

BY MADAME CLERK:

We, the jury, find the defendant guilty of "Attempted Aggravated Rape" of Sharon Sanders. Count one. Signed by the 12 jurors. Count two: We, the jury, find defendant guilty of attempted aggravated rape of Karen Sanders. Signed by the 12 jurors.

(AT THIS TIME, POLLING OF THE JURY WAS REQUESTED BY COUNSEL FOR DEFENSE, MR. HAROLD BROUILLETTE)

All 12 jurors answered "yes" to said polling, as to them finding the defendant guilty of "Attempted Aggravated Rape" on count one - Sharon Sanders; and guilty of "Attempted Aggravated Rape" on count two - Karen Sanders. The verdict was unanimous.

BY THE COURT:

Allright, the jury was polled in the presence of the parties. The verdict seems to be unanimous on both counts charged on the bill

of indictment; the court will order the verdict recorded, and  
made the judgment of the court. And, we'll remand the defendant  
for sentencing to a later date. The jury is dismissed.

END