

1 the courtroom.)

2 THE COURT: Mr. Urick, at your leasure.

3 MR. URICK: Thank you, Your Honor.

4 REBUTTAL ARGUMENT BY MR. URICK

5 MR. URICK: May it please the Court, counsel,
6 Madam Forelady, ladies and gentlemen of the jury, good
7 afternoon.

8 THE JURY: Good afternoon.

9 MR. URICK: At the beginning of this trial, I
10 thanked you for your presence and I thank you again, and I
11 thank you for the patience and time that you have devoted
12 to this.

13 The Judge instructed you on the law. The Judge
14 told you that comments of counsel, the arguments of counsel
15 are not evidence and she told you what evidence is.
16 Evidence is when people sit in this chair and talk to you.
17 That's primarily most of the evidence that you have been
18 given.

19 It is also supplementary, various documents and
20 exhibits that have been allowed to be prepared, presented,
21 and given to you. The Judge told you you are the sole
22 deciders of what the facts are. It isn't what I tell you,
23 what Ms. Gutierrez tells you, it's what you remember the
24 witness having said and using common sense to interpret it.
25 It's also your determination what to believe and what not

1 to believe. That's your decision.

2 The Judge told you something else that's very
3 important, though. She told you about direct and
4 circumstantial evidence, direct being something that
5 somebody actually saw at the moment that it was happening.
6 That is direct evidence. The person who saw that can tell
7 you I saw this. That's direct evidence.

8 Circumstantial evidence is inferences that you
9 can draw from a set of facts. A common example that's
10 often used is it's a wintry day, a fresh snow has fallen.
11 You get up early in the morning, you bake a pie, it's a hot
12 pie, you set it on the windowsill to cool. You come back
13 15 minutes later, the pie is gone. You look out your
14 window and you notice footprints in the snow. Those
15 footprints come from your neighbor's front porch and go
16 back to the neighbor's front porch. At that point you have
17 some circumstances that you can draw inferences from.
18 Based on that, you would probably say it's reasonable to
19 infer that the neighbor came over and took the pie.

20 Now, if you knew as well that that neighbor had a
21 sweet tooth for that particular type of pie, that would be
22 even more evidence that would convince you that you are
23 right. But that is a circumstantial inference based on
24 facts, and the Judge told you that evidence is both direct
25 and circumstantial and that the law makes no difference

1 between it as to weight or importance. Some -- common
2 sense because you may have heard the old saying oh, that's
3 just circumstantial, you shouldn't take that into account.
4 That is not how the law looks at it. You are allowed to
5 draw inferences from facts.

6 And let me give you an example of a type of
7 inference that you can draw from this case. The Defense
8 told you that nothing puts the cell phone between roughly
9 12:40 and 9:00 into the Defendant's hands --

10 MS. GUTIERREZ: Objection. That's not what I
11 argued.

12 THE COURT: Overruled.

13 MR. URICK: -- other than the testimony of Jay
14 Wilds. Now, there is some other evidence that puts that
15 cell phone into the Defendant's hands. It's the pattern of
16 calls. Krista Meyers told you about leaving a message on
17 the Defendant's voice mail. You see at 5:14 that voice
18 mail is checked. Somebody got into the voice mail to hear
19 the message that was left on the voice mail. The very next
20 call is to the Meyers residence, Krista Meyers' residence.

21 Before that, there was a call to Neisha Tanner's
22 residence. There's a call to Yassar Ali's residence in
23 this period. All of these are friends of the Defendant.

24 The Defense said you have to speculate that the
25 Defendant made these. You do not have to speculate, you

1 can draw a reasonable inference from these facts, combined
2 with the facts that the people who are called in that
3 period are exactly the same people who are called after
4 9:00. Krista Meyers is called, Neisha Tanner is called,
5 Yassar Ali is called. These are not a random pattern of
6 calls, these are deliberately made calls to contact a
7 particular person. There is a repetition to the pattern
8 that repeats after 9:00, at which time Krista Meyers --
9 testified as to the two calls that she got. She remembers
10 talking to the Defendant, that he told her he had talked to
11 the Baltimore County Police and that at the time he was
12 calling her he was in his car. This is at 9:03 and 9:10.
13 Neisha Tanner is called at 9:01. That is a pattern of
14 facts from which you can draw an inference. You can draw
15 another inference from that as well. The Defendant was not
16 at the mosque.

17 Everyone told you that the prayer session at the
18 mosque was from 8 till 10, it was 2 hours long and it was a
19 continuous prayer. He is not at the mosque. The cell
20 phone proves he's not at the mosque. That's an inference
21 that you can draw from that circumstantial evidence, and
22 circumstantial evidence is just as valid for you to act on
23 as direct evidence of someone saying I saw him parked on
24 such and such street at such and such time. You make
25 reasonable inferences. This is not speculation, this is

1 inferences based on evidence, making reasonable
2 conclusions.

3 The Defense wants you to think that the State is
4 required to talk to every single person, to look at every
5 little thing. And what do they tell you that the State
6 overlooked? They showed you Rebecca Walker's journal. Of
7 course, they got it from the State in the first place.

8 MS. GUTIERREZ: Objection.

9 THE COURT: Overruled.

10 MR. URICK: And what's the very first entry in
11 that journal? Adnan's character. She testified as to what
12 she was doing. She was a very close friend who was writing
13 a defense of her friend. That is the purpose of that
14 journal. We talked to her about it and we got it. Is that
15 evidence that we have to act on, that one of her friends is
16 trying to defend her? Is that something that was
17 overlooked?

18 The Defense then says well, there was this ATM
19 transaction on January 13th, they could have gone out and
20 talked to the manager, could have done all these other
21 things, that they overlooked all this other stuff. Now,
22 what they are doing is saying don't look at the evidence
23 they actually have, which are all the fingerprint analyses
24 that were done, all of which eliminate any suspect other
25 than the Defendant. Other than the victim's, his

1 fingerprints are the only ones found in the car. That is a
2 circumstance that you can make an inference from. The fact
3 that it's on the book, that the page from the Leakin Park
4 map was torn out is another fact that you can draw an
5 inference from.

6 You've got the hair analyses. And remember what
7 Mr. Bianca told you about his analysis. He told you not
8 that the analysis excluded the Defendant as a suspect but
9 he told you that he could not state that there was a match
10 here because there were not enough of the characteristics
11 that they look to to be able to say there's a match here.

12 MS. GUTIERREZ: Objection. That was not Bianca's
13 testimony.

14 THE COURT: Overruled. And the jury's been
15 instructed that what the attorneys say is not evidence.
16 It's their collective recollection as to what the evidence
17 is.

18 You may proceed, Mr. Urick.

19 MR. URICK: And Mr. Bianca told you that one of
20 these characteristics is pigment color of the hair and he
21 told you that the Defendant's hair pigmentation and color
22 was unique. He told you those hairs had the same unique
23 pigment coloration as the Defendant's hairs but there were
24 not enough of the total criteria to say as a conclusion
25 there was a match.

1 The Defense says that the State did a search of
2 the Defendant's house and didn't get anything that connects
3 him to the crime. Well, State's Exhibit 38 is the letter
4 that we had read in court from Hey Men Lee telling the
5 Defendant, apparently after the first break up, this is
6 over. And on the back of it was the back and forth, cold,
7 sarcastic conversation between the Defendant and Ayisha
8 Pittman about whether or not Ms. Lee had had an abortion.
9 But significantly, there's another communication on here.
10 At the top of the page, identified in the Defendant's
11 handwriting, unrelated to anything else in the letter that
12 says, "I'm going to kill."

13 The Defense says the State didn't test suspects.
14 We got Don Kleindas' work records showing that he was at
15 work till 6:00 the day of the 13th. His alibi is ironclad.

16 MS. GUTIERREZ: Objection.

17 THE COURT: Overruled.

18 MR. URICK: The Defense says that on
19 February 24th the Defendant was arrested solely because of
20 the testimony of Jay Wilds.

21 MS. GUTIERREZ: Objection. He wasn't arrested on
22 the 24th.

23 THE COURT: Overruled, counsel.

24 MR. URICK: The 28th I think it was.

25 The day he was arrested, think back to what

1 Detective McGilvery told you. They had subpoenaed the
2 Defendant's cell phone records. These records were the
3 evidence that led them to Jennifer Pusitari as they began
4 seeing where these calls -- where the phones that were
5 called were located. They got an address for this
6 residence, they went there, they found Jennifer Pusitari.
7 So they had two pieces of evidence: they had the cell
8 phone records, they had the statement from Ms. Pusitari
9 before they ever got to Jay Wilds. And all of this was
10 derived from the Defendant's cell phone records. That is a
11 circumstantial fact that you can draw a reasonable
12 inference from.

13 But we have something else. We have the business
14 records of that cell phone, and guess what these records
15 show. That the service was taken out by somebody who's not
16 a family member by the name of Mallal Akmed; that the
17 service user, his name is Adrian, A-D-R-I-A-N, Syedd,
18 S-Y-E-D-D. That's not the Defendant's name. Remember,
19 this was a stipulated fact. It's uncontested, these are
20 the Defendant's cell phone records. They're not even in
21 his name. That's a circumstantial fact that you can draw
22 any reasonable inference that you want to.

23 And when was this service taken out?
24 January 11th, two days before the murder. Well, the
25 Defense had people say well, he needed to talk to girls.

1 He went with Hey Men Lee from the spring of 1998 till
2 December of 1999 without a cell phone. He had no problems
3 in that relationship. They say well, he needed it for
4 work. He had been working for four months. And as what?
5 An emergency medical technician who's trained in how to
6 save lives. He had been able to work satisfactorily for
7 months without a cell phone. He had a pager if they needed
8 to contact him, he had a home phone.

9 But the Defense says well, the State just wants
10 you to speculate. No, there is evidence and that evidence
11 is what you should derive your conclusion from. And the
12 fact that it is circumstantial you can use just as much as
13 if it were direct. The law makes no distinction between
14 the two.

15 As to the cell phone, Mr. Abromowitz testified as
16 to the functioning of the system as a test to see -- if the
17 witness said the phone was at a particular place and we
18 have a cell phone record, can we test it somehow to see if
19 the system operates that way. He said yes. He said I can
20 go to the same spot and see what signal the phone
21 originates. And he told you it's the phone that selects
22 the cell tower because it latches onto or identifies the
23 strongest signal that it can.

24 Well, once we did that, when he went to the
25 Gateway Terrace location where Dina Vincent lives, he found

1 that there were two almost identical strength signals,
2 either one of which a cell phone could originate a call
3 through and that those were cells 608C and 605A. And lo
4 and behold, three calls in the time period that two
5 different witnesses put them at that location, both of
6 those sites originate calls out of this cell phone.

7 The Defense tells you well, they can't place you
8 specifically within any place by this. Absolutely true,
9 but look at 7:09 and 7:16, 689B, which is the Leakin Park
10 coverage area. There's a witness who says they were in
11 Leakin Park. If the cell coverage area comes back as that
12 that includes Leakin Park, that is reasonable
13 circumstantial evidence that you can use to say they were
14 in Leakin Park. You've got it two ways: through the cell
15 phone records, through the witness testimony. The two mesh
16 together. And notice again that cell phone is nowhere near
17 the mosque, which would be at the corner of Johnnycake and
18 Rolling Road, which is over here, which is right near the
19 Defendant's house, too. That cell phone is way downtown at
20 689B. That's another inference from which you can say the
21 Defendant was not at the mosque.

22 And immediately following that are the two calls
23 in the 653A and C areas that would be consistent with a car
24 on Edmondson Avenue, moving back towards Woodlawn, and
25 those are at 8:04, 8:05. That cell phone is not at the

1 mosque, the Defendant is not at the mosque. He called his
2 friend Yassar Ali at 6:59 p.m. He is not at the mosque.
3 You've got intermeshing circumstantial evidence greater
4 than any witness testimony.

5 But you've got something else in this case. The
6 Defense says that it was this anonymous tip that made the
7 police fixate on the Defendant. Well, you notice what they
8 overlook is that it's clear, if you look at that anonymous
9 tip, it didn't come out of the Woodlawn community, it came
10 out of the Muslim community because it contains information
11 that only people in the Muslim community could have known,
12 such as Yassar Ali's phone number, which is the same one
13 that's on the records and also had his name, although the
14 person who took it thought it was a V instead of a Y, so he
15 wrote down Vassar instead of Yassar.

16 And they want to say there is this anonymous tip
17 that made the police fixate on the Defendant. Well,
18 Ms. Murphy told you about certain things: opportunity,
19 motive. Why do people become suspects? Why are they
20 investigated? Because they might have a motive, they might
21 have an opportunity, they may have a means. It does not
22 take brilliant police deduction when you have a suspicious
23 death to start investigating people who were close to that
24 individual. If a female is killed, husbands and boyfriends
25 become prime initial suspects. And if you find one that

1 has possibly a motive because he's a disgruntled former
2 boyfriend, then you will look a little bit closer.

3 This was not a fixation from the police because
4 there was some anonymous tip that may have put a ring
5 through their nose --

6 MS. GUTIERREZ: Objection.

7 MR. URICK: -- and then follow. They were doing
8 what a reasonable person would do, which is all they're
9 required to do. They are investigating reasonably based on
10 motive, based on opportunity, based on means. They
11 investigated, they got the cell phone records, they caught
12 the witnesses, they get the cell phone records, Jen
13 Pusitari, Jay Wilds, they get the car of the victim. They
14 then arrest the Defendant.

15 And there's something else that tells you that
16 this was the Defendant, and Ms. Murphy touched on that.
17 It's the way the crime was committed. This was an
18 intensely personal crime. It took maybe 15 seconds.

19 Now, the Defense told you it's fantastic that Jay
20 Wilds could look in the trunk of a car for 10 seconds and
21 see taupe stockings and identify Hey Lee. No, it's not.
22 Not when you're in a very heightened, traumatic situation.
23 If you've ever stepped into the street and seen a car
24 coming for you, your life flashes before your eyes. When
25 you're in that type of situation, time seems to take

1 forever because you are intensely focused on what's
2 happening. You pick up details that you normally don't pay
3 attention to.

4 It took 15 seconds, by the way, to kill Hey Men
5 Lee. Have you ever thought about how much you can think
6 about in 15 seconds? And the person who did this had a lot
7 to think about because this was an intentional, deliberate
8 killing.

9 Thank you.

10 THE COURT: Thank you.

11 Ladies and gentlemen, at this time I'm going to
12 excuse you for lunch, but before I do so I have to do
13 something else. The alternates are going to be excused at
14 this time, and I must tell you at this time I'm doing so
15 with my great thanks and appreciation. You have served for
16 the last six weeks as jurors. You've come faithfully each
17 day, you've arrived on time and promptly, you've been
18 attentive. And we had no way of knowing whether or not we
19 would need you or not. As you know, we started out with
20 more alternates. So it was highly possible that your
21 assistance would have been needed.

22 But at this time, because when the jurors return,
23 they will begin deliberation, I must excuse you because
24 only 12 can go into the jury room and deliberate in this
25 matter. So at this time Mr. White and Ms. Connolly are

1 going to walk you to the door. What they have in their
2 hands are work slips for you and what they have are
3 verification of your jury service and a letter from me with
4 my thanks, indicating that you have served the citizens of
5 Baltimore dutifully and your required jury service is now
6 over. You have completed one trial. As they say, one
7 trial or one day, and in this case it was one trial.

8 Thank you very much. You are welcome to take
9 your notepads, your notes with you. You can tear them up,
10 you can keep them as souvenirs. You can do anything that
11 you would like with them.

12 I will tell you that the attorneys sometime like
13 to talk to those alternates that have been excused. It's
14 our absolute right to speak with them if you want or not
15 speak with them if you don't want, because at this time you
16 are free to go.

17 If you have not been paid, the jury commissioner
18 is awaiting you.

19 Now, ladies and gentlemen of the jury, I'm going
20 to advise you this time you can take your notes with you,
21 and I'd ask that you do that. This time I'm going to
22 advise you that when you go to the jury room to deliberate
23 after lunch you may discuss the testimony and you may
24 discuss your notes once all 12 of you are present. You may
25 not -- yes, you may take your notes with you, and that

1 includes the Xerox page that you have where you may written
2 your handwritten notes as there was testimony. Those are
3 your notes.

4 Now, I must ask that when you arrive in the jury
5 room --

6 Madam Forelady, when you 12 of you are present,
7 if you will press the buzzer, that will be the signal to me
8 in my chamber that you've begun deliberation. And that
9 will also be the signal for Mr. White to bring you all of
10 the evidence. That is, you cannot have all the evidence or
11 begin deliberations until all are present.

12 And so, at this time I'm going to remind you that
13 you will go to lunch. You will go and be paid first. The
14 Jury Commissioner is awaiting you for that. And then you
15 may go to lunch. Following lunch, you should report to the
16 original jury room because I have to give, give --
17 downstairs at 337. That door will be unlocked and there
18 will be a sheriff sitting outside that door that you've
19 indicated you'd like to make sure that no one else is
20 around. And so, we will make sure that that occurs and the
21 sheriff will stay there outside of the door for your needs
22 or anything that you may need to ensure that no one is
23 outside the door or in the room when you're starting your
24 deliberations.

25 And if you need us, remember, if you need to send

1 a message, write it on the notepad, press the button, and
2 we will retrieve the note. If you have a verdict, don't
3 give that to anyone. Press the button and we'll retrieve
4 you and have you brought back in the courtroom and we'll
5 take your verdict from the courtroom. And again, we'll use
6 the courtroom downstairs, which is my real courtroom.

7 At this time I must advise you that the
8 Commissioner is waiting, so go there first. And you should
9 be back from lunch no later than 2:30. If you want to
10 bring your lunch back with you, you're welcome to do that
11 and eat lunch in that room. But you should be back in that
12 jury room no later than 2:30, and I'll be looking for the
13 buzzer to ring when all 12 of you are present.

14 At this present, you may go with Ms. Connolly to
15 collect your belongings and then go along to the Jury
16 Commissioner to be paid and then to lunch.

17 (Whereupon, at 1:34 p.m., the jury was excused.)

18 THE COURT: This Court will stand in recess then
19 until we hear something from the jurors.

20 Ms. Gutierrez, Ms. Murphy, Mr. Urick, a note
21 indicating what phone number, where you can be reached and
22 return in no more than 10 minutes to the courthouse.
23 Before anything happens in terms of any verdicts, I want to
24 thank the Defense and the Prosecution for the professional
25 way you've conducted yourselves in my courtroom. I greatly

1 appreciate the professionalism but, more importantly, your
2 punctuality and time and attention. So regardless of the
3 verdict, I want you to know that I appreciate it and I look
4 forward to having you all back in my courtroom on another
5 occasion.

6 This Court will stand in recess then.

7 (Whereupon, at 1:35 p.m., the trial was recessed
8 and subsequently reconvened at 4:25 p.m.)

9 THE COURT: Counsel, I received notification that
10 the jury has a verdict and, unfortunately, we were advised
11 that there was no courtroom clerk, stenographer available
12 in my courtroom, so we're back here. And with the number
13 of spectators, probably a good thing in light of the fact
14 that I have such a small courtroom.

15 All the jurors have been moved up to this jury
16 room and my law clerk will have them out in a moment.

17 (Pause)

18 (Whereupon, at 4:27, the jury returned to the
19 courtroom.)

20 THE COURT: Ladies and gentlemen, you may be
21 seated.

22 Mr. White, will you proceed?

23 THE CLERK: Members of the jury, have you agreed
24 upon a verdict?

25 THE JURY: Yes.