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Illinois State Bar Association High School Invitational

Mock Trial Case

People of the State of Illinois

v.

Casey Jones

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IN THE CIRCUIT COURT OF THE TWENTY-FOURTH JUDICIAL CIRCUIT
LINCOLN COUNTY, ILLINOIS

People of the State of Illinois,)
Plaintiff,)
)
v.) Case No. 15-4242
Casey Jones,)
Defendant.)

INFORMATION

Count I

Now on this 3rd day of June, in the year 2014, comes into Court, Margaret J. Smith, State's Attorney in and for the County of Lincoln, State of Illinois, in the name and by the authority of the People of said State of Illinois, and prosecutes in her behalf for and on behalf of said People, and informs the Court that Casey Jones, of said County and State, on or about the 16th day of May, in the year 2014, at and within the County of Lincoln, State of Illinois, committed the offense of, **HOME INVASION**, in that said defendant, who was not a police officer acting in the line of duty, entered the dwelling of Kelly Morgan knowing Kelly Morgan to be present and, while armed with a stun gun, used force against Kelly Morgan, a person within the dwelling place, in that said defendant battered Kelly Morgan with defendant's fists and with a stun gun.

In violation of the Criminal Code of 1961, as amended, Chapter 720 ILCS 5/19-6(a)(1) and against the peace and dignity of the same People of Illinois.

Margaret J. Smith

State's Attorney in and for said County

Count II

And the said State's Attorney in and for the County and State aforesaid, in the name and by the authority of the People of the State of Illinois aforesaid, gives the Court to further understand and be informed that one Casey Jones, of said County and State, on or about the 16th day of May, in the year 2014, within the County of Lincoln and State of Illinois, committed the offense of **AGGRAVATED BATTERY**, in that said defendant, in violation of Illinois Compiled States, Section 12-3 Chapter 38, intentionally caused bodily harm to Kelly Morgan in that he battered Kelly Morgan with defendant's fists while masked or hooded in such a manner as to conceal his/her identity.

In violation of the Criminal Code of 1961, as amended, 720 ILCS 5/12-3.05(f)(2) and against the peace and dignity of the same People of Illinois.

Margaret J. Smith

State's Attorney in and for said County

STATEMENT OF THE CASE

The Defendant, Casey Jones, is charged by the People of the State of Illinois with having committed the following criminal acts:

1. On or about May 16, 2014, at and within the County of Lincoln, State of Illinois, Defendant committed the offense of Home Invasion in that said Defendant, while armed with a stun gun and with the use of force against Kelly Morgan entered the dwelling of Kelly Morgan knowing Kelly Morgan to be present and not a peace officer acting in the line of duty.

2. On or about May 16, 2014, at and within the County of Lincoln, State of Illinois, Defendant committed the offense of Aggravated Battery, in that said Defendant, without legal justification, intentionally caused bodily harm to Kelly Morgan, in that said Defendant battered Kelly Morgan while masked and hooded in such a manner as to conceal Defendant's identity.

The Defendant has pleaded not guilty to all of the charges.

Prosecution Witnesses

Kelly Morgan
Detective Riley Crawford

Defense Witnesses

Casey Jones
Dr. Pat Dolansky

Prosecution Witness Affidavit: Kelly Morgan

1. My name is Kelly Morgan. I am 25 years old. I was divorced a few years ago and now I live by myself with my cat, Kitty, in Pleasant Village Mobile Home Park on the far northeast side of Loganville, Illinois. My trailer is on Lot # 3. I clean people's houses for a living. For about 18 months, I was in a relationship with Casey Jones, but in October 2013, I broke up with him/her. Casey didn't say much when I broke it off, but I don't think s/he was very happy about it.

2. On May 16, 2014, I worked all day and was really tired. I got home at about 7:00 p.m., hoping for a relaxing night. At about 11:30 p.m., I was in the bathroom and heard the front screen door open. I looked out and saw someone standing in the bathroom doorway. Before I even knew what was happening, the person attacked me!

3. The person who attacked me was the same size and build as Casey. The attacker was wearing a stocking cap mask with eye holes, but no hole cut out for the mouth. S/he was wearing some kind of rubber gloves, like a doctor would wear for a surgery or something like that.

4. I fought with my attacker. While we were fighting, we moved into the hallway of my home, and my attacker grabbed me from behind and started shoving me toward the bedroom. He also put his/her left gloved hand over my mouth. I bit down hard on one of his/her fingers. I bit down so hard that it must have really hurt because s/he made a yelping noise and yanked the finger out of my mouth.

5. While we were struggling inside of my house, my attacker stuck me all over my upper body with a black object. I guess it's called a Taser or a stun gun. It made a sound like an electric current. It had two electrical-looking things sticking out of it and it was really painful when it touched me.

6. After that, we continued to struggle and we both fell out of the side door of my mobile home onto the ground.

7. When I finally broke away from my attacker, I ran to my neighbors' house on the next lot for help. I was in a state of pure panic. They are an older couple. I could barely talk. My neighbors called the police. I tried to answer the dispatcher's questions, but I was so upset. Finally, I calmed down and I told the dispatcher that I knew from my attacker's smell and the kind of shoes s/he was wearing that it was my ex, Casey Jones.

8. The police wanted me to go to the hospital emergency room with them, but first I wanted my purse/wallet. I told an officer where I always keep it, in the kitchen next to the toaster. When they went to get my purse, they found that it was missing, along with my car keys. I drive a little, red Toyota Celica with two doors. I went outside with the officers and discovered that my car was missing. I had driven it home from work that day and parked it in the parking space in front of my mobile home.

9. The police took me to the emergency room at Harmony Hill Hospital. Once I was treated, the police interviewed me some more. I told them what had happened and that I knew it was Casey because of his/her body size, and smell. I said that, once we were outside my mobile home, I pulled off the ski mask and saw that it was Casey. I told them that Casey worked as a janitor and would sometimes go for days without showering. I said that I knew Casey was upset because of the break up. I also said that I thought that, in November 2014, Casey had broken into my mobile home and stolen my DVD player, money, and some collectible coins I had. I told the police that Casey had probably gotten into my house with a key that s/he knew I kept hidden outside my door, under a blue planter. Casey knew that I kept the key there. I really can't prove that, but I did file a police report. I admit that there have been a lot of burglaries in and around the mobile home park over the last several years and some of my neighbors have had their property damaged and things stolen off their porches.

10. I was treated in the emergency room by a doctor. I don't recall his exact last name, but it started with the letter "B." I told him about being burned by that black object. The doctor looked all over my torso and head. He did not take any measurements. The police evidence technician took several photographs of my injuries. You can see how badly I was attacked from the photos.

11. Several days after the attack, I filed to get a protective order against Casey from the local Court. The Court granted an emergency order. At the second hearing, Casey showed up with an attorney. The attorney said they had no objection to extending the order because by that time, Casey had been arrested and was out on bond and had to stay away from me in any event. In my written petition to the Court, I said that I was in my mobile home in the bathroom when I heard the front screen door open. I said that I got off of the toilet to see what this was about. My attacker appeared and I immediately knew who it was by his/her stature and by looking at his/her eyes through the eyeholes in the ski mask. I stated that I called out Casey's name, then s/he attacked me, shocking me with a black thing that I later learned was a Taser or stun gun. I said that Casey kept hitting me and that when I fell to the floor, I was pinned down and my attacker kept shocking me and hit me in the face with a fist. I also said that Casey tore at my shirt and tried to get me into the bedroom, but I escaped, falling out the side door of my mobile home.

12. When we were dating, Casey usually drove an old Cadillac, which s/he owned. Once or twice, Casey drove my car, but s/he didn't like to drive it because the car is small and it was difficult with his/her height and size to fit comfortably in the car, even with the driver's seat pushed all the way back.

13. I feel lucky that the police found my car later that night. It was in a wet field about seven blocks south of where I live. The police took me to the car, and I consented to a search of my car. The police evidence technician asked me if I had any latex gloves in the car and I told him that I did not. But I volunteered to the police that, if they found a glove, it probably would have a tear in it around the index finger because I tried to pull the glove off of my attacker's hand during the attack and I believe the glove had been torn.

14. I was interviewed several times by a police detective, who was present at my mobile home the night of the incident, at the hospital, and later at the police station. The detective was very sympathetic and helpful and seemed to know everything about the case.

15. I would also like to add that, at a later point in time, I got copies of my medical records from the hospital. The doctor who treated me wrote some things down wrong. For instance, I did not say that I was sleeping when Casey broke into my house. I told the doctor that I was in my bathroom and that Casey had opened the front door of my house that opens into the front room.

Kelly Morgan

Prosecution Witness Statement: Detective Riley Crawford

1. My name is Riley Crawford. I am a detective with the Loganville Police Department. I am the police detective in charge of the case involving the incident that occurred late in the evening on May 16, 2014 involving Kelly Morgan. I was present at all stages of the investigation. At the time I began the investigation, I had ten years of experience as a detective and, prior to that, fifteen years as a patrolman.

2. The 911 dispatcher received a call about 11:08 p.m. regarding a burglary and home invasion and a battered male/female. The victim was identified as Kelly Morgan. The location of the incident was reported as Pleasant Village Mobile Home Park, Lot No. 3. Two police officers were dispatched to the Morgan residence. I heard the dispatch communication on my scanner. I also went to the residence to assist the officers. Dispatch also sent an ambulance to the location.

3. Upon arriving at the location, we made contact with and interviewed Morgan. Morgan told us that s/he had just let his/her cat outside and was using the toilet, when s/he heard the front screen door open and saw an intruder appear in the bathroom doorway. Morgan said that the attacker shot Morgan with a stun gun, pulled him/her from the bathroom, and shoved him/her towards the bedroom. S/he said that s/he was able to unlock the side door of his/her mobile home. This door is in the hallway. Morgan said that s/he and the attacker fell out the door into the yard. Morgan reported that the attacker jumped on him/her and began hitting him/her. The reporting officers asked if Morgan knew the attacker. Morgan said that s/he "believed it was his/her ex-boy/girlfriend, Casey Jones." Morgan stated that the couple had broken up last fall and that the attacker looked about the same size as Jones.

4. Morgan stated that s/he eventually pulled off the attacker's mask and finally saw the attacker after they ended up outside of the side door of the trailer. I asked Morgan again to go over the events of the evening. Morgan said that the attacker pulled him/her from the bathroom and began shoving him/her into the bedroom. Morgan described the stun gun used on him/her as a black object with two electrodes sticking from it. Morgan said that the attacker shocked Morgan in the back and abdomen several times with the black object. Morgan stated that the attacker then began to pummel Morgan's face with his/her fists all over and both sides of Morgan's body. Morgan said s/he fought with the attacker, and at times they fought face-to-face. Once I finished the interview, the ambulance transported Morgan to the hospital.

5. Before Morgan left in the ambulance, s/he stated that the attacker ran off into the woods behind Morgan's mobile home. While interviewing Morgan, we looked around the mobile home, but observed nothing inside that was disturbed. We took photographs of the inside and outside of the trailer. See the photograph of the outside of the mobile homes. In that photograph, Lot #3 is where the red car is parked; Lot #4 is to the left of Lot #3 and Lot#5 is to the left of Lot #4. A little bit of the mobile home on Lot #2, the neighbor's home from which Morgan made the call, can be seen on the far right of the photograph, just to the right of the Lot #3 mobile home. See also the drawing which I made of the floor plan of Morgan's mobile home.

6. We retrieved two broken pieces of black plastic from the floor of Morgan's trailer near the bathroom door in the hallway, but we could not identify what these plastic pieces were or where they came from. The black piece of plastic appeared to be a cover from a battery operated item. We also retrieved a black wrist lanyard from the hallway. The lanyard had metal attached to it and appeared to

have been torn from something.

7. While Morgan was being transported to the Harmony Hill Hospital, I sent officers to search for Morgan's vehicle. At about 12:00 a.m., the vehicle was found abandoned in a grassy field some seven blocks south of Pleasant Village Mobile Home Park.

8. At Harmony Hill Hospital, I interviewed Morgan again after s/he had been treated. I observed that Morgan had a blackened left eye and red point like marks on the torso, which was where Morgan claimed the attacker had used the Taser. There were also other red marks on Morgan's torso that looked like scratch marks. Morgan said that the attacker was wearing special black steel toe boots that Morgan knew Jones special-ordered by mail, a blue or black sweatshirt, blue jeans, surgical gloves, and a stocking cap mask with two eye holes, but no nose hole. Morgan again related the events of the evening, telling me that the attack occurred about 11:30 p.m. Morgan stated that her attacker walked in through the front door of the trailer, and that the attacker never spoke. Morgan told me that s/he knew the attacker was Jones by his/her smell because Jones worked with chemicals. During my interview, Morgan mentioned that the attacker held a black object in the attacker's right hand, and shocked Morgan with it. I may have mentioned that this was a Taser. Morgan described the object as a black, square object with two metal prongs that emitted light and made a rattling noise. See the photos that I took of Morgan at the hospital.

9. After Morgan was released from the hospital, I drove Morgan to his/her vehicle. Morgan consented to a search of the vehicle. The evidence technician found a latex glove on the front passenger side floor board. I asked Morgan if s/he had any latex gloves in the vehicle and Morgan said s/he did not. Morgan then volunteered that if we found a glove, it probably would have a tear in it around one of the fingers because, during the incident, Morgan bit the hand of the suspect and believed the glove had torn. See the attached photograph of the glove that we found. The glove that was retrieved from the vehicle did have a tear in the left index finger, along with a reddish brown stain. Other than a visual observation, we did no further examination of the tear in the glove.

10. After leaving the vehicle's location, I went to Casey Jones's home at about 2:30 a.m. on May 17, 2014. I asked Jones to come to the police station to answer some questions. Jones agreed. At the station, I read Jones the Miranda rights and Jones signed the waiver form. After being at the station for about 40 minutes, Jones asked me why s/he was at the station, and if it was about his/her son. I said that I wanted to discuss a matter involving Jones' ex-boy/girlfriend, Kelly Morgan, because Morgan had been attacked. Jones seemed nonchalant when I said this and just shrugged. I asked and Jones consented to a search of his mobile home and two vehicles, a Cadillac and a pickup truck. I searched Jones' home, including the dirty laundry. Jones also consented to a search of his/her gun cabinet. I found nothing of evidentiary value in the search of Jones' home or vehicles. At no time did Jones ask to speak with a lawyer.

11. Back at the police station, I asked and Jones consented to the taking of photographs of both of Jones' hands. I also examined Jones' hands and saw a wound on Jones's left index finger that I felt was a fresh, weeping wound. See the photograph that took of Jones' left index finger. I did not see any other marks or bruises on Jones' hands. Jones told me that, in the evening, s/he works part time as a custodian for a local office and had pinched that finger putting a chair together the day before. I did not follow up with the office to verify the story about the chair. I asked Jones if s/he knew his/her blood

type and Jones told me that it was “B+.”

12. The next day, I conducted a follow up interview of Morgan. Morgan recounted the following to me: that Jones was holding Morgan in a bear hug when Jones shocked Morgan with the black thing; that Jones had Morgan’s head between Jones’ legs, kneeling on Morgan and pinning Morgan face down on the ground; that Morgan grabbed at the stocking cap and pulled it off, but Jones yanked away, covered Morgan’s face and mouth and pinched Morgan’s nose; that Jones’ finger went into Morgan’s mouth and Morgan bit Jones’ finger; that Morgan tried to crawl between Jones’ legs, but Jones grabbed the back of Morgan’s neck, threw Morgan to his/her knees and dragged Morgan backward to the bedroom; that Morgan held on to the door frame around the side door and tried to open it and was able to unlock the deadbolt; and that, when the door flew open, they both fell outside and Morgan landed on his/her knees; that Jones punched Morgan in the face; that when Morgan told Jones s/he would stop yelling, Jones stopped hitting Morgan; and that Morgan then rolled over onto his/her stomach, got up, and ran to a neighbor’s house.

13. About a day or two later, Morgan called me and said that s/he had seen Jones drive by two locations where Morgan had been. Morgan stated that s/he did not know if Jones saw him/her.

14. After considering all of the evidence, I packaged up the case and sent it to the State’s Attorney’s office. The State’s Attorney advised me that they would be charging Jones with one count of home invasion, which is a Class X felony, meaning mandatory prison time, and one count of aggravated battery, a Class 3 felony, which means a possible prison term of two to five years. After learning that the State’s Attorney was able to obtain an indictment of Jones for these crimes, I then secured an arrest warrant and arrested Jones.

Detective Riley Crawford

Defense Witness Statement: Casey Jones

1. My name is Casey Jones. I am 28 years old, and I have two children who live with my ex-spouse. I am an honorably discharged Veteran. I do not have a criminal record. I live by myself in a mobile home in a mobile home park on the northwest side of Loganville, Illinois. I drive an old Cadillac and I also have a small pick-up truck. I'm a proud, but safe, gun owner and I keep my guns locked in a gun safe at my house.

2. I know that I have been charged with breaking into the mobile home of my ex-boy/girlfriend, Kelly Morgan, beating him/her up, and Tasering him/her. I did not commit these crimes and I'm giving this statement to clear my name.

3. I work as a full time custodian at Adas Israel Synagogue in Loganville. I'm not Jewish, but no one at the synagogue seems to mind and it has never affected my work. I have held that job for about ten years. My job is to be the custodian, janitor, and to do other work as needed. Basically, if I'm asked to do something, I'm glad to do it. They treat me well. I have the keys to the synagogue and its offices, but not to the rabbi's private office or the ark where they store their sacred scrolls.

4. I also work as a part time custodian for a local accounting office that is a few blocks away from the synagogue. After I finish my work at the synagogue at about 5 p.m., I head over to the accounting office. There I take care of the trash, pick up around the outside of the building, clean the kitchen, and generally keep the office clean. I also fix broken locks, replace light bulbs and ballasts, and fix the toilets and sinks when there are problems. I occasionally pick up supplies and deliver them to the office. I am always promptly reimbursed if I ever put out of pocket for the supplies. I have keys to the building and the inside doors. The accounting office is located in a large office building that has an alarm system. I have my own alarm code that allows me to turn the alarm system on and off when I enter or leave the building. Since I am usually the last one to leave the building at night, I set the alarm.

5. I dated Kelly for about 18 months. We broke up in October 2013 and I haven't been in Kelly's house since then. In December 2013, I was on a trip down to Haleyville, Alabama for a family function when I met Jesse Knox. We have been dating ever since that trip. Having a long distance relationship is tough, but we agreed that once we get married, Jesse will move to Illinois. I call Jesse at least twice a day to make the distance easier; once in the early evening and once before I go to bed. We love each other.

6. On May 16, 2014, I woke up and went to work shortly before 9 a.m. at the synagogue like I always do. I worked all day there. I left shortly after 5 p.m., and went to work at the accounting office. My day at the accounting office was a little different that day because I had put together a chair for one of the accountants that had been delivered to the office the day before. While putting the chair together I pinched my left index finger. I put Neosporin on the wound when I went home that night. I worked at the accounting office until 8:00 p.m. I set the alarm to the office building when I left that night.

7. After leaving the accounting office, I got in my car and drove straight home. As soon as I got home, I called Jesse shortly after 8 p.m. We have a prearranged time for the phone call. Then I watched some TV, did my laundry, made myself some dinner, and called Jesse again. I always wait

until after 10 p.m. to make the second call so that I can save my minutes. Then I cleaned my pistol, showered, ate some ice cream, and went to bed because I had another hard day of work the next day.

8. I don't have a land line phone. I make all my calls from my cell phone.

9. I know Kelly told the police that I special order my shoes, but that's not true. I do have big feet, but I don't special order my shoes. I simply buy them from Mason's Shoe Company out of their catalogue. It is a common shoe company catalogue that anyone can get.

10. My mobile home is a good ten minute drive from the location of Kelly's mobile home.

11. I have been in Kelly's car we were dating. Even when we were dating, I didn't like to drive that car because of my size. The car is small. I could barely fit into it, even with the seat pushed all the way back.

12. I don't own and have never possessed any stun gun or Taser gun. I don't own and never have owned a stocking cap with holes in it. I sure didn't attack Kelly, or anyone else!

13. I also know Kelly told the police that I smell and work around chemicals. That's ridiculous! I shower daily and do not work with harsh chemicals. At both of my jobs, I work with common household cleaners, like Dawn dishwashing liquid and Windex, and Weed-B-Gone once a year. I work at an accounting office and a synagogue, not a factory for Pete's sake.

Casey Jones

Defense witness affidavit: Dr. Pat Dolansky

1. My name is Dr. Pat Dolansky. I am a board-certified dermatologist, licensed since 1995 to practice medicine in the State of Illinois. In 2014, I was asked by Casey Jones' attorneys to review photographs of an individual's torso taken by the Loganville Police Department when the individual was in the Harmony Hill Hospital emergency room. I did not physically examine the wounds on the individual. I was advised to take into consideration the following facts: (a) the individual claimed that the red marks on his/her torso were the result of being shocked with a device that had paired electrodes that emitted an electrical current; and (b) the photographs were taken approximately five (5) hours after the alleged attack was reported to police. I was asked by Jones' attorneys to give my professional opinion as to whether the condition of the individual's skin as it appeared in the photographs was more consistent with a cutaneous reaction to contact with a device with paired electrodes that emitted an electrical current, or whether the condition of the skin was more consistent with other medical diagnoses.

2. Based upon my training, education and experience in the field of dermatology and based upon the photographs that I examined and the other data about which I was advised, it was my opinion, to a reasonable degree of medical certainty, that one could not reasonably diagnose the red marks as coming from a device with paired electrodes that touched the individual's body, but rather the marks were more diagnosable as other skin conditions such as urticaria, dermatographia, or scratches.

3. It was my further opinion that if the individual's torso was burnt by a Taser-like instrument with two electrodes, there should have been a pattern of marks on the torso. I tried measuring the marks shown in the photographs and could find no patterns of red mark pairs equidistant apart.

4. I have the following education credentials: a Bachelor of Science (B.S.) degree in Biology from Western Illinois University; a Doctor of Medicine degree (M.D.) from the Loganville School of Medicine; a two-year internship in internal medicine; and four years of residency training in dermatology.

5. Board certification means that I have satisfactorily completed written and oral examinations conducted by the American Board of Dermatology and I am certified by the Board as competent to practice in the specialty of dermatology.

6. Dermatology is the field of medicine involving the diagnosis, and medical, surgical, and cosmetic treatment of skin, hair, and nail conditions.

7. Urticaria is a skin condition, also known as hives. It manifests itself through an outbreak of swollen, pale red bumps or plaques (wheals) on the skin. The bumps can appear anywhere on the body and can be of different sizes. They can last for hours or even up to a day before fading.

8. Dermatographia is a skin condition caused by people scratching their skin. The scratches redden into a raised wheal similar to hives. These marks usually disappear within 30

minutes. The cause of dermatographia is unknown, but it can be triggered in some people by infections, emotional upset or medications such as penicillin.

9. The term “cutaneous” means pertaining to the skin.

10. Five years ago, Casey Jones was a patient of mine. I do not know Kelly Morgan.

11. I will be receiving a fee of \$3,000 for my work in this case. The fee that I charge attorneys for a case review and opinion and for giving testimony is \$1,000 per hour, and is a professional fee for my time. This fee is charged to anyone who requests similar professional services, regardless of which side the attorney represents. The amount of compensation I receive is not dependent upon the outcome of the case, but is based solely on the amount of hours that I worked on the matter.

Pat Dolansky, M.D.

Stipulation re: Testimony of Kelly Morgan's Neighbors

1. Herman Graber, Kelly Morgan's neighbor who lives in Lot #2 of Pleasant Village Mobile Home Park with his wife, heard screams sometime between 10:00 p.m. and 10:30 p.m. on May 16, 2014. He thought the sounds were coming from the television. After a few moments, Graber heard pounding on his door and, upon opening the door, found Morgan, hysterical. Morgan looked like s/he had been beaten and had a black bruise under his/her right eye.

2. After helping Morgan into the house, Graber's wife called 911. Asked by the dispatcher if Morgan knew who did it, Morgan could only say that the attacker was big and wore blue jeans, a black ball cap, which Morgan pulled off, and black work shoes, and that Morgan believed the attacker was Morgan's former boy/girlfriend, Casey Jones. Morgan also said the attacker ran into the woods behind the trailers. After Morgan calmed down, s/he told the dispatcher that s/he "thought" it was his/her ex and that s/he saw the ex's face when s/he pulled off the mask Jones was wearing.

3. Shortly before Morgan had come to the door, Graber had observed what looked like Morgan's red car leaving the mobile home parking lot at a high rate of speed around 10:30-10:45 p.m. with its lights off and heading north. It was dark, but Graber thought the driver was the same size and build as Jones, whom he had met one time when Jones was dating Morgan. Graber related this information to the police.

4. Graber's mobile home has been broken into twice and his wife was robbed once in their driveway.

5. Sometime late in the evening of May 16, 2014, Kristie Berman, the occupant of the mobile home located on Lot #5, two lots to the north of Morgan's lot and right in front of where the mobile home lot empties out onto the adjoining street, heard through her open kitchen window what she thought was screaming. She ran outside and saw Morgan fall out the side door of Morgan's mobile home. Berman did not see anyone else outside with Morgan, but she saw that Morgan's face was bruised. After Berman saw Morgan go into another neighbor's mobile home, she went back into her mobile home, then she heard what she thought was someone running into the woods.

Additional Stipulated Facts

1. The reddish brown stain on the glove recovered from Morgan's car was tested by the State Police laboratory and it tested positive for blood. A typing of the blood stain indicated that it was blood type "B+". Only about 8% of the population has blood type "B+". Both Jones and Morgan have blood type "B+".

2. A saliva test conducted on the glove recovered from Morgan's car gave a positive result for the presence of saliva. The saliva detected was then tested for the presence of anti-A and anti-B hemagglutinins and the result of the test was that the saliva on the glove came from a person with blood type "B+".

3. On May 15, 2014, Old Dominion Freight Lines delivered a chair to the accounting office where Jones is employed. The chair was shipped on May 10, 2014, from Back Solutions, Inc., in Columbus, Georgia.

4. The office building where Jones works has an alarm system. The alarm company's event report for the period from May 8, 2014 through May 18, 2014 shows the date, day and time of various events as reflected by the codes that authorized people punched into the touch pad that controls the alarm system. The report for May 16, 2014 shows that a person using the code assigned to Norman Smith turned the alarm off at 7:26 a.m. and that a person using the code assigned to Casey Jones turned the alarm on at 8:09 p.m. There are no other entries for May 16, 2014 on the event report.

5. Casey Jones' phone records for May 9, 2014 through May 19, 2014 show that on May 16, 2014, Jones placed a 27-minute call at 8:12 p.m. to a phone number in Haleyville, Alabama, and a 7-minute call at 10:20 p.m. to the same number. Jones' phone records for that ten day period show numerous calls to the same number, including two calls each weekday evening around 8:00-8:15 p.m. and around 10:15 – 10:30 p.m. The earlier time period phone call is always significantly longer than the later time period phone call.

6. An emergency room physician, Dr. Bernardi, treated Kelly Morgan at Harmony Hill Hospital. The physician recorded in his notes the history that he took from Morgan regarding Morgan's injuries. He recorded that Morgan was sleeping at home when someone broke into the home and attacked Morgan; that the attacker struck Morgan in the face with a fist; that the attacker used a stun gun and shocked Morgan several times in the abdomen and back; and that Morgan did not lose consciousness. The physician examined the marks on Morgan's torso. It was the physician's professional opinion that the marks on Morgan's torso were electrical burns from a Taser. He did not measure the marks. The medical record from the emergency room reads: "Multiple stun gun markings/burns on lumbosacral regions, as well as the lower abdomen."

7. Regardless of gender or race, photographs are representative of the alleged victim or defendant, depending on the photograph.

8. A Taser or a stun-gun is a dangerous weapon.

9. All facts that are contained within any stipulation are deemed admissible into evidence and all objections to the admissibility of any stipulated facts are deemed waived.

JURY INSTRUCTIONS

Court's Instruction No. 1: A person commits the offense of **home invasion** when he, not being a police officer acting in the line of duty, knowingly enters the dwelling place of another when he knows or has reason to know that one or more persons is present and, while armed with a dangerous weapon, he uses force or threatens the imminent use of force upon any person within the dwelling place, whether or not injury occurs.

Court's Instruction No. 2: To sustain the charge of **home invasion** in Count I of the Information, the State must prove the following propositions:

First Proposition: That the defendant was not a police officer acting in the line of duty;
and

Second Proposition: That the defendant knowingly entered the dwelling place of another;
and

Third Proposition: That when the defendant entered the dwelling place he knew or had reason to know that one or more persons was present; and

Fourth Proposition: That the defendant was armed with a dangerous weapon; and

Fifth Proposition: That while armed with a dangerous weapon the defendant used force on Kelly Morgan, a person within the dwelling place.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Court's Instruction No. 3: A person commits the offense of **aggravated battery** when, in committing a battery, he knowingly wears a hood or mask in such a manner as to conceal his identity.

Court's Instruction No. 4: A person commits a "battery" when he intentionally and by any means causes bodily harm to or makes physical contact of an insulting or provoking nature with another person.

Court's Instruction No. 5: Whether a particular injury constitutes "great bodily harm" is for you to determine from your consideration of all of the evidence in this case. Whether or not the person harmed did or did not seek treatment for their injury does not matter. The focus is on what injury the other person actually received, the evidence of the nature and extent of that injury, and evidence of the treatment required. For you to find that there has been "great bodily harm", you must find that the harm inflicted is more serious or grave than lacerations, bruises, or abrasions, whether temporary or permanent.

Court's Instruction No. 6: To sustain the charge of **aggravated battery** in Count II of the Information, the State must prove the following propositions:

First Proposition: That the defendant intentionally caused bodily harm to Kelly Morgan; and

Second Proposition: That the defendant, while causing that bodily harm, was hooded, robed, or masked in such a manner as to conceal his identity.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Court's Instruction No. 7: The **believability of a witness** may be challenged by evidence that on some former occasion he or she made a statement or acted in a manner that was not consistent with his testimony in this case. Evidence of this kind ordinarily may be considered by you only for the limited purpose of deciding the weight to be given the testimony you heard from the witness in this Court's room.

However, you may consider a witness's earlier inconsistent statement as evidence without this limitation when the statement narrates, describes, or explains an event or condition the witness had personal knowledge of; and the statement was written or signed by the witness.

It is for you to determine whether the witness made the earlier statement, and if so what weight should be given to that statement. In determining the weight to be given to an earlier statement, you should consider all of the circumstances under which it was made.

Court's Instruction No. 8: In this case you have been presented with several stipulations of facts which have been agreed to by both the People and the Defendant. Since the parties agree to the various facts set forth in the stipulations, neither party is required to otherwise provide proof of the facts set forth in the stipulations. You may consider the facts in the stipulations as evidence just as you would all other evidence presented to you in this case.

EXHIBITS

1. Photographs of Kelly Morgan's torso and elbow (3).
2. Photograph of exterior of Pleasant Village Mobile Home Park (1).
3. Floor plan drawing of Kelly Morgan's mobile home (1).
4. Group photographs of Casey Jones' left index finger (1).
5. Group photographs of the glove retrieved from Kelly Morgan's car (1).





4 ⊕

3 in.

2 in.

1 in.

⊕









