

Closing Arguments in Punishment

Defense – S. Preston Douglass

THE COURT: Thank you, Mr. Glover.

20 Mr. Douglass?

21 MR. S. PRESTON DOUGLASS: Yes, sir.

22 Thank you, Judge.

23 May it please the Court?

24 Ladies and gentlemen of the jury, I

25 can assure you I will be brief. All four of us wanted to

Sandra M. Halsey, CSR, Official Court Reporter

5691

1 I come and speak with you about something that we believe

2 in. And I wanted to come and I wanted to speak with you

3 about something that I believe in. And that is the life

4 of Darlie Routier.

5 You see, I thought about this case for

6 a while, and what they asked me to do, was talk about the

7 Charge, and I'm going to get to that in a minute, and

8 talk about the Special Issues and the questions that are

9 facing you.

10 But when I started thinking about this

11 case, I thought about the fact that I have not had the

12 opportunity to speak with you since last year, since

13 October, when we all sat, and there wasn't all of these

14 people here, and we all conversed with you and we

15 discussed the issues in this case.

16 If you will remember, all of you

17 talked about this case, and all of you sat there for

18 about 40 minutes, and you were very patient, and you

19 answered our questions. What struck me, is that in many

20 ways, this case has come a full circle. Because if you

21 will remember, the first thing y'all did when you started

22 this case is that you sat in those chairs and you filled

23 out a questionnaire.

24 And you will remember that when you

25 filled out that questionnaire, that many of those

Sandra M. Halsey, CSR, Official Court Reporter

5692

1 questions dealt with the death penalty. And when you

2 filled out those questionnaires, it was just you. It was

3 just your conscience, it was just your heart, it was just

4 your thoughts. Nobody telling you what to write. Nobody

5 telling you what to do. Nobody screaming at you.

6 You people have been yelled at,

7 screamed at, but when you filled out that questionnaire,

8 all you did was write down what you thought. And, you

9 know, we have come a full circle. Because the way this
10 case is going to end is with each one of you examining
11 your heart and your soul and your conscience about a very
12 important question. I can't imagine a more important
13 question.

14 You see, this trial is going to end.

15 Nobody is more happy about that than y'all, I'm sure.

16 And our neighbors who have watched this trial are all
17 going to go about their normal lives. The media people
18 who have covered this trial are all going to go on to
19 other stories. And time will pass. And I'll bet that
20 you are going to forget the name of the lawyers involved
21 in this case. And I bet you may even forget the name of
22 our judge.

23 But I can assure you that not one of

24 you, years after this will ever forget the day that you

25 passed judgment on the life of Darlie Routier. I can't

Sandra M. Halsey, CSR, Official Court Reporter

5693

1 imagine a more important decision.

2 There are two alternatives in this

3 case: There is one alternative of death. The other

4 alternative is life imprisonment. And if, by your

5 verdict you say death, then what you are saying is that

6 the life of Darlie Routier is hopeless. That there is no

7 hope. That there is nothing in that life worthwhile, and

8 I would submit to you, ladies and gentlemen, that is

9 wrong.

10 You know that Darlie Routier is loved,

11 and whether they -- they hate those people that love her.

12 Why do they hate those people that love her? Because

13 they don't want anybody to support her. And those people

14 love her. And those people have been through hell.

15 They have had more loss than I could

16 ever imagine. They have been through more adversity than

17 I could ever imagine. Yet those people stood together.

18 They came up here and got on the stand and cried in front

19 of you. They got asked questions. They have been

20 humiliated outside, but they stood together. And why did

21 they stand together? They stood together because they

22 believed in, they had faith in, and they had confidence

23 in a lady they love. And that love represents hope. And

24 that hope represents life. And I submit to you that life

25 is worthwhile.

Sandra M. Halsey, CSR, Official Court Reporter

5694

1 Now, as to this verdict form and this

2 Charge, I want to talk about it a little bit. Because

3 when we picked the jury, I think I was there for almost
4 all of you being picked. There was a few I don't think I
5 was there, but most I was.
6 And I want to talk to you about this
7 Charge for just a minute. But before I begin, I want to
8 point out one thing. That each of you, I'm sure you will
9 agree with me on, and that is, that when we started
10 talking about the Charge, every one of you made a pledge.
11 Each and every one of you made a pledge that if we got to
12 this stage of the trial, that you would keep an open
13 mind.
14 And you will remember, that if it was
15 sitting on that chair, or over there at the jail, that
16 right in front of you was a copy of the State's
17 indictment. And I can remember that some of you had to
18 get out your glasses to read it. Some of you had to look
19 through it, and it was legal language, it was a little
20 difficult, but every one of you read that Charge and knew
21 what was involved in this case. You knew just how
22 serious the charges were, and you knew what it meant.
23 Even though you knew what the charges
24 were about, even though you knew what this case involved,
25 you said that if you found the defendant guilty, each one
Sandra M. Halsey, CSR, Official Court Reporter
5695

1 of you have said that you would keep an open mind. Each
2 one of you said that your common sense would not be
3 stamped by the charges and each of you said that you
4 would re-examine the evidence.
5 We asked for that pledge from you, and
6 we believed you when you gave us that pledge last year,
7 and we believe it today.
8 Now, as to these Special Issues. Doug
9 hit on it briefly, but the most important part is that
10 Special Issue Number 1 still requires that you resolve
11 that question beyond a reasonable doubt. All of you
12 agree that that is the most highest standard we have in
13 our law, and all of you agreed to apply it.
14 And you remember that the burden does
15 not shift from this table to prove that to you.
16 Darlie Routier is not required to come
17 and bring you proof that she is not a future danger. You
18 all agreed that you cannot prove a negative. And you all
19 said that you would hold them to their burden of proof.
20 And you will also all remember that we
21 talked about probability. They didn't talk about
22 probability. Ms. Wallace skipped over it. And she
23 didn't talk about probability, because all of you agreed.
24 Every one of you agreed or defined probability as more

1 is not maybe. It's not -- well, she might do something.
2 It's not, well, she could maybe do something. It's
3 probable. More likely than not.
4 So if you put this sentence together,
5 and if you take away the wailing and the screaming and
6 you just look at the question you're suppose to answer,
7 in black and white, it requires you to find beyond a
8 reasonable doubt that it is more likely than not that a
9 lady, who throughout her whole adult life and to this
10 event, by your verdict they have not brought you one
11 person to say that this person ever committed a violent
12 act.
13 And then once you say that it is more
14 likely than not, that it is probable that she will commit
15 more violent acts. But they don't have any proof of
16 that, ladies and gentlemen.
17 Now, one issue that was brought up,
18 and I want to clarify something. It was talked about a
19 unanimous verdict. The law recognizes the importance of
20 a "no" answer to the future dangerousness.
21 Because the law recognizes that
22 importance, the law does not require a unanimous verdict
23 for a "no" answer. The law only requires that ten of you
24 agree to a "no" answer. It does not have to be
25 unanimous. Yes, it does have to be unanimous if you find
Sandra M. Halsey, CSR, Official Court Reporter
5697

1 that she is a future danger. But the law, as it should,
2 only requires 10 to say she is not a future danger.
3 Now, with respect to Special Issue
4 Number 2, you remember we talked about that as the
5 mitigation question. And mitigation was a hard word and
6 we talked about it, and we fought around with it, but by
7 and large it's the evidence that screams out and
8 convinces you that life is appropriate.
9 And all of us agreed that mitigation
10 does not have to be one particular thing. Mitigation can
11 be a loving character. Mitigation can be a prior life
12 with no criminal history. Mitigation can take every
13 shape and form imaginable. But what is very important is
14 we talked about, that what Linda may believe is
15 mitigation, does not have to be what Caroline believes is
16 mitigation. Or what Jimmy believes is mitigation.
17 You all can have different facts that
18 you believe mitigates, but at long as you believe that

19 something mitigates, it doesn't have to be the same
20 thing, but you just -- that you believe it mitigates.
21 And again, I want to point out to you
22 that it takes 10 votes for "yes." That there is
23 mitigation, that there is a reason for life. Not
24 unanimous. Ten votes. If you believe there is no reason
25 for life, that does have to be unanimous. But again, the
Sandra M. Halsey, CSR, Official Court Reporter
5698

1 law in it's wisdom says it only takes ten votes for life.
2 Now, the last thing I want to say
3 before I leave the Charge, is that in the jury selection
4 process, that every one of you absolutely pledged that
5 you would vote your own individual conscience. You
6 pledged that if you found yourself in the minority. You
7 pledged that if you found yourself against the wall on
8 something you believed in very much, that you would not
9 waiver in your belief. That you would stand by very
10 firm. And I ask that you continue in that pledge.
11 You know, I have been lucky in my
12 life. I have sat in that chair as a prosecutor in this
13 courtroom. I was proud to do it, and I was humbled. I
14 have talked in front of juries about people's money, and
15 people's children, and I was proud and I was humbled to
16 do it also.
17 But there has never been a day in my
18 life that I have been more proud than today. And I am
19 humbled, and I am scared. Because y'all have an awesome
20 power. More power than I could ever imagine any human
21 being ought to ever have. I am proud to be here, and I
22 am proud to tell you that I believe that that life is
23 worthwhile. I believe that that life is worth being
24 spared.
25 Death, ladies and gentlemen, is not a
Sandra M. Halsey, CSR, Official Court Reporter
5699

1 solution in this case. The law provides enough
2 punishment in this case. Life imprisonment. That's not
3 freedom, ladies and gentlemen. That is life
4 imprisonment.
5 Life imprisonment, ladies and
6 gentlemen, is the least and it's the most you can do.
7 And I appreciate it very much.
8 Thank you.
9 THE COURT: Thank you Mr. Douglass.
10 Ladies and gentlemen, we will take a
11 brief 10 minute break. Thank you.