

Closing Arguments in Punishment

Defense – Richard Mosty

THE COURT: All Right. Be seated
18 please. Let the record reflect that all parties in the
19 trial are present and the jury is seated.
20 Mr. Mosty, you have 45 minutes.
21 MR. RICHARD C. MOSTY: May it please
22 the Court?
23 THE COURT: Mr. Mosty.
24 **MR. RICHARD C. MOSTY:** Counsel, and
25 ladies and gentlemen of the jury, this is the last place
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1 that I want to be today. If I could choose any place in
2 the world that I don't want to be, it's right here.
3 But this is the only place I can be.
4 It's the only place I would ever choose to be, no matter
5 how much I don't want to. Because I am going to stand up
6 for Darlie Routier. And I'm going to continue to stand
7 up for her, and I am going to stand beside her.
8 And I'm going to stand beside her no
9 matter what. I don't know what to say. And I don't know
10 how to say it to you, and I don't know want to convey to
11 you. Because obviously, so far, I have not been able to
12 convey that to you.
13 If you have already decided what you
14 are going to do, then probably it doesn't matter what I
15 say. If you have already decided what you are going to
16 do, then you have forgotten the oath that you gave.
17 You said that no matter what the
18 evidence was, that before you sentenced someone to death,
19 that you would go back out and think about it. Don't you
20 remember that nearly all of you said that just because
21 you found someone guilty of murdering their children,
22 would you automatically go out and give a death sentence?
23 I suspect that every one of you was
24 asked that question. I suspect that every one of you
25 remembers that question.
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1 And if you have decided already, then
2 you are violating that oath.
3 I pray that that is not the case.
4 By your verdict, you have said that
5 something beyond our understanding has happened. You
6 have said that something beyond my ability to understand

7 has certainly happened. You have said that some set of
8 circumstances came together, that some course of events
9 came about, where this young girl here, did something
10 that was contrary to everything that she had ever done in
11 her life.

12 That on that night something happened
13 that no one can explain. That no one can understand.
14 That no one can define. That something happened that is
15 completely different than this young girl that is sitting
16 in front of me.

17 I can't understand that. I can't
18 understand how that would happen. But it does tell you
19 this: If that circumstance, if you sentence this lady to
20 life in prison, that set of circumstances, that set of
21 events, that chain of actions, could never possibly
22 happen again.

23 That there is no probability
24 whatsoever that Darlie Routier would become a continuing
25 threat to society. Because what you have found happened
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1 defies all probability. It defies all probability. And
2 that is the only, even inkling of violence in this
3 record. And it defies explanation. It defies
4 probability. So there is no probability whatsoever,
5 certainly not any beyond a reasonable doubt, that any
6 even remotely similar thing might happen.

7 It's been said several times that this
8 lady's life has been put under a microscope, and you know
9 that is true. You know that with unlimited funds, the
10 State has gone out and searched for volunteers and they
11 come back and say that someone said a curse word in a
12 store.

13 I'm not going to dwell much on people
14 like Halina. If you place credence -- if you place
15 credibility in what that lady described walking in a
16 house that she had been to four times, without even
17 knocking at the door. If you place credibility in that,
18 then I have failed as a lawyer. And nothing I say can
19 make any difference.

20 You know that if a person is going to
21 have a pattern of violence to them, the continuing
22 pattern of violence, you know that you are going to see
23 that. You know you are going to have evidence of it.
24 You know it's going to come forward. You know that the
25 State of Texas could bring in a psychiatrist in here that
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1 says that that act, that unbelievable, improbable act,
2 means that a person is going to be a continuing threat to
3 society. But they didn't. And the reason is that much
4 of psychiatry is common sense.
5 You know that whatever you have found
6 happened that night, was a one time event that is beyond
7 explanation. So there is no continuing threat to society
8 if Darlie Lynn Routier is sentenced to life in prison.
9 You know, maybe I am too sensitive
10 about some things. I don't know. But when the State
11 says that in a heartbeat that you would execute someone.
12 I think golly, could anybody do that? Just up and say in
13 a heartbeat that you would execute somebody?
14 It's the most chilling thing that I
15 think I have ever heard. And the hatred that has been
16 displayed toward the family, I think is amazing.
17 You know what it stands in such sharp
18 contrast to? Such sharp contrast. To the family of
19 these two young boys who are the victims of this crime.
20 The family -- can you believe?
21 Can you imagine that aunts and uncles,
22 cousins, and husbands would drop their lives, drop their
23 lives to come and express their faith in Darlie. Can you
24 imagine that?
25 What does that tell you? What does
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1 that tell you about the people who know her, and know her
2 well? What does that tell you about this human being?
3 Do you think that you could fill up a courtroom of
4 supporters of your family? Your cousins from
5 Pennsylvania. Your aunts? Do you have those kinds of
6 people who believe in you? Those kinds of people who
7 support you? Those kinds of people who are expressing
8 their love across this room? They can't touch Darlie,
9 and only I can do that for them.
10 Do you believe that you could put
11 those kind of people in a courtroom? I hope you could.
12 I pray you could. Because you know what it would say
13 about you? It would say about you that there are a lot
14 of people out there, who say: "You are a good person.
15 You are a worthwhile person. Whether or not you have
16 been convicted of a crime, you are a human being, a
17 worthwhile person, and I have faith in you."
18 And who else, who more could you ever
19 bring than your family? Those are the people who know
20 you the best. And most likely the ones who would abandon
21 you the quickest.
22 One of the witnesses yesterday said

23 "The only kind of person who could do this was
24 heartless" -- I can't remember the words. I'm sure Mr.
25 Davis will remind you of them. And that's not what you
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1 I have seen in this young girl throughout all of her life.
2 I'm not going to quarrel with your
3 verdict. What I'm talking about is the other part of her
4 life.
5 I have said my piece on the verdict
6 before, and now I'm talking about the other part of her
7 life. The other 27 years of her life.
8 Those people who know her have faith
9 in her. What greater testament? What greater tribute
10 could someone have? Who is in a position to judge better
11 than that family?
12 You know, Mr. Davis said
13 philosophically, correctly, I think, that these are our
14 children. Philosophically that is true. But by blood,
15 they are that family's children. And that blood, and
16 that flesh runs deeper than any emotion that anyone can
17 have.
18 If there is anything that we learned
19 from the New Testament, it's a story of forgiveness. A
20 story of understanding, and a story that every human
21 being has value. And every human being has worth.
22 That is what is known in the law as
23 mitigation, I suppose.
24 The value of a human being. People
25 who have come in and testified about her value, about her
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1 worth, that there is something in this life to Darlie
2 Routier.
3 One of the things that I did last
4 night, I woke up in the night, and I said to myself, what
5 if? I have said it to myself a number of times. What if
6 I had done something different in this trial? What if I
7 had made this decision differently? What if I made some
8 mistakes? And I am going to live with those what ifs
9 forever. I don't want to, but I have got to.
10 Sometimes, when you wonder what if,
11 you have made an irreversible and irretrievable decision.
12 And I suspect that every one of you, every one of you,
13 will wake up some nights saying what if.
14 I submit to you that the evidence and
15 the understanding that perhaps you have, tells you that
16 this lady will not be a continuing threat to society.

17 The evidence tells you that this lady
18 has value, has mitigation. There is a reason, there are
19 reasons for, in this case, that I -- that are certainly
20 beyond my understanding, and maybe some day I'll come to
21 a better understanding of it.
22 I feel like there is hardly anything
23 left inside of me. I have left it here. I have left it
24 with you. Somehow or another I tried to get across that
25 we're talking about someone that I know. That I have my
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1 hands on. That I can feel the flesh and blood and the
2 warmth of their body. And the State will undoubtedly get
3 up and talk and display the hatred toward this young
4 girl.
5 I'm telling you, there is a lot more
6 to her than all of the hatred that the State can muster.
7 Those people out there know it. That is why they love
8 her. That is why they have faith in her. That is why I
9 am standing where I am standing.
10 Mr. Davis said in his argument that --
11 he said that only God and Darlie know. They have never
12 tried to offer you any explanation of what happened, how
13 it happened, why it happened, the time line.
14 We talked about reasonable doubt. If
15 God only knows, then I say leave the judgment to God.
16 Let the tragedies end.
17 I beseech ye, in the name of God, that
18 ye may be mistaken. In the name of God, think that ye
19 may be mistaken.
20 THE COURT: Thank you, Mr. Mosty.
21 Mr. Davis.