



AMTA: Criminal Court

Committee Bulletin

Nydia del Carmen, Co-Director
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Dear Delegates,

It is with great honor that I welcome you to the VIII Conference of DALE Nicaragua. My name is Sofia Sansón and this year I have the opportunity of being both Vice-President and Director of English Committees. This year the directors have worked like never before to give the delegates the best experience possible. From the moment the VII Conference ended, the DALE team has been working nonstop to provide an unforgettable conference. Even though we face uncertain times, these are the moments in which we grow and learn. DALE is a conference that has changed me in so many ways and has truly helped me improve as a person. DALE promotes leadership, creativity, and teamwork, skills that will prove necessary in all of our futures. Participating in this conference is both a risk and an adventure, whether you are a delegate or a director.

This year, delegates have amazing opportunities while choosing their desired committees. With new committees at DALE like Criminal Court and the Pan American Health Organization, a look towards the past to be part of Augusto Pinochet's Cabinet, and even debates on Femicides and GMO's, delegates have a wide variety of topics and committees to choose from.

I hope that all of you can come to this conference and leave with a different perspective of the world. Remember that DALE is not just a competition, but a place to grow and learn. Reading this bulletin is the first step of your DALE experience, and when the day comes, it will be an honor to see and meet you all as you finish your journey with DALE.

Sofia Sanson,

Director of English Committees

Dear attorneys and witnesses,

I am honored to welcome you to the new Criminal Court committee! My name is Nydia del Carmen and I will be one of your committee directors. I am thrilled to share my passion for law and the adversarial system with all of you!

Currently, I am a junior at the American Nicaraguan School. I started formally debating when I was in middle school and was introduced to MUN. However, I always knew that I had a passion for creating arguments and political discourse since I would constantly debate with my older brother about everything, contradicting some of his claims just for the sake of starting a discussion. In addition, I am passionate about the pursuit of truth and justice; this evidently shed light on my interest in the legal system. Although I did enjoy my time in MUN and improved incredibly through the organization, I was not truly inspired by that form of debate. I considered it too systematic and restricted for my preference. In the summer of my freshman year, I was able to attend a program and mock-trial competition at Stanford University called Intensive Law and Trial. Through this experience, I was able to grow my passion and understanding of law. Plus, I was exposed to a new form of debating that I fell completely in love with. It saddened me to know that we didn't have anything like it in Nicaragua and, consequently, thought I could help to start it in our community and expose individuals to this fascinating type of debate. Last year, I participated in DALE's seventh summit and was the United States delegate for the OAS Special Mission committee. After the conference, I became part of the ANS HACIA Democracy team and will attend the upcoming conference when it is rescheduled as Panama in the new Inter-American Juridical Committee. Albeit I do enjoy debating through parliamentary procedure, I think mock-trial is special. For that reason, I worked hard to be able to open this new committee as part of DALE.

Criminal Court is unique. You won't be representing a country; you'll be either an attorney or a character. You will mimic real-life court situations that will give you an opportunity to learn new things and to discover if you have a passion for law like I do. In this committee, the debate will be direct, suspenseful, and quite interesting. Every single moment in the trial could change the entire case. The case we'll be doing is especially wonderful. After participating in the program at Stanford, I was able to contact the American Mock Trial Association (which hosts the best intercollegiate mock-trial competitions in the United States) and they have agreed to sponsor us by letting us use their case free of charge, the case I used in my competition. It is profoundly intriguing and we hope you immerse yourself in the case. You will be challenged and forced to utilize your critical thinking and acting skills to convince us that the defendant is or isn't guilty. It is intense and requires hard work and preparation. Nonetheless, we will be here to guide and help you every step of the way. Please do not hesitate to contact me if you need support or if you have any questions or concerns.

Sincerely,

Nydia del Carmen
nmontenegro@ans.edu.ni
Director, Criminal Court

Dear Delegates,

I am very excited to be your chair for Criminal Court in DALE Nicaragua's eighth summit. My name is Nathaly Guzman and I will be one of your directors of this mock trial committee. This year I am very excited to be part of this new committee and experience with all of you the great experience that is being part of this conference.

I am currently a Senior at Nicaragua Christian Academy International and I was born in Managua, Nicaragua. My first experience with debating was in different classes that my school offered and I was very passionate to participate in different discussions. Later, I decided to participate in HACIA Democracy, where we went to Dominican Republic. My first year in a debating conference I served as Chile in the Organization of American States. After participating in HACIA, I wanted to be involved in a conference that could help me improve my oratory. That is when I participated in DALE Nicaragua seventh summit. Which I continued debating in the Organization of American states as Mexico where we debated current issues that the different countries were facing. My passion for debating and talking about current issues inspire me to write different articles and papers that talk about issues that intrigued me. That is why this summer I dedicated my time to writing articles and participated in Oxford's University Law Summer Course. These different conferences help me find my passion and inspire me to start my own mission that I seek to accomplish in a future.

This year in Criminal Court each attorney and witness will impersonate a role and defend their position in the State of Midlands V. Dylan Hendrick's case. Where each one of the delegates will become part of their role and truly be part of this mock trial. With this case we want to highlight the importance of the phrase "Innocent until proven guilty" and we are very excited to hear your ideas. I hope that each one of you will grow as a delegate and look forward to continuing in this committee. If you have any questions or concerns do not hesitate to contact us through our emails.

Sincerely,

Nathaly Guzman
nguzma04@nca.edu.ni
Director, Criminal Court



State of Mindlands v.
Dylan Hendricks



WELCOME TO CRIMINAL COURT!

This is an incredibly special committee that requires intense work and commitment. We assure you, however, that through this experience you will learn numerous new skills and plenty of information regarding the American adversarial system; it will help introduce the legal world to you, possibly discovering a passion you would like to pursue in the future. Don't hesitate to ask questions about anything you don't understand or would like clarification on. We are always here to help you!

In addition it is essential to note that this committee, as you probably have seen, is sponsored by the American Mock Trial Association. More information about AMTA can be found on the following link: <http://www.collegemocktrial.org/>. It may help to review some of their content for your own research, and you may even be interested in participating in one of their own mock-trial competitions in your collegiate studies. Furthermore, the American Mock Trial Association has let us utilize their own case free of cost. We have simplified it in certain aspects to adapt it for DALE participants.

Before getting into the case, we want you to have a reference of the general procedure and rules. We will go through these and more content in practices leading up to the conference; that is why it is quintessential you attend the practices. Nevertheless, here is a quick overview of the general information about Criminal Court.

GENERAL OVERVIEW

In this committee you will either play the role of an attorney or of a witness. Your co-directors will be the judges of the case.

Each attorney is responsible for one direct and one cross-examination. The roles you can have as an attorney are the following:

Prosecution:

Pre-trial attorney
Opening Attorney
Captain
Closing Attorney

Defense:

Pre-trial attorney
Opening Attorney
Captain
Closing Attorney

Each witness is responsible for one direct and one cross-examination. The roles you can have as a witness are the following:

Prosecution:

Kerry Bell-Leon
Dr. Jordan Smith
Sam Mitchell
Detective Nichols (party representative)

Defense:

Dylan Hendricks (party representative/defendant)
Dr. Ryan Reeves
Charlie Waters
Bailey Bell-Leon

The trial will follow this order, having the Prosecution (π) direct examinations on the first day of the conference and the Defense (Δ) direct examinations on the second day of the conference:

- | | | |
|----------------------|------------------------|------------------------|
| 1. Pre-trial Process | 7. Witness 4 π | 11. Witness 4 Δ |
| 2. Opening π | - Direct Examination | - Direct Examination |
| 3. Opening Δ | - Cross Examination | - Cross Examination |
| 4. Witness 1 π | 8. Witness 1 Δ | 12. Closing π |
| - Direct Examination | - Direct Examination | 13. Closing Δ |
| - Cross Examination | - Cross Examination | 14. Rebuttal π |
| 5. Witness 2 π | 9. Witness 2 Δ | |
| - Direct Examination | - Direct Examination | |
| - Cross Examination | - Cross Examination | |
| 6. Witness 3 π | 10. Witness 3 Δ | |
| - Direct Examination | - Direct Examination | |
| - Cross Examination | - Cross Examination | |

During the practices you will learn about many legal concepts that are necessary for proper performance. Although you will not be expected to do so, we recommend that you research and have a general idea of the following topics. It is truly critical that you master their understanding:

- Theme & Theory
- Court Decorum
- Opening and Closing Statements
- Direct and Cross Examinations
- Pre-Trial
- Entering Evidence
- Impeachment Process
- Objections

Regarding objections, you will have a limited number of objections at your disposal, in order to facilitate the trial for both parties. In other words, it is not necessary you read the entire Book of Evidence! Just be sure that as a lawyer you can handle these objects and as a witness you avoid them. Objections are a significant part of the trial and any attorney must know them by heart. The objections you're going to be able to use are presented below. These will be explained to you in depth at the practices.

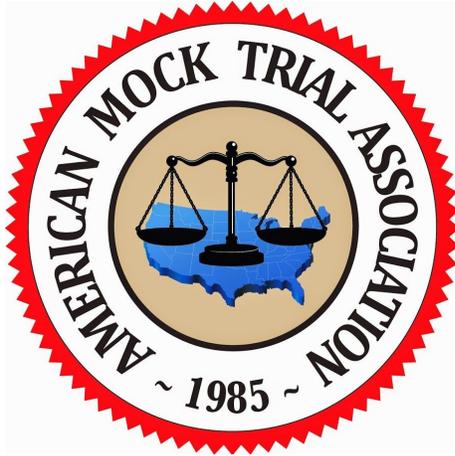
Content Objections:

- *Relevance*: The evidence isn't relevant when it doesn't make any material fact in the case more or less likely to have happened.
- *Lack of personal knowledge*: The witness says something they couldn't know first-hand.
- *More prejudicial than probative*: The evidence/testimony would prejudice the jury against one side more than it would help the jury evaluate facts.
- *Improper Opinion*: A witness is testifying about something that the current foundation doesn't prove that they know.
- *Improper Character Evidence*: You can't use a person's traits or prior actions to prove that because they acted one way in the past, they'll act the same way in the future.
- *Hearsay*: (one of the most important and complex) An out of court statement being offered for the truth of the matter.

Form Objections:

- *Non-responsive*: The witness doesn't answer the question or elaborates to a point where they are no longer answering the question.
- *Argumentative*: Arguing with the witness after they've already provided an answer./Attorney is rude./Attorney cuts off a witness (object) "I ask that my witness is allowed to answer the question fully./Attorney misquotes the witness
- *Leading*: Using a lose-ended question on direct examinations.
- *Compound*: Using more than one question at a time.
- *Narrative*: The answer is too long and filled with unnecessary information.
- *Lack of Foundation*: Asking a question when there has not been a proper foundation laid. (An attorney starts talking about something and we don't know how they got that information.)
- *Asked & Answered*: When you've asked a question that you've already asked and the witness has already answered.
- *Cumulative*: A waste of the court's time since the material being asked has been covered before in the trial.

With all of the information provided, you are now ready to start digging deep into the case!



2017-18 Case Problem

State of Midlands
v.
Dylan Hendricks

BY THE AMTA CRIMINAL CASE COMMITTEE

**ALEX BLUEBOND • DAVID BEN-MERRE • LAURA BRAUNSBURG • ANNA
ELDRIDGE DIANE MICHALAK • MICHAEL NELSON • NEAL SCHUETT**

(simplified version by the DALE Criminal Court Committee)

SYNOPSIS

Authorities have charged Dylan Hendricks with the attempted murder of Kerry Bell-Leon, the spouse of Carmen Bell-Leon. Carmen and Dylan were engaged in a romantic relationship.

AVAILABLE WITNESSES

- Kerry Bell-Leon, Victim
- Bailey Bell-Leon, Victim's Child
- Morgan Jones, Victim's Friend
- Charley Waters, Street Musician
- Detective M. Nichols, Police Officer
- Dylan Hendricks, Defendant
- Ryan Reeves, Pharmacologist
- Jordan Smith, Cell Phone Expert

LICENSING FEE FOR INVITATIONAL TOURNAMENTS HOSTS

These case materials are the intellectual property of the American Mock Trial Association.

NOTES AND ACKNOWLEDGEMENTS

This case is a work of fiction. Any similarity to real people, companies, physical geographic locations, trade names, service marks, or copyrighted material is purely coincidental. Although the Criminal Case Committee has attempted to make the case problem realistic, we have, for the sake of brevity and competition, oversimplified various matters. Please do not rely on the information contained in the case problem outside of the mock trial context.

The Committee wishes to thank and acknowledge:

- Sarah Sawtelle, Tyler Buller, Missi Schuett, Margo Rusconi, and Screen Cleaner Depot for assistance with the exhibits. Naomi Barasch, Pharm.D. for assistance with pharmacokinetics. Andrew Bluebond, Claire Dressel, Alex Harasty, Alicia Heugel, and Lani Rusconi for providing their likenesses.
- Toby Heytens, Tyler Buller, Kristofer Lyons, Tom Parker, Justin Bernstein, Mike Gelfand, Jackie Olson and Brandon Harper for proofreading the case.

SPECIAL INSTRUCTIONS

1. **Witness Selection and Captains' Meeting Procedures.** The Captains' Meeting Form explains the procedures regarding witness selection, character genders, and characters' personal traits.
2. **Authenticity.** Witnesses must acknowledge authorship of any document that purports to be authored by them and the authenticity of any signature that purports to be theirs. A witness whose affidavit or report states that the witness is familiar with a particular document must acknowledge, if asked, that the witness is familiar with that document and that the referenced document is the same version as the corresponding document in the current case.
3. **AMTA Rules 8.9 (Invention of fact) and 8.17 (Admission).** The reports of Detective M. Nichols, Jordan Smith, and Ryan Reeves, are "affidavits" for the purposes of AMTA rules 8.9 and 8.17. These witnesses are thus bound by those reports for the purposes of the invention of fact rule and the reports may not be offered into evidence.
4. **Hendricks Materials.** Dylan Hendricks does not have an affidavit. Hendricks's interrogation (Exhibit 1) is not an "affidavit" for purposes of AMTA Rules 8.9 (Invention of Fact) or 8.17 (Admission). Students playing Hendricks may build their testimony using the interrogation and other documents in the case. Hendricks (and only Hendricks) may also invent facts outside of the case documents, but can still be cross-examined on those inventions using the interrogation, exhibits, or other case materials. All inventions of fact by Hendricks must comply with all AMTA Rules and other special instructions in the case. For example, Hendricks may not deny that Hendricks gave the answers given in the interrogation or deny having sent any messages that purport to have been sent by Hendricks.
5. **Party Representatives.** Hendricks and Detective M. Nichols are the only permissible party representatives under Rule 615 of the Midlands Rules of Evidence. Kerry Bell-Leon may not serve as a party representative.
6. **Closed-Universe Problem.** The only legal material that competitors may mention or judges may rely upon, for any purpose are those set forth in the "Relevant Midlands Law." All participants must acknowledge such if asked. No argument on lesser-included offenses will be permitted. The State of Midlands must pursue the charge of Attempted Murder as set forth in the Indictment and Bill of Particulars. The defense must argue that Hendricks is not

guilty of the charged offense. No affirmative defenses or arguments for lesser culpability are permitted.

7. **Fifth Amendment.** No witness may refuse to answer any question—and no attorney may instruct a witness not to respond—based on the witness’s Fifth Amendment rights.
8. **Best Evidence Rule Limited to Items in the Case Packet.** No attorney may object under Rule 1002 of the Midlands Rules of Evidence if the “original writing, recording, or photograph” in question is not among the documents contained in this case packet.
9. **Black-and-White Copies.** No objection may be raised on the ground that a document, exhibit, or demonstrative was altered by printing it in black-and-white.
10. **Characteristics as Material Inventions.** First, while teams may employ distinctive speech characteristics to develop a character, teams may not use such speech characteristics to invent material facts. This Instruction does not prohibit asking a witness questions regarding the witness’s certainty of voice identification. Second, no competitor may imply in examination or argument that the student playing Hendricks lacked the physical or mental capacity to carry out the alleged crime. Third, no student portraying Kerry Bell-Leon may indicate, verbally or through costuming, that they have suffered any long-term mental or physical illnesses or injuries as a result of the alleged July 2017 attack. This instruction applies both to the examination of witnesses and opening statements/closing arguments.

AVAILABLE CASE DOCUMENTS

| <u>Legal Documents</u> | <u>Witness Materials</u> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> 1. Indictment and Bill of Particulars 2. Stipulations 3. Orders on Motions in Limine 4. Discovery Responses 5. Relevant Midlands Law 6. Jury Instructions | <ol style="list-style-type: none"> 1. Affidavit of Kerry Bell-Leon 2. Dylan Hendricks Interview 3. Affidavit of Morgan Jones 4. Affidavit of Bailey Bell-Leon 5. Affidavit of Charley Waters 6. Affidavit of Jamie Morrison 7. Incident Report and Officer Affirmation Statement of Detective M. Nichols 8. Report of Jordan Smith 9. Report of Ryan Reeves |

EXHIBIT LIST

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|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> 1. Interrogation of Dylan Hendricks 2. Notice and Waiver of Miranda Rights 3. Transcript of Preliminary Hearing for Pat Sikorsky 4. Extension Cord 5. Photograph of Gun 6. Key 7. Purple Gloves 8. Photograph of Everest Pills 9. Map of Downtown Midlands City 10. Floor Plan of the Bell-Leon Residence 11. Bell-Leon Family Calendar, July 2017 12. Prenuptial Agreement 13. Photo of Condo Building (Day) 14. Photo of Condo Building (Night) 15. Dylan Hendricks's Tender Profile <ol style="list-style-type: none"> a. Female Picture b. Male Picture c. Team-Provided Picture d. Soup Picture 16. Carmen Bell-Leon's Tender Profile <ol style="list-style-type: none"> a. Female Picture b. Male Picture 17. June 17, 2017 Tender Messages between Carmen Bell-Leon and Hendricks 18. June 18, 2017 Tender Messages between Carmen Bell-Leon and Hendricks 19. June 20, 2017 Tender Messages between Carmen Bell-Leon and Hendricks 20. June 22, 2017 Tender Messages between Carmen Bell-Leon and | <ol style="list-style-type: none"> 21. June 23, 2017 Tender Messages between Carmen Bell-Leon and Dylan Hendricks 22. June 25, 2017 Tender Messages between Carmen Bell-Leon and Dylan Hendricks 23. June 26, 2017 Tender Messages between Carmen Bell-Leon and Dylan Hendricks 24. June 29, 2017 Tender Messages between Carmen Bell-Leon and Dylan Hendricks 25. July 2, 2017 Tender Messages between Carmen Bell-Leon and Dylan Hendricks 26. July 16, 2017 Tender Message between Carmen Bell-Leon and Dylan Hendricks 27. Tender Messages between Carmen Bell-Leon and Paris Harmon 28. Tender Messages between Carmen Bell-Leon and Jesse Reynolds 29. Threat Letter 30. Uber Receipt for Dylan Hendricks 31. Firing Range Receipt 32. Souper Soups Receipt 33. Transaction Data for Souper Soups 34. Food Truck Permit 35. Application for Food Truck Permit 36. Citation 37. Record of Conviction of Dylan Hendricks 38. Cell Tower Data 39. Cell Phone Tower Map |
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| Hendricks | |
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**MIDLANDS CITY DISTRICT COURT
POLK COUNTY, MIDLANDS**

| | | |
|--------------------------|---|-------------------------------|
| STATE OF MIDLANDS | * | CASE NO.: CR17-07-0993 |
| Plaintiff | * | |
| v. | * | |
| | * | |
| DYLAN HENDRICKS | * | |
| Defendant | * | |

INDICTMENT AND BILL OF PARTICULARS

**STATE OF MIDLANDS,
COUNTY OF POLK, SS:
In the Year 2017**

THE JURORS OF THE GRAND JURY OF THE STATE OF MIDLANDS, within and for the body for the County aforesaid, on their oaths, in the name and by the authority of the State of Midlands, do find and present that:

**COUNT ONE
ATTEMPTED MURDER**

On or about July 16, 2017, in Polk County, Midlands, Dylan Hendricks did purposely or knowingly engage in conduct which if successful would have caused the death of another person, which constitutes the offense of ATTEMPTED MURDER, a Felony of the First Degree, in violation of Midlands Penal Code 903.02, and against the peace and dignity of the State of Midlands. To wit: Dylan Hendricks used an extension cord and/or a gun in an attempt to cause Kerry Bell-Leon’s death.

D. Hoy

D. Hoy (009920)

PROSECUTING ATTORNEY

A TRUE BILL

K. Lazerus

FOREPERSON, GRAND JURY

**MIDLANDS CITY DISTRICT COURT
POLK COUNTY, MIDLANDS**

STATE OF MIDLANDS

Plaintiff

v.

DYLAN HENDRICKS

Defendant

*
*
*
*
*
*

CASE NO.: CR17-07-0993

STIPULATIONS

1. Both parties agree that Carmen Bell-Leon is unavailable to testify. U.S. Customs and Border Patrol confirms that Carmen Bell-Leon left the United States bound for Ecuador on July 2, 2017 and has not returned. Extradition efforts have been unsuccessful. An arrest warrant has been issued for Carmen Bell-Leon for the attempted murder of Kerry Bell-Leon.
2. Kerry Bell-Leon was admitted to Midlands City Hospital at 12:25 A.M. on July 17, 2017 and treated for injuries consistent with a recent strangulation attempt. Kerry Bell-Leon was of normal mental health. Kerry Bell-Leon has not been treated for any other physical or mental illnesses or injuries related to the events of July 16-17, 2017.
3. A toxicology screen performed at Midlands City Hospital indicates that there was 6.7 mg/L of *cathiones methylene* (a drug known as “Everest”) in Kerry Bell-Leon’s bloodstream at 1:00 AM on July 17, 2017.
4. Exhibit 5 is a picture of a gun manufactured by AD Baker & Co., Inc. that was lawfully owned by and registered to Kerry Bell-Leon. Since July 17, 2017, the Midlands Police Department has maintained custody of the handgun. Neither party may fault the other for the absence of the actual gun from this trial.
5. All parties and witnesses are of at least normal intelligence.

6. The parties and witnesses waive all objections arising under the U.S. Constitution.
7. Chain of custody was properly documented for all exhibits, and all exhibits have been properly preserved prior to trial.
8. Other than issues related to MRE 404, 405, 608, and 609, any and all notice requirements and/or other discovery obligations pursuant to the Midlands Rules of Evidence and Midlands Rules of Criminal Procedure have been satisfied by all parties.
9. Exhibits 15 and 16 are fair and accurate representations of the sole Tender profiles used and created by Carmen Bell-Leon and Dylan Hendricks.
10. Exhibit 1 is a fair and accurate representation of Hendricks's interrogation. The following exhibits were shown to Hendricks and correctly identified by Hendricks during that interrogation: Exhibits 17-26, 30, 31, 32, 33, 34, 35, and 36.
11. The excerpt from Kerry and Carmen Bell-Leon's prenuptial agreement (Exhibit 12) is a fair and accurate copy of that portion of the prenuptial agreement. No other parts of the prenuptial agreement are relevant. The parties waive objections to Exhibit 12 on the basis that it is incomplete.
12. The pills in Exhibit 8 are the drug *cathiones methylene*, also known as "Everest." "Everest" is a controlled substance for the purposes of Midlands Penal Code §925.11
13. Exhibit 31 is an authentic receipt from Dylan Hendricks's visit to DeRosa's firing range that was automatically created by the cash register. A manager at the firing range identified and described Exhibit 31 after being shown the receipt by the police.
14. No physical, emotional, or verbal abuse ever occurred between Carmen and Kerry Bell-Leon.
15. No physical, emotional, or verbal abuse ever occurred between Dylan Hendricks and any member of law enforcement.
16. Carmen Bell-Leon is 34 years old. Kerry Bell-Leon is 36 years old. Dylan Hendricks is 34 years old.
17. Exhibit 27 is a fair and accurate representation of Tender Messages exchanged between Carmen Leon and Paris Harmon. Exhibit 28 is a fair and accurate representation of Tender Messages exchanged between Carmen Leon and Jesse Reynolds. Paris Harmon and Jesse Reynolds were not in the state of Midlands on July 16, 2017 or July 27, 2017.
18. Pat Sikorsky died on August 3, 2017 and is unavailable for trial. Exhibit 3 is a fair and accurate transcript of Pat Sikorsky's testimony at an August 7, 2017 preliminary hearing.

19. For the convenience of the parties, witnesses, court, and jury, all exhibits have been pre-labeled and pre-numbered. Those numbers will be used for all purposes at trial regardless of which party first offers the exhibit or the order in which the exhibits are offered.

**MIDLANDS CITY DISTRICT COURT
POLK COUNTY, MIDLANDS**

| | | |
|--------------------------|---|-------------------------------|
| STATE OF MIDLANDS | * | CASE NO.: CR17-07-0993 |
| Plaintiff | * | |
| v. | * | |
| | * | |
| DYLAN HENDRICKS | * | |
| Defendant | * | |

ORDER ON MOTIONS IN LIMINE

This matter is before the Court on several pre-trial motions filed by the State of Midlands and Defendant. The Court rules on the following issues and reserves ruling on all other evidentiary issues until proper objection at trial. The rulings set forth herein may not be revisited at trial.

Peremptory Character Evidence

The court first faces a pretrial motion by the State of Midlands to compel notice from defendant, Dylan Hendricks, of any character evidence of the accused or of the victim that Defendant intends to offer under Mid. R. Evid. 404(a). Defendant objected to the State's request for notice.

In other jurisdictions, if the Defense elected to introduce character evidence under Mid. R. Evid. 404(a)(2), the Prosecution would be afforded the opportunity to offer rebuttal witness testimony following the Defense case-in-chief. However, for better or worse, Midlands' focus on judicial economy has created a unique local rule that prohibits the

State from calling rebuttal witnesses. Therefore, this Court GRANTS the State's motion to compel and orders as follows:

1. Defendant must provide the State of Midlands with notice of any intent by defendant to offer evidence of the character of Defendant or victim pursuant to R. 404(a)(1). Defendant must indicate the specific traits of character intended to be pursued.
2. Upon receipt of notice by Defendant that Defendant intends to offer evidence under R. 404(a)(2), the State of Midlands may elect to pursue "preemptory rebuttal evidence" of competing traits during its case-in-chief. If defendant does not provide notice of its intent to offer R.

404(a)(2) evidence, neither party may introduce such evidence at trial. 3. The State of Midlands must, as always, offer similar notice to defendant

regarding its intent to offer any evidence of prior crimes, wrongs, or acts, pursuant to R. 404(b).

Admissibility of Ryan Reeves's Testimony

The court held an evidentiary hearing regarding a pretrial motion by the State to strike, and therefore completely exclude, the testimony of Ryan Reeves under *Tarot Readers Assoc. of Midlands v. Merrell Dow* (1994). The Court finds that Ryan Reeves possesses substantial training, experience, and skills in the field of pharmacology. For the reasons discussed at the hearing, this Court will not exclude Ryan Reeves's conclusions regarding the pharmacokinetic effects of the drug *cathinones methylene*, also known as "Everest," pursuant to *Tarot Readers v. Merrell Dow*. The State's motion is DENIED. Other objections to the testimony of Ryan Reeves may still be made at trial.

Admissibility of Interrogations

The Court additionally considered a pretrial motion by Defendant to exclude the interrogation of the Defendant on constitutional grounds. This Court finds that (1) the interrogation was conducted in a manner that did not infringe upon Defendant's constitutional rights; (2) the interrogation appropriately ceased immediately at the point where Defendant's constitutional right to counsel was affirmatively and clearly invoked; and (3) Defendant knowingly and voluntarily waived all Fifth Amendment rights during the interrogation. Accordingly, the Court DENIES Defendant's motion. At trial, Defendant's interrogation may be read onto the record by counsel for either party or through a witness without additional foundation and at any point once the record is

open. However, parties may object to particular parts of the interrogation on other evidentiary grounds.

Child Competency to Testify

This matter came before the Court upon motion challenging the competency of Bailey Bell-Leon in light of Bailey Bell-Leon's age. This Court saw no evidence of any physiological, psychological, developmental, or any other concerns that would prevent Bailey Bell-Leon from testifying under oath at trial. This Court hereby finds Bailey Bell-Leon competent to testify.

Motion to Exclude Gunshot Residue

Defense moves to exclude all evidence regarding gunshot residue under MRE 403. The Court GRANTS that motion because there is insufficient evidence to link the gunshot residue found by the forensic examiners to the crime of which Defendant is accused. Thus, the prosecution may make no mention of gunshot residue during trial. However, if the Defense raises the lack of gunshot residue as part its case, the Defense has "opened the door" to rebuttal gunshot residue evidence. The prosecution may then read related portions of the Preliminary Hearing Testimony of Pat Sikorsky onto the record.

E. V. Sophia

Hon. E. V. Sophia

RELEVANT MIDLANDS LAW

The statutes and cases listed below, along with the Midlands Rules of Evidence, are the only legal authorities that may be cited in trial.

Applicable Provisions from Midlands Penal Code Midlands Penal Code §903.02 Murder

(A) No person shall purposely or knowingly cause the death of another.

(B) Whoever violates this section is guilty of murder, a felony of the first degree, and shall be punished as provided in §929.02 of the Midlands Penal Code.

Midlands Penal Code §923.02 Attempt to commit an offense

(A) No person, purposely or knowingly, shall engage in conduct that, if successful, would constitute or result in an offense.

(B) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the attempt was either factually or legally impossible under the attendant circumstances, if that offense could have been committed had the attendant circumstances been as the actor believed them to be.

(C) Whoever violates this section is guilty of an attempt to commit an offense. An attempt to commit aggravated murder, murder, or an offense for which the maximum penalty is imprisonment for life is a felony of the first degree. An attempt to commit any other offense is an offense of the next lesser degree than the offense attempted.

Midlands Penal Code §913.02 Theft

(A) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:

(1) Without the consent of the owner or person authorized to give consent;

(2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;

(3) By deception;

(4) By threat;

(5) By intimidation.

(B) Whoever violates this section is guilty of theft, a misdemeanor of the first degree punishable by up to 180 days in jail.

Midlands Penal Code §925.11 Drug Abuse

(A) No person shall knowingly obtain, possess, or use a controlled substance or a controlled substance analog.

(B) Whoever violates division (A) of this section is guilty of possession of drugs, a misdemeanor of the first degree.

**MIDLANDS CITY DISTRICT COURT
POLK COUNTY, MIDLANDS**

STATE OF MIDLANDS

Plaintiff

v.

DYLAN HENDRICKS

Defendant

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CASE NO.: CR17-07-0993

JURY INSTRUCTIONS (ATTEMPTED MURDER)

The defendant, Dylan Hendricks, is charged with attempted murder in violation of §903.02 of the Midlands Penal Code. You must find the defendant not guilty unless you find that the government has proven beyond a reasonable doubt that the defendant is guilty of attempted murder as set forth in Instruction No. 1.

INSTRUCTION NO. 1: ATTEMPTED MURDER

You will find the defendant, Dylan Hendricks, guilty if, and only if, the government has proven beyond a reasonable doubt all of the following:

- A. The Defendant Acted Purposely Or Knowingly;
- B. The Defendant engaged in conduct that, if successful, would constitute or result in causing the death of another person.

INSTRUCTION NO. 2: STATE OF MIND DEFINITIONS

- Purpose: A Person Act Purposefully (intentionally) if he or she acts with the intent that his/her action causes a certain result. In other words, a defendant undertakes his/her action either intending for, or hoping that, a certain result will occur.

- Knowledge: A person acts knowingly if he or she is aware that his/her conduct will result in a certain outcome. In other words, a defendant acts knowingly if he or she is aware that it is practically certain that his/her conduct will cause a specific result.

INSTRUCTION NO. 3: PRESUMPTION OF INNOCENCE

The law presumes a defendant to be innocent of a crime, and the indictment shall not be considered as evidence or as having any weight against the defendant. You shall find the defendant not guilty unless you are satisfied from the evidence alone and beyond a reasonable doubt that the defendant is guilty. If upon the whole case you have a reasonable doubt as to guilt, you must find the defendant not guilty.

INSTRUCTION NO. 4: RIGHT TO REMAIN SILENT

The defendant is not required to testify, and the fact that a defendant does not testify cannot be used as an inference of guilt. If, however, a defendant does testify, you shall judge the defendant's credibility as you would any other witness.

INSTRUCTION NO. 5: ARGUMENTS AND REMARKS OF COUNSEL

Remarks of the attorneys are not evidence. If the remarks suggest certain facts not in evidence, disregard those remarks. However, you are to consider carefully the closing arguments of the attorneys. Ultimately you must draw your own conclusions and decide your verdict according to the evidence, under the instructions given to you by the court.

INSTRUCTION NO. 6: CREDIBILITY OF WITNESSES

It is the duty of the jury to scrutinize and weigh the testimony of witnesses and to determine the effect of the evidence as a whole. You are the sole judges of the credibility, that is, the believability, of the witnesses and of the weight to be given to their testimony. In determining the credibility of each witness and the weight to give the testimony of each witness, consider these factors:

- Whether the witness has an interest or lack of interest in the results of this trial;
- the witness's conduct, appearance, and demeanor on the witness stand;
- The clearness or lack of clearness of the witness's recollection;
- the opportunity the witness had for observing and for knowing the matters the witness testified about;
- the reasonableness of the witness's testimony

- F. the apparent intelligence of the witness;
- G. bias or prejudice, if any has been shown;
- H. possible motives for falsifying testimony; and
- I. all other facts and circumstances during the trial which tend either to support or to discredit the testimony.

Then give to the testimony of each witness the weight you believe it should receive. There is no predetermined way for you to evaluate the testimony; instead, you should use your common sense and experience.

INSTRUCTION NO. 7: EVIDENCE; INTERPRETING EVIDENCE

When making your decision, you may rely on both direct and circumstantial evidence. Direct evidence is testimony by a witness about what that witness personally did, saw, or heard. Circumstantial evidence is indirect evidence from which the fact finder may infer that another fact is true. Neither type of evidence should be given categorically more weight than the other.

The State’s burden of proving its case beyond a reasonable doubt applies to each and every element of the crime charged. This burden, however, does not operate on the many subordinate, evidentiary, or incidental facts as distinguished from proof of the elements of the crime or of an ultimate fact. Where, however, the State relies in whole or in part on circumstantial evidence to prove an element of a crime, although each link in the chain of evidence need not be proven beyond a reasonable doubt, the cumulative impact of that evidence must, in order to support that inference, convince the finder of fact beyond a reasonable doubt that the element has been proven.

INSTRUCTION NO. 8: UNANIMOUS VERDICT

The verdict of the Jury must be unanimous as to guilty or not guilty, and be signed by one of you as Foreperson.

DATE: _____

_____ JUDGE

WITNESS MATERIALS AND EXHIBITS

Affidavits:

<https://drive.google.com/file/d/1BPwWg-THQMmzeBLB6IBn0tu4499wdeiX/view?usp=sharing>

Reports:

<https://drive.google.com/file/d/1PlgqAuWVuCri0DDBT7f03TSueVZDMMgB/view?usp=sharing>

Exhibits: (Includes Dylan Hendricks's Interview)

<https://drive.google.com/file/d/19JYLpGL1lxo1EGpxrBZUNhlwNGPzkBK4/view?usp=sharing>

