

TRYOUT MATERIAL MOCK TRIAL
PREPARED BY DENNIS J. TURNER

Directions

1. This packet contains all the material that may be used and referred to in your presentation.
2. All relevant documents, statements and exhibits have been authenticated.
3. You represent the defendant, Dr. William Livingston.
4. Assume that the direct testimony of Gloria Livingston, a prosecution witness, as in conformity with her statement which is contained in this packet.
5. Assume you are making your opening statement to a jury.
6. The federal rules of evidence and criminal procedure apply to your cross-examination. Assume that opposing counsel is present and making appropriate evidentiary objections. Blatantly objectionable questions will count against you.
7. You must prepare and present the following, based on the enclosed material:
 - a. a five minute opening statement, and;
 - b. a ten minute cross-examination of Gloria Livingston.
8. You must prepare your case entirely on your own. You may not solicit help from any one.

Case Synopsis

Dr. Livingston is charged with the intentional murder of his son, Jonathon. He has entered a plea of not guilty. His defense to the charge is based on his assertion that he acted in self-defense.

The killing took place in the living room of the home of the defendant. The only eyewitness present, other than the defendant, was Gloria Livingston, the defendant's daughter.

The prosecution's theory of the case is that the defendant killed his son in a knowing and intentional manner.

NO. 787,133

THE STATE OF OLYMPIA

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IN THE DISTRICT COURT

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VS.

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113TH JUDICIAL DISTRICT

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WILLIAM HAPMPTON LIVINGSTON

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WELLS COUNTY, OLMPIA

STIPULATIONS

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW the attorneys, whose names are below subscribed and represent to the Court that the following stipulations shall prevail during this trial, to-wit:

1. All witnesses' signatures are authentic.
2. The Defendant's confession was voluntarily given, as has been ruled on at a Jackson v. Deno hearing.
3. The diagram is an authentic representation.

COUNSEL FOR PROSECUTION

COUNSEL FOR DEFENDANT

Witness Gloria Vanessa Livingston

I was in the living room at our house on that dreadful night. I am staying at home right now for the summer. I will be a sophomore in college this fall. My dad, William Hampton Livingston and my brother, Jonathon Edward Livingston, were in the living room with me. Jonathon was wearing a Grateful Dead T-Shirt. We were watching T.V. We had had some drinks, Scotch I think. About 8:30 p.m. my father and Jonathon got into an argument. Jonathon kind of started the argument. They were arguing about drugs. They argued a lot about drugs since Jonathon has always smoked pot and used speed, LSD and heroin. He even got busted a couple of times in high school for dealing.

The argument heated up and they were yelling at each other. My dad ended up telling Jonathon to leave the house. Jonathon, who was 22 years old, recently separated from his wife. He was staying at the house only temporarily. He had mentioned that he had a place to move to soon. My father was helping support Jonathon and his wife, Lou.

Anyway, the argument heated up, and my dad told Jonathon to leave the house. Jonathon said he was not going to leave. My dad said he would concede everything to Jonathon if Jonathon just got out of the house. Jonathon said, "You concede, good, I will get out when I am damn well ready." My dad said he was going to call the police. Jonathon retorted that he would jerk the phone cord out. There are several phones in the house. Jonathon walked over to the phone like he was going to jerk it out, but he did not. They had been sitting until this time. My dad got up and went to the bedroom. Jonathon said that dad was going to get a gun. Dad came right out of the bedroom. Dad came back into the living room and sat down. Jonathon walked up to Dad. They did not touch each other. Dad sat down in the same chair that he was sitting, and Jonathon sat down in the chair across from him. Then, Jonathon, said, if you have the gun you old bastard, you had better kill me. If you don't, I am going to take it away from you and make you eat it." Jonathon did not get out of his chair. They were arguing violently. My brother was aware of my father's medical condition. My brother and father had fought and argued before. Jonathon never even put up his fists like he was going to hit him.

Anyway, my dad shot my brother, and my brother fell down right away. I called an ambulance. They said that Jonathon was dead right away. I checked his pulse right after the call for the ambulance and I could not find any.

I have been arrested for selling marijuana. My attorney told me to plead guilty because he could get me a deal. I did. I served probation on that and am presently serving probation on that. I've also been arrested for prostitution, convicted and am serving a probated sentence for that.

CONFESSION WITH OFFICER'S WARNING

Date: July 8, 2014

Time: 1:30 a.m.

Statement of William Hampton Livingston taken at 111 Law Street, Wells City, Olympia.

I, William Hampton Livingston, have been warned by E. R. Bruce, the person to whom the statement is made that: (1) I have the right to have a lawyer present to advise me both prior to and during any questioning, (2) if unable to employ a lawyer, I have the right to have a lawyer appointed to counsel with me both prior to and during any questioning, (3) I have the right to remain silent and not make any statement at all and any statement I make may and probably will be used in evidence against me at my trial and (4) I have the right to terminate the interview at any time I so desire.

I fully understand all these rights, and desiring to waive all of them, I hereby make the following voluntary statement:

My name is William Hampton Livingston. I am a white male, 50 years of age. I live at 1003 River Heights in Wells City, Olympia. I am a medical doctor, specializing in the practice of internal medicine. I have an office for private practice located at 204 Medical Drive, Wells City, Olympia and am on the staffs of numerous hospitals in this city. I was the father of Jonathon Edward Livingston, age 22 when he died. I have a daughter, Gloria Vanessa Livingston, who currently resides with my wife and me.

On the night of the shooting, July 7, 2014, I was arguing with my son, Jonathon in the living room of our house. The argument was really not all that important or significant. Jonathon started the argument by loudly contending that the government was wasting its money on the enforcement of drug and narcotics laws. I told him that was probably a good idea and that drug use has the potential to ruin this country. Jonathon frequently argues with me knowing that this will disturb me and that I have a heart condition. I suffered a heart attack approximately three years ago and am always cognizant of my chances of having another attack if I become extremely upset or if I over-exert myself physically.

Anyway, Jonathon kept arguing and arguing over why drugs should be legalized and I told him I would concede the argument if he would just get out of the house. He didn't. Then, I told him I was going to call the police and Jonathon said he would jerk the phone cord out of the wall.

Witness William Hampton Livingston

My name is William Hampton Livingston. I am a 50 year old white male living at 1003 River Heights in Wells City, Olympia. I am a doctor specializing in the practice of internal medicine and have an office in Wells City. I am also on the staffs of various hospitals in Wells City. My son, Jonathon Edward Livingston, was 22 years of age at the time I shot him in my living room. I shot him because I feared for my life.

I have a serious heart condition, having suffered a massive heart attack a few years ago. On the night of the shooting, July 7, 2014, Jonathon was arguing with me in such a violent fashion that I feared he was going to do something drastic which would cause me to have a fatal heart attack. To be frank, he was scaring the hell out of me. Jonathon was a very good semi-professional boxer and had won many awards in the Golden Gloves Tournaments. He had also beaten up quite a few people outside of the ring. He had as violent a temper as any man could have. He and I had argued and fought before.

Jonathon also used drugs quite heavily. This is what we were arguing about that night in my living room. He was saying that all drugs should be legalized and I disagreed. However, I was not going to make a big deal out of it and told him just to leave the house and I would concede the argument. Jonathon always likes to upset me and continued his belligerence to the point that I told him that I would call the police. Then, he said he wouldn't let me.

For my protection, I went back to my bedroom and got my .38 special. Then I returned to the living room. Jonathon told me that if I had my gun I should shoot him before he finished me off. I was sitting down in the living room and Jonathon got up and started moving towards me with a vicious look in his eye. I thought he was going to do something harmful to me and I had no choice. I shot him for my own protection.

I have read the above foregoing and based on all that I remember at that time, it is true and correct.

William Hampton Livingston

NO. 898.113

STATE OF OLYMPIA

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IN THE 113TH JUDICIAL

*

VS.

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DISTRICT COURT OF

*

WILLIAM HAMPTON LIVINGSTON

*

WELLS COUNTY, OLYMPIA

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, WILLAM HAMPTON LIVINGSTON, is charged by indictment with the offense of murder, alleged to have been committed in Wells County, Olympia on or about July 7, 2014 to this charge the Defendant has pleaded not guilty. You are now instructed that the law applicable to the case is as follows:

A person commits the offense of murder if he knowingly or intentionally causes the death of an individual.

Voluntary manslaughter is a lesser-included offense of murder. A person commits the offense of voluntary manslaughter if he knowingly or intentionally causes the death of an individual, except that he caused the death under the immediate influence of sudden passion arising from an adequate cause.

Involuntary manslaughter is also a lesser-included offense of murder. A person commits the offense of involuntary manslaughter if he recklessly causes the death of an individual.

Criminally negligent homicide is also a lesser-included offense of murder. A person commits the offense of criminally negligent homicide if he causes the death of an individual by criminal negligence.

Indictment

The State of Olympia

Charge: Murder

Vs

Justice Court No. 0001

William Hampton Livingston
787,113

Bail: \$10,000

113th Dist. Cause No. &
Court Court Number

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF OLYMPIA:

The duly organized Grand Jury of Wells County, Olympia, presents in the District Court of Wells County, Olympia, that in Wells County, Olympia,

WILLIAM HAMPTON LIVINGSTON,

hereafter styled the Defendant, heretofore on or about July 7, 2014, did then and there unlawfully, intentionally and knowingly cause the death of Jonathan Edward Livingston, by shooting the Complainant with a gun.

AGAINST THE PEACE AND SIGNITY OF THE STATE

Foreman of the Grand Jury

NOTE: "NOT TO SCALE"

