

Guilt Innocence Phase
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1 the complainant in State's Exhibit 678 known as Jaime
2 Melgar is in fact Jaime Melgar, named the complainant in
3 Cause No. 1435566.

4 THE COURT: It will.

5 MS. BARNETT: Is that the agreement?

6 MR. SECREST: Yes, it is.

7 MS. BARNETT: With that, the State rests.

8 THE COURT: State of Texas rests.

9 What says the Defense?

10 MR. SECREST: I have a motion outside the
11 presence of the jury.

12 THE COURT: All right. Ladies and
13 gentlemen, we will excuse you for a few minutes so we
14 can do this procedural manner and we will see you in few
15 minutes.

16 THE BAILIFF: All rise for the jury.

17 (Jury leaves courtroom)

18 **MOTION FOR DIRECTED VERDICT**

19 MR. SECREST: Thank you, Your Honor. May
20 I bring Sandra Melgar by and through her attorneys of
21 records, George McCall Secrest and also Allison Secrest.
22 We respectfully urge the Court to enter a directed
23 verdict of not guilty. I've only been doing this 40
24 years. I've never seen a case of less evidence. You
25 get beyond the hysterics and the theories, the State

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1 that has to prove, of course, beyond a reasonable doubt
2 is that Sandra Melgar intentionally murdered her husband
3 and there is no evidence of that. There is -- and in
4 analyzing evidence to look at what's not there. So
5 obviously there's no confession. She didn't do it. And
6 then we have no, quote or unquote, eyewitness, but you
7 don't need eyewitness. The evidence speaks for itself.
8 In this case, in fact the State's theory is and it
9 started from the getgo within about two hours of the
10 alleged investigation of this case is once they entered
11 the scene, because she didn't have a memory of exactly
12 what happened and because she is alive and her husband
13 is dead and because they don't find any, quote, unquote,
14 forced entry, she must have done it.

15 The reality is, however, that if she did
16 do it, it would have to be some evidence that she did
17 so. And, you know, I am an advocate and I am absolutely
18 biased, but objectively looking at this evidence, Your
19 Honor, there is utterly no evidence that she killed her
20 husband. By definition, the killer would have gotten
21 blood on themselves. All the State's witnesses tell you
22 that. In this case not only does she have utterly no
23 blood on herself, she had her finger nail scrapings come
24 back to her husband, finger nail scrapings underneath
25 Jaime come back to Jaime and finger nail scrapings under

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1 her, come back to her. Her nails are not broken. There
2 is no DNA under her nails. Could she have washed
3 herself? Absolutely, but there is no evidence that in
4 fact she did so. All floors being tested, clearly and
5 100 percent establishes that it's his -- his blood is
6 not there it's only her blood, and there's even a
7 question raised as to whether it's blood based upon the
8 cross-examination and testimony of Carpenter and even
9 the testimony of Ms. Rossi that a positive fluorescein
10 test merely shows that it could be blood but it doesn't
11 have to be blood and even if it is blood, it could be
12 blood associated with items not connected to the crime
13 scene. So you clearly have that.

14 She has no type of injuries consistent
15 with having killed anyone. The evidence is totally
16 consistent based upon Rossi, based upon Dousay, based
17 upon Carpenter, and based upon Dr. Pinneri that the
18 killer would have gotten blood on themselves and there
19 is no blood in the house. There is no blood in the
20 trash can. There are no bloody clothes. There's
21 nothing at all. There is no DNA of Sandy in his DNA.
22 There is no connection there. So if she is the killer,
23 how did she clean herself up? Where are those clothes?
24 And this is not -- and it's easy enough to say that's
25 why God created a jury. We'll let the jury figure it

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1 out. They don't have the right to have the jury ever
2 even attempt to figure it out unless they establish a
3 prima fascia case, which means there has to be evidence
4 sufficient to establish each stitch of element of the
5 offense beyond a reasonable doubt and there is in fact
6 no evidence in this case to demonstrate that she killed
7 him. You know, they're going to say, well, you know,
8 that door, that garage door, you know, she said -- she
9 said it was closed. I think it's clear. She says --
10 there's no doubt what she says. She says that she went
11 into the house first. She doesn't know whether it's
12 closed and then he led her and led her and led her,
13 that's for a jury argument, but the reality is there's
14 certainly every reason to believe that the door could
15 have been open. On top of that, they have conveniently
16 glided by the interior door. I'm sorry to take up the
17 Court's with that time during my cross-examination, but
18 to take eight or nine photographs of the front door and
19 the back door -- and in fact Carpenter told you under
20 oath he never inspected the door, and in fact his own
21 photograph shows that the mechanism doesn't work. That
22 little business that comes out of the interior of the
23 door was not closing. So we have a situation where that
24 door doesn't even lock. So she -- again she's found in
25 the house. She makes no incriminating statements and

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1 she's -- she says she doesn't have a memory. There's
2 already evidence in the record that she has lupus, she
3 has seizure disorders, she has retrograde amnesia, short
4 term memory loss. So the fact that she can't explain
5 everything is really -- is a very little moment. The
6 State can argue and the State can contend that somehow
7 is some indicia of guilt, but that's not the issue at
8 this juncture. The issue is here, based upon what
9 you've heard to this juncture, can the Court say that
10 there is legally sufficient evidence as to each
11 constituent element to let this case go to the jury.
12 And you let the case go to jury, Judge, when in fact if
13 there's a swearing match, if there's two sides of the
14 story, if someone says it was self-defense, someone says
15 it's not self-defense, that's for the jury to determine.
16 But at this juncture, even before the defense put on a
17 case, you know, this is a situation where it's, you
18 know, big hat, no cattle, Judge. They can put on a big
19 show, but they cannot establish that in fact Sandy
20 Melgar killed her husband and they have not done it and
21 I would respectfully urge the Court to grant a motion
22 for a directed verdict.

23 THE COURT: All right. Thank you,
24 Mr. Secrest.

25 Respectfully, at this point your motion is

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1 denied.

2 MR. SECREST: Thank you.

3 THE COURT: Defense, do you have your next
4 witness here?

5 MR. SECREST: We do, Your Honor. Thank
6 you. Herman Melgar.

7 THE COURT: What says the Defense?

8 MR. SECREST: Your Honor, we're ready to
9 proceed and we would call Herman Melgar to the stand.

10 THE COURT: All right. Herman Melgar.

11 MR. SECREST: And Mr. Melgar has not been
12 sworn in.

13 THE COURT: (Swearing in.)

14 Glen, I take it that you will be assisting
15 us from Spanish to English?

16 INTERPRETER: Yes, Your Honor.

17 THE COURT: Mr. Secrest, you may proceed.

18 MR. SECREST: Thank you, Your Honor.

19 **DEFENSE'S CASE IN CHIEF**

20 **DIRECT EXAMINATION**

21 BY MR. SECREST:

22 Q. Good afternoon. How are you, sir?

23 A. Good afternoon. Fine, thank you.

24 Q. Thank you. Mr. Melgar, I've got several
25 questions to ask you. And when I'm finished, the