

1 COURT: Very well. Members of the jury, at
2 this time we're going to take a recess and counsel will
3 work with the Court on preparing the jury instructions.
4 That's of course the third phase of the trial we talked
5 about earlier in the beginning of the case. Retire to
6 the jury room at this time.

7 (JURY LEAVES COURTROOM)

8 COURT: Counsel, are there any instructions
9 you haven't already filed with the Court?

10 MS. GARST: No.

11 MR. ALBERTSON: No, sir. Judge, we're also
12 going to have a motion at some point.

13 COURT: I'm sorry, Mr. Albertson.
14 Certainly. Renew your motion.

15 MR. ALBERTSON: Mr. Graves is going to do
16 the motion.

17 COURT: Mr. Graves.

18 *Motion* MR. GRAVES: Yes, Your Honor. Good
19 afternoon. The defense will now make another motion to
20 strike Indictments #1 and #2, the first charge of first
21 degree murder and use of a firearm during commission of a
22 murder. The Commonwealth must have proven the elements
23 of willfulness, premeditation, and deliberation in the
24 killing of Dustin Stanley. The Commonwealth has
25 introduced circumstantial evidence of the purchase of

1 this firearm. Also, entered in several witnesses
2 testifying to achieve as what they say, consideration in
3 their sentencing. There is no dispute by the defense
4 that Ms. Hockman did attempt to clean up the scene
5 enlisting the help of her son, Kristoffer George. But
6 also shown throughout the proceeding numerous incidents
7 of abuse by the alleged victim. Having no plan to clean
8 up the scene, having no idea of what to do after the
9 shots had been fired helped show that she did not intend
10 to kill Dustin Stanley. The Commonwealth again cannot
11 rise above its own evidence in that. But we have offered
12 evidence of a fight and Ms. Hockman in the heat of the
13 moment under severe duress firing the gun to prevent what
14 she believed at the time to be protecting her son from
15 Mr. Stanley after he made statements of his intent to
16 harm her and her son. One may clearly shoot to protect
17 himself and his family. The Commonwealth's own evidence
18 suggests possibly defense of others. Now taking the
19 evidence in the light most favorable to the Commonwealth
20 in resolving all conflicts in favor of the Commonwealth a
21 reasonable juror could not find the defendant guilty of
22 the charges. As such, the Commonwealth has not met their
23 required burden of proof and the charges should be
24 stricken. Thank you.

25 COURT: Ms. Garst?