

1 MR. EIDE: NOTHING ELSE.

2 MR. BENDER: NO.

3 THE COURT: ALL RIGHT. I DON'T LIKE TO SET TIME  
4 RESTRAINTS ON CLOSING ARGUMENT.

5 HOW MUCH DOES THE STATE WANT FOR ITS CLOSING?

6 MR. BENDER: I WOULD SAY A HALF HOUR TO 40 MINUTES,  
7 YOUR HONOR, WOULD BE SUFFICIENT FOR BOTH. PERHAPS A  
8 HALF HOUR FOR BOTH OPENING AND CLOSING.

9 THE COURT: DEFENSE?

10 MR. EIDE: I EXPECT THE CLOSING TO BE ABOUT 45  
11 MINUTES.

12 THE COURT: YOUR CLOSING TO BE ABOUT 45 MINUTES?

13 MR. EIDE: RIGHT.

14 THE COURT: BOTH CLOSINGS SHOULD TAKE NO LONGER  
15 THAN HALF AN HOUR. THIS IS A VERY SIMPLE CASE, FROM  
16 THE STANDPOINT OF THE ISSUES HERE BETWEEN THE PARTIES  
17 AS TO WHO THE JURY BELIEVES. SO I DON'T KNOW OF ANY  
18 REASON WE CAN'T CONCLUDE CLOSING ARGUMENTS WITHIN HALF  
19 AN HOUR.

20 MR. EIDE: WELL, THAT WOULD BE OUR CONTENTION,  
21 YOUR HONOR. THAT BECAUSE OF THE LENGTH OF THE TRIAL  
22 AND THE NUMBER OF WITNESSES AND THE EVIDENCE THAT CAME  
23 IN, THAT THE 30 MINUTES; ALTHOUGH, IT MAY BE ENOUGH,  
24 I WOULDN'T BE SURE IF IT WOULD BE, OR NOT.

25 I MAY NOT GO 45. I WILL NOT GO MORE THAN

1 I WILL NEED TO. THE COURT IS AWARE OF THAT WITH ME.  
2 BUT 30 MINUTES LIMITING, I DON'T KNOW.

3 THE COURT: WELL, YOU ALL ARE DIRECTED TO KEEP  
4 YOUR CLOSING ARGUMENTS TO 30 MINUTES. I MAY ALLOW  
5 YOU A MINUTE OR TWO OVER THAT, BUT I'LL WARN YOU  
6 ACCORDINGLY IF YOU GET BEYOND THAT.

7 MR. EIDE: THANK YOU, YOUR HONOR.

8 THE COURT: ANYTHING ELSE NOW, AS FAR AS JURY  
9 INSTRUCTIONS? DO YOU WANT TO MAKE ANY OTHER ARGUMENT  
10 ON THIS INVOLUNTARY INTOXICATION?

11 MR. EIDE: YOUR HONOR, WE WOULD STILL ASK FOR  
12 THE INVOLUNTARY INTOXICATION INSTRUCTION. THE CASE  
13 LAW ON INSTRUCTIONS OF JURIES, BASICALLY, SAYS THAT  
14 IF THERE IS EVIDENCE THAT WOULD BE SUFFICIENT FOR IT  
15 TO GO TO THE JURY, THEN IT SHOULD BE GIVEN.

16 THEN THE QUESTION WOULD BE, ANY QUESTIONS  
17 WHETHER OR NOT IT SHOULD BE GIVEN WOULD BE RESOLVED  
18 IN FAVOR OF, USING THAT INSTRUCTION IN GRANTING IT.

19 WE THINK THAT THE STATE'S TESTIMONY AND  
20 DIRECT EVIDENCE AND WHAT THEY HAD ELICITED FROM THEIR  
21 WITNESSES INDICATED THAT MR. MERSON HAD ANYWHERE FROM  
22 THREE TO SIX BEERS. MR. MERSON'S TESTIMONY WAS THAT,  
23 "IT WOULD TAKE ME TWELVE BEERS TO GET DRUNK."

24 HOWEVER, AFTER WORKING DUI'S AND OTHER  
25 THINGS, THIS COURT UNDERSTANDS AND I'M SURE KNOWS