

IN THE CIRCUIT COURT, 9th JUDICIAL
CIRCUIT, CRIMINAL JUSTICE DIVISION
IN AND FOR ORANGE COUNTY, FLORIDA

STATE OF FLORIDA,

PLAINTIFF,

VS.

CASE NO. CR 90-5351
VOLUME I

SCOTTY MERSON,

DEFENDANT.

FILED IN OFFICE
CRIMINAL DIVISION
91 MAR 25 PM 11:10
FRANK J. HARTSON
CLERK OF DISTRICT COURT
ORANGE COUNTY, FL.

JURY TRIAL PROCEEDINGS

BEFORE

THE HONORABLE GEORGE A. SPRINKEL, IV

ORANGE COUNTY COURTHOUSE
COURTROOM C, THIRD FLOOR
ORLANDO, FLORIDA 32801
TUESDAY, OCTOBER 16, 1990
COMMENCING AT 10:55 A.M.

A P P E A R A N C E S:

MARK C. BENDER, ESQUIRE
ASSISTANT STATE ATTORNEY
250 NORTH ORANGE AVENUE
ORLANDO, FLORIDA 32801
APPEARING FOR THE PLAINTIFF

ERIC R. EIDE, ESQUIRE, AND
PATRICIA CASHMAN, ESQUIRE
ASSISTANT PUBLIC DEFENDER
ONE NORTH ORANGE AVENUE
ORLANDO, FLORIDA 32801
APPEARING FOR THE DEFENDANT

HEATHER L. EICH
Official Court Reporter

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1 OCTOBER 16, 1990

2 10:55 O'CLOCK A.M.

3 P R O C E E D I N G S

4 THE COURT: GOOD MORNING LADIES AND GENTLEMEN.

5 YOU'VE BEEN SUMMONED TO THIS COURTROOM TO HAVE SELECTED
6 AMONG YOU SIX JURORS TO TRY THE CASE OF THE STATE OF
7 FLORIDA VERSUS SCOTTY MERSON. THIS IS A CRIMINAL CASE,
8 AND THE DEFENDANT IS CHARGED WITH TWO SEPARATE CRIMES.

9 IN COUNT ONE, THE STATE ALLEGES THE CRIME
10 OF SEXUAL BATTERY. THE STATE, CHARGING THROUGH LAWSON
11 LAMAR, STATE ATTORNEY OF THE NINTH JUDICIAL CIRCUIT,
12 PROSECUTING FOR THE STATE OF FLORIDA IN ORANGE COUNTY,
13 OR LAWSON LAMAR, PROSECUTING FOR THE STATE OF FLORIDA
14 IN ORANGE COUNTY BY AND THROUGH THE UNDERSIGNED
15 DESIGNATED ASSISTANT STATE ATTORNEY, UNDER OATH,
16 CHARGES THAT SCOTTY MERSON, A PERSON 18 YEARS OF
17 AGE OR OLDER, ON OR ABOUT THE 17TH DAY OF MAY,
18 1990, IN SAID COUNTY AND STATE, DID, IN VIOLATION
19 OF FLORIDA STATUTE 794.011 SUBSECTION (2), COMMIT
20 A SEXUAL BATTERY UPON ANGELA [REDACTED], A PERSON LESS
21 THAN 12 YEARS OF AGE, AND IN FURTHERANCE THEREOF
22 DID PERFORM CUNNILINGUS UPON ANGELA [REDACTED].

23 COUNT TWO ALLEGES THE CRIME OF BURGLARY
24 TO A DWELLING WITH BATTERY THEREIN. THE STATE OF
25 FLORIDA ALLEGING THROUGH LAWSON LAMAR, STATE

1 ATTORNEY OF THE NINTH JUDICIAL CIRCUIT PROSECUTING
2 FOR THE STATE OF FLORIDA IN ORANGE COUNTY, OR LAWSON
3 LAMAR, STATE ATTORNEY OF THE NINTH JUDICIAL CIRCUIT
4 PROSECUTING FOR THE STATE OF FLORIDA IN ORANGE COUNTY,
5 BY AND THROUGH THE UNDERSIGNED DESIGNATED ASSISTANT
6 STATE ATTORNEY, UNDER OATH, CHARGES THAT SCOTTY MERSON
7 ON OR ABOUT THE 17TH DAY OF MAY, 1990, IN SAID COUNTY
8 AND STATE, DID, IN VIOLATION OF FLORIDA STATUTE 810.02
9 SUBSECTION (2), ENTER OR REMAIN IN A CERTAIN STRUCTURE;
10 TO-WIT: A DWELLING, LOCATED IN THE VICINITY OF 3020
11 HARRISON AVENUE, IN THE COUNTY AND STATE AFORESAID,
12 THE PROPERTY OF CATHY [REDACTED] AS OWNER OR CUSTODIAN
13 THEREOF, WITH THE INTENT TO COMMIT AN OFFENSE THEREIN,
14 AT A TIME WHEN THE SAID PREMISES WERE NOT OPEN TO THE
15 PUBLIC NOR WAS THE SAID SCOTTY MERSON LICENSED OR
16 INVITED TO ENTER OR REMAIN.

17 AND DURING THE COURSE OF COMMITTING SAID
18 OFFENSE, SCOTTY MERSON DID COMMIT A BATTERY UPON
19 MICHELLE COLE BY INTENTIONALLY TOUCHING OR STRIKING
20 THE SAID MICHELLE [REDACTED] AGAINST HER WILL, OR BY
21 INTENTIONALLY CAUSING BODILY HARM TO MICHELLE
22 [REDACTED]. BOTH OF THESE CHARGES ARE CRIMINAL CHARGES.

23 THERE IS A PRESUMPTION OF INNOCENCE WHICH
24 ABIDES WITH THE DEFENDANT THROUGHOUT THE TRIAL UNTIL
25 THAT PRESUMPTION HAS BEEN OVERCOME BY PROOF PRESENTED

1 BY THE STATE OF FLORIDA TO THE EXCLUSION OF AND BEYOND
2 EVERY REASONABLE DOUBT.

3 UNTIL THAT PRESUMPTION HAS BEEN OVERCOME
4 BY THE EVIDENCE, THE JURY MUST PRESUME THE DEFENDANT
5 INNOCENT.

6 THE STATE IS REPRESENTED BY ASSISTANT
7 STATE ATTORNEY, MARK BENDER.

8 MR. BENDER, WOULD YOU ANNOUNCE THE WITNESSES
9 YOU INTEND TO CALL.

10 MR. BENDER: YES, YOUR HONOR. WE INTEND TO
11 CALL ANGELA COLE, MICHELLE COLE, CATHY COLE WILLEY
12 AND RAYMOND STOCKWELL; OFFICER FRANK ROACH OF THE
13 ORLANDO POLICE DEPARTMENT; OFFICER SCOTT OF THE
14 ORLANDO POLICE DEPARTMENT; TINA COLE. AND I BELIEVE
15 THAT'S ALL, YOUR HONOR, FROM THE STATE.

16 THE COURT: THE DEFENSE IS REPRESENTED BY ERIC
17 EIDE. SEATED NEXT TO MR. EIDE IS SCOTTY MERSON, THE
18 DEFENDANT.

19 MR. EIDE, WOULD YOU ANNOUNCE TO THE COURT
20 WHAT WITNESSES YOU INTEND TO CALL AT THIS TIME.

21 MR. EIDE: YES, YOUR HONOR. THE DEFENSE AT THIS
22 POINT INTENDS TO CALL MR. MICHAEL WILLEY, MR. RANDALL
23 KNIGHTON, MISS MARY ALLISON LOWERY, MISS KRISTI MOORE,
24 MR. SHAWN WILLEY, MISS DOROTHY MERSON, MR. MICHAEL
25 HIGHLAND, MISS TAMMY WILLEY, MISS SHARON JOHNSON AND

1 MR. RICHARD MERSON.

2 THE COURT: DO ANY OF YOU KNOW EITHER OF THE
3 ATTORNEYS IN THIS CASE, OR THE DEFENDANT? IF SO
4 PLEASE RAISE YOUR HANDS.

5 DO ANY OF YOU KNOW THE WITNESSES ANNOUNCED
6 IN THIS CASE? IF SO, PLEASE RAISE YOUR HANDS.

7 YES, MA'AM?

8 MS. THOMPSON: I KNOW OFFICER SCOTT WITH THE
9 ORLANDO POLICE DEPARTMENT.

10 THE COURT: AND YOU'RE MARY THOMPSON?

11 MS. THOMPSON: YES, SIR.

12 THE COURT: ANYONE ELSE?

13 MR. BENDER: THAT WOULD BE OFFICER DAVE SCOTT.

14 MS. THOMPSON: OKAY. I DON'T KNOW HIM.

15 THE COURT: THIS IS A DIFFERENT OFFICER SCOTT?

16 MS. THOMPSON: (NODS HEAD)

17 THE COURT: ALL RIGHT. DO ANY OF YOU KNOW OF ANY
18 REASON WHY YOU COULD NOT SIT AS A FAIR AND IMPARTIAL
19 JUROR ON CASE OF THIS NATURE? IF SO, PLEASE RAISE
20 YOUR HANDS.

21 THE STATE MAY PROCEED.

22 MR. BENDER: THANK YOU, YOUR HONOR.

23 GOOD MORNING, LADIES AND GENTLEMEN. I'M
24 GLAD WE HAD SOME VOLUNTEERS FOR JURY DUTY TODAY.

25 MY NAME IS MARK BENDER. I'M A PROSECUTOR