

1 THE COURT: Ladies and gentlemen of the jury, the
2 hour is now approximately 2 minutes of 3:00. Let's take a
3 recess until 3:15. Court's in recess.

4 (Recess)

5 MR. VAN ALLEN: Your Honor, before you return the
6 jury to jury box, I would advise the Court the State rests
7 at this time.

8 THE COURT: In light thereof, Mr. Ivie, do you
9 wish to make any motions?

10 MR. IVIE: Yes, Your Honor. I wasn't expecting
11 that. He just told me he was going to call Linda Alland and
12 then rest. Of course it's his privilege.

13 MR. VAN ALLEN: I'm sorry.

14 MR. IVIE: Oh. Okay. Basically, Your Honor, the
15 defendant would move for a judgment of acquittal on the
16 basis that the evidence is insufficient as a matter of law
17 to sustain the indictment. This is a circumstantial
18 evidence case. There were two incidents that occurred on
19 February the fourth. The robbery and assault of Rebecca
20 Henry and the homicide of Marlene Reeves. The evidence of
21 the State in support of the indictment consists of the
22 testimony of some witnesses who related conversations had
23 with the defendant with the exception of one of those
24 conversations, that being the conversation with Officer
25 McKinnon of the Orlando Police Department. The statements

1 attributed to the defendant are ambiguous enough to be
2 construed to either the Rebecca Henry case or the Marlene
3 Reeves case but not both. There is no evidence that I heard
4 that the defendant ever talked about two different cases,
5 only one case.

6 Officer McKinnon, in his testimony, told you that
7 the defendant made a voluntary statement to him that he was
8 there on the porch with some others that were in the house.
9 He didn't know what was taking so long. He went inside, saw
10 one of them on top of the lady, strangling her. Between the
11 two cases, the only evidence of any strangulation or choking
12 was that of the victim Rebecca Henry. If you will recall
13 the testimony of Joan Wood, there was no evidence of
14 strangulation of Marlene Reeves. There is also in support
15 of the theory that only one of these could be attributed to
16 the defendant, and that one the Rebecca Henry case, the fact
17 that the two scenes were totally dissimilar, the two
18 assaults were totally dissimilar. In the Rebecca Henry case
19 we have a cushion on the face but no attempt to kill. Just
20 an attempt to keep quiet. There was a knife used. There
21 was a sexual assault. There was no widespread ransacking as
22 occurred over in Marlene Reeves' apartment. In Marlene
23 Reeves' apartment, we have evidence of widespread
24 ransacking, we have a sexual assault, we have homicide. We
25 have a completely different picture. We don't have

1 similarity in crimes simply because they were both women and
2 they were both apartments.

3 The only evidence against the defendant as to the
4 Marlene Reeves case is the fingerprint on the outside of the
5 screen. However, that circumstantial evidence standing
6 alone is insufficient to sustain a conviction since it is
7 clear that there is no testimony as to when that fingerprint
8 was put on there. It could have been put on there before
9 someone else broke in. It could have been put on there
10 after she was dead. There is no evidence that the defendant
11 was ever inside the Marlene Reeves apartment.

12 Further we have the testimony of Mr. Caruthers
13 that closer to the time that Marlene Reeves was killed, the
14 estimate by the medical examiner, he witnessed what he
15 thought was a man in an orange or light coat with a brown
16 hat, approximately a head shorter than his five foot nine,
17 pass by his window.

18 The only evidence concerning the defendant's
19 presence in that neighborhood is that he was wearing a black
20 trench coat with a hat that could not possibly be described
21 as a fedora, regardless of whatever description was given by
22 the witness Diane Harrison.

23 The statements to Diane Harrison and the
24 statements to Walter Harrison, even the statement that
25 Officer Muck alleges was made to him at the jail, do not of