

## Judge's Role – Charge to the Jury

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Mr./Madam Foreman, ladies and gentlemen of the jury, it is now my duty to give you certain instructions before you begin your deliberations.

We have separate responsibilities in this case. It is my responsibility to instruct you concerning the legal principles you must consider during your deliberations. You must accept my statements defining and explaining the law. It is your collective responsibility to assess the events that gave rise to the charges against Travis Mitchell and to decide what happened. You are not obliged to accept the submissions of counsel or my own observations concerning the facts of this case.

There is a fundamental principle which you must understand and always recall during your deliberations. In Canada, when a person is accused of criminal wrongdoing, he or she does not have to prove innocence. It is the task of the prosecution to prove guilt beyond all reasonable doubt. If the evidence before you does not go that far, Travis Mitchell is entitled to be acquitted.

The evidence in this case, like the evidence in almost every case, was, at times, surprising, conflicting and confusing. It is your task to sort through the testimony of the various witnesses. You will use common sense and the wisdom that experience has taught you during your lives. You may accept all or most of the testimony given by some witnesses. You may reject all or most of the testimony given by some witnesses. You may feel that some witnesses observed and recalled the events accurately. You may feel that other witnesses were untruthful or that their testimony cannot safely be relied upon for any number of reasons. Honest persons can be mistaken in their observations and recollections of traumatic events.

I am required to review those areas of evidence which may be particularly important to your deliberations.

You know that somebody murdered Roxanne Andrews and Cleo Sims. The task for you is to decide if it has been proved beyond all reasonable doubt that Travis Mitchell killed either or both of these women.

Crown counsel says that you should accept Travis Mitchell's confessions as truthful, and convict him. Crown counsel says that Travis Mitchell admitted his guilt first to Sgt. Haney, then to Cst. Kake, and finally to Dr. Vinos. And Crown counsel stresses the proposition that Travis Mitchell's admissions to Dr. Vinos were spontaneous. The fact, it is said, must mean they were true.

Crown counsel draws your attention to three further items of evidence: the footprint found in the house where Cleo Sims was murdered, the calculator found in Travis Mitchell's bedroom and the glass of water found in the kitchen of the house where Roxanne Andrews was murdered. It is the submission of the Crown counsel that these individually small pieces of evidence each link Travis Mitchell to the murders and confirm the truth of his confessions.

Defence counsel says that apart from the confessions there is simply no evidence at all to establish the guilt of Travis Mitchell. And the further submissions of defence counsel is that the admissions of guilt made by Travis Mitchell were not true but rather were things said by a mentally handicapped young man desperate to obtain some relief from the insistent questioning of an overbearing and unfair police officer. Defence counsel says that the testimony of Dr. Berman and the evidence given by the undercover police officer, Cst. Kake, support this submissions.

Defense counsel says that Travis Mitchell's confessions are not consistent with what Cst. Drake actually saw at the crime scenes. Defence counsel further reminds you that when Travis Mitchell was taken on a "show and tell" tour by Sgt. Haney, he was not even able to identify the house where the murders were committed.

I believe that I must tell you, as a matter of law, that if you cannot be satisfied beyond all reasonable doubt that Travis Mitchell's admissions of guilt were the truth, you must acquit him. There is not other evidence which is capable of establishing guilt independently of the confessions.

The following verdicts, and no others, are open to you in this case:

1. You may acquit Travis Mitchell on both counts.
2. You might find Travis Mitchell guilty on one count and acquit him on the other. This would be a surprising result.
3. You may find Travis Mitchell guilty on both counts.

Ladies and gentlemen, you may now retire and begin your deliberations. You may wish to take the exhibits with you into the jury room.

*CAUTION: This "charge to the jury" was prepared for use during a mock trial only. It is necessarily abbreviated and simplified. It is not intended that any person should presume that the law is stated in a definitive manner herein.*

