

2018 Trial Team at UCF Tryouts

Welcome to the 2018 Mock Trial Team at UCF's tryouts!

You have several different options when coming out the trial team. You can come out to join us as a competing member or a non-competing member.

A competing member means you are trying out for a slot on one of our 3 competing teams which will travel to competitions throughout the season. If you are then you have the option to tryout for an attorney role, a witness role, or both.

A non-competing member is still part of the team. It is someone who works with the team and shadows the teams throughout the season. When needed they travel with the teams to competition. On occasion non-competing members who have continued to work with the team are moved into competing roles if the coaches think they are ready.

This packet contains the materials you will need to prepare for tryouts as a competing member. It also contains a guide prepared by one of our coaches, Dr. Cashman, to help you make sure you understand what we are looking for in your presentation if you are trying out as an attorney.

If you are trying out as an **ATTORNEY**, you will need to prepare the following for tryouts:

- A closing argument for the case of the *State v. Hendricks*.
 - You can choose to argue for either the State or the Defense.
 - Your argument should be at least 3 min. in length.
 - We would prefer if you were off paper – meaning that you had your materials memorized.
 - Please consider that you should have some sort of theme and theory.
 - Here are some helpful links on writing a closing argument:
 - <http://apps.americanbar.org/litigation/committees/youngadvocate/articles/fall2013-0913-closing-arguments-10-keys-powerful-summation.html>
 - <https://blog.collegevine.com/how-to-write-mock-trial-opening-and-closing-statements/>
- You should also be prepared to conduct a direct examination of either the victim, Kerry Bell-Leon or Dylan Hendricks.
 - Again, you should be off paper.
 - Remember your theory during your direct.
 - You should be at least 3 min. in length.
 - Here are some helpful links on writing a direct:
 - <http://www.law.indiana.edu/instruction/tanford/web/reference/06direct.pdf>
 - <https://www.gairgair.com/direct-examination-the-basics.html>

If you are trying out as a **WITNESS**, you can choose to be either Kerry or Dylan:

- Be prepared to have someone direct you for several minutes.
- It is completely up to you if you come dressed as your character.
- Develop your character!
- Show us what you can do in your acting!

Everyone who is watching was there once as well. We will teach you the rules and polish of competition. The most important thing to remember in tryouts is to relax! You don't have to be perfect!

Guide to Preparing a Case for Trial and Goals for a Trial Lawyer

By Dr. Cashman

Trial lawyer's self-evaluation guide

1. Strategy

- Did I develop a persuasive theory of the case?
- Did I develop persuasive themes?
- Did I develop persuasive labels for people, places, and events?
- Did I develop people's stories?
- Did I identify the key disputed issues?
- Did I develop my important facts on the disputed issues?
- Did I pursue only what I could realistically accomplish?
- Did I anticipate my opponent's strategy?
- Did I anticipate problems and weaknesses?

2. Execution

a. Openings

- Did I present my theory of the case?
- Did I present my themes?
- Did I use my labels for people, places, and events?
- Did I use storytelling to present facts and my case?
- Did I use persuasive exhibits?
- Did I realistically deal with my weaknesses?
- Did I accomplish my purposes efficiently?

b. Witnesses

- Did my examinations serve my overall strategy?
- Did I use simple, factual, nonleading questions on direct?
- Did I elicit "word pictures" on direct?
- Did I present people stories on direct?
- Did I use simple, factual, leading questions on cross?
- Did I "save" my conclusions during cross for closings?
- Did I accomplish my purposes efficiently?

c. Exhibits

- Did I make and use persuasive exhibits and visual aids?
- Did I use exhibits in openings, closings, and witness examinations?
- Did I provide legally sufficient and persuasive foundations?
- Did I effectively manage my own and my opponent's exhibits throughout the trial?

d. Closings

- Did I argue my theory of the case?

- Did I consistently use my themes?
- Did I consistently use my labels for people, places, events?
- Did I develop the important facts and logical inferences to support my version of the key disputed issues?
- Did I use exhibits, instructions, analogies, and rhetorical questions?
- Did I use both logic and emotion?
- Did I accomplish my purposes effectively?

3. Delivery

a. Verbal

- Did I train my witness to create “word pictures”?
- Did I and my witnesses use “plain English”?
- Did I effectively modulate my voice to maintain the jury’s interest and emphasize key points?
- Did I use pacing and pauses?
- Did I have any distracting verbal mannerisms?

b. Nonverbal

- Did I avoid overusing notes during my opening and closing?
- Did I maintain eye contact with witnesses and jurors?
- Did I use reinforcing movement and gestures?
- Did I project appropriate attitudes?
- Did I have any distracting nonverbal mannerisms?

**MIDLANDS CITY DISTRICT COURT
POLK COUNTY, MIDLANDS**

STATE OF MIDLANDS	*	CASE NO.: CR17-07-0993
Plaintiff	*	
v.	*	
	*	
DYLAN HENDRICKS	*	
Defendant	*	

INDICTMENT AND BILL OF PARTICULARS

**STATE OF MIDLANDS,
COUNTY OF POLK, SS:
In the Year 2017**

THE JURORS OF THE GRAND JURY OF THE STATE OF MIDLANDS, within and for the body for the County aforesaid, on their oaths, in the name and by the authority of the State of Midlands, do find and present that:

COUNT ONE

ATTEMPTED MURDER

On or about July 16, 2017, in Polk County, Midlands, Dylan Hendricks did purposely or knowingly engage in conduct which if successful would have caused the death of another person, which constitutes the offense of ATTEMPTED MURDER, a Felony of the First Degree, in violation of Midlands Penal Code 903.02, and against the peace and dignity of the State of Midlands. To wit: Dylan Hendricks used an extension cord and/or a gun in an attempt to cause Kerry Bell-Leon's death.

D. Hoy
D. Hoy (009920)
PROSECUTING ATTORNEY

A TRUE BILL
K. Lazerus
FOREPERSON, GRAND JURY

**MIDLANDS CITY DISTRICT COURT
POLK COUNTY, MIDLANDS**

STATE OF MIDLANDS	*	CASE NO.: CR17-07-0993
Plaintiff	*	
v.	*	
	*	
DYLAN HENDRICKS	*	
Defendant	*	

STIPULATIONS

1. Both parties agree that Carmen Bell-Leon is unavailable to testify. U.S. Customs and Border Patrol confirms that Carmen Bell-Leon left the United States bound for Ecuador on July 2, 2017 and has not returned. Extradition efforts have been unsuccessful. An arrest warrant has been issued for Carmen Bell-Leon for the attempted murder of Kerry Bell-Leon.
2. Kerry Bell-Leon was admitted to Midlands City Hospital at 12:25 A.M. on July 17, 2017 and treated for injuries consistent with a recent strangulation attempt and inconsistent with self-inflicted injury or attempted suicide. Kerry Bell-Leon was of normal mental health. Kerry Bell-Leon has not been treated for any other physical or mental illnesses or injuries related to the events of July 16-17, 2017.
3. A toxicology screen performed at Midlands City Hospital indicates that there was 6.8 mg/L of *cathiones methylene* (a drug known as “Everest”) in Kerry Bell-Leon’s bloodstream at 1:00 AM on July 17, 2017.
4. Exhibit 5 is a picture of a gun manufactured by AD Baker & Co., Inc. that was lawfully owned by and registered to Kerry Bell-Leon. Since July 17, 2017, the Midlands Police Department has maintained custody of the handgun. Neither party may fault the other for the absence of the actual gun from this trial.
5. All parties and witnesses are of at least normal intelligence.
6. The parties and witnesses waive all objections arising under the U.S. Constitution.
7. Chain of custody was properly documented for all exhibits, and all exhibits have been properly preserved prior to trial.
8. Other than issues related to MRE 404, 405, 608, and 609, any and all notice requirements and/or other discovery obligations pursuant to the Midlands Rules of Evidence and Midlands Rules of Criminal Procedure have been satisfied by all parties.
9. Exhibits 15 and 16 are fair and accurate representations of the sole Tender profiles used and created by Carmen Bell-Leon and Dylan Hendricks.

10. Exhibit 1 is a fair and accurate representation of Hendricks's interrogation. The following exhibits were shown to Hendricks and correctly identified by Hendricks during that interrogation: Exhibits 15-26, 30, 31, 32, 33, 34, 35, 36, 40, and 41.
11. The excerpt from Kerry and Carmen Bell-Leon's prenuptial agreement (Exhibit 12) is a fair and accurate copy of that portion of the prenuptial agreement. No other parts of the prenuptial agreement are relevant. The parties waive objections to Exhibit 12 on the basis that it is incomplete.
12. The pills in Exhibit 8 are the drug *cathiones methylene*, also known as "Everest." They were found in Kerry's front right pocket at Midlands City Hospital on July 17, 2017. "Everest" is a controlled substance for the purposes of Midlands Penal Code §925.11
13. Exhibit 31 is an authentic receipt from DeRosa's firing range that was automatically created by the cash register at the time of Dylan Hendricks's purchase pursuant to DeRosa's normal business practice. After being shown Exhibit 31 by police, DeRosa's accountant and district financial manager identified and described Exhibit 31 as an authentic and accurate copy of their on-file DeRosa's sales records that were automatically generated on July 15, 2017 after Dylan Hendricks's purchase.
14. Carmen Bell-Leon was not abused—physically, emotionally, or verbally—by either Kerry Bell-Leon or Dylan Hendricks nor did Carmen Bell-Leon abuse either Kerry Bell-Leon or Dylan Hendricks.
15. No physical, emotional, or verbal abuse ever occurred between Dylan Hendricks and any member of law enforcement.
16. Carmen Bell-Leon is 34 years old. Kerry Bell-Leon is 38 years old. Dylan Hendricks is 34 years old.
17. Exhibit 27 is a fair and accurate representation of text Messages exchanged between Carmen Leon and Paris Harmon. Exhibit 28 is a fair and accurate representation of text messages exchanged between Carmen Leon and Jesse Reynolds. Paris Harmon and Jesse Reynolds were not in the state of Midlands on July 16, 2017 or July 17, 2017.
18. Pat Sikorsky died on September 3, 2017 and is unavailable for trial. Exhibit 3 is fair and accurate transcript of Pat Sikorsky's testimony at an August 7, 2017 preliminary hearing.
19. For the convenience of the parties, witnesses, court, and jury, all exhibits have been pre-labeled and pre-numbered. Those numbers will be used for all purposes at trial regardless of which party first offers the exhibit or the order in which the exhibits are offered.

**MIDLANDS CITY DISTRICT COURT
POLK COUNTY, MIDLANDS**

STATE OF MIDLANDS	*	CASE NO.: CR17-07-0993
Plaintiff	*	
v.	*	
	*	
DYLAN HENDRICKS	*	
Defendant	*	

ORDER ON MOTIONS IN LIMINE

This matter is before the Court on several pre-trial motions filed by the State of Midlands and Defendant. The Court rules on the following issues and reserves ruling on all other evidentiary issues until proper objection at trial. The rulings set forth herein may not be revisited at trial.

Preemptory Character Evidence

The court first faces a pretrial motion by the State of Midlands to compel notice from defendant, Dylan Hendricks, of any character evidence of the accused or of the victim that Defendant intends to offer under Mid. R. Evid. 404(a). Defendant objected to the State’s request for notice.

In other jurisdictions, if the Defense elected to introduce character evidence under Mid. R. Evid. 404(a)(2), the Prosecution would be afforded the opportunity to offer rebuttal witness testimony following Defense case-in-chief. However, for better or worse, Midlands’ focus on judicial economy has created a unique local rule that prohibits the State from calling rebuttal witnesses. Therefore, this Court GRANTS the State’s motion to compel and orders as follows:

1. Defendant must provide the State of Midlands with notice of any intent by defendant to offer evidence of the character of Defendant or victim pursuant to R. 404(a)(1). Defendant must indicate the specific traits of character intended to be pursued.
2. Upon receipt of notice by Defendant that Defendant intends to offer evidence under R. 404(a)(2), the State of Midlands may elect to pursue “preemptory rebuttal evidence” of competing traits during its case-in-

chief. If defendant does not provide notice of its intent to offer R. 404(a)(2) evidence, neither party may introduce such evidence at trial.

3. The State of Midlands must, as always, offer similar notice to defendant regarding its intent to offer any evidence of prior crimes, wrongs, or acts, pursuant to R. 404(b).

Admissibility of Interrogations

The Court additionally considered a pretrial motion by Defendant to exclude the interrogation of the Defendant on constitutional grounds. This Court finds that (1) the interrogation was conducted in a manner that did not infringe upon Defendant's constitutional rights; (2) the interrogation appropriately ceased immediately at the point where Defendant's constitutional right to counsel was affirmatively and clearly invoked; and (3) Defendant knowingly and voluntarily waived all Fifth Amendment rights during the interrogation. Accordingly, the Court DENIES Defendant's motion. At trial, Defendant's interrogation may be read onto the record by counsel for either party or through a witness without additional foundation and at any point once the record is open. However, parties may object to particular parts of the interrogation on other evidentiary grounds.

Admissibility of Tender messages

In addition to the admissibility of the Defendant's interrogation, both parties asked this Court to rule on the admissibility of the text messages between Carmen Bell-Leon and the Defendant that were exchanged within the Tender application. Defendant moves to exclude Exhibits 17-26 under MRE 403 and 802. The State argues that the messages were admissible pursuant to MRE 801(d)(2)(E) Statements of a Co-Conspirator. Based on the independent corroborative evidence offered at the hearing, in particular the Defendant's interrogation statements, the Defendant's voluntary admissions on the Miranda Waiver, and proffered statements from multiple witness affidavits, taken in combination with the text messages, this Court DENIES Defendant's motion and GRANTS the State's motion. The Defendant has indicated that it has no further objections. Accordingly, Exhibits 17-26 will be admitted if offered at trial and no additional foundation is necessary.

Child Competency to Testify

This matter came before the Court upon motion challenging the competency of Bailey Bell-Leon in light of Bailey Bell-Leon's age. This Court saw no evidence of any physiological, psychological, developmental, or any other concerns that would prevent Bailey Bell-Leon from testifying under oath at trial. This Court hereby finds Bailey Bell-Leon competent to testify.

Motion to Exclude Gunshot Residue

Defense moves to exclude all evidence regarding gunshot residue under MRE 403. The Court GRANTS that motion because there is insufficient evidence to link the gunshot residue found by the forensic examiners to the crime of which Defendant is accused. Thus, the prosecution may make no mention of gunshot residue during trial. However, if the Defense raises the lack of gunshot residue as part of its case, the Defense has "opened the door" to rebuttal gunshot residue evidence. The prosecution may then read related portions of the Preliminary Hearing Testimony of Pat Sikorsky onto the record.

E. V. Sophia

Hon. E. V. Sophia

RELEVANT MIDLANDS LAW

The statutes and cases listed below, along with the Midlands Rules of Evidence, are the only legal authorities that may be cited in trial.

Applicable Provisions from Midlands Penal Code

Midlands Penal Code §903.02 Murder

- (A) No person shall purposely or knowingly cause the death of another.
- (B) Whoever violates this section is guilty of murder, a felony of the first degree, and shall be punished as provided in §929.02 of the Midlands Penal Code.

Midlands Penal Code §923.02 Attempt to commit an offense

- (A) No person, purposely or knowingly, shall engage in conduct that, if successful, would constitute or result in an offense.
- (B) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the attempt was either factually or legally impossible under the attendant circumstances, if that offense could have been committed had the attendant circumstances been as the actor believed them to be.
- (C) Whoever violates this section is guilty of an attempt to commit an offense. An attempt to commit aggravated murder, murder, or an offense for which the maximum penalty is imprisonment for life is a felony of the first degree. An attempt to commit any other offense is an offense of the next lesser degree than the offense attempted.

Midlands Penal Code §914.01 Menacing

- (A) A person who knowingly causes another to believe that the offender will cause serious physical harm to the person or property of another person is guilty of menacing.
- (B) A person who commits this offense using a deadly weapon or by representing verbally or otherwise that he or she is armed with deadly weapon is guilty of aggravated menacing.
- (C) Menacing is a class 3 misdemeanor punishable by 90 days in jail. Aggravated menacing is a class 1 misdemeanor punishable by 180 days in jail.

Midlands Penal Code §925.11 Drug Abuse

- (A) No person shall knowingly obtain, possess, or use a controlled substance or a controlled substance analog.
- (B) Whoever violates division (A) of this section is guilty of possession of drugs, a misdemeanor of the first degree.

Relevant Cases

All cases are rulings of the Midlands Supreme Court, the highest court in Midlands, unless otherwise specified.

Basis of Evidentiary Rulings

Zomerfeld v. Noto (2012)

Pursuant to Midlands Rules of Evidence 104(a), when evaluating the admissibility of evidence, a trial court is permitted to rely on both admissible and inadmissible evidence. The use of underlying inadmissible evidence does not make that inadmissible evidence admissible. Instead, the court is merely permitted to consider the underlying inadmissible evidence in order to assess the admissibility of the offered evidence. In a jury trial, the jury may not always be privy to the underlying facts used to determine what evidence is admissible, but the Court may hear it. Previous upheld examples of this in Midlands include using character evidence to make a ruling on hearsay exceptions, using hearsay to make a ruling on character evidence, and using hearsay to decide whether an expert has adequate foundation to testify.

Burden of Proof

State v. Monarch (1904)

In a criminal case, the burden of proof is on the State and never shifts to the defendant. The burden of proof in a criminal case is beyond a reasonable doubt with respect to each and every element of the offense(s) alleged.

State v. Sarobe (1981)

Per *State v. Monarch*, the State's burden of proving its case beyond a reasonable doubt applies to each and every element of the crime charged. This burden, however, does not operate on the many subordinate, evidentiary, or incidental facts as distinguished from proof of the elements of the crime or of an ultimate fact. Where, however, the State relies in whole or in part on circumstantial evidence to prove an element of a crime, although each link in the chain of evidence to support it need not be proven beyond a reasonable doubt, the cumulative impact of that evidence must, in order to support that inference, convince the finder of fact beyond a reasonable doubt that the element has been proven.

State v. Vargas and Field (2015)

A criminal defendant is never required to present evidence or even offer an alternative theory of the crime. If a defendant does so, however, a prosecutor may comment upon the failure of the defense to offer evidence in support of its theory of the case. Moreover, such comments do not imply that the burden of proof has shifted to the defense, nor do they necessarily constitute an infringement on the defendant's exercise of his Fifth Amendment right to remain silent.

State v. Matthys (2016)

Revisiting *State v. Vargas and Field*, the court reiterated that during a closing argument, a prosecutor may not suggest that the defendant needed to provide evidence in order to be found not guilty.

State v. Soderberg (2017)

Revisiting *State v. Vargas and Field*, the court reminded counsel that during cross examination, prosecutors may call into question the existence of documents that the defendant purports to exist but has not produced for trial. In addition, it is not improper “burden-shifting” for the prosecutor to point out through cross-examination that the defendant has not produced documents or evidence to support a theory or argument that has been advanced by the defense. However, the prosecutor may not suggest during cross examination that the defendant had an affirmative duty to produce any documents in order to be found not guilty.

Trial Procedures

State v. Nelson (2002)

Even if the State elects not to discuss at trial a particular charge or element included in its indictment or bill of particulars, the defendant still may present evidence to rebut that charge or element. The State may not argue irrelevance of the defendant's evidence based on the State's electing not to present evidence supporting that charge at trial.

Kleynman v. Corrado (1945)

Unlike other jurisdictions, the victim in a criminal case in Midlands can be sequestered under Midlands Rule of Evidence 615.

Evidence

***Richey v. Bartlett* (2002)**

In all trials, fact finders may rely on both direct and circumstantial evidence. Direct evidence is testimony by a witness about what that witness personally did, saw, or heard. Circumstantial evidence is indirect evidence from which the fact finder may infer that another fact is true. Neither type of evidence should be given categorically more weight than the other.

***Roytman v. Zadie & Zoe's Pet Supplies* (2000)**

Midlands' Circuit Courts are not bound by the rulings of their sister Circuit Courts in other counties; however, the decisions of sister Circuit Courts in other counties have persuasive value.

***State v. Class* (Midlands Cir. Court Breckinridge County 2013)**

The defendant was charged with murder and the prosecution offered evidence that an alleged co-conspirator, who is being tried separately, previously attempted to kill the victim without the defendant's involvement. The defendant objected under Rule 403. The Court excludes this evidence because the probative value of the motive of an alleged co-conspirator is substantially outweighed by the danger for unfair prejudice caused by the potential for the jury to associate the co-conspirator's independent actions with the defendant.

***State v. Sommers* (Midlands Cir. Court Fairfax County 2015)**

The defendant was charged with armed robbery of a bank and the prosecution attempted to offer evidence that a co-conspirator, who is being tried separately, plotted to rob the same bank with individuals who were not involved in the alleged robbery in question. Defendant objected under MRE Rule 403. The court overrules the objection because the probative value of evidence that the co-conspirator had a plan to rob the bank is not substantially outweighed by any unfair prejudice to the defendant.

Credibility

***State v. Lowe* (1985)**

A criminal defendant's decision to exercise the constitutionally protected right not to testify in his or her own defense may not be commented upon by the State either explicitly or implicitly. However, if the defendant does choose to testify, his or her credibility is to be judged like that of any other witness.

State v. Poole (2014)

Generally, it is improper for the prosecutor to comment at trial upon a defendant's invocation of his or her privilege against self-incrimination. This rule extends to a prosecutor's comment on a defendant's refusal to answer police questions or decision to invoke his or her right to counsel during an investigation.

Expert Witness Testimony

Davis v. Adams (1993)

Under the Midlands Rules of Evidence, trial judges must ensure that any and all scientific testimony or evidence admitted is not only relevant but reliable. In determining whether expert testimony is sufficiently reliable to be admitted, judges should consider only the methods employed and the data relied upon, not the conclusions themselves.

Tarot Readers Association of Midlands v. Merrell Dow (1994)

In assessing reliability under *Davis v. Adams*, judges should consider, among other factors, whether the theory or technique has been or can be tested, whether it has been subjected to peer review and publication, whether it has a known error rate, and whether it has gained widespread acceptance within the field. These factors, while relevant, are not necessarily dispositive. For example, lack of publication does not automatically foreclose admission; sometimes well-grounded but innovative theories will not have been published. Indeed, there is no definitive checklist in making a preliminary assessment of whether reasoning or methodology underlying expert testimony is scientifically reliable. Judges must make such assessments based on the totality of the circumstances, and the proponent of such expert testimony must meet the threshold proof requirement by a preponderance of the evidence.

Richards v. Mississippi BBQ (1997)

Midlands Rule of Evidence 703 does not afford an expert unlimited license to testify or present a chart in a manner that simply summarizes the testimony of others without first relating that testimony to some "specialized knowledge" on the expert's part as required under Midlands Rule of Evidence 702. The court must distinguish experts relying on hearsay to form scientific conclusions from conduits who merely repeat what they are told. The testimony of the former is admissible; that of the latter is not.

Hearsay

America's Best Cookie v. International House of Waffles (2009)

Although practices may be different in other jurisdictions, in Midlands it is entirely possible for an out-of-court statement by a person who is or will be testifying in a particular trial to be excluded by the general rule against hearsay. Subject to Rule 801(d), hearsay is any out-of-court statement offered to prove the truth of the matter asserted in the statement. And although the Midlands Rules of Evidence contain a variety of exceptions to the rule that hearsay is generally inadmissible, there is no categorical principle permitting receipt of any out-of-court statement simply because the person who made that out-of-court statement is or will be a witness in the trial.

State v. Capaldi (1987)

In a criminal case, a police officer is not considered a “party opponent” for the purpose of admissibility of a statement made by that officer under Midlands Rule of Evidence 801(d)(2). This does not preclude the admissibility of the officer's statement under other applicable provisions of the Midlands Rules of Evidence.

State v. Compton (2012)

The business-records hearsay exception of Midlands Rule of Evidence 803(6) cannot be used as a “back door” to introduce evidence that would not be admissible in a criminal case under the public-records hearsay exception of MRE 803(8)(ii). Thus police reports, which are specifically excluded from MRE 803(8) in a criminal case, are not admissible as business records under MRE 803(6) to prove the truth of matters contained therein.

Illiadis v. State (1987)

Midlands Rule of Evidence 801(d)(2) may be invoked in only one direction in a criminal case. Specifically, Rule 801(d)(2) permits the State to offer statements by a criminal defendant. The rule does not permit a defendant to offer statements from him- or herself. This rule remains the same even if the State has already elicited out-of-court statements by a defendant during a preceding examination subject to Rule 106.

State v. Chambliss (1985)

A criminal conspiracy is an agreement between two or more people to commit some other crime. Criminal conspiracy to commit a given crime occurs when a person agrees with another or others to (a) commit an offense, (b) attempt to commit an offense, (c) solicit the commission of an offense, or (d) aid another in the planning or commission of an offense.

State v. Owens (2010)

For a statement to qualify under the hearsay exclusion of Midlands Rule of Evidence 801(d)(2)(E), the proponent must establish the existence of said conspiracy by a preponderance of the evidence. In addition, the statements may be admitted conditionally subject to Rule 104, meaning that the proponent of such statements may lay proper foundation before offering the statements or the trial court may allow the proponent to admit the statements first and lay the foundation for the predicate conspiracy during the remainder of the trial. As Rule 801(d)(2)(E) makes clear, proof of conspiracy may be based in part on the statements themselves, but the proof must also include some independent corroborative evidence.

State v. Alston-Harmon and Maples (2015)

An individual need not be charged with conspiracy for their statements to qualify under the hearsay exclusion of Midlands Rule of Evidence 801(d)(2)(E).

State v. Mendoza (2015)

A public record of a criminal conviction is not a police report and, thus, is not excluded by Midlands Rule of Evidence 803(8)(ii).

Bifurcation

State v. Campbell (2007)

In Midlands, all criminal trials are bifurcated with a guilt phase followed by a penalty phase. It is improper for an attorney to comment on sentencing or discuss potential penalties during the guilt phase of the trial. Such conduct is grounds for a mistrial and may constitute conduct for which sanctions are appropriate.

State v. Parsons (1983)

During the guilt phase of a bifurcated trial, evidence is not relevant if it is directed solely to the penalty to be given to the defendant if found guilty.

Authentication

Filteau v. Wanek (1992)

As long as the proponent of the statement produces evidence that would permit a reasonable jury to find that a given person made a particular statement, the court must assume for the purposes of assessing the statement's admissibility that the statement was made by that person.

Ginger v. Heisman (2015)

Emails or text messages are properly authenticated when the proponent of the evidence has produced evidence, either direct or circumstantial, that would allow a reasonable jury to determine the author of the message.

State v. Guliuzza's Franks and Beans, LLC (1977)

Pursuant to Midlands Rule of Evidence 104(a), courts may consider custodial documents, such as clerks' certifications or affidavits of records keepers, when determining the admissibility of other evidence without regard for the admissibility of the custodial document itself. The custodial document typically only addresses preliminary matters of admissibility and is not entered into evidence, and thus the court is not bound by the rules of evidence when considering it. However, if a party wishes to enter the custodial document itself into evidence, the proper foundation must be laid to establish its admissibility.

Character Evidence

State v. Delvaux (1986)

Under Rule 404, general evidence as to the defendant's good character or law-abiding nature is not admissible. However, under Rule 404(a)(1), a criminal defendant may offer certain evidence of a "pertinent" character trait. The requirement that evidence be "pertinent" significantly exceeds the comparably low bar of relevancy. "Pertinence" is a more exacting standard by which the trait itself must directly relate to a particular element or facet of the crime charged.

State v. McClain (2010)

MRE 609 does not categorically exclude evidence of a defendant's prior criminal conviction punishable by less than one year of imprisonment.

Prior Convictions

State v. Clement (2014)

The prosecution attempted to introduce evidence of a prior conviction of the defendant under Rule 609. Defendant objected, arguing that the prior conviction of "theft by deception" only carried a sentence of 4 months and was not a "crime of dishonesty." The court notes that Midlands had separate charges of "theft" and "theft by deception." In defendant's prior case, she used a fake ID to gain access to a company's computer room and steal corporate information. This crime is, by its nature, deceptive and thus could be

considered a "crime of dishonesty." The lower court erred in concluding this evidence was inadmissible because of the sentence and charge; therefore, we remand this case back to the court of criminal appeals to re-evaluate in light of this ruling.

State v. Darwin (Midlands Cir. Court Breckinridge County 2016)

The trial court did not abuse its discretion when it admitted a prior misdemeanor conviction of the defendant. While MRE 609(a)(1) limits impeachment evidence via conviction to felonies, a misdemeanor conviction may be admissible pursuant to MRE 404(b)(2) or impeachment purposes. In this case, Defendant's 2014 misdemeanor conviction for aggravated menacing was admissible under 404(b)(2) as evidence of motive because the victim was the same in this case and in the 2014 misdemeanor charge and as evidence of impeachment because the defendant stated that he had never met the victim.

State v. Khai (Midlands Cir. Court Fairfax County 2016)

Rule 404(b)(2) does not provide the State carte blanche to use all prior misdemeanor convictions even if offered for an admissible purpose. It is within the sound discretion of the court to prohibit the State from offering a misdemeanor conviction if the trial court finds that the admission of the conviction is prohibited by MRE 403. Accordingly, it was not an abuse of discretion for the court to sustain the defendant's objection to the admission of his 2013 assault conviction. The relatively low probative value of the 404(b)(2) evidence in this case was substantially outweighed by the danger that the jury would be unfairly prejudiced against the defendant after learning of the prior conviction.

State v. Jehl (Midlands Cir. Court Breckinridge County 2015)

In a trial for charges related to manufacturing cocaine, the state argued to admit evidence of defendant's prior felony conviction for the manufacturing the drug "Everest." Since defendant was not testifying, defendant argues that the evidence is not admissible. The state argued that the conviction was necessary to prove that defendant knew how to manufacture drugs. The trial court erred in admitting the prior conviction. While evidence may be admissible under one rule when it is not inadmissible under another rule, in this instance the prior conviction was for manufacturing a different drug and, therefore, not sufficiently probative to risk the danger of unfair prejudice.

State v. Hunley (Midlands Cir. Court Fairfax County 2017)

The trial court erred when it excluded evidence of a prior conviction of a defendant just because the defendant did not testify. While Rule 609 does require that the defendant testify for a prior conviction to be admissible, the trial court failed to consider whether the conviction would be admissible under other rules, such as character evidence pursuant to Rule 404.

AFFIDAVIT OF KERRY BELL-LEON

1 After being duly sworn upon oath, Kerry Bell-Leon hereby states as follows: I am 38
2 years old and competent to make this affidavit. I am testifying voluntarily and was not
3 subpoenaed or compelled to testify.

4 I live in Midlands City, Midlands. I am a pilot for Midlands Airways. I started
5 flying for the company right after graduating from flight school at the Midlands Institute
6 of Technology. I am based at the East Midlands Airport (XEM).

7 Obviously, my job takes me away from home a lot. I'd be lying if I said that
8 didn't put a lot of strain on my marriage. My spouse Carmen and I were married in
9 2003. I met Carmen when I was in Tierras Medias, Ecuador for work. We tried dating
10 long distance for a few months, but I knew Carmen needed to move to the United States
11 if this was ever going to work out long-term. In 2002, Carmen moved to Midlands from
12 Ecuador and we got married almost a year later. Our child Bailey was born in 2004 and
13 is now in the eighth grade. We live on the sixth floor (#6A) of the Jaywood Building, a
14 condominium complex in downtown Midlands City on the corner of East and Main.
15 Even after having a child, Carmen and I preferred to live in the city, close to all the
16 restaurants and bars.

17 Things with Carmen were great at first, even though I was traveling a lot. In fact,
18 things were great for almost 14 years. Carmen did not seem to mind how much I was
19 gone. But that changed about four years ago after I got a promotion and started working
20 more hours. When I would come home from a trip, Carmen would complain about how
21 hard it was to take care of Bailey without me around to help. Carmen would also
22 regularly complain about being lonely and say that if I cared about the family, I would
23 find a way to stay home more. Look, I get it. Carmen's family is in Ecuador. Carmen
24 didn't know anyone when Carmen moved to Midlands. I would have loved to be around
25 more, but what am I supposed to do? Quit my job? I am a pilot, I love being a pilot, and
26 Carmen knew what Carmen was signing up for when we got married.

27 Speaking of signing up for things, we have a prenuptial agreement. I think that
28 also caused some tension. Exhibit 12 is that prenuptial agreement, and it says that
29 Carmen would basically get nothing if we split up, especially if Carmen had an affair.
30 Also, I'm confident that the court would give me full custody of Bailey if we ever got

31 divorced. In 2016, Carmen kept talking about our prenup. I thought Carmen was just
32 holding that over my head to win arguments. That was until 2017 when I started to
33 suspect that Carmen was having an affair and wanted to leave me.

34 In March 2017, Carmen started to seem distant. We weren't talking as much. We
35 were barely even arguing. It was like I was getting the cold shoulder. Later that month, I
36 noticed that Carmen was getting dressed up, cancelling our date nights, and going out
37 more. I did not know with whom. This continued into summer.

38 Then on July 2, 2017, everything came crashing down. Carmen told me Carmen
39 was having an affair with someone named Dylan Hendricks. Carmen said that Dylan was
40 an entrepreneur of some kind. Carmen claimed the affair was over and that Carmen was
41 going to Ecuador to visit relatives. I didn't know what to think. Even though I suspected
42 something was wrong, I felt like I had been hit by a truck. I told Carmen not to go,
43 because we needed to make things work. But Carmen just said that Carmen needed some
44 time away. I was in too much shock to put up much of an argument. On July 2, 2017
45 Carmen left. I haven't seen Carmen since.

46 The day after Carmen left, Bailey started a day camp at Midlands Community
47 College. Bailey was gone during the day and I was luckily able to arrange last-minute
48 childcare with Bailey's friend Sawyer's family when I realized Carmen wasn't going to
49 be in town. After Bailey went to bed on July 3, 2017, I did a search on the internet for
50 "Dylan Hendricks Midlands City." I got a few hits: a Facebook page and even a
51 MySpace page. I also saw an article from the magazine *Midlands Alive!* that was a
52 review of a food truck called Souper Soups. It was run by someone named Dylan
53 Hendricks. The article even had a few pictures of Dylan.

54 From July 3 to July 16, I was pretty much going out every night that I was not
55 away for work. I started drinking pretty heavily and used Everest for the first time.
56 Everest is a new designer drug that is pretty addictive and illegal. It is also very
57 expensive. It causes you to feel happy and energized. I've heard Everest can distort your
58 memories, but I've never experienced that and I do not think that's true. Personally, I
59 don't think it has any bad side effects. I've only used Everest a few times and I've never
60 used it while working.

61 My friend Morgan Jones gave Everest to me the first time I used it on July 6.
62 Morgan is my closest friend—literally. Morgan lives directly below me in the Jaywood
63 Building in condo 5A. I went out for drinks a few times with Morgan in July 2017.
64 Morgan was supportive and helped me get through it. Morgan told me that Morgan was
65 sure Carmen and I would work it out. Sometimes, you need friends who will just tell you
66 what you want to hear.

67 On July 16, 2017, I walked to Chuggies with Morgan. Chuggies is the bar next
68 door to the condo building where Morgan and I live. It was Morgan’s birthday, and we
69 had been planning a party at Chuggies for months. I even wrote it on the family
70 calendar. Exhibit 11 is the calendar for the months of July and August. The calendar is a
71 tear-away calendar, and Bailey tears the old month off on the first day of each new
72 month, so the past months’ sheets have been thrown away. Carmen didn’t write anything
73 on the calendar pages for any month after July, which is weird because Carmen keeps the
74 calendar up to date to make sure that everyone knows each other’s schedules.

75 We got to Chuggies around 9:30 P.M. A number of Morgan’s friends were
76 already there. At 9:45 P.M., I saw Morgan take an Everest pill. I hadn’t had any Everest
77 that day, so I asked if I could get an Everest pill, and Morgan gave me one. I took the
78 Everest pill—Morgan’s last pill—right away, at 9:45 P.M. I did feel bad taking the last
79 of Morgan’s drugs on Morgan’s birthday. So, I called my dealer, Mickey, and said to
80 meet me in the parking lot that was just around the corner from Chuggies and behind the
81 Jaywood Building.

82 At 10:15 P.M., I left Chuggies to go get more Everest. On my way to the parking
83 lot, I realized how hungry I was. I saw a few food trucks parked across the street: *Tasty*
84 *Tacos*, *Kostandinos’ Gyros*, and, sure enough, *Souper Soups*. I remembered that Dylan
85 Hendricks owned Souper Soups. I felt like I had to confront Dylan. I thought I was
86 going to walk up to the truck and punch Dylan or at least throw some soup in Dylan’s
87 face. I got to the food truck and saw someone wearing a nametag that said “Dylan.” I
88 recognized “Dylan” as Dylan Hendricks from the pictures I saw online. This was the
89 person Carmen was having an affair with.

90 I took a deep breath and was about to start yelling, but then I chickened out. I
91 thought that it probably wasn’t the best time. We were in public, and I had taken Everest.

92 I didn't want things to get out of hand. So I just ordered the catfish chowder which I
93 thought would help my nausea. The receipt I got from that order is Exhibit 32.

94 I left stunned. Dylan wasn't that good looking. And Dylan owned a food truck!
95 I am a pilot. I don't know what Carmen saw in Dylan. I started walking towards the
96 parking lot behind my condo building to meet Mickey, my drug dealer. We were
97 supposed to meet at 10:35 P.M., and I didn't want to be late. I walked into the parking
98 lot and found Mickey at exactly 10:35 P.M. Mickey was alone and I didn't see anyone
99 else around. I went up to Mickey and bought some Everest.

100 I was about to go back to Chuggies, but I decided that I wasn't really feeling up
101 for a party. Morgan had a bunch of other people to hang out with, so I decided to just go
102 to bed. I unlocked the back door to my building with my key and went up the fire escape
103 (which is essentially just the staircase at the back of the building). Once on the sixth
104 floor, I unlocked the door to my condo and went inside. I am pretty sure I locked the
105 door behind me, but I am not completely certain. Sometimes I forget. It's a secured
106 condo building so I feel totally safe in there. If you go in through the front door of the
107 building, you have to go by the doorman (which is often Morgan during the day) and
108 security cameras. You need a key to get in the back door of the building (the door under
109 the maroon awning). Any key that opens one of the condo units opens the back door to
110 the building, so you only need one key to both get in the building and into a condo unit.
111 Of course, each of the condo units has a different key.

112 At about 10:45 P.M., I got back to my condo. It seemed like Bailey had already
113 gone to bed. I sat down on the couch and turned on the TV. It was an action movie of
114 some sort starring Alex Grace and there was a lot of fighting. After a few minutes, I went
115 to the bathroom to wash my face and brush my teeth, but, as I walked down the hall, I
116 heard something behind me. I opened the door to the bathroom just in time. As I turned
117 on the bathroom light, I saw Dylan Hendricks's reflection in the bathroom mirror. When
118 I spun around, all I saw was a gun that Dylan was holding. Before I could say anything
119 or before Dylan could fire, my airline security training kicked in. I remember knocking
120 the gun away and hearing it fall on the ground. I ran into the living room, toward the
121 front door, and I heard a crash behind me. When I turned around, I saw Dylan's face
122 again. Before I could get to the door, I was tackled into some furniture. I was lying on

123 the ground, trying to get up when Dylan put the extension cord around my neck. I
124 couldn't breathe. I tried to get away, but couldn't. I didn't see anything else, and soon I
125 passed out.

126 I saw Dylan's face twice: the reflection in the mirror for a second and again in the
127 living room before I was strangled. Dylan didn't say anything the whole time, so I didn't
128 hear Dylan's voice. It was dark in the condo, but the TV was on, and so was the
129 nightlight in Bailey's room and the bathroom light. That was enough to see. I am certain
130 it was Dylan.

131 When I came to, Morgan was already in the room. I was lying on the floor next to
132 an overturned end table with a lamp broken on the floor. I was discombobulated. It
133 might have been the Everest, but it was probably the fact that Dylan just tried to murder
134 me. As soon as I got my wits about me, I noticed an orange extension cord on the ground
135 near me. I didn't touch it. I tried to get up but still felt pretty woozy so I just sat back
136 down on the floor. Morgan called 9-1-1. Morgan asked for an ambulance, and I said,
137 "Get the police too. Dylan Hendricks tried to kill me."

138 At this point, I saw Bailey come out of Bailey's room crying. I told Bailey
139 everything was going to be okay. The police showed up a few minutes later. Officer
140 Nichols came up to me and asked if I was all right. I said I was okay. The officer asked
141 me what happened. I said, "Someone tried to kill me. It was the person who owns the
142 soup truck outside named Dylan Hendricks. If you hurry, you might be able to catch
143 Dylan." Officer Nichols responded by asking me if I was on anything, but before I could
144 answer the paramedics showed up. When they got there, the officer backed away,
145 probably to go arrest Dylan.

146 I wanted to keep talking to the police but the paramedics surrounded me. They
147 asked me a lot of questions, including if I was on drugs. I told them I had taken an
148 Everest pill earlier that night. I told them someone tried to strangle me and showed them
149 my neck. I figured there must have been bruising or something. They put me on a
150 stretcher and wheeled me to the elevator and outside the front door of the Jaywood
151 Building towards the ambulance.

152 When we got outside, I saw Dylan walking toward us. I couldn't believe it at
153 first. But it's obvious why Dylan came back. The criminal always returns to the scene of

154 the crime. I shouted, “That’s Dylan! That’s the person who tried to kill me and tried to
155 ruin my marriage!” I pointed at Dylan and police officers rushed over to grab Dylan.
156 The police asked if I was sure this was the person who tried to kill me, and I said, “I am
157 absolutely positive. You’ll never get away with this, Dylan. You and Carmen will never
158 be together.”

159 The police took Dylan away, but I am not sure if Dylan was in handcuffs. The
160 paramedics loaded me into the ambulance, and we went to the hospital. I was examined
161 by a doctor, who told me I was going to be fine. They kept me at Midlands City Hospital
162 for a day, but then I was released.

163 When I got home from the hospital on July 17, 2017, I did not feel safe. I had
164 Bailey stay with friends just to be safe. I went to get the gun I kept on the top shelf of the
165 cabinet in our utility room. It’s usually just sitting on the top shelf (unloaded of course),
166 but I didn’t see it there. I also saw that the box of 50 bullets that I kept in the cabinet had
167 been opened. I counted the bullets and there were only 49 left. I had not opened the box,
168 and I don’t know where the other bullet went. I told the police that the gun was missing,
169 and they showed me a gun they collected in a dumpster by the building. It was my gun!
170 I didn’t recognize it when Dylan attacked me on July 16, 2017. But Dylan must have
171 taken it.

172 The police later asked me if the person I saw in the mirror could have been the
173 drug dealer Mickey. Absolutely not. Mickey is about 6 inches taller than Dylan and must
174 weigh about 100 pounds more. They are also different genders. But more than anything, I
175 saw Dylan’s face in the mirror. It wasn’t Mickey’s face. The police also asked me about
176 the location of our Wi-Fi Router. I told them it is in the utility room, mounted to the wall
177 that is shared with the bathroom. I never touch it and haven’t moved it.

178 I still haven’t spoken to Carmen. I tried calling a few times, but Carmen won’t
179 answer. I still can’t believe this happened. I can’t believe that Carmen had an affair with
180 someone who would try to kill me. I don’t ever want to see Carmen again.

181 I am familiar with following exhibits:

182 Exhibit 4 the orange extension cord that Dylan used to strangle me. I had left it
183 on the kitchen counter after using it to plug in the vacuum cleaner the day before.

184 Exhibit 5 is a photograph of my gun. It is registered in my name and I have a
185 permit to carry it. I identified it when the police showed it to me at the police station on
186 July 18, 2017. I don't keep my gun in a gun safe, but Bailey knows not to touch it. I'm
187 trained in weapons safety, and when I need to relieve some stress or keep my skills sharp,
188 I go to DeRosa's firing range and fire a few rounds.

189 Exhibit 6 is the key to my condo that I was told was found on the living room
190 floor of my condo in the mess caused by the fight. I was shown this by the police after
191 they collected evidence. I had never seen this particular key before that. All of the keys I
192 know about to our condo are on key rings but this one is not attached to anything. I do
193 not know if Carmen gave this key to Dylan, but as far as I know it was not in the condo
194 before that night.

195 Exhibit 8 is the Everest I purchased on July 16, 2017. I haven't opened the bag.

196 Exhibit 9 is a fair and accurate map of downtown Midlands City. I do not know if
197 it is to scale.

198 Exhibit 10 is fair and accurate diagram showing the floor plan of my condo in the
199 Jaywood Building. It appears to be to scale, but I did not make it so I can't be sure.

200 Exhibit 11 is a tear-away calendar we keep in our condo for the months of July
201 and August. The preceding months are always thrown away after we use them.

202 Exhibit 12 is the prenuptial agreement Carmen and I entered into.

203 Exhibits 13 and 14 are photos of the back door to the Jaywood Building. I do not
204 know who took these photos. They were shown to me by the police. You need a key to
205 get in the back door under the maroon awning. That stairwell takes you right to the back
206 door of all the condo units. The door under the maroon awning is supposed to lock
207 automatically, but sometimes the door doesn't latch closed. When that happens, you can
208 just pull the door open without a key. At the front door, there is a doorman (sometimes
209 Morgan Jones) and security cameras. You only need a key to get in the front door when
210 the doorman is not there. Residents can also unlock the front door from inside their
211 condo via a buzzer to allow guests into the building.

212 Exhibit 32 is the receipt I got from Dylan on July 16, 2017.

213 I am not familiar with any of the other exhibits in this case.

214 I swear or affirm the truthfulness of everything stated in this affidavit. Before
215 giving this statement, I was told I should include everything that I know may be relevant
216 to my testimony, and I followed those instructions. I know that I can and must update
217 this affidavit if anything new occurs to me until the moment before opening statements
218 begin in this case.

219

220 Signed:

Subscribed and Sworn to me on this 1st Day of August:

221 Kerry Bell-Leon

Sarah Ramos

222

Notary Public

**Exhibit
1**

INTERVIEW OF DYLAN HENDRICKS

Midlands City Police Station

DATE: July 17, 2017

TIME: 12:30 a.m.

PART 1

Detective M. Nichols: For the record, the speaker is Detective Nichols of the Homicide Unit. The individual being interviewed is Dylan Hendricks. Prior to this interview you filled out this form acknowledging that you waived your Miranda rights, correct?

Dylan Hendricks: Correct.

Det. Nichols: You know you weren't supposed to fill out the bottom, right?

Dylan Hendricks: What do you mean?

Det. Nichols: This writing at the bottom. It's yours, right?

Hendricks: Yes, I just filled it all out.

Det. Nichols: OK, thanks. You are very helpful. Looks like this isn't your first run in with the law, isn't that right?

Hendricks: What are you talking about?

Det. Nichols: Aggravated Menacing?

Hendricks: Oh, that's right. I wasn't in a good place. Served a few months in jail, learned to cook in the

42 commissary, and turned things around. I'm on the straight
43 and narrow now.

44

45 Det. Nichols: Well, as you know, we brought you in because
46 you were just accused of trying to kill Kerry Bell-Leon. We
47 just want to try to get your side of the story now.

48

49 Hendricks: Well I did not do it.

50

51 Det. Nichols: Do you know any reason why Kerry Bell-Leon
52 would accuse you then?

53

54 Hendricks: Revenge, I guess. I was having an affair with
55 Kerry Bell-Leon's spouse, Carmen. Kerry just wants to ruin
56 my life! Kerry even threatened me and threw a brick through
57 my window. There was a letter tied to the brick.

58

59 Det. Nichols: Really? That's interesting. I'm surprised
60 Kerry didn't try to kill you. Where is that letter?

61

62 Hendricks: It's at my house.

63

64 Det. Nichols: When did Kerry throw the brick through your
65 window?

66

67 Hendricks: On July 4, 2017. You can ask my roommate, Sam
68 Mitchell.

69

70 Det. Nichols: Were you visiting Carmen in the Jaywood
71 Building on July 16, 2017?

72

73 Hendricks: No, Carmen is out of the country right now.
74 Ecuador. Visiting family. I wasn't in the Jaywood Building
75 at all.

76

77 Det. Nichols: What were you doing in the area then?

78

79 Hendricks: I run a food truck, Souper Soups.

80

81 Det. Nichols: I've been there. It's good.

82

83 Hendricks: Thanks. I set up shop on Ellis Blvd. across from
84 Chuggies bar to get the drunk crowd. You'd be surprised how
85 many drunk people want soup, even in the summer.

86

87 Det. Nichols: You're right. I would be surprised. So why
88 weren't you at your truck selling soup when we saw you?

89

90 Hendricks: I had already closed for the night. I took the
91 food truck home and then took an Uber back downtown. When I
92 got dropped off, I saw all the commotion - you know, the
93 ambulance and police - around the Jaywood Building and just
94 walked over to see what was going on.

95

96 Det. Nichols: What time did you leave downtown?

97

98 Hendricks: I don't remember exactly. I finished selling
99 soup a little before 10:30 P.M. and then cleaned up my
100 truck. I don't know how long that took, but when I finished
101 I took the food truck home.

102

103 Det. Nichols: Did you go to the Jaywood Building after
104 closing your truck?

105

106 Hendricks: No, of course not. I didn't leave my truck until
107 I got home. I just cleaned up the back and took it home
108 right away.

109

110 Det. Nichols: What time did you get home?

111

112 Hendricks: I'm not sure.

113

114 Det. Nichols: What did you do after you got home?

115

116 Hendricks: I showered, changed, and called an Uber to go
117 back downtown.

118

119 Det. Nichols: Did you go anywhere else that night?

120

121 Hendricks: No.

122

123 Det. Nichols: Well you received this citation for not
124 having a permit to set up shop there. First of all, why'd
125 you set up shop there without a permit?

126

127 Hendricks: I always do it - all the food truck operators
128 do. No one really gets permits for those things. I got the
129 citation while parked across the street from Chuggies. I
130 had never received a citation there before.

131

132 Det. Nichols: Well didn't you apply for a permit to sell
133 somewhere else? I believe I have that application and
134 permit right here.

135

136 Hendricks: Yes, those are my application and permit. I got
137 those before I knew everyone didn't bother with that kind
138 of stuff. Are you going to lock me up for that?

139

140 Det. Nichols: We'll see. I just want to go back a little
141 bit. How did you meet Carmen?

142

143 Hendricks: On Tender. Do you know it? It's a Midlands-only
144 dating app.

145

146 Det. Nichols: When did you meet?

147

148 Hendricks: We matched on Tender in February earlier this
149 year and met up for coffee about a week after we started
150 messaging each other. It got umm ... romantic soon after
151 that.

152

153 Det. Nichols: Did you know Carmen was married?

154

155 Hendricks: Carmen told me pretty soon. Probably in April.
156 It didn't matter. We are in love.

157

158 Det. Nichols: It didn't bother you that Carmen waited
159 months to tell you that Carmen was married?

160

161 Hendricks: Like I said, we're in love. Nothing else
162 matters.

163

164 Det. Nichols: So are you still seeing Carmen?
165
166 Hendricks: Yes, or at least I think so. If Carmen ever
167 comes back from Ecuador.
168
169 Det. Nichols: Why wouldn't Carmen come back from Ecuador?
170
171 Hendricks: I don't know.
172
173 Det. Nichols: Did Carmen say anything to you about that?
174
175 Hendricks: No.
176
177 Det. Nichols: So why would you say Carmen won't come back
178 from Ecuador?
179
180 Hendricks: That's not what I said. I said, "If Carmen ever
181 comes back," and I don't know why I said it.
182
183 Det. Nichols: Did you ever meet Kerry Bell-Leon?
184
185 Hendricks: Only once. Kerry came to Souper Soups, my soup
186 truck, earlier in the day.
187
188 Det. Nichols: You mean earlier today?
189
190 Hendricks: Yes, I think I have a copy of the receipt on my
191 phone. Ordered catfish chowder. Here it is.
192
193 Det. Nichols: Yum. Did Kerry say anything to you when Kerry
194 came to your truck?
195
196 Hendricks: Wanted catfish chowder.
197
198 Det. Nichols: Anything else?
199
200 Hendricks: Not that I remember.
201
202 Det. Nichols: So Kerry Bell-Leon just went and ordered
203 catfish chowder from the person having an affair with
204 Kerry's spouse?

205

206 Hendricks: Yeah, I guess so. I don't know if Kerry knows
207 what I look like or what my name is.

208

209 Det. Nichols: Did you know what Kerry looked like before
210 Kerry came to your food truck?

211

212 Hendricks: Sure, I saw Kerry's picture around Carmen's
213 condo and even saw Kerry with Carmen a few times.

214

215 Det. Nichols: I thought the only time you saw Kerry was at
216 the food truck?

217

218 Hendricks: No, no, no. That was the only time I met Kerry.
219 I just saw Kerry the other times.

220

221 Det. Nichols: Uh huh. What time did you close your truck?

222

223 Hendricks: About 10:30.

224

225 Det. Nichols: Doesn't that seem a little early to get the
226 drunk crowd?

227

228 Hendricks: Not really. I guess people here go out early.

229

230 Det. Nichols: What did you do after you closed the truck?

231

232 Hendricks: I went home.

233

234 Det. Nichols: Went home? We picked you up at the Jaywood
235 Building. Where do you live?

236

237 Hendricks: 555 S. Johnson Street. But I went back out. I
238 just had to take the food truck home, you know?

239

240 Det. Nichols: Uh huh. How did you get back downtown?

241

242 Hendricks: I took an Uber. I got dropped off in front of
243 Chuggies.

244

245 Det. Nichols: So you drove all the way home and took an
246 Uber back to the same spot?

247

248 Hendricks: You would too if you smelled like catfish
249 chowder.

250

251 Det. Nichols: Uh huh. Let's take a break.

252

253 Hendricks: Really?

254

255 Det. Nichols: Yeah, Really. I just want to check on some
256 things.

257

258

259 PART 2

260

261 Date: July 20, 2017

262

263 TIME 1:00 pm

264

265 *****

266

267 Hendricks: Took you long enough. When are you going to let
268 me go?

269

270 Det. Nichols: I told you. I had to check on some things.
271 You need to make bail if you want to leave.

272

273 Hendricks: I can't make bail. I run a food truck. What
274 things were you checking on?

275

276 Det. Nichols: For starters, you've been in Carmen and Kerry
277 Bell-Leon's condo, right? How many times?

278

279 Hendricks: Sure, dozens of times.

280

281 Det. Nichols: Does the floor plan look accurate to you?

282

283 Hendricks: Yes, it does.

284

285 Det. Nichols: And is this an accurate representation of the
286 area around the Jaywood Building?

287

288 Hendricks: Yes, and it shows where I parked my food truck.

289

290 Det. Nichols: When you were in Carmen and Kerry's condo,
291 did you ever see this calendar?

292

293 Hendricks: Sure. To be frank, I'd look at it to see when
294 Kerry was going to be out of town because I wanted to find
295 times Carmen and I could meet in their condo. Kerry is a
296 pilot, so Kerry would be out of town for work a lot.

297

298 Det. Nichols: So you saw that Kerry would be at Chuggies on
299 the night of July 16?

300

301 Hendricks: I probably saw that. But it's not as if I
302 memorize every little detail on the calendar.

303

304 Det. Nichols: Is this your receipt for a gun range?

305

306 Hendricks: Yes. Carmen suggested I learned how guns work in
307 case Kerry came after us. Carmen was really worried about
308 self-defense.

309

310 Det. Nichols: Do you know what these pills are?

311

312 Hendricks: Sure, they are Everest. I can tell by the smiley
313 faces.

314

315 Det. Nichols: Have you ever used it?

316

317 Hendricks: Nope, never. And I haven't used any other drugs
318 either.

319

320 Det. Nichols: How do you know what it is then?

321

322 Hendricks: I've seen it on the news.

323

324 Det. Nichols: And is this your Uber receipt?

325

326 Hendricks: Yeah, it is. How'd you get that?
327
328 Det. Nichols: We have your phone remember. You should
329 really put a password on it.
330
331 Hendricks: Oh, yeah maybe.
332
333 Det. Nichols: Can you tell me what these things are?
334
335 Hendricks: These look like all the transactions for my food
336 truck on July 16, 2017. See that one is Kerry! I told you
337 that was the only time I saw Kerry.
338
339 Det. Nichols: Were there any transactions other than those
340 listed here that day?
341
342 Hendricks: No.
343
344 Det. Nichols: And these Tender messages. Are they yours?
345
346 Hendricks: Yes, they are mine.
347
348 Det. Nichols: Are these all the messages you sent?
349
350 Hendricks: No, Tender deletes messages after 30 days. Those
351 are all the messages I sent in the last 30 days.
352
353 Det Nichols: Is this your Tender Profile?
354
355 Hendricks: Yes.
356
357 Det. Nichols: And is this Carmen's Tender profile?
358
359 Hendricks: Yes.
360
361 Det. Nichols: What did Carmen mean by a special job?
362
363 Hendricks: [Laughter] Use your imagination.
364
365 Det. Nichols: Did you communicate in any other ways?
366

367 Hendricks: We also talked on the phone.

368

369 Det. Nichols: Why did you keep using Tender?

370

371 Hendricks: It's more private. Kerry was less likely to see
372 Tender messages than a text message. The notifications
373 don't show up on your phone. And I doubt someone like Kerry
374 even knows what Tender is.

375

376 Det. Nichols: Last time we spoke, you told me about a
377 threat letter Kerry tied to a brick and threw through your
378 window. Is this that letter and brick?

379

380 Hendricks: Yes, it is. That is what Kerry threw through my
381 window on July 4, 2017.

382

383 Det. Nichols: Why didn't you call the police?

384

385 Hendricks: I don't know.

386

387 Det. Nichols: Were you and Carmen plotting to kill Kerry?

388

389 Hendricks: No, of course not. Carmen was going to leave
390 Kerry for me. Carmen had already told Kerry about the
391 affair. Right before Carmen left the country.

392

393 Det. Nichols: Take a look at the last message that Carmen
394 sent you on June 25, 2017. Can you tell me what this emoji
395 is used in this message?

396

397 Hendricks: That's a coffin.

398

399 Det. Nichols: So Carmen left the country right after
400 telling you that the only thing that mattered was a coffin?

401

402 Hendricks: I didn't say that.

403

404 Det. Nichols: Look, we know you did this. You said it
405 yourself.

406

407 Hendricks: What are you talking about?

408

409 Det. Nichols: It's not what I've been talking about. It's
410 what you've been talking about. We know you confessed to
411 your cellmate Skyler Sinclair.

412

413 Hendricks: I didn't say anything to Skyler.

414

415 Det. Nichols: We know you did. Skyler told us. Skyler told
416 us you said that you made sure to get Kerry out of the way
417 so you could be with Carmen.

418

419 Hendricks: I said something like that, but I never told
420 Skyler what I did.

421

422 Det. Nichols: What exactly did you say?

423

424 Hendricks: I want my lawyer.

425

426

[End]