

BEFORE DEALING WITH THE BUSINESS AT HAND, I WOULD LIKE TO REMIND EVERYONE HOW IMPORTANT IT IS TO HONOR THE DECORUM OF THE COURT AND REMAIN QUIET AFTER THE VERDICTS ARE RENDERED.

A TRIAL IS DEFINED AS A FORMAL EXAMINATION OF THE FACTS OF A CASE BY A COURT OF LAW TO DECIDE THE VALIDITY OF A CHARGE. IT IS ALSO DEFINED IN THE DICTIONARY AS A HARDSHIP. AND, IN MANY WAYS, THIS TRIAL WAS A HARDSHIP.

BUT, IT WAS NOT A COMPETITION. TO OVERREACT TO THE OUTCOME WHILE YOU ARE IN THIS COURTROOM, WHETHER YOU ARE SATISFIED OR DISSATISFIED WITH THE RESULT, WOULD DETRACT FROM THE GREAT EFFORT THAT WAS EXPENDED TO ASSURE A FAIR TRIAL -- BY THE COURT PERSONNEL AND THE ATTORNEYS WHO HANDLED THEIR RESPONSIBILITIES WITH THE HIGHEST LEVEL OF PROFESSIONALISM AND SKILL.

BECAUSE ESTABLISHMENTS KNOWN AS “STRIP CLUBS” OFTEN GENERATE CRIMINAL ACTIVITY INCLUDING PROSTITUTION AND NARCOTICS, THE POLICE DEPT. CLUB ENFORCEMENT UNIT WAS GIVEN THE TASK OF

INFILTRATING SUCH PLACES AND PURSUING VIOLATIONS OF LAW THAT WOULD LEAD TOWARD SHUTTING THEM DOWN.

SO IT WAS THAT THE DETECTIVES CHARGED IN THIS CASE FOUND THEMSELVES IN THE VICINITY OF CLUB KALUA IN THE EARLY MORNING OF NOVEMBER 25, 2006.

AND AS A RESULT OF THE EVENTS OF THAT MORNING, THEY ARE ACCUSED OF THE CRIMES ALLEGED IN THE INDICTMENT.

NOW, AFTER EIGHT WEEKS OF TRIAL, THIS COURT HAS THE RESPONSIBILITY OF MAKING A DETERMINATION OF GUILT OR LACK OF GUILT AS TO EACH OF THE CHARGES SET FORTH AGAINST EACH OF THE DEFENDANTS.

AS THE TRIER OF FACT, THIS COURT MUST DETERMINE WHAT THE FACTS ARE, APPLY THOSE FACTS TO THE APPLICABLE LAW, AND RENDER A VERDICT.

THE COURT WILL DO SO. BUT BEFORE ANNOUNCING A DECISION, A BRIEF STATEMENT IS IN ORDER.

IN WEIGHING THE EVIDENCE, THE COURT EXAMINED THE TESTIMONY OF THE WITNESSES AND THE FACTORS TO BE CONSIDERED IN DETERMINING CREDIBILITY.

AN OBJECTIVE CONSIDERATION OF THE PROOF RULED OUT SYMPATHY AND PREJUDICE AND ANY OTHER EMOTIONAL RESPONSE TO THE ISSUES PRESENTED. THE COURT DID NOT VIEW THE VICTIMS OR THE NYPD AS BEING ON TRIAL HERE.

THE BURDEN OF PROOF WAS ON THE PEOPLE TO PROVE EACH DEFENDANT GUILTY OF THE CRIMES OF WHICH HE WAS CHARGED, BEYOND A REASONABLE DOUBT. AND AS WITH ALL CRIMINAL CASES, EACH DEFENDANT WAS PRESUMED TO BE INNOCENT.

BECAUSE JUSTIFICATION WAS RAISED AS AN ISSUE, THE PEOPLE HAD THE BURDEN OF PROVING AS AN ELEMENT OF EACH CHARGED CRIME THAT EACH DEFENDANT WAS NOT JUSTIFIED.

IT IS IMPORTANT TO NOTE THAT IN ANALYZING WHAT HAPPENED HERE, IT WAS NECESSARY TO CONSIDER THE MIND-SET OF EACH DEFENDANT AT THE TIME AND PLACE OF OCCURRENCE, AND NOT THE MIND-SET OF THE

VICTIMS. WHAT THE VICTIMS DID WAS MORE PERTINENT TO RESOLVING THE ISSUES OF FACT THAN WHAT MAY HAVE BEEN IN THEIR MINDS.

ALSO, CARELESSNESS AND INCOMPETENCE ARE NOT STANDARDS TO BE APPLIED HERE, UNLESS THE CONDUCT RISES TO THE LEVEL OF CRIMINAL ACTS, AS DEFINED BY THE LAW RELATING TO EACH COUNT CHARGED.

WHAT HAPPENED OUTSIDE THE CLUB KALUA ON NOVEMBER 25, 2006, AND THE ENSUING INCIDENT THAT OCCURRED AROUND THE CORNER ON LIVERPOOL STREET ARE THE TWO SIGNIFICANT EVENTS ABOUT WHICH PROOF WAS ELICITED.

WE INSTRUCT JURIES THAT IT IS EXPECTED THAT MULTIPLE WITNESSES TO THE SAME EVENT MAY VARY IN THEIR RECOUNTING OF MINOR ASPECTS OF WHAT HAD BEEN OBSERVED. HOWEVER, WHERE THERE ARE SIGNIFICANT INCONSISTENCIES RELATED TO IMPORTANT FACTS, THEY SHOULD BE CONSIDERED.

REFERENCE WAS MADE EARLIER TO THE CREDIBILITY OF WITNESSES. THE COURT HAS FOUND THAT THE PEOPLE'S ABILITY TO PROVE THEIR CASE

BEYOND A REASONABLE DOUBT WAS AFFECTED BY A COMBINATION OF THE FOLLOWING FACTORS: THE PROSECUTION WITNESSES' PRIOR INCONSISTENT STATEMENTS, INCONSISTENCIES IN TESTIMONY AMONG PROSECUTION WITNESSES, THE RENUNCIATION OF PRIOR STATEMENTS, CRIMINAL CONVICTIONS, THE INTEREST OF SOME WITNESSES IN THE OUTCOME OF THE CASE, THE Demeanor ON THE WITNESS STAND OF OTHER WITNESSES AND THE MOTIVE WITNESSES MAY HAVE HAD TO LIE AND THE EFFECT IT HAD ON THE TRUTHFULNESS OF A WITNESS'S TESTIMONY. THESE FACTORS PLAYED A SIGNIFICANT PART IN THE PEOPLE'S ABILITY TO PROVE THEIR CASE BEYOND A REASONABLE DOUBT AND HAD THE EFFECT OF EVISCERATING THE CREDIBILITY OF THOSE PROSECUTION WITNESSES. AND, AT TIMES, THE TESTIMONY JUST DIDN'T MAKE SENSE.

YET, IT WAS APPARENT FROM THE TESTIMONY OF THE PARTICIPANTS THAT THE CONFRONTATION THAT TOOK PLACE IN FRONT OF THE CLUB WAS HEATED. THE SUV OWNER, FABIO COICOU, GAVE THE IMPRESSION THAT HE HAD A GUN, CAUSING AT LEAST ONE OF THE GROUP TO THREATEN TO TAKE IT AWAY FROM HIM.

AND, THE COURT FINDS, ANOTHER THREAT WAS MADE BY JOSEPH GUZMAN TO RETRIEVE A GUN. AT THAT POINT, NOTHING OF A CRIMINAL NATURE HAD TAKEN PLACE. BUT, HAVING WITNESSED THAT PROVOCATIVE CONFRONTATION BETWEEN MR. COICOU AND THE GROUP, THE UNDERCOVER OFFICERS BECAME CONCERNED AND FOLLOWED THE GROUP AROUND THE CORNER TO LIVERPOOL STREET.

DEFENDANT ISNORA APPROACHED THE NISSAN ALTIMA INTO WHICH MR. GUZMAN AND SEAN BELL, TWO OF THE MORE ACTIVE PARTICIPANTS IN THE HEATED EXCHANGE, ENTERED.

THE ALTIMA, WHICH WAS DRIVEN BY MR. BELL, SPED AWAY FROM ITS PARKED POSITION, STRUCK DEFENDANT ISNORA AND COLLIDED HEAD ON WITH THE POLICE VAN THAT HAD ENTERED LIVERPOOL STREET. THE ALTIMA THEN WENT INTO REVERSE, BACKED UP ON TO THE SIDEWALK, STRUCK A GATE AND THEN WENT FORWARD AND TO THE RIGHT, STRIKING THE POLICE VAN AGAIN. AS THIS WAS HAPPENING, DEFENDANT ISNORA -- WHO TESTIFIED IN THE GRAND JURY --OBSERVED MR. GUZMAN, THE FRONT PASSENGER, MOVE HIS BODY AS IF HE WERE

**REACHING FOR A WEAPON. DEFENDANT ISNORA YELLED,
“GUN” AND FIRED.**

**OTHER OFFICERS, INDICTED AND UNINDICTED,
JOINED IN FROM DIFFERENT LOCATIONS ON THE STREET.**

**THE COURT HAS FOUND THAT THE INCIDENT LASTED
JUST SECONDS. THE OFFICERS RESPONDED TO PERCEIVED
CRIMINAL CONDUCT; THE UNFORTUNATE CONSEQUENCES
OF THEIR CONDUCT WERE TRAGIC.**

**THE POLICE RESPONSE WITH RESPECT TO EACH
DEFENDANT WAS NOT PROVED TO BE CRIMINAL, I.E.
BEYOND A REASONABLE DOUBT. QUESTIONS OF
CARELESSNESS AND INCOMPETENCE MUST BE LEFT TO
OTHER FORUMS.**

**ALTHOUGH THERE WERE ASPECTS OF DEFENSE
TESTIMONY THAT WERE NOT NECESSARILY CREDIBLE,
THE FOCUS MUST BE ON THE PEOPLE’S PROOF TO
DETERMINE WHETHER THEY HAVE SATISFIED THEIR
BURDEN OF PROVING THE DEFENDANTS GUILTY BEYOND A
REASONABLE DOUBT.**

**TO THE EXTENT THAT THE DEFENSE OF
JUSTIFICATION WAS APPLICABLE TO THE CHARGED**

CRIMES, COUNTS 1, 2, 3, 4 IN PART, 5 IN PART, 6, 7, AND 8, THE PEOPLE HAVE NOT PROVED, BEYOND A REASONABLE DOUBT, THAT EACH DEFENDANT WAS NOT JUSTIFIED IN THE ACTIONS THAT EACH TOOK.

WITH RESPECT TO COUNTS 4 AND 5, TRENT BENEFIELD, WHOSE CREDIBILITY WAS SERIOUSLY IMPEACHED, TESTIFIED THAT HE WAS SHOT WHILE RUNNING DOWN LIVERPOOL STREET. FORENSIC EVIDENCE DEMONSTRATED OTHERWISE. THUS, ALTHOUGH THE JUSTIFICATION DEFENSE WOULD NOT HAVE APPLIED TO THAT ASPECT OF COUNTS 4 AND 5, IT WAS NOT PROVED BEYOND A REASONABLE DOUBT.

ACCORDINGLY, THE COURT FINDS EACH DEFENDANT NOT GUILTY OF EACH OF THE RESPECTIVE COUNTS IN THE INDICTMENT OF WHICH THEY WERE CHARGED.