

Problem 3A.

State v. Matthew Hickman.

Indictment: Whereas on or about July 12, 2015, Matthew Hickman did feloniously and willfully set fire to a 2011 Chevrolet Silverado pickup truck in the Wal-Mart parking lot, 3313 W. State Road 45, in Bloomington, Monroe County, Indiana, causing more than \$5000.00 damage, said vehicle being owned by Melissa Hickman, without lawful authority, and did thereby commit the crime of Arson in the Second degree, a level 3 felony, did further commit the crime of malicious destruction of property, a level 6 felony, and did further commit the crime of Reckless Endangerment of the Public, a level 1 misdemeanor, all contrary to the peace and dignity of the State.

Specification: At approximately 7:30 p.m. on July 12, 2015, Melissa Hickman parked her 2011 white Chevrolet Silverado Crewcab in the parking lot of the Bloomington Wal-Mart and entered the store. A court order dated July 10, 2015, had awarded ownership and possession of the vehicle to her under the Indiana Protective Order law. The vehicle had previously been registered to the defendant but jointly owned by the defendant and Ms. Hickman as husband and wife. When Ms. Hickman emerged from the store, the truck was on fire. Numerous other vehicles and persons were in the immediate area near the truck. The defendant was seen leaving the Wal-Mart parking lot and later is alleged to be responsible for Facebook postings indicating he had caused the fire out of anger toward Ms. Hickman who had taken the children, moved to Middleway House, obtained a protective order against him, and filed for divorce. The truck was completely destroyed.

Direct examination of Kendra Johnson by prosecutor.

- 1       Q: What is your name?  
      A: Kendra Johnson.
- 2       Q: You live in Bloomington, correct?  
      A: Yes, on Maple Leaf Drive.
- 3       Q: Is that inside the Bloomington City limits, or in Ellettsville, or in the county?  
      A: In the county, I think. When I called 9-1-1 because kids were throwing eggs at my house, they sent out a deputy sheriff, not a city cop.
- 4       Q: Where were you around 7:45 p.m. on July 12, 2015?  
      A: At Wal-Mart. Well, just coming out of Wal-Mart after buying cigarettes.
- 5       Q: What did you see and hear in the parking lot?  
      A: I saw a pickup truck on fire and a man wearing a Purdue T-shirt with a gas can getting into a red car shouting, "What are you going to do with the truck now, you ...." Can I say the word he used?
- 6       Judge: Yes, you may. What did he say?  
      A: He said "bitch."

- 7      Prosecutor: So, to clarify, his full statement was “What are you going to do with the truck now, you bitch?,” is that right?  
A: Yes.
- 8      Q: After he referred to his ex-wife as a “bitch,” what happened next?  
A: He drove off with his hand out the window and his middle finger raised. Other people had gathered, so I figured someone had called 9-1-1, so I started to walk home. It’s only three blocks. Then I figured the cops might need witnesses, so I turned around and went back. That’s when the first fire truck showed up.
- 9      Q: When you next saw the defendant, what happened?  
A: I saw him drive slowly down our street. It turns out his ex-wife was staying with her father on our street. He stopped and the father came out of the house and went up to the car.
- 10     Q: Describe what happened when the defendant confronted Ms. Hickman’s father on July 14th.  
A: They got into a big fight and someone called the cops. That’s when he was arrested.
- 11     Q: Did he look angry when he drove slowly down the street?  
A: I don’t know, but he sure looked angry when he was setting fire to his wife’s truck at Wal-Mart and calling her a bitch.

Think through this witness examination and decide where the defense attorney could make an objection to the form of the examination.