

Problem 5A.

State v. Lynette Waldron and Susan Atkins
First degree murder of Natasha Tate

Indictment: On or about August 9, 2015, at 1212 West Seventh Street, in the City of Bloomington, County of Monroe, State of Indiana, Lynette Waldron and Susan Atkins did feloniously and willfully cause the death of Natasha Tate by shooting and stabbing her, without justification, with malice and premeditation, against the peace and dignity of the State, and did thereby commit the crime of premeditated murder.

Facts: Ernest Lowe and Natasha Tate were drug dealers operating out of a rented house on the west side of Bloomington. On the evening of August 9, 2015, a rival gang of drug dealers entered the house and killed them both. Natasha was 8 months' pregnant at the time. The police believe that Ernest was killed by a 9 mm handgun fired by gang leader Charles Hamilton, and that Natasha was killed by a combination of gunshots from a .38 revolver fired by Lynette Waldron and multiple knife wounds inflicted by Susan Atkins. The coroner concluded that the cause of death was blood loss caused by both the bullet and knife wounds. Hamilton is still at large, so only Lynette and Susan are on trial for the murder of Natasha.

Issue: Natasha was repeatedly slashed with a knife. The scene was bloody. Crime scene officers carefully photographed everything in a series of 40 pictures. The police report indicates that the scene was so upsetting that one of the officers vomited and could not continue taking pictures. The prosecutor has disclosed in discovery that he will offer into evidence 15 of the crime scene photos.

You are one of the defense attorneys. Think through how you would object to the photographs. Various scenarios will be presented in class.

Problem 5B.

This problem is based on the personal injury case described in Problem 4B, *Turner v. Big Red*.

PART ONE:

As a result of the accident, Fred lost both of his legs, which had to be amputated below the knee. At trial, the following examination took place. Fred is on the witness stand.

- 1 Q: Describe the injuries you received.
A: My legs were crushed. I was thrown out of my wheelchair and landed face down on the pavement. The front tire of the Big Red truck ran over my legs.
2. Q: What happened next?
A: I screamed and screamed and kept screaming over and over.
- 3 Q: Then what happened?
A: The driver of the truck opened the door and looked down, saw me, and said "Oh, I'm sorry" and then backed the damn truck up and ran over my legs again.
- 4 Q: What part of the truck?
A: The front tire.
5. Q: What you were feeling?
A: Pain like someone was chopping my legs with an axe
6. Q: What were you thinking?
A: That I was dead. I thought I was dead and would never see my family again, and what would happen to my youngest son who has cerebral palsy. Who would take care of him?
7. Q: What happened to your legs?
A: They were crushed and had to be amputated.
8. Q: Will you roll up your pants and show the jury what your legs look like today?
A: Sure.

Think through where the defendant might make Rule 403 objections and what those objections would be.

PART TWO

Plaintiff calls Wally Adams. He was a Big Red employee at the time of the accident who loaded trucks, managed stock, and arranged deliveries if the manager was not in the store.

a) Wally testifies that the driver (Jane) started work about a month before the accident, and that he has seen her pull out her cell phone and look at it as she left the Big Red parking lot several times during that month.

b) Wally testifies that he had ridden with Jane on four or five deliveries in that month, and she would often slow down but not stop at intersections when there were stop signs.

Think through the admissibility of these two items of evidence -- both what objections the defense could make and what arguments the plaintiff could make that the evidence is admissible.

PART THREE

In its case, the defense calls Richard Thompson, the assistant manager of Big Red's main store on College Avenue. He testified that he is in charge of all deliveries and delivery vehicles. He testifies that following the accident, the truck was towed to a repair shop, where a mechanic discovered a leaking brake line. He then testified:

a) In the past two years, Big Red has made over 5000 deliveries and no truck has ever been in an accident before.

b) In the month before the accident, Big Red drivers made over 200 deliveries in this particular truck and there were no accidents.

c) In the month before the accident, Jane made 50 deliveries in this truck and did not have a single accident.

Think through the admissibility of these three items of evidence -- both what objections the defense could make and what arguments the plaintiff could make that the evidence is admissible.