

1 THE WITNESS: Thank you.

2 THE COURT: Thank you for the third time I
3 guess. Thank you very much.

4 (Witness excused.)

5 THE COURT: All right. Government, anything
6 further?

7 MS. PHILLIPS: Nothing further, Your Honor. The
8 Government rests.

9 THE COURT: All right. Bingo, back to you.

10 MR. FIREISON: I've got two witnesses, Your
11 Honor, I'm going to make it fast if I can get the court's
12 indulgence.

13 THE COURT: Go ahead.

14 (Pause.)

15 MR. FIREISON: The defense calls Mr. Derrick
16 Barrett.

17 (Pause.)

18 Thereupon,

19 **DERRICK BARRETT**

20 having been called as a witness for and on behalf of the
21 Defendant, and having been first duly sworn by the Deputy
22 Clerk, was examined and testified as follows:

23 DEPUTY CLERK: You can have a seat.

24 THE COURT: You can have a seat. Thank you.

25 **DIRECT EXAMINATION**

1 BY MR. FIREISON:
2 Q Mr. Barrett, would you state your full name for
3 the court please?
4 A Derrick Barrett.
5 Q Sir, where do you reside?
6 A 1330 7th Street, Northwest.
7 Q Mr. Barrett, do you know a Mr. Leroy Thorpe?
8 A Yes, I do.
9 Q Approximately how long have you known Mr.
10 Thorpe?
11 A Approximately all my life. He taught me in
12 school.
13 Q Do you see Mr. Thorpe here in the courtroom
14 today?
15 A Yes, I do.
16 Q Where is he?
17 A On my left.
18 Q Sir, do you also know a Mr. Molten?
19 A Yes.
20 Q How do you know Mr. Molten?
21 A From coming around the vets and stuff like that.
22 Q Sir, only addressing your observations of Mr.
23 Thorpe and Mr. Molten, okay, have you been privy to events
24 where you've seen Mr. Molten and Mr. Thorpe --
25 MS. PHILLIPS: Objection, Your Honor. This has

1 no relevance to this case. This case is about a 911 call
2 and a stay-away order. This is not about the relationship
3 between Mr. Molten and Mr. Thorpe. It has no relevance to
4 this case.

5 MR. FIREISON: Your Honor, at the end of the day
6 the court's going to make a decision based upon the state
7 of mind of Mr. Thorpe, and which flows from his
8 interaction with Mr. Molten, and this one witness can give
9 what I think is material testimony, relative testimony on
10 a reasonable person's state of mind given a certain set of
11 circumstances and I would ask the Court to give us a
12 little leeway here.

13 MS. PHILLIPS: Your Honor, it's defendant's --

14 THE COURT: When you say a reasonable person's
15 state of mind, I mean, we're not raising an insanity
16 defense or anything here are we?

17 MR. FIREISON: No, not -- well --

18 THE COURT: So, I mean -- or temporary insanity
19 or anything like that. I mean, the issue is whether or
20 not -- my assumption and I'm going to say this. I'm going
21 to hear from everybody. The issue is whether or not at
22 the time he made the call he knew it was false.

23 MR. FIREISON: That's right.

24 MS. PHILLIPS: That's correct.

25 MR. FIREISON: That's right.

1 THE COURT: What inspired him to do that may
2 have some effect on sentencing if in fact he was ever
3 found guilty, but I don't know that that's, it's relative
4 to determine whether or not he made a false report.

5 MR. FIREISON: Okay, well --

6 THE COURT: I mean, do you understand.

7 MR. FIREISON: I understand and I'm thinking
8 that there's an area there where one knew at the time
9 something was false and how one would come to that
10 decision, and I understand what the Court's saying about a
11 temporary, you know, the insanity thing or not being
12 cognitive or what.

13 THE COURT: Yeah, I don't know what, you know,
14 whether he was agitated and things like that, but the fact
15 of the matter is the question for me is, the initial
16 question for me is whether or not, you know, whether the
17 statement was false.

18 MR. FIREISON: Right, Your Honor.

19 THE COURT: When it was made, the report, you
20 know.

21 MR. FIREISON: Okay. Well, given that.
22 Narrowing, you know, sir, I'm done with you.

23 THE COURT: Okay.

24 (Witness excused.)

25 MR. FIREISON: All right.

1 THE COURT: Thank you.

2 (Pause.)

3 THE COURT: Anything.

4 (Pause.)

5 MR. FIREISON: We rest, Your Honor.

6 THE COURT: Okay, do you have any further
7 evidence? Any more evidence or are you resting your case?

8 MR. FIREISON: I'm resting my case.

9 THE COURT: All right. Government.

10 (Pause.)

11 CLOSING ARGUMENT

12 MS. PHILLIPS: Your Honor, in closing the
13 Government has proven its case beyond a reasonable doubt
14 that Mr. Thorpe called 911 on October 19th, 2009 and
15 stated that he had --

16 THE COURT: Yeah, why don't we get into that.
17 Let's -- and you know this is a -- to the Court, so the
18 Court can interject I mean.

19 MS. PHILLIPS: Very well, Your Honor.

20 THE COURT: What's the evidence that he made the
21 call?

22 MR. FIREISON: Your Honor.

23 THE COURT: Hold on a second.

24 MS. PHILLIPS: Your Honor, we heard the 911
25 call. We heard the caller say that he had a stay-away