



## ***Monster* by Walter Dean Myers** **A Fact Pattern**

It is the year 1999. Steve Harmon is a 16-year-old student at Stuyvesant High School, a public high school in Harlem, New York. He is involved in the Film Club at school and spends lots of time after school thinking about making a film and collecting footage for ideas he has for various projects. In response to a recent assignment, Steve has chosen to focus on using film to tell the story of his neighborhood.

In one of his films, Steve Harmon attempted to capture the gang activity in his community. He knew active members of local gangs and that this criminal element played a role in his community. In order to capture gang activity on camera, Steve started hanging out with acquaintances who he knew were active members of local gangs.

Once Steve began his project, he became obsessed with the activities on the streets of Stuyvesant. His life-long friends, such as Brandon Johnson, began to notice a difference in Steve. Steve had always been a good friend to Brandon, but now Brandon noticed he seemed distant and preoccupied. The two best friends spent less and less time together. When Brandon would question Steve about what was going on, his only answer seemed to be about a film he was making that was taking all of his time.

On December 22 the community was rocked by a murder. Alguinaldo Nesbitt, the owner of the local drugstore on 145th Street in Harlem, was killed when robbers wrestled Mr. Nesbitt's gun from him and the gun went off. Steve Harmon was accused of taking part in the robbery that resulted in his murder. Steve's name was linked with James King and Bobo Evans—two neighborhood thugs. The two had implicated Steve as their look-out for the day they had planned to rob Mr. Nesbitt. According to the two convicted criminals, Steve was assigned to stand outside of Mr. Nesbitt's store and signal King and Bobo if he saw anyone coming toward the store.

Steve Harmon's trial will show either that he was in the wrong place at the wrong time, or that he was actually attracted to the idea of helping King and Bobo and, therefore, agreed to be the look-out. Three witnesses will testify for Steve and three will testify against him. The lawyers for the state, the Prosecution, will try to prove that Steve Harmon was, in fact, lured to the dark side while making his film, and agreed to help Bobo and King by serving as a look-out for them while they robbed Mr. Nesbitt's store. Testifying for the Prosecution will be Jorge Gonzales, a 30-year-old who worked for Mr. Nesbitt for 10 years, Brenda Williams, a young mom who went to Mr. Nesbitt's store every day to pick up supplies and diapers for her infant, and Crossing Guard Ann Brook, who reports that she saw Steve Harmon in the neighborhood for the first time the day of the robbery and murder. The lawyers for the Defense will call on George Sawicki, the Stuyvesant High School film teacher Steve Harmon worked for three years, Mrs. Harmon, Steve Harmon's mother who has been in the courtroom for the entire trial, and Brandon Johnson, Steve's best friend.

**Steve Harmon has been charged with second degree murder. Your job is to decide if you think he is guilty as charged, or if he was simply at the wrong place at the wrong time.**

A criminal homicide constitutes *second degree murder* when the murder is committed while a defendant is engaged as a principal or an accomplice in the perpetration of a felony. The prosecutor must prove malice by showing that the defendant had a general intent to commit an unlawful act or achieve a harmful result. The jury can infer malice from the defendant's intent to participate in the underlying felony. The charge also requires the prosecutor to prove the defendant had a specific intent to kill, which can be inferred by the defendant's intent to commit to the underlying felony—even if he did not intend to actually kill anyone. The penalties for second degree murder range from state to state. Even though Steve Harmon did not have a criminal record, if convicted of second-degree murder in Pennsylvania he would face life in prison.

## **The State v. Steve Harmon**

Court Clerk: All rise. The Court of Room 305 is now in session. The Honorable Judge \_\_\_\_\_ presiding.

Judge: Please be seated. Today we are going to hear the case of the State of New York versus Steve Harmon. The Defendant has been accused of acting as an accomplice in the robbery and murder of Mr. Alquinaldo Nesbitt. Prosecution, are you ready?

Prosecution: (standing) Yes, Your Honor.

Judge: Is the Defense ready?

Defense: (standing) Yes, Your Honor.

Judge: Prosecution, you may proceed with your Opening Statement.

Prosecution: Your Honor and ladies and gentlemen of the jury, today we will prove, beyond a reasonable doubt, that Steve Harmon is guilty of *second-degree murder*. There was a plan to rob Mr. Nesbitt's store on December 22 of last year. There were three people involved in this evil plan. James King and Richard "Bobo" Evans were to enter the store. The defendant, Steve Harmon, was the lookout. His job was to enter the store first and make sure there were no police in the store. Then, he was to wait outside and make sure no police were coming. Because of the joint actions of these three men, Mr. Nesbitt is dead, and they are all guilty of this heinous crime. We will hear from Mr. Gonzales, the clerk at Mr. Nesbitt's drugstore, who describes that he was in the storeroom taking stock and could see the actions of the defendant both in and out of the store. Then we will hear from Brenda Williams, a regular customer at Mr. Nesbitt's drugstore. Ms. Williams was in the store at the time of the robbery and hid behind a counter. She will describe what she saw and heard while the two men were in the store, and how they kept looking out the window for a signal. Finally, we will receive testimony from Mrs. Anna Brook, the school crossing guard at the corner in front of Mr. Nesbitt's store. She will describe seeing three men who she had never seen before. She witnessed two of the men walking into Mr. Nesbitt's store and noticed how these two men and the third man outside of the store kept looking and gesturing to each other. The evidence will prove beyond a reasonable doubt that Steve Harmon

was an accomplice in this deadly plan and therefore must be found guilty of second-degree murder.

Thank you, Your Honor.

Judge: Thank you. The Court will now hear the Defense Opening Statement.

Defense: Your Honor and ladies and gentlemen of the jury, the Defense will show that Steve Harmon, known to his friends and family as a caring, honest, and creative young man, is only guilty of being in the wrong place at the wrong time. We will hear from Steve's teacher, Mr. Sawicki, about his experience over the three years that Steve Harmon was a student in his class. Mr. Sawicki will tell the Court about Steve's project and the passion Steve had to make his project give people inside and outside of his community a realistic glimpse of the neighborhood he calls home. Mrs. Harmon, Steve Harmon's mom, knows her son and knows that he has never been in trouble. She will tell the Court about the Steve she has raised, who has always been a responsible member of the Harmon family. And finally, we will hear from Steve Harmon's best friend, Brandon Johnson. Sure, he noticed a difference in his friend Steve because, as we will hear, Steve was focused on making his film. But, as Brandon will tell us, Steve is not the type of person to get involved with thugs. He will tell us about his good and trusted best friend. No one knows a person better than a longtime best friend! The testimony from these three upstanding citizens will demonstrate that Steve Harmon is not guilty and should leave this courtroom free to go back to his school and the people he loves, and free to make his film about his neighborhood.

Thank you, Your Honor.

Judge: Prosecution, you may call your first witness.

Prosecution: The Prosecution calls Mr. Jorge Gonzales to the stand.

Court Clerk: Mr. Gonzales, please raise your right hand. Do you promise to tell the truth, the whole truth, and nothing but the truth?

Mr. Gonzales: I do.

Court Clerk: You may be seated.

Prosecution: Can you please tell the Court your name and what you do for a living?

Mr. Gonzales: I am Jorge Gonzales and I work in Mr. Nesbitt's drugstore.

Prosecutor: How long have you worked for Mr. Nesbitt?

Mr. Gonzales: I have worked for Mr. Nesbitt for five years, but I have been coming to his drugstore with my mother since I was only seven-years-old.

Prosecutor: Were you working in Mr. Nesbitt's store on December 22<sup>nd</sup>, the day

Alguinaldo Nesbitt's store was robbed, and he was brutally murdered?

Mr. Gonzales: Yes. I came in at 8:00 A.M. that day. I usually come in at 8:00 A.M. and leave at 5:00 P.M., unless Mr. Nesbitt needs me longer, of course.

Prosecutor: Can you tell the jury what you were doing when this tragic event occurred?

Mr. Gonzales: I was in the back storeroom getting ready to refill some of the stock.

Prosecutor: If you were in the storeroom, were you able to see anything that happened in the store itself?

Mr. Gonzales: Before I went back to the storeroom, I saw the defendant in the store.

Prosecutor: Can you please point to the person you refer to as the defendant? (points to Steve Harmon). What was he doing?

Mr. Gonzales: I saw the defendant looking around the store. I was not sure what he was looking for, but he seemed to be surveying the area. He was walking up and down the aisles but not as if he was looking for a particular item—just looking back and forth.

Prosecution: When Steve Harmon was in Mr. Nesbitt's store, did he buy anything?

Mr. Gonzales: I did not see him buy anything.

Prosecution: Can you describe what you saw the defendant doing when he left Mr. Nesbitt's store?

Mr. Gonzales: Right before I went to the storeroom, I saw the defendant walk out of the store. He crossed the street and just stood there. He did not move. I could see him very clearly from the front window of the store.

Prosecutor: What did you do next?

Mr. Gonzales: I had work to do, so I went into the storeroom. Soon after I got there, I heard Mr. Nesbitt arguing with the two men who entered the store after the defendant left. Then I heard a gun go off, and I raced out to the front.

Prosecutor: Were you able to see anything when you got to the front of the store?

Mr. Gonzales: I saw one man running out with an armful of cigarette cartons, and I saw the cash register drawer open and empty. And then I saw poor Mr. Nesbitt lying dead on the floor.

Prosecutor: What did you do after the men ran out of the store?

Mr. Gonzales: I did what any good citizen would do. I called the police. I was very scared that the

murderers would return, so I was glad to see the police come so quickly.

Prosecutor: Thank you, Mr. Gonzales. No further questions, Your Honor.

Judge: Defense, you may cross-examine the witness.

Defense: Mr. Gonzales, the storeroom is in the back of the drug store, right?

Mr. Gonzales: Yes.

Defense: And yet you said you could hear the argument?

Mr. Gonzales: Well, maybe not clearly, but I could hear them arguing.

Defense: You never heard Bobo Evans and James King speak before, correct?

Mr. Gonzales: Correct.

Defense: So, you heard arguing, but it could have been any two men, right?

Mr. Gonzales: I guess so.

Defense: You also said you saw the defendant surveying the store before you went to do your job back in the storeroom. Is that true?

Mr. Gonzales: Yes

Defense: You must have been watching him for a very long time before you got back to work?

Mr. Gonzales: No... well, yes...I know what I saw.

Defense: You described the actions of the person you saw as wandering back and forth but not buying anything. Is that true?

Mr. Gonzales: Yes.

Defense: Does everyone who comes into Mr. Nesbitt's drugstore always buy something?

Mr. Gonzales: No.

Defense: Isn't it possible that the defendant was surveying—in your words—what was on the shelves in Mr. Nesbitt's drugstore?

Mr. Gonzales: Possible...maybe.

Defense: We know that the defendant was doing a film on his community. Doesn't it make

sense that he would want to explore, or “survey” in your words, places in his community where he had never been?

Mr. Gonzales: I guess so...

Defense: No further questions, Your Honor.

Judge: The witness may step down. Prosecution, call your next witness.

Prosecution: The Prosecution calls Ms. Brenda Williams to the stand.

Court Clerk: Ms. Williams, please raise your right hand. Do you promise to tell the truth, the whole truth, and nothing but the truth?

Ms. Williams: I do.

Court Clerk: You may be seated.

Prosecution: Please tell the Court your name and what you do for a living.

Ms. Williams: I am Brenda Williams, and I am taking courses at the local university. I am also a new mom.

Prosecution: How long have you lived in the neighborhood in which Mr. Nesbitt had his drugstore?

Ms. Williams: I have lived here since I was 11. That's 15 years ago.

Prosecution: Why were you in Mr. Nesbitt's drugstore?

Ms. Williams: I was buying diapers for my little girl. I go to Mr. Nesbitt's store almost every day, usually to buy diapers and other things for my baby.

Prosecution: Were you in Mr. Nesbitt's drugstore on December 22<sup>nd</sup>?

Ms. Williams: Yes. I remember that date and the awful experience of being in the store when Mr. Nesbitt was murdered.

Prosecution: Can you tell the Court what you saw when you first entered Mr. Nesbitt's store?

Ms. Williams: I saw the defendant (pointing to Steve Harmon) pacing around the store. I never saw him there before.

Prosecution: What did you do when you first saw Steve Harmon?

Ms. Williams: I watched him for a short time. He did not seem to be looking to buy anything.

He just kept looking around. Then I saw the two men walk in the store. That's when Steve Harmon left.

Prosecution: Please describe the interaction you saw between Mr. Nesbitt and the two men?

Ms. Williams: The two men approached Mr. Nesbitt and demanded that Mr. Nesbitt open his cash register.

Prosecution: What happened next?

Ms. Williams: The two men and Mr. Nesbitt were arguing. Their voices were getting louder and louder. It was then that I became so scared that I crawled behind the counter and hid.

Prosecution: What were they arguing about?

Ms. Williams: The two men kept demanding that Mr. Nesbitt open the cash register. Mr. Nesbitt kept refusing.

Prosecution: Then what happened?

Ms. Williams: That awful sound...a gun went off and the next thing I heard were the two men running off. When I came from behind the counter, I saw poor Mr. Nesbitt on the floor. I did not know if he was dead, but I knew he was hurt really badly. When the police came, they told me that Mr. Nesbitt was dead and they stayed with me until I felt strong enough to walk home. It was all such a frightening experience!!!!

Prosecution: No further questions, Your Honor.

Judge: Defense, you may cross-examine the witness.

Defense: You said you saw the defendant in the store when you first walked in. Did you see him talk to either of the men as they walked in?

Ms. Williams: No.

Defense: You also said you saw Steve Harmon pacing in the store when you first walked in. In earlier testimony, we heard a description that he was surveying the store. Which was it—pacing or surveying?

Ms. Williams: I guess he was surveying...

Defense: You guess? Are you sure about what you really saw that day?

Ms. Williams: I am sure!

Defense: You were busy buying items for your new baby, correct?

Ms. Williams: Yes.

Defense: So, your attention was mostly on finding those items that you needed, correct?

Ms. Williams: Yes.

Defense: Yet you stated that you saw the two men walk into the store and Steve Harmon walk out of the store, correct?

Ms. Williams: Yes.

Defense: You were paying that much attention to the other people in the store and not to what you were there to buy?

Ms. Williams: (pause) I was concentrating on what I was there to buy, but I did see what I said I saw.

Defense: You are sure that is what you saw?

Ms. Williams: Pretty sure.

Defense: We have no further questions for this witness.

Judge: The witness may step down. Prosecution, please call your next witness.

Prosecution: We call Mrs. Anna Brook to the stand.

Court Clerk: Mrs. Brook, please raise your right hand. Do you promise to tell the truth, the whole truth, and nothing but the truth?

Mrs. Brook: I do.

Court Clerk: You may be seated.

Prosecution: Can you tell the Court your name and what you do for a living?

Mrs. Brook: I am Anna Brook and I am the crossing guard for the children who attend the elementary school across from Mr. Nesbitt's drug store.

Prosecution: Mrs. Brook, what were you doing on December 22<sup>nd</sup>?

Mrs. Brook: I was at my station on the corner. The kids did not come out of school yet, and I was getting ready.

Prosecution: How many years have you been the crossing guard on that corner?



Mrs. Brook: For years and years. I have stood on this corner for 25 years.

Prosecution: Were you and Mr. Nesbitt close in any way?

Mrs. Brook: I have known Alguinaldo Nesbitt since 1995. I always bought things from his store.

Prosecution: As far as you can remember, have you ever seen the defendant (pointing to Steve Harmon) before?

Mrs. Brook: I saw him on December 22, when I was at my station.

Prosecution: Had you ever seen him before that?

Mrs. Brook: I pride myself on knowing my children—the ones in the elementary school and the older ones who I crossed when they were here. I never saw that young man before. I know this corner like the back of my hand. Anyone new and I would know!

Prosecution: Can you describe what you saw the defendant doing on December 22nd?

Mrs. Brook: I walked over closer to him and noticed he had a bruise on his mouth. I also noticed that he seemed nervous and kept looking in the window of Mr. Nesbitt's store. I knew he was some sort of look-out from the way he was acting.

Prosecution: Can you describe what Steve Harmon was doing that made you state that he was acting like a look-out?

Mrs. Brook: He left the store, but he did not leave the area. In fact, he stood in clear view of the store and kept looking into the front window.

Prosecution: Did you see the other two men as well as the defendant?

Defense: Objection! Leading. The witness has not said anything about seeing other men.

Judge: Sustained. Prosecution, please ask a different question.

Prosecution: Did you see anyone else around?

Mrs. Brook: Yes, sir. I try to notice everything at my corner. I saw two other men who went inside the store.

Prosecution: Was there a time when all three men were together?

Mrs. Brook: Before the two men actually entered the store, they passed the defendant as he was walking out. I could not hear what they said to each other, but I saw one of them speak to the defendant.

Prosecution: Did you ever think about calling the police when you saw the three strangers in your neighborhood?

Mrs. Brook: Frankly, no. I did not want to jump to conclusions. I am so sorry that I didn't.

Prosecution: Thank you, Mrs. Brook. We have no further questions. The Prosecution rests.

Judge: Defense, you may cross-examine the witness.

Defense: Your job is to cross the children, isn't that true? So, if you spend much of your time on this corner taking care of crossing elementary school children, how can you say you know everyone who has ever come to this corner?

Mrs. Brook: Maybe not everyone!

Defense: Do you have 20/20 vision?

Mrs. Brook: No.

Defense: Do you wear glasses?

Mrs. Brook: Yes.

Defense: Isn't it true that our vision is not as clear as we get older?

Mrs. Brook: I guess so.

Defense: Was there school at the time of the incident?

Mrs. Brook: School was about to end.

Defense: You were waiting to cross students at that time, correct?

Mrs. Brook: Why, yes.

Defense: We all know how busy crossing guards become when they are getting ready for the children to get out of school. You must have been very busy at that time. Are you sure you saw Steve Harmon on that day that Mr. Nesbitt died?

Mrs. Brook: I saw him.

Defense: And you had the time to study what he was doing and conclude that he was a lookout for a robbery?

Mrs. Brook: Yes.

Defense: Mrs. Brook, have you ever witnessed a robbery before?

Mrs. Brook: No.

Defense: Do you think you know what a lookout does in a robbery?

Mrs. Brook: Well...maybe.

Defense: Isn't it possible for someone to confuse a person standing somewhere just in the wrong place at the wrong time with a person stationed somewhere as a look-out for robbers?

Mrs. Brook: The defendant was not just standing around. I can recognize when someone has a purpose for being on my corner.

Defense: Your Honor, I have no further questions.

Judge: The witness may step down. Defense, you may call your first witness.

Defense: The Defense calls Mr. Sawicki to the stand.

Court Clerk: Please raise your right hand. Do you promise to tell the truth, the whole truth, and nothing but the truth?

Mr. Sawicki: I do.

Court Clerk: You may be seated.

Defense: Please state your full name and occupation.

Mr. Sawicki: I am George Sawicki, and I teach film at Stuyvesant High School.

Defense: Please tell the jury how you know the defendant, Steve Harmon.

Mr. Sawicki: Steve Harmon has been in my class for three years.

Defense: Can you describe the class you teach that Steve Harmon is in?

Mr. Sawicki: Steve is in the class in which students learn how to make a film. I also teach how to use film to express how you are feeling about things that are important to you. Steve is one of my students who really takes this class seriously and understands what I mean by using the film to express himself.

Defense: What can you tell the Court about the film that Steve is making?

Mr. Sawicki: I know his film is about his neighborhood. Steve told me that he wants people inside and outside of his community to know what life is like in his community. He wants everyone to understand the good, the bad, and the ugly about where he lives. Steve is very

committed to making a film that has a lot of meaning for those who see it. In order to do this, Steve has and will continue to have to spend a lot of time on this piece.

Defense: Mr. Sawicki, can you describe why you supported Steve Harmon in making this film?

Mr. Sawicki: I told my students to make a film about a topic they cared about. I wanted to make sure that each of my students understood the art of film-making. Steve Harmon understood film making, and the message he was trying to get across by making his film.

Defense: I have no further questions, Your Honor.

Judge: Prosecution, you may cross-examine the witness.

Prosecution: You talk about the Steve Harmon you know in your classroom and the school. Isn't it true that you do not live in Steve's neighborhood?

Mr. Sawicki: That is true.

Prosecution: Wouldn't that make it hard to know anything about Steve Harmon outside of school?

Mr. Sawicki: I guess so.

Prosecution: You are a teacher. You know that there are students who are good in school but not on the street, right?

Mr. Sawicki: (Sigh) Yes.

Prosecution: After three years of having the defendant in your classroom, would you say the two of you have grown pretty close?

Mr. Sawicki: Well, yes.

Prosecution: Then wouldn't you say that you would like to believe that Steve Harmon could not possibly have been involved in this heinous crime?

Mr. Sawicki: (hesitating...) Of course!

Prosecution: You were hesitating. Do you have some doubt that Steve Harmon is a good person outside of school?

Mr. Sawicki: I can't be positive, but I do think so.

Prosecution: No further questions, Your Honor.

Judge: The witness may step down. Defense, call your next witness.

Defense: We call Mrs. Harmon to the stand.

Court Clerk: Please raise your right hand. Do you promise to tell the truth, the whole truth, and nothing but the truth?

Mrs. Harmon: I do.

Court Clerk: You may be seated.

Defense: Please state your name and tell the Court what you do.

Mrs. Harmon: My name is Stacey Harmon, and I work from home.

Defense: Can you describe how your son Steve acts at home?

Mrs. Harmon: Steve is a good kid. He has always been helpful around the house. When his brother was younger, Steve was always willing to watch him and help him with his homework.

Defense: Have you noticed any changes in Steve's behavior?

Mrs. Harmon: I think he is becoming more serious about his work...if that's what you mean.

Defense: Good. Now do you know who Steve hangs out with after school and on the weekends?

Mrs. Harmon: I know most of his friends. Since I work from home, I see most of them coming in and out of the house.

Defense: How would you describe Steve as a student?

Mrs. Harmon: Steve is an intelligent 16-year-old. He has always been a good student and a responsible son.

Defense: What do you know about the film Steve was making?

Mrs. Harmon: I know he talked about making a film about our neighborhood. I also know he did not want the film to only show all of the good stuff about where we live.

Defense: Did you know what plans your son had for December 22<sup>nd</sup>?

Mrs. Harmon: I knew he was working on his film for Mr. Sawicki. He worked on it every day. I did not know the details for any particular day.

Defense: Do you know who Bobo Evans and James King are?

Mrs. Harmon: Yes, but only from what I read in the newspapers.

Defense: Had Steve ever talked about them before December 22?

Mrs. Harmon: I never heard him speak of them before.

Defense: Now that you have seen Bobo Evans and James King in the courtroom, can you tell us if you ever saw them at your house.

Mrs. Harmon: No, I never saw either of them at the house. Steve always brought his friends over to the house. I would say, Bobo Evans and James King were not and are not my son's friends.

Defense: Can you describe what Steve's friends are like.

Mrs. Harmon: Steve's friends are the good kids in school. They are all good students who have goals in mind.

Defense: No further questions, Your Honor.

Judge: Prosecution, do you wish to cross examine this witness?

Prosecution: Yes, Your Honor. Mrs. Harmon, do you think you know all Steve's friends?

Mrs. Harmon: Probably not all of them.

Prosecution: Do you think you always know exactly where Steve is and what he is doing?

Mrs. Harmon: Not always.

Prosecution: Did you know where your son was on December 22?

Mrs. Harmon: I knew he was working on his film, but I did not know exactly where he was.

Prosecution: Did Steve usually tell you where he was going?

Mrs. Harmon: Usually.

Prosecution: Bur not on December 22, right?

Mrs. Harmon: (pause) Right.

Prosecution: Isn't it possible that your 16-year-old son did not want you to know about the fact that he was hanging out with the likes of Bobo Evans and James King?

Mrs. Harmon: (Hesitating...) Possibly...but not likely.

Prosecution: Isn't it possible that your son's desire to make this film about the good, the bad, and the ugly aspects of your neighborhood connected him with Mr. Evans and Mr. King, two people who represent the very bad and ugly side of the neighborhood?

Mrs. Harmon: Steve was passionate about this movie, but he was not driven to join with neighborhood gang members.

Prosecution: Mrs. Harmon, did you ever see one of your son's movies?

Mrs. Harmon: They were school assignments. No, I never saw any of Steve's movies.

Prosecution: You did not know too much about what Steve was doing with this movie, correct?

Mrs. Harmon: Correct.

Prosecution: But you stated that you were certain that he was not driven to join a neighborhood gang, correct?

Mrs. Harmon: Yes, I am sure of that.

Prosecution: Of course, you are sure. You are Steve Harmon's mom, right?

Mrs. Harmon: Yes.

Prosecution: Then wouldn't you defend him, no matter what he has done?

Mrs. Harmon: If he did what you say he did, I could not and I would not defend him! I am defending him because I know he is not guilty!

Prosecution: You know that beyond a reasonable doubt?

Mrs. Harmon: (Pause) Well, yes.

Prosecution: We have no further questions for this witness.

Judge: The witness may step down. Call your next witness, Defense.

Defense: We call Brandon Johnson to the stand.

Court Clerk: Please raise your right hand. Do you promise to tell the truth, the whole truth, and nothing but the truth?

Brandon Johnson: I do.

Court Clerk: You may be seated.

Defense: Please tell the Court your name and your relationship with the defendant.

Brandon Johnson: My name is Brandon Johnson, and Steve Harmon and I are very close friends.

Defense: How long have you and Steve Harmon been friends?

Brandon Johnson: For as long as I can remember...probably since we were five.

Defense: Can you talk about how Steve was in school?

Brandon Johnson: I always looked up to Steve. He made the Honor Roll, and he was cool.

Defense: Can you tell us how Steve was outside of school?

Brandon Johnson: He is a good kid outside of school...and a good friend. He played basketball a lot. We also did community service work together. We were both happy to be able to help in the community.

Defense: How many times a week would you say you and Steve were together?

Brandon Johnson: I would say every other day.

Defense: Have you ever been to Steve's house?

Brandon Johnson: I go to Steve's house frequently.

Defense: Have you ever seen Bobo Evans and James King at Steve Harmon's house?

Brandon Johnson: No, never. The only thing I ever heard about them from Steve is that he got to know them when he was doing research for his film.

Defense: How would you describe Steve as a friend?

Brandon Johnson: He is honest, loyal and respectful to the people he's around.

Defense: Was Steve Harmon ever accused of stealing anything?

Brandon Johnson: He borrowed stuff from me and forgot to give it back. But...we all do that. Steve would never get involved in stealing something. That's just not who he is!

Defense: Can you describe how you felt when you first heard that Steve Harmon was arrested for his connection to a robbery and murder?

Brandon Johnson: I thought there was no way could Steve Harmon hurt anyone or be friends with people who would hurt someone. Steve has a goal. He wants to be a famous filmmaker. I don't think he would do anything to interfere with that happening.



Defense: Your Honor, we have no further questions for this witness. The Defense rests.

Judge: Prosecution, you may cross examine this witness.

Prosecution: You stated that you and Steve Harmon have been best friends for years?

Brandon Johnson: That's correct.

Prosecution: Isn't it true that you and Steve had drifted apart recently?

Brandon Johnson: Drifted apart?

Prosecution: That you do not see each other every other day like you described earlier?

Brandon Johnson: I guess that's true.

Prosecution: Isn't it true that the reason you two might have drifted apart has to do with the new company Steve was hanging out with?

Brandon Johnson: Steve was consumed by making his film. I did not see him hanging out with any new people!

Prosecution: So, would you say that you and Steve were once best friends?

Brandon Johnson: I hope we are still good friends.

Prosecution: But you are not sure because Steve has changed, right?

Brandon Johnson: Steve has changed temporarily.

Prosecution: Wouldn't you say Steve Harmon has changed due to the crowd he was hanging out with?

Brandon Johnson: Changed...well, yes. But not because he has associated with gang members, but because he is so consumed by this film project. He'll be back.

Prosecution: You know he will be back, or you hope he will be back?

Brandon Johnson: I am pretty sure.

Prosecution: Thank you. We have no further questions, Your Honor.

Judge: The witness may step down. We will now hear the Closing Arguments. Prosecution, you may give your Closing Argument

Prosecution: Thank you, Your Honor.

Your Honor and ladies and gentlemen of the jury, we have proven, beyond a reasonable doubt, that Steve Harmon was an accomplice in the robbery and murder of Alguinaldo Nesbitt and is guilty of second-degree murder.

We have heard from Mr. Gonzales who told the Court that he was working his regular shift on December 22<sup>nd</sup> when he saw the defendant enter Mr. Nesbitt's drugstore. Before he went to the storeroom to begin his work, Mr. Gonzales described how he saw Steve Harmon walking up and down the aisles of the store...looking around at everything.

Before Mr. Gonzales went to the storeroom, he saw Steve Harmon leave the drugstore only to stand outside while Mr. King and Mr. Evans went inside. Mr. Gonzales told us how he went to the storeroom where he could hear loud voices coming from the front of the store. Mr. Gonzales described how he heard Mr. Nesbitt arguing with someone. By the time Mr. Gonzales returned to the front of the store, he described how he saw poor Mr. Nesbitt dead on the floor, the cash register drawer open and empty, and a man running out of the store with his hands filled with cartons of cigarettes.

In addition, we heard from Ms. Brenda Williams, a regular customer of Mr. Nesbitt's, who told us that she was also in the store on December 22<sup>nd</sup> during the robbery and murder of Mr. Nesbitt. Ms. Williams told us how she saw all three men in the store. She described how Steve Harmon, the defendant, kept looking around. Soon after Steve Harmon left the store, Ms. Williams saw two men enter the store. Frightened, Ms. Williams hid behind a counter. There, she heard the two men arguing with Mr. Nesbitt and, soon after that, she heard a gun go off. When she finally had the courage to come out from her hiding place, Ms. Williams could see Mr. Nesbitt lying dead on the floor.

Finally, we heard from Mrs. Anna Brook, the crossing guard for 25 years for the children who go to school across from Mr. Nesbitt's store. Mrs. Brook described how she was very aware of what was going on around her at the time of the robbery because the children she crosses were not out of school yet. Mrs. Brook described how she saw Steve Harmon peering in the window of Mr. Nesbitt's store. We also heard her tell the jury that she had never seen Steve Harmon on her corner before, and that she noticed him because he was acting in a suspicious manner.

This horrific crime took place in broad daylight. It was a well-planned robbery turned murder that could only have taken place with a trusted lookout. Steve Harmon was that lookout. The evidence has shown beyond a reasonable doubt that he intentionally participated in the robbery, and that robbery turned into a murder. Therefore, he must be found guilty.

Thank you.

Judge: Defense, you may give your Closing Argument

Defense: Thank you, Your Honor.

Your Honor and ladies and gentlemen of the jury, what we have heard today shows that Steve Harmon is not guilty of second-degree murder. He had no part in the robbery that resulted in the unfortunate death of Mr. Nesbitt. Steve is just a good kid who was in the wrong place at the wrong time.

Mr. Sawicki, his film teacher, described Steve as a bright student who has been doing a great job as a budding filmmaker. Having Steve in class for the last three years, Mr. Sawicki testified that he could never see Steve doing something as horrific as the crime he has been accused of committing. This teacher saw a student with a genuine passion for filmmaking who wanted to become a film maker after he finished school.

Mrs. Harmon, Steve Harmon's mother, described how she raised her son to be the honest, responsible, respectful young man that he had become. She knew he wanted to be a filmmaker, and that he would not let anything get in the way of his dream. Mrs. Harmon described Steve's passion for making an honest film about his neighborhood—not just the good part, but the good and bad of the place he called his home. She also testified that she knew most of his friends and knew them as good kids who were also dedicated to their work. She had never heard him even mention Bobo Evans or James King.

Finally, we heard from Brandon Johnson, Steve Harmon's best friend. Nobody knows a teenager better than his best friend. Brandon Johnson shared with us that Steve Harmon was like a brother to him since they have known each other from the time they were 5 years old. Brandon described Steve as an honorable young man who was always focused on friends and filmmaking. He also told you that his friend Steve was a good kid both in and out of school, even doing community service in order to help make his neighborhood a better place in which to live.

Ladies and gentlemen, we have all found ourselves in the wrong place at the wrong time. That bad timing does not make someone guilty of a crime. You, therefore, must find Steve Harmon not guilty and let him continue being the creative young filmmaker who wants to show the world his community.

Judge: Prosecution you may make a rebuttal

Prosecution: Thank you, your honor

Prosecution: I must remind the Jury that this is not a case of being in the wrong place at the wrong time. It was a well-planned robbery turned murder that could only have taken place with a trusted lookout. Steve Harmon was that lookout. The evidence has shown beyond a reasonable doubt that he intentionally participated in the robbery, and that robbery turned into a murder. Therefore, he must be found guilty.

Thank you.

Judge: (Jury Instructions)

Ladies and gentlemen of the jury, the defendant, Steve Harmon, is charged with second-degree murder. To convict Mr. Harmon of second-degree murder, you must find the following elements beyond a reasonable doubt:

(1) First, you must find the defendant was engaged as a principal or an accomplice in the perpetration of a felony. Here, the prosecution alleges that Mr. Harmon was an accomplice in the robbery of a drugstore.

(2) Second, you must find the defendant acted with malice, meaning he had a general intent to commit an unlawful act or achieve a harmful result. You can infer that the defendant acted with malice if you find the defendant had the intent to participate in the underlying felony.

(3) Third, to convict, you must find that the defendant had a specific intent to kill. You can infer that intent from the defendant's intent to commit to the underlying felony—even if you find that he did not intend to actually kill anyone.

The Prosecution must prove each of these elements beyond a reasonable doubt. You are the only judges of whether the witnesses are believable and telling the truth or not. As you decide this case, you should pay attention to how the witnesses looked and acted when they were testifying, to what they said, and to whether different witnesses said things that were the opposite of one another. You should pay attention to all the evidence that shows the witness is credible, and you should pay attention to whether a witness might have reason to say what he/she did even though it might not be the truth. You should also ask yourself whether a witness actually saw the things he/she testified to and whether he/she seems to have a good memory about what he/she saw. Finally, you should remember that two people who see something happen may see or hear it differently, and sometimes people do not remember things correctly and may make an honest mistake. When witnesses disagree with each other, you should decide whether they disagree on something important or on something that is unimportant. Contradictions in testimony do not necessarily mean that a witness has been willfully false. Sometimes a witness forgets, sometimes one remembers it correctly. Two witnesses may also see or hear an incident differently. You should decide whether the disagreement is because one person made a mistake or because someone told a lie.

Remember that it is up to the Prosecution to prove the defendant is guilty. The Defense does not have to prove the defendant is innocent; if the prosecution has not proven its case, then the defendant is not guilty. The defendant is presumed innocent unless and until the defendant is proven guilty beyond a reasonable doubt. Reasonable doubt is doubt based on common sense and reason. Reasonable doubt means an honest uncertainty as to the guilt of the defendant. Reasonable doubt exists when, after careful and impartial consideration of all the evidence in the case, you are not convinced to a moral certainty that the defendant is guilty.

The Jury may leave the Courtroom now to deliberate.