

"OK, he's calling me over"

"I have no idea"

"You have a rifle right on the other side of the seat"

2019-05-28 T14:35:28Z
AXON BODY 2 X81134151

Client on phone with Aunt

Officer sees rifle



"My aunt wants to know ...why did I...why you guys pull me over"

CCG: Why is he not guilty?

- ▶ Not concealed
- ▶ Why is the state going after him?
 - ▶ It was hidden to this officer
- ▶ Does the officer's perspective matter?
- ▶ client's intent matters
- ▶ He's not guilty because he didn't intend to hide the gun

"OK, he's calling me over"

"I have no idea"

"You have a rifle right on the other side of the seat"

2019-05-28 T14:35:28Z
AXON BODY 2 X81134151

Client on phone with Aunt

Officer sees rifle



"My aunt wants to know ...why did I...why you guys pull me over"

"OK, he's calling me over"

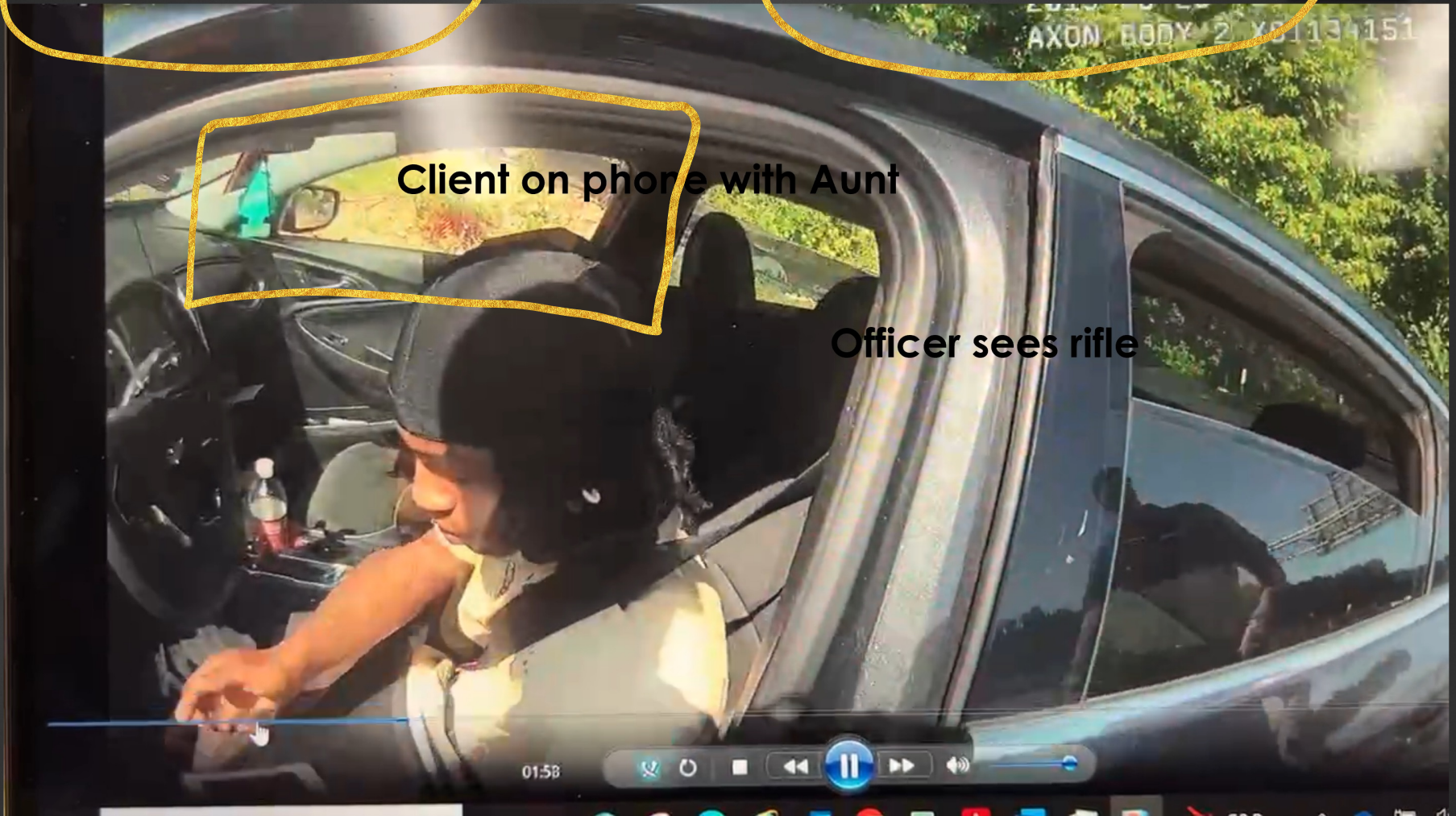
"I have no idea"

"You have a rifle right on the other side of the seat"

Client on phone with Aunt

Officer sees rifle

"My aunt wants to know ...why did I...why you guys pull me over"



Supporting Facts:

- ▶ He calls officer over to him
- ▶ Windows are open, no attempts to hide the gun
- ▶ Gun is visible
 - ▶ Immediately visible (nothing thrown on top to hide it)
 - ▶ Without manipulation
 - ▶ Visible from the window that Client left open

Theory of innocence

- ▶ John Client is not guilty of Carrying a Concealed Gun because he never intended to hide it AND it was not hidden. His intent is clear from his actions when he called the officer to him and to a window that he opened all the way. He made no attempts to cover the gun which he easily could have done, AND it was physically not hidden which is why officer saw it within 8 seconds of approach.

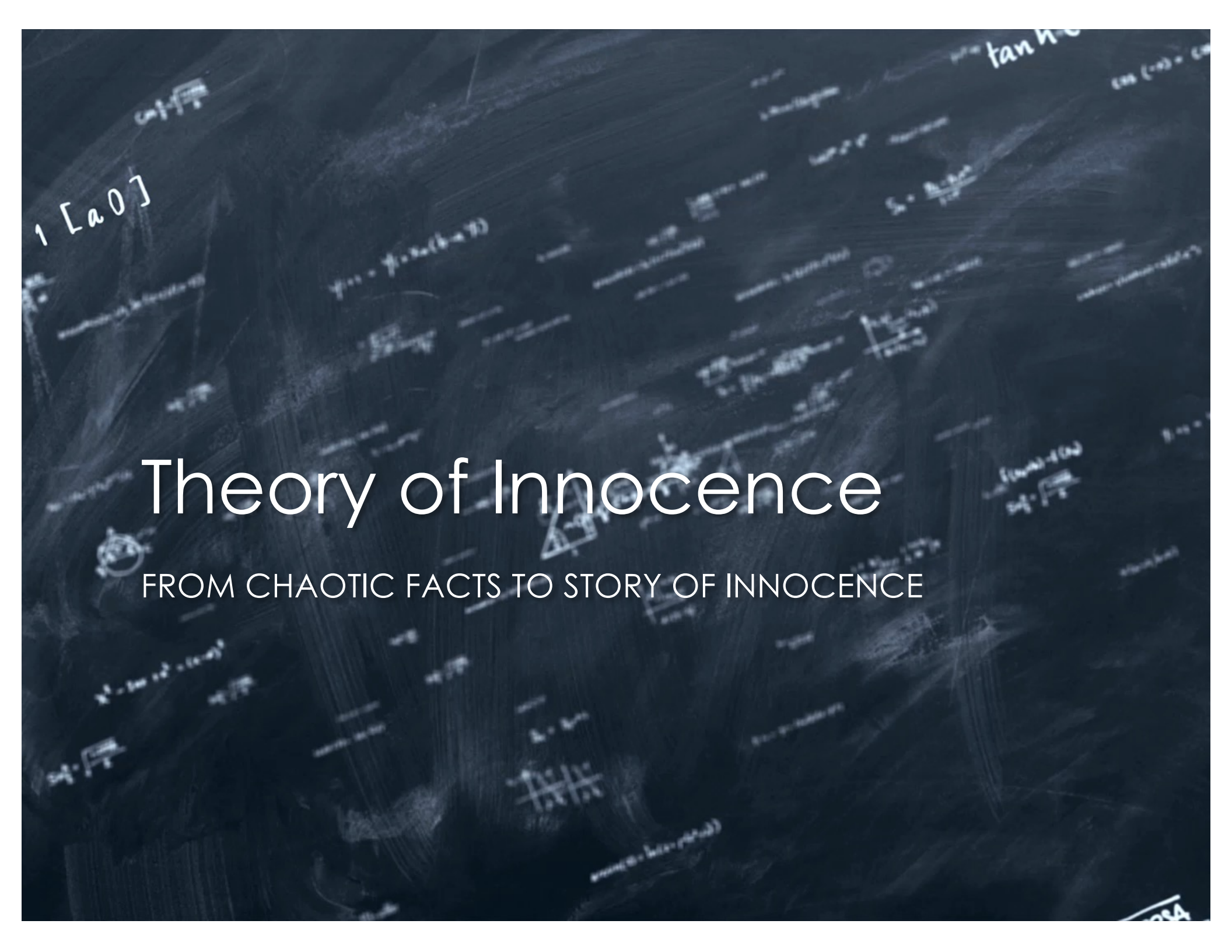
**SELLS SECRET
INGREDIENT SOUP**



**THE SECRET
INGREDIENT IS NOTHING**

quickmeme.com

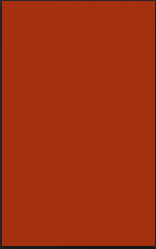
That's it.



Theory of Innocence

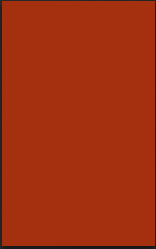
FROM CHAOTIC FACTS TO STORY OF INNOCENCE

Theory of Innocence



- ▶ Definition: Concise, legally grounded explanation of why your client is not guilty. It's the throughline of the case and it's rooted in the law, the facts and the logic that resonates with jurors.

Theory of Innocence



- ▶ Definition: Concise, legally grounded explanation of why your client is not guilty. It's the throughline of the case and it's rooted in the **law**, the **facts** and the **logic** that resonates with jurors.

Steps

Ask

Ask: why is your client not guilty?
(legally)

Stress Test

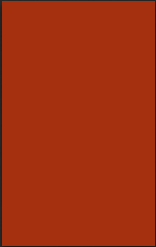
Stress test:

- Then why is the state going forward?
- Keep asking questions until you can't go any farther

Apply

Apply facts that support your theory

GENRE



1. It never happened (mistake, setup)
2. It happened, but I didn't do it (mistaken identification, alibi, set-up, etc)
3. It happened, I did it, but it wasn't a crime (self-defense, accident, claim or right, etc.)
4. It happened, I did it, it was a crime, but it wasn't this crime (lesser included)
5. It happened, I did it, it was the crime charged, but I'm not responsible (insanity, diminished capacity)
6. It happened, I did it, it was the crime charged, I am responsible, so what? (jury nullification)

Chose One

Stress Test



- ▶ Then why is the State prosecuting?
- ▶ Why?
- ▶ How?
- ▶ Sometimes, your first answer to: why client is not guilty doesn't survive the stress test

For Example: DWI

- ▶ Why is your client not guilty?
 - ▶ Client is not impaired, drives, acts and looks sober
- ▶ Then why is the state prosecuting?
 - ▶ Because he blew a .17
- ▶ If he blew a .17 then why is client not guilty?
 - ▶ Because the evidence of impairment does not match .17 BAC
- ▶ Why does that matter?
 - ▶ Because both can't be correct
- ▶ Then which should be believed?
 - ▶ The human, because machines can easily be wrong
 - ▶ We know better than machines

Theme

Client is not guilty of DWI
because he was sober
and the machine was
wrong

What FACTS Support that?

Third Step: Apply Facts

- ▶ No bad driving
- ▶ Steady on feet
- ▶ No slurring etc.
- ▶ Officer outsources Calibration
- ▶ (facts can be common sense facts)
 - ▶ Fact that there are numerous procedures that must be followed for accuracy: calibration, waiting period, checking mouth etc.
 - ▶ → shows breath machines are easily fallible

Theory of Innocent

- ▶ John client is not guilty of DWI because he was sober, and the machine was wrong. His driving and the way he exited the car, interacted with the officer and completed the field sobriety test are all consistent with an everyday sober driver. BAC machines require exact and proper procedures and maintenance which means it take very little to distort the result. Since there's 2 different results must believe your common sense not the machine.

John Forbes

Why is John Forbes NOT Guilty?
(legally)

- ▶ He never had sex with Darlene
- ▶ Genre:???

GENRE

1. It never happened (mistake, setup)
2. It happened, but I didn't do it (mistaken identification, alibi, set-up, etc)
3. It happened, I did it, but it wasn't a crime (self-defense, accident, claim or right, etc.)
4. It happened, I did it, it was a crime, but it wasn't this crime (lesser included)
5. It happened, I did it, it was the crime charged, but I'm not responsible (insanity, diminished capacity)
6. It happened, I did it, it was the crime charged, I am responsible, so what? (jury nullification)

Chose One

Stress Test:

- ▶ Then why is the state prosecuting?
 - ▶ Darlene says they had sex
 - ▶ He admitted
- ▶ Why did he say he had sex with her?
 - ▶ Because he has a low IQ and is easily convinced to do or say anything
- ▶ Why did Darlene lie?
 - ▶ She's protecting her step-dad
 - ▶ She has daddy-issues cause her dad left her

Apply the Facts

- ▶ Darlene Lied before: Falsely accused her teachers, principal, and school nurse
- ▶ Darlene has bruises all over her body (she's being physically abused)
- ▶ Stepdad has history of abuse
- ▶ When is she making up lies?
 - ▶ When confronted about promiscuity/sexual activity

Theory of Innocence

- ▶ John is innocent because he never had sex with Darlene.

Theory of Innocence

- ▶ John is innocent because he never had sex with Darlene. Darlene has a daddy issue and is being abused by her stepdad. She covers for him just like her mom does. When confronted at school about her promiscuity, she lied and falsely accused her teachers, principal, and school nurse. When the confrontation was at home she lied and falsely accused John. Unfortunately for John, he has an IQ of 56 which means he's mentally like a child and can't defend himself.