

1 ruled in that case that that was hearsay and what Mr.  
2 Harter had testified and the Court eventually struck was  
3 that he had received text messaged threats from the  
4 alleged victim in this case, Dustin Stanley. And as I  
5 was trying to explain to the Court that didn't make it  
6 hearsay. Certainly the effect on the hearer was very  
7 important as he had testified to his fear of Mr. Stanley,  
8 also explained his cutting off of the relationship for a  
9 time period with my client and that's why that was so  
10 important. We have a similar argument when it comes down  
11 to the issue of number twelve. And I'm sorry to skip  
12 around but I'm trying to keep issues under points of law  
13 consistent. That had to do with the attempt to have the  
14 defendant testify to the, where she found out about  
15 hollow point bullets. And as the Court will recall we  
16 were trying to introduce evidence at the time that she  
17 had gone to a pawn shop before she had eventually went to  
18 the Rockingham Co-Op. Again, our argument at that time  
19 was that, it wasn't to prove the truth of the matter  
20 asserted that a clerk at the pawn shop told her about  
21 hollow points and what they do and advantages and things  
22 like that, but to explain what was going through her mind  
23 at the time and the effect on the listener and therefore  
24 why she would go down to Rockingham Co-Op and be talking  
25 about hollow points. We feel that again the effect of

1 the listener was the issue, not so much whether it was to  
2 prove the truth of the matter asserted. As such when the  
3 Court ruled that I couldn't present that evidence it kept  
4 out possibly, well, one of the most crucial points and  
5 relevant issues as to her state of mind. Certainly that  
6 was one of the cornerstones of the Commonwealth's case to  
7 try to show the malice, to try to show the willful  
8 premeditated and deliberate. And what of course we're  
9 trying to show is a person with no experience with  
10 firearms learns about hollow points from another clerk at  
11 another establishment and that explains why that's even  
12 in her mind which is certainly a more innocent response  
13 than, well, she wants hollow points because she wants to  
14 utterly destroy and kill this man. I'd point out again  
15 that as to number ten about the alleged threats made by  
16 the defendant, again, we'd point out that that certainly  
17 is irrelevant. Any threats that she is alleged to have  
18 made towards herself or other inmates, again, that is not  
19 probative towards her relationship with Mr. Stanley,  
20 isn't probative to any of the elements as well. Finally,  
21 Judge, I believe that what is left is number thirteen  
22 which was what we believe impermissible character  
23 evidence that the Court allowed the Commonwealth to draw  
24 from the cross examination of Lucinda Brill. Certainly  
25 we were very careful not to open the door to any