

COUNT IIIASSAULT

36. Paragraphs 1 through 20 are realleged as if reprinted here in their entirety.

37. This count applies to HAL GOOCH and CHRIS GOOCH.

38. On or about the time of termination on March 22, 1994, LUSTER was summoned to the house of HAL GOOCH and CHRIS GOOCH.

39. At that time, LUSTER was maliciously, wantonly and willfully threatened with physical harm including but not limited to death. At the meeting referenced above, there were numerous arms and weapons present. Further, LUSTER was forced to leave the premises on foot and abandon the vehicle which he had arrived in as well as the video equipment contained within that vehicle. LUSTER was chased to the adjacent woods by HAL GOOCH.

40. HAL GOOCH further called LUSTER at his hotel room at the Ramada Inn Thomasville numerous times on March 22, 1994, and during one of said calls, threatened to kill him with an assault rifle. Two witnesses were present in the room and heard LUSTER respond, "You guys are threatening to kill me!"

41. LUSTER was in justifiable fear for his physical safety and life. The foundation of this fear includes, but not limited to:

a. the demeanor and actions of HAL GOOCH and CHRIS GOOCH at the house as well as the actions of GOOCH's employees;

b. On March 22, 1994, Luster was ordered to appear at the Gooches' estate in Thomasville, North Carolina. When Luster

appeared as commanded, Hal Gooch's bodyguard, who was acting at the direction and pursuant to the authority of the Gooches, seized Luster's car keys, and Luster was taken to the "trophy" room in a recess of the estate. A door in the trophy room led to the grounds of the estate, but the door was dead bolted and wired with an alarm that would sound if it were opened. The trophy room was adorned with the preserved remains of in excess of fifty animals the Gooches had killed on hunting trips. The Gooches owned a virtual armory and always had weapons within reach. Luster had witnessed all of the Gooches, including Hal Gooch's wife, Susan, emerge with guns drawn when they were offended because a maid resigned. Luster knew that the Gooches and their body guard always had weapons available, were easily offended, and were quick to draw their weapons when they were upset. When Luster arrived in the trophy room, Chris Gooch informed Luster that Hal Gooch was mad at Luster and that the only animal not hanging on the trophy room wall was a "nigger." This statement was designed to frighten, and succeeded in frightening, Luster, who is African-American.

c. On or about August or September 1992, Hal Gooch caused to be delivered to Luster a videotape of one of Gooch's numerous hunting forays in Africa. The tape displayed a black baboon that Gooch just had killed. The voices of Hal Gooch and his associate, Parker Grabill, were on the soundtrack of the tape. Grabill exclaimed, "Look! It's Jesse Jackson." Gooch then chimed in, "And he has fingers and a peeter like a little black boy." As