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IN SUPERIOR COURT STEVENS COUNTY
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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION III

STATE OF WASHINGTON,)
)
 Plaintiff,)
)
 vs.)
)
 JOHN DOUGLAS GRANGE,)
)
 Defendant.)

No. 20138-4-III

(Stevens County

No. 001601902

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CLERK OF COURT OF APPEALS
STATE OF WASHINGTON III

file No. ~~20138-4-III~~
DATES OF TRIAL: February 7, 8, 9, 12, 13, 14, 15,
16 and 17, 2001

BEFORE: Hon. REBECCA M. BAKER, Judge.

APPEARANCES:

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For the Defendant:

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VOLUME 4 of 17
February 8, 2001
(Pages 307 through 491)

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COURT RECONVENED WITHOUT THE JURY PANEL

THE COURT: Is there anything preliminarily before we bring Juror Number 1 in?

MR. SIMEONE: I don't think so, your Honor.

MR. WETLE: Your Honor, Mrs.--

THE COURT: Can you see all right, Mr. Simeone? Do you want to move over a couple of seats?

COLLOQUY REGARDING SEATING ARRANGEMENTS

THE COURT: All right, Mr. Wetle, you said that you had something?

MR. WETLE: One of the jurors approached me on the way out and asked me to relay to the court that her name was Jean, not Martha. So Juror Number 46.

THE COURT: I guess they don't follow the instructions about not having any conversation with the attorneys, do they? Number what?

MR. WETLE: Number 46. She said that it says Martha, but she goes by Jean and she wanted the court to know that. So I'm just relaying that.

THE COURT: Relaying that. Thank you very much.

MR. WETLE: And letting Mr. Simeone know that--

THE COURT: That she did contact you. All right.

THE BAILIFF: (Inaudible)

THE COURT: Oh, yes, there was one other thing that the Court Administrator alerted me to, that apparently when some

Jury Voir Dire

307.

1 of the jurors were checking in this morning there was a little
2 chitchat between some of them and Mr. Douglas Grange, who has
3 been kind of camped out on the bench out there, and so the
4 parties may have some-- You know, this was before they knew
5 Mr. Grange, and they may not yet still know Mr. Grange is a
6 witness. What I would ask the attorneys to do, please, is to
7 instruct your witnesses not to have anything to do with anyone
8 with a juror badge on. Okay? So just in case you need any
9 voir dire about any of the witness, any of the jurors-- we
10 couldn't possibly give you the numbers at this point of who
11 might have had some chitchat. I would assume it would
12 hopefully have been about the weather.

13 MR. SIMEONE: How would we delicately ask that question?

14 THE COURT: You could-- I mean if you want me to ask it
15 of them, I'll do that. There was a gentleman sitting out on
16 the bench here that is going to be a witness, and did you have
17 any conversation with him? If so, what was the nature of it?

18 MR. WETLE: That would be--

19 THE COURT: Want me to do that?

20 MR. WETLE: That would be good.

21 THE COURT: Okay, and then I'm going to-- Hopefully the
22 parties will remind me if I forget, each witness that comes in
23 here-- each juror that comes in, I'm going to instruct them
24 on their way out, please do not relate anything that you were
25 asked, since they don't seem to hear the instructions too

Jury Voir Dire

308.

1 well, I'll have to reiterate them. Okay.

2 All right, ready to start with Number 1 then, counsel?

3 MR. WETLE: Yes.

4 THE COURT: Okay, so I assume, folks, that you will be
5 passing the jurors for cause or challenging them for cause
6 while they're in the room so we can rule on it?

7 MR. WETLE: Yes.

8 THE COURT: Does that sound all right, Mr. Simeone?

9 MR. SIMEONE: I agree.

10 THE COURT: All right.

11 JUROR NUMBER 1 IS ESCORTED INTO THE COURTROOM

12 THE COURT: All right, Mr. Dixon, is it?

13 MR. DIXON: Yes.

14 JUROR IS SEATED IN WITNESS CHAIR

15 THE COURT: This is Juror Number 1, let the record
16 reflect, and, sir, I just have one question for you in
17 addition to what was asked. There was a gentleman sitting out
18 on the bench out here when some of the jurors were checking
19 in. It turns out he's a witness in the case. I wondered if
20 you had noticed him or had spoken to him?

21 MR. DIXON: No, I haven't seen anybody.

22 THE COURT: All right, thank you. Then, Mr. Wetle, any
23 questions of Mr. Dixon?

24 MR. WETLE: Yes, your Honor.

25

1 MR. DIXON

2 EXAMINATION BY MR. WETLE

3 Q. Good afternoon, Mr. Dixon. I would first ask if, before
4 you got your juror packet, your summons, your letter, your
5 questionnaire, what was your general view about serving as
6 a juror?

7 A. Oh, I've done it before, so I knew what to expect.

8 Q. Had an idea?

9 A. Yeah.

10 Q. And when was that?

11 A. Why, three, four years ago.

12 Q. Was it here in Stevens County?

13 A. Yeah.

14 Q. And do you remember whether it was a criminal case or a
15 civil case?

16 A. Well, it had to do with drugs, so-- and growing--
17 growing pot deal is what it was.

18 Q. Okay, was it in this courtroom or the--

19 A. Yeah.

20 Q. So it was in the Superior Court. Was there anything about
21 your service as a juror in terms of the waits, listening
22 to the testimony, the working with your fellow jurors in
23 the jury room that left a good taste or a bad taste?

24 A. Oh, well, we never-- never came to a consensus on it, so
25 it ended up kind of a waste of time, really, but--

Juror No. 1 (Mr. Dixon) - Examination by Mr. Wetle

310.

1 Q. Okay. Let's see. So that was not-- At least that didn't
2 feel very good for you? Do you think that that experience
3 would maybe shape how you would go into being a juror in
4 this case?
5 A. Probably not.
6 Q. Be able to look at this as a fresh start with--
7 A. Yeah.
8 Q. --a new group and a new issue and start with a fresh
9 sheet?
10 A. (No audible response)
11 Q. I see that you work for Northwest Alloys--
12 A. Yeah.
13 Q. --on your questionnaire and your jacket. What do you do
14 for them, sir?
15 A. I work in the quarry and maintenance. Crusher mainte-
16 nance.
17 Q. And how long have you done that?
18 A. I've been there a little over 25 years.
19 Q. Since the plant opened?
20 A. Yeah.
21 Q. I don't think that you mentioned that you were familiar
22 with this case.
23 A. No, I'm not.
24 Q. This-- Just to maybe broaden the picture, this was a
25 double homicide that took place out of the barter fair.

Juror No. 1 (Mr. Dixon) - Examination by Mr. Wetle

311.

1 There was some missing persons fliers going around the
2 county, looking for a lost person or a missing person.
3 Doesn't ring any further bell?

4 A. No.

5 Q. From your prior jury experience you got past this hurdle
6 of just being a juror and sitting in judgment on somebody
7 else. You feel that as part of your jury duty you can do
8 that?

9 A. Yeah. Good. There is one thing. I should have brought
10 it up earlier, but on the 15th I do have some _____
11 training. I don't know if that's-- if we'll be done by
12 then or not. I should have brought it up earlier.

13 Q. I can't-- The glare is on the map-- on the calendar up
14 there. The 15th is--

15 A. Next Thursday.

16 Q. Next Thursday. Our goal is to certainly be done by
17 Wednesday.

18 A. Yeah, that's why I didn't-- didn't bring it up.

19 Q. Is it all day or--

20 A. Yeah, it's an annual training. We plan it for all day and
21 get over with while everybody can be there. They schedule
22 it where nobody's on vacation, so--

23 Q. If you miss that training, what does that mean?

24 A. Well, they'd probably have to tape everything and probably
25 have to go through the first aid course separately, just

1 for one person.

2 Q. The interesting thing is that if-- say we finish on
3 Wednesday, and you're in deliberation and you need to come
4 back on Thursday to continue to deliberate, I guess both
5 the defense and the State would need to know that, you
6 know, if that were to happen, that that press to get there
7 on Thursday wouldn't affect your work as a juror.

8 A. No, it shouldn't.

9 Q. It would just be written off as well, I-- It's a good
10 chance we'll make it, but if I don't make it I'm not going
11 to-- I won't press to get there?

12 A. No, I-- I hope they would call me for making the--
13 giving me the training. It's something I have to have,
14 but I hope they would accommodate it.

15 Q. But it wouldn't affect your work as a juror?

16 A. No.

17 Q. Is what I guess I'm saying.

18 A. No, I don't think so.

19 Q. If it came to pass, you can--

20 A. Yeah.

21 Q. You can do it. You-- Have you ever fired any weapons?

22 A. Yeah.

23 Q. Do you hunt or have weapons?

24 A. I have. I do and I have hunted. I haven't for the last
25 few years, but yeah, I have hunted.

1 Q. Okay, and you have a .22?
2 A. Yeah.
3 Q. You have a-- It is a semi-automatic or a bolt action?
4 A. It's semi-automatic.
5 Q. Holds how many-- How many shells?
6 A. I think it will hold 18.
7 Q. So this case involved a semi-automatic, and so at least
8 you're familiar with that--
9 A. Yeah.
10 Q. --type of weapon and how it's fired? There'll be photos
11 of skeletal remains. No problem--
12 A. No.
13 Q. --looking at the autopsy and listening to the testimony
14 from Dr. Lindholm?
15 A. (No audible response)
16 Q. A forensic odontologist will be here to put the teeth and
17 jaws back together. No concern there?
18 A. No.
19 Q. Have you ever gone to the Northport Barter Fair?
20 A. No, I haven't.
21 Q. Have you ever gone to any barter fairs or hempfest type
22 gatherings?
23 A. No, just your yard sales and flea market stuff. Nothing--
24 No barter fairs, no.
25 Q. And have you ever heard of any organizations associated

1 with drugs called Families?

2 A. No.

3 Q. Have you or any member of your family, or a close friend,
4 ever been charged with a felony crime? And by felony
5 crime, not a misdemeanor but something that would--

6 A. No.

7 Q. --be a more serious offense?

8 A. Huh-uh.

9 Q. In this case we've got people that were with the defendant
10 and they're going to testify, and if their stories were
11 consistent in some areas and inconsistent in other areas,
12 would you be able to weigh those statements and decide
13 what to rely on or what not to rely on? Try to do that to
14 the best of your ability?

15 A. Yeah. Yeah, I ___ try doing that.

16 Q. That's what it's all about?

17 A. (No audible response)

18 Q. I know the judge asked you if you have any problem follow-
19 ing the law, and I just say given our geographic location
20 and some of the things that we deal with here on a regular
21 basis, if-- I want to reiterate the importance of being
22 able to think about--

23 MR. SIMEONE: Your Honor, I'm going to object to
24 specifying. I don't think he's eliciting prejudice there.

25 THE COURT: Well, overruled. I think that was a

1 preface to a question. Go ahead, Mr.--

2 MR. WETLE: Thank you, your Honor.

3 Q. To see whether or not, given the other influences around,
4 that you'd have any problem following the instructions,
5 and you know from your last jury experience the instruc-
6 tions you get from the court, whether you'd be able to say
7 I'm going to follow those instructions as I look at the
8 facts of this case.

9 A. _____, I got no problem with it.

10 Q. Do you have any problem if a person were to get a recom-
11 mendation for a less of a sentence from the court if they
12 cooperated and testified in a trial such as this?

13 A. No, I guess not. I guess it's part of your system.

14 Q. Do you agree with that system, or do you disagree with
15 that?

16 A. Oh, I-- Not all the time I don't agree with it. It--
17 Sometimes they get away with a lot stuff just by agreeing
18 to plead a certain way or something, but--

19 Q. If that plea were tied in to testifying, you know, as to
20 what happened in the overall picture, would that make a
21 difference in your--

22 A. Yeah. Yeah, I guess it would.

23 Q. Some of the people that are going to be called to come and
24 testify in this trial may not be of a stereotype that, you
25 know, you would want to have dinner with on a regular

Juror No. 1 (Mr. Dixon) - Examination by Mr. Wetle

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1 occasion. Because they may come from a different walk of
2 life or have different, I guess, customs, would you still
3 be able to listen to their testimony and give it a fair
4 understanding with respect to what happened at this
5 occasion?

6 A. Yeah.

7 Q. You realize that we don't get to pick who witnesses crimes
8 and who's close by when crimes are committed?

9 A. Yeah.

10 Q. So you can understand why we need to call some people?

11 A. Oh, yeah.

12 MR. SIMEONE: Your Honor, I'm going to object. I don't
13 think that elicits prejudices here either.

14 THE COURT: Overruled.

15 Q. If a witness were convicted of a crime in the past, and
16 came before you to testify in this particular trial, would
17 you be able to consider the fact that he had made a
18 mistake in the past and then weigh what he was saying in
19 terms of how much weight you put on it for this trial?

20 A. Yeah.

21 Q. The last case you sat on was a drug related case. This
22 has got drugs as a theme in the case, but it's a murder
23 case. Is there anything about the fact that this is a
24 murder case and that you're going to be a juror on it that
25 would cause you any concern?

1 A. No.

2 Q. In your prior jury experience, you remember the instruc-
3 tion about the State had to prove the case beyond a
4 reasonable doubt.

5 A. Uh-huh.

6 Q. Do you understand, or how do you feel about that particu-
7 lar burden?

8 A. Well, it's something you got to do. It's the fair way to
9 do it.

10 Q. Sometimes in television they-- in other areas they talk
11 about oh, they didn't prove it beyond all doubt. Do you
12 understand the difference between the reasonable doubt and
13 all doubt?

14 A. Well, I guess-- I guess I do. It's-- That's pretty
15 close, you know.

16 Q. Okay, that's why I wanted to at least talk to you about it
17 a little bit. If the judge were to say in that instruc-
18 tion the test is beyond a reasonable doubt, and then
19 sometimes people interpret that to mean all doubt, do you
20 think the case-- the State should ever-- would ever
21 prove a case beyond all doubt?

22 A. Oh, I think you probably could.

23 Q. Okay. If the-- That would be a good case.

24 A. Yeah.

25 Q. But you understand that that would not be the standard

1 the judge would give you with that instruction?

2 A. Yeah, I understand that.

3 Q. Okay.

4 MR. WETLE: Thank you, Mr. Dixon. We pass for cause,
5 your Honor.

6 THE COURT: All right, Mr. Simeone, any questions?

7 MR. SIMEONE: Thank you, your Honor.

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Juror No. 1 (Mr. Dixon) - Examination by Mr. Wetle

319.

1 MR. DIXON

2 EXAMINATION BY MR. SIMEONE

3 Q. Good afternoon, Mr. Dixon. First of all, did you answer
4 yes to any of Judge Baker's preliminary questions?

5 A. To any of the what now?

6 Q. To any of Judge Baker's preliminary questions? The
7 general questions she asked earlier.

8 A. I don't think I did, no.

9 Q. Okay, I didn't have you down. I wasn't sure. Mr. Grange,
10 the defendant here, has been charged with a serious crime.
11 Does the fact that he's charged with murder, does that in
12 itself cause you to feel uncomfortable about the subject
13 matter?

14 A. No.

15 Q. I mean is there anything inherently inside that all of a
16 sudden makes you squeamish or feel uneasy about even
17 listening to this?

18 A. No.

19 Q. Does it in and of itself cause you to feel as though Mr.
20 Grange is guilty of anything right now?

21 A. No, I guess not, because you're--

22 Q. You believe that he's innocent until proven guilty?

23 A. Yeah, we gotta prove it.

24 Q. Okay. There's got to be some suspicion in most people's
25 minds, I would think, when a person is charged with a

Juror No. 1 (Mr. Dixon) - Examination by Mr. Simeone 320.

1 crime, but would you agree that there's a difference
2 between a suspicion that you might have and a belief that
3 something actually occurred?

4 A. Well, I guess-- I don't know exactly what you're trying
5 to get at there.

6 Q. Well, do you feel like there's a difference between those
7 two things, maybe you suspect something's wrong, but then
8 you believe something's wrong?

9 A. Well, he's here because they suspect him of it, so-- but
10 it really-- I don't really believe it until it's proven.

11 Q. Proof. Okay, that's the word. You agree that that's the
12 difference between those two things there? Evidence,
13 proof?

14 A. Yeah.

15 Q. Okay. And you said you do own firearms?

16 A. Yeah.

17 Q. And you're familiar-- you're familiar with the operation
18 of a gun?

19 A. Uh-huh.

20 Q. And you agree that a person could own a gun without ever
21 expecting to use that on a human being, don't you?

22 A. Yeah.

23 Q. Okay. And you believe it's true for some people to take
24 an oath to tell the truth and then not tell the truth?

25 A. You have to speak up a little bit.

Juror No. 1 (Mr. Dixon) - Examination by Mr. Simeone 321.

- 1 Q. Do you think it's possible that some people might take an
2 oath to tell the truth and then not take-- then not tell
3 the truth?
- 4 A. _____ think it's possible?
- 5 Q. Yeah.
- 6 A. Yeah, it is.
- 7 Q. Have you ever heard of an organization called the Rainbow
8 Family?
- 9 A. Years ago, maybe I have, yeah.
- 10 Q. Any general impressions?
- 11 A. Seemed like it was-- In my opinion they were hippie type
12 people, is what I-- If I remember right.
- 13 Q. Anything negative in your feeling about that or that
14 connotation, hippie?
- 15 A. Well, I wasn't real fond of the organization.
- 16 Q. Okay.
- 17 A. But I guess to each his own, I guess.
- 18 Q. Yeah. Setting aside that feeling that maybe you're not
19 fond of the organization, do you think that your impres-
20 sion of people involved in this case who might be in the
21 Rainbow Family or associated with it in some way, is that
22 going to, you think, affect your opinion about them, or
23 maybe make you not like them, just because they're
24 associated with it?
- 25 A. No. I'm not-- I wouldn't be here to judge people, it'd

Juror No. 1 (Mr. Dixon) - Examination by Mr. Simeone 322.

1 be to judge the case.

2 Q. Okay. You can set that aside then?

3 A. Yeah.

4 Q. Okay. How about the barter fair? Are you familiar with
5 the barter fair we have in Northport every year, or the
6 couple of barter fairs we have?

7 A. I've just heard of it. I've never been to it.

8 Q. Okay. Any kind of impressions about it or feelings that
9 you have about it?

10 A. No, not really.

11 Q. Okay. Do you have any serious objection to people who are
12 living other than conventional lives? You mentioned--
13 You mentioned the word hippie before, and I'm wondering if
14 that-- if you have any particular feeling or specific
15 feeling about people who aren't in the main stream?

16 A. No, they can do what they want.

17 Q. Okay, but no-- You certainly wouldn't feel any kind of
18 prejudices or biases towards them just because maybe
19 they're not like you or I are, or anything like that?

20 A. No, I don't think so.

21 Q. Okay. I guess that would be your or I am. Thank you.
22 Have you ever had to-- Have you ever been in a situation
23 where you had to account for your whereabouts at a given
24 place or time, on a given date, or hours of the day?

25 A. Not really, no.

Juror No. 1 (Mr. Dixon) - Examination by Mr. Simeone 323.

1 Q. Do you think that that might be, depending upon the person
2 or the situation, that that might be a difficult thing to
3 do, or could be a difficult thing to do?
4 A. Well, in my case, probably not, because I--
5 Q. Because you're on a schedule?
6 A. Yeah, I'm on a schedule. I know where I'm-- You know--
7 Q. Well, what about somebody that's not on a schedule, for
8 example has an open day? Do you think that might become
9 a difficult thing for a person to do on occasion?
10 A. Maybe in a long period of time, but in a short, reasonable
11 period of time, you should be able to remember where you
12 was at.
13 Q. So you think it would be more difficult to explain a
14 person's whereabouts for a couple of hours, rather than
15 for a couple of days?
16 A. Yeah, it could be, yeah.
17 Q. Rather than vice versa?
18 A. Yeah, a couple of hours might be kind of hard to remember.
19 Q. Okay. That's kind of the order that I thought you meant.
20 A. Yeah.
21 Q. I just wasn't sure what you _____. Supposing you go
22 through-- And you're called-- called to serve as a juror
23 here, and you're selected, you go through the trial, do
24 you think that if the State doesn't make its case to your
25 satisfaction, beyond a reasonable doubt, that you would

Juror No. 1 (Mr. Dixon) - Examination by Mr. Simeone 324.

- 1 feel sorry for the State or anything like that?
- 2 A. No, I'd just have to go with what kind of evidence. That
3 was the case in the past, is I felt that it wasn't
4 presented good enough and prove it beyond a reasonable
5 doubt.
- 6 Q. Okay. The trial, like we said, might last until Wednes-
7 day. I hope it doesn't interfere with your program there
8 on Thursday, but do you think if it moved along that far
9 that you'd become impatient with it? With the case?
- 10 A. Oh, it probably would have-- You know, you'd be thinking
11 about it, but you'd probably-- You'd just have set that
12 aside and--
- 13 Q. Because one thing we didn't really mention to you is that
14 the case would probably go through Wednesday, but then the
15 jury has to deliberate. So it's a good chance that if it
16 goes through Wednesday, that maybe your Thursday will be
17 taken up, so I want to bring that to your attention, see
18 if that maybe raises any concerns in your mind.
- 19 A. Yeah, a few, but--
- 20 Q. Yeah.
- 21 A. --I'd have to live with it later, I guess.
- 22 Q. All right, do you think you can maybe rearrange your
23 schedule to get around that, because if you get selected,
24 I think you might have to-- might have to write off
25 Thursday. Probably could get around it?

1 A. Yeah, probably.

2 Q. Are there any other-- any other kinds of outside--
3 outside events in your life that might prevent you from
4 paying attention to what's going on in the trial?
5 Anything else, you know, domestically or anywhere else?

6 A. Well-- Well, yeah. I get-- Probably is. My wife is--
7 she had blood tests here, and I found this out Monday, and
8 she has to go in for a colon scope type deal.

9 Q. I'm sorry.

10 A. Yeah, that would--

11 Q. When will that be?

12 A. Well, she goes in Monday just to talk to the doctor, but
13 when that's scheduled I don't know. So--

14 Q. Probably-- We hope not next week?

15 A. Hopefully. That's--

16 Q. Okay. Do you want to be a juror?

17 A. I'll do what I have to do.

18 Q. If you're selected? Okay.

19 MR. SIMEONE: Well, thank you for your answers. I'll
20 pass for cause, your Honor.

21 JUROR STEPS DOWN

22 THE COURT: Oh, I do need to mention to you, Mr. Dixon,
23 not to discuss any of the question and answer session in
24 here with the other jurors. If they ask you, you just
25 indicate you're under the court's instruction not to

Juror No. 1 (Mr. Dixon) - Examination by Mr. Simeone 326.

1 discuss it.

2 MR. DIXON: Okay.

3 THE COURT: All right, thank you, sir. I'll have you
4 proceed down the hall, and we'll be calling you back here
5 shortly. I doubt that it'll be shortly, but--

6 JUROR NO. 1 LEAVES

7 JUROR NO. 2 IS ESCORTED INTO THE COURTROOM

8 THE COURT: All right, ma'am, if you'll come up to this
9 area. You're still under oath from your previous oath
10 that you took. If you'll have a seat there. It's the
11 easiest place for us to pick up your testimony. And we'll
12 open the floor up-- Oh, wait, I have one preliminary
13 question. There was-- When the jurors were checking in
14 this morning, there was a gentleman seated out on the
15 bench out here who turns out to be a witness in the case,
16 and evidently there was some conversation with some of the
17 jurors. Did you notice that gentleman and/or talk with
18 him at all?

19 JUROR NUMBER 2: No.

20 THE COURT: All right, thank you. Mr. Wetle, you may
21 inquire.

22 MR. WETLE: Thank you, your Honor.
23
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25

1 MS. JONES

2 EXAMINATION BY MR. WETLE

3 Q. Good afternoon, Ms. Jones.

4 A. Good afternoon.

5 Q. I guess I would start by saying when you got your-- no,
6 before you got your little summons, your letter and your
7 questionnaire to fill out, could you tell us what your
8 view of jury service was? How did you perceive being a
9 juror?

10 A. Actually, I always wanted to be able to participate in
11 doing it. Didn't know a lot about it, other than what you
12 see on TV, which I'm sure is not realistic, so that's
13 about it.

14 Q. So it was something you kind of looked forward to and
15 wondered if you were ever going to be called?

16 A. Definitely.

17 Q. Okay. Now that you're here, so far things are still okay?

18 A. Yes.

19 Q. No regrets so far?

20 A. No.

21 Q. In the general questions, you said that you were not
22 familiar with this case. You live down in the Nine Mile
23 area?

24 A. Yes.

25 Q. Work in Spokane?

Juror No. 2 (Ms. Jones) - Examination by Mr. Wetle

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- 1 A. I work in Spokane, yes.
- 2 Q. So I guess I'll say there was some coverage about it with
3 respect to a barter fair. Some people missing at the
4 barter fair.
- 5 A. I'm not familiar with that.
- 6 Q. Last summer, and that doesn't ring any bells?
- 7 A. No.
- 8 Q. Doesn't remind you of anything?
- 9 A. A barter fair? I-- No.
- 10 Q. Okay. You've never been a juror before?
- 11 A. No.
- 12 Q. And you're being asked to sit in a courtroom and judge
13 another person. Do you think that you can do that?
- 14 A. Yes.
- 15 Q. This case involves some firearms. There'll be some
16 testimony that the two victims were shot in the head.
17 Have you ever owned or operated a firearm?
- 18 A. My husband owns firearms for hunting. Hunting rifles and
19 shotguns, I believe. I don't know what type they are, I
20 couldn't tell you that. The only time I've shot ever is
21 pigeon, clay pigeons, and that was one time approximately
22 six or seven years.
- 23 Q. Okay, have you ever fired a .22?
- 24 A. No.
- 25 Q. So when I said it was a-- If it were a .22 semi-automatic

1 rifle, you would not necessarily know how that operates?
2 A. No.
3 Q. This case also involves some photographs of skeletal
4 remains that will be shown to you as jurors to analyze and
5 study, and also some teeth and jawbones for establishing
6 identity. Would viewing any of those types of photos
7 cause you any problem being a juror?
8 A. No.
9 Q. Have you ever been to the Northport Barter Fair?
10 A. No.
11 Q. Have you ever been to a barter fair or hempfest before?
12 A. No, I'm not familiar with what it is, to be honest. I
13 don't know what it is.
14 Q. Have never heard of the barter fair?
15 A. No, I haven't.
16 Q. Or the hempfest?
17 A. (No audible response)
18 Q. Have you or a member of your family or close friend ever
19 been charged with a felony crime?
20 A. No.
21 Q. And have any members of your family or close friends ever
22 been convicted of a felony?
23 A. No.
24 Q. If, in the trial that we're going to have here, you saw
25 some conflicting testimony, one of the co-defendants who

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1 were with the defendant, gave inconsistent statements in
2 some areas, and consistent statements in other areas, do
3 you think you'd be able to weigh those consistencies and
4 inconsistencies and then decide what to rely on and what
5 to disregard?

6 A. Yes, I believe so.

7 Q. The court asked you, and I guess I'll just reiterate, if
8 you have any problem following the instructions that the
9 court gives. At the end of the trial you'll get a packet
10 of material that tells you what the law is for this
11 particular case.

12 A. No, I don't have a problem following them.

13 Q. Do you think that if a person was involved in a crime and
14 agreed to testify at the trial in return for a recommenda-
15 tion of reduced sentence, do you think that that would be
16 appropriate or inappropriate?

17 A. I think it would depend on the circumstances.

18 Q. Okay, if that person's testimony was needed to hold the
19 other person accountable, do you think that would be an
20 appropriate circumstance?

21 A. I-- I'm not really sure.

22 Q. Okay. Do you have any personal feelings about whether or
23 not that should ever be done? Whether or not the State
24 should agree to allow or recommend a reduced sentence for
25 cooperation?

- 1 A. I don't have any personal feelings one way or the other.
2 I think-- I mean everybody's trying to do justice both
3 ways, so I think you have to look at the whole picture
4 and-- I don't have a say one way or the other. No.
- 5 Q. Okay. If the witnesses that would come before you as a
6 juror in this case are from a different lifestyle, and
7 have different manners or codes of living, would you be
8 able to take that into perspective and listen to what they
9 were saying to determine this case?
- 10 A. I think everybody has their-- Their personal lifestyle is
11 their own business, and that doesn't make them a bad
12 person or a good person, or otherwise. They're still a
13 person, and I'm not going to judge someone on whether
14 they're black or white or gay or-- Do you know what I'm
15 saying? I'm not--
- 16 Q. That's exactly the point, whether you will-- the stereo-
17 types would cloud your--
- 18 A. No, it would-- It would not.
- 19 Q. Okay. So if one of the witnesses or so comes before you
20 and you find that they had been convicted of a crime, made
21 a mistake in their past--
- 22 A. Uh-huh.
- 23 Q. --and yet they were telling you what happened in this
24 particular case, would you be able to put that-- weigh
25 that past mistake and evaluate their testimony on this

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1 case?

2 A. Yes, I believe I would.

3 Q. What was your reaction when you found that you would be a
4 potential juror in a murder case?

5 A. Didn't really know what, coming into it, was going to be--
6 I mean no-- none of us had an idea of what we were going
7 to be jurors for. So I guess in your own mind you think
8 there's lots of different avenues that it could be, and
9 that just happened to be what this one was on, so--

10 Q. That's true.

11 A. --I don't know if I had like a positive/negative reaction.
12 It just--

13 Q. This is the way--

14 A. That's what this is.

15 Q. Okay. When the court gives you the instructions, the
16 court is-- One of the instructions will say that the
17 State needs to prove the case beyond a reasonable doubt.
18 Sometimes people have differing view of that. Would you
19 hold the State to a beyond all doubt standard, or would
20 you follow the beyond a reasonable doubt standard? And
21 can you see the distinction?

22 A. I think I'd follow the beyond a reasonable doubt, and I
23 think as jurors, you know, that's something we would have
24 to come to a conclusion on and listen to each other, and
25 also base it on the evidence.

1 Q. You see how some jurors could, by watching television or
2 in just general conversation, somebody will say well, they
3 need to prove it beyond a shadow of a doubt, the common
4 word. Or they need to prove it beyond all doubt. And do
5 you realize that that's seldom, if ever, could ever be
6 done?

7 A. In error, you mean?

8 Q. No, to do it. To prove it to that standard.

9 A. Oh. Do I believe it could be proven to that standard?

10 Q. Yes, could it be proven to beyond all doubt?

11 A. I don't know if it could truly be proven beyond all doubt,
12 because, obviously, we all have different views, I
13 suppose.

14 Q. And there would always be some doubt?

15 A. Yeah.

16 Q. And that's why the instruction for beyond a reasonable
17 doubt would be different than all doubt, maybe?

18 A. Okay. Yes.

19 Q. You see that distinction?

20 A. Yes. I understand.

21 Q. Any reason that you can think of that you would not want
22 to be a juror on this case?

23 A. No.

24 MR. WETLE: Thank you very much. We'll pass for cause,
25 your Honor.

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THE COURT: All right, Mr. Simeone, questions of Number

2?

1 MS. JONES

2 EXAMINATION BY MR. SIMEONE

3 Q. Thank you, Ms. Jones, so far for your help. Did you
4 answer yes to any of Judge Baker's preliminary general
5 questions when you were all seated?

6 A. Did I answer yes? No.

7 Q. No? Okay. Now, Mr. Grange, as he's seated next to me,
8 he's charged with a very serious crime, obviously. Does
9 the fact that he's charged with murder, does that in
10 itself cause you any feelings of anxiety or a feeling of
11 uneasiness?

12 A. I don't think so. I think he's still a person, and, you
13 know, I don't-- He's like the court says, he's innocent
14 until proven guilty, so--

15 Q. And that's-- that was the answer to my next question.
16 That's basically what I wanted to know, because I know Mr.
17 Wetle was talking to you about the standard of proof,
18 proof beyond a reasonable doubt, so hand in hand with that
19 goes that right now we don't have any proof against him.
20 Do you agree with that, and that all the proof you hear
21 will come from the witness stand?

22 A. Exactly. Right. I do agree.

23 Q. Okay, have you ever-- Do you agree that it might be
24 difficult for a person to try to account for his or her
25 whereabouts at a given date or a given time in a given

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1 day?

2 A. Under certain circumstances, it could be.

3 Q. Would you think that might be especially so if a person
4 doesn't have a schedule? Like I have a schedule. I'm
5 usually in my office at 8:00 to 5:00, so if they ask me
6 where were you at 1:00 o'clock on Wednesday, the 7th, I
7 could probably tell them by looking at my desk schedule.
8 But do you agree that that might be more difficult for
9 people who don't have a steady job or schedule?

10 A. Possibly.

11 Q. Okay. Did you say that you hadn't had any familiarity
12 with the Rainbow Family, or having heard of it?

13 A. When you say-- refer to it as Rainbow, the only thing I
14 know about Rainbow is I believe it-- And the only thing--
15 The only reason I know this is because of the Jessie
16 Jackson--

17 Q. Jessie Jackson's Rainbow Coalition?

18 A. Right. That's--

19 Q. That's a different deal.

20 A. Okay, that's all I know.

21 Q. Don't know the Rainbow Family?

22 A. _____ (Laughing)

23 Q. Okay. Nor did you hear or do you have any impressions of
24 the barter fairs that occur around here?

25 A. No.

1 Q. Okay. Do you agree that a given individual might have a
2 reason to testify in a certain way to protect themselves
3 or otherwise-- Like witness bias. Do you think that some
4 witnesses might have a reason to testify in a certain way?

5 A. I suppose so.

6 Q. Suppose it's possible? Hand in hand with that goes my
7 next question, I guess. Do you think it's possible for
8 people to take an oath on that witness stand where you're
9 sitting right now and do you think it's possible for them
10 to take that oath and then not tell the truth?

11 A. Oh, I definitely think it's possible. I would hope that
12 that's not the case--

13 Q. We would hope it's not the case.

14 A. --but I think it's possible.

15 Q. Okay. Now, what kinds of things do you look for when--
16 You're-- Primarily, what you're going to be doing as a
17 juror here, if you're selected, is trying to tell who's
18 telling the right story here, because there are going to
19 be drastic differences in the stories that you hear as to
20 what happened, what transpired. Drastic differences. How
21 do you think you, as a juror-- I'll ask you an open-ended
22 question. How do you think you, as a juror, would go
23 about trying to make a determination as to whether or not
24 a given witness is telling the truth?

25 A. I think that's a hard question to answer. I think you

1 would look for consistency.

2 Q. Consistency. Okay, what else?

3 A. You know, it's hard to sit over there and judge someone

4 up here. You don't-- Not knowing that person--

5 Q. But you'll be doing that now.

6 A. --on a one-to-one basis. Right.

7 Q. But you'll be doing that.

8 A. But I think-- I think given the fact that you as attor-

9 neys will be asking them questions, and we as jurors will

10 be, you know, evaluating the responses. We do the best we

11 can to pick and see through, I guess.

12 Q. Sure. So you did identify the one thing. You identified

13 consistencies in what they say.

14 A. Uh-huh.

15 Q. You also agree that maybe if a person is going to receive

16 a more lenient treatment by the State that it might have,

17 indeed, a reason to testify one way rather than another?

18 A. Does that mean he's not going to tell the truth under

19 oath?

20 Q. Well, I'm wondering. Do you think that might bear on a

21 person's believability?

22 A. Yeah, I think it could bear.

23 Q. Okay, I'm not saying that it's the only thing, I'm just

24 saying-- I'm trying to get an idea in your mind from

25 your--

1 A. Right.

2 Q. --point of view. What kinds of things do you use. I see
3 where you have children, so if you're anything like me,
4 you're probably constantly thrown into a situation where
5 we're trying to make judgment calls about what our kids
6 are telling us. Usually they're pretty truthful, but a
7 lot of times you have to kind of question, and you use
8 your techniques, and you-- Could you apply those same
9 techniques, you think, to the way you go about evaluating
10 a witness' testimony?

11 A. I think so. I--

12 Q. Okay.

13 A. I mean your kids-- I guess I'm-- Go ahead. Yeah, I do.
14 I feel like I can--

15 Q. Okay. The length of the trial, we've all tried to
16 approximate how long it might be, and the best the court
17 is able to tell us right now, or tell you as jurors, is
18 maybe Wednesday next week. That probably is in addition
19 to time that you as jurors would spend then deliberating
20 the issue. So you might have your week spoken for. Is
21 this going to throw a kink into your schedule or anything?

22 A. No. Actually, they already know that I'm--

23 Q. Okay.

24 A. Yeah.

25 Q. Adjust for whatever--

1 A. Coverage.

2 Q. --kinds of changes in your schedule? Are you able to keep
3 your mind open as to what happened here until the defen-
4 dant is able to speak and give you his side of this case?

5 A. Yes, I believe so.

6 Q. Not formulate any opinions until you've heard all the
7 evidence, which is what we'll have to do.

8 A. Right.

9 Q. Okay. And now, suppose you've gone through the trial and
10 you've gone through some deliberation and you've listened
11 to all the sides of the story and you've weighed the
12 evidence and you've listened to and you've tried to
13 accommodate other jurors, and you've listened to their
14 point of view, you still have your own opinion about
15 certain things. What do you do then?

16 A. Well, I think-- I mean we don't deliberate until it's a
17 unity, as she said before. I mean we all have to agree,
18 and so-- I mean I don't know what I would do in that
19 situation. My opinion would be known how I felt.

20 Q. Right. But I mean let's say you go through that delibera-
21 tion process and you still have a different opinion than
22 other people. I don't know which one it's going to be,
23 but, I mean, what do you do-- and you've weighed and
24 you've listened to other people's points of view, et
25 cetera. Now what do you do if you, after all that, you

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1 still have your own opinion about something and its
2 different from other people's. What do you think you'll
3 do?

4 A. I would still hold true to my opinion.

5 Q. That's what I wanted to know. That's what I needed to
6 know. And you feel like you have that kind of staying
7 power?

8 A. Yeah.

9 Q. Okay.

10 MR. SIMEONE: Well, then, I won't ask any more ques-
11 tions. Thank you very much. I'll pass for cause, your
12 Honor.

13 THE COURT: All right, thank you, Ms. Jones, you may
14 step down, and thank you for your testimony. The bailiff
15 will show where you need to go next. If we could have
16 Number 3?

17 **JUROR NUMBER 2 IS ESCORTED OUT**

18 MR. SIMEONE: Your Honor, before we get to the other
19 juror, could we close the door and could I have a word
20 with the court?

21 THE COURT: All right. After I just wrote a note to
22 the bailiff to hurry it up.

23 MR. SIMEONE: Mr. Wetle's been-- Two witnesses now,
24 he's been talking about-- Not that it's a major point,
25 but he's been talking about this case involves a semi-

1 automatic .22, and I don't know that they have any proof
2 that it does, except the testimony of a couple of witness-
3 es that's been very inconsistent. There's no ballistic
4 proof at all. There's been nothing to the effect this
5 involves a semi-automatic .22. They don't really know how
6 or where or what weapon it is, for that matter, that was
7 used. Therefore, I would ask that the State be cautioned
8 to refrain from that kind of requests or questions.

9 THE COURT: Well, I think what I'll do, Mr. Wetle, is
10 you will not be prevented from asking those questions.
11 You'll be prevented, though, from stating as a matter of
12 fact or something that this case does involve a .22. Just
13 ask the question without prefacing it with what the case
14 does or does not involve. What I don't want to do is have
15 you be telling the jury what it-- until opening state-
16 ments, what it is that the evidence is expected to show.
17 So just ask your questions, and you don't need to tell
18 them why you're asking the questions now.

19 MR. SIMEONE: Firearms--

20 MR. WETLE: Thank you, your Honor.

21 MR. SIMEONE: Firearms, generally.

22 MR. WETLE: Your Honor--

23 THE COURT: Well, you know, he can ask about-- he can
24 ask about .22's and whatever else he wants to do specifi-
25 cally.

1 MR. WETLE: And there is testimony that it was a semi-
2 automatic, so--

3 THE COURT: I'm sure that there will be, so you can ask
4 those kind of questions.

5 MR. WETLE: I understand.

6 THE COURT: Just don't indicate to the jury that
7 you're-- you know, as if it's a fait accompli.

8 MR. WETLE: I understand.

9 THE COURT: It hasn't come out yet on the witness
10 stand.

11 MR. WETLE: With respect to the eliciting from the
12 juror that she would stand by her opinions, no matter
13 what, does that get close to asking the juror to hang the
14 jury, your Honor, in terms of eliciting that kind of
15 promise?

16 THE COURT: Well, you know, I don't think Mr. Simeone
17 stepped over the line there, but if you wanted to talk
18 about it in your voir dire, you can certainly do that. My
19 thought is that certainly he's not allowed to elicit a
20 promise to do that. He can inquire whether or not they
21 wish to-- how they would deal with that situation if he
22 wants to. I did not view it as eliciting a promise to
23 them that they would stick to their guns no matter what.

24 MR. WETLE: Thank you.

25 THE COURT: They'll be getting their instructions from

1 the court that they're supposed to-- not to surrender
2 their honest belief and so on, but that they're supposed
3 to try to, an earnest desire, to reach a unanimous
4 verdict. Try to reach one.

5 MR. WETLE: Thank you.

6 THE COURT: All right, Number 3.

7 JUROR NUMBER 3 IS ESCORTED INTO THE COURTROOM

8 THE COURT: All right, Mr. West, if you'll take a seat
9 there. You're still under oath from our previous testimo-
10 ny that you gave, and we'll-- I have one preliminary
11 question. When some of the jurors were checking in, there
12 was a witness, as it turns out, that was seated out on the
13 bench, a gentleman, and some of the jurors were noticed to
14 have been chatting with him, and I just wondered if you
15 happened to notice him or chat with him, or with anyone
16 seated out on a bench out in--

17 MR. WEST: No.

18 THE COURT: When you checked in. Okay, thank you. Mr.
19 Wetle?

20 MR. WETLE: Thank you, your Honor.
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1 MR. WEST

2 EXAMINATION BY MR. WETLE

3 Q. Mr. West, good afternoon. Before you got your packet from
4 the court, your summons, your letter and your question-
5 naire--

6 A. Uh-huh.

7 Q. --to fill out to be a juror, can you tell us what kind of
8 preconceptions you had about being a juror? How you
9 viewed that duty?

10 A. Well, not contemptuous. I've been-- I have been selected
11 three other-- three previous times for-- and sat on
12 juries.

13 Q. Three other times?

14 A. Yes. ____ months in Spokane on a Grand Jury case.

15 Q. Okay. Anything about those prior services-- Obviously,
16 if you've done it three times you have been around and
17 know basically what it's about, and there's nothing there
18 that would impact you as a juror in this particular case?

19 A. No.

20 Q. With respect to the case, there was some publicity about
21 the homicides coming out of the barter fair up in the
22 Northport area. I see that you had said that you did know
23 about the case, either through the media or some other
24 area.

25 A. Well, yeah, just what I heard on the radio, television.

1 Q. Okay. And in that respect, can you tell us what you
2 remember hearing about the case?

3 A. Some drug related something or other, and some guys got
4 shot and left in the woods, or something. That was--
5 That's about all I can remember of it.

6 Q. The general-- Some general facts?

7 A. Yeah. Nothing in particular.

8 Q. So with that background, there's nothing-- You'd be able
9 to put that out of your mind in terms of listening to the
10 witnesses that come before you in this trial?

11 A. I would have to suspect that I could do that, yeah.

12 Q. Realizing that the media may not always get the slant or
13 the perspective right, you would discount what you heard
14 so far and rely on what you hear as a juror in this trial?

15 A. Yes, sir.

16 Q. Are you familiar with semi-automatic .22 rifles?

17 A. I'm not much of a gun enthusiast, but I have-- I have
18 seen them before, yeah.

19 Q. Ever shot one?

20 A. No.

21 Q. There'll be photos of skeletal remains. Would you be able
22 to examine those, listen to the testimony about that, and
23 form-- help make decisions on the case after viewing
24 those photos?

25 A. I would hope so, yeah.

1 Q. And have you ever been to the Northport Barter Fair?

2 A. Yes, I have.

3 Q. How long ago was that?

4 A. Goodness sakes. I owned a concert production company and
5 we did some work up there with an artist from Nespelem
6 named Jim Boyd, and I believe it was in 1995 or 1996. And
7 I was there for an afternoon. We drove the truck in and
8 set up a PA system and a light setup, and spent the
9 afternoon there and left at about 9:00 o'clock at night,
10 I think.

11 Q. What was your impression?

12 A. Of the event or--

13 Q. Of the event.

14 A. Well, it just-- Gosh, I don't know. That's an interest-
15 ing question.

16 Q. Was there a lot of people there, a few people?

17 A. There were a lot of people there. About every walk of
18 life. I don't know. A lot of different and unusual stuff
19 for sale.

20 Q. Have you ever gone to any other barter fairs or hempfests?

21 A. No.

22 Q. Have you ever heard of any organizations associated with
23 drugs called Families?

24 A. No.

25 Q. Have you or any members of your family or-- I'd say a

1 member of your family or a close friend ever been charged
2 with a felony crime?

3 A. No.

4 Q. And have members of your family or close friends ever been
5 convicted of a felony?

6 A. A friend of mine did, but not in my family, no.

7 Q. Okay, were you able to be aware of what the nature of the
8 charges were and-- I guess I'd say how long ago was that?

9 A. In the late eighties, I think. Eighty-nine or '90.
10 Somewhere in there.

11 Q. If you recall the--

12 A. We weren't friends then. We later became business
13 associates in '93, but--

14 Q. Okay. I guess the point of it is whether or not-- If you
15 have a friend in that situation, whether or not that
16 friend got treated fairly in that process, and if you had
17 any feelings about that one way or the other?

18 A. I didn't have any feelings about it one way or another.

19 Q. Okay, because by the time you became friends that had
20 already been--

21 A. He was out of jail and--

22 Q. It was over.

23 A. Yeah.

24 Q. Okay. If you were to hear co-defendants, people that were
25 associated with the defendant here, come before you and

Juror No. 3 (Mr. West) - Examination by Mr. Wetle

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1 testify, and some of their statements were consistent and
2 some of their statements were inconsistent, would you be
3 able to weigh those statements and decide which ones to
4 discard and which ones to rely on?

5 A. If I was so directed, yeah.

6 Q. As part of the balancing process. You're going to hear
7 conflicting stories. It's not that you would always
8 expect people to say the same thing.

9 A. Right.

10 Q. Just because of the nature of who we are and how we think,
11 but you would evaluate those consistencies and inconsis-
12 tencies in reaching your final position in the case?

13 A. Yes, I would do that.

14 Q. The fact that a person had made a mistake and been
15 convicted of a crime in the past and comes before you to
16 testify, would you be able to put that in its perspective
17 as well and say yes, he made a mistake, but I'm going to
18 listen to what testimony he has in this particular case?

19 A. Sure.

20 Q. And would you follow the court's instructions in terms of
21 working together with your fellow jurors to reach a fair
22 decision in this case?

23 A. Yes. I have in the past done that.

24 Q. Have you ever had to deal with the-- or had the situation
25 as a juror before where the State had made a lesser

1 recommendation for jail in return for the cooperation of
2 the people to testify in the trial of the co-defendant?

3 A. No.

4 Q. If you were faced with that situation-- First of all, do
5 you think that that is a-- I guess I'd say what feelings
6 do you have about the fact that the State may offer to
7 recommend a reduced sentence in return for cooperation?

8 Do you have any feelings about whether that's--

9 A. Well, you know, I think that's just an acceptable thing
10 that goes on in court anymore. I just think that's part
11 of the jurisdiction thing.

12 Q. You've been a juror on three occasions, and you're well
13 aware of the standard of proof beyond a reasonable doubt,
14 that the court instructs you?

15 A. Yes.

16 Q. That things must be proved beyond a reasonable doubt. And
17 in your course of discussions, have you ever heard people
18 say, oh, the State has to prove it beyond all doubt, or
19 beyond a shadow of a doubt?

20 A. Yes.

21 Q. Have you ever heard those concepts?

22 A. Uh-huh.

23 Q. Do you understand them not to be the standard that the
24 court instructs in this particular-- in these cases?

25 A. Yes.

Juror No. 3 (Mr. West) - Examination by Mr. Wetle

351.

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MR. WETLE: Thank you very much. Your Honor, we'd pass
for cause.

THE COURT: All right, Mr. Simeone?

MR. SIMEONE: Thank you, your Honor.

1 MR. WEST

2 EXAMINATION BY MR. SIMEONE

3 Q. Good afternoon, Mr. West.

4 A. Hello.

5 Q. I guess it's-- You live on the golf course there. It's
6 good that you belong to the club. It's not quite tee time
7 though, is it?

8 A. Yeah. Not quite.

9 Q. I understand--

10 THE COURT: It's a good time of year to be doing jury
11 duty.

12 MR. WEST: Yeah.

13 MR. SIMEONE: Not quite tee time yet.

14 Q. You did-- You didn't form an impression of the case based
15 upon what you've heard of it then? Is that-- Is that my
16 understanding?

17 A. No, I'm not really-- I guess I'm not really a news nut,
18 because I don't subscribe to the *Spokesman-Review*, nor do
19 I have local television.

20 Q. Okay, so no name--

21 A. I have a digital dish.

22 Q. No names of anybody stand out in your mind or anything
23 else?

24 A. No.

25 Q. And what you said is basically what you heard about it,

Juror No. 3 (Mr. West) - Examination by Mr. Simeone

353.

1 that there was this barter fair and that there was some--
2 that there was a killing? Is that what you heard?

3 A. Yeah.

4 Q. But more than that, you really didn't focus on or--

5 A. No.

6 Q. Okay. Well, you did attend the barter fair in 1995 in
7 North-- But you didn't come away with any bad impres-
8 sions? I got a little bit of an idea of what you saw and
9 what you thought of it. Did you come away with any
10 negative impressions about the people there?

11 A. No.

12 Q. Okay. Now, Mr. Grange, seated next to me, is the
13 defendant. He's charged with a most serious crime, as you
14 know-- now know. Does that in itself, the fact that he's
15 charged with a murder, does that cause you to feel any
16 uneasiness or any kind of gut level dislike or distancing
17 from him because of that?

18 A. Well, he's charged.

19 Q. Okay.

20 A. He isn't convicted. Am I wrong or--

21 Q. That's what-- That's what I was trying to get. You kind
22 of anticipated my question and where I was going. Thank
23 you for that. The Prosecutor talked a little bit about
24 the proof beyond a reasonable doubt issue.

25 A. Yeah.

Juror No. 3 (Mr. West) - Examination by Mr. Simeone

354.

1 Q. Do you believe that that has meaning, that phrase, proof
2 beyond a reasonable doubt?

3 A. Yes, I do.

4 Q. Okay, it's not just a-- those aren't just words, they
5 have a real meaning, don't they?

6 A. Yes.

7 Q. Okay. I see that you don't have children, so you probably
8 don't have to go through a regular kind of a-- I'm sorry,
9 you do. I just didn't see them listed. You probably,
10 when they were living in the household, if they're not
11 now, you had to go through a judging process now and then
12 similar to what you'll have to do as a juror, I guess,
13 with witnesses. How do-- How do you go about trying to
14 determine believability of somebody in what they're
15 telling you? Just in general, in your life.

16 A. As a casual acquaintance or--

17 Q. Yeah, let's just say anybody. I mean if you're looking or
18 listening to somebody telling you a story, how do you go
19 about trying to determine believability?

20 A. Goodness sakes. Well, I truly do believe that trust is an
21 earned thing. I don't know-- Is that--

22 Q. Yeah.

23 A. You know.

24 Q. Okay.

25 A. I can place, you know, single point accountability on

Juror No. 3 (Mr. West) - Examination by Mr. Simeone

355.

1 people and expect that they are telling me the truth.
2 Q. Sure. Well, let me just give you--
3 A. And I don't know that for sure.
4 Q. Let me give you some food for thought. What do you think
5 about whether or not stories that you hear from people are
6 consistent from time to time, or consistent with that of
7 somebody else? Do you put much weight on that kind of a
8 thing in deciding whether or not a person should be
9 believed?
10 A. Are you-- Are you getting at like hearsay--
11 Q. Well, I'm getting at--
12 A. --or what people are telling me?
13 Q. Yeah, two different stories from the same person over a
14 different-- over a span of time. A different story, and
15 then maybe another different story. Do you think that's
16 a way for a person to determine whether or not a person is
17 telling the truth? Is that one of the ways, anyway?
18 A. Well, it's one of the ways, yeah.
19 Q. It's one way to determine.
20 A. Yeah.
21 Q. Okay. What about if a person has a bias. Mr. Wetle
22 talked a little bit about, and I think you endorsed,
23 basically, the plea bargain system that we have in the--
24 You say it's just a fact of life, and it sounds like you
25 have a pretty common sense kind of an approach to that,

1 and I understand that. But do you think the fact that one
2 person, like he was talking about has, perhaps, received
3 an agreement from the State to act in a certain way, if he
4 testifies, would that have any bearing, you think, on that
5 person's willingness to be forthright, willingness to tell
6 the truth? Would that enter into your-- As another
7 thing, would that enter into it?

8 A. I could say yes, as an assumption, yeah.

9 Q. Like that's-- It's one of them. I'm not saying it's the
10 only thing, but it's one thing that you might consider in
11 determining a person's-- whether or not a person's
12 telling you, as a juror, the truth?

13 A. Yeah.

14 Q. It's one of a number of things. How about just their
15 look, their general demeanor? Is that something you might
16 look at?

17 A. Well, I've seen a lot of different-looking people in my
18 lifetime.

19 Q. _____ physical.

20 A. I think demeanor is--

21 Q. Demeanor, that's what I meant.

22 A. --a part of it. Yes.

23 Q. I don't mean like their-- Everybody looks different. I
24 don't expect that that has any bearing on it truthfulness,
25 but I mean demeanor. That you, as a person, over the

Juror No. 3 (Mr. West) - Examination by Mr. Simeone 357.

1 course of your lifetime, that's one of the ways you
2 appreciate whether or not a person's being straightforward
3 with you.

4 A. Yeah, that and good-- good honest eye contact, I think.

5 Q. Yeah, right.

6 A. Is a part of it.

7 Q. Sure. A lot of different ways. We all have our own
8 system, I think. Do you have any problem with the length
9 of the trial? Our best estimate was that it might be
10 Wednesday, but that would be in addition to your delibera-
11 tion as a juror. Does that barge in on your schedule at
12 all, your life in any unreasonable way?

13 THE COURT: You mentioned the Lewiston meeting.

14 MR. WEST: Yes.

15 THE COURT: What kind of an appointment was that?

16 MR. WEST: Well, we have an annual thing every year for
17 24 of us from the Western United States get together and
18 do a golf tournament in Lewiston. We all throw \$500
19 apiece into a hat, and--

20 THE COURT: Have you put your \$500 in yet?

21 MR. WEST: Yes. Unfortunately.

22 THE COURT: Okay.

23 MR. WEST: That's what my--

24 THE COURT: Yeah.

25 MR. WEST: That's what my thing is, and also it's a

1 good opportunity for me to go and spend three or four days
2 with my aunt and uncle that live there.

3 THE COURT: And other friends.

4 MR. WEST: Yeah.

5 MR. SIMEONE: All right, well, if it's something that's
6 unreasonable for us to do to you, then that's one thing,
7 but if there's some way you can adjust your schedule,
8 that's another. So which side of that equation do you
9 think we're on?

10 THE COURT: It sounds like you can't change the
11 tournament.

12 MR. WEST: No, I can't do that.

13 THE COURT: You know, I think we'd probably excuse Mr.
14 West on that basis, on the theory that it may be somewhat
15 distracting to you to have to worry about losing your \$500
16 versus getting an early verdict. So I think I'm going to
17 go ahead and take the bull by the horns, counsel--

18 MR. SIMEONE: I understand that, your Honor. Thank
19 you.

20 THE COURT: --and excuse Mr. West so that he doesn't
21 have his \$500 on the line while he's deliberating.

22 MR. WETLE: Well, if I may ask, can you get your \$500
23 back?

24 THE COURT: Oh, that's an idea, yeah.

25 MR. WEST: Well, I suppose I could.

Juror No. 3 (Mr. West) - Examination by Mr. Simeone 359.

1 MR. WETLE: I mean if you got called to jury duty and
2 you didn't make it, I would hate to just say you're
3 dismissed if that's not an issue.

4 THE COURT: Yeah. Is there a phone call you could make
5 to determine whether you could get it back? Some time
6 this afternoon?

7 MR. WEST: Yeah, I could-- I could do that.

8 THE COURT: Okay, great. So why don't you go ahead and
9 finish out your--

10 Q. Well, beyond that, is it-- Is it anything that you think
11 is going to distract you if we keep you away from that?

12 A. No.

13 Q. Would you rather not, just because of the meeting that's
14 scheduled?

15 A. Well, I work for the County Road Department, so I've been
16 getting up at 4:00 o'clock every morning for the last 25
17 years, so it doesn't make too much difference. I-- I
18 have been relatively stressed out this winter working
19 every weekend for the last three months, so I was kind of
20 looking forward to this little break, but--

21 Q. Okay, okay.

22 A. Whatever.

23 Q. Now, suppose you've gone through some deliberation here
24 after the trial, and you've thought about the evidence,
25 you and your fellow jurors have discussed it, you've

Juror No. 3 (Mr. West) - Examination by Mr. Simeone 360.

1 listened to their point of view, they've listened to
2 yours, and in your attempt to try to reach a verdict, you
3 have, which is what you're supposed to do, but even after
4 considering everybody else's position, you have an opinion
5 that's different from somebody else's, what do you do?

6 A. As far as that group of people?

7 Q. No, just so far as yourself. I mean you've got-- You've
8 listened, you've thought, you've reconsidered, listened to
9 other people's points of view, and you've got-- you're in
10 a situation where your opinion's different from somebody
11 else's, what do you do then?

12 A. Well, I don't know. A man convinced against his will, is
13 that the same opinion still? I don't know. All I can do
14 is express my opinion. I mean everyone has one.

15 Q. Right.

16 A. And go from there.

17 Q. Well, would you-- Would you surrender your honest opinion
18 if it just meant complying with somebody else's wishes?

19 A. No.

20 Q. Okay. Anything else about your life or outside in the
21 real world that might affect your ability to sit and
22 listen to the very important subject matter before us?

23 A. Not that-- No.

24 Q. Okay.

25 A. I don't think so.

1 MR. SIMEONE: Fine, then. Thank you, sir. I will
2 pass for cause.

3 THE COURT: All right, now, Mr. West, what I'll ask you
4 to do, and I'll give the bailiff-- I'll ask the bailiff
5 to come back out after he gets Number 4 in here to
6 testify, or to talk to us, but if you could go into the
7 Court Administrator's office and maybe make a few phone
8 calls and see whether or not you can get your \$500 fee
9 back from your tournament, if you're selected for jury
10 duty, so we'll have the answer to that question when we
11 ask you next. And it may take-- I don't know if it may
12 take until tomorrow morning to get that answer, but if you
13 thought you could do it with a couple of phone calls..

14 MR. WEST: Yeah, they'll have to be long distance.

15 THE COURT: That's fine. That's fine. You can use the
16 Court Administrator's phone. Okay?

17 So we'll have the bailiff then have Mr. West escorted
18 in to the Court Administrator after you get us Number 4,
19 please.

20 JUROR NUMBER 3 IS ESCORTED OUT OF THE COURTROOM

21 JUROR NUMBER 4 IS ESCORTED INTO THE COURTROOM

22 THE COURT: If you want to step up this way, sir. We
23 have a microphone handy here on the witness chair, so
24 we'll have you sit here.

25 I had just one preliminary question, Mr. Hood, is it?

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MR. HOOD: Yes.

THE COURT: There was a gentleman sitting out on the bench in the area where the jurors checked in this morning, and some people observed that there was a little bit of conversation going on with a few prospective jurors and the gentleman. Did you happen to notice that gentleman and talk to him?

MR. HOOD: (No audible response)

THE COURT: No?

MR. HOOD: Somebody was talking to the jurors?

THE COURT: Well, no. I think there was just some idle-- we assume that it was just idle conversation. The gentleman happened to be a witness in the case that was waiting in attendance, so you didn't notice him?

MR. HOOD: (No audible response)

THE COURT: All right, thank you. And Mr. Wetle will have some questions for you.

MR. WETLE: Thank you, your Honor.

1 MR. HOOD

2 EXAMINATION BY MR. WETLE

3 Q. Mr. Hood, you've never been a juror before?

4 A. No.

5 Q. Before you got your summons and letter to come to court to
6 be a juror in this particular case, did you have any
7 attitudes about serving as a juror?

8 A. No.

9 Q. Was it something you ever wanted to do or something you
10 never wanted to do?

11 A. Oh, it doesn't make any difference one way or the other.
12 I'm retired, so I don't-- just don't have a lot to do.
13 I figured I'd come down.

14 Q. Great. So, I mean, since you've never been called, some
15 people say oh, boy, you know, I just can't figure out why
16 I never get called; I've always wanted to do that. And
17 I'm just wondering if you've kind of been a person who
18 said no, I've got other things going, or no, it's some-
19 thing I've always kind of wanted to do. What was your
20 perspective before you got here today?

21 A. Oh, I just-- I think I was called once years ago, but I
22 did work for the military so I wasn't available. But I
23 just didn't much have an opinion one way or the other.

24 Q. Okay. You mentioned that you have heard of this case.

25 A. Just what I read in the paper.

1 Q. Okay, is that the *Spokesman-Review* or the local paper?
2 A. Yes, the local--
3 Q. I guess there were some articles--
4 A. No, it was probably-- We get the Saturday and Sunday
5 paper. It was probably one of the Spokane papers.
6 Q. Okay, do you have any recollection of what you remember
7 from the newspaper articles?
8 A. Two-- What I recollect was two people were murdered
9 during some drug deal, and were shot and burned in a car.
10 It was during that barter fair up at Kettle.
11 Q. Okay. Do you think that as a juror you could put aside
12 your information that you got and say, you know what, I'm
13 now here, I'm going to listen to what the witnesses have
14 to say, I will base this-- my decision and my discussions
15 on what I hear solely from the witness stand?
16 A. I think I could, yes.
17 Q. Have you ever had to judge another person?
18 A. No.
19 Q. Think you could do it in a murder trial like this?
20 A. I think so.
21 Q. You think you'd be able to follow the instructions of the
22 court? You know, sometimes there's some debate about, you
23 know, whether or not to follow them or not, discussion in
24 the community, and I just want to make sure that you're
25 comfortable or at ease with saying, you know, that--

1 A. I think I could, yes.

2 Q. --I'm going to follow what the judge gives us.

3 A. I think I could be fair.

4 Q. Have you ever-- Do you own and shoot firearms?

5 A. Yes, I do.

6 Q. Do you have a .22?

7 A. Yes.

8 Q. And what type of action is it?

9 A. I have some-- I've got an automatic and a revolver .22,

10 and plus a semi-auto rifle.

11 Q. A semi-automatic .22?

12 A. Yes.

13 Q. So you know how that operates?

14 A. Yes.

15 Q. How many bullets does that hold?

16 A. Ten.

17 Q. There'll be autopsy photos and dental odontologist's

18 testimony putting together pieces of bone that were

19 recovered at the scene. Have any problem viewing that

20 and--

21 A. No, I'm a Vietnam vet. That doesn't bother me.

22 Q. A few skeletal remains are okay. Okay with skeletal

23 remains. Have you ever been to the Northport Barter Fair?

24 A. Yes, I did go up there.

25 Q. And how long ago was that?

1 A. That was-- Must have been around July.
2 Q. Of this year?
3 A. Yeah.
4 Q. I'm sorry. Of last year, I mean. Two thousand.
5 A. Yeah.
6 Q. Had you-- Had you ever gone to one of those prior to
7 that time?
8 A. No. No, I hadn't.
9 Q. Form any impressions from your visit to the barter fair?
10 What you expected?
11 A. No. It looked like a bunch of hippies out of the sixties
12 selling beads and incense. That's what I-- my impres-
13 sion.
14 Q. Okay, were you there during the day time or the night
15 time?
16 A. Day time.
17 Q. What have you heard about the barter fair?
18 A. Oh, just my neighbor. He liked to go to those so I went
19 up there with him. Just-- Just looking for bargains.
20 Q. Have you been to any other hempfests or barter fairs in
21 other areas besides that one at Northport?
22 A. No.
23 Q. Have you ever heard of organizations called Families
24 associated with the barter fairs, or--
25 A. No, I haven't.

- 1 Q. --present at the barter fairs? Has a member of your
2 family or a close friend ever been charged with a felony?
3 Charged with over a year that could be hap-- would happen
4 in this courtroom?
- 5 A. No.
- 6 Q. And have any close friends or family ever been convicted
7 of a felony?
- 8 A. I have a nephew, but-- by marriage, that was convicted of
9 murder.
- 10 Q. And how long ago was that?
- 11 A. Eight years.
- 12 Q. Okay, and was that in this area or some other part of the
13 country?
- 14 A. No, that was in-- Must have been Pierce County.
- 15 Q. Is there-- Were you aware of the circumstances of that,
16 or did you follow that closely?
- 17 A. I just know from relatives he was-- He murdered his wife
18 is what he did.
- 19 Q. And did that go to trial?
- 20 A. Yes, it did.
- 21 Q. And from your perspective, having had a relative involved
22 in a similar situation, would that taint you in any way in
23 terms of sitting in judgment in this particular case?
- 24 A. No.
- 25 Q. If you were to hear testimony of co-defendants, people

1 that were allegedly with the defendant in this case, and
2 they had some consistent statements and some inconsistent
3 statements, would you be able to weigh their consistent
4 statements and their inconsistent statements and decide
5 which ones to rely on and which ones to not rely on in
6 your juror work?

7 A. I think I could, yes.

8 Q. If one of the victim-- or witnesses had a prior criminal
9 conviction, do you think that you could put that past
10 mistake in its proper perspective and listen to that
11 individual's testimony in terms of what happened on this
12 particular occasion?

13 A. I guess that'd depend what the prior conviction was for.

14 Q. Exactly, and that will come out later, but if-- assuming
15 that there's a prior conviction in the past, you'd say
16 that you'd have-- you'd look and see what type it was to
17 help you decide how to classify it?

18 A. If it was related or--

19 Q. Okay, that's fair. Do you think that there's a place for
20 the State making a recommendation of a lesser sentence if
21 a person agrees to testify at trial in terms of what
22 happened at the event?

23 A. Say that again?

24 Q. You think there's a place in the system, or how do you
25 feel about the fact that the State may recommend a lesser

1 sentence, not necessarily saying they would get a lesser
2 sentence, but the State would recommend a lesser sentence,
3 if they cooperate and testify at the trial? How do you
4 feel about that?

5 A. Well, if-- If this person was lesser-involved in a crime
6 and is testifying against some-- if they gave him a
7 break, I guess that would be acceptable.

8 Q. So there'd be some circumstances when you could see that
9 being done?

10 A. Yes.

11 Q. But you'd evaluate what the circumstances--

12 A. Yes.

13 Q. As a juror, would you follow the court's instruction when
14 you meet with your fellow jurors to work toward reaching
15 a fair verdict in this matter?

16 A. Yes.

17 MR. WETLE: Thank you very much, Mr. Hood. I have no
18 further questions, your Honor.

19 THE COURT: All right, Mr. Simeone?

20 MR. SIMEONE: Thank you, your Honor.

1 MR. HOOD

2 EXAMINATION BY MR. SIMEONE

3 Q. Good afternoon, Mr. Hood.

4 A. Afternoon.

5 Q. How are you?

6 A. Pretty good.

7 Q. Okay. Thank you for your answers so far and your coopera-
8 tion. I want to go back to your response to Judge
9 Baker's general question that you had heard of the case,
10 and you have heard of the incident, anyway. And I wanted
11 to know whether you had any other particulars that you had
12 heard about it, besides what you just said.

13 A. The only thing I know is what I read in the paper. It
14 just--

15 Q. And that's-- You summarized that before.

16 A. Uh-huh.

17 Q. And again, if you would, that was?

18 A. There was something about a drug deal. Somebody thought
19 somebody else was a snitch or working for the narks, or
20 was a nark, or something like that, and so they were both
21 shot and they had found both-- they found both in a car
22 that was burned up or something.

23 Q. And no other names or anything in--

24 A. No, I don't remember any names.

25 Q. Is that what you believe happened now, based upon what you

Juror No. 4 (Mr. Hood) - Examination by Mr. Simeone 371.

1 have heard or read?

2 A. That's just-- All I know is that's what I read.

3 Q. Okay. You haven't formed actually any kind--

4 A. No.

5 Q. --of impression as to the truth or the falsity of that so

6 far?

7 A. No, it's--

8 Q. Another news story?

9 A. It's another--

10 Q. Okay.

11 A. It's probably far from the truth. It's whatever the

12 newspapers print.

13 Q. I understand. Now, Mr. Grange is charged with a murder.

14 It's obviously a serious crime. Does that in itself cause

15 you any internal uneasiness about listening to it or

16 deliberating?

17 A. I don't think so.

18 Q. Okay. Do you agree that as-- or do you agree with your

19 system of justice in the concept of proof beyond a

20 reasonable doubt?

21 A. Yes, I do.

22 Q. Okay, so hand in hand with that is do you believe that as

23 Mr. Grange sits here right now he's not guilty of the

24 crime?

25 A. Law says he's innocent until proven guilty.

1 Q. Okay, and you can go-- you can follow-- But, you know,
2 it's common, I think, for us as human beings to feel a
3 certain suspicion as a result of the fact that there's a
4 charge, and I certainly couldn't hold that against a
5 person if another individual is charged. Would you agree
6 there's a difference between a suspicion and a belief that
7 something happened? You know, you suspect something
8 happens in one instance, but then you really believe it in
9 another-- on the other hand?

10 A. Well, I--

11 Q. Do you agree--

12 A. Well, I suspect there's a good reason for him-- for the
13 police bringing him here in the first place.

14 Q. Yeah.

15 A. So it's-- So there's suspicion right there. I mean it--

16 Q. And how about belief in what he's charged with?

17 A. Well, I'd have to see evidence to prove it.

18 Q. That's-- that was the word I was looking for. That would
19 be evidence. The proof. That's what gets you from the
20 one to the other?

21 A. Uh-huh.

22 Q. That's the transmission, isn't it?

23 A. Yes.

24 Q. Okay. Mr. Wetle brought up that some witnesses that he
25 might have might have received a-- a lesser punishment

1 for a crime that they committed. He asked you whether or
2 not that has any bearing on your feeling about them, or if
3 you agree with that kind of a thing going on. Other
4 witnesses have said-- other jurors have said that, you
5 know, we understand that's what goes on in our system
6 these days. But do you think that that might have a
7 bearing on the way a person might testify?

8 A. Are you saying he-- he might testify-- I don't understand
9 the question.

10 Q. I'm wondering, might that have a bearing on the way a
11 person testifies if he knows he's getting a favorable
12 treatment if he testifies?

13 A. I think the truth will come out more if he knows he's
14 going to get a break. Well, I'm not sure.

15 Q. Not sure. Kind of can go one way or the other?

16 A. (No audible response)

17 Q. Okay. Were there any other things you look at to deter-
18 mine whether or not a person's telling you the truth? I
19 mean as we walk around in this world, what's your system
20 of judgment? How do you go about determining whether or
21 not somebody's telling you the truth? How about consis-
22 tency of stories? Is that important to you?

23 A. That's one thing.

24 Q. How about demeanor? You know, facial expression, that
25 kind of thing? That's important?

1 A. Well it's hard to say. I don't-- I don't-- I wouldn't
2 say their expression would be-- tell you they're guilty
3 or not. I mean it's just-- It's probably something you
4 take into consideration, but I don't--

5 Q. It's another thing we consider, isn't it?

6 A. Probably.

7 Q. Okay. Whether or not they've been convicted of a crime of
8 dishonesty? Would that have any bearing on your ability
9 to appreciate their story, or see whether or not they're
10 telling the truth now?

11 A. I'm sure a dishonest person is dishonest in everything he
12 does.

13 Q. It's kind of one of the things. It's not the only thing,
14 but it's one of the things that you use in your system.
15 We all have our own system. Okay, any other things about
16 your life that might distract you from paying attention to
17 this very important business?

18 A. I don't think so.

19 MR. SIMEONE: Then I've got no further questions.
20 Thank you very much.

21 THE COURT: All right, thank you. You're passing for
22 cause, then, Mr.--

23 MR. SIMEONE: Pass for cause, your Honor.

24 THE COURT: All right, Mr. Hood, thank you very much.
25 We'll have the bailiff escort you to the next spot, and

1 you may step down. Thank you.

2 THE COURT: And we'll have Juror Number 5.

3 JUROR NUMBER 4 IS ESCORTED OUT

4 JUROR NUMBER 5 IS ESCORTED IN

5 THE COURT: There you go, Mr. Abrahamson. We'll have
6 you take a seat here. Mr. Abrahamson, you're still under
7 oath from our previous time through this morning, and we
8 have some other questions for you.

9 Before I forget it, I'm going to mention you not to
10 tell any of the other jurors any of the content of the
11 question and answers when you go back in there. Of
12 course, that kind of goes with the general discussion--
13 not to discuss the case, but I keep forgetting to tell
14 people as they leave, so I'll try to remember at the
15 beginning.

16 The one question I had for you before we turn it over
17 to the attorneys, there was a gentleman sitting on a bench
18 out here by the jury check-in spot this morning, and a
19 couple of people noticed a few jurors were chatting with
20 him. He turns out to be a-- going to be a witness in the
21 case. He just was showing up in response to his being
22 asked to be here. I don't think it was anything inten-
23 tional, but we need to know if anybody has spoken to any
24 of the jurors about the case. So do you remember talking
25 to anybody in that vicinity this morning?

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MR. ABRAHAMSON: No, I didn't talk to nobody.

THE COURT: Okay. All right, thank you, sir. Mr. Wetle?

MR. WETLE: Thank you, your Honor.

1 MR. ABRAHAMSON

2 EXAMINATION BY MR. WETLE

3 Q. Good afternoon, Mr. Abrahamson. What I-- I think before
4 I get into any other discussion, I notice that you had
5 written a letter to the court.

6 A. Yes.

7 Q. And the court-- The letter discussed some of your
8 feelings about being a juror.

9 A. Yes.

10 Q. And so I think what I want to do is go right to that and
11 let's talk about it. You basically, I take it, do not
12 want to be a juror, is the gist I got from the letter.

13 A. Yes.

14 Q. And some people don't.

15 A. Yes.

16 Q. Some people say-- My mother, she did not want to be a
17 juror, and that's just the way they are. So that's
18 understandable. And then the next question is if you are
19 still, you know, asked to be and required to be a juror,
20 whether or not there's, besides just wanting, there's some
21 other issue. And the issue that you bring up is that you
22 really wouldn't have your own mind about what was going
23 on. You would be-- go with the flow, just to get it over
24 with. Is that-- I don't want to put words in your
25 mouth. I want to hear--

Juror No. 4 (Mr. Abrahamson) - Examination by Mr. Wetle 378.

1 A. No, that's--
2 Q. --kind of what you feel about it.
3 A. Yes.
4 Q. Have you ever been a juror before?
5 A. No, I never have.
6 Q. And so you don't think you'd enjoy hearing the testimony
7 and making decisions about, you know, what actually
8 happened?
9 A. Well, I probably would.
10 Q. It might be kind of interesting to--
11 A. Yes, it would be.
12 Q. --go through that?
13 A. Yes, it would be.
14 Q. Would you say that you've changed your mind a little bit,
15 or-- from the request to get off being a juror, or--
16 A. Well, yes. I was kind of busy at the time. I just was
17 trying to, you know, making an excuse, you know, to--
18 Q. To not be here.
19 A. Right.
20 Q. Let's see, what can I say. Okay, well that's exactly
21 what I want to talk about, and if you're willing to give
22 it a good shot, then we'll go through it and talk about,
23 you know, _____. So you're--
24 A. Yes, I'm willing to give it a shot.
25 Q. Okay. Let me-- Let's see. I see that you are-- You do

Juror No. 4 (Mr. Abrahamson) - Examination by Mr. Wetle 379.

1 have some familiarity with the case?

2 A. Yes.

3 Q. And could you tell us basically what you remember hearing
4 about it?

5 A. Oh, I just read it in the newspaper, and I don't know if
6 this was the same case, because I was working that night
7 down in Ford, where I'm a security guard, and somebody
8 tried to get into my car and I lost my car keys, and they
9 said this same guy went down the road, stole a car and
10 they caught him in Spokane. But--

11 Q. So then--

12 A. I was out working at Little Chief's Casino--

13 Q. Right.

14 A. --and had my keys outside underneath the seat of my car,
15 and I went out there that morning, I didn't have no keys.
16 And that's the only set of keys I had.

17 Q. So you're-- That's not a good hiding place.

18 A. No, it's not a good hiding place.

19 Q. Okay, and so that was tied in to what you read about the--

20 A. Yes.

21 Q. --the murders up there at the barter fair?

22 A. Yes.

23 Q. Okay. I guess the point is that as a juror, you need to
24 disregard everything that you heard or read out there
25 prior to the trial. Just disregard it and say okay, I'm

Juror No. 4 (Mr. Abrahamson) - Examination by Mr. Wetle 380.

1 going to base it on what I-- what I hear in the court-
2 room, which will be substantially more than was out in the
3 newspaper.

4 A. Uh-huh.

5 Q. And hopefully a little more accurate. Do you think you
6 could put that newspaper stuff aside and base your
7 judgment just on what you hear here in the courtroom?

8 A. Yes, I could.

9 Q. Let's see. Do you-- The court's going to give you a big
10 packet of instructions at the end of the case that tells
11 you what law applies to those facts. Do you think you
12 will be able to work with the other jurors and go through
13 and apply that law that the judge gives you to the facts,
14 or do you have a problem with saying I'm not going to take
15 the law of the judge, I'm going to do my own thing? What
16 would your-- Have any feelings on that?

17 A. Well, I'd try to go by it.

18 Q. You'd try to go by the law-- by the judge's law?

19 A. I'd try to go by her law.

20 Q. Have you had any exposure to that before, Mr. Abrahamson,
21 where-- Because there's a lot-- Sometimes, depending on
22 where you are in the County, there's some talk about, you
23 know, I'm not going to-- Our deal is we don't-- we won't
24 follow the court's law. There's some people out there
25 that just don't want to do it, and they-- they tell other

Juror No. 4 (Mr. Abrahamson) - Examination by Mr. Wetle 381.

1 people not to do that, and I say okay, let's be up front
2 about it here, and if that's the philosophy, then we'll
3 deal with it. If it's-- If you have a philosophical bent
4 along those lines, then we talk it; if not, and you
5 understand that there's a purpose for those rules the
6 judge gives the jurors to have a guideline for them to
7 follow, then would you be able to follow those-- that
8 guideline?

9 A. Well, ____ go by what the judge says. Don't want to make
10 her mad.

11 Q. That's a good idea. That's a very good idea. Let's see.
12 Do you realize that sometimes we get into these type
13 situations and we get a murder and we need to call people
14 as witnesses who, you know, were at the-- they witnessed
15 it or they were present or they know something about it.
16 And if they're from a different walk of life and don't
17 maybe have the same beliefs or standards that you have,
18 would you still be able to listen to what they have to say
19 in terms of this case and making your decision?

20 A. Yes.

21 Q. Without stereotyping or shutting that down because they
22 didn't-- they're from a different generation or a
23 different attitude?

24 A. No, I don't.

25 Q. Do you have firearms?

Juror No. 4 (Mr. Abrahamson) - Examination by Mr. Wetle 382.

1 A. No, I never-- Don't even have one up at my house.

2 Q. Have you ever shot a .22?

3 A. Yes.

4 Q. Have you ever shot a semi-automatic .22?

5 A. Yes.

6 Q. So you know how it operates?

7 A. Yes.

8 Q. Have you ever been to the Northport barter fair?

9 A. No.

10 Q. Have you ever been to a barter fair or hempfest, period?

11 A. No.

12 Q. If selected, would you be willing to go ahead and be a
13 juror now?

14 A. Well, I don't know. I work seven days a week when I work
15 that--

16 THE COURT: Do you work nights or something?

17 MR. ABRAHAMSON: Yes, I work nights. I work from 7:00
18 to 5:00.

19 THE COURT: Okay.

20 MR. ABRAHAMSON: And I work at the--

21 THE COURT: Did you talk to your employer about taking
22 some time off since you have jury duty, if you are
23 selected, so that you'll be able to stay awake during the
24 testimony?

25 MR. ABRAHAMSON: Yes, I could probably get some time

Juror No. 4 (Mr. Abrahamson) - Examination by Mr. Wetle 383.

1 off. She's my aunt that owns it, so--

2 THE COURT: Okay. Where is Little Chief's Casino?

3 MR. ABRAHAMSON: It's located in Ford.

4 THE COURT: Located in Ford.

5 MR. ABRAHAMSON: Yes.

6 THE COURT: All right. Counsel, is there any-- any
7 indication that this case is any way connected with some
8 disappearance of a car in front of the casino parking lot?

9 MR. WETLE: (No audible response)

10 THE COURT: No. Must be a different matter then, is
11 what you're saying?

12 MR. WETLE: Yes.

13 THE COURT: So apparently there's no connection to this
14 case.

15 MR. ABRAHAMSON: Oh.

16 THE COURT: So, Mr. Wetle, anything--

17 Q. So, Mr. Abrahamson, the judge raises a good point in terms
18 of if you're working nights and coming in here to try to
19 listen to us, you know, during the day time, that could be
20 a little tedious. Do you think that you'd be trying to do
21 both jobs, or would you just say no, if I'm going to be a
22 juror I'm not going to be working nights?

23 A. Well, they kinda got it set up now at the Little Chief's
24 Casino where they-- I'm just permanent nights for
25 security for their drops, and then they have audit on

Juror No. 4 (Mr. Abrahamson) - Examination by Mr. Wetle 384.

1 Tuesday nights, and I usually got to be there for--
2 Because I got to initial everything they do. And I'm the
3 only one that's on nights 'cause I volunteered for seven
4 days a night (sic) all year long.

5 Q. So you really would be doing two jobs then--

6 A. Yes.

7 Q. --during the course of the trial.

8 MR. WETLE: Well, your Honor, that-- that by itself
9 is-- concerns me, just to be able to do that kind of--
10 those kind of hours.

11 THE COURT: Okay, what kind of hours are we talking
12 about?

13 MR. ABRAHAMSON: Well, I was working from 7:00 till
14 5:00, but I could go from 7:00 to 3:00 until the casino
15 closed, 'cause I gotta be there when they fill the
16 machines or--

17 THE COURT: Seven P.M. to 5:00 A.M.?

18 MR. ABRAHAMSON: Yes.

19 THE COURT: Or 7:00 P.M. to 3:00 A.M. Okay, and you
20 couldn't-- Well, I'm sure you could, but what kind of
21 hardship would it be on you to take off some time so you
22 could get a full night's sleep?

23 MR. ABRAHAMSON: Well, see, on the pay scale, the wage
24 scale is \$7, and when I work the overtime I get paid \$10.

25 That makes quite a bit of difference in my check, getting

Juror No. 4 (Mr. Abrahamson) - Examination by Mr. Wetle 385.

1 paid every two weeks instead of just a 300, \$400 check,
2 then I get a bigger amount of--

3 THE COURT: So you're talking about a major reduction
4 in your--

5 MR. ABRAHAMSON: Yes, it would be a major reduction on
6 my--

7 THE COURT: In your income. But I guess that comes,
8 sometimes, with jury duty. But that would be quite a
9 hardship for you then for that period of time?

10 MR. ABRAHAMSON: Yes.

11 THE COURT: We're talking about five or six or seven
12 days. All right, so you're suggesting he being excused
13 for cause, Mr. Wetle?

14 MR. WETLE: That's correct, your Honor. As much as--

15 THE COURT: Okay. All right, Mr. Simeone, any thoughts
16 on that?

17 MR. SIMEONE: I'm not going to resist.

18 THE COURT: Okay, Mr. Abrahamson, I'm going to go ahead
19 and excuse you on this occasion, and probably expect you
20 to come back-- Well, actually, we do expect you to come
21 back for the expected one or two day trial that we're
22 going to have on the 26th, 27th or 28th. And so if you'll
23 call in on the night of the 25th of February, then you can
24 go ahead and be excused now, and we'll see you possibly
25 that week.

Juror No. 4 (Mr. Abrahamson) - Examination by Mr. Wetle 386.

1 MR. ABRAHAMSON: Okay.

2 THE COURT: Okay, thank you very much.

3 MR. ABRAHAMSON IS ESCORTED OUT

4 THE COURT: Counsel, let me just talk about letting
5 Jurors 1 through 4 go ahead on home. This is a little
6 bit tedious. It's going to go on forever, I gather. Is
7 there some way that we can do this a little more effi-
8 ciently? Bring them in in groups or something?

9 MR. SIMEONE: I don't think so, your Honor. I mean to
10 me, if there's going to be anything--

11 COURT REQUESTS DOOR TO BE CLOSED

12 MR. SIMEONE: I hate that it's tedious, but I think the
13 only difference is that they are sitting here present or
14 that--

15 THE COURT: Well, sometimes it means that you don't
16 have to repeat certain questions, you can say: Well, did
17 you hear my question about the reasonable doubt; any
18 comments on that?

19 MR. SIMEONE: I just don't think the streamlining is
20 really going to be that much-- much of a gain for us.

21 THE COURT: You agree, Mr. Wetle?

22 MR. WETLE: Boy, I think we've started, I think we--
23 At least for our first-- Well, we're on what, Juror
24 Number 6?

25 THE COURT: Yeah.

1 MR. WETLE: We've got five, 'cause we got one dis-
2 missed.

3 THE COURT: We're going to be one-seventh of the way
4 through with Juror Number 7. So seven times seven being
5 49 people.

6 MR. WETLE: But we're only going to go--

7 MR. SIMEONE: Well, not necessarily, your Honor. I
8 mean--

9 MR. WETLE: We're only going to go to 25 or so.

10 MR. SIMEONE: Aren't we going to Number 12 and then
11 deciding whether or not we have peremptories?

12 THE COURT: Oh. Well, don't you want to exercise your
13 peremptories at some point?

14 MR. SIMEONE: Well, that's what I mean. After the--

15 THE COURT: Okay. Well, that's true.

16 MR. SIMEONE: So it'd be the same as if we had 12
17 people seated in the courtroom right now in the jury box.

18 THE COURT: I see. Okay, I see what you mean.

19 MR. WETLE: I thought we'd get to 12 and start striking
20 and we just--

21 THE COURT: Sure.

22 MR. WETLE: --keep moving down the list.

23 MR. SIMEONE: I never expected to go through 50 jurors.

24 THE COURT: Good point. Excellent. Much better way.
25 Okay, it's not near as bad of a thought.

1 THE COURT: All right, Number 6.

2 MR. WETLE: As 50.

3 THE COURT: Yeah, I was thinking--

4 JUROR NUMBER 6 IS ESCORTED IN

5 THE COURT: Ms. Bassett, have a seat here. We still
6 have you under oath from before, and before I forget, I'm
7 going to ask you to make sure you don't talk about the
8 questioning and the answers and whatnot to any of the
9 other jurors or to anyone else, of course. This is part
10 of your instruction not to discuss the case, because some
11 of the questions that come out or your answers might be of
12 some-- might have an effect on the rest of the jury
13 panel.

14 Additionally, I had a question about when you checked
15 in this morning, did you check in up in this area by the
16 Clerk's office, do you recall? Do you remember the
17 geography?

18 MS. BASSETT: It was in a corner.

19 THE COURT: Okay, I think it was probably this corner,
20 but I'm not sure.

21 MS. BASSETT: That's probably correct.

22 THE COURT: Okay. There was apparently a gentleman
23 sitting on a bench that was a witness, and unbeknownst to
24 us, he was chatting with a few of the jurors. Turns out
25 he was a witness. He didn't know any better, apparently,

1 but we wanted to make sure that nothing of consequence was
2 discussed if anybody talked to him, and so I wondered if
3 you noticed anybody sitting on the bench or talking to
4 anyone?

5 MS. BASSETT: I was just in line, and then right when
6 I was done they walked us--

7 THE COURT: They shepherded you across the street.
8 Okay, thank you. Mr. Wetle has some questions for you
9 first.

10 MR. WETLE: Thank you, your Honor.
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1 MS. BASSETT

2 EXAMINATION BY MR. WETLE

3 Q. Good afternoon, Ms. Bassett. You have never served as a
4 juror?

5 A. No.

6 Q. Before you got your packet, the letter, the summons, the
7 questionnaire, what was your attitude about being a juror?

8 A. That it would just take me out of my classroom.

9 Q. So for all these years, you realized that if you ever got
10 to be a juror, you're going to be out of the classroom?

11 A. Right.

12 Q. Was it something that you kind of wanted to do, something
13 that you dreaded doing, or was it just strictly it's time
14 way from my job?

15 A. Basically that it's just time away from my job.

16 Q. Okay.

17 ADJUSTMENTS TO MICROPHONE

18 Q. So you know that this trial is probably going to go till
19 Wednesday, possibly Thursday of next week?

20 A. Yes.

21 Q. And so what type of impact does that do to you, your
22 class, and the school?

23 A. Well, I'm very organized. My lesson plans would be fine.
24 However, I do--

25 JUROR IS ASKED TO SPEAK UP.

Juror No. 6 (Ms. Bassett) - Examination by Mr. Wetle 391.

1 A. My lesson plans are organized, but I understand it's a
2 hardship on the District as far as there aren't enough
3 subs for all the things going on. I have a sub today, so
4 I couldn't speak for the next three days, four days.

5 Q. Okay, so what happens if you get picked to be the juror?
6 I mean will they make do, will they get by?

7 A. I think they will. I don't know. We just usually call in
8 and if there's-- As an example, there were two people
9 sick in our building last week, and two other teachers
10 were in meetings, and they had those teachers report back
11 to class and took those subs and put them in the other--
12 in the sick teachers' rooms.

13 Q. I see. I guess the point is as a juror, just like in your
14 job, you would be required to probably give it your full,
15 undivided attention.

16 A. Uh-huh.

17 Q. And knowing that you're going to have to be here working,
18 can you-- Can you do that?

19 A. Sure.

20 Q. Knowing the other pressures back at the school?

21 A. Sure.

22 Q. Okay. You mentioned that you have heard of this case.

23 A. I believe that I read it as a headline in the newspaper,
24 but I-- I'm not sure, so I raised my card that I think I
25 might have heard it, but I don't recall any details more

1 than that.

2 Q. Well, that would be the next question. To what extent do
3 you remember what you read or heard?

4 A. I think I just glanced at it and went to the sports
5 section, looking for the basketball results, was all.

6 Q. Okay.

7 A. I'm sorry I don't know more.

8 Q. So no particular details?

9 A. No.

10 Q. And you understand that you would just base your decision
11 on what you hear in the-- from the witness box--

12 A. Yes.

13 Q. --not from any outside sources?

14 A. Yes.

15 Q. You also mentioned when they asked if you knew me and you
16 said yes, and I would ask you similar to what the judge
17 asked you, whether that relationship would affect you
18 being a juror in this case so that if you would decide the
19 case one way or the other, you wouldn't have a problem
20 dealing with me afterwards, no matter what you did?

21 A. No.

22 Q. How do you feel about being a juror sitting in judgment on
23 someone else?

24 A. I-- I don't know exactly what you mean. How I feel
25 about it?

1 Q. Uh-huh. Can you do it?

2 A. Oh, yes. I thought you meant something else. It's-- I
3 think you need to do what you need to do, and part of my
4 civic duty, if this is what I need to do, I'll do it.

5 Q. You would work with the other jurors to reach a fair
6 decision in the case?

7 A. Yes.

8 Q. Don't have any problems following the instructions that
9 the court would give?

10 A. No.

11 Q. If there were three people involved, and the State agreed
12 to recommend a lower sentence for one or two of the
13 individuals involved to get their testimony in respect to
14 the third person, do you have any feelings about whether
15 that's a good idea or a bad idea?

16 A. No, I don't have a feeling on that. I'd probably do
17 whatever the court instructed me to do as far as the
18 judge's orders.

19 Q. No-- Any just that's a bad thing to do or that's an okay
20 thing to do or--

21 A. No.

22 Q. All right. Sometimes we have witnesses who witness crimes
23 and they are from different walks of life, and they have
24 different lifestyles and patterns than other people would
25 have. Would you have any problem listening to their

1 testimony, evaluating it on what they said rather than
2 their lifestyle they've chosen?

3 A. No. That's part of my profession, that I don't judge
4 people by what they look like.

5 Q. Okay. If some of those individuals had prior convictions,
6 where they'd been convicted of a crime, and they were here
7 to testify, would you be able to put that past mistake in
8 perspective in terms of what they had done to evaluate
9 their testimony and what they knew about this particular
10 case?

11 A. I believe I could.

12 Q. There's a-- The court will instruct you that you need to
13 find the proof beyond a reasonable doubt. Do you think
14 the State should have to prove the case beyond all doubt,
15 or just beyond a reasonable doubt? Do you see the
16 distinction between those two concepts?

17 A. Uh-huh. From what I understood this morning, the judge
18 said it would have to be beyond a reasonable doubt.

19 Q. Right. And that is not what is called beyond all doubt?

20 A. Right.

21 Q. Have you fired a .22?

22 A. I may have as an eight or ten year old with my father, but
23 I don't know what it was.

24 Q. It was a gun.

25 A. I probably target practiced at that age once or twice, but

1 I don't know what it was, what I used.

2 Q. So you've not probably shot a semi-automatic .22 rifle?

3 A. No.

4 Q. Have you ever been to the barter fair?

5 A. No.

6 Q. Have you ever heard of organizations in school or around
7 families that would maybe attend those barter fairs?

8 A. I've had students in my class whose parents have attended
9 the barter fair, as well as the students.

10 Q. But didn't hear anything about "Families" that would be up
11 at the barter fairs?

12 A. No.

13 MR. WETLE: Thank you very much, Ms. Bassett. We pass
14 for cause, your Honor.

15 THE COURT: Okay. Before you step down we need to ask
16 Mr. Simeone if he has any questions.

17 MR. SIMEONE: Thank you, your Honor.

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1 MS. BASSETT

2 EXAMINATION BY MR. SIMEONE

3 Q. Good afternoon, Ms. Bassett.

4 A. Good afternoon.

5 Q. How are you?

6 A. Fine, thanks.

7 Q. Now what grade level do you teach in the district?

8 A. Third grade.

9 Q. Third? Have you had any of Mr. Wetle's children in your
10 class?

11 A. Yes, I have.

12 Q. And which one would that be?

13 A. Annie.

14 Q. Okay. Have you attended parent/teacher conferences
15 where--I guess that's what we call them--with Mr. Wetle or
16 Mrs. Wetle?

17 A. Yes, I have.

18 Q. Like I said, did you get to know them on a first name
19 basis then as a result of their attendance at those
20 conferences?

21 A. Yes.

22 Q. Okay. Now, if it comes down to a case of where you're--
23 you've listened to all the evidence and you've got a
24 reasonable question about what's going on here, do you
25 think that that might cause you to tip one way or the

Juror No. 6 (Ms. Bassett) - Examination by Mr. Simeone 397.

1 other, your prior familiarity with him and his wife?
2 A. I don't think so, because I have that relationship with
3 every student, hopefully, and their parents in my class-
4 room, and I've been in the school district for many years,
5 so I'm probably going to talk to everybody and try to
6 build a relationship with them for that amount of time.
7 Q. Sure. Sure. Other than that, though, have there been any
8 other kinds of social occasions, like games or things like
9 that where ___ participated and you have more social
10 familiarity with them?
11 A. Yes, in the Benchwarmer organization in Colville.
12 Q. And Mr. Wetle belongs to that as well?
13 A. Yes.
14 Q. And what kind of contact do you have there, or had you had
15 there, with them?
16 A. Well, my husband's a member of that group too.
17 Q. I see.
18 A. And it's a support group for athletics in Colville.
19 Q. Right. Yeah, that's what I thought.
20 A. And so I know him in-- in whatever volunteer thing--
21 Q. Sure.
22 A. --or fund raising thing they're doing at that time.
23 Q. Sure. So that would involve some other kinds of opportu-
24 nities to meet or, I guess, to socialize?
25 A. To an extent. It's usually just the men that do it.

Juror No. 6 (Ms. Bassett) - Examination by Mr. Simeone 398.

1 Q. Sure.

2 A. It's not a ladies part.

3 Q. Yeah, right. Any other organizations where you come into
4 contact with Mr. Wetle or his wife? I don't know which
5 ones those might be.

6 A. Not any other organizations. Just in-- Maybe if we see
7 each other at-- In Spokane at Hoopfest, if any of our
8 kids are in there, and you walk down the street and you
9 say, oh, hi, how are you, what are your kids-- who are
10 they playing, are they winning?

11 Q. I see.

12 A. Those things.

13 Q. So there is at least some casual contact that might take
14 place at some--

15 A. Yes.

16 Q. --event like that?

17 A. Uh-huh.

18 Q. Okay. Does the fact that Mr. Grange, who is seated next
19 to me and is the defendant here, is charged with a murder,
20 does that cause you any gut reaction about him as a person
21 right now, or the fact that-- Is it-- Is there something
22 unseemly about it that might cause you anxiety here?

23 A. I don't have a gut reaction. My reaction is, being a
24 teacher all my life, there's always two sides to the
25 story, and you have to hear both sides in order to make--

Juror No. 6 (Ms. Bassett) - Examination by Mr. Simeone 399.

- 1 Q. Yeah.
- 2 A. --a comment or decision on whatever it is. So I've always
3 tried to be real open-minded.
- 4 Q. Okay, and I hope to get around to that question in a
5 second, if you'll hold that thought. Do you agree with
6 our system of justice that requires proof beyond a
7 reasonable doubt for a person to be convicted of a crime?
- 8 A. Yes.
- 9 Q. You don't think that's too lenient on people, do you?
10 That before we convict them they have to be proved guilty
11 beyond a reasonable doubt? Do you think we're being too
12 lenient with people?
- 13 A. No.
- 14 Q. Okay. Going back to the question that you just answered,
15 do you think it's unfair to put the State to that test
16 where they have to establish that level of proof?
- 17 A. No, I don't think it's--
- 18 Q. Okay.
- 19 A. --not fair.
- 20 Q. Okay. And as Mr.-- As Mr. Grange sits here before you
21 then, if he has to be proven guilty beyond a reasonable
22 doubt, you don't consider him guilty of a crime at this
23 point then?
- 24 A. Not yet, no.
- 25 Q. That's a reasonable follow-up conclusion?

Juror No. 6 (Ms. Bassett) - Examination by Mr. Simeone 400.

1 A. Correct.

2 Q. Okay. Now, you are a teacher and you have to go through
3 this weighing process, and I'm glad you brought that up
4 because I was going to get to that in my questioning of
5 you. How do you, as a teacher, or just in your ordinary
6 life with other people in general, go about trying to
7 determine whether or not a person's telling you the truth
8 on a given occasion? Have any particular ways?

9 A. Well--

10 Q. I might--

11 A. Just through experience of being with kids, being with
12 adults. I know that I am considered a very fair teacher
13 in my building and in the district. When people talk
14 about me I know they say, you know, she's extremely fair.
15 I listen to everybody before I make a judgment. Sometimes
16 I have to take time to do that, so if they need to hear--
17 You know, if they need a decision made, sometimes right
18 away, sometimes I can't do that. I have to think it
19 through and listen to all the parties involved, whether--

20 Q. True.

21 A. --they be the young kids or the older kids.

22 Q. True. Do you think-- Let me-- Let me throw out just a
23 couple of thoughts for you. Do you think that the
24 consistency in the stories, is that important in your--
25 in your judgment, in your process of judgment?

Juror No. 6 (Ms. Bassett) - Examination by Mr. Simeone 401.

1 A. Yeah. When we have kids that, perhaps, fight out on the
2 playground, and somebody said this and somebody said that,
3 the-- That's exactly what I have to do, I have to: Okay,
4 who all heard, you know, and then I have to separate them,
5 tell me what your side is, tell me what your side is, did
6 you see it, what did you see and what did you hear?

7 Q. Sounds like you're a juror every day.

8 A. It's on a day-to-day, hour-to-hour basis, kind of.

9 Q. Facial expressions, does that enter into it too?

10 A. Yes. Yes.

11 Q. How about if they have a bias to testify one way or the
12 other? In other words, if somebody were to make a
13 statement based upon-- Or let's-- Let me rephrase that.
14 What do you think about whether or not another person that
15 the State might call as a juror (sic), is promised or
16 given some extra consideration for a crime they committed
17 in the event they come in here and testify? Do you think
18 that might bear on their-- on the believability of their
19 testimony?

20 A. Not unless that were told to me ahead of time.

21 Q. Well, let's assume that-- Let's just assume, for purposes
22 of my question here, that that's one of the things that
23 we'd be discussing. Do you think that might bear on--
24 Might that influence a person in his testimony? Might
25 that bias a person?

Juror No. 6 (Ms. Bassett) - Examination by Mr. Simeone 402.

1 A. I think if I-- If I'm trying to determine another person,
2 whether they're innocent or guilty, and somebody else has
3 been given a consideration like that for their testimony,
4 I don't believe that knowing all the facts on what-- what
5 they'd been or what they'd been given, without knowing
6 those facts, I would still have to just go straight on
7 what I'm hearing in court.

8 Q. Do you think it might bear on-- I'm not saying it's the
9 only criteria, I'm saying do you think it might bear on a
10 person's testimony? Do you think it is a possibility that
11 it would do that?

12 A. I just don't have an answer to that. I'm sorry.

13 Q. Okay.

14 A. I don't know.

15 Q. Do you have any or have you formulated any kinds of
16 impressions about the barter fair or an organization
17 called the Rainbow Family?

18 A. No. I-- I've had kids who-- who have taken off a week
19 at school to go to the barter fair, and have had families
20 that sell things there, and that's about the extent that
21 I know of it. I've never gone, so--

22 Q. No kind of negative--

23 A. No.

24 Q. --connotation?

25 A. I mean-- No. They came back, were real successful on

Juror No. 6 (Ms. Bassett) - Examination by Mr. Simeone 403.

1 whatever their family was selling, so I thought that was
2 pretty good.

3 Q. Okay. If you were placed in the position of a defendant,
4 do you think you would be the kind of juror that such a
5 defendant would want?

6 A. Yeah, because I think I can see all aspects, and I think
7 I'm pretty fair. I'd want me.

8 Q. Okay. If it turns out that you've gone through a long or
9 a lengthy trial and you've gone through a deliberation
10 process and you considered other people's opinions, fellow
11 jurors' opinions, whoever's with you, and you've reconsid-
12 ered evidence and you've weighed all the factors and still
13 have an opinion that's different from other people's--I'm
14 not saying what that is--what do you think you'd do?

15 A. Well, I face that many times in my job where I might be
16 the only one who has a strong opinion about something and
17 the rest of my colleagues don't, and to be true to myself,
18 I stick to what I believe, unless I can be convinced
19 otherwise.

20 Q. Okay, and you've received post-graduate education? Is
21 that right?

22 A. Yes.

23 Q. Okay. Is there anything else about your involvement with
24 Mr. and Mrs. Wetle that you haven't shared with us yet
25 that you think might have a bearing, because, you under-

Juror No. 6 (Ms. Bassett) - Examination by Mr. Simeone 404.

1 stand, this is a most important matter, and it's very
2 important for us to have jurors who are impartial, and
3 it's extremely important that without being offensive--

4 A. Correct.

5 Q. --or rude to your intruding very much, I have to know, so
6 I-- If there's anything else that you can share with me
7 that you feel might tip you one way or the other here,
8 because of that, I need to-- the court needs to know now,
9 more than just me.

10 A. Uh-huh.

11 Q. Anything else?

12 A. Well, as my heart is beating, because I'm nervous, I
13 cannot think of anything else. I've tried to--

14 Q. Okay.

15 A. --sit here and think, did I do anything else with Mr.
16 Wetle or his family at any time, and honestly, I can't
17 think of anything, but I don't know if it's from nerves or
18 if there is anything out there, or if it was so long ago
19 I don't remember, so--

20 Q. If there is, I'm sure you'll share it with us now in the
21 next little while, wouldn't you, if you remembered that?
22 Well, in that case, I'm not going to ask you any more
23 questions.

24 MR. SIMEONE: Thank you, and I pass for cause.

25 MS. BASSETT IS ESCORTED OUT

Juror No. 6 (Ms. Bassett) - Examination by Mr. Simeone 405.

1 MR. WETLE: Your Honor, one issue was whether or not
2 the people that had been-- that had gone through--
3 whether they need to stay or they could be dismissed until
4 tomorrow?

5 THE COURT: Right. I'm thinking maybe we'll be able to
6 press on and have-- I suppose maybe we could, you know--
7 But we'll take that up here after this juror.

8 JUROR NUMBER 7 IS ESCORTED IN
9 COLLOQUY RE CORRECT PRONUNCIATION OF JUROR'S NAME

10 THE COURT: I had a couple of questions for you. One
11 was that we had a witness sitting out on the bench here
12 when people were checking in, and apparently there was a
13 little chitchat going on with a few of the jurors. I
14 don't think it was anything out of line, but we need to
15 know if anyone had any conversation of any substance with
16 the person. It was a gentleman sitting on the bench near
17 the jury check-in place. So do you recall having any
18 conversation with anybody in that location this morning of
19 any consequence?

20 MS. RAINER: No, I don't.

21 THE COURT: Okay, that's fine.

22 MS. RAINER: I talked to several people, but I don't
23 remember anything of consequence.

24 THE COURT: Okay, that's fine. It's just a matter of
25 record that we need to make sure as we're going through.

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The other thing I need to mention is that I need to, before I forget, which I will if I leave it till the end, please don't relate anything about the question and answers here to the other jurors, please. That's kind of under the general instruction.

So we'll go ahead and let Mr. Wetle have his opportunity for questions.

MR. WETLE: Thank you, your Honor.

1 MS. RAINER

2 EXAMINATION BY MR. WETLE

3 Q. Good afternoon, Ms. Rainer. Before you got your packet
4 from the court, your summons, your letter, your jury
5 questionnaire, did you have any views or notions about
6 being a jury, and what had you thought, you know, prior to
7 being summoned, about the prospects of being a juror?

8 A. I've never been a juror and I didn't really have any
9 feelings, although my mother was on a jury this summer and
10 I did bring my daughter down to observe part of that. I
11 didn't have feelings one way or another.

12 Q. So not something that you kind of always wanted to do, or
13 something you dreaded doing, just hadn't crossed your
14 radar screen?

15 A. It's something I was surprised I'd never been called, just
16 by the luck of the draw.

17 Q. In all these years.

18 A. But I'd never avoided it, no. I'd just never been called.

19 Q. And so your attitude now that you have been called?

20 A. I think it'd be educational.

21 Q. True. In terms of your work, it's manageable? It's not
22 going to be a problem for you to be here for about a week?

23 A. No.

24 Q. You also mentioned that you had heard of this case?

25 A. Yes.

1 Q. And I wonder if you could share with us what you have
2 heard or what your impressions are of the case?
3 A. Just what I read in the newspaper. I didn't see it as
4 directly impacting me, but I do read the local newspaper
5 and the Spokane newspaper, and I have read.
6 Q. And read about it in that loop? In those areas. Do you
7 understand that if you are selected as a juror that you
8 would discount or disregard anything that you had read in
9 the paper and rely solely on the testimony and the
10 presentation here in the courtroom?
11 A. Yes.
12 Q. You would be able to do that?
13 A. I think so.
14 Q. How about sitting as a juror in judgment of another
15 person? Have you ever had to do that, either in work or
16 in-- You haven't been a juror before, so it'd be in your
17 regular life.
18 A. Not to this extent, no.
19 Q. But you think you can do that?
20 A. I think I can.
21 Q. You feel you would be able to handle the responsibility
22 and say that's my job.
23 A. Yes.
24 Q. I'll work toward a result in that particular case?
25 A. Yes.

Juror No. 7 (Ms. Rainer) - Examination by Mr. Wetle 409.

1 Q. Do you think that if this case involved three people, and
2 two of them are testifying, and they're going to get a--
3 they were to get a recommended lower sentence in return
4 for their cooperation and testimony, do you have any
5 feelings about whether that is good or bad, necessary or
6 unnecessary?

7 A. I guess I'd lean toward that's good if it results in some
8 kind of a decision. I don't--

9 Q. In some areas it may be necessary to do that, is what
10 you're saying?

11 A. Yes.

12 Q. Get the whole picture?

13 A. Yes.

14 Q. If you were watching as a juror as the witnesses came to
15 the stand, and some of those witnesses are of different
16 lifestyles as we know in this county, realizing that
17 different people are going to witness different types of
18 acts and they're the ones that are going to be called to
19 testify in the trial. Because of their background, their
20 philosophy or lifestyle, would that affect you as a juror
21 listening to their testimony in terms of what they were
22 saying to the court and to you as jurors?

23 A. I think I could keep that from influencing me. I don't
24 think it would affect me.

25 Q. If a witness comes to the stand and has been convicted of

1 a crime in the past, made a mistake, do you think that you
2 would be able to understand that, yep, that was a mistake,
3 he was convicted, and put that in its proper perspective
4 in terms of evaluating what that person is telling you now
5 under these circumstances? Do you think you could put
6 that--

7 A. I think I could.

8 Q. --prior conviction in the past and say all right, you made
9 a mistake, and now we're going to deal with what's going
10 on in this particular case?

11 A. I think I could. At least I would try.

12 Q. Do you have any notions of when the court says this case--
13 the facts must be proved beyond a reasonable doubt, do you
14 take that to mean beyond all doubt, or beyond a reasonable
15 doubt?

16 A. I'm sorry. I'm a very literal person. I have to think
17 that one through.

18 Q. I could tell by your jury questionnaire when you wanted to
19 know the definition of serious.

20 A. Definition of serious, yes.

21 Q. I said only a teacher. Only a teacher. That's the first
22 time I think I've seen that, as a matter of fact. So
23 would you--

24 A. I'm not sure how to answer that, because you're saying a
25 reasonable-- reasonable doubt, and it would have to be

Juror No. 7 (Ms. Rainer) - Examination by Mr. Wetle 411.

1 beyond a reasonable doubt in my mind.

2 Q. That's what the judge is going to instruct you.

3 A. That's-- That's how I would see it in my mind.

4 Q. Right. Sometimes jurors or people will say, oh, it needs
5 to be proved beyond a shadow of a doubt, or it needs to be
6 proved beyond all doubt, and the question is, do you
7 make-- can you make the distinction between the reason-
8 able doubt and the all doubt?

9 A. I think so, because nothing's quite that black and white.

10 Q. Nothing would be all doubt. There would always be some
11 doubt.

12 A. I think so.

13 Q. Have you ever fired a weapon? A rifle?

14 A. Yes.

15 Q. A .22?

16 A. I believe so.

17 Q. Semi-automatic?

18 A. I don't know enough to say if it was that or not.

19 Q. Okay. So you've had some exposure to firearms, but--

20 A. Yes.

21 Q. In terms of-- Okay. Have you ever been to the Northport
22 Barter Fair?

23 A. No.

24 Q. Have you ever been to a barter fair or hempfest, period?

25 A. No.

1 Q. If you are a juror and you're listening to the co-defen-
2 dants, say, come and tell their story to you, and those
3 stories are consistent in some respects and inconsistent
4 in other respects, do you think you'd be able to weigh the
5 whole picture and determine what to rely on and what to
6 disregard in terms of their stories?

7 A. Yes.

8 Q. Would you also follow the court's instructions to work
9 with your fellow jurors to reach a decision in this
10 particular case?

11 A. Yes.

12 Q. Thank you very much. Oh, I also know that you did say
13 that you know me, and then the question would be the
14 nature of the relationship and whether that relationship
15 would affect you being a juror in this case? And I guess
16 I'd ask you when you sit as a juror and you have to make
17 a decision, whatever that decision would be, either for
18 the State or against the State, would the relationship
19 that we have have any input in that decision whatsoever?

20 A. I don't think so.

21 Q. It would just be on the facts of the case, and that would
22 be your decision?

23 A. Yes.

24 Q. That's important, at least showing that there's not any
25 other influence on you. The nature of the relationship is

1 kids in common athletics and soccer fields and baseball
2 fields and wherever they meet we tend to congregate. Any
3 other social or things that I can think of--

4 Q. Well, and I know your wife. I went to school with your
5 wife.

6 A. Went to school with my wife. Okay.

7 MR. WETLE: Thank you. I have no further questions,
8 your Honor. Pass for cause.

9 THE COURT: All right, thank you. Mr. Simeone, any
10 questions?

11 MR. SIMEONE: Thank you, your Honor.

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1 MS. RAINER

2 EXAMINATION BY MR. SIMEONE

3 Q. Good afternoon, Ms. Rainer.

4 A. Hi.

5 Q. How are you?

6 A. I'm fine, thank you.

7 Q. Good. You-- Based upon what you've heard of the case,
8 and I don't gather that it's a great deal, have you formed
9 any kind of an impression about what's happened?

10 A. No, I have not.

11 Q. Okay, you don't remember-- No names stand out in your
12 head at all? In your memory?

13 A. I remember one picture from the paper.

14 Q. Okay. But names or details, that really hasn't--

15 A. Not really.

16 Q. Okay.

17 A. I tend to read the newspaper completely, but I don't
18 remember it all.

19 Q. Yeah. Okay, I understand what you mean. Now, your
20 familiarity with Mr. Wetle, it sounds like it surrounds
21 sporting events, that kind of thing?

22 A. Can I respond more to that?

23 Q. Certainly.

24 A. It's kind of-- It's actually my daughter is the same age
25 as one of his daughters, and so they've been in sporting

1 events and various-- I think they've been in classes,
2 perhaps, together.

3 Q. And when you say you went to school with Mr. Wetle's wife,
4 which-- which level of education was that?

5 THE COURT: Was it college, in other words?

6 A. Excuse me. No, it was in high school. I don't recall
7 if it was before high school.

8 Q. Did you form a very good friendship with her?

9 A. No, we would be classified as acquaintances.

10 Q. Do you socialize now on any kind of a regular basis?

11 A. No, we do not.

12 Q. And neither with Mr. Wetle or Mrs. Wetle as a couple?

13 A. No.

14 Q. No? Okay. Because it's important to me, as you might
15 well understand, that we pick a jury here that would be
16 totally unbiased, and I'm thinking in the chance if it
17 comes down to a question in your mind, where it's a close
18 call, whether or not that might tip you one way or the
19 other, and we really need candor here, the court needs
20 candor. I'll give you an opportunity to tell us about
21 that if you think there's anything there that might cause
22 you some uneasiness.

23 A. Can I say something, because--

24 Q. Absolutely.

25 A. --because my daughter's also a friend with your daughter,

Juror No. 7 (Ms. Rainer) - Examination by Mr. Simeone 416.

1 and I also know your wife, and I don't see any difference
2 between that.

3 Q. About the same level?

4 A. About the same level, yes.

5 Q. Okay, good. Mr. Wetle asked whether or not it would
6 affect your opinion of a given witness's questions-- or
7 a given witness's testimony, if that witness were given a
8 more lenient treatment or a lower sentencing kind of a
9 recommendation on the condition that he testify on behalf
10 of the State. Do you think that that might influence the
11 way a person testifies, knowing that there's that kind of
12 a motive or that kind of a-- how'll I refer to that? An
13 impetus?

14 A. I'm not sure I understand exactly what you mean. What
15 they would say?

16 Q. Right. I mean if he knows that his testimony is crucial
17 and that he's going to get a lower sentence or a lower
18 recommendation based upon testifying in behalf of the
19 State, might that influence the way a person testifies?
20 I'm not saying is that the only thing that influences a
21 person, but I'm saying do you think that that might be a
22 factor that you would consider?

23 A. I suppose it could-- it could influence the way they
24 testify.

25 Q. And it would enter into your opinion about their truthful-

Juror No. 7 (Ms. Rainer) - Examination by Mr. Simeone 417.

1 ness, maybe, along with other things? I'll ask you about
2 some other things that might affect your opinion of their
3 testimony and its believability. What about the consis-
4 tency which-- with which they testify? Or with which
5 they have given their accounts of an incident? How about
6 that? Does that--

7 A. I'm-- I focus on consistency a lot, I believe.

8 Q. Yeah, I think so too. How about demeanor? Facial--

9 A. Excuse me?

10 Q. Demeanor or facial expression, that kind of thing, when a
11 person testifies? What do you think-- Does that also
12 enter into your-- in your decision making process about
13 believability?

14 A. Yes, it would.

15 Q. Okay, 'cause you agree that a person who takes an oath
16 might not-- might well not tell the truth. Is that
17 possible too?

18 A. Yes, it's possible.

19 Q. Okay. Okay, 'cause oftentimes truthful people tend to
20 think that boy, you take an oath, and you know that
21 everything that comes after that, that's the truth. But
22 do you think it's possible that others might not?

23 A. That might be a little naive.

24 Q. Might be a little naive?

25 A. Yeah.

1 Q. Okay. The fact that Mr. Grange is charged with a very
2 serious offense here, does that cause you any internal
3 uneasiness? Does it-- Does it put you off about the
4 subject matter in a way that you might feel some inner
5 anxieties or anything about this?

6 A. Well, yes, it makes me nervous.

7 Q. Yeah? Do you think that will bear on your ability to
8 decide the issue about him fairly?

9 A. I don't think so.

10 Q. You agree with the court's instruction that to find a
11 person guilty we have to find that person guilty beyond a
12 reasonable doubt? You agree with that, and Mr. Wetle went
13 through that with you here preliminarily. Do you think
14 that has meaning, that phrase, beyond a reasonable doubt?
15 Does that have meaning to you?

16 A. It does to me.

17 Q. Okay, good.

18 A. But like I said, I don't see everything in black and
19 white, so the reasonable doubt says--

20 Q. Sure. So as Mr.-- As a follow-up to that then, as Mr.
21 Grange sits here, you don't believe that he's guilty of
22 the crime with which he's charged, right?

23 A. Rephrase that. Just a minute, let me think.

24 Q. You don't believe he's guilty of any crime right now--

25 A. No.

Juror No. 7 (Ms. Rainer) - Examination by Mr. Simeone 419.

1 Q. --as he sits here? Because that requires proof, right?
2 A. Correct.
3 Q. It's the difference-- It's something like the difference
4 between a suspicion and a belief, would you say? Like a
5 suspicion that something happened and a true belief that
6 something happened?
7 A. Okay, yes.
8 Q. Do you think there's the same kind-- Like the difference
9 being whether or not they've proven that? That some-
10 thing's happened?
11 A. I'm sorry. I'm losing you a little bit.
12 Q. I'm sorry. Do you think there's a difference between
13 suspicion on the one hand and belief on--
14 A. Yes, there's definitely a difference.
15 Q. And the connection between those two, what do you-- what
16 would your feeling about that be? Now, I suspect some-
17 thing happens, but then boy, really, I believe something
18 happened.
19 A. Well, that would be the reasonable doubt, I would say.
20 Q. And the proof?
21 A. Right.
22 Q. Okay. You've not really heard of the Rainbow Family or--
23 A. I've heard of them. I know nothing of them.
24 Q. No impression one way or the other? Nothing negative
25 about them, I would hope-- gather? No?

Juror No. 7 (Ms. Rainer) - Examination by Mr. Simeone 420.

1 A. Oh, I'm just thinking of news articles where they've
2 talked about camping and then cleaned up afterwards, and
3 it makes them sound--
4 Q. Okay. Yeah. Not too bad?
5 A. No. I don't have feelings one way or another, really.
6 Q. Does it-- Do you think you're able to--I think you are,
7 based upon what you've said--listen to the State's case
8 and keep an open mind and not formulate any opinions until
9 after you've heard our case?
10 A. I think I can, yes.
11 Q. Okay. Any other outside stressors that might distract you
12 from the very serious business before us?
13 A. You're referring to things like work and family?
14 Q. Anything in the real life-- in the real world, yeah.
15 A. No.
16 Q. You can pretty much arrange your schedule so that this is
17 your primary focus?
18 A. Yes, I can.
19 Q. Okay, good. Would you, if you were in the position of the
20 defendant, like to have yourself on the jury?
21 A. I'm sorry. If?
22 Q. If you're in the position of a defendant, would you like
23 to have yourself seated on a jury?
24 A. Yes.
25 Q. Okay.

Juror No. 7 (Ms. Rainer) - Examination by Mr. Simeone 421.

1 MR. SIMEONE: I have no further questions for you then,
2 and I'll pass for cause. Thank you, Ms. Rainer.

3 MS. RAINER IS THANKED AND ESCORTED OUT

4 THE COURT: Could we have Number 8, please?

5 MR. WETLE: Do we want to talk about--

6 THE COURT: Oh, before he or she comes in?

7 MR. WETLE: Yes.

8 THE COURT: Mr. Robert Anderson comes in, we need to talk
9 about _____. I'm thinking we might be able to get a jury
10 selected this afternoon, but we do have one issue with Mr.
11 West, who can't get ahold of anyone until after 5:00 about his
12 golf trip, and that's Number 3. And so I'm thinking we might
13 just go ahead and try to forge ahead until 5:00, but-- What
14 time did we start on this process? I'm trying to remember.

15 MR. WETLE: One-thirty.

16 THE COURT: With the individual one, yeah.

17 MR. WETLE: We're at Number 8.

18 THE COURT: So--

19 MR. WETLE: I'm just-- I'm thinking that we wouldn't
20 probably-- I don't know. At this rate we won't finish,
21 depending if we went to 7:00 or 8:00 we would, but if we--

22 THE COURT: Yeah.

23 MR. WETLE: --quit at 4:30 or so, or 5:00, or 5:15--

24 THE COURT: I was thinking of going till 5:00 anyway.

25 MR. SIMEONE: I think so too, Judge.

1 THE COURT: But maybe we should go ahead and send one
2 through seven home, indicating that they need to come back
3 tomorrow morning.

4 MR. WETLE: Yes.

5 THE COURT: Or maybe not tomorrow morning, but maybe
6 tomorrow, 10:00 A.M. How's that?

7 MR. SIMEONE: I think that's right. I think that's right.

8 THE COURT: All right, would you inform Jurors 1 through
9 7 that they-- And actually, we've already excused Number 5.
10 Am I correct?

11 MR. WETLE: Yes.

12 THE COURT: Madam Clerk?

13 THE CLERK: (Inaudible)

14 THE COURT: Okay, so one through seven, that they may be
15 excused for the day and they will need to return tomorrow at
16 10:00.

17 THE BAILIFF: And the other jurors are going to ask, are
18 we going till 5:00 then?

19 THE COURT: Yes, we're going to go until 5:00. We're
20 going to get as far as we can get, so why don't we-- Actual-
21 ly, there's some people that we can send home at the tail end.

22 MR. SIMEONE: I think so, too. I was going to say on the
23 higher end.

24 THE COURT: How about Jurors--

25 MR. SIMEONE: I'd say 18 and above, at the rate we've been

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1 going.

2 THE COURT: Where do we think, optimistically, we'll get
3 to? Maybe 16 at the most?

4 MR. WETLE: Yes. At the most.

5 MR. SIMEONE: I'd say 16 or 18, to be conservative, but
6 fine.

7 THE COURT: Yeah, let's say 16. So everyone from 17 on
8 can come back tomorrow, as well. Yeah. I'd like to be a
9 little more scientific than that, but-- because obviously the
10 people at the tail end will have to do some waiting. But we
11 should have a jury picked by the morning, don't you think?
12 Surely.

13 MR. WETLE: Better.

14 THE COURT: Yeah. Okay.

15 THE BAILIFF: Okay, from 17 on--

16 THE COURT: So once we get through 13, we'll be starting
17 to look at peremptories, won't we? Or at least--

18 MR. WETLE: Or even-- Even at 12 we could start to do
19 peremptories, and then pick the alternate.

20 THE COURT: Oh, we're going to do two alternates.

21 MR. WETLE: Okay.

22 THE COURT: And we've got, already, Number 5 excused, so
23 we have to go at least to thirteen for the regular twelve.
24 And then we're going to have you exercise another peremptory
25 on the two alternates. No, wait, excuse me. We have-- We

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1 have six peremptories each. Right?

2 MR. WETLE: And then one more for the alternates?

3 THE COURT: And one more for the alternates. Sound all
4 right? All right, good. So Number 17 on can be excused--
5 Well, yeah. No way we'll get beyond 17.

6 THE BAILIFF: I have-- I have through 19 in the jury
7 room. Everybody else is in the other room.

8 THE COURT: Okay, tell the people in the jury room to
9 stay, and the people in the other room, they won't know any
10 better. Sounds good.

11 THE BAILIFF: Now, they have to be back tomorrow at what
12 time?

13 THE COURT: Let's have them back, people 19 through 25,
14 back tomorrow at 9:00, and the rest of them back at 10:00.

15 THE BAILIFF: All other jurors back at 10:00?

16 THE COURT: Right. Sounds good.

17 THE BAILIFF: Okay, so you're ready for--

18 THE COURT: Okay, and then Mr. West needs to make his call
19 tonight and be ready to report to us tomorrow morning.

20 THE BAILIFF: Very good.

21 MR. WETLE: Yeah, he could just-- Yeah. He could just
22 let us know in the morning.

23 THE COURT: Yeah.

24 MR. BAILIFF: Ready for Mr. Anderson now?

25 THE COURT: Yes, we are. Uh-huh.

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1 JUROR NUMBER 8 IS ESCORTED INTO COURTROOM

2 THE COURT: All right, Mr. Anderson, if you'll have a seat
3 up here, please, sir, and I'll just remind you you're still
4 under oath, and I'll ask you, before I forget to tell you
5 later, not to discuss any question and answer-- Of course,
6 that's part of the trial, and so we'll need to make sure that
7 you don't discuss that part with any of the other jurors or
8 with anyone else, until you're released from that instruction.
9 All right? We just don't want the rest of the jury panel
10 influenced by anything that you might have been asked and
11 answered. All right.

12 Did you-- The first question that I have is whether or
13 not you, when you checked in this morning, you noticed there
14 was a gentleman sitting on the bench out here who may have
15 chatted with a few of the jurors? It turns out to be a
16 witness. Did you remember talking to anyone sitting on the
17 bench out by where you checked in this morning?

18 MR. WEST: No.

19 THE COURT: No? Okay, that's fine.

20 ADJUSTMENTS TO MICROPHONE

21 THE COURT: We're going to have Mr. Wetle ask you a few
22 questions and then Mr. Simeone may have some questions. Mr.
23 Wetle?

24 MR. WETLE: Thank you, your Honor.
25

1 MR. ANDERSON

2 EXAMINATION BY MR. WETLE

3 Q. Good afternoon, Mr. Anderson. I would have to say that I
4 did enjoy when you signed your jury questionnaire you--
5 it said where did-- where were you when you signed it,
6 and you came up with a very innovative answer: My easy
7 chair.

8 A. Home.

9 Q. At home, in the easy chair. Yes. Have you ever been a
10 juror before?

11 A. No.

12 Q. And the question is, in your life, before you got your
13 summons for this particular jury duty, what was your
14 attitude about the possibility that you could be a juror?
15 Did you ever want to do it, not want to do it?

16 A. I'd rather not.

17 Q. Okay. So you've just said I'd rather not be a juror.

18 A. Yeah.

19 Q. Okay. Has that notion changed at all since you've been
20 here today?

21 A. Yeah. I'd really rather not.

22 Q. Okay, thank you for your honesty. That's important
23 because, one, it's a major commitment for you or any
24 juror, and secondly, you need to, you know, work with the
25 rest of the jurors to come to some resolution or not. If

Juror No. 8 (Mr. Anderson) - Examination by Mr. Wetle 424.

1 you really don't want to be here, you know, that's
2 important, and I guess I would say can you articulate why
3 you really don't want to be here? And maybe that's a
4 reason for not being here. Are you able to say why?

5 A. I'm just not comfortable being around a lot of people.
6 Kinda stresses me out.

7 Q. Okay.

8 A. I live in the backwoods and-- Well, the weather being--
9 It's probably like almost freezing in the-- in the house
10 now. I have no driver's license.

11 Q. In terms of being able to get here?

12 A. Yeah. That, too. So it would be a major inconvenience on
13 Brenda to drive me back and forth. A couple of kids were
14 kicked off the bus, so she has to be there-- she has to
15 take them to school and be there to pick them up.

16 Q. And you to jury duty at various times?

17 A. Huh?

18 Q. And picking you up for jury duty?

19 A. Oh, yeah. _____ race here, race there.

20 Q. How far out do you live?

21 A. Well, I wrote down 80 miles, but then Brenda told me no,
22 Ron, it's more like 110, 'cause we live out in the woods
23 from Springdale. We're like 11 or 12 miles from Spring-
24 dale, so to get down to the highway-- From Springdale to
25 here, how far is it? You know? Springdale to here and

Juror No. 8 (Mr. Anderson) - Examination by Mr. Wetle 425.

1 then another 12 miles. So that's probably--

2 Q. It's almost 50 miles to Springdale, probably, but--

3 A. Yeah, it's like a 110 mile trip.

4 Q. Okay. Importantly-- The hardship is important. The
5 other thing is just working with jurors, if you think
6 you'd be able to do that or not. What do you think about
7 that? Just being a juror?

8 A. I'm not really into it.

9 Q. Okay.

10 A. I mean maybe when I get older in life I'll find it
11 entertaining, or be able to communicate with people
12 better, but--

13 Q. Okay.

14 MR. WETLE: Your Honor, given the circumstances for Mr.
15 Anderson, we'd ask that he be excused.

16 THE COURT: All right, Mr. Simeone, any comments or
17 objections?

18 MR. SIMEONE: I don't really know, your Honor, that I'm
19 going to push the issue on it.

20 THE COURT: All right, Mr. Anderson, it does sound like
21 a trial of this length is going to be quite a hardship on
22 you.

23 MR. ANDERSON: And for the family.

24 MR. ANDERSON IS EXCUSED, BUT ASKED TO CALL IN
25 FOR POSSIBLE JURY SERVICE ON ONE DAY TRIAL LATER

Juror No. 8 (Mr. Anderson) - Examination by Mr. Wetle 426.

1 JUROR NUMBER 9 IS ESCORTED INTO THE COURTROOM

2 THE COURT: All right, Number 9, Mr. Blomgren?

3 MR. BLOMGREN: Yes.. Blomgren.

4 THE COURT: Blomgren? All right, have a seat here,
5 please, sir. Thank you.

6 I'm going to remind you you're still under oath from
7 before. Additionally, we had a couple of preliminary
8 questions. One was whether or not you were engaged in any
9 kind of conversation with any gentleman that was seated on
10 a bench out here that you recall when you checked in this
11 morning, or shortly thereafter?

12 MR. BLOMGREN: Seated on the bench outside?

13 THE COURT: Outside the courtroom.

14 MR. BLOMGREN: Yes.

15 THE COURT: Okay, can you tell me what the content of
16 that conversation was, essentially?

17 MR. BLOMGREN: We had met a couple of years ago through
18 a mutual friend.

19 THE COURT: Okay.

20 MR. BLOMGREN: And we had actually-- We had lunch at
21 Zip's in Deer Park, is where the meeting was.

22 THE COURT: Okay, now who was the gentleman that--

23 MR. BLOMGREN: I don't know his name.

24 THE COURT: All right. Can you describe what he looked
25 like?

1 MR. BLOMGREN: He is tall and balding with a mustache.

2 THE COURT: Okay. And was he on the jury panel, do you
3 know? Was he someone else on the jury panel?

4 MR. BLOMGREN: Yes.

5 THE COURT: Oh, okay, another juror?

6 MR. BLOMGREN: Yes.

7 THE COURT: Okay. So apparently-- Were you talking at
8 all about the case or anything?

9 MR. BLOMGREN: We were talking about tractors and farm
10 equipment.

11 THE COURT: Tractors and farming, okay. Anything else
12 then?

13 MR. BLOMGREN: No.

14 THE COURT: Okay, great. Thank you. All right, Mr.
15 Wetle-- Oh, one other thing I need to advise you of is to
16 remind you not to discuss anything about the questioning
17 here in the courtroom, because it might influence the
18 other jurors if you had certain information and whatnot.
19 And besides, we're not to have you discuss the case with
20 one another as yet.

21 And so Mr. Wetle has some questions initially for you.
22 Mr. Wetle?

23 MR. WETLE: Thank you, your Honor.
24
25

1 MR. BLOMGREN

2 EXAMINATION BY MR. WETLE

3 Q. Mr. Blomgren--

4 A. Yes.

5 Q. --good afternoon. You've never been a juror before?

6 A. Never.

7 Q. You ever have any notions about whether you wanted to be
8 a juror or didn't want to be a juror, or it just never
9 came up in your thought processes?

10 A. Well, I-- I've always been too busy.

11 Q. Okay.

12 A. And I never really thought about it, no. I'm not--

13 Q. Okay, if you were-- Did you ever wonder why you never
14 were called?

15 A. No.

16 Q. Okay. If you did get called, do you know what your
17 attitude might be?

18 A. Well, up until now probably I would have said I was just
19 too busy and I couldn't go.

20 Q. Okay.

21 A. I'd find some way to get out of it.

22 Q. All right. So right now is a good time?

23 A. Right now I'm unemployed, and so yes, it's a good time.

24 Q. Okay. When you are working, what is your main type of
25 work?

Juror No. 9 (Mr. Blomgren) - Examination by Mr. Wetle 429.

1 A. I'm a diesel mechanic.

2 Q. And by-- That's what you've done most of your life?

3 A. Nearly all of my adult life, yeah.

4 Q. How do you feel about being a juror and deciding a case,
5 whether the defendant is guilty or not guilty?

6 A. What do you mean?

7 Q. How do you feel about deciding that? Making that judg-
8 ment?

9 A. Deciding it?

10 Q. Yeah. You're the jury, you're--

11 A. Well, I'm ready.

12 Q. You're ready to do that? Do you believe that when the
13 judge gives you the packet of material at the end of the
14 trial, called the jury instructions, the law of the case
15 that's to be applied to those facts, sometimes there's
16 controversy about whether or not a person should follow
17 those instructions. You'll see a lot of literature saying
18 don't follow the instructions, you know, make your own,
19 follow your own law.

20 A. I'd like to, but I know I have to do it the right way.

21 Q. Okay, and that's the question, you know. I say okay, if--
22 if you don't, I can understand your philosophical perspec-
23 tive, but--

24 A. No, I'm ready to play by the rules, if that's what you're
25 asking.

Juror No. 9 (Mr. Blomgren) - Examination by Mr. Wetle 430.

1 Q. That's what I'm asking.

2 A. Yeah.

3 Q. All right. If we have three people involved in the crime,
4 and two of them are going to testify against the third
5 person, and part of that is that the Prosecutor would
6 recommend a reduced sentence, do you think that-- in
7 order to get those two people to testify against the third
8 party. Do you have any feelings about whether that is an
9 appropriate thing to do, or inappropriate thing to do?

10 A. Well, I'd have to know more about it.

11 Q. Okay. Just assuming there's three people involved, and
12 two of them would testify against the third party--

13 A. But how are they involved?

14 Q. They were there. Assuming they were there.

15 A. Well, why wouldn't we prosecute them all?

16 Q. They pled guilty and will receive a recommendation for a
17 less sentence. Do you think that is an appropriate thing
18 to do to bring the whole picture of the event to court?
19 Do you think that's a right thing to do or a wrong thing
20 to do, or-- or should we just take the pleas on the one
21 or two and let the third guy go? Good question, huh?

22 A. Yeah, very good.

23 MR. SIMEONE: Your Honor, I'm going to object that he's
24 asking a couple of questions there at once. I don't think
25 the perspective--

Juror No. 9 (Mr. Blomgren) - Examination by Mr. Wetle 431.

1 THE COURT: Sustained.

2 MR. SIMEONE: --juror really knows how to answer that.

3 A. I don't.

4 THE COURT: Sustained.

5 A. No, because I don't have the information to answer a
6 question like that.

7 Q. Okay.

8 THE COURT: Mr. Wetle, I need you to probably stick to
9 generalities too, instead of specifics.

10 MR. WETLE: I will try, your Honor.

11 Q. Would-- If we had people come before the witness-- in
12 the witness box who testified before you and they're from
13 a different lifestyle, a different walk of life, than you,
14 but they happened to be witnesses in this particular case,
15 would you be able to evaluate their testimony, not based
16 on their associations or lifestyles but--

17 A. Oh, yeah.

18 Q. --based on what they're telling you?

19 A. I don't have a problem with that at all.

20 Q. If one or so of the individuals that come to testify had
21 been convicted of a crime in the past, would you be able
22 to understand that they made a mistake in the past, but
23 they may have important information with respect to this
24 case?

25 A. Oh, yeah. Oh, yeah.

Juror No. 9 (Mr. Blomgren) - Examination by Mr. Wetle 432.

1 Q. And evaluate their testimony in light of--
2 A. I mean we're only doing what's now, not what was then.
3 Q. That's exactly right, but you may hear that some-- one of
4 these witnesses has a prior conviction.
5 A. Well, that doesn't have anything to do with this, does it?
6 Q. Well, that will be for the court to instruct you through-
7 out the trial, but I'm saying would you be able to
8 consider the overall testimony--
9 A. Yes.
10 Q. --as to this fact?
11 A. Yes.
12 Q. The court will instruct that you're required to-- or the
13 State is required to prove this case beyond a reasonable
14 doubt. Do you think the State should have to prove the
15 case beyond all doubt, or beyond a reasonable doubt? No
16 trick question.
17 A. I-- I don't understand. I mean I--
18 Q. Okay. Do you have a firearm?
19 A. No.
20 Q. Do you have firearms?
21 A. No.
22 Q. Have you ever shot a .22?
23 A. Yes.
24 Q. Have you ever shot a semi-automatic .22?
25 A. Semi-automatic .22?

Juror No. 9 (Mr. Blomgren) - Examination by Mr. Wetle 433.

1 Q. Uh-huh.
2 A. No.
3 Q. Have you ever been to the Northport Barter Fair?
4 A. Yes.
5 Q. And how long ago was that?
6 A. Three years ago, I think.
7 Q. And how many times have you gone?
8 A. Twice. I think it was three years ago and four years ago.
9 I'm not sure of that, but it wasn't last year.
10 Q. Okay.
11 A. And it wasn't-- And I don't believe it was the year
12 before.
13 Q. What's your impression of the barter fair?
14 A. I enjoy it.
15 Q. And do you go during the day time, do you stay for the
16 entertainment at night?
17 A. No, just the day time.
18 Q. Just go in the day time?
19 A. Uh-huh.
20 Q. And shop for bargains or--
21 A. Yes.
22 Q. --trade or that kind of thing?
23 A. Old antique tools and--
24 Q. Okay.
25 MR. WETLE: Thank you very much, Mr. Blomgren. We'll

Juror No. 9 (Mr. Blomgren) - Examination by Mr. Wetle 434.

1 pass for cause, your Honor.

2 THE COURT: All right, Mr. Simeone, questions of this
3 juror?

4 MR. SIMEONE: Thank you, your Honor.
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Juror No. 9 (Mr. Blomgren) - Examination by Mr. Wetle 435.

1 MR. BLOMGREN

2 EXAMINATION BY MR. SIMEONE

3 Q. Good afternoon, Mr. Blomgren. How are you doing?

4 A. Good.

5 Q. You're a diesel mechanic, then, by trade?

6 A. Yes.

7 Q. You know a lot about pistons and crankshafts and locks and
8 stuff?

9 A. Some.

10 Q. Do you like to-- I mean you get into the heavy diesel
11 mechanic? Is that what you did?

12 A. Yeah.

13 Q. Well--

14 A. Well, I'm into all kinds, but yeah, I work on over-the-
15 road trucks too, yeah.

16 Q. Uh-huh. Now, did you answer yes to any of Judge Baker's
17 preliminary questions when you were on the-- when you
18 were seated in the gallery? Do you remember any yes
19 answers, because I don't have you here.

20 A. No.

21 Q. Okay. And Mr. Grange, you heard the judge tell you at the
22 beginning of the case when we were seated there that he's
23 charged with murder. You understand that?

24 A. Yes.

25 Q. Now, that's obviously a serious crime. I don't need to

Juror No. 9 (Mr. Blomgren) - Examination by Mr. Simeone 436.

1 emphasize that, but does that cause you any kind of
2 internal uneasiness about being here and being a prospec-
3 tive juror for such a weighty subject matter?

4 A. Well, isn't that my job?

5 Q. Yeah, but I'm wondering, does that cause you any uneasi-
6 ness? I mean it's going to be a lot of people's jobs, but
7 can you do it, is what I'm asking.

8 A. I can do it.

9 Q. Don't feel like there's a stressor there?

10 A. No.

11 Q. Okay, and you heard the judge say, or Mr. Wetle asked you,
12 about the difference between reasonable doubt, beyond a
13 reasonable doubt, that kind of thing. Are you familiar
14 with that concept from so far in your life? Beyond--
15 Proof beyond a reasonable doubt? Have you heard of that--

16 A. Oh, I've heard of it.

17 Q. --notion before? Does it have meaning to you?

18 A. Well, but I'm not-- I'm not exactly sure how defined this
19 really is.

20 Q. I understand.

21 A. Yeah.

22 Q. Do you think it has a real meaning, though?

23 A. Well--

24 Q. If you're instructed about what it means?

25 A. Well, I know what it means to me.

Juror No. 9 (Mr. Blomgren) - Examination by Mr. Simeone 437.

1 Q. Okay.

2 A. You know.

3 Q. Well, then, a follow-up question to that would be a person
4 has to be proved guilty beyond a reasonable doubt before
5 he or she is guilty? Right?

6 A. Correct.

7 Q. You understand that. So right now as Mr. Grange sits
8 here, he's not guilty of a crime--

9 A. In my eyes, he's innocent.

10 Q. Okay, that's basically what I was getting to, but you beat
11 me to the punch, and that's good.

12 A. Yes.

13 Q. You say you did hear-- or you have attended some of the
14 barter fairs, right?

15 A. Yes, I've gone--

16 Q. You have no negative impression of that?

17 A. No.

18 Q. No particularly negative impression of the people or
19 anything like that?

20 A. No.

21 Q. Okay, and how about the Rainbow Family? Have you ever
22 heard of that?

23 A. The Rainbow Family?

24 Q. Yeah.

25 A. No.

Juror No. 9 (Mr. Blomgren) - Examination by Mr. Simeone 438.

1 Q. No? Doesn't ring a bell? Okay. Mr. Wetle talked a
2 little bit about witness bias. Witness-- I'm sorry,
3 about witnesses who are receiving lesser sentences.

4 A. Oh, oh, okay.

5 Q. You remember that? We got into some questions that were
6 a little bit complicated. I want to talk about that for
7 a second. In particular, I want to ask you whether or not
8 you think it's possible for a witness to take an oath to
9 tell the truth and not tell the truth? I mean we're in
10 the real world here.

11 A. Okay, say it one more time so I--

12 Q. Do you think it's possible for a person to take an oath
13 and still not tell the truth?

14 A. Yes.

15 Q. Okay. And you've made decisions, I suppose, in your years
16 on this earth about whether or not somebody's telling you
17 the truth. Right?

18 A. Nearly every day.

19 Q. And how do you go about doing it? I want to give you some
20 examples. Do you think you concentrate on whether or not
21 a person's telling you a consistent story from time to
22 time, on whether or not that's the truth? They're telling
23 you the truth?

24 A. Well, that's a factor.

25 Q. It's one of the things, right?

Juror No. 9 (Mr. Blomgren) - Examination by Mr. Simeone 439.

1 A. (Inaudible)

2 Q. How about whether or not the person at the time he
3 supposedly experienced an event was intoxicated on drugs,
4 would that be a factor?

5 A. A factor--

6 Q. On whether or not you can believe their account of a
7 given--

8 A. Yes, that would be a factor.

9 Q. Okay. And whether or not they're getting an offer of a
10 reduced sentence of some kind to testify, would that be a
11 factor too, you think?

12 A. In whether they were telling the truth or not?

13 Q. Right, is that-- Is that one of the--

14 A. That's possible.

15 Q. Okay, one of the factors. Was there any problem-- I
16 guess you don't have any time conflicts now, do you,
17 because you're not employed, so you're ready to do--
18 You're ready to go to work, it sounds like. Are you going
19 to bring your tools?

20 A. If I need them.

21 Q. Okay, any other outside stressors that will prevent you
22 from listening to the very serious subject matter here?

23 A. No.

24 MR. SIMEONE: Okay, I'll pass for cause, your Honor.

25 Thank you, sir.

Juror No. 9 (Mr. Blomgren) - Examination by Mr. Simeone 440.

1 MR. BLOMGREN IS EXCUSED FOR THE DAY BUT REQUESTED
2 TO RETURN AT 10:00 TOMORROW

3 THE COURT: Number 10 is who we're looking for next.

4 JUROR NUMBER 10 IS ESCORTED INTO COURTROOM

5 THE COURT: Are you okay?

6 JUROR NUMBER 10: No.

7 THE COURT: What do you mean?

8 JUROR NUMBER 10: I don't like this.

9 THE COURT: Okay, I don't blame you. It's really
10 anxiety producing, but keep in mind it's just-- just part
11 of the process and we're not trying to put you on the
12 spot.

13 Ms. Wharton, I have a couple things to go over with
14 you. One is that I need you to make sure you don't
15 discuss anything that comes out in the questioning here,
16 because part of the reason we're doing this one at a time
17 is that maybe some people say or know certain things that
18 might influence other people and they're excused from the
19 jury. We don't want to pollute the rest of the pool by
20 what they say. So make sure you don't mention anything
21 that you've gone through in here to anyone, including
22 people at home, et cetera.

23 The other thing is that we had a question about when
24 the jurors checked in this morning there was a gentleman
25 seated on the bench out here who may or may not have been

1 a witness--we think maybe he was--and we just need to know
2 if there was any discussion with any of the jurors. So do
3 you recall talking to anyone in that-- in that location
4 this morning?

5 MS. WHARTON: Huh-uh.

6 THE COURT: All right, thank you. Mr. Wetle will have
7 a few questions for you.

8 MS. WHARTON: Okay. There is one thing I wanted to
9 ask.

10 THE COURT: Sure.

11 MS. WHARTON: Is when we were questioned in here
12 earlier and it was asked if we had any-- knew anybody
13 that was involved in a murder.

14 THE COURT: Okay.

15 MS. WHARTON: Was it-- Was it with-- with a-- with
16 a gun or just any murder?

17 THE COURT: Any-- Any murder.

18 MS. WHARTON: Well, my answer to that would be yes,
19 then. My--

20 THE COURT: Okay, go ahead and tell us what that was
21 all about.

22 MS. WHARTON: My brother-in-law was--

23 MR. WETLE: I'm sorry, I can't hear.

24 MS. WHARTON: My brother-in-law was murdered, Edward
25 Wharton, in Chewelah, about four or five months ago.

1 THE COURT: Okay.

2 MS. WHARTON: That was by assault or--- I mean by beat
3 to death.

4 THE COURT: Okay, was that the--

5 MR. WETLE: Marchand.

6 THE COURT: --Marchand case?

7 MS. WHARTON: Yeah.

8 THE COURT: Okay. All right, thank you. Ms. Wharton,
9 do you feel that that would have any crossover effect in
10 terms of your being able to sit as a juror on this--

11 MS. WHARTON: I wouldn't think so.

12 THE COURT: --totally separate case?

13 MS. WHARTON: I wouldn't think so.

14 THE COURT: All right.

15 ADJUSTMENTS TO MICROPHONE

16 THE COURT: Was there anything else that you thought of
17 later in regard to the preliminary questioning that I had
18 that you wanted to bring up, if we forgot it?

19 MS. WHARTON: Huh-uh.

20 THE COURT: Okay. Mr. Wetle, you may inquire.

21 MR. WETLE: Thank you, your Honor.

22

23

24

25

1 MS. WHARTON

2 EXAMINATION BY MR. WETLE

3 Q. Ms. Wharton, good afternoon. Before you got your summons
4 and notice to come to court to be a juror, did you have
5 any concepts of whether you would ever want to be a juror,
6 or that you would fear being a juror, or that it really
7 hadn't come across your radar screen?

8 A. No.

9 Q. Just hadn't--

10 A. Just that I don't like being in--

11 Q. So have you ever thought of the fact that some day you
12 might be called as a juror?

13 A. Well, I was before, but it was settled out of court.

14 Q. How long ago was that?

15 A. Six months, maybe, or so.

16 Q. In--

17 A. In the last year, I think.

18 Q. So called in as a juror in this courthouse?

19 A. Yeah.

20 Q. Was it District Court or this room?

21 A. I-- I don't know 'cause I didn't have to come.

22 Q. Okay, so they called up and said the case settled and you
23 didn't have to go.

24 A. Uh-huh.

25 Q. What were your thoughts about that? Is that a good thing

1 or a bad thing, being a juror?

2 A. It's not good or bad.

3 Q. Just no feeling about it one way or the other?

4 A. No. I'd rather be home.

5 Q. So that was an inconvenience more than anything?

6 A. Yeah. There you go.

7 Q. Okay. And now that you're here on the witness stand
8 answering questions, is the-- is the inconvenience
9 handled? It is manageable in terms of being able to be a
10 juror for a week or so?

11 A. Yeah. Of course, it's going to make a financial hardship.

12 Q. Yes.

13 A. I'm the only one that-- the income in the house, and, you
14 know, I have a mortgage payment and everything else that
15 goes with.

16 Q. Okay, can you do it or-- I mean that's important. If it
17 is-- If it makes a difference in making it or not making
18 it because of the length of the trial, then I think, you
19 know, you need to be honest about that. The judge needs
20 to hear because if there are other pressures on you that
21 you're faced with outside of just coming here and being
22 able to be a juror, then that needs to kind of come out
23 and be discussed.

24 A. Uh-huh. I can work Saturday/Sunday, and if-- if--
25 Evenings I can work also, if it finishes up, you know.

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1 Q. If you were to work evenings, how-- how long would you be
2 working?

3 A. Well, if I were able to get there by 6:00 o'clock, I could
4 work until 2:00 o'clock, and I-- I think that my employer
5 would, you know, work with that.

6 Q. And that's probably what you'd be trying to do?

7 A. Yeah, but then I've got to what? I'll get to bed at 3:00
8 o'clock and have to be back here by what time in the
9 morning?

10 Q. Probably 8:30 or so.

11 A. Yeah, so--

12 Q. That's the issue. That's-- Do you have children that
13 you're--

14 A. Uh-huh.

15 Q. Are they taken care of, or are you having to take care of
16 them?

17 A. No, they're-- They're 13, so that's not a problem.

18 Q. So you have just the pure hardship of it, being the sole
19 provider for the family?

20 A. Yeah. If-- If it didn't go beyond, you know, like you
21 were talking five days, that wouldn't be so bad, but, I
22 mean, if it was carried out much longer than that, it
23 would definitely be a hardship.

24 Q. Okay, we're looking, hopefully, Wednesday or Thursday at
25 the latest.

1 A. Okay.

2 Q. Think you want to try that?

3 A. Yeah, I could-- I could try that, 'cause I'd have
4 Saturday/Sunday, you know, of that week. I could also,
5 you know, put in those days.

6 Q. Okay, and maybe you can get to bed at midnight.

7 A. Yeah, right.

8 Q. If the witnesses that come and testify have little
9 different backgrounds or from a little different lifestyle
10 than yours, but you realize that they just are the
11 witnesses for this homicide, would you be able to put
12 aside any stereotypes--

13 A. Yeah.

14 Q. --that you might have and say I'm going to listen to what
15 they have to say?

16 A. Yeah.

17 Q. Have you ever fired a gun?

18 A. Did what?

19 Q. Fired a gun?

20 A. In my backyard, yeah.

21 Q. Twenty-two?

22 A. Yeah. That's it.

23 Q. Semi-automatic, single shot?

24 A. Single.

25 Q. Have you ever been to a barter fair?

1 A. Yeah.
2 Q. How many times?
3 A. Probably twice.
4 Q. And how long ago?
5 A. Two years.
6 Q. What's your impression of the barter fair?
7 A. To each his own.
8 Q. Did you go during the day time, night time?
9 A. Day time.
10 Q. Go for entertainment or--
11 A. Yeah. Curiosity.
12 Q. So there both day and night to see what--
13 A. Just day time.
14 Q. Didn't spend the night there or stay?
15 A. No.
16 Q. Have you gone to other hempfests or barter fairs besides
17 the one up in the Northport area?
18 A. No. Yeah. Well, one on Grass Creek, I believe it was.
19 Q. Was there one at Spirit Ridge?
20 A. (Inaudible)
21 MR. WETLE: Thank you very much. Your Honor, we pass
22 for cause. Thank you.
23 THE COURT: All right, Mr. Simeone?
24 MR. SIMEONE: Thank you, your Honor.
25

1 MS. WHARTON

2 EXAMINATION BY MR. SIMEONE

3 Q. Afternoon, Ms. Wharton.

4 A. Hi.

5 Q. How are you?

6 A. All right.

7 Q. Okay, good. Did you answer yes to any of the judge's
8 preliminary questions when you were seated in the gallery?

9 A. No, but I should have to that one.

10 Q. Just to the one thing, yeah, and I wanted to explore that
11 a little bit further. Did you hear anything more about
12 Mr. Marchand's prosecution or anything like that that
13 causes you any uneasiness about this?

14 A. No.

15 Q. Okay, how close were you to the deceased there?

16 A. He lived in my home for a few months.

17 Q. Pretty recently before the incident there?

18 A. In '97. Nineteen-ninety-seven.

19 Q. So he did become, probably, pretty close to you then?

20 A. Well, he was my brother-in-law.

21 Q. Brother-in-law, yeah. I mean as close as an in-law would
22 get, I guess. Does it-- Does it make you feel more
23 punitive towards people who are charged with crimes?

24 A. Not who are charged with it.

25 Q. I understand that. Mr. Wetle-- I don't know if he asked

1 you or not, but I'll ask you: Do you have any concept or
2 do you have any familiarity with the phrase or the concept
3 of proof beyond a reasonable doubt?

4 A. I'm not sure I understand.

5 Q. Well, the judge will instruct you that to find a person
6 guilty of a crime, you have to find that they've proved
7 that crime beyond a reasonable doubt.

8 A. Uh-huh.

9 Q. Have you heard of that before?

10 A. Yeah.

11 Q. And the need for proof beyond a reasonable--

12 A. Right.

13 Q. How do you feel about that level of proof that a State has
14 to meet?

15 A. If there's a possibility that that isn't the case.

16 Q. Do you think that's a good standard, do you think that's
17 too hard for a State to have to prove, do you think it's
18 too easy on defendants, for example? How do you feel
19 about it?

20 A. Proof is proof.

21 Q. Yeah. Do-- What do you think about the need to prove
22 beyond a reasonable doubt? Do you think that's putting
23 the State to just too strict a standard?

24 A. It's called reasonable doubt, right?

25 Q. Yeah.

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1 A. Okay.

2 Q. So your feeling about it, do you think that's too much to
3 ask?

4 A. No.

5 Q. Not too much to ask of the State?

6 A. Well, I'm not sure I'm getting it.

7 Q. Well, I'm wondering if you think that's--

8 A. What-- That's--

9 Q. Do you think that's making them work too hard to make a
10 conviction?

11 A. No.

12 Q. You think that's about right, that they have to prove it
13 to that-- to that degree?

14 A. Well, you would have to prove it.

15 Q. Okay.

16 A. How could-- How could you convict somebody if you can't
17 prove it?

18 Q. Yeah, I-- I agree with that. Okay.

19 A. Am I missing something?

20 Q. Oh, I was just wondering if proof beyond a reasonable
21 doubt, if that has a meaning to you, you know.

22 A. No.

23 Q. Whether or not that's too stern a standard to make the
24 State meet, or whether that's-- You know, if that's good
25 for the protection of citizens who are charged with

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1 crimes.

2 A. Oh, yeah.

3 Q. You think that's basically good.

4 A. There you go.

5 Q. Okay, that's what I was trying to get at.

6 A. Okay.

7 Q. I'm sorry if I was unclear in my question. You've had
8 experience, I would expect, in your life trying to judge
9 whether or not people are telling the truth, haven't you?

10 A. That's life.

11 Q. It's life, right. It's an everyday thing, almost, isn't
12 it?

13 A. Uh-huh.

14 Q. Okay. I'm wondering the kinds of things you would use to
15 try to determine whether or not people are telling you the
16 truth, and I'm wondering if these things--you can say yes
17 or not--enter into your figuring. How about if their
18 stories are inconsistent?

19 A. Absolutely.

20 Q. How about if maybe at the time there of an event about
21 which they're testifying they were intoxicated? Would
22 that enter into your ability to believe them or your
23 willingness to believe their story?

24 A. Who's going to be intoxicated when you're in the court-
25 room? Is that what you mean?

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1 Q. No, I mean--

2 A. No?

3 Q. --if they are relating an occasion--

4 A. Uh-huh.

5 Q. --and at that occasion that they're talking about they're
6 intoxicated at that--

7 A. If they're intoxicated, yeah, it's less believable.

8 Q. Yeah, it's one of the things that enters into it. How
9 about like their facial expression or their demeanor? Is
10 that something that's important to you too?

11 A. Somewhat.

12 Q. Okay, and so-- I mean we all have our own way of going
13 about trying to determine whether or not people are
14 telling us the truth. I was just wondering if those are
15 things that you would factor--

16 A. I-- I appear nervous. That doesn't mean I'm not telling
17 the truth, so--

18 Q. Right. We have to figure that into the whole story too.
19 There's a natural amount of nervousness, and I understand
20 that. How about if a person is given a promise of a
21 reduced kind of a sentence in exchange for coming up there
22 and testifying. Do you think that might bear on that
23 person's ability to-- might affect your ability to trust
24 that person's testimony? I'm not saying it necessarily
25 would, but do you think that that's something that you

1 would consider?

2 A. I think it would be irrelevant.

3 Q. So it wouldn't matter whether or not he's maybe attracted
4 to a more lenient sentence to testify? That wouldn't have
5 any bearing on whether or not he's telling the truth?

6 A. No.

7 Q. It just wouldn't matter at all?

8 A. (No audible response)

9 Q. Okay. Did you understand the question pretty much?

10 A. I think so.

11 Q. How about the fact that a person maybe had been convicted
12 of a crime of dishonesty in the past? Do you think that
13 might bear on your-- on his believability?

14 A. No.

15 Q. Wouldn't have any bearing?

16 A. No.

17 Q. Okay.

18 MR. SIMEONE: Well, thank you. I'll pass for cause.
19 I appreciate that.

20 THE COURT: All right, Ms. Wharton, you may step down,
21 and you're excused for--

22 MR. WETLE: Your Honor, before Ms. Wharton goes, could
23 we approach the sidebar?

24 THE COURT: Sure. All right. If you want to just
25 hang on, Ms. Wharton. You can stand up and stretch your

1 legs if you want. Mr. Simeone?

2 UNRECORDED SIDEBAR

3 THE COURT: All right, Ms. Wharton, the attorneys have
4 discussed with me some aspects of the Marchand case might
5 have some spill-over to this that you might think of later
6 that may be a problem, so we're going to save you a trip
7 back, but not totally. We're going to save you the six
8 day-- five to six day jury trial, but I do need you to
9 call in on the night of the 25th of February about whether
10 you need to come on the 26th, 27th, 28th, that week.

11 MS. WHARTON: All right.

12 THE COURT: So thank you very much. And if we could
13 have Number 11 then, please, Mr. Smith?

14 THE BAILIFF: May I ask a question?

15 THE COURT: Uh-huh.

16 THE BAILIFF: Since we have down to Number 17--for my
17 note--that are willing to stay, if you're not going to go
18 that late I can-- I can let some of them go.

19 THE COURT: Okay. Well, do we think we'll get through
20 17 if we stay until 5:30, counsel?

21 MR. WETLE: No.

22 THE BAILIFF: _____ get to?

23 THE COURT: No? What's your estimate?

24 MR. WETLE: We're on 11.

25 MR. SIMEONE: How many we'll get through? We're on 11

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now?

THE COURT: Yeah, we're on 11 now.

MR. SIMEONE: Until 5:00 o'clock. I'd be surprised if we got through one more. You know, 13 would be lucky.

THE COURT: Okay, we've had, let's see, Ms. Wharton is gone. Let the record reflect that that was a joint motion for excuse for cause because of the allegations about the escape attempt involving Mr. Marchand and Mr. Grange, that we certainly don't want to be mixed in with this trial.

So let's see. We need to get through at least Number 15 to get-- even without peremptories, so if we want to exercise any peremptories before the evening's out. Let's have Number--

MR. SIMEONE: Eleven.

THE COURT: We're going to run out of steam here, aren't we? Let's have Number-- Have them stay through Number 13, and the rest can go on home and be back at 9:00.

THE BAILIFF: Through Number 13?

THE COURT: Right.

THE BAILIFF: Okay.

THE COURT: And we'll forge onward. Does that sound all right, counsel?

MR. SIMEONE: Yes.

THE COURT: Given it's quarter to 4:00-- 5:00, and

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we'll go till 5:30, something like that.

JUROR NUMBER 11 IS ESCORTED INTO THE COURTROOM

THE COURT: All right, sir, if you'll have a seat here
in the witness chair. You'll get a little taste of the

455-B

1 action here. Is it Lathrom?

2 MR. LATHROM: Lathrom, yes.

3 THE COURT: Mr. Lathrom, a couple of preliminary things
4 I need to check with you. First of all, I need to remind
5 you not to talk to anyone about any of the questioning in
6 here in the jury room or anything like that, just in the
7 event that it might pollute the other jurors if there's
8 something that comes out here that they don't need to hear
9 about.

10 MR. LATHROM: Okay.

11 THE COURT: The other thing is that there was a
12 gentleman out this morning sitting where we have the
13 witnesses sit. We noticed-- Somebody notices that there
14 was a little chitchat between some of the prospective
15 jurors and this gentleman sitting on the bench. Do you
16 recall having any conversations with anyone in that
17 vicinity?

18 MR. LATHROM: No, I had walked around the corner down
19 the hall.

20 THE COURT: All right, thank you.

21 MR. LATHROM: I didn't hear their conversation.

22 THE COURT: All right, Mr. Wetle, you may inquire.

23 MR. WETLE: Thank you, your Honor.
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1 MR. LATHROM

2 EXAMINATION BY MR. WETLE

3 Q. Good afternoon, Mr. Lathrom.

4 A. Hi.

5 Q. Before you got your summons, your letter and your jury
6 questionnaire, what notions did you have about being a
7 juror?

8 A. I hadn't had any. I've never been involved in a jury. I
9 often wondered what it would be like. My mother-in-law
10 was on a jury up here a couple-- three or four years ago,
11 so--

12 Q. So just--

13 A. _____

14 Q. --curiosity?

15 A. Yeah.

16 Q. Okay. I don't see that you've seen or heard anything
17 about this case. I do see that you mention that you had
18 a friend or relative that was involved in a similar
19 incident.

20 A. About 24 or -5 years ago. It was quite a lengthy time
21 ago. He was then just a friend of mine that was in a--
22 in the trailer park where-- that my mother and step-
23 father owned, and there was an accident-- scuffle between
24 a friend of mine, school mate of mine, and his step-dad,
25 and a gun went off and killed him in an accident.

1 Q. Killed your friend or the--
2 A. His step-dad. Yeah.
3 Q. So your friend-- Did he get charged?
4 A. No. Or they found out that it was just a-- just self-
5 defense or a scuffle. It was an accident. It wasn't on
6 purpose. So-- I don't remember a whole lot about it. It
7 was a long-- Like I said, it was a long time ago.
8 Q. So nothing about that is going to affect you in terms of
9 sitting as a juror in this particular case.
10 A. No, 'cause I didn't know anything about-- I never went to
11 his trial, I never-- Didn't know anything about it,
12 really.
13 Q. Okay. The court's going to give you some instructions to
14 follow. Do you have any problem following the instruc-
15 tions of the court?
16 A. No. No problem.
17 Q. If an individual were to have the State recommend a--
18 that testified. We got somebody to come on to testify,
19 and he was at the crime scene, and in turn for his-- In
20 return for his testimony, the State's going to recommend
21 a lesser sentence. Do you think that is an appropriate
22 thing to do or an inappropriate thing to do? Should the
23 State enter into an agreement to reduce somebody's-- to
24 recommend a reduction in sentence if they agree to
25 testify?

1 A. No, I don't think that would be-- I don't think I would
2 agree.

3 Q. Would not want to-- You would not want--

4 MR. SIMEONE: I'm sorry, I didn't hear the answer. I'm
5 sorry.

6 THE COURT: Would you speak right into that microphone
7 for us?

8 MR. LATHROM: Oh, I'm sorry.

9 Q. How do you feel about that?

10 A. For the-- I guess I might have not understood. I'm
11 sorry.

12 Q. If they had-- A person was going to testify about one of
13 his co-defendant's actions in this particular incident--

14 A. Okay.

15 Q. --and in order to get that person to testify, the State
16 had to recommend a lesser sentence, would you have a
17 problem with that, or how do you feel about in order to
18 get the testimony giving a lesser recommendation?

19 A. Yeah, I think I would disagree with that.

20 Q. Say that the person should not get a lesser sentence?

21 A. Huh-uh.

22 Q. They should get the same sentence? They should get the
23 top sentence?

24 A. Well, he should-- Yeah, should be just treated according-
25 ly. Yeah.

1 Q. If it meant that the charges couldn't be brought against
2 the other person, would you still take that position?

3 A. Probably-- No.

4 MR. SIMEONE: Your Honor, excuse me.

5 A. No, I wouldn't. I don't know that I--

6 MR. SIMEONE: Pardon me.

7 THE COURT: Hold on, hold on.

8 MR. SIMEONE: Pardon-- Pardon me. Excuse me, your
9 Honor, I'm going to object as I think Mr. Wetle might be
10 getting onto cases here, instead of just trying to get a
11 broad response from the prospective juror about his
12 potential prejudices.

13 THE COURT: You know, I think it is treading on a thin
14 line, Mr. Wetle, so I'm going to sustain that objection.

15 MR. WETLE: Thank you, your Honor.

16 THE COURT: You need to talk in more general terms, if
17 you would, please. So we'll wait for a different question
18 from Mr. Wetle before you answer, Mr. Lathrom. Thanks.

19 Q. Mr. Lathrom, if sometimes you have witnesses to an
20 incident that are from a different walk of life or a
21 different lifestyle than, say, your own, would you be able
22 to listen to their testimony with respect to the facts of
23 this case without considering their background or their--
24 what type of lifestyle they live?

25 A. Absolutely.

1 Q. If one or more of the individuals that were called to
2 testify would have a prior conviction, would you be able
3 to put that in a perspective, yes, they made a mistake,
4 but I do want to hear what they have to say about this
5 particular incident and weigh that?

6 A. Yeah. What happened to them prior to this, I don't think
7 would have any effect on me, no.

8 Q. The court will instruct you that the evidence must be
9 proved beyond a reasonable doubt. Do you think the State
10 should have to prove the case beyond all doubt?

11 A. No, just beyond a reasonable doubt.

12 Q. Okay, so you can see the distinction there?

13 A. Yes.

14 Q. Do you-- Are you-- You own firearms?

15 A. Yes.

16 Q. And do you happen to have a .22 rifle?

17 A. Do I? Yes.

18 Q. So you have a semi-automatic .22?

19 A. No, it's a bolt action.

20 Q. Do you have any semi-automatic rifles?

21 A. No.

22 Q. Have you ever fired a semi-automatic rifle?

23 A. Yes.

24 Q. So you know how they operate?

25 A. Yes, I do. I'm a hunter and instructor for the State.

1 Q. Have you ever been to the Northport Barter Fair?

2 A. No.

3 Q. Have you ever been to any hempfest or other barter fairs
4 in the area?

5 A. No, I've never been to one. Know lots of people that
6 have, but I have not.

7 MR. WETLE: Thank you very much, Mr. Lathrom. We pass
8 for cause, your Honor.

9 THE COURT: All right, Mr. Simeone, any questions?

10 MR. SIMEONE: Thank you, your Honor.

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Juror #11 (Mr. Lathrom) - Examination by Mr. Wetle

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1 MR. LATHROM

2 EXAMINATION BY MR. SIMEONE

3 Q. Thank you, Mr. Lathrom.

4 A. You bet.

5 Q. Thank you for bearing with us all day, as you have.

6 A. No problem.

7 Q. How are you hanging in there? Okay?

8 A. Good. Yeah.

9 Q. Good. You are a hunter and instructor?

10 A. Yes, sir.

11 Q. You believe a person can own a firearm, then, and not
12 intend to use it on a human being, don't you?

13 A. Yes.

14 Q. Certainly. Okay. Did you answer yes to Judge Baker's--
15 any of Judge Baker's preliminary questions earlier today?

16 A. Just the one in regards to a family member or friend--

17 Q. A family member having had an experience, but-- Okay,
18 now, as far as that goes, do you have any kind of carry-
19 over from that that might affect you here in deliberating
20 this?

21 A. No. I really didn't know anything about it, and it was--
22 Like I say, it was like 24, 25 years ago.

23 Q. Yeah, yeah.

24 A. So it was--

25 Q. Okay.

1 A. No, I was just a teenager and--
2 Q. Yeah. Mr. Grange, he's charged with a murder here,
3 obviously a serious offense.
4 A. Right.
5 Q. And we're trying to make sure that there's nothing that
6 comes with you here today from the background that might
7 influence how you decide this case, just as a result of
8 that.
9 A. Uh-huh.
10 Q. Now, you heard Mr. Wetle talk a little bit about proof
11 beyond a reasonable doubt.
12 A. Correct.
13 Q. You think that's a fair standard of proof that the State
14 has to meet? Do you think it's--
15 A. Proof beyond a reasonable doubt?
16 Q. Yeah. Do you think that's a fair standard?
17 A. I think that's fair.
18 Q. Okay, and so a follow-up to that, then, as Mr. Grange sits
19 here, you don't-- you agree that he's not guilty of a
20 crime until they've proven that he's guilty?
21 A. That's correct.
22 Q. Okay, and that's--
23 A. I don't know anything about his-- except for what I've
24 been told in here today.
25 Q. That's right, and all the evidence that you hear about it

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1 should come from the witness stand and that's how you'll
2 make your decision?

3 A. That's correct.

4 Q. Okay. Now I'm wondering, then, in going about trying to
5 establish the proof that the State presents, how you go
6 about determining whether or not a given witness is going
7 to be telling you the truth, because you'll find that in
8 our case that there are some drastic differences in the
9 stories that are-- or the account of the incident that's
10 given to you. I'll ask you about the following things--

11 MR. WETLE: I'd object on the same grounds, your Honor.

12 THE COURT: Sustained, Mr. Simeone.

13 MR. SIMEONE: Okay.

14 Q. How do you go about trying to determine whether or not
15 somebody's telling you the truth? I mean in our day-do-
16 day lives we have to make that decision pretty much
17 regularly, would you agree? Whether people are telling
18 you a true story?

19 A. Well, I-- Not-- Not every day, I guess. Not in mine.

20 Q. Not in your life?

21 A. No. I deal with a bunch of mechanics all day. All they
22 do is ask me for parts, so--

23 Q. They always tell you the truth.

24 A. I wish they were lying. I wish they didn't need them all
25 the time.

1 Q. Well, let me just ask a couple of the things about whether
2 or not you, because you're going to determine whether or
3 not given witnesses are telling you the truth, how do you
4 go about making that judgment? Do you think that one of
5 the things you might consider is the consistency in their
6 story?

7 A. Yes, that would be--

8 Q. That's one of the things.

9 A. Consistency. You bet.

10 Q. Among-- Among the things you consider. How about
11 whether or not a given witness would have been intoxicated
12 at the time an event took place, and he's testifying about
13 that event? Might that bear on his believability, do you
14 think?

15 A. I been-- I been intoxicated myself, and when I wake up
16 the next morning I pretty much know what I did.

17 Q. Do you think it would have any effect on-- Let's say it's
18 intoxication with drugs, for example. Do you think that
19 would have any bearing?

20 A. I suppose if it was drugs, you know--

21 Q. Okay.

22 A. --I suppose it could make a difference, yes.

23 Q. Okay, you have any experience or familiarity, or do you
24 know anything about the effects LSD has on people?

25 A. Yes.

Juror #11 (Mr. Lathrom) - Examination by Mr. Simeone 466.

1 Q. Okay. What about the other things that you might use in
2 your system of judgment about whether or not somebody's
3 telling you a correct story? Do you look at facial
4 expressions, that kind of thing?
5 A. Facial expressions, eye--
6 Q. Eye contact?
7 A. I watch the eyes. Eye contact.
8 Q. All of those things kind of enter into our-- our own
9 techniques of making that judgment, don't they?
10 A. Uh-huh.
11 Q. Okay. Have you heard of the Rainbow Family at all?
12 A. Rainbow? No.
13 Q. Doesn't ring any bells? Barter fairs don't have any
14 specific meaning or connotation to you at all?
15 A. I've never been to one. I've known-- I know of them.
16 Q. Do you--
17 A. And I have known of people that have gone to them, yes.
18 Q. Does it leave any kind of an impression on you, one way or
19 the other? Barter fair, does it have--
20 A. No.
21 Q. No kind of--
22 A. I've never been to one, so I don't know what they're about
23 or what to expect.
24 Q. Sure. No kind of firsthand experience with it?
25 A. No.

Juror #11 (Mr. Lathrom) - Examination by Mr. Simeone 467.

1 Q. From what other people have told you about it, does it
2 have any kind of connotation to you, good or bad or
3 anything? Barter fair?
4 A. From what I've heard, the people that have gone to them,
5 it's good.
6 Q. Just an event. Okay, nothing negative?
7 A. Correct.
8 Q. Okay. Is there anything about the length of this trial
9 that might cause you any difficulty with your real life?
10 A. No.
11 Q. It might go through Wednesday, and then plus after that
12 you have to make a deliberation, that kind of thing?
13 A. No. It's all-- My employer's fine with it.
14 Q. Okay, now, one of the things you'll find in our trial here
15 is that the State presents its case first, and they'll
16 basically get in the first hit. Are you able to keep an
17 open mind until you hear both sides of the story here
18 about your final opinion?
19 A. I believe so, yes.
20 Q. Okay. Do you agree that it might be difficult on a given
21 occasion for a person to account for a couple of hours of
22 his day if he's not on a schedule?
23 A. No.
24 Q. You think everybody should be able to prove where they
25 were at every given hour of their day?

Juror #11 (Mr. Lathrom) - Examination by Mr. Simeone 468.

1 A. Yes.

2 Q. Can you envision that there might be an occasion where
3 it's hard for a person to explain every hour of his day?

4 A. Well, if-- I guess if drugs or alcohol or something like
5 that were to come into effect and they were, you know--

6 Q. Say, for example, if--

7 A. I guess I don't--

8 Q. Well, say, for example, you're on a vacation, you're not
9 on a work schedule or something, and you were then
10 required to say where you were between certain hours of
11 the day, do you think that-- if you don't have a schedule
12 that it might be hard to prove where you were at a given
13 time?

14 A. Well, I'd probably narrow it down, probably within a half
15 an hour or so, you know, if I'm not watching my watch or
16 whatever, yeah.

17 Q. Well, I know that you could tell me where you were.
18 That's great. But I mean do you think it might be hard to
19 prove by any other way where it was you were, if you're
20 not on a work schedule that absolutely dictates where you
21 have to be at a given hour?

22 A. Yeah, I guess it-- At some point I guess it could be
23 hard, if--

24 Q. Might--

25 A. Say if somebody was just taking my word for it, that it

1 would be difficult to say, you know, this is where I was
2 and for them--

3 Q. Okay, that's basically what I was trying to get around to,
4 to see whether or not that's something you agree might be
5 possible. Are there any other things about your life or
6 about this matter that might be difficult to-- for you to
7 schedule around?

8 A. For me to schedule around this trial?

9 Q. Yeah.

10 A. No.

11 Q. No? And do you want to be a juror here?

12 A. I think it's my duty.

13 Q. Okay.

14 A. If I'm selected to be a juror, then that's--

15 MR. SIMEONE: Thank you. Thank you very much for those
16 answers. Pass for cause, your Honor.

17 THE COURT: All right, thank you, Mr. Lathrom. Now you
18 may feel free to go home for this evening. We'll need you
19 back tomorrow morning at--what did we decide?--10:00.

20 MR. LATHROM: Okay.

21 JUROR IS ESCORTED OUT OF THE COURTROOM

22 THE COURT: Let's see, Jack, I guess you'll get Number
23 12, please.

24 JUROR NUMBER 12 IS ESCORTED INTO THE COURTROOM

25 THE COURT: All right, Mr. Conrad, is it? Mr. Conrad,

Juror #11 (Mr. Lathrom) - Examination by Mr. Simeone 470.

1 I'm just going to remind you that you're still under oath
2 from way this morning early, when we-- Not early. Late
3 this morning when we swore everybody in. This shouldn't
4 take too long and we'll get you on your way for at least
5 today.

6 Could you tell us, were you-- When you came up the
7 stairs this morning, did you notice a gentleman sitting on
8 the bench there, and if so, did you have any kind of
9 conversation with him?

10 MR. CONRAD: No.

11 THE COURT: No? Okay. The second thing I need to tell
12 you before I forget is that if-- To the extent there's,
13 I guess, one more juror in there, but these questions and
14 answers in here are still subject to the instruction not
15 to discuss with anyone else, including the other jurors,
16 of course, so I'll just remind you of that.

17 So, Mr. Wetle, any questions of Mr. Conrad?

18 MR. WETLE: Thank you, your Honor.
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1 MR. CONRAD

2 EXAMINATION BY MR. WETLE

3 Q. Good afternoon, Mr. Conrad. Before you got your notice to
4 be a juror here, did you have any notions or perceptions
5 about whether you ever wanted to be a juror, or never
6 wanted to be a juror, or just didn't ever come up?

7 A. Well, I've got a hearing problem. I was excused from jury
8 duty in '95.

9 Q. Was it in this courtroom?

10 A. Yes.

11 Q. And it was a trial?

12 A. Yes.

13 Q. Have you been able to get either better hearing aids or
14 assistance in hearing or--

15 A. Well, it's--

16 Q. Have things improved or gotten worse?

17 A. Well, just about the same.

18 Q. Okay, can you-- Can you hear me okay?

19 A. Yeah.

20 Q. Did you have any trouble hearing when you were back with--
21 Well, I guess you were up here on the bench?

22 A. Yeah, I had trouble hearing way across the room on some of
23 it.

24 Q. Okay.

25 THE COURT: Do you have hearing aids, sir?

Juror #12 (Mr. Conrad) - Examination by Mr. Wetle

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MR. CONRAD: No, I don't.

THE COURT: You don't use hearing aids?

MR. CONRAD: No.

THE COURT: Okay, and we don't have-- We don't have hearing enhancement devices in this courtroom as yet. We're going to, and they really help. So you weren't able to hear some of the things I was saying?

MR. CONRAD: No, I couldn't understand some of them.

THE COURT: You could hear that I was talking, but couldn't quite make out--

MR. CONRAD: I couldn't--

THE COURT: --all the details of it?

MR. CONRAD: Yeah.

THE COURT: All right. Well, you know, Mr. Lathrom (sic), it is going to be important that you hear all the witnesses, and my experience is that all of the witnesses talk so-- or 90% of them talk very, very softly. We could seat you in that chair there in the very first chair, but do you think that would make any difference from that distance?

MR. CONRAD: Well, I still wouldn't be able to understand all of it.

THE COURT: You'd miss some of the things?

MR. CONRAD: Some people I can understand, some I can't.

1 THE COURT: It depends on the range of their voice--

2 MR. CONRAD: Yeah.

3 THE COURT: --and how clearly they talk? Okay. I
4 think, then, we'll go ahead and excuse you, unless there's
5 some--

6 MR. SIMEONE: I'm not going to object, your Honor.

7 THE COURT: --other suggestion by the parties. I'll go
8 ahead and excuse you, Mr. Conrad, which reinforces to me
9 that I need to get that device here in the courtroom so we
10 can take advantage of having your service in the future so
11 that we can accommodate that. But thank you very much for
12 coming, and we'll go ahead and excuse you. Thank you very
13 much for all of your waiting today too.

14 MR. CONRAD IS ESCORTED OUT OF COURTROOM

15 JUROR NUMBER 13 IS ESCORTED INTO COURTROOM

16 THE COURT: All right, Mr. Rhodes, is it?

17 MR. RHODES: That would be me.

18 THE COURT: All right. Mr. Rhodes, a couple of things
19 before I let the attorneys ask you a few questions.

20 MR. RHODES: Okay.

21 THE COURT: The first one was when we had people come
22 up the stairs to sign in--some of them came up these
23 stairs and signed in; some of them came up the back door
24 to sign in for jury duty--there was a gentleman sitting on
25 the bench out here who was going to be a witness, and

1 apparently he was-- Without knowing any better, he was
2 chitchatting with some of the people who ended up being
3 jurors. I need to know if you or any of-- you were one
4 of the jurors that spoke to anybody sitting on the bench
5 out there, and if so, if there was any conversation about
6 the case or anything.

7 MR. RHODES: No, I didn't talk to anybody sitting on a
8 bench when I signed in.

9 THE COURT: All right. Secondly, the questions and
10 answers here in the courtroom, this is in open court, it's
11 public, but in terms of your jury service, we do need to
12 remind you not to discuss this with anyone else or with
13 the fellow jurors until the case is finally submitted to
14 you, then you can feel free to talk about anything, unless
15 you're instructed specifically not to mention it. Okay?

16 So Mr. Wetle has some questions, and then Mr. Simeone
17 has some questions for you.

18 MR. RHODES: Okay.

19 THE COURT: Mr. Wetle?

20 MR. WETLE: Thank you, your Honor.

1 MR. RHODES

2 EXAMINATION BY MR. WETLE

3 Q. Good afternoon, Mr. Rhodes.

4 A. Afternoon.

5 Q. Prior to getting your notice to come and be a juror here,
6 did you ever have any notion about whether you wanted to
7 be a juror or you didn't want to be a juror?

8 A. I never really thought about it, to tell you the truth.

9 Q. Okay. Where'd you go to school?

10 A. I went to school in Chewelah.

11 Q. Graduated down there?

12 A. Graduated from Chewelah, and then I went to-- I went to
13 WSU for one year, and then I went to ITT for a year.

14 Q. And how did you get on at the casino?

15 A. How did I get on at the casino? I had-- Actually, one of
16 my buddies works there and he more or less got me on now.
17 Down there.

18 Q. What are you-- What are your jobs?

19 A. My job, I'm a slot technician, plus a-- I do audit work,
20 in which we run the meters-- Read meters and we put them
21 in computer ____ and send them to the Gaming Commission.

22 Q. I see.

23 A. And actually, I do almost everything, except for handle
24 large amounts of money.

25 Q. What hours do you work?

1 A. I work almost anything. I work-- I can work during the
2 day, and I work at night, but I mainly work 5:00 o'clock
3 at night to about 4:00 o'clock in the morning.

4 Q. Okay, and then the question is, if you were to be a juror
5 in this case, would you be getting out of the courtroom
6 and heading down to the casino to work the night shift?

7 A. They probably would want me to.

8 Q. Okay, that would take you up to about 4:00 o'clock in the
9 morning?

10 A. Pretty close to 4:00 in the morning. I got home at 4:30
11 this morning.

12 Q. And then you'd come back here for all day jury duty?

13 A. Uh-huh.

14 Q. Can you do that?

15 A. I hope so. I could think I could do it. I should.

16 THE COURT: Let me ask before we go any further. Mr.
17 Rhodes, if the court were to instruct you that you needed
18 some hours of sleep, and that you needed to have a shorter
19 shift--

20 MR. RHODES: I'm sure they would.

21 THE COURT: Would they accommodate that?

22 MR. RHODES: I'm sure they would.

23 THE COURT: Okay.

24 MR. RHODES: I'm pretty sure they would.

25 THE COURT: All right, so they could be-- Because I

1 don't think it would work from our standpoint for you to
2 get, you know, a half hour sleep and come up here.

3 MR. RHODES: I'm supposed to be there right now, but--

4 THE COURT: Yeah. So my thought is that if you are
5 selected on the jury, we probably need you to be sleeping
6 rather than working at night, and being able to be fresh
7 here and attending to this as your job for that five or
8 six day period.

9 MR. RHODES: Right.

10 THE COURT: So my next question is whether that would
11 create a financial hardship to the extent that it would
12 make it impossible for you to do that. I see you live
13 with your folks, apparently.

14 MR. RHODES: I do live with my folks, yeah.

15 THE COURT: Okay. Could you-- Could you swing that,
16 or would that be a financial hardship on you?

17 MR. RHODES: Oh, let's see.

18 THE COURT: I'm talking about a week.

19 MR. RHODES: About a week worth?

20 THE COURT: Yeah. Maybe-- You could work on the
21 weekend if you--

22 MR. RHODES: 'Cause I do work weekends right now as it
23 is.

24 THE COURT: You usually do. Okay.

25 MR. RHODES: 'Cause I work Fridays and Saturdays.

1 THE COURT: We're talking about maybe dribbling over
2 to-- in terms of your deliberations, into Thursday, maybe
3 even Friday.

4 MR. RHODES: Thursday, Friday.

5 THE COURT: You know, we're talking the trial going
6 through Wednesday, the evidence, and then the work of
7 deliberations maybe having to continue beyond that,
8 depending. You know, that's kind of unpredictable.

9 MR. RHODES: It could get tight, yeah.

10 THE COURT: Could get tight.

11 MR. RHODES: It could get pretty tight, 'cause I have
12 a pretty stout car payment and--

13 THE COURT: Okay, and they don't pay you anything for
14 not being at work?

15 MR. RHODES: Unless I take 'em out of my hours right
16 now. I don't know. I might have to ask them.

17 THE COURT: Okay. Who is your employer? The Tribe or
18 is it--

19 MR. RHODES: The Tribe is my employer.

20 THE COURT: The Tribe is your employer. So you don't
21 know whether or not they have any policy on jury duty, of
22 paying you while you're required to be on jury duty?

23 MR. RHODES: Somebody told me they do, so-- 'Cause
24 there was a couple others and they had told me they do.

25 THE COURT: All right. Okay. Let's assume for now,

1 Mr. Wetle, that they do, and, Mr. Rhodes, you can check on
2 that, can't you, tomorrow?

3 MR. RHODES: I'll check on it. Yeah, I can check on
4 it.

5 THE COURT: Tonight, rather, and see.

6 MR. RHODES: Yeah. I'll go in tonight, later.

7 THE COURT: Okay, do you need the bailiff to make a
8 call to your employer right now and tell them where you
9 are?

10 MR. RHODES: No, they know where I'm at, actually.

11 THE COURT: Okay, then. All right, go ahead with your
12 questions then.

13 Q. If they said they would continue to pay you, but you
14 needed to work at night, what happens at that point?

15 THE COURT: No, no. That wouldn't be an option. That
16 wouldn't be an option from the court's standpoint.

17 MR. WETLE: All right, as long as we're clear.

18 THE COURT: I think maybe if they wanted you to work,
19 Mr. Rhodes, you know, two or three hours, that would be
20 one thing. If they want you to work a whole shift, I
21 would say we're not interested in that because we need
22 your-- we need your bright eyes in the morning when
23 you're usually sleeping. So we'd need you to sleep--

24 MR. RHODES: Yeah. I usually--

25 THE COURT: --at your usual work time.

1 Q. Mr. Rhodes, would you follow the court's instructions in
2 this particular case? Do you have any problem following
3 what the judge would say in terms of the law?
4 A. No, no.
5 Q. You'd apply it to the facts of the case?
6 A. (No audible response)
7 Q. Mr. Rhodes, if some of the witnesses that come and testify
8 on the stand are from a little different background,
9 little different walk of life than yours, would you be
10 able to cast aside their backgrounds and differences and
11 listen to what they have to say in terms of what they knew
12 about the events of this trial?
13 A. Oh, sure.
14 Q. And if one or so of those witnesses had been convicted of
15 a crime in the past, could you factor that in in your
16 process to weigh what they were telling you about this
17 particular situation in relation to the fact that they had
18 been convicted of a crime?
19 A. That they had been convicted?
20 Q. In the past, yeah.
21 A. If it's relevant to this, more or less. I mean--
22 Q. It wouldn't be the same type of situation, it's just that
23 they had been convicted of a crime some years back.
24 A. I wouldn't-- I-- If it's not really relevant to this, I
25 don't see why I would need to weigh it towards what's

1 happening now.

2 Q. Okay. Do you understand or-- Have you heard of the fact

3 that the State has to prove its case beyond a reasonable

4 doubt?

5 A. Yeah.

6 Q. And do you think that the State should have to prove a

7 case beyond all doubt?

8 A. Not necessarily all doubt, but they do have to-- I think

9 they have to serve a-- a case to make sure that you--

10 that you have a very strong feeling that they're either

11 guilty or not.

12 Q. You see the difference between beyond a reasonable doubt

13 and beyond all doubt?

14 A. Yeah, there is a difference between the two.

15 Q. Okay. Do you fire-- Have any firearms?

16 A. No, I don't.

17 Q. Have you ever fired a .22?

18 A. Have I ever fired a .22?

19 Q. Uh-huh.

20 A. Like once.

21 Q. Bolt action, single shot?

22 A. It was a bolt action, single shot.

23 Q. Okay. Have you ever been to the Northport Barter Fair?

24 A. No.

25 Q. Have you ever been to any barter fairs or hempfests?

1 A. I've never been to a barter fair or anything like that.

2 Q. What do you know about the barter fair?

3 A. Very little, actually.

4 Q. Have--

5 MR. WETLE: Thank you very much, Mr. Rhodes. We pass
6 for cause, your Honor.

7 THE COURT: All right, Mr. Simeone?

8 MR. SIMEONE: Thank you, your Honor.

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1 MR. RHODES

2 EXAMINATION BY MR. SIMEONE

3 Q. Good afternoon, or is it good evening, Mr. Rhodes.

4 A. It's evening now.

5 Q. How are you holding up?

6 A. All right.

7 Q. Okay, good. I don't have you down as having answered yes
8 to any of Judge Baker's preliminary--

9 A. I didn't.

10 Q. Okay, good. You know that she told you, that is, Judge
11 Baker told you, initially that Mr. Grange is charged with
12 a very serious offense here of murder. You understand
13 that.

14 A. Right. Yeah.

15 Q. Does the fact that he's charged with murder, does that
16 cause you any kind of anxieties or feelings of maybe
17 uneasiness about presiding over this very serious subject
18 matter?

19 A. A little bit. I mean it--

20 Q. Okay, other than the fact of that uneasiness, do you think
21 you can--

22 A. Well--

23 Q. --bear with it?

24 A. I can bear with it. It is a little uneasy 'cause it is
25 such a big matter.

1 Q. Okay, right. It's a weighty subject matter, and you
2 understand the importance of the decision you'll be making
3 if you're a juror then.
4 A. Right.
5 Q. Okay. Mr. Wetle asked you a little bit about proof beyond
6 a reasonable doubt, and I wanted to ask you a little bit
7 about that too. Before a person's convicted of a crime in
8 our country, they--that is the State--must prove that
9 person's guilty beyond a reasonable doubt.
10 A. Right.
11 Q. But right now as Mr. Grange sits here before you, you
12 understand that he's not guilty of a crime because there's
13 no proof against him yet.
14 A. Yes. Right.
15 Q. And that what you're-- What the State is going to try to
16 do is establish proof against him from the witness stand,
17 the very stand where you're sitting right now.
18 A. Right.
19 Q. Okay, and do you-- Do you basically agree with that
20 presumption of innocence?
21 A. Yeah.
22 Q. Okay, good. It's a good system. You agree?
23 A. Yeah, un-- I mean until they prove different.
24 Q. Sure. And the way to go about trying to prove their case
25 is by using witnesses to their position. How do you go

1 about trying to determine a witness's believability? I'll
2 maybe run-- throw out a few ideas for you. Is consisten-
3 cy in a person's story, do you think, important in whether
4 or not you believe a person?

5 A. I mean maybe in a way. Sure, consistency is. I also
6 think if they sound like they-- that they're trying to
7 prove their point, you know, they're real strong about it,
8 then--

9 Q. How they sound?

10 A. How they sound, how they say it, and if they seem like
11 they're real--

12 Q. Demeanor?

13 A. Real demeanor, and if they're really trying--

14 Q. Sure.

15 A. --to get it across to somebody.

16 Q. Sure. How about whether or not a person is relating
17 events of a time-- at a time when he was intoxicated? Do
18 you think that that would have a bearing on his ability to
19 accurately recollect an incident?

20 A. Well, if you're intoxicated you have a hard time recol-
21 lecting anything.

22 Q. Okay, so that bears on it too--

23 A. Yeah.

24 Q. --whether or not that person's telling a truthful story.
25 Mr. Wetle also discussed a little bit with you about

Juror #13 (Mr. Rhodes) - Examination by Mr. Simeone 486.

1 whether or not that person had been convicted of a crime
2 in the past, and whether or not that would have any
3 bearing on your regard for their testimony. And I think
4 you said well, you know, it's another crime, another
5 place, I probably wouldn't tend to put too much weight to
6 that. But how about if it's a crime of dishonesty, for
7 example? Do you think that might affect your ability to
8 believe, or would it be one of the factors--

9 A. That could weigh in.

10 Q. It's one of the things. I mean it's not a be all end all
11 thing, but it's one of the things.

12 A. It could weigh in.

13 Q. Yeah. Okay.

14 A. It'd be in the back of your head like.

15 Q. Yeah, and how about if a person is testifying, maybe he
16 has received from the State an agreement for a lesser
17 sentence or more lenient treatment if he testifies. Do
18 you think that also might bear on his ability to testify
19 accurately, or your-- Would it have an effect on your
20 regard for that testimony? I guess that's the easiest way
21 to phrase it.

22 A. I guess it really wouldn't bear anything towards me on the
23 testimony, if they testified, they got a less-- if they
24 got a little less charge put on them, but it really
25 wouldn't change how I would try to come about that.

Juror #13 (Mr. Rhodes) - Examination by Mr. Simeone 487.

1 Q. It wouldn't change--
2 A. That testimony. It wouldn't change, really, anything.
3 Try to stay open.
4 Q. You think it's within the realm of possibility that it
5 might influence the way they testify?
6 A. It's-- I'm sure it's possible.
7 Q. _____. Have you ever heard of the Rainbow Family?
8 A. The Rainbow--
9 Q. You're from around here, I gather.
10 A. Yeah, I'm from around here.
11 Q. Have you heard of the Rainbow Family?
12 A. The Rainbow Family?
13 Q. Yeah.
14 A. I have to say I haven't.
15 Q. Haven't? Okay, fine. How about the barter fairs? You've
16 heard of them?
17 A. I've heard of them. I've never gone to any, but I hear of
18 them.
19 Q. Know any kind of negative or positive connotation of the
20 term barter fair?
21 A. There's actually, from what I hear, there's a little bit
22 of both. I mean sure.
23 Q. Okay, so you walk away--
24 A. They do do trading, but I hear there is-- there is drugs
25 and stuff that go around.

Juror #13 (Mr. Rhodes) - Examination by Mr. Simeone 488.

1 Q. Okay. Do you have any kind of objection to individuals
2 who lead other than conventional lives like we lead
3 mostly?

4 A. No. I don't object to anything.

5 Q. Okay. You think it might be-- Some people live on
6 schedules. You have a work day, I have a work day. Some
7 people don't have schedules. For a person who's on a
8 schedule, do you think it might be pretty easy for that
9 person to prove his whereabouts on a given day?

10 A. Might be easier.

11 Q. How about a person who's not on a schedule? You think it
12 might be a little difficult for a person like that to
13 maybe account for every hour of his day? He's on vacation
14 or unemployed?

15 A. Yeah, that could be hard.

16 Q. Okay. Finally, and I don't want to keep you any longer.
17 Are you going to work tonight?

18 A. No.

19 Q. Let's say you've been through a few days of trial, and now
20 you're deliberating. You've analyzed pretty carefully the
21 kind of evidence that's been presented, and you've
22 discussed it with your fellow juror, their positions,
23 reconsidered your own position, you've weighed, listened,
24 you still have your own opinion about a case that's
25 different than somebody else's. What do you do at that

1 point?

2 A. I think if it's-- It's-- If all the material has gone
3 through and everything has went, and you have my opinion
4 and they have their opinion, and then you're going to have
5 to somehow try and figure out where the differences of
6 opinion have occurred and where and what evidence changed
7 their opinion, saying what changed yours, and then maybe
8 you're just going to have to talk it out and figure out
9 what the differences, why, and where they thought differ-
10 ently than maybe you did.

11 Q. Sure. Would you ever surrender your honest belief after
12 carefully considering all the evidence and everybody
13 else's testimony-- everybody else's opinion?

14 A. Would I ever?

15 Q. Yeah.

16 A. I would say I wouldn't-- If I believed strong enough, I
17 wouldn't.

18 MR. SIMEONE: Well, I'm not going to ask you any more
19 questions. Thank you. No further questions, no challenge for
20 cause, your Honor.

21 THE COURT: All right, thank you. Now, Mr. Rhodes, I'm
22 going to ask you, maybe, if you could check in with your
23 employer tonight and have an answer for us tomorrow as to
24 whether they have a policy such that you would actually
25 receive some pay, without being able to compromise your need

1 for sleep in order to sit on this jury.

2 MR. RHODES: All right.

3 THE COURT: And-- In other words, so that we don't have
4 you burning the candle at both ends, Number 1, and don't have
5 you losing the seven days of income.

6 MR. RHODES: Okay.

7 THE COURT: Five, six, seven days of income, or five days.

8 MR. RHODES: Okay.

9 THE COURT: And then if you'll be back at 10:00 tomorrow
10 morning, and we'll ask you what you found out and take it from
11 there.

12 MR. RHODES: Okay, I can do that.

13 THE COURT: All right, thank you very much, and you're
14 free to go now with your ongoing instruction about not
15 discussing, et cetera. All right? Thank you.

16 MR. RHODES IS ESCORTED OUT OF COURTROOM

17 THE COURT: All right. Well, 5:20. We used every
18 available moment today, didn't we?

19 Let me-- Before the attorneys leave, let me have you
20 conform your copies to the jury grid that I have.

21 MR. WETLE: I was going to say I-- I noticed I went up to
22 13 and 14 and I said I bet the--

23 THE COURT: Yeah, we're up to--

24 MR. WETLE: --court _____ out that--

25 THE COURT: We're up to 16 now.

1 MR. WETLE: Did you put Rhodes in Number 5 position?

2 THE COURT: Yes. Rhodes is in Number-- Thirteen is in
3 Number 5 position, Mr. Simeone. Mr. Rhodes. And then up on
4 the top line there, for the Number 8 position, Mr. Anderson
5 was excused. And Number 14, Hollabaugh, is in that position.
6 We haven't heard from Ms. Hollabaugh yet. And then in Number
7 10 position, Ms. Wharton was excused for cause, and so Number
8 15, Kevin Dallman goes in that slot. And then in Number 12,
9 Mr. Conrad was excused for his hearing problem, and so Number
10 16, Christy L. Drury is put into that slot for now. That's as
11 far as we've gotten. We're up to Number 16 this far, and we--
12 we've-- We'll be having Number 14 in tomorrow morning, if
13 everybody will remind me about asking Mr. Rhodes first off,
14 and if he needs to be excused we'll excuse him and probably
15 have him come back for one of those one-dayers that he could
16 burn the candle at both ends.

17 THE BAILIFF: (Inaudible)

18 THE COURT: And Mr. West we're going to hear back from in
19 the morning too, come to think of it, so we'll have an idea of
20 what-- what that situation is.

21 Okay, anything else to deal with this evening, counsel,
22 that's pressing? No?

23 MR. SIMEONE: I can't think of anything, Your Honor.

24 THE COURT: Okay, and I think that if we start at 9:00
25 we'll be fine.

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1 MR. SIMEONE: Okay.

2 THE COURT: And so if everyone will be here at 9:00 we'll
3 just forge right in with those that we have. Oh, I told Mr.
4 Rhodes to be here at 10:00, didn't I?

5 MR. BASKIN: I believe you told the other gentleman before
6 him 10:00 too.

7 THE BAILIFF: Correct. Mr. West and _____.

8 THE COURT: At 10:00? Okay. Oh, that's fine. We can go
9 on with 14, et al. They're coming in at 9:00, right?

10 THE BAILIFF: Correct.

11 THE COURT: We told 14 to come in at 9:00, I hope.

12 THE BAILIFF: _____. You wanted _____ back, correct?

13 THE COURT: Eventually, yeah.

14 THE BAILIFF: They're all coming in _____, so ____.

15 THE COURT: All of the-- The ones at the tail end are
16 coming in at 9:00?

17 THE BAILIFF: _____

18 THE COURT: No, no. Some of them-- We had through some
19 number, like 25, that were supposed to come at 9:00.

20 THE CLERK: Nineteen through 25 at 9:00 and the rest at
21 10:00.

22 THE BAILIFF: Yeah, that's correct.

23 THE COURT: Hopefully that's what got communicated. We'll
24 see.

25 THE BAILIFF: _____

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1 THE COURT: It didn't?

2 THE BAILIFF: _____ come back, except for 1 through 19
3 at the time. You changed that. I think they're all coming
4 _____.

5 THE COURT: Well, it's going to take us through 19--
6 Nineteen's supposed to be here at 10:00, right? I mean at
7 9:00, right?

8 THE BAILIFF: At 9:00.

9 THE COURT: Okay. So we've got 14 through 19 coming in at
10 9:00. That ought to be plenty to get us where we-- in the
11 right direction without too much trouble.

12 Okay, court will be at recess-- No, I guess it'll be
13 adjourned for the day.

14 COURT ADJOURNED FOR THE DAY

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