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FILED
IN SUPERIOR COURT STEVENS COUNTY
AUG 14 2001
PATRICIA A. CHESTER
COUNTY CLERK

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. 00-1-00190-2)

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CLERK OF COURT OF APPEALS
STATE OF WASHINGTON III

file No. _____
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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VOLUME 5 of 17
February 9, 2001
(Pages 492 through 628)

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1 FEBRUARY 9, 2001

2 COURT RECONVENED WITHOUT PROSPECTIVE JUROR

3 [NOTE: Disk starts in mid-sentence]

4 THE COURT: --Number 14 in. Mr. Simeone, you're on your
5 feet? Is there anything we need?

6 MR. SIMEONE: Yeah. I'm trying to remember what it was
7 that I wanted to discuss with you.

8 THE COURT: Well, we'll have to have another break if--

9 MR. SIMEONE: Yeah. I hope it'll come back to my mind

10 ____.

11 THE COURT: Okay. I'm sure it will eventually.

12 MR. SIMEONE: A senior-- senior moment.

13 THE COURT: Okay, well, we're waiting for the bailiff to
14 get extricated from the jury room with either 14, 15 or 16,
15 whichever we can find first.

16 We're ready for Number 14, if she's ready.

17 THE BAILIFF: Yes.

18 JUROR NUMBER 14 IS ESCORTED INTO THE COURTROOM

19 THE COURT: If you'll just have a seat up here, please.
20 Is it Ms. Holibaugh?

21 MS. HOLIBAUGH: Yes.

22 THE COURT: All right, Ms. Holibaugh, I'll just remind you
23 that you're still under oath from the oath that we gave
24 everybody yesterday morning, and I had a couple of preliminary
25 questions. One was whether or not you noticed-- When you

492.

1 checked in yesterday there was a gentleman sitting on the
2 bench out there, and apparently he was chatting with some of
3 the jurors as they came by, and we don't think it was anything
4 out of the ordinary but we just wanted to make sure, since he
5 was a witness, that there wasn't anything discussed that we
6 needed to know about. So do you recall seeing him or talking
7 to him?

8 MS. HOLIBAUGH: No, I haven't talked to anybody but the
9 other jurors.

10 THE COURT: All right, great. Thank you. Ms. Holibaugh,
11 the other question I had-- or, I guess, comment I had, was,
12 before I forget it, to just remind you that any of the
13 questioning and answers that you give in here-- The reason
14 we're doing this one at a time is in case certain jurors know
15 certain things and might pass on information to the other
16 jurors. Make sure you don't do that. So no discussion about
17 the case, of course, and the questions and answers would be
18 included.

19 MS. HOLIBAUGH: Okay.

20 THE COURT: And you get kind of a taste of what it feels
21 like to on that witness chair, don't you? I've been there
22 myself, and it's not a comfortable seat, I know.

23 Mr. Wetle will have a few questions for you, and then Mr.
24 Simeone will have a few questions.

25 MS. HOLIBAUGH: All right.

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THE COURT: All right, Mr. Wetle?

MR. WETLE: Thank you, your Honor.

1 MS. HOLIBAUGH

2 EXAMINATION BY MR. WETLE

3 Q. Good morning, Ms. Holibaugh.

4 A. Morning.

5 Q. I see from your questionnaire that you have been a juror
6 in the past.

7 A. Right. In California.

8 Q. And how long ago was that?

9 A. It's about-- about 12 or 14 years ago.

10 Q. Do you remember whether it was a criminal case or a civil
11 case?

12 A. It was driving and that, you know, and tickets and like
13 that.

14 Q. Like in District Court?

15 A. Right.

16 Q. Or maybe drunk driving, reckless driving?

17 A. Reckless driving, right.

18 Q. Something like that.

19 A. Uh-huh.

20 Q. Okay. With your work as a juror in that case, did it
21 leave any impression on you that would carry over here
22 that would make you want to be or not want to be a juror
23 in this case?

24 A. No, not necessarily. You sit around for a long time.
25 That's the only thing that's hard to do.

Juror #14 (Ms. Holibaugh) - Examination by Mr. Wetle 495.

- 1 Q. You've noticed that in California and in Washington then?
- 2 A. Exactly.
- 3 Q. Okay. Well, that's good. We wouldn't want to--
- 4 A. Be any different.
- 5 Q. --not be able to keep up with California. So other than
- 6 that, there's nothing from that experience that would
- 7 affect you?
- 8 A. No.
- 9 Q. Okay. You also raised your card when the judge asked if
- 10 you had heard about this case.
- 11 A. Right.
- 12 Q. And so the reason we get to do this is to ask you if you
- 13 can remember-- or what do you remember that you heard?
- 14 A. Reading it in the newspaper. And also, I'm a grocery
- 15 checker and I believe the young man came through my line
- 16 a couple of times at work.
- 17 Q. Mr. Schaefer, the man that had the flier out on him?
- 18 A. Yes.
- 19 Q. And you're checking at the Exxon?
- 20 A. Super One.
- 21 Q. Super One here in Colville?
- 22 A. Right.
- 23 Q. Okay. And you recognized him from that flier?
- 24 A. Right.
- 25 Q. Okay. You realize that anything that you heard on the

Juror #14 (Ms. Holibaugh) - Examination by Mr. Wetle 496.

1 radio or on the-- read in the newspapers should be
2 absolutely disregarded and only rely now on the things
3 that you hear here in the courtroom?

4 A. Right.

5 Q. Okay. And you wouldn't have a problem doing that?

6 A. No.

7 Q. All right. How do you feel about-- You obviously sat in
8 judgment in the reckless driving case. You're here on a
9 murder case.

10 A. Right.

11 Q. You understand the duty of a juror and will be able to
12 participate in that respect?

13 A. Well, it'd be kind of hard. I-- I don't know-- You
14 know, you ask questions and that and, you know, things pop
15 back into your mind. My oldest daughter died under kind
16 of unusual circumstances, and I don't know, it brings back
17 memories.

18 Q. Okay. I don't know, did-- When the judge was asking if
19 anybody had similar experiences--

20 A. I didn't think at the time-- A couple of things popped
21 back into my mind later. You know how at the time you
22 don't think about it, you know, but--

23 Q. Yes.

24 A. And years ago my next door neighbor was murdered, and--
25 This has been like 25 or 30 years ago, and you just don't

Juror #14 (Ms. Holibaugh) - Examination by Mr. Wetle 497.

1 think about those things until later, and they kinda pop
2 back into your mind, but--

3 Q. And now it comes back.

4 A. Yes. Other than that, though, those are the two things
5 that-- I didn't raise my hand before. I don't know. I
6 just didn't think about them at the time.

7 Q. Well, that's good that you had a little chance to think
8 about that. With respect to your daughter--

9 A. Right.

10 Q. That is pretty close to home.

11 A. Right.

12 Q. And she was the victim in that particular issue?

13 A. Yes. It was in Texas, and my husband was really ill and
14 I couldn't even go down there. All I could do was bring
15 her body back.

16 Q. Okay. Were any charges brought out of that or not?

17 A. No.

18 Q. Just unusual circumstances?

19 A. Right.

20 Q. Okay. So it never got into a-- There were suspicions but
21 it never got into a criminal--

22 A. Right.

23 Q. Actually a courtroom. Have you now, with being able to
24 kind of get that off your chest, and realizing that this
25 is a charged crime and you would be sitting as a juror

Juror #14 (Ms. Holibaugh) - Examination by Mr. Wetle 498.

1 listening to the witnesses, making the decision, would
2 that prior circumstance affect you in making a decision in
3 this case?

4 A. No, not really.

5 Q. Okay, it's just that it's just there.

6 A. Right. You know, it's always in the back of your mind.

7 Q. Exactly. And then the other circumstance, there was
8 another person that was murdered, but it was not a family
9 member?

10 A. No. She lived next door and she'd been at my house for
11 dinner, and she was going with this fellow and she told
12 him that she was going back to her husband, and he
13 strangled her. So--

14 Q. Okay. Those bad things do happen.

15 A. Right.

16 Q. And you've been close to, certainly, one murder, and a
17 suspicious circumstance for your daughter.

18 A. Right.

19 Q. Think you can handle this?

20 A. As far as I know, I can. I don't know how detailed it's
21 going to be, but--

22 Q. Okay. Well, thank you for your candor. In this case,
23 some of the witnesses are from a little different life-
24 style--

25 A. Uh-huh.

Juror #14 (Ms. Holibaugh) - Examination by Mr. Wetle 499.

1 Q. --than some people, and would the fact that they have a
2 different lifestyle or different beliefs or attitudes, but
3 the fact of the matter was they were a witness or involved
4 in some aspect of the case, would you be able to cast
5 aside any of those stereotypical notions and say I'll
6 listen to what they have to say on the witness stand and
7 evaluate it with all the other witnesses?

8 A. Right. I mean in my line of work we deal with all kind of
9 people. You know, everybody's human and they have
10 different ways of doing things, you know, so it's their
11 business.

12 Q. So you're broad-minded--

13 A. Right.

14 Q. --in that respect? You had that burden of proof beyond a
15 reasonable doubt issue in California, and you'll have it
16 again here when the judge gives you those instructions
17 that the State must prove the crime beyond a reasonable
18 doubt. Do you think that the State should be required to
19 prove the case beyond all doubt?

20 A. No. I mean you just have to go over the evidence and make
21 up your mind on it.

22 Q. And you see the distinction between all doubt or beyond a
23 shadow of a doubt, as compared to beyond a reasonable
24 doubt?

25 A. Yes.

Juror #14 (Ms. Holibaugh) - Examination by Mr. Wetle 500.

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

THE COURT: All right, Ms. Holibaugh, Mr. Simeone now will have some questions for you.

1 MS. HOLIBAUGH

2 EXAMINATION BY MR. SIMEONE

3 Q. Good morning, Ms. Holibaugh.

4 A. Morning.

5 Q. How are you?

6 A. Just fine, thank you.

7 Q. I would like to go back to some of the discussion that you
8 had with Mr. Wetle on these previous horrible incidents in
9 your life. The purpose of our questioning here is to see
10 whether or not the jurors can go into a trial with--
11 without any kind of excess baggage, so to speak.

12 A. I under--

13 Q. Previous incidents that might influence or affect, maybe
14 somehow in the back of your mind nag you. You might well
15 understand it's important from the defendant's standpoint.
16 So what I would say to you is that this is the time to
17 speak or forever hold your peace on that point, and out of
18 fairness to everybody here, specially to my client, Mr.
19 Grange, you would have to let the court know because, boy,
20 I understood your answer to be: I think so, right now it
21 doesn't seem to be a problem.

22 I would hope so, and what I'm dreading that in the
23 middle of the trial somewhere all of a sudden those
24 notions come back to you and those thoughts come back to
25 haunt you and we have a problem. What do you think about

Juror #14 (Ms. Holibaugh) - Examination by Mr. Simeone 502.

1 that?

2 A. Well, I try to keep an open mind on anything.

3 Q. Yeah.

4 A. I mean, you know, you have bad things happen in your life
5 and you just have to go on and you can't change it.

6 Q. Sure. I agree, and that's a very good attitude that you
7 have, and I commend you for that. I still wonder, do you
8 think maybe in the background there's something that would
9 maybe cause you to want to be punitive to somebody who has
10 been accused of the same crime?

11 A. No, I don't believe I would. Not--

12 Q. Okay.

13 A. Thinking about it, I sure wouldn't, but--

14 Q. Sure. Good. Okay, because you know that Mr. Grange is
15 charged with that crime. It's a very serious crime, of
16 course. Mr. Wetle asked you a little bit about the proof
17 beyond a reasonable doubt, and it sounds like you've got
18 it, already understand that concept. Do you agree, then,
19 hand in hand with that thought, do you agree that as Mr.
20 Grange sits here that nobody's proven him guilty beyond a
21 reasonable doubt yet, so he's not guilty as he sits before
22 us.

23 A. Right.

24 Q. Okay. You would have to make that determination based
25 solely upon what the witnesses say, and we're going to

Juror #14 (Ms. Holibaugh) - Examination by Mr. Simeone 503.

1 have witnesses who are going to be giving some drastically
2 different accounts of what happened here.

3 A. Right.

4 Q. How would you go about trying to judge whether or not a
5 given witness is telling you the truth?

6 A. How do you know when anybody's telling you the truth? I
7 mean--

8 Q. We all have our own--

9 A. --you just try to put it through your mind and figure out
10 what you think is right.

11 Q. Well, let me give you some thoughts, and maybe you could
12 tell me what you think. How about consistency in stories?
13 What do you think about that as a way to judge whether or
14 not somebody's telling you the truth?

15 A. Well, everybody sees things differently. I mean, you
16 know, even with an accident or something like that,
17 sometimes you get two or three different stories.

18 Q. So that-- I mean that doesn't enter into your calcula-
19 tions about whether somebody's telling you the truth?
20 Whether on one occasion they tell one story and then on
21 another they tell a different story?

22 A. Well, you just have to do the best you can to-- with the
23 evidence that you have. That's all you can do.

24 Q. Right. Okay, what about-- Are there any other things
25 that you do to try to tell whether or not somebody is

Juror #14 (Ms. Holibaugh) - Examination by Mr. Simeone 504.

1 telling you the truth?

2 A. Well, you just think everything over that you hear, and
3 make a decision. That's all you can do.

4 Q. Do you look at facial expressions to see if somebody's
5 telling you the truth?

6 A. Yes.

7 Q. How about if somebody's been given a promise of a reduced
8 kind of a sentence in exchange for testifying? Do you
9 think that might influence the way they testify?

10 A. I'm sure it would.

11 Q. Has some bearing, anyway?

12 A. Uh-huh.

13 Q. I'm not saying that that's one and the only consideration
14 you'd give, but that would have some influence, wouldn't
15 it?

16 A. Yes, I'm sure it would.

17 Q. How about if a person has been in his lifetime accused of
18 a-- or convicted of a crime of dishonesty? You think
19 that might bear on your acceptance of their testimony?

20 A. Well, it's just like with your children. I mean, you
21 know, they tell you one thing that's not always the way it
22 is, so you just have to try to figure out what is right.

23 Q. Sure. Have you ever heard of a group of people called the
24 Rainbow Family?

25 A. I believe I've read it in the newspaper.

Juror #14 (Ms. Holibaugh) - Examination by Mr. Simeone 505.

1 Q. In association with what, the barter fair, maybe?
2 A. Right.
3 Q. Have you got any ideas about them as a result of anything
4 you've heard?
5 A. Not really. I mean where I work, I've heard some of the
6 kids, young people, being involved with it.
7 Q. Good or bad?
8 A. Neither.
9 Q. So it's a pretty neutral kind of an idea in your mind
10 about them then?
11 A. Right.
12 Q. Okay. And the barter fair, have you heard anything about
13 those?
14 A. Oh, I've been to them a couple of times, and--
15 Q. And what's your impression as a result of that?
16 A. Not really much, I mean, one way or the other. I mean
17 I've-- You hear a lot of stories and everything, but
18 unless you see something for yourself, you don't know
19 whether they're true or not, so--
20 Q. Sure. And do you walk away from it with any kind of a bad
21 impression, or--
22 A. No, not really. I mean it's just like a yard sale,
23 actually, up there, and, you know, I know I've heard a lot
24 of things about drugs being up there and everything, but
25 I haven't actually seen it.

Juror #14 (Ms. Holibaugh) - Examination by Mr. Simeone 506.

- 1 Q. Yeah. Now, you work at the store, obviously. You work
2 out at Super One?
- 3 A. Right.
- 4 Q. So on a given day if you had to have somebody prove where
5 you were, that wouldn't be too hard to do, would it?
- 6 A. No.
- 7 Q. Because your manager, fellow employee--
- 8 A. Right.
- 9 Q. Somebody would say oh, yeah, I know Ms. Holibaugh was
10 right here on Counter Number 2. How about a person who's
11 not employed, though, or a person who has no schedule?
12 You think it might be a little harder for that person to
13 prove whereabouts on a given day?
- 14 A. I'm sure it would.
- 15 Q. Something that might be difficult? Did you-- Did you
16 want to be a juror for us here?
- 17 A. Not really. I mean it upsets your life because you have
18 a regular schedule and everything, but-- I mean--
- 19 Q. Would it you cause you any kind of a hardship?
- 20 A. Huh?
- 21 Q. Would it cause you any kind of a hardship at work, do you
22 think?
- 23 A. Well, I'm a widow, and if I want to eat, I work, so, I
24 mean, you know how it goes.
- 25 Q. How about with your employer, though? Will that create a

Juror #14 (Ms. Holibaugh) - Examination by Mr. Simeone 507.

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problem?

A. I don't think so. They didn't seem upset when I told them I had to go.

Q. They'll allow you, then, some absence for the jury duty?

A. Uh-huh. Yes.

Q. Okay. Okay, good. You'll hear the State's presentation of its case, and then you'll hear the defendant's presentation of his case. Can you keep an open mind about everything until you've heard all of the evidence?

A. Yes.

Q. Okay, in your deliberation, will you stand fast to your honest opinion if that's what it is, after carefully considering all the evidence?

A. Right. That's what I'm supposed to do. It's why I'm here.

Q. You did that in your other case, I would-- I would expect.

A. Right.

Q. Okay, good.

MR. SIMEONE: Well, then, I would have no challenges for cause, your Honor. Thank you, Ms. Holibaugh.

MS. HOLIBAUGH IS ESCORTED OUT

JUROR NUMBER 15 IS ESCORTED INTO THE COURTROOM

THE COURT: All right, Mr. Dallman, if you would have a seat up here, please. Am I pronouncing your name

Juror #14 (Ms. Holibaugh) - Examination by Mr. Simeone 508.

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correctly?

MR. DALLMAN: Yes.

THE COURT: Okay. Mr. Dallman, a couple of things preliminarily. One is I'm asking folks if they had any conversation with a gentleman sitting on a bench out here as they checked in yesterday morning for jury duty.

MR. DALLMAN: No, I didn't.

THE COURT: Do you remember if you even noticed somebody out there?

MR. DALLMAN: No.

THE COURT: Okay, good. And the other thing is, before I forget it, to remind you not to discuss your question and answer sequence in here with any of your fellow jurors. It's part of the overall order. We're just wanting to know-- Some people know certain things about something, or have read certain things, and we want to make sure that people go by the evidence produced in court. So I want to make sure that anything you say or hear in here doesn't get discussed in the jury room.

MR. DALLMAN: All right.

THE COURT: All right. Until, of course, much later.

MR. DALLMAN: All right.

THE COURT: Mr. Wetle?

MR. WETLE: Thank you, your Honor.

1 MR. DALLMAN

2 EXAMINATION BY MR. WETLE

3 Q. Good morning, Mr. Dallman.

4 A. Morning.

5 Q. Before you got your summons and your notice to come and be
6 a juror, did you ever have any concepts or preconceived
7 notions about whether you ever wanted to be a juror, or
8 didn't want to be a juror?

9 A. No.

10 Q. Just hadn't come up on your screen in terms of want or not
11 want?

12 A. No, not really.

13 Q. So now that you have received your summons and letter and
14 questionnaire, how do you feel about being a juror?

15 A. I suppose it'd be kind of interesting. I'm unemployed
16 right now, so it's no hardship or anything. I have the
17 time, so I just figure it's kind of interesting. I don't
18 really care either way.

19 Q. Good. What type of work do you normally do?

20 A. Construction, pretty much. Worked for a post and pole
21 company. All forms of working with wood and--

22 Q. That kind of thing. Okay, I see you have not heard of
23 this case?

24 A. No, not at all.

25 Q. This is out of that-- the barter fair. I don't know if

1 you-- the missing young man out of the barter fair.
2 Don't recall that?

3 A. No. Huh-uh.

4 Q. Okay. How do you feel about being a juror and sitting in
5 judgment on a person being guilty or not guilty?

6 A. I don't have a problem with it. I think I'm as fair-
7 minded as anyone. You know, it kind of-- it's something
8 that kind of builds on you. Right now it's just not--
9 not nothing but a-- You know, I suppose once it comes
10 down to being one of the-- if you are one of the people,
11 then it will probably-- You know, I'll probably think
12 about it and have thoughts on it, but at this point it
13 doesn't seem to bother me. You know, I'm not bothered by
14 it either way.

15 Q. Okay. If the court gives you at the end of the case a
16 little packet of jury instructions regarding the law to be
17 followed in this case, would you have any problem follow-
18 ing those jury instructions? Sometimes there's some
19 philosophical issues out there about whether or not to use
20 your own either religious or God-given rights and not
21 follow the law, and that's a philosophy that some have,
22 and so the question is if you can address that, how do you
23 feel about those issues?

24 A. If I understand your question correctly, I believe that,
25 you know, to a-- to a point, but yet you have to have

Juror #15 (Mr. Dallman) - Examination by Mr. Wetle

511.

1 your own-- you know, your own thoughts on it. You have
2 to interpret it, basically. I feel I could interpret it.
3 You know, I don't know if you're asking me if it's just a
4 strict set guideline if my own thoughts would enter into
5 that or not, and if you are asking me that, then yes, my
6 thoughts would enter into it.

7 Q. Okay.

8 A. You know, if that's what you're asking me. I don't know
9 exactly what you're asking me.

10 Q. Well, I'll try to be a little more specific. We have in
11 the courthouse every day people that come in and make
12 Constitutional-type arguments about the authority of the
13 judge to even be here. And they don't like that yellow
14 fringe on that flag, and there's some things that bother
15 them. And so part of that whole concept is that, you
16 know, the law that the judge gives is okay and I'm going
17 to listen to some of it, but I'm not going to necessarily
18 be bound by all of it because I don't think I have to.
19 That's kind of what I'm talking about. And so I just say
20 to you, now's a good time, you know, before you become a
21 juror, as we sit here and discuss, you know, what we are
22 willing to do or not to do in the jury process. If you
23 know where you stand on that issue, if you're able to say
24 no, you know, I come here and I'm going to get the
25 instructions from the judge and I'm going to follow what

1 those instructions say. Or no, I don't think I have to;
2 I think I can do my own thing and follow the instructions,
3 or some hybrid, or somewhere in between. So that's-- I
4 don't know how to tactfully--

5 A. Yeah.

6 Q. --sort of put it so that I try to give my point across,
7 but give you a chance to at least think about it and see
8 where you fit in that spectrum.

9 A. Yeah, I believe I could follow the instructions. I don't
10 have a problem with that.

11 Q. Okay. Do you have any ideas about if one criminal would
12 get a reduced sentence or a recommendation for a reduced
13 sentence in return to testifying to convict one of his
14 buddies, do you think that's an appropriate or inappropri-
15 ate think to be-- to happen?

16 A. I think it's acceptable. I think it's the way it is, and
17 I don't have a problem with it.

18 Q. In this trial we're going to have different people from
19 different backgrounds and walks of life come and testify,
20 and would the fact that they may be a different background
21 than you, or have some different beliefs than you, cause
22 you problems in listening to and evaluating their testimo-
23 ny with regard to this case?

24 A. Not at all.

25 Q. Keep an open mind and be--

Juror #15 (Mr. Dallman) - Examination by Mr. Wetle

513.

1 A. Yeah.

2 Q. --broad-minded about that?

3 A. I don't have any prejudice.

4 Q. If one of the witnesses or so had been convicted of a
5 crime in the past, and they came in this room to testify,
6 would you be able to consider that they had made that
7 mistake and are now-- you're going to consider that as a
8 mistake and then also listen to the testimony that they
9 give in term-- and see how it relates to the facts of
10 this case?

11 A. Sure.

12 Q. Have you ever-- Not being a juror before, have you ever
13 had that-- or really thought much about the reasonable
14 doubt concept when the State needs to prove the case
15 beyond a reasonable doubt?

16 A. Yeah.

17 Q. Do you think that that means that the State needs to prove
18 the case beyond all doubt?

19 A. No. No, I don't believe so.

20 Q. Okay, I just-- I wanted to make sure you make that-- you
21 know that distinction--

22 A. Yeah.

23 Q. --between the two?

24 A. Yeah.

25 Q. Are you familiar with firearms?

Juror #15 (Mr. Dallman) - Examination by Mr. Wetle

514.

1 A. Yes.

2 Q. And have you ever fired a .22 semi-automatic?

3 A. Yes.

4 Q. Have you ever been to the Northport Barter Fair?

5 A. Yes.

6 Q. And how many times?

7 A. Oh, I suppose I've been there probably five times.

8 Q. Both day time and night time?

9 A. Usually about the middle of the day. Maybe a long, long
10 time ago, ten, 20 years ago, I was there into the evening,
11 but the last times that I can remember, we always went
12 during the day.

13 Q. What's your impression?

14 A. It's just interesting. You know, you can pick up little
15 knickknacks, and the wife and the kids really enjoy it,
16 and, you know, it's just fun, a fun thing to do. Get out
17 of the house and go, you know, eat some junk food and walk
18 around.

19 Q. Okay. Have you gone to any other barter fairs or hemp-
20 fests besides the one in Northport?

21 A. Not that I can recollect. I think that's about the only
22 one we ever go to.

23 Q. They have a spring barter fair and they have a summer
24 barter fair, you go--

25 A. Yeah. I just moved back about five years ago. I lived in

1 California for ten years, and so, you know, the last five
2 years we started going kinda regular. We usually only hit
3 it like once a year though. In the spring or in the fall
4 or summer, whatever.

5 Q. Okay. Have you ever heard of any organizations associated
6 with the barter fairs called Families?

7 A. No, I haven't heard of that.

8 Q. Have you or any members of your family or close friends
9 ever been charged with a felony? It'd be a serious crime,
10 Superior Court.

11 A. No. No, not that I can recollect. When I was about 21,
12 I was prosecuted for breaking into a post office. I guess
13 that would probably count. That's the only thing I can
14 think of.

15 Q. Did that-- So was that in Stevens County?

16 A. Yeah.

17 Q. Was I the prosecutor?

18 A. You know, I don't remember, it was so long ago. I was in
19 school-- Actually, I guess I was only 18, I guess,
20 'cause I was in school at the time, and I got like school
21 probation out of it. I was going to school and then
22 having to go back to jail at night for a few months.

23 Q. So it was-- It wasn't adult? You were over 18 when it
24 happened?

25 A. Heck, I must have been about 17 or 18.

Juror #15 (Mr. Dallman) - Examination by Mr. Wetle

516.

1 Q. I just wondered if it was a juvenile matter or an adult
2 matter.

3 A. I think it was a juvenile.

4 Q. If you found testimony, say we've got three people
5 involved in this double homicide, and you've got a couple
6 of the co-defendants coming in testifying, and their
7 stories are sometimes consistent, sometimes inconsistent,
8 you think you can weigh those stories and figure out which
9 ones to rely on and which ones to disregard?

10 A. Yeah, I think so.

11 MR. WETLE: Thank you very much, Mr. Dallman.

12 THE COURT: All right, are you passing for cause then?

13 MR. WETLE: Pass for cause. Sorry, your Honor.

14 THE COURT: All right, Mr. Simeone has some questions
15 for you, Mr. Dallman, so I'll have him start in.

16 MR. DALLMAN: All right.
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1 MR. DALLMAN

2 EXAMINATION BY MR. SIMEONE

3 Q. Good morning, Mr. Dallman. How are you doing?

4 A. Good morning.

5 Q. I commend you on holding up as well as you have under your
6 examination, and I appreciate your frankness in your
7 answers. One of the questions was-- he asked about jury
8 instructions and can you follow.

9 A. Uh-huh.

10 Q. And I appreciate the comment you made. You know, you're
11 going to impose your own thoughts on the instructions and
12 try to interpret things, and I think that's what we're
13 supposed to do. You agree with that?

14 A. Yeah, it's-- You know, I've thought about that before,
15 and, you know, I know there are guidelines, but then it's
16 you're-- If you're one of the jurors, it's kind of up to
17 your interpretation to interpret those, I-- I-- is what
18 I was getting out of it.

19 Q. And I think that that was a very-- a good response, a
20 very well thought out response. Mr. Grange, as he sits
21 here, is charged with a very serious crime. You under-
22 stand that.

23 A. Uh-huh.

24 Q. Her Honor, Judge Baker, has already told the jurors that
25 he's charged with murders. Does that in itself cause you

Juror #15 (Mr. Dallman) - Examination by Mr. Simeone 518.

1 any particular feeling of uneasiness?
2 A. No.
3 Q. I mean it's a weighty kind of a subject matter, Do you
4 feel like that might bother you to--
5 A. I realize it's a more serious--
6 Q. Yeah.
7 A. It's a very serious offense.
8 Q. Right.
9 A. But that's it.
10 Q. Okay, but--
11 A. You know, one-- It's just more serious is all. It
12 doesn't really make any other difference than that.
13 Q. It's not going-- It's not going to impair your ability to
14 use your thought processes in going about deciding right
15 or wrong here?
16 A. No, I don't believe so.
17 Q. Okay, good. Mr. Wetle also asked you about the burden of
18 proof. Proof beyond a reasonable doubt. That's the
19 State's burden. Do you think that's an appropriate kind
20 of a standard to have the State meet?
21 A. Yeah, I believe so.
22 Q. Okay, you think it's right that before a person's convict-
23 ed of a crime that that's the kind of proof they need?
24 A. Yeah.
25 Q. Okay. And then hand in hand with that, of course, would

Juror #15 (Mr. Dallman) - Examination by Mr. Simeone 519.

1 go the thought that as Mr. Grange sits here beside me
2 today, he's not convicted of a crime. He's not guilty.

3 A. Yeah.

4 Q. And he's got to be proved guilty, if at all, by their
5 evidence that they present from that witness stand where
6 you're presently sitting.

7 A. Uh-huh.

8 Q. Okay. Mr. Wetle also asked you a couple of things about
9 whether or not if a person testifies from that witness
10 stand and has been given some favorable treatment--I think
11 he said a lesser sentence--in exchange for testifying on
12 behalf of the State, do you have any objection to that,
13 and your answer was no, and I think you-- Again, a very
14 candid response, I think. You said I think that's the way
15 it is.

16 A. Uh-huh.

17 Q. And, you know, that's a pretty savvy kind of a common
18 sense attitude towards it. But at the same time, though,
19 do you think that if a person's been given that kind of
20 consideration by the State that that might well affect
21 what it is that he says? And do-- I'm not saying that
22 it necessarily will, but do you think it might affect what
23 he says if he knows that to testify for the State he's
24 going to get a lesser or reduced sentence?

25 A. Hmm. I suppose it might.

Juror #15 (Mr. Dallman) - Examination by Mr. Simeone 520.

1 Q. You have to listen to the remainder of--
2 A. You know, it might, but I wouldn't feel-- I wouldn't
3 judge that it did, unless I saw reason to judge it that
4 way.
5 Q. Certainly, certainly. I'm just-- I'm not saying that's
6 the be all and end all and that in itself would make
7 somebody lie.
8 A. Yeah.
9 Q. I'm saying that's something that might influence your
10 opinion of his testimony, or something to look out for?
11 A. Now, wouldn't-- It wouldn't-- I'm saying he might have
12 a different story, if that's what I'm reading from you.
13 It wouldn't affect how I would judge his story, is because
14 he was saying it because he was getting a lighter sen-
15 tence. What he's saying is what's he saying. And then
16 you just have to judge whether that was accurate or not.
17 Q. Sure.
18 A. But whether I would judge it differently just because he
19 was saying it because he was getting a lighter sentence,
20 I don't believe I would judge it that way without actually
21 seeing some reason to judge it that way.
22 Q. Except that that might be a factor though? Something that
23 could be a factor along with other things that you see in
24 the testimony. Is that true, that it might-- it might be
25 a factor in your judgment or your analysis of the testimo-

1 ny?

2 A. No, no it wouldn't.

3 Q. Okay, what other things would you use, because you're

4 probably going to hear some drastically different accounts

5 here of what happened today, or over the course of a week.

6 What kinds of things do you use then to make a decision

7 about whether somebody's telling you the truth? Let me

8 just throw out some things for your consideration. What

9 about whether or not they're consistent in their stories?

10 Is that important to you?

11 A. Hmm.

12 Q. Well, again, I'm not saying that that's the only thing by

13 which you judge, I'm just saying is that a factor that

14 you'd consider in trying to see who's telling you the

15 truth?

16 A. Well, I-- I guess if they're inconsistent, then you would

17 have to use your own judgment on-- on what was really--

18 Q. True.

19 A. You know, what part of what was true.

20 Q. True. How about facial expression, that kind of thing?

21 A. I don't really read much by that.

22 Q. Eye contact?

23 A. No, I'm not-- You know, I don't--

24 Q. Are there any other particular things that you'd use in

25 your own-- We all have our own technique about whether or

Juror #15 (Mr. Dallman) - Examination by Mr. Simeone 522.

1 not somebody's being on the level with you. Do you have
2 any things that you use?
3 A. No, not really.
4 Q. No?
5 A. Just my own good common sense.
6 Q. Common sense kind of a judgment?
7 A. Yeah, just, you know--
8 Q. What about previous convictions for crimes of dishonesty?
9 Might that make you look at somebody's testimony askance?
10 A. My own, you say?
11 Q. No, I'm saying somebody else's previous conviction for a
12 crime of dishonesty.
13 A. Oh.
14 Q. Might that make you look at their testimony and wonder
15 about-- wonder about it?
16 A. No, not really. Like I say, I've had my own run-ins, you
17 know, and I--
18 Q. Sure.
19 A. Again, you can't really judge it by that, I don't believe.
20 Q. Okay.
21 A. Just whatever--
22 Q. Sure.
23 A. --is present at the time.
24 Q. Mr. Wetle talked to you about whether or not you've heard
25 of organizations called the Families. How about the

Juror #15 (Mr. Dallman) - Examination by Mr. Simeone 523.

1 Rainbow Family? How about if I asked it-- asked it that
2 way?
3 A. No, I haven't.
4 Q. Okay. You have no negative impression, then, of the
5 barter fairs, from your experiences out there?
6 A. No.
7 Q. Okay. Do you-- Do you want to be a juror?
8 A. Well, like again there, it's such a serious case, you
9 know, a guy really-- I don't know if there's too many
10 people that really want to. You know, I feel that I would
11 be able to. I'm kinda-- Kinda caught in between there.
12 Q. Yeah.
13 A. You know, it would be quite a-- you know, quite a serious
14 thing, and a lot of consideration and thought.
15 Q. You feel, though--
16 A. I suppose I'm-- I'm probably interested enough to where,
17 you know, I feel that I could be honest, you know, and
18 give an honest judgment. Make a--
19 Q. Stand in there and do your level best?
20 A. Yeah, I-- You know, I'm kinda-- You know, kind of a
21 little bit-- Yeah, I'd like to a little bit.
22 Q. You feel like you're the kind of person who--
23 A. I don't want to cop out on it. I won't say no, I don't
24 want to be.
25 Q. Yeah, you don't want to roll over on that.

Juror #15 (Mr. Dallman) - Examination by Mr. Simeone 524.

1 A. You know, if you asked me to, I will, but I'm not going to
2 say I really do.
3 Q. Don't really, but-- Probably nobody really does, but--
4 A. Exactly.
5 Q. --you feel like it's a duty--
6 A. Yeah.
7 Q. --and you'd live up to your obligation if you're asked to
8 then?
9 A. Exactly.
10 Q. That's probably about the attitude that a person should
11 have. What about your-- Do you feel you're the kind of
12 person who sticks to your opinion if you feel it's a well-
13 founded opinion?
14 A. Yeah.
15 Q. You don't feel like--
16 A. Yeah, I suppose I am.
17 Q. You wouldn't consider yourself a wishy-washy kind of a
18 person?
19 A. No, I'm not wishy-washy.
20 Q. I wouldn't think so either. And the length of the trial,
21 being what it is, it might be four days or so, is that
22 bothersome to you at all?
23 A. No. No, that-- that wouldn't be a bother.
24 Q. Okay.
25 MR. SIMEONE: Well, I'm not going to bother you any

Juror #15 (Mr. Dallman) - Examination by Mr. Simeone 525.

1 more either, then, right now. Thank you. No challenges
2 for cause, your Honor.

3 THE COURT: All right, thank you, Mr. Dallman.

4 MR. DALLMAN IS ESCORTED OUT OF THE COURTROOM

5 THE COURT: While the bailiff is getting Number 16,
6 Number 3 indicated to the Court Administrator he did make
7 an attempt to try to get his \$500 golf tournament fee back
8 for next Thursday and was unsuccessful in doing that.

9 MR. SIMEONE: He's out?

10 THE COURT: So my inclination is not to let that
11 interfere with his need to deliberate beyond next Wednes-
12 day. So any objection to his being excused for cause
13 then?

14 MR. SIMEONE: No, your Honor. I just wonder if maybe
15 we can discuss how that changes what we have in our
16 program.

17 THE COURT: Sure. Okay.

18 JUROR NUMBER 16 IS ESCORTED INTO THE COURTROOM

19 THE COURT: Good morning.

20 MS. DRURY: Good morning.

21 THE COURT: And this is Juror Number 16, Ms. Drury. Is
22 that correct?

23 MS. DRURY: That's correct.

24 THE COURT: All right, Ms. Drury, a couple of things I
25 need to-- Let's see. Before I go on, Mr. Wetle, do you

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agree with that assessment?

MR. WETLE: Yes, your Honor.

THE COURT: Okay. Taking care of some housekeeping matters here on one of the other jurors, Ms. Drury.

A couple of things. When people checked in for jury duty yesterday morning, there was some indication that a gentleman sitting on the bench out there, who happens to be going to be a witness in the case, was chatting with a few of the jurors. We're trying to figure out if there was anything of substance said. Do you recall chatting with anyone-

MS. DRURY: No, I didn't.

THE COURT: --as you came in, other than maybe another juror or something?

MS. DRURY: No, I didn't speak with anybody.

THE COURT: All right, and the second thing, I need to just remind you that any of the questions and answers in here, even though this is a public setting out here, with the jurors we're trying to go through this process one at a time in order to make sure anybody who's got certain information from other sources doesn't pollute the rest of the jury panel with that information. So this rule about not talking to the other jurors or with anyone outside about your jury service continues to apply, even to these questions.

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MS. DRURY: Okay.

THE COURT: All right, Mr. Wetle, you may inquire.
We'll have some questions first from Mr. Wetle, and then
Mr. Simeone.

MS. DRURY: Okay.

MR. WETLE: Thank you, your Honor.

1 MS. DRURY

2 EXAMINATION BY MR. WETLE

3 Q. Good morning, Ms. Drury.

4 A. Good morning.

5 Q. I think I see from my notes that you are a prior juror?

6 A. That's correct.

7 Q. Where was that?

8 A. That was in Spokane.

9 Q. And how long ago?

10 A. About 27 years ago. It was awhile back.

11 Q. Was it a civil or a criminal trial? Do you remember?

12 A. It was criminal.

13 Q. And is there anything about that trial that has lingered
14 27 years later to today that would cause you a problem
15 being a juror in this case?

16 A. No.

17 Q. Okay. Basically your expectation of being a juror is a
18 favorable one, an unfavorable one, or just neutral?

19 A. It's-- It's just neutral. It's something of an inconve-
20 nience, but it's also a duty. I don't have a problem with
21 it.

22 Q. You-- I see you are a dental claims processor?

23 A. That's correct.

24 Q. And is it a telecommuter?

25 A. Telecommuter, right. I work out of my home.

Juror #16 (Ms. Drury) - Examination by Mr. Wetle

529.

1 Q. Okay.

2 A. Over the internet.

3 Q. So in terms of your work then, you're okay in terms of

4 being a juror here for a--

5 A. Yes.

6 Q. About a week or so?

7 A. Yeah. That's not a problem.

8 Q. I also see that you've been a victim of a crime?

9 A. We were-- Our house was burglarized about eight years

10 ago. And then two years ago somebody broke into our

11 machine shop and stole some things.

12 Q. That's the-- Theft has been--

13 A. That's it, yes.

14 Q. --the main problem for you down there.

15 A. Right.

16 Q. You also mentioned that you knew or were related to law

17 enforcement? Who would that be?

18 A. My nephew in Las Vegas is a city police officer. I

19 don't-- And yesterday I forgot all about it and I forgot

20 to raise my card when they asked. It's something I-- I

21 don't know him very well, but he is my sister's son.

22 Q. Okay. I don't think you had heard about the case?

23 A. No, I haven't.

24 Q. It was--

25 A. Or if I did, I'm not-- I don't recall it, no.

Juror #16 (Ms. Drury) - Examination by Mr. Wetle

530.

1 Q. There was also some coverage on it as a barter fair.

2 A. As a-- Pardon?

3 Q. The boy-- Young man was missing from a barter fair.

4 A. That does not sound familiar.

5 Q. Doesn't ring a bell?

6 A. No.

7 Q. All right. How do you feel about being a juror, sitting
8 in judgment on some other person? Deciding guilt or
9 innocence?

10 A. It's-- It's not a comfortable feeling. I'm not-- I
11 just-- I look at it as a duty of being a citizen, and
12 that everybody has a responsibility to do it. It's not a
13 highlight of my life, but--

14 Q. Okay. Any problem following the instructions of the
15 court?

16 A. No.

17 Q. In terms of what the law is?

18 A. No.

19 Q. What do you think about the idea if one of the co-defen-
20 dants would get a recommendation for a reduced sentence in
21 return for testifying to maybe convict one of the other
22 parties? Do you think that is an appropriate thing to do,
23 or inappropriate thing to do?

24 A. I know that it happens a lot. I-- I don't really have a
25 feeling about whether it's appropriate or not. I just

Juror #16 (Ms. Drury) - Examination by Mr. Wetle

531.

- 1 know that it's something that happens.
- 2 Q. If the witnesses that come to the witness stand are of a
3 different background, walk of life, different customs, and
4 they are testifying about facts because we don't pick who
5 witnesses these types of events, would you be able to
6 listen to their--
- 7 A. Yes.
- 8 Q. --testimony and evaluate it in spite of any other stereo-
9 typical type--
- 10 A. Yes.
- 11 Q. --feelings?
- 12 A. Yes.
- 13 Q. You dealt with that burden of proof beyond a reasonable
14 doubt in the prior case, but I'll ask, do you feel that
15 the State needs to prove their case beyond all doubt, as
16 opposed to beyond a reasonable doubt?
- 17 A. Beyond a reasonable doubt.
- 18 Q. And you understand the distinction between--
- 19 A. Yes, I do.
- 20 Q. Do you own any firearms or have any guns?
- 21 A. I don't personally; my husband does.
- 22 Q. Have you ever fired a .22?
- 23 A. I-- I have, yes, when I was a younger person. In my
24 teenage days.
- 25 Q. Probably not a semi-automatic .22?

Juror #16 (Ms. Drury) - Examination by Mr. Wetle

532.

1 A. No.

2 Q. Have you ever been to the Northport Barter Fair?

3 A. No.

4 Q. If the testimony of the co-defendants in this particular--
5 or if a circumstance were that they were inconsistent in
6 some areas, and consistent in other areas, would you be
7 able to weigh the consistencies or inconsistencies and see
8 which one you wanted to rely on to make your decision
9 about the case?

10 A. I believe so, yes.

11 MR. WETLE: Thank you very much, Ms. Drury.

12 MS. DRURY: You're welcome.

13 THE COURT: All right, Mr. Simeone?

14 MR. SIMEONE: Thank you, your Honor.

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Juror #16 (Ms. Drury) - Examination by Mr. Wetle

533.

1 MS. DRURY

2 EXAMINATION BY MR. SIMEONE

3 Q. Good morning, Ms. Drury.

4 A. Good morning.

5 Q. How are you?

6 A. I'm fine, thank you.

7 Q. You're holding up okay over the course of the last couple
8 days?

9 A. Oh, yes.

10 Q. Good. I know you mentioned that your nephew is in law
11 enforcement. Does that--

12 A. Yes.

13 Q. And I'm glad that you brought that to our attention. Were
14 there any other general questions that Judge Baker asked
15 the jury or the panel--

16 A. No. I just--

17 Q. You didn't answer yes to any others?

18 A. No. And I had totally--

19 Q. Do you feel that--

20 A. --forgot about my nephew.

21 Q. That's okay. Do you feel that that maybe causes you an
22 allegiance to law enforcement, or that side of this
23 prosecution at all?

24 A. No.

25 Q. Not really?

Juror #16 (Ms. Drury) - Examination by Mr. Simeone

534.

1 A. No. Huh-uh. We're not very close.
2 Q. Okay. And you're a dental claims processor for Guardian
3 then, are you?
4 A. That's correct.
5 Q. And you're coming all the way up from Deer Park every day.
6 A. That's correct.
7 Q. Is there any problem with the commute that might cause you
8 trouble here--
9 A. No.
10 Q. --in serving if you're chosen? Okay.
11 A. Yeah.
12 Q. Now, Mr. Wetle asked you some questions about proof beyond
13 a reasonable doubt, and you answered those. Now, you
14 understand that Mr. Grange is charged with a very serious
15 crime, probably the most serious crime. Does that in
16 itself cause you any feelings of uneasiness or anxiety
17 about having to do this very important work?
18 A. No.
19 Q. No?
20 A. No, it's just something that has to be done.
21 Q. Yeah, and you just exercise the appropriate amount of
22 caution in whatever it is that you do.
23 A. That's correct.
24 Q. Okay, good. And proof beyond a reasonable doubt, do you
25 think that's fair that the State has to at least meet that

1 burden--

2 A. Yes.

3 Q. --when trying to prove somebody guilty of a crime?

4 A. Yes.

5 Q. You don't think that's un-- an unfair burden placed on
6 the State then?

7 A. No.

8 Q. And hand in hand with that, of course, goes that right now
9 there is no proof against him because the trial hasn't
10 started.

11 A. That's correct.

12 Q. So as he sits here before us, he's a not guilty person.

13 A. That's correct.

14 Q. Okay, good. How do you go about trying to evaluate the
15 truthfulness of the testimony you hear, because you might
16 hear some very different testimony. How do you go about
17 trying to make judgments as to what people are telling
18 you? You know, whether or not it's truthful.

19 A. How do I go about doing that?

20 Q. Yeah. You're a claims processor. You probably hear some
21 people that submit claims. You have to make decisions
22 about those kind of things all the time, I would think.

23 A. That's correct. You-- I-- When I'm paying claims, it
24 has to be-- When I-- When the claim is submitted for
25 something that is unusual or the fees are above a reason-

1 able and customary fee, it just kind of bring-- raises a
2 red flag and we investigate and send letters and take
3 additional information, and then from that information we
4 go on to determine whether or not it might be a fraudu-
5 lent-- a fraudulent claim.

6 Q. Well, it sounds like on a daily basis, almost, you have a
7 constant need to make determinations of truthfulness or--

8 A. I have to be aware.

9 Q. Sure.

10 A. It's not something that I do daily, but it's not-- You
11 know, four or five times a year, maybe.

12 Q. Yeah. Is consistency in stories, do you think that's one
13 of the factors you would consider whether or not some-
14 body's telling--

15 A. Yes.

16 Q. How about whether or not-- Mr. Wetle had brought this up.
17 How about whether or not somebody is testifying in
18 exchange for a reduced kind of a sentence that they're
19 getting? And I'm not saying that that's a be all and end
20 all, but is that also something that might enter into your
21 calculations?

22 A. It would be just another piece of information that would
23 have to be considered.

24 Q. Another part-- Another part of the mosaic?

25 A. That's correct.

1 Q. Okay. Likewise, what about if a person had a previous
2 conviction for a crime of dishonesty? Some kind of a
3 crime of dishonesty. Might that enter into your thinking
4 about whether or not they're being honest with you now?

5 A. I would think that would be something that would just be
6 factored in with--

7 Q. Another factor. Another factor.

8 A. Right.

9 Q. Facial expression, demeanor, that kind of thing? Because
10 you don't get a lot of that when you're on the telephone.

11 A. No, I don't. No, not-- Not the paper claims.

12 Q. Not until we get videophones full scale.

13 A. Right.

14 Q. Okay. You think it's-- But, you know, all of that I've
15 told you now, you think it's possible for a person to get
16 up there where you're sitting, take an oath to tell the
17 truth, and then not tell the truth?

18 A. Is that a possibility?

19 Q. Yeah.

20 A. Yes.

21 Q. It's the real world.

22 A. Yes.

23 Q. And did you ever hear of the Rainbow Family?

24 A. The-- Pardon?

25 Q. The Rain-- The Rainbow Family?

Juror #16 (Ms. Drury) - Examination by Mr. Simeone

538.

1 A. No.

2 Q. Doesn't ring any bells?

3 A. No.

4 Q. Or-- And the barter fairs, you've heard of them?

5 A. Barter fairs?

6 Q. The barter fairs.

7 A. I'm-- I'm assuming that's like a swap meet or something?

8 Q. Swap meet or something like that, but you have no other

9 kind of general concept of them, good or bad, one way or

10 the other?

11 A. No.

12 Q. Okay. Now, you have a job where you work on a daily basis

13 at one place probably, right?

14 A. In my home, yes.

15 Q. Okay, so on a given day, it probably would be pretty easy

16 for somebody to prove where you were, wouldn't it, because

17 that's where you generally are.

18 A. That's correct.

19 Q. They might be able to say yeah, I called her there at that

20 number so I know she was there.

21 A. Right.

22 Q. Do you think and do you agree that it might be more

23 difficult for somebody who doesn't have a schedule to try

24 to prove his whereabouts on a given day?

25 A. Yeah. Yes.

- 1 Q. Good. Well, you sounded like you're willing to be a juror
2 here, if I read your answer correctly. You think it's
3 like a-- You don't want to but you'll do it because it's
4 your obligation as a citizen. I commend you for that.
- 5 A. That's correct.
- 6 Q. But how about the length of the trial? Do you think it
7 might wear-- wear you down or anything like that if you
8 have to stay here for a week?
- 9 A. We were told four or five days. Is that correct?
- 10 Q. Yeah. There might be some deliberation time--
- 11 A. Yeah.
- 12 Q. --you know, and there would be some deliberation time for
13 sure in addition to that, so--
- 14 A. No, that's not a problem.
- 15 Q. That's when the jurors have to start their part of the
16 deal and do their work.
- 17 A. Right.
- 18 Q. Okay. Do you think after discussing the case with the
19 jurors, if you share your opinion and you review evidence
20 over and over again, and you reconsider your position, you
21 still have one opinion and it's different from that of
22 other jurors, so what do you do?
- 23 A. If it was my true belief, then that's the way it would be.
24 I wouldn't--
- 25 Q. Your honest opinion.

1 A. Yes.

2 Q. Okay, good.

3 MR. SIMEONE: Well, then, I have no further questions
4 for you, and I thank you for your answers. And no
5 challenge for cause, your Honor.

6 MS. DRURY IS ESCORTED OUT OF THE COURTROOM

7 THE COURT: We'll have Juror Number 18, please.

8 MR. WETLE: Is it 17?

9 THE COURT: Excuse me, 17.

10 COLLOQUY REGARDING NAMES STRICKEN FROM GRID SHEET

11 JUROR NUMBER 17 IS ESCORTED INTO THE COURTROOM

12 THE COURT: Good morning.

13 MS. LARSON: Good morning.

14 THE COURT: Let's see, Ms. Larson, right?

15 MS. LARSON: Yes.

16 THE COURT: Ms. Larson, a couple of questions. One, do
17 you recall when you came in yesterday, as you-- Well,
18 first of all, I need to remind you you're still under oath
19 from the jury oath to answer questions under penalty of
20 perjury yesterday. You remember that?

21 MS. LARSON: Yes.

22 THE COURT: Okay. Yesterday, do you recall talking to
23 anyone at the-- in the area where you were checking in
24 for jury duty yesterday morning?

25 MS. LARSON: We were just standing there.

Juror #16 (Ms. Drury) - Examination by Mr. Simeone

541.

1 THE COURT: There would have been a gentleman, perhaps,
2 seated on the bench out there that might have been
3 chitchatting with some of the jurors, and we just wanted
4 to make sure that nothing out of the ordinary was dis-
5 cussed. So you don't remember talking to anyone?

6 MS. LARSON: I-- I don't.

7 THE COURT: Okay, no problem. That's fine.

8 MS. LARSON: I don't think so.

9 THE COURT: The second thing I need--

10 MS. LARSON: Is that when we first came in?

11 THE COURT: When you first came in and signed in, in
12 the morning.

13 MS. LARSON: That's when we got that pamphlet, and I
14 was reading the pamphlet.

15 THE COURT: Right.

16 MS. LARSON: That's all I remember.

17 THE COURT: Okay, that's fine. The second thing I need
18 to remind you of is the part of my instruction not to
19 discuss the case with anyone else, and that would include
20 these question and answer sequences in here.

21 MS. LARSON: Okay.

22 THE COURT: And that includes discussing when you go
23 back into the jury room. There's always a kind of
24 temptation to say well, what did they ask you, and so make
25 sure you just remember that instruction.

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MS. LARSON: Okay.

THE COURT: Mr. Wetle will have some questions, and then Mr. Simeone, and then we'll take you to the next spot.

MR. WETLE: Thank you, your Honor.

1 MS. LARSON

2 EXAMINATION BY MR. WETLE

3 Q. Good morning, Ms. Larson.

4 A. Hi.

5 Q. How are you?

6 A. Good.

7 Q. Before you got your jury summons, your letter and your
8 packet, and you were a citizen, did you have any feelings
9 about serving as a juror, for or against?

10 A. Just--

11 Q. Something you wanted to do, something you really didn't
12 want to do, something that was really not an issue?

13 A. Just because I don't know anything about it, I guess it
14 would be something I did not realize the time it would be
15 consuming, you know, so you really don't know anything
16 about it, you don't know if you would or not, I guess.

17 Q. Depends on what you're doing at the time, I suppose.

18 A. Right.

19 Q. Some people come in that are unemployed, they say I got
20 all kinds of time.

21 A. Right. With my job I would actually have to say it's kind
22 of something I wouldn't want to do, just 'cause you have
23 your job.

24 Q. Is Arby's able to make arrangements for you to be gone?

25 A. I've been going there, you know, like before and after

1 this, trying to get some of my stuff done. Trying to do
2 a little bit of it here. So they are working with it. We
3 are working with the time that I have to be out.

4 Q. What are your normal hours that you work?

5 A. Well, I work either 5:00 to 3:00 or 8:00 to 5:00.

6 Q. Five to 3:00? Five at night till 3:00 in the morning?

7 A. No.

8 Q. Five in the morning--

9 A. Five in the morning till 3:00 in the afternoon, or--

10 Q. Eight to 5:00.

11 A. --8:00 to 5:00, depending on what I have to do. Sometimes
12 it's longer, so--

13 Q. If you were selected to be on the jury, would-- You
14 necessarily would not then be able to work at Arby's
15 during that period of time.

16 A. Right. It's something that I probably can get out of, you
17 know, as far as work. We're trying to make plans for that
18 right now, 'cause we have to do that, but it's just
19 juggling it all, and I got a couple of kids that also
20 juggle with it, so-- Which they-- they're kind of used
21 to, so we're trying to plan for this if it happens.

22 Q. Well, absolutely for sure it is an inconvenience.

23 A. It is.

24 Q. And then after we get past that hurdle, I guess the
25 question is, is it a major inconvenience so that you are

1 incapacitated? If it can be done and you can serve, then
2 I guess I'd ask you, would you be willing to serve?
3 A. Right. I-- Like I said, we're trying to, you know, allow
4 for the time to do it.
5 Q. I saw your letter saying get me out of here.
6 A. Right. I-- I wish, probably, it was different circum-
7 stances, but if I have to do this, then I have to do it,
8 so--
9 Q. You have also heard about the case?
10 A. Read it in the paper.
11 Q. Okay.
12 A. Just-- They put it in the Colville paper a few times.
13 Q. Do you remember any of the details that you read?
14 A. I do remember the location, just 'cause it's on the same
15 road that I live, so that was in my mind that I kind of
16 knew where the location of where it happened.
17 Q. The Crown Creek area?
18 A. Flat Creek Road.
19 Q. You're on the Flat Creek Road?
20 A. Right. I live on Flat Creek Road, so a ways away from it,
21 but I did remember that part of it, you know, and just
22 that they were found, you know, in the vehicle. So just
23 basically what was in the paper, I can remember some of
24 that.
25 Q. Okay. Do you understand that as a juror you absolutely

1 could not rely on what you read in the paper?

2 A. Right.

3 Q. That you have to rely on solely what comes before you in
4 the courtroom?

5 A. Right.

6 Q. Be able to do that?

7 A. I believe so, just 'cause I don't know anybody that was
8 related in the incident or anything, so I don't think I'd
9 have a problem there.

10 Q. Okay. How about sitting in judgment as a juror and
11 deciding whether the person is guilty or not guilty? Can
12 you do it?

13 A. Well, I would hope I, you know, could distinguish with the
14 evidence what would be proper.

15 Q. And then, you know, once you have sifted through the
16 evidence, you know, if you would feel firm enough to be
17 able to come up with whatever decision you came up with?
18 You know, be--

19 A. I hope so. They didn't put this in a class at school,
20 though.

21 Q. No, no, they didn't.

22 A. This is a first time. I've never-- never been around a
23 courtroom before, so--

24 Q. It's a good place not to be. Do you have any problem--
25 At the end of the trial the judge will give you a packet

1 of jury instructions. Basically it's the law that's to be
2 applied to the facts of the case. Do you have any
3 philosophical or religious feelings about following those
4 instructions? And the reason I ask is because we do have
5 a certain percentage of Constitutionalsists and they have
6 some pretty firm beliefs, and so better that we discuss it
7 now, kind of get it out in the open before it gets into an
8 absolute jury situation.

9 A. I don't think I would have a problem with it.

10 Q. Okay. Well, it's important for you to reconcile that, try
11 to get it straight in your mind. I mean people-- Some
12 people come in and they-- That yellow flag-- That fringe
13 on the flag is a big deal.

14 A. Right.

15 Q. And that bothers them, and the fact that the judge is even
16 a judge bothers them, and I say okay, if we're going to be
17 a juror and we're going to do this case, it's important
18 that whoever the jury is that they understand that for
19 this type of trial we're trying to do the best we can and
20 follow the rules that are given. And so I say this is a
21 good time to discuss that and see where you sit or stand,
22 and if you could follow those instructions.

23 MR. SIMEONE: Your Honor, I'm going to object. I think
24 he's asked the question and I think she's answered the
25 question.

1 THE COURT: I think it is getting into more of a
2 statement rather than a question, Mr. Wetle. Go on to
3 your next question.

4 MR. WETLE: Thank you, your Honor.

5 Q. What do you think about the idea of one of the defen-
6 dants-- Say there's three people involved, and one of
7 them gets a recommendation for a lesser sentence if that
8 person would testify against the other person. Do you
9 think that's appropriate or inappropriate?

10 A. To me I think it would be appropriate, I guess, maybe to
11 further the evidence of the case. _____

12 Q. Okay, thank you. There'll be witnesses that take the
13 stand that come from different walks of life, different
14 attitudes, but they happen to be witnesses to this event,
15 or have some part in it. Would you be able to cast aside
16 any, I guess, stereotypical notions about people and say
17 I'm going to listen to what they have to say and give it
18 what credit I can or can't?

19 A. It's kind of my business working with people. Everybody
20 is the same. You know, you deal with everybody the same.

21 Q. Okay.

22 A. So I think I'd be all right.

23 Q. Do you-- Have you ever had to deal with that beyond a
24 reasonable doubt concept? Not being a juror, you probably
25 haven't picked that up, but the State's required to prove

1 a case beyond a reasonable doubt. Do you think that they
2 should be required to prove the case beyond all doubt?
3 A. Is that possible?
4 Q. No, it's not. Very-- I've never seen it, but the point
5 of the matter is, can you distinguish between the reason-
6 able doubt and the all doubt, or beyond a shadow of a
7 doubt, or--
8 A. I hope so, 'cause I-- I just don't know. It's all kind
9 of-- I don't--
10 Q. So if the court's instruction--
11 A. If it was-- If it was cut and dried, you wouldn't need a
12 jury panel, I think.
13 Q. True. So there should be some doubt?
14 A. You're trying to sift through the evidence to take out as
15 much doubt as you can.
16 Q. But you see the distinction between the all doubt and
17 beyond a reasonable doubt?
18 A. Yeah. You know, I--
19 Q. If you haven't been a juror before, sometimes that gets to
20 be kind of an issue, and that's kind of why we raise it,
21 so that you think about that. Have you ever had a firearm
22 or fired a firearm?
23 A. Yes.
24 Q. Have you fired a .22?
25 A. Yes.

1 Q. Semi-automatic .22?

2 A. No.

3 Q. Have you ever been to the Northport Barter Fair?

4 A. Yes.

5 Q. And how many times?

6 A. Twice.

7 Q. And when was that?

8 A. It's been quite a while. Back in the eighties. There--
9 Well, there would have been one time in the eighties and
10 maybe like in '92. Ninety-two was the last time I ever
11 went.

12 Q. What was your impression?

13 A. It was interesting, you know. Just a lot of mix of people
14 and what they're doing.

15 Q. Have you ever heard of any Families associated with the
16 barter fair?

17 A. Just the organization that runs it, I guess, basically.

18 Q. Have you ever had a member of your family or close friend
19 ever charged with a felony crime?

20 A. Not that I know of, no. I don't think so.

21 Q. The testimony of the co-defendants in this matter are
22 inconsistent in some areas and consistent in other areas.
23 Think you'd be able to weigh the relative testimony and
24 see which one to rely on and which one to not rely on?

25 A. I hope so. I think so, yes.

Juror #17 (Ms. Larson) - Examination by Mr. Wetle

551.

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

THE COURT: All right, Mr. Simeone, please?

MR. SIMEONE: Thank you, your Honor.

1 MS. LARSON

2 EXAMINATION BY MR. SIMEONE

3 Q. Good morning, Ms. Larson.

4 A. Hi.

5 Q. How are you?

6 A. Good. Thanks.

7 Q. How did we finally land on the issue of whether or not
8 this is a major inconvenience for you? I know that you
9 used the word hardship in your letter, and I'm wondering,
10 is that-- you think we've got over that now to where you
11 could be a juror if you were selected?

12 A. Yeah.

13 Q. Okay, I won't go into it any more then if you can make the
14 arrangements as necessary.

15 A. Right.

16 Q. Okay. Judge Baker has instructed the jurors already that
17 Mr. Grange is charged with a very serious crime, and you
18 know that.

19 A. Right.

20 Q. Does that fact in itself, does that cause you any kind of
21 an uneasiness, like having to deliberate over such a
22 weighty subject matter, I'm thinking. Does that bother
23 you?

24 A. I don't believe so.

25 Q. Okay, you could be pretty straightforward--

Juror #17 (Ms. Larson) - Examination by Mr. Simeone 553.

1 A. Yeah.

2 Q. --about it?

3 A. Yeah.

4 Q. All right. Now, you heard of the case, and you live on
5 Flat Creek Road. So you commute all the way from there to
6 work every day? That's a pretty long haul.

7 A. It's-- Flat Creek Road is-- is a long area from 395 to
8 Northport.

9 Q. That's right.

10 A. And I live on the 395 part, about three miles in, so you
11 can go the extent of Flat Creek Road for another 20 miles.

12 Q. That's right.

13 A. So I'm on that road, but I'm actually quite a ways away
14 from the Northport side.

15 Q. Quite a ways away from that part of it.

16 A. Right.

17 Q. Okay, did you hear-- Did you answer yes to any of Judge
18 Baker's other general questions of the jurors? Prospective
19 jurors, I should say.

20 A. Only to the one that was whether you knew of the case.

21 Q. Okay.

22 A. I believe that was the only one.

23 Q. Yeah, and I pronounced--

24 A. And I-- I knew one of the gentlemen, as in Tim Blackman,
25 just from school.

1 Q. Is it Tim Blackman or Mike Blackman that you knew?

2 A. It's Tim, isn't it? Tim?

3 Q. Yeah, Tim's the younger one.

4 THE COURT: Actually, I asked about Mike Blackman, but
5 I believe they're brothers.

6 Q. It was Mike we asked about, so you would know Tim?

7 A. Well, I know the whole family, and I know the law enforce-
8 ment Mr. Blackman.

9 Q. Okay, do you know them--

10 A. We were in the same school together. He's a few years
11 older.

12 Q. Do you know them pretty well?

13 A. Not really. I can say hi to them if they come in, you
14 know.

15 Q. Yeah. Sure.

16 A. But our lives don't intertwine anywhere.

17 Q. Right. Okay.

18 A. Basically in a small community you know several people
19 that you went to school with.

20 Q. The reason I ask is because I want to see whether or not
21 it maybe causes you any kind of an allegiance towards
22 maybe law enforcement here at State side, rather than
23 defendant's side. That's not really--

24 A. I don't think so.

25 Q. Not an issue? Okay. Now, I pronounced the name of the

Juror #17 (Ms. Larson) - Examination by Mr. Simeone 555.

1 one individual who's going to be a witness here as Mel
2 Kezedek Young. How about Kez Young? Does that-- The
3 Young family?

4 A. Don't know any of those. Huh-uh.

5 Q. Doesn't ring a bell? Okay. Now, beyond a reasonable
6 doubt was discussed, and it sounds like even though it got
7 a little confusing there at parts, it sounds like you got
8 a handle on it. But as part and parcel of that whole
9 discussion, you agree that before anybody's convicted of
10 a crime there has to be proof, proof beyond a reasonable
11 doubt.

12 A. Right. Right.

13 Q. Okay. And as Mr. Grange sits here before us, he's not
14 convicted of a crime, he's not guilty.

15 A. Right.

16 Q. Okay. Now, there's got to be a common sense notion that
17 everybody would have some suspicion that something's wrong
18 here, but do you believe that there's a distinction
19 between suspicion and belief? Belief--

20 A. Right. Yes.

21 Q. And that there's-- there's something that connects those
22 two. You know, I might suspect something's wrong, but
23 before I believe that, there has to be something else,
24 right?

25 A. Right.

1 Q. And that's the evidence that they have to show, if they're
2 ever going to be able to, right?

3 A. (No audible response)

4 Q. Okay. Mr. Wetle touched upon a couple of things, and I
5 wanted to touch upon them too. I believe it was your
6 answer to his question that if a person receives a reduced
7 sentence or some kind of a lesser kind of punishment in
8 exchange for testimony, that that's just the real world
9 and that's the way things go. And that brings out
10 evidence. But at the same time, I want to ask you this
11 because there might be some very different versions here
12 in what happened and you'll-- you, as a juror, now, if
13 you're selected, you're going to have to make a decision.
14 So do you think that if you're listening to a witness
15 who's testifying from where you're sitting there, and you
16 know that that witness is a defendant in a companion case,
17 and that he's received like some lenient treatment as a
18 result or in exchange for testifying up there, might--
19 might that bear-- I'm not saying this is the only factor,
20 but might that bear on your regard for his testimony?

21 A. I-- I would have to, you know, just hear everything.

22 Q. Hear everything.

23 A. And you just weigh it.

24 Q. Sure, but it's a-- It might be a factor that you'd con-
25 sider.

Juror #17 (Ms. Larson) - Examination by Mr. Simeone 557.

1 A. Right.

2 Q. Would it? How about some other things? How about if that
3 person had in his past been convicted of a crime of
4 dishonesty? Might it bear on your regard for that
5 person's testimony? I'm not--

6 A. It just--

7 Q. Again, I'm not--

8 A. --depends on if that was brought out as some of the, you
9 know-- If it was brought out as part of the case or some-
10 thing, I guess you would have to weigh it then.

11 Q. It's another factor.

12 A. Right.

13 Q. That you might consider. Well, what other things do you
14 use in your judgment system? Almost all of us have their
15 own. We'll look at a person's facial expressions, maybe,
16 or demeanor, nervousness, or that kind of thing.

17 A. Well, in my job, when you-- Just like if you're taking an
18 application, people have written things down, you have to
19 call previous, you know, find things out.

20 Q. Yeah.

21 A. They have to write down their record. I weigh all those
22 things if I'm-- You know, in order to hire a correct
23 person I use all of those.

24 Q. So if they give you one answer on an application now, and
25 give you a different answer later, might that have some

Juror #17 (Ms. Larson) - Examination by Mr. Simeone 558.

1 bearing on your regard for what they're telling you?
2 A. Yes.
3 Q. Consistency.
4 A. Right.
5 Q. Okay. Let's see, I wanted-- I wanted to ask you whether
6 or not you'd ever heard of the Rainbow Family.
7 A. Rainbow? I guess just being in the area, it's-- it's
8 been a word that's went around.
9 Q. Does it-- Do you have any negative kind of connotation?
10 A. Honestly, I don't know much about it.
11 Q. Okay.
12 A. It's not something that I-- I have heard of it, but it's
13 not something that I am a part of--
14 Q. It's a neutral--
15 A. --or would make part of my--
16 Q. I get it.
17 A. --you know, everyday discussions.
18 Q. Heard of it, but it's a neutral kind of a thing?
19 A. Yeah.
20 Q. Okay, same for the barter fairs? Heard of them but you're
21 not really--
22 A. I've went, but it's-- There's so many more important
23 things in life than make small-- you know, those things.
24 Q. Yeah.
25 A. I just-- You know, people do it.

Juror #17 (Ms. Larson) - Examination by Mr. Simeone 559.

1 Q. Yeah.

2 A. Doesn't mean--

3 Q. Right.

4 A. --you know, that's part of my life or--

5 Q. No negative-- No overall negative--

6 A. --whether I care whether they do it or not, I guess.

7 Q. Overall, no negative impressions from it then, I gather?

8 A. Well, there are so many aspects of it. Put it this way.

9 Q. Yeah.

10 A. I went there, found a few things like redwood that I like

11 to paint on, I bought it. So I got some use out of it.

12 Went there, kinda chuckled at a few of the things that I

13 seen, so there was some amusement also. And that's the

14 way I look at them.

15 Q. And you work at-- as a manager over at Arby's. And so on

16 a given day, I don't know whether it's Tuesday or Thurs-

17 day, we know that Ms. Larson, between the hours of 5:00

18 A.M. and 3:00, or it might be from 8:00 to 5:00, is going

19 to be at Arby's.

20 A. Right.

21 Q. And we can probably prove that pretty easily because, you

22 know, the cashier at register Number 2 will be able to say

23 yeah, I saw Ms. Larson there, because you've got a

24 schedule. I've got a schedule. My secretary can say

25 yeah, I know Mr. Simeone's there because I saw him in the

1 office. He was at his desk, like usual.

2 MR. WETLE: Objection, your Honor. It's statements.

3 THE COURT: Sustained.

4 Q. How about yourself, though, in a situation where somebody
5 doesn't have a schedule. Might it be more difficult for
6 that person to prove where he or she is on a given day?

7 A. I would assume you could track down a good portion of
8 where a person's been in the day, unless they've been in
9 a hole.

10 Q. Or without other people around them?

11 A. If they don't have other people around them, then that's
12 a little harder.

13 Q. Okay.

14 A. But to me, this day and age, you can-- you can get a lot
15 of information, it seems like, unless they're buried. You
16 know, I mean, unless they're totally off secluded by
17 themselves somewhere--

18 Q. Yeah.

19 A. --you're going to have someone that either sees them or
20 they've done something.

21 Q. On the road, for example.

22 A. Pardon?

23 Q. If they're on the road, for example.

24 A. Driving?

25 Q. Something like that.

Juror #17 (Ms. Larson) - Examination by Mr. Simeone 561.

1 A. Just depends on if they got gas or they had a credit card
2 and used it or-- You never know.

3 Q. Some other way that's unwitnessed though, it would be
4 difficult for a person to prove his whereabouts, wouldn't
5 it?

6 A. It's possible.

7 Q. Now, the length of the trial might be four days, might be
8 more, we don't know. Then you'll have to deliberate too.
9 Does that throw a kink into your schedule that's too
10 great?

11 A. Well, like I say, we're trying to set aside-- If I know
12 it's going to be next week, then I set that aside.
13 We're-- We're trying to work with it the best we can.

14 Q. Okay.

15 A. When I get out of here I have got to do some stuff there
16 when I leave. That's about it.

17 Q. Now, going back to the issue of the believability of a
18 person's testimony, what if a witness is testifying about
19 an event where during that event he was under the influ-
20 ence of drugs, like hallucinogenic drugs, might that
21 affect your opinion of whether or not that person's
22 being-- or the validity of the testimony?

23 A. Well, I am not real hip on drugs, don't have a good--

24 Q. Don't have a good feel for them?

25 A. Don't have a good feel for them, no.

Juror #17 (Ms. Larson) - Examination by Mr. Simeone 562.

1 Q. Okay, but if a person is under the influence, you agree,
2 might be a person is going to have a difficult time
3 relating events while he was under the influence?

4 A. Sure.

5 Q. Okay. Do you want to be a juror? Go to the bottom line
6 question here. If chosen, shall you respond?

7 A. I can, you know. I can do it.

8 Q. Okay.

9 A. It's-- It'-- It's here, I'm doing this, so I can do it.

10 MR. SIMEONE: And I won't ask you any more questions
11 then. Thank you. No challenge for cause, Judge Baker.

12 MS. LARSON IS ESCORTED OUT OF COURTROOM

13 THE COURT: Now could we have Juror Number 13 please,
14 briefly?

15 Juror Number 13, for your information, has indicated
16 that he has five days of paid jury leave from his employ-
17 er, and nothing beyond that. So if the two of you have
18 some questions of him about that, then we'll have him in
19 here for you to ask him about how that would affect his
20 jury service. I believe he indicated that he could work
21 on the weekend for a couple of days, so we'll see if you
22 have any questions.

23 JUROR NUMBER 13 IS ESCORTED INTO THE COURTROOM

24 THE COURT: All right, Mr. Rhodes, good morning.

25 MR. RHODES: Good morning.

Juror #17 (Ms. Larson) - Examination by Mr. Simeone 563.

1 THE COURT: Did you get a good night's sleep?

2 MR. RHODES: Not really. I had to go in and finish
3 meters last night.

4 THE COURT: Oh, dear. Well, all right. I brought you
5 back in. I got the word that you do have some paid jury
6 leave from your job.

7 MR. RHODES: Yeah.

8 THE COURT: About five days' worth.

9 MR. RHODES: Uh-huh. Yeah.

10 THE COURT: And you would be able to then get some
11 sleep on the days that you were on jury duty?

12 MR. RHODES: That I don't know. I couldn't-- My boss
13 wasn't there. He leaves at 3:00 o'clock in the afternoon,
14 so I wasn't able to talk to anybody who could give me any
15 answer on anything to that effect.

16 THE COURT: All right. Do you think it would be a
17 hardship if you had one or two days beyond the five days
18 of paid jury leave?

19 MR. RHODES: If it's--

20 THE COURT: That was unpaid?

21 MR. RHODES: If it's two or three days, I'm going to
22 lose over \$400 of pay.

23 THE COURT: Okay. All right.

24 MR. RHODES: So it'd be a pretty big wrench on the
25 pocket book.

1 THE COURT: Okay, but if you're getting paid for five
2 of the days, five of-- let's say it goes seven days.
3 Five of seven days, you're still-- I think you mentioned
4 something about overtime, didn't you?

5 MR. RHODES: Yeah. I-- Also, I do work like double
6 shifts on Tuesdays.

7 THE COURT: Okay, and you get paid overtime for that?

8 MR. RHODES: I get paid fourteen and a half an hour
9 from midnight to about 8:00 o'clock in the morning.

10 THE COURT: Okay, so you miss out on that if you're on
11 jury duty--

12 MR. RHODES: I would miss that--

13 THE COURT: --'cause you're here on a Tuesday?

14 MR. RHODES: I'd miss pretty much-- See, my five days
15 started yesterday, so I got paid yesterday and I'll get
16 paid today.

17 THE COURT: Right.

18 MR. RHODES: And then I did work a couple hours last
19 night, and then I left. And then I would get paid-- If
20 I came back, I get Monday and Tuesday and Wednesday, and
21 then anything after that-- And they wouldn't give me my
22 extra shift. I wouldn't get paid for that.

23 THE COURT: All right. Right. Let's see-- All right,
24 and how much sleep did you get last night?

25 MR. RHODES: Oh, I got to sleep about 11:00, which is

1 better than normal.

2 THE COURT: All right, and, Mr. Wetle, do you have any
3 questions?

4 MR. WETLE: No. I think the court's--

5 THE COURT: Okay, Mr. Simeone?

6 MR. SIMEONE: Can you still do it if you're chosen?
7 Somehow work this weekend and then work-- take some
8 remaining days off next week?

9 MR. RHODES: Yeah, I could probably swing it, 'cause I
10 have some paid time off I could probably take.

11 THE COURT: So you'd have to dip into your vacation
12 time?

13 MR. RHODES: Yeah, I'd have to dip into vacation.

14 THE COURT: All right. Well, counsel, I think maybe my
15 concern is the worry about the income if the deliberations
16 go further, so if no one has a strenuous objection, I'm
17 going to go ahead and excuse Mr. Rhodes on this one and
18 have you come back on a time when we can keep you for one
19 or two days.

20 MR. RHODES: Okay, that'd be fine then.

21 THE COURT: So any objection to that, counsel?

22 MR. WETLE: No, your Honor.

23 MR. SIMEONE: Oh, it's just that I thought I heard him
24 say that he could probably swing it, your Honor, but I'll
25 leave it up to the court's discretion.

1 THE COURT: Yes, he did say that he probably could. I
2 detected a hardship tone of voice in there, Mr. Rhodes,
3 and-- I mean do you have any problem with that, Mr.
4 Simeone?

5 MR. SIMEONE: Nothing other than it sounded like he
6 could do it, your Honor, but it's the court's final call.

7 THE COURT: Okay. Well, I guess I need to know if
8 you're asking-- if you're making an objection.

9 MR. SIMEONE: Well, that would be yes. The answer's
10 yes.

11 THE COURT: All right. Well, Mr. Rhodes, why don't we
12 have you stand by then for awhile. I'll kind of keep my
13 decision at bay on this issue since there's been an
14 objection. So you can accompany the officer back down the
15 hall then to the next spot.

16 MR. RHODES: Okay.

17 THE COURT: We're not excusing you at this time.

18 MR. RHODES IS ESCORTED OUT OF THE COURTROOM

19 THE COURT: And now we have 12 jurors through Number 17,
20 then, counsel. So in the seating chart, Seat Number 1 is
21 Juror Number 1, Dixon. Seat Number 2, Juror Number 2, Jones.
22 Seat Number 3, Number 17, Larsen. Seat Number 4 is Number 4,
23 Hood. Seat Number 5 is Number 13, Rhodes. Seat Number 6 is
24 Number 6, Bassett. Number 7 is Number 7, Rainier-- Excuse me
25 Rainer. And Seat Number 8 is Number 14, Holibaugh. Seat

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1 Number 9 is Number 9, Blumgren. Number 10 is Number 15,
2 Dallman. And Number 11 is 11, Lathrom. Twelve is Number 16,
3 Drury. So I'll have you exercise your first peremptory,
4 counsel. You want to just say what it is, if you know what it
5 is.

6 MR. WETLE: Yes. Mr. Dallman.

7 THE COURT: Mr. Dallman? Okay.

8 THE BAILIFF: Should we have juror, then, just go back to
9 the room?

10 THE COURT: No. Well have Juror Number 18 come on in. I
11 believe is next. Right?

12 THE BAILIFF: Yes. Correct.

13 MR. SIMEONE: Well, wait a minute. Before we go far down
14 this-- That was a strike, and that was?

15 THE COURT: That was Number 15.

16 MR. SIMEONE: And box number--

17 THE COURT: That's Plaintiff's--

18 MR. SIMEONE: Ten.

19 THE COURT: --ten. Uh-huh.

20 MR. SIMEONE: And now we're putting Juror 18?

21 THE COURT: Number 18, right. Okay?
22
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1 **JUROR NUMBER 18 IS ESCORTED INTO THE COURTROOM**

2 **THE COURT:** All right, Mr. Flett, a couple of things
3 before we have the attorneys-- see if there are any
4 questions that they have of you. One is whether you
5 recall any chitchat with anybody sitting out on a bench
6 out here when you were checking in for jury duty yester-
7 day?

8 **MR. FLETT:** No.

9 **THE COURT:** Okay. Second, the question and answer
10 sequence in here is subject to the same instruction about
11 not discussing it with your fellow jurors or with anyone
12 else. Okay?

13 So we'll have Mr. Wetle launch in. Mr. Wetle?

14 **MR. WETLE:** Thank you, your Honor.
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1 MR. FLETT

2 EXAMINATION BY MR. WETLE

3 Q. Mr. Flett, as far as your getting your letter and packet
4 from the court on summoning you here as a juror, had you
5 had any preconceived ideas in your mind about whether
6 you'd ever want to be a juror or not want to be a juror,
7 or really never even thought about it?

8 A. I guess the idea-- I don't like the idea of being a
9 juror, so--

10 Q. So that-- that has been a long ingrained--

11 A. Oh, yeah.

12 Q. I see that you were a juror in Tribal Court, however.

13 A. Right.

14 Q. And how long ago was that?

15 A. I don't recall. A couple years ago. A year or so ago.

16 Q. Was it a criminal matter or a civil matter?

17 A. Just a civil.

18 Q. Okay. Jury of six?

19 A. I think there was-- Yes.

20 Q. Anything about that experience that confirmed in your mind
21 that you never wanted to be a juror, or it was okay and
22 you felt like you could be a juror?

23 A. Oh, again, I didn't-- didn't like the idea of it, but,
24 again, in Tribal Court it's awful hard because most of us
25 are related down there, so it's tough.

Juror #18 (Mr. Flett) - Examination by Mr. Wetle)

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- 1 Q. That's true. And I don't-- I know that you, in this
2 particular matter, have stated that you have heard of the
3 case.
- 4 A. Yes, I just barely recall news back-- back when-- I
5 think-- Did they say last June or something that it took
6 place? So I did hear it on the news, and that's about it.
- 7 Q. Okay, and not anything in any great detail that you
8 remember?
- 9 A. No.
- 10 Q. And you realize that you would not want to utilize
11 anything that you heard in the media to shape your
12 deliberation here? Would rely solely on what you heard
13 in the courtroom to--
- 14 A. Right.
- 15 Q. --make your decisions?
- 16 A. Right.
- 17 Q. You mentioned that you were a forester? Is that--
- 18 A. Yes.
- 19 Q. And have you done that most of your working life, or--
- 20 A. Most of it. I served with the Tribal Council for the
21 Spokane Tribe for a number of years.
- 22 Q. How many years-- I mean the fact that you survived the
23 Spokane Tribal Council is, by itself, a--
- 24 A. Ten years.
- 25 Q. Ten years?

1 A. Yes.

2 Q. How do you feel about being the one to decide guilty or
3 not guilty? Would you feel that you're able to make that
4 type of decision?

5 A. I believe so.

6 Q. And with respect to the court's instructions, do you have
7 any notions about whether or not you could follow or
8 couldn't follow the instructions on the law that the judge
9 gives?

10 A. I believe I wouldn't have any problem with following the
11 instructions.

12 Q. What do you think of the idea that if one of the co-
13 defendants gets a recommendation for a reduced sentence in
14 return for helping to testify against the other defendant?
15 Think that's an okay thing or a bad thing, accepted thing
16 or non-accepted thing?

17 A. I really don't have any thoughts on it. I guess if a
18 person's guilty, they're guilty, and they should-- they
19 should pay the consequences, whether they deal or not. I
20 don't--

21 Q. They-- If they got a less recommendation, would it be
22 appropriate for them, then, to testify against the other
23 person, that would be incentive? Do you have an issue
24 with that, or understand that that's sort of maybe the way
25 it happens?

1 A. I guess I would have a little trouble with that. Like I
2 said, if a person is guilty, they're guilty. If-- If
3 they bargain, then I don't believe in that. I don't--
4 Like I said, I think they should pay the consequences
5 whether-- whether they provide information on somebody
6 else or not. I don't think that's right.

7 Q. Okay. But you for sure don't like the concept of plea
8 bargaining?

9 A. Not really, no.

10 Q. Because we can't determine who witnesses crimes, we're
11 going to take whoever we get. Would you be able to cast
12 aside any stereotypes that you might have as to life-
13 styles, dress, philosophy, in terms of casting those aside
14 and listening to the testimony and deciding the--

15 A. I believe I could do that, yes.

16 Q. Have you ever had occasion to work with the concept of
17 reasonable doubt, where the State needs to prove the case
18 beyond a reasonable doubt?

19 A. No.

20 Q. Do you think the State should be required to have to prove
21 the case beyond all doubt?

22 A. I think the concept of all doubt is pretty far-fetched, I
23 think. Reasonable doubt is--

24 Q. The appropriate standard?

25 A. Yeah.

1 Q. Have you ever had occasion to shoot a .22?

2 A. Oh, yes.

3 Q. A semi-automatic .22?

4 A. Yes.

5 Q. Are you familiar with guns or--

6 A. Yes. I'm a hunter.

7 Q. Have you ever gone to the Northport Barter Fair?

8 A. Never have.

9 Q. Have you or a member of your family or a close friend ever
10 been charged with a felony crime?

11 A. Yeah.

12 Q. If the testimony of the co-defendants, people that were
13 involved in this, are somewhat inconsistent in some areas
14 and consistent in other areas, would you be able to weigh
15 both those consistencies and inconsistencies and figure
16 out which ones you want to rely on to reach your resolu-
17 tion in this matter?

18 A. I would hope so.

19 Q. Okay.

20 MR. WETLE: Thank you very much, Mr. Flett. We pass
21 for cause, your Honor.

22 THE COURT: All right, Mr. Simeone?

23 MR. SIMEONE: Thank you, your Honor.

24

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Juror #18 (Mr. Flett) - Examination by Mr. Wetle)

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1 MR. FLETT

2 EXAMINATION BY MR. SIMEONE

3 Q. Good morning, Mr. Flett.

4 A. Good morning.

5 Q. How you doing?

6 A. Pretty good.

7 Q. Now, I heard your response to the question about what
8 you've heard of the case, and you basically read about it,
9 if that's what I understand?

10 A. Just news--

11 Q. Yeah.

12 A. You know, when-- when the incident happened. I don't
13 really know that much about it, but I do recall hearing
14 something about it.

15 Q. Did you-- You didn't form any impressions as a result of
16 anything you heard, then?

17 A. Not-- Not really, no.

18 Q. About who did what, who's right or wrong, or anything like
19 that?

20 A. No. Without knowing anybody involved, I-- You know, it
21 just-- just a news article.

22 Q. Okay. Just a news article. Kind of came and went, and no
23 names, nothing like that stand out in your memory?

24 A. (No audible response)

25 Q. Okay, that's basically what I-- _____ on my mind. Now,

Juror #18 (Mr. Flett) - Examination by Mr. Simeone

574.

1 Mr. Grange is charged with murder as a result of that
2 incident. A fairly serious crime, if not the most
3 serious. Does that in itself cause you any uneasiness
4 about deciding this case if you're chosen?

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

6 Q. It's a weighty subject matter, but you think you can
7 handle it?

8 A. Oh, yeah.

9 Q. Okay. Mr. Wetle asked you about proof beyond a reasonable
10 doubt. You got into some discussion about that. Hand in
11 hand with that goes the idea that the State has to prove
12 somebody guilty before they're guilty, and that you
13 accept, correct?

14 A. Uh-huh.

15 Q. And as Mr. Grange sits here before you, he's not proven
16 guilty of a crime, isn't that right?

17 A. (No audible response)

18 Q. Okay, good. How-- How will you go about trying to make
19 a determination about whether or not a witness is telling
20 you the truth? Whether or not a witness is being on the
21 level with you, because you're going to hear some incon-
22 sistent stories. Mr. Wetle kind of gave you that heads up
23 already. So how do you go about trying to make a determi-
24 nation on whether or not somebody's telling you the truth?

25 A. I don't know. I think that would be difficult to answer,

Juror #18 (Mr. Flett) - Examination by Mr. Simeone

575.

1 because you weigh the testimony of the witness and, you
2 know, and I realize that, you know, one against the
3 others, you're going to hear different-- different
4 conflict in stories though.

5 Q. Now, if you hear a different-- If you hear inconsisten-
6 cies in a given person's testimony from one occasion to
7 the next to the next, is that going to maybe cause you to
8 have a concern about the truthfulness of that person's
9 testimony?

10 A. I would imagine so, yes.

11 Q. That would be one factor that you use, probably?

12 A. Probably.

13 Q. In considering it, you know. How about their facial
14 expression with you, whether or not they're keeping eye
15 contact with you when they talk to you and tell you
16 things? What do you think about that?

17 A. I don't know, it's just-- I really couldn't say until
18 you-- until you get in that situation.

19 Q. You have to approach each-- each time a little different-
20 ly then, probably each case is a little different?

21 A. Yeah, each case, each person is a little different.

22 Q. Okay, how about a person who's been convicted of crimes in
23 the past of dishonesty? Is that something that might bear
24 on your regard for the truthfulness of their testimony?

25 A. It likely would, yes.

Juror #18 (Mr. Flett) - Examination by Mr. Simeone

576.

1 Q. Some-- It has an effect. It's one of the-- one of the
2 tools you'll use in making a decision, probably?
3 A. Possibly.
4 Q. Okay. Did you ever hear of the Rainbow Family?
5 A. I've heard of them, yes.
6 Q. Any kind of notions about them one way or the other? Bad
7 or good, negative, positive?
8 A. As long as they leave me alone, I'll leave them alone.
9 Q. You don't-- Do you have any like negative impressions of
10 them? Have you heard any-- totally bad about them?
11 A. Not totally bad, but, you know, it-- Like I said, I've
12 heard of them, I've seen some of them, but, like I said,
13 as long as they stay out of my way I'll stay out of their
14 way.
15 Q. Okay. You think the things you've seen about them, are
16 they-- Do they bother you?
17 A. No.
18 Q. Doesn't bother you?
19 A. No.
20 Q. Okay. When you're-- Also, when you're-- Regarding a
21 guy's testimony here that you hear from the witness stand
22 where you're sitting right now, as a matter of fact, and
23 you know that that person is relating facts of a time or
24 events when he was under the influence of psychedelic-type
25 drugs, hallucinogenic drugs, do you think that will bear

Juror #18 (Mr. Flett) - Examination by Mr. Simeone

577.

1 on whether or not that person can give you an accurate
2 account?
3 A. Could you-- Could you--
4 Q. Well, let's say a person's telling a story.
5 A. Uh-huh.
6 Q. Telling a story about a time or an event, and you know
7 that that person, while that event was happening or
8 shortly before, was under the influence of LSD, do you
9 think that might bear on his ability to relate the
10 incident to you accurately?
11 A. Probably.
12 Q. Could. One of the things you look at. And that's another
13 tool you use then?
14 A. Uh-huh.
15 Q. Okay. You have no prior experiences with people being
16 murdered or anything that cause you any concerns here
17 about going into this?
18 A. (No audible response)
19 Q. Okay. Do you want to be a juror?
20 A. If I have-- If I have my choice, no.
21 Q. But if called, shall you answer?
22 A. Pardon?
23 Q. But if called, will you answer?
24 A. If called, I-- I guess in my mind I have to answer yes.
25 Q. All right, and you'd probably work around any schedule

Juror #18 (Mr. Flett) - Examination by Mr. Simeone

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1 problems with your work life or your personal life?

2 A. I-- I think it's-- As I see it, it's not much of my
3 choice.

4 Q. All right. Okay.

5 MR. SIMEONE: Well, then, I won't ask you anything
6 further. Thank you, Mr. Flett. No challenges for cause,
7 your Honor.

8 MR. FLETT IS ESCORTED OUT OF COURTROOM

9 THE COURT: Counsel, we're going to take a recess here
10 after the next peremptory, but we'll go ahead and--

11 MR. WETLE: (Inaudible)

12 THE COURT: Just a second. Just close the door, if you
13 would. Mr. Simeone, your first peremptory?

14 MR. SIMEONE: That would be Mr. Hood, Number 4.

15 THE COURT: Okay. And so Number 19, Ms. Vasquez, will
16 be in that-- will be in that slot. And--

17 MR. SIMEONE: Your Honor, I remembered what it was that
18 I wanted to tell you.

19 THE COURT: Okay.

20 MR. SIMEONE: You know, as the hard drive fills up, the
21 retrieval time is slower. That's basically the phenomenon
22 that we're having.

23 Juvenile conviction. Mr. Williams, it turns out that
24 his juvenile conviction is questionable, or his conviction
25 is questionable. But I think that Mr. Wetle now has

1 determined that it's a juvenile-- He was a youthful
2 offender, I think. Is that what we learned, Mr. Wetle?

3 MR. WETLE: It's Cunningham. Cunningham, back in
4 _____, New York.

5 MR. SIMEONE: That was the youthful offender?

6 MR. WETLE: And we were trying to get his records, and
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1 they said it was a-- I think it was a burglary, and so we
2 inquired and found out that it was in-- that they were
3 sealed and his status was a youthful offender and it was
4 an adjudication. And so that makes a difference in terms
5 of my criminal history for sentencing. It made a differ-
6 ence for Mr. Simeone in terms of impeachment.

7 THE COURT: The evidence in this case.

8 MR. SIMEONE: Impeachment, right.

9 MR. WETLE: Yeah.

10 MR. SIMEONE: So the rule is, and, your Honor, when you
11 take a break you can take a look at it, and it's not a
12 blanket rejection of my right to use it as impeachment, as
13 I read it. And I think that if it's a witness rather than
14 a defendant, it probably-- an additional consideration
15 there that you make.

16 THE COURT: What's the year on it?

17 MR. WETLE: The conviction?

18 THE COURT: Yes.

19 MR. WETLE: I think it was 1992?

20 MR. SIMEONE: He was about 18. Ninety-two or '93. He
21 was about 18, so it's a question of whether or not I can
22 still impeach him with it. The rule is that generally
23 they're not to be used. But if he's a witness, and then
24 an adult in another trial, that the court can. So I think
25 it's a discretionary thing.

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THE COURT: What rule are you referring to then, counsel?

MR. SIMEONE: It's in the 600 section. I think it's 609.

MR. WETLE: I think it's 608.

MR. SIMEONE: Six-o-eight, 609.

THE COURT: So would it be in 609?

MR. WETLE: I thought it was 608.

MR. SIMEONE: Six-o-eight or 609. And I think it's under (h), something like that, your Honor.

THE COURT: Okay, I'll take a look at that on the recess.

MR. SIMEONE: But that was on my do list here.

THE COURT: Okay, great. We'll take a look at that and resolve that at some point.

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COURT RECONVENED

THE COURT: All right, we'll call Number 19 in.

JUROR NUMBER 19 IS ESCORTED INTO COURTROOM

THE COURT: Good morning, Ms. Vasquez, is it?

MS. VASQUEZ: Yes.

THE COURT: All right, Ms. Vasquez, a couple of questions from me, and then I'm going to let the attorneys ask you a few questions.

Do you recall when you checked in yesterday morning for jury duty whether or not you had an conversation with anyone that was sitting on the bench out there?

MS. VASQUEZ: No.

THE COURT: Okay. Second, I just want to remind you that any question and answer sequence in here is still subject to the same rule about no discussion with your fellow jurors or with anyone else.

MS. VASQUEZ: (Inaudible)

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

MR. WETLE: Thank you, your Honor.

1 MS. VASQUEZ

2 EXAMINATION BY MR. WETLE

3 Q. Good morning, Ms. Vasquez.

4 A. Morning.

5 Q. Prior to getting your service (sic) for jury, while you
6 were still a private citizen, did you have any precon-
7 ceived notions or ideas about being a juror?

8 A. No.

9 Q. Didn't think it was something you looked forward to,
10 something you looked--

11 A. Oh, yeah.

12 Q. That you did not want to do?

13 A. Something-- Looking forward to, yeah.

14 Q. Wondered if it would ever happen that you would get
15 called?

16 A. I've been called several times before. I never got to
17 serve. Never been chosen to serve, so I was kind of
18 looking forward to it.

19 Q. So you've been on the-- in the panel like where you are
20 now?

21 A. Right.

22 Q. But just never made it to the jury box?

23 A. Right.

24 Q. Okay. I don't think you were familiar with the case,
25 didn't have any--

Juror #19 (Ms. Vasquez) - Examination by Mr. Wetle

583.

1 A. No.

2 Q. --particular background on that. Have any problem
3 following the instructions of the court?

4 A. No.

5 Q. That the court would give you at the end of the trial?

6 A. No.

7 Q. Do you think that the idea of one of the criminals in this
8 matter getting a recommendation for a reduced sentence if
9 that person cooperated to convict the other person is a
10 good idea or a bad idea?

11 A. I don't have any problem with it.

12 Q. Okay. There'll be different people that come to testify
13 from different walks of life, different backgrounds.
14 Would you have any problem listening to their testimony
15 and weighing their testimony because of their appearance
16 or background?

17 A. No.

18 Q. And have you-- Since you never got to the jury box, you
19 probably never got to really wrestle with the beyond a
20 reasonable doubt standard?

21 A. No.

22 Q. Do you think that the State should have to prove a case
23 beyond all doubt?

24 A. Reasonable doubt, yes.

25 Q. And do you see the distinction between all doubt or beyond

Juror #19 (Ms. Vasquez) - Examination by Mr. Wetle

584.

1 a shadow of a doubt and reasonable doubt?
2 A. Yes.
3 Q. Do you have any weapons or have you ever fired firearms?
4 A. No.
5 Q. Never in your life?
6 A. Not that I recall.
7 Q. Have you ever been to the Northport Barter Fair?
8 A. Pardon me?
9 Q. Have you ever been to the Northport Barter Fair?
10 A. No.
11 Q. Or any barter fair or hempfest gathering?
12 A. No.
13 Q. If the testimony of the co-defendants that were involved
14 in this matter are inconsistent in some respects, consis-
15 tent in other respects, do you think you would be able to
16 weigh the testimony and be able to decide which to rely on
17 and which to not rely on?
18 A. I think so.
19 MR. WETLE: Thank you very much, Ms. Vasquez. We pass
20 for cause, your Honor.
21 THE COURT: All right, Mr. Simeone, any questions?
22 MR. SIMEONE: Thank you, your Honor.
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1 MS. VASQUEZ

2 EXAMINATION BY MR. SIMEONE

3 Q. Good morning, Ms. Vasquez.

4 A. Morning.

5 Q. How are you doing?

6 A. Good.

7 Q. Good. Did you answer yes to any of Judge Baker's prelimi-
8 nary questions when you were in the audience? I don't--
9 I don't have you down as having.

10 A. I-- I'm related to a court commissioner. Ex-husband,
11 actually. In Spokane.

12 Q. Oh, okay. I thought a lawyer. I see that you're related
13 to a lawyer. Is that what I wrote down? Okay. Have any
14 influence, do you think, on your--

15 A. I don't think so.

16 Q. On which side of the V here that you tend to lean?

17 A. No.

18 Q. Okay. One of the things that you heard early on is that
19 Mr. Grange, my client here, is charged with a very serious
20 offense, if not the most. He's charged with murder. Does
21 that in itself cause you some kind of anxiety or maybe
22 some feeling of discomfort as a result of that alone?

23 A. No.

24 Q. Okay, you feel like it's a weighty subject matter-

25 A. Yes.

Juror #19 (Ms. Vasquez) - Examination by Mr. Simeone 586.

1 Q. --but that you can-- you can consider it carefully with
2 what faculties we have available to us? Okay. Judge
3 Baker will instruct you, and Mr. Wetle has already
4 broached the subject of the concept of beyond a reasonable
5 doubt and that level of proof. Do you think it's fair to
6 have the State have to meet that burden if they're going
7 to convict somebody of a serious crime?

8 A. (No audible response)

9 Q. Okay, good. And hand in hand with that, of course, goes
10 the idea that as Mr. Grange sits here he's not proven
11 guilty of a crime, that he's innocent.

12 A. Right.

13 Q. Okay. It's human nature to be suspicious of somebody
14 who's charged with a crime, and I'm not going to be so
15 facetious or naive to think that that's not common, but do
16 you agree that there's a difference between a suspicion
17 that something wrong has happened and a belief that
18 something wrong has happened?

19 A. Yes.

20 Q. And how do we get from the one to the other?

21 A. From the spec-- suspicion to the belief? Is that what
22 you're saying?

23 Q. Yeah.

24 A. How do we get from one to the other?

25 Q. How would we get from--

Juror #19 (Ms. Vasquez) - Examination by Mr. Simeone 587.

1 A. Well, we weigh things out and we hear the facts and we
2 hear--
3 Q. Facts. Proof.
4 A. --the proof.
5 Q. And if it's not there, then you don't get to that belief.
6 A. Right.
7 Q. Okay. Mr. Wetle also raised the prospect of a witness who
8 might be testifying for the State who's been given a
9 promise of a lesser sentence in the event that he testi-
10 fies here today, and you sound to me like you had a very
11 practical kind of response to that, that's just the way
12 things go and you have no problem with that. You're
13 right, that is just the way it goes. But I'm thinking at
14 the same time whether or not that would bear on your
15 regard for a person's testimony. In other words, let's
16 say that person's testifying, knows he's going to get a
17 seriously reduced or lenient-- more lenient treatment.
18 Do you think that that might bear on the way he testifies
19 then? I'm not saying it's the only thing, but do you
20 think it might have a bearing?
21 A. It might.
22 Q. Okay. And I'm curious how you go about trying to make a
23 determination of whether or not a person's telling the
24 truth. Now, other jurors have had their techniques, I
25 have mine, and I'm wondering about yours. In the event

1 you hear a juror tell you a story that's different from
2 what another story would be, how do you go about trying to
3 determine the truthfulness of what a person's telling you?
4 A. I don't know. I've never really done this before. But I
5 think it would have to go with how I feel about the
6 presentation.
7 Q. Uh-huh.
8 A. About-- You know, if I think-- I don't know. Patients
9 lying or-- You know.
10 Q. Let me just throw some things out for your consideration.
11 You tell me how you feel about it. What about if a person
12 tells a story a different way over a number of times?
13 A. Well, I think there's a lot of things that come into play.
14 I think there's-- You've got to be very nervous, upset.
15 I think sometimes the way a person relates a story is
16 individual, and you kind of have to weigh that with the
17 person's background or--
18 Q. Sure.
19 A. --how they present themselves.
20 Q. Sure. You think it's something that might bear, though,
21 on your regard for testimony if--
22 A. It might.
23 Q. --consistency is not so good?
24 A. Inconsistency is not good.
25 Q. Okay. And how about he had previously been convicted of

1 a crime of dishonesty? Might that-- Might that. I'm not
2 saying it's your sole criteria, but that might bear on it?

3 A. It might.

4 Q. Okay. What about if a person is relating an account to
5 you of an event during which he was under the influence of
6 a hallucinogenic drugs? Might that bear on your regard
7 for that person's testimony?

8 A. It might.

9 Q. Accuracy? Okay. Those are all things that are on my
10 mind. Now, you say you-- And I didn't take a note. You
11 did not hear of the Rainbow Family or you had?

12 A. Did not, no.

13 Q. Did not? So that's a neutral concept to you. The barter
14 fairs?

15 A. I'm not sure what that is. It's like a flea market kind
16 of thing, or--

17 Q. It's a neutral kind of a concept in your mind.

18 A. Oh, no.

19 Q. It's basically what I'm trying to flush out.

20 A. Right. Don't know.

21 Q. Okay, good. Does the prospective length of our trial
22 cause any kind of a serious conflict with your schedule?
23 I know-- I notice that you're down at Sacred Heart, and--
24 Which ward would you be working on?

25 A. I work starting IV's and work in the recovery room.

1 Q. Oh, yeah? Okay. Does it-- Are you covered?

2 A. Oh, yeah.

3 Q. For the time? They understand that it's jury duty and
4 it's-- Okay. Anything else about the real world, your
5 real life, that might cause you an inability to focus on
6 this very important subject matter?

7 A. No.

8 MR. SIMEONE: Okay, good. Then I won't ask any more
9 questions. Thank you. No challenge for cause, your
10 Honor.

11 MS. VASQUEZ IS ESCORTED OUT OF COURTROOM

12 CHALLENGE SHEET IS HANDED TO COUNSEL

13 THE COURT: Then would you go ahead and get Number 21
14 for us?

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Juror #19 (Ms. Vasquez) - Examination by Mr. Simeone 591.

1 **JUROR NUMBER 21 IS ESCORTED INTO COURTROOM**

2 THE COURT: Good morning, Ms. Aldridge.

3 MS. ALDRIDGE: Yes.

4 THE COURT: Thank you for all of your waiting around.
5 I just have a couple of quick things to go over with you.
6 One is whether or not you recall when you checked in for
7 jury duty yesterday morning seeing or speaking with anyone
8 that was sitting on the bench there? A gentleman that was
9 sitting on the bench?

10 MS. ALDRIDGE: Bench in front of us, you mean?

11 THE COURT: This would have been-- No, on the bench
12 when you checked in, signed in for jury duty, at the top
13 of the stairs yesterday morning. If you remember anyone
14 sitting on the bench out there and speaking with you?

15 MS. ALDRIDGE: Not that I know of.

16 THE COURT: Okay, that's fine. And secondly, just a
17 quick reminder that anything here-- questions and answers
18 that will be asked of you in here are still under the rule
19 of not discussing them with your fellow jurors.

20 MS. ALDRIDGE: Yes.

21 THE COURT: All right, and, Mr. Wetle? Mr. Wetle's
22 going to have a few questions and Mr. Simeone will have a
23 few questions.

24 MS. ALDRIDGE: Okay.

25 ADJUSTMENTS TO MICROPHONE

1 THE COURT: Mr. Wetle?

2 MS. ALDRIDGE

3 EXAMINATION BY MR. WETLE

4 Q. Good afternoon, Ms. Aldridge. Is it Aldridge?

5 A. Aldridge.

6 Q. Aldridge, thank you. Before you got your summons to be a
7 juror, did you ever have any thoughts about whether you
8 wanted to be a juror or didn't want to be a juror?

9 A. Oh, it didn't sound very exciting.

10 Q. Well, sometimes it can be.

11 A. No, I really hadn't thought one way or the other.

12 Q. So pretty neutral on that issue?

13 A. Yes. Uh-huh.

14 Q. You have not heard of this case? I don't see that you
15 heard of the case?

16 A. No. No.

17 Q. And basically didn't raise your hand for any of the
18 judge's questions?

19 A. No.

20 Q. Would you-- Is it okay by you to sit in judgment and
21 determine whether somebody is guilty or not guilty of a
22 crime? Can you do that?

23 A. It's sort of scary. I hate to think that I have someone
24 else's lives in my hands, you know.

25 Q. It's a big responsibility.

Juror #21 (Ms. Aldridge) - Examination by Mr. Wetle 593.

1 A. Yeah, right. And I have-- would have part of the say-so
2 of what should happen to him, you know. It's--

3 Q. Well, there'll be a substantial amount of testimony.
4 People testifying about things that happened. Do you
5 think that you would feel comfortable listening to three
6 or four days of testimony to, you know, help you make that
7 decision, or would that be a hardship?

8 A. Well, at my age it would be more of a hardship, probably,
9 'cause I don't quite comprehend, you know, what-- what's
10 going on.

11 Q. I see.

12 A. Or I don't hear correctly.

13 Q. I understand.

14 A. I'm just trying to be truthful about it.

15 Q. I think you're being very truthful and frank about it, and
16 I appreciate that and the court appreciates that. And
17 because if we're sitting here for three or four days it
18 may be a problem physically to be a juror.

19 A. Yes. Yes.

20 MR. WETLE: And so I guess with that I would ask the
21 court to consider whether Mrs. Aldridge would have to
22 serve or not.

23 THE COURT: All right, Ms. Aldridge, are you saying
24 that you feel that your stamina, you'd have trouble with
25 your keeping up your strength to do this for this many

1 days on end?

2 MS. ALDRIDGE: Well, yes. I'm 79 years old and I don't
3 get around as good as I used to.

4 THE COURT: Okay. And do you drive?

5 MS. ALDRIDGE: I have a driver's license, but for other
6 people's sake, _____, I don't use it.

7 THE COURT: So you have to depend on other people
8 generally for your transportation?

9 MS. ALDRIDGE: Yes. Uh-huh.

10 THE COURT: Okay. And it sounds like you have a little
11 bit of a head cold right now.

12 MS. ALDRIDGE: I don't know whether it's a head cold or
13 I just lose my voice.

14 THE COURT: Okay. You've got some laryngitis.

15 MS. ALDRIDGE: Yes. This cold weather doesn't work
16 very good with it.

17 THE COURT: Okay. All right, do you feel that-- You
18 mentioned that you realize that this was quite a responsi-
19 bility.

20 MS. ALDRIDGE: Yes, and it's--

21 THE COURT: Is it something that you find to be
22 intimidating, or is it just something you take seriously?

23 MS. ALDRIDGE: Well, I take it serious because other
24 people's lives-- I don't want to have to be the one _____
25 to determine what happens.

1 THE COURT: Right. So you find it-- Are you saying
2 you feel like you're not really up to the task, or that
3 you would try to avoid doing that?

4 MS. ALDRIDGE: Well, it would be strenuous on me.

5 THE COURT: It would be strenuous?

6 MS. ALDRIDGE: Yeah.

7 THE COURT: All right. And you would also be having to
8 depend on other people each and every day for your
9 transportation?

10 MS. ALDRIDGE: Yes.

11 THE COURT: All right, Mr. Simeone, any comments

12 MR. SIMEONE: Ms. Aldridge--

13 THE COURT: --about--

14 MR. SIMEONE: Thank you, your Honor. Ms. Aldridge, you
15 just don't feel like you can do it then?

16 MS. ALDRIDGE: Right. Uh-huh.

17 MR. SIMEONE: Well, I won't inquire further then. I'm
18 sorry. Thank you.

19 MS. ALDRIDGE: That's fine.

20 THE COURT: All right, any objection then to Ms.
21 Aldridge being excused, Mr. Wetle?

22 MR. WETLE: No, your Honor.

23 THE COURT: Or Mr. Simeone?

24 MR. SIMEONE: No, your Honor.

25 MS. ALDRIDGE IS EXCUSED

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MR. SIMEONE: Your Honor?

THE COURT: Yes?

MR. SIMEONE: I'll wait until Ms. Aldridge leaves.

BAILIFF IS REQUESTED TO HAVE NUMBER 22 READY

MS. ALDRIDGE IS ESCORTED OUT OF THE COURTROOM

THE COURT: You had something, Mr. Simeone?

MR. SIMEONE: Your Honor, I'm naturally going to raise a cause-- objection to Juror Number 22. She is-- Her husband is a Stevens County Deputy, and I know she'll say that she can cast aside her prejudices, but it's just too close for my liking, and I'm wondering if we even have to have her in here.

THE COURT: Says her cousin's husband.

MR. SIMEONE: Okay, cousin's husband.

THE COURT: Is a Stevens County Deputy.

MR. SIMEONE: I thought it was cousin and husband. I guess I'm wrong.

THE COURT: I think that's an apostrophe s. We can clarify that with her, but I wouldn't think that that would be a reason to challenge her for cause at this point.

MR. SIMEONE: Okay.

THE COURT: If you're saying you're going to go ahead and exercise a peremptory on her, then--

MR. SIMEONE: Well, we'll just go ahead and hear her

1 then.

2 THE COURT: All right.

3 JUROR NUMBER 22 IS ESCORTED INTO THE COURTROOM

4 THE COURT: If you'll have a seat up here, please. And
5 it's Ms. Peterson?

6 MS. PETERSON: Yes.

7 THE COURT: All right. Ms. Peterson, a couple of
8 things from me first. One is whether you recall when you
9 checked in for jury duty, coming up the stairs, there
10 might or might not have been at the time you checked in
11 a gentleman seated on a bench out here, and we just need
12 to know whether or not you had any conversation with him?

13 MS. PETERSON: No.

14 THE COURT: If you saw him. Okay.

15 MS. PETERSON: I don't remember seeing him.

16 THE COURT: Okay. All right, and then secondly, just
17 a reminder that any of the questions and answers in here
18 are still subject to the no discussion rule back in the
19 jury room, with your family and friends, et cetera. Okay?

20 MS. PETERSON: Uh-huh.

21 THE COURT: Mr. Wetle?

22 MR. WETLE: Thank you, your Honor.
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1 MS. PETERSON

2 EXAMINATION BY MR. WETLE

3 Q. Good after-- or good morning, Ms. Peterson. It just
4 seems like afternoon. Before you got your summons and
5 letter and questionnaire from the court, as a private
6 citizen did you have any views about whether you ever
7 wanted to be a juror, or never wanted to be a juror, or
8 really weren't concerned about it?

9 A. Well, I'd never been called, so I just kinda thought, hmm,
10 I don't have to do that.

11 Q. Was it something you kind of always thought you might want
12 to do, or--

13 A. Well, I was-- Yeah. At different times, you know, you
14 talk to someone that has served on it, and they survived
15 it so--

16 Q. It's not such a bad--

17 A. It's-- It's not-- Wouldn't be the end of the world if
18 I--

19 Q. Had to serve?

20 A. Yeah.

21 Q. Okay. Let's see, 22. I see that you have heard of the
22 case.

23 A. Yes.

24 Q. And so I guess I would ask you what you heard that you can
25 recollect.

Juror #22 (Ms. Peterson) - Examination by Mr. Wetle 599.

1 A. It's just been what has been in the *Statesman-Examiner*
2 that I have read on.

3 Q. Okay. Would you be able to cast aside what you have read
4 in the media and rely solely on what you hear in the
5 courtroom in making your decision?

6 A. Yes.

7 Q. Okay. You also raised your card when the judge asked if
8 anybody had relatives in law enforcement.

9 A. Uh-huh.

10 Q. Your note says your cousin's husband?

11 A. Uh-huh.

12 Q. Could you maybe elaborate a little bit on that?

13 A. He's a Stevens County Deputy. Bill Bitten.

14 Q. And so he's your cousin's husband?

15 A. Yes.

16 Q. Is that like a second or third degree cousin, or a--

17 A. No. Well, Bill's mother-in-law is my aunt, so it'd be my
18 first cousin's husband.

19 Q. How close would you be to Mr. Bitten?

20 A. Well, if he doesn't have to work, we see him on Christmas.
21 You know, I mean--

22 Q. Okay, so not really--

23 A. No, no.

24 Q. This is not a close relationship.

25 A. No, no.

- 1 Q. Would the fact that he is a law enforcement officer cause
2 you any feelings one way or the other in being a juror on
3 this case?
- 4 A. No, no.
- 5 Q. How do you feel about being a juror to decide whether a
6 person is guilty or not guilty?
- 7 A. Well, there again, you have to really concentrate on what
8 you're hearing, I would think, as far as evidence, and I
9 don't think it would be something that you could decide
10 ahead of time and not pay attention to the evidence.
- 11 Q. Correct. But you would be able to work as a juror to
12 reach a decision, or work on that decision?
- 13 A. I would try, yeah.
- 14 Q. Do you have any problem following the court's instruc-
15 tions? At the end of the trial the court will give you a
16 packet of instructions on the law. You'd be able to
17 follow--
- 18 A. Uh-huh.
- 19 Q. --those laws as they apply to the facts of the case?
- 20 A. Yes.
- 21 Q. Different people will take the witness stand from differ-
22 ent backgrounds. Would you have any difficulty listening
23 to their testimony and evaluating the testimony about this
24 case because of their backgrounds or choices of lifestyle?
- 25 A. No. To each their own.

Juror #22 (Ms. Peterson) - Examination by Mr. Wetle 601.

1 Q. And with respect to the concept of reasonable doubt, the
2 State must prove the case beyond a reasonable doubt. Do
3 you think the State should have to prove the case beyond
4 all doubt?
5 A. Well, I would think so.
6 Q. Do you think it would be possible to prove a case beyond
7 all doubt?
8 A. Well, I don't know. I've--
9 Q. Okay, that's why we're talking.
10 A. Yeah. I really can't say on that.
11 Q. If the judge gave you an instruction to follow the-- to
12 prove the case beyond a reasonable doubt, would you follow
13 that instruction and not require the State to prove it
14 beyond all doubt?
15 A. Right. Yeah, I would, because if there were no doubt, you
16 know--
17 Q. Probably be.
18 A. Yeah.
19 Q. So there probably is going to be some doubt?
20 A. Yeah. Right. Yeah.
21 Q. And that's not-- And the test is beyond a reasonable
22 doubt, not beyond all doubt.
23 A. Right. Right.
24 Q. Have you ever heard that phrase, you know, must be proved
25 beyond a shadow of a doubt? Ever hear that?

1 A. No, not really.

2 Q. Okay. Sometimes people say prove it beyond all doubt, but
3 you now understand it's beyond a reasonable doubt, is that
4 correct?

5 A. Uh-huh. Yeah.

6 Q. Have you ever had any access or used firearms?

7 A. I have a concealed weapons permit.

8 Q. Have you ever fired a .22 rifle?

9 A. Uh-huh.

10 Q. Have you ever fired a semi-automatic .22 rifle?

11 A. No.

12 Q. Have you ever been to the Northport Barter Fair?

13 A. No.

14 Q. And to any barter fair or hempfest?

15 A. No.

16 Q. If the testimony of the co-defendants, people that were
17 involved in this matter with the defendant here, are
18 inconsistent in some respects and consistent in other
19 respects, would you be able to weigh the consistencies and
20 the inconsistencies in deciding which evidence to rely on
21 or which evidence to throw away?

22 A. I would try.

23 MR. WETLE: Thank you very much, Ms. Peterson. We pass
24 for cause, your Honor.

25 THE COURT: All right, Mr. Simeone, questions of this

Juror #22 (Ms. Peterson) - Examination by Mr. Wetle 603.

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witness?

MR. SIMEONE: Thank you, your Honor.

THE COURT: Or excuse me, this juror.

MR. SIMEONE: This prospective juror. Thank you, your Honor.

1 MS. PETERSON

2 EXAMINATION BY MR. SIMEONE

3 Q. Good morning, Ms. Peterson.

4 A. Good morning.

5 Q. How are you?

6 A. Good.

7 Q. Thank you for your answers so far. I thought I marked
8 down on my pad here that you'd heard of the case. Is that
9 correct?

10 A. Yes.

11 Q. And could you again, if you-- If you had already said it,
12 I apologize, but in which context and what do you remember
13 about what you heard?

14 A. Well, it's just been articles that have been in the
15 *Statesman-Examiner*.

16 Q. Uh-huh.

17 A. And that's-- That's my only way of knowing about it.

18 Q. Did you ever work for the *Statesman*?

19 A. No.

20 Q. Okay. Striking-- There's a resemblance between you and
21 somebody who does work there. I thought maybe you were a
22 sister or something. No? Do you remember what you read,
23 or did you come away with any impressions as a result of
24 the articles?

25 A. Well, yeah, I read it and I thought man, that's not good.

Juror #22 (Ms. Peterson) - Examination by Mr. Simeone 605.

1 Q. Right. Do you remember names of individuals or what was--
2 A. No, I didn't know anybody, so no, I just-- Given the
3 area, it's not a long ways from where I live, and--
4 Q. Yeah.
5 A. --kinda gets your attention.
6 Q. Yeah. You're out on North Highway there, aren't you?
7 A. Uh-huh.
8 Q. But you didn't formulate any opinions or come away with
9 any ideas that you remember right now about what happened
10 or who did what or any of the--
11 A. No, no. It was--
12 Q. Opinions?
13 A. What sticks in my mind is the burned-out vehicle that--
14 Q. Yeah.
15 A. You know, and like I say, I didn't know anybody. No names
16 or anything.
17 Q. Okay.
18 A. And not even the exact area. So it was just kinda like
19 you tell yourself thank goodness I didn't know anybody,
20 you know.
21 Q. Yeah. But it came and went for you, basically.
22 A. Yeah, yeah.
23 Q. Okay, that's what I was trying to get around to. Mr.
24 Grange is-- Well, he's obviously charged with a very
25 serious crime. You understand that?

Juror #22 (Ms. Peterson) - Examination by Mr. Simeone 606.

1 A. Uh-huh.

2 Q. Now, does the fact that it's that serious a subject
3 matter, does that cause you any concern or inner turmoil
4 about your ability to sit here as a juror and deliberate
5 on the issues of guilt or innocence?

6 A. Well, it really gets your attention, you know. I mean--

7 Q. It's about as weighty a subject matter as there is.

8 A. Right.

9 Q. Don't you agree?

10 A. Yeah.

11 Q. Well, do you think that that causes you an-- Does it bear
12 on your ability to act and respond and think about it
13 rationally or anything?

14 A. Well, a person would have to tell yourself, you know,
15 think rational and go with what--

16 Q. Uh-huh.

17 A. You know.

18 Q. And you feel like you're able to do that if--

19 A. I hope so.

20 Q. If you're chosen?

21 A. Yeah.

22 Q. Okay. Do you have any misgivings about it, or any second
23 thoughts or doubts about your ability to go forward with
24 it?

25 A. No. No.

Juror #22 (Ms. Peterson) - Examination by Mr. Simeone 607.

- 1 Q. Nothing that's out of the ordinary?
- 2 A. Well, you know, it's not a good thing, but, I mean, life
3 does deal you some problems from time to time.
- 4 Q. And you've dealt with other things in your life that were
5 weighty, of weighty nature?
- 6 A. Oh, yeah.
- 7 Q. And you've gone-- You got through it somehow.
- 8 A. Right.
- 9 Q. So you think you can sit through a trial that discusses
10 things that probably aren't that pleasant and not get
11 personally offended, and just be-- try to be neutral and
12 maintain a cool about your deliberation?
- 13 A. I think a person would have to talk to themselves a little
14 bit and remind you, you know, that--
- 15 Q. Okay. Mr. Wetle told you about the concept of reasonable
16 doubt. He reviewed that with you a little bit.
- 17 A. Uh-huh.
- 18 Q. And I liked your answers. Do you agree, then, part-- as
19 part of that same thought, that there's no proof right now
20 as we sit here that Mr. Grange is guilty of any crime?
- 21 A. Right.
- 22 Q. Okay, and all the proof will come out of actually that
23 witness stand where you're sitting when witnesses testify.
- 24 A. Yes.
- 25 Q. And in trying to analyze witnesses' testimony, you'll

Juror #22 (Ms. Peterson) - Examination by Mr. Simeone 608.

1 probably hear some conflicting stories about the events.
2 A. Uh-huh.
3 Q. How do you go about trying to make a determination of
4 whether or not somebody's story is believable? Let me
5 give you some examples or ideas for consideration. What
6 about if stories they tell over a period of time, over
7 maybe six different instances, are inconsistent?
8 A. Well, there again, there used to be this game where you
9 said something and passed it on down the line. Nine times
10 out of ten it didn't always come out the same way at the
11 end of the line as what you said.
12 Q. Sure.
13 A. You know, and if you look at it that way-- You got to go
14 with what--
15 Q. It's one of the things you might--
16 A. At the moment type--
17 Q. One of the things you might consider, though, in trying to
18 formulate your opinion about the truthfulness of testimo-
19 ny, whether or not it's been consistent over a period of
20 time. How about whether or not a given witness has been
21 convicted of a crime of dishonesty in the back-- in his
22 background? Do you think that might bear on your willing-
23 ness to trust that person's testimony? I'm not saying
24 it's the sole criterium, but might it bear on your
25 willingness to--

Juror #22 (Ms. Peterson) - Examination by Mr. Simeone 609.

1 A. Well, I'm sure it would have some--
2 Q. Okay, how about whether--
3 A. In the back of your mind.
4 Q. Sure. Sure, it's another tool you would use.
5 A. Uh-huh.
6 Q. Other things. What about facial expression or their
7 demeanor, that kind of thing? Would that have any
8 influence on you for-- regarding their testimony,
9 truthfulness of it?
10 A. Oh, I don't think so.
11 Q. Not too much?
12 A. No.
13 Q. Okay, that's not a factor. For some people it is. For
14 you it's not. How about whether or not a person who's
15 testifying is relating events or details of an event and
16 at the time of that event he was under the influence of a
17 hallucinogenic drug, LSD, marijuana, something like that.
18 Would that maybe have an influence on whether or not you
19 have a belief in that person's testimony?
20 A. Right. Definitely.
21 Q. That's one of the things too. Okay. Do you think--
22 Now, you own guns. It sounds like you're familiar with
23 them. I'm sure-- Let me-- Well, let me hear _____. A
24 person can own a gun and not intend to shoot a human being
25 with it, isn't that right?

Juror #22 (Ms. Peterson) - Examination by Mr. Simeone 610.

- 1 A. Right.
- 2 Q. Have you-- You've not heard of the Rainbow Family then?
- 3 A. Pardon?
- 4 Q. Have you ever heard of the Rainbow Family?
- 5 A. No.
- 6 Q. No? And the barter fairs, do you have any impression of
- 7 them one way or the other?
- 8 A. Well, I live on the highway, and watching the vehicles and
- 9 the hitchhikers go by, I have no desire to go there.
- 10 Q. You don't want to go to the barter fair?
- 11 A. No.
- 12 Q. So it's an overall very negative impression that you
- 13 have--
- 14 A. Yeah.
- 15 Q. --of barter fairs?
- 16 A. Yeah.
- 17 Q. Well, let's inquire about that. You think that people
- 18 affiliated with it are probably unsavory types?
- 19 A. Not necessarily.
- 20 Q. Okay.
- 21 A. I'd just as soon go to a yard sale than a barter fair.
- 22 Q. I understand. But you have personally never been to one
- 23 then?
- 24 A. No. No, I haven't.
- 25 Q. But am I understanding, though, that probably if we were

Juror #22 (Ms. Peterson) - Examination by Mr. Simeone 611.

1 to rate it on a scale of some sort, you've have overall a
2 negative impression of the barter fair?

3 A. Uh-huh.

4 Q. Okay, that being-- Assuming that for the moment, do you
5 think that-- There's going to be some discussion about
6 the barter fair, people that attend barter fairs, the
7 events that are-- surround the barter fair, that kind of
8 thing. Is that going to, you think, sway you here
9 unnecessarily, or-

10 A. No.

11 Q. --unduly to one position or another?

12 A. I've had friends that go there, and they have a great
13 time, but myself, it's just not my interest.

14 Q. Sure, I-- Yeah, I-- And there's a difference between
15 that, being uninterested in it, and having a position that
16 I don't like that and I don't like the people who attend
17 it, and I don't like their type, and there's something
18 wrong with those kinds of people. You're not of the
19 latter persuasion then, I trust.

20 A. No, I'm just-- I would just be nervous, I think.

21 Q. At the barter fair?

22 A. Yeah.

23 Q. I might too. Okay. There's nothing going on right now,
24 then, in your life that would distract you from paying
25 attention to the very serious business here?

Juror #22 (Ms. Peterson) - Examination by Mr. Simeone 612.

1 A. No.

2 Q. And you think the standard that the State has to meet,
3 proof beyond a reasonable doubt, do you think that's right
4 that before they convict somebody of a serious crime that
5 they should have to--

6 A. Yeah.

7 Q. --meet that level of proof? Okay, that's not unfair to
8 the State, you don't think, is it?

9 A. No.

10 Q. But if the State doesn't meet that burden of proof at the
11 end of their case, do you think it's as much your duty to
12 find my client, Mr. Grange, not guilty as it would be to
13 find him guilty if they proved it?

14 A. If it wasn't a reasonable doubt, yeah.

15 Q. Okay. And would you-- Would you want to serve as a juror
16 if you were selected?

17 A. Well, do I look nervous?

18 Q. No more so than any of the other people that have been
19 there the last couple of days.

20 A. Oh, well--

21 Q. About the same. Okay. Well, if you don't mind then, I
22 won't ask you any more questions.

23 MR. SIMEONE: Thank you, Judge. No further questions,
24 no challenge for cause.

25 MS. PETERSON IS ESCORTED OUT OF THE COURTROOM

Juror #22 (Ms. Peterson) - Examination by Mr. Simeone 613.

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CHALLENGE FORMS ARE HANDED TO MR. SIMEONE

THE COURT: I'm going to go ahead and excuse the jurors here-- Well, we'll figure out who to excuse permanently here, but in addition, we'll excuse some people for lunch.

COURT INDICATES SCHEDULE FOR JURORS TO RETURN AFTER LUNCH

JUROR NUMBER 23 IS ESCORTED INTO THE COURTROOM

THE COURT: Good morning.

MS. DAY: Good morning.

THE COURT: It still is morning, and we appreciate all of your patience in waiting for us. Have a seat. It's, let's see, Ms. Day.

MS. DAY: Yes.

THE COURT: All right, Ms. Day, a couple of questions from me. Number 1, when you checked in for jury duty, did you-- do you recall having seen a gentleman sitting on the bench, and if so chatting with the gentleman on the bench out here near where you checked in for jury duty yesterday morning?

MS. DAY: No.

THE COURT: No? Okay, that's fine. And then secondly, I want to just remind you that the questions and answers in here are something that's still subject to the no discussion rule until and unless you're excused for good type thing.

MS. DAY: Okay. May I say one thing that I didn't say

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yesterday?

THE COURT: You bet.

MS. DAY: When you asked about knowing a lawyer, and I thought no. I do know who Patty St. Clair is. They're good friends of my sons, but I know who she is, you know, to say hello, whatever.

THE COURT: Okay. All right, great.

MS. DAY: But I need to say that.

THE COURT: Good. You know, there's quite a few people who have come up with things that came to them later, so thank you for filling us in on that. All right.

And Mr. Wetle will have some questions, and then Mr. Simeone. Mr. Wetle?

MR. WETLE: Thank you, your Honor.

1 MS. DAY

2 EXAMINATION BY MR. WETLE

3 Q. Good morning, Ms. Day.

4 A. Good morning.

5 Q. Prior to getting your notice to be a juror, when you were
6 still a private citizen, what were your views about the
7 opportunity to serve as a juror?

8 A. My opportunities? I was just nervous.

9 Q. Before you got your notice. This is back--

10 A. Before? Oh.

11 Q. Just in your regular life.

12 A. Oh, I just always thought it would be interesting, but,
13 you know, then when it came I got kinda worried.

14 Q. Then it changed?

15 A. Yeah, then it changed.

16 Q. Okay, but before that? It's something--

17 A. Oh, I always thought it would be nice.

18 Q. You've talked to people who have been on juries?

19 A. No.

20 Q. Never?

21 A. No.

22 Q. So don't--

23 A. I don't know anything about it, believe me. I don't know
24 what's going to happen.

25 Q. But have looked forward to it?

1 A. Yes.

2 Q. Okay. You are familiar with the case, as I recall. You
3 have heard of the case?

4 A. Yes, I have.

5 Q. And where was that?

6 A. Seen it in the Colville paper, on TV.

7 Q. Okay, you realize that whatever you heard or saw in the
8 media is to be forgotten.

9 A. Oh, yeah.

10 Q. And the case decided solely on what you hear in the
11 courtroom.

12 A. Right.

13 Q. Can you do that?

14 A. I believe so.

15 Q. You also mentioned that you knew me.

16 A. Yes.

17 Q. From Northport many--

18 A. From many years of just saying hello, hello, you know.

19 Q. Yes.

20 A. Seeing you at ballgames. Yes.

21 Q. Okay, is there anything about our relationship that would
22 interfere with you being a fair juror to both sides?

23 A. No. No.

24 Q. So no matter what your decision is, that's not going to--

25 A. Have anything to do with you.

1 Q. --affect our relationship one bit.
2 A. No.
3 Q. Thank you. Do you think you can follow the instructions
4 of the court? At the end of the trial the judge will give
5 you instructions. Can you follow those instructions of
6 the law?
7 A. I believe I can.
8 Q. And since we can't always control who is a witness to a
9 crime, there will be different people from different walks
10 of life that come to testify on the stand. Would you be
11 able to cast aside any stereotypical ideas about walks of
12 life, attitudes, lifestyles in listening to their testimo-
13 ny and deciding the case?
14 A. I think so.
15 Q. And since you're new to the role of a juror, I'll ask you
16 if the judge instructs you on-- that the State must prove
17 their case beyond a reasonable doubt, that you would be
18 able to follow that and would you require the State to
19 prove the case beyond all doubt?
20 A. Oh, yes.
21 Q. So the difference is between proving a case beyond all
22 doubt, as opposed to beyond a reasonable doubt. The judge
23 said we only have to prove it beyond a reasonable doubt.
24 Would you hold the State to prove it beyond all doubt?
25 A. Yes.

1 Q. Still require the State to prove it beyond all doubt?
2 A. If I understand you, I think so.
3 Q. Okay. It's kind of an awkward situation.
4 A. Yeah, right.
5 Q. If the court's instruction says you are-- the State is to
6 prove the case beyond a reasonable doubt, would you follow
7 that instruction?
8 A. Yes.
9 Q. Sometimes people think that beyond a reasonable doubt
10 means beyond all doubt. Would you require the State to
11 prove it beyond all doubt?
12 A. Yes, I would want to know absolutely everything. Yes. I
13 don't know if I'm still doing what you--
14 Q. That's okay. That's okay, 'cause we're just-- It's a
15 concept-- The court will give you that instruction and
16 then the question is does the State-- is the State
17 required to prove a case beyond all doubt--
18 A. Doubts.
19 Q. --and so you'd have no doubts.
20 A. Right.
21 Q. There'd be no doubt in your mind.
22 A. Right.
23 Q. You want that--
24 A. That's what I want. Right.
25 Q. That's what you want.

1 A. Right.

2 Q. Okay, so then--

3 A. Be positive.

4 Q. Positive. Okay. But if the court's instruction were that

5 you only had to do it by a reasonable doubt, would you

6 disregard that and require the State to prove it beyond

7 all doubt? I guess that's what the question is. Would

8 you follow the court's instructions--

9 A. The court's instructions.

10 Q. --only to prove it beyond a reasonable doubt, as opposed

11 to beyond all doubt. Beyond all doubt would be absolute

12 certainty. There'd be no questions. Can the State ever

13 prove that? Do you think the State should be required to

14 prove it to that level?

15 A. Yes.

16 Q. Okay.

17 A. I'm sorry. I-- You know--

18 Q. All right. Do you--

19 A. I didn't watch enough Perry Masons or something. But

20 yeah, I--

21 Q. Well, that's okay.

22 A. Okay.

23 Q. Have you ever had a firearm?

24 A. Pardon?

25 Q. Have you ever had a firearm?

1 A. No. No.
2 Q. No gun?
3 A. No.
4 Q. Have you ever fired-- Have you ever shot a gun?
5 A. No.
6 Q. Have you ever been to the Northport Barter Fair?
7 A. Oh, yeah. Well, probably eight, nine years ago. Haven't
8 been to any--
9 Q. Haven't been to any recently?
10 A. No. No.
11 Q. Have any-- What's your impression of the barter fair?
12 A. Bad place.
13 Q. Have you ever heard of various Families coming to the
14 barter fair?
15 A. Oh, sure. Well--
16 Q. Like the Rainbow Family or--
17 A. Pardon?
18 Q. Organized, bigger families. Not just the Smith family,
19 but I'm talking about--
20 A. No, no, not-- I know families that go there, you know,
21 whatever.
22 Q. Right.
23 A. And I used to work at the convenience store and gas
24 station in Northport and waited on many people that went
25 there.

1 Q. Right.

2 A. But-- But didn't-- You know, don't know them by name or
3 anything, but knew they went there. But I was never
4 impressed by the barter fair.

5 Q. Okay.

6 MR. WETLE: Thank you very much, Ms. Day. We pass for
7 cause, your Honor.

8 THE COURT: All right, thank you. Mr. Simeone?

9 MR. SIMEONE: Thank you, your Honor.

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Juror #23 (Ms. Day) - Examination by Mr. Wetle

622.

1 MS. DAY

2 EXAMINATION BY MR. SIMEONE

3 Q. ___ afternoon yet. I'll just say good morning still, Ms.
4 Day.

5 A. Good morning.

6 Q. Did you answer yes to any of the other preliminary
7 questions Judge Baker asked the audience yesterday?

8 A. The one-- Let's see. I answered the one about when you
9 asked about if we knew some people. I answered that one
10 for you.

11 Q. And you knew some of those people. Does your knowledge of
12 any of those people, if they're witnesses here, is that
13 going to affect how you deliberate, just because they're
14 who they are?

15 A. No. I-- No.

16 Q. Okay.

17 A. I know them to say hi, you know.

18 Q. Okay. But just like you answered the other question, your
19 knowledge of a given person, that's not going to sway you
20 one way or the other?

21 A. No. No, sir.

22 Q. Okay. You were talking about the barter fair. There's
23 going to be a lot of evidence in the case about the barter
24 fair. A lot of the events--

25 PAUSE FOR NOON SIREN

Juror #23 (Ms. Day) - Examination by Mr. Simeone

623.

1 Q. You said that you had-- It was a bad place. I think that
2 was your answer.

3 A. Right.

4 Q. About the barter fair. There's going to be a lot of
5 discussion about the barter fair, and people who were at
6 the barter fair. Mr. Grange was at the barter fair,
7 others were at the barter fair. Do you think that's going
8 to sour you here about-- about the defense case at all,
9 the fact that he was there, others were there? Is that
10 notion of it's a bad place, you think, is it going to
11 bleed through to all your other thoughts about this case?

12 A. You know, I-- I will say this. I truly don't know. I
13 mean I know-- Well, not from personal experience, but
14 you hear what goes on out there. You don't hear anything
15 "good." I don't know.

16 Q. Might it be problem-- problematic, do you think? What
17 we're trying to do here in all this discussion, why we
18 spent this time with you and everybody else, is to try to
19 get a jury that's fairly even.

20 A. Right.

21 Q. _____ about coming into it in that level playing field is
22 what we're looking for. So that's really what I'm trying
23 to elicit from you, and now is your time, I guess, to tell
24 the court whether or not you think that fact alone, and
25 knowing that there's some-- a lot of evidence about the

1 barter fair, is that going to, you think, overall just
2 hurt-- hurt your impression of my client, Mr. Grange?
3 A. I will say possibly. I mean to be truthful, I-- I don't
4 hear anything good about the barter fair, and it's always
5 about the drugs and the bad things, et cetera, et cetera,
6 so, you know, maybe--
7 Q. Might.
8 A. Might.
9 Q. I'm wondering--
10 A. I mean, to be truthful, I--
11 Q. Okay. Well, maybe Judge Baker will inquire after I do,
12 but do you think you could set aside those feelings and
13 just try to make a decision about this case based upon the
14 evidence you get, without those preconceived notions,
15 without that baggage that you bring into the courtroom, so
16 to speak?
17 A. Well, I-- The way you're saying that, I'd say yeah, I
18 would-- You know, it shouldn't enter into it at all.
19 Q. Shouldn't.
20 A. You know. Like I-- I do not know anybody involved in any
21 of this, so it shouldn't, but--
22 Q. Okay. Okay. So it sounds like you-- As Mr. Grange is
23 sitting here, you know he's charged with a very serious
24 crime.
25 A. Right. I understand.

Juror #23 (Ms. Day) - Examination by Mr. Simeone

625.

1 Q. He's charged with a murder. Does that in itself cause you
2 any inner anxiety that might be-- you know, undue _____?

3 A. No.

4 Q. You think that you-- Are you prepared to deliberate over
5 such weighty subject matter, involves such serious
6 business?

7 A. No.

8 Q. Okay. Do you think it's fair that the State has to prove
9 its case beyond a reasonable doubt before they convict
10 somebody of a serious crime?

11 A. Yes.

12 Q. Okay. We're not putting them to any unfair test here by
13 making them put on a case, are we?

14 A. No.

15 Q. Okay. Now, there will be-- Witnesses will tell con-
16 flicting stories here, and I'm wondering how you go about
17 trying to determine the one you want to believe, which
18 story you're going to believe in. Let me throw out some
19 ideas for your consideration. What if a person who's
20 testifying from that witness stand tells a story a
21 different way over a number of times? Do you think that
22 would be one of the factors you use in deciding whether or
23 not he's being truthful with you?

24 A. Yes.

25 Q. Okay, that's one of the factors.

Juror #23 (Ms. Day) - Examination by Mr. Simeone

626.

- 1 A. Right.
- 2 Q. And what about if that person, for example, were relating
3 a story about an event.
- 4 A. I'm sorry. About what?
- 5 Q. What if he's relate-- he's relating a story about an
6 event--
- 7 A. Oh, event. Okay.
- 8 Q. --and while he's at that event, or while that event is
9 occurring, he's under the influence of hallucinogenic
10 drugs, do you think that that person might-- you might
11 have a different regard for that person's testimony,
12 whether or not it's believable?
- 13 A. Yes.
- 14 Q. It might have a bearing?
- 15 A. Yes.
- 16 Q. And what about if that person were, let's say, given a
17 more lenient treatment to come in here and testify. He's
18 given a more lenient treatment for maybe a crime that he's
19 committed to come in here and testify. Might that have a
20 bearing on the truthfulness, or your opinion of his
21 testimony, I should say?
- 22 A. Yes.
- 23 Q. Okay, all of those things weigh into your--
- 24 A. Yes.
- 25 Q. --decision making process. Okay, I understand. Are there

1 any-- I see that you're still employed, but-- Wait a
2 minute. The new owners laid you off.

3 A. Yeah. I haven't worked there for--

4 Q. How dare they.

5 A. Yeah, right. I haven't worked there for about a year and
6 a half.

7 Q. Okay, so you don't have any-- There's no conflicts in
8 your schedule right now then?

9 A. No, sir.

10 Q. Okay. Would you want to be a juror then? Speak now or
11 forever hold your peace. If you're selected, would you
12 want to do it?

13 A. Yes, I would do it. Yes.

14 Q. You'll do it?

15 A. Sure.

16 Q. Okay.

17 MR. SIMEONE: Then I won't challenge the juror for cause,
18 your Honor. Thank you.

19 THE COURT: All right, thank you, Ms. Day. You may step
20 down, and you're excused for lunch, and if you want to check
21 back shortly after the noon hour, you may, or you may want
22 to-- You can wait as long as 3:00 P.M. We'll have you back
23 by then, at the latest. Okay?

24 MS. DAY: Okay. Thank you.

25 MS. DAY IS ESCORTED OUT OF THE COURTROOM

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THE COURT: Would you hand this--

MR. WETLE: I'll do it.

THE COURT: Okay, Mr. Wetle. Go ahead and get this one taken care of here. This third peremptory.

Okay, so into that slot then will go Number twenty-- What are we down to? Twenty-four.

I am missing something here on my list, but-- Can't figure out why we're down to 24 and I have 13 people. Now I finally found it. Okay.

MR. SIMEONE: Problem solved?

THE COURT: I finally figured out what I had done. Okay. All right, if anybody would like to look this over right after we recess, or right before we get back together, that's fine. I'll have everybody back at 1:15, if we could, please. And we'll recess court till then.

COURT RECESSED FOR LUNCH

628-A

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