

RECEIVED

AUG 28 2001

CLERK OF COURT OF APPEALS
STATE OF WASHINGTON III

Case No. _____

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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)

RECEIVED
JAN 07 2002
CLERK OF COURT OF APPEALS
STATE OF WASHINGTON III

DATES OF TRIAL: February 7, 8, 9, 12, 13, 14, 15, 16 and 17, 2001

BEFORE: Hon. REBECCA M. BAKER, Judge

APPEARANCES:

For the Plaintiff:

For the Defendant:

JOHN G. WETLE
Prosecuting Attorney
Stevens County
215 South Oak St.
Colville, WA. 99114

ROBERT A. SIMEONE
Attorney at Law
300 East Birch
Colville, WA. 99114

VOLUME 17 of 17
February 17, 2001
(Pages 2097 through 2111)

Transcript prepared by:
Judy Americk
762 South Pine St.
Colville, WA. 99114
(509) 684-2267

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TABLE OF CONTENTS

February 17, 2001

PROCEEDINGS

Page No.

| | |
|---------------------------------|------|
| Alternate Juror is Dismissed | 2097 |
| Court Checks List of Exhibits | 2097 |
| Exhibits Delivered to Jury Room | 2104 |
| Verdict | 2108 |
| Certificate | 2111 |

1 FEBRUARY 17, 2001

2 COURT RECONVENED WITHOUT THE JURY AND WITHOUT COUNSEL

3 THE COURT: Mr. Grange, just one second. It'll be just
4 one second, don't let them get back in the room there.

5 THE BAILIFF: Yeah.

6 THE COURT: Is that closed all the way?

7 THE BAILIFF: Yes.

8 THE COURT: Okay, great. Mr. Grange, I just wanted to let
9 you know we called Mr. Simeone, and he didn't realize that he
10 needed to be here today. It's not really a necessity.

11 MR. GRANGE: I'm aware.

12 THE COURT: So Mr. Wetle has agreed that he will stay out
13 of the room too so that it won't create a weird appearance
14 that just your attorney didn't make it.

15 MR. GRANGE: Okay.

16 THE COURT: Okay? All right, so we'll go ahead and bring
17 the jury in.

18 JURY IS SEATED

19 THE COURT: Good morning, ladies and gentlemen. I wanted
20 to start by saying that Juror Number 14 was selected as an
21 alternate juror, and at this time it appears, sir, that you
22 won't be-- your services as a juror won't be necessary, but
23 I have to instruct you to refrain from discussing this case
24 with anyone or discussing how you would have voted until after
25 the jury has returned a verdict, and additionally, don't allow

2097.

1 anyone to discuss it in your presence.

2 You're now excused, and you can feel free to go on home.
3 We have your phone number if we need to get ahold of you. If
4 there's some place else that you will be, if you could please
5 let the bailiff know on your way out we'd appreciate it. And,
6 if you'd like, we will make sure that we call you when a
7 verdict has been reached so that you'll know you're released
8 from your instruction not to discuss the case. All right?
9 And we do appreciate it that you have been here all throughout
10 and listening carefully, and it may be that your services--
11 If someone becomes ill or otherwise disabled during the course
12 of deliberations that we would need to call you back in, and
13 so it is important not to discuss the case. All right, sir?

14 So you can go on and proceed into the jury room, if you
15 wish, or you can sit right there, if you wish, too, and wait
16 until the rest of the jury's escorted in, whichever you
17 prefer. All right?

18 Now, I have to swear in the bailiff, and I'm going to
19 swear in the Clerk as well as an alternate bailiff in case we
20 need a-- the bailiff has to run an errand or something and we
21 need more than one person.

22 So, do you and each of you solemnly swear or affirm under
23 penalty of perjury that you will take the jury in charge, that
24 you will allow no one to communicate with them except upon
25 order of the court, and that you will-- and that when they

2097-A

1 have agreed upon a verdict you will bring them again into
2 court? If so, please answer I do.

3 THE BAILIFF: I do.

4 THE CLERK: I do.

5 THE COURT: All right, and now, members of the jury, the
6 bailiff will go ahead and escort you into the jury delibera-
7 tion room, and soon after you will receive a copy of the
8 instructions and the official forms of verdict. Mr. Smith,
9 those are up here. The verdict forms are sitting right up
10 here. And then also he will deliver to you the exhibits that
11 have been admitted into evidence, at which time, once you
12 receive all of those items, then you will begin deliberations
13 on your verdict, starting with the selection, of course, of a
14 presiding juror. All right? And so, if the bailiff would
15 escort the jury into the jury room and then come right back in
16 and we'll go over the exhibits. All right?

17 **JURY IS ESCORTED INTO JURY ROOM**

18 THE COURT: Now, Madam Clerk, I'll take a little bit
19 longer than I usually do on the exhibits because the attorneys
20 aren't here to examine them, and so I'll ask you-- Let's see,
21
22
23
24
25

2097-B

1 we have the official exhibit list, do we? And that won't be
2 going into the jury room because there were some exhibits that
3 weren't admitted. So we have Exhibits 1 through 24.

4 THE CLERK: (Inaudible)

5 THE COURT: Let's go ahead and do that, just for the
6 record. Exhibit 1, Exhibit 2--

7 THE CLERK: (Inaudible)

8 THE COURT: Oh, wait. You want to start-- And for the
9 record, I believe the Clerk went through all of these last
10 evening. Is that correct, Madam Clerk?

11 THE CLERK: (Inaudible)

12 THE COURT: Okay. Here's a few up here.

13 THE CLERK: (Inaudible)

14 THE COURT: Okay, the small ring from left front-- left
15 front of vehicle, a finger ring.

16 Exhibit 2, the alleged braided hemp material from the
17 right front quadrant of the vehicle.

18 Exhibit 3, the in-life photo of Mr. Kaiser.

19 Exhibit 4, the X-ray from Dr. Zimmerman. Two x-rays.

20 THE CLERK: (Inaudible)

21 THE COURT: Oh, Exhibit 5 is the second x-ray. Okay.

22 Exhibit 6 is the dental chart.

23 Exhibit 7, the nose ring and wide silver ring.

24 Exhibit 8, the purple dog collar, Drexler.

25 Exhibit 9, the shovel head.

2098.

1 THE CLERK: (Inaudible)

2 THE COURT: Okay, Exhibit 10, the pick head. By your foot
3 there too?

4 THE CLERK: Yeah, _____.

5 THE COURT: Okay. Exhibit 11, the bullet frag-- alleged
6 bullet fragment from the fire pit ashes.

7 Exhibit 12, other items from the fire pit ashes. Are
8 those there?

9 THE CLERK: Those are _____.

10 THE COURT: Okay, thank you. Exhibit 13, the .22 casings
11 near the campfire, Numbers 1 through 7.

12 All right, Exhibit 14, .22 casings, Numbers 8 through 16.
13 The .22 casings is Exhibit 15, or Exhibit 17.

14 And Exhibit 16 is miscellaneous papers from the cabin with
15 Mr. Grange's name on them.

16 Exhibit 17, the Total Station overall.

17 All right, Exhibit 18, the Total Station of the vehicle.
18 Right there.

19 Exhibit 19, Total Station, lower scene. Right there.
20 Okay.

21 Exhibit 20, map of general area. It's the one that was up
22 on the board, and it's right there. Okay.

23 Exhibit 21, the aerial photo. All right.

24 Exhibit 22, the missing person flyer for Josh Schaefer.
25 All right.

2099.

1 Exhibit 23, purchase of firearm form.

2 Exhibit 24, receipt from Wal-Mart.

3 Exhibit 25, crime scene photo of vehicle.

4 Okay, let's go through Exhibits 25 through 48. Can you go
5 through and make sure we have those? They're all photos.

6 THE CLERK: Twenty-five, 26, 27, 28, 29, 30, 31, 32, 33,
7 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48,
8 49.

9 THE COURT: Yeah, go ahead through the rest of the photos.

10 THE CLERK: Fifty, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60,
11 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75.
12 Seventy-six is here, it's a crystal.

13 THE COURT: All right.

14 THE CLERK: The photos again, 77, 78, 79, 80, 81, 82, 83,
15 84, 85, 86, 87, 88 and 89, the in-life photo of Josh Schaefer.

16 THE COURT: All right, thank you. And then Exhibit 90 was
17 not offered.

18 Exhibit 91, the statement of ATF fire investigator. Is
19 that here?

20 THE CLERK: (Inaudible)

21 THE COURT: Why don't you hand the photos over to the
22 bailiff so that he can get those off the desk there. And
23 other ones that you--

24 THE CLERK: I'm not seeing it in my--

25 THE COURT: If you want to look in-- Is there a box by

2100.

1 your feet there?

2 THE CLERK: _____. I know Mr. Simeone had it at
3 one point.

4 THE COURT: During closing argument?

5 THE CLERK: _____

6 THE COURT: Okay, we'll check with him and make sure we
7 get it back, if that's where it has ended up. Mr. Smith,
8 would you give him a call, please?

9 THE BAILIFF: And the number?

10 THE COURT: It was in the phone book. I can't remember
11 it.

12 THE BAILIFF: No, the number of the exhibit.

13 THE COURT: Oh, Exhibit Number 91, the ATF fire investiga-
14 tor report that he was referring to in closing argument.

15 Ninety-two?

16 THE CLERK: Ninety-two.

17 THE COURT: Is there?

18 THE CLERK: Yes.

19 THE COURT: Okay, 93?

20 THE CLERK: I have it here.

21 THE COURT: Okay, 94.

22 THE CLERK: Uh-huh.

23 THE COURT: Ninety-three was the Williams plea agreement,
24 94 was the Cunningham plea agreement.

25 THE CLERK: Right.

2101.

1 THE COURT: Ninety-five, not offered. Ninety-six not
2 offered. Ninety-seven and 98, not offered. Number 99, the
3 firearms transaction form. Number 100, copy of the Nick
4 Kaiser waiver of rights.

5 THE CLERK: Right.

6 THE COURT: Copy-- Exhibit 101, poster with x-rays.

7 THE CLERK: _____ 101 and 102.

8 THE COURT: Okay. Thank you.

9 THE CLERK: (Inaudible)

10 THE COURT: Okay, 1-0-- Let's see, 103 through 107 were
11 not offered; 108, drawing by--

12 THE CLERK: One-o-eight is the drawing with the fire hood.

13 THE COURT: The fire hood, right, by Mr. Hart-- or Mr.
14 Robinson. Excuse me. Exhibit 109, Verizon phone records for
15 the phone number of 503-351-3219.

16 THE CLERK: I've got that right here.

17 THE COURT: All right. Exhibit 110, Qwest records, 509-
18 732-4590.

19 THE CLERK: Right.

20 THE COURT: One-eleven was not offered. One-twelve,
21 diagram by Jeffrey Cunningham.

22 THE CLERK: Okay.

23 THE COURT: You've got that?

24 THE CLERK: Yes.

25 THE COURT: All right, Exhibit 113, diagram by Jeff

2102.

1 Cunningham.

2 THE CLERK: I have that, too.

3 THE COURT: One-fourteen, diagram by Dane Williams.

4 THE CLERK: Yes.

5 THE COURT: One-fifteen was rejected. One-sixteen was
6 rejected. One-seventeen, -18, -19 and -20 were rejected, and
7 121 was rejected.

8 THE CLERK: And they're in the vault.

9 THE COURT: And they're in the vault. Okay. Now, we're
10 looking, then, for Exhibit 91.

11 THE CLERK: And I can check in the _____.

12 THE BAILIFF: Mr. Simeone thought that he didn't use it,
13 and he thought he mentioned it in his closing, but he didn't
14 use it, but he's going to go to the office and check.

15 THE COURT: All right, then, Mr. Grange, we will have Mr.
16 Simeone indicate whether or not you wish to be brought back
17 up. Do you wish to be brought back up to have Exhibit 91
18 dealt with?

19 MR. GRANGE: No, ma'am. I don't think that's necessary.

20 THE COURT: Doesn't matter. You can make sure-- We'll
21 make sure that it is given into the jury room, and if there's
22 any concern with it we'll be bringing you back up to deal with
23 it on the record. All right? Okay. And we'll make sure that
24 we mention that the next time we are on the record that we
25 were able to deal with that. Exhibit 91, is that what it was?

2103.

1 Okay. All right, I've taken your exhibit list. Yes, Exhibit
2 91.

3 All right, then, Mr. Bailiff, would you go ahead and
4 deliver what we do have, all but 91, into the jury room? And
5 come back and report that you have done so?

6 **BAILIFF DELIVERS EXHIBITS TO JURY ROOM**

7 THE COURT: Mr. Smith, if you'll advise the jury that one
8 exhibit is going to be coming in later and that they should go
9 ahead and commence their deliberations now. We'll get that to
10 them as soon as we locate it.

11 THE BAILIFF: I will.

12 THE COURT: Okay, now, a couple of things I need to deal
13 with. One is I have been advised that there's been a problem
14 with one of the witnesses allegedly harassing one of the other
15 witnesses, and I will not tolerate that in or around the
16 courtroom, and I will exclude that person from the courthouse
17 if necessary, so if it does recur and if anybody's been making
18 harassing gestures to another person, no matter who you are or
19 what your reasons may be, that is not appropriate conduct and
20 it could also subject the violator to contempt of court and
21 other criminal liabilities. So it needs to immediately stop,
22 if it has been going on, which I understand that it has been.
23 So I would caution anyone who would choose to engage in that
24 kind of conduct that it will need to cease immediately. If it
25 does not, and if it's brought to my attention, then I'm going

2104.

1 to be asking the Sheriff to take appropriate action on that.

2 So, the second thing I need to deal with is-- Well, let's
3 see. Before I forget, Mr. Smith, have you delivered all but
4 Exhibit 91 to the jury?

5 THE BAILIFF: I have.

6 THE COURT: All right, thank you. And the second thing I
7 need to deal with is I understand there's some very interested
8 spectators here, and we want to accommodate that, your desire,
9 of course, to be present for any and all of the proceedings.
10 And so Mr. Wetle has indicated that he will be glad to phone
11 anybody who needs a phone call in that regard. The Clerk can
12 make a phone call, as well. So if you would let one or the
13 other of them know, we can make sure that you are notified and
14 that the courthouse is left open for you to come back for any
15 questions from the jury or any verdict that might come in.
16 We're not sure when we will have a verdict, obviously, and we
17 will be checking with the jury towards the noon hour for a
18 lunch break and to let them order lunch, or let them go
19 outside and have some sunshine and fresh air for a little bit
20 from time to time, and we will not be doing that on the
21 record. I will give them a morning break and I will give them
22 a noon break, and I may have the bailiff escort them to lunch
23 and back, et cetera. That will not be done on the record, but
24 if we have any questions, then we have to involve the attor-
25 neys on the record, and, Mr. Grange, you will be brought up as

2105.

1 well so that you can participate. And anyone else who wants
2 to know about those questions, feel free to let us know and we
3 will-- we will try to accommodate, because the courthouse is
4 closed. So if you do leave the courthouse, then the court-
5 house will be locked after it was locked at about 10:15, as I
6 understand it, downstairs. We'll have the courthouse door
7 open for about 20 minutes after we make the phone calls, so
8 make sure you make your way here promptly so that if you want
9 to hear what's happening to-- Because for security reasons we
10 do need to-- to have the-- there aren't any other offices
11 open, except ours, today so we do need to have the-- We have
12 been directed by the County Commissioners to have the court-
13 house locked other than for the necessity of, obviously, the
14 public proceedings involved in this trial. All right?

15 So, Mr. Wetle, anything else you can-- Now that you're
16 back in the courtroom, anything else that you can think of we
17 should cover?

18 MR. WETLE: No, your Honor.

19 THE COURT: All right, Mr. Grange, any questions?

20 MR. GRANGE: No, your Honor.

21 THE BAILIFF: Uh--

22 THE COURT: Yes. Mr. Smith has a question.

23 THE BAILIFF: The jury asked if they could have an easel
24 and colored pens.

25 THE COURT: Yes. Well, I'm going to go ahead and do that,

2105-A

1 unless I hear anybody object. Just-- It might help to make
2 some lists in there and so forth. Any problem from either
3 standpoint?

4 MR. WETLE: No.

5 MR. GRANGE: No, Your Honor.

6 THE COURT: All right. Okay. All right, then, court will
7 be at recess. We'll probably-- Another one thing we'll
8 probably do, Mr. Grange, with your permission, is, without
9 making all the phone calls, is if we do get-- I assume we're
10 going to get Exhibit 91 here, we'll go briefly back on the
11 record to indicate that we did and that we've instructed the
12 bailiff to deliver it to the jury deliberation room.

13 So any problem with doing it that way, Mr. Wetle?

14 MR. WETLE: No, Your Honor.

15 THE COURT: And Mr. Grange?

16 MR. GRANGE: No, Your Honor.

17 THE COURT: All right, then, court will be at recess until
18 we have a verdict or a question.

19
20 **COURT RECESSED**
21
22
23
24
25

2105-B

1 COURT RECONVENED WITHOUT THE JURY

2 THE COURT: All right, counsel are both present in the
3 courtroom, and we are looking at Exhibit 91, which did make it
4 into a briefcase of Mr. Simeone's, as I understand it. Is
5 that right?

6 MR. SIMEONE: That's correct.

7 THE COURT: All right, and Mr. Wetle and Mr. Simeone have
8 both examined Exhibit 91 and have satisfied themselves that
9 that is the correct exhibit?

10 MR. WETLE: Yes.

11 MR. SIMEONE: It's a multi-page exhibit, your Honor?

12 THE COURT: Yes, it is.

13 MR. SIMEONE: How many pages is that?

14 THE COURT: It's 1, 2, 3, 4-- Eight pages.

15 MR. SIMEONE: That's my understanding.

16 THE COURT: Okay, and that's Mr. Hart's report, the ATF
17 gentleman.

18 The other thing, Mr. Simeone, while I have you here, was
19 that we went through all of the exhibits on the record. Mr.
20 Wetle was actually-- graciously agreed to be out of the room
21 so it wouldn't look like just one of the attorneys hadn't
22 appeared.

23 MR. SIMEONE: (Inaudible)

24 THE COURT: And Mr. Grange was here when we went through
25 the exhibits one by one to make sure that they were there, and

2106.

1 that's when we discovered Exhibit 91 wasn't, so it's probably
2 a good thing we did go through them one by one.

3 And so any problem with that procedure from your stand-
4 point?

5 MR. SIMEONE: Not from my standpoint.

6 THE COURT: Okay. The other procedure issue we discussed
7 was that the spectators, any of them that wanted to be
8 notified, have given their phone number to either Mr. Wetle or
9 to Ms. Reedy, and they will be notified and given about 20
10 minutes to come in the back entrance from when we call them--

11 MR. SIMEONE: Okay.

12 THE COURT: --and then we'll start in. The Sheriff's
13 office has asked, by the way, for some lead time on-- of an
14 hour on any verdict to get courtroom security arranged, and
15 I-- depending on how late that goes, we'll try to accommodate
16 that as best we can, but--

17 MR. SIMEONE: Okay. Well, then, if I can get the same
18 amount of lead time, that would be--

19 THE COURT: Then you can go home and put on your shorts
20 and come back.

21 MR. SIMEONE: That's _____.

22 THE COURT: Okay.

23 MR. SIMEONE: Okay.

24 THE COURT: But there might be some questions, in which
25 case I have also told the spectators that, you know, we'll

2107.

1 give them a call, and so we'll ask both of you attorneys to--
2 I think given the seriousness of this case we better do it by
3 the book, which is that we have to do all-- deal with all the
4 questions on the record. So if you'd rather be present by
5 phone, that's acceptable. We could probably patch both of you
6 in, or, Mr. Wetle, you could run upstairs. Are you going to
7 be--

8 MR. WETLE: I was going to be--

9 THE COURT: Be on your phone?

10 MR. WETLE: Be on my cell phone.

11 THE COURT: Are you going to be in town?

12 MR. WETLE: Yes.

13 MR. SIMEONE: It's 675-_____. And the other _____
14 5847,

15 MR. WETLE: Mine is 675-_____.

16 THE COURT: And that's the one you want to be called on,
17 Mr. Wetle?

18 MR. WETLE: _____

19 THE COURT: Okay, so you'll be at home.

20 MR. WETLE: Either at home or _____.

21 THE COURT: Okay.

22 THE CLERK: _____

23 MR. WETLE: Yes.

24 THE COURT: And, let's see, we need the bailiff to do
25 the-- Well, actually, Madam Clerk, as one of the two sworn

2107-A

1 bailiffs, would you please deliver Exhibit 91 to the jury
2 room, and then come back and report on the record that you
3 have done so?

4 THE CLERK: Okay.

5 THE COURT: So did you plan on being-- to come in for
6 questions?

7 MR. SIMEONE: I hope I don't have to.

8 THE COURT: Okay.

9 MR. SIMEONE: Handle it by the phone is what I prefer,
10 that's why I gave her all the phone numbers I have.

11 THE COURT: Okay.

12 THE CLERK: Okay, I handed it to Ms. Garringer.

13 THE COURT: Okay, great. Thank you. Let the record
14 reflect Exhibit 91 has been delivered to the jury room.

15 Mr. Wetle, are you planning on coming in when we have
16 questions?

17 MR. WETLE: _____ and if I'm at home I'll _____.

18 THE COURT: Okay. All right, so we can-- Madam Clerk, we
19 can get two people on the phone at once, can't we?

20 THE CLERK: (Inaudible)

21 THE COURT: Oh, I do, I think.

22 THE CLERK: On this phone.

23 THE COURT: Let me just make sure this is a phone we can
24 do it on.

25 MR. WETLE: It says flash. Does that _____?

2107-B

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: Yeah, it does.

MR. WETLE: So all you do is dial somebody _____.

THE COURT: Flash, and then dial the other person and flash again. Or conference.

MR. WETLE: _____ you need to conference is just flash.

THE CLERK: Okay.

THE COURT: Yeah, there's a conference, it's flash. Okay, that's fine. Okay, we'll do it that way then, and that ought to save a little time, hopefully. But we do have to bring Mr. Grange up for all the questions.

MR. SIMEONE: Oh, really?

THE COURT: Yeah, we do, according to the case law.

MR. SIMEONE: Okay, well that might-- That might affect whether or not I actually appear, and I'll just make that decision on a case by case basis.

THE COURT: Okay. All right, because we won't have the jury in here when we're dealing with questions. We'll have spectators, but not jurors.

MR. SIMEONE: Sure. Okay.

THE COURT: Okay? All right, court will be at recess, then, until and unless we have a question or a verdict.

MR. SIMEONE: Thank you.

COURT RECESSED

2107-C

1 **COURT RECONVENED WITHOUT THE JURY**

2 THE COURT: I wanted to bring up a couple of things before
3 we brought the jury in. One is that, of course, I do expect
4 that the courtroom will maintain order when the verdict comes
5 in, whatever it is or whatever they are, and we will appreci-
6 ate that, please. So no matter what the result we do want to
7 have order in the courtroom.

8 Secondly, after jury trials I routinely will go in and
9 speak briefly with the jury. I stay away from any kind of
10 penalty issues or anything like that, but I wanted to see if
11 either party had any problem with my going in to the jury room
12 and answering a few routine questions about procedure and that
13 sort of thing. Mr. Wetle?

14 MR. WETLE: No, your Honor.

15 MR. SIMEONE: I have no problem with that, your Honor.

16 THE COURT: All right. Then the jury will be brought in,
17 if you would, unless there's anything else to deal with on the
18 record, counsel?

19 MR. SIMEONE: Nothing here.

20 THE COURT: All right.

21 **JURY IS SEATED**

22 THE COURT: All right, please be seated, ladies and
23 gentlemen, and I'll ask in the same breath if the presiding
24 juror will please stand. All right, Juror Number 4, if you
25 would hand, please, the verdict forms to the bailiff, I'll

Verdict

2108.

1 review them for form, and you can be seated. Thank you.

2 All right, all of the verdicts do appear to be in the
3 proper form, and I will read them into the record.

4 Verdict Form A, Count I, reads:

5 We, the jury in the above entitled cause, do
6 find the defendant, John D. Grange, guilty of
7 the crime of murder in the first degree as
8 charged in Count I as to Nicholas Kaiser.

9 And it is signed by the presiding juror.

10 Verdict Form B reads, as to Count II:

11 We, the jury in the above entitled cause, do
12 find the defendant, John D. Grange, guilty of
13 the crime of murder in the first degree as
14 charged in Count II as to Joshua Schaefer.

15 That too is signed by the presiding juror.

16 The Special Verdict Form, Firearm, as to Count II reads:

17 We, the jury, return a special verdict by
18 answering as follows:

19 Was the defendant, John D. Grange, armed with a
20 firearm at the time of the commission of the
21 crime in Count II as to Joshua Schaefer?

22 I have these backwards, but nonetheless, this is answered yes
23 and it's dated today's date and signed by the presiding juror.

24 And then the Special Verdict Form, Firearm, as to Count I
25 reads:

26 We, the jury, return a special verdict by
27 answering as follows:

28 Was the defendant, John D. Grange, armed with a
29 firearm at the time of the commission of the
30 crime in Count I as to Nicholas Kaiser?

31 And the answer is yes, and it's dated today's date and

Verdict

2109.

1 signed by the presiding juror.

2 And, counsel, I'm going to go ahead-- Given the case, I
3 will go ahead and poll the jury. And, ladies and gentlemen,
4 this involves, for the record, verifying with each of you that
5 this is both the verdict of the jury and also your verdict.
6 So I'll be asking those two questions, usually in the opposite
7 order, come to think of it.

8 So I'll start with Juror Number 1 and ask you, please,
9 sir, to stand, and I'll ask you, Is this your verdict, sir?

10 JUROR NUMBER 1: Yes.

11 THE COURT: And also the verdict of the jury?

12 JUROR NUMBER 1: Yes.

13 THE COURT: All right, thank you, sir. And Juror Number
14 2, is this your verdict?

15 JUROR NUMBER 2: Yes.

16 THE COURT: And also the verdict of the jury?

17 JUROR NUMBER 2: (Inaudible)

18 THE COURT: Thank you. Juror Number 3, is this your
19 verdict?

20 JUROR NUMBER 3: Yes.

21 THE COURT: And also the verdict of the jury?

22 JUROR NUMBER 3: Yes.

23 THE COURT: Thank you. And Juror Number 4, is this your
24 verdict?

25 JUROR NUMBER 4: (Inaudible)

Verdict

2110.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: And also the verdict of the jury?

JUROR NUMBER 4: (Inaudible)

THE COURT: Thank you. Juror Number 5, is this your verdict?

JUROR NUMBER 5: Yes.

THE COURT: And also the verdict of the jury?

JUROR NUMBER 5: Yes.

THE COURT: Thank you. Juror Number 6, is this your verdict?

JUROR NUMBER 6: (Inaudible)

THE COURT: And also the verdict of the jury?

JUROR NUMBER 6: (Inaudible)

THE COURT: Thank you. Juror Number 7, is this your verdict?

JUROR NUMBER 7: Yes.

THE COURT: And also the verdict of the jury?

JUROR NUMBER 7: Yes.

THE COURT: Thank you. Juror Number 8--

JUROR NUMBER 9: Nine.

THE COURT: Nine, excuse me. Thank you. Is this your verdict, sir?

JUROR NUMBER 9: Yes.

THE COURT: And also the verdict of the jury?

JUROR NUMBER 9: Yes.

THE COURT: Thank you. Juror Number 10, is this your

2110-A

1 verdict?

2 JUROR NUMBER 10: Yes.

3 THE COURT: And also the verdict of the jury?

4 JUROR NUMBER 10: Yes.

5 THE COURT: Thank you. Juror Number 11, is this your
6 verdict and also the verdict of the jury?

7 JUROR NUMBER 10: Yes.

8 THE COURT: Thank you. And Juror Number 12, is this your
9 verdict and also the verdict of the jury?

10 JUROR NUMBER 12: (Inaudible)

11 THE COURT: Thank you. And finally, Juror Number 13, is
12 this verdict?

13 JUROR NUMBER 13: Yes.

14 THE COURT: And also the verdict of the jury?

15 JUROR NUMBER 13: Yes, it is.

16 THE COURT: Thank you. All right, let the record reflect
17 that the jury has been polled and that each juror answered
18 that this was his or her verdict and also the verdict of the
19 jury as a whole.

20 Thank you very much, ladies and gentlemen, for your
21 lengthy and overly long as far as we predicted service as
22 jurors in this case. We appreciate the personal sacrifice
23 involved in that much time, particularly in a case of this
24 length and of this seriousness, obviously. We do appreciate
25 your hard work as jurors and your willingness to uncomplain-

2110-B

1 ingly complete your job as jurors.

2 I'm going to go ahead and excuse all of you. You folks
3 can remain in the courtroom, if you wish, or you may proceed
4 into the jury room. I'll be in to answer a few routine
5 questions. I will stay away from any penalty issues because
6 I will be the sentencing judge in this case. You may wish to
7 speak with the attorneys, if you choose. You're obviously not
8 required to talk to anyone, but if you wish to speak with
9 anyone, sometimes it's educational to the attorneys to know
10 how the jury's process worked, and you're now released also
11 from your instruction about talking about the case to other
12 people, and you're free to talk to anyone that you choose
13 about the case and how you reached your verdict, if you
14 choose, and, of course, you don't have to talk to anyone about
15 that. So thank you so much for your time and your service.
16 And Mr. Smith will now escort you into the jury room, those of
17 you who wish to go there. I'll ask counsel to remain, and Mr.
18 Grange, please, while we talk about sentencing dates.

19 **JURORS ARE ESCORTED OUT**

20 **THE COURT:** All right, please be seated. Mr. Wetle, have
21 you thought about what you would be requesting in the way of
22 a PSI or anything like that?

23 **MR. WETLE:** I have an order for a PSI-- pre-sentence
24 investigation report, Your Honor, and basically it is looking
25 for a date. It's going to be _____ to the court.

2110-C

1 THE COURT: All right. Mr. Grange, what a PSI or pre-
2 sentence investigation report is is simply a report made by a
3 probation officer addressing the issues around sentencing, and
4 you will be meeting with a Community Corrections Officer some
5 time in the near future and he'll do up a report to assist the
6 court to make a proper decision on sentencing on these
7 matters. We need to set this within the speedy sentencing
8 rule, which is 40 days down the line, and let me see what the
9 calendar says here. Do you want to go ahead and try for--
10 Let's see. I've got to count the days here. It looks like we
11 need to do it, then, on--

12 MR. WETLE: Looks like March 29th is the 40th day, Your
13 Honor.

14 THE COURT: Yeah, the 40th day, so shall we-- Oh, man.
15 My-- I think we need a special set, don't you, counsel?

16 MR. WETLE: Yes.

17 THE COURT: Why don't-- Why don't we set it for the
18 afternoon of the 29th. I have a domestic relations case going
19 to trial that day too, back to back-- or one and two set, but
20 that seems to be as good a date as any. That work for you,
21 Mr. Simeone?

22 MR. SIMEONE: That is February 29th?

23 THE COURT: March 29th.

24 MR. SIMEONE: I don't think there's a conflict at this
25 moment, Your Honor.

2110-D

1 THE COURT: Okay. If there is, you can let me know. That
2 look all right to you, Mr. Wetle?

3 MR. SIMEONE: That would be an afternoon setting?

4 THE COURT: I was looking at 1:30.

5 MR. WETLE: One-thirty? Does Mr. Simeone agree that's the
6 40th day?

7 THE COURT: If he doesn't, then I certainly do. I counted
8 it out, so--

9 MR. WETLE: All right.

10 THE COURT: All right. Speedy sentencing issues are not
11 quite as cast in stone as speedy trial issues, so if there is
12 good cause, if we don't have a PSI completed by then, for
13 example, or one of the attorneys has a difficulty with that
14 problem, we can adjust that date somewhat.

15 All right, do you have an order--

16 MR. WETLE: I'd also ask that Mr. Grange be held without
17 bail.

18 THE COURT: Mr. Simeone, any comment on that?

19 MR. SIMEONE: I don't think it should be raised from its
20 present setting, Your Honor.

21 THE COURT: All right.

22 MR. WETLE: It's at five hundred thousand presently.

23 THE COURT: Is it? Well, Mr. Grange, I think given the
24 fact that it's now a conviction, the court must consider the
25 State's request, and I will set no bail on the matter. And

2110-E

1 that is to say you'll be held without bail.

2 And anything else, Mr. Wetle, from your standpoint?

3 MR. WETLE: No, Your Honor.

4 THE COURT: And Mr. Simeone?

5 MR. SIMEONE: Nothing here, Your Honor.

6 THE COURT: All right.

7 MR. WETLE: May I approach the bench, Your Honor?

8 THE COURT: Yes. All right, I have signed the order, and
9 anything further then, counsel?

10 MR. SIMEONE: Nothing here.

11 MR. WETLE: No, Your Honor.

12 THE COURT: All right, then, we'll see you, Mr. Grange, on
13 the 29th of March at 1:30, unless we have an adjustment in
14 that date for some reason that you'll be, obviously, involved
15 in in a court appearance to do so, if that happens. And court
16 will be adjourned.

17 **COURT ADJOURNED**

18

19

20

21

22

23

24


25

2110-F

CERTIFICATE

I, Judy Americk, do hereby certify that the within proceedings were recorded pursuant to Civil Rule 80, and further certify, under penalty of perjury under the laws of the State of Washington, that the foregoing is a true and accurate transcript of the trial held in the above matter on February 8, 9, 12, 13, 14, 15, 16 and 17, 2001.

DATED at Colville, Washington, this 10th day of August, 2001.



Judy Americk

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I, Judy Americk, do hereby certify, under penalty of perjury under the laws of the State of Washington, that I made additions to the within transcript, pursuant to letter attached hereto, by including additional pages marked A, B, C, et cetera. Said additions are true and accurate transcriptions of the trial held in the above matter on February 7, 8, 9, 12, 13, 14, 15, 16 and 17, 2001.

DATED at Colville, Washington, this 18th day of December, 2001.



Judy Americk