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COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT

FEB 24 1988

THE PEOPLE OF THE STATE OF CALIFORNIA, )  
)  
PLAINTIFF-RESPONDENT, )  
)  
VS. )  
)  
JOE HUNT, AKA JOSEPH HUNT, )  
AKA JOSEPH HENRY GAMSKY, )  
)  
DEFENDANT-APPELLANT. )

SUPERIOR COURT  
NO. A-090435

OCT 0 8 ..

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY  
HONORABLE LAURENCE J. RITTENBAND, JUDGE PRESIDING  
REPORTERS' TRANSCRIPT ON APPEAL

APPEARANCES:

FOR PLAINTIFF-RESPONDENT: JOHN K. VAN DE KAMP  
STATE ATTORNEY GENERAL  
3580 WILSHIRE BOULEVARD  
ROOM 800  
LOS ANGELES, CALIFORNIA 90010

FOR DEFENDANT-APPELLANT: IN PROPRIA PERSONA

VOLUME 21 OF 101  
(PAGES 2814 TO 2993 , INCLUSIVE)

ROSEMARIE GOODBODY, CSR NO. 932  
SALLY YERGER, CSR NO. 2008  
OFFICIAL REPORTERS

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT WEST C

HON. LAURENCE J. RITTENBAND, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA, )  
)  
PLAINTIFF, )  
)  
VS. )  
)  
JOSEPH HUNT, )  
)  
DEFENDANT. )  
)

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NO. A-090435

REPORTERS' DAILY TRANSCRIPT

THURSDAY, DECEMBER 11, 1986

VOLUME 21

(PAGES 2814 TO 2993, INCLUSIVE)

APPEARANCES:

FOR THE PEOPLE:

IRA REINER, DISTRICT ATTORNEY  
BY: FREDERICK N. WAPNER, DEPUTY  
1725 MAIN STREET  
SANTA MONICA, CALIFORNIA 90401

FOR THE DEFENDANT:

ARTHUR H. BARENS, ESQ.  
10209 SANTA MONICA BOULEVARD  
LOS ANGELES, CALIFORNIA 90067

AND

RICHARD C. CHIER, ESQ.  
10920 WILSHIRE BOULEVARD  
LOS ANGELES, CALIFORNIA 90024

ROSEMARIE GOODBODY, CSR NO. 932  
SALLY YERGER, CSR NO. 2008  
OFFICIAL REPORTERS

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THURSDAY, DECEMBER 11, 1986      VOLUME 21      PAGES 2814 TO 2993

A.M.      2814

P.M.      2879

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PROCEEDINGS

VOIR DIRE OF PROSPECTIVE JURORS (CONTINUED)      2814

1 SANTA MONICA, CALIFORNIA; THURSDAY, DECEMBER 11, 1986; 10:30 A.M.

2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE

3 (APPEARANCES AS NOTED ON TITLE PAGE.)

4

5 (THE FOLLOWING PROCEEDINGS WERE HELD AT

6 THE BENCH:)

7 THE COURT: THERE IS A JUROR NAMED MANFREDI, WHO SAYS

8 HE IS HAVING DIFFICULTY AT HOME AND HE WANTS TO BE EXCUSED.

9 I DON'T KNOW WHAT THE DIFFICULTY IS. DO YOU WANT ME TO TALK  
10 TO HIM AND FIND OUT WHAT HIS DIFFICULTY IS?

11 MR. BARENS: I THINK WE SHOULD INQUIRE.

12 MR. CHIER: I AM HAVING DIFFICULTY AT HOME, TOO.

13 MR. BARENS: COUNSEL, PLEASE.

14 I DON'T EVEN RECALL THE JUROR, TO BE CANDID, YOUR  
15 HONOR.

16 THE COURT: I REMEMBER HIM. HE IS TALL AND WEARS  
17 GLASSES, IF I REMEMBER.

18 YOU MIGHT WANT TO HEAR HIM TO SEE WHAT HE SAYS.

19 MR. BARENS: I DON'T MIND STEPPING OUT IF YOUR HONOR  
20 WANTS TO INQUIRE INDIVIDUALLY.

21 MR. WAPNER: I THINK THAT WE SHOULD INQUIRE OF HIM.

22 THE COURT: MAYBE HE MAY NOT WANT TO TELL EVERYBODY  
23 AROUND HIM IF IT IS OF SUCH A PERSONAL NATURE, HE MAY NOT WANT  
24 TO TELL YOU.

25 THE CLERK: HE IS JUST OUTSIDE. DO YOU WANT ME TO ASK  
26 HIM TO COME IN?

27 MR. WAPNER: IF THE COURT WANTS TO INQUIRE WITHOUT  
28 COUNSEL, I DON'T NECESSARILY THINK IT IS A GOOD IDEA BUT AT

1 LEAST BEFORE YOU EXCUSE HIM, CAN WE BE CONSULTED ABOUT WHAT  
2 HE SAYS?

3 THE COURT: SURE. LET ME FIND OUT WHAT IT IS ALL ABOUT.

4 HAVE HIM COME INTO CHAMBERS.

5 (RECESS.)  
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1 (THE FOLLOWING PROCEEDINGS WERE HELD  
2 IN OPEN COURT:)

3 THE COURT: ALL RIGHT.

4 THE CLERK: DO YOU WANT THE JURORS IN?

5 THE COURT: ANY MOTIONS OUTSIDE THE PRESENCE OF THE JURY?

6 MR. WAPNER: THE ONLY THING THAT I THINK WE SHOULD PUT  
7 ON THE RECORD, IS THAT THE MOTION FOR DISQUALIFICATION WAS

8 APPARENTLY -- EITHER IT WAS FILED OR IT WAS ATTEMPTED TO BE  
9 FILED TODAY. AND HAS THE COURT MADE A RULING ON IT?

10 THE COURT: I AM GOING TO DENY IT AS UNTIMELY.

11 MR. CHIER: COULD THE RECORD REFLECT THAT YOUR HONOR  
12 DIRECTED THE CLERK TO PUT IT IN THE TRASH CAN?

13 THE COURT: YOU MADE YOUR MOTION. I DENIED IT. THERE  
14 IS NOTHING FURTHER ABOUT IT.

15 MR. WAPNER: HAS IT BEEN FILED WITH THE CLERK?

16 THE COURT: YES. I ORDERED IT FILED.

17 MR. BARENS: HAS YOUR HONOR EXCUSED THE GENTLEMAN?

18 THE COURT: YES. HE IS HAVING TROUBLE WITH HIS WIFE.  
19 SHE IS A VOLUNTEER. SHE DOESN'T WANT HIM TO BE HERE.

20 HE SAYS THAT HE WERE TO SERVE AS A JUROR HE WOULD  
21 BE THINKING ABOUT THIS AT HOME AND HE WOULDN'T PAY ANY  
22 ATTENTION.

23 HE ALSO MENTIONED SOMETHING ABOUT BEING IN A  
24 COCOON. THAT IS YOUR EXPRESSION.

25 MR. BARENS: YES.

26 THE COURT: HE COULDN'T GET OUT OF THE COCOON.

27 MR. BARENS: I AGREE WITH YOUR HONOR'S JUDGMENT.

28 THE COURT: ALL RIGHT. LET'S GET THE JURORS IN.

3  
1 MR. WAPNER: YOUR HONOR, I DID READ THE DAVIS V.  
2 ALASKA CASE AND JUST BEFORE THE NOON RECESS, I WILL HAVE SOME  
3 COMMENT ON IT.

4 THE COURT: ALL RIGHT. GOOD MORNING, LADIES AND  
5 GENTLEMEN.

6 THE RECORD WILL INDICATE THE PRESENCE OF THE  
7 DEFENDANT AND COUNSEL AND THE PROSPECTIVE JURORS.

8 AND YOU MAY CONTINUE WITH YOUR VOIR DIRE OF THE  
9 JURORS SEATED IN THE JURY BOX.

10 MR. WAPNER: THANK YOU.

11 LADIES AND GENTLEMEN, YOU AREN'T THE ONLY ONES  
12 WHO GET NERVOUS FROM TIME TO TIME. THE REPORTERS CAME IN  
13 THIS MORNING AND SAID TO ME, "WE HAVE NEVER HEARD YOU TALK SO  
14 FAST. YOU DON'T KNOW HOW FAST YOU WERE TALKING." SO THEY  
15 LEFT ME A LITTLE NOTE TO PUT ON THE DESK THAT I SHOULD TALK  
16 SLOWER AND I AM GOING TO TRY TO DO THAT.

17 FIRST OF ALL, I GOT SOME INFORMATION --

18 A JUROR: AND LOUDER.

19 MR. WAPNER: SLOWER AND LOUDER.

20 THE COURT: LOUDER BUT NOT FUNNIER.

21 MR. WAPNER: I GOT SOME INFORMATION LAST NIGHT ABOUT THE  
22 POLICE OFFICERS.

23 OFFICER ALBANESE'S FIRST NAME IS CHARLES.

24 MS. HOFER: OH, I KNOW MIKE.

25 MR. WAPNER: I KNEW A MIKE IN JUNIOR HIGH SCHOOL, TOO,  
26 BUT THAT WASN'T IN THE VALLEY.

27 AND MR. GHIRARDI, THE OFFICER FROM THE BEVERLY  
28 HILLS POLICE DEPARTMENT, IT IS A HYPHENATED NAME. IT IS

1 MUNOZ-FLORES OR MUNOZ DASH FLORES AND THAT PERSON NEVER DID  
2 WORK FOR THE LOS ANGELES POLICE DEPARTMENT SO THAT IS NOT THE  
3 SAME PERSON YOU KNEW?

4 MR. GHIRARDI: NO.

5 MR. WAPNER: MRS. EWELL, LET ME FOLLOW UP ON SOMETHING  
6 THAT WE STARTED WITH YESTERDAY AND I KIND OF DROPPED IT AND  
7 THAT IS THE TWO PEOPLE ON THE BOAT; DO YOU REMEMBER THAT?

8 MS. EWELL: YES.

9 MR. WAPNER: MAYBE I DIDN'T GIVE YOU ENOUGH FACTS AND  
10 MAYBE I DID, WE WILL HAVE TO SEE. BUT LET'S ASSUME THAT  
11 THESE TWO PEOPLE ARE ON THIS BOAT AND THEY ARE IN THE MIDDLE  
12 OF THE OCEAN, OKAY, AND THERE IS NO LAND FOR MILES AND MILES  
13 AND MILES AROUND. MAYBE THEY ARE SAILING FROM HERE TO  
14 HAWAII, FOR EXAMPLE, AND THEY ARE RIGHT IN THE MIDDLE AND THERE  
15 ARE TWO PEOPLE AND IT IS IN THE EVENING AND ONE OF THEM IS  
16 GOING TO GO TO SLEEP AND THE OTHER ONE SAYS, "I AM JUST GOING  
17 TO GO UP AND SIT ON THE DECK FOR A WHILE" AND ONE GOES TO  
18 SLEEP AND GETS UP THE NEXT MORNING AND THE OTHER ONE IS GONE.

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1 NOT A TRACE OF THE PERSON AND HE NEVER, EVER SEES  
2 THAT PERSON AGAIN. DAYS GO BY. THE BOAT EVENTUALLY SAILS AND  
3 GETS TO HAWAII. AND MONTHS GO BY. AND YEARS GO BY AND HE HAS  
4 NEVER, EVER HEARD FROM THAT PERSON AGAIN.

5 WHAT DO YOU THINK HAPPENED TO THAT PERSON?

6 MS. EWELL: OBVIOUSLY, HE GOT OUT OF THE BOAT.

7 MR. WAPNER: WHAT DO YOU THINK -- AFTER HE GOT OFF THE  
8 BOAT, LET'S ASSUME THAT THE BOAT WAS LARGE ENOUGH TO HAVE A  
9 LITTLE DINGHY, A POWER DINGHY ATTACHED TO IT. THAT DINGHY IS  
10 STILL THERE IN THE MORNING WHEN THE GUY WAKES UP, STILL  
11 ATTACHED TO THE BOAT.

12 MS. EWELL: OKAY.

13 MR. WAPNER: LET'S FURTHER ASSUME THAT THE BOAT HAS  
14 LIFE JACKETS, LIFE PRESERVERS ON IT.

15 MS. EWELL: OKAY.

16 MR. WAPNER: ALL OF THE LIFE PRESERVERS ARE THERE IN  
17 THE MORNING WHEN THE SECOND PERSON GETS UP. OKAY?

18 MS. EWELL: OKAY.

19 MR. WAPNER: WHAT DO YOU THINK HAPPENED TO THE OTHER  
20 PERSON?

21 MS. EWELL: AFTER A SEARCH OF THE ENTIRE BOAT AND THE  
22 PERSON COULD NOT BE FOUND, HE IS STILL NOT ON THE BOAT.

23 MR. WAPNER: HE IS NOT ON THE BOAT. WHERE DO YOU  
24 SUPPOSE HE IS?

25 MS. EWELL: IN THE WATER.

26 MR. WAPNER: NOW, AFTER A FEW DAYS GO BY AND THEY DO A  
27 SEARCH, LET'S ASSUME THAT THEY COULD PIN DOWN APPROXIMATELY  
28 WITH COORDINATES WHERE THIS BOAT WAS WHEN THE PERSON LEFT THE

1 BOAT. OKAY?

2 MS. EWELL: OKAY.

3 MR. WAPNER: THEY DO A SEARCH OF THE AREA IN CONCENTRIC  
4 CIRCLES GETTING WIDER AND WIDER AND THEY CAN'T FIND THE PERSON  
5 ANYWHERE IN THE WATER.

6 MR. EWELL: OKAY.

7 MR. WAPNER: AND THEY DO THE SEARCH AND THERE IS NO LAND  
8 ANYWHERE NEARBY AND SO, IN THE SUCCEEDING DAYS AND WEEKS, THEY  
9 CAN'T FIND THE PERSON. OKAY?

10 WHERE DO YOU SUPPOSE THE PERSON IS, THEN?

11 MS. EWELL: IF HE IS NOT ON THE BOAT AND HE IS NOT IN  
12 THE WATER, HE COULD POSSIBLY BE SOMEWHERE ELSE.

13 MR. WAPNER: WHERE DO YOU THINK HE POSSIBLY COULD BE?

14 MS. EWELL: I HAVE A VERY VIVID IMAGINATION.

15 MR. WAPNER: OKAY. LET'S ASSUME THAT THE OTHER PERSON  
16 WHO WAS ON THE BOAT WAS A FRIEND OF THIS PERSON, A FAIRLY  
17 CLOSE FRIEND. OKAY? AND AFTER A WEEK, THE PERSON, THE CLOSE  
18 FRIEND WHO WAS ON THE BOAT, HAS NOT HEARD FROM HIS FRIEND.

19 THEN TWO WEEKS GO BY. THE PERSON WHO WAS THE  
20 CLOSE FRIEND STILL HAD NOT HEARD FROM HIS FRIEND. WHERE DO  
21 YOU SUPPOSE THE PERSON IS?

22 MS. EWELL: HE COULD STILL BE A NUMBER OF PLACES.

23 MR. WAPNER: WHERE DO YOU SUPPOSE HE MIGHT BE?

24 MS. EWELL: ON LAND SOMEWHERE.

25 THE COURT: WHERE?

26 MS. EWELL: LAND.

27 MR. WAPNER: WHAT KIND OF LAND?

28 MS. EWELL: A CITY.

1 THE COURT: BUT THIS WAS IN THE MIDDLE OF THE OCEAN, YOU  
2 KNOW.

3 MR. WAPNER: THE CITY?

4 MS. EWELL: A HELICOPTER COULD HAVE COME.

5 MR. WAPNER: ALL OF THOSE THINGS ARE POSSIBLE, RIGHT?

6 MS. EWELL: THAT'S RIGHT.

7 MR. WAPNER: THE JUDGE IS GOING TO TELL YOU WHEN HE TALKS  
8 TO YOU ABOUT CIRCUMSTANTIAL EVIDENCE -- DID YOU HEAR HIM  
9 READ THE INSTRUCTION YESTERDAY?

10 MS. EWELL: RIGHT.

11 MR. WAPNER: AND DID YOU HEAR WHEN HE TALKED ABOUT THAT  
12 PART OF IT THAT HAD TO DO WITH TWO REASONABLE INTERPRETATIONS?

13 MS. EWELL: RIGHT.

14 MR. WAPNER: OKAY. ASSUMING THAT -- WELL, LET ME ASK  
15 YOU THIS. DO YOU THINK THAT IT IS REASONABLE THAT A HELICOPTER  
16 CAME?

17 MS. EWELL: SURE.

18 MR. WAPNER: WHY?

19 MS. EWELL: WHAT IS UNREASONABLE ABOUT A HELICOPTER?

20 MR. WAPNER: OUT IN THE MIDDLE OF THE OCEAN BETWEEN HERE  
21 AND HAWAII? AND THIS PERSON APPARENTLY HAS -- WELL, WHAT DO  
22 YOU THINK HAPPENED TO THE PERSON? HOW DID HE GET OFF THE BOAT?

23 MS. EWELL: ON HIS OWN WILL.

24 MR. WAPNER: DID HE JUMP OFF THE BOAT?

25 MS. EWELL: HE COULD HAVE.

26 MR. WAPNER: WHY DO YOU SAY HE WOULD HAVE?

27 MS. EWELL: HE WANTED TO LEAVE.

28 MR. WAPNER: HE WANTED TO LEAVE? WHERE WOULD YOU SUPPOSE

1 HE WANTED TO GO?

2 MS. EWELL: NO IDEA.

3 MR. WAPNER: DO THESE THINGS SEEM REASONABLE TO YOU?

4 MS. EWELL: TO ME THEY DO.

5 MR. WAPNER: IF HE WANTED TO LEAVE, TO GET OFF THE BOAT,  
6 WOULD IT BE MORE REASONABLE THAT HE WOULD TAKE THE DINGHY,  
7 FOR EXAMPLE?

8 MR. BARENS: OBJECTION. WE ARE GETTING INTO MORE  
9 REASONABLE AND LESS REASONABLE.

10 THE COURT: I THINK YOU HAVE EXHAUSTED THE POSSIBILITY  
11 WITH THIS PARTICULAR JUROR. LET'S QUESTION ON SOMETHING  
12 ELSE.

13 MR. WAPNER: DO YOU WANT ME TO START WITH SOMEBODY ELSE?

14 MR. CHIER: DON'T FORGET TO MENTION THAT A SHIP COULD  
15 HAVE BEEN PASSING BY.

16 THE COURT: COUNSEL, DO NOT VOLUNTEER ANYTHING, PLEASE.

17 MR. BARENS: THANK YOU.

18 MR. WAPNER: THANK YOU.

19 MS. EWELL, I THINK THE JUDGE TOOK YOU OFF THE HOOK.

20 MS. HOFER, THOSE THINGS THAT MS. EWELL WAS  
21 SUGGESTING, APPEAR REASONABLE TO YOU?

22 MS. HOFER: POSSIBLE.

23 MR. WAPNER: OKAY. THERE ARE TWO DIFFERENT PORTIONS OF  
24 THE LAW THAT COME INTO PLAY HERE AND THEY REALLY OVERLAP. AND  
25 YOU WILL HEAR THE WORD "REASONABLE" RUNNING THROUGH THE JUDGE'S  
26 INSTRUCTIONS OVER AND OVER AGAIN.

27 WHEN HE TALKED TO YOU ABOUT CIRCUMSTANTIAL  
28 EVIDENCE, HE TALKED ABOUT TWO REASONABLE INTERPRETATIONS AND

1 THE STANDARD THAT WE USE TO FIND SOME GUILTY OR NOT GUILTY, WHICH  
2 IS PROOF BEYOND A REASONABLE DOUBT.

3 DO YOU UNDERSTAND BOTH OF THOSE?

4 MS. HOFER: YES.

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5-1  
1 MR. WAPNER: ALL RIGHT, AND WHEN HE TOLD YOU ABOUT  
2 REASONABLE DOUBT YESTERDAY, DO YOU REMEMBER HIM SAYING THAT  
3 IT IS NOT A MERE POSSIBLE DOUBT OR IMAGINARY DOUBT?

4 MS. HOFER: YES.

5 MR. WAPNER: VAGUELY?

6 MS. HOFER: YES.

7 MR. WAPNER: TAKE MY WORD FOR IT, THAT IS PART OF THE  
8 DEFINITION HE READ TO YOU YESTERDAY.

9 WOULD YOU AGREE THAT ANYTHING IS POSSIBLE?

10 MS. HOFER: YES.

11 MR. WAPNER: OKAY, IN THAT SCENARIO THAT I WAS  
12 SUGGESTING TO MRS. EWELL, DID THOSE THINGS THAT SHE WAS  
13 SUGGESTING SEEM REASONABLE TO YOU?

14 MS. HOFER: NOT REALLY.

15 MR. WAPNER: IF THE TWO PEOPLE ON THE BOAT WERE FRIENDS  
16 AND THE ONE WHO HAD LEFT, FALLEN OFF OR WHATEVER, HAD BEEN  
17 RESCUED IN SOME WAY, WOULD IT SEEM REASONABLE TO YOU THAT  
18 HE WOULD CONTACT HIS FRIEND?

19 MS. HOFER: YES.

20 THE COURT REPORTER: WOULD YOU REPEAT THAT?

21 MR. WAPNER: NOW I AM NOT ONLY SPEAKING TOO FAST, THEY  
22 CAN'T UNDERSTAND ME.

23 IN THE EXAMPLE THAT I GAVE TO MRS. EWELL, THERE  
24 WASN'T ANY MENTION OF THE FACT THAT THE PERSON WHO HAD LEFT  
25 OR FALLEN OFF THE BOAT HAD EVER EVEN ATTEMPTED TO CONTACT  
26 HIS FRIEND, YOU UNDERSTAND THAT?

27 MS. HOFER: YES.

28 MR. WAPNER: AND IT SEEMS TO YOU THAT WOULD BE REASONABLE

1 THAT IF HE HAD FALLEN OFF, FOR EXAMPLE, AND BEEN RESCUED THAT  
2 HE PROBABLY WOULD CONTACT SOMEONE TO TELL THEM THAT HE WAS  
3 ALL RIGHT?

4 MS. HOFER: YES.

5 MR. WAPNER: MRS. WALKER, DOES IT APPEAR TO YOU TO BE  
6 REASONABLE, IF THIS PERSON HAD FALLEN OFF THE BOAT AND BEEN  
7 RESCUED, THAT HE WOULD CONTACT HIS FRIEND AND LET HIM KNOW  
8 HE WAS OKAY?

9 MS. WALKER: YES, DEFINITELY.

10 MR. WAPNER: AND MISS HOFER, WHAT DO YOU THINK HAPPENED  
11 TO THAT PERSON?

12 MS. HOFER: I DON'T HAVE A GREAT IMAGINATION, SO I  
13 SUSPECT HE EITHER DROWNED OR GOT CHEWED UP BY A FISH OR --

14 MR. WAPNER: DIED IN SOME FASHION?

15 MS. HOFER: RIGHT.

16 MR. WAPNER: BECAUSE PEOPLE HAVEN'T HEARD FROM HIM FOR  
17 YEARS NOW.

18 (WHEREUPON, MS. HOFER NODS HER HEAD  
19 UP AND DOWN.)

20 MR. WAPNER: IS THAT YES?

21 MS. HOFER: YES. I AM SORRY.

22 MR. WAPNER: BUT YOU HAVE NEVER FOUND HIS BODY, DO YOU  
23 NEVERTHELESS HAVE ANY TROUBLE COMING TO THE CONCLUSION THAT  
24 HE DIED IN SOME FASHION?

25 MS. HOFER: NO.

26 MR. WAPNER: MR. DUNDORE, DO YOU HAVE ANY PROBLEM WITH  
27 THAT?

28 MR. DUNDORE: NO. I THINK HE CAN REASONABLY BE

1 PRESUMED TO HAVE DIED.

2 MR. WAPNER: MR. CANADY, HOW ABOUT YOU?

3 MR. CANADY: I FEEL THE SAME.

4 MR. WAPNER: MS. SHELBY?

5 MS. SHELBY: YES, I DO.

6 MR. WAPNER: MRS. KNUEDELER?

7 MS. KNUEDELER: UH-HUH, YES.

8 MR. WAPNER: MR. GHIRARDI, HOW DO YOU FEEL ABOUT IT?

9 MR. GHIRARDI: THERE IS ALWAYS A CHANCE THAT THE BOAT  
10 PICKED HIM UP.

11 A JUROR: I CAN'T HEAR.

12 MR. GHIRARDI: I SAY THERE IS ALWAYS A CHANCE THAT A  
13 BOAT COULD HAVE PICKED HIM UP AND WENT TO SOME FOREIGN  
14 COUNTRY. LACK OF COMMUNICATION.

15 MR. WAPNER: WHAT FOREIGN COUNTRY CAN YOU THINK OF THAT  
16 DOESN'T HAVE A TELEPHONE?

17 MR. GHIRARDI: HAVE YOU EVER BEEN TO SOUTH AMERICA?

18 (LAUGHTER IN COURTROOM.)

19 THE COURT: THE EXAMPLE HE GAVE YOU WAS IN THE PACIFIC,  
20 ALL RIGHT? SO IT IS NOT SOUTH AMERICA.

21 MR. GHIRARDI: I KNOW THAT, BUT THE BOAT COULD HAVE  
22 GONE THERE.

23 IN ANY EVENT, A PERSON COULD LOSE THEMSELVES VERY  
24 EASILY IN A LARGE CITY.

25 MR. WAPNER: OKAY, DO THESE THINGS APPEAR TO YOU TO  
26 BE REASONABLE?

27 MR. GHIRARDI: IT IS ENTIRELY POSSIBLE.

28 MR. WAPNER: DO YOU UNDERSTAND THERE IS A DIFFERENCE



1 BETWEEN WHAT IS POSSIBLE AND WHAT IS REASONABLE?

2 MR. GHIRARDI: I SPENT SOME TIME AT SEA AND I HAVE SEEN  
3 SHIPS PASS AT NIGHT.

4 MR. WAPNER: OKAY, I AM NOT ASKING YOU --

5 MR. GHIRARDI: I KNOW THERE ARE NOT CROWDED SEA LANES  
6 BUT --

7 MR. WAPNER: OKAY, ARE YOU PRESUMING THAT HE GOT PICKED  
8 UP BY PIRATES WHO THEN --

9 MR. GHIRARDI: NO, NOT PIRATES BUT MAYBE A PASSING  
10 FISHING BOAT OR SOMETHING.

11 MR. WAPNER: UNFRIENDLY?

12 MR. GHIRARDI: NOT HOSTILE. JUST SOMEBODY WHO --

13 MR. BARENS: YOUR HONOR, AT THIS TIME THE DEFENSE IS  
14 GOING TO OBJECT TO THE HYPOTHETICAL AS IT IS MISLEADING THE  
15 JURORS BECAUSE IT ASSUMES THAT THE PERSON FROM THE BOAT WANTS  
16 TO BE FOUND.

17 MR. WAPNER: WELL, YOUR HONOR --

18 MR. BARENS: -- AND WHICH ASSUMPTION IS NOT POSSIBLE.

19 THE COURT: I THINK HE IS CONCLUDING THAT SUBJECT.  
20 I THINK HE IS GOING TO GO ON TO SOMETHING ELSE.

21 MR. BARENS: IT IS JUST NOT GIVING THE JURY THE PROPER  
22 PERSPECTIVE, IT ASSUMES HE IS GOING TO BE FOUND AND --

23 THE COURT: THE JURORS ARE INTELLIGENT ENOUGH TO DRAW  
24 WHAT CONCLUSIONS THEY CAN FROM THE QUESTIONS. GO AHEAD.

25 MR. BARENS: THANK YOU, YOUR HONOR.

26 MR. WAPNER: THANK YOU, YOUR HONOR.

27 MR. GHIRARDI, ASSUMING THAT THIS IS NOT AN  
28 UNFRIENDLY GROUP --

1 MR. GHIRARDI: YES.

2 MR. WAPNER: OKAY, SO THE PEOPLE WHO PICK HIM UP, IF  
3 A SHIP PASSED IN THE SHIPPING LANES, WOULD BE DOING THAT FOR  
4 THE PURPOSE OF RESCUING HIM?

5 MR. GHIRARDI: YES.

6 MR. WAPNER: AND IF THEY RESCUED HIM, WOULD IT BE  
7 REASONABLE TO ASSUME THAT THEY WOULD TAKE HIM TO THE NEAREST  
8 PLACE WHERE THERE WAS LAND OR WHEREVER THEY WERE GOING, FOR  
9 EXAMPLE?

10 MR. GHIRARDI: WHEREVER THEY WERE GOING, BUT PERHAPS  
11 THEY DIDN'T UNDERSTAND HIM. DIFFERENT LANGUAGE.

12 MR. WAPNER: OKAY, BUT WHEN THEY GOT TO WHERE THEY WERE  
13 GOING, THEIR PURPOSE IN RESCUING HIM WOULD BE FINISHED AND  
14 THEY WOULD ESSENTIALLY LET HIM GO, RIGHT?

15 MR. GHIRARDI: YES.

16 MR. WAPNER: WOULD IT BE FURTHER REASONABLE TO ASSUME  
17 THAT WHEN THAT PERSON GOT THERE, HE WOULD THEN MAKE SOME  
18 ATTEMPTS TO CONTACT HIS FRIEND OR HIS FAMILY TO LET THEM KNOW  
19 HE WAS ALL RIGHT?

20 MR. GHIRARDI: DEPENDING UPON WHERE HE WAS. IT MAY  
21 TAKE TIME TO COMMUNICATE.

22 MR. WAPNER: OKAY, LET'S SAY HE GOT TO SOMEWHERE THAT  
23 DIDN'T HAVE ANY TELEPHONES AND DIDN'T HAVE ANY CARS AND HE  
24 HAD TO HIKE FOR A FEW WEEKS OUT OF THE JUNGLE, OKAY, AND HE  
25 FINALLY GOT TO A PLACE WHERE THERE WAS A TELEPHONE; WOULD  
26 IT BE REASONABLE AT THAT POINT TO ASSUME HE WOULD THEN  
27 CONTACT SOMEONE?

28 MR. GHIRARDI: PROBABLY.

1 MR. WAPNER: OKAY, AND THE FACT THAT HE HASN'T NOW IN  
2 YEARS, LET'S SAY, WHAT DO YOU INFER FROM THAT?

3 MR. GHIRARDI: MAYBE HE DIDN'T WANT TO COMMUNICATE WITH  
4 ANYONE HE KNEW.

5 MR. WAPNER: IF IN THAT HYPOTHETICAL YOU DON'T HAVE  
6 THOSE FACTS, HE IS JUST ON THE BOAT, HE IS WITH HIS FRIEND  
7 ON THE WAY TO HAWAII, OKAY, AND HE FELL OFF THE BOAT AND HE  
8 GETS RESCUED, DO YOU THINK THAT WOULD BE REASONABLE FOR HIM  
9 TO WANT TO TELL SOMEONE THAT HE WAS ALL RIGHT?

10 MR. GHIRARDI: I WOULD ASSUME SO, UNLESS SOMETHING  
11 HAPPENED TO HIS MIND.

12 MR. WAPNER: OKAY, AND ASSUMING THAT SOMETHING DIDN'T  
13 HAPPEN TO HIS MIND, WOULD YOU HAVE ANY PROBLEM IN DECIDING  
14 THAT THAT PERSON WAS DEAD?

15 (PAUSE.)

16 MR. GHIRARDI: WELL, GIVEN THE CIRCUMSTANCES OF BEING  
17 IN THE MIDDLE OF THE PACIFIC, THAT WOULD BE A MORE LOGICAL  
18 ASSUMPTION, YES.

19 MR. WAPNER: CAN YOU SEPARATE IN YOUR MIND THE THINGS  
20 THAT ARE POSSIBLE FROM THINGS THAT YOU THINK ARE REASONABLE,  
21 DO YOU MAKE THAT DISTINCTION?

22 MR. GHIRARDI: WELL, SOME THINGS ARE MORE REASONABLE  
23 THAN OTHERS, YES.

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1 MR. WAPNER: IN OTHER WORDS, ANYTHING IS POSSIBLE?  
2 RIGHT?

3 MR. GHIRARDI: NOT ANYTHING, BUT ALMOST ANYTHING.

4 MR. WAPNER: OKAY. WELL FOR EXAMPLE, THERE COULD HAVE  
5 BEEN A BOAT THAT SUNK RIGHT IN THAT SAME PLACE WHERE THE GUY  
6 FELL OFF THE BOAT. AND SOME DIVERS HAD BEEN IN THE PROCESS  
7 OF RESURRECTING IT. AS SOON AS THIS GUY FELL OFF, THEY  
8 HAPPENED TO RESURRECT THE BOAT AND IT POPPED UP TO THE SURFACE,  
9 FULL OF GAS AND THE GUY GOT ON IT AND TOOK IT TO HAWAII. THAT  
10 IS POSSIBLE, RIGHT?

11 MR. GHIRARDI: BUT LESS LIKELY.

12 MR. WAPNER: IT DOESN'T SOUND REASONABLE?

13 MR. GHIRARDI: NO.

14 MR. WAPNER: CERTAINLY NOT AS REASONABLE AS A BOAT  
15 COMING THROUGH A SHIPPING LANE, FOR EXAMPLE?

16 MR. GHIRARDI: RIGHT.

17 MR. WAPNER: OKAY. MR. TAUB, LET'S CHANGE THE SUBJECT  
18 A LITTLE BIT.

19 MR. TAUB: PLEASE DO.

20 MR. WAPNER: YOU ARE TIRED OF THIS? I AM HAVING SUCH  
21 FUN.

22 I BELIEVE YOU SAID YESTERDAY THAT THE FIFTH  
23 AMENDMENT IS GETTING A LITTLE OVERWORKED ON THE FEDERAL LEVEL?

24 MR. TAUB: YES.

25 MR. WAPNER: THAT WAS IN REFERENCE TO THE CURRENT IRAN/  
26 CONTRA HEARINGS THAT ARE GOING ON IN WASHINGTON, RIGHT?

27 MR. TAUB: YES.

28 MR. WAPNER: HAVE YOU HEARD ANY DISCUSSION OR MURMURINGS

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1 IN THE PRESS OR OTHER PLACES ABOUT THE POSSIBILITY OF GIVING  
2 NORTH AND POINDEXTER IMMUNITY FOR THE PURPOSE OF TESTIFYING  
3 ABOUT WHAT THEY KNOW?

4 MR. TAUB: YES.

5 MR. WAPNER: HOW DO YOU FEEL ABOUT THAT?

6 MR. TAUB: I THINK THEY SHOULD DO IT AND GET ON WITH IT.  
7 I HAVE NO DESIRE TO PUNISH THE TWO MEN, IF THAT IS WHAT YOU  
8 ARE REFERRING TO.

9 MR. WAPNER: WELL, WHAT I AM TRYING TO GET AT IS, HOW  
10 YOU FEEL ABOUT THE GENERAL SUBJECT OF IMMUNITY.

11 CAN YOU SEE WHY YOU WOULD -- I THINK YOU SAID THAT  
12 WE SHOULD GIVE THEM IMMUNITY. LET'S ASSUME THAT THEY COMMITTED  
13 CRIMES, NORTH AND POINDEXTER. THEY BOTH COMMITTED CRIMES ON  
14 THE FEDERAL LEVEL, WHATEVER IT MIGHT BE.

15 MR. TAUB: I STILL WOULD LIKE TO GET ALL OF THIS  
16 INFORMATION PUBLIC AND I DON'T FEEL THAT THEIR CRIMES ARE SO  
17 HEINOUS THAT THEY SHOULD BE PUNISHED FOR THEM.

18 MR. WAPNER: IF FOR EXAMPLE -- AND WE DON'T KNOW THIS --  
19 BUT IF FOR EXAMPLE, YOU GIVE THEM IMMUNITY AND THEY ARE  
20 TESTIFYING AND IT COMES OUT THAT THE PRESIDENT OR THE VICE  
21 PRESIDENT OR SOMEONE LIKE THAT KNEW ABOUT IT, IS THAT SOMETHING  
22 WE SHOULD KNOW?

23 MR. TAUB: YES.

24 MR. WAPNER: COULD YOU SEE THAT IN THAT SITUATION OR IN  
25 OTHERS, THAT THERE ARE SITUATIONS WHERE PEOPLE ARE GIVEN  
26 IMMUNITY SO THAT OTHER PEOPLE -- BECAUSE IT IS NECESSARY TO  
27 PROSECUTE OTHER PEOPLE?

28 MR. TAUB: YES.

1 MR. WAPNER: OKAY. AND I ASSUME THAT THE GENERAL CONCEPT  
2 OF GIVING SOMEONE IMMUNITY, AT LEAST IN THIS CONTEXT, DOESN'T  
3 OFFEND YOU?

4 MR. TAUB: NO.

5 MR. WAPNER: IS THERE ANYONE SITTING ON THE JURY, WHO  
6 IS BOTHERED BY THE FACT THAT A PERSON WHO MIGHT HAVE SOME  
7 LIABILITY FOR A CRIMINAL ACT, WILL BE GIVEN IMMUNITY TO TESTIFY  
8 AGAINST SOMEONE ELSE? MR. HECK?

9 MR. HECK: GENERALLY, NO.

10 THE COURT: GENERALLY NO WHAT?

11 MR. HECK: I AM NOT BOTHERED BY IT.

12 MR. WAPNER: OKAY. WHEN YOU SAY "GENERALLY NO," DO YOU  
13 HAVE SOME SPECIFIC SITUATION IN MIND WHERE YOU MIGHT?

14 MR. HECK: WELL, IT COULD BE THAT THE PERSON THAT  
15 COMMITTED THE ACT IN THE FIRST PLACE, GETS OFF, SCOT-FREE.  
16 HE HAS IMMUNITY.

17 YOU MIGHT GIVE A PERSON IMMUNITY THAT IS REALLY  
18 RESPONSIBLE FOR THE WHOLE THING.

19 MR. WAPNER: YOU COULD MAKE A MISTAKE, IS WHAT YOU ARE  
20 SAYING?

21 MR. HECK: UH-HUH.

22 MR. WAPNER: OKAY. SO IT COULD BE FOR EXAMPLE --

23 MR. HECK: I MEAN, YOU MIGHT ASSUME THAT BY GIVING  
24 IMMUNITY TO SOMEBODY, THAT YOU COULD GET AT THE TRUTH AND THAT  
25 YOU WOULD GET A CONVICTION OR ADMITTANCE OF CRIME FROM SOME-  
26 BODY ELSE.

27 OKAY. BUT SUPPOSING YOU GIVE THE IMMUNITY TO THE  
28 PERSON THAT IS REALLY THE GUILTY PARTY?

1 MR. WAPNER: OKAY. IN SOME SITUATIONS, YOU MAY NOT HAVE  
2 LOST ANYTHING AND IN OTHERS YOU MIGHT. WOULD YOU ACCEPT THAT?

3 MR. HECK: YES.

4 MR. WAPNER: FOR EXAMPLE, IN THE SITUATION WHERE WE ARE  
5 TALKING ABOUT, COLONEL NORTH AND POINDEXTER, LET'S ASSUME  
6 THAT THEY GAVE THEM IMMUNITY AND THEY TURN OUT TO BE THE GUILTY  
7 PARTIES.

8 THEY SAY THAT THEY DID THE WHOLE THING THEMSELVES  
9 AND THEY DIDN'T TELL ANYBODY.

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1 MR. HECK: THAT DOESN'T BOTHER ME.

2 MR. WAPNER: COULD YOU SAY NOW WE HAVE AT LEAST FOUND  
3 OUT AND WE HAVE CLEARED THE WHOLE THING UP?

4 MR. HECK: YES.

5 MR. WAPNER: THEN THE COUNTRY CAN GO ON AND WE WILL FEEL  
6 BETTER ABOUT IT?

7 MR. HECK: BESIDES, I DON'T FEEL THAT IT IS THAT BIG A  
8 DEAL IN THE FIRST PLACE.

9 MR. WAPNER: OKAY. LET ME BRING IT DOWN TO A MUCH LOWER  
10 LEVEL. LET'S ASSUME THAT THE POLICE ARREST SOMEBODY FOR  
11 SELLING \$20 WORTH OF COCAINE TO AN UNDERCOVER OFFICER IN THE  
12 STREET.

13 THERE IS NO QUESTION THE MAN IS GUILTY OF DOING  
14 THAT BECAUSE HE GAVE IT TO A POLICE OFFICER. THE MAN THAT IS  
15 ARRESTED SAYS, "I WILL TELL YOU WHAT. YOU GIVE ME IMMUNITY  
16 AND I WILL TELL YOU ABOUT THE GUY WHO IS BRINGING IT IN FROM  
17 COLUMBIA AND MAKING 20 MILLION DOLLARS A YEAR DOING THIS."

18 DOES IT BOTHER YOU THAT WE ARE GIVING IMMUNITY TO  
19 A PERSON WHO IS CLEARLY GUILTY OF A CRIME IN THAT SITUATION?

20 MR. HECK: NO. I WOULD LET THE SMALL FISH OFF AND GET  
21 THE BIG ONE.

22 MR. WAPNER: OKAY. DOES ANYBODY ELSE HAVE A PROBLEM WITH  
23 THAT?

24 (THERE WAS NO AFFIRMATIVE RESPONSE.)

25 MR. WAPNER: CAN YOU SEE THAT SOMETIMES IN SERIOUS CRIMES,  
26 IT IS NECESSARY AND THERE ARE SITUATIONS WHERE IT IS NECESSARY  
27 TO GIVE PEOPLE IMMUNITY IN ORDER TO PROSECUTE OTHERS?

28 MR. HECK: YES.



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1 MR. WAPNER: IS THERE ANYONE WHO IS GOING TO BE BOTHERED  
2 BY THE FACT THAT A WITNESS IN THIS CASE MAY TESTIFY UNDER A  
3 GRANT OF IMMUNITY? WHEN I SAY "BOTHERED" BY THE FACT, MR.  
4 DUNDORE, LET ME ASK YOU. THAT FACT IN AND OF ITSELF, THE  
5 WITNESS TAKES THE STAND AND HE SAYS THAT HE HAS BEEN GIVEN  
6 IMMUNITY, YOU DON'T KNOW WHAT HE IS GOING TO SAY. IS THAT  
7 FACT GOING TO BOTHER YOU TO SUCH AN EXTENT THAT YOU WON'T LISTEN  
8 TO HIS TESTIMONY?

9 MR. DUNDORE: NO.

10 MR. WAPNER: MISS KNUEDLER, IS IT GOING TO CAUSE YOU  
11 NOT TO BELIEVE THAT PERSON?

12 MS. KNUEDLER: NO.

13 MR. WAPNER: MR. ENGLE, DO YOU UNDERSTAND THAT WE HAVE  
14 TO USE THE SAME STANDARD FOR EVALUATING THE TESTIMONY OF ALL  
15 THE DIFFERENT WITNESSES THAT TESTIFY?

16 MR. ENGLE: YES.

17 MR. BARENS: OBJECTION. THAT IS CATEGORICALLY UNTRUE.

18 MR. CHIER: INFORMANT TESTIMONY IS JUDGED BY A DIFFERENT  
19 STANDARD.

20 THE COURT: COUNSEL, WE CAN'T HAVE TWO AGAINST ONE.

21 MR. BARENS: UNDERSTOOD. I JOIN MR. CHIER'S REMARK THAT  
22 INFORMANT TESTIMONY IS VIEWED WITH EXTREME CAUTION --

23 THE COURT: YOU MEAN AN ACCOMPLICE, YOU MEAN?

24 MR. BARENS: I BELIEVE THERE IS PRECEDENT FOR BOTH.

25 THE COURT: I DON'T KNOW WHAT YOU MEAN BY "INFORMANT."  
26 AS TO AN ACCOMPLICE, I WILL INSTRUCT THE JURY THAT TESTIMONY  
27 OF AN ACCOMPLICE MUST BE VIEWED WITH CAUTION.

28 MR. BARENS: THAT'S CORRECT.

6B

1 THE COURT: ALL RIGHT. YOU MAY REVISE YOUR QUESTION.

2 MR. WAPNER: WHEN YOU EVALUATE THE CREDIBILITY OF  
3 WITNESSES, MR. ENGLE, YOU USE THE SAME STANDARDS -- IF IT IS  
4 FAIR TO JUDGE ONE WITNESS BECAUSE HE IS BIASED, THEN YOU TAKE  
5 INTO CONSIDERATION THE BIAS THAT ALL OF THE WITNESSES MIGHT  
6 HAVE. DO YOU UNDERSTAND THAT?

7 MR. ENGLE: YES.

8 MR. WAPNER: OKAY. THE SAME WAY, WITH THE DEMEANOR OF  
9 A WITNESS AS HE TESTIFIES. THE JUDGE IS GOING TO TELL YOU THAT  
10 THE DEMEANOR OF A WITNESS IS SOMETHING THAT YOU CAN TAKE INTO  
11 CONSIDERATION. WOULD YOU DO THAT ON ALL OF THE WITNESSES AND  
12 NOT JUST ONE OR TWO?

13 MR. ENGLE: I WOULD TRY TO.

14 MR. WAPNER: AND THE REASON I ASK YOU THIS QUESTION IS  
15 THAT YOU MADE A STATEMENT YESTERDAY THAT YOU WOULD GIVE THE  
16 TESTIMONY OF ALL OF THE WITNESSES THE SAME WEIGHT. DO YOU  
17 UNDERSTAND THAT THAT IS NOT YOUR JOB?

18 YOUR JOB IS TO EVALUATE WHAT WEIGHT EACH WITNESS  
19 IS ENTITLED TO.

20 MR. ENGLE: YES.

21 MR. WAPNER: IF THE ONLY THING YOU ARE REQUIRED TO  
22 DO IS USE THE SAME STANDARDS IN ASSESSING THAT WEIGHT, THE  
23 SAME SCALE IN ASSESSING THAT WEIGHT FOR ALL OF THE WITNESSES --

24 MR. ENGLE: RIGHT.

25 MR. WAPNER: OKAY. MS. SHELBY, DO YOU UNDERSTAND THAT?

26 MS. SHELBY: YES.

27 MR. WAPNER: DO YOU HAVE ANY PROBLEMS WITH THAT?

28 MS. SHELBY: NO.

1 MR. WAPNER: DOES THE TERM "CORPUS DELICTI" MEAN ANYTHING  
2 TO ANYONE? HAVE ANY OF YOU HEARD OF IT?

3 (THE PROSPECTIVE JURORS ANSWER IN THE  
4 AFFIRMATIVE.)

5 MR. WAPNER: MR. DUNDORE, IN WHAT CONTEXT HAVE YOU HEARD  
6 THAT?

7 MR. DUNDORE: IN THE CONTEXT OF FINDING A BODY.  
8 PRESUMABLY, A MURDER.

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1 THE COURT: WELL, NOW WHY DON'T YOU TELL THEM WHAT IT  
2 IS.

3 MR. WAPNER: I AM GETTING TO THAT.

4 THE COURT: NOW TELL THEM WHAT IT IS.

5 MR. WAPNER: WOULD IT SURPRISE YOU TO KNOW THAT ALL  
6 CRIMES HAVE A CORPUS DELECTI? A BURGLARY HAS A CORPUS  
7 DELECTI. DOES THAT SURPRISE YOU?

8 MR. DUNDORE: YES.

9 MR. WAPNER: OKAY. CORPUS DELECTI ARE LATIN WORDS THAT  
10 MEAN THE BODY OF THE CRIME. THAT IS THE LITERAL TRANSLATION.

11 BUT WHAT IT ACTUALLY MEANS IN MORE COMMON ENGLISH,  
12 IS THE ELEMENTS OF THE CRIME.

13 EACH CRIME HAS A CORPUS DELECTI OR EACH CRIME HAS  
14 CERTAIN ELEMENTS THAT ARE REQUIRED TO BE PROVED.

15 A BURGLARY, FOR EXAMPLE, THE CORPUS DELECTI OF THE  
16 CRIME IS THE ENTERING OF THE HOUSE OR THE BUILDING WITH THE  
17 INTENT TO COMMIT A FELONY OR A THEFT IN THE PREMISES. THAT  
18 IS THE CORPUS DELECTI OF A BURGLARY.

19 A ROBBERY HAS ITS OWN ELEMENTS, THE TAKING OF  
20 PROPERTY FROM ANOTHER PERSON BY THE MEANS OF FEAR OR FORCE.

21 CAR THEFT HAS ITS OWN CORPUS DELECTI. ALL CRIMES  
22 HAVE A CORPUS DELECTI. DOES THAT SURPRISE YOU?

23 MR. DUNDORE: NO.

24 MR. WAPNER: DOES IT SURPRISE ANYONE ELSE ON THE JURY?

25 (THE PROSPECTIVE JURORS ANSWER IN THE  
26 AFFIRMATIVE.)

27 MR. WAPNER: WOULD IT EQUALLY SURPRISE YOU THAT THE LAW  
28 IN CALIFORNIA -- WELL, DO YOU ALL UNDERSTAND NOW THAT THE TERM

1 CORPUS DELECTI DOESN'T HAVE ANYTHING TO DO WITH FINDING A  
2 BODY?

3 (THE PROSPECTIVE JURORS ANSWER IN THE  
4 AFFIRMATIVE.)

5 MR. WAPNER: OKAY. AND DO YOU UNDERSTAND MS. SHELBY,  
6 THAT THE LAW IN CALIFORNIA DOES NOT REQUIRE THAT LAW  
7 ENFORCEMENT PRODUCE A BODY FOR SOMEBODY TO BE CONVICTED OF  
8 MURDER?

9 MS. SHELBY: YES.

10 MR. WAPNER: DO YOU ALL UNDERSTAND THAT?

11 (THE PROSPECTIVE JURORS ANSWER IN THE  
12 AFFIRMATIVE.)

13 MR. WAPNER: DOES ANYONE HAVE ANY PROBLEMS WITH THAT?

14 (THERE WAS NO AFFIRMATIVE RESPONSE.)

15 MR. WAPNER: IS THERE ANYONE ON THE JURY WHO HAS SOMEWHERE  
16 IN THE BACK OF THEIR HEAD, THIS NOTION THAT IF YOU DON'T  
17 HAVE A BODY, YOU HAVE TO WAIT A CERTAIN AMOUNT OF TIME BEFORE  
18 SOMEONE CAN -- BEFORE THERE CAN BE A PRESUMPTION OF DEATH?

19 MR. PEIKERT: YES.

20 THE COURT: THAT IS ONLY WITH RESPECT TO INHERITANCE.  
21 SEVEN YEARS GENERALLY MUST GO BY BEFORE SOMEBODY CAN PROBATE  
22 AN ESTATE. BUT THAT HAS NOTHING TO DO WITH THE CRIMINAL LAW  
23 WHATEVER.

24 MR. PEIKERT: THANK YOU, YOUR HONOR.

25 MR. WAPNER: I APPRECIATE THAT LIKEWISE.

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1 MR. WAPNER: IF THE JUDGE NOW TELLS YOU THAT THIS SEVEN  
2 YEARS, THAT I GUESS FLOATS AROUND KIND OF BACK IN ALL OF OUR  
3 CONSCIOUSNESSES HAS NOTHING TO DO WITH THIS CASE, YOU WILL  
4 ALL ACCEPT THAT?

5 (THE PROSPECTIVE JURORS ANSWERED  
6 AFFIRMATIVELY IN CHORUS.)

7 MR. WAPNER: MISS KNUEDLER, DO YOU THINK THAT CRIMES  
8 SHOULD BE VIEWED ANY DIFFERENTLY BASED ON WHO THE VICTIM IS,  
9 WHAT THE VICTIM'S BACKGROUND IS?

10 MS. KNUEDLER: NO.

11 MR. WAPNER: OKAY, MAYBE THAT WASN'T A REAL CLEAR  
12 QUESTION.

13 LET'S ASSUME THAT THERE HAS BEEN A ROBBERY THAT  
14 HAPPENS ON THE STREET AND IT IS EXACTLY THE SAME ROBBERY AND  
15 IT IS EXACTLY THE SAME WITNESSES WITH ONE EXCEPTION AND THAT  
16 IS, THAT THE FIRST PERSON WHO IS ROBBED IS A PRIEST AND THE  
17 SECOND PERSON WHO IS ROBBED IS A DRUG DEALER. THE EVIDENCE  
18 OTHERWISE IS EXACTLY THE SAME. WITNESSES SEE THIS CRIME  
19 HAPPEN, THEY SEE A MAN COME UP TO FIRST THE PRIEST WITH A  
20 GUN AND ROB HIM AND TAKE HIS MONEY AND THEN THE NEXT THING  
21 HAPPENS IS THE SAME WITNESSES COME UP AND SEE THE SAME MAN  
22 WITH THE GUN, SEE HIM TAKE THE MONEY OF THE DRUG DEALER.  
23 ASSUMING THAT IN EACH OF THOSE CASES IT IS PROVED BEYOND A  
24 REASONABLE DOUBT THAT THE PERSON COMMITTED A ROBBERY, WOULD YOU  
25 NEVERTHELESS CONVICT HIM OF ROBBING A PRIEST BUT NOT THE DRUG  
26 DEALER?

27 MS. KNUEDLER: NO.

28 MR. WAPNER: IS THERE ANY REASON THEY SHOULD BE

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1 TREATED ANY DIFFERENTLY IN YOUR MIND?

2 MS. KNUEDLER: NO, NOT AT ALL.

3 MR. WAPNER: MR. HECK, DOES THE BACKGROUND OF THE PERSON  
4 WHO WAS THE VICTIM OF A CRIME MATTER, IS THAT GOING TO MATTER  
5 TO YOU IN TERMS OF WHETHER OR NOT A CRIME WAS COMMITTED AND  
6 WHETHER OR NOT THE DEFENDANT DID IT?

7 MR. HECK: NO.

8 MR. WAPNER: MRS. EWELL, HOW ABOUT YOU?

9 MS. EWELL: NO.

10 MR. WAPNER: MR. DUNDORE?

11 MR. DUNDORE: NO.

12 MR. WAPNER: MR. ENGLE?

13 MR. ENGLE: I DON'T KNOW.

14 I WAS THINKING IN TERMS OF ASSASSINATION AND THAT  
15 GAVE ME A LITTLE BIT OF ROOM FOR THOUGHT, WHETHER OR NOT IT  
16 IS IMPORTANT TO ASSASSINATE THE MAYOR OF CUCAMONGA OR THE  
17 PRESIDENT OF THE UNITED STATES. I THINK MAYBE THE PUNISHMENT  
18 MIGHT BE DIFFERENT.

19 MR. WAPNER: I AM NOT TALKING ABOUT THE PUNISHMENT.

20 I AM JUST TALKING ABOUT WHETHER OR NOT THE PERSON  
21 ON TRIAL GETS A DIFFERENT TRIAL IN YOUR MIND AS A JUROR  
22 BECAUSE HE KILLED THE MAYOR OF CUCAMONGA, ASSUMING IT IS PROVED  
23 BEYOND A REASONABLE DOUBT, AS OPPOSED TO THE PRESIDENT OF  
24 THE UNITED STATES.

25 DO YOU UNDERSTAND WHAT I AM GETTING AT, MR. ENGLE?

26 MR. ENGLE: I AM NOT SURE I DO.

27 MR. WAPNER: OKAY. IF YOU SIT ON THE JURY AND YOU ARE  
28 LISTENING TO THE MURDER TRIAL OF THE MAYOR OF CUCAMONGA, ARE

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1 YOU GOING TO SAY, WELL, YEAH, HE KILLED HIM ALL RIGHT AND  
2 WE BELIEVE THAT HE SHOT HIM AND IT IS PROVED BEYOND A REASONABLE  
3 DOUBT BUT WHO THE HECK CARES ABOUT THE MAYOR OF CUCAMONGA  
4 SO I AM GOING TO FIND HIM NOT GUILTY; ARE YOU GOING TO SAY  
5 THAT?

6 MR. ENGLE: NO.

7 MR. WAPNER: THAT IS BASICALLY WHY I USED THE EXAMPLE  
8 ABOUT THE DRUG DEALER, BECAUSE PROBABLY PEOPLE CARE LESS ABOUT  
9 DRUG DEALERS THAN THEY DO ABOUT THE MAYOR OF CUCAMONGA.

10 BUT DO YOU UNDERSTAND THE TRIAL OF THE ISSUES  
11 IN THIS CASE SHOULD BE THE SAME, WHETHER OR NOT YOU LIKE THE  
12 VICTIM OR WHETHER YOU DON'T LIKE HIM?

13 MR. ENGLE: I UNDERSTAND THAT.

14 MR. WAPNER: AND THE STANDARD THAT YOU USE TO FIND  
15 SOMEBODY GUILTY OR NOT GUILTY SHOULDN'T CHANGE BASED UPON  
16 WHETHER YOU LIKE OR DISLIKE THE VICTIM; DO YOU UNDERSTAND  
17 THAT?

18 MR. ENGLE: YES.

19 MR. WAPNER: CAN YOU JUDGE THIS CASE ON THE FACTS AND  
20 THE LAW, EVEN IF IT TURNS OUT YOU DON'T LIKE THE VICTIM?

21 MR. ENGLE: RIGHT.

22 MR. WAPNER: IT MAY TURN OUT THAT HE IS NOT THE MOST --  
23 WAS NOT THE MOST LIKABLE GUY IN THE WORLD BUT NOTWITHSTANDING  
24 THAT, CAN YOU GIVE THE PROSECUTION A FAIR TRIAL?

25 MR. ENGLE: YES.

26 MR. WAPNER: DO YOU HAVE A PROBLEM WITH THAT, MR. TAUB?

27 MR. TAUB: NO, NONE WHATSOEVER.

28 MR. WAPNER: MISS HOFER?



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1 MS. HOFER: NO.

2 MR. WAPNER: IS THERE ANYONE ON THE JURY WHO HAS EVER  
3 BEEN THE VICTIM OF ANY KIND OF A FRAUD OR CON SCHEME?  
4 MR. ENGLE?

5 THE COURT: I AM GOING TO ASK ALL OF THE JURORS THOSE  
6 QUESTIONS ABOUT PRIOR EXPERIENCES.

7 A JUROR: I CAN'T HEAR YOU.

8 THE COURT: I AM GOING TO ASK THOSE QUESTIONS, I TOLD  
9 YOU I RESERVED THE RIGHT TO DO THAT, DIDN'T I? I TOLD YOU  
10 I WAS GOING TO ASK THE PROSPECTIVE JURORS ABOUT WHETHER OR  
11 NOT THEY HAVE EVER BEEN THE VICTIMS OF ANY CRIME.

12 MR. WAPNER: YOU DID SAY THAT, YOUR HONOR.

13 I WAS TALKING ABOUT SPECIFIC TYPES OF CRIMES.

14 THE COURT: ALL RIGHT, GO AHEAD.  
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1 MR. WAPNER: MR. ENGLE, CAN YOU TELL ME A LITTLE BIT  
2 ABOUT THAT OR WOULD YOU PREFER NOT TO DO THAT IN FRONT OF  
3 ALL OF THE OTHER JURORS?

4 MR. ENGLE: IT IS STILL IN LITIGATION SO IT WOULD PROBABLY  
5 BE BETTER IF I DIDN'T.

6 MR. WAPNER: IS IT SOMETHING THAT YOU WOULD BE WILLING  
7 TO TELL US LIKE AT THE SIDE BENCH OUTSIDE OF THE PRESENCE  
8 OF THE OTHER JURORS?

9 MR. ENGLE: IT REALLY ISN'T THAT IMPORTANT. IT HAS  
10 BEEN GOING ON FOR ABOUT FIVE YEARS.

11 IT WAS AN INVESTMENT SWINDLE WHERE THE PERPETRATOR  
12 WAS INCARCERATED AND THEN TURNED LOOSE AND THE THING HAS BEEN  
13 IN THE COURTS EVER SINCE, THROUGH BANKRUPTCY AND A LOT OF  
14 OTHER THINGS THAT HAVE BEEN GOING ON WHERE MOST OF THE  
15 INVESTORS HAVE LOST -- WILL PROBABLY EVENTUALLY LOSE ALL OF  
16 THEIR MONEY OR A MAJORITY OF IT.

17 IT WAS THE BARRY MARLIN CASE.

18 ARE YOU FAMILIAR WITH IT?

19 MR. WAPNER: I AM NOT ACTUALLY. MAYBE I SHOULD BE.

20 WHAT HAS HAPPENED WITH MR. MARLIN AT THE MOMENT?

21 MR. ENGLE: I THINK HE IS FREE, PROBABLY LIVING IN  
22 SAN FRANCISCO, PROBABLY DOING THE SAME THING HE WAS BEFORE.

23 HE WAS INCARCERATED IN THE FEDERAL PRISON AND  
24 THEN RELEASED ON A CHANGE OF IDENTIFICATION PROGRAM WHERE  
25 HE TESTIFIED AGAINST SOME OTHER CRIMINAL AND WAS GIVEN  
26 IMMUNITY AND RELEASED FOR THAT AND AT THE PRESENT TIME HE  
27 IS OUT OF JAIL.

28 IT WAS AN INVESTMENT SWINDLE INVOLVING A LOT OF

1 AIRLINE PILOTS AND PEOPLE THAT WERE INVOLVED WITH THE  
2 AIRLINES.

3 MR. WAPNER: MAY I HAVE JUST A MOMENT?

4 DID YOU LOSE WHAT FOR YOU WAS A CONSIDERABLE AMOUNT  
5 OF MONEY IN THAT?

6 MR. ENGLE: NO, BUT A LOT OF MY FRIENDS DID.

7 MR. WAPNER: I ASSUME YOU HAVE QUITE A LOT OF HOSTILITY  
8 TOWARDS MR. MARLIN?

9 MR. ENGLE: YES AND NO.

10 I NEVER REALLY KNEW THE MAN. I NEVER KNEW THE  
11 MAN PERSONALLY.

12 MR. WAPNER: YOU DIDN'T HAVE ANY PERSONAL DEALINGS WITH  
13 HIM?

14 MR. ENGLE: JUST WITH HIS STAFF.

15 MR. WAPNER: ANYONE ELSE ON THE JURY WHO HAS EVER BEEN  
16 THE VICTIM OF ANY KIND OF FRAUD OR CON SCHEME OF ANY SORT?

17 (NO AUDIBLE REPLY.)

18 MR. WAPNER: MISS SHELBY, DO YOU THINK YOU UNDERSTOOD  
19 THE JUDGE WHEN HE WAS TALKING ABOUT THE STANDARD OF PROOF  
20 BEYOND A REASONABLE DOUBT?

21 MS. SHELBY: I THINK I DID, YES.

22 MR. WAPNER: OKAY, IN THE SHERLOCK HOLMES BOOKS, WHEN  
23 YOU GET TO THE END THEY ALWAYS TELL YOU NOT ONLY EXACTLY WHAT  
24 HAPPENED BUT EXACTLY HOW IT HAPPENED AND EXACTLY WHAT THE  
25 MOTIVES WERE AND EVERYTHING, RIGHT?

26 MS. SHELBY: RIGHT.

27 MR. WAPNER: SO BY THE TIME YOU FINISH THE BOOK, YOU  
28 DON'T HAVE ANY DOUBT WHATSOEVER ABOUT ANYTHING THAT HAPPENED,

1 RIGHT?

2 MS. SHELBY: THAT'S RIGHT.

3 MR. WAPNER: OKAY. DO YOU EXPECT THAT WILL HAPPEN IN  
4 THIS CASE?

5 MS. SHELBY: I DON'T EXPECT IT.

6 MR. WAPNER: DID YOU EVER WATCH PERRY MASON ON TELEVISION?

7 MS. SHELBY: YES.

8 MR. WAPNER: IN THOSE CASES, EITHER SOME WITNESS BROKE  
9 DOWN ON THE WITNESS STAND --

10 MS. SHELBY: UH-HUH.

11 MR. WAPNER: -- OR SOMEBODY JUMPED UP IN THE BACK OF  
12 THE COURTROOM; DO YOU THINK THAT WILL HAPPEN IN THIS CASE?

13 MS. SHELBY: NO.

14 MR. WAPNER: IF THIS CASE DOESN'T TURN OUT TO BE LIKE  
15 THE SHERLOCK HOLMES BOOKS OR A PERRY MASON TV SHOW, ARE YOU  
16 GOING TO SAY, WELL, THEY DIDN'T PROVE THE CASE BEYOND A  
17 REASONABLE DOUBT?

18 MS. SHELBY: NO.

19 MR. WAPNER: DO YOU UNDERSTAND THAT THE STANDARD OF  
20 PROOF OF BEYOND A REASONABLE DOUBT IS DIFFERENT THAN BEYOND  
21 ALL DOUBT?

22 MS. SHELBY: YES.

23 MR. WAPNER: DID YOU HEAR MR. PEIKERT YESTERDAY SAY  
24 HE THOUGHT I WAS GOING TO HAVE TO BE A HOUDINI TO PROVE THIS  
25 MURDER TO YOU WITHOUT A BODY?

26 MS. SHELBY: I REMEMBER THAT, YES.

27 MR. WAPNER: DO YOU FEEL THAT WAY?

28 MS. SHELBY: NO.

1 MR. WAPNER: DO YOU THINK IT IS POSSIBLE TO PROVE SOMEONE  
2 GUILTY BEYOND A REASONABLE DOUBT OF A MURDER EVEN THOUGH WE  
3 DON'T PRODUCE A CORPSE FOR YOU?

4 MS. SHELBY: IT WOULD BE POSSIBLE.

5 MR. CHIER: THAT IS ASKING HER TO PREJUDGE THE EVIDENCE.

6 THE COURT: OTHER COUNSEL IS HANDLING THE VOIR DIRE.  
7 YOU MIGHT HAVE HIM MAKE THE MOTIONS. YOU HAVE ONE HANDLE  
8 THE VOIR DIRE AND NOT TWO.

9 MR. BARENS, DO YOU HAVE ANY MOTION?

10 MR. BARENS: NOT AT THE MOMENT, YOUR HONOR.

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1 MR. WAPNER: ANYONE ELSE ON THE JURY BESIDES MR. PEIKERT  
2 WHO FEELS THAT I AM GOING TO HAVE TO BE A HOUDINI TO PROVE THAT  
3 A MURDER OCCURRED IF THERE IS NO CORPSE?

4 (THERE IS NO AFFIRMATIVE RESPONSE.)

5 MR. WAPNER: IS THERE ANYONE WHO IS GOING TO HOLD THE  
6 PROSECUTION TO A STANDARD HIGHER THAN THAT OF PROOF BEYOND A  
7 REASONABLE DOUBT BECAUSE THIS IS A MURDER CASE WHERE THERE WILL  
8 BE NO BODY?

9 (THERE WAS NO AFFIRMATIVE RESPONSE.)

10 MR. WAPNER: MR. CANADY, DO YOU HAVE ANY PROBLEMS WITH  
11 THAT?

12 MR. CANADY: NO.

13 MR. WAPNER: OKAY. MS. EWELL, DO YOU HAVE ANY CHILDREN?

14 MS. EWELL: THREE.

15 MR. WAPNER: WHAT ARE THEIR AGES?

16 MS. EWELL: EIGHTEEN, FOURTEEN AND NINE.

17 MR. WAPNER: AND WHAT DO THEY DO?

18 MS. EWELL: MY OLDEST IS AT SCHOOL.

19 MR. WAPNER: WHERE?

20 MS. EWELL: UCLA.

21 MR. WAPNER: OKAY. AND THE 14-YEAR-OLD?

22 THE COURT: THAT IS MISS HOFER'S --

23 MS. EWELL: YES. THE TWO YOUNGER ONES ARE IN SCHOOL.

24 MR. WAPNER: AND DOES THE 18-YEAR-OLD LIVE AT HOME OR  
25 ON CAMPUS?

26 MS. EWELL: ON CAMPUS.

27 MR. WAPNER: OKAY. AND THE OTHER TWO LIVE AT HOME, I  
28 TAKE IT?

1 MS. EWELL: YES.

2 MR. WAPNER: THE NINE-YEAR-OLD IS NOT ON HIS OWN YET?

3 MS. EWELL: NO.

4 MR. WAPNER: AND HOW ABOUT BROTHERS AND SISTERS?

5 MS. EWELL: NO. I DON'T HAVE ANY.

6 MR. WAPNER: ARE YOUR PARENTS STILL LIVING?

7 MS. EWELL: YES.

8 MR. WAPNER: DO THEY LIVE IN THE LOS ANGELES AREA?

9 MS. EWELL: MY MOTHER DOES.

10 MR. WAPNER: AND DO YOU HAVE -- WHAT KIND OF CONTACT DO  
11 YOU HAVE WITH HER?

12 MS. EWELL: I SEE HER ONCE OR TWICE A WEEK. I TALK TO  
13 HER ON THE PHONE A LOT.

14 MR. WAPNER: OKAY. THANK YOU.

15 MR. HECK, YOU HAVE A SON WHO IS 31, RIGHT?

16 MR. HECK: RIGHT.

17 MR. WAPNER: ANY OTHER CHILDREN?

18 MR. HECK: NO.

19 MR. WAPNER: AND ARE YOUR PARENTS STILL LIVING?

20 MR. HECK: NO.

21 MR. WAPNER: MS. SHELBY, HAVE YOU EVER BEEN MARRIED?

22 MS. SHELBY: YES.

23 MR. WAPNER: DO YOU HAVE ANY CHILDREN?

24 MS. SHELBY: ONE.

25 MR. WAPNER: HOW OLD IS THAT CHILD?

26 MS. SHELBY: 22.

27 MR. WAPNER: WHAT DOES HE OR SHE DO?

28 MS. SHELBY: SHE WORKS FOR THE DEPARTMENT OF SOCIAL

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1 SERVICES.

2 MR. WAPNER: DOING WHAT?

3 MS. SHELBY: COMPUTER OPERATOR. I DON'T KNOW WHAT THEY  
4 CALL THEM. SHE OPERATES A COMPUTEP.

5 MR. WAPNER: OKAY. AND ARE YOUR PARENTS STILL LIVING?

6 MS. SHELBY: YES.

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1 MR. WAPNER: DO THEY LIVE IN THE LOS ANGELES AREA?

2 MS. SHELBY: ACROSS THE STREET FROM ME.

3 MR. WAPNER: ACROSS THE STREET? IS THAT GOOD OR BAD?

4 MS. SHELBY: THAT'S GOOD.

5 MR. WAPNER: OKAY. SO YOU SEE THEM I ASSUME, ON A DAILY  
6 BASIS?

7 MS. SHELBY: A DAILY BASIS ALMOST, YES.

8 MR. WAPNER: OKAY. AND DO THEY STILL LIVE IN THE HOUSE  
9 YOU GREW UP IN?

10 MS. SHELBY: NO.

11 MR. WAPNER: YOU TOLD US THAT YOU LIVE ON BRONSON AVENUE.  
12 BUT I DON'T KNOW WHERE THAT IS. WHAT GENERAL PART OF TOWN  
13 IS THAT IN?

14 MS. SHELBY: MID-WILSHIRE.

15 MR. WAPNER: OKAY. HOW LONG HAVE YOU BEEN WORKING WITH  
16 THE STATE EMPLOYMENT DEPARTMENT?

17 MS. SHELBY: SINCE '75.

18 MR. WAPNER: AND HAVE YOU ALWAYS BEEN AN INTERVIEWER  
19 WITH THEM?

20 MS. SHELBY: NO. I USED TO DO PAYROLL.

21 MR. WAPNER: AND IS THAT WHAT YOU STARTED DOING, IS  
22 PAYROLL?

23 MS. SHELBY: NO. I STARTED ON THE PERSONNEL BOARD.  
24 WHEN YOU HAVE A STATE EXAM, YOU HAVE TO GO IN AND TO BE  
25 INTERVIEWED. I TAPED THE INTERVIEWS.

26 MR. WAPNER: YOU TAPED IT?

27 MS. SHELBY: YOU HAVE A JOB INTERVIEW. YOU GET PUT ON  
28 A LIST. WHEN YOU GO FOR YOUR JOB INTERVIEW, ALL INTERVIEWS

1 ARE TAPED.

2 MR. WAPNER: SO YOU WERE OPERATING THE TAPING EQUIPMENT?

3 MS. SHELBY: RIGHT.

4 MR. WAPNER: WERE THOSE TAPED WHEN THE PERSON KNEW THEY  
5 WERE BEING TAPED?

6 MS. SHELBY: THEY KNEW THEY WERE BEING TAPED.

7 MR. WAPNER: AND SO THE JOB YOU ARE IN NOW IS KIND OF  
8 TWO OR THREE STEPS HIGHER THAN WHERE YOU STARTED?

9 MS. SHELBY: YES.

10 MR. WAPNER: ALL RIGHT. AND WHAT ARE YOUR ASPIRATIONS  
11 IF ANY, AS FAR AS CONTINUING IN THE DEPARTMENT OR GOING  
12 SOMEWHERE ELSE?

13 MS. SHELBY: I HAVE WORKED FOR THE STATE 16 YEARS.  
14 I DON'T THINK I AM GOING TO GO ANYWHERE ELSE.

15 MR. WAPNER: DO YOU HAVE ANY ASPIRATIONS OF DOING  
16 ANYTHING FOR THE STATE OTHER THAN WHAT YOU ARE DOING NOW?

17 MS. SHELBY: PROBABLY. BUT IT IS BASICALLY THE SAME.  
18 I AM UP FOR A SUPERVISORY POSITION. BUT IT WILL STILL BE  
19 WITHIN THE EMPLOYMENT DEPARTMENT.

20 MR. WAPNER: OKAY. MR. CANADY, DO YOU HAVE BROTHERS  
21 AND SISTERS?

22 MR. CANADY: TWO BROTHERS AND ONE SISTER.

23 MR. WAPNER: WHAT DO THEY DO?

24 MR. CANADY: ONE IS A STOCKBROKER. ONE IS A USED CAR  
25 MANAGER. AND MY SISTER IS A BOOKKEEPER FOR A DOCTOR'S  
26 OFFICE.

27 MR. WAPNER: NOW, DO YOU TALK TO YOUR BROTHERS AND  
28 SISTERS VERY OFTEN?

1 MR. CANADY: YES.

2 MR. WAPNER: APPROXIMATELY HOW OFTEN, ONCE A WEEK OR  
3 ONCE A DAY?

4 MR. CANADY: WELL, THEY LIVE NEXT DOOR TO ME. SO I  
5 SEE THEM EVERY DAY.

6 MR. WAPNER: AND DO YOU LIVE BY YOURSELF, WITH YOUR  
7 FAMILY OR WITH A ROOMMATE?

8 MR. CANADY: MYSELF.

9 MR. WAPNER: SO THEY LIVE IN THE SAME APARTMENT BUILDING  
10 THAT YOU DO?

11 MR. CANADY: YES.

12 MR. WAPNER: AND YOUR PARENTS ARE STILL LIVING?

13 MR. CANADY: YES.

14 MR. WAPNER: AND HOW OFTEN DO YOU TALK TO THEM?

15 MR. CANADY: ONCE OR TWICE A WEEK.

16 MR. WAPNER: AND THE FAMILY STILL HAS THE CAR BUSINESS?

17 MR. CANADY: NO.

18 MR. WAPNER: MR. DUNDORE, ANY CHILDREN?

19 MR. DUNDORE: YES, TWO.

20 MR. WAPNER: WHAT ARE THEIR AGES?

21 MR. DUNDORE: 28 AND 31.

22 MR. WAPNER: WHAT DO THEY DO?

23 MR. DUNDORE: MY SON WHO IS 28, WORKS FOR BULLOCKS  
24 DEPARTMENT STORES AS A COMPUTER PROGRAMMER IN THEIR CENTRAL  
25 OFFICE.

26 MR. WAPNER: AND THE OTHER ONE?

27 MR. DUNDORE: THE DAUGHTER IS CURRENTLY WORKING AS A  
28 WAITRESS.

1 MR. WAPNER: MR. PEIKERT, ANY CHILDREN?

2 MR. PEIKERT: ONE DAUGHTER, AGE EIGHT.

3 MR. WAPNER: ARE YOUR PARENTS STILL LIVING?

4 MR. PEIKERT: MY FATHER IS.

5 MR. WAPNER: IS HE LIVING IN THE LOS ANGELES AREA?

6 MR. PEIKERT: YES HE IS.

7 MR. WAPNER: HOW OFTEN DO YOU TALK TO HIM?

8 MR. PEIKERT: WEEKLY.

9 MR. WAPNER: HOW OFTEN DO YOU GET TOGETHER WITH HIM?

10 MR. PEIKERT: BIWEEKLY.

11 MR. WAPNER: MRS. WALKER?

12 MS. WALKER: YES.

13 MR. WAPNER: YOU HAVE TWO CHILDREN, RIGHT?

14 MS. WALKER: YES. TWO DAUGHTERS.

15 MR. WAPNER: ALL RIGHT. ARE YOUR PARENTS STILL LIVING?

16 MS. WALKER: NO.

17 MR. WAPNER: MR. ENGLE, CHILDREN?

18 MR. ENGLE: THREE.

19 MR. WAPNER: AND WHAT DO THEY DO?

20 MR. ENGLE: THE OLDEST SON IS 39. HE DRIVES AN ARMY  
21 TRUCK. THE SECOND SON IS 35. HE IS A GEOLOGY MAJOR, PRESENTLY  
22 UNEMPLOYED.

23 THE DAUGHTER IS 19. SHE WORKS AS A RECEPTIONIST  
24 AND TYPIST FOR RSL LABS AND GOES TO SCHOOL NIGHTS AT SANTA  
25 MONICA COLLEGE.

26 MR. WAPNER: DO THEY ALL LIVE LOCALLY?

27 MR. ENGLE: TWO OF THEM LIVE AT HOME. ONE OF THEM LIVES  
28 IN TORRANCE.

1 MR. WAPNER: WOULD YOU SAY THAT YOU ARE FAIRLY CLOSE  
2 TO YOUR KIDS?

3 MR. ENGLE: YES.

4 MR. WAPNER: MR. TAUB? YOU HAVE GOT A GRANDDAUGHTER?

5 MR. TAUB: NO, A GRANDSON.

6 MR. WAPNER: SORRY. SO YOU HAVE AT LEAST SOME CHILDREN.  
7 TELL ME ABOUT THEM.

8 MR. TAUB: MY DAUGHTER IS 39. SHE IS AN ACUPUNCTURIST.

9 MY SON IS 35. HE IS A PASTOR IN INDIANNAPOLIS.  
10 HE DOESN'T LIVE HERE.

11 MR. WAPNER: WHAT KIND OF A PASTOR IS HE?

12 MR. TAUB: HE IS WITH THE REVEREND MOON. HE IS IN CHARGE  
13 OF THE STATE OF INDIANA.

14 MR. WAPNER: AS FAR AS THE REVEREND MOON IS CONCERNED?  
15 NOT AS FAR AS THE GOVERNOR OF INDIANA IS CONCERNED, THOUGH?

16 MR. TAUB: TRUE. AS FAR AS MY SON IS CONCERNED, HE  
17 DISREGARDS THE GOVERNOR, THOUGH.

18 MR. WAPNER: YES. WHEN DID YOU FIRST FIND -- WELL,  
19 HOW LONG HAS YOUR SON BEEN WITH THE REVEREND MOON?

20 MR. TAUB: SINCE HE GRADUATED FROM COLLEGE. LIKE THE  
21 NEXT WEEK.

22 MR. WAPNER: AND HOW OLD IS HE NOW?

23 MR. TAUB: 35.

24 MR. WAPNER: SO IT IS 14 YEARS, 13 OR 14 YEARS?

25 MR. TAUB: YES.

26 MR. WAPNER: WHEN HE GRADUATED FROM COLLEGE AND WENT  
27 WITH THE REVEREND MOON, DID YOU FIND OUT ABOUT IT AS A SUDDEN  
28 THING OR HAD IT BEEN COMING ON GRADUALLY?

1 MR. TAUB: NO. WE FOUND OUT ABOUT IT VERY SUDDENLY.  
2 IT WAS A BLOW.

3 MR. WAPNER: AND WHAT KIND OF CONTACT, IF ANY, DO YOU  
4 HAVE WITH HIM NOW?

5 MR. TAUB: WE TALK TO HIM FAIRLY REGULARLY. HE HAS  
6 A DAUGHTER. WE INTEND TO GO SEE THEM AS SOON AS HIS MOTHER  
7 COMES BACK FROM FINLAND.

8 MR. WAPNER: SO YOUR WIFE IS TRAVELING THERE ON HOLIDAY  
9 OR VACATION OR DOES SHE HAVE FAMILY THERE?

10 MR. TAUB: NO. WE WANT TO SEE OUR GRANDDAUGHTER. IT  
11 IS JUST BECAUSE THEY ARE IN FINLAND RIGHT NOW THAT WE HAVE  
12 NOT BEEN ABLE TO GO.

13 MR. WAPNER: OKAY. I MISUNDERSTOOD YOU. I THOUGHT  
14 THAT YOUR WIFE WAS NOW IN FINLAND.

15 MR. TAUB: NO.

16 MR. WAPNER: YOUR SON AND HIS WIFE?

17 MR. TAUB: NO. MY DAUGHTER-IN-LAW AND HER DAUGHTER  
18 ARE IN FINLAND.

19 MR. WAPNER: OKAY.

20 MR. TAUB: SORRY TO CONFUSE YOU.

21 MR. WAPNER: THAT'S ALL RIGHT. WHEN WAS THE LAST TIME  
22 THAT YOU SAW YOUR SON?

23 MR. TAUB: ABOUT TWO YEARS AGO.

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1 MR. WAPNER: DO YOU HAVE ANY INVOLVEMENT WITH ANY KIND  
2 OF ORGANIZATIONS THAT DEAL WITH CULTS?

3 MR. TAUB: NO.

4 MR. WAPNER: ANTI-CULT ORGANIZATIONS, ANYTHING LIKE THAT?

5 MR. TAUB: NO.

6 MR. WAPNER: HOW DO YOU FEEL ABOUT CULTS GENERALLY?

7 MR. TAUB: I THINK THEY STINK.

8 MR. WAPNER: I AM TRYING TO FIGURE OUT HOW -- I AM  
9 TRYING TO FORMULATE SOME KIND OF A QUESTION SOMEWHAT RELATED  
10 TO THIS CASE.

11 DO YOU INCLUDE IN THAT, IN THE IDEA OF CULTS OR  
12 CULT-LIKE PERSONALITIES PEOPLE LIKE CHARLES MANSON, FOR  
13 EXAMPLE?

14 MR. TAUB: YES.

15 MR. WAPNER: AND ALTHOUGH MR. MANSON DIDN'T HAVE AN  
16 ORGANIZED CULT IN THE SAME SENSE THAT THE REVERAND MOON DOES,  
17 YOU CAN SEE THAT THERE ARE CERTAIN SIMILARITIES IN HIS  
18 PERSONALITY WITH REVERAND MOON'S PERSONALITY?

19 MR. TAUB: I DON'T KNOW THAT I WOULD GO THAT FAR, NO.

20 MR. WAPNER: OKAY. YOU MAKE ANALOGIES TO THE TYPE OF  
21 FOLLOWING THAT MR. MANSON WAS ABLE TO OBTAIN FROM HIS PEOPLE  
22 AND THE TYPE OF FOLLOWING THAT MR. MOON GETS FROM HIS PEOPLE,  
23 FOR EXAMPLE?

24 MR. TAUB: IN ONE SENSE I WOULD SAY THAT, YES, THEY ARE  
25 ON THE FANATIC FRINGE. BUT IN THE OTHER SENSE, I WOULD SAY  
26 THAT AS FAR AS WHAT I KNOW OF MY SON AND HIS PEOPLE THERE,  
27 THEY ARE NOT VIOLENT PEOPLE AT ALL, WHEREAS MANSON CERTAINLY  
28 WAS.

1 MR. WAPNER: OKAY. BUT AS FAR AS THE TYPE OF CONTROL  
2 OR AUTHORITY THAT THE REVERAND MOON APPARENTLY EXERCISES OVER  
3 HIS DISCIPLES, DO YOU IN YOUR MIND FIND THAT IN ANY WAY  
4 SIMILAR?

5 MR. TAUB: TO MANSON?

6 MR. WAPNER: TO MANSON.

7 MR. TAUB: NO.

8 MR. WAPNER: MS. HOFER, I TAKE IT YOU HAVE NEVER BEEN  
9 MARRIED?

10 MS. HOFER: THAT'S RIGHT.

11 MR. WAPNER: ARE YOUR PARENTS STILL LIVING?

12 MS. HOFER: NO.

13 MR. WAPNER: WHEN THEY WERE LIVING, THEY LIVED IN THE  
14 LOS ANGELES AREA?

15 MS. HOFER: MY MOTHER DID, YES.

16 MY FATHER WAS KILLED IN WORLD WAR I IN GERMANY.

17 MR. WAPNER: AND WERE YOU CLOSE TO YOUR MOTHER WHILE  
18 SHE WAS ALIVE?

19 MS. HOFER: OH, YES.

20 MR. WAPNER: MS. KNUEDELER, BOTHERS AND SISTERS?

21 MS. KNUEDELER: YES, ONE OF EACH.

22 MR. WAPNER: AND WHAT DO THEY DO?

23 MS. KNUEDELER: MY SISTER IS AN INSURANCE ADJUSTER AND  
24 MY BROTHER IS A PAINTER-CONTRACTOR.

25 MR. WAPNER: AND WHAT DO YOUR PARENTS DO?

26 MS. KNUEDELER: MY MOTHER IS A TYPESETTER FOR RAND AND  
27 MY FATHER IS -- IT IS TOUGH -- HE IS AN AVIATION DIRECTOR.

28 MR. WAPNER: WHAT DOES THAT MEAN?



1 MS. KNUEDER: I HAVE NO IDEA.

2 HE JUST TRAVELS A LOT. HE WORKS AT VAN NUYS  
3 AIRPORT. HE TAKES CARE OF ALL OF THE AIR SHOWS AND ALL OF THE  
4 OLD WAR PLANES AND THINGS LIKE THAT.

5 MR. WAPNER: DO YOUR FOLKS LIVE IN THE VALLEY?

6 MS. KNUEDER: YES.

7 MR. WAPNER: HOW OFTEN DO YOU SEE THEM?

8 MS. KNUEDER: I SEE MY MOTHER ABOUT ONCE A WEEK AND I  
9 SEE MY FATHER ABOUT ONCE A MONTH.

10 MR. WAPNER: MR. GHIRARDI, YOU HAVE ONE SON AND TWO  
11 STEPCHILDREN, RIGHT?

12 MR. GHIRARDI: NO.

13 THEY ARE ALL GIRLS.

14 MR. WAPNER: I AM SORRY.

15 MR. GHIRARDI: ONE DAUGHTER AND TWO STEPDAUGHTERS.

16 MR. WAPNER: DO THEY LIVE LOCALLY IN THE LOS ANGELES  
17 AREA?

18 MR. GHIRARDI: THE STEPDAUGHTERS DO.

19 MR. WAPNER: HOW OFTEN -- DO THEY LIVE WITH YOU?

20 MR. GHIRARDI: OH, YES.

21 MR. WAPNER: AND ARE YOUR PARENTS STILL LIVING?

22 MR. GHIRARDI: MY MOTHER.

23 MR. WAPNER: WHERE DOES SHE LIVE?

24 MR. GHIRARDI: BALTIMORE.

25 MR. WAPNER: HOW OFTEN DO YOU SEE HER?

26 MR. GHIRARDI: ONCE, MAYBE TWICE A YEAR.

27 MR. WAPNER: MAY I HAVE A MOMENT, YOUR HONOR?

28 THE COURT: YES.

1 MR. WAPNER: THANK YOU. I WILL PASS FOR CAUSE.

2 THE COURT: I HAVE SOME FURTHER QUESTIONS TO ASK, WHICH  
3 I NEGLECTED TO DO WHEN I WAS VOIR DIRING THE JURY.

4 I AM ADDRESSING MYSELF NOW TO THE MEMBERS OF THE  
5 JURY SEATED IN THE JURY BOX.

6 ARE THERE ANY OF YOU OR MEMBERS OF YOUR FAMILY OR  
7 VERY CLOSE PERSONAL FRIENDS WHO HAVE EVER BEEN THE VICTIMS OF  
8 ANY KIND OF A SERIOUS CRIME, LIKE A ROBBERY OR MURDER OR  
9 MANSLAUGHTER, BURGLARY, ASSAULT, A SERIOUS ASSAULT, PURSE  
10 SNATCH, ANYTHING THAT IS OF A SERIOUS NATURE OF ANY KIND?

11 ALL RIGHT, WE HAVE MR. GHIRARDI. ANYBODY ELSE?  
12 MS. SHELBY. ALL RIGHT, MS. EWELL, ALL RIGHT, MR. DUNDORE.  
13 MRS. WALKER. MR. CANADY. MR. ENGLE. MISS HOFER.

14 HAVE I GOT YOU ALL?

15 I WILL START WITH NUMBER 1 --

16 MR. TAUB: DOES ROBBERY OF MY ICE CREAM STORE QUALIFY  
17 AS SERIOUS?

18 THE COURT: YES, ANY KIND OF VIOLENT CRIME, ROBBERY,  
19 BURGLARY OR CRIMES OF THAT KIND. THAT IS MR. TAUB.

20 ALL RIGHT, MRS. EWELL.

21 MS. EWELL: MY BROTHER-IN-LAW WAS MURDERED.

22 A JUROR: I CAN'T HEAR.

23 MS. EWELL: MY BROTHER-IN-LAW.

24 THE COURT: YOUR BROTHER-IN-LAW WAS MURDERED; HOW LONG  
25 AGO WAS THAT?

26 MS. EWELL: 1971.

27 THE COURT: DO YOU KNOW THE CIRCUMSTANCES OF THE MURDER?

28 MS. EWELL: HE WAS FOUND.

1 THE COURT: HE WAS WHAT?

2 MS. EWELL: HE WAS FOUND SHOT.

3 THE COURT: HE WAS FOUND SHOT?

4 MS. EWELL: OH-HUH.

5 THE COURT: AND KILLED?

6 MS. EWELL: YES.

7 THE COURT: DO YOU KNOW WHETHER OR NOT THE MURDERER HAS

8 EVER BEEN FOUND OR PROSECUTED?

9 MS. EWELL: NEVER.

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1 THE COURT: AS A RESULT OF THAT -- AND THERE IS A MURDER  
2 CHARGE HERE AGAINST THIS DEFENDANT -- WOULD THAT IN ANY WAY  
3 PREJUDICE YOU AGAINST THE DEFENDANT BECAUSE YOUR BROTHER-IN-  
4 LAW HAD BEEN MURDERED AT ONE TIME?

5 MS. EWELL: NO.

6 THE COURT: ALL RIGHT, MS. SHELBY?

7 MS. SHELBY: I HAD MY PURSE STOLEN ONCE.

8 THE COURT: YOUR PURSE STOLEN?

9 MS. SHELBY: PURSE STOLEN.

10 THE COURT: HOW LONG AGO?

11 YOU MEAN A PURSE SNATCH, WAS THAT IT?

12 MS. SHELBY: RIGHT.

13 THE COURT: HOW LONG AGO WAS THAT?

14 MS. SHELBY: I THINK IT WAS DECEMBER OF '81.

15 THE COURT: DID THAT RESULT IN ANY KIND OF PROSECUTION?

16 MS. SHELBY: NO.

17 THE COURT: WAS IT INVESTIGATED BY THE POLICE?

18 MS. SHELBY: YES.

19 THE COURT: WERE YOU SATISFIED WITH THE WAY THAT  
20 INVESTIGATION WENT DOWN?

21 MS. SHELBY: WELL, I DON'T KNOW WHO DID IT AND THEY  
22 COULDN'T FIND HIM.

23 THE COURT: YOU WOULD PREFER TO HAVE THE PURSE SNATCHER  
24 CAUGHT OBVIOUSLY, BUT MANY TIMES PEOPLE, WHEN THEY COMMIT  
25 CRIMES AREN'T CAUGHT ALL OF THE TIME.

26 MS. SHELBY: RIGHT.

27 I GOT MOST OF MY THINGS BACK. THEY TOOK SOME --

28 THE COURT: HOW DID THEY COME BACK TO YOU?

1 MS. SHELBY: WELL, I GUESS THEY TOOK THE MONEY OUT AND  
2 JUST THREW THE PURSE AWAY.

3 THE COURT: OH, I SEE.

4 MS. SHELBY: SO --

5 THE COURT: THE FACT THAT YOU HAVE BEEN THE VICTIM OF A  
6 PURSE SNATCH, WHICH IS A SERIOUS CRIME, I WILL ASK THE SAME  
7 QUESTION I ASKED MRS. EWELL: WOULD THAT IN ANY WAY PREJUDICE  
8 YOU AGAINST THE DEFENDANT IN THIS CASE?

9 MS. SHELBY: NO.

10 THE COURT: WOULD IT PREJUDICE YOU AGAINST THE PROSECUTION  
11 BECAUSE THE PURSE SNATCHER WASN'T CAUGHT?

12 MS. SHELBY: NO.

13 THE COURT: ALL RIGHT, THANK YOU VERY MUCH.

14 MR. CANADY?

15 MR. CANADY: WE HAVE HAD MANY CARLOADS OF CARS STOLEN OFF  
16 OUR CAR LOT. THAT WAS YEARS BACK.

17 THE COURT: SOMETIMES HAVE THEY BEEN RECOVERED?

18 MR. CANADY: YES.

19 THE COURT: IN ALL CASES, WERE THEY INVESTIGATED BY THE  
20 POLICE?

21 MR. CANADY: YEH.

22 THE COURT: AND ARE YOU SATISFIED WITH THE WAY THE  
23 INVESTIGATIONS WENT DOWN, EVEN THOUGH SOME OF THE CARS HAD NOT  
24 BEEN RECOVERED?

25 MR. CANADY: IT WAS THE MOST THEY COULD DO.

26 THE COURT: BECAUSE OF THE FACT THAT YOU HAVE BEEN THE  
27 VICTIM A NUMBER OF TIMES OF CRIMES, WOULD THAT IN ANY WAY  
28 INFLUENCE YOU FOR OR AGAINST EITHER ONE, FOR THE PROSECUTION

OR AGAINST THE DEFENDANT?

MR. CANADY: NO.

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1 THE COURT: ALL RIGHT. THANK YOU. MR. DUNDORE?

2 MR. DUNDORE: YES. MY SON'S HOME WAS BROKEN INTO WHILE  
3 HE WAS AWAY. BUT THERE WAS A FRIEND STAYING THERE. AND THE  
4 PERSON THAT BROKE IN DISCOVERED THE HOUSE WAS NOT EMPTY AND  
5 GRABBED A BRIEFCASE AND RAN OUT THE FRONT DOOR AND NOBODY  
6 WAS EVER CAUGHT.

7 THE COURT: AND WAS IT INVESTIGATED BY THE POLICE?

8 MR. DUNDORE: IT WAS.

9 THE COURT: AND AS FAR AS YOU KNOW, DID THEY DO THE  
10 BEST JOB THAT THEY COULD UNDER THE CIRCUMSTANCES?

11 MR. DUNDORE: HE WAS SATISFIED, YES.

12 THE COURT: WOULD THAT IN ANY WAY INFLUENCE YOU ONE  
13 WAY OR THE OTHER AGAINST THE DEFENDANT IN THIS CASE BECAUSE  
14 YOUR SON WAS A VICTIM?

15 MR. DUNDORE: NO.

16 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

17 MR. GHIRARDI, WHAT HAPPENED TO YOU?

18 MR. GHIRARDI: WELL, ONE TIME SOMEBODY THREW A HAMMER  
19 AT ME AND HIT ME, WHEN I WAS WORKING IN A HOTEL.

20 ANOTHER TIME I WAS BURGLARIZED.

21 THE COURT: WAS THAT INVESTIGATED BY THE POLICE?

22 MR. GHIRARDI: WELL, THE BURGLARY, YES. THE OTHER ONE,  
23 THE POLICE CAME BUT THEY COULDN'T DO MUCH BECAUSE I DIDN'T  
24 KNOW WHO THE GUY WAS.

25 I WOULDN'T RENT HIM A ROOM AND HE GOT MAD AT ME.

26 THE COURT: WOULD THAT INFLUENCE YOU AGAINST THE  
27 DEFENDANT BECAUSE HE HAS BEEN CHARGED WITH A CRIME?

28 MR. GHIRARDI: NO.

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1 THE COURT: ALL RIGHT. MISS HOFER?

2 MS. HOFER: YES. I WAS BURGLARIZED.

3 THE COURT: HOW LONG AGO?

4 MS. HOFER: LET'S SEE -- IT WAS FOUR YEARS AGO LAST  
5 SEPTEMBER.

6 THE COURT: WAS THE BURGLAR EVER CAUGHT?

7 MS. HOFER: NO.

8 THE COURT: IT WAS INVESTIGATED BY THE POLICE?

9 MS. HOFER: YES.

10 THE COURT: YOU WERE SATISFIED WITH THE WAY THE  
11 INVESTIGATION WENT DOWN?

12 MS. HOFER: C'EST LA VIE.

13 THE COURT: WOULD THAT PREJUDICE YOU AGAINST THE  
14 PROSECUTION BECAUSE OF THE FACT THAT THEY DIDN'T DO THE JOB --  
15 THE POLICE DIDN'T DO THE JOB YOU THINK THEY SHOULD HAVE DONE?

16 MS. HOFER: NO.

17 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

18 MR. TAUB, YOU TOLD US ABOUT YOUR ICE CREAM PARLOR  
19 HAVING BEEN BURGLARIZED OR ROBBED?

20 MR. TAUB: I DON'T KNOW WHAT THE DISTINCTION IS. IT  
21 WAS HELD UP FIVE TIMES.

22 THE COURT: WELL, THAT IS ROBBERY. DID THEY EVER RESULT  
23 IN ANY PROSECUTIONS?

24 MR. TAUB: NO. IT WAS JUST SOMEBODY RIDING DOWN THE  
25 STREET WHO SAW THE STORE AND THOUGHT IT WAS A GOOD TARGET,  
26 NEEDED MAYBE A FIX.

27 THEY CAME IN FOR ONE HUNDRED BUCKS AND THAT WAS  
28 IT.



DA-3

1 THE COURT: AND WAS IT INVESTIGATED BY THE POLICE, EACH  
2 ONE OF THOSE INSTANCES?

3 MR. TAUB: I AM SURE THEY CAME OVER. I DON'T REMEMBER  
4 BECAUSE, YOU KNOW, THEY NEVER FOUND ANYBODY.

5 THE COURT: ANYWAY, YOU WERE NEVER A WITNESS. WOULD  
6 YOU HOLD THAT AGAINST EITHER THE PROSECUTION OR THE DEFENSE  
7 IN THIS CASE BECAUSE YOU WERE A VICTIM?

8 MR. TAUB: NO, NOT AT ALL.

9 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

10 MR. ENGLE?

11 MR. ENGLE: MY SON HAD HIS CAR STOLEN FROM THE DRIVEWAY  
12 ABOUT FOUR OR FIVE YEARS AGO.

13 THE COURT: WAS THAT INVESTIGATED BY THE POLICE?

14 MR. ENGLE: YES.

15 THE COURT: WAS THE CAR EVER RECOVERED?

16 MR. ENGLE: NO.

17 THE COURT: AND AS FAR AS YOU KNOW, THE INVESTIGATION  
18 WAS CONDUCTED PROFESSIONALLY BY THE POLICE? YOU THINK AS  
19 PROFESSIONALLY AS IT WERE POSSIBLE TO DO?

20 MR. ENGLE: AS FAR AS I KNOW, IT WAS.

21 THE COURT: YOU TOO, HAVE NO PREJUDICE AGAINST THE  
22 PROSECUTION OR THE DEFENSE BECAUSE OF THAT?

23 MR. ENGLE: NO.

24 THE COURT: ALL RIGHT. MS. WALKER?

25 MS. WALKER: YES. OUR HOME WAS BROKEN INTO ABOUT SIX  
26 YEARS AGO AT NEW YEAR'S EVE WHILE WE WERE AWAY.

27 THEY PUSHED OUT A SCREEN AND OPENED A WINDOW AND  
28 JUST BROKE SOME THINGS GETTING IN THE BATHROOM.

1           THEY TOOK A MICROWAVE AND SOME JEWELRY FROM MY  
2 ROOM, FROM THE BEDROOM AND MY DAUGHTER'S ROOM.

3           AND THERE WAS SOME ANTIQUE JEWELRY AND A SMALL  
4 AMOUNT OF MONEY. WE CALLED THE POLICE.

5           BUT THEY MADE OUT REPORTS. BUT THEY SAID THERE  
6 HAD BEEN SO MANY KNIFINGS AND MURDERS THAT EVENING, THAT THEY  
7 REALLY COULDN'T DO VERY MUCH ABOUT IT.

8           AND SO THEY WERE COURTEOUS AND THEY DID WHAT THEY  
9 COULD. BUT I NEVER RECOVERED ANYTHING. AND THEY NEVER FOUND  
10 ANYONE.

11           BUT I GUESS THEY TOLD ME THAT IS ALL THEY COULD  
12 DO. I WAS NOT TOO HAPPY ABOUT IT BUT --

13           THE COURT: OF COURSE. WOULD THAT IN ANY WAY PREJUDICE  
14 YOU AGAINST THE DEFENDANT ACCUSED OF A CRIME?

15           MS. WALKER: NO.

16           THE COURT: THANK YOU VERY MUCH. NOW I WILL TAKE THE  
17 NAMES OF THOSE JURORS WHO ARE SEATED BEHIND THE RAILING.  
18 I ONLY WANT YOUR NAMES. IF BY ANY CHANCE YOU TAKE THE PLACE  
19 OF ANY JUROR PRESENTLY SEATED IN THE JURY BOX, I WILL HAVE  
20 YOUR NAMES. I WILL ASK YOU QUESTIONS SIMILAR TO THOSE WHICH  
21 HAVE BEEN ASKED THOSE WHO ARE SEATED IN THE JURY BOX AND  
22 INDICATED THAT THEY HAVE BEEN VICTIMS OR MEMBERS OF THEIR  
23 FAMILY HAVE BEEN VICTIMS OF SOME SERIOUS OFFENSE OR CRIME.

1 I WILL START WITH THE JURORS IN THE FIRST ROW.

2 GIVE ME YOUR NAME, PLEASE. IS THERE ANYBODY?

3 MR. KRAUSS: KRAUSS, K-R-A-U-S-S.

4 THE COURT: ALL RIGHT, MR. KRAUSS. LET ME CHECK YOU OFF.

5 IS THERE ANYBODY ELSE IN THE FRONT ROW? YES,

6 MA'AM?

7 MS. OSBORNE: OSBORNE.

8 THE COURT: OKAY. OSBORNE. THERE IS ANOTHER ONE?

9 MS. HADLOCK: HADLOCK, H-A-D-L-O-C-K.

10 THE COURT: YES. I HAVE YOU HERE, MS. HADLOCK. IS THAT

11 RIGHT?

12 MS. HADLOCK: YES.

13 THE COURT: OKAY. AND YOU?

14 MS. BLEVINS: BLEVINS.

15 THE COURT: ALL RIGHT. BLEVINS. AND THE SECOND ROW?

16 MR. MC CABE: MC CABE.

17 THE COURT: MC CABE? ALL RIGHT. YES?

18 MR. ROMBERG: ROMBERG.

19 THE COURT: ROMBERG? YES. AND YOU?

20 MS. SOMMER: SOMMER.

21 THE COURT: OKAY. SOMMER.

22 YOU?

23 MR. WIENS: WIENS.

24 THE COURT: AND YOU?

25 MR. DOMINGUEZ: DOMINGUEZ.

26 THE COURT: YES, SIR. AND YOU?

27 MR. GARVIN: GARVIN.

28 THE COURT: YES, SIR. AND YOU, MA'AM?

1 MS. SILVERSTEIN: SILVERSTEIN.  
2 THE COURT: YES, MA'AM.  
3 MS. HARRIS: HARRIS.  
4 THE COURT: YES, MA'AM.  
5 MS. KRAMER: KRAMER, WITH A K.  
6 THE COURT: YES.  
7 MS. CLEMENTS: CLEMENTS WITH A C.  
8 THE COURT: YES?  
9 MS. BORNE: BORNE.  
10 THE COURT: YES. SIR?  
11 MR. DIPAOLA: DIPAOLA.  
12 THE COURT: YES.  
13 MS. MATERNA: MATERNA.  
14 THE COURT: YES?  
15 MS. DIANA JONSSON: JONSSON.  
16 THE COURT: WHICH JONSSON, MARJORIE?  
17 MS. JONSSON: NO, DIANA.  
18 THE COURT: OKAY. YES, MA'AM?  
19 MS. FURSTENBERG: FURSTENBERG.  
20 THE COURT: YES?  
21 MS. SIMON: SIMON, S-I-M-O-N.  
22 THE COURT: THANK YOU. YES, SIR?  
23 MR. WHITFIELD: WHITFIELD.  
24 THE COURT: YES, MR. WHITFIELD. YES?  
25 MS. HALICK: HALICK.  
26 THE COURT: YES.  
27 MS. GHAEMMAGHAMI: GHAEMMAGHAMI.  
28 THE COURT: YES. ANYBODY ELSE?

1 MR. CLEWS: YES. CLEWS.

2 THE COURT: YES. AND YOU?

3 MS. AGSAOAY; AGSAOAY.

4 THE COURT: YES. THANK YOU. AND YOU?

5 MR. BERSINGER: BERSINGER. THAT'S B-E-R.

6 THE COURT: YES. THAT'S RIGHT.

7 THE COURT: YES?

8 MR. STROUP: STROUP.

9 THE COURT: ROY STROUP?

10 MR. STROUP: YES.

11 THE COURT: YES, MA'AM?

12 MS. MARCUS: MS. MARCUS.

13 THE COURT: YES. HAVE WE GOT EVERYBODY? ALL RIGHT.

14 NOW, I HAVE GOT TO ASK YOU THE OPPOSITE OF THAT  
15 QUESTION. ARE ANY OF YOU OR MEMBERS OF YOUR FAMILY OR CLOSE  
16 PERSONAL FRIENDS WHO HAVE EVER BEEN ACCUSED OF A SERIOUS CRIME?  
17 I DON'T MEAN A MISDEMEANOR LIKE GOING THROUGH A RED LIGHT OR  
18 ANYTHING LIKE THAT.

19 BUT, HAVE YOU BEEN ACCUSED OR CHARGED WITH ANY  
20 KIND OF A SERIOUS OFFENSE, A SERIOUS CRIME? ANYBODY?

21 (THERE WAS A SHOW OF HANDS.)

22 THE COURT: ALL RIGHT. MS. SHELBY?

23 MS. SHELBY: YES.

24 THE COURT: YES?

25 MR. RAGLE: RAGLE.

26 THE COURT: ALL RIGHT. MR. RAGLE. YES?

27 MS. SILVERSTEIN: SILVERSTEIN.

28 THE COURT: YES?

1 MR. GARVIN: GARVIN.

2 THE COURT: GARVIN? YES. AND YOU?

3 MS. GHAEMMAGHAMI: GHAEMMAGHAMI.

4 THE COURT: YES?

5 MR. CLEWS: CLEWS.

6 THE COURT: YES?

7 MR. CAMPBELL: CAMPBELL.

8 THE COURT: YES, MR. CAMPBELL, HAS ANYBODY ELSE GOT  
9 A HAND UP?

10 MS. BLEVINS: BLEVINS.

11 THE COURT: BLEVINS? YES. ANYBODY ELSE?

12 (THERE WAS NO AFFIRMATIVE RESPONSE.)

13 THE COURT: I WILL GIVE ANY ONE OF YOU THE OPTION IF YOU  
14 WANT TO, TO DISCUSS THE CIRCUMSTANCES IF YOU DON'T WANT IT  
15 GENERALLY KNOWN TO ALL OF THE OTHER JURORS TO HAVE YOU UP TO  
16 THE BENCH WITH COUNSEL SO YOU CAN TELL US WHAT THE DETAILS  
17 ARE BECAUSE IT MAY BE TOO EMBARRASSING AND YOU DON'T WANT TO  
18 BE SUBJECT TO IT.

19 DO YOU WANT TO TELL US ABOUT IT, MISS SHELBY?

20 MS. SHELBY: YES. I HAVE A COUSIN WHO IS IN JAIL IN  
21 I THINK, LOUISIANA FOR BANK ROBBERY.

22 THE COURT: WHAT?

23 MS. SHELBY: BANK ROBBERY.

24 THE COURT: YES. DO YOU KNOW ANYTHING AT ALL ABOUT THE  
25 CIRCUMSTANCES ABOUT THE CASE?

26 MS. SHELBY: NO, NOT REALLY.

27 THE COURT: AND DID YOU FORM ANY IMPRESSION OR  
28 CONCLUSION AS TO WHETHER OR NOT HE WAS UNJUSTLY CHARGED?

29 MS. SHELBY: NO.

11-1 1 THE COURT: ALL RIGHT, THANK YOU VERY MUCH, MRS. SHELBY.

2 ANYBODY ELSE SEATED IN THE JURY BOX?

3 I THINK WE WILL TAKE A RECESS NOW AND WE WILL  
4 START WITH QUESTIONING BY COUNSEL ON THESE ASPECTS OF THE  
5 CASE SO FAR.

6 BUT INsofar AS THE OTHER JURORS SEATED BEHIND  
7 THE RAILING WHO HAVE INDICATED THAT THEY OR MEMBERS OF THEIR  
8 FAMILY OR CLOSE PERSONAL FRIENDS HAVE BEEN CHARGED WITH AN  
9 OFFENSE, I WON'T ASK YOU ANYTHING ABOUT IT UNLESS YOU TAKE  
10 THE PLACE OF A JUROR PRESENTLY SEATED IN THE JURY BOX.

11 I WILL HAVE YOUR NAME AND I WILL ASK YOU QUESTIONS OF THE  
12 SAME KIND THAT I HAVE ASKED MRS. SHELBY.

13 WE ARE RIGHT CLOSE TO THE RECESS. I THINK I WILL  
14 ASK YOU TO COME BACK TO THIS COURTROOM, NOT TO THE JURY  
15 ASSEMBLY ROOM, BUT WE ARE FINISHED WITH OUR BUSINESS FOR THE  
16 MORNING, WE HAVE NOTHING IN THE AFTERNOON EXCEPT THIS TRIAL  
17 SO ALL OF YOU, PLEASE COME BACK TO THIS COURTROOM AT 1:45  
18 THIS AFTERNOON. THAT IS 1:45 THIS AFTERNOON. YOU WILL TAKE  
19 THE SEATS WHICH YOU NOW OCCUPY AND THE REST OF YOU SIT  
20 ANYPLACE THAT YOU LIKE.

21 ALL RIGHT, HAVE A PLEASANT LUNCH.

22 (THE FOLLOWING PROCEEDINGS WERE HELD  
23 IN OPEN COURT OUT OF THE PRESENCE OF  
24 THE PROSPECTIVE JURORS:)

25 THE COURT: THE JURORS HAVE NOW LEFT THE COURTROOM.

26 YES?

27 MR. WAPNER: YOUR HONOR, WHEN WE BROKE YESTERDAY, THE  
28 COURT ASKED ME TO REVIEW THE CASE OF DAVIS V. ALASKA AND GIVE

1 THE COURT MY IMPRESSIONS AND I HAVE READ THAT CASE.

2 I HAVE TWO THINGS TO SAY: FIRST OF ALL, WE ARE  
3 SOMEWHAT HAMPERED BECAUSE WE DON'T KNOW THE EXACT NATURE OF  
4 THE INFORMATION CONTAINED IN THE RECORDS OF THE STATE BAR  
5 WHICH YOU REVIEWED.

6 I DID HEAR HOWEVER, THE STATEMENTS OF COUNSEL  
7 REGARDING WHY THEY WANT THIS INFORMATION. AS I UNDERSTAND  
8 IT, ONE OF THE REASONS THAT THE INFORMATION IS DESIRED BY  
9 THE DEFENSE IS BECAUSE THEY BELIEVE, WHETHER IT IS TRUE OR  
10 NOT, THAT MR. KARNY MADE A STATEMENT TO THE STATE BAR  
11 REGARDING HIS BACKGROUND THAT MAY HAVE INCLUDED THINGS ABOUT  
12 THIS OFFENSE.

13 THE COURT: ABOUT THIS OFFENSE?

14 MR. WAPNER: RIGHT, OR WHAT HE KNOWS ABOUT IT.

15 AGAIN, I AM JUST SPECULATING BUT I AM GOING BASED  
16 ON WHAT COUNSEL HAS SAID THAT -- WELL, MEANING THIS OFFENSE  
17 OR THE ESLAMINIA OFFENSE.

18 THE POINT IS I AM ONLY GOING BY WHAT THEY HAVE  
19 SAID THAT THEY WANT.

20 AND IF THAT IS THE CASE AND IF WE ARE TALKING  
21 ABOUT A STATEMENT THAT MR. KARNY MADE, IT SEEMS TO ME THAT  
22 DAVIS V. ALASKA IS CLEARLY DISTINGUISHABLE FROM THE CASE AT  
23 BAR FOR THE FOLLOWING REASON --

24 THE COURT: PARDON ME. ARE YOU TALKING NOW ABOUT THAT  
25 WHICH IS CLEARLY, ORDINARILY WOULD BE OF PRIVILEGE AND  
26 CONFIDENTIALITY, IS THAT WHAT YOU MEAN?

27 MR. WAPNER: RIGHT, THE STATE BAR HAS ASSERTED A PRIVILEGE.

28 THE COURT: YES.



11-3  
1 MR. WAPNER: THEY SAY, "WE HAVE THIS INFORMATION. IT  
2 IS GIVEN TO US IN CONFIDENCE."

3 THE COURT: ALL RIGHT.

4 MR. WAPNER: DAVIS V. ALASKA SAYS THERE ARE CERTAIN  
5 CASES WHERE THE STATE'S ASSERTION OF A PRIVILEGE OF  
6 CONFIDENTIALITY SHOULD GIVE WAY TO THE ABILITY OF A CRIMINAL  
7 DEFENDANT TO PROPERLY CROSS-EXAMINE THE WITNESS.

8 AND IN THIS CASE, IF WE ARE DISCUSSING A STATEMENT  
9 THAT MR. KARNY SUPPOSEDLY MADE TO THE STATE BAR, THE ARGUMENT,  
10 I ASSUME, WOULD BE THAT THE DEFENSE IS DEPRIVED OF ADEQUATELY  
11 CROSS-EXAMINING MR. KARNY BECAUSE THEY DON'T HAVE ACCESS TO  
12 THIS STATEMENT.

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1           IN DAVIS V. ALASKA, THE ONLY THING THAT THIS  
2 PARTICULAR DEFENDANT -- EXCUSE ME -- THE WITNESS HAD WAS THE  
3 JUVENILE CONVICTION FOR SOME KIND OF A BURGLARY OR SOMETHING  
4 AND THE ONLY WAY THAT THE DEFENSE HAD TO GET ACCESS TO THAT  
5 WAS BY THE COURT ALLOWING THEM TO ASK IT.

6           IN THIS CASE, IT IS A LOT DIFFERENT, BECAUSE  
7 MR. KARNY HAS MADE AT LEAST FIVE STATEMENTS THAT ARE ALREADY  
8 IN THE POSSESSION OF THE DEFENSE, HAVING TO DO WITH FACTS  
9 RELATED TO THIS CASE, SO TO SAY THAT THEY ARE BEING DEPRIVED  
10 OF AN OPPORTUNITY TO ADEQUATELY CROSS-EXAMINE MR. KARNY  
11 BECAUSE THEY, THEREFORE, CAN'T GET A SIXTH STATEMENT WHICH  
12 IS -- I AM ASSUMING BECAUSE I HAVEN'T SEEN IT -- VERY SIMILAR  
13 TO WHAT THEY ALREADY HAVE, SEEMS TO ME TO FALL SHORT OF THE  
14 BALANCING TEST.

15           IF YOU ARE WEIGHING THE STATE BAR'S INTEREST IN  
16 CONFIDENTIALITY AGAINST THE DEFENSE'S OPPORTUNITY TO GET YET  
17 ANOTHER STATEMENT OF MR. KARNY, I THINK THAT THAT FALLS FAR  
18 SHORT IN THAT BALANCING TEST.

19           THE COURT: I WANT TO INDICATE TO YOU PRELIMINARILY,  
20 I AM GOING TO MAKE AVAILABLE TO THE DEFENSE AND TO YOU THOSE  
21 FILES OF WHICH THERE IS NO PRIVILEGE THAT IS CLAIMED. IF  
22 THERE IS ANYTHING THAT YOU THINK MIGHT BE HELPFUL TO EITHER  
23 ONE OF YOU, YOU MAY USE IT.

24           AS TO THOSE OTHERS WHICH THE STATE BAR CLAIMED  
25 IS PRIVILEGED, I AM GOING TO GO THROUGH THAT, AND I HAVE GONE  
26 THROUGH IT ONCE BEFORE, I AM GOING TO GO THROUGH IT AGAIN  
27 VERY CAREFULLY. IF THERE IS ANYTHING THAT MIGHT POSSIBLY  
28 BE OF HELP TO THE DEFENSE OR TO THE PROSECUTION, FOR THAT

11A-2  
1 MATTER, WHICH RELATES TO THIS PARTICULAR SUBJECT MATTER, NAMELY,  
2 ANY STATEMENTS WHICH WERE MADE BY HIM ON ANYTHING RELATING  
3 TO THIS PARTICULAR CASE, I WILL MAKE THAT AVAILABLE.

4 MR. BARENS: YOUR HONOR, I AM SURE YOUR HONOR IS AWARE,  
5 WHEN YOUR HONOR SAID "ANYTHING HELPFUL TO THE DEFENSE," ANY  
6 STATEMENT HE MAKES MAKING A FACTUAL RECITATION OR NARRATIVE  
7 CONCERNING HIS INVOLVEMENT VIS-A-VIS THESE MATTERS.

8 THE COURT: ANYTHING WILL BE GIVEN TO YOU.

9 MR. BARENS: I APPRECIATE THAT.

10 THAT IS ESSENTIAL TO THE DEFENSE.

11 THE COURT: THERE IS NO QUESTION ABOUT IT, I AM GOING  
12 TO GIVE IT TO YOU. CATEGORICALLY, I MAKE THAT STATEMENT TO  
13 YOU.

14 MR. BARENS: THE DEFENSE IS GRATEFUL.

15 YOUR HONOR, I HAD ONE OTHER MATTER THAT I WANTED  
16 TO BRING UP OR INQUIRE ABOUT WITH YOUR HONOR SO WE WOULD MAKE  
17 SURE WE HAD NO MISUNDERSTANDING AS WE GO FORWARD HERE IN A  
18 PROCEDURAL, MECHANICAL SENSE.

19 IT WAS MY INTENTION, IT WAS THE DEFENSE'S  
20 INTENTION, YOUR HONOR, THAT AFTER WE HAD EXERCISED OUR FIRST  
21 CHALLENGE OR EXCUSED THE FIRST JUROR, I SHOULD SAY, RATHER,  
22 THAT FOR THE NEXT JURORS THAT CAME UP, I WISHED MY CO-COUNSEL,  
23 MR. CHIER, TO HAVE AN OPPORTUNITY TO VOIR DIRE WHEN THE  
24 COMPOSITION OF THE PANEL HAS CHANGED.

25 THE COURT: WHEN THERE HAS BEEN A CHANGE, HE WILL HAVE  
26 THAT RIGHT.

27 MR. BARENS: THANK YOU, YOUR HONOR.

28 THE COURT: YOU CAN ALTERNATE BUT NOT HAVE BOTH OF YOU

11A-3  
1 ON ONE JUROR.

2 MR. BARENS: NOT AT ALL, YOUR HONOR.

3 THE COURT: YOU CAN ALTERNATE, IF YOU DESIRE, WITH  
4 QUESTIONS AND THAT, I WILL PERMIT YOU TO DO BUT I DON'T WANT  
5 TO HAVE TWO OF YOU AT THE SAME TIME ON ONE JUROR.

6 MR. BARENS: I APPRECIATE THAT, YOUR HONOR.

7 THE COURT: THAT IS WHY I SAID INsofar AS GENERAL VOIR  
8 DIRE, I ONLY WANT YOU TO DO IT.

9 MR. BARENS: QUITE SO.

10 THE COURT: AND YOU ARE TO FINISH CONDUCTING IT.

11 BECAUSE I WILL GIVE YOU ANOTHER OPPORTUNITY, AS  
12 I WILL THE PEOPLE, ANOTHER OPPORTUNITY TO QUESTION THE JURORS.

13 THIS PARTICULAR JUROR, THERE HAS ONLY BEEN ONE  
14 RESPECTING ANY CRIME THAT HAS BEEN COMMITTED AGAINST HER (SIC.) AND  
15 YOU MAY ASK HER ANY QUESTIONS YOU WANT TOUCHING UPON ANY  
16 POSSIBLE PREJUDICE SHE MAY HAVE.

17 MR. BARENS: I THANK YOU, YOUR HONOR.

18 (AT 12:03 P.M. A RECESS WAS TAKEN  
19 UNTIL 1:45 P.M. OF THE SAME DAY.)  
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1 SANTA MONICA, CALIFORNIA; THURSDAY, DECEMBER 11, 1986; 1:53 P.M.  
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE  
3 (APPEARANCES AS HERETOFORE NOTED.)  
4

5 (THE FOLLOWING PROCEEDINGS WERE HELD  
6 IN OPEN COURT IN THE PRESENCE OF THE  
7 PROSPECTIVE JURORS:)

8 ~~THE COURT: IT WILL BE STIPULATED THE DEFENDANT IS~~  
9 PRESENT. COUNSEL ARE PRESENT. THE PROSPECTIVE JURORS ARE  
10 PRESENT.

11 MR. BARENS, DO YOU WANT TO ASK ANY QUESTIONS?

12 MR. BARENS: THE DEFENSE WOULD PASS FOR CAUSE. THANK  
13 YOU, YOUR HONOR.

14 THE COURT: I AM ADDRESSING MYSELF TO THE MEMBERS  
15 SEATED IN THE JURY BOX ON THE PANEL. BOTH SIDES HAVE PASSED  
16 FOR CAUSE. WHAT THAT MEANS IS THAT THERE DOESN'T EXIST ANY  
17 LEGAL REASON WHY ANY OF YOU PRESENTLY SEATED IN THE JURY BOX,  
18 CANNOT FAIRLY AND IMPARTIALLY SERVE AS TRIAL JURORS IN THIS  
19 CASE AND GIVE BOTH SIDES A FAIR TRIAL.

20 HOWEVER, IN EVERY CASE, WHETHER IT BE A CIVIL  
21 OR CRIMINAL CASE FOR THAT MATTER, EACH SIDE BY LAW IS  
22 ENTITLED TO EXERCISE A CERTAIN NUMBER OF WHAT WE CALL  
23 PEREMPTORY CHALLENGES.

24 A PEREMPTORY CHALLENGE IS ONE WHERE COUNSEL MERELY  
25 INDICATE TO THE COURT THAT THEY DESIRE TO HAVE A PARTICULAR  
26 JUROR EXCUSED AND THE COURT HAS NO DISCRETION IN THE MATTER  
27 BUT TO EXCUSE THAT PARTICULAR JUROR.

28 EACH OF THEM AS I SAY, HAS A CERTAIN NUMBER OF

1 PEREMPTORY CHALLENGES. IF ANY ONE OF YOU MIGHT BE  
2 PEREMPTORILY CHALLENGED, DON'T TAKE OFFENSE. IT IS NOT A  
3 REFLECTION ON YOUR ABILITY OR FAIRNESS TO SIT AS A TRIAL JUROR.

4 IT SO HAPPENS THAT IN THIS PARTICULAR CASE,  
5 COUNSEL DESIRE TO HAVE SOME OTHER JUROR REPLACE YOU. IT IS  
6 NO REFLECTION ON YOUR INTEGRITY AND NO REFLECTION ON YOUR  
7 ABILITY TO SERVE AS A TRIAL JUROR AND DOESN'T IN ANY WAY

8 ~~DEPRECIATE YOUR ABILITY AS A TRIAL JUROR.~~

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1 WITH THAT, THE PEOPLE HAVE THE RIGHT TO EXERCISE  
2 THE FIRST PEREMPTORY.

3 MR. WAPNER: YOUR HONOR, BEFORE DOING THAT, MAY I HAVE  
4 THE OPPORTUNITY TO VOIR DIRE THE JURORS ON THAT ADDITIONAL  
5 INFORMATION THAT YOU ASKED THEM ABOUT, THAT IS, THAT THEY  
6 WERE THE VICTIM (SIC) OF THESE --

7 THE COURT: THERE IS ONLY ONE, I THINK, THAT IS PRESENTLY  
8 SEATED IN THE JURY BOX, ISN'T THAT RIGHT?

9 MR. WAPNER: WELL, I THINK THERE WERE SEVERAL. THERE  
10 IS ONLY ONE ACTUALLY THAT I THINK I WANT TO QUESTION, BUT  
11 I THINK THERE WERE ACTUALLY SEVERAL.

12 THE COURT: GO AHEAD.

13 MR. WAPNER: MRS. SHELBY, YOU DIDN'T GET PICKED ON  
14 ENOUGH ALREADY.

15 MS. SHELBY: NO.

16 MR. WAPNER: SO I AM BACK TO YOU.

17 MS. SHELBY: OKAY.

18 MR. WAPNER: TELL ME WHAT YOU KNOW ABOUT YOUR COUSIN  
19 AND HIS INVOLVEMENT WITH THIS BANK ROBBERY; WAS IT IN  
20 LOUISIANA?

21 MS. SHELBY: RIGHT, THAT IS IT. THAT IS ALL I KNEW  
22 ABOUT IT.

23 MR. WAPNER: HOW DID YOU FIND OUT ABOUT IT?

24 MS. SHELBY: MY MOTHER TOLD ME.

25 MR. WAPNER: DID SHE GIVE YOU ANY OF THE DETAILS?

26 MS. SHELBY: NO, OTHER THAN WHAT I ALREADY SAID, THAT  
27 HE WAS ARRESTED FOR BANK ROBBERY AND HE ROBBED A BANK IN  
28 LOUISIANA, CAME TO CALIFORNIA AND VISITED A COUSIN HERE AND

1 I GUESS TWO DAYS LATER THEY PICKED HIM UP, THE FBI DID.

2 MR. WAPNER: WAS THIS RECENTLY?

3 MS. SHELBY: IT MUST HAVE BEEN 1980.

4 MR. WAPNER: WAS HE EVER PUT ON TRIAL FOR THAT?

5 MS. SHELBY: IN LOUISIANA, YES.

6 MR. WAPNER: DID HE GO TO TRIAL OR DID HE ENTER A PLEA?

7 MS. SHELBY: I HAVE NO IDEA.

8 MR. WAPNER: IS HE PRESENTLY IN CUSTODY OR WAS HE?

9 MS. SHELBY: HE PRESENTLY IS.

10 MR. WAPNER: HOW CLOSE WERE YOU TO THIS PERSON?

11 MS. SHELBY: AH, WELL, HE IS MY FIRST COUSIN BUT I THINK  
12 I AM ABOUT 14, 15 YEARS OLDER SO I REALLY -- HE WAS A KID  
13 WHEN I KNEW HIM, VERY CLOSE WHEN HE WAS YOUNG, I LIVED IN  
14 CHICAGO AT THE TIME AND SO DID HE.

15 THEN I MOVED HERE SO I HAVEN'T SEEN HIM FOR MAYBE  
16 10 YEARS OR BETTER.

17 MR. WAPNER: AND HOW OFTEN DURING THAT 10 YEARS THAT  
18 YOU HADN'T SEEN HIM DID YOU HAVE CONTACT WITH HIM? DID YOU  
19 TALK TO HIM, FOR EXAMPLE?

20 MS. SHELBY: I DIDN'T.

21 MR. WAPNER: WAS THAT BASICALLY THE FIRST CONTACT THAT  
22 YOU HAVE HAD OR HEARD ABOUT HIM IN 10 YEARS, WAS TO HEAR HE  
23 WAS ARRESTED FOR BANK ROBBERY?

24 MS. SHELBY: WELL, I TALKED TO MY AUNT, WHO LIVES IN  
25 CHICAGO AND, YOU KNOW, I HAVE KNOWN HE WAS AROUND BUT AS FAR  
26 AS ANY OTHER PROBLEMS OR ANYTHING, I DIDN'T HEAR ANYTHING  
27 ABOUT ANY OTHER PROBLEMS HE WAS IN UNTIL THIS.

28 MR. WAPNER: HOW DO YOU THINK THAT MIGHT EFFECT YOU



1 ONE WAY OR THE OTHER IN THIS CASE, IF AT ALL?

2 MS. SHELBY: NOT AT ALL.

3 MR. WAPNER: THAT CASE DOESN'T HAVE ANYTHING TO DO WITH  
4 THIS ONE, OBVIOUSLY.

5 MS. SHELBY: NOTHING.

6 MR. WAPNER: THANK YOU. I WILL PASS FOR CAUSE, YOUR  
7 HONOR.

8 THE COURT: ALL RIGHT, EXERCISE YOUR FIRST PEREMPTORY.

9 MR. WAPNER: YES, IF THE COURT WOULD -- THE PEOPLE WOULD  
10 THANK AND ASK THE COURT TO EXCUSE AND THANK JUROR NUMBER 7,  
11 MR. GHIRARDI.

12 THE COURT: THANK YOU, MR. GHIRARDI.

13 MR. GHIRARDI: OKAY.

14 THE COURT: GET YOUR CARD.

15 THE BAILIFF: MR. GHIRARDI.

16 THE CLERK: MRS. RUTH L. SIMON, S-I-M-O-N.

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1 THE COURT: MS. SIMON, I THINK THAT YOU HAD INDICATED  
2 TO US EARLIER THAT YOU OR A MEMBER OF YOUR FAMILY OR SOME  
3 CLOSE PERSONAL FRIEND IS CONNECTED WITH LAW ENFORCEMENT WORK  
4 OF SOME KIND?

5 MS. SIMON: MY HUSBAND RUNS A P.R. AGENCY. HE IS A  
6 VOLUNTEER SHERIFF'S DEPUTY, RESERVE. HE HAS BEEN FOR A FEW  
7 YEARS.

8 THE COURT: WELL, THE FACT THAT HE IS SOMEWHAT IDENTIFIED  
9 WITH LAW ENFORCEMENT, WOULD THAT IN ANY WAY PREDISPOSE YOU TO  
10 THIS OTHER CASE?

11 MS. SIMON: NO. PRIMARILY, HE IS A PUBLIC RELATIONS  
12 MAN.

13 THE COURT: I THINK ALSO, DIDN'T YOU INDICATE TO ME  
14 EARLIER THAT YOU OR A MEMBER OF YOUR FAMILY WERE VICTIMS OF  
15 SOME KIND OF CRIME?

16 MS. SIMON: WELL, WE HAVE HAD FOUR CAR RADIOS STOLEN.  
17 ANOTHER CAR HAS BEEN BROKEN INTO TWICE.

18 BOTH MY DAUGHTERS HAVE BEEN ROBBED IN THEIR  
19 DORMITORIES AT SCHOOL. WE HAD ONE CAR STOLEN. BUT OTHER THAN  
20 THAT, WE ARE FINE.

21 THE COURT: ROBBED OR BURGLARIZED?

22 MS. SIMON: ROBBED.

23 THE COURT: AT GUNPOINT?

24 MS. SIMON: NO. JUST TAKEN.

25 THE COURT: JUST TAKEN? THEIR ROOMS WERE ENTERED?

26 MS. SIMON: YES.

27 THE COURT: THAT IS BURGLARY. HOW LONG AGO WAS THAT?

28 MS. SIMON: THE LAST SEMESTER WAS THE LAST ONE.

1 THE COURT: WAS IT INVESTIGATED BY ANY CAMPUS POLICE?

2 MS. SIMON: ARIZONA CAMPUS POLICE.

3 THE COURT: DID ANYTHING COME OF IT?

4 MS. SIMON: YES. THEY CAUGHT THE YOUNG MAN. HE IS ON  
5 PROBATION.

6 THE COURT: WILL THAT IN ANY WAY INTERFERE WITH YOUR  
7 IMPARTIAL CONSIDERATION OF THE EVIDENCE IN THIS CASE, THE  
8 GUILT OR INNOCENCE OF THE DEFENDANT?

9 MS. SIMON: NO. I HAD NO CONTACT WITH THAT. THAT WAS  
10 OUT IN ARIZONA.

11 THE COURT: AND IF I ASKED YOU THE SAME GENERAL QUESTIONS  
12 ASKED OF THE OTHER JURORS AND YOU HAVE HEARD ALL OF THE  
13 QUESTIONS AND ANSWERS WHICH WERE ASKED AND GIVEN, AS TO THE  
14 GENERAL QUESTIONS, NOT THE PERSONAL ONES -- AS TO THE GENERAL  
15 QUESTIONS, WOULD YOUR ANSWERS BE ANY DIFFERENT OR WOULD THEY  
16 BE SUBSTANTIALLY THE SAME?

17 MS. SIMON: SUBSTANTIALLY THE SAME.

18 THE COURT: ALL RIGHT. WHAT DO YOU DO, MS. SIMON?

19 MS. SIMON: I AM AT LEISURE .

20 THE COURT: AND DID YOU HAVE ANY PREVIOUS OCCUPATION OF  
21 ANY KIND?

22 MS. SIMON: I HAD MANY YEARS AGO BEEN A PLAYGROUND  
23 DIRECTOR.

24 THE COURT: AND WHAT DOES MR. SIMON DO?

25 MS. SIMON: HE RUNS A PUBLIC RELATIONS AGENCY, SIMON P.R.

26 THE COURT: AND ARE YOU EMPLOYED IN ANY WAY WITH THAT  
27 AGENCY?

28 MS. SIMON: NO.

1 THE COURT: AND WHERE DO YOU LIVE?

2 MS. SIMON: VAN NUYS.

3 THE COURT: HAVE YOU EVER SERVED AS A JUROR IN A CRIMINAL  
4 CASE BEFORE?

5 MS. SIMON: NEVER.

6 THE COURT: ALL RIGHT. WHAT EDUCATION HAVE YOU HAD?

7 MS. SIMON: I HAVE A BACHELOR OF ARTS DEGREE FROM USC.

8 THE COURT: AND DO YOU HAVE ANY CHILDREN?

9 MS. SIMON: YES, TWO DAUGHTERS.

10 THE COURT: AND THEY ARE MARRIED?

11 MS. SIMON: NO.

12 THE COURT: TOO YOUNG THAT FOR?

13 MS. SIMON: NOT ONE OF THEM. I HAVE A 29-YEAR-OLD  
14 DAUGHTER AND A 20-YEAR-OLD.

15 THE COURT: AND THE 29-YEAR-OLD, SHE IS NOT MARRIED?

16 MS. SIMON: NO.

17 THE COURT: WHAT DOES SHE DO?

18 MS. SIMON: SHE WORKS WITH CHILDREN'S SERVICES.

19 THE COURT: AND THE 20-YEAR-OLD GOES TO SCHOOL?

20 MS. SIMON: RIGHT.

21 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. MR. BARENS?

22 MR. BARENS: THE DEFENSE DEFERS TO MR. CHIER AT THIS  
23 TIME.

24 THE COURT: ALL RIGHT.

25 MR. CHIER: GOOD AFTERNOON, MS. SIMON. MY NAME IS STILL  
26 RICHARD CHIER.

27 THE COURT: IT HAS NOT CHANGED SINCE THE LAST TIME YOU  
28 WERE HERE.

1 MR. CHIER: EXCUSE MY BACK, HERE. I AM CO-COUNSEL FOR  
2 MR. HUNT HERE, THE DEFENDANT.

3 I WOULD LIKE TO KNOW FROM YOU AS WE GET OFF TO A  
4 START HERE, HOW YOU FEEL ABOUT THE FACT THAT HE HAS TWO  
5 ATTORNEYS INSTEAD OF ONE AND MR. WAPNER IS HERE REPRESENTING  
6 THE PEOPLE?

7 MS. SIMON: I THINK MR. WAPNER PROBABLY COULD HANDLE  
8 YOU BOTH.

9 THE COURT: WHAT?

10 THE COURT REPORTER: MR. WAPNER COULD PROBABLY HANDLE  
11 YOU BOTH.

12 MR. CHIER: DO YOU THINK THAT IT IS UNFAIR TO THE  
13 PROSECUTION THAT MR. HUNT HAS TWO ATTORNEYS?

14 MS. SIMON: NO, NOT AT ALL. I AM SURE MR. WAPNER HAS  
15 PEOPLE BACK AT THE OFFICE THAT HELP HIM.

16 MR. CHIER: DO YOU THINK THAT YOU WOULD FEEL THAT MR.  
17 WAPNER IS HANDICAPPED IN ANY WAY AND THAT YOU WOULD HAVE TO  
18 HELP HIM BECAUSE MR. HUNT HAS TWO ATTORNEYS?

19 MS. SIMON: NO.

20 MR. CHIER: COULD YOU TELL ME WHAT THE LAST BOOK IS THAT  
21 YOU READ, MISS SIMON?

22 MS. SIMON: "CONFESSIONS OF A FAILED SOUTHERN LADY."

23 MR. CHIER: AND HOW COME YOU READ THAT BOOK?

24 MS. SIMON: BECAUSE IT IS ABOUT MY AREA OF THE COUNTRY  
25 WHERE I GREW UP.

26 MR. CHIER: THAT IS?

27 MS. SIMON: WASHINGTON, D.C.

28 MR. CHIER: AND IS THAT CHESAPEAKE BAY?

1 MS. SIMON: NO, THE UNITED STATES CAPITOL.

2 MR. CHIER: WASHINGTON, D.C.? OKAY. I WAS THINKING OF  
3 MARYLAND. CHESAPEAKE BAY IS RIGHT NEXT TO IT, IS MARYLAND?

4 MS. SIMON: YES.

5 MR. CHIER: OKAY. AND WHAT IS THE LAST MOVIE THAT YOU  
6 SAW?

7 MS. SIMON: PAUL NEWMAN AND TOM CRUISE.

8 MR. CHIER: "THE COLOR OF MONEY"?

9 MS. SIMON: YES, "THE COLOR OF MONEY."

10 MR. CHIER: OKAY. HOW LONG HAS YOUR HUSBAND BEEN A  
11 DEPUTY SHERIFF, MS. SIMON?

12 MS. SIMON: PROBABLY FOR 12 YEARS.

13 MR. CHIER: AND AS A DEPUTY SHERIFF, WHAT ARE HIS  
14 OBLIGATIONS FOR CONTINUING HIS SERVICE?

15 MS. SIMON: I THINK HE HAS TO PUT IN THREE SHIFTS A  
16 MONTH. BUT I AM NOT SURE. I DON'T PAY MUCH ATTENTION.

17 MR. CHIER: DOES HE ON HIS OFF TIME, FRATERNIZE WITH  
18 OTHER RESERVE DEPUTY SHERIFFS?

19 MS. SIMON: NO. HE IS MUCH TOO BUSY FOR THAT.

20 MR. CHIER: DO YOU KNOW WHY HE BECAME A DEPUTY SHERIFF  
21 RESERVE?

22 MS. SIMON: YES. HE WAS ASKED TO HELP THE SHERIFF'S  
23 DEPARTMENT PUBLIC RELATIONS AS A VOLUNTARY THING, WITH THE  
24 COMMUNITY.

25 AND IN ORDER TO DO THAT, HE RODE AS AN OBSERVER AND  
26 DECIDED IT WAS KIND OF INTERESTING AND DECIDED HE WOULD LIKE  
27 TO TRY TO BE A RESERVE DEPUTY.  
28

5-1  
1 MR. CHIER: SO HE IS OUT IN THE FIELD FROM TIME TO TIME,  
2 RIDING IN PATROL CARS?

3 MS. SIMON: YES.

4 MR. CHIER: AND AS A PERSON WHO IS OUT THERE ON THE  
5 STREETS, DOES HE COME BACK AND REPORT TO YOU ABOUT HIS  
6 EXPERIENCES IN EITHER CRIME STOPPING OR LAW ENFORCEMENT?

7 MS. SIMON: OCCASIONALLY.

8 THERE WAS ONE GUY HE STOPPED WITH MY MAIDEN NAME  
9 SO HE DIDN'T WRITE HIM A TICKET. I THINK THAT IS KIND OF --  
10 I WILL NEVER KNOW WHY.

11 MR. CHIER: WHEN HE IS OUT THERE, HE IS OUT THERE BY  
12 HIMSELF OR WITH ANOTHER PERSON?

13 MS. SIMON: I THINK SOMETIMES HE HAS RIDDEN TWO-MAN  
14 PATROLS AND I THINK HE IS ON TRAFFIC NOW AND HE IS ON ONE-MAN  
15 PATROL.

16 BUT AS YOU CAN SEE, I AM NOT REALLY CLUED IN A  
17 LOT.

18 MR. CHIER: DO YOU AND HE TALK ABOUT LAW ENFORCEMENT  
19 IN A GENERAL WAY AT ALL?

20 MS. SIMON: NO.

21 MORE LIKELY TO TALK ABOUT THE REAL BUSINESS.

22 MR. CHIER: HIS BUSINESS?

23 MS. SIMON: YES.

24 MR. CHIER: THE P.R. BUSINESS?

25 MS. SIMON: YES.

26 MR. CHIER: I TAKE IT, YOU PROBABLY HAVE NOT BEEN ABLE  
27 TO AVOID NOTICING THAT THERE HAS BEEN SOME PRESS AROUND THE  
28 HALLWAY FROM TIME TO TIME. WHAT DOES IT SUGGEST TO YOU, IF

5-1  
1 ANYTHING, THE FACT THAT THERE ARE NEWS CAMERAS AROUND HERE  
2 FROM TIME TO TIME?

3 MS. SIMON: THAT THIS IS AN INTERESTING CASE.

4 MR. CHIER: AND DOES IT SUGGEST TO YOU OR IN ANY WAY  
5 IMPLY THAT MR. HUNT IS GUILTY OF ANYTHING?

6 MS. SIMON: NO.

7 MR. CHIER: OKAY, IN FACT, DO YOU UNDERSTAND THAT  
8 MR. HUNT -- AND I DON'T MEAN TO BE REPETITIOUS BUT THIS IS  
9 A VERY IMPORTANT CONCEPT THAT SHOULD BE -- I CAN'T EMPHASIZE  
10 IT TOO STRONGLY -- THAT MR. HUNT IS PRESUMED TO BE INNOCENT;  
11 YOU UNDERSTAND THAT?

12 MS. SIMON: YES.

13 MR. CHIER: AND YOU KNOW THE COCOON THAT MR. BARENS  
14 TALKED ABOUT YESTERDAY?

15 MS. SIMON: YES.

16 MR. CHIER: CAN YOU ACTUALLY VISUALIZE THAT COCOON?

17 MS. SIMON: YES.

18 MR. CHIER: YOU KNOW THAT COCOON IS THE PRESUMPTION  
19 OF INNOCENCE?

20 MS. SIMON: YES.

21 MR. CHIER: AND DO YOU KNOW HOW LONG MR. HUNT IS ENTITLED  
22 TO STAY WRAPPED IN THAT COCOON IN A CRIMINAL TRIAL?

23 MS. SIMON: NO.

24 I ASSUME UNTIL JUDGED GUILTY.

25 THE COURT: UNTIL -- I THOUGHT I TOLD YOU --

26 MS. SIMON: OH, EXCUSE ME.

27 THE COURT: -- THE PRESUMPTION OF INNOCENCE STAYS WITH  
28 HIM THROUGHOUT THE TRIAL, ALL THROUGHOUT THE DELIBERATION



5-3  
1 OF THE JURORS IN THE JURY ROOM.

2 MS. SIMON: OKAY. YES.

3 MR. CHIER: NOW YOU UNDERSTAND THAT THE PRESUMPTION  
4 OF INNOCENCE ACTUALLY IS KIND OF EVIDENCE, A FORM OF  
5 EVIDENCE. IT IS EVIDENCE OF HIS NON-GUILT, WHICH YOU AND  
6 THE REST OF YOU CAN'T REMOVE, TEAR AWAY FROM HIM UNTIL THERE  
7 HAS BEEN A UNANIMOUS AGREEMENT BY ALL OF YOU THAT MR. HUNT  
8 IS GUILTY OF THE OFFENSE CHARGED BEYOND A REASONABLE DOUBT;  
9 DO YOU UNDERSTAND THAT?

10 MS. SIMON: YES.

11 MR. CHIER: DO YOU THINK THAT THAT IS UNFAIR TO HAVE  
12 A PROCEDURE IN OUR GOVERNMENT WHERE PEOPLE ARE PRESUMED TO  
13 BE INNOCENT OF WRONGDOING?

14 MS. SIMON: NO. I THINK IT IS VERY FAIR.

15 MR. CHIER: WHEN YOU ADD TO THAT THE FACT THAT THEY  
16 HAVE A PRIVILEGE AGAINST SELF-INCRIMINATION DO YOU THINK THAT  
17 MAKES IT DIFFICULT FOR LAW ENFORCEMENT TO BRING GUILTY PERSONS  
18 TO JUSTICE?

19 MS. SIMON: NO.

20 MR. CHIER: DO YOU HAVE ANY IDEA ABOUT THE HISTORY OF  
21 THE FIFTH AMENDMENT, WHY WE HAVE SUCH A RULE?

22 YOU UNDERSTAND THAT THE CONSTITUTION WAS DRAFTED  
23 AS A RESULT OF ABUSES BY THE SOVEREIGN AGAINST THE COLONISTS  
24 IN THIS COUNTRY, CORRECT?

25 MS. SIMON: UH-HUH.

26 MR. CHIER: AND THE BILL OF RIGHTS, WHERE THE PRIVILEGE  
27 OF SELF-INCRIMINATION IS FOUND, WAS DRAFTED IN RESPONSE TO  
28 THE MOST EGREGIOUS ABUSES OF POWER AND IT WAS FOUND IN THAT

5-4

1 PERIOD, THE COLONIAL PERIOD, AS IT HAS BEEN ALL THROUGHOUT  
2 ITS HISTORY, THE STATEMENTS MADE BY PEOPLE THEMSELVES WERE  
3 NOT RELIABLE IN A CRIMINAL SETTING, THEY WERE NOT RELIABLE  
4 BECAUSE EITHER THEY COULD HAVE BEEN COERCED, THEY COULD HAVE  
5 BEEN MISPERCEIVED AND SO FOR ALL OF THOSE REASONS, IT WAS --  
6 THEY COULD HAVE BEEN THE RESULT OF TORTURE -- SO FOR THOSE  
7 REASONS, THE PRIVILEGE AGAINST SELF-INCRIMINATION WAS MADE  
8 PART OF THE BILL OF RIGHTS SO THAT NOBODY EVER HAD TO SAY  
9 ANYTHING BECAUSE, ESPECIALLY IN A CASE OF A PERSON ACCUSED  
10 OF A CRIME THAT THEY DIDN'T COMMIT, THERE IS NOT MUCH YOU  
11 CAN SAY OTHER THAN "I DIDN'T DO IT," WHICH HAS BEEN SAID WHEN  
12 THE PERSON SAYS NOT GUILTY.

13 SO IT IS UP TO THE DEFENDANT IN A CASE AND HIS  
14 ATTORNEY WHETHER HE SHOULD EVER TESTIFY OR NOT AND THAT IS  
15 A DECISION THAT IS MADE BY A DEFENDANT AND HIS ATTORNEY BASED  
16 UPON THE EVIDENCE AS IT IS PERCEIVED BY THEM.

17 THE PEOPLE HAVE THE BURDEN OF PROOF IN A CRIMINAL  
18 CASE AND THEY HAVE THE BURDEN OF PROVING BEYOND A REASONABLE  
19 DOUBT EVERY SINGLE ELEMENT OF AN OFFENSE.

20 NOW LET ME ASK YOU THIS, MRS. SIMON, LET'S SUPPOSE  
21 YOU WERE SELECTED AS A JUROR IN THIS CASE AND THAT THE COURT  
22 INSTRUCTED YOU THAT THERE WERE THREE ELEMENTS TO THE OFFENSE.  
23 THIS IS NOT NECESSARILY -- THIS IS JUST A HYPOTHETICAL --  
24 AND THAT IN THE COURSE OF YOUR DELIBERATIONS, YOU AND THE  
25 OTHER JURORS CAME TO AGREEMENT ON TWO OF THE THREE ELEMENTS  
26 AND THAT YOU AGREED AND EACH OF YOU AGREED THAT THE PROSECUTION  
27 HAD SATISFIED THEIR BURDEN OF PROOF AS TO THOSE TWO ELEMENTS,  
28 YOU WERE SATISFIED THAT THERE WAS PROOF BEYOND A REASONABLE

1 DOUBT AND WITH RESPECT TO THE THIRD ELEMENT, THERE WAS  
2 DISAGREEMENT AND YOU WERE NOT SATISFIED THAT THERE WAS PROOF  
3 BEYOND A REASONABLE DOUBT. BUT LET US SAY THAT YOU HAD A  
4 STRONG SUSPICION AS TO THE EXISTENCE OF THE THIRD ELEMENT,  
5 IT WAS A STRONG SUSPICION NOT RISING TO THE LEVEL OF THE  
6 OTHER TWO IN TERMS OF THE PROOF; WHAT WOULD YOU DO IN THAT  
7 CASE, IN A CASE LIKE THAT?

8 MS. SIMON: THAT IS NOT GOOD ENOUGH.

9 MR. CHIER: OKAY, NOW DO YOU UNDERSTAND WHAT THAT MEANS?

10 IT MEANS THAT PROOF BEYOND A REASONABLE DOUBT HAS TO BE THERE  
11 FOR EACH AND EVERY ELEMENT THAT THE PROSECUTION IS REQUIRED  
12 TO ESTABLISH AND THAT IN THAT CASE, YOU WOULD HAVE TO BRING  
13 IN A NOT GUILTY VERDICT; IS THAT CORRECT?

14 MS. SIMON: YES.

15 MR. CHIER: IF YOU ALL AGREED THAT THERE WAS  
16 INSUFFICIENT PROOF ON THAT ONE ELEMENT.

17 MS. SIMON: YES.

18 MR. CHIER: AND YOU UNDERSTAND THAT A NOT GUILTY VERDICT  
19 CAN MEAN ONE OF TWO THINGS.

20 IT COULD MEAN, A, THAT THE PERSON IS INNOCENT;  
21 DO YOU UNDERSTAND THAT?

22 MS. SIMON: UH-HUH.

23 MR. CHIER: OR IT CAN MEAN, B, THAT THE CASE IS NOT  
24 PROVED.

25 NOW LET US ASSUME, MRS. SIMON, THAT YOU ARE  
26 SELECTED AS A JUROR IN THIS CASE AND THE EVIDENCE SUGGESTED  
27 TO YOU THAT MR. HUNT, THERE WERE SUSPICIOUS CIRCUMSTANCES  
28 POINTING TO MR. HUNT BUT THAT THE PROSECUTION FAILED IN SOME

1 RESPECT TO PRESENT ALL OF THE PROOF THAT THEY ARE REQUIRED  
2 TO; WOULD YOU HAVE ANY TROUBLE IN THAT CASE IN RETURNING A  
3 VERDICT OF NOT GUILTY?

4 MS. SIMON: NOT PROVED IS NOT PROVED.

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6A-1

1 MR. CHIER: NOT PROVED IS NOT PROVED? OKAY. AND A  
2 DEFENDANT IS NOT GUILTY UNTIL THE JURY SAYS SO, RIGHT?  
3 AND AS YOU LOOK AT MR. HUNT RIGHT NOW, KNOWING THAT HE IS  
4 PRESUMED INNOCENT, DO YOU BELIEVE THAT HE IS INNOCENT RIGHT  
5 NOW AS YOU SIT THERE?

6 MS. SIMON: YES.

7 MR. CHIER: ALL RIGHT. LET ME ASK YOU A COUPLE OF  
8 QUESTIONS: HAVE YOU EVER TAKEN CREDIT FOR SOMETHING THAT YOU  
9 DIDN'T DO? YOU HAVE CHILDREN, RIGHT?

10 MS. SIMON: UH-HUH.

11 MR. CHIER: TWO DAUGHTERS?

12 MS. SIMON: I TAKE CREDIT FOR THEM. I AM NOT SURE THAT  
13 I DID THAT.

14 MR. CHIER: HOW ABOUT YOUR CHILDREN? DO THEY EVER TAKE  
15 CREDIT FOR THINGS THAT THEY DON'T DO?

16 MS. SIMON: SURE.

17 MR. CHIER: DID YOU EVER HAVE ANY SENSE OF WHY THEY DID  
18 THAT FROM TIME TO TIME?

19 MS. SIMON: UH-HUH.

20 MR. CHIER: WHY DO YOU THINK THEY DO THAT?

21 MS. SIMON: IF THEY DIDN'T WANT TO PRACTICE THE PIANO.

22 MR. CHIER: THEY WOULD LIE ABOUT HAVING ACCOMPLISHED  
23 THINGS THEY DIDN'T?

24 MS. SIMON: SURE.

25 MR. CHIER: HOW ABOUT DID THEY EVER TAKE CREDIT FOR  
26 ACCOMPLISHMENTS THAT THEY REALLY HAD NOT DONE?

27 MS. SIMON: YES. NOT OFTEN, BUT YES.

28 MR. CHIER: DO YOU HAVE ANY IDEA WHY THEY WOULD DO THAT?

1 MS. SIMON: WELL, SELF-AGGRANDIZEMENT.

2 MR. CHIER: OKAY. IT WAS A SITUATIONAL THING, AN  
3 OPPORTUNISTIC TYPE OF THING?

4 MS. SIMON: SURE.

5 MR. CHIER: OKAY. LET ME ASK YOU ANOTHER QUESTION.

6 LET'S ASSUME THAT YOU WERE SELECTED AS A JUROR  
7 ON THIS CASE AND THAT YOU WENT OUT TO DELIBERATE AND THAT TWO  
8 OR THREE DAYS PASSED AND YOU WERE DEEP INTO DELIBERATIONS AND  
9 THAT THE JURORS WERE LINING UP 11 TO 1, ONE WAY OR THE OTHER --  
10 IT DOESN'T MATTER.

11 AND YOU WERE THE ONE JUROR WHO WAS NOT CONVINCED  
12 EITHER OF THE DEFENDANT'S GUILT OR HIS INNOCENCE. AND THE  
13 OTHER JURORS WERE BECOMING IMPATIENT WITH YOU. YOU KEEP  
14 VOTING AND VOTING AND DISCUSSING IT.

15 AND NOTHING THE OTHER JURORS SAY APPEALS TO YOUR  
16 REASON. IT IS NOT A MATTER OF REAL STUBBORNESS OR PURE  
17 STUBBORNESS ON YOUR PART. IT IS A DEEP CONVICTION THAT YOU  
18 HAVE TO AN ABIDING MORAL CERTAINTY OF EITHER GUILT OR INNOCENCE.  
19 IT DOESN'T MATTER FOR PURPOSES OF THIS EXAMPLE.

20 DO YOU FEEL THAT IN A SITUATION LIKE THAT, WITH  
21 11 JURORS WHO WERE ANXIOUS TO PERHAPS BRING IN A VERDICT OR  
22 ANXIOUS TO BRING YOU AROUND TO THEIR WAY OF THINKING, FOR  
23 YOU, DO YOU THINK THAT YOU WOULD YIELD UNDER THOSE CIRCUMSTANCES  
24 TO THE PRESSURES OF THE OTHER JURORS?

25 MS. SIMON: NO. I AM A PERSON OF CHARACTER.

26 MR. CHIER: DO YOU UNDERSTAND THAT IT IS IMPORTANT FOR  
27 A DEFENDANT IN A CRIMINAL CASE, TO HAVE THE INDIVIDUAL,  
28 CONSIDERED JUDGMENT OF EVERY SINGLE JUROR AND NOT THE OPINION

6A-3

1 OF A JUROR THAT IS EITHER COERCED OR AS A RESULT OF, YOU KNOW,  
2 ACCOMMODATION? DO YOU UNDERSTAND THAT IT IS VERY IMPORTANT  
3 IN A CASE LIKE THIS FOR PEOPLE TO BRING TO IT THEIR OWN  
4 POINTS OF VIEW AND THEIR OWN CONVICTIONS?

5 MS. SIMON: YES.

6 MR. CHIER: AND NOW, HAVE YOU MADE SOME FRIENDS IN THIS  
7 PANEL OF PEOPLE THAT ARE BEING INTERVIEWED?

8 MS. SIMON: I HAVE MADE ACQUAINTANCES, YES.

9 MR. CHIER: ALL RIGHT. SOME OF THE PEOPLE SEEM TO YOU  
10 TO BE REASONABLE PEOPLE?

11 MS. SIMON: YES.

12 MR. CHIER: NICE PEOPLE?

13 MS. SIMON: YES.

14 MR. CHIER: INTELLIGENT PEOPLE?

15 MS. SIMON: YES.

16 MR. CHIER: NOW, IT MAY BE THAT IF YOU ARE SELECTED AS  
17 A JUROR AND ONE OF THE PEOPLE THAT YOU MET WHOM YOU THINK IS  
18 A NICE PERSON, A REASONABLE PERSON, AN INTELLIGENT PERSON,  
19 WOULD BE EXCUSED ON A PEREMPTORY CHALLENGE.

20 WOULD YOU SAY TO YOURSELF THAT MAYBE HE WAS  
21 EXCUSED BY ME AND MAYBE BY MR. BARENS, MY PARTNER.

22 WOULD YOU SAY TO YOURSELF IN THAT SITUATION,  
23 "WHAT THE HELL IS THE MATTER WITH THAT GUY, CHIER? THAT IS  
24 A PERFECTLY REASONABLE PERSON AND HE IS JUST GETTING RID OF  
25 THAT PERSON. I DON'T UNDERSTAND"?

26 MS. SIMON: NO.

27 MR. CHIER: DO YOU UNDERSTAND THAT THIS IS ABOLUTELY --  
28 NOBODY -- I MEAN, THERE HAS BEEN A LOT WRITTEN ABOUT THIS.

6A-4

1 THERE IS NO SCIENCE TO JURY SELECTION. PEOPLE THINK THEY KNOW  
2 WHAT THEY ARE DOING. THERE IS ABSOLUTELY NO SCIENCE TO THIS.

3 SOMETIMES PEOPLE ARE EXCUSED FOR THE RIGHT REASONS.  
4 SOMETIMES THEY ARE EXCUSED FOR THE WRONG REASONS AND SOMETIMES  
5 FOR NO REASON.

6 BUT THERE REALLY IS NO SENSE TO THIS AT ALL IN MANY  
7 CASES. AND YOU WOULDN'T HOLD THAT AGAINST US, WOULD YOU, IF

8 SOME FRIEND OF YOURS WAS --  
9 MS. SIMON: NO.

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1 MR. CHIER: OKAY. DO YOU HAVE ANY GUNS IN YOUR FAMILY,  
2 IN YOUR HOUSEHOLD?

3 MS. SIMON: YES. MY HUSBAND IS A SHERIFF.

4 MR. CHIER: DOES HE HAVE MORE THAN ONE GUN?

5 MS. SIMON: I DON'T KNOW. I KNOW THAT HE HAS HIS POLICE  
6 GUN.

7 MR. CHIER: YOU DON'T KNOW IF HE HAS MORE THAN ONE?

8 MS. SIMON: NO. WE DON'T KEEP THEM IN THE HOUSE.

9 MR. CHIER: OKAY. DO YOU SUBSCRIBE TO ANY LAW ENFORCEMENT  
10 MAGAZINES?

11 MS. SIMON: NO.

12 MR. CHIER: WHAT MAGAZINES DO YOU GET AT THE HOUSE?

13 MS. SIMON: NONE.

14 MR. CHIER: WHAT MAGAZINES DO YOU GET AT THE OFFICE?

15 MS. SIMON: I DON'T KNOW. I DON'T GO TO THE OFFICE.

16 MR. CHIER: DOES HE BRING THEM HOME, THE MAGAZINES?

17 MS. SIMON: HE GETS THE WALL STREET JOURNAL AND READS  
18 IT A LOT.

19 MR. CHIER: HOW ABOUT NEWSPAPERS OTHER THAN THE WALL  
20 STREET JOURNAL? DOES ANYTHING COME TO THE HOUSE?

21 MS. SIMON: THE TIMES AND THE DAILY NEWS.

22 MR. CHIER: IS THAT THE VALLEY DAILY PAPER?

23 MS. SIMON: YES.

24 MR. CHIER: DO YOU HAVE ANY FAVORITE TELEVISION PROGRAMS?

25 MS. SIMON: I JUST THOUGHT OF A MAGAZINE. IT IS CALLED  
26 "IRREPRODUCIBLE RESULTS." IT COMES OUT TWICE OR THREE TIMES  
27 A YEAR WHEN IT FEELS LIKE IT.

28 MR. CHIER: IS THAT A TRADE PUBLICATION?

1 MS. SIMON: NO, A SCIENTIFIC SATIRE.

2 MR. CHIER: OKAY. HOW ABOUT TELEVISION PROGRAMS? DO  
3 YOU HAVE ANY FAVORITE TELEVISION PROGRAMS?

4 MS. SIMON: YES. THURSDAY NIGHT ON CHANNEL 4.

5 MR. CHIER: IS THAT L.A. LAWYERS?

6 MS. SIMON: I THINK THEY MOVED THAT TO SOME OTHER NIGHT.  
7 BUT -- THAT IS A FRIDAY, SORRY. THURSDAY NIGHT, THE COSBY  
8 SHOW AND NIGHT COURT. I AM TRYING TO REMEMBER NOW.

9 MR. CHIER: IT IS OKAY. AND THE OTHERS?

10 MS. SIMON: KATE AND ALIE, COMEDIES. A LOT OF COMEDIES.

11 MR. CHIER: ARE YOUR PARENTS STILL ALIVE?

12 MS. SIMON: NO. I AM AN ORPHAN.

13 MR. CHIER: PARDON ME?

14 MS. SIMON: I AM AN ORPHAN NOW.

15 MR. CHIER: YOU ARE?

16 MS. SIMON: YES.

5B 17 MR. CHIER: DO YOU HAVE REGULAR CONTACT WITH YOUR  
18 DAUGHTERS?

19 MS. SIMON: YES.

20 MR. CHIER: AND WHAT IS THE LONGEST PERIOD OF TIME THAT  
21 YOU HAVE BEEN OUT OF CONTACT WITH EITHER ONE OF YOUR DAUGHTERS  
22 AT ONE TIME?

23 MS. SIMON: PROBABLY A WEEK.

24 MR. CHIER: AND WHAT WAS THE REASON FOR THAT HIATUS?

25 MS. SIMON: THAT WAS THE LITTLE ONE. SHE WAS IN EUROPE.  
26 SHE WOULD CALL IN ONCE A WEEK.

27 MR. CHIER: SHE WOULD CALL IN ONCE A WEEK?

28 MS. SIMON: YES.

1 MR. CHIER: DID SHE EVER FORGET TO CALL IN BECAUSE SHE  
2 WAS HAVING A GOOD TIME?

3 MS. SIMON: NO.

4 MR. CHIER: OKAY. DID YOU HEAR MR. WAPNER'S HYPOTHETICAL  
5 ABOUT TWO PEOPLE IN THE BOAT WHICH IS OUT AT SEA?

6 MS. SIMON: YES.

7 MR. CHIER: DO YOU REMEMBER THAT? DO YOU REMEMBER THE  
8 FACTS OF THE HYPOTHETICAL SITUATION AND WHAT IT WOULD BE  
9 REASONABLE TO ASSUME HAD HAPPENED TO THE PERSON THAT WASN'T  
10 THERE THE NEXT MORNING?

11 MS. SIMON: YES.

12 MR. CHIER: WHAT WOULD YOU THINK IT WOULD BE REASONABLE  
13 TO ASSUME?

14 MS. SIMON: I WOULD HAVE TO KNOW SOMETHING ABOUT THE  
15 STATE OF MIND.

16 MR. CHIER: OF WHOM?

17 MS. SIMON: OF THE PERSON WHO DISAPPEARED.

18 MR. CHIER: THAT'S RIGHT. OKAY. AND WHAT TYPE OF THING  
19 WOULD YOU THINK MIGHT BEAR ON IT?

20 MS. SIMON: WAS HE ILL? DID HE HAVE A GIRLFRIEND?  
21 DID HE WANT TO DISAPPEAR?

22 MR. CHIER: DID HE WANT TO BE FOUND?

23 MS. SIMON: YES.

24 MR. CHIER: THAT IS POSSIBLE WHEN PEOPLE DISAPPEAR, THAT  
25 THEY MAY NOT WANT TO BE FOUND, CORRECT?

26 MS. SIMON: RIGHT.

27 MR. CHIER: ARE YOU AWARE THAT AT THE PRESENT TIME, THE  
28 F.B.I. RECORDS INDICATE THAT THERE ARE 55,000 MISSING PEOPLE

1 IN THIS COUNTRY AT THIS VERY MOMENT IN TIME?

2 MS. SIMON: I WAS NOT AWARE OF THAT. BUT I DID READ  
3 A NEWSPAPER ARTICLE ABOUT A SHERIFF IN THE MIDWEST WHO  
4 DISAPPEARED. I GUESS IT WAS IN THE L.A. TIMES RECENTLY.

5 MR. CHIER: YOU HAVE READ FROM TIME TO TIME AND SEEN ON  
6 TELEVISION NEWS OR IN OTHER NEWS MEDIA, CASES OF PEOPLE WHO  
7 HAVE JUST DISAPPEARED?

8 MS. SIMON: YES.

9 MR. CHIER: RIGHT?

10 MS. SIMON: UH-HUH.

11 MR. CHIER: IT DOESN'T NECESSARILY MEAN THOSE PEOPLE ARE  
12 DEAD, RIGHT?

13 MS. SIMON: IT DOESN'T MEAN THAT PEOPLE DON'T WONDER.

14 MR. CHIER: IT DOESN'T NECESSARILY MEAN THAT THE PEOPLE  
15 HAVE BEEN MURDERED, RIGHT?

16 MS. SIMON: RIGHT.

17 MR. CHIER: AND THERE ARE SOMETIMES INVESTIGATIONS AND  
18 CLUES THAT ARE FOLLOWED UP?

19 MS. SIMON: YES.

20 MR. CHIER: THAT MIGHT HAVE A TENDENCY TO EXPLAIN THE  
21 DISAPPEARANCE AND SOMETIMES IT DOESN'T. BUT THE MERE FACT OF  
22 A DISAPPEARANCE UNDER MYSTERIOUS CIRCUMSTANCES, DOESN'T -- IS  
23 NOT CONCLUSIVE OF ANYTHING?

24 MS. SIMON: NO.

25 MR. CHIER: ALL RIGHT. IT WOULD BE IMPORTANT TO KNOW  
26 IN A SITUATION LIKE THAT, WHETHER A PERSON WAS FACING CRIMINAL  
27 CHARGES, WOULDN'T IT?

28 MS. SIMON: ABSOLUTELY.

1 MR. CHIER: WHETHER THE PERSON HAS A HISTORY OF  
2 DUPLICITOUS DEALINGS, SO TO SPEAK?

3 MS. SIMON: UH-HUH.

4 MR. CHIER: NOW, LET ME ASK YOU SOMETHING THAT MR. WAPNER  
5 DIDN'T ASK YOU BUT WHICH OBVIOUSLY HAS GOT SIGNIFICANCE.

6 WHAT DO YOU THINK HAPPENS TO THE PERSON LEFT ON  
7 THE BOAT?

8 MS. SIMON: HE CERTAINLY IS GOING TO BE CONCERNED ABOUT  
9 THE PERSON WHO HAS DISAPPEARED. WHEN HE DOCKS, HE IS GOING  
10 TO BE LOOKED AT A LITTLE STRANGE.

11 MR. CHIER: DO YOU THINK IT IS POSSIBLE THAT THE PEOPLE  
12 ARE GOING TO LOOK AT HIS SUSPICIOUSLY?

13 MS. SIMON: THEY ARE GOING TO ASK QUESTIONS ABOUT WHAT  
14 HAPPENED.

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17-1  
1 MR. CHIER: DO YOU THINK IT IS POSSIBLE FOR THAT PERSON  
2 TO BECOME A SUSPECT IN CONNECTION WITH THE DISAPPEARANCE OF  
3 THE OTHER PERSON?

4 MS. SIMON: CERTAINLY.

5 MR. CHIER: THAT DOESN'T SEEM UNREASONABLE, DOES IT?

6 MS. SIMON: NO.

7 MR. CHIER: IT DOESN'T SEEM UNREASONABLE THAT THE

8 SUSPICION MIGHT FOCUS ON A PERSON IN THAT RELATIONSHIP TO  
9 THE MISSING PERSON, DOES IT?

10 MS. SIMON: UH-HUH, YES.

11 MR. CHIER: WOULD YOU LIKE TO BE A JUROR ON THIS  
12 CASE?

13 MS. SIMON: THIS IS A VERY DIFFICULT CASE AND I WOULD  
14 LIKE TO DO A CONSCIENTIOUS JOB. IT IS NOT AN EASY ONE. NOBODY,  
15 I THINK, WANTS TO BE A JUROR ON A CASE LIKE THAT BUT I WOULD  
16 DO IT BECAUSE I AM A GOOD CITIZEN.

17 MR. CHIER: LET ME ASK YOU HOW YOU FEEL ABOUT THE MATTER  
18 OF IMMUNITY.

19 DO YOU KNOW WHAT IMMUNITY IS?

20 MS. SIMON: YES.

21 MR. CHIER: WHAT IS IT IN YOUR OWN WORDS, WHAT DO YOU  
22 SEE IMMUNITY AS BEING?

23 MS. SIMON: SOMEBODY CONNECTED WITH A HAPPENING WHO  
24 IS GIVEN FREEDOM TO TESTIFY AND FREEDOM FROM BEING PROSECUTED  
25 FOR THAT TESTIMONY.

26 MR. CHIER: IMMUNITY BEING ESSENTIALLY A FREE PASS,  
27 RIGHT?

28 THE COURT: I THINK SHE GAVE US A GOOD DEFINITION,

7-2  
1 WE DON'T NEED MORE. LET'S GET ON.

2 MR. CHIER: NOW DO YOU UNDERSTAND, OR WOULD YOU ASSUME  
3 THAT IN ORDER TO GET IMMUNITY, THERE HAS TO BE KIND OF A  
4 CONTRACT WHERE YOU GIVE SOMETHING IN ORDER TO GET SOMETHING  
5 BACK, WHICH IS CALLED IMMUNITY?

6 MS. SIMON: YES.

7 MR. CHIER: AND THAT THE THING THAT IS BEING GIVEN,  
8 IN MOST CASES, IS TESTIMONY?

9 MS. SIMON: RIGHT.

10 MR. CHIER: DO YOU UNDERSTAND THAT?

11 AND THAT A PERSON HAVING SOME CONNECTION WITH  
12 THE HAPPENING AND OFTEN TO GIVE THE IMMUNITY, HAS A MOTIVE  
13 AT THAT POINT TO GIVE TESTIMONY THAT PLEASURES THE PERSON WHO  
14 GIVES OUT THE IMMUNITY IN THE FIRST PLACE; DO YOU UNDERSTAND  
15 THAT?

16 MS. SIMON: UH-HUH.

17 THE COURT: THAT MEANS YES, DOES IT?

18 MS. SIMON: YES.

19 MR. CHIER: DO YOU UNDERSTAND THAT IT IS PROBABLY NOT  
20 GOING TO HAPPEN, THAT IMMUNITY IS GOING TO BE GIVEN, UNLESS  
21 THE TESTIMONY IS PLEASING INITIALLY TO THE PEOPLE THAT ARE  
22 HANDING OUT THE IMMUNITIES?

23 MS. SIMON: YES.

24 MR. CHIER: AND DO YOU UNDERSTAND THAT THAT PERSON,  
25 THE IMMUNIZED PERSON HAS A CERTAIN SELF-INTEREST AT STAKE?

26 MS. SIMON: YES.

27 MR. CHIER: AND THAT IN EVALUATING THE CREDIBILITY OF  
28 SUCH A PERSON, HIS OWN MOTIVES AND SELF-INTEREST OUGHT TO

1 BE TAKEN INTO CONSIDERATION?

2 MS. SIMON: YES.

3 MR. CHIER: AND DO YOU THINK THAT A DEFENDANT IN A  
4 CRIMINAL CASE, SUCH AS MR. HUNT -- AS I SAID, WE DON'T KNOW  
5 IF MR. HUNT WILL TESTIFY OR NOT AT THIS POINT, IT WILL DEPEND  
6 UPON THE STATE OF THE EVIDENCE.

7 DO YOU THINK THAT MR. HUNT, JOE, DO YOU THINK  
8 HIS TESTIMONY IS SUSPECT MERELY BECAUSE HE IS A DEFENDANT  
9 IN THE CASE?

10 MS. SIMON: I THINK ONE HAS TO LISTEN CAREFULLY.

11 MR. CHIER: DO YOU UNDERSTAND --

12 YOUR HONOR, WOULD IT BE APPROPRIATE FOR YOUR HONOR  
13 TO READ THE CREDIBILITY OF THE WITNESSES INSTRUCTION AT THIS  
14 POINT SO I COULD ASK SOME QUESTIONS?

15 THE COURT: ALL RIGHT. THIS IS AN INSTRUCTION WHICH  
16 THE COURT WILL GIVE THE JURY SELECTED TO TRY THE ISSUES IN  
17 THIS CASE:

18 "EVERY PERSON WHO TESTIFIES UNDER  
19 OATH OR AFFIRMATION IS A WITNESS.

20 "YOU ARE THE SOLE JUDGES OF THE  
21 BELIEVABILITY OF A WITNESS AND THE WEIGHT TO BE  
22 GIVEN TO HIS TESTIMONY --"

23 AND HIS OR HER WOULD ALSO BE APPLICABLE --

24 "IN DETERMINING THE BELIEVABILITY OF  
25 A WITNESS, YOU MAY CONSIDER ANYTHING" --

26 I THINK THAT HAS BEEN MODIFIED. YES, THAT HAS  
27 BEEN MODIFIED.

28 LET ME READ IT TO YOU AGAIN FROM THE REVISED



7-4  
1 EDITION:

2 "EVERY WITNESS WHO TESTIFIES UNDER  
3 OATH OR AFFIRMATION IS A WITNESS.

4 "YOU ARE THE SOLE JUDGES OF THE  
5 BELIEVABILITY OF A WITNESS AND THE WEIGHT TO BE  
6 GIVEN THE TESTIMONY OF EACH WITNESS.

7 "IN DETERMINING THE BELIEVABILITY OF  
8 A WITNESS, YOU MAY CONSIDER ANYTHING THAT HAS A  
9 TENDENCY IN REASON TO PROVE OR DISPROVE THE  
10 TRUTHFULNESS OF THE TESTIMONY OF A WITNESS,  
11 INCLUDING BUT NOT LIMITED TO ANY OF THE FOLLOWING:

12 "THE EXTENT OF THE OPPORTUNITY OR  
13 ABILITY OF THE WITNESS TO SEE OR HEAR OR OTHERWISE  
14 BECOME AWARE OF ANY MATTER ABOUT WHICH THE WITNESS  
15 HAS TESTIFIED.

16 "THE ABILITY OF THE WITNESS TO REMEMBER  
17 OR TO COMMUNICATE ANY MATTER ABOUT WHICH THE WITNESS  
18 HAS TESTIFIED.

19 "THE CHARACTER AND QUALITY OF THAT  
20 TESTIMONY.

21 "THE Demeanor AND MANNER OF THE WITNESS  
22 WHILE TESTIFYING.

23 "THE EXISTENCE OR NONEXISTENCE OF A  
24 BIAS, INTEREST OR OTHER MOTIVE.

25 "EVIDENCE OF THE EXISTENCE OR NONEXISTENCE  
26 OF ANY FACT TESTIFIED TO BY THE WITNESS.

27 "THE ATTITUDE OF THE WITNESS TOWARD  
28 THE ACTION IN WHICH TESTIMONY

7-5  
1 HAS BEEN GIVEN BY THE WITNESS OR TOWARD THE GIVING  
2 OF TESTIMONY.

3 "A STATEMENT PREVIOUSLY MADE BY THE  
4 WITNESS THAT IS CONSISTENT OR INCONSISTENT WITH  
5 THE TESTIMONY OF THE WITNESS.

6 "THE CHARACTER OF THE WITNESS" --

7 I DON'T KNOW THAT THAT WILL BE APPLICABLE HERE.

8 I WON'T READ THAT UNTIL --

9 THAT IS ESSENTIALLY THE INSTRUCTION WHICH THE  
10 COURT WILL GIVE TO THE JURORS ON THE MATTER OF THE CREDIBILITY  
11 OF THE WITNESSES.

12 MR. CHIER: NOW EXCEPT OR UNLESS THE COURT WERE TO GIVE  
13 YOU SOME OTHER INSTRUCTION CONCERNING THE TESTIMONY OF THE  
14 IMMUNIZED WITNESS, THAT INSTRUCTION FOR THE MOST PART GOVERNS  
15 THE WAY YOU ARE TO EVALUATE THE TESTIMONY OF ANY WITNESS.  
16 IS THERE ANYTHING ABOUT THAT INSTRUCTION YOU FIND OBJECTIONABLE  
17 OR DIFFICULT TO ACCEPT?

18 MS. SIMON: NO.

19 MR. CHIER: DO YOU THINK THAT A DEFENDANT ON TRIAL IN  
20 A CASE WHERE THE PEOPLE ARE ASKING FOR HIS LIFE HAS A MOTIVE  
21 TO LIE?

22 MS. SIMON: NOT IF THE TRUTH WILL EXONERATE HIM.

23 MR. CHIER: WELL, BUT DO YOU THINK THAT HE HAS A MOTIVE  
24 TO LIE?

25 MS. SIMON: HE IS ON TRIAL FOR HIS LIFE, YES.

26 MR. CHIER: HE DOES, DOESN'T HE?

27 WOULD YOU, THEREFORE, IN THIS CASE IF MR. HUNT  
28 WERE TO TESTIFY -- AND I EXPECT THAT HE WILL TESTIFY -- WOULD

7-6  
1 YOU DISCOUNT HIS TESTIMONY ENTIRELY MERELY BECAUSE HE IS THE  
2 DEFENDANT IN THIS CASE?

3 MS. SIMON: NO.

4 MR. CHIER: THAT IS JUST ONE OF THE FACTORS --

5 MS. SIMON: YES.

6 MR. CHIER: -- ONE OF THE FACTORS, RIGHT?

7 IN THE INSTRUCTION THAT WAS READ TO YOU BY HIS  
8 HONOR, THAT TELLS YOU ALL OF THE THINGS THAT YOU CAN CONSIDER  
9 IN EVALUATING THE TESTIMONY AND YOU WOULD DO THAT, WOULD YOU  
10 NOT?

11 MS. SIMON: ABSOLUTELY.

12 MR. CHIER: MAY I HAVE JUST A MOMENT, PLEASE, YOUR HONOR?

13 (UNREPORTED COLLOQUY BETWEEN MR. CHIER  
14 AND MR. BARENS.)

15 MR. CHIER: WE WILL PASS FOR CAUSE, YOUR HONOR.

16 THE COURT: ALL RIGHT, MR. WAPNER.

17 MR. WAPNER: THANK YOU, YOUR HONOR.

18 GOOD AFTERNOON, MRS. SIMON.

19 MS. SIMON: HI.

20 MR. WAPNER: HAS YOUR HUSBAND EVER TESTIFIED IN COURT  
21 IN HIS CAPACITY AS A RESERVE DEPUTY SHERIFF?

22 MS. SIMON: IN A CRIMINAL ACTION?

23 MR. WAPNER: YES.

24 MS. SIMON: NO.

25 MR. WAPNER: HAS HE EVER TESTIFIED IN A CIVIL ACTION?

26 MS. SIMON: TRAFFIC TICKETS, I THINK THAT IS ALL.

27 MR. WAPNER: WOULD IT SURPRISE YOU TO KNOW THAT TRAFFIC  
28 TICKETS ARE CRIMINAL ACTIONS, TOO?

17-7

1 MS. SIMON: IT WOULD.

2 MR. WAPNER: AND THE JUDGE MAY HAVE MENTIONED THIS  
3 YESTERDAY OR THE DAY BEFORE, BUT THIS MIGHT ALSO SURPRISE  
4 YOU, AND THAT IS, THAT ALTHOUGH MOST DECISIONS ON TRAFFIC  
5 TICKETS ARE MADE -- ALL OF THEM ARE MADE BY A JUDGE WITHOUT  
6 A JURY, THAT THE DECISIONS MADE USE THE SAME STANDARD THAT  
7 WE ARE GOING TO USE IN THIS CASE, WHICH IS PROOF BEYOND A  
8 REASONABLE DOUBT; DOES THAT SURPRISE YOU?

9 MS. SIMON: NO.

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1 MR. WAPNER: OKAY. BECAUSE I AM NOT TRYING TO COMPARE  
2 THIS CASE TO A TRAFFIC TICKET. BUT WHAT I WANT TO DISCUSS  
3 IS, BECAUSE THIS IS A MURDER CASE AND YOU KNOW FROM PREVIOUS  
4 DEALINGS THAT IT MIGHT POSSIBLY INVOLVE THE DEATH PENALTY,  
5 ARE YOU GOING TO HOLD THE PROSECUTION TO A HIGHER STANDARD  
6 OF PROOF THAN BEYOND A REASONABLE DOUBT? ARE YOU GOING TO  
7 SAY IN YOUR OWN MIND WELL, HE BETTER PROVE IT BEYOND ALL DOUBT  
8 BECAUSE IT IS A MURDER AS OPPOSED TO A TRAFFIC TICKET?

9 MS. SIMON: I DON'T FOLLOW THE QUESTION. TRY AGAIN.

10 MR. WAPNER: ONE OF THE THINGS THAT CONCERNS ME IS THAT  
11 NATURALLY, YOU WILL TAKE THIS CASE VERY SERIOUSLY BECAUSE  
12 OF THE CHARGES, RIGHT?

13 MS. SIMON: ABSOLUTELY.

14 MR. WAPNER: OKAY. THAT IS AS IT SHOULD BE. THE QUESTION  
15 IS, NOTWITHSTANDING THAT YOU ARE GOING TO TAKE THIS CASE VERY  
16 SERIOUSLY, ARE YOU GOING TO REQUIRE ME TO PRODUCE MORE EVIDENCE,  
17 PROVE THE PERSON MORE GUILTY THAN YOU WOULD IF IT WERE SAY,  
18 A LESSER CHARGE? DO YOU FOLLOW ME OR DID I STILL LOSE YOU?

19 MS. SIMON: I THINK YOU ARE HAVING TROUBLE WITH ME.

20 MR. WAPNER: CERTAINLY ONE OF US IS.

21 THE COURT: I BELIEVE THAT I TOLD YOU THAT IN A CRIMINAL  
22 CASE, THERE IS A PRESUMPTION OF INNOCENCE AND THE BURDEN OF  
23 PROOF. THE DEFENDANT HAS TO BE PROVED GUILTY BEYOND A  
24 REASONABLE DOUBT. I DEFINED THAT FOR YOU. THAT IS IN EVERY,  
25 SINGLE CASE, WHETHER IT IS MURDER OR WHETHER IT IS TRAFFIC  
26 TICKET. THE SAME BURDEN IS ON THE PEOPLE TO PROVE THE  
27 DEFENDANT GUILTY BEYOND A REASONABLE DOUBT. DO YOU UNDERSTAND  
28 THAT?

1 MS. SIMON: YES.

2 THE COURT: WHAT HE IS ASKING YOU IS, WOULD YOU REQUIRE  
3 HIM TO PROVE MORE THAN THAT HE IS GUILTY BEYOND A REASONABLE  
4 DOUBT?

5 MS. SIMON: NO.

6 THE COURT: NOW DO YOU UNDERSTAND?

7 MS. SIMON: YES.

8 MR. WAPNER: THANK YOU. SOMETIMES YOU JUST HAVE TO  
9 DEFER TO WISDOM.

10 TELL ME A LITTLE BIT ABOUT YOUR HUSBAND'S P.R.  
11 BUSINESS. WHAT KIND OF CLIENTS DOES HE HAVE? WHAT KIND OF  
12 BUSINESS DOES HE DO?

13 MS. SIMON: HE IS HIGH TECH AND FINANCIAL P.R., NOT  
14 IN ENTERTAINMENT.

15 MR. WAPNER: WHEN YOU SAY "HIGH TECH AND FINANCIAL"  
16 COULD YOU EXPLAIN THAT TO ME?

17 MS. SIMON: COMPUTER COMPANIES. I DON'T KNOW WHAT HE  
18 DOES FOR FINANCIAL. BUT COMPUTER COMPANIES THAT NEED PRESS.

19 MR. WAPNER: DOES HE DO THEIR ADVERTISING AND THINGS  
20 LIKE THAT?

21 MS. SIMON: NO, NOT ADVERTISING. HE IS A P.R. MAN.

22 MR. WAPNER: OKAY. AND HE HAS HIS OWN FIRM?

23 MS. SIMON: YES.

24 MR. WAPNER: HOW MANY PEOPLE DOES HE HAVE WORKING FOR  
25 HIM, DO YOU KNOW?

26 MS. SIMON: NO. I THINK AROUND 30. BUT I CAN'T BE  
27 SURE.

28 MR. WAPNER: HOW LONG HAS HE BEEN IN THAT BUSINESS?

1 MS. SIMON: TWENTY YEARS.

2 MR. WAPNER: HOW LONG HAVE YOU BEEN AT LEISURE, TO USE  
3 YOUR WORDS?

4 MS. SIMON: ABOUT 30 YEARS.

5 MR. WAPNER: OKAY.

6 MS. SIMON: BETWEEN JOBS.

7 MR. WAPNER: OKAY. THE JOB THAT YOU MENTIONED AS  
8 PLAYGROUND DIRECTOR, I TAKE IT THAT THAT WAS A LONG TIME AGO?

9 MS. SIMON: YES.

10 MR. WAPNER: IS THAT THE MOST RECENT JOB THAT YOU HAVE  
11 HAD?

12 MS. SIMON: RIGHT. I HAVE BEEN A PARENT AND A WIFE  
13 FOR A LONG TIME.

14 MR. WAPNER: SPEAKING OF BEING A PARENT AND A WIFE,  
15 ASSUMING THIS BOAT IN THE SEA HYPOTHETICAL AND YOU ARE TAKING  
16 INTO CONSIDERATION THE PERSON'S STATE OF MIND, IF IT WAS YOUR  
17 DAUGHTER WHO WAS THE PERSON WHO HAD LEFT, FALLEN OFF, WHATEVER,  
18 HOW LONG DO YOU THINK THAT SHE COULD GO WITHOUT CONTACTING  
19 YOU?

20 MS. SIMON: SHE BETTER DO IT VERY QUICKLY BECAUSE I  
21 AM A VERY NERVOUS MOTHER.

22 MR. WAPNER: OKAY. CAN YOU ELABORATE A LITTLE BIT MORE  
23 FOR ME ON WHAT YOU MEANT ABOUT THAT YOU WOULD HAVE TO KNOW  
24 SOMETHING ABOUT THE PERSON'S STATE OF MIND?

25 MS. SIMON: WELL, I THINK THAT SOMETIMES PEOPLE ARE  
26 ILL AND THEY WANT TO GO OFF QUIETLY AND DIE. OR, THEY MIGHT  
27 WANT TO TRY A WHOLE, NEW LIFE.

28 YOU DO NEED TO KNOW WHETHER THEY ARE SUICIDAL

1 OR TRYING TO START OVER AGAIN OR YOU KNOW, SOMETHING ABOUT  
2 THE PEOPLE.

3 MR. WAPNER: IN WANTING TO TRY A WHOLE NEW LIFE, IN  
4 THAT PART OF THE ANSWER, IN THAT SCENARIO, HOW WOULD YOU  
5 IMAGINE THAT THAT PERSON LEFT TO START A WHOLE NEW LIFE?

6 MS. SIMON: WELL, IN THE BOAT, IT IS A WHOLE OTHER  
7 MATTER.

8 MR. WAPNER: WE ARE ONLY IN THIS JURY SELECTION -- I  
9 HAVE A FEELING THAT WE ARE GOING TO GET PRETTY TIRED OF THIS  
10 EXAMPLE PRETTY SOON IF WE HAVE NOT ALREADY.

11 BUT IN THAT EXAMPLE, JUST USING THAT EXAMPLE --

12 MS. SIMON: I THINK THAT IT WOULD BE A DIFFICULT CHOICE  
13 IF YOU WERE SLIPPING OFF A BOAT IN THE MIDDLE OF THE OCEAN,  
14 UNLESS YOU WERE ONE HECK OF A GOOD SWIMMER. BUT, IT MIGHT  
15 BE SUICIDE. YOU MIGHT HAVE SOME TERMINAL DISEASE.

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1 MR. WAPNER: OKAY. THE WHOLE POINT OF THAT WAS NOT  
2 TO GET YOU TO SAY ONE WAY OR THE OTHER, BUT DO YOU UNDERSTAND  
3 THAT THERE IS A DIFFERENCE BETWEEN SAYING ANYTHING IS POSSIBLE  
4 AND USING WHAT THE LAW CALLS REASONABLE INFERENCES?

5 MS. SIMON: YES.

6 MR. WAPNER: OKAY. AND DID YOU FOLLOW THE QUESTIONS  
7 THAT I WAS ASKING MS. EWELL ABOUT THE DIFFERENCE BETWEEN  
8 THINGS THAT ARE POSSIBLE AND THINGS THAT ARE REASONABLE?

9 MS. SIMON: YES.

10 MR. WAPNER: ASSUMING THAT THE PERSON WAS THE AVERAGE  
11 SWIMMER, NOT SOMEBODY WHO SWIMS THE ENGLISH CHANNEL AND NOT  
12 SOMEONE WHO SINKS AS SOON AS THEY FALL INTO THE WATER, DO  
13 YOU HAVE ANY FEELINGS ABOUT WHAT INFERENCES ARE REASONABLE  
14 TO DRAW FROM THAT SET OF FACTS?

15 MS. SIMON: YOU ARE GOING TO DIE.

16 MS. WAPNER: OKAY. MR. BARENS MENTIONED SOMETHING I  
17 THINK YESTERDAY, ABOUT HIS SPEAKING FOR MR. HUNT. DID YOU  
18 HEAR THAT?

19 MS. SIMON: YEAH.

20 MR. WAPNER: IF AT THE END OF THE CASE, THE JUDGE READS  
21 YOU AN INSTRUCTION AND IT SAYS THAT NOTHING THAT THE LAWYERS  
22 SAY AT ANY TIME DURING THE CASE IS EVIDENCE, CAN YOU FOLLOW  
23 THAT INSTRUCTION?

24 MS. SIMON: YES.

25 MR. WAPNER: AND THE JUDGE PROBABLY WILL --

26 MR. BARENS: YOUR HONOR, I WILL OBJECT BECAUSE HE IS  
27 MAKING A MISSTATEMENT. I SAID THAT I WAS SPEAKING FOR HIM  
28 WHEN -- SOLELY WHEN I ENTERED A PLEA OF NOT GUILTY, WHICH

1 THE LAW INDICATES AS BEING HIS OWN STATEMENT, WITHOUT  
2 QUESTION.

3 THE COURT: WELL, AT ANY RATE, HE USED THAT AS AN  
4 OPPORTUNITY OF ASKING THE QUESTION WHETHER OR NOT THE  
5 QUESTIONS ASKED OF WITNESSES ARE NOT EVIDENCE IN THE CASE,  
6 ONLY THAT IS EVIDENCE WHERE AN ANSWER HAS BEEN GIVEN TO THE  
7 QUESTION.

8 MR. BARENS: SURE. I JUST WANTED THE JURORS TO BE SURE  
9 AND UNDERSTAND MY COMMENT WAS LIMITED TO THE EXPRESSION OF  
10 NOT GUILTY.

11 THE COURT: I THINK YOU MADE IT CLEAR.

12 MR. WAPNER: THANK YOU.

13 MS. SIMON, WHEN I ASK THESE QUESTIONS, I AM NOT  
14 TRYING TO PICK ON MR. BARENS OR ANYBODY ELSE, AS THE JUDGE  
15 SO APTLY PUT IT.

16 IT IS LIKE USING THAT AS A SPRINGBOARD TO GO IN  
17 AND TALK ABOUT CERTAIN SUBJECTS THAT WE THINK ARE  
18 APPROPRIATE TO TOUCH ON. A LOT OF THE TIME, WHEN THIS COMES  
19 UP AND IT WON'T BE APPLICABLE IN THIS CASE, WHEN YOU GET  
20 DEFENDANTS WHO REPRESENT THEMSELVES AND THEY DON'T TAKE THE  
21 WITNESS STAND AND TESTIFY AND THEY WANT TO GET UP IN  
22 ARGUMENT AND TELL THEIR STORY TO THE JURY.

23 WELL, IN THAT CASE, IT IS A LITTLE BIT HARD TO  
24 SEPARATE IT WHEN THE DEFENDANT IS REPRESENTING HIMSELF. HE  
25 IS ADDRESSING THE JURY. HE IS ACTING AS A LAWYER.

26 HIS STATEMENTS AT THAT PARTICULAR TIME ARE NOT  
27 EVIDENCE. SO, IF HE HAS NOT TOLD HIS STORY ON THE WITNESS  
28 STAND, THEN THERE IS NO EVIDENCE OF HIS SIDE OF THE STORY.

1 DO YOU UNDERSTAND THAT?

2 MS. SIMON: UH-HUH.

3 MR. WAPNER: YOU HAVE TO SAY YES OR NO SO SHE CAN WRITE  
4 IT DOWN.

5 MS. SIMON: YES.

6 MR. WAPNER: LIKEWISE, WE DON'T KNOW YET WHETHER  
7 MR. HUNT WILL TESTIFY OR WHETHER HE WON'T. BUT IF HE DOESN'T,  
8 ~~THEN ANYTHING THAT MR. BARENS MAY SAY TO YOU IN ARGUMENT OR~~  
9 HIS INFERENCES FROM THE EVIDENCE THAT YOU HAVE HEARD, CAN'T  
10 BE TAKEN AS A STATEMENT OF MR. HUNT'S. DO YOU UNDERSTAND  
11 THAT?

12 MS. SIMON: YES.

13 MR. WAPNER: OKAY. TELL ME A LITTLE BIT ABOUT THE THINGS  
14 THAT YOUR DAUGHTERS MAY HAVE SAID, IF YOU CAN RECALL ANYTHING  
15 SPECIFICALLY, TAKING CREDIT FOR THINGS THAT THEY DIDN'T DO?

16 MS. SIMON: ONE IS 20. ONE IS 29. IT HAS BEEN A LONG  
17 TIME.

18 MR. WAPNER: SINCE THEY WERE CHILDREN AND DID THAT SORT  
19 OF THING?

20 MS. SIMON: YES.

21 MR. WAPNER: YOU MENTIONED SOMETHING ABOUT A PIANO.  
22 CAN YOU ELABORATE ON THAT?

23 MS. SIMON: THERE WAS ONE DAY WHEN MY OLDER DAUGHTER  
24 CLAIMED THAT SHE HAD PRACTICED. I NOTICED THE PAGES HAD NOT  
25 BEEN TURNED. SHE WAS CAUGHT.

26 MR. WAPNER: AND YOU DIDN'T SEE WHETHER SHE PRACTICED  
27 OR NOT?

28 MS. SIMON: NO. BUT I DID DEDUCTIVE REASONING.

1 MR. WAPNER: YOU HEARD THE QUESTIONS AND THE EXAMPLES  
2 I WAS USING BEFORE ABOUT ABOUT CIRCUMSTANTIAL EVIDENCE?

3 MS. SIMON: YES.

4 MR. WAPNER: SO THAT WAS YOU PLAYING DETECTIVE AND USING  
5 THE FACT THAT THE PAGES HAD NOT BEEN TURNED TO DRAW THE  
6 INFERENCE THAT SHE HAD NOT PRACTICED?

7 MS. SIMON: RIGHT.

8 MR. WAPNER: OKAY. SHE TOLD YOU I ASSUME -- WHAT YOU  
9 ARE SAYING IS THAT SHE TOLD YOU THAT SHE HAD PRACTICED SO  
10 THAT YOU WOULD GET OFF HER BACK, BASICALLY?

11 MS. SIMON: OKAY.

12 MR. WAPNER: DID YOU HAVE ANYTHING ELSE IN MIND WHEN  
13 YOU USED THE TERM "SELF AGGRANDIZEMENT" IN TERMS OF TAKING  
14 CREDIT FOR THINGS THEY DIDN'T DO?

15 MS. SIMON: YES. WHEN THEY WERE KIDS, BASICALLY THEY  
16 WOULD TAKE CREDIT FOR DOING THINGS THAT WERE BETTER THAN THEY  
17 WERE, SO THEY LOOKED GOOD.

18 MR. WAPNER: SUCH AS?

19 MS. SIMON: I CAN'T REMEMBER. IT IS A LONG TIME AGO.

20 MR. WAPNER: I ASSUME BEING A PROUD MOTHER THAT YOU  
21 ARE, THAT YOUR KIDS AS FAR AS YOU KNOW, NEVER GOT INVOLVED  
22 IN ANY KIND OF CRIMINAL ACTIVITIES?

23 MS. SIMON: NO.

24 MR. WAPNER: ALL RIGHT. THEY NEVER TOOK CREDIT FOR  
25 ANY CRIMES TO MAKE THEM LOOK GOOD IN YOUR EYES, FOR EXAMPLE?

26 MS. SIMON: HEAVENS NO.

27 MR. WAPNER: OKAY. IF YOU LISTEN TO A WITNESS WHO  
28 TESTIFIES UNDER A GRANT OF IMMUNITY IN THIS CASE, ARE YOU

1 GOING TO SAY TO YOURSELF THAT NO MATTER WHAT HE SAYS, THAT  
2 YOU WON'T BELIEVE THAT PERSON?

3 MS. SIMON: NO.

4 MR. WAPNER: CAN YOU USE THE STANDARDS THAT THE JUDGE  
5 GAVE YOU IN EVALUATING THE CREDIBILITY OF WITNESSES TO  
6 EVALUTE THE TESTIMONY OF AN IMMUNIZED WITNESS, AS WELL AS  
7 THE TESTIMONY OF ANYONE ELSE?

8 MS. SIMON: YES.

9 MR. WAPNER: DO YOU REALIZE THOSE STANDARDS APPLY TO  
10 ALL WITNESSES WHO TESTIFY IN THE CASE?

11 MS. SIMON: YES.

12 MR. WAPNER: AND THAT THEY APPLY TO THE DEFENDANT,  
13 SHOULD HE BECOME A WITNESS IN THIS CASE?

14 MS. SIMON: YES.

15 MR. WAPNER: AND THAT IF IT TURNS OUT THAT YOU LISTEN  
16 TO SOMETHING THAT THE DEFENDANT SAYS AND YOU MIGHT HAVE SOME  
17 QUESTIONS IN YOUR MIND AS TO WHETHER HE IS TELLING YOU THE  
18 TRUTH, THAT YOU CAN EVALUATE WHETHER OR NOT HE MIGHT HAVE  
19 A MOTIVE NOT TO TELL THE TRUTH?

20 MS. SIMON: YES.

21 MR. WAPNER: SO AS YOU SAY, IF THE TRUTH EXONERATES  
22 HIM, THEN HE MIGHT BE TELLING THE TRUTH. ON THE OTHER HAND,  
23 IF YOU LISTEN TO WHAT HE SAYS AND AS WITH ANY WITNESS, IT  
24 SOUNDS LIKE IT MIGHT BE SUSPICIOUS, WOULD YOU EVALUATE HIS  
25 MOTIVES AND THE MOTIVES OF ANY OTHER WITNESSES TO TELL OR  
26 NOT TELL THE TRUTH?

27 MS. SIMON: YES.

28 MR. WAPNER: DID YOU EVER GET INTO DISCUSSIONS ON SERIOUS

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MATTERS -- DISCUSSIONS WITH FRIENDS WHERE YOU HAVE HAD  
DISAGREEMENTS?

MS. SIMON: YES.

MR. WAPNER: HAVE YOU EVER BEEN ABLE -- HAVE ANY OF  
YOUR FRIENDS EVER BEEN ABLE TO CONVINCING YOU TO CHANGE YOUR  
MIND, ONCE YOU HAVE TAKEN A POSITION?

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9-1

1 MS. SIMON: GOOD FRIENDS.

2 MR. WAPNER: WHAT?

3 MS. SIMON: I HAVE GOOD FRIENDS AND THEY HAVE DONE IT.

4 MR. WAPNER: WERE YOU WILLING TO DISCUSS YOUR POINT OF  
5 VIEW WITH THEM IN ANY OF THESE DISCUSSIONS?

6 MS. SIMON: YES.

7 MR. WAPNER: DO YOU HAVE ANYTHING IN MIND IN PARTICULAR?

8 I MEAN I AM KIND OF IN THE DARK HERE. ARE THERE ANY SUBJECTS  
9 IN MIND THAT YOU HAVE THAT YOU HAVE DISCUSSED WITH THEM?

10 MS. SIMON: I COULD THINK OF ONE. WHEN MY DAUGHTER GOT  
11 HER MASTER'S AND I WAS WONDERING WHETHER I SHOULD BUY HER A  
12 CAR AS A PRESENT AND I THOUGHT, YOU KNOW, IT IS GOOD FOR KIDS  
13 TO EARN THEIR OWN AND A FRIEND OF MINE SAID "WHY WAIT UNTIL  
14 YOU DIE FOR THEM TO GET IT?" AND I BOUGHT HER THE CAR.

15 MR. WAPNER: OKAY.

16 MS. SIMON: OH, YES, I DO CHANGE MY MIND.

17 MR. WAPNER: HAVE YOU BEEN ON JURY DUTY BEFORE?

18 MS. SIMON: NO.

19 MR. WAPNER: WHEN YOU GET INTO THE JURY ROOM, IF YOU DO  
20 IN THIS CASE, YOU ARE GOING TO HAVE TO DISCUSS THE FACTS, THE  
21 EVIDENCE AND THE LAW WITH 11 OTHER JURORS; DO YOU UNDERSTAND  
22 THAT?

23 MS. SIMON: YES.

24 MR. WAPNER: DO YOU THINK YOU CAN DO THAT?

25 MS. SIMON: YES.

26 MR. WAPNER: ARE YOU THE KIND OF PERSON WHO, ONCE YOU  
27 HAVE TAKEN A POSITION, YOU ARE NOT GOING TO CHANGE YOUR MIND  
28 NO MATTER WHAT?

1 MS. SIMON: NO.

2 MR. WAPNER: DO YOU THINK YOU CAN LISTEN TO THE OTHER  
3 PEOPLE AND EVALUATE WHAT THEY HAVE TO SAY?

4 MS. SIMON: YES.

5 MR. WAPNER: WERE THE CAR RADIOS THAT YOU HAVE HAD STOLEN  
6 ALL FROM THE SAME CAR?

7 MS. SIMON: YES.

8 MR. WAPNER: THIS IS JUST A WILD GUESS AND I COULD BE  
9 WAY OFF, BUT THAT WOULDN'T BE A BMW BY ANY CHANCE, WOULD IT?

10 MS. SIMON: NO. YOU ARE WRONG.

11 MR. WAPNER: OKAY, TELL ME WHAT KIND OF CAR IT WAS?

12 MS. SIMON: A 380SL, THE OTHER ONE.

13 MR. WAPNER: CLOSE ENOUGH.

14 THE BMW IS THE OTHER CAR IN THE FAMILY?

15 MS. SIMON: NO.

16 MR. WAPNER: WERE THOSE ALL STOLEN RECENTLY?

17 MS. SIMON: YES.

18 THE CAR IS ONLY TWO YEARS OLD AND IT HAS HAD FOUR  
19 RADIOS.

20 MR. WAPNER: HAVE YOU CONSIDERED GETTING ANOTHER CAR?

21 MS. SIMON: MY HUSBAND WOULDN'T THINK OF IT.

22 I WOULD LIKE TO GET A CHEAPER RADIO.

23 MR. WAPNER: WHEN YOUR PARENTS WERE LIVING, DID THEY LIVE  
24 IN THE LOS ANGELES AREA?

25 MS. SIMON: YES.

26 MR. WAPNER: AND DID YOU SPEAK TO THEM OFTEN?

27 MS. SIMON: YES.

28 MR. WAPNER: HOW OFTEN?



1 MS. SIMON: TWICE A WEEK.

2 MR. WAPNER: AND I ASSUME THAT WHILE THEY WERE ALIVE,  
3 YOU WENT TO VISIT THEM AND THEY CAME TO VISIT YOU?

4 MS. SIMON: OH, YES.

5 MR. WAPNER: HAVE YOU EVER HAD THE SITUATION EITHER WITH  
6 YOUR PARENTS WHEN THEY WERE SUPPOSED TO VISIT YOU OR ANYONE  
7 ELSE, WHERE THEY WERE DUE AT YOUR HOUSE AT A CERTAIN TIME AND  
8 DIDN'T ARRIVE?

9 MS. SIMON: OH, YES.

10 MR. WAPNER: AND DID YOU EVER GET WORRIED?

11 MS. SIMON: I AM AN ANXIOUS TYPE.

12 MR. WAPNER: WHAT KIND OF THINGS WERE GOING THROUGH YOUR  
13 MIND WHEN THE PERSON STARTS TO GET LATER AND LATER AND LATER?

14 MS. SIMON: ACCIDENTS.

15 MR. WAPNER: THAT SOMETHING MIGHT HAVE HAPPENED TO THEM?

16 MS. SIMON: BEING WAYLAID.

17 MR. WAPNER: EVENTUALLY, ALL OF THE PEOPLE SHOWED UP?

18 MS. SIMON: YES.

19 MR. WAPNER: CAN YOU -- WELL, NEVER MIND. I WAS GOING  
20 TO MAYBE GO BACK TO THE BOAT EXAMPLE BUT I THINK THAT IS  
21 ENOUGH OF THAT ALREADY.

22 (LAUGHTER IN THE COURTROOM.)

23 MR. WAPNER: DID YOUR HUSBAND START THIS P.R. FIRM HIM-  
24 SELF?

25 MS. SIMON: YES.

26 MR. WAPNER: WERE THE TWO OF YOU MARRIED AT THE TIME YOU  
27 STARTED THE BUSINESS?

28 MS. SIMON: YES.

1 MR. WAPNER: HOW MANY EMPLOYEES DID HE HAVE WHEN HE  
2 STARTED?

3 MS. SIMON: IT WAS HIMSELF AND A TELEPHONE IN THE DEN.

4 MR. WAPNER: AND I ASSUME THAT HE HAS BUILT UP THIS  
5 BUSINESS UP TO WHERE HE HAS NOW GOT 30 EMPLOYEES ALL BY HIMSELF?

6 MS. SIMON: YES, AND THREE OFFICES.

7 MR. WAPNER: DOES HE STILL WORK PRETTY HARD?

8 MS. SIMON: ENORMOUSLY HARD.  
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1 MR. WAPNER: YOUR DAUGHTER THAT IS AT ARIZONA STATE, HOW  
2 LONG HAS SHE BEEN GOING TO SCHOOL THERE?

3 MS. SIMON: SHE IS A JUNIOR.

4 MR. WAPNER: HAVE YOU EVER GONE TO VISIT HER?

5 MS. SIMON: EVERY AUGUST, I TAKE HER OUT AND EVERY MAY,  
6 I BRING HER BACK.

7 MR. WAPNER: HAVE YOU EVER BEEN TO TUCSON, GONE TO  
8 TUCSON?

9 I REALIZE ARIZONA STATE IS IN TEMPE.

10 MS. SIMON: I HAVE GONE THROUGH TUCSON ON MY WAY EAST  
11 BUT I HAVE NOT STOPPED THERE.

12 MR. WAPNER: YOU DIDN'T GO THIS YEAR FOR THE FOOTBALL  
13 GAME, FOR EXAMPLE, THAT WAS AT TUCSON?

14 MS. SIMON: NO.

15 MR. WAPNER: HOW DO YOU FEEL ABOUT THE HYPOTHETICAL THAT  
16 I USED WITH ONE OF THE OTHER JURORS ABOUT THE ROBBERY THAT  
17 WAS COMMITTED AND IT IS AN IDENTICAL ROBBERY BUT IN THIS ONE  
18 CASE, THE VICTIM IS A PRIEST AND IN THE OTHER CASE THE VICTIM  
19 IS A DOPE DEALER; DO YOU THINK THOSE CASES SHOULD BE TREATED  
20 ANY DIFFERENTLY?

21 MS. SIMON: NO.

22 MR. WAPNER: WOULD THE BACKGROUND OF THE VICTIM IN THIS  
23 CASE AFFECT YOU ONE WAY OR THE OTHER IN BEING OBJECTIVE IN  
24 JUDGING THE FACTS?

25 MS. SIMON: NO.

26 MR. WAPNER: HAVE YOU EVER BEEN THE VICTIM OF ANY KIND  
27 OF A FRAUD OR CON SCHEME OR ANYTHING LIKE THAT?

28 MS. SIMON: NO.

1 MR. WAPNER: DID YOU HAVE ANY FEELINGS ABOUT CIRCUMSTANTIAL  
2 EVIDENCE ONE WAY OR THE OTHER BEFORE YOU CAME TO SERVE HERE  
3 AS A JUROR?

4 MS. SIMON: NO.

5 MR. WAPNER: YOU HEARD THE EXAMPLES THAT I USED BEFORE?

6 MS. SIMON: THEY WERE VERY GOOD.

7 MR. WAPNER: WHAT ARE YOUR HOBBIES, INTERESTS, THINGS  
8 THAT YOU DO AT LEISURE?

9 MS. SIMON: I PLAY TENNIS A LOT. I PLAY BRIDGE. I  
10 SOCIALIZE AND I READ.

11 MR. WAPNER: WHAT KIND OF THINGS DO YOU READ?

12 MS. SIMON: NOVELS PRIMARILY.

13 MR. WAPNER: ANY PARTICULAR TYPE?

14 MS. SIMON: NO. I AM ECLECTIC.

15 MR. WAPNER: YOUR 29-YEAR-OLD DAUGHTER IS A CHILD  
16 SERVICES' WORKER?

17 MS. SIMON: YES.

18 MR. WAPNER: THAT IS WITH THE DEPARTMENT OF CHILDRENS  
19 SERVICES IN LOS ANGELES COUNTY?

20 MS. SIMON: YES.

21 MR. WAPNER: WHAT DOES SHE DO EXACTLY?

22 MS. SIMON: CRISIS INTERVENTION.

23 MR. WAPNER: DOES SHE TALK TO YOU MUCH ABOUT HER WORK?

24 MS. SIMON: HERE AND THERE, YEAH.

25 MR. WAPNER: CAN YOU GIVE ME SOME MORE SPECIFIC  
26 INSTANCES INTO WHAT TYPE OF CRISIS INTERVENTION SHE DOES?

27 MS. SIMON: THERE IS A HOT LINE THAT COMES IN AND EVERY-  
28 THING THAT IS REPORTED, THEY SEND A SPECIAL WORKER OUT ON

1 WHETHER IT IS TRUE OR NOT AND SHE IS THE FIRST LINE THAT GOES  
2 OUT AND MAKES A JUDGMENT ON WHETHER THERE IS A FOLLOWUP OR NOT.

3 SHE CAN EITHER CLOSE A CASE RIGHT THERE, AS, YOU  
4 KNOW, MERE SPECULATION THAT HAS NO MERIT OR CONTINUE THE  
5 INVESTIGATION.

6 MR. WAPNER: SHE IS THE SOCIAL WORKER WHO ACTUALLY GOES  
7 OUT IN THE FIELD?

8 MS. SIMON: YES.

9 MR. WAPNER: AND HAS SHE DISCUSSED ANY OF THOSE PARTICULAR  
10 CASES WITH YOU?

11 MS. SIMON: A FEW TIMES.

12 MR. WAPNER: SO SHE IS IN THE BUSINESS OF EVALUATING  
13 WHETHER CLAIMS HAVE MERIT AND IF SO, HOW MUCH?

14 MS. SIMON: YES.

15 MR. WAPNER: AND YOUR OTHER DAUGHTER THAT IS IN SCHOOL,  
16 IS SHE STUDYING ANYTHING IN PARTICULAR, HAVE A MAJOR?

17 MS. SIMON: OH, LORD, I HOPE SO.

18 SHE IS A JOURNALISM MAJOR.

19 MR. WAPNER: THANK YOU. PASS FOR CAUSE, YOUR HONOR.

20 THE COURT: ALL RIGHT, THE DEFENDANT'S PEREMPTORY.

21 MR. BARENS: YES, YOUR HONOR, THE DEFENSE ASKS THE  
22 COURT TO THANK AND EXCUSE JUROR NUMBER 9, MS. HOFER.

23 THE COURT: ALL RIGHT, THANK YOU VERY MUCH, MS. HOFER.

24 THE CLERK: MS. MARTHA MANZANO, M-A-N-Z-A-N-O.

25 THE COURT: MISS MANZANO -- IS IT MISS OR MRS.?

26 MS. MANZANO: NO. IT IS MISS.

27 THE COURT: MISS MANZANO, UP TO THIS POINT, YOU HAVE  
28 HEARD ALL OF THE QUESTIONS AND ANSWERS WHICH WERE ASKED AND

1 GIVEN, THOSE WHICH I HAVE ASKED AND THOSE WHICH COUNSEL HAVE  
2 ASKED?

3 MS. MANZANO: YES.

4 THE COURT: IF THE SAME GENERAL QUESTIONS WERE ASKED OF  
5 YOU, WOULD YOUR ANSWERS BE SUBSTANTIALLY DIFFERENT OR WOULD  
6 THEY BE ABOUT THE SAME?

7 MS. MANZANO: THE SAME.

8 THE COURT: ALL RIGHT. WHAT DO YOU DO?

9 MS. MANZANO: I WORK FOR THE CITY OF CULVER CITY FIRE  
10 PREVENTION DEPARTMENT.

11 THE COURT: HOW LONG HAVE YOU BEEN SO EMPLOYED THERE?

12 MS. MANZANO: ELEVEN YEARS.

13 THE COURT: GENERALLY, WHAT IS THE NATURE OF THE WORK  
14 THAT YOU DO?

15 MS. MANZANO: I ENFORCE THE MUNICIPAL CODE FOR THE CITY  
16 OF CULVER CITY.

17 THE COURT: THAT IS ALMOST LAW ENFORCEMENT WORK OF SOME  
18 KIND?

19 MS. MANZANO: YES.

20 THE COURT: AND BECAUSE YOU ARE IDENTIFIED WITH LAW  
21 ENFORCEMENT, IN THIS PARTICULAR CASE WOULD YOU TEND TO FAVOR  
22 THE TESTIMONY OF THE PROSECUTION OR FAVOR THE TESTIMONY OF THE  
23 POLICE OFFICERS WHO MAY TESTIFY HERE?

24 MS. MANZANO: NO.

25 I HAVE TO LISTEN.

26 THE COURT: YOU WOULD BE COMPLETELY IMPARTIAL?

27 MS. MANZANO: RIGHT.

28 THE COURT: YOU WOULD FAVOR NEITHER ONE KIND OF A WITNESS

1 OR ANOTHER KIND OF A WITNESS?

2 MS. MANZANO: RIGHT.

3 THE COURT: WHERE DO YOU LIVE?

4 MS. MANZANO: I LIVE IN WEST LOS ANGELES.

5 THE COURT: HAVE YOU EVER SAT AS A JUROR ON A CRIMINAL  
6 CASE BEFORE?

7 MS. MANZANO: NO, I HAVEN'T.

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1 THE COURT: NOW, TELL ME SOMETHING ABOUT YOUR EDUCATION,  
2 IF YOU WILL.

3 MS. MANZANO: JUST HIGH SCHOOL AND ONE YEAR OF CITY  
4 COLLEGE.

5 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

6 MR. BARENS: DO YOU WISH ME TO START?

7 THE COURT: I THINK MAYBE WE'LL TAKE A RECESS.

8 MR. BARENS: AT YOUR PLEASURE.

9 THE COURT: LADIES AND GENTLEMEN, WE'LL TAKE A 15-MINUTE  
10 RECESS AT THIS TIME. PLEASE BE BACK HERE AT 10 MINUTES AFTER  
11 3:00. THEN WE WILL PROCEED FURTHER. THANK YOU.

12 (RECESS.)

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1 (APPEARANCES AS PREVIOUSLY NOTED EXCEPT  
2 MR. CHIER WAS NOT PRESENT.)

3 THE COURT: STIPULATED THE DEFENDANT IS PRESENT, COUNSEL  
4 ARE PRESENT AND THE JURORS ARE PRESENT.

5 I THINK IT IS THE PEOPLE'S PEREMPTORY.

6 MR. WAPNER: NO. WE HAVEN'T BEGUN TO INQUIRE OF MS.  
7 MANZANO YET.

8 THE COURT: OH, YES, THAT IS CORRECT. WISHFUL THINKING  
9 ON MY PART.

10 (LAUGHTER IN THE COURTROOM.)

11 A JUROR: COULD YOU SPEAK A LITTLE LOUDER?

12 THE COURT: THAT REMARK, YOU NEEDN'T EVER HEAR IT.

13 MR. BARENS: GOOD AFTERNOON, MS. MANZANO.

14 DO YOU KNOW IF MR. WAPNER'S BOAT IS IN THE MIDDLE  
15 OF THE OCEAN AND THE OCEAN WAS SHARK INFESTED, DO YOU KNOW THE  
16 ONLY PERSON THAT WOULDN'T BE AFRAID OF FALLING OFF THAT BOAT?

17 WELL, THEY SAY IT WOULD BE A LAWYER.

18 (LAUGHTER IN THE COURTROOM.)

19 MR. BARENS: DO YOU KNOW WHY THEY SAY A LAWYER WOULDN'T  
20 BE AFRAID TO FALL OFF THAT BOAT?

21 BECAUSE THE SHARKS WOULDN'T EAT HIM OUT OF  
22 PROFESSIONAL COURTESY.

23 (LAUGHTER IN THE COURTROOM.)

24 MR. WAPNER: SPEAK FOR YOURSELF, PAL.

25 MR. BARENS: WELL, FORTUNATELY, THE SHARKS DON'T  
26 DISCRIMINATE AND WHAT WE WANT TO MAKE SURE IS YOU DON'T AND  
27 THAT IS WHY I HAVE GOT TO GO THROUGH SOME OF THE SAME STORIES  
28 THAT WE HAVE WITH THE OTHER JURORS.

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I APOLOGIZE TO THE OTHER JURORS THAT HAVE TO ONCE  
AGAIN SIT THROUGH THIS BUT THIS IS JUST WHAT THE SYSTEM  
PROVIDES.

DO YOU SEE THE COCCON?

MS. MANZANO: YES, I DO.

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1 MR. BARENS: HOW DO YOU FEEL ABOUT THAT COCOON AFTER  
2 YOU WORK ALL DAY WITH PEOPLE THAT ARE LAW-BREAKERS?  
3 ESSENTIALLY, ISN'T THAT WHAT YOU LOOK AT, PEOPLE THAT BREAK  
4 THE LAW?

5 MS. MANZANO: MOST OF THE TIME.

6 MR. BARENS: IN YOUR JOB, DO YOU KIND OF HAVE A TENDENCY  
7 BECAUSE OF WHAT YOU DO, TO PRESUME THEY HAVE BROKEN THE LAW  
8 AS SOON AS YOU SEE SOMETHING THAT LOOKS LIKE A VIOLATION?

9 MS. MANZANO: YES. AS SOON AS I GET IT, I KNOW MORE  
10 OR LESS WHETHER THEY HAVE OR NOT.

11 MR. BARENS: DO THE PEOPLE THAT YOU INTESTIGATE, GO  
12 TO TRIAL?

13 MS. MANZANO: ONLY ABOUT 10 PERCENT OF THE TIME.

14 MR. BARENS: ABOUT THOSE 10 PERCENT, HAVE YOU SEEN YOU  
15 KNOW, A VIOLATION THAT APPEARS IN YOUR EYES AND YOU HAVE MADE  
16 THE DECISION, HAVE YOU NOT?

17 MS. MANZANO: YES I HAVE.

18 MR. BARENS: WHAT HAPPENED TO THEIR PRESUMPTION OF  
19 INNOCENCE?

20 MS. MANZANO: I DON'T UNDERSTAND THE QUESTION.

21 MR. BARENS: WELL, ISN'T IT TRUE THOSE PEOPLE DIDN'T  
22 HAVE A PRESUMPTION OF INNOCENCE WITH YOU ANY MORE?

23 MS. MANZANO: YES.

24 MR. BARENS: ISN'T THAT TRUE?

25 MS. MANZANO: YES.

26 MR. BARENS: WELL, WHAT YOU PREPARE WHEN YOU SEE A  
27 VIOLATION, IS AN ACCUSATION, DON'T YOU?

28 MS. MANZANO: YES.

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1 MR. BARENS: AND WHAT DO YOU CALL IT, A COMPLAINT?

2 MS. MANZANO: A COMPLAINT, YES.

3 MR. BARENS: WELL, I HAVE GOT HERE YOUNG MR. HUNT.  
4 I HAVE AN ACCUSATION, A COMPLAINT ALLEGING MURDER AGAINST  
5 MR. HUNT. HOW DO YOU FEEL?

6 WHAT DO YOU THINK ABOUT MR. HUNT? DO YOU THINK  
7 THAT HE IS GUILTY OR MAYBE A LITTLE GUILTY BECAUSE OF THAT  
8 ACCUSATION?

9 MS. MANZANO: NO, NOT REALLY.

10 MR. BARENS: IN YOUR HEART OF HEARTS, CAN YOU LOOK AT  
11 MR. HUNT AND REALLY SEE THAT COCOON? I AM NOT SAYING YOU  
12 HAVE TO. I AM NOT SAYING ANYTHING IS WRONG IF YOU DON'T,  
13 EXCEPT IF YOU ARE PICKED AS A JUROR IN THIS CASE.

14 DO YOU THINK THAT ACCUSATION, THE FACT THAT HE  
15 IS CHARGED WITH MURDER, MAKES YOU THINK THAT PROBABLY HE DID  
16 SOMETHING WRONG OR HE WOULDN'T BE HERE?

17 MS. MANZANO: NOT NECESSARILY, NO. BECAUSE IN A LOT  
18 OF CASES, EVEN THOUGH I SEE THE VIOLATION AND THEY DO GO TO  
19 COURT, THEY PRESENT THE CASE AND IT IS DISMISSED FROM THE  
20 COURT. MY WHOLE CASE HAS BEEN THROWN OUT OF COURT.

21 MR. BARENS: DO YOU UNDERSTAND THAT AN ACCUSATION IS  
22 NOT EVIDENCE OF ANY KIND?

23 MS. MANZANO: RIGHT.

24 MR. BARENS: AND THAT IT DOES NOT PROVE ANYTHING?

25 MS. MANZANO: YES.

26 MR. BARENS: DO YOU SEE THE COCOON I HAVE BEEN TALKING  
27 ABOUT AROUND MR. HUNT?

28 MS. MANZANO: YES I DO.

1 MR. BARENS: AND DO YOU THINK THAT THAT COCOON IS A  
2 WORTHWHILE PART OF OUR JUDICIAL SYSTEM?

3 MS. MANZANO: VERY MUCH SO.

4 MR. BARENS: DO YOU THINK THERE IS ANYTHING WRONG THAT  
5 HE HAS THAT FOR THE WHOLE TRIAL?

6 MS. MANZANO: NOT AT ALL, NO.

7 MR. BARENS: WHAT DO YOU DO WITH YOUR FREE TIME?

8 MS. MANZANO: I LIKE TO GO TO BASEBALL GAMES. I PLAY  
9 RACQUETBALL QUITE A BIT. I DO A LOT OF CAMPING.

10 MR. BARENS: DO YOU BELONG TO ANY CHARITABLE OR OTHER  
11 SERVICE GROUPS OR ORGANIZATIONS?

12 MS. MANZANO: NO.

13 MR. BARENS: ARE THERE ANY ANCILLARY GROUPS ASSOCIATED  
14 WITH YOUR JOB THAT YOU BELONG TO?

15 MS. MANZANO: NO, JUST THE CALIFORNIA STATE FIRE  
16 ASSOCIATION. THAT IS ABOUT ALL.

17 MR. BARENS: AND DID YOU HAVE EMPLOYMENT BEFORE THIS  
18 JOB THAT YOU HAVE NOW?

19 MS. MANZANO: YES. I DID.

20 MR. BARENS: WHAT WAS THE LAST JOB YOU HAVE BEFORE THIS  
21 ONE?

22 MS. MANZANO: I WAS A COSMETOLOGIST.

23 MR. BARENS: COSMETOLOGIST?

24 MS. MANZANO: YES.

25 MR. BARENS: WAS THERE A PARTICULAR REASON YOU LEFT  
26 THAT JOB TO GO INTO A JOB SOMEWHAT ASSOCIATED WITH LAW  
27 ENFORCEMENT?

28 MS. MANZANO: TOO MUCH TIME AND NOT ENOUGH MONEY.

1 MR. BARENS: NOW, WHAT WAS THE LAST BOOK YOU READ?

2 MS. MANZANO: "WOMAN OF SUBSTANCE."

3 MR. BARENS: ANY PARTICULAR REASON YOU READ THAT?

4 MS. MANZANO: JUST BECAUSE IT WAS A GOOD BOOK. IT  
5 WAS RECOMMENDED TO ME.

6 MR. BARENS: WHEN YOU SEE A VIOLATION IN YOUR JOB, YOU  
7 TALK TO THE GUY THAT COMMITTED THE VIOLATION, DON'T YOU?

8 MS. MANZANO: YES, I DO.

9 MR. BARENS: AND DO YOU LISTEN TO HIS STORY?

10 MS. MANZANO: YES.

11 MR. BARENS: A LOT OF TIMES YOU SIT THERE AND YOU SAY  
12 TO YOURSELF, "THIS GUY IS JUST PUTTING ME ON," DON'T YOU?

13 MS. MANZANO: YES.

14 MR. BARENS: EVERYBODY HAS GOT AN EXCUSE FOR EVERYTHING,  
15 DON'T THEY?

16 MS. MANZANO: YES, THEY DO.

17 MR. BARENS: WHAT ABOUT GUYS THAT ARE ON TRIAL FOR THEIR  
18 LIFE, ARE YOU GOING TO THINK THE SAME WAY ABOUT THEM?

19 MS. MANZANO: NO.

20 MR. BARENS: WHY WOULDN'T YOU? WHAT IS THE DIFFERENCE  
21 BETWEEN YOUNG MR. HUNT AND THIS GUY WITH THIS BUILDING CODE  
22 VIOLATION?

23 MS. MANZANO: WELL, THE BUILDING CODE VIOLATION, IT IS  
24 THERE AND I COULD SEE IT.

25 WHEREAS WITH MR. HUNT, I THINK THERE IS NOTHING --  
26 I DON'T KNOW THE CIRCUMSTANCES OF THE CASE YET.

27 MR. BARENS: WHAT KIND OF STORIES DO YOU HEAR? YOU GO  
28 OUT AND YOU DO AN INSPECTION AND THINGS ARE SUPPOSED TO BE

3-2

1 ONE WAY AND YOU STAND THERE AND YOU SAY IT ISN'T THIS WAY AT  
2 ALL, WHAT DO THEY SAY TO YOU?

3 MS. MANZANO: OH, THAT IS HARD TO ANSWER. I GET SO  
4 MANY EXCUSES.

5 MR. BARENS: GIVE ME AN EXAMPLE, WHAT IS ONE KIND OF  
6 THING YOU HEAR OUT IN THE FIELD DOING YOUR JOB?

7 MS. MANZANO: THEY DON'T KNOW IT IS SUPPOSED TO BE DONE  
8 THE WAY I SAY IT IS SUPPOSED TO BE DONE.

9 MR. BARENS: DO THEY SAY "BECAUSE I DIDN'T KNOW IT WAS  
10 SUPPOSED TO BE THAT WAY, YOU SHOULDN'T WRITE ME A CERTIFICATE  
11 OR A CITATION OR WHATEVER?"

12 MS. MANZANO: RIGHT.

13 MR. BARENS: AND YOU SAY TO THEM?

14 MS. MANZANO: I HAVE TO DO IT.

15 MR. BARENS: DOING MY JOB?

16 MS. MANZANO: RIGHT.

17 MR. BARENS: DO YOU UNDERSTAND THAT THE DEFENSE HERE IS  
18 NOT SAYING "WE DIDN'T KNOW YOU ARE NOT SUPPOSED TO DO IT" AND  
19 WE ARE NOT SAYING THAT THE BUILDING IS BUILT THE RIGHT WAY AND  
20 THAT YOU ARE SEEING IT WRONG.

21 THE DEFENSE IS SAYING THAT WE DIDN'T KILL ANYBODY,  
22 NOT GUILTY; DO YOU UNDERSTAND THAT?

23 MS. MANZANO: YES.

24 MR. BARENS: IT IS A LOT DIFFERENT THAN WHAT YOU SEE  
25 OUT THERE, WHERE YOU ACTUALLY SEE A BUILDING. THAT IS WHAT  
26 MR. WAPNER WAS TALKING ABOUT YESTERDAY, DIRECT EVIDENCE, YOU  
27 SEE DIRECT EVIDENCE OF A VIOLATION. YOU DON'T DEAL IN  
28 CIRCUMSTANTIAL EVIDENCE, DO YOU?

1                    YOU ACTUALLY GET TO SEE IT?

2            MS. MANZANO:    RIGHT.

3            MR. BARENS:    AN EASIER CALL, ISN'T IT?

4            MS. MANZANO:    A LOT EASIER.

5            MR. BARENS:    YOU'VE GOT TO MAKE SOME ASSUMPTIONS, GOT  
6            TO MAKE SOME CONCLUSIONS WHEN YOU ARE DEALING WITH CIRCUMSTANTIAL  
7            EVIDENCE, DON'T YOU?

8            MS. MANZANO:    YES.

9            MR. BARENS:    NOW, YOU UNDERSTAND THAT WHAT YOU HAVE HERE  
10           IS A GUILT OR INNOCENCE QUESTION, GUILTY, NOT GUILTY?

11           MS. MANZANO:    YES.

12           MR. BARENS:    GUILTY, INNOCENT.

13                    HOW DO YOU FEEL ABOUT THE FACT THAT THE PEOPLE HAVE  
14           THE BURDEN OF PROOF AND NOT THE DEFENSE?

15           MS. MANZANO:    I DON'T SEE ANYTHING WRONG WITH THAT.

16                    TO ME, THEY ARE GOING TO HAVE TO PROVE IT.

17           MR. BARENS:    DO YOU THINK IT IS FAIR?

18           MS. MANZANO:    YES, I DO.

19           MR. BARENS:    WOULD YOU, IF YOU WERE A DEFENDANT, VALUE  
20           THE FACT THAT THE PEOPLE HAVE TO PROVE IT AND YOU DON'T HAVE  
21           TO PROVE ANYTHING?

22           MS. MANZANO:    YES.

23           MR. BARENS:    DO YOU FEEL THERE SHOULD BE SOMETHING THAT  
24           SHOULD FORCE YOU TO HAVE TO PROVE SOMETHING OR COULD YOU JUST  
25           SIT THERE AND SAY "HEY, I DIDN'T DO ANYTHING, YOU PROVE I  
26           DID SOMETHING"?

27           MS. MANZANO:    WELL, THAT IS KIND OF HARD TO ANSWER  
28           REALLY.



1 I FEEL THEY SHOULD HAVE TO PROVE IT.

2 MR. BARENS: EARLIER, WE HEARD A JUROR TELL US THAT IF  
3 HER DAUGHTER FELL OFF MR. WAPNER'S BOAT, SHE WOULD EXPECT TO  
4 HEAR FROM HER PRETTY SOON; DO YOU THINK THAT IS REASONABLE?

5 MS. MANZANO: YES.

6 MR. BARENS: NOW, DO YOU UNDERSTAND THAT IF HER DAUGHTER  
7 WAS A FUGITIVE FROM THE LAW AND IF HER DAUGHTER DID CALL HER  
8 AFTER SHE FELL OFF THAT BOAT OR JUMPED OFF THAT BOAT, THAT IT  
9 MIGHT BE POSSIBLE IF THAT MOTHER WAS HERE IN COURT TESTIFYING  
10 TO US, THAT SHE MIGHT NOT TELL US THE TRUTH, THAT SHE MIGHT NOT  
11 TELL US SHE HAD HEARD FROM HER DAUGHTER?

12 MS. MANZANO: THIS IS POSSIBLE.

13 MR. BARENS: THAT WOULD BE WITHIN THE REALM OF THOSE  
14 REASONABLE KINDS OF THINGS THAT MR. WAPNER IS TALKING ABOUT?

15 MS. MANZANO: YES.

16 MR. BARENS: THAT A MOTHER MIGHT NOT IN FACT TELL THE  
17 TRUTH AND A FATHER, BY THE SAME TOKEN, MIGHT NOT TELL THE  
18 TRUTH IF THEY HEARD FROM THEIR FUGITIVE SON; DO YOU UNDERSTAND  
19 THAT?

20 MS. MANZANO: YES.

21 MR. BARENS: WOULD THAT BE REASONABLE?

22 MS. MANZANO: YES, IT WOULD.

23 MR. BARENS: AGAIN, I THINK WHAT WE ARE TALKING ABOUT  
24 ON BOTH SIDES WHEN WE TALK ABOUT THESE WITNESSES' TESTIMONY  
25 AND HIS HONOR'S INSTRUCTIONS, IS WE HAVE TO LOOK FOR THE  
26 MOTIVES OF THESE PEOPLE.

27 WE ALL LIKE TO THINK THAT THE TRUTH IS AN END IN  
28 ITSELF. THAT YOU KNOW, CERTAINLY, IF YOU WERE CALLED TO

1 ANSWER SOMETHING, YOU WOULD TELL THE TRUTH.

2 THE PROBLEM WE GET INTO, CAN YOU UNDERSTAND, THAT  
3 SOMETIMES PEOPLE HAVE MOTIVES FOR ENDS THAT ARE NOT CONSISTENT  
4 WITH TRUTH AND, THEREFORE, THE TRUTH IS GOING TO LOSE; DO YOU  
5 UNDERSTAND THAT?

6 MS. MANZANO: YES.

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24A-1  
1 MR. BARENS: AND THE ONLY PEOPLE IN THIS COURTROOM WHO  
2 KNOW THE TRUTH, ARE YOU JURORS. YOU ARE THE ONLY ONES WHOSE  
3 SENSE OF TRUTH MEANS ANYTHING. SO, YOU ARE NOT JUST GOING  
4 TO TAKE WHAT A WITNESS SAYS. YOU ARE GOING TO LOOK AT YOUR  
5 OWN SENSE OF TRUTH.

6 IS THAT TRUE?

7 MS. MANZANO: YES.

8 MR. BARENS: ARE YOU GOING TO DEFINE YOUR OWN SENSE  
9 OF TRUTH BASED ON WHAT A WITNESS SAYS OR BASED ON WHAT ALL  
10 OF THE TESTIMONY IS?

11 MS. MANZANO: ALL OF THE TESTIMONY.

12 MR. BARENS: DID YOU GROW UP IN CALIFORNIA?

13 MS. MANZANO: YES I DID.

14 MR. BARENS: WHEN YOU HAD JOB CHOICES AFTER BEING A  
15 COSMETOLOGIST, HOW DID YOU HAPPEN TO FOCUS ON THE PARTICULAR  
16 EMPLOYMENT THAT YOU SELECTED?

17 MS. MANZANO: I WAS UNDER A CETA PROGRAM AT THAT TIME.  
18 AND I WENT IN AND WAS TRAINED UNDER THE CETA PROGRAM. THAT  
19 IS A JOB THAT WAS OFFERED TO ME.

20 MR. BARENS: AND WAS THAT KIND OF THE ONLY JOB THAT  
21 THEY HAD AVAILABLE AT THAT MOMENT IN TIME?

22 MS. MANZANO: YES IT WAS.

23 MR. BARENS: HOW DID YOU FEEL ABOUT DEFENDANTS' RIGHTS  
24 AS A GENERAL PROPOSITION, THE FIFTH AMENDMENT?

25 MS. MANZANO: I HAVE NO PROBLEM WITH THAT.

26 MR. BARENS: DO YOU FEEL THAT THE BILL OF RIGHTS IS  
27 A WORTHY THING OR DO YOU THINK THAT IT HAS BEEN TAKEN ADVANTAGE  
28 OF BY TOO MANY OF THE BAD GUYS?

24A-2

1 MS. MANZANO: I THINK THAT IT IS WORTHWHILE.

2 MR. BARENS: DO YOU KNOW THAT THE ONLY ONE WHO CAN  
3 DECIDE WHO THE BAD GUYS ARE AND WHO THE GOOD GUYS ARE AND  
4 WHO THE INNOCENT GUYS ARE, IS THE JURY AND NOT ANY POLICE  
5 PEOPLE?

6 MS. MANZANO: YES.

7 MR. BARENS: NOT THE LAWYERS?

8 MS. MANZANO: YES.

9 MR. BARENS: WHO ARE OUT THERE IN THE OCEAN?

10 MS. MANZANO: YES.

11 MR. BARENS: DO YOU HAVE ANY TRAINING OR EXPERIENCE  
12 IN ACCOUNTING?

13 MS. MANZANO: NO I DON'T.

14 MR. BARENS: DID YOU EVER TAKE ANY CLASSES IN  
15 PHILOSOPHY?

16 MS. MANZANO: NO.

17 MR. BARENS: YESTERDAY I TALKED ABOUT THE BILLIONAIRE  
18 BOYS CLUB.

19 DOES THAT HAVE ANY IMPLICATIONS FOR YOU WHEN YOU  
20 HEAR THAT SOMEWHAT RACY SOUNDING EXPRESSION?

21 MS. MANZANO: NO.

22 MR. BARENS: IF SOMEONE WAS A MEMBER OF A CLUB CALLED  
23 THE BILLIONAIRE BOYS CLUB, DO YOU THINK THAT HE MIGHT BE A  
24 SUSPICIOUS CHARACTER?

25 MS. MANZANO: NO, NOT AT ALL.

26 MR. BARENS: DO YOU THINK -- YESTERDAY, I SPENT A LITTLE  
27 WHILE TALKING ABOUT CAPITALISM. DO YOU THINK ANYTHING ABOUT  
28 PEOPLE WHO SPEND THEIR WHOLE LIVES JUST OUT THERE TRYING TO

4A-3

1 MAKE MONEY --

2 MS. MANZANO: NO.

3 MR. BARENS: AS LONG AS THEY DO IT HONESTLY?

4 MS. MANZANO: THAT'S RIGHT.

5 MR. BARENS: HAVE YOU EVER HAD ANY ACTIVITY IN STOCK  
6 TRADING OR COMMODITIES EXPERIENCE?

7 MS. MANZANO: NO.

8 MR. BARENS: WHERE DID YOU RECEIVE YOUR EDUCATION?

9 MS. MANZANO: HERE IN SANTA MONICA.

10 MR. BARENS: YOU WENT TO SANTA MONICA HIGH?

11 MS. MANZANO: I WENT TO SAINT MONICA'S HIGH SCHOOL.

12 MR. BARENS: DID YOU SAY THAT YOU HAD SOME EDUCATION  
13 SUBSEQUENT TO THAT?

14 MS. MANZANO: JUST A YEAR OF COLLEGE AT SANTA MONICA  
15 CITY COLLEGE.

16 MR. BARENS: DID YOU TAKE ANY CLASSES THERE?

17 MS. MANZANO: NO, JUST BASIC ENGLISH AND MATH.

18 MR. BARENS: DO YOU OWN A FIREARM?

19 MS. MANZANO: NO.

20 MR. BARENS: DO YOU HAVE ANY EXPERIENCE OR TRAINING  
21 IN THE USE OF FIREARMS?

22 MS. MANZANO: NO.

23 MR. BARENS: YOU DON'T CARRY A FIREARM IN YOUR EMPLOYMENT,  
24 DO YOU?

25 MS. MANZANO: NO.

26 MR. BARENS: WHEN YOU SEEK A COMPLAINT AGAINST A DEFENDANT,  
27 DO YOU HAVE TO REVIEW THAT DECISION WITH SOMEONE ELSE IN YOUR  
28 OFFICE OR IS THAT SOMETHING THAT YOU CAN DO IN A UNILATERAL

24A-4  
1 MANNER?

2 MS. MANZANO: I REVIEW IT WITH THE CITY ATTORNEY.

3 MR. BARENS: WITH THE CITY ATTORNEY? AND ARE THERE  
4 CERTAIN CRITERIA THAT THE CITY ATTORNEY IMPOSES ON YOU THAT  
5 YOU HAVE TO DISCUSS, TO SUCCEED WITH THE COMPLAINT?

6 MS. MANZANO: WITH THE CITY ATTORNEY, I DISCUSS WHETHER  
7 SHE WANTS ME TO GO OUT THERE AND CITE THEM OR IF SHE WANTS  
8 TO TAKE THE MATTER TO COURT.

9 MR. BARENS: NOW, WHAT IF A COMPLAINT IS SUBJECT TO  
10 A REASONABLE DOUBT STANDARD TOO, ISN'T IT?

11 MS. MANZANO: YES.  
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24A-5  
1 MR. BARENS: DO YOU PERSONALLY EVER HAVE ANY INSTANCES  
2 WHEN YOU ARE OUT THERE WHERE YOU SEE SOME SITUATION THAT YOU  
3 HAVE A REASONABLE DOUBT ABOUT?

4 MS. MANZANO: YES I HAVE.

5 MR. BARENS: DOES ANYTHING COME TO MIND WITH YOU?

6 MS. MANZANO: ONE TIME WHEN I RECEIVED A COMPLAINT ABOUT  
7 COMBUSTIBLE MATERIAL BEING STORED IN A GARAGE. THE COMPLAINANT  
8 THOUGHT IT WAS COMBUSTIBLE. BUT ACCORDING TO MY TRAINING,  
9 EVERYTHING IN THE GARAGE WAS NOT COMBUSTIBLE.

10 BUT YET, THE COMPLAINANT WANTED ME TO GO OUT THERE  
11 AND DO SOMETHING ABOUT IT.

12 MR. BARENS: AND WHAT DO WE DO WITH CLOSE CALLS?

13 MS. MANZANO: I DIDN'T HEAR THE QUESTION.

14 MR. BARENS: IN TERMS OF MAKING A DECISION AS FAR AS  
15 WHETHER THEY ARE GOING TO PROSECUTE OR NOT OR WHETHER THEY  
16 ARE GOING TO THINK SOMETHING HAS HAPPENED, WHAT DO WE DO WITH  
17 THE CLOSEST OF CALLS? WHAT DO YOU DO? IT MIGHT BE A  
18 VIOLATION AND IT MIGHT NOT. IT IS THE EVER CLOSEST OF CALLS.

19 WHAT DO YOU DO?

20 MS. MANZANO: THEY GIVE ME THE OPPORTUNITY TO MAKE THE  
21 DECISION MYSELF.

22 MR. BARENS: WHAT DO YOU DO?

23 MS. MANZANO: USUALLY, I GO BY MY INSTINCT. IF I DON'T  
24 FEEL IT IS A VIOLATION, I DON'T PURSUE IT.

25 MR. BARENS: YOU DO A BALANCING?

26 MS. MANZANO: YES.

27 MR. BARENS: DO YOU UNDERSTAND THAT IN THIS CASE, YOU  
28 CAN'T DO THAT?

1 MS. MANZANO: YES.

2 (MR. CHIER RE-ENTERS THE COURTROOM.)

3 MR. BARENS: IT IS NOT ONE OF THOSE CLOSE CALLS THAT  
4 WE ARE GOING TO BALANCE OUT. IF IT IS A CLOSE CALL,  
5 MS. MANZANO, WHAT WILL YOU DO?

6 MS. MANZANO: I JUST HAVE TO LISTEN TO ALL OF THE  
7 TESTIMONY AND TRY TO MAKE UP MY MIND.

8 MR. BARENS: IF IT IS STILL A CLOSE CALL?

9 MS. MANZANO: JUST GO WITH MY INSTINCT.

10 MR. BARENS: IF IT IS STILL A CLOSE CALL?

11 MS. MANZANO: I DON'T KNOW.

12 MR. BARENS: I WILL TELL YOU. IF IT IS A CLOSE CALL,  
13 IT IS NOT GUILTY. IT IS NOT BEYOND A REASONABLE DOUBT AND  
14 TO A MORAL CERTAINTY. IT IS NOT GUILTY.

15 IT IS THAT SIMPLE. IT IS NOT WHERE WE ARE GOING  
16 TO SAY AS HIS HONOR SAID TO YOU YESTERDAY, IT IS NOT ONE OF  
17 THOSE 51/49 CALLS. THAT IS WHAT WE DO IN CIVIL LAW. THAT  
18 IS WHAT WE DO. THAT IS CALLED THE PREPONDERANCE OF THE  
19 EVIDENCE.

20 THAT IS WHERE THE SCALES HAVE SHIFTED A LITTLE  
21 BIT. IT IS NOT THAT CALL. DO YOU UNDERSTAND THAT?

22 MS. MANZANO: YES.

23 MR. BARENS: IT IS VERY SIMPLY, A DIFFERENT CALL. IT  
24 IS TERRIBLY SIGNIFICANT THAT WE AT ALL TIMES, KEEP THAT IN  
25 MIND, THAT WE ARE NOT GOING TO RESOLVE THIS ON A MORE LIKELY  
26 BASIS, MORE LIKELY GUILTY THAN NOT OR SUSPICIOUS CIRCUMSTANCES.

27 IT IS EITHER PROVEN BEYOND A REASONABLE DOUBT  
28 OR IT IS NOT. ARE YOU WILLING AS A JUROR, TO FOLLOW THAT



1 STANDARD?

2 MS. MANZANO: YES I AM.

3 MR. BARENS: YOU ARE LIKELY TO HEAR IN THIS CASE, THAT  
4 THE ALLEGED VICTIM WAS HOMOSEXUAL AND LED A SOMEWHAT PUBLIC  
5 HOMOSEXUAL EXISTENCE.

6 WOULD THAT CAUSE YOU TO EITHER BE PREJUDICED  
7 AGAINST THAT INDIVIDUAL OR FAVOR THAT INDIVIDUAL OR CAUSE  
8 NO IMPACT AT ALL?

9 MS. MANZANO: NO IMPACT AT ALL.

10 MR. BARENS: EARLIER ON, MR. WAPNER WAS ASKING JURORS  
11 WHETHER OR NOT THE NATURE OF THE VICTIM WOULD MAKE A DIFFERENCE  
12 TO THEM IN WHETHER THEY WOULD PROSECUTE AND FIND A CONVICTION.  
13 DO YOU REMEMBER THAT DIALOGUE?

14 MS. MANZANO: YES.

15 MR. BARENS: DO YOU REMEMBER THAT WE HAD IN THAT INSTANCE,  
16 A PRIEST AND A COKE DEALER?

17 MS. MANZANO: YES.

18 MR. BARENS: AND THE JURORS SAID THAT THEY WOULD FIND  
19 GUILT ON BOTH OF THOSE PEOPLE?

20 MS. MANZANO: RIGHT.

21 MR. BARENS: NOW, YOU PROBABLY CAME AWAY FROM THAT,  
22 BECAUSE MY SKILLFUL COLLEAGUE PRESENTED THAT IN A SETTING  
23 WHEREBY THE ANSWER WAS RATHER OBVIOUS TO ANYONE LISTENING,  
24 THAT THEY WOULD PROSECUTE THAT COKE DEALER AND THAT PRIEST  
25 THE SAME WAY.

26 WHAT IF THE ALLEGED VICTIM, INSTEAD OF BEING A  
27 COKE DEALER OR A PRIEST, WAS A CON MAN AND SPENT HIS WHOLE  
28 LIFE PULLING CONS, CREATING ILLUSIONS FOR PEOPLE?

1

MR. WAPNER: YOUR HONOR, I THINK WE ARE GETTING DANGEROUSLY CLOSE TO ASKING THE JUROR TO PREJUDGE THE TESTIMONY.

4

THE COURT: YES, I THINK SO, YOU ARE ASKING HER TO PREJUDGE THE TESTIMONY.

6

MR. BARENS: YOUR HONOR, I AM ONLY GOING TO SAY, IF WE HAD A CON MAN ON TRIAL, WOULD SHE THEN BE MORE INTERESTED IN LOOKING AT HIM -- THE NATURE OF THAT VICTIM THAN SHE WOULD THE COKE DEALER WHO, IT IS RATHER OBVIOUS, IS HANDING DRUGS FOR CASH TO SOMEBODY?

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THE COURT: WOULD THAT MAKE ANY DIFFERENCE, WHETHER THE MAN WHO IS ALLEGEDLY MURDERED, TO DETERMINE THE MAN WHO MURDERED HIM IS GUILTY OR NOT GUILTY?

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MS. MANZANO: NO, NOT AT ALL.

15

THE COURT: I THINK THAT COVERS IT, DOESN'T IT?

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MR. BARENS: WOULD IT MAKE A DIFFERENCE, HOWEVER, WOULD IT MAKE A DIFFERENCE, NOT ON GUILTY OR NOT GUILTY BUT WOULD IT MAKE A DIFFERENCE TO YOU WHETHER YOU BELIEVE A CRIME HAD BEEN COMMITTED AT ALL, DEPENDING UPON THE NATURE OF THE ALLEGED VICTIM?

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MS. MANZANO: NO, NOT UNTIL I HEARD ALL THE EVIDENCE.

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MR. BARENS: YOU WOULD BE WILLING TO CONSIDER ALL OF THE EVIDENCE?

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MS. MANZANO: YES.

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MR. BARENS: AND PART OF THE EVIDENCE THAT YOU WOULD CONSIDER WOULD BE THE NATURE OF THE ALLEGED VICTIM?

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MS. MANZANO: YES.

28

MR. WAPNER: YOUR HONOR, I THINK IF WE ARE TALKING ABOUT

1 THE NATURE OF THE VICTIM IN TERMS OF WHETHER A PERSON IS  
2 GUILTY OR NOT, I AM NOT SURE THAT THAT IS A CORRECT STATEMENT.

3 MR. BARENS: NO.

4 MY QUESTION SPECIFICALLY, YOUR HONOR, WAS WHETHER  
5 A CRIME TOOK PLACE, NOT GUILT OR INNOCENCE. WHETHER A CRIME  
6 TOOK PLACE, ALTHOUGH THE OBVIOUS IMPLICATION IS IF THERE IS  
7 NO CRIME, THERE IS NO GUILT.

8 THE COURT: ALL RIGHT.

9 MR. BARENS: SO WOULD YOU CONSIDER ALL OF THAT?

10 MS. MANZANO: YES, I WOULD.

11 MR. BARENS: ARE A LOT OF YOUR FRIENDS IN YOUR PERSONAL  
12 LIFE ASSOCIATED WITH LAW ENFORCEMENT?

13 MS. MANZANO: NO, NOT AT ALL.

14 MR. BARENS: NONE AT ALL?

15 MS. MANZANO: NO.

16 MR. BARENS: DO YOU HAVE ANY CLOSE PERSONAL FRIENDSHIPS  
17 WITH POLICE OFFICERS?

18 MS. MANZANO: NO.

19 MR. BARENS: ARE ANY OTHER MEMBERS OF YOUR IMMEDIATE  
20 FAMILY ASSOCIATED WITH LAW ENFORCEMENT?

21 MS. MANZANO: I HAVE A COUSIN WHO WORKS FOR THE  
22 SHERIFF'S DEPARTMENT IN SAN GABRIEL.

23 MR. BARENS: DO YOU HAVE MUCH CONTACT WITH THAT COUSIN?

24 MS. MANZANO: NO, I DON'T HEAR FROM HIM AT ALL.

25 MR. BARENS: WAS THAT COUSIN, BY ANY CHANCE, INSTRUMENTAL  
26 IN SUGGESTING TO YOU THAT YOU OBTAIN YOUR PRESENT JOB?

27 MS. MANZANO: NO. AT THAT TIME, HE WAS WORKING IN  
28 WISCONSIN.

25-3

1 MR. BARENS: BY THE WAY, IN YOUR JOB, DO YOU TESTIFY IN  
2 COURTROOMS?

3 MS. MANZANO: I HAVE IN THE 11 YEARS I HAVE WORKED THERE,  
4 PROBABLY TWICE.

5 MR. BARENS: AND WERE YOU CROSS-EXAMINED IN THOSE  
6 SETTINGS BY LAWYERS?

7 MS. MANZANO: NO.

8 MR. BARENS: BY WHO ELSE?  
9 WERE THOSE SITUATIONS WHERE IT DIDN'T JUST COME  
10 UP WHERE YOU HAD TO BE CROSS-EXAMINED?

11 MS. MANZANO: RIGHT. THE CITY ATTORNEY IS THE ONE WHO  
12 USUALLY DOES IT.

13 MR. BARENS: AND THE DEFENDANT IN THAT INSTANCE IS  
14 PRO PER?

15 MS. MANZANO: ONLY WHEN SHE IS A WITNESS AND I AM CALLED  
16 INTO COURT.

17 MR. BARENS: WERE THE DEFENDANTS IN ANY OF THE CASES YOU  
18 HANDLED REPRESENTED BY DEFENSE COUNSEL?

19 MS. MANZANO: ONE, AND IT IS STILL GOING THROUGH COURT  
20 RIGHT NOW.

21 MR. BARENS: FROM YOUR EXPERIENCE AND TRAINING, DO YOU  
22 HAVE ANY OPINION ABOUT DEFENSE COUNSEL THAT MIGHT MAKE MY JOB  
23 A LITTLE HARDER WITH YOU THAN PERHAPS MR. WAPNER'S JOB WITH  
24 YOU?

25 MS. MANZANO: NO, NOT AT ALL.

26 MR. BARENS: YOU ARE SURE ABOUT THAT?

27 MS. MANZANO: POSITIVE.

28 MR. BARENS: YOU KNOW, I DON'T MEAN TO HARP ON THINGS

1 BUT WE ARE IN HERE TALKING ABOUT THE MOST SERIOUS KIND OF  
2 MATTERS THAT I CAN EVEN CONCEIVE OF, AND I AM REALLY CONCERNED  
3 THAT BOTH SIDES GET A FAIR TRIAL, AS EVERYBODY IN THE ROOM IS.

4 CAN YOU REALLY TELL ME THAT IN YOUR HEART OF HEARTS,  
5 ALTHOUGH YOU ARE ASSOCIATED WITH LAW ENFORCEMENT, YOU ARE NOT  
6 GOING TO BE MORE LIKELY TO BELIEVE A POLICEMAN'S TESTIMONY  
7 OR AN INVESTIGATOR'S TESTIMONY THAN YOU ARE THAT OF A DEFENSE

8 WITNESS' TESTIMONY?

9 MS. MANZANO: NO. I CAN HONESTLY SAY I WOULD BE  
10 PARTIAL (SIC), I REALLY WOULD.

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1 MR. BARENS: YOU WOULD BE IMPARTIAL?

2 MS. MANZANO: IMPARTIAL, I MEAN.

3 MR. BARENS: A SCARY SLIP OF THE TONGUE.

4 THE COURT: YOU MEAN YOU WILL BE PARTIAL TO THE TRUTH,  
5 WON'T YOU?

6 MS. MANZANO: YES.

7 (LAUGHTER IN COURTROOM.)

8 MR. BARENS: THANK YOU FOR THAT, YOUR HONOR.

9 WHAT WAS THE LAST BOOK YOU READ, MRS. MANZANO?

10 MS. MANZANO: "WOMAN OF SUBSTANCE".

11 MR. BARENS: OH, I AM SORRY. I ASKED YOU THAT.

12 THE COURT: YOU ASKED HER THAT.

13 MR. BARENS: I STAND CORRECTED ON THAT.

14 WOULD YOU LIKE TO BE A JUROR ON THIS CASE?

15 MS. MANZANO: AH, I CAN HONESTLY SAY YES AND NO.

16 MR. BARENS: WELL, COULD I GET BOTH? YOU ARE ENTITLED  
17 TO SAY. WHAT DO YOU THINK?

18 MS. MANZANO: YES, I WOULD. IT IS AN INTERESTING CASE  
19 AND I WOULD LIKE TO DO MY CIVIC DUTY.

20 IT WOULD BE TIME-CONSUMING. I DON'T KNOW HOW THEY  
21 WOULD LIKE IT ON MY JOB, BUT THAT IS WHY I SAY YES AND NO.

22 MR. BARENS: DO YOU THINK IN ANY WAY THAT YOU PERCEIVE  
23 IT AS SOMEWHAT OF AN HONOR TO HAVE AN OPPORTUNITY TO PARTICIPATE  
24 IN THE MOST SACRED ELEMENT OF OUR CONSTITUTIONAL SYSTEM?

25 MS. MANZANO: YES.

26 MR. BARENS: IT IS A SERIOUS RESPONSIBILITY, ISN'T IT,  
27 FOR ALL OF US?

28 MS. MANZANO: IT IS.

1 MR. BARENS: WE ARE AT THE VERY TOUCHSTONE IN THIS COURTROOM  
2 WITH THIS JUDGE AND WITH JOE HUNT, WE ARE AT THE TOUCHSTONE  
3 OF AMERICAN JUSTICE; DO YOU FEEL THE IMPACT OF THAT, MS.  
4 MANZANO?

5 MS. MANZANO: I HAVEN'T REALLY THOUGHT ABOUT IT.

6 I KNOW IT IS AN IMPORTANT CASE.

7 MR. BARENS: WOULD YOU THINK ABOUT THAT? WOULD YOU THINK  
8 ABOUT WHAT IS REALLY GOING ON IN HERE, BESIDES JUST A TRIAL  
9 FOR MR. HUNT'S LIFE AND FREEDOM? THAT YOU ARE PART OF THAT  
10 PROCESS THAT OUR FOREFATHERS TALKED ABOUT, WITH ALL OF THOSE  
11 RESPONSIBILITIES IT IMPOSES ON YOU AND ME AND EVERYBODY ELSE  
12 HERE?

13 MS. MANZANO: YES, IT IS. IT IS A RESPONSIBILITY.

14 MR. BARENS: IT IS REALLY IMPORTANT, TOO, ISN'T IT?

15 MS. MANZANO: YES.

16 MR. BARENS: IT IS KIND OF FLATTERING FOR ALL OF US, TOO,  
17 THAT WE GET TO BE A PART OF THAT, ISN'T IT?

18 WHAT WAS THE PART OF WHERE YOU SAID NO TO ME, WHERE  
19 YOU WOULDN'T LIKE TO BE A JUROR?

20 MS. MANZANO: THE REASON BEING IS REALLY WHEN I GOT BACK  
21 TO WORK, MY DESK WOULD REALLY BE A MESS.

22 MR. BARENS: YOU SHOULD SEE MINE AT 5:30 AND I UNDERSTAND  
23 THAT BUT WE ALL --

24 YOU FEEL YOU WOULD BE WILLING TO MAKE THOSE KINDS  
25 OF SACRIFICES BECAUSE OF THE IMPORTANCE AND THE OVERALL  
26 SIGNIFICANCE OF BEING A PART OF THIS PROCESS?

27 MS. MANZANO: YES.

28 MR. BARENS: THANK YOU. PASS FOR CAUSE, YOUR HONOR.

1 THE COURT: ALL RIGHT, MR. WAPNER.

2 MR. WAPNER: GOOD AFTERNOON, MS. MANZANO.

3 MS. MANZANO: GOOD AFTERNOON.

4 MR. WAPNER: TELL ME A LITTLE BIT ABOUT WHAT YOU DO IN  
5 YOUR WORK SPECIFICALLY.

6 MS. MANZANO: WELL, LIKE I SAID, I ENFORCE THE  
7 MUNICIPAL CODE AS FAR AS RESIDENTIAL AND INDUSTRIAL --

8 MR. WAPNER: WHAT DOES THAT MEAN? WHEN YOU ACTUALLY GO  
9 OUT TO A SITE, WHAT DO YOU DO?

10 MS. MANZANO: MOSTLY INSPECTIONS.

11 MR. WAPNER: OF WHAT KINDS OF THINGS?

12 MS. MANZANO: COMPLAINTS, MOSTLY. COMPLAINTS FROM  
13 NEIGHBORS ABOUT THEIR NEIGHBORS' PROPERTY, MAINTENANCE,  
14 COMPLAINTS ON ILLEGAL SIGNS. ILLEGAL BUSINESSES IN RESIDENTIAL  
15 AREAS.

16 IT COVERS QUITE A BIT.

17 MR. WAPNER: WHAT ABOUT THE FIRST THING THAT YOU MENTIONED  
18 ABOUT COMBUSTIBLE MATERIALS AND THAT KIND OF THING?

19 MS. MANZANO: RIGHT.

20 MR. WAPNER: TELL ME ABOUT THAT.

21 MS. MANZANO: OH, ANY KINDS OF FIRE HAZARDS, WHETHER IT  
22 BE RESIDENTIAL OR COMMERCIAL.

23 MR. WAPNER: AND ARE YOU GIVEN SOME DEFINITION OF WHAT  
24 A FIRE HAZARD IS?

25 MS. MANZANO: YES, IT IS IN THE CODE BOOK.

26 MR. WAPNER: AND IS IT A SPECIFIC DEFINITION, A, B, C  
27 EQUALS A FIRE HAZARD?

28 MS. MANZANO: YES.



1 MR. WAPNER: WHAT DOES IT SAY GENERALLY?

2 MS. MANZANO: AS FAR AS PROPERTY AND MAINTENANCE, YOU  
3 MEAN OR --

4 IT IS QUITE A LARGE DEFINITION ON THAT. IT REALLY  
5 DEPENDS ON THE SPECIFICS, WHETHER IT BE RESIDENTIAL, WHETHER  
6 IT BE INDUSTRIAL, WHETHER IT BE --

7 MR. WAPNER: TAKE THE RESIDENTIAL, FOR EXAMPLE.

8 MR. MANZANO: OKAY, A LOT OF PEOPLE LIKE TO STORE PAINTS,  
9 PAINT THINNERS, GASOLINE IN THEIR GARAGES, THAT WOULD BE  
10 CONSIDERED COMBUSTIBLE MATERIAL.

11 MR. WAPNER: AND IS IT AN ACCUMULATION OF -- IS IT  
12 NECESSARILY JUST THE FACT THAT THERE IS PAINT THINNER THERE  
13 A VIOLATION?

14 MS. MANZANO: IT HAS TO BE A QUANTITY, A LARGE QUANTITY.

15 MR. WAPNER: DO THERE HAVE TO BE OTHER THINGS THAT ARE  
16 COMPATIBLE TO BURNING, FOR EXAMPLE?

17 MS. MANZANO: RIGHT, IF IT IS TOO CLOSE TO A FIRE  
18 HEATER OR TOO CLOSE TO A WIRE, EXTENSION CORD.

19 IT COVERS QUITE A BIT. YOU REALLY HAVE TO  
20 INVESTIGATE IT THOROUGHLY.

21 MR. WAPNER: SO IT DEPENDS ON ALL OF THE FACTS AND  
22 CIRCUMSTANCES --

23 MS. MANZANO: YES.

24 MR. WAPNER: -- AS TO WHETHER IT IS ACTUALLY A VIOLATION?

25 MS. MANZANO: YES.

26 MR. WAPNER: AND THE FACT THAT THERE IS PAINT THINNER  
27 THERE IN AND OF ITSELF IS NOT A VIOLATION --

28 MS. MANZANO: NO.

1 MR. WAPNER: -- RIGHT?

2 AND THE FACT THAT THERE MAY BE AN EXTENSION CORD  
3 THERE IS NOT IN AND OF ITSELF A VIOLATION?

4 MS. MANZANO: NO.

5 MR. WAPNER: YOU CAN SEE ALL OF THESE THINGS DIRECTLY,  
6 THE CORD, THE PAINT THINNER, IT IS DIRECTLY THERE.

7 MS. MANZANO: YES.

8 MR. WAPNER: RIGHT?

9 MS. MANZANO: YES.

10 MR. WAPNER: WHETHER IT IS A FIRE HAZARD OR NOT IS  
11 SOMETHING YOU HAVE TO MAKE A JUDGMENT CALL ON, RIGHT?

12 MS. MANZANO: RIGHT.

13 MR. WAPNER: SO THE FACT PAINT THINNER THERE IS  
14 DIRECT EVIDENCE, RIGHT?

15 MS. MANZANO: YES.

16 MR. WAPNER: THE FACT THERE IS AN EXTENSION CORD THERE  
17 THAT MAY BE FRAYED IS DIRECT EVIDENCE, RIGHT?

18 MS. MANZANO: YES.

19 MR. WAPNER: THE FACT THAT THERE MAY BE NEWSPAPERS THERE  
20 THAT MAY BE ABLE TO BURN IS DIRECT EVIDENCE?

21 MS. MANZANO: RIGHT, YES.

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26A-1

1 MR. WAPNER: THE FACT THAT ALL OF THOSE THINGS ADD UP  
2 TO A FIRE HAZARD, WOULD YOU AGREE THAT TAKING ALL THOSE PIECES  
3 OF DIRECT EVIDENCE, YOU COME TO A SET OF CIRCUMSTANCES THAT  
4 ARE USED TO PROVE THE ULTIMATE FACTS?

5 MS. MANZANO: YES.

6 MR. WAPNER: CAN YOU SEE HOW THAT MIGHT BE INCORPORATED  
7 IN WHAT WE HAVE TALKED ABOUT BEFORE AS A KIND OF CIRCUMSTANCIAL  
8 REASONING PROCESS?

9 MS. MANZANO: YES.

10 MR. WAPNER: IN YOUR BUSINESS WHEN YOU EVENTUALLY DECIDE  
11 TO CITE SOMEONE FOR A VIOLATION, YOU HAVE GOT IN YOUR MIND,  
12 WHAT ARE FACTS THAT YOU THINK PROVE BEYOND A REASONABLE DOUBT  
13 THAT THE VIOLATION EXISTS, RIGHT?

14 MS. MANZANO: RIGHT.

15 MR. WAPNER: IF THAT CASE GOES TO COURT, YOU UNDERSTAND  
16 THAT WHEN THE PERSON YOU CITED GETS TO COURT IN A CRIMINAL  
17 ACTION, HE IS PRESUMED TO BE INNOCENT, RIGHT?

18 MS. MANZANO: YES.

19 MR. WAPNER: AT THAT PARTICULAR TIME, IS THERE ANY DOUBT  
20 IN YOUR MIND, KNOWING THE FACTS THAT YOU KNOW, THAT IN FACT,  
21 THE PERSON IS GUILTY OF THE VIOLATION? I AM NOT TALKING ABOUT  
22 WHETHER YOU PROVED IT YET.

23 BUT, ASSUMING THAT THE FACTS THAT YOU KNOW ARE  
24 TRUE AND THEY COME OUT, IS THERE ANY DOUBT IN YOUR MIND THAT  
25 THAT PERSON IS GUILTY?

26 MR. BARENS: YOUR HONOR, I OBJECT. I WILL ASK THE COURT  
27 TO CLARIFY THE WORD "GUILTY".

28 GUILTY CAN ONLY EXIST IN OUR SYSTEM, AS TO WHAT

1 A JURY SAYS.

2 MR. WAPNER: I AM NOT TALKING ABOUT --

3 MR. BARENS: EXCUSE ME, MR. WAPNER, GUILTY CANNOT EXIST  
4 OUT OF CONTEXT.

5 IN THIS COURTROOM YOUR HONOR, GUILTY ONLY CAN  
6 OCCUR AND ATTACH WHEN A JURY SAYS SO.

7 THE COURT: YOU ARE MAKING AN ARGUMENT INSTEAD OF A  
8 MOTION.

9 MR. BARENS: THE MOTION IS THAT COUNSEL'S COMMENT IS  
10 VERY MISLEADING.

11 THE COURT: WELL, I WILL ASK YOU TO RESTATE THE  
12 QUESTION.

13 MR. WAPNER: WELL, I THINK I CAN STATE IT AGAIN THE  
14 SAME WAY.

15 THE COURT: SUSTAINED. I ASKED YOU TO REVISE THE  
16 QUESTION, NOT STATE IT THE SAME WAY.

17 MR. WAPNER: MISS MANZANO, WHAT I AM TALKING ABOUT IS,  
18 WHAT IS YOUR THINKING IN YOUR MIND, NOT WHETHER THE PERSON  
19 IS GOING TO BE FOUND GUILTY OR NOT GUILTY. DO YOU UNDERSTAND  
20 THAT?

21 MS. MANZANO: YES.

22 MR. WAPNER: ALL RIGHT. SO WHEN THAT PERSON GOES TO  
23 COURT AND THE COURT PRESUMES HIM INNOCENT --

24 MS. MANZANO: YES.

25 MR. WAPNER: ARE THERE IN YOUR CASES -- DO YOU KNOW  
26 IN YOUR OWN MIND, THERE ARE FACTS THAT CAN PROVE THAT PERSON  
27 GUILTY?

28 MS. MANZANO: YES.

26A-3

1 MR. WAPNER: AND DO YOU BELIEVE IN YOUR OWN MIND THAT  
2 IF THOSE FACTS -- IF IT COMES TO A TRIAL AND IF THOSE FACTS  
3 COME OUT, DO YOU BELIEVE IN YOUR OWN MIND THAT THE PERSON  
4 WILL BE FOUND GUILTY?

5 MS. MANZANO: YES I DO.

6 MR. WAPNER: DO YOU UNDERSTAND THAT THE PRESUMPTION  
7 OF INNOCENCE DOESN'T MEAN THAT A PERSON IS INNOCENT? DO YOU  
8 UNDERSTAND THAT?

9 MS. MANZANO: YES.

10 MR. WAPNER: DO YOU UNDERSTAND THAT WE HAVE A PRESUMPTION  
11 OF INNOCENCE IN EVERY CRIMINAL TRIAL IN THE UNITED STATES?

12 MS. MANZANO: YES.

13 MR. WAPNER: AND THAT IF THE PRESUMPTION OF INNOCENCE  
14 MEANT THAT EVERYONE WHO WENT TO TRIAL WAS INNOCENT, NO ONE  
15 WOULD EVER BE FOUND GUILTY. DO YOU UNDERSTAND THAT?

16 MS. MANZANO: YES.

17 MR. WAPNER: OKAY. SO THIS COCOON THAT MR. BARENS  
18 REFERS TO IS A DEVICE THAT IS USED TO REQUIRE THE STATE TO  
19 PROVE A PERSON GUILTY BEYOND A REASONABLE DOUBT. DO YOU  
20 UNDERSTAND THAT?

21 MS. MANZANO: YES, I DO.

22 MR. WAPNER: AND UNLESS AND UNTIL THE STATE DOES PROVE  
23 A PERSON GUILTY BEYOND A REASONABLE DOUBT, HE IS PRESUMED  
24 INNOCENT. DO YOU UNDERSTAND THAT?

25 MS. MANZANO: YES I DO.

26 MR. WAPNER: AND WHILE THAT IS ABSOLUTELY A SACRED RIGHT,  
27 IT IS ALSO A PROCEDURAL DEVICE TO ENFORCE THE BURDEN ON THE  
28 STATE TO PROVE THE DEFENDANT GUILTY. DO YOU UNDERSTAND THAT?

26A-4

1 MS. MANZANO: YES.

2 MR. WAPNER: THE HYPOTHETICAL ABOUT THE PRIEST AND THE  
3 DRUG DEALER, IF WE CAN ADD TO THAT, MR. BARENS' PERSON WHO  
4 IS A THIEF AND A CON MAN -- LET'S SAY NOW THAT YOU HAVE THREE  
5 CASES. YOU HAVE THE PRIEST. YOU HAVE THE DRUG DEALER. AND  
6 YOU HAVE THE THIEF AND CON MAN.

7 ALL OF THEM ARE WALKING DOWN THE STREET IN  
8 SUCCESSION AT THE SAME PLACE. THEY GET ROBBED BY THE SAME  
9 GUY, VIEWED BY THE SAME WITNESSES AND WHEN ALL THREE OF THOSE  
10 CASES COME TO COURT, IT IS THE SAME EVIDENCE.

11 JUST BECAUSE ONE IS A PRIEST AND ONE IS A DRUG  
12 DEALER AND ONE IS A THIEF AND CON MAN, SHOULD THOSE CASES  
13 BE TREATED ANY DIFFERENTLY?

14 MS. MANZANO: NO.

15 MR. WAPNER: THE LIFESTYLE OF A PERSON WHO IS THE  
16 VICTIM OF A CRIME, IS THAT GOING TO MAKE ANY DIFFERENCE TO  
17 YOU?

18 MS. MANZANO: NO.

19 MR. WAPNER: I DON'T KNOW WHAT THE EVIDENCE WILL OR  
20 WILL NOT SHOW ABOUT ANY HOMOSEXUAL TENDENCIES OF MR. LEVIN.  
21 THERE MAY BE SOME CONFLICT ABOUT THAT.

22 BUT ASSUMING THAT IT SHOWS THAT, DO YOU HAVE ANY  
23 FEELINGS ONE WAY OR ANOTHER THAT A PERSON WHO HAS CHOSEN THAT  
24 LIFESTYLE, SHOULD BE TREATED ANY DIFFERENTLY UNDER THE LAW?

25 MS. MANZANO: NOT AT ALL.

26 MR. WAPNER: DOES HE DESERVE ANY LESS PROTECTION UNDER  
27 THE LAW THAN ANYONE ELSE?

28 MS. MANZANO: NO.

26A-5

1 MR. WAPNER: HOW DO YOU FEEL ABOUT THE IDEA THAT YOU  
2 CAN HAVE A MURDER PROSECUTION WITHOUT A BODY?

3 MS. MANZANO: WELL, I THOUGHT THAT --

4 THE COURT: I EXPLAINED THAT TO ALL OF THE JURORS, THAT  
5 YOU DON'T NEED A BODY IN ORDER TO HAVE A MURDER PROSECUTION.

6 MR. WAPNER: WE DID. BUT I AM TRYING TO FIND OUT WHAT  
7 HER STATE OF MIND IS, INDEPENDENT OF THE EXPLANATION.

8 THE COURT: WILL YOU ACCEPT THE FACT THAT YOU CAN HAVE  
9 A MURDER PROSECUTION WITHOUT A BODY ACTUALLY BEING FOUND?

10 MS. MANZANO: YES.  
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1 MR. WAPNER: MAY I ATTEMPT TO INQUIRE A LITTLE BIT INTO  
2 HER STATE OF MIND, WITH THE COURT'S INDULGENCE?

3 THE COURT: GO AHEAD.

4 MR. WAPNER: I REALIZE THAT IF THE JUDGE TELLS YOU THAT  
5 THAT IS THE LAW, THAT YOU CAN FOLLOW THAT.

6 WHAT I AM TRYING TO GET AT, WHEN YOU FIRST HEAR  
7 ABOUT IT, WHEN YOU FIRST HEARD IT IN THE BACK OF THE COURTROOM,  
8 CAN YOU RECALL WHAT YOU THOUGHT?

9 MS. MANZANO: GEE, I REALLY CAN'T RECALL WHAT I THOUGHT.

10 MR. WAPNER: WHAT DO YOU THINK NOW?

11 MS. MANZANO: WELL, NOW IT IS LIKE THE JUDGE SAID, YOU  
12 KNOW, MURDER CAN BE -- YOU KNOW, THERE DOESN'T HAVE TO BE  
13 A BODY TO PROVE A MURDER.

14 MR. WAPNER: DO YOU UNDERSTAND THAT THE QUESTIONS I  
15 WAS ASKING ABOUT CIRCUMSTANTIAL EVIDENCE ARE ALL RELATED TO  
16 THIS IDEA THAT WE DON'T HAVE A BODY?

17 MS. MANZANO: YES.

18 MR. WAPNER: ALL RIGHT. AND THAT BECAUSE THERE IS NO  
19 BODY, THAT THE PROOF OF THE CRIME ITSELF, OF THE MURDER ITSELF,  
20 IS OF NECESSITY, GOING TO BE DONE BY CIRCUMSTANTIAL EVIDENCE?

21 MS. MANZANO: YES.

22 MR. WAPNER: DOES THAT BOTHER YOU?

23 MS. MANZANO: NO.

24 MR. WAPNER: DO YOU HAVE ANY BROTHERS OR SISTERS?

25 MS. MANZANO: I HAVE THREE SISTERS.

26 MR. WAPNER: DO THEY LIVE IN THE WEST LOS ANGELES AREA?

27 MS. MANZANO: NO. TWO OF THEM LIVE IN THE LOS ANGELES  
28 AREA. ONE LIVES IN ARIZONA.



26A-7

1 MR. WAPNER: WHERE IN ARIZONA?

2 MS. MANZANO: PHOENIX.

3 MR. WAPNER: THE SISTERS THAT LIVE HERE, DO YOU TALK  
4 TO THEM?

5 MS. MANZANO: ONE OF THEM I TALK TO ONCE A WEEK. THE  
6 OTHER ONE I SEE PRACTICALLY EVERY DAY.

7 MR. WAPNER: DOES SHE LIVE NEAR YOU?

8 MS. MANZANO: IN CULVER CITY.

9 MR. WAPNER: AND YOUR PARENTS ARE STILL LIVING?

10 MS. MANZANO: YES.

11 MR. WAPNER: HOW OFTEN DO YOU SEE OR TALK TO THEM?

12 MS. MANZANO: WHEN THEY ARE IN TOWN, I SEE THEM ABOUT  
13 EVERY DAY.

14 MR. WAPNER: WHERE DO THEY LIVE?

15 MS. MANZANO: CULVER CITY. THEY TRAVEL A LOT.

16 MR. WAPNER: OKAY. THANK YOU. DO THEY TRAVEL WITH  
17 A MOTOR HOME OR SOMETHING?

18 MS. MANZANO: WITH A MOTOR HOME AND THEY DO A LOT OF  
19 TRAVELING, TRIPS AND CRUISES OR WHATEVER THEY FEEL LIKE. THEY  
20 JUST TAKE OFF WHEN THEY FEEL LIKE IT.

21 MR. WAPNER: OKAY. SO FAR, THEY HAVE ALWAYS COME BACK?

22 MS. MANZANO: YES, SO FAR.

23 MR. WAPNER: HAVE YOU EVER GOTTEN INTO DISCUSSIONS ABOUT  
24 SERIOUS ISSUES WITH FRIENDS OR RELATIVES?

25 MS. MANZANO: SERIOUS?

26 MR. WAPNER: ANY KIND OF SERIOUS ISSUE OR EVEN ONE  
27 THAT IS NOT SO SERIOUS.

28 MS. MANZANO: POLITICAL DISCUSSIONS AND RELIGIOUS

1 DISCUSSIONS AND THINGS LIKE THAT, YES. THEY CAN GET PRETTY  
2 SERIOUS.

3 MR. WAPNER: OKAY. I WAS TRYING TO STAY AWAY FROM  
4 POLITICAL OR RELIGIOUS. BUT, WE CAN GET INTO THAT.

5 WHAT I AM TRYING TO GET AT IS, HAVE YOU EVER  
6 DISCUSSED A TOPIC AND WE CAN JUST USE POLITICAL FOR THE TIME  
7 BEING, WITH SOMEONE WHERE YOU WERE ABLE TO TAKE A POSITION,  
8 LISTEN TO WHAT THE OTHER PERSON HAD TO SAY AND THEN CHANGE  
9 YOUR MIND?

10 MS. MANZANO: IT HAS HAPPENED.

11 MR. WAPNER: DOES IT HAPPEN OFTEN?

12 MS. MANZANO: NOT TOO OFTEN.

13 MR. WAPNER: OKAY. ARE YOU THE KIND OF PERSON WHO,  
14 ONCE YOU MAKE UP YOUR MIND TO SOMETHING, YOU ARE NOT GOING  
15 TO CHANGE IT NO MATTER WHAT ANYBODY ELSE SAYS?

16 MS. MANZANO: NO BUT THEY HAVE TO PROVE TO ME WHEN I  
17 AM WRONG.

18 MR. WAPNER: OKAY. THAT IS THE REASON THAT I KIND OF  
19 WANTED TO STAY AWAY FROM POLITICS BECAUSE WHEN PEOPLE GET  
20 THEIR POLITICAL VIEWS, THEY HOLD ONTO THEM AND IT TAKES  
21 DYNAMITE TO GET THEM TO CHANGE.

22 BUT IF YOU ARE CHOSEN AS A JUROR IN THIS CASE,  
23 YOU WILL GO BACK -- HAVE YOU EVER SERVED AS A JUROR IN A CIVIL  
24 CASE?

25 MS. MANZANO: NO.

26 MR. WAPNER: IF YOU ARE A JUROR IN THIS CASE, YOU WILL  
27 GO BACK INTO THE JURY ROOM AND DISCUSS IT WITH 11 OTHER PEOPLE.  
28 THE JUDGE WILL TELL YOU THAT YOU ARE REQUIRED TO LISTEN TO

1 WHAT THEY HAVE TO SAY. THEY ARE REQUIRED TO LISTEN TO WHAT  
2 YOU HAVE TO SAY.

3 THEN YOU HAVE TO CAST YOUR OWN, INDIVIDUAL BALLOT.  
4 DO YOU UNDERSTAND THAT?

5 MS. MANZANO: YES.

6 MR. WAPNER: IT IS UNLIKELY THAT WHEN YOU GO BACK THERE,  
7 ALL 12 OF YOU WILL AGREE RIGHT OFF THE BAT. THEN WHAT HAPPENS  
8 IS THAT EVERYONE HAS TO DISCUSS THEIR VIEWPOINTS WITH THE  
9 OTHER PEOPLE.

10 IF YOU TAKE A POSITION AND THERE IS NOT A  
11 UNANIMOUS AGREEMENT AMONG THE JURORS, ARE YOU WILLING TO LISTEN  
12 TO WHAT OTHER PEOPLE HAVE TO SAY?

13 MS. MANZANO: YES.

14 MR. WAPNER: AND IF THEY CONVINCED YOU THAT YOUR  
15 ORIGINAL POSITION WAS WRONG, DO YOU THINK YOU COULD CHANGE  
16 YOUR MIND?

17 MS. MANZANO: IF THEY CONVINCED ME.

18 MR. WAPNER: WHAT WOULD IT TAKE? MAYBE THAT IS NOT  
19 A FAIR QUESTION.

20 WHAT I AM TRYING TO GET AT IS, IN THE DISCUSSIONS  
21 WITH FRIENDS AND FAMILY THAT YOU CAN REMEMBER HAVING, ALL  
22 OF THE DISCUSSIONS YOU CAN REMEMBER HAVING, HOW MANY TIMES  
23 DO YOU EVER THINK YOU CHANGED YOUR MIND?

24 MS. MANZANO: MAYBE THREE OR FOUR TIMES.

25 MR. WAPNER: OKAY. IT TAKES A LOT?

26 MS. MANZANO: YES.

27 MR. WAPNER: OKAY. DO YOU THINK THAT YOU COULD CHANGE  
28 YOUR MIND IN THE JURY ROOM, IF THE INITIAL POSITION YOU TOOK

1 WAS WRONG AND YOU WERE CONVINCED IT WAS WRONG? I DON'T MEAN  
2 IT WAS WRONG, BUT IF THE OTHER JURORS DISCUSSED IT WITH YOU,  
3 IF YOU EVENTUALLY CAME TO SEE THEIR POINT OF VIEW, DO YOU  
4 THINK YOU COULD CHANGE YOUR MIND?

5 MS. MANZANO: YES.

6 MR. WAPNER: THANK YOU. I PASS FOR CAUSE.

7 THE COURT: ALL RIGHT. IT IS THE PEOPLE'S PEREMPTORY.

8 MR. WAPNER: WE WOULD LIKE TO THANK AND ASK THE COURT  
9 TO EXCUSE MS. EWELL.

10 THE COURT: THANK YOU, MISS EWELL.

11 MR. BARENS: MAY WE APPROACH?

12 THE COURT: AFTER WE CONCLUDE.

13 MR. BARENS: I PRESUME THE COURT ANTICIPATES MY  
14 COMMENTS?

15 THE COURT: I DO.

16 MR. BARENS: THANK YOU, YOUR HONOR.

17 THE CLERK: MICHAEL A. LACEY, L-A-C-E-Y.

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1 THE COURT: MR. LACEY, UP TO THIS POINT YOU HAVE HEARD  
2 ALL OF THE QUESTIONS AND ANSWERS WHICH WERE ASKED AND GIVEN,  
3 THOSE QUESTIONS WHICH I ASKED AND WHICH COUNSEL HAVE ASKED?

4 MR. LACEY: YES, SIR.

5 THE COURT: IF THE SAME QUESTIONS WERE ASKED OF YOU, NOT  
6 THE PERSONAL ONES BUT IF THE SAME GENERAL QUESTIONS WERE ASKED  
7 OF YOU, WOULD YOUR ANSWERS BE SUBSTANTIALLY THE SAME OR WOULD  
8 THEY BE DIFFERENT?

9 MR. LACEY: SUBSTANTIALLY THE SAME, SIR.

10 THE COURT: ALL RIGHT, MR. LACEY, WHAT DO YOU DO?

11 MR. LACEY: I AM AN AIRCRAFT MECHANIC FOR CONTINENTAL  
12 AIRLINES.

13 THE COURT: AND HOW LONG HAVE YOU BEEN EMPLOYED BY THEM?

14 MR. LACEY: SEVENTEEN YEARS.

15 THE COURT: WHAT DO YOU DO, YOU REPAIR AIRPLANES, DO  
16 YOU?

17 MR. LACEY: YES, SIR.

18 THE COURT: AND IS THERE A MRS. LACEY?

19 MR. LACEY: YES, THERE IS. JOAN LACEY AND SHE IS A  
20 DISABILITY EVALUATOR FOR THE STATE OF CALIFORNIA.

21 THE COURT: ALL RIGHT. WHERE DO YOU LIVE?

22 MR. LACEY: I LIVE IN NORTH INGLEWOOD.

23 THE COURT: DO YOU HAVE ANY CHILDREN?

24 MR. LACEY: NO CHILDREN, SIR.

25 THE COURT: HAVE YOU EVER SAT AS A JUROR ON A CRIMINAL  
26 CASE BEFORE?

27 MR. LACEY: NO, SIR.

28 THE COURT: ALL RIGHT. WHAT TRAINING OR EDUCATION HAVE

7-2  
1 YOU HAD, MR. LACEY?

2 MR. LACEY: I HAVE AN ASSOCIATE SCIENCE DEGREE FROM L.A.  
3 TRADE TECH AND A DEGREE FROM NORTHROP INSTITUTE OF TECHNOLOGY  
4 IN AIRCRAFT, AERONAUTICAL MAINTENANCE.

5 THE COURT: I SEE, ALL RIGHT.

6 MR. WAPNER: I AM SORRY. I DIDN'T CATCH THAT LAST ONE.

7 (WHEREUPON, THE RECORD WAS READ BY THE  
8 REPORTER.)

9 MR. WAPNER: THANK YOU.

10 THE COURT: ALL RIGHT, YOU MAY INQUIRE.

11 MR. BARENS: THANK YOU.

12 GOOD AFTERNOON, MR. LACEY.

13 MR. LACEY: GOOD AFTERNOON.

14 MR. BARENS: MR. LACEY, WHAT DO YOU LIKE TO DO IN YOUR  
15 SPACE TIME?

16 MR. LACEY: I LIKE TO PRACTICE PHOTOGRAPHY.

17 MR. BARENS: PHOTOGRAPHY?

18 MR. LACEY: YES, SIR.

19 MR. BARENS: ANY PARTICULAR TYPE OF SUBJECTS THAT YOU  
20 ARE INTERESTED IN?

21 MR. LACEY: PORTRAITS.

22 MR. BARENS: PEOPLE PORTRAITS?

23 MR. LACEY: YES, SIR.

24 MR. BARENS: AS OPPOSED TO ORANGES?

25 (LAUGHTER IN THE COURTROOM.)

26 MR. BARENS: ANY OTHER HOBBIES OR INTERESTS, MR. LACEY?

27 MR. LACEY: SPORTS, SPORTS AS A FAN. A FAN NOW.

28 MR. BARENS: ANY PARTICULAR TYPES OF SPORTS YOU ARE

27-3

1 INTERESTED IN?

2 MR. LACEY: FOOTBALL.

3 THE COURT: YOU LOOK LIKE YOU MIGHT BE VERY MUCH  
4 INTERESTED IN IT.

5 MR. LACEY: YES, SIR.

6 MR. BARENS: IF WE PLAY, HE IS ON MY TEAM, YOUR HONOR.

7 (LAUGHTER IN THE COURTROOM.)

8 MR. BARENS: MR. LACEY, DO YOU GO TO THE MOVIES?

9 MR. LACEY: YES, SIR.

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1 MR. BARENS: WHAT KIND OF MOVIES DO YOU LIKE TO GO TO?

2 MR. LACEY: MOVIES LIKE "COLOR PURPLE," MOVIES LIKE  
3 THAT.

4 MR. BARENS: WITH SOME SOCIAL ISSUES TO THEM?

5 MR. LACEY: YES, SIR.

6 MR. BARENS: DO YOU FEEL THAT YOU ARE A PERSON WITH SOME  
7 SOCIAL CONSCIENCE?

8 MR. LACEY: YES, SIR.

9 MR. BARENS: WHAT DO YOU THINK ABOUT THAT COCOON THAT  
10 MR. HUNT IS SITTING OVER THERE WRAPPED IN?

11 MR. LACEY: I THINK IT IS FAIR, IT HAS TO BE THAT WAY.  
12 OTHERWISE, THEY WILL BE CONVICTING INNOCENT PEOPLE ALL THE  
13 WAY, JUST COME UP WITH ANYTHING. SO IT HAS TO BE.

14 MR. BARENS: ALTHOUGH WE HAVE HEARD THAT COCOON REFERRED  
15 TO AS A PROCEDURAL DEVICE TO CAUSE THE GOVERNMENT TO HAVE TO  
16 MAINTAIN THEIR BURDEN OF PROOF HERE WITH MY CLIENT, CAN YOU  
17 STILL PERCEIVE THAT COCOON FOR WHAT I THINK OUR FOREFATHERS  
18 HAD IN MIND, WHICH IS A SACRED ASSUMPTION WE MAKE ABOUT PEOPLE  
19 IN OUR SOCIETY, THAT THEY ARE INNOCENT UNTIL PROVEN GUILTY  
20 BEYOND A REASONABLE DOUBT?

21 MR. LACEY: YES, SIR.

22 MR. BARENS: HOW DO YOU FEEL ABOUT THE FIFTH AMENDMENT  
23 PROTECTION, THE RIGHT NOT TO TESTIFY IN A CRIMINAL PROCEEDING?

24 MR. LACEY: I HAVE NO PROBLEM WITH THAT.

25 MR. BARENS: DO YOU THINK IT IS FAIR?

26 MR. LACEY: RIGHT NOW, YES, IT IS UNTIL THEY IMPROVE ON  
27 IT.

28 MR. BARENS: DO YOU THINK IT IS FAIR THAT THE PEOPLE HAVE



1 THE BURDEN OF PROOF?

2 MR. LACEY: YES, SIR.

3 MR. BARENS: WHEN YOU OBTAINED YOUR AA DEGREE, COULD YOU  
4 EXPLAIN TO ME WHAT THE AREAS OF SPECIALTY INVOLVED?

5 MR. LACEY: WELL, THE BUSINESS ASPECT OF AIRCRAFT AND  
6 MAINTAINING BUSINESS, ALONG WITH THE WORK ITSELF.

7 MR. BARENS: I SEE. THAT WAS A TWO-YEAR PROGRAM?

8 MR. LACEY: TWO-YEAR PROGRAM.

9 MR. BARENS: DO YOU HAVE ANY OTHER COLLEGE LEVEL TRAINING  
10 OR EXPERIENCE?

11 MR. LACEY: WELL, I SPENT SEVERAL YEARS AT UCLA STUDYING  
12 BUSINESS.

13 MR. BARENS: ARE YOU A MEMBER OF A UNION?

14 MR. LACEY: NOT ANYMORE, SIR.

15 MR. BARENS: DID YOU FOLKS DEUNIONIZE?

16 MR. LACEY: YES.

17 FRANK LORENZO DEUNIONIZED US.

18 MR. BARENS: HOW DID YOU FEEL ABOUT THAT?

19 MR. LACEY: I DIDN'T LIKE IT VERY MUCH.

20 MR. BARENS: COULD YOU TELL ME WHY, WHAT WERE YOUR  
21 FEELINGS ABOUT THAT?

22 MR. LACEY: WELL, AS FAR AS EQUALNESS FOR EVERYBODY, ALL  
23 OF THE EMPLOYEES' BARGAINING POWERS, NOW WE HAVE NO BARGAINING  
24 POWERS, THINGS OF THAT NATURE.

25 I THINK WE NEEDED A UNION.

26 MR. BARENS: WERE YOU ACTIVE IN THE UNION WHEN IT WAS  
27 THERE?

28 MR. LACEY: NO, I WASN'T.

1 MR. BARENS: YOU WEREN'T AN OFFICER --

2 MR. LACEY: NO, SIR.

3 MR. BARENS: -- OR DIRECTOR OF THE UNION ACTIVITY?

4 MR. LACEY: NO, SIR.

5 MR. BARENS: DO YOU BELONG TO ANY SOCIAL OR CHARITABLE  
6 CLUBS?

7 MR. LACEY: NO, SIR.

8 MR. BARENS: YOU ARE NOT INVOLVED IN ANY INSTITUTIONAL  
9 OR FORMAL ORGANIZATION OR ANYTHING LIKE THAT?

10 MR. LACEY: NO, SIR.

11 MR. BARENS: DO YOU OWN A FIREARM?

12 MR. LACEY: NO, SIR.

13 MR. BARENS: HAVE YOU EVER HAD ANY TRAINING IN FIREARMS?

14 MR. LACEY: YES, SIR.

15 MR. BARENS: WHEN DID YOU RECEIVE THAT, SIR?

16 MR. LACEY: IN VIETNAM.

17 MR. BARENS: AND YOU ARE A VETERAN OF THE VIETNAM  
18 EXPERIENCE?

19 MR. LACEY: YES, SIR.

20 MR. BARENS: DID THAT EXPERIENCE GIVE YOU ANY PARTICULAR  
21 FEELINGS TOWARD OUR GOVERNMENT?

22 MR. LACEY: NONE OTHER THAN SERVING MY DUTY, HELPING MY  
23 COUNTRY OUT, THAT IS ALL.

24 MR. BARENS: DID IT GIVE YOU A FEELING IN RETROSPECT AS  
25 YOU LOOK BACK ON THAT, YOU KIND OF TOOK A HARD LOOK AT OUR  
26 GOVERNMENT'S MOTIVATIONS WHEN THEY DECIDE TO UNDERTAKE CERTAIN  
27 ACTIVITIES?

28 MR. LACEY: YES, SIR.

1 MR. BARENS: DID IT MAKE YOU THINK SOMETIMES WE HAVE TO  
2 THINK TWICE WHEN THE GOVERNMENT SAYS SOMETHING, WHEN THE PEOPLE  
3 UP THERE SAY SOMETHING, AFTER ALL THE PRESIDENTS THAT GOT INTO  
4 IT, SUPPOSEDLY REPRESENT THE PEOPLE OF THIS COUNTRY, DIDN'T  
5 THEY?

6 MR. LACEY: YES, SIR.

7 MR. BARENS: THEY ACTED IN THE PEOPLES' NAME?

8 MR. LACEY: YES, SIR.

9 MR. BARENS: THEY WEREN'T NECESSARILY RIGHT, WERE THEY?

10 MR. LACEY: I REALLY HAVEN'T MADE A COMPLETE JUDGMENT  
11 ON THAT, SIR.

12 THEY SAID IT WAS RIGHT AND WE DID OUR JOB AND THAT  
13 WAS IT.

14 MR. BARENS: WELL, HERE, WOULD YOU NECESSARILY THINK  
15 BECAUSE SOME REPRESENTATIVE OF THE PEOPLE HERE SAID, "WE ARE  
16 RIGHT, A MAN COMMITTED A MURDER," WOULD THAT GIVE YOU ANY GREATER  
17 REASON TO BELIEVE THAT THE PEOPLE ARE RIGHT AT THIS TIME?

18 MR. LACEY: NO.

19 MR. BARENS: THAT THEY ARE DOING THEIR JOB THIS TIME  
20 TO CONVICT MR. HUNT?

21 MR. LACEY: NO, SIR.

22 IT HAS TO BE PROOF, SOME EVIDENCE TO ME SOME WAY.

23 MR. BARENS: PROOF BEYOND A REASONABLE DOUBT?

24 MR. LACEY: YES, SIR.

25 MR. BARENS: DO YOU HAVE ANY QUESTIONS ABOUT THE BOAT?

26 MR. LACEY: NO, SIR.

27 MS. SHELBY: CAN'T WE SINK THE BOAT?

28 (LAUGHTER IN THE COURTROOM.)

1 MR. BARENS: I AM STILL ASKING QUESTIONS, FROM NOW ON  
2 I AM GOING TO WANT TO KNOW IF YOU HAVE QUESTIONS.

3 MIGHT I INQUIRE? I MISSED THE BENEFIT OF THAT  
4 COMMENT.

5 MS. SHELBY: I SAID, CAN'T WE SINK THE BOAT.

6 MR. BARENS: IT IS NOTABLE THAT WE STARTED THAT BOAT  
7 RIGHT AFTER PEARL HARBOR DAY. THAT MAY BE THE APPROPRIATE  
8 REMEDY.

9 WE HEARD DISCUSSION ON BOTH SIDES ABOUT WITNESS'  
10 MOTIVATIONS WHEN THEY TESTIFY.

11 WOULD YOU HAVE ANY GREATER REASON TO BELIEVE THAT  
12 A POLICEMAN WAS TELLING THE TRUTH, JUST GOING IN NOW, THAN  
13 MR. HUNT?

14 MR. LACEY: NO, SIR.

15 MR. BARENS: EVEN THOUGH THAT YOUNG MAN IS HERE AS THE  
16 DEFENDANT AND HIS LIFE IS ON THE LINE?

17 MR. LACEY: YES, I BELIEVE IT CAN BE EITHER WAY. IT HAS  
18 TO BE, LIKE YOU SAID, LISTENED TO AND JUDGED BY THAT, WHAT YOU  
19 HEAR.

20 MR. BARENS: YOU UNDERSTAND, OF COURSE, THAT AN ACCUSATION  
21 IS NOT EVIDENCE?

22 MR. LACEY: RIGHT.

23 MR. BARENS: THE FACT THAT YOU ARE HERE, THERE IS NO  
24 IMPLICATION FOR YOU THAT HE HAS DONE SOMETHING WRONG JUST  
25 BECAUSE HE IS HERE, IS THERE?

26 MR. LACEY: NO.

27 MR. BARENS: PASS FOR CAUSE, YOUR HONOR.

28 THE COURT: ALL RIGHT.

1 MR. WAPNER: GOOD AFTERNOON, MR. LACEY.

2 MR. LACEY: GOOD AFTERNOON.

3 MR. WAPNER: WERE YOU ABLE TO HEAR ALL OF THE QUESTIONS  
4 THAT I ASKED OF THE OTHER JURORS?

5 MR. LACEY: YES, SIR.

6 MR. WAPNER: DO YOU WANT ME TO ASK YOU ALL OF THOSE  
7 SAME QUESTIONS?

8 MR. LACEY: NO, SIR.

9 MR. WAPNER: I PROBABLY WILL ASK YOU SOME OF THEM,  
10 THOUGH.

11 WHEN YOU ARE NOT WATCHING FOOTBALL ON TV OR WORKING  
12 OR WATCHING FOOTBALL IN PERSON, WHAT ELSE DO YOU LIKE TO DO?

13 MR. LACEY: PHOTOGRAPHY.

14 MR. WAPNER: MAYBE WE HAVE BEEN AT THIS TOO LONG. I  
15 EVEN WROTE THAT DOWN.

16 HAVE YOU, OVER THE YEARS, OBTAINED A LOT OF  
17 PHOTOGRAPHIC EQUIPMENT?

18 MR. LACEY: YES, I HAVE, SIR.

19 MR. WAPNER: AND I ASSUME YOU PUT IN A LOT OF HOURS OF  
20 HARD WORK TO BE ABLE TO GET THE MONEY TO OBTAIN ALL OF THAT  
21 STUFF?

22 MR. LACEY: YES, SIR.

23 MR. WAPNER: HOW MANY YEARS HAVE YOU BEEN DOING  
24 PORTRAITS?

25 MR. LACEY: SINCE 1980.

26 MR. WAPNER: DO YOU DO ANY OF THEM PROFESSIONALLY OR IS  
27 IT JUST MOSTLY A HOBBY?

28 MR. LACEY: PROFESSIONALLY ON A PART TIME BASIS.

1 MR. WAPNER: DO YOU HAVE YOUR OWN STUDIO OR DO YOU WORK  
2 OUT OF YOUR HOUSE?

3 MR. LACEY: FREELANCE PHOTOGRAPHY.

4 MR. WAPNER: WOULD THIS ORDINARILY BE A BUSY TIME FOR  
5 YOU, CHRISTMAS TIME, DOING PORTRAITS?

6 MR. LACEY: DOING FAMILY PICTURES, IT WOULD BE A BUSY  
7 TIME.

8 MR. WAPNER: ARE WE TAKING MONEY OUT OF YOUR POCKET,  
9 SO TO SPEAK, IF YOU ARE SITTING ON A JURY?

10 MR. LACEY: NO, SIR.

11 IT IS ALWAYS DONE IN THE EVENING.  
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28A-1  
1 MR. WAPNER: OKAY. HOW DO YOU FEEL ABOUT WITNESSES  
2 WHO TESTIFY UNDER A GRANT OF IMMUNITY?

3 MR. LACEY: I WOULD LIKE TO HEAR WHAT THEY ARE SAYING,  
4 WHY THEY WERE GRANTED IMMUNITY AND THEN MAKE A JUDGMENT.

5 MR. WAPNER: OKAY. AND WOULD YOU ALSO LISTEN TO WHAT  
6 THEY ARE SAYING IN TERMS OF THE CHARACTER AND QUALITY OF THEIR  
7 TESTIMONY?

8 MR. LACEY: YES, SIR.

9 MR. WAPNER: THE SAME WAY YOU WOULD WITH ANY OTHER  
10 WITNESS?

11 MR. LACEY: YES, SIR.

12 MR. WAPNER: WOULD YOU SAY THAT YOU CONSIDER YOURSELF  
13 A RELIGIOUS PERSON?

14 MR. LACEY: SOMEWHAT.

15 MR. WAPNER: I DON'T WANT TO PRY INTO YOUR RELIGIOUS  
16 BELIEFS EXCEPT TO FIND OUT WHETHER YOU THINK THAT THERE IS  
17 ANYTHING IN THEM THAT MIGHT AFFECT YOU IN DECIDING THIS CASE.

18 MR. LACEY: NO.

19 MR. WAPNER: WOULD IT BE HARD FOR YOU TO SIT IN JUDGMENT  
20 OF SOMEONE, FOR EXAMPLE?

21 MR. LACEY: NO IT WOULDN'T.

22 MR. WAPNER: OKAY. DO YOU HAVE ANY BROTHERS AND SISTERS?

23 MR. LACEY: YES, SIR. I HAVE TWO SISTERS THAT ARE  
24 YOUNGER AND ONE YOUNGER BROTHER.

25 MR. WAPNER: DO THEY LIVE IN THE LOS ANGELES AREA?

26 MR. LACEY: MY YOUNGEST SISTER LIVES IN THE L.A. AREA.  
27 MY BROTHER LIVES IN THE L.A. AREA.

28 I HAVE A SISTER IN SILICON VALLEY, UP IN SUNNYVALE

28A-2

1 THAT DEALS WITH ADMINISTRATION WORK THERE.

2 MR. WAPNER: AND YOUR SIBLINGS THAT LIVE IN THE L.A.  
3 AREA, DO YOU TALK TO THEM VERY OFTEN?

4 MR. LACEY: ABOUT EVERY OTHER WEEK.

5 MR. WAPNER: AND ARE YOUR PARENTS STILL LIVING?

6 MR. LACEY: YES THEY ARE. RETIRED.

7 MR. WAPNER: DO THEY LIVE IN THE LOS ANGELES AREA?

8 MR. LACEY: YES.

9 MR. WAPNER: HOW OFTEN DO YOU SEE OR TALK TO THEM?

10 MR. LACEY: I SEE MY FATHER EVERY MAJOR HOLIDAY AND  
11 MY MOTHER EVERY PAYDAY, BECAUSE I HELP HER OUT SUBSTANTIALLY  
12 FINANCIALLY TO GET ALONG.

13 MR. WAPNER: OKAY. SO WHEN YOU GET PAID, YOU GO TO  
14 SEE HER AND GIVE HER SOME MONEY?

15 MR. LACEY: YES, SIR.

16 MR. WAPNER: AND EVERY PAY DAY? THAT IS TWICE A MONTH?

17 MR. LACEY: RIGHT, TWICE A MONTH.

18 MR. WAPNER: DO YOU UNDERSTAND AND APPRECIATE THE  
19 QUESTIONS I WAS TRYING TO ASK ABOUT PEOPLE'S ABILITY TO CHANGE  
20 THEIR MINDS?

21 MR. LACEY: YES, SIR.

22 MR. WAPNER: DID THAT BRING TO MIND ANY DISCUSSIONS  
23 THAT YOU MIGHT HAVE HAD WITH PEOPLE, SERIOUS DISCUSSIONS THAT  
24 YOU MIGHT HAVE WITH PEOPLE ON ANY TOPIC?

25 MR. LACEY: YES, SIR. I HAVE HAD MY MIND CHANGED A  
26 COUPLE OF TIMES, WHEN I HAVE BEEN PROVEN WRONG, YOU KNOW.  
27 LIKE PLAYING CHESS. IT IS PROVEN THAT A MOVE CAN BE BETTER  
28 THAN ANOTHER MOVE.

28B



28B-1

1 I HAVE CHANGED MY MIND THEN.

2 MR. WAPNER: OKAY. AND ANY OTHER EXAMPLES THAT YOU  
3 CAN THINK OF BESIDES THE PLAYING CHESS EXAMPLE?

4 MR. LACEY: JUST GENERAL CONVERSATION YOU KNOW. SPORTS,  
5 AS FAR AS CAN A MAN FIVE-FOOT-SEVEN SLAM-DUNK A BASKETBALL,  
6 BEFORE I NEVER WOULD HAVE SAID THAT, BEFORE I SEEN SPUD WEBB.

7 THE COURT REPORTER: IS THAT SPUD WEBB?

8 MR. WAPNER: SPUD WEBB, S-P-U-D.

9 SO, I DOUBT IF DISCUSSION ON SPUD WEBB IS GOING  
10 TO GET INTO THE JURY ROOM. BUT YOU UNDERSTAND THE IDEA BEHIND  
11 IT?

12 MR. LACEY: YES.

13 MR. WAPNER: HAVE YOU EVER SERVED ON ANY TYPE OF JURY  
14 BEFORE?

15 MR. LACEY: NEVER HAVE, SIR.

16 MR. WAPNER: NOT A CIVIL CASE, EITHER?

17 MR. LACEY: NO, SIR.

18 MR. WAPNER: BASED ON THE QUESTIONS I ASKED OF THE OTHER  
19 JURORS, DO YOU THINK YOU HAVE AN APPRECIATION FOR WHAT IT  
20 WOULD BE LIKE IN THE JURY ROOM?

21 MR. LACEY: YES, SIR.

22 MR. WAPNER: IF YOU TAKE ONE POSITION AT THE BEGINNING  
23 AND NOT EVERYBODY AGREES, ARE YOU WILLING TO DISCUSS YOUR  
24 FEELINGS WITH OTHER PEOPLE?

25 MR. LACEY: YES, SIR, I AM, SIR.

26 MR. WAPNER: DO YOU THINK THAT YOU CAN CHANGE YOUR MIND,  
27 IF THE PROOF TO YOU IS THAT YOUR INITIAL POSITION MIGHT NOT  
28 HAVE BEEN CORRECT?

8B-2  
1 MR. LACEY: LIKewise, I FEEL THAT THEY CAN CHANGE THEIR  
2 MINDS IF I CAN PROVE MY POINT, TOO.

3 MR. WAPNER: ABSOLUTELY. IT WORKS BOTH WAYS. NO  
4 QUESTION ABOUT IT.

5 MR. LACEY: THAT'S RIGHT.

6 MR. WAPNER: HAVE YOU EVER BEEN THE VICTIM OF ANY TYPE  
7 OF A THEFT OR CON SCHEME OR ANYTHING LIKE THAT?

8 MR. LACEY: NO, SIR.

9 MR. WAPNER: HAVE YOU BEEN THE VICTIM OF ANY TYPE OF  
10 CRIME?

11 MR. LACEY: NO, SIR.

12 MR. WAPNER: THE GENERAL QUESTIONS THE JUDGE ASKED OF  
13 THE OTHER JURORS, I DON'T KNOW IF YOU WERE -- I DON'T KNOW  
14 IF I CAN FIND MY TWO LISTS.

15 BUT, LET ME JUST ASK YOU, DO YOU HAVE ANY CLOSE  
16 FRIENDS OR RELATIVES THAT HAVE EVER BEEN CHARGED WITH A CRIME?

17 THE COURT: I MADE A LIST OF THAT. HE HAS NOT.

18 MR. LACEY: NO, SIR.

19 MR. WAPNER: DO YOU THINK THAT PEOPLE OF DIFFERENT  
20 BACKGROUNDS AND LIFESTYLES ARE ALL ENTITLED TO THE SAME  
21 PROTECTIONS UNDER THE LAW?

22 MR. LACEY: SOMEWHAT, SIR. BUT LIKE, I HAD A THOUGHT  
23 ABOUT THAT. LIKE YOU SAID, NOW, YOU HAVE GOT A CONVICTED  
24 DOPE PUSHER. YOU HAVE A CONVICT SITTING HERE.

25 YOU ARE GOING TO SAY TO JUDGE HIM THE SAME AS  
26 EVERYONE ELSE. I CAN'T SEE THAT.

27 I WOULD HAVE TO JUDGE HIM A LITTLE DIFFERENTLY.

28 THE COURT: NO. HE DIDN'T MEAN THAT. EXPLAIN WHAT

28B-3

1 YOU MEANT.

2 MR. WAPNER: WELL, LET'S SAY THAT YOU ARE STANDING ON  
3 THE STREET. AND YOU ARE THE WITNESS TO THE CRIME.

4 MR. LACEY: YES, SIR.

5 MR. WAPNER: AND A MAN WALKS DOWN THE STREET. THE  
6 PRIEST IS THE FIRST GUY YOU SEE WALKING DOWN THE STREET.

7 MR. LACEY: RIGHT.

8 MR. WAPNER: AND THE ROBBER COMES OUT AND STICKS A GUN  
9 AT THE PRIEST AND ROBS HIM. YOU WATCH THAT.

10 MR. LACEY: YES, SIR.

11 MR. WAPNER: AND FOR THIS PURPOSE, THERE IS SOME KIND  
12 OF INVISIBLE SHIELD THERE SO YOU CAN'T STOP IT. THE GUY  
13 LEAVES. THE NEXT GUY WHO COMES ALONG --

14 MR. LACEY: I UNDERSTAND THAT. BUT WHAT I AM SAYING,  
15 YOU ARE SAYING THE DOPE MAN HAS BEEN PROVEN TO BE A DOPE MAN.

16 YOU ARE SAYING THE CON MAN HAS BEEN PROVEN TO  
17 BE A CON MAN.

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28B-4

1 MR. WAPNER: ABSOLUTELY.

2 MR. LACEY: THEN I CAN'T JUDGE THEM EQUALLY WITH A PRIEST,  
3 A PERSON THAT HAS NOT COMMITTED ANY CRIMES. IF THEY HAVE  
4 BEEN PROVEN, IT IS ONE THING.

5 BUT IF YOU ARE JUST SAYING THAT THEY HAVE BEEN  
6 ALLEGED TO BE A DOPE MAN OR ALLEGED TO BE A CON MAN, THEN  
7 I CAN JUDGE THEM EQUALLY.

8 MR. WAPNER: I AM NOW TALKING ABOUT THE PERSON WHO IS  
9 THE VICTIM OF THE CRIME.

10 MR. LACEY: THAT IS WHAT I AM SAYING, THEY ARE THE  
11 VICTIMS.

12 MR. WAPNER: SO, NOW THE MAN WHO COMMITTED ALL THESE  
13 ROBBERIES IS ON TRIAL.

14 MR. LACEY: RIGHT.

15 MR. WAPNER: AND THE FACTS ARE THE SAME. EACH OF THEM  
16 ARE ROBBED. IT IS EXACTLY THE SAME, OKAY? THE ONLY DIFFERENCE  
17 IS THE PERSON WHO IS GETTING ROBBED. OKAY?

18 MR. LACEY: RIGHT.

19 MR. WAPNER: AND YOU KNOW, YOU ARE IN THE POSITION OF  
20 A JUROR IN ALL THREE OF THOSE CASES.

21 YOU KNOW THAT THE VICTIM IN THE FIRST IS A PRIEST.  
22 THE VICTIM IN THE SECOND CASE IS THE DOPE DEALER. THE  
23 CONVICTED DOPE DEALER IS THE VICTIM IN THE SECOND.

24 AND THE VICTIM IN THE THIRD CASE IS A CONVICTED  
25 CON MAN.

26 MR. LACEY: RIGHT.

27 MR. WAPNER: BUT, WHAT THE DEFENDANT DID IN THIS  
28 HYPOTHETICAL SITUATION, IS EXACTLY THE SAME TO ALL THREE PEOPLE.

28B-5

1 MR. LACEY: YES, SIR.

2 MR. WAPNER: ARE YOU GOING TO SAY AS A JUROR, THAT THE  
3 DEFENDANT IS GUILTY OF ROBBING THE PRIEST BUT HE IS NOT GUILTY  
4 OF ROBBING THE OTHER TWO PEOPLE?

5 MR. LACEY: NO, SIR. NO, SIR.

6 MR. WAPNER: OKAY. THAT IS WHAT I AM TRYING TO GET  
7 AT.

8 MR. LACEY: OKAY.

9 MR. WAPNER: WHAT I AM TRYING TO SAY IS THAT REGARDLESS  
10 OF THE BACKGROUND OF THE PERSON WHO IS THE VICTIM OF THE CRIME,  
11 IN OTHER WORDS, I WILL SEE IF I CAN PUT IT IN PLAIN ENGLISH.

12 THE PERSON WHO ROBBED THEM IS GUILTY OF ROBBING  
13 THEM NO MATTER WHO THE THREE PEOPLE WERE. HE IS GUILTY OF  
14 THAT.

15 MR. LACEY: RIGHT.

16 MR. WAPNER: IN OTHER WORDS, IF YOU ARE SITTING AS A  
17 JUROR AND YOU THINK THAT THE PERSON WHO WAS ROBBED IS A  
18 SCUMBALL, ARE YOU GOING TO SAY THAT THAT IS NO LOSS TO SOCIETY?  
19 THE GUY THAT THEY ROBBED WAS A JERK, SO I AM GOING TO LET  
20 THIS GUY WHO ROBBED HIM OFF?

21 MR. LACEY: NO, SIR.

22 MR. WAPNER: THAT IS BASICALLY WHAT I AM GETTING AT.

23 MR. LACEY: RIGHT.

24 MR. WAPNER: IN OTHER WORDS, I AM NOT ASKING YOU TO  
25 LIKE THE VICTIM. I AM NOT ASKING YOU TO LIKE DRUG DEALERS.  
26 NOBODY DOES.

27 I AM NOT ASKING YOU TO LIKE CON MEN. DO YOU  
28 UNDERSTAND THAT?

28C

28C-1

1 MR. LACEY: YES.

2 MR. WAPNER: I AM JUST SAYING THAT IF YOU GET A CASE  
3 WHERE THAT PERSON IS THE VICTIM OF A CRIME, ARE THEY ENTITLED  
4 TO THE SAME PROTECTIONS AS ANYBODY ELSE?

5 MR. LACEY: YES.

6 MR. BARENS: WE SHOULD BE CAREFUL WITH THAT. BECAUSE  
7 MR. WAPNER MAY BE ASKING THE JUROR TO PREJUDGE THE EVIDENCE,  
8 HERE.

9 THE COURT: WELL --

10 MR. BARENS: OUR SCUMBALL, HERE.

11 THE COURT: HE IS NOT ASKING -- AS I UNDERSTAND, ALL  
12 HE IS TRYING TO ASK THE JUROR IS WHETHER THE VICTIM IS A  
13 SAINT OR A SINNER --

14 MR. BARENS: I SEE.

15 THE COURT: WAS HE ROBBED. THAT IS ALL. ISN'T THAT  
16 WHAT YOU ARE SAYING?

17 MR. WAPNER: THAT'S RIGHT.

18 MR. BARENS: I SEE.

19 THE COURT: DOES IT MAKE ANY DIFFERENCE TO YOU WHETHER  
20 HE WAS A SAINT OR A SINNER?

21 MR. LACEY: NO, SIR.

22 MR. WAPNER: ALL RIGHT. MR. LACEY, THAT IS THE WHOLE  
23 POINT --

24 MR. BARENS: THANK YOU, YOUR HONOR.

25 MR. WAPNER: AS WE HAVE TOLD YOU ONCE WHEN WE WERE  
26 ASKING THE QUESTIONS ABOUT THE DEATH PENALTY, WE CAN'T ASK  
27 THESE QUESTIONS LATER. AND I DON'T KNOW HOW YOU OR ANY OF  
28 THE OTHER PEOPLE ARE GOING TO FEEL ABOUT THE PERSON WHO IS

28C-2  
1 THE VICTIM OF THIS CRIME.

2 MR. LACEY: RIGHT.

3 MR. WAPNER: AND THE REASON I ASK THOSE QUESTIONS NOW  
4 IS BECAUSE IF IT TURNS OUT IN YOUR MIND THAT YOU DON'T LIKE  
5 THE GUY, I WANT TO MAKE SURE THAT YOU CAN NEVERTHELESS, GIVE  
6 THE PROSECUTION A FAIR TRIAL.

7 MR. LACEY: YES, SIR.

8 MR. WAPNER: OKAY. DO YOU THINK YOU CAN DO THAT?

9 MR. LACEY: YES, SIR.

10 MR. WAPNER: OKAY. IS THERE ANYTHING THAT YOU CAN  
11 THINK OF THAT WE HAVE NOT ASKED YOU, THAT IS IN YOUR BACKGROUND,  
12 YOU AS A PERSON, THAT WE SHOULD KNOW THAT MIGHT AFFECT YOUR  
13 ABILITY TO BE A FAIR JUROR IN THIS KIND OF A CASE?

14 MR. LACEY: NO, SIR.

15 MR. WAPNER: THIS IS A LITTLE BIT PERSONAL. I DON'T  
16 MEAN TO PRY. BUT JUST -- CAN I ASK YOU, IF IT IS NOT TOO  
17 PERSONAL, DID YOU MAKE A DECISION WITH YOUR WIFE NOT TO HAVE  
18 CHILDREN OR --

19 MR. LACEY: NO. I GOT INJURED IN THE SERVICE. I AM  
20 NOT ABLE TO HAVE CHILDREN.

21 MR. WAPNER: OKAY. DID YOU EVER CONSIDER ADOPTING  
22 CHILDREN?

23 MR. LACEY: YES, I HAVE.

24 MR. WAPNER: AND IS THERE ANY PARTICULAR --

25 MR. BARENS: YOUR HONOR, THE DEFENSE OBJECTS.

26 THE COURT: I DON'T THINK THAT THERE IS ANY NECESSITY  
27 FOR GOING INTO THAT.

28 MR. WAPNER: AGAIN. I DON'T MEAN TO PRY. BUT IT MAY

28C-3

1 BE IMPORTANT TO SOME OF THE ISSUES IN THIS CASE. THANK YOU,  
2 VERY MUCH, MR. LACEY.

3 THE COURT: THANK YOU. DO YOU PASS FOR CAUSE?

4 MR. WAPNER: YES.

5 THE COURT: IT IS THE DEFENSE PEREMPTORY.

6 MR. BARENS: THE DEFENSE WOULD REQUEST THAT THE COURT  
7 THANK AND EXCUSE JUROR NUMBER 9, MS. MANZANO.

8 THE COURT: ALL RIGHT. THANK YOU, MISS MANZANO.

9 THE CLERK: DONNA M. MATERNA, M-A-T-E-R-N-A.

10 MR. BARENS: MAY WE BE ADVISED TO START WITH THIS JUROR  
11 ON MONDAY?

12 THE COURT: YES. WHAT I WILL DO IS START THE VOIR DIRE  
13 AND THEN WE WILL STOP.

14 MR. BARENS: THANK YOU.

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1 THE COURT: ALL RIGHT, MRS. MATERNA, I THINK YOU  
2 INDICATED TO US EARLIER THAT YOU OR SOME MEMBER OF YOUR FAMILY  
3 HAVE BEEN THE VICTIM OF SOME KIND OF A CRIME.

4 MS. MATERNA: YES.

5 THE COURT: TELL US ABOUT IT.

6 MS. MATERNA: WELL, WITHIN THE LAST SIX MONTHS, MY HOME  
7 HAS BEEN BURGLARIZED AND MY CAR HAS BEEN STOLEN TWICE AND MY  
8 HUSBAND HAS BEEN ASSAULTED AT KNIFEPOINT, AND A GIRL THAT I  
9 WORK WITH WAS BEATEN AND SHOT TO DEATH IN HER HOME.

10 A JUROR: OH, NO.

11 THE COURT: WELL, THAT IS A TERRIBLE CATALOG OF  
12 OFFENSES AND CRIMES WHICH HAVE BEEN COMMITTED AND THEY ARE  
13 TRAGIC AND DEEPLY REGRETABLE. THAT MUST HAVE HAD A PROFOUND  
14 EFFECT UPON YOU, DID IT, ALL OF THESE THINGS --

15 MS. MATERNA: YES.

16 THE COURT: -- TAKEN TOGETHER?

17 (WHEREUPON, MS. MATERNA NODS HER HEAD UP  
18 AND DOWN.)

19 THE COURT: WELL, YOU UNDERSTAND, WOULD YOU JUST SEARCH  
20 YOUR MIND, DO YOU FEEL THAT IF YOU ARE ACCEPTED AS A JUROR IN  
21 THIS CASE THAT YOU CAN BE FAIR TO BOTH SIDES?

22 MS. MATERNA: IF I WAS ACCEPTED AS A JUROR, I WOULD TRY  
23 TO BE FAIR TO BOTH SIDES.

24 THE COURT: ALL RIGHT. DESPITE THESE THINGS THAT HAVE  
25 HAPPENED; IS THAT CORRECT?

26 (NO AUDIBLE RESPONSE.)

27 THE COURT: NOW IN THE OFFENSES WHICH WERE COMMITTED  
28 AGAINST YOU AND YOUR HUSBAND, HAVE THEY BEEN INVESTIGATED BY

29-2

1 THE POLICE?

2 MS. MATERNA: YES.

3 THE COURT: AND WERE THE CULPRITS EVER ARRESTED?

4 MS. MATERNA: THE GUYS THAT ASSAULTED MY HUSBAND AT  
5 KNIFEPOINT WERE.

6 THE COURT: WAS HE PROSECUTED?

7 MS. MATERNA: THEY WERE ARRESTED.

8 THE COURT: WAS HE PROSECUTED?

9 MS. MATERNA: THEY WERE WANTED IN SOME OTHER CRIMES AS  
10 WELL SO I THINK THEY ARE BEING PROSECUTED FOR THE OTHER STUFF  
11 AT THIS TIME.

12 THE COURT: I SEE.

13 DO YOU FEEL THAT THE POLICE ACTED PROFESSIONALLY  
14 WHEN THEY INVESTIGATED THE VARIOUS OFFENSES?

15 MS. MATERNA: I THINK THEY COULD HAVE DONE A BETTER  
16 JOB IN THE CASE OF THE FIRST TIME THAT MY HOUSE WAS BURGLARIZED  
17 AND THE CAR WAS RIPPED OFF.

18 THE COURT: IN WHAT WAY?

19 MS. MATERNA: WELL, FOR ONE THING, THEY INFORMED US THAT  
20 THEY HAD A WARRANT OUT FOR THE ARREST OF A PARTICULAR PERSON  
21 WHO, WE ALL, DUE TO CIRCUMSTANTIAL EVIDENCE, BELIEVED DID IT,  
22 BUT THEN WE FOUND OUT THAT THEY DID NOT HAVE A WARRANT AND DID  
23 NOT INTEND TO ISSUE ONE.

24 THE COURT: IN VIEW OF THAT EXPERIENCE, DO YOU HAVE A  
25 FEELING ABOUT POLICE OFFICERS THAT WOULD IN ANY WAY REFLECT  
26 UNFAVORABLY ON YOUR TREATMENT OF A POLICE OFFICER IN THIS  
27 CASE?

28 MS. MATERNA: NO.

29-3

1 THE COURT: IN OTHER WORDS, YOUR PRESENT STATE OF MIND  
2 IS THAT YOU ARE COMPLETELY UNPREJUDICED AS TO EITHER SIDE OF  
3 THIS CASE; IS THAT CORRECT?

4 (PAUSE.)

5 THE COURT: PARDON ME?

6 MS. MATERNA: WELL, I HAVEN'T ANSWERED YET.

7 YOU KNOW, I HAVE GONE THROUGH A LOT IN THE LAST

8 SIX MONTHS WITH ALL OF THESE CRIMES, SO IT IS KIND OF HARD.

9 THE COURT: YOU UNDERSTAND THAT THE DEFENDANT IS PRESUMED  
10 TO BE INNOCENT. HE HAD NOTHING TO DO WITH ANY OF THE THINGS  
11 THAT HAVE HAPPENED TO YOUR FAMILY OR YOUR FRIENDS; ISN'T THAT  
12 RIGHT?

13 MS. MATERNA: I HOPE HE DIDN'T HAVE ANYTHING TO DO WITH  
14 THOSE.

15 THE COURT: OF COURSE, HE DIDN'T HAVE ANYTHING TO DO  
16 WITH IT.

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29A-1  
1 MR. BARENS: YOUR HONOR, COULD YOU ADMONISH THE JURY  
2 ON THAT RESPONSE THAT -- WELL, THAT WAS JUST AN INAPPROPRIATE  
3 RESPONSE I WOULD LIKE STRICKEN FROM THE RECORD.

4 MR. WAPNER: I DON'T KNOW THAT ANYTHING A JUROR SAYS  
5 IS INAPPROPRIATE TO THE EXTENT IT GOES TO THEIR STATE OF MIND.

6 THE COURT: THAT IS RIGHT.

7 AT ANY RATE, WHAT I AM TRYING TO DO IS FIND OUT  
8 WHETHER OR NOT YOU WOULD MAKE A FAIR-MINDED JUROR, DO YOU  
9 UNDERSTAND THAT, DESPITE THE THINGS, UNFORTUNATELY, THAT HAVE  
10 OCCURRED IN YOUR LIFE TO YOUR HUSBAND AND YOUR FRIEND; DO  
11 YOU UNDERSTAND THAT?

12 MS. MATERNA: YES, I UNDERSTAND.

13 THE COURT: AND YOU WILL TRY TO FORGET ABOUT ALL OF  
14 THAT AND JUST BE GUIDED BY WHAT YOU HEAR IN THIS CASE; ISN'T  
15 THAT TRUE?

16 MS. MATERNA: YES.

17 THE COURT: ALL RIGHT. NOW IF I WERE TO ASK YOU THE  
18 SAME GENERAL QUESTIONS WHICH WERE ASKED OF THE OTHER JURORS,  
19 WOULD YOUR ANSWERS BE ANY DIFFERENT OR WOULD THEY BE ABOUT  
20 THE SAME?

21 MS. MATERNA: THEY WOULD BE ABOUT THE SAME.

22 THE COURT: WHAT DO YOU DO, MRS. MATERNA?

23 MS. MATERNA: I AM A CARDIO-VASCULAR TECHNOLOGIST AT  
24 UCLA MEDICAL CENTER.

25 THE COURT: GENERALLY, TELL ME WHAT YOUR DUTIES ARE  
26 AS A TECHNICIAN.

27 MS. MATERNA: I DO 24-HOUR HEART MONITORING, PACEMAKER  
28 ANALYSIS AND THEN THERE ARE CERTAIN OFFICE DUTIES THAT GO

1 ALONG WITH IT, WORD PROCESSING, ET CETERA.

2 THE COURT: AND WHERE DID YOU RECEIVE YOUR TRAINING?

3 MS. MATERNA: SOME OF THE TRAINING I RECEIVED AT  
4 SAN DIEGO STATE UNIVERSITY AND SOME AT UCLA EXTENSION.

5 THE COURT: DO YOU HOLD ANY DEGREES FROM ANY COLLEGE?

6 MS. MATERNA: YES. I HAVE A BACHELOR OF ARTS IN  
7 PHYSICAL EDUCATION FROM CAL STATE NORTHRIDGE.

8 THE COURT: AND WHAT DOES YOUR HUSBAND DO?

9 MS. MATERNA: HE IS IN PROPERTY MANAGEMENT.

10 THE COURT: AND IS HE IN BUSINESS FOR HIMSELF?

11 MS. MATERNA: NO.

12 HE WORKS FOR AN ORGANIZATION THAT OWNS A LOT OF  
13 REAL ESTATE AND HE MANAGES THE PROPERTIES FOR THEM.

14 THE COURT: HAVE YOU EVER SAT AS A JUROR IN ANY CASE?

15 MS. MATERNA: NO.

16 THE COURT: WHERE DO YOU LIVE, AGAIN?

17 MS. MATERNA: SHERMAN OAKS.

18 THE COURT: ALL RIGHT. I THINK WE HAVE JUST ABOUT  
19 REACHED THE ADJOURNMENT HOUR.

20 YOU KNOW, AS I TOLD YOU YESTERDAY -- I THOUGHT  
21 IT WAS THURSDAY AND IT WAS WEDNESDAY -- TODAY, I KNOW IT IS  
22 THURSDAY.

23 (LAUGHTER IN COURTROOM.)

24 THE COURT: FRIDAY, WE WILL NOT BE SITTING, AS I TOLD  
25 YOU. EVERY FRIDAY WE WILL NOT BE SITTING. SO WHAT I WILL  
26 ASK YOU ALL TO DO IS TO RETURN ON MONDAY MORNING AND IF YOU  
27 WILL, PLEASE, GO INTO THE JURY ASSEMBLY ROOM. WE MIGHT STILL  
28 HAVE SOME UNFINISHED BUSINESS HERE THAT WE HAVE TO TAKE CARE

1 OF, THE CALENDAR WE HAVE EVERY MORNING. SO WHAT I WILL ASK  
2 YOU TO DO IS GO TO THE JURY ASSEMBLY ROOM AND BE THERE AT  
3 10:30, BUT 10:30 ON MONDAY MORNING. AND WHEN WE ARE READY  
4 FOR YOU HERE, WE WILL ASK YOU ALL TO COME IN.

5 AND ALL OF YOU, HAVE A VERY, VERY PLEASANT WEEKEND  
6 AND GOOD NIGHT.

7 (THE FOLLOWING PROCEEDINGS WERE HELD

8 AT THE BENCH OUT OF THE PRESENCE AND  
9 HEARING OF THE PROSPECTIVE JURORS:)

10 THE COURT: THE RECORD WILL INDICATE THAT THE JURORS  
11 HAVE LEFT THE COURTROOM.

12 YOU SAID YOU HAD SOME MOTION YOU WANTED TO MAKE?

13 MR. BARENS: YOUR HONOR, MERELY, THAT THE DEFENSE  
14 REQUESTED THAT THE RECORD REFLECT THAT THE SECOND JUROR  
15 EXCUSED BY THE PROSECUTOR WAS BLACK.

16 THE COURT: THAT IS ALL YOU WANT TO DO IS HAVE IT FOR  
17 THE RECORD?

18 MR. BARENS: YES, YOUR HONOR.

19 THE COURT: WHAT IS THE PURPOSE OF THE OBSERVATION?

20 MR. BARENS: YOUR HONOR IS AWARE THERE ARE CASES  
21 CONCERNING WHETHER OR NOT A DEFENDANT HAS RECEIVED DUE PROCESS  
22 IN THAT THE BLACKS HAVE BEEN SYSTEMATICALLY EXCLUDED.

23 THE COURT: WHERE THE DEFENDANT IS BLACK.

24 MR. BARENS: NO.

25 WHERE THE DEFENDANT IS WHITE OR BLACK.

26 THE COURT: ALL RIGHT, YOU WANT TO KNOW FROM THE D.A.  
27 AS TO WHY HE EXCUSED THIS JUROR?

28 MR. BARENS: NO.

1                   YOUR HONOR, I REQUESTED THE RECORD JUST TO REFLECT  
2                   THAT.

3                   THE COURT: IF HE HAS A REASON FOR IT, IF HE HAS AN  
4                   EXPLANATION AS TO WHY HE EXCUSED HER.

5                   MR. WAPNER: I DON'T THINK THERE HAS TO BE AT THIS POINT,  
6                   UNLESS THERE IS A SHOWING MADE BY THE DEFENSE THAT THE  
7                   CHALLENGES HAVE BEEN USED SYSTEMATICALLY TO EXCLUDE A GROUP  
8                   OF PEOPLE. SO FAR, THE PEOPLE HAVE ONLY USED TWO CHALLENGES  
9                   AND ONE WAS FOR A WHITE PERSON AND ONE FOR A BLACK.

10                  THE COURT: THE RECORD WILL INDICATE SHE WAS BLACK AND  
11                  YOU HAVE EXCUSED HER.

12                  MR. BARENS: YOUR HONOR, AT THIS POINT AND TIME THE  
13                  DEFENSE MEANS NO IMPLICATION AT ALL OTHER THAN MAKING THE  
14                  RECORD.

15                  THE COURT: ALL RIGHT. JUST LIKE MR. WAPNER MADE A  
16                  RECORD OF THE TIME THAT THERE WAS IN VOIR DIRE ON THE HOVEY  
17                  MATTER. WHAT IS SAUCE FOR THE GOOSE IS SAUCE FOR THE GANDER.

18                  MR. BARENS: PRECISELY, YOUR HONOR. QUITE SO.

19                  THE COURT: ALL RIGHT.

20                                 (AT 4:30 P.M. AN ADJOURNMENT WAS TAKEN  
21                                 UNTIL MONDAY, DECEMBER 15, 1986, AT  
22                                 10:30 A.M.)  
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