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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 09 1987

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 23 OF 101
(PAGES 3153 TO 3321, INCLUSIVE)

COPY

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.)

NO. A-090435)

JOSEPH HUNT,)

DEFENDANT.)

REPORTERS' DAILY TRANSCRIPT

TUESDAY, DECEMBER 16, 1986

VOLUME 23

(PAGES 3153 TO 3321, 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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TUESDAY, DECEMBER 16, 1986 VOLUME 23 PAGES 3153-3321

A.M. 3153

P.M. 3206

PROCEEDINGS

VOIR DIRE OF PROSPECTIVE JURORS (CONTINUED) 3153

1 SANTA MONICA, CALIFORNIA; TUESDAY, DECEMBER 16, 1986; 10:35 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
6 IN OPEN COURT OUT OF THE PRESENCE OF
7 THE PROSPECTIVE JURORS:)

8 MR. BARENS: YOUR HONOR, PERHAPS IF THE RECORD COULD
9 REFLECT I AM RETURNING TO YOUR HONOR THE KARNY DEPOSITION
10 THAT YOU SO COURTEOUSLY PROVIDED ME YESTERDAY, ALONG WITH
11 A COPY FOR MR. WAPNER AS WAS REQUESTED.

12 THE COURT: VERY WELL. THANK YOU.

13 MR. BARENS: THANK YOU, YOUR HONOR.

14 (RECESS.)

15 MR. WAPNER: YOUR HONOR, I JUST WANTED TO ASK FOR A
16 CLARIFICATION ON THE RULING THAT THE COURT MADE LAST THURSDAY
17 WITH REGARD TO THE DEFENSE CHALLENGE TO THE COURT UNDER 170.1
18 OF THE PENAL CODE.

19 THE ORDER OF THE COURT THAT I WAS GIVEN A COPY
20 OF STATES THAT THE COURT DENIES THE MOTION AS UNTIMELY AND
21 THE REASON I AM ASKING THE COURT FOR CLARIFICATION IS THAT
22 THE CODE PROVIDES IN SECTION 170 --

23 THE COURT: I DON'T RECOGNIZE THE MOTION AT ALL.

24 MR. WAPNER: ALL RIGHT, YOUR HONOR, ALL I AM ASKING
25 FOR IS A CLARIFICATION. MAYBE IT IS BEING NIT-PICKING BUT
26 I WANT TO BE SURE THAT THE COURT IS ON SOLID GROUND.

27 THE COURT: I TOLD YOU IF THERE IS ANY KIND OF A MOTION
28 OF THAT KIND TO BE MADE IT ISN'T IN THE MIDDLE OF A TRIAL.

1 MR. WAPNER: YOUR HONOR, ALL I AM ASKING IS THAT SINCE
2 THE CODE PROVIDES THAT THE COURT CAN ORDER THE STATEMENT OF
3 PREJUDICE STRICKEN THAT THAT IS WHAT THE COURT WAS DOING.

4 THE COURT: THAT IS WHAT I WANT TO DO, THAT IS WHY I
5 TOLD HER NOT TO --

6 I WILL ORDER IT STRICKEN.

7 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

8 THE COURT: ALL RIGHT, GET THE JURORS IN AND WE WILL
9 PROCEED WITH THE TRIAL.

10 I THINK IT IS YOUR PEREMPTORY.

11 MR. WAPNER: YES, IT IS.

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1 (THE FOLLOWING PROCEEDINGS WERE HELD
2 IN THE PRESENCE OF THE PROSPECTIVE
3 JURORS:)

4 THE COURT: IT WILL BE STIPULATED THAT THE DEFENDANT IS
5 PRESENT AND COUNSEL ARE PRESENT AND THE PROSPECTIVE JURORS ARE
6 PRESENT.

7 WE HAVE YOUR NOTE, MR. CANADY. BY CONSENT OF BOTH
8 COUNSEL, YOU WILL BE EXCUSED. THANK YOU. SORRY YOU CAN'T
9 MAKE IT.

10 MR. CANADY: THANK YOU.

11 THE CLERK: MISS PATRICIA A. ROBLES, R-O-B-L-E-S.

12 THE COURT: MRS. ROBLES, I HAVE YOUR NAME DOWN HERE. IS
13 IT THAT YOU KNOW SOMEBODY CONNECTED WITH THIS CASE OR WHAT?

14 MS. ROBLES: I RECOGNIZED THE NAME JOHN ALLEN AS A
15 WITNESS.

16 THE COURT: WHO IS THE JOHN ALLEN THAT YOU KNOW?

17 MS. ROBLES: HE IS MY DAUGHTER'S BROTHER-IN-LAW. HE IS
18 A STUDENT IN SAN FRANCISCO.

19 MR. WAPNER: IS HE PRESENTLY A STUDENT IN SAN FRANCISCO?

20 MS. ROBLES: YES.

21 MR. WAPNER: IT IS NOT THE SAME PERSON.

22 THE COURT: THANK YOU VERY MUCH, MRS. ROBLES. GOOD
23 MORNING.

24 MS. ROBLES, YOU HEARD ALL OF THE QUESTIONS AND
25 ANSWERS WHICH WERE ASKED AND GIVEN?

26 MS. ROBLES: YES.

27 THE COURT: IF I WERE TO ASK THE SAME GENERAL QUESTIONS,
28 WOULD YOUR ANSWERS BE ANY DIFFERENT OR WOULD THEY BE SUBSTANTIALY

1 THE SAME?

2 MS. ROBLES: SUBSTANTIALLY THE SAME.

3 THE COURT: ALL RIGHT. WHAT DO YOU DO, PLEASE?

4 MS. ROBLES: I WORK FOR GENERAL TELEPHONE COMPANY. I
5 AM A REPAIR SUPERVISOR.

6 THE COURT: HOW LONG HAVE YOU WORKED FOR THE COMPANY?

7 MS. ROBLES: TWENTY YEARS.

8 THE COURT: ARE YOU MARRIED?

9 MS. ROBLES: NO, I AM NOT.

10 THE COURT: IS IT MISS OR MRS.?

11 MS. ROBLES: MRS.

12 THE COURT: YOU HAVE BEEN MARRIED IN THE PAST?

13 MS. ROBLES: YES.

14 THE COURT: HOW LONG HAVE YOU BEEN DIVORCED?

15 MS. ROBLES: TWENTY-TWO YEARS.

16 THE COURT: DO YOU HAVE ANY CHILDREN?

17 MS. ROBLES: YES. I HAVE TWO.

18 THE COURT: HOW OLD ARE THEY?

19 MS. ROBLES: MY DAUGHTER IS 23 AND MY OLDEST IS 24.

20 THE COURT: WHERE DO YOU LIVE?

21 MS. ROBLES: SANTA MONICA.

22 THE COURT: HAVE YOU EVER SERVED ON A JURY IN A CRIMINAL
23 CASE BEFORE?

24 MS. ROBLES: YES, I HAVE.

25 THE COURT: WHAT KIND OF A CASE WAS THAT?

26 MS. ROBLES: IT WAS A PROSTITUTION CASE.

27 THE COURT: AND THAT WAS IN THE MUNICIPAL COURT?

28 MS. ROBLES: YES.

1 THE COURT: DID THE JURY REACH A VERDICT IN THAT CASE?

2 MS. ROBLES: YES, IT DID.

3 THE COURT: ALL RIGHT. WHATEVER YOU MIGHT HAVE HEARD
4 IN THAT CASE AND WHATEVER INSTRUCTIONS YOU GOT FROM THE COURT,
5 YOU ARE TO FORGET ABOUT THAT AND JUST BE GUIDED BY THE
6 INSTRUCTIONS IN THIS CASE IF YOU ARE SELECTED AS A JUROR.
7 WOULD YOU NOT?

8 MS. ROBLES: YES.

9 THE COURT: ALL RIGHT. WHAT DID YOUR HUSBAND DO?

10 MS. ROBLES: HE WAS IN THE RESTAURANT BUSINESS. HE WAS
11 BOTH A MANAGER AND A BARTENDER.

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

13 MR. BARENS: THANK YOU, YOUR HONOR. GOOD MORNING, MS.
14 ROBLES. IS IT ROBLES?

15 MS. ROBLES: IT IS ROBLES.

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1 MR. BARENS: MS. ROBLES, I AM GOING TO START RIGHT OFF
2 ON THE PRESUMPTION OF INNOCENCE WITH YOU AS I WOULD LIKE TO
3 UNDERSTAND YOUR FEELINGS ON THAT SUBJECT OF EXTREME CONCERN
4 TO THE DEFENSE.

5 DO YOU SEE THAT COCOON AROUND MR. HUNT THAT I
6 HAVE BEEN TALKING TO YOU ABOUT?

7 MS. ROBLES: I DON'T HAVE A TERRIFIC IMAGINATION.

8 MR. BARENS: OKAY.

9 MS. ROBLES: I CAN IMAGINE HIM INNOCENT UNTIL PROVEN
10 GUILTY.

11 I SEE MORE LIKE A MUMMY.

12 MR. BARENS: MORE LIKE A WHAT?

13 MS. ROBLES: MORE LIKE A MUMMY.

14 MR. BARENS: MORE LIKE A MUMMY?

15 (LAUGHTER IN COURTROOM.)

16 MS. ROBLES: I MEAN I AM TRYING TO VISUALIZE THIS THING
17 AROUND HIM.

18 MR. BARENS: WELL, MUMMIES ARE DEAD PEOPLE. WE HAVE
19 A LIVE MR. HUNT OVER THERE AND WE ARE TRYING TO KEEP IT THIS
20 WAY.

21 MS. ROBLES: YES.

22 MR. BARENS: YOU ARE COMFORTABLE WITH THE CONCEPT OF
23 THE IDEA THAT HE IS ABSOLUTELY, THROUGH ALL OF THE ELEMENTS
24 OF THIS PROCESS, PRESUMED TO BE INNOCENT UNTIL EVIDENCE HAS
25 CONVINCED YOU OTHERWISE, IF IT DOES?

26 MS. ROBLES: YES.

27 MR. BARENS: AND HOW ABOUT THE RIGHT AGAINST SELF-
28 INCRIMINATION, THE RIGHT THAT HE MIGHT HAVE NOT TO TESTIFY

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1 IF HE CHOSE NOT TO?

2 MS. ROBLES: I AGREE WITH THAT.

3 MR. BARENS: YOU DON'T THINK THAT IT FAVORS BAD GUYS
4 OR IS OVER USED BY DEFENDANTS?

5 MS. ROBLES: NO.

6 MR. BARENS: AND YOU ARE SATISFIED THAT THOSE ARE BOTH
7 VALUABLE TENETS OF AMERICAN LAW?

8 MS. ROBLES: YES.

9 MR. BARENS: YOU MENTIONED THAT YOU WORK FOR THE PHONE
10 COMPANY --

11 MS. ROBLES: YES.

12 MR. BARENS: -- IN REPAIR SERVICES?

13 MS. ROBLES: YES.

14 MR. BARENS: AND WHAT EXACTLY DO YOU DO IN THAT CAPACITY?

15 MS. ROBLES: I SUPERVISE THE PEOPLE -- I SUPERVISE THE
16 CLERKS THAT ANSWER THE 611 CALLS AND WE ALSO HAVE THE NORTHERN
17 AREA CONTROL CENTER THERE THAT AFTER HOURS, WE HANDLE ANYTHING
18 THAT GOES ON IN OUR END OF THE COMPANY, THE NORTHERN END.

19 MR. BARENS: ON THAT 611 NUMBER, WHAT IS THE TYPE OF
20 THING, WHEN YOU SAY YOU SUPERVISE THEM, WHAT SORT OF
21 DECISIONS DO YOU MAKE FOR PEOPLE OR HELP PEOPLE MAKE?

22 MS. ROBLES: WHEN WE COME OUT, IF A CUSTOMER WANTS US
23 TO COME EARLY, IF WE COME -- RATHER WHEN WE COMMIT THE REPAIR
24 TIME FOR, SOMETIMES PEOPLE CAN'T GO WITH A 24-HOUR COMMITMENT
25 ON A REPAIR AND WANTS US THERE NOW IN FOUR HOURS OR AN HOUR.

26 MR. BARENS: DO YOU HAVE SOME CONCERN FOR PUBLIC
27 RELATIONS IMAGERY IN THAT FUNCTION?

28 MS. ROBLES: OH, YES.

1 MR. BARENS: THAT IS AN IMPORTANT CONSIDERATION?

2 MS. ROBLES: YES.

3 MR. BARENS: FOR YOU?

4 WE ARE ALL IN SOME ELEMENTS OF OUR LIFE, ONE WAY
5 OR ANOTHER, PEOPLE-PLEASERS AND I DON'T SEE ANYTHING WRONG
6 WITH THAT.

7 IN THIS INSTANCE, HOWEVER, YOU ARE GOING TO BE
8 ASKED, IF YOU ARE PICKED AS A JUROR, TO FORM AN OPINION OF
9 YOUR OWN WITH CONVICTION. DO YOU THINK IF YOU HAVE AN OPINION
10 THAT MIGHT DIFFER FROM THE REST OF THE JURORS THAT YOU WOULD
11 BE ABLE TO STICK BY THAT?

12 MS. ROBLES: YES, I DO.

13 MR. BARENS: DO YOU REALIZE THAT THE ONLY CONSCIENCE
14 YOU HAVE TO PLEASE IN THIS AREA IS YOUR OWN?

15 MS. ROBLES: YES.

16 MR. BARENS: YOUR ONLY OBLIGATION IS TO YOURSELF.

17 MS. ROBLES: I UNDERSTAND THAT.

18 MR. BARENS: WE HAVE HAD A LOT OF DISCUSSION OF RECENT
19 DATE ABOUT REASONABLENESS AND WE HAVE HAD ANY NUMBER OF
20 HYPOTHETICAL EXAMPLES GIVEN TO YOU FOLKS ABOUT REASONABLENESS.

21 IN FACT, WE GOT DOWN TO YESTERDAY TALKING ABOUT
22 WHAT HAPPENS TO A GUY WHO IS SHOT FIVE TIMES AND FALLS OUT
23 OF AN AIRPLANE, ARE WE GOING TO HAVE A DOUBT ABOUT WHAT
24 HAPPENS TO HIM?

25 DO YOU UNDERSTAND THAT THAT ISN'T WHAT YOU ARE
26 GOING TO HEAR IN THIS CASE? WE DON'T HAVE A CASE THAT FITS
27 ANYWHERE NEAR THAT TYPE OF HYPOTHETICAL. IT IS NOT YOUR
28 EXPECTATION TO HEAR THAT. IS IT?

1 MS. ROBLES: NO.

2 MR. BARENS: YESTERDAY, DURING THAT SAME TYPE OF
3 ILLUSTRATION OR HYPOTHETICAL, MR. WAPNER WAS TALKING TO THE
4 JURY ABOUT ABSOLUTE PROOF. NOW, I AM NOT SURE WHAT ABSOLUTE
5 PROOF LOOKS LIKE IN THIS WORLD.

6 DO YOU EXPECT TO SEE SOMETHING THAT LOOKS LIKE
7 ABSOLUTE PROOF HERE?

8 MS. ROBLES: NO.

9 IT SAYS PROOF BEYOND A REASONABLE --

10 MR. BARENS: BEYOND A REASONABLE DOUBT.

11 MS. ROBLES: -- DOUBT.

12 MR. BARENS: DO YOU UNDERSTAND IF THERE WAS ABSOLUTE
13 PROOF OF SOMETHING, WE WOULDN'T BE GOING THROUGH THIS PROCESS
14 CALLED A TRIAL?

15 MS. ROBLES: I UNDERSTAND THAT.

16 MR. BARENS: THAT IS WHAT THIS TRIAL IS ALL ABOUT IS
17 FOR YOU AND THE OTHER JURORS TO COME TO SOME SENSE OF WHAT
18 YOU BELIEVE TRUTH IS, BASED ON YOUR REASONABLE INTERPRETATION
19 OF THE FACTS.

20 MS. ROBLES: YES, I UNDERSTAND.

21 MR. BARENS: DO YOU UNDERSTAND THAT THE STANDARD FOR
22 DETERMINING REASONABILITY OF SOMETHING IS SOLELY YOUR OWN?

23 MS. ROBLES: YES.

24 MR. BARENS: THAT IF YOU DIFFER WITH SOMEONE ELSE ABOUT
25 WHAT IS POSSIBLE OR PROBABLE, THAT THERE IS NO FIXED RULE
26 ABOUT THAT SORT OF THING OTHER THAN WHAT YOU ARE GOING TO
27 SET FOR YOURSELF AS A JUROR.

28 MS. ROBLES: I UNDERSTAND.

1 MR. BARENS: AND THE LAW DOESN'T IMPOSE, DOESN'T DEFINE
2 FOR YOU, AT LEAST IN THIS AREA OF LAW, DOESN'T DEFINE FOR
3 YOU WHAT IS A REASONABLE EXPECTATION AS OPPOSED TO UNREASONABLE
4 EXPECTATION; DO YOU UNDERSTAND THAT?

5 MS. ROBLES: I UNDERSTAND THAT, YES.

6 MR. BARENS: DO YOU UNDERSTAND IF YOU DISAGREE WITH
7 SOMEONE ELSE ON WHAT REASONABLY COULD HAVE HAPPENED OR MIGHT
8 HAVE HAPPENED, YOU ARE ABSOLUTELY ENTITLED TO YOUR OWN OPINION
9 ON THAT SUBJECT?

10 MS. ROBLES: YES.

11 MR. BARENS: WOULD YOU BE COMFORTABLE IN MAINTAINING
12 THAT POSITION?

13 MS. ROBLES: YES.

14 MR. BARENS: WHAT DO YOU LIKE TO DO IN YOUR SPARE TIME?

15 MS. ROBLES: WELL, I HAVE A FOUR-YEAR-OLD GRANDSON THAT
16 TAKES UP A LOT OF MY TIME AND I ENJOY BEING WITH HIM. I LOOK
17 AFTER HIM QUITE A BIT.

18 I READ. I LIKE TO TRAVEL.

19 MR. BARENS: DO YOU HAVE ANY OTHER HOBBIES?

20 MS. ROBLES: NO, NOT REALLY.

21 MR. BARENS: WHAT DO YOU LIKE TO READ?

22 MS. ROBLES: I AM A FAN OF DANIELLE STEELE. THE LAST
23 BOOK I READ WAS HER "SECRETS."

24 I LIKE NOT HEAVY -- SHE IS KIND OF A LIGHT, ROMANCE
25 NOVELIST.

26 MR. BARENS: LIGHT ROMANCE?

27 MS. ROBLES: YES.

28 MR. BARENS: IS SHE A MYSTERY NOVELIST AS WELL?

1 MS. ROBLES: NO, NOT REALLY, NO.

2 MR. BARENS: IT IS MORE ROMANCE-TYPE OF THINGS?

3 MS. ROBLES: YES.

4 MR. BARENS: WHAT WAS THE LAST MOVIE YOU ATTENDED?

5 MS. ROBLES: "COCOON."

6 (LAUGHTER IN COURTROOM.)

7 MR. BARENS: THAT SHOULD MAKE THIS REAL EASY.

8 MS. ROBLES: THAT IS WHY I WAS TRYING TO PICTURE IT.

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1 MR. BARENS: WELL, ALL RIGHT. WE HAVE TALKED ABOUT
2 DIFFERENT TOPICS HERE, INCLUDING THE PHRASE "BILLIONAIRE
3 BOYS CLUB," WHICH HAS BEEN APPLIED TO THE ORGANIZATION THAT
4 YOU ARE GOING TO HEAR THE DEFENDANT WAS A MEMBER OF. DOES
5 THAT CAUSE YOU ANY PROBLEMS, ANY CONNOTATIONS TO YOU THAT
6 SOMEONE WOULD BELONG TO THAT TYPE OF A GROUP?

7 MS. ROBLES: NO. I HAVE NO IDEA WHAT TYPE OF A GROUP
8 IT IS.

9 MR. BARENS: AND THE NAME "BILLIONAIRE BOYS CLUB,"
10 DOESN'T MAKE YOU SUSPICIOUS OF ANYONE THAT WOULD BE A
11 PARTICIPANT IN THAT?

12 MS. ROBLES: NO.

13 MR. BARENS: YOU HAVE A GRANDSON THAT IS THE CHILD OF
14 ONE OF YOUR TWO CHILDREN?

15 MS. ROBLES: THAT'S RIGHT.

16 MR. BARENS: AND WHAT DO YOUR CHILDREN DO?

17 MS. ROBLES: MY OLDER DAUGHTER, WHO IS THE MOTHER OF
18 CHARLIE, WORKS FOR THRIFTY DRUG.

19 MY YOUNGER DAUGHTER WORKS FOR GENERAL TELEPHONE
20 AS A DISPATCHER OUT IN THE SAN FERNANDO VALLEY.

21 MR. BARENS: I SEE. AND ARE THEY MARRIED AT PRESENT OR
22 ARE YOUR DAUGHTERS BOTH SEPARATED?

23 MS. ROBLES: MY YOUNGEST DAUGHTER HAS NEVER BEEN MARRIED.
24 MY OLDER DAUGHTER IS DIVORCED.

25 MR. BARENS: I SEE. HOW DO YOU FEEL ABOUT THE LIKELIHOOD
26 THAT A DEFENDANT TESTIFYING FOR HIS OWN LIFE, WOULD BE TRUTHFUL?
27 WOULD YOU BE ABLE TO VIEW MR. HUNT'S TESTIMONY THE SAME WAY
28 YOU WOULD THE TESTIMONY OF ANY OTHER WITNESS?

4-2
1 MS. ROBLES: YES.

2 MR. BARENS: DO YOU UNDERSTAND THE IDEA THAT WE ARE NOT
3 HERE TO TRY TO BALANCE THE SCALES? DO YOU REMEMBER YESTERDAY
4 I TALKED ABOUT HOW WE DON'T DO A MORE-LIKELY-THAN-NOT TEST?

5 MS. ROBLES: I REMEMBER, YES.

6 MR. BARENS: BUT BEYOND A REASONABLE DOUBT?

7 MS. ROBLES: YES.

8 MR. BARENS: WHAT DO WE DO IF IT IS A CLOSE CALL, THAT
9 YOU JUST CAN'T BE SURE? THAT IS, WHEN YOU COME TO A SITUATION
10 WHERE YOU HAVE HEARD CONFLICTING TESTIMONY WHERE BOTH SIDES
11 SEEM BELIEVABLE TO YOU, BOTH SIDES SEEM HONEST TO YOU, BOTH
12 SIDES SEEM TO BE SAYING WHAT THEY PERCEIVED THE TRUTH TO BE
13 AS ACCURATELY AS THEY COULD?

14 WHEN YOU GET INTO THE BOX AND HAVE TO MAKE A
15 DECISION, AT THAT POINT ABOUT GUILT OR INNOCENCE, WHAT MUST
16 YOU DO UNDER THOSE CIRCUMSTANCES?

17 MS. ROBLES: YOU WOULD GO WITH THE ONE THAT IS MORE
18 BELIEVABLE.

19 MR. BARENS: WELL, BUT WHAT IF WE GET TO A SITUATION
20 WHERE MAYBE ONE SIDE IS SLIGHTLY MORE BELIEVABLE THAN THE
21 OTHER? HAVE WE GOTTEN TO A POINT, IF IT IS SLIGHTLY MORE
22 BELIEVABLE OR NOT, WHERE THE PEOPLE HAVE MET THEIR BURDEN OF
23 PROOF?

24 MS. ROBLES: WELL, THEY WOULD HAVE TO CONVINCING YOU
25 BEYOND A REASONABLE DOUBT THAT --

26 MR. BARENS: RIGHT. WHAT TROUBLED ME IN YOUR RESPONSE,
27 CANDIDLY, WAS THE WORD "SLIGHTLY".

28 I DON'T THINK WE ARE IN A FORUM WHERE A DECISION

4-3
1 CAN BE MADE ON THIS TYPE OF A MATTER, BASED ON SLIGHTLY MORE
2 INNOCENT OR SLIGHTLY MORE GUILTY.

3 IN CIVIL CASES, I WOULD AGREE WITH YOU THAT THAT
4 WOULD BE THE STANDARD. DO YOU UNDERSTAND THE SERIOUS AND
5 FUNDAMENTAL DIFFERENCE THE DEFENSE KEEPS TALKING TO YOU ABOUT
6 AND THE PROSECUTION, TOO, THAT WE ARE TALKING ABOUT A
7 SIGNIFICANTLY DIFFERENT STANDARD?

8 MS. ROBLES: YES.

9 MR. BARENS: CAN YOU REMEMBER THAT IF WE GOT TO A
10 SITUATION WHERE HE WAS SLIGHTLY MORE GUILTY OR SLIGHTLY MORE
11 INNOCENT, THAT IN THOSE INSTANCES, IT IS NOT PROVEN? IT IS
12 NOT ESTABLISHED BEYOND A REASONABLE DOUBT. WE HAVE NO CHOICE
13 BUT TO SAY THE DEFENDANT IS NOT GUILTY.

14 MS. ROBLES: YES.

15 MR. BARENS: ARE YOU COMFORTABLE WITH THAT?

16 MS. ROBLES: YES.

17 MR. BARENS: COULD YOU KEEP THE DIFFERENCE IN THOSE TWO
18 STANDARDS FIRMLY IN MIND FOR ALL PURPOSES?

19 MS. ROBLES: YES.

20 MR. BARENS: IN YOUR PRIOR JURY EXPERIENCE, HOW DID YOU
21 FEEL AS A RESULT OF THAT, ABOUT THE JURY SYSTEM AND THIS
22 PROCESS? DID YOU THINK IT WORKED OR WHAT WAS YOUR IMPRESSION
23 OF THAT?

24 MS. ROBLES: YES. I THOUGHT IT WORKED. I THINK IT
25 WORKS. EVERYBODY DID THEIR VERY BEST, I KNOW.

26 AND I WAS COMFORTABLE WITH IT. IT IS THE BEST
27 SYSTEM WE HAVE GOT. I MEAN, I THINK IT IS THE BEST SYSTEM
28 ANYWHERE.

1 MR. BARENS: I APPRECIATE THAT. YOU UNDERSTAND THAT
2 ALTHOUGH YOU RECEIVED CERTAIN INSTRUCTIONS FROM THE COURT, IN
3 THE INSTANCE THAT HIS HONOR WILL INSTRUCT YOU -- IN THIS
4 INSTANCE, HE WILL INSTRUCT YOU WHEN IT IS TIME TO DELIBERATE.
5 AND WHEN WE GET TO THAT POINT, YOU WOULD LISTEN ONLY TO WHAT
6 THIS JUDGE TOLD YOU ABOUT THIS CASE, RATHER THAN RELYING ON
7 ANY INSTRUCTION OR INFORMATION YOU HAD RECEIVED PREVIOUSLY?

8 MS. ROBLES: SURE, YES.

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1 MR. BARENS: DID YOU GROW UP IN THE SOUTHERN CALIFORNIA
2 AERA?

3 MS. ROBLES: YES, SANTA MONICA.

4 MR. BARENS: AND YOU WENT TO SCHOOL IN THIS AREA?

5 MS. ROBLES: YES, I DID.

6 MR. BARENS: DID YOU HAVE ANY AFTER-HIGH-SCHOOL
7 EDUCATION?

8 MS. ROBLES: YES. I WENT TO BUSINESS COLLEGE FOR A YEAR.

9 MR. BARENS: AND DID YOU TAKE COURSES IN BUSINESS LAW?

10 MS. ROBLES: YES.

11 MR. BARENS: AND DID YOU TAKE ANY COURSES IN ACCOUNTING?

12 MS. ROBLES: JUST VERY BASIC ACCOUNTING. IT WAS A
13 SECRETARIAL TYPE COURSE. THEY GAVE YOU VERY LITTLE ACCOUNTING.

14 MR. BARENS: DID YOU TAKE ANY COURSES IN PHILOSOPHY?

15 MS. ROBLES: NO.

16 MR. BARENS: HAVE YOU READ ANY BOOKS ABOUT PHILOSOPHY?

17 MS. ROBLES: NO.

18 MR. BARENS: HAVE YOU EVER HEARD OF SOMETHING CALLED
19 THE PARDOX PHILOSOPHY?

20 MS. ROBLES: NO.

21 MR. BARENS: DOES THAT EXPRESSION MEAN ANYTHING TO YOU?

22 MS. ROBLES: NO.

23 MR. BARENS: I AM NOT SURE IF IT MEANS ANYTHING, ANYWAY.
24 BUT I WANTED TO SEE IF YOU HAD EVER HEARD OF THAT.

25 WHEN YOU SAY YOU TRAVEL, WHERE DO YOU LIKE TO
26 GO?

27 MS. ROBLES: THE UNITED STATES. I HAVE NEVER TRAVELED
28 OUT OF THE UNITED STATES. I REALLY HAVE NO DESIRE TO DO SO.

1 WELL, I GUESS WE HAVE. WE WENT TO CANADA LAST
2 YEAR. BUT MOSTLY, IT IS THE COAST OF CALIFORNIA, UP NORTH,
3 NORTHERN CALIFORNIA, ACTUALLY.

4 MR. BARENS: HAVE YOU EVER WATCHED ANY TRIALS ASIDE FROM
5 THE TRIALS YOU ACTUALLY PARTICIPATED IN AS A JUROR?

6 MS. ROBLES: NO.

7 MR. BARENS: THIS WOULD BE YOUR SECOND EXPERIENCE IN A
8 COURTROOM SETTING LIKE THIS?

9 MS. ROBLES: THIS IS MY FOURTH TIME OF JURY DUTY. SO
10 I HAVE BEEN ON MUNICIPAL CIVIL CASES. IT HAS BEEN SO LONG THAT
11 I DON'T REMEMBER WHAT THEY ARE.

12 BUT, IT IS MY FOURTH TIME.

13 MR. BARENS: ON THE CIVIL CASES YOU ARE REFERRING TO,
14 DID THEY ACTUALLY GO TO THE JURY?

15 MS. ROBLES: YES, ONE OF THEM DID.

16 MR. BARENS: OKAY. DO YOU RECALL THE EXPRESSION
17 "PREPONDERANCE OF EVIDENCE"?

18 MS. ROBLES: YES.

19 MR. BARENS: DO YOU REMEMBER IN THOSE TYPES OF CASES,
20 THE JUDGE SAID TO YOU THAT A PREPONDERANCE OF THE EVIDENCE IS
21 IF THE PLAINTIFF -- HERE WE HAVE THE PEOPLE OF THE STATE WHO
22 ARE ALLEGEDLY HERE.

23 I SUBMIT THAT THAT IS REALLY WITH YOU. BUT WE HAVE
24 THE PEOPLE AS THE PLAINTIFF AND WE HAVE A DEFENDANT, WHICH IS
25 THE DEFENDANT THERE.

26 IN THAT INSTANCE, THEY SAID THE PLAINTIFF HAS THE
27 BURDEN OF PROOF TO ESTABLISH OR DEMONSTRATE A PREPONDERANCE
28 OF THE EVIDENCE AND THAT SATISFIES THE JURY AND EVEN 51/49

1 WILL DO IT. DO YOU UNDERSTAND CLEARLY IN YOUR MIND THAT IS
2 ABSOLUTELY NOT WHAT WE ARE TALKING ABOUT HERE?

3 MS. ROBLES: YES.

4 MR. BARENS: THAT 51/49 IS NOT A SUFFICIENT TEST TO MAKE
5 A DECISION IN THIS CASE?

6 MS. ROBLES: YES. I UNDERSTAND THAT.

7 MR. BARENS: DO YOU UNDERSTAND THAT THAT DOESN'T JUST
8 APPLY TO ONE THING, BUT IT APPLIES TO ALL OF THE ELEMENTS
9 NECESSARY FOR THE PEOPLE TO ESTABLISH THEIR BURDEN OF PROOF?

10 MS. ROBLES: I UNDERSTAND THAT.
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1 MR. BARENS: IT IS A MORE DIMENSIONAL SITUATION THAN
2 YOU MIGHT HAVE IN A CIVIL CASE?

3 MS. ROBLES: YES.

4 MR. BARENS: YOU HAVE PROBABLY HEARD ALL OF THESE
5 EXAMPLES THAT HAVE BEEN GIVEN. ONE OF THE MORE REPEATED
6 EXAMPLES HAS BEEN WHETHER WE ARE GOING TO TREAT ALL VICTIMS
7 ALIKE.

8 REMEMBER WHEN MR. WAPNER TALKED ABOUT IF WE HAD
9 A ROBBERY OF A PRIEST AND A ROBBERY OF A DOPE DEALER AND WE
10 ARE ASKED IF WE ARE GOING TO TREAT BOTH OF THOSE VICTIMS ALIKE?

11 MS. ROBLES: YES. I REMEMBER THAT.

12 MR. BARENS: WHAT WOULD YOU SAY TO THAT?

13 MS. ROBLES: WE ARE.

14 MR. BARENS: WELL, WE ARE ALL GOING TO SAY THAT. DO YOU
15 KNOW WHAT A SET-UP QUESTION IS? IT IS ONE OF THOSE, "ARE YOU
16 STILL BEATING YOUR WIFE," QUESTIONS.

17 NOW, LET'S TRY TO DEAL MORE WITH WHAT YOU ARE
18 MORE LIKELY GOING TO SEE IN A CRIMINAL COURTROOM BECAUSE
19 NO ONE IS GOING TO BE ASKED THAT TYPE OF A QUESTION BECAUSE
20 IT ISN'T WHAT YOU GET IN HERE.

21 WOULD YOU HAVE A CONCERN -- YOU SEE, WHAT IS
22 PROGRAMMED INTO YOU WHEN I ASK YOU THE QUESTION, IF THERE IS
23 A ROBBERY OF A PRIEST AND A DOPE DEALER, I HAVE ALREADY TOLD
24 YOU THAT THERE IS A ROBBERY. DO YOU UNDERSTAND THAT?

25 IT IS STIPULATED THAT THERE IS A ROBBERY. THE
26 QUESTION SET UP THE ANSWER FOR YOU. A ROBBERY WE HAVE ALREADY
27 STIPULATED BETWEEN US, HAVE WE NOT?

28 MS. ROBLES: YES.

1 MR. BARENS: I TOLD YOU THAT THERE IS A ROBBERY. YOU
2 ACCEPT THAT FOR PURPOSES OF MY HYPOTHETICAL. COULD YOU
3 UNDERSTAND THAT IN A CASE, YOU COULD HAVE A FUNDAMENTAL
4 ISSUE THAT ISN'T ABOUT WHETHER MR. HUNT OR ANY OTHER DEFENDANT
5 DID THE MURDER OR NOT, BUT RATHER, WHETHER THERE WAS A MURDER
6 OR NOT?

7 MS. ROBLES: YES.

8 MR. BARENS: WOULD YOU HAVE SOME INTEREST IN KNOWING
9 SOMETHING ABOUT THE NATURE OF THE ALLEGED VICTIM BEFORE YOU
10 WOULD BELIEVE WHETHER OR NOT A MURDER OCCURRED?

11 MS. ROBLES: DO I NEED TO KNOW HIS BACKGROUND? THE
12 PERSON?

13 MR. BARENS: YES. WOULD YOU HAVE SOME INTEREST IN
14 KNOWING THE ALLEGED VICTIM'S BACKGROUND BEFORE YOU WOULD BE
15 CONVINCED WHETHER HE WAS EVEN DEAD OR ALIVE, COUPLED WITH THE
16 FACT THAT I TELL YOU THERE IS NO BODY?

17 MS. ROBLES: I GUESS SO.

18 MR. BARENS: YOU GUESS SO? SUPPOSING I MAKE IT A MORE
19 FUNDAMENTAL QUESTION FOR YOU.

20 IF WE ARE HERE TALKING ABOUT HIS DISAPPEARANCE,
21 DO YOU REMEMBER THAT I TOLD YOU FOLKS A WEEK AGO THAT WHAT WE
22 ARE TALKING ABOUT IS A VICTIM WHO THE DEFENSE SAYS, LEFT,
23 DISAPPEARED?

24 AND MAKING A DETERMINATION AS TO WHETHER THAT
25 ALLEGED VICTIM WAS MURDERED OR NOT --

26 MR. WAPNER: YOUR HONOR, I THINK WE ARE GETTING PERILOUSLY
27 CLOSE TO ASKING HER TO PREJUDGE THE FACTS.

28 MR. BARENS: I THINK WE ARE TALKING ABOUT A NO-BODY CASE,

1 WHICH THE PEOPLE HAVE NOT ARGUED ABOUT.

2 THE COURT: YOU MAY PROCEED.

3 MR. BARENS: THANK YOU, YOUR HONOR. NOW, IN THAT
4 SITUATION, WHAT I AM ASKING YOU IS, WOULDN'T YOU WANT TO KNOW
5 SOMETHING ABOUT THE CHARACTER OR BACKGROUND OR THE NATURE OF
6 THAT ALLEGED VICTIM BEFORE YOU COULD REALLY DRAW A CONCLUSION
7 AS TO WHETHER HE DISAPPEARED OR WAS MURDERED OR SOMETHING
8 ELSE?

9 MS. ROBLES: I GUESS YOU WOULD HAVE TO, YES.

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1 MR. BARENS: ASSUMING YOU DON'T HAVE THAT SYMPLISTIC
2 SITUATION WHERE I AM TELLING YOU THERE IS A ROBBERY AND, YOU
3 ARE GOING TO TREAT THOSE TWO VICTIMS ALIKE. BUT HERE, I AM
4 TELLING YOU THAT YOU CAN'T EVEN BE SURE WHAT HAPPENED OR IF
5 ANYTHING HAPPENED. WON'T YOU NEED TO KNOW SOMETHING ABOUT
6 THE GUY IT ALLEGEDLY HAPPENED TO BEFORE YOU COULD DETERMINE
7 MUCH ABOUT WHETHER OR NOT ANYTHING HAPPENED TO BEGIN WITH?

8 MS. ROBLES: YES.

9 MR. BARENS: YOU WOULD HAVE TO JUDGE SOMETHING ABOUT
10 HIS CHARACTER, WOULDN'T YOU?

11 MS. ROBLES: YES.

12 MR. BARENS: DO YOU HAVE ANY EXPERIENCE WITH GUNS?

13 MS. ROBLES: NO.

14 MR. BARENS: DO YOU HAVE ANY PETS?

15 MS. ROBLES: PETS?

16 MR. BARENS: PETS.

17 MS. ROBLES: YES, I HAVE A CAT.

18 MR. BARENS: A CAT?

19 DO YOU FEEL THAT YOU UNDERSTOOD ALL OF THE
20 HYPOTHETICALS THAT YOU OVERHEARD AS YOU HAVE BEEN WAITING
21 TO COME INTO THE BOX?

22 MS. ROBLES: YES.

23 MR. BARENS: DO YOU FEEL COMFORTABLE WITH THOSE?

24 MS. ROBLES: YEAH.

25 MR. BARENS: ANY QUESTIONS ABOUT ANY OF THOSE?

26 YOU SEE, I AM GOING THIS A LITTLE DIFFERENTLY
27 TODAY. INSTEAD OF DOING THIS TO YOU, I AM LETTING YOU DO
28 IT TO ME.

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1 MS. ROBLES: OKAY, I UNDERSTAND. I DON'T THINK I HAVE
2 ANY QUESTIONS.

3 MR. BARENS: YOU UNDERSTAND THAT NONE OF THE
4 HYPOTHETICALS YOU HEAR EXPRESSED BY THE PEOPLE ARE GOING TO
5 BE WHAT YOU ARE GOING TO HEAR IN THIS CASE?

6 MS. ROBLES: YES, I UNDERSTAND.

7 MR. BARENS: THAT THOSE ARE JUST HYPOTHETICALS WHERE
8 WE TRY TO DEMONSTRATE FOR YOU OR TRY TO EXPLAIN TO YOU THE
9 DIFFERENCE BETWEEN DIRECT AND CIRCUMSTANTIAL EVIDENCE?

10 MS. ROBLES: YES, I UNDERSTAND.

11 MR. BARENS: DO YOU UNDERSTAND THAT IT IS LIKELY THAT
12 DURING A TRIAL OF THIS MATTER YOU WILL GET BOTH KINDS, YOU
13 WILL GET SOME DIRECT AND SOME CIRCUMSTANTIAL EVIDENCE?

14 MS. ROBLES: YES.

15 MR. BARENS: AND YOU WILL HAVE TO WEIGH THOSE ACCORDING
16 TO WHAT EFFECT THEY HAVE ON YOU, HOW BELIEVABLE EITHER TYPE
17 OF EVIDENCE IS TO YOU.

18 MS. ROBLES: YES, I UNDERSTAND.

19 MR. BARENS: DO YOU JUST HAVE THE ONE GRANDCHILD?

20 MS. ROBLES: YES.

21 MR. BARENS: DO YOU UNDERSTAND THE CONCEPT OF
22 CIRCUMSTANTIAL EVIDENCE, THAT IF WE HAVE TWO EXPLANATIONS
23 FOR THE SAME SET OF FACTS, BOTH OF WHICH ARE BELIEVABLE TO
24 YOU OR REASONABLY BELIEVABLE TO YOU, THAT IN THAT INSTANCE,
25 THE DOUBT IS RESOLVED IN FAVOR OF THE DEFENDANT?

26 MS. ROBLES: YES.

27 MR. BARENS: IT IS A REAL IMPORTANT THING FOR ALL OF
28 US TO KEEP IN MIND, BECAUSE IT IS LIKELY THAT -- I COULD

1 EXPLAIN A SITUATION TO YOU THAT ANOTHER PERSON COULD EXPLAIN
2 TO YOU WITH EQUAL BELIEVABILITY AND POSSIBLY YOU WOULD CONCLUDE
3 YOURSELF, NEITHER ONE OF THEM ARE MISTAKEN OR NOT TELLING
4 THE TRUTH. OBVIOUSLY, ONE OF US MIGHT BE MISTAKEN BUT BOTH
5 EXPLANATIONS WOULD BE BELIEVABLE OR REASONABLE, AS THE CASE
6 MAY BE; DO YOU UNDERSTAND THAT GIVEN THAT SITUATION, ONE HAS
7 TO RESOLVE THAT FOR THE DEFENDANT?

8 MS. ROBLES: YES.

9 MR. BARENS: STILL BACK TO THAT CONCEPT OF NOT PROVEN
10 BEYOND A REASONABLE DOUBT.

11 MS. ROBLES: I UNDERSTAND.

12 MR. BARENS: THANK YOU, MA'AM. PASS FOR CAUSE, YOUR
13 HONOR.

14 THE COURT: ALL RIGHT.

15 MR. WAPNER: THANK YOU, YOUR HONOR.

16 GOOD MORNING, MRS. ROBLES.

17 MS. ROBLES: GOOD MORNING.

18 MR. WAPNER: ARE YOUR PARENTS STILL LIVING?

19 MS. ROBLES: MY MOTHER IS.

20 MR. WAPNER: DOES SHE LIVE IN THE LOS ANGELES AREA?

21 MS. ROBLES: YES.

22 MR. WAPNER: HOW OFTEN DO YOU SEE OR TALK TO HER?

23 MS. ROBLES: JUST ABOUT EVERY DAY.

24 MR. WAPNER: DOES SHE LIVE NEAR YOU?

25 MS. ROBLES: ABOUT A MILE.

26 MR. WAPNER: OKAY, AND ARE YOU PLANNING TO MAKE THE
27 MOVE WITH GENERAL TELEPHONE OUT TO AGOURA OR WHEREVER IT IS
28 THEY PLAN TO GO?

5-4
1 MS. ROBLES: I AM ALREADY IN A CENTRALIZED LOCATION
2 IN MISSION HILLS.

3 MR. WAPNER: WAS THERE A POLICE OFFICER THAT TESTIFIED
4 IN THE PROSTITUTION CASE YOU SAT ON?

5 MS. ROBLES: YES.

6 MR. WAPNER: DID YOU GET ANY BAD FEELINGS ABOUT THE
7 POLICE DEPARTMENT AS A RESULT OF SITTING ON THAT CASE?

8 MS. ROBLES: NO.

9 MR. WAPNER: HAVE YOU HAD ANY BAD EXPERIENCES WITH POLICE
10 OFFICERS AT ANY TIME?

11 MS. ROBLES: NO.

12 MR. WAPNER: THE EXAMPLE WITH THE TWO PEOPLE WHO WERE
13 ROBBED, THE PRIEST AND THE DRUG DEALER, THE PURPOSE OF THAT
14 HYPOTHETICAL WAS THAT PEOPLE SHOULDN'T BE TREATED DIFFERENTLY
15 OR YOU SHOULDN'T MAKE YOUR DECISION BASED ON WHAT A PERSON
16 DOES OR THE COLOR OF HIS SKIN OR WHAT HE THINKS; DO YOU
17 UNDERSTAND THAT?

18 MS. ROBLES: YES, THAT IS WHAT I THOUGHT IT MEANT.

19 MR. WAPNER: OKAY, IN THIS CASE, IF FOR WHATEVER REASON,
20 AFTER HEARING ALL OF THE EVIDENCE YOU DECIDED, ONE, THAT YOU
21 DIDN'T LIKE THE PERSON WHO WAS KILLED AND, TWO, THAT YOU
22 BELIEVED BEYOND A REASONABLE DOUBT THAT HE WAS IN FACT
23 KILLED AND THAT THE DEFENDANT DID IT, IN THAT CIRCUMSTANCE
24 WOULD YOU HAVE ANY TROUBLE FINDING THE DEFENDANT GUILTY?

25 MS. ROBLES: NO, SIR.

26 MR. WAPNER: IN THE HYPOTHETICAL THAT I JUST TALKED
27 ABOUT, AS MR. BARENS SAID IT WAS GIVEN THAT THERE WAS A
28 ROBBERY, RIGHT?

1 MS. ROBLES: RIGHT.

2 MR. WAPNER: I THINK WHAT HE WAS TRYING TO -- WELL,
3 I WILL LET HIM MAKE HIS OWN HYPOTHETICAL IF HE WANTS TO.
4 I WAS GOING TO MODIFY IT A LITTLE BIT BUT I WILL LET HIM WORK
5 ON THAT.

6 HOW DID YOU -- WHAT DO YOU THINK HAPPENED TO THE
7 PERSON ON THE BOAT WHO WAS THERE AT NIGHT AND WASN'T THERE
8 IN THE MORNING?

9 MS. ROBLES: I WOULD THINK HE DROWNED.

10 MR. WAPNER: WHY?

11 MS. ROBLES: WELL, WHERE ELSE DID HE GO?

12 THERE WAS NOBODY ELSE AROUND.

13 MR. WAPNER: ALL RIGHT. THAT WAS THE MOST REASONABLE
14 EXPLANATION TO YOU WHEN YOU HEARD IT?

15 MS. ROBLES: YES, YES.

16 MR. WAPNER: IT IS POSSIBLE THAT A HELICOPTER CAME,
17 RIGHT?

18 MS. ROBLES: IT IS POSSIBLE.

19 MR. WAPNER: IT IS POSSIBLE THE BOAT CAME BY IN THE
20 SHIPPING LANE?

21 MS. ROBLES: YES.

22 MR. WAPNER: DO YOU UNDERSTAND THAT THERE IS A DIFFERENCE
23 BETWEEN THINGS THAT ARE POSSIBLE AND THINGS THAT ARE REASONABLE?

24 MS. ROBLES: SURE.

25 MR. WAPNER: HAVE YOU EVER BEEN THE VICTIM OF A FRAUD
26 OR ANY KIND OF A CON SCHEME?

27 MS. ROBLES: NO.

28 MR. WAPNER: DID YOU ALWAYS WORK IN THE EMERGENCY SECTION

5- 1 OF THE TELEPHONE COMPANY?

2 MS. ROBLES: NO.

3 MR. WAPNER: WHAT DID YOU START DOING WITH THE PHONE
4 COMPANY?

5 MS. ROBLES: I STARTED IN IN SUPPLY AND TRANSPORTATION
6 IN THE MOTOR VEHICLE -- LICENSE, RATHER, AND TOOK CARE OF
7 ALL OF THE MOTOR VEHICLES FOR THE COMPANY AND FROM THERE,
8 I WENT TO BE CUSTOMER REPRESENTATIVE.

9 MR. WAPNER: YOU WILL HAVE TO SPEAK UP JUST A LITTLE
10 SO THESE PEOPLE CAN HEAR YOU.

11 MS. ROBLES: I WAS A CUSTOMER REPRESENTATIVE HANDLING
12 FIRST RESIDENTIAL AND THEN BUSINESS ACCOUNTS. FROM THERE,
13 I WENT TO THE TEST CENTER WHERE I TESTED LINES AFTER WE TOOK
14 TICKETS, WE TESTED THEM TO FIND OUT WHERE THE TROUBLE WAS
15 AND FROM THERE, I BECAME A SUPERVISOR AND FROM THERE, I WENT
16 TO THE REPAIR CENTER.

17 MR. WAPNER: DID ALL OF THOSE MOVES INVOLVE PROMOTIONS?

18 MS. ROBLES: WELL, THEY INVOLVED AN UPGRADE IN PAY.
19 JUST ONE WAS A PROMOTION BECAUSE WE CAN BID FOR DIFFERENT
20 JOBS AND THAT IS WHAT I DID FOR THE SUPERVISOR. WHAT I DID
21 FOR THE SUPERVISOR -- WHAT I DID FOR THE SUPERVISOR, WHEN YOU
22 GO INTO SUPERVISION THAT IS A PROMOTION. EVERYTHING BEFORE
23 THAT IS A TRANSFER BID. YOU PUT IN A TRANSFER FOR THE JOB.

24 MR. WAPNER: OKAY. YOU SPEAK OBVIOUSLY, SOMEWHAT
25 SOFTLY.

26 DO YOU THINK -- WELL, LET ME ASK YOU ABOUT YOUR
27 LAST EXPERIENCE ON JURY DUTY: DID YOU HAVE ANY DIFFICULTY
28 IN THE JURY ROOM MAKING YOUR OPINIONS KNOWN TO THE OTHER 11?

1 MS. ROBLES: NO.

2 MR. WAPNER: DID YOU HAVE ANY DIFFICULTY LISTENING TO
3 THE OTHER 11 PEOPLE?

4 MS. ROBLES: NO.

5 MR. WAPNER: ARE YOU THE KIND OF PERSON WHO ONCE YOU
6 MAKE YOUR MIND UP, IT IS FIXED AND YOU CAN'T CHANGE IT?

7 MS. ROBLES: NO, NOT REALLY.

8 I DON'T USUALLY ARGUE A POINT UNLESS I AM PRETTY
9 SURE I AM RIGHT.

10 SOME PEOPLE SAY I AM OPINIONATED BUT -- YOU KNOW,
11 I CAN GIVE AND TAKE.

12 MR. WAPNER: OKAY, DID YOU HAVE THE SITUATION IN THE
13 JURY ROOM IN THE LAST CASE WHERE WHEN YOU WENT IN INITIALLY
14 TO DISCUSS IT, THAT NOT EVERYONE AGREED OR DID EVERYONE AGREE
15 FROM THE BEGINNING?

16 MS. ROBLES: I THINK IN THE BEGINNING, WE DIDN'T ALL
17 AGREE.

18 MR. WAPNER: AND THERE WAS SOME DISCUSSION AND SOME
19 PEOPLE CHANGED THEIR MINDS?

20 MS. ROBLES: YES.

21 MR. WAPNER: I DON'T WANT TO KNOW HOW YOU VOTED, BUT
22 I AM JUST INTERESTED IN KNOWING WHETHER YOU WERE ONE OF THE
23 ONES THAT CHANGED YOUR MIND.

24 MS. ROBLES: YES, I DID, I CHANGED MY MIND.

25 MR. WAPNER: THE JUDGE MAY HAVE ASKED YOU THIS ALREADY,
26 HAVE YOU EVER BEEN THE VICTIM OF ANY KIND OF A CRIME?

27 MS. ROBLES: NO, I HAVE NOT.

28 MR. WAPNER: HOW DO YOU FEEL ABOUT WITNESSES WHO TESTIFY

1 UNDER A GRANT OF IMMUNITY, DO YOU HAVE ANY FEELINGS ABOUT
2 THAT ONE WAY OR THE OTHER?

3 MS. ROBLES: I THINK IT IS ALL RIGHT.

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1 MR. WAPNER: AND DO YOU BELIEVE THAT THE STATE SHOULD
2 BE ABLE TO TRY SOMEONE FOR MURDER, EVEN THOUGH A BODY HAS NOT
3 BEEN RECOVERED?

4 MS. ROBLES: YES.

5 MR. WAPNER: DO YOU HAVE SOME RESERVATIONS ABOUT THAT?

6 MS. ROBLES: NO.

7 MR. WAPNER: WOULD YOU, IF THE EVIDENCE PROVES TO YOU
8 THAT THE DEFENDANT IS GUILTY OF MURDER BEYOND A REASONABLE
9 DOUBT, WOULD YOU BE ABLE TO FIND HIM GUILTY, EVEN THOUGH THERE
10 HAS BEEN NO BODY RECOVERED?

11 MS. ROBLES: YES.

12 MR. WAPNER: THANK YOU. PASS FOR CAUSE, YOUR HONOR.

13 THE COURT: ALL RIGHT. IT IS THE PEOPLE'S PEREMPTORY.

14 MR. WAPNER: WE THANK AND ASK THE COURT TO EXCUSE MS.
15 WAUGH, JUROR NUMBER 12. THANK YOU, MA'AM.

16 THE CLERK: LAWRENCE RAGLE, R-A-G-L-E.

17 MR. BARENS: YOUR HONOR, THE DEFENSE WOULD RESERVE --

18 THE COURT: I KNOW. DO YOU WANT TO APPROACH THE BENCH?

19 MR. BARENS: THANK YOU, YOUR HONOR.

20 (THE FOLLOWING PROCEEDINGS WERE HELD AT THE
21 BENCH:)

22 THE COURT: MR. RAGLE HAD TOLD US THAT HE READ SOMETHING
23 ABOUT THE MATTERS SINCE THE TIME THAT HE HAD BEEN QUALIFIED?

24 MR. BARENS: YES.

25 THE COURT: SHALL I ASK HIM ABOUT THAT?

26 MR. BARENS: QUITE SO. WHILE WE ARE HERE AT THE BENCH,
27 THE DEFENSE WOULD LIKE THE RECORD TO REFLECT THAT MS. WAUGH,
28 JUROR NUMBER 12, WAS A BLACK LADY.

1 THE COURT: THE RECORD WILL INDICATE THAT WE HAVE TWO
2 BLACKS ON THE JURY STILL.

3 MR. WAPNER: YOUR HONOR, I WOULD ASK THE COURT TO
4 INQUIRE OF MR. RAGLE OF THE ADDITIONAL MATTERS OF PUBLICITY
5 OUTSIDE THE PRESENCE OF THE OTHER JURORS BECAUSE THERE IS A
6 GREAT RISK OF INFECTING THE ENTIRE PANEL.

7 MR. BARENS: I AGREE.

8 MR. WAPNER: WITH THE INFORMATION THAT HE MAY HAVE READ.

9 MR. BARENS: I WOULD AGREE. IF HE COULD JUST STEP INTO
10 CHAMBERS A MOMENT, YOUR HONOR?

11 MR. CHIER: YOUR HONOR, I WOULD LIKE TO FURTHER POINT
12 OUT FOR THE RECORD THAT JUROR NUMBER 12, MS. WAUGH, WAS
13 EMINENTLY A FAIR-MINDED PERSON --

14 THE COURT: WILL YOU STOP THAT? WHETHER SHE IS OR IS
15 NOT, DOESN'T MAKE ANY DIFFERENCE.

16 MR. CHIER: THE ONLY REASON SHE WAS EXCUSED IS BECAUSE
17 SHE WAS --

18 THE COURT: GET AWAY FROM THAT.

19 MR. BARENS: WE'LL ACCEPT THAT. WOULD YOU LIKE TO
20 DETERMINE WHAT TO DO WITH THIS JUROR?

21 THE COURT: I DON'T KNOW HOW TO HANDLE IT AT THIS
22 PARTICULAR POINT.

23 LET'S WAIT UNTIL CLOSE TO THE NOON HOUR.

24 MR. BARENS: WELL, WHAT I WOULD LIKE TO DO IS, PRIOR TO
25 PASSING HIM FOR CAUSE --

26 THE COURT: I KNOW.

27 MR. BARENS: YOUR HONOR, I WOULD LIKE TO SUGGEST THAT
28 I REALLY WOULD NEED TO HEAR YOUR HONOR'S QUESTIONS AND HIS

1 RESPONSES BEFORE I COULD INTELLIGENTLY QUESTION THE JUROR ON
2 THAT SUBJECT.

3 MR. WAPNER: ALSO, ALTHOUGH IT IS SOMEWHAT TIME
4 CONSUMING TO ASK THE JURORS TO STEP OUT, IF THE ADDITIONAL
5 INFORMATION HE HAS READ IS SO CONTAMINATING HIM, IT MIGHT SAVE
6 THE TIME OF ASKING HIM ALL OF THE OTHER QUESTIONS.

7 MAYBE WE COULD JUST ASK THE JURORS TO STEP OUT.
8 IT WON'T TAKE MORE THAN A FEW MINUTES TO ASK HIM THESE
9 QUESTIONS.

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

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4 THE COURT: MR. RAGLE, I THINK THAT WHEN I ASKED YOU
5 ABOUT ANY PUBLICITY, ANYTHING THAT YOU HEARD IN CONNECTION WITH
6 THIS PARTICULAR CASE, YOU INDICATED THAT YOU HAD HEARD SOME-
7 THING FURTHER, ISN'T THAT RIGHT?

8 MR. RAGLE: YES. IT WAS --

9 THE COURT: WELL, I THINK WHAT WE OUGHT TO DO, LIKE WE
10 DID WITH ALL OF THE OTHER JURORS, IS TO TAKE YOU INTO CHAMBERS.
11 YOU CAN TELL US EXACTLY WHAT IT IS THAT YOU READ AND HEARD.
12 ALL RIGHT?

13 MR. RAGLE: SURE.

14 THE COURT: IT WILL ONLY TAKE A COUPLE OF MINUTES.
15 WILL YOU PLEASE JUST STAY WHERE YOU ARE? WE'LL BE RIGHT BACK.

16 (THE FOLLOWING PROCEEDINGS WERE HELD IN
17 CHAMBERS. MR. CHIER NOT BEING PRESENT.)

18 THE COURT: THE RECORD WILL INDICATE WE ARE PRESENT IN
19 CHAMBERS. MR. RAGLE, TELL US, IS IT SOMETHING THAT YOU HEARD
20 OR READ AFTER WE QUESTIONED YOU? DO YOU REMEMBER?

21 MR. RAGLE: IT FLASHED ON TV.

22 THE COURT: YES?

23 MR. RAGLE: I ACTUALLY WAS NOT EVEN WATCHING THE PROGRAM
24 BECAUSE I WAS TALKING TO MY WIFE. IT CAME ON.

25 AND I RECOGNIZED HIM AND THEN THE DEFENDANT
26 STEPPED IN FRONT OF THE CAMERA. I THOUGHT THAT GEE, I WAS NOT
27 SUPPOSED TO SEE THIS. I TURNED IT OFF. BUT THAT IS ESSENTIALLY
28 WHAT HAPPENED.

1 THE COURT: THAT IS ALL YOU HEARD?

2 MR. RAGLE: ALL THAT THEY HAD MENTIONED WAS THE SAME
3 THING YOU HAVE BEEN MENTIONING IN HERE. THAT IS, AS FAR AS
4 THE PERSON, HE IS CLAIMING THE PERSON DISAPPEARED. OKAY?
5 THAT'S ALL.

6 MR. BARENS: MAY I INQUIRE, BRIEFLY?

7 THE COURT: SURE.

8 MR. BARENS: SIR, WHEN YOU RECOGNIZED MR. WAPNER, WHAT
9 WAS HE SAYING, IF ANYTHING?

10 MR. RAGLE: NO. THEY WERE JUST ZOOMING IN ON HIM ON
11 CAMERA.

12 MR. BARENS: YOU DIDN'T HEAR MR. WAPNER MAKE ANY
13 STATEMENTS?

14 MR. RAGLE: NO.

15 MR. BARENS: DID YOU HEAR ANY REPORTER AT THAT POINT
16 QUOTE OR MAKE ANY REFERENCE TO ANYTHING MR. WAPNER HAD SAID?

17 MR. RAGLE: NO.

18 MR. BARENS: DID YOU HEAR ANY REPORTER QUESTION OR MAKE
19 ANY REFERENCE TO ANYTHING THAT HE HAD SAID?

20 MR. RAGLE: ALL HE SAID WAS THE DEFENSE -- I DON'T KNOW
21 IF HE MENTIONED YOUR NAME OR WHATEVER -- WAS CLAIMING THAT
22 A CERTAIN PARTY DISAPPEARED.

23 I REALLY DIDN'T HEAR, EXCEPT THE "DISAPPEAR" PART.
24 I SNAPPED IT OFF.

25 THE COURT: THE REASON WHY WE HAVE YOU IN CHAMBERS IS
26 MAYBE YOU MIGHT HAVE HEARD SOMETHING THAT WAS SO PREJUDICIAL
27 THAT THE OTHER JURORS SHOULD NOT HEAR. BECAUSE THEY WEREN'T
28 SUPPOSED TO HEAR ANYTHING. THAT IS THE ONLY REASON THAT WE

1 ASKED YOU TO COME IN.

2 MR. RAGLE: NO. EVERYTHING IS THE SAME AS WHAT YOU HAVE
3 BEEN BRINGING UP IN TRIAL, HERE.

4 THE COURT: FINE. THAT IS ALL WE WANTED YOU FOR.

5 MR. BARENS: YOU HAVE NOT HEARD OR READ OR SEEN ANYTHING
6 OTHER THAN THAT ONE INSTANCE, SIR?

7 MR. RAGLE: NO, SIR.

8 MR. BARENS: THANK YOU.

9 THE COURT: THANK YOU VERY MUCH.

10 MR. RAGLE: I MADE MY PURPOSE NOT TO WATCH ANY TV OR
11 EVEN READ THE PAPER.

12 THE COURT: ALL RIGHT. THANK YOU VERY MUCH, MR. RAGLE.
13 WE'LL GO BACK TO WORK NOW.

14 (THE FOLLOWING PROCEEDINGS WERE HELD IN
15 OPEN COURT, IN THE PRESENCE OF THE
16 PROSPECTIVE JURORS WITH DEFENDANT AND
17 ALL COUNSEL BEING PRESENT:)

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1 THE COURT: ALL RIGHT. THE DEFENDANT IS PRESENT.
2 COUNSEL ARE PRESENT. THE PROSPECTIVE JURORS ARE PRESENT.

3 MR. RAGLE, YOU HEARD ALL OF THE QUESTIONS AND
4 ANSWERS WHICH WERE ASKED AND GIVEN, DID YOU NOT?

5 MR. RAGLE: YES, I HAVE.

6 THE COURT: IF THE SAME GENERAL QUESTIONS WERE ASKED
7 OF YOU, WOULD YOUR ANSWERS BE ANY DIFFERENT OR SUBSTANTIALLY
8 THE SAME?

9 MR. RAGLE: THE SAME.

10 THE COURT: YOU DID MENTION, DID YOU NOT, THAT YOU OR
11 SOME MEMBER OF YOUR FAMILY OR FRIENDS WERE IDENTIFIED WITH
12 LAW ENFORCEMENT WORK OF SOME KIND?

13 MR. RAGLE: I AM A CERTIFIED SUPERVISOR FOR THE WORK
14 RELEASE PROGRAM FOR THE COUNTY SHERIFFS.

15 THE COURT: I SEE.

16 MR. RAGLE: CIVILIAN. NOTHING TO DO WITH THEM.

17 THE COURT: YOU HAVE NOTHING TO DO WITH LAW ENFORCEMENT,
18 AS SUCH?

19 MR. RAGLE: JUST AFTER THE PRISONER IS RELEASED TO US,
20 I KEEP ALL OF HIS PAPER WORK UNTIL HE GOES HOME.

21 THE COURT: ALL RIGHT. THE FACT THAT YOU ARE COLLATERALLY
22 INVOLVED WITH LAW ENFORCEMENT, WOULD THAT IN ANY WAY INFLUENCE
23 YOU IN DETERMINING THE GUILT OR INNOCENCE OF THE DEFENDANT?

24 MR. RAGLE: NO WAY.

25 THE COURT: ALL RIGHT, SIR.

26 YOU TOLD US WHAT IT IS YOU DO, MR. RAGLE. HOW
27 LONG HAVE YOU BEEN IN THAT JOB?

28 MR. RAGLE: I HAVE WORKED FOR THE OCUNTY OF LOS ANGELES

1 FLOOD CONTROL FOR 28 YEARS.

2 THE COURT: ALL RIGHT. IS THERE A MRS. RAGLE?

3 MR. RAGLE: YES, THERE IS.

4 THE COURT: DOES SHE HAVE ANY EMPLOYMENT OUTSIDE THE
5 HOME?

6 MR. RAGLE: NO, SHE DOES NOT.

7 THE COURT: SHE IS A HOMEMAKER, IS SHE?

8 MR. RAGLE: YES.

9 THE COURT: DID SHE EVER HAVE ANY EMPLOYMENT DURING THE
10 COURSE OF YOUR MARRIAGE?

11 MR. RAGLE: YES.

12 THE COURT: WHAT HAS SHE DONE?

13 MR. RAGLE: TEACHER'S AIDE IN THE LAWNSDALE SCHOOL
14 DISTRICT.

15 THE COURT: WHAT IS YOUR FORMAL EDUCATION, MR. RAGLE?

16 MR. RAGLE: I WENT TO COLLEGE FOR TWO YEARS, NO DEGREES.

17 THE COURT: WHICH ONE DID YOU GO TO?

18 MR. RAGLE: I BELIEVE IT IS NOW CALLED BRIGHAM YOUNG
19 UNIVERSITY.

20 THE COURT: DO YOU HAVE ANY CHILDREN?

21 MR. RAGLE: FOUR.

22 THE COURT: HOW OLD ARE THEY?

23 MR. RAGLE: TWENTY-THREE, TWENTY-ONE AND EIGHTEEN AND
24 SIXTEEN.

25 THE COURT: AND WHERE DO YOU LIVE, AGAIN?

26 MR. RAGLE: WHAT IS THAT?

27 THE COURT: WHERE DO YOU LIVE?

28 MR. RAGLE: LAWNSDALE.

1 THE COURT: YOU HAVE NEVER BEEN THE VICTIM OF ANY KIND
2 OF BURGLARY OR ROBBERY OR ANY KIND OF SERIOUS CRIME?

3 MR. RAGLE: NO.

4 THE COURT: THANK YOU.

5 MR. BARENS: THANK YOU, YOUR HONOR. GOOD MORNING, SIR.

6 MR. RAGLE: GOOD MORNING.

7 MR. BARENS: OBVIOUSLY, I NEED TO ASK YOU SOME QUESTIONS
8 ABOUT WHAT YOU DO FOR A LIVING. COULD YOU EXPLAIN TO ME MORE
9 SPECIFICALLY WHAT YOUR CONTACTS ARE AND WHAT YOU DO, SIR?

10 MR. RAGLE: I WORK WITH THE DEPARTMENT OF PUBLIC WORKS,
11 FLOOD MAINTENANCE DIVISION. AND MY PAYROLL TITLE IS SENIOR
12 MAINTENANCE WORKER. BUT MY ACTUAL WORK IS JOB SCHEDULER.

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1 MR. BARENS: COULD YOU HELP ME WITH THAT?

2 MR. RAGLE: YES.

3 JOB SCHEDULER IS A PERSON THAT MAKES SURE WE HAVE
4 ALL OF THE EQUIPMENT AND THE MATERIALS ON HAND TO START THE
5 JOB AND I HAVE TO BE FAMILIAR WITH THE TYPE OF WORK OR WHAT
6 IS GOING ON.

7 MR. BARENS: IN OTHER WORDS, YOU RECEIVE SOME INFORMATION
8 ABOUT A PRISONER WHO IS PROSPECTIVELY GOING TO BE RELEASED
9 AND YOU ASSIST IN THE PLACEMENT OF THAT INDIVIDUAL IN THE
10 JOB MARKET?

11 MR. RAGLE: NO, NO.

12 MR. BARENS: NO?

13 MR. RAGLE: NO.

14 THE WORK RELEASE PROGRAM IS A PROGRAM WHERE THEY --
15 WHERE THE COUNTY RELEASE A PRISONER EARLY AND THEY PUT THEM
16 OUT WITH FLOOD CONTROL OR CALTRANS, OR WHOEVER, SO THEY CAN
17 WORK FOR US FOR NOTHING AND WORK OFF THEIR SENTENCE.

18 IT IS JUST A MINUTE LITTLE PART OF WHAT WE DO.

19 MR. BARENS: IT IS A PART, THOUGH, THAT I AM CONCERNED
20 ABOUT WHAT IMPACT THAT MIGHT HAVE ON YOUR ORIENTATION TOWARDS
21 PEOPLE COMING INTO THAT SYSTEM THAT I WOULD LIKE TO ASK YOU
22 A FEW QUESTIONS FURTHER ABOUT.

23 MR. RAGLE: SURE.

24 MR. BARENS: WHAT EXACTLY DO YOU HAVE TO DO? WHAT ROLE
25 DO YOU PLAY IN THAT ASPECT OF YOUR JOB? WHAT ARE YOUR
26 CONTACTS? ARE YOU GIVEN SOME KIND OF A REPORT ABOUT THE
27 PRISONER WHO IS GOING TO BE RELEASED PRIOR TO YOUR MEETING
28 HIM?

7-2

1 MR. RAGLE: NO, NO.

2 THEY SEND US A LITTLE CONTRACT THAT THE PRISONER
3 HAS SIGNED, IN THE MAIL, WITH HIS PICTURE ON IT AND WHEN HE
4 SHOWS UP ON OUR JOB SITE, WE MATCH HIS FACE WITH THE PICTURE
5 TO MAKE SURE THAT IT IS ACTUALLY HIM THAT IS SHOWING UP AND
6 NOT HIS COUSIN OR SOMEBODY WORKING IT OUT FOR HIM.

7 AND THEN I JUST KEEP THE AMOUNT OF HOURS THAT
8 HE WORKS, ACTUALLY WORKS FOR THE COUNTY. I ALSO SIGN HIS
9 PAPER WHEN HE IS RELEASED.

10 MR. BARENS: DO YOU LOOK INTO THAT PERSON'S BACKGROUND
11 BY WAY OF ASCERTAINING WHAT SORT OF A CRIME HE SERVED TIME
12 FOR?

13 MR. RAGLE: NEVER, NEVER.

14 MR. BARENS: NEVER?

15 MR. RAGLE: NEVER.

16 MR. BARENS: THAT CONTRACT DOESN'T INDICATE IT?

17 MR. RAGLE: NO.

18 ALL IT HAS IS HIS NAME AND HIS BOOKING NUMBER.

19 MR. BARENS: DO YOU EVER TALK TO THESE FELLOWS ABOUT
20 WHAT THEY WERE IN FOR?

21 MR. RAGLE: NO.

22 MR. BARENS: WHAT HAS YOUR EXPERIENCE BEEN WITH THOSE
23 TYPES OF PEOPLE AS WORKERS?

24 MR. RAGLE: THEY DON'T ACTUALLY WORK FOR ME.

25 I JUST KEEP THEIR RECORDS IN THE OFFICE.

26 THEY GO OUT WITH ANOTHER CERTIFIED WORK RELEASE
27 PERSON AND THEY WORK WITH THEM SO I REALLY HAVE NO CONTACT,
28 EXCEPT I KNOW THE MAN'S NAME, I KNOW HIS FACE WHEN HE COMES

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1 IN EVERY NOW AND THEN TO FIND OUT HOW MANY MORE DAYS HE HAS
2 TO WORK THERE.

3 MR. BARENS: DO YOU EVER HAVE ANY DISCUSSIONS OR
4 DISAGREEMENTS WITH THOSE INDIVIDUALS ABOUT WHETHER OR NOT
5 THEY WORKED SO MANY HOURS, ACCORDING TO YOUR RECORDS, AS
6 OPPOSED TO WHAT THEY SAY?

7 MR. RAGLE: NO.

8 MR. BARENS: YOU HAVE NEVER HAD OCCASION FOR THAT TO
9 DEVELOP?

10 MR. RAGLE: NOT YET. I SAY "NOT YET."

11 MR. BARENS: INDEED.

12 MR. RAGLE: I AM SURE IT WILL HAPPEN.

13 MR. BARENS: HAVE YOU EVER HAD OCCASION WHERE YOU ARE
14 SPOKEN TO OR INTERVIEWED BY A PROBATION OFFICER?

15 MR. RAGLE: NO, NO.

16 THE WHOLE PROGRAM IS THAT I WAS INVITED TO GO
17 TO A SEMINAR FOR ONE DAY AT THE COUNTY JAIL AND THEY GAVE
18 US THE INFORMATION, TOOK US ON A TOUR THROUGHOUT THE COUNTY
19 JAIL, WHICH WAS VERY DEPRESSING, AND SAID, "OKAY, WE WILL
20 RUN YOU THROUGH THE COMPUTER AND FIND OUT IF YOU ARE CLEAN
21 AND IF WE HAVE ANY WARRANTS AGAINST YOU."

22 AND OBVIOUSLY, I GUESS THAT I WAS CLEAN AND THEY
23 GAVE ME A CERTIFICATE SAYING "YOU ARE NOW A CERTIFIED
24 SUPERVISOR."

25 IT IS JUST A ONE-DAY SEMINAR.

26 MR. BARENS: HOW DO YOU FEEL ABOUT THE WHOLE PHILOSOPHY
27 THAT IS INVOLVED WITH LETTING GUYS GET OUT OF CUSTODY TO WORK
28 OFF THEIR TIME, TO USE YOUR EXPRESSION, SIR, RATHER THAN

7-4
1 SPENDING IT BEHIND BARS, HOW DO YOU FEEL ABOUT THAT?

2 MR. RAGLE: WELL, I FEEL THAT ACTUALLY IT IS HURTING
3 THE EMPLOYEE BECAUSE IT IS TAKING HIS WORK FROM HIM.

4 MAYBE AS FAR AS THE TAXPAYERS, IT IS A GOOD DEAL
5 BECAUSE THEY ARE GIVEN WORK THAT THEY PROBABLY WOULD NEVER
6 GET THAT THOROUGH WORK DONE FOR THEM FOR NOTHING.

7 MR. BARENS: SO YOU THINK THERE IS SOMETHING UNFAIR
8 ABOUT THIS SYSTEM?

9 MR. RAGLE: IT IS UNFAIR TO THE EMPLOYEE, YES.

10 MR. BARENS: IN OTHER WORDS, IT IS UNFAIR, IF I UNDERSTAND
11 YOU CORRECTLY, BECAUSE SOMEONE LOSES WORK THAT WOULD OTHERWISE
12 BE AVAILABLE IN THE PRIVATE ECONOMY, LET'S SAY?

13 MR. RAGLE: RIGHT, RIGHT.

14 MR. BARENS: NOW, HOW DO YOU FEEL ABOUT THE EFFECT IT
15 HAS OR THE BENEFIT IT HAS, FOR THE GUY WHO HAS, FOR SOME
16 REASON OR ANOTHER, DONE SOMETHING TO PUT HIM IN JAIL, DO YOU
17 THINK IT IS FAIR THAT THAT GUY IS ABLE TO WORK OFF TIME RATHER
18 THAN SPENDING IT BEHIND BARS?

19 MR. RAGLE: MOST OF THEM ARE VERY HAPPY TO BE WORKING
20 RATHER THAN BEING BEHIND BARS.

21 MR. BARENS: THAT IS NOT ACTUALLY WHAT I AM ASKING YOU,
22 SIR, AND I APPRECIATE THAT.

23 I AM ASKING YOU HOW YOU FEEL ABOUT IT, HOW IS
24 YOUR VALUE SYSTEM AFFECTED BY THE FACT THAT SOME GUY WHO
25 EVIDENTLY DID SOMETHING WRONG IS ABLE TO GET OUT OF JAIL AND
26 WORK OFF PART OF WHAT HE OWES THE PEOPLE OF THE STATE OF
27 CALIFORNIA?

28 MR. RAGLE: I NEVER REALLY THOUGHT ABOUT IT.

1 IT IS FINE WITH ME. I AM A TAXPAYER TOO.

2 MR. BARENS: DO YOU FEEL SOMEONE IS GETTING OFF MORE
3 LIGHTLY THAN THEY SHOULD OR IS THERE SOME SORT OF DEBT THAT
4 ISN'T BEING REPAID PROPERLY?

5 MR. RAGLE: NO, I DON'T FEEL THAT WAY.

6 I FEEL THAT THE JOBS THEY ARE DOING ARE VERY
7 UNDESIRABLE. THEY MIGHT -- WELL, THEY ARE JUST UNDESIRABLE
8 JOBS AND I WOULDN'T WANT TO DO THEM SO I THINK THAT HE IS
9 GETTING HIS, TOO.

10 MR. BARENS: IT IS STILL FAIR IN YOUR MIND?

11 MR. RAGLE: RIGHT.

12 MR. BARENS: HOW DO YOU FEEL ABOUT THE CONCEPT THAT
13 MR. HUNT IS SITTING THERE PRESUMED TO BE INNOCENT?

14 MR. RAGLE: I THINK THAT IS A VERY JUST LAW.

15 MR. BARENS: AND ARE YOU COMFORTABLE WITH THAT CONCEPT?

16 WHATABOUT THE CONCEPT THAT THE DEFENSE DOESN'T
17 HAVE TO PROVE ANYTHING HERE?

18 MR. RAGLE: I FEEL THAT IS PROPER.

19 MR. BARENS: DO YOU FEEL THAT IF WE HAVE A NO BODY CASE,
20 THAT SOMEHOW OR ANOTHER THE DEFENSE SHOULD EXPLAIN TO YOU
21 WHAT HAPPENED TO THE BODY?

22 MR. RAGLE: NO.

23 I THINK THE PROSECUTION HAS THAT OBLIGATION TO
24 US.

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1 MR. BARENS: LET ME ASK YOU THIS: YOU KNOW WE ARE ALL
2 USING THAT EXPRESSION, YOU KNOW, EXPLAINING TO YOU, THERE
3 IS NO BODY, THERE IS NO BODY; WOULDN'T I, SOMEWHERE ALONG THE
4 LINE HAVE TO CONVINCING YOU THERE WAS A BODY BEFORE WE STARTED
5 ASKING QUESTIONS ABOUT WHERE IT WAS?

6 MR. RAGLE: WHERE THE BODY WAS?

7 MR. BARENS: IF THERE IS A BODY.

8 I AM BACK TO THE IF QUESTION.

9 MR. RAGLE: YOU WOULDN'T HAVE TO EXPLAIN IT, NO.

10 MR. BARENS: NO?

11 WOULDN'T IT HAVE TO BE EXPLAINED TO YOU, THOUGH,
12 BEFORE YOU GOT TO TRYING TO UNDERSTAND WHAT HAPPENED TO THE
13 BODY OR WHY YOU SEE A BODY OR WHY YOU DON'T SEE A BODY,
14 WOULDN'T SOMEONE HAVE TO FIRST GET PAST THE IF QUESTION, IF
15 THERE IS A BODY, OR WOULD YOU ASSUME JUST BECAUSE THE
16 DEFENDANT IS HERE ACCUSED OF MURDER AND THE PEOPLE ARE SAYING
17 "WE CAN'T SHOW YOU WHERE THE BODY IS," WOULD YOU
18 AUTOMATICALLY ASSUME THERE IS A BODY?

19 MR. RAGLE: I ASSUME THAT THEY HAVE SOME KIND OF
20 EVIDENCE THAT THERE IS SOMETHING FOUND.

21 MR. BARENS: SUPPOSING THEY DON'T. SUPPOSING THERE
22 IS NOTHING FOUND.

23 MR. RAGLE: THEN IF HE HAS NO EVIDENCE, HE WILL WALK.

24 MR. BARENS: OH, THEY ARE GOING TO HAVE EVIDENCE OF
25 SOME KIND OR ANOTHER. MR. WAPNER IS GOING TO HAVE HIS
26 CIRCUMSTANTIAL EVIDENCE.

27 WHAT I AM ASKING YOU IS: CAN YOU UNDERSTAND AND
28 LOOK OUT FOR IN THE TRIAL, THAT WE ARE NOT JUST TALKING ABOUT

1 A "WHERE THE BODY IS OR WHERE THE BODY ISN'T CASE," WHAT WE
2 ARE TALKING ABOUT INCLUDES THE IF QUESTION, IF THERE IS A
3 BODY AT ALL.

4 MR. RAGLE: UH-HUH, YES.

5 MR. BARENS: COULD YOU STAY ALERT AND AWARE OF THAT
6 FACT, THAT JUST BECAUSE WE ARE TALKING IN THE CONTEXT OF WHERE
7 IS THE BODY, NO BODY, ET CETERA, THAT THERE IS NO EVIDENCE
8 BEFORE YOU THAT THERE IS A BODY?

9 MR. RAGLE: REPHRASE THAT. YOU LOST ME.

10 MR. BARENS: DO YOU UNDERSTAND THAT THE FACT THERE IS
11 AN ACCUSATION AGAINST MR. HUNT IS NOT EVIDENCE?

12 MR. RAGLE: THAT'S RIGHT.

13 MR. BARENS: IT IS NOT EVIDENCE OF ANYTHING, IS IT?

14 MR. RAGLE: NOT EVIDENCE.

15 MR. BARENS: BECAUSE THE PEOPLE SAY THAT A PERSON IS
16 DEAD, THAT IS NOT EVIDENCE, IS IT?

17 MR. RAGLE: NO, NOT BECAUSE THEY SAY IT.

18 MR. BARENS: RIGHT.

19 THEY HAVE TO FIRST ESTABLISH, WON'T THEY, THAT
20 THERE WAS SOMEBODY DEAD BEFORE WE COULD GET TO TALKING ABOUT
21 WHERE THE DEAD PERSON IS OR THE DEAD PERSON ISN'T.

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8A-1
1 MR. BARENS: SO WE HAVE TO FIRST PROVE SOMEBODY IS DEAD?

2 MR. RAGLE: RIGHT.

3 MR. BARENS: DO YOU REMEMBER WE TALKED ABOUT TWO ELEMENTS
4 OF FIRST DEGREE MURDER, THAT A PERSON IS DEAD AND DEAD BY
5 CRIMINAL MEANS?

6 MR. RAGLE: YES.

7 MR. BARENS: DO YOU UNDERSTAND THAT SOMEBODY COULD BE
8 DEAD LIKE MOST PEOPLE BECOME DEAD, THROUGH NON-CRIMINAL MEANS?

9 MR. RAGLE: YES.

10 MR. BARENS: WE ARE NOT HERE ABOUT ONE OF THOSE, I WILL
11 BET.

12 MR. RAGLE: I BET YOU THAT WE ARE NOT.

13 MR. BARENS: NOW, WOULD YOU WANT TO LOOK AT ALL OF THE
14 EVIDENCE BEFORE YOU MADE ANY OF THOSE CONCLUSIONS, WOULDN'T
15 YOU?

16 MR. RAGLE: YES.

17 MR. BARENS: NOW, WOULD THAT EVIDENCE NECESSARILY INVOLVE
18 YOUR LOOKING AT SOME EVIDENCE OR SOME TESTIMONY ABOUT THE
19 NATURE OF THE ALLEGED VICTIM OR WOULD YOU JUST SIMPLY BE
20 SATISFIED THAT IF I TOLD YOU THE ALLEGED VICTIM WASN'T A DOPE
21 DEALER? WOULD THAT DO IT FOR YOU?

22 MR. RAGLE: NO.

23 MR. BARENS: YOU WOULD WANT TO KNOW SOMETHING ABOUT
24 HIM?

25 MR. RAGLE: YES I WOULD.

26 MR. BARENS: YOU WOULD CONSIDER THAT IN MAKING YOUR
27 DETERMINATION AS TO WHETHER HE WAS IN FACT, DEAD OR NOT?

28 MR. RAGLE: IT IS AN INTERESTING QUESTION.

8A-2
1 MR. BARENS: I AM GOING TO TRY TO KEEP IT INTERESTING
2 FOR YOU.

3 MR. RAGLE: WELL, WILL YOU RESTATE IT, PLEASE?

4 MR. BARENS: OKAY. IF I SAY TO YOU LISTEN, THIS IS
5 NOT ONE OF THOSE REAL EASY THINGS. THIS IS NOT ONE OF THOSE
6 THINGS WHERE I AM COMING BEFORE YOU SAYING NOT TO WORRY ABOUT
7 THE FACT THAT I CAN'T PRODUCE THE BODY. WE'LL GIVE YOU
8 CIRCUMSTANTIAL EVIDENCE ON THE BODY.

9 DO YOU UNDERSTAND THAT IF I SAY TO YOU FOR THE
10 DEFENSE, WHAT WE ARE TALKING ABOUT IS WHETHER THERE IS EVEN
11 A DEAD MAN, BODY OR NOT?

12 WOULDN'T YOU BELIEVE YOU WOULD NEED TO KNOW
13 SOMETHING ABOUT THE NATURE AND CHARACTER OF THAT ALLEGED DEAD
14 MAN BEFORE YOU COULD FIRST MAKE THE DETERMINATION AS TO WHETHER
15 HE IS LIKELY DEAD OR NOT?

16 MR. RAGLE: YES.

17 MR. BARENS: THAT IS THE POINT I AM MAKING, THAT THE
18 QUESTION I THINK WE ENTERTAIN IS BACK TO THAT IF QUESTION,
19 NOT THE WHERE QUESTION. DO YOU UNDERSTAND THE DIFFERENCE?

20 MR. RAGLE: YES.

21 MR. BARENS: NOW, HOW DO YOU FEEL ABOUT THAT FIFTH
22 AMENDMENT CONCEPT?

23 MR. RAGLE: I FEEL THAT IT IS PROBABLY ONE OF THE
24 FAIREST THINGS IN OUR LAW.

25 MR. BARENS: WHY DO YOU FEEL THAT WAY?

26 MR. RAGLE: WELL, I GUESS YOU ARE GOING TO ASK ME A
27 QUESTION ABOUT IF I SAT ON A JURY ONCE BEFORE. I HAVE. AND
28 IT WAS A CRIMINAL CASE.

8A-5

1 AND I FEEL THAT THE DEFENSE LAWYER AT THAT TIME
2 BLEW IT, WHERE HE LET HIS DEFENDANT TESTIFY. I THINK HE
3 INCRIMINATED HIMSELF. I REALLY THINK HE DID. HE WAS HIS
4 OWN WORST ENEMY.

5 MR. BARENS: WHY IS THAT? WAS IT SOMETHING THAT THE
6 DEFENDANT PROVIDED YOU BY WAY OF FACTS, ACTUAL INFORMATION
7 THAT YOU THOUGHT INCRIMINATED HIM OR WAS IT THE DEFENDANT'S
8 Demeanor AND THE WAY HE CAME ACROSS TO YOU?

9 MR. RAGLE: BOTH.

10 MR. BARENS: IT WAS BOTH?

11 MR. RAGLE: BOTH.

12 MR. BARENS: YOU HEARD THE DEFENDANT SAY SOME FACTS
13 THAT CONTRADICTED OTHER DEFENSE WITNESSES?

14 MR. RAGLE: NO. PLEADING INNOCENT TO A CHARGE AND THEN
15 HE TURNS AROUND AND HE ADMITS THAT HE YOU KNOW -- WELL, IT
16 WAS A NARCOTICS CASE, OKAY? MARIJUANA.

17 THEY HAD THE MARIJUANA ON THE TABLE AS THE EVIDENCE.
18 HE SAID, "YES. I HAVE SEEN THAT. I PICKED IT
19 UP. I LOOKED AT IT."

20 WELL, HE WAS IN POSSESSION, BY THE LAW.

21 MR. BARENS: SO THAT WAS A CASE WHERE THE CHARGE WAS
22 POSSESSION RATHER THAN POSSESSION FOR SALE?

23 MR. RAGLE: YES, POSSESSION.

8B

24 MR. BARENS: NOW, SO THAT IN THAT CASE, IT WAS A MORE
25 ONE DIMENSIONAL THING. EITHER HE WAS IN POSSESSION OR HE WAS
26 NOT IN POSSESSION. IT IS WHAT I CALL A STATUS CRIME. YOU
27 HAVE THE STATUS OR YOU DON'T HAVE THE STATUS.

28 MR. RAGLE: YES.

8-11
1 MR. BARENS: NOW, IT IS POSSIBLE, ISN'T IT AND BELIEVABLE
2 TO YOU, THAT HE COULD HAVE BEEN IN THAT STATUS FOR OTHER
3 REASONS?

4 LET'S NOT TALK ABOUT POSSIBLE, NOW. FOR INSTANCE,
5 I AM SURE YOU HAVE HEARD OF THE GENERAL DEFENSE OF ENTRAPMENT
6 OR HAVE YOU, SIR?

7 MR. RAGLE: NO.

8 MR. BARENS: I AM GOING TO OVERSIMPLIFY IT. BUT IT IS
9 AGAINST THE LAW FOR A POLICEMAN TO PUT IN MY MIND THAT I SHOULD
10 DEAL NARCOTICS IF I HAVE NO INTEREST AT ALL IN DEALING
11 NARCOTICS.

12 THEY COME TO ME AND THEY SAY TO ME THAT SOMEHOW
13 IF I DON'T DEAL NARCOTICS, MY WIFE IS GOING TO BE KILLED OR
14 SOMETHING LIKE THAT. THIS IS REALLY AN OVERSIMPLIFICATION,
15 AN OVERDRAMATIZATION.

16 SOMEHOW OR ANOTHER AS A RESULT OF THAT, I AM IN
17 POSSESSION OF NARCOTICS. I DO SOMETHING AND I AM ACTUALLY IN
18 POSSESSION OF THEM, HOWEVER.

19 BUT THE LAW SAYS WE ARE NOT GOING TO CONVICT YOU
20 FOR THAT BECAUSE THERE WAS PROSECUTORIAL MISCONDUCT, THE
21 POLICE OVERREACHED AND IT VIOLATES OUR WHOLE SYSTEM OF JUSTICE
22 WHEN THAT HAPPENS.

23 DO YOU UNDERSTAND THAT IN THAT INSTANCE, ALTHOUGH
24 YOU MIGHT HAVE A SITUATION WHERE YOU ACTUALLY EVEN SEE THE
25 DEFENDANT IN POSSESSION OF CONTRABAND, THAT THERE COULD BE
26 AN EXPLANATION AND YOU WOULD NEED TO KNOW THAT TO FULFILL
27 THE PICTURE?

28 MR. RAGLE: YES.

8-5

1 MR. BARENS: YOU WOULD BE INTERESTED IN HEARING ALL OF
2 THE EVIDENCE, WOULDN'T YOU?

3 MR. RAGLE: YES, I WOULD.

4 MR. BARENS: DO YOU KNOW ON THAT SUBJECT OF DEFENDANTS
5 TESTIFYING OR NOT -- YOU WERE COMFORTABLE WITH THE IDEA THAT
6 A DEFENDANT DIDN'T HAVE TO TESTIFY AT ALL?

7 MR. RAGLE: YES. I WAS COMFORTABLE WITH IT. I STILL
8 AM.

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1 MR. BARENS: DO YOU UNDERSTAND THAT OCCASIONALLY, SOME
2 DEFENDANTS MAY NOT TESTIFY, SIMPLY BECAUSE THEY DON'T SPEAK
3 WELL?

4 MR. RAGLE: IF I WAS UP THERE, I THINK I WOULD BLOW IT
5 TOO, BECAUSE I DON'T SPEAK WELL.

6 I PROBABLY WOULD, BEING A NERVOUS PERSON -- PROBABLY
7 WOULD MAKE PEOPLE THINK I SAID SOMETHING I DID NOT.

8 MR. BARENS: OR MAKE YOU LOOK LIKE YOU WERE GUILTY?

9 MR. RAGLE: RIGHT.

10 MR. BARENS: EVEN THOUGH YOU ARE REALLY INNOCENT?

11 MR. RAGLE: RIGHT.

12 MR. BARENS: EVEN THOUGH YOU ARE REALLY INNOCENT?

13 MR. RAGLE: YES.

14 MR. BARENS: IS THAT CORRECT?

15 MR. RAGLE: YES.

16 MR. BARENS: NOW, ALTERNATIVELY, IF THE DEFENDANT DOES
17 IN FACT TESTIFY, WOULD YOU BELIEVE THAT HE WOULD NOT BE
18 LIKELY TO TELL THE TRUTH BECAUSE HIS LIFE WOULD BE ON THE LINE?

19 MR. RAGLE: I WOULD HAVE TO WEIGH HIS TESTIMONY.

20 MR. BARENS: YOU WOULD CONSIDER THAT OPEN-MINDEDLY,
21 BASED ON WHAT HE IN FACT SAID AND NOT THAT HE WAS SAYING IT
22 FROM A POSTURE OF BEING ON TRIAL FOR HIS LIFE?

23 MR. RAGLE: WHAT HE SAID.

24 MR. BARENS: WHAT HE SAID?

25 MR. RAGLE: RIGHT.

26 MR. BARENS: NOT JUST A SITUATION HE IS IN? HIS
27 SITUATION WOULDN'T DICTATE OUR BELIEF SYSTEM ABOUT HIS
28 TESTIMONY?

1 MR. RAGLE: NO.

2 MR. BARENS: DO YOU HAVE ANY HOBBIES?

3 MR. RAGLE: A COUPLE.

4 MR. BARENS: WHAT ARE YOUR HOBBIES?

5 MR. RAGLE: EXTENSIVE BACKPACKING AND CAMPING.

6 MR. BARENS: WHERE DO YOU DO THAT?

7 MR. RAGLE: THE HIGH SIERRAS AND THE LOCAL MOUNTAINS.

8 MR. BARENS: AND YOU DO A LOT OF SURVIVALIST TYPE OF
9 ACTIVITIES OUT THERE?

10 MR. RAGLE: I AM INTERESTED IN IT BUT I DON'T REALLY.
11 I DON'T PUT MYSELF IN A POSITION WHERE I NEED IT THAT MUCH.

12 MR. BARENS: WHO DO YOU DO THAT WITH, YOUR FAMILY OR
13 GENTLEMEN FRIENDS OR WHO DO YOU DO THAT WITH?

14 MR. RAGLE: I DO IT WITH THE BOY SCOUTS OF AMERICA.

15 MR. BARENS: AND HOW LONG HAVE YOU BEEN ACTIVE WITH THE
16 BOY SCOUTS?

17 MR. RAGLE: SEVEN YEARS.

18 MR. BARENS: ARE YOU A SCOUT LEADER?

19 MR. RAGLE: YES. I AM A SCOUTMASTER.

20 MR. BARENS: A SCOUTMASTER, SIR?

21 MR. RAGLE: YES.

22 MR. BARENS: WERE YOU A SCOUT ALSO AS A CHILD?

23 MR. RAGLE: YES, SIR.

24 MR. BARENS: YOU HAVE HAD SOMEWHAT OF A LIFETIME INTEREST
25 IN SCOUTING?

26 MR. RAGLE: YES.

27 MR. BARENS: WERE YOU AN EAGLE SCOUT?

28 MR. RAGLE: NO, I AM NOT.

1 MR. BARENS: ASIDE FROM YOUR SCOUTING ACTIVITIES, ARE
2 YOU INVOLVED IN ANY OTHER HOBBIES OR AVOCATIONS?

3 MR. RAGLE: I AM INVOLVED WITH MY CHURCH.

4 MR. BARENS: AND YOU ARE WITH THE UTAH PEOPLE?

5 MR. RAGLE: YES, YOU MIGHT SAY THAT.

6 MR. BARENS: AND DO YOU FEEL THAT THAT MIGHT HAVE ANY
7 ORIENTATION ON YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR?

8 MR. RAGLE: MY CHURCH TEACHES THAT THE CONSTITUTION IS
9 THE NEXT THING TO SCRIPTURE. SO, NO, THAT WOULDN'T BEAR ON
10 IT AT ALL.

11 MR. BARENS: RIGHT. IF ANYTHING, DON'T YOU THINK THAT
12 THAT ORIENTATION ON YOUR PART WOULD GIVE YOU A GREATER OR
13 ENHANCED RESPECT FOR OUR CONSTITUTIONAL SYSTEM?

14 MR. RAGLE: YES, I DO.

15 MR. BARENS: AND THE TENETS OF THE AMERICAN LEGAL SYSTEM?

16 MR. RAGLE: YES.

17 MR. BARENS: ARE YOU AN ACTIVE -- I AM BEING SENSITIVE
18 BECAUSE OF CERTAIN VERY APPROPRIATE RESTRICTIONS WE HAVE ON
19 INQUIRY IN THE AREAS OF RELIGIOUS PARTICIPATION, SIR.

20 BUT, LET ME ASK YOU THIS. ARE YOU INVOLVED IN
21 ANY SPECIFIC CHURCH ACTIVITIES OR COMMITTEES?

22 MR. RAGLE: WELL, THE BOY SCOUT TROOP THAT I AM THE
23 SCOUTMASTER OF IS A CHURCH SPONSORED TROOP. I AM ALSO A
24 SUNDAY SCHOOL TEACHER.

25 THE COURT REPORTER: COULD YOU REPEAT THAT?

26 MR. RAGLE: I AM A SUNDAY SCHOOL TEACHER.

27

28

1 MR. BARENS: AND YOU TEACH SCRIPTURE, DO YOU, SIR?

2 MR. RAGLE: YES, I DO.

3 MR. BARENS: WHAT WAS THE LAST BOOK YOU READ, SIR?

4 MR. RAGLE: PROBABLY THE BIBLE.

5 MR. BARENS: WELL, THERE IS NOTHING WRONG WITH THAT
6 ANSWER.

7 MR. RAGLE: I DON'T RECALL READING TOO MANY BOOKS FROM
8 COVER TO COVER. I LIKE TO DO RESEARCH. IF I GET A SUBJECT,
9 THEN I MIGHT DELVE INTO MANY BOOKS BUT I DON'T READ THEM
10 THROUGH.

11 MR. BARENS: WOULD YOU HAVE A VIEW THAT THE BIBLE IS
12 A BOOK ON PHILOSOPHY, A TYPE OF PHILOSOPHY?

13 MR. RAGLE: I THINK IT IS A BOOK ON HISTORY. YOU CAN
14 GET ANYTHING FROM THE BIBLE, LITERALLY.

15 MR. BARENS: THE UNDERLYING PHILOSOPHY OF THE BIBLE
16 IS A PERVASIVE BELIEF IN A HIGHER POWER, BELIEF IN GOD, ISN'T
17 IT?

18 MR. RAGLE: YES, IT IS.

19 MR. BARENS: AND YOU HAVE SPENT A GOOD PART OF YOUR
20 LIFE INVOLVED IN THOSE TEACHINGS AND THAT PHILOSOPHY?

21 MR. RAGLE: YES, SIR.

22 MR. BARENS: IF YOU HAD A PERSON ON TRIAL WHO WAS AN
23 AGNOSTIC, NOT AN ATHEIST, MIND YOU. YOU UNDERSTAND THERE
24 IS A --

25 MR. RAGLE: YES.

26 MR. BARENS: -- A DIFFERENCE BETWEEN THE TWO?

27 MR. RAGLE: YES.

28 MR. BARENS: WOULD YOU TEND TO BE MORE SUSPICIOUS --

9-2
1 AND I ASK YOU THIS IN ALL TRUTHFULNESS, SIR -- OF AN
2 AGNOSTIC AND WHETHER THEY WERE TELLING THE TRUTH AS OPPOSED
3 TO WHETHER A CHRISTIAN WAS TELLING THE TRUTH?

4 MR. RAGLE: NO.

5 MR. BARENS: WOULD YOU BELIEVE IN YOUR MIND IN ALL
6 HONESTY THAT AN AGNOSTIC COULD BE AS TRUTHFUL A PERSON, EVEN
7 THOUGH HE IS NOT NECESSARILY -- AND I SAY NECESSARILY -- BECAUSE
8 HE WASN'T AN ATHEIST, NOT NECESSARILY CONCERNED ABOUT GOING
9 TO HELL OR NOT?

10 MR. RAGLE: IT DOESN'T MATTER WHAT RELIGION, WHICH
11 PHILOSOPHY, EVERYBODY CAN BE TRUTHFUL.

12 MR. BARENS: AND THEREFORE, YOU WOULDN'T HAVE ANY
13 NECESSARY BIAS TOWARDS SOMEONE WHO DIDN'T AT ALL SUBSCRIBE
14 TO A CHRISTIAN POINT OF VIEW?

15 MR. RAGLE: I HAVE NO PREJUDICE OR BIAS OR ANYTHING
16 AT ALL.

17 MR. BARENS: YOU HAVE NO PROBLEM BELIEVING THAT THEY
18 COULD STILL BE A WORTHWHILE AND HONORABLE PERSON?

19 MR. RAGLE: YES, THEY CAN.

20 LET ME INTERJECT: I MARRIED A BUDDHIST.

21 (LAUGHTER IN COURTROOM.)

22 MR. BARENS: WELL, IT MUST MAKE FOR SOME INTERESTING
23 CONVERSATIONS. AND I APPRECIATE THE OPEN-MINDEDNESS THAT
24 REFLECTS INDEED, MR. RAGLE.

25 MR. RAGLE, WHAT ABOUT A PERSON WHO SPENDS THEIR
26 ENTIRE LIFE IN ECONOMIC PURSUIT AS OPPOSED TO BEING A PUBLIC
27 SERVANT, AS I GET THE IMPRESSION YOUR WHOLE LIFE HAS BEEN
28 INVOLVED REALLY IN PUBLIC SERVICE ON ONE LEVEL OR ANOTHER.

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1 MR. RAGLE: YES.

2 MR. BARENS: HOW DO YOU FEEL ABOUT A GUY WHO SAYS "WELL,
3 MY WHOLE LIFE I SPENT AS A CAPITALIST." DO YOU THINK THERE
4 IS ANYTHING SUSPECT OR UNWORTHY ABOUT THAT PERSON?

5 MR. RAGLE: NO.

6 I HAVE KNOWN MANY PEOPLE THAT STRIVE FOR RICHES
7 AND GOT THEM IN A NICE WAY AND WORKED.

8 MR. BARENS: THERE IS NOTHING INCONSISTENT ABOUT YOUR
9 THEOLOGICAL BELIEFS AND THE PURSUIT OF CAPITALISM?

10 MR. RAGLE: NO.

11 MR. BARENS: TO THE CONTRARY, IT IS ACTUALLY ENDORSED.

12 MR. RAGLE: WE HAVE A LOT OF RICH LDS MEN.

13 MR. BARENS: INDEED.

14 WHAT WAS THE LAST MOVIE YOU SAW?

15 MR. RAGLE: "STAR TREK."

16 MR. BARENS: WAS THAT A MOVIE YOU CHOSE TO SEE?

17 MR. RAGLE: YES, THAT IS THE LAST I CHOSE TO SEE.

18 I HAVE SEEN OTHER MOVIES.

19 MR. BARENS: IT IS THE LAST ONE YOU CHOSE TO SEE?

20 MR. RAGLE: YES, MY CHOICE.

21 MR. BARENS: YOU HAVE HOW MANY CHILDREN, SIR?

22 MR. RAGLE: FOUR.

23 MR. BARENS: HOW OLD WOULD THEY BE?

24 MR. RAGLE: 23, 21, 18 AND 16.

25 MR. BARENS: COULD YOU BRIEFLY TELL ME WHAT THEY DO,
26 STARTING AT THE TOP.

27 MR. RAGLE: OH, BOY. TO TELL YOU THE TRUTH, I DON'T
28 KNOW WHAT MY OLDEST DAUGHTER DOES.

9-4
1 THAT IS ALL YOU ARE --

2 MR. BARENS: WELL, THAT SATISFIES ME ON THAT ONE.

3 WHO IS NEXT?

4 MR. RAGLE: MY SECOND DAUGHTER WORKS FOR A CONSTRUCTION
5 FIRM IN THE ACCOUNTING DEPARTMENT IN THE ACCOUNTING
6 DEPARTMENT, WHO BUILDS BUILDINGS.

7 MR. BARENS: AND NEXT, SIR?

8 MR. RAGLE: MY SON IS -- WORKS FOR MANN THEATERS IN
9 TORRANCE.

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1 MR. BARENS: AND YOUR YOUNGER?

2 MR. RAGLE: HE IS A WHAT -- HE IS A JUNIOR IN HIGH
3 SCHOOL.

4 MR. BARENS: ALL RIGHT, SIR, YOU MENTIONED YOU HAD SPENT
5 A COUPLE OF YEARS AT BYU.

6 MR. RAGLE: YES, THAT IS WHAT THEY CALL IT NOW.

7 AT THAT TIME IT WAS CALLED CHURCH COLLEGE OF HAWAII.

8 MR. BARENS: AND DID YOU HAVE ANY PARTICULAR FIELD OF
9 STUDY AT THAT TIME, SIR?

10 MR. RAGLE: GENERAL.

11 MR. BARENS: GENERAL?

12 MR. RAGLE: I GOT A WIFE AND I QUIT.

13 MR. BARENS: DID YOU HAVE A FOCUS ON A PARTICULAR MAJOR
14 THAT YOU WOULD HAVE OTHERWISE PURSUED?

15 MR. RAGLE: I WAS AT THAT TIME KIND OF INTERESTED IN
16 DESIGN, CLOTHING DESIGN SO I WAS TAKING SOME ART CLASSES.

17 MR. BARENS: ALL RIGHT. DO YOU HAVE ANY PETS?

18 MR. RAGLE: WHAT IS THAT?

19 MR. BARENS: DO YOU HAVE ANY PETS?

20 MR. RAGLE: PETS?

21 MR. BARENS: YES.

22 MR. RAGLE: DO YOU REALLY WANT TO KNOW?

23 MR. BARENS: WELL, ACTUALLY, THIS MAY BE OF REAL INTEREST
24 LATER ON. I AM HOPING THIS WHOLE THING GETS MORE INTERESTING
25 THAN WHAT WE ARE DOING, OKAY?

26 MR. RAGLE: I HAVE A FIVE-AND-A-HALF-FOOT RED TAIL BOA.

27 MR. BARENS: YOU PROBABLY HEARD ABOUT HIM IN THAT BIG
28 BOOK YOU READ. I DON'T KNOW ABOUT BOAS -- I DON'T EVEN WANT

1 TO SAY WHETHER THERE WAS A BOA OR NOT.

2 MR. RAGLE: I HAVE A COUPLE OF CATS AT THIS TIME.

3 MR. WAPNER: THE LAST TIME YOU CHECKED.

4 (LAUGHTER IN COURTROOM.)

5 MR. BARENS: PROBABLY THE BEST OBSERVATION WE HAVE HAD.

6 AND YOU MENTIONED THAT YOUR WIFE IS A HOMEMAKER

7 AT THE PRESENT AND HAS BEEN FOR A FEW YEARS.

8 MR. RAGLE: SHE QUIT HER TEACHER'S AIDE JOB ABOUT THREE
9 YEARS AGO.

10 MR. BARENS: DID SHE TEACH IN A PUBLIC OR PRIVATE SCHOOL?

11 MR. RAGLE: PUBLIC.

12 MR. BARENS: HOW MANY TIMES HAVE YOU SERVED AS A JUROR,
13 SIR?

14 MR. RAGLE: THREE. THIS IS MY THIRD TIME.

15 MR. BARENS: AND YOU MENTIONED THAT ONE OF THEM WAS
16 A NARCOTICS POSSESSION CASE; WHAT WAS THE OTHER ONE INVOLVING,
17 SIR?

18 MR. RAGLE: IT WAS A CASE -- I GUESS THE ORIGINAL CHARGE
19 WAS INDECENT EXPOSURE, BEING TOO DRUNK TO DRIVE AND INTERFERING
20 WITH A POLICE OFFICER IN THE LINE OF DUTY.

21 MR. BARENS: DID THE JURY REACH A DECISION ON THAT CASE?

22 MR. RAGLE: YES, WE DID.

23 MR. BARENS: AND DID THE DEFENDANT TESTIFY?

24 MR. RAGLE: YES, HE DID.

25 MR. BARENS: HOW DID YOU FEEL ABOUT THE DEFENDANT
26 TESTIFYING IN THAT CASE?

27 MR. RAGLE: HE DONE A PRETTY GOOD JOB IN THAT CASE.

28 MR. BARENS: AND YOU FELT IT WAS APPROPRIATE OR THE

1 RIGHT THING FOR HIM TO HAVE DONE?

2 MR. RAGLE: YES.

3 MR. BARENS: WHAT WAS YOUR IMPRESSION ABOUT THE WHOLE
4 JURY SYSTEM AFTER SEEING THOSE TWO SITUATIONS YOU WERE
5 INVOLVED IN AS A JUROR, DID YOU THINK IT WORKED? HOW DID
6 YOU FEEL ABOUT THE PROCESS WE ARE INVOLVED IN AS A RESULT
7 OF THOSE TWO EXPERIENCES, MR. RAGLE?

8 MR. RAGLE: I THINK IT DOES WORK, YES.

9 MR. BARENS: AND YOU DIDN'T COME AWAY WITH ANY MISGIVINGS
10 ON THAT?

11 MR. RAGLE: NO.

12 MR. BARENS: HOW ABOUT YOUR ROLE AS A JUROR, DID YOU
13 FIND THAT TO HAVE BEEN AN ACCEPTABLE EXPERIENCE?

14 MR. RAGLE: YES.

15 MR. BARENS: YOU STRIKE ME AS A PRINCIPLED INDIVIDUAL,
16 THAT IF YOU HAD A POINT OF VIEW THAT DIFFERED FROM A 11 OTHER
17 PEOPLE, DO YOU BELIEVE YOU WOULD HAVE ANY PROBLEM BELIEVING
18 YOU WOULD HANG ON TO THAT CONCLUSION?

19 MR. RAGLE: IF I FELT IT WAS A TRUE BELIEF, I WOULD
20 HANG ON TO IT.

21 THE COURT: DO YOU THINK YOU CAN CONCLUDE IN A COUPLE
22 OF MINUTES?

23 MR. BARENS: INDEED, YOUR HONOR.

24 LET ME ASK YOU ON TRUE BELIEF, MR. RAGLE: IS
25 TRUE BELIEF ONE OF THOSE THINGS WE BELIEVE BEYOND A REASONABLE
26 DOUBT?

27 MR. RAGLE: YES.

28 MR. BARENS: YOU UNDERSTAND THAT -- AND I KEEP ON HARPING

1 ON THIS ONLY BECAUSE IT IS REAL SERIOUS TO ME -- YOU UNDERSTAND
2 THAT BEYOND A REASONABLE DOUBT IS NOT A PROPONDERANCE OF THE
3 EVIDENCE?

4 MR. RAGLE: YES.

5 MR. BARENS: IT IS NOT JUST A MORE LIKELY TEST OR A
6 COULD BE OR IT LOOKS LIKE HE IS MORE GUILTY THAN NOT; WE ARE
7 NOT DOING THAT HERE.

8 MR. RAGLE: RIGHT, I UNDERSTAND THAT.

9 MR. BARENS: IT IS MORE COMING TO A CONVICTION IN YOUR
10 BELIEF AND THE CONVICTION BECOMES AN IMPORTANT WORD ON BOTH
11 SIDES OF THE TABLE HERE.

12 MR. RAGLE: YES, IT DOES.

13 MR. BARENS: PASS FOR CAUSE, YOUR HONOR. THANK YOU,
14 SIR.

15 THE COURT: I THINK WE HAVE JUST ABOUT REACHED THE NOON
16 HOUR. WE WILL TAKE A RECESS NOW UNTIL 1:45 THIS AFTERNOON.
17 YOU CAN ALL COME INTO THE COURTROOM AND BE HERE BY 1:45.

18 (AT 12 NOON A RECESS WAS TAKEN UNTIL
19 1:45 P.M. OF THE SAME DAY.)

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1 SANTA MONICA, CALIFORNIA; TUESDAY, DECEMBER 16, 1986; 1:50 P.M.
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE
3 (APPEARANCES AS NOTED ON TITLE PAGE.)
4

5 THE COURT: IT WILL BE STIPULATED THE DEFENDANT IS
6 PRESENT. COUNSEL ARE PRESENT. THE PROSEPCTIVE JURORS ARE
7 PRESENT.

8 MR. GHEBRIAL, FOR GOOD CAUSE, YOU HAVE BEEN EXCUSED
9 AS A POTENTIAL JUROR IN THIS CASE.

10 ALL RIGHT. MR. WAPNER?

11 MR. WAPNER: YES, THANK, YOU YOUR HONOR. GOOD AFTERNOON,
12 MR. RAGLE.

13 MR. RAGLE: GOOD AFTERNOON.

14 MR. WAPNER: HOW ARE YOU?

15 MR. RAGLE: DON'T ASK.

16 MR. WAPNER: OKAY. WELL, WE GET NERVOUS WHEN WE ARE
17 ASKING YOU QUESTIONS, TOO. TELL ME ABOUT YOUR OLDEST DAUGHTER.

18 YOU SAID THAT YOU DON'T KNOW WHAT SHE DOES. DO
19 YOU HAVE A CLUE?

20 MR. RAGLE: WELL, SHE TRAVELS QUITE A BIT. SHE DOESN'T
21 CONTACT US TOO MUCH. AND I BELIEVE THAT SHE IS IN DEMOINES
22 NOW.

23 WE ASKED HER WHAT SHE DOES. SHE SAID THAT SHE
24 FREEZES. SO I DON'T KNOW. SHE DIDN'T TELL US.

25 MR. WAPNER: HOW OLD WAS SHE WHEN SHE LEFT HOME?

26 MR. RAGLE: SHE IS A CHRONIC RUNAWAY. SHE RAN AWAY AT
27 15.

28 MR. WAPNER: AND DID YOU HAVE TO KIND OF CHASE HER DOWN

1 AND BRING HER BACK AND THEN SHE WOULD RUN AWAY AGAIN?

2 MR. RAGLE: YES. EVERY TIME SHE GOT SICK, SHE
3 WOULD CALL US.

4 MR. WAPNER: OKAY.

5 MR. RAGLE: THAT IS BASICALLY HOW SHE GOT BACK.

6 MR. WAPNER: WHAT IS THE LONGEST PERIOD OF TIME THAT SHE
7 WENT WITHOUT CONTACTING YOU?

8 MR. RAGLE: PROBABLY TWO YEARS.

9 MR. WAPNER: AND HOW LONG HAS IT BEEN SINCE THE LAST
10 TIME YOU TALKED TO HER?

11 MR. RAGLE: TALKED TO HER?

12 MR. WAPNER: TALKED TO HER.

13 MR. RAGLE: MOUTH TALK? ABOUT TWO YEARS OR A YEAR.

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1 MR. WAPNER: HOW ABOUT ON THE TELEPHONE?

2 MR. RAGLE: A YEAR.

3 MR. WAPNER: OKAY, A YEAR SINCE YOU HAVE SPOKEN TO HER
4 ON THE PHONE AND TWO YEARS SINCE YOU HAVE SEEN HER?

5 MR. RAGLE: NO.

6 YOU ASKED ME HOW LONG A PERIOD OF TIME THAT WE HAVE
7 BEEN IN CONTACT WITH HER AND IT IS TWO YEARS, OKAY, THAT IS
8 NOT RECENT. I MEAN THAT IS BETWEEN THE TIME SHE IS 15 AND
9 NOW.

10 ABOUT A YEAR, THE LAST TIME WE HAVE SEEN HER OR
11 TALKED TO HER.

12 MR. WAPNER: OKAY, THE LAST TIME YOU TALKED TO HER, SHE
13 WAS IN DES MOINES?

14 MR. RAGLE: THE LAST TIME SHE WROTE, SHE WAS IN DES
15 MOINES.

16 MR. WAPNER: WHEN WAS THAT?

17 MR. RAGLE: LAST WEEK.

18 MR. WAPNER: AND SHE DIDN'T INCLUDE IN THAT LETTER ANY-
19 THING ABOUT WHAT SHE WAS DOING?

20 MR. RAGLE: NO, SHE DID NOT.

21 THE COURT: MR. WAPNER, THIS IS VERY DISTRESSFUL FOR HIM.
22 I THINK YOU CAN STOP QUESTIONING HIM ABOUT THAT AT THIS TIME.

23 MR. WAPNER: THANK YOU, YOUR HONOR.

24 HAVE YOU DONE ANY BACKPACKING IN THE ANGELES
25 NATIONAL FOREST?

26 MR. RAGLE: EXTENSIVELY, YES.

27 MR. WAPNER: ARE YOU FAMILIAR WITH A PLACE CALLED
28 SOLEDAD CANYON?

1 MR. RAGLE: NOT AS BACKPACKING. JUST DRIVING THROUGH.

2 MR. WAPNER: HOW MANY TIMES HAVE YOU BEEN THERE?

3 MR. RAGLE: DRIVING THROUGH? IT IS HARD TO SAY.

4 FIFTY, SIXTY.

5 SOLEDAD CANYON IS JUST A ROAD GOING FROM --

6 I DON'T LIKE TO DRIVE THE FREEWAYS SO I JUST TAKE

7 SOLEDAD CANYON THROUGH.

8 MR. WAPNER: DO YOU TAKE IT TO AND FROM WORK, FOR

9 EXAMPLE?

10 MR. RAGLE: NO. JUST ON OUR SCOUT OUTINGS.

11 MR. WAPNER: HAVE YOU EVER BEEN ON A PORTION OF SOLEDAD

12 CANYON CALLED INDIAN CANYON?

13 MR. RAGLE: NO.

14 MR. WAPNER: IN DRIVING THROUGH SOLEDAD CANYON, HAVE YOU

15 STOPPED OR HIKED ANYWHERE ALONG THE ROAD THERE?

16 MR. RAGLE: NO.

17 MR. WAPNER: AND HAVE YOU DONE ON YOUR OWN ANY BACK-

18 PACKING IN SOLEDAD CANYON?

19 MR. RAGLE: NO.

20 MR. WAPNER: HAVE YOU BACKPACKED IN SOME FAIRLY REMOTE

21 AREAS?

22 MR. RAGLE: YES.

23 MR. WAPNER: DO YOU EVER GO BY YOURSELF OR ARE YOU

24 ALWAYS WITH SOMEONE?

25 MR. RAGLE: ALWAYS WITH SOMEONE.

26 MR. WAPNER: AND THE REASON FOR THAT IS?

27 MR. RAGLE: PROTECTION.

28 MR. WAPNER: OKAY, BESIDES THE PERSON THAT YOU ARE WITH,

1 AND SEEING THAT PERSON, WHAT IS THE LONGEST PERIOD YOU HAVE
2 BEEN AWAY ON A BACKPACKING TRIP WHERE YOU DIDN'T SEE ANYBODY
3 OTHER THAN THE PERSON YOU WERE WITH?

4 MR. RAGLE: OTHER THAN THE PERSON I AM WITH?

5 MR. WAPNER: YES.

6 MR. RAGLE: ABOUT A WEEK.

7 MR. WAPNER: WHERE WAS THAT?

8 MR. RAGLE: HIGH SIERRAS.

9 MR. WAPNER: AND THE PROTECTION, I ASSUME, IS IF ONE OF
10 YOU GETS HURT THE OTHER PERSON CAN GO BACK FOR HELP?

11 MR. RAGLE: RIGHT, YES.

12 MR. WAPNER: HAVE YOU BEEN IN PLACES WHERE YOU THOUGHT
13 THEY WERE SO REMOTE THAT IF YOU HAD BEEN ALONE AND GOTTEN HURT
14 THAT YOU MIGHT NOT GET OUT?

15 MR. RAGLE: NO.

16 MR. WAPNER: TELL ME ABOUT YOUR WORK WITH THE FLOOD
17 CONTROL DISTRICT, HOW LONG HAVE YOU HAD THE DUTIES THAT YOU
18 HAVE NOW?

19 MR. RAGLE: ABOUT FOUR YEARS.

20 MR. WAPNER: FOUR YEARS?

21 MR. RAGLE: YES.

22 MR. WAPNER: BEFORE THAT WORK, WHAT WERE YOU DOING?

23 MR. RAGLE: I WAS A PUMPING PLANT OPERATOR.

24 MR. WAPNER: YOU HAVE WORKED FOR THE FLOOD CONTROL
25 DISTRICT FOR 28 YEARS, RIGHT?

26 MR. RAGLE: RIGHT.

27 MR. WAPNER: HAVE YOU GRADUALLY INCREASED YOUR POSITION?

28 MR. RAGLE: YES, I WORKED FROM AN AS-NEEDED LABORER

1 UP TO PUMPING PLANT OPERATOR, WHICH PAYS MORE THAN I MAKE NOW
2 BUT THEY PHASED THAT OUT SO I WAS BUMPED BACK TO SENIOR
3 MAINTENANCE WORKER OR LEADMAN.

4 MR. WAPNER: AND YOU WORKED WITH THE WORK RELIEF
5 PROGRAM FOR ABOUT A YEAR?

6 MR. RAGLE: NO.

7 ABOUT THREE MONTHS.

8 MR. WAPNER: OKAY, HOW MANY PEOPLE HAVE COME THROUGH
9 YOUR PROGRAM?

10 MR. RAGLE: IN THE THREE MONTHS?

11 MR. WAPNER: YES.

12 MR. RAGLE: PROBABLY ABOUT 20.

13 MR. WAPNER: DO YOU HAVE SOME PICTURE IN YOUR MIND OF
14 WHAT A CRIMINAL IS SUPPOSED TO LOOK LIKE?

15 MR. RAGLE: NO.

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1 MR. WAPNER: HAVE YOU SEEN ANYBODY IN THE WORK RELEASE
2 THAT HAS COME INTO YOUR WORK THROUGH THE WORK RELEASE PROGRAM,
3 WHO LOOKS ANYTHING LIKE MR. HUNT?

4 MR. RAGLE: ANYTHING LIKE MR. HUNT? ONE.

5 MR. WAPNER: DO YOU HAVE IN YOUR MIND THE PICTURE OF
6 WHAT YOU THINK A MURDERER IS SUPPOSED TO LOOK LIKE?

7 MR. RAGLE: NO.

8 MR. WAPNER: THEY CAN COME IN ALL SHAPES AND SIZES AND
9 COLORS?

10 MR. RAGLE: I WOULD IMAGINE SO.

11 MR. WAPNER: ARE YOU WILLING TO USE THE SAME STANDARDS
12 IN EVALUATING THE TESTIMONY OF ALL OF THE WITNESSES WHO
13 TESTIFY?

14 MR. RAGLE: YES.

15 MR. WAPNER: SO IF IT IS PROPER TO TAKE INTO CONSIDERATION
16 BIAS OF A GIVEN WITNESS, YOU COULD TAKE THAT INTO CONSIDERATION
17 WITH ALL OF THE WITNESSES, WHETHER THEY HAD ONE OR NOT?

18 MR. RAGLE: I WOULD TRY EQUALLY.

19 MR. WAPNER: IN OTHER WORDS, THE WHOLE IDEA IS, IF YOU
20 ARE GOING TO GET AN EVEN MEASURE, YOU HAVE TO USE THE SAME
21 SCALE IN EVALUATING ALL OF THEM, RIGHT?

22 MR. RAGLE: THAT'S RIGHT.

23 MR. WAPNER: OKAY. SO, IF YOU ARE WEIGHING APPLES AND
24 ORANGES AND YOU ARE TRYING TO FIND OUT WHAT TEN POUNDS OF
25 APPLES AND TEN POUNDS OF ORANGES IS, YOU DON'T PUT WEIGHTS
26 ON THE APPLES AND NOT ON THE ORANGES, RIGHT?

27 MR. RAGLE: THAT'S RIGHT.

28 MR. WAPNER: THE SAME WAY IF A WITNESS FOR THE

12-2
1 PROSECUTION TESTIFIES AND A WITNESS FOR THE DEFENSE TESTIFIES,
2 YOU WOULD USE THE SAME SCALES IN EVALUATING THEIR TESTIMONY?

3 MR. RAGLE: YES.

4 MR. WAPNER: SO INSTEAD OF PUTTING WEIGHTS ON A SCALE
5 FOR APPLES AND ORANGES, IF THE STANDARDS THAT YOU ARE USING
6 ARE THINGS LIKE BIAS, INTEREST OR MOTIVE TO TELL THE TRUTH
7 OR NOT TO TELL THE TRUTH, YOU COULD USE THAT IN EVALUATING
8 THE TESTIMONY OF ALL WITNESSES?

9 MR. RAGLE: YES.

10 MR. WAPNER: DO YOU HAVE A PROBLEM WITH THAT?

11 MR. RAGLE: I HAVE NO PROBLEM.

12 MR. WAPNER: DO YOU HAVE ANY PROBLEM ACCEPTING THE JUDGE'S
13 WORD AS THE LAST WORD ON THE LAW THAT YOU SHOULD APPLY TO
14 THIS CASE?

15 MR. RAGLE: NO PROBLEM.

16 MR. WAPNER: OKAY. THE REASON I ASKED YOU THAT QUESTION,
17 IS THAT SOMETIMES WITH PEOPLE SUCH AS YOURSELF, WHO ARE VERY
18 RELIGIOUS, DESPITE WHAT THE JUDGE SAYS, THEY SAY WELL, I KNOW
19 HE IS THE AUTHORITY IN THE COURTROOM BUT I KNOW A HIGHER
20 AUTHORITY AND I WON'T LISTEN TO HIM. WOULD THAT BE A PROBLEM
21 FOR YOU?

22 MR. RAGLE: NO PROBLEM.

23 MR. WAPNER: HAVE YOU SAT ON ANY CASES WHERE YOU WERE
24 A JUROR, WHERE THE JURY DELIBERATED BUT COULD NOT REACH A
25 VERDICT?

26 MR. RAGLE: NO.

27 MR. WAPNER: HAVE YOU HAD ANY EXPERIENCES ON JURY DUTY
28 OF GOING INTO THE JURY ROOM, TAKING ONE POSITION AND LATER

12-3
1 CHANGING YOUR MIND?

2 MR. RAGLE: NO.

3 MR. WAPNER: HAVE YOU HAD ANY EXPERIENCES IN LIFE, IN
4 DISCUSSIONS OR OTHERWISE?

5 MR. RAGLE: YES.

6 MR. WAPNER: OKAY. THAT IS, OF TAKING A POSITION AND
7 LATER CHANGING YOUR MIND?

8 MR. RAGLE: YES.

9 MR. WAPNER: DO YOU THINK THAT YOU ARE THE KIND OF PERSON
10 WHO IS CAPABLE OF CHANGING YOUR MIND IF IT IS PROVEN TO YOU
11 THAT YOU ARE WRONG?

12 MR. RAGLE: YES.

13 MR. WAPNER: DO YOU HAVE OTHER PEOPLE AT YOUR WORK THAT
14 YOU WORK CLOSELY WITH, THAT SIT IN A DESK NEARBY OR SOMETHING?

15 MR. RAGLE: NO. BASICALLY, I AM BY MYSELF MOST OF THE
16 DAY.

17 MR. WAPNER: OKAY. WHEN YOU GET TOGETHER WITH FRIENDS,
18 ARE THERE ANY THINGS THAT YOU LIKE TO TALK ABOUT MORE THAN
19 ANYTHING ELSE, TOPICS THAT YOU ARE INTERESTED IN?

20 MR. RAGLE: I SPEND A LOT OF TIME WITH THE BOY SCOUTS
21 OF AMERICA. THAT IS JUST ABOUT THE MAIN TOPIC RIGHT NOW.

22 MR. WAPNER: SO, IF YOU ARE NOT WITH THE BOY SCOUTS,
23 YOU ARE TALKING TO OTHER PEOPLE ABOUT THE BOY SCOUTS?

24 MR. RAGLE: YES.

25 MR. WAPNER: DID YOU GET ANY FEELING ABOUT PROSECUTORS
26 OR PROSECUTING AGENCIES FROM YOUR EXPERIENCES ON JURY DUTY,
27 THAT MIGHT CARRY OVER INTO THIS CASE?

28 MR. RAGLE: NO.

1 MR. WAPNER: WHEN I ASKED YOU ABOUT USING THE SAME
2 STANDARDS OR EVALUATING THE TESTIMONY OF ALL THE WITNESSES,
3 IF THE DEFENDANT DECIDES TO TESTIFY IN THIS CASE AND IF IT
4 APPEARS TO YOU THAT HE IS COLORING HIS STORY, CAN YOU TAKE
5 INTO CONSIDERATION THAT HE MIGHT HAVE A BIAS?

6 MR. RAGLE: HE MIGHT, YES.

7 MR. WAPNER: IN OTHER WORDS, I AM NOT ASKING YOU NOW
8 TO MAKE A DETERMINATION ONE WAY OR ANOTHER. BUT DO YOU THINK
9 THAT IT IS APPROPRIATE TO CONSIDER THAT A PERSON CHARGED WITH
10 A CRIME MAY HAVE A REASON TO ALTER HIS STORY, FOR EXAMPLE?
11 WE DON'T KNOW. I'M NOT ASKING YOU TO MAKE A JUDGMENT WHETHER
12 HE IS GUILTY OR NOT GUILTY BECAUSE YOU DON'T HAVE THE FACTS.

13 MR. RAGLE: WELL, IF I WAS IN HIS POSITION AND I KNEW
14 I WAS GUILTY, NATURALLY, I WOULD TRY TO SQUIRM OUT OF IT.

15 BUT AS LONG AS HE SITS ON THERE, HE IS JUST A
16 WITNESS. RIGHT?

17 MR. WAPNER: AND IF HE IS A WITNESS AND THE JUDGE TELLS
18 YOU THAT YOU USE THE SAME STANDARDS TO EVALUATE THE TESTIMONY
19 OF ALL WITNESSES, CAN YOU DO THAT?

20 MR. RAGLE: YES.

21 MR. WAPNER: AND IF PART OF THE THINGS THAT THE JUDGE
22 TELLS YOU THAT YOU CAN TAKE INTO CONSIDERATION IN EVALUATING
23 THE TESTIMONY OF ALL WITNESSES -- AND LIKE YOU SAY, THE
24 DEFENDANT WOULD BE ONE IF HE TESTIFIED -- IF ONE OF THOSE
25 THINGS IS BIAS, CAN YOU TAKE THAT INTO CONSIDERATION?

26 MR. RAGLE: YES.

27 MR. WAPNER: AND WHAT DID YOU DO IN HAWAII BESIDES GOING
28 TO SCHOOL?

1 MR. RAGLE: I WENT TO SCHOOL.

2 MR. WAPNER: OKAY. BESIDES THAT?

3 MR. RAGLE: I WORKED IN THE PINEAPPLE FIELDS TO GET
4 ENOUGH MONEY TO GO TO SCHOOL.

5 MR. WAPNER: YOU PUT YOURSELF THROUGH SCHOOL?

6 MR. RAGLE: NO, NOT REALLY. I HAD AN INHERITANCE THAT
7 PAID PART OF IT, TOO.

8 MR. WAPNER: YOUR OTHER THREE KIDS, ARE THEY LIVING
9 IN THE LOS ANGELES AREA?

10 MR. RAGLE: YES.

11 MR. WAPNER: HOW OFTEN DO YOU SEE OR TALK TO THEM?

12 MR. RAGLE: DAILY. THEY LIVE WITH ME.

13 MR. WAPNER: ALL THREE OF THEM LIVE WITH YOU?

14 MR. RAGLE: YES.

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1 MR. WAPNER: WHAT DO YOU THINK HAPPENED TO THE PERSON
2 ON THE BOAT?

3 MR. RAGLE: THE PERSON ON THE BOAT, HUH?

4 WELL, EITHER HE TRIPPED AND FELL OVERBOARD OR HE
5 JUMPED OVERBOARD OR HE WAS PUSHED OVERBOARD.

6 WHATEVER HAPPENED, NOT TOO MANY OF US CAN WALK ON
7 WATER, SO I IMAGINE HIS BREATHING DAYS ARE OVER AND HE DROWNED.

8 MR. WAPNER: I AM NOT SO MUCH INTERESTED IN HOW HE GOT
9 TO BE IN THE WATER AS TO WHAT HAPPENED TO HIM AFTER HE GOT
10 THERE.

11 YOU WOULD THINK THE MOST REASONABLE INFERENCE IS
12 THAT HE DROWNED?

13 MR. RAGLE: YES.

14 MR. WAPNER: HAVE YOU EVER BEEN THE VICTIM OF ANY KIND
15 OF A THEFT OR CON SCHEME?

16 MR. RAGLE: NO.

17 MR. WAPNER: THANKS A LOT. PASS FOR CAUSE, YOUR HONOR.

18 THE COURT: IT IS THE PEOPLE'S PEREMPTORY, I BELIEVE.

19 MR. WAPNER: I BELIEVE IT IS THE DEFENSE PEREMPTORY.

20 THE COURT: THE DEFENSE, THAT IS RIGHT.

21 MR. BARENS: THANK YOU. THE DEFENSE WOULD REQUEST THAT
22 YOUR HONOR THANK AND EXCUSE JUROR NUMBER 7, MRS. SIMON.

23 THE COURT: THANK YOU, MRS. SIMON.

24 THE CLERK: THIS IS BETTY J. BURNS, B-U-R-N-S.

25 THE COURT: IS THAT MISS OR MRS.?

26 THE CLERK: MRS.

27 THE COURT: GOOD AFTERNOON, MRS. BURNS. I WILL ASK YOU
28 THE USUAL QUESTION I ASKED THE JUROR WHO HAS BEEN EXCUSED BY

1 EITHER PARTY: YOU HAVE HEARD ALL OF THE QUESTIONS AND ANSWERS
2 WHICH WERE ASKED AND GIVEN?

3 MS. BURNS: YES, I HAVE.

4 THE COURT: IF THE SAME GENERAL QUESTIONS WERE ASKED OF
5 YOU, WITHOUT HAVING TO REPEAT THEM AD NAUSEAM, WOULD YOUR
6 ANSWERS BE SUBSTANTIALLY THE SAME?

7 MS. BURNS: YES.

8 THE COURT: WHAT DO YOU DO, PLEASE?

9 MS. BURNS: I AM A HOMEMAKER.

10 THE COURT: AND WHAT DOES THE MAN WHO IS THE COMPANION
11 TO THE HOMEMAKER DO, WHAT DOES HE DO?

12 MS. BURNS: HE JUST RECENTLY RETIRED. HE WAS A MARINE
13 ENGINEER FOR SOME 40 YEARS.

14 MR. WAPNER: I AM SORRY.

15 (WHEREUPON, THE ANSWER WAS READ BY THE
16 COURT REPORTER.)

17 THE COURT: WHAT WAS THE NAME OF THAT COMPANY, MRS.
18 BURNS?

19 MS. BURNS: WELL, HE WORKED FOR VARIOUS COMPANIES.
20 THEY WORK OUT OF A MARINE ENGINEERS BENEFIT ASSOCIATION.

21 THE COURT: I SEE.

22 HOW MANY CHILDREN DO YOU HAVE?

23 MS. BURNS: JUST ONE. ONE DAUGHTER.

24 THE COURT: AND HOW OLD IS SHE?

25 MS. BURNS: SHE IS 24.

26 THE COURT: AND WHAT SCHOOLING DID YOU HAVE, MRS. BURNS?

27 MS. BURNS: HIGH SCHOOL.

28 THE COURT: AND YOUR HUSBAND?

1 MS. BURNS: HIGH SCHOOL.

2 THE COURT: AND WHERE DO YOU LIVE?

3 MS. BURNS: IN LOS ANGELES, AROUND THE MAR VISTA AREA.

4 THE COURT: LET ME LOOK FOR YOUR NAME.

5 HAVE YOU OR A MEMBER OF YOUR FAMILY OR CLOSE
6 PERSONAL FRIEND EVER BEEN THE VICTIM OF A SERIOUS CRIME?

7 MS. BURNS: NO.

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

9 MR. BARENS: GOOD AFTERNOON, MRS. BURNS -- I AM NOT
10 SUPPOSED TO FALL DOWN UNTIL LATER -- MRS. BURNS, YOU MAY BE
11 THE ONLY ONE IN THIS COURTROOM QUALIFIED TO TALK TO US ABOUT
12 WHAT HAPPENED TO THE GUY IN THE BOAT WITH YOUR MARITAL BACK-
13 GROUND, AND YOUR HUSBAND MAY HAVE BEEN OUT THERE LOOKING FOR
14 HIM ALL THOSE YEARS.

15 MS. BURNS: I AM SURE HE NEVER SAW HIM.

16 MR. BARENS: I WILL BET HE NEVER SAW HIM AND I WILL BET
17 WE WILL NEVER SEE HIM EITHER.

18 MRS. BURNS, WHAT DO YOU THINK HAPPENED TO THE
19 GUY ON THE BOAT?

20 MS. BURNS: WELL, I WOULD ASSUME THAT HE DROWNED, BUT
21 I DON'T -- I HAVE NO IDEA AS A SUPPOSITION WHAT HIS STATE OF
22 MIND MIGHT HAVE BEEN BEFORE HE LEFT THE BOAT, WHETHER IT WAS
23 OF HIS OWN ACCORD OR WHETHER IT WAS HELPED OR WHETHER HE
24 PLANNED IT.

25 MR. BARENS: YOU DON'T HAVE ANY EVIDENCE ON WHICH TO
26 MAKE THAT KIND OF EVALUATION, DO YOU?

27 MS. BURNS: NO.

28 MR. BARENS: NOW, DO YOU EVEN HAVE ANY EVIDENCE, OTHER

1 THAN IT IS JUST A CHOICE YOU HAVE GOT, GIVEN NOTHING ELSE, THAT
2 HE DROWNED IN FACT? YOU DON'T HAVE ANY EVIDENCE OF THAT. ALL
3 WE KNOW IS HE WAS ON A BOAT AND HE IS NOT ON A BOAT ANYMORE.

4 DO WE HAVE ANY EVIDENCE OF DROWNING?

5 MS. BURNS: NO.

6 MR. BARENS: WHEN WE GET INTO DECIDING WHAT IS REASONABLE
7 ON WHAT HAPPENED TO HIM, YOU WOULD NEED SOME EVIDENCE TO HELP
8 YOU ON WHAT IS REASONABLE, WOULDN'T YOU?

9 MS. BURNS: YES.

10 MR. BARENS: AND DOES YOUR MIND SAY, WELL, IF HE WAS ON
11 THE BOAT AND HE IS NO LONGER ON THE BOAT, HE WAS MURDERED, DOES
12 YOUR MIND IMMEDIATELY ASSUME MURDER?

13 MS. BURNS: NO.

14 MR. BARENS: A LOT OF THINGS COULD HAVE HAPPENED.

15 ALSO --

16 THE COURT: IS THAT A QUESTION OR A STATEMENT?

17 MR. BARENS: YES, A LOT OF THINGS COULD HAVE HAPPENED.

18 (LAUGHTER IN COURTROOM.)

19 THE COURT: I THOUGHT YOU WERE TESTIFYING.

20 MR. BARENS: MRS. BURNS, WHEN I GAVE YOU THAT QUESTION,
21 HAVEN'T I GIVEN YOU ANOTHER SETUP, BEING HE IS NOT ON THE BOAT
22 ANYMORE, I HAVE TOLD YOU SOMETHING. IT IS JUST LIKE WHEN WE
23 HEARD ABOUT THE ROBBERY OF THE DOPE DEALER AND THE PRIEST, I
24 TOLD YOU THERE WAS A ROBBERY. HERE, I HAVE TOLD YOU HE WAS
25 NOT ON THE BOAT ANYMORE; IS THAT TRUE?

26 FOR A MURDER CASE TO OCCUR, DON'T I FIRST HAVE TO
27 CONVINCING YOU THAT THERE WAS IN FACT A MURDER BEFORE WE GET TO
28 THE SECOND PART ABOUT WHAT HAPPENED TO THE BODY, IF ANYTHING

1 HAPPENED TO IT?

2 MS. BURNS: YES.

3 MR. BARENS: CAN YOU UNDERSTAND THAT IN THIS CASE, THE
4 FACT THAT WE HAVE GOT AN ACCUSATION ABOUT MURDER DOESN'T TELL
5 YOU THAT ONE TOOK PLACE?

6 MS. BURNS: NO.

7 MR. BARENS: THERE HAS TO BE SOME EVIDENCE THAT A MURDER
8 TOOK PLACE. IT IS NOT THAT SIMPLISTIC THING WHEN I TELL YOU
9 THERE WAS A GUY ON THE BOAT WHO IS NO LONGER ON THE BOAT.

10 HERE WE ARE TELLING YOU, MAYBE THAT SOMEONE WAS
11 ALIVE WHO IS NO LONGER ALIVE, DON'T WE HAVE TO FIRST PROVE
12 BEYOND A REASONABLE DOUBT TO YOU THAT SOMEONE IS NO LONGER
13 ALIVE?

14 MS. BURNS: YES.

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1 MR. BARENS: DO YOU SEE THE DIFFERENCE BETWEEN A
2 SIMPLISTIC HYPOTHETICAL ABOUT A GUY BEING ON A PLANE WHICH
3 WE STIPULATE IS NOT ON THE PLANE ANY MORE, A GUY BEING ON
4 A BOAT WHO WE STIPULATE IS NOT ON A BOAT ANY MORE AND A GUY
5 WHO WE ARE GOING TO ASK YOU JURORS AS A GROUP, WHETHER HE
6 IS ALIVE OR NOT ANY MORE, BEFORE WE EVEN GET TO THE QUESTION
7 OF DID SOMETHING CRIMINAL HAPPEN TO THAT INDIVIDUAL? DO YOU
8 SEE THE DIFFERENCE, MS. BURNS?

9 MS. BURNS: YES. I THINK THE MAN IN THE BOAT HAS A
10 BETTER CHANCE OF BEING ALIVE THAN THE ONE THAT FELL OUT OF
11 THE AIRPLANE, THOUGH.

12 MR. BARENS: I AM NOT GOING TO DISPUTE THAT UNTIL I
13 HAVE MORE EVIDENCE.

14 ALL RIGHT. NOW MS. BURNS, HOW DID YOU FEEL ABOUT
15 THE COCOON ASSOCIATED WITH MY CLIENT AND HIS PRESUMPTION OF
16 INNOCENCE?

17 MS. BURNS: I CONCUR WITH IT.

18 MR. BARENS: DO YOU FEEL COMFORTABLE WITH IT?

19 MS. BURNS: YES.

20 MR. BARENS: DO YOU THINK THAT WE SHOULD HAVE SOME
21 OBLIGATION AS DEFENDANTS IN THIS CASE AND AS DEFENSE COUNSEL,
22 TO PROVE SOMETHING TO YOU ABOUT WHAT DID OR DID NOT HAPPEN
23 TO THE ALLEGED VICTIM?

24 MS. BURNS: NO. IF I WERE IN THAT SITUATION AND I HAD
25 NO REAL EVIDENCE, I THINK IT WOULD BE LIKE BANGING YOUR HEAD
26 AGAINST THE WALL, JUST SAYING, "I DIDN'T DO IT. I DIDN'T
27 DO IT."

28 I THINK THE OTHER PERSON HAS TO PROVE THAT HE

1 DID.

2 MR. BARENS: IT IS BELIEVABLE TO HIM THAT IF YOU WERE
3 STANDING THERE AND YOU DO MAKE A GOOD POINT, SAYING, "I DIDN'T
4 DO IT. I DIDN'T DO IT," THE PROBLEM MIGHT BE THAT YOU WOULD
5 HAVE -- WELL MRS. BURNS, YOU DON'T KNOW WHAT HAPPENED. HOW
6 CAN YOU HELP ME? HOW CAN YOU HELP WITH SOMETHING YOU DON'T
7 EVEN KNOW ABOUT? YOU WOULD HAVE A PROBLEM WITH THAT, WOULDN'T
8 YOU?

9 MS. BURNS: YES.

10 MR. BARENS: NOW, BY THE SAME TOKEN, I ASSUME -- STRIKE
11 THAT.

12 MS. BURNS, LET'S TALK ABOUT A DEFENDANT ON TRIAL
13 FOR HIS LIFE WHO TESTIFIES IN HIS OWN BEHALF. WOULD YOU
14 AUTOMATICALLY LEAP TO A CONCLUSION THAT THIS GUY IS GOING
15 TO LIE? HE IS GOING TO LIE TO SAVE HIMSELF?

16 MS. BURNS: NO.

17 MR. BARENS: COULD IT BE BELIEVABLE TO YOU THAT THE
18 TRUTH THAT SETS HIM FREE, COULD IN FACT, BE THE TRUTH?

19 MS. BURNS: YES.

20 MR. BARENS: NOT JUST YOU KNOW, BECAUSE A DEFENDANT
21 IS ON TRIAL FOR HIS LIFE, DOESN'T MEAN THAT HE IS SOMEHOW
22 DIVORCED FROM THE TRUTH, DOES IT?

23 MS. BURNS: NO.

24 MR. BARENS: IT DOESN'T MEAN THAT HE IS SO JAUNDICED
25 THAT WHATEVER HE IS GOING TO SAY, THAT HE COULDN'T POSSIBLY
26 BE TELLING THE TRUTH BECAUSE YOU COULD BELIEVE THAT HE COULD
27 BE TELLING THE TRUTH?

28 MS. BURNS: YES.

14-3
1 MR. BARENS: COULDN'T YOU?

2 MS. BURNS: YES.

3 MR. BARENS: NOW, WE LOOK FOR AND THERE IS NO QUESTION
4 THAT MR. WAPNER IS APPROPRIATE IN TELLING YOU TO LOOK FOR
5 MOTIVES IN WITNESSES.

6 DO YOU UNDERSTAND THAT AN IMMUNIZED WITNESS HAS
7 A MOTIVE? OR, DOES THAT LOSE YOU?

8 MS. BURNS: I DON'T REALLY KNOW WHAT YOU MEAN BY AN
9 "IMMUNIZED" WITNESS.

10 MR. BARENS: DO YOU UNDERSTAND THAT WHEN THEY IMMUNIZE
11 A WITNESS, THAT MEANS THAT THEY SAY TO HIM, LISTEN, SIR, IF
12 YOU WILL COME INTO COURT AND TELL THIS STORY THAT YOU TOLD
13 US -- THE GOVERNMENT SAYS THAT TO HIM.

14 IF YOU TELL THE STORY THAT YOU TOLD US, AS LONG
15 AS YOU TELL IT EXACTLY THE WAY WE HAVE ALL AGREED YOU ARE
16 GOING TO TELL IT --

17 MR. WAPNER: WELL, OBJECTION. I THINK THAT THIS
18 MISSTATES SOME OF THE EVIDENCE AND --

19 THE COURT: I WILL SUSTAIN THE OBJECTION.

20 MR. BARENS: AS LONG AS YOU TELL THE STORY THE WAY YOU
21 TOLD IT TO US --

22 MR. WAPNER: I STILL OBJECT. I THINK THAT IT IS
23 IMPROPER TO CHARACTERIZE WHAT HAPPENS IN A GRANT OF IMMUNITY
24 IN AN EXAMPLE TO A JUROR.

25 MR. BARENS: WELL, I WILL MAKE IT EVEN MORE SIMPLE,
26 TO DO AWAY WITH ANY OBJECTION HERE.

27 AS LONG AS YOU WILL COME INTO COURT AND TELL YOUR
28 STORY, IF YOU WILL TELL YOUR STORY, WE ARE NOT GOING TO

1 PROSECUTE YOU.

2 NOW, DO YOU UNDERSTAND THAT THAT IS WHAT THEY
3 DO WHEN A WITNESS IS IMMUNIZED?

4 MS. BURNS: YES.

5 MR. BARENS: DO YOU UNDERSTAND THAT THE GOVERNMENT WON'T
6 DO THAT UNLESS THERE IS SOME BENEFIT TO THE GOVERNMENT BY
7 THAT WITNESS COMING FORWARD AND TELLING THAT STORY?

8 MS. BURNS: YES.

9 MR. BARENS: NOW, DO YOU UNDERSTAND THAT THERE IS A
10 BENEFIT TO THAT WITNESS BECAUSE HE ESCAPES PROSECUTION? HE
11 IS NOT PUT ON TRIAL LIKE MY CLIENT IS BEING, FOR SOMETHING
12 THAT HE IS ADMITTING THAT HE HAS DONE?

13 MS. BURNS: YES.

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1 MR. BARENS: DO YOU UNDERSTAND THAT? DO YOU UNDERSTAND
2 THEREFORE, THAT HE HAS A CLEAR AND DISCERNIBLE MOTIVE IN THAT
3 INSTANCE?

4 MS. BURNS: YES.

5 MR. BARENS: NOW, HOW DO YOU FEEL ABOUT THIS BURDEN
6 OF PROOF THAT THE GOVERNMENT HAS, THE BURDEN OF PROOF BEYOND
7 A REASONABLE DOUBT?

8 MS. BURNS: I CONCUR WITH THAT.

9 MR. BARENS: DO YOU UNDERSTAND THAT WHEN WE ARE TALKING
10 ABOUT REASONABLE DOUBT, THAT IT IS NOT JUST TIPPING THE SCALES,
11 BUT SOMETHING THAT IS CONVINCING PROOF TO YOU AND NOT A MORE
12 LIKELY TEST?

13 MS. BURNS: YES.

14 MR. BARENS: DO YOU UNDERSTAND THAT?

15 MS. BURNS: YES.

16 MR. BARENS: HAVE YOU EVER SERVED ON A JURY BEFORE?

17 MS. BURNS: 28 YEARS AGO IN MUNICIPAL COURT DOWN IN
18 LOS ANGELES.

19 MR. BARENS: WAS IT A CRIMINAL MATTER?

20 MS. BURNS: WELL, THE JUDGE SAID THAT IT WAS A TRAFFIC
21 CASE AND THAT CAN BE A CRIMINAL MATTER. SO, APPARENTLY IT
22 WAS.

23 MR. BARENS: AND BE ASSURED THAT IN MY INDUSTRY, NOTHING
24 MUCH HAS CHANGED IN 28 YEARS.

25 KNOWING HOW THAT EXPERIENCE WAS FOR YOU, WERE
26 YOU COMFORTABLE WITH THAT?

27 MS. BURNS: WELL, IT WAS VERY INTERESTING. I WAS A
28 LITTLE DISAPPOINTED IN MY FELLOW JURORS BECAUSE I FELT THAT

1 THEY WERE -- RATHER THAN BEING CONCERNED WITH ALL OF THE FACTS,
2 THEY WERE DAZZLED BY A FLAMBOYANT ATTORNEY.

3 MR. BARENS: WELL, YOU DON'T HAVE TO WORRY ABOUT THAT
4 HERE, MS. BURNS.

5 MS. BURNS, YOU THOUGHT THAT THE JURORS WHEN YOU
6 GOT IN THERE TO DELIBERATE, YOUR FELLOW JURORS WEREN'T TALKING
7 ABOUT WHAT THE TESTIMONY REALLY INVOLVED?

8 MS. BURNS: THEY WERE JUST COMPLETELY FASCINATED WITH
9 THE ATTORNEY.

10 MR. BARENS: WELL, I AM GOING TO STAY AWAY FROM THAT,
11 MS. BURNS.

12 MS. BURNS, NOTHING ABOUT THAT -- DID ANYTHING
13 ABOUT THAT MAKE YOU THINK OUR JURY SYSTEM DOESN'T REALLY WORK?

14 MS. BURNS: NOT ON THE WHOLE, NO.

15 MR. BARENS: ALL RIGHT. YOU HAVE BEEN A HOMEMAKER FOR
16 A LONG TIME NOW.

17 MS. BURNS: NO. I WORKED FOR 20 YEARS FOR SECURITY
18 BANK. I WAS A SECRETARY AND AN ADMINISTRATIVE ASSISTANT AND
19 A LOAN OFFICER.

20 MR. BARENS: AS A LOAN OFFICER, YOU PROCESSED LOAN
21 APPLICATIONS?

22 MS. BURNS: YES.

23 MR. BARENS: DID YOU HAVE ANY INVESTIGATORY
24 RESPONSIBILITIES ON THOSE LOAN APPLICATIONS?

25 MS. BURNS: YES I DID.

26 MR. BARENS: WHAT WOULD YOU DO IN EXECUTING THAT
27 RESPONSIBILITY?

28 MS. BURNS: WELL, WE WOULD GATHER CREDIT INFORMATION

1 FROM THE CREDIT ASSOCIATIONS AND VERIFY THEIR EMPLOYMENT AND
2 THINGS LIKE THAT WHEN IT CAME TO MY DESK, TO SEE HOW THEIR
3 RECORD WAS, WHETHER THEY HAD A GOOD PAYMENT RECORD, WHETHER
4 THEY HAD A LONG TIME JOB OR A GOOD JOB.

5 OF COURSE, THE LEVEL THAT WE GRADED ON WAS ABOUT
6 REPAYMENT, CAN HE, WILL HE OR CAN WE MAKE HIM.

1413 7 MR. BARENS: DID YOU EVER HAVE ANY SITUATION WHERE THERE
8 HAD BEEN FALSE LOAN APPLICATIONS THAT LATER RESULTED IN SOME
9 SORT OF INVESTIGATION OR PROSECUTION?

10 MS. BURNS: NO, NOT REALLY. WE HAD A LOT OF BAD LOANS,
11 BUT --

12 MR. BARENS: NOT ANY --

13 MS. BURNS: I SHOULDN'T SAY A LOT OF THEM. WE HAD A
14 NUMBER OF BAD LOANS. WE HAD GOOD LOANS THAT HAD GONE BAD,
15 TOO.

16 MR. BARENS: YOU WEREN'T INVOLVED WITH ANY PROSECUTIONS
17 OR INVESTIGATIONS ABOUT BORROWERS WHO HAD ALLEGEDLY DEFRAUDED
18 THE INSTITUTION?

19 MS. BURNS: NO. IT WAS NOT INTO MY LEVEL.

20 MR. BARENS: AND HOW LONG HAS IT BEEN SINCE YOU WORKED
21 FOR THE BANK?

22 MS. BURNS: 24 YEARS. WHEN MY DAUGHTER WAS BORN.

23 MR. BARENS: AND SINCE THEN, YOU WERE ACTIVE AS A
24 HOMEMAKER?

25 MS. BURNS: YES.

26 MR. BARENS: AND IN THE LAST SAY EIGHT YEARS, HOW HAVE
27 YOU PRIMARILY SPENT YOUR TIME?

28 MS. BURNS: WELL, MY HUSBAND WAS AWAY A LOT OF THE TIME.

1 MY DAUGHTER AND I SPENT TIME. WE ARE VERY CLOSE.

2 WE SPEND OUR TIME TOGETHER. WE LIKE SPORTS. WE
3 LIKE TO BOWL AND SWIM AND THINGS LIKE THAT.

4 MR. BARENS: DO YOU HAVE ANY PARTICULAR HOBBIES,
5 MS. BURNS?

6 MS. BURNS: NO, OTHER THAN WATCHING SPORTS AND I DO
7 CROSSWORD PUZZLES. THAT IS ABOUT IT. GARDENING ALSO.

8 MR. BARENS: YOU DO CROSSWORD PUZZLES? DO YOU LIKE
9 MYSTERIES?

10 MS. BURNS: YES.

11 MR. BARENS: DO YOU READ MYSTERIES AT ALL?

12 MS. BURNS: I HAVE NOT FOR A LONG TIME. I DON'T READ
13 AS MUCH AS I USED TO.

14 I USED TO READ A GREAT DEAL WHEN I WAS YOUNGER.
15 BUT AS YOU GET OLDER, YOU SOMETIMES KIND OF LOSE INTEREST.

16 MR. BARENS: DO YOU FIND WHEN YOU ARE WORKING ON A
17 CROSSWORD PUZZLE THAT YOU WILL KIND OF LOOK AT THE WHOLE
18 PUZZLE AND THEN TRY TO ANTICIPATE WHAT WORD IS GOING TO GO
19 SOMEWHERE?

20 MS. BURNS: YES. THAT IS THE FUN OF IT.

21 MR. BARENS: YOU BET. LOOKING AT THE WHOLE THING, WE
22 DON'T EVEN HAVE TO KNOW WHAT WORD WE ARE LOOKING FOR. IT
23 CAN BE SUGGESTED TO YOU?

24 MS. BURNS: RIGHT.

25 MR. BARENS: DO YOU UNDERSTAND IN THIS EXERCISE, WE
26 ARE NOT GOING TO DO THAT? IN THIS EXERCISE, YOU DON'T
27 SPECULATE ABOUT TESTIMONY YOU HAVE NOT HEARD?

28 MS. BURNS: YES.

1 MR. BARENS: YOU DON'T SPECULATE ABOUT EVIDENCE THAT
2 ISN'T THERE? YOU HEARD MR. WAPNER TALK ABOUT THE -- YOU
3 CAN'T SPECULATE EVEN ABOUT THINGS YOU HEAR. YOU HEAR THEM.
4 YOU ARE NOT SUPPOSED TO SPECULATE OR GUESS.

5 DO YOU UNDERSTAND THAT THE OTHER SIDE OF THAT
6 IS THAT WE DON'T SPECULATE ABOUT WHAT WE DON'T HEAR?

7 MS. BURNS: YES.

8 MR. BARENS: WE DON'T SPECULATE ABOUT EVIDENCE THAT
9 MIGHT BE THERE THAT ISN'T DEMONSTRATED IN THIS COURTROOM?
10 DO YOU UNDERSTAND THAT?

11 MS. BURNS: YES.

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1 MR. BARENS: WE DON'T TRY TO PREJUDGE ANYTHING. WE
2 DON'T TRY TO IMAGINE SOME MISSING PIECE TO A PUZZLE. IF IT
3 IS NEVER PRODUCED, IT IS NEVER PRODUCED, IS IT?

4 MS. BURNS: RIGHT.

5 MR. BARENS: YOU WOULD ACCEPT THAT?

6 MS. BURNS: YES.

7 MR. BARENS: WHAT IS THE LAST MOVIE YOU SAW?

8 MS. BURNS: "CROCODILE DUNDEE."

9 WE JUST TOOK A TRIP TO AUSTRALIA SO WE WERE
10 INTERESTED IN THAT.

11 MR. BARENS: RIGHT.

12 ALL RIGHT, DID YOU READ A BOOK IN THE LAST YEAR?

13 MS. BURNS: ANDY ROONEY'S "PIECES OF MY MIND."

14 MR. BARENS: ALL RIGHT, HAVE YOU EVER STUDIED OR READ
15 ABOUT ANY PHILOSOPHY CLASSES OR ANY PHILOSOPHY AT ALL?

16 MS. BURNS: NO.

17 MR. BARENS: AFTER HIGH SCHOOL, DID YOU RECEIVE ANY
18 SPECIALIZED TRAINING IN ANY AREAS?

19 MS. BURNS: WELL, ONLY IN ALONG THE BANKING VEIN, WE
20 WERE MORE OR LESS, NOT REQUIRED, BUT EXPECTED TO GO TO THE
21 AMERICAN INSTITUTE OF BANKING CLASSES, WHICH TOOK IN COMMERCIAL
22 LAW, BUSINESS, BUSINESS LAW AND NEGOTIABLE INSTRUMENTS AND
23 ECONOMICS.

24 MR. BARENS: YOU BECAME FAMILIAR WITH BANKRUPTCY
25 PROCEEDINGS DURING THAT?

26 MS. BURNS: NO.

27 MR. BARENS: DO YOU HAVE SOME GENERALIZED UNDERSTANDING
28 AS TO WHAT BANKRUPTCY INVOLVES?

15-2

1 MS. BURNS: I THINK SO.

2 MR. BARENS: DID YOU HAVE ANY OF YOUR BORROWERS GO
3 BANKRUPT ON YOUR INSTITUTION?

4 MS. BURNS: YES.

5 MR. BARENS: DO YOU HAVE ANY BROTHERS OR SISTERS THAT
6 ARE LIVING?

7 MS. BURNS: WELL, I HAVE A SISTER BUT I HAVEN'T SEEN
8 HER SINCE MY MOTHER PASSED AWAY ABOUT 22 YEARS AGO.

9 I DON'T KNOW WHY. IT IS HER CHOICE.

10 MR. BARENS: DO YOU BELONG TO ANY SOCIAL CLUBS OR
11 ORGANIZATIONS?

12 MS. BURNS: NO.

13 MR. BARENS: WHAT DOES YOUR DAUGHTER DO?

14 MS. BURNS: SHE WORKS FOR HOME SAVINGS AS AN OPERATIONS
15 OFFICER.

16 MR. BARENS: IS HER JOB OR ACTIVITIES SOMEWHAT
17 ANALOGOUS TO WHAT YOU DO?

18 MS. BURNS: NO.

19 SHE IS IN THE OPERATIONS END OF IT, RUNNING -- WELL,
20 WHAT CAN I SAY? OPERATIONS.

21 MR. BARENS: IS SHE MARRIED?

22 MS. BURNS: NO.

23 MR. BARENS: WAS SHE EVER MARRIED?

24 MS. BURNS: NO.

25 MR. BARENS: WOULD YOU LIKE TO BE A JUROR ON THIS CASE?

26 MS. BURNS: I REALLY DON'T KNOW. I THINK IT IS GOING
27 TO BE A VERY CHALLENGING CASE.

28 MR. BARENS: I PASS FOR CAUSE AND THANK YOU, MRS. BURNS.

1 THE COURT: ALL RIGHT. MR. WAPNER?

2 MR. WAPNER: THANK YOU. READY NOW?

3 DO YOU THINK IT IS FAIR TO JUDGE THE CASE ON THE
4 FACTS AND THE EVIDENCE, INSTEAD OF THE IMPRESSIONS THAT THE
5 LAWYERS MAKE ON YOU?

6 MS. BURNS: I CERTAINLY DO.

7 MR. WAPNER: OKAY. WHEN I WAS IN LAW SCHOOL WE HAD AN
8 EXPERIMENTAL COURTROOM THAT HAD VIDEO TAPE EQUIPMENT BUILT
9 INTO THE WALLS OF THE JURY ROOM SO YOU COULD WATCH THE
10 DELIBERATIONS, AND EVEN THOUGH THEY WERE MOCK TRIALS, WE PUT
11 A LOT OF EFFORT INTO IT AND TO WATCH SOME OF THE THINGS
12 THAT SOME OF THE JURORS SAID WHAT THEY THOUGHT WAS IMPORTANT,
13 WAS PRETTY AMAZING.

14 WITH THE BOAT EXAMPLE, DID YOU THINK I WAS TRYING
15 TO GET YOU TO JUDGE WHAT THE EVIDENCE IS GOING TO BE IN THIS
16 CASE?

17 MS. BURNS: NO.

18 MR. WAPNER: OKAY, TELL ME, WE HAD, I THINK, AT LEAST
19 TWO EXAMPLES OF SOMEBODY JUMPING OUT OF THE AIRPLANE AND YOU
20 SAID THAT YOU THINK THAT THE PERSON ON THE BOAT HAS A BETTER
21 CHANCE OF BEING ALIVE THAN THE ONE WHO FELL OUT OF THE AIRPLANE;
22 WHICH ONE OF THE TWO PEOPLE THAT FELL OUT OF THE AIRPLANE
23 WERE YOU TALKING ABOUT?

24 MS. BURNS: WHICH ONE OF THE TWO?

25 MR. WAPNER: WELL, THERE WAS ONE, THERE WAS A FIRST
26 EXAMPLE WHERE A GUY THAT JUST HAPPENS TO FALL OUT AND FOR
27 SOME REASON HE DOESN'T HAVE A PARACHUTE AND THE OTHER ONE WAS
28 THE GUY WHO GOT SHOT AND THEN FELL OUT AND THEY NEVER FOUND

15-4

1 HIS BODY.

2 MS. BURNS: OH, I WASN'T REFERRING TO THAT.

3 I JUST MEANT THAT A PERSON FALLING OFF A BOAT
4 HAD A BETTER CHANCE OF SURVIVING THAN ONE WHO FELL 10,000 FEET
5 OUT OF AN AIRPLANE.

6 MR. WAPNER: OKAY. AND THAT IS BECAUSE YOU ARE ASSUMING
7 THAT AT LEAST WHEN HE HITS THE WATER FROM THE BOAT THAT HE
8 WAS ALIVE.

9 MS. BURNS: WELL, IT WOULD SEEM SO.

10 MR. WAPNER: OKAY, AND THAT THERE ARE THINGS THAT
11 POSSIBLY COULD HAVE HAPPENED TO HIM IN THE WATER THAT ARE MORE
12 LIKELY THAT HE SURVIVED THAN THE GUY WHO, MOST LIKELY, DIED
13 WHEN HE HIT THE GROUND AFTER FALLING OUT OF THE AIRPLANE?

14 MS. BURNS: THAT WOULD BE MY THOUGHT, YES.

15 MR. WAPNER: YOU SAID THAT THERE WAS NO EVIDENCE THAT
16 THE PERSON WHO FELL OFF THE BOAT HAD DROWNED; WHAT DID YOU MEAN
17 BY THAT?

18 MS. BURNS: WELL, NOBODY HAS GIVEN US ANY EVIDENCE THAT
19 HE DID OR DIDN'T SURVIVE.

20 MR. WAPNER: ALL RIGHT, NOBODY CAME IN AND SAID "I WENT
21 DOWN TO THE BOTTOM OF THE OCEAN AND THERE HE WAS AND HE WAS
22 DEAD," RIGHT?

23 MS. BURNS: NO.

24 MR. WAPNER: OKAY, SO DID YOU MEAN TO SAY BY THAT, THAT
25 THERE WAS NO DIRECT EVIDENCE THAT HE HAD DROWNED?

26 MS. BURNS: WELL, I WOULD ASSUME THAT IS CORRECT.

27 MR. WAPNER: DO YOU THINK THAT THERE WAS ANY CIRCUMSTANTIAL
28 EVIDENCE THAT HE DROWNED?

1 MS. BURNS: I CAN'T -- I CAN'T TELL FROM THAT EXAMPLE.

2 MR. WAPNER: IN THAT EXAMPLE, THEY ARE OUT IN THE MIDDLE
3 OF THE OCEAN, OKAY, MILES AND MILES AND MILES AND MILES FROM
4 ANY LAND, ALL RIGHT? AND YOU KNOW THAT THE PERSON HAS NEVER
5 BEEN SEEN OR HEARD FROM AGAIN AND YOU KNOW THAT ALL OF THE
6 LIFE JACKETS THAT HAD BEEN ON THE BOAT WERE ON THE BOAT, RIGHT?

7 MS. BURNS: THAT IS WHAT YOU ARE TELLING ME, YES.
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1 MR. WAPNER: I AM NOT ADDING ANY NEW FACTS SO FAR, RIGHT?

2 MS. BURNS: RIGHT.

3 MR. WAPNER: AND THAT THE DINGHY IS STILL ON THERE,
4 RIGHT?

5 MS. BURNS: UH-HUH.

6 MR. WAPNER: AND THE PERSON HASN'T BEEN HEARD FROM; WHAT
7 DO YOU INFER FROM ALL OF THAT?

8 MS. BURNS: THAT HE IS MISSING.

9 MR. WAPNER: WHAT DO YOU THINK HAPPENED TO HIM?

10 MS. BURNS: I DON'T REALLY KNOW. I THINK THERE ARE
11 SO MANY THINGS THAT COULD HAVE HAPPENED TO HIM. HE COULD HAVE
12 HAD A HEARTATTACK AND FALLEN OVER. HE COULD HAVE BEEN
13 DISPONDENT AND JUMPED OVERBOARD. MAYBE HE WANTED TO HAVE
14 PEOPLE THINK THAT HE FELL OVER. MAYBE HE JUST WANTED TO
15 DISAPPEAR.

16 MR. WAPNER: OKAY, OF THE FIRST TWO OR THREE OF THOSE,
17 BEFORE YOU GOT TO THE PERSON WANTING TO DISAPPEAR, THOSE ARE
18 DIFFERENT WAYS THAT HE COULD HAVE DIED, RIGHT, THAT HE HAD
19 A HEARTATTACK OR SOMETHING LIKE THAT, RIGHT?

20 MS. BURNS: IF IT IS A SAILBOAT, THE BOOM COULD HAVE
21 COME ALONG AND HIT HIM ON THE HEAD AND KNOCKED HIM OUT.

22 MR. WAPNER: DO YOU THINK IT IS LIKELY IN THAT SITUATION
23 THAT IT IS A PERSON WHO JUST DECIDED HE DIDN'T WANT TO BE
24 HEARD FROM AGAIN?

25 MS. BURNS: I CAN'T ASSUME ANYTHING.

26 MR. WAPNER: I AM NOT ASKING YOU TO ASSUME ANYTHING.

27 I AM JUST ASKING YOU TO TELL ME WHAT YOU THINK IS
28 REASONABLE FROM THAT SET OF FACTS.

1 MS. BURNS: WELL, FROM THE SET OF FACTS THAT YOU HAVE
2 GIVEN, I JUST ASSUME THAT HE IS DEAD, THAT HE DROWNED.

3 YOU CAN'T SURVIVE OUT IN THE MIDDLE OF THE OCEAN
4 TOO LONG.

5 MR. WAPNER: OKAY, YOU SUGGESTED THAT THERE'S A
6 POSSIBILITY OR THERE MIGHT BE THAT HE JUST WANTED TO
7 DISAPPEAR, RIGHT?

8 MS. BURNS: YES.

9 MR. WAPNER: TELL ME HOW YOU WOULD PLAY THAT SCENARIO
10 OUT.

11 MS. BURNS: WELL, PERHAPS HE HAD AN ACCOMPLICE WHO PLANNED
12 TO MEET HIM AT A DESIGNATED SPOT.

13 MR. WAPNER: DOES THAT SEEM REASONABLE TO YOU?

14 MS. BURNS: POSSIBLE. I AM NOT SAYING IT IS REASONABLE.
15 IT IS POSSIBLE.

16 MR. WAPNER: OKAY, WHAT I AM TRYING TO GET AT IS THE
17 DIFFERENCE BETWEEN WHAT YOU THINK IS REASONABLE AND WHAT YOU
18 THINK IS POSSIBLE.

19 MS. BURNS: I DON'T THINK IT IS VERY REASONABLE.

20 MR. WAPNER: OKAY, THE IMPORTANT THING IS NOT WHAT I
21 THINK IS REASONABLE, BUT WHAT YOU THINK IS REASONABLE, BECAUSE
22 I AM NOT GOING TO BE A JUROR ON THIS CASE.

23 CAN YOU, IN ANALYZING THE EVIDENCE THAT YOU GET
24 IN THIS CASE, SEPARATE IN YOUR MIND THOSE THINGS THAT YOU
25 THINK ARE POSSIBLE FROM THOSE THINGS THAT YOU THINK ARE
26 REASONABLE?

27 MS. BURNS: YES.

28 MR. WAPNER: HAVE YOU EVER BEEN THE VICTIM OF ANY KIND

1 OF A THEFT OR CON SCHEME?

2 MR. BURNS: NO.

3 I THOUGHT AFTER THE JUDGE HAD ASKED US, SOMEBODY
4 CHARGED ME A COUPLE OF THOUSAND DOLLARS OF AIRPLANE TICKETS
5 ON OUR CREDIT CARD BUT THE BANK JUST REIMBURSED US IMMEDIATELY
6 AND THERE WAS NO QUESTION. THERE WAS NO CONFRONTATION OR --
7 WE NEVER -- THERE WAS NO INVESTIGATION WHATSOEVER.

8 MR. WAPNER: HAD THE CAR BEEN LOST OR STOLEN?

9 MS. BURNS: NO.

10 IT WAS, APPARENTLY, THE WAY I FEEL, SOMEBODY JUST
11 IN A SHOP HAD JUST TAKEN OUR NUMBER.

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1 MR. WAPNER: TAKING IT OFF A CARBON OR SOMETHING LIKE
2 THAT?

3 MS. BURNS: UH-HUH. IT WAS A TERRIBLE SHOCK TO ME TO
4 SEE THAT COME IN ON MY BILL.

5 MR. WAPNER: DO YOU HAVE ANY TROUBLE USING THE SAME
6 STANDARDS TO EVALUATE THE CREDIBILITY OF ALL OF THE WITNESSES
7 WHO TESTIFY?

8 MS. BURNS: NO.

9 MR. WAPNER: AND THAT WOULD INCLUDE THE DEFENDANT, IF
10 HE TESTIFIES?

11 MS. BURNS: YES.

12 MR. WAPNER: HOW DID YOU FEEL ABOUT THE IDEA THAT YOU
13 CAN HAVE A MURDER PROSECUTION IN THIS STATE WITHOUT A BODY?

14 MS. BURNS: WELL, I DON'T HAVE ANY REAL FEELING. I
15 KNOW THAT IT IS POSSIBLE, SO I ACCEPT THAT.

16 MR. WAPNER: OKAY. HOW DID YOU FEEL ABOUT THE CONCEPT
17 OF CIRCUMSTANTIAL EVIDENCE GENERALLY, BEFORE YOU CAME INTO
18 COURT AND STARTED HEARING ALL OF THIS STUFF?

19 MS. BURNS: WELL, IT HAS BEEN CLARIFIED A LITTLE BIT
20 MORE.

21 MR. WAPNER: WHAT DID YOU THINK ABOUT IT BEFORE YOU
22 CAME INTO THIS COURT?

23 MS. BURNS: I DIDN'T REALIZE UNTIL YOUR EXAMPLE ABOUT
24 FINDING THE STOLEN GOODS ON THE PERSON, THAT PERHAPS IT MIGHT
25 BE MORE CONCLUSIVE THAN A WITNESS'S IDENTIFICATION.

26 MR. WAPNER: AND SO YOU CAN ACCEPT THAT THERE MIGHT
27 BE SOME CASES WHERE CIRCUMSTANTIAL EVIDENCE MIGHT BE MORE
28 PERSUASIVE TO YOU THAN DIRECT EVIDENCE?

16A-2

1 MS. BURNS: YES. I BELIEVE SO FROM THAT POINT OF VIEW.

2 MR. WAPNER: OKAY. THANK YOU.

3 I PASS FOR CAUSE, YOUR HONOR.

4 THE COURT: ALL RIGHT. IT IS THE PEOPLE'S PEREMPTORY.

5 MR. WAPNER: I WOULD THANK AND ASK THE COURT TO EXCUSE

6 MS. KOSSOVE, JUROR NUMBER 6.

7 THE COURT: THANK YOU, MISS KOSSOVE.

8 (PROSPECTIVE JUROR KOSSOVE EXITED

9 THE COURTROOM.)

10 THE CLERK: ALLEN KNIGHT, K-N-I-G-H-T.

11 THE COURT: ALL RIGHT. MR. KNIGHT, ARE YOU READY FOR
12 THE OPENING QUESTION THAT I ASK A JUROR WHO TAKES THE PLACE
13 OF A JUROR WHO HAS BEEN EXCUSED? YOU, TOO, HAVE HEARD ALL
14 OF THE QUESTIONS AND ANSWERS WHICH WERE ASKED AND GIVEN?

15 MR. KNIGHT: YES.

16 THE COURT: IF THE SAME GENERAL QUESTIONS WERE ASKED
17 OF YOU, WOULD YOUR ANSWERS BE SUBSTANTIALLY THE SAME OR WOULD
18 THEY BE DIFFERENT?

19 MR. KNIGHT: SUBSTANTIALLY THE SAME.

20 THE COURT: ALL RIGHT. WHAT DO YOU DO, MR. KNIGHT?

21 MR. KNIGHT: I AM A MECHANIC FOR WESTERN AIRLINES.

22 THE COURT: THESE QUESTIONS MIGHT HAVE BEEN ASKED OF
23 YOU OR OF THE JURORS AT THE TIME THAT WE HAD A PRELIMINARY
24 HEARING. I WANT TO GET IT ON THE RECORD AGAIN.

25 MR. KNIGHT: OKAY.

26 THE COURT: BY WHOM ARE YOU EMPLOYED?

27 MR. KNIGHT: WESTERN AIRLINES.

28 THE COURT: HOW LONG HAVE YOU BEEN WORKING FOR THEM?

1 MR. KNIGHT: ELEVEN AND A HALF YEARS.

2 THE COURT: DO YOU HAVE ANY OTHER EMPLOYMENT OR DID
3 YOU BEFORE YOU AHD THIS ONE?

4 MR. KNIGHT: I WORKED AT TRW FOR THREE DAYS. THEN BEFORE
5 THAT, I WAS A STUDENT.

6 THE COURT: WHERE DID YOU GO TO SCHOOL?

7 MR. KNIGHT: AT NORTHROP INSTITUTE OF TECHNOLOGY.

8 THE COURT: WHERE IS THAT?

9 MR. KNIGHT: INGLEWOOD.

10 THE COURT: AND YOU ALSO HAVE A HIGH SCHOOL EDUCATION,
11 DID YOU NOT?

12 MR. KNIGHT: YES.

13 THE COURT: AND IS THERE A MRS. KNIGHT?

14 MR. KNIGHT: YES.

15 THE COURT: DOES SHE HAVE ANY EMPLOYMENT OUTSIDE THE
16 HOME?

17 MR. KNIGHT: YES. SHE IS A RESOURCES AIDE FOR
18 MANHATTAN BEACH CITY SCHOOLS.

19 THE COURT: WHERE DID SHE GO TO SCHOOL?

20 MR. KNIGHT: WHERE DID SHE GO TO SCHOOL? SAN DIEGO.

21 THE COURT: WHERE DO YOU LIVE AGAIN?

22 MR. KNIGHT: TORRANCE.

23 THE COURT: AND HAVE YOU EVER OR ANY MEMBER OF YOUR
24 FAMILY EVER BEEN THE VICTIM OF ANY KIND OF A CRIME?

25 MR. KNIGHT: NO.

26 THE COURT: ALL RIGHT, SIR.

27 MR. BARENS: THANK YOU, YOUR HONOR. .

28 GOOD AFTERNOON, MR. KNIGHT. WELL MR. KNIGHT,

16 44
1 WHAT DO YOU THINK ABOUT THE COCOON?

2 MR. KNIGHT: I AGREE WITH IT.

3 MR. BARENS: YOU DO?

4 MR. KNIGHT: YES.

5 MR. BARENS: NO PROBLEM WITH YOU ON ANY OF THAT BUSINESS?

6 MR. KNIGHT: NOT AT ALL.

7 MR. BARENS: AND THE PRESUMPTION OF INNOCENCE IS SOMETHING
8 YOU THINK IS IMPORTANT FOR ALL OF US HERE?

9 MR. KNIGHT: I SURE DO.

10 MR. BARENS: DO YOU DO ANY SPECIALIZED TYPE OF MECHANIC
11 WORK THERE AT THE AIRLINES?

12 MR. KNIGHT: BASICALLY I OVERHAUL THE GEAR BOX ON THE
13 ENGINE.

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16B-1

1 MR. BARENS: WERE YOU TRAINED THERE FOR THAT OR WERE
2 YOU TRAINED AT N.I.T. FOR THAT?

3 MR. KNIGHT: I WAS TRAINED THERE.

4 MR. BARENS: ARE YOU ACTIVE IN THE UNION THERE?

5 MR. KNIGHT: I AM NOT ACTIVE BUT I AM A MEMBER.

6 MR. BARENS: YOU ARE A MEMBER BUT YOU ARE NOT A UNION
7 STEWARD OR REPRESENTATIVE OR ANYTHING LIKE THAT?

8 MR. KNIGHT: NO.

9 MR. BARENS: AND PRIOR TO THE EMPLOYMENT WITH THE AIRLINES,
10 YOU SAID THAT YOU WERE BRIEFLY WITH TRW. DID YOU HAVE ANY
11 OTHER EMPLOYMENT?

12 MR. KNIGHT: I WAS IN THE AIR FORCE FOR THREE AND A
13 HALF YEARS.

14 MR. BARENS: WHAT DID YOU DO IN THE AIR FORCE?

15 MR. KNIGHT: I WAS A MECHANIC.

16 MR. BARENS: WERE YOU ON DUTY OVERSEAS?

17 MR. KNIGHT: YES, GERMANY.

18 MR. BARENS: AND DID YOU RECEIVE ANY SPECIALIZED
19 TRAINING IN THE AIR FORCE?

20 MR. KNIGHT: YES I DID.

21 MR. BARENS: WHAT AREA?

22 MR. KNIGHT: ON JET PLANES, JET AIRCRAFT.

23 MR. BARENS: OTHER THAN THAT, DID YOU HAVE ANY OTHER
24 EMPLOYMENT AFTER HIGH SCHOOL?

25 MR. KNIGHT: LIKE I SAID, TRW FOR THREE DAYS. I SWITCHED
26 FROM THERE TO WESTERN BECAUSE OF THE PAY.

27 MR. BARENS: THE PAY SCALE WAS BETTER THERE?

28 MR. KNIGHT: YES.

L5B-2

1 MR. BARENS: WHAT DO YOU LIKE TO DO IN YOUR SPARE TIME?

2 MR. KNIGHT: FISH, SAIL, CAMPING.

3 MR. BARENS: ANY OTHER HOBBIES OTHER THAN THOSE OUTDOOR
4 ACTIVITIES?

5 MR. KNIGHT: I LIKE TO MESS AROUND WITH COMPUTERS.

6 MR. BARENS: YOU MEAN YOU ARE JUST SORT OF TEACHING
7 YOURSELF PROGRAMMING?

8 MR. KNIGHT: YES.

9 MR. BARENS: AND DO YOU HAVE TRAINING IN THAT AREA?

10 MR. KNIGHT: NO.

11 MR. BARENS: DOES YOUR WIFE HAVE ANY PARTICULAR
12 HOBBIES?

13 MR. KNIGHT: NOT REALLY. I HAVE ENOUGH FOR BOTH OF
14 US.

15 MR. BARENS: INDEED. DO YOU USUALLY ENGAGE IN THOSE
16 ACTIVITIES TOGETHER?

17 MR. KNIGHT: YES.

18 MR. BARENS: DO YOU HAVE ANY CHILDREN?

19 MR. KNIGHT: TWO.

20 MR. BARENS: THEIR AGES ARE?

21 MR. KNIGHT: TWO BOYS. ONE IS 9 AND ONE IS 7.

22 MR. BARENS: WHAT DO YOU THINK HAPPENED TO THE MAN ON
23 THE BOAT?

24 MR. KNIGHT: HE DROWNED.

25 MR. BARENS: WHY DO YOU SAY THAT?

26 MR. KNIGHT: I DON'T THINK WITH NO FLOTATION, I DON'T
27 THINK THAT THERE IS MUCH LIFE EXPECTANCY IN COLD WATER IN
28 THE MIDDLE OF THE OCEAN. I DON'T THINK YOU COULD TREAD WATER

1 FOR VERY LONG.

2 MR. BARENS: DID ANYBODY TELL YOU IT WAS COLD WATER?

3 MR. KNIGHT: WELL, YOU MENTIONED -- IT WAS MENTIONED
4 THAT IT WAS BETWEEN HERE AND HAWAII. I WOULD ASSUME THAT
5 IT IS BETWEEN 50 AND 60 DEGREES.

6 MR. BARENS: YOU HAD TO MAKE A FURTHER ASSUMPTION TO
7 COME TO THAT CONCLUSION WITHOUT ANY FACTS BEING PROVIDED TO
8 YOU?

9 MR. KNIGHT: YES.

10 MR. BARENS: YOU REALIZE BECAUSE SOMEBODY ISN'T ON THE
11 BOAT, YOU AUTOMATICALLY THINK THEY DROWNED?

12 IF I TELL YOU NOTHING ELSE, THAT THE GUY WAS NOT
13 ON THE BOAT --

14 MR. KNIGHT: IF THAT IS ALL YOU TOLD ME, I WOULDN'T
15 SAY THAT.

16 MR. BARENS: ONE THING I TOLD YOU FOR SURE THOUGH, DIDN'T
17 I, IS THAT THE GUY IS NOT ON THE BOAT?

18 MR. KNIGHT: THAT'S RIGHT.

19 MR. BARENS: THAT TELLS YOU THAT SOMETHING IN FACT,
20 HAPPENED TO THE GUY?

21 MR. KNIGHT: YES.

22 MR. BARENS: WHAT IF YOU HAVE NO EVIDENCE OTHER THAN
23 THE FACT THAT NOBODY HEARD FROM HIM? IN OTHER WORDS, JUST
24 NOBODY HAS HEARD FROM SOMEBODY? I DIDN'T TELL YOU ANYTHING
25 ELSE. HE IS JUST NOT ON THE BOAT ANY MORE.

26 I WILL JUST SAY THAT HE WENT ON A CRUISE. NOBODY
27 HAS HEARD FROM HIM. DID SOMETHING HAPPEN TO HIM?

28 MR. KNIGHT: YOU ARE SAYING THAT HE IS -- ARE YOU SAYING

1 THAT HE IS NOW NOT ON THE BOAT?

2 MR. BARENS: I AM TELLING YOU THAT I DON'T KNOW. THE
3 GUY WENT ON A CRUISE. I NEVER HEARD FROM HIM AGAIN.

4 I DON'T KNOW WHETHER HE IS ON THE BOAT OR NOT
5 ON THE BOAT. I DON'T KNOW WHETHER HE GOT OFF ON THE OTHER
6 SIDE. I JUST DON'T KNOW.

7 MR. KNIGHT: I DON'T KNOW EITHER.

8 MR. BARENS: YOU JUST GOT IT. YOU DON'T HAVE ANY
9 EVIDENCE, DO YOU?

10 MR. KNIGHT: NOT IN THAT ONE.

11 MR. BARENS: DO YOU THINK THAT I HAVE ANY RESPONSIBILITY
12 OR MR. HUNT DOES, TO TELL YOU WHAT HAPPENED TO THAT GUY ON
13 THE BOAT OR WHAT HAPPENED TO ANYBODY?

14 MR. KNIGHT: YES.

15 MR. BARENS: I DO?

16 MR. KNIGHT: NOT NECESSARILY YOU. BUT I THINK
17 MR. WAPNER DOES.

18 MR. BARENS: THE PEOPLE DO? THE PEOPLE HAVE TO PROVE
19 SOMETHING TO YOU?

20 MR. KNIGHT: YES.

21 MR. BARENS: NOW, IF THE DEFENDANT IS OVER THERE SAYING
22 I DON'T KNOW, I AM WAITING FOR THE PEOPLE TO SHOW ME SOMETHING,
23 TOO, DO YOU THINK THERE IS ANYTHING WRONG OR UNFAIR ABOUT
24 THAT?

25 MR. KNIGHT: NOT AT ALL.

26 MR. BARENS: BEFORE YOU WOULD BELIEVE SOMEBODY WAS DEAD,
27 WOULD YOU HAVE TO BE SHOWN THAT BEYOND A REASONABLE DOUBT?

28 MR. KNIGHT: YES.

1 MR. BARENS: WOULD THE MERE FACT THAT NOBODY HAS HEARD
2 FROM SOMEBODY, CONVINCING YOU THAT THEY WERE DEAD?

3 MR. KNIGHT: ARE YOU JUST WITH THIS BOAT THING AGAIN?

4 MR. BARENS: WITH ANYTHING. I WILL TELL YOU THAT I
5 KNEW JOHN SMITH. I HAVE NEVER HEARD FROM HIM AGAIN. DOES
6 THAT TELL YOU THAT HE IS DEAD?

7 MR. KNIGHT: NO.

8 MR. BARENS: YOU NEED TO KNOW SOMETHING ABOUT JOHN SMITH,
9 DON'T YOU?

10 MR. KNIGHT: POSSIBLY, YES.

11 MR. BARENS: POSSIBLY AS TO WHETHER OR NOT IT IS LIKELY
12 THAT HE WOULD EVEN CONTACT ME?

13 MR. KNIGHT: THAT'S TRUE.

14 MR. BARENS: WOULDN'T YOU NEED TO KNOW A LITTLE BIT
15 ABOUT ME, TOO, TO KNOW WHETHER OR NOT I WOULD BE LIKELY TO
16 TELL YOU IF I HEARD FROM JOHN SMITH?

17 MR. KNIGHT: YES.

18 MR. BARENS: DO YOU SEE WHAT I AM GETTING AT? WHEN
19 WE TALK ABOUT A DISAPPEARANCE OR ANYTHING OF THAT NATURE,
20 DON'T WE REALLY HAVE TO UNDERSTAND THE NATURE NOT ONLY OF
21 THE PERSON WHO HAS ALLEGEDLY DISAPPEARED, BUT THE NATURE OF
22 THE PERSON WHO IS TELLING YOU THAT HE DISAPPEARED, TO SEE
23 IF THEY ARE BELIEVABLE?

24 MR. KNIGHT: YES.

25 MR. BARENS: ON BOTH ENDS OF THAT DEAL? THE FACT THAT
26 I TELL YOU SOMEONE HAS DISAPPEARED MAKES A STATEMENT ABOUT
27 THAT PERSON, ISN'T THAT TRUE? AM I TRYING TO GIVE YOU SOME
28 KIND OF EVIDENCE THAT IS STATUS EVIDENCE, THE STATUS OF

1 BEING DISAPPEARED? THAT EVIDENCE?

2 MR. KNIGHT: WOULD YOU ASK THAT QUESTION AGAIN?

3 MR. BARENS: WELL, THE FACT THAT --

4 THE COURT: KEEP YOUR VOICE UP, WILL YOU?

5 MR. KNIGHT: YES.

6 MR. BARENS: WELL, THE FACT THAT I AM TELLING YOU SOMEONE
7 HAS DISAPPEARED, I AM GIVING YOU EVIDENCE, AM I NOT, ABOUT
8 THAT PERSON?

9 MR. KNIGHT: YES.

10 MR. BARENS: GIVING YOU EVIDENCE THAT IS SAYING THEY
11 ARE NOT HERE OR WE DON'T KNOW WHERE THEY ARE, ISN'T THAT TRUE?

12 MR. KNIGHT: YES.

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17-1
1 MR. BARENS: I MAY HAVE SOME MOTIVE IN SAYING THAT,
2 MIGHT I NOT?

3 MR. KNIGHT: THAT'S TRUE.

4 MR. BARENS: THE MERE FACT THAT I SAY I HAVEN'T HEARD
5 FROM THAT PERSON, DOES THAT PROVE ANYTHING?

6 MR. KNIGHT: NO.

7 MR. BARENS: NO.

8 WHEN WE TALK ABOUT WHAT IS REASONABLE, WE HEARD
9 THE LAST JUROR QUERIED ABOUT A WALLET THAT WAS FOUND ON
10 SOMEBODY; DO YOU REMEMBER THAT EXAMPLE YESTERDAY OF THAT
11 ALLEGED ROBBERY THAT TAKES PLACE?

12 MR. KNIGHT: YES.

13 MR. BARENS: YOU NOTICE THE DEFENSE ALWAYS PUT THE WORD
14 "ALLEGED" BEFORE EVERYTHING AND THE PROSECUTION IS ALWAYS
15 REALLY SURE OF EVERYTHING.

16 YOU KNOW AN ALLEGED ROBBERY TOOK PLACE AND THEN
17 A GUY IS WALKING AND THE ROBBER, WE ARE TOLD, WALKS AWAY AND
18 THEN A MAN IS FOUND WITH A WALLET IN HIS POCKET.

19 AND DID YOU HEAR THE JURORS SAY, "WELL, THAT LOOKED
20 PRETTY GOOD, HE LOOKED GUILTY ON THAT ONE"?

21 MR. KNIGHT: I WOULD LIKE TO KNOW MORE ABOUT IT.

22 MR. BARENS: IS IT REASONABLE -- NOW WE ARE GOING TO TALK
23 NOW ABOUT REASONABLE AND POSSIBLE -- LET'S TALK ABOUT THAT FOR
24 A MINUTE -- THE GUY WAS RUNNING AWAY FROM A ROBBERY SCENE WITH
25 A WALLET, IS IT REASONABLE TO YOU THAT HE COULD HAVE DROPPED
26 THAT WALLET IN HIS HASTE AND NOT EVEN KNOW HE DROPPED IT, HE
27 STICKS IT IN HIS POCKET, HE IS RUNNING AND THE POLICE ARE
28 COMING, THE VICTIM MIGHT BE CHASING HIM, SCREAMING BLOODY

1 MURDER; IS IT REASONABLE THE ROBBER COULD HAVE DROPPED THE
2 WALLET?

3 MR. KNIGHT: YES, I WOULD SAY SO.

4 MR. BARENS: IS IT REASONABLE THAT ANOTHER GUY COMES ALONG
5 AND PICKS THAT WALLET UP AND STICKS IT IN HIS POCKET AND ALL
6 OF THE MONEY IS IN THERE BECAUSE NO ONE IS GOING TO PICK UP
7 AN EMPTY WALLET; NOW, WHAT AM I GUILTY OF, IF I AM GUILTY OF
8 ANYTHING -- AT THAT POINT, WE HAVE GOT THIS GUY -- IS IT
9 TOTALLY UNREASONABLE IF I COME TO YOU AND I SAY TO YOU "JURY,
10 I DIDN'T STEAL THAT GUY'S WALLET. I FOUND IT ON THE GROUND
11 WITH ALL THE MONEY IN IT AND IT HAD I.D. IN IT, RIGHT NEAR
12 WHERE THAT ROBBERY TOOK PLACE." AM I TALKING ABOUT WHAT IS
13 POSSIBLE NOW OR AM I TALKING ABOUT WHAT IS REASONABLE IN YOUR
14 MIND?

15 MR. KNIGHT: JUST POSSIBLE, I WOULD SAY.

16 I DON'T KNOW, IT COULD BE THE GUY WHO STOLE IT OR
17 MAYBE HE JUST FOUND IT, AT THIS POINT.

18 MR. BARENS: WELL, THE PROBLEM IS, WOULD YOU AGREE
19 WITH ME, THAT IN DETERMINING WHAT IS REASONABLE OR POSSIBLE
20 IN THAT INSTANCE, DOESN'T IT COME DOWN TO WHETHER YOU BELIEVE
21 ME OR NOT?

22 MR. KNIGHT: I GUESS SO.

23 MR. BARENS: THAT DISTINCTION BETWEEN REASONABLE AND
24 POSSIBLE, YOU SEE, I AM TELLING YOU SOMETHING, WOULD YOU ADMIT,
25 THAT COULD HAVE HAPPENED?

26 MR. KNIGHT: YES.

27 MR. BARENS: THERE IS NO QUESTION ABOUT THAT, I COULD
28 HAVE FOUND THE WALLET ON THE GROUND.

17-5

1 MR. KNIGHT: THAT'S RIGHT.

2 MR. BARENS: YOU HAVE THEN GOT TO DO WHAT? YOU HAVE GOT
3 TO LOOK AT MY MOTIVES AND MY TESTIMONY.

4 MR. KNIGHT: RIGHT.

5 MR. BARENS: WE KNOW MY MOTIVE. MY MOTIVES ARE THAT I
6 DON'T WANT TO BE CONVICTED FOR A CRIME I DIDN'T COMMIT, MAYBE.

7 MR. KNIGHT: YES.

8 MR. BARENS: YOU HAVE GOT TO LOOK OUTSIDE OF MY TESTIMONY,
9 TOO, DON'T YOU?

10 MR. KNIGHT: THAT'S RIGHT.

11 MR. BARENS: YOU HAVE GOT TO LOOK AT THE IDENTIFICATION
12 MADE ON ME BY THE VICTIM.

13 MR. KNIGHT: YES.

14 MR. BARENS: ALTHOUGH IN THE EXAMPLE, IT WAS SO POORLY
15 LIT THAT THE VICTIM NEVER HAD A CHANCE TO MAKE A GOOD I.D.,
16 I BELIEVE WAS PART OF THE EXAMPLE. IF YOU ARE GIVEN NOTHING
17 ELSE BUT THE VICTIM SAYING "SOMEBODY STOLE MY WALLET," AND
18 THE DEFENDANT BEING FOUND WITH THAT WALLET AND HE SAYS, "HEY,
19 I DIDN'T STEAL THIS. I HAVE GOT MY OWN MONEY. I DIDN'T NEED
20 TO STEAL YOUR MONEY." AND THERE IS NOBODY THAT SAYS HE SAW
21 HIM STEAL THAT MONEY, THAT IS ALL WE HAVE GOT, WHAT DO YOU DO
22 IN THAT CASE WHEN YOU GO OFF AND DELIBERATE, CAN YOU TELL
23 ME? THAT IS ALL WE HAVE GOT.

24 MR. KNIGHT: IF THAT IS ALL WE HAVE, I WOULD HAVE TO
25 SAY NOT GUILTY.

26 MR. BARENS: NOT PROVEN?

27 MR. KNIGHT: THAT'S RIGHT.

28 MR. BARENS: NOTHING BEYOND A REASONABLE DOUBT THERE?

1 MR. KNIGHT: THAT'S RIGHT.

2 MR. BARENS: THERE YOU HAVE TWO POSSIBILITIES, BOTH OF
3 WHICH APPEAR REASONABLE, WHAT DO WE DO WITH THE TWO REASONABLE
4 POSSIBILITIES?

5 MR. KNIGHT: WELL, YOU WOULD HAVE TO FIND A PERSON NOT
6 GUILTY.

7 MR. BARENS: RIGHT, BECAUSE WE HAVEN'T ESTABLISHED A
8 LEVEL OF PROOF BEYOND A REASONABLE DOUBT; IS THAT CORRECT?

9 MR. KNIGHT: THAT'S RIGHT.
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1 MR. BARENS: WHAT IS THE LAST MOVIE YOU SAW?

2 MR. KNIGHT: "WAR GAMES."

3 MR. BARENS: "WAR GAMES."

4 AND WHAT WAS THE LAST BOOK YOU READ, IF ANY?

5 MR. KNIGHT: I HAVEN'T READ A BOOK IN YEARS.

6 I READ A LOT OF MAGAZINES BUT NOT VERY MANY BOOKS.

7 MR. BARENS: ANY PARTICULAR MAGAZINES YOU PREFER TO
8 READ, SIR?

9 MR. KNIGHT: BASICALLY BOATING, MOTHER EARTH NEWS,
10 SCOUTING.

11 MR. BARENS: DO YOU HAVE BROTHERS AND SISTERS?

12 MR. KNIGHT: YES, I DO. I HAVE TWO BROTHERS.

13 MR. BARENS: AND WHAT DO THEY DO, SIR?

14 MR. KNIGHT: ONE DESIGNS CIRCUIT BOARDS, MY OLDER
15 BROTHER, AND MY YOUNGER BROTHER WORKS FOR A CABLE COMPANY AND
16 INSTALLS CABLE SYSTEMS.

17 MR. BARENS: HAVE YOU JUST BEEN MARRIED THE ONE TIME?

18 MR. KNIGHT: YES.

19 MR. BARENS: AND YOU ARE FROM THE SOUTHERN CALIFORNIA
20 AREA?

21 MR. KNIGHT: YES.

22 MR. BARENS: DO YOU BELONG TO ANY CLUBS OR ORGANIZATIONS
23 OTHER THAN YOUR UNION AT WORK?

24 MR. KNIGHT: BOY SCOUTS OF AMERICA AND THE OLD TIME
25 FIDDLERS ASSOCIATION.

26 MR. BARENS: WHAT IS THE OLD TIME FIDDLERS ASSOCIATION?
27 I WILL ASK THE OBVIOUS.

28 MR. KNIGHT: OKAY, IT IS JUST TO PRESERVE THE STYLE OF

1 OLD TIME FIDDLING.

2 I AM NOT THE ONE THAT ACTUALLY PLAYS. MY SON DOES
3 AND HE IS TOO YOUNG TO BE A MEMBER SO I AM A MEMBER.

4 MR. BARENS: THAT IS AN INTERESTING ACTIVITY. I HAVE
5 NEVER HEARD OF THAT ONE BEFORE.

6 ALL RIGHT, WITH THE BOY SCOUTS, ARE YOU ACTIVE AS
7 A SCOUTING FATHER?

8 MS. KNIGHT: YES, I AM. I AM A DEN LEADER FOR THE CUB
9 SCOUTS.

10 MR. BARENS: WERE YOU A SCOUT YOURSELF?

11 MR. KNIGHT: YES, I WAS.

12 MR. BARENS: WERE YOU AN EAGLE SCOUT?

13 MR. KNIGHT: NOPE. NEVER MADE THAT ONE.

14 MR. BARENS: DO YOU HAVE ANY PETS?

15 MR. KNIGHT: YES, OUR FAMILY HAS TWO RATS.

16 (LAUGHTER IN COURTROOM.)

17 MR. BARENS: I HAVEN'T WORKED WITH EITHER OF THEM, HAVE
18 I?

19 YOU HAVE TWO RATS AS PETS?

20 MR. KNIGHT: YES. THEY ARE EXCELLENT.

21 MR. BARENS: BILLIONAIRES BOYS CLUB, DOES THAT CREATE
22 ANY CONNOTATION OR IMPLICATION FOR YOU THAT YOU FIND
23 OBJECTIONABLE OR DIFFICULT TO DEAL WITH?

24 MR. KNIGHT: NOT AT ALL.

25 MR. BARENS: NOTHING WRONG WITH THE PURSUIT OF
26 CAPITALISM, THAT SORT OF THING?

27 MR. KNIGHT: NO.

28 MR. BARENS: I PASS FOR CAUSE, YOUR HONOR. THANK YOU.

1 MR. WAPNER: GOOD AFTERNOON, MR. KNIGHT.

2 MR. KNIGHT: HI.

3 MR. WAPNER: IN THE EXAMPLE ABOUT THE ROBBERY ON THE
4 STREET, YOU WOULD WANT TO HAVE AS MUCH MORE INFORMATION AS
5 YOU COULD IN THAT PARTICULAR CIRCUMSTANCE, WOULDN'T YOU?

6 MR. KNIGHT: YES, I WOULD.

7 MR. WAPNER: SO IF THE PERSON SAID THAT HE FOUND THE
8 WALLET AND THE EXPLANATION IS THAT SOMEBODY WAS RUNNING AWAY
9 FROM THE SCENE, YOU WOULD WANT TO KNOW, FOR EXAMPLE, FROM
10 THE PERSON WHO WAS ROBBED, DID SOMEONE RUN AWAY?

11 MR. KNIGHT: YES.

12 MR. WAPNER: AND DID HE CHASE THAT PERSON?

13 MR. KNIGHT: YES.

14 MR. WAPNER: AND WHAT ELSE WOULD YOU WANT TO KNOW, DO
15 YOU THINK?

16 MR. KNIGHT: SO THAT I WOULD KNOW THAT THE PERSON THAT
17 HAD THE WALLET WAS THE THIEF, IS THAT WHAT YOU ARE ASKING?

18 MR. WAPNER: OR NOT.

19 MR. KNIGHT: WHAT ELSE WOULD I WANT TO KNOW?

20 MR. WAPNER: WOULD IT MAKE A DIFFERENCE, FOR EXAMPLE,
21 IF A POLICEMAN CAME IN AND SAID "YEAH, I STOPPED THAT GUY ON
22 THE STREET WITH THE WALLET AND HE WAS OUT OF BREATH AND HE WAS
23 SWEATING."

24 MR. KNIGHT: THAT LOOKS PRETTY BAD, YES.

25 MR. WAPNER: BUT THESE ARE THINGS, IN OTHER WORDS, I AM
26 NOT TRYING -- THERE IS NO RIGHT OR WRONG ANSWER BUT THESE ARE
27 FACTS THAT YOU WOULD WANT TO KNOW.

28 MR. KNIGHT: YES.

1 MR. WAPNER: AND IF HE WASN'T OUT OF BREATH AND HE WASN'T
2 SWEATING, IT MIGHT POINT ONE WAY AND IF HE WAS OUT OF BREATH
3 AND HE WAS SWEATING, IT MIGHT POINT ANOTHER WAY.

4 MR. KNIGHT: THAT'S RIGHT.

5 MR. WAPNER: BUT YOU WOULD WANT TO HAVE THAT INFORMATION
6 IF YOU COULD, RIGHT?

7 MR. KNIGHT: YES.

8 MR. WAPNER: AND WOULD YOU TRY AND GET AS MUCH INFORMATION
9 AS YOU POSSIBLY COULD BEFORE YOU MADE YOUR DECISION?

10 MR. KNIGHT: SURE WOULD.

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18A-1

1 MR. WAPNER: OKAY. AND HAVE YOU EVER SERVED ON A JURY
2 BEFORE?

3 MR. KNIGHT: NO.

4 MR. WAPNER: WOULD YOU TAKE INTO CONSIDERATION ALL OF
5 THE FACTS AND CIRCUMSTANCES AND WEIGH IT AGAINST WHAT A
6 PERSON SAID, FOR EXAMPLE?

7 MR. KNIGHT: YES I WOULD.

8 MR. WAPNER: SO, YOU MIGHT WANT TO KNOW NOT ONLY WHETHER
9 THE PERSON WAS SWEATING, BUT IF HE TESTIFIED HE WASN'T SWEATING,
10 WERE THERE OTHER PEOPLE WHO SAW HIM RUNNING OR SAW HIM AND
11 WHAT CONDITION HE WAS IN?

12 MR. KNIGHT: YES. I WOULD LIKE TO KNOW ALL OF THAT.

13 MR. WAPNER: OKAY. AND WHEN MR. BARENS SAYS, "DOES
14 IT COME DOWN TO DO YOU BELIEVE ME OR NOT," WOULD YOU TAKE
15 INTO CONSIDERATION ALL OF THE FACTS AND TESTIMONY OF OTHER
16 WITNESSES IN EVALUATING WHETHER THE TESTIMONY OF A PARTICULAR
17 WITNESS YOU THOUGHT, WAS TRUE OR NOT?

18 MR. KNIGHT: YES. I WOULD LISTEN TO ALL OF THE WITNESSES
19 EQUALLY.

20 MR. WAPNER: DO YOU UNDERSTAND AS I WAS TALKING WITH
21 MR. ENGLE ABOUT THAT, THAT THAT MEANS -- THAT THAT DOESN'T
22 MEAN THAT ALL OF THE WITNESSES GET EQUAL WEIGHT?

23 MR. KNIGHT: I DON'T KNOW WHAT YOU MEAN BY THAT.

24 MR. WAPNER: OKAY. IF TWO WITNESSES -- YOU ONLY HAVE
25 TWO WITNESSES TESTIFYING, FOR EXAMPLE --

26 MR. KNIGHT: YES.

27 MR. WAPNER: ONE SAYS BLACK AND ONE SAYS WHITE. DO
28 YOU THINK YOU ARE REQUIRED TO BELIEVE EACH OF THEM EQUALLY?

18A-2
1 MR. KNIGHT: YES.

2 MR. WAPNER: WHY?

3 MR. KNIGHT: WELL, I THINK THEY MAY ACTUALLY THINK THAT
4 ONE SAW BLACK AND THE OTHER ONE MAY THINK HE SAW WHITE. SO
5 THEY MAY NOT BE -- I CAN'T ASSUME THAT EITHER ONE IS
6 CONSCIOUSLY NOT TELLING THE TRUTH. THEY MAY BELIEVE THEY
7 ARE TELLING THE TRUTH.

8 MR. WAPNER: RIGHT. BUT IN FACT, IF THEY BOTH SAW THE
9 SAME THING, THEY COULDN'T BOTH BE TELLING THE TRUTH, IS THAT
10 RIGHT?

11 MR. KNIGHT: THAT'S RIGHT.

12 MR. WAPNER: OKAY. WHAT I AM TRYING TO GET AT IS, THAT
13 THE TESTIMONY OF EACH WITNESS -- LET ME BACK UP.

14 IF YOU ARE ON THIS JURY, YOU ARE GOING TO BE A
15 JUDGE. THERE ARE GOING TO BE 12 JUDGES AND YOU ARE GOING
16 TO BE ONE OF THEM. AND IT IS GOING TO BE YOUR JOB TO FIGURE
17 OUT WHAT THE TRUTH IS. DO YOU UNDERSTAND THAT?

18 MR. KNIGHT: YES.

19 MR. WAPNER: OKAY. THE JUDGE IS GOING TO GIVE YOU SOME
20 GUIDELINES. HE IS GOING TO GIVE YOU THE LAW THAT YOU HAVE
21 TO APPLY TO THIS CASE. HE IS GOING TO TELL YOU THAT THERE
22 ARE CERTAIN STANDARDS THAT YOU CAN USE IN TRYING TO EVALUATE
23 THE CREDIBILITY OF WITNESSES.

24 MR. KNIGHT: YES.

25 MR. WAPNER: AND THEN HE IS GOING TO TELL YOU THAT YOU
26 HAVE TO USE THOSE STANDARDS, THE SAME STANDARDS, THE SAME
27 SCALE FOR ALL OF THE WITNESSES. DO YOU UNDERSTAND THAT?

28 MR. KNIGHT: YES.

18A-3

1 MR. WAPNER: AND AS I BELIEVE IT WAS MR. PEIKERT THAT
2 SAID, IF EVERYONE TOLD THE TRUTH UNDER OATH, OBVIOUSLY, WE
3 WOULDN'T NEED COURTS. RIGHT?

4 MR. KNIGHT: RIGHT. THAT'S RIGHT.

5 MR. WAPNER: SO IN THAT CIRCUMSTANCE, WHERE YOU HAVE
6 TWO WITNESSES SAYING THE SAME THING AND YOU HAVE OTHER
7 WITNESSES IN THE TRIAL GIVING TESTIMONY ABOUT THAT SAME
8 SUBJECT, WOULD YOU TAKE ALL OF THE TESTIMONY INTO CONSIDERATION?

9 MR. KNIGHT: YES I WOULD.

10 MR. WAPNER: WOULD YOU USE THE TESTIMONY, ALL OF THE
11 TESTIMONY THAT YOU HAD IN TRYING TO FIGURE OUT WHICH OF THOSE
12 TWO PEOPLE WERE TELLING THE TRUTH?

13 MR. KNIGHT: YES I WOULD.

14 MR. WAPNER: AND ULTIMATELY, IT WOULD BE YOUR JOB IN
15 THAT HYPOTHETICAL TO FIGURE OUT WHETHER THE ITEM WAS BLACK
16 OR WHETHER IT WAS WHITE?

17 MR. KNIGHT: THAT'S RIGHT.

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1 MR. WAPNER: IF YOU CAME TO A DECISION THAT IT WAS
2 EITHER BLACK OR WHITE, WOULD THAT MEAN THAT YOU THEREFORE,
3 DECIDED THAT YOU WERE DISREGARDING THE TESTIMONY OR GIVING
4 LESS WEIGHT TO THE TESTIMONY OF THE PERSON WHO SAID THAT IT
5 WAS THE OPPOSITE COLOR?

6 MR. KNIGHT: I GUESS I WOULD.

7 MR. WAPNER: I AM NOT ASKING YOU TO SAY THAT THAT PERSON
8 WAS LYING. DO YOU UNDERSTAND THE DIFFERENCE?

9 MR. KNIGHT: YES.

10 MR. WAPNER: IN OTHER WORDS, A PERSON COULD BE
11 MISTAKEN AS YOU SUGGESTED, RIGHT?

12 MR. KNIGHT: THAT'S RIGHT.

13 MR. WAPNER: BUT IT WOULD BE YOUR JOB TO FIGURE OUT
14 WHETHER HE WAS MISTAKEN OR NOT?

15 MR. KNIGHT: YES.

16 MR. WAPNER: IS IT POSSIBLE -- DO YOU BELIEVE THAT PEOPLE
17 LIE UNDER OATH?

18 MR. KNIGHT: YES.

19 MR. WAPNER: AND CAN YOU MAKE THE DISTINCTION IN YOUR
20 MIND ABOUT PEOPLE WHO TELL THE TRUTH BUT ARE MISTAKEN AND
21 PEOPLE WHO INTENTIONALLY LIE?

22 MR. KNIGHT: I THINK SO.

23 MR. WAPNER: AND HAVE YOU EVER HAD OCCASION TO DO THAT
24 DURING YOUR LIFE?

25 MR. KNIGHT: POSSIBLY, RAISING MY KIDS.

26 MR. WAPNER: THAT WAS -- IF YOU DIDN'T BRING THAT UP,
27 THAT IS WHAT I WAS GOING TO DO.

28 DO YOU THINK THAT THEY ALWAYS TELL THE TRUTH?

183-2

1 MR. KNIGHT: NO.

2 MR. WAPNER: SOMETIMES THEY HAVE REASONS THAT THEY
3 DON'T WANT TO TELL YOU THE TRUTH, RIGHT?

4 MR. KNIGHT: THAT'S RIGHT.

5 MR. WAPNER: IS THERE ANYTHING THAT SPECIFICALLY COMES
6 TO YOUR MIND?

7 MR. KNIGHT: NO.

8 MR. WAPNER: OKAY. AND WHEN THEY HAVE SAID SOMETHING
9 TO YOU THAT YOU THINK IS A LIE, HOW DID YOU GO ABOUT MAKING
10 THAT DETERMINATION?

11 MR. KNIGHT: WELL, I WILL JUST QUESTION EACH OF THEM.
12 SOMETIMES I DON'T GET -- SOMETIMES I CAN'T DECIDE EXACTLY
13 WHO WAS TELLING THE TRUTH.

14 BUT ONE THING WITH KIDS IS THAT SOMETIMES THEIR
15 IMAGINATIONS ARE SUCH THAT THEY THINK THEY HAVE DONE ONE THING
16 AND ACTUALLY THEY HAVE NOT.

17 SO I THINK WITH KIDS, IT MIGHT BE A LITTLE HARDER
18 THAN WITH ADULTS.

19 MR. WAPNER: HAVE YOU EVER HAD ANY SITUATIONS WHERE,
20 AFTER YOU GOT THE STORY FROM YOUR CHILDREN, YOU THOUGHT THAT
21 MAYBE THEY REALLY WERE LYING TO YOU?

22 MR. KNIGHT: I HAVE NOT REALLY CAUGHT THEM ACTUALLY --
23 THEY ARE NOT REALLY OLD ENOUGH TO SEE THE BENEFIT OR ANYTHING
24 OF TELLING A GOOD LIE. I DON'T KNOW.

25 MR. WAPNER: OKAY. DO YOU THINK IT IS POSSIBLE THAT
26 YOU MIGHT HAVE A WITNESS COME INTO COURT AND SEE THE BENEFIT
27 OF TELLING A GOOD LIE?

28 MR. KNIGHT: SURE.

1 MR. WAPNER: OKAY. HAVE YOU EVER HAD OCCASION IN THE
2 CUB SCOUTS OR IN THE DEN TO FIGURE OUT, DECIDE SOMEONE WAS
3 LYING TO YOU ABOUT SOMETHING?

4 MR. KNIGHT: NO. NOTHING HAS EVER COME UP.

5 MR. WAPNER: DO YOU TAKE YOUR KIDS WITH YOU WHEN YOU
6 GO BOATING AND BACKPACKING AND THINGS LIKE THAT?

7 MR. KNIGHT: YES.

8 MR. WAPNER: ARE YOUR PARENTS STILL LIVING?

9 MR. KNIGHT: YES THEY ARE.

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

11 MR. KNIGHT: MY MOTHER LIVES IN SAN DIEGO. I DON'T
12 KNOW WHERE MY FATHER IS.

13 MR. WAPNER: THIS IS SOMEWHAT DELICATE. AND I DON'T
14 MEAN TO BE PRYING INTO YOUR AFFAIRS.

15 IF IT IS NOT TOO MUCH OF A PROBLEM, CAN YOU GIVE
16 ME AN EXPLANATION ABOUT THAT?

17 MR. KNIGHT: WELL, MY PARENTS WERE SEPARATED WHEN I
18 WAS ABOUT SEVEN.

19 MR. WAPNER: SINCE THAT TIME, HAVE YOU HAD ANY CONTACT
20 WITH YOUR FATHER?

21 MR. KNIGHT: NONE AT ALL.

22 MR. WAPNER: AND WAS THAT AS FAR AS YOU KNOW, BY HIS
23 CHOICE?

24 MR. KNIGHT: IT WAS, YES.

25 MR. WAPNER: DO YOU HARBOR A LOT OF RESENTMENT TOWARDS
26 HIM?

27 MR. KNIGHT: NOT AT ALL.

28 MR. WAPNER: HOW OFTEN DO YOU SEE OR TALK TO YOUR MOTHER?

1 MR. KNIGHT: I GUESS ABOUT EVERY THREE MONTHS.

2 MR. WAPNER: AND HOW FAR FROM YOU DOES SHE LIVE?

3 MR. KNIGHT: 120 MILES.

4 MR. WAPNER: SAN DIEGO?

5 MR. KNIGHT: YES.

6 MR. WAPNER: AND DO YOU TALK TO HER EVERY THREE MONTHS

7 ON THE TELEPHONE?

8 MR. KNIGHT: YES. WE ARE NOT REAL CLOSE.

9 MR. WAPNER: AND HOW ABOUT YOUR WIFE'S FAMILY? ARE
10 YOU CLOSE TO THEM?

11 MR. KNIGHT: YES.

12 MR. WAPNER: DO YOU SEE THEM FAIRLY OFTEN?

13 MR. KNIGHT: YES, ABOUT ONCE A MONTH.

14 MR. WAPNER: AND IS THERE ANYTHING ABOUT YOUR RELATIONSHIP
15 WITH YOUR MOTHER AND WHAT HAPPENED BETWEEN YOU AND YOUR FATHER,
16 THAT YOU MADE A CONSCIOUS CHOICE TO RAISE YOUR CHILDREN IN
17 A DIFFERENT WAY, TO ATTEMPT TO BE CLOSER TO THEM, FOR EXAMPLE?

18 MR. KNIGHT: I GUESS IT WOULD BE TO BE CLOSER TO THEM.

19 MR. WAPNER: HOW OFTEN DO YOU SEE YOUR WIFE'S FOLKS?

20 MR. KNIGHT: I SAID ABOUT ONCE A MONTH.

21 MR. WAPNER: SORRY.

22 MR. KNIGHT: OKAY. IT IS ALL RIGHT.

23 MR. WAPNER: IF YOU SIT ON THIS CASE AND YOU FEEL THAT
24 THERE HAS BEEN PROOF BEYOND A REASONABLE DOUBT OF A MURDER
25 AND THAT THE DEFENDANT DID IT, COULD YOU VOTE GUILTY?

26 MR. KNIGHT: YES.

27 MR. WAPNER: NOTWITHSTANDING THE FACT THAT THERE WAS
28 NO BODY?

1 MR. KNIGHT: YES.

2 MR. WAPNER: HAVE YOU EVER BEEN THE VICTIM OF A THEFT
3 OR ANY KIND OF A CON SCHEME?

4 MR. KNIGHT: NO.

5 MR. WAPNER: DID YOU TELL US WHETHER YOU HAVE SAT ON
6 A JURY BEFORE?

7 MR. KNIGHT: I HAVE NOT.

8 MR. WAPNER: THANK YOU. I PASS FOR CAUSE, YOUR HONOR.

9 THE COURT: I THINK I WILL GIVE EVERYBODY A LITTLE RECESS,
10 LADIES AND GENTLEMEN. WE'LL TAKE A 15-MINUTE RECESS.

11 (RECESS.)

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1 THE COURT: ALL RIGHT, IS IT THE PEOPLE'S PEREMPTORY?

2 MR. WAPNER: THE DEFENSE, YOUR HONOR.

3 MR. BARENS: YES, YOUR HONOR, THE DEFENSE WOULD ASK YOUR
4 HONOR TO THANK AND EXCUSE JUROR NUMBER 11, MR. ENGLE.

5 THE COURT: THANK YOU, MR. ENGLE.

6 THE CLERK: HARVEY L. CRAWFORD, C-R-A-W-F-O-R-D.

7 THE COURT: ARE YOU READY FOR THE OPENING QUESTION, MR.
8 CRAWFORD?

9 MR. CRAWFORD: YES, SIR.

10 THE COURT: WHAT IS YOUR ANSWER?

11 MR. CRAWFORD: SIR, THEY WOULD BE THE SAME.

12 (LAUGHTER IN THE COURTROOM.)

13 THE COURT: WHAT DO YOU DO, MR. CRAWFORD?

14 MR. CRAWFORD: I AM A SENIOR EQUIPMENT REPAIR MAN, SIR.

15 THE COURT: BY WHOM ARE YOU EMPLOYED?

16 MR. CRAWFORD: LOS ANGELES COUNTY.

17 THE COURT: AND WHAT PARTICULAR DEPARTMENT?

18 MR. CRAWFORD: FACILITY MANAGEMENT DEPARTMENT.

19 THE COURT: AND IS THERE A MRS. CRAWFORD?

20 MR. CRAWFORD: YES, THERE IS.

21 THE COURT: DOES SHE HAVE ANY EMPLOYMENT OUTSIDE THE
22 HOME?

23 MR. CRAWFORD: YES, SHE IS A COLLECTOR-INVESTIGATOR.

24 THE COURT: WHAT?

25 MR. CRAWFORD: COLLECTOR-INVESTIGATOR.

26 THE COURT: WHAT DOES THAT MEAN?

27 MR. CRAWFORD: SHE COLLECTS UNPAID BILLS.

28 THE COURT: HER OWN OR SOMEBODY ELSE'S?

1 AND WHERE DO YOU LIVE?

2 MR. CRAWFORD: IN LOS ANGELES.

3 THE COURT: HAVE YOU OR A MEMBER OF YOUR FAMILY OR ANY
4 CLOSE PERSONAL FRIEND EVER BEEN A VICTIM OF ANY KIND OF A
5 CRIME?

6 MR. CRAWFORD: NONE.

7 THE COURT: AND WHERE DO YOU LIVE, SIR?

8 MR. CRAWFORD: SIR?

9 THE COURT: WHERE DO YOU LIVE?

10 MR. CRAWFORD: SOUTHWEST LOS ANGELES.

11 THE COURT: ALL RIGHT. DID YOU GO TO SCHOOL HERE?

12 MR. CRAWFORD: YES, SIR.

13 THE COURT: WHERE DID YOU GO?

14 MR. CRAWFORD: I FINISHED TRADE TECH COLLEGE.

15 THE COURT: WHERE IS THAT LOCATED?

16 MR. CRAWFORD: IT IS IN LOS ANGELES.

17 THE COURT: AND DO YOU HAVE ANY CHILDREN?

18 MR. CRAWFORD: YES, I HAVE THREE.

19 THE COURT: HOW OLD ARE THEY?

20 MR. CRAWFORD: THIRTY-THREE, THIRTY-TWO AND A SON
21 DECEASED, SEVENTEEN.

22 THE COURT: I AM SORRY TO HEAR THAT.

23 ALL RIGHT.

24 MR. BARENS: THANK YOU, YOUR HONOR.

25 GOOD AFTERNOON, MR. CRAWFORD.

26 MR. CRAWFORD: GOOD AFTERNOON.

27 MR. BARENS: WHAT DO YOU THINK HAPPENED TO THE GUY ON
28 THE BOAT?

1 MR. CRAWFORD: I WOULD HAVE TO HAVE MORE BACKGROUND
2 INFORMATION ON IT BEFORE I KNEW THE STORY ON THAT.

3 MR. BARENS: DO YOU UNDERSTAND THAT IF I WANT TO TALK
4 ABOUT CIRCUMSTANTIAL EVIDENCE WITH YOU, THAT I CAN TRICK YOU,
5 I CAN ASK YOU QUESTIONS THAT MAKE THE ANSWER INEVITABLE.

6 MR. CRAWFORD: YES.

7 MR. BARENS: DO YOU UNDERSTAND THAT IN A TRIAL, TO MAKE
8 A CONCLUSION INEVITABLE, YOU HAVE TO BE CONVINCED BEYOND A
9 REASONABLE DOUBT?

10 MR. CRAWFORD: YES.

11 MR. BARENS: OKAY, IT IS NOT GOING TO BE A SITUATION
12 WHERE WE SAY "WELL, HE IS ACCUSED OF COMMITTING A MURDER, NOW
13 LET'S DECIDE WHAT WE ARE GOING TO DO WITH HIM." WE ARE NOT
14 GOING TO MAKE THAT LEAP, HE IS OFF THE BOAT, HE IS OFF THE
15 PLANE.

16 EVEN THOUGH HE IS ACCUSED, THAT ISN'T EVIDENCE,
17 IS IT?

18 MR. CRAWFORD: NO.

19 MR. BARENS: HOW DO YOU FEEL ABOUT THE PRESUMPTION OF
20 INNOCENCE. THE DEFENDANT COMES TO THIS COURT CLOAKED IN?

21 MR. CRAWFORD: IT IS VERY GOOD.

22 MR. BARENS: AND YOU HAVE NO PROBLEM WITH THAT?

23 MR. CRAWFORD: NONE.

24 MR. BARENS: DO YOU HAVE ANY PROBLEM WITH THE FACT THAT
25 THE GOVERNMENT HAS THE SOLE OBLIGATION TO SHOW PROOF BEYOND
26 A REASONABLE DOUBT?

27 MR. CRAWFORD: NONE.

28 MR. BARENS: YOU HAVE BEEN TOLD BY THE JUDGE AND REMINDED

1 BY MR. WAPNER THAT THE GOVERNMENT CAN PUT ON A MURDER TRIAL
2 WITHOUT A BODY BEING PRESENT; ARE YOU COMFORTABLE WITH THAT?

3 MR. CRAWFORD: YES.

4 MR. BARENS: DO YOU NEED SOME EVIDENCE TO PROVE TO YOU
5 THAT A MURDER OCCURRED?

6 MR. CRAWFORD: YES.

7 MR. BARENS: DO YOU ASSUME, BY ANY CHANCE, THAT BECAUSE
8 MR. HUNT IS HERE ACCUSED OF MURDER THAT WHAT WE ARE HERE TO
9 FIND OUT IS WHETHER HE DID IT OR NOT.

10 MR. CRAWFORD: WELL, HE IS INNOCENT.

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1 MR. BARENS: DO YOU THINK THAT WHAT WE ARE GOING TO
2 TRY TO FIND OUT HERE THOUGH, IS WHETHER HE COMMITTED MURDER
3 OR NOT?

4 MR. CRAWFORD: YES.

5 MR. BARENS: WHAT MURDER?

6 MR. CRAWFORD: THE ONE HE IS ACCUSED OF.

7 MR. BARENS: WELL, THERE IS NO EVIDENCE THAT ANY MURDER
8 TOOK PLACE, IS THERE?

9 MR. CRAWFORD: NONE THAT HAS BEEN PRESENTED.

10 MR. BARENS: WHAT I AM TRYING TO COORDINATE BETWEEN
11 YOU AND I, MR. CRAWFORD, IS THE FACT THAT BECAUSE SOMEONE
12 IS ACCUSED OF MURDER -- AND I KNOW CONVENTIONALLY YOU GET
13 A SITUATION WHERE YOU KNOW, THE CORONER IS THE FIRST WITNESS --
14 YOU ARE NOT GOING TO HAVE A CORONER, MR. CRAWFORD.

15 CAN YOU UNDERSTAND THAT WHEN THERE IS NO BODY,
16 JUST BECAUSE WE ARE ACCUSED OF A MURDER, THERE IS NO NECESSITY
17 TO BELIEVE THAT ANY MURDER EVER TOOK PLACE? OR DO YOU
18 AUTOMATICALLY THINK, WELL, THERE WAS A MURDER BUT I HAVE GOT
19 TO FIGURE OUT WHETHER MR. HUNT DID IT OR NOT? DO YOU SEE
20 THE DIFFERENCE?

21 MR. CRAWFORD: YES.

22 MR. BARENS: COULD YOU FIND IT IN YOUR MIND THAT YOU
23 FIRST WOULD HAVE TO -- IT WOULD HAVE TO BE PROVEN THAT A MURDER
24 TOOK PLACE BEFORE WE ARE GOING TO DECIDE WHETHER OR NOT THIS
25 YOUNG MAN DID THE MURDER?

26 MR. CRAWFORD: YES.

27 MR. BARENS: OKAY. DO YOU FEEL IF MR. HUNT TESTIFIED,
28 THAT HE WOULD JUST BE INTO SAVING HIS SKIN RATHER THAN TELLING

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1 THE TRUTH?

2 MR. CRAWFORD: NO.

3 MR. BARENS: WOULD YOU WEIGH HIS TESTIMONY LIKE YOU
4 WOULD ANY OTHER WITNESS?

5 MR. CRAWFORD: YES.

6 MR. BARENS: COULD YOU TELL ME A LITTLE MORE ABOUT
7 SPECIFICALLY WHAT YOU DO IN YOUR JOB, MR. CRAWFORD?

8 MR. CRAWFORD: WELL, I REPAIR STREET SWEEPERS. I
9 REPAIR ELECTRICAL SCOOTERS OR CARS AND THINGS LIKE THAT,
10 OFF-HIGHWAY EQUIPMENT.

11 MR. BARENS: WHAT DID YOU DO BEFORE THAT?

12 MR. CRAWFORD: I WAS IN THE U.S. ARMY.

13 MR. BARENS: WHAT DID YOU DO IN THE ARMY?

14 MR. CRAWFORD: I WAS A FIRST SERGEANT.

15 MR. BARENS: I HAD THAT FEELING, MR. CRAWFORD. I DON'T
16 KNOW WHY.

17 MR. CRAWFORD, HOW LONG DID YOU WORK AS A FIRST
18 SERGEANT?

19 MR. CRAWFORD: THIRTEEN YEARS.

20 MR. BARENS: AND WERE YOU IN CHARGE OF DISCIPLINARY
21 ACTION WITH YOUR PEOPLE?

22 MR. CRAWFORD: YES, NONJUDICIAL.

23 MR. BARENS: NONJUDICIAL? YOU WERE THE LAW, WEREN'T
24 YOU? IN FACT, YOU WERE THE GUY IN THE BLACK ROBE AS FAR AS
25 ALL OF THOSE GUYS WERE CONCERNED, WEREN'T YOU?

26 MR. CRAWFORD: THEY FELT SO.

27 MR. BARENS: I WILL STIPULATE TO THAT.

28 MR. CRAWFORD, WHAT DID YOU DO? I MEAN, WHAT WERE

1 YOUR DUTIES -- WERE GUYS BROUGHT TO YOU THAT WERE ACCUSED
2 OF HAVING DONE THINGS LIKE FOR INSTANCE, GUYS GOT INTO FIGHTS
3 AND THEN THEY WOULD COME TO YOU AND SAY WELL, THAT -- WELL,
4 SOME JUNIOR OFFICER WOULD SAY LISTEN, CRAWFORD, TWO OF YOUR
5 GUYS WERE FIGHTING IN THE BARRACKS AND WHAT ARE WE GOING TO
6 DO HERE?

7 MR. CRAWFORD: I WOULD COUNSEL THEM.

8 MR. BARENS: YOU WOULD COUNSEL THEM?

9 MR. CRAWFORD: YES.

10 MR. BARENS: DID YOU EVER HAVE TO MAKE A DECISION ABOUT
11 WHO DID WHAT? LIKE, WHO STARTED THE FIGHT OR WHOSE FAULT
12 IT WAS? DID YOU HAVE ANY OF THOSE FAULT-FINDING TYPE OF
13 DECISIONS TO MAKE?

14 MR. CRAWFORD: NO. I NEVER WENT THAT FAR INTO IT BECAUSE
15 OF THE FACT THAT -- MY POSITION WAS TO BUILD HARMONY AMONG
16 THE TROOPS.

17 WITH TWO HUNDRED AND SOME PEOPLE, YOU HAVE GOT
18 TO PRETTY WELL KEEP THEM WHERE THEY LIVE TOGETHER. YOU COULD
19 ALWAYS HAVE MISUNDERSTANDINGS.

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1 MR. BARENS: DID YOU HAVE THE RESPONSIBILITY OF IMPOSING
2 PUNISHMENT?

3 MR. CRAWFORD: A LITTLE RESTRICTION, PASS PRIVILEGES
4 TAKEN AWAY.

5 MR. BARENS: OKAY, A LITTLE RESTRICTION. HERE, WE WOULD
6 BE TALKING ABOUT A LOT OF RESTRICTION.

7 WHEN YOU HAD TO MAKE THAT RESTRICTION TYPE OF
8 DECISION, WAS THAT ALWAYS IN A SITUATION WHERE YOU WERE
9 ABSOLUTELY CONVINCED THAT THE GUY SHOULD BE RESTRICTED?

10 MR. CRAWFORD: YES, AFTER I INVESTIGATED AND GOT ALL
11 OF THE EVIDENCE AND INFORMATION ABOUT HIM.

12 MR. BARENS: YOU MADE A THOROUGH EVALUATION?

13 MR. CRAWFORD: RIGHT.

14 MR. BARENS: NOW, LET ME ASK YOU SOMETHING, MR. CRAWFORD.

15 WOULD YOU SAY THAT THE MENTAL PROCESS YOU WENT
16 THROUGH IN DETERMINING WHETHER OR NOT TO IMPOSE SOME
17 DISCIPLINE, WOULD BE THE SAME AS YOU DO IN DECIDING MY
18 CLIENT'S GUILT OR INNOCENCE OR WOULD YOU SAY THAT IT WAS A
19 LESSER LEVEL OF DECISION MAKING?

20 MR. CRAWFORD: IT IS A MUCH LESSER LEVEL OF DECISION
21 MAKING.

22 MR. BARENS: SO THIS YOU WOULD CONSIDER A MORE SERIOUS
23 FORM?

24 MR. CRAWFORD: YES.

25 MR. BARENS: AND WE HAVE PROOF BEYOND A REASONABLE DOUBT
26 HERE?

27 MR. CRAWFORD: YES.

28 MR. BARENS: YOUR WIFE IS A COLLECTOR OF INDEBTEDNESS?

1 MR. CRAWFORD: YES.

2 MR. BARENS: AND DOES SHE DISCUSS HER JOB WITH YOU?

3 MR. CRAWFORD: SOMETIMES SHE DOES.

4 MR. BARENS: DOES HER JOB INVOLVE WORKING WITH LAW
5 ENFORCEMENT PEOPLE?

6 MR. CRAWFORD: NO. SHE DOESN'T GO THAT FAR.

7 MR. BARENS: I SEE. SHE TRIES TO RECOVER OUTSIDE OF
8 GETTING INTO JUDICIAL PROCESSES AND ALL THAT SORT OF THING?

9 MR. CRAWFORD: YES.

10 MR. BARENS: YOU DON'T PERCEIVE YOUR WIFE AS A MEMBER,
11 THROUGH SOME EXTENDED FASHION, OF LAW ENFORCEMENT?

12 MR. CRAWFORD: NO.

13 MR. BARENS: WHAT DO YOU LIKE TO DO IN YOUR SPARE TIME?

14 MR. CRAWFORD: I LIKE FISHING, HUNTING, GARDENING. I
15 HAVE A VINTAGE AUTOMOBILE THAT I WORK ON.

16 MR. BARENS: A VINTAGE AUTOMOBILE YOU SAY, SIR?

17 MR. CRAWFORD: YES.

18 MR. BARENS: DO YOU BELONG TO ANY CLUBS, GROUPS OR
19 ORGANIZATIONS?

20 MR. CRAWFORD: NONE.

21 MR. BARENS: YOU STAYED IN THE ARMY VOLUNTARILY 13 YEARS,
22 DIDN'T YOU?

23 MR. CRAWFORD: I STAYED 21 YEARS VOLUNTARILY.

24 MR. BARENS: 21 YEARS IN THE ARMY AS A VOLUNTARY
25 PARTICIPANT IN THE GOVERNMENT PROCESS.

26 HOW DO YOU THINK THAT GOVERNMENT PROCESS IN THE
27 ARMY -- DO YOU FEEL THAT YOU HAVE ANY INCLINATION -- I ASK
28 YOU THIS TRUTHFULLY -- TO BE MORE WILLING TO BELIEVE IN THE

1 POSITION TAKEN BY A MEMBER OF THE GOVERNMENT THAN YOU WOULD
2 IN A DEFENSE LAWYER?

3 MR. CRAWFORD: NO.

4 MR. BARENS: YOU DON'T FEEL THAT YOUR LONG ASSOCIATION
5 IN DOING THINGS FOR THE GOVERNMENT MIGHT INCLINE YOU IN THIS
6 INSTANCE, TO BE MORE LIKELY TO BE A PERSON IN FAVOR OF THE
7 GOVERNMENT'S POSITION?

8 MR. CRAWFORD: NO.

9 MR. BARENS: WHAT IS THE LAST MOVIE YOU SAW?

10 MR. CRAWFORD: THAT IS A GOOD QUESTION. THE LAST MOVIE
11 I ATTENDED, I DIDN'T SEE.

12 I HAD TAKEN MY GRANDCHILDREN TO SEE "ROCKY." I
13 WENT TO SLEEP.

14 MR. BARENS: HAVE YOU READ ANY BOOKS IN THE LAST YEAR
15 OR SO?

16 MR. CRAWFORD: THE LAST BOOK I READ WAS "THE LONELY
17 LADY."

18 MR. BARENS: WAS THAT A MURDER MYSTERY?

19 MR. CRAWFORD: NO. IT WAS ABOUT A YOUNG LADY GOING
20 INTO THE MOVIE, ENTERTAINMENT INDUSTRY AND THE THINGS THAT
21 SHE HAD TO DO TO GET AHEAD, TO TRY TO GET AHEAD, TO BECOME
22 A STAR.

23 MR. BARENS: DO YOU THINK THERE WOULD BE ANYTHING THAT
24 WOULD MAKE YOU SUSPICIOUS OF A YOUNG MAN WHO HAD BEEN IN SCHOOL
25 INSTEAD OF GOING INTO THE ARMY?

26 MR. CRAWFORD: NO.

27 MR. BARENS: YOU WOULDN'T HAVE ANY PROBLEMS THINKING
28 THAT THAT WAS A WORTHWHILE PERSON BECAUSE MAYBE -- DO YOU

1 KNOW WHAT I MEAN BY A 2S TYPE OF DEFERMENT?

2 MR. CRAWFORD: YES.

3 MR. BARENS: SOMEONE WHO HAS A 2S IS STUDYING AND HE
4 WOULD NOT BE IN THE ARMY BECAUSE HE WAS IN SCHOOL?

5 MR. CRAWFORD: THERE IS NOTHING WRONG WITH IT.

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1 MR. BARENS: THAT WOULD BE ACCEPTABLE TO YOU, SIR?

2 MR. CRAWFORD: SURE.

3 MR. BARENS: WHAT ABOUT A YOUNG MAN WHO IS A MEMBER OF
4 SOMETHING CALLED THE BILLIONAIRE BOYS CLUB, WOULD YOU FIND THAT
5 THERE WAS SOMETHING PECULIAR ABOUT THAT TYPE OF CLUB?

6 MR. CRAWFORD: IT IS GREAT.

7 MR. BARENS: NO PROBLEM WITH THAT?

8 MR. CRAWFORD: NO PROBLEM, NO.

9 MR. BARENS: WHAT DO YOU THINK HAPPENED TO JIMMY HOFFA?

10 MR. CRAWFORD: THAT IS A GOOD QUESTION. I NEVER GIVE
11 IT MUCH THOUGHT.

12 MR. BARENS: IF YOU THINK ABOUT IT NOW, DO YOU HAVE ANY
13 REASON TO BELIEVE HE IS MORE LIKELY HIDING THAN DEAD OR MORE
14 LIKELY DEAD THAN HIDING OR IS IT ONE OF THOSE THINGS THAT YOU
15 JUST DON'T KNOW?

16 MR. CRAWFORD: I JUST DON'T KNOW.

17 I WOULD HAVE TO HAVE A LOT OF BACKGROUND
18 INFORMATION ON JIMMY HOFFA, WHETHER HE WOULD HAVE WITHDRAWN
19 MILLIONS OF DOLLARS OUT OF THE ACCOUNTS HE HAD STASHED AWAY.

20 I COULD GO ON AND ON, SO I HAVE NO IDEA WHAT
21 HAPPENED.

22 MR. BARENS: YOU HAVE HEARD THAT EXPRESSION "APPEARANCES
23 CAN BE DECEIVING"?

24 MR. CRAWFORD: SURE.

25 MR. BARENS: YOU KNOW THERE IS ANOTHER SIDE TO THAT:
26 DISAPPEARANCES CAN BE DECEIVING.

27 MR. CRAWFORD: TRUE.

28 MR. BARENS: AND THE FACT THAT MR. HOFFA APPEARS TO HAVE

2 - ?
1 DISAPPEARED, IT COULD BE JUST THAT, IT APPEARS TO BE. IT
2 APPEARS TO BE, IT APPEARS LIKE HE HAS DISAPPEARED.

3 COULD YOU UNDERSTAND WHAT YOU MIGHT HAVE TO END
4 UP DEALING WITH HERE IS AN APPEARANCE RATHER THAN A REALITY?

5 MR. CRAWFORD: YES.

6 MR. BARENS: AND THAT IS A DECISION YOU HAVE TO MAKE?

7 MR. CRAWFORD: YES.

8 MR. BARENS: AND YOU ARE THE ONLY ONE AS A JUROR THAT
9 CAN DETERMINE WHAT IS REASONABLE OR NOT IN THAT CONTEXT; DO
10 YOU UNDERSTAND THAT?

11 MR. CRAWFORD: YES.

12 MR. BARENS: WHEN YOU WERE IN THE ARMY, WERE YOU IN THE
13 UNITED STATES MAINLAND --

14 MR. CRAWFORD: I WAS IN THE MAINLAND AND I WENT TO KOREA,
15 GERMANY, OVER HERE, GERMANY, BACK AND FORTH.

16 MR. BARENS: HAVE YOU HAD IN THE GROUP OF MEN YOU WERE
17 RESPONSIBLE FOR, I ASSUME THERE WERE SOME CLICKS THAT FORMED?

18 MR. CRAWFORD: YES.

19 MR. BARENS: WITHIN THOSE CLICKS, DID YOU HAVE SOME GUYS
20 THAT TRIED TO CONVINCING THE OTHER GUYS THAT THEY WERE THE TOUGHEST
21 GUY IN THE CLICK?

22 MR. CRAWFORD: SURE.

23 MR. BARENS: AND THEREFORE, AS THE TOUGHEST GUY IN THE
24 CLICK, HE GOT TO BE THE LEADER OF THAT LITTLE SEGMENT OF THE
25 TROOPS?

26 MR. CRAWFORD: YES.

27 MR. BARENS: AND IN THAT SETTING DEALING WITH ALL OF
28 THOSE YOUNG MEN, WASN'T THERE A TYPICAL WAY THAT SOMEONE WOULD

1 ATTAIN STATURE BY BEING THE TOUGHEST GUY IN THE GROUP?

2 MR. CRAWFORD: SURE.

3 MR. BARENS: HE OUT-MACHOED EVERYBODY THERE; ISN'T THAT
4 TRUE?

5 MR. CRAWFORD: TRUE.

6 MR. BARENS: AMONG YOUNG PEOPLE, DO YOU FIND ANYTHING
7 SURPRISING OR UNPREDICTABLE EVEN ABOUT THE FACT THAT IT IS THE
8 WAY YOUNG MEN WOULD ACT IN ORDER TO OBTAIN STATURE IN ORDER
9 TO IMPRESS AND GET ALL OF THESE GUYS TO FOLLOW THEM AS A
10 LEADER, TO SAY "I AM THE TOUGHEST GUY IN THE TROOP." --

11 MR. CRAWFORD: YES.

12 MR. BARENS:--ASSERTING THAT, DID YOU EVER HAVE EXAMPLES
13 THAT SOME OF THOSE GUYS WOULD TAKE CREDIT FOR BEING TOUGHER
14 THAN THEY REALLY WERE?

15 MR. CRAWFORD: SURE.

16 MR. BARENS: CLAIMED CERTAIN ACCOMPLISHMENTS THAT THEY
17 HADN'T DONE?

18 MR. CRAWFORD: SURE.

19 MR. BARENS: AND SAID THEY MAYBE BEAT UP A GUY OR MAYBE
20 BEAT UP SEVENTEEN GUYS OR WHATEVER, BARE-HANDED AND ALL THAT
21 SORT OF THING THAT WASN'T TRUE?

22 MR. CRAWFORD: SURE.

23 MR. BARENS: TOOK CREDIT FOR THINGS THAT WEREN'T TRUE.

24 MR. CRAWFORD: YES.

25 MR. BARENS: DID YOU FIND THAT WHEN YOU WERE DEALING
26 WITH AND JUDGING YOUR YOUNG MEN THAT YOU HAD TO MAKE A
27 DIFFERENCE BETWEEN WHAT THEY CLAIMED THEY DID AND WHAT THEY
28 DID IN REALITY?

1 MR. CRAWFORD: YES.

2 MR. BARENS: DID YOU EVER GET SURPRISED BY THAT SOMETIME?

3 MR. CRAWFORD: SOMETIMES, YES.

4 MR. BARENS: SOME WERE PROBABLY CONVINCING ABOUT THAT
5 UNTIL THE CHIPS WERE DOWN.

6 MR. CRAWFORD: YES.

7 MR. BARENS: ARE YOU A GUY THAT STICKS BY YOUR BELIEFS
8 PRETTY STRONGLY? IF YOU HAD A BELIEF HERE IN GUILT OR
9 INNOCENCE, DO YOU THINK YOU COULD HOLD BY THAT EVEN IF EVERYBODY
10 ELSE DISAGREED WITH YOU?

11 MR. CRAWFORD: YES.

12 MR. BARENS: YOU WOULDN'T BE HERE THINKING YOU HAD SOME
13 OBLIGATION TO MAKE THE OTHER JURORS FEEL GOOD?

14 MR. CRAWFORD: NOT A ONE.

15 MR. BARENS: BUT YOUR SOLE OBLIGATION WOULD BE TO
16 LEARN THE TRUTH AND TO BELIEVE THE TRUTH AS YOU FIND IT?

17 MR. CRAWFORD: YES.

18 MR. BARENS: IS THERE ANYBODY IN THE COURTROOM THAT CAN
19 TELL YOU WHAT IS REASONABLE AND WHAT IS NOT REASONABLE OR
20 IS THAT A DECISION YOU MAKE YOURSELF?

21 MR. CRAWFORD: I MAKE IT MYSELF.

22 MR. BARENS: THANK YOU, SIR.

23 PASS FOR CAUSE, YOUR HONOR.

24 MR. WAPNER: GOOD AFTERNOON, MR. CRAWFORD.

25 MR. CRAWFORD: GOOD AFTERNOON.

26 MR. WAPNER: SOMETIMES, AS YOU SAW WITH THE QUESTIONING
27 OF THE OTHER JURORS, AS I DID WITH MR. KNIGHT, SOME OF THESE
28 QUESTIONS ARE A LITTLE BIT DELICATE AND THEY ARE A LITTLE BIT

1 DIFFICULT AND WE DON'T MEAN TO PRY BUT IT IS IMPORTANT FOR US
2 TO KNOW ABOUT YOUR BACKGROUND.

3 MR. CRAWFORD: YES.

4 MR. WAPNER: CAN YOU TELL ME ABOUT YOUR 17-YEAR-OLD AND
5 HOW HE DIED OR SHE?

6 MR. CRAWFORD: HE DIED ACCIDENTALLY, A DROWNING.

7 MR. WAPNER: AND WAS THAT IN A SWIMMING ACCIDENT OR
8 SOMETHING?

9 MR. CRAWFORD: YES, A LAKE.

10 MR. WAPNER: WERE YOU THERE WHEN THAT HAPPENED?

11 MR. CRAWFORD: NO.

12 MR. WAPNER: WAS HE AT CAMP OR ON VACATION?

13 MR. CRAWFORD: HE WAS ON VACATION VISIT WITH HIS UNCLE.

14 MR. WAPNER: YOU FOUND OUT ABOUT IT BECAUSE SOMEBODY
15 CALLED YOU?

16 MR. BARENS: THE DEFENSE OBJECTS.

17 MR. CRAWFORD: YES.

18 MR. BARENS: THE DEFENSE OBJECTS. IT IS JUST INAPPROPRIATE
19 AT THIS POINT. I JUST OBJECT.

20 THE COURT: WE DON'T NEED TO GO INTO ALL OF THESE DETAILS,
21 DO WE?

22 MR. WAPNER: WELL, AS I --

23 THE COURT: IT IS DISTRESSFUL FOR HIM. IT DOESN'T
24 ACCOMPLISH ANY FURTHER PURPOSE THAT I CAN SEE.

25 MR. WAPNER: THE ONLY PURPOSE THAT I CAN SEE IS HOW HE
26 WOULD FEEL SITTING ON A CASE WHERE SOMEBODY HAS DIED OR
27 ALLEGEDLY DIED.

28 THE COURT: ALL RIGHT, ASK HIM THE QUESTION.

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1 MR. WAPNER: I AM NOT TRYING TO BE NOSY, I HOPE YOU
2 UNDERSTAND THAT.

3 FIRST OF ALL, HOW LONG AGO WAS THAT?

4 MR. CRAWFORD: IT WAS IN 1981.

5 MR. WAPNER: DO YOU SEE THAT HAVING ANY EFFECT WHATSOEVER
6 ON THIS CASE?

7 MR. CRAWFORD: NONE.

8 MR. WAPNER: OKAY, AND YOUR OTHER TWO CHILDREN, ARE THEY
9 LIVING IN THE LOS ANGELES AREA?

10 MR. CRAWFORD: YES.

11 MR. WAPNER: WHAT DO THEY DO?

12 MR. CRAWFORD: OH, MY OLDEST DAUGHTER, SHE WORKS FOR
13 INTERSTATE BANK. SHE IS AN INVESTMENT COUNSELOR.

14 MY YOUNGEST DAUGHTER, SHE WORKS FOR AN INSURANCE
15 COMPANY. SHE IS AN ADJUSTER.

16 MR. WAPNER: HOW OFTEN DO YOU TALK TO THEM OR SEE THEM?

17 MR. CRAWFORD: ONCE A WEEK.

18 MR. WAPNER: DO THEY LIVE CLOSE BY TO WHERE YOU LIVE?

19 MR. CRAWFORD: ONE OF THEM DOES.

20 MR. WAPNER: HAVE YOU EVER SERVED ON A JURY BEFORE?

21 MR. CRAWFORD: YES, I HAVE.

22 MR. WAPNER: HOW MANY TIMES?

23 MR. CRAWFORD: FOUR TIMES.

24 MR. WAPNER: FOUR SEPARATE TOURS OF DUTY OR FOUR SEPARATE
25 JURIES?

26 MR. CRAWFORD: FOUR SEPARATE TOURS OF JURY DUTY.

27 MR. WAPNER: IN THOSE FOUR TOURS OF JURY DUTY, HOW
28 MANY JURIES DID YOU ACTUALLY SERVE ON?

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MR. CRAWFORD: I SERVED ON FOUR.

MR. WAPNER: OKAY. DID ALL OF THESE JURIES REACH A
VERDICT?

MR. CRAWFORD: THREE.

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1 MR. WAPNER: AND THE FOURTH ONE, DID YOU ACTUALLY GO
2 INTO THE JURY ROOM TO DELIBERATE OR DID SOMETHING HAPPEN
3 BEFORE?

4 MR. CRAWFORD: WE WENT INTO THE JURY ROOM TO DELIBERATE.

5 MR. WAPNER: DID YOU THINK THAT EVERYONE MADE A GOOD
6 FAITH EFFORT TO TRY AND COME TO A VERDICT?

7 MR. CRAWFORD: ALL EXCEPT -- I WOULD SAY EVERYONE EXCEPT
8 ONE JUROR.

9 MR. WAPNER: DID THAT JUROR PARTICIPATE IN THE
10 DELIBERATIONS AT ALL OR DID HE JUST STAY OUT OF IT AND SAY
11 "I AM NOT GOING TO VOTE"?

12 MR. CRAWFORD: YES, HE PARTICIPATED BUT HE HAD OUTSIDE
13 INFORMATION, I MEAN PEOPLE THAT HE WAS DISCUSSING THE CASE
14 WITH.

15 HE HAPPENED TO ACCIDENTALLY LET US KNOW ABOUT
16 IT.

17 MR. WAPNER: AND DID SOMEBODY TELL THE BAILIFF OR THE
18 JUDGE ABOUT IT IN THAT CASE?

19 MR. CRAWFORD: WE MADE IT AWARE TO THE JUDGE.

20 MR. WAPNER: AND DID THAT PERSON SAY "WELL, BASED ON WHAT
21 I KNOW FROM THE OUTSIDE, I AM GOING TO VOTE A CERTAIN WAY AND
22 NOTHING YOU SAY CAN CHANGE MY MIND?"

23 MR. CRAWFORD: NOW HE WAS TELLING US HIS SON-IN-LAW
24 WAS A LAWYER AND HE HAD BEEN DISCUSSING CERTAIN MATTERS WITH
25 HIS SON-IN-LAW AND HIS SON-IN-LAW HAD SAID -- IT HAD LED HIM
26 TO SAY "WELL, MY SON-IN-LAW SAID SUCH AND SUCH."

27 MR. WAPNER: YOU SEE ALL OF THOSE OTHER PEOPLE THAT
28 THOUGHT I WAS MAKING THAT UP WHEN I ASKED THEM ABOUT, DID THEY

1 KNOW A LAWYER AND WE HAD HAD ALL OF THESE BAD EXPERIENCES.

2 SO THAT ACTUALLY HAPPENED TO YOU?

3 MR. CRAWFORD: YES.

4 MR. WAPNER: DO YOU KNOW ANY PEOPLE WHO PRACTICE
5 PRIMARILY CRIMINAL LAW OR ANY OF YOUR FRIENDS WHO ARE LAWYERS?

6 MR. CRAWFORD: NO.

7 MR. WAPNER: THAT IS NOT GOING TO HAPPEN WITH YOU?

8 MR. CRAWFORD: NO.

9 MR. WAPNER: THE OTHER THREE CASES THAT YOU SAT ON, YOU
10 WERE ABLE TO REACH A VERDICT IN THOSE CASES?

11 MR. CRAWFORD: YES.

12 MR. WAPNER: WERE YOU EVER IN A POSITION IN ANY OF THOSE
13 CASES WHERE YOU STARTED OUT IN THE DELIBERATIONS THINKING ONE
14 THING AND THEN YOU CHANGED YOUR MIND?

15 MR. CRAWFORD: YES.

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1 MR. WAPNER: ARE YOU THE KIND OF PERSON THEN, WHO COULD
2 CHANGE THEIR MIND IF YOU ARE SHOWN THAT YOUR ORIGINAL OPINION
3 IS WRONG?

4 MR. CRAWFORD: YES.

5 MR. WAPNER: WERE ANY OF THOSE OTHER CASES PROSECUTED
6 BY MEMBERS OF THE LOS ANGELES DISTRICT ATTORNEY'S OFFICE?

7 MR. CRAWFORD: YES.

8 MR. WAPNER: DO YOU HAVE ANY FEELING ABOUT THE PEOPLE
9 WHO PROSECUTED THESE CASES, AS A RESULT OF THOSE CASES?

10 MR. CRAWFORD: NO.

11 MR. WAPNER: DO YOU HAVE ANY FEELING ABOUT THE DISTRICT
12 ATTORNEY'S OFFICE?

13 MR. CRAWFORD: NONE.

14 MR. WAPNER: DO YOU HAVE ANY FEELING ABOUT CRIMINAL
15 DEFENSE LAWYERS IN GENERAL?

16 MR. CRAWFORD: NO.

17 MR. WAPNER: THE OTHER CASES THAT YOU SAT ON, WERE ANY
18 OF THEM CRIMINAL CASES?

19 MR. CRAWFORD: YES. TWO OTHERS WERE CRIMINAL CASES.

20 MR. WAPNER: WHAT KIND OF CASES WERE THEY?

21 MR. CRAWFORD: ONE WAS A ROBBERY/HOMICIDE. THE OTHER
22 WAS A DRUG POSSESSION AND SALE.

23 MR. WAPNER: AND WAS IT ONE OF THOSE TWO CASES WHICH
24 YOU DID NOT REACH A VERDICT ON?

25 MR. CRAWFORD: NO.

26 MR. WAPNER: HOW LONG AGO WAS THE ROBBERY/HOMICIDE THAT
27 YOU SAT ON?

28 MR. CRAWFORD: IT WAS IN 1983.

22A-2

1 MR. WAPNER: WAS THAT ROBBERY/HOMICIDE CASE, WAS THAT
2 DOWNTOWN OR OUT HERE IN SANTA MONICA?

3 MR. CRAWFORD: IT WAS DOWNTOWN.

4 MR. WAPNER: WAS THAT A LONG CASE OR A SHORT CASE?

5 MR. CRAWFORD: IT WAS A LONG CASE, 25 DAYS.

6 MR. WAPNER: 25 COURT DAYS?

7 MR. CRAWFORD: YES.

8 MR. WAPNER: WHAT ELSE DID YOU WANT TO KNOW ABOUT THE
9 GUY ON THE BOAT?

10 MR. CRAWFORD: WELL, I WOULD LIKE TO KNOW BACKGROUND
11 INFORMATION ON HIM. DID HE HAVE A LARGE INSURANCE POLICY?
12 YOU KNOW, SOME OF HIS BACKGROUND INFORMATION.

13 MR. WAPNER: ASSUMING THAT HE HAD A LARGE INSURANCE
14 POLICY, WHAT DIFFERENCE WOULD THAT MAKE TO YOU?

15 MR. CRAWFORD: IT WOULD MAKE A LOT OF DIFFERENCE. HE
16 COULD HAVE ARRANGED FOR SOMEBODY TO PICK HIM UP ON ANOTHER
17 BOAT.

18 HE COULD HAVE JUST WANTED TO DISAPPEAR, FOR SOMEONE
19 ELSE TO COLLECT THE MONEY AND SEND IT TO HIM.

20 MR. WAPNER: IF THAT HAPPENED, ARE THERE CERTAIN FACTS
21 THAT YOU WOULD WANT TO KNOW FROM THE PERSON WHO WAS ON THE
22 BOAT?

23 MR. CRAWFORD: SURE.

24 MR. WAPNER: SUCH AS?

25 MR. CRAWFORD: I WOULD LIKE TO KNOW WHY DIDN'T HE STAY
26 UP WITH HIM. IT IS UNUSUAL FOR ONE PERSON TO GO UP ON TOP
27 DECK BY HIMSELF AT NIGHT, ESPECIALLY.

28 IF YOU WANT TO STUDY THE STARS, YOU KNOW, USUALLY

224-3
1 BOTH OF THEM WOULD BE INTERESTED IN IT.

2 MR. WAPNER: WOULD YOU WANT TO KNOW WHAT KIND OF BOAT
3 THIS WAS THAT ALLEGEDLY PICKED THE PERSON UP?

4 MR. CRAWFORD: SURE.

5 MR. WAPNER: WOULD YOU WANT TO KNOW HOW LOUD IT WAS,
6 FOR EXAMPLE?

7 MR. CRAWFORD: WELL, IF THAT PERSON ON BOARD THERE WAS
8 LEFT ON BOARD COULD PROVIDE THAT INFORMATION --

9 MR. WAPNER: WOULD YOU WANT TO KNOW WHETHER THE PERSON
10 WHO WAS LEFT ON BOARD WAS A SOUND SLEEPER OR NOT A SOUND
11 SLEEPER?

12 MR. CRAWFORD: WAS HE A HEAVY DRINKER OR NOT, YES.

13 MR. WAPNER: AND IN THE ORIGINAL EXAMPLE, YOU DIDN'T
14 HAVE THAT INFORMATION, RIGHT?

15 MR. CRAWFORD: NO.

16 MR. WAPNER: ALL RIGHT. ASSUMING THAT YOU GOT THE
17 INFORMATION ABOUT HIM NOT HAVING A LARGE INSURANCE POLICY,
18 WHAT THEN?

19 MR. CRAWFORD: IF HE HAD OTHER REASONS.

20 MR. WAPNER: SUCH AS?

21 MR. CRAWFORD: WELL, POSSIBLY HE WANTED TO GET AWAY
22 FROM HIS OLD LADY OR SOMETHING LIKE THAT.

23 MR. WAPNER: MR. BARENS SEEMS TO THINK THAT I AM TRYING
24 TO TRICK PEOPLE OR I AM TRYING TO TELL THEM WHAT IS REASONABLE.
25 DO YOU FEEL THAT WAY?

26 MR. CRAWFORD: NO. YOU HAVE A JOB TO DO. YOU ARE DOING
27 YOUR JOB.

28 MR. WAPNER: WELL, I WANT TO KNOW FROM YOU WHAT YOU

1 THINK IN THAT SITUATION OF THE PEOPLE ON THE BOAT. WHAT DO
2 YOU THINK IS REASONABLE?

3 MR. CRAWFORD: WELL, IT IS REASONABLE THAT HE COULD
4 HAVE WENT UP TOPSIDE INTOXICATED AND FELL OFF THE BOAT. THAT
5 IS A REASONABLE THING THAT COULD HAPPEN.

6 IT IS ALSO REASONABLE THAT HIS FRIEND COULD HAVE
7 KNOCKED HIM IN THE HEAD AND DUMPED HIM OVERBOARD.

8 MR. WAPNER: OKAY. I AM NOT SO MUCH CONCERNED WITH
9 HOW HE GOT OVERBOARD AS WHAT IS REASONABLE TO THINK HAPPENED
10 TO HIM, AFTER HE IS GONE FROM THE BOAT.

11 I AM NOT TRYING TO ACCUSE ANYBODY OR NOT ACCUSE
12 ANYBODY OF MURDER. DO YOU UNDERSTAND THAT?

13 MR. CRAWFORD: I UNDERSTAND.
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22A5

1 MR. WAPNER: I AM JUST TRYING TO ASK YOU WHAT YOU THINK
2 IN YOUR MIND IS REASONABLE TO HAVE HAPPENED TO THE PERSON.

3 MR. CRAWFORD: HE DISAPPEARED. HE IS GONE. THAT'S
4 IT.

5 MR. WAPNER: OKAY. DO YOU MAKE A DISTINCTION IN YOUR
6 MIND BETWEEN THINGS THAT COULD POSSIBLY HAPPEN AND THINGS
7 THAT YOU THINK ARE REASONABLE?

8 MR. CRAWFORD: SURE. YES.

9 MR. WAPNER: OKAY. I NEVER WAS IN THE MILITARY. I
10 MAY NOT BE ASKING THIS RIGHT. BUT, WHAT PART OF THE MILITARY --
11 WHAT DIVISION OF THE MILITARY WERE YOU IN?

12 MR. CRAWFORD: I WAS IN THE ARTILLERY.

13 MR. WAPNER: AND DID YOU EVER GET INTO COMBAT?

14 MR. CRAWFORD: YES. I WAS IN VIETNAM TWICE.

15 MR. WAPNER: DID YOU HAVE TO MAKE DECISIONS WHEN YOU
16 WERE IN COMBAT ABOUT THINGS THAT MIGHT BE REASONABLE TO DO
17 AS OPPOSED TO THINGS THAT MIGHT BE POSSIBLE?

18 MR. CRAWFORD: YES.

19 MR. WAPNER: SUCH AS WHERE THE ENEMY MIGHT REASONABLY
20 BE, AS OPPOSED TO BE THINKING THAT THEY COULD BE HERE OR THEY
21 COULD BE THERE?

22 MR. CRAWFORD: SURE.

23 MR. WAPNER: AND WHEN YOU WERE DOING THAT, YOU WOULD
24 TRY TO GET AS MUCH INFORMATION AS YOU CAN?

25 MR. CRAWFORD: SURE.

26 MR. WAPNER: BEFORE YOU CAME INTO THIS COURTROOM, DID
27 YOU HAVE ANY FEELINGS ABOUT CIRCUMSTANTIAL EVIDENCE, ONE WAY
28 OR ANOTHER?

22A-6

1 MR. CRAWFORD: THIS IS, YOU KNOW, THE FIRST TIME I HAVE
2 EVER TAKEN IT INTO CONSIDERATION.

3 MR. WAPNER: OKAY. DO YOU THINK THAT YOU HAVE A
4 BETTER IDEA NOW ABOUT IT THAN YOU DID WHEN YOU CAME IN HERE?

5 MR. CRAWFORD: YES.

6 MR. WAPNER: ARE YOUR PARENTS STILL LIVING?

7 MR. CRAWFORD: MY FATHER IS STILL LIVING.

8 MR. WAPNER: DOES HE LIVE IN THE LOS ANGELES AREA?

9 MR. CRAWFORD: NO. HE LIVES IN CORPUS CHRISTI, TEXAS.

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

11 MR. CRAWFORD: ONCE EVERY THREE OR FOUR MONTHS.

12 MR. WAPNER: HAVE YOU EVER BEEN THE VICTIM OF A THEFT
13 OR ANY KIND OF CRIME SCHEME?

14 MR. CRAWFORD: NONE THAT I AM AWARE OF.

15 MR. WAPNER: THANK YOU. PASS FOR CAUSE, YOUR HONOR.

16 THE COURT: ALL RIGHT. IT IS THE PEOPLE'S PEREMPTORY.

17 MR. WAPNER: WE THANK AND ASK THE COURT TO EXCUSE
18 MR. DELROWCINI, JUROR NUMBER 8.

19 THE COURT: ALL RIGHT. THANK YOU, MR. DELROWCINI.

20 (PROSPECTIVE JUROR DELROWCINI EXITED
21 THE COURTROOM.)

22 THE CLERK: NORMAN NELSON, N-E-L-S-O-N.

23 THE COURT: MR. NELSON, YOU TOO, HAVE HEARD ALL OF THE
24 QUESTIONS ASKED AND THE ANSWERS GIVEN?

25 MR. NELSON: YES.

26 THE COURT: IF THE SAME GENERAL QUESTIONS WERE ASKED
27 OF YOU, WOULD YOUR ANSWERS BE ABOUT THE SAME? WOULDN'T THEY?

28 MR. NELSON: THEY WOULD.

22B

1 THE COURT: WHAT DO YOU DO, PLEASE?

2 MR. NELSON: WHAT WAS THAT?

3 THE COURT: WHAT DO YOU DO?

4 MR. NELSON: I AM RETIRED.

5 THE COURT: WHAT DID YOU RETIRE FROM?

6 MR. NELSON: WELL, THE LAST JOB WAS TEN AND A HALF YEARS
7 AT HINKLE CHEMICAL.

8 BEFORE THAT, I WAS WITH VIRTUE OF CALIFORNIA FOR
9 ABOUT TWENTY-EIGHT AND A HALF YEARS.

10 THE COURT: WHAT KIND OF WORK DID YOU DO?

11 MR. NELSON: WELL, AT VIRTUE, I STARTED AS A LABORER,
12 YOU KNOW, AND WORKED MY WAY UP TO FOREMAN. I WAS THERE TEN
13 YEARS AND THEN I WENT INTO NEW PRODUCTS DEVELOPMENT.

14 THE COURT: I SEE. IS THERE A MRS. NELSON?

15 MR. NELSON: NO. SHE IS DECEASED.

16 THE COURT: DID SHE HAVE ANY KIND OF EMPLOYMENT DURING
17 THE TIME YOU WERE MARRIED?

18 MR. NELSON: SHE WORKED FOR A LITTLE BIT, YES.

19 THE COURT: WHAT KIND OF WORK?

20 MR. NELSON: SHE WAS AN OFFICE WORKER FOR TELEDYNE.

21 THE COURT: WHAT KIND OF SCHOOLING DID YOU HAVE?

22 MR. NELSON: JUST HIGH SCHOOL.

23 THE COURT: AND DO YOU HAVE ANY CHILDREN?

24 MR. NELSON: ONE.

25 THE COURT: HOW OLD?

26 MR. NELSON: HE IS 38.

27 THE COURT: WHAT DOES HE DO?

28 MR. NELSON: HE WORKS FOR PRESIDENTIAL STEAMSHIP LINE,

1 PSL OR AMERICAN PRESIDENT LINES, APL.

2 THE COURT: HAVE YOU EVER BEEN A VICTIM OF ANY KIND
3 OF A CRIME?

4 MR. NELSON: NO, SIR.

5 THE COURT: HAVE YOU EVER SERVED ON A JURY?

6 MR. NELSON: YES. THIS IS MY FIFTH TIME.

7 THE COURT: FIFTH TIME?

8 MR. NELSON: YES.

9 THE COURT: WHAT OTHER CASE DID YOU SIT ON, CRIMINAL
10 CASE?

11 MR. NELSON: ONE CRIMINAL AND THE REST WERE CIVILS.

12 THE COURT: TELL US ABOUT THE CRIMINAL CASE.

13 MR. NELSON: WELL, IT WAS A DRUNK DRIVING CASE.

14 THE COURT: MUNICIPAL COURT?

15 MR. NELSON: YES.

16 THE COURT: AND THE JURY REACHED THEIR VERDICT, IS THAT
17 RIGHT?

18 MR. NELSON: RIGHT.

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

20 MR. BARENS: THANK YOU, SIR.

21 GOOD AFTERNOON, MR. NELSON. DID THE DEFENDANT
22 TESTIFY IN THE DRUNK DRIVING CASE THAT YOU DID, MR. NELSON?

23 MR. NELSON: YES.

24 MR. BARENS: AND HOW DID YOU FEEL ABOUT THE DEFENDANT
25 TESTIFYING IN THAT INSTANCE?

26 MR. NELSON: THAT IS HIS PRIVILEGE.

27 MR. BARENS: IT IS HIS PRIVILEGE TO DO SO?

28 MR. NELSON: RIGHT.

1 MR. BARENS: DID IT MAKE A DIFFERENCE TO YOU IN THE
2 VOTE THAT YOU EVENTUALLY CAST, THE FACT THAT HE TESTIFIED?

3 MR. NELSON: NO, BECAUSE IT WAS ALL OF THE EVIDENCE
4 THAT CAME IN. THAT WAS THE DECIDING FACTOR.

5 MR. BARENS: THE OTHER EVIDENCE OTHER THAN THE DEFENDANT'S
6 TESTIMONY?

7 MR. NELSON: RIGHT.

8 MR. BARENS: HOW DID YOU FEEL ABOUT THE FACT THAT THE
9 DEFENDANT IN THIS CASE -- THAT PRESUMPTION OF INNOCENCE, THAT
10 COCOON I REFERRED TO EARLIER?

11 MR. NELSON: THAT'S FINE. THAT'S HIS PRIVILEGE, TOO.
12 EITHER WAY.

13 MR. BARENS: DO YOU FEEL WHEN YOU SAY THAT IT IS HIS
14 PRIVILEGE -- YOU REALIZE THAT IT IS A PRIVILEGE THAT WE ALL
15 HAVE GOT AND THAT YOU HAVE GOT, MR. NELSON?

16 MR. NELSON: THAT'S RIGHT. IT IS A CONSTITUTIONAL RIGHT.

17 MR. BARENS: FUNDAMENTAL RIGHT THAT YOU EXPERIENCE?

18 MR. NELSON: YES.

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1 MR. BARENS: AND THE SAME THING, IS THAT RIGHT, ON
2 WHETHER YOU TESTIFY OR NOT; DO YOU AGREE WITH THAT?

3 MR. NELSON: YES.

4 MR. BARENS: WOULD YOU FEEL A DEFENDANT WHO DIDN'T
5 TESTIFY WAS MORE LIKELY TO/GUILTY?
BE

6 MR. NELSON: NO.

7 MR. BARENS: NOW, YOU MENTIONED THAT YOU HAD TWO OTHER
8 JURY EXPERIENCES, I BELIEVE; WERE THOSE BOTH ON CIVIL CASES?

9 MR. NELSON: CIVIL, YES.

10 MR. BARENS: YOU HAVE HEARD ME TALK TIME AND AGAIN ABOUT
11 THE DIFFERENCE IN THE STANDARD OF PROOF BETWEEN A CIVIL CASE
12 AND A CRIMINAL CASE.

13 MR. NELSON: RIGHT.

14 MR. BARENS: BEFORE YOU HEARD ME TALK ABOUT THAT TODAY,
15 WERE YOU AWARE OF THAT?

16 MR. NELSON: YES.

17 MR. BARENS: YOU REMEMBERED THAT?

18 MR. NELSON: YES.

19 MR. BARENS: FROM YOUR PRIOR JURY EXPERIENCE?

20 MR. NELSON: RIGHT.

21 MR. BARENS: DO YOU FEEL THAT YOU IN FACT VIEWED THE
22 SUFFICIENCY, THE SUFFICIENCY OF THE EVIDENCE DIFFERENTLY WHEN
23 YOU WERE ON THE CIVIL JURY AS OPPOSED TO WHEN YOU WERE ON THE
24 CRIMINAL JURY?

25 MR. NELSON: NO.

26 MR. BARENS: YOU DIDN'T?

27 MR. NELSON: NOT REALLY.

28 MR. BARENS: WELL, DO YOU THINK YOU TOOK THE SAME LOOK

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1 AT WHETHER THE EVIDENCE AND THE PROOF WERE ADEQUATE IN THE
2 CRIMINAL CASE AS YOU DID IN THE CIVIL CASE?

3 MR. NELSON: NO. THAT IS DIFFERENT, I REALIZE THAT.

4 MR. BARENS: DO YOU THINK, THOUGH, THAT WAS YOUR EXPERIENCE
5 WHEN YOU ACTUALLY PARTICIPATED IN THAT PROCESS?

6 MR. NELSON: WHAT WAS THAT AGAIN?

7 MR. BARENS: WHAT I AM REALLY LOOKING AT, DID IT TAKE
8 MORE TO CONVINCING YOU IN THE CRIMINAL CASE THAN IT DID IN THE
9 CIVIL CASE?

10 MR. NELSON: NO, BECAUSE I GO BY THE EVIDENCE PRESENTED.

11 THE COURT: HOW ABOUT THE INSTRUCTIONS ON THE LAW, AS
12 COUNSEL HAS POINTED OUT?

13 MR. NELSON: WELL, THAT IS TRUE, WE GET THAT AT THE END,
14 YES, THAT IS RIGHT.

15 THE COURT: THAT IS ON A CIVIL CASE, IT IS THE PREPONDER-
16 ANCE OF THE EVIDENCE.

17 MR. NELSON: THAT'S RIGHT.

18 THE COURT: AND IN A CRIMINAL CASE, IT IS BEYOND A
19 REASONABLE DOUBT.

20 MR. NELSON: YEAH.

21 MR. BARENS: ANOTHER WAY OF SAYING THAT IS THAT IT WOULD
22 TAKE MORE CONVINCING IN A CRIMINAL CASE THAN IT WOULD IN A
23 CIVIL CASE BECAUSE --

24 MR. NELSON: WELL, YES.

25 MR. BARENS: ARE YOU WITH ME ON THAT?

26 MR. NELSON: I GOT YOU NOW, YES.

27 MR. BARENS: OKAY, GETTING BACK TO YOUR ACTUAL
28 EXPERIENCE, WHAT REALLY HAPPENED TO YOU IN YOUR MENTAL PROCESSES?

23 - 1

1 DO YOU THINK THAT REALLY HAPPENED TO YOU, THAT IT
2 TOOK MORE TO CONVINCING YOU BEYOND A REASONABLE DOUBT THAN IT
3 BY
4 DID/A PREPONDERANCE OF THE EVIDENCE?

5 MR. NELSON: OH, SURE.

6 MR. BARENS: WHICH CASE DID YOU DO FIRST, DID YOU DO THE
7 CRIMINAL CASE OR THE CIVIL CASE?

8 MR. NELSON: I HAD A CIVIL CASE, CRIMINAL CASE AND THEN
9 A CIVIL CASE AGAIN.

10 MR. BARENS: WHEN YOU GOT BACK TO DOING YOUR LAST OR
11 SECOND CIVIL CASE, WERE YOU AWARE, YOU KNOW, SERIOUSLY IN YOUR
12 OWN MIND, DID YOU THINK/^{TO}YOURSELF, "THIS IS DIFFERENT, WHAT I
13 AM LOOKING FOR IN THIS CASE THAN WHEN I WAS A CRIMINAL JUROR
14 THE LAST TIME"; DID THAT EVER HAPPEN TO YOU?

15 MR. NELSON: WELL --

16 MR. BARENS: NOT NECESSARILY, BUT DID IT?

17 MR. NELSON: NO, I DON'T BELIEVE SO.

18 MR. BARENS: OKAY, WHAT I WOULD LIKE YOU TO ASK YOU TO
19 DO IF YOU WERE A JUROR IN THIS CASE IS TO BE ACUTELY AWARE
20 OF THE DIFFERENCE, BECAUSE IT IS REAL IMPORTANT. IT IS THE
21 REAL, ABSOLUTELY, FUNDAMENTAL THING THAT WE TALK ABOUT HERE --

22 MR. NELSON: RIGHT.

23 MR. BARENS: -- IS THAT DIFFERENCE.

24 MR. NELSON: YES.

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23A-1

1 MR. BARENS: WHEN WE ARE IN MAKING A DECISION ON A
2 CONTRACTS CASE ON WHETHER OR NOT SOMEBODY OWED SOME MONEY OR
3 AN ACCIDENT CASE THAT WHETHER OR NOT SOMEBODY WAS AT FAULT,
4 OUR WHOLE SYSTEM IS THAT TAKES A LOT LESS PROOF THAN IT DOES
5 WHEN WE ARE GOING TO INTERRUPT SOMEBODY'S LIBERTY OR EVEN TAKE
6 THEIR LIFE AWAY.

7 MR. NELSON: THAT'S TRUE.

8 MR. BARENS: THERE IS A MUCH DIFFERENT DECISION.

9 DO YOU THINK YOU COULD, AS A JUROR, BE ACUTELY
10 AWARE OF THE DIFFERENCE BETWEEN THAT AND THE LEVEL OF PROOF
11 YOU HAVE IN A CIVIL CASE?

12 MR. NELSON: YES.

13 MR. BARENS: HOW DID YOU FEEL ABOUT THE JURY PROCESS AS
14 A RESULT OF THOSE EXPERIENCES? DID YOU THINK IT WORKED?

15 MR. NELSON: WELL, I THINK IT IS GREAT -- YOU LOOK AT
16 THESE OTHER COUNTRIES -- I THINK EVERYBODY WILL AGREE TO THAT.

17 MR. BARENS: I CERTAINLY WOULD CONCUR WITH THAT, SIR.

18 JUST OUT OF CURIOSITY, AFTER BEING ON THREE JURIES
19 LIKE THAT, IN ANY OF THOSE DID ANYBODY TALK TO YOU ABOUT
20 BOATS OR GUYS THAT WERE ON BOATS, MOTOR BOATS?

21 MR. NELSON: NO.

22 MR. BARENS: DO YOU HAVE ANY IDEA WHAT WE ARE DOING WITH
23 THAT BOAT BUSINESS?

24 MR. NELSON: YES.

25 MR. BARENS: YOU DO?

26 WHAT ARE YOU GETTING OUT OF THAT?

27 MR. NELSON: WELL, YOU WANT TO GET YOUR IDEA OF WHAT
28 HAPPENED TO THE FELLOW OR WHOEVER AND IF -- AND THAT THERE HAS

23A-2

1 BEEN NO EVIDENCE PRESENTED.

2 MR. BARENS: THERE WAS ACTUALLY ONE PIECE OF EVIDENCE
3 PRESENTED THAT I WOULD LIKE YOU TO BE SENSITIVE TO, AS I
4 ASKED THE OTHER JURORS TO BE SENSITIVE.

5 YOU SEE, BUILT INTO THAT, MR. WAPNER SAYS -- WELL,
6 YOU KNOW, MR. WAPNER IS ASKING YOU TRICK QUESTIONS -- NOT TRICK
7 QUESTIONS BUT JUST QUESTIONS THAT HAVE THEIR OWN ANSWER BECAUSE
8 HE TOLD YOU THE GUY IS NO LONGER ON THE BOAT. NOW MR. WAPNER
9 SAYS TO YOU "I AM NOT INTERESTED IN HOW HE GOT IN THE WATER."
10 OF COURSE NOT. HE IS IN THE WATER. HE IS NOT ON THE BOAT.

11 NOW DO YOU UNDERSTAND THAT WHAT THE DEFENSE IS
12 TRYING TO SAY TO YOU IN THIS CASE IS THE GUY ISN'T EVEN IN THE
13 WATER; THE GUY HAS DISAPPEARED. DO YOU UNDERSTAND THE
14 DIFFERENCE?

15 MR. NELSON: YES.

16 MR. BARENS: DO YOU UNDERSTAND WE ARE NOT HERE TO TALK
17 ABOUT DID HE OR DIDN'T HE DO IT. FIRST, WE HAVE TO GET PAST
18 THAT DECISION: DID ANYTHING HAPPEN? WAS THERE A MURDER?

19 CAN YOU SEE THE DIFFERENCE BETWEEN THAT AND THE
20 BOATING EXAMPLE WHERE YOU ARE TOLD ALREADY THAT THE GUY IS
21 NOT ON THE BOAT?

22 MR. NELSON: YES.

23 MR. BARENS: OKAY, WHAT DO YOU LIKE TO DO IN YOUR SPARE
24 TIME, SIR?

25 MR. NELSON: WELL, I PLAY GOLF AND RIDE A BIKE AND DO
26 A LOT OF WALKING.

27 MR. BARENS: DO YOU DO ANY READING?

28 MR. NELSON: READING?

25A-3

1 MR. BARENS: YES.

2 MR. NELSON: NOT TOO MUCH.

3 MR. BARENS: DO YOU REMEMBER THE LAST BOOK THAT YOU READ
4 OF ANY KIND?

5 MR. NELSON: LEE IACOCA.

6 MR. BARENS: THE GUY WHO SPENT HIS WHOLE ADULT LIFE
7 IN PURSUIT OF CAPITALISM?

8 MR. NELSON: RIGHT.

9 MR. BARENS: AND REALLY REPRESENTS THE EMBODIMENT OF
10 SUCCESSFUL CAPITALISM, I BELIEVE.

11 MR. NELSON: RIGHT.

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1 MR. BARENS: DO YOU FIND ANYTHING OBJECTIONABLE ABOUT
2 THAT?

3 MR. NELSON: NO.

4 MR. BARENS: WHAT WAS THE LAST MOVIE YOU SAW?

5 MR. NELSON: WELL, IT IS A LONG TIME AGO. IT WAS
6 "GHANDI."

7 MR. BARENS: SO YOU DON'T GO TO THE MOVIES TOO OFTEN,
8 DO YOU?

9 MR. NELSON: NO.

10 MR. BARENS: DO YOU SEE MUCH OF YOUR SON?

11 MR. NELSON: NO. WELL, TWO OR THREE TIMES A YEAR.

12 MR. BARENS: IS THAT BECAUSE HE TRAVELS A LOT IN HIS
13 BUSINESS?

14 MR. NELSON: NO.

15 HE IS UP IN WALNUT CREEK, CALIFORNIA.

16 MR. BARENS: HOW LONG HAVE YOU BEEN A WIDOWER, SIR?

17 MR. NELSON: ABOUT TEN YEARS.

18 MR. BARENS: SO IS THAT YOUR ONLY MARRIAGE, SIR?

19 MR. NELSON: YES.

20 MR. BARENS: ARE YOU FROM THIS AREA ORIGINALLY?

21 MR. NELSON: NO.

22 IOWA.

23 MR. BARENS: A HAWKEYE INSTEAD OF A BRUIN, JUDGE.

24 AND HOW LONG AGO DID YOU COME TO CALIFORNIA?

25 MR. NELSON: WELL, IT HAS BEEN ABOUT 45 YEARS THAT I HAVE
26 BEEN OUT HERE. I AM PRACTICALLY A NATIVE.

27 MR. BARENS: FORTY-FIVE YEARS?

28 DID YOU HAPPEN TO READ THE NOVEL SEVERAL YEARS

1 AGO, I THINK IT WAS CENTERED IN IOWA, "IN COLD BLOOD"?

2 MR. NELSON: NO, BUT I KNOW WHAT YOU ARE TALKING ABOUT.

3 MR. BARENS: YOU SAW THE MOVIE?

4 MR. NELSON: NO. I JUST REMEMBERED IT IN THE PAPER WHEN
5 YOU BROUGHT IT UP.

6 MR. BARENS: IT IS SOMETHING YOU READ IN THE PAPER BUT
7 YOU HAVEN'T SEEN THE MOVIE OR READ THE BOOK?

8 MR. NELSON: NO.

9 MR. BARENS: BILLIONAIRES BOYS CLUB, DOES THAT BRING
10 ANYTHING TO MIND OR CAUSE YOU ANY REACTION THAT MIGHT BE
11 PREJUDICIAL TOWARD THE DEFENDANT?

12 MR. NELSON: NO.

13 MR. BARENS: DO YOU HAVE ANY POST-HIGH SCHOOL FORMAL
14 EDUCATION?

15 MR. NELSON: NOT TOO MUCH. WHEN I LEARNED TO FLY, I WENT
16 TO COMPTON COLLEGE TO TAKE METEOROLOGY.

17 MR. BARENS: AND DO YOU STILL PILOT A PLANE, SIR?

18 MR. NELSON: NO.

19 MR. BARENS: IT IS NOT A HOBBY ANY LONGER?

20 MR. NELSON: NO.

21 TOO EXPENSIVE.

22 MR. BARENS: I SEE.

23 DO YOU LIVE BY YOURSELF?

24 MR. NELSON: YES.

25 MR. BARENS: IF YOU HAD A SITUATION IN THIS CASE WHERE
26 THERE WAS A CLOSE CALL, YOU WERE A LITTLE UNCERTAIN BUT YOU
27 FELT WELL, ON BALANCE, HE LOOKED A LITTLE MORE GUILTY THAN
28 INNOCENT, HOW WOULD YOU VOTE?

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MR. NELSON: WELL, IT WOULD HAVE TO BE WAY OVER THE
SCALE TO --

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1 MR. BARENS: IT WOULD HAVE TO BE BEYOND A REASONABLE
2 DOUBT?

3 MR. NELSON: THAT'S RIGHT.

4 MR. BARENS: NOW, THERE HAS BEEN A LOT OF DISCUSSION
5 ABOUT WHAT THE MEANING OF REASONABLE DOUBT IS. CAN YOU
6 ACCEPT THAT I TELL YOU THAT THE LAW IN ITS WISDOM OVER THESE
7 SEVERAL HUNDRED YEARS OF ANGLO-SAXON JURISPRUDENCE, HAS NEVER
8 COME TO A CONCLUSION ABOUT WHAT REASONABLE DOUBT IS?

9 MR. WAPNER: WELL, I OBJECT TO THAT. THE COURT IS GOING
10 TO TELL THEM THE LEGAL DEFINITION. THAT IS FOR BETTER OR
11 WORSE, A CONCLUSION.

12 THE COURT: WELL, WHAT I WILL DO, WOULD BE TO DEFINE
13 REASONABLE DOUBT AS IT APPEARS IN THE INSTRUCTION BOOK. THAT
14 IS ALL I AM GOING TO TELL YOU.

15 MR. BARENS: BUT WHAT HAPPENS HERE -- JUST A MOMENT.

16 (PAUSE.)

17 MR. BARENS: WHAT I AM ATTEMPTING TO GET AT, IS THAT
18 THE ONLY ONE WHO IS GOING TO DECIDE REASONABLE IN
19 THIS COURTROOM IS YOU.

20 MR. NELSON: RIGHT.

21 MR. BARENS: AND THE OTHER JURORS.

22 MR. NELSON: UH-HUH.

23 MR. BARENS: BASED ON YOUR EXPERIENCE, WHAT YOU BELIEVE
24 IN. DO YOU UNDERSTAND THAT?

25 MR. NELSON: YES.

26 MR. BARENS: THAT IS A DECISION THAT YOU HAVE TO MAKE
27 ON YOUR OWN, BASED ON YOUR INTERPRETATION OF THE EVIDENCE.

28 MR. NELSON: THE EVIDENCE, RIGHT.

24A-2
1 MR. BARENS: DO YOU HAVE ANY REASON TO BELIEVE THAT
2 BECAUSE OF THE FACT THAT MY CLIENT IS HERE, ACCUSED OF A CRIME,
3 THAT HE HAS DONE ANYTHING AT ALL?

4 MR. NELSON: NO.

5 MR. BARENS: DO YOU HAVE ANY REASON TO BELIEVE -- AND
6 THIS IS IMPORTANT -- THAT A MURDER TOOK PLACE?

7 MR. NELSON: NOT YET, NO. THERE IS NO EVIDENCE.

8 MR. BARENS: NO EVIDENCE AT ALL?

9 MR. NELSON: HE IS INNOCENT.

10 MR. BARENS: BECAUSE SOMEONE IS ACCUSED OF A MURDER,
11 DO YOU ACTUALLY BELIEVE THAT WELL, A MURDER MUST HAVE TAKEN
12 PLACE OR HE WOULDN'T BE HERE AND WE WOULDN'T BE TALKING ABOUT
13 A MURDER TRIAL? HONESTLY, WHAT DO YOU THINK?

14 MR. NELSON: NO. I DON'T BELIEVE THAT.

15 MR. BARENS: BECAUSE YOU WOULD HAVE TO SEE SOME EVIDENCE
16 OF A MURDER, WOULDN'T YOU?

17 MR. NELSON: YES.

18 MR. BARENS: SO, YOU CAN'T ASSUME BECAUSE WE ARE HERE
19 IN THIS COURTROOM TALKING ABOUT MURDER, THAT ANY SUCH THING
20 TOOK PLACE, CAN WE?

21 MR. NELSON: NO, THAT'S RIGHT.

22 MR. BARENS: DO YOU HAVE ANY BROTHERS OR SISTERS?

23 MR. NELSON: YES. I HAVE ONE BROTHER AND TWO SISTERS
24 LEFT.

25 MR. BARENS: AND WHERE DO THEY LIVE, SIR?

26 MR. NELSON: TWO ARE IN IOWA AND ONE IS IN PHOENIX,
27 ARIZONA.

28 MR. BARENS: COULD YOU JUST VERY BRIEFLY TELL ME WHAT

24A-3

1 THEIR OCCUPATIONS ARE?

2 MR. NELSON: WELL, THE SISTERS ARE HOUSEWIVES. MY
3 BROTHER IS RETIRED.

4 MR. BARENS: FROM WHAT, SIR?

5 MR. NELSON: FROM DOUGLAS AIRCRAFT.

6 MR. BARENS: DID YOUR SON HAVE ANY OTHER DIFFERENT
7 OCCUPATION PRIOR TO THE TIME HE STARTED WORKING FOR PRESIDENTIAL
8 LINES?

9 MR. NELSON: YES.

10 MR. BARENS: WHAT WAS THAT, SIR?

11 MR. NELSON: FOR DENNY'S, INC. DOWN HERE.

12 MR. BARENS: IS YOUR SON MARRIED?

13 MR. NELSON: YES.

14 MR. BARENS: WHAT DOES HIS WIFE DO?

15 MR. NELSON: SHE IS MANAGER FOR HOUSING AND RENTALS
16 AND TAKING CARE OF PROPERTIES.

17 MR. BARENS: PASS FOR CAUSE. THANK YOU, SIR.

18 THE COURT: ALL RIGHT.

19 MR. WAPNER: THANK YOU, YOUR HONOR.

20 GOOD AFTERNOON, MR. NELSON. I DIDN'T HEAR EXACTLY
21 THE COMPANIES THAT YOU WORKED FOR.

22 MR. NELSON: VIRTUE BROTHERS OF CALIFORNIA.

23 MR. WAPNER: IS THAT VIRTUE BROTHERS?

24 MR. NELSON: YES.

25 MR. WAPNER: WHAT KIND OF COMPANY WAS THAT?

26 MR. NELSON: WELL, IT WAS A FURNITURE COMPANY.

27 MR. WAPNER: AND THAT WAS THE FIRST ONE THAT YOU WORKED
28 FOR?

21-4

1 MR. NELSON: YES, TWENTY-EIGHT AND A HALF YEARS.

2 MR. WAPNER: WAS THAT A FURNITURE MANUFACTURING COMPANY?

3 MR. NELSON: YES.

4 MR. WAPNER: YOU STARTED THERE AS A LABORER?

5 MR. NELSON: YES.

6 MR. WAPNER: YOU WORKED YOUR WAY UP THROUGH DIFFERENT --

7 MR. NELSON: YES. I WAS FOREMAN. THEN I WENT -- THAT

8 WAS FOR TEN YEARS. THEN I WENT INTO NEW PRODUCTS.

9 MR. WAPNER: WHAT DID YOU DO IN TERMS OF NEW PRODUCTS?

10 MR. NELSON: WELL, THAT IS WHERE YOU START FROM SCRATCH

11 AND BUILD FURNITURE ALL BY HAND.

12 MR. WAPNER: THAT IS --

13 MR. NELSON: NEW PRODUCTS.

14 MR. WAPNER: MAKING MODELS FOR NEW PIECES OF FURNITURE

15 AND THINGS LIKE THAT?

16 MR. NELSON: RIGHT, YES.

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1 MR. WAPNER: AND AFTER YOU LEFT THEM, YOU WENT TO WHAT
2 COMPANY?

3 MR. NELSON: HINCKLE. THAT IS THE CHEMICAL COMPANY.

4 MR. WAPNER: WHAT DID YOU DO FOR THE CHEMICAL COMPANY?

5 MR. NELSON: I WAS IN MAINTENANCE THERE.

6 MR. WAPNER: WHEN YOU RIDE A BIKE, ARE YOU TALKING ABOUT
7 A BICYCLE OR A MOTORCYCLE?

8 MR. NELSON: NO, A BICYCLE. NOT AT MY AGE.

9 MR. WAPNER: IS THAT AROUND TOWN OR DO YOU RIDE IT IN
10 THE MOUNTAINS?

11 MR. NELSON: NO, AROUND TOWN.

12 MR. WAPNER: DO YOU KNOW THAT WE STARTED OUT THIS WHOLE
13 PROCESS OF JURY SELECTION WITH AN INQUIRY ABOUT THE DEATH
14 PENALTY. DO YOU REMEMBER THAT?

15 MR. NELSON: RIGHT.

16 MR. WAPNER: IN THIS PART OF THE TRIAL, IN THE GUILT
17 PHASE OF THE TRIAL, THE JUDGE IS GOING TO TELL YOU THAT YOU
18 CAN'T CONSIDER WHAT PENALTY THE DEFENDANT MIGHT GET, IF YOU
19 FIND HIM GUILTY. DO YOU UNDERSTAND THAT?

20 MR. NELSON: RIGHT.

21 MR. WAPNER: DOES THAT MAKE SENSE TO YOU?

22 MR. NELSON: YES.

23 MR. WAPNER: CAN YOU JUDGE THIS CASE ON THE FACTS AND
24 ON THE EVIDENCE WITHOUT ANY THOUGHT AS TO WHAT MIGHT HAPPEN
25 TO THE DEFENDANT, IF YOU FIND HIM GUILTY?

26 MR. NELSON: RIGHT.

27 MR. WAPNER: WILL YOU HOLD IT AGAINST ME IF I DON'T
28 CALL HIM MR. HUNT OR JOE OR JOEY?

1 MR. NELSON: NO.

2 MR. WAPNER: ANOTHER THING, I TALKED ABOUT THIS WITH
3 ONE OF THE OTHER JURORS. DO YOU UNDERSTAND THAT THE PRESUMPTION
4 OF INNOCENCE DOESN'T MEAN THAT THE DEFENDANT IS IN FACT,
5 INNOCENT?

6 MR. NELSON: WELL, NOT UNTIL PROVEN.

7 MR. WAPNER: RIGHT. BUT IF YOU -- DO YOU UNDERSTAND
8 THAT IN EVERY CRIMINAL CASE THAT IS TRIED IN THE UNITED STATES
9 OF AMERICA, THE DEFENDANTS ARE ALL PRESUMED INNOCENT?

10 MR. NELSON: RIGHT.

11 MR. WAPNER: AND YOU KNOW FROM READING THE PAPERS AND
12 BEING AROUND, THAT A LOT OF THESE PEOPLE EVENTUALLY ARE FOUND
13 GUILTY?

14 MR. NELSON: SURE.

15 MR. WAPNER: BUT ALL OF THE PEOPLE THAT ARE EVENTUALLY
16 FOUND GUILTY, WERE PRESUMED INNOCENT AT ONE TIME. DO YOU
17 UNDERSTAND THAT?

18 MR. NELSON: THAT'S RIGHT.

19 MR. WAPNER: SO THE CONSTITUTIONAL PROVISION OF THE
20 PRESUMPTION OF INNOCENCE IS THERE, SO THAT THE STATE IS REQUIRED
21 TO PROVE THE DEFENDANT GUILTY. DO YOU UNDERSTAND THAT?

22 MR. NELSON: RIGHT.

23 MR. WAPNER: OKAY. YOU TOLD MR. BARENS THAT YOU
24 UNDERSTOOD WHAT I WAS TRYING TO GET AT WITH THE EXAMPLE ON
25 THE BOAT.

26 TELL ME WHAT YOU THINK REASONABLY HAPPENED TO
27 THE PERSON.

28 MR. NELSON: WELL, WE KNOW THE FELLOW DISAPPEARED. THE

1 ONLY PLACE HE WOULD GO IS IN THE WATER.

2 MR. WAPNER: OKAY. AND DO YOU HAVE ANY FEELINGS ABOUT
3 WHAT HAPPENED TO HIM AFTER HE GOT INTO THE WATER?

4 MR. NELSON: WELL, NOT REALLY.

5 MR. WAPNER: YOU DON'T HAVE ANY FEELINGS ONE WAY OR
6 THE OTHER?

7 MR. NELSON: NO.

8 MR. WAPNER: OKAY. THAT IS A PRETTY GOOD WAY TO WEASLE
9 OUT OF THE WHOLE DISCUSSION.

10 HAVE YOU EVER BEEN THE VICTIM OF A CON SCHEME
11 OR ANY KIND OF A THEFT?

12 MR. NELSON: NO.

13 MR. WAPNER: DO YOU KNOW ANY ATTORNEYS WHO PRACTICE
14 PRIMARILY CRIMINAL LAW?

15 MR. NELSON: NO.

16 MR. WAPNER: HAVE ANY OF THE JURIES THAT YOU SERVED
17 ON FAILED TO REACH A VERDICT?

18 MR. NELSON: NO.

19 MR. WAPNER: HAVE YOU HAD ANY EXPERIENCE WITH LAW
20 ENFORCEMENT THAT LEFT SUCH A BAD TASTE IN YOUR MOUTH THAT
21 YOU WOULD HOLD IT AGAINST THE POLICEMAN IF HE TESTIFIED?

22 MR. NELSON: NO.

23 MR. WAPNER: IN THE DRIVING UNDER THE INFLUENCE CASE
24 THAT YOU SERVED ON, DID A WITNESS COME IN AND TESTIFY THAT
25 HE HAD BEEN DRINKING WITH THE DEFENDANT?

26 MR. NELSON: NO.

27 MR. WAPNER: DID YOU HAVE ANY EVIDENCE OF ANY BLOOD
28 ALCOHOL IN THAT CASE?

1 MR. NELSON: YES.

2 MR. WAPNER: DID YOU HAVE A POLICE OFFICER TESTIFY TO
3 OBSERVING THE PERSON AND HIS SYMPTOMS?

4 MR. NELSON: YES. THEY ALSO HAD A VIDEO OF IT.

5 MR. WAPNER: OF WHAT THEY DID IN THE FIELD?

6 MR. NELSON: YES, RIGHT, WHEN THEY TOOK HIM DOWN AND
7 PUT HIM THROUGH THE TESTS. THEY HAD A VIDEO OF IT. WE GOT
8 TO SEE IT.

9 MR. WAPNER: OKAY. SO YOU COULD MAKE YOUR OWN JUDGMENT,
10 BASED ON OBSERVING THOSE SYMPTOMS?

11 MR. NELSON: RIGHT.

12 MR. WAPNER: YOU NEVER DID SEE THE PERSON DRIVING THOUGH,
13 YOURSELF?

14 MR. NELSON: NO.

15 MR. WAPNER: YOU WERE ABLE TO OBSERVE HOW HE WALKED?

16 MR. NELSON: THAT'S RIGHT.

17 MR. WAPNER: YOU WERE ABLE TO OBSERVE HIS COORDINATION?

18 MR. NELSON: RIGHT.

19 MR. WAPNER: YOU WERE ABLE TO OBSERVE WHETHER HE COULD
20 TOUCH HIS FINGERS? AND WHETHER HE COULD SAY THE ALPHABET?

21 MR. NELSON: YES.

22 MR. WAPNER: BASED ON THOSE PIECES OF DIRECT EVIDENCE,
23 DID YOU FORM ANY OPINION IN YOUR OWN MIND ONE WAY OR THE OTHER
24 ABOUT WHETHER HE WAS UNDER THE INFLUENCE OF ALCOHOL?

25 MR. NELSON: RIGHT.

26 MR. WAPNER: AND WAS ALL OF THAT -- I DON'T KNOW IF
27 YOU THOUGHT ABOUT IT AT THE TIME. BUT DID YOU REALIZE THAT
28 THAT WAS CIRCUMSTANTIAL EVIDENCE?

1 MR. NELSON: RIGHT.

2 MR. WAPNER: THERE IS DIRECT EVIDENCE OF WHAT HE COULD
3 DO IN TERMS OF COUNTING ON HIS FINGERS OR WHETHER HE COULD
4 SAY THE ALPHABET. ALL THOSE ARE PIECES OF DIRECT EVIDENCE
5 THAT YOU ADDED UP TO DETERMINE IN YOUR MIND, WHETHER OR NOT
6 THE PERSON WAS UNDER THE INFLUENCE?

7 MR. NELSON: RIGHT.

8 MR. WAPNER: DO YOU HAVE ANY PROBLEM WITH THE CONCEPT
9 THAT THE LAW IN CALIFORNIA DOESN'T REQUIRE US TO PRODUCE A
10 BODY IN ORDER TO PROVE A MURDER?

11 MR. NELSON: NO, SIR.

12 MR. WAPNER: DO YOU THINK A PERSON WHO COMMITS A MURDER
13 SHOULD BE REWARDED FOR BEING CLEVER ENOUGH TO DISPOSE OF THE
14 BODY?

15 MR. NELSON: NO.

16 MR. WAPNER: OKAY. THANK YOU. I PASS FOR CAUSE.

17 THE COURT: ALL RIGHT. IT IS THE DEFENSE PEREMPTORY.
18 WE HAVE TIME TO VOIR DIRE ONE MORE JUROR.

19 MR. BARENS: JUST A MOMENT, YOUR HONOR.

20 (PAUSE.)

21 THE COURT: IT IS THE DEFENSE PEREMPTORY.

22 MR. BARENS: YOUR HONOR, THE DEFENSE WOULD LIKE YOUR
23 HONOR TO THANK AND EXCUSE JUROR NUMBER 10, MR. TAUB.

24 THE COURT: THANK YOU, MR. TAUB.

25 (PROSPECTIVE JUROR TAUB EXITED

26 THE COURTROOM.)

27 THE CLERK: MARSHA DEEG, D-E-E-G.

28 THE COURT: MISS DEEG, YOU HEARD ALL OF THE QUESTIONS

1 AND ANSWERS THAT WERE ASKED AND GIVEN?

2 MS. DEEG: YES, SIR.

3 THE COURT: IF I WERE TO HAVE ASKED YOU THE SAME GENERAL
4 QUESTIONS, WOULD YOUR ANSWERS BE SUBSTANTIALLY THE SAME?

5 MS. DEEG: SUBSTANTIALLY THE SAME, SIR.

6 THE COURT: ALL RIGHT. WHAT DO YOU DO, MISS DEEG?

7 MS. DEEG: I AM A DATA COMMUNICATIONS TECHNICIAN.

8 THE COURT: KEEP YOUR VOICE UP.

9 MS. DEEG: I AM A DATA TECHNICIAN AND A CLIENT SERVICES
10 REPRESENTATIVE.

11 THE COURT: BY WHOM ARE YOU EMPLOYED?

12 MS. DEEG: USERS, INC.

13 THE COURT: HOW LONG HAVE YOU BEEN EMPLOYED THERE?

14 MS. DEEG: OVER TEN YEARS.

15 THE COURT: IS THERE A MR. DEEG?

16 MS. DEEG: YES, SIR.

17 THE COURT: WHAT DOES HE DO?

18 MS. DEEG: HE IS SELF-EMPLOYED.

19 THE COURT: WHAT DOES HE DO?

20 MS. DEEG: HE SELLS COMPUTER SOFTWARE FOR MICROCOMPUTERS.

21 THE COURT: DO YOU HAVE ANY TRAINING FOR THE JOB THAT
22 YOU HAVE NOW? DID YOU GO TO SCHOOL OF ANY KIND?

23 MS. DEEG: NO.

24 THE COURT: WHAT EDUCATION DO YOU HAVE?

25 MS. DEEG: I HAVE GRADUATED FROM HAMILTON HIGH SCHOOL
26 AND TWO YEARS AT SANTA MONICA CITY COLLEGE. I ALSO TOOK SOME
27 CLASSES AT THE UNIVERSITY OF UPPSALA IN SWEDEN.

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1 THE COURT: DO YOU HAVE ANY CHILDREN?

2 MS. DEEG: NO, SIR.

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

5 MS. DEEG: NO, SIR.

6 THIS IS MY FIRST CALL.

7 THE COURT: WHERE DID YOU SAY YOU LIVE?

8 MS. DEEG: MARINA DEL REY.

9 THE COURT: I THINK WE CAN TAKE AN ADJOURNMENT AT THIS
10 TIME BECAUSE IT WILL TAKE US BEYOND 4:30 AND WE WILL GIVE THE
11 REPORTERS A LITTLE REST.

12 LADIES AND GENTLEMEN, WE WILL TAKE AN ADJOURNMENT
13 AT THIS TIME. WHAT HAVE WE GOT TOMORROW?

14 THE CLERK: 10:30 IS GOOD.

15 THE COURT: ALL RIGHT, 10:30 IN THE JURY ASSEMBLY ROOM.
16 WE WILL TAKE OUT ADJOURNMENT AT THIS TIME AND I WILL ASK YOU
17 TO PLEASE COME BACK TOMORROW MORNING AT 10:30 AND REPORT AS
18 USUAL IN THE JURY ASSEMBLY ROOM.

19 SEE YOU TOMORROW MORNING AND GOOD NIGHT.

20 (AT 4:20 P.M. AN ADJOURNMENT WAS TAKEN
21 UNTIL WEDNESDAY, DECEMBER 17, 1986, AT
22 10:30 A.M.)

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