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COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT

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

SUPERIOR COURT  
NO. A-090435

OCT 0 9 1981

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 27 OF 101  
(PAGES 3842 TO 4027, 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 23, 1986

VOLUME 27

(PAGES 3842 TO 4027, 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 23, 1986      VOLUME 27      PAGES 3842 TO 4027

A.M.      3842

P.M.      3908

PROCEEDINGS

VOIR DIRE OF PROSPECTIVE JURORS (CONTINUED)      3842

1 SANTA MONICA, CALIFORNIA; TUESDAY, DECEMBER 23, 1986; 10:35 A.M.  
2 DEPARTMENT C HON. LAURENCE J. RITTENBAND, JUDGE

3 (APPEARANCES AS NOTED ON TITLE PAGE.)

4  
5 (THE FOLLOWING PROCEEDINGS WERE HELD  
6 OUTSIDE THE PRESENCE AND HEARING OF  
7 THE PROSPECTIVE JURORS:)

8 THE COURT: ALL RIGHT, THE RECORD WILL INDICATE THE  
9 PRESENCE OF THE DEFENDANT AND COUNSEL.

10 MR. WAPNER: YOUR HONOR, I JUST WANTED TO DO TWO THINGS  
11 ON THE RECORD.

12 ONE WAS TO PROVIDE COUNSEL WITH COPIES OF NOTES  
13 THAT I TOOK OF INTERVIEWS WITH TWO WITNESSES, IN ADDITION TO  
14 A ONE-PAGE COPY OF SOME NOTES THAT ONE OF THE WITNESSES TOOK,  
15 VARIOUS NOTES OF HIS CONCEPTS THAT WERE GIVEN TO HIM DURING  
16 THE TIME THAT HE WAS A MEMBER OF THIS BBC ORGANIZATION.  
17 THE NOTES WERE TAKEN BY JOHN ALLEN. I AM PROVIDING THOSE TO  
18 THE DEFENSE AT THIS TIME.

19 THE OTHER THING I WOULD LIKE TO DO ON THE RECORD  
20 IS ASK FOR A STIPULATION THAT ANY RECORDS THAT HAVE BEEN  
21 RECEIVED BY WAY OF A SUBPOENA DUCES TECUM ARE IN THE POSSESSION  
22 OF THE CLERK THAT HAVE NOT BEEN OPENED, THAT THEY MAY BE  
23 OPENED, COPIED AND RESEALED AND COPIES PROVIDED TO ALL COUNSEL;  
24 MAY IT BE SO STIPULATED?

25 MR. BARENS: THAT IS STIPULATED BY THE DEFENSE.

26 THE COURT: WITH THE EXCEPTION OF THE STATE BAR  
27 CONFIDENTIAL FILE.

28 MR. WAPNER: CORRECT.

1 MR. BARENS: COULD I INQUIRE JUST BECAUSE -- COULD I  
2 JUST MAKE SURE I UNDERSTAND WHAT I AM GETTING HERE, JUDGE?

3 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

4 MR. BARENS: I UNDERSTAND.

5 THE COURT: ALL RIGHT. ARE YOU READY FOR THE JURY?

6 MR. WAPNER: YES, I AM READY FOR THE JURY.

7 (PAUSE IN PROCEEDINGS.)  
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1 (THE PROSPECTIVE JURORS ENTERED THE  
2 COURTROOM.)

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

6 GOOD MORNING, LADIES AND GENTLEMEN. I THINK THAT  
7 YOU HAVE AN OPPORTUNITY OF EXAMINING MR. STROUP.

8 MR. WAPNER: YES. THANK YOU. GOOD MORNING, MR. STROUP.

9 THE CASE THAT YOU SAT ON, ONE OF THE CASES THAT  
10 YOU SAT ON AS A JUROR, YOU SAID THAT PART OF THE PROBLEM MIGHT  
11 BE ALLEVIATED BY CLOSER QUESTIONING OF THE JURORS?

12 MR. STROUP: YES.

13 MR. WAPNER: WELL, TELL ME WHAT YOU MEANT BY THAT?

14 MR. STROUP: WELL, IN THE ONE CASE THAT I SAT ON THAT  
15 WE HAD A HUNG JURY, ONE OF THE JURORS WAS BIASED.

16 MR. WAPNER: HOW DID YOU FIND THAT OUT?

17 MR. STROUP: SHE MENTIONED THAT AFTER THE HUNG JURY WAS  
18 PRONOUNCED.

19 MR. WAPNER: DID SHE MENTION IT IN THE JURY ROOM WHILE  
20 YOU WERE DELIBERATING?

21 MR. STROUP: NO.

22 MR. WAPNER: DID SHE EVER MENTION IT DURING THE JURY  
23 SELECTION PROCESS?

24 MR. STROUP: NO. WELL, I DON'T KNOW UNDER THAT  
25 PARTICULAR TRIAL. THE ATTORNEYS DIDN'T DO TOO MUCH QUESTIONING.

26 THEY JUST ASKED YOU KNOW, WHAT YOUR OCCUPATION  
27 WAS, THE CHILDREN YOU HAD AND A FEW THINGS LIKE THAT IN THAT  
28 PARTICULAR CASE. I DON'T KNOW WHY.

1           MR. WAPNER:   WHAT KIND OF BIAS DID IT TURN OUT THAT SHE  
2   HAD OR HE HAD?

3           MR. STROUP:   WELL, UNDER THIS PARTICULAR CASE, THE  
4   ATTEMPTED RAPE, THE GIRLS WERE A COUPLE OF HITCHHIKERS AND  
5   SHE MENTIONED THE FACT THAT ANY GIRL THAT WAS HITCHHIKING,  
6   THAT THEY ARE AT FAULT.

7           MR. WAPNER:   IT IS JUST BECAUSE THEY WERE HITCHHIKING  
8   THAT THEY MUST BE ASKING FOR IT?

9           MR. STROUP:   YES.

10          MR. WAPNER:   NOBODY ASKED HER THAT QUESTION DURING  
11   THE JURY SELECTION PROCESS?

12          MR. STROUP:   NO.

13          MR. WAPNER:   SO YOU DON'T MIND IF WE ASK YOU A LOT OF  
14   QUESTIONS?

15          MR. STROUP:   NO.

16          MR. WAPNER:   THE CASE WHERE YOUR WIFE WAS THE VICTIM  
17   OF A ROBBERY ON THE STREET, WAS ANYONE EVER CAUGHT IN THAT  
18   CASE?

19          MR. STROUP:   NO.

20          MR. WAPNER:   AND NONE OF HER PROPERTY WAS EVER RECOVERED?

21          MR. STROUP:   WELL, SHE DIDN'T LOSE MUCH.   SHE WAS  
22   SETTING (SIC) IN THE CAR, EATING HER LUNCH IN THE PARKING LOT,  
23   WHAT USED TO BE THE MARKET BASKET, UP ON LINCOLN BOULEVARD  
24   THERE, NEAR LAKE STREET AND THE INDIVIDUAL WALKED PAST HER  
25   COMING TOWARD THE FRONT OF HER.

26                        THEN SHE TURNED AROUND AND HE CAME UP BESIDE THE  
27   CAR AND PUT A GUN -- STUCK IT TO HER HEAD AND TOLD HER TO OPEN  
28   HER PURSE UP.   AND SHE GOT A GOOD LOOK AT HIM.

1                   BUT, SHE WENT DOWN TO THE POLICE STATION AND  
2 CHECKED THE MUG SHOTS A COUPLE OF TIMES BUT SHE DIDN'T  
3 RECOGNIZE ANYBODY IN THE MUG SHOTS.  
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1 MR. WAPNER: AND WAS THAT DURING THE DAY OR AT NIGHT?

2 MR. STROUP: IT WAS DURING LUNCH TIME.

3 MR. WAPNER: HOW LONG OF AN OPPORTUNITY DID SHE HAVE  
4 TO SEE HIM?

5 MR. STROUP: OH, I DON'T KNOW, TWO OR THREE MINUTES OR  
6 SOMETHING LIKE THAT.

7 MR. WAPNER: TWO OR THREE MINUTES?

8 MR. STROUP: YES.

9 HE WAS -- HE HAD HIS ELBOWS ON THE SIDE OF THE  
10 DOOR, THE WINDOW FRAME AND ACTED AS IF HE WAS TALKING TO HER  
11 AND PEOPLE WALKING BACK AND FORTH, THEY DIDN'T REALIZE WHAT  
12 WAS GOING ON.

13 MR. WAPNER: SHE WASN'T ABLE TO PICK ANYONE OUT OF THE  
14 MUG SHOTS?

15 MR. STROUP: NO.

16 MR. WAPNER: HOW MANY MUG SHOTS DID SHE LOOK AT, DO YOU  
17 KNOW?

18 MR. STROUP: I DON'T KNOW. SHE WENT THROUGH TWO, THREE  
19 BOOKS AT THE VENICE POLICE STATION, IT WAS.

20 MR. WAPNER: DID SHE GIVE A DESCRIPTION TO THE POLICE  
21 OF WHAT HE LOOKED LIKE?

22 MR. STROUP: YES. THE POLICE CAME AND INVESTIGATED IT  
23 BUT --

24 MR. WAPNER: YOU KNOW YOUR WIFE PRETTY WELL, IS SHE  
25 PRETTY GOOD AT ESTIMATING HEIGHTS AND WEIGHTS?

26 MR. STROUP: PRETTY WELL, YES.

27 MR. WAPNER: IN ANY OF THE CASES THAT YOU HAVE SAT ON  
28 BEFORE AS A JUROR, DID YOU HAVE QUESTIONS OF EYEWITNESS

1 IDENTIFICATION?

2 MR. STROUP: NO, NO.

3 MR. WAPNER: ARE YOU GOOD AT ESTIMATING HEIGHTS AND  
4 WEIGHTS?

5 MR. STROUP: PRETTY WELL, YES.

6 MR. WAPNER: HAVE YOU HAD EXPERIENCE IN LIFE WHERE SOME  
7 PEOPLE ARE BETTER AT IT THAN OTHERS?

8 MR. STROUP: YES.

9 MR. WAPNER: AND IT MIGHT DEPEND UPON YOUR PERSPECTIVE,  
10 RIGHT?

11 MR. STROUP: YES, THAT IS TRUE.

12 MR. WAPNER: SO IF YOU ARE A PERSON WHO IS FOUR FEET  
13 TEN AND YOU ARE ESTIMATING SOMEONE'S HEIGHT AND SOMEONE WHO  
14 IS, SAY, FIVE-SIX MIGHT SEEM LIKE A GIANT, RIGHT?

15 MR. STROUP: YES.

16 MR. WAPNER: AND SOME PEOPLE ARE JUST PLAIN BETTER AT  
17 ESTIMATING HEIGHTS AND WEIGHTS THAN OTHERS, RIGHT?

18 MR. STROUP: YES.

19 MR. WAPNER: THE GUY AT THE STATE FAIR WHO DOES IT FOR  
20 A LIVING, RIGHT, HE HAS GOT A BIG SCALE THERE AND HE GETS SOME-  
21 ONE UP THERE AND HE TOUCHES THEM AND ESTIMATES HOW MUCH THEY  
22 WEIGH AND IF HE DOESN'T GET IT WITHIN THREE TO FIVE POUNDS  
23 THEN THEY GET A LITTLE PRIZE OR SOMETHING.

24 MR. STROUP: YES, THAT IS THE SAME BUT --

25 MR. WAPNER: HE GETS IT RIGHT ABOUT WHAT, NINE OUT OF  
26 TEN TIMES?

27 MR. STROUP: I DON'T KNOW IF IT IS NINE OR TEN TIMES,  
28 BUT THE PRIZE DOESN'T AMOUNT TO AS MUCH AS THE FEE.

1 MR. WAPNER: IT IS KIND OF A SCHEME ANYWAY, RIGHT?

2 MR. STROUP: YES.

3 MR. WAPNER: SPEAKING OF WHICH, HAVE YOU EVER BEEN THE  
4 VICTIM OF ANY KIND OF A THEFT OR A CON SCHEME?

5 MR. STROUP: NO, I HAVEN'T.

6 MR. WAPNER: BESIDES THAT ONE PERSON ON THE JURY WHO  
7 IT TURNED OUT HAD A BIAS, DO YOU THINK THAT ALL OF THE OTHER  
8 PEOPLE THAT WERE ON THAT JURY THAT WAS HUNG MADE A GOOD FAITH  
9 EFFORT TO TRY AND REACH A VERDICT?

10 MR. STROUP: YES, I BELIEVE THEY DID, YES.

11 MR. WAPNER: IN THE CASE WHERE YOUR WIFE WAS ROBBED.--  
12 YOU HEARD MR. CHIER GIVE YOU THE EXAMPLE OF THE ELEMENTS OF  
13 A ROBBERY.

14 MR. STROUP: YES.

15 MR. WAPNER: DID YOU UNDERSTAND THAT?

16 MR. STROUP: YES.

17 MR. WAPNER: ONE OF THE ONES THAT I THINK HE LEFT OUT,  
18 WHICH IS A PART OF THE ELEMENTS OF EVERY CRIME, IS THE STATE  
19 OF MIND OF THE PERSON COMMITTING THE CRIME AND IN A ROBBERY  
20 THAT IS THE INTENT PERSONALLY TO DEPRIVE THE PERSON OF THEIR  
21 PROPERTY.

22 MR. STROUP: YES.

23 MR. WAPNER: DO YOU UNDERSTAND THAT THAT IS AN ELEMENT  
24 OF ROBBERY?

25 MR. STROUP: YES.

26 MR. WAPNER: AND HOW DO YOU THINK WE PROVE WHAT A  
27 PERSON'S STATE OF MIND IS, FOR EXAMPLE, IN A ROBBERY CASE?

28 MR. STROUP: WELL, I DON'T KNOW. IT IS PRETTY HARD TO

1 PROVE THEIR STATE OF MIND.

2 MR. WAPNER: YOU CAN'T KNOW OBVIOUSLY EXACTLY WHAT IS  
3 IN THAT PERSON'S HEAD UNLESS THEY TELL YOU, RIGHT?

4 MR. STROUP: NO.

5 MR. WAPNER: SO DON'T YOU HAVE TO DO THAT NECESSARILY  
6 BY CIRCUMSTANTIAL EVIDENCE?

7 MR. STROUP: YES.

8 MR. WAPNER: WHEN A PERSON COMES UP TO YOUR WIFE AND  
9 POINTS A GUN AT HER AND DEMANDS MONEY, DO YOU THINK THAT HE  
10 IS INTENDING TO GO GET A LOAN OR IS HE INTENDING TO PERMANENTLY  
11 KEEP THE MONEY?

12 MR. STROUP: I DON'T KNOW. IT IS HARD TO SAY. I DON'T  
13 KNOW WHAT THE CIRCUMSTANCES WOULD BE BEHIND IT.

14 THE COURT: WHAT DO YOU MEAN IT IS HARD TO SAY WHEN HE  
15 POINTS A GUN AT HER HEAD, WHETHER OR NOT HE WANTS TO TAKE  
16 SOME MONEY OR HE WANTS A LOAN?

17 MR. STROUP: I MEAN THE MOTIVE FOR IT, THE REASON FOR  
18 IT, THE MOTIVE.

19 THE COURT: HE DIDN'T ASK YOU THAT.

20 MR. WAPNER: I DIDN'T ASK YOU THE REASON FOR WHY HE  
21 WANTED IT.

22 DO YOU THINK IT WAS LIKELY HE WAS GOING TO GIVE  
23 HER THE MONEY BACK OR INTENDED TO KEEP IT?

24 MR. STROUP: OH, HE INTENDED TO KEEP IT.

25 MR. WAPNER: YOU DON'T KNOW FOR SURE WHAT HIS INTENT  
26 WAS BECAUSE HE HASN'T TOLD IT, RIGHT?

27 MR. STROUP: YES.

28 MR. WAPNER: BUT IT IS PRETTY STRONG CIRCUMSTANTIAL

1 EVIDENCE WHEN SOMEBODY POINTS A GUN AT YOU AND SAYS, "GIVE  
2 ME YOUR MONEY" THAT THEY ARE NOT PLANNING TO GIVE IT BACK TO  
3 YOU, RIGHT?

4 MR. STROUP: YES, YES.

5 MR. WAPNER: SO YOU UNDERSTAND THAT ONE OF THE ELEMENTS  
6 IN A CASE OF ROBBERY, THE INTENT TO PERMANENTLY DEPRIVE SOME-  
7 ONE OF THEIR PROPERTY IS PROVED BY CIRCUMSTANTIAL EVIDENCE?

8 MR. STROUP: YES.

9 MR. WAPNER: DO YOU HAVE ANY PROBLEM WITH THE IDEA THAT  
10 CIRCUMSTANTIAL EVIDENCE IS AS ACCEPTABLE AS A MEANS OF PROOF  
11 AS DIRECT EVIDENCE AND NEITHER ONE IS ENTITLED TO ANY GREATER  
12 WEIGHT THAN THE OTHER?

13 MR. STROUP: YES.

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4A-2  
1 MR. WAPNER: YOU DON'T HAVE ANY PROBLEM?

2 MR. STROUP: NO.

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

4 MR. BARENS: I BELIEVE IT RESTS WITH THE DEFENDANT.

5 THE COURT: YES. IT IS YOUR PEREMPTORY.

6 MR. BARENS: THE DEFENSE WOULD ASK THE COURT TO THANK  
7 AND EXCUSE JUROR NUMBER 2, MR. STROUP.

8 THE COURT: ALL RIGHT. THANK YOU, MR. STROUP.

9 (PROSPECTIVE JUROR STROUP EXITED THE  
10 COURTROOM.)

11 THE CLERK: RAYMOND DOMINGUEZ, D-O-M-I-N-G-U-E-Z.

12 THE COURT: SOME TIME AGO, I THINK YOU TOLD US THAT  
13 YOU OR SOME MEMBER OF YOUR FAMILY HAD BEEN A VICTIM OF SOME  
14 KIND OF A CRIME?

15 MR. DOMINGUEZ: YES, SIR.

16 THE COURT: WHAT WAS THAT?

17 MR. DOMINGUEZ: A ROBBERY. MY SON WAS WORKING AT A  
18 GAS STATION AND HE GOT ROBBED.

19 THE COURT: SOMEBODY POINTED A GUN AT HIM?

20 MR. DOMINGUEZ: YES, SIR.

21 THE COURT: HOW LONG AGO WAS THAT?

22 MR. DOMINGUEZ: 12 YEARS AGO.

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

24 MR. DOMINGUEZ: YES IT WAS.

25 THE COURT: AND THE ROBBER WAS NEVER APPREHENDED, WAS  
26 HE?

27 MR. DOMINGUEZ: NO.

28 THE COURT: BECAUSE IT HAPPENED TO YOUR SON IN THAT

1 WAY, WOULD THAT INFLUENCE YOU AGAINST THIS DEFENDANT BECAUSE  
2 HE HAS BEEN CHARGED WITH A VERY SERIOUS OFFENSE WHICH  
3 INVOLVES ALSO A ROBBERY?

4 MR. DOMINGUEZ: NO.

5 THE COURT: OTHER THAN THAT, IF I WERE TO ASK YOU THE  
6 SAME GENERAL QUESTIONS ASKED OF THE OTHER JURORS, WOULD YOUR  
7 ANSWERS BE ANY DIFFERENT OR SUBSTANTIALLY THE SAME?

8 MR. DOMINGUEZ: THE SAME.

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

10 MR. DOMINGUEZ: I AM RETIRED.

11 THE COURT: WHAT DID YOU RETIRE FROM?

12 MR. DOMINGUEZ: I WORKED 35 YEARS FOR THE WATER  
13 DEPARTMENT OF BEVERLY HILLS.

14 THE COURT: DID YOU EVER SERVE ON A JURY?

15 MR. DOMINGUEZ: YES.

16 THE COURT: WHAT KIND OF A JURY WAS THAT?

17 MR. DOMINGUEZ: IT WAS A CRIMINAL.

18 THE COURT: WHAT KIND OF A CASE?

19 MR. DOMINGUEZ: MURDER.

20 THE COURT: HOW LONG AGO?

21 MR. DOMINGUEZ: THAT WAS IN 1980.

22 THE COURT: AND WAS IT HERE IN SANTA MONICA?

23 MR. DOMINGUEZ: NO, COMPTON.

24 THE COURT: AND WITHOUT TELLING ME HOW THE JURY DECIDED,  
25 DID THE JURY REACH A VERDICT IN THAT CASE?

26 MR. DOMINGUEZ: YES.

27 THE COURT: DID THAT INVOLVE SPECIAL CIRCUMSTANCES?

28 MR. DOMINGUEZ: NO.

A-3  
1 THE COURT: AND WHATEVER YOU MIGHT HAVE HEARD IN THAT  
2 CASE, WHATEVER INSTRUCTIONS YOU GOT, YOU FORGET ABOUT IT AND  
3 JUST BE GUIDED BY THE INSTRUCTIONS IN THIS CASE, WOULD YOU  
4 NOT?

5 MR. DOMINGUEZ: YES.

6 THE COURT: ALL RIGHT. WHAT KIND OF EDUCATION DID YOU  
7 HAVE?

8 MR. DOMINGUEZ: HIGH SCHOOL.

9 THE COURT: AND THERE IS A MRS. DOMINGUEZ, ISN'T THERE?

10 MR. DOMINGUEZ: YES.

11 THE COURT: AND DOES SHE PURSUE ANY EMPLOYMENT OUTSIDE  
12 THE HOME?

13 MR. DOMINGUEZ: NO.

14 THE COURT: HAS SHE EVER BEEN EMPLOYED IN ANY CAPACITY?

15 MR. DOMINGUEZ: JUST ABOUT A MONTH AFTER WE WERE MARRIED,  
16 SHE WORKED AS A WAITRESS. THAT'S ALL, SIR.

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

18 MR. BARENS: GOOD MORNING, MR. DOMINGUEZ.

19 MR. DOMINGUEZ, I WOULD LIKE TO ASK YOU HOW YOU  
20 FEEL ABOUT THE PRESUMPTION OF INNOCENCE THAT MR. HUNT HAS  
21 THAT WE HAVE ASKED YOU ABOUT IN THIS MATTER. DO YOU THINK  
22 IT IS APPROPRIATE?

23 MR. DOMINGUEZ: YES.

24 MR. BARENS: DO YOU THINK IT IS APPROPRIATE THAT THE  
25 GOVERNMENT HAS TO PROVE THEIR CASE AGAINST HIM?

26 MR. DOMINGUEZ: YES.

27 MR. BARENS: DO YOU THINK IT GIVES HIM SOME KIND OF  
28 ADVANTAGE?



4A-4  
1 MR. DOMINGUEZ: NO.

2 MR. BARENS: OKAY. DO YOU UNDERSTAND THAT WHEN THE  
3 CONSTITUTION WAS DRAFTED AND THE BILL OF RIGHTS WAS DRAFTED,  
4 THAT THAT WAS DONE IN RESPONSE TO SOMETHING? DO YOU REMEMBER  
5 THAT WHEN PEOPLE FIRST CAME HERE AND ENGLAND RULED THIS  
6 COUNTRY, THERE WERE A LOT OF ABUSES THAT THE PEOPLE SAID THE  
7 COLONISTS SUFFERED.

8 DO YOU REMEMBER THAT IN SCHOOL?

9 MR. DOMINGUEZ: YES.

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1 MR. BARENS: DO YOU REMEMBER WHEN THE CONSTITUTION WAS  
2 DRAFTED, A BIG PART OF IT WAS TO OVERCOME CERTAIN ABUSES?

3 MR. DOMINGUEZ: YES.

4 MR. BARENS: AND WHEN WE WERE GIVEN OUR BILL OF RIGHTS,  
5 A DEFENDANT HAS THE RIGHT NOT TO TESTIFY, THE RIGHT TO COUNSEL,  
6 THE GENERAL PRESUMPTION OF INNOCENCE. DO YOU THINK THAT WE  
7 WERE BEING GIVEN BENEFITS OR ADVANTAGES?

8 MR. DOMINGUEZ: I THINK MOST OF IT WAS BENEFITS.

9 MR. BARENS: BENEFITS?

10 MR. DOMINGUEZ: YES.

11 MR. BARENS: NOT TO SAY THAT A DEFENDANT GETS AN  
12 ADVANTAGE OF ANY KIND, BUT RATHER, A BENEFIT TO EQUALIZE THE  
13 POWER THE GOVERNMENT HAS VERSUS THE INDIVIDUAL. THE GOVERNMENT  
14 SENDS IN SOMEONE TO PROSECUTE.

15 NOW, YOU PREVIOUSLY HAD THIS JURY EXPERIENCE IN  
16 1980?

17 MR. DOMINGUEZ: YES.

18 MR. BARENS: AND YOU WERE A REGULAR JUROR IN THAT CASE?

19 MR. DOMINGUEZ: YES.

20 MR. BARENS: HOW LONG DID THAT CASE TAKE FROM THE TIME  
21 YOU STARTED THE SELECTION PROCESS UNTIL IT WAS OVER?

22 MR. DOMINGUEZ: IT TOOK ABOUT A WEEK.

23 MR. BARENS: JUST ONE WEEK?

24 MR. DOMINGUEZ: YES.

25 MR. BARENS: MY GOODNESS. IT WAS NOT A VERY COMPLICATED  
26 CASE?

27 MR. DOMINGUEZ: NO.

28 MR. BARENS: AND THE JURY RATHER QUICKLY CAME TO A

1 DECISION?

2 MR. DOMINGUEZ: YES. I THINK IT TOOK THEM MAYBE AN HOUR  
3 OR TWO HOURS.

4 MR. BARENS: AN HOUR OR TWO HOURS? OKAY. I WILL BET  
5 YOU CAN PRESUME THAT THIS IS A DIFFERENT CASE THAN THAT IN  
6 TERMS OF COMPLEXITY?

7 MR. DOMINGUEZ: YES.

8 MR. BARENS: NOW, IN THAT CASE, WERE YOU COMFORTABLE  
9 WITH THE DEFENDANT HAVING A PRESUMPTION OF INNOCENCE, EVEN  
10 THOUGH IT MIGHT HAVE BEEN A BRIEF ONE?

11 MR. DOMINGUEZ: YES.

12 THE COURT: YOU DON'T KNOW WHAT THE OUTCOME WAS.

13 MR. BARENS: MERE SPECULATION, YOUR HONOR. IT IS MERE  
14 SPECULATION.

15 DO YOU FEEL IN YOUR OWN MIND, THAT YOU WERE ABLE  
16 TO MAINTAIN THE PRESUMPTION OF INNOCENCE ON THE DEFENDANT  
17 IN THAT CASE UNTIL YOU FINISHED YOUR DELIBERATIONS?

18 MR. DOMINGUEZ: YES.

19 MR. BARENS: NOW, DO YOU UNDERSTAND THAT IN THAT REGARD,  
20 IT IS IMPORTANT THAT ALTHOUGH THE GOVERNMENT PUTS ITS WITNESS  
21 ON FIRST, TO TRY TO PROVE THEIR BURDEN, TO ESTABLISH GUILT,  
22 THAT YOU DON'T MAKE A DECISION ON WHETHER SOMEONE IS GUILTY  
23 OR NOT UNTIL YOU HAVE HEARD ALL OF THE EVIDENCE FROM BOTH  
24 SIDES?

25 MR. DOMINGUEZ: RIGHT.

26 MR. BARENS: BECAUSE SOMETIMES IF I JUST TELL YOU ONE  
27 VERSION OF A STORY, WOULDN'T IT BE TRUE THAT UNTIL YOU HEARD  
28 THE OTHER VERSION OF IT, YOU MIGHT NOT KNOW THE WHOLE STORY TO

1 BEGIN WITH? IS THAT TRUE?

2 MR. DOMINGUEZ: THAT'S TRUE.

3 MR. BARENS: MR. DOMINGUEZ, HOW DO YOU FEEL AFTER BEING  
4 A PART OF THAT PROCESS IN 1980? DO YOU THINK THE SYSTEM WORKED?

5 MR. DOMINGUEZ: YES.

6 MR. BARENS: WERE YOU SATISFIED WITH THE WAY THE TRIAL  
7 WAS CONDUCTED?

8 MR. DOMINGUEZ: YES.

9 MR. BARENS: HOW DO YOU FEEL ABOUT THE WAY THE LAWYERS  
10 CONDUCTED THEMSELVES? HOW ABOUT THE DEFENSE LAWYERS?

11 MR. DOMINGUEZ: I WOULD THINK THEY WERE VERY GOOD.

12 MR. BARENS: DO YOU KNOW WHETHER IT WAS A PUBLIC  
13 DEFENDER OR PRIVATE COUNSEL?

14 MR. DOMINGUEZ: I THINK IT WAS PRIVATE COUNSEL. IT  
15 HAS BEEN A WHILE. I DON'T REMEMBER.

16 MR. BARENS: OF COURSE. AND HOW DO YOU FEEL ABOUT THE  
17 WAY THE DISTRICT ATTORNEY CONDUCTED HIS END OF THE CASE?

18 MR. DOMINGUEZ: HE WAS VERY GOOD.

19 MR. BARENS: DID THE DEFENDANT TESTIFY?

20 MR. DOMINGUEZ: YES.

21 MR. BARENS: HOW DID YOU FEEL ABOUT THE DEFENDANT  
22 TESTIFYING?

23 MR. DOMINGUEZ: I THOUGHT HE WAS TELLING THE TRUTH.

24 MR. BARENS: YOU DID?

25 MR. DOMINGUEZ: YES.

26 MR. BARENS: EVEN THOUGH HE WAS TRYING TO SAVE HIS SKIN  
27 AT THAT PARTICULAR TIME?

28 MR. DOMINGUEZ: YES.

1 MR. BARENS: WAS THERE AN ISSUE IN THE CASE BETWEEN  
2 FIRST DEGREE MURDER AND SECOND DEGREE MURDER OR MANSLAUGHTER?

3 MR. DOMINGUEZ: I THINK IT WAS AN ISSUE OF MANSLAUGHTER.

4 MR. BARENS: WHETHER OR NOT YOU HAD A MANSLAUGHTER KIND  
5 OF CASE AS OPPOSED TO A MURDER TYPE OF CASE?

6 MR. DOMINGUEZ: YES.

7 MR. BARENS: AND WAS EVIDENCE PRODUCED IN EACH TYPE  
8 OF INSTANCE?

9 MR. DOMINGUEZ: YES.

10 MR. BARENS: AND YOU RECEIVED INSTRUCTIONS ON THAT?

11 MR. DOMINGUEZ: YES.

12 MR. BARENS: AND I PRESUME BEFORE YOU WENT IN THERE,  
13 MR. DOMINGUEZ, YOU DIDN'T KNOW MUCH ABOUT WHAT THE LEGAL  
14 DEFINITION OF MANSLAUGHTER WAS OR THE DEGREES OF MURDER?

15 MR. DOMINGUEZ: NO, SIR. IT WAS THE FIRST TIME.

16 MR. BARENS: AND YOU WERE ADVISED ABOUT THAT BY THE  
17 JUDGE IN THAT CASE?

18 MR. DOMINGUEZ: YES.

19 MR. BARENS: DID YOU FEEL THAT YOU HAD UNDERSTOOD THOSE  
20 INSTRUCTIONS?

21 MR. DOMINGUEZ: YES.

22 MR. BARENS: AND YOU WERE ABLE TO DIFFERENTIATE BETWEEN  
23 THE DIFFERENT TYPES OF CRIMES THAT WERE BEING TALKED ABOUT?

24 MR. DOMINGUEZ: YES, SIR.

25 MR. BARENS: NOW, DID THE DEFENDANT PRODUCE ANY  
26 WITNESSES ON HIS BEHALF?

27 MR. DOMINGUEZ: YES, HE DID, UH-HUH.

28 MR. BARENS: AND I ASSUME THAT THE PEOPLE PRODUCED

1 CERTAIN WITNESSES, DIDN'T THEY?

2 MR. DOMINGUEZ: YES.

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1 MR. BARENS: NOW, HAD A BODY BEEN LOCATED IN THAT CASE?

2 MR. DOMINGUEZ: YES.

3 MR. BARENS: YOU UNDERSTAND, OF COURSE, YOU HAVE HEARD  
4 IN THIS CASE THAT THERE COULD BE A MURDER ESTABLISHED IN  
5 CALIFORNIA THROUGH CIRCUMSTANTIAL EVIDENCE WITHOUT A BODY.

6 MR. DOMINGUEZ: YES.

7 MR. BARENS: DO YOU UNDERSTAND THAT?

8 MR. DOMINGUEZ: I UNDERSTAND.

9 MR. BARENS: NOW, IF THE DEFENDANT IS TELLING YOU THAT  
10 NO BODY IS PRODUCED BECAUSE NO MURDER WAS COMMITTED, WOULD  
11 YOU EXPECT THE DEFENDANT, IF HE TESTIFIED, TO EXPLAIN TO YOU  
12 WHERE THE ALLEGED VICTIM WAS?

13 MR. DOMINGUEZ: NO.

14 MR. BARENS: WOULD YOU BE COMFORTABLE IF THE DEFENDANT  
15 JUST TOLD YOU "I DON'T KNOW"?

16 MR. DOMINGUEZ: YES.

17 MR. BARENS: YOU WOULD BE ABLE TO LISTEN TO THE DEFENDANT'S  
18 TESTIMONY?

19 MR. DOMINGUEZ: YES.

20 MR. BARENS: WAS THAT THE ONLY JURY EXPERIENCE YOU HAD?

21 MR. DOMINGUEZ: YES.

22 MR. BARENS: AND HAVE YOU EVER HAD OCCASION WHERE YOU  
23 WATCHED A TRIAL IN PROGRESS?

24 MR. DOMINGUEZ: NO.

25 MR. BARENS: NONE AT ALL?

26 MR. DOMINGUEZ: NOT AT ALL.

27 MR. BARENS: ON THAT TOUR OF JURY DUTY, THAT IS THE ONLY  
28 ACTIVITY YOU HAD DURING THAT ENTIRE TOUR OF DUTY?

1 MR. DOMINGUEZ: YES, SIR.

2 MR. BARENS: ON EYEWITNESS IDENTIFICATION WE HEARD SOME  
3 DISCUSSION EARLIER THAT PEOPLE MIGHT ESTIMATE HEIGHTS AND  
4 WEIGHTS DIFFERENTLY, THAT IS PROBABLY A TRUE STATEMENT, ISN'T  
5 IT?

6 MR. DOMINGUEZ: UH-HUH.

7 MR. BARENS: THAT WE ALL, UNLESS WE ARE SOME SORT OF  
8 EXPERT AT THAT TYPE OF THING, WE ALL MIGHT MAKE AN ERROR,  
9 TRUE?

10 MR. DOMINGUEZ: YES, THAT IS TRUE.

11 MR. BARENS: SUPPOSING I MADE AN ERROR ON THAT AND I  
12 WAS DESCRIBING SOMEBODY BUT, LET'S SAY, YOU KNOW, A RELATIVE  
13 ERROR, INSTEAD OF SAYING SOMEONE WAS FIVE-ELEVEN, I SAID THEY  
14 WERE FIVE-NINE AND LET'S SAY THEY REALLY WEIGHED 170 POUNDS  
15 AND I SAID THEY WEIGHED 160 POUNDS, BUT SUPPOSING IT WAS YOU  
16 I WAS TRYING TO DESCRIBE AND I SAID, "WELL, HE HAS A MUSTACHE  
17 AND NEXT TO HIS RIGHT EYE HE HAS A BIT OF A PIGMENTATION," IF  
18 I WAS ABLE TO GIVE YOU THAT TYPE OF DETAIL, PARTICULARLY THE  
19 MARK NEXT TO YOUR RIGHT EYE THERE, EVEN THOUGH I HAD  
20 MISTAKEN YOUR HEIGHT AND WEIGHT, WOULD THAT GIVE YOU GREATER  
21 BELIEF THAT I WAS ACCURATE IN MY IDENTIFICATION IN DESCRIBING  
22 THE PERSON?

23 MR. DOMINGUEZ: YES.

24 MR. BARENS: AND SUPPOSING LATER ON WE WERE STILL TRYING  
25 TO FIND YOU BUT I COULDN'T FIND YOU, BUT I WAS GIVEN A PHOTO-  
26 GRAPHIC LINEUP, A BUNCH OF GUYS THAT LOOKED LIKE YOU AND LET'S  
27 SAY THAT EVERY GUY IN THE PICTURE WAS ABOUT YOUR AGE, MAYBE  
28 SIX OF THEM, AND ON EACH TIME I LOOKED AT THAT, I PICKED THE



1 REAL YOU OUT OF IT WITHOUT ANY PROBLEM, WOULD THAT HELP YOU  
2 BELIEVE THAT I HAD SEEN YOU, THAT I HAD IDENTIFIED THE RIGHT  
3 PARTY?

4 MR. DOMINGUEZ: YES.

5 MR. BARENS: SO WOULDN'T YOU AGREE THAT THE MORE  
6 CONVINCING EVIDENCE OF WHETHER I WAS PROPERLY ABLE TO IDENTIFY  
7 YOU WOULD GO TO MY ABILITY TO KNOW CERTAIN SPECIFIC DETAILS  
8 ABOUT MAYBE HAVING A PIGMENTATION NEXT TO ONE'S EYE RATHER  
9 THAN MY ABILITY TO JUST BLINDLY GUESS YOUR HEIGHT AND WEIGHT;  
10 ISN'T THAT TRUE?

11 MR. DOMINGUEZ: THAT IS TRUE.

12 MR. BARENS: WOULDN'T YOU AGREE THAT THE DIFFERENCE  
13 IS IN ONE INSTANCE, I AM GUESSING WHEN IT COMES TO HEIGHT AND  
14 WEIGHT; ISN'T THAT TRUE?

15 MR. DOMINGUEZ: THAT'S TRUE.

16 MR. BARENS: BUT I AM NOT GUESSING ABOUT WHETHER YOU  
17 HAVE A BLEMISH NEXT TO YOUR EYE, AM I?

18 MR. DOMINGUEZ: NO.

19 MR. BARENS: THAT IS SOMETHING I CAN SEE FOR SURE.

20 MR. DOMINGUEZ: YES.

21 MR. BARENS: WHEN YOU ARE TALKING ABOUT EYEWITNESS  
22 IDENTIFICATION, WOULDN'T YOU AGREE THAT THAT WOULD BE THE  
23 MORE PERSUASIVE TYPE OF EVIDENCE RATHER THAN GUESSES ABOUT  
24 ONE'S HEIGHT AND WEIGHT?

25 MR. DOMINGUEZ: YES.

26 MR. BARENS: IT WOULD BE THE SAME WAY IF I TRIED TO GUESS  
27 YOUR COAT SIZE, THAT WOULDN'T BE A VERY GOOD WAY FOR ME TO  
28 KNOW WHETHER I COULD PROPERLY IDENTIFY YOU OR NOT, WOULD IT?

1 MR. DOMINGUEZ: HUH-UH.

2 MR. BARENS: I WOULD PROBABLY BE WRONG EVERY TIME?

3 MR. DOMINGUEZ: YES.

4 MR. BARENS: BUT IF YOU HAD A BIRTHMARK OR A SCAR OR  
5 A CERTAIN PARTICULAR PHYSICAL ODDITY, WOULDN'T THAT GIVE  
6 BETTER EVIDENCE?

7 MR. DOMINGUEZ: YES.

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1 MR. BARENS: MR. DOMINGUEZ, HOW LONG HAVE YOU BEEN  
2 RETIRED?

3 MR. DOMINGUEZ: THREE YEARS.

4 MR. BARENS: AND WHAT HAVE YOU DONE FOR THE PAST THREE  
5 YEARS?

6 MR. DOMINGUEZ: I DO A LITTLE FISHING.

7 MR. BARENS: YOU GO FISHING?

8 MR. DOMINGUEZ: YES, AND WORK AROUND THE YARD A LOT.

9 MR. BARENS: ANY HOBBIES?

10 MR. DOMINGUEZ: NOT REALLY.

11 MR. BARENS: OKAY, YOU WORKED OVER AT BEVERLY HILLS  
12 WATER AND POWER?

13 MR. DOMINGUEZ: WATER DEPARTMENT.

14 MR. BARENS: THE WATER DEPARTMENT? WHAT WAS YOUR  
15 FUNCTION THERE?

16 MR. DOMINGUEZ: I USED TO WORK ON PIPELINES, THE FIRST  
17 YEAR I WAS THERE AND THEN 28 YEARS, I WORKED AT THE TREATMENT  
18 PLANT.

19 MR. BARENS: OVER THERE OFF OF THIRD STREET?

20 MR. DOMINGUEZ: NO.

21 THIS WAS ON OLYMPIC AND LA CIENEGA.

22 MR. BARENS: OKAY. AND WHEN YOU WERE WORKING OVER  
23 CLOSER TO THE CITY HALL THERE, YOU WORKED THERE FOR A WHILE?

24 MR. DOMINGUEZ: YES.

25 MR. BARENS: YOU WOULD SEE BEVERLY HILLS POLICE DEPARTMENT  
26 PERSONNEL MOST EVERY DAY, WOULDN'T YOU?

27 MR. DOMINGUEZ: I WOULD SEE THEM, YEAH.

28 MR. BARENS: DID YOU DEVELOP ANY FRIENDSHIPS WITH

1 MEMBERS OF THE BEVERLY HILLS POLICE DEPARTMENT?

2 MR. DOMINGUEZ: NO.

3 MR. BARENS: AND DID YOU HAVE MUCH CONTACT WITH THEM  
4 IN YOUR DAILY WORK, OTHER THAN JUST SEEING THEM?

5 MR. DOMINGUEZ: NO.

6 I JUST, WHEN WE USED TO CALL THEM ON THE PHONE  
7 FOR, YOU KNOW, FOR TRAFFIC OR STUFF LIKE THAT.

8 MR. BARENS: WOULD YOUR ANSWER -- I WOULD ASK YOU THIS  
9 IN ALL SERIOUSNESS, BECAUSE IT IS IMPORTANT TO ME, BUT WOULD  
10 YOUR MANY YEARS OF CONTACT WITH THE CITY OF BEVERLY HILLS MAKE  
11 YOU ANY MORE LIKELY TO BE BIASED, TO BELIEVE THE TESTIMONY  
12 OF A POLICE OFFICER FROM BEVERLY HILLS MORE THAN YOU WOULD  
13 ANY OTHER WITNESS?

14 MR. DOMINGUEZ: NO.

15 MR. BARENS: YOU FEEL THAT WAY HONESTLY?

16 MR. DOMINGUEZ: YES, SIR.

17 MR. BARENS: A POLICEMAN'S TESTIMONY WOULD BE NO MORE  
18 CONVINCING TO YOU OR NECESSARILY BELIEVABLE THAN ANY OTHER  
19 WITNESS; IS THAT TRUE?

20 MR. DOMINGUEZ: THAT'S TRUE.

21 MR. BARENS: ASIDE FROM SOME FISHING AND WORKING AROUND  
22 THE HOUSE, DO YOU GO TO THE MOVIES?

23 MR. DOMINGUEZ: VERY SELDOM.

24 MR. BARENS: OR DO YOU READ AT ALL, HAVE ANY INTEREST  
25 IN THAT?

26 MR. DOMINGUEZ: I READ SPORTING MAGAZINES.

27 MR. BARENS: SPORTS, YOU FOLLOW?

28 MR. DOMINGUEZ: YES.

1 MR. BARENS: ANY PARTICULAR SPORTS YOU ARE INTERESTED  
2 IN?

3 MR. DOMINGUEZ: I LIKE FOOTBALL.

4 MR. BARENS: FOOTBALL?

5 MR. DOMINGUEZ: YES.

6 MR. BARENS: DO YOU HAVE ANY CHILDREN?

7 MR. DOMINGUEZ: FOUR. ONE DECEASED.

8 MR. BARENS: I AM SORRY, SIR. I TRUST THAT WAS NOT THE  
9 RESULT OF ANY CRIMINAL CONDUCT?

10 MR. DOMINGUEZ: NO, NO.

11 MR. BARENS: I AM SORRY TO HAVE HAD TO INQUIRE.

12 MR. DOMINGUEZ, HOW OLD ARE YOUR OTHER THREE  
13 CHILDREN?

14 MR. DOMINGUEZ: THE OLDEST IS 39 AND I HAVE GOT ONE --  
15 THE ONE DECEASED WAS 35 AND I HAVE GOT ONE 32 AND THE YOUNGEST  
16 IS 23.

17 MR. BARENS: TWENTY-THREE?

18 MR. DOMINGUEZ: TWENTY-THREE.

19 MR. BARENS: AND IS YOUR 39-YEAR-OLD A BOY OR A GIRL?

20 MR. DOMINGUEZ: IT IS A BOY.

21 MR. BARENS: AND WHAT DOES THAT FELLOW DO?

22 MR. DOMINGUEZ: HE WORKS FOR GENERAL TELEPHONE COMPANY  
23 IN LANCASTER.

24 MR. BARENS: ANY OF YOUR CHILDREN EVER BEEN ASSOCIATED  
25 WITH LAW ENFORCEMENT?

26 MR. DOMINGUEZ: NO.

27 MR. BARENS: HOW ABOUT YOUR CHILD THAT IS 32, IS THAT  
28 A BOY OR A GIRL?

1 MR. DOMINGUEZ: THAT IS A BOY.

2 MR. BARENS: AND WHAT DOES HE DO?

3 MR. DOMINGUEZ: HE WORKS FOR EVEREST & JENNINGS. THEY  
4 MAKE WHEELCHAIRS.

5 MR. BARENS: INDEED. AND YOUR YOUNGEST CHILD AT 23?

6 MR. DOMINGUEZ: HE WORKS IN SWIMMING POOLS.

7 MR. BARENS: ALL RIGHT, HOW DO YOU FEEL ABOUT THE  
8 EXPRESSION BILLIONAIRES BOYS CLUB, DOES THAT BRING ANYTHING  
9 TO MIND OR CAUSE YOU TO HAVE ANY FEELINGS ONE WAY OR THE  
10 OTHER ABOUT THE DEFENDANT?

11 MR. DOMINGUEZ: NO. IT IS OKAY WITH ME.

12 MR. BARENS: THE FACT THAT THE DEFENDANT MIGHT HAVE BEEN  
13 A DEDICATED CAPITALIST AND SPENT HIS WHOLE LIFE TRYING TO MAKE  
14 MONEY, WOULD THAT HAVE ANY INFLUENCE ON YOU?

15 MR. DOMINGUEZ: NO.

16 MR. BARENS: WOULD YOU FEEL ANY BIAS FOR OR AGAINST THE  
17 DEFENDANT BECAUSE HE MIGHT HAVE GONE TO AN EXCLUSIVE PRIVATE  
18 SCHOOL CALLED HARVARD HERE IN THE VALLEY? IT IS A HIGH SCHOOL  
19 BUT A PRIVATE HIGH SCHOOL.

20 MR. DOMINGUEZ: NO.

21 MR. BARENS: IT WOULDN'T CAUSE YOU ANY PROBLEM AT ALL?

22 MR. DOMINGUEZ: NO.

23 MR. BARENS: NOW, LET'S TALK ABOUT THIS BUSINESS OF WHAT  
24 IS REASONABLE. YOU REALIZE THAT ALL OF US HAVE DIFFERENT  
25 CONCEPTS ABOUT WHAT IS REASONABLE.

26 MR. DOMINGUEZ: UH-HUH.

27 MR. BARENS: IS IT BELIEVABLE TO YOU THAT WHAT MIGHT  
28 BE QUITE REASONABLE TO ME COULD BE TOTALLY UNREASONABLE TO

1 YOU?

2 MR. DOMINGUEZ: YES.

3 MR. BARENS: NOW, DO YOU UNDERSTAND THAT WHAT IS  
4 REASONABLE IS PERSONAL TO A PERSON.

5 WHAT IS THE MOST IMPORTANT DECISION YOU EVER  
6 REMEMBER MAKING -- OR MAYBE IT WOULD BE UNFAIR FOR ME TO SAY  
7 THE MOST IMPORTANT -- WHAT DO YOU CONSIDER ONE OF THE MOST  
8 IMPORTANT DECISIONS YOU HAVE EVER MADE?

9 MR. DOMINGUEZ: I GUESS GETTING MARRIED.

10 MR. BARENS: GETTING MARRIED?

11 MR. DOMINGUEZ: YES.

12 MR. BARENS: IS THAT SOMETHING, I WOULD PRESUME, YOU  
13 SPENT QUITE A BIT OF TIME MAKING A DECISION ABOUT?

14 MR. DOMINGUEZ: YES.

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6A-1  
1 MR. BARENS: IT WAS NOT SOMETHING YOU RUSHED RIGHT INTO?

2 MR. DOMINGUEZ: NO.

3 MR. BARENS: OKAY. DID YOU EVER BUY A HOUSE?

4 MR. DOMINGUEZ: YES.

5 MR. BARENS: WAS THAT ANOTHER OF THOSE KINDS OF DECISIONS?

6 MR. DOMINGUEZ: YES. IT WAS ANOTHER ONE, YES.

7 MR. BARENS: AND YOU SPENT A LOT OF TIME THINKING ABOUT  
8 THAT?

9 MR. DOMINGUEZ: YES.

10 MR. BARENS: AND YOU TRIED TO BALANCE OUT THE THINGS  
11 THAT YOU THOUGHT WERE IN FAVOR OF IT AND THE THINGS YOU THOUGHT  
12 WEREN'T IN FAVOR OF IT?

13 MR. DOMINGUEZ: YES.

14 MR. BARENS: AND YOU FINALLY CAME TO A CONCLUSION THAT  
15 REALLY SWAYED YOU, DIDN'T YOU?

16 MR. DOMINGUEZ: YES.

17 MR. BARENS: YOU ACTUALLY WENT AHEAD AND BOUGHT IT?

18 MR. DOMINGUEZ: YES.

19 MR. BARENS: AND IN THAT INSTANCE, THE FACTORS THAT  
20 WERE IN FAVOR OF MAKING THE PURCHASE FAR OUTWEIGHED THE OTHER  
21 FACTORS, I SUPPOSE?

22 MR. DOMINGUEZ: YES.

23 MR. BARENS: DO YOU UNDERSTAND THAT HERE, WE HAVE THAT  
24 KIND OF A DECISION? IT IS ONE OF THOSE KINDS OF DECISIONS  
25 ONE MUST REALLY PONDER AND THINK ABOUT AND CONSIDER ALL OF  
26 THE FACTORS BEFORE COMING TO A CONCLUSION?

27 MR. DOMINGUEZ: YES.

28 MR. BARENS: DO YOU UNDESTAND THAT THERE IS A THIRD



6A-2  
1 TYPE OF A DECISION THAT PEOPLE HAVE AVAILABLE TO THEM? THERE  
2 IS A YES DECISION. THERE IS A NO DECISION. AND THERE IS  
3 AN I CAN'T MAKE A DECISION?

4 MR. DOMINGUEZ: YES.

5 MR. BARENS: IT IS TOO CLOSE TO CALL.

6 MR. DOMINGUEZ: YES.

7 MR. BARENS: NOT ENOUGH EVIDENCE.

8 MR. DOMINGUEZ: NOT ENOUGH EVIDENCE.

9 MR. BARENS: HAVE NO OPINION ON THE EVIDENCE, CAN'T  
10 MAKE A DECISION BASED ON THE EVIDENCE.

11 MR. DOMINGUEZ: RIGHT.

12 MR. BARENS: MAY BE A LOT OF EVIDENCE ON BOTH SIDES.  
13 WHAT HAPPENS TO MR. HUNT IF WE COME TO THAT THIRD DECISION  
14 THAT HUMANS ARE SOMETIMES CONFRONTED WITH, WHERE WE CAN'T  
15 DECIDE?

16 MR. DOMINGUEZ: I WOULD HAVE TO -- I GUESS I WOULD HAVE  
17 TO GET MORE EVIDENCE.

18 MR. BARENS: WELL, THE CASE IS OVER. WE ARE IN THE  
19 JURY ROOM DELIBERATING.

20 MR. DOMINGUEZ: WELL, I DON'T REALLY KNOW.

21 MR. BARENS: OKAY. IT IS REAL IMPORTANT THAT YOU DO  
22 KNOW THAT ONE, MR. DOMINGUEZ. IF IN THAT INSTANCE THE  
23 DEFENDANT GOES FREE, HE IS NOT CONVICTED BECAUSE NOTHING WAS  
24 PROVEN AND --

25 MR. DOMINGUEZ: YES.

26 MR. BARENS: UNLESS IT IS PROVEN BEYOND A REASONABLE  
27 DOUBT, EVERY ELEMENT OF THE ALLEGATIONS AGAINST THIS YOUNG  
28 MAN, HE IS NOT GUILTY. THAT IS THE PRESUMPTION OF INNOCENCE.

6A-7  
1 MR. DOMINGUEZ: UH-HUH.

2 MR. BARENS: YOU KNOW, WE TALKED ABOUT NOT GUILTY, NOT  
3 PROVEN. IT IS THE SAME THING HERE.

4 THE GOVERNMENT HAS THE BURDEN OF PROOF. AND IF  
5 THEY DON'T GIVE YOU ENOUGH EVIDENCE, CLEAR AND CONVINCING  
6 OF NATURE, THAT YOU CAN MAKE A REASONABLE -- A DECISION BEYOND  
7 A REASONABLE DOUBT, DO YOU UNDERSTAND THAT IT IS THEN YOUR  
8 DUTY TO SAY THAT THEY HAVE NOT PROVEN HIM GUILTY?

9 MR. DOMINGUEZ: YES.

10 MR. BARENS: DO YOU HAVE ANY QUESTIONS ABOUT THAT?

11 MR. DOMINGUEZ: NO.

12 MR. BARENS: DO YOU FEEL COMFORTABLE WITH THAT?

13 MR. DOMINGUEZ: YES.

14 MR. BARENS: HOW DO YOU FEEL ABOUT BEING A JUROR IN  
15 THIS CASE, POSSIBLY? IS IT SOMETHING YOU WOULD LIKE TO DO?

16 MR. DOMINGUEZ: I WOULDN'T MIND IT. IT WOULD BE  
17 INTERESTING.

18 MR. BARENS: IT WOULD BE INTERESTING?

19 MR. DOMINGUEZ: YES.

20 MR. BARENS: IS THERE ANY REASON YOU MIGHT PREFER NOT  
21 TO BE A JUROR IN THIS TYPE OF A CASE?

22 MR. DOMINGUEZ: NOT REALLY.

23 MR. BARENS: NOTHING FROM THAT PRIOR CASE THAT YOU HAD  
24 THAT WOULD HAVE ANY BEARING ONE WAY OR ANOTHER?

25 MR. DOMINGUEZ: NO.

26 MR. BARENS: HAS YOUR WIFE EVER BEEN A JUROR?

27 MR. DOMINGUEZ: NO.

28 MR. BARENS: ANYBODY ELSE IN YOUR FAMILY, ANY OF YOUR

6A-4  
1 CHILDREN BEEN A JUROR?

2 MR. DOMINGUEZ: NO.

3 MR. BARENS: DO YOU UNDERSTAND THAT IN DECIDING WHAT  
4 IS REASONABLE, THAT THERE IS A DIFFERENCE BETWEEN WHAT IS  
5 USUAL AND WHAT IS REASONABLE?

6 MR. DOMINGUEZ: YES.

7 MR. BARENS: COULD YOU EVER BELIEVE THAT SOMETHING THAT  
8 IS UNUSUAL, VERY UNUSUAL, LET'S SAY, COULD BE REASONABLE?

9 MR. DOMINGUEZ: YES.

10 MR. BARENS: SUPPOSING YOU FOUND IN YOUR BACK YARD ONE  
11 DAY, A ROCK THAT YOU HAD NEVER SEEN BEFORE.

12 YOU TALKED TO SOME OF YOUR NEIGHBORS AND ASKED  
13 THEM IF THEY HAD EVER SEEN A ROCK LIKE THAT BEFORE AND THEY  
14 HAD NEVER SEEN THAT TYPE OF A THING. THEY COULDN'T IDENTIFY  
15 THAT ROCK. OKAY?

16 LET'S SAY THAT I AM SOME FELLOW FROM A UNIVERSITY  
17 YOU CALLED. YOU NEVER IN YOUR LIFE, HAVE SEEN THIS KIND OF  
18 A ROCK ANYWHERE BEFORE AND CERTAINLY NOT IN YOUR BACK YARD.

19 I CAME ALONG AND I SAID MR. DOMINGUEZ, THAT ROCK  
20 IS FROM OUTER SPACE. IT IS TOTALLY FROM OUTER SPACE. THAT  
21 IS WHAT IT IS, ONE OF THOSE SPACE ROCKS.

22 WHAT DO YOU THINK? DO YOU THINK YOU WOULD BELIEVE  
23 ME?

24 MR. DOMINGUEZ: NO.

25 MR. BARENS: YOU WOULDN'T BELIEVE ME?

26 MR. DOMINGUEZ: NO.

27 MR. BARENS: MR. DOMINGUEZ, HAVE YOU EVER HEARD OF A  
28 METEORITE?

5A-5  
1 MR. DOMINGUEZ: YES.

2 MR. BARENS: DO YOU KNOW THAT IT IS A COMMON THING IN  
3 HUMAN EXPERIENCE FOR PARTICLES FROM METEORS TO BE FOUND ON  
4 THIS PLANET?

5 MR. DOMINGUEZ: YES.

6 MR. BARENS: AND THEY ARE VERY IDENTIFIABLE?

7 MR. DOMINGUEZ: YES.

8 MR. BARENS: NOW, IT IS CONTRARY TO HUMAN EXPERIENCE  
9 TO FIND METEORITES IN ONE'S BACK YARD.

10 BUT, DO YOU SEE THAT THAT IS A POSSIBILITY THAT  
11 COULD BE TRUE, EVEN THOUGH IT IS NOT USUAL? DO YOU SEE WHAT  
12 I MEAN?

13 MR. DOMINGUEZ: YES I DO. NOW I UNDERSTAND.  
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1 MR. BARENS: DO YOU SEE THAT IT IS POSSIBLE? NOW,  
2 SUPPOSING MY LIFE DEPENDED ON WHETHER THAT WAS A METEORITE  
3 OR SOME OTHER KIND OF A ROCK. LET'S SAY THAT ROCK APPEARED  
4 ONE DAY AND SOMEONE WAS TRYING TO SAY ON SOME OTHER DAY I  
5 HAD BEEN IN YOUR BACK YARD, SEEN WITH THAT ROCK AND THAT I  
6 WAS BEATING SOMEONE OVER THE HEAD WITH THAT ROCK.

7 BUT I WAS SAYING THERE WAS NO ROCK THERE. AND  
8 THEN THIS ROCK APPEARS. AND THE TESTIMONY ABOUT IT BEING  
9 A METEORITE AND ITS BELIEVABILITY WAS GOING TO SAVE MY LIFE.

10 WHAT HAPPENED, MR. DOMINGUEZ? YOU DIDN'T BELIEVE  
11 THE OLD PROFESSOR THAT TOLD YOU AND SAID IT IS A METEORITE.  
12 IT WOULD BE QUITE A TRAGEDY, WOULDN'T IT?

13 MR. DOMINGUEZ: YES.

14 MR. BARENS: THAT IS WHY THE JUDGE ASKS YOU AND THAT  
15 IS WHY THE AMERICAN JUDICIAL SYSTEM ASKS YOU TO LISTEN AND  
16 CAREFULLY CONSIDER ALL OF THE EVIDENCE BEFORE YOU MAKE A  
17 DECISION.

18 MR. DOMINGUEZ: YES.

19 MR. BARENS: THE UNUSUAL IS POSSIBLE. THE UNUSUAL CAN  
20 BE REASONABLE BECAUSE AFTER ALL MR. DOMINGUEZ, ONCE I HAVE  
21 CONVINCED YOU THAT A METEORITE IS A METEORITE, IT IS QUITE  
22 REASONABLE THEN, ISN'T IT?

23 MR. DOMINGUEZ: YES.

24 MR. BARENS: EVEN THOUGH IT IS HIGHLY IMPROBABLE, HIGHLY  
25 UNLIKELY, HIGHLY UNUSUAL. BUT NOW IT IS SUDDENLY REASONABLE?

26 MR. DOMINGUEZ: YES.

27 MR. BARENS: WOULD YOU KEEP THAT IN MIND AS YOU LISTEN  
28 TO THE EVIDENCE?

1 MR. DOMINGUEZ: YES.

2 MR. BARENS: WOULD YOU KEEP IN MIND THE FACT THAT EACH  
3 FACT SITUATION IN THIS WORLD, IS DIFFERENT THAN OTHERS?

4 MR. DOMINGUEZ: YES.

5 MR. BARENS: EVEN A TWO-CAR ACCIDENT, SOMEBODY REAR-ENDED  
6 SOMEBODY ON THE STREET, THOUGH IT SURE LOOKS LIKE ALL OF THOSE  
7 HAVE SOME DIFFERENCES --

8 MR. DOMINGUEZ: YES.

9 MR. BARENS: BASED ON THE PERCEPTION OF THE PEOPLE,  
10 WE HAVE TO UNDERSTAND THAT THE PERSONALITIES. DO YOU BELIEVE  
11 THAT HUMAN BEINGS ACT DIFFERENTLY?

12 MR. DOMINGUEZ: YES.

13 MR. BARENS: THEY SEE THINGS DIFFERENTLY?

14 MR. DOMINGUEZ: YES.

15 MR. BARENS: THEIR MOTIVES ARE DIFFERENT?

16 MR. DOMINGUEZ: YES.

17 MR. BARENS: AND I WILL PASS FOR CAUSE. THANK YOU,  
18 MR. DOMINGUEZ.

19 THE COURT: ALL RIGHT. MR. WAPNER?

20 MR. WAPNER: MAY I HAVE A MOMENT?

21 THE COURT: YES.

22 (PAUSE.)

23 MR. WAPNER: GOOD MORNING, MR. DOMINGUEZ. ARE YOUR  
24 PARENTS STILL LIVING?

25 MR. DOMINGUEZ: NO.

26 MR. WAPNER: WHEN THEY WERE LIVING, WERE THEY LIVING  
27 IN THE LOS ANGELES AREA?

28 MR. DOMINGUEZ: MY MOTHER DID.

1 MR. WAPNER: AND HOW OFTEN DID YOU TALK TO HER?

2 MR. DOMINGUEZ: ABOUT ONCE A MONTH.

3 MR. WAPNER: AND YOUR CHILDREN, HOW OFTEN DO YOU TALK  
4 TO THEM?

5 MR. DOMINGUEZ: WELL, ONE LIVES NEXT DOOR. THE OTHER  
6 ONE LIVES WITH ME. ONE LIVES IN LANCASTER. I TALK TO HIM  
7 ABOUT ONCE A WEEK.

8 MR. WAPNER: YOU ARE PRETTY CLOSE WITH YOUR KIDS?

9 MR. DOMINGUEZ: YES.

10 MR. WAPNER: AND AGAIN, I HAVE ASKED SOME FAIRLY PERSONAL  
11 QUESTIONS OF SEVERAL OTHER JURORS. I DON'T MEAN TO BE PRYING  
12 INTO YOUR PERSONAL LIFE, JUST OUT OF IDLE CURIOSITY.

13 BUT, COULD YOU TELL US, YOUR CHILD THAT DIED,  
14 COULD YOU JUST TELL ME A LITTLE BIT ABOUT THAT?

15 MR. DOMINGUEZ: SHE DIED OF CANCER.

16 MR. WAPNER: AND HOW LONG AGO WAS THAT?

17 MR. DOMINGUEZ: IN APRIL OF THIS YEAR.

18 MR. WAPNER: I AM VERY SORRY TO HEAR THAT. DID SHE  
19 SUFFER A LONG TIME OR WAS IT RELATIVELY QUICK?

20 MR. DOMINGUEZ: SHE SUFFERED ABOUT THREE MONTHS, I THINK.

21 MR. WAPNER: AND DID SHE LIVE AT HOME WITH YOU WHEN  
22 THAT WAS HAPPENING?

23 MR. DOMINGUEZ: NO. SHE WAS LIVING BY HERSELF.

24 MR. WAPNER: DID SHE LIVE IN THE LOS ANGELES AREA?

25 MR. DOMINGUEZ: YES. SHE DIDN'T LIVE TOO FAR FROM ME,  
26 ABOUT A BLOCK.

27 MR. WAPNER: OKAY. TELL ME ABOUT THE ROBBERY THAT YOUR  
28 SON WAS THE VICTIM OF. WHAT HAPPENED?

1 MR. DOMINGUEZ: WELL, HE WORKED IN THE GAS STATION.  
2 AND WHILE HE WAS WORKING THERE, HE GOT ROBBED.

3 MR. WAPNER: WAS ANYBODY EVER CAUGHT?

4 MR. DOMINGUEZ: I DON'T KNOW. I DON'T THINK SO.

5 MR. WAPNER: WAS HE ACTUALLY THE PERSON WHO WAS HELD  
6 UP OR WAS IT SOMEBODY ELSE?

7 MR. DOMINGUEZ: HE WAS HELD UP.

8 MR. WAPNER: DID HE EVER IDENTIFY ANYONE AS THE PERSON  
9 WHO ROBBED HIM?

10 MR. DOMINGUEZ: NO, SIR, BECAUSE THEY LOCKED HIM IN  
11 THE LUBE ROOM.

12 MR. WAPNER: DOES THAT MEAN HE DIDN'T SEE THE PEOPLE?

13 MR. DOMINGUEZ: WELL, HE SEEN THEM BUT HE COULDN'T  
14 IDENTIFY THEM TOO GOOD.

15 MR. WAPNER: IS THAT BECAUSE HE DIDN'T SEE THEM THAT  
16 LONG OR IT WAS --

17 MR. DOMINGUEZ: WELL, THEY HAD STOCKINGS OVER THEIR  
18 HEADS.

19 MR. WAPNER: OKAY. SO EVEN IF YOU DID HAVE A CHANCE  
20 TO SEE THEM, IT WOULD BE HARD TO IDENTIFY THEM?

21 MR. DOMINGUEZ: IT WOULD BE HARD TO IDENTIFY, YES.

22 MR. WAPNER: AND WHY DO YOU SUPPOSE THE PERSON WOULD  
23 PUT THE STOCKING OVER HIS HEAD IN THE FIRST PLACE?

24 MR. DOMINGUEZ: SO YOU COULDN'T IDENTIFY HIM.

25 MR. WAPNER: SO IF YOU WERE SETTING OUT TO COMMIT A  
26 ROBBERY, ONE OF THE THINGS YOU MIGHT WANT TO DO IS TO TRY  
27 TO MAKE IT AS HARD AS POSSIBLE FOR SOMEONE TO RECOGNIZE WHO  
28 YOU WERE?



1 MR. DOMINGUEZ: YES.

2 MR. WAPNER: AND IF YOU WERE GOING TO, FOR WHATEVER  
3 REASON, ROB SOMEONE THAT YOU KNEW, YOU WOULD EITHER TRY AND  
4 MAKE SURE THAT THEY COULDN'T RECOGNIZE YOU OR DO SOMETHING  
5 TO MAKE SURE THAT THEY NEVER DID IDENTIFY YOU?

6 MR. DOMINGUEZ: YES.

7 MR. WAPNER: I AM NOT SUGGESTING YOU SHOULD GO OUT AND  
8 COMMIT A ROBBERY OR TRYING TO GIVE YOU ANY HINTS. DON'T GET  
9 THE WRONG IDEA.

10 AND ON THE OTHER SIDE OF THAT, IF SOMEONE WERE  
11 TRYING NOT TO BE RECOGNIZED, DO YOU THINK THAT HE WOULD JUST  
12 KIND OF GO OUT AND BE OUT IN THE OPEN WHERE PEOPLE COULD SEE  
13 HIM?

14 MR. DOMINGUEZ: NO.

15 MR. WAPNER: HOW MANY METEORITES HAVE YOU EVER FOUND  
16 IN YOUR BACK YARD?

17 MR. DOMINGUEZ: NONE.

18 MR. WAPNER: HOW MANY OF YOUR FRIENDS HAVE EVER FOUND  
19 METEORITES IN THEIR BACK YARDS?

20 MR. DOMINGUEZ: NONE THAT I KNOW OF.

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1 MR. WAPNER: IF YOU SAW SOME -- WELL, FIRST OF ALL, ARE  
2 YOU PRETTY FAMILIAR WITH ALL OF THE ROCKS THAT ARE IN YOUR  
3 BACK YARD?

4 MR. DOMINGUEZ: NO, I AM NOT.

5 MR. WAPNER: SO YOU WOULDN'T REALLY KNOW FROM ONE DAY  
6 TO THE NEXT WHETHER THERE WAS ONE IN PARTICULAR --

7 MR. DOMINGUEZ: NO. I TRY TO GET RID OF THEM, CLEAN  
8 THE YARD.

9 MR. WAPNER: IF YOU SAW SOMETHING THAT WAS VERY UNUSUAL,  
10 DO YOU THINK YOU WOULD TRY AND FIGURE OUT WHAT IT WAS?

11 MR. DOMINGUEZ: YES.

12 MR. WAPNER: TRY AND GET AS MUCH INFORMATION ABOUT IT  
13 AS POSSIBLE?

14 MR. DOMINGUEZ: YES.

15 MR. WAPNER: ALL RIGHT, AND IF IT WAS THAT UNUSUAL, YOU  
16 MIGHT WANT TO, IF YOU THOUGHT IT WAS VALUABLE, GET SOME EXPERT  
17 OPINION ABOUT IT, RIGHT?

18 MR. DOMINGUEZ: YES.

19 MR. WAPNER: IN DECIDING WHETHER THE TESTIMONY OF A  
20 WITNESS IS BELIEVABLE OR NOT, WHAT KIND OF THINGS WOULD BE  
21 IMPORTANT TO YOU?

22 MR. DOMINGUEZ: ALL OF THE EVIDENCE.

23 MR. WAPNER: DID YOU HEAR THE QUESTIONS I ASKED OF THE  
24 OTHER JURORS ABOUT USING YOUR COMMON SENSE --

25 MR. DOMINGUEZ: YES.

26 MR. WAPNER: -- NOT LEAVING YOUR COMMON SENSE OUTSIDE  
27 IN THE HALLWAY?

28 MR. DOMINGUEZ: YES.

7-2

1 MR. WAPNER: AND IF YOU HAD THIS ROCK AND IT LOOKED JUST  
2 LIKE ANY OTHER ROCK IN THE GARDEN, AND YOU HAVE SEEN A LOT  
3 OF ROCKS IN YOUR TIME, YOU WOULD WANT TO USE YOUR COMMON SENSE  
4 IN TRYING TO FIGURE OUT WHAT IT WAS?

5 MR. DOMINGUEZ: YEAH.

6 MR. WAPNER: WHAT WAS THE ISSUE IN THE CASE THAT YOU  
7 SAT ON IN COMPTON, IF YOU REMEMBER?

8 MR. DOMINGUEZ: IT WAS SELF-DEFENSE.

9 MR. WAPNER: AND THE QUESTION WAS WHETHER HE DID IT IN  
10 SELF-DEFENSE OR NOT?

11 MR. DOMINGUEZ: YES.

12 MR. WAPNER: HOW DO YOU FEEL ABOUT THE IDEA THAT YOU  
13 CAN HAVE A MURDER PROSECUTION IN CALIFORNIA WHERE THE BODY  
14 HASN'T BEEN FOUND?

15 MR. DOMINGUEZ: IT IS ALL RIGHT.

16 MR. WAPNER: IT DOESN'T BOTHER YOU AT ALL?

17 MR. DOMINGUEZ: IT DOESN'T BOTHER ME AT ALL.

18 MR. WAPNER: BEFORE YOU CAME TO SIT ON THIS JURY, HOW  
19 DID YOU FEEL ABOUT CIRCUMSTANTIAL EVIDENCE GENERALLY?

20 MR. DOMINGUEZ: I FELT PRETTY GOOD ABOUT IT.

21 MR. WAPNER: DID YOU HAVE ANY THOUGHTS ABOUT IT ONE WAY  
22 OR THE OTHER THAT IT WASN'T AS GOOD AS ANY OTHER KIND OF  
23 EVIDENCE?

24 MR. DOMINGUEZ: NO.

25 MR. WAPNER: YOU HEARD THE EXAMPLE I USED OF THE  
26 ROBBERY WITH THE PRIEST AND THE DRUG DEALER?

27 MR. DOMINGUEZ: YES.

28 MR. WAPNER: AND THAT THEY SHOULD BE TREATED THE SAME?

1 MR. DOMINGUEZ: YES.

2 MR. WAPNER: YOU ARE A FOOTBALL FAN, RIGHT?

3 MR. DOMINGUEZ: YES.

4 MR. WAPNER: IN A FOOTBALL GAME, IF THERE IS A CLOSE  
5 CALL AS TO WHETHER IT IS A CLIP, WHETHER THERE WAS A BLOCK  
6 FROM BEHIND OR WHETHER THE GUY HAD HIS HEAD AND SHOULDERS IN  
7 FRONT OF THE PERSON WHEN HE WAS BLOCKED, SHOULD THE REFEREE  
8 MAKE THE DECISION BASED ON WHICH TEAM HE LIKES BETTER?

9 MR. DOMINGUEZ: NO.

10 MR. WAPNER: SHOULD HE MAKE THE DECISION BASED ON WHICH  
11 PLAYER HE LIKES BETTER?

12 MR. DOMINGUEZ: NO.

13 MR. WAPNER: HE SHOULD MAKE THE DECISION ON WHETHER THE  
14 GUY'S HEAD AND SHOULDERS WERE IN FRONT OF THE PERSON WHEN IT  
15 WAS BLOCKED, RIGHT?

16 MR. DOMINGUEZ: YES.

17 MR. WAPNER: YOU SEE THAT IS WHAT IT COMES DOWN TO IN  
18 TERMS OF WHETHER YOU LIKE THE VICTIM OR DON'T LIKE THE VICTIM  
19 IN THIS CASE --

20 MR. DOMINGUEZ: YES.

21 MR. WAPNER: -- THAT SHOULDN'T MAKE ANY DIFFERENCE, SHOULD  
22 IT?

23 MR. DOMINGUEZ: NO.

24 MR. WAPNER: THE SAME WAY IN THE CASE THAT YOU SAT ON  
25 IN COMPTON, WHETHER IT WAS SELF-DEFENSE OR NOT, THAT SHOULDN'T  
26 TURN ON WHETHER YOU LIKE THE PERSON WHO IS KILLED OR WHETHER  
27 YOU DIDN'T LIKE HIM?

28 MR. DOMINGUEZ: NO.

7A1

1 MR. WAPNER: HAVE YOU EVER BEEN THE VICTIM OF ANY KIND  
2 OF A CON SCHEME?

3 MR. DOMINGUEZ: NO.

4 MR. WAPNER: HAVE YOU EVER BEEN THE VICTIM OF A THEFT  
5 OF ANY KIND?

6 MR. DOMINGUEZ: YES.

7 MR. WAPNER: WHAT KIND?

8 MR. DOMINGUEZ: A CAR, A CAR THEFT ABOUT 12 YEARS AGO.  
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1 MR. WAPNER: WAS THE CAR EVER RECOVERED?

2 MR. DOMINGUEZ: YEAH, IT WAS. A LOT OF THINGS WAS TAKEN  
3 OUT OF IT BUT IT WAS RECOVERED.

4 MR. WAPNER: WAS THE PERSON WHO STOLE THE CAR EVER  
5 PROSECUTED?

6 MR. DOMINGUEZ: NO.

7 MR. WAPNER: HOW DID YOU FEEL ABOUT THE TREATMENT THAT  
8 YOU RECEIVED FROM THE POLICE DEPARTMENT?

9 MR. DOMINGUEZ: IT WAS GOOD.

10 MR. WAPNER: HAVE YOU ALWAYS LIVED IN THE VENICE AREA?

11 MR. DOMINGUEZ: YES.

12 MR. WAPNER: DID YOU GO TO HIGH SCHOOL AT VENICE HIGH?

13 MR. DOMINGUEZ: YES.

14 MR. WAPNER: YOU HEARD ALL OF THE EXAMPLES WE USED ABOUT  
15 THE BOATS AND AIRPLANES AND ALL OF THAT STUFF, RIGHT?

16 (MR. DOMINGUEZ NODS HIS HEAD UP AND DOWN.)

17 MR. WAPNER: IS THAT YES?

18 MR. DOMINGUEZ: YES.

19 I AM SORRY.

20 MR. WAPNER: ARE YOU THE KIND OF PERSON WHO LIKES TO  
21 SPECULATE ABOUT -- THINK ABOUT WHAT POSSIBLY MIGHT HAVE  
22 HAPPENED TO SOMEONE?

23 MR. DOMINGUEZ: YES.

24 MR. WAPNER: WHEN YOU WERE IN THE JURY ROOM IN YOUR LAST  
25 CASE, WERE THERE PEOPLE ON THAT JURY WHO WERE THINKING ABOUT  
26 THINGS THAT YOU DIDN'T THINK WERE REASONABLE OR WAS EVERYBODY  
27 PRETTY MUCH FOCUSED?

28 MR. DOMINGUEZ: EVERYBODY PRETTY MUCH AGREED.

1 MR. WAPNER: FROM THE BEGINNING?

2 MR. DOMINGUEZ: FROM THE BEGINNING.

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

5 MR. DOMINGUEZ: YES.

6 MR. WAPNER: WHEN YOU HEARD THOSE EXAMPLES AND THE  
7 RESPONSES OF THE OTHER JURORS TO THOSE EXAMPLES, WAS THERE  
8 ANYTHING THAT SEEMED TO YOU TO BE REASONABLE AND SOME OF THE  
9 THINGS SEEMED TO YOU TO BE SPECULATING?

10 MR. DOMINGUEZ: NO. EVERYTHING WAS AGREEABLE.

11 MR. WAPNER: THERE WERE LOTS OF DIFFERENT THINGS THAT  
12 WERE SAID IN RESPONSE TO THOSE EXAMPLES. SOME PEOPLE SAID  
13 "WELL, I THINK THE PERSON FELL OFF AND DROWNED." SOME  
14 PEOPLE SAID, "WELL, A HELICOPTER CAME OUT IN THE MIDDLE OF  
15 THE OCEAN." THERE WERE PEOPLE FROM ALL DIFFERENT ENDS OF THAT  
16 SPECTRUM; WHERE WOULD YOU PUT YOURSELF IN THAT SITUATION?

17 MR. DOMINGUEZ: OH, WELL, THAT IS HARD TO --

18 MR. WAPNER: COULD YOU HEAR ALL OF THE THINGS THAT THE  
19 PEOPLE SAID?

20 MR. DOMINGUEZ: SOME OF THEM, YES.

21 MR. WAPNER: WHEN YOU GET IN A GIVEN SITUATION AND  
22 TRYING TO FIGURE OUT THE DIFFERENCE BETWEEN WHAT TWO PEOPLE  
23 ARE SAYING ABOUT SOMETHING, ARE YOU THE KIND OF PERSON WHO  
24 SAYS, "WELL, THIS IS POSSIBLE AND MAYBE THIS IS POSSIBLE,"  
25 OR ARE YOU THE KIND OF PERSON WHO SITS DOWN AND TRIES TO  
26 FIGURE OUT WHAT YOU THINK IS REASONABLE FROM WHAT THE PERSON  
27 SAID?

28 MR. DOMINGUEZ: I TRY TO FIGURE IT OUT.

1 MR. WAPNER: THANK YOU. I WILL PASS FOR CAUSE, YOUR  
2 HONOR.

3 THE COURT: ALL RIGHT, I THINK IT IS THE PEOPLE'S  
4 PEREMPTORY.

5 MR. WAPNER: ALL RIGHT, WE WOULD ASK THE COURT TO THANK  
6 AND EXCUSE MR. DENT, JUROR NUMBER 11.

7 THE COURT: ALL RIGHT, THANK YOU, MR. DENT.

8 THE CLERK: MERVIN A. WHITFIELD, W-H-I-T-F-I-E-L-D.

9 THE COURT: MR. WHITFIELD, A LONG TIME AGO YOU TOLD US  
10 THAT YOU OR SOME MEMBER OF YOUR FAMILY HAVE BEEN THE VICTIM  
11 OF SOME KIND OF CRIME.

12 MR. WHITFIELD: YES, YOUR HONOR. MY HOME WAS BURGLARIZED  
13 BACK IN THE EARLY '70'S.

14 THE COURT: WAS IT INVESTIGATED BY THE POLICE?

15 MR. WHITFIELD: YES, YOUR HONOR.

16 THE COURT: AND THE BURGLAR WAS NEVER APPREHENDED?

17 MR. WHITFIELD: NO.

18 THE COURT: AND YOU ARE SATISFIED WITH THE WAY THE  
19 INVESTIGATION WENT DOWN?

20 MR. WHITFIELD: YEAH, PRETTY MUCH.

21 THE COURT: WOULD THAT IN ANY WAY INFLUENCE YOU IN  
22 DETERMINING THE GUILT OR INNOCENCE OF THIS DEFENDANT?

23 MR. WHITFIELD: NO WAY, YOUR HONOR.

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1 THE COURT: OTHER THAN THAT, IF I WERE TO ASK YOU THE  
2 SAME GENERAL QUESTIONS THAT WERE ASKED OF THE OTHER JURORS,  
3 WOULD YOUR ANSWERS BE ANY DIFFERENT OR SUBSTANTIALLY THE  
4 SAME?

5 MR. WHITFIELD: SUBSTANTIALLY THE SAME.

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

7 MR. WHITFIELD: I AM A WORKERS' COMPENSATION COORDINATOR  
8 FOR BLUE CROSS.

9 THE COURT: HOW LONG HAVE YOU BEEN IN THAT JOB?

10 MR. WHITFIELD: I HAVE BEEN IN THAT CAPACITY FOR THE  
11 LAST THREE YEARS. AND I HAVE BEEN WITH BLUE CROSS FOR OVER  
12 12.

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

14 MR. WHITFIELD: YES.

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

16 MR. WHITFIELD: YES. SHE IS AN EXCEPTIONS EXAMINER.

17 THE COURT: I SEE. AN EXCEPTIONS EXAMINER?

18 MR. WHITFIELD: YES.

19 THE COURT: WHO IS SHE EMPLOYED BY?

20 MR. WHITFIELD: BLUE CROSS.

21 THE COURT: THE SAME ONE?

22 MR. WHITFIELD: YES.

23 THE COURT: DO YOU KEEP IT IN THE FAMILY?

24 MR. WHITFIELD: YES.

25 THE COURT: WHAT EDUCATION DID YOU HAVE?

26 MR. WHITFIELD: I HAVE HIGH SCHOOL AND I HAVE A YEAR  
27 OF COLLEGE AT SOUTHWEST COLLEGE IN LOS ANGELES.

28 AND I HAVE ALSO TAKEN CLASSES AT NEWMAN PREP SCHOOL

1 IN BOSTON, ALONG WITH MY --

2 THE COURT: ARE YOU ORIGINALLY FROM BOSTON?

3 MR. WHITFIELD: NO. I AM FROM THE BRONX, NEW YORK.

4 THE COURT: YES. IT LOOKS PRETTY BAD THESE DAYS, DOESN'T  
5 IT?

6 MR. WHITFIELD: THOSE DAYS AND THESE DAYS.

7 THE COURT: I TAKE IT THAT YOU LIKE IT BETTER OUT HERE?

8 MR. WHITFIELD: MOST DEFINITELY, YOUR HONOR.

9 THE COURT: ALL RIGHT. HOW ABOUT MRS. WHITFIELD? WHERE  
10 IS SHE EDUCATED?

11 MR. WHITFIELD: SHE HAD HIGH SCHOOL.

12 THE COURT: AND DO YOU HAVE ANY CHILDREN?

13 MR. WHITFIELD: I HAVE TWO STEPDAUGHTERS, YOUR HONOR.

14 THE COURT: I SEE. WHERE DO YOU LIVE?

15 MR. WHITFIELD: I LIVE IN LOS ANGELES.

16 THE COURT: DID YOU EVER SERVE AS A JUROR IN A CRIMINAL  
17 CASE BEFORE?

18 MR. WHITFIELD: NO, I HAVE NOT, YOUR HONOR.

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

20 MR. BARENS: THANK YOU, YOUR HONOR. GOOD MORNING, MR.  
21 WHITFIELD.

22 MR. WHITFIELD: GOOD MORNING, COUNSEL.

23 MR. BARENS: MR. WHITFIELD, A FEW MOMENTS AGO, A JUROR  
24 WAS ASKED WELL, YOU KNOW, THERE IS A DIFFERENCE BETWEEN WHAT  
25 IS POSSIBLE AND WHAT IS REASONABLE. IS THAT NECESSARILY TRUE,  
26 MR. WHITFIELD?

27 MR. WHITFIELD: YES. I BELIEVE SO.

28 MR. BARENS: IS IT?

1 WELL, CAN YOU THINK OF ANYTHING THAT IS REASONABLE  
2 THAT IS IMPOSSIBLE?

3 MR. WHITFIELD: NO.

4 MR. BARENS: OF COURSE NOT. ALL THINGS THAT ARE POSSIBLE  
5 MUST BE REASONABLE.

6 MR. WHITFIELD: EXACTLY.

7 MR. BARENS: THEREFORE, WHAT ARE WE SAYING? TO HAVE  
8 SOMETHING THAT IS UNREASONABLE, ON THE OTHER HAND, HAS TO BE  
9 IMPOSSIBLE?

10 MR. WHITFIELD: NO.

11 MR. BARENS: OF COURSE NOT. BECAUSE WHAT IS REASONABLE  
12 OR NOT, DEPENDS UPON HOW YOU AND I LOOK AT THE WORLD.

13 MR. WHITFIELD: EXACTLY.

14 MR. BARENS: IS IT BELIEVABLE TO YOU THAT WE COULD BOTH  
15 BE RIGHT ABOUT SOMETHING AND YET, YOU MIGHT THINK IT IS  
16 UNREASONABLE AND I THINK IT IS REASONABLE?

17 MR. WHITFIELD: IT DEPENDS UPON THE WAY YOU SEE THINGS.

18 MR. BARENS: PRECISELY. THEREFORE, THE DIFFERENCE  
19 BETWEEN WHAT IS REASONABLE AND WHAT IS POSSIBLE TENDS TO  
20 OBSCURE A BIT; DOESN'T IT?

21 MR. WHITFIELD: YES.

22 MR. BARENS: WOULDN'T IT BE POSSIBLE TO SAY THAT NOTHING  
23 THAT IS POSSIBLE BECOMES TOTALLY UNREASONABLE? THINK ABOUT  
24 IT.

25 MR. WHITFIELD: COULD YOU SAY THAT AGAIN, PLEASE?

26 MR. BARENS: SURE. AND I AM TRYING NOT TO LOSE MYSELF  
27 IN THIS. OKAY?

28 IF SOMETHING IS POSSIBLE --

1 MR. WHITFIELD: OKAY.

2 MR. BARENS: IT COULD STILL BE POSSIBLE, ALTHOUGH YOU  
3 MIGHT THINK IT IS UNREASONABLE?

4 MR. WHITFIELD: TRUE.

5 MR. BARENS: OKAY. BUT ISN'T IT EQUALLY TRUE THAT  
6 SOMETHING THAT IS POSSIBLE, I MIGHT THINK IS REASONABLE AND  
7 YOU THINK IS UNREASONABLE?

8 MR. WHITFIELD: I GRANT YOU THAT, YES.

9 MR. BARENS: OKAY. SO THAT WHEN WE TALK ABOUT THE  
10 DIFFERENCE BETWEEN, IF THERE BE A DIFFERENCE MR. WHITFIELD,  
11 BETWEEN SOMETHING THAT IS POSSIBLE AND SOMETHING THAT IS  
12 REASONABLE, ISN'T THAT REALLY A QUESTION ABOUT HOW YOU WOULD  
13 VOTE?

14 MR. WHITFIELD: THAT'S TRUE.

15 MR. BARENS: OKAY. DO YOU UNDERSTAND THAT THAT IS YOUR  
16 DECISION TO MAKE, IF YOU ARE A JUROR?

17 MR. WHITFIELD: EXACTLY.

18 MR. BARENS: OKAY. I CAN'T TELL YOU WHAT IS REASONABLE.  
19 I COULD SUGGEST TO YOU WHAT IS REASONABLE. BUT MR. DOMINGUEZ  
20 DIDN'T THINK IT WAS REASONABLE THAT WHEN I SHOWED UP AND  
21 IDENTIFIED SOMETHING, THAT IT WAS A METEORITE. BUT IT TURNED  
22 OUT THAT IT WAS A METEORITE.

23 NOW, IT STARTED OUT AS JUST BEING POSSIBLE. IS  
24 THAT CORRECT?

25 MR. WHITFIELD: RIGHT.

26 MR. BARENS: OKAY. WOULD YOU THEN COME TO SOME CONCLUSION  
27 THAT BEFORE WE MAKE DECISIONS ABOUT SOMETHING, WHETHER IT IS  
28 REASONABLE OR UNREASONABLE, SO LONG AS WE START OUT WITH

1 SOMETHING THAT IS POSSIBLE, WE BETTER LISTEN TO ALL OF THE  
2 EVIDENCE BEFORE WE COME TO A CONCLUSION ON WHETHER IT IS  
3 REASONABLE OR NOT?

4 MR. WHITFIELD: CERTAINLY.

5 MR. BARENS: OKAY. PARTICULARLY, WOULDN'T YOU SAY IF  
6 THERE IS AN ISSUE ABOUT WHETHER SOMEONE IS DEAD OR NOT AND  
7 I CAN'T PRODUCE A BODY, YOU WOULD AGREE WITH THAT?

8 MR. WHITFIELD: YES.

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1           MR. BARENS:  AND IF I COME ALONG AND SAY TO YOU, WELL,  
2 HIS PARENTS SAY THEY HAVE NOT HEARD FROM HIM, WOULD THAT IN  
3 AND OF ITSELF, MAKE YOU BELIEVE THE PERSON WAS DEAD?

4           MR. WHITFIELD:  NOT NECESSARILY.

5           MR. BARENS:  WOULD YOU HAVE TO THINK ABOUT THEIR MOTIVES,  
6 POSSIBLY?

7           MR. WHITFIELD:  POSSIBLY.

8           MR. BARENS:  YOU WOULD HAVE TO THINK ABOUT THE MOTIVES  
9 OF THE PERSON WHO WAS ALLEGEDLY DEAD?

10          MR. WHITFIELD:  YES.

11          MR. BARENS:  NOW, YOU ARE NOT NECESSARILY GOING TO THINK  
12 THERE IS A DEAD PERSON ARE YOU, BECAUSE MR. HUNT IS OVER THERE  
13 ACCUSED IN A MURDER CASE?

14          MR. WHITFIELD:  NOT NECESSARILY, NO.

15          MR. BARENS:  OKAY.  DO YOU THINK THAT THERE IS ANYTHING  
16 ABOUT THE FACT THAT HE IS HERE AS A DEFENDANT, AT ALL, THAT  
17 MAKES YOU THINK HE MUST BE A LITTLE GUILTY?

18          MR. WHITFIELD:  NO.

19          MR. BARENS:  ARE YOU COMFORTABLE WITH HIM HAVING A  
20 PRESUMPTION OF INNOCENCE?

21          MR. WHITFIELD:  YES, I AM.

22          MR. BARENS:  DO YOU THINK IT IS FAIR?

23          MR. WHITFIELD:  MOST DEFINITELY, YES.

24          MR. BARENS:  DO YOU THINK IT IS FAIR THAT THE GOVERNMENT  
25 HAS THE SOLE RESPONSIBILITY TO BRING EVIDENCE BEFORE YOU HERE?

26          MR. WHITFIELD:  YES.

27          MR. BARENS:  100 PERCENT COMFORTABLE WITH THAT?

28          MR. WHITFIELD:  YES, I AM.

1 MR. BARENS: DO YOU THINK IT IS FAIR?

2 MR. WHITFIELD: YES, I DO.

3 MR. BARENS: DO YOU THINK THAT MR. HUNT DURING HIS  
4 TESTIMONY, HAS TO IN SOME WAY, HELP YOU UNDERSTAND WHERE THIS  
5 MISSING PERSON IS?

6 MR. WHITFIELD: NOT NECESSARILY.

7 MR. BARENS: SUPPOSING HE DOESN'T KNOW?

8 MR. WHITFIELD: IT COULD BE POSSIBLE THAT HE DOESN'T.

9 MR. BARENS: BUT YOU WOULD LISTEN TO THAT OPEN-MINDEDLY?

10 MR. WHITFIELD: VERY MUCH SO.

11 MR. BARENS: OKAY. WE HEARD AN EXAMPLE A LITTLE BIT  
12 EARLIER ABOUT MAKING A DECISION ON WHETHER SOMETHING IS A  
13 CLIP BASED ON WHERE THE REFEREE OR THE LINESMAN OR THE UMPIRE  
14 OR WHOEVER IS MAKING THAT PARTICULAR CALL, IS.

15 YOU KNOW, FRANKLY, I FORGET WHO MAKES THAT CALL.  
16 BUT ONE OF THOSE THREE GUYS, MAKES THAT CALL. WHAT DID WE  
17 HEAR? HE MAKES THAT CALL BASED ON WHAT HE OBSERVED?

18 MR. WHITFIELD: RIGHT.

19 MR. BARENS: OKAY. NOW, WHEN HE MAKES THAT CALL, HE  
20 IS STANDING IN A CERTAIN PERSPECTIVE TO THE PLAY. ISN'T HE?

21 MR. WHITFIELD: YES.

22 MR. BARENS: IT IS EITHER IN FRONT OF THEM OR BESIDE  
23 THEM OR BEHIND THEM OR HE IS RUNNING AND THEY ARE RUNNING AND  
24 EVERYBODY IS DOING SOMETHING, CORRECT?

25 MR. WHITFIELD: MOST OF THE TIME, YES.

26 MR. BARENS: HE IS NOT GOING TO LISTEN TO THE PLAYERS,  
27 IS HE, WHEN HE MAKES THAT DECISION?

28 MR. WHITFIELD: I SHOULD HOPE NOT.

1 MR. BARENS: OKAY. THIS IS NOT FOOTBALL, IS IT? IS  
2 IT FOOTBALL?

3 MR. WHITFIELD: RIGHT.

4 MR. BARENS: HERE, YOU GET TO LISTEN TO THE PLAYERS,  
5 DONT' YOU?

6 MR. WHITFIELD: YES.

7 MR. BARENS: NOW, YOU DON'T THINK THAT BECAUSE THE  
8 DEFENDANT HERE, IS ONE OF THE PLAYERS, THAT HE IS NECESSARILY  
9 GOING TO TELL A LIE, DO YOU?

10 MR. WHITFIELD: I WOULD HOPE NOT.

11 MR. BARENS: YOU WOULD HOPE NOT?

12 MR. WHITFIELD: RIGHT.

13 MR. BARENS: BUT, WHAT DO YOU THINK? COULD YOU THINK  
14 IN YOUR MIND THAT BECAUSE HE IS A DEFENDANT, HE IS NECESSARILY  
15 GOING TO BE LESS THAN TRUTHFUL?

16 MR. WHITFIELD: NO.

17 MR. BARENS: OKAY. NOW, YOU AND I BOTH KNOW THAT WHEN  
18 THOSE TWO GUYS GET UP FROM THE FOOTBALL FIELD, WE DON'T HAVE  
19 TO LISTEN TO WHAT THEY ARE GOING TO SAY. WE CAN STIPULATE  
20 TO THEIR TESTIMONY, CAN'T WE?

21 MR. WHITFIELD: YES.

22 MR. BARENS: EVERY TIME, THEY BOTH GET UP SCREAMING AT  
23 THE TOP OF THEIR LUNGS THE SAME THING, IS THAT CORRECT?

24 MR. WHITFIELD: THAT'S RIGHT.

25 MR. BARENS: DID YOU EVER HEAR A GUY JUMP UP AND SAY,  
26 "I CLIPPED HIM"?

27 MR. WHITFIELD: NEVER.

28 MR. BARENS: IT IS NOT LIKELY. BUT, YOU HAVE HEARD GUYS



1 ACCUSED OF COMMITTING A MURDER, YOU HAVE HEARD OF A GUY  
2 COMING INTO COURT AND SAYING HUH-UH, IT WAS SELF-DEFENSE.

3 YOU HAVE HEARD OF THAT IN YOUR EXPERIENCE, HAVE  
4 YOU NOT?

5 MR. WHITFIELD: YES.

6 MR. BARENS: YOU HAVE HEARD A GUY COMING IN AND SAYING  
7 HUH-UH, IT WAS A MISTAKE?

8 MR. WHITFIELD: YES.

9 MR. BARENS: I DIDN'T MEAN TO KILL HIM?

10 MR. WHITFIELD: RIGHT.

11 MR. BARENS: DO YOU SEE THE DIFFERENCE I AM TALKING ABOUT?

12 MR. WHITFIELD: SURE.

13 MR. BARENS: THAT YOU HAVE GOT TO LISTEN, HERE. WE ARE  
14 NOT PLAYING FOOTBALL. YOU DON'T HAVE THOSE PREDICTABLE RESULTS  
15 THAT THE GUY GETS UP ON THE STAND AND SAYS, YOU KNOW, NO  
16 MATTER WHETHER HE DID IT OR NOT, IF HE IS IN THAT COURTROOM  
17 ACCUSED OF MURDER, HE IS GOING TO GET UP THERE AND LIE TO SAVE  
18 HIS SKIN. IT IS NOT ONE OF THOSE?

19 MR. WHITFIELD: NO.

20 MR. BARENS: YOU CAN'T -- IT WOULD BE UNFAIR TO IN ANY  
21 WAY, THINK THAT THE DECISION YOU MAKE AS A JUROR IN THIS  
22 COURT, HAS ANY VAGUE RESEMBLANCE TO A REFEREE MAKING A CALL  
23 ON A SPORTS FIELD.

24 YOU SEE MR. WHITFIELD, YOU MAKE A CALL ON THE  
25 SPORTS FIELD AND IF YOU ARE WRONG, THE GAME STILL GOES ON,  
26 DOESN'T IT?

27 MR. WHITFIELD: CERTAINLY.

28 MR. BARENS: LIFE GOES ON?

1 MR. WHITFIELD: RIGHT.

2 MR. BARENS: YOU MAKE A WRONG DECISION IN THIS FORUM  
3 AND LIFE STOPS. DO YOU UNDERSTAND THE SERIOUSNESS OF THE  
4 MISTAKE?

5 MR. WHITFIELD: YES, SIR, I DO.

6 MR. BARENS: EARLIER ON WE HEARD A QUESTION ASKED. YOU  
7 HEARD THE EXAMPLES ABOUT THE PRIEST BEING ROBBED AND THE COKE  
8 DEALER BEING ROBBED.

9 BECAUSE WE DON'T LIKE THE COKE DEALER, WE ARE GOING  
10 TO GIVE THE DEFENDANT IN THAT CASE, THE ROBBER IN THAT CASE,  
11 THE SAME KIND OF A TRIAL.

12 NOW, HOW DID YOU FEEL MR. WHITFIELD? ARE YOU GOING  
13 TO TREAT THE ROBBER IN THAT CASE THE SAME WAY, EVEN THOUGH  
14 YOU DON'T LIKE THE VICTIM? ARE YOU STILL GOING TO CONVICT  
15 THE ROBBER FOR ROBBING THE COKE DEALER?

16 MR. WHITFIELD: MOST DEFINITELY.

17 MR. BARENS: ABSOLUTELY, NO MATTER WHETHER WE LIKE A  
18 VICTIM OR NOT, WE GIVE THE DEFENDANT IN THAT CASE THE SAME  
19 TRIAL RIGHTS?

20 MR. WHITFIELD: EXACTLY. THAT IS WHAT THE CONSTITUTION  
21 PROVIDES.

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1 MR. BARENS: OKAY, WELL SUPPOSING YOU DIDN'T LIKE  
2 MR. HUNT BASED ON THE TESTIMONY YOU HEARD, YOU HEARD HE HAD  
3 THE KIND OF A LIFESTYLE THAT WAS REALLY OFFENSIVE. I DON'T  
4 KNOW WHAT YOU LIKE AND YOU DON'T LIKE SO I CAN'T GIVE YOU  
5 ANY GOOD EXAMPLES. BUT LET'S SAY THAT EVERY FOOTBALL TEAM  
6 YOU LIKE HE HATES, AND HE DOES ALL KINDS OF STUFF IN HIS  
7 LIFESTYLE AND HE GOES TO EVERY RESTAURANT YOU NEVER STEP INTO  
8 AND LET'S SAY HE IS ABUSIVE TO HIS MOTHER AND NEVER SPEAKS  
9 TO THE REST OF THE FAMILY EVER EVEN IF THEY CALL, HE HANGS  
10 UP THE PHONE, HE DOES A LOT OF THAT ORNERY KIND OF STUFF,  
11 WOULD YOU CONVICT HIM OF MURDER?

12 MR. WHITFIELD: NOT ON THE BASIS OF THAT, NO.

13 MR. BARENS: NO WAY.

14 WHAT WE ARE TALKING ABOUT IS, YOU ARE NOT GOING  
15 TO CONVICT HIM ON WHETHER WE LIKE HIM OR NOT.

16 MR. WHITFIELD: RIGHT.

17 MR. BARENS: IT IS JUST THE OTHER SIDE OF THAT BUSINESS  
18 ABOUT THE COKE DEALER AND THE PRIEST THAT GET ROBBED, ISN'T  
19 IT?

20 MR. WHITFIELD: RIGHT.

21 MR. BARENS: IT IS THAT WE DON'T CONVICT DEFENDANTS  
22 BASED ON WHETHER WE LIKE THEM OR NOT. EVEN A DEFENDANT THAT  
23 WE ABSOLUTELY ALL AGREE UPON THAT WE HATE, SUPPOSING WE HAVE  
24 GOT HITLER HERE -- WE DON'T -- BUT SUPPOSING WE DID AND THE  
25 CHARGE ISN'T WHETHER HE KILLED SIX MILLION JEWS, THE CHARGE  
26 IS WHETHER HE KILLED SOMEONE IN SANTA MONICA LAST WEEK. DO  
27 WE CONVICT HIM ON WHO HE IS OR DO WE CONVICT HIM BASED ON  
28 WHETHER THE GOVERNMENT ACTUALLY IN FACT PROVES HE KILLED

1 SOMEBODY IN SANTA MONICA LAST WEEK, EVEN THOUGH EVERY ONE  
2 OF US IN THE COURTROOM WANTS TO SEE HIM HANGED?

3 MR. WHITFIELD: YOU CONVICT HIM IN TERMS OF THE EVIDENCE  
4 THAT HE POSSIBLY KILLED THAT PERSON IN SANTA MONICA OR  
5 WHATEVER.

6 MR. BARENS: THAT IS WHAT IT IS ALL ABOUT HERE, ISN'T  
7 IT?

8 MR. WHITFIELD: YES, IT IS.

9 MR. BARENS: WHAT DO YOU DO ON YOUR JOB, MR. WHITFIELD?

10 MR. WHITFIELD: OH, MAN.

11 (LAUGHTER IN COURTROOM.)

12 MR. WHITFIELD: I COORDINATE THE WORKERS' COMPENSATION  
13 FOR BLUE CROSS IN TERMS OF FILING LIENS, LITIGATIONS,  
14 RECOVERING MONEYS SPENT, PAID ON WORK-RELATED CLAIMS.

15 MR. BARENS: AND WHAT DO YOU DO IN MAKING THOSE  
16 DECISIONS, MR. WHITFIELD? DO YOU INTERVIEW TO DO THAT OR  
17 WHAT DO YOU DO?

18 MR. WHITEFIELD: WELL, MY EXAMINERS DO ALL OF THE  
19 RESEARCH.

20 SOMETIMES WHEN IT COMES DOWN TO FINALIZING  
21 RECOVERIES, I TALK WITH ATTORNEYS SOMETIMES BUT MOST OF THE  
22 TIME, WE COME TO AN AGREEMENT IN TERMS OF HOW MUCH BLUE CROSS  
23 WILL GIVE THE PERSON AND I ALSO TALK TO JUDGES AND HOSPITALS,  
24 PROVIDERS, DOCTORS, PEOPLE LIKE THAT.

25 MR. BARENS: IN THAT PROCESS THAT YOU ARE INVOLVED IN,  
26 YOU HAVE A CLAIMANT'S ATTORNEY?

27 MR. WHITFIELD: YES, EXACTLY.

28 MR. BARENS: AND YOU HAVE AN EMPLOYER'S ATTORNEY?

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1 MR. WHITFIELD: RIGHT.

2 MR. BARENS: AND THEY ARE, YOU KNOW, A LOT OF TIMES  
3 TAKING DIFFERENT POSITIONS --

4 MR. WHITFIELD: MOST OF THE TIME.

5 MR. BARENS: -- AS FAR AS WHAT IS THE APPROPRIATE  
6 DECISION TO BE MADE?

7 MR. WHITFIELD: RIGHT.

8 MR. BARENS: AND THEN SITTING SOMEWHERE IN THE MIDDLE  
9 BETWEEN THEM IS A WORKMEN'S COMPENSATION APPEALS BOARD REFEREE?

10 MR. WHITFIELD: EXACTLY.

11 MR. BARENS: AND YOU THEN MIX INTO THAT PROCESS, DO  
12 YOU GIVE INPUT INTO THAT PROCESS AS WELL?

13 MR. WHITFIELD: AT TIMES.

14 MR. BARENS: THAT IS A PROCESS OF NEGOTIATING, ISN'T  
15 IT, ESSENTIALLY?

16 MR. WHITFIELD: YES, YES IT IS.

17 MR. BARENS: THERE IS NO ONE REALLY RIGHT OR WRONG,  
18 IT IS KIND OF A MATTER OF DEGREES THERE, ISN'T IT?

19 MR. WHITFIELD: YES, AS A MATTER OF FACT, YOU COULD  
20 PUT IT LIKE THAT, YES, BECAUSE A LOT OF TIMES THE CASES MORE  
21 OR LESS ARE ALREADY ESTABLISHED BUT IT IS JUST A MATTER OF  
22 DOLLAR AMOUNTS.

23 MR. BARENS: AND THE APPORTIONMENT?

24 MR. WHITFIELD: EXACTLY.

25 MR. BARENS: IT IS NOT THE KIND OF DECISION WE MAKE  
26 HERE, MR. WHITFIELD.

27 MR. WHITFIELD: BY NO MEANS.

28 MR. BARENS: BY NO MEANS.

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1 IS THAT EVER REALLY REQUIRED TO BE A BEYOND A  
2 REASONABLE DOUBT DECISION?

3 MR. WHITFIELD: NO.

4 MR. BARENS: AS A RESULT OF THIS DAILY CONTACT YOU HAVE  
5 WITH LAWYERS, PARTICULARLY CLAIMANTS' LAWYERS --

6 MR. WHITFIELD: YES.

7 MR. BARENS: -- DO YOU HAVE ANY FEELING ABOUT LAWYERS?

8 MR. WHITFIELD: NOTHING QUITE NEGATIVE. I WOULD SAY  
9 THAT SOME OF THEM ARE PLEASANTLY DEVIIOUS.

10 (LAUGHTER IN COURTROOM..)

11 MR. BARENS: PLEASANTLY DEVIIOUS?

12 MR. WHITFIELD: YES, IN TERMS OF I ADMIRE THEM FOR THAT,  
13 BECAUSE THEY ARE IN THAT POSITION WHERE THEY SHOULD BE, OKAY?  
14 ALL IN ALL, I HAVE A GREAT RESPECT FOR ATTORNEYS.

15 MR. BARENS: I APPRECIATE THAT.

16 PLEASANTLY DEVIIOUS -- I HAVE HEARD ABOUT SHARKS --

17 BUT LET ME ASK YOU THIS: DO YOU THINK I AM TRYING  
18 TO BE HERE PLEASANTLY DEVIIOUS?

19 MR. WHITFIELD: NO, SIR.

20 MR. BARENS: OKAY.

21 MR. WHITFIELD: OF COURSE YOU ARE NOT TRYING TO GET  
22 \$55,000 FROM BLUE CROSS EITHER.

23 MR. BARENS: NO, I AM NOT, SIR.

24 I AM LOOKING FOR TRUTH LIKE YOU ARE.

25 MR. WHITFIELD: EXACTLY.

26 MR. BARENS: DOES THE FACT THAT YOU MIGHT HAVE THAT  
27 ORIENTATION ABOUT LAWYERS THAT YOU CONTACT -- DO YOU UNDERSTAND  
28 THOSE ARE CIVIL LAWYERS IN A CIVIL SETTING?

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1 MR. WHITFIELD: OH, YES.

2 MR. BARENS: AND THAT THEY ARE IN THERE NEGOTIATING  
3 FOR A RESULT?

4 MR. WHITFIELD: YES.

A F 5 MR. BARENS: THERE IS A DIFFERENCE. ME AS A LAWYER,  
6 MR. WAPNER AS A LAWYER, WE ARE IN A WHOLE DIFFERENT FORUM  
7 HERE, DIFFERENT RULES, DIFFERENT STAKES.

8 MR. WHITFIELD: YES, I AM WELL AWARE OF THAT.

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1 MR. BARENS: ALL RIGHT. YOU HAVE ANY HOBBIES,  
2 MR. WHITFIELD?

3 MR. WHITFIELD: LET'S SEE, I LOVE SPORTS, PRIMARILY  
4 FOOTBALL AND BASKETBALL. I LIKE MUSIC. I LIKE TO READ  
5 OCCASIONALLY.

6 MR. BARENS: ANYTHING IN PARTICULAR YOU LIKE TO READ,  
7 SIR?

8 MR. WHITFIELD: OH, THE LAST BOOK I READ WAS "GIANT  
9 STEPS," IT WAS THE AUTOBIOGRAPHY OF KAREEM ABDUL-JABBAR.

10 RIGHT NOW I AM READING A BOOK CALLED "CONTACT"  
11 BY CARL SAGAN.

12 MR. BARENS: ISN'T THAT AN INTERESTING BOOK?

13 MR. WHITFIELD: YES, IT IS.

14 MR. BARENS: AND WHAT WE ARE TRYING TO FIGURE OUT, WE  
15 ARE TRYING TO FIGURE OUT WHAT IS REAL OR WHAT IS POSSIBLE  
16 IN THAT BOOK --

17 MR. WHITFIELD: RIGHT.

18 MR. BARENS: -- TRYING TO FIGURE OUT WHETHER CERTAIN  
19 THINGS MEAN ONE THING OR CERTAIN THINGS MEAN ANOTHER.

20 MR. WHITFIELD: YES.

21 MR. BARENS: ISN'T THE PROBLEM THAT YOU COME AWAY WITH  
22 FROM THAT BOOK THAT THERE IS SIMPLY NOT ENOUGH HARD EVIDENCE  
23 THAT YOU CAN COME TO AN ULTIMATE CONCLUSION?

24 MR. WHITFIELD: I HAVE THAT FEELING ALSO.

25 MR. BARENS: WHAT ARE YOU GOING TO DO IF YOU ARE A JUROR  
26 ON THIS CASE AND YOU HAVE THAT SAME FEELING ABOUT MR. HUNT'S  
27 GUILT OR INNOCENCE THAT YOU DO WHEN YOU TURN THE LAST PAGE  
28 OF SAGAN'S BOOK?



1 MR. WHITFIELD: IF I CAN'T COME TO A CONCLUSION IN THE  
2 PROCESS OF THE CASE, WELL, PRIMARILY, IT WOULD MEAN THAT WOULD  
3 BE AN ACQUITTAL.

4 MR. BARENS: THE PROBLEM IN SAGAN'S BOOK, THERE IS NO  
5 REALLY CLEAR AND CONVINCING EVIDENCE, IS THERE?

6 MR. WHITFIELD: WELL, I AM JUST HALFWAY THROUGH THE  
7 BOOK NOW SO I AM STILL GETTING IDEAS FROM IT.

8 MR. BARENS: WELL, I SUBMIT TO YOU AS YOU GO THROUGH  
9 IT --

10 MR. WAPNER: ARE YOU GOING TO TELL HIM HOW IT ENDS NOW?

11 MR. BARENS: THE PROBLEM, MR. WAPNER, IS THERE IS NO  
12 END. IT ENDS WITH A QUESTION.

13 AND THE QUESTION IS THAT WE HAVE THEORIES AND  
14 SAGAN IS TALKING ABOUT THEORETICAL APPROACHES TO THINGS AND  
15 WHAT IS POSSIBLE AND WHAT IS MAYBE AND SPECULATES A BIT.

16 MR. WHITFIELD: HE ALWAYS DOES.

17 MR. BARENS: RIGHT.

18 WE CAN'T DO THAT HERE.

19 MR. WHITFIELD: THAT IS TRUE.

20 MR. BARENS: AND WE CAN'T LET THE GOVERNMENT DO THAT  
21 HERE.

22 YOU CAN'T TAKE A THIS AND A THAT AND THEN SAY,  
23 "WELL, THIS MUST NECESSARILY BE TRUE."

24 EITHER THAT THIRD LEG OR THE FOURTH LEG OR WHATEVER  
25 IT COMES DOWN TO IS PROVEN OR IT IS NOT PROVEN.

26 DO YOU UNDERSTAND WHAT WE ARE DOING HERE?

27 MR. WHITFIELD: THAT'S RIGHT, SURE.

28 MR. BARENS: IT IS NOT WHERE WE SAY "NOW LISTEN, WE

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1 ARE GOING TO GIVE YOU A LITTLE OF THIS AND A LITTLE OF THAT  
2 AND THEN YOU ARE GOING TO GUESS OR SPECULATE THAT SOMETHING  
3 IS WHAT HAPPENED OR DIDN'T HAPPEN."

4 IT IS EITHER DEMONSTRATED BY THE EVIDENCE IN THIS  
5 COURTROOM OR IT IS NOT. NOT GUILTY, NOT PROVEN.

6 DO YOU UNDERSTAND THOSE CONCEPTS?

7 MR. WHITFIELD: YES.

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

9 MR. WHITFIELD: I DON'T GO TO MOVIES THAT OFTEN. THE  
10 LAST MOVIE I SAW WAS A VIDEOTAPE THAT I RENTED AND THAT WAS  
11 "ENEMY MINE."

12 MR. BARENS: DID YOU HAVE ANY FORMAL EDUCATION AFTER  
13 HIGH SCHOOL?

14 MR. WHITFIELD: YES, I HAD A YEAR OF COLLEGE AND I HAD  
15 TAKEN SOME CLASSES AT NEWMAN PREPARATORY SCHOOL IN BOSTON.

16 MR. BARENS: WHAT WAS THE NEWMAN SCHOOL, WAS THAT  
17 PREPARATORY?

18 MR. WHITFIELD: AT THAT TIME, I WAS PREPARING TO GO  
19 TO BOSTON UNIVERSITY IN PUBLIC RELATIONS.

20 MR. BARENS: IN PUBLIC RELATIONS?

21 MR. WHITFIELD: YES.

22 MR. BARENS: AND YOUR PRIOR COLLEGE EXPERIENCE, WAS  
23 THERE A PARTICULAR FIELD OF EMPHASIS YOU HAD THERE?

24 MR. WHITFIELD: I HAD AN ENGLISH MAJOR.

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

26 MR. WHITFIELD: NO.

27 MR. BARENS: DID YOU EVER HAVE ANY CONCEPTS ABOUT LAW  
28 ENFORCEMENT AS A CAREER?

9A-4  
1 MR. WHITFIELD: IT IS FUNNY YOU SHOULD ASK THAT. I  
2 WAS A POLICE OFFICER AT ONE TIME.

3 MR. BARENS: I HAD THAT FEELING, MR. WHITFIELD, MYSELF.

4 MR. WAPNER: PROBABLY BECAUSE HE RAISED HIS HAND BACK  
5 THERE WEEKS AGO.

6 MR. WHITFIELD: EXACTLY.

7 MR. WAPNER: THAT IS WHEN WE WERE ASKING THEM ABOUT  
8 LAW ENFORCEMENT.

9 MR. BARENS: I ACTUALLY DIDN'T SEE HIM DO THAT,  
10 MR. WAPNER, BUT THANKS FOR YOUR ASSISTANCE THERE.

11 MR. WHITFIELD, WHEN WERE YOU A POLICE OFFICER?

12 MR. WHITFIELD: 1973.

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1 MR. BARENS: HOW LONG DID YOU SERVE AS A POLICE OFFICER?

2 MR. WHITFIELD: I --

3 THE COURT: I HAD HIS NAME DOWN FOR LAW ENFORCEMENT.

4 I AM TERRIBLY SORRY THAT I DIDN'T ASK IT.

5 MR. WHITFIELD: ABOUT A YEAR.

6 MR. BARENS: AND WHERE DID YOU DO THAT?

7 MR. WHITFIELD: WHERE? THE LOS ANGELES POLICE

8 DEPARTMENT.

9 MR. BARENS: YOU WERE ACTUALLY -- WERE YOU ACTUALLY  
10 IN THE TRAINING CURRICULUM OR WERE YOU OUT WORKING? WERE  
11 YOU POST-GRADUATE AND ACTUALLY WORKING AS A POLICEMAN?

12 MR. WHITFIELD: I HAD JUST FINISHED MY TRAINING AND  
13 I HAD BEEN ON THE STREET FOR ABOUT SIX OR SEVEN MONTHS.

14 MR. BARENS: AND WAS THERE A PARTICULAR REASON WHY YOU  
15 DECIDED TO DO SOMETHING ELSE?

16 MR. WHITFIELD: YES. TO ME, IT SEEMED TO ME THAT IT  
17 WAS THE TYPE OF A JOB, WHERE YOU WOULD LEAVE AND GO TO WORK  
18 AND YOU MIGHT NOT COME BACK HOME.

19 SO, I DECIDED THAT IT WAS NOT MY FORTE, AS IT  
20 WERE.

21 MR. BARENS: QUITE SO. WOULD ANYTHING ABOUT THAT  
22 EXPERIENCE YOU HAD AS A POLICEMAN, MAKE YOU IN ANY WAY, BIASED  
23 FOR THE PROSECUTION?

24 MR. WHITFIELD: NO.

25 MR. BARENS: EVEN THOUGH WE MIGHT BRING POLICE GUYS  
26 IN WHO WERE GOING TO SAY TO YOU WELL, YOU KNOW, BASED ON MY  
27 EXPERIENCE SOMEPLACE, SO AND SO MUST HAVE HAPPENED AND I BELIEVE  
28 EVERYTHING THAT THE PROSECUTION SAYS?

1 MR. WHITFIELD: NO.

2 MR. BARENS: DO YOU UNDERSTAND THAT THAT IS A PART OF  
3 THEIR JOB?

4 MR. WHITFIELD: EXACTLY.

5 MR. BARENS: SO YOU WOULDN'T BE ANY MORE LIKELY TO BELIEVE  
6 THEM THAN YOU WERE TO BELIEVE A DEFENSE WITNESS?

7 MR. WHITFIELD: NO.

8 MR. BARENS: DO YOU UNDERSTAND THAT POLICEMEN SOMETIMES  
9 LIE?

10 MR. WHITFIELD: YES.

11 MR. BARENS: THAT WOULDN'T BE ONE OF THOSE IMPOSSIBLE  
12 THINGS? THAT WOULDN'T BE UNREASONABLE, WOULD IT?

13 MR. WHITFIELD: POLICEMEN ARE HUMAN, TOO.

14 MR. BARENS: OKAY. THANK YOU, MR. WHITFIELD. I PASS  
15 FOR CAUSE, YOUR HONOR.

16 THE COURT: ALL RIGHT. I THINK WE HAVE GOT TO FINISH  
17 UP A LITTLE BUSINESS. SO, WE'LL TAKE A RECESS.

18 LADIES AND GENTLEMEN, WE'LL TAKE A RECESS AT THIS  
19 TIME UNTIL 1:45 THIS AFTERNOON. THANK YOU. WE WILL SEE YOU  
20 BACK HERE THEN.

21 (AT 11:55 A.M. A RECESS WAS TAKEN UNTIL  
22 1:45 P.M. OF THE SAME DAY.)

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1 SANTA MONICA, CALIFORNIA; TUESDAY, DECEMBER 23, 1986; 1:53 P.M.

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

3 (APPEARANCES AS NOTED ON TITLE PAGE.)

4  
5 THE COURT: WE WERE WITH MR. DOMINGUEZ?

6 MR. WAPNER: NO. MR. WHITFIELD, I BELIEVE.

7 THE COURT: YES, I AM SORRY. MR. WHITFIELD. DID WE  
8 FINISH?

9 MR. WAPNER: I BELIEVE MR. BARENS OR MR. CHIER WAS  
10 FINISHED AND I WAS BEGINNING.

11 MR. BARENS: I HAVE CONCLUDED, YOUR HONOR.

12 THE COURT: ALL RIGHT. VERY WELL. GO AHEAD.

13 MR. WAPNER: MR. WHITFIELD, YOU ARE A SPORTS FAN?

14 MR. WHITFIELD: YES, I AM, SIR.

15 MR. WAPNER: AND YOU READ THE SPORTS PAGES IN THE  
16 MORNING?

17 MR. WHITFIELD: YES, I DO.

18 MR. WAPNER: DO YOU TRY TO READ IT EVERY DAY?

19 MR. WHITFIELD: YES, WHEN I HAVE A CHANCE.

20 MR. WAPNER: THE L.A. TIMES?

21 MR. WHITFIELD: THE HERALD EXAMINER.

22 MR. WAPNER: DO YOU EVER READ THE TIMES?

23 MR. WHITFIELD: YEP.

24 MR. WAPNER: LEST YOU THINK THAT I AM MAKING UP COCK  
25 AND BULL STORIES, HAVE YOU BEEN FOLLOWING THE SAILOR ON THE  
26 BOAT?

27 MR. BARENS: COULD I SEE THAT?

28 MS. SHELBY: I SAW THAT IN THE PAPER TODAY.

1 MR. WHITFIELD: NO, I HAVEN'T.

2 MR. WAPNER: MR. BARENS BEING A SPORTS FAN THAT HE IS,  
3 I THOUGHT HE WOULD HAVE ALREADY SEEN THAT.

4 MR. BARENS: NOTABLY, A SOLO SAILOR.

5 MR. WAPNER: A SOLOR SAILOR, THAT'S RIGHT, ABSOLUTELY.

6 (LAUGHTER IN COURTROOM.)

7 MR. WAPNER: THAT IS WHY OUR FRIEND, WHO I THINK IS  
8 NO LONGER ON THE JURY WHO DID THE BACKPACKING, SAID HE ALWAYS  
9 TOOK SOMEBODY WITH HIM.

10 A JUROR: RIGHT.

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1                   LET ME ASK YOU FIRST OF ALL ABOUT THIS REASONABLE  
2                   VERSUS POSSIBLE STUFF. YOU HAVE HEARD ME USE A LOT OF  
3                   EXAMPLES DURING THE COURSE OF THIS JURY SELECTION PROCESS  
4                   AND THE REASON FOR THAT IS, THAT I THINK IT IS EASIER TO UNDER-  
5                   STAND THINGS BY EXAMPLES RATHER THAN TRYING TO USE A LOT OF  
6                   FANCY LANGUAGE.

7                   MR. WHITFIELD: I CAN AGREE.

8                   MR. WAPNER: YOU LOOK LIKE YOU ARE IN REASONABLY GOOD  
9                   SHAPE. DO YOU WORK OUT A LOT?

10                  MR. WHITFIELD: YES. LIKE ON WEEKENDS I DO. THAT IS,  
11                  WHEN I AM NOT DOING ERRANDS OR WHATEVER.

12                  MR. WAPNER: HOW OLD ARE YOU?

13                  MR. WHITFIELD: I JUST HAD A BIRTHDAY LAST -- I'M 38.

14                  MR. WAPNER: AND LET'S TAKE YOU AND WE'LL PUT YOU IN  
15                  AN L.A. RAMS FOOTBALL UNIFORM.

16                  MR. WHITFIELD: OKAY.

17                  MR. WAPNER: NO. 29.

18                  MR. WHITFIELD: WHY NOT THE RAIDERS?

19                  MR. WAPNER: OKAY. SILVER AND BLACK, NO. 32. ALL RIGHT?

20                  MR. WHITFIELD: OKAY.

21                  MR. WAPNER: AND YOU GO. NOW YOU ARE ON THE STARTING  
22                  LINEUP.

23                  MR. WHITFIELD: UH-HUH.

24                  MR. WAPNER: YOU ARE AS YOU ARE RIGHT NOW. THE QUESTION  
25                  IS, CAN YOU HAVE A 100-YARD GAIN.

26                  MR. WHITFIELD: SURE, AS LONG AS NOBODY BOTHERS ME.

27                  MR. WAPNER: OKAY. AND WHAT ARE THE CHANCES THAT NO  
28                  ONE WILL BOTHER YOU?



1 MR. WHITFIELD: TWO CHANCES, NULL AND VOID.

2 MR. WAPNER: OKAY. AND DO YOU THINK THAT IT IS POSSIBLE  
3 THAT YOU CAN GAIN 100 YARDS?

4 MR. WHITFIELD: POSSIBLE? YES.

5 MR. WAPNER: DO YOU THINK IT IS REASONABLE?

6 MR. WHITFIELD: NO.

7 MR. WAPNER: OKAY. IS THERE A DIFFERENCE IN YOUR MIND  
8 BETWEEN THE TWO?

9 MR. WHITFIELD: YES.

10 MR. WAPNER: OKAY. IT IS POSSIBLE THAT YOU COULD --  
11 SOME GUY COULD FUMBLE THE KICK-OFF AND FALL ON IT ON THE  
12 ONE YARD LINE. THE FIRST PLAYER FROM THE SCRIMMAGE AND THE  
13 WHOLE DEFENSE GETS THE FLU. THEY FALL DOWN AND YOU GO 99  
14 YARDS.

15 NOW, YOU HAVE GOT THREE AND A HALF QUARTERS TO  
16 GAIN ANOTHER YARD, RIGHT?

17 MR. WHITFIELD: RIGHT.

18 MR. WAPNER: DO YOU THINK IT IS LIKELY?

19 MR. WHITFIELD: NO.

20 MR. WAPNER: OKAY. YOU UNDERSTAND WHAT I WAS TRYING  
21 TO GET AT WITH THE OTHER JURORS ABOUT USING THE EXAMPLES OF  
22 THE DIFFERENCE BETWEEN TRYING TO USE YOUR REASON AND YOUR  
23 COMMON SENSE TO ANALYZE THINGS, AS OPPOSED TO SPECULATING?

24 MR. WHITFIELD: YES. I UNDERSTAND THAT.

25 MR. WAPNER: AS A POLICE OFFICER, WERE YOU EVER CALLED  
26 ON TO TESTIFY?

27 MR. WHITFIELD: NO.

28 MR. WAPNER: DID ANY OF THE CASES THAT -- LET ME BACK

1 UP.

2 DID YOU MAKE ARRESTS?

3 MR. WHITFIELD: NO.

4 MR. WAPNER: HOW LONG DID YOU WORK IN THE FIELD?

5 MR. WHITFIELD: APPROXIMATELY SIX MONTHS.

6 MR. WAPNER: WERE YOU WORKING IN UNIFORM OR UNDERCOVER?

7 MR. WHITFIELD: UNIFORM.

8 MR. WAPNER: DID YOU EVER WORK IN UNDERCOVER ASSIGNMENTS  
9 WHEN YOU CAME OUT OF THE ACADEMY?

10 MR. WHITFIELD: NO.

11 MR. WAPNER: AND WHAT WAS YOUR ASSIGNMENT AS A POLICE  
12 OFFICER?

13 MR. WHITFIELD: I WAS STATIONED AT SOUTHWEST DIVISION.

14 MR. WAPNER: WERE YOU ON PATROL?

15 MR. WHITFIELD: YES.

16 MR. WAPNER: AND WHAT SHIFT DID YOU WORK?

17 MR. WHITFIELD: I WORKED THE -- OKAY. IT WAS THE SWING  
18 SHIFT, I BELIEVE IS WHAT WE CALLED IT AT THE TIME. IT WAS  
19 LIKE 3 O'CLOCK TO 11 O'CLOCK, SOMETHING AROUND THAT TIME.

20 MR. WAPNER: YOU WERE ON PATROL FOR SIX OR SEVEN MONTHS?

21 MR. WHITFIELD: YES.

22 MR. WAPNER: DID YOU EVER HAVE OCCASION TO GO TO COURT  
23 AS AN OBSERVER, JUST TO WATCH AND SEE WHAT IT WAS LIKE?

24 MR. WHITFIELD: NO.

25 MR. WAPNER: DID YOU GET ANY TRAINING IN THE ACADEMY  
26 AS FAR AS TESTIFYING IN COURT?

27 MR. WHITFIELD: NOT THAT I CAN REMEMBER.

28 MR. WAPNER: NOW, HOW IS YOUR EXPERIENCE AS A POLICE

1 OFFICER GOING TO AFFECT YOU IN THIS CASE?

2 MR. WHITFIELD: IT WOULD NOT AT ALL.

3 MR. WAPNER: DO YOU HAVE ANY FRIENDS AMONG THE POLICE  
4 OFFICERS, PEOPLE THAT YOU MET ON THE POLICE FORCE?

5 MR. WHITFIELD: NO.

6 MR. WAPNER: DID YOU AT THE TIME?

7 MR. WHITFIELD: CASUAL ACQUAINTANCES.

8 MR. WAPNER: DO YOU HARBOR ANY RESENTMENT TOWARDS THE  
9 LOS ANGELES POLICE DEPARTMENT OR ANY OF ITS OFFICERS?

10 MR. WHITFIELD: NO I DON'T.

11 MR. WAPNER: DID YOU MEET ANYONE CONNECTED WITH THE  
12 LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE WHEN YOU WERE  
13 A POLICEMAN?

14 MR. WHITFIELD: IN PASSING. BUT I DID NOT RETAIN ANY  
15 CLOSE RELATIONSHIPS WITH ANYONE.

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1 MR. WAPNER: HOW ABOUT ANY CRIMINAL DEFENSE ATTORNEY?

2 MR. WHITFIELD: NOT REALLY.

3 MR. WAPNER: WAS THAT YOUR ONLY EXPERIENCE RELATED TO  
4 LAW ENFORCEMENT?

5 MR. WHITFIELD: WELL, WHEN I WAS IN THE NAVY, I DID A  
6 STINT ON SHORE PATROL BUT THAT WAS BECAUSE THEY MADE ME DO  
7 IT.

8 MR. WAPNER: WHY DID YOU DECIDE TO BECOME A POLICEMAN?

9 MR. WHITFIELD: WELL, AT THAT TIME I WANTED TO DO SOME-  
10 THING THAT WAS PERSONALLY FULFILLING. I WANTED TO HELP THE  
11 COMMUNITY, AS IT WERE, AND DO SOMETHING THAT POSSIBLY COULD  
12 HELP SOMEONE ELSE.

13 MR. WAPNER: DID YOU FEEL THAT YOU WERE DOING THAT IN  
14 YOUR SHORT TIME WITH THE POLICE DEPARTMENT?

15 MR. WHITFIELD: I BECAME VERY DISILLUSIONED.

16 MR. WAPNER: HOW SO?

17 MR. WHITFIELD: WELL, FOR ONE THING, I SAW THE WORST  
18 THAT HUMANITY COULD POSSIBLY INFLICT ON HUMANITY AND WHICH  
19 BECAME VERY STRESSFUL TO ME.

20 MR. WAPNER: CAN YOU EXPLAIN THAT TO ME A LITTLE BIT?

21 MR. WHITFIELD: WELL, WHEN YOU ARE OUT THERE IN THE FIELD,  
22 IT IS LIKE A WAR, MORE OR LESS. YOU ARE IN A BLACK AND WHITE  
23 UNIT AND YOU ARE BASICALLY A TARGET.

24 LIKE I SAID, YOU SEE THE WORST THAT PEOPLE CAN  
25 DO TO OTHER PEOPLE AND FROM DAY TO DAY, YOU HARDLY SEE ANY  
26 POSITIVE SITUATIONS.

27 MR. WAPNER: OKAY. AND WHAT EFFECT DID THAT HAVE ON  
28 YOUR DECISION TO STAY OR LEAVE?

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1 MR. WHITFIELD: WELL, LIKE I SAID, THAT MADE ME  
2 DISILLUSIONED AND MORE AND MORE I BECAME VERY NEGATIVE ABOUT  
3 THE SITUATION THAT I WAS IN AND I FELT AS THOUGH FOR MY OWN  
4 BETTERMENT, I HAD BETTER GET THE HECK OUT OF THERE.

5 MR. WAPNER: HOW DID YOU FEEL ABOUT ANY VETERAN OFFICERS  
6 WHO HAD SEEN THAT DAY IN AND DAY OUT FOR YEARS AND CHOSE TO  
7 STAY?

8 MR. WHITFIELD: MORE POWER TO THEM.

9 MR. WAPNER: DID YOU FEEL THEY HAD KIND OF A CYNICAL  
10 VIEW OF SOCIETY BECAUSE OF THAT?

11 MR. WHITFIELD: SOME DID.

12 MR. WAPNER: TELL ME ABOUT NEWMAN PREP, WHAT KIND OF  
13 A SCHOOL WAS IT?

14 MR. WHITFIELD: IT WAS A SCHOOL WHICH, LIKE, THEY GAVE  
15 YOU COURSES WHICH PREPARED YOU FOR THE UNIVERSITY CHOICE THAT  
16 YOU WANTED TO MAKE. THEY USUALLY GAVE COURSES THAT PREPARED  
17 YOU FOR YOUR MAJOR IF YOU WANTED TO GO AHEAD AND FURTHER YOUR  
18 EDUCATION IN THE UNIVERSITY.

19 SO I WENT TO PREPARE. AT THE TIME, I WANTED TO GO  
20 TO BOSTON UNIVERSITY AND I WANTED TO TAKE AS A MAJOR PUBLIC  
21 RELATIONS, BUT I WAS THERE FOR ONE YEAR AND I DECIDED THAT  
22 WORKING AND MAKING MONEY WOULD BE MORE PROFITABLE FOR ME AT  
23 THAT TIME BECAUSE I HAD TO START WORKING, AS IT WERE, SO I  
24 LEFT NEWMAN PREP AND I STARTED MY EMPLOYMENT.

25 MR. WAPNER: WHAT DID YOU DO AFTER YOU LEFT NEWMAN PREP?

26 MR. WHITFIELD: I WORKED AT MASSACHUSETTS GENERAL  
27 HOSPITAL.

28 MR. WAPNER: DOING WHAT?

1 MR. WHITFIELD: I WAS A WARD CLERK, WARD SECRETARY. WE  
2 TOOK CARE OF ADMISSIONS. I TOOK CARE OF ADMISSIONS AND HELPED  
3 OUT THE NURSES AND DOCTORS AND TRANSCRIBED DOCTORS' ORDERS  
4 AND TOOK LABORATORY SPECIMENS DOWN TO THE LAB AND HELPED OUT  
5 BASICALLY.

6 I WAS ON THE REHABILITATION WARD, WHICH WAS  
7 PARAPLEGIC PATIENTS, AND I HELPED IN THAT FUNCTION.

8 MR. WAPNER: WHEN YOU WERE AT NEWMAN PREP, WAS THAT AFTER  
9 YOUR LAST YEAR OF HIGH SCHOOL OR INSTEAD OF YOUR LAST YEAR  
10 OF HIGH SCHOOL?

11 MR. WHITFIELD: NO.

12 THAT WAS AFTER MY LAST YEAR AT HIGH SCHOOL.

13 THAT WAS AFTER MY YEAR OF COLLEGE ALSO.

14 MR. WAPNER: YOU HAD HAD A YEAR?

15 MR. WHITFIELD: OF COLLEGE BEFORE THAT, PRIOR TO THAT.

16 MR. WAPNER: WAS THAT LIKE JUNIOR COLLEGE THEN?

17 MR. WHITFIELD: THAT WAS JUNIOR COLLEGE, YES.

18 MR. WAPNER: IN NEW YORK OR MASSACHUSETTS?

19 MR. WHITFIELD: THAT WAS IN L.A., SOUTHWEST COLLEGE.

20 MR. WAPNER: HOW WAS IT YOU HAPPENED TO GO FROM SOUTHWEST  
21 COLLEGE TO A PREP SCHOOL IN MASSACHUSETTS?

22 MR. WHITFIELD: OH, WELL, I HAD LIVED IN BOSTON PRIOR  
23 TO THAT SO I WAS EAGER TO GET BACK AND I FELT AS LONG AS I  
24 WANTED TO GO BACK TO BOSTON, I MIGHT AS WELL GO TO SCHOOL SO  
25 THAT IS WHY I DID THAT PRIMARILY.

26 MR. WAPNER: WHAT IS IT THAT BROUGHT YOU BACK TO LOS  
27 ANGELES?

28 MR. WHITFIELD: WELL, DURING THAT TIME, MY MOTHER WAS

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1 VERY ILL AND SHE WAS TERMINALLY ILL WITH CANCER AT THE TIME,  
2 SO I CAME BACK AND I STAYED WITH HER AND HELPED HER OUT BEFORE  
3 SHE DIED.

4 MR. WAPNER: AND IS YOUR FATHER STILL LIVING?

5 MR. WHITFIELD: YES, HE IS.

6 MR. WAPNER: WHERE DOES HE LIVE?

7 MR. WHITFIELD: HE LIVES IN NEW YORK.

8 MR. WAPNER: HOW OFTEN DO YOU SEE OR TALK TO HIM?

9 MR. WHITFIELD: GENERALLY, I SEE HIM -- I SEE HIM ABOUT  
10 ONCE A YEAR. I TALK TO HIM AT LEAST ONCE OR TWICE A MONTH.

11 MR. WAPNER: WOULD YOU SAY YOU ARE FAIRLY CLOSE WITH  
12 HIM?

13 MR. WHITFIELD: OH, YEAH.

14 MR. WAPNER: AND YOUR STEPDAUGHTERS ARE HOW OLD?

15 MR. WHITFIELD: ONE IS 24 AND ONE IS 23.

16 MR. WAPNER: WHAT DO THEY DO?

17 MR. WHITFIELD: THE OLDEST IS A REGISTERED NURSE AND  
18 THE YOUNGER ONE, SHE WORKS WITH THE POST OFFICE -- FOR THE  
19 POST OFFICE.

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

21 MR. WHITFIELD: YES, THEY DO.

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

23 MR. WHITFIELD: JUST ABOUT EVERY DAY.

24 MR. WAPNER: TELL ME ABOUT SAGAN'S BOOK, BECAUSE I AM  
25 NOT FAMILIAR WITH IT, WHAT IS IT ABOUT?

26 MR. WHITFIELD: WELL, PRIMARILY IT IS ABOUT THE  
27 RESEARCH AND THE SEARCH IN TERMS OF EXTRATERRESTRIAL  
28 COMMUNICATIONS THROUGH RADIO WAVES. THEY HAVE IN THIS ONE

1 FACILITY, THIS LARGE DISK WHERE THEY SEARCH THE GALAXIES FOR  
2 EXTRATERRESTRIAL LIFE THROUGH COMMUNICATION AND AS FAR AS I  
3 HAVE GOT IN THE BOOK, THEY HAVE COME ACROSS SOME KIND OF RADIO  
4 SIGNAL FROM THE OMEGA -- OR FROM ONE GALAXY AND THEY ARE TRYING  
5 TO DECIPHER IT NOW.

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4A-1  
1 MR. WAPNER: SO, IS THE BOOK DESIGNED TO TRY TO FIND  
2 OUT WHETHER OR NOT THERE IS EXTRATERRESTRIAL LIFE?

3 MR. WHITFIELD: EXACTLY.

4 MR. WAPNER: DID YOU HAVE AN OPINION ABOUT THAT BEFORE  
5 YOU READ THE BOOK?

6 MR. WHITFIELD: YES.

7 MR. WAPNER: WHAT WAS YOUR OPINION?

8 MR. WHITFIELD: WELL, I FEEL LIKE THE EARTH IS BUT ONE  
9 GRAIN OF SAND ON THE BEACH. AND I FEEL THAT IT IS HIGHLY  
10 UNLIKELY THAT WE ARE THE ONLY INTELLIGENT PEOPLE OR BEINGS  
11 IN THIS VAST UNIVERSE. I MEAN, THE ODDS ARE AGAINST IT, IF  
12 YOU THINK ABOUT HOW MANY PLANETS AND STARS AND STAR SYSTEMS  
13 AND GALAXIES THERE ARE.

14 MR. WAPNER: OKAY. AND DO YOU KNOW WHAT SAGAN'S PREMISE  
15 IS, WHETHER HIS PREMISE IS THAT THERE IS OR THERE ISN'T?

16 MR. WHITFIELD: I THINK HIS PREMISE IS THAT IT IS POSSIBLE.

17 MR. WAPNER: OKAY. THAT'S AS FAR AS YOU HAVE GOTTEN  
18 IN THE BOOK?

19 MR. WHITFIELD: I HAVE GOTTEN ABOUT HALFWAY.

20 MR. WAPNER: ALL RIGHT.

21 MR. WHITFIELD: BUT I HAVE READ OTHER THINGS BY HIM.

22 MR. WAPNER: BUT YOU COME AT THIS BOOK WITH A CERTAIN  
23 OPINION ALREADY, RIGHT?

24 MR. WHITFIELD: ACCORDING TO THAT, YES.

25 MR. WAPNER: I MEAN, YOU HAVE AN OPINION ON THE SUBJECT?

26 MR. WHITFIELD: YES.

27 MR. WAPNER: IT IS NOT LIKE PICKING UP A BOOK ON A  
28 SUBJECT THAT YOU HAD NEVER THOUGHT ABOUT AND READING IT AND

14A-2  
1 THEN TRYING TO FORM AN OPINION?

2 MR. WHITFIELD: RIGHT.

3 MR. WAPNER: OKAY. AND DO YOU UNDERSTAND THAT WHEN  
4 WE TALK ABOUT BIAS OF WITNESSES, THAT THAT IS BASICALLY WHAT  
5 WE ARE TALKING ABOUT?

6 MR. WHITFIELD: YES I DO.

7 MR. WAPNER: A PREDISPOSITION TO FAVOR ONE SIDE OR THE  
8 OTHER?

9 MR. WHITFIELD: RIGHT.

10 MR. WAPNER: SO IN THE EXAMPLE THAT MR. BARENS WAS GIVING  
11 YOU ABOUT THE TWO PLAYERS AND THE -- THE FOOTBALL PLAYERS  
12 AND WHETHER IT IS A CLIP OR NOT, DO YOU THINK THAT EITHER  
13 ONE OF THEM HAS A BIAS?

14 MR. WHITFIELD: YES.

15 MR. WAPNER: PROBABLY BOTH?

16 MR. WHITFIELD: YES. THEY BOTH WOULD.

17 MR. WAPNER: SHOULD THE REFEREE HAVE A BIAS?

18 MR. WHITFIELD: BY NO MEANS.

19 MR. WAPNER: ALL RIGHT. IF YOU ARE CHOSEN AS A JUROR  
20 IN THIS CASE, DO YOU UNDERSTAND THAT YOU ARE IN THE POSITION  
21 OF REFEREE?

22 MR. WHITFIELD: EXACTLY.

23 MR. WAPNER: DO YOU THINK THAT AS YOU SIT THERE NOW  
24 YOU FAVOR ONE SIDE OR THE OTHER?

25 MR. WHITFIELD: NO.

26 MR. WAPNER: DO YOU THINK THAT WELL, THE FOOTBALL  
27 PLAYERS HAVE A BIAS BASICALLY BECAUSE THEY WEAR THE UNIFORM.  
28 OF ONE TEAM OR ANOTHER, RIGHT?

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1 MR. WHITFIELD: EXACTLY.

2 MR. WAPNER: AND YOU WOULD TAKE INTO CONSIDERATION FOR  
3 EXAMPLE, IF A PERSON CAME IN AND SAID I AM THE BOYFRIEND OR  
4 THE GIRLFRIEND OF ANOTHER WITNESS IN THE CASE OR THE DEFENDANT  
5 IN THE CASE, YOU COULD TAKE THAT INTO CONSIDERATION?

6 MR. WHITFIELD; IT WOULDN'T MEAN THAT MUCH TO ME IN  
7 TERMS OF THEIR TESTIMONY. I WOULD WEIGH IT THE SAME WAY I  
8 WOULD WEIGH THE OTHER TESTIMONY.

9 MR. WAPNER: OKAY. ARE YOU WILLING TO PUT THOSE FACTORS  
10 ON THE SCALE?

11 MR. WHITFIELD: SURE.

12 MR. WAPNER: IN OTHER WORDS, JUST BECAUSE THEY ARE  
13 RELATED, DOESN'T MEAN THEY ARE LYING, RIGHT?

14 MR. WHITFIELD: TRUE.

15 MR. WAPNER: BUT IF A PERSON, WHOEVER IT IS, SAYS  
16 SOMETHING TO YOU THAT YOU DON'T THINK RINGS TRUE, WOULD YOU  
17 START ASKING QUESTIONS ABOUT THAT PERSON'S TESTIMONY?

18 MR. WHITFIELD: YES.

19 MR. WAPNER: WOULD YOU WANT TO KNOW IF YOU DIDN'T THINK  
20 THEY WERE TELLING THE TRUTH -- WOULD YOU WANT TO KNOW WHY,  
21 RIGHT?

22 MR. WHITFIELD: EXACTLY.

23 MR. WAPNER: AMONG THE THINGS YOU MIGHT WANT TO LOOK  
24 AT IS WHETHER THEY WERE BIASED FOR EXAMPLE?

25 MR. WHITFIELD: TRUE.

26 MR. WAPNER: SO IF THE FOOTBALL PLAYER GETS UP AND  
27 STARTED SCREAMING THAT HE DIDN'T CLIP HIM OR HE WAS NOT  
28 CLIPPED OR HE WAS, WOULD YOU WANT TO KNOW WHAT TEAM HE WAS

14A-4  
1 ON, RIGHT?

2 MR. WHITFIELD: RIGHT.

3 MR. WAPNER: CAN YOU SEE HOW THOSE THINGS -- I AM NOT  
4 SAYING THAT HE IS NECESSARILY POINTING ONE WAY OR ANOTHER.  
5 OBVIOUSLY, THE FOOTBALL EXAMPLE IS PRETTY SIMPLISTIC.

6 MR. WHITFIELD: YES. I SEE THE POINT YOU ARE TRYING  
7 TO MAKE.

8 MR. WAPNER: COULD YOU PUT THOSE THINGS ON THE SCALE  
9 AND SEE IF THEY MAKE ANY DIFFERENCE TO YOU?

10 MR. WHITFIELD: YES.

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14A-5

1 MR. WAPNER: THE JUDGE WILL TELL YOU IF HE HAS NOT  
2 ALREADY, THAT WHEN YOU ARE DECIDING WHETHER SOMEONE IS GUILTY  
3 OR NOT OF A CRIME, YOU CAN'T THINK ABOUT WHAT MIGHT HAPPEN  
4 TO HIM IF YOU FIND HIM GUILTY. DO YOU UNDERSTAND THAT?

5 MR. WHITFIELD: YES I DO.

6 MR. WAPNER: DOES THAT MAKE SENSE TO YOU?

7 MR. WHITFIELD: OF COURSE.

8 MR. WAPNER: OKAY. SO EVEN THOUGH MR. BARENS SAYS WELL,  
9 A PERSON IS ON TRIAL FOR HIS LIFE, DO YOU UNDERSTAND THAT  
10 WHETHER HE IS ON TRIAL FOR HIS LIFE, THAT IS NOT AN ISSUE.  
11 IT SHOULD NOT MAKE ANY DIFFERENCE IN DECIDING WHETHER HE IS  
12 GUILTY OR NOT.

13 MR. WHITFIELD: RIGHT.

14 MR. WAPNER: AND IF THE JUDGE TELLS YOU THAT YOU CAN'T  
15 THINK ABOUT PENALTY WHEN YOU ARE DECIDING THE QUESTION OF  
16 GUILT OR INNOCENCE, CAN YOU FOLLOW THAT?

17 MR. WHITFIELD: IF THE JDUGE TELLS ME THAT, YES.

18 MR. WAPNER: DO YOU HAVE SOME FEELINGS ABOUT IT ONE  
19 WAY OR THE OTHER, INDEPENDENT OF WHAT HE TELLS YOU?

20 MR. WHITFIELD: NO.

21 MR. WAPNER: IN OTHER WORDS, YOU WOULD BE THINKING AS  
22 YOU ARE DELIBERATING, GEE, IF I FIND HIM GUILTY, HE MIGHT  
23 GO TO PRISON OR HE MIGHT GET THE DEATH PENALTY AND SO I CAN'T  
24 HAVE THAT ON MY CONSCIENCE?

25 MR. WHITFIELD: NO.

26 MR. WAPNER: WHAT KIND OF THINGS DO ATTORNEYS DO TO  
27 YOU IN YOUR WORK THAT YOU DESCRIBE AS PLEASANTLY DEVIOUS?

28 MR. WHITFIELD: I FIGURED YOU WERE GOING TO ASK ME THAT

14A-6  
1 QUESTION. WELL, SOMETIMES LIKE IF I HAVE A LIEN ON FILE AND  
2 WE ARE TRYING TO SETTLE IT AWAY FROM THE COURT SETTING AND  
3 ALL, LET'S SAY THAT THE LIEN IS FOR \$3500.

4 OKAY. SO, THE ATTORNEY WILL CALL AND SAY WELL,  
5 WE ARE WILLING TO SETTLE FOR \$1,000. OKAY.

6 I WILL SAY NO, WELL, WE CAN'T SETTLE FOR IT.  
7 FIRST, WE DON'T HAVE ANY MEDICALS. WE CAN'T SETTLE UNLESS  
8 WE HAVE MEDICALS.

9 THEN, HE SENDS US MEDICALS AND HE CALLS ME BACK  
10 AND HE SAYS, WELL, WE ARE STILL GOING TO GO FOR \$1,000.

11 I SAY NO, \$2,000 AND WE WILL CALL IT EVEN. HE  
12 SAYS, WELL, NO, LET'S MAKE IT \$1800.

13 SO, IT GETS INTO A SITUATION WHERE THEY ARE  
14 BARGAINING, OKAY?

15 AND HE SAYS, WELL, \$1600. SO, WHAT I MEAN BY  
16 PLEASANTLY DEVIOUS, IT IS A SITUATION WHERE HE TRIES TO USE  
17 HIS KNOWLEDGE AGAINST ME IN A WAY WITH ME BEING THE LAYMAN,  
18 AS IT WERE, HE TRIES TO GIVE ME A POSITION WHERE I CAN GO  
19 AHEAD AND GO WITH THE PRICE HE WANTS OR THE MONEY THAT HE  
20 WANTS TO SETTLE FOR. THAT IS ALL I MEANT.

21 MR. WAPNER: HOW LONG HAVE YOU BEEN DOING THIS?

22 MR. WHITFIELD: I HAVE BEEN IN WORKERS' COMP ALTOGETHER  
23 FOR NINE YEARS. I HAVE BEEN IN A SUPERVISORY POSITION FOR  
24 THREE.

25 MR. WAPNER: WITH NINE YEARS OF EXPERIENCE, YOU KNOW?

26 MR. WHITFIELD: WELL, I KNOW.

27 MR. WAPNER: WHEN THE GUY SAYS \$1,000, HE DOESN'T MEAN  
28 \$1,000, DOES HE?

1 MR. WHITFIELD: YES, I KNOW.

2 MR. WAPNER: OKAY. WHAT EXPERIENCE HAVE YOU HAD WITH  
3 LAWYERS OTHER THAN IN THAT SETTING?

4 MR. WHITFIELD: NONE.

5 MR. WAPNER: HAVE YOU EVER SERVED ON A JURY BEFORE?

6 MR. WHITFIELD: RIGHT, I NEVER HAVE.

7 MR. WAPNER: HAS ANYTHING THAT EITHER OF THE LAWYERS  
8 HAVE DONE SO FAR IN THIS CASE, SEEMED TO YOU TO BE SIMILAR  
9 TO THE KINDS OF CONDUCT THAT YOU HAVE OBSERVED?

10 MR. WHITFIELD: YOU MEAN MY DAILY DEALING WITH ATTORNEYS?

11 MR. WAPNER: RIGHT.

12 MR. WHITFIELD: NO MORE THAN THE LEGALESE THAT IS USED.  
13 THAT IS IT.

14 MR. WAPNER: OKAY. IS THERE ANYTHING ABOUT YOUR  
15 BACKGROUND THAT I HAVE NOT TOUCHED ON, THAT YOU THINK WOULD  
16 BE RELEVANT TO YOUR ABILITY TO BE A FAIR JUROR IN THIS CASE?

17 MR. WHITFIELD: NO.

18 MR. WAPNER: DO YOU THINK THAT YOUR SERVICE AS A POLICE  
19 OFFICER MAKES YOU BIASED IN FAVOR OF THE PROSECUTION IN THIS  
20 CASE?

21 MR. WHITFIELD: NO, I DON'T.

22 MR. WAPNER: DO YOU THINK IT MAKES YOU BIASED IN ANY  
23 WAY AGAINST THE PROSECUTION?

24 MR. WHITFIELD: NO.

25 MR. WAPNER: HAVE YOU HAD ANY TRAFFIC TICKETS SINCE  
26 YOU LEFT THE POLICE DEPARTMENT?

27 MR. WHITFIELD: NO. I HAVE NOT HAD A MOVING VIOLATION  
28 SINCE 1974. I GET PARKING TICKETS UP THE YING-YANG THOUGH.

1 MR. WAPNER: DO YOU HAVE ANY VISCERAL REACTION NOW,  
2 THAT IS DIFFERENT THAN THE KIND OF REACTION YOU HAD BEFORE  
3 YOU WERE A POLICE OFFICER?

4 MR. WHITFIELD: NO, NOT REALLY. THE ONLY THING THAT  
5 I HAVE IS, WHEN I SEE A POLICE OFFICER, I SAY TO MYSELF THAT  
6 I USED TO DO THAT. THAT IS IT.

7 MR. WAPNER: HOW DID YOU FEEL ABOUT GUNS AS A RESULT  
8 OF YOUR SERVICE AS A POLICE OFFICER?

9 MR. WHITFIELD: WELL, I HAVE HAD A LOT OF TRAINING IN  
10 WEAPONS. I OWN A COUPLE OF WEAPONS. I GO TARGET SHOOTING  
11 EVERY NOW AND THEN.

12 MR. WAPNER: WHAT WEAPONS DO YOU OWN?

13 MR. WHITFIELD: I OWN A .38 STUB-NOSE REVOLVER AND I  
14 ALSO OWN A 12 GAUGE SHOTGUN.

15 MR. WAPNER: WHERE DO YOU GO TARGET SHOOTING?

16 MR. WHITFIELD: TWO PLACES. THERE IS ONE IN GARDENA.  
17 THEN I GO TO ONE RIGHT OVER HERE OFF BUNDY.

18 MR. WAPNER: WHAT IS THE ONE OFF BUNDY? WHAT IS THE  
19 NAME OF IT?

20 MR. WHITFIELD: I CAN'T EVEN THINK OF THE NAME. I KNOW  
21 WHERE IT IS BUT I NEVER REALLY PAID ATTENTION TO THE NAME OF  
22 IT.

23 I CALLED IT UP ONCE AND SAT LOOKING AT THE DIRECTORY.  
24 I SHOT OVER THERE, WENT OVER THERE AND TARGET SHOT THERE.

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1 MR. WAPNER: THAT IS NOT THE LOS ANGELES GUN CLUB, IS  
2 IT?

3 MR. WHITFIELD: IT MIGHT BE.

4 THE NAME ESCAPES ME NOW.

5 MR. WAPNER: THE ONE IN GARDENA, WHAT KIND OF FACILITY  
6 IS THAT?

7 MR. WHITFIELD: IT IS AN INDOOR FACILITY THEY PROVIDE  
8 FOR PISTOL AND RIFLE SHOOTING.

9 MR. WAPNER: HAVE YOU EVER GONE TARGET SHOOTING OUTDOORS  
10 ANYWHERE?

11 MR. WHITFIELD: ONE TIME I WAS INVITED TO GO WITH A  
12 FRIEND OF MINE -- NOT A FRIEND -- HE WAS AN ACQUAINTANCE OF  
13 MINE. HE WORKED FOR THE GAS COMPANY AND HE INVITED ME TO GO  
14 ON THIS TURKEY SHOOT, AND THIS WAS ABOUT THREE OR FOUR YEARS  
15 AGO. WE WENT OUT AND SHOT CLAY PIGEONS AND THINGS OF THAT  
16 NATURE.

17 MR. WAPNER: WHERE WAS IT?

18 MR. WHITFIELD: IT WAS IN THE MOUNTAINS SOME PLACE. I  
19 KNOW IT WAS IN THE MOUNTAINS BECAUSE THE CAR -- MY CAR ALMOST  
20 CONKED OUT GOING UP THE HILL. IT WAS OUTDOORS AND I DON'T  
21 RECALL -- I THINK -- I THINK IT WAS, LET'S SEE, GOING TOWARD  
22 LANCASTER, I BELIEVE IT WAS, IF I AM NOT MISTAKEN.

23 MR. WAPNER: YOU DON'T REMEMBER THE NAME OF THE PLACE?

24 MR. WHITFIELD: NO, I DON'T.

25 MR. WAPNER: WAS IT A FAIRLY POPULATED AREA WHEN YOU  
26 GOT THERE --

27 MR. WHITFIELD: NO.

28 MR. WAPNER: -- OR PRETTY REMOTE?

1 MR. WHITFIELD: IT WAS REMOTE.

2 MR. WAPNER: DID YOU HAVE TO GO ON ANY DIRT ROADS, IF  
3 YOU REMEMBER?

4 MR. WHITFIELD: YES, I DID.

5 MY CAR WAS NOT BUILT FOR THAT.

6 MR. WAPNER: WHEN YOU HEARD THE NAME SOLEDAD CANYON OR  
7 THE TERM INDIAN CANYON, DID THAT RING ANY BELLS WITH YOU?

8 MR. WHITFIELD: I WAS TRYING TO THINK IF THAT WAS THE  
9 PLACE.

10 I DON'T EVEN KNOW WHERE SOLEDAD CANYON IS, TO TELL  
11 YOU THE TRUTH.

12 SO I WAS TRYING TO PLACE IT BUT IT REALLY DIDN'T  
13 RING A BELL WITH ME.

14 MR. WAPNER: HOW DO YOU FEEL ABOUT THE IDEA THAT YOU  
15 CAN HAVE A MURDER PROSECUTION WITHOUT A BODY?

16 MR. WHITFIELD: I HAVE NO PROBLEM WITH THAT.

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

19 MR. WHITFIELD: WELL, MY HOUSE WAS BURGLARIZED BACK EAST.

20 BUT CON SCHEME, NO, THANK GOODNESS.

21 MR. WAPNER: WHAT DIFFERENCE IS IT GOING TO MAKE TO YOU  
22 IF WE GO THROUGH THIS WHOLE CASE AND IT TURNS OUT THAT YOU  
23 DON'T LIKE THE VICTIM IN THIS CASE BUT YOU, NEVERTHELESS, BELIEVE  
24 THAT HE WAS KILLED AND THAT THE DEFENDANT DID IT?

25 MR. WHITFIELD: WHAT WOULD I DO?

26 MR. WAPNER: HOW WOULD IT AFFECT YOU?

27 MR. WHITFIELD: HOW WOULD IT AFFECT ME?

28 IT WOULDN'T AFFECT ME.

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1 MR. WAPNER: DID YOU HAVE ANY TRAINING AT THE POLICE  
2 ACADEMY ABOUT EYEWITNESS IDENTIFICATION?

3 MR. WHITFIELD: SOMEWHAT, FROM WHAT I CAN REMEMBER, I  
4 BELIEVE WE WENT INTO THAT.

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

6 THE COURT: ALL RIGHT, I THINK IT IS THE DEFENDANT'S  
7 PEREMPTORY.

8 MR. BARENS: THANK YOU, YOUR HONOR. THE DEFENSE WOULD  
9 ASK THE COURT TO THANK AND EXCUSE JUROR NUMBER 2, MR. DOMINGUEZ.

10 THE COURT: ALL RIGHT, THANK YOU, MR. DOMINGUEZ.

11 THE CLERK: LYNN SOMMER, S-O-M-M-E-R.

12 IS THAT MRS.?

13 MS. SOMMER: YES, IT IS.

14 THE COURT: ALL RIGHT, MRS. SOMMER, YOU, TOO, SOME TIME  
15 AGO TOLD US THAT YOU OR SOME MEMBER OF YOUR FAMILY HAVE SEEN  
16 THE VICTIM OF SOME CRIME OF SOME KIND.

17 MS. SOMMER: YES.

18 THE COURT: WHAT WAS THAT?

19 MS. SOMMER: WELL, I WILL START WITH THE EPISODES WITHIN  
20 THE FAMILY.

21 THE COURT: YES.

22 MS. SOMMER: MY MOTHER-IN-LAW WAS ROBBED -- MY MOTHER-  
23 IN-LAW AND FATHER-IN-LAW WERE ROBBED AT GUNPOINT AND MY OLDEST  
24 BROTHER WAS -- THIS GOES BACK A FEW YEARS SO I AM GOING TO  
25 TELL YOU THE SKETCHY DETAILS -- BUT MY BROTHER AND HIS SON  
26 WERE LAYING ON THE FLOOR IN THE LIVING ROOM WATCHING FOOTBALL  
27 AND A COUPLE OF MEN ENTERED THEIR HOUSE THROUGH THE PATIO DOOR  
28 THAT WAS LEFT OPEN, AND THEY DIDN'T HEAR ANYTHING. THE FIRST

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1 THING THEY KNEW OF IT WAS THAT A GUN WAS POINTED AT MY BROTHER'S  
2 HEAD AND NO ONE WAS HURT AND THEY WERE BURGLARIZED.

3 SO THOSE ARE THE FAMILY DETAILS.

4 I PERSONALLY HAVE HAD THREE THINGS HAPPEN TO ME.  
5 I HAVE HAD MY WALLET STOLEN FROM MY PURSE. I HAVE HAD A CAR  
6 STOLEN AND WHEN MY HUSBAND AND I WERE COMING ACROSS COUNTRY  
7 TO MOVE OUT TO CALIFORNIA, WE HAD A U-HAUL TRAILER ATTACHED  
8 TO THE CAR AND THAT WAS BROKEN INTO AND I GUESS WE -- SOMEONE  
9 SURPRISED THE BURGLAR BECAUSE HE SIMPLY CLOSED THE DOOR OF  
10 THE U-HAUL AFTER BREAKING OPEN THE LOCK AND PROBABLY INTENDED  
11 TO COME BACK LATER POSSIBLY.

12 THE COURT: IN VIEW OF THOSE INCIDENTS TO YOUR FAMILY  
13 OR TO YOU, DID THEY RESULT IN ANY KIND OF A POLICE INVESTIGATION  
14 OR WERE COMPLAINTS MADE TO THE POLICE?

15 MS. SOMMER: YES, I THINK IN EVERY CASE THERE WAS AT  
16 LEAST A POLICE REPORT FILED.

17 THE COURT: AND NOTHING EVER CAME OF THAT?

18 MS. SOMMER: IN MY SITUATION, NO.

19 THE COURT: DO YOU FEEL THEY DID THE BEST THEY COULD?

20 MS. SOMMER: YES.

21 THE COURT: THE POLICE?

22 MS. SOMMER: I DO FEEL IN MY CASE THEY WERE.

23 THE COURT: THE FACT THAT YOU OR A MEMBER OF YOUR FAMILY  
24 HAVE BEEN VICTIMIZED ON A NUMBER OF OCCASIONS, WOULD THAT IN  
25 ANY WAY INFLUENCE YOU, AND PLEASE SEARCH YOUR MIND, AGAINST  
26 THE DEFENDANT BECAUSE HE HAS BEEN CHARGED WITH A SERIOUS  
27 OFFENSE?

28 MS. SOMMER: NO.

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1 THE COURT: OTHER THAN THAT, IF I WERE TO ASK YOU THE  
2 SAME GENERAL QUESTIONS WHICH WERE ASKED OF THE OTHER JURORS,  
3 WOULD YOUR ANSWERS BE ANY DIFFERENT OR WOULD THEY BE  
4 SUBSTANTIALLY THE SAME?

5 MS. SOMMER: YES.

6 THE COURT: OR DO YOU WANT ME TO REPEAT THEM?

7 MS. SOMMER: NO.

8 THE COURT: YOU DON'T WANT ME TO REPEAT THEM?

9 MS. SOMMER: I COULD PROBABLY JUST TELL YOU WHAT THE  
10 QUESTIONS WERE.

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1 THE COURT: YOU PROBABLY HAVE THEM MEMORIZED BY NOW.

2 WHAT DO YOU DO?

3 MS. SOMMER: I WORK FOR GENERAL TELEPHONE.

4 THE COURT: WHAT IS THAT, THAT IS THE OTHER TELEPHONE  
5 COMPANY?

6 MS. SOMMER: NO, THAT IS THE SAME ONE.

7 THE COURT: YOU KNOW WHAT I AM TALKING ABOUT, THE PACIFIC  
8 TELEPHONE COMPANY SAYS THAT YOU ARE THE OTHER ONE.

9 MS. SOMMER: I AM THE OTHER ONE, RIGHT.

10 THE COURT: WHAT DO YOU DO?

11 MS. SOMMER: MY TITLE IS REVENUE STAFF ANALYST.

12 THE COURT: WHAT DOES THAT MEAN?

13 MS. SOMMER: I PRIMARILY INTERFACE WITH THE PUC,  
14 CALIFORNIA PUBLIC UTILITIES COMMISSION.

15 THE COURT: THEY FIX THE RATES, DON'T THEY?

16 MS. SOMMER: WELL, WE TRY TO ESTABLISH THE RATES. WE  
17 TRY TO GET THEM TO AGREE TO WHAT WE ESTABLISH AND THAT IS WHERE  
18 A LOT OF MY INTERFACING COMES IN.

19 I AM ALSO RESPONSIBLE FOR OUR DEPARTMENT DATA  
20 CENTER.

21 THE COURT: WHAT?

22 MS. SOMMER: OUR DEPARTMENT DATA CENTER.

23 THE COURT: YES.

24 MS. SOMMER: WHICH INCLUDES THE PURCHASE OF HARDWARE  
25 AND SOFTWARE TO MEET THE USERS' NEEDS AS WELL AS SOME TRAINING.

26 THE COURT: I SEE.

27 WHAT TRAINING DID YOU HAVE FOR THAT JOB? IN-HOUSE  
28 TRAINING?

1 MS. SOMMER: WELL, SOMEWHAT AND SOMEWHAT WITHIN MY  
2 EDUCATION.

3 THE COURT: WHAT EDUCATION DO YOU HAVE?

4 MS. SOMMER: I HAVE AN UNDERGRADUATE DEGREE FROM THE  
5 UNIVERSITY OF RHODE ISLAND.

6 THE COURT: RHODE ISLAND, PROVIDENCE?

7 MS. SOMMER: WELL, THE UNIVERSITY IS IN KINGSTON, RHODE  
8 ISLAND.

9 I AM FROM OUTSIDE OF PROVIDENCE BUT SCHOOL IS IN  
10 KINGSTON.

11 I HAVE MY MASTER'S FROM PENN STATE UNIVERSITY AND  
12 I DID SOME COURSE WORK TOWARD A PH.D. AT USC.

13 I HAVE MY MASTER'S FROM PENN STATE.

14 THE COURT: WELL, YOU HAVE BEEN HIGHLY QUALIFIED FOR THAT  
15 KIND OF A JOB, EVEN AS A JUROR IN THIS CASE, TOO.

16 MS. SOMMER: OH, THANK YOU.

17 THE COURT: AND WHAT DOES YOUR HUSBAND DO?

18 MS. SOMMER: MY HUSBAND ALSO WORKS FOR THE PHONE COMPANY  
19 AND HIS PRESENT JOB IS RESPONSIBILITY FOR MANAGING THE  
20 CAPITAL BUDGET FOR THE PURCHASE OF HARDWARE EQUIPMENT FOR THE  
21 WHOLE COMPANY.

22 THE COURT: VERY GOOD.

23 AND WHAT EDUCATIONAL BACKGROUND DOES HE HAVE?

24 MS. SOMMER: HE HAS HIS BS FROM PENN STATE UNIVERSITY  
25 IN ELECTRICAL ENGINEERING.

26 THE COURT: IS THAT WHERE YOU MET HIM?

27 MS. SOMMER: YES, UH-HUH.

28 THE COURT: I THOUGHT SO.

1 MS. SOMMER: AND HE HAS 28 CREDITS TOWARDS AN MS AT USC.

2 THE COURT: WHERE DO YOU LIVE?

3 MS. SOMMER: PACIFIC PALISADES.

4 THE COURT: DO YOU HAVE ANY CHILDREN?

5 MS. SOMMER: YES, I HAVE A DAUGHTER WHO IS FOUR AND A  
6 HALF.

7 THE COURT: FOUR AND A HALF?

8 MS. SOMMER: YES.

9 THE COURT: WHERE DO YOU LIVE?

10 MS. SOMMER: PACIFIC PALISADES.

11 THE COURT: AND HAVE YOU EVER SAT AS A JUROR ON A CRIMINAL  
12 CASE BEFORE?

13 MS. SOMMER: NOT ON A CRIMIAL CASE, NO.

14 THE COURT: YOU HAVE SAT AS A JUROR ON A CIVIL CASE?

15 MS. SOMMER: YES.

16 THE COURT: WELL, YOU KNOW THE DIFFERENCE IN THE BURDEN  
17 OF PROOF --

18 MS. SOMMER: YES.

19 THE COURT: -- BETWEEN THAT --

20 MS. SOMMER: YES.

21 THE COURT: -- BETWEEN A CIVIL CASE AND A CRIMINAL CASE?

22 ALL RIGHT, THANK YOU VERY MUCH.

23 MS. SOMMER: YOU ARE WELCOME.

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1 MR. BARENS: GOOD AFTERNOON, MS. SOMMER.

2 MS. SOMMER: GOOD AFTERNOON.

3 MR. BARENS: I WOULD FEEL REMISS IF I DIDN'T TAKE ONE  
4 MOMENT TO COMMENT THAT ON THE OCCASION OF OSCAR WILDE'S  
5 90TH BIRTHDAY, A WRITER ASKED HIM WHAT HE HOPED PEOPLE WOULD  
6 SAY ABOUT HIM 100 YEARS LATER.

7 AFTER PAUSING FOR A MOMENT, OSCAR WILDE RESPONDED  
8 THAT HE HOPED PEOPLE WOULD SAY THAT HE LOOKED GOOD FOR HIS  
9 AGE.

10 THE COURT: I GOT THE HINT.

11 MR. BARENS: WELL, MISS SOMMER, I WILL JUST PICK UP ON  
12 HIS HONOR'S LAST POINT. YOU OF COURSE UNDERSTAND THAT THE  
13 BURDEN OF PROOF THAT THE PEOPLE HAVE IN THIS CASE IS MARKEDLY  
14 DIFFERENT THAN WHAT THEY HAVE IN A CIVIL CASE?

15 MS. SOMMER: YES, I DO.

16 MR. BARENS: DO YOU RECALL THAT THERE WAS SOMETHING CALLED  
17 THE PREPONDERANCE OF THE EVIDENCE?

18 MS. SOMMER: YES.

19 MR. BARENS: BALANCING THE SCALES?

20 MS. SOMMER: YES.

21 MR. BARENS: THE PLAINTIFF GETS TO WIN IF THEY HAVE 51  
22 PERCENT OF THE EVIDENCE?

23 MS. SOMMER: THAT IS NOT THE WAY IT WAS EXPLAINED TO  
24 US. BUT YES, IT COULD BE.

25 MR. BARENS: IN OTHER WORDS, THAT THE PREPONDERANCE OR  
26 THE GREATER LIKELIHOOD RESTED WITH THE PLAINTIFF OR THE  
27 DEFENDANT, FOR THAT MATTER.

28 MS. SOMMER: YES.

1 MR. BARENS: HERE WE HAVE BEYOND A REASONABLE DOUBT.  
2 ALTHOUGH I CANNOT QUANTIFY IT FOR YOU NUMERICALLY WHAT THAT  
3 MEANS, I THINK WE AGREE IT IS SOMETHING SUBSTANTIALLY GREATER  
4 THAN A PREPONDERANCE OF THE EVIDENCE?

5 MS. SOMMER: YES.

6 MR. BARENS: OKAY. HOW DID YOU FEEL ABOUT THE PRESUMPTION  
7 OF INNOCENCE THAT MR. HUNT SITS THERE BENEFITING FROM?

8 MS. SOMMER: I THINK THAT IT IS VERY FAIR AND IT IS HIS  
9 RIGHT AS A CITIZEN.

10 MR. BARENS: ARE YOU COMFORTABLE WITH THAT CONCEPT?

11 MS. SOMMER: VERY COMFORTABLE.

12 MR. BARENS: THE SAME AS TO A CONCEPT OF NOT TESTIFYING,  
13 IF ONE CHOOSES NOT TO? EXERCISING THE FIFTH AMENDMENT?

14 MS. SOMMER: THAT IS HIS CHOICE I THINK.

15 MR. BARENS: DO YOU THINK THERE WOULD BE SOMETHING  
16 SUSPECT ABOUT A DEFENDANT THAT DIDN'T TESTIFY?

17 MS. SOMMER: NO, NOT AT ALL.

18 MR. BARENS: CONVERSELY, A DEFENDANT WHO DOES TESTIFY,  
19 DO YOU THINK -- LET ME ASK YOU SERIOUSLY. DO YOU THINK A  
20 DEFENDANT TESTIFYING WOULD BE LESS LIKELY TO BE TRUTHFUL THAN  
21 ANOTHER WITNESS?

22 MS. SOMMER: NO.

23 MR. BARENS: DO YOU THINK YOU COULD BELIEVE A DEFENDANT  
24 WHO TESTIFIES? HE COULD BE TELLING THE TRUTH?

25 MS. SOMMER: YES.

26 MR. BARENS: NOW, WE HAVE HAD A LOT OF DISCUSSION ABOUT  
27 THIS BUSINESS OF WHAT IS POSSIBLE AND WHAT IS REASONABLE AND  
28 WHAT IS NOT REASONABLE.

1                   WHOSE PROBLEM IS THIS PROBLEM OF WHAT IS POSSIBLE  
2 AND WHAT IS NOT POSSIBLE? DO YOU THINK IT IS THE DEFENDANT'S  
3 PROBLEM OR THE PROSECUTION'S PROBLEM?

4           MS. SOMMER: I THINK IT IS THE PROSECUTION'S PROBLEM  
5 AND IS PROBABLY OUR PROBLEM, AS WELL, TO DECIDE AFTER LISTENING.

6           MR. BARENS: DO YOU UNDERSTAND THAT THE GOVERNMENT  
7 SOLELY HAS TO PROVE NOT WHAT IS POSSIBLE, BUT WHAT THEY ALLEGE  
8 HAPPENED?

9                   ARE YOU GOING TO BE SATISFIED AS A JUROR IF THE  
10 GOVERNMENT SAYS WELL, THIS IS WHAT POSSIBLY HAPPENED TO THE  
11 VICTIM HERE? WE HAVE GOT THESE WITNESSES AND THEY ALL SAY  
12 SO AND SO AND SO. THERE IS A GREAT LIKELIHOOD OR IT IS  
13 OBJECTIVELY POSSIBLE THAT THIS HAS HAPPENED TO HIM.

14           MS. SOMMER: THAT WOULDN'T BE GOOD ENOUGH.

15           MR. BARENS: NOT AT ALL. AND JUST BECAUSE THE GOVERNMENT  
16 TELLS YOU THAT SOMETHING IS POSSIBLE, DOES IT MAKE IT  
17 REASONABLE?

18           THE COURT: WELL, I THOUGHT I WOULD INTERRUPT AT THIS  
19 PARTICULAR POINT. ALSO, YOU HAD BEEN TALKING ABOUT THE  
20 GOVERNMENT. THE GOVERNMENT IS NOT A PARTY TO THIS CASE.  
21 IT IS THE PEOPLE OF THE STATE OF CALIFORNIA.

22                   WELL, MAYBE YOU CAN USE IN THE FEDERAL COURTS  
23 WHERE THE GOVERNMENT MIGHT BE INVOLVED AND IT IS THE UNITED  
24 STATES OF AMERICA, THAT TERM.

25                   BUT WHEN YOU REFER TO THE GOVERNMENT, YOU MEAN  
26 THE PEOPLE, DON'T YOU, THE PLAINTIFF IN THE CASE.

27           MR. BARENS: YOUR HONOR, THE DEFENSE PRESUMES THEY WOULD  
28 BE ONE AND THE SAME.

1 THE COURT: NO. THEY ARE NOT.

2 MR. BARENS: THEY OCCUR TO ME TO BE, YOUR HONOR. THE  
3 GOVERNMENT IS THE GOVERNMENT.

4 THE COURT: WELL, AT ANY RATE, THERE IS NO PARTY HERE  
5 KNOWN AS THE GOVERNMENT.

6 MR. BARENS: WELL, I REALIZE THAT.

7 THE COURT: IT IS THE PEOPLE OF THE STATE OF CALIFORNIA,  
8 NOT THE GOVERNMENT.

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1 MR. BARENS: I UNDERSTAND THAT, YOUR HONOR. I HAVE FOR  
2 THE MANY YEARS I HAVE BEEN DOING THIS, ALWAYS CONSIDERED THE  
3 INSTITUTIONS THAT PROSECUTE CASES AS BEING A PART OF THE  
4 GOVERNMENT.

5 THE COURT: WELL, AT ANY RATE, GO AHEAD. I WANTED TO  
6 MAKE SURE THAT THE JUROR UNDERSTANDS THE GOVERNMENT IS NOT  
7 A PARTY TO THIS CASE.

8 MR. BARENS: QUITE SO.

9 THE COURT: DO YOU MEAN THE DISTRICT ATTORNEY OR THE  
10 PEOPLE OF THE STATE OF CALIFORNIA? AS LONG AS THE JURORS KNOW  
11 THAT, THAT IS ALL I WANTED TO BE SURE OF.

12 MR. BARENS: ABSOLUTELY. JURORS, WHEN I SAY "GOVERNMENT"  
13 OTHERS MAY SAY "THE PEOPLE". WELL, THUS ADVISED, AS WE GO  
14 ALONG HERE, IF YOU ARE TOLD BY THE PROSECUTION, THE  
15 PROSECUTING AUTHORITY BECAUSE THEY HAVE GIVEN YOU A POSSIBLE  
16 ANSWER AND THEY THINK IT IS REASONABLE, DO YOU HAVE ANY GREATER  
17 BIAS TO BELIEVE THEM THAN YOU WOULD THE DEFENDANT?

18 MS. SOMMER: NO.

19 MR. BARENS: IT IS ALL BASED ON WHAT IS PROVEN AND NOT  
20 PROVEN?

21 MS. SOMMER: CORRECT.

22 MR. BARENS: NOW, CAN YOU ACCEPT THE IDEA THAT WHAT IS  
23 REASONABLE FOR ONE PERSON MAY NOT BE NECESSARILY THE CASE FOR  
24 ANOTHER PERSON?

25 MS. SOMMER: YES.

26 MR. BARENS: HAVE YOU EVER HAD AN EXPERIENCE EITHER  
27 FIRSTHAND OR THROUGH WHAT YOU HAVE READ THROUGH ALL OF THE  
28 EDUCATION YOU HAVE HAD, WHERE THE PROBABLE SOLUTION TO SOMETHING

1 OR THE USUAL SOLUTION TO SOMETHING DOES NOT TURN OUT TO BE  
2 TRUE?

3 MS. SOMMER: YES.

4 MR. BARENS: AND ONCE YOU HAVE REACHED THAT CONCLUSION,  
5 DOES REASONABLENESS THEN ASSUME A NEW DEFINITION?

6 MS. SOMMER: I DON'T THINK I UNDERSTAND YOUR QUESTION.

7 MR. BARENS: WELL, IF THEY HAVE A SOLUTION TO A  
8 HYPOTHETICAL OR TO A GIVEN, THAT IS OUT OF THE ORDINARY AND  
9 YOU MIGHT SAY TO YOURSELF, WELL, IT WOULDN'T BE REASONABLE  
10 TO ASSUME -- REMEMBER, YOU HEARD THAT A LOT IN SCHOOL -- IT  
11 WOULDN'T BE REASONABLE TO ASSUME THAT?

12 MS. SOMMER: YES.

13 MR. BARENS: EXCEPT WHEN YOU GET TO THAT AND IT TURNS  
14 OUT TO BE THE ANSWER?

15 MS. SOMMER: RIGHT.

16 MR. BARENS: THEN REASONABLE ASSUMES A NEW DEFINITION?

17 MS. SOMMER: OKAY, YES.

18 MR. BARENS: THUS, IT BECOMES APPARENT THAT THE WHOLE  
19 CONCEPT OF WHAT IS REASONABLE, IS DEFINITIONAL BASED ON FACTS  
20 THAT ARE ESTABLISHED?

21 MS. SOMMER: YES.

22 MR. BARENS: THAT IS WHY WE KEEP TALKING ABOUT LISTENING  
23 TO ALL OF THE FACTS, LEST WE LEAP TO A CONCLUSION NOT SUPPORTED  
24 BY THE FACTS?

25 MS. SOMMER: DEFINITELY.

26 MR. BARENS: DO YOU AGREE TO DO THAT IF YOU ARE A JUROR?

27 MS. SOMMER: ABSOLUTELY.

28 MR. BARENS: HOW DO YOU FEEL AS A RESULT OF YOUR

1 EXPERIENCE ON A CIVIL JURY?

2 MS. SOMMER: I THOUGHT IT WAS A VERY POSITIVE EXPERIENCE.  
3 I WAS SURPRISED AT HOW LONG THE WHOLE PROCESS DID TAKE.

4 BUT I THINK IT IS NECESSARILY SO, IF THAT MAKES  
5 ANY SENSE.

6 MR. BARENS: IT MAKES SENSE TO ME.

7 MS. SOMMER: IT WAS VERY POSITIVE EXPERIENCE.

8 MR. BARENS: AND DID YOU FIND THAT YOU UNDERSTOOD THE  
9 INSTRUCTIONS THE COURT PROVIDED?

10 MS. SOMMER: YES.

11 MR. BARENS: WAS THERE A GIVE AND TAKE AMONG THE JURORS  
12 ON THAT OCCASION ABOUT THEIR OPINIONS, ASSUMING THAT THEY MIGHT  
13 HAVE HAD -- DID THEY AT SOME POINT IN THE DELIBERATIONS HAVE  
14 DIFFERENT OPINIONS AMONG THE JURORS?

15 MS. SOMMER: NOT REALLY. WE PRETTY MUCH AGREED ON THE  
16 WAY THINGS SHOULD BE AND WE ONLY WERE IN DELIBERATION FOR TWO  
17 DAYS.

18 WE PROBABLY WOULD HAVE REACHED A DECISION EVEN  
19 BEFORE THAT. THERE WAS A -- IT WAS A PARTICULARLY DIFFERENT  
20 CASE.

21 I WAS THE FOREPERSON ON THAT. AND WE HAD TWO  
22 ALTERNATES ON THE CIVIL CASE. AND THE JUDGE INSTRUCTED US  
23 THAT THE ALTERNATES WERE JUST TO SIT THERE AND NOT PARTICIPATE  
24 IN THE PROCESS.

25 AND THERE WAS ONE OF THE ALTERNATES THAT WAS  
26 CAUSING SOME CONFLICT AMONG THE OTHER JURORS IN THE DELIBERATION

27 AND SHE WAS PARTICIPATING AND IN A VERY NEGATIVE  
28 MANNER, SUCH THAT SHE WAS DISAGREEING WITH WHAT WE WERE ALL

1 AGREEING ON.

2 SO AFTER THE FIRST DAY, I TALKED TO THE LAW CLERK  
3 AND ASKED IF THERE WAS SOME WAY THAT WE COULD GET HER OUT OF  
4 THERE BECAUSE WE WEREN'T GOING TO BE MAKING A DECISION. WE  
5 WOULD HAVE BEEN THERE FOR WEEKS. WELL ANYHOW, THE TWO  
6 ALTERNATES WERE EXCUSED AND ASKED TO WAIT IN THE JURY ASSEMBLY  
7 ROOM. WE HAD A VERDICT BY THAT AFTERNOON.

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1 MR. BARENS: ALL RIGHT. AND WERE YOU COMFORTABLE WITH  
2 THE LAWYERS FOR THE PLAINTIFFS AND THE DEFENSE IN THE WAY THEY  
3 CONDUCTED THEMSELVES?

4 MS. SOMMER: YES.

5 MR. BARENS: YOU DIDN'T FORM ANY BIASES IN TERMS OF THE  
6 LAWYERS WHEN YOU WERE MAKING YOUR DECISION?

7 MS. SOMMER: NO, DEFINITELY NOT.

8 MR. BARENS: DID BOTH THE PLAINTIFF AND THE DEFENDANT  
9 TESTIFY IN THAT CASE?

10 MS. SOMMER: YES. IT WAS QUITE A POPULAR CASE ABOUT  
11 A YEAR AND A HALF AGO. SYLVESTER STALLONE WAS SUED BY  
12 VINCE SCULLY.

13 MR. BARENS: DID THAT HAPPEN IN THIS COURTHOUSE?

14 MS. SOMMER: THAT'S CORRECT.

15 MR. BARENS: YOU HAD THE AUTO CLUB ON ONE SIDE AND YOU  
16 HAD --

17 MS. SOMMER: WELL, NO. WE DIDN'T.

18 MR. BARENS: WELL, IT APPEARED TO BE COUNSEL THAT WAS  
19 PRIVATELY RETAINED. BUT NONETHELESS, THAT WAS A VERY  
20 RENOWNED CASE.

21 WERE YOU INFLUENCED AT ALL BY THE PERSONALITIES,  
22 THE FACT THAT VINCE SCULLY WAS KIND OF YOU KNOW, THE GUY EVERY-  
23 BODY LOVED AND STALLONE WAS KIND OF THE GUY EVERYBODY DIDN'T  
24 LOVE?

25 MS. SOMMER: WELL, IT WAS NOT THAT WAY. BUT LIKING OR  
26 DISLIKING EITHER SIDE DIDN'T REALLY MATTER TO ME.

27 BUT AS IS NECESSARY, JUST LIKE YOU ARE ASKING THE  
28 QUESTIONS, THE LAWYERS REALLY DRILLED US ON YOU KNOW, HAD WE

1 SEEN ROCKY, DID WE PLAN ON SEEING ROCKY IV AND WERE WE DODGER  
2 FANS.

3 THEY ASKED IF WE LIKED VINCE SCULLY. IT DIDN'T  
4 MATTER TO ME.

5 MR. BARENS: OKAY. WHEN YOU GOT RIGHT DOWN TO FINDING  
6 FOR THE PLAINTIFF OR THE DEFENDANT IN THAT CASE, THE DECISION  
7 HAD TO BE MADE ON THE FACTS THAT WERE DEMONSTRATED BY THE  
8 TESTIMONY?

9 MS. SOMMER: EXACTLY.

10 MR. BARENS: AND THERE WAS ALL THAT QUASI-SCIENTIFIC  
11 EVIDENCE THAT CAME FORTH?

12 MS. SOMMER: UH-HUH.

13 MR. BARENS: WERE YOU ABLE TO FOLLOW ALL THAT EVIDENCE  
14 THAT WAS PRODUCED?

15 MS. SOMMER: WE HAD TO.

16 MR. BARENS: OKAY.

17 MS. SOMMER: WE HAD TO.

18 MR. BARENS: YOU HAD TO PAY REAL CLOSE ATTENTION BECAUSE  
19 EACH SIDE HAD THEIR OWN EXPERTS?

20 MS. SOMMER: YES. I REMEMBER THE CASE. THERE WERE  
21 GEOLOGISTS. I MEAN, WE HAD TO PAY ATTENTION.

22 MR. BARENS: WERE YOU IMPRESSED BY THE FACT AS TO HOW  
23 MUCH EXPERTS COULD DISAGREE ON EXACTLY THE SAME FACTS?

24 MS. SOMMER: THERE REALLY WAS NOT THAT MUCH DISAGREEMENT,  
25 SURPRISINGLY ENOUGH, AT LEAST NOT IN MY MIND.

26 ALL THINGS WERE EXPRESSED DIFFERENTLY BUT THEY  
27 ALL SEEMED TO FUNNEL TOWARD THE SAME ENDING.

28 MR. BARENS: THERE, YOU HAD A GIVEN SITUATION IN THE

1 BEGINNING, THE CONDITIONS WHICH EXISTED WERE SOMEWHAT AGREED  
2 TO AS TO WHAT THE PROBLEM WAS?

3 MS. SOMMER: RIGHT. YES, IT WAS ALLEGED PROPERTY  
4 DAMAGE.

5 AND THE FIRST DAY BEFORE THE TRIAL EVEN STARTED,  
6 THE JURORS WERE SELECTED AND WE HAD TO BOARD A BUS AND  
7 ACTUALLY GO TO STALLONE'S HOUSE AND LOOK AT THE HOUSE. THEY  
8 ARE NEIGHBORS. STALLONE IS ON A HIGHER LEVEL.

9 MR. BARENS: HIGHER LEVEL?

10 MS. SOMMER: RIGHT.

11 MR. BARENS: COULD YOU ACTUALLY VISUALIZE WHAT YOU ARE  
12 TALKING ABOUT THERE? COULDN'T YOU?

13 MS. SOMMER: RIGHT.

14 MR. BARENS: WELL, YOU UNDERSTAND THAT WE HAVE A TOTALLY  
15 DIFFERENT CASE HERE?

16 MS. SOMMER: YES.

17 MR. BARENS: NO BODY. WHAT DOES THAT MEAN TO YOU, MS.  
18 SOMMER? DOES IT MEAN THAT WE CAN'T FIND THE BODY?

19 MS. SOMMER: IF THERE IS NO BODY, DOES IT MEAN THAT YOU  
20 CAN'T FIND THE BODY?

21 MR. BARENS: YES.

22 MS. SOMMER: I WOULD SAY SO.

23 MR. BARENS: DO YOU REALLY ASSUME THAT THERE IS A BODY  
24 SOMEWHERE OUT THERE, A DEAD PERSON, JUST BECAUSE WE HAVE TOLD  
25 YOU THERE IS NO BODY?

26 MS. SOMMER: NO.

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1 MR. BARENS: OKAY. DON'T WE FIRST HAVE TO ESTABLISH  
2 ABOUT WHETHER ANYBODY IS DEAD?

3 MS. SOMMER: CORRECT.

4 MR. BARENS: OKAY. THAT IS THE FIRST THING WE HAVE  
5 TO BELIEVE, ISN'T IT?

6 MS. SOMMER: YES.

7 MR. BARENS: SO YOU WOULD LOOK FOR EVIDENCE AS TO WHETHER  
8 THAT IS TRUE OR NOT?

9 MS. SOMMER: RIGHT.

10 MR. BARENS: IN YOUR JOB, WHAT ARE YOUR SPECIFIC  
11 RESPONSIBILITIES IN YOUR JOB?

12 MS. SOMMER: WELL, THE PUBLIC UTILITIES COMMISSION  
13 SUBMITS A NUMBER OF DATA REQUESTS, WHAT ARE CALLED DATA  
14 REQUESTS TO OUR DEPARTMENT AND IN THOSE CASES, I WOULD SAY  
15 MAYBE HALF OF THE DATA REQUESTS HAVE TO BE FILTERED OUT TO  
16 THE PERSON OR A GROUP OF PEOPLE TO ANSWER WITHIN A CERTAIN  
17 TIME FRAME, WHICH IS A JOB IN ITSELF. THE REMAINING PORTION  
18 IS EITHER UP TO ME OR THE PEOPLE THAT I WORK WITH TO PULL  
19 IT TOGETHER AND RESPOND.

20 THEY WILL ASK THINGS LIKE -- THEY WILL ASK JUST  
21 ABOUT ANYTHING: THE NUMBER OF CUSTOMERS THAT WE ANTICIPATE  
22 FOR A CERTAIN KIND OF SERVICING IN 1990 AND HOW MUCH REVENUE  
23 DO WE ANTICIPATE FROM THOSE CUSTOMERS.

24 IT JUST CAN GO ON AND ON AND IT DOES.

25 MR. BARENS: ARE YOU A LOBBYIST IN ANY FASHION FOR THE  
26 PHONE COMPANY?

27 MS. SOMMER: NO.

28 I HAVE HAD TO TRACK MY HOURS BECAUSE WE DID FILE

7-2  
1 A RATE INCREASE SO I KIND OF HAVE TO TRACK MY HOURS BUT I  
2 AM NOT A REGISTERED LOBBYIST AND I DON'T HAVE TO BE BECAUSE --

3 MR. BARENS: DO YOU INTERFACE WITH THE LOBBYIST WHO  
4 WOULD INTERFACE WITH THE LEGISLATURE?

5 MS. SOMMER: NO.

6 MR. BARENS: SO YOU ARE NOT REMOVED -- SO YOU ARE ONCE  
7 REMOVED FROM THAT AT LEAST?

8 MS. SOMMER: AT LEAST ONCE, YEAH.

9 MR. BARENS: AND YOU MENTIONED YOU HAD SOME DEGREES,  
10 EDUCATIONALLY, STARTING WITH RHODE ISLAND.

11 MS. SOMMER: UH-HUH.

12 MR. BARENS: WHAT SORT OF DEGREE DID YOU GET FROM THERE?

13 MS. SOMMER: MY BACHELOR OF ARTS. I HAVE AN UNDERGRADUATE  
14 DEGREE IN SPEECH COMMUNICATION, A MAJOR IN SPEECH COMMUNICATION  
15 AND MY MINOR IS IN PSYCHOLOGY.

16 MR. BARENS: AND THEREAFTER, YOU HAVE A GRADUATE DEGREE  
17 FROM PENN STATE?

18 MS. SOMMER: RIGHT, ALSO IN SPEECH COMMUNICATION WITH  
19 A MINOR IN MANAGEMENT.

20 MR. BARENS: AND THERE WAS A PH.D. ORIENTATION AT USC?

21 MS. SOMMER: RIGHT.

22 MR. BARENS: AND THAT WAS IN WHAT?

23 MS. SOMMER: STILL IN SPEECH.

24 MR. BARENS: COULD YOU GIVE ME ANY BETTER DEFINITION  
25 AS TO THE AREA OF SPECIALIZATION OF SPEECH?

26 MS. SOMMER: SURE. IT IS -- MY BACKGROUND DEALS  
27 SPECIFICALLY WITH PUBLIC SPEAKING, RHETORIC, GROUP  
28 DISCUSSION LEADERSHIP. THOSE ARE SOME OF THE COURSES I ALSO

7-3  
1 TAUGHT AT PENN STATE, SO IT IS THE ART OF PUBLIC SPEAKING.

2 MR. BARENS: AND DEBATING?

3 MS. SOMMER: I HAVE HAD COURSES IN DEBATING BUT THAT  
4 IS NOT MY EMPHASIS.

5 MR. BARENS: DID YOU READ LUCAS "ON FACTS" BACK THERE  
6 AT ANY POINT IN TIME?

7 MS. SOMMER: NO.

8 MR. BARENS: IF I WERE TO TELL YOU IT IS A COMMON THING,  
9 IF WE GET INTO DEBATE IF WE CLOSE OUR EYES AND I SAY "CHAIR ,"  
10 PROBABLY WHAT YOU ARE VISUALIZING AND WHAT I AM VISUALIZING  
11 ARE TWO DIFFERENT THINGS EVEN THOUGH WE ARE TALKING ABOUT  
12 A CHAIR.

13 MS. SOMMER: PROBABLY SO.

14 MR. BARENS: DID YOU GO THROUGH ANY OF THAT TYPE OF  
15 LOGIC IN DEBATE.

16 MS. SOMMER: NO, NO.

17 WE WERE GIVEN CERTAIN SUBJECT MATTERS AND THEN  
18 WE HAD TO DO IMPROMPTU SPEECHES ON THOSE MATTERS. THEY COULD  
19 BE SOMETHING THAT ONE KNOWS RELATIVELY LITTLE ABOUT BUT IF  
20 ONE PERSON WAS THE PRO, THEN I WAS THE CON. THAT IS PROBABLY  
21 ABOUT ALL OUR EXPERIENCE.

22 MR. BARENS: YOU REVERSED ROLES?

23 MS. SOMMER: YEAH.

24 MR. BARENS: AND YOU WOULD HAVE TO ARGUE BOTH SIDES  
25 OF THE SAME POINT?

26 MS. SOMMER: NOT BOTH -- WE WOULD HAVE TO ARGUE A SIDE  
27 OF THE POINT.

28 MR. BARENS: WOULD YOU EVER HAVE TO TURN AROUND AND

7-4  
1 DO IT THE OTHER WAY AROUND?

2 MS. SOMMER: I DON'T REMEMBER DOING THAT BUT IT WAS  
3 A LONG TIME AGO.

4 MR. BARENS: OKAY. DID YOU TAKE MANY COURSES IN  
5 PHILOSOPHY?

6 MS. SOMMER: YES, I HAD ONE COURSE IN PHILOSOPHY,  
7 PROBABLY IN MY FRESHMAN OR SOPHMORE YEAR AS AN ELECTIVE.

8 MR. BARENS: DID YOU HEAR ANYTHING IN ANY OF YOUR  
9 EDUCATIONAL EXPERIENCE ABOUT ANYTHING CALLED THE PARADOX  
10 PHILOSOPHY?

11 MS. SOMMER: NO.

12 MR. BARENS: DOES THAT BRING ANYTHING TO MIND WITH YOU?

13 MS. SOMMER: VERY LITTLE OF WHAT I LEARNED IN PHILOSOPHY  
14 STAYS IN MY MIND AT THIS POINT.

15 MR. BARENS: DID YOU STUDY ANYTHING ABOUT EXISTENTIALIST  
16 PHILOSOPHY?

17 MS. SOMMER: I PROBABLY DID BUT I REALLY DON'T REMEMBER.

18 MR. BARENS: YOU DON'T REMEMBER READING ANY OF THE PEOPLE  
19 ON THAT AT ALL?

20 MS. SOMMER: I DON'T REMEMBER.

21 MR. BARENS: WHAT DO YOU THINK ABOUT A PERSON THAT MIGHT  
22 HAVE A SOCIAL PHILOSOPHY DIFFERENT THAN YOURSELF, WOULD YOU  
23 BE ABLE TO ACCEPT THE FACT THAT SOMEONE MIGHT HAVE A DIFFERENT  
24 SOCIAL PHILOSOPHY OR ECONOMIC PHILOSOPHY THAN YOU HAVE AND  
25 THAT NEITHER OF YOU MIGHT NECESSARILY BE RIGHT?

26 MS. SOMMER: OH, CERTAINLY.

27 MR. BARENS: AND YOU WOULD NOT MAKE A JUDGMENT ON A  
28 PERSON'S LIKELIHOOD TO BE A GOOD OR BAD PERSON JUST BASED

7-5  
1 ON A DIFFERENCE IN PHILOSOPHY?

2 MS. SOMMER: DEFINITELY NOT.

3 MR. BARENS: DO YOU HAVE ANY HOBBIES?

4 MS. SOMMER: YES.

5 MR. BARENS: WHAT HOBBIES WOULD YOU HAVE?

6 MS. SOMMER: I AM A FANATICAL LAP SWIMMER AND I HAVE  
7 BEEN FOR OVER 20 YEARS. I SWIM SIX DAYS A WEEK AT A COUPLE  
8 OF DIFFERENT POOLS.

9 I ALSO DO A LOT OF BAKING AND A LOT OF COOKING  
10 AND, OF COURSE, SPENDING TIME WITH MY FAMILY IS REAL  
11 IMPORTANT.

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1 MR. BARENS: AND DO YOU DO ANY READING?

2 MS. SOMMER: YES, VERY LIGHT, SOME LIGHT ROMANCE NOVELS,  
3 THINGS LIKE THAT.

4 MR. BARENS: THE LAST MOVIE YOU SAW?

5 MS. SOMMER: WE SAW "STAND BY ME" AND "SOUL MAN" WITHIN  
6 A FEW DAYS OF EACH OTHER.

7 MR. BARENS: DID YOU UNDERSTAND ALL OF THIS BUSINESS  
8 WE HAVE BEEN TALKING ABOUT ON DIRECT AND CIRCUMSTANTIAL  
9 EVIDENCE?

10 MS. SOMMER: YES.

11 MR. BARENS: WOULD YOU HAVE ANY QUESTIONS ABOUT ANY  
12 OF THE EXAMPLES ON WHAT YOUR THOUGHTS ARE ABOUT THAT?

13 MS. SOMMER: NO.

14 JUST ACTUALLY THIS WHOLE PROCESS HAS MADE IT A  
15 WHOLE LOT CLEARER TO ME, WHAT THE DIFFERENCE IS BETWEEN THE  
16 TWO.

17 MR. BARENS: AND AGAIN, NOT TO BELABOR THE POINT, THE  
18 FACT THAT SOMETHING WASN'T USUAL, WOULD YOU AS A JUROR BE  
19 LOOKING FOR SOMETHING -- YOU KNOW, WE HEARD REFERENCE A BIT  
20 EARLIER TO USING OUR COMMON SENSE AND NOT LEAVING OUR COMMON  
21 SENSE IN THE HALLWAY.

22 MS. SOMMER: YES.

23 MR. BARENS: DO YOU REALLY ANTICIPATE THAT WE ARE GOING  
24 TO HAVE A CASE HERE THAT MIGHT INVOLVE SOME SIMPLE LOGIC?

25 MS. SOMMER: I WOULD THINK SO.

26 MR. BARENS: YOU DO?

27 MS. SOMMER: YES.

28 MR. BARENS: SIMPLE LOGIC INVOLVING PROBABLE RESULTS,

1 THINGS THAT WOULD NORMALLY HAPPEN IN HUMAN AFFAIRS THAT WE  
2 CAN RESOLVE LIKE THAT?

3 MS. SOMMER: RESOLVE THE CASE THAT WAY?

4 MR. BARENS: UH-HUH.

5 MS. SOMMER: POSSIBLY SO.

6 MR. BARENS: AND WHEN YOU THINK OF USING YOUR COMMON  
7 SENSE, DO YOU USE YOUR COMMON SENSE THE MOST WHEN YOU MAKE  
8 A BIG DECISION OR LITTLE DECISION OR ALL OF THE TIME?

9 MS. SOMMER: PROBABLY ALL OF THE TIME.

10 MR. BARENS: HOW ABOUT WHEN YOU MADE A BIG DECISION;  
11 DID YOU EVER BUY A HOUSE?

12 MS. SOMMER: YES.

13 MR. BARENS: WELL, WHEN YOU BOUGHT THAT HOUSE, DID YOU  
14 SELDOM REFER TO YOUR COMMON SENSE?

15 MS. SOMMER: NO. I TOOK MY ECONOMIC STAKE FIRST.

16 MR. BARENS: DID YOU GET SOME COLLATERAL INPUT AS FAR  
17 AS PRICE COMPARISONS?

18 MS. SOMMER: YES.

19 MR. BARENS: AND YOU GOT OPINIONS FROM PEOPLE AROUND?  
20 I PRESUME YOU TALKED TO SOMEONE OTHER THAN YOURSELF IN MAKING  
21 THE DECISION?

22 MS. SOMMER: YES.

23 MR. BARENS: AND THAT WAS KIND OF A SERIOUS DECISION,  
24 WASN'T IT?

25 MS. SOMMER: NOT ONE OF THE MOST SERIOUS I HAVE MADE  
26 BUT CERTAINLY, YES, ONE OF THE MOST SERIOUS.

27 MR. BARENS: AND YOU SPENT SOME TIME CONSIDERING IT  
28 BEFORE YOU SIGNED IT?

17-8  
1 MS. SOMMER: YES.

2 MR. BARENS: WAS MORE INVOLVED THAN YOUR COMMON SENSE  
3 WHEN YOU CAME DOWN TO IT IN THAT INSTANCE?

4 MS. SOMMER: YES.

5 MR. BARENS: COULD YOU UNDERSTAND THAT IN THIS CASE,  
6 BEFORE YOU CAN MAKE A DECISION, A LOT MORE IS GOING TO BE  
7 INVOLVED THAN JUST COMMON SENSE?

8 MS. SOMMER: YES.

9 MR. BARENS: YOU ARE GOING TO BE LISTENING TO EVIDENCE,  
10 IT IS GOING TO BE EVALUATING THAT EVIDENCE.

11 MS. SOMMER: YES.

12 MR. BARENS: IT IS GOING TO BE THINKING ABOUT THE  
13 EVIDENCE?

14 MS. SOMMER: YES.

15 MR. BARENS: I DON'T KNOW WHY BUT SOMETIMES WHEN I THINK  
16 ABOUT MY COMMON SENSE, THAT SUGGESTS TO ME, WHAT IS THE FIRST  
17 THING I WOULD THINK OF DOING, WHAT WOULD BE THE FIRST CHOICE  
18 I WOULD MAKE IN A SIMPLE SITUATION?

19 NOW I SUBMIT TO YOU THAT YOU ARE NOT GOING TO  
20 HAVE A SIMPLE SITUATION HERE OR WE WOULDN'T BE HERE. IF IT  
21 WAS ALL THAT SIMPLE AND ALL THAT OBVIOUS, ALL OF THIS WOULD  
22 NOT BE HAPPENING. IT IS A TWO-SIDED MATTER, ONE IN WHICH  
23 A JUROR IS ASKED TO LISTEN ATTENTIVELY AND TO CONSIDER  
24 COMPREHENSIVELY ALL OF THE EVIDENCE BEFORE COMING TO A  
25 CONCLUSION. DO YOU THINK YOU WILL BE ABLE TO DO THAT?

26 MS. SOMMER: YES.

27 MR. BARENS: THANK YOU VERY MUCH.

28 MS. SOMMER: YOU ARE WELCOME.

17-0  
1 MR. BARENS: PASS FOR CAUSE, YOUR HONOR.

2 THE COURT: ALL RIGHT, MR. WAPNER.

3 MR. WAPNER: GOOD AFTERNOON, MRS. SOMMER.

4 MS. SOMMER: GOOD AFTERNOON.

5 MR. WAPNER: LET ME START OUT WITH THE TRAILER. THAT  
6 WAS THE U-HAUL THAT WAS BROKEN INTO?

7 MS. SOMMER: YES.

8 MR. WAPNER: TELL ME A LITTLE BIT ABOUT WHAT HAPPENED  
9 AND THE CONCLUSIONS THAT YOU DREW.

10 MS. SOMMER: WELL, WE -- WHEN WE DROVE ACROSS THE  
11 COUNTRY, WE HAD GRADUATED FROM PENN STATE AND WE USED THAT  
12 AS AN OPPORTUNITY TO TAKE A VACATION AND WE STAYED TWO NIGHTS  
13 IN ALBUQUERQUE, NEW MEXICO, BECAUSE WE WERE JUST A LITTLE  
14 TIRED AND WE HAD SEEN THE SAME MAN AT THE SAME MOTEL TWO NIGHTS  
15 IN A ROW. THE FIRST TIME OF COURSE, WE DIDN'T PAY ANY ATTENTION  
16 TO IT BUT THE SECOND NIGHT, WE BOTH NOTICED, YOU KNOW, THAT  
17 IT WAS THE SECOND TIME WE HAD SEEN HIM. IT WAS KIND OF  
18 IRONIC THAT WE SAW HIM BECAUSE THE FIRST NIGHT WE WENT TO  
19 KIND OF A DUMPY PLACE AND THE NEXT NIGHT WE WENT TO A NICE  
20 PLACE. AND WE HAD THE U-HAUL ATTACHED TO THE CAR AND WE HAD  
21 IT PADLOCKED AND WE HAD PLANNED TO GO OUT TO DINNER THAT NIGHT  
22 AND AT THE LAST MINUTE WE DECIDED, MY HUSBAND WAS IN THE HABIT  
23 OF WALKING AROUND IN BACK OF THE U-HAUL TO MAKE SURE EVERYTHING  
24 WAS SECURE, AND HE NOTICED THAT THE PADLOCK HAD BEEN BROKEN  
25 OFF AND SOME OF OUR CLOTHES WERE LAYING THERE ON THE GROUND  
26 AND WHOEVER HAD DONE IT, WE ASSUMED HAD BEEN SCARED AWAY  
27 BECAUSE THEY HAD CLOSED IT. I MEAN THERE WERE THINGS THAT  
28 EASILY COULD HAVE BEEN REACHED AND THINGS OF VALUE THAT COULD

7-10  
1 HAVE BEEN REACHED AND THEY COULD HAVE LEFT WITH, SO WE THOUGHT  
2 THAT THEY MIGHT HAVE BEEN COMING BACK LATER THAT NIGHT TO  
3 MAYBE CLEAN OUT THE REST OF IT BUT AS IT TURNED OUT, WE CAUGHT  
4 THE SITUATION.

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1 MR. WAPNER: WERE THERE ANY THINGS OF VALUE THAT HAD  
2 BEEN TAKEN?

3 MS. SOMMER: NO. THERE WERE JUST SOME CLOTHES LYING  
4 THERE ON THE GROUND.

5 MR. WAPNER: DID YOU SAY TO YOURSELF AT THE TIME THAT  
6 GEE, THIS IS CIRCUMSTANTIAL EVIDENCE OF WHAT HAPPENED?

7 MS. SOMMER: NO.

8 MR. WAPNER: THAT WAS PROBABLY THE FARTHEST THING FROM  
9 YOUR MIND?

10 MS. SOMMER: YES.

11 MR. WAPNER: BUT, BASED ON THE FACTS THAT YOU SAW, YOU  
12 FORMED CERTAIN CONCLUSIONS, RIGHT?

13 MS. SOMMER: LIKE, WHAT A PAIN. YES.

14 MR. WAPNER: OKAY. BUT, BASED ON THE FACT THAT THERE  
15 WERE THINGS OF VALUE THAT HAD NOT BEEN TAKEN AND THE FACT  
16 THAT THERE WERE CLOTHES THAT WERE OBVIOUSLY LEFT ON THE  
17 GROUND, YOU FORMED THE CONCLUSION THAT AT THAT TIME, RIGHTLY  
18 OR WRONGLY, SOMEONE HAD BEEN SCARED OFF AND WAS PROBABLY  
19 COMING BACK?

20 MS. SOMMER: YES. THAT WAS MY OPINION.

21 MR. WAPNER: OKAY. YOU DIDN'T -- YOU NEVER SAW ANYBODY  
22 BREAK IN?

23 MS. SOMMER: NO.

24 MR. WAPNER: AND YOU OBVIOUSLY INFERRED FROM THE  
25 FACTS, THAT SOMEONE HAD BROKEN IN?

26 MS. SOMMER: YES.

27 MR. WAPNER: IT COULD HAVE BEEN AN EXTRATERRESTRIAL  
28 COMING DOWN WHO KNOCKED OFF THE LOCK AND HAD GONE THROUGH

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1 THE THINGS, RIGHT?

2 MS. SOMMER: HIGHLY IMPROBABLE, BUT YES.

3 MR. WAPNER: BUT, YOU APPRECIATE NOW THAT EVEN THE FACT  
4 THAT THE TRAILER HAD BEEN BROKEN INTO OR THAT THERE WAS  
5 SOMEONE IN THERE, IS CIRCUMSTANTIAL EVIDENCE?

6 MS. SOMMER: YES.

7 MR. WAPNER: HAVE YOU EVER SEEN RACCOONS?

8 MS. SOMMER: ANIMALS? YES.

9 MR. WAPNER: THEY HAVE LITTLE THUMBS ALMOST LIKE PEOPLE,  
10 RIGHT?

11 MS. SOMMER: YEAH.

12 MR. WAPNER: IT IS POSSIBLE THAT A RACCOON COULD HAVE  
13 BROKEN THAT LOCK AND GOTTEN IN, RIGHT?

14 MS. SOMMER: NO. I DOUBT IT. IT WAS A REAL, HEAVY-  
15 DUTY LOCK.

16 MR. WAPNER: SO, EVEN THE FACT THAT THERE WAS A PERSON  
17 THAT DID THAT, YOU ARE INFERRING FROM THOSE CIRCUMSTANCES --

18 MS. SOMMER: YES.

19 MR. WAPNER: OKAY. THE FACT THAT THIS MAY BE A COMPLEX  
20 CASE, DOES THAT MEAN TO YOU THAT YOU SHOULD LEAVE YOUR COMMON  
21 SENSE OUT IN THE HALLWAY?

22 MS. SOMMER: NO.

23 MR. WAPNER: THE STALLONE/SCULLY AFFAIR WAS SOMEWHAT  
24 COMPLEX, I TAKE IT?

25 MS. SOMMER: YES IT WAS.

26 MR. WAPNER: ALL RIGHT. AND WHAT KIND OF THINGS,  
27 REASONING PROCESSES DID YOU GO THROUGH IN TRYING TO ANALYZE  
28 THE FACTS IN THAT CASE?

18-3  
1 MS. SOMMER: WELL, I REALLY DIDN'T TRY TO ANALYZE  
2 ANYTHING UNTIL I HAD HEARD ALL OF THE TESTIMONY.

3 MR. WAPNER: RIGHT. I AM TALKING ABOUT WHEN YOU WERE  
4 IN THE JURY ROOM.

5 MS. SOMMER: WHAT KIND OF PROCESS DID WE GO THROUGH  
6 TO REACH A VERDICT?

7 MR. WAPNER: RIGHT.

8 MS. SOMMER: WELL, LIKE I SAID, WE ALL SHARED THE SAME  
9 OPINION ON WHAT WE FELT HAD TRANSPIRED AND WHERE THE GUILT  
10 OR INNOCENCE LAY AND HOW IT SHOULD BE RECONCILED.

11 MR. WAPNER: AND IN MAKING A DETERMINATION IN THAT CASE,  
12 WHICH WAS A FAIRLY COMPLEX CASE, YOU TRIED TO FIGURE OUT WHAT  
13 WAS REASONABLE, RIGHT?

14 MS. SOMMER: YES.

15 MR. WAPNER: AND IN TRYING TO FIGURE OUT WHAT IS  
16 REASONABLE, YOU HAVE TO USE YOUR LIFE EXPERIENCES, RIGHT?

17 MS. SOMMER: EXACTLY.

18 MR. WAPNER: OKAY. DID YOU UNDERSTAND THAT THAT IS  
19 WHAT I WAS TRYING TO GET AT IN TALKING ABOUT NOT LEAVING YOUR  
20 COMMON SENSE OUT IN THE HALLWAY?

21 MS. SOMMER: YES.

22 MR. WAPNER: HOW MANY LAPS DO YOU SWIM A DAY? HOW MANY  
23 MILES DO YOU SWIM A DAY?

24 MS. SOMMER: BETWEEN A MILE AND QUARTER AND A MILE AND  
25 A HALF.

26 MR. WAPNER: HAVE YOU EVER DONE ANY LONG DISTANCE  
27 SWIMMING IN THE OCEAN?

28 MS. SOMMER: IT IS TOO COLD, NO. I DID A TRIATHLON.



1 MR. WAPNER: YOU DID A TRIATHLON?

2 MS. SOMMER: I WILL NEVER DO IT AGAIN. BUT YES, I GOT  
3 UP 6 O'CLOCK IN THE MORNING ON SUNDAY. IT WAS NOT MY IDEA  
4 OF FUN.

5 MR. WAPNER: WAS IT A FULL TRIATHLON?

6 MS. SOMMER: IT WAS ACTUALLY FOR THE COMPANY. I WAS  
7 THE SWIMMING LEG OF A RELAY TRIATHLON.

8 MR. WAPNER: YOU ONLY DID A THIRD?

9 MS. SOMMER: YES. ACTUALLY, ABOUT A THIRD OF A MILE,  
10 TOO.

11 MR. WAPNER: WAS THAT SWIMMING IN THE OCEAN?

12 MS. SOMMER: NO. IT WAS SWIMMING AT THE COLISEUM.

13 I MEAN, NOT THE COLISEUM BUT --

14 MR. WAPNER: THE L.A. SWIM STADIUM?

15 MS. SOMMER: NO, THE MC DONALD POOL.  
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1 MR. WAPNER: IT WAS BUILT FOR THE OLYMPICS?

2 MS. SOMMER: YES, A LONG TIME AGO.

3 MR. WAPNER: WHAT DO YOU THINK IF I SAID YOU WERE GOING  
4 TO SWIM FROM HERE TO CATALINA? COULD YOU DO IT?

5 MS. SOMMER: COULD I DO IT? SURE. I PROBABLY COULD.  
6 BUT I WOULD NEED A LOT OF TRAINING.

7 MR. WAPNER: IF YOU HAD TO DO IT RIGHT NOW?

8 MS. SOMMER: FORGET IT.

9 MR. WAPNER: OKAY. IS IT POSSIBLE?

10 MS. SOMMER: IT IS POSSIBLE.

11 MR. WAPNER: BASED ON WHAT YOU KNOW ABOUT YOURSELF,  
12 IS IT REASONABLE?

13 MS. SOMMER: NO.

14 MR. WAPNER: OKAY. YOUR PARENTS ARE STILL LIVING?

15 MS. SOMMER: YES.

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

17 MS. SOMMER: MY MOM AND DAD COME OUT TO STAY WITH US  
18 USUALLY ABOUT TWICE A YEAR. AND WE TRY TO TALK ONCE A WEEK  
19 BUT IT IS MORE LIKE TWO OR THREE TIMES A WEEK.

20 MR. WAPNER: TWO OR THREE TIMES A WEEK OR TWO OR THREE  
21 TIMES A MONTH?

22 MS. SOMMER: TWO OR THREE TIMES A WEEK.

23 MR. WAPNER: IS THAT AT YOUR DOING OR THEIRS?

24 MS. SOMMER: WE ARE REAL CLOSE.

25 MR. WAPNER: WHAT WAS IT ABOUT THE ALTERNATE JUROR IN  
26 THE PREVIOUS CASE, THAT WAS NEGATIVE? THAT WAS YOUR WORD  
27 I THINK, WASN'T IT? "NEGATIVE"?

28 MS. SOMMER: YES. THE DISCUSSION -- WELL, THE CASE

1 WAS LEADING TO -- WELL, WE FOUND OUT WHEN THE LAST WITNESS  
2 HAD BEEN HEARD, THAT THE JUDGE GAVE US -- I GUESS STALLONE  
3 WAS BEING SUED FOR \$7 MILLION, WHICH NONE OF US KNEW ABOUT  
4 UNTIL THE END OF THE CASE.

5 AND THAT \$7 MILLION WAS IN PUNITIVE DAMAGES AND  
6 THE JUDGE -- I DON'T KNOW THE LEGAL TERM, BUT HE THREW IT  
7 OUT ANYWAY. HE SAID THERE WAS NO PUNITIVE DAMAGES.

8 SO, WHAT WE WERE DELIBERATING WAS WHETHER  
9 STALLONE WAS AT FAULT IN CAUSING SOME PROPERTY DAMAGE TO  
10 SCULLY'S ESTATE.

11 AND THIS WOMAN FAVORED STALLONE AND JUST COULDN'T  
12 REALLY HANDLE ANY NEGATIVE DISCUSSION ABOUT HIM. AND IT WAS  
13 NOT A PERSONAL THING.

14 IT WAS JUST THAT THIS IS WHAT THE SITUATION WAS.  
15 AND THE PROBLEM I HAD WITH IT WAS THAT SHE WAS AFFECTING THE  
16 OTHER JURORS IN THEIR DELIBERATING. AND SHE WAS NOT EVEN  
17 SUPPOSED TO BE TALKING AT ALL. SO --

18 MR. WAPNER: HOW WAS SHE AFFECTING THEM?

19 MS. SOMMER: SHE WAS DISAGREEING WITH THEM OUT LOUD.

20 MR. WAPNER: WAS SHE DISAGREEING BECAUSE SHE JUST LIKED  
21 ONE OF THE PARTIES OR WAS SHE DISAGREEING BASED ON HER VIEWS  
22 OF THE EVIDENCE?

23 MS. SOMMER: SHE WAS DISAGREEING ON HER PERSONAL OPINION.

24 MR. WAPNER: DID YOU THINK THAT PUTTING ASIDE THE FACT  
25 THAT SHE WAS NOT SUPPOSED TO BE DELIBERATING AT ALL -- DID  
26 YOU THINK THAT THE COMMENTS SHE WAS MAKING WOULD HAVE BEEN  
27 APPROPRIATE IF SHE WERE DELIBERATING AS A REGULAR JUROR?

28 MS. SOMMER: NO.

1 MR. WAPNER: DID YOU HAVE THAT PROBLEM WITH ANY OF THE  
2 OTHER 11 PEOPLE ON THE JURY?

3 MS. SOMMER: NO.

4 MR. WAPNER: YOU DIDN'T HAVE THAT PROBLEM WITH THE  
5 OTHER ALTERNATE EITHER?

6 MS. SOMMER: NO. HE WAS KEEPING QUIET AS HE WAS  
7 INSTRUCTED.

8 MR. WAPNER: AND THAT WAS YOUR OTHER EXPERIENCE ON JURY  
9 DUTY?

10 MS. SOMMER: YES.

11 MR. WAPNER: ASIDE FROM YOUR GOOD FORTUNE IN THAT CASE  
12 TO GET THE COURT TO TAKE THAT PERSON OUT OF THE JURY ROOM  
13 BECAUSE THEY WEREN'T A REGULAR MEMBER, DID YOU THINK THERE  
14 WAS ANY WAY THAT YOU WERE GOING TO BE ABLE TO CONTROL THAT  
15 PERSON?

16 MS. SOMMER: I NEVER REALLY THOUGHT ABOUT IT IN THAT  
17 WAY. I DIDN'T REALLY THINK THAT THAT WAS MY RESPONSIBILITY,  
18 TO TRY TO CONTROL HER. YOU KNOW, I JUST NEVER THOUGHT OF  
19 IT THAT WAY.

20 MR. WAPNER: IF YOU WERE CHOSEN AS A JUROR IN THIS CASE  
21 AND YOU OR SOMEONE ELSE GOES OFF ON WHAT YOU PERCEIVE TO BE  
22 A TANGENT, TALKING ABOUT THINGS THAT AREN'T RELATED TO THE  
23 EVIDENCE, DO YOU THINK THAT YOU CAN TRY TO FOCUS THINGS ON  
24 THE FACTS AND THE LAW, AS OPPOSED TO --

25 MS. SOMMER: YES. I THINK IT WOULD BE A LITTLE BIT  
26 DIFFERENT, THE SITUATION, TOO.

27 MR. WAPNER: OKAY. ON ANY OF THESE VARIOUS CRIMES THAT  
28 YOU OR MEMBERS OF YOUR FAMILY HAVE BEEN A VICTIM OF, WERE

1 YOU EVER CALLED TO MAKE AN IDENTIFICATION OF SOMEONE?

2 MS. SOMMER: NO.

3 MR. WAPNER: WAS ANYONE IN YOUR FAMILY?

4 MS. SOMMER: I DIDN'T REALLY TALK THAT MUCH WITH MY  
5 BROTHER OR MY IN-LAWS ABOUT THE SITUATION. THEY FILED REPORTS.  
6 THAT WAS QUITE A WHILE AGO, IN MY BROTHER'S CASE.

7 MR. WAPNER: WAS THERE ANYONE PROSECUTED IN THAT CASE?

8 MS. SOMMER: I DON'T REMEMBER.

9 MR. WAPNER: THANK YOU VERY MUCH. I WILL PASS FOR CAUSE,  
10 YOUR HONOR.

11 THE COURT: I THINK IT IS THE PEOPLE'S PEREMPTORY.

12 MR. WAPNER: WE THANK AND ASK THE COURT TO EXCUSE  
13 MS. FURSTENBERG, JUROR NUMBER 12.

14 THE COURT: THANK YOU, MA'AM.

15 (PROSPECTIVE JUROR FURSTENBERG EXITED  
16 THE COURTROOM.)

17 THE CLERK: MRS. HELEN SHAW, S-H-A-W.

18 THE COURT: MRS. SHAW, HAVE YOU HEARD ALL OF THE  
19 QUESTIONS AND ANSWERS WHICH WERE ASKED AND GIVEN?

20 MS. SHAW: YES.

21 THE COURT: IF I WERE TO ASK YOU THE SAME GENERAL  
22 QUESTIONS, WOULD YOUR ANSWERS BE ABOUT THE SAME?

23 MS. SHAW: YES.

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

25 MS. SHAW: I AM A HOUSEWIFE, A HOMEMAKER.

26 THE COURT: YOU GOT THE MESSAGE. AND WHAT DOES  
27 MR. SHAW DO?

28 MS. SHAW: HE HAS BEEN WITH AN ELECTRONICS FIRM FOR

1 ABOUT 37 YEARS. HE IS A MASTER PLANNER. HE IS RETIRING NOW.  
2 HE IS 71.

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1 THE COURT: WHAT SCHOOLING DID YOU HAVE?

2 MS. SHAW: HIGH SCHOOL AND ABOUT 18 MONTHS OF BUSINESS  
3 COLLEGE AND THAT IS ABOUT IT.

4 THE COURT: AND WHAT DID YOUR HUSBAND DO?

5 MS. SHAW: PARDON?

6 THE COURT: WHAT EDUCATION DID YOUR HUSBAND HAVE, HOW  
7 MUCH EDUCATION?

8 MS. SHAW: OH, HE GRADUATED FROM A LOS ANGELES COLLEGE,  
9 I BELIEVE IT WAS, AND HE GOT EXTRA COURSES IN ELECTRONICS.  
10 I DON'T KNOW ALL OF THE PLACES. HE TOLD ME, BUT I DON'T  
11 REMEMBER.

12 THE COURT: I SEE.

13 ALL RIGHT, WHERE DO YOU LIVE?

14 MS. SHAW: PLAYA DEL REY.

15 THE COURT: HAVE YOU EVER SAT AS A JUROR ON A CRIMINAL  
16 CASE BEFORE?

17 MS. SHAW: NO, NOT ON A CRIMINAL CASE.

18 THE COURT: NOT ON A CRIMINAL CASE?

19 YOU MEAN YOU SAT ON A CIVIL CASE?

20 MS. SHAW: YES, I SERVED ON A JURY IN 1968 IN TORRANCE.

21 THE COURT: WHAT KIND OF CASE WAS IT?

22 MS. SHAW: JUST A TRAFFIC TICKET, A MAN RECEIVED A  
23 TRAFFIC TICKET.

24 THE COURT: I SEE. AND HE CONTESTED THE TRAFFIC TICKET,  
25 DID HE?

26 MS. SHAW: YES.

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

28 MS. SHAW: YES. THEY SAID THAT -- THEY WERE FOR THE --

1 THEY WERE AGAINST THE POLICEMEN -- THE PLAINTIFF WON.

2 THE COURT: WELL, I DIDN'T ASK YOU WHO WON OR WHO LOST.

3 (LAUGHTER IN COURTROOM.)

4 THE COURT: I JUST WANTED TO KNOW IF THERE WAS A VERDICT  
5 IN THE CASE AND THE ANSWER WAS YES, IS THAT RIGHT?

6 MS. SHAW: YES, THERE WAS.

7 THE COURT: ALL RIGHT. WHERE DO YOU LIVE?

8 MS. SHAW: PLAYA DEL REY.

9 THE COURT: ALL RIGHT, I THINK WE WILL TAKE A 15-MINUTE  
10 RECESS AT THIS TIME. THANK YOU.

11 (RECESS.)

12 THE COURT: IT WILL AGAIN BE STIPULATED THE DEFENDANT  
13 IS PRESENT, COUNSEL ARE PRESENT AND THE JURORS ARE PRESENT.

14 ALL RIGHT, YOU GO AHEAD.

15 MR. CHIER: GOOD AFTERNOON, MRS. SHAW, RIGHT?

16 MS. SHAW: YES.

17 MR. CHIER: APROPOS OF MR. BARENS' REMARK, I AM REMINDED  
18 OF A STORY BY ONE OF MY FAVORITE WRITERS, GEORGE BERNARD SHAW,  
19 WHO ON THE OCCASION OF HIS 90TH BIRTHDAY WAS ASKED BY A FRIEND  
20 "WELL, GEORGE, HOW DOES IT FEEL TO BE 90?"

21 HIS REPLY WAS "CONSIDERING THE ALTERNATIVE, IT  
22 FEELS WONDERFUL."

23 (LAUGHTER IN COURTROOM.)

24 MR. CHIER: SO MRS. SHAW, CAN YOU TELL ME A LITTLE BIT  
25 ABOUT YOURSELF. YOU ARE MARRIED, MA'AM?

26 MS. SHAW: YES.

27 MR. CHIER: AND YOUR HUSBAND DOES WHAT?

28 MS. SHAW: WELL, HE IS A MASTER PLANNER --



1 THE COURT: I THOUGHT I ASKED HER THOSE QUESTIONS.

2 MR. CHIER: YOU HAD, JUDGE, AND I JUST REALIZED THAT.

3 I AM SORRY.

4 NOW, MRS. SHAW, DO YOU HAVE ANY HOBBIES?

5 MS. SHAW: WELL, I DON'T DO SEWING OR THAT SORT OF THING  
6 VERY MUCH.

7 MR. CHIER: GARDENING, CANNING, NEEDLEPOINT, ANYTHING  
8 LIKE THAT?

9 MS. SHAW: OH, I DON'T DO MUCH GARDENING EITHER.

10 I LIKE -- I USED TO SWIM AND I WOULD BICYCLE.

11 AND I DO MOST OF MY OWN HOUSEKEEPING WHICH TAKES  
12 A LOT OF EXTRA TIME AND WE HAVE TWO DOGS IN THE HOUSE WHICH  
13 CREATES MORE WORK.

14 MR. CHIER: THAT IS ONE OF MY QUESTIONS.

15 YOU DON'T OWN A POODLE, IS EITHER ONE OF THEM A  
16 POODLE BY ANY CHANCE?

17 MS. SHAW: NO.

18 THEY WERE HOMELESS DOGS REALLY.

19 MR. CHIER: THEY ARE HOMELESS DOGS THAT YOU TOOK IN?

20 MS. SHAW: YES.

21 MR. CHIER: WERE THEY FROM ANY FOUNDATION OR ANYTHING --

22 MS. SHAW: NO. THEY WERE JUST RUNNING LOOSE ON ONE OF  
23 THE PARKING LOTS.

24 MR. CHIER: NOW IT GETS REALLY DIFFICULT WHEN YOU GET  
25 DOWN TO WHY YOU ARE HERE TO THINK OF NEW WAYS TO ASK THESE  
26 OLD QUESTIONS AND YOU WILL EXCUSE ME IF THEY SEEM REPETITIOUS  
27 TO YOU BUT --

28 MS. SHAW: PROBABLY KEEP IT MORE SIMPLE.

1 MR. CHIER: LET ME ASK YOU ABOUT THE AREA THAT IS OF  
2 GREAT CONCERN TO US, THE AREA OF CIRCUMSTANTIAL EVIDENCE.

3 HAVE YOU FOLLOWED THE VARIOUS EXAMPLES CONCERNING  
4 CIRCUMSTANTIAL EVIDENCE VERSUS DIRECT EVIDENCE?

5 MS. SHAW: YES.

6 MR. CHIER: ALL RIGHT, CAN YOU THEN REFER TO IN YOUR  
7 MIND THE HYPOTHETICAL ABOUT THE WET SIDEWALK?

8 MS. SHAW: YES.

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1 MR. CHIER: DO YOU REMEMBER, MRS. SHAW, THAT ALL WE KNOW  
2 IS THAT IT IS A DARK AND OVERCAST DAY AND THE SIDEWALK IS  
3 WET AT 3:00 O'CLOCK AND THE GARDENER WAS THERE AT 12:00 O'CLOCK.

4 DO YOU UNDERSTAND THE DIRECT EVIDENCE IS THAT THE  
5 SIDEWALK IS WET? A WITNESS WILL TESTIFY THEY SAW A WET  
6 SIDEWALK. DO YOU UNDERSTAND THAT IS DIRECT EVIDENCE?

7 MS. SHAW: YES.

8 MR. CHIER: ALL RIGHT. AND THAT THE CIRCUMSTANTIAL  
9 EVIDENCE THEN IS NOT SOMETHING THAT ANYBODY CAN TESTIFY TO.  
10 IT IS REALLY THE INFERENCE WHICH ONE DRAWS FROM THE DIRECT  
11 EVIDENCE.

12 FOR EXAMPLE, NOBODY, AT LEAST NOT IN THIS SETTING,  
13 NOBODY CAN GET UP AND SAY, "IN MY OPINION THE SIDEWALK IS WET  
14 BECAUSE IT RAINED" IF THEY WEREN'T THERE TO SEE THE SIDEWALK  
15 IS WET; DO YOU UNDERSTAND?

16 MS. SHAW: YES.

17 MR. CHIER: NOR CAN ANYBODY GET UP THERE AND SAY "IN  
18 MY OPINION, THE SIDEWALK IS WET BECAUSE THE GARDENER MADE IT  
19 WET," YOU SEE?

20 MS. SHAW: YES.

21 MR. CHIER: YOU SEE, THE INFERENCES THAT YOU DRAW ARE  
22 NOT TESTIFIED TO. THESE ARE THINGS THAT THE EVIDENCE POINTS  
23 TO IN AN INFERENTIAL WAY THAT YOU ARE NEVER GOING TO HEAR THAT  
24 FROM THE STAND DIRECTLY.

25 SO WHAT THE LAW SAYS IF WHEN YOU HEAR THE DIRECT  
26 EVIDENCE, THE SIDEWALK IS WET AND THE LAWYER FOR ONE SIDE SAYS,  
27 "THE INFERENCE, LADIES AND GENTLEMEN, FROM THE WET SIDEWALK  
28 IS THAT IT RAINED, THE SKY IS DARK, IT IS GLOOMY, IT IS IN

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1 THE SPRINGTIME OR IT IS IN THE FALL AND WINTER WHEN IT RAINS  
2 TYPICALLY, THEREFORE, YOU SHOULD INFER THAT IT RAINED; DO YOU  
3 UNDERSTAND?

4 MS. SHAW: I DO.

5 MR. CHIER: THEN THE LAWYER FOR THE OTHER SIDE WILL SAY  
6 "LADIES AND GENTLEMEN, THE GARDENER WAS HERE THREE HOURS AGO,  
7 IT IS A DARK AND GLOOMY DAY AND THE WATER WOULD NOT HAVE  
8 EVAPORATED AND THEREFORE, YOU COULD INFER THAT THE SIDEWALK  
9 IS WET BECAUSE THE GARDENER MADE IT WET." DO YOU UNDERSTAND  
10 THAT?

11 (MS. SHAW NODS HER HEAD UP AND DOWN.)

12 MR. CHIER: YOU SEE THE INFERENCE WILL BE POINTED OUT  
13 TO YOU BY THE LAWYERS, YOU ARE NEVER GOING TO HEAR IT FROM  
14 A WITNESS. ALL YOU ARE GOING TO HEAR IS THE DIRECT EVIDENCE.

15 MS. SHAW: I SEE.  
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1 MR. CHIER: DO YOU UNDERSTAND?

2 MS. SHAW: YES.

3 MR. CHIER: ARE YOU WITH ME?

4 MS. SHAW: YES.

5 MR. CHIER: OKAY. SO WHAT HAPPENS WHEN THE LAWYERS STAND  
6 UP AND ONE LAWYER SAYS THE SIDEWALK IS WET BECAUSE IT RAINED  
7 AND THE OTHER LAWYER SAYS THE SIDEWALK IS WET BECAUSE THE  
8 GARDENER WAS HERE? IF BOTH OF THOSE SEEM YOU KNOW, OKAY TO  
9 YOU AND NOTHING SEEMS FAR-FETCHED --

10 MS. SHAW: IT SEEMS REASONABLE.

11 MR. CHIER: WELL, IF THEY SEEM EQUALLY PROBABLE?

12 MS. SHAW: OH.

13 MR. CHIER: OKAY. I WILL GET TO REASONABLE IN A MINUTE.  
14 LET'S JUST REFER TO IT AS EQUALLY PROBABLE AT THIS POINT.

15 MS. SHAW: YES.

16 MR. CHIER: IN THAT CASE, LET'S SAY THAT IF THE GARDENER  
17 DID IT, THE DEFENDANT GOES FREE. AND IF THE RAIN DID IT, THE  
18 DEFENDANT IS GUILTY.

19 IN THAT CASE, YOU HAVE TO ADOPT THE ONE WHICH FREES  
20 THE DEFENDANT, ALL RIGHT?

21 MS. SHAW: YES.

22 MR. WAPNER: WELL YOUR HONOR, WITH ALL DUE RESPECT, I  
23 HATE TO INTERRUPT.

24 BUT I WOULD LIKE TO OBJECT. I THINK THAT MS.  
25 SHAW WAS RIGHT AND MR. CHIER WAS WRONG, THAT THE INSTRUCTION  
26 SAYS THAT THE INFERENCES HAVE TO BE REASONABLE, NOT PROBABLE.

27 IT SAYS, "TWO REASONABLE INFERENCES"; THE  
28 INSTRUCTION THAT THE COURT WILL GIVE.

1 THE COURT: WELL, LET'S DO IT ON A REASONABLE BASIS,  
2 THEN. SHALL WE?

3 MR. CHIER: WELL, I WILL DO IT THE EASY WAY. WE'LL COME  
4 BACK TO THAT IN A MINUTE BECAUSE I WANT TO QUESTION YOU ABOUT  
5 THAT.

6 LET'S SAY BOTH POSSIBILITIES ARE EQUALLY  
7 REASONABLE, THE INFERENCES. OKAY?

8 DO YOU UNDERSTAND THAT IN THAT CASE WHEN THEY ARE  
9 EQUALLY REASONABLE, WHATEVER WORD YOU WANT TO USE, THAT YOU  
10 HAVE TO VOTE IN FAVOR OF NOT GUILTY? DO YOU UNDERSTAND THAT?

11 MS. SHAW: YES. I DO UNDERSTAND THAT.

12 MR. CHIER: OKAY.

13 MS. SHAW: YES.

14 MR. CHIER: DOES THAT BOTHER YOU OR ARE YOU RESISTANT  
15 TO THAT IN ANY WAY?

16 MS. SHAW: NO. IT IS A VERY SERIOUS DECISION AND I FEEL  
17 THAT IT IS A VERY SERIOUS DECISION AND IT SHOULD BE BEYOND  
18 A REASONABLE DOUBT.

19 MR. CHIER: RIGHT.

20 MS. SHAW: RIGHT.

21 MR. CHIER: AND UNLESS IT IS THAT KIND OF CONVICTION,  
22 THAT YOU CAN WALK OUT OF THE COURTROOM SAYING THAT YOU ARE  
23 COMFORTABLE AND THAT YOU MADE THE RIGHT DECISION, THEN YOU  
24 HAVE GOT TO VOTE FOR THE DEFENDANT. DO YOU UNDERSTAND THAT?

25 MS. SHAW: YES. I DO UNDERSTAND THAT.

26 MR. CHIER: OKAY. NOW, THERE HAS BEEN TALK MISS SHAW,  
27 ABOUT REASONABLE VERSUS POSSIBLE. DO YOU UNDERSTAND THAT?  
28 I MEAN, YOU KNOW THAT THERE HAS BEEN TALK ABOUT THAT?

1 MS. SHAW: YES.

2 MR. CHIER: MR. BARENS SAYS ONE THING AND MR. WAPNER  
3 SAYS IS THAT POSSIBLE BUT IS IT REASONABLE. NO, HE WANTS YOU  
4 TO SAY IT IS NOT REASONABLE. OKAY.

5 NOW, THIS IS WHAT I WANT TO ASK YOU. DO YOU  
6 UNDERSTAND THAT THIS NOTION OF REASONABLE DOUBT, DOES NOT  
7 DEPEND UPON STATISTICAL PROBABILITY? THAT YOU COULD PROBABLY --  
8 LET ME ASK YOU THIS A DIFFERENT WAY.

9 DO YOU UNDERSTAND THAT REASONABLE DOUBT IS A DOUBT  
10 BASED ON REASON? BUT THE DOUBT CAN BE BASED UPON SOMETHING  
11 THAT IS UNUSUAL, THAT IS STATISTICALLY NOT OCCURRING AS MUCH  
12 AS SOMETHING THAT OCCURS MORE OFTEN AND IT COULD STILL BE A  
13 REASONABLE DOUBT? DO YOU UNDERSTAND?

14 THERE MAY BE A REASONABLE DOUBT BASED UPON A TOTALLY  
15 WEIRD SITUATION?

16 MS. SHAW: UH-HUH.

17 MR. CHIER: WHICH, IF IT EXISTS, THEN BY ITS VERY NATURE,  
18 IT BECOMES REASONABLE BECAUSE IT HAPPENED?

19 MS. SHAW: YES.

20 MR. CHIER: DO YOU UNDERSTAND THAT?

21 MR. SHAW: YES.

22 MR. CHIER: IT DOESN'T HAVE TO BE SOMETHING THAT HAPPENED  
23 60 PERCENT OF THE TIME OR 70 PERCENT OF THE TIME. DO YOU  
24 UNDERSTAND THAT?

25 MS. SHAW: YES.

26 MR. CHIER: OKAY. SO THAT IF IT IS SOMETHING THAT IS  
27 UNREASONABLE, IT IS NOT UNREASONABLE BECAUSE IT IS STATISTICALLY  
28 IMPROBABLE. STATISTICS HAVE NOTHING TO DO WITH IT. DO YOU

1 UNDERSTAND?

2 IT IS YOUR CONSCIENCE, YOUR JUDGMENT AND THE WAY  
3 THAT YOU VIEW THE EVIDENCE IN A CIRCUMSTANTIAL CASE, IN A  
4 CIRCUMSTANTIAL EVIDENCE CASE.

5 MS. SHAW: YES.

6 MR. CHIER: AND IF YOU ARE SATISFIED THAT THERE ARE AT  
7 LEAST TWO INFERENCES OR MORE THAN TWO INFERENCES AND THEY ALL  
8 SEEM PLAUSIBLE TO YOU, THEN THAT MEANS THAT YOU HAVE A REASONABLE  
9 DOUBT.

10 BUT IT HAS NOTHING TO DO WITH THE STATISTICS. I  
11 WANT YOU TO UNDERSTAND THAT. DO YOU UNDERSTAND THAT?

12 MS. SHAW: YES.

13 MR. CHIER: OKAY. NOW, THE COURT IS GOING TO INSTRUCT  
14 YOU THAT EVIDENCE OF ORAL ADMISSIONS SHOULD BE VIEWED WITH  
15 CAUTION. THIS IS ONE OF THE ONLY AREAS WHERE THE EVIDENCE  
16 SHOULD BE EVALUATED BY YOU ON A DIFFERENT STANDARD FROM OTHER  
17 TYPES OF EVIDENCE. DO YOU REMEMBER SOME OF THE DISCUSSION  
18 ABOUT ORAL ADMISSIONS?

19 MS. SHAW: YES.

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1 MR. CHIER: WILL YOU REMEMBER WHY IT IS SO THAT THE COURT  
2 INSTRUCTS THAT ORAL ADMISSIONS MUST BE VIEWED WITH CAUTION?  
3 DO YOU REMEMBER IT IS BECAUSE THIS TYPE OF EVIDENCE, HISTORY  
4 HAS DEMONSTRATED, IS THE LEAST RELIABLE OF ALL TYPES OF  
5 EVIDENCE BECAUSE IT IS THE EASIEST TO FABRICATE. IT IS THE  
6 EASIEST TO MISRECOLLECT. IT IS THE HARDEST TO DISPROVE BECAUSE  
7 THERE IS NOTHING TO CORROBORATE IT, ESSENTIALLY. IT IS JUST --

8 MR. WAPNER: WELL, I WOULD DISAGREE WITH THAT. WHETHER  
9 THERE IS CORROBORATING EVIDENCE DEPENDS UPON THE FACTS AND  
10 CIRCUMSTANCES OF EACH CASE.

11 MR. CHIER: WELL, WE ARE TALKING ABOUT THE THEORY OF  
12 IT, SIR.

13 THE COURT: AGAIN, I WILL HAVE TO ADMONISH THE JURORS  
14 THAT THEY WILL TAKE THE LAW FROM ME AND NOT WHAT COUNSEL SAYS  
15 IT IS. THEY MAY BE RIGHT OR WRONG. I AM RIGHT ALL OF THE TIME.

16 MR. CHIER: THE JUDGE IS ABSOLUTELY RIGHT, MS. SHAW.

17 THE COURT: AS LONG AS YOU ARE TELLING STORIES, I WILL  
18 TELL YOU ABOUT SIR ROGER DE COVERLY. HE WAS ACTING IN  
19 17TH CENTURY ENGLAND AS A JUDGE. HE WOULD HEAR THE SUITS FROM  
20 ALL THE VILLAGES AROUND.

21 ONE FARMER CAME AND TOLD HIS STORY. HE SAYS, "I  
22 THINK YOU ARE RIGHT." AND THE OTHER FARMER TOLD THE STORY  
23 AND HE SAYS, "I THINK YOU ARE RIGHT."

24 THEN ANOTHER SQUIRE WAS VISITING WITH HIM AND HE  
25 SAYS, "HOW CAN THEY BOTH BE RIGHT?" AND HE SAYS, "YOU ARE  
26 RIGHT, TOO."

27 MR. CHIER: WELL, THE JUDGE IS THE LAW. PAT HERE, IS  
28 ORDER. WE NOW HAVE LAW AND ORDER.

1                   YOU ARE THE JUDGES OF THE FACTS. DO YOU UNDER-  
2 STAND WHAT YOUR FUNCTION IS HERE, MS. SHAW? THE JURY IS HERE  
3 TO JUDGE THE FACTS. YOU HEAR THE EVIDENCE FROM THE STAND.

4                   MS. SHAW: YES.

5                   MR. CHIER: YOU ARE THE ONES THAT DECIDE WHAT HAPPENED  
6 OR IF IT HAPPENED OR IF IT DIDN'T HAPPEN.

7                   MS. SHAW: YES.

8                   MR. CHIER: AND THE JUDGE CAN TELL YOU WHAT THE LAW IS.  
9 YOU UNDERSTAND THAT NOBODY CAN TELL YOU WHAT THE FACTS ARE,  
10 HOW TO DECIDE OR HOW TO INTERPRET THE EVIDENCE, NOT ME, NOT  
11 MR. WAPNER, NOT MR. BARENS, NOT EVEN THE JUDGE. DO YOU UNDER-  
12 STAND THAT?

13                   MS. SHAW: YES.

14                   MR. CHIER: THAT IS YOUR FUNCTION.

15                   MS. SHAW: YES. I DO UNDERSTAND THAT.

16                   MR. CHIER: SO THAT YOU ARE, IN YOUR OWN WAY, JUDGES  
17 IN THIS CASE AND IN THIS COURTROOM.

18                   MS. SHAW: THAT'S TRUE.

19                   MR. CHIER: IS THAT A TASK OR AN UNDERTAKING WHICH MAKES  
20 YOU NERVOUS AT ALL?

21                   MS. SHAW: NO. IF SOMEONE WERE -- IF YOU WERE TO DECIDE  
22 I WAS TO REMAIN ON THE JURY, I WOULD FEEL THAT YOU FELT THAT  
23 I MUST BE CAPABLE OF HANDLING IT. IT DOESN'T BOTHER ME.

24                   MR. CHIER: OKAY. YOU UNDERSTAND WHAT IDEALLY, WHAT  
25 THE LAWYERS ARE LOOKING FOR, ARE PEOPLE THAT CAN BE NEUTRAL  
26 AND IMPARTIAL AND CAN KEEP AN OPEN MIND THROUGHOUT THE ENTIRE  
27 CASE AND THAT BASICALLY, THEY CAN COME IN AND HEAR IT, BRINGING  
28 NO STRONG BIASES OF ONE KIND OR ANOTHER?

1                   EVERYBODY HAS BIASES BUT SOME PEOPLE LIKE SOME  
2                   COLORS BETTER THAN OTHERS.   SOME PEOPLE LIKE SOME FOODS BETTER  
3                   THAN OTHERS.   I LIKE MOST FOODS BETTER THAN OTHERS.

4                   EVERYBODY HAS BIASES OF SOME KIND.   AND THERE ARE  
5                   BIASES AND THERE ARE BIASES.   DO YOU UNDERSTAND THAT?

6                   LET ME ASK YOU THIS QUESTION.   DO YOU REMEMBER  
7                   MR. BARENS' DESCRIPTION OF -- HIS WORD PICTURE OF THE COCOON?

8                   MS. SHAW:   YES.

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1 MR. CHIER: MRS. SHAW, WHAT IS THAT COCOON?

2 MS. SHAW: WELL, BASICALLY, I FEEL THAT IT IS -- THAT  
3 HE IS INNOCENT.

4 MR. CHIER: THE PRESUMPTION OF INNOCENCE?

5 MS. SHAW: YES.

6 MR. CHIER: AND YOU ACCEPT THAT AS A COMPONENT OF THE  
7 AMERICAN CRIMINAL JUSTICE SYSTEM?

8 MS. SHAW: OF COURSE, SURE.

9 MR. CHIER: AS MR. HUNT SITS THERE, CAN YOU VISUALIZE  
10 IN YOUR MIND THAT COCOON THAT HE IS WRAPPED IN?

11 MS. SHAW: WELL, I VISUALIZE THE FACT THAT HE IS  
12 INNOCENT UNTIL HE IS THROUGH ON TRIAL.

13 MR. CHIER: YOU HAVE NO TROUBLE VISUALIZING THAT AS  
14 A CONCEPT?

15 MS. SHAW: OH, NO.

16 I WOULD HATE TO SEE OUR LAWS, OUR SYSTEM OTHERWISE.

17 MR. CHIER: DO YOU HAVE ANY CHILDREN, MRS. SHAW?

18 MS. SHAW: NO CHILDREN.

19 MR. CHIER: OKAY. HAVE YOU EVER BEEN IN A SERIOUS  
20 DISCUSSION WITH YOUR HUSBAND OR A GOOD FRIEND WHERE YOU  
21 INITIALLY TOOK A POSITION, ONE POSITION AND LATER CHANGED  
22 YOUR POSITION?

23 MS. SHAW: OH, YES, WITH HIM, YES.

24 MR. CHIER: HAVE THERE BEEN OCCASIONS WHEN YOU TOOK  
25 THE POSITION AND YOU HUNG IN THERE, NO MATTER WHAT HE SAID,  
26 NO MATTER HOW MUCH HE BROW-BEAT YOU OR WHATEVER HE DOES TO  
27 GET YOU TO CHANGE YOUR MIND?

28 MS. SHAW: OH, YES, YES.

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1 MR. CHIER: A JURY DELIBERATION IS JUST ANOTHER TYPE  
2 OF SERIOUS DISCUSSION WITH 11 OTHER PEOPLE INSTEAD OF ONE  
3 OTHER PERSON.

4 IF YOU WERE A JUROR ON THIS CASE AND YOU WERE  
5 CONVINCED IN YOUR OWN MIND AND HEART THAT THE EVIDENCE POINTED  
6 ONE WAY OR THE OTHER -- I AM NOT ASKING YOU, I AM NOT  
7 SPECIFYING EITHER BUT WHATEVER -- LET'S SAY 10 OR 11 OF YOUR  
8 OTHER JURORS THOUGHT THAT IT WAS, THE INFERENCE POINTED THE  
9 OTHER WAY.

10 MS. SHAW: YES.

11 MR. CHIER: UNLESS THEY COULD DEMONSTRATE THAT YOUR  
12 VIEW OF IT WAS FALLACIOUS, FLAWED SOMEHOW, WOULD YOU HANG  
13 IN THERE TO YOUR CONVICTIONS?

14 MS. SHAW: OH, YES, I WOULD.

15 MR. CHIER: AND EVEN IF THEY ARE, LIKE, POUNDING THE  
16 TABLE AND THEY ARE BROW-BEATING YOU, YOU WOULDN'T GIVE IN?

17 MS. SHAW: NO.

18 MR. CHIER: WOULD YOU LIKE TO BE A JUROR ON THIS CASE,  
19 MRS. SHAW?

20 MS. SHAW: WELL, IF YOU FEEL THAT I AM QUALIFIED OR  
21 YOU WANT ME TO STAY, YES, I WOULD BE.

22 MR. CHIER: I PASS FOR CAUSE, YOUR HONOR.

23 THE COURT: ALL RIGHT.

24 MR. WAPNER: MRS. SHAW, WHAT DO YOU THINK? DO YOU THINK  
25 YOU ARE QUALIFIED TO BE A JUROR IN THIS CASE?

26 MS. SHAW: I FEEL THAT I AM PRETTY MUCH, I GUESS.

27 (LAUGHTER IN COURTROOM.)

28 MR. WAPNER: THAT IS ABOUT AS EQUIVOCAL AS YOU CAN GET.

21-7  
1 DO YOU THINK -- FORGETTING ABOUT WHAT MR. BARENS  
2 MIGHT THINK OR WHAT I MIGHT THINK OR WHAT MR. CHIER MIGHT  
3 THINK -- THE QUESTION TO YOU WAS: DO YOU WANT TO BE A  
4 JUROR, WHAT DO YOU THINK?

5 MS. SHAW: OH, WELL, YES, I THINK IT WOULD BE ALL RIGHT.

6 I AM SORRY I AM NOT GIVING YOU A CORRECT ANSWER.  
7 I GUESS YOU WANT A DIRECT ONE.

8 YES, I WOULD SAY.

9 MR. WAPNER: AS MR. BARENS AND MR. CHIER HAVE POINTED  
10 OUT MANY TIMES, THERE IS NO CORRECT ANSWER. THERE IS ONLY  
11 YOUR ANSWER.

12 MS. SHAW: WELL, I MEAN DEFINITELY WHEN I SAY THAT,  
13 TO BE EITHER ONE OR THE OTHER.

14 MR. WAPNER: OKAY. DO YOU UNDERSTAND WHAT I WAS TRYING  
15 TO GET AT WITH THE OTHER JURORS ABOUT ANALYZING THE EVIDENCE  
16 IN TERMS OF REASON AND YOUR COMMON SENSE?

17 MS. SHAW: YES.

18 MR. WAPNER: DID IT SEEM TO YOU THAT MR. CHIER AND  
19 MR. BARENS WERE KIND OF PUTTING THE CART BEFORE THE HORSE  
20 IN TERMS OF SAYING "WELL, FIRST, YOU FIND OUT -- YOU GET TOLD  
21 WHAT HAPPENS AND THEN YOU GO BACK AND FIND OUT IF IT IS  
22 REASONABLE."

23 I LOST YOU? OKAY.

24 MR. BARENS: YOU LOST ME AS WELL.

25 MR. WAPNER: I LOST EVERYBODY. THAT IS NOT THE FIRST  
26 TIME AND PROBABLY WON'T BE THE LAST TIME.

27 MS. SHAW: I LOST YOU, TOO.

28 MR. WAPNER: YOUR JOB AS A JUROR IS TO BE A JUDGE OF

1 THE FACTS, DO YOU THINK THAT IS FAIR?

2 MS. SHAW: WELL, YES.

3 MR. WAPNER: AND HAVE YOU FIGURED OUT BY NOW THAT THE  
4 PROCESS IS THAT YOU LISTEN TO ALL OF THE WITNESSES THAT  
5 TESTIFY AND THEN TRY AND MAKE A DECISION?

6 MS. SHAW: YES.

7 MR. WAPNER: DO YOU THINK THEY WILL ALL SAY THE SAME  
8 THING?

9 MS. SHAW: I HAVE NO IDEA.

10 MR. WAPNER: DO YOU THINK IT IS LIKELY THAT THEY WILL  
11 ALL SAY THE SAME THING?

12 MS. SHAW: I DON'T KNOW.

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1 MR. WAPNER: OKAY. DO YOU THINK THAT WE WOULD BE HERE  
2 IF EVERYBODY WAS GOING TO AGREE ABOUT EVERYTHING?

3 MS. SHAW: NO.

4 MR. WAPNER: OKAY. AND IF THEY DON'T, IT IS GOING TO  
5 BE YOUR JOB TO TRY TO TAKE WHAT ALL OF THEM SAY AND FIGURE  
6 OUT WHAT THE TRUTH IS; DO YOU THINK YOU COULD DO THAT?

7 MS. SHAW: WELL, I THINK I CAN, YES.

8 MR. WAPNER: IN OTHER WORDS, AS A JUROR NO ONE IS GOING  
9 TO SAY TO YOU "THIS IS THE TRUTH AND THIS IS REASONABLE OR  
10 UNUSUAL," DO YOU UNDERSTAND THAT?

11 MS. SHAW: YES.

12 MR. WAPNER: YOU ARE GOING TO HAVE TO FIGURE OUT,  
13 BASED ON YOUR REASON AND COMMON SENSE, WHAT THE TRUTH IS FROM  
14 WHAT THE WITNESSES SAY.

15 MS. SHAW: YES.

16 MR. WAPNER: DO YOU THINK YOU CAN DO THAT?

17 MS. SHAW: I WOULD DO MY UTMOST.

18 AREN'T THERE TIMES WHEN YOU DON'T -- ONCE IN A  
19 WHILE, ISN'T THERE A TIME WHEN YOU CAN'T DECIDE?

20 MR. WAPNER: THERE ARE TIMES WHEN YOU CAN'T DECIDE.

21 MS. SHAW: YES.

22 MR. WAPNER: IN YOUR DAILY EXPERIENCES, IS IT MORE COMMON  
23 THAT YOU HAVE INSTANCES WHERE THERE ARE TWO CONFLICTING THINGS  
24 AND YOU JUST CAN'T MAKE A DECISION?

25 MS. SHAW: WELL, YES, IT TAKES A LITTLE WHILE AFTER.

26 MR. WAPNER: BUT DO YOU USUALLY COME UP WITH A DECISION ONE  
27 WAY OR THE OTHER?

28 MS. SHAW: YES.



21-6  
1 MR. WAPNER: IF YOU ARE CHOSEN TO SERVE AS A JUROR IN  
2 THIS CASE, WOULD YOU DO YOUR UTMOST TO TRY AND FIGURE OUT  
3 WHAT THE TRUTH WAS, SEPARATE WHAT THE DIFFERENT WITNESSES  
4 WERE SAYING AND TRY TO FIGURE OUT WHAT THE TRUTH WAS?

5 MS. SHAW: OH, YES, YES.

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

8 THE COURT: ALL RIGHT, DEFENSE PEREMPTORY.

9 MR. CHIER: YES, WOULD THE COURT THANK AND EXCUSE  
10 JUROR NUMBER 2, MRS. SOMMER?

11 THE COURT: THANK YOU VERY MUCH, MRS. SOMMER.

12 MS. SOMMER: YOU ARE WELCOME.

13 THE CLERK: MRS. BESSIE FARKAS, F-A-R-K-A-S.

14 THE COURT: HOW DO YOU FEEL ABOUT SITTING IN THAT CHAIR  
15 NUMBER 2?

16 MS. FARKAS: FINE.

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17 THE COURT: MRS. FARKAS, I THINK THAT YOU TOLD US THAT  
18 YOU OR SOME MEMBER OF YOUR FAMILY HAVE BEEN THE VICTIM OF  
19 SOME KIND OF A CRIME.

20 MS. FARKAS: WELL, UNFORTUNATELY, WE HAVE HAD MANY CRIMES  
21 COMMITTED AGAINST US.

22 THE COURT: TELL ME WHICH CRIMES YOU OR A MEMBER OF  
23 YOUR FAMILY HAS BEEN THE VICTIM OF.

24 MS. FARKAS: WELL, FIRST OF ALL, I THINK I SHOULD TALK  
25 ABOUT MY HUSBAND, WHO LOST HIS ENTIRE FAMILY IN EUROPE. THIS  
26 WAS VERY TRAUMATIC.

27 THE COURT: PARDON ME?

28 MS. FARKAS: THIS WAS VERY TRAUMATIC.

21-7  
1 THE COURT: WHAT DO YOU MEAN, IN ONE OF THOSE POGROMS  
2 OR --

3 MS. FARKAS: NO -- WELL, THEY WERE LOST IN HITLER'S  
4 FURNACES OR MURDERED OUTRIGHT AND THEIR PROPERTY TAKEN.

5 THE COURT: YOU MEAN UNDER HITLER?

6 MS. FARKAS: YES.

7 THE COURT: I MEAN SOMETHING THAT HAS HAPPENED HERE  
8 IN THIS COUNTRY, HAS ANYTHING HAPPENED TO YOU OR YOUR FAMILY  
9 IN THIS COUNTRY?

10 MS. FARKAS: YES.

11 THE COURT: WHAT HAPPENED?

12 MS. FARKAS: WELL, WE WERE IN RETAIL FURNITURE AND  
13 PERIODICALLY THROUGH THE YEARS, MAYBE THREE OR FOUR TIMES,  
14 THERE WOULD BE A ROBBERY AT NIGHT.

15 THE COURT: YOU MEAN MEN WOULD COME IN WITH GUNS AND  
16 HOLD YOU UP?

17 MS. FARKAS: NO, NO.

18 THE COURT: YOU MEAN THEY WOULD BURGLARIZE THE PLACE?

19 MS. FARKAS: THEY WOULD BURGLARIZE, THEY WOULD BREAK  
20 IN.

21 THE COURT: THAT IS NOT A ROBBERY.

22 MS. FARKAS: I AM SORRY.

23 BREAKING WINDOWS, ENTERING AND STEALING.

24 THE COURT: ALL RIGHT, HOW MANY OF THOSE WERE THERE?

25 MS. FARKAS: HOW MANY? MANY, MANY THROUGH THE YEARS.

26 BUT WE HAD THE ADT AND THEY WOULD PROMPTLY SEND  
27 THE POLICE DOWN AND NOBODY WAS EVER CAUGHT. MY HUSBAND WOULD  
28 GO DOWN THERE IN THE MIDDLE OF THE NIGHT WHEN IT USUALLY

1-8  
1 HAPPENED.

2 AND ONE TIME, HE WAS WHIPLASHED WITH A GUN AND  
3 HIS JEWELRY WAS STOLEN, HIS MONEY.

4 THE COURT: HOW LONG AGO WAS THAT ONE?

5 MS. FARKAS: WELL, HE IS GONE FOR 21 YEARS SO IT WAS  
6 ALL PRIOR.

7 THE COURT: SOME YEARS AGO THEN.

8 WAS THAT INVESTIGATED BY THE POLICE?

9 MS. FARKAS: I THINK MOST EVERYTHING WAS INVESTIGATED  
10 BUT --

11 THE COURT: BUT NOTHING CAME OF IT?

12 MS. FARKAS: NO, NO.

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1 THE COURT: WERE YOU SATISFIED WITH THE POLICE  
2 INVESTIGATION AT ALL?

3 MS. FARKAS: I THINK SO.

4 THE COURT: WERE YOU DISSATISFIED OR SATISFIED?

5 MS. FARKAS: SATISFIED.

6 THE COURT: ALL RIGHT. YOU MEAN JUST BECAUSE THEY  
7 DIDN'T HAPPEN TO CATCH THE FELON, THAT DOESN'T NECESSARILY  
8 MEAN THAT THEY ARE AT FAULT?

9 MS. FARKAS: NO.

10 THE COURT: ALL RIGHT. AND DID ANYTHING HAPPEN TO YOU  
11 IN THE LAST 21 YEARS?

12 MS. FARKAS: YES. A LOT OF THINGS HAPPENED TO ME. I  
13 DON'T KNOW IF I WANT TO TALK ABOUT IT PRIVATELY OR PUBLICLY  
14 OR --

15 THE COURT: YOU MEAN CRIMES AGAINST YOU?

16 MS. FARKAS: CRIMES, YES.

17 THE COURT: WELL, JUST WHAT KIND OF CRIMES WERE THEY,  
18 WITHOUT TELLING US THE DETAILS?

19 MS. FARKAS: OUR PLACE OF BUSINESS WAS -- MY HUSBAND  
20 DIED IN MAY OF 1965. AND OUR PLACE OF BUSINESS WAS DESTROYED  
21 IN THE RIOTS IN AUGUST.

22 THE COURT: WHERE WAS THE PLACE LOCATED?

23 MS. FARKAS: ON 45TH AND VERMONT.

24 THE COURT: UH-HUH. AND WHICH RIOTS ARE YOU TALKING  
25 ABOUT?

26 MS. FARKAS: THE ONLY RIOTS.

27 THE COURT: THE RACE RIOTS, YOU MEAN?

28 MS. FARKAS: THE WATTS RIOTS. WE WERE NOT IN WATTS.

1 WE WERE IN LOS ANGELES.

2 BUT THEY CAME DOWN AND JUST --

3 THE COURT: VANDALIZED YOUR PREMISES? IS THAT IT?

4 MS. FARKAS: WELL, FIRST THEY BROKE THE WINDOWS. THEN  
5 PEOPLE CAME AND MILLED AROUND THE BUILDING, WHICH WAS ON  
6 TELEVISION. I SAW IT.

7 AND THE MERCHANDISE WAS STOLEN. EVERYTHING THAT  
8 THEY COULD TAKE AWAY, CART AWAY, THEY TOOK. AND WHAT THEY  
9 COULDN'T TAKE, THEY TRIED TO BURN DOWN. AND THERE IS A LOT  
10 MORE, BUT --

11 THE COURT: WELL, WOULD IT HAVE SUCH AN EFFECT UPON YOU  
12 THAT YOU FEEL YOU CAN'T SIT AS A JUROR ON THIS CASE AND TRY  
13 THIS CASE WHERE SOMEONE IS ACCUSED --

14 MS. FARKAS: NO, NO.

15 THE COURT: YOU CAN BE FAIR AND AN IMPARTIAL JUROR IN  
16 THIS CASE?

17 MS. FARKAS: YES. I AM SURE I CAN.

18 THE COURT: ALL RIGHT. OTHER THAN THAT, WERE I TO ASK  
19 YOU THE SAME GENERAL QUESTIONS ASKED OF THE OTHER JURORS,  
20 WOULD YOUR ANSWERS BE ANY DIFFERENT OR WOULD THEY BE  
21 SUBSTANTIALLY THE SAME?

22 MS. FARKAS: I THINK THEY WOULD BE THE SAME.

23 THE COURT: ALL RIGHT. AND WHAT DO YOU DO NOW, MISS  
24 FARKAS?

25 MS. FARKAS: I DON'T KNOW. I DON'T CLASSIFY MYSELF AS  
26 A HOUSEWIFE. I DON'T CLASSIFY MYSELF AS A HOMEMAKER.

27 THE COURT: WHY DON'T YOU DO THAT?

28 MS. FARKAS: WELL, I JUST DON'T FEEL THAT I AM A

1       HOMEMAKER OR A HOUSEWIFE. I HAVE AN APARTMENT.

2               THE COURT: YOU JUST LIVE BY YOURSELF, DO YOU?

3               MS. FARKAS: I LIVE BY MYSELF.

4               THE COURT: DO YOU HAVE ANY CHILDREN?

5               MS. FARKAS: I HAVE FOUR, INCLUDING A SET OF TWINS.

6               THE COURT: HOW OLD ARE THEY?

7               MS. FARKAS: MY TWINS ARE 42. I HAVE A DAUGHTER OF 45  
8       AND A SON OF 47.

9               THE COURT: WHAT DOES YOUR SON OF 47 DO?

10              MS. FARKAS: HE IS A PHARMACIST.

11              THE COURT: AND THE 45-YEAR-OLD?

12              MS. FARKAS: THAT IS MY DAUGHTER. SHE WAS A SCHOOL  
13       TEACHER BY PROFESSION. BUT SHE RUNS HER HUSBAND'S MEDICAL  
14       OFFICE.

15                        SHE LECTURES WHEN SHE IS ASKED TO, ON OFFICE  
16       MANAGEMENT.

17                        SHE WAS APPOINTED TO THE LIBRARY BOARD IN THEIR  
18       COMMUNITY.

19              THE COURT: WHAT COMMUNITY IS THAT?

20              MS. FARKAS: PLACENTIA. IN ORANGE COUNTY.

21              THE COURT: WHERE DO YOU LIVE?

22              MS. FARKAS: I LIVE IN WEST LOS ANGELES.

23              THE COURT: AND HOW ABOUT THE TWINS? WHAT DO THEY DO?

24              MS. FARKAS: THEY ARE DENTISTS.

25              THE COURT: BOTH OF THEM?

26              MS. FARKAS: BOTH OF THEM.

27              THE COURT: ARE THEY IN BUSINESS TOGETHER?

28              MS. FARKAS: NO. AND THEY ARE EACH VERY SUCCESSFUL.

1 THE COURT: I THOUGHT IT WOULD BE FARKAS & FARKAS.

2 MS. FARKAS: NO.

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

5 MS. FARKAS: NOT CRIMINAL.

6 THE COURT: A CIVIL CASE?

7 MS. FARKAS: A CIVIL CASE.

8 THE COURT: OF COURSE YOU KNOW THE DIFFERENCE IN THE  
9 BURDEN OF PROOF BETWEEN CIVIL AND CRIMINAL CASES?

10 MS. FARKAS: YES, I DO.

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

2 MR. BARENS: THANK YOU, YOUR HONOR.

3 GOOD AFTERNOON, MISS FARKAS. BOTH DENTISTS, INDEED.

4 MS. FARKAS: YES.

5 MR. BARENS: TWINS TO BOOT?

6 MS. FARKAS: YES.

7 MR. BARENS: WELL, YOU HEAR SOMETHING NOVEL EVERY DAY,

8 DON'T YOU? WELL, I CONGRATULATE YOU ON ALL FOUR.

9 MS. FARKAS, WHAT COUNTRY ARE YOU FROM ORIGINALLY?

10 MS. FARKAS: I AM FROM HERE. I WAS BORN IN NEW YORK  
11 CITY.

12 MR. BARENS: I SEE. AND ALL THAT BUSINESS WITH YOUR  
13 HUSBAND'S FAMILY OCCURRED TO THEM WHEN YOU WEREN'T IN EUROPE  
14 DURING THAT EPISODE?

15 MS. FARKAS: NO. MY HUSBAND WAS NOT, EITHER.

16 THE COURT: WHAT?

17 MS. FARKAS: HE WAS NOT THERE EITHER.

18 MR. BARENS: AND YOUR HUSBAND WAS AN AMERICAN, ORIGINALLY  
19 AN AMERICAN, AS WELL?

20 MS. FARKAS: NO. HE WAS BORN IN HUNGARY.

21 BR. BARENS: I SEE.

22 MS. FARKAS: HE CAME WHEN THE COUNTRY WAS TAKEN OVER  
23 BY THE RUMANIANS. THE CITIZENRY HAD THE PRIVILEGE OF LEAVING  
24 OR ACCEPTING THEIR REGIME BUT THEY FELT THAT THEY WERE BARBARIANS.  
25 FORGIVE ME IF THERE ARE ANY RUMANIANS HERE.

26 BUT THEY FELT THAT WAY ABOUT THEM AND MANY  
27 HUNGARIANS LEFT AT THAT POINT.

28 MR. BARENS: THE MEMBERS OF HIS FAMILY THAT WERE



1 VICTIMIZED BY THE GERMANS, WERE THEY HUNGARIANS, AS WELL?

2 MS. FARKAS: OF COURSE.

3 MR. BARENS: YOU COULD BE SURE MA'AM, THEY COULD HAVE  
4 BEEN LIVING IN GERMANY OR SOME OTHER PART OF WESTERN EUROPE.

5 MS. FARKAS: NO. IT WAS A VERY LARGE FAMILY IN HUNGARY  
6 OF AUNTS, UNCLES, NIECES, NEPHEWS, COUSINS, SISTERS-IN-LAWS  
7 AND BROTHERS-IN-LAWS.

8 MR. BARENS: RIGHT.

9 MS. FARKAS: EXCEPT FOR TWO NEPHEWS WHO ARE NOW RESIDING  
10 IN ISRAEL. THEY WERE VICTIMS OF THE CONCENTRATION CAMPS AND  
11 WHAT THEY DID THERE.

12 MR. BARENS: NOW, DO YOU UNDERSTAND THAT ONE OF THE WAYS  
13 THAT ALL OF THAT NAZI INSANITY WAS POSSIBLE WAS THROUGH A  
14 BREAKDOWN IN THE LEGAL SYSTEM? CAN YOU RELATE TO WHAT I MEAN  
15 BY THAT?

16 MS. FARKAS: A BREAKDOWN OF THE LEGAL SYSTEM? THEY  
17 DIDN'T OBSERVE THE CODE OF LAWS, OBVIOUSLY.

18 MR. BARENS: THEY DIDN'T OBSERVE -- SORRY, MA'AM?

19 MS. FARKAS: THEY DIDN'T OBSERVE THE CODE OF LAW.

20 MR. BARENS: NO, THEY DIDN'T. AS A MATTER OF FACT, DO  
21 YOU RECALL THAT THE FIRST THING THAT HITLER DID WAS ARREST  
22 ALL OF THE JEWISH LAWYERS SO THAT THEY COULDN'T APPEAR IN THE  
23 COURTS?

24 MS. FARKAS: UH-HUH.

25 MR. BARENS: AND THEY COULDN'T DO ANYTHING ABOUT CIVIL  
26 RIGHTS, AS A RESULT?F

27 MS. FARKAS: UH-HUH.

28 MR. BARENS: IT WAS THE VERY FIRST THING THAT HAPPENED

1 IN THE VERY, VERY EARLY '30'S.

2 NOW, HOW DO YOU FEEL ABOUT THAT PRESUMPTION OF  
3 INNOCENCE THAT MR. HUNT COMES HERE AFFORDED BY OUR LEGAL  
4 SYSTEM?

5 MS. FARKAS: WELL, I ACCEPT THAT AS LONG AS IT IS OUR  
6 CODE OF LAWS. AND AS LONG AS THIS IS IT, I ACCEPT IT AS SO.  
7 I HAVE NEVER HEARD THE PROS AND CONS OF THE OTHER SYSTEM AS  
8 AGAINST THIS SYSTEM. SO I DON'T KNOW, ACTUALLY.

9 MR. BARENS: WELL, ESSENTIALLY IN THE CONTINENTAL  
10 SYSTEM, A DEFENDANT HAS TO PROVE HIS INNOCENCE. WHEREAS  
11 HERE --

12 MS. FARKAS: THE DEFENDANT?

13 MR. BARENS: HERE, THE DEFENDANT IS PRESUMED INNOCENT  
14 AND THE GOVERNMENT HAS TO PROVE THAT HE IS GUILTY OF SOMETHING.

15 MS. FARKAS: YES. BUT, I DON'T KNOW. I HAVE NEVER REALLY  
16 HEARD TOO MUCH ABOUT IT ONE WAY OR ANOTHER, ONE WAY AGAINST  
17 THE OTHER.

18 MR. BARENS: HOW DO YOU FEEL ABOUT IT AS AN INDIVIDUAL?

19 MS. FARKAS: HOW DO I FEEL ABOUT IT?

20 MR. BARENS: NOW, YES, MA'AM.

21 MS. FARKAS: WELL, I HAVE ALWAYS KIND OF WONDERED ABOUT  
22 IT, REALLY.

23 MR. BARENS: SO YOU THINK IT MIGHT BE A LITTLE SUSPECT?

24 MS. FARKAS: NO. I DON'T THINK THAT.

25 MR. BARENS: WHAT DO YOU THINK, MA'AM?

26 MS. FARKAS: I WOULD LIKE THAT THE PERSON ACCUSED DEFEND  
27 HIMSELF WITH HIS LAWYERS, I THINK.

28 (MR. CHIER EXITS THE COURTROOM.)

1 MR. BARENS: QUITE SO. MR. HUNT IS HERE DEFENDING HIM-  
2 SELF WITH HIS LAWYERS. BUT WHAT I AM REALLY ASKING YOU IS,  
3 IF YOU COULD PLEASE TELL ME HOW YOU FEEL ABOUT THE PRESUMPTION  
4 OF INNOCENCE THAT MR. HUNT IS AFFORDED UNDER THE UNITED STATES  
5 CONSTITUTION AND LEGAL SYSTEM?

6 MS. FARKAS: WELL, I THINK IT IS ALL RIGHT. I THINK  
7 THAT IT IS ALL RIGHT.

8 MR. BARENS: JUST ALL RIGHT?

9 MS. FARKAS: IT IS ALL RIGHT.

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1 MR. BARENS: DO YOU THINK THAT THERE MAY BE ANOTHER  
2 APPROACH TO THIS THAT MIGHT BE A BETTER IDEA?

3 MS. FARKAS: I CAN'T TELL YOU THAT. I DON'T KNOW. I  
4 HAVE NEVER HEARD ABOUT ONE SYSTEM AS AGAINST ANOTHER SYSTEM.

5 MR. BARENS: RIGHT. DO YOU UNDERSTAND, MS. FARKAS, ALL  
6 I AM REALLY ASKING FOR TODAY, ARE YOUR PERSONAL OPINIONS ABOUT  
7 THINGS, NOT WHAT YOU MIGHT HAVE HEARD SOMEONE ELSE SAY OR  
8 ADVOCATE BUT RATHER, JUST HOW YOU FEEL. I NEED TO UNDERSTAND --

9 MS. FARKAS: I AM PERFECTLY WILLING TO ACCEPT IT.

10 MR. BARENS: ALL RIGHT.

11 MS. FARKAS: BUT I STILL WOULD LIKE SOME DAY TO HEAR  
12 HOW THE OTHER SYSTEMS WORK, AS AGAINST OUR PARTICULAR SYSTEM.

13 MR. BARENS: ALL RIGHT. BUT YOU ACCEPT IT IN THIS FORM,  
14 THAT MR. HUNT HAS THE BENEFIT --

15 MS. FARKAS: YES, I DO.

16 MR. BARENS: HOW ABOUT IF IT IS A CLOSE CALL, THAT THE  
17 DEFENDANT HAS THE BENEFIT OF THE DOUBT? IF THERE IS A DOUBT,  
18 IT IS RESOLVED IN FAVOR OF SAYING NOT GUILTY.

19 MS. FARKAS: I APPROVE OF THAT.

20 MR. BARENS: YOU DO?

21 MS. FARKAS: YES.

22 MR. BARENS: NOW, ONE YOU MIGHT HAVE GREATER PROBLEMS  
23 WITH, WOULD BE A DEFENDANT NOT TESTIFYING ON HIS OWN BEHALF?

24 MS. FARKAS: NO. I CAN ACCEPT THAT. I SAID I WOULD  
25 LIKE TO HEAR. BUT I DON'T SAY IT HAS TO BE.

26 MR. BARENS: ALL RIGHT. DO YOU THINK THAT YOU ARE  
27 COMFORTABLE IN UNDERSTANDING THIS DISCUSSION WE HAVE HAD ABOUT  
28 REASONABLE DOUBT, THAT THE DEFENDANT IN ORDER TO BE CONVICTED,

1 YOU HAVE TO BELIEVE IN YOUR HEART BEYOND A REASONABLE DOUBT,  
2 THAT HE IS GUILTY OF SOMETHING?

3 MS. FARKAS: YES. I DO.

4 MR. BARENS: HOW DO YOU FEEL ABOUT THE CONCEPT THAT THERE  
5 CAN BE A MURDER CONVICTION POSSIBLY WITHOUT A BODY BEING  
6 FOUND?

7 MS. FARKAS: THAT I THINK IS VERY POSSIBLE.

8 MR. BARENS: QUITE SO. IN FACT, CERTAINLY, WE WOULDN'T  
9 HAVE A SYSTEM WHERE WE WOULD REWARD A DEFENDANT SO TO SPEAK,  
10 BECAUSE HE WAS CLEVER ENOUGH TO CONCEAL A BODY AFTER A MURDER?  
11 WE WOULDN'T DO THAT, WOULD WE?

12 MS. FARKAS: I THINK HE SHOULD BE TRIED TO SEE IF IT  
13 IS POSSIBLE THAT HE DID COMMIT THE MURDER.

14 MR. BARENS: YES. ACTUALLY, THAT WAS NOT QUITE ON POINT  
15 ON WHAT I WAS REFERRING TO. RATHER, I WAS REFERRING TO, IN  
16 A NO-BODY CASE, YOU UNDERSTAND THAT NO ONE IN THE COURTROOM  
17 HERE, FEELS THAT WE SHOULD REWARD A DEFENDANT BECAUSE HE CAN  
18 CONCEAL MISDOINGS ABOUT CONCEALING A BODY? YOU DON'T THINK  
19 THAT I AM JUST SAYING THAT, DO YOU?

20 MS. FARKAS: NO.

21 MR. BARENS: ALL RIGHT. WE HAVE TALKED ABOUT WHAT IS  
22 POSSIBLE OR USUAL. DO YOU FIND THAT FOR SOMETHING TO BE  
23 REASONABLE IN YOUR LIFE, IT HAS TO BE THE USUAL, NORMAL THING  
24 YOU WOULD EXPECT TO HAPPEN OR THE NORMAL EXPLANATION YOU WOULD  
25 EXPECT BEFORE YOU WOULD CONSIDER IT TO BE REASONABLE?

26 MS. FARKAS: I DON'T THINK SO.

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1 MR. BARENS: OKAY, COULD YOU ACCEPT THAT POSSIBLY, AFTER  
2 HEARING ALL OF THE EVIDENCE, THAT SOME VERY UNUSUAL ANSWER  
3 COULD EXPLAIN THE TRUTH IN A SITUATION EVEN THOUGH IT WAS  
4 QUITE WELL OUT OF THE ORDINARY, IT STILL COULD BE TRUE?

5 MS. FARKAS: YES, I COULD.

6 MR. BARENS: WOULD YOU ACCEPT THAT WHAT I MIGHT CONSIDER  
7 TO BE REASONABLE, YOU MIGHT NOT CONSIDER TO BE REASONABLE?

8 MS. FARKAS: YES.

9 MR. BARENS: AND PERHAPS THAT NEITHER OF US IS RIGHT  
10 OR WRONG?

11 MS. FARKAS: I THINK I CAN ACCEPT THAT.

12 MR. BARENS: NOW, DID YOU INDICATE THAT YOU HAD A PRIOR  
13 EXPERIENCE ON A CIVIL JURY?

14 MS. FARKAS: YES.

15 MR. BARENS: HOW LONG AGO WAS THAT?

16 MS. FARKAS: A VERY LONG TIME AGO, THE LAST 20 YEARS  
17 BUT CLOSER TO THE 20 THAN NOW.

18 MR. BARENS: ALL RIGHT. AS HIS HONOR INDICATED, THE  
19 STANDARD OF PROOF FOR WHAT NEED BE ACCOMPLISHED IN THAT  
20 SETTING IS TOTALLY DIFFERENT IN THAT SETTING.

21 MS. FARKAS: YES.

22 MR. BARENS: ISN'T THAT TRUE?

23 MS. FARKAS: YES.

24 MR. BARENS: THE PREPONDERANCE OF THE EVIDENCE.

25 MS. FARKAS: WELL, IT DIDN'T INDICATE ANYTHING LIKE  
26 THAT.

27 THIS WAS AN ACCIDENT CASE WHERE SOMEBODY WAS  
28 BADLY INJURED AND HIS LIVELIHOOD WAS TAKEN AWAY FROM HIM.

1 IT WAS DREADFUL.

2 MR. BARENS: WAS THERE A DISPUTE OVER FAULT IN THAT  
3 CASE?

4 MS. FARKAS: NO.

5 MR. BARENS: IT WAS AN EXTENDED DAMAGES CASE?

6 MS. FARKAS: THE INSURANCE -- AN INSURANCE CASE.

7 MR. BARENS: ALL YOU HAD TO FIGURE OUT THERE WAS HOW  
8 MUCH?

9 MS. FARKAS: EXACTLY.

10 MR. BARENS: NOT IF?

11 MS. FARKAS: THAT'S RIGHT.

12 MR. BARENS: ALL RIGHT, A TOTALLY DIFFERENT SITUATION  
13 WE ARE IN HERE, ISN'T IT?

14 MS. FARKAS: COMPLETELY.

15 MR. BARENS: SO YOU WOULDN'T LET ANYTHING FROM THAT  
16 INFLUENCE YOU?

17 MS. FARKAS: NO.

18 MR. BARENS: HAVE YOU HAD MUCH OTHER CONTACT WITH  
19 LAWYERS IN THE LAST 20 YEARS?

20 MS. FARKAS: YES.

21 MR. BARENS: IN WHAT SETTINGS, MA'AM?

22 MS. FARKAS: WELL, OF COURSE, THERE WAS PROBATE -- I  
23 DON'T MEAN PROBATE -- BUT INVOLVED IN MY HUSBAND'S DEATH --

24 MR. BARENS: YES.

25 MS. FARKAS: -- I HAD TO HAVE LAWYERS TO HELP ME TO  
26 COLLECT OUT FUNDS AND THERE WERE MANY LAW CASES.

27 MR. BARENS: I AM SORRY?

28 MS. FARKAS: I WASN'T -- I DIDN'T GO TO COURT.

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1 MR. BARENS: COLLECT FUNDS, YOU MEAN FROM THE ESTATE  
2 OR --

3 MS. FARKAS: FROM THE -- WELL, OUR BUSINESS WAS DESTROYED.

4 MR. BARENS: YOU MEAN THE CLAIM TENDERED AS A RESULT  
5 OF THE LOSS IN THE FIRE IN 1965?

6 MS. FARKAS: NO.

7 MR. BARENS: NO?

8 MS. FARKAS: I MEAN ACCOUNTS. LIKE, FOR EXAMPLE, WE  
9 OWED THE BANKS HALF A MILLION DOLLARS AND THEY WANTED THEIR  
10 MONEY, WHICH THEY WERE ENTITLED TO, SO I HAD TO FORM A  
11 COLLECTION AGENCY TO TRY TO GET BACK THE FUNDS THAT WERE OWED  
12 TO ME AND TO THE BANKS SO, NATURALLY, I HAD TO HAVE ATTORNEYS  
13 GET JUDGMENTS, FILE CASES, FILE AGAINST PEOPLE.

14 MR. BARENS: WELL, HOW DO YOU FEEL ABOUT LAWYERS AFTER  
15 THAT EXPERIENCE OR ALL OF THOSE EXPERIENCES?

16 MS. FARKAS: WELL, MY FEELING ABOUT ATTORNEYS IS A VERY  
17 POSITIVE ONE.

18 MR. BARENS: ALL RIGHT, IN THE UNFORTUNATE INCIDENT  
19 IN 1965, DURING THOSE, WHAT WE WILL CALL RIOTS, ALTHOUGH I  
20 AM NOT JUDGING IT AS BEING A RIOT BUT LET'S SAY IT IS  
21 CONVENTIONALLY REFERRED TO AS THE RIOTS OF 1965, YOUR  
22 BUSINESS WAS LOST ENTIRELY?

23 MS. FARKAS: YES.

24 MR. BARENS: THAT WAS A VERY TRAUMATIC THING FOR YOU.

25 MS. FARKAS: VERY.

26 MR. BARENS: AND FOR YOUR WHOLE FAMILY.

27 SO YOU SAW ALL THAT HORRIBLE CONDUCT ON TELEVISION?

28 MS. FARKAS: UH-HUH.



23-4

1 MR. BARENS: SO I ASK YOU TRUE, AND I DO NOT JUDGE YOUR  
2 ANSWER, MRS. FARKAS, I SIMPLY ASK YOU TRUE: DO YOU HAVE ANY  
3 MISGIVINGS ABOUT BLACK PEOPLE AS A RESULT OF THAT?

4 MS. FARKAS: AH, I HAVE TO SAY IT WITH RESERVATION BECAUSE  
5 I WAS INVOLVED WITH MANY BLACK PEOPLE AND I CAN SAY THAT MANY  
6 OF THEM WERE VERY FINE. I CAN ALSO SAY THAT MANY OF THEM  
7 WERE NOT.

8 MR. BARENS: QUITE THE SAME WITH WHITE PEOPLE, RIGHT?

9 MS. FARKAS: RIGHT.

10 MR. BARENS: NOW I ASK YOU TRUE, MRS. FARKAS, IF YOU  
11 ARE A MEMBER OF THIS JURY AND THERE WERE OTHER PEOPLE ON THIS  
12 JURY THAT WERE BLACK PEOPLE, WOULD YOU THINK ANY LESS OF THEM --

13 MS. FARKAS: NO, NO.

14 MR. BARENS: -- AND THEIR OPINIONS?

15 MS. FARKAS: NO, NO. I JUDGE PEOPLE BY WHAT I FEEL  
16 THEY ARE, HOPEFULLY. I GIVE EVERYONE ACTUALLY THE BENEFIT  
17 OF THE DOUBT UNTIL THEY PROVE THEMSELVES BEYOND A QUESTION  
18 OF A DOUBT THAT THEY ARE NOT WHAT I THOUGHT THEY WERE.

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1 MR. BARENS: ALL RIGHT, DO YOU, AS YOU SIT THERE TODAY,  
2 HAVE ANY BIAS ONE WAY OR ANOTHER TOWARD THE PROSECUTION OR  
3 THE DEFENSE?

4 MS. FARKAS: NO, NOT AT ALL.

5 MR. BARENS: DO YOU HAVE A FEELING THAT YOUNG MR. HUNT  
6 HERE MUST HAVE DONE SOMETHING OR WE WOULDN'T BE HERE WITH  
7 HIS LAWYER AND ON TRIAL FOR MURDER?

8 MS. FARKAS: WELL, HE IS HERE TO PROVE -- IT HAS TO  
9 BE PROVEN THAT HE IS HERE BECAUSE HE HAS COMMITTED A CRIME.  
10 IT HAS TO BE PROVEN BEYOND A REASONABLE DOUBT.

11 MR. BARENS: ALL RIGHT. WE ALMOST SAID, DIDN'T WE,  
12 THAT MR. HUNT HAD TO PROVE SOMETHING?

13 MS. FARKAS: NO, NO, NO.

14 MR. BARENS: YOU MEANT TO SAY THAT?

15 MS. FARKAS: OH, NO.

16 BECAUSE I REMEMBER THE COCOON.

17 MR. BARENS: QUITE SO, I SHOULD HOPE THAT YOU WOULD.  
18 THAT IS AN IMPORTANT THING, ISN'T IT?

19 MS. FARKAS: YES.

20 MR. BARENS: ALL RIGHT. AND YOU WOULD REMEMBER THAT  
21 THROUGHOUT THESE PROCEEDINGS?

22 MS. FARKAS: OH, YES, YES.

23 MR. BARENS: DO YOU HAVE ANY HOBBIES?

24 MS. FARKAS: I PLAY BRIDGE.

25 MR. BARENS: AND YOU REMEMBER WHEN I TALKED ABOUT BRIDGE,  
26 THAT WHAT WE ARE DOING HERE IS WE ARE NOT TRYING TO ANTICIPATE  
27 WHAT THE OTHER GUY IS HOLDING OR WHAT IS GOING TO HAPPEN.  
28 WE HAVE TO ACTUALLY MAKE ALL OUR JUDGMENTS JUST ON WHAT IS

3A-2  
1 SEEN FROM THAT JURY BOX, RIGHT?

2 MS. FARKAS: UH-HUH, YES, SIR.

3 MR. BARENS: NOT ON ASSUMPTION.

4 MS. FARKAS: NO, NOT ON AN ASSUMPTION, NO -- YES, SOME  
5 ASSUMPTION, I GUESS.

6 MR. BARENS: WELL --

7 MS. FARKAS: ASSUMING, YES, A LITTLE.

8 MR. BARENS: A LITTLE?

9 MS. FARKAS: A LITTLE.

10 MR. BARENS: WELL, WHEN WE MAKE OUR DECISIONS ON THE  
11 FACTS AND THE TESTIMONY THAT IS DIRECTED IN THE COURTROOM,  
12 YOU WON'T CONVICT ANYBODY BECAUSE YOU HAD A FEELING THEY WERE  
13 GUILTY, WOULD YOU?

14 MS. FARKAS: NO, NOT ON A FEELING, NO.

15 MR. BARENS: YOU WOULD ONLY CONVICT SOMEBODY ON FACTS  
16 ESTABLISHED BEYOND A REASONABLE DOUBT?

17 MS. FARKAS: EXACTLY, YES.

18 MR. BARENS: ASIDE FROM BRIDGE, DO WE HAVE ANY HOBBIES?

19 MS. FARKAS: I READ.

20 MR. BARENS: ANYTHING IN PARTICULAR YOU LIKE TO READ,  
21 MRS. FARKAS?

22 MS. FARKAS: HISTORICAL NOVELS OR JUST ANY WELL WRITTEN  
23 NOVEL.

24 MR. BARENS: DO YOU REMEMBER THE LAST BOOK YOU READ?

25 MS. FARKAS: WELL, ONE OF THEM WAS "CAIN AND ABEL,"  
26 I THOUGHT IT WAS VERY WELL WRITTEN.

27 MR. BARENS: AND YOU BELONG TO SOME ORGANIZATIONS, DON'T  
28 YOU, MRS. FARKAS?

231-3  
1 MS. FARKAS: YEAH, LIKE ABOUT 15.

2 MR. BARENS: COULD YOU JUST GIVE ME MAYBE THE NAMES  
3 OF THREE, REPRESENTING THE THREE THAT YOU WOULD ACTUALLY SPEND  
4 MOST OF YOUR TIME ON? NOT THAT YOU CONTRIBUTE TO OR SUBSCRIBE  
5 TO THEIR LITERATURE BUT, RATHER, WHAT YOU WOULD ACTUALLY  
6 PARTICIPATE WITH.

7 MS. FARKAS: ALL RIGHT. I AM THE TREASURER OF THE  
8 RED MAGEN DAVID FOR ISRAEL AND THEY FURNISH SOME BLOOD AND  
9 THE AMBULANCES FOR THE COUNTRY.

10 MR. BARENS: AND WHAT ELSE WOULD YOU BE ACTIVE IN, MA'AM?

11 MS. FARKAS: THE LOS ANGELES HEBREW HIGH SCHOOL, WHICH  
12 MY HUSBAND KEPT ON IN FACT FOR 20 YEARS AND WHICH IS VERY  
13 IMPORTANT IN THIS COMMUNITY.

14 THE UNIVERSITY OF JUDAISM AND MY TEMPLE.

15 MR. BARENS: SO YOU ARE ACTIVE IN THOSE, YOU ACTIVELY  
16 PARTICIPATE IN THEIR FUNDRAISING AND IN THEIR VARIOUS  
17 ACTIVITIES?

18 MS. FARKAS: YES, YES.

19 MR. BARENS: HAVE YOU EVER BEEN INVOLVED IN ANY SORTS  
20 OF SPORTS?

21 MS. FARKAS: NO.

22 MR. BARENS: THE LADY, MRS. SOMMER, WHO WAS IN THE SEAT  
23 YOU WERE IN A LITTLE WHILE AGO, SHE TOLD US SHE LIKED TO SWIM  
24 A LOT.

25 MS. FARKAS: YES.

26 MR. BARENS: INDEED, SHE COULD SWIM WELL OVER A MILE  
27 AND MR. WAPNER INQUIRED IF SHE COULD SWIM TO CATALINA AND  
28 SHE SAID SHE DIDN'T THINK SO, AT LEAST TODAY; DO YOU REMEMBER

3A-4  
1 THAT?

2 MS. FARKAS: YES.

3 MR. BARENS: DO YOU REMEMBER WHEN MR. WAPNER WAS  
4 TALKING TO MR. WHITFIELD ABOUT IF HE WAS ON THE RAIDERS  
5 SUDDENLY TODAY IF HE COULD GAIN A HUNDRED YARDS?

6 MS. FARKAS: YES.

7 MR. BARENS: DO YOU EVER WATCH FOOTBALL?

8 MS. FARKAS: I AM NOT INTERESTED, REALLY.

9 MR. BARENS: ALL RIGHT. WE ARE GOING TO HAVE TO DO  
10 THIS WITH SOMEONE ELSE THEN BECAUSE I DON'T THINK -- WELL,  
11 I AM GOING TO WITHDRAW THAT.

12 MS. FARKAS: I AM NOT SPORTS-MINDED, REALLY.

13 MR. BARENS: I AM GOING TO WITHDRAW THAT SERIES FOR  
14 A MOMENT.

15 DO YOU HAVE ANY QUESTIONS ABOUT ANYTHING YOU HAVE  
16 HEARD SO FAR ABOUT ANY OF THE EXAMPLES YOU HAVE HEARD OR  
17 ANYTHING I SEEM TO BE DOING?

18 MS. FARKAS: NO.

19 I THINK YOU ARE CONDUCTING YOURSELVES VERY  
20 ADMIRABLY AND I HAVE NO SERIOUS ARGUMENT WITH ANYTHING YOU  
21 HAVE SAID.

22 MR. BARENS: COULD YOU IMAGINE ANYTHING THAT YOU MIGHT  
23 SUGGEST THAT WOULD MAKE A TRIAL OF THIS NATURE MORE FAIR OR  
24 SOMETHING YOU COULD UNDERSTAND BETTER?

25 MS. FARKAS: NO.

26 MR. BARENS: YOU ACCEPT THE SYSTEM PRETTY MUCH AS IT IS?

27 MS. FARKAS: YES, I DO.

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28

24-1  
1 MR. BARENS: HOW ABOUT THAT BUSINESS ABOUT THE BILLIONAIRE  
2 BOYS CLUB? DO YOU THINK THERE IS ANYTHING SUSPICIOUS OR  
3 PECULIAR?

4 MS. FARKAS: NO. NO, I HAVE ALWAYS ADMIRER PEOPLE THAT  
5 ASPIRE TO THINGS. AND I THINK THAT YOU SAID SOMETHING ABOUT  
6 THE HARVARD SCHOOL.

7 MR. BARENS: YES, OUT IN THE VALLEY, THERE?

8 MS. FARKAS: UH-HUH. WELL, I HAVE A GRANDSON WHO  
9 GRADUATED FROM THERE.

10 MR. BARENS: DO YOU RECALL WHEN HE GRADUATED FROM THERE?

11 MS. FARKAS: YES, LAST JUNE.

12 MR. BARENS: LAST JUNE? SO YOUR GRANDSON IS ROUGHLY,  
13 18?

14 MS. FARKAS: RIGHT.

15 MR. BARENS: ALL RIGHT. I PASS FOR CAUSE. THANK YOU,  
16 MRS. FARKAS.

17 THE COURT: ALL RIGHT.

18 MR. WAPNER: BEFORE I BEGIN, CAN I ASK THAT WE ALLOW  
19 MRS. FARKAS TO COME TO THE BENCH? THERE ARE THINGS THAT SHE  
20 ALLUDED TO THAT SHE MIGHT WANT TO DISCUSS IN PRIVATE.

21 I ASSUME THAT COUNSEL MIGHT WANT TO HAVE SOME  
22 QUESTIONS ABOUT THOSE, ALSO.

23 MR. BARENS: I STIPULATE TO THAT, YOUR HONOR.

24 THE COURT: ALL RIGHT. MRS. FARKAS, PLEASE APPROACH  
25 THE BENCH.

26 (THE FOLLOWING PROCEEDINGS WERE HELD

27 AT THE BENCH:)

28 THE COURT: YES?

4-2  
1 MR. WAPNER: MRS. FARKAS, YOU TOLD US THAT THERE WERE  
2 SOME OTHER APPARENT CRIMES THAT YOU WERE THE VICTIM OF?

3 MS. FARKAS: YES.

4 MR. WAPNER: COULD YOU TELL US ABOUT THAT, PLEASE?

5 MS. FARKAS: YES. I HAD A LITTLE COLLECTION AGENCY.  
6 I HIRED PEOPLE TO GO OUT AND MAKE CALLS TO GET THE MONEY IN.  
7 LET ME SEE -- WHERE DO I START? WELL, ONE OF THE INCIDENTS,  
8 I HAD TO GO TO MY CAR AND ONE OF THE YOUNG MEN THAT WAS  
9 WORKING FOR ME HAD TO GO TO HIS. HE WAVED GOOD-BY.

10 SOMEBODY CAME AROUND THE CAR AND PULLED OVER AND  
11 OPENED THE DOOR AND GRABBED MY PURSE AND GOT AWAY WITH ABOUT  
12 \$1,000 AT THAT TIME.

13 THEN, THE NEXT WEEK, YOU SEE HE KNEW THAT I WAS  
14 COLLECTING MONEY. AND THE NEXT WEEK, THREE ARMED MEN CAME  
15 INTO OUR PLACE OF BUSINESS AND HAD EVERYBODY LIE DOWN ON THE  
16 GROUND AND POINTED THE GUN TO MY HEAD, WANTING MONEY.

17 WELL, I HAD PUT MY VALUABLES -- I HAD SOME NICE  
18 THINGS. I PUT THEM AWAY IN THE VAULT AFTER THE FIRST  
19 ROBBERY. BUT, THEY STOLE ALL OF THE MENS' WATCHES AND RINGS.  
20 BUT THEY COULDN'T STEAL MINE BECAUSE I DIDN'T HAVE THEM ON.

21 BUT IN MY PURSE, I HAD DECIDED TO LEAVE \$100,  
22 SO THAT IN CASE SOMEBODY ROBBED ME, THERE WOULD BE SOMETHING  
23 THERE.

24 AND HE HELD THE GUN TO -- WELL, WE ALL LAY DOWN  
25 ON THE GROUND. HE HELD HIS GUN TO MY HEAD AND WANTED MONEY.  
26 I SAID THAT IT WAS IN MY PURSE, TO TAKE IT.

27 HE WAS NOT HAPPY WITH WHAT HE GOT. AND HE EXAMINED  
28 UNDERNEATH THE BOOKCASE AND UNDER EVERYWHERE.

24-3  
1 HE WAS STANDING RIGHT NEAR THE MONEY, ACTUALLY.  
2 I DIDN'T TELL HIM WHERE IT WAS. I FELT THAT HE WAS GOING  
3 TO KILL ME WHETHER I WOULD TELL HIM WHERE THE MONEY WAS OR  
4 NOT.

5 THE COURT: WELL, WHY WERE YOU HESITANT --

6 MS. FARKAS: WELL, IT WAS ALL JUST VERY DISTRESSING.

7 THE COURT: JUST VERY DISTURBING?

8 MS. FARKAS: THEN I HAD A PERSON WHO WORKED FOR ME STEAL  
9 A CHECK OUT OF MY PURSE AND IT CASHED FOR ABOUT \$500. THE  
10 BANK CALLED ME.

11 SHE WAS IN CAHOOTS WITH SOMEBODY. AND THEY CALLED  
12 ME THAT I WAS OVERDRAWN. BUT I KNEW THAT I COULDN'T BE  
13 OVERDRAWN. SHE DIDN'T TRY TO COPY MY SIGNATURE OR ANYTHING.  
14 IT WAS A STATE CHECK.

15 BUT I HAD A LITTLE CURLICUE BY THE MONEY THAT  
16 I ONLY USED WITH HER CHECKS BECAUSE I DIDN'T TRUST HER AT  
17 ANY POINT.

18 AND OF COURSE, THEY HAD MY SIGNATURE. IT WAS  
19 NOT THE SAME. SO I WAS NOT LIABLE FOR THE MONEY.

20 BUT IN THE MEANTIME, THAT HAD OCCURRED.

21 AND THEN FROM THE OTHER ROBBERY, THEY HAD -- THE  
22 DETECTIVE KEPT BOTHERING ME ABOUT THE CHECKS. WELL, I JUST  
23 HAD A NEW BATCH OF CHECKS IN MY PURSE. AND THE ROBBER OR  
24 WHATEVER YOU CALL IT, THE BURGLAR OR THE ROBBER, THEY TOOK  
25 THOSE CHECKS. THEY USED THE CREDIT CARDS FROM THE BANK OF  
26 AMERICA, ALL OVER THE CITY AND THE STATE. THEY CASHED ABOUT  
27 TWO OR THREE THOUSAND DOLLARS ON MY ACCOUNT.

28 BUT THE DETECTIVE CALLED ME AND INSISTED THAT



1 I -- TOLD ME TO IMMEDIATELY GO TO THE BANK THAT DAY, THAT  
2 MORNING.

3 THE ROBBERY WAS ON SATURDAY. I WENT TO THE BANK  
4 IMMEDIATELY TO CHECK MY ACCOUNT NUMBER, WHICH I DID. SO I  
5 WAS NOT LIABLE FOR THAT.

6 THEN THE MERCHANDISE WE HAD, IT WAS AGREED WITH  
7 THE ATTORNEYS -- I HAD A LOT OF PEOPLE AND ATTORNEYS. THERE  
8 WAS A MEETING CALLED AND THE ATTORNEYS AND MYSELF AND THE  
9 INSURANCE MAN, THEY ALL SEEMED TO THINK THAT I SHOULD HAVE  
10 AN ADJUSTMENT MADE BY AN INSURANCE ADJUSTER.

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1 WELL, THAT WAS AGREED UPON AND THEY WOULD CHARGE  
2 \$10,000 WHICH WAS AGREED UPON. HE SENT HIS BROTHER TO ME AND  
3 TOOK OUT OF THE PLACE, THE MERCHANDISE THAT WAS NOT CARRIED  
4 AWAY, LIKE REFRIGERATORS AND STOVES AND \$25,000 WORTH THAT  
5 HE WAS GOING TO PUT IN THE WAREHOUSE TO SAVE AND GUARD FOR  
6 ME.

7 I NEVER SAW A PENNY OF THAT.

8 MR. WAPNER: WAS THAT THE ADJUSTER OR THE LAWYER?

9 MS. FARKAS: THE ADJUSTERS AND THE BROTHER CAME TO ME.  
10 I COULD NEVER MAKE CONTACT WITH ANY OF THEM THEREAFTER.

11 THE COURT: ALL RIGHT. THOSE ARE VERY DISTRESSING  
12 SITUATIONS. BUT DO YOU THINK THAT IT WOULD DISQUALIFY YOU  
13 FROM BEING A JUROR IN THIS CASE?

14 MS. FARKAS: I DON'T THINK SO. I DON'T THINK MY  
15 SITUATION HAS ANYTHING TO DO WITH THIS.

16 THE COURT: HAVING BEEN A CONSTANT VICTIM, WOULD THAT  
17 IN ANY WAY IDENTIFY YOU WITH ANY VICTIM IN THIS CASE?

18 MS. FARKAS: IT STILL HURTS.

19 THE COURT: YES. I UNDERSTAND. DO YOU FEEL THAT IT  
20 WOULD DISQUALIFY YOU?

21 MS. FARKAS: NO. I DON'T THINK SO.

22 THE COURT: ALL RIGHT. THANK YOU. ANYTHING ELSE?

23 MR. WAPNER: BRIEFLY, YOUR HONOR. IF I MIGHT, MS.  
24 FARKAS. THE PEOPLE WHO ROBBED YOU ON THE STREET AND THEN AGAIN  
25 IN THE COLLECTION AGENCY --

26 MS. FARKAS: NOT ON THE STREET.

27 MR. WAPNER: WHEN YOU WERE IN YOUR CAR?

28 MS. FARKAS: NO, I WAS NOT IN THE STREET. I WAS IN THE

1 PARKING LOT IN BACK OF THE PLACE THAT I WAS USING AS A  
2 COLLECTION AGENCY.

3 THE COURT: WERE THEY BLACK OR WHITE?

4 MR. WAPNER: WERE THEY BLACK?

5 MS. FARKAS: THEY WERE BLACK.

6 MR. WAPNER: HOW ABOUT THE PEOPLE THAT CAME INTO THE  
7 STORE?

8 MS. FARKAS: BLACK. THE GIRL THAT STOLE THE CHECK FROM  
9 ME WAS BLACK.

10 THE COURT: ALL RIGHT.

11 MS. FARKAS: I HAD SOME BAD EXPERIENCES.

12 MR. WAPNER: LET ME ASK YOU A QUESTION. MR. BARENS WILL  
13 CORRECT ME IF I DON'T PHRASE THIS ENTIRELY PROPERLY.

14 MS. FARKAS: OKAY.

15 MR. WAPNER: THERE MAY BE SOME EVIDENCE IN THIS CASE  
16 THAT A PERSON ASSOCIATED WITH MR. HUNT WAS BLACK.

17 MS. FARKAS: UH-HUH.

18 MR. WAPNER: AND THERE MAY BE SOME EVIDENCE THAT THAT  
19 PERSON PARTICIPATED OR IS ALLEGED TO HAVE PARTICIPATED IN THE  
20 CRIMES INVOLVED.

21 IS THAT FACT, IF YOU DECIDE THAT THAT PERSON WAS  
22 IN FACT, ASSOCIATED WITH MR. HUNT AND THAT THAT PERSON WAS  
23 BLACK -- HOW IS THAT GOING TO AFFECT YOU IN BEING FAIR?

24 MS. FARKAS: I DON'T THINK I HAVE ANY DIFFERENT OPINION  
25 AS I WOULD HAVE PRIOR TO ALL OF THIS. BECAUSE MY FEELING ABOUT  
26 BLACK PEOPLE WAS A VERY POSITIVE ONE.

27 YOU SEE, MY HUSBAND CONDUCTED A VERY BEAUTIFUL  
28 BUSINESS. AND YOU KNOW, OUR RELATIONSHIP WAS A VERY GOOD ONE.

1 MR. BARENS: MAY I ASK YOU THIS, IF I MIGHT, YOUR HONOR?  
2 I DID HAVE A QUESTION.

3 THE COURT: YES.

4 MR. BARENS: FOLLOWING UP ON MR. WAPNER'S QUESTION, WOULD  
5 YOUR EXPERIENCES AND YOUR HUSBAND'S EXPERIENCES MAKE IT  
6 BELIEVABLE TO YOU THAT A BLACK PERSON MIGHT BE MORE LIKELY  
7 TO COMMIT A VIOLENT CRIME THAN A WHITE PERSON WOULD?

8 THE COURT: NOW, BE FRANK. I ASK YOU TO BE TRUTHFUL.

9 MS. FARKAS: YES. WELL, THIS IS MY FEELING. IT MIGHT  
10 WELL -- I MIGHT AS WELL BE HONEST WITH YOU.

11 MR. BARENS: PLEASE, MISS FARKAS. IT IS VERY IMPORTANT.

12 MS. FARKAS: YES. I KNOW. I FEEL THAT THERE IS MORE  
13 VIOLENCE AMONG THEM THAN OURSELVES. BUT WE HAVE PLENTY OF  
14 BAD THINGS, OURSELVES. BUT WE HAVE A LOT LESS.

15 MR. BARENS: ALL RIGHT.

16 MR. FARKAS: I AM BEING HONEST.

17 THE COURT: SURE.

18 MR. BARENS: ARE YOU TELLING ME MISS FARKAS, IN YOUR  
19 HEART OF HEARTS, YOU BELIEVE THAT A BLACK PERSON WOULD BE MORE  
20 LIKELY TO COMMIT A VIOLENT CRIME THAN A WHITE PERSON?

21 MS. FARKAS: WELL, I HAVE HEARD OF SO MANY ROTTEN THINGS  
22 HAPPENING BY READING THE PAPERS --

23 THE COURT: WOULD THAT MAKE YOU CONCLUDE THAT THEY ARE  
24 MORE APT TO COMMIT VIOLENT CRIMES THAN WHITE PERSONS? BE  
25 FRANK.

26 MS. FARKAS: SOME OF THE THINGS THAT I HAVE HEARD --

27 MR. BARENS: IT IS OKAY.

28 MS. FARKAS: I HAVE HEARD IT AND I HAVE READ IT. I

1 DON'T KNOW. I DON'T THINK SO. I AM NOT BIASED.

2 I AM NOT BIASED.

3 MR. BARENS: WELL, I --

4 MS. FARKAS: I WOULD RATHER LIKE THAN DISLIKE.

5 MR. BARENS: I QUITE WELL UNDERSTAND, MISS FARKAS.

6 MISS FARKAS, WHAT I AM CONCERNED ABOUT, MISS FARKAS, IS THAT  
7 YOU SEE, SOMETIMES WHEN A LOT OF BAD THINGS HAVE HAPPENED TO  
8 YOU AND THEY ARE ALL DONE BY BLACK PEOPLE, IT WOULD BE  
9 UNDERSTANDABLE TO ME THAT YOU MIGHT BE SUSPICIOUS OF BLACK  
10 PEOPLE.

11 MS. FARKAS: YES, SUSPICIOUS. YES.

12 MR. BARENS: AND THEY MIGHT BE MORE LIKELY THAN A WHITE  
13 GUY TO HAVE DONE SOMETHING WRONG, IF PEOPLE WERE ACCUSED  
14 AND --

15 MS. FARKAS: TODAY I AM VERY SUSPICIOUS OF EVERYBODY.  
16 I AM SORRY TO SAY THIS.

17 THE COURT: ALL RIGHT.

18 MS. FARKAS: I AM VERY SUSPICIOUS.

19 MR. BARENS: I WAS NOT QUITE THROUGH WITH THE QUESTION.

20 THE COURT: GO AHEAD.

21 MR. BARENS: IF TWO PEOPLE WERE ACCUSED OF COMMITTING  
22 THE SAME CRIME AND ONE WAS BLACK AND ONE WAS WHITE --

23 MS. FARKAS: I WOULDN'T FAVOR ONE OR THE OTHER.

24 MR. BARENS: YOU WOULD NOT?

25 MS. FARKAS: NO, NO.

26 MR. BARENS: DO YOU MEAN THAT IN YOUR HEART OF HEARTS?

27 MS. FARKAS: POSITIVELY. THAT GOES WITHOUT SAYING  
28 ANYTHING. I AM A FAIR PERSON.

1 THE COURT : ALL RIGHT. YOU CAN CONTINUE ON IN THE  
2 GENERAL VOIR DIRE, ALONG OTHER LINES.

3 MR. BARENS: YOUR HONOR, COULD THE DEFENDANT SPEAK WITH  
4 YOUR HONOR AFTER MR. WAPNER, RELATIVE TO OUR CAUSE CHALLENGE?

5 THE COURT: YOUR WHAT?

6 MR. BARENS: TO A CAUSE CHALLENGE.

7 THE COURT: YES, SURE.

8 MR. BARENS: IF WE COULD RESERVE THAT, PLEASE?

9 THE COURT: YES.

10 MS. FARKAS: IF YOU THINK I AM NOT QUALIFIED --

11 MR. BARENS: NO, NO, MRS. FARKAS. IT IS ALL RIGHT.

12 (THE FOLLOWING PROCEEDINGS WERE HELD IN  
13 OPEN COURT:)

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

3 THE COURT: I AM SORRY TO KEEP YOU ALL WAITING.

4 ALL RIGHT, MR. WAPNER.

5 MR. WAPNER: MRS. FARKAS, JUST BECAUSE SOMEONE SAYS  
6 SOMETHING DOESN'T NECESSARILY MEAN IT IS TRUE; ISN'T THAT  
7 THE CASE?

8 MS. FARKAS: CORRECT.

9 MR. WAPNER: YOU ARE PROBABLY AWARE THROUGH THE  
10 ORGANIZATIONS YOU BELONG TO, PAINFULLY AWARE, THAT THERE ARE  
11 GROUPS IN THIS COUNTRY WHO SAY THAT THE HOLOCAUST DIDN'T EXIST.

12 MS. FARKAS: OH, YES, DEFINITELY.

13 MR. WAPNER: THE FACT THAT THEY SAY THAT DOESN'T MEAN  
14 IT IS TRUE, RIGHT?

15 MS. FARKAS: NO.

16 MR. WAPNER: I THINK WHAT YOU WERE SAYING ABOUT WANTING  
17 TO HEAR FROM THE DEFENDANT MIGHT BE SOMETHING THAT A LOT OF  
18 PEOPLE HAVE BEEN THINKING AND NOT SAYING.

19 IF YOU GO THROUGH THIS TRIAL --

20 MS. FARKAS: UH-HUH.

21 MR. WAPNER: -- AND THE PEOPLE PUT ON THEIR CASE AND  
22 THEN THE DEFENSE PUTS ON ITS CASE AND THE DEFENDANT DOESN'T  
23 TESTIFY AND THEN YOU GO INTO THE JURY ROOM TO DELIBERATE,  
24 DO YOU THINK THAT YOU WOULD BE CURIOUS ABOUT WHAT HE WOULD  
25 HAVE SAID IF HAD TESTIFIED?

26 MS. FARKAS: YES, I THINK I WOULD BE CURIOUS BUT THAT  
27 WOULDN'T CHANGE MY OPINION.

28 MR. WAPNER: RIGHT.

25-2  
1 DON'T YOU THINK IT IS NATURAL TO BE CURIOUS?

2 MS. FARKAS: YES, YES.

3 MR. WAPNER: LET'S SAY THAT THE TRIAL TAKES A COUPLE  
4 OF MONTHS AND THEN YOU ARE SITTING THERE AND YOU ARE LOOKING  
5 AT THE DEFENDANT THE WHOLE TIME.

6 MS. FARKAS: THAT'S RIGHT.

7 MR. WAPNER: AND THE WHOLE TIME YOU ARE THINKING, GEE,  
8 I WOULD LIKE TO HEAR WHAT HE HAS TO SAY, AND THEN YOU DON'T  
9 HEAR.

10 MS. FARKAS: YES.

11 MR. WAPNER: DON'T YOU THINK IT WOULD BE NATURAL TO  
12 BE CURIOUS?

13 MS. FARKAS: WELL, I THINK SO.

14 MR. WAPNER: THE NEXT PART OF THAT IS, THE JUDGE IS  
15 THEN GOING TO TELL YOU THAT EVEN IF YOU ARE CURIOUS, YOU CAN'T  
16 CONSIDER FOR ANY PURPOSE THE FACT HE DIDN'T TESTIFY, YOU CAN'T  
17 HOLD THAT AGAINST HIM.

18 MS. FARKAS: NO.

19 MR. WAPNER: CAN YOU FOLLOW THAT INSTRUCTION IF THE  
20 JUDGE GIVES IT TO YOU?

21 MS. FARKAS: OH, YES, YES, YES.

22 MR. WAPNER: HAVE YOU FINALLY CEASED YOUR EFFORTS TO  
23 RECOUP THE BALANCE OF THE HALF A MILLION DOLLARS?

24 MS. FARKAS: OH, WELL, THAT IS ANOTHER STORY.

25 MR. WAPNER: WELL, GO AHEAD.

26 MS. FARKAS: IF YOU WANT TO HEAR IT, I WILL TELL YOU.

27 WELL, THE BANK FINALLY GOT TIRED OF WAITING. THEY  
28 DIDN'T FEEL I WAS COLLECTING IT FAST ENOUGH FOR THEM, IN



5-3  
1 SPITE OF THE FACT THAT I HAD OUTSIDE COLLECTORS AND PEOPLE  
2 WORKING TO TRY TO GET IT, AND A MEETING WAS CALLED DOWNTOWN  
3 AT THE SECURITY NATIONAL BANK WHO WE DEALT WITH AND THERE  
4 WERE ABOUT SIX ATTORNEYS, A COUPLE FROM THE BANK AND A COUPLE  
5 FROM MY SIDE, AND ALSO, I MIGHT SAY, THAT THE RABBI HAD SENT  
6 ME AN ANGEL WHO WAS TO HELP ME -- BEFORE MY HUSBAND DIED,  
7 IT BEING A SIZABLE BUSINESS, HE IS TO BE ABLE TO GET ME OUT  
8 OF THE BUSINESS WITH MY ASSETS AND, OF COURSE PAY OFF THE  
9 BANK AND ALL OF THAT AND TURN OVER THE BUSINESS TO WHOEVER.

10 WELL, ANYHOW, THAT WAS ALL DESTROYED IN THE RIOTS  
11 AND EVERYTHING AND THESE PLANS DID NOT GO THROUGH. AND WE  
12 FINALLY CAME TO THE POINT WHERE WE WERE AT THE SECURITY NATIONAL  
13 BANK BUILDING DOWNTOWN. WELL, THEY ALL TALKED, ALL OF THE  
14 ATTORNEYS AND I SAID NOTHING. AND AT NOON I WAS TOLD TO  
15 LEAVE AND THE ATTORNEYS AND THIS MAN, WHO IS VERY FAMOUS IN  
16 THE CITY, A MULTIMILLIONAIRE, BUT I DON'T LIKE TO TALK ABOUT  
17 THAT TYPE OF PERSON -- HE REALLY ATTAINED IT -- AND LATER,  
18 LET ME SEE, WHO CALLED ME -- MY ATTORNEY CALLED ME AND HE  
19 TOLD ME THAT THE BANK HAD MADE -- THEY REFUSED TO MAKE A  
20 SETTLEMENT ON THAT HALF A MILLION DOLLARS, THEY NEVER MADE  
21 ONE, THEY SAID, AND THEY WEREN'T GOING TO MAKE ONE.

22 WELL, ANYHOW, THEY FINALLY CAME TO A SETTLEMENT  
23 AND THIS PERSON THAT WAS TO HELP ME, HE PUT UP THAT MONEY  
24 TO THE BANK TO GET THEM OFF MY NECK AND I PAID HIM BACK WHEN  
25 I COLLECTED THE MONEY.

26 MR. WAPNER: SO EVENTUALLY, YOU DID COLLECT THE MONEY  
27 AND PAY HIM BACK?

28 MS. FARKAS: I NEVER COLLECTED THE MONEYS BUT WE HAD

1 JUDGMENTS, MANY, MANY JUDGMENTS, OF COURSE AND THEY ALL WERE  
2 LOST. I NEVER COLLECTED ALL OF THE MONEY THAT WAS OUTSTANDING  
3 BUT THE BANK GOT PAID AND THIS MAN GOT PAID AND THEN WHEN  
4 THE FUNDS BECAME MY FUNDS, THIS MAN IS AN INVESTOR, A  
5 BUSINESS INVESTOR FOR MANY STARS, INCLUDING BURT LANCASTER  
6 FOR THE LAST 30 YEARS, AND I ASKED HIM ONE TIME WHAT TO DO  
7 WITH THE LITTLE MONEY THAT I GOT BACK ON MY OWN, BECAUSE I  
8 TRUSTED NOBODY, AND HE INVESTED IT FOR ME.

9 HE CALLED HIS BROKER AND HE SAID "BUY THIS AND  
10 BUY THIS FOR ME" AND THEN HE DID THAT FOR ME AND THROUGH THE  
11 20 YEARS OF THIS, HE HAS NEVER CHARGED ME FOR THE SERVICES  
12 AND HAS GIVEN ME PEACE OF MIND AND FUNDS.

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1 THE COURT: I THINK ON THAT NOTE, WE WILL STOP THIS  
2 INTERROGATION ABOUT THIS PARTICULAR DEAL. WOULD YOU GO ON  
3 TO SOMETHING ELSE?

4 MS. FARKAS: YES. OKAY.

5 MR. WAPNER: YOUR HONOR, BECAUSE OF ITS RELEVANCE TO  
6 THE PART OF THIS CASE THAT HAS TO DO WITH INVESTMENTS, MIGHT  
7 I INQUIRE ABOUT THAT?

8 THE COURT: ABOUT THE INVESTMENTS?

9 MR. WAPNER: RIGHT.

10 THE COURT: GO AHEAD.

11 MR. WAPNER: THANK YOU.

12 I AM NOT -- THE REASON I AM ASKING IS BECAUSE OF  
13 SOMETHING THAT MAY COME UP IN THIS CASE HAVING TO DO IN THIS  
14 CASE WITH COMMODITIES TRADING.

15 MS. FARKAS: UH-HUH, I DON'T KNOW ANYTHING ABOUT  
16 COMMODITIES.

17 MR. WAPNER: THIS PERSON INVESTED MONEY FOR YOU; IS THAT  
18 RIGHT?

19 MS. FARKAS: HE DID NOT HANDLE IT AT ALL.

20 HE SIMPLY CALLED HIS BROKER AND TOLD HIM TO BUY  
21 THIS AND BUY THIS FOR ME. THE BROKER WOULD SEND ME A NOTICE  
22 AND I WOULD SEND THE FUNDS TO THE BROKER.

23 MR. WAPNER: ALL RIGHT. BUT YOU TRUSTED THE PERSON YOU  
24 WERE DEALING WITH TO MAKE THE RIGHT DECISION BY CALLING HIS  
25 BROKER?

26 MS. FARKAS: OF COURSE.

27 MR. WAPNER: SO YOU DIDN'T DO ANY OF THE INVESTING YOUR-  
28 SELF?

25A-2

1 MS. FARKAS: NOT ONE PENNY. I DON'T TRUST MYSELF FOR  
2 INVESTMENTS.

3 MR. WAPNER: AND THIS MAN THAT YOU ARE TALKING ABOUT  
4 IS THE ANGEL THAT YOU REFERRED TO?

5 MS. FARKAS: UH-HUH, YES.

6 MR. WAPNER: THE ONLY OTHER THING I HAVE IS, IF YOU ARE  
7 ON THIS JURY, CAN YOU MAKE US ALL ONE PROMISE, WHEN WE TAKE  
8 A BREAK YOU WILL COME BACK FROM RECESS ON TIME?

9 MS. FARKAS: I CERTAINLY WILL TRY.

10 MR. WAPNER: ALL RIGHT, THANK YOU. I PASS FOR CAUSE,  
11 YOUR HONOR.

12 THE COURT: ALL RIGHT.

13 MR. WAPNER: YOUR HONOR, I BELIEVE THERE IS A CHALLENGE.  
14 MAYBE WE CAN BREAK FOR THE DAY AND HAVE IT --

15 THE COURT: YES, ON THE RECORD, ALL RIGHT.

16 MR. BARENS: THANK YOU, YOUR HONOR.

17 THE COURT: OF COURSE, YOU ALL KNOW AND I EXPECT THAT  
18 YOU HAVE BEEN ANTICIPATING IT WITH A GREAT DEAL OF PLEASURE,  
19 THAT YOU WON'T BE AROUND HERE NOW UNTIL JANUARY 5TH, SO WE  
20 WILL TAKE AN ADJOURNMENT AT THIS TIME UNTIL THAT TIME, BUT  
21 NOT WITHOUT MY TELLING YOU THAT I HOPE YOU WILL ALL HAVE  
22 EXTREMELY HAPPY HOLIDAY AND MERRY CHRISTMAS AND HAPPY NEW  
23 YEAR TO YOU. ENJOY YOURSELF THOROUGHLY.

24 MS. FARKAS: YOU, TOO.

25 THE COURT: WE WILL SEE YOU BACK HERE ON JANUARY 5TH  
26 AT 10:30. YOU GO TO THE JURY ASSEMBLY ROOM, ALL OF YOU, AND  
27 HOPEFULLY, WE WILL SEE YOU ALL BACK HERE REFRESHED IN BODY  
28 AND IN SPIRIT.

1 (THE FOLLOWING PROCEEDINGS WERE HELD  
2 IN OPEN COURT OUTSIDE THE PRESENCE OF  
3 THE JURY:)

4 MR. BARENS: WELL YOUR HONOR, AS TO OUR CHALLENGE, I  
5 THINK THAT THE COURT HAS TO TAKE JUDICIAL NOTICE OF THE WAY  
6 PEOPLE ACT AND THE WAY PEOPLE EVIDENTLY FEEL. CERTAINLY,  
7 I CAN'T THINK OF A PERSON IN THE WORLD, EXCEPT IF I ASKED  
8 HIM IF HE WAS PREJUDICED, HE WOULD TELL ME THE TRUTH. IT  
9 WOULD BE ALMOST INCONCEIVABLE TO ME THAT THIS PROSPECTIVE  
10 JUROR DOES NOT HAVE A DEEP AND ABIDING SUSPICION ABOUT BLACK  
11 PEOPLE, WHICH SHE ADMITTED TO. ALSO, A PROPENSITY TO BELIEVE  
12 THAT A BLACK PERSON IS MORE LIKELY TO COMMIT A VIOLENT CRIME  
13 THAN A WHITE PERSON.

14 SHE GAVE US AT THE BENCH YOUR HONOR, MANY  
15 EXAMPLES OF EXTREMELY DISTRESSING CRIME SETTINGS THAT SHE  
16 WAS VICTIMIZED IN, WHICH INVARIABLE INVOLVED BLACK PEOPLE.

17 IT WAS BLACK PEOPLE BOTH UNKNOWN TO HER AND IN  
18 ONE INSTANCE, A BLACK EMPLOYEE.

19 YOUR HONOR, THERE IS NO WAY THAT I COULD EVER  
20 BELIEVE THAT THIS WOMAN WOULD BE ABLE TO GIVE A FAIR TRIAL  
21 IN THIS INSTANCE, WHEN AS YOUR HONOR IS WELL AWARE, A BLACK  
22 MAN WILL BECOME AN EXTREMELY IMPORTANT FIGURE IN THIS CASE,  
23 INCLUDING WHETHER OR NOT HE COMMITTED A VIOLENT CRIME.

24 AND THAT BLACK MAN IN SOME RESPECTS WILL BE  
25 JUDGED IN TERMS OF WHAT HE MIGHT HAVE DONE OR MIGHT NOT HAVE  
26 DONE, SINCE HE IS NOT HERE AS A PART OF THIS CASE.

27 ADDITIONALLY AND SECONDARILY YOUR HONOR, I AM  
28 QUITE CONCERNED ABOUT THE FACT THAT THERE PROBABLY WILL BE

26A-2  
1 SOME BLACKS LEFT ON THE JURY AT THE TIME THEY GO IN TO  
2 DELIBERATE. NOW, COUNSEL HAS TWO PROBLEMS IN THAT REGARD.

3 NUMBER ONE, I BELIEVE THE OTHER BLACK JURORS WERE  
4 OFFENDED BY A PART OF THE TESTIMONY THAT THEY HEARD AND IN  
5 FACT, HER RESPONSE.

6 THE COURT: YOU MEAN ABOUT THE RIOTS?

7 MR. BARENS: THERE IS NO QUESTION. NOT ONLY THAT, BUT  
8 HER RESPONSE TO MY SPECIFIC QUESTIONS ABOUT HOW SHE FELT ABOUT  
9 BLACK PEOPLE. THERE WAS THE OBVIOUS HESITATION, THE APPARENT  
10 CONTRIVANCE IN HER RESPONSE TO MY QUESTION. CERTAINLY,  
11 COINCIDENTALLY, THERE WERE BLACK JURORS FLANKING HER. THEY  
12 DID APPEAR TO LOOK WITH DISDAIN FOR A MOMENT, YOUR HONOR.

13 AND I FEEL THAT COULD BUILD IN SOME PROBLEMS INTO  
14 THE JURY BOX, WERE SHE TO SURVIVE. THE OBVERSE OF THAT OF  
15 COURSE, IS HER LACK OF WILLINGNESS TO OSTENSIBLY LISTEN TO  
16 THE BLACK JURORS' OPINIONS, WERE THEY TO COMMENCE DELIBERATIONS.

17 I THINK THAT THAT WOULD BE AN EQUALLY SIGNIFICANT  
18 PROBLEM WE WOULD HAVE. IT WOULD BE THE MAKINGS OF A STAND-OFF  
19 BASED ON RACIAL LINES HAVING NOTHING TO DO WITH THIS CASE.

20 NOW YOUR HONOR AND MYSELF MAY REMEMBER A CASE  
21 WHERE THAT HAPPENED. I MEAN IN THIS COURT. AND I DON'T  
22 WANT TO CHANCE THAT ANY MORE.

23 WE WANT TO COME TO A CONCLUSION BASED ON THE FACTS  
24 IN THE COURTROOM.

25 AND I DON'T FEEL THE DEFENSE SHOULD BE REQUIRED  
26 TO EXTEND A PEREMPTORY CHALLENGE TO CORRECT THIS PROBLEM.

27 MR. WAPNER: YOUR HONOR, I THINK THAT THE CHALLENGE  
28 IS PRIMARILY MOTIVATED BY THE DESIRE NOT TO HAVE TO USE A

1 PEREMPTORY CHALLENGE. I THINK THAT IT IS CLEAR THAT  
2 MRS. FRAKAS HAD SOME BAD EXPERIENCES DURING THE WATTS RIOTS  
3 AND MAY HAVE SOME FEELINGS ABOUT BLACK PEOPLE THAT ARE  
4 UNPLEASANT AND SHE MAY EVEN HAVE SOME BIASES.

5 MY IMPRESSION OF HER OVERALL, IS THAT THIS IS  
6 A FAIRLY LIBERAL WOMAN. AND SHE IS ALSO MUCH BRIGHTER THAN  
7 APPEARANCES SUGGEST.

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1 I WAS FRANKLY, SURPRISED TO LISTEN TO HER ANSWERS  
2 AND HEAR HOW LUCID SHE REALLY WAS. YOU SHOULD EXCUSE THE  
3 EXPRESSION, DESPITE HER AGE. AND I THINK THAT WHILE SHE HAS  
4 CERTAIN FEELINGS BASED ON HER EXPERIENCE, I DON'T THINK THEY  
5 RISE TO THE LEVEL OF A CHALLENGE FOR CAUSE. THE MATTER IS  
6 SUBMITTED.

7 THE COURT: I WONDER WHETHER THIS IS ALL ACADEMIC?  
8 APPARENTLY, THEY REACHED THAT STAGE WHERE THEY WEREN'T GOING  
9 TO CHALLENGE ANY MORE JURORS. BUT, THAT DOESN'T NECESSARILY  
10 MEAN THAT YOU ARE NOT ENTITLED TO THEM, OF COURSE.

11 I HAVE A FEELING THAT BECAUSE OF HER EXPERIENCES,  
12 SHE HAS GOT SOME SLIGHT PREJUDICES I THINK AGAINST BLACKS AND  
13 WHETHER THAT WILL CARRY OVER BECAUSE ALLEGEDLY ONE OF THE  
14 ASSOCIATES OF THE DEFENDANT WILL -- IT WILL COME OUT IN THE  
15 EVIDENCE THAT HE IS BLACK, FOR THAT REASON, WHETHER IT WOULD  
16 TAINT HIM WITH THAT TYPE OF PREJUDICE, IS THE THING THAT BOTHERS  
17 ME.

18 MY OWN FEELING IS THAT SHE WOULD. AND I THINK  
19 IN THE BEST INTEREST OF THIS TRIAL, ONE WAY OR THE OTHER, I  
20 DON'T THINK SHE SHOULD BE ON THE JURY.

21 MR. WAPNER: THANK YOU.

22 THE COURT: WHETHER WE OUGHT TO DO IT BY WAY OF A  
23 PEREMPTORY OR WHETHER WE DO IT BY WAY OF A CHALLENGE FOR  
24 CAUSE, IS A MATTER OF INDIFFERENCE TO ME.

25 MR. BARENS: JUST A MOMENT, YOUR HONOR.

26 (PAUSE.)

27 MR. BARENS: YOUR HONOR, AFTER A BRIEF CONFERENCE, THE  
28 PEOPLE HAVE GRACIOUSLY -- MOST GRACIOUSLY AGREED TO STIPULATE



1 WITH THE DEFENDANT THAT THE JUROR MAY BE EXCUSED ON A  
2 STIPULATED BASIS.

3 THE COURT: ALL RIGHT. AND I WILL EXCUSE HER THEN FOR  
4 CAUSE. NOW WE HAVE 11 JURORS LEFT. NOW OBVIOUSLY, THAT IS  
5 GOING TO BE AN INADEQUATE NUMBER. THE THING IS, WHERE DO WE  
6 GO FROM HERE? HAVE YOU MADE PLANS FOR NEXT WEEK? NEXT  
7 MONDAY WE WILL HAVE A WHOLE NEW PANEL OF JURORS. WE COULD  
8 GET A LOT OF THEM IN.

9 I THINK IN ONE DAY, IF YOU COULD JUST SPARE ONE  
10 DAY, WE COULD GET A LARGE NUMBER OF THEM IN HERE. WE COULD  
11 GET OUT THOSE HARDSHIP CASES AND THEN WE WOULD SEE WHAT WE  
12 COULD DO ABOUT HAVING A VERY FAST HOVEY.

13 MR. BARENS: YOUR HONOR, MY FAMILY AND MYSELF ARE  
14 LEAVING ON CHRISTMAS DAY FOR ASPEN, COLORADO.

15 THE COURT: WELL THEN, OF COURSE THAT WILL MAKE IT  
16 IMPOSSIBLE.

17 MR. BARENS: IT QUITE WELL IS, YOUR HONOR.

18 THE COURT: WHAT DO YOU WANT TO DO? SHALL WE START WITH  
19 THE NEW YEAR BRINGING IN A NEW PANEL?

20 MR. BARENS: IF I MIGHT HAVE A MOMENT, YOUR HONOR?

21 (BRIEF PAUSE.)

22 THE COURT: I WOULD LIKE TO KNOW WHAT IS IN YOUR MINDS  
23 AS TO HOW MANY PEREMPTORY CHALLENGES YOU EACH HAVE.

24 (BRIEF PAUSE.)

25 MR. BARENS: WE SEEM TO HAVE A CONSENSUS, YOUR HONOR,  
26 THAT WE SHOULD PROCEED WITH THE GROUP WE HAVE FOR NOW UNTIL  
27 WE HAVE REACHED TWO PEOPLE. THEN WE WILL CROSS THAT BRIDGE.

28 THE COURT: I DON'T KNOW WHY YOU WOULD WAIT FOR TWO

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1 BECAUSE WE ARE GOING TO HAVE AT LEAST FOUR ALTERNATE JURORS.  
2 THERE ARE EIGHT POTENTIAL CHALLENGES ON FOUR JURORS.

3 MR. WAPNER: MAY WE HAVE A MOMENT?

4 (BRIEF PAUSE.)

5 MR. BARENS: YOUR HONOR, I THINK WE WILL FOLLOW YOUR  
6 HONOR'S EXCELLENT SOLUTION THAT WE WILL PROCEED ON THE 5TH  
7 WITH A NEW PANEL AND DO HARDSHIP AND HOVEY AND THEN REVIEW  
8 THEM.

9 THE COURT: I THINK MAYBE IT WOULD BE A BETTER WAY OF  
10 DOING IT BECAUSE I DIDN'T EXPECT YOU TO CHALLENGE AS MANY  
11 AS YOU HAVE. BECAUSE WE HAVE ALL OF THE DEATH PENALTY  
12 ORIENTED JURORS WEEDED OUT. THEY ARE THE ONES THAT -- THE  
13 DEFENSE ARE THE ONES THAT HAD NOT RESTED BUT HAD ACCEPTED  
14 THE JURY. THEY PASSED FOR CHALLENGE. YOU WERE THE ONE  
15 THAT KEPT ON AND ON.

16 I EXPECTED IT WOULD BE THE OTHER WAY AROUND. I  
17 I THOUGHT THAT THEY WOULD EXERCISE 26 BEFORE THE JURY WAS  
18 ACCEPTED.

19 AND YOU ON THE CONTRARY, WOULD HAVE BEEN HAPPY  
20 WITH A LESSER NUMBER. BUT APPARENTLY YOU WEREN'T.

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1 MR. WAPNER: THAT IS IT EXACTLY.

2 THE COURT: I MISSED MY GUESS. ALL RIGHT, WE WILL  
3 PROCEED THEN.

4 WHEN DOES THE NEW PANEL COME IN?

5 THE CLERK: NEXT MONDAY.

6 THE COURT: WHAT ABOUT THE ONE AFTER THAT?

7 THE CLERK: EVERY TWO WEEKS, YOUR HONOR.

8 MR. WAPNER: THAT WILL BE THE 5TH.

9 THE CLERK: NO, IT WON'T. THAT WILL BE THE 29TH AND  
10 THEN IT WILL BE THE -- THE 29TH IS NEXT MONDAY AND THEN IT  
11 WILL BE THE 12TH.

12 THE COURT: WELL, THEN THE OTHER WAY, THE OTHER  
13 ALTERNATIVE IS TO GO ON.

14 MR. BARENS: YES, YOUR HONOR.

15 MR. WAPNER: WELL, YOUR HONOR --

16 THE COURT: WHAT?

17 MR. WAPNER: MAY I BE HEARD?

18 I THINK IF WE NOTIFY THE JURY COMMISSIONER NOW  
19 THAT WE WILL HAVE PLENTY OF TIME TO GET AN EMERGENCY QUOTE,  
20 UNQUOTE "PANEL" IN HERE.

21 THE COURT: WILL YOU DO THAT FOR THE 5TH OF JANUARY?

22 THE CLERK: YES.

23 HOW MANY DO YOU WANT?

24 THE COURT: I WANT AS MANY AS WE CAN GET.

25 MR. BARENS: PRECISELY.

26 THE CLERK: THE LAST TIME WE ASKED FOR ONE WE GOT 150.

27 THE COURT: WELL, WE WANT TO FILL UP THE COURTROOM.

28 MR. BARENS: LET'S GET 70, LET'S SAY.

1 THE COURT: WELL, WE CAN FILL UP THE ROOM. HOW MANY  
2 DO WE NEED TO FILL UP THE COURTROOM. AND THEN WE WILL HAVE  
3 SOME ON RESERVE. WE WILL GET RID OF THE HARDSHIP CASES FIRST  
4 AND WE WILL BE LEFT MAYBE WITH 70 AND THAT WILL BE PLENTY  
5 FOR US. I THINK 50 WILL BE PLENTY ACTUALLY.

6 MR. BARENS: I THINK WE ARE ALL BETTER ADVISED AS TO  
7 HOW WE ASK THE HARDSHIP QUESTIONS. ANYBODY WHO WORKS FOR  
8 CERTAIN EMPLOYERS WE CAN JUST ELIMINATE SUMMARILY.

9 THE COURT: ALL RIGHT, FINE.

10 MR. BARENS: THE BEST OF THE HOLIDAY AND YOUR HONOR'S  
11 BIRTHDAY, INDEED.

12 THE CLERK: THERE ARE 80 SEATS OUT THERE. DO YOU WANT  
13 ME TO ASK FOR 80?

14 THE COURT: 80 FOR THE 5TH.

15 MAYBE YOU ARE RIGHT, MAYBE WE OUGHT TO GO THROUGH  
16 AND SEE HOW WE ARE WITH HAVING TWO LEFT AND WE THEN CAN  
17 EXCUSE THE 12 IN THE BOX AND THOSE TWO FOR THREE DAYS AND  
18 SEE HOW WE DO. GET THE COOPERATION SO WE CAN READ THROUGH --  
19 YOU DON'T HAVE TO GO AS SLOWLY AS WE HAVE BEEN GOING ON THE  
20 HARDSHIP, THAT IS VERY SIMPLE, BUT ON THE HOVEY CASES --

21 THE CLERK: JUST ONE THOUGHT, YOUR HONOR. WE WON'T  
22 BE ABLE TO GET 80, I DON'T BELIEVE, AT A MOMENT'S NOTICE.

23 THE COURT: WHAT DO YOU MEAN THEY WON'T? I AM ORDERING  
24 THEM.

25 THE CLERK: IF YOU WAIT UNTIL THERE ARE TWO THERE AND  
26 YOU WANT 80 THE NEXT DAY.

27 THE COURT: LET'S GET 80 FOR THE 5TH AND WE WILL WORK  
28 FROM THERE.

1 MR. WAPNER: YES.

2 (AT 4:40 P.M. AN ADJOURNMENT WAS TAKEN  
3 UNTIL MONDAY, JANUARY 5, 1987, AT  
4 10:30 A.M.)

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