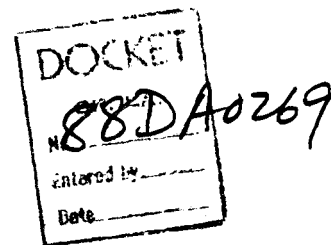


COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT



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

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 32 OF 101
(PAGES 4725 TO 4899 , INCLUSIVE)

COPY

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

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT WEST C

HON. LAURENCE J. RITTENBAND, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)

PLAINTIFF,)

VS.)

JOSEPH HUNT,)

DEFENDANT.)

NO. A-090435

REPORTERS' DAILY TRANSCRIPT

MONDAY, JANUARY 12, 1987

VOLUME 32

PAGES 4725 TO 4899 INCL.

APPEARANCES:

FOR THE PLAINTIFF: 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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MONDAY, JANUARY 12, 1987 VOLUME 32 PAGES 4725 TO 4899

A.M. 4725

P.M. 4784

PROCEEDINGS

VOIR DIRE OF PROSPECTIVE JURORS (CONTINUED) 4725

1 SANTA MONICA, CALIFORNIA; MONDAY, JANUARY 12, 1987; 10:53 A.M.
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE

3 (APPEARANCES AS NOTED ON TITLE PAGE.)

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

8 THE COURT: STIPULATED THE DEFENDANT IS PRESENT, COUNSEL
9 ARE PRESENT.

10 MR. BARENS: GOOD MORNING.

11 MR. WAPNER: GOOD MORNING.

12 THE COURT: GOOD MORNING.

13 MR. WAPNER: TWO THINGS THAT I WANTED TO BRING UP WITH
14 THE COURT BEFORE WE BROUGHT IN THE JURORS.

15 THE MOST IMPORTANT ONE BEING THAT OVER THE TWO
16 WEEK BREAK THAT WE HAD FOR THE CHRISTMAS AND NEW YEAR
17 HOLIDAY, I WAS ABLE TO HAVE SOMEONE MAKE A PHONE CALL REGARDING
18 JUROR NO. 11, MR. ERVIN WHITFIELD.

19 MR. WHITFIELD TOLD US THAT HE HAD WORKED AT THE
20 SOUTHWEST DIVISION OF THE LOS ANGELES POLICE DEPARTMENT FOR
21 SIX TO SEVEN MONTHS AND A CAPTAIN'S ADJUTANT AT THE
22 LOS ANGELES POLICE STATION CALLED THE LOS ANGELES POLICE
23 DEPARTMENT PERSONNEL AND THEY TOLD HIM THAT AN ERVIN A.
24 WHITFIELD WITH THE DATE OF BIRTH OF DECEMBER 12, 1948, HAD
25 IN FACT BEEN EMPLOYED BY THE LOS ANGELES POLICE DEPARTMENT
26 BUT ONLY FOR THREE WEEKS IN THE POLICE ACADEMY AND THEN HE
27 HAD LEFT. THEY DIDN'T GIVE THE REASON.

28 THEY DID SAY, HOWEVER, HE WAS APPROVED FOR

1 REHIRING, WHICH WOULD LEAD ME TO CONCLUDE THAT IT WASN'T ANY
2 MALFEASANCE OR CAUSE FOR DISMISSAL. PROBABLY JUST SOMETHING
3 HE DECIDED OR THEY DECIDED TO EXCUSE HIM BUT WITH THE
4 UNDERSTANDING HE COULD COME BACK.

5 THE THING IS THAT HE HAS NOW -- IF THIS IS THE
6 SAME ERVIN WHITFIELD AND IF THAT STATEMENT FROM PERSONNEL
7 IS CORRECT, APPARENTLY HE HAS LIED TO THE COURT ABOUT HIS
8 SERVICE, SO I THINK THAT IN FAIRNESS TO HIM WHAT WE SHOULD
9 DO BEFORE WE BRING THE OTHER PEOPLE IN IS TO HAVE
10 MR. WHITFIELD COME IN AND, FIRST OF ALL, FIND OUT IF THIS
11 IS THE SAME ONE.

12 I DO RECALL ASKING HIM HOW OLD HE WAS AND I BELIEVE
13 HE SAID 38, WHICH WOULD MAKE HIS BIRTH DATE OF DECEMBER 12,
14 1948 CORRECT.

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1 THE COURT: HOW DID YOU HAPPEN TO CHECK ON HIM?

2 MR. WAPNER: HOW DID I HAPPEN TO CHECK ON HIM? BECAUSE
3 WHEN HE SAID, IN MY RECOLLECTION, THAT IT WAS A YEAR AND A
4 HALF THAT HE HAD BEEN WITH LAPD, NOTWITHSTANDING THAT HE SAID
5 HE HAD BEEN IN THE SOUTHWEST DIVISION FOR SIX TO SEVEN MONTHS
6 AND HAD NOT MADE ANY ARRESTS, I FOUND THAT VERY, VERY
7 CURIOUS.

8 AND BECAUSE IT WAS THE LOS ANGELES POLICE
9 DEPARTMENT AND WE HAVE RESOURCES TO BE ABLE TO DO THAT KIND
10 OF CHECK VERY, VERY QUICKLY, THAT IS WHY WE CHECKED ON IT.

11 I WAS ABLE TO DO IT WITH ONE PHONE CALL.

12 THE COURT: SHALL WE HAVE HIM CALLED IN THEN AND HAVE
13 HIM IN CHAMBERS AND HAVE A REPORTER THERE AND ASK HIM THOSE
14 QUESTIONS?

15 MR. WAPNER: THAT'S FINE.

16 MR. BARENS: I SUPPOSE SO. THERE IS SUCH A BIG
17 OPPORTUNITY THAT THE PERSON THAT MR. WAPNER TALKED TO HIMSELF,
18 MIGHT HAVE BEEN MISTAKEN. OF COURSE, THE ONLY ONE UNDER OATH
19 WOULD BE WHITFIELD, NOT THE GUY MR. WAPNER TALKED TO. I DON'T
20 KNOW.

21 THE COURT: WELL, LET'S ASK WHITFIELD.

22 MR. BARENS: NOT TO MENTION, INSTEAD OF SAYING THAT THIS
23 MAN LIED TO THE COURT, WE MAY HAVE MISUNDERSTOOD HIM OR HE
24 MAYBE MISUNDERSTOOD THE QUESTION.

25 THE COURT: HAVE WE GOT IT IN THE RECORD?

26 MR. WAPNER: YES.

27 THE COURT: WHAT WAS HE ASKED?

28 MR. WAPNER: ON THE DAILY TRANSCRIPT ON PAGE 3906 WHICH

2-2

1 IS VOLUME 27, THE PROCEEDINGS OF TUESDAY, DECEMBER 23RD, 1986
2 AT LINE 9:

3 "MR. BARENS: WERE YOU ACTUALLY -- WERE
4 YOU ACTUALLY IN THE TRAINING CURRICULUM OR
5 WERE YOU OUT WORKING? WERE YOU POSTGRADUATE
6 AND ACTUALLY WORKING AS A POLICEMAN?

7 "MR. WHITFIELD: I HAD JUST FINISHED MY
8 TRAINING AND I HAD BEEN ON THE STREET FOR ABOUT
9 SIX OR SEVEN MONTHS."

10 THE COURT: THAT IS DEFINITE ENOUGH.

11 MR. BARENS: QUITE SO.

12 THE COURT: ALL RIGHT. I WILL TELL YOU WHAT WE'LL DO.
13 WHY DON'T WE GET ALL THE JURORS IN AND PROCEED AS WE NORMALLY
14 DO, EXCEPT ABOUT FIVE MINUTES TO 12:00, I WILL ASK MR.
15 WHITFIELD TO WAIT A MINUTE. THEN WE'LL TAKE HIM INTO
16 CHAMBERS.

17 MR. WAPNER: I PREFER TO DO MR. WHITFIELD FIRST BECAUSE
18 IF IN FACT, THIS INFORMATION THAT I HAVE IS CORRECT, I THINK
19 IT FORMS THE BASIS OF A CHALLENGE FOR CAUSE.

20 THE COURT: I DON'T SAY THAT IT DOESN'T. ALL I AM
21 SAYING IS THE QUESTION OF TIMING. THERE IS NO HARM.

22 WE ARE NOT GOING TO PICK A JURY TODAY, OBVIOUSLY,
23 THIS MORNING.

24 MR. BARENS: I JUST THOUGHT INSTEAD OF HIM SITTING
25 THERE, YOUR HONOR, IF HE IS OUT, HE IS OUT. WE COULD GO ON
26 TO SOMEBODY ELSE STRAIGHT AWAY. BUT IT IS UP TO YOUR HONOR.

27 YOU SEE, THE CHANGE IN THE COMPOSITION BEFORE
28 LUNCHTIME TODAY, MIGHT MAKE US WILLING TO ACCEPT A JURY.

1 THE COURT: ALL RIGHT. IF THAT IS WHAT YOU WANT ME TO
2 DO, I WILL DO IT. SURE, GET HIM IN.

3 MR. BARENS: THE OTHER QUESTION -- DO YOU HAVE ANOTHER
4 POINT FIRST? I THOUGHT YOU SAID YOU HAD TWO.

5 MR. WAPNER: THE ONLY OTHER MATTER THAT I HAVE IS A
6 PROCEDURAL ONE IN TERMS OF SCHEDULING, SO THAT I CAN SCHEDULE
7 THE WITNESSES, TRY TO HAVE MAYBE A DAY, EITHER IF IT IS THE
8 DAY FOR THE OPENING STATEMENT OR ONE DAY IN BETWEEN THE END
9 OF THE JURY SELECTION --

10 THE COURT: WELL, LET'S SEE WHAT HAPPENS. WE ARE IN
11 THE DARK AT THIS MOMENT AS TO WHEN WE ARE GOING TO START THIS
12 TRIAL.

13 UNTIL WE ACTUALLY PICK A JURY, THERE IS NOTHING
14 WE CAN SCHEDULE.

15 MR. WAPNER: ALL RIGHT. THANK YOU.

16 MR. BARENS: I HAVE ONE PROCEDURAL QUESTION THAT I THOUGHT
17 MAY HAVE REFERENCED TO YOUR HONOR BEFORE.

18 THAT IS, THAT I PRESUME OR I REQUEST WE PROCEED
19 WITH THE 11 REMAINING PEOPLE BEFORE WE GO INTO THE GENERAL,
20 NEW PANEL, SINCE THOSE 11 HAVE BEEN HERE FOREVER.

21 THE COURT: WE ARE GOING TO DO THAT.

22 MR. BARENS: THANK YOU, YOUR HONOR.

23 THE COURT: ALL RIGHT. WILL YOU GET WHITFIELD IN?
24 I THINK WE'LL DO IT IN CHAMBERS.

25 MR. BARENS: AGREED.
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1 (THE FOLLOWING PROCEEDINGS WERE HELD
2 IN CHAMBERS, THE DEFENDANT AND COUNSEL
3 BEING PRESENT:)

4 (PROSPECTIVE JUROR WHITFIELD ENTERED
5 CHAMBERS.)

6 THE COURT: WE JUST WANT TO ASK YOU A FEW QUESTIONS,
7 MR. WHITFIELD. THERE MIGHT HAVE BEEN SOME CONFUSION AS TO
8 WHAT YOUR BACKGROUND WAS.

9 HOW LONG HAD YOU BEEN WITH THE POLICE DEPARTMENT?

10 MR. WHITFIELD: OH, POSSIBLY A YEAR. POSSIBLY A YEAR.

11 THE COURT: POSSIBLY A YEAR?

12 MR. WHITFIELD: YES.

13 THE COURT: YOU HAD GONE TO THE ACADEMY FIRST, HADN'T
14 YOU?

15 MR. WHITFIELD: YES.

16 THE COURT: THEN YOU GRADUATED FROM THERE?

17 MR. WHITFIELD: YES.

18 THE COURT: AND THEN WHERE WERE YOU ASSIGNED AFTER THAT?

19 MR. WHITFIELD: SOUTHWEST DIVISION.

20 THE COURT: WHAT ARE YOU, ABOUT 38? HOW OLD ARE YOU?

21 MR. WHITFIELD: YES, I WAS --

22 THE COURT: WHAT IS YOUR BIRTHDATE?

23 MR. WHITFIELD: DECEMBER 12, 1948.

24 THE COURT: THERE SEEMS TO BE SOME CONFUSION. APPARENTLY
25 THE RECORDS AT THE POLICE ACADEMY INDICATE THAT YOU WERE THERE,
26 AS I UNDERSTAND IT, ABOUT THREE WEEKS AND THEN LEFT.

27 MR. WHITFIELD: REALLY?

28 OH, IT HAS BEEN A LONG TIME.

3-2
1 THE COURT: THAT YOU WERE IN THE POLICE DEPARTMENT AS
2 SUCH?

3 MR. WHITFIELD: I SEE. I SEE.

4 I WAS PROBABLY MISTAKEN. IT HAS BEEN A LONG TIME.

5 THE COURT: WELL, DON'T YOU KNOW IF YOU WERE ON THERE
6 FOR A YEAR?

7 MR. WHITFIELD: I HAVE NOTHING TO SAY, YOUR HONOR, BUT
8 I JUST MADE A MISTAKE.

9 THE COURT: WELL, I THINK THAT UNDER THE CIRCUMSTANCES,
10 UNLESS THERE IS AN OBJECTION THAT YOU HAVE?

11 MR. BARENS: WE STIPULATE, YOUR HONOR.

12 THE COURT: I THINK MAYBE IT IS BEST UNDER THE
13 CIRCUMSTANCES, SINCE THE RECORD INDICATES THAT THERE IS SOME
14 CONFUSION AND THERE MIGHT BE SOME MISTAKE ON YOUR PART, I
15 THINK MAYBE WE WILL EXCUSE YOU FROM JURY DUTY.

16 MR. WHITFIELD: OKAY, SIR.

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

18 MR. WHITFIELD: OKAY, THANK YOU.

19 MR. WAPNER: THANK YOU.

20 MR. BARENS: THANK YOU.

21 MR. WHITFIELD: SHALL I GET --

22 THE COURT: YOU GO TO THE JURY ASSEMBLY ROOM AND TELL
23 THEM THAT YOU HAVE BEEN EXCUSED FROM JURY DUTY.

24 MR. WHITFIELD: THANK YOU.

25 THE COURT: ALL RIGHT.

26 (PROSPECTIVE JUROR WHITFIELD EXITED
27 CHAMBERS.)

28 MR. BARENS: YOUR HONOR, COUNSEL AND I HAD DISCUSSED

1 THIS BRIEFLY BEFORE WE CAME IN HERE AND AGREED TO STIPULATE
2 THAT IF IT APPEARED THAT THE POLICE DEPARTMENT RECORDS WERE
3 CORRECT, THAT WE WOULD STIPULATE THAT HE COULD BE EXCUSED.

4 AND IT IS QUITE OBVIOUS FROM HIS ANSWERS THAT
5 HE WAS NOT BEING TRUTHFUL WITH THE COURT.

6 MR. BARENS: WAS THAT STRANGE? I MUST SAY, EVEN FOR
7 THE RECORD.

8 THE COURT: NOW HE CAN'T REMEMBER THAT FOR A YEAR HE
9 HADN'T BEEN ON THE POLICE DEPARTMENT.

10 MR. WAPNER: I THINK FOR THE RECORD, I AM JUST LOOKING
11 AT THE FACE OF ALL OF THE PEOPLE INVOLVED, I THINK IT IS FAIR
12 TO CONCLUDE OR FAIR TO STATE FOR THE RECORD THAT EVERYONE
13 CONCLUDED THAT MR. WHITFIELD WAS LESS THAN TRUTHFUL WITH THE
14 COURT.

15 THE COURT: THAT IS OBVIOUS TO THE COURT.

16 MR. BARENS: WHICH I WILL SAY FOR THE RECORD WAS TOTALLY
17 CONTRARY TO MY PREVIOUS OPINION WHILE I WAS EXAMINING HIM
18 AS A PROSPECTIVE JUROR.

19 THE COURT: ALL RIGHT. HAVE THE CLERK AND EVERYBODY
20 IN AND WE WILL START.

21 WHAT I AM GOING TO DO AT THIS PARTICULAR POINT
22 AS TO THE NEW JURORS, I AM GOING TO VOIR DIRE THEM AND FIND
23 OUT WHETHER THEY HAVE HAD ANY PRIOR JURY EXPERIENCE, HAD ANY
24 BRUSHES WITH THE LAW AND READ OFF THE LIST OF THOSE WITNESSES
25 THAT YOU GAVE ME. NOW THE LATTER PART OF IT, THE OTHER PEOPLE,
26 I AM MERELY ASKING WHETHER OR NOT THEY HAVE HEARD THOSE NAMES
27 BEFORE.

28 MR. WAPNER: IF YOU WANT TO, YOU CAN JUST READ THE LIST

1 OF WITNESSES WHICH I DID THE LAST TIME.

2 THE COURT: AND NOT THE OTHER STUFF?

3 MR. WAPNER: CORRECT.

4 THE COURT: YOU SEE, ONE OF THE JURORS WHO HADN'T YET
5 BEEN SUMMONED IN THE BOX, ONE OF THE OLD JURORS HAD SENT A
6 NOTE IN IN WHICH SHE INDICATED THAT SHE OR SOME MEMBER OF
7 THE FAMILY KNEW LEVIN AND THAT IS WHY I THOUGHT IT MIGHT NOT
8 BE A BAD IDEA FOR ME TO READ THOSE OTHER NAMES AND FIND OUT
9 WHETHER OR NOT THEY HAVE HEARD OF ANY OF THESE OTHER PEOPLE.

10 MR. WAPNER: THAT IS FINE.

11 THE COURT: I WILL JUST READ THE NAMES OF THESE PEOPLE
12 WHO ARE GOING TO BE POTENTIAL WITNESSES AND THE REST OF THEM
13 AND ASK WHETHER OR NOT THEY HAVE EVER HEARD OF THEM.

14 MR. BARENS: MR. WAPNER, ARE YOU AWARE OF WHAT JUROR
15 THAT IS?

16 THE COURT: I HAVE IT OUT THERE ON THE BENCH.

17 MR. BARENS: I WOULD LIKE TO KNOW THE PROSPECTIVE JUROR'S
18 NAME.

19 THE COURT: WHEN THE JUROR IS CALLED IN THE BOX, I WILL
20 ASK HER, SHE SENT A NOTE. I DON'T INTEND TO MAKE A SECRET
21 OF IT. I WILL ASK HER ABOUT IT.

22 MR. BARENS: THANK YOU VERY MUCH.

23 MR. WAPNER: ONE OTHER THING, PROCEDURALLY, WE HAVE
24 TO SEAT SOMEONE IN SEAT NUMBER 2 --

25 THE COURT: THAT'S RIGHT.

26 MR. WAPNER: WHICH WAS MRS. FARKAS AND SEAT NUMBER 11 --

27 THE COURT: YES, RIGHT.

28 MR. WAPNER: -- WHICH WAS MR. WHITFIELD'S OLD SEAT,

1 WHICH I THINK COUNSEL SHOULD THEN EXAMINE BOTH OF THOSE PEOPLE
2 AT THE SAME TIME.

3 THE COURT: YES.

4 HOWEVER, WHAT I AM GOING TO DO IS FIRST TELL THE
5 OTHER JURORS WHAT THE CASE IS ALL ABOUT AND THEN YOU CAN
6 START WITH THE INTERROGATION OF THE JURORS. WE ARE GETTING
7 THE TWO NEW JURORS IN THE BOX.

8 MR. WAPNER: THANK YOU.

9 MR. BARENS: OUT OF AN ABUNDANCE OF CAUTION, DO YOU
10 THINK -- AND I AM ASKING RATHER THAN SUGGESTING, SHOULD YOU
11 COMMENT ON WHITFIELD'S ABSENCE AT THIS POINT?

12 MR. WAPNER: NO.

13 THE COURT: NO.

14 MR. BARENS: JUST IN ORDER TO AVOID ANY SPECULATION.

15 THE COURT: HE IS NOT GOING TO TELL ANYBODY. IT MAY
16 VERY WELL BE HE MIGHT HAVE ASKED TO BE EXCUSED, JUST LIKE
17 THE OTHER JUROR WAS.

18 MR. BARENS: THAT IS TRUE.

19 OKAY, I AGREE WITH YOU, YOUR HONOR. THANK YOU.

20 THE COURT: HAVE THEM BRING IN ALL OF THE JURORS.

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

4 THE COURT: THE DEFENDANT IS PRESENT AND COUNSEL ARE
5 PRESENT. THE PROSPECTIVE JURORS ARE PRESENT.

6 GOOD MORNING, LADIES AND GENTLEMEN. AT LONG LAST,
7 I THINK WE MIGHT BE GETTING STARTED. IF THE OLD JURORS WILL
8 BEAR WITH ME, WHAT I HAVE TO DO IS TO GO THROUGH THE SAME
9 PROCEDURE I DID WITH THOSE OF YOU, THE OLD JURORS AT THE
10 BEGINNING OF THE VOIR DIRE.

11 SO WHAT I WILL DO IS, ASK THE SAME QUESTIONS OF
12 THE NEW JURORS THAT I ASKED THE OLD JURORS. IF YOU BEAR WITH
13 ME, I DON'T THINK IT WILL TAKE VERY LONG.

14 NOW, I AM ADDRESSING MYSELF ONLY TO THOSE JURORS
15 WHO ARE CHARACTERIZED AS BEING THE NEW JURORS. ONLY YOU ARE
16 THE ONES INVOLVED.

17 NOW, WHAT I WANT TO DO, IS TO ASK YOU SOME
18 QUESTIONS. I WILL MAKE A NOTE OF ALL OF THE NAMES, DEPENDING
19 UPON WHAT YOUR ANSWERS ARE GOING TO BE.

20 NOW, YOU HAVE KNOWN WHAT THIS CASE IS ALL ABOUT.
21 NOW WHAT I WANT TO DO IS, ASK YOU THE FOLLOWING QUESTIONS:
22 HAVE YOU OR MEMBERS OF YOUR FAMILY OR CLOSE PERSONAL FRIENDS
23 EVER BEEN IDENTIFIED WITH LAW ENFORCEMENT, ANY MEMBERS OF THE
24 POLICE DEPARTMENT, SHERIFF'S DEPARTMENT, F.B.I., C.I.A. OR
25 ANY LAW ENFORCEMENT AGENCY, YOU OR MEMBERS OF YOUR FAMILY?
26 RAISE YOUR HANDS AND TELL ME YOUR NAME. IF YOU TAKE THE PLACE
27 OF ANY JUROR SEATED IN THE BOX, I WILL HAVE YOUR NAMES AND
28 I WILL ASK YOU PERTINENT QUESTIONS ALONG THOSE LINES.

1 YES, SIR? WHAT IS YOUR NAME?

2 MR. YOUNG: CECIL YOUNG.

3 THE COURT: JUST LET ME HAVE YOUR NAME.

4 MR. YOUNG: YOUNG.

5 THE COURT: THANK YOU, MR. YOUNG. LET ME GO THROUGH
6 THE FIRST ROW, SECOND ROW AND THIRD ROW.

7 MS. FELTS: KAREN FELTS, F-E-L-T-S.

8 THE COURT: YES. THANK YOU.

9 MS. KUBECK: MY NAME IS KUBECK, K-U-B-E-C-K.

10 THE COURT: THANK YOU. YES?

11 MS. GALL: BRENDA GALL, G-A-L-L.

12 THE COURT: THANK YOU.

13 MS. ELIE: JULIE ELIE.

14 THE COURT: ELIE? THANK YOU.

15 MR. NAISTAT: NAISTAT, N-A-I-S-T-A-T.

16 THE COURT: YES? HAVE I GOT EVERYBODY NOW? ALL RIGHT.

17 WHICH OF YOU OR MEMBERS OF YOUR FAMILY HAVE EVER
18 BEEN THE VICTIM OF SOME SERIOUS CRIME, A ROBBERY, A BURGLARY
19 OR AN ASSAULT OR A RAPE OR ANYTHING LIKE THAT? JUST GIVE ME
20 YOUR NAMES AGAIN, IF YOU WILL PLEASE.

21 (THERE WAS A SHOW OF HANDS.)

22 THE COURT: ALL RIGHT. MR. NAISTAT?

23 ANYBODY EVER BEEN THE VICTIM OF ANY KIND OF
24 SERIOUS OFFENSE? WHAT IS YOUR NAME BACK THERE?

25 MS. ELIE: JULIE ELIE AGAIN.

26 THE COURT: THANK YOU. ANYBODY ELSE?

27 (NO HANDS WERE RAISED.)

28 THE COURT: ALL RIGHT. NOW, THE NEXT QUESTION I HAVE

4-3

1 TO ASK IS, ARE THERE ANY OF YOU OR MEMBERS OF YOUR FAMILY WHO
2 HAVE EVER BEEN ACCUSED OR ARRESTED FOR SOME SERIOUS OFFENSE?
3 I DON'T MEAN RUNNING A RED LIGHT, BUT ANY KIND OF SERIOUS
4 OFFENSE, ARRESTED, ACCUSED OR CHARGED WITH ANY KIND OF A
5 SERIOUS OFFENSE.

6 YOUR NAME?

7 MR. SPEARMAN: SPEARMAN.

8 THE COURT: YES. THANK YOU.

9 ALL RIGHT. DURING THE COURSE OF THE QUESTIONING,
10 WHAT WE CALL THE HOVEY, ABOUT YOUR ATTITUDES TOWARD THE DEATH
11 PENALTY AND SO ON AND SO FORTH, THERE HAVE BEEN SOME
12 SUGGESTIONS MADE TO YOU ABOUT THE BURDEN OF PROOF, THE
13 SAFEGUARDS WITH WHICH A DEFENDANT IS, ANY DEFENDANT IN A
14 CRIMINAL ACTION, IS SURROUNDED.

15 AND THE COURT, DURING THE END OF THE TRIAL, THE
16 COURT WILL GIVE YOU INSTRUCTIONS AS TO THE LAW APPLICABLE.

17 WHAT I WANT TO DO IS FIRST, GIVE YOU A FULL
18 INSTRUCTION AS TO THE QUESTION OF THE PRESUMPTION OF
19 INNOCENCE AND THE BURDEN OF PROOF IN A CRIMINAL CASE. THIS
20 IS IT.

21 "A DEFENDANT IN A CRIMINAL ACTION IS
22 PRESUMED TO BE INNOCENT UNTIL THE CONTRARY IS
23 PROVED AND IN CASE OF A REASONABLE DOUBT WHETHER
24 HIS GUILT IS SATISFACOTRILY SHOWN, HE IS ENTITLED
25 TO A VERDICT OF NOT GUILTY.

26 "THE EFFECT OF THIS PRESUMPTION IS
27 TO PLACE UPON THE STATE, THE BURDEN OF PROVING
28 HIM GUILTY BEYOND A REASONABLE DOUBT."

1 AND A REASONABLE DOUBT IS DEFINED AS FOLLOWS:

2 "IT IS NOT A MERE POSSIBLE DOUBT
3 BECAUSE EVERYTHING RELATING TO HUMAN AFFAIRS AND
4 DEPENDING UPON MORAL EVIDENCE IS OPEN TO SOME
5 POSSIBLE OR IMAGINARY DOUBT. IT IS THAT STATE OF
6 THE CASE WHICH, AFTER THE ENTIRE COMPARISON AND
7 CONSIDERATION OF ALL OF THE EVIDENCE, LEAVES THE
8 MINDS OF THE JURORS IN THAT CONDITION THAT THEY
9 CANNOT SAY THEY FEEL AN ABIDING CONVICTION TO A
10 MORAL CERTAINTY OF THE TRUTH OF THE CHARGE."

11 NOW, THAT PRESUMPTION I SPOKE ABOUT, STAYS WITH
12 THE DEFENDANT ALL THROUGHOUT THE TRIAL AND ALSO AT THE
13 DELIBERATIONS OF THE JURY IN THE JURY ROOM.

14 THAT SAME INSTRUCTION OF COURSE, WILL BE GIVEN
15 TOGETHER WITH A NUMBER OF OTHER INSTRUCTIONS AT THE CONCLUSION
16 OF THE CASE. I THOUGHT I WOULD GIVE IT TO YOU NOW.

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1 THE COURT: VERY WELL. I THINK WE ARE ABOUT READY NOW
2 TO PROCEED WITH THE VOIR DIRE OF THE JURY BUT FIRST WE HAVE
3 TWO VACANCIES, WE ARE GOING TO FILL THOSE TWO.

4 WHAT I AM GOING TO DO FIRST IS TO SELECT THE JURORS,
5 NOT FROM THE ENTIRE PANEL BUT WE HAD ABOUT 11 OR SOMETHING
6 LIKE THAT, LEFT OVER FROM THE LAST TIME AND WE WILL EXHAUST
7 THAT PANEL FIRST BEFORE WE COME TO THE OTHERS.

8 MR. BARENS: WAS YOUR HONOR GOING TO READ THE WITNESS
9 LIST?

10 THE COURT: OH, YES, SURE. I AM SORRY ABOUT THAT.

11 NOW THIS IS DIRECTED TO THE NEW JURORS. THE LIST
12 OF WITNESSES, POSSIBLE WITNESSES FROM THE PROSECUTION STANDPOINT
13 HAVE BEEN READ TO THE OTHER JURORS SO YOU WANT ME TO DO IT
14 OR DO YOU WANT TO DO IT?

15 MR. WAPNER: I AM NOT SURE IF I HAVE IT.

16 THE COURT: I AM GOING TO READ YOU A LIST OF THE
17 POSSIBLE PROSECUTION WITNESSES AND THE PURPOSE OF THAT IS
18 TO ASK YOU WHETHER OR NOT YOU KNOW ANY OF THEM OR HAVE HEARD
19 ABOUT ANY OF THEM.

20 NOW THESE ARE THE NAMES:

21 NABIL ABIFADEL, N-A-B-I-L A-B-I-F-A-D-E-L.

22 JON ALLEN.

23 NEIL ANTIN.

24 PHYLLIS BALDUZZI.

25 MICHAEL BRODER.

26 GENE BROWNING.

27 LEWIS BURATTI.

28 DR. CHOI, C-H-O-I.

1 SIMMIE COOPER.
2 ASHER DANN.
3 EVAN DICKER.
4 JERRY EISENBERG.
5 DEAN FACTOR.
6 MICHAEL FELDMAN.
7 ROBERT FERRARO.
8 JIM FOULK, F-O-U-L-K.
9 JACK FRIEDMAN.
10 SCOTT FURSTMAN, F-U-R-S-T-M-A-N.
11 LAURA GELLER.
12 MARK GELLER.
13 LINDA GWINN.
14 OLIVER HOLMES.
15 DIANE JAMES.
16 ROBERT JORDAN.
17 DEAN KARNY, K-A-R-N-Y.
18 LEONARD KAUFMAN.
19 STELLA KEENER, K-E-E-N-E-R.
20 HANNELORE LEIS, H-A-N-N-E-L-O-R-E L-E-I-S.
21 CAROL LEVIN.
22 MARTIN LEVIN.
23 RICHARD LIEBOWITZ.
24 STEVE LOPEZ.
25 LARRY MAIZE, M-A-I-Z-E.
26 LEN MARMOR.
27 DAVID MAY.
28 TOM MAY.

-3

1 JERRIANNE NEWMAN.
2 DAVID OSTROVE.
3 JAMES O'SULLIVAN.
4 DR. JULIUS PASKAN, P-A-S-K-A-N.
5 JEFFREY RAYMOND.
6 JOHN REEVES.
7 MARY REINHART.
8 DAVID REIS, R-E-I-S.
9 BROOKE ROBERTS.
10 JOHN ROBERTS.
11 DOLORES ROBINSON.
12 BART ROE, R-O-E.
13 DON SCHLEGEL.
14 MARVIN SPECTOR.
15 JERRY STONE.
16 BLANCHE STURKEY.
17 CHRIS STURKEY.
18 STEVEN TAGLIANETTI, T-A-G-L-I-A-N-E-T-T-I,
19 TAGLIANETTI.
20 BOB TAYLOR.
21 TERRY TEREBA, T-E-R-E-B-A.
22 PAUL TOBIN.
23 GARY TOLFA, T-O-L-F-A.
24 PAT TOWERS.
25 GENE VACTOR.
26 HAROLD VALVIK.
27 EMIL VARMA.
28 JOE VEGA.

5-4
1 STEVEN WEISS.

2 THOSE ARE THE PROSPECTIVE OR POTENTIAL WITNESSES
3 TO BE CALLED BY THE PEOPLE.

4 NOW I WILL ASK YOU FROM THE FOLLOWING LIST WHETHER
5 OR NOT YOU HAVE EVER HEARD THE FOLLOWING NAMES:

6 RONALD LEVIN.

7 JAMES PITTMAN.

8 BOBBY ROBERTS.

9 BROOKE ROBERTS.

10 REZA ESLAMINIA, R-E-Z-A E-S-L-A-M-I-N-I-A.

11 BEN DOSTI, D-O-S-T-I.

12 JOHN JENSEN.

13 MARTY JENSEN.

14 BILL KILPATRICK.

15 TERRY PHILLIPS.

16 FRANK MINGARELLA.

17 RYAN HUNT.

18 RYAN GAMSKY.

19 TERRY PHYLLIPS.

20 KEITH ROHMAN, R-O-H-M-A-N.

21 AND L. M. SOBEL, S-O-B-E-L.

22 NOW HAVE ANY OF YOU LADIES AND GENTLEMEN HEARD
23 OR KNOW ANY OF THE NAMES WHO HAVE BEEN READ OUT, THOSE WHO
24 ARE GOING TO BE PROSPECTIVE WITNESSES OR THOSE GENERALLY WHO
25 I ASKED YOU WHETHER YOU KNOW ANY OF THEM?

26 YES, MA'AM.

27 MS. KAPES: I AM NOT SURE IF I HEARD BART ROE.

28 THE COURT: YES.

5- 1 THE COURT REPORTER: WHAT IS YOUR NAME, PLEASE?

2 MS. KAPES: KAPES.

3 THE COURT: YES, HE IS ONE OF THE PROSPECTIVE WITNESSES?

4 MR. WAPNER: PROSPECTIVE WITNESS, YES.

5 THE COURT: WHO IS THIS BART ROE THAT YOU KNOW?

6 MS. KAPES: HE IS A DIRECTOR, MOVIE DIRECTOR AND I KNOW
7 HIM.

8 THE COURT: IS THAT THE ONE?

9 MR. WAPNER: I DON'T THINK HE IS A DIRECTOR.

10 MS. KAPES: OR ASSISTANT DIRECTOR PERHAPS.

11 MR. WAPNER: HE HAS SOME CONNECTION WITH THE MOVIE
12 BUSINESS, I DON'T KNOW EXACTLY WHAT IT IS.

13 THE COURT: HE IS A DIRECTOR OF WHICH COMPANY?

14 MS. KAPES: HE IS A DIRECTOR OR ASSISTANT DIRECTOR.

15 THE COURT: WITH WHICH STUDIO IS THAT?

16 MS. KAPES: I DON'T KNOW, SIR.

17 THE COURT: HOW DO YOU KNOW HIM?

18 MS. KAPES: SOCIALLY. I KNOW HIM AND HIS SISTER.

19 THE COURT: YOU KNOW HIM AND HIS SISTER?

20 MS. KAPES: YES, THAT IS ALL.

21 THE COURT: WELL, ASSUMING THAT HE IS THE SAME ONE,
22 WOULD THAT IN ANY WAY INFLUENCE YOU IN YOUR PERFORMANCE OF
23 YOUR DUTIES AS A JUROR?

24 MS. KAPES: I DON'T THINK SO.

25 THE COURT: OR WOULD YOU FAVOR HIS TESTIMONY OR
26 DISFAVOR HIS TESTIMONY IN ANY WAY?

27 MS. KAPES: I DON'T THINK SO.

28 THE COURT: ALL RIGHT. I THOUGHT I SAW ANOTHER HAND,

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DID I? ANYBODY ELSE?

(NO RESPONSE.)

THE COURT: ALL RIGHT, THANK YOU VERY MUCH.

WE WILL PROCEED WITH THE DRAWING OF TWO MORE NAMES
OFF THE OLD LIST.

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5A-1
1 THE CLERK: JAY FARBER, F-A-R-B-E-R, JUROR NUMBER 2.
2 AND JUROR NUMBER 11, MARJORIE JOHNSON,
3 J-O-H-N-S-O-N.

4 THE COURT: ALL RIGHT, MR. FARBER, YOU, TOO, HAVE HEARD
5 ALL OF THE QUESTIONS AND ANSWERS WHICH WERE ASKED AND GIVEN,
6 BOTH THOSE WHICH I ASKED AND THOSE WHICH COUNSEL HAVE ASKED,
7 WHICH WAS BACK SOME TIME AGO, BUT AT ANY RATE, YOU RECALL
8 ALL OF THAT?

9 MR. FARBER: YES, I DO.

10 THE COURT: DURING THE COURSE OF THAT QUESTIONING, DID
11 ANYTHING OCCUR TO YOU THAT YOU THOUGHT YOU MIGHT VOLUNTARILY
12 TELL US ABOUT OR WOULD YOUR ANSWERS BE SUBSTANTIALLY THE SAME?

13 MR. FARBER: THEY WOULD BE SUBSTANTIALLY THE SAME.

14 THE COURT: WHAT DO YOU DO, PLEASE?

15 MR. FARBER: I AM A MECHANIC FOR WESTERN AIRLINES.

16 THE COURT: AND WHERE DO YOU LIVE?

17 MR. FARBER: REDONDO BEACH.

18 THE COURT: ARE YOU MARRIED?

19 MR. FARBER: SINGLE.

20 THE COURT: HAVE YOU EVER SERVED AS A JUROR ON A
21 CRIMINAL CASE BEFORE?

22 MR. FARBER: NO.

23 THE COURT: HAVE YOU EVER BEEN THE VICTIM OF ANY KIND
24 OF A SERIOUS CRIME?

25 MR. FARBER: NO.

26 THE COURT: ALL RIGHT, THANK YOU.

27 I AM JUST LOOKING DOWN HERE AT THE LIST,
28 MR. FARBER, TO SEE IF I HAVE YOUR NAME DOWN FOR ANYTHING.

5A-2
1 NO, THAT IS ALL RIGHT. THANK YOU VERY MUCH.

2 ALL RIGHT, DO YOU HAVE ANY QUESTIONS -- OH, I
3 WILL FINISH UP, I THINK, WITH MRS. JOHNSON.

4 MRS. JOHNSON, I THINK THAT IS MARJORIE JOHNSON,
5 ISN'T IT?

6 MS. JOHNSON: YES.

7 THE COURT: YOU, TOO, HAVE HEARD ALL OF THE QUESTIONS
8 AND ANSWERS WHICH WERE ASKED AND GIVEN, THOSE THAT YOU CAN
9 RECALL, IF THE SAME GENERAL QUESTIONS WERE ASKED OF YOU,
10 WOULD YOUR ANSWERS BE ANY DIFFERENT OR WOULD THEY BE
11 SUBSTANTIALLY THE SAME?

12 MS. JOHNSON: SUBSTANTIALLY THE SAME.

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

14 MS. JOHNSON: I AM RETIRED.

15 THE COURT: WHAT DID YOU RETIRE FROM?

16 MS. JOHNSON: ROCKWELL INTERNATIONAL.

17 THE COURT: WHAT WAS YOUR JOB THERE?

18 MS. JOHNSON: BLUEPRINT CLERK.

19 THE COURT REPORTER: CLERK?

20 MS. JOHNSON: CLERK.

21 THE COURT: IS THERE A MR. JOHNSON?

22 MS. JOHNSON: NO.

23 THE COURT: YOU ARE A WIDOW, ARE YOU?

24 MS. JOHNSON: NO. I WAS DIVORCED.

25 THE COURT: WHAT DID HE DO DURING THE TIME YOU WERE
26 MARRIED TO HIM? YOU DON'T KNOW?

27 MS. JOHNSON: THAT IS SO LONG AGO. IT HAS BEEN OVER
28 30 YEARS.

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1 THE COURT: ALL RIGHT. DO YOU HAVE ANY CHILDREN BY
2 THAT MARRIAGE?

3 MS. JOHNSON: I HAD ONE SON AND HE WAS KILLED IN AN
4 AUTOMOBILE ACCIDENT A YEAR AGO.

5 THE COURT: I AM SORRY TO HEAR THAT.

6 WHAT KIND OF FORMAL EDUCATION DID YOU HAVE?

7 MS. JOHNSON: WELL, I GRADUATED FROM HIGH SCHOOL AND
8 I HAD A YEAR OF BUSINESS COLLEGE.

9 THE COURT: DID YOU EVER SERVE AS A JUROR ON A CRIMINAL
10 CASE BEFORE?

11 MS. JOHNSON: YES.

12 THE COURT: WHAT KIND OF CASE WAS THAT?

13 MS. JOHNSON: IT WAS A DRUNK DRIVING.

14 THE COURT: THAT WAS IN MUNICIPAL COURT.

15 DID THE JURY REACH A VERDICT IN THAT CASE?

16 MS. JOHNSON: YES.

17 THE COURT: HAVE YOU EVER BEEN THE VICTIM OF ANY KIND
18 OF A CRIME?

19 MS. JOHNSON: OUTSIDE OF VANDALISM ON MY CAR YEARS AGO.

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

21 MR. BARENS: GOOD MORNING, BOTH OF YOU.

22 IT HAS BEEN A WHILE SINCE WE ENGAGED IN THIS
23 ACTIVITY AND I HOPE YOU BOTH, AT LEAST GENERALLY SPEAKING,
24 REMEMBER A LOT OF THE GROUND THAT WE COVERED BEFORE.

25 MRS. JOHNSON, HOW LONG AGO WAS YOUR JURY
26 EXPERIENCE?

27 MS. JOHNSON: THE LAST TIME WAS TEN YEARS AGO.

28 MR. BARENS: WHEN YOU SAY THE LAST TIME, HAD YOU BEEN

1 A JUROR ON MORE THAN ONE OCCASION?

2 MS. JOHNSON: OH, YEARS AGO, I WAS IN WEST L.A. COURT,
3 THAT HAS BEEN ALMOST 20 YEARS AGO NOW.

4 MR. BARENS: WAS THIS ALSO A CRIMINAL MATTER?

5 MS. JOHNSON: WHAT?

6 MR. BARENS: WAS THAT ALSO A CRIMINAL MATTER,
7 MRS. JOHNSON?

8 MS. JOHNSON: NO.

9 MR. BARENS: IT WAS A CIVIL MATTER?

10 MS. JOHNSON: CIVIL CASE.

11 MR. BARENS: SO ON BOTH -- SO YOU HAVE BEEN A JUROR
12 ONLY TWICE?

13 MS. JOHNSON: RIGHT.

14 MR. BARENS: AND ASIDE FROM THE TWO TIMES YOU ACTUALLY
15 SERVED, HAVE YOU BEEN ON PANELS BEFORE WHERE YOU WERE CALLED
16 IN LIKE THIS AND POSSIBLY EXCUSED?

17 MS. JOHNSON: WELL, I WAS ON TWO OTHER CASES. I WAS
18 ON A JURY BUT ONE OF THOSE, THE JUDGE DISMISSED THE CASE AND
19 THEY WERE CIVIL CASES, AND THE OTHER ONE, THEY SETTLED OUT
20 OF COURT WHILE WE WERE AT LUNCH.

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1 MR. BARENS: THAT WAS ALSO A CIVIL CASE?

2 MS. JOHNSON: YES, CIVIL.

3 MR. BARENS: RIGHT. OKAY. SO YOU JUST HAD PRIOR
4 EXPERIENCE ON ONE CRIMINAL JURY WHERE YOU ACTUALLY WENT THROUGH
5 THE TRIAL?

6 MS. JOHNSON: YES.

7 MR. BARENS: ALL RIGHT. HOW DID YOU FEEL AS A RESULT
8 OF THAT EXPERIENCE ON THAT DRUNK DRIVING CASE? WERE YOU
9 SATISFIED WITH THE WAY THE SYSTEM WORKED?

10 MS. JOHNSON: YES.

11 MR. BARENS: DID YOU FEEL THE JURY WAS ABLE TO WORK
12 WITHIN THE INSTRUCTIONS GIVEN BY THE COURT?

13 MS. JOHNSON: YES. THEY DISCUSSED THE MATTER, TOOK
14 SEVERAL VOTES AND DISCUSSED IT AGAIN UNTIL THEY REACHED A
15 FINAL VERDICT.

16 MR. BARENS: YOU FELT THE SYSTEM WORKED AT THAT TIME.
17 YOU RECALL THAT THE BURDEN OF PROOF THAT WE TALKED ABOUT
18 AND THE JUDGE HAS MADE REFERENCE TO ON SEVERAL OCCASIONS,
19 WAS THE SAME IN THAT CASE AS WHAT YOU WOULD BE DEALING WITH
20 IN THIS CASE, THAT BEING BEYOND A REASONABLE DOUBT.

21 MS. JOHNSON: YES.

22 MR. BARENS: DO YOU RECALL THAT?

23 MS. JOHNSON: YES.

24 MR. BARENS: AND DO YOU RECALL THAT THAT WAS MARKEDLY
25 DIFFERENT THAN THE TYPE OF BURDEN OF PROOF YOU HAD EXISTENT
26 IN THE CIVIL CASE YOU WORKED, WHICH IS REFERRED TO AS A
27 PREPONDERANCE OF THE EVIDENCE, WHICH IS MORE LIKE, IF I CAN
28 QUANTIFY IT, A 51/49 TYPE OF STANDARD?

1 MS. JOHNSON: OKAY.

2 MR. BARENS: DO YOU UNDERSTAND THAT?

3 MS. JOHNSON: YES.

4 MR. BARENS: HOW DO YOU FEEL ABOUT THAT, MR. FARBER,
5 IN TERMS OF THE BURDEN OF PROOF? ARE YOU COMFORTABLE WITH
6 THAT STANDARD OF PROOF?

7 MR. FARBER: YES, I AM.

8 MR. BARENS: DO YOU UNDERSTAND THE DIFFERENCE BETWEEN
9 SOMETHING THAT IS A MORE LIKELY STANDARD, LET'S CALL IT THE
10 PREPONDERANCE STANDARD, AS OPPOSED TO BEYOND A REASONABLE
11 DOUBT?

12 MR. FARBER: YES, I DO.

13 MR. BARENS: YOU HEARD HIS HONOR MAKE REFERENCE ALL
14 MORNING TO HOW ALL CONDUCT IS SUBJECT TO SOME SORT OF DOUBT,
15 WHICH I WOULD PROBABLY AGREE WITH. HOWEVER, IN THIS CASE,
16 IT IS BEYOND A REASONABLE DOUBT AND WE CAN'T REALLY QUANTIFY
17 THAT IN TERMS OF WELL, IF YOU HAVE 72 PERCENT OR YOU NEED
18 TO HAVE 98 PERCENT.

19 BUT RATHER, IT IS A TYPE OF DECISION THAT YOU
20 WOULD MAKE WHEN INVOLVED IN THE MOST SERIOUS OF YOUR AFFAIRS.
21 WE WOULD HESITATE, LET'S SAY, IN MAKING A DECISION IN SOME
22 OF OUR MORE SERIOUS CONSIDERATIONS. DO YOU UNDERSTAND THAT?

23 MR. FARBER: YES, I DO.

24 MR. BARENS: NOW, WE HAVE HAD A LOT OF DISCUSSION OVER
25 THE WEEKS OF THIS PROCESS IN TRYING TO DETERMINE WHAT IS
26 REASONABLE AND WHETHER ONE WOULD LOOK FOR WHAT IS THE MOST
27 LIKELY IN DETERMINING WHAT IS REASONABLE OR PERHAPS MRS.
28 JOHNSON, YOU COULD CONSIDER THAT SOMETHING NOT NECESSARILY

1 THE MOST LIKELY, WOULD STILL BE A REASONABLE ANSWER TO A
2 SITUATION?

3 MS. JOHNSON: YES. I GUESS IT COULD.

4 MR. BARENS: DO YOU UNDERSTAND THAT IN HUMAN AFFAIRS
5 AND THE WAY PEOPLE ACT, THAT ALTHOUGH SOMETIMES YOU COULD
6 HAVE AN EXPLANATION FOR CONDUCT THAT WOULD BE RATHER HIGHLY
7 UNUSUAL, IT WOULD NOT BE INCONSISTENT WITH THAT EXPLANATION
8 BEING REASONABLE, NONETHELESS, IF THERE WAS EVIDENCE IN SUPPORT
9 OF IT?

10 MS. JOHNSON: YES.

11 MR. BARENS: DO YOU UNDERSTAND THAT?

12 MS. JOHNSON: YES.

13 MR. BARENS: HOW DO YOU FEEL ABOUT THE CONCEPT, IF YOU
14 ARE TOLD THAT THIS IS A NO-BODY CASE AND I THINK EVERYONE
15 PRETTY WELL UNDERSTOOD THAT, THAT THERE IS NO BODY, THAT THE
16 DEFENSE DOES NOT HAVE A BURDEN OF PROOF TO EXPLAIN TO YOU
17 WHAT HAPPENED TO THE BODY OR TO THE PERSON, IF THE PERSON BE
18 DEAD? THE DEFENSE HAS NO BURDEN OF PROOF TO EXPLAIN WHERE
19 THAT INDIVIDUAL IS AT THIS TIME. ARE YOU COMFORTABLE WITH
20 THAT?

21 MS. JOHNSON: YES.

22 MR. BARENS: HOW ABOUT YOU, MR. FARBER?

23 MR. FARBER: YES. I AM.

24 MR. BARENS: ARE YOU SATISFIED THAT THE SOLE RESPONSIBI-
25 BILITY FOR PROVING SOMETHING IN THIS COURTROOM, RESTS WITH
26 THE GOVERNMENT?

27 MR. FARBER: YES.

28 MR. BARENS: NOW, HOW ABOUT THE BUSINESS WE TALKED ABOUT

1 OF A DEFENDANT'S RIGHT NOT TO TESTIFY; MR. FARBER? DO YOU
2 THINK IT IS A LEGITIMATE RIGHT AND EXPECTANCY?

3 MR. FARBER: SURE.

4 MR. BARENS: MISS JOHNSON?

5 MS. JOHNSON: I AGREE.

6 MR. BARENS: ALL RIGHT. ON THE OTHER HAND, IF THE
7 DEFENDANT DOES COME FORWARD AND TESTIFY, WOULD YOU THINK THAT
8 THE DEFENDANT IN HOPES OF SAVING HIS LIFE, WOULD BE MORE
9 LIKELY TO LIE OR MISLEAD THE COURT AS OPPOSED TO ANY OTHER
10 WITNESS?

11 MS. JOHNSON: NOT NECESSARILY.

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1 MR. BARENS: WHEN YOU SAY "NOT NECESSARILY", DO YOU
2 HONESTLY BELIEVE YOU COULD LISTEN TO A DEFENDANT AS A WITNESS
3 AS OPEN-MINDEDLY AS YOU COULD ANY OTHER WITNESS?

4 MS. JOHNSON: YES.

5 MR. BARENS: AND IT IS BELIEVABLE TO YOU THAT THEY
6 COULD BE TELLING THE TRUTH, EVEN THOUGH THEY WOULD HAVE THE
7 MOST SIGNIFICANT STAKES IN THE COURTROOM, CONCERNING THEIR
8 FUTURE?

9 MS. JOHNSON: YES.

10 MR. BARENS: MISS JOHNSON, ASIDE FROM THE JURIES THAT
11 YOU ACTUALLY HAD PERSONAL EXPERIENCE WITH, HAVE YOU EVER SAT
12 AND WATCHED A JURY TRIAL, ASIDE FROM THE ONES YOU WORKED ON?

13 MS. JOHNSON: NO.

14 MR. BARENS: AND HOW ABOUT YOU, MR. FARBER? YOU
15 MENTIONED THAT YOU HAVE HAD NO PRIOR JURY EXPERIENCE?

16 MR. FARBER: THAT'S CORRECT.

17 MR. BARENS: HAVE YOU EVER BEEN A PART OF A GENERAL
18 PANEL LIKE THIS PREVIOUSLY?

19 MR. FARBER: NO. THIS IS THE FIRST TIME.

20 MR. BARENS: I SEE. YOU HAVE HAD NO REAL CONTACT WITH
21 LAWYERS OR PEOPLE INVOLVED IN THE JUDICIAL SYSTEM TO DATE?

22 MR. FARBER: NOT YOU KNOW, LIKE THIS, AS A JUROR. NO.

23 MR. BARENS: IN WHAT REFERENCE WOULD YOU HAVE HAD
24 CONTACT WITH THE SYSTEM?

25 MR. FARBER: WELL, WE HAVE A FAMILY ATTORNEY. AND I
26 HAVE HAD SOME LEGAL WORK DONE THROUGH THE ATTORNEY BEFORE.

27 MR. BARENS: I PRESUME IT WOULD ALL BE ON CIVIL TYPE
28 MATTERS?

1 MR. FARBER: YES, A COUPLE OF LAWSUITS.

2 MR. BARENS: HAVE YOU EVER BEEN A PART OF A TRIAL AS
3 A WITNESS?

4 MR. FARBER: NO.

5 MR. BARENS: I SEE. YOU MENTIONED THAT YOU ARE A
6 MECHANIC AT WESTERN AIRLINES. WHAT SORT OF WORK DO YOU DO,
7 MORE SPECIFICALLY, MR. FARBER?

8 MR. FARBER: I WORK IN THE ENGINE SHOP. I BLADE UP THE
9 DIFFERENT STAGES OF TURBINES.

10 MR. BARENS: PRIOR TO THAT, DID YOU HAVE SOME OTHER
11 TYPE OF EMPLOYMENT?

12 MR. FARBER: I WAS A MACHINIST FOR TWO YEARS.

13 MR. BARENS: WHERE WAS THAT?

14 MR. FARBER: QUICK CUTTING AND GRINDING IN GARDENA.

15 MR. BARENS: PRIOR TO THAT, DID YOU HAVE SOME EMPLOYMENT,
16 PRIOR TO THAT TWO YEARS?

17 MR. FARBER: I WORKED FOR MY FATHER, WHO OWNS A
18 BURGLAR ALARM COMPANY.

19 MR. BARENS: I SEE. DID YOU WORK IN THE BURGLAR ALARM
20 BUSINESS?

21 MR. FARBER: OFF AND ON SINCE I WAS ABOUT 12 YEARS OLD.

22 MR. BARENS: SO, YOU SOMEWHAT GREW UP IN THAT AS A
23 FAMILY BUSINESS?

24 MR. FARBER: UH-HUH.

25 MR. BARENS: DO YOU AS A RESULT OF THAT, HAVE A LOT OF
26 CONTACT WITH THE POLICE THAT COME TO INVESTIGATE CRIMES WHERE
27 YOUR DEVICES WOULD BE ACTIVATED?

28 MR. FARBER: NO.

1 MR. BARENS: WHY IS THAT? I DON'T KNOW WHY IT OCCURS
2 TO ME THAT MIGHT HAVE BEEN AN ESSENTIAL PART OF YOUR BUSINESS.

3 MR. FARBER: WELL, I JUST INSTALL THEM. MY FATHER
4 WOULD HANDLE ANYTHING ELSE.

5 MR. BARENS: DO YOU FEEL THAT YOUR EXPOSURE IN THAT
6 BUSINESS OR GROWING UP IN A HOUSEHOLD WHERE THAT WAS THE
7 SUBJECT OF CONCERN, WOULD HAVE GIVEN YOU ANY BIAS TOWARD
8 LAW ENFORCEMENT IN OUR SOCIETY?

9 MR. FARBER: NO.

10 MR. BARENS: YOU DON'T FEEL THAT ANYTHING ABOUT THAT
11 WOULD MAKE YOU MORE FAVORED TOWARD THE PROSECUTION THAN THE
12 DEFENSE OR THE CONVERSE OF THAT?

13 MR. FARBER: NO.

14 MR. BARENS: I SEE. WHAT SORT OF EDUCATION DID YOU
15 HAVE, MR. FARBER?

16 MR. FARBER: CERTIFICATE FROM NORTHROP UNIVERSITY
17 INSTITUTE OF TECHNOLOGY.

18 MR. BARENS: ANY AREA OF SPECIALIZATION THERE?

19 MR. FARBER: AIR FRAME AND POWER PLANT.

20 MR. BARENS: THANK YOU. AND ASIDE FROM THAT, ANY
21 FORMAL EDUCATION OTHER THAN HIGH SCHOOL?

22 MR. FARBER: NO.

23 MR. BARENS: HAVE YOU TAKEN ANY OTHER CLASSES, PERHAPS
24 OUT OF JUST INTEREST IN TAKING CLASSES SINCE YOU GOT OUT OF
25 NORTHROP?

26 MR. FARBER: NO, I HAVE NOT.

27 MR. BARENS: I SEE. DO YOU HAVE ANY PARTICULAR HOBBIES?

28 MR. FARBER: I DRAW FREEHAND AND A LITTLE WOODWORKING.

1 I GO TO A HEALTH SPA REGULARLY AND THAT IS ABOUT IT.

2 MR. BARENS: WHEN YOU DRAW, MR. FARBER, IS THERE A
3 PARTICULAR SUBJECT MATTER THAT YOU PREFER TO WORK WITH?

4 MR. FARBER: NO. IT IS SUREALISM, YOU KNOW, THE TYPE
5 OF WORK I DO.

6 MR. BARENS: BUT NO PARTICULAR SUBJECT THAT YOU LIKE
7 TO DEPICT IN YOUR WORK?

8 MR. FARBER: NO.

9 MR. BARENS: I PRESUME THE SAME WOULD BE YOUR ANSWER
10 AS TO YOUR WOODWORKING?

11 MR. FARBER: YEAH. THAT IS SOMETHING I JUST PLAY AROUND
12 WITH. I BUILD TABLE TOPS OR WHATEVER.

13 MR. BARENS: I SEE. YOU HAVE NEVER BEEN MARRIED, MR.
14 FARBER?

15 MR. FARBER: NO.

16 MR. BARENS: MRS. JOHNSON, DO YOU HAVE ANY PARTICULAR
17 HOBBIES OR SOCIAL INTERESTS?

18 MS. JOHNSON: WELL, I LIKE TO GO TO TRAVEL FILMS AND
19 LECTURES AND DO A LITTLE KNITTING AND CROCHETING OFF AND ON.
20 THAT IS ABOUT IT.

21 MR. BARENS: DO YOU BELONG TO ANY SOCIAL ORGANIZATIONS
22 OR CLUBS?

23 MR. FARBER: NO.

24 MR. BARENS: NOT TO APPEAR TOTALLY INSENSITIVE, I WAS
25 WONDERING IF THE UNFORTUNATE ACCIDENT YOUR CHILD WAS INVOLVED
26 IN, INVOLVED A DRUNK DRIVER?

27 MS. JOHNSON: NO.

28 MR. BARENS: I SEE. WHAT IS THE LAST BOOK YOU READ,

1 IF YOU RECALL?

2 MS. JOHNSON: IT HAS BEEN YEARS SINCE I HAVE READ A BOOK.

3 MR. BARENS: ALL RIGHT. WHAT IS THE LAST MOVIE YOU WENT
4 TO?

5 MS. JOHNSON: MOVIES? I DON'T GO. I MEAN, I HAVE NOT
6 BEEN TO A MOVIE IN YEARS, EITHER.

7 MR. BARENS: I SEE. I MIGHT ASK YOU, MR. FARBER, THE
8 SAME. WHAT WAS THE LAST BOOK YOU READ?

9 MR. FARBER: I AM CURRENTLY FINISHING A BOOK CALLED
10 SITKA, BY LOUIS LAMOUR.

11 THE LAST BOOK WAS PROBABLY ALSO SOMETHING FROM
12 LOUIS LAMOUR

13 MR. BARENS: THOSE ARE GENERALLY DESCRIBED AS WESTERN
14 ADVENTURE STORIES?

15 MR. FARBER: YES.

16 MR. BARENS: THE PRESIDENT READS THOSE, AS WELL?

17 MR. FARBER: YES.

18 MR. BARENS: HOW ABOUT THE LAST MOVIE YOU SAW?

19 MR. FARBER: I DON'T RECALL. IT HAS BEEN QUITE SOMETIME
20 SINCE I HAVE BEEN.

21 MR. BARENS: DON'T GO TO MOVIES A LOT?

22 MR. FARBER: NO. I HAVE SPENT A WHOLE YEAR WORKING
23 NIGHTS, SO --

24 MR. BARENS: ARE YOU A MEMBER OF THE UNION WHERE YOU
25 WORK?

26 MR. FARBER: YES, I AM. IT IS THE TEAMSTERS.

27 MR. BARENS: AND ARE YOU ACTIVE IN THAT UNION?

28 MR. FARBER: NO, I AM NOT.

1 MR. BARENS: YOU ARE NOT AN OFFICER OR STEWARD OF THAT
2 UNION?

3 MR. FARBER: NO.

4 MR. BARENS: I SEE. NOW, MISS JOHNSON, IF WE WERE TO
5 HAVE DURING THIS TRIAL, THE PARENTS OF THIS FELLOW WHO
6 POSSIBLY DISAPPEARED, COME FORWARD AND TELL US ABOUT THE
7 ALLEGED BEREAVEMENT THEY HAVE CONCERNING THE FACT THEY HAVE
8 NOT HEARD FROM THEIR SON FOR A PERIOD OF TIME, I ASK YOU
9 TRUE, DID YOU FEEL THAT THE UNFORTUNATE EXPERIENCE THAT YOU
10 HAVE BEEN A PART OF, WOULD IN ANY WAY BIAS YOU TO PERHAPS GIVE
11 MORE CREDIBILITY TO THEIR TESTIMONY THAN YOU MIGHT OTHERWISE?

12 MS. JOHNSON: NO.

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1 MR. BARENS: DO YOU FEEL YOU COULD, NONETHELESS,
2 ALTHOUGH YOU HAVE HAD A HORRENDOUS TRAGEDY IN YOUR LIFE,
3 LISTEN TO THEIR TESTIMONY AND JUDGE THEIR TESTIMONY AS ANY
4 OTHER WITNESS?

5 MS. JOHNSON: YES.

6 MR. BARENS: NOW, AS WE ARE GOING ALONG HERE AND TALKING
7 ABOUT WHETHER A MURDER OCCURRED, DO YOU RECALL THE DISCUSSIONS
8 WE HAD WHERE THERE ARE REALLY TWO QUESTIONS, THAT BEING, OF
9 COURSE, THE GOVERNMENT WANTS TO TALK ABOUT THAT JOE HUNT
10 COMMITTED A MURDER AND THE DEFENSE WANTS TO TALK ABOUT WHETHER
11 ANYBODY WAS MURDERED; DO YOU RECALL ALL OF THAT?

12 MS. JOHNSON: YES.

13 MR. BARENS: WOULD YOU BE LOOKING FOR EVIDENCE TO
14 CONVINCING YOU IN THE FIRST INSTANCE THAT A MURDER HAD TAKEN
15 PLACE?

16 MS. JOHNSON: I BELIEVE SO.

17 MR. BARENS: WOULD YOU WANT TO SEE SOME EVIDENCE THAT
18 SOMEBODY WAS DEAD IN FACT BEFORE WE GET TO DECIDE IF AND WHO
19 KILLED HIM?

20 MS. JOHNSON: I THINK SO. IT DEPENDS ON --

21 THE COURT: KEEP YOUR VOICE UP, WILL YOU, PLEASE?

22 MS. JOHNSON: IT DEPENDS ON THE TESTIMONY THAT WOULD
23 COME IN PRETTY MUCH.

24 MR. BARENS: WE ARE TOLD ABOUT TWO TYPES OF TESTIMONY,
25 DO YOU RECALL, OR TWO TYPES OF EVIDENCE, WHAT WE CALL
26 DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE.

27 MS. JOHNSON: YES.

28 MR. BARENS: DO YOU REMEMBER THAT?

7-2
1 (MS. JOHNSON NODS HER HEAD UP AND DOWN.)

2 MR. BARENS: DO YOU REMEMBER THEY ARE BOTH LOOKED AT,
3 YOU KNOW, PRETTY MUCH THE SAME BUT, RATHER, ONE DEMONSTRATES
4 EVIDENCE THROUGH INFERENCES AND YOU DRAW A CONCLUSION AND
5 THE OTHER IS A WITNESS WHO COMES FORTH AND SAYS THEY ACTUALLY
6 SAW SOMETHING.

7 MS. JOHNSON: YES.

8 MR. BARENS: DO YOU UNDERSTAND THAT?

9 MS. JOHNSON: I GUESS I UNDERSTAND.

10 MR. BARENS: NOW, WHAT DO WE DO IF AFTER HEARING ALL
11 OF THE EVIDENCE AND, OBVIOUSLY, YOU ARE GOING TO HEAR TWO
12 SIDES TRYING TO EXPLAIN PROBABLY THE SAME FACTS, WHAT DO WE
13 DO IF IT IS A CLOSE CALL?

14 MS. JOHNSON: CLOSE CALL, YOU WOULD HAVE TO GIVE THE
15 BENEFIT TO THE DEFENDANT.

16 MR. BARENS: QUITE SO.

17 THE COURT WOULD INSTRUCT YOU THAT IF YOU WERE
18 UNABLE TO REACH A CONCLUSION BEYOND A REASONABLE DOUBT, WHAT
19 HAS HAPPENED? WHAT HAS HAPPENED THEN IS THAT THE GOVERNMENT
20 HAS FAILED TO MEET THEIR BURDEN OF PROOF BEYOND A REASONABLE
21 DOUBT; ARE YOU COMFORTABLE WITH THAT, MR. FARBER?

22 MR. FARBER: YES, I AM.

23 MR. BARENS: DO YOU UNDERSTAND THAT IN THIS FORUM THAT
24 CLOSE CALLS GO TO THE DEFENDANT?

25 MR. FARBER: YES, I DO.

26 MR. BARENS: BECAUSE THE DEFENDANT DOESN'T HAVE THE
27 BURDEN OF PROOF, THE PEOPLE DO BEYOND A REASONABLE DOUBT.

28 MR. FARBER: UH-HUH.

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1 MR. BARENS: DO YOU HAVE ANY QUESTION ABOUT THAT?

2 MR. FARBER: NO, I DON'T.

3 MR. BARENS: OKAY. DID THAT SURPRISE YOU WHEN YOU CAME
4 HERE AND HEARD THAT, THAT THE DEFENDANT DOESN'T HAVE TO PROVE
5 ANYTHING?

6 MR. FARBER: NO.

7 MR. BARENS: ALL RIGHT. NOW, MR. FARBER, IF A YOUNG
8 MAN WAS A MEMBER OF AN ORGANIZATION CALLED THE BILLIONAIRE
9 BOYS CLUB, WOULD THAT GIVE YOU ANY CONCERN ABOUT A FELLOW
10 LIKE THAT?

11 MR. FARBER: NO, IT WOULDN'T.

12 MR. BARENS: IT WOULDN'T MAKE YOU SUSPICIOUS NECESSARILY
13 OF THAT PERSON?

14 MR. FARBER: NO.

15 MR. BARENS: WHAT ABOUT IF HE WENT TO A PRIVATE SCHOOL,
16 HARVARD PRIVATE SCHOOL, WOULD YOU FIND ANYTHING LESS
17 REPRESENTATIVE OR LESS GOOD ABOUT A PERSON LIKE THAT?

18 MR. FARBER: OF COURSE NOT.

19 MR. BARENS: WOULD YOUR ANSWERS BE DIFFERENT AT ALL
20 TO ANY OF THOSE QUESTIONS, MS. JOHNSON?

21 MS. JOHNSON: NO.

22 MR. BARENS: NOT AT ALL?

23 MS. JOHNSON: NO.

24 MR. BARENS: THE BILLIONAIRE BOYS CLUB BUSINESS DOESN'T
25 BOTHER YOU?

26 MS. JOHNSON: NOT IN THE LEAST.

27 MR. BARENS: PARDON?

28 MS. JOHNSON: NOT IN THE LEAST.

1 MR. BARENS: DID YOU EVER TAKE ANY CLASSES OVER THE
2 LAST SEVERAL YEARS, MRS. JOHNSON?

3 MS. JOHNSON: ANY CLASSES?
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1 MR. BARENS: ANY SORT OF CLASSES, DID YOU ATTEND ANY
2 UNIVERSITY CLASSES OR EXTENSION CLASSES OR NIGHT SCHOOL?

3 MS. JOHNSON: A NUMBER OF YEARS AGO AT UCLA, IT PERTAINED
4 TO MY WORK AND I HAD SOME EXTENSION CLASSES THROUGH OUR
5 EMPLOYER, SPONSORED BY THE EMPLOYER.

6 MR. BARENS: AND THAT HAD TO DO WITH SOME TECHNICAL
7 ASPECTS OF YOUR EMPLOYMENT WITH ROCKWELL?

8 MS. JOHNSON: YES.

9 MR. BARENS: YOU HAVE BEEN A WIDOW FOR MANY YEARS?

10 MS. JOHNSON: 30 YEARS.

11 MR. BARENS: 30?

12 MS. JOHNSON: WELL, I WAS DIVORCED ABOUT 30 YEARS AGO.
13 I DIVORCED MY HUSBAND ABOUT 30 YEARS AGO.

14 MR. BARENS: YOU WERE DIVORCED ABOUT 30 YEARS AGO AND
15 YOU NEVER MARRIED SUBSEQUENT TO THAT?

16 MS. JOHNSON: NO.

17 MR. BARENS: WHAT DO YOU DO DURING THE DAY TYPICALLY?

18 MS. JOHNSON: DURING THE DAY?

19 MR. BARENS: WHEN YOU ARE NOT HAVING TO BE HERE.

20 MS. JOHNSON: WELL, I HAVE A HOME, A YARD AND I HAVE
21 TWO CATS TO TAKE CARE OF AND I AM IN CONTACT WITH MY SISTER
22 AND HELP HER OUT WHEN SHE NEEDS IT SOMETIMES WHEN MY
23 BROTHER-IN-LAW IS IN THE HOSPITAL.

24 A JUROR: I CAN'T HEAR.

25 THE COURT: I ASKED YOU TO KEEP YOUR VOICE UP TO BE
26 SURE EVERYBODY HEARS YOU. FOR THE REASON, THAT IS, THAT A JUROR
27 WHO TAKES YOUR PLACE, IF SOMEBODY TAKES YOUR PLACE, I WILL
28 ASK THEM WHETHER OR NOT THEY HAVE HEARD ALL OF THE QUESTIONS

1 AND ANSWERS AND THEY CAN'T SAY THEY DID IF THEY DIDN'T HEAR.

2 MS. JOHNSON: THAT KEEPS ME PRETTY BUSY, I MEAN.

3 MR. BARENS: HOW WOULD YOU FEEL ABOUT BEING A JUROR
4 IN THIS CASE, MRS. JOHNSON?

5 MS. JOHNSON: WELL, ALL RIGHT.

6 I HAVE QUITE A BIT TO TAKE CARE OF AT HOME.
7 I MEAN BEING BY MYSELF, I MEAN I HAVE THE HOME TO TAKE CARE
8 OF SO --

9 MR. BARENS: DO YOU THINK THAT YOU WOULD BE
10 PREOCCUPIED WITH YOUR CONCERNS ABOUT THAT OR WOULD YOU BE
11 ABLE TO PAY FULL ATTENTION TO ALL OF THE TESTIMONY AND THE
12 ISSUES WE ARE GOING TO GET INTO HERE?

13 MS. JOHNSON: WELL, WHETHER OR NOT I MIGHT HAVE CONCERN
14 IF SOMETHING WENT WRONG AND I HAD -- IF THE PLUMBING OR
15 SOMETHING OF THAT KIND.

16 MR. BARENS: SURE, BUT OTHER THAN SOMETHING OUT OF THE
17 ORDINARY, YOUR NORMAL AFFAIRS WOULDN'T BE TOO MUCH OF AN
18 ISSUE?

19 MS. JOHNSON: THAT'S RIGHT.

20 MR. BARENS: HOW DO YOU FEEL, MR. FARBER, ABOUT
21 POSSIBLY BEING A JUROR IN THIS CASE?

22 MR. FARBER: WELL, I AM NOT SO SURE I WOULD CARE
23 PARTICULARLY TO BE A JUROR.

24 I MEAN IT WOULD BE NICE TO LISTEN TO IT BUT AS
25 FAR AS ACTUALLY BEING A JUROR --

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1 MR. BARENS: I PROBABLY HAVE THE SAME POINT OF VIEW YOU
2 DO ON THAT. HOWEVER, WE HAVE SOME RESPONSIBILITIES HERE.

3 WHEN YOU SAY YOU MIGHT RATHER JUST LISTEN TO THIS
4 THAN PARTICIPATE, WHY DO YOU FEEL THAT WAY, MR. FARBER?

5 MR. FARBER: WELL, I DON'T -- YOU KNOW, THINK I NEED
6 THE ADDED RESPONSIBILITY OF CASTING JUDGMENT UPON SOMEBODY'S
7 FUTURE.

8 MR. BARENS: DO YOU UNDERSTAND THAT IT IS INCUMBENT WITH
9 YOUR CITIZENSHIP IN THIS COUNTRY, OCCASIONALLY, TO BE PUT IN
10 THE POSITION WHERE YOU ARE TODAY?

11 MR. FARBER: YES, I DO.

12 MR. BARENS: IF YOU WERE A JUROR IN THIS CASE, WOULD
13 YOU FEEL ANY RESENTMENT TOWARD EITHER THE PROSECUTION OR
14 DEFENSE COUNSEL AS A RESULT OF YOUR SOMEWHAT BEING PRESSED IN--
15 TO THE SERVICE, HERE?

16 MR. FARBER: NO.

17 MR. BARENS: ALL RIGHT. YOU UNDERSTAND THAT IT IS JUST
18 PART OF WHAT GOES ON HERE?

19 MR. FARBER: UH-HUH.

20 MR. WAPNER: IS THAT YES?

21 MR. FARBER: YES.

22 MR. BARENS: HOW DO YOU FEEL ABOUT THE FACT THAT THE USUAL
23 OR SIMPLE ANSWER TO A QUESTION MAY NOT BE SATISFACTORY IN THIS
24 INSTANCE, BUT RATHER, WE WOULD HAVE TO POSSIBLY LOOK FOR AN
25 UNUSUAL ANSWER TO SOLVE IT?

26 MR. FARBER: I DON'T KNOW. I AM INDIFFERENT ABOUT THE
27 WHOLE THING, REALLY.

28 MR. BARENS: WHAT ARE YOU GOING TO DO WITH MR. HUNT

1 HERE, IF YOU GET TO THE END OF THE CASE AND YOU ARE NOT SURE
2 WHAT HAPPENED TO RON LEVIN?

3 THE COURT: ARE YOU ASKING HIM TO PREJUDGE IT? I DON'T
4 THINK YOU SHOULD ASK THAT QUESTION.

5 MR. BARENS: I AM ASKING HIM, HOW DOES A JUROR HAVE TO
6 VOTE, YOUR HONOR, IF HE IS UNSURE OF WHAT HAPPENED TO THE
7 ALLEGED VICTIM AT THE END OF THE CASE. IF HE IS NOT SURE --

8 THE COURT: WELL, THE QUESTION YOU ASKED BEFORE ASKED
9 HIM TO PREJUDGE IT. RECAST YOUR QUESTION.

10 MR. BARENS: ALL RIGHT. SUPPOSING YOU HAVE HEARD ONE
11 SIDE TELL YOU A BUNCH OF STUFF, YOU KNOW, EVIDENCE OR TESTI-
12 MONY ABOUT WHAT THEY CONTEND HAPPENED TO THE ALLEGED VICTIM.

13 AND THEN YOU HEAR DEFENSE WITNESSES WHICH I
14 ASSURE YOU, WILL TELL YOU WHAT THEY CONTEND HAPPENED OR THEY
15 MIGHT JUST END UP SAYING THEY DON'T KNOW WHAT HAPPENED.

16 AND YOU GET TO THE END OF THAT PROCESS AND IN YOUR
17 OWN MIND, YOU HAVE HEARD TWO SIDES TESTIFYING BUT YOU ARE NOT
18 SURE EITHER WAY WHAT HAPPENED.

19 HOW DO YOU VOTE? WHAT DO YOU DO?

20 MR. FARBER: WELL, WHAT WAS SAID EARLIER. THE TIE GOES
21 TO THE RUNNER.

22 MR. BARENS: RIGHT. IF WE ARE NOT SURE WHAT HAPPENED
23 AT THAT POINT, THE BENEFIT OF THE DOUBT SPECIFICALLY RESOLVES
24 IN FAVOR OF THE DEFENDANT IN EACH AND EVERY INSTANCE.

25 NOW, YOU UNDERSTAND THAT GOES TO ALL OF THE ELEMENTS
26 OF THE HABEAS CORPUS THAT WE TALKED ABOUT.

27 MR. WAPNER: I THINK IT IS CORPUS DELICTI.

28 MR. BARENS: SORRY. WE'LL GET TO THAT STUFF LATER. IT

1 GOES TO THE CORPUS DELICTI. THANK YOU, MR. WAPNER.

2 WE TALKED ABOUT THAT LAST TIME, THAT BEING THAT
3 SOMEONE, IN FACT, WAS MURDERED, SOMEONE IS DEAD AND THE
4 DEATH WAS A RESULT OF CRIMINAL CONDUCT.

5 IN THE QUESTIONS YOU HAVE HEARD BEFORE OVER THE
6 SEVERAL WEEKS YOU WERE HERE, DO YOU HAVE ANY QUESTIONS YOURSELF
7 ABOUT ANY OF THE MATTERS THAT COUNSEL OR THE COURT WAS TALKING
8 ABOUT?

9 MR. FARBER: NO.

10 MR. BARENS: AND HOW ABOUT YOU, MISS JOHNSON? ALL OF
11 IT SEEMED QUITE UNDERSTANDABLE TO YOU AND LOGICAL?

12 MS. JOHNSON: YES.

13 MR. BARENS: ALL RIGHT. DO YOU UNDERSTAND, MISS JOHNSON,
14 THAT REASONABLE MINDS MAY DIFFER OVER EXACTLY THE SAME FACTS?

15 MS. JOHNSON: YES.

16 MR. BARENS: THAT GIVEN THE SAME FACT SITUATION, THAT
17 YOU COULD EXPLAIN IT ONE WAY TO ME AND SOMEONE ELSE COULD
18 EXPLAIN IT TOTALLY DIFFERENTLY AND BOTH PEOPLE WOULD BE TELLING
19 WHAT THEY BELIEVE TO BE THE TRUTH?

20 MS. JOHNSON: YES.

21 MR. BARENS: DO YOU UNDERSTAND THAT, MR. FARBER?

22 MR. FARBER: YES.

23 MR. BARENS: DO YOU EVER HAVE THAT HAPPEN IN YOUR LIFE?

24 MR. FARBER: WELL, I AM SURE IT MUST HAVE HAPPENED SOME-
25 WHERE, BUT I DON'T RECALL ANY PARTICULAR INSTANCE.

26 MR. BARENS: DO YOU UNDERSTAND MR. FARBER, THAT THAT
27 IS POSSIBLE WITHOUT YOUR NECESSARILY HAVING TO SAY THAT EITHER
28 PERSON IS BEING UNREASONABLE?

1 MR. FARBER: YES.

2 MR. BARENS: COULD YOU ACCEPT THAT?

3 MR. FARBER: YES.

4 MR. BARENS: THAT WHEN WE ARE DETERMINING WHAT IS
5 REASONABLE AND WE KEEP USING THIS WORD, "REASONABLE" BECAUSE
6 THE WHOLE STANDARD OF PROOF GOES TO WHAT IS REASONABLE, THAT
7 TWO DIFFERENT PEOPLE COULD REASONABLY HAVE DIFFERENT VIEWS
8 ABOUT THE SAME FACTS?

9 MR. FARBER: YES.

10 MR. BARENS: AND THEN AS A JUROR, YOU HAVE A DECISION
11 TO TRY TO SORT THAT OUT AND COME TO A CONCLUSION, IF YOU CAN?
12 DO YOU UNDERSTAND THAT?

13 MR. FARBER: CORRECT.

14 MR. BARENS: YOU ARE COMFORTABLE WITH THAT, MRS. JOHNSON?

15 MS. JOHNSON: YES.

16 MR. BARENS: THANK YOU. THANK YOU BOTH FOR YOUR TIME.
17 I PASS FOR CAUSE, YOUR HONOR.

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1 THE COURT: ALL RIGHT.

2 MR. WAPNER: THANK YOU, YOUR HONOR. GOOD MORNING, MR.
3 FARBER AND MISS JOHNSON. IT HAS BEEN A WHILE SINCE WE HAD
4 THIS PART OF THE CASE.

5 MR. FARBER, HOW DO YOU FEEL ABOUT THE IDEA THAT
6 THE STATE CAN PROVE OR IS ALLOWED TO ATTEMPT TO PROVE THAT
7 THERE WAS A MURDER, BY CIRCUMSTANTIAL EVIDENCE WITHOUT
8 PRODUCING A BODY?

9 MR. FARBER: WELL, I THINK IT HAS BEEN DONE BEFORE,
10 RIGHT?

11 MR. WAPNER: OKAY. AND IS THAT ANOTHER WAY OF SAYING
12 THEREFORE, IT COULD BE DONE AGAIN IF THE EVIDENCE PROVES IT
13 TO YOU?

14 MR. FARBER: YEAH. I WOULD SAY SO, YES.

15 MR. WAPNER: OKAY. YOU SAID THAT YOU DIDN'T WANT TO
16 SIT IN JUDGMENT ON SOMEONE. COULD YOU DO IT?

17 MR. FARBER: WELL, YEAH. I BELIEVE SO.

18 MR. WAPNER: WHEN YOU GET INTO THE JURY ROOM, THE JUDGE
19 IS GOING TO TELL YOU THAT YOU HAVE TO VOTE YOUR OWN,
20 INDIVIDUAL CONSCIENCE, BUT YOU ARE REQUIRED TO DISCUSS THE
21 CASE WITH 11 OTHER PEOPLE. DO YOU THINK YOU COULD DO THAT?

22 MR. FARBER: YES.

23 MR. WAPNER: IF IT CAME DOWN TO A VOTE, IS IT GOING TO
24 BE SOMETHING LIKE FOR EXAMPLE, EIGHT AND THREE AND ONE
25 ABSTENTION, YOU BEING THE PERSON WHO ABSTAINS?

26 MR. FARBER: NOT NECESSARILY.

27 MR. WAPNER: OKAY. IF THE JUDGE AT THE END -- MAYBE
28 I AM TOO BUSY THINKING OF THE NEXT QUESTION. EXPLAIN THAT

1 TO ME. WHEN YOU SAY, "NOT NECESSARILY" WHAT --

2 MR. FARBER: WELL, YOU KNOW, I CAN STICK TO MY GUNS IF
3 I BELIEVE IN SOMETHING.

4 BUT YOU KNOW, I AM ALSO ABLE TO CHANGE MY MIND.
5 I WOULDN'T ABSTAIN BECAUSE I DON'T WANT TO JUDGE THE DEFENDANT.

6 MR. WAPNER: OKAY. CAN YOU APPRECIATE THAT YOU ARE NOT
7 JUDGING THE DEFENDANT, AS YOU ARE MAKING A DECISION AS TO
8 FACTS, THE EVIDENCE IN THE CASE AND THE LAW THAT IS PROVIDED
9 TO YOU?

10 MR. FARBER: YEAH. I CAN SEE THAT IS THE WAY IT IS
11 SUPPOSED TO BE DONE.

12 MR. WAPNER: THE OTHER PART OF THAT IS, THE JUDGE WILL
13 TELL YOU THAT YOU CAN'T CONSIDER WHAT MIGHT HAPPEN TO THE
14 DEFENDANT IF YOU FIND HIM GUILTY.

15 MR. FARBER: UH-HUH.

16 MR. WAPNER: ARE YOU TELLING ME THAT YOU CAN'T FOLLOW THAT
17 INSTRUCTION IF HE GIVES IT TO YOU?

18 MR. FARBER: NO. I AM NOT. THAT IS NOT WHAT I AM SAYING.

19 MR. WAPNER: OKAY. I AM NOT TRYING TO PUT WORDS INTO
20 YOUR MOUTH. HOW WILL IT AFFECT YOU IF YOU ARE SITTING ON THE
21 JURY AND YOU ARE TRYING TO THINK ABOUT WHAT MIGHT HAPPEN TO
22 THE DEFENDANT? ARE YOU GOING TO THINK ABOUT THAT?

23 MR. FARBER: WELL, I AM SURE IT WOULD ENTER INTO MY MIND.
24 I WOULD TRY TO PUT IT OUT, BUT --

25 MR. WAPNER: CAN YOU MAKE THE DECISION WHEN IT COMES
26 DOWN TO MAKING A DECISION, AS TO WHAT THE FACTS PROVE, WHEN
27 YOU APPLY THEM TO THE LAW? CAN YOU PUT OUT OF YOUR MIND WHAT
28 MIGHT HAPPEN TO THE DEFENDANT IF YOU FIND HIM GUILTY?

1 MR. FARBER: I BELIEVE I COULD.

2 MR. WAPNER: THE JUDGE IS GOING TO TELL YOU THAT YOU
3 HAVE TO. CAN YOU FOLLOW THAT INSTRUCTION?

4 MR. FARBER: SURE.

5 MR. WAPNER: MISS JOHNSON, DO YOU HAVE ANY PROBLEMS WITH
6 THAT?

7 MS. JOHNSON: NO.

8 MR. WAPNER: DO YOU UNDERSTAND THAT WHEN YOU ARE DECIDING
9 WHETHER OR NOT A CRIME WAS COMMITTED AND WHO DID IT, YOU CAN'T
10 THINK ABOUT WHAT MIGHT HAPPEN TO THE PERSON, IF YOU FIND HIM
11 GUILTY?

12 MS. JOHNSON: I UNDERSTAND IT, YES.

13 MR. WAPNER: AS A JUROR, YOU SIT AS A JUDGE OF FACTS
14 IN THE CASE. DO YOU UNDERSTAND THAT?

15 MS. JOHNSON: YES.

16 MR. WAPNER: SO, PUT YOURSELF IN THAT IMAGINARY BLACK
17 ROBE. IF YOU WERE TO ACTUALLY BE ONE OF 12 JUDGES IN THE
18 CASE, DO YOU UNDERSTAND --

19 MS. JOHNSON: YES.

20 MR. WAPNER: AND TRY TO THINK ABOUT IT THIS WAY. IF
21 YOU WERE COMING TO THE COURTROOM AND SITTING AS AN OBSERVER
22 AND THERE WAS A TRIAL WHERE ONLY THE JUDGE WAS MAKING THE
23 DECISION, WE CALL THAT A COURT TRIAL.

24 AND THE JUDGE WOULD LISTEN TO ALL OF THE FACTS
25 AND MAKE A DECISION. AS A CITIZEN SITTING BACK THERE, WOULD
26 YOU WANT YOUR JUDGE MAKING A DECISION BASED ON THE FACTS AND
27 THE LAW, OR WOULD YOU WANT HIM MAKING HIS DECISION BASED ON
28 WHAT MIGHT HAPPEN TO THE PERSON, IF HE FINDS ONE WAY OR THE

1 OTHER?

2 MS. JOHNSON: BASED ON THE LAW.

3 MR. WAPNER: ALL RIGHT. AND THEN, ONCE HE MAKES A
4 DECISION AS TO WHETHER THERE WAS A CRIME AND WHETHER THE
5 PERSON ON TRIAL COMMITTED THAT CRIME, THEN AND ONLY THEN
6 SHOULD HE THINK ABOUT WHAT MIGHT HAPPEN TO THE PERSON, THAT
7 IS ONCE HE IS CONVICTED, IF HE IS?

8 MS. JOHNSON: SORRY?

9 MR. WAPNER: OKAY. THE IDEA OF PENALTY OR PUNISHMENT
10 DOESN'T COME UNLESS AND UNTIL THERE IS A CONVICTION?

11 MS. JOHNSON: RIGHT.

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1 MR. WAPNER: HOW DO YOU FEEL ABOUT THE CONCEPT OF
2 CIRCUMSTANTIAL EVIDENCE, DID YOU HAVE ANY OPINIONS ABOUT IT
3 BEFORE YOU CAME INTO COURT?

4 MS. JOHNSON: OH, NO, NOT REALLY.

5 MR. WAPNER: DID YOU HEAR THE EXAMPLE I GAVE THE JURORS
6 ABOUT THE CHERRY PIE?

7 MS. JOHNSON: YES.

8 MR. WAPNER: DO YOU REMEMBER IT OR DO YOU WANT ME TO
9 GO OVER IT AGAIN?

10 MS. JOHNSON: WELL, THE BOY HAD A PIECE OF PIE WHICH
11 WAS MISSING AND --

12 MR. WAPNER: RIGHT, AND THE LITTLE BOY HAD PIE ALL OVER
13 HIS FACE.

14 MS. JOHNSON: FACE.

15 MR. WAPNER: WHO DO YOU THINK ATE THE PIE?

16 MS. JOHNSON: WELL, I WOULD ASSUME THE BOY BUT THAT
17 DOESN'T MEAN THAT HE DID.

18 MR. WAPNER: OKAY. WHAT DO YOU THINK -- WHAT ELSE DO
19 YOU THINK MIGHT HAVE HAPPENED?

20 MS. JOHNSON: OH, A NUMBER OF THINGS COULD HAVE HAPPENED,
21 I GUESS.

22 MR. WAPNER: IF YOU WERE ASKED TO DECIDE THAT QUESTION
23 BEYOND A REASONABLE DOUBT, IF SOMEBODY GAVE YOU THE FACTS
24 THAT I GAVE IN THE EXAMPLE AND SAID, "DO YOU HAVE AN OPINION
25 BEYOND A REASONABLE DOUBT AS TO WHAT HAPPENED," WHAT WOULD
26 YOU SAY?

27 MR. BARENS: I AM GOING TO OBJECT. THERE WERE A
28 VARIETY OF FACTS GIVEN AND I AM NOT SURE WHICH HYPOTHETICAL

1 COUNSEL REFERS TO.

2 THE COURT: I WILL SUSTAIN THE OBJECTION.

3 LET'S KEEP AWAY FROM THOSE EXAMPLES, IF YOU WILL,
4 PLEASE. I THINK WE HAVE HAD ENOUGH OF THEM.

5 MR. WAPNER: MRS. JOHNSON, YOU DO A LOT OF GARDENING
6 IN YOUR HOUSE?

7 MS. JOHNSON: QUITE A BIT, YES. I LIKE -- I ENJOY
8 GARDENING.

9 MR. WAPNER: DID YOU PURCHASE ANY OF YOUR OWN PLANTS
10 AND CARE FOR THEM?

11 MS. JOHNSON: YES.

12 MR. WAPNER: DO YOU EVER HAVE OCCASION WHERE SOME OF
13 THE PLANTS GET SICK AND THEY DIE?

14 MS. JOHNSON: OH, YES.

15 MR. WAPNER: YOU TRY AND FIGURE OUT WHAT WENT WRONG
16 WITH THEM?

17 MS. JOHNSON: WHAT I DID WRONG, USUALLY.

18 MR. WAPNER: AND HAVE YOU BEEN DOING THIS FOR A LONG
19 TIME?

20 MS. JOHNSON: OH, OVER THE YEARS, YES.

21 MR. WAPNER: YOU HAVE GOTTEN ADVICE OVER THE YEARS FROM
22 DIFFERENT PEOPLE WHO WORK AT NURSERIES?

23 MS. JOHNSON: AH, SOME FROM NURSERIES, SOME FROM
24 FRIENDS, NEIGHBORS.

25 MR. WAPNER: AND IF YOU HAD A PLANT AND IT DIED, YOU
26 LOOK AT IT AND TRY TO FIGURE OUT WHY AND TRY AND GET AS MANY
27 FACTS AS YOU CAN, RIGHT?

28 MS. JOHNSON: YES.

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1 MR. WAPNER: AND THEN YOU TRY NOT TO REPEAT THE SAME
2 MISTAKE AGAIN?

3 MS. JOHNSON: RIGHT.

4 MR. WAPNER: AND YOU TRY AND FIGURE OUT WHAT REASONABLY
5 HAPPENED TO THAT PLANT, WHY DID IT DIE?

6 MS. JOHNSON: YES.

7 MR. WAPNER: AS OPPOSED -- ALL KINDS OF THINGS ARE
8 POSSIBLE, RIGHT?

9 IT IS POSSIBLE, FOR EXAMPLE, THAT THERE WAS A
10 FROST IN THE MIDDLE OF THE NIGHT AND IT KILLED THE PLANT,
11 RIGHT?

12 MS. JOHNSON: RIGHT.

13 MR. WAPNER: BUT SINCE IT IS SOUTHERN CALIFORNIA, THAT
14 IS NOT TOO LIKELY, RIGHT?

15 MS. JOHNSON: RIGHT. IT HAS HAPPENED BUT --

16 MR. WAPNER: OKAY. IF IT IS ONE PLANT THAT DIED, FOR
17 EXAMPLE, AND THE PLANTS ON EITHER SIDE OF IT ARE ALL RIGHT,
18 YOU WOULD PROBABLY CONCLUDE IT WASN'T A FROST OR IT WOULD
19 HAVE AFFECTED ALL OF THE PLANTS?

20 MS. JOHNSON: RIGHT.

21 MR. WAPNER: DID YOU UNDERSTAND THE DISTINCTION I WAS
22 TRYING TO MAKE BETWEEN DRAWING REASONABLE INFERENCES FROM
23 THE FACTS AND KIND OF SPECULATING OR GUESSING ABOUT WHAT MIGHT
24 HAVE HAPPENED?

25 MS. JOHNSON: YES.

26 MR. WAPNER: WERE YOU ABLE TO MAKE THAT DISTINCTION
27 ON THE DRIVING UNDER THE INFLUENCE CASE THAT YOU SAT ON?

28 MS. JOHNSON: YES.

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1 MR. WAPNER: DID YOU HAVE ANY PROBLEM SEPARATING THE
2 WHEAT FROM THE CHAFF, SO TO SPEAK, IN THAT CASE?

3 MS. JOHNSON: NO.

4 MR. WAPNER: YOU ARE KIND OF SOFT-SPOKEN.

5 MS. JOHNSON: OH.

6 MR. WAPNER: WHEN YOU WERE IN THE JURY ROOM ON THE
7 DRIVING UNDER THE INFLUENCE CASE, WERE YOU ABLE TO PARTICIPATE
8 IN DELIBERATIONS WITH THE OTHER 11 PEOPLE?

9 MS. JOHNSON: OH, YES. GOT VERY -- GOT VERY EXCITED
10 AT TIMES IN THE DISCUSSION.

11 MR. WAPNER: AND WERE YOU ABLE TO EXPRESS YOUR VIEWS
12 TO THE OTHER 11 PEOPLE?

13 MS. JOHNSON: YES.

14 MR. WAPNER: AND LIKEWISE, TO LISTEN TO THE VIEWS OF
15 THE OTHER 11 PEOPLE?

16 MS. JOHNSON: RIGHT.

17 MR. WAPNER: AND AS MR. FARBER INDICATED, ARE YOU ABLE
18 TO STICK TO YOUR GUNS IF YOU ARE CONVINCED YOU ARE RIGHT?

19 MS. JOHNSON: OH, YES.

20 MR. WAPNER: CAN YOU CHANGE YOUR MIND IF YOU ARE
21 CONVINCED THAT YOU ARE WRONG?

22 MS. JOHNSON: IF I AM CONVINCED THAT I AM WRONG, YES.

23 MR. WAPNER: WELL, DID YOU HAVE OCCASION ON THAT CASE,
24 THE DRIVING UNDER THE INFLUENCE CASE, TO TAKE ONE POSITION
25 AND THEN CHANGE YOUR MIND?

26 MS. JOHNSON: ON THAT PARTICULAR CASE, I DIDN'T HAVE
27 TO CHANGE MY MIND.

28 MR. WAPNER: HAVE YOU HAD OCCASION ON ANY OF THE OTHER

1 CASES YOU HAVE SAT ON ON JURY DUTY TO TAKE A POSITION AND
2 THEN CHANGE YOUR MIND?

3 MS. JOHNSON: ON THE OTHERS, WHEN WE GOT INTO THE JURY,
4 ONE WAS DISMISSED AND THE OTHER WAS SETTLED OUT OF COURT.

5 MR. WAPNER: THOSE ARE THE ONLY TWO?

6 MS. JOHNSON: YES.

7 MR. WAPNER: HAVE YOU HAD ANY SERIOUS DISCUSSIONS WITH
8 FRIENDS OR RELATIVES WHERE YOU TOOK A POSITION AND THEN
9 ENDED UP CHANGING YOUR MIND?

10 MS. JOHNSON: OH, YES.

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1 MR. WAPNER: MR. FARBER, HOW ABOUT IN YOUR WORK, DO
2 YOU REPAIR ENGINES THAT ARE BROKEN OR JUST MAINTAIN ONES THAT
3 ARE ALREADY IN GOOD ORDER?

4 MR. FARBER: WE REPAIR THEM AND, YOU KNOW, REWORK THE
5 PARTS AND IT IS COMPLETE TEAR-DOWN AND REBUILD.

6 MR. WAPNER: DO YOU EVER DO ANY DIAGNOSIS?

7 MR. FARBER: NO, NOT ME.

8 MR. WAPNER: DID YOU STUDY ANY KIND OF REPAIR DIAGNOSIS
9 DURING YOUR STUDIES AT NORTHROP?

10 MR. FARBER: FOR RECIPROCATING POWER PLANTS ONLY.

11 MR. WAPNER: I DON'T KNOW IF I WANT TO GET INTO THAT.
12 I AM NOT SURE IF I WANT TO GET INTO THAT. I AM NOT SURE I
13 KNOW WHAT A RECIPROCATING POWER PLANT IS.

14 DO YOU WATCH PEOPLE MAKE DIAGNOSES ON THE
15 ENGINES YOU WORK ON?

16 MR. FARBER: THE PEOPLE -- I AM FAIRLY NEW AT THIS,
17 YOU KNOW. I HAVE BEEN WITH WESTERN TEN MONTHS AND THE PEOPLE
18 WHO DIAGNOSE THE ENGINES ARE OLDTIMERS THAT HAVE BEEN WITH
19 IT FOR YEARS AND YEARS, SO I DON'T SEE TOO MUCH OF THAT.

20 MR. WAPNER: DO YOU TALK TO THEM OR TRY AND LEARN FROM
21 THEM?

22 MR. FARBER: WELL, YEAH, OF COURSE, YES.

23 MR. WAPNER: OKAY. HAVE YOU EVER, AT LEAST IN YOUR
24 OWN MIND, TRIED TO FIGURE OUT WHAT IS WRONG WITH SOME OF THOSE
25 ENGINES?

26 MR. FARBER: NOT YET.

27 MR. WAPNER: OKAY. DO YOU EVER SEE THEM GOING AROUND
28 LOOKING AT THESE ENGINES AND SAY, "WELL, THIS IS POSSIBLE

1 BUT NOT LIKELY," THINGS LIKE THAT?

2 MR. FARBER: UH-HUH, YES.

3 MR. WAPNER: DO YOU WORK ON CARS AT ALL?

4 MR. FARBER: YEAH, I DO.

5 MR. WAPNER: HAVE YOU HAD THE EXPERIENCE OF TRYING TO
6 FIND OUT WHAT IS WRONG WITH SOMETHING IN YOUR CAR ENGINE?

7 MR. FARBER: YES, I HAVE.

8 MR. WAPNER: DID YOU GO AROUND AND TRY TO FIGURE OUT,
9 ELIMINATING THINGS AS POSSIBILITIES?

10 MR. FARBER: YES.

11 MR. WAPNER: AND FINALLY COME UP WITH WHAT YOU THINK
12 IS THE REASONABLE THING WRONG WITH IT AND TRY AND WORK
13 ON THAT?

14 MR. FARBER: THAT'S RIGHT.

15 THE COURT: WILL YOU BE MUCH LONGER?

16 MR. WAPNER: PROBABLY.

17 THE COURT: PROBABLY? HOW MUCH LONGER, MORE THAN HALF
18 AN HOUR?

19 MR. WAPNER: NOT MORE THAN HALF AN HOUR.

20 THE COURT: LADIES AND GENTLEMEN, WE WILL TAKE OUR NOON
21 RECESS AT THIS TIME. I WILL ASK ALL OF YOU TO COME BACK HERE
22 AT 1:45 THIS AFTERNOON. THE JURORS WILL TAKE THE PLACE THEY
23 NOW OCCUPY AND AS TO THE OTHER JURORS, THE OTHER JURORS CAN
24 SIT ANY PLACE YOU LIKE BUT BE HERE. WE WILL SEE YOU HERE
25 AT 1:45 THIS AFTERNOON.

26 MR. BARENS: YOUR HONOR, I HAVE A QUESTION FOR YOUR
27 HONOR.

28 (THE JURORS LEFT THE COURTROOM.)

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

4 (UNREPORTED COLLOQUY BETWEEN MR. BARENS
5 AND MR. WAPNER.)

6 THE COURT: ALL RIGHT.

7 MR. BARENS: YOUR HONOR, I ASK THIS QUESTION AT THIS
8 TIME SO AS NOT TO ANNOY YOUR HONOR AT A LATER TIME.

9 YOUR HONOR, THE NEW JURORS THAT HAVE COME IN
10 EXTRANEOUS OF THE FIRST 11 THAT WE ARE DEALING WITH DID NOT
11 HEAR ANY OF THE HYPOTHETICAL EXAMPLES OF EITHER COUNSEL.

12 THE COURT: I DON'T THINK WE HAVE TO DO THAT WITH THEM,
13 DO WE?

14 MR. BARENS: WELL, I ASK YOU THIS, YOUR HONOR. IT IS
15 DIFFICULT AT TIMES TO RELATE TO DIRECT AND INDIRECT AND
16 CIRCUMSTANTIAL EVIDENCE, ET CETERA, WITHOUT PROVIDING SOME
17 HYPOTHETICAL ILLUSTRATION IN ORDER TO PROBE THEIR ORIENTATION.

18 THE COURT: HASN'T IT BEEN OUR EXPERIENCE THAT THERE
19 ARE SO MANY VARIATIONS AND SO MANY OTHER FACTS THAT ON THE
20 HYPOTHETICAL GIVEN, THAT THEN THERE IS ANOTHER HYPOTHETICAL
21 ON TOP OF ANOTHER HYPOTHETICAL, SO I WANT TO GET AWAY FROM
22 THAT ALTOGETHER. IT IS NOT NECESSARY.

23 MR. BARENS: AGAIN, I WAS JUST ASKING YOUR HONOR'S
24 ORIENTATION SO I WOULD KNOW HOW TO GOVERN MY QUESTIONING,
25 AND I PRESUME THE SAME FOR MR. WAPNER.

26 THE COURT: YOU SEE, THE DIFFICULTY WITH THESE
27 HYPOTHETICALS, YOU BUILD UPON HIS AND HE BUILDS UPON YOURS
28 AND HE BUILDS UPON YOURS AND BACK AGAIN AND IT GOES ON

1 ENDLESSLY AND THEN WE ARE NOT LEFT WITH A HYPOTHETICAL ANY
2 MORE.

3 MR. BARENS: YOUR HONOR, COULD I HAVE LEAVE OF THE COURT
4 JUST TO USE ONE, IF I RESTRICT IT TO JUST ONE?

5 THE COURT: WHICH IS THAT?

6 MR. BARENS: MY COKE BOTTLE FALLING OUT OF THE AIRPLANE,
7 YOUR HONOR.

8 THE COURT: HE IS ENTITLED TO ONE. WHICH ONE DO YOU
9 WANT, THE KID WITH THE CAKE ON HIS FACE?

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1 MR. WAPNER: WELL, IF THE COURT IS RESTRICTING IT, THEN
2 I WILL USE THE EXAMPLE ABOUT THE CHERRY PIE, YOUR HONOR. I
3 THINK THAT IT IS VERY HELPFUL FOR THE JURORS AND VERY HELPFUL
4 FOR ME IN UNDERSTANDING THEIR STATE OF MIND, TO BE ABLE TO
5 USE THOSE EXAMPLES BECAUSE THERE IS NO OTHER WAY TO GET INTO
6 THEIR THOUGHT PROCESSES.

7 YOU NEVER FIND OUT WHO ARE THE ONES WHO SAY THAT
8 THE HELICOPTER IS GOING TO COME INTO THE MIDDLE OF THE OCEAN,
9 UNTIL YOU ASK THE QUESTIONS.

10 THE COURT: WELL, CERTAINLY AS TO THE OLD JURORS, THEY
11 HAVE HEARD ALL OF THAT. I DON'T THINK THERE IS ANYTHING,
12 ANY NECESSITY WITH THEM.

13 BUT, WHEN YOU GET INTO THE NEW JURORS, THEN YOU
14 CAN ASK YOUR HYPOTHETICALS.

15 MR. BARENS: THAT'S ALL YOU MEANT TO INQUIRE?

16 MR. WAPNER: THE ONLY THING THAT I WOULD LIKE TO ASK
17 THE COURT PERMISSION TO DO IS, THAT WITHOUT REPEATING THEM,
18 I WOULD LIKE TO KNOW HOW THEY FEEL FOR EXAMPLE, ABOUT THE
19 PERSON ON THE BOAT OR THE PERSON WITH THE CHERRY PIE.

20 THE COURT: I THINK WE HAVE HEARD ENOUGH ABOUT THE BOAT
21 BECAUSE THERE ARE SO MANY POSSIBILITIES WHICH ARE NOT ENVISIONED
22 BY THAT HYPOTHETICAL. THERE ARE TOO MANY THINGS.

23 THEN HE COMES UP WITH SOME OTHER SUPPOSITITIOUS
24 FACTS AND YOU GO ON AND YOU ANSWER MORE.

25 I THINK THAT THESE JURORS ARE SUFFICIENTLY
26 INTELLIGENT AND KNOW IN THE ABSTRACT, WHAT CIRCUMSTANTIAL
27 EVIDENCE IS AND WHAT CIRCUMSTANTIAL EVIDENCE ISN'T.

28 MR. WAPNER: WELL, IF THE COURT WILL RECALL, ONE OF

1 THE MOST INTELLIGENT PEOPLE WAS THE FIRST PERSON THAT SAID --
2 SHE WAS SEATED IN SEAT NUMBER 1. NOTWITHSTANDING HER
3 INTELLIGENCE, SHE WAS THE ONE WHO WAS SPECULATING WILDLY ON
4 DIFFERENT THINGS THAT MIGHT HAVE HAPPENED.

5 THE COURT: WELL, THAT IS EXACTLY MY POINT. WHAT IS
6 THE USE? WHAT IS THE PURPOSE OF THOSE HYPOTHETICALS?

7 THEY SPECULATE UPON OTHER POSSIBILITIES THAT MIGHT
8 HAPPEN.

9 MR. BARENS: WE WOULD VIGOROUSLY DISAGREE WITH WHAT
10 COUNSEL DEFINES AS WILD SPECULATION IN TERMS OF THE ATTITUDE.

11 THE COURT: ALL RIGHT. AT ANY RATE, WHAT DO YOU WANT
12 TO USE, THE CAKE? IS THAT WHAT YOU WANT TO USE?

13 MR. WAPNER: YES, PLEASE.

14 THE COURT: THAT WILL BE WITH THE NEW JURORS? WELL,
15 DO YOU WANT TO ASK THE OLD JURORS?

16 MR. WAPNER: I WOULD LIKE TO ASK THE OLD ONES, AS WELL.

17 THE COURT: I DON'T KNOW. YOU HAVE CREATED A TREMENDOUS
18 PASSION AND LIKING FOR THAT PARTICULAR EXAMPLE OF YOURS. I
19 DON'T THINK IT HAS ANY PURPOSE.

20 BUT IF YOU WANT TO ASK IT, GO AHEAD.

21 MR. BARENS: THEN YOUR HONOR IS LETTING MR. WAPNER HAVE
22 HIS CAKE?

23 THE COURT: HE CAN HAVE HIS CAKE AND YOU CAN HAVE IT
24 TOO.

25 (AT 12:08 P.M. AN ADJOURNMENT WAS TAKEN
26 UNTIL 1:45 P.M. OF THE SAME DAY.)

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1 SANTA MONICA, CALIFORNIA; MONDAY, JANUARY 12, 1987; 1:50 P.M.
 2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE
 3 (APPEARANCES AS NOTED ON TITLE PAGE.)
 4

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

8 MR. BARENS: YOUR HONOR, I BELIEVE MR. WAPNER WANTED
 9 TO SPEAK TO YOUR HONOR.

10 THE COURT: YES?

11 MR. WAPNER: YOUR HONOR, AT THE LUNCH ONE OF THE JURORS
 12 RAN INTO ME IN THE MALL AND JUST SAID HELLO AND I JUST SAID
 13 HELLO AND THAT WAS THE END. BUT I WOULD LIKE THE COURT TO
 14 TELL THE JURORS THAT IF WE DON'T SAY HELLO TO THEM IT IS
 15 BECAUSE WE DON'T WANT TO HAVE ANY --

16 THE COURT: I WILL TELL THE JURY WHEN THEY ARE SELECTED,
 17 I ALWAYS TELL THEM THAT.

18 MR. WAPNER: ALL RIGHT.

19 MR. BARENS: YOUR HONOR, I HAD ONE THING I WANTED TO
 20 BRING TO THE COURT'S ATTENTION SO THAT THE COURT COULD CONSIDER
 21 A RESPONSE TO THIS PROBLEM.

22 THE COURT: WHICH PROBLEM ARE WE TALKING ABOUT?

23 MR. BARENS: WELL, YOUR HONOR, AS A RESULT OF THE
 24 ACTIVITIES OF LAST THURSDAY ON THAT SEARCH WARRANT,
 25 APPROXIMATELY 78 DEFENSE EXHIBITS WERE REMOVED -- EXHIBITS
 26 WERE REMOVED FROM THE RESIDENCE, MANY OF WHICH WERE ORIGINALS.

27 MR. HUNT IS PREPARING AN INVENTORY FOR ME OF WHAT
 28 THEY WERE. WE WOULD OBVIOUSLY LIKE THEM BACK IN AN UNCOPIED

1 FORM BECAUSE I DON'T THINK THAT THE PEOPLE SHOULD HAVE COPIES
2 OF DEFENSE EXHIBITS UNTIL WE ARE PREPARED TO INTRODUCE THEM
3 IN THE DEFENSE PORTION OF THE CASE.

4 NOW YOUR HONOR, WE OBVIOUSLY --

5 THE COURT: YOU ARE NOT GETTING ANY EXHIBITS. YOU ARE
6 NOT GETTING ANY OF THESE PAPERS THAT WERE SEIZED, ARE YOU?

7 MR. WAPNER: NO, YOUR HONOR.

8 MR. BARENS: LET ME TELL YOUR HONOR THE MORE SPECIFIC
9 PROBLEM WE HAVE GOT: IT NOW TURNS OUT THAT LES ZOELLER,
10 MR. WAPNER'S INVESTIGATING OFFICER, WITH AT LEAST THREE OTHER
11 MEMBERS OF THE POLICE DEPARTMENT, WERE PRESENT DURING THIS
12 ACTIVITY. WHY, I COULDN'T TELL YOUR HONOR, SINCE THEY WERE
13 SEARCHING AND ASSISTING THE PEOPLE FROM NORTHERN CALIFORNIA
14 IN THIS ENTERPRISE, AGAIN WITHOUT HAVING THE BRAINS TO TELL
15 MR. WAPNER THEY WERE GOING TO GO OVER AND DO ALL OF THIS
16 STUFF. THEY HAVE ALL NOW BEEN EXPOSED TO ALL OF THESE DEFENSE
17 EXHIBITS, WE HAVE SOME EVIDENCE WHICH WILL BE A MOTION
18 SUBMITTED TO THE COURT THAT THESE PEOPLE WERE IN FACT IN
19 ACTIVE POSSESSION -- THESE BEVERLY HILLS PEOPLE WERE IN ACTIVE
20 POSSESSION OF OUR DEFENSE EXHIBITS.

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1 I DON'T KNOW WHAT HIS HONOR FEELS HIS JURISDICTION
2 IS IN TERMS OF ORDERING A RETURN OF THE DEFENSE EXHIBITS.
3 BUT THE PROBLEM I HAVE NOW, IS NOT BEING ABLE TO PREPARE THESE
4 EXHIBITS. I DON'T HAVE THEM.

5 MR. WAPNER: TWO THINGS OR THREE THINGS. FIRST OF ALL,
6 WE DON'T KNOW YET BECAUSE WE HAVE NOT HAD ANY TESTIMONY, WHAT
7 THE POLICE OFFICERS SAW AND WHAT THEY HAVE DONE. I WON'T
8 ACCEPT A BALD ASSERTION, COUNSEL'S STATEMENT THAT THE POLICE
9 OFFICERS SAW THESE EXHIBITS.

10 I AM SURE THAT THAT WOULD BE THE SUBJECT OF
11 LITIGATION. I ANTICIPATE THE MOTION PROBABLY WILL BE FILED
12 THIS WEEK. I THOUGHT IT WOULD HAVE BEEN FILED TODAY.

13 BUT I EXPECT THAT WE'LL HAVE TO HAVE TESTIMONY
14 ON THAT.

15 SECOND OF ALL, MY UNDERSTANDING IS FROM TALKING
16 TO THE DEPUTY ATTORNEY GENERAL, JOHN VANCE, THAT THE ITEMS
17 THAT WERE SEIZED WERE PLACED IN BOXES AND SHIPPED FROM LOS
18 ANGELES TO SAN FRANCISCO, WHERE THEY ARRIVED I BELIEVE, THIS
19 MORNING. THEY WILL BE SEALED, AND KEPT IN THE OFFICE OF THE
20 ATTORNEY GENERAL UNTIL AN INDEPENDENT DETERMINATION CAN BE
21 MADE AS TO WHAT SHOULD BE DONE WITH THESE EXHIBITS. THERE ARE
22 ALL KINDS OF POSSIBILITIES.

23 NONE OF US HAVE SEEN THE WARRANT. IT IS POSSIBLE
24 THAT NOTWITHSTANDING THE FACT THAT THEY ARE DEFENSE EXHIBITS,
25 THAT SOME OF THEM ARE PROPERLY SEIZABLE UNDER THE WARRANT.

26 THAT DOESN'T MEAN I AM ENTITLED TO SEE THEM, BUT
27 IT MAY MEAN THAT THE PROSECUTION IN NORTHERN CALIFORNIA,
28 WITHOUT THE KNOWLEDGE THAT THEY WERE GOING TO BE USED AS

1 DEFENSE EXHIBITS, IS ENTITLED TO HAVE THE DOCUMENTS. I HAVE
2 NOT SEEN THE WARRANT. I DON'T KNOW. THAT WILL ALSO BE
3 THE SUBJECT OF LITIGATION.

4 THAT BRINGS ME TO THE THIRD POINT, WHICH IS THAT
5 THE PROCEDURES IN THE PENAL CODE FOR APPOINTMENT OF A SPECIAL
6 MASTER, I THINK, CAN BE UTILIZED TO A CERTAIN EXTENT TO SORT
7 OUT THIS PROBLEM.

8 THE PENAL CODE OBVIOUSLY, PROVIDES IN SPECIAL
9 MASTER SITUATIONS, THAT THE MASTER DO THE SEARCH AND BE PRESENT
10 DURING THE SEARCH. WELL, WE CAN'T DO ANYTHING ABOUT THAT AT
11 THIS TIME.

12 WHAT I AM SUGGESTING, IS THAT THAT BE USED AS A
13 BASIS FOR AN EXAMINATION OF THE RECORDS BY SOME INDEPENDENT
14 THIRD PARTY. HOWEVER, THE CODE SUGGESTS THAT THE MOTION WHICH
15 IS IN THE NATURE OF A 1538.5 MOTION TO GET RETURN OF THE
16 DOCUMENTS OR PREVENT THEIR USE, BE MADE WITHIN THREE DAYS OF
17 THEIR SEIZURE.

18 I AM NOT SUGGESTING THAT THAT NECESSARILY HAS TO
19 BE DONE OR FOLLOWED IN THIS CASE. BUT I THINK THE MOTION HAS
20 TO BE PROPERLY MADE IN FRONT OF THE JUDGE IN SAN MATEO COUNTY.

21 IT SEEMS TO ME THAT THAT IS GOING TO NECESSITATE
22 MR. HUNT, THROUGH HIS COUNSEL -- EITHER HIS COUNSEL IN THIS
23 CASE OR HIS COUNSEL IN THE SAN MATEO COUNTY CASE OR BOTH,
24 MAKING A MOTION AND HAVING THE SPECIAL MASTER OR THE EQUIVALENT
25 OF THE SPECIAL MASTER OR SOME INDEPENDENT PARTY APPOINTED BY
26 THE COURT IN NORTHERN CALIFORNIA, EXAMINE THOSE RECORDS AND
27 DETERMINE WHAT HAPPENS TO THEM.

28 I AM NOT SUGGESTING IN ANY SENSE THAT THE PROSECUTION

1 IN THIS CASE, SHOULD BE ENTITLED TO THEM. BUT THIS IS A
2 WHOLE, SEPARATE ISSUE ABOUT WHAT HAPPENS TO THOSE RECORDS UP
3 THERE AND THAT HAS TO BE DETERMINED AS SOON AS POSSIBLE.
4 AND I THINK THE PROPER FORUM FOR THAT IS IN SAN MATEO COUNTY.

5 SO MY SUGGESTION IS THAT WE CAN GO AS FAR AS
6 WE CAN IN PICKING THE JURY AND IF WE GET THIS JURY, NOT
7 IMPANEL THE JURY, NOT SWEAR THE JURY AND NOT HAVE JEOPARDY
8 ATTACH UNTIL THAT LITIGATION OCCURS.

9 WE CAN EVEN GET 12, AGREE THAT THOSE WILL BE THE
10 12 AND NOT SWEAR THEM AND GET OUR ALTERNATES AND AGREE TO
11 THOSE PEOPLE AND NOT SWEAR THEM AND THEN HAVE THE LITIGATION
12 ON THE ISSUE OF THE SEARCH WARRANT. THEN WE SHOULD BE PREPARED
13 I THINK, TO START THIS CASE.

14 THE COURT: WHAT ACTION IS BEING TAKEN BY COUNSEL UP
15 IN SAN MATEO COUNTY?

16 MR. BARENS: I HAVE NOT TALKED TO PARKER KELLY, OTHER
17 THAN THROUGH MR. HUNT ADVISING ME THAT HE, HIMSELF, HAS NOT
18 SEEN THE WARRANT OR AFFIDAVIT IN SUPPORT THEREOF, AS OF TODAY.
19 ALTHOUGH DURING THE LUNCH HOUR --

20 THE COURT: WELL, I THOUGHT THE RETURN WAS --

21 MR. BARENS: HE HAD NOT SEEN ANYTHING ON IT AS YET. HE
22 IS ENDEAVORING NOW TO DISCOVER THOSE MATERIALS AND FIND OUT
23 WHAT HE CAN. AT LEAST, THIS IS WHAT I AM ADVISED BY THE
24 DEFENDANT.

25 THE COURT: I MEAN, HAVE YOU EXAMINED THOSE --

26 MR. BARENS: WE ARE RECEIVING LATER TODAY, AN INVENTORY
27 OF THE REMAINING RECORDS. I HAVE NOT PERSONALLY GONE UP THERE
28 AND EXAMINED THOSE, NO, SIR.

1 THE COURT: WELL, ARE YOU GOING TO MAKE A RECORD OF WHAT
2 YOU CLAIM IS MISSING FROM THAT?

3 MR. BARENS: YES, YOUR HONOR.

4 THE COURT: ALL RIGHT. THEN YOU MAKE A RECORD AND TELL
5 ME WHAT THEY ARE. DON'T DESCRIBE THE DOCUMENTS OR THE
6 CONTENTS. BUT TELL ME WHAT IS MISSING.

7 I WILL DO WHATEVER I CAN IN GETTING THE COURT IN
8 SAN MATEO COUNTY TO RELEASE ANY OF THESE DOCUMENTS WHICH ARE
9 PRIVILEGED IN YOUR PARTICULAR CASE THAT MAY BE USED IN THIS
10 PARTICULAR TRIAL.

11 MR. BARENS: I AM YOU KNOW -- TWO POINTS. I AM SURE
12 YOUR HONOR IS AWARE THAT MERELY RELEASING DOCUMENTS BACK TO
13 THE DEFENSE, IN THE DEFENSE OPINION WILL NOT BE A SUFFICIENT --

14 THE COURT: WELL, I WON'T PERMIT THEM TO USE ANY OF
15 THAT INFORMATION.

16 MR. BARENS: IT IS GOING TO INVOLVE YOUR HONOR,
17 CONSIDERING THE ROLE TO BE PLAYED BY THE BEVERLY HILLS POLICE
18 OFFICERS WHO HAVE BEEN ARGUABLY POLLUTED BY THAT MATERIAL.

19 ANOTHER FACT, YOUR HONOR, THAT ADDS ALMOST A
20 HUMOROUS TWIST TO THIS IS THAT I WOULD AGREE WITH MY COLLEAGUE
21 THAT THE NORMAL RESPONSE THAT WE AS LAWYERS DO FOR THIS KIND
22 OF CONDUCT -- I AM SURE YOUR HONOR WOULD HAVE DONE IT -- IS
23 TO BRING A 1538.5 MOTION TO SUPPRESS THE EVIDENCE, EXCEPT THAT
24 I CAN'T SUPPRESS THOSE EXHIBITS. I WANT THE STUFF. I DON'T
25 WANT IT SUPPRESSED. IT IS THE OPPOSITE, HERE.

26 THE COURT: WELL, I THINK THE FIRST THING TO DO IS TO
27 FIND OUT WHAT THE STUFF IS, THE RECORDS THAT ARE MISSING.

28 MR. BARENS: WELL, WE IN ALL LIKELIHOOD WILL BE FILING

1 THAT AS A PART OF A LARGER MOTION TO YOUR HONOR'S ATTENTION
2 THIS WEEK, ADDRESSING THIS IN SOME COMPREHENSIVE FORMAT.

3 I ONLY BROUGHT THIS UP AT THIS JUNCTURE TO MAKE
4 YOUR HONOR AWARE OF THE ONGOING NATURE OF THE PROBLEM WE HAVE
5 GOT AND TO GIVE YOUR HONOR AN OPPORTUNITY TO CONTEMPLATE THIS
6 KIND OF UNUSUAL SITUATION.

7 MR. WAPNER IS VERY ACCURATE IN SUGGESTING THAT
8 AN INDEPENDENT MASTER SHOULD BE THE APPROPRIATE REMEDY.

9 THE COURT: I DON'T CARE WHAT THE PROCEDURE IS THAT IS
10 FOLLOWED. I WANT IT ACCOMPLISHED. I WANT TO ACCOMPLISH
11 FINDING OUT WHAT IS MISSING AND SECONDLY, HAVE WE GOT THOSE
12 RECORDS AND THIRD, TO GET THEM BACK TO YOU.

13 MR. BARENS: ONE OTHER DIMENSION I WOULD LIKE TO MAKE
14 A RECORD ON. WHEN MR. WAPNER SUMMARILY INDICATES SOME
15 INDEPENDENT MECHANISMS WILL BE SET UP TO SEE WHAT IS AVAILABLE
16 FOR THE DEFENSE OR WHAT IS A PART OF THE DEFENSE CASE UP THERE
17 OR WHATEVER, I THINK YOUR HONOR SHOULD BE A PARTICIPANT IN
18 THAT ACTIVITY BECAUSE YOUR HONOR IS THE ONLY ONE THAT WILL
19 SERVE AS A JUDGE IN THE LOS ANGELES CASE.

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SO I DON'T KNOW HOW THESE FELLOWS COULD PROCEED.

THE COURT: I HAVE TO KNOW EXACTLY WHAT IS MISSING.

MR. BARENS: ALL RIGHT, YOUR HONOR. WELL WE WILL MAKE SURE THE COURT IS APPRISED.

MR. WAPNER: ONE OTHER THING, YOUR HONOR, THE COURT ON THURSDAY INQUIRED OF COUNSEL WHETHER IT HAD COPIES OF THE EXHIBIT TO WHICH HE REPLIED, YES.

THE COURT: HE SAID HE HAD THE ORIGINALS OF THE COPIES WHICH WERE SEIZED.

MR. WAPNER: WELL --

MR. BARENS: IT TURNS OUT --

MR. WAPNER: THE POINT BEING WHETHER THE ORIGINALS WERE TAKEN OR THE COPIES WERE TAKEN, IF COUNSEL HAS ANOTHER COPY, BE IT THE ORIGINAL OR A COPY AND THE ONLY OBJECTION TO THE USE OF THAT WOULD BE A BEST EVIDENCE OBJECTION, I HAVE NO PROBLEM WITH SAYING THAT HE IS ALLOWED TO USE A COPY.

THE COURT: HE WANTS TO BE SURE THAT YOU DON'T GET THEM.

MR. WAPNER: WELL, I HAVE -- I HAVE TRIED TO MAKE EVERY ASSURANCE TO COUNSEL AND TO THE COURT THAT I DON'T AND THAT I WON'T.

THAT IS AN INDEPENDENT QUESTION.

BUT WHAT I AM SAYING IS, IF ALL HE IS SAYING IS "WE WANT THEM BACK SO WE CAN USE THEM," AND THE ONLY WAY I WOULD BE ABLE TO PROHIBIT HIM WOULD BE BY A BEST EVIDENCE OBJECTION, I AM TELLING THE COURT IF HE IS REPRESENTING THAT IS ONE OF THE ONES THAT WERE TAKEN --

THE COURT: HE SAID HE HASN'T THE ORIGINALS. HE IS

3-2
1 SAYING HE HAS COPIES OF THE ORIGINALS THAT WERE TAKEN.

2 MR. BARENS: IT NOW TURNS OUT THAT THERE WERE 70 TO
3 80 DEFENSE EXHIBITS THAT MR. HUNT HAD NOT SUBMITTED TO ME
4 AS YET, THAT WERE IMPEACHMENT MATERIALS FOR PROSECUTION
5 WITNESSES THAT I HAVE NOT COPIES OF AT ALL. THEY WERE
6 DOCUMENTS THAT HAD BEEN HELD, IN THE GREATEST OF CONFIDENCE,
7 BY MR. HUNT.

8 THE COURT: HADN'T YOUR COLLEAGUE SEEN THEM?

9 MR. BARENS: NO, AS IT TURNS OUT, YOUR HONOR.

10 THE COURT: I DON'T UNDERSTAND WHY HE SHOULD KEEP
11 DOCUMENTS FROM YOU WHICH ARE IMPORTANT.

12 MR. BARENS: THEY WEREN'T KEPT FROM US.

13 WE HAD ACTUALLY ASKED HIM, AS THEY WERE REFERENCED
14 FROM TIME TO TIME, TO KEEP THEM IN A SAFE PLACE AND I HAD
15 NOT -- I JUST HAD NOT EXAMINED THEM.

16 THE COURT: BUT YOU HAVE A LIST OF WHAT THESE DOCUMENTS
17 ARE, HAVEN'T YOU?

18 MR. BARENS: MR. HUNT IS IN THE PROCESS OF PREPARING
19 THEM.

20 IF I COULD JUST HAVE A SECOND, YOUR HONOR, WITH
21 THE DEFENDANT.

22 (UNREPORTED COLLOQUY BETWEEN MR. BARENS.
23 AND THE DEFENDANT.)

24 MR. BARENS: I CANNOT AT THIS ABSOLUTE MOMENT IN TIME
25 ARTICULATE WHAT THEY ARE TO YOU.

26 THESE ARE THINGS THAT I WOULD REPRESENT TO THE
27 COURT -- AND I WILL MAKE ALL OF THIS KNOWN IN MY MOTION --
28 THAT I HAD FROM TIME TO TIME SEEN. I HAD NOT COPIED THEM

3-3
1 ALL, FOR ONE REASON OR ANOTHER. HOWEVER, THEY ARE THINGS
2 THAT WE HAD DISCUSSED AND THAT I HAD SEEN BUT I DO NOT --
3 JUST TO MAKE THE RECORD CLEAR ON MR. WAPNER'S POINT -- BUT
4 I DO NOT HAVE COPIES OF IN MY OFFICE, THAT I JUST DO NOT HAVE
5 COPIES OF.

6 AS YOUR HONOR IS WELL AWARE, AS A TECHNICAL
7 MATTER, THE FILE AND ALL OF ITS MATERIALS, ARE THE PROPERTY
8 OF THE CLIENT IN THESE MATTERS. I AM MERELY, YOU KNOW, AS
9 ANY CRIMINAL LAWYER, I AM A CUSTODIAN OF FILES FOR A CLIENT.
10 I CANNOT WITHHOLD A FILE FROM A CLIENT, ET CETERA.

11 IN THIS INSTANCE, THE CLIENT HAD POSSESSION OF
12 THESE MATERIALS THAT I HAD ACCESSED BUT NOT COPIED.

13 THE COURT: LET'S FIND OUT WHAT THE FACTS ARE BEFORE
14 WE --

15 MR. BARENS: I WAS JUST ADVISING THE COURT --

16 THE COURT: BEFORE WE BEGIN TO MAKE ANY KIND OF AN
17 ADJUDICATION OR SUGGESTION.

18 MR. BARENS: THANK YOU, YOUR HONOR.

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

20 HOW MANY PEREMPTORIES HAVE YOU EXERCISED?

21 MR. BARENS: 17.

22 THE COURT: THERE SEEMS TO BE A QUESTION. YOURS IS
23 THE NEXT PEREMPTORY, ISN'T IT?

24 MR. WAPNER: CORRECT.
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13-4
1 (WHEREUPON, THE FOLLOWING PROCEEDINGS
2 WERE HELD IN OPEN COURT IN THE PRESENCE
3 OF THE PROSPECTIVE JURORS:)

4 THE COURT: DID ONE OF YOU GENTLEMEN IN THE BACK RAISE
5 YOUR HAND WHEN I ASKED WHETHER OR NOT YOU KNEW ANY OF THE
6 WITNESSES WHOSE NAMES HAD BEEN CALLED OR ANYTHING?

7 (UNREPORTED COLLOQUY BETWEEN THE COURT
8 AND THE CLERK.)

9 THE COURT: DID ANYBODY SAY THEY KNEW ONE OF THE
10 PROSPECTIVE WITNESSES WHOSE NAME IS OSTROVE?

11 (NO AUDIBLE REPLY.)

12 THE COURT: THE CLERK MUST BE MISTAKEN.

13 ALL RIGHT, MISS ELIE, YOU HAVE THAT HARDSHIP NOTE,
14 HAVE YOU?

15 MS. ELIE: YES, SIR.

16 THE COURT: ALL RIGHT, YOUR EMPLOYER WON'T PERMIT YOU
17 TO STAY AND TO BE PAID?

18 MS. ELIE: NO.

19 THE COURT: ALL RIGHT, THANK YOU. YOU WILL BE EXCUSED.

20 EVERYBODY IS HERE?

21 THE CLERK: YES, EVERYBODY IS HERE.

22 THE COURT: ALL RIGHT, THE DEFENDANT IS PRESENT, COUNSEL
23 ARE PRESENT AND THE PROSPECTIVE JURORS ARE PRESENT.

24 YOU MAY CONCLUDE YOUR VOIR DIRE.

25 MR. WAPNER: THANK YOU, YOUR HONOR.

26 GOOD AFTERNOON, MR. FARBER AND MRS. JOHNSON.

27 MRS. JOHNSON, DID YOU READ ANY ARTICLES RECENTLY
28 ABOUT PEOPLE BEING GRANTED IMMUNITY TO TESTIFY AGAINST OTHER

3-5
1 MS. JOHNSON: I HAVE SEEN IT IN THE PAPER OCCASIONALLY.

2 MR. WAPNER: HAVE YOU ANY FEELINGS ABOUT THAT --

3 MS. JOHNSON: NO.

4 MR. WAPNER: -- THAT IT IS WRONG TO GIVE SOMEONE A
5 BREAK, WHO IS POSSIBLY GUILTY OF A CRIME, IN ORDER TO
6 PROSECUTE SOMEONE ELSE?

7 MS. JOHNSON: NO.

8 MR. WAPNER: IT DOESN'T BOTHER YOU?

9 MS. JOHNSON: IT DOESN'T BOTHER ME.

10 MR. WAPNER: HOW ABOUT YOU, MR. FARBER?

11 MR. FARBER: NO.

12 MR. WAPNER: MR. FARBER, YOU HEARD THE EXAMPLE I GAVE
13 ABOUT THE TWO PEOPLE BEING ROBBED?

14 MR. FARBER: YES, I DID.

15 MR. WAPNER: IS THE BACKGROUND OF THE VICTIMS, IS THAT
16 GOING TO MAKE ANY DIFFERENCE TO YOU, IS THAT GOING TO MAKE
17 ANY DIFFERENCE TO YOU AS TO WHETHER YOU FIND THE PERSON GUILTY
18 OR NOT?

19 MR. FARBER: NO.

20 MR. WAPNER: IT DOESN'T MATTER WHETHER YOU LIKE HIM
21 OR DISLIKE HIM?

22 MR. FARBER: NO, IT DOESN'T.

23 MR. WAPNER: MRS. JOHNSON, HOW ABOUT YOU?

24 MS. JOHNSON: IT WOULDN'T MAKE ANY DIFFERENCE.

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

27 MS. JOHNSON: NO.

28 MR. WAPNER: MR. FARBER?

29 MR. FARBER: NO.

3-6
1 MR. WAPNER: THANK YOU BOTH.

2 THE COURT: PASS FOR CAUSE?

3 MR. WAPNER: YES, YOUR HONOR.

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

5 MR. WAPNER: I BELIEVE IT IS THE PEOPLE'S PEREMPTORY.

6 THE COURT: NO, THE DEFENDANT'S.

7 MR. BARENS: NO. WE HAVE THE PEOPLE'S.

8 THE COURT: OH, THE PEOPLE. I AM SORRY. I SAW THE
9 ODD NUMBER AND I FORGOT ABOUT THE FACT YOU PASSED ONCE.

10 MR. BARENS: WE HAD PASSED.

11 THE COURT: ALL RIGHT, THE PEOPLE.

12 MR. WAPNER: THANK YOU, YOUR HONOR. WE WOULD THANK
13 AND ASK THE COURT TO THANK AND EXCUSE MRS. SHAW, JUROR NUMBER
14 12.

15 THE COURT: ALL RIGHT, THANK YOU, MRS. SHAW.

16 THE CLERK: STEVEN C. WIENS, W-I-E-N-S, AND THAT IS
17 STEVEN WITH A V.

18 THE COURT: I THINK YOU HAD INDICATED THAT A LONG TIME
19 AGO, MR. WIENS, THAT YOU OR SOME MEMBER OF YOUR FAMILY HAVE
20 BEEN IDENTIFIED WITH LAW ENFORCEMENT WORK.

21 MR. WIENS: YES. MY FATHER IS A RETIRED PAROLE OFFICER
22 FOR THE STATE OF CALIFORNIA.

23 I ALSO HAVE AN ACQUAINTANCE WHO IS A PROSECUTING
24 ATTORNEY FOR THE COUNTY OF LOS ANGELES.

25 THE COURT: WHICH COUNTY?

26 MR. WIENS: L.A. COUNTY.

27 THE COURT: WHAT IS HIS NAME?

28 MR. WIENS: HER NAME IS SARAH LAZARUS.

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THE COURT: WHERE IS SHE?
MR. WIENS: LONG BEACH.
THE COURT: IN THE D.A.'S OFFICE IN LONG BEACH?
MR. WIENS: YES, THE D.A.'S OFFICE.

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14-1

1 THE COURT: WELL, THE FACT THAT YOU WERE, WOULD THAT IN
2 ANY WAY PREDISPOSE YOU TO FAVOR THE PROSECUTION AGAINST THE
3 DEFENSE?

4 MR. WIENS: NO.

5 THE COURT: ALL RIGHT. YOU HAVE HEARD ALL OF THE
6 QUESTIONS AND ANSWERS WHICH WERE ASKED AND GIVEN, DID YOU
7 NOT?

8 MR. WIENS: YES.

9 THE COURT: IF THE SAME GENERAL QUESTIONS WERE ASKED
10 OF YOU, WOULD YOUR ANSWERS BE ANY DIFFERENT OR WOULD IT BE
11 SUBSTANTIALLY THE SAME?

12 MR. WIENS: THE SAME.

13 THE COURT: WHAT DO YOU DO?

14 MR. WIENS: I AM A COMPUTER PROGRAMMER FOR XEROX
15 CORPORATION.

16 THE COURT: ARE YOU MARRIED?

17 MR. WIENS: YES. I AM GOING THROUGH A DIVORCE RIGHT
18 NOW.

19 THE COURT: WELL, WHAT DOES YOUR WIFE DO?

20 MR. WIENS: SHE IS AN ARTIST.

21 THE COURT: AND WHAT FORMAL EDUCATION DID YOU RECEIVE?

22 MR. WIENS: I HAVE A BACHELOR OF SCIENCE DEGREE FROM
23 CAL STATE, DOMINGUEZ HILLS.

24 THE COURT: YOU HAVE NO CHILDREN?

25 MR. WIENS: NO.

26 THE COURT: HAVE YOU EVER SERVED AS A JUROR IN A
27 CRIMINAL CASE BEFORE?

28 MR. WIENS: NO, SIR.

1 THE COURT: AND HAVE YOU EVER BEEN A VICTIM OF ANY KIND
2 OF CRIME?

3 MR. WIENS: NOTHING SERIOUS, JUST BURGLARY.

4 THE COURT: BURGLARY?

5 MR. WIENS: A BURGLARY ONCE AND ANOTHER TIME A MOTORCYCLE
6 I HAD WAS STOLEN.

7 THE COURT: WAS THAT INVESTIGATED BY THE POLICE?

8 MR. WIENS: YES, IT WAS.

9 THE COURT: WERE YOU SATISFIED WITH THE WAY THE INVESTI-
10 GATION WENT DOWN?

11 MR. WIENS: YES. I WAS.

12 THE COURT: IT WON'T PREVENT YOU IN ANY WAY FROM -- THAT
13 YOU WON'T BE PREJUDICED AGAINST THE DEFENDANT BECAUSE HE HAS
14 BEEN CHARGED WITH AN OFFENSE?

15 MR. WIENS: NO, SIR.

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

17 MR. BARENS: GOOD AFTERNOON, SIR. WOULD YOU SAY YOUR
18 LAST NAME?

19 MR. WIENS: WIENS.

20 MR. BARENS: MR. WIENS, I APPRECIATE YOUR ADVISING US
21 THAT YOUR FATHER HAD BEEN A PAROLE OFFICER. HOW OLD WERE YOU
22 WHEN YOU MOVED OUT OF THE HOUSE?

23 MR. WIENS: I WAS 21.

24 MR. BARENS: AND YOUR FATHER WAS STILL ALIVE AT THE TIME?

25 MR. WIENS: YES.

26 MR. BARENS: YOUR FATHER WORKED FOR THE LOS ANGELES
27 COUNTY PAROLE OFFICE?

28 MR. WIENS: YEAH.

4-3

1 MR. BARENS: COULD YOU TELL US WHICH AREA OF THE COUNTY
2 HE WAS IN?

3 MR. WIENS: I BELIEVE ALL THE WAY FROM LONG BEACH UP
4 INTO SANTA MONICA. I THINK HE CHANGED AROUND SEVERAL TIMES.

5 MR. BARENS: DID HE HAVE THAT PARTICULAR EMPLOYMENT THE
6 WHOLE TIME YOU WERE LIVING AT HOME?

7 MR. WIENS: NO. GROWING UP, HE WORKED FOR -- HE STARTED
8 OUT IN THE DEPARTMENT OF CORRECTIONS BACK I THINK IN THE '50'S
9 WORKING AS A GUARD AT SOLEDAD PRISON. AND HE WORKED HIS WAY
10 UP THROUGH THE CORRECTIONS DEPARTMENT.

11 MR. BARENS: DID HE EVER SHARE ANY STORIES WITH YOU ABOUT
12 HIS EXPERIENCES EITHER IN THE PENAL SYSTEM OR AS A PAROLE
13 OFFICER?

14 MR. WIENS: A FEW. NOT TOO MANY. A FEW EXPERIENCES,
15 YEAH.

16 MR. BARENS: DID HE TELL YOU ABOUT SOME OF THE BAD
17 OR ROWDY CONDUCT SOME OF THE PRISONERS USED TO GET INVOLVED
18 IN, IN THE PRISON?

19 MR. WIENS: NO, NOT AS FAR AS THE PRISON. HE DIDN'T
20 TELL ME TOO MANY BAD STORIES ABOUT HIS PAROLEES.

21 MR. BARENS: DID HE SHARE WITH YOU ANY OF HIS
22 FRUSTRATIONS ABOUT PAROLED PEOPLE THAT HE WOULD WORK WITH THAT
23 WOULD GET BACK INTO TROUBLE AGAIN?

24 MR. WIENS: YEAH. I THINK HE WAS MORE FRUSTRATED WITH
25 THE SYSTEM, RATHER THAN THE PEOPLE THEMSELVES.

26 HE FELT THE SYSTEM WAS A LITTLE BIT UNFAIR TOWARD
27 HELPING THE PERSON GET OUT OF A LIFE OF CRIME.

28 MR. BARENS: COULD YOU BE ANY MORE SPECIFIC IN THAT,

14-4

1 SIR?

2 MR. WIENS: HE WAS VERY LIBERAL-MINDED AND FELT MORE
3 THAT A PERSON WHO HAD BEEN -- WAS COMING OUT OF PRISON, SHOULD
4 BE GIVEN SOME SORT OF TRAINING OR HELP TO REMOVE HIMSELF FROM
5 THAT TYPE OF ENVIRONMENT. HE FELT IT DIDN'T DO ANY GOOD TO
6 PUT A PERSON IN PRISON WHERE THEY ARE IN THE SAME ENVIRONMENT
7 AND PUT THEM BACK OUT ON THE STREETS IN THE SAME ENVIRONMENT
8 BECAUSE THAT WAS TOO MUCH AGAINST THEM.

9 MR. BARENS: DID HE EVER TO YOUR KNOWLEDGE, HAVE ANY
10 PROBATIONERS THAT HAD BEEN CONVICTED OF ANY MURDER CASES?

11 MR. WIENS: I COULDN'T ANSWER THAT.
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1 MR. BARENS: YOU WOULDN'T KNOW?

2 MR. WIENS: NO.

3 MR. BARENS: DID YOU EVER GO TO YOUR FATHER'S JOB WITH
4 HIM OR PARTICIPATE WITH HIM AT ALL?

5 MR. WIENS: NO, NOT REALLY. WELL, I MET A FEW OF HIS
6 PAROLEES.

7 MR. BARENS: THEY WOULD COME BY OCCASIONALLY TO TALK
8 TO YOUR DAD?

9 MR. WIENS: OCCASIONALLY.

10 MR. BARENS: DID YOU DEVELOP PERSONALLY IN YOUR OWN
11 MIND, ANY KIND OF ATTITUDE TOWARDS PAROLEES?

12 HOW DID YOU FEEL ABOUT THESE GUYS THAT WOULD COME
13 TO SEE YOUR DAD? DID YOU THINK THEY WERE BAD GUYS?

14 MR. WIENS: NOT REALLY. I CAN ONLY REMEMBER REALLY ONE
15 OR TWO OF THEM. THEY WERE PEOPLE MY FATHER WAS TRYING ERNESTLY
16 TO HELP.

17 THEY SEEMED LIKE VERY SINCERE PEOPLE THAT REALLY
18 DDN'T -- THEY WANTED TO CHANGE THEIR LIFESTYLE.

19 MR. BARENS: DID YOU AS A RESULT OF GROWING UP WITH YOUR
20 DAD, DEVELOP ANY KIND OF PHILOSOPHY ABOUT THE CRIMINAL
21 JUSTICE SYSTEM?

22 MR. WIENS: YEAH. A LOT OF HIS VIEWS HAVE RUBBED OFF
23 ON ME.

24 AS FAR AS TO ME, IT REALLY DOESN'T HELP OUR
25 SOCIETY TOO MUCH TO PUT A PERSON IN PRISON AND THEN PUT HIM
26 BACK IN THE SAME ENVIRONMENT. WHEN THEY ARE IN PRISON, THEY
27 JUST LEARN MORE ABOUT CRIME AND THEY ARE WITH CRIMINALS AND
28 THEN YOU PUT THEM BACK ON THE STREETS WHERE THEY ARE JUST GOING

1 TO DO IT AGAIN, GIVEN NOTHING BETTER TO DO, NO OTHER MEANS
2 TO SUPPORT THEMSELVES.

3 MR. BARENS: IN OTHER WORDS, YOUR PHILOSOPHY IS THAT
4 REHABILITATION SHOULD BE A MORE ACTIVE SCIENCE AND THAT IT
5 SHOULD TRANSCEND THE PRISON EXPERIENCE, BUT RATHER WORK
6 IN THE COMMUNITY UPON RELEASE FOR REHABILITATION TO BE
7 EFFECTIVE?

8 MR. WIENS: YES.

9 MR. BARENS: DID YOUR DAD EVER TALK TO YOU ABOUT WHETHER
10 OR NOT HE EVER HAD A PAROLEE SAY TO HIM OR A PROBATIONER SAY
11 TO HIM THAT THEY WERE FALSELY ACCUSED OR I SHOULD NOT HAVE
12 BEEN CONVICTED TO BEGIN WITH?

13 MR. WIENS: NO.

14 MR. BARENS: YOU DON'T RECALL ANYTHING LIKE THAT?

15 MR. WIENS: NO.

16 MR. BARENS: DO YOU HAVE ANY BIASES FOR THE PROSECUTION
17 AS A RESULT OF GROWING UP WITH YOUR FATHER, THAT WOULD IN ANY
18 WAY, MAKE YOU THINK A FELLOW ACCUSED OF A CRIME WAS MORE LIKELY
19 TO HAVE COMMITTED IT THAN NOT?

20 MR. WIENS: NO.

21 MR. BARENS: YOU HAVE HEARD ME OVER THE WEEKS, TALK ABOUT
22 THE PRESUMPTION OF INNOCENCE ASSOCIATED WITH MR. HUNT, YOURSELF
23 OR ANY OTHER DEFENDANT THAT WOULD BE IN THIS COURTROOM.

24 AS HE SITS THERE NOW, DO YOU SEE HIM WRAPPED IN
25 THAT COCOON, THE PRESUMPTION OF INNOCENCE?

26 MR. WIENS: YES, SIR.

27 MR. BARENS: ARE YOU COMFORTABLE WITH THAT?

28 MR. WIENS: YES.

1 MR. BARENS: DO YOU UNDERSTAND THAT AN ACCUSATION IS
2 NOT EVIDENCE IN AND OF ITSELF?

3 MR. WIENS: YES.

4 MR. BARENS: NOW, YOU REFERENCED, FOR WHICH I AGAIN
5 APPRECIATE THE FACT THAT YOU HAVE A DEPUTY D.A. THAT YOU ARE
6 FRIENDS WITH, A LADY NAMED LAZARUS?

7 MR. WIENS: YES.

8 MR. BARENS: AND NOT MEANING TO PRY, BUT I NEED TO, WHAT
9 IS THE NATURE OF THAT RELATIONSHIP?

10 MR. WIENS: SHE IS THE WIFE OF SOMEONE I WORK WITH. AND
11 I HAVE SEEN HER -- I MET HER ABOUT A YEAR AGO AT A PARTY. I
12 HAVE SEEN HER MAYBE FIVE TIMES SINCE, JUST AT PARTIES.

13 MR. BARENS: SHE IS THE WIFE OF SOMEONE YOU CURRENTLY
14 WORK WITH?

15 MR. WIENS: YES.

16 MR. BARENS: DID YOU EVER DISCUSS HER WORK WITH HER?

17 MR. WIENS: OCCASIONALLY. SINCE I HAVE BEEN HERE, I
18 HAVE BEEN TRYING TO THINK OF SOME SPECIFIC INSTANCE WHERE WE
19 HAD DISCUSSED A CASE OR ANYTHING ABOUT HER WORK. AND I KNOW
20 WE DISCUSSED THINGS VERY GENERALLY, BUT NOTHING SPECIFIC.

21 MR. BARENS: WHAT DID SHE TELL YOU? SHE IS OUT THERE
22 CRUSHING CRIME ALL DAY LONG? WHAT DID SHE TELL YOU ABOUT HER
23 JOB? SHE IS OUT THERE GETTING THE BAD GUYS OFF THE STREETS
24 AND WE ARE ALL SAFE?

25 MR. WIENS: NO. I DON'T RECALL. IT IS MORE JUST HER
26 JOB, WHAT SHE DOES FOR A LIVING.

27 MR. BARENS: DID SHE EVER SHARE WITH YOU ANY FRUSTRATIONS,
28 SAYING SO MANY BAD GUYS ARE GETTING OFF OR THE SYSTEM IS THIS

1 WAY OR THAT WAY OR ANY KIND OF COMPLAINT?

2 MR. WIENS: NO.

3 MR. BARENS: DID SHE EVER TALK TO YOU ABOUT ANY
4 PARTICULAR PROSECUTION SHE WAS INVOLVED IN?

5 MR. WIENS: NO.

6 MR. BARENS: DOES HER HUSBAND, YOUR FRIEND, EVER DISCUSS
7 WITH YOU HIS WIFE'S WORK?

8 MR. WIENS: NOT REALLY, NO.

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1 MR. BARENS: NOT REALLY?

2 MR. WIENS: NO.

3 MR. BARENS: DID YOU AS A RESULT OF CONTACT WITH THAT
4 PROSECUTOR, DEVELOP ANY BIAS TOWARD THE PROSECUTOR?

5 MR. WIENS: NO.

6 MR. BARENS: DO YOU, HAVING BEEN FRIENDS IN YOUR PERSONAL
7 LIFE WITH A PROSECUTOR -- I DON'T KNOW WHY IT NEVER HAPPENED
8 TO ME -- HAVE A FEELING THAT A PROSECUTOR IS NECESSARILY A
9 GOOD PERSON THAT WOULD ONLY PROSECUTE A CASE IF A PERSON WAS
10 IN FACT, GUILTY?

11 MR. WIENS: COULD YOU SAY THAT AGAIN?

12 MR. BARENS: SURE. WOULD YOU HAVE A FEELING IN YOUR
13 MIND, HAVING BEEN IN YOUR PERSONAL SETTING, FRIENDS WITH A
14 PROSECUTOR, AN ATTITUDE THAT A PROSECUTOR, A DISTRICT ATTORNEY,
15 WOULD ONLY PROSECUTE SOMEONE WHO IS IN FACT, GUILTY OF A CRIME?

16 MR. WIENS: NO. I WOULD ONLY FEEL THAT THEY ARE DOING
17 IT BECAUSE THEY FEEL THEY HAVE THE EVIDENCE TO DO IT, NOT THAT
18 THEY ARE ALWAYS RIGHT. NO.

19 MR. BARENS: DO YOU BELIEVE THEY DO IT BECAUSE IT IS
20 THEIR JOB?

21 MR. WIENS: SURE.

22 MR. BARENS: OKAY. AND THAT THEY ARE LIKE THE REST OF
23 THE HUMANS WHO COULD MAKE A MISTAKE, EVEN IN GOOD FAITH, NOT
24 SUGGESTING THAT IT WOULDN'T BE IN GOOD FAITH BUT RATHER, THEY
25 COULD MAKE A GOOD FAITH MISTAKE AND THAT YOUR FRIEND PERHAPS
26 IN HER PROSECUTORIAL ACTIVITIES, COULD IN GOOD FAITH,
27 PROSECUTE SOMEONE WHO WASN'T IN FACT, GUILTY?

28 MR. WIENS: YES. IT COULD HAPPEN.

1 MR. BARENS: IT COULD HAPPEN?

2 MR. WIENS: YES.

3 MR. BARENS: NOW, YOU ARE GOING THROUGH A DIVORCE AT
4 THIS JUNCTURE?

5 MR. WIENS: YES.

6 MR. BARENS: HAVE YOU BEEN TO COURT YET ON THAT?

7 MR. WIENS: NO.

8 MR. BARENS: IS THIS YOUR FIRST REAL CONTACT WITH THE
9 SYSTEM, ASIDE FROM YOUR PARTICIPATION, IN THIS SETTING?

10 MR. WIENS: I WAS A WITNESS TO SOME PEOPLE BREAKING INTO
11 CARS IN A PARKING LOT AT WORK ONCE. AND I WAS CALLED IN TO
12 TESTIFY AT A PRELIMINARY HEARING.

13 MR. BARENS: YOU ACTUALLY TOOK THE STAND?

14 MR. WIENS: YES.

15 MR. BARENS: AND TESTIFIED. YOU WERE A PROSECUTION
16 WITNESS?

17 MR. WIENS: YES.

18 MR. BARENS: WERE YOU CROSS-EXAMINED BY A DEFENSE COUNSEL?

19 MR. WIENS: YES, I WAS.

20 MR. BARENS: AS A RESULT OF THAT EXPERIENCE, HOW DID
21 YOU FEEL ABOUT THE DEFENSE LAWYER?

22 MR. WIENS: WELL, SHE WAS VERY SMART.

23 MR. BARENS: AND DID YOU FEEL ANY HOSTILITY OR RESENTMENT
24 TOWARDS THE DEFENSE LAWYER?

25 MR. WIENS: NO.

26 MR. BARENS: DID THE DEFENSE LAWYER TRY TO IN SOME WAY,
27 MODIFY OR IMPEACH YOUR OBSERVATIONS?

28 MR. WIENS: NO. SHE MADE AN ATTEMPT TO -- SHE CAUSED

1 ME TO REALLY THINK ABOUT WHAT I ACTUALLY SAW.

2 MR. BARENS: RIGHT, TO BE REAL SURE THAT YOUR PERCEPTION
3 OF FACTS WAS IN FACT, ACCURATE?

4 MR. WIENS: YES.

5 MR. BARENS: CAN YOU BELIEVE AS WE HAVE DISCUSSED HERE,
6 THAT SOMETIMES IT IS POSSIBLE THAT YOU AND I COULD LOOK AT
7 THE EXACT SAME CIRCUMSTANCES AND COME TO ERRATICALLY DIFFERENT
8 OR EVEN OPPOSING CONCLUSIONS?

9 MR. WIENS: YES. IT COULD HAPPEN.

10 MR. BARENS: THAT WE COULD HAVE VARIED EXPLANATIONS
11 FOR THE SAME FACT?

12 MR. WIENS: YES.

13 MR. BARENS: A LOT OF THAT WOULD GO TO OUR EXPERIENCES?

14 MR. WIENS: YES.

15 MR. BARENS: AND SO WOULD OUR PERCEPTION OF REALITY?

16 MR. WIENS: YES.

17 MR. BARENS: IT GETS BACK TO THAT WORD "REASONABLE."

18 IS IT BELIEVABLE TO YOU THAT YOU AND I COULD BOTH
19 COME TO DIFFERENT CONCLUSIONS ON THE SAME FACTS AND YET, BOTH
20 OF US BE REASONABLE?

21 MR. WIENS: YES.

22 MR. BARENS: NOT NECESSARILY FOR ME TO SAY THAT IF YOU
23 DISAGREE WITH ME YOU ARE RIGHT AWAY, UNREASONABLE. WE COULD
24 BOTH BE REASONABLE, WOULDN'T YOU SAY?

25 MR. WIENS: YES.

26 MR. BARENS: WE HEARD MR. WAPNER TALKING ABOUT SEPARATING
27 THE WHEAT FROM THE CHAFF. WHO DOES THAT IN THIS COURTROOM?

28 MR. WIENS: THE JURY.

1 MR. BARENS: RIGHT. IT IS NOT WHAT THE LAWYERS TELL
2 YOU IS CHAFF AND WHAT IS WHEAT. IT IS WHAT YOU FOLKS DECIDE
3 AS JURORS WITH YOUR OWN JUDGMENT, ISN'T IT?

4 MR. WIENS: YES.

5 MR. BARENS: YOU HAVE GOT TO LOOK AT THE EVIDENCE FOR
6 THAT?

7 MR. WIENS: YES.
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1 MR. BARENS: MR. WIENS, NOW WE GET INTO THIS WHOLE DEBATE
2 LOOKING FOR REASONABLE. THE GOVERNMENT TELLS YOU WHAT IS
3 LIKELY, LOOK FOR WHAT IS MORE LIKELY HERE, MORE LIKELY.

4 DO YOU UNDERSTAND THAT WHAT IS MORE LIKELY MIGHT
5 NOT NECESSARILY BE THE ANSWER TO THIS CASE?

6 MR. WIENS: I COULD SEE THAT BEING A POSSIBILITY, YES.

7 MR. BARENS: AND IF THE EVIDENCE SHOWED YOU THAT WHAT
8 IS MORE LIKELY, THE CASE TURNS OUT TO BE WHAT IS MORE
9 BELIEVABLE IN THIS INSTANCE, COULD YOU VOTE IN FAVOR OF THEM?

10 MR. WIENS: SAY THAT AGAIN.

11 MR. BARENS: WELL, IF IT TURNS OUT THAT ONE THING LOOKS
12 LIKELY IN THIS TESTIMONY, IN THIS DEAL, IN THIS TESTIMONY,
13 BUT THE EVIDENCE SHOWS YOU THAT WHAT LOOKS REALLY LIKELY IS
14 JUST NOT SUPPORTED BY THE EVIDENCE, WHAT DO YOU DO WITH THAT
15 INSTANCE IN TERMS OF MR. HUNT HERE?

16 MR. WIENS: WELL, YOU HAVE TO FIND HIM NOT GUILTY.

17 MR. BARENS: NOT GUILTY, BECAUSE WHAT IS MORE LIKELY
18 MAY SIMPLY NOT BE SUPPORTED BY THE EVIDENCE; DO YOU UNDERSTAND
19 THAT?

20 MS. WIENS: YES.

21 MR. BARENS: NOW, THE DEFENDANT IS SITTING THERE SAYING
22 "WELL, WAIT A MINUTE, I DON'T HAVE TO PROVE ANYTHING HERE.
23 I CAN'T PROVE WHAT HAPPENED TO THIS ALLEGED VICTIM BUT THE
24 GOVERNMENT CAN'T EITHER;" WHAT DO WE DO THEN?

25 MR. WIENS: IF THEY CAN'T PROVE THERE IS A VICTIM, THERE
26 IS NO CRIME.

27 MR. BARENS: PRECISELY. PRECISELY, THERE IS NO CRIME.

28 YOU MENTIONED YOU ARE A PROGRAMMER FOR IBM?

15-2
1 MR. WIENS: XEROX.

2 MR. BARENS: I AM SORRY.

3 XEROX. TAKE NO OFFENSE BY THAT, SIR.

4 (LAUGHTER IN COURTROOM.)

5 MR. BARENS: WHAT PRECISELY DO YOU DO IN THAT ACTIVITY?

6 MR. WIENS: PRECISELY?

7 MR. BARENS: NO, I WOULDN'T UNDERSTAND THE ANSWER.

8 TELL ME, IS THERE A PARTICULAR TYPE OF PROGRAMMING
9 ACTIVITY YOU ARE INVOLVED IN FOR A CERTAIN SYSTEM?

10 MR. WIENS: YES.

11 I WORK ON A PRINTING SYSTEM. I WRITE SOFTWARE
12 THAT INTERPRETS DATA COMING OVER A COMMUNICATIONS LINK AND
13 INTERPRET. THAT DATA ON HOW TO IMAGE THE PAPER, WHAT SORT
14 OF IMAGE COMES OUT ON THE PAPER.

15 THE COURT: YOU UNDERSTAND THAT NOW, DON'T YOU?

16 (LAUGHTER IN COURTROOM.)

17 MR. BARENS: QUITE SO. I FEEL SO MUCH MORE COMFORTABLE.
18 WE COULD TALK FOR HOURS ON THIS SUBJECT.

19 I AM COMPUTER-ILLITERATE WHEN IT COMES TO THIS.

20 LET ME ASK YOU THIS: IF THERE WERE A DIFFERENT
21 PROGRAMMER TO DO YOUR ACTIVITY, COULD THE IMAGING VARY
22 SIGNIFICANTLY?

23 MR. WIENS: IT HAD BETTER NOT.

24 MR. BARENS: BUT IF SOMEONE ELSE WAS ORIGINATING YOUR
25 WORK PRODUCT TO SOLVE THE SAME TYPE OF PROBLEM, WOULD THERE
26 BE MUCH OF A VARIANCE?

27 MR. WIENS: THERE COULD BE A FAIRLY SIGNIFICANT
28 DIFFERENCE IN THE WAY THEY SOLVE THE PROBLEM. HOWEVER, THE

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1 RESULTS HAVE TO BE IDENTICAL.

2 MR. BARENS: THE ULTIMATE IMAGERY THAT WE SEE --

3 MR. WIENS: YES.

4 MR. BARENS: -- WOULD BE IDENTICAL?

5 MR. WIENS: YES.

6 MR. BARENS: QUITE A DIFFERENT THING THAT WE HAVE GOING
7 ON HERE, ISN'T IT?

8 MR. WIENS: YES.

9 MR. BARENS: NO NECESSITY, THAT BECAUSE YOU HAVE
10 COMPETING WITNESSES ABOUT THE SAME FACTS, THAT WE GET TO
11 AN IDENTICAL RESULT, IS THERE?

12 MR. WIENS: I DON'T UNDERSTAND THE CONNECTION.

13 MR. BARENS: WELL, IF YOU HAVE ONE WITNESS TESTIFYING
14 TO A FACT AND SAY, "WELL, TO ME THIS MEANS SO AND SO," AND
15 THEN WE HAVE ANOTHER PROGRAMMER HERE -- BECAUSE NOW WHAT ARE
16 THESE WITNESSES UP HERE? THESE ARE WITNESSES, PEOPLE THAT
17 ARE TRYING TO PROGRAM YOU JURORS WITH EVIDENCE, PROGRAMMING
18 YOU WITH DATA, SO WHEN YOUR BIG COMPUTER HERE DOES ITS
19 ANALYSIS WE GET A RESULT; ISN'T THAT ABOUT WHAT HAPPENS HERE?

20 MR. WIENS: OKAY.

21 MR. BARENS: OKAY. NOW IF WE HAVE DIFFERENT WITNESSES
22 PROGRAMMING YOU FOLKS UP THERE, STEALING YOUR JOB, CAN YOU
23 UNDERSTAND WHY WE WON'T NECESSARILY COME TO THE SAME RESULT
24 WITH DIFFERENT PROGRAMMERS IN THIS INSTANCE?

25 MR. WIENS: YES, I THINK I SEE WHAT YOU MEAN.

26 MR. BARENS: I WILL TELL YOU WHY THAT HAPPENS: HERE,
27 YOU GET THE MURDER PROGRAMMER AND YOU ALSO GET THE PROGRAMMER
28 THAT SAYS "NOTHING HAPPENED AT ALL," BUT THEY ARE BOTH GOING

5-4
1 TO BE TALKING ABOUT THE SAME ALLEGED FACTS.

2 MR. WIENS: YES.

3 MR. BARENS: THEY ARE NOT GOING TO ANYWHERE COME TO
4 THE SAME RESULT AFTER THEY PROGRAM THIS VEHICLE; ARE YOU WITH
5 ME ON THAT?

6 MR. WIENS: YES.

7 MR. BARENS: WHERE DID YOU GO TO SCHOOL?

8 MR. WIENS: CAL STATE DOMINGUEZ HILLS.

9 MR. BARENS: WHAT DID YOU MAJOR IN THERE?

10 MR. WIENS: BUSINESS DATA SYSTEMS.

11 MR. BARENS: AND YOU WERE THERE FOR FOUR YEARS?

12 MR. WIENS: ABOUT THAT. I WORKED FULL TIME WHILE I
13 WAS GOING THROUGH SCHOOL SO IT TOOK ME ABOUT SIX YEARS, SIX
14 TO SEVEN YEARS.

15 MR. BARENS: WHERE DID YOU WORK DURING THAT PERIOD OF
16 TIME?

17 MR. WIENS: I WORKED AS A TRUCK DRIVER FOR A HEALTH
18 FOOD COMPANY AND I ALSO WORKED IN A GAS STATION.

19 MR. BARENS: ALL RIGHT, SIR, DID YOU MINOR IN ANYTHING
20 WHILE YOU WERE TAKING THAT CURRICULUM?

21 MR. WIENS: NO, SIR.

22 MR. BARENS: DID YOU TAKE ANY PHILOSOPHY COURSES?

23 MR. WIENS: I TOOK ONE PHILOSOPHY COURSE.

24 MR. BARENS: WHICH ONE WAS THAT?

25 MR. WIENS: I DON'T REMEMBER WHAT THE TITLE WAS.

26 IT IS TWO YEARS AGO.

27 MR. BARENS: DID ANY OF THE PHILOSOPHY YOU READ IN THAT
28 CLASS STAND OUT IN YOUR MIND OR GET REAL IMPORTANT TO YOU?

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MR. WIENS: NO.

MR. BARENS: DID YOU DO ANY SECONDARY READING ON ANY
OF THIS PHILOSOPHY?

MR. WIENS: NO.

MR. BARENS: DOES THE EXPRESSION PARADOX PHILOSOPHY
MEAN ANYTHING TO YOU?

MR. WIENS: NO.

MR. BARENS: YOU DIDN'T HEAR ANYTHING ABOUT THAT IN
PHILOSOPHY?

MR. WIENS: NO, NOT THAT I RECALL.

15-6
1 MR. BARENS: DO YOU GET INTO ANY PARADOXES IN
2 COMPUTER PROGRAMMING?

3 MR. WIENS: WELL, NONE I AM AWARE OF.

4 MR. BARENS: A PARADOX IS A GIVEN SET OF FACTS THAT
5 APPEAR ONE WAY AND TEND TO HAVE AN OPPOSITE CONCLUSION.

6 MR. WIENS: YES.

7 MR. BARENS: DID YOU GET INTO THAT?

8 MR. WIENS: YES, THAT CAN HAPPEN.

9 MR. BARENS: WHAT DO YOU DO WHEN THAT HAPPENS?

10 HOW DO YOU ANALYZE OR COME TO SOME CONCLUSION
11 ABOUT WHAT IS TRUE?

12 MR. WIENS: YOU HAVE TO LOOK FOR MORE DATA. YOU CAN'T
13 MAKE A DECISION.

14 MR. BARENS: RIGHT.

15 SO IF WE HAD COMPETING IMPLICATIONS AND COMPETING
16 INPUT INTO A SITUATION THAT LED TO A PARADOXICAL CONCLUSION,
17 WE HAVE TO LOOK FOR DATA.

18 MR. WIENS: YES.

19 MR. BARENS: AND WHAT HAPPENS IF WE DON'T GET MORE DATA,
20 SIR?

21 MR. WIENS: IN THIS INSTANCE?

22 MR. BARENS: YES.

23 MR. WIENS: NOT GUILTY.

24 MR. BARENS: NOT PROVEN, NOT GUILTY, SAME THING.

25 MR. WIENS: YES.

26 MR. BARENS: DO YOU HAVE ANY HOBBIES?

27 MR. WIENS: I WINDSURF. I PLAY RACQUETBALL AND I GO
28 TO A LOT OF HOCKEY GAMES. I LIKE TO PLAY POKER, GO DANCING.

5-7
1 MR. BARENS: ALL RIGHT. WELL, YOU ARE GOING TO HAVE
2 A LITTLE -- YOU KNOW, THAT POKER BUSINESS, YOU DON'T REALLY
3 KNOW WHERE YOU STAND UNTIL THAT LAST CARD IS TURNED.

4 MR. WIENS: NOT USUALLY.

5 MR. BARENS: NOW, IN THE POKER GAME, IF YOU ARE PLAYING --
6 AND I AM NOT A CARD PLAYER -- BUT YOU KNOW THE GAME WHERE
7 YOU TURN THE CARDS OVER ONE AT A TIME SO EVERYBODY SEES WHAT
8 YOU HAVE GOT, IT IS GOING TO BE A LITTLE LIKE THAT GAME.
9 WHAT DO YOU CALL THAT GAME, SIR --

10 DRAW POKER OR SOMETHING, MR. CHIER?

11 (LAUGHTER IN COURTROOM.)

12 MR. BARENS: WELL, IT IS A GAME WHERE YOU TURN THE CARDS
13 OVER ONE AT A TIME.

14 A VOICE: STUD.

15 MR. BARENS: THANK YOU, YOU WASTED YOUTH PEOPLE.

16 YOU TURN IT OVER ONE AT A TIME AND YOU BET EACH
17 TIME YOU TURN THE CARD OVER, RIGHT?

18 MR. WIENS: RIGHT.

19 MR. BARENS: OKAY, SIR, YOU DO NOT DO THAT IN THIS CASE.

20 CAN YOU UNDERSTAND THAT YOU DON'T BET A DIME ON
21 A WITNESS UNTIL YOU HEAR THEM ALL?

22 MR. WIENS: YES.

23 MR. BARENS: YOU DON'T STAKE YOUR HAND AND YOU DON'T
24 STAKE THE DEFENDANT'S LIFE UNTIL YOU TURN EVERY CARD?

25 MR. WIENS: YES.

26 MR. BARENS: THAT PRESUMPTION OF INNOCENCE STAYS IN
27 PLACE, THAT MANTLE OF INNOCENCE STAYS IN PLACE ON THE
28 DEFENDANT RIGHT INTO THAT JURY ROOM.

5-8
1 MR. WIENS: YES.

2 MR. BARENS: YOU UNDERSTAND THAT THE GOVERNMENT, THE
3 PEOPLE PUT THEIR CASE ON FIRST AND THEY ARE GOING TO TRY --
4 YOU KNOW, OBVIOUSLY, FOLKS, WE WOULDN'T BE HERE IF THEY WEREN'T
5 GOING TO TRY TO BIAS YOU ON THAT FIRST GO-AROUND.

6 YOU ARE NOT GOING TO DECIDE GUILT OR INNOCENCE
7 BASED ON WHAT YOU HEAR IN THE FIRST HALF OF THIS CASE, ARE
8 YOU?

9 MR. WIENS: NO.

10 MR. BARENS: OKAY, YOU WILL LISTEN TO THE SECOND HALF --

11 MR. WIENS: YES.

12 MR. BARENS: -- AS OPEN-MINDEDLY AS THE FIRST HALF?

13 MR. WIENS: YES.

14 MR. BARENS: WHAT IS THE LAST BOOK YOU READ?

15 MR. WIENS: I THINK IT WAS "GORKY PARK."

16 I DON'T READ VERY OFTEN.

17 MR. BARENS: A WHOLE DIFFERENT SYSTEM THAN THE
18 PRESUMPTION OF INNOCENCE.

19 MR. WIENS: OH, YES.

20 MR. BARENS: ABSOLUTELY.

21 A WHOLE DIFFERENT SYSTEM, BEATING GUYS UP AND
22 GETTING THEM TO TESTIFY.

23 MR. WIENS: YES.

24 MR. BARENS: THE GUYS HERE VOLUNTARILY TAKE THE STAND
25 IN THEIR OWN DEFENSE; IS THAT CORRECT?

26 MR. WIENS: YES.

27 MR. BARENS: WHAT WAS THE LAST MOVIE YOU SAW/

28 MR. WIENS: STAR TREK 4.

5-9
1 MR. BARENS: WE WON'T GIVE YOU ANY OF THAT.

2 (LAUGHTER IN COURTROOM.)

3 MR. BARENS: THANK YOU, SIR, FOR YOUR TIME.

4 WE PASS FOR CAUSE.

5 THE COURT: ALL RIGHT.

6 MR. WAPNER: GOOD AFTERNOON, MR. WIENS.

7 YOU HAVE NOT SERVED ON A JURY BEFORE?

8 MR. WIENS: NO.

9 MR. WAPNER: YOU HEARD ALL OF THE QUESTIONS I ASKED
10 ABOUT PEOPLE WHO ARE CAPABLE OF CHANGING THEIR MINDS?

11 MR. WIENS: YES.

12 MR. WAPNER: WHERE DO YOU FIT INTO THAT SPECTRUM, DO
13 YOU THINK?

14 MR. WIENS: I THINK IN THE MIDDLE.

15 MR. WAPNER: SO IF YOU TAKE A POSITION AND YOU ARE SHOWN
16 THAT IT IS WRONG, YOU COULD CHANGE YOUR MIND?

17 MR. WIENS: YES.

18 MR. WAPNER: AND ON THE OTHER HAND, IF YOU TAKE A
19 POSITION AND YOU ARE CONVINCED THAT YOU ARE RIGHT, YOU COULD
20 HOLD FIRM TO YOUR CONVICTION?

21 MR. WIENS: YES, I COULD.

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6A1
1 MR. WAPNER: THE INCIDENT THAT YOU HAD WHERE YOU
2 TESTIFIED AT THE PRELIMINARY HEARING, WERE YOU CALLED UPON
3 TO MAKE AN IDENTIFICATION OF ONE OR MORE PEOPLE?

4 MR. WIENS: THEY ASKED ME TO, BUT I COULDN'T IDENTIFY
5 THE PEOPLE. ALL I IDENTIFIED WAS THE CAR BEING DRIVEN.

6 MR. WAPNER: WERE YOU IN A POSITION TO BE ABLE TO SEE
7 THE PEOPLE?

8 MR. WIENS: NOT REALLY. I WAS DRIVING ALONG. I JUST
9 SAW TWO PEOPLE IN THE CAR.

10 I DIDN'T ACTUALLY -- I COULDN'T RECOGNIZE THE
11 TWO PEOPLE.

12 MR. WAPNER: ALL RIGHT. WAS IT A SITUATION WHERE YOU
13 NEVER ACTUALLY SAW THE PEOPLE OR YOU SAW THEM FOR A PERIOD
14 OF TIME WHICH WAS NOT SUFFICIENT?

15 MR. WIENS: RIGHT. IT WAS JUST TOO SHORT OF A PERIOD
16 OF TIME TO SEE THE ACTUAL PEOPLE. I SAW THEM DOING WHAT THEY
17 DID. I CALLED THE POLICE AND THE POLICE CAPTURED THEM LATER.

18 MR. WAPNER: OKAY. AND DID YOU EVER HAVE TO TESTIFY
19 AFTER THE PRELIMINARY HEARING?

20 MR. WIENS: NO. I BELIEVE THEY PLEADED GUILTY.

21 MR. WAPNER: HAVE YOU EVER HAD A SITUATION WHERE YOU
22 WERE WALKING DOWN THE STREET AND SAW SOMEONE YOU THOUGHT YOU
23 KNEW AND IT TURNED OUT IT WAS NOT THAT PERSON?

24 MR. WIENS: YES.

25 MR. WAPNER: YOU ARE FAMILIAR THAT PEOPLE MAKE MISTAKES
26 ALL OF THE TIME IN MAKING EYEWITNESS IDENTIFICATION?

27 MR. WIENS: YES.

28 MR. WAPNER: IN THAT CASE THAT YOU WITNESSED, IF IT

5A-2
1 WAS DEPENDENT SOLELY UPON YOUR ABILITY TO RECOGNIZE THAT
2 PERSON OR THOSE PEOPLE, YOU PROBABLY WOULD NOT HAVE BEEN ABLE
3 TO DO THAT; IS THAT CORRECT?

4 MR. WIENS: NO.

5 MR. WAPNER: WHAT DID YOU THINK OF THE PERSON WHO
6 PROSECUTED THAT PRELIMINARY HEARING?

7 MR. WIENS: I DIDN'T FEEL TOO MUCH ONE WAY OR THE OTHER.
8 I WOULD HAVE APPRECIATED THEM GIVING ME A LITTLE MORE
9 INFORMATION BEFORE I WENT IN.

10 MR. WAPNER: IN TERMS OF TALKING TO YOU AND PREPARING
11 YOU FOR WHAT YOU WERE GOING TO TESTIFY ABOUT?

12 MR. WIENS: FOR WHAT I COULD EXPECT.

13 MR. WAPNER: WAS IT ONE OF THOSE SITUATIONS WHERE THEY
14 HAD TEN OR TWELVE PRELIMINARY HEARINGS ON CALENDAR AND
15 WITNESSES ALL OVER THE HALLWAYS?

16 MR. WIENS: I DON'T KNOW.

17 MR. WAPNER: DO YOU HAVE ANY FEELINGS ABOUT THE
18 DISTRICT ATTORNEY'S OFFICE, AS A RESULT OF THAT EXPERIENCE
19 THAT WOULD AFFECT YOU IN THIS CASE?

20 MR. WIENS: NO.

21 MR. WAPNER: YOU HAVE HEARD THE EXAMPLES THAT I HAVE
22 USED ABOUT NOT MAKING A DECISION IN THE CASE BASED ON WHETHER
23 YOU LIKE THE VICTIM OR NOT?

24 MR. WIENS: YES.

25 MR. WAPNER: THE EXAMPLE I USED ABOUT THE BASKETBALL
26 GAME? WELL, LET'S FORGET ABOUT THAT ONE FOR THE TIME BEING.
27 IN HOCKEY -- YOU ARE A HOCKEY FAN, RIGHT?

28 MR. WIENS: YES.

16R-3

1 MR. WAPNER: IN HOCKEY -- AND I DON'T KNOW MUCH ABOUT
2 IT -- BUT IF A REFEREE WAS GOING TO MAKE AN OFFSIDES CALL
3 AND THE DETERMINATION WAS WHETHER THE PUCK OR THE MAN GOT
4 PAST THE BLUE LINE FIRST, HE SHOULD MAKE THAT BASED ON WHAT
5 HE SEES OF WHERE THE PUCK IS AND WHERE THE PLAYER IS?

6 MR. WIENS: THAT'S RIGHT.

7 MR. WAPNER: NOT BASED ON WHETHER HE LIKES ONE TEAM
8 OR THE OTHER?

9 MR. WIENS: THAT'S THE WAY IT IS SUPPOSED TO BE.

10 MR. WAPNER: IN HOCKEY GAMES OF COURSE, YOU CAN BOO
11 THE OFFICIALS?

12 MR. WIENS: RIGHT.

13 MR. WAPNER: IN THIS CASE, IF YOU BOO THE JUDGE, YOU
14 ARE IN BIG TROUBLE. BUT MORE IMPORTANTLY IN THIS CASE,
15 ALTHOUGH JUDGE RITTENBAND IS THE JUDGE WHO GIVES US THE LAW,
16 YOU ARE GOING TO BE THE JUDGE OF THE FACTS. DO YOU UNDERSTAND
17 THAT?

18 MR. WIENS: YES.

19 MR. WAPNER: DO YOU FEEL COMFORTABLE IN THAT ROLE?

20 MR. WIENS: YES.

21 MR. WAPNER: DID YOU FORM ANY OPINION OF PROSECUTORS
22 OR THEIR ROLE IN THE PENAL SYSTEM, GROWING UP WITH YOUR FATHER
23 AS A PAROLE OFFICER?

24 MR. WIENS: NO, NOT AT ALL.

25 MR. WAPNER: DID HE TALK TO YOU MUCH ABOUT HIS WORK?

26 MR. WIENS: OCCASIONALLY WE TALKED ABOUT IT. I THINK
27 HE TALKED ABOUT IT MORE SINCE HE RETIRED THAN WHILE I WAS
28 GROWING UP.

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

2 MR. WIENS: I USUALLY SEE HIM ABOUT TWICE A YEAR.

3 MR. WAPNER: DOES HE LIVE IN THE LOS ANGELES AREA?

4 MR. WIENS: NO. HE TRAVELS AROUND QUITE A BIT. HE
5 IS IN TEXAS RIGHT NOW.

6 MR. WAPNER: OKAY. DO YOU TALK TO HIM MORE OFTEN THAN
7 TWICE A YEAR?

8 MR. WIENS: YES. WE USUALLY COMMUNICATE AT LEAST THROUGH
9 LETTERS ONCE A MONTH OR SO.

10 MR. WAPNER: OKAY. IN THIS CASE IF YOU SIT ON THIS
11 JURY, YOU HAVE TO MAKE THE DETERMINATION OF GUILT OR INNOCENCE
12 WITHOUT CONSIDERING WHAT MIGHT HAPPEN TO THE DEFENDANT IF
13 YOU FIND HIM GUILTY. DO YOU UNDERSTAND THAT?

14 MR. WIENS: YES.
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1 MR. WAPNER: CAN YOU DO THAT?

2 MR. WIENS: YES.

3 MR. WAPNER: OKAY. YOU KNOW BECAUSE YOU HAVE BEEN IN
4 THIS COURTROOM FOR A LONG TIME, WHAT MIGHT BE COMING SOMEWHERE
5 DOWN THE ROAD?

6 MR. WIENS: YES.

7 MR. WAPNER: THE JUDGE WILL TELL YOU WHEN YOU ARE
8 DECIDING THIS PART OF THE CASE, YOU HAVE TO PUT THAT OUT OF
9 YOUR MIND. CAN YOU DO THAT?

10 MR. WIENS: YEAH. I BELIEVE SO.

11 MR. WAPNER: OKAY. IN OTHER WORDS, IT IS NOT LIKE YOU
12 CAN PRETEND YOU DIDN'T HEAR IT. CAN YOU MAKE THE DECISION
13 WITHOUT BEING SWAYED BY THAT ONE WAY OR THE OTHER?

14 MR. WIENS: WELL, I THINK JUST THE SERIOUSNESS OF THE
15 CHARGE MAKES IT -- WHEN YOU ACTUALLY GO TO DELIBERATE, WOULD
16 MAKE ME THINK A LOT HARDER BEFORE I WOULD MAKE THE DECISION.

17 MR. WAPNER: REGARDLESS OF THE PENALTY, IS WHAT YOU
18 ARE SAYING?

19 MR. WIENS: YES.

20 MR. WAPNER: WOULD IT MAKE YOU WANT PROOF GREATER THAN
21 THAT OF BEYOND A REASONABLE DOUBT?

22 MR. WIENS: NO. BUT I THINK IN THIS CASE REASONABLE
23 DOUBT BECOMES SOMETHING I WOULD BE VERY PICKY ABOUT, SINCE
24 IT IS GOING TO HAVE SUCH AN AFFECT ON THIS PERSON'S LIFE.

25 MR. WAPNER: THAT'S EXACTLY WHAT I WAS TRYING TO GET
26 AT BEFORE. WHICH IS, YOU HAVE TO DECIDE THE QUESTION OF WHAT
27 IS REASONABLE DOUBT OR NOT WITHOUT THINKING ABOUT THE EFFECT
28 IT IS GOING TO HAVE ON SOMEBODY'S LIFE.

1 IN OTHER WORDS, THE STANDARD OF PROOF, BEYOND
2 A REASONABLE DOUBT, DOESN'T CHANGE DEPENDING UPON THE EFFECT
3 IT HAS ON SOMEONE. DO YOU UNDERSTAND THAT?

4 MR. WIENS: YES. I UNDERSTAND THAT.

5 MR. WAPNER: SO THAT THE PERSON CHARGED WITH DRIVING
6 UNDER THE INFLUENCE, IS ENTITLED TO HAVE HIS -- THE STATE
7 PROVE THE CASE AGAINST HIM BEYOND A REASONABLE DOUBT, EVEN
8 THOUGH THE CONSEQUENCES OF WHAT MIGHT HAPPEN TO HIM AREN'T
9 THE SAME AS THE CONSEQUENCES OF WHAT MIGHT HAPPEN TO SOMEONE
10 WHO COMMITTED A MURDER.

11 MR. WIENS: I UNDERSTAND.

12 MR. WAPNER: BY THE SAME TOKEN, AS A PROSECUTOR, I AM
13 ENTITLED TO HAVE YOU HOLD ME TO THE SAME STANDARD BUT NOTHING
14 MORE IN THIS CASE, EVEN THOUGH IT IS A MURDER AND THE
15 CONSEQUENCES MAY BE GREATER.

16 CAN YOU DO THAT?

17 MR. WIENS: I BELIEVE SO, YES.

18 MR. WAPNER: OKAY. I UNDERSTAND WHAT YOU ARE SAYING,
19 THAT IT IS A MURDER CASE AND IT SHOULD BE TREATED VERY
20 SERIOUSLY. I AGREE WITH YOU.

21 MR. WIENS: YES.

22 MR. WAPNER: BUT WHAT I AM CONCERNED ABOUT IS, YOUR
23 ABILITY TO GIVE THE PROSECUTION A FAIR TRIAL.

24 MR. WIENS: I BELIEVE I CAN DO THAT.

25 MR. WAPNER: OKAY. IF YOU HAVE A DOUBT IN YOUR MIND
26 WHEN YOU ARE IN THE JURY ROOM DELIBERATING, WILL YOU ASK
27 YOURSELF IF THAT DOUBT IS BASED ON REASON?

28 MR. WIENS: YES.

1 MR. WAPNER: AND WILL YOU TRY TO DISTINGUISH BETWEEN
2 POSSIBLE OR IMAGINARY DOUBTS AS THE JUDGE HAS SUGGESTED IN
3 READING THE INSTRUCTION ON REASONABLE DOUBT?

4 MR. WIENS: YES.

5 MR. WAPNER: DOUBTS THAT ARE REASONABLE?

6 MR. WIENS: YES. I BELIEVE I COULD FOLLOW THE JUDGE'S
7 INSTRUCTIONS AS TO THAT.

8 MR. WAPNER: OKAY. IN ANY SITUATION, YOU COULD PROBABLY
9 SAY THAT ANYTHING IS POSSIBLE?

10 MR. WIENS: YES.

11 MR. WAPNER: SO THAT FOR WHATEVER THE SITUATION IS,
12 YOU COULD COME UP WITH SOME POSSIBLE EXPLANATION, RIGHT?

13 MR. WIENS: YES.

14 MR. WAPNER: JUST BECAUSE SOMETHING IS POSSIBLE, DOESN'T
15 NECESSARILY MEAN THAT IT IS REASONABLE?

16 MR. WIENS: THAT'S RIGHT.

17 MR. WAPNER: OKAY. WOULD YOU EXAMINE IN YOUR OWN MIND,
18 WHETHER YOU THOUGHT IT WAS REASONABLE OR NOT?

19 MR. WIENS: YES.

20 MR. WAPNER: AND HAVING DONE THAT, IF YOU DETERMINE
21 YOUR DOUBT IS REASONABLE, THAT IS ONE THING. BUT IF YOU
22 DETERMINE IT IS NOT REASONABLE, THAT IS SOMETHING ELSE, RIGHT?

23 MR. WIENS: YES.

24 MR. WAPNER: I DON'T KNOW WHAT I JUST SAID. MAYBE YOU
25 DO. I THINK I WAS GOING SOMEWHERE AND NEVER GOT THERE.

26 DOES YOUR POKER PLAYING MOSTLY ENCOMPASS PLAYING
27 WITH FRIENDS?

28 MR. WIENS: YES.

1 MR. WAPNER: DO YOU EVER GO TO LAS VEGAS AND PLAY POKER?

2 MR. WIENS: NO.

3 MR. WAPNER: WHEN YOU PLAY WITH FRIENDS, DO YOU LIMIT
4 THE STAKES?

5 MR. WIENS: YES.

6 MR. WAPNER: DO YOU PUT A LIMIT ON YOURSELF IN TERMS
7 OF HOW MUCH YOU ARE WILLING TO LOSE IN ANY GIVEN NIGHT?

8 MR. WIENS: I USUALLY DON'T TAKE MORE THAN \$10 WITH
9 ME. I AM NOT SO CONFIDENT.

10 MR. WAPNER: HOW DID YOU FEEL ABOUT THE IDEA THAT THE
11 STATE IS ALLOWED TO PRESENT A MURDER CASE WITHOUT A BODY?

12 MR. WIENS: I FEEL OKAY ABOUT IT. IT JUST MEANS THEIR
13 JOB BECOMES HARDER.

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1 MR. WAPNER: AND DID YOU HAVE ANY NOTIONS OF THE
2 VALIDITY OF CIRCUMSTANTIAL EVIDENCE BEFORE YOU CAME INTO THE
3 COURTROOM?

4 MR. WIENS: I PROBABLY DID, YES.

5 MR. WAPNER: AND DO YOU THINK YOU UNDERSTAND IT A LITTLE
6 BIT BETTER NOW THAN YOU DID WHEN YOU FIRST BEGAN TO SIT ON
7 THIS CASE?

8 MR. WIENS: YES.

9 MR. WAPNER: DO YOU NOW HAVE ANY DIFFICULTY ACCEPTING
10 WHAT THE JUDGE READ TO YOU PROBABLY A FEW WEEKS AGO, THAT
11 BOTH DIRECT AND CIRCUMSTANTIAL EVIDENCE ARE ACCEPTABLE AS
12 A MEANS OF PROOF AND NEITHER IS ENTITLED TO ANY GREATER
13 WEIGHT THAN THE OTHER?

14 MR. WIENS: YES.

15 MR. WAPNER: YOU DON'T HAVE ANY TROUBLE WITH THAT?

16 MR. WIENS: NO.

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

19 MR. WIENS: WHEN MY MOTORCYCLE WAS STOLEN, I WAS A
20 VICTIM OF A FRAUD OR CON SCHEME.

21 I WAS TRYING TO SELL MY MOTORCYCLE. SOMEBODY
22 CAME TO BUY IT. I LET HIM TAKE IT FOR A TEST DRIVE AND NEVER
23 SAW IT AGAIN. SO I WAS CONNED.

24 MR. WAPNER: DID YOU GIVE A DESCRIPTION OF THAT PERSON
25 TO THE POLICE?

26 MR. WIENS: YES.

27 MR. WAPNER: AND WAS THAT PERSON EVER APPREHENDED?

28 MR. WIENS: NO.

1 MR. WAPNER: SO YOU NEVER KNEW WHETHER IT WAS AN
2 ACCURATE DESCRIPTION OR NOT?

3 MR. WIENS: NO.

4 MR. WAPNER: THAT PERSON THAT YOU SAW WHO WAS TEST
5 DRIVING YOUR MOTORCYCLE, I ASSUME THAT YOU SAW UNDER BETTER
6 CONDITIONS THAN YOU SAW THE TWO BURGLARS?

7 MR. WIENS: NOT REALLY. IT WAS SLIGHTLY BETTER BECAUSE
8 I WAS CLOSE TO HIM. BUT IT WAS NIGHTTIME. IT WAS RATHER
9 DARK.

10 MR. WAPNER: OKAY. SO YOU DON'T KNOW WHETHER, IF CALLED
11 UPON TO MAKE AN IDENTIFICATION IN THAT CASE, YOU COULD HAVE?

12 MR. WIENS: NO. IN FACT, THEY DID ASK ME TO MAKE AN
13 IDENTIFICATION FROM SOME PICTURES AND I COULDN'T.

14 MR. WAPNER: THEY SHOWED YOU A SERIES OF SEVERAL PICTURES?

15 MR. WIENS: THAT'S CORRECT.

16 MR. WAPNER: HOW LONG DID YOU HAVE TO ACTUALLY LOOK
17 AT THE PERSON THAT YOU SAW?

18 MR. WIENS: PROBABLY FOR AROUND ONE MINUTE OR MAYBE
19 TWO. IT IS A LONG TIME AGO. IT HAS BEEN EIGHT YEARS.

20 MR. WAPNER: HOW MANY YEARS?

21 MR. WIENS: EIGHT YEARS AGO.

22 MR. WAPNER: ANY OTHER THEFTS OR ANYTHING THAT YOU WERE
23 THE VICTIM OF?

24 MR. WIENS: WHEN I WAS LIVING AT HOME, MY PARENTS' HOUSE
25 WAS BURGLARIZED. A FEW THINGS WERE TAKEN.

26 MR. WAPNER: WAS ANYBODY EVER CAUGHT IN THAT CASE?

27 MR. WIENS: NO.

28 MR. WAPNER: DID YOU HAVE ANY FEELING ABOUT HOW THOSE

1 CASES WERE HANDLED BY THE POLICE?

2 MR. WIENS: NO. WELL, I THOUGHT AS FAR AS MY MOTORCYCLE,
3 I WAS IMPRESSED WITH HOW MUCH THEY LOOKED INTO IT.

4 MR. WAPNER: WHAT POLICE DEPARTMENT WAS THAT?

5 MR. WIENS: GARDENA POLICE DEPARTMENT.

6 MR. WAPNER: YOU DON'T REMEMBER THE NAME OF THE OFFERS?

7 MR. WIENS: NO I DON'T.

8 MR. WAPNER: WHAT EFFECT HAVE YOUR VIEWS ON THE PENAL
9 SYSTEM -- WHAT EFFECT ARE THEY GOING TO HAVE ON YOUR ABILITY
10 TO MAKE A DECISION IN THIS CASE FAIRLY?

11 MR. WIENS: I DON'T THINK THAT THEY WILL.

12 MR. WAPNER: YOUR FATHER DEALT WITH PEOPLE AFTER THEY
13 WERE ALREADY CONVICTED?

14 MR. WIENS: YES.

15 MR. WAPNER: ARE YOU GOING TO TAKE IT UPON YOURSELF TO
16 TRY TO MAKE SOME EVALUATION OF THE DEFENDANT AND WHAT MIGHT
17 HAPPEN TO HIM AND THEREFORE, KIND OF ADJUST YOUR VERDICT OR
18 YOUR DELIBERATIONS ONE WAY OR ANOTHER?

19 MR. WIENS: NO.

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1 MR. WAPNER: AS WITH NOT CONSIDERING THE PENALTY, THE
2 GUILT OR INNOCENCE SHOULD BE DETERMINED ON WHETHER OR NOT THERE
3 WAS A CRIME AND WHO DID IT?

4 MR. WIENS: YES.

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

6 THE COURT: ALL RIGHT.

7 MR. BARENS: YOUR HONOR, THE DEFENSE WILL RESPECTFULLY
8 ACCEPT THE PANEL AS PRESENTLY CONSTITUTED.

9 THE COURT: THE PEOPLE?

10 MR. WAPNER: WE WOULD THANK AND ASK THE COURT TO EXCUSE
11 MR. FARBER.

12 THE COURT: ALL RIGHT, THANK YOU, MR. FARBER.

13 THE CLERK: LINDA KING, L-I-N-D-A.

14 THE COURT: IS THAT MISS OR MRS.?

15 THE CLERK: IS THAT MRS., MA'AM?

16 MS. KING: YES.

17 THE COURT: MRS. KING, YOU TOO, HEARD ALL OF THE
18 QUESTIONS WHICH WERE ASKED AND ANSWERED?

19 MS. KING: YES.

20 THE COURT: IF THE SAME GENERAL QUESTIONS WERE ASKED
21 OF YOU, YOUR ANSWERS WOULD BE ABOUT THE SAME, WOULD THEY?

22 MS. KING: YES, THEY WOULD.

23 THE COURT: WHAT DO YOU DO, PLEASE?

24 MS. KING: I AM A CUSTOMER SERVICE REPRESENTATIVE FOR
25 EASTMAN KODAK AT THE MOTION PICTURE DIVISION.

26 THE COURT: THE MOTION PICTURE DIVISION OF WHAT?

27 MS. KING: IN HOLLYWOOD FOR EASTMAN KODAK.

28 THE COURT: I SEE.

1 AND THERE IS A MR. KING, IS THERE?

2 MS. KING: YES.

3 THE COURT: WHAT DOES HE DO?

4 MS. KING: HE SELLS REAL ESTATE.

5 THE COURT: TELL US ABOUT YOUR FORMAL EDUCATION.

6 MS. KING: I AM A HIGH SCHOOL GRADUATE AND I ATTENDED
7 THE SAVINGS AND LOAN INSTITUTE AND TOOK A COST ACCOUNTING
8 COURSE THERE.

9 THE COURT: AND YOUR HUSBAND?

10 MS. KING: HE GRADUATED FROM TEXAS UNIVERSITY IN
11 BUSINESS.

12 THE COURT: DO YOU HAVE ANY CHILDREN?

13 MS. KING: YES, I HAVE TWO BOYS.

14 THE COURT: AND HOW OLD ARE THEY?

15 MS. KING: SIXTEEN AND A HALF AND FIVE AND A HALF.

16 THE COURT: HAVE YOU EVER BEEN THE VICTIM OF ANY KIND
17 OF A CRIME?

18 MS. KING: NO.

19 THE COURT: HAVE YOU EVER SAT AS A JUROR ON ANY CASE
20 BEFORE?

21 MS. KING: NO.

22 THE COURT: ALL RIGHT. ANY QUESTIONS?

23 MR. BARENS: OH, THANK YOU, YOUR HONOR.

24 GOOD AFTERNOON, MRS. KING.

25 MS. KING: GOOD AFTERNOON.

26 MR. BARENS: MRS. KING, WHAT PRECISELY DO YOU DO AS A
27 CUSTOMER SERVICE REPRESENTATIVE? DO YOU GET BEAT UP ALL DAY?

28 MS. KING: NO, NOT QUITE.

7-3

1 WELL, I HAVE BASICALLY TWO FUNCTIONS: ONE HAS
2 REALLY NOTHING TO DO WITH CUSTOMER SERVICE. I PAY ALL OF THE
3 BILLS FOR EASTMAN KODAK IN THE PACIFIC SOUTHERN REGION,
4 WRITE ALL OF THE CHECKS FOR GAS, ELECTRIC AND THE PHONE. THAT
5 PART OF IT IS NOT CUSTOMER RELATIONS.

6 THE OTHER PART, WHICH IS CUSTOMER RELATIONS, IS
7 I TAKE MOTION PICTURE ORDERS OVER THE PHONE FOR MAJOR STUDIOS
8 AND FREE-LANCE PEOPLE ALSO AND ENTER THEM INTO A COMPUTER FOR
9 BILLING PURPOSES.

10 MR. BARENS: SO YOU ARE NOT INVOLVED IN CUSTOMER
11 DISPUTE EVALUATIONS THEN?

12 MS. KING: NO, NOT UNLESS THERE IS A PROBLEM AND THEN
13 I HAVE -- YOU KNOW, I HAVE TO MORE OR LESS USE MY JUDGMENT
14 AS TO WHAT THE RIGHT DECISION IS IF, YOU KNOW, IF THEY ARE
15 HAVING A PROBLEM WITH THE FILM OR WHATEVER.

16 MR. BARENS: AND WHAT DO THEY DO, THEY CALL YOU UP AND
17 SAY THE PRINT IS NO GOOD?

18 MS. KING: WELL, BASICALLY, THEY WILL CALL ME AND --
19 NOT SO MUCH WHAT IS WRONG WITH THE FILM, BUT IF THEY ORDERED
20 THE WRONG FILM OR WE GAVE THEM THE WRONG FILM, WHICH HAPPENS
21 AT TIMES, AND THEY WILL CALL AND SAY "WELL, I ORDERED THIS
22 KIND OF FILM AND I DIDN'T GET THE RIGHT KIND".

23 MR. BARENS: SO AT THAT POINT YOU ARE BEING ASKED TO
24 CONSIDER SOMEBODY'S STATEMENT TO MAKE AN ADJUSTMENT FOR
25 BILLING PURPOSES?

26 MS. KING: RIGHT.

27 MR. BARENS: DOES THAT USUALLY JUST INVOLVE AN ACTIVITY
28 YOU DO OVER THE PHONE OR DO YOU DO SOMETHING ELSE TO VERIFY

7-4
1 THE POSITION OF THE CALLER?

2 MS. KING: MOSTLY, IT IS DONE OVER THE PHONE AND THEN
3 IF THEY COME IN, THEY WILL BRING THE FILM BACK AND THEN IT
4 IS OUT OF MY HANDS AT THAT POINT.

5 I JUST, MORE OR LESS, TAKE THEIR WORD FOR IT ON
6 THE PHONE AND TELL THEM TO, YOU KNOW -- WE CHECK THE ORDER
7 OUT AND SEE IF IT WAS IN FACT -- IN FACT, IF THEY DID GET THE
8 WRONG FILM. IF THEY DID JUST BRING IT BACK, THEN WE HANDLE
9 IT FROM THERE.

10 MR. BARENS: YOU ARE TYPICALLY SPEAKING OF SOMEONE YOU
11 HAD NEVER MET ON THAT OCCASION; IS THAT RIGHT?

12 MS. KING: RIGHT.
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1 MR. BARENS: HOW EVER DO YOU MAKE THOSE DECISIONS?

2 MR. KING: WELL, I GIVE THEM THE BENEFIT OF THE DOUBT
3 WHICH, YOU KNOW, I DON'T -- OF COURSE, WE HAVE THE ORDER THAT
4 WE CAN CHECK AND THERE ARE TIMES WHEN THEY ARE WRONG AND THERE
5 ARE TIMES WHEN WE ARE WRONG, BUT IT IS BASICALLY --

6 MR. BARENS: WHEN IN DOUBT --

7 MS. KING: WHEN INDOUBT, THE CUSTOMER IS ALWAYS RIGHT.

8 MR. BARENS: WELL, THE CUSTOMER IN OUR SYSTEM HERE IS
9 THE DEFENDANT HERE, A GUY THAT IS ON TRIAL; HOW DO YOU FEEL
10 ABOUT THAT? ARE YOU STILL COMFORTABLE WITH THAT, IF WE TAKE
11 IT OUT OF THE EASTMAN KODAK SETTING AND PUT IT INTO A CRIMINAL
12 COURTROOM, DO YOU FEEL COMFORTABLE WITH THAT PRESUMPTION OF
13 INNOCENCE?

14 MS. KING: YES.

15 MR. BARENS: EVEN BETTER THAN GIVING HIM THE BENEFIT
16 OF THE DOUBT, WE WILL PRESUME INNOCENCE FROM THE START; IS
17 THAT CORRECT?

18 MS. KING: YES.

19 MR. BARENS: YOU ARE COMFORTABLE WITH THAT?

20 MS. KING: YES.

21 MR. BARENS: YOU MENTIONED YOU HAVE NEVER HAD ANY PRIOR
22 JURY EXPERIENCE AT ALL.

23 MS. KING: NO.

24 MR. BARENS: HAVE YOU EVER WATCHED A TRIAL?

25 MS. KING: NO.

26 MR. BARENS: NEVER BEEN A WITNESS?

27 MS. KING: NO.

28 MR. BARENS: OKAY. IS THIS YOUR FIRST EXPERIENCE WITH

1 THE LEGAL SYSTEM?

2 MS. KING: YES.

3 MR. BARENS: HOW ABOUT YOUR HUSBAND, HAS HE EVER BEEN
4 ON A JURY?

5 MS. KING: I THINK HE HAS. I DON'T KNOW HOW LONG AGO,
6 BUT WE HAVE DISCUSSED, YOU KNOW, JURY DUTY AND HE SAID THAT
7 HE HAD BEEN ON A TRIAL ONE TIME BUT WE NEVER WENT INTO IT.

8 THIS WAS YEARS AGO.

9 MR. BARENS: IN ANY DISCUSSION OF JURY DUTY, THERE WAS
10 NOTHING SIGNIFICANT DISCUSSED THAT I DON'T KNOW ABOUT?

11 MS. KING: NO.

12 I DIDN'T EVEN GO INTO IT WITH HIM. IT WASN'T
13 REALLY THAT IMPORTANT.

14 MR. BARENS: IS THIS YOUR FIRST CONTACT, AS WELL, IN
15 ANY SIGNIFICANT SENSE WITH LAWYERS?

16 MS. KING: THE ONLY CONTACT WITH A LAWYER THAT MY
17 HUSBAND AND I BOTH ARE HAVING RIGHT NOW IS IN TEXAS AND THAT
18 IS FOR SETTLEMENT OF A ESTATE AND THAT IS JUST --

19 MR. BARENS: THERE IS NOTHING FROM YOUR INVOLVEMENT WITH
20 COUNSEL THERE THAT WOULD HAVE ANY BEARING WITH WHAT WE ARE
21 DOING HERE, WOULD IT?

22 MS. KING: NO.

23 MR. BARENS: IN THAT ESTATE QUESTION YOU ARE HANDLING,
24 YOU ARE PROBABLY POSITIVE THAT SOMEONE PASSED AWAY, I
25 PRESUME?

26 MS. KING: YES.

27 MR. BARENS: THERE WILL BE A DIFFERENT QUESTION FOR YOU
28 HERE, MRS. KING.

7-7

1 DO YOU HAVE ANY HOBBIES?

2 MS. KING: I LIKE TO COOK AND PLAY TENNIS AND PLAY
3 CHESS AND LOOK AFTER MY KIDS.

4 MR. BARENS: YOU KNOW IN PLAYING CHESS, YOU DO A BIT
5 OF ANTICIPATING, DON'T YOU, WHAT THE OTHER FELLOW IS DOING?

6 MS. KING: UH-HUH.

7 MR. BARENS: AND YOU HAVE TO FIGURE OUT RESPONSIVE MOVES,
8 YOU THINK IF YOU DO THIS, THEY WILL DO THAT AND THE REVERSE
9 OF THAT AS WELL?

10 MS. KING: YES.

11 MR. BARENS: WOULD YOU ASSURE ME THAT AS A JUROR, YOU
12 WOUDLN'T DO THAT IN HERE?

13 MS. KING: NO.

14 MR. BARENS: WE WON'T ANTICIPATE ANYTHING.

15 MS. KING: NO.

16 MR. BARENS: WE WON'T ASSUME ANYTHING, WILL WE?

17 MS. KING: NO.

18 MR. BARENS: WE GET INTO THIS BUSINESS ABOUT
19 CIRCUMSTANTIAL EVIDENCE AND THAT MAKES YOU HAVE TO ASSUME
20 SOMETHING IS TRUE; DO YOU THINK IT IS ALL THAT SIMPLE?

21 MS. KING: NO, I DON'T THINK IT IS AT ALL.

22 MR. BARENS: WELL, THERE HAS TO BE SOME EVIDENCE UPON
23 WHICH TO BASE AN ASSUMPTION, ISN'T THERE?

24 MS. KING: IT HELPS.

25 MR. BARENS: IT HAD BETTER.

26 IN THIS INSTANCE, IF BECAUSE THERE IS NO BASIS
27 UPON WHICH TO BASE AN ASSUMPTION, WHAT HAPPENS?

28 MS. KING: THE DEFENDANT IS INNOCENT.

1 MR. BARENS: WELL, IT IS NOT PROVEN, TOO, IS IT?

2 IF WE CAN'T BASE AN ASSUMPTION ON SOMETHING, IF
3 IT IS JUST TANGLING OUT THERE IN MID-AIR, IT IS NOT AN
4 ASSUMPTION, IT IS A GUESS THEN?

5 MS. KING: RIGHT.

6 MR. BARENS: WE HEARD, YOU KNOW -- I INTEND TO TALK
7 ABOUT REASONABLE AND WE GET INTO THE WORD POSSIBLE HERE.
8 YOU KNOW, ANYTHING IS POSSIBLE. OF COURSE, IF A DEFENSE LAWYER SAYS
9 TOO, ANYTHING IS POSSIBLE, YOU AREN'T SUPPOSED TO LISTEN TO
10 THAT BECAUSE WE ARE GOING TO GIVE YOU SPECULATION.

11 YOU SEE, YOU ARE TOLD THAT WHEN DEFENSE LAWYERS
12 TALK ABOUT POSSIBLE, WE MEAN SPECULATE.

13 I SUBMIT TO YOU, DO YOU UNDERSTAND THAT
14 POSSIBLE DOESN'T NECESSARILY EQUATE TO USUAL?

15 MS. KING: RIGHT.

16 MR. BARENS: COULD YOU RELATE TO THAT?

17 MS. KING: UH-HUH.

18 MR. BARENS: AND JUST BECAUSE SOMETHING IS OUT OF THE
19 ORDINARY DOESN'T MEAN IT IS IMPOSSIBLE?

20 MS. KING: RIGHT.

21 MR. BARENS: IT DOESN'T MEAN IT IS UNREASONABLE JUST
22 BECAUSE IT IS UNUSUAL; IS THAT TRUE?

23 MS. KING: YES.

24 MR. BARENS: IT IS KIND OF UNUSUAL, WOULDN'T YOU SAY
25 TO YOURSELF, YOU WALK IN HERE AND THE JUDGE TELLS YOU WE ARE
26 HERE TO TRY A FIRST DEGREE MURDER CASE AND THE NEXT THING YOU
27 HEAR THE LAWYERS TELLING YOU NO BODY; THAT IS UNUSUAL, ISN'T
28 IT?

1 MS. KING: YES.

2 MR. BARENS: BUT IT IS REALLY HAPPENING.

3 MS. KING: IT IS POSSIBLE.

4 MR. BARENS: QUITE SO.

5 AND THAT IS WHAT WE ARE HERE ABOUT.

6 SO WHAT IS NOT THE USUAL COULD BE TRUE.

7 MS. KING: UH-HUH.

8 MR. BARENS: NOW YOUR CHILDREN ARE BOTH IN SCHOOL?

9 MS. KING: YES.

10 MR. BARENS: AND YOUR 16-YEAR-OLD IS IN HIGH SCHOOL?

11 MS. KING: YES, HE IS A JUNIOR.

12 MR. BARENS: WHERE DOES HE GO TO SCHOOL?

13 MS. KING: HE GOES TO GRANT HIGH SCHOOL IN VAN NUYS.

14 MR. BARENS: ALL RIGHT. DO YOU HAVE ANY OPINION ABOUT
15 STUDENTS THAT GO TO THESE PRIVATE SCHOOLS AS OPPOSED TO
16 PUBLIC SCHOOLS LIKE GRANT?

17 MS. KING: NO.

18 HE HAS BEEN IN PRIVATE SCHOOL SINCE HE WAS IN THIRD
19 GRADE AND NOW HE IS IN HIGH SCHOOL AND HE DIDN'T GO TO PRIVATE
20 SCHOOL, BUT HE HAS BEEN IN PRIVATE SCHOOL.

21 MR. BARENS: WAS THERE SOME FEELING OR ATTITUDE YOU
22 DEVELOPED ABOUT PRIVATE SCHOOLS THAT HELPED YOUR FAMILY MAKE
23 A DECISION TO PUT HIM INTO PUBLIC HIGH SCHOOL?

24 MS. KING: NO.

25 THAT WAS MORE OR LESS LEFT UP TO HIM.

26 I WANTED HIM TO GET THE BASIC EDUCATION AND WHEN
27 IT CAME TO HIGH SCHOOL, WE ALL SAT DOWN AND DISCUSSED IT AND
28 HE WANTED TO GO INTO A PUBLIC HIGH SCHOOL.

18-1
1 MR. BARENS: WERE YOU SATISFIED WITH THAT?

2 MS. KING: UH-HUH.

3 MR. BARENS: YOU DIDN'T HAVE ANY MISGIVING ABOUT
4 STUDENTS FROM THE PRIVATE SCHOOLS?

5 MS. KING: NO.

6 MR. BARENS: YOUR HUSBAND SELLS SOME PARTICULAR TYPE
7 OF REAL ESTATE?

8 MS. KING: RESIDENTIAL. AND HE IS JUST GETTING INTO
9 COMMERCIAL. BUT HE HAS NOT SOLD ANY YET.

10 MR. BARENS: THAT HAS BEEN HIS ONLY OCCUPATION
11 THROUGHOUT YOUR MARRIAGE?

12 MS. KING: HE WAS WORKING FOR -- HE WAS A SUPERVISOR
13 IN A SAVINGS AND LOAN ABOUT FOUR YEARS PRIOR TO THAT.

14 MR. BARENS: WAS THERE ANY REASON HE LEFT THE SAVINGS
15 AND LOAN INSTITUTION?

16 MS. KING: NO. HE JUST WANTED TO DO SOMETHING
17 DIFFERENT.

18 MR. BARENS: WHAT DID YOU ADVISE THE COURT YOUR
19 EDUCATION CONSISTS OF AFTER HIGH SCHOOL?

20 MS. KING: I TOOK A COURSE AT THE SAVINGS AND LOAN
21 INSTITUTE IN ACCOUNTING, FOR COST ACCOUNTING. IT WAS BASICALLY
22 FOR THE JOB I HAD AT THE TIME WHICH --

23 MR. BARENS: THAT WAS WHAT SORT OF JOB?

24 MS. KING: I WORKED FOR -- IN BEVERLY HILLS FOR
25 GIBRALTAR SAVINGS AND LOAN IN BEVERLY HILLS. I WAS IN
26 ACCOUNTING THERE AND IN PAYROLL.

27 MR. BARENS: ALL RIGHT. THEREFORE, I PRESUME IF I
28 PRESENTED FOR YOU A CASHIER'S CHECK DRAWN ON A SWISS BANK,

8-2
1 YOU WOULD PROBABLY ASSUME THAT THERE WAS MONEY IN BACK OF
2 IT, WOULDN'T YOU?

3 MS. KING: THERE WAS WHAT?

4 MR. BARENS: THERE WAS REAL MONEY IN BACK OF THAT CHECK?
5 WOULD YOU BELIEVE THAT TO BE TRUE?

6 MS. KING: FOR A CASHIER'S CHECK? YES.

7 MR. BARENS: DID YOU HAVE ANY INSTANCES WHERE CASHIER'S
8 CHECKS WEREN'T TRUE?

9 MS. KING: NO, NOT IN MY EXPERIENCE. NO.

10 MR. BARENS: THAT WOULDN'T BE REASONABLE, WOULD IT?

11 MS. KING: NO.

12 MR. BARENS: NOT BASED ON ANY EXPERIENCE WE COULD BRING
13 TO BEAR, WOULD IT?

14 MS. KING: NO.

15 MR. BARENS: WHEN DID YOU WORK -- DID YOU EVER WORK
16 AS A TELLER AT A BANK?

17 MS. KING: NO.

18 MR. BARENS: WERE YOU ALWAYS DOING WHAT AT THE SAVINGS
19 AND LOAN?

20 MS. KING: I WORKED IN ACCOUNTING, JUST BASIC
21 ACCOUNTING, NOTHING TREMENDOUS.

22 AND THEN I WENT INTO PAYROLL. THIS WAS 13 YEARS
23 AGO. I WAS JUST CALCULATING THE PAYROLL FOR EVERYBODY.

24 MR. BARENS: WHAT WAS THE LAST BOOK YOU READ?

25 MS. KING: "I ONLY WANT WHAT IS BEST FOR YOU." I DON'T
26 KNOW WHO WROTE IT. IT IS A BOOK ABOUT PARENTS AND KIDS AND
27 YOU KNOW, WHAT PARENTS WANT OUT OF THEIR CHILDREN AND WHAT
28 THEIR CHILDREN WANT OUT OF THEIR PARENTS.

8-3
1 MR. BARENS: WELL, IT SOUNDS LIKE A FAMILIAR LINE TO
2 ME. HOW ABOUT THE LAST MOVIE YOU SAW?

3 MS. KING: "INDIANA JONES."

4 MR. BARENS: WELL, WE WILL GIVE YOU BETTER, MS. KING.
5 THANK YOU VERY MUCH. I PASS FOR CAUSE, YOUR HONOR.

6 THE COURT: LADIES AND GENTLEMEN, WE'LL TAKE A 15-MINUTE
7 RECESS NOW.

8 (RECESS.)

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9-1
1 THE COURT: THE DEFENDANT IS PRESENT AND THE PROSPECTIVE
2 JURORS ARE PRESENT.

3 MR. WAPNER: THANK YOU.

4 GOOD AFTERNOON, MRS. KING.

5 DID YOU MEET YOUR HUSBAND AT THE SAVINGS AND LOAN?

6 MS. KING: NO.

7 MR. WAPNER: THAT WAS JUST A COINCIDENCE THAT YOU
8 HAPPENED TO BE IN THE SAME BUSINESS AT DIFFERENT TIMES?

9 MS. KING: YEAH.

10 IT WAS TWO DIFFERENT SAVINGS AND LOANS.

11 MR. WAPNER: HAVE YOU HEARD THE QUESTIONS I ASKED OF
12 THE OTHER JURORS?

13 MS. KING: YES.

14 MR. WAPNER: WHAT WAS YOUR VIEW OF CIRCUMSTANTIAL
15 EVIDENCE BEFORE YOU CAME INTO THE COURTROOM?

16 MS. KING: WELL, I WASN'T AS CLEAR ON IT AS I AM NOW.
17 I WASN'T, YOU KNOW, THAT SURE OF IT AT THE TIME.

18 MR. WAPNER: DO YOU HAVE ANY PROBLEM WITH THE IDEA THAT
19 IT IS JUST AS ACCEPTABLE AS A MEANS OF PROOF AS ANY OTHER
20 KIND OF EVIDENCE?

21 MS. KING: NO.

22 MR. WAPNER: HOW DO YOU FEEL ABOUT THE IDEA THAT YOU
23 MIGHT BE CALLED ON TO MAKE A DECISION AS TO WHETHER OR NOT
24 A MURDER OCCURRED AND THE VICTIM IS SOMEONE THAT YOU DON'T
25 LIKE?

26 MS. KING: THAT DOESN'T BOTHER ME.

27 MR. WAPNER: SHOULD THE PERSON'S LIFESTYLE OR BACKGROUND
28 OR ANYTHING LIKE THAT MAKE A DIFFERENCE TO YOU IN DECIDING

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WHETHER OR NOT A MURDER WAS COMMITTED --

MS. KING: NO.

MR. WAPNER: -- AND WHO DID IT?

MS. KING: NOT AT ALL.

9-2

20F

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

3 MS. KING: NO.

4 MR. WAPNER: WHAT DID YOU DO AT THE SAVINGS AND LOAN?

5 MS. KING: I WORKED IN THE ACCOUNTING DEPARTMENT AND
6 IN PAYROLL.

7 MR. WAPNER: WHAT DID YOU DO IN THE ACCOUNTING DEPARTMENT?

8 MS. KING: BASICALLY JUST -- GOD, IT WAS SO LONG AGO --
9 WORKING WITH LEDGERS AND BALANCING LEDGERS, MOSTLY.

10 MR. WAPNER: OKAY. HOW DID YOU FEEL ABOUT WITNESSES
11 WHO TESTIFY UNDER GRANTS OF IMMUNITY?

12 MS. KING: IT IS FINE WITH ME.

13 MR. WAPNER: HAVE YOU READ ANYTHING IN THE PAPERS
14 RECENTLY ABOUT THAT HAPPENING IN OTHER CASES?

15 MS. KING: NO. I HEARD IT IN GENERAL, YOU KNOW, JUST
16 PEOPLE SPEAKING BUT I DIDN'T READ ANYTHING ABOUT IT.

17 MR. WAPNER: DID YOU LISTEN TO THE ANSWERS OF MOST OF
18 THE OTHER JURORS ABOUT THE HYPOTHETICALS WE HAVE GIVEN TO
19 VARIOUS PEOPLE?

20 MS. KING: YES.

21 MR. WAPNER: OKAY. AND AS YOU LISTENED TO THE OTHER
22 PEOPLE ANSWER, WERE THERE ANY THINGS THAT YOU HEARD THAT YOU
23 FELT WERE KIND OF WILD GUESSING OR SPECULATING, AS OPPOSED
24 TO PEOPLE GIVING WHAT YOU THOUGHT IN YOUR MIND, WERE REASONABLE
25 ANSWERS?

26 MS. KING: NO. I THINK YOU KNOW, THE BOAT INCIDENT,
27 EVERYBODY HAD THEIR OPINION. AND I HAD MINE. EVERYBODY JUST
28 MORE OR LESS SPECULATED.

1 MR. WAPNER: DID YOU THINK THAT -- DID YOU HEAR ANY
2 ANSWERS THAT YOU FELT WERE FAR-FETCHED?

3 MS. KING: NO, NOT REALLY.

4 MR. WAPNER: WERE YOU ABLE TO HEAR ALL OF THE ANSWERS
5 EVERYBODY GAVE?

6 MS. KING: YES.

7 MR. WAPNER: AND THEY ALL SEEMED REASONABLE TO YOU?

8 MS. KING: ANYTHING IS POSSIBLE, EVEN THE BOAT.

9 MR. WAPNER: OKAY. BUT THAT IS WHAT WE HAVE BEEN TALKING
10 ABOUT FOR A LOT OF WEEKS NOW ABOUT THE DIFFERENCE BETWEEN ANY-
11 THING IS POSSIBLE AND WHAT IS REASONABLE.

12 I AM NOT TRYING TO TELL YOU WHAT IS REASONABLE.
13 I AM JUST ASKING YOU IF YOU HEARD ANYTHING -- I GUESS WHAT
14 I AM SAYING IS, WHAT IS REASONABLE TO YOU? DO YOU MAKE A
15 DISTINCTION BETWEEN THAT PHRASE, ANYTHING IS POSSIBLE AND WHAT
16 IS REASONABLE?

17 MS. KING: WELL, I THINK ANYTHING IS POSSIBLE. BUT WHAT
18 IS REASONABLE, I THINK IN MY OPINION, IS MY OPINION. AND I
19 WOULD HAVE TO GO WITH WHAT I FEEL IS REASONABLE.

20 MR. WAPNER: OKAY. BUT IN LISTENING TO THESE OTHER
21 PEOPLE IN YOUR OPINION, DID ALL THE THINGS THAT EVERY ONE OF
22 THEM SAID, SEEM REASONABLE TO YOU?

23 MS. KING: NOT NECESSARILY WHAT THEY SAID, NO. NO, I
24 WOULD HAVE TO SAY NO.

25 MR. WAPNER: OKAY.

26 MS. KING: NOT EVERYTHING.

27 MR. WAPNER: OKAY. DID YOU HEAR ANSWERS FROM SOME OF
28 THE PEOPLE YOU THOUGHT IN YOUR OWN MIND AS YOU WERE HEARING

1 THEM, THEY WERE KIND OF FAR-FETCHED OR IT WAS KIND OF
2 SPECULATING?

3 MS. KING: YES.

4 MR. WAPNER: I WOULD ASK YOU WHAT YOUR OPINION IS, BUT
5 THAT WOULD GET ME IN TROUBLE WITH THE JUDGE, I THINK.

6 HAVE YOU EVER SAT ON A CRIMINAL JURY BEFORE?

7 MS. KING: NO.

8 MR. WAPNER: ALL RIGHT. WHEN YOU ARE DECIDING WHETHER
9 YOU HAVE A REASONABLE DOUBT OR NOT, WILL YOU MAKE THE
10 DISTINCTION IN YOUR MIND BETWEEN ANYTHING IS POSSIBLE AND WHAT
11 IS REASONABLE TO YOU?

12 MS. KING: MORE WHAT IS REASONABLE TO ME.

13 MR. WAPNER: OKAY. AND DO YOU THINK IT IS TRUE THAT
14 IN ANY SITUATION, REGARDLESS OF THE FACTS, IT IS ALWAYS --
15 YOU CAN ALWAYS SAY WELL, THIS IS POSSIBLE AND THAT IS
16 POSSIBLE?

17 MS. KING: WELL, WE COULD SAY THAT, YES.

18 MR. WAPNER: OKAY. SO, WHATEVER THE FACTUAL SITUATION
19 IS, IT IS ALWAYS POSSIBLE TO COME UP WITH ANOTHER POSSIBLE
20 EXPLANATION, RIGHT?

21 MS. KING: RIGHT.

22 MR. WAPNER: OKAY. WE HAD A GUY IN LAW SCHOOL AND HIS
23 NAME WAS WAGNER. THEY USED TO CALL HIM WHAT-IF WAGNER. HE
24 WOULD RAISE HIS HANDS AND SAY WHAT IF THIS AND WHAT IF THAT
25 AND THEN THE PROFESSOR WOULD ANSWER. THEN HE WOULD RAISE HIS
26 HAND TO SAY WHAT IF THIS AND WHAT IF THAT.

27 AFTER THE FIRST SEMESTER, THEY CALLED HIM WHAT-IF
28 WAGNER. IT STAYED WITH HIM FOR THE WHOLE TIME.

1 IF YOU GO INTO THE JURY ROOM, ARE YOU GOING TO
2 BE WHAT-IF KING?

3 MR. BARENS: WHY NOT? IS THERE ANYTHING PEJORIOUS ABOUT
4 THAT, YOUR HONOR?

5 THE COURT: I DON'T KNOW. THERE MAY BE. BUT COUNSEL
6 MAY THINK THERE IS.

7 I DON'T KNOW WHAT IS PERJORATIVE ABOUT WHAT IF.
8 PEOPLE ASK QUESTIONS. THERE IS NOTHING WRONG WITH THAT.
9 ISN'T THERE SOME BIG COMPANY THAT HAS THAT, "WHAT IF?"

10 MR. BARENS: THAT IS HEWLETT-PACKARD. IT IS CALLED THE
11 BETTER MOUSETRAP.

12 THE COURT: IT IS ENCOURAGING WHAT IF.

13 MR. WAPNER: WE HAVE SOMEBODY FROM XEROX. BUT THANK GOD
14 THERE IS NOBODY FROM SPERRY ON THE JURY. CAN YOU UNDERSTAND
15 THE PURPOSE OF ALL OF THIS? IT GETS A LITTLE TEDIOUS, I KNOW.

16 MS. KING: I KNOW.

17 MR. WAPNER: BUT THE IDEA IS THAT AS MUCH AS POSSIBLE,
18 WE WANT YOU TO BE CONCENTRATING ON WHAT IS REASONABLE AS
19 OPPOSED TO SPECULATING ON DIFFERENT THINGS. CAN YOU DO THAT?

20 MS. KING: YES.

21 MR. WAPNER: YOU SAID THAT YOU SPENT A LOT OF TIME WITH
22 YOUR KIDS. WHAT KINDS OF THINGS DID YOU DO WITH THEM?

23 MS. KING: WELL, MY FIVE-AND-A-HALF-YEAR-OLD, I TAKE
24 HIM ICE SKATING AND TO THE PARK AND GO TO MOVIES AND I JUST
25 LIKE TO SPEND TIME WITH HIM.

26 MY SIXTEEN-AND-A-HALF-YEAR-OLD HAS A JOB. SO HE
27 GOES TO SCHOOL. SO HE MORE OR LESS, AS EVERY SIXTEEN-AND-A-
28 HALF-YEAR-OLD IS, IS ON AND OFF AND GONE AND HERE AND THERE.

1 BUT I JUST LIKE TO SPEND AS MUCH TIME AS I CAN
2 WITH HIM.

3 MR. WAPNER: ARE YOUR PARENTS STILL LIVING?

4 MS. KING: YES.

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

6 MS. KING: NO, BACK EAST.

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

8 MS. KING: ABOUT ONCE A WEEK ON AN 800 NUMBER AT WORK.

9 MR. WAPNER: THAT MUST COME IN AWFULLY HANDY, I GUESS,
10 HUH?

11 MS. KING: DON'T TELL MY BOSS.

12 MR. WAPNER: DON'T WORRY. KODAK DOESN'T HAVE THE ROOM
13 BUGGED.

14 IS THERE ANYTHING ABOUT YOUR BACKGROUND THAT YOU
15 THINK WE SHOULD KNOW THAT YOU THINK WOULD AFFECT YOUR ABILITY
16 TO BE A FAIR JUROR IN THIS CASE?

17 MS. KING: NO.

18 MR. WAPNER: DO YOU THINK THAT YOU CAN DECIDE THIS CASE
19 ON THE FACTS AND THE LAW WITHOUT LETTING THE POSSIBLE PENALTY
20 ENTER INTO YOUR MIND AND AFFECT YOU AT THE TIME YOU ARE MAKING
21 THE DELIBERATION?

22 MS. KING: YES. I THINK I CAN.

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21-1
1 MR. WAPNER: OKAY. THANK YOU. I WILL PASS FOR CAUSE,
2 YOUR HONOR.

3 THE COURT: ALL RIGHT.

4 MR. BARENS: YOUR HONOR, THE DEFENSE WOULD RESPECTFULLY
5 ACCEPT THE PANEL AS PRESENTLY CONSTITUTED.

6 THE COURT: THE PEOPLE?

7 MR. WAPNER: WE WOULD THANK AND EXCUSE MRS. HALICK,
8 JUROR NUMBER 9.

9 THE COURT: THANK YOU. YOU WILL MAKE YOUR WEDDING IN
10 TIME, WON'T YOU, IN APRIL?

11 MS. HALICK: YEAH.

12 THE COURT: LOTS OF LUCK TO YOU.

13 THE CLERK: RONALD CLEWS, C-L-E-W-S.

14 THE COURT: MR. CLEWS, IT SEEMS YEARS AGO WHEN YOU
15 INDICATED THAT YOU OR SOME MEMBER OF YOUR FAMILY HAVE BEEN
16 THE VICTIM OF SOME KIND OF A CRIME.

17 MR. CLEWS: YES. OUR HOUSE HAS BEEN BURGLED --
18 WELL, TWO DIFFERENT HOUSES THREE TIMES AND THE CAR, TOO.

19 THE COURT: WAS THAT INVESTIGATED BY THE POLICE?

20 MR. CLEWS: YES.

21 THE COURT: WERE YOU SATISFIED WITH THE WAY THE
22 INVESTIGATION WENT DOWN?

23 MR. CLEWS: YES.

24 THE COURT: THE FACT THAT YOU HAVE BEEN THE VICTIM ON
25 SEVERAL OCCASIONS, WOULD THAT IN ANY WAY INCLINE YOU TO BE
26 AGAINST THE DEFENDANT IN THIS CASE BECAUSE HE HAS BEEN ACCUSED
27 OF SOME CRIME?

28 MR. CLEWS: NO.

21-2
1 THE COURT: I THINK YOU TOLD US THAT YOU OR SOME MEMBER
2 OF YOUR FAMILY HAVE BEEN, UNFORTUNATELY, ACCUSED OF SOME
3 OFFENSE OR ARRESTED. WHO WAS THAT?

4 MR. CLEWS: ME. I WAS ARRESTED FOR FAILING TO IDENTIFY
5 MYSELF, SECTION 467(E) OF THE PENAL CODE. THAT WAS ABOUT
6 20 YEARS AGO.

7 THE COURT: WELL, THAT WAS JUST A MISDEMEANOR, WASN'T
8 IT?

9 MR. CLEWS: I FORGET NOW WHAT IT WAS.

10 THE COURT: OH, SURE.

11 YOU THINK YOU HAVE BEEN UNJUSTLY ACCUSED, WERE
12 YOU?

13 MR. CLEWS: YES.

14 AS A MATTER OF FACT, IT IS PROVEN NOW THAT I WAS,
15 YES.

16 THE COURT: I DON'T UNDERSTAND.

17 MR. CLEWS: WELL, THAT IS DECLARED UNCONSTITUTIONAL,
18 THAT LAW NOW.

19 THE COURT: WHAT HAPPENED IN YOUR CASE?

20 MR. CLEWS: I WAS FINED \$25.

21 THE COURT: WHAT WERE THE FACTS THAT CAUSED YOU TO BE
22 FINED \$25?

23 MR. CLEWS: WELL, I WAS WALKING DOWN THE STREET AT
24 2 O'CLOCK IN THE MORNING AND A POLICEMAN IN HIS CAR CAME AND
25 WANTED TO QUESTION ME.

26 THE COURT: AND?

27 MR. CLEWS: I TOLD HIM THAT HE HAD NO RIGHT TO DO THAT.

28 THE COURT: NONETHELESS, HE ARRESTED YOU?

21-3
1 MR. CLEWS: THEY TOOK ME TO JAIL, UH-HUH.

2 THE COURT: YOU WERE SOBER AT THE TIME, WEREN'T YOU?

3 MR. CLEWS: OH, YES.

4 (LAUGHTER IN COURTROOM.)

5 THE COURT: DID THAT CAUSE YOU TO HAVE ANY DEEP
6 RESENTMENT AGAINST POLICE OFFICERS?

7 MR. CLEWS: NO, NO.

8 THE COURT: YOU WON'T IN ANY WAY PERMIT THAT TO INTERFERE
9 IN ANY WAY WITH YOUR BEING A JUROR FOR EITHER THE PROSECUTION
10 NOR THE DEFENSE?

11 MR. CLEWS: NO.

12 THE COURT: FINE.

13 OTHER THAN THAT, IF I WERE TO ASK YOU THE SAME
14 GENERAL QUESTIONS WHICH WERE ASKED OF THE OTHER JURORS, WOULD
15 YOUR ANSWERS BE ANY DIFFERENT OR WOULD THEY BE SUBSTANTIALLY
16 THE SAME?

17 MR. CLEWS: SUBSTANTIALLY THE SAME.

18 THE COURT: WHAT DO YOU DO, MR. CLEWS?

19 MR. CLEWS: I AM A RETIRED CARPENTER.

20 THE COURT: DID YOU HAVE ANY EMPLOYMENT WITH SOME
21 COMPANY OR WERE YOU ON YOUR OWN?

22 MR. CLEWS: WELL, THE LAST SIX YEARS I WAS IN BUSINESS
23 WITH ANOTHER FELLOW, IN BUSINESS FOR OURSELVES.

24 THE COURT: ARE YOU MARRIED?

25 MR. CLEWS: YES.

26 THE COURT: PRESENTLY?

27 MR. CLEWS: YES.

28 THE COURT: DO YOU HAVE ANY CHILDREN?

21-4

1 MR. CLEWS: YES.

2 THE COURT: HOW MANY?

3 MR. CLEWS: TWO CHILDREN.

4 THE COURT: HOW OLD ARE THEY?

5 MR. CLEWS: 33 AND 37.

6 THE COURT: WHAT EDUCATION DO YOU HAVE, FORMAL EDUCATION?

7 MR. CLEWS: I WENT TO SCHOOL UNTIL I WAS 14.

8 THE COURT: AND WHAT DO YOUR CHILDREN DO?

9 MR. CLEWS: THEY ARE SCHOOLTEACHERS.

10 THE COURT: DOES MRS. CLEWS HAVE ANY KIND OF EMPLOYMENT
11 OR ANY KIND OF OCCUPATION?

12 MR. CLEWS: YES. SHE IS AN OCCUPATIONAL THERAPIST.

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21-5
1 THE COURT: ALL RIGHT. HAVE YOU EVER BEEN THE VICTIM
2 OF ANY ROBBERY?

3 MR. CLEWS: WELL, JUST THOSE BURGLARIES.

4 THE COURT: JUST THE OTHERS.

5 HAVE YOU EVER SERVED ON A JURY?

6 MR. CLEWS: NO.

7 THE COURT: ALL RIGHT, THANK YOU.

8 MR. BARENS: THANK YOU, YOUR HONOR.

9 GOOD AFTERNOON, MR. CLEWS.

10 MR. CLEWS: GOOD AFTERNOON.

11 MR. BARENS: MR. CLEWS, I DO RECALL THAT YOU HAD
12 READ SOMETHING ABOUT THIS CASE.

13 MR. CLEWS: THAT'S RIGHT.

14 MR. BARENS: IT WAS JUST ONE ARTICLE IN THE LOS ANGELES
15 TIMES?

16 MR. CLEWS: THAT'S RIGHT.

17 MR. BARENS: JUST THAT ARTICLE?

18 MR. CLEWS: YES, THAT'S ALL.

19 MR. BARENS: NOW, MR. CLEWS WE ARE HERE, YOU ARE IN
20 THE JURY BOX, MR. HUNT IS SITTING DOWN THERE, DO YOU HAVE
21 ANY RESERVATION AT ALL IN ASSURING ME THAT NOTHING YOU READ
22 ONE WAY OR THE OTHER IN THAT ARTICLE WOULD INFLUENCE YOU AS
23 A JUROR IN THIS CASE?

24 MR. CLEWS: IT WOULD NOT INFLUENCE ME.

25 MR. BARENS: AND YOU FEEL CONFIDENT THAT I AM NOT FIGHTING
26 ANY SORT OF AN UPHILL BATTLE BECAUSE OF THAT?

27 MR. CLEWS: NO, YOU ARE NOT.

28 MR. BARENS: AND BELIEVE YOU ME, IT IS A SACRED

1-6
1 PRESUMPTION OF INNOCENCE THAT THE DEFENDANT HAS, IS THAT STILL
2 WELL IN PLACE IN YOUR PERCEPTION?

3 MR. CLEWS: THAT'S RIGHT.

4 MR. BARENS: ASIDE FROM THAT ARTICLE THAT YOU HAD READ,
5 HAD YOU HEARD ANYTHING INDEPENDENT OF THAT ARTICLE ABOUT THIS
6 CASE?

7 MR. CLEWS: NO.

8 MR. BARENS: HAD YOU EVER DISCUSSED THAT ARTICLE WITH
9 ANYONE PRIOR TO OUR ASKING YOU A QUESTION ABOUT IT IN COURT
10 HERE?

11 MR. CLEWS: NO.

12 MR. BARENS: HAD YOU EVER BEEN A PARTY TO A DISCUSSION
13 THAT SOMEONE ELSE WAS HAVING ABOUT THAT ARTICLE ON THIS CASE?

14 MR. CLEWS: NO.

15 MR. BARENS: SO YOU ARE TOTALLY UNTAINTED AS YOU COME
16 HERE BUT FOR THAT, EH?

17 MR. CLEWS: I THINK SO.

18 MR. BARENS: I APPRECIATE THAT.

19 MR. CLEWS, YOU WORKED AS A CARPENTER MOST OF YOUR
20 ADULT LIFE?

21 MR. CLEWS: YES.

22 MR. BARENS: AND WAS THERE A PARTICULAR TYPE OF
23 CARPENTRY YOU DID?

24 MR. CLEWS: NO. I WORKED IN ALL KINDS OF THINGS, ALL
25 KINDS OF BUILDINGS AND ROAD BUILDING AND THINGS.

26 MR. BARENS: DID YOU DO INTERIOR CARPENTRY OR DID YOU
27 DO EXTERIOR, FRAME-UP WORK?

28 MR. CLEWS: BOTH.

1-7
1 MR. BARENS: BOTH?

2 AND ARE YOU FROM THE LOS ANGELES AREA?

3 MR. CLEWS: NO.

4 MR. BARENS: WHERE WOULD YOU BE FROM, SIR?

5 MR. CLEWS: WHERE WAS I BORN?

6 MR. BARENS: YES.

7 MR. CLEWS: LONDON.

8 MR. BARENS: AND YOU GREW UP OVER THERE?

9 MR. CLEWS: YES.

10 MR. BARENS: DID YOU HAVE YOUR EDUCATION OVER THERE?

11 MR. CLEWS: YES.

12 MR. BARENS: YOU TOOK THE ELEVEN PLUS TEST?

13 MR. CLEWS: THEY DIDN'T HAVE -- WELL, I TOOK -- I TOOK
14 THE TEST WHEN I WAS -- JUST BEFORE I WAS 11, YES.

15 MR. BARENS: AND WAS IT AS A RESULT OF THAT TEST THAT
16 YOU WERE KIND OF GUIDED INTO THE CARPENTRY ACTIVITY?

17 MR. CLEWS: NO, NO.

18 I BECAME A CARPENTER AFTER I CAME OVER HERE.

19 MR. BARENS: WERE YOU DIRECTED SOMEWHERE IN PARTICULAR
20 AFTER THE ELEVEN PLUS?

21 MR. CLEWS: YES, UH-HUH.

22 MR. BARENS: WHERE DID THEY REFER YOU AFTER THAT?

23 MR. CLEWS: WELL, I WENT TO WHAT THEY CALL A SECONDARY
24 SCHOOL.

25 MR. BARENS: RIGHT.

26 AND DID YOU FOCUS ON ANY PARTICULAR AREA OF STUDY
27 DURING THAT TIME?

28 MR. CLEWS: NO.

21-8
1 THOSE WERE GENERAL STUDIES, I WOULD SAY GENERAL.

2 MR. BARENS: ALL RIGHT. SINCE THAT TIME, HAVE YOU EVER
3 TAKEN ANY CLASSES OF ANY TYPE ON AN ELECTIVE BASIS?

4 MR. CLEWS: YES, CLASSES CONNECTED WITH BUILDING WORK
5 AND THINGS LIKE THAT.

6 MR. BARENS: CONSISTENT WITH YOUR OCCUPATION, SIR?

7 MR. CLEWS: YES.

8 MR. BARENS: NONE OTHER THAN THAT, NONE FOR JUST
9 INTEREST OR FASCINATION?

10 MR. CLEWS: EXCUSE ME?

11 MR. BARENS: NONE OTHER THAN -- NONE FOR JUST INTEREST
12 OR FASCINATION IN A TOPIC?

13 MR. CLEWS: WELL, I HAVE TAKEN SORT OF A PSYCHOLOGY
14 COURSE AT UCLA.

15 MR. BARENS: WHICH ONE WAS THAT, SIR?

16 MR. CLEWS: I THINK IT WAS CALLED "ANATOMY OF
17 LONELINESS."

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1 MR. BARENS: THE ANATOMY OF LONLINESS? DID THAT COURSE
2 SUGGEST A CERTAIN PROFILE TO YOU OF A LONELY PERSON AND THE
3 WAY THOSE PEOPLE ACTED?

4 MR. CLEWS: I REALLY CAN'T RECALL WHAT IT WAS ABOUT NOW,
5 I JUST REMEMBER THE NAME.

6 MR. BARENS: WAS THERE ANYTHING IN THAT CLASS THAT
7 SUGGESTED CRIMINAL BEHAVIOR OR ATTRIBUTED CRIMINAL BEHAVIOR
8 TO APPARENTLY ISOLATED INDIVIDUALS?

9 MR. CLEWS: I DON'T RECALL THAT AT ALL.

10 MR. BARENS: YOU DON'T RECALL THAT AS A PART OF THE
11 CURRICULUM?

12 MR. CLEWS: NO.

13 MR. BARENS: WHAT ARE YOU READING THERE?

14 MR. CLEWS: LAKE WOEBEGONE DAYS.

15 MR. BARENS: WELL, THAT IS REAL AMERICAN STUFF FOR YOU
16 THERE.

17 MR. CLEWS: YES.

18 MR. BARENS: WHAT HAD YOU READ JUST PRIOR TO THAT?

19 MR. CLEWS: I HAVE NOT READ A BOOK FOR A LONG TIME.

20 MR. BARENS: HOW OLD WERE YOU WHEN YOU CAME TO THE UNITED
21 STATES?

22 MR. CLEWS: ABOUT 18.

23 MR. BARENS: ANY PARTICULAR REASON YOU CAME OVER HERE?

24 MR. CLEWS: A HIGHER STANDARD OF LIVING.

25 MR. BARENS: ALL RIGHT. HAD YOU DONE MILITARY SERVICE
26 IN GREAT BRITAIN?

27 MR. CLEWS: NO. WELL, I WAS ACTUALLY IN THE MERCHANT
28 NAVY AT THE TIME. IT WAS THE MERCHANT MARINES. IT WAS THE

1 EARLY PART OF THE WAR.

2 MR. BARENS: DID YOU COME STRAIGHT TO SOUTHERN CALIFORNIA?

3 MR. CLEWS: NO.

4 MR. BARENS: YOU STARTED IN THE EAST COAST AND MOVED
5 WEST?

6 MR. CLEWS: I LIVED IN CLEVELAND FOR 15 YEARS.

7 MR. BARENS: YOU DON'T EVEN NEED TO EXPLAIN TO ME WHY
8 YOU LEFT CLEVELAND, MR. CLEWS. ALTHOUGH I MUST SAY, I SAW
9 ON TELEVISION YESTERDAY A BIG SIGN THAT SAID "NO MORE
10 CLEVELAND JOKES."

11 SO, WE HAVE HAD OUR CLEVELAND JOKES FOR THE YEAR.

12 MR. CLEWS, DO YOU GO TO THE MOVIES AT ALL?

13 MR. CLEWS: ONCE IN A WHILE.

14 MR. BARENS: WHAT WAS THE LAST MOVIE YOU SAW?

15 MR. CLEWS: DOWN BY LAW.

16 MR. BARENS: WHAT WAS THAT ABOUT? I MISSED THAT.

17 MR. CLEWS: IT WAS ABOUT THREE PEOPLE IN PRISON IN
18 LOUISIANA AND THEIR INTERRELATIONSHIPS.

19 MR. BARENS: THEY WERE PEOPLE IN THE MOVIE WHO WERE ALL
20 CONVICTED OF SOMETHING OR OTHER?

21 MR. CLEWS: NO. I DON'T THINK SO. IT WAS ACTUALLY A
22 JAIL, A CITY JAIL. I THINK IT WAS A COUNTY JAIL. THEY WERE
23 BEING HELD BUT THEN THEY ALL ESCAPED.

24 MR. BARENS: ALL RIGHT. MR. CLEWS, WHAT PART OF LONDON
25 DID YOU GROW UP IN?

26 MR. CLEWS: SOUTHEAST, WOOLEGE.

27 MR. BARENS: WHAT DOES YOUR FATHER DO?

28 MR. CLEWS: HE WAS A POLICEMAN.

1 MR. BARENS: INDEED. THEY ARE ALL POLICEMEN DOWN
2 THERE, AREN'T THEY? AND DID IT HAVE ANY BEARING ON YOU, AS
3 FAR AS WHAT I DO FOR A LIVING? I DEFEND CRIMINAL DEFENDANTS.
4 DOES THAT MAKE YOU SUSPICIOUS OF CRIMINAL DEFENDANTS IF YOUR
5 FATHER WAS A CONSTABLE?

6 MR. CLEWS: NO.

7 MR. BARENS: DID HE TALK TO YOU MUCH ABOUT HIS JOB?

8 MR. CLEWS: NOT TOO MUCH. THE JOB WAS -- NOT MUCH
9 HAPPENED ON THAT JOB.

10 MR. BARENS: ALL RIGHT. NOW, DO YOU HAVE ANY HOBBIES?

11 MR. CLEWS: NO. I DON'T THINK SO. NOT REALLY, NO.

12 MR. BARENS: YOU DID MENTION THAT YOU WERE RETIRED FROM
13 CARPENTRY?

14 MR. CLEWS: YES.

15 MR. BARENS: AND DID YOU SAY SIX YEARS AGO YOU RETIRED?

16 MR. CLEWS: NO. NO, ABOUT TWO YEARS AGO.

17 MR. BARENS: AND HOW DO YOU FILL YOUR TIME SINCE THEN?

18 MR. CLEWS: WELL, MOST OF THE LAST TWO YEARS, I HAVE
19 SPENT BUILDING A HOUSE.

20 MR. BARENS: FOR YOURSELF?

21 MR. CLEWS: FOR ONE OF MY DAUGHTERS.

22 MR. BARENS: AND THAT IS IN SOUTHERN CALIFORNIA?

23 MR. CLEWS: YES, IN VENICE.

24 MR. BARENS: BOTH OF YOUR CHILDREN YOU MENTIONED, ARE
25 SCHOOL TEACHERS?

26 MR. CLEWS: YES.

27 MR. BARENS: WHAT LEVEL DID THEY TEACH ON?

28 MR. CLEWS: ONE TEACHES JUNIOR HIGH SCHOOL AND ONE

1 TEACHES ELEMENTARY SCHOOL.

2 MR. BARENS: BOTH GIRLS, SIR?

3 MR. CLEWS: EXCUSE ME?

4 MR. BARENS: THEY ARE GIRLS?

5 MR. CLEWS: BOTH GIRLS, YES.

6 MR. BARENS: ARE THEY MARRIED?

7 MR. CLEWS: NO. NEITHER ONE OF THEM ARE MARRIED.

8 MR. BARENS: ALL RIGHT. DID YOU EVER GO BACK TO

9 ENGLAND AFTER YOU CAME TO THE UNITED STATES?

10 MR. CLEWS: YES.

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1 MR. BARENS: WHAT, VISITING FAMILY?

2 MR. CLEWS: YES.

3 MR. BARENS: AND THEY ALL LIVE IN SOUTHERN ENGLAND?

4 MR. CLEWS: NO. SOME LIVE IN BIRMINGHAM.

5 MR. BARENS: WELL, I BET YOU NEVER LIKED GOING THERE,
6 DID YOU?

7 MR. CLEWS: I LIKE IT, YES.

8 MR. BARENS: MANCHESTER?

9 MR. CLEWS: NO.

10 MR. BARENS: LIKE LIVING IN CLEVELAND, BIRMINGHAM?

11 MR. CLEWS: THEY ARE TOGETHER.

12 MR. BARENS: I GUESS WE BETTER NOT HAVE ANY BIRMINGHAM
13 JOKES EITHER. ALL RIGHT.

14 DO YOU GO TO THE MOVIES AT ALL?

15 MR. CLEWS: YES. YOU JUST ASKED ME THAT.

16 MR. BARENS: I ASKED YOU THAT BUT ASIDE FROM THAT MOVIE
17 THAT I DIDN'T RECOGNIZE, HAVE YOU SEEN ANYTHING ELSE OF
18 RECENT DATE?

19 MR. CLEWS: WELL, I HAVE A VCR. I AM USING THAT MUCH
20 MORE NOW.

21 MR. BARENS: YOU RENT MOVIES TO WATCH?

22 MR. CLEWS: YES.

23 MR. BARENS: WHAT WAS THE LAST TIME YOU RENTED A MOVIE?
24 WHAT DID YOU RENT?

25 MR. CLEWS: THE GREAT GATSBY. THE REASON I RENTED THAT
26 IS BECAUSE IT WAS MENTIONED HERE.

27 MR. BARENS: I RECALL I MENTIONED IT.

28 MR. CLEWS: YES.

1 MR. BARENS: SPEAKING TO A JUROR THAT WAS IN THE NUMBER
2 12 BOX ABOUT HIS EXPERIENCE WITH DR. LEEHAN AT UCLA.

3 THINGS WEREN'T QUITE WHAT THEY SEEMED TO BE IN
4 GATSBY, WERE THEY? GATSBY'S PERCEPTION OF DAISY?

5 MR. CLEWS: WELL, RIGHT. RIGHT, YES.

6 MR. BARENS: AND GATSBY WAS SORT OF POSTURER, WASN'T
7 HE? WOULD YOU CLASSIFY HIM AS A PERSON WHO POSTURED A BIT?

8 MR. CLEWS: YEAH. HE WAS -- HE WANTED THINGS THAT WERE
9 NOT HONEST, I WOULD SAY.

10 MR. BARENS: HE WANTED THINGS THAT SIMPLY WEREN'T
11 AVAILABLE TO HIM, IN YOUR OPINION?

12 MR. CLEWS: PERHAPS. I AM NOT SURE ABOUT THE ANSWER
13 TO THAT.

14 MR. BARENS: DID HE SEEM EVER TO TAKE CREDIT FOR THINGS
15 THAT WEREN'T TRUE?

16 MR. CLEWS: I DON'T KNOW ABOUT THAT, EITHER.

17 MR. BARENS: ALL RIGHT. HE ULTIMATELY THOUGH, HAD SOME
18 MORALITY TO HIM, DIDN'T HE?

19 MR. CLEWS: YEAH. WELL, HE HAD PRINCIPLE. YES, IN THE
20 END.

21 MR. BARENS: HE HAD SOME PRINCIPLE, EVEN THOUGH HE WAS
22 A BIT OF A POSTURER AND A BIT OF A CON MAN HIMSELF?

23 MR. CLEWS: YES.

24 MR. BARENS: RESENTED THE WAY WHICH PEOPLE TREATED LIFE
25 AND DEATH, DIDN'T HE?

26 MR. CLEWS: I DON'T KNOW ABOUT THAT, EITHER.

27 MR. BARENS: DO YOU THINK HE THOUGHT THAT THEY HAD A
28 BIT OF A CAVALIER ATTITUDE IN THE WAY THEY TREATED THOSE

1 VICTIMS OF THE ACCIDENT?

2 MR. CLEWS: I REALLY DON'T KNOW.

3 MR. BARENS: ALL RIGHT. HAVE YOU EVER WATCHED A TRIAL
4 BEFORE?

5 MR. CLEWS: NO.

6 MR. BARENS: AND YOU HAVE NEVER PARTICIPATED AS A JUROR
7 IN ANY OTHER ASPECT OF THIS SYSTEM, WITH THE EXCEPTION OF THAT
8 ARREST THAT YOU WERE SUBJECT TO?

9 MR. CLEWS: NO. I HAVE NEVER BEEN A JUROR OR WATCHED
10 A TRIAL.

11 MR. BARENS: RIGHT. WHEN YOU HAD THAT EXPERIENCE OF
12 BEING ARRESTED, ALBEIT ILLEGALLY, DID YOU ACTUALLY APPEAR IN
13 COURT ON THAT?

14 MR. CLEWS: YES.

15 MR. BARENS: DID YOU HAVE DEFENSE COUNSEL?

16 MR. CLEWS: NO.

17 MR. BARENS: OR A PUBLIC DEFENDER?

18 MR. CLEWS: NO.

19 MR. BARENS: YOU REPRESENTED YOURSELF?

20 MR. CLEWS: YES.

21 MR. BARENS: DID YOU TRY THE CASE YOURSELF?

22 MR. CLEWS: I DON'T KNOW WHAT THAT MEANS.

23 MR. BARENS: WELL, DID YOU TAKE THE STAND AND TESTIFY
24 AND THEN WERE YOU CROSS-EXAMINED BY PROSECUTORS?

25 MR. CLEWS: YES.

26 MR. BARENS: AND NONETHELESS, YOU WERE -- WERE YOU
27 FOUND GUILTY?

28 MR. CLEWS: YES.

1 MR. BARENS: BECAUSE YOU WE WOULD SAY IN A FAIRLY
2 TECHNICAL STATE, WERE GUILTY OF A TECHNICAL MATTER?

3 MR. CLEWS: YES. THEY SAID I WAS GUILTY. I MEAN, YES.
4 I WAS TECHNICALLY GUILTY.

5 MR. BARENS: THEY HAD THIS ILLEGAL LAW, WHAT TURNED OUT
6 TO BE AN ILLEGAL LAW AND YOU HAD TECHNICALLY, VIOLATED THE
7 LAW. I PRESUME THAT IS WHAT WAS SAID?

8 MR. CLEWS: THAT'S RIGHT, YES.

9 MR. BARENS: AND NOW YOU HAVE HEARD DISCUSSION HERE WHERE
10 WE TALKED -- EVEN TODAY MR. WAPNER MADE REFERENCE TO YOU NOT
11 DISPUTING WHETHER OR NOT SOMEONE HAD BEEN KILLED JUST BECAUSE
12 YOU DIDN'T LIKE THE VICTIM. DID YOU HEAR THAT TYPE OF
13 DISCUSSION?

14 MR. CLEWS: UH-HUH.

15 MR. BARENS: DO YOU REMEMBER THAT THAT GOES BACK TO THAT
16 BUSINESS ABOUT A COKE DEALER BEING ROBBED VERSUS A PRIEST
17 BEING ROBBED AND WE TREAT THEM BOTH ON AN EQUAL LEVEL. DO
18 YOU REMEMBER THAT?

19 MR. CLEWS: RIGHT.

20 MR. BARENS: WELL NOW, IF I TOLD YOU THAT THERE WAS A
21 BIT OF AN ISSUE MR. CLEWS, ABOUT WHETHER A ROBBERY TOOK PLACE
22 AT ALL, IF THAT WERE THE INQUIRY, WOULD YOU WANT TO KNOW
23 SOMETHING ABOUT THE NATURE OF THE VICTIM?

24 MR. CLEWS: I DON'T KNOW.

25 MR. BARENS: WELL MR. CLEWS, HERE WE HAVE THIS FELLOW.
26 WE ARE NOT REALLY DEBATING WHETHER HE IS A PRIEST OR A
27 COKE DEALER. BUT THE ISSUE IS WHETHER HE WAS ROBBED AT ALL.

28 WOULDNT' WE HAVE TO KNOW SOMETHING ABOUT HIS NATURE

1 AND HIS CHARACTER AND BACKGROUND AS AN ALLEGED VICTIM TO SEE
2 WHETHER HE WAS TELLING THE TRUTH IN THE FIRST INSTANCE ABOUT
3 WHETHER HE HAD EVEN ROBBED BEFORE WE START WORRYING ABOUT
4 WHETHER WE ARE GOING TO CONVICT THE GUY WHO ALLEGEDLY ROBBED
5 HIM? CAN YOU FOLLOW ME WITH THAT?

6 MR. CLEWS: I AM NOT FOLLOWING YOU.

7 MR. BARENS: WELL, THE GOVERNMENT BRINGS IN A GUY AND
8 PUTS HIM IN THE BOX AND SAYS THAT WE ARE GOING TO TRY HIM FOR
9 COMMITTING A ROBBERY.

10 AND THE GUY DOESN'T SAY THAT HE IS JUST NOT GUILTY.
11 HE COMES IN AND HE SAYS IT TO YOU, LISTEN, THE GUY WAS NEVER
12 EVEN ROBBED. HE IS MAKING IT UP. HE IS JUST SAYING THAT
13 BECAUSE OF SOME AGENDA OR MOTIVATION THAT HE HAS, HIMSELF.

14 NOW, WERE THAT THE ISSUE BEFORE YOU, WOULD YOU
15 BE CONCERNED ABOUT WANTING TO KNOW SOMETHING ABOUT HIS BACK-
16 GROUND, THEN?

17 MR. CLEWS: YES.

18 MR. BARENS: INDEED. WELL, THAT IS THE TYPE OF THING
19 WE WANT YOU TO PAY ATTENTION TO, IF YOU ARE A JUROR. YOU
20 WOULD LISTEN TO ALL OF THE EVIDENCE, MR. CLEWS?

21 MR. CLEWS: YES.

22 MR. BARENS: ON BOTH SIDES?

23 MR. CLEWS: YES.

24 MR. BARENS: THANK YOU FOR YOUR TIME AND YOUR HONESTY,
25 SIR. I PASS FOR CAUSE, YOUR HONOR.

26 THE COURT: ALL RIGHT.

27 MR. WAPNER: GOOD AFTERNOON, MR. CLEWS.

28 MR. CLEWS: GOOD AFTERNOON.

1 MR. WAPNER: IT IS SOMETIMES IMPOSSIBLE AFTER ALL OF
2 THIS TIME AND ALL OF THE TIME YOU HAVE BEEN HERE -- WELL, I
3 DON'T THINK THAT HAS -- AT LEAST I DON'T HAVE IT IN MY NOTES,
4 WHAT PART OF THE COUNTY YOU LIVE IN.

5 MR. CLEWS: VENICE.
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1 MR. WAPNER: THANK YOU.

2 THE COURT: YOU HAVE BEEN ASKED THAT AND YOU TOLD US
3 THAT, DIDN'T YOU?

4 MR. CLEWS: I -- IF I WERE ASKED, I WOULD HAVE SAID
5 IT.

6 THE COURT: AT THE TIME WE WERE ASKING YOU ABOUT YOUR
7 FEELINGS ABOUT THE DEATH PENALTY, I THINK YOU TOLD US AT THAT
8 TIME.

9 MR. WAPNER: MY APOLOGIES, YOUR HONOR. I DIDN'T HAVE
10 IT IN MY NOTES.

11 THE COURT: I REMEMBER HIM SAYING VENICE, I REMEMBER
12 IT DISTINCTLY.

13 MR. BARENS: I WILL STIPULATE.

14 MR. WAPNER: THE TIME WHEN YOU WERE ARRESTED DID YOU
15 SPEND ANY TIME IN JAIL?

16 MR. CLEWS: WELL, A FEW HOURS.

17 MR. WAPNER: AND THE \$25 WAS INITIALLY BAIL?

18 MR. CLEWS: NO.

19 THE BAIL WAS SEVERAL HUNDRED DOLLARS, I THINK,
20 BUT SOME FRIEND BROUGHT IT DOWN AND I GOT OUT.

21 MR. WAPNER: OKAY. AND OTHER THAN THOSE FEW HOURS, YOU
22 DIDN'T DO ANY MORE TIME?

23 MR. CLEWS: NO.

24 MR. WAPNER: HOW LONG AGO WAS THIS?

25 MR. CLEWS: ABOUT 22 YEARS AGO.

26 MR. WAPNER: OKAY. AT THE TIME WHEN IT HAPPENED,
27 AS IT WAS HAPPENING, HOW DID YOU FEEL ABOUT THE POLICE OFFICERS
28 WHO WERE ARRESTING YOU?

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1 MR. CLEWS: AH, I FELT THAT THEY WERE OVERSTEPPING THEIR
2 MARK, OVERSTEPPING THEIR DUTY, YOU KNOW.

3 MR. WAPNER: AND DID YOU SEE THE SAME POLICE OFFICERS
4 AGAIN IN COURT?

5 MR. CLEWS: I AM NOT SURE. I DON'T THINK SO.

6 MR. WAPNER: WERE THERE SOME POLICE OFFICERS IN COURT
7 WHO CLAIMED TO BE THE SAME ONES OR WERE THERE JUST NO POLICE
8 OFFICERS THERE?

9 MR. CLEWS: NO.

10 THEY MUST HAVE BEEN THE SAME POLICE OFFICER, YES.

11 IT IS A LONG TIME AGO.

12 MR. WAPNER: I UNDERSTAND THAT.

13 SINCE THEN, HAVE YOU HAD ANY VISCERAL REACTION
14 WHEN YOU SEE A POLICE OFFICER ON THE STREET?

15 MR. CLEWS: NO.

16 MR. WAPNER: IF YOU SEE OR HEAR A POLICE OFFICER
17 TESTIFY IN THIS CASE, ARE YOU GOING TO HAVE ANY VISCERAL
18 REACTION JUST TO THE FACT HE IS A POLICE OFFICER?

19 MR. CLEWS: NO, NO.

20 MR. WAPNER: DO YOU THINK POLICEMEN ARE MORE OR LESS
21 LIKELY TO TELL THE TRUTH THAN ANYONE ELSE?

22 MR. CLEWS: NO.

23 MR. WAPNER: IN THAT CASE, DID YOU HAVE A JURY TRIAL
24 OR DID THE JUDGE ALONE DECIDE?

25 MR. CLEWS: IT WAS JUST THE JUDGE.

26 MR. WAPNER: AND DID YOU FEEL THAT THE JUDGE WAS DOING
27 HIS JOB PROPERLY?

28 MR. CLEWS: YES.

1 IT WAS A WOMAN, BY THE WAY.

2 MR. WAPNER: THANK YOU.

3 AND IN THIS CASE YOU WILL BE A JUDGE OF THE FACTS;
4 DO YOU FEEL COMFORTABLE WITH THAT ROLE?

5 MR. CLEWS: YES.

6 MR. WAPNER: YOU HAVE TO JUDGE THE FACTS AND THEN APPLY
7 THE LAW THAT THE JUDGE GIVES YOU TO THE FACTS, CAN YOU DO
8 THAT?

9 MR. CLEWS: YES.

10 MR. WAPNER: CAN YOU DO THAT EVEN IF YOU DON'T AGREE
11 WITH THE LAW THAT HE GIVES YOU?

12 MR. CLEWS: YES.

13 MR. WAPNER: AND IF PART OF THAT LAW IS THAT A MURDER
14 CAN BE PROVED WITHOUT A BODY, BY CIRCUMSTANTIAL EVIDENCE,
15 CAN YOU FOLLOW THAT?

16 MR. CLEWS: YES.

17 MR. WAPNER: THE POINT IS, IN YOUR CASE THAT YOU HAD,
18 IT WOULDN'T HAVE BEEN RIGHT FOR THAT JUDGE TO SAY "WELL, I
19 DON'T AGREE WITH THIS LAW AND, THEREFORE, I AM GOING TO ACQUIT
20 THIS PERSON"; DO YOU UNDERSTAND THAT?

21 MR. CLEWS: YES.

22 MR. BARENS: I OBJECT TO THAT AS MISREPRESENTATIVE OF
23 THE LAW OF DISCRETION.

24 THE COURT: I WILL SUSTAIN THE OBJECTION.

25 MR. WAPNER: YOUR JOB AS A JUROR IN THIS CASE IS NOT
26 TO AGREE OR DISAGREE WITH THE LAW; DO YOU UNDERSTAND THAT?

27 MR. CLEWS: I UNDERSTAND THAT.

28 MR. WAPNER: IF THE JUDGE GIVES YOU THE LAW, EVEN IF

3-4
1 YOU DON'T AGREE WITH THAT, WILL YOU FOLLOW IT?

2 MR. CLEWS: YES, I WILL.

3 MR. WAPNER: WERE YOU LOOKING FOR ANY PARTICULAR THING
4 IN "THE GREAT GATSBY" WHEN YOU READ IT?

5 MR. CLEWS: NO.

6 MR. BARENS SEEMED TO THINK IT WAS SIGNIFICANT
7 AND I THOUGHT MAYBE THERE WAS SOMETHING I COULD LEARN FROM
8 SEEING IT SO THAT IS WHY I RENTED IT.

9 MR. WAPNER: DID YOU THINK YOU LEARNED SOMETHING FROM
10 RENTING IT?

11 MR. CLEWS: YES.

12 MR. WAPNER: WHAT DID YOU LEARN?

13 MR. CLEWS: WELL, I LEARNED, I THINK, WHAT F. SCOTT
14 FITZGERALD'S, HIS MORAL MESSAGE THAT HE WAS TRYING -- HIS
15 MORAL MESSAGE.

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1 MR. WAPNER: WHAT WAS THE MORAL MESSAGE THAT YOU GOT
2 OUT OF IT?

3 MR. CLEWS: WELL, THAT YOU SHOULD WATCH OUT FOR
4 VANITY.

5 MR. WAPNER: OKAY. ANYTHING ELSE?

6 MR. CLEWS: WELL, THAT WAS --

7 NO. ONE MESSAGE WAS ENOUGH.

8 (LAUGHTER IN COURTROOM.)

9 MR. WAPNER: TELL ME WHAT YOU MEANT WHEN YOU SAID THAT
10 THERE WAS NOT MUCH HAPPENING ON THE JOB THAT YOUR FATHER HAD
11 AS A POLICE OFFICER.

12 MR. CLEWS: WELL, THERE WASN'T MUCH CRIME THEN.

13 MR. WAPNER: AND THAT WAS IN LONDON?

14 MR. CLEWS: YES.

15 MR. WAPNER: AND DID HE TALK WITH YOU MUCH ABOUT WHAT
16 HE DID?

17 MR. CLEWS: NO, NOT MUCH, NO.

18 MR. WAPNER: POLICE OFFICERS IN LONDON DON'T CARRY GUNS
19 NOW AND I ASSUME THEY DIDN'T AT THAT TIME?

20 MR. CLEWS: NO, NO.

21 MR. WAPNER: HOW LONG AGO WAS IT THAT YOU TOOK THIS
22 "ANATOMY OF LONELINESS" CLASS?

23 MR. CLEWS: OH, IT WAS PROBABLY TEN YEARS AGO.

24 MR. WAPNER: UNLIKE THE YOUNG MAN THAT WE HAD UP HERE
25 BEFORE, I THINK, THAT COULD REMEMBER EVERY WORD OF EVERY
26 PAPER THAT HE WROTE IN SCHOOL, I TAKE IT THAT YOU DON'T
27 REMEMBER MUCH ABOUT THAT COURSE AT ALL?

28 MR. CLEWS: HARDLY AT ALL, NO, NOTHING.

3-6
1 MR. WAPNER: IS IT THE KIND OF A THING -- WAS IT THE
2 KIND OF A COURSE THAT IF YOU HEAR SOMETHING IN THIS COURTROOM
3 ABOUT SOMEBODY BEING LONELY, THAT IT IS GOING TO COME BACK
4 TO YOU, DO YOU THINK?

5 MR. CLEWS: NO.

6 MR. WAPNER: HOW DO YOU FEEL ABOUT CIRCUMSTANTIAL
7 EVIDENCE GENERALLY?

8 MR. CLEWS: I THINK IT IS EVIDENCE.

9 MR. WAPNER: AND IF THE JUDGE TELLS YOU THAT BOTH DIRECT
10 AND CIRCUMSTANTIAL EVIDENCE ARE ACCEPTABLE AS A MEANS OF
11 PROOF AND NEITHER ONE IS ENTITLED TO ANY GREATER WEIGHT THAN
12 THE OTHER, CAN YOU FOLLOW THAT INSTRUCTION?

13 MR. CLEWS: YES.

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

16 MR. CLEWS: NO.

17 MR. WAPNER: TELL ME ABOUT -- CAN YOU ELABORATE ON YOUR
18 FEELINGS ABOUT HOW THE POLICE HANDLED THE BURGLARIES AND THE
19 CAR THEFTS.

20 MR. CLEWS: I THINK THEY DID WHAT THEY COULD, GIVEN
21 THEIR RESOURCES AND THAT WAS IT.

22 MR. WAPNER: WERE YOU AT THE HOUSE WHEN THEY CAME TO
23 TAKE THE REPORT ON THE BURGLARIES?

24 MR. CLEWS: YES.

25 MR. WAPNER: DO YOU REMEMBER FEELING ANY ANIMOSITY
26 TOWARDS THOSE POLICE OFFICERS?

27 MR. CLEWS: NO, NO, NO.

28 MR. WAPNER: CAN YOU DECIDE THIS CASE, THE GUILT OR

23-7
1 INNOCENCE OF THE DEFENDANT IN THIS CASE WITHOUT REFERENCE
2 TO WHAT MIGHT HAPPEN TO HIM IF YOU FIND HIM GUILTY?

3 MR. CLEWS: RIGHT.

4 MR. WAPNER: THAT WON'T BE A PROBLEM FOR YOU?

5 MR. CLEWS: NO.

6 MR. WAPNER: HOW DO YOU FEEL ABOUT PEOPLE WHO TESTIFY
7 UNDER A GRANT OF IMMUNITY?

8 MR. CLEWS: I WOULD THINK ABOUT IT.

9 MR. WAPNER: WHAT WOULD YOU THINK?

10 MR. CLEWS: THAT IT IS A LITTLE -- I WOULD WATCH IT
11 VERY CLOSELY, WATCH WHAT THEY SAID VERY CLOSELY.

12 MR. WAPNER: WOULD YOU WANT TO KNOW, FOR EXAMPLE, WHY
13 THEY WERE GIVEN IMMUNITY?

14 MR. CLEWS: YES.

15 MR. WAPNER: RIGHT. AND DO YOU HAVE ANY OPINIONS ON
16 THE SUBJECT GENERALLY?

17 MR. CLEWS: WELL, I WISH IT DIDN'T HAVE TO BE.

18 MR. WAPNER: HAVE YOU READ ANYTHING IN THE PAPERS
19 RECENTLY ABOUT IT OR ABOUT PEOPLE BEING --

20 MR. CLEWS: WELL, ABOUT WHAT IS GOING ON IN WASHINGTON.

21 MR. WAPNER: RIGHT.

22 AND THERE WAS SOMETHING IN THE PAPER MORE RECENTLY
23 ABOUT THE MURDER THAT HAPPENED HERE A COUPLE OF YEARS AGO
24 OF THE BASKETBALL PLAYER WHO GOT KILLED.

25 MR. CLEWS: OH, YEAH.

26 MR. WAPNER: DID YOU HAPPEN TO CATCH THAT?

27 MR. CLEWS: YES I DID, AS A MATTER OF FACT, YEAH.

28 MR. WAPNER: AND DO YOU THINK THAT THERE ARE TIMES WHEN

23-8
1 IT IS NECESSARY?

2 MR. CLEWS: WELL, THAT WAS A GOOD CASE RIGHT THERE,
3 YEAH.

4 MR. WAPNER: IN EXAMINING THE TESTIMONY OF SOMEONE WHO
5 TESTIFIED UNDER A GRANT OF IMMUNITY, WOULD YOU USE THE SAME
6 STANDARD, THE SAME SCALE IN EVALUATING HIS TESTIMONY AS THE
7 TESTIMONY OF OTHER WITNESSES?

8 MR. CLEWS: YES.

9 MR. WAPNER: IN OTHER WORDS, I AM NOT SAYING HOW MUCH
10 VALUE YOU WOULD GIVE TO THE TESTIMONY, BUT WOULD YOU USE THE
11 SAME STANDARD TO MEASURE HIS TESTIMONY?

12 MR. CLEWS: OH, YES, YES, YES.

13 MR. WAPNER: WOULD YOU DO THAT FOR ALL OF THE WITNESSES
14 WHO TESTIFIED IN THE CASE?

15 MR. CLEWS: YES.

16 MR. WAPNER: DO YOU HAVE ANY DIFFICULTY WITH THAT IDEA?

17 MR. CLEWS: NO.

18 MR. WAPNER: PASS FOR CAUSE, YOUR HONOR.

19 THE COURT: ALL RIGHT, THE DEFENDANT'S PEREMPTORY.

20 (UNREPORTED COLLOQUY BETWEEN MR. BARENS,
21 MR. CHIER AND THE DEFENDANT.)

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24=1
1 MR. BARENS: ONE MOMENT, YOUR HONOR.

2 THE COURT: IT IS ALL RIGHT.

3 (PAUSE.)

4 MR. BARENS: YOUR HONOR, THE DEFENSE WOULD THANK AND
5 EXCUSE NUMBER 11, MS. JOHNSON.

6 THE COURT: ALL RIGHT. THANK YOU, MS. JOHNSON.

7 (PROSPECTIVE JUROR JOHNSON EXITED THE
8 COURTROOM.)

9 THE CLERK: MARJORIE GOOLEY, G-O-O-L-E-Y.

10 THE COURT: MISS GOOLEY, I WILL ASK YOU THE QUESTION
11 I ASK EVERY WITNESS WHO TAKES THE PLACE OF ANOTHER WHO HAS
12 BEEN EXCUSED. YOU TOO, HAVE HEARD ALL OF THE QUESTIONS ASKED
13 AND ANSWERS GIVEN?

14 MS. GOOLEY: RIGHT.

15 THE COURT: IF THE SAME GENERAL QUESTIONS WERE ASKED
16 OF YOU, YOUR ANSWERS WOULD BE SUBSTANTIALLY THE SAME?

17 MS. GOOLEY: YES.

18 THE COURT: WHAT DO YOU DO, PLEASE?

19 MS. GOOLEY: I AM AN EXECUTIVE SECRETARY.

20 THE COURT: BY WHOM ARE YOU EMPLOYED?

21 MS. GOOLEY: BOEING COMPANY.

22 THE COURT: BOEING UP IN SEATTLE?

23 MS. GOOLEY: THEY ARE.

24 THE COURT: THEY HAVE GOT OFFICES DOWN HERE, TOO?

25 MS. GOOLEY: YES.

26 THE COURT: AND YOU ARE AN EXECUTIVE SECRETARY TO WHOM,
27 THE RESIDENT MANAGER? IS THAT RIGHT?

28 MS. GOOLEY: YES.

24-2
1 THE COURT: AND IS THERE A MR. GOOLEY?

2 MS. GOOLEY: YES.

3 THE COURT: WHAT DOES HE DO?

4 MS. GOOLEY: HE WORKS FOR HUGHES AIRCRAFT COMPANY IN
5 SPACE COMMUNICATIONS.

6 THE COURT: WHERE DO YOU LIVE?

7 MS. GOOLEY: WE LIVE IN WESTCHESTER.

8 THE COURT: YES. AND DO YOU HAVE ANY CHILDREN?

9 MS. GOOLEY: I HAVE THREE.

10 THE COURT: HOW OLD ARE THEY?

11 MS. GOOLEY: 24, 22 AND 19.

12 THE COURT: AND WHAT DOES THE 24-YEAR-OLD DO?

13 MS. GOOLEY: SHE IS AN ARCHITECT.

14 THE COURT: THE 22-YEAR-OLD?

15 MR. GOOLEY: THE 22-YEAR-OLD IS A STUDENT.

16 THE COURT: A STUDENT?

17 MS. GOOLEY: UH-HUH.

18 THE COURT: AND WHAT IS HE STUDYING?

19 MS. GOOLEY: INTERNATIONAL STUDIES.

20 THE COURT: WHERE IS THAT?

21 MS. GOOLEY: AT CAL, BERKELEY.

22 THE COURT: AND THE YOUNGEST?

23 MS. GOOLEY: THE YOUNGEST IS A FRESHMAN AT LOYOLA
24 MARYMOUNT UNIVERSITY.

25 THE COURT: AND WHAT WAS YOUR FORMAL EDUCATION?

26 MS. GOOLEY: I HAVE A BACHELOR OF SCIENCE DEGREE FROM
27 THE UNIVERSITY OF WISCONSIN AT LACROSSE.

28 THE COURT: AND YOUR HUSBAND?

24-3
1 MS. GOOLEY: HE HAS -- WELL, HE HAS SEVERAL DIFFERENT
2 TYPES OF DEGREES. BUT HE IS A GRADUATE OF THE CITADEL IN
3 SOUTH CAROLINA. AND USC AND UCLA.

4 THE COURT: HOW IS IT HE DIDN'T GO INTO THE ARMY? THE
5 CITADEL IS A TRAINING SCHOOL FOR THE MILITARY, ISN'T THAT
6 RIGHT?

7 MS. GOOLEY: RIGHT.

8 THE COURT: UH-HUH. WELL, HE SEEMS TO BE VERY WELL
9 EDUCATED, TOO. AND HAVE YOU EVER SERVED AS A JUROR IN A
10 CRIMINAL CASE BEFORE?

11 MS. GOOLEY: YES I HAVE.

12 THE COURT: WHAT KIND OF CASE WAS THAT?

13 MS. GOOLEY: IT WAS AN ATTEMPTED MURDER.

14 THE COURT: AND THE JURY REACHED A VERDICT IN THAT CASE?

15 MS. GOOLEY: YES.

16 THE COURT: UH-HUH. HOW LONG AGO WAS THAT?

17 MS. GOOLEY: I THINK IT WAS '82.

18 THE COURT: AND HAVE YOU EVER BEEN THE VICTIM OF ANY
19 KIND OF A SERIOUS CRIME?

20 MS. GOOLEY: NO.

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

22 MR. BARENS: THANK YOU, YOUR HONOR.

23 GOOD AFTERNOON, MS. GOOLEY.

24 MS. GOOLEY: GOOD AFTERNOON.

25 MR. BARENS: YOU KNOW MS. GOOLEY, I WILL GO RIGHT INTO
26 YOUR JURY EXPERIENCE.

27 MS. GOOLEY: YES.

28 MR. BARENS: IT NEVER WOULD HAVE OCCURRED TO YOU THAT

24-1
1 I WOULD ASK ABOUT THAT. WAS THAT HERE IN SANTA MONICA?

2 MS. GOOLEY: NO. IT WAS DOWNTOWN.

3 MR. BARENS: IN THE MAIN COURTHOUSE THERE?

4 MS. GOOLEY: RIGHT.

5 MR. BARENS: YOU WERE A REGULAR JUROR THROUGHOUT THAT
6 CASE?

7 MS. GOOLEY: I WAS.

8 MR. BARENS: AND HOW DID YOU FEEL ABOUT HOW THE JURY
9 SYSTEM WORKED AS A RESULT OF THAT TRIAL?

10 MS. GOOLEY: WELL, I HAD GOOD FEELINGS.

11 MR. BARENS: YOU DID?

12 MS. GOOLEY: UH-HUH.

13 MR. BARENS: YOU THOUGHT IT WAS A SUCCESSFUL EXERCISE
14 IN THIS SYSTEM?

15 MS. GOOLEY: YES.
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24-5
1 MR. BARENS: HOW LONG FROM THE TIME YOU WERE FIRST ON
2 THE JURY PANEL BEING SELECTED UNTIL THE VERDICT WAS REACHED?
3 HOW LONG DID THAT TAKE?

4 MS. GOOLEY: IT WAS A VERY SHORT CASE. IT ONLY LASTED
5 FIVE DAYS, I BELIEVE. IT WAS FIVE OR SIX DAYS.

6 MR. BARENS: FROM THIS PART OF THE PROCESS TO THE
7 VERDICT?

8 MS. GOOLEY: RIGHT.

9 MR. BARENS: AND WAS IT A JURY THAT CAME TO A DECISION
10 SOMEWHAT ON THE FIRST GO-AROUND, THAT EVERYONE SEEMED TO HAVE
11 THEIR MINDS PRETTY WELL MADE UP WHEN THEY RETIRED?

12 MS. GOOLEY: NO. I THINK WE DELIBERATED A WHOLE DAY.
13 IT WAS NOT UNANIMOUS.

14 MR. BARENS: DID YOU BY THE TIME YOU CAST YOUR FINAL
15 BALLOT, HAVE THE SAME ATTITUDE OR OPINION ABOUT THE GUILT
16 OR INNOCENCE THAT YOU DID FROM THE TIME YOU CAME IN TO START
17 DELIBERATING, AS YOU DID AT THE END?

18 MS. GOOLEY: I DID.

19 MR. BARENS: AND YOU FOLKS REACHED A UNANIMOUS VERDICT?

20 MS. GOOLEY: YES. I MUST SAY THAT I WAS ON ONE TOUR
21 OF JURY DUTY. BUT I DID SERVE ON TWO CASES. AND ON THE OTHER
22 CASE, IT WAS A DRIVING UNDER THE INFLUENCE CASE. IT WAS IN
23 THE MUNICIPAL COURT, I BELIEVE.

24 MS. BARENS: RIGHT.

25 MS. GOOLEY: AND ON THAT CASE, WE DID NOT REACH A VERDICT.

26 MR. BARENS: I SEE. YOU HAD WHAT MIGHT BE CALLED A
27 HUNG JURY?

28 MS. GOOLEY: RIGHT.

1 MR. BARENS: DID YOU HAVE THAT EXPERIENCE BEFORE THE
2 ATTEMPTED MURDER CASE OR AFTER?

3 MS. GOOLEY: AFTER.

4 MR. BARENS: AFTER SEQUENTIALLY?

5 MS. GOOLEY: YES.

6 MR. BARENS: AND WHAT WAS YOUR IMPRESSION OF THE JURY
7 SYSTEM AFTER THAT CASE?

8 MS. GOOLEY: AFTER THE SECOND CASE?

9 MR. BARENS: YES, THE ONE WHERE YOU COULDN'T REACH A
10 DECISION UNANIMOUSLY?

11 MS. GOOLEY: WELL, IT WAS A LITTLE MORE FRUSTRATING.
12 BUT I STILL CAME AWAY BELIEVING IN THE SYSTEM.

13 MR. BARENS: I SEE. WAS THERE MORE THAN ONE JUROR THAT --
14 IN OTHER WORDS, DID YOU HAVE ONE OF THOSE HORRID 11 TO 1
15 SITUATIONS?

16 MS. GOOLEY: YES.

17 MR. BARENS: WHEN I SAY "HORRID" --

18 MR. WAPNER: WAS THAT YES?

19 MS. GOOLEY: YES. WE DID HAVE AN 11 TO 1 JURY.

20 MR. BARENS: WHAT DID YOU DO -- WHAT WOULD YOU DO IF
21 YOU WERE THE ONE? WOULD YOU FEEL YOU HAD SOME OBLIGATION
22 TO COME AROUND TO THE OTHER 11'S POINT OF VIEW OR IF YOU
23 BELIEVED ONE WAY OR ANOTHER, WOULD YOU STICK WITH IT?

24 MS. GOOLEY: WELL, I THINK I WOULD STICK BY IT IF I
25 FELT STRONGLY.

26 IN THAT CASE, I WAS WITH THE OTHER 11. BUT YOU
27 KNOW, I THOUGHT THE JUROR HAD THE RIGHT TO FEEL THE WAY HE
28 FELT.

1 MR. BARENS: RIGHT. THE FACT OF THE MATTER IS, THAT
2 YOUR ONLY OBLIGATION IS TO VOTE YOUR CONSCIENCE AS YOU SEE
3 IT AS AN INDIVIDUAL. YOU DON'T HAVE AN OBLIGATION TO
4 FACILITATE THINGS FOR OTHER JURORS.

5 MS. GOOLEY: RIGHT.

6 MR. BARENS: NOW, YOU KNOW THAT YOU HAVE AN OBLIGATION
7 MEANINGFULLY TO DIALOGUE WITH THE OTHER JURORS IN TRYING TO
8 REACH A DECISION. BUT SHOULD YOU DISAGREE, YOU ARE ENTITLED
9 TO HOLD TO YOUR VIEWS.

10 MS. GOOLEY: CORRECT.

11 MR. BARENS: ARE YOU COMFORTABLE WITH THAT?

12 MS. GOOLEY: YES.

13 MR. BARENS: ASIDE FROM THOSE TWO CASES, DID YOU HAVE
14 ANY OTHER JURY EXPERIENCE?

15 MS. GOOLEY: NO I DID NOT.

16 MR. BARENS: THE ATTEMPTED MURDER CASE, HOW DID YOU
17 FEEL ABOUT THE WAY THE DISTRICT ATTORNEY AND DEFENSE COUNSEL
18 PERFORMED THEIR JOBS?

19 MS. GOOLEY: I WAS FAVORABLY IMPRESSED WITH BOTH SIDES.
20 I THOUGHT THEY BOTH PRESENTED THE CASE, THE EVIDENCE THAT
21 THEY HAD.

22 MR. BARENS: ALL RIGHT. IN THAT SECOND DRUNK DRIVING
23 MATTER, WHAT WAS YOUR OPINION OF COUNSEL'S PERFORMANCE?

24 MS. GOOLEY: WELL, I THOUGHT IT WAS VERY GOOD.

25 MR. BARENS: YOU DID?

26 MS. GOOLEY: YES I DID.

27 MR. BARENS: YOU DIDN'T THINK PERHAPS IN THAT CASE,
28 THAT THE DEFENSE COUNSEL HAD NO POSITION AT ALL AND WAS

1 JUST BEATING A DEAD HORSE?

2 MS. GOOLEY: NO. THEY BOTH HAD DIFFERENT POSITIONS.
3 THEY BOTH DID THE BEST WITH WHAT EVIDENCE THEY HAD.

4 MR. BARENS: DO YOU UNDERSTAND THAT THE STANDARD OF
5 PROOF BEYOND A REASONABLE DOUBT IS WHAT WE WILL BE DOING
6 WITHIN THIS CASE?

7 MS. GOOLEY: YES.

8 MR. BARENS: NOW, YOU NEED TO RESPOND AUDIBLY,
9 MS. GOOLEY.

10 MS. GOOLEY: YES.

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1 MR. BARENS: YOUR ANSWER WAS YES?

2 MS. GOOLEY: YES.

3 MR. BARENS: ALL RIGHT. IN THAT PRESUMPTION OF
4 INNOCENCE, DID YOU FEEL HONESTLY DURING THE ATTEMPTED MURDER
5 TRIAL, THAT THE DEFENDANT STILL IN YOUR MIND, THE PRESUMPTION
6 OF INNOCENCE PRIOR TO THE TIME THE DEFENDANT PUT ON A CASE?

7 MS. GOOLEY: YES.

8 MR. BARENS: I AM HOPING WHEN I ASK YOU THAT QUESTION,
9 THE DEFENDANT DID PUT ON A CASE.

10 MS. GOOLEY: YES.

11 MR. BARENS: DID THE DEFENDANT TESTIFY IN THAT CASE?

12 MS. GOOLEY: YES.

13 MR. BARENS: AND DID YOU FIND THAT YOU HAD AT ALL,
14 PREJUDGED HIS TESTIMONY BEFORE HE GOT ON THE STAND?

15 MS. GOOLEY: NO.

16 MR. BARENS: HAD YOU ANTICIPATED HIS TESTIMONY OR DID
17 YOU JUST LISTEN TO IT, AS IT WAS ARTICULATED?

18 MS. GOOLEY: I LISTENED TO IT.

19 MR. BARENS: AND YOU FOUND YOU WERE ABLE TO DO SO
20 OPEN-MINDED?

21 MS. GOOLEY: YES.

22 MR. BARENS: DID YOU FEEL YOU WERE CAPABLE OF BEING
23 AS OPEN-MINDED WITH THAT DEFENDANT TESTIFYING AS YOU WERE
24 SAY, WHEN SOME WITNESS TO THE ALLEGED CRIME HAD TESTIFIED?

25 MS. GOOLEY: YES.

26 MR. BARENS: YOU REALLY DID?

27 MS. GOOLEY: YES I DID.

28 MR. BARENS: DID THE DEFENDANT IN THE DRUNK DRIVING

1 CASE TESTIFY?

2 MS. GOOLEY: YES.

3 MR. BARENS: WAS HE ABLE TO MAKE HIS WAY TO THE STAND?

4 MS. GOOLEY: YES.

5 MR. BARENS: AND DID YOU FEEL THAT HE STILL HAD A
6 PRESUMPTION OF INNOCENCE AFTER THEY PUT THAT BREATHALYZER
7 IN?

8 MS. GOOLEY: YES.

9 MR. BARENS: YOU DID? YOU WANTED TO HEAR HIS SIDE OF
10 THE STORY?

11 MS. GOOLEY: I DID.

12 MR. BARENS: OKAY. YOU KNOW FROM THAT EXPERIENCE THEN,
13 THAT ONE OF THE REALLY FUNDAMENTAL THINGS WE LIKE TO DO OR
14 ATTEMPT TO DO AS BEST WE CAN AS HUMANS IS LISTEN TO ALL OF
15 THE EVIDENCE BEFORE WE START COMING TO A CONCLUSION. IS THAT
16 CORRECT?

17 MS. GOOLEY: YES.

18 MR. BARENS: IS THAT BECAUSE THE TRIAL IS NOT OVER UNTIL
19 THE LAST WORD IS SPOKEN?

20 MS. GOOLEY: RIGHT.

21 MR. BARENS: ALL RIGHT. NOW, PRIOR TO YOUR BECOMING
22 AN EXECUTIVE SECRETARY, DID YOU HAVE A DIFFERENT FORM OF
23 EMPLOYMENT?

24 MS. GOOLEY: I TAUGHT SCHOOL EARLY IN MY CAREER. THEN
25 I STAYED HOME FOR A NUMBER OF YEARS, RAISING MY CHILDREN.
26 I HAVE BEEN WORKING NOW EIGHT YEARS.

27 MR. BARENS: WHAT SORT OF SCHOOL DID YOU TEACH, GRAMMAR
28 SCHOOL?

1 MS. GOOLEY: YEAH, GRAMMAR SCHOOL.

2 MR. BARENS: THAT WAS HERE IN SOUTHERN CALIFORNIA?

3 MS. GOOLEY: YEAH.

4 MR. BARENS: AND YOUR HUSBAND DOES WHAT AT HUGHES, MA'AM?

5 MS. GOOLEY: HE MANAGES A DIVISION IN THE SPACE AND
6 COMMUNICATIONS GROUP.

7 MR. BARENS: IN SPACE COMMUNICATIONS GROUP?

8 MS. GOOLEY: YES.

9 MR. BARENS: AND DID HE HAVE A DIFFERENT TYPE OF
10 EMPLOYMENT OR PROFESSION PRIOR TO THIS ACTIVITY?

11 MS. GOOLEY: NO.

12 MR. BARENS: HE HAS ALWAYS BEEN IN THE AEROSPACE
13 INDUSTRY?

14 MS. GOOLEY: YES, ALWAYS BEEN IN AEROSPACE.

15 MR. BARENS: DO YOU HAVE ANY HOBBIES OR ACTIVITIES?

16 MS. GOOLEY: I DO. I DON'T HAVE AS MANY THAT I PURSUE
17 NOW AS I USED TO HAVE. I DON'T HAVE A LOT OF TIME.

18 I ENJOY A LOT OF THINGS, A LOT OF THINGS AROUND
19 THE HOME, ARTSY-CRAFTSY THINGS AND ENTERTAINING.

20 MR. BARENS: DO YOU MEAN BY THAT THAT YOU SIMPLY DON'T
21 HAVE THE TIME FOR ANY LONGER --

22 MS. GOOLEY: WELL, I USED TO DO MORE ART-RELATED THINGS.
23 I USED TO PARTICIPATE MORE IN SPORTS ACTIVITIES AND THOSE
24 SORTS OF THINGS. I DON'T DO THAT NOW.

25 MR. BARENS: ANY PARTICULAR SPORT?

26 MS. GOOLEY: TENNIS.

27 MR. BARENS: AND IN ARTS, WAS THERE A PARTICULAR
28 ARTISTIC ENDEAVOR?

1 MS. GOOLEY: JUST DRAWING AND PAINTING AND THOSE SORTS
2 OF THINGS.

3 MR. BARENS: ANY PARTICULAR TYPE?

4 MS. GOOLEY: I HAVE VERY LITTLE TIME NOW.

5 MR. BARENS: ANY PARTICULAR TYPE OF SUBJECT YOU LIKED
6 TO PAINT?

7 MS. GOOLEY: NO.

8 MR. BARENS: DO I RECALL THAT YOU TOLD ME THAT YOU READ
9 SOMETHING ABOUT THIS CASE?

10 MS. GOOLEY: I DID.

11 MR. BARENS: AND COULD YOU TELL US AS YOU SIT THERE
12 TODAY, AS I ASKED MR. CLEWS A MOMENT AGO, THAT YOU TRUTHFULLY
13 COULD GIVE THE DEFENDANT A FAIR TRIAL, IRRESPECTIVE OF WHAT
14 YOU READ?

15 MS. GOOLEY: I FEEL I COULD.

1 MR. BARENS: DO YOU HAVE ANY RESERVATION WHATSOEVER
2 THAT MIGHT MAKE YOU HESITATE IN THAT ANSWER?

3 MS. GOOLEY: NO, I HAVE NONE.

4 MR. BARENS: AND YOU DON'T FEEL I WOULD HAVE TO SORT
5 OF HAVE AN UPHILL BATTLE WITH YOU IN TERMS OF HAVING TO OVER-
6 COME SOME SUSPICION OR DOUBT YOU MIGHT HAVE AS A RESULT OF
7 WHAT YOU READ?

8 MS. GOOLEY: NO.

9 MR. BARENS: DO YOU MEAN THAT SINCERELY?

10 MS. GOOLEY: I DO MEAN THAT SINCERELY.

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

12 MS. GOOLEY: I DON'T NOW.

13 IN THE PAST, I HAVE.

14 MR. BARENS: AND WHAT WOULD THOSE HAVE BEEN?

15 MS. GOOLEY: OH, LIKE UNIVERSITY WOMEN'S CLUB, THE
16 AAUW.

17 MR. BARENS: I AM SORRY. YOU MEAN THE AMATEUR ATHLETIC
18 WOMEN?

19 MS. GOOLEY: NO.

20 AMERICAN ASSOCIATION OF UNIVERSITY WOMEN.

21 I BELONGED TO PTA AND WAS A GIRL SCOUT LEADER AND
22 ALL OF THOSE SORTS OF THINGS THAT ARE ORGANIZATIONS.

23 MR. BARENS: WHAT IS THE LAST BOOK YOU READ?

24 MS. GOOLEY: THE LAST BOOK I READ WAS "THE OLD MAN IN
25 THE SEA," A SHORT ONE.

26 (LAUGHTER IN THE COURTROOM.)

27 MR. BARENS: WE ARE GETTING TO THAT WITH THIS JURY
28 SELECTION. WE ARE GETTING ALONG.

5-2

1 AND WHAT ABOUT THE LAST MOVIE YOU SAW?

2 MS. GOOLEY: WELL, I SAW FOUR MOVIES THE WEEK BETWEEN
3 CHRISTMAS AND NEW YEARS AND THE LAST ONE WAS "CHILDREN OF A
4 LESSER GOD".

5 MR. BARENS: OF THE FOUR MOVIES THAT YOU SAW, WHICH ONE
6 CAUGHT YOUR ATTENTION THE MOST?

7 MS. GOOLEY: WELL, I LIKED THEM ALL FOR DIFFERENT
8 REASONS.

9 MR. BARENS: THERE WAS NONE OF THE FOUR THAT PARTICULARLY
10 STOOD OUT IN YOUR MIND?

11 MS. GOOLEY: I LIKED THE LAST ONE VERY MUCH, "CHILDREN
12 OF A LESSER GOD".

13 MR. BARENS: ALL RIGHT. THAT DOESN'T GIVE ME ANYTHING
14 TO WORK WITH.

15 MS. GOOLEY: I REALLY ENJOYED THEM ALL FOR DIFFERENT
16 REASONS.

17 MR. BARENS: MRS. GOOLEY, WHAT DO YOU THINK ABOUT THE
18 FACT THAT IF THERE ARE COMPETING INFERENCES, IF THE SAME FACT
19 SITUATION THAT YOU HEAR TESTIMONY ON LEAVES A CLOSE CALL,
20 WOULD YOU TRY TO GUESS ABOUT WHICH ONE WOULD BE RIGHT OR WOULD
21 YOU BE LEFT WITH A NOT-PROVEN?

22 MS. GOOLEY: I WOULD BE LEFT WITH NOT-PROVEN.

23 MR. BARENS: ALL RIGHT. YOU KNOW WE HAVE HEARD TALK
24 TODAY, AS WE GLIBLY TALK ABOUT, YOU KNOW, ANYTHING IS POSSIBLE,
25 AND THE IMPLICATION OF ALL OF THAT IS, OF COURSE, YOU ARE NOT
26 SUPPOSED TO THINK ABOUT ANYTHING IS POSSIBLE. YOU ARE
27 SUPPOSED TO LOOK FOR SOME OBVIOUS ANSWER AND IF YOU DO THAT,
28 WE TELL YOU YOU ARE REASONABLE. I AM NOT TELLING YOU THAT.

25-3

1 I WILL TELL YOU WHY.

2 COULD YOU UNDERSTAND THAT TO LOOK AT, TO FAIRLY
3 CONSIDER ALL OF THE EVIDENCE THAT IS GIVEN TO YOU, YOU HAVE
4 TO LOOK AT EVERYTHING THAT IS POSSIBLE BASED ON THAT EVIDENCE?

5 MS. GOOLEY: YES.

6 MR. BARENS: DO YOU UNDERSTAND THAT?

7 MS. GOOLEY: RIGHT.

8 MR. BARENS: AND IF YOU DON'T LOOK AT EVERYTHING THAT
9 IS POSSIBLE BASED ON THE EVIDENCE YOU ARE GIVEN, THEN YOU
10 HAVEN'T FAIRLY CONSIDERED ALL OF THE EVIDENCE TO MAKE A
11 DECISION; DO YOU UNDERSTAND THAT?

12 (WHEREUPON, MS GOOLEY NODS HER HEAD UP
13 AND DOWN.)

14 MR. BARENS: I DON'T THINK ANYBODY IS SAYING TO YOU AS
15 A JUROR "WELL, WE WANT YOU TO THINK ANYTHING IS POSSIBLE."

16 YOU ARE CERTAINLY ENTITLED TO DO THAT BECAUSE YOU
17 COULD BELIEVE THAT PERHAPS NEITHER SIDE WOULD GIVE YOU ANY
18 EVIDENCE UPON WHICH YOU WOULD BE ABLE TO MAKE A DECISION; DO
19 YOU UNDERSTAND THAT POSSIBILITY?

20 MS. GOOLEY: YES.

21 MR. BARENS: IN OTHER WORDS, JUST BECAUSE THE GOVERNMENT
22 PUTS ON WITNESSES THAT ARE SUPPOSED TO CONVICT THE DEFENDANT
23 AND THE DEFENDANT PUTS ON WITNESSES THAT ARE SUPPOSED TO
24 EXONERATE HIM OR AT LEAST EXPLAIN THE BEST THE DEFENSE KNOWS
25 WHAT IS HAPPENING, DO YOU UNDERSTAND YOU MIGHT NOT BE
26 SATISFIED WITH EITHER AS HAVING GIVEN YOU SOMETHING YOU COULD
27 RELY UPON AS BEING AN EXPLANATION FOR WHAT ALLEGEDLY OCCURRED;
28 COULD YOU ACCEPT THAT?

25-4

1 MS. GOOLEY: I COULD.

2 MR. BARENS: WOULD YOU DO THAT IN TERMS OF MR. HUNT
3 DOWN THERE?

4 MS. GOOLEY: THE VERDICT HAS TO GO TO THE DEFENDANT.

5 MR. BARENS: NOT GUILTY, NOT PROVEN.

6 MS. GOOLEY: NOT PROVEN GUILTY.

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1 MR. BARENS: THANK YOU, MRS. GOOLEY.

2 PASS FOR CAUSE, YOUR HONOR.

3 THE COURT: ALL RIGHT, MR. WAPNER.

4 MR. WAPNER: MRS. GOOLEY, DID YOU THINK WE WOULD EVER
5 GET TO YOU?

6 DO YOU ACCEPT THE FACT THAT YOU COULD DELIBERATE
7 ON THE CASE, FAIRLY CONSIDER ALL OF THE EVIDENCE, DECIDE THAT
8 IT MIGHT BE A CLOSE QUESTION AS TO WHETHER OR NOT IT IS PROVED
9 BEYOND A REASONABLE DOUBT OR NOT AND STILL DECIDE THAT IT HAS
10 BEEN PROVED BEYOND A REASONABLE DOUBT?

11 MS. GOOLEY: WELL, I DON'T THINK IT COULD BE CLOSE.

12 I THINK IT WOULD HAVE TO BE PROVEN.

13 MR. WAPNER: OKAY. MAYBE THIS IS JUST LAWYER'S QUIBBLING
14 ABOUT WORDS AND I SHOULDN'T WORRY ABOUT IT BUT I GUESS EVERYONE,
15 EVERY JUROR IN THEIR OWN MIND WILL HAVE TO DECIDE WHAT IS
16 BEYOND A REASONABLE DOUBT AND EXACTLY WHAT EVIDENCE TIPS THE
17 SCALES FOR EACH INDIVIDUAL PERSON, YOU NEVER REALLY KNOW.

18 MS. GOOLEY: RIGHT.

19 MR. WAPNER: BUT CAN YOU FORESEE A SITUATION WHERE
20 YOU ARE NOT SURE WHETHER IT IS BEYOND A REASONABLE DOUBT
21 OR NOT AND YOU CONSIDER THE EVIDENCE AND YOU THINK ABOUT
22 IT AND AFTER MORE CONSIDERATION YOU DECIDE THAT IT IS
23 BEYOND A REASONABLE DOUBT?

24 MS. GOOLEY: REPHRASE THAT ONE. I AM NOT --

25 MR. WAPNER: I THINK I AM PROBABLY WORRYING ABOUT
26 SOMETHING THAT MAYBE I SHOULDN'T WORRY ABOUT.

27 LET ME JUST GO ON TO SOMETHING ELSE.

28 MS. GOOLEY: OKAY.

1 MR. WAPNER: ON THE JURY THAT YOU SAT ON, THE DRIVING
2 UNDER THE INFLUENCE CASE THAT WAS HUNG --

3 MS. GOOLEY: YES.

4 MR. WAPNER: -- DID YOU THINK THAT ALL 11 PEOPLE MADE
5 AN HONEST EFFORT TO TRY AND REACH A VERDICT?

6 MS. GOOLEY: I THOUGHT 11 DID.

7 MR. WAPNER: OKAY. AND THE OTHER PERSON, WAS HE
8 DISCUSSING THE EVIDENCE, DID YOU THINK?

9 MS. GOOLEY: NO.

10 I THOUGHT HE WAS COMING AT IT MORE FROM AN
11 EMOTIONAL VIEW, YOU KNOW.

12 I THINK HE REALLY FELT THAT HE COULDN'T IN JUST
13 CONSCIENCE FIND ANYBODY GUILTY OF ANYTHING; THAT IS REALLY
14 WHAT IT AMOUNTED TO IN THE FINAL.

15 HE DIDN'T REALLY HAVE VERY VALID REASONS FOR HIS
16 POSITION.

17 MR. WAPNER: DO YOU THINK THAT THAT WAS THE POSITION
18 THAT HE -- OR A WAY THAT HE FELT BEFORE HE EVEN STARTED TO
19 HEAR THE CASE?

20 MS. GOOLEY: UH-HUH.

21 MR. WAPNER: SAY YES.

22 MS. GOOLEY: YES, I DO.

23 MR. BARENS: YOU DON'T HAVE TO SAY YES BECAUSE HE SAID
24 YOU SHOULD.

25 (LAUGHTER IN COURTROOM.)

26 MR. WAPNER: THANK YOU, MR. BARENS.

27 THE REASON WE KEEP DOING THAT IS SO THAT IT IS
28 EASIER FOR THE REPORTER TO WRITE IT DOWN.

1 MS. GOOLEY: YES, I UNDERSTAND.

2 I AM BAD ABOUT MUMBLING.

3 MR. WAPNER: YOU HAVE TOLD US THAT WHEN WE WERE ASKING
4 YOU QUESTIONS ON THE DEATH PENALTY THAT YOU IDENTIFIED WITH
5 HARVARD AND WITH THE MAYS; COULD YOU ELABORATE ON THAT A LITTLE
6 BIT?

7 MS. GOOLEY: ONLY BECAUSE THEY WERE THE TWO KNOWN TO
8 ME IN THE ARTICLE. I KNEW OF HARVARD SCHOOL AND I KNEW OF
9 THE MAY COMPANY AND THAT WAS THE ONLY ASSOCIATION THAT I HAVE
10 OTHER THAN THAT.

11 MR. WAPNER: DID ANY OF YOUR KIDS GO TO HARVARD SCHOOL?

12 MS. GOOLEY: NO, THEY DID NOT.

13 MR. WAPNER: DO YOU KNOW ANYBODY WHOSE CHILDREN --

14 MS. GOOLEY: YES.

15 MR. WAPNER: -- WENT TO HARVARD SCHOOL?

16 MS. GOOLEY: YES, ONE FAMILY.

17 MR. WAPNER: HOW OLD ARE THEIR CHILDREN NOW, THE ONES
18 WHO WENT TO HARVARD SCHOOL?

19 MS. GOOLEY: TWENTY-ONE.

20 MR. WAPNER: HOW DO YOU FEEL ABOUT THE IDEA THAT YOU
21 COULD HAVE A MURDER WITHOUT A BODY?

22 MS. GOOLEY: I CAN ACCEPT THAT.

23 MR. WAPNER: DO YOU THINK THAT IF YOU ARE SATISFIED
24 BEYOND A REASONABLE DOUBT THAT A MURDER WAS COMMITTED AND
25 THAT THE DEFENDANT DID IT, THAT HE SHOULD BE REWARDED FOR
26 BEING CLEVER ENOUGH TO SOMEHOW DISPOSE OF THE BODY?

27 MS. GOOLEY: DO I THINK HE SHOULD BE REWARDED? NO.

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

25A-4

1 OF A CON SCHEME?

2 MS. GOOLEY: NO.

3 MR. WAPNER: ANY KIND OF A CRIME AT ALL?

4 MS. GOOLEY: JUST, YOU KNOW, BREAKING INTO MY CAR FOR
5 THE RADIO AND SOME MINOR THINGS LIKE THAT, STOLEN BICYCLES.

6 MR. WAPNER: ON THE OCCASION WHEN YOUR CAR WAS BROKEN
7 INTO, DID YOU MAKE A REPORT TO THE POLICE?

8 MS. GOOLEY: YES, WE DID.

9 MR. WAPNER: WERE YOU SATISFIED WITH HOW IT WAS HANDLED?

10 MS. GOOLEY: YES, I THINK THEY DID ALL THEY COULD.

11 MR. WAPNER: DID YOU LISTEN TO THE EXAMPLES THAT WERE
12 GIVEN AND THE ANSWERS THAT WERE GIVEN TO THE VARIOUS EXAMPLES
13 WE HAVE HAD ABOUT TYPES OF EVIDENCE?

14 MS. GOOLEY: YES.

15 MR. WAPNER: COULD YOU HEAR ALL OF THE ANSWERS?

16 MS. GOOLEY: FOR THE MOST PART.

17 MR. WAPNER: DO YOU THINK THAT ALL THOSE PEOPLE WHO GAVE
18 THOSE ANSWERS WERE BEING REASONABLE OR DID SOME OF THOSE
19 ANSWERS SEEM MORE REASONABLE TO YOU THAN OTHERS?

20 MS. GOOLEY: SOME SEEMED MORE REASONABLE THAN OTHERS.

21 MR. WAPNER: DID SOME SEEM FAR-FETCHED TO YOU?

22 MS. GOOLEY: A LITTLE.

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

24 THE COURT: ALL RIGHT, THE PEOPLE'S PEREMPTORY.

25 MR. WAPNER: MAY I HAVE JUST A MOMENT, PLEASE?

26 THE COURT: SURELY.

27 MR. WAPNER: WE WOULD THANK AND ASK THE COURT TO EXCUSE
28 JUROR NUMBER 9, MR. CLEWS.

29 THE COURT: THANK YOU, MR. CLEWS.

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1 THE CLERK: LINDA MICKELL, M-I-C-K-E-L-L.

2 MR. WAPNER: MAY WE APPROACH THE BENCH, PLEASE?

3 THE COURT: YES.

4 (THE FOLLOWING PROCEEDINGS WERE HELD
5 AT THE BENCH:)

6 THE COURT: THAT IS THE ONE I TOLD YOU ABOUT?

7 MR. BARENS: YES. COULD I SEE THE NOTE NOW?

8 MR. WAPNER: YOUR HONOR, BECAUSE OF THIS NOTE AND
9 BECAUSE OF THE HOUR, IT SEEMS TO ME THAT IT WOULD BE
10 APPROPRIATE TO EXCUSE THE OTHER JURORS NOW AND INQUIRE OF
11 THIS WOMAN OUTSIDE THE PRESENCE OF THE OTHER JURORS ABOUT
12 THE SUBSTANCE OF THIS NOTE.

13 THE COURT: WHY DON'T WE -- DOESN'T THAT CALL ATTENTION
14 TO THE OTHER JURORS THE FACT THAT SHE HAS BEEN SINGLED OUT
15 FOR SOMETHING? WHY DON'T I ASK HER TO STAY AND ASK HER OTHER
16 QUESTIONS.

17 MR. BARENS: YOUR HONOR, EVEN WITHOUT INQUIRING, THE
18 FACT THAT HER BROTHER IS FRIENDS WITH THE VICTIM, SHE IS IN
19 A POSITION TO SAY THAT HER BROTHER SAID THAT HE HAS NOT HEARD
20 FROM HIM IN A COUPLE OF YEARS. THAT WOULD MAKE HER BELIEVE
21 THAT SOMETHING HAPPENED TO HIM. HER OWN BROTHER --

22 THE COURT: WELL, IT DOES NOT DISQUALIFY HER FROM
23 BECOMING A JUROR.

24 MR. BARENS: WELL, --

25 THE COURT: DO YOU WANT TO EXCUSE HER?

26 MR. BARENS: I DO.

27 THE COURT: DO YOU WANT HER EXCUSED?

28 MR. WAPNER: I DON'T THINK IT IS ENOUGH TO, NO. I NEED

26-2
1 TO KNOW MORE FACTS. I WOULD LIKE TO INQUIRE ABOUT THE
2 SUBSTANCE OF THE NOTE.

3 MR. BARENS: DOES YOUR HONOR HAVE AN OPINION?

4 THE COURT: I HAVE NO OPINION, NO.

5 MR. BARENS: YOU DON'T THINK THE NOTE IS DISQUALIFYING
6 IN ITSELF?

7 THE COURT: NO, NOT AT ALL.

8 MR. BARENS: ALL RIGHT. WELL, LET'S DO THIS, YOUR HONOR.
9 IT IS 4:20.

10 WHAT DO YOU PROPOSE TO ASK HER, THE GENERAL
11 QUESTIONS? THEN YOU RELEASE THE JURY THEN OR DO YOU WANT
12 TO -- I WOULDN'T MIND PUTTING IT OVER UNTIL TOMORROW MORNING
13 AND INQUIRING OF HER THEN, YOUR HONOR.

14 THE COURT: INQUIRE OF HER, YOU MEAN?

15 MR. BARENS: YES.

16 THE COURT: WHY DON'T -- I TELL YOU WHAT I WILL DO.
17 WHY DON'T I ASK HER THE USUAL QUESTIONS AND THEN I WILL
18 DECLARE A RECESS.

19 MR. BARENS: IF YOU WOULD.

20 THE COURT: AND THEN WE CAN HAVE HER COME IN TOMORROW
21 MORNING IN CHAMBERS.

22 MR. BARENS: I WOULD PREFER THAT.

23 MR. WAPNER: THAT'S ALL RIGHT.

24 THE COURT: WELL, WHAT IS IT THAT YOU WANT?

25 MR. WAPNER: NO. THE ONLY FEELING IS THAT IF WE HAD
26 THE INFORMATION TONIGHT, I MIGHT BE IN A BETTER POSITION TO --

27 THE COURT: WHAT DIFFERENCE DOES IT MAKE? WE CAN GET
28 HER IN TOMORROW.

1 MR. WAPNER: OKAY.

2 MR. BARENS: I WOULD LIKE TO CONTEMPLATE IT.

3 THE COURT: SURE.

4 (THE FOLLOWING PROCEEDINGS WERE HELD
5 IN OPEN COURT:)

6 THE COURT: ALL RIGHT. MS. MICKELL, YOU TOO, HAVE HEARD
7 ALL OF THE QUESTIONS AND ANSWERS WHICH WERE ASKED AND GIVEN?

8 MS. MICKELL: YES I HAVE.

9 THE COURT: IF THE SAME GENERAL QUESTIONS WERE ASKED
10 OF YOU, WOULD YOUR ANSWERS BE SUBSTANTIALLY THE SAME?

11 MS. MICKELL: YES IT WOULD.

12 THE COURT: AND WHAT DO YOU DO, PLEASE?

13 MS. MICKELL: I AM RETIRED FROM A BUSINESS I OWNED.

14 THE COURT: WHAT KIND OF A BUSINESS WAS THAT?

15 MS. MICKELL: I WAS A FLORAL DESIGNER. I HAVE MY OWN
16 FLORAL DESIGN STUDIO.

17 THE COURT: AND IS THERE A MR. MICKELL?

18 MS. MICKELL: YES THERE IS.

19 THE COURT: AND WHAT DOES HE DO?

20 MS. MICKELL: HE IS A BUSINESS EXECUTIVE WITH HIS OWN
21 COMPANY.

22 THE COURT: HIS OWN COMPANY?

23 MS. MICKELL: YES.

24 THE COURT: WHAT KIND OF A BUSINESS IS THAT?

25 MS. MICKELL: HE OWNS ORTHO MATTRESS COMPANY.

26 THE COURT: OF COURSE, YOU KNOW ME, DON'T YOU?

27 MS. MICKELL: I HAVE MET YOU TEN YEARS AGO. BUT I DIDN'T
28 KNOW IF YOU WOULD REMEMBER THAT. I AM IMPRESSED THAT YOU

1 REMEMBER.

2 THE COURT: HE HAS TWO BROTHERS IN BUSINESS WITH HIM?

3 MS. MICKELL: YES. HE IS IN BUSINESS WITH HIS BROTHERS.

4 THE COURT: I THINK I MET YOU THROUGH MR. ARNIE COHN,
5 DIDN'T I?

6 MS. MICKELL: YES, THAT'S CORRECT.

7 THE COURT: WHAT IS YOUR EDUCATIONAL BACKGROUND?

8 MS. MICKELL: I HAVE A BACHELOR'S DEGREE FROM UCLA IN
9 PSYCHOLOGY.

10 THE COURT: PSYCHOLOGY?

11 MS. MICKELL: YES.

12 THE COURT: AND YOUR HUSBAND?

13 MS. MICKELL: HE ALSO HAS A BACHELOR'S DEGREE FROM UCLA.

14 THE COURT: HOW MANY CHILDREN DO YOU HAVE?

15 MS. MICKELL: WE HAVE TWO AND WE LOST ONE CHILD.

16 THE COURT: AND YOU LOST ONE CHILD?

17 MS. MICKELL: UH-HUH.

18 THE COURT: HOW DID YOU LOSE IT?

19 MS. MICKELL: BRAIN TUMOR.

20 THE COURT: HOW OLD WAS HE?

21 MS. MICKELL: SHE WAS 12.

22 THE COURT: WHAT DO THE OTHER TWO CHILDREN DO?

23 MS. MICKELL: THE OTHER TWO ARE BOTH GIRLS. ONE HAS
24 JUST GRADUATED FROM USC. THE OTHER ONE IS AT BOSTON
25 UNIVERSITY.

26 THE COURT: AND HAVE YOU EVER BEEN THE VICTIM OF ANY
27 SERIOUS CRIME?

28 MS. MICKELL: NO.

1 THE COURT: AND HAVE YOU EVER SERVED AS A JUROR IN A
2 CRIMINAL CASE?

3 MS. MICKELL: NO. THIS IS MY FIRST EXPERIENCE.

4 THE COURT: WELL, I THINK BEFORE YOU BEGIN, I WOULD
5 RATHER HAVE A RECESS. WE WILL TAKE THE ADJOURNMENT AT THIS
6 TIME.

7 LADIES AND GENTLEMEN, WE WILL TAKE OUR ADJOURNMENT
8 AT THIS TIME UNTIL TOMORROW MORNING.

9 WHAT HAVE WE GOT TOMORROW?

10 THE CLERK: 10:30 IS GOOD, YOUR HONOR.

11 THE COURT: ALL RIGHT. I WILL ASK YOU TO RETURN
12 TOMORROW MORNING AT 10:30. ALL OF YOU GO INTO THE JURY
13 ASSEMBLY ROOM. WHEN WE ARE READY FOR YOU HERE, WE'LL ASK
14 YOU TO COME IN.

15 GOOD NIGHT.

16 (AT 4:25 P.M. AN ADJOURNMENT WAS TAKEN
17 UNTIL TUESDAY, JANUARY 13, 1987, AT
18 10:30 A.M.)

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