

Volume 16

1 IN THE CRIMINAL DISTRICT COURT NO. 3
2 DALLAS COUNTY, TEXAS

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6 THE STATE OF TEXAS } NO. F-96-39973-J

7 VS: } & A-96-253

8 DARLIE LYNN ROUTIER } Kerr Co. Number

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13 STATEMENT OF FACTS

14 JURY VOIR DIRE

15 INDIVIDUAL JURORS HEARING

16 VOL. 16 OF VOLS.

17 November 1, 1996

18 Friday

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1 C A P T I O N

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4 BE IT REMEMBERED THAT, on Friday, the 1st day of
5 November, 1996, in the Criminal District Court Number 3
6 of Dallas County, Texas, the above-styled cause came on
7 for a hearing before the Hon. Mark Tolle, Judge of the
8 Criminal District Court No. 3, of Dallas County, Texas,
9 without a jury, and the proceedings were held, in open
10 court, in the City of Kerrville, Kerr County Courthouse,
11 Kerr County, Texas, and the proceedings were had as
12 follows:

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1 APPARENCES
2
3
4 HON. JOHN VANCE
5 Criminal District Attorney
6 Dallas County, Texas
7
8 BY: HON. TOBY L. SHOOK
9 Assistant District Attorney
10 Dallas County, Texas
11
12 AND:
13 HON. JOHN GRAU
14 Assistant District Attorney
15 Dallas County, Texas
16
17 AND:
18 HON. SHERRI WALLACE
19 Assistant District Attorney
20 Dallas County, Texas
21
22 APPEARING FOR THE STATE OF TEXAS
23
24
25

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1 ADDITIONAL APPEARANCES:
2
3 HON. DOUGLAS D. MULDER
4 Attorney at Law
5 2650 Maxus Energy Tower
6 717 N. Harwood
7 Dallas, TX 75201
8
9 AND: HON. CURTIS GLOVER
10 Attorney at Law
11 2650 Maxus Energy Tower
12 717 N. Harwood
13 Dallas, TX 75201
14

15 AND: HON. RICHARD C. MOSTY
16 Attorney at Law
17 Wallace, Mosty, Machann, Jackson & Williams
18 820 Main Street, Suite 200
19 Kerrville, TX 78028
20
21 AND: HON. S. PRESTON DOUGLASS, JR.
22 Attorney at Law
23 Wallace, Mosty, Machann, Jackson & Williams
24 820 Main Street, Suite 200
25 Kerrville, TX 78028

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1 AND: HON. JOHN HAGLER
2 Attorney at Law
3 901 Main Street, Suite 3601
4 Dallas, TX 75202
5 ALL ATTORNEYS REPRESENTING THE
6 DEFENDANT: DARLIE ROUTIER
7 MR. HAGLER HANDLING THE APPEAL
8 AND:
9 HON. ALBERT D. PATILLO, III
10 Attorney at Law
11 820 Main Street, Suite 211
12 Kerrville, TX 78028
13 APPEARING FOR: Witness-
14 Detective Jimmy Patterson
15 only on one date in trial
16 AND:
17 HON. STEVEN J. PICKELL
18 Attorney at Law
19 620 Earl Garrett Street
20 Kerrville, TX 78028
21 APPEARING FOR: Witness
22 Officer Chris Frosch
23 only on one date in trial
24
25

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1 P R O C E E D I N G S
2
3 November 1, 1996
4 Friday
5 8:25 a.m.
6
7 (Whereupon, the following
8 proceedings were held in

9 open court, in the presence
10 and hearing of the
11 defendant, being
12 represented by her attorneys,
13 and the representatives of
14 the State of Texas,
15 as follows:)
16

17 THE COURT: All right. Is everybody
18 ready? Will you come in please? Raise your right hand,
19 please.

20 Do you solemnly swear or affirm you
21 will true answers make to all the questions propounded to
22 you concerning your qualifications as a juror, so help
23 you God?

24 THE PROSPECTIVE JUROR: I do.
25

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1 (Whereupon, the prospective
2 juror was duly sworn by the
3 Court to true answers make
4 to the questions propounded,
5 concerning qualifications, after
6 which time, the proceedings were
7 resumed as follows:)
8

9 THE COURT: All right. Let the record
10 reflect today is the first day of November, 1996. And
11 we're back on the record in the Darlie Routier matter.
12 This is Mr. Peter Herring,

13 H-E-R-R-I-N-G. That is your name, sir?
14 THE PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: Number 90 on the jury
16 list, Number 32 on your list, who was scheduled for
17 Monday, November 4th, but has been moved up until today.
18 And let the record reflect that Mr.

19 George McDonald, who was originally scheduled today,
20 number 83 on the list, number 29 on our list, has been
21 excused by agreement. Is that correct?

22 MS. SHERRI WALLACE: That's correct,
23 Your Honor.

24 THE COURT: And Mr. Mosty?
25 MR. RICHARD C. MOSTY: That's correct.

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1 THEH COURT: All right. Mr. Herring,
2 we have on your left Mr. Toby Shook and Ms. Sherri

3 Wallace, Assistant District Attorneys from Dallas County.

4 Mrs. Darlie Routier, she is the

5 defendant, sitting over here in the beige dress.

6 And Mr. Richard Mosty is her attorney.

7 Mr. Shook.

8 MR. TOBY SHOOK: Thank you, Your

9 Honor.

10 THE COURT: You may proceed.

11

12 Whereupon,

13

14 PETER HERRING,

15

16 was called as a prospective juror, for the purpose of
17 voir dire, having been first duly sworn by the Court to
18 speak the truth, the whole truth, and nothing but the
19 true, testified in open court, as follows:

20

21 VOIR DIRE EXAMINATION

22

23 BY MR. TOBY L. SHOOK:

24 Q. Mr. Herring, my name is Toby Shook,

25 and I am one of the prosecutors on the case. And let me

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1 tell you, I'm just here to talk to you a little bit about
2 the questionnaire and some other issues.

3 But you brought up some information

4 here on the questionnaire, some background on yourself

5 that I want to get to. You tell us very clearly, that

6 you are a Jehovah Witness; is that right?

7 A. Yes, sir.

8 Q. Okay. And, part of your beliefs, you

9 put in here several times, are that you cannot stand in

10 judgment of another person in this -- I guess, in any

11 type of case; is that right?

12 A. Yes, sir.

13 Q. Tell us a little bit about that.

14 A. Well, my conscience wouldn't even let

15 me judge anybody, because I know that God is going to --

16 he is the only one that can rightfully judge a person.

17 Q. Okay. Were you raised as a Jehovah's

18 Witness?

19 A. Yes, sir.

20 Q. Is that part of your religious

21 upbringing?

22 A. Yes, sir.

23 Q. And part of your teachings?

24 A. Yes, sir.

25 Q. Is this a conviction you have that you

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1 can't stand in judgment of another fellow human being?

2 A. Yes, sir.

3 Q. Something you believe very strongly
4 in?

5 A. Yes, sir.

6 Q. Okay. Is anyone going to be able to
7 talk you out of that belief?

8 A. No, sir.

9 Q. So, this goes to the fact that you

10 can't even find someone guilty in a trial, in regards to
11 evidence, because you can't sit in judgment of someone;
12 is that right?

13 A. Yes, sir.

14 Q. That is in each and every case?

15 A. Yes, sir.

16 Q. No matter if it is a DWI or a hot
17 check case or a capital murder?

18 A. No, sir.

19 Q. It just goes against your hard-core
20 religious upbringing principles?

21 A. Yes, sir.

22 Q. Okay.

23

24 MR. TOBY L. SHOOK: Judge?

25 THE COURT: Mr. Mosty.

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1 MR. RICHARD C. MOSTY: I believe that
2 he is not qualified, Your Honor.

3 THE COURT: By agreement then?

4 MR. RICHARD C. MOSTY: Yes, sir.

5 THE COURT: All right. Well, thank

6 you very much, we appreciate your coming. We hate to
7 have you come all the way out here for this, but it was
8 necessary so that we could put it all on the record.

9 THE PROSPECTIVE JUROR: All right.

10 THE COURT: Thank you very much. We
11 appreciate it. If you would be kind enough not to
12 mention to anybody what went on here or anything like
13 that, we would appreciate your doing that.

14 THE PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: You can wait until this
16 whole trial is over, which will probably be the first
17 part of February, and then you are free to talk or not
18 talk to anyone as you see fit. Fair enough?

19 THE PROSPECTIVE JUROR: Yes, sir.
20 THE COURT: Thank you for coming. We
21 appreciate it. All right.
22 MS. SHERRI WALLACE: Do you just want
23 to show the juror disqualified so that we don't need to
24 do an agreement?
25 MR. RICHARD C. MOSTY: We will submit

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1 him for cause.
2 THE COURT: All right. Defense motion
3 for cause granted.
4 All right. Who is next?
5 THE CLERK: No one else at the moment.
6 The next one, I think, was for 9:30, and we will try to
7 get someone in here. Mosel was supposed to be in here at
8 9:30 according to this.
9 THE COURT: Don't worry about a thing.
10
11 (Whereupon, a short
12 recess was taken,
13 after which time,
14 the proceedings were
15 resumed on the record,
16 in the presence and
17 hearing of the defendant
18 as follows:)
19

20 THE COURT: All right. Your name,
21 ma'am.
22 THE PROSPECTIVE JUROR: Sandra K.
23 Mosel.
24 THE COURT: M-O-S-E-L. If you will
25 raise your right hand, please.

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1 Do you solemnly swear or affirm you
2 will true answers make to all the questions propounded to
3 you concerning your qualifications as a juror, so help
4 you God?
5 THE PROSPECTIVE JUROR: I do.
6
7 (Whereupon, the prospective
8 juror was duly sworn by the
9 Court to true answers make
10 to the questions propounded,
11 concerning qualifications, after
12 which time, the proceedings were

13 resumed as follows:)

14

15 THE COURT: All right. Ms. Mosel, the
16 State of Texas is represented by Mr. Toby Shook and Ms.
17 Sherri Wallace.

18 MR. TOBY L. SHOOK: Good morning.

19 THE COURT: And the defendant is Mrs.

20 Darlie Routier sitting over here to your far right. She
21 is represented by Mr. Richard Mosty, her attorney.
22 Mr. Shook.

23

24

25

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1 Whereupon,

2

3 SANDRA MOSEL,

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5 was called as a prospective juror, for the purpose of
6 voir dire, having been first duly sworn by the Court to
7 speak the truth, the whole truth, and nothing but the
8 true, testified in open court, as follows:

9

10 VOIR DIRE EXAMINATION

11

12 BY MR. TOBY L. SHOOK:

13 Q. Ms. Mosel, again my name is Toby
14 Shook. I am one of the prosecutors on the case, and I
15 will be asking you questions on behalf of the State.
16 Have you been down on jury service before?

17 A. No.

18 Q. Okay. Usually we ask the jurors
19 questions from a big panel, but since it is a capital
20 murder case, we do individual questions.

21 A. Yes, sir.

22 Q. We don't mean to make you feel like
23 you are the one on trial.

24 A. No.

25 Q. All we're looking for, bottom line,

1257

1 are your honest answers.

2 A. Right.

3 Q. We bring a lot of people down here
4 with a lot of different viewpoints.

5 A. Right.

6 Q. So that is all we are looking for.

7 I'm going to talk to you a little bit about your
8 questionnaire, and then touch on some other subjects,
9 obviously, the death penalty and the laws that apply to
10 the case. Okay?

11 A. All right.

12 Q. We have a section there at the last of
13 the questionnaire where you put down why you may not be
14 able to be fair as a juror. And there was a couple --
15 there were some medical reasons you put down, and also
16 something about involving children. Tell us a little
17 about that.

18 A. Well, I think any crime against
19 children is barbaric. It's just no call for it.

20 Q. Okay. Are you saying because --
21 obviously, you don't know any of the facts yet, but Judge
22 Tolle did read you the indictment.

23 A. Right.

24 Q. Which is an allegation of intentional
25 killing of a child under the age of six.

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1 A. Right.

2 Q. You are saying because of the
3 particular victim might cause you to be biased in a way?

4 A. Well, I love children. I just, you
5 know, I don't have any tolerance for cruelty towards
6 children.

7 Q. Okay. Are you telling us if it was
8 some other type victim, you might be more open-minded?

9 A. I don't know, possibly. It would
10 depend, you know, on the circumstances.

11 Q. All right. Well, tell me a little bit
12 about -- you put down here that you are on some
13 medication that doesn't allow you to concentrate.

14 A. Doxepin. It just makes you kind of
15 groggy, you know. You know, Prozac makes you a little
16 bit hyper.

17 Q. Okay.

18 A. The Doxepin just makes me groggy, you
19 can't really concentrate that well.

20 Q. Okay. If you were on the jury, Judge
21 Tolle's hours are usually about 9:00 in the morning until
22 about 5:00 in the afternoon, and of course, there's
23 breaks. We think the trial will go for two weeks, maybe
24 three, but we're guessing at about two weeks solid. It
25 could go into the third week. Would you be able to sit

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1 and concentrate and listen to the testimony if you were
2 on that medication?

3 A. I don't know, it depends. It's kind
4 of hard in the mornings at work, but I know what I am
5 supposed to do.

6 Q. The other thing I notice from your
7 shirt and I recognize you from your -- Bill's, I have
8 been there a couple of times since I have been in town.

9 A. Yes.

10 Q. And it's good barbecue.

11 A. Thank you.

12 Q. The -- like I said, the trial will go
13 two weeks. Are you going to be all right? I mean,
14 obviously, it's a burden on anyone having to miss their
15 job, but each situation is different. What is your
16 situation there? Have you talked it over with your boss
17 if you get put on a jury?

18 A. Well, I am the only employee. It's
19 just my boss and I right now. Her mom is getting married
20 at the end of the month, and really, it was just us three
21 girls doing it. So, now, it's just me and my boss. So,
22 you know, she would have to try and find somebody to help
23 her.

24 Q. I noticed it was just you and the
25 other lady there.

1260

1 A. Yes, that is just us.

2 Q. Can I have one moment?

3

4 MR. TOBY L. SHOOK: Okay, Judge, I
5 think I'm going to let Mr. Mosty ask a couple of
6 questions.

7 THE COURT: All right.

8 MR. TOBY L. SHOOK: In regard to the
9 first subject we talked about.

10

11 VOIR DIRE EXAMINATION

12

13 BY MR. RICHARD C. MOSTY:

14 Q. Ms. Mosel, let me just ask you a
15 couple of questions. You made the comment about
16 children. You made the comment in your questionnaire
17 that you had read several articles in the newspaper about
18 this.

19 A. Uh-huh. (Witness nodding head
20 affirmatively.)

21 Q. You made the comment in your
22 questionnaire that if someone was arrested for capital

23 murder that they were probably guilty. That you strongly
24 agreed with that. If someone was tried for capital
25 murder, that they were probably guilty. You strongly

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1 agreed with that? And that if a person was accused of
2 capital murder, that they should have to prove their
3 innocence, and you strongly agreed with that.

4 A. Yes, sir.

5 Q. Now, my question to you is: From all
6 of your beliefs, and from what you have heard about this
7 case --

8 A. Yes, sir.

9 Q. -- is it your present opinion, or have
10 you formed an opinion, as to whether or not my client is
11 guilty?

12 A. I suppose, yes, in my own way. Yes, I
13 have.

14 Q. All right. That is sort of what I
15 took from your questionnaire, and let me say there is
16 nothing wrong with that.

17 A. We're all entitled to our opinions.

18 Q. Everybody forms opinions and you are
19 always entitled to your opinion and you should, you know,
20 everybody ought to form their opinions.

21 A. Yes, sir.

22 Q. It is just that some -- if that
23 opinion would influence you, then you are not qualified
24 as a juror. Would it be fair to say that your opinion
25 would probably influence your verdict as you sit here

1262

1 right now?

2 A. I can say yes, sir.

3 Q. Okay.

4

5 MR. RICHARD C. MOSTY: Your Honor, we
6 would submit the juror.

7 THE COURT: All right. Motion for
8 cause granted. Thank you for coming, ma'am.
9 THE PROSPECTIVE JUROR: Thank you.

10 THE COURT: You are excused.

11 THE PROSPECTIVE JUROR: Thank you, see
12 you at Bill's. Y'all come on down.

13 MR. TOBY L. SHOOK: We'll be able to
14 go to Bill's now, Your Honor.

15 THE COURT: I think so.

16 All right. Who is next? Anybody

17 else?
18 MR. RICHARD C. MOSTY: Well, we have
19 another one coming.
20 THE CLERK: No jurors are here yet.
21 THE COURT: All right. Well, let's
22 see if we can get Ms. Corkill down here. We might as
23 well do something today.
24
25 (Whereupon, a short

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1 recess was taken,
2 after which time,
3 the proceedings were
4 resumed on the record,
5 in the presence and
6 hearing of the defendant
7 as follows:)
8
9 THE COURT: All right. Back on the
10 record now.
11 Ma'am, would you raise your right
12 hand, please.
13 Do you solemnly swear or affirm you
14 will true answers make to all the questions propounded to
15 you concerning your qualifications as a juror, so help
16 you God?
17 THE PROSPECTIVE JUROR: I do.

18
19 (Whereupon, the prospective
20 juror was duly sworn by the
21 Court to true answers make
22 to the questions propounded,
23 concerning qualifications, after
24 which time, the proceedings were
25 resumed as follows:)

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1
2 THE COURT: All right. You are Eileen
3 June Corkill, C-O-R-K-I-L-L; is that correct?
4 THE PROSPECTIVE JUROR: Yes, sir.
5 THE COURT: The State of Texas in this
6 case is represented by Mr. Toby Shook, Ms. Sherri
7 Wallace, Assistant District Attorneys from Dallas. Mrs.
8 Darlier Routier to your far right is the defendant, and
9 she is represented by Richard Mosty.
10 THE PROSPECTIVE JUROR: Good morning.

11 THE COURT: A defense attorney from
12 here in Kerrville, you probably know him.

13 So who will be for the -- all right,
14 Ms. Wallace. Go ahead, please.

15 MS. SHERRI WALLACE: Thank you, Your
16 Honor.

17

18 Whereupon,

19

20 EILEEN JUNE CORKILL,

21

22 was called as a prospective juror, for the purpose of
23 voir dire, having been first duly sworn by the Court to
24 speak the truth, the whole truth, and nothing but the
25 true, testified in open court, as follows:

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1
2 VOIR DIRE EXAMINATION
3

4 BY MS. SHERRI WALLACE:

5 Q. Good morning. Thank you again for
6 coming. I know, as the Judge said, it's a dreary day.
7 We appreciate you being down here.

8 A. No problem.

9 Q. I just want to first off -- to thank
10 you for filling out your questionnaire, it has helped us
11 a great deal. I am going to have a few questions about
12 that.

13 A. Okay.

14 Q. Then, I want to talk to you a little
15 bit about your feeling about the death penalty in
16 general, and then talk to you about some general
17 principles of law. If you have any questions, or if I am
18 not clear on something, that is not your fault, that is
19 my fault. Let me know and I will do my best to clear it
20 up. Okay?

21 A. Yes.

22 Q. Okay. Let me start by asking you, I
23 know that you have met all of the lawyers, but there is
24 one more State's attorney and there are several more
25 defense lawyers. You met them all last Monday.

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1 Did you know any of the Dallas lawyers
2 or the defendant from Dallas?

3 A. No, I didn't know anybody that was up
4 there.

5 Q. Okay. And you did not know Preston
6 Douglass or Richard Mosty who is here today?

7 A. No.

8 Q. Okay. Because they are local counsel
9 for this case.

10 A. I understand.

11 Q. Okay. I see from your questionnaire
12 that you have heard about this case on TV and in the
13 newspaper, and you said you had heard basically what you
14 heard here today. Could you tell us a little bit about
15 what you have heard?

16 A. Well, all I heard was that,
17 supposedly, she had killed the two little -- stabbed the
18 two little boys, and the husband was upstairs with a
19 younger child asleep. And the children and mother were
20 downstairs in the living room. That is all I know.

21 Q. Okay. Let me just tell you Ms.

22 Corkill -- did I say your name right?

23 A. Yes.

24 Q. Okay. I have read most of the media
25 reports, I have not read them all, but sometimes they get

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1 the stuff right and sometimes they don't.

2 A. Right.

3 Q. That is why it is critical as a juror
4 in this case, you must set aside anything that you have
5 heard or read in the papers or heard on radio or
6 television, and wait until the evidence is presented in
7 court.

8 A. Yes.

9 Q. Can you do that?

10 A. I think I can do that. I know I can
11 do that, yes.

12 Q. Okay. Also you said that you feel
13 that anyone who has taken the life of another, except for
14 self-defense, has no right to live. And that you favor
15 the death penalty in all capital murder cases.

16 A. Yes, I do.

17 Q. Okay. I want to talk to you a little
18 bit about that.

19 A. Okay.

20 Q. Here in Texas -- well, first off, have
21 you ever felt differently about the death penalty than
22 you do now?

23 A. I suppose there was one time that I
24 did. You see, I have anxiety attacks myself, and maybe
25 subconsciously, I think being locked up is worse than

1 dying.

2 But also, maybe I justify that by --

3 let's see, how I am going to put this -- by --

4 Q. I didn't say this: There is no right

5 or wrong answers, so whatever you are thinking, please,

6 just let us know.

7 A. Yeah, I know.

8

9 THE COURT: Yes. Please feel free to

10 be frank.

11 THE PROSPECTIVE JUROR: Yeah.

12 THE COURT: Your testimony will not go

13 beyond this Courtroom.

14 THE PROSPECTIVE JUROR: Well, what I

15 feel is that it's as well as showing other people that

16 you can't go around just killing somebody, because you

17 want to or you are mad and you do.

18

19 BY MS. SHERRI WALLACE:

20 Q. Sometimes we call that a deterrence

21 factor, deterrent for other criminals.

22 A. Right.

23 Q. Is that how you feel?

24 A. Yes. And plus the fact, that I just

25 feel that why should the State and everybody else cater

1 to somebody who has committed murder. You know, it costs

2 a lot of money to put people up and all that; and that, I

3 guess, is part of it.

4 Q. Those are your thoughts?

5 A. Uh-huh. (Witness nodding head

6 affirmatively.)

7 Q. Okay. Well, here in Texas there are

8 several -- not all murder is capital murder. To be

9 accused or charged with capital murder, you have to have

10 committed a murder, kind of plus something else. If you

11 kill a police officer, for instance, because of his line

12 of work, while he is in the line of duty.

13 A. Uh-huh. (Witness nodding head

14 affirmatively.)

15 Q. Or a prison guard; those types of

16 crimes are eligible for the death penalty.

17 A. Right.

18 Q. If you kill more than one person, that

19 is a type of crime that would be eligible for the death

20 penalty.

21 A. Uh-huh. (Witness nodding head
22 affirmatively.)
23 Q. A murder for hire; that is, if you
24 hire a hit man, if you are the one that hires, or if you
25 are the one that does the killing for the money, either

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1 of those people are eligible for the death penalty. A
2 murder in the course of committing another type of
3 felony, and those are spelled out. And they are:
4 Robbery, for instance, if I go into a bank and then take
5 the money and kill the teller, that would be appropriate
6 for the death penalty, depending on the evidence.

7 Murder in the course of a kidnapping
8 or a rape or something like that. Or murder of a child
9 under the age of six. Which is, of course, as you know,
10 the type of case we are dealing with here.

11 A. Uh-huh. (Witness nodding head
12 affirmatively.)

13 Q. Are there any -- is there anything
14 else that if you were King for a day, you would add to
15 that litany of death penalty appropriate cases?

16 A. Well, I don't know. I just can't
17 answer that.

18 Q. Okay. Does that sound like a fair
19 list? That is what our legislature set out, so does that
20 sound like a pretty fair list to you?

21 A. I think so, yes.

22 Q. Okay. The rationale there is that it
23 is reserved for the most heinous crimes.

24 A. Right.

25 Q. And I'm sure you agree that that is

1271

1 appropriate?
2 A. Yes, I do.
3 Q. Okay. The way the death penalty works
4 here is that first we must prove the defendant guilty of
5 the crime.

6 A. Right.

7 Q. And then, there is a second phase,
8 called the punishment phase.

9 A. Uh-huh. (Witness nodding head
10 affirmatively.)
11 Q. In the punishment phase, you may or
12 may not hear additional evidence. But what you don't do
13 is you can't automatically say, "I have found the
14 defendant guilty of capital murder, therefore she must

15 die," because we don't want people who jump to
16 conclusions. I'm sure in your personal life, you make
17 sure you have all of the facts before you make important
18 decisions, don't you?

19 A. Yes.

20 Q. Okay. I mean naturally. If we just
21 had -- if it was automatic, if you found somebody guilty
22 of capital murder, there would be no reason to even have
23 the second phase or the punishment phase of the trial.

24 Do you agree with that statement?

25 A. Yes.

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1 Q. Okay. So, what we need is people who
2 will be open-minded. Not just be trigger-happy, if you
3 will, be open-minded and wait and evaluate the evidence.
4 Will you be able to do that, Ms. Corkill?

5 A. Yes, I believe so.

6 Q. Okay. In determining whether or not
7 the defendant lives or dies -- and I haven't said this,
8 but let me be real up front. You see that lady down
9 there?

10 A. Yes.

11 Q. It is our goal and desire to see that
12 she is executed. Would you have any problem in
13 participating in that sort of a trial?

14 A. No.

15 Q. Okay. We believe we have the type of
16 case and the quality of evidence to do that. And I'm
17 going to tell you, the defense thinks differently, and
18 they are going to fight us every step of the way. But
19 that is where I am coming from. Okay?

20 A. Yes.

21 Q. Once the defendant -- if the defendant
22 is found not guilty, we all go home. In the event she is
23 found guilty, we then go to the second phase of the
24 trial.

25 A. Okay.

1273

1 Q. In the second phase -- used to be, I
2 don't know, several -- many years ago actually, the jury
3 said: Death or life. It was real simple. That is not
4 how it is anymore. I don't know why they changed it, but
5 you know the legislature in their infinite wisdom has.
6 So they make it a little more complicated, but it's the
7 same result.

8 In order for the defendant to die, the

9 jury has to answer this first question up here "yes."
10 And the second question, "no." And we will read them, we
11 will get to them in a second. The first question must be
12 answered "yes," and the second question must be answered
13 "no."

14 If they are answered any other way, it
15 is an automatic life sentence. If they are answered that
16 way, the Judge imposes the death sentence, and he has no
17 option in that. Okay? He may agree with it, he may not
18 agree with it, but whatever the jury's decision is in
19 that, is final. And he is just merely taking the
20 formula, if you will, and computing it to the appropriate
21 sentence. Okay?

22 A. Yes.

23 Q. Now that first question, it says: "Do
24 you find from the evidence, beyond a reasonable doubt,
25 that there is a probability that the defendant would

1274

1 commit criminal acts of violence that would constitute a
2 continuing threat to society?"

3 In that first question, it says: Do
4 you find from the evidence beyond a reasonable doubt? We
5 have the burden of proof in this case, in the guilt
6 phase, and we have the burden of proof for this first
7 special issue. We gladly accept that burden.

8 And what is important to recognize
9 about that burden is that we must prove to you that this
10 question should be answered "yes." I think when the
11 Judge talked to y'all last week, he said that if you were
12 to vote right now, you must find the defendant not
13 guilty, because you have heard no evidence. Do you
14 remember him saying that?

15 A. Yes, I do.

16 Q. Okay. Well, this question is just the
17 same, Ms. Corkill. If you were to vote right now, you
18 would have to answer "no," because we have not proved
19 squat yet.

20 A. Yes.

21 Q. So you have to assume that that
22 question is answered "no." You can't be kind of leaning
23 one way or kind of leaning another way. It's just as
24 clear as the presumption of innocence that she must be
25 found not guilty at this point. That must be answered

1275

1 "no." Okay?

2 Now, some people will say, "Well, if I found

3 the defendant guilty of killing a child under the age of
4 six, I'm going to say that she is going to be a
5 continuing threat to society." Okay? But see, that is
6 not the type of juror that we need. We don't need
7 somebody to automatically do anything. We need someone
8 that will promise us that they can wait and hear the
9 evidence, and I think you said you could do that; is that
10 right?

11 A. Yes. Well, I did, but since you put
12 it that way, it just seems like that it should be.

13 Q. Okay. Well, let me talk to you a
14 little bit about that. It is really okay to be angry
15 about crime. I think we wouldn't be human if we weren't.
16 I don't think we would be human if we didn't think the
17 killing of a small child was absolutely one of the most
18 heinous offenses ever, and that is probably as bad as it
19 gets.

20 And that is just human nature, and
21 it's okay to have those feelings. And it's okay to be
22 angry or even hate that crime. But what it's not okay to
23 do is, as a juror, to not hold the State to their burden.
24 What I would like to hear from you is that you could hold
25 us to our burden and follow the law as the Judge will

1276

1 give you. Would you be able to do that?
2 A. I would try my best to do that.
3 Q. Okay. You will take an oath if you
4 are selected as a juror, Mr. Corkill, to do just that.
5 And you don't strike me as the kind of person that would
6 violate an oath.
7 A. No, I wouldn't.
8 Q. Okay. Well, what is important about
9 that issue -- let me give you a little example: Let's
10 say that I go in and rob a bank. And I decided while I
11 am in there, I don't want any witnesses to this crime, so
12 I shoot the ten people in line, including the woman with
13 an infant son, and the teller, and the security guard
14 that is watching the bank. I kill a ton of people, I
15 take the money and I run.

16 Well, before I started my shooting
17 spree, the teller reached under her counter and pushed
18 that emergency button to notify the police to come. And
19 I am stepping out of the bank feeling pretty good about
20 myself, because I have just gotten away, I think, with a
21 lot of cash and murder.

22 I am racing, leaving the bank on foot,
23 getting to my get-away car, and around the corner comes a
24 squad car. I don't hear them. They don't have their

25 sirens on, they have their lights, to come to get me.

1277

1 And the squad car runs over me, it doesn't kill me, but
2 it renders me a paraplegic.

3 A. Uh-huh. (Witness nodding head
4 affirmatively.)

5 Q. Excuse me, quadriplegic. I don't have
6 the use of anything. I can bat my eyes and chew my food
7 and that is about it. Okay? In that light, take a look
8 at that question. Is there a probability that I, as the
9 defendant, would commit criminal acts of violence that
10 would constitute a continuing threat to society?

11 A. I don't think so.

12 Q. Right, you might decide that. Or you
13 might decide I am as mean as a snake, and you don't care
14 if I am a quadriplegic, I still should die. Because
15 there's no telling what I could do with my tongue or my
16 eyes or something. Okay?

17 A. Yes.

18 Q. It is not likely. All right? But the
19 point of that is, see, if it was automatic -- if it was
20 automatic that once somebody was found guilty of capital
21 murder, the most heinous of crimes, we wouldn't even need
22 these questions. We wouldn't even need the punishment
23 phase.

24 A. I see.

25 Q. We need somebody that will promise the

1278

1 Court that they can revisit the issue, and wait until
2 they hear all of the facts. Because, you see, if I told
3 you the facts of this crime spree inside that bank, that
4 is about all you need to hear to know, good God, if I
5 found somebody guilty of killing ten people, including a
6 security guard and a baby, and robbing a bank, she ought
7 to die. But you don't know all the facts until you hear
8 the evidence.

9 A. Yeah, I understand what you are
10 saying.

11 Q. Okay. So, let me ask you again: If
12 you found somebody guilty of capital murder of killing a
13 child under the age of six --

14 A. Uh-huh. (Witness nodding head
15 affirmatively.)

16 Q. -- would you still wait and hear all of
17 the evidence in the case to determine that first special
18 issue?

19 A. I understand your point, and I could
20 do that.
21 Q. You could do that?
22 A. Uh-huh. (Witness nodding head
23 affirmatively.)
24 Q. You don't strike me -- like I said,
25 you don't strike me as the kind of person that just makes

1279

1 snap judgments. You look like you are careful to think
2 about things.
3 A. Yes.
4 Q. So, what is important from that -- let
5 me ask you, Ms. Corkill, at this point, what does the
6 word "probability," what does that word mean to you?
7 A. Is there a chance that you think that
8 he could do it again, he or she, you know.
9 Q. Okay. And what does the words or the
10 phrase "criminal acts of violence," what does that phrase
11 mean to you?
12 A. It would be murder, rape, things like
13 that.
14 Q. Okay. Would you require it to be a --
15 some people say criminal acts of violence, if anyone is
16 injured or harmed. Would that be a fair definition to
17 you? Or would it need to be greater than that to you?
18 A. Well, it would depend on how much they
19 have been harmed.
20 Q. Okay.
21 A. You know.
22 Q. You would look at the level?
23 A. I would have to see, you know, if they
24 have a broken toe or do they have brain damage. You
25 know, I mean there is quite a range of harm.

1280

1 Q. So, you want to wait and hear the
2 evidence? Is that what I am hearing from you?
3 A. Yes. Yes.
4 Q. And that would constitute a continuing
5 threat to society. And I want to talk to you a little
6 bit about society. Some people when they think of
7 society they just think of a certain segment of people.
8 The people that -- well, let me ask you this -- let me
9 ask you this way:
10 In society, would you include the
11 folks in prison? By that I mean, not only the inmates,
12 but the prison guards, the chaplains that are in there

13 administering, their relatives that may be visiting
14 inmates, the people that cook the food, the maintenance
15 folks, the administration people that run the prison;
16 would everybody, in your mind, be included in society?
17 A. Everybody would be included in
18 society, yeah.

19 Q. I want to ask you a couple things.
20 Again, I do this really just to cover my bases, I'm not
21 trying to repeat myself, but there are certain things, by
22 law, that I kind of have to clear up. Okay? So if it
23 sounds like I am being redundant, it's because I am.
24 Okay?
25 A. Okay.

1281

1 Q. In here you said: If you are in favor
2 of the death penalty in some cases, do you agree that a
3 life sentence, rather than the death penalty, would be
4 appropriate under the proper circumstances? And you
5 checked no, which I think was consistent with what you
6 said throughout. Which was, if it's a capital murder,
7 you think they ought to die.

8 A. Yes.

9 Q. And, again, that's okay to have those
10 feelings as Jane Doe Citizen. Okay?

11 A. Uh-huh. (Witness nodding head
12 affirmatively.)

13 Q. But it's not okay to take that
14 automatic reaction into the jury box.

15 A. I understand that after what you have
16 discussed with me now.

17 Q. Okay. So fair enough. We're good on
18 that. Okay?

19 A. Okay.

20 Q. Also, on your questionnaire you put
21 that you believe that there are some crimes which call
22 for -- excuse me. Let me read the question correctly,
23 and then we will go over it.

24 "Do you believe there are some crimes
25 which call for the death penalty, solely because of their

1282

1 facts and circumstances, regardless of whether or not the
2 guilty person has committed prior violent acts?"

3 And you checked no.

4 A. Right.

5 Q. Could you -- and what is important
6 about this is that you do not have to imagine a set of

7 circumstances that is so bad that you could answer the
8 first question, based on the facts of the offense alone.

9 But what I want to know from you is:

10 Is there a possibility, or a probability, that after you
11 heard about a crime, that was so heinous and so horrible,
12 it was almost beyond imagination, that after you
13 revisited it and looked at it again in light of this
14 question, even if you heard nothing else, you could still
15 answer that question "yes"? Would you be able to do
16 that?

17

18 MR. RICHARD C. MOSTY: Your Honor, I'm
19 going to object to the use of the phrase, "Is there a
20 probability there?" I think the proper phraseology is,
21 "Can she consider everything openly?"

22 MS. SHERRI WALLACE: Judge, he is
23 correct and I'll rephrase my question.

24 THE COURT: Rephrase the question.

25 Thank you.

1283

1

2 BY MS. SHERRI WALLACE:

3 Q. I don't want to commit you to
4 anything, because I don't want you to be committed. I
5 want you to tell me, you don't know, because you haven't
6 heard the facts. Okay?

7 A. Uh-huh. (Witness nods head
8 affirmatively.)

9 Q. But what I'm asking you is: Where you
10 are sitting right now, could you consider answering that
11 question "yes," after just having heard about the crime
12 and not any more information?

13 A. No.

14 Q. Okay. You would want more information
15 about what sort of things, Ms. Corkill?

16 A. Right.

17 Q. What else would you want to hear?

18 A. I would have to know everything --
19 well, everything that has been going on.

20 Q. Okay.

21 A. I guess.

22 Q. Okay. So you would want a more
23 complete picture?

24 A. Yes.

25 Q. All right. Fair enough. I'm going to

1284

1 back up a little bit. We have talked about the death
2 penalty a great deal, and I want to talk to you a little
3 bit about the indictment. The indictment is there in
4 front of you to your left. That is what this defendant
5 is charged with. The Judge read that to you last week,
6 but why don't you take a second to just read the
7 typewritten portion to yourself.

8 A. Okay.

9 Q. Have you finished?

10 A. Yes.

11 Q. That is what we as the State must
12 prove to you beyond a reasonable doubt. We can do that
13 several different methods. We can do that through direct
14 evidence or through indirect or sometimes what we refer
15 to as circumstantial evidence. Direct evidence would be
16 an eyewitness.

17 A. Uh-huh. (Witness nodding head
18 affirmatively.)

19 Q. Now, I am sure, you know, that this
20 isn't stuff you sit around and think about if you are not
21 doing this job that I am doing. But in murder cases,
22 very often, there is no eyewitness. Because, you see,
23 the defendant has the most control over how many
24 witnesses there are to a crime. Follow that logic?

25 A. Yes.

1285

1 Q. Okay. So, if the victim is dead,
2 there is no eyewitness. And, you know from school and
3 from the Judge's comment, that we cannot call the
4 defendant to the stand. She does not have to testify,
5 and you may not use that against her. So, here is the
6 situation: You have got a murder case, your eyewitness
7 is dead; how are you going to prove it? Okay?

8 A. Uh-huh. (Witness nodding head
9 affirmatively.)

10 Q. Well, you do that through indirect
11 evidence. Indirect evidence is tons of different kinds
12 of evidence: Maybe fingerprints, or blood spatters,
13 blood evidence, DNA, it may be statements by the
14 defendant that don't comport with the crime scene; it may
15 be fibers, things of that sort. Okay? One is no
16 different than the other, as long as we convince you
17 beyond a reasonable doubt that the defendant is guilty.
18 Would you be able to convict on circumstantial evidence
19 for a death penalty case?

20 A. If I felt that it was enough to --
21 without a reasonable doubt.

22 Q. That is all we're asking for, Ms.

23 Corkill, that's all we're looking for.

24 A. Okay.

25 Q. The next thing I want to talk to you a

1286

1 little bit about the indictment is: On there, you will
2 notice, that there is no motive written. It doesn't say
3 anywhere that we have to prove -- we have to prove she
4 did it. But it doesn't say we have to prove why she did
5 it. Okay? There is a good reason for that. It may be
6 that -- you know, I told you we can't call the defendant
7 to the stand.

8 A. Yes.

9 Q. So, it may be that you hear all of the
10 evidence and think: Why? I know the defendant did it,
11 but why? And there may not be any good answer, because
12 we can't get into her mind. Or it may be that after you
13 have heard the evidence, it is plain as day, why. Or it
14 could even be a situation where there are several
15 motives. Maybe all of them apply, maybe some of the
16 jurors think this is the primary motive, maybe other
17 jurors think this is the primary motive.

18 But, regardless of what anybody thinks
19 about the motive, we don't have the obligation to prove
20 that to you, because we can't get into the defendant's
21 mind. Would that serve any problem for you?

22 A. No, I understand what you are saying.

23 Q. Okay. Do you have any questions so
24 far?

25 A. No.

1287

1 Q. Okay. As we talked about, once the
2 defendant is found guilty, we would move to the second
3 phase of the trial. And we spent some time talking about
4 that first question. In order for her to die, that would
5 be answered "yes," and I think we have fairly gone over
6 that question.

7 A. Uh-huh. (Witness nodding head
8 affirmatively.)

9 Q. What I want to direct your attention
10 to now, is the second question. And I will read it along
11 with you: "Taking into consideration all of the
12 evidence, including the circumstances of the offense, the
13 defendant's character and background, and the personal,
14 moral culpability of the defendant, is there a sufficient
15 mitigating circumstance or circumstances to warrant that
16 a sentence of life imprisonment, rather than a death

17 sentence, be imposed?" Okay?

18 A. Uh-huh. (Witness nodding head
19 affirmatively.)

20 Q. Basically, it's a long question. I

21 promise you I have nothing to do with writing it, but if
22 I could summarize it. If, from the evidence, you decide
23 in your heart, not the other 11 jurors, not the Judge,
24 not anybody else, but if you decide that the right thing
25 to do is not have this person die, the right thing to do

1288

1 is for her to get a life sentence, then you have to
2 answer that question "yes." Okay?

3 A. Yes.

4 Q. And let me kind of tell you about the
5 history of this question, and maybe it will make a little
6 more sense. There was a man who was convicted of capital
7 murder, and he was mentally retarded, and he knew the
8 difference between right and wrong. He wasn't insane, it
9 wasn't anything like that. He did a heinous crime of
10 capital murder, and the jury found that he was a
11 continuing threat. Okay? But because of his mental
12 status was so low, they felt like it wasn't fair for him
13 to have a death sentence, because he could do nothing
14 about that. Follow me?

15 A. Uh-huh. (Witness nodding head
16 affirmatively.)

17 Q. Okay. Now, I am not saying that
18 mental retardation is an automatic, sufficient mitigating
19 cause. Okay? I'm not saying that everybody that is
20 mentally retarded ought not get the death penalty. But
21 what a juror must do in this case is know it when they
22 see it.

23 I mean, you may sit there and think, I
24 can't even imagine a set of circumstances where I have
25 found somebody guilty of this crime, and then I found

1289

1 they were a continuing threat to society, and then I
2 decided they shouldn't die. But here is the beautiful
3 part, you don't have to imagine a set of circumstances.
4 Okay?

5 You may sit in five million capital
6 murder cases, God forbid, and never hear a set of
7 circumstances where you think there is sufficient
8 mitigating evidence. But what you have to promise the
9 Court is that if you decide there is sufficient
10 mitigating evidence, you are not going to violate your

11 oath and throw that away and say, "I am going to kill the
12 defendant anyway."

13 Could you do that?

14 A. I could, but the more you are talking,

15 the more the death sentence scares me inside. And I

16 don't know that if it came to saying the death sentence,

17 I don't know if I could really do that.

18 Q. Okay.

19 A. I know what I wrote on my paper, but,

20 you know --

21

22 THE COURT: Sir, are you a prospective

23 juror by any chance?

24 THE OBSERVER: No.

25 THE COURT: Fine, thank you, that is

1290

1 all we wanted to know. And you are not a prospective
2 juror.

3 Thank you. Go ahead, please.

4

5 BY MS. SHERRI WALLACE:

6 Q. Tell me about those feelings, Ms.

7 Corkill.

8 A. Well, it's just -- it's a hard thing

9 to do to decide that somebody should not live anymore.

10 Q. Yes.

11 A. Even though I said what I said at the

12 time when I filled that out, it was like, you know,

13 something I had to fill out and I didn't really think a

14 whole lot about it. But it kind of -- is kind of scary.

15 Being in prison for the rest of your life is scary, too,

16 but I don't know -- I don't know if I could really come

17 to that and say, "Yes, this person should die."

18 Q. Okay. Well, you don't have to -- you

19 don't have to sign the death warrant, if you will. But

20 you do have to answer those questions, knowing that how

21 you answer them will result in her life sentence or

22 death.

23 A. Well, I know what you are saying, yes,

24 I don't know.

25 Q. Let me ask you, Ms. Corkill, about one

1291

1 of the things in your questionnaire, a couple of things

2 in your questionnaire, actually. It said that: Have you

3 or your spouse or any family members or close personal

4 friends ever been accused, arrested or convicted of a

5 crime above the level of a traffic ticket? And you wrote
6 that your son and yourself had a fraud in 1981 and you
7 lost the case.

8 A. Uh-huh. (Witness nodding head
9 affirmatively.)

10 Q. Can you tell me a little bit about
11 that, if you would, please?

12 A. He was buying a house and he signed a
13 note that said he was going to be the owner/occupant. I
14 co-signed for him, and I checked the "no" box, I'm not
15 going to occupy the property. Escrow closed and he
16 started to move in, and then the market changed, and the
17 payments were high. And so, he decided that he would
18 rent it out for a while, until the market got better.

19 And the lender caught up with him,
20 found out that -- I guess things came back that he had
21 mailed to the property for David, and they foreclosed,
22 they started foreclosing on him. And then, he went to an
23 attorney and then they -- well, I don't know what the
24 terminology is for it, but they countersued or something,
25 anyway, then the bank took us to court.

1292

1 Q. Okay. So you have never been actually
2 criminally charged; is that right? That was just a civil
3 suit?

4 A. I guess that was a civil suit. I
5 didn't know what you term fraud. I didn't know whether
6 you termed that as criminal charges or not.

7 Q. It's not -- actually, there's two
8 different types of fraud, that's why I asked you about
9 it. There is civil fraud and there is a criminal fraud.

10 A. Okay.

11 Q. If you have been charged with criminal
12 fraud you can't be a juror. And if you have been
13 charged -- or if you have been involved in a civil fraud
14 lawsuit, there is no problem.

15 A. Oh, okay.

16 Q. So, that is why I wanted to clear that
17 up.

18 A. Yes.

19 Q. So you never actually went to jail or
20 were arrested or made bond or anything like that?

21 A. Oh, no.

22 Q. Okay. Okay. That is why that is
23 important.

24 A. Okay.

25 Q. I also want to ask you a little bit

1293

1 about your health.

2 You stated many things that you have

3 had: Shoulder surgery, and you do physical therapy three
4 times a day; is that right?

5 A. Yes.

6 Q. Okay. When is that physical therapy
7 done?

8 A. Well, right now, I am doing it morning
9 and evening. But I do have to tell you that I didn't
10 know that the trial was going to be starting in January,
11 and by January I should probably be only doing it once a
12 day, and it will be -- it's getting better.

13 Q. Right.

14 A. So that won't -- that part of it would
15 not be a problem.

16 Q. Okay. We're going to work, probably
17 from about 9:00 until probably about 5:00. Would that
18 pose any inconvenience or trouble for you?

19 A. No.

20 Q. Okay. I see that you also have
21 problems with your lower back. You become greatly
22 aggravated when you have to sit in one position for too
23 long.

24 The Judge generally takes breaks every
25 hour and a half, he sometimes goes as long as two hours.

1294

1 But if you needed a break, I know he would accommodate
2 the jurors and --

3

4 THE COURT: You will get a break for
5 your back, ma'am.

6 THE PROSPECTIVE JUROR: That is what
7 you told me.

8 THE COURT: Because I have the same
9 thing, don't you worry about a thing. Backs will be
10 taken into consideration.

11 THE PROSPECTIVE JUROR: Well, my
12 sciatica along with the back, and I get pains in my left
13 side, and so I wiggle a lot when I sit. I can't sit
14 still very long.

15 MS. SHERRI WALLACE: I understand.

16

17 BY MS. SHERRI WALLACE:

18 Q. But, do you think that there is
19 anything about that that would prevent you from being a
20 juror in this case? As long as you got enough breaks.

21 A. As long as I got enough breaks, yes.
22 And my only other physical problem is that I am subject
23 to panic attacks, if I feel closed in on, or hot, or if I
24 was in a room and the door was locked and I knew it was
25 locked, even though someone was going to come and unlock

1295

1 it, I just go all-out.
2 Or -- I think that is about all. That
3 is the scariest part to me to commit to that time and be
4 concentrating and doing all that kind of things with that
5 problem that I have.

6 Q. All right. I want to talk to you a
7 little bit about that problem. Most of the time -- well,
8 some of the time you are going to be in the courtroom.

9 Okay?

10 A. Okay.

11 Q. And I don't think that that many doors
12 will always be open, naturally. But there are going to
13 be times when you are going to be in the jury room and
14 I'm not real sure how they do it here in Kerrville, but in
15 Dallas our jury door is locked. Okay?

16 A. Uh-huh. (Witness nodding head
17 affirmatively.)

18 MS. SHERRI WALLACE: Let me ask: Do
19 y'all lock the jury door?

20

21 MR. RICHARD C. MOSTY: I don't think
22 so.

23

24 BY MS. SHERRI WALLACE:

25 Q. Okay. No. All right. So the door

1296

1 here isn't locked, but you know you're supposed to stay
2 in the room. I guess we have worse jurors in Dallas than
3 we do here in Kerrville, we have to lock them in in
4 Dallas.

5 But is there -- would that pose you
6 any problem being in -- I have been in the jury room and
7 it's got windows, but it is a small room.

8 A. Yes.

9 Q. How would you feel about that?

10 A. Well, it depends on if it just got to
11 feeling real close in there. Because I -- I can't tell
12 you because I don't ever know when I am going to have the
13 problem.

14 Q. Tell me, Ms. Corkill, when you have a

15 panic or anxiety attack, what happens? What do you go
16 through physically?

17 A. My blood pressure drops, I break out
18 in cold sweats, I am hot and cold and I breathe a whole
19 lot, and then it gets worse and, then I have to get wet
20 cloths and put them on my head, and get myself to lay
21 down and go through all that. It's not very pleasant.
22 Q. I'm sure that probably every panic
23 attack is different as they can be, but is there a
24 general time period for recovery for you from a panic
25 attack?

1297

1 A. Maybe 10 or 15 minutes, something like
2 that.
3 Q. So you do recover pretty well -- well,
4 let me ask you this: Let's say you are in a jury room
5 and you are deliberating. Okay?
6 A. Uh-huh. (Witness nodding head
7 affirmatively.)
8 Q. I mean, this is a death penalty case
9 and it might get heated. It might not. It might be
10 clear-cut. Y'all decide in ten minutes and everybody
11 goes home.
12 A. Yeah.
13 Q. Or we go to the next phase. But
14 generally, in death penalty cases, there is more
15 deliberation and there is more emotion because of what is
16 at stake.
17 A. Yes.
18 Q. Let's say that you are in a
19 deliberation in the jury room and you get a panic attack.
20 And, so the jury takes a break for 10 or 15 minutes and
21 you calm down.
22 A. Uh-huh. (Witness nodding head
23 affirmatively.)
24 Q. If you were to go back into the jury
25 room, would that reactivate that?

1298

1 A. I don't know. I don't know if it
2 would or not.
3 Q. Okay. Do you think that your panic
4 attacks are something that you can control in sitting as
5 a juror? Or do you think that it's something that is for
6 a health reason that you should not be on this jury?
7 A. Well --
8 Q. Only you know.

9 A. Well, yeah. My problem is, I wouldn't
10 want to commit to being a jurist, and then not be able to
11 follow through on it, because I want to follow through on
12 something that I start, you know. And I don't want to
13 cause anybody else any problems by that.

14 I didn't even want to bring it up, but
15 I wouldn't want it to happen and, then, you know.

16 Q. Well, let me talk to you a little bit
17 about that. We pick alternates.

18 A. Uh-huh. (Witness nodding head
19 affirmatively.)

20
21 THE COURT: You have five minutes
22 left, ma'am.

23 MS. SHERRI WALLACE: Thank you.

24
25

1299

1 BY MS. SHERRI WALLACE:

2 Q. We pick alternates to -- if something
3 happens, because something could happen. I mean, anybody
4 could get run over by a car or whatever, be in a car
5 wreck. Knowing that, do you feel that you could sit as a
6 juror in this case? Knowing that there is a backup?

7 A. I could do it if, I think, knowing
8 that there would be a backup and that if I did have those
9 problems that I could be relieved from it.

10

11 MS. SHERRI WALLACE: Okay. Just a
12 second, please.

13

14 BY MS. SHERRI WALLACE:

15 Q. Ms. Corkill, there is a good chance
16 that you are going to be on this jury.

17 A. Uh-huh. (Witness nodding head
18 affirmatively.)

19 Q. So let me ask you: I have heard a
20 couple of different things from you. I have heard that
21 you think that everybody that committed capital murder
22 ought to get the death penalty, and then we talked about
23 it, and then you said that you could wait and hear the
24 evidence. And then I heard from you, that you were
25 getting scared. Is this the kind of decision that you

1300

1 can make?

2 A. I would hope that I could make it.

3 Q. Okay.

4 A. I think probably after sitting down

5 and, you know, discussing it with my peers, that I would
6 be able to come to some decision.

7 Q. All right. Would you be able to

8 answer those questions, the first one, "yes" and the
9 second one, "no," knowing that a death sentence for the
10 defendant would result?

11 A. Well, if I took the oath and went into
12 this, I guess I would have to.

13 Q. Would that present any problem for you
14 personally or morally or religiously in any way?

15 A. No, I guess not.

16 Q. Okay. Do you have any questions for
17 me before the defense attorneys ask you some questions?

18 A. No, I don't.

19 Q. Okay. Thank you.

20

21 THE COURT: Mr. Mosty.

22 MR. RICHARD C. MOSTY: Ms. Corkill,
23 good morning.

24 THE PROSPECTIVE JUROR: Good morning.

25 THE COURT: This is Mr. Preston

1301

1 Douglass who is also representing the defendant.

2 MR. RICHARD C. MOSTY: Preston is my
3 partner and was in another proceeding this morning so he
4 was a little bit late getting here, at least that is what
5 he told me. I guess he is telling me the truth.

6 MR. PRESTON DOUGLASS: I'm sticking to
7 it.

8 THE PROSPECTIVE JUROR: Okay.

9

10 VOIR DIRE EXAMINATION

11

12 BY MR. RICHARD C. MOSTY:

13 Q. Ms. Corkill, I want to visit with you.

14 And I'll cover some of the same area, but what I want to
15 emphasize to you is where I am coming from and it's
16 entirely and completely different --

17 A. I'm sure it is.

18 Q. -- from where the State is coming

19 from. And as defense lawyers we always have some anxiety
20 ourselves about the fact that we have to sit here and go
21 second. And that we don't get the opportunity to first
22 talk to you because in my mind, you know, the most
23 important thing is that my client sits here today
24 innocent. She is presumed innocent.

25 And the State has spent a lot of time

1302

1 talking about punishment. And I want to assure you that
2 when this trial starts, Darlie is going to enter a plea
3 of not guilty, and we're going to stand by that and we
4 never expect to ever even get to talking about
5 punishment.

6 Because we believe that the
7 presumption of innocence -- and as long as we can start
8 off on a fair footing, we don't think the State is ever
9 going to be able to prove their cased beyond a reasonable
10 doubt.

11 So, I want to emphasize that to you.

12 Even though, by law, I am required to talk about all
13 aspects of the case, because this is the only time I get
14 to talk to you.

15 A. Okay.

16 Q. But I want to put first things first.

17 The first things first are: That this lady is presumed
18 innocent.

19 A. I understand that.

20 Q. And, you have already said, I believe,
21 that you don't -- anything you have heard or read about
22 the case is -- that is aside and it's not going to be any
23 part of your --

24 A. That's right.

25 Q. Okay. You know, it was interesting I

1303

1 think to me, how, and this is true of a lot of jurors. A
2 lot of people tend to say, well, "I read in the paper;
3 oh, well, that person must be guilty and ought to get the
4 death penalty."

5 And that is fairly easy to say, it's
6 even easy to write on the questionnaire. But as I sit
7 there and watch you and as you think about the
8 responsibility that you may be understanding, those areas
9 get a lot grayer as you think about it and reflect on it,
10 and they get a little bit harder. Would you agree with
11 me on that?

12 A. Oh, yeah.

13 Q. That is -- you have the little
14 opportunity to start thinking, "Well, I really need to
15 think this through."

16 A. Yes.

17 Q. And I think the same thing goes for
18 the presumption of innocence and the requirement that the

19 State, who has accused this lady, must prove their case.
20 A. Uh-huh. (Witness nodding head
21 affirmatively.)
22 Q. When we accept responsibility as a
23 juror, all of a sudden, we start taking that real
24 serious. We say, "You know, that is more than just some
25 words. It really is a right."

1304

1 A. Uh-huh. (Witness nodding head
2 affirmatively.)
3 Q. And undoubtedly, if you were
4 sitting -- or your son or your daughter were sitting
5 there, you would say, "I need 12 people on this jury who
6 will enforce the Constitution of the United States and
7 abide by the law."
8 A. Yes.
9 Q. Because -- and what I am going to tell
10 you are constitutional principles that have been with
11 this country for over 200 years and which you have heard,
12 time and time again, and so I am going to just
13 reemphasize them.
14 The law says that if the State of
15 Texas chooses to accuse someone of a crime, then it's
16 their responsibility to prove that person guilty beyond
17 any reasonable doubt.
18 A. Yes, I understand.
19 Q. And does that seem perfectly fair to
20 you?
21 A. Uh-huh. (Witness nodding head
22 affirmatively.)
23 Q. Okay. The law says: That if you have
24 any reasonable doubt, if you have any reasonable doubt
25 whatsoever, you resolve it in favor of this defendant.

1305

1 You know, some people might say, "Well, here is this ball
2 of evidence there, and I have got some reasonable doubts,
3 and I have a reasonable doubt here, and a reasonable
4 doubt there, and I think that maybe the State has a
5 little bit better on this one, I think I will give it to
6 them, even though I have got some doubts. And maybe the
7 defendant --" and you are already shaking your head
8 because you know the answer to that.
9 A. It doesn't sound right to me.
10 Q. No, reasonable doubt belongs to this
11 lady right here, and she is the only person that owns
12 reasonable doubt. So every time you have a reasonable

13 doubt, you have got to give it to her.

14 A. Uh-huh. (Witness nodding head

15 affirmatively.)

16 Q. And you already knew the answer to
17 that before I finished my question. Okay?

18 A. Yeah.

19 Q. And that applies to every reasonable
20 doubt; from start to finish.

21 Now, one thing that -- and I want to
22 emphasize this to you because you have talked about
23 some -- early about your thoughts on the death penalty
24 and this kind of crime.

25 A jury's job is not to solve a case,

1306

1 no matter how much you might like to. The jury's job is
2 not to solve the case.

3 Your job -- the jury is the judge of
4 the facts, and you are the exclusive judge of the facts.

5 And if you say it is a fact, it is a fact. Period.

6 Judge Tolle will tell you what the law is. He will give
7 you a written charge, and it will say "Here is the law."

8 And if there is a legal definition for a term, he will
9 give it to you, but Judge Tolle cannot judge the facts.

10 The jury is 12 judges, they are 12

11 judges of the facts. And if you say, this is a fact,
12 then that is it. You have absolute, awesome power in
13 saying that these are the facts.

14 Now, some of the facts may not prove

15 to you who committed the crime. And if that is the case,
16 then you have to say by your verdict, not guilty. And
17 after the trial you can say to the State of Texas, "Y'all
18 need to go find who committed this crime." And that is
19 certainly your privilege.

20 But that reasonable doubt may be --

21 well, it may come from the evidence. If all the evidence
22 comes together and it doesn't quite fit, it's
23 inconsistent. Or sometimes you might say that a
24 witness -- he is taking one fact, and he is taking
25 another fact, and he is taking those two facts, and he is

1307

1 adding one plus one and he is getting three. That he is
2 extrapolating or he is speculating beyond what the facts
3 really tell us. And if that is the case, the juror says,

4 "Those facts right there, as presented, create a
5 reasonable doubt, and I am giving that reasonable doubt
6 to Darlie."

7 On the other hand, it may be the lack
8 of evidence. You say, "Yeah. That evidence is good, but
9 there is just a big hole in it." I don't want to say big
10 hole, there is a little hole in it. A little hole that
11 is a reasonable doubt, that is the end of the story for
12 the State.

13 A. Uh-huh. (Witness nodding head
14 affirmatively.)

15 Q. And you don't have any problem -- I
16 can tell by your nodding of your head that you are
17 perfectly comfortable with those concepts.

18 A. Yes.

19 Q. Okay. The State has talked a little
20 bit about the difference between direct and
21 circumstantial evidence. And in a circumstantial
22 evidence case, what the State has to do is take
23 reasonable doubt, and all that reasonable doubt which
24 is -- and the presumption of innocence, which is now a
25 shield around Darlie, the State has to take it and remove

1308

1 it and obliterate it, blacken out every light of
2 reasonable doubt.

3 A. Uh-huh. (Witness nodding head
4 affirmatively.)

5 Q. And they must take all of their pieces
6 of evidence and completely obliterate any sign of
7 reasonable doubt. And they may, you know, put bits and
8 pieces, but you look up and it's like a pin hole of light
9 shining through, and there is doubt. And you just say to
10 the State, "Those circumstances, taken altogether, they
11 don't quite fit. They don't quite add up to everything.
12 And they don't obliterate reasonable doubt." And then
13 the jury says not guilty.

14 A. I understand.

15 Q. Sometimes -- the State is not required
16 to prove motive, and they correctly told you that.

17 A. Yes.

18 Q. But can you imagine that there might
19 be sometimes when there are a certain number of facts
20 that sort of fit together, but they sort of don't fit
21 together. You know?

22 A. Uh-huh. (Witness nodding head
23 affirmatively.)

24 Q. It is a -- my mother is a seamstress
25 and so I have grown up going to -- Judge Tolle's mother

1309

1 must be, too.

2

3 THE COURT: Well, she was when she was
4 alive, yes.

5

6 BY MR. RICHARD C. MOSTY:

7 Q. I have spent more time than I care to
8 admit in the fabric stores looking at stuff, always for
9 my sisters. But my mother would cut out a pattern of a
10 dress and lay it out, and you cut out the little paper
11 and then you cut out the fabric and you lay it out.

12 And it's laying there, and if you pick
13 it up, all of that -- all of the dress falls apart, and
14 it all falls off in different directions.

15 A. I sew a lot, so I know what you are
16 saying.

17 Q. Okay. Well, I am going to tie the
18 thread, so that when you start putting those things
19 together that there might be some cases that all of those
20 pieces of fabric don't quite fit together until you take
21 the thread and you sew them together.

22 A. Yes.

23 Q. And that thread might be motive. And
24 if there is not a motive there, you might not be able to
25 sew all of those pieces of fabric together to exclude

1310

1 reasonable doubt.

2 So, can you imagine that there might
3 be some cases where, you know, just the lack of motive
4 just casts doubt --

5 A. Uh-huh. (Witness nodding head
6 affirmatively.)

7 Q. -- on what the facts are?

8 A. Yes, I think so.

9 Q. Okay. A couple of other things I
10 wanted to comment on. In any case, like this, there are
11 going to be terrible photographs. I can assure you of
12 that.

13 A. I'm sure, yeah.

14 Q. And, I guess -- I just need to warn
15 you and get a feeling from you that those -- that just
16 because you see horrible photographs, that is not going
17 to put you on a rush to judgment or --

18 A. No, because somebody did it, so --

19 Q. That's right. That's right.

20 A. So they are there. I understand that,
21 yes.

22 Q. And that anger --

23 A. I might cry.

24 Q. Well, I find it hard to believe that

25 anyone wouldn't be terribly saddened in any case in which

1311

1 you see the kind of photographs that are commonly seen,

2 but -- and you have told me that. You are not going to

3 take those photographs and rush to judgment?

4 A. No, I couldn't do that because I have

5 no idea what went on. I couldn't say who did it.

6 Q. Even though I don't want to, I'm going

7 to talk to you a little bit about punishment. I have

8 already told you how much -- how offensive that is to me

9 to even have to talk about it, but I am required to.

10 A. Uh-huh. (Witness nodding head

11 affirmatively.)

12 Q. But I am going to do it briefly.

13 The only time you ever get these

14 special issues is after you have convicted someone of

15 capital murder.

16 A. I'm sorry. Would you start that

17 sentence over. I didn't --

18 Q. The only time you ever get to those

19 special issues --

20 A. Oh, the special issues, okay.

21 Q. -- is after you have convicted someone

22 of capital murder. You have returned that verdict of

23 guilty, you and the other 12, and at that point, the

24 State may -- it's almost like another little trial

25 afterwards that has focused on punishment, and the State

1312

1 may offer some additional evidence, the defense may offer

2 some additional evidence, but neither one has to. They

3 may just both stand up and say, "Other than the crime

4 itself --"

5 A. Uh-huh. (Witness nodding head

6 affirmatively.)

7 Q. "-- we don't have anything else to

8 offer."

9 A. Uh-huh. (Witness nodding head

10 affirmatively.)

11 Q. And, of course, that evidence is still

12 before you. And then, both sides may argue, and then you

13 go out and answer these questions.

14 And, each of them say in them: Do you

15 find from the evidence, or taking into consideration all

16 of the evidence. And that is the evidence from the first

17 part of the trial, which was the crime itself, and any
18 evidence that you may have received at punishment.
19 You take all of that evidence, and you
20 really just consider it in a different light. You don't
21 consider it now in the light of guilty or not guilty; you
22 consider it in the light of -- do you find that that
23 person before you, beyond any reasonable doubt, would be
24 a future threat to society?
25 A. Yes, I understand.

1313

1 Q. A probability of criminal acts that
2 would be a continuing threat to society, and the jury has
3 to answer that, beyond a reasonable doubt. If they say
4 so, "yes." And if the State fails to prove that, then
5 the answer is "no."
6 A. Uh-huh. (Witness nodding head
7 affirmatively.)
8 Q. Then and only then, if you answer that
9 "yes," do you even get to the second question.
10 A. Okay.
11 Q. And the second question is just:
12 Taking into consideration everything, is there some
13 reason that a life sentence is appropriate in this case,
14 rather than a death sentence?
15 A. Uh-huh. (Witness nodding head
16 affirmatively.)
17 Q. That question, in particular, calls
18 upon the discretion of the jury. There may be any number
19 of facts and you may say, "I think that this fact here is
20 a mitigating circumstance." And another juror may say,
21 "I don't really agree with you on that, Ms. Corkill.
22 However, I think that this fact over here is a mitigating
23 circumstance." Well, you have not exactly agreed on what
24 the mitigating circumstance is, but you have agreed on
25 this, that there is one or more mitigating circumstances.

1314

1 A. Uh-huh. (Witness nodding head
2 affirmatively.)
3 Q. And you say, "We agree on that."
4 A. Okay.
5 Q. "And we think that this person's life
6 should be spared."
7 A. Okay.
8 Q. And all I am really asking you, and I
9 know the answer before I ask it, but I have got to ask it
10 is: You would be able to sit, even if you had found a

11 defendant guilty of capital murder, you would be able to
12 sit and answer those questions, no matter how hard they
13 are?

14 A. Yes.

15 Q. Based on the evidence before you?

16 A. I think I could do that.

17 Q. And give full and fair consideration
18 to: Is a life sentence more appropriate than death?

19 A. Uh-huh. (Witness nodding head
20 affirmatively.)

21 Q. And you would be able to do that,
22 wouldn't you?

23 A. I think so.

24 Q. Ms. Corkill, this is the last
25 opportunity -- one of the things that you will learn is

1315

1 that a jury is not a democracy once you are on the jury.
2 You have your right -- you have your rights as a citizen
3 to agree and disagree and express your opinions, but once
4 you are seated as a juror, you have to: One, accept the
5 law that Judge Tolle gives you; and two, you just have to
6 accept the facts that come to you and judge them.

7 A. I understand.

8 Q. You don't get the chance to say, "Wait
9 a minute. I have got a question."

10 A. No, I understand.

11 Q. But right now you still do have that
12 right. You still do have the right to say, "Wait a
13 minute. I have got a question. I have got a question.
14 I have got a concern." You know, is there any -- at this
15 point is there any reason that you feel that you could
16 not be a fair and impartial juror?

17 A. No.

18 Q. I agree.

19 A. I have told you all I can, you know.

20 Q. And that is -- a lot of what, at least
21 I am doing here and I think the State is doing as well,
22 is just taking a little bit of an opportunity to visit
23 with you.

24 A. Uh-huh. (Witness nodding head
25 affirmatively.)

1316

1 Q. And just to get to a point where we
2 can see you and visit with you and see how you respond
3 and so both sides can say, "You know, I think that is a
4 fair lady. And I think she is going to try her hardest

5 to be honest and give -- you know, give it her best shot
6 to determine reasonable doubt."

7 Heck, that is all we can ask for.

8 A. Okay.

9 Q. Thank you.

10 A. If nothing else, I have learned a lot

11 today.

12

13 THE COURT: We try to make it
14 instructive, if not pleasant.

15 THE PROSPECTIVE JUROR: Yes. Okay.

16 THE COURT: All right. If you will

17 step outside briefly, please? Do not leave, just step
18 outside for a minute.

19

20 (Whereupon, the prospective

21 juror was excused from the

22 room, and the following

23 proceedings were held,

24 outside of her presence

25 as follows:)

1317

1

2 THE COURT: Everybody ready?

3 MR. TOBY L. SHOOK: One moment,
4 please.

5 THE COURT: Sure. Take your time.

6 Okay. What says the State?

7 MS. SHERRI WALLACE: The State will
8 accept the juror.

9 MR. RICHARD C. MOSTY: We will accept
10 the juror.

11 THE COURT: Thank you. If you will
12 have Ms. Corkill come in, please.

13

14 (Whereupon, the prospective

15 juror returned to the

16 room and the proceedings

17 were resumed as follows:)

18

19 THE JUROR: Thank you.

20 THE COURT: Ms. Corkill, you have been
21 accepted as a juror in this case.

22 THE JUROR: Okay.

23 THE COURT: So we are going to start
24 this on the 6th of January.

25 THE JUROR: All right.

1 THE COURT: Now between now and then,

2 we will ask you not to speak about this to anybody.

3 THE JUROR: Okay.

4 THE COURT: If you see newspaper

5 accounts or TV accounts or anything like that, please

6 ignore that. And, so, if you would just keep your own

7 counsel between now and then.

8 THE JUROR: Okay.

9 THE COURT: And just remain very

10 circumspect about it. If you will come back -- well, you

11 will be given a time to come to the courthouse on the 6th

12 of January.

13 THE JUROR: Okay.

14 THE COURT: And we will commence

15 things then. When this trial is over, and let's just say

16 ballpark figure now, certainly by February 1st. You may

17 then talk or not talk to anyone as you see it.

18 Now, I have a gag order between now

19 and then which means if it's violated I can impose

20 sanctions of monetary sanctions or jail time sanctions.

21 I am not threatening you.

22 THE JUROR: You are not going to put

23 me in jail?

24 THE COURT: Don't worry, no. No, I

25 have to tell you that.

1 THE JUROR: I understand.

2 THE COURT: I know you won't. And if

3 somebody asked you if you were selected as a juror or

4 something, you can just say you came down here and they

5 asked you some questions. You don't have to tell them

6 anything beyond that.

7 THE JUROR: Okay.

8 THE COURT: That is your own business.

9 When it's over, you can tell them or not tell them, as

10 you see fit.

11 THE JUROR: The only problem I have

12 with -- we have a very close-knit little neighborhood,

13 and they are going to know I am gone every day.

14 THE COURT: I mean, then they are

15 going to know. I am talking about between now and then.

16 THE JUROR: Oh, okay. I'm sorry.

17 THE COURT: No, ma'am. They will know

18 you are on the jury then, and that is fine.

19 THE JUROR: Okay. I was trying to

20 figure out how I could get out of that. I am always with

21 my husband, you know, and I would never be home.
22 THE COURT: That is a good place to
23 be, and we are not telling you not to do anything. We
24 are saying could you be circumspect between now and then?
25 That would be appreciated by both sides, and it would

1320

1 help yourself, too. Obviously, you are going to tell
2 your husband. But tell him mum is the word.
3 THE JUROR: Okay.
4 THE COURT: Thank you very much. We
5 will see you then.
6 THE JUROR: Okay. Thank you.
7 THE COURT: All right. Do we have
8 anybody else?
9 THE CLERK: No one else.
10 THE COURT: That is it for the day.
11 MR. RICHARD C. MOSTY: I didn't think
12 you were going to let us go unless we got a juror.
13 THE COURT: Well, okay. We wasted --
14 good gracious -- it is going to rain this weekend.
15 MS. SHERRI WALLACE: It is raining.
16 THE COURT: We could have stacked them
17 up here.
18 MR. RICHARD C. MOSTY: Just have a
19 little fun time just sitting around in the rain.
20 THE COURT: Well, no. We could have
21 had ten today, and ten tomorrow and get this thing
22 knocked out.
23 Now, what I want to know is this: I
24 assume that last year the Kerr County boys whopped up on
25 the Gillespie County boys and that is why --

1321

1 MR. RICHARD C. MOSTY: That is not
2 exactly the way it happened.
3 THE COURT: Well, this year, the
4 Gillespie County boys came down here last year. Right?
5 MR. RICHARD C. MOSTY: No, we played
6 them twice there because we reshuffled districts, and
7 somehow or another, we are playing two years in a row in
8 Fredericksburg.
9 MR. PRESTON DOUGLASS, JR.: So root
10 for the Antlers.
11 THE COURT: Well, we'll root for the
12 Antlers.
13 MR. RICHARD C. MOSTY: That's great.
14 I'm saying that Fredericksburg is probably going to beat

15 us by two touchdowns at least.
16 THE COURT: Are they that good this
17 year?
18 MR. RICHARD C. MOSTY: No, we are that
19 bad.

20 THE COURT: All right. Everyone have
21 a great weekend, I will see everyone back here on Monday.
22 We will start on Monday at 8:00 a.m.
23 So, everybody be sure to be here promptly.
24
25

1322

1
2 (Whereupon, the parties were
3 thereby excused for the
4 day, to return on the
5 next day, November 4, 1996,
6 at 8:00 a.m. at which
7 time the proceedings
8 were resumed in open
9 court, but in the
10 presence of the
11 defendant, with her
12 attorney, and the State
13 being represented by the
14 D.A., as follows:)

15
16 (These proceedings are continued to
17 the next volume in this cause.)

18
19
20
21
22
23
24
25

1323

1 CERTIFICATION PAGE
2 THE STATE OF TEXAS)
3 THE COUNTY OF DALLAS)
4 I, Sandra M. Halsey, was the Official Court
5 Reporter of Criminal District Court Number 3, of Dallas
6 County, Texas, do hereby certify that I reported in
7 Stenograph notes the foregoing proceedings, and that they
8 have been edited by me, or under my direction and the

9 foregoing transcript contains a full, true, complete and
10 accurate transcript of the proceedings held in this
11 matter, to the best of my knowledge.

12 I further certify that this transcript of the
13 proceedings truly and correctly reflects the exhibits, if
14 any, offered by the respective parties.

15 SUBSCRIBED AND SWORN TO, this _____ day of
16 _____, 1997.

17 _____

18 Sandra M. Day Halsey, CSR

19 Official Court Reporter

20 363RD Judicial District Court

21 Dallas County, Texas

22 Phone, (214) 653-5893

23

24 Cert. No. 308

25 Exp 12-31-98

1324

1 Exp 12-31-98

2 STATE OF TEXAS)

3 COUNTY OF DALLAS)

4

5 JUDGES CERTIFICATE

6

7

8

9 The above and foregoing transcript, as certified
10 by the Official Court Reporter, having been presented to
11 me, has been examined and is approved as a true and
12 correct transcript of the proceedings had in the
13 foregoing styled cause, and aforementioned cause number
14 of this case.

15

16

17

18

19

20 _____

21 MARK TOLLE, JUDGE

22 Criminal District Court Number 3

23 Dallas County, Texas

24

25

1325