

# Volume 11

1 IN THE CRIMINAL DISTRICT COURT NO. 3  
2 DALLAS COUNTY, TEXAS  
3  
4  
5  
6 THE STATE OF TEXAS } NO. F-96-39973-J  
7 VS. } & A-96-253  
8 DARLIE LYNN ROUTIER } Kerr Co. Number  
9  
10  
11  
12  
13 STATEMENT OF FACTS  
14 JURY VOIR DIRE  
15 QUALIFICATION HEARING  
16 VOL. 11 OF VOLS.  
17 October 22, 1996  
18 Tuesday  
19  
20  
21  
22  
23  
24  
25

Sandra M. Halsey, CSR, Official Court Reporter 95

## 1 C A P T I O N

2  
3  
4 BE IT REMEMBERED THAT, on Tuesday, the 22nd day of  
5 October, 1996, in the Criminal District Court Number 3 of  
6 Dallas County, Texas, the above-styled cause came on for  
7 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:  
13  
14  
15  
16  
17  
18  
19

20  
21  
22  
23  
24  
25

Sandra M. Halsey, CSR, Official Court Reporter 96

1 A P P E A R A N C E S

2

3

4 HON. JOHN VANCE

5 Criminal District Attorney

6 Dallas County, Texas

7

8 BY: HON. GREG DAVIS

9 Assistant District Attorney

10 Dallas County, Texas

11

12 AND:

13 HON. TOBY SHOOK

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

Sandra M. Halsey, CSR, Official Court Reporter 97

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

Sandra M. Halsey, CSR, Official Court Reporter 98

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

Sandra M. Halsey, CSR, Official Court Reporter 99

1 P R O C E E D I N G S  
2  
3 October 22nd, 1996  
4 Tuesday  
5 9:30 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, but  
15 outside the presence of the  
16 jury panel, as follows:)  
17  
18  
19 THE COURT: All right. Are we ready?  
20 MR. DOUGLAS MULDER: Yes, sir, the  
21 defense is ready.  
22 MR. GREG DAVIS: Yes, sir, we are  
23 ready.  
24 THE COURT: All right. Bring the jury  
25 panel in and seat them in the courtroom, please.

Sandra M. Halsey, CSR, Official Court Reporter 100

1 (Whereupon, the jury  
2 panel was seated in the  
3 courtroom, by the  
4 bailiffs, and the  
5 proceedings were  
6 resumed In open court  
7 in the presence and  
8 hearing of the  
9 Defendant as follows:)  
10 THE COURT: All right. Good morning,  
11 ladies and gentlemen. We're back on the record in the  
12 Darlie Routier matter. Let the record reflect all  
13 parties of the trial are present and the prospective jury  
14 array is seated.  
15 Now, ladies and gentlemen, you are  
16 prospective jurors in this case, and you have received a  
17 time schedule as to when you could come back for  
18 individual examination by both sides. For example, 8:00  
19 a.m. on Monday, October 28, Mr. Stephon Sloan and Richard  
20 Rodriguez, if you will be here at that time, I anticipate  
21 that it should be an hour to an hour and a half, and both  
22 of you will be gone. And if everybody maintains their  
23 time schedule, we can do it with the least possible  
24 inconvenience to all concerned.  
25 Now, if you change your telephone

Sandra M. Halsey, CSR, Official Court Reporter 101

1 number, or move or anything, please keep Ms. Uecker and

2 Carrie Whitt, her assistant, apprised of where you are.  
3 Here is the telephone number for them  
4 please: And, obviously, it's a 210 area code. And it's  
5 792-2281. That is area code, (210) 792-2281, 792-2281,  
6 and ask for Ms. Linda Uecker, or Ms. Carrie, C-a-r-r-i-e,  
7 Whitt, W-h-i-t-t.  
8 Now, if you will look at your time  
9 schedule, we're going to hold on to that schedule, we're  
10 going to adhere to that schedule. That is why we have a  
11 schedule set like this. If you have a conflict or  
12 anything, an emergency occurs, please call in and let Ms.  
13 Uecker or Ms. Whitt know what your conflict is, or what  
14 your problem is. We will reschedule you in. Is that  
15 clear? Anybody have any questions about that? All  
16 right. Thank you.  
17 Now, another thing I must caution you,  
18 do not speak to anyone about your involvement in this  
19 case yet. You are prospective jurors. Many people, some  
20 members of the press who we dearly love, may want you to  
21 talk about things. Please do not do so while this case  
22 is pending. I have a gag order on the case and sanctions  
23 may be imposed, including monetary fines or county jail  
24 time.  
25 So, please say nothing concerning

Sandra M. Halsey, CSR, Official Court Reporter 102

1 anything on your questionnaires, or say -- anything you  
2 may say or not say when you are examined individually by  
3 both sides in this case.  
4 Either side have anything else?  
5 MR. GREG DAVIS: Avoid any publicity  
6 about the case.  
7 THE COURT: Yes, avoid any publicity  
8 about the case, also. Please. This is a very serious  
9 matter down here and the case is going to be tried in the  
10 courtroom, not on T.V. or in the newspapers. It's going  
11 to be tried in the courtroom. So avoid generating any  
12 publicity about the case, please.  
13 Either side have anything else they  
14 want to say? Anything else, Mr. Mosty?  
15 MR. RICHARD C. MOSTY: That's it.  
16 THE COURT: All right. Well, thank  
17 you again, ladies and --  
18 THE CLERK: Don't leave until they get  
19 paid.  
20 THE COURT: Oh, yes, and please don't  
21 leave until you get paid. Okay. All right. And once  
22 more, the good news from Ms. Uecker in Kerr County, don't  
23 leave today before you get paid. So, with that, I guess

24 we can adjourn. We want to thank you for your attendance  
25 at these proceedings and we look forward to an orderly

Sandra M. Halsey, CSR, Official Court Reporter 103

1 jury selection. Thank you.  
2 (Whereupon, the panel was  
3 Excused from the courtroom,  
4 and the following proceedings,  
5 were held In this cause, in the  
6 presence of the defendant,  
7 on this date, as follows:)

8

9 THE COURT: All right. Mr. --

10 MR. GREG DAVIS: Herbert Johnston.

11 THE COURT: Mr. Johnston, this is Mr.

12 Johnston, come on up, please, sir. Number 270. All

13 right. This is juror number 270, Mr. Herbert Johnston,

14 J-o-h-n-s-t-o-n. He's on 100 Carmichael,

15 C-a-r-m-i-c-h-a-e-l, in Kerrville, zip 78028. We have

16 letters from Mr. Johnston's physicians, Dr. John Silman,

17 S-i-l-m-a-n, stating that Mr. Johnston has adeno

18 carcinoma of the lung, that's a-d-e-n-o

19 c-a-r-c-i-n-o-m-a, of the lung. And I believe, sir, that

20 you also have a catheter?

21 THE JUROR: Yes, sir.

22 THE COURT: And this is a terminal

23 condition; is that correct?

24 THE JUROR: Yes, sir.

25 THE COURT: And we have another

Sandra M. Halsey, CSR, Official Court Reporter 104

1 document from Doctor --

2 THE JUROR: Ellis.

3 THE COURT: Who must be a real doctor,

4 I can't read his name.

5 THE JUROR: James Brent Ellis.

6 THE COURT: James Ellis. E-l-l-i-s.

7 And, so do both sides agree to excuse Mr. Johnston?

8 MR. GREG DAVIS: Yes, Your Honor.

9 MR. DOUGLAS MULDER: Yes, sir, Your

10 Honor.

11 THE COURT: All right, sir. Good luck

12 to you. I am sorry this condition occurred.

13 THE JUROR: Thank you, sir.

14 THE COURT: Ladies and gentlemen of

15 the press, what's going to happen now is at 10:00 we have

16 some people who did not come in yesterday coming back in,

17 and it's going to be a similar kind of orientation.

18 Well, it's not going to last that long. But it's going  
19 to be the same show as yesterday, fewer people, that's  
20 all. Just a handful will show up.  
21  
22 (Whereupon, a short recess  
23 Was taken, after which  
24 Time the following proceedings,  
25 were held In this cause,

Sandra M. Halsey, CSR, Official Court Reporter 105

1 on this date.)  
2  
3 THE COURT: All right. We're back on  
4 the record in the Darlie Routier matter. Let the record  
5 reflect all parties in the trial are present and the  
6 prospective jurors who were unable to be here yesterday  
7 are here now. There are four prospective jurors out  
8 there. Can I have your name, sir, the first one, and  
9 your jury number.  
10 THE JUROR: Billy Kleepies.  
11 THE COURT: And your juror number?  
12 THE JUROR: 53, I think.  
13 THE COURT: And yours, sir?  
14 THE JUROR: John Walker, 231.  
15 THE COURT: Thank you.  
16 THE JUROR: Michelle Cranford, 208.  
17 THE COURT: All right.  
18 THE JUROR: Lennette Stewart, 413.  
19 THE COURT: All right. You're  
20 prospective jurors in this case, and so what's going to  
21 happen today -- my name, let me introduce myself -- you  
22 are prospective jurors in a capital murder case that was  
23 transferred here from Dallas County on a change of venue.  
24 My name is Mark Tolle, I am a District Judge in Dallas.  
25 I am sitting by assignment for this case only, in the

Sandra M. Halsey, CSR, Official Court Reporter 106

1 216th Judicial District Court here in Kerrville. You are  
2 going to be asked some questions today, so if you will  
3 just raise your right hands please.  
4  
5 (Whereupon, the prospective  
6 Jurors were duly sworn to true  
7 Answers make, according  
8 To the questions propounded  
9 After which time, the  
10 Proceedings were resumed on  
11 The record as follows:)

12

13 THE COURT: All right. Thank you.

14 Now the name of today's case is the State of Texas versus

15 Darlie Lynn Routier. And you spell that D-a-r-l-i-e,

16 middle name, L-y-n-n, last name, Routier, R-o-u-t-i-e-r.

17 Can you stand briefly, please, Mrs. Routier? This is

18 Darlie Lynn Routier, the defendant in today's case, the

19 citizen accused, the individual who is going to be on

20 trial. Thank you, ma'am, you may sit down.

21 The State of Texas is represented by

22 Mr. Greg Davis.

23 MR. GREG DAVIS: Good morning.

24 THE COURT: Mr. Toby Shook.

25 MR. TOBY SHOOK: Good morning.

Sandra M. Halsey, CSR, Official Court Reporter 107

1 THE COURT: And Ms. Sherri Wallace.

2 MS. SHERRI WALLACE: Good morning.

3 THE COURT: They are assistant

4 district attorneys, in the Dallas County District

5 Attorney's Office. They will be representing the State

6 of Texas in this case. The defense is represented by,

7 present today, we have Mr. Richard Mosty and Mr. Preston

8 Douglass, they are local attorneys from Kerrville. And

9 the defense is also represented by Mr. Douglas Mulder and

10 Mr. Curtis Glover and Mr. John Hagler from Dallas. They

11 are Dallas attorneys who will also be down here from time

12 to time.

13 The bailiffs we have in the courtroom

14 now are Ms. Jan Biggerstaff, Mr. Keith Birdsong and Mr.

15 Marion Biggerstaff. They are deputy sheriffs from Dallas

16 County. For those of you who are selected for jury

17 service will be under their care during your jury

18 service. And, of course, everybody knows Ms. Linda

19 Uecker and Ms. Carrie Whitt to my left over here. And we

20 have Officer Zumwalt back there, and everybody knows him,

21 too, I am quite sure, who is with the Kerr County

22 Sheriff's Office.

23 Now, Mrs. Routier stands charged by

24 indictment with the offense of capital murder.

25 Specifically, the indictment, the true bill of indictment

Sandra M. Halsey, CSR, Official Court Reporter 108

1 reads as follows: "In the name and by the authority of

2 the State of Texas, the Grand Jury of Dallas County,

3 State of Texas, duly organized at the January term, A.D.

4 1996, of the 194th Judicial District Court in Dallas

5 County, Texas, in the said court, at said term, do

6 present that one Darlie Lynn Routier, defendant, on or  
7 about the 6th day of June A.D. 1996, in the County of  
8 Dallas in said state, did unlawfully then and there,  
9 intentionally and knowingly, cause the death of Damon  
10 Christian Routier, an individual, hereinafter called  
11 deceased, by stabbing said Damon Christian Routier with a  
12 knife, and the deceased was at the time of the offense  
13 under six years of age. Against the peace and dignity of  
14 the State."

15 Signed by John Vance, Criminal  
16 District Attorney of Dallas County, Texas and by Ray  
17 Paul, Sr., Foreman of the Grand Jury.  
18 That is what Mrs. Routier is charged  
19 with. It is a capital murder because the decedent is  
20 under six years of age.  
21 The penalty range for this offense  
22 will depend upon what set of circumstances the jury finds  
23 to be true. If the jury finds one set of circumstances  
24 to be true, the penalty range would be, life confinement  
25 in the state penitentiary which is called the

Sandra M. Halsey, CSR, Official Court Reporter 109

1 Institutional Division of the Texas Department of  
2 Criminal Justice. If the jury finds yet another set of  
3 circumstances to be true, the penalty range would be  
4 death by lethal injection. The State, in this case, is  
5 seeking the death penalty.  
6 (Prospective juror brought  
7 into courtroom.)  
8 THE COURT: Your name, sir?  
9 THE JUROR: John Moreno.  
10 THE COURT: John Moreno. Can I see  
11 both sides a minute.  
12 (Whereupon, a short  
13 Discussion was held  
14 Off the record, after  
15 Which time the  
16 Proceedings were resumed  
17 As follows:)  
18 THE COURT: All right. Well, back on  
19 the record then: Once again I have explained to you what  
20 Mrs. Routier is charged with and the penalty range.  
21 Now when the trial starts, the trial  
22 judge is required to tell prospective jurors what the  
23 defendant is charged with and the possible penalty range.  
24 That is in no way to infer any guilt on the part of this  
25 defendant right now.

Sandra M. Halsey, CSR, Official Court Reporter 110

1 As Mrs. Routier sits there right now,  
2 she is presumed to be innocent, not guilty. That means  
3 if we took you and eight others and put you in the jury  
4 box over here and asked you how you would vote, because  
5 if I asked both sides if they had anything, and Mr. Davis  
6 said, "I don't have anything, Judge," and Mr. Mosty said  
7 he had nothing either. And we asked you how you would  
8 vote, you would have to vote not guilty, because you  
9 haven't heard anything. And the presumption of innocence  
10 alone is sufficient to acquit a defendant.  
11 Now we call that the presumption of  
12 innocence. It's a presumption. It may be removed by the  
13 State introducing evidence. And we call that the burden  
14 of proof. The burden of proof in Texas is beyond a  
15 reasonable doubt.  
16 Now, the prosecution in Texas does --  
17 and in the United States all over -- does the accusing.  
18 The prosecution has to do the proving. That is the  
19 burden of proof. It's always there, it never shifts.  
20 The prosecution has the burden of  
21 proving each and every element of the offense charged in  
22 the indictment beyond a reasonable doubt. They are not  
23 required to prove the allegations beyond all possible  
24 doubt, but they are required to prove the allegations  
25 sufficiently that they will exclude all reasonable doubt

Sandra M. Halsey, CSR, Official Court Reporter 111

1 concerning the defendant's guilt.  
2 A reasonable doubt is a doubt based on  
3 reason and common sense after a careful and impartial  
4 consideration of all the evidence in the case. It is the  
5 kind of doubt that would make a reasonable person  
6 hesitate to act in the most important of his own affairs.  
7 Proof beyond a reasonable doubt,  
8 therefore, must be proof of such a convincing character,  
9 that you would be willing to rely and act upon it without  
10 hesitation in the most important of your own affairs.  
11 For our purposes now -- well, later on  
12 you are going to get a very detailed definition of  
13 reasonable doubt. I have read to you basically what it  
14 is, but suffice it to say that during this trial you will  
15 listen to the testimony and review evidence. If you feel  
16 the State has proven their case, you will be able to find  
17 the defendant guilty. If you feel they have not proven  
18 their case, you will find the defendant not guilty.  
19 If you find the defendant not guilty,  
20 everybody goes home. If you find the defendant guilty,

21 then it would be incumbent upon you to set the  
22 defendant's punishment somewhere within the range  
23 provided by law, which I have just explained to you.  
24 Now, trials in Texas are split into  
25 two parts: The guilt/innocence phase; and the punishment

Sandra M. Halsey, CSR, Official Court Reporter 112

1 phase. We are now in the jury selection portion of the  
2 guilt/innocence phase. I am going to ask you some brief  
3 questions this morning. And then you are going to be  
4 given a specific time to come for an individual jury  
5 examination from both sides.  
6 This is voir dire. V-o-i-r d-i-r-e,  
7 it's a French word that means to speak the truth. So you  
8 will be given an individual time to come back when both  
9 sides will have an opportunity to question you  
10 individually. That will not be very long, probably an  
11 hour and a half to two hours at the outside and maybe  
12 shorter than that. That is what it's going to take out  
13 of your time schedule.  
14 The first concept I want to hit on is  
15 the fact that, Mrs. Routier is here because she has been  
16 indicted a by Dallas County Grand Jury. You are going to  
17 receive an instruction which says that a Grand Jury  
18 indictment is no evidence of guilt.  
19 Why is a Grand Jury indictment no  
20 evidence of guilt? Any one of us sitting in this  
21 courtroom can be indicted by a Grand Jury, State or  
22 Federal and never know we're under investigation. Were  
23 any of you aware of that? Most people are not. Is that  
24 a fair statement? All right.  
25 You may know you are under

Sandra M. Halsey, CSR, Official Court Reporter 113

1 investigation, and you may want to tell your story to the  
2 Grand Jury. The Grand Jury does not have to listen to  
3 you. You may tell your story to the Grand Jury, and the  
4 Grand Jury says there is nothing to that, we will throw  
5 it out. That is called a "no bill". That may not be the  
6 end of the case. The facts may be taken to a second  
7 Grand Jury or a third, and an indictment may very well  
8 issue. That is why a Grand Jury indictment is no  
9 evidence of guilt.  
10 In a county like Dallas, we issue  
11 around 25,000 felony indictments per year. And in Dallas  
12 County, you will see the average Grand Jury hears around  
13 100 to 125 cases a day. That's right, I said, a day.  
14 And most indictments are issued by an investigator

15 reading off a report very often. Grand Jury indictments  
16 are neutral. They do two things. They tell the  
17 defendant what the defendant is charged with, and they  
18 tell the State what they have to prove.  
19 If Grand Jury indictments were  
20 evidence of any kind, then, of course, we wouldn't need  
21 the jury trial system. So a Grand Jury indictment is no  
22 evidence of guilt. Some people still feel where there's  
23 smoke, there's fire. And if because Mrs. Routier has  
24 been indicted I'm going to hold it against her, if you  
25 will, that is fine; just note it on the questionnaire you

Sandra M. Halsey, CSR, Official Court Reporter 114

1 are going to be asked to fill out in a few minutes.  
2 The second thing I want to talk about:  
3 Let's go back, we're going to talk about opinion  
4 testimony or we're going to talk about opinion.  
5 Now, have any of you five ladies and  
6 gentlemen heard about this case? If you have, can you  
7 please raise your hand? You don't know anything about  
8 it.  
9 Have any of you formed an opinion as  
10 to the guilt or innocence of this defendant? Let the  
11 record reflect that you have formed no opinion either; is  
12 that correct, sir?  
13 THE JUROR: No.  
14 THE COURT: All right. If you have,  
15 please note it on your juror's card.  
16 And I missed one thing, a while ago  
17 when I was introducing the attorneys. I want to go back  
18 to that. Does anybody know the defendant in today's  
19 case, Mrs. Routier? I know you know Mr. Mosty and Mr.  
20 Douglass from Kerrville here. But other than that, does  
21 anybody know anybody I have introduced to you here?  
22 Does anybody know the prior attorneys  
23 in this case for Mrs. Routier? Mr. Douglas Parks, Wayne  
24 Huff, and Blake Withrow from Dallas? And nobody knows me  
25 or any of the court personnel. I know you know Ms.

Sandra M. Halsey, CSR, Official Court Reporter 115

1 Uecker and Ms. Whitt over here. All right. If you do  
2 know anybody, please note that on your questionnaire,  
3 too. All right.  
4 Let's go back to high school civics.  
5 We have the constitution of the United States, the first  
6 10 Amendments, and the Bill of Rights.  
7 The Fifth Amendment states that no  
8 defendant can be required to be a witness against himself

9 or herself in an American courtroom. That is not just  
10 Mrs. Routier's right, that is all of our rights, if we  
11 were sitting where she is. That means she may or may not  
12 testify.  
13 If she wants to testify, no one can  
14 stop her. If she doesn't want to testify, no one can  
15 make her. If she testifies, she is to be considered like  
16 any other witness. What is her demeanor on the witness  
17 stand? Does it look like she's telling the truth? What  
18 does she have to gain or lose by the way she's  
19 testifying? Does her testimony comport with reality as  
20 you know it?  
21 Because you can believe all of what a  
22 first witness says, none of what a second witness says,  
23 part of what a third witness says, that is what your  
24 obligations are going to be, or responsibilities are  
25 going to be as a juror.

Sandra M. Halsey, CSR, Official Court Reporter 116

1 Now, some jurors state that, well, you  
2 know, I know she may not have to testify, but I know if I  
3 were accused of this offense, I would get up and say  
4 something. That is fine, you have the right to, but you  
5 don't have to. The important thing is you cannot hold it  
6 against Mrs. Routier if she elects not to testify. And  
7 if you would hold it against her, that is all right, too,  
8 but both sides have to know it. So, please note that on  
9 your questionnaires, too, if you would hold it against  
10 her.  
11 Now, we're going to go over some  
12 qualifications and exemptions. Okay. Now here is the  
13 difference. Qualifications, if you are disqualified to  
14 sit as a juror, you can't sit; and if you do sit, that  
15 means the whole trial has to be done all over again.  
16 An exemption you may claim, but you  
17 don't have to.  
18 I'm going to go over the  
19 disqualifications first. To be a qualified juror, you  
20 must be over 18 years of age. Is there anybody here who  
21 is under 18? No hands were raised.  
22 I have to ask that question. I know.  
23 Thank you. You must be a citizen of Kerr County, reside  
24 in Kerr County. Does anybody here not reside in Kerr  
25 County? Let the record reflect that no hands were

Sandra M. Halsey, CSR, Official Court Reporter 117

1 raised.  
2 You must be a United States citizen.

3 Is there anybody here who is an alien? Let the record  
4 reflect that no hands were raised.  
5 This next one gets a few chuckles.  
6 You must be of sound mind and good moral character.  
7 Anybody here who wants to raise their hand on that one?  
8 Anybody not of sound mind or good  
9 moral character? Let the record reflect that no hands  
10 were raised.  
11 You must be able to read and write.  
12 Anybody here who can't read or write? Let the record  
13 reflect no hands were raised.  
14 You must not have served more than  
15 five days as a juror in a county court during the last  
16 three months, or in a district court during the last six  
17 months. Anybody who has done that? Let the record  
18 reflect that no hands were raised.  
19 You must never have been convicted of  
20 a felony. A felony is an offense which gets state  
21 penitentiary time as opposed to a misdemeanor which gets  
22 Kerr County jail time.  
23 For example, driving while  
24 intoxicated, first and second offenses, are misdemeanors.  
25 You get county jail time. Driving while intoxicated

Sandra M. Halsey, CSR, Official Court Reporter 118

1 third offense is a felony. You get state penitentiary  
2 time. Murder is a felony. Arson is a felony. Burglary,  
3 robbery can be a felony. So has anybody here been  
4 convicted of a felony? Let the record reflect no hands  
5 were raised.  
6 Likewise, you must not be under legal  
7 accusation of theft or any felony. Anybody here who is  
8 under legal accusation of theft or a felony offense now?  
9 Let the record reflect that no hands were raised.  
10 Now, we're going to go over the  
11 exemptions. You may claim these if you wish, you do not  
12 have to. If you are over 65 years of age, you may claim  
13 an exemption. I ask people over 65 not to claim that  
14 exemption because you have the life experiences so  
15 necessary to try these cases.  
16 Nonetheless, if you are over 65 you  
17 may claim an exemption, but I would -- we prefer that you  
18 do not, but it's up to you, whatever you want to do.  
19 Anybody here over 65? Thank you. Let the record reflect  
20 that no hands were raised.  
21 If you have custody of a child less  
22 than 10 years of age and must leave that child during the  
23 day without adequate care, does that situation obtain for  
24 anybody? Let the record reflect that no hands were

25 raised.

Sandra M. Halsey, CSR, Official Court Reporter 119

1 If you are a high school student or  
2 actually attending a college or university, you may claim  
3 an exemption. Does that situation obtain for anybody?  
4 Let the record reflect that no hands were raised.  
5 If you are an officer or employee of  
6 the legislative branch of the state government, you may  
7 claim an exemption. Are any of you ladies and gentlemen  
8 officers or employees of the legislative branch of the  
9 state government? Let the record reflect that no hands  
10 were raised.  
11 If you are the primary caretaker of an  
12 invalid, does that situation obtain for any of you? Let  
13 the record reflect that no hands were raised.  
14 All right. That pretty well concludes  
15 my remarks. Either side have anything else that they  
16 wish me to go over?  
17 MR. GREG DAVIS: No, Your Honor.  
18 MR. PRESTON DOUGLASS: No, Your Honor.  
19 THE COURT: Okay. All right. What is  
20 going to happen now is you are going to be given a  
21 questionnaire. Take time to fill it out, and then Ms.  
22 Uecker will schedule you for a time to come in. We're  
23 going to start jury selection next Monday at eight  
24 o'clock in the morning. You will be given a time, it  
25 will be past that.

Sandra M. Halsey, CSR, Official Court Reporter 120

1 If you are going some place over  
2 Thanksgiving or Christmas, don't worry, you will be  
3 going. We do not anticipate starting testimony in this  
4 case until the first Monday in January, which will be the  
5 6th.  
6 So, if you are going to the Super Bowl  
7 or anything like that, or the Rose Bowl, you will get to  
8 go. And if you are going deer hunting, you will get to  
9 go, and all of that sort of thing.  
10 And as far as sequestration is  
11 concerned, you won't be sequestered, if at all, until  
12 after the final arguments in this case are over.  
13 Now, I have a gag order on the case,  
14 and I would appreciate it if you would not talk to  
15 anybody, including our very good friends of the Fourth  
16 Estate out here, the press who are here, because we want  
17 to try this case in the courtroom.  
18 When the trial is over, you may talk

19 or not talk, as you see fit. The gag order has sanctions  
20 in it, which a violation could result in monetary fines,  
21 and/or county jail time. So please do not talk to  
22 anybody, about your -- whatever you put on your  
23 questionnaire or anything else about the case until it's  
24 all the way -- until it's finally over, which we  
25 anticipate sometime in January it will be over.

Sandra M. Halsey, CSR, Official Court Reporter 121

1 Now then, the questionnaires are  
2 confidential. They will not be shown to the press. They  
3 are work product of both sides. They will not be shown  
4 to the press. They will be destroyed at the appropriate  
5 time.  
6 So what you put down in those will  
7 only be known by the attorneys for each side. And the  
8 reason for the questionnaires is not to pry, but it's  
9 going to cut down on the amount of time questioning is  
10 going to occur.  
11 In an ordinary jury trial in this  
12 state, individual examination of jurors is not allowed.  
13 Only in a death penalty case is individual examinations  
14 allowed. So, that is why we are having them here.  
15 Any questions? Fine. If you will,  
16 just fill your questionnaires out now, and, if you leave,  
17 Ms. Uecker will give you your time to come back.  
18 Sir, Mr. Moreno. Can you raise your  
19 right hand, please? You do speak English I assume?  
20 THE JUROR: Yes, sir.  
21 THE COURT: Thank you.  
22  
23 (Whereupon, the juror was  
24 Duly sworn by the Court,  
25 To a true verdict render

Sandra M. Halsey, CSR, Official Court Reporter 122

1 According to the law and  
2 The evidence, after which  
3 Time the proceedings were  
4 Resumed as follows:)  
5  
6 THE COURT: Gentlemen, come up here a  
7 minute. I intend to add these fellows on -- these ladies  
8 and gentlemen on at the end. Is that satisfactory?  
9 That's okay? Put them in numerical order. Thank you.  
10 Are we done for the day because Ms.  
11 Halsey is anxious to get back to Dallas. Anything else?  
12 Okay. Thank you.

13 Anything else we have to put on the  
14 record that you can think of? Okay, Sandra. Good luck.

15

16

17 (Whereupon, this concluded  
18 the proceedings held on,  
19 this day, and the proceedings.  
20 were recessed for the day.)

21

22

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter 123

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

Sandra M. Halsey, CSR, Official Court Reporter 124

1 STATE OF TEXAS )

2 COUNTY OF DALLAS)

3

4 JUDGES CERTIFICATE

5

6

7

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

14

15

16

17 \_\_\_\_\_

18 MARK TOLLE, JUDGE

19 Criminal District Court Number 3

20 Dallas County, Texas

21

22

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter 125