

Volume 25

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

9

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11

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13 STATEMENT OF FACTS

14 JURY VOIR DIRE

15 INDIVIDUAL JURORS HEARING

16 VOL. 25 OF VOLS.

17 November 15, 1996

18 Friday

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Sandra M. Halsey, CSR, Official Court Reporter

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1 C A P T I O N

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4 BE IT REMEMBERED THAT, on Friday, the 15th 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 A P P E A R A N C E S

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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

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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

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9 AND: HON. CURTIS GLOVER
10 Attorney at Law

11 2650 Maxus Energy Tower
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15 AND: HON. RICHARD C. MOSTY
16 Attorney at Law
17 Wallace, Mosty, Machann, Jackson & Williams
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19 Kerrville, TX 78028
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21 AND: HON. S. PRESTON DOUGLASS, JR.
22 Attorney at Law
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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
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12 820 Main Street, Suite 211
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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
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22 APPEARING FOR: Witness
23 Officer Chris Frosch
24 only on one date in trial
25
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1 P R O C E E D I N G S
2
3 November 15th, 1996
4 Friday
5 8:30 a.m.
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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: This is 82 on our list
18 right here, it's 250 on the master jury list. This is
19 Lewis Hurt, L-E-W-I-S, H-U-R-T.
20 All right. Will you please raise your
21 right hand, please, sir?
22 Do you solemnly swear or affirm that
23 you will true answers make to all questions propounded to
24 you concerning your qualifications as a juror, so help
25 you God?
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1
2 (Whereupon, the prospective
3 juror was duly sworn by the
4 Court to true answers make
5 to the questions propounded,
6 concerning qualifications, after
7 which time, the proceedings were
8 resumed as follows:)

9
10 THE PROSPECTIVE JUROR: I do.
11 THE COURT: Fine, thank you, sir.
12 Mr. Hurt, you are a potential
13 alternate juror in the Darlie Routier matter. We have
14 already selected 12, we're going to get four alternates
15 now. You will be the second alternate if you were to be
16 chosen.
17 That simply means you will listen to
18 the entire case, and if somebody is unable to continue,
19 you will then be substituted. When they go into
20 deliberations, of course, you will be dismissed at that
21 time, if you have not been substituted.
22 Now, Mrs. Routier is the young lady
23 sitting over here to your far right. She is represented
24 today by her Dallas attorneys, Mr. Douglas Mulder and Mr.
25 Curtis Glover, also two Kerrville attorneys representing
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1 her, Preston Douglass and Richard Mosty. They are not
2 here now, they will be back here in a few minutes.
3 The State is represented today by two
4 Assistant District Attorneys from Dallas, Toby Shook, who
5 is present and Ms. Sherri Wallace who is not, she will be
6 back here in a few minutes, too.
7 Now, there are no wrong answers to
8 these questions. You are not going to offend anybody by
9 what you say. So just listen to the question, answer it
10 briefly and just tell your honest feelings in the matter.
11 And remember to please speak loudly
12 into the microphone because Ms. Halsey is taking all this
13 down. You can pull the mike back toward you.
14 If you can say yes or no to all
15 questions, instead of uh-huh or huh-uh, and we can't take
16 down nods of the head. Okay?
17 THE PROSPECTIVE JUROR: Okay.
18 THE COURT: All right. Mr. Shook.
19 MR. TOBY L. SHOOK: Thank you, Judge.

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1 Whereupon,

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3 LEWIS C. HURT,

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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. Mr. Hurt, 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 What I will do is go over some of the information you
17 have for us here in the questionnaire and then go over
18 some of the law and rules that apply in this case.

19 I see by your questionnaire you've

20 been -- when you were in the military were on several
21 court martials and I think you have been on one jury

22 trial on a child custody case.

23 A. That's correct.

24 Q. Okay. Well, you have been through

25 this process a little more than most of the jurors. You

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1 I know from that experience, from the civil one, usually

2 the jurors are picked from a large group, but since it's

3 a death penalty case, the law prescribes that we talk to

4 every individual juror one at a time.

5 We're not meaning to put you on trial

6 up there or anything like that, this is the procedure we

7 go through with each juror.

8 Tell me a little bit about your past

9 jury experience. The court martials, what types of cases

10 were those that you sat on?

11 A. One of them was rape, and the other

12 one, I believe, was -- it was either drug possession

13 or -- you know, or unauthorized absence. Again, I can't

14 really remember.

15 Q. What were the verdicts in those cases?

16 A. Guilty.

17 Q. And then the child custody case, was

18 that here in Kerr County?

19 A. That's correct.

20 Q. What happened on that case?

21 A. That was pretty complicated. That

22 was -- you had two spouses that were seeking custody, and

23 also the grandparents, and we gave it to the

24 grandparents, the custody. You were on the case

25 (indicating), I think.

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1 Q. Okay. That was my next question, do

2 you know any of the Dallas attorneys involved?

3 A. No.

4 Q. Okay. You know Mr. Douglass here he

5 was one --

6 A. He was on that case. I know him from

7 there, that case.

8 Q. Do you know Mr. Mosty at all, the

9 other Kerrville attorney?

10 A. Well, I probably have, I'm sure I

11 probably have met him. I know a number of the Mostys, I

12 don't know if we have met or not, probably have, but I'm

13 not sure.

14 Q. Do you recall what side -- who Mr.

15 Douglass represented?

16 A. He was representing the grandparents,

17 I believe.

18 Q. Okay. How long ago was that?

19 A. Oh, boy, I don't know, four or five

20 years, probably, maybe somewhere in there. I don't know,

21 I'm not sure.

22 Q. Anything about that experience with

23 Mr. Douglass representing one of the sides, do you think

24 that would make any difference to you in this case?

25 A. No.

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1 Q. Okay. You are with Southwest Airlines

2 right now?

3 A. That's correct.

4 Q. You have lived here in Kerrville the

5 last 25 years?

6 A. Well, I was actually born between

7 Kerrville and Rocksprings. Then I went into the

8 military, was with Eastern Airlines for a while so. But

9 essentially I guess I have been here forever, but been

10 gone a little while.

11 Q. You were born and raised in this area?

12 A. That's correct.

13 Q. Okay. We have one section that we put

14 down about anyone you might have known who has been to

15 jail or prison. You put two people down, a Douglas

16 Fosler?

17 A. Uh-huh. (Witness nodding head

18 affirmatively).

19 Q. How did you know him?

20 A. He is my cousin.

21 Q. Okay. And is it Elbrock (phonetic

22 spelling)?

23 A. Yes, Leslie Elbrock.

24 Q. Yeah. Convicted of murder and in

25 prison. How did you know him?

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1 A. Oh, shoot, we used to -- when I was

2 going to that Cowboy Camp meeting out there all the time,

3 at the Sunset Baptist Church, he was from there, and I

4 had known him, I guess for a long time, not well, but I

5 knew who he was.

6 Q. Okay. Let me talk to you then about

7 the death penalty a while. Obviously, this is a capital

8 murder case and the State is seeking the death penalty,

9 so we want to talk to every juror about their personal

10 feelings about it.

11 Let me first ask you: Are you in
12 favor of it as a law that we should have in our state?
13 A. Well, yeah, I am in favor of it.
14 Q. Okay. What circumstances do you think
15 it should be used?
16 A. Boy, that's difficult, you know, that
17 was on that questionnaire, and people have written books
18 and papers on that.
19 Q. Uh-huh. (Attorney nodding head
20 affirmatively).
21 A. I think it should be used if, for
22 example, a person has a history of violent crimes and he
23 does something else. I think it should be used if there
24 is -- a person commits a crime that is just extremely
25 gross, or something, you know, of that nature. Mass
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1 murders, very cruel.
2 Q. Well, you put down mass murder down
3 here for one example.
4 A. Uh-huh. (Witness nodding head
5 affirmatively).
6 Q. When you think of mass murder, what --
7 A. I'm thinking in terms primarily of
8 serial-type killers, something like that. I would also
9 have to change that a little bit. For example, if
10 somebody goes into a house and kills a whole family, then
11 I assume that would be mass murders also.
12 Q. Okay. More than one victim?
13 A. That's correct.
14 Q. Okay. In Texas, the way our capital
15 murder statute is set up, first of all you can only get
16 the death penalty for a murder case, and then only
17 certain types of murder cases. There's plenty of murder
18 cases that are very heinous, but you can only get a life
19 sentence for. We have to have a murder plus another
20 aggravating fact.
21 Some examples would be: A murder that
22 occurs during the course of a felony situation, where
23 maybe someone robs a 7-Eleven on the way home, you know,
24 goes in there, takes the money, executes the clerk, that
25 could be a death penalty case.
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1 Someone that comes in the home, kills
2 the homeowner, someone that murders someone during a rape
3 or during a kidnapping, those types of murders can fall
4 under our capital murder statute.

5 Also, the murder of certain class of
6 citizens, such as police officers or firemen or prison
7 guards while on duty, murder for hire, the mass murder
8 situation you talked about, more than one person killed,
9 or the serial killer-type situation falls under our
10 statute.

11 In addition to that, there is the
12 charge we have indicted in this case, murder of a child
13 under the age of six. And if I could get you to read the
14 indictment real quick. It should be on a piece of paper
15 there in front of you.

16 A. Okay. Let me get my glasses.

17 Q. That is the allegations that we have
18 to prove for a guilty verdict. We have to prove those
19 beyond a reasonable doubt. Obviously, we can't tie you
20 down to any of your verdicts because you have not heard
21 from any witnesses yet. What I would like to ask you is
22 this: That type of killing, the murder of a child under
23 the age of six, would you consider that as the type of
24 murder that could be, in your own opinion, a death
25 penalty-type case, depending on the facts of that case?
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1 A. It could be.

2 Q. Okay. The way the procedure works in
3 this case is the trial will be divided into two parts.
4 The guilt/innocence stage is what we have to prove, of
5 course, in the first part. We have to prove that
6 indictment, if we don't do that, everyone goes home. If
7 we do prove that indictment beyond a reasonable doubt,
8 then we move to the punishment stage.
9 And in the punishment stage of a
10 capital case you might hear more background evidence,
11 such as you mentioned, a long criminal history, you would
12 get to hear that, or bad character evidence, you could
13 hear that. Vice versa, if they have had no criminal
14 history, obviously, you would hear that, or good
15 character witnesses, you could hear that. But at the
16 close of that testimony, the jury gets these questions.
17 The first question, and I will go over
18 these in a little more detail, but the first question
19 basically is a "yes" or "no" question that the State has
20 to prove. They have to prove, "Would the defendant be a
21 continuing danger to society?" If we get a "yes" answer
22 to that, if we can prove that, we move to this last
23 question, which is lengthier.
24 It's the mitigation question, which it
25 allows the jurors to review all the evidence, the murder

1 itself and the background evidence, and decide if they
2 think there's a mitigating circumstance in which they
3 think a life sentence should be imposed rather than a
4 death sentence. If they feel that way they will answer
5 it "yes," if they don't think there is that mitigating
6 evidence, they will answer "no." But a "yes" answer to
7 the first question and a "no" answer to the second, the
8 Judge has no discretion, he would sentence the defendant
9 to death. If there are any other answers, it would be a
10 life sentence.

11 A. Go through that one more time. Okay?

12 Q. Okay. A "yes" answer to a continuing
13 danger, then a "no" answer on the second question, if
14 there is no mitigating evidence, then the Judge would
15 sentence the defendant to death. If they are answered
16 any other way, "no" they are not a continuing danger, or
17 "yes" there is a mitigating circumstance for a life
18 sentence, then the Judge would sentence the defendant to
19 life. But he sentences just according to how the jurors
20 answer those questions. But those are the only two
21 possible outcomes, once a person has been found guilty of
22 capital murder, death or life.

23 And you probably know from reading the
24 newspapers that the method of execution in Texas is by
25 lethal injection, and that those executions do take place
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1 in Texas. There are many states that have the death
2 penalty on the books, but they never impose it. Texas
3 has had over 100 executions, it does take place.
4 You have told me that,
5 philosophically, you think the death penalty is necessary
6 in certain types of cases. What I want to know, as best
7 you know yourself, if we can prove this case to you
8 beyond a reasonable doubt, prove these issues to you,
9 would you be able to return answers that would result in
10 the execution of this defendant?

11 A. I think so. I don't think it's
12 something anybody would want to do, probably, or look
13 forward to it at all, you know. It would be something
14 that is probably a little bit difficult, but I don't know
15 anything about this case. I mean literally --
16 apparently, it's been all over the newspapers, but I
17 missed it somewhere.

18 Q. Okay.

19 A. It would be difficult for me to answer

20 that without hearing what went on or anything, because I
21 really don't know.

22 Q. Well, that is perfect for us if you
23 haven't heard anything.

24 A. Well, I don't know how I missed it,
25 because I read a lot of newspapers, but I guess I did
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1 somewhere along the line.

2 Q. I take it from your answer then that
3 you are not here volunteering, but if we put you on the
4 jury, you can listen to the evidence and answer those
5 questions if it's proven to you?

6 A. Sure, I think so.

7 Q. As far as the first part of the trial
8 goes, let me talk about a couple things. You might be
9 hearing a lot of what we call circumstantial evidence.
10 I'm sure you have heard that term before. Circumstantial
11 evidence is anything but an eyewitness to a case. If you
12 left the courthouse today and were robbed, police caught
13 the robber and you identified him, you would be the
14 direct evidence to a case, the eyewitness.

15 Any other evidence is circumstantial
16 evidence. We are talking: Fingerprints, DNA evidence,
17 hair, fiber, what was found at the crime scene, how that
18 might link the defendant to the crime, what was said by
19 the defendant, those things, that is all circumstantial
20 evidence.

21 Now in a murder case, many times, the
22 State has to rely solely on circumstantial evidence. You
23 have got the victim, and you have got the accused killer,
24 no eyewitness. And, again, we can't go into the facts.
25 Some people have a prejudice against circumstantial
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1 evidence or they would require an eyewitness. I just
2 want to know if you could convict someone on
3 circumstantial evidence alone, if you believe that
4 evidence beyond a reasonable doubt?

5 A. I think so.

6 Q. Okay. Another topic --

7 A. I'm not sure, because I don't know
8 what the circumstantial evidence is.

9 Q. Sure.

10

11 THE COURT: These questions all, sir,
12 assume you believe the evidence.

13 THE PROSPECTIVE JUROR: Yes, sir.

14 THE COURT: They are not -- neither
15 side is trying to pin you down.

16 THE PROSPECTIVE JUROR: Yes, sir.

17

18 BY MR. TOBY L. SHOOK:

19 Q. We can't pin you down. Another area I

20 want to talk about is motive. In any murder case the
21 topic of motive comes up, the reason for the killing.

22 Once the evidence is produced at trial, the motive might
23 be very clear to everyone in the courtroom. You know,
24 it's no secret to anybody.

25 Or, other times, no one may know what
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1 the motive is, you know. I could pull out a gun right
2 now and execute Ms. Wallace and laugh about it, put it
3 down, but no one may ever know why I did it.

4 It doesn't make her any less dead,
5 obviously, or me any less guilty. And then other times
6 you may have several motives out there, and everyone
7 might have their own opinion.

8 But the law says this: That the State
9 is not required to prove motive to obtain a guilty
10 verdict. You notice when you read that indictment, it
11 didn't say in there anywhere why the crime occurred.
12 Again, it might be very apparent, but
13 it is not one of the hurdles we have to get over. Could
14 you follow that law?

15 A. If that is the law, sure.

16 Q. Okay. And it might be apparent, or it
17 might be several motives out there, and, obviously,
18 everyone wants to know as much as they can about a case,
19 but it's not one of the elements we have to prove.

20 A. Okay.

21 Q. As far as these questions go, let me
22 touch on those for a moment. Again, you don't get to
23 these unless the defendant has been found guilty. And
24 this first question is presumed to be answered "no." We
25 have to overcome that presumption. Just like when you
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1 start out a trial the defendant is presumed to be
2 innocent. Okay?

3 It starts out with a "no," we have to
4 prove it should be "yes." Again, we use the facts of the
5 offense itself, and then any background on the defendant
6 that might be useful.

7 The question asks, or if you could,

8 just take a moment. I don't know if you read it a while
9 ago.

10 A. I read it.

11 Q. Okay. You know, it's asking the juror
12 to make a prediction for the future.

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

15 Q. You said, I think yourself, in your
16 own definition of what you thought might be a good case,
17 is a person with a violent history, obviously, and then
18 also a brutal crime. If there is a violent history,
19 obviously, that could come in to that portion of the
20 trial.

21 Now, the statute does not require that
22 someone have a long, violent history for someone to be
23 prosecuted for the death penalty. You realize that?

24 A. Yes.

25 Q. It might be a situation where you just
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1 have the crime itself to look at in answering that
2 question. Again, I can't preview the case for you or
3 anything like that, but is your mind open to the fact
4 that, perhaps, you may have only the facts surrounding
5 the crime, the brutality, or maybe what lead up to it, or
6 any remorse shown, things like that, in order for it to
7 give you enough information to answer that question?

8 A. I think so. Well, I don't know
9 anything about it, so I can't say for sure, but based on
10 what you said, I think so.

11 Q. Okay. The definitions in both of
12 these question are going to be up to you and the other
13 jurors. And like in the guilt/innocence stage, the Judge
14 will give you plenty of legal definitions. But the
15 legislature said that these definitions and their meaning
16 will be left up to you and the other jurors. So, I want
17 to go over a couple of them with you.

18 We have to prove in the first question
19 that beyond a reasonable doubt there is a probability
20 that the defendant would commit criminal acts of
21 violence. When you see the word "probability" used in
22 that sentence, what does it mean to you?

23 A. Oh, I would say, probability to me,
24 I'm not sure about in this case, would mean over a 50
25 percent chance. I would say in something like this
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1 though, I would consider probability may be a 25 percent

2 chance, it wouldn't be 50-50, but you don't want to take
3 any chances, I guess is what I am saying.
4 Q. Sure. We have to prove that they
5 would commit criminal acts of violence. When you see the
6 words "criminal acts of violence," what does that mean to
7 you?
8 A. Well, criminal acts of violence to me
9 means that somebody would be a threat to another person,
10 would commit bodily harm to another person or possibly
11 property.
12 Q. Okay. And then society, we have to
13 prove that they would constitute a continuing threat to
14 society, what is your definition of society?
15 A. Well, society is everyone. I mean,
16 everyone makes up society.
17 Q. Would that include then people in
18 prison?
19 A. Sure.
20 Q. Prisoners, guards, administrators?
21 A. Sure.
22 Q. All right. Now, if you answer "yes,"
23 if the State proves that first question "yes," then you
24 go to the second question. That is the mitigation
25 question. Have you had time to read that one yet? It's
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1 rather lengthy.
2 A. Just a second.
3 Q. Okay.
4 A. Okay.
5 Q. That is the last question you get to,
6 and neither side has the burden of proof on this
7 question. Okay? That is just kind of, you review
8 everything. And no one can tell you what mitigating
9 evidence is. Again, that is going to be up to you and
10 the other jurors. You are not required to sit there and
11 imagine what mitigating circumstances are. In fact, you
12 don't have to agree with the other jurors. One might
13 think one circumstance is mitigating, another juror might
14 think another one is.
15 What you have to be able to do is just
16 keep your mind open to that type of evidence. If you
17 think you see mitigating evidence in the trial, and you
18 think it reaches a level where a life sentence should be
19 imposed, then you can answer that question "yes."
20 And vice versa if you don't see it, or
21 it doesn't reach the level where a life sentence should
22 be imposed, then you would answer "no." It's kind of a
23 safety net or a safety valve. It's the last question.

24 It allows the jurors through the form of some evidence
25 they see to spare the life of the defendant, if they
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1 I think that that is the right thing to do. Do you think
2 you can keep your mind open to that type of question?

3 A. Yes, sir.

4 Q. Okay. Does it seem like a fair
5 question to you in this type of case?

6 A. Yes, sir.

7 Q. Okay. And then the bottom line is,
8 obviously, there is no automatic answers to any of those
9 questions. You just have to review all the evidence that
10 you heard and then make your decisions. That last
11 question you get to, you don't get to it until you have
12 found the defendant guilty, you have found they are a
13 continuing danger, then you look at the mitigating
14 evidence.

15 Judge Tolle went over some rules that
16 apply and I am sure you are familiar with these because
17 they apply in every criminal case. The presumption of
18 innocence, you can follow that. Give this defendant the
19 presumption of innocence?

20 A. Yes.

21 Q. Okay. The burden of proof. The State
22 has that, we have to prove the case beyond a reasonable
23 doubt. That also means that the defense is under no
24 legal obligation to prove their client's innocence to
25 you. Do you agree with that?

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1 A. Yes, sir.

2 Q. I'm sure they will probably do their
3 best, but they can't be under an obligation to you. Can
4 you follow that rule and require the State to prove this
5 to you beyond a reasonable doubt?

6 A. Yes, sir.

7 Q. Okay. The Judge told you the Fifth
8 Amendment rights. If anyone wants to testify, no one can
9 force them. However, if you choose not to testify, the
10 jurors can't use that against you as evidence. Can you
11 follow that rule of law?

12 A. Yes.

13 Q. The Judge also told you the indictment
14 is no evidence of guilt. The fact that anyone has been
15 arrested is no evidence of guilt. The fact that we're
16 even going through this proceeding is no evidence. You
17 have got to wait for the witnesses to testify.

18 A. Yes, sir.

19 Q. Now, the trial is going to begin on
20 January 6th. We can't tell you how long it will last for
21 sure, but we can assure you it is not going to be like
22 O.J. Simpson. In fact, the best guess we can get is
23 about two weeks.

24 It might be less than that. Judge

25 Tolle goes from 9:00 in the morning until 5:00 in the
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1 evening. You will get to go home at night. The only
2 times you would ever be sequestered is if you were in
3 deliberations into the evening hours. Okay?

4 But it is not going to be down here
5 for months on end or anything like that.

6 A. Okay.

7 Q. Well, you have been real cooperative
8 with me, sir. Do you have any questions over anything I
9 have gone over?

10 A. No, sir.

11 Q. Okay. Well, I appreciate your
12 cooperation.

13

14 VOIR DIRE EXAMINATION

15

16 BY MR. DOUGLAS D. MULDER:

17 Q. Mr. Hurt, as the Judge told you my
18 name is Doug Mulder, and I just want to visit with you a
19 little bit. Kind of get to know you a little bit better
20 and talk to you about some of the legal concepts and some
21 of the principles of law that you, as a juror, will be
22 dealing with. I'm not going to focus much on the special
23 issues there. I think you understand those, and I don't
24 think we're going to get that far.

25 The indictment that you have got up
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1 there, the Judge will tell you -- first of all, you don't
2 have to know any law to serve on a jury. You are
3 probably a whole heck of a lot better off if you don't.

4 A. Okay.

5 Q. Judge Tolle will give you all the law
6 that is applicable to this case and a written instrument
7 called the Charge and you will have that when you go back
8 to the jury room and deliberate and it will define
9 everything and give you all the boundaries and parameters
10 of the case, legal-wise.

11 He will tell you in that written

12 Charge that the indictment is no evidence of guilt. That
13 it is simply the pleading and paper by which the
14 defendant is brought into court. It does basically two
15 things: It informs you as a juror of what the State must
16 prove, and it advises Darlie of the charges against her
17 so that she can prepare a defense. And that's all it
18 does. Okay?

19 A. Yes, sir.

20 Q. The law says that she, at this stage,
21 is presumed to be innocent. You know, you walk into a
22 well-lighted courtroom, almost sterile laboratory
23 conditions, see a Judge up there with robe on, and the
24 prosecutors here and the defendant over here, she has her
25 lawyers with her, you know, it's almost natural to think
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1 to yourself, you know, I wonder what she has done, or I
2 wonder what he has done. I mean, it's just natural.
3 The law says that she is presumed to
4 be innocent at this time. And I am not really concerned
5 with you presuming her to be innocent, that is a pretty
6 difficult task many times. I just don't want you to
7 presume that she is guilty simply because she is here.
8 Okay?

9 A. Yes, sir.

10 Q. I just want to start out even. Fair
11 enough?

12 A. Yes, sir.

13 Q. And we will hold our own. If we can
14 just start out even. If you don't presume that she is
15 guilty because she is here, if you will just let us start
16 out even, that's all I want. I don't want a head start.
17 Okay?

18 A. Yes, sir.

19 Q. The law says that since they have done
20 the accusing, they have to do the proving. The burden of
21 proof is on the State to establish the guilt of the
22 accused beyond all reasonable doubt. The law says that
23 if you have a reasonable doubt, you have got to resolve
24 it in favor of the defendant. Does that make sense to
25 you?

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1 A. Absolutely.

2 Q. Okay. Another way of explaining this,
3 I guess, if you and I were to draw up the rules that
4 would govern the trial of a criminal case, we would,
5 first of all, want a jury to reach a decision and make

6 some resolution of the case, right?

7 A. Yes, sir.

8 Q. And we would probably, in the course

9 of our discussions, realize that you have 12 people from

10 12 different walks of life and they are going to view

11 things a little bit differently and they are going to

12 have some doubts.

13 Doubts based on reason perhaps. And

14 we are going to have to have a way for them to resolve

15 these doubts, you know, to move on and reach a decision.

16 And we might, in the course of our discussions, figure

17 that the fairest way to do that would be to make a list

18 of all the jurors' reasonable doubts, there may be one,

19 there may be six, or there may be 26, and number them,

20 and then give the State the benefit of the odd numbered

21 doubts, and then give the defendant the benefit of the

22 even numbered doubts.

23 And we may say, "Well, that is the

24 fair way to do it." The law says no.

25 The law says if you as a juror have a

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1 reasonable doubt, you must resolve that doubt in favor of
2 the defendant.

3 Judge Tolle is the judge of the law.

4 If he makes a mistake with respect to the law, we appeal

5 it to a higher court and we can correct it. Okay?

6 A. Yes, sir.

7 Q. No appeal on the facts. The facts are

8 going to be what you and the other 11 jurors decide they

9 are. And I guess that is why you have to be so

10 dead-level certain, you know, about what those facts are.

11 And if you have a reasonable doubt as

12 to any of the facts, you resolve those doubts in favor of

13 the defendant.

14 You are telling me you can do that?

15 A. Yes, sir.

16 Q. Okay. Now, as far as procedure goes,

17 the State goes first. They are the ones that brought the

18 charge, and so the law says that they go first with the

19 evidence. They also, when it comes time to make the

20 summations to the jury, they argue first, and they argue

21 last.

22 We're sandwiched in between, same

23 amount of time, but we argue between their arguments, and

24 they go first with their evidence because they've brought

25 the charges.

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1 If I had my druthers, I would prefer
2 to go first. I think first impressions are mighty
3 important. But, you know, we can't change the law. So
4 what I have got to make sure you are willing to do, is to
5 keep an open mind until we get a chance at bat, until we
6 get a chance to bring forward our evidence. Can you do
7 that?

8 A. Yes, sir.

9 Q. Okay. No question about that?

10 A. No question.

11 Q. All right. You understand, if you
12 made up your mind just based on what they did, then that
13 wouldn't be fair to us, we might as well just fold our
14 tent right now, because they go first.

15 A. Yes, sir. I understand that.

16 Q. All right. Anything you would like to
17 ask us about this?

18 A. No, sir, I can't think of anything.

19 Q. You know where we're coming from? You
20 give us a fair shake, we're not going to get there.

21 A. Yes, sir.

22 Q. To these special issues.

23 A. Yes, sir.

24 Q. That's our position.

25 A. Yes, sir.

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1 Q. She is going to enter a plea of not
2 guilty, and I am expecting a jury to find her not guilty.

3 A. Yes, sir.

4 Q. Do you know of any reason, Mr. Hurt,
5 why you can't be perfectly fair to both sides?

6 A. No, sir.

7 Q. Give us both a fair shake?

8 A. Well, I can't think of any reason.

9 Q. Good.

10 A. It's not something I want to do.

11 Q. I understand.

12 A. I can tell you that right now.

13 Q. Well, you know, it's been my
14 experience that people that want to serve on juries
15 probably don't make the best jurors.

16 A. Well, I'm not sure I want to be on
17 this one, I can tell you that.

18 Q. I understand. I have places I would
19 rather be, too.

20 A. Well, it's not anything that I have

21 any other place to be, it's just that I'm not sure I want
22 the responsibility of something like this.

23 Q. Sure.

24 A. Particularly on a volunteer basis.

25 Q. Sure. But you are telling me that you
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1 would be just as fair as you possibly could?

2 A. Yes, sir.

3 Q. To both sides?

4 A. Yes, sir.

5 Q. I believe you can do that. Thank you.

6

7 MR. DOUGLAS D. MULDER: Judge, that's

8 all we have.

9 THE COURT: All right. Could you step
10 outside briefly, please. We will call you back in a
11 moment.

12

13 (Whereupon, the prospective

14 juror was excused from the

15 room, and the following

16 proceedings were held,

17 outside of his presence

18 as follows:)

19

20 THE COURT: In exercising its freedom

21 of choice, the State will accept the juror?

22 MR. TOBY L. SHOOK: Yes, sir.

23 THE COURT: And the defense?

24 MR. DOUGLAS D. MULDER: Judge, we

25 would be pleased to have the juror.

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1 THE COURT: All right. Thank you. If
2 you can have Mr. Hurt step back in, please.

3

4 (Whereupon, the prospective

5 juror returned to the

6 room and the proceedings

7 were resumed as follows:)

8

9 THE COURT: Mr. Hurt, you have been

10 accepted by both sides. You will be alternate juror

11 number 2.

12 THE JUROR: Yes, sir.

13 THE COURT: What that means is this:

14 The first two alternates are the ones that are likely to

15 be picked if anybody goes down.
16 The number one subs in, the second
17 person goes down, then you sub in.
18 THE JUROR: Yes, sir.
19 THE COURT: We appreciate it very
20 much. I know you will discuss this with your wife, we
21 understand that. But I would appreciate it very much if
22 you all would not say anything else outside, particularly
23 to members of the press about this until the trial is
24 over.
25 THE JUROR: No, I won't say anything.
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1 THE COURT: When the trial is over,
2 you may talk or not talk, as you see fit.
3 THE JUROR: Yes, sir.
4 THE COURT: All right. We do have a
5 gag order in effect. I can impose monetary sanctions or
6 jail time penalties. I'm not threatening you or anything
7 like that, I just have to tell you.
8 THE JUROR: Yes, sir.
9 THE COURT: Well, in the meantime,
10 happy landings and good take-offs, and all that.
11 THE JUROR: Well, it's not something I
12 am looking forward to.
13 THE COURT: I know what you mean.
14 That's -- like I say, both sides liked that, that's why
15 you will be a good one. Thank you, sir.
16 THE JUROR: Yes, sir.
17 THE COURT: All right. Is the next
18 one out there? The next potential juror?
19 THE BAILIFF: Ms. Kaufhold is out
20 here.
21 THE COURT: All right. Let's bring
22 Ms. Kaufhold in. This is number 90 on our list, 262 on
23 the master list.
24 Ma'am, what is the correct
25 pronunciation of your last name?
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1 THE PROSPECTIVE JUROR: Kaufhold.
2 THE COURT: Kaufhold, all right. This
3 is Lilia, L-I-L-I-A, Kaufhold, K-A-U-F-H-O-L-D. If you
4 could raise your right hand, ma'am?
5 Do you solemnly swear or affirm that
6 you will true answers make to all questions propounded to
7 you concerning your qualifications as a juror, so help
8 you God?

9

10 (Whereupon, the prospective
11 juror was duly sworn by the
12 Court to true answers make
13 to the questions propounded,
14 concerning qualifications, after
15 which time, the proceedings were
16 resumed as follows:)

17

18 THE PROSPECTIVE JUROR: I do.

19 THE COURT: All right. Let's take a
20 brief break. I have to call about the jurors on Monday.

21 Do you think it would be safe to cancel?

22 MR. RICHARD C. MOSTY: Well, I just
23 don't know, Judge.

24 THE COURT: Okay. Well, I appreciate
25 it.

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1 MR. RICHARD C. MOSTY: Yes, Judge, I
2 think you can let the jury go.

3

4 (Whereupon, a short
5 recess was taken,
6 after which time,
7 the proceedings were
8 resumed on the record,
9 in the presence and
10 hearing of the defendant,
11 being represented by her
12 attorney, as follows:)

13

14 THE COURT: Thank you. All right.

15 Ladies and gentlemen, Ms. Kaufhold,
16 you are a potential alternate juror in this case. We
17 have already completed a jury pick, but we are going to
18 select four alternates. You will be alternate Number 3
19 if you are selected.

20 An alternate means you will sit
21 through the entire trial and listen to it. And if
22 anybody in the jury box is unable to continue, we will
23 put you in order of one, two and three. If nobody has
24 been eliminated by the time the case is over, and it goes
25 to the jury for deliberations, you will be excused at
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1 that time.

2 Again, this is the Darlie Routier

3 matter. Mrs. Routier is the young lady sitting right
4 there between her attorneys, her Kerrville attorney, Mr.
5 Richard Mosty, and the two Dallas attorneys, Mr. Doug
6 Mulder, and Curtis Glover, and she is represented by
7 Preston Douglass, another Kerrville attorney also.
8 The State today is represented by two
9 Dallas County District Attorneys, Toby Shook and Sherri
10 Wallace.

11 You are going to be asked some
12 questions now, there are no wrong answers. You will not
13 offend anybody by the way you feel or any answer you
14 have, what you say will not go beyond this room.
15 So, when the questions are asked if
16 you will just be very candid, we will appreciate that.
17 Please say yes or no as opposed to uh-huh, huh-huh,
18 because Ms. Halsey is taking all this down.
19 Mr. Shook.

20 MR. TOBY L. SHOOK: Thank you, Judge.

21

22

23

24

25

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1 Whereupon,

2

3 LILIA KAUFHOLD,

4

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. Kaufhold, I see on your
14 questionnaire that you have seen or read something about
15 the facts, TV, newspaper, and radio; is that right?

16 A. Yes, sir.

17 Q. Can you just relate to us what that
18 is?

19 A. You know before I was picked I read
20 where it stated that the trial was moved here and what it
21 was about.

22 Q. Did they go into any of the facts, did
23 you read any of the facts, what they were saying
24 happened?

25 A. Yes.
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1 Q. What did you read?

2 A. Where it stated that someone had come
3 in, but it showed where there weren't any footprints or
4 anything at the window and it didn't show where the
5 window had been tampered with.

6 Q. Okay. I want to turn -- well, the
7 last question we get into about being a fair juror on the
8 questionnaire, you checked, "I don't know even with the
9 evidence if I could be fair. In my heart I felt the
10 person was guilty."

11 Were you talking about Mrs. Routier
12 when you said that?

13 A. Yes.

14 Q. Okay. From what you have read and
15 heard on TV, have you formed an opinion in your mind as
16 to the guilt?

17 A. I would say yes.

18 Q. Okay. And has that opinion of guilt
19 reached a conclusion in your mind so that you think it
20 would affect your verdict in this case, if you were on
21 the jury?

22 A. I don't know.

23 Q. Okay. You see, it's all right to
24 read, especially before your jury service. You have not
25 read anything after your jury service about this case?

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1 A. I have not had time.

2 Q. Okay. To form opinions about what you
3 read, obviously, but it's another thing to sit as a juror
4 and listen to the evidence. What we have to have is
5 jurors that would just listen to the evidence as it came
6 in. You can't go in, you know, and have maybe what you
7 have read outside the courtroom influence your verdict of
8 guilt.

9 Now, you know yourself best, so
10 everyone here is going to be interested in your answers
11 about that. You mentioned it here on your questionnaire,
12 so I know it was on your mind then when you were down for
13 our large voir dire. So, we just want to know if you
14 think this conclusion that you have reached is going to
15 influence your verdict?

16 A. I think it would.

17 Q. Okay.

18 A. But I don't know until I sat through

19 it maybe.

20

21 THE COURT: Do you submit the juror?

22 MR. DOUGLAS D. MULDER: Yeah.

23 THE COURT: Thank you very much,

24 ma'am. We appreciate your coming and appreciate your

25 candor.

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1 You will be excused from further jury

2 service. If you could not talk about anything that went

3 on here in this case until the trial is all the way over

4 with, we would be most appreciative. Thank you.

5 All right. That was a defense motion

6 for cause. The defense has no objection to me excusing

7 that witness, do you?

8 MR. DOUGLAS D. MULDER: I didn't hear

9 you, Judge. I was attending to other matters.

10 THE COURT: Do you have any objection

11 to me granting the State's (sic) motion for cause? You

12 didn't want to examine her, did you?

13 MR. DOUGLAS D. MULDER: No, thank you

14 very much.

15 THE COURT: All right.

16 THE BAILIFF: There is no one right

17 now.

18 THE COURT: All right. Everybody sit

19 tight. Let's take a short recess while we're waiting for

20 the next juror.

21

22 (Whereupon, a short

23 recess was taken,

24 after which time,

25 the proceedings were

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1 resumed on the record,

2 in the presence and

3 hearing of the defendant,

4 being represented by her

5 attorney, as follows:)

6

7 THE COURT: All right. This is juror

8 number 108 on our list, and juror number 303 on the jury

9 list.

10 This is Diane, D-I-A-N-E, Castillo,

11 C-A-S-T-I-L-L-O. Is that your name, ma'am?

12 THE PROSPECTIVE JUROR: Uh-huh.

13 (Witness nodding head affirmatively.)
14 THE COURT: If you will raise your
15 right hand, please?
16 Do you solemnly swear or affirm that
17 you will true answers make to all questions propounded to
18 you concerning your qualifications as a juror, so help
19 you God?
20
21 (Whereupon, the prospective
22 juror was duly sworn by the
23 Court to true answers make
24 to the questions propounded,
25 concerning qualifications, after
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1 which time, the proceedings were
2 resumed as follows:)
3
4 THE PROSPECTIVE JUROR: I do.
5 THE COURT: Ma'am, I just have to ask
6 you one thing first, and I know that you are totally
7 fluent in English, but I do have to ask this. You do
8 read, write and speak the English language fluently. Is
9 that not so?
10 THE PROSPECTIVE JUROR: Uh-huh.
11 (Witness nodding head affirmatively.)
12 THE COURT: Is that a yes?
13 THE PROSPECTIVE JUROR: Yes.
14 THE COURT: If you could answer yes or
15 no. Ms. Halsey is taking all this down.
16 THE PROSPECTIVE JUROR: Okay. Yes.
17 THE COURT: Okay. You don't need a
18 Spanish interpreter, obviously, for these proceedings?
19 THE PROSPECTIVE JUROR: No.
20 THE COURT: We just have to clear that
21 up to start with. Ms. Castillo, you are a potential
22 alternate juror in this case. We have already selected
23 12 jurors, and two alternates. You will be a potential
24 alternate juror number 3. An alternate juror is someone
25 who becomes a full juror if one of the first 12 selected
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1 cannot continue. You will listen to the entire trial.
2 THE PROSPECTIVE JUROR: Okay.
3 THE COURT: That is what you will do.
4 You will be in there as a juror listening to the entire
5 trial.
6 THE PROSPECTIVE JUROR: Okay.

7 THE COURT: If you have not been moved
8 into the regular jury by the end of the testimony and at
9 the end of all the arguments when they are going to
10 deliberate, then you will be discharged. But until such
11 time you will be a regular juror.
12 THE PROSPECTIVE JUROR: Okay.
13 THE COURT: Now, this is in the Darlie
14 Routier matter. And Mrs. Routier is the young lady
15 sitting there between her two attorneys. She has two
16 attorneys from Dallas, Curtis Glover and Doug Mulder, and
17 two attorneys from here, Preston Douglass and Richard
18 Mosty. Mr. Mosty is sitting here.
19 The State is represented today by two
20 Assistant District Attorneys from Dallas, Toby Shook and
21 Sherri Wallace.
22 Now, they are going to ask you some
23 questions, there are no wrong answers. You are not going
24 to offend anybody in here by any opinion, any answer you
25 may give so please give candid answers. If you could say
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1 yes or no as opposed to uh-huh or huh-huh, we would
2 appreciate that, too.

3 THE PROSPECTIVE JUROR: I'm nervous
4 too.

5 THE COURT: Oh, I know, we all are.

6 Mr. Shook.

7 MR. TOBY L. SHOOK: Thank you, Judge.

8 Whereupon,

9

10 DIANE CASTILLO,

11

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

16

17 VOIR DIRE EXAMINATION

18

19 BY MR. TOBY L. SHOOK:

20 Q. Ms. Castillo, again, my name is Toby

21 Shook, and I am one of the prosecutors on the case. I'm

22 going to ask you some questions here this morning. Let

23 me touch a couple of things here in your questionnaire.

24 You checked off that you had seen something about this

25 case on television; is that right?

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1 A. Yes.

2 Q. Is that back before you were called
3 down as a juror?

4 A. Yes.

5 Q. Okay. Tell us what you have heard,
6 what you remember hearing on the television about the
7 case.

8 A. Well, I heard that -- about the
9 defendant, about stabbing her sons.

10 Q. Okay. You heard about those
11 allegations and that kind of thing?

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

14 Q. All right. And it's fine to watch
15 television and have seen that. Obviously, it was a big
16 news item, especially since the trial was moved here.

17 That is why it was moved here, there was so much
18 publicity in Dallas.

19 But what we have to have are jurors
20 who can -- will not form opinions beforehand on anything
21 they read or see on TV, and just wait until the testimony
22 is brought forth in the courtroom.

23 Have you formed any opinions on what
24 you have heard, anything like that? Or is your mind on
25 this case?

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1 A. Well, not really. I mean, I have some
2 opinions of my own, but I would rather hear everything
3 here.

4 Q. Okay. Everyone forms opinions when
5 they see something on the news, that is true.

6 A. Yes.

7 Q. But what the law contemplates,
8 obviously, we can't have jurors over here who have
9 already formed an opinion as to someone's guilt and then
10 they are just waiting to convict them. Do you understand
11 what I am saying?

12 A. Yes.

13 Q. You never know what is true or not
14 true when you see something on television.

15 A. That's right.

16 Q. We have all been around long enough to
17 know that.

18 A. Yes.

19 Q. Do you remember this Richard Jewell
20 guy a couple of weeks ago? The news kind of convicted

21 him in those Olympic bombings in Atlanta. He was the guy
22 they thought did it. Then it turns out that FBI said he
23 didn't. They had him convicted in the news, obviously,
24 ruined his life. And that's why we have these rules. So
25 what we need to know is: Can you keep your mind open as
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1 far as wait until all the evidence comes in before you
2 make your decisions in this case?

3 A. Oh, yes.

4 Q. Okay. You put on your questionnaire
5 that you do believe in the death penalty in certain
6 cases; is that right?

7 A. Yes.

8 Q. Okay. Have you always been in favor
9 of the death penalty as a law?

10 A. Well, only when I have heard all, you
11 know, what is going on.

12 Q. Okay. You are not one of these people
13 that thinks that it should be invoked in every case, just
14 certain cases?

15 A. No.

16 Q. Okay. That is how the law is here in
17 Texas. You know, the death penalty is only -- comes to
18 be involved in a certain type of murder case. And then,
19 even if it falls in a certain category, the death penalty
20 is not invoked in every case, there is a procedure we
21 have to go through. There's questions the jury has to
22 ask, things of that nature.

23 The way the trial will be divided is
24 into two parts. The guilt/innocence stage, we have to
25 prove this defendant guilty, and then the second part of
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1 the trial will involve the punishment issues, where you
2 might hear more additional background evidence, things of
3 that nature, and then you get these questions. Okay?

4 And I will go over those questions
5 more in a moment. But if the first question is answered
6 "yes" and the second question is answered "no" the Judge
7 would sentence the defendant to death. Okay? Any other
8 answers will give a life sentence. But those are the two
9 choices; would be life or death. You don't write it
10 down, you just answer questions and the Judge sentences
11 accordingly.

12 Let me know: Do you think you are the
13 type of person that could sit there and listen to the
14 evidence with an open mind, and if it's proven to you,

15 could you answer those questions?

16 A. Yes.

17 Q. Okay. Fair enough. There are certain
18 rules that apply in every case, Ms. Castillo. Have you
19 ever been on a jury before?

20 A. Well, I wasn't picked, I was just
21 called.

22 Q. You have been called down? Okay.

23 Well, these rules apply in every criminal case, and Judge
24 Tolle went over these. And we just need to know if you
25 can follow them. Okay? Sometimes people disagree with
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1 the rules and they can still follow them, some people
2 disagree with them and they can't. You just need to let
3 us know one way or the other. Okay?

4 A. Okay.

5 Q. The presumption of innocence. Judge
6 Tolle told you that every defendant starts out with the
7 presumption of innocence. Okay? That is the presumption
8 that we have to overcome. But at the start of the trial
9 you have to presume the defendant to be innocent. Could
10 you follow that rule of law?

11 A. Yes.

12 Q. Do you agree with it?

13 A. Yeah.

14 Q. I mean people should start out
15 presumed to be innocent. You don't presume them guilty
16 in other words. Do you understand what we're saying?

17 A. Yes.

18 Q. Judge Tolle has told you that the
19 defendant has been indicted. There has been an
20 indictment returned. In fact, if you take a moment and
21 just read that. Do you see that piece of paper there in
22 front of you?

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

25

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1 THE COURT: The typewritten portion.

2 MR. TOBY L. SHOOK: The typewritten
3 portion there is the indictment.

4 THE PROSPECTIVE JUROR: Okay.

5 THE COURT: In the middle of the page.

6 We'll go off the record a minute.

7

8 (Whereupon, a short
9 Discussion was held
10 Off the record, after
11 Which time the
12 Proceedings were resumed
13 As follows:)

14

15 BY MR. TOBY L. SHOOK:

16 Q. That is the indictment that we have to
17 prove, those allegations. Okay?

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

20 Q. The fact that there has been an
21 indictment handed down is no evidence of guilt, is what
22 the Judge said. It's just a piece of paper. He tells
23 you that the Grand Jury, you know, they can hear a
24 hundred cases a day.

25 It's a very short hearing, and the
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1 jurors can't use that as evidence. The fact that the
2 defendant has been arrested is no evidence of guilt. The
3 fact that we're even going through this procedure is no
4 evidence. You have to wait until the witnesses testify,
5 then make that decision. Can you do that?

6 A. Yes.

7 Q. Okay. The State has the burden of
8 proof. We have to prove this case beyond a reasonable
9 doubt. It's our burden. We do the accusing, we do the
10 proving.

11 We have to prove that indictment
12 beyond a reasonable doubt. Reasonable doubt is the
13 highest burden under the law. Can you follow that rule
14 of law?

15 A. Yes.

16 Q. Do you think that's the right thing to
17 do?

18 A. Yes.

19 Q. The State should do the proving?

20 A. Yes.

21 Q. Okay. It also means this: The
22 defense is under no legal obligation to prove their
23 client's innocence to you. Okay? That gets a little
24 tricky, but let me kind of go a little further with this,
25 you know.

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1 There's a lot of lawyers here and they

2 are good lawyers, and I'm sure, when it comes down to it,
3 they are going to put up a fight, ask questions and make
4 some arguments, and things like that. Okay?
5 But under our system, their only
6 obligation, really, is to show up. They don't have to
7 ask a question. They don't have to put on any witnesses.
8 They don't even have to make an argument.
9 Because the burden of proof never
10 leaves this table. Do you understand? If we just put on
11 one witness, you can't turn around and just say, "Okay,
12 what have you guys got? If you don't put anything -- if
13 you don't prove her innocence, then I'm going to find the
14 defendant guilty." You can't do that, see? They are
15 under no obligation.
16 And you can't require them to prove
17 their client's innocence to you. What you have to
18 require is the State prove its case beyond a reasonable
19 doubt.
20 Can you follow that rule of law?
21 A. Yes.
22 Q. Do you think that is the right way to
23 do it?
24 A. Yeah.
25 Q. Okay. Like I said, I'm sure as a
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1 human being you expect the defense lawyers to put up a
2 fight, and I'm sure that will probably happen, but you
3 can't make it a legal requirement. Do you understand
4 that? If we don't get over that hurdle of reasonable
5 doubt, can you find the defendant not guilty, if we don't
6 prove it to you?
7 A. Well, no.
8 Q. You can't find her not guilty? I may
9 have spoken too fast for you.
10 A. Well, would you repeat that? I'm
11 sorry.
12 Q. If we don't prove the case to you
13 beyond a reasonable doubt, if we fail in our burden, if
14 you have a reasonable doubt, you can find the defendant
15 not guilty under those circumstances, can't you?
16 A. Yeah.
17 Q. If we don't meet our burden?
18 A. Yeah.
19 Q. If you don't think we proved our case,
20 you are not going to go ahead and find the defendant
21 guilty, are you?
22 A. That's right, uh-huh. (Witness
23 nodding head affirmatively.)

24 Q. The Judge also told you that the
25 defendant has a right not to testify. Okay? If someone
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1 wants to testify, they can, no one is going to stop them.
2 But if they choose not to, the Judge is going to instruct
3 the jurors that they can't use that as evidence against
4 them, you can't think of it even. Okay? You can't use
5 it against the defendant in any way.
6 There's a lot of reasons for that rule
7 of law. You know, it could be their lawyer advised them,
8 "Don't testify. The State has not proven their case."
9 It could be a situation where the
10 person maybe doesn't have a lot of education. You know,
11 cross examination might make them look bad. Perhaps they
12 have a speech impediment, or they are real nervous when
13 they get up on the stand.
14 You know, they might be innocent, but
15 they might be made to look guilty. Or they could be real
16 guilty, and it would look bad for them to testify.
17 There's a lot of different reasons why
18 a person may not testify. And so the law takes care of
19 that by just saying, you have got to not consider that in
20 any way, and judge this case on all the other evidence
21 that you have heard.
22 Can you follow that rule of law?

23 A. Yes.

24 Q. I think you put in your questionnaire
25 that, you know, if you were innocent of a crime you would
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1 be up there telling it.

2 A. Yes.

3 Q. And that is a natural feeling. A lot
4 of people tell us wild horses couldn't keep me off the
5 stand, if I didn't commit a crime and they were trying to
6 take my life.

7 A. Right.

8 Q. That is a natural feeling people have,
9 but you still as a juror have to be able to follow the
10 law and that if someone chooses not to that, you can't
11 guess about it, you can't wonder why, you just have to
12 ignore it and decide this case on the rest of the
13 evidence.

14 Can you do that?

15 A. Yes.

16 Q. Okay. Fair enough then.

17 Now, like I said, the State has to

18 prove that indictment to you beyond a reasonable doubt.
19 If we don't do that, then it's a not guilty verdict. If
20 we do do it, if we are able to prove it to you, you find
21 the defendant guilty. And that is when we move on to the
22 punishment stage.
23 Now, just because you find someone
24 guilty of capital murder, you -- we don't give them death
25 right away. You have to go through these other
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1 questions. Okay?
2 You might hear more information in the
3 punishment stage if it exists about the defendant's past.
4 Good things, bad things. If there's a criminal record,
5 you could hear about that, history, things of that
6 nature, or if they have been good their whole life, you
7 could hear about that. Okay?
8 A. Okay.
9 Q. But after that evidence is over, you
10 get this first question. And let me tell you, this first
11 question is presumed to be answered "no." Just like a
12 defendant is presumed to be innocent, we have to prove to
13 you that that question should be answered "yes."
14 Can you follow that rule of law?
15 A. Yes.
16 Q. Okay. That question asks: "Do you
17 find from the evidence beyond a reasonable doubt that
18 there is a probability that the defendant would commit
19 criminal acts of violence that would constitute a
20 continuing threat to society?"
21 That is asking the jurors to make a
22 prediction about the defendant. Do you think they are
23 going to be a continuing danger?
24 Does that sound like a reasonable
25 question to ask when you are trying to take someone's
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1 life? That they are going to be a continuing danger?
2 A. Yes.
3 Q. That is the kind of person we're
4 looking for that, you know, the death penalty should be
5 invoked against. Now, you get the evidence of the crime
6 itself, what happened on the murder, and then any
7 background evidence you know.
8 Now, the State has to prove that
9 question. It's not an automatic answer, you know.
10 Sometimes we get jurors in here that say, "Gosh, if I
11 find that they are guilty of capital murder, I'm going to

12 think they are a danger to society. I am going to answer
13 'yes.'"

14 What you have to do is wait until all
15 the evidence is in and then make that decision, because
16 you don't know what the evidence is yet. Do you
17 understand where I am coming from?

18 A. Yes.

19 Q. Let me give you kind of an example
20 that is way out there. Now, you can hear a case where
21 someone goes in a bank and murders everyone in the bank,
22 takes the money and shoots all of the tellers, just a
23 mean killer. But when they leave the bank, maybe one of
24 the tellers tripped the alarm, the silent alarm.
25 They run out of the bank and they are
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1 mowed down by a police car that comes up, just hit, and
2 become a quadriplegic. They are guilty of capital
3 murder. They could be a real mean killing machine, but
4 now, you know, they can just barely breathe, have to have
5 a machine to make them breathe. You might answer "no" to
6 that question of a future danger.

7 Do you see, until you get the full
8 story, you don't know if they are a future danger. See
9 what I am saying?

10 A. Yes.

11 Q. The crime itself can't always tell you
12 everything. But what we have to have is jurors that will
13 wait and listen to all the evidence, in the punishment
14 stage also, before they make that decision. Could you do
15 that?

16 A. Yes.

17 Q. And if we don't prove it to you, you
18 would answer it "no" or leave it as a "no"?

19 A. Yeah, I would leave it as a "no."

20 Q. Okay. Then, if we do prove it to you,
21 you could answer it "yes"? But you would wait until you
22 heard everything?

23 A. Yes.

24 Q. I think that is what you said when you
25 sat down, you want to hear everything, right?

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1 A. Yes.

2 Q. Before you make a decision of this
3 grave nature?

4 A. Yes.

5 Q. Well, that is what we're looking for,

6 someone that can keep their mind open.
7 This last question, this one gets kind
8 of lengthy. It says: "Taking into consideration all of
9 the evidence, including the circumstances of the offense,
10 the defendant's character and background, and the
11 personal moral culpability of the defendant, is there a
12 sufficient mitigating circumstance or circumstances to
13 warrant a sentence of life imprisonment, rather than a
14 death sentence, be imposed?"
15 That question gets real long. I
16 summarize that question this way. You know, you look at
17 all of the evidence and then you decide, well, you look
18 at the murder, you look at the background of the
19 defendant, you already know they are guilty, you already
20 know they are a danger, but something in your heart tells
21 you that a life sentence should be imposed rather than a
22 death sentence. Okay?
23 I can't tell you what mitigating
24 evidence is, that is up to you. You are not required to
25 think of what mitigating evidence is. It could be
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1 something in their background, maybe they were abused as
2 a child, sexually assaulted as a child that made them act
3 a certain way. Maybe they are mentally deficient in some
4 way, not insane, but you know slower than the rest of us.
5 Something through no fault of her own.
6 A. Yes.
7 Q. But what you have to be able to do is
8 tell the Judge you can keep your mind open to it. And if
9 you think there is mitigating evidence that a life
10 sentence should be imposed, rather than a death sentence,
11 you could do that?
12 A. Yes.
13 Q. Could you keep your mind open to that?
14 A. Yes.
15 Q. And answer it that way?
16 A. Yes.
17 Q. Okay. It's kind of a way out for the
18 jurors if you can impose a life sentence rather than a
19 death sentence. Of course, you have to do it based on
20 the evidence.
21 A. Yes.
22 Q. Okay.
23 Now let me go over a couple of other
24 things here in your questionnaire. I believe you put
25 down that at one time there was some type of criminal
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1 trespass charge?

2 A. Uh-huh. (Witness nodding head

3 affirmatively.)

4 Q. What was that about?

5 A. That was about a fight I had.

6 Q. A fight you had?

7 A. Uh-huh. (Witness nodding head

8 affirmatively.)

9 Q. Was it with a family member or what?

10 A. Yes. It was this woman that I wasn't

11 getting along with, and at one point I was going down

12 Sidney Baker Street and she tried to run me off the road.

13 So I followed her home, she got away from me, so I went

14 to her house and I seen her car there, so I called her

15 out, she wouldn't come out, so I went in her house.

16 Q. How long ago did this happen?

17 A. This was about, back in '90, 1990.

18 Q. Okay. About six years ago?

19 A. Uh-huh. (Witness nodding head

20 affirmatively.)

21 Q. Okay. So, how did you know this

22 person?

23 A. Well, I knew her because I knew her

24 husband from work and we started seeing each other.

25 Q. Her husband?

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1 A. Yes.

2 Q. She was mad about that?

3 A. Yes.

4 Q. Okay. Did the police arrest you in

5 regards to that?

6 A. She pressed charges on me, so I had to

7 go to court.

8 Q. What happened on that?

9 A. Well, I pleaded guilty, because I was

10 guilty.

11 Q. Okay. Did you get probation?

12 A. Yes, I did.

13 Q. Okay. And have you had any problems

14 with that woman since that time?

15 A. Well, she would harass me, but I would

16 just try to stay out of trouble, because I didn't think

17 it was worth paying for that.

18 Q. Sure. Is that over with, the dispute

19 y'all had?

20 A. Yeah, yes.

21 Q. I just want to make sure. If you are
22 selected as a juror, we don't want you not showing up one
23 day because you had trouble with that lady.

24 A. No, it's okay.

25 Q. Okay. You also had, is it your son's
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1 father was killed, shot down, it looks like, here in
2 town; is that right?

3 A. Yes. He was -- his family was having
4 a conflict with this other family, and at one point, when
5 he was out there partying with his family, which is
6 called the barrio. Do you know where the barrio is?

7 Q. No, I'm just in town for the --

8 A. The bars are there on Lemos Street.

9 Q. Okay.

10 A. Okay. And he had stopped there and
11 there was some shooting that went on, and he -- at that
12 time, he was drunk, he was in the back seat so he didn't
13 get hurt, but his friend got shot in the eye, and they
14 shot his eye out. And so there is still a big conflict
15 going on. And then later on -- okay, one of his sisters
16 had beat up -- that man that killed him?

17 Q. Uh-huh. (Attorney nodding head
18 affirmatively.)

19 A. Had beat up that woman. So she was
20 real mad about that, so she seen him, my son's dad at the
21 bar one time, so she had her boyfriend shoot him.

22 Q. Was the boyfriend caught?

23 A. No, he was never caught.

24 Q. So no one was ever prosecuted for
25 that?

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1 A. No.

2 Q. Okay. So it was kind of a feuding
3 situation going on?

4 A. Yes.

5 Q. Then you also had a cousin that was
6 shot?

7 A. Yes.

8 Q. Was that over the same thing or is
9 that a different --

10 A. No, that was completely different.

11 Q. Was someone caught in that case?

12 A. No. You mean the one that shot him?

13 Q. Yes, the one that shot him? Did they
14 ever catch him?

15 A. No, he took off to Mexico.

16 Q. Oh. Oh, yes, you had said -- we asked

17 if you had any special interest in a criminal case and

18 you said about the woman that drove her children in the

19 river. Are you talking about Susan Smith?

20 A. Yeah.

21 Q. Yeah. Did you just -- just brought

22 that up because it was interesting or in the news a lot?

23 A. Yes, uh-huh. (Witness nodding head

24 affirmatively.)

25 Q. Did you draw any opinions or

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1 conclusions on that?

2 A. I don't remember. It's not on there?

3 Q. It just said, you know, the one about

4 the woman that drove her children in the river?

5 A. Because it just asked if I heard about

6 it?

7 Q. Yeah, just heard about it. You said

8 you kept up with it some?

9 A. Yeah, I did, but I didn't --

10 Q. Didn't follow up on it?

11 A. I didn't follow up on it.

12 Q. Okay. Do you have any questions about

13 anything I have gone over?

14 A. No. But I don't know if I should

15 bring this up, but about cases like that, about those

16 killings, do they just drop them or --

17 Q. Oh, on the ones of your relatives?

18 A. Yeah.

19 Q. Well, I don't know. Because,

20 obviously, that is -- I guess that would be the Kerr

21 County Police. I mean, Kerr Police, but they are

22 supposed to keep these investigations open.

23 A. Right.

24 Q. But according to what you said, those

25 have been open a while, haven't they?

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1 A. Yeah, the one about my cousin was in

2 '91.

3 Q. Okay. So, I don't know, they should

4 be open, but from what you have told me, it doesn't sound

5 like they are looking real hard.

6 A. Uh-huh. (Witness nodding head

7 affirmatively.) Right.

8 Q. Were they looking hard back then?

9 A. Well, it seems to me like they just
10 forgot about it, or just didn't care about it.

11 Q. I don't think any Kerr County Police
12 officials will be testifying in this trial, so I don't
13 know if you might have some bad feelings with them. Do
14 you think you can be fair with other police officers
15 testifying?

16 A. Well, I don't really know what the
17 officers did really.

18 Q. Oh, you don't know what they --

19 A. Well, I knew one of them, but I guess
20 he just -- well, no I don't have no problem with them, I
21 just thought maybe he couldn't find evidence or find
22 where he was at.

23 Q. Okay. I don't know what happened on
24 it either because I am from Dallas County.

25 A. Okay.

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1 Q. Well, thanks for your patience and
2 attention.

3 A. Okay.

4

5 MR. TOBY L. SHOOK: That's all I have,
6 Judge.

7 THE COURT: Who is for the defense?

8 Mr. Glover.

9

10 VOIR DIRE EXAMINATION

11

12 BY MR. CURTIS GLOVER:

13 Q. Ms. Castillo, as the Judge told you my
14 name is Curtis Glover and I just want to talk with you
15 briefly here.

16 A. Okay.

17 Q. You indicated that there was some
18 trouble between two groups here in Kerrville. Do you
19 know their family names of those two groups?

20 A. Well, you mean the --

21 Q. That were feuding back and forth.

22 A. Oh, okay. The ones where my son's
23 father got killed? That one?

24 Q. I guess, yeah.

25 A. What was the question now? Who were
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1 the families?

2 Q. Yes. You said there were two groups.
3 A. Well, really there was more. There
4 was the Manchochas (phonetic spelling), the Garcias, and
5 the Martinezes.
6 Q. Those are the four families involved?
7 A. There were three.
8 Q. Three. Okay. I noticed by your
9 questionnaire, Ms. Castillo, that you had seen this on
10 television?
11 A. Oh, about --
12 Q. About this case.
13 A. No, this is here in town.
14 Q. No, I'm talking about this case.
15 A. Oh, about her?
16 Q. Yes.
17 A. Yeah. I seen it on TV and in the
18 newspaper.
19 Q. Do you recall what you saw?
20 A. I just saw -- no. I saw -- I saw her
21 when they were bringing her, I think, in one of the
22 courtrooms, or the police station. I can't remember what
23 it was, something like that.
24 Q. Well, you heard about the case at that
25 time, heard the broadcaster talk about it and whatnot?
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1 A. Yes, yes.
2 Q. And you didn't form any opinion about
3 her guilt or her innocence. You would want to hear that
4 here in the courtroom, I guess?
5 A. Oh --
6 Q. Before you would make a decision.
7 A. Excuse me. At the time, I just felt
8 bad for the kids.
9 Q. Sure. Well, it did happen.
10 A. Because I --
11 Q. And we're here to -- they have brought
12 an accusation against her, and we're here contending that
13 she did not do it. We're not saying that it didn't
14 happen, but that she didn't do it. Do you understand?
15 A. Yes.
16 Q. So, you can come into this case with
17 an open mind?
18 A. Yes, sir. I am a mother.
19 Q. And listen to the evidence?
20 A. I am a mother and if I was accused of
21 killing my kids, you know, I would want the best lawyers
22 in town, too. You know, I would want them to really say
23 what went on. I wouldn't just send somebody, you know,

24 for the death penalty or anything like that unless I
25 heard everything.

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1 Q. Sure. Well, let me just kind of go
2 over some principles with you. You have been talking

3 with the prosecutor, and he's the one that is going to be
4 in charge of bringing the evidence in this case. They
5 brought the accusation, and doesn't it seem reasonable to
6 you that they ought to be the ones that would have to
7 prove it? If they make the accusation, then they ought
8 to prove it?

9 A. Yes.

10 Q. And if they can't, then the law says
11 you are to find her not guilty.

12 A. Yes, sir.

13 Q. Do you understand that?

14 A. Yes, sir.

15 Q. And you can do that, can't you?

16 A. Yes, sir.

17 Q. You have a piece of paper there in
18 front of you called an indictment.

19 A. Yes.

20 Q. The Judge has talked with you about
21 it.

22 A. Yes.

23 Q. It's simply an accusation. It's
24 nothing more than that. It's just some words that tells
25 her what she is charged with and tells them what they
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1 have to prove in order to have her found guilty. You
2 wouldn't consider that as any evidence of her guilt,
3 would you?

4 A. No.

5 Q. Okay. As I told you, they have the
6 burden of proving this case. That burden never shifts to
7 this side of the table. Darlie Routier has no burden to
8 do anything. That is what the law says. And you agree
9 with that, don't you?

10 A. Yes, I do.

11 Q. Okay. Can you think of any reason why
12 you wouldn't be fair in this case?

13 A. No.

14

15 MR. CURTIS GLOVER: Well, I think you
16 will be. That's all we have, Judge.

17 THE COURT: Ma'am, could you step
18 outside briefly, please. We will be calling you back in
19 in a few minutes.

20 THE PROSPECTIVE JUROR: Yes, sir.

21 THE COURT: Yes, ma'am. If you
22 wouldn't mind that, just briefly. All right.

23

24 (Whereupon, the prospective

25 juror was excused from the
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1 room, and the following
2 proceedings were held,
3 outside of her presence
4 as follows:)

5

6 THE COURT: What says the State?

7 MR. TOBY L. SHOOK: We don't have
8 any -- well, there is not much we can say, Judge.

9 THE COURT: What says the defense?

10 MR. DOUGLAS D. MULDER: Welcome to the
11 jury.

12 THE COURT: You accept the juror?

13 MR. DOUGLAS D. MULDER: Yes.

14 THE COURT: All right. Thank you.

15 Bring the juror back in, please.

16

17 (Whereupon, the prospective

18 juror returned to the
19 room and the proceedings
20 were resumed as follows:)

21

22 THE COURT: Ms. Castillo, you have
23 been selected as alternate juror number 3.

24 THE JUROR: Uh-huh. (Witness nodding
25 head affirmatively.)

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1 THE COURT: Now that simply means that
2 you will listen to the entire trial. If it should be
3 necessary to place you on the jury when they go into
4 deliberations, you will go in. But if not, you will just
5 be discharged at that time.

6 This trial is going to start on the
7 6th of January. Please do not discuss this with anyone
8 prior to that time, particularly members of the press.
9 You will find it's a lot easier on

10 yourself if you don't. I do have a gag order in effect,
11 I can impose jail time or monetary sanctions on you.
12 I'm not threatening you, but that is
13 what can occur. So please do not discuss this with
14 anyone until that time. You are still married to your
15 husband, I assume?

16 THE JUROR: Yes.

17 THE COURT: Okay. I know you will
18 tell him, but if the two of you would not discuss it, I
19 would be most appreciative.

20 Mr. Navarre here, who is from
21 Kerrville, he will be calling you later on in December
22 telling you when and where to report for jury duty at
23 that time.

24 THE JUROR: Okay.

25 THE COURT: Under no conditions
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1 discuss this with any member of the press. When the
2 trial is over, you may talk or not talk to anyone as you
3 see fit. And if they ask you what went on down here
4 today, just tell them they asked you some questions,
5 that's all. Thank you very much.

6 THE JUROR: Okay.

7 THE COURT: All right. Who is next?

8 THE BAILIFF: Sheralyn Murley, she's
9 out here.

10 THE COURT: Okay. Sheralyn Murley.

11 All right. That's 109 on our list, 302 on the regular
12 jury list.

13 And you are Sheralyn, S-H-E-R-A-L-Y-N,
14 Murley, M-U-R-L-E-Y; is that correct, ma'am?

15 THE PROSPECTIVE JUROR: Yes, sir.

16 THE COURT: Gentlemen, that's 109 on
17 the tabbed lists in the notebooks, that's 304 on the
18 master jury list.

19 If you will raise your right hand,
20 please.

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

25

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1 (Whereupon, the potential juror
2 was duly sworn by the
3 Court, to speak the truth,

4 the whole truth and
5 nothing but the truth,
6 after which, the
7 proceedings were
8 resumed as follows:)

9

10 THE PROSPECTIVE JUROR: I do.

11 THE COURT: Thank you, ma'am,

12

13 Whereupon,

14

15 SHERALYN MURLEY,

16

17 was called as a potential juror, for the State of Texas,
18 having been first duly sworn by the Court, to speak the
19 truth, the whole truth, and nothing but the truth, was
20 examined and testified in open court, as follows:

21

22

23 MR. DOUGLAS D. MULDER: We have

24 reached an agreement on this juror.

25 THE COURT: You have an agreement?

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1 MR. TOBY L. SHOOK: Yes.

2

3

4 (Whereupon, the following

5 mentioned item was

6 marked for

7 identification only

8 as State's Exhibit No. 17,

9 after which time the

10 proceedings were

11 resumed on the record

12 in open court, as

13 follows:)

14

15 THE COURT: Ma'am, we want to thank

16 you very much for coming, but at this stage of the

17 proceedings we have completed most of the jury selection,

18 your further presence will not be required. We do want

19 to thank you for coming.

20 Sorry you had to come down and be

21 discharged so briefly.

22 THE PROSPECTIVE JUROR: That's okay.

23 THE COURT: Thank you very much for

24 coming.

25 THE PROSPECTIVE JUROR: All right.

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1 THE COURT: Thank you.

2

3 (Whereupon, a short

4 recess was taken,

5 after which time,

6 the proceedings were

7 resumed on the record,

8 in the presence and

9 hearing of the defendant,

10 being represented by her

11 attorney, as follows:)

12

13 THE COURT: We're back on the record

14 in the Darlie Routier matter and all parties to the

15 proceedings are present.

16 Our next juror, ladies and gentlemen,

17 is Miguel Rodriguez, R-O-D-R-I-G-U-E-Z, 107 in the

18 notebook list, 302 on the master jury list.

19 It indicates he is unable to read,

20 write, or speak the English language.

21 And both sides are agreeing to

22 discharge this juror; is that right? Does the State

23 agree?

24 MS. SHERRI WALLACE: Yes, your Honor,

25 and it's on Court's Exhibit Number 17.

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1 THE COURT: All right. Defense agrees

2 and all that, Mr. Mosty?

3 MR. RICHARD C. MOSTY: Yes, your

4 Honor.

5 THE COURT: All right, Court's exhibit

6 17 is admitted for record purposes.

7

8 (Whereupon, the above

9 mentioned item was

10 received in evidence

11 for record purposes

12 only, after which time,

13 the proceedings were

14 resumed on the record,

15 as follows:)

16

17 THE COURT: All right. We are

18 adjourned till Monday.

19 MR. RICHARD C. MOSTY: Your Honor, I

20 am just going to give the Court a copy. I went to file
21 this motion over at the courthouse this morning and gave
22 the State a copy of this motion.
23 THE COURT: All right. We will see
24 everybody on Monday, November the 18th.
25 MR. TOBY SHOOK: That's fine, Judge.
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1 MR. RICHARD MOSTY: It shouldn't take
2 too long.

3 THE COURT: Everyone have a nice
4 weekend.

5 MR. TOBY SHOOK: And you too, Judge

6 MR. PRESTON DOUGLASS: Have a nice
7 weekend, Judge.

8
9 (Whereupon, the proceedings

10 Were recessed for the

11 day, to return on the

12 following Monday,

13 November 18, 1996, at

14 which time the proceedings

15 were resumed in open

16 court, in the presence

17 of the defendant, with her

18 attorney, and the State

19 being represented by the

20 D.A., as follows:)

21

22

23

24

25

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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
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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
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