

Volume 26

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

12

13 STATEMENT OF FACTS

14 JURY VOIR DIRE

15 INDIVIDUAL JURORS HEARING

16 VOL. 26 OF VOLS.

17 November 18, 1996

18 Monday

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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 Monday, the 18th 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

2

3 HON. JOHN VANCE

4 Criminal District Attorney

5 Dallas County, Texas

6

7 BY: HON. GREG DAVIS

8 Assistant District Attorney

9 Dallas County, Texas

10 AND:

11 HON. JOHN GRAU

12 Assistant District Attorney

13 Dallas County, Texas

14 AND:

15 HON. SHERRI WALLACE

16 Assistant District Attorney

17 Dallas County, Texas

18 AND:

19 HON. TOBY L. SHOOK

20 Assistant District Attorney

21 Dallas County, Texas

22

23 APPEARING FOR THE STATE OF TEXAS

24

25

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1 ADDITIONAL APPEARANCES:

2

3 HON. DOUGLAS D. MULDER

4 Attorney at Law

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6 717 N. Harwood

7 Dallas, TX 75201

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9 AND: HON. CURTIS GLOVER

10 Attorney at Law

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15 AND: HON. RICHARD C. MOSTY
16 Attorney at Law
17 Wallace, Mosty, Machann, Jackson & Williams
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21 AND: HON. S. PRESTON DOUGLASS, JR.
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1
2 AND: HON. JOHN HAGLER
3 Attorney at Law
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5 Dallas, TX 75202
6 ALL ATTORNEYS REPRESENTING THE
7 DEFENDANT: DARLIE ROUTIER
8 MR. HAGLER HANDLING THE APPEAL
9 AND:
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15 Detective Jimmy Patterson
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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 18th, 1996
4 Monday
5 8:30 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,
15 as follows:)

16
17

18 THE COURT: All right. Do you all
19 want to go on with Mr. Larsen first, or do you want to
20 wait until Ms. Armistead gets here?
21 What is the pleasure of the people
22 involved?

23 What says the defense? Do you all
24 want to go with Mr. Larsen first or wait?

25 MR. GREG DAVIS: We are ready.
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1 THE COURT: What about it, Mr. Mosty?

2 MR. RICHARD C. MOSTY: That's okay.

3 THE COURT: Well, let's get Ms.

4 Routier then. Is she over yet?

5 THE COURT REPORTER: Yes.

6 MR. GREG DAVIS: We're ready, your
7 Honor.

8 THE COURT: All right. We're ready
9 for Mr. Larsen.

10 THE COURT: All right. Good morning.

11 This is Rolf, R-O-L-F, Larsen, L-A-R-S-E-N. That is your
12 name, sir?

13 THE JUROR: Yes, sir.

14 THE COURT: All right. This is -- he
15 is juror 314 on the master list, 112 on our list.

16 Mr. Larsen, if you will raise your
17 right hand, please.

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

22

23 (Whereupon, the prospective
24 juror was duly sworn by the
25 Court to true answers make
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1 to the questions propounded,

2 concerning qualifications, after
3 which time, the proceedings were
4 resumed as follows:)

5

6 THE PROSPECTIVE JUROR: I do.

7 THE COURT: Mr. Larsen, you are a
8 potential alternate juror number 4 in this case. We have
9 already selected 12 jurors and three alternates, the
10 fourth alternate is the last one we are going to select.
11 This is the Darlie Routier matter.
12 Mrs. Routier is sitting there in the brown dress with her
13 attorneys, Richard Mosty from Kerrville and Preston
14 Douglass from Kerrville.
15 The State is represented by Assistant
16 District Attorneys from Dallas, Toby Shook, Greg Davis,
17 and Sherri Wallace.

18 There are no wrong answers to the
19 questions you are going to be asked. We just want to
20 know exactly how you feel.

21 You might pull that microphone back
22 there towards you, so you can speak loudly into it. They
23 are going to ask you to look at that indictment in a few
24 minutes which is down there.

25 If you will look at the printed part
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1 in the middle.

2 And so Mr. -- who will go for the
3 State? Mr. Davis.

4 MR. GREG DAVIS: Yes, sir.

5

6 Whereupon,

7

8 MR. ROLF EINAR LARSEN,

9

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

14

15 VOIR DIRE EXAMINATION

16

17 BY MR. GREG DAVIS:

18 Q. Good morning, Mr. Larsen.

19 A. Good morning.

20 Q. As the Judge has told you, my name is

21 Greg Davis, along with Mr. Shook and Ms. Wallace, we
22 represent the State of Texas in this case. I am going to
23 have about 30 minutes to talk with you this morning.

24 I just want to talk about some of the
25 matters that you have on your questionnaire, and also go
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1 over some of the points concerning the death penalty here
2 in the State of Texas.

3 As the Judge says, there aren't any
4 right or wrong answers, we are just kind of talking about
5 how you are feeling about some of these matters this
6 morning.

7 And just to start off here, Mr.

8 Larsen, you had indicated that you were in favor of the
9 death penalty.

10 Can you tell me why you favor the
11 death penalty, sir?

12 A. I think the death penalty is a -- from
13 my perspective, the death penalty is something that is
14 given to us, given to mankind by God. That there are
15 certain crimes that are punishable by death.

16 Q. Okay. When you think about the death
17 penalty being applied to crimes, are there any facts or
18 circumstances that come to mind, maybe cases that you
19 have heard about where you thought the death penalty
20 might be appropriate?

21 A. You are asking me for specific
22 situations where I agree that it has been?

23 Q. Maybe cases where you have heard about
24 it on television, read about it in the newspaper, or just
25 some facts that you think in your own mind might justify
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1 the death penalty.

2 A. Crimes that are particularly heinous,
3 reprehensible types.

4 Q. Okay. All right. Let me go over with
5 you, if I may, just some of the procedures that go into
6 this case. You know, you have been told, or let me just
7 direct your attention over here to these two special
8 issues.

9 You see, a death penalty case is a
10 little bit different than another felony case. In a
11 normal case, if you find the defendant guilty, then you,
12 as a juror, are asked to set a proper punishment. But in
13 a death penalty there are only two choices if you find
14 the defendant guilty of capital murder. It's either life
15 or it's death.

16 Now, we don't ask jurors to go back
17 and write that down in the jury room. What we ask you to

18 do is to answer these two special issues. If you answer
19 them "yes" and "no," that is the combination that
20 requires Judge Tolle to impose a death sentence in this
21 case. If he does that, basically, here is what is going
22 to happen.

23 At some point, he will sentence the
24 defendant to death. She will then be transported down to
25 the prison system. She will be housed on death row. She
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1 will be housed in a cell about half the size of this jury
2 box over here.

3 Now, she will stay on death row until
4 the date is fixed for her death, and on that date she
5 will be taken from her cell, you know.
6 Frankly, that is going to happen no
7 matter what she is saying or doing, whether she's
8 professing her innocence, whether she is giving the name
9 of someone she claims to be the true killer, whether she
10 is praying, begging for forgiveness. She will be taken
11 from her cell, she will be taken to the Walls Unit, which
12 is in Huntsville and that is where the death chamber is
13 housed.

14 She will be taken to the death
15 chamber. If we were to go inside the death chamber what
16 we would see is a gurney, much like a gurney that you
17 might see in a hospital setting except this one has very
18 large, thick leather straps attached to it. And Mrs.
19 Routier would be taken to that gurney and she would be
20 strapped down on the gurney, her arms and her legs will
21 be motionless, and essentially, she will be defenseless
22 on that gurney.

23 Now, beside that gurney you will see a
24 bag with a solution with a tube leading down to a needle.
25 Prison personnel will take the needle that is attached,
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1 they will place it into her arm, at a certain point then,
2 they will open a valve. And that valve will allow the
3 poison that is contained in that sack to course through
4 the tube, through the needle and into her arm.

5 Any number of things may happen at
6 that point. She may gasp for breath, she may go into
7 convulsions, her eyes may roll back in her head, but I
8 can assure within 15 minutes Mrs. Routier will lay dead
9 on that gurney.

10 Now, her death may be witnessed by any
11 number of people, maybe loved ones, family members,

12 friends, for I can assure you, there are people in this
13 world that love her, and they may witness her death.
14 They may be the very same people who sit in the witness
15 chair, just like you're sitting in this morning, and they
16 turn to you with tears in their eyes, they may beg you to
17 spare her life.
18 But upon her death, they will be
19 allowed to take her body for burial.
20 Now, I go through that not to be
21 morbid or grim with you, but just to go through the
22 process. Because I think if we are going to ask you to
23 be a part of this process, that you have a right to know
24 what the implications of your answers may be somewhere
25 down the line.
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1 And you also need to be aware that
2 execution is a reality in the State of Texas, unlike
3 California or other states where they may hand out death
4 sentences that are never carried out. Here in the State
5 of Texas they are carried out on a regular basis. So, I
6 would assume that if a death sentence is handed out in
7 this case, that it will be carried out in the future.
8 Now, having said all that, Mr. Larsen,
9 let me just say there are some people that when they come
10 down here they tell us that in the abstract they are in
11 favor of the death penalty. They think it is necessary,
12 and they think it's a good thing for society to have
13 that. But if you would, if you look at Mrs. Routier, you
14 can she's not abstract. She is a living, breathing human
15 being just like you and I.
16 And our goal and our purpose in this
17 case, what we want to see happen in this case is for this
18 woman to die in Huntsville at some date in the future.
19 That is our goal, and that is what we are going to ask
20 you to do at some point in this case.
21
22 MR. RICHARD C. MOSTY: Your Honor, I
23 am going to object to that. They have got to find this
24 lady guilty before they ever get to that point.
25 THE COURT: Sustain the objection.
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1 BY MR. GREG DAVIS:
2 Q. Assuming that she is found guilty, on
3 punishment we're going to stand before you and we are
4 going to ask you to answer these special issues 1 and 2,

5 "yes" and "no," in such a way that the Judge will impose
6 a death sentence on her. Now, having said all that, Mr.
7 Larsen, tell me how you feel about participating in this
8 case where you know what our goal and our purpose is.

9 A. This is a very serious thing that you
10 are asking of me or of any of our citizens. But it also
11 is, I believe, that it is a part of our judicial system
12 and I believe that it has benefits if it is properly
13 applied.

14 Q. Let me just ask it another way, one
15 last time. If the evidence in this case, if we show you
16 with proper evidence, okay, this special issue number 1
17 and 2 should be answered "yes" and "no," if that's what
18 the evidence shows those answers should be in this case,
19 can you answer them in that fashion?

20 A. I believe that I can.

21 Q. Okay. Mr. Larsen, I guess part of
22 being a good juror is being open-minded. You see, we're
23 looking for people who don't have their minds made up in
24 this case.

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

2 Q. People who can tell us that they are
3 going to wait until they hear all of the facts of the
4 case and make their decision based upon the evidence, not
5 on what their feelings may be, or maybe they have heard
6 in the past or anything else.

7 But we need people that will tell us,
8 "I don't have my mind made up, I don't know what I'm
9 going to do, what I will do is what the evidence tells me
10 to do in this case."

11 Do you feel like you are that kind of
12 person, sir?

13 A. Yes, I do.

14 Q. Let's talk just a minute then about
15 special issues number 1 and number 2. If you would, if
16 you would just read those to yourself and let me know
17 when you are finished, sir.

18 A. All right.

19 Q. Okay. As you can see, I guess,
20 special issue number 1, really, it looks to the future.
21 And we're asking you whether the defendant would commit
22 criminal acts of violence that would constitute a
23 continuing threat to society.

24 Now, one important thing to recall on
25 special issue number 1 is this: That the State of Texas

1 has the burden of proof on that question.
2 We have to prove to you beyond a
3 reasonable doubt that that question should be answered
4 "yes," before you can answer it "yes."
5 It's as though, when we talk about
6 guilt or innocence, right now Mrs. Routier has an
7 absolute presumption of innocence until the State proves
8 her guilt beyond a reasonable doubt. That is our burden
9 in the first part of this case.
10 The second part is, well, on special
11 issue number 1, that answer is presumed to be "no," until
12 the State of Texas proves to you beyond a reasonable
13 doubt that it should be answered "yes."
14 Can you tell us that you will make the
15 State of Texas meet its burden of proof on special issue
16 number 1, make you -- will prove to you beyond a
17 reasonable doubt that it should be answered "yes" before
18 you can and will answer it "yes"?
19 A. Yes.

20 Q. Okay. On special issue number 2, it's
21 a little bit different because there is no burden of
22 proof on either side there. We don't have to prove to
23 you beyond a reasonable doubt that it should be answered
24 "no," but just as importantly, the defense has no burden
25 of proving to you that it should be answered "yes."
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1 It's as though, it's really kind of
2 like a safety net, if you will. You see, because when
3 you get down to special issue number 2, you will have
4 already found the defendant guilty of capital murder, you
5 will have already found beyond a reasonable doubt that
6 she constitutes a continuing threat to society.
7 So, with those two, it's as though you
8 are two-thirds of the way to a death sentence. So, when
9 you get down to special issue number 2, that is the
10 question that you take into consideration all of the
11 evidence that you -- perhaps you have heard in the first
12 part of this case, maybe other evidence that you may have
13 heard in the punishment phase of this case, and you
14 decide whether or not a death sentence should be changed
15 to a life sentence.
16 And you are looking for sufficient
17 mitigating circumstances in order to do that. And I
18 can't tell you what they may be, what is mitigating to me
19 might be aggravating to you and vice versa.

20 But the key, I think, on special issue
21 number 2 is, are there sufficient mitigating
22 circumstances.
23 You see, you may hear a hundred things
24 that you consider to be mitigating in this case. Okay?
25 There may be enough literally to cover the floor of the
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1 courtroom with mitigating circumstances, but if none of
2 them rise to such a level to be sufficient to change a
3 death sentence to a life sentence, you see, that is not
4 enough.

5 There has to be a sufficient
6 mitigating circumstance to change a death sentence to a
7 life sentence.

8 Do you think that when you get down to
9 special issue number 2, Mr. Larsen, that you will be able
10 to take a step back, look at all of the evidence in this
11 case, and at that point decide whether you believe that
12 there are sufficient mitigating circumstances to change
13 death to life in this case?

14 A. Yes, I do.

15 Q. Again, it just comes down to being
16 open-minded. Don't come into special issue number 2 with
17 your mind closed or leaning either way.

18 Just totally be open-minded, you take
19 a look at that evidence and then if goes this way it goes
20 that way, if it goes this way then you go that way. You
21 can do that that, can't you?

22 A. Yes, I can.

23 Q. How do you -- well, let me just say,
24 how does it feel up there this morning with all these
25 lawyers staring you down? I know it can't be exactly a
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1 comfortable feeling. I guess, just in general, your
2 feelings about participating in this type of case,
3 because we would anticipate the evidence to start
4 sometime in January, the trial will last about two,
5 perhaps as much as three weeks in this case.

6 What are your feelings about
7 participating in this?

8 A. I am able to participate.

9 Q. Okay. Good.

10 Mr. Larsen, let me just ask you a
11 couple of questions here. Are there any questions that
12 you have maybe that came to your mind as you were over
13 there in the old courthouse with the general voir dire

14 that the Judge did?
15 Anything that maybe you were wondering
16 about then, or maybe something I have said or something
17 that you have thought about in between that you would
18 like to have us answer at this time?
19 A. I don't believe so.
20 Q. Do you know of any reason, sir, why
21 you couldn't be fair to both sides in this case?
22 A. No.
23 Q. Okay. Do you know either of the two
24 attorneys over here from Kerrville?
25 A. No.
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1 Q. Mr. Larsen, I appreciate your time
2 this morning, but more importantly, I appreciate your
3 honesty and candor here, because that is really what we
4 depend on. You know, we can get a certain amount of
5 facts from the sheets here, but it really gets down to
6 what the jurors come in and tell us.
7 And we're trying, as best we can, to
8 find 12 people that can be fair to both sides here. That
9 is our goal so that justice can be done.
10 So, I appreciate that, sir. Thank
11 you.

12
13 THE COURT: Thank you, Mr. Davis. Mr.
14 Mosty.

15
16 VOIR DIRE EXAMINATION
17

18 BY MR. RICHARD MOSTY:
19 Q. Reverend Larsen, my name is Richard
20 Mosty, and I am one of the lawyers representing Darlie
21 Routier. This is my partner Preston Douglass. She is
22 also represented by Curtis Glover and Douglas Mulder from
23 Dallas.
24 And I want to make abundantly clear to
25 you and I want to reinforce some of what Mr. Davis says
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1 because I want to make it abundantly clear that we think
2 we are never even getting to those stages of the trial.
3 He said a couple of times, if you get there.
4 And I want to say that I think when
5 you start talking about the death penalty, we're talking
6 about the cart before the horse. You talked about this
7 being a very serious undertaking.

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

10 Q. And I think that underscores the
11 importance of the presumption of innocence, the burden of
12 proof being on the State, the indulging of reasonable
13 doubts in favor of a defendant.

14 Would you agree with me on that?

15 A. Yes.

16 Q. That those Constitutional principles
17 seem to stand out more in a case like this, maybe that is
18 not right, but they certainly do stand out more in a case
19 like this than any other. Would you agree to that?

20 A. When a person's life is at stake,
21 there are very few casual approaches.

22 Q. Yes, that is a good way to say it. I
23 read in the San Antonio paper this morning there is, they
24 ran a little interview about jury service and what people
25 did, and there were four or five responses. And one that
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1 sort of stuck out to me was, a lot of people said that
2 they were offended because some of their fellow jurors
3 wanted to get it over with and go home, that they wanted
4 to, you know, come to some resolution so they could get
5 home and get back to work and they were mad because they
6 only got \$6 a day, and got paid \$60 a day. And those
7 kinds of comments are troubling, I would think when one
8 talks about the jury system.

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

11 Q. And I don't think I need to ask you,
12 you wouldn't in any manner take this as any kind of mild
13 or cavalier undertaking that you are about to embark on?

14 A. No.

15 Q. Was Reverend Bauvenhausen at Holy
16 Cross? Have you ever met him?

17 A. I am acquainted with him. He had died
18 before I came over here.

19 Q. Okay. I don't know if he was at Holy
20 Cross or not, but he was the foreman of a capital case
21 that I tried here in 1979, he was the foreman of the
22 jury. So, I was wondering if you had had his
23 acquaintance? He was a wonderful man.

24 A. He was a pastor -- when I became
25 acquainted with him, he was a pastor in McAllen.
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1 Q. Uh-huh. (Attorney nodding head

2 affirmatively.)

3 A. And then he had retired.

4 Q. Up here. I don't think he ever

5 pastored the church up here?

6 A. No.

7 Q. He was in retirement. Reverend

8 Larsen, I want to cover a few of the principles that I

9 have mentioned just briefly, and this will undoubtedly --

10 there will be nothing that I will say that will be new to

11 you, I don't think. But I want to reemphasize it a

12 little bit.

13 One of the things that Judge Tolle

14 said on October 21st when we first met was that there are

15 some 25,000 indictments that come out of Dallas County

16 every year.

17 Any number of those people may never

18 know they are under investigation. I think a lot of

19 people were sort of surprised by that, that one could be

20 indicted without having even known about it.

21 Did that surprise you?

22 A. Yes.

23 Q. The reason that Judge Tolle says that

24 is -- and then he goes on to say that an indictment is

25 nothing. It means nothing. It is neutral and it doesn't

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1 include any inference of guilt at all. Are you

2 comfortable with that proposition?

3 A. I don't see it as -- it doesn't bother

4 me one way or the other. I don't think about it one way

5 or the other. And I am coming from this standpoint:

6 That there is this, the presumption of innocence in our

7 country that guilt must be proven, in any case.

8 Q. All of these principles really

9 interlock. The presumption of innocence, the comment

10 that the Grand Jury indictment means nothing, burden of

11 proof, all of them interlock.

12 And what we really want, we can hold

13 our own with the evidence, all we want is to start off

14 even. If you will just not presume this lady guilty and

15 just give us an open shot, that's all we're entitled to.

16 And that's all we care about.

17 And as you sit there right now, you

18 don't have any problem with that?

19 A. No.

20 Q. You're perfectly even and everybody is

21 starting off on the same basis?

22 A. Yes.

23 Q. Another principle that goes with the

24 burden of proof, the State gets to, as part of getting
25 the burden of proof, they get to go first. They get to
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1 go first this morning before we do. We would rather go
2 first.

3 We would rather talk to you first.

4 But at trial and throughout the procedure you will always
5 see that the State gets to go first, the defense has an
6 opportunity to respond then, and then either party may
7 have some additional response. But it's always the State
8 first, then the defense.

9 In final arguments, it will be the

10 State first, then the defense, and then the State

11 wrapping up. So, you can see how important it is to us

12 that jurors don't make up their mind halfway through a
13 case. That they wait.

14 A. Yes.

15 Q. And they hear all of the evidence.

16 And I'm sure from your background as a pastor and

17 counselor, that is something that you probably do on a

18 day-in-day-out basis. Let me get all of the facts, let

19 me analyze the facts, and then I'll respond in whatever
20 situation it is.

21 A. I try to do that.

22 Q. All right. Good. Part of that

23 reasonable doubt process is, the jury must indulge every

24 reasonable doubt in favor of Darlie. If there is one

25 reasonable doubt, it belongs to Darlie.

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1 Some people might say, "Well, you

2 know, I have this reasonable doubt on a subject, and I

3 have got this reasonable doubt, but I sort of think that

4 maybe the State has the best of this one. And there

5 might be a tendency, so, I am just going to drop that

6 reasonable doubt, because I think really maybe the State
7 has it."

8 The law says you can't do that. The

9 law says if it's a reasonable doubt, it belongs to

10 Darlie, always belongs to Darlie. And that goes with the

11 cloak of innocence that is put around her. So, every

12 time there is a reasonable doubt, it must be resolved in

13 favor of Darlie Routier.

14 Does that sound fair to you?

15 A. Yes.

16 Q. Again, it goes back to, as you

17 commented, the presumption of innocence. All of these

18 interrelate.
19 Sometimes the State may attempt to
20 prove their case, and you might find just from the
21 State's evidence, that the State's evidence itself is
22 inconsistent, that it just leaves certain things
23 unanswered.
24 And in some instances there might be a
25 tendency on jurors to say, "I really want to solve this
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1 case."
2 Because there will be no question in
3 your mind at the end of this trial that a terrible crime
4 was committed. That will not be a question. But a jury
5 doesn't get to solve cases. A jury is the judge of the
6 facts, and that is your job to weigh the credibility of
7 the witness. To say, "I don't believe that witness." Or
8 you might say, "I believe that witness, but I'm just not
9 going to give any weight to it."
10 Because it really doesn't pertain to
11 the State's burden of proof. That is the jury's job.
12 You are the exclusive judges of that
13 and you get to sit and listen to the witnesses, look at
14 the evidence and say, "Is it consistent, is it
15 inconsistent, are there gaps in it?" And, ultimately, as
16 you comb through that evidence as you do in your every
17 day job, you go through that evidence.
18 And if there is a spark or a light of
19 reasonable doubt there, you resolve it in favor of the
20 defendant, and say not guilty. And don't get to solve
21 the crime yourself.
22 A. Uh-huh. (Witness nodding head
23 affirmatively.)
24 Q. Any problem accepting that role?
25 A. No.
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1 Q. Reverend Larsen, is there anything
2 that we need to go over? This is your only time to talk.
3 I tried a case about a week ago and one of the jurors
4 after it said, "You know, I had a whole lot of questions
5 that you didn't ask, that I wish you would have asked."
6 And jurors once you are impaneled in that box, don't get
7 to ask questions.
8 This is your only opportunity to ask
9 questions. Obviously, you can't ask questions about the
10 facts of the case, but you can ask questions about the
11 procedure that we are embarking on, or questions that Mr.

12 Davis may have covered that you are unclear on, or ones
13 that I covered that you are unclear on.

14 Is there anything -- before you get
15 accepted as an alternate juror in this case, is there
16 anything that either the State or the defense should know
17 about where you are coming from, or what your thought
18 processes are that you feel like you ought to share with
19 us?

20 A. I don't know, let's put it that way.

21 Q. That's pretty good. Now, that is
22 perhaps the best answer. I don't know, and I'm not going
23 to know until I hear the evidence. That is a pretty good
24 answer to tell you the truth. I'm going to listen to it,
25 and then I'll make my decisions, and I am going to call
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1 it like I see it.

2 One final thing: Do you know anything
3 about this case or have you heard anything about this
4 case?

5 A. The only thing that I know is the
6 general thing that Mrs. Routier's children were killed.
7 And it took place in Dallas and she has been charged with
8 it. That is the only information or knowledge that I
9 have.

10 Q. And none of that, none of what you
11 have heard does anything to take away the presumption of
12 innocence that now surrounds her?

13 A. No. Now the situation is that this
14 must be proven.

15 Q. All right.

16

17 MR. RICHARD C. MOSTY: That's all I

18 have, Your Honor.

19 THE COURT: Reverend Larsen, would you
20 step out just briefly, please? You will be called back
21 in just a minute.

22 THE PROSPECTIVE JUROR: Sure.

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 his presence
4 as follows:)

5

6 THE COURT: All right. What says the
7 State?
8 MR. GREG DAVIS: The State accepts the
9 juror.
10 THE COURT: What says the defense?
11 MR. RICHARD C. MOSTY: We're real
12 happy.
13 THE COURT: All right. Call Reverend
14 Larsen in, please.
15
16
17 (Whereupon, the prospective
18 juror returned to the
19 room and the proceedings
20 were resumed as follows:)
21
22 THE COURT: Reverend Larsen, you have
23 been accepted. You are alternate juror number 4. What
24 that means is this: That you will be listening to the
25 whole trial. And if one juror has to leave, then
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1 alternate number 1 goes in.
2 If two jurors have to leave, alternate
3 number 2, if 4 jurors leave, you will be in the box then.
4 You will listen to the whole trial with the other jurors.
5 The alternates won't be discharged until the jury
6 actually goes in to deliberations when the trial is over.
7 So, you play a very important role
8 because we may get down to you.
9 Now, if you would not discuss this
10 any. I know you are going to tell your wife and that is
11 fine. But if you would not discuss it with anyone until
12 after the trial is over, it would be most appreciated.
13 It's going to go a lot better with you
14 all the way around, you know. Not everybody knowing you
15 may be -- oh, he may be alternate number 4, something
16 like that.
17 We do have a gag order. I can impose
18 monetary or jail sanctions. I'm not threatening you, I
19 just have to tell you it's there. And we are going to
20 start this on the 6th of January.
21 Mr. Navarre back there will be giving
22 you a call when to come down to the courthouse then.
23 I'm sure it will all be remodeled then
24 and look good.
25 THE JUROR: Yes, sir.
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1 THE COURT: So, we will see you the
2 6th of January. Or whenever Mr. Navarre gives you a
3 call.

4 THE JUROR: All right.

5 THE COURT: Thank you so much.

6 All right. Ladies and gentlemen,
7 that is the fourth alternate juror which is all I
8 am allowed to get by, under our code of criminal
9 procedure.

10 Of course, my attitude toward safe is,

11 one is not safe --

12 MR. RICHARD C. MOSTY: I just don't if
13 we're going to make it, Judge.

14 THE COURT: Well --

15 MR. TOBY L. SHOOK: I don't know if we
16 will be able to handle it.

17 THE COURT: That's fine. I just, you
18 know, it's always --

19 MR. RICHARD C. MOSTY: We could ask
20 the legislature to give us special dispensation, and we
21 could get four or five more alternates.

22 THE COURT: Well, it's always best to
23 have two teams to put on a field. One never can tell
24 what can happen.

25 All right. All right. I want to
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1 thank everybody here for everything that has been done.
2 You have been very professional. It's
3 worked very well. And contrary to what the press might
4 have heard, I am not going to have the trial out here.

5 Although, it's a very nice place.

6 No, no, we won't do anything like
7 that.

8 Now, I have several motions. I have a
9 motion filed last week considering any conflict of
10 interest that Mr. Mulder might have.

11 The Routiers, I think, have already
12 waived that. We have got him on the record when they
13 came down here the first day.

14 Was it not, Ms. Halsey?

15 THE COURT REPORTER: Yes, sir.

16 THE COURT: On the 21st, as I recall,
17 I put Ms. Kee under oath, Mr. Routier under oath, Mrs.
18 Darlie Routier, the defendant, under oath for this
19 purpose only. And they both waived any conflicts that
20 may exist.

21 Has anything new happened since then?
22 MR. RICHARD C. MOSTY: Our response,
23 that Darlie Routier signed last week, further reconfirms
24 that.
25 THE COURT: That's right. She
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1 reconfirmed it last week. Now, we can have a brief
2 hearing when we start this on the 6th if everybody wants
3 to, but I'm quite sure the answers will be the same.
4 I also have before me -- well, the
5 defense filed a motion last week since the new statements
6 have been made in various newspapers around the country,
7 that there may be other Brady material outstanding. _____
8 I have received the State's response
9 this morning which I will be very happy to go over. But
10 here is my ruling on this: If there is any Brady _____
11 material, let them have it.
12 Let them have whatever Brady material _____
13 exists out there that is Brady material. _____
14 I want to make it quite clear, we're
15 going to try this case in the courtroom, not in the
16 newspapers.
17 So, I know this is November, this is
18 sweeps month. I understand about all these things.
19 We're coming into the end month, are we not --
20 MS. SHERRI WALLACE: Yes, sir.
21 THE COURT: -- for various TV channels
22 and stuff, and they have to get their ratings in and
23 that. And the stuff I have seen on TV has been a rehash,
24 they are old film clips, some of which were taken over in
25 family law court, were not even in Criminal District
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1 Court Number 3 up there.
2 So, I assume that a lot of that is
3 because of the nature of the media business, in this
4 particular month and this time of year. That's why some
5 of it is being generated.
6 But let's don't -- let's remember the
7 gag order is in effect. I will enforce it. I don't
8 think anybody has violated it yet, but I want to try the
9 case in the courtroom starting the 6th of January.
10 Does either side have anything else?
11 Any questions? Anything like that?
12 Well, I guess, that is it. We will
13 see everybody back here on the 6th ready to go down
14 there.

15

16 (Whereupon, a short
17 discussion was held
18 at the side of the
19 bench, between the Court,
20 and the attorneys for
21 both sides in the case,
22 off the record, after which
23 time, the proceedings were
24 resumed on the record, as
25 follows:)

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1

2 THE COURT: We're now in the 216th
3 Judicial District Court so we need to file everything
4 down here.

5 You are still trying cases up there,
6 Greg?

7 MR. GREG DAVIS: No, sir, I finished
8 mine.

9 THE COURT: You are finished. Okay.

10 But I mean, you have anything else due between -- I mean,
11 do I need to sign anything?

12 MR. GREG DAVIS: No, sir, I am all
13 yours.

14 THE COURT: Well, we probably should
15 have started this thing the first week in December.

16 MR. RICHARD C. MOSTY: We have a few
17 things to do yet, Your Honor.

18 THE COURT: You do? Well, okay. But
19 everybody is going to be ready on the 6th, I assume?

20 MR. GREG DAVIS: Yes, sir.

21 THE COURT: Thank you very much. I am
22 coming back in down here on the 2nd myself. So, when are
23 you all getting back? The 5th? That weekend?

24 MR. GREG DAVIS: Yes, sir. We will
25 probably come in on Saturday.

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1 THE COURT: All right. That is fine.

2 See everybody then.

3 Well, yes, please stay today. Should
4 one of the State's attorney stay, Mr. Mosty, for
5 anything?

6 MR. RICHARD C. MOSTY: No, we just
7 need to work on this material here.

8 THE COURT: All of the motions, they

9 bring them out here -- Mr. Davis, the State, Mr.
10 Navarre -- we look at them out here, they take them
11 downtown and they are filed down there.
12 MR. GREG DAVIS: Okay. Sure.
13 THE COURT: All of the motions are
14 filed up through last Saturday. The only thing filed
15 down there last Saturday, the defense filed one for a
16 psychiatric exam which was done last Friday afternoon.
17 Was it not? Should have been done.
18 And then there was the defense motion,
19 but that's where we are right now.
20 Okay. Thank you guys.

21
22 (Whereupon, the parties were
23 thereby excused for the
24 day, to return on Monday,
25 January 6, 1997,
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1 at 9:00 a.m. at which
2 time the proceedings
3 were resumed in open
4 court, in the
5 presence of the
6 defendant, with her
7 attorney, and the State
8 being represented by the
9 D.A., as follows:)

10
11
12 (These proceedings are continued to
13 the next volume in this cause.)

14
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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 _____

19 MARK TOLLE, JUDGE

20 Criminal District Court Number 3

21 Dallas County, Texas

22

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter

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