

NOTICE

This is a summary disposition issued under Alaska Appellate Rule 214(b). Summary disposition decisions of this Court do not create legal precedent and are not available in a publicly accessible electronic database. See Alaska Appellate Rule 214(d).

IN THE COURT OF APPEALS OF THE STATE OF ALASKA

LOREN J. LARSON JR.,

Appellant,

v.

STATE OF ALASKA.

Appellee.

Court of Appeals No. A-12945
Trial Court No. 4FA-01-00511 CI

SUMMARY DISPOSITION

No. 0055 — July 31, 2019

Appeal from the Superior Court, Fourth Judicial District,
Fairbanks, Michael P. McConahy, Judge.

Appearances: Loren J. Larson Jr., *in propria persona*, Wasilla.
Nancy R. Simel, Assistant Attorney General, Office of Criminal
Appeals, Anchorage, and Kevin G. Clarkson, Attorney General,
Juneau, for the Appellee.

Before: Allard, Chief Judge, and Harbison, Judge, and Suddock,
Senior Superior Court Judge.

Loren J. Larson Jr. appeals the superior court's denial of his Alaska Civil Rule 60(b)(6) motion. Larson sought relief from the 2001 judgment dismissing his first application for post-conviction relief. Larson's 2001 application was summarily

¹ Sitting by assignment made pursuant to Article IV, Section 11 of the Alaska Constitution and Administrative Rule 23(a).

Appendix A

dismissed because the only evidence supporting Larson's claims of juror misconduct were juror affidavits that were not admissible under Alaska Evidence Rule 606(b). This Court affirmed the judgment of the superior court in *Larson v. State*, 79 P.3d 650, 660 (Alaska App. 2003).

In 2017, Larson filed a motion in the superior court asserting that he was entitled to relief from the 2001 judgment because the United States Supreme Court in *Peña-Rodriguez v. Colorado* created an exception to the "no impeachment" provision of rules like Alaska Evidence Rule 606(b).¹ Larson basically contended that because *Peña-Rodriguez* created a constitutional exception to rules like Alaska Evidence Rule 606(b) for evidence of racial bias, then equal protection required a similar exception for other forms of bias.² The superior court rejected this equal protection theory and ruled that Larson was not entitled to any relief.

On appeal, Larson renews his claim that he is entitled to relief under *Peña-Rodriguez*. Larson argues that even though his criminal convictions were not tainted by racial bias, he is nonetheless entitled under equal protection to the benefit of the new rule announced in *Peña-Rodriguez*, because he has a right to an impartial jury at his criminal trial. To that end, Larson contends that based on this new rule, evidence of any type of juror bias is admissible under an equal protection theory, despite the prohibition of Evidence Rule 606(b). In his case, Larson claims that the jurors at his criminal trial were biased against him in two ways — because he exercised his right not to testify, and because his wife was absent from the courtroom.

But we have already rejected the basis of Larson's equal protection argument. In *Larson v. Schmidt*, Larson argued (among other things) that we should

¹ *Peña-Rodriguez v. Colorado*, 137 S.Ct. 855, 869 (2017).

² See Alaska Const. art. 1, § 1 (the Alaska equal protection clause).

expand the exception created in *Peña-Rodriguez* to include cases where there is evidence that jurors drew an adverse inference against a defendant who did not take the stand and testify at trial.³ We disagreed with Larson's argument, stating that: "[T]he decision in *Peña-Rodriguez* was expressly grounded on the 'unique historical, constitutional, and institutional concerns' presented by racial bias in our nation."⁴ We pointed out that "[t]o the extent that a juror's decision to draw an adverse inference against a non-testifying defendant might be termed a 'bias', it is not the same type of bias that the Supreme Court was trying to remedy in *Peña-Rodriguez*."⁵

Although Larson did not specifically make an equal protection argument in *Larson v. Schmidt*, we implicitly rejected the equal protection argument Larson is now raising in his current appeal. In particular, we stated that the type of juror bias Larson claims he suffered in his criminal trial was not the same as the racially motivated juror bias that resulted in the *Peña-Rodriguez* exception. In other words, in *Larson v. Schmidt*, we concluded that the *Peña-Rodriguez* exception did not apply to Larson because Larson and *Peña-Rodriguez* were not similarly situated.

Our conclusion is supported by the decision in *Peña-Rodriguez*. In *Peña-Rodriguez*, the Supreme Court discussed the distinction between the juror racial bias the Court wanted to remedy, and other types of juror bias that the Court recognized can occur during a trial.⁶ The Supreme Court concluded, among other things, that unlike other types of bias, discrimination on the basis of race, "odious in all aspects, is

³ *Larson v. Schmidt*, 2018 WL 3572449, at *2 (Alaska App. July 25, 2018) (unpublished).

⁴ *Id.* (quoting *Peña-Rodriguez*, 137 S.Ct. at 868).

⁵ *Id.*

⁶ *Peña-Rodriguez*, 137 S.Ct. at 866-68.

especially pernicious in the administration of justice.”⁷ As for other types of bias that can arise during trial, the Court explained that the right to an impartial jury is safeguarded by voir dire, observation of juror demeanor and conduct during trial, juror reports before the verdict, and nonjuror evidence after trial.⁸

Because of these safeguards, the Supreme Court stated that nonracial biases do not require an exception to the “no impeachment” rule, even if those already-existing safeguards are not always sufficient.⁹ The Supreme Court also explained that it had created only a narrow exception to the “no impeachment” rule because of the rule’s long history and its critical importance to jury deliberations.¹⁰ In short, the Supreme Court foreclosed Larson’s argument that evidence of any type of juror bias is admissible despite the prohibition of “no impeachment” rules like Alaska Evidence Rule 606(b). In doing so, the Supreme Court implicitly concluded that equal protection was not violated by allowing a narrow exception to “no impeachment” rules for juror racial bias.

Because Larson does not claim that the jurors at his criminal trial were racially biased, Larson does not fall under the narrow exception created in *Peña-Rodriguez*. Although both Peña-Rodriguez and Larson had a right to an impartial jury, the two men were not, based on the potential biases each faced, otherwise similarly situated. Accordingly, Larson is not entitled under the Alaska equal protection clause to set aside the 2001 dismissal of his post-conviction relief application.¹¹

⁷ *Id.* at 868 (quoting *Rose v. Mitchell*, 443 U.S. 545, 555 (1979)).

⁸ *Id.* at 866.

⁹ *Id.* at 868-69.

¹⁰ *Id.* at 863-65, 869.

¹¹ See, e.g., *Burke v. Raven Electric, Inc.*, 420 P.3d 1196, 1205 (Alaska 2018) (for a (continued...))

The decision of the superior court is AFFIRMED.

¹¹ (...continued)

viable equal protection claim to exist, similarly situated groups must be treated differently): *Brandon v. Corr. Corp. of Am.*, 28 P.3d 269, 275 (Alaska 2001) (federal and state equal protection clauses generally "require equal treatment only for those who are similarly situated") (citation omitted); *Lauth v. State, Dep't of Health & Soc. Servs., Div. of Pub. Assistance*, 12 P.3d 181, 187 (Alaska 2000) (generally, a legal conclusion that "two classes are not similarly situated necessarily implies that the different legal treatment of the two classes is justified by the differences between the two classes" (quoting *Shepherd v. State*, 897 P.2d 33, 44 n.12 (Alaska 1995))).

In the Court of Appeals of the State of Alaska

Loren J Larson JR,
Appellant,

v.

State of Alaska,
Appellee.

Court of Appeals No. **A-12945**

Order Petition for Rehearing

Date of Order: **8/19/2019**

Trial Court Case No. **4FA-01-00511CI**

Before: Allard, Chief Judge, Suddock, and Harbison, Judges

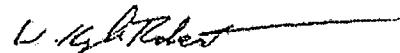
On consideration of the Petition for Rehearing filed on **8/7/2019**,

IT IS ORDERED:

The Petition for Rehearing is **DENIED**.

Entered by the direction of the court.

Clerk of the Appellate Courts



Kyle Roberts, Deputy Clerk

cc: Court of Appeals Judges
Central Staff
Judge McConahy
Trial Court Appeals Clerk
West Publishing for Opinions (Summary Disposition #0055, 7/31/2019)

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IN THE COURT OF APPEALS OF THE STATE OF ALASKA

LOREN J LARSON JR., }
Appellant, }
v. } Court of Appeals No. A-12945
STATE OF ALASKA, }
Appellee. }

Trial Court Case No. 4FA-01-00511CI

PETITION FOR REHEARING

Appellant, Loren J Larson Jr., petitions for rehearing in accordance with Alaska R. App. Proc. 506(a)(2)&(3) of this court's SUMMARY DISPOSITION No. 0055 -- July 31, 2019.

WHY REHEARING SHOULD BE GRANTED

On page 4 of this court's summary disposition, this court states:

Although both Pena-Rodriguez and Larson had a right to an impartial jury, the two men were not, based on the potential biases each faced, otherwise similarly situated. Accordingly, Larson is not entitled under the Alaska equal protection clause to set aside the 2001 dismissal of his post-conviction relief application.

The court has misconceived where Larson's Equal Protection claim constitutionally attaches to Larson's litigation. Larson's Equal Protection claim begins at:

"both Pena-Rodriguez and Larson had a right to an impartial jury"

id.

- > Larson is a White male defendant.
- > Pena-Rodriguez is a Mexican male defendant.

The SIXTH AMENDMENT guarantees an IMPARTIAL JURY to both.

- > The Mexican male defendant was permitted to use juror affidavits to prove the impartial jury mandates of the SIXTH AMENDMENT were not complied with in his criminal proceedings.
- > The White male defendant was not permitted to use juror affidavits to prove the impartial jury mandates of the SIXTH AMENDMENT were not complied with in his criminal proceedings.
- > The juror affidavits that the Mexican male defendant was permitted to use contain clear statements that indicate a juror relied on a bias to convict the Mexican male defendant:

"believed the defendant was guilty because, in [H.C.'s] experience as a ex-law enforcement officer, Mexican men had a bravado that caused them to believe they could do whatever they wanted with women."; "'I think he did it because he's Mexican and Mexican men take whatever they want.'"; "nine times out of ten Mexican men were guilty of being aggressive toward women and young girls."; "'an illegal.'"

Pena Rodriguez v. Colorado, 137 S. Ct. 855, 862 (2017).

> The juror affidavits that the White male defendant was not permitted to use contain clear statements that indicate several jurors relied on several bias as an absolute to convict the White defendant:

"I don't care what they say if a man won['t] testify for himself he is guilty."

"Mr. Larson's attorney said Mr. Larson was not going to testify for himself. That showed Mr. Larson was guilty of the crime."

"If he won't testify for himself he must be guilty."

"Anyone who won't testify for himself is guilty."

"I remember Joe [H.] announcing that if Larson did not take the stand in his own defense he was guilty and the other three jurors, the ballet dancer, the fireman from Easter and the tall light haired man all agreeing."

"we're supposed to look at everything, his wife not in the courtroom supporting him, shows he is guilty."

"she can't even support him in the court room, he must be guilty."

"she couldn't be in the courtroom because she could not look him in the eye, so he must be guilty."

Appellant's Opening Brief A-12945, pages 10-13.

- > The Mexican male defendant is afforded protections under, "the SIXTH AMENDMENT [which] requires that the no-impeachment rule give way in order to permit the trial court to consider the evidence of the juror's statement and any resulting denial of the jury trial guarantee." Pena-Rodriguez, 137 S. Ct. at 869.
- > The White male defendant is not afforded the same protections under, "the SIXTH AMENDMENT [which] requires that the no-impeachment rule give way in order to permit the trial court to consider the evidence of the juror's statement['s] and any resulting denial of the jury trial guarantee." id. at 869; SUMMARY DISPOSITION No. 0055, p.4 ¶ 3.

It is a self-evident truth that the White male defendant, Larson, and the Mexican male defendant, Pena-Rodriguez, are equally endowed by their creator with an inalienable right to Liberty and that both were similarly situated in a governmental process of being constitutionally deprived of their right to Liberty.

However, the Government is affording Pena-Rodriguez a right to produce juror affidavits, alleging juror bias, as evidence to prove the jurisdictional mandates of an impartial jury under the SIXTH AMENDMENT were not complied with during his Liberty deprivation process, where as Larson is not being afforded that same right. This is the Equal Protection violation that Larson complains of and this court has misconceived.

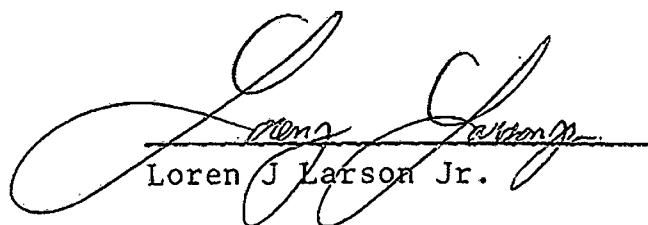
CONCLUSION

It is a FACT that is beyond dispute that the juror affidavits in Larson case contain clear statements of, "juror bias so extreme that, almost by definition, the jury trial right has been abridged." Pena-Rodriguez, 137 S. Ct. at 866.

It is also a fact beyond dispute that Pena-Rodriguez and Larson are entitled to equal treatment under the law in the deprivation of their Creator endowed inalienable right to Liberty. However, the government has not treated Larson equally in the endowment of rights Larson has to ensure an impartial jury and the expanded endowment of rights the government has given to Pena-Rodriguez to ensure an impartial jury.

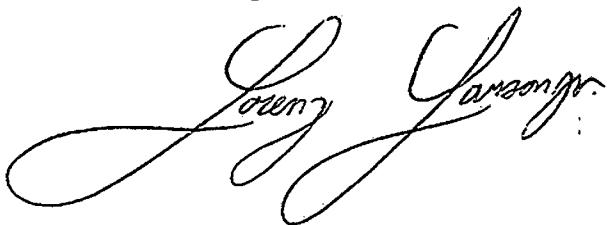
Rehearing should be granted and the superior court's decision reversed.

Respectfully submitted this 5th day of August 2019.



Loren J. Larson Jr.

I certify that a copy of this
Petition for Rehearing was mailed
to Nancy R. Simel at her address of
record on August 5, 2019.



Loren J. Larson Jr.

In the Supreme Court of the State of Alaska

Loren J. Larson Jr.,
Petitioner,

v.

State of Alaska,
Respondent.

Supreme Court No. **S-17595**

Order

Petition for Hearing

Date of Order: **12/20/2019**

Court of Appeals No. **A12945**
Trial Court Case No. **4FA-01-00511CI, 4FA-96-03495CR**

Before: Bolger, Chief Justice, Winfree, Stowers, Maassen, and Carney,
Justices

On consideration of the Petition for Hearing filed on **9/25/2019**, and the Response
of the State filed on **11/19/2019**,

IT IS ORDERED: The Petition for Hearing is **DENIED**.

Entered at the direction of the court.

Clerk of the Appellate Courts

Meredith Montgomery

cc: Supreme Court Justices
Judge McConahy

Distribution:

Mail:
Larson, Loren J.
Simel, Nancy R

Appendix B

IN THE SUPREME COURT OF THE STATE OF ALASKA

LOREN J LARSON JR.,

Petitioner,

v.

STATE OF ALASKA,

Respondent.

Supreme Court No. S-_____

PETITION FOR HEARING

Trial Court Case No. 4FA-01-00511CI
Court of Appeals Case No. A-12945

PRAYER FOR REVIEW

"I don't care what they say if a man won['t] testify
for himself he is guilty."

"Mr. Larson's attorney said Mr. Larson was not going to testify
for himself. That showed Mr. Larson was guilty of the crime."

"If he won't testify for himself he must be guilty."

"Anyone who won't testify for himself is guilty."

"I remember Joe [H.] announcing that if Larson did not take the
stand in his own defense he was guilty and the other three
jurors, the ballet dancer, the fireman from Easter and
the tall light haired man all agreeing."

"we're supposed to look at everything, his wife not in the
courtroom supporting him, shows he is guilty."

"she can't even support him in the court room, he must
be guilty."

"she couldn't be in the courtroom because she could not look
him in the eye, so he must be guilty."

Petitioner, Loren J Larson Jr., Prays for the Alaska Supreme Court to use it's Constitutional authority to evaluate Larson's claim of Equal Protection and declare that Pena-Rodriguez and Larson are similarly situated in that, like Pena-Rodriguez, "it would be impossible to refuse [Larson's] juror testimony without violating the plainest principles of justice." because Larson's conviction suffers from "juror bias so extreme that, almost by definition, the jury trial right has been abridged." Pena-Rodriguez v. Colorado, 137 S. Ct. 855, 863, 866 (2017).

STATEMENT OF FACTS

On July 16, 1997, about halfway through the first day of jury selection, the State made a request outside the presence of the prospective jury panel. The State's request was to have Larson's new born daughter removed from the courtroom on the grounds that the child would raise sympathy on the part of the jurors, sympathy that had nothing to do with the finding of guilt or innocence. The trial court then asked if Larson's daughter could be cared for at home because of the court's concern that the child might become a distraction. Larson, who was released on bail and living with his wife and children at his mother and father in-laws, explained to the trial court that his daughter was breast feeding at intervals of every 2-2½ hours and that it was necessary for his daughter to be in the presence of his wife as his wife attended the trial. The trial court persisted in asserting Larson's daughter might become a future distraction and continued the request for the child to be cared for outside of the courtroom. After court concluded that day, Larson and his wife discussed the situation. Larson and his wife understood by the trial court's comments that their new born daughter was not to be in the courtroom. Because Larson's daughter could not be left at home without her mother to care for her needs, Mrs. Larson no longer attended her husbands trial. Several of the prospective jurors, who were ultimately seated, took notice that Larson's wife was no longer in attendance. Those jurors then used the absence of Mrs. Larson as evidence of absolute guilt to convict Larson of the crimes the State was accusing Larson of committing. Appellant's Opening Brief A-12945, pages 17-20.

During voir dire and again before deliberation all of the seated jurors were instructed by the trial court that no inference of guilt could be attributed to Larson if he chose not to testify in his own defense. However, several of the jurors used Larson's failure to testify as evidence of absolute guilt to convict Larson of the crimes the state had accused Larson of committing.

The State has never challenged the juror affidavits or the statements they contain are anything but clear, accurate, truthful recitations of the exact words that were spoken by jurors to other jurors during the entire course of Larson's trial. Appellant's Opening Brief A-12945, pages 8-13.

Larson has never received a ruling from a State or Federal Court that incorporates any of the actual juror quotes (See PRAYER FOR REVIEW) which articulates why those actual juror quotes do not amount to an actual juror bias that deprived Larson of his basic due process rights during the process, criminal trial, the Government used to deprive Larson of his Inherent Right to Liberty.

STATEMENTS OF POINTS RELIED ON

- 1) Since 1852 the United States Supreme Court has repeatedly stated: "cases might arise in which it would be impossible to refuse juror testimony without violating the plainest principles of justice". Pena-Rodriguez, 137 S. Ct. 855, 863 (2017). Mr. Rodriguez was allowed to have the specific quotes from his juror affidavits, Id at 862, evaluated by a Court to determine if the juror's statement's indicated, "juror bias so extreme that, almost by definition, the jury trial right has been abridged." Id at 866.
- 2) The intermediate court is not affording Mr. Larson the same right, as was given to Mr. Rodriguez, to have the specific quotes from Mr. Larson's juror affidavits evaluated by a court to determine if the specific juror statements are "violating the plainest principles of justice" through "juror bias so extreme that, almost by definition, the jury trial right has been abridged." Pena-Rodriguez, 855 S. Ct. at 863, 866.
- 3) The intermediate court's refusal to evaluate, as it was done for Mr. Rodriguez, the specific quotes from Larson's juror affidavits to determine if they "violate the plainest principles of justice" through "juror bias so extreme that, almost by definition, the jury trial right has been abridged" violates Larson's State and Federal rights to Equal Protection under the law. Alaska Const. Art. I, § 1; USCS Const. Amend. 14.

- 4) The actual statements that were made by jurors in Larson's case make it impossible to refuse Larson's juror affidavits without violating the plainest principles of justice. Penarodriguez, 137 S. Ct. at 863. Those actual juror statements are:

"I don't care what they say if a man won['t] testify for himself he is guilty."

"Mr. Larson's attorney said Mr. Larson was not going to testify for himself. That showed Mr. Larson was guilty of the crime."

"If he won't testify for himself he must be guilty."

"Anyone who won't testify for himself is guilty."

"I remember Joe [H.] announcing that if Larson did not take the stand in his own defense he was guilty and the other three jurors, the ballet dancer, the fireman from Easter and the tall light haired man all agreeing."

"we're supposed to look at everything, his wife not in the courtroom supporting him, shows he is guilty."

"she can't even support him in the court room, he must be guilty."

"she couldn't be in the courtroom because she could not look him in the eye, so he must be guilty."

STATEMENT OF CONCRETE REASONS WHY DISCRETIONARY
REVIEW IS WARRANTED

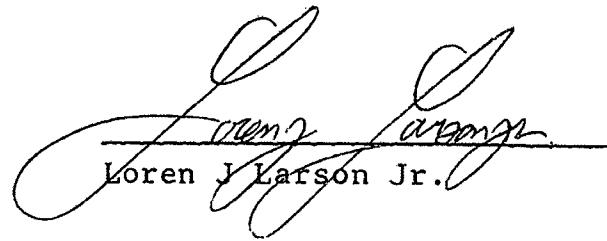
- 1) The "ends of justice" would be served by this Court granting discretionary review. Perry v. State, 429 P.2d 249, 253 (Alaska 1967). For reasons that are self-evident; there is no possibility that the Justices of this Court could have read the actual juror statements on the first page of this petition and then come to a conclusion that the Government deprived Larson of his Liberty by a constitutional process that involved a fair trial in a fair tribunal. Irvin v. Dowd, 366 U.S. 717, 722 (1961); See Alaska R. App. Proc. R. 304(a)(b)(c)&(d).
- 2) The intermediate court states: "Although both Pena-Rodriguez and Larson had a right to an impartial jury, the two men were not, based on the potential biases each faced, otherwise similarly situated" SUMMARY DISPOSITION No. 0055, p.4. The intermediate court correctly found that both Pena-Rodriguez and Larson were similarly situated in that both had the right to an impartial jury. The intermediate court failed, however, to recognize that Pena-Rodriguez received a right (that Larson did not) to have the juror's actual statements examined by a Court to determine if, "it would be impossible to refuse [the] juror testimony without violating the plainest principles of justice." because the testimony contains "juror bias so extreme that, almost by definition, the jury trial right has been abridged." Rodriguez, 137 S. Ct. at 863, 866; See Alaska R. App. Proc. R. 304(a)(b)(c)&(d).

CONCLUSION

The fundamental Sixth Amendment right to trial by a panel of impartial, indifferent jurors was found to be guaranteed through the Fourteenth Amendment upon the states in Duncan v. Louisiana, 391 U.S. 145, 148-150 (1968). In protection of the Sixth Amendment jury trial right, Pena-Rodriguez was given a right to judicial review of his juror affidavits that specifically examined the juror's actual statements for bias so extreme it would, if found, be impossible for the court to refuse the juror testimony without violating the plainest principles of justice. Rodriguez, 137 S. Ct. at 863, 866. Larson is guaranteed, under Equal Protection, to be treated the same and receive a judicial review that specifically examines the juror's actual statements to determine if there are expressed biases that are so extreme, it would be impossible for the court to refuse the juror testimony without violating the plainest principles of justice. Id. at 863, 866.

The intermediate court's SUMMARY DISPOSITION of July 31, 2019 should be reversed with an instruction that Larson's juror affidavits contain statements of bias by jurors that are so extreme, Larson's Sixth Amendment jury trial right has been abridged, requiring that Larson's conviction be reversed.

Respectfully submitted this 17th day of September 2019.



Loren J. Larson Jr.

I certify that a copy of this
Petition for Hearing was mailed
to Nancy R. Simel at her address
of record on September 17, 2019.



LODGED

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT AT FAIRBANKS

LOREN J. LARSON, JR.

Applicant,

vs.

STATE OF ALASKA,

Respondent

Case No. 4FA-01-00511-CI
In Connection w/4FA-96-3495CR

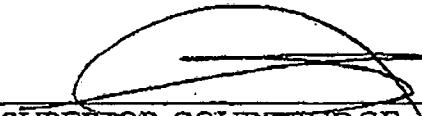
ORDER DENYING MOTION FOR RELIEF FROM JUDGMENT

I certify this document and its attachments do not contain the (1) name of a victim of a sexual offense listed in AS 12.61.140 or (2) residence or business address or telephone number of a victim of or witness to any offense unless it is an address identifying the place of a crime or an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

This matter having come before this court, and the court being fully advised in the premises,

IT IS ORDERED that the Applicant's Motion for Relief from Judgment hereby DENIED.

DATED at Fairbanks, Alaska this 21 day of August 2017.


SUPERIOR COURT JUDGE

This is to certify that a copy of the foregoing is being delivered via mail to the following attorneys or parties of record: Loren J. Larson, Jr., ACOMS 24981, Goose Creek Correctional Center, 22301 W. Alsop Rd., Wasilla, AK 99654

Name

7/31/17

Date

NO evidentiary
hearing is necessary
to decide this

MOTION.

REASONS
8/21/17

I certify that 6 copies of this form were sent to:
CLERK: RE

DA
L. LARSON

584

AFFIDAVIT

I, Melodee Markgraf Sonneberg, 1166 Molly Road, Fairbanks Alaska make the following statement.

I was a juror on the Mr. Larson homicide case in 1997 and deliberated the case with the other jurors at the end of the trial.

I feel that during the deliberations I was coerced into voting Mr. Larson guilty by jurors who had made up their mind of Mr. Larson's guilt well before the jury deliberations. I will explain what I mean.

During the first week of trial, Juror Hayes and a male juror who always wore a black leather jacket, talked during most breaks that Mr. Larson was guilty. I heard them discussing the testimony of witnesses and how it showed that Mr. Larson was guilty. I have tried to remember everything I heard and will repeat them now.

I heard them say that "we're supposed to look at everything, his wife not in the courtroom supporting him, shows he is guilty."

I heard them say that Mr. Larson's attorney said Mr. Larson was not going to testify for himself. That showed Mr. Larson was guilty of the crime.

During these conversations there were other jurors listening and agreeing with them but I cannot say positively who they were. I know the dancer and a tall blonde male juror were frequently involved in the conversations. They both acknowledged Mr. Larson's guilt and agreed with the statements. This was being done well before the deliberations.

I also heard Mr. Hayes state at numerous breaks that he wished the trial would hurry up and get over because it was obvious to everyone that Mr. Larson was guilty. The juror with the black leather jacket and the tall blonde juror at times would agree with Mr. Hayes and they would then enter into conversation concerning the evidence.

I believe that these conversations at the window and the statements of Mr. Larson's guilt were meant to convince those of us who were not involved in making the statements nor involved in the conversation.

I remember a time in the jury room when the tall blonde juror, Mr. Hayes, the man in the black leather vest, a juror by the name of Stella and maybe others discussed the issue of the .22 rifle and what it would sound like, where the casings landed, why didn't the kids hear it, and other conversation reference what we had just heard in the courtroom. I believe Stella was saying that the kids would have heard the shooting and the others were saying they would not have heard the shooting. It was obvious to me that they were deliberating the case. Stella was trying to show Mr. Larson was not guilty and the others were trying to show that he was guilty.

I remember at least one time telling Mr. Hayes he should not be talking about the case. Mr.

Appendix D

Hayes had just made a statement to another juror that he was sure that Mr. Larson was guilty. For a while it would quit but then start up again.

I remember jurors talking about glass in the carharts and how that evidence showed Mr. Larson's guilt. This was prior to deliberations.

I remember other jurors cautioning jurors not to talk about the case and one time the bailiff even commented to Mr. Hayes that he should not talk about the case.

I remember that after Mr. Larson's business partner testified, Mr. Hayes came into the jury room and told other jurors that the witness was a liar and would do anything to get Mr. Larson off because they were friends and the partner was trying to save his business.

During the actual deliberation I think I was the last one voting that Mr. Larson was not guilty. The others who felt he was not guilty changed their minds but for me it was not until Mr. Hayes came to me by himself and convinced me that the glass expert proved Mr. Larson's guilt. This was the same thing he had said prior to jury deliberations and after the witness had testified. I felt Mr. Hayes was not going to give up since he had his mind made up for so long and had convinced everyone else. I did give up and voted guilty even though I did not feel he was guilty. I have regretted that decision ever since.

I believe other jurors will come forward and tell the truth about the constant pressure in the jury room caused by Mr. Hayes, the juror in the black leather vest and the other jurors who took part in the conversations which resulted in the predetermination that Mr. Larson was guilty.

I do not know why Mr. Larson did not take the stand, why his wife wasn't in the courtroom, how loud the .22 was, or what the glass breaking would have done. I don't see how these other jurors could have known for certain so how could they decide he was guilty before the deliberations.

I swear the above information is true and sign this affidavit document under the penalty of perjury.

Dated this 18th day of December, 2000

Melodee Sonnenberg

Melodee Markgraf Sonnenberg

Subscribed and sworn to me this 18th day of December 2000.

Kay I. Mason
Notary Public

My commission expires 8-29-2003

Page 2 of 2

AFFIDAVIT

I, Stella Wynia, Box 55353, 3493 Kersten Court North Pole Alaska, 99705 make the following voluntary statement:

I was an alternate juror sworn in to hear the case of the State of Alaska vs Loren Larson.

During the course of the trial and prior to being excused at the end of the trial as an alternate I made the following observations.

Within the first day of trial I observed that Juror Joe Hayes nodded off and fell asleep during testimony given in the trial. I knew he was asleep or "nodding off" because I saw his eyes closed, his head cocked to the side and on-occasion, heard him snoring. I do not know how long he was asleep prior to my observation but I would poke him awake when I observed him sleeping. I commented several times to Mr. Hayes during the breaks that he should stay awake and he responded that he had to work at night and it was very hard for him to stay awake.

I specifically remember waking Mr. Hayes up during a time of testimony when there were photographs of the entrance and exit wounds being shown to the jury on a tv screen. Mr. Hayes' napping was an everyday occurrence.

Mr. Madsen asked the jurors if they would hold it against his client if he chose not to testify. Later I heard Mr. Hayes state, "anyone who won't testify for himself is guilty". This comment was made in the jury room. After it was made another juror commented that he agreed with Mr. Hayes, that Mr. Larson must be guilty. This other juror was known to me as the fireman from Ester. A third juror who I describe as a young blonde haired man also stated "if he won't testify for himself he must be guilty."

During the three weeks of listening to the case I heard jurors discussing the evidence they had just heard. Myself and at least two other jurors cautioned the other jurors not to discuss the case. After the warnings it would stop for that break but then resume again at the next break. The topics I heard being discussed by the jurors are as follows.

I took part in a conversation concerning the .22 caliber weapon and how loud the shots would have been. The kids were only separated by a curtain for a door and they were in the other room. Also, how large the gun would have been was discussed, I have regretted being involved in the conversation. This conversation took place after there had been discussion in the courtroom concerning how Mr. Larson could have gotten inside the house without being noticed and why no one heard shots.

I heard both the firefighter from Ester and Joe Hayes make the statement and talk about how Mr. Larson had to be guilty because his wife wasn't in the courtroom. Specifically I remember stating "she can't even support him in the court room, he must be guilty." I also heard Hayes state that "she couldn't be in the courtroom because she could not look him in the eye, so he must be guilty." During this exchange of comments I also heard a juror who is a blonde female dancer state Mr. Larson must be guilty because the wife was not in the courtroom.

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Appendix E

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She was agreeing with Mr. Hayes and the fireman. I believe that the blonde ballet dancer had gone to school with the fireman. I remember these statements were made during the break and were made several days prior to the end of the trial. All three persons were standing by the window and Juror Marta and a juror who was a social worker told them they should not be discussing the case. Juror Amy also told the three involved in the conversation that maybe the wife was at home with the child and she very forcefully told them not to be talking about it.

During another break and after the glass expert testified, Mr. Hayes commented that the expert proved Mr. Larson's guilt by his testimony concerning the glass. During this same time there was a general discussion of the glass expert's testimony and one of the jurors, who was familiar with heavy equipment, told the rest of us what would happen if a piece of glass broke in a piece of equipment. I remember that most of the jurors were really impressed with the glass expert's testimony and that he could tell if glass was from the same roll of glass at the factory. I consider this deliberating the case prior to the end of the case.

I remember that as the trial was winding down and before the alternates were picked Mr. Hayes came into the jury room and commented "I have some place to be this afternoon and this has to be over quickly. He is sooo guilty."

During yet another break the jurors discussed the fact that the carhart coveralls were found in such a manner as to show that Larson had quickly gotten out of the coveralls. I took part in this conversation by stating that I did not think that is what the picture of the coveralls showed. I have regretted taken part in the conversation. I believe this was also deliberating the case.

I remember after witness Timmons testified that there was discussion in the jury room that Timmons was lying to save his business, because Mr. Larson was his business partner. The jurors I remember being part of this conversation were Mr. Hayes, the fireman and the tall blonde juror.

After the two witnesses who were in the next apartment testified there was conversation in the jury room that both witnesses lied and how could they lie so much. I know Mr Hayes was a part of the conversation but I am not sure who else was.

After Trooper McCann testified Hayes commented that he really put Defense Attorney Madsen in his place and that McCann was very good because he caught the footprints in the snow when other persons had missed it. This same group of persons also commented on how the Judge could allow the bickering back and forth between McCann and Madsen. They were laughing about it.

There was also discussion between the jurors on the evidence presented of the distinct pattern left by the shoe and that it must have been because of the distance Mr. Larson dropped from the deck and his weight that left such a distinct pattern. This was all being talked about as the trial was going on.

Prior to being let off the jury I heard a comment ^{from} a juror that Mr. Larson was going to get what he deserved because he chose to be involved with drugs. This comment I remembered being made in the jury room but I do not know who said it. I was appalled.

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Members of the jury also discussed the fact that a witness found glass in the lining of the boots and how thorough she must be. This was prior to the deliberation.

I also heard several jurors comment that they wished Mr. Larson would get up to speak for himself and if not it proved his guilt.

I believe that the ballet dancer juror, the fireman from Ester, Mr. Hayes, and the tall blonde juror, talked constantly during the breaks about Mr. Larson being guilty and what evidence they heard that supported that theory. This was done on a daily basis and more so the last week of trial.

I swear the above information is true and sign this affidavit document under the penalty of perjury.

Dated this 16 day of ~~Dec~~, 2000

~~Stella Wynia~~
Stella Wynia

Subscribed and sworn to me this ¹⁶ day of ~~December~~, 2000.

Debra J. Macey
Notary Public

My commission expires 8-29-2003

SW 30K

AFFIDAVIT

I Cameron Wohlford, Box 8 Ester Alaska am a volunteer fireman in Ester Alaska and a civil engineer at the University of Alaska make the following voluntary statement.

In 1997 I was a member of a jury on the State of Alaska vs Larson case.

During the breaks in the trial I usually spoke with Joe Hayes and Naomi Russell and we spoke of many things. Specifically I remember speaking with Joe Hayes after the jury had heard witness testimony concerning crack cocaine. Joe Hayes and I did comment to each other that Larson was at least guilty of drug offenses. This occurred prior to jury deliberation.

Myself and other juror members commented on whether or not Larson was going to testify for himself at the trial. We talked amongst ourselves whether he was going to testify about the glass breaking in the excavator accident that was testified to. This was prior to deliberations..

Myself and other jurors also discussed why he would put his family in harms way and not come out of the house earlier than he did. We wondered why a man would put his family in jeopardy if he did not have to and if he was going to take the stand and explain it. This was prior to deliberations.

I remember explaining to the jury how much noise a 22 would make and I was amazed that jurors living in Alaska would not know this. I think I may of even made a joke of it. Some of the jurors questions were, how much noise would it make, would it kick, and would it kill someone. I remember there was a lot of discussion on this issue. This may of come up prior to deliberations but I am sure it came up while we were in deliberations as well.

During the jury trial I remember several persons had cellular phones but I never saw anyone using them during the trial.

I specifically remember that half way through the trial a male juror came into the jury room and said that "We were on TV last night". Further the male juror also named the person who was on tv. (www)

During the trial I spoke with several of the jurors who were concerned that the jury had a woman who worked at the Daily News Miner on the jury. We felt she would have access to the newspaper accounts of the trial.

I remember several times catching myself talking about witness testimony and had to remind myself that I could not do that. Additionally I was one of several jurors who commented to others that we could not talk about the case. On one of these occasions I think the topic was a witness who was going to be called on the excavator accident question and I think my statement was whether or not I would know him. I was talking to Naomi Russell and commented to her about what the big deal was concerning the glass from the excavator. This was prior to deliberations because the DA was going to call another witness.

I remember hearing a statement that the glass expert really knew his "shit". This witness was



Appendix F

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close to the end of the trial so I can't be sure whether it was before or after deliberations started..

I remember that many of the jurors wondered out loud why Larsons wife was not present in the courtroom supporting him. Some of the jurors said it was not right that she was not there and others stated that she should of been there supporting him and wondered why she was not. I do not know why she was not there.

I swear the above information is true and sign this affidavit document under the penalty of perjury.

18th December
Dated this 18 Day of 2000


Cameron Wohlford

18th
Subscribed and sworn to me this 18 Day of December 2000

Kay J. Macy
NOTARY PUBLIC

My Commission Expires 8-29-2003

AFFIDAVIT

I, Albina Garman, 1013 Hertha Turnaround North Pole Alaska, make the following voluntary affidavit:

In July of 1997, I was a juror sworn in on the State vs. Larson case.

During the trial I observed conduct within the jury room which was in conflict of the Judge's instructions not to discuss the case before all of the evidence was in, and not to deliberate the case prior to hearing all of the evidence. It is my statement that both of these instructions were not complied with by more than 50% of the jurors on the case. The following are examples of the jurors not following the Judge's instructions. I should also say that in the first part of the trial the discussions were not as frequent as they were in the final week. I will attempt to name the jurors involved to the best of my ability however, because I was trying to follow the judges instructions I did not involve myself in the conversations or "investigate" who was actually saying what. Also, most of these discussions were by the window and I was seated at the long table.

Approximately two days before the end of the trial I observed Mr. Hayes, a Native juror by the name of Amy, a male juror who I do not know the name of, and a female juror who I remember was, or was going to be, a ballet dancer, discussing the case. I heard a male juror state "He's Guilty" and the rest of the jurors at the window appeared to be agreeing. I do not know who made the statement but in my mind they were discussing and deliberating the facts of the case. This was during the last week of testimony, a time that a group of the jurors that I came to consider as the deliberators, were gathering together at break time to discuss witness testimonies and other information given to the jury. The ones I feel were not part of this group were myself, Marta and Stella. Not all group members participated all the time. Some not as frequently as others. The most vocal person in this group was Mr. Hayes.

On several occasions George Byerly and a blonde juror who was a friend of Marta's warned this group of jurors not to be discussing the case and it would stop for that break and then restart later.

I also heard two male jurors discussing the issue of the glass as evidence. This was after the glass expert had testified. I felt this was wrong.

I observed the Judge pointing at a juror and shaking her finger and cocking her head to the side. The judge may have been admonishing a juror for dozing off.

During the last week of the trial at the breaks I heard this group of jurors stating that Mr. Larson was guilty. I felt that they had already made up their minds. Toward the end of the last week I heard comments from this group that Mr. Larson was guilty and they just wanted to get it over with.

In my opinion this constant talk of Mr. Larson's guilt by a majority of the jurors was a subtle way of letting it be known that most of the jurors believed in Mr. Larson's guilt. I did not think this was right and I stayed away from the group as much as possible.



Appendix G

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I swear the above information is true and sign this affidavit document under the penalty of perjury.

Dated this 16th day of Dec, 2000

Albina V. Garman

Albina Garman

Subscribed and sworn to me this 16th December day of , 2000.

Albina V. Garman Kay T. Macy
Notary Public

My commission expires 8-29-2003

لله

Loren J. Larson, Jr.
ACOMS # 204981
Goose Creek Correctional Center
P. O. Box 877790
Wasilla, Alaska 99687-7790
PH # 907-864-8100

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT

Loren J. Larson, Jr.,)
Applicant,)
vs.)
Joe Schmidt)
Commissioner of Corrections,)
Respondents,)

Case No. 4FA-4FA-12-01083 CR

STATE OF ALASKA)
) ss.
FOURTH JUDICIAL DISTRICT)

AFFIDAVIT OF MELODEE SONNEBERG

I, Melodee Markgraf Sonneberg, having been first duly sworn upon oath, hereby deposes and states as follows:

1. I am over 18 years of age and fully competent to make this affidavit. I have personal knowledge of all information stated herein and those facts are true and correct to the best of my knowledge and belief.

2. I am a school teacher at Wood River Elementary in Fairbanks, and have resided in Fairbanks before during and since my being a juror in this matter. Because of the events which occurred in the jury room before and during deliberations in this matter I still have a very good memory of the events and what occurred. I have taken by sworn duty as a juror very seriously and I take this affidavit as seriously.
3. I make the following statement of my own free will, and I have not been promised anything or threatened in anyway.
4. I was a juror sworn in to hear the case being prosecuted against Loren Larson.
5. In making this affidavit I met with Private Investigator Rollie Port. Mr. Port explained to me that Mr. Larsons current court action required him to clarify some of my previous statements. As it has been a long time since the trial. Mr. Port showed me a copy of my previous affidavit and relevant parts of the voir dire transcript to help my memory as to some things. The statements I made in my previous affidavit are still correct and nothing has changed. My recollections in this affidavit is from my personal knowledge.
6. All potential jurors, including the alternates, were sworn to tell the truth as to the answers given during voir dire, myself included.
7. Mr. Larsons trial counsel —Mr. Madsen—asked prospective jurors if they would hold it against Mr. Larson if Mr. Larson did not choose to testify. Specifically I remember jurors Hayes, the ballet dancer (Naomi Russell),

- the Ester Fireman (Cameron Wohlford) and a tall juror with light colored hair were asked these same questions and answered they would not hold it against Mr. Larson if he chose not to testify. All Jurors answered that they would not hold it against Mr. Larson. It had been earlier explained to the jurors that a Defendant had the right not to testify during the trial and that this decision could not be used against the Defendant.
8. All jurors were given the same instructions regarding the defendants right not to testify and it was gone over again with questions from defense counsel and the prosecutor. Specifically I can attest that jurors Joe Hayes, whom I knew prior to the trial , the fireman from Ester {Cameron Wohlford}, the juror known as the "ballet dancer" (Naomi Russell), and a fourth juror with light colored hair consistently talked during the breaks in the trial testimony how they all felt Larson was guilty. Specifically I remember Joe Hayes announcing that if Larson did not take the stand in his own defense he was guilty and the other three jurors, the ballet dancer, the fireman from Ester and the tall light haired man all agreeing. I was astounded by this as they had been told by the court that a defendant had the right not to testify at trial and that his testifying could not be used against him. These jurors disregarded the instructions of the judge overseeing the case or lied to the court when they agreed not to hold it against Larson if he did not testify at the trial.

9. Joe Hayes continually and consistently would tell other members of the jury that "this will be a quick verdict" and then relate this statement to whomever was currently on the stand testifying and how the testimony proved Mr. Larsons guilt. I admonished Hayes to not make these statements but he disregarded me and continued. To
10. During the specific testimony concerning the discharge of the .22 caliber I remember a juror by the name of Stella, Joe Hayes, and the man in the black leather vest and was a fireman from Ester (Cameron Wohlford) discussing how much noise a .22 caliber would make and discussing the trial testimony of the witness. This again astonished me because all jurors had been admonished not to talk about the case during the breaks. It is my belief that the four jurors lied to the judge when they said they would not hold it against Mr. Larson if he did not testify at trial and then totally disregarded the courts instructions not to discuss the evidence being presented prior to deliberations.
11. During the deliberations I felt I was intimidated into voting Larson guilty of Murder and the related offenses by Juror Hayes. I was wrong to be influenced by Hayes but I was. Specifically during the deliberations, myself and two other jurors had not made up our minds and were discussing the evidence. Hayes was very upset over this and took me aside from the other jurors and told me "Mel he is guilty so just vote guilty and we can all go home. I do not want to come back here another day." Speaking only for

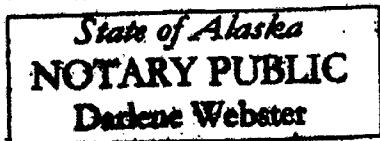
myself I felt I was coersed into voting Mr. Larson guilty so as not to be further harassed by Hayes. I felt intimidated by Mr. Hayes.

12. Specifically I remember a witness testifying in court and that immediately afterwards Hayes came into the jury room and announced to the other members of the jury and myself that the witness testimony proved Larsons guilt. This was well before jury deliberations and I remember telling Hayes he should not make those type of statements. Hayes ignored my statement to him, which I had made in front of the other jurors, and continued to comment on the evidence being presented as proof of Larsons guilt.



MELODEE SONNEBERG
Affiant
900 Gold Pan Road
Fairbanks Alaska

SUBSCRIBED AND SWORN TO before me this 25TH day of July 2014.



Darlene Webster
Notary Public in and for Alaska
My Commission Expires: 09/15/2014

CERTIFICATE OF SERVICE

Affidavit of Sonnenberg
Case No. 4FA-12-01682 CRI

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT

Loren J. Larson Applicant,

vs.

State of Alaska

Respondents,

Case No. 4FA-596 3495CR

STATE OF ALASKA)
FOURTH JUDICIAL DISTRICT) ss.

I, Stella Wynia, having been first duly sworn upon oath, hereby deposes and states as follows:

1. I, Stella Wynia, 245 E Centennial Parkway, North Las Vegas Nevada 89084 make the following voluntary affidavit:
2. My husband is retired law enforcement. My daughter works for Homeland Security, one of my sons is a North Las Vegas Police Officer and my other son and daughter in law are both FBI agents. I take my serving on the jury very seriously and this affidavit very seriously.
3. I was a juror on the State of Alaska vs Loren Larson homicide trial in 1997.
4. I had signed a previous affidavit in this matter and Investigator Port has provided me with a copy of the document. I affirm that the items contained in that affidavit are true and correct and that nothing has changed since I signed the previous document.

Affidavit of Stella Wynia
Case No. 4FA-596 3495CR

Page 1
Appendix I

5. I remember that all jurors were asked to take two separate oaths. All the jurors promised to tell the truth in their answers to the defense counsel, the district attorney and too the judge.
6. Specifically I remember Larson's attorney asking the fireman from Ester (Cameron Wohlford), if he would hold it against Larson if he did not testify and the fireman stated he would not hold it against him. Investigator Port read from a transcript the questions and answers and it is the same as my recollection and my memory. (Page 27 and 28 of the Voir Dire of Cameron Wohlford).
7. Specifically I remember the Judge stating that a defendant can testify or not testify and that fact cannot be used against him. Within minutes of the judge telling us this I was absolutely appalled to hear juror Joe Hayes come into the jury room during break and announce "I don't care what they say if a man won" testify for himself he is guilty. I remember one of the older female white jurors telling him to not say that.
8. Specifically I remember telling Larson's attorney that it would not bother me at all if Larson did not testify.
9. Specifically I remember Larson's attorney asking the ballet dancer (Naomi Russell) if she would have any trouble dealing with Larson not testifying and her saying that she would like to hear the defendant's side of the story but she would not hold it against him.
10. Specifically I remember juror Hayes because I had to keep waking him up during the trial. I remember him sleeping during the specific testimony of the glass expert and the two witnesses who lived in front of the cabin.
11. I remember Joe Hayes telling the court he was involved in law enforcement at the University so I was stunned several days later when he announced in the jury room "Anyone who won't testify for himself is guilty" and equally stunned when the fireman (Wohlford), the ballet dancer (Russell) and the young man the long blond hair also agreed with Hayes.. This was prior to deliberations and only a day into. This was the second time Hayes made this same statement.

12. Specifically I believe that Hayes, the fireman, the ballet dancer and the young blonde man did not tell the court the truth when they said they would not hold it against Larson if he did not testify.

13. Based on my personal observations of events in the court room and in the jury room prior to deliberations I can attest to the following.

a. I remember Larson's defense counsel specifically did ask the members of the jury if they would hold it against Larson if he did not testify in the trial. My recollection is that each of the jurors answered affirmatively that they would not hold it against Larson if he did not testify.

14. Prior to deliberations and immediately after the testimony on the .22 I went into the jury room and asked my fellow jurors how much noise the shooting of a .22 would make and it was met with disbelief that I would not know this. I remember that I was told that it was not very loud and then one of the jurors slammed something on the table and said it was about that loud and the other jurors all laughed.

13. Lastly I remember several months after the trial I saw one of the other female jurors at my place of employment at Santa Claus House in North Pole. She told me she had been coerced and intimidated by Joe Hayes in to voting guilty.

DATED this 17 day of June, 2014.

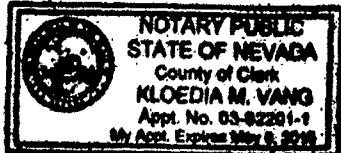

STELLA WYNIA Affiant
245 E. CENTENNIAL
North Las Vegas, Nevada)

Affidavit of Stella Wyna
Case No. 4FA570-3492 Carla

Page 3



SUBSCRIBED AND SWORN TO before me this 17 day of June,
2014.



Notary Public in and for Nevada
My Commission Expires: May 08, 2014

CERTIFICATE OF SERVICE

I, _____, hereby certify that
A true and correct copy of the
Affidavit of _____ was mailed to:

Date

Affidavit of Stella Wynn Jr
Case No. 4FA-97-344 Carla

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Loren J. Larson, Jr.

ACOMS # 204981

Goose Creek Correctional Center

P. O. Box 877790

Wasilla, Alaska 99687-7790

PH # 907-864-8100

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT

Loren J. Larson, Jr.,
Applicant,

vs.

Joe Schmidt
Commissioner of Corrections,
Respondents,

Case No. 4FA-12-01083 CR

STATE OF ALASKA
FOURTH JUDICIAL DISTRICT

)
) ss.
)

AFFIDAVIT OF ALBINA GARMAN

I, Albina Garman having been first duly sworn upon oath, hereby deposes and states as follows:

1. I was on the jury who heard the case against Mr. Loren Larson.
2. I am still a resident of North Pole Alaska and am still employed at the Fairbanks Daily News Miner.

Affidavit of Garman
Case No. 4FA-12-01083 CRI

Page 1
Appendix J

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3. After being selected as a juror I took my responsibilities very seriously and took notes and paid very close attention to all aspects of the trial. I ended up not taking notes because the bailiff kept handing out the the wrong juror note pads and I kept getting one of the other jurors notes and not my own. I observed that most of the jurors were swapping the notebooks around till they got the right one. I did not look at other jurors' notes but I can say that whatever notebook I received It was not mine and I just put it aside and chose not to take any more notes. I am not sure which juror got my notes and if they read my notes.
4. At one point I noted the judge instructing another juror to awake the juror next to them and cocked his head noting the juror was dozing off.
5. I took the Judges instructions very seriously and even asked to be reassigned at my job so as to not hear what the reporters talked about as they were covering the trial.
6. As a juror I was sworn in by the Judge to follow his instructions during the course of the trial. All of the other jurors took the same oath I did.
7. Private Investigator Rollie Port has provided me with a copy of my previous affidavit in this matter. I have read this affidavit and 14 years later still have a recollection of the events which transpired during the trial. My previous affidavit is still correct in every aspect.
8. Specifically I remember the statements of the court, the defense and the prosecution which were directed to all of the jurors during the jury

selection process. I remember the statement of the judge that a defendant has the right not to testify at trial and the fact that his decision to not testify could not be used against him.

9. Specifically I observed and heard over half of the jury members make statements to other members of the jury that Larson must be guilty after different witnesses testified in court. Specifically the glass witness.
10. Specifically I remember the most vocal member of the jury who constantly and consistently pointed out pieces of testimony and evidence which in his eyes showed Mr. Larson was guilty. This juror was Mr. Joe Hayes. Mr. Hayes comments against Mr. Larson was almost on a daily basis and I believe it was being done to coerce the other members of the jury as to Mr. Larsons guilt. I feel this was certainly contrary to the instructions we were given by the Judge before any deliberations and I think the jurors who did take part in discussing the evidence and coming to conclusions were absolutely wrong in doing so. Again only half of the jurors were involved in this conduct. I should have reported these inappropriate juror conversations to the bailiff however I did not want to be seen as a tattle tale .
11. At one point I heard two of the male jurors discussing the glass evidence and I immediately removed myself from the area. I should of reported this conversation but I did not.

12. I specifically remember a group of jurors talking of the evidence of the case and overheard one of the male jurors make a statement that Mr. Larson was guilty. I again knew this was inappropriate so I removed myself from the area but I did not report it to the bailiff. This occurred just two days prior to the end of the trial.

13. It is my opinion based on what I observed and the conversations I overheard that the majority of the jurors had there mind made up as to Mr. Larsons guilt prior to the end of the trial.

14. Specifically I remember the jury foreman George Byerly and a female blonde juror asking the jurors discussing the evidence and making statements of Larsons guilt to cease talking about the evidence during the breaks given by the court. The jurors involved would cease there discussion of the evidence for the remaining break time only to start again at the next break. By far the main abuser of the judge's instructions was Joe Hayes.

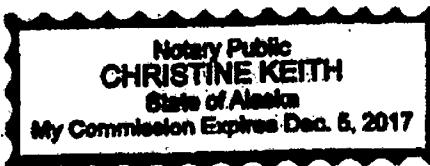
15. On one occasion a witness testified as to safety glass in a door opposed to the glass found in a piece of equipment. Because some of the jurors knew my husband was a mechanic I was asked my thoughts on the issue. Members of the jury were deliberating the glass testimony at the jury table and before I could respond to there question the foreman told me not to talk about it. This was done immediately after the testimony and before the end of the trial.

16. DATED this 28th day of July 2014.

Albina V. Garman
ALBINA GARMAN
Affiant
1013 Hertha Turnaround
North Pole, Alaska

SUBSCRIBED AND SWORN TO before me this 28th day of July 2014.

Christine Keith
Notary Public in and for Alaska
My Commission Expires: 12-5-2017



Affidavit of for me
Case No. 4FA-12-0083 CRI

Page 3

Loren J. Larson, Jr.
ACOMS # 204981
Goose Creek Correctional Center
P. O. Box 877790
Wasilla, Alaska 99687-7790
PH # 907-864-8100

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT

Loren J. Larson, Jr.,)
Applicant,)
vs.)
)

Joe Schmidt
Commissioner of Corrections,
Respondents,)

Case No. 4FA-4FA- 12-01083 CR

STATE OF ALASKA)
) ss.
FOURTH JUDICIAL DISTRICT)

AFFIDAVIT OF TARA DEVAUGHN

I, TARA DEVAUGHN having been first duly sworn upon oath, hereby deposes and states as follows:

1. I am over 18 years of age and fully competent to make this affidavit. I have personal knowledge of all information stated herein and those facts are true and correct to the best of my knowledge and belief.

Affidavit of Tara Vaughn
Case No. 4FA-12-01083 CRI

Page 1
Appendix K
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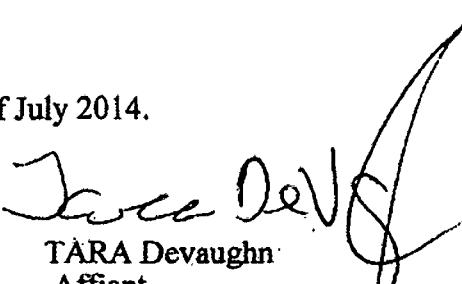


2. I am a resident of North Pole, Alaska and I am currently employed within the ITT department of the Fairbanks School District and am a school teacher.
3. I am making the following statement of my own free will, and I have not been promised anything or threatened in anyway.
4. I was a juror sworn in to hear the case being prosecuted against Loren Larson.
5. I have reviewed my previous affidavit which was provided to me by Private Investigator Rollie Port. Everything in my previous affidavit is correct.
6. All jurors who deliberated this particular case were asked if they would hold it against the defendant, Mr. Larson, if he chose not to testify at trial. All jurors were asked this same basic question and all jurors agreed to follow the courts instructions and not hold it against the defendant if he chose not to testify. With that said I did note jurors commenting on why Larson would not testify for himself at trial. This was puzzling to me in light of the courts instructions that it could not be held against Mr. Larson if he chose not to testify at trial. On as many as five occasions I observed jurors discussing the evidence immediately after trial testimony and prior to deliberations. I actually took part in a discussion of the video the jury was shown. The discussion took place in the jury room at the long table and we discussed how loud the .22 would have been and if the kids could of heard the shots. There were four to five of us discussing the matter and one of the

jurors pounded on the table to give us a sense of how loud the .22 shot would have been. This helped in my deliberation of the guilt or innocence of Mr. Larson. I would have preferred the sound on the video the jury was shown however I found the juror pounding on the table to mimic the shot was helpful to me. This discussion took place immediately after the video was shown to the jury and again during deliberations. I myself grew up around 22's so am familiar with the noise level however other members of the jury were not. I remember both before and during deliberations this discussion and remember one of the male jurors hitting the table trying to duplicate the sound for the jury during deliberations. I believe this happened two times once before deliberations and once during deliberations. I do not remember which male juror demonstrated the sound.

7. Because of the length of time which has gone by since the trial I cannot be sure of other events which occurred so cannot comment on other aspects or events which may have occurred . I take this affidavit very seriously. I stand by me previous affidavit in this matter as well.

DATED this 28th day of July 2014.



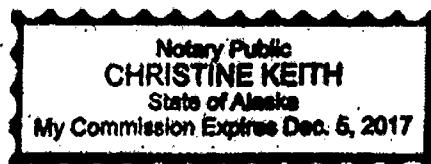
TARA Devaughn
Affiant
2290 Bordeaux
North Pole, Alaska

SUBSCRIBED AND SWORN TO before me this 28th day of July,
2014.

Christine Keith

Notary Public in and for Alaska

My Commission Expires: 12-5-2017



CERTIFICATE OF SERVICE

I, _____, hereby certify that
A true and correct copy of the
Affidavit of _____ was mailed to:

Date

Affidavit of D. P. Rugh
Case No. 4FA-12008CRI

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DA

1 fair question. If someone was charged with a crime, do
2 you think it would be -- do you think that they should
3 testify and tell their side of the story, if they were
4 charged?

5 THE COURT: You'll be instructed in this case,
6 Ms. Krueger, that in our system the defendant can testify or
7 not testify. That's his or her choice. And that if the
8 defendant chooses not to testify, that cannot be used against
9 he or she. If they choose to testify, you're to evaluate their
10 testimony like the other witnesses, and that it's the
11 obligation of the state to prove the case beyond a reasonable
12 doubt before there can be a guilty verdict, with or without --
13 I mean, without the defendant's testifying if he chooses not to
14 testify. That's how our system works, and I think that's the
15 context Mr. Madson is asking the question in.

16 MR. MADSON: I was getting there, Your Honor, yeah.

17 THE COURT: All right. The question?

18 Q (By Mr. Madson) Well, the question is, do you feel
19 that even though there is an instruction that says the
20 defendant doesn't have to testify, what do you feel
21 about that?

22 A As long as he -- as long as both sides come across,
23 that they do their job, and prove either way, I don't
24 feel like it's necessary.

25 Q In other words, you'd weigh the evidence that's

1 Q Thank you. I don't have any other questions.

2 THE COURT: Do you pass for cause?

3 MR. MADSON: Yes.

4 THE COURT: All right. Please pass the microphone to
5 Ms. Russell, please.

6 VOIR DIRE OF NAOMI RUSSELL

7 BY THE COURT:

8 Q Ms. Russell, would you answer the questions on the
9 board for us?

10 A Okay. My name is Naomi Russell. I live on 8th and
11 Kellum. It's sort of the downtown area. I'm a student
12 at the University of Utah, and I work as a sales clerk
13 at the Magic Carpet.

14 Q And that's over off of.....

15 A College.

16 Q College and University?

17 A Right.

18 Q Okay. And what are you studying at Utah?

19 A I'm -- I'm a modern dance major.

20 Q And how many years have you completed?

21 A Just one.

22 Q Then you go back as a sophomore?

23 A Uh-huh.

24 Q All right. Go ahead.

25 A I have no children. I was born and raised in

1 Fairbanks. My hobbies, dance, obviously, art, art
2 history, I love to read. Other things, but -- I've had
3 no member of my family involved in a lawsuit, and I
4 have never had to come to court. I have never served
5 on a jury, and there are no legitimate reasons why I
6 should not serve on this jury, and do not know anyone
7 personally involved in this trial.

8 Q All right. And what high school did you graduate from
9 here in Fairbanks?

10 A West Valley.

11 Q And that must have been in.....

12 A It was last -- '96.

13 Q '96?

14 A Yeah.

15 Q All right, thank you very much.

16 THE COURT: Mr. Doogan?

17 MR. DOOGAN: Thank you, Your Honor.

18 BY MR. DOOGAN:

19 Q Ms. Russell, you said there weren't any legitimate
20 reasons you should be excused from the case. Are there
21 any reasons of any kind that you think.....

22 A Well, I -- it's the timing of the case. It might be a
23 problem. I was planning to attend the Fine Arts
24 Festival, and depending on the length of the case and
25 whether or not I'm actually chosen for the jury, it

1 might conflict, but I have no legitimate reason.

2 Q Are you performing yourself in any of the.....

3 A In -- in the festival.

4 Q Fine Arts camp?

5 A I should be, yes.

6 Q Pardon?

7 A I should be performing in the festival, but we don't

8 find out until -- until the festival actually takes

9 place.

10 THE COURT: And are any of those before 1:30?

11 MS. RUSSELL: No.

12 Q As the judge indicated, we're mostly just working half

13 a day, as far as the jury.

14 A The reason is because I would be taking classes for a

15 full day, so.....

16 Q Do you think that would -- if you were on the jury and

17 the trial as expected lasts to the end of next week, or

18 toward the end of next week, do you think that would

19 cause you enough concern it would be hard for you to do

20 your job, if you would?

21 A I -- I'm not really certain. I -- I would, of course,

22 be a little upset, because I've been planning to do it,

23 and I also have to maintain a -- you know, I have to be

24 taking classes before I go back to the university, and

25 that's what I was planning to take then. I think I

1 could be -- I could be fair, I think. I.....

2 THE COURT: And those don't start next week, they're
3 the week after next, right?

4 MS. RUSSELL: That's right, yeah.

5 Q Would it be fair to say, ma'am, that you wouldn't hold
6 it against either side in this case, but the fact that
7 you were a juror and you had certain.....

8 A I would not hold it against either side, no.

9 Q Have you heard anything at all about this case, other
10 than what you've heard here in the courtroom?

11 A I believe I read something about it in the paper a
12 while ago, but I can't really remember any of the
13 particulars, but I -- I am familiar with some of the
14 names in the case, so I think that's how I -- why I
15 recognize them, through the.....

16 Q If you were a juror in the case, of course you'd be
17 obligated to decide and make the decision guilty or not
18 guilty, based upon what you see and hear here in the
19 courtroom, and not be influenced by any outside
20 information. Will you be able to do that?

21 A Yes.

22 Q How long have you lived here in the Fairbanks area,
23 ma'am?

24 A Nineteen years.

25 Q Your whole life?

1 A Yes.

2 Q Have you been through this process before as well?

3 A Earlier this month, yes.

4 Q Is there anything about what happened to you before,
5 being called in and then not actually serving on a jury
6 that seemed odd to you, or that make it hard for you to
7 be a juror this time?

8 A No, I don't think so.

9 Q Is there anything you've heard us talk about today that
10 makes you have any doubts in your mind as to whether
11 you could be fair to both the state and the defendant
12 in this case?

13 A No. There's nothing.

14 Q Thank you very much.

15 THE COURT: Pass for cause?

16 MR. DOOGAN: Pause for cause.

17 THE COURT: All right. Thank you. Mr. Madson?

18 MR. MADSON: Thank you, Your Honor.

19 BY MR. MADSON:

20 Q Ms. Russell, let me get over here.

21 A Okay.

22 Q It's kind of an awkward arrangement in here, the way
23 this thing is set up. I heard most of what you were
24 saying, and, first of all, obviously, it's an
25 inconvenience to everyone to serve on a jury.

1 A Yeah.

2 Q For one reason or another.

3 A Uh-huh.

4 Q If everybody said I just don't want to serve because

5 it's inconvenient, there would be an empty room. Your

6 classes are what? What are the involvement?

7 A They're different dance classes that last throughout

8 the day.

9 Q And, obviously, if you're in here in the morning, you

10 would miss them, right?

11 A Right.

12 Q How would that impact you as far as the festival is

13 concerned?

14 A Depending on how long -- it sounds as though the

15 estimate is 8 to 10 days, isn't it?

16 Q Let's say it goes all through next week, and even into

17 the week after that.

18 THE COURT: Well, the classes don't start till the week

19 after next.

20 Q Oh, it doesn't start till the following week?

21 A It doesn't start until the 27th, I believe.

22 Q Oh, okay, so we've got a whole week there where it's

23 not going to have any impact?

24 A Right. Right.

25 Q But if it ends by next week, no problem?

1 A Uh-huh. Yeah.

2 Q Anything else that causes you any concern about serving

3 on the jury at all?

4 A No.

5 Q Let me ask you the same question I asked Ms. Krueger

6 here, that you're 19 years old, right?

7 A Uh-huh.

8 Q Some of us would call you just a kid.

9 A Uh-huh. Myself included.

10 Q What if you're on the jury and here you're 19, and

11 everybody else is 40, 50, 60, 70 years old, you know,

12 and they're all, you know, saying, well, here's our

13 opinion, and it's not your opinion. What would you do

14 in that situation? How would you handle that?

15 A Well, I -- despite my age, I -- I would not be swayed

16 by their opinions if I was -- if I considered my

17 opinion to be correct.

18 Q Even if they're angry, people are screaming at you, and

19 saying, what do you know, you're just 19 years old, you

20 know?

21 A Well, that -- it would not affect me personally. I --

22 I've never actually had somebody yell at me because I

23 was young. But I understand. There's.....

24 Q Well, I may be -- I was using the extreme example. I'm

25 not saying that would even happen. But.....

1 A Okay. But there's certainly discrimination that I have
2 to deal with being young, but, you know, if I -- if I
3 consider my -- my opinion to be correct, then I -- I
4 would stand by it.

5 Q Do you think you can handle serving on the jury in a
6 case like this, where it's, let's say, the ultimate
7 charge possible, as opposed to any other kind of a
8 case?

9 A Well, it's -- it's a bit daunting. I assure you,
10 it's -- I certainly never expected to be called for
11 jury duty on a case like this, but -- at my age. But,
12 you know, there's not much that I -- I would have to
13 deal with it.

14 Q Uh-huh. And could you -- would you have any trouble
15 dealing with any of the instructions that you've heard
16 so far that the court is going to give you, for
17 instance, the one that the defendant doesn't have to --
18 doesn't have to prove he's innocent, doesn't have to
19 testify? Okay. Do you have any trouble with that one?

20 A No. I think it's important for me that I hear what the
21 defendant has to say, but it is not necessary for him
22 to testify, I think.

23 Q You could still follow the instruction, even though
24 you.....

25 A Oh, yes.

1 Qwanted to hear the defendant's side of the story
2 from him, right?

3 A That's right.

4 Q And you're sure you could do that?

5 A Uh-huh.

6 Q Any instruction you may disagree with, you still feel
7 that you could basically say, well, that's the law, and
8 I'm going to follow it, even though I think it's wrong?

9 A Yes, if I -- if I understand that it is the law, and --
10 and was explained to me in terms that I can understand.
11 I think I could -- I could understand that.

12 Q You're majoring in what down at Utah now?

13 A Modern dance.

14 Q Modern what?

15 A Dance.

16 Q Why did you choose that field?

17 A That's -- it's been asked of me a lot, and I have never
18 been able to articulate it. It's just something that I
19 love, and something that I want to do.

20 Q What do you expect to do after you graduate then?

21 A I will probably audition for dance companies. It
22 depends. I've got three more years, and my experiences
23 at school will help me to decide what I want to do
24 afterwards, I think.

25 Q Why did you pick Utah? Do they have the best course

1 down there, or something.....

2 A It's one of the top three in the nation.

3 Q So it looks like you've pretty well outlined what you

4 would like to do and the course you'd like to follow,

5 right?

6 A Uh-huh.

7 Q It may work out, it may not, but that's what your plans

8 are?

9 A That's right.

10 Q The reason I'm asking the question is it looked like

11 you -- you know, you kind of set goals for yourself,

12 and you kind of think about things, right? I hope --

13 you know, what I'm getting at, again, is that just the

14 same kind of thinking that could apply as a juror, you

15 know, not just making rash decisions, but consciously

16 thinking about things, whether it's your future or a

17 defendant's future, so to speak.

18 A Uh-huh.

19 Q Anything that you can think of that we haven't covered

20 at all about your jury service or anything about being

21 on a jury, hesitations, reasons, can you think of

22 anything at all?

23 A I don't believe so.

24 Q Do you feel you could be a good juror?

25 A I think I can be impartial enough to look at the

1 evidence, and to the testimony, and make a fair
2 decision, based on that evidence.

3 Q If you could transpose yourself just for a moment and
4 think of you being charged with something, would you
5 want jurors like yourself to sit on your case?

6 A I.....

7 Q Most people always say yes, but once in a while
8 somebody will say, oh, not somebody like me.

9 A Well, I -- I certainly wouldn't want a jury made up
10 just people like myself.

11 Q Why not?

12 A I think it's important to have many different types of
13 people, people with different experiences, look at the
14 same evidence, and weigh it accordingly.

15 Q I guess that's the reason why we've got 12 people
16 sitting here, and why this....

17 A That's true.

18 Q And so you think that's a good idea?

19 A Uh-huh.

20 Q Thank you.

21 MR. MADSON: I'll pass for cause.

22 THE COURT: All right. Thank you. If you'd pass the
23 microphone to Ms. Frank, please. Ms. Frank, would you answer
24 the questions on the board for us.

25 VOIR DIBU OF GEORGIANNE FRANK

1 THE COURT: All right. Ms. Neubauer, thank you for
2 your patience.

3 THE CLERK: Cameron Wohlford.

4 VOIR DIRE OF CAMERON WOHLFORD

5 BY THE COURT:

6 Q Good morning, sir. Would you answer the questions on
7 the board, please?

8 A Yes. My name is Cameron Wohlford. I'm from Ester,
9 Alaska. I live at the Ester Fire Department. My
10 occupation is a firefighter for the Ester Fire
11 Department, and I'm also a student at the university.
12 And I've been there for the past four years.

13 I have no children. I'm not married. I was
14 born and raised in a small town in Virginia. My
15 hobbies include hunting, fishing, sporting events, and
16 fighting fire. No one in my family has been involved
17 in a lawsuit, although I have given some -- several
18 depositions as an EMT for the fire department. I've
19 never served on a jury, but I was here a couple of
20 weeks ago for selection. There's no reason I shouldn't
21 be on this jury, and I do not know anyone in this
22 trial.

23 Q And you own or have used a Ruger 10/22 rifle?

24 A Yes, ma'am, I've used one.

25 Q All right. When was -- about how long ago was that?

1 A About a year.

2 Q Okay. And what are you studying at the U?

3 A Civil engineering.

4 Q And how much more -- how much longer do you have to go?

5 A One more semester.

6 Q Is that this fall?

7 A Yes, ma'am.

8 Q Thank you.

9 THE COURT: Mr. Doogan?

10 BY MR. DOOGAN:

11 Q Sir, when you gave your depositions, were they in court
12 or were they in some other place?

13 A They were out of court, basically just written
14 statements saying what I saw.

15 Q And have you heard anything about this matter before
16 today or.....

17 A Well, I didn't connect until yesterday when I found out
18 it was -- it was the case on Farmers Loop. I was at
19 the dispatch center at the university when there was a
20 dispatch for two victims, gunshot, and that's all I
21 heard, but it did not connect until yesterday.

22 Q You were actually working at the university department
23 at that time?

24 A I was not working at that time. I was just up there
25 visiting the dispatch center.

1 Q And did you know the medics who went there?

2 A No, sir.

3 Q Is there anything about that that you think would make

4 any difference in how you viewed the case if you were a

5 juror?

6 A No, sir.

7 Q And how long in Fairbanks, sir?

8 A Four years.

9 Q How far along are you in your -- towards your college

10 career?

11 A A senior. I have one more semester.

12 Q So you're going to graduate this coming year?

13 A Yes, sir.

14 Q And are you going to pursue that field for an

15 occupation, or are you going to stay in the EMT

16 firefighting?

17 A Hopefully, I will pursue both. Actually, as a paid

18 professional firefighter, you work one day and you're

19 off two days, so hopefully I can, on the side, do civil

20 engineering.

21 Q Okay, thank you very much, sir. I don't have any other

22 questions.

23 MR. DOOGAN: And I'll pass for cause.

24 THE COURT: Thank you. Mr. Madson?

25 BY MR. MADSON:

1 Q Mr. Wohlford, I take it you've had EMT training, right?

2 A Yes, sir.

3 Q And you respond -- in addition to fires, you do

4 emergency work like that?

5 A Yes, sir.

6 Q How often would you have to do that?

7 A I live at the Ester Fire Station, so whenever there's a

8 call in the evenings from 7 o'clock in the evening to

9 7 o'clock in the morning, I respond. And we've had

10 approximately 60 calls this year, and I've been almost

11 to every one of them.

12 Q You say you live there. That's just part of your room

13 and board kind of thing?

14 A Yes, sir.

15 Q It's a volunteer department, is it not?

16 A Yes, sir.

17 Q But you don't get paid for it, is that right?

18 A No. We -- we have chores that we have to do, you know,

19 in the evenings, like cleaning the station and stuff,

20 and that pays -- that's basically our rent. So we

21 actually don't get paid any amount of money, though.

22 Q And how long have you been there as a fireman?

23 A I've been with Ester two years, and I've been a live-in

24 for a year-and-a-half.

25 Q And what did you do before that? What is.....

1 A Well, I also work at the university as a student
2 part-time with the School of Engineering, and I've been
3 doing that since I came here in October of '93, and
4 it's property management for the School of Engineering.

5 Q What exactly does that mean?

6 A Just inventory of equipment, research equipment, and
7 things like that.

8 Q And what do you plan on doing after your graduation?

9 What's your goal or aim?

10 A Well, my goal is to get a -- either get a job up here
11 in engineering or go back to the East Coast to go to
12 paramedic school and become a paramedic, and then go
13 where I can find a job.

14 Q In other words, you'd go all the way, get your
15 engineering degree, and then kind of start over again?

16 A Yes, sir.

17 Q Because you're interested in the medical field, too, I
18 take it?

19 A Yes, sir.

20 Q And other than what you've said about hearing about
21 this case, that dispatch that came over, you don't know
22 anything else about it?

23 A No, sir.

24 Q Didn't read about it or anything else?

25 A No, sir.

1 Q Would the subject of drugs, if there's testimony about
2 drugs in the case, would that cause you any other
3 concerns that you'd have otherwise?

4 A No, sir.

5 Q What about your feelings about the system? Anything
6 about that? You've had no experiences with it
7 except.....

8 A It's -- it's all been good so far.

9 Q You said you had your statement taken a few times,
10 right?

11 A Yes, sir.

12 Q Was that before a court reporter or somebody come and
13 interviewing you?

14 A Just somebody come and interview. Basically it was
15 just like a trooper would say we need you to write up a
16 statement about what you saw, and I would write it up,
17 and it would be witnessed by our chief, and it would go
18 in my file, in my records, and a copy of it would go
19 if -- if the case went to trial, it would go there
20 also.

21 Q Do you have any feelings one way or the other about law
22 enforcement officers?

23 A No, sir.

24 Q Do you think they're just the same as everybody else?

25 A Yes, sir.

1 Q Regardless of whether you wear -- have a uniform on or
2 not?

3 A Yes, sir. I -- I do regard, though, that if they have
4 a uniform on, they should act with a higher respect and
5 a higher level of honesty, but I know they don't --
6 they do make mistakes.

7 Q Well, on that basis, if you didn't know an officer and
8 he testifies, and he's wearing a uniform, would you
9 give him more or less credibility just because he's
10 wearing the uniform?

11 A It would be the same if he's testifying, but the way he
12 acts in public is what I'm saying. Anybody that wears
13 a uniform is representing someone, so they should, you
14 know, act with a higher responsibility, but they're --
15 I still feel that their testimony is the same as
16 anybody else's.

17 Q Do you have any difficulty with any of the rights a
18 defendant has in a criminal case?

19 A No, sir.

20 Q The right not to testify if he chooses not to?

21 A No problem.

22 Q Do you feel you could render a decision in a case this
23 serious, and even a not guilty verdict, when, you know,
24 you think that perhaps there's evidence but not enough?

25 A Yes, sir.

1 Q And you're sure of that?

2 A Yes, sir.

3 Q You can make a promise to this Court and everybody here

4 that you could do that, right?

5 A Yes, sir.

6 Q You sound awfully sure. Why.....

7 A I have to be in my business, so you have to be sure

8 what you're doing. You have to be sure what you know,

9 so.....

10 Q Uh-huh. And you feel that you have that kind of

11 confidence that you could do that, right?

12 A Yes, sir.

13 Q Thank you, sir.

14 MR. MADSON: I'll pass for cause.

15 THE COURT: Thank you. Mr. Doogan?

16 MR. DOOGAN: Your Honor, we'll ask the Court to thank

17 and excuse Ms. Harrison.

18 THE COURT: Ms. Harrison, thank you for your patience

19 yesterday and today. If you'll take your card downstairs,

20 they'll let you know what you need to do next. Thank you.

21 THE CLERK: John Slater.

22 MR. DOOGAN: I'm sorry, I didn't catch that.

23 THE COURT: Slater.

24 VOIR DIRE OF JOHN SLATER

25 BY THE COURT:

1 Q Good morning, Mr. Slater. Could you answer the
2 questions for us, please?

3 A My name is John Slater. I live on 1212 29th Avenue. I
4 work at NC Machinery, and I've worked there for a
5 little over two years. I'm not married. I don't have
6 any kids. I was born in Fairbanks, raised in
7 North Pole. I like to play hockey, I like to do
8 outdoor sports.

9 I've never had any member of my family
10 involved with the court. I've never served on jury
11 duty -- or served on a jury. There's no reason why I
12 shouldn't serve on this jury, and I don't know anyone
13 involved in this case.

14 Q All right. Thank you very much, sir. Any questions,
15 Mr. Doogan?

16 BY MR. DOOGAN:

17 Q Did you get called in earlier this month, sir?

18 A Yes, I did.

19 Q And you didn't serve on a jury?

20 A No, I didn't get picked.

21 Q Anything about that experience that bothers you about
22 the system that might affect your ability to be fair?

23 A No.

24 Q Do you remember hearing anything or reading anything
25 about this before today or before yesterday?

1 A No, I haven't heard anything.

2 Q And what kind of a job do you do at NC Machinery?

3 A I'm a warehouseman. I pull parts.

4 Q How long have you worked there, sir?

5 A A little over two years.

6 Q Is there anything you can think of, having listened to
7 us talk here for two days, that you think that we ought
8 to know about your ability to be a fair juror in this
9 case?

10 A No.

11 Q Thank you very much, sir.

12 MR. DOOGAN: I'll pass for cause.

13 THE COURT: Any questions, Mr. Madson?

14 BY MR. MADSON:

15 Q You know, Mr. Slater, we start wearing down. The old
16 batteries just need to get charged up after a while, so
17 we find ourselves asking the same questions over and
18 over, and we try not to repeat it, but at the same time
19 we're trying to find out as much as we can about you in
20 a very short time.

21 A Okay.

22 Q Maybe it would be easier if you just told me, why do
23 you think you'd be a good juror? You know, I know it's
24 hard talking in front of a bunch of strangers, but just
25 relax. And if you could just tell me why -- what is it

1 about yourself that makes you think that, you know,
2 you're a good or bad juror, but, you know, it isn't a
3 question of good or bad in that sense, but a fair
4 person, let's say?

5 A I don't know. I'm -- I'm fair. I -- I try -- I'm
6 honest. I try to be the best I can.

7 Q Those are all good answers. You know, we could go
8 through a lot of questions, but basically that's what
9 we're looking for, is someone who will honestly try to
10 do the best they can and be fair.

11 You don't -- what you're saying is you don't
12 have any preconceived ideas or biases, right?

13 A No.

14 Q The fact that a lot of police officers may testify,
15 that isn't going to sway you one way or the other?

16 A No, it isn't.

17 Q If the -- let's say the classic case of a police
18 officer testifies as to what a fact -- and a
19 non-officer testifies just the opposite, you won't
20 give -- you won't believe the officer just because he's
21 a policeman?

22 A No, I'd judge them the same.

23 Q You'd look at where they were, how they saw it, you'd
24 look at all the circumstances, biases, prejudices,
25 anything else that comes along, right?

1 A Yeah, I -- I believe everybody is equal until I see
2 otherwise.

3 Q And how long have you lived in Fairbanks?

4 A I've lived here all my life.

5 Q Oh, that's right. I had that down. I'm sorry. All
6 your life, you were born and raised here, right?

7 A Yeah.

8 Q Here and the North Pole area. You say you like to play
9 hockey. Are you a member of any particular league
10 or.....

11 A The Men's Hockey Association. I didn't play this
12 summer, though.

13 Q It's pretty -- the ice is pretty poor, is it?

14 A No, it's indoor ice.

15 Q Oh, okay. And what did you do before NC Machinery, had
16 you -- before you worked there?

17 A I've had odd jobs with certain -- and I worked for H&H,
18 I worked for the school district for a few months. I
19 worked for University Precast.

20 Q Okay. Any -- and I guess this has been asked and
21 answered a number of times, but I just wanted you to
22 take one last chance and just reflect for a minute and
23 say why -- if anything at all, comes to your mind that
24 you think we should know about you that might reflect
25 on your ability to serve as a juror?

1 MS. ANGAIAK: I don't know if this is -- I mean, all of
2 us here are doing this under warrant or whatever, but I prefer
3 not to, because the summertime is the only income I have.
4 So if the trial is going to last two weeks, this is a big chunk
5 of money that I wouldn't have.

6 THE COURT: I understand. We're -- we talk about two
7 weeks. We've been including the last few days. The attorneys
8 tell me that they think we will finish by the end of next week,
9 so it may be more than another five days, but we anticipate it
10 will be another week. Were you called for another month and
11 chose this month to serve?

12 MS. ANGAIAK: Well, since I go to school in California,
13 I had to keep it in the summertime, so I don't really have a
14 choice.

15 THE COURT: Okay. All right. We will be done at 1:30
16 every day. Okay? Anyone else? Any other questions? Anything
17 else before we swear in the jury, Mr. Doogan?

18 MR. DOOGAN: No, Your Honor.

19 THE COURT: Mr. Madson?

20 MR. MADSON: No.

21 THE COURT: All right. If you'd all stand, please, and
22 raise your right hands.

23 THE CLERK: Do you all swear or affirm that you are
24 willing to decide the issues in the matter now before this
25 court solely on the evidence introduced and the court -- the

1 We'll be in recess until that time.

2 THE CLERK: Court is in recess.

3 (Off record)

4 4220

5 (Tape changed)

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8 (Jury not present)

9 THE CLERK: Court is reconvened.

10 THE COURT: State versus Larson, the defendant and both
11 counsel are present. Juror number 9 has some serious concerns
12 about her ability to sit until the end of the trial, not
13 knowing how long it's going to be, and her loss of income in
14 this case. I propose that we ask her to come in and ask her a
15 few questions about her ability to attend to the trial.

16 MR. DOOGAN: That's fine, Your Honor.

17 THE CLERK: Off the record.

18 (Off record)

19 THE CLERK: Court is reconvened.

20 THE COURT: Thanks. Ms. Angaiak, I talked to you a
21 little bit during the break, and asked you to use the break to
22 think about some of the questions that you might be asked.
23 You've been sworn in on the jury in this case, and have summer
24 employment. We anticipate this case will go through next week.
25 There's some possibility it can go longer than that. And as I

1 told you, the people on the jury, a number -- almost all of
2 them have been taken away from their jobs, and many are losing
3 money during this time period, but do you think that's going to
4 affect your ability to be fair to both sides?

5 MS. ANGAIAK: Well, I think it might a little bit, just
6 because I'm trying to earn money both for graduate school, and
7 I want to travel, which is a dream of mine, and -- and I think
8 one of my goals would be to try and end the trial as quickly as
9 possible, and it might not be fair to the defendant or anyone
10 else involved in the case.

11 I mean, I'd be fair, but I -- I don't know, I guess, I
12 just graduated and my -- it's a little selfish of me to want to
13 try and earn the money, and -- but I think it's -- I don't
14 know, I think it's fair for me to be selfish at this time in my
15 life.

16 THE COURT: Mr. Doogan, any questions?

17 MR. DOOGAN: Well, Ms. Angaiak, since you
18 intellectually recognize that that might be a problem, and
19 understanding the duty that everybody has to be on a jury, do
20 you think you'd be able to concentrate on being fair and taking
21 whatever time is necessary, even recognizing that your
22 inclination is to make it go quickly?

23 MS. ANGAIAK: Yeah, I'm -- I could be fair. Yeah.

24 MR. DOOGAN: Thank you. I don't have anything further.

25 THE COURT: Mr. Madson?

1 MR. MADSON: One of the things that we can't foresee is
2 when a jury starts deliberating how long it might be, and how
3 it stacks up. My concern would be that you'd be more inclined
4 to reach a verdict because of your personal problems and trying
5 to, you know, get back to work. Would that influence your
6 decision making because you have some obvious concerns about
7 getting back and earning some money?

8 MS. ANGAIAK: Well, my hope would be to not have to be
9 on the jury, to not have that conflict, but if I was to sit on
10 the jury, and to be involved in the trial, I'm sure that I
11 would take everything -- I would make a decision fairly.

12 MR. MADSON: What if the trial lasted all next week,
13 and then you had to deliberate all the next week following
14 that, if it took that long, could you.....

15 MS. ANGAIAK: Well, by then -- by then it would be a
16 little late to do anything about it, so, I mean, I would be
17 fair as a juror.

18 MR. MADSON: Well, what do you mean it would be too
19 late to do anything about it? I don't.....

20 MS. ANGAIAK: Well, I'm trying to get out of it now so
21 I don't have to have that conflict, but if I do start as a
22 juror, you know, today or tomorrow, then I would take that
23 responsibility.

24 MR. MADSON: And you would be just as if you just put
25 that out of your mind, that the fact that you could be earning

1 money, and maybe you won't have enough to travel where you want
2 to go or do the things you wanted to do?

3 MS. ANGAIAK: I might be a little frustrated.

4 MR. MADSON: Might be what, frustrated?

5 MS. ANGAIAK: Frustrated.

6 MR. MADSON: You -- when the judge asked you the
7 question, you said it might not be fair to the defendant at
8 first, but is there any particular reason why you would say
9 that?

10 MS. ANGAIAK: Well, just because I'd want to end the
11 trial, and I'm -- I'm not the only juror, and we have to be
12 unanimous, but I think I would -- my personal goal would be to
13 get back to work.

14 MR. MADSON: Yeah.

15 THE COURT: Let me, Ms. Angaiak, tell you that you are
16 on the jury now.

17 MS. ANGAIAK: Oh, okay.

18 THE COURT: And the jury has been sworn in, and the
19 trial has started. So the question that I'm trying to
20 determine is whether or not you can continue to serve on the
21 jury. Assuming you are on the jury, would -- I think the
22 critical question here is you may be resentful and frustrated
23 that you are on jury service, but knowing that and recognizing
24 that, will you be able to set that aside and concentrate on the
25 job, and do whatever it takes, as long as it takes, to attend

1 to what those requirements are now?

2 MS. ANGAIAK: Yes, I would.

3 MR. MADSON: Could we approach the bench, Your Honor,
4 for.....

5 THE COURT: You may. Counsel?

6 (Bench conference as follows:)

7 MR. MADSON: I would be willing, since we have two
8 alternates, to go with one alternate, release her, if everybody
9 else agreed, but I just have some reservations about her.

10 THE COURT: Well, I'm trying to figure out why I'd
11 release her but I wouldn't release Ms. Russell? I guess kind
12 of.....

13 MR. DOOGAN: Yeah, I think 14 may barely be enough by
14 the time this is over.

15 MR. MADSON: That was just my idea.

16 THE COURT: Okay. All right. Counsel, anything else?
17 I'm going to tell her she serves. Okay. All right.

18 (End of bench conference)

19 THE COURT: Ms. Angaiak, I appreciate your honesty, and
20 you're going to need to continue to serve on the jury. I
21 appreciate your honesty. Believe me, I understand the
22 inconvenience. We've listened to three days of folks here, and
23 it's more than inconvenience, it's financial for people as
24 well. And I'm glad that you're going to be able to take that
25 and put it over there and go on with the work that we have to

1 do.

2 So let me let you return to the rest of the jury group,
3 and the clerk will come and get you all in just a moment. All
4 right? Thank you. All right, counsel, here are the opening
5 instructions. Mr. Doogan, if you'd give one to Mr. Madson.
6 I'll be starting on page 6. Are the notebooks out, Madam
7 Clerk?

8 THE CLERK: No, I didn't have (indiscernible - away
9 from microphone).

10 THE COURT: If you'd do that, please. (On telephone)
11 All right, anything else before we have the jury, counsel?

12 MR. DOOGAN: Nothing.

13 THE COURT: All right. Madam clerk, if you'd bring the
14 jury in.

15 THE CLERK: Off the record.

16 (Off record)

17 THE CLERK: Court is reconvened.

18 (Jury present)

19 THE COURT: We're back on the record in State versus
20 Larson. The defendant and counsel and the jury are present. A
21 couple of things. For Mr. Fisher, you're the person that can
22 adjust your chair according to where you can see and hear the
23 best there, forward and back. I leave that up to you. As I
24 told you earlier, although not everyone may have been here, so
25 the Alaska Supreme Court has decided that cameras, media

1 P R O C E E D I N G S

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4 (On record)

5 (Jury present)

6 (This portion not requested)

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8 MR. MADSON: Your Honor, may we approach the bench for
9 a second?

10 THE COURT: You may.

11 (In-chambers conference as follows:)

12 MR. MADSON: This is only a suggestion, but juror
13 number 9, who expressed reservations about being on the jury
14 because she was losing work time and money.

15 THE COURT: From the (indiscernible - simultaneous
16 speech).

17 MR. MADSON: I would just suggest -- and, again,
18 they're only a suggestion, that she be asked whether she wants
19 to take her luck with the draw or rather just be an alternate.

20 THE COURT: Well, what about number 3?

21 MR. MADSON: Number 3?

22 THE COURT: That asked to be excused for her classes at
23 the Fine Arts Festival.

24 MR. MADSON: They both could have that option.

25 MR. DOOGAN: Your Honor, I don't think we should start

1 treating the jurors differently now. The state's position is
2 that probably.....

3 THE COURT: I don't care.

4 MR. DOOGAN:many of them have other things to do
5 and I don't think we should just be excusing or giving some the
6 option of being excused because they expressed their desires in
7 a different manner than the others. They all agreed to do the
8 job (inaudible).

9 MR. MADSON: Except number 9 that had more reservations
10 than anyone else, as I recall. But it's only a suggestion.

11 THE COURT: Okay. Unless you agree, we're just going
12 to.....

13 MR. MADSON: I wouldn't expect Mr. Doogan to agree with
14 me on the time of day.

15 THE COURT: Come on, gentlemen, let's go.

16 (End of in-chambers conference)

17 THE COURT: All right. Madam clerk.

18 THE CLERK: Stella Wynia. Albina Garman.

19 THE COURT: All right. Ms. Wynia and Ms. Garman, would
20 you remain here for a few minutes while the other jurors are
21 excused.

22 Ladies and gentlemen, you may retire to the jury room
23 for the time.

24 Bailiff, (inaudible).

25 (Jury not present)

1 you go to bed one winter night, you look out your window and
2 see it's snowing and you reach out the window and you feel it
3 with your hand, you have personal knowledge that it is snowing.
4 This is direct evidence. But, yet, when you go to sleep, the
5 sky and the ground are clear until you later awake and the
6 ground is white and covered with snow, you can conclude that it
7 snowed even though you did not see the snow fall. This is
8 circumstantial evidence. Neither type of evidence, that is
9 neither direct nor circumstantial, is entitled to any greater
10 weight than the other.

11 24. State of mind may be proved by circumstantial
12 evidence. It rarely can be established by any other means.
13 While witnesses may see and hear and thus be able to give
14 direct evidence of what a defendant does or fails to do, there
15 can be no eyewitness to the state of mind with which the acts
16 were done or omitted. What a defendant does or fails to do may
17 indicate the defendant's state of mind. In determining issues
18 of state of mind, the jury is entitled to consider any
19 statements made or acts done or omitted by the accused, and all
20 facts and circumstances in evidence which may aid in
21 determination of state of mind.

22 25. The law does not compel any defendant in a
23 criminal case to take the witness stand and testify, and no
24 presumption of guilt may be raised and no inference of any kind
25 may be drawn from the defendant not having testified.