

NOTICE

This is a summary disposition issued under Alaska Appellate Rule 214(a). Summary dispositions of this Court do not create legal precedent. 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-13731
Trial Court No. 4FA-01-00511 CI

SUMMARY DISPOSITION

No. 0318 — April 5, 2023

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

Appearances: Loren J. Larson Jr., *in propria persona*, Wasilla,
Appellant. Eric A. Ringsmuth, Assistant Attorney General,
Office of Criminal Appeals, Anchorage, and Treg R. Taylor,
Attorney General, Juneau, for the Appellee.

Before: Allard, Chief Judge, and Harbison and Terrell, Judges.

In 1998, Loren J. Larson Jr. was convicted of a double homicide, and this Court affirmed his convictions on direct appeal.¹ In 2001, Larson filed an application for post-conviction relief in which he asserted that he was entitled to a new trial because of juror misconduct.² The superior court dismissed this application because all of Larson's claims of juror misconduct were based on juror affidavits that were

¹ *Larson v. State*, 2000 WL 19199 (Alaska App. Jan. 12, 2000) (unpublished).

² *Larson v. State*, 79 P.3d 650, 652 (Alaska App. 2003).

inadmissible under Alaska Evidence Rule 606(b), and this Court affirmed this dismissal on appeal.³ In the years since then, Larson has pursued numerous collateral attacks on his convictions based on these claims of juror misconduct.⁴

This appeal is from the denial of an Alaska Civil Rule 60(b) motion seeking relief from the 2001 judgment dismissing Larson’s first application for post-conviction relief. Larson argues that the Alaska Supreme Court’s recent decision in *Alvarez-Perdomo v. State* has changed the law on the admissibility of juror affidavits and that this change in the law entitles him to relief.⁵

In *Alvarez-Perdomo*, the supreme court held that it is structural error (*i.e.*, error requiring reversal on appeal without a showing of prejudice) for a court to compel a defendant to testify in a criminal trial.⁶ As Larson notes, one court in another jurisdiction has cited *Alvarez-Perdomo* in support of its holding that it is structural error for a court making factual findings to consider a defendant’s decision not to testify.⁷ Larson uses this to argue that, because jurors are fact-finders, an affidavit alleging that a juror considered Larson’s decision not to testify in determining his guilt — such as the affidavits he presented in his 2001 post-conviction relief action — is evidence of structural error.

³ *Id.* at 652-53.

⁴ *See Larson v. Superior Court*, 2020 WL 5946629, at *1 & n.1 (Alaska App. Oct. 7, 2020) (unpublished) (collecting Larson’s numerous post-conviction litigation efforts related to juror misconduct allegations).

⁵ *Alvarez-Perdomo v. State*, 454 P.3d 998 (Alaska 2019).

⁶ *Id.* at 1008.

⁷ *Commonwealth v. Taylor*, 2021 WL 3206496, at *8 (Pa. Super. Ct. July 29, 2021) (unpublished).

We conclude that *Alvarez-Perdomo* did not create a new rule that would entitle Larson to relief. This Court was aware of the nature of the allegations in the juror affidavits when we denied Larson's appeal from his first application for post-conviction relief. There, we extensively surveyed the law governing the admissibility of juror affidavits before concluding that the information in the affidavits could not be considered under Evidence Rule 606(b) and that the application of Rule 606(b) in Larson's case was constitutional.⁸ Because *Alvarez-Perdomo* did not create a change in controlling law that would have affected the outcome of Larson's first application for post-conviction relief, we conclude that the superior court did not err in denying Larson's Civil Rule 60(b) motion.

The judgment of the superior court is AFFIRMED.

⁸ *Larson*, 79 P.3d at 655-59.

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-13731

Order

Petition for Rehearing

Date of Order: 4/18/2023

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

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

On consideration of the Petition for Rehearing filed on 4/11/2023,

IT IS ORDERED:

The Petition for Rehearing is **DENIED**.

Entered at the direction of the Court.

Clerk of the Appellate Courts

/s/ R. Montgomery-Sythe

Ryan Montgomery-Sythe,
Chief Deputy Clerk

cc: Presiding Judge Haas
Trial Court Clerk – Fairbanks
Publishers (Summary Disposition No. 0318, 4/5/2023)

Distribution:

Mail:
Larson, Loren J.

Email:
Ringsmuth, Eric

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

LOREN J LARSON JR.,

Applicant,

v.

STATE OF ALASKA

Respondent.

Case No. 4FA-01-00511 CI

Order Denying Motion for Relief from Judgment

In March of 1998, Larson was convicted of burglary in the first degree and two counts of murder in the first degree. "Larson has pursued numerous collateral attacks on his convictions, based on claims that the jurors at his trial engaged in improper deliberations, that certain jurors lied during jury selection, and that certain jurors became biased against him because he did not testify at his trial."¹ Those arguments were denied under Evidence Rule 606(b) which prohibits inquiry into jury deliberations. He appealed that ruling and the court of appeals affirmed the trial court's judgment. In August 2017 Larson requested an evidentiary hearing and relief from judgment under Civil Rule 60(b). Those motions were denied by the court.

Larson moves again for request for relief under Civil Rule 60(b)(4) & (6). He raises the same arguments as those addressed in previous opinions and orders. He again alleges biases triggering *Pena-Rodriguez*.² As the Court of Appeals has already ruled, *Pena-Rodriguez*, is

¹ *Larson v. Schmidt*, WL 3572499, (Alaska App. 2018) UNREPORTED.

² *Pena-Rodriguez v. Colorado (United States)*, 137 S.Ct. 855,869 (2017) (holding that when a juror makes a clear statement that he or she relied on racial stereotypes or animus to convict a criminal defendant, the Sixth Amendment

Larson v. SOA
4FA-01-00511CI

In the Supreme Court of the State of Alaska

Loren J. Larson Jr.,
Petitioner,

v.

State of Alaska,
Respondent.

Supreme Court No. S-18742

Order

Petition for Hearing

Date of Order: 8/23/2023

Court of Appeals No. A-13731
Trial Court Case No. 4FA-01-00511CI

Before: Maassen, Chief Justice, and Carney, Borghesan, Henderson,
and Pate, Justices.

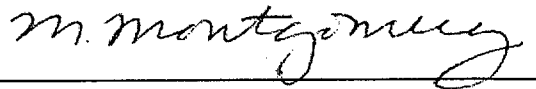
On consideration of the Petition for Hearing filed on 5/15/2023, and the
Response filed on 8/2/2023,

IT IS ORDERED:

The Petition for Hearing is **DENIED**.

Entered at the direction of the court.

Clerk of the Appellate Courts



Meredith Montgomery

cc: Court of Appeals Judges
Trial Court Clerk – Fairbanks

Distribution:

Mail:
Larson, Loren J.

Email:
Ringsmuth, Eric

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.

Ref

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 Sonneberg

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

Kay L. Macey
Notary Public

My commission expires 8-29-2003

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.

Stella Wynia

SW

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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} ~~form~~ 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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SW 20-3

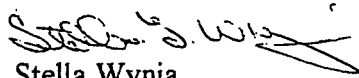
Members of the jury also discussed the fact that a witness found glass in the lining of the boots and how thorough she must be. This was prior to the deliberation.

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.

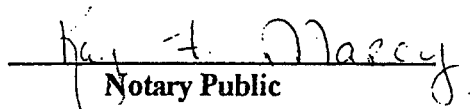
I believe that the ballet dancer juror, the fireman from Ester, Mr. Hayes, and the tall blonde juror, talked constantly during the breaks about Mr. Larson being guilty and what evidence they heard that supported that theory. This was done on a daily basis and more so the last week of trial.

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

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


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 Namoi 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

EXHIBIT 1, p.6

Appendix G, 13a



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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..

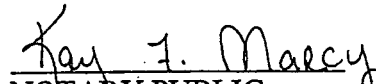
I remember that many of the jurors wondered out loud why Larsons wife was not present in the courtroom supporting him. Some of the jurors said it was not right that she was not there and others stated that she should of been there supporting him and wondered why she was not. I do not know why she was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

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

Dated this ²⁴ Day of December 2000


Cameron Wohlford

Subscribed and sworn to me this ²⁴ Day of December 2000


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

EXHIBIT 1, p.8

Appendix H, 15a



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 day of December, 2000.

Albina V. Garman

Notary Public

Kay E. Macey

My commission expires 8-29-2003

(1)

AFFIDAVIT

I Tara Tuck DeVaughn 4475 Lauesen, North Pole Alaska make the following voluntary statement. I am a school teacher.

I was a juror who deliberated the guilt of Loren Larson .During the trial the jury was shown a video concerning the 22 weapon but there was no sound on the video. Many of the jurors wondered how loud the 22 would of sounded. After the video was shown to us we discussed the video in the jury room while sitting around the long table. To my memory not all the jurors were at the table during the discussion but there were 4 or 5. I remember we were discussing how loud the 22 weapon would of been because some of us were unfamiliar with weapons. I remember one of the jurors pounding on the table describing how loud it would of been . We were concerned as to why the 22 was not heard by the kids. This information was important to me and helped me make up my mind that Larson was guilty. Later during the actual deliberation the Bailiff showed us the video but he stayed in the room so that we would not turn the volume up. Earlier the juror pounded on the table to give us a sense of how loud the 22 was. That was helpful but I would of probable preferred the sound on the video. It was explained to us that since the volume was not used during the trial we could not use the volume in the jury room.

I remember there was at least 2 times but maybe as many as 5 times that individual jurors discussed testimony and evidence that had been presented to the members of the jury. This was prior to the case being given to the jury to determine the guilt or innocence of Larson.

The jury many times broke up into three separate groups. The group I was in consisted of the social worker, Amy, Stella, and myself. Then there was group that were by the window a lot and they were Hayes, a firefighter, and a female friend of the firefighter. The third group was Byerly , the dancer, a tall blonde male and a juror named Marta. The foreman really kept to himself and his name was Doc.

I remember some jurors wondering out loud why Larson did not take the stand for himself if he was not guilty. This was prior to jury 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

Tara Tuck DeVaughn
Tara Tuck DeVaughn

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

Kay F. Macey
NOTARY PUBLIC

My Commission Expires 8-29-2003

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

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),

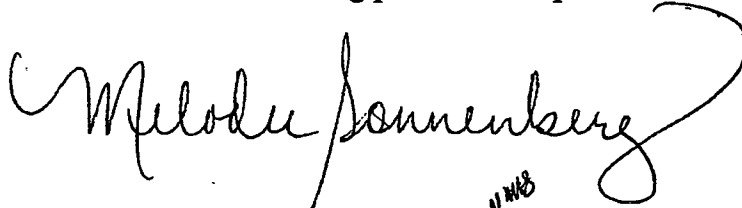
the Ester Fireman (Cameron Wohlford) and a tall juror with light colored hair were asked these same questions and answered they would not hold it against Mr. Larson if he chose not to testify. All Jurors answered that they would not hold it against Mr. Larson. It had been earlier explained to the jurors 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 coerced 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.

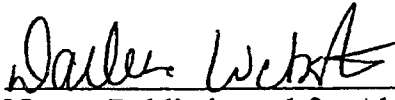
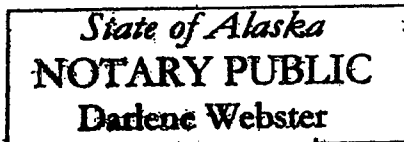


MELODEE SONNEBERG

Affiant

900 Gold Pan Road
Fairbanks Alaska

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



Notary Public in and for Alaska

My Commission Expires: 09/15/2014

CERTIFICATE OF SERVICE

Affidavit of Sonneberg
Case No. 4FA-12-01082 CRI

Page 5
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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.

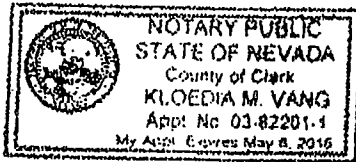
14. Prior to deliberations and immediately after the testimony on the .22 I went into the jury room and asked my fellow jurors how much noise the shooting of a .22 would make and it was met with disbelief that I would not know this. I remember that I was told that it was not very loud and then one of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

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



[Signature]
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

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 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.

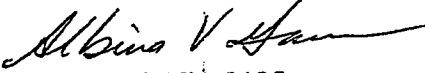
9. Specifically I observed and heard over half of the jury members make statements to other members of the jury that Larson must be guilty after different witnesses testified in court. Specifically the glass witness.

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 tattletale .

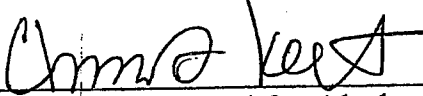
11. At one point I heard two of the male jurors discussing the glass evidence and I immediately removed myself from the area. I should of reported this conversation but I did not.

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 their mind made up as to Mr. Larson's 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 Larson's guilt to cease talking about the evidence during the breaks given by the court. The jurors involved would cease their 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 ^{the} ~~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 their 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 GARMAN
Affiant
1013 Hertha Turnaround
North Pole, Alaska

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


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

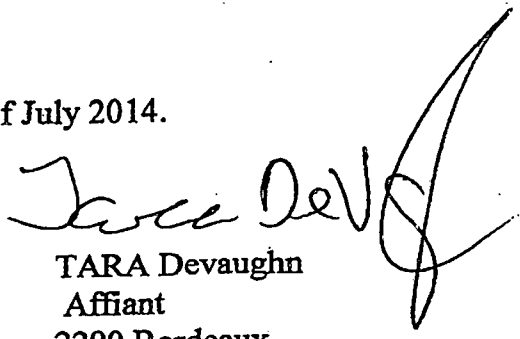


PH # 907-864-8100

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

1 THE COURT: How many jurors do we have in the back?
2 Can you tell me while we're talking? I'm trying to decide
3 whether to call in more jurors tomorrow based on the number of
4 pre-empts and where we are. Can you take a look at your list
5 and if we get through this 14 and then Ann's going to tell us
6 how many we have in the back.

7 THE CLERK: Without Ms. Lowarch (inaudible) 25.

8 THE COURT: 25 left in the back?

9 THE CLERK: Yes.

10 THE COURT: I'm inclined -- well, (inaudible) used a
11 large number of pre-empts where we may need more jurors. What
12 kind of input can you give, Mr. Doogan, any?

13 MR. DOOGAN: (Inaudible - away from microphone)

14 MR. MADSON: (Inaudible - away from microphone)

15 THE COURT: I think what I'll do is call them for later
16 in the morning so we don't have to do that whole preliminary
17 process. So I'll call in a few more for, say, 10:00 or so and
18 then if we've used up the panel, we can start back at the
19 beginning with the extras and make sure we get all these back
20 tomorrow. Okay?

21 All right. See you at 12:30.

22 MR. DOOGAN: Your Honor, I did have.....

23 THE COURT: Yes, Mr. Doogan?

24 MR. DOOGAN:a matter to bring up. I'm sure this
25 isn't being done purposely, but the baby in the courtroom, the

1 defendant's child, the defendant certainly has been at home
2 with the child since the time it was born, and all the family
3 has the baby in the courtroom being passed around, so a
4 relative, it is very obvious that is the defendant's child, and
5 the state's concern is that it, inadvertently, I'm sure, tends
6 to raise sympathy on the part of the jurors, and it's not
7 connected with the issues in this case, and I would just
8 request there's some way that the child can be cared for
9 outside of the courtroom by some other relative, perhaps. The
10 second thing is somewhat related to that, and that is that the
11 defendant and his wife were hugging each other in the presence
12 of several of the prospective jurors on some of the breaks. I
13 would just request that displays of affection be confined to
14 times when the jurors aren't present. Thank you.

15 THE COURT: I have to laugh, because among my juvenile
16 case load, these are called PDAs, public displays of
17 affections, and you gentlemen may not be familiar with this,
18 but the PDAs.....

19 MR. MADSON: Not even private affection, huh?

20 THE COURT: PDAs are much discussed in my other case
21 load. Okay, Mr. Madson?

22 MR. MADSON: Nothing, Your Honor. It's just that --
23 yeah, I'll -- on point number two, we'll see that that doesn't
24 occur. Number one, arrangements can be made. My only concern
25 is babies sometimes have a tendency to cry, and that's

1 distracting for me as well as everybody else, but that's my
2 only concern, if there is.....

3 THE COURT: Well, it's distracting for me, because I
4 don't know, when a baby fusses.....

5 MR. MADSON: You have a tendency to want to.....

6 THE COURT: I turn my head from what I'm listening to,
7 to the baby fussing, and it -- you know, I know that it isn't
8 intentional, but it is -- it is a little bit distracting, and,
9 in addition, when you're tending to a little one, there's a lot
10 of coming and going from the courtroom, so I'd ask the family
11 to consider whether or not the child can be cared for outside
12 of the courtroom. It seems other children can be cared for
13 outside of the courtroom, but maybe that child can.....

14 UNIDENTIFIED VOICE: The other children are not breast
15 feeding, Your Honor.

16 THE COURT: Well, is there -- how often does the baby
17 nurse?

18 UNIDENTIFIED VOICE: She usually sleeps pretty good.
19 She's still young, and she still sleeps pretty good. Once
20 every two, two-and-a-half hours..

21 THE COURT: So maybe if that's necessary, somebody
22 could bring the baby to the courthouse.

23 UNIDENTIFIED VOICE: We'll make arrangements, Your
24 Honor.

25 THE COURT: Okay.

1 UNIDENTIFIED VOICE: In no way was that intended to be
2 doing that.

3 THE COURT: Oh, I don't think any -- no, no one.....

4 UNIDENTIFIED VOICE: Our baby was born at the house,
5 and breast feeds, and.....

6 THE COURT: No one thinks that or implies that in any
7 way, it's just that it is distracting, I think probably more to
8 some people than others. And, again, Mr. Larson is to be in
9 Mr. Madson's presence in the building and the surrounding area,
10 so you can deal with the other issue, Mr. Madson. Okay?

11 MR. MADSON: Uh-huh.

12 THE COURT: If nothing else I'll see you in five
13 minutes.

14 THE CLERK: Off record.

15 THE CLERK: Off record.

16 (Off record)

17 (Prospective panel present)

18 THE CLERK: On record.

19 THE COURT: Ms. Lowarch has been excused for cause.
20 Ms. Way isn't with us, but I expect her to come through the
21 door any moment. So let's go ahead and call a name for number
22 11.

23 THE CLERK: John Kirkendall.

24 THE COURT: Would you pass the microphone. Thanks.

25 VOIR DIRE OF JOHN KIRKENDALL