

92-1713
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LINDA SEAPY
CLERK SUPERIOR COURT
DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MOHAVE

STATE OF ARIZONA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Cause No. CR-13057
	)	
ROBERT WAYNE MURRAY,	)	<u>JURY TRIAL</u>
ROGER WAYNE MURRAY,	)	
	)	
Defendant.	)	
_____	)	(VOIR DIRE)

Before the Honorable James E. Chavez, Judge

Thursday, May 28, 1992

9:40 a.m.

Kingman, Arizona

Reporter's Transcript of Proceedings

Appearances:

For the State:	James J. Zack, Deputy County Attorney 315 N. Fourth Street Kingman, Arizona 86401
For Robert W. Murray:	M. Ruth O'Neill, Attorney at Law
For Roger W. Murray:	Frank E. Dickey, Jr., Gerald Gavin, Deputy Public Defenders Kingman, Arizona 86401

Reported by: Rick A. Pulver, Official Reporter



P R O C E E D I N G S

(The following proceedings were had in the presence of the prospective panel.)

THE COURT: Okay. Please be seated. This is CR-13057, State of Arizona versus Robert Wayne Murray and Roger Wayne Murray.

Is the State ready to proceed?

MR. ZACK: Yes, Your Honor.

THE COURT: Mr. Gavin, is the defendant Roger Wayne Murray ready to proceed?

MR. GAVIN: Yes, Your Honor.

THE COURT: Ms. O'Neill, is the defendant Robert Wayne Murray ready to proceed?

MS. O'NEILL: Yes, we are, Your Honor.

THE COURT: Okay. Will all the prospective members of the jury please stand and be sworn?

(The prospective jurors were sworn by the clerk.)

THE COURT: We are about to begin the stage of the trial that's called voir dire. The purpose of voir dire is to give the lawyers or both sides the opportunity to learn something about each of you as a person. There are no right or wrong answers. We are going to give you a written questionnaire for beginning. There are no right or wrong answers. What we are looking for is complete honesty and openness. We will ask you some questions

1 about your family and occupational backgrounds, and we
2 will also ask you some questions about particular aspects
3 of this case that may affect your evaluations of the
4 testimony that may be presented in court. The voir dire
5 process is to assure the State and the defendants of a
6 fair trial.

7 The way that you contribute to this process
8 and fulfill your civic duty is to be as honest and candid
9 and open as possible. All of you have had different
10 experiences in your life, and we need to hear from each of
11 you. We appreciate the fact that you're here today
12 fulfilling your responsibility for jury service, and I
13 want to thank you for your attention and openness. Now,
14 the bailiffs are going to be passing out the written
15 questionnaires. When you get them you'll also be given
16 pencils. Fill them out as best you can. I wanted to let
17 you know that there were two names on the question, what
18 should be No. 47. That is the list of witnesses who may
19 be testifying in this case. There are two names that are
20 misspelled. One is Lavern "Butch" Raduenz, which is
21 spelled in the list that you will get with a V. It's
22 actually spelled with an N. And then later in that same
23 list is a K. Frank Smith. It is actually just Frank
24 Smith, not K. Frank Smith. The bailiffs will also have
25 those corrections should you need any further information

1 about those.

2 At this point the Court is going to recess
3 until those questionnaires have been filled out, and the
4 bailiffs will tell you when to return to court. At this
5 point we are in recess.

6 (A recess was taken from 9:45 a.m. to 2:30 p.m.)

7 THE COURT: Okay. Members of the jury, of the
8 prospective panel, reading every one of your
9 questionnaires is taking a while. I want you to know I
10 have not read very many of them, and the attorneys are
11 still working on most of them. So, basically what I am
12 telling you, it is taking us a little bit longer than we
13 anticipated. What I would like to do, is even though this
14 question is asked in the written questionnaires, I would
15 like to know -- let me tell you first of all, the trial is
16 expected to take two or three weeks.

17 So, I want those of you who cannot be here for
18 three weeks to raise your hand and I will talk to you
19 right now. Okay.

20 Well, let's thin this out. I want to know
21 people who cannot be here because of a previous planned
22 vacation where you have airline tickets or some other
23 reason of that nature, or a serious health problem where
24 you cannot be here. Let's thin this out. Okay.

25 Now, let's start over here. I can't see you,

1 but somebody has their hand raised over here. State your
2 name. Tell me your name and why you can't be here.

3 MR. YORK: My name's Robert York, and I've got two
4 track meets scheduled in the next three weeks. I coach at
5 the high school. I got two track meets scheduled.

6 THE COURT: Your track meets are scheduled in
7 Kingman, or where?

8 MR. YORK: No. They're away. One's in Phoenix, and
9 the other one's in New Orleans.

10 THE COURT: And they are during the week?

11 MR. YORK: Yes.

12 THE COURT: Okay. Who else had their hand up? Let
13 me talk to you right there, you with the orange hat. I am
14 sorry, I don't have names at this point.

15 MR. TAYLOR: I planned on taking off next week for
16 vacation, Your Honor.

17 THE COURT: What's your name?

18 MR. TAYLOR: Taylor, Richard.

19 THE COURT: Who else had their hand up? Okay. Yes,
20 sir?

21 MR. BLACK: Tucson, I need to go down to Tucson.
22 Special school for students I have down there, blind and
23 deaf, June 8th. And I have a wedding June 14th in
24 Illinois.

25 THE COURT: What's your name?

1 MR. BLACK: Black, Amos.

2 THE COURT: Okay. Thank you. More hands?

3 MR. HANNAN: My name's Joe Hannan, and I have work-
4 related work at the proving grounds, and summertime is our
5 busiest months.

6 THE COURT: What's your name again?

7 MR. HANNAN: Hannan.

8 THE COURT: How is that spelled?

9 MR. HANNAN: H-a-n-n-a-n.

10 THE COURT: Okay. Thank you. In the front row.

11 MS. KOFFMAN: Louise Koffman, K-o-f-f-m-a-n. I have
12 reservations for a raft trip for 14 days on the Colorado
13 from the 15th to the end of June.

14 THE COURT: Okay. Thank you. Who else? In the
15 blue dress there.

16 MS. AMUNDSON: Yes. I am going to be attending a
17 class at college for kids. It starts the 15th through the
18 25th.

19 THE COURT: And what's your name?

20 MS. AMUNDSON: Dorothy Amundson, A-m-u-n-d-s-o-n.

21 THE COURT: Thank you. Yes?

22 MS. GABLER: I have plane tickets to go to Boise on
23 the 27th.

24 THE COURT: What day?

25 MS. GABLER: 27th of June.

1 THE COURT: Okay.

2 MR. ZACK: Her name, Your Honor?

3 THE COURT: What was your name? I am sorry.

4 MS. GABLER: Joyce Gabler.

5 THE COURT: Okay. Who else had their hand up?

6 Yes, ma'am, in the front row.

7 MS. GARRETT: My name's Jacqueline Garrett. My
8 husband has eye surgery scheduled June 22nd and we will be
9 in Mesa for 10 days. If it is started prior to that, I
10 can be available.

11 THE COURT: And you are going to be out of town from
12 the 22nd 'till when?

13 MS. GARRETT: We will be going down the 20th, and we
14 will be there for 10 days.

15 THE COURT: Yes, sir?

16 MR. PRUITT: I am Sam Pruitt, and I have a family
17 reunion in Texas the 7th of June.

18 THE COURT: Okay. Thank you. Yes, ma'am?

19 MS. CONLOGUE: We are planning to leave the 15th of
20 June and to come back the end of September, on vacation.

21 THE COURT: What is your name?

22 MS. CONLOGUE: I'm Elizabeth Conlogue,
23 C-o-n-l-o-g-u-e.

24 THE COURT: Okay. In the second row there?

25 MR. SMITH: Well, we have a prepaid vacation

1 starting Saturday, for a week, in California.

2 THE COURT: What's your name?

3 MR. SMITH: Ogden Smith.

4 THE COURT: Okay. Yes, sir, in the front row?

5 MR. BARTZ: My business won't allow me to be away
6 that long. I am a qualifying party --

7 THE COURT: What is your name?

8 MR. BARTZ: Bartz, B-a-r-t-z.

9 THE COURT: And what is your business?

10 MR. BARTZ: Pest control.

11 THE COURT: I am sorry, I can't hear you.

12 MR. BARTZ: Pest control.

13 THE COURT: Yes, ma'am?

14 MS. WHEELER: My name's Carol Wheeler. We have a
15 family vacation in Flagstaff June 7th through the 13th.

16 THE COURT: 7th through the 13th?

17 MS. WHEELER: Yes.

18 THE COURT: And what was your name again? I didn't
19 hear it.

20 MS. WHEELER: Carol wheeler.

21 THE COURT: Wheeler?

22 MS. WHEELER: Yes.

23 THE COURT: Yes, sir?

24 MR. BROWN: My name is Everett Brown. I am
25 scheduled to leave on the 17th of June to go back to

1 Missouri for an anniversary.

2 THE COURT: Okay. Yes, ma'am?

3 MS. DAVIS: My name is Davis, Lillian M. I will be
4 gone from the 6th of June through the 20th, to Washington,
5 to an enterprise reunion with my husband.

6 THE COURT: Okay. Yes, sir?

7 MR. RAINS: Yeah, Brian Rains. I manage over 40
8 people. It's impossible for me to get away for that long
9 of time. I manage a grocery store.

10 THE COURT: Okay. Yes, ma'am?

11 MS. CRONE: My name's Penny Crone. I am just going
12 out of town from tonight until Sunday. I will be back
13 after that.

14 THE COURT: What was your name again?

15 MS. CRONE: Penny Crone, C-r-o-n-e.

16 THE COURT: And you are just going to be gone for
17 the weekend?

18 MS. CRONE: Yes.

19 THE COURT: But you are not available tomorrow; is
20 that --

21 MS. CRONE: Right.

22 MR. DICKEY: Her name again, Your Honor?

23 THE COURT: Penny Crone. Okay. Yes, ma'am?

24 MS. TIBBITS: My name is Sharon Tibbits, and I am
25 supposed to go on vacation next week in California. My

1 brother's taking time off to be with us.

2 THE COURT: What was your name again?

3 MS. TIBBITS: Sharon Tibbits.

4 THE COURT: In the second row, ma'am?

5 MS. CORRIGAN: Sandra Corrigan. I am scheduled to
6 go on business in Needles through June 9th through the
7 19th. If there is a problem, I probably could get --

8 THE COURT: And your name was what?

9 MS. CORRIGAN: Sandra Corrigan.

10 THE COURT: Corrigan, okay. Let's go way to the
11 back. Yes, sir?

12 MR. KOVACEVIC: I have airline tickets June 11th to
13 go Detroit and Cleveland. My name is Anton Kovacevic,
14 K-o-v-a-c-e-v-i-c.

15 THE COURT: Yes, sir?

16 MR. OZIAS: My name is Art Ozias. I am supposed to
17 manage the camp grounds for the state of Oregon. We leave
18 the 15th of June.

19 THE COURT: And how do you spell your last name?

20 MR. OZIAS: O-z-i-a-s.

21 THE COURT: Thank you. In the back? Yes?

22 MS. ROBINSON: We are scheduled to leave June 6th
23 through the 13th for our grandson's graduation in
24 California.

25 THE COURT: What's your name?

1 MS. ROBINSON: Audrey Robinson.

2 THE COURT: Okay. Yes? About the last row. I
3 can't see for sure. Yes, you?

4 MS. ANDERSON: My name is Lorraine Anderson. I am
5 going to go on a cruise from the 17th to the 25th of
6 June.

7 THE COURT: Okay.

8 MR. DICKEY: What was that name?

9 THE CLERK: Anderson.

10 THE COURT: In the back row?

11 MR. DEYOUNG: My name is Pete DeYoung. I have
12 reservations for vacation from June 16th through the
13 30th.

14 THE COURT: To the 30th?

15 THE CLERK: Judge, what was his name?

16 THE COURT: Your name was Pete DeYoung?

17 MR. DEYOUNG: DeYoung, right.

18 THE COURT: DeYoung. Thank you. In about the
19 middle of this group here. Yes, you?

20 MS. ADAMS: Patricia Adams. I have been waiting two
21 months to see a specialist, and my appointment is June
22 10th, and my boss leaves for vacation on the 17th and the
23 28th, and we only have a two-person office. It's a small
24 utility company, and we couldn't leave without somebody in
25 the office.

1 THE COURT: Okay. Yes, sir?

2 MR. STALNAKER: Eric Stalnaker. I have a few days
3 vacation next week for Disneyland.

4 THE COURT: I am sorry, I couldn't --

5 MR. STALNAKER: S-t-a-l-n-a-k-e-r. I have a few
6 days vacation for Disneyland, just for two days.

7 THE COURT: Okay. Who else? Yes, sir?

8 MR. SWEET: My name is John Sweet, and I am the sole
9 caretaker of an 82 year old lady that is bedridden.

10 THE COURT: In the middle of this group here?

11 MS. HASSEBROEK: I am Janette Hassebroek. We are
12 scheduled to leave June the 17th to go back east 'till
13 September.

14 THE COURT: I am sorry, what's your last name?

15 MS. HASSEBROEK: H-a-s-s-e-b-r-o-e-k.

16 THE COURT: Okay. In the back row?

17 MR. JORDAN: My name's James Jordan. I have a
18 conference scheduled the 19th through the 25th of June.

19 THE COURT: Okay. Thank you.

20 MR. DICKEY: What was his name?

21 THE COURT: His name was James Gordon.

22 MR. JORDAN: Jordan.

23 THE COURT: Jordan, okay. In the corner?

24 MS. CANNON: My name's Betty Cannon. I have a
25 religious convention to go to June 10th and 18th.

1 THE COURT: Okay. Your name was -- your last name
2 was Cannon?

3 MS. CANNON: Cannon.

4 THE COURT: Okay. Who else had their hand up?

5 MS. MORRIS: Loreen Morris, L-o-r-e-e-n, and I am a
6 principal of the migrant summer school in Parker School
7 District. It runs June 8th to July 17th.

8 THE COURT: Anybody else have their hand up? Okay.
9 Over here in the back.

10 MR. MILLER: My name's Dennis Miller. My wife has
11 a --

12 THE COURT: Your name is Dennis Miller?

13 MR. MILLER: Yes.

14 THE COURT: What is your -- state your reason again.

15 MR. MILLER: My wife has as mild mental illness that
16 I have to take her to the doctor once a week for.

17 THE COURT: When do you usually do that?

18 MR. MILLER: Like 2:30 in the afternoon.

19 THE COURT: One day a week?

20 MR. MILLER: Sometimes it varies, two days a week.

21 THE COURT: Anybody else have their hand up? Okay.

22 What I am going to do is, I'm going to read off those that
23 I am going to excuse now. Now, I want to explain this.

24 This court is not going to be in session from June 21st
25 'till the 27th. So, those of you that told me that you

1 had something started around that period of time, this
2 trial should be over by then. So, that's one reason that
3 you're not excused. The others, I may leave some of you
4 on for a little while. We will talk about it some more
5 later, but at this time I am going to excuse -- and I want
6 to -- those that are excused can leave. You will be
7 called if you are needed for further jury duty by the
8 clerk's office.

9 So, Robert York, Richard Taylor, Amos Black,
10 Cannon -- I think it was Ms. Hannan, Loise (sic) Kaufmann,
11 Dorothy Amundson, Joyce Gabler -- maybe I didn't get that
12 right. Wait a minute. That was not excused, that starts
13 June 27th.

14 THE CLERK: Gabler is not --

15 THE COURT: Gabler is not excused. Yours start June
16 27th. We will be done by then. Sam Pruitt, Elizabeth
17 Conlogue, Ogden Smith, Jerrold Bartz, Carol Wheeler,
18 Lillian Davis, Brian Rains, Penny Crone, Sharon Tibbits,
19 Sandra Corrigan, Kovacevic --

20 MR. KOVACEVIC: Anton.

21 THE COURT: Anton. Okay. Mr. Ozias, how do you
22 pronounce your name again?

23 MR. OZIAS: Ozias.

24 THE COURT: Ozias, okay. Thank you. You are
25 excused.

1 MR. OZIAS: Thank you.

2 THE COURT: Mr. Robertson -- Ms. Robinson --

3 MR. ZACK: Audrey --

4 THE CLERK: Audrey Robinson.

5 THE COURT: Audrey Robinson. Sorry. Peter DeYoung,
6 Patricia Adams, Mr. Stalnaker, John Sweet, Ms. Cannon,
7 Loreen Morris. Those are the ones that I am going to
8 excuse at this time. You are free to leave now. Okay.
9 At this time the clerk is going to be calling the first 36
10 jurors to come up to the jury box. As you come up, the
11 bailiff, Mr. Johnson over here, will tell you where to
12 go.

13 THE CLERK: Charlette May Evans, Allen Carlyle
14 Miller, Aleta Joe Tyra, Tina Marie Bonsang, Barbara Ann
15 Yancy, Maymie Jannet Moulder, Barbara J. Alaria, Carolyn
16 Sue Mankin, David George Alvarado, Neil Leroy Scaife, Ruth
17 Helen Holgate, Everett Dale Jenks, Wayne Allan McCall,
18 Herbert Brower, Carol Joyce Di Giovanni, Carol Lois
19 Williams, Russell William Confer, Rita Ann Dunn, Bobby Lee
20 Davidson, Cecil Wayne Semm, Cathleen Susan Gillespie,
21 Andrea Michelle Marcum, Ignacio Santiago Chavez, Peter
22 David Manderfield, Cindi Lea Breaux, Ellis James
23 Furchtbar, Ann Marie Theobald, Hubert Wayne Bell, Randall
24 Timothy Briggs, Warren Michael Ellis, Jeffrey Allan
25 Marlow, Charlene Ann Cochrum, Ronald Lee Harshman, Robert

1 John Douglass, Loretta Mary Chase, Michael Joe Medlin.

2 THE COURT: Okay. At this point I am going to
3 introduce the participants in the trial. The State is
4 represented by Mr. Zack who is a deputy county attorney.

5 Do any of you -- and I want you to raise your
6 hand if you have a yes answer to any questions I ask you.
7 If the answer is no, you don't need to raise your hand.

8 Do any of you know Mr. Zack or any member of
9 his office? All right. In the back row. Ms. Tyra.

10 MS. TYRA: Yes.

11 THE COURT: And how do you know him?

12 MS. TYRA: I have just seen him around town. I
13 don't really --

14 THE COURT: Okay.

15 MS. TYRA: -- I don't really know much about him,
16 except I've seen him around town.

17 THE COURT: All right. Who else had their hand up?
18 In the back, Ms. Evans.

19 MS. EVANS: He used to be one of our paper customers
20 when we had the paper route.

21 THE COURT: Do you talk to him on occasions because
22 of that?

23 MS. EVANS: Oh, once in a while.

24 THE COURT: Okay. Who else had their hand up? In
25 the back, middle row. Mr. Alvarado.

1 MR. ALVARADO: I knew Jace when he -- Mr. Zack, a
2 long time ago, but I haven't seen him -- you know, off and
3 on, you know.

4 THE COURT: Okay. Basically, that was just on a
5 social basis?

6 MR. ALVARADO: Well, I had a restaurant at the time,
7 and he used to come in.

8 THE COURT: Oh, okay. All right. Thank you. Mr.
9 Jenks, did you have your hand up?

10 MR. JENKS: We were lodge brothers.

11 THE COURT: I am sorry?

12 MR. JENKS: We were lodge brothers.

13 THE COURT: Oh, okay. Who else had their hand up?
14 Mr. Confer.

15 MR. CONFER: Yes. Association I have had with him
16 is when I was on grand jury.

17 THE COURT: Okay. How long has that been?

18 MR. CONFER: About five years ago.

19 THE COURT: All right. Who else had their hand up?
20 Mr. Miller?

21 MR. MILLER: Yes, sir. I just seen the gentleman.
22 I know he worked -- I have just seen the gentleman, and I
23 believe he works out of Bill Ekstrom's office.

24 THE COURT: He works out of Bill Ekstrom's office.
25 In this courtroom, it's hard to hear in this courtroom

1 anywhere, especially with the air conditioner on, and I
2 don't want to turn it off. So, we are going to leave the
3 air conditioner on. What that means, sometimes we are not
4 going to hear very well and I am going to ask you to
5 repeat yourself.

6 So, did anybody else have their hands up on
7 this side? Anybody over there have their hands up?
8 Okay.

9 You are Mr. Hartman?

10 MR. HARSHMAN: Harshman.

11 THE COURT: Harshman.

12 MR. HARSHMAN: Yes, sir. My daughter-in-law works
13 for the county attorney's office with Mr. Zack.

14 THE COURT: What is her name?

15 MR. HARSHMAN: Malibu Harshman.

16 THE COURT: Does she work as a secretary?

17 MR. HARSHMAN: I believe so. I don't know.

18 THE COURT: You don't know?

19 MR. HARSHMAN: Not for sure. She works at the
20 county attorney's office.

21 THE COURT: Anybody else have their hands up?
22 Okay. The defendant, Roger Wayne Murray, is represented
23 by Mr. Dickey and Mr. Gavin. Okay. Mr. Dickey is the
24 gentleman on my left, Mr. Gavin is the gentleman on my
25 right.

1 Now, do any of you know either Mr. Dickey or
2 Mr. Gavin on either a social or professional basis?

3 Okay. All right. Thank you. Mr. Robert Wayne
4 Murray is represented by Ms. O'Neill.

5 Do any of you know her on a social or
6 professional basis? Okay. Thank you.

7 Mr. Dickey, will you introduce your defendant?

8 MR. DICKEY: Yes, Your Honor. This is Roger Wayne
9 Murray, my client.

10 THE COURT: Do any of you know Mr. Roger Wayne
11 Murray or any member of his family? Okay.

12 Ms. O'Neill.

13 MS. O'NEILL: Thank you, Your Honor. My client's
14 name is Robert Wayne Murray.

15 THE COURT: Do any of you know Robert Wayne Murray
16 or any member of his family? Thank you.

17 MS. O'NEILL: Excuse me, Your Honor. Could we
18 approach the bench for a minute?

19 THE COURT: Yes, you may.

20 (The following discussion was had at the bench
21 outside the hearing of the prospective jurors.)

22 MS. O'NEILL: I just was going to ask the Court to
23 ask if any of the jurors knew any of the court personnel
24 that is here.

25 THE COURT: Okay. You will find that some of them

1 do.

2 MS. O'NEILL: I know.

3 THE COURT: Okay. All right. We can do that.

4 (The following proceedings were had in the hearing
5 of the prospective jurors.)

6 THE COURT: Now, I am also going to introduce -- I
7 am not going to introduce all the court personnel, but I
8 am going to introduce those that will be with us most of
9 the while. The court reporter is Rick Pulver; the bailiff
10 that will be with us throughout the trial is Bob Johnson,
11 seated to my right. The court clerk is Beth Krumwiede,
12 who is seated to my left.

13 Now, do any of you know any of the court
14 personnel? And with that question I'd like you also to
15 raise your hand if you know the judge, James Chavez,
16 myself.

17 Do any of you -- Mr. Alvarado, who do you know?

18 MR. ALVARADO: I think you know my father.

19 THE COURT: And he may have known me when I was a
20 child?

21 MR. ALVARADO: Right.

22 THE COURT: And Mr. Chavez?

23 MR. CHAVEZ: I think I -- I know your dad and you.

24 THE COURT: Okay. Thank you. For the record, Mr.
25 Chavez is my uncle. Did anybody else have their hand up?

1 Okay.

2 Now, what we are going to do at this point --
3 it's already 3:00 o'clock. I don't have any more
4 questions of the entire panel. What we will be doing is
5 individual discussions with members who are already up
6 here on the panel. That means that I am going to excuse
7 those of you that remain in the back of the courtroom, but
8 I'm going to ask you to return tomorrow morning at 9:00
9 o'clock. Now, in the meantime you are not to listen to
10 any news, and that applies to all of you, overnight. You
11 are not to listen to any news accounts of this trial.
12 That includes radio or television, and you're not to read
13 any newspaper articles about this trial. Don't talk to
14 anyone about this case, and that includes the attorneys,
15 the witnesses, or anyone else associated with the case.

16 And I will also point out at this time that the
17 attorneys have been instructed not talk to you about this
18 case. The reason -- they are not to talk to you at all
19 and you are not to talk to them at all. If you have
20 something that you need to communicate with the Court, you
21 can communicate with the bailiff, one of the bailiffs you
22 have seen today, or the court reporter or the court clerk.
23 The attorneys have been told not to talk to you, and that
24 includes even innocent matters. So, they are not being
25 unfriendly to you when they don't talk to you in the

1 hallway. We have these rules so that we can be assured
2 that there is a fair and impartial trial that will take
3 place.

4 I know that jury service is an inconvenience to
5 you, especially when you have to come back and sit around
6 for a great deal of time, but it is about the only way
7 that we can select a jury on a case like this one. Okay.
8 So, those of you who remain in the back of the courtroom
9 are excused at this time. Okay. In general, those of you
10 that remain, we are going to go into recess. You can go
11 into the jury room, you can go into the back of the
12 courtroom, you can walk around the halls. As I said,
13 don't discuss the case. Beginning with Ms. Evans who is
14 seated, No. 1, we are going to be talking to you
15 individually. And the bailiff or someone else will call
16 you and tell you when it's your turn. So, at this point
17 we are in recess.

18 (A recess was taken from 3:05 p.m. to 3:10 p.m.)

19 (The following proceedings were had in chambers
20 outside the presence of the prospective panel.)

21 THE COURT: Okay. We are in chambers with counsel,
22 both defendants present. And I probably misspoke myself
23 out there. I guess I need to know, start -- beginning
24 with Juror No. 1, which of those do you want to talk to?
25 First one is Charlette May Evans.

1 MR. DICKEY: I think we need to talk with Ms.
2 Evans.

3 MS. O'NEILL: Yes, we do.

4 THE COURT: Okay. That's fine. Where's Bob?
5 Virlynn is busy. Maybe Anji can ask her. We need
6 Charlette May Evans.

7 MS. O'NEILL: Your Honor?

8 THE COURT: If -- we don't have enough chairs.
9 Let's get the chairs and --

10 MS. O'NEILL: Yes.

11 THE COURT: All right. Let the juror sit back
12 here.

13 MS. O'NEILL: Judge, did you want us to tell you
14 what we have concerns about --

15 THE COURT: Yes.

16 MS. O'NEILL: -- before she comes in?

17 THE COURT: Dave, why don't you close the door,
18 please. Bob, we'll be just a minute. Can you give me a
19 name so we can be ready? Who do you want to talk to
20 after --

21 MR. DICKEY: Tina Marie Bonsang.

22 MS. O'NEILL: Whoa, stop.

23 THE CLERK: No. 3 is Allen Miller. The next one is
24 Allen Miller.

25 MS. O'NEILL: We probably need to talk to Allen

1 Miller.

2 THE COURT: So, the next one after Evans will be
3 Miller. Now, what do you want me to talk to Ms. Evans
4 about?

5 MS. O'NEILL: The notes that I have based on her
6 questionnaire, Judge, and now she said that she knows Mr.
7 Zack, and I think that may or may not need to be talked
8 about any further. There are --

9 (The Judge has left chambers momentarily.)

10 THE COURT: Okay. We can ask her about Mr. Zack,
11 but what else?

12 MS. O'NEILL: Okay. She indicated that she had seen
13 and/or read or heard news accounts, but she didn't
14 describe what it was that she heard, just what was in the
15 news. I would like to find out what specifics she has.
16 She also made a comment that she -- the Court may wish her
17 to explain what she means, they did it, now pay. To me
18 that sounds like she is probably someone we want to
19 challenge for cause, but perhaps the Court wants to talk
20 to her about that comment. I have got 15 on the second
21 part.

22 THE COURT: Okay.

23 MR. DICKEY: Also with the claim with the law
24 enforcement officers, Your Honor.

25 THE COURT: On this case?

1 MR. DICKEY: She's also acquainted with Deputy
2 Sheriff Chastain, I believe.

3 MR. ZACK: If I could just make a general comment.
4 Certainly a lot, a fair number of prospective jurors
5 checked they know a particular law enforcement officer or
6 have heard something about the case. Also a question
7 there phrased a couple different ways, whether they can
8 still be fair and impartial; anything that they know that
9 would prevent them from being a impartial juror. It just
10 seems like we don't have to ask every time they answer
11 affirmative to a question other than that they can be fair
12 and impartial.

13 THE COURT: Well, she didn't mark any of those.

14 MR. ZACK: But, it just seems to me that we can
15 nitpick every juror to the point of -- the questionnaire
16 was to have most of this taken care of, not merely used as
17 an introduction to go into every detail with every juror.

18 MR. GAVIN: She admits that she knows people in the
19 prosecution's side of the case. I think we are entitled
20 to find out exactly what kind of relationship she has with
21 those people.

22 THE COURT: Yes. But, Joe Chastain is not a witness
23 in this case. Go ahead and bring her in.

24 (Ms. Evans has entered chambers.)

25 THE COURT: Hi. We have a seat for you right there.

1 MS. EVANS: Thank you.

2 THE COURT: You are Charlette Evans?

3 MS. EVANS: Yes, sir.

4 THE COURT: Just a few things we want to talk to you
5 about. First of all, you had marked in this that you know
6 Joe Chastain?

7 MS. EVANS: Uh-huh.

8 THE COURT: What does he do?

9 MS. EVANS: Deputy Sheriff.

10 THE COURT: And how well do you know him?

11 MS. EVANS: Just a friend. His mother lives across
12 the street from us, and we have been friends for years.

13 THE COURT: Do you ever talk to him?

14 MS. EVANS: Oh, yeah.

15 THE COURT: Do you talk -- have you talked to him
16 about this case?

17 MS. EVANS: No.

18 THE COURT: And you marked that you knew -- had
19 heard something about this case in the newspaper and
20 radio?

21 MS. EVANS: Uh-huh.

22 THE COURT: What did you hear?

23 MS. EVANS: Just what was in the paper.

24 THE COURT: Okay. When, do you remember? When did
25 you read the paper about this case?

1 MS. EVANS: Oh, whenever it all happened.

2 THE COURT: Back about a year ago?

3 MS. EVANS: Uh-huh.

4 THE COURT: Okay. Have you read the paper since
5 this case, about this case?

6 MS. EVANS: When it's in the paper I read it.

7 THE COURT: What do you know about this case?

8 MS. EVANS: Well, just that it happened and where it
9 happened, and that they were captured.

10 THE COURT: Have you formed any opinion about --

11 MS. EVANS: Not really.

12 THE COURT: Do you think anything that you have read
13 in the paper would affect your abilities to sit on the
14 jury?

15 MS. EVANS: No.

16 THE COURT: Do you think you can be fair and
17 impartial even though you have read something about this
18 case?

19 MS. EVANS: I believe so, yes.

20 THE COURT: Can you set aside what you have heard
21 and listen to the testimony in court and just make your
22 verdict, if you are chosen as a juror, just on what you
23 hear in court?

24 MS. EVANS: Yes.

25 THE COURT: And you said you knew Jace, Mr. Zack?

1 MS. EVANS: Uh-huh.

2 THE COURT: And that's because you used to deliver
3 his papers?

4 MS. EVANS: Yeah. His paper girl and boy and what
5 have you for about 10, 15 years.

6 THE COURT: Your kids delivered the papers?

7 MS. EVANS: And I.

8 THE COURT: Okay. You did, okay. You also said,
9 marked one thing in your paper here that was a little
10 confusing for me. It said what is your opinion about the
11 way the criminal justice system deals with persons who are
12 accused of committing crimes, and you said they're guilty,
13 now pay.

14 Were you referring to this case when you said
15 that?

16 MS. EVANS: No. General.

17 THE COURT: In general. So, you believe people who
18 have committed crimes should be punished?

19 MS. EVANS: Yes, I do.

20 THE COURT: And is that what you meant when you
21 wrote that down?

22 MS. EVANS: Yes.

23 THE COURT: Do you have any feelings one way or
24 another about this case?

25 MS. EVANS: No.

1 THE COURT: Mr. Zack, do you have any questions?

2 MR. ZACK: No, Your Honor.

3 THE COURT: Ms. O'Neill?

4 MS. O'NEILL: Yes, Your Honor, if I may. Do you
5 have any feelings about if a person gets arrested, do you
6 think that they are guilty if they get arrested?

7 MS. EVANS: No.

8 MS. O'NEILL: Okay.

9 THE COURT: Okay. Mr. Dickey?

10 MR. DICKEY: Has what you have heard about this
11 case, does that make you feel one way or the other about
12 it?

13 MS. EVANS: No.

14 MR. DICKEY: The fact that Roger has been charged
15 with this offense, do you think that would affect your
16 ability to judge this matter according to the evidence?

17 MS. EVANS: I would go on the evidence.

18 MR. DICKEY: Have you formed any opinion as to what
19 this case is all about?

20 MS. EVANS: Not really. I just know what it's
21 about. I mean, the legal thing of it.

22 MR. DICKEY: Now, how do you feel about a person who
23 has been charged with a crime like this?

24 MS. EVANS: Well, I really feel that they owe their
25 duty to society to do something to show that they did

1 something like this.

2 MR. DICKEY: When you say they have the duty, are
3 you talking about the prosecutor, or are you talking about
4 the defendants, or could you explain a little bit?

5 MS. EVANS: Well, I feel like if they have done it,
6 they should be punished of some sort.

7 THE COURT: Okay. Now, if you -- you would decide
8 based on the evidence whether or not they had done it; is
9 that correct?

10 MS. EVANS: Uh-huh.

11 THE COURT: And you can listen to the evidence and
12 set aside whatever you have heard in the newspaper?

13 MS. EVANS: I believe so, yes.

14 THE COURT: Is there any doubt about that in your
15 mind?

16 MS. EVANS: No.

17 MS. O'NEILL: One -- Your Honor, I have one other
18 question that came up on one other answer. You know, what
19 it's about, the legal thing of --

20 MS. EVANS: Well, just what is in the paper.

21 MS. O'NEILL: Can you tell me what it's about?

22 MS. EVANS: Well, just what they said in the paper,
23 that they were accused of it.

24 MS. O'NEILL: The legal thing of it, what did you
25 mean by that?

1 MS. EVANS: Well, that -- that it did happen. Or,
2 supposedly happened.

3 MS. O'NEILL: By it, what do you mean by it?

4 MS. EVANS: The crime that's supposed to have been
5 committed.

6 MS. O'NEILL: Okay.

7 THE COURT: Any other questions, Mr. Zack?

8 MR. ZACK: No, Your Honor.

9 THE COURT: Ms. O'Neill?

10 MS. O'NEILL: Nothing, Your Honor. Thank you.

11 THE COURT: Mr. Dickey?

12 MR. DICKEY: Just a couple, Your Honor. You
13 understand that there will be evidence presented in this
14 case and there will be witnesses that will be testifying,
15 and you'll have to decide which ones to believe and not to
16 believe.

17 Do you believe that you can do that?

18 MS. EVANS: Yes, I do.

19 MR. DICKEY: And is there any -- how would you
20 decide whom to believe?

21 MS. EVANS: I'd weigh it out.

22 MR. DICKEY: All right. I have nothing further.

23 THE COURT: Okay. Thank you for coming in and
24 talking to us.

25 MS. EVANS: Uh-huh, surely. Thank you.

1 (Ms. Evans has left chambers.)

2 THE COURT: Okay. Bob's out there. Okay. Why
3 don't you close the door for a minute.

4 MR. ZACK: Your Honor, back to my general point. I
5 want to make an objection to this line of voir dire.
6 Defense counsel wanted questionnaires so they could ask
7 all the questions they wanted to. That was done, a very
8 tedious process. The purpose of that was to get voir dire
9 done expeditiously. I see this as becoming a springboard
10 for questions that are being -- to be a springboard for
11 further voir dire. I'd like to get this case tried
12 sometime this summer. If we are going to go through these
13 at this pace, every one, with no good articulable reason, I
14 object. I think we have enough information, unless
15 there's a good articulable reason. There's no reason to
16 talk to every prospective juror.

17 THE COURT: I agree with you, unless there's some
18 good reason to talk to them. Now, on Mr. Miller --

19 MR. DICKEY: If it please the Court, may I be heard
20 on this? The purpose of voir dire is to obtain
21 information in order to be able to exercise challenges for
22 cause and peremptory challenges. In order to be able to
23 do this we need information. The way that information is
24 obtained is by asking open-ended questions that get the
25 jurors to talk. The closed-end questions give us no

1 information and give us no basis upon which we can
2 exercise our peremptory challenges, our challenges for
3 cause, intelligently. The purpose of the questionnaire
4 was to obtain information. The -- a number of the
5 questions that were open-ended which could have gotten the
6 jurors to talk, would have gotten the information which
7 would have avoided this, were removed from the
8 questionnaire.

9 Now, the questionnaire and what they have
10 indicated has raised questions about their ability to be
11 fair and impartial. And their connection with agencies
12 such as law enforcement, their statements have indicated
13 they may have an opinion on a case. That opinion may
14 prevent them from being fair and impartial. In order to
15 get that information we need to ask them questions to find
16 out how they feel and not just whether they say they can
17 be fair and impartial, to find out how they think so that
18 we can determine whether or not the answers that they give
19 are accurate and honest, or whether they are just trying
20 to go ahead and make themselves appear good to the Court
21 so they can perhaps serve on the jury.

22 THE COURT: Thank you, Mr. Dickey. You have a
23 multitude, a magnitude of information in these
24 questionnaires above and beyond what you normally get in
25 voir dire. All I want to know is before we call somebody

1 in here to talk to them individually, what are we going to
2 talk to them about. I don't intend to cut it too short on
3 the questions unless we start getting too broad on that.
4 Unless you have a good reason to talk to a juror, then I'm
5 going to assume that we don't need to talk to them. So,
6 all I want to know is the reason. But, I want to get back
7 as far as to Charlette May Evans.

8 Are there any challenges for cause on Charlette
9 May Evans?

10 MS. O'NEILL: Your Honor, despite what she said, I
11 still believe that the response, they did it, now pay,
12 constitutes a bias against the ability to make a fair
13 determination of the evidence in this case, and I do
14 challenge her for cause.

15 THE COURT: Mr. Dickey?

16 MR. DICKEY: We challenge her for cause, also, Your
17 Honor.

18 THE COURT: Okay. The challenge is denied, and we
19 will proceed again. What reasons do you have for talking
20 to Mr. Miller?

21 MS. O'NEILL: Your Honor?

22 THE COURT: Yes?

23 MS. O'NEILL: The only reason is that he has
24 indicated that he has been to the Grasshopper Junction
25 store. I just would like to know the circumstances and

1 whether that was recent, in the last couple years.

2 THE COURT: I think that's a good reason to talk to
3 him.

4 MR. DICKEY: He also indicates that's he's a former
5 policeman. He apparently has a problem hearing, which may
6 affect his ability to hear the oral evidence presented in
7 the case.

8 THE COURT: Okay. Thank you. Would you get Mr.
9 Evans?

10 MR. ZACK: Mr. Miller.

11 THE COURT: Mr. Miller. Bob, here, I am going to
12 give you the list. We are going to go straight down the
13 list and just talk to them in order. Now, we may not talk
14 to all of them, but that just lets you know who the next
15 two or three will be.

16 (Mr. Miller has entered chambers.)

17 THE COURT: Mr. Miller?

18 MR. MILLER: Yes, sir?

19 THE COURT: You have been called back here so we
20 could ask you a few questions.

21 First of all, I understand that you have been
22 to Grasshopper Junction?

23 MR. MILLER: Yes, sir.

24 THE COURT: Okay. When was that?

25 MR. MILLER: I have no idea when. It was before

1 these people took over.

2 THE COURT: It was before. By these people, who do
3 you mean?

4 MR. MILLER: Well, the past owners.

5 THE COURT: Okay.

6 MR. MILLER: I didn't know them, no, sir.

7 THE COURT: Okay. And you were there two to four
8 times. Were you there on business, or just stopping by?

9 MR. MILLER: Just went in. They had good pie. A
10 friend of mine and I used to ride a motorcycle, and we'd
11 have a piece of pie and go back to town. That was it.

12 THE COURT: Can you give me approximately how long
13 ago it was that you were there?

14 MR. MILLER: Certainly. Five years, somewhere in
15 that vicinity, yes.

16 THE COURT: Okay. Anything about having been there,
17 and this case is about -- and you know that this case is
18 about an incident that occurred there at Grasshopper
19 Junction.

20 Anything about being there before that would
21 affect your abilities to sit on this jury?

22 MR. MILLER: No, sir.

23 THE COURT: And you also put down that you know some
24 of the Mohave County sheriff's officers. I think -- is
25 that Mike Friend?

1 MR. MILLER: I think it's supposed to be Mike
2 Friend.

3 THE COURT: And John Slaughter, Dale Lent, and Jim
4 Stull. How did you know them? Dan Bishop?

5 MR. MILLER: Dan Bishop, I have talked to him a
6 number of times, and Dale Lent, also. Friend is someone
7 I've seen there. Jim Stull, more the same. I have seen
8 him there; I know him.

9 THE COURT: Have you ever talked to them about this
10 case?

11 MR. MILLER: No, sir.

12 THE COURT: When you say that -- you also put down
13 you know Jack Nelson?

14 MR. MILLER: Yes, sir.

15 THE COURT: And you put down that you know -- that
16 you have known all those people professionally.

17 In what profession? What is your profession
18 that you knew them in?

19 MR. MILLER: I meant it to be that, just the
20 relation of the sheriff's office and the fact that I knew
21 them. In fact, I am a ex-police officer, and I -- of
22 course, I visited with them. And when Sheriff Rathbone --
23 of course, I'm elaborating.

24 THE COURT: That's fine. I am listening.

25 MR. MILLER: When Sheriff Rathbone was in, I was,

1 what do you want to call it, a deputy sheriff or special
2 deputy, and I got acquainted with Mr. Nelson there, and
3 Mr. Bishop, Lent. And Stull wasn't there at the time.
4 Friend was there.

5 THE COURT: Okay. How long has that been?

6 MR. MILLER: Well, let's go back to when Mr.
7 Rathbone was sheriff. When was that?

8 THE COURT: I don't know.

9 MR. MILLER: Four -- eight. Eight years ago, nine
10 years ago.

11 MR. ZACK: Well, it would be 12 years ago.
12 Richardson was in there before, too.

13 THE COURT: Okay. In other than Mohave County, the
14 last time you served with -- as, let's say a peace officer
15 in general, was as an agricultural inspector?

16 MR. MILLER: Yes, sir.

17 THE COURT: And that was in Merced, California, and
18 the last time that you did that, the last year, was 1973?

19 MR. MILLER: Yes, sir.

20 THE COURT: And then you came to Mohave County, or
21 you have been in Mohave County, and you worked as a
22 special deputy for a period of time?

23 MR. MILLER: When I came to Mohave County I was
24 strictly retired, and I went into business in Lake Havasu
25 City, and later I moved to Kingman. And I don't -- I

1 don't exactly know how I met Mr. Nelson first, but
2 probably because I make cowboy boots. In fact, I made him
3 a couple pair. So, I guess the interest of my -- or, the
4 past of my law enforcement. I don't know. We just -- you
5 get to talking, and then I became a special deputy or --
6 yeah, I think they are called a special deputy. It's a
7 nonpaying job.

8 THE COURT: Sort of a reserve position?

9 MR. MILLER: Yes. Did a lot of guarding.

10 THE COURT: All right. How long has that been since
11 you did that?

12 MR. MILLER: Under Mr. Rathbone.

13 THE COURT: Okay. All right. Do you think that you
14 can judge all the testimony of the witnesses by the same
15 standards?

16 In other words, if a police officer is
17 testifying, do you think you are more or less likely to
18 weigh his testimony versus someone else?

19 MR. MILLER: I think that I can. I think my past
20 should come into play here. If you are a police officer,
21 you gather evidence, you don't just make up your mind
22 right away.

23 THE COURT: Okay. But, I want to make sure --

24 MR. MILLER: Yes, sir.

25 THE COURT: -- I understand you.

1 MR. MILLER: Yes.

2 THE COURT: If you had a police officer testify, and
3 another witness, would you judge them by the same
4 standard?

5 MR. MILLER: Yes. Yes, sir.

6 THE COURT: Is there anything about this case, the
7 fact that you know some of the people that may be
8 testifying in this case, the fact that you have been in
9 Grasshopper Junction before, that would make it hard for
10 you to sit on this case and be fair and impartial?

11 MR. MILLER: Nothing that I could see, no, sir. I
12 believe I can be very impartial, yes, sir.

13 THE COURT: And also, you indicated you had trouble
14 with your hearing, but you have been able to hear me?

15 MR. MILLER: Yes, sir.

16 THE COURT: Were you able to hear what went on in
17 the courtroom?

18 MR. MILLER: Yes, sir.

19 THE COURT: That's a difficult courtroom to hear in.
20 Most of the courtrooms we will be in are a little easier.

21 Do you think there's anything about your
22 hearing that would prohibit you from being a juror?

23 MR. MILLER: No, sir.

24 THE COURT: Mr. Zack, any questions?

25 MR. ZACK: No, Your Honor.

1 THE COURT: Ms. O'Neill?

2 MS. O'NEILL: Thank you, Judge. I'll just ask one.
3 You indicated on the questionnaire --

4 MR. MILLER: Yes, sir. Yes, ma'am.

5 MS. O'NEILL: That's fine. -- the scene
6 investigators, you might give a little bit more weight to
7 their testimony than somebody else.

8 Do you still feel that way?

9 MR. MILLER: I tried to clarify that without giving
10 you just a positive yes or no answer. In an investigative
11 scene I thought an officer could do better than some
12 fellow just standing behind a rope looking. As I
13 indicated, a situation where I saw it was an action. I
14 think that everyone should be treated the same. Everyone
15 is not going to see a movement exactly as another person
16 would.

17 MS. O'NEILL: Okay. Thank you.

18 THE COURT: Thank you. Mr. Dickey, any questions?

19 MR. DICKEY: How would your experience as a law
20 enforcement officer affect your being able to sit as a
21 juror in this matter?

22 MR. MILLER: How would it affect?

23 MR. DICKEY: Yes.

24 MR. MILLER: Well, I don't think it will affect --
25 I'm not quite following your intention.

1 MR. DICKEY: I take it you believe in law and order;
2 is that right?

3 MR. MILLER: Yes, sir.

4 MR. DICKEY: And how do you feel about people who
5 are accused of this type of crime?

6 MR. MILLER: I believe that the person is innocent
7 until proven guilty.

8 MR. DICKEY: And since some of the people you know
9 may be witnesses in this case, would you be able to set
10 aside what you know about them and judge their -- the
11 evidence that they give in court?

12 MR. MILLER: Yes, sir.

13 MR. DICKEY: And would you tend to favor one witness
14 against the other just because you've known them for a
15 period of time?

16 MR. MILLER: No, sir.

17 THE COURT: Mr. Miller, I had a couple questions.

18 MR. MILLER: Yes, sir.

19 THE COURT: There are two defendants in this case,
20 one is named Robert Wayne Murray, and the other is Roger
21 Wayne Murray. We had a confusing question in this
22 questionnaire.

23 Do you think if the State were to put on this
24 case, that you would be able to judge those two defendants
25 separately?

1 MR. MILLER: Yes, sir.

2 THE COURT: And do you think that you would have
3 trouble telling apart which evidence applies to which if
4 there is some evidence that applies only to one
5 defendant?

6 MR. MILLER: I don't think so, no.

7 THE COURT: Okay. You've heard something about this
8 in the media?

9 MR. MILLER: Well, yes.

10 THE COURT: Did you form an opinion based on what
11 you had heard in the media?

12 MR. MILLER: No, sir.

13 THE COURT: Do you think you can set aside what you
14 have heard in the media and judge guilt or innocence based
15 on what you hear here in the courtroom?

16 MR. MILLER: Yes, sir.

17 THE COURT: Okay. Any additional questions?

18 MR. ZACK: No, Your Honor.

19 MS. O'NEILL: No, Your Honor.

20 THE COURT: Mr. Dickey?

21 MR. DICKEY: No, Your Honor.

22 THE COURT: Thank you. Thanks for coming in.

23 MR. MILLER: Yes, sir.

24 (Mr. Miller has left chambers.)

25 THE COURT: Challenges for cause?

1 MS. O'NEILL: Your Honor, I probably wouldn't if I
2 had more strikes, but because of the situation, yes.

3 THE COURT: Mr. Dickey?

4 MR. DICKEY: Yes, Your Honor.

5 THE COURT: Mr. Zack, any comments?

6 MR. ZACK: No, Your Honor.

7 THE COURT: Challenge for cause is denied on that,
8 Mr. Miller. I think he was forthright, straightforward.
9 I don't know.

10 What about Ms. Aleta Tyra, do you want to talk
11 to her?

12 MR. DICKEY: Yes, Your Honor.

13 MS. O'NEILL: Actually, Your Honor, if you want to
14 call her in, we will talk to her. There's a number of
15 things that come up from her questionnaire that I feel
16 that she should be challenged for cause at this time.

17 Do you want me to go into that at this time?

18 THE COURT: Yes. Let's hear it before we talk to
19 her.

20 MS. O'NEILL: She knows several of the officers who
21 are going to be witnesses in this case, including Dale
22 Lent, James Stull, Dan Bishop. She knows Dwayne Hamilton
23 who probably isn't real crucial to the case, and Dick
24 Murie, M-u-r-i-e, which is classified as a friend of a
25 friend. So, she has -- it looks like she has quite a bit

1 of knowledge of a variety of the witnesses. She has heard
2 and read about this case in the paper and on KZZZ. She
3 has discussed this case casually with neighbors. She has
4 been in Grasshopper Junction before. She knew both of the
5 victim's, which I think is probably, more than anything
6 else, a reason to strike her for cause.

7 I don't think that it would be appropriate in
8 this case to have a juror sitting on this case who knew
9 the deceased personally. Certainly if this was a case
10 where an alleged victim was alive and a witness in the
11 courtroom, they would probably not be seated as a juror.
12 I think that in this case, certainly they should not be
13 seated if they knew any of the victims.

14 THE COURT: Mr. Dickey, do you have any additional
15 questions?

16 MR. DICKEY: Yes, Your Honor. It appears that she's
17 the wife of a former DPS officer who was also apparently a
18 city magistrate here for a while. In addition, I
19 understand from the questionnaire that I believe her
20 husband is a mason, and my understanding is that the
21 deceased, Mr. Morrison, was also a mason.

22 THE COURT: Okay. Thank you. Mr. Zack, any
23 comments?

24 MR. ZACK: No, Your Honor.

25 THE COURT: I am going to excuse Ms. Tyra for cause

1 based on the fact that she knew the deceased. And you can
2 tell her after you -- let's go through some of these.

3 Ms. Bonsang, any reasons to talk to her, Ms.
4 O'Neill?

5 MS. O'NEILL: I don't think so.

6 MR. GAVIN: Your Honor, if I may. She's indicated
7 she may have a problem being here every day because of her
8 children. Her children are in day care, apparently. And
9 one additional thing, I have a client named Tod Bonsang.
10 I don't know if they are related or not. You may want to
11 find that out. Her husband is listed as Ken, but I don't
12 know if that's a relative that may know me through my
13 client.

14 THE COURT: What is his name?

15 MR. GAVIN: His name is Tod Bonsang.

16 THE COURT: Well, I am going to bring her in just to
17 ask her that.

18 MR. DICKEY: Your Honor, she indicated that she had
19 to pick up her children by 6:00 o'clock each day.

20 THE COURT: I saw that. I don't think that's a good
21 reason to release anybody.

22 (Ms. Bonsang has entered chamber.)

23 THE COURT: Okay. I just had a couple of quick
24 questions for you.

25 You are Tina Marie Bonsang?

1 MS. BONSANG: Yes.

2 THE COURT: Okay. And are you related in any way to
3 Tod Bonsang?

4 MS. BONSANG: Yes. My brother-in-law.

5 THE COURT: That's your brother-in-law?

6 MS. BONSANG: You are asking -- do you know my
7 brother-in-law?

8 THE COURT: I don't know him. One of the attorneys
9 knows him, though.

10 MS. BONSANG: Yes.

11 THE COURT: I guess he's been in some trouble?

12 MS. BONSANG: Yes, he has.

13 THE COURT: What -- do you know what kind of
14 trouble?

15 MS. BONSANG: He's gotten a few DUI's lately

16 THE COURT: Anything about the fact that he's been
17 prosecuted lately that will affect your abilities to sit
18 on this jury?

19 MS. BONSANG: No.

20 THE COURT: Okay. Mr. Zack, do you have any
21 questions?

22 MR. ZACK: No, Your Honor.

23 MS. O'NEILL: No, Your Honor.

24 THE COURT: Mr. Dickey, Mr. Gavin?

25 MR. GAVIN: No, Your Honor.

1 MS. BONSANG: I did have a question. There are a
2 lot of people on vacation at my work. You excused two of
3 them.

4 THE COURT: Did I?

5 MS. BONSANG: Yeah. Actually, Anton Kovacevic, his
6 wife, works at Valley Bank. And Sharon Tibbits work at
7 Valley Bank. Those are just two of the people that are
8 going to be on vacation soon.

9 What time does court normally get out?

10 THE COURT: Normally we will be out -- the way court
11 normally works, we start at 9:00 o'clock on weekdays; we
12 run 'till noon; we start at 1:30 and run 'till 5:00.

13 MS. BONSANG: Okay.

14 THE COURT: I know -- I saw in here that you had to
15 pick up your children by 6:00.

16 MS. BONSANG: Yeah. And I have to drive back to
17 Havasu. That's about an hour drive. So, I want to point
18 that out, too.

19 THE COURT: Okay. I don't know how things will go
20 in this case.

21 MS. BONSANG: Okay.

22 THE COURT: I think on most days it's not going to
23 be a problem.

24 MS. BONSANG: Okay.

25 THE COURT: We normally will -- my experience is

1 with witness scheduling and everything, we usually get out
2 a little bit early rather than late.

3 MS. BONSANG: Okay.

4 THE COURT: I'm not going to make you a promise on
5 that because I never know how it's going to go exactly,
6 but for the time being I am not going to excuse you for
7 that reason.

8 MS. BONSANG: Well, fine. Fine. I just wanted to
9 let you know.

10 MR. DICKEY: I have a question, Your Honor.

11 THE COURT: Yes.

12 MR. DICKEY: In the event that it did carry over for
13 some reason, would you have someone to pick your children
14 up?

15 MS. BONSANG: If I could get a hold of them.
16 Normally in other, most circumstances, my husband could
17 unless he gets stuck at work, and being he's
18 self-employed, he, a lot of times, does get stuck.

19 THE COURT: There's going to be -- if there is -- if
20 it looks like we are going to run over -- I mean, you can
21 use the phone here.

22 MS. BONSANG: That would help.

23 THE COURT: You just need to let us know, remind us
24 about that if you are on the jury.

25 MS. BONSANG: Okay.

1 MR. DICKEY: Would you have any worry about child
2 care, or would you be able to put your full attention on
3 this case if you were selected as a juror?

4 MS. BONSANG: Normally my children are in day care
5 because I do work 40 hours a week and I normally don't get
6 off work 'till 5:00 o'clock, but that part is no problem.

7 MR. DICKEY: Fine.

8 THE COURT: Okay. Anybody else have any other
9 questions?

10 MS. O'NEILL: No.

11 THE COURT: Okay. Thanks for coming in.

12 MS. BONSANG: Do we need to wait around?

13 THE COURT: Actually, that's a good question. Any
14 objection to those that we have already talked to,
15 leaving?

16 MR. ZACK: No.

17 MR. DICKEY: (Is shaking his head.)

18 MR. ZACK: Might as well make it 1:30.

19 THE COURT: 1:30.

20 MR. ZACK: At the rate we are going, we are not
21 going to get anywhere close --

22 THE COURT: Why don't you just return at 1:30
23 tomorrow afternoon.

24 MS. BONSANG: 1:30 tomorrow, okay. Thanks.

25 MR. ZACK: I'd say Wednesday, actually.

1 (Ms. Bonsang has left chambers.)

2 THE COURT: Challenges for cause?

3 MS. O'NEILL: No.

4 MR. GAVIN: I just want to make the Court aware that
5 I am representing her brother-in-law, but other than
6 that --

7 THE COURT: Okay. Good thing to know. Okay. Next
8 one on the list is Barbara Ann Yancy.

9 Do we need to talk to her? Ms. O'Neill?

10 MS. O'NEILL: I don't think so, Your Honor. Well,
11 Your Honor, the only thing that did concern me is that she
12 thought that she was unsure whether it was fair to make
13 the State prove beyond a reasonable doubt. That's really
14 the only concern I have about her.

15 THE COURT: Any additional concerns? Mr. Gavin?

16 MR. GAVIN: That was the only concern I saw going
17 through those, Your Honor.

18 THE COURT: Okay. Why don't you bring her in. Now,
19 the ones you have already excused, the one --

20 THE CLERK: Miller and Evans can leave?

21 THE COURT: They can leave, and are to come back at
22 1:30 tomorrow.

23 MR. GAVIN: Your Honor, did you decide on Bonsang?
24 Was she in or out?

25 THE COURT: She is in. There was no challenge for

1 cause. Okay.

2 (Ms. Yancy has entered chambers.)

3 THE COURT: You are Ms. Yancy?

4 MS. YANCY: Yes.

5 THE COURT: Just have a couple questions for you.

6 Okay. You know the State has a burden of proof in a case
7 like this, right?

8 MS. YANCY: Right.

9 THE COURT: And the burden of proof is that the
10 State has to prove that case beyond a reasonable doubt.
11 In one of these questions there was a question that asked
12 you if you thought that this was too heavy of a burden for
13 the State, and I believe you answered that you were
14 unsure.

15 Can you explain that for me?

16 MS. YANCY: Well, I didn't really understand what it
17 meant --

18 THE COURT: Oh, okay.

19 MS. YANCY: -- so I said unsure.

20 THE COURT: Now, the State has the burden of proof.
21 They have to prove to you the case beyond a reasonable
22 doubt. Each element of the offenses has to be proven
23 beyond a reasonable doubt. If you find that some element
24 of the offenses charged has not been proven beyond a
25 reasonable doubt, you have to find the defendants not

1 guilty.

2 Do you have any questions about that?

3 MS. YANCY: No.

4 THE COURT: And do you think you could apply that
5 standard in this case if you are chosen as a juror?

6 MS. YANCY: Right.

7 THE COURT: Is there anything about this case that
8 you think that would make it hard for you to be a fair and
9 impartial juror?

10 MS. YANCY: I don't really know anything about it.

11 THE COURT: Okay. Ms. O'Neill, do you have any
12 questions?

13 MS. O'NEILL: No, I don't.

14 THE COURT: Mr. Dickey?

15 MR. DICKEY: No, Your Honor.

16 MR. GAVIN: (Is shaking his head.)

17 THE COURT: Mr. Zack?

18 MR. ZACK: No, Your Honor.

19 THE COURT: Okay. Thanks for coming in to talk to
20 me. You are free to go at this time. Can you come back
21 at 1:30 tomorrow afternoon?

22 MS. YANCY: Okay. Thank you.

23 (Ms. Yancy has left chambers.)

24 THE COURT: Okay. Any reasons to talk to -- she put
25 down -- Jannet Moulder, is that one that we had seen?

1 MR. ZACK: No.

2 MS. O'NEILL: Your Honor, she has read about the
3 case. She's been to Grasshopper Junction several times
4 and may know -- she was unsure whether or not she knew the
5 victims or not.

6 MR. DICKEY: She also knows one of the witnesses.

7 MS. O'NEILL: Yes. She knows Officer Bishop, too.
8 Yes, I would like to see if she can be sure whether she
9 knows the victims, because I think if she does we probably
10 need to excuse her, and also the information that she has
11 about this case.

12 (Ms. Moulder has entered chambers.)

13 THE COURT: All right. Ms. Moulder, you know Jack
14 Nelson?

15 MS. MOULDER: I know Jack Nelson. I used to wait
16 tables here in Kingman, so I have seen him before.

17 THE COURT: All right. And you also know Dan
18 Bishop?

19 MS. MOULDER: Yes. Uh-huh.

20 THE COURT: Okay. And how do you know him?

21 MS. MOULDER: Well, because my family and his family
22 both were raised here, and my grand-dad and them had
23 grandchildren, and they raised -- came to Wikieup, and his
24 family, too. But, I don't know him like a neighbor or
25 friend. I know him when I see him, but I don't know him.

1 THE COURT: Suppose he was to testify in this case,
2 would you be able to judge his testimony by the same
3 standard?

4 MS. MOULDER: Yeah, because I don't know him any
5 different than I would like you or anybody else did. I
6 just know him.

7 THE COURT: And you said that you had been to
8 Grasshopper Junction five times?

9 MS. MOULDER: Yes. I worked construction for quite
10 a few years, and we did 93 out there, and I used to go in
11 there every now and then for a Coke or something when I
12 was working.

13 THE COURT: Do you know if the decedents in this
14 case were the same people?

15 MS. MOULDER: No, I don't know. I don't have any
16 idea.

17 THE COURT: How long has it been since you were out
18 there?

19 MS. MOULDER: Oh, it was -- well, when -- last time
20 that I was, it was probably in about '87 or something. I
21 can't remember.

22 THE COURT: 1987. So, about five years ago?

23 MS. MOULDER: It could have even been before that.

24 THE COURT: What have you heard about this case in
25 the newspaper?

1 MS. MOULDER: Other than that the people had got --
2 see, my husband is a truck driver, so he had came home and
3 told me that they had a killing out there. And in the
4 paper it just said that they had arrested somebody, and I
5 can't remember them really saying a lot about it.

6 THE COURT: Did you, based on what people had said
7 that you had talked to, or the newspapers, form an opinion
8 about the case?

9 MS. MOULDER: No, because I didn't -- I don't have
10 any kind of idea of what really happened or anything, just
11 that --

12 THE COURT: Do you think that you can set aside what
13 you read or heard from other people? What you read in the
14 paper?

15 MS. MOULDER: Oh, yeah.

16 THE COURT: Can you set that aside and listen just
17 to the evidence in this case --

18 MS. MOULDER: Yeah --

19 THE COURT: -- and make a decision just on the
20 evidence in this case?

21 MS. MOULDER: -- because I don't have anything in my
22 head right now that would cause me to think anything
23 else.

24 THE COURT: Okay. Mr. Zack, any questions?

25 MR. ZACK: No, Your Honor.

1 THE COURT: Ms. O'Neill?

2 MS. O'NEILL: No, Your Honor.

3 THE COURT: Mr. Dickey?

4 MR. DICKEY: No, Your Honor.

5 MR. GAVIN: (Is shaking his head.)

6 THE COURT: Thanks for coming in. Oh, Mrs. Moulder,
7 why don't you wait outside for a minute.

8 MS. MOULDER: Okay.

9 THE COURT: I will talk to you again just briefly.

10 MS. MOULDER: Okay.

11 (Ms. Moulder has left chambers.)

12 THE COURT: I don't know how long it's been since
13 Mr. Morrison or Ms. Appelhans were out there.

14 MR. ZACK: Dean Morrison owned it for 15 years. How
15 long he actively managed it, I don't know, but he's owned
16 it 15 years. Jackie Appelhans has been out there about
17 nine years.

18 THE COURT: Any challenges for cause?

19 MS. O'NEILL: No.

20 THE COURT: Mr. Dickey?

21 MR. DICKEY: If there is a possibility that she was
22 acquainted with the people, I think at this point I would
23 challenge her for cause.

24 MR. ZACK: No objection.

25 THE COURT: Did you advise Ms. Moulder that she's

1 excused, that she doesn't have to come back? Wait a
2 minute. No.

3 Any reasons to talk to Barbara Alaria?

4 MR. ZACK: Yes. Before we bring her in, though, on
5 the question about whether she can decide only on the
6 evidence even though capital punishment might be involved,
7 she said -- I can't quite read my own notes, but I believe
8 that she answered that she would have a problem.

9 MS. O'NEILL: Yes. She answered that yes. Yes, I
10 have that marked.

11 THE COURT: Tell Mrs. Moulder that she's excused,
12 and ask Ms. Alaria to come in.

13 MR. ZACK: I make a motion to strike for cause on
14 this basis, I guess.

15 THE COURT: Okay. Let me talk to her.

16 MS. O'NEILL: Your Honor, I think I have another
17 pencil in here. My client wants to be able to write a
18 couple things.

19 (Ms. Alaria has entered chambers.)

20 THE COURT: Okay. You are Ms. Alaria?

21 MS. ALARIA: Yes.

22 THE COURT: We just have a couple questions for you.
23 In one of the questions in your questionnaire you were
24 advised that this is a possible capital punishment case.

25 MS. ALARIA: Uh-huh.

1 THE COURT: And in Arizona the judge alone decides
2 what the penalty would be.

3 MS. ALARIA: Uh-huh.

4 THE COURT: And it also stated, would the fact that
5 the death penalty could be imposed if one or both the
6 defendants is convicted of first degree murder affect your
7 ability to return a verdict based solely on the evidence
8 presented in court, and you said yes.

9 Could you explain that for me?

10 MS. ALARIA: I don't really -- I don't think I could
11 explain it, except that I said I don't know too much about
12 Arizona laws, so I figured that I could give a fair --

13 THE COURT: Okay.

14 MS. ALARIA: My knowledge, yes.

15 THE COURT: Let me break it down for you a little
16 bit.

17 MS. ALARIA: Okay.

18 THE COURT: Capital punishment, the death penalty,
19 is a possibility in this case.

20 MS. ALARIA: Uh-huh.

21 THE COURT: Would that affect your ability to listen
22 to the evidence in this case, the fact that that's a
23 possible penalty?

24 MS. ALARIA: If that's the possible penalty, I can
25 listen to the evidence.

1 THE COURT: You can listen to the evidence?

2 MS. ALARIA: Uh-huh. Yes.

3 THE COURT: Now, you know that in Arizona only the
4 judge can impose the sentence. The jury is to ignore the
5 sentence and listen to the evidence and decide the case
6 based on the evidence.

7 Can you do that?

8 MS. ALARIA: Right. Yeah.

9 THE COURT: And what are your feelings about capital
10 punishment? Do you have any feelings about that?

11 MS. ALARIA: I have no feelings about the capital
12 punishment. I really -- I'm not sure about that type
13 thing. I know we didn't have it where I came from, so
14 this I don't really go for --

15 THE COURT: Where did you come from?

16 MS. ALARIA: Michigan.

17 THE COURT: Okay. So, maybe you feel that the death
18 penalty is not an appropriate penalty sometimes?

19 MS. ALARIA: Sometimes, yes.

20 THE COURT: But, it may be appropriate on other
21 times?

22 MS. ALARIA: I suppose it would be, depending on the
23 crime.

24 THE COURT: Do you think that if you don't have any
25 say in the death penalty, that you can listen to the

1 evidence in this case and decide solely on the evidence in
2 this case?

3 MS. ALARIA: Right. Yes, I could.

4 THE COURT: Is there anything, anything at all about
5 this case that you would have trouble being fair and
6 impartial with?

7 MS. ALARIA: No. I don't think so.

8 THE COURT: Thank you. Mr. Zack, do you have any
9 questions?

10 MR. ZACK: Just one. Would you be more reluctant to
11 return a guilty verdict knowing that if you voted for
12 guilty, that possibly the defendants could be exposed to
13 the death penalty?

14 MS. ALARIA: I think I could be a fair judge with
15 that. Like he says, the judge has to do that. If they
16 come back guilty, then that would be up to --

17 MR. ZACK: If you were you convinced beyond a
18 reasonable doubt the defendants are guilty, you wouldn't
19 be concerned with whether the possible punishment included
20 the death penalty, and still vote guilty?

21 MS. ALARIA: Yes, I could.

22 MR. ZACK: Thank you.

23 THE COURT: Ms. O'Neill?

24 MS. O'NEILL: Okay. You had indicated when you
25 filled out your questionnaire that you had talked about

1 this case a little bit and heard some things about it?

2 MS. ALARIA: Yes. When it was first in the paper.

3 MS. O'NEILL: Okay. Did that affect your ability to
4 wait to decide guilty or not guilty until the end of the
5 case?

6 MS. ALARIA: No. I didn't decide anything. Like I
7 said, I saw it. They asked about it, and I said yes, I
8 saw it in the paper.

9 MS. O'NEILL: And you said that you had been out to
10 Grasshopper Junction before?

11 MS. ALARIA: Pardon?

12 MS. O'NEILL: To Grasshopper Junction, that you had
13 been there?

14 MS. ALARIA: Yes. Stopped in there when we were
15 going to -- going to Hoover Dam with some friends.

16 MS. O'NEILL: Did you know the people who worked
17 there at all?

18 MS. ALARIA: No.

19 MS. O'NEILL: Are you having any problem hearing any
20 of the proceedings today?

21 MS. ALARIA: When I was sitting in the back, yes, I
22 couldn't hear too much.

23 THE COURT: That's a problem with this courtroom.
24 Okay.

25 MS. O'NEILL: I don't have any other questions.

1 Thanks.

2 THE COURT: Mr. Dickey?

3 MR. DICKEY: There are two defendants in the case.
4 Would you be able to judge the evidence in this case
5 separately as to each one of the defendants?

6 MS. ALARIA: If that's how they, you know, how they
7 are, not both together. I could get one from the other.

8 MR. DICKEY: So I'm clear, if for example you felt
9 the State proved the case against one brother but not
10 against the other brother, could you find one guilty and
11 one not guilty?

12 MS. ALARIA: If that's the way the evidence came
13 out.

14 MR. DICKEY: Now, I believe you indicated in your
15 question that you have a son who is a corrections officer?

16 MS. ALARIA: Son-in-law, yes.

17 MR. DICKEY: Where is that?

18 MS. ALARIA: In Michigan.

19 MR. DICKEY: I see. And do you have much contact
20 with the son-in-law?

21 MS. ALARIA: Oh, yes.

22 MR. DICKEY: And have you discussed his work with
23 him?

24 MS. ALARIA: No.

25 MR. DICKEY: And there was also -- I was also

1 curious about something else. You made some mention about
2 the rights of criminals'.

3 Could you explain what you meant by that?

4 MS. ALARIA: Rights of criminals'?

5 MR. DICKEY: Yes.

6 MS. ALARIA: I don't recall. There was so many
7 papers, that --

8 THE COURT: Which question are you looking at, Mr.
9 Dickey?

10 MR. GAVIN: The specific question, Your Honor, was
11 regarding do they believe criminals enjoy too many rights
12 or -- as opposed to victims. I believe it's close to the
13 back.

14 THE COURT: In the first part or second part?

15 MR. GAVIN: I think it was the second part, Your
16 Honor.

17 MS. O'NEILL: Second part.

18 THE COURT: I don't see it.

19 MS. O'NEILL: Question 16 in Part 2, I believe.

20 THE COURT: Okay. Basically the question was this.
21 It says, do you believe that persons who are accused of
22 crimes are afforded too many rights at the expense of
23 crime victims, and you put sometimes.

24 Can you tell us what you meant?

25 MS. ALARIA: I think sometimes the victim doesn't

1 get the -- I mean, they -- depends on what the
2 circumstances are, too, whether the victim is really
3 victimized, and the one that's doing it, you know, had
4 victimized them, they get -- they have more -- I feel
5 sometimes they have more rights.

6 THE COURT: Okay. Do you think that if I instructed
7 you on what the rights are as far as in trial is
8 concerned, that you can follow my instructions?

9 MS. ALARIA: Yes.

10 THE COURT: Okay. And those other things that were
11 included in here, for example, that the State has to prove
12 the case beyond a reasonable doubt, that the defendant is
13 presumed to be innocent and they have a right not to
14 testify, can you follow those?

15 MS. ALARIA: Yes.

16 THE COURT: Okay. Mr. Dickey, any other questions?

17 MR. DICKEY: No, Your Honor.

18 THE COURT: Mr. Zack, anything else?

19 MR. ZACK: No, Your Honor.

20 THE COURT: Ms. O'Neill?

21 MS. O'NEILL: No.

22 THE COURT: Thank you. It's going to take us a
23 while to do this. What I am going to ask you to do is
24 come back to court at 1:30 tomorrow afternoon.

25 MS. ALARIA: All right.

1 THE COURT: Okay?

2 MS. ALARIA: Uh-huh. Thank you.

3 (Ms. Alaria has left chambers.)

4 MR. ZACK: For the record, Your Honor, I will
5 withdraw the motion to strike for cause.

6 THE COURT: Any motions to strike?

7 MS. O'NEILL: No.

8 MR. DICKEY: No, Your Honor.

9 THE COURT: Any need to speak with Ms. Mankin?

10 MS. O'NEILL: She had indicated, Judge, that she may
11 have a problem with sitting on this case. On Question 10
12 of Part 2. She knows a couple of my probable witnesses.
13 I don't know if that has anything to do with whether or
14 not Mr. Zack wants her on or not.

15 THE COURT: Which question?

16 MS. O'NEILL: Question 10 and Part 2 she answered
17 no, which I think the no translates into I don't think I
18 can sit on the case because of the nature or something,
19 and she had talked to some people about it I think, too.
20 That's the concern that I had.

21 THE COURT: Any comments, Mr. Zack?

22 MR. ZACK: No, Your Honor.

23 THE COURT: Let's bring in Ms. Mankin.

24 (Ms. Mankin has entered chambers.)

25 THE COURT: Hello.

1 MS. MANKIN: Hi.

2 THE COURT: We just have a few questions for you.

3 One of the witnesses in this case are listed as Mike Legg
4 and Robert Grinder, and you have said that you know them
5 because you used to work with them; is that correct?

6 MS. MANKIN: Right.

7 THE COURT: How long did you work for them?

8 MS. MANKIN: I still work there. They are not
9 there.

10 THE COURT: Okay. How long did you work there while
11 they worked there?

12 MS. MANKIN: I have been there since 1983, and
13 Michael was probably there three, four years. He's
14 probably been gone for about three, four months. About
15 the same on Bob. I am assuming that's the same name.
16 Grinder is such an unusual name.

17 THE COURT: Did you ever talk to them about this
18 case?

19 MS. MANKIN: Nothing about it.

20 THE COURT: Okay. All right. The fact that they
21 may testify as witnesses, would that affect your ability
22 to judge their testimony?

23 MS. MANKIN: (Is shaking her head.)

24 THE COURT: And do you think that you can judge
25 their testimony by the same standards that you would the

1 other witnesses?

2 MS. MANKIN: I think I could, sure.

3 THE COURT: Okay. There was a question in there
4 that said that the defendants are charged with first
5 degree murder and armed robbery. In addition, evidence of
6 a graphic nature may be introduced at trial. With this in
7 mind, do you believe that you would be able to sit
8 impartially in this case, and you said no.

9 Would you explain that?

10 MS. MANKIN: I think I read the question incorrect.

11 THE COURT: Okay. What did you mean when you said
12 no?

13 MS. MANKIN: May I see the question again?

14 THE COURT: Sure. Just, if you didn't understand
15 the question, that's okay, too.

16 MS. MANKIN: Yeah. I just read it wrong. I thought
17 it was saying something there, was -- if the evidence of
18 some graphic nature had something to do with it or
19 something, would this make any question or -- I'm not
20 explaining myself. I am not explaining myself. Anyway, I
21 just misunderstood. I thought it was talking about the
22 graphic term. I didn't -- I --

23 THE COURT: Let me rephrase it, then, and ask you
24 this.

25 MS. MANKIN: Okay.

1 THE COURT: If you did see evidence of a graphic
2 nature, it is a first degree murder case --

3 MS. MANKIN: Uh-huh.

4 THE COURT: -- and that would be -- usually in first
5 degree murder cases there's a lot of evidence that is
6 graphic.

7 Would that affect your ability to sit on the
8 case?

9 MS. MANKIN: No.

10 THE COURT: Do you think you can look at that kind
11 of evidence and use it for the purposes that it was
12 admitted at trial?

13 MS. MANKIN: Uh-huh.

14 THE COURT: Is there anything at all about this
15 case that would make it hard for you to sit and be a fair
16 and impartial juror?

17 MS. MANKIN: My husband is a highway patrolman,
18 retired.

19 THE COURT: How long has it been since he was a
20 highway patrolman?

21 MS. MANKIN: Retired in '81.

22 THE COURT: Would that affect your ability to listen
23 to this case?

24 MS. MANKIN: I would think I would be partial.

25 THE COURT: Partial toward --

1 MS. MANKIN: Towards the police, yeah.

2 THE COURT: -- law enforcement? Okay. Anything
3 else?

4 MS. MANKIN: The young men, have they ever been to
5 Temple Bar?

6 THE COURT: Do you think you might have seen them?

7 MS. MANKIN: Looks familiar to me, that's why I am
8 curious. I don't know.

9 THE COURT: But -- at this point I think, unless
10 there's an objection, I am going to excuse you because of
11 the fact that you know some of the witnesses in the case,
12 and the fact that you might have trouble because your
13 husband used to be a police officer. I appreciate your
14 being candid with us.

15 MR. ZACK: I would object.

16 THE COURT: Your objection is noted for the record.

17 MS. MANKIN: I'm excused?

18 THE COURT: Yes. You are excused.

19 (Ms. Mankin has left chambers.)

20 MR. ZACK: Your Honor, my point is, I would like to
21 ask some questions to see if I could rehabilitate her on
22 that. She doesn't know the officers involved in this
23 case. I think something could have been done.

24 THE COURT: Well, I don't know. She seemed pretty
25 sure that she couldn't be fair.

1 Any reason to talk to Mr. Alvarado?

2 MR. GAVIN: I believe we may have a couple, Your
3 Honor. He's indicated he's applied for a job. He's
4 unemployed. If he gets one, it looks like it may be a
5 problem for him, and he does know Mr. Moon and Mr.
6 Ekstrom, or has at least some acquaintance with, from the
7 questionnaire.

8 MS. O'NEILL: Your Honor, also he's indicated that
9 he's read about the case. His comments were two people
10 killed execution style. I don't know whether that's
11 colored his judgment about this case or not, but perhaps
12 we better ask him about that.

13 THE COURT: Any comments?

14 MR. ZACK: No.

15 THE COURT: Let's bring in Mr. Alvarado.

16 (Mr. Alvarado has entered chambers.)

17 THE COURT: Sit down. Just have a few questions,
18 sir, for you based on this questionnaire.

19 You've heard about the case before today?

20 MR. ALVARADO: Yeah.

21 THE COURT: And how did you hear about it?

22 MR. ALVARADO: I remember reading about it in the
23 Miner.

24 THE COURT: Okay. And when it first happened, or
25 since then?

1 MR. ALVARADO: Just since. I mean, when it
2 happened. Not something that you follow up on, you know.
3 Well, it happened, you know.

4 THE COURT: Okay.

5 MR. ALVARADO: I hadn't really thought about it
6 until I got a phone call yesterday.

7 THE COURT: All right. When you said there was --
8 that two people were killed in north Kingman execution
9 style, why did you use those words?

10 MR. ALVARADO: Because that's the way I understood
11 it in the paper.

12 THE COURT: In the paper. Okay.

13 MR. ALVARADO: I -- that's the way I understood that
14 it was done, but I got to say something.

15 THE COURT: Sure.

16 MR. ALVARADO: I -- I got this one mixed up with
17 this one that was over here at the -- at that truck stop.

18 THE COURT: Okay. Maybe -- I don't know about that
19 one.

20 MR. ALVARADO: Not too long ago -- do you remember
21 those people that had a truck stop? There was a killing
22 over there, too.

23 THE COURT: I remember there was something over
24 there.

25 MR. ALVARADO: Okay. Well, I got the two mixed up,

1 and they said execution. I didn't realize until later
2 that this was the one that was out there.

3 THE COURT: Okay. Well, based on what you have read
4 about this in the paper, have you formed an opinion about
5 this case?

6 MR. ALVARADO: You know, I don't know enough about
7 it to say anything.

8 THE COURT: Do you think even though that you've
9 heard about it in the papers, or do you think you could
10 set aside what you heard about it in the paper and listen
11 to the evidence that's presented in court?

12 MR. ALVARADO: I think I am a pretty flexible
13 person. I think that I have to get the facts first. I
14 mean, I don't jump to conclusions because I don't know
15 what happened, you know. The way the news media is, you
16 know, they can blow anything out of anything.

17 THE COURT: Okay. You have indicated that you know
18 Bob Moon and -- let's see. Who is the other one? Bill
19 Ekstrom.

20 How do you know those --

21 MR. ALVARADO: I used to cut Bill's hair in Phoenix,
22 and, you know, we both moved to Kingman about the same
23 time, and I have known Bobby just off and on casually.
24 And -- well, for that matter, you know, I grew up in
25 Kingman, so I know Gary Pope. Judge Pope, sorry. But,

1 you know, when you grow up in a small town you can't help
2 but know a lot of people.

3 THE COURT: Okay. Any questions, Mr. Zack?

4 MR. ZACK: No, Your Honor.

5 THE COURT: Ms. O'Neill?

6 MS. O'NEILL: No.

7 THE COURT: Mr. Dickey or Mr. Gavin?

8 MR. GAVIN: Your Honor, just one question. Mr.
9 Alvarado indicated that he may believe that criminals are
10 treated too soft.

11 Do you believe that they are treated by the
12 system or by judges and courts too soft?

13 MR. ALVARADO: I think what I meant -- I don't think
14 -- what I meant was a lot of times you get two people that
15 are accused of the same crime, but one person gets off
16 with a lesser sentence or lesser penalty than the other
17 one because of the position or, you know, the worth, you
18 know, and to me that's not fair. I think if somebody does
19 something and it's equal, then I think they should both be
20 punished the same way.

21 MR. GAVIN: That is sort of a follow-up question to
22 that, but we have got two brothers that are charged in
23 this case with a crime.

24 Is it possible that you could listen to the
25 State's case, and one of the brothers that you believed

1 was found guilty, and the other one there was not
2 sufficient evidence, could you find the other one
3 innocent?

4 Or, if one was found guilty, would you have to
5 find the other one guilty, as well?

6 MR. ALVARADO: No, sir.

7 MR. GAVIN: Okay.

8 THE COURT: Any additional questions, Mr. Zack?

9 MR. ZACK: No, Your Honor.

10 THE COURT: Okay. Thanks for coming in and talking
11 to us.

12 MR. ALVARADO: Thank you, gentlemen.

13 THE COURT: 1:30 tomorrow afternoon is when you need
14 to come back. You are free to go for now.

15 MR. ALVARADO: Okay. Thank you.

16 THE COURT: Okay. Thanks.

17 (Mr. Alvarado has left chambers.)

18 THE COURT: Part of the problem is I'm telling them
19 when to come back -- are there any challenges for cause?

20 MS. O'NEILL: No.

21 THE COURT: Mr. Dickey, Mr. Gavin?

22 MR. DICKEY: No, Your Honor.

23 THE COURT: Mr. Zack?

24 MR. ZACK: No.

25 THE COURT: Do we need to call in Mr. Scaife?

1 MR. ZACK: Your Honor, I am just going to make a
2 challenge for cause. In looking at his questionnaire, he
3 just says several times he doesn't believe in the court
4 system.

5 MS. O'NEILL: I would not object to that challenge,
6 Judge.

7 MR. GAVIN: No objection, whatsoever, on this man.

8 THE COURT: Mr. Scaife is excused for cause. Ruth
9 Holgate, any reason to talk to her?

10 MR. GAVIN: We've got no problems with Ms. Holgate,
11 Your Honor.

12 MS. O'NEILL: Your Honor, I am sorry, but these are
13 not completely in order.

14 THE COURT: That's all right.

15 MR. ZACK: Got to move. (Is standing up.)

16 THE COURT: Okay. Do you need to talk to Ms.
17 Holgate?

18 MR. ZACK: No.

19 MS. O'NEILL: I don't need to talk to Ms. Holgate.

20 THE COURT: Any challenges for cause on Ms. Holgate?

21 MR. GAVIN: No.

22 THE COURT: Okay. She can be advised to come back
23 at 1:30 tomorrow. Ms. O'Neill, I didn't hear you.

24 MS. O'NEILL: No. I didn't have any challenges for
25 cause.

1 THE COURT: Any reason to talk to --

2 MS. O'NEILL: Your Honor, Mr. Jenks, I believe, knew
3 one or both of the victims in this case. I would move
4 that he be excused.

5 MR. GAVIN: Along with that, Your Honor, he also has
6 indicated that he believes that criminals may have too
7 many rights. His wife was also a deputy sheriff. He's
8 unsure about Robert and Roger, whether -- the answer I got
9 thereon, I believe he may have trouble keeping them
10 straight or finding one guilty or one innocent, or
11 something along those lines.

12 THE COURT: Any comments, Mr. Zack?

13 MR. ZACK: State would oppose striking for cause.

14 THE COURT: Well, I'd like to talk to him.

15 (Mr. Jenks has entered chambers.)

16 THE COURT: You are Mr. Jenks?

17 MR. JENKS: Yes.

18 THE COURT: Okay. And in this questionnaire that
19 you filled out, you indicated that you knew Dean Morrison
20 or Jacqueline Appelhans, or both.

21 Do you know both of them, or --

22 MR. JENKS: Well, I knew Dean Morrison.

23 THE COURT: Okay. How did you know him?

24 MR. JENKS: We belonged to El Zaribah Shriner's Club
25 together, and he was captain of the funny cars up here and

1 funny cars in Bullhead City, and we use to get together
2 and do parades.

3 THE COURT: Okay.

4 MR. JENKS: And we'd just get together for dinner.

5 THE COURT: So, you knew him pretty well?

6 MR. JENKS: Yes.

7 THE COURT: Do you think you could be fair on this
8 case?

9 MR. JENKS: I would hate to be setting on the jury
10 under these conditions. I didn't know that that was what
11 this was for.

12 THE COURT: Sure. I appreciate your being candid
13 about that. I am going to excuse you. So, you will not
14 have to return. Thank you for coming in and helping us
15 out today. You are excused to go.

16 MR. JENKS: All right. Thank you, Your Honor.

17 (Mr. Jenks has left chambers.)

18 THE COURT: Any reason to talk to Wayne McCall?

19 MS. O'NEILL: Which one's the next one, Judge?

20 THE COURT: Wayne McCall.

21 MR. GAVIN: He's indicated he's a friend of Sergeant
22 Auld's, and the decision on guilt or innocence, I believe,
23 in the questionnaire, would be difficult for him.

24 THE COURT: Which question are you looking at?

25 MR. GAVIN: The exact number I don't have, Your

1 Honor. It was a question regarding guilt or innocence,
2 would you have trouble coming to a decision on that. I
3 believe it was around 15.

4 THE COURT: He's the one that commented -- the
5 question sounds contradictory to the infamous No. 9 on the
6 -- okay. Well, let's bring him in.

7 (Mr. McCall has entered chambers.)

8 THE COURT: Why don't you sit down. Okay. You
9 indicated that you knew some of the police officers in
10 this case.

11 Lyle Rathbone, you went to high school with
12 him?

13 MR. MCCALL: I think so. There was a Rathbone that
14 was in the year behind me in school.

15 THE COURT: What year did you graduate?

16 MR. MCCALL: '78, so he would be '79.

17 THE COURT: And Jim Stull? You might know him?

18 MR. MCCALL: Yeah. My wife worked for his theater
19 years ago. I just -- he's an acquaintance.

20 THE COURT: Okay. And Greg Jensen? Do you know --
21 you knew one of Greg's younger brothers?

22 MR. MCCALL: Bill.

23 THE COURT: Anything about knowing these officers in
24 that way that would affect your abilities to be fair and
25 impartial on this case?

1 MR. MCCALL: No. I don't really think so.

2 THE COURT: If they were to testify in this case,
3 would you be able to judge their testimony by the same
4 standards as you would the other witnesses?

5 MR. MCCALL: I think so, yeah.

6 THE COURT: Now, you said you heard something about
7 this case on the radio. What was that?

8 MR. MCCALL: It seems like it was a month or two
9 ago. I don't know specifically. Sometime back.

10 THE COURT: Okay.

11 MR. MCCALL: All I heard was that the people were
12 killed out there.

13 THE COURT: All right. And you have been out to
14 Grasshopper Junction before?

15 MR. MCCALL: Many years ago. I think I was out
16 there when I was about 18, 19 years old. Once.

17 THE COURT: Okay. Is there anything at all about
18 this case that would make it hard for you to be fair and
19 impartial?

20 MR. MCCALL: I don't think so.

21 THE COURT: Can you set aside what you heard about
22 this case and make your decision based on the evidence
23 that you hear in court?

24 MR. MCCALL: Yeah.

25 THE COURT: Mr. Zack, any questions?

1 MR. ZACK: No, Your Honor.

2 THE COURT: Ms. O'Neill?

3 MS. O'NEILL: No, Your Honor.

4 THE COURT: Mr. Gavin?

5 MR. GAVIN: One quick question regarding guilt or
6 innocence. Would that be a difficult decision for you to
7 come to?

8 MR. MCCALL: I do have a little difficulty with that
9 one.

10 MR. GAVIN: Could you explain a little bit for the
11 judge why you might have that difficulty?

12 MR. MCCALL: Well, because the Bible tells me not to
13 judge no man, but at the same time it says to obey the
14 laws of the land. So, I have some mixed emotions about
15 that. I am a little queasy with that one.

16 THE COURT: Okay. Do you think you could listen to
17 the evidence in this case and render a verdict along with
18 the other jurors?

19 Do you think you would be able to participate
20 in deliberations?

21 MR. MCCALL: Well, I will tell you if it was up to
22 me, I would -- I would rather not.

23 THE COURT: If I were to -- if it were up to me and
24 I were to say that you're on the jury, would you be able
25 to perform your duty and listen to the instructions?

1 MR. MCCALL: I would try.

2 THE COURT: Okay. Would you be able to listen to
3 the instructions and render a verdict based on the
4 evidence you've heard and the instructions I've given?

5 MR. MCCALL: I would try.

6 THE COURT: But, there's a doubt in your mind about
7 your abilities?

8 MR. MCCALL: Yeah. There's a slight doubt. I can't
9 define it specifically. Just like I told you about
10 sitting in judgment of somebody else.

11 THE COURT: Okay.

12 MR. MCCALL: I'm not comfortable with that.

13 THE COURT: Mr. Zack, any questions?

14 MR. ZACK: Not right now.

15 THE COURT: Anything else, Ms. O'Neill?

16 MS. O'NEILL: No.

17 MR. GAVIN: No further questions, Your Honor.

18 THE COURT: Thanks for coming in.

19 (Mr. McCall has left chambers.)

20 THE COURT: Challenges for cause?

21 MR. ZACK: Yes.

22 THE COURT: Ms. O'Neill?

23 MS. O'NEILL: No objection.

24 MR. GAVIN: No objection, Your Honor.

25 THE COURT: Would you advise Mr. McCall that he's

1 excused before you open the door?

2 MR. DICKEY: The basis for challenge for cause, Your
3 Honor?

4 THE COURT: The basis is he said he would have
5 trouble coming to a verdict in judging the case. That
6 would be the grounds for the challenge. Okay.

7 Do we need to talk to Mr. Brower?

8 MR. GAVIN: Yes, Your Honor. He indicated he also
9 may have some confusion regarding Roger and Robert,
10 keeping them separate. He's also indicated that he may
11 give more weight to the testimony of an officer as opposed
12 to someone else.

13 MS. O'NEILL: Your Honor, I also believe there's a
14 problem with him as far as the decision about guilt or
15 innocence.

16 THE COURT: Am I looking at the same one, Brower,
17 Question No. 19, would you give more or less weight to the
18 testimony of a law enforcement officer than to the
19 testimony of any other witness, and he said the same? Oh,
20 I see. He says -- I see. Okay. We will talk to him.
21 Bring in Mr. Brower.

22 (Mr. Brower has entered chambers.)

23 THE COURT: Just sit down right here. Mr. Brower, I
24 just have a few questions for you, and that is -- okay.

25 Have you heard about this case before today?

1 MR. BROWER: No, I have not.

2 THE COURT: One of the questions said, can you judge
3 the testimony of all the witnesses by the same standard,
4 and you said no.

5 What do you mean by that? Can you explain
6 that?

7 MR. BROWER: I am -- I guess I'm not -- I'm not
8 thinking here. I've been here so long.

9 THE COURT: Well, I understand that. It's been a
10 long day.

11 MR. BROWER: Which one is this, now?

12 THE COURT: Very top one on the page. Do you think
13 you could judge the testimony of all the witnesses by the
14 same standard?

15 MR. BROWER: No. I don't think so, no.

16 THE COURT: You could not judge the witnesses by the
17 same standard?

18 MR. BROWER: Okay. I am sorry. I misread that.
19 Yes, I could. Yes.

20 THE COURT: What did you think I meant when I asked
21 that?

22 MR. BROWER: I don't know. I wasn't really
23 thinking. Yes, I can.

24 THE COURT: Because, you answered the next question,
25 you said you would treat the testimony of a law

1 enforcement officer the same as any other witnesses.

2 So, you can judge them by the same standard?

3 MR. BROWER: Yes.

4 THE COURT: Is there anything about this case --
5 and I know you don't know much about it.

6 Is there anything about this case at this point
7 that would cause you to have some difficulty sitting on
8 the case?

9 MR. BROWER: No.

10 THE COURT: Do you think you could be fair and
11 impartial?

12 MR. BROWER: Yeah.

13 THE COURT: Can you judge the testimony by -- can
14 you judge the case -- skip that. I don't know what I was
15 going to say there. Okay.

16 Ms. O'Neill, any questions?

17 MS. O'NEILL: No, Your Honor.

18 THE COURT: Mr. Gavin?

19 MR. GAVIN: I just have some of the initial concerns
20 regarding the -- you cannot judge people by the same
21 standards. I understand that you just told the judge that
22 you can.

23 What did you mean originally? What did you
24 think that question meant?

25 MR. BROWER: I don't know. I wasn't really

1 thinking, but after he said it, then I -- yes. Yes. The
2 answer is yes.

3 MR. GAVIN: May I ask what you think the question
4 means to you?

5 MR. BROWER: That I can judge everybody by the same
6 standards, by the same book.

7 THE COURT: Well, just to make sure this is clear,
8 and I'm not -- this is somewhat repetitive and I don't
9 mean to rehash it too much, but I just want to make sure.

10 If you had a police officer testifying or
11 another witness who is not a police officer --

12 MR. BROWER: Uh-huh?

13 THE COURT: -- you know, would you be able to judge
14 their testimony and determine which of them you believe?

15 MR. BROWER: Yes.

16 THE COURT: Okay. Now, after determining which of
17 them you believed, and you determined which of all the
18 witnesses you believed in the trial, would you be able to
19 come to a decision on the facts that you think occurred in
20 this case?

21 MR. BROWER: Yes.

22 THE COURT: Okay. Do you think while you are doing
23 that, that you would be biased toward any of those
24 witnesses at all one way or the other?

25 MR. BROWER: No.

1 THE COURT: Okay. Do you have any other questions?

2 MR. GAVIN: There's two people involved in this, two
3 defendants, and you understand that the testimony may go
4 to both of them or just one of them.

5 If the evidence goes to just one of them and
6 you have to find one of them guilty, could you possibly
7 find the other one innocent if the evidence suggests that?

8 MR. BROWER: Yes, absolutely.

9 THE COURT: Can you follow that, if there is
10 evidence that applies only to one defendant, not both of
11 them, could you keep the two separate?

12 MR. BROWER: Yes.

13 THE COURT: Okay. Thank you.

14 MR. ZACK: Check Question 45.

15 THE COURT: Question 45. Okay. Question 45 says,
16 if you are selected as a juror in this case, you will at
17 the end of the case be called upon to judge the guilt or
18 innocence of another person, the defendant in this case.
19 So -- or, defendants in this case. Would that be
20 difficult for you, and you said yes.

21 Did you understand that question?

22 MR. BROWER: Can I read that, please?

23 THE COURT: Sure.

24 MR. BROWER: I answered no.

25 THE COURT: So, you don't have any ethical or

1 religious reasons for not wanting to judge other people?

2 MR. BROWER: No, none.

3 THE COURT: And you think that if you listened to
4 the evidence in this case and felt that the case were
5 proven beyond a reasonable doubt, that you could find the
6 defendant guilty?

7 MR. BROWER: Uh-huh.

8 THE COURT: If the State proves that beyond a
9 reasonable doubt?

10 MR. BROWER: Yes.

11 THE COURT: Any other questions, Ms. O'Neill?

12 MS. O'NEILL: By the same token, if they did not
13 meet that burden, can you find them not guilty?

14 MR. BROWER: Yeah, sure.

15 MR. GAVIN: No further questions.

16 THE COURT: Mr. Zack?

17 MR. ZACK: No.

18 THE COURT: You are excused to go until 1:30
19 tomorrow afternoon. Just come back to this courtroom at
20 1:30 tomorrow afternoon.

21 MR. BROWER: Okay, fine. Thank you.

22 (Mr. Brower has left chambers.)

23 THE COURT: Any challenges for cause, Ms. O'Neill?

24 MR. GAVIN: I would. I challenge for cause, Your
25 Honor. The man obviously has some confusion dealing with

1 the questionnaire. I would wonder about his abilities to
2 analyze a number of witnesses on the stand, oral testimony
3 that's going by fairly quickly. His answers went back and
4 forth. Basically every time we questioned him about
5 something he would change his answer. I think he may have
6 -- just have an inability to understand what is going on.

7 MS. O'NEILL: I think that I go along with Mr. Gavin
8 on that.

9 MR. ZACK: No objection.

10 THE COURT: Would you get him, tell him he's
11 excused, he doesn't have to come back. Okay.

12 MR. ZACK: You saved me a peremptory.

13 THE COURT: Any reason to talk to Di Giovanni?

14 MR. GAVIN: Just from her questionnaire, she seems
15 to be very anti-criminal.

16 THE COURT: Any reasons --

17 MR. GAVIN: That's the reason.

18 MR. ZACK: No.

19 MS. O'NEILL: I don't really have anything that
20 requires talking to her, Judge.

21 THE COURT: Well, if that's the only reason you want
22 to talk to her, I'm not going to. Okay.

23 Ms. Di Giovanni, any challenges for cause on
24 Ms. Di Giovanni? Ms. O'Neill?

25 MS. O'NEILL: No, Your Honor.

1 THE COURT: Mr. Gavin?

2 MR. GAVIN: No, Your Honor.

3 THE COURT: She can be told she can come back
4 tomorrow, and I'm excusing Mr. Brower. Mr. Zack?

5 MR. ZACK: No.

6 THE COURT: Ms. Williams, are we going to talk to
7 her?

8 MR. ZACK: Yes. Her husband is retired from the
9 Mohave County Sheriff's Office. I think he was a
10 corrections officer, but he was with the agency. Also,
11 she knows about the case, and her comments were to the
12 effect the brothers shot and killed two people in cold
13 blood at Grasshopper Junction, Arizona.

14 THE COURT: We will talk to her.

15 MS. O'NEILL: And I think she's been to Grasshopper
16 Junction, as well.

17 (Ms. Williams has entered chambers.)

18 THE COURT: Hello.

19 MS. WILLIAMS: Hello.

20 THE COURT: Why don't you sit down. I just have a
21 few questions for you, Ms. Williams.

22 MS. WILLIAMS: All right.

23 THE COURT: Excuse me. I need to stop and get a
24 drink of water here in a minute.

25 In your questionnaire you indicated you knew

1 Mike Friend, Dale Lent, Greg Jensen, and Dan Bishop.

2 MS. WILLIAMS: My husband does some work for the
3 sheriff's department.

4 THE COURT: What's your husband's name?

5 MS. WILLIAMS: John E. Williams.

6 THE COURT: How long has he worked for the sheriff's
7 office?

8 MS. WILLIAMS: Oh, eight or 10 years, I guess.

9 THE COURT: Is he still working for them?

10 MS. WILLIAMS: No. He's retired since '84.

11 THE COURT: Since '84. Anything about that, the
12 fact that you know these people, would that affect your
13 abilities to sit on this case?

14 MS. WILLIAMS: No.

15 THE COURT: Do you think you can judge all the
16 testimony of all the witnesses by the same standards?

17 MS. WILLIAMS: Yes, sir.

18 THE COURT: The fact that your husband used to work
19 as a police officer, would that affect your abilities to
20 listen to this case?

21 MS. WILLIAMS: No.

22 THE COURT: Did you use to talk to him about his
23 cases when he was a police officer?

24 MS. WILLIAMS: Sometimes.

25 THE COURT: Okay. Anything about that -- I mean, do

1 you think while you are listening to the evidence in this
2 case you will be thinking about any of your husband's past
3 cases?

4 MS. WILLIAMS: No.

5 THE COURT: You also indicated you have been -- you
6 had gone to Grasshopper Junction?

7 MS. WILLIAMS: Yes.

8 THE COURT: How long's that been?

9 MS. WILLIAMS: Oh, probably a few years ago.

10 THE COURT: Two years ago?

11 MS. WILLIAMS: No. Longer than that. Maybe five or
12 10 years ago.

13 THE COURT: Okay. When you were in the store -- you
14 went there two to four times. What were you going there
15 for?

16 MS. WILLIAMS: Well, we were traveling. I think we
17 stopped in for coffee a couple times.

18 THE COURT: Okay. Do you know who it was that
19 waited on you the times that you have been there?

20 MS. WILLIAMS: No.

21 THE COURT: And you don't know whether that was Dean
22 Morrison or Jacqueline Appelhans?

23 MS. WILLIAMS: No. I am sure it wasn't.

24 THE COURT: You didn't know those people?

25 MS. WILLIAMS: No, I didn't.

1 THE COURT: Mr. Zack, any questions?

2 MR. ZACK: Just one. Are you any relation to Ray
3 Elywin Williams?

4 MS. WILLIAMS: No.

5 THE COURT: Ms. O'Neill, any questions?

6 MS. O'NEILL: Mrs. Williams, you had indicated you
7 read some things about the case?

8 MS. WILLIAMS: Yes.

9 MS. O'NEILL: What did you read about it or hear
10 about it?

11 MS. WILLIAMS: I read in the newspaper, I saw it on
12 television, and --

13 MS. O'NEILL: Did that give you any idea about what
14 you thought had happened up in Grasshopper Junction?

15 MS. WILLIAMS: Sort of.

16 MS. O'NEILL: Is that going to affect your
17 abilities to take that out of your mind and just listen to
18 the evidence here?

19 MS. WILLIAMS: I don't think so.

20 MS. O'NEILL: Have you -- has the stuff that you've
21 heard or anything that's happened up to this point, caused
22 you to have any opinion now before the trial
23 starts --

24 MS. WILLIAMS: No.

25 MS. O'NEILL: -- about whether these people are

1 guilty or innocent?

2 MS. WILLIAMS: No.

3 MS. O'NEILL: Okay.

4 MR. GAVIN: I've just got some questions regarding
5 the witnesses, ma'am.

6 You said that you knew some of the witnesses
7 that the judge read off, through your husband?

8 MS. WILLIAMS: They were police officers.

9 MR. GAVIN: They were police officers?

10 MS. WILLIAMS: I don't know them personally. I know
11 some of them. He knows more than I did because he worked
12 at the sheriff's office.

13 THE COURT: Mr. Zack, any other questions?

14 MR. ZACK: No, Your Honor.

15 THE COURT: Thank you for coming in. We will let
16 you know in a minute.

17 MS. WILLIAMS: All right.

18 (Ms. Williams has left chambers.)

19 THE COURT: Challenges for cause?

20 MS. O'NEILL: Yes, Your Honor. Based on the comment
21 in the questionnaire the brothers shot and killed two
22 people in cold blood at Grasshopper Junction, Arizona,
23 which is at Question 42, we ask that this juror be excused
24 for cause.

25 THE COURT: Mr. Gavin?

1 MR. GAVIN: We join, Your Honor, for the same
2 reasons. Also, that she does know a number of witnesses
3 in this case and her husband was involved in law
4 enforcement. That, combined with that statement, we'd ask
5 she be excused for cause, too.

6 THE COURT: Thank you. Mr. Zack?

7 MR. ZACK: Opposed. Seems like the statement was
8 explaining -- the written statement explains in here that
9 she could be impartial.

10 THE COURT: Well, the written statement is asking
11 what she's heard and what's been in the paper, and she
12 said she had no opinion about it, and she -- nobody asked
13 her the direct question whether she could be fair and
14 impartial, but she gave every indication that she could.
15 If you want me to ask her that direct question, I will
16 bring her back in, otherwise the challenge is denied.

17 MS. O'NEILL: Judge, could you bring her back in and
18 ask her?

19 THE COURT: All right.

20 (Ms. Williams has entered chambers.)

21 THE COURT: Sorry. I forgot a couple questions I
22 had. Even though you've read about this in the paper, can
23 you set aside what you have read in the paper and listen
24 to the evidence that you only hear in court?

25 MS. WILLIAMS: Yes, sir, I can.

1 THE COURT: Do you think that -- and you indicated
2 you had no opinion about the -- when you came -- did you
3 have any opinion at all when you came into court this
4 morning?

5 MS. WILLIAMS: Well, a little.

6 THE COURT: Can you set this opinion aside and
7 listen fully to the evidence in this case?

8 MS. WILLIAMS: Yes.

9 THE COURT: And based on the evidence alone that you
10 hear in this case, can you render a verdict?

11 MS. WILLIAMS: Yes, sir.

12 THE COURT: Okay. Can you be fair and impartial on
13 this case?

14 MS. WILLIAMS: Yes.

15 THE COURT: Okay.

16 MR. GAVIN: Your Honor, may we just ask what that
17 opinion was that you can set aside?

18 THE COURT: When you came in here this morning, what
19 opinion did you have about the case?

20 MS. WILLIAMS: Well, what a horrible crime it was.

21 THE COURT: Anything at all with the -- as to the
22 guilt or innocence of the defendants?

23 MS. WILLIAMS: No. I leave that strictly up to the
24 Court. The jury --

25 THE COURT: You understand -- okay. Ms. O'Neill, do

1 you have any questions?

2 MS. O'NEILL: No, Your Honor.

3 THE COURT: Mr. Zack?

4 MR. ZACK: No, Your Honor.

5 THE COURT: Okay. Thank you. I want you -- you are
6 excused for now. Would you return at 1:30 tomorrow
7 afternoon?

8 MS. WILLIAMS: Yes, sir.

9 THE COURT: Okay. Thank you.

10 (Ms. Williams has left chambers.)

11 THE COURT: Any additional argument for challenge?

12 MS. O'NEILL: No, Your Honor. I understand that
13 you're denying our challenge. We just continue, for the
14 record.

15 MR. GAVIN: No further arguments.

16 THE COURT: Well, the challenge is denied. So, Mr.
17 Confer, any reasons to talk to him?

18 MR. GAVIN: Yes, Your Honor. He's a 32 year veteran
19 officer. He knew the victims. He knows Officer Stull,
20 Officer Flanagan.

21 MS. O'NEILL: Your Honor, I would just move that he
22 be challenged and excused for cause because he knows or
23 knew the victims in the case. I don't think we need to
24 talk to him to confirm that he knows them.

25 THE COURT: Mr. Zack?

1 MR. ZACK: I don't remember his indication as to how
2 well he knew them, or just knew their names, or knew of
3 them.

4 THE COURT: Well, let's just talk to him briefly.
5 That's the only question I have.

6 (Mr. Confer has entered chambers.)

7 THE COURT: Why don't you be seated.

8 MR. CONFER: Thank you.

9 THE COURT: In your questionnaire you indicated that
10 you had been acquainted with either Dean Morrison or
11 Jacqueline Appelhans, or both of them.

12 Who did you know?

13 MR. CONFER: Morrison.

14 THE COURT: How did you know him?

15 MR. CONFER: Just acquaintance through the lodge.

16 THE COURT: Which lodge is that?

17 MR. CONFER: Masonic Lodge.

18 THE COURT: Anything about the fact that you knew
19 him that would affect your abilities to sit on this case?

20 MR. CONFER: No. Like I say, I just met him, talked
21 to him two or three times, something like that. That's
22 about all.

23 THE COURT: Any questions?

24 MS. O'NEILL: No.

25 MR. GAVIN: Regarding the officers, did you know

1 Officer Stull?

2 MR. CONFER: Sir? Stull?

3 MR. GAVIN: Yes.

4 MR. CONFER: I think I've met him. That's about
5 all.

6 MR. GAVIN: How about Officer Flanagan?

7 MR. CONFER: Yeah. Terry and I was in a motorcycle
8 club together for maybe a couple years, but we didn't meet
9 very regular. Maybe run into him a half dozen times in
10 the course of time, and the club's dissolved now.

11 MR. GAVIN: I noticed from your questionnaire that
12 you were a 32 year veteran of the Colorado police force?

13 MR. CONFER: Well, state patrol, traffic law
14 enforcement.

15 MR. GAVIN: When you're sitting there as a jury
16 member, would you be able to give equal weight to an
17 officer's testimony as opposed to any other witnesses in
18 the case?

19 MR. CONFER: Oh, yeah. Over the years, you know,
20 there's two sides to everything.

21 MR. GAVIN: Thank you, sir.

22 THE COURT: Mr. Zack?

23 MR. ZACK: No questions.

24 THE COURT: Okay. Thanks for coming in.

25 MR. CONFER: All right.

1 (Mr. Confer has left chambers.)

2 THE COURT: Ms. O'Neill?

3 MS. O'NEILL: I renew my challenge for cause for the
4 reason that he knew Mr. Morrison. I just don't think it's
5 appropriate to have people on the jury that are going to
6 see pictures -- who knew Dean Morrison, that are going to
7 see pictures after the killings.

8 THE COURT: Mr. Gavin?

9 MR. GAVIN: I agree for those reasons, Your Honor.

10 THE COURT: Mr. Zack?

11 MR. ZACK: Opposed. He answered every question that
12 we asked that he can be fair and impartial.

13 THE COURT: Well, I know he answered very well, but
14 he hasn't seen the pictures. Probably he shouldn't be on.
15 He may feel differently once he sees the pictures on the
16 case.

17 MR. ZACK: Your Honor, just seeing a picture doesn't
18 translate in the guilt or innocence of the defendant.

19 THE COURT: True. That is true.

20 MR. ZACK: Those pictures are pictures. While they
21 are not overly prejudicial or gory, they are going to make
22 everybody who sees them feel bad.

23 THE COURT: Oh, I understand that.

24 MR. ZACK: And again, that doesn't translate, just
25 because you know them before, doesn't translate going to

1 any particular weight of the verdict.

2 MR. GAVIN: Your Honor, we don't know how it's going
3 to affect them at this point.

4 THE COURT: I agree with you, but I am going to
5 excuse him for cause.

6 THE COURT: Any reason to talk to Rita Dunn?

7 MR. GAVIN: We have none, Your Honor.

8 MS. O'NEILL: No.

9 THE COURT: Mr. Zack?

10 MR. ZACK: No.

11 THE COURT: Okay. Rita Dunn can be advised to come
12 back at 1:30 tomorrow. Bobby Davidson?

13 MR. GAVIN: Yes, Your Honor. He made a statement
14 that there's -- regarding crooked lawyers and judges. He
15 sat on an attempted murder jury. He may have some
16 residual feelings from that case. His health appears in
17 question, also. I've just marked on that what my concern
18 was.

19 MS. O'NEILL: Your Honor, I would move that Mr.
20 Davidson be excused for cause because he says that he
21 vomits unexpectedly when he least expects it. He has a
22 hearing problem. The crooked lawyers and judges comment
23 is probably something that we should consider in his
24 ability to sit on a case. I thus move that he be
25 excused.

1 MR. ZACK: No objection.

2 THE COURT: Mr. Davidson can be use excused. Do we
3 need to talk to Mr. Semm?

4 MR. GAVIN: Was Mr. Semm excused by you, Your Honor?
5 No? He may have requested it.

6 THE COURT: He may have requested. I don't believe
7 I -- no. He's not even listed on my list, anyway.

8 MS. O'NEILL: Your Honor, I'm not sure that we need
9 to talk to Mr. Semm.

10 MR. GAVIN: We don't.

11 THE COURT: Mr. Zack?

12 MR. ZACK: No.

13 THE COURT: Mr. Semm can be advised to return
14 tomorrow at 1:30. Gillespie, any reasons to talk to her?
15 I am sorry. On any of those that we have said no reason
16 to talk to them, they can come back tomorrow.

17 Are there any challenges for cause?

18 MS. O'NEILL: No.

19 THE COURT: I have just assumed by that, that there
20 was no challenge for cause? Gillespie?

21 MR. GAVIN: We don't need to speak with her, Your
22 Honor.

23 MR. ZACK: I don't.

24 THE COURT: Okay.

25 MS. O'NEILL: No, Your Honor. I don't believe we

1 need to speak to her.

2 THE COURT: Any challenges for cause on Ms.

3 Gillespie?

4 MS. O'NEILL: No.

5 MR. GAVIN: No, Your Honor.

6 MR. ZACK: No.

7 THE COURT: Okay. Thank you. I'm out of lists. I
8 am out of the stack of questionnaires. It's 10 minutes to
9 5:00. How many do we have there?

10 MS. O'NEILL: Your Honor, perhaps this would be a
11 good time to stop. I know that there are a couple of
12 jurors who are numerically higher than 36 that I haven't
13 had a chance to review the questionnaires.

14 THE COURT: We have 15 that have passed for
15 cause --

16 THE CLERK: 15 left that were called that we haven't
17 talked to.

18 THE COURT: Let me do this. I don't have the -- I
19 guess I can get them, the remaining questionnaires --

20 MR. DICKEY: We have not reviewed these after
21 Gillespie.

22 THE COURT: Let's take a brief break, but I would
23 like to go through those that are still here that you may
24 have challenges for cause just based on the record. I am
25 going to let everybody go, to come back.

1 Are there any that we can take up just on the
2 questionnaire?

3 MR. DICKEY: We have not reviewed the questionnaires
4 after Ms. Gillespie, so we have no way of knowing what's
5 in the ones after that and whether there's a basis for
6 challenge for cause or not.

7 THE COURT: Okay.

8 MS. O'NEILL: Your Honor, there are a couple of
9 things that maybe we can deal with. And maybe we need to
10 wait 'till tomorrow. I think we probably don't have time
11 to talk to people. Ms. Marcum indicates that she
12 believes the defendants should have to produce this type
13 of evidence as to their whereabouts at the time of the
14 crime. I think we probably need to talk to her about
15 that. I'm not sure that we can get through all that at
16 this point, especially if they haven't had a chance to
17 review the questionnaire.

18 THE COURT: Okay.

19 MS. O'NEILL: I don't know how you feel about
20 challenges for cause?

21 THE COURT: Well --

22 MS. O'NEILL: I think that's the only thing that I
23 have listed here as far as that. I don't know. I don't
24 know. And there are some things on a couple others, but
25 like I said, if Mr. Gavin and Mr. Dickey haven't had a

1 chance to look at them, I am --

2 THE COURT: Okay. Unless you want to take up a
3 challenge for cause on my uncle, I'd say we bring them all
4 back tomorrow. He's the only other one I think --

5 MS. O'NEILL: Your Honor, I'd like to sleep on
6 that.

7 THE COURT: Okay. Let's have the remaining -- okay.
8 Let's have a recap here. How many have been passed for
9 cause? And make sure --

10 THE CLERK: 12.

11 MR. ZACK: That's my count, Your Honor. Just so I
12 understand, when we get to 36 we can stop?

13 THE COURT: Yes.

14 MR. ZACK: So everybody that's come up and not been
15 thrown out for cause is going to go in the pool to make
16 strikes from?

17 THE COURT: That's right. We are not going past 36,
18 is the way that I plan on doing. Okay. And we have
19 excused how many of the first 36?

20 THE CLERK: You mean in here?

21 THE COURT: Yes.

22 MR. ZACK: The first 30, actually.

23 THE COURT: Yes.

24 THE CLERK: Seven just now in chambers.

25 THE COURT: Of the first 30 that we did -- actually

1 there's only 12?

2 THE CLERK: No.

3 THE COURT: So, we will begin with Juror No. 31
4 tomorrow. Those that remain of the first 36, just tell
5 them to come back at 9:00 tomorrow.

6 MR. GAVIN: Obviously Mr. Dickey and I are going to
7 need time to go through the questionnaires on the people
8 that we haven't seen yet. I don't know what kind of
9 procedure you want to set up for that.

10 THE COURT: Some of those that -- you can do
11 whatever you want with them, but I will expect you to be
12 prepared tomorrow morning.

13 MR. GAVIN: We'd love to be prepared, Your Honor.
14 How do you want us to go about -- if we are going to have
15 copies, Vir --

16 THE COURT: Virlynn is not right here. As soon as
17 we break I will let you know.

18 THE CLERK: Some of these we actually went through.
19 Juror No. 52 -- I mean --

20 THE COURT: Yes. Okay. You know that those were
21 -- of those that remain, I think I advised Virlynn to
22 begin with No. 50 and to start xeroxing, and how far she
23 got, that's what you are going to get.

24 MR. GAVIN: We haven't seen from the original 30
25 here --

1 MS. O'NEILL: Okay. You have 31 through 36 on the
2 table somewhere.

3 MR. GAVIN: I have got those right here. That's my
4 question.

5 THE COURT: Those up to 50 I am going to let you sit
6 here and read them because we are not going to have time
7 to xerox.

8 MR. GAVIN: So, we are going to have to read this
9 stack tonight before we go home?

10 THE COURT: From 50 on, you can take them with you.

11 MS. O'NEILL: Okay.

12 MR. GAVIN: It's okay for you, but we have got to
13 read between 30 and 50 before we leave tonight. We also
14 have to get prepared for tomorrow.

15 THE COURT: By the time I xerox it -- starting with
16 what you have got there, by the time I xerox it, it's
17 going to be 7:00 o'clock, anyway.

18 MR. GAVIN: I understand, Your Honor. It's just
19 somewhat unfair to defense counsel.

20 THE COURT: Okay. We are in recess.

21 (The proceedings concluded at 5:00 p.m. on May 28,
22 1992.)

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24

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Certificate of Reporter

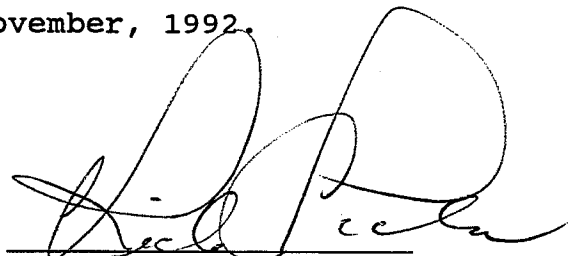
I, Rick A. Pulver, Official Reporter in the Superior Court of the State of Arizona, in and for the County of Mohave, do hereby certify that I made a shorthand record of the proceedings had in the foregoing entitled cause at the time and place hereinbefore stated;

That said record is full, true, and accurate;

That the same was thereafter transcribed under my direction; and

That the foregoing typewritten pages constitute a full, true, and accurate transcript of said record, all to the best of my knowledge and ability.

Dated this 4th day of November, 1992.



RICK A. PULVER