

1 STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY
2 BRANCH 1

3 STATE OF WISCONSIN,
4 PLAINTIFF, JURY TRIAL
5 vs. VOIR DIRE - DAY 3
6 STEVEN A. AVERY, Case No. 05 CF 381
7 DEFENDANT.

8 **DATE:** FEBRUARY 7, 2007

9 **BEFORE:** Hon. Patrick L. Willis
10 Circuit Court Judge

11 **APPEARANCES:**

12 KENNETH R. KRATZ
13 Special Prosecutor
14 On behalf of the State of Wisconsin.

14 THOMAS J. FALLON
15 Special Prosecutor
16 On behalf of the State of Wisconsin.

16 DEAN A. STRANG
17 Attorney at Law
18 On behalf of the Defendant.

18 JEROME F. BUTING
19 Attorney at Law
20 On behalf of the Defendant.

20 STEVEN A. AVERY
21 Defendant
22 Appeared in person.

22 * * * * *

23 **TRANSCRIPT OF PROCEEDINGS**

24 Reported by Diane Tesheneck, RPR

25 Official Court Reporter

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1 THE COURT: At this time the Court calls
2 State of Wisconsin vs. Steven Avery, Case No. 05 CF
3 381. We're here this morning to begin the third day
4 of individual voir dire. Will the parties state
5 their appearances for the record, please.

6 ATTORNEY FALLON: Good morning, your Honor,
7 may it please the Court. The State appears by
8 Assistant Attorney General Tom Fallon and special
9 prosecutor, along with special prosecutor Ken Kratz.

10 ATTORNEY BUTING: Steven Avery is here in
11 person; Jerome Buting represents him, as does Dean
12 Strang.

13 THE COURT: All right. There's a few
14 matters we have to clear up from yesterday before we
15 call out the first juror. First, at this time I had
16 a chance to look at the jury questionnaires; there
17 were three jurors yesterday that the parties jointly
18 recommended be stricken for cause and I believe the
19 Clerk has the names and numbers.

20 THE CLERK: It was Juror No. 44, Kevin
21 Cayemberg; Juror No. 37, Mary Lukes; and Juror
22 No. 39, Betsy Roedig.

23 THE COURT: Does that square with the
24 party's recollection?

25 ATTORNEY STRANG: Yes.

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ATTORNEY FALLON: Yes, that's correct,
Judge.

THE COURT: All right. I have reviewed the
questionnaires in those cases and I agree with the
party's recommendations; those three jurors will be
stricken for cause. I also indicated to the parties
before we began today that -- Well, first of all, at
the outset, the Court had indicated it wished to
place a 15 minute limit on each party for individual
voir dire of the jurors.

The parties were both heard on the
record and felt that time would be too short. I
indicated, I believe, that I would monitor the
situation and somewhat loosely apply the limit.

Having heard the voir dire of the jurors
who have been questioned to date, the Court
believes that if unnecessary visiting with the
juror questions are eliminated and repetitive
questions are eliminated, I'm not sure that I
have heard any juror for which 20 minutes per
side would not have been sufficient. So I'm
going to impose a 20 minute limit on each side
for questioning any particular juror.

I do have a timer here that I will be
using. The way it's set up, and I don't think I

1 can overrule it, but perhaps it's helpful. It
2 gives a short little beep at every five minute
3 interval. So the beep you hear today will not be
4 the laptops of the media, but will be coming from
5 the timer.

6 And when the last one goes off, if the
7 parties wish, I will give you just a brief
8 warning that you have got five minutes left. I
9 won't give it, if the parties don't wish me to,
10 but if you find it of assistance, I will.

11 Counsel.

12 ATTORNEY FALLON: I understand the Court's
13 reasoning and we'll do our best to abide by the time
14 limit and see how it goes. But as I think about the
15 last couple of days, quite frankly, notwithstanding
16 media perception, I don't think we're doing all that
17 badly or going all that slowly.

18 Actually, it feels almost about right, a
19 little tedious yesterday. But our concern is
20 having adequate time to explore the issues. And
21 like I said, the State will do its best to abide
22 by the 20 minute time limit.

23 But as I think about it, I don't think
24 on average we have spent more than 40 to 45
25 minutes on average per juror. And as the Court

1 is aware, the parties have agreed to strike for
2 cause somewhere in the vicinity of 50 jurors.
3 Thereby saving a great deal of time. But in
4 terms of right now, we'll see how it goes and we
5 may renew our request for extended time depending
6 on how it goes.

7 THE COURT: Mr. Strang.

8 ATTORNEY STRANG: I do object to the time
9 limit for a number of reasons, acknowledging that
10 the Court has broad discretion in controlling voir
11 dire and superintending the process of jury
12 selection. But the overriding concern here as the
13 Court itself acknowledges -- and I know the Court
14 understands this -- is that we're trying a case in
15 which a man -- the rest of his life hangs in the
16 balance.

17 And for the other side of the courtroom
18 in which the public has an enormous and
19 legitimate interest and one family in particular
20 has a very deep personal interest, picking 16
21 fair jurors who come to this case after 15 months
22 of publicity that has been unusual in its
23 pervasiveness and in its consistency, without
24 ascribing or characterizing it further, there's
25 been an enormous amount of publicity in this

1 case.

2 And it is not at all unreasonable here
3 for the parties to explore in voir dire well
4 beyond the bases for cause in striking a juror,
5 but explore further the information that will
6 allow each side intelligently to exercise the few
7 peremptory strikes the Wisconsin law allows each
8 side.

9 In two long days of voir dire I -- I and
10 Mr. Buting collectively have made exactly one
11 objection to a question posed by the State. And
12 as this Court knows, I'm not shy about making
13 objections and neither is Mr. Buting. So we made
14 one objection because we thought there was one
15 objectionable question in two days.

16 We have not posed a single question
17 between the two of us that we thought
18 objectionable. We don't intend discourtesy to
19 the Court and we don't intend to do improper
20 things.

21 The State has made a few, several,
22 although not a great number of objections to our
23 questions, some of which the Court has sustained
24 and some of which it has overruled. But in the
25 main, I expect that counsel at the next table

1 would join me in agreeing that neither side has
2 wandered off into inappropriate material.

3 Now, when the Court times each side, on
4 each juror, and a little chime is going off,
5 we're chilling not just the lawyers, but more
6 importantly, the person who is trying to open up
7 in an alien environment and give us some
8 information that's very personal to a bunch of
9 strangers, about themselves, about their
10 attitudes and about their deepest held
11 convictions.

12 And with a chime going off every five
13 minutes, I don't expect the same level of candor
14 from jurors who are already uncomfortable and in
15 an alien environment surrounded by strangers who
16 do very different things with their working lives
17 than they do.

18 So if -- if the Court is of a mind to
19 set some time limits and I certainly understand,
20 I share the desire to be out of here before 6 or
21 6:30 at night, because of all the work we have to
22 do after we leave court. But if the Court was
23 going to do that, I would ask the Court, instead,
24 to set something like a three and a half hour a
25 day limit on each side and let us apportion that

1 time as we will.

2 Because it is -- One of the other
3 problems with a 20 minute limit per side per
4 juror is that not all potential jurors are
5 created equal. Some of them -- some of them can
6 be accepted, or for that matter excused, in five
7 or 10 minutes total.

8 Some of them are well worth an hours
9 total exploration. And if that happens to be 40
10 minutes by the State and 20 minutes by the
11 defense on one juror and, you know, 30 minutes by
12 each side on the next; that's just the way it is,
13 in my view. Each one of these people is
14 individual and presents individual issues for the
15 respective sides in this lawsuit.

16 So, we're in an area of the Court's
17 discretion; I understand and respect that. I'm
18 asking the Court to exercise it a little bit
19 differently in hope here of flushing out, not
20 just cause to excuse a juror, but all the
21 information we reasonably can hope to have so
22 that we might exercise, intelligently, our
23 peremptory strikes when there's everything at
24 stake at the defense table and enormous
25 legitimate interests at stake at the State table.

1 THE COURT: All right. I want to -- in
2 light of those comments I want to make a few
3 additional ones of my own to make sure that the
4 Court's ruling here is not misconstrued. First of
5 all, I will state for the record that the Court is
6 very appreciative of the efforts that counsel for
7 both sides in this case have made to thoroughly
8 review the written questionnaires that were used and
9 agree to strike, before individual voir dire, those
10 jurors whose answers demonstrate that they would
11 have a great difficulty meeting the qualifications
12 of a jury in this case.

13 I am not imposing the time limit as a
14 punishment for the conduct of the parties. I
15 believe that the attorneys have been very
16 responsible. When it comes to whether questions
17 on voir dire are objectionable, it's often more
18 of an art than a science.

19 It's not so much that a particular
20 question is or is not objectionable and certainly
21 in this case the Court recognizes that a
22 legitimate area of inquiry from both parties on
23 voir dire is the extent to which jurors have been
24 exposed to pre-trial publicity and the effect
25 that that might -- that that publicity might have

1 on their actions as a juror. And if it appears
2 that any particular juror has been so exposed
3 that 20 minutes is simply not enough, I'm not
4 saying the Court would not entertain a request
5 for longer time.

6 However, there are some other questions
7 that have been asked, many of which is, you know,
8 taking the first five minutes to ask the juror
9 something about their background, whether it be
10 employment, or hobbies, or whatever, that isn't
11 particularly germane to the qualifications of the
12 juror. And I'm looking with the time limit to
13 get the parties past that and into the meat of
14 voir dire a little bit quicker.

15 If I felt that by imposing a 20 minute
16 limit either party would be prejudiced to the
17 point that they couldn't get the information that
18 they need to evaluate jurors, I wouldn't set the
19 time limit. I'm setting it based on my
20 observations of what's happened so far. And
21 while it's not the primary consideration, I'm
22 also trying to give a little consideration to the
23 jurors who are waiting to be called out here.

24 So, with that background, before we
25 begin, then, there was also a question -- and I

1 will stick the timer on the floor in order to
2 muffle, to the extent possible, the noise it
3 makes. I think you will find it's not as loud as
4 what we were hearing from some of the laptops
5 yesterday.

6 There was one other remaining issue from
7 yesterday relating to the juror, Nathan Klein,
8 and his -- the answers he gave to questions
9 relating to his exposure to radio at work and the
10 fact that he heard something within the last
11 week, I believe it was on Monday, about blood
12 vial evidence. I have reviewed -- and have the
13 parties received this page and a half?

14 ATTORNEY STRANG: No.

15 ATTORNEY FALLON: No.

16 THE COURT: Why don't you come up and take
17 a look at it now. My review of the answers that he
18 gave to the questions was consistent with my
19 recollection at the time; that is, he indicated he's
20 at work; the radio is always on at work; he did hear
21 news last Monday about the blood vial and the
22 State's request to test it.

23 He was candid in describing that he had
24 heard that; although, he indicated he tries to
25 avoid listening to the radio while at work, but

1 had -- did admit that he heard this particular
2 story. He indicated that he thought that -- that
3 the planting of the blood vial evidence was a
4 possible defense in this case. He was hoping
5 that there would be some results from the tests,
6 but if there weren't, he said that, then, he
7 would look at something else.

8 First of all, I would note, I believe
9 he -- based on the answers he gave, he has
10 attempted to comply with the court order as best
11 he can. Obviously, should he be selected as a
12 juror in this case, he won't have to worry about
13 being exposed to the radio at work because he
14 won't be at work.

15 Secondly, I would note that, in the
16 scheme of things, the danger that pre-trial
17 publicity would prejudice a juror in this case is
18 far greater with respect, for example, to what
19 they heard or remember about Mr. Dassey's
20 statements, which may or may not come in at
21 trial.

22 I think that this is not such a major
23 item that it could be expected to have a dominant
24 effect or foreclose him from indicating as he
25 did, that he could put his exposure to pre-trial

1 publicity behind him and become a fair juror and
2 base his decision only on the evidence introduced
3 at trial. So I don't believe there is a basis
4 for excusing Mr. Klein and he will remain as part
5 of the jury panel in this case.

6 ATTORNEY STRANG: Just a couple things to
7 make the record clear on that, your Honor. The
8 transcript excerpt the Court invited us to look at
9 when we approached the sidebar were pages 139 and
10 140 of the February 6, 2007 transcript of
11 proceedings. (Court reporter note: Those page
12 numbers may not match after the transcript is
13 completely transcribed.)

14 And I think the ruling concerning
15 scientific testing to which the juror -- or
16 Mr. Klein, the prospective juror, referred
17 concerned the Court's February 2, 2007 ruling on
18 allowing testing; although, the Court already has
19 ruled or previously has ruled that the results of
20 such tests at present are inadmissible and may
21 not -- and the possibility of doing EDTA testing
22 may not be mentioned by either side.

23 THE COURT: Mr. Fallon, is that a fair
24 summary from your perspective?

25 ATTORNEY FALLON: Not quite. It is with

1 respect to a ruling the Court issued I believe in
2 January relative to the presence or absence of EDTA;
3 however, it does not encompass other potential
4 scientific testing.

5 Secondly, if not -- and it hasn't been
6 directly or -- filed or stated in court, but
7 that, I think, decision is subject to review and
8 a motion to reconsider since that determination
9 was held without evidentiary hearing, without
10 facts, without argument and was based upon, to my
11 recollection and knowledge, an unpublished
12 Federal District Court opinion out of California
13 dealing with a post-conviction motion. So with
14 those caveats, I accept counsel's representation.
15 But the State's position is that the ruling
16 relative to Juror Klein is appropriate.

17 THE COURT: All right. Well, what the
18 Court did rule is the Court was going to allow, and
19 has allowed, the State to conduct tests on the blood
20 vial from the Clerk's Office. I have also provided
21 that sufficient sample be set aside to allow the
22 defense to do the same. And I specifically reserved
23 ruling on the admissibility of any test results
24 should any test results be obtained. Otherwise, I
25 believe Mr. Strang's summary of things is accurate.

1 ATTORNEY STRANG: Okay. Am I correct that
2 the current state of rulings of the law of the case
3 is that EDTA testing is not admissible and as things
4 stand that that was the Court's January something
5 order and that neither side may mention the
6 possibility of doing EDTA testing to the jury?

7 THE COURT: Well, those are two different
8 things. First of all, the Court did not rule that
9 EDTA test results are not admissible. The Court
10 ruled, in essence, if I can summarize my ruling,
11 that they have not been proven to be of such
12 reliability that they justified an adjournment of
13 the trial in this case to await the results of such
14 testing.

15 And I did that based on the information
16 that the parties provided me, which both parties
17 represented was the best information on the
18 state-of-the-art of such testing; namely, the
19 California decision to which Mr. Fallon referred.
20 I do not believe I was asked to rule on the
21 admissibility of EDTA test results, I have not
22 done so at this time. There are no EDTA test
23 results.

24 As to whether either party could mention
25 them in an opening statement or otherwise, I

1 think the rule would be the same as it is with
2 other evidence. I don't recall being asked to
3 make any such ruling, nor do I recall that I made
4 such a ruling.

5 ATTORNEY STRANG: We probably both should
6 go back and look at the written ruling, then,
7 because maybe my recollection is faulty.

8 THE COURT: Okay.

9 ATTORNEY FALLON: Your Honor, if I may make
10 one comment on the voir dire process, just to clear
11 up the record and to make a point. We accept the
12 Court's ruling, but I would like the record to
13 reflect that what many perceive as five minutes of
14 chit chat questions by the State, or the defense for
15 that matter, as they begin there voir dire process,
16 while we agree that it does not go directly to the
17 potential of a strike for cause, it has two very
18 valid purposes.

19 One, information obtained during that
20 introductory questioning is quite valuable in
21 determining how one would exercise their
22 peremptory challenges.

23 And secondly, picking up on a point that
24 Mr. Strang made earlier, it's incredibly
25 difficult to start a conversation with somebody

1 in saying, well, good morning, sir, I understand
2 you were a victim of a crime and how do you feel
3 about that.

4 It seems to me that there ought to be at
5 least some time for a person to walk into a
6 courtroom such as this, with all these people
7 looking at them where they are clearly the fish
8 in the bowl, and make some human effort to relax
9 them and engage them such that -- so that they
10 can honestly answer the questions.

11 So that's the reason for that question,
12 for those types of questions. And I just want
13 the record to be clear about it. It's not like
14 we're wasting time or trying to be buddy-buddy
15 with jurors.

16 THE COURT: Well, that's one of the reasons
17 I'm setting a time limit rather than objecting to
18 when the Court may believe that the number of
19 visiting questions is excessive. I think the best
20 way to police it is to simply set a time limit.

21 All right. If there's nothing else,
22 we'll bring in Jean Koch.

23 Ms Koch, if you will raise your right
24 hand, the Clerk will administer an oath to you.

25 (Juror sworn.)

1 THE CLERK: Please be seated.

2 THE COURT: I know that people with the
3 spelling of your last name sometimes pronounce it
4 differently; how do you pronounce it?

5 MS KOCH: Koch.

6 THE COURT: Ms Koch. All right. You have
7 already filled out a written questionnaire in this
8 case. This morning we're moving on to the next step
9 of the jury selection process which is individual
10 voir dire. Each of the attorneys will have a chance
11 to ask you some questions and for the most part as a
12 follow-up to answers that you gave on your written
13 questionnaire.

14 Before they begin, I can tell you that
15 at this time the jurors who are selected to serve
16 on the jury in this case will not be sequestered;
17 that is, they will be permitted to return home at
18 the end of court proceedings each day, before
19 reporting back to court the following day.

20 We're doing this with the understanding
21 that the jurors will not attempt to learn
22 anything about this case and not be exposed to
23 any media coverage of it, either in the
24 newspapers, television, radio, or the internet
25 and that the jurors will not discuss the case

1 with anyone, including other jurors or family
2 members, until the case is concluded.

3 I can also tell you, that although the
4 proceedings today are open to the public, we do
5 not permit cameras in the courtroom during jury
6 voir dire. And members of the media are not
7 permitted to disclose the names of the jurors in
8 their reports.

9 In addition, you should know that should
10 you be selected as a juror in this case, any
11 cameras that cover the trial are not permitted to
12 show the jury in any way that would identify
13 individual members of the juror -- of the jury.

14 Finally, if you are still on the panel
15 after today's proceedings, you will receive a
16 telephone call in the next day or two letting you
17 know when to report back to court for the next
18 part of the process.

19 Mr. Fallon, you may begin.

20 **VOIR DIRE EXAMINATION**

21 BY ATTORNEY FALLON:

22 Q. Good morning, Ms Koch.

23 A. Good morning.

24 Q. My name is Tom Fallon. I'm an Assistant Attorney
25 General with the Wisconsin Department of Justice.

1 I'm one of the prosecutors in this case. To my
2 immediate left is Mr. Ken Kratz, the lead
3 prosecutor. He is currently the Calumet County
4 District Attorney. Again, good morning and
5 thanks for coming in this morning.

6 We have a few questions, both myself and
7 the defense, Mr. Strang I believe, of you
8 regarding some of the information you provided
9 last week to help us in selecting a jury.

10 First, I'm sorry, I'm not from the area,
11 but what kind of business is Two Rivers
12 Improvement; is it home improvement?

13 A. Twin Rivers Improvement, it's a home improvement
14 business. We do residential and commercial
15 buildings, windows, doors, siding, roofing,
16 remodeling.

17 Q. Okay. How long have you been actively engaged in
18 that business?

19 A. Since 1988.

20 Q. All right. Very good. Thank you. I also
21 noticed from your questionnaire, that you are
22 familiar with our Clerk of Court?

23 A. Yes.

24 Q. Janet. All right. Your familiarity with her,
25 does that raise any question in your mind as to

1 your ability to be a fair and impartial juror in
2 this case?

3 A. No. I don't know if it's the same Janet.

4 Q. Okay.

5 A. Because I do know one, but it might be somebody
6 else.

7 Q. Do you know this young lady?

8 A. No. So is it -- I know a different Janet.

9 Q. All right. Very good. That solves one mystery.
10 Thank you. The next area I would like to ask you
11 about is some of the pre-trial publicity that's
12 attended to this case. And you indicated you are
13 at least familiar with some of that publicity.
14 And in your questionnaire you indicated you get
15 your news sources from radio, television and the
16 internet. So if we could start there. If you
17 could tell me a little bit; of those three, where
18 do you get the majority of your news?

19 A. From TV.

20 Q. From the television?

21 A. Mm-hmm.

22 Q. And is it the regular evening newscasts or ...

23 A. Yeah, the regular evening newscasts, yeah.

24 Q. Do you watch any special news programs at all or
25 just the regular news?

1 A. I watch a lot of Court TV.

2 Q. Court TV?

3 A. Yeah.

4 Q. All right. Okay. In terms of the radio, how
5 much news do you get from the radio sources?

6 A. Just in the mornings when I'm getting ready for
7 work; I will have the radio on. And that's all I
8 hear, is just the morning news.

9 Q. All right. And in terms of your business
10 practice, I mean, generally, what hours do you
11 keep?

12 A. I usually work from like 8 until 1 or 2 in the
13 afternoon.

14 Q. All right.

15 A. It depends on how busy we are, otherwise if
16 someone is at the office, then they will sit in
17 for me and then I just answer the business phone
18 at home.

19 Q. I see. All right. When you are at home, do you
20 have the TV or radio on in the background, or
21 not?

22 A. I have Court TV on.

23 Q. You have Court TV on. All right. Very good. In
24 terms of the internet, how much news or what kind
25 of news do you obtain from the internet?

1 A. Not much.

2 Q. Not much?

3 A. No. No.

4 Q. That's more for --

5 A. I just check the Herald-Times Reporter on the
6 internet --

7 Q. Right.

8 A. -- once in a while, but I really don't go into it
9 that much.

10 Q. So it's not a major news source?

11 A. No. No.

12 Q. Have you watched any of the proceedings
13 associated with this case on the internet, for
14 instance?

15 A. No.

16 Q. All right. Have you watched any of the
17 proceedings as reported on television?

18 A. Yes.

19 Q. All right. And tell us a little bit about that;
20 how much would you say you have observed?

21 A. Well, in the evening news, I usually watch what's
22 coming up, or what's going to be going on in the
23 next week or so. I had seen a couple weeks ago,
24 it was in regards to the Dassey --

25 Q. Right.

1 A. -- trial. But I really don't watch that much of
2 it, you know. If it's on, I will listen to it,
3 but otherwise it's --

4 Q. Mm-hmm.

5 A. It's been on the news for so long that, you know,
6 it just -- I don't know.

7 Q. All right. Did you receive an advisory from the
8 Court asking that you refrain from watching any
9 of the newscasts?

10 A. Yes.

11 Q. All right. And have you been able to abide by
12 that request?

13 A. Yes.

14 Q. All right. With respect to the information you
15 have, you did offer an opinion; have you formed
16 any personal opinions about this case, based on
17 the publicity? And you used the phrase, I know
18 he's guilty.

19 But then, specifically, with respect to
20 the question: Have you yourself formed any
21 opinion, based on the information from any
22 source, as to his guilt or innocence, you said
23 no. So I wanted to talk to you a little bit
24 about that.

25 Based on the information that you have

1 in your head, right now, do you have an opinion,
2 do you think you know enough, do you have an
3 opinion as to whether he is guilty or not?

4 A. Yes.

5 Q. Okay. And what is your opinion?

6 A. Right now I would say he is guilty.

7 Q. All right. And that is based on the information
8 that you received from the media?

9 A. Right.

10 Q. All right. And you realize you have not received
11 any other information, either from the State
12 directly or perhaps from the defense? Is that
13 correct?

14 A. Right, yes.

15 Q. All right. Now, if the Court were to instruct
16 you, and the Judge will in fact instruct you if
17 you were selected as a juror, that you would be
18 required to set that information aside and be
19 asked to decide Mr. Avery's guilt or innocence
20 strictly on the evidence presented in the
21 courtroom?

22 A. Mm-hmm.

23 Q. In other words, you would have more access to
24 more information as a juror than you would
25 listening to the media. Do you think that you

1 could set aside the information that you have and
2 decide this case strictly on the evidence?

3 A. Oh, yes, just listening to both sides I would --
4 I would need a lot more detail into, you know ...

5 Q. All right.

6 A. So I would --

7 Q. Go ahead, I'm sorry.

8 A. So I would love to hear both sides, you know,
9 their ...

10 Q. All right. Well, let's talk a little bit about
11 that. You understand that the State is the only
12 one that has something to prove in the case; in
13 other words, we have to prove his guilt, beyond a
14 reasonable doubt, otherwise you must find him not
15 guilty; do you understand that?

16 A. Yes.

17 Q. And could you accept that ruling --

18 A. Yes.

19 Q. -- that principle from the Court?

20 A. Yes.

21 Q. All right. And do you understand that Mr. Avery
22 and his attorneys, they don't have to present any
23 evidence at all? Do you understand that?

24 A. Yes.

25 Q. All right. And as a matter of fact, if they

1 chose not to do anything but just sit there --

2 A. Mm-hmm.

3 Q. -- you may have to decide this case solely on
4 information provided by the State. And if it
5 does not reach -- if it does not convince you,
6 beyond a reasonable doubt, you must acquit him;
7 do you understand that?

8 A. Yes.

9 Q. You -- Could you follow those instructions, if
10 that's what the Judge instructed you --

11 A. Yes.

12 Q. -- to do?

13 A. Yes, I could.

14 Q. Is there any question in your mind that you could
15 follow those instructions?

16 A. No.

17 Q. Let's talk a little bit about that. Why? You
18 seem pretty confident in your ability to do that
19 even though you have all this exposure to the
20 media coverage.

21 A. Mm-hmm.

22 Q. Why do you think that you would be able to honor
23 the Judge's request and decide this strictly on
24 what's presented in court?

25 A. Um, I don't know how to answer that.

1 Q. Okay. Well, take your time and if you can think
2 about it, please tell us why you feel so
3 confident. There may be lots of reasons. You
4 may be one who has a belief in our system. You
5 may find instructions from the Court something
6 that is your duty. There could be lots of
7 reasons. I'm just wondering, what seems to
8 strike a chord in the back of your head saying,
9 you know, I could do that. Any thoughts?

10 A. I just don't know what to say. I'm nervous. I'm
11 very nervous.

12 Q. I see that. And I don't mean to really put you
13 on the spot that much. But, it's -- Because it's
14 a matter of grave importance to both the State
15 and the defense as to whether or not you would be
16 able to do that and that's why we ask. All
17 right.

18 Another question that follows up on
19 that, on that presumption of innocence, is this
20 question: You would be instructed, if you were a
21 juror, that Mr. Avery is presumed to be innocent
22 throughout the trial and he cannot be found
23 guilty of any offense, unless and until the State
24 has proven each element of that offense, beyond a
25 reasonable doubt. Should you be selected as a

1 juror, would you be able to follow the
2 instruction in reaching a verdict?

3 And you didn't answer yes or no, but you
4 did go on to write: I feel right now that he is
5 guilty. I know we just kind of touched upon
6 that, but as the Court will instruct you, he is
7 presumed innocent as he sits here today.

8 A. Mm-hmm.

9 Q. Do you have any problem with that principle?

10 A. No.

11 Q. Do you accept that?

12 A. Yes.

13 Q. All right. And do you feel that you could honor
14 that presumption if the Court instructed you?

15 A. Yes.

16 Q. Is there any other reason, as you think about
17 this particular case? I see you have not been a
18 juror before; is there anything about the
19 process, or the prospect of being a juror, that
20 makes you wonder whether you could fulfill that
21 role, whether you could honor these principles?

22 A. No.

23 Q. Another point, and counsel will ask a great deal
24 about it, but I wanted to touch upon it as well.
25 You seem to have no problem with the fact that

1 Mr. Avery does not have to testify in this case
2 if he doesn't want to. And if, as a juror, you
3 could not and must not hold that against him.

4 And you indicated you could follow that
5 principle?

6 A. Right.

7 Q. You accept that as --

8 A. Yes.

9 Q. -- a basic tenet of our law?

10 A. Yes.

11 Q. All right. And -- But what if he did testify,
12 would you be able to evaluate his believability,
13 his credibility, his honesty, the same way you
14 would any other witness?

15 A. Yes.

16 Q. All right.

17 A. Yeah.

18 Q. And the fact that he happens to be accused of a
19 pretty serious crime, you wouldn't weigh his
20 testimony any more or any less than anyone
21 else's?

22 A. No. No.

23 Q. All right. You feel pretty comfortable with
24 that?

25 A. Mm-hmm. Yes.

1 Q. That you could follow that instruction?

2 A. Yes.

3 Q. All right. And one last point, you did -- you
4 did feel that there was so much evidence provided
5 against Mr. Avery in the media that it would be
6 difficult to set aside your opinions. Do you
7 feel that -- still feel that way, or do you think
8 that you would be able to set those opinions
9 aside?

10 A. I would probably be able to set them aside.

11 Q. All right. In other words, you would give it
12 your best effort?

13 A. Right, I would, to listen to what everybody has
14 to say.

15 Q. And -- Because it's most important to us that you
16 be able to decide this case strictly on the
17 evidence that's presented in court?

18 A. Yes.

19 Q. And you can do that?

20 A. Yes.

21 ATTORNEY FALLON: Pass the juror.

22 THE COURT: Mr. Strang.

23 ATTORNEY STRANG: Thank you.

24 **VOIR DIRE EXAMINATION**

25 BY ATTORNEY STRANG:

1 Q. Dean Strang, Jerome Buting, Steven Avery. We're
2 the two lawyers defending Steven, in case you
3 missed us when we stood up and sat down last
4 Monday. Look, I'm a little nervous too, so.

5 A. Good. I'm more nervous than you.

6 Q. You probably are. I mean, I'm probably more used
7 to sitting in courtrooms. But this is
8 nerve-racking for everyone. And beyond that, you
9 know, it -- it takes a lot of candor and a
10 certain amount of courage on your part to answer
11 questions honestly and say, look, I have an
12 opinion, whether it's about guilt or innocence.
13 And I -- You know, the questionnaire you filled
14 out was signed under penalty of perjury. You did
15 your best --

16 A. Mm-hmm.

17 Q. -- I'm sure, to be honest on that?

18 A. Yes.

19 Q. And you wrote in response to Question No. 40: I
20 know he -- I think you mean, I know he's guilty?

21 A. Mm-hmm.

22 Q. Is that yes?

23 A. Yes. I'm sorry.

24 Q. No. No. The court reporter will get on me --

25 A. Okay.

1 Q. -- if I don't remind you about that.

2 A. Yes.

3 Q. And then in response to Question 43, you wrote:
4 There's so much evidence against him that it
5 would be difficult to change my mind. You wrote
6 that?

7 A. Yes.

8 Q. Was that -- That was true at the time?

9 A. Yes, it was.

10 Q. Still true today?

11 A. It's -- It would be difficult to change my mind.

12 Q. Do you still know he's guilty?

13 A. Do I still know he's guilty?

14 Q. As you did last Monday?

15 A. Ah, yes.

16 Q. Do you still feel right now that he is guilty, as
17 you wrote in response to Question 69?

18 A. Yes.

19 THE COURT: Counsel, I think I'm going to
20 stop your questioning at this time. Ms Koch, at
21 this time the Clerk will escort you from the
22 courtroom.

23 MS KOCH: Okay.

24 (Wherein the juror was excused.)

25 THE COURT: You may be seated. Without

1 argument, Mr. Strang, does the defense have a motion
2 at this time?

3 ATTORNEY STRANG: I move to strike the
4 juror for cause.

5 THE COURT: Any response from the State?

6 ATTORNEY FALLON: No.

7 THE COURT: All right. I think this is a
8 juror who would try her best to follow the
9 instructions for the Court, but based on her candid
10 answers on the questionnaire and what she reiterated
11 today, I think she would have too much difficulty in
12 doing so and, therefore, I believe there is basis to
13 strike her for cause and the order will -- the Court
14 will order that she be stricken for cause. The next
15 juror is James Diedrich.

16 Mr. Diedrich, would you raise your right
17 hand, please, and the Clerk will administer your
18 oath.

19 (Juror sworn.)

20 THE CLERK: Please be seated.

21 THE COURT: Mr. Diedrich, you have already
22 completed a questionnaire in this case, which the
23 attorneys have had a chance to review. This morning
24 we're moving on to the next phase of the jury
25 selection process which is known as voir dire. The

1 attorneys will have an opportunity to ask you some
2 follow-up questions to the information that you
3 provided on your questionnaire.

4 Before we proceed with their questions,
5 I want to make sure you understand that the
6 jurors in this case will not be sequestered.
7 That means the jurors will be permitted to return
8 home each day after the court proceedings. And
9 we're doing that based on the obligation of the
10 jurors not to be exposed to any news media
11 accounts of this case during the trial, whether
12 it be through television, radio, the newspaper,
13 the internet, or any other source. The jurors
14 will also be prohibited from discussing the case
15 with anyone, including other jurors or family
16 members, during the course of the trial.

17 You should know, also, that although
18 these proceedings are open to the public today,
19 the Court does not permit cameras in the
20 courtroom during the voir dire process and
21 members of the media are not allowed to identify
22 you by name when reporting on today's
23 proceedings.

24 In addition, the jurors who are selected
25 to serve in this case, will not be on camera at

1 any time during the trial itself. In the event
2 that you continue to be a member of the jury
3 panel after today, you will get a phone call in
4 the next day or two, letting you know when to
5 report back to court.

6 Mr. Fallon, you may begin at this time.

7 VOIR DIRE EXAMINATION

8 BY ATTORNEY FALLON:

9 Q. Good morning, Mr. Diedrich.

10 A. Good morning.

11 Q. My name is Tom Fallon. And I'm an Assistant
12 Attorney General and -- with the Wisconsin
13 Department of Justice. I'm one of the
14 prosecutors in this case. To my immediate left
15 is Mr. Ken Kratz, the Calumet County District
16 Attorney and lead special prosecutor.

17 We wanted to follow up with a few
18 questions from the information from your
19 questionnaire. Then there is one area that's of
20 great importance to us and I suspect to you as
21 well. And what I wanted to do is start with your
22 employment situation. I see that you are a
23 plumber by trade.

24 A. Yes.

25 Q. Do you work for a company or are you on your own?

1 A. I work for a company.

2 Q. All right. And how long have you worked for
3 them?

4 A. This company, eight years.

5 Q. All right. Now, the matter that we wanted to
6 explore with you was the answer to the very last
7 question in the questionnaire that you provided.
8 This may very well be a six week trial. And as a
9 result of which, you would be here probably nine
10 hours a day and not at your employment, your work
11 situation.

12 Now, if you were selected as a juror,
13 would that present a hardship to you? And you
14 seem to indicate that it would. Wanted to talk
15 to you a little bit about that. Tell us, if you
16 were selected, would you have income still coming
17 in?

18 A. My employer will not reimburse me --

19 Q. He will not.

20 A. -- for the time off.

21 Q. All right. And -- And I take it from the rest of
22 the information provided you're -- you are the
23 main bread winner in your family?

24 A. My wife is also employed.

25 Q. She's employed, but I take it that it would be

1 extremely difficult for your family to continue
2 if you did not have income coming in?

3 A. It would be difficult. I wouldn't say extremely
4 difficult.

5 Q. All right.

6 A. It would present problems.

7 Q. All right. Well, that's what we're trying to
8 figure out on the hardship, just how much of a
9 hardship it would be. I mean, if it's going to
10 really severely impact your ability to provide
11 for your family, then, you know, you will be
12 excused. But if you think you can manage through
13 this, then we'll continue, but. Tell us,
14 honestly, if you think this is going to put you
15 in such a financial hole, then ...

16 A. I don't believe it will put us in such a
17 financial hold as, like, we would be living on
18 the street or ... I think we could get through
19 it.

20 Q. All right. Then, my last question on this area
21 is, do you think that you will be worried more
22 about making ends meet at home without a paycheck
23 coming in, than you would about listening to the
24 evidence in the case?

25 A. No. I'm under the assumption that we can collect

1 unemployment during that period also.

2 Q. All right. Then, will you have a job when you --
3 If you were selected, would you have a job when
4 the case -- when your jury duty was over? Would
5 you be able to go back to the same plumbing
6 company?

7 A. Yes.

8 Q. All right. And you have assurances of that?

9 A. Yes.

10 Q. Okay. All right. The -- This probably is a good
11 way to introduce the topic of publicity and
12 impact. There was one other question that you
13 answered that was of somewhat of a concern for
14 you. And the question was that you as a juror
15 would be instructed not to read, watch, or listen
16 to any news accounts of this trial, whatsoever,
17 until it was over and not to talk with anyone
18 about the case, not even to one another, until
19 you retire to deliberate on its verdict. And the
20 Court said this rule would be strictly enforced.
21 And you said would you find it difficult to
22 follow such an instruction. And you said you
23 would find it difficult. Can you tell us about
24 that?

25 A. I think I was more, between when we filled the

1 questionnaire out till this point, just because
2 of the nature of my work, I listen to the radio
3 all day and you are just going to pick things up
4 from people talking or.

5 Q. Sure. Well, if you were selected as a juror, you
6 understand that you would be here and not at
7 work?

8 A. Correct.

9 Q. So your radio time --

10 A. Correct.

11 Q. -- would be eliminated from that perspective?
12 But the question is aimed at, you know, when you
13 are not here as a juror and you head home and,
14 you know, perhaps on the weekends you might be
15 out to dinner with your wife or something and,
16 you know, somebody may recognize or know that you
17 are one of the jurors and they might want to talk
18 to you; do you think you could be able to say,
19 I'm sorry, I can't talk about it?

20 A. I would be able to say that.

21 Q. Right.

22 A. I still feel you are going to be able to pick up
23 people talking.

24 Q. Right.

25 A. You are not going to be able to shut it out

1 totally.

2 Q. All right. Would you be able to just walk away,
3 then, from those situations?

4 A. I believe I could.

5 Q. All right. And -- So the question is, we
6 understand it might be difficult, the question
7 is: Would you do your absolute level best to
8 follow that directive from the Court?

9 A. I believe I could, yes.

10 Q. All right. And on that note, with respect to
11 publicity, let's talk a little bit about the
12 publicity that you have been exposed to. I take
13 it almost from our discussion here that most of
14 the news you get might very well come from the
15 radio?

16 A. Correct.

17 Q. All right. As I surmise, that's because it's
18 always on, whether you are in the truck or at the
19 shop, you are listening to the radio --

20 A. Exactly.

21 Q. -- most of the time? All right. Before we hit
22 to the radio, do you -- you do say you get some
23 of your news from the television?

24 A. Correct.

25 Q. All right. And how much of your news do you get

1 from the television?

2 A. Um, about 25 percent, 30 percent.

3 Q. All right. And so am I guessing here that you
4 might just turn on the evening news before you go
5 to bed?

6 A. After work.

7 Q. After work. All right. And in terms of the
8 publicity which is attended to this case, is most
9 of the publicity that -- related to this case,
10 come from the radio or the television for you?

11 A. More from the television.

12 Q. All right. And, specifically, what do you
13 recall -- Well, before I even get to that
14 point -- When you originally were notified that
15 you could or might possibly be a juror in this
16 case, I believe the Court sent you a letter
17 asking that you refrain from, as best you could,
18 media coverage of this case; did you get that
19 correspondence?

20 A. Yes.

21 Q. All right. And have you made it a conscious
22 effort to refrain from being exposed to the ...

23 A. As best as I could.

24 Q. All right. Could you tell us a little bit about
25 what you have heard recently about the

1 proceedings, if anything?

2 A. I heard some charges were dropped.

3 Q. All right.

4 A. And that the neph -- Dassey will not be giving

5 any testimony in this case.

6 Q. Will not or may not?

7 A. May not.

8 Q. Okay. And what else do you recall?

9 A. That's about it.

10 Q. Anything else?

11 A. Not that I can recall.

12 Q. All right. Now, thinking back, going back a

13 couple of months, many months ago, do you recall

14 watching any news coverage of Mr. Dassey's arrest

15 or involvement?

16 A. I recall some of it.

17 Q. All right. What do you recall?

18 A. That he admitted to doing the crime.

19 Q. All right.

20 A. With Steven Avery.

21 Q. All right. Any details stick out in your head?

22 A. Not any particular details.

23 Q. All right. Now, if for instance Mr. Dassey did

24 not appear in this trial, did not testify, for

25 who knows what reason, do you think that if you

1 were selected as a juror you could decide this
2 case solely on the evidence which is introduced
3 in the trial of Mr. Avery and not on what you
4 heard in the media?

5 A. I would think that in my mind it would always be
6 there.

7 Q. All right.

8 A. I don't know if I could totally block it out.

9 Q. All right. If the Court were to instruct you
10 that as a juror that would be your duty, to make
11 any and all reasonable possible effort to block
12 it out and decide this case solely on the
13 information presented, do you think you could do
14 that?

15 A. Being honest, I always think that that would be
16 in the back of my mind.

17 Q. All right. So you don't think that you would be
18 able to follow that directive and decide this
19 case because of the pre-trial publicity?

20 A. I don't think I could.

21 Q. All right.

22 ATTORNEY FALLON: I don't have any more
23 questions.

24 THE COURT: The defense have any questions?
25 Let me ask this, is there going to be a joint

1 recommendation to the Court here?

2 ATTORNEY STRANG: I think so, if I
3 understand --

4 ATTORNEY FALLON: Probably.

5 ATTORNEY STRANG: -- eyes and winks.

6 THE COURT: All right. Mr. Diedrich, we're
7 going to have the Clerk escort you from the
8 courtroom at this time.

9 (Wherein the juror was excused.)

10 THE COURT: Counsel.

11 ATTORNEY FALLON: I think we have to
12 concede the obvious here, Judge. It appears that
13 he's been quite frank and doesn't think he can set
14 that information aside and to me it's probably too
15 much of a risk.

16 THE COURT: Mr. Strang.

17 ATTORNEY STRANG: Yeah, I agree. One of
18 the ironies of picking a jury is, I think this was,
19 on my honesty scale, probably the most forthcoming
20 person we have had walk in here, or at least among
21 them, but I think we have got to let him go for
22 cause.

23 THE COURT: All right. The Court agrees,
24 Mr. Diedrich will be stricken for cause. Next we'll
25 hear from Mr. Brotski.

1 ATTORNEY STRANG: Could I have a minute to
2 make a motion before that?

3 THE COURT: Yes.

4 ATTORNEY STRANG: Only in part, I mean in
5 part, but only in part, because of the 20 minute
6 time limitation the Court has imposed this morning,
7 I'm going to move to strike, prospectively here,
8 every -- every juror who's heard a news conference
9 about Brendan Dassey or Steven Avery from March 2
10 back.

11 I mean nothing -- I'm not worried about
12 anything after March 2, but from March 2 back,
13 you know, if they have heard those news
14 conferences and remember them, for all of the
15 reasons I have argued in this case from the
16 motion for sanctions that I filed last spring or
17 summer up through the motion to dismiss a couple
18 of the counts and the request for curative steps
19 by the Court.

20 And in light of the limitations now on
21 the time to explore and possibly rehabilitate
22 someone who has got that kind of gripping
23 information about Mr. Dassey or Mr. Avery, I'm
24 just going to move to strike for cause all of
25 them who saw that -- those news conferences

1 through March 2 or any of them.

2 I realize that we have got a number of
3 people in the qualified group of 16 who did see
4 that, but there comes a point where there's a
5 tipping point. And the Court, so far, has not
6 taken the curative steps that we have requested.
7 This -- This is an alternative curative measure
8 that I'm suggesting. And, again, the urgency for
9 it went up a bit this morning with the time
10 limitations on voir dire.

11 THE COURT: Mr. Fallon.

12 ATTORNEY FALLON: Well, I take it, Counsel,
13 you are asking for those who saw conferences from
14 November 9th through March 2nd; is that the time
15 frame or is it from March 2nd to now?

16 ATTORNEY STRANG: No, no, no. November 5
17 to March --

18 ATTORNEY FALLON: November --

19 ATTORNEY STRANG: -- 2005, through March 2,
20 2006. I'm not worried about anything after that.
21 And I'm not going back and moving to strike any of
22 the 16 we have already qualified.

23 ATTORNEY FALLON: I guess my take on that,
24 Judge, is for obvious reasons we would object to
25 that. First and foremost, the first thing that

1 comes to my mind is that that's a premature and it's
2 an insufficient record upon which to make a class
3 action objection, based on perceived or anticipated
4 bias.

5 Secondly, it seems to me that much of
6 those concerns have already been addressed as
7 best we could by this Court and the steps that we
8 have taken in this case since May. And those
9 include an adjournment of the trial from
10 beginning of September to, then, the middle of
11 October, until now. So it is 15 months since the
12 date of the crime and 11 months since any news
13 conference at all, from the State, relative to
14 the events of the crime.

15 Secondly, we have engaged in a jury
16 questionnaire process, which I think was directly
17 aimed at flushing out those who may have too much
18 of a bias or at least think they have too much of
19 a bias based on the pre-trial publicity.

20 And we have expected a fair process and
21 we have expected that we would have to exclude a
22 fair number, a large number of jurors. In fact,
23 we have 50 or so more. Not all of them for
24 subjective bias, some for economic hardship. But
25 I think the process that we are engaged in is

1 working.

2 And third, I guess I would note that it
3 is the defendant's constitutional right. He had
4 the opportunity to waive that right and ask for a
5 jury from another county, but instead wanted to,
6 for a lack of a better term, take his chances
7 with the juror -- jury of his peers here in
8 Manitowoc. That is his right that is his choice.

9 As a result, we're obviously going to do
10 a lot more sifting and winnowing from the
11 prospective jurors, those who do not have such a
12 bias, to participate in the case. So I think we
13 have a take, as counsel eloquently argued about
14 an hour ago, each juror is different. Each one
15 takes more time. Each one has a different set of
16 issues, a different set of perspectives,
17 interests and biases which need to be explored.

18 And I don't think that we can sit here
19 and just simply say, because you have seen two
20 news conferences, you are out. I think that's
21 unfair to them. It's unfair to the State. And
22 quite frankly, oddly enough, I think it's unfair
23 to Mr. Avery, so we would oppose the request.

24 THE COURT: All right. Well, the Court is
25 going to deny the motion to, on a wholesale basis,

1 disqualify any juror who may have seen these news
2 conferences. The Court believes that while a juror
3 who has seen the news conferences certainly raises
4 some concerns about the juror's ability to be fair
5 and impartial if selected in this case. The
6 questioning to date has proved that there are some
7 people who are capable of doing that and both
8 parties have agreed about that.

9 There are a number of mitigating factors
10 in terms of causing prejudice to the jurors. The
11 news conferences took place nearly a year ago. A
12 number of the jurors were aware that, since the
13 initial news conferences, Mr. Dassey has recanted
14 at least parts of his earlier statements.

15 In some cases the jurors have been
16 exposed to information about blood being planted
17 and -- and the jurors are aware of defenses as
18 well as the initial reports from the State.

19 Finally, there are a number of jurors
20 who are capable of setting aside that
21 information. They have been asked questions by
22 the defense to suggest that there may be -- if
23 the Dassey confession evidence comes in, there
24 may be witnesses who explain why, even a
25 confession, if it was made, may not be true.

1 The Court has allowed a variety of
2 questions and I think that it's just simply
3 unfair to say that any juror who saw the news
4 conferences cannot possibly be fair and
5 impartial. A number of them were, a number of
6 them have been stricken, but some of them
7 weren't. And I think the process to this point
8 has worked fairly and I don't see a reason to
9 believe it won't continue to do so.

10 All right. At this point --

11 ATTORNEY STRANG: Um --

12 THE COURT: Yes.

13 ATTORNEY STRANG: Should we just -- should
14 we just take up one other matter in the hope of
15 speeding it up while we're pausing. The next juror
16 is Kevin Brotski and I don't know of any advance
17 issue about him. But the one after that is David
18 Holschbach, No. 51. This was one that I had asked
19 counsel to look at and I -- I don't think it's even
20 going to be a close call to be honest.

21 He knows Lieutenant James Lenk. He not
22 only knows former Sheriff Kenneth Peterson, but
23 he appears to be a fairly good friend of the
24 Peterson's. And his answers to Questions 42 and
25 74 make me think he's just got firmly held

1 opinions that we're not going to put aside
2 entirely. I'm not sure it's time well spent to
3 bring him in.

4 THE COURT: Mr. Fallon.

5 ATTORNEY FALLON: I'm aware of counsel's
6 concerns. I had check marked this prospective juror
7 as one, for lack of better terms, on the bubble.
8 But my reason for not immediately agreeing to a
9 stipulation for cause is the juror's answer to
10 Question 43 was, yes, that whatever opinions he had
11 he could set aside.

12 He does know, apparently, the retired
13 sheriff. It seems to me that there were some
14 things that were worth exploring here. Now, if
15 the Court wants to review the questionnaire and
16 thinks that there's, on balance, too much and
17 it's not worth the effort at all, then that's
18 fine. If you want to dismiss him for cause,
19 that's fine.

20 But my way of thinking is, if a juror --
21 taking the man at their word thinks that, at
22 least based on what they knew at the time they
23 filled out the questionnaire, that they could be
24 fair, notwithstanding that they know some of the
25 potential witnesses; although, I look at these

1 and I don't know how many of them are really
2 significant witnesses, other than Mr. Lenk.

3 We don't know how he knows Lieutenant
4 Lenk or what level of friendship, if any, they
5 have. And that's my reason for saying, well,
6 maybe we should just talk to him and see, you
7 know, what the situation is. And if it turns out
8 that he's intimately acquainted with these
9 gentlemen then, of course, we will probably have
10 to excuse him.

11 ATTORNEY STRANG: I respect that
12 prerogative and I'm willing to talk to anyone. But
13 the problem questions here are 42, 59, 60, 71 and
14 74. And the acquaintance with -- it's not just Lenk
15 and Peterson, there's a number of other potential
16 witnesses who I view as less significant. This just
17 seems cumulatively like someone who is not on the
18 bubble, but -- but likely to be stricken for cause.

19 If the State and the Court want to spend
20 some time with him, I understand that.

21 THE COURT: I --

22 ATTORNEY FALLON: Maybe the Court might
23 want to ask a couple of questions of that
24 prospective juror.

25 THE COURT: Well, if it was just an

1 acquaintance with Mr. Lenk and Mr. Peterson and -- I
2 might be inclined to do it, but when I couple that
3 with the answer to Question 74, any other
4 information, it's getting difficult for me to
5 perceive what answers this juror is going to give
6 that are going to make him qualify to be a juror.

7 ATTORNEY FALLON: All right.

8 THE COURT: So, does the State have any
9 objection to the Court striking him for cause?

10 ATTORNEY FALLON: I don't have any
11 objection.

12 THE COURT: All right. The Court will
13 order, then, that Mr. Holschbach be stricken for
14 cause. And we'll bring in Mr. Brotski at this time.

15 Mr. Brotski, will you raise your right
16 hand, please, and the Clerk will administer an
17 oath to you.

18 (Juror sworn.)

19 THE CLERK: Please be seated.

20 THE COURT: Mr. Brotski, you have already
21 completed a questionnaire in this case. This
22 morning we're proceeding to the next step of voir
23 dire which is allowing the parties to ask you some
24 questions as a follow-up to the information you gave
25 on your questionnaire.

1 You should know that the jurors in this
2 case will not be sequestered during the trial;
3 that is, they will be permitted to return home
4 each day. And we're doing that because the
5 jurors are being ordered not to learn anything
6 about the case further through the news media,
7 whether it be newspaper, television, radio,
8 internet or anything else. The jurors will also
9 be prohibited from discussing the case with
10 anyone, including any family members or other
11 jurors, until the case is concluded.

12 Today's proceedings are open to the
13 public; however, the Court does not permit
14 cameras in the courtroom during voir dire. And
15 the media is not allowed to identify individual
16 jurors by name in any news reports.

17 In addition, the jurors who are selected
18 to serve in this case will not be on camera
19 during the trial.

20 If you are permitted to continue as a
21 juror in this case, you will receive notice as to
22 when to report back to court again.

23 Mr. Fallon, at this you may begin.

24 **VOIR DIRE EXAMINATION**

25 BY ATTORNEY FALLON:

1 Q. Good morning, Mr. Brotski.

2 A. Good morning.

3 Q. My name is Tom Fallon. I'm an Assistant Attorney
4 General with the Wisconsin Department of Justice,
5 one of the prosecutors in this case. To my
6 immediate left is Mr. Ken Kratz, the Calumet
7 County District Attorney and lead special
8 prosecutor for this matter. Good morning and
9 thanks for coming in.

10 We wanted to begin with asking you some
11 questions, some follow-up questions regarding
12 your questionnaire in terms of determining your
13 suitability for jury service in this case. First
14 and foremost, I see you are a mason. How long
15 have you been engaged in that practice?

16 A. Nine years.

17 Q. All right. And have you spent all that time with
18 the same company?

19 A. Yes.

20 Q. All right. And do you hold any particular levels
21 of mason certification or -- like a master --

22 A. No.

23 Q. All right. If you were selected as a juror in
24 this case, you understand that this case may very
25 well last six weeks or so?

1 A. Yes.

2 Q. And as a result of which, you would be here and
3 not doing some mason work. Just want to make
4 sure that that would not cause you any economic
5 hardship, either directly or maintaining your
6 family and things of that sort?

7 A. No.

8 Q. All right. So you are comfortable that you will
9 have either income and/or a job waiting for you
10 when you are done with your jury service?

11 A. Yes.

12 Q. Okay. Very well. I take it from the information
13 provided that you are not one who follows the
14 news regularly?

15 A. Correct.

16 Q. All right. And where do you get your news from
17 primarily; radio, television?

18 A. Primarily magazines.

19 Q. All right.

20 A. I like watching ABC World News.

21 Q. Okay.

22 A. I like watching the bigger news.

23 Q. All right. So you don't pay that close attention
24 to the local news, but you do pay more attention
25 to the national or world news?

1 A. Yes.

2 Q. Okay. Do you read the local newspapers at all?

3 A. No, I do not get it.

4 Q. All right. Do you own a computer?

5 A. No.

6 Q. All right. So you don't use the internet at all?

7 A. No.

8 Q. Not even at work?

9 A. No.

10 Q. Okay. In terms of the radio, do you listen to
11 the radio when you are at work?

12 A. Yes.

13 Q. All right. With respect to the radio, is it on
14 constantly or is it just at certain times of the
15 day that you have time to listen to the radio?

16 A. Certain times.

17 Q. All right. And do you catch many newscasts?

18 A. No.

19 Q. You do not?

20 A. No, not really.

21 Q. All right. Then, I guess my question for you,
22 sir, is, in terms of the publicity associated
23 with this case, are you familiar with much of it,
24 or any of it, or ...

25 A. A little bit of it.

1 Q. All right. Can you tell us a little bit what
2 you -- what you know about the case from the
3 information you have heard in the media or the
4 guy next door?

5 A. I know Steven Avery is charged with murder.

6 Q. Okay. Any -- any of the details in your head as
7 to, you know, the circumstances surrounding the
8 crime or anything like that?

9 A. No, not really.

10 Q. All right.

11 A. I just know he is charged with murder and that's
12 really about it.

13 Q. Okay. How about a fellow by the name of Brendan
14 Dassey; have you heard anything about him?

15 A. I have heard of his name before.

16 Q. All right.

17 A. He's his cousin, or nephew, or uncle, or
18 something like that.

19 Q. Okay. Do you know any of the circumstances
20 regarding his arrest or his potential
21 involvement?

22 A. No, I do not.

23 Q. All right. You haven't seen or listened to any
24 media or news conferences regarding that?

25 A. No.

1 Q. Okay. Just so I'm clear, you didn't answer one
2 particular question but -- and it may be because
3 you haven't formed any opinion, but I just wanted
4 to clarify this for us. If you were selected to
5 serve as a juror in this case, do you think you
6 could decide this case solely, simply, on the
7 information that you hear in the courtroom and
8 not from what you may hear at work, or the guy on
9 the street, or anywhere else?

10 A. Yes.

11 Q. All right. Is there any -- any doubt in your
12 mind about that?

13 A. No, no doubt.

14 Q. All right. Okay. The other area of -- that I
15 wanted to talk with you about, is the fact that
16 there will be a fair number of police officers
17 and police testimony in this case. And it's -- I
18 take it from your questionnaire that you haven't
19 had any police contacts in your life?

20 A. No.

21 Q. Never had any -- never filed a complaint or been
22 in any, you know, jams where you were ticketed,
23 or arrested, or anything?

24 A. I have had a speeding ticket.

25 Q. Okay. But nothing else?

1 A. No.

2 Q. Okay. And how did that encounter -- was that a
3 local police officer, like a Manitowoc police
4 officer, or county sheriff, or ...

5 A. County sheriff.

6 Q. All right. And was there anything about that
7 experience -- Well, first of all, let me ask you
8 this; do you feel you were treated fairly?

9 A. Yeah. Yes.

10 Q. So you don't have any complaints about how you
11 were treated by the sheriff or -- regarding the
12 matter?

13 A. No, I was speeding and I got a ticket.

14 Q. All right. And you paid your fine and that was
15 it?

16 A. Yeah.

17 Q. Okay. Do you think, then -- I just wanted to
18 make sure, you answered the question yes, but I
19 wanted to talk a little bit about it with you
20 that in terms of evaluating police officer
21 testimony in this case, you would be required to
22 evaluate their believability, their honesty,
23 their credibility, the same way you would
24 evaluate the testimony of any other witness; do
25 you think you could do that?

1 A. Yes.

2 Q. All right. Very good. Last group of questions I
3 had for you is, you realize that -- and you seem
4 to have a good command of this in your
5 questionnaire -- but I wanted to make sure
6 that -- that we're all on the same page here,
7 that Mr. Avery is presumed innocent as he sits
8 here today?

9 A. Yes.

10 Q. And that he remains innocent unless and until we
11 can convince you, as a juror, of his guilt,
12 beyond a reasonable doubt?

13 A. Yes.

14 Q. Do you understand that?

15 A. Yes, I do.

16 Q. And you accept that principle?

17 A. Yes, I do.

18 Q. And you can follow that?

19 A. Yes, I can.

20 Q. All right. And you realize that if we fail to
21 convince you, beyond a reasonable doubt, that you
22 would have to acquit Mr. Avery, you would have to
23 find him not guilty?

24 A. Yes.

25 Q. All right. Even if perhaps there is some

1 question as to whether the real murderer is ever
2 located; do you understand that?

3 A. Yes, I do.

4 Q. All right. And you understand that he has a
5 right not to present a defense at all? In other
6 words, they may do nothing and the only evidence
7 that's presented is that presented by the State,
8 and if we fail to convince you, you still must
9 acquit: do you understand that?

10 A. Yes, I do.

11 Q. All right. And do you think you might have any
12 problem following that instruction?

13 A. No, I don't.

14 ATTORNEY FALLON: All right. Pass -- Hold
15 on.

16 Q. (By Attorney Fallon)~ My colleague here reminded
17 me of one last question I forgot to ask. Do you
18 have an interest in serving on this jury?

19 A. No. If I'm chosen, that's my right, or if I'm
20 not. That's my duty, you know, that's ...

21 Q. So it doesn't matter to you whether you are
22 selected as a juror or not but -- so in other
23 words, if selected you will serve, if not, you
24 won't?

25 A. Right.

1 Q. Okay. Thank you.

2 A. Yup. You're welcome.

3 THE COURT: Mr. Buting.

4 ATTORNEY BUTING: Yes, thank you, Judge.

5 **VOIR DIRE EXAMINATION**

6 BY ATTORNEY BUTING:

7 Q. Good morning, sir.

8 A. Good morning.

9 Q. My name is Jerome Buting, this is Dean Strang and
10 we are defending Steven Avery. I would like to
11 follow up on just a few issues and then touch on
12 some others that we haven't talked about. Your
13 mason experience, are you -- do you belong to a
14 union?

15 A. No, I do not.

16 Q. No. Do you belong to any organizations at all?

17 A. No, I don't.

18 Q. Do you like attend a church or belong to a church
19 or anything like that where you -- you -- Do you
20 go to any meetings with groups of people?

21 A. No.

22 Q. What do you do for -- for spare time when you get
23 home?

24 A. Play with my children. I have a two year old and
25 a five year old. That's really about it.

1 Q. Okay.

2 A. Pretty boring.

3 Q. Well, that's takes up a lot of time, I know.

4 That takes up a lot of time. Your wife is --

5 Does your wife work outside the home, I think you
6 said she did?

7 A. Yes, she's a nurse at Aurora.

8 Q. Oh, okay. And does she have -- Does she work
9 everyday or just part time?

10 A. Weekends.

11 Q. Weekends.

12 A. Weekend nights.

13 Q. Okay. Do you, you know, between taking care of
14 the kids and job duties and all that, do you talk
15 to your wife about current events or things that
16 are in the news?

17 A. Well, yeah.

18 Q. Okay.

19 A. Yes.

20 Q. Does -- Has she ever talked to you at all about
21 what she's heard or watched on TV or anything
22 about the Steven Avery case?

23 A. Well, I was told in the first letter that we got
24 that I wasn't supposed to discuss it with anyone,
25 so we haven't been talking about anything that

1 she might know or that I might know.

2 Q. Okay. And when did you get that letter?

3 A. That was the first letter to come to the 29th, or
4 come for the questionnaire.

5 Q. So that was, like, you got that sometime in
6 December or November; do you recall?

7 A. I don't recall.

8 Q. Okay.

9 A. I'm sorry.

10 Q. Up to that point, though, had you -- You know,
11 there's a lot of publicity about the case in the
12 early stages, particularly last November -- or
13 not last November, November of '05 up through
14 March, April, in that time period; did you -- did
15 the two of you talk about it at that time?

16 A. No, not really.

17 Q. She didn't express any opinions to you all about
18 what she thought?

19 A. Not that I can recall.

20 Q. Okay. And co-workers?

21 A. No, we just -- we get to work and we work.

22 Q. Okay.

23 A. We have got our own jobs.

24 Q. Okay. So, even -- even highly publicized local
25 crimes don't really interest you at all?

1 A. Not really.

2 Q. Much more focused, you did say you like world
3 news?

4 A. Yes.

5 Q. You have a more global view, is that it --

6 A. Yes.

7 Q. -- or national?

8 A. National.

9 Q. Okay. All right. Now, you mentioned that you
10 had heard of Brendan Dassey, you knew the name?

11 A. Yeah, I know the name.

12 Q. And you knew that he was somehow connected with
13 Mr. Avery at least in the media portrayals?

14 A. I know he's his uncle or cousin.

15 Q. Okay.

16 A. Cousin, I believe.

17 Q. And beyond that, what is -- why is he newsworthy?

18 A. Just that he is in -- I know he's somebody -- he
19 has something to do with this, that the name is
20 really familiar to me.

21 Q. Okay.

22 A. He's connected with some -- some of this or ...

23 Q. Allegedly, right?

24 A. Yeah, or something.

25 Q. Do you know whether -- Do you recall any

1 information about whether he has given any
2 statements or admissions, or denials, or anything
3 of that sort?

4 A. No.

5 Q. Okay. And in the last week, after you came and
6 filled out the questionnaires, did you, even
7 inadvertently, hear anything about the case,
8 anything that was going on or coming up, anything
9 of that sort?

10 A. No, I haven't been watching the news.

11 Q. Do your friends and co-workers know that you have
12 been summoned as a potential juror?

13 A. Yes, they know, my boss does.

14 Q. He does?

15 A. Yes.

16 Q. And have they talked to you about the case?

17 A. No, I'm -- I'm laid off right now.

18 Q. Oh, you are?

19 A. It's a seasonal job.

20 Q. I see.

21 A. Yes.

22 Q. I was going to ask you, if you work in the cold
23 like this it must be ...

24 A. No. No, I'm laid off right now.

25 Q. Okay. Do you work on, what, residential or

1 commercial buildings?

2 A. Residential.

3 Q. Residential. So it's just kind of a slow time

4 for that anyway?

5 A. Yes.

6 Q. So you work with your hands every day?

7 A. Yes.

8 Q. Get dirty, get your hands dirty, cut your hands?

9 A. Yes.

10 Q. Pretty frequent part of the occupation?

11 A. Yes.

12 Q. Okay. But you can deal with it, you just -- you

13 just live that way, live with your hands always

14 kind of beat up; is that it?

15 A. Right, yes.

16 Q. Okay. Do you know any police officers?

17 A. My dad is an ex-police officer.

18 Q. Oh, he is?

19 A. Yes.

20 Q. Where did he work?

21 A. Two Rivers.

22 Q. Okay. Did he -- Is he retired or did he take a

23 different job?

24 A. Retired.

25 Q. Retired. How long was he an officer there?

1 A. About 10 years or maybe 15.

2 Q. Okay. Do you know what his rank was when he
3 retired?

4 A. A lieutenant.

5 Q. He was a lieutenant, okay.

6 A. Yes.

7 Q. So did he talk about his work at all?

8 A. No.

9 Q. Did he like being a police officer?

10 A. Yes.

11 Q. Well, I imagine that, with that experience, with
12 your dad being a police officer, a lieutenant
13 even, you learned to respect police, right?

14 A. Yes.

15 Q. Natural, I mean we're all taught to respect
16 authority of police officers, right?

17 A. Yes, right.

18 Q. How long ago did he actually retire?

19 A. Has to be four or five years now.

20 Q. Okay. So not too long ago?

21 A. No, not too long ago.

22 Q. But you were out of the house then, right, or
23 were you still living at home?

24 A. No, I was out of the house.

25 Q. You have been married how long?

1 A. Four years.

2 Q. Okay. Now, I wonder if a police officer comes
3 into court and testifies and you will hear from a
4 number of them, this is a criminal case,
5 obviously police are involved, right?

6 A. Right.

7 Q. Do you think that because they are police
8 officers and, you know, sworn, with badges and,
9 you know, to serve and protect and uphold the
10 law, that they are less likely to lie under oath
11 than the ordinary person?

12 A. No.

13 Q. Why not?

14 A. That they will lie or won't? Sorry, I don't
15 understand the question.

16 Q. Let me rephrase it so you do.

17 A. Sorry.

18 Q. Do you think that because police officers are who
19 they are and they are a sworn occupation, that
20 just because of that they are necessarily less
21 likely to lie under oath than the ordinary
22 person?

23 A. A police officer is human, anyone can lie, you
24 know.

25 Q. Okay. And do you think that people, humans, are

1 capable of lying under oath?

2 A. Yes.

3 Q. That just because they take the witness stand and
4 take the oath you can't necessarily assume
5 everything coming out of there mouth is going to
6 be the truth?

7 A. Yes.

8 Q. Okay. So would you be able to judge a police
9 officer's testimony, just the same way, then, as
10 an ordinary person's testimony, to decide whether
11 that officer is really telling the truth or not?

12 A. Yes.

13 Q. Do you think that if you sat on this jury and
14 listened to the evidence and had a reasonable
15 doubt that Mr. Avery was guilty and, therefore,
16 found him not guilty, do you think you would get
17 any flak from your father or that, you know, any
18 -- any other family or friends would think less
19 of you, how could you do that?

20 A. I don't think so.

21 Q. Why not?

22 A. Because I just don't, I don't think that that
23 would happen.

24 Q. What if in the course of the testimony you also
25 came to the opinion that there was at least a

1 reasonable suspicion that police officers really
2 did some bad things here, maybe even planted
3 evidence, would you be concerned about, you know,
4 what your father might think, you know, how could
5 you -- how could you think that about officers
6 like I was? Wouldn't it be hard?

7 A. No, he wouldn't, my father is not like that.

8 Q. Your father would --

9 A. He would understand and -- how I feel and he
10 respects my opinions.

11 Q. Do you think that that's -- that's possible in
12 life, that police officers could do such a thing?

13 A. Sure, anyone can do such a thing, I feel.

14 Q. Now, was your dad a detective at times too?

15 A. No, I don't think so. He didn't talk much about
16 his work.

17 Q. Okay.

18 A. I just knew his rank and he was a police officer.

19 Q. Okay. Do you think sometimes that officers,
20 because they are human, they get, you know,
21 personally involved in their case and their work,
22 maybe even to the point where they form an
23 opinion about somebody and they think that person
24 is guilty and they work towards that -- with that
25 in mind?

1 A. I don't understand the question.

2 Q. Okay. Do you think that police officers may,
3 sometimes because they get personally involved in
4 a case, they may come to a conclusion that this
5 person is guilty and maybe shade things a little
6 bit in order to try and ensure that -- that they
7 get the guy?

8 A. It's happened before --

9 Q. Okay.

10 A. -- I'm sure.

11 Q. Okay. And you would be open to consider all the
12 possibilities that that may have happened in this
13 case?

14 A. Yes.

15 Q. Do you know anyone who has ever been arrested by
16 the police; friends, or co-workers, or anything?

17 A. No.

18 Q. Do you watch any cop shows on TV?

19 A. No.

20 Q. None. Do you ever -- Maybe in movies, have you
21 ever seen any depictions of the way police
22 officers can interrogate, particularly
23 detectives, interrogate witnesses or suspects to
24 try and get them to talk?

25 A. Yes.

1 Q. Do you think that sometimes people may actually
2 confess to something that's not true?

3 A. Yes.

4 Q. Why?

5 A. Pressure.

6 Q. Okay. From the police?

7 A. Yes.

8 Q. And how do you go about judging whether or not
9 something somebody says is true or not.

10 A. I don't understand, again.

11 Q. How would you -- If you heard witnesses testify
12 about something, how would you go about judging
13 whether what they were saying was the truth?

14 Would you listen to -- Would you look at their
15 demeanor while they are saying it?

16 A. I would listen to what they have to say and judge
17 by that.

18 Q. Okay. And look to see if there's any other
19 corroboration for what they say?

20 A. Yes.

21 Q. What do you think of -- What do you think of
22 scientific evidence?

23 A. I don't know much about it.

24 Q. Okay. Don't know much about DNA, for instance?
25 Have you heard much about it?

1 A. No.

2 Q. Okay. Do you -- Will you be interested in
3 listening to witnesses who are just describing
4 technical scientific type of things?

5 A. I think it would be interesting.

6 Q. Okay. Would you listen to witnesses who come in
7 and do that, expert witnesses, in fact, who are
8 specialists in that area, and judge their -- what
9 they say, the same as any other witness?

10 A. Yes.

11 Q. Or would you just assume, well, they know more
12 than I do, they must be right?

13 A. No.

14 Q. Okay. Now, you do know from the questionnaire
15 and probably just from civics courses and all
16 that, that the -- that a defendant has no burden
17 of proof; is that right?

18 A. Right.

19 Q. So that Mr. Avery doesn't have to prove that he
20 is innocent of this crime?

21 A. Right.

22 Q. But do you really feel that way? Do you really
23 think that, in your heart-of-hearts, you are not
24 going to require Mr. Avery, if he is not guilty
25 of this crime, are you going to think, well,

1 then, who did? If he can't show me who else did,
2 then it must be him?

3 A. I don't understand, again.

4 Q. Well --

5 A. I feel every man is innocent until they can prove
6 to me otherwise.

7 Q. Okay.

8 A. That's how I feel.

9 Q. All right. Well --

10 A. If that's the question you are asking.

11 Q. That's not exactly, but I appreciate that. In
12 this case, though, you are going to -- I think it
13 will be natural human nature to wonder who really
14 did do this crime if it's not Mr. Avery. Okay?
15 I mean, somebody did and that will be a given.
16 You are nodding yes; are you following me?

17 A. Yes, I'm following you.

18 Q. Okay.

19 A. Yeah.

20 Q. Okay. And what I'm wondering is, if you will be
21 able to put aside the natural feeling that, well,
22 you know, we haven't heard who else could have
23 done it, I mean it must be him because we don't
24 know who else. I want you to be clear that you
25 can do that -- that you won't do that, I should

1 say, that you won't ask us to prove to you who
2 did this crime; can you do that?

3 A. Yes, I can.

4 Q. It's their job to do that; do you understand?

5 A. Yes.

6 Q. And if you decide that they haven't proved,
7 beyond a reasonable doubt, that Mr. Avery is
8 guilty of this crime, then you can't worry about
9 who did, other than hope that they follow up and
10 do some further investigation and get the right
11 person, right?

12 A. Right.

13 Q. And you are confident that you are going to be
14 able to do that; you are not going to put any
15 burden on him?

16 A. Yes.

17 Q. Well, along those lines, how would you feel if he
18 didn't testify?

19 A. That's his right.

20 Q. Okay. And that goes along with his right and his
21 constitutional right not to have to prove his
22 case, right?

23 A. Right.

24 Q. Prove his innocence. On the other hand, this is
25 something that defense attorneys have to struggle

1 with, deciding whether to put their witness --
2 their client on the witness stand. What if he
3 does testify, are you going to think, just
4 because he's a defendant that, you know, I can't
5 really believe what he's going to say, he's
6 trying to save his own skin?

7 A. No.

8 Q. You will be able to judge him just like any other
9 witness?

10 A. Yes, I will.

11 Q. And if he doesn't testify, you are not going to
12 hold that against him, you will be able to follow
13 the judge's instruction?

14 A. Yes, I will.

15 Q. Okay. As part of what you have heard, just
16 generally, about the case, have you heard
17 anything about a vial of blood?

18 A. I heard something about it. I know a vial is
19 going to be introduced or something.

20 Q. Okay. And that -- Have you heard anything about
21 the defense, of why that's important to the
22 defense, what it may or may not mean?

23 A. (No verbal response.)

24 Q. Okay.

25 ATTORNEY STRANG: You better get an answer.

1 Q. You have to say yes or no?

2 A. No.

3 Q. Okay. The court reporter has to take down the
4 answers.

5 ATTORNEY BUTING: That's all I have. Thank
6 you, sir.

7 MR. BROTSKI: Thank you.

8 THE COURT: All right. The Clerk will
9 escort you from the courtroom at this time,
10 Mr. Brotski.

11 (Wherein the juror was excused.)

12 THE COURT: Any motion from either party?

13 ATTORNEY FALLON: None.

14 ATTORNEY BUTING: No, Judge.

15 THE COURT: All right. Mr. Brotski is in.
16 All right. Just a minute. All right. Let's take a
17 break at this time. We'll resume at 20 minutes to
18 11.

19 ATTORNEY FALLON: I wonder if you could --
20 It was the reason for the exchange of a note. Can
21 you tell us when you sent that letter to the jurors
22 asking them to refrain. I'm not sure we got a copy
23 and right now that date escapes me.

24 THE COURT: Okay. I will find that out.

25 ATTORNEY FALLON: Okay.

1 THE COURT: I know there was one juror who
2 referred back to a letter like in June of last year;
3 that was a letter -- and I think I informed counsel
4 of this off the record -- that was sent to the
5 members of the panel, but did not indicate what the
6 case was. And I think in the juror's answer she
7 said, kind of read into it -- I don't remember if it
8 was a he or a she -- Well, I figured it was this
9 case, so I stopped paying attention, but that letter
10 did not mention the case or say anything about
11 publicity; it was only the later letter. And I will
12 find out when that was sent.

13 ATTORNEY FALLON: All right. Thank you.

14 (Recess taken.)

15 THE COURT: Counsel, in response to your
16 question just before we went on the break, the
17 letters are dated January 17th and they went out
18 either that day or perhaps the following day.

19 ATTORNEY FALLON: Thank you, Judge.

20 THE COURT: Let's see. I think the next
21 juror we have up is Mr. Mahler.

22 THE CLERK: Yes.

23 ATTORNEY FALLON: Yes.

24 THE COURT: Very well. Mr. Mahler, if you
25 can raise your right hand, the Clerk will administer

1 the oath to you.

2 (Juror sworn.)

3 THE CLERK: Please be seated.

4 THE COURT: Mr. Mahler, you have already
5 filled out a written questionnaire in this case.
6 Today we're moving on to the next phase of jury
7 selection which is voir dire. The attorneys will
8 have a chance, in a few minutes, to ask you some
9 follow-up questions to the information that you
10 provided in your questionnaire.

11 Before we get to that I want to make
12 sure you know that if you are selected as a juror
13 in this case the jurors will not be sequestered;
14 that means the jurors will be permitted to return
15 home at the end of court proceedings each day.

16 The rule that the jurors are to learn
17 nothing about this case from the news media or
18 anyone else will continue, so that means you have
19 to avoid any reporting of the case on the radio,
20 television, the newspaper, the internet, anywhere
21 else and not discuss the case with anyone,
22 including other jurors or even members of your
23 own family.

24 In addition, I can tell you that,
25 although today's proceedings are open to the

1 public, the Court does not permit cameras in the
2 courtroom during voir dire proceedings and
3 members of the news media are not permitted to
4 identify jurors by name in their news reports.

5 If you are selected to serve as a juror
6 in this case, you should know that the cameras
7 that cover the trial will not be permitted to
8 show the jurors in the manner which identifies
9 them as well.

10 If you are permitted to stay on the
11 jury, after this part of the proceedings, you
12 will be given a notice in the next few days, by
13 telephone, as to when to report back to court.

14 Mr. Fallon, you may begin.

15 **VOIR DIRE EXAMINATION**

16 BY ATTORNEY FALLON:

17 Q. Good morning. Is it Mahler or Mahler?

18 A. It's Mahler.

19 Q. Mahler. Good morning, sir. My name is Tom
20 Fallon, I'm an Assistant Attorney General with
21 the Wisconsin Department of Justice. I'm one of
22 the prosecutors in this case. To my immediate
23 left is Mr. Ken Kratz, Calumet County District
24 Attorney and lead special prosecutor. Thanks for
25 coming in this morning and thank you for your

1 patience.

2 Both sides have some questions we would
3 like to ask you regarding some of the information
4 contained in your questionnaire and perhaps cover
5 a few areas not covered by the questionnaire. I
6 think a matter of great interest, and you might
7 detect a bit of envy on our part, but I note from
8 your questionnaire that you manage to be retired
9 at what appears to be a rather young age. What
10 did you do before retiring?

11 A. Um, I was in the cleaning business. And I have
12 been a musician, as a hobby.

13 Q. And how long were you in the cleaning business?

14 A. Ten years.

15 Q. Ten years.

16 A. Twelve years.

17 Q. Now, you were an employee or did you own or run a
18 business?

19 A. I worked with the gentleman who owned the
20 business for about eight years and then he was
21 dying of stomach cancer and I ...

22 Q. -- took over the business?

23 A. My wife purchased the business from him.

24 Q. Okay. All right. And do you still keep your
25 hand in that business?

1 A. Yeah, something to keep busy. I work like six
2 hours a week --

3 Q. All right.

4 A. -- on my time.

5 Q. Okay. Tell me about the music business. How
6 long have you been involved in music?

7 A. Thirty-two years.

8 Q. All right.

9 A. Or 23 years, I'm sorry.

10 Q. Twenty-three years.

11 A. Twenty-three years, right.

12 Q. All right.

13 A. Since I was 16.

14 Q. And is it a business that's more of a hobby or do
15 you actually use it to earn income?

16 A. Well, I do earn income from it.

17 Q. All right.

18 A. Not very much. I mean, if you weigh out what you
19 spend on the equipment and all the other stuff, I
20 don't make any money at it.

21 Q. All right. What type of music are you involved
22 with?

23 A. A variety.

24 Q. All right.

25 A. I do variety. I'm the lead singer and bass

1 player, used to be a guitar player.

2 Q. Lead singer and you play base and lead guitar.

3 A. Rhythm guitar. Rhythm.

4 Q. Okay. This -- excuse me -- this group you are
5 involved with, how many are involved in that?

6 A. It was five, now it's just me, my wife and lead
7 guitar player, until we can find a drummer.

8 Q. And how many gigs a month do you normally do?

9 A. It varies.

10 Q. Okay. All right. I see, also, from your
11 hobbies, that you like computers?

12 A. Yes, sir.

13 Q. What particular tasks or how do you use the
14 computer, for what purpose?

15 A. My mixing down music, recording music, writing
16 out lyrics, typing out lyrics, that kind of
17 stuff.

18 Q. Do you use the computer at all for information
19 purposes or to get news?

20 A. No, I don't.

21 Q. All right. In that regard, I would like to talk
22 a little bit about your familiarity or lack there
23 of of media coverage with respect to this case.

24 And let me first ask you, you indicated you get
25 your news from three sources; radio, television

1 and newspaper?

2 A. Right.

3 Q. Of those three, where would you say you get the

4 lion's share of your news information?

5 A. Usually the Sheboygan Press.

6 Q. Sheboygan Press?

7 A. Yeah.

8 Q. All right. So you are a regular reader of that?

9 A. Yeah, pretty much so.

10 Q. How about television and radio?

11 A. I'm not much into television because there's

12 nothing really on there I care to see.

13 Q. All right.

14 A. And radio, I listen to the music, that's about

15 it.

16 Q. Okay. So you don't listen to any news shows or

17 talk radio? It's just for the music?

18 A. No, I don't really care for it.

19 Q. I'm sorry?

20 A. I don't really care for news.

21 Q. All right. Just haven't shown an interest in it?

22 A. No, I'm more into the music and stuff like that.

23 Q. All right. If you could do us a favor and maybe

24 lean forward a little bit and talk into that

25 microphone?

1 A. I can't move the chair so.

2 Q. I understand, it's a little difficult, but --

3 A. All right.

4 Q. -- we do need to hear your responses. Thanks.

5 A. Yes, sir.

6 Q. In terms of the media coverage attended to this
7 case, have you seen any of the newscasts or media
8 coverage of this case at all?

9 A. No. At the beginning of -- I mean, I remember my
10 wife saying something about -- that Teresa was
11 missing. I remember that part. And then she
12 told me something later about some fire pit or
13 something, but that's about all I know.

14 Q. All right. Excuse me, you haven't followed any
15 of the newscasts, then, or any of the information
16 that's been developed other than the original
17 breaking of the story?

18 A. Right.

19 Q. All right. You have listened or heard nothing on
20 the radio recently or nothing on the television
21 recently?

22 A. No, I haven't really listened to the radio at
23 all.

24 Q. All right. And from the information you provided
25 in your questionnaire you indicated you haven't

1 formed any opinions based on the small amount of
2 information you currently have?

3 A. No, I have no opinion.

4 Q. All right.

5 A. Because I don't know -- I don't know any of the
6 evidence or anything.

7 Q. Okay. Well, then, let me just conclude this
8 aspect of the questioning with this question, if
9 you were selected as a juror in this case, do you
10 think that you would be able to decide the guilt
11 or innocence of Mr. Avery solely on what you hear
12 in the courtroom; in other words, the evidence
13 which is presented and on no other source?

14 A. That's correct.

15 Q. All right. You have no problem with that?

16 A. No.

17 Q. All right. Since you are into music and those
18 types of endeavors, I thought I would ask, do you
19 watch old movies or are you a movie guy?

20 A. I like the old Jerry Lewis, Dean Martin movies.

21 Q. All right. Do you ever watch any documentaries,
22 anything on law enforcement, or anything like
23 that?

24 A. I think one of my favorite shows I watched on TV
25 was *Law and Order*, but that's --

1 Q. All right.

2 A. -- probably the only thing that I see that was
3 worth watching on television.

4 Q. Okay. Did you ever see a documentary called the
5 *Thin Blue Line*?

6 A. I have heard of the name, but I have never.

7 Q. You have never seen it?

8 A. No.

9 Q. Okay. The next area of inquiry that I have for
10 you is any encounters that you or your family may
11 or may not have had with the local police
12 department or the sheriff's department. Have you
13 yourself had any reason to call upon them for
14 services or had any interaction with them?

15 A. Not at all.

16 Q. All right. Any other members of your family have
17 any encounters with the police or law
18 enforcement?

19 A. My son -- my stepson, I mean.

20 Q. Okay.

21 A. This was about a year ago, he wrote out
22 prescriptions for himself, which was kind of --

23 Q. Okay. Any --

24 A. -- dumb on his part.

25 Q. -- and he didn't have any -- and he shouldn't

1 have been doing that, right?

2 A. Right.

3 Q. All right. And was he arrested for that?

4 A. Yes, he was.

5 Q. Okay. Based on your experience for that, or with
6 that, did you have any direct contact with the
7 police or the sheriff's department in that
8 incident?

9 A. No, since he's not my son, my wife --

10 Q. Okay.

11 A. -- you know, I stay out of it.

12 Q. Sure.

13 A. It's better if I stay out of it.

14 Q. All right. Well, let me ask you this, then, I
15 imagine you might have had at least some
16 discussion of that happening, with your wife?

17 A. No.

18 Q. Okay.

19 A. She doesn't like me getting involved in --

20 Q. -- in the family business?

21 A. It's like get out of here, stay out--

22 Q. All right.

23 A. -- it's none of your business.

24 Q. So you didn't have any discussions as to the
25 appropriateness of the law enforcement activity

1 or involvement in that.

2 A. No.

3 Q. Okay. So you don't have any particular opinion
4 regarding how the case was handled or anything
5 like that?

6 A. No, I don't know anything about it.

7 Q. Okay. Fair enough. In terms of how you go about
8 approaching solving a problem, or even in your
9 interacting with other people, in discussing and
10 formulating opinions, would you consider yourself
11 a detail oriented type of guy or are you more of
12 a big picture perspective, bottom line approach
13 to things?

14 A. I try to piece together things.

15 Q. Okay. So, do I interpret that to mean you do
16 kind of look at the details?

17 A. Right. I'm articulate --

18 Q. Okay.

19 A. -- when it comes to things like that.

20 ATTORNEY BUTING: I'm sorry, I couldn't
21 hear that.

22 A. I'm articulate when it comes to, you know, like
23 my music, picking things apart and trying to put
24 it all together.

25 Q. All right. So the nature of your -- your

1 interest, your hobby in music, makes you tend to
2 be more of a detail oriented approach in terms of
3 putting together music, or scoring it, or writing
4 it?

5 A. Right. To get it to where it's just ...

6 Q. So the words fit the music?

7 A. Right.

8 Q. Okay.

9 A. And the feeling is there and everything comes
10 together.

11 Q. Okay. All right.

12 ATTORNEY FALLON: That's all I have.

13 THE COURT: Mr. Buting.

14 ATTORNEY BUTING: Thank you, Judge.

15 **VOIR DIRE EXAMINATION**

16 BY ATTORNEY BUTING:

17 Q. Good morning.

18 A. Good morning.

19 Q. My name is Jerome Buting. This is Dean Strang
20 another Jerry -- Dean and Jerry combination, but
21 not like the movies that you have seen. We
22 represent Steven Avery. And I want to follow up
23 on a few things that -- that Mr. Fallon has asked
24 you, but also get into some different issues that
25 maybe will come up and you are going to have to

1 consider. All right?

2 A. Okay.

3 Q. First, just in more general background, your
4 name -- it may be just a coincidence, but are you
5 related in any way to the Peter Mahler that has a
6 cleaning -- office cleaning business in the
7 Milwaukee area?

8 A. No, sir.

9 Q. Okay. Just a coincidence, I guess. You have
10 two -- you list two female children at age 17;
11 are those twins or are they from different
12 marriages?

13 A. My daughter was from my first marriage, one of
14 them, and she's living with her mother. And the
15 other one is living with us and she's my
16 stepdaughter.

17 Q. I see. Okay. I thought maybe she was a
18 stepdaughter, but you didn't mention your stepson
19 in here so maybe that's --

20 A. Yeah, he's in -- He's like 23 or something like
21 that.

22 Q. So he's out on his own?

23 A. Correct.

24 Q. Okay. And your wife is retired also?

25 A. Yes.

1 Q. Well, when you say retired, it wasn't clear to
2 me, you have -- you still have the cleaning
3 business?
4 A. I do it to keep busy.
5 Q. Okay.
6 A. My wife has a trust fund out of Milwaukee.
7 Q. Your wife has what?
8 A. A trust fund out of Milwaukee; she gets dividends
9 every month.
10 Q. Oh, I see. Okay. So that's your primary source
11 of income and you don't have to worry so much
12 about the cleaning business?
13 A. Correct.
14 Q. Okay. But is your wife, your current wife -- how
15 long have you been married to your current wife?
16 A. Ten years.
17 Q. Okay. And she's in the band too?
18 A. Right.
19 Q. What does she do?
20 A. She plays the piano.
21 Q. Okay. And you play around Manitowoc County,
22 Sheboygan, what's your area?
23 A. Manitowoc, Sheboygan, Plymouth, tri-county pretty
24 much.
25 Q. Okay. And you mentioned you have actually sung

1 the National Anthem at Road America?

2 A. Right, for all the races I do.

3 Q. Okay. That's something you have done for quite a
4 while?

5 A. The past seven years.

6 Q. Well, okay. Are you interested in racing too
7 or ...

8 A. Yeah, I said if my voice ever went, I would get
9 into racing.

10 Q. So, do you work on cars yourself?

11 A. No, I just have a love for the racing thing.

12 Q. So you have a love for the racing, but you are
13 not -- you are not really mechanically inclined
14 or ...

15 A. No, I never really got totally into it. I just
16 like watching --

17 Q. Okay.

18 A. -- especially the motorcycle races.

19 Q. You would like to be the driver and not the one
20 who -- not the mechanic?

21 A. Right.

22 Q. Okay. Now, in terms of knowledge that you gained
23 about this case, it sounds like your wife is
24 really the one that was the source of any
25 information?

1 A. Yeah, she -- I guess she's been keeping up on it,
2 watching the news on it.

3 Q. Okay. So she does. She shows an interest in it?

4 A. Right.

5 Q. And she likes to talk with you about it on
6 occasion apparently, right?

7 A. Right.

8 Q. Sometimes it's hard to remember when someone
9 says, you know, tell us what it is you remember
10 about -- remember hearing. And sometimes you
11 don't -- doesn't come to mind, certain things,
12 but you actually really did hear them, you just
13 don't recall at this moment. So, I just want to
14 maybe explore that a little bit, okay?

15 A. Okay.

16 Q. For instance, Brendan Dassey, have you heard of
17 him?

18 A. I have never, no.

19 Q. Have you heard anything about a nephew of
20 Mr. Avery?

21 A. I have heard about the nephew, but I don't
22 remember names or anything.

23 Q. Didn't connect the name. Okay. What have you
24 heard about the nephew as has been reported?

25 A. I don't recall.

1 Q. Okay. Do you recall any -- anything either you
2 heard on the news or that you talked about with
3 your wife about the nephew that involved his
4 alleged confession or admission to certain
5 things?

6 A. No, she never discussed anything about the
7 nephew.

8 Q. Or anything about his later recanting of those
9 confessions and --

10 A. No.

11 Q. -- denying it?

12 A. I did not hear anything about that.

13 Q. Okay. Did you -- In talking with your wife, did
14 you ever hear anything about, you know, what it
15 is that Mr. Avery was supposedly supposed to have
16 done here?

17 A. I remember that Teresa was missing. And that's
18 about all I remember of it. And supposedly he
19 was accused of her disappearance, but that's
20 about what I know.

21 Q. Okay. And when you say, Teresa, did you know her
22 at all?

23 A. No, just by my wife and some of the things I have
24 seen in the paper.

25 Q. And what kind of things do you recall having seen

1 about her or learned about her?

2 A. I know she was from -- I don't even remember
3 where she lived.

4 Q. Do you know what she did, you know, how and why
5 she was missing or involved in this at all?

6 A. I have no clue.

7 Q. Okay. Other than your stepson, which you
8 probably wisely stayed out of, have you had
9 any -- ever had any exposure to the police
10 yourself?

11 A. Eleven, twelve years ago, a Manitowoc Sheriff
12 picked me up because of a computer mistake in
13 Sheboygan with Child Support.

14 Q. Okay.

15 A. Said I was behind on my child support, but I
16 wasn't.

17 Q. And when you say picked you up, did they actually
18 take you down and book you and all that?

19 A. Yeah, and brought me to Manitowoc County Jail.

20 Q. And how long did you sit in jail?

21 A. I was -- I think in Manitowoc for one day and
22 then I was transferred to Sheboygan until Monday
23 morning, because they picked me up on a Friday
24 which was kind of weird. Then I sat for the
25 weekend because there was nothing they could do.

1 So Monday morning my wife came in, paid a little
2 bit on my child support, just to get me out and
3 take care of that situation. But, you know, I
4 never missed a payment, but it was a computer
5 glitch that --

6 Q. Mm-hmm.

7 A. -- happened.

8 Q. So -- So you had to spend a whole weekend in jail
9 for something really that was just a mistake?

10 You didn't --

11 A. Right.

12 Q. Wasn't your fault.

13 A. That is correct.

14 Q. Well, how did you feel about the system when that
15 happened?

16 A. I mean, mistakes happen. You know, there was
17 nothing I could do about it, so I just -- I
18 accepted it.

19 Q. Okay. What do you know about Mr. Avery's
20 background?

21 A. I know he owned some kind of business out here
22 somewhere.

23 Q. Do you know anything about the -- all the
24 information about how he was wrongly imprisoned
25 for many years and was later exonerated when DNA

1 tests proved he didn't do the crime?

2 A. Yeah, I seen one news report when he got out, you
3 know, out of jail the first time.

4 Q. Yeah, I have seen that many times; he looks --
5 looks quite a bit different today, doesn't he?

6 A. Yeah, a little shorter in person.

7 Q. That beard that he had was quite a bit different
8 too. But, you know, in that environment you have
9 to adjust, I suppose. Did you also read anything
10 or hear anything about how he had a lawsuit
11 against Manitowoc County ...

12 A. I might have heard bits and pieces about it, but
13 I don't know much about it.

14 Q. ... because of that whole experience? Did you --
15 Do you have any opinion about whether or not it
16 was -- that was a good idea or a bad thing for
17 him to try and sue because of his wrongful
18 conviction?

19 A. I don't have any opinion on that.

20 Q. Okay. Other than that one encounter with -- that
21 was a Manitowoc County sheriff you said?

22 A. That's correct.

23 Q. Any other contacts with the police even when you
24 were growing up as a teenager or, you know, out
25 after curfew, any kind of -- not arrest but times

1 when you have encountered the police?

2 A. Yes, speeding tickets, things like that.

3 Q. Do you think that the police officers, because
4 they take an oath, get a badge, you know, that
5 they are supposed to serve and protect, that --
6 that somehow if they come into court and testify,
7 that -- that they are always going to tell the
8 truth?

9 A. I think they would.

10 Q. Well, you think they would or you'd hope they
11 would?

12 A. Well, as their, you know, oath, if they took the
13 oath, I feel they should.

14 Q. Okay. That's fine. But do you think that simply
15 because of that, because of their position and,
16 you know, we're taught to respect police
17 officers, of course?

18 A. That's correct.

19 Q. That if you heard testimony from them, that you
20 might give that greater weight and think that
21 they are more reliable and trustworthy than other
22 ordinary citizens you may hear from?

23 (Cellphone rang.)

24 A. No. Okay. That distracted me. Okay. Could you
25 repeat the question.

1 Q. Sure, I'm sorry about that. Do you think that --
2 that because police are police, that if they come
3 into court and testify, that what they say, that
4 you will look at that as being more reliable and
5 more trustworthy than maybe you would something
6 that you hear from the witness stand that comes
7 from an ordinary citizen?

8 A. No, I don't, because the police are just telling
9 their side of the story, just like all the other
10 witnesses.

11 Q. And that they are human too, right?

12 A. That's correct.

13 Q. And that -- Do you think it's possible, then,
14 that police may also be mistaken about things?

15 A. Well, you know, just because it's coming from an
16 officer doesn't mean it's the facts and totally
17 the facts on the case.

18 Q. Okay. Do you think it's possible that police
19 get, you know, personally involved in a case
20 where they are invested and they really care
21 about the outcome, they are not just sort of,
22 just the facts, ma'am, that kind of thing?

23 A. Well, I think they are just, you know, like I
24 said, they are just telling what they discovered
25 from the case, you know. And it's -- I have --

1 you know, it has to be all weighed out.

2 Q. If you heard evidence that might indicate that
3 they -- that police officers in this case maybe
4 were a little more personally involved in things
5 related to Mr. Avery, would you be able to
6 consider whether those -- that kind of
7 involvement or motive might affect what they are
8 saying on the witness stand?

9 A. What do you mean by "personally involved"?

10 Q. Well, I don't want to get into all the evidence
11 here. I mean, if you're selected, you will hear
12 some of it, but ...

13 A. That's correct.

14 Q. But the Judge will give you an instruction that
15 police officers are to be judged as witnesses
16 just the same as any other witness; that is, that
17 they have no special aura about them that makes
18 them more honest or trustworthy than any other
19 witness.

20 You have to judge their demeanor, what
21 they say, what the facts are, if there's any
22 corroboration or conflicting information. And
23 what I want to understand is if you can do that?

24 A. Yes.

25 Q. And can you do it even if it means more than just

1 that maybe the police are shading or -- or even
2 lying about something. Can you do that and
3 consider whether or not the police crossed the
4 line in this case and went -- went way beyond
5 what simple investigating is?

6 A. Well, I judge their evidence just as I would any
7 other witness, the same, you know. They don't
8 have -- You know, they are just telling what they
9 know and the other people are testifying -- are
10 telling what they know. And there's no
11 difference between an officer and somebody else
12 who is testifying.

13 Q. All right. Well, you say they are just telling
14 what they know, but do you understand that
15 sometimes witnesses come into court and even
16 under oath, that they tell lies?

17 A. Right. I do.

18 Q. And if you are selected on this jury, you are
19 going to have make those kinds of judgments and
20 judgment calls as to whether a person is really
21 telling the truth or not?

22 A. Yes, I understand that.

23 Q. Okay. And you can do that for police officers
24 just as the same as others?

25 A. That's correct.

1 Q. Now, you may also -- You have a lot of -- Well, I
2 don't know if you have or not. Did you have
3 musical training or did you kind of teach
4 yourself?

5 A. I took a half a year of lessons and then I got
6 tired of lessons so I learned on my own and
7 pretty much play by ear. I mean, I know the
8 chords and stuff, but I play by ear.

9 Q. Did you ever take any music theory or learn about
10 any music theory?

11 A. No.

12 Q. Okay. So, in terms of your knowledge of science,
13 do you have any particular background of that or
14 mathematics?

15 A. No.

16 Q. Well, you may hear some scientific evidence in
17 this case that will come from expert witnesses
18 and will you be able to listen to their testimony
19 and judge what they say with the same kind of
20 standards as any other witness?

21 A. Yes.

22 Q. In other words, just because they --

23 A. -- are professionals.

24 Q. -- are experts in their field, what they say may
25 or may not be completely accurate; you have to

1 listen to all -- all of what they say.

2 A. Right.

3 Q. Okay. Let me go back for just one minute. The
4 -- In terms of what you have heard maybe from
5 your wife or just picked up; have you heard
6 anything at all about a blood vial?

7 A. Um, no, I haven't heard anything about that.

8 Q. Nothing about a blood vial.

9 A. No.

10 Q. Okay. Now, you like to -- Well, let me ask you
11 this, one of the questions talked about, a
12 defendant's right not to testify. And I think
13 you understood that in your questionnaire, at
14 least you answered, yes, you could follow that.

15 A. Right.

16 Q. But do you think that if you didn't hear directly
17 from Mr. Avery testifying at this trial that that
18 would be a problem for you?

19 A. Not at all.

20 Q. You wouldn't be concerned about why he didn't
21 testify, why haven't I heard his side?

22 A. No.

23 Q. Why not?

24 A. Because, you know, I would listen to every, you
25 know, everybody's input on what they had to say

1 about the case and I would make my decision on
2 that.

3 Q. Well, on the other hand, if he did take the
4 witness stand and testify, would you think that,
5 well, you know, I'm not going to really believe
6 much of what he says because he's the defendant
7 in the case, he has got everything at stake?

8 A. No, I would listen to his side of the story also.

9 Q. You could treat him the same as any other witness
10 you are saying?

11 A. That's correct.

12 Q. So, either way, you are not going to hold it
13 against him or us, his attorneys obviously will
14 be talking with him about that decision. You
15 will be able to make sure that doesn't affect
16 your decision in the case?

17 A. That's correct, either way.

18 Q. And if at the end of this case you believe that a
19 crime was committed, a very serious crime was
20 committed, but you have a reasonable doubt
21 whether Mr. Avery did the crime, will you be able
22 to return a verdict of not guilty even if he, or
23 we, are unable to show who is, in fact, the
24 guilty party?

25 A. I don't understand the question.

1 Q. Well, if you hear the evidence and you decide
2 that, yes, in fact, a very serious crime, a
3 murder, occurred here; it's maybe human nature to
4 think, well, if Mr. Avery didn't do it, then who
5 did, right? I mean, can you -- do you -- Can you
6 see that?

7 A. Yeah, I can understand that.

8 Q. But, what you have to understand is that the
9 defense doesn't have a burden of proof. And
10 that -- What I want to know is whether you are
11 going to be thinking, hey, you know, somebody did
12 this and we have got to convict somebody of this
13 crime, and if it's not Avery, he hasn't shown us
14 who it is, who did do it, so we're just going to
15 go ahead and find him guilty?

16 A. No, I wouldn't.

17 Q. Why not?

18 A. Because it would be wrong.

19 Q. Okay. So you really will look at the State's
20 case to see whether the State's proven to you,
21 beyond a reasonable doubt, that Mr. Avery is the
22 guilty party?

23 A. That's correct, I will look at both sides.

24 Q. And even if coming out of that you say, well,
25 this is really sad, I wish -- Somebody did this.

1 I know somebody did this. And the defense hasn't
2 proven to me who did, but the State also hasn't
3 proven, beyond a reasonable doubt, that Mr. Avery
4 did, you will be able to return a not guilty
5 verdict?

6 A. That's correct.

7 Q. Okay.

8 ATTORNEY BUTING: Thank you, sir.

9 THE COURT: All right. Mr. Mahler, the
10 Clerk will escort you from the courtroom at this
11 time.

12 (Wherein the juror was excused.)

13 THE COURT: Any motion from either party?

14 ATTORNEY FALLON: None from the State.

15 ATTORNEY BUTING: No, Judge.

16 THE COURT: Mr. Buting, you must have good
17 timing in your head, you concluded exactly on --

18 ATTORNEY BUTING: I heard that. And I
19 thought --

20 THE COURT: You beat the clock, though.

21 ATTORNEY BUTING: I didn't know if that was
22 the extra five minutes over or not.

23 THE COURT: All right. We'll bring in Ms
24 Gosz at this point.

25 Ms Gosz, if you can raise your right

1 hand, the Clerk will administer the oath to you.

2 (Juror sworn.)

3 THE CLERK: Please be seated.

4 THE COURT: Ms Gosz, you have already
5 completed a written questionnaire in this matter.
6 Today we're moving on to the next step in the jury
7 selection process which is known as voir dire. The
8 attorneys for each of the parties will have an
9 opportunity to ask you some questions today that
10 relate to your qualifications as a juror.

11 Before they begin, I can tell you that
12 if you are selected as a juror in this case, the
13 jury will not be sequestered. That means the
14 jurors will be permitted to go home each day at
15 the end of the court's proceedings for that day.

16 The jurors will continue to be required
17 not to obtain any information about the case from
18 any news media; that would be radio, television,
19 newspaper, the internet, or anything else. And
20 the jurors will also continue to be prohibited
21 from talking to anyone about the case, including
22 family members or other members of the jury.

23 The proceedings today are held in open
24 court, but during the voir dire process the Court
25 does not allow cameras in the court. And the

1 news media is not permitted to identify the
2 jurors by name in any news reports of today's
3 proceedings.

4 In addition, if you are selected to
5 serve on the jury, you should know that at the
6 trial itself, the cameras which may be present
7 are not permitted to focus on the jurors or
8 identify them in any way.

9 If you are to remain on the jury panel
10 after today's questioning, you will be notified
11 in the next day or two when to report back to
12 court.

13 I believe Mr. Kratz is going to be
14 questioning you now on behalf of the State.

15 ATTORNEY KRATZ: Thank you, Judge.

16 **VOIR DIRE EXAMINATION**

17 BY ATTORNEY KRATZ:

18 Q. Ms Gosz, good morning. My name is Ken Kratz, I'm
19 the Calumet County D.A., and special prosecutor
20 in this case, lead counsel in this case. Mr. Tom
21 Fallon who is with me is an Assistant Attorney
22 General. He will be assisting in the prosecution
23 as well.

24 As the Judge told you, this is the time
25 for some follow-up questions. We all received

1 your written responses in your questionnaire.
2 This process is not mean -- is not meant to
3 embarrass you or to pry into your personal life,
4 at least unnecessarily. We're trying to get the
5 most impartial jury --

6 A. Okay.

7 Q. -- that we can.

8 A. I understand.

9 Q. And that's why we're doing this. Your employment
10 with Natural Ovens Bakery as a packaging
11 supervisor, you described that as packaging
12 bakery items; is that the whole gambit of bakery
13 items or is this just bread or something?

14 A. Bread, buns, bagels, muffins, cookies.

15 Q. All the good stuff, right?

16 A. All the good stuff, yeah.

17 Q. All right. Ms Gosz, interestingly you noted that
18 you don't watch TV or the news very much. You
19 don't read the newspapers.

20 A. No.

21 Q. You don't gather news from any other source
22 except I think you mentioned your neighbors. I
23 was interested in that response; what does that
24 mean?

25 A. Well, I pretty much get up in the morning, get

1 the kids off to school. Then I get to work. And
2 being in charge of the department, I never know
3 what time I'm going to get done. Sometimes I'm
4 lucky enough where it's 8 hours, but more times
5 than not it's usually 9 or 10.

6 So that means I don't usually get home
7 until 6. Then I'm trying to get the kids some
8 supper, homework. And I don't really -- I don't
9 get the newspaper. I just -- I know my friends
10 laugh at me because I really never know what's
11 going on, but my life pretty much revolves around
12 my job and my family and that's about it.

13 Q. I understand. The information that you do
14 receive from your neighbors, did any of that
15 include the case for which you have been called?

16 A. No, there's a lady that lives across the street
17 that every once in a while if I go out and get
18 the mail or whatever, you know, will stop and
19 talk and, oh, did you hear this, did you hear
20 that. I will be, like, not in regard to this,
21 but just general stuff, and I'll be like, no.
22 And she always laughs at me, you know, but, so,
23 yeah, I'm pretty boring I guess.

24 Q. Let me ask you just directly, Ms Gosz; do you
25 know anything about the Steven Avery prosecution?

1 A. I mean, truthfully, I have heard his name, her
2 name, and -- and any more full details, not
3 really, because I really don't pay attention to.

4 Q. By her name, who are you talking about?

5 A. Teresa.

6 Q. Teresa Halbach?

7 A. Yes.

8 Q. Okay. Did you know what Mr. Avery has been
9 charged with?

10 A. Mm-hmm.

11 Q. And did you receive that, again, just by kind of
12 hearing things around town or around your
13 community?

14 A. Yeah.

15 Q. You mentioned in your questionnaire that you have
16 not formed an opinion as to Mr. Avery's guilt or
17 innocence. I assume that remains today; is that
18 correct?

19 A. Correct.

20 Q. And if the Judge was to instruct you that you
21 should decide the case only on what you heard in
22 the courtroom; that is, by witnesses or exhibits,
23 or other kinds of evidence, will you be able to
24 do that?

25 A. Definitely.

1 Q. Now, the State has the burden of proof. It's
2 beyond a reasonable doubt. But the defendant
3 doesn't have to prove anything in this case. I
4 think you understood that in your
5 questionnaire --

6 A. Mm-hmm.

7 Q. -- are you willing, then, to presume, as
8 Mr. Avery sits here today, that he's innocent and
9 that will remain until and unless the State can
10 prove, beyond a reasonable doubt?

11 A. Yup.

12 Q. You are willing to do that?

13 A. Definitely.

14 Q. And that's something, not just generally, but
15 specifically in this case, that you are able to
16 do?

17 A. That's what I believe.

18 Q. Have you yourself, Ms Gosz, had the misfortune of
19 having contact with law enforcement officials
20 ever in your life?

21 A. No.

22 Q. Are you familiar at all with the Manitowoc County
23 law enforcement community? Or let me ask you
24 this question, because this is something that you
25 might have an opinion on. Do you have an opinion

1 as to how the Manitowoc County Sheriff's
2 Department is generally doing regarding crime
3 prevention, or how they handle criminal
4 investigations?

5 A. I really don't know one way or another. I mean,
6 I don't have an opinion one way or the other,
7 because I have never really had any personal
8 things to do with the law, I guess.

9 Q. All right. Have any family, or friends, or
10 anything like that ever had run-ins with the law
11 or have complained about the Sheriff's Department
12 or anything else in our law enforcement community
13 here?

14 A. No. No, actually, you know what, I did call one
15 time, just to question. And this is probably, I
16 don't know if it's even worth saying, but my
17 daughter had stayed overnight by a friend's
18 house. And my sister works second shift and was
19 coming home from work and saw her out with her
20 friends at like quarter to 12 at night. And I'm,
21 like, I thought we had some kind of --

22 Q. Curfew.

23 A. Curfew. So I just called inquiring about that
24 and they're, like, yeah, it's midnight. And I'm,
25 like, it was 10 to, these are, like, 15 year old

1 girls, why didn't they at least stop and question
2 them and they said, because they weren't breaking
3 the law. And I'm, like, okay, makes sense.

4 Q. Until after midnight.

5 A. Yeah.

6 Q. Okay.

7 A. So I just took care of it myself.

8 Q. Other than taking care of your children and
9 working and I understand that you are a married
10 lady; is that right?

11 A. Mm-hmm.

12 Q. And I suspect your husband takes some of your
13 time as well?

14 A. Yup.

15 Q. Other than that, what do you do for fun or for
16 hobbies?

17 A. Scrap booking is basically the thing I do a lot
18 of.

19 Q. All right. Do you enjoy puzzles or anything like
20 that?

21 A. Uh-uh.

22 Q. Have you ever?

23 A. No.

24 Q. Or you just don't now?

25 A. Not particularly.

1 Q. You are a high school graduate, I note, and was
2 wondering if in high school you had any interest
3 in any particular subjects?

4 A. Not really.

5 Q. You have no educational background after high
6 school; is that right?

7 A. Correct.

8 Q. You ever watch any shows on TV that deal with
9 science, either scientific evidence or the
10 sciences generally?

11 A. Well, I watch *Law and Order* occasionally.
12 Sometimes forensic files is on either before or
13 after, I'm not quite sure.

14 Q. Those shows typically deal with a area of science
15 that's called DNA analysis.

16 A. Yup.

17 Q. Are you familiar with that at all?

18 A. Yup.

19 Q. Do you generally accept that as a accurate way to
20 make identifications, at least from a forensic
21 stand --

22 A. I believe so.

23 Q. -- or aspect? What I'm getting at, Ms Gosz, is
24 there isn't anything that you have heard or read
25 or in your history that brings DNA analysis into

1 question for you or anything like that?

2 A. Uh-uh.

3 Q. All right.

4 THE COURT: Ms Gosz, if you can answer yes
5 or no to the questions --

6 MS GOSZ: I'm sorry.

7 THE COURT: -- it will make life easier for
8 the court reporter. Thank you.

9 MS GOSZ: It's easier to spell yes than
10 mm-hmm. Okay.

11 ATTORNEY KRATZ: It is.

12 MS GOSZ: Sorry.

13 Q. (By Attorney Kratz)~ Are you aware of Mr. Avery's
14 history or a project in Wisconsin called Project
15 Innocence?

16 A. No.

17 Q. All right. Ms Gosz, I understand that you at
18 least provide some income to your home; your
19 husband is employed as well?

20 A. Yes.

21 Q. Would being on a jury for what is estimated to be
22 about six weeks; would that create a financial
23 hardship for you?

24 A. No.

25 Q. Can you tell me why?

1 A. Because Natural Ovens supports the community on
2 the basis that if do you have to report for jury
3 duty, they will supplement my income.

4 Q. That's nice. That's good.

5 A. Mm-hmm.

6 Q. You have had to, at least since you got the
7 notice about this case, thought of the
8 possibility of being a juror on the Steven Avery
9 case?

10 A. Mm-hmm. I'm sorry. Yes.

11 Q. Yes. Is that something that you believe would be
12 interesting? Is that something that you would
13 look forward to doing or, quite honestly, would
14 prefer not to do?

15 A. I don't know if look forward is the appropriate
16 way to say, but I definitely believe that being a
17 juror is part of your civic duty and I certainly
18 would be there to do that if you guys called upon
19 me to be there.

20 Q. You would agree to serve and if called by the
21 Court or by the attorneys to be one of those
22 jurors asked for this very important
23 responsibility, you would step up and do that; is
24 that right?

25 A. Yes.

1 Q. Okay. The last area of inquiry I have and the
2 Judge has told you that you will be able to go
3 home at night after each day of jury service.
4 But it looks like you are involved, in some
5 respects, with your son's Cub Scouts --

6 A. Mm-hmm.

7 Q. -- is that right? Do you have any contact with
8 any of their parents? Are you a den mother or
9 something --

10 A. No.

11 Q. -- like that?

12 A. No, I just take him to the meetings because my
13 husband works second shift so that makes me the
14 Cub Scout parent.

15 Q. All right. Kind of like a soccer mom, just with
16 -- with Cub Scouts, right?

17 A. Yeah.

18 Q. You would be able, then, to avoid contact with
19 other citizens and avoid contacting --

20 A. Mm-hmm.

21 Q. -- other people and talking about this case; is
22 that right?

23 A. Definitely.

24 Q. If I could have just a moment.

25 ATTORNEY KRATZ: I think that's all we

1 have, Judge. Thank you.

2 THE COURT: All right Mr. Strang.

3 ATTORNEY STRANG: Thank you.

4 VOIR DIRE EXAMINATION

5 BY ATTORNEY STRANG:

6 Q. Good morning.

7 A. Good morning.

8 Q. I'm Dean Strang and this is Jerry, or Jerome,
9 Buting and Steven Avery. We're the two lawyers
10 defending Mr. Avery. Let's start with your
11 husband a little bit, if I may.

12 A. Mm-hmm.

13 Q. Roman is a sanitation supervisor?

14 A. Mm-hmm.

15 Q. Is that with a municipality or is it with a
16 private company?

17 A. No, it's -- Natural Ovens has their own
18 sanitation crew, that's on Natural Oven's
19 payroll.

20 Q. Okay. So he's actually at Natural Ovens --

21 A. Yup.

22 Q. --too?

23 A. Yeah.

24 Q. All right. And he works second shift?

25 A. Mm-hmm.

1 Q. Which means 4 to midnight or ...

2 A. He works 1:30 to 9:30.

3 Q. All right. Are his hours consistent or does

4 he --

5 A. Yes.

6 Q. -- get called in for snow plowing or ...

7 A. No. No. It's very consistent.

8 Q. Okay. So, if you -- if you were tied up in a

9 jury trial for let's just say six weeks

10 approximately and having to go to Chilton every

11 morning and come back every evening --

12 A. Mm-hmm.

13 Q. -- so adding on to the day at both ends; someone

14 is able to get the kids off to school or ...

15 A. Yeah, see, right now a neighbor takes my daughter

16 because he's got a daughter that's the same age

17 that goes to the same school and he's on his way

18 to work anyway.

19 Q. Mm-hmm.

20 A. And my son, I drop off by that same neighbor

21 because they have kids that are his age, also,

22 that takes him to school. And that same

23 individual picks both my kids up from school, so

24 I'm not responsible for any of that at this

25 point.

1 Q. You are covered --

2 A. Yup.

3 Q. -- and I suppose your daughter is old enough to

4 sort of keep an eye on your son?

5 A. Yeah, she's basically the babysitter until I get

6 home. So she does that every day now for me.

7 Q. Okay. Has your husband talked about this case at

8 all?

9 A. No.

10 Q. Have any opinions on it?

11 A. No.

12 Q. When you first heard that Teresa Halbach --

13 Halbach went missing and, you know, they decided

14 she had been killed --

15 A. Mm-hmm.

16 Q. -- what was your reaction to that?

17 A. Well, you have concern because if it can happen

18 to her it can happen to anybody.

19 Q. Including your daughter?

20 A. Yeah.

21 Q. I mean, did you react as a mom?

22 A. Probably.

23 Q. When you say probably, I mean, do you --

24 A. Well, that's probably the way -- that's probably

25 the thinking I had because I'm very strict with

1 my daughter and always wanting to know where she
2 is.

3 Q. I picked up on that.

4 A. Yeah.

5 Q. Were you meaning to call the police on her or you
6 were just checking?

7 A. Well, I wanted to inquire about the curfew
8 because I just thought that it was kind of weird
9 that there would be a police -- and I guess the
10 reason I called, I didn't state that before is,
11 my sister had stated to me that there was a
12 patrol officer, like, in the vicinity.

13 Q. Mm-hmm.

14 A. So I just was kind of curious why they
15 wouldn't -- and, no, the curfew wasn't in effect
16 as far as they weren't breaking any laws in
17 essence, but still, three 15 year old girls out
18 at that time of night, I just thought that maybe
19 he would at least question, say, hey, you know,
20 it's getting close to that time, do you guys
21 think you should head home? Do you need a ride?
22 You know, so I guess I was just inquiring on that
23 nature.

24 Q. Okay. Sure. So you're protective, you reacted
25 to this as something horrible and if it could

1 happen to her, it could happen to anyone.

2 A. Mm-hmm.

3 Q. Were you glad to hear that they caught the guy?

4 A. I guess, in my opinion, it remains to be seen if
5 they have really caught the person.

6 Q. Okay. And that's sort of where I'm going. I
7 mean, are you concerned that they have not caught
8 the guy?

9 A. I guess I have really drawn no conclusion yet
10 because I don't really listen to what is said,
11 one way or another.

12 Q. Mm-hmm. And I -- We all would need to know but,
13 you know, let's -- let's be honest about it, at
14 this table, we have got a real immediate interest
15 in knowing that, if you sit on Mr. Avery's jury,
16 you can come into this presuming him innocent.

17 A. Definitely.

18 Q. You know, and I was glad to hear, I don't know
19 that they have the guy.

20 A. I mean, that's truly what this is all about
21 right, to make sure that the right person is
22 given the punishment needed for the crime that's
23 been committed. But the fact remains that it's
24 the right person and that's what everybody's job
25 here is to prove or not prove.

1 Q. Okay. And let's pick up on that. I want to pick
2 up on that because you say everybody's job here
3 is to prove or not prove. You know, to get -- to
4 get past sort of legal jargon --

5 A. Mm-hmm.

6 Q. -- it's not everybody's job here to prove that.
7 It's not the Judge's job to prove that and it's
8 actually not our job at all to prove that.

9 A. And I probably shouldn't generalize in saying
10 everybody. It's just everybody has their part in
11 the trial.

12 Q. Right.

13 A. You know what I'm saying?

14 Q. And I'm not picking on you.

15 A. Okay.

16 Q. Okay. I don't mean to pick on you, it's just --
17 that's why I'm trying to, you know, let's get
18 into a discussion about this.

19 A. I understand.

20 Q. The job to prove guilt lies with the State and
21 the State here happens to be represented by the
22 two gentleman, the two lawyers to my left.

23 A. Correct.

24 Q. And then our job is to defend Mr. Avery, but
25 those are very different jobs; do you understand

1 that?

2 A. Oh, definitely.

3 Q. In the sense that we don't have to prove
4 anything --

5 A. Right.

6 Q. -- to you?

7 A. I understand.

8 Q. Doesn't mean we're going to sit here like a bump
9 on a log. I mean, I'm talking to you now --

10 A. Mm-hmm.

11 Q. -- which technically Mr. Avery doesn't have to
12 have a lawyer do.

13 A. Right.

14 Q. But in the end, we don't have to prove anything
15 to you or convince you of anything; do you accept
16 that?

17 A. I understand that, yes.

18 Q. Can you -- Can you follow the rules in the system
19 that works like that?

20 A. I believe so.

21 Q. I mean, because I guess at some level it's
22 natural, obviously, to say there are two sides to
23 every story and I would like to hear both
24 sides --

25 A. Mm-hmm.

1 Q. -- before I make a decision?

2 A. Right.

3 Q. Do you react that way too?

4 A. I think so.

5 Q. I mean, just in everyday life?

6 A. Right.

7 Q. But when it comes to law in America and burdens
8 of proof, these folks do have the only burden.

9 A. Correct.

10 Q. They have to prove it, beyond a reasonable doubt.
11 If -- if he were to decide anyway to testify in
12 his own behalf, I think the Court would tell you,
13 the Judge would tell you, that you would weigh
14 his testimony just like any other witness.

15 A. Mm-hmm.

16 Q. Yes?

17 A. Yes. Sorry.

18 Q. Okay. And, you know, just decide like you would
19 any other witness, whether I believe it, or I
20 don't believe it, or how much of it I believe, or
21 how much weight I give it?

22 A. Right.

23 Q. Okay. Can you do that?

24 A. I believe I can.

25 Q. Even knowing that he's the one person in the

1 courtroom with sort of everything at stake?

2 A. I think so.

3 Q. He also -- The flip side of this is that he has a
4 right under the American constitution and
5 Wisconsin constitution, for that matter, to say
6 I'm not going to testify. I'm not -- I'm not
7 going to testify. I'm going to keep my silence.

8 A. Right.

9 Q. What are some of the reasons somebody might do
10 that if he was accused of a crime?

11 A. I'm not really sure.

12 Q. Advice from lawyers?

13 A. I guess could be a possibility.

14 Q. A sense that he could get tripped up by lawyers
15 on the other side?

16 A. I suppose that could also be a possibility.

17 Q. Fear the jurors might not believe him because he
18 does have a lot at stake?

19 A. I suppose there's a lot of outstanding
20 circumstances that could make someone want to or
21 not want too. I guess it's up to the individual.

22 Q. Right. And the point of all that, I mean, you
23 are exactly right I think. And the point is,
24 that's why in the end, if a defendant does not
25 testify, a Court will tell you you can't even

1 consider it.

2 A. Mm-hmm.

3 Q. It's not evidence of guilt. It cannot be
4 considered by you. And the question is always
5 did the State prove the case beyond a reasonable
6 doubt?

7 A. Right.

8 Q. Precisely so people aren't engaging in guessing
9 about why he didn't testify if he does not.

10 A. Right.

11 Q. Is that a rule you can follow?

12 A. I believe so.

13 Q. When you say you believe so, talk to me about --
14 you're qualifying it just a little bit. I want
15 to hear about that.

16 A. I guess I understand that each person has
17 different feelings on, you know, how they say
18 things or the body language they use that maybe
19 they decide that they don't want to say something
20 because they don't want something to be misread.

21 I mean, I know for a fact, being a
22 supervisor where I work, I have been training a
23 new person to assist me and people say, well, I
24 don't like the body language she uses. And she
25 means totally nothing by it, but they interpret

1 it the wrong way.

2 Q. Right.

3 A. So I have to go back and clarify that with them
4 in saying, you know, she totally didn't mean
5 anything by that, that's just her personality,
6 that's just the way she expresses herself. And
7 once you get to know her, you will understand
8 that that's how she is. And then they get past
9 that.

10 Q. Right.

11 A. It can be interpreted the wrong way.

12 Q. Sure. And courtrooms are actually very, very
13 tough places to get to know someone.

14 A. Exactly.

15 Q. It's pretty formal and --

16 A. Mm-hmm.

17 Q. Yeah, so that's -- I mean, that's very helpful to
18 hear. And so, you said I believe so, that I can
19 follow that rule; and are you -- have you sort of
20 finished explaining to me why you think the rule
21 does make sense --

22 A. Right.

23 Q. -- and you would follow it if the Judge gave it
24 to you?

25 A. Right, because some things could be

1 misinterpreted.

2 Q. Okay. And you'll follow it if the Judge --

3 A. Correct.

4 Q. -- tells you that? Okay.

5 A. Correct.

6 Q. So understanding how you reacted and how you
7 felt, how pretty much everybody felt, when the
8 announcement came out about Teresa Halbach's
9 death and someone being arrested for it; what was
10 your reaction a few months later when you heard
11 that Brendan Dassey, a 16 year old boy, had also
12 been arrested?

13 A. I guess I really don't -- I really didn't hear.
14 That was probably even less than the previous
15 things. I really didn't hear anything about it.
16 Again, maybe in passing somebody mentioned that a
17 relative had also been arrested, but that's
18 basically all I heard.

19 Q. So --

20 A. And I didn't inquire any more. You know, I just
21 -- I just do my thing and I just really don't pay
22 attention to those things.

23 Q. Sure. Tell me about -- Tell me about work in
24 that respect. How many people are you
25 supervising?

1 A. About 30.

2 Q. Really? Okay. And are they on a line or are
3 they moving around?

4 A. We're all basically -- Well, I shouldn't say all.
5 Basically two different rooms depending on if
6 it's packaging or at the end of the day when
7 we're loading the semis. I interact with a
8 handful of them, basically working on a line next
9 to them, depending on the day. Like today, if I
10 had been at work I had meetings all day. So then
11 that really limits the amount of people that I'm
12 with.

13 Q. Right.

14 A. Usually if I have meetings all day today, that
15 means tomorrow I have got tons of paperwork to do
16 in my office. So then I really don't see a lot
17 of people in regards. That's where I have my
18 assistants to help me out running the floor.

19 Q. And I was going to ask you about that. Are
20 there -- Among these 30 people you supervise, are
21 there team leaders --

22 A. Yes.

23 Q. -- or foremen?

24 A. Yeah, I have an assistant supervisor that assists
25 me. I have a lead person that runs the floor

1 when I need to call her off on other duties. And
2 then I have another supervisor that works our
3 morning shift because we have a shift that starts
4 at 2 a.m. in the morning. And then I have
5 another supervisor that runs basically our
6 loading crew in the afternoon and she has an
7 assistant as well.

8 Q. And all those people report to you?

9 A. Correct.

10 Q. So you have an office away from --

11 A. Yes.

12 Q. -- the two rooms?

13 A. Yes.

14 Q. But also spend some time out in the room?

15 A. Yes.

16 Q. And are many of the 30 people you supervise folks
17 you actually worked shoulder to shoulder with
18 before you were promoted?

19 A. I would say a handful of them because in the last
20 few years we have had some turn over.

21 Q. Mm-hmm. Is -- Is -- Is there a packing machine
22 running --

23 A. Oh, yes.

24 Q. -- in one of those rooms?

25 A. Yes. It's loud in our room.

1 Q. Okay.

2 A. Oh, yeah. The inspector actually just came in
3 and we have to mandate ear plugs now because it's
4 too loud in there.

5 Q. Okay. So chitty chat is difficult for --

6 A. Oh, yeah.

7 Q. -- a number of reasons?

8 A. Me giving out directions a lot of times is
9 difficult, you have got to scream because they
10 can't hear you or I have to walk across the room,
11 or if somebody is heading that way, hey, do me a
12 favor -- tell so and so, you know --

13 Q. Tap them on the shoulder?

14 A. Yeah.

15 Q. That kind of thing?

16 A. Yeah.

17 Q. And then so, likewise, in that work place, radios
18 aren't something people can do to help pass time?

19 A. They want them on, but you can't hear them
20 anyway. Like on Sundays, when the football is
21 on, let's turn the game on, it's like all you can
22 hear is, oi, oi, oi. It's just more annoying to
23 me than anything so I'm just like I would rather
24 we didn't.

25 Q. Okay. Yeah, and where I was going was just, I

1 want to get a better feel for why, you know,
2 there's not water cooler talk, so to speak --

3 A. Oh.

4 Q. -- about this case --

5 A. Yeah, no.

6 Q. -- where you work?

7 A. No. And we do have a lunchroom that employees
8 can go in for their breaks, but my husband
9 doesn't drive, so I usually go and pick him up
10 for work. So my lunchtime is spent driving to go
11 get him and coming back. So I don't have the
12 off -- you know, like on break interaction with
13 my employees that most people do.

14 Q. Mm-hmm. Okay. You may -- You may, if you sit on
15 this jury, hear something about a confession or,
16 you know, statements that Brendan Dassey made, or
17 you may not. But if you do, there will be an
18 issue about whether, you know, he made those
19 statements and then took them back --

20 A. Mm-hmm.

21 Q. -- later. And there will be an issue about which
22 is it. Did he really do it like he said at one
23 time or did he really not do like he said at
24 other times. And so the question for lawyers is,
25 you know, the false confession, the possibility

1 of a false confession?

2 A. Mm-hmm.

3 Q. And I'm wondering whether anything in your
4 experience has opened you up to the possibility
5 that sometimes people, for any number of reasons,
6 admit doing something they really didn't do?

7 A. I guess I don't have any particular incident
8 that's happened to me personally, in regards to
9 that.

10 Q. When you are in there, when you have got your
11 disciplinary hat on --

12 A. Yeah.

13 Q. -- or, you know, work rule enforcement hat on as
14 a supervisor --

15 A. Uh-huh.

16 Q. -- have you ever had one employee take the fall
17 for another one?

18 A. Not that I'm aware of.

19 Q. Okay. Do you watch out for that?

20 A. I guess it's something that's never really
21 happened, so I guess I really can't say I do.

22 Q. Okay.

23 A. Usually, we'll hear both sides, you know, and
24 usually it's one saying one way. And usually the
25 person at fault will come around and say, hey, I

1 made a mistake. And, you know, because the end
2 result is hopefully getting them back on a level
3 where they have to work with each other for 8
4 hours or more so, you know, a day.

5 Q. Right.

6 A. So at least get them civil.

7 Q. Right. Yeah, exactly. And if you hear evidence
8 here in this case about what factors, what things
9 might cause people under the right circumstances
10 to admit something they didn't do, will you be
11 open to hearing that sort of testimony?

12 A. Yes.

13 Q. You mentioned girlfriends, neighbors. And I
14 think you said girlfriends, or maybe you just
15 said friends. I don't know. But do you have a
16 group of friends who you tend to see regularly?

17 A. Not really.

18 Q. You mentioned this when you were saying people
19 always tease you because you don't know what's
20 going on.

21 A. Oh, co-workers.

22 Q. Oh, okay.

23 A. Yeah.

24 Q. Just about not knowing what's going on?

25 A. Yeah.

1 Q. If you sat on this jury, at the end, you and 11
2 other people are going to have a huge
3 responsibility, which is what?

4 A. To decide if he's guilty or innocent.

5 Q. That's right. Guilty or not guilty, in any
6 event. And big decision either way it goes,
7 right?

8 A. Definitely.

9 Q. Regardless of what you do, are you worried at all
10 about the next workday when you come back after
11 this long trial is over and having everybody, you
12 know, all your co-workers who do know what's
13 going on, saying why did you find him guilty, or
14 why did you find him not guilty?

15 A. Am I worried about it, no. Are they going to do
16 it, probably. Because they're already, oh, did
17 you get selected, did you get selected. And I'm,
18 like, don't know any more than you do. And if it
19 happens it happens, if it doesn't, it doesn't.
20 You know, you just play it one day at a time.

21 Q. Mm-hmm. Can you stand up to that?

22 A. Oh, definitely, because people have already at
23 work, you know, if -- now that they know that I
24 potentially could be a juror, they're like, well,
25 da, da. I'll be like, no, I don't want to hear

1 your opinion. The Judge has instructed that I'm
2 not to listen to anything and that includes you.
3 Well, it's just my opinion. I said, but he said
4 I still can't take your opinion. Granted, what
5 it means to me is probably nothing more than
6 their opinion, but it was still something that
7 was told we're not supposed to do.

8 Q. Do you want to be on this jury?

9 A. I have always wanted to be a juror, maybe not
10 necessarily for a trial of this magnitude but,
11 yeah, I have always wanted to do it.

12 Q. Why?

13 A. Because I find the whole court process to be
14 intriguing. It's -- It would be interesting.
15 Basically that's what, you know, the country is
16 founded on. You know, it's just, I guess, in
17 that degree.

18 ATTORNEY STRANG: Okay. Thank you.

19 MS GOSZ: You're welcome.

20 THE COURT: All right. At this time, Ms
21 Gosz, we'll have the Clerk escort you from the
22 courtroom.

23 (Wherein the juror was excused.)

24 THE COURT: Any motion from either party?

25 ATTORNEY FALLON: No.

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ATTORNEY STRANG: No.

THE COURT: All right. This juror is in. At this time we're going to take our lunch break. We'll report back at quarter to one. I would like to see counsel for just 30 seconds in my chambers before you leave.

(Noon recess taken.)

THE COURT: At this time we will go back -- oh -- I will go back on the record. Will the parties state their appearances for the record, please.

ATTORNEY FALLON: Good afternoon, your Honor, the State continues in its appearance by Assistant Attorney General Tom Fallon and Ken Kratz, special prosecutors.

ATTORNEY STRANG: Good afternoon. Steven Avery in person; Jerome Buting and Dean Strang on his behalf. And we have some further joint motions if the Court wishes to entertain those now.

THE COURT: That would be fine.

ATTORNEY FALLON: Your Honor, the parties had a chance to more closely inspect the questionnaires of four additional jurors. I think we have reached agreement that these four jurors could likewise be struck for cause; most of them

1 subjective bias primary reason, although I think
2 No. 73 could be both subjective and objective bias,
3 perhaps even a statutory bias argument could be
4 made.

5 But in any event Jurors 61, 63, 70, I
6 think we're in agreement should be struck for
7 subjective bias reasons. And No. 73, I think an
8 argument could be made touching upon all three of
9 the forms of bias, statutory, objective and
10 subjective. And in any event, I believe there is
11 a joint motion to excuse those jurors.

12 ATTORNEY STRANG: That is a joint motion
13 for the reasons that Mr. Fallon has explained.

14 THE COURT: All right. The Court then will
15 excuse -- let's see -- it's Dean Schneider, James
16 Wagner, Andrew Wimmer and Jesse Gibas.

17 ATTORNEY FALLON: Gibas, right.

18 THE COURT: The Court will order, then,
19 that those jurors be excused. Counsel, I think the
20 next juror that's up is William Mohr.

21 ATTORNEY FALLON: That's correct, Judge. I
22 wanted to address one other matter and just for
23 convenience purposes or expediency, I'm not sure
24 which is the best terminology here, but the Court
25 asked us to look at No. 74.

1 THE COURT: Yes.

2 ATTORNEY FALLON: Ordinarily I'm not sure
3 that we would get to that juror today on our list,
4 but if need be we could. I have shared our copy of
5 the questionnaire with the defense. And on paper,
6 he looks fine. There's only one matter that is of
7 some importance that would require an inquiry. So I
8 don't know, you said he was already here, even
9 though we may not get to him, so I don't know how
10 you wanted to deal with him.

11 THE COURT: All right. Well, we'll simply
12 leave him here today then.

13 ATTORNEY STRANG: I think he's going to
14 wind up going, but I tend -- I tend to agree with
15 Mr. Fallon in the sense, if it's just on paper; I
16 don't know that cause appears --

17 THE COURT: Okay.

18 ATTORNEY STRANG: -- on the face of the
19 paper.

20 THE COURT: I would agree with that.

21 ATTORNEY STRANG: I think we're going to
22 lose him but ...

23 THE COURT: I will also let you know, and I
24 don't know that this appears on paper either, but
25 the next juror, William Mohr, his spouse, Alice

1 Mohr, is a recently retired employee of the Clerk of
2 Court's Office who is, during the pendency of this
3 trial, back working at the Clerk of Court's Office
4 to help fill in for the staff shortage down there
5 during the trial. That may speed things along for
6 your questioning. And -- But I did want to make the
7 parties aware of that fact.

8 ATTORNEY FALLON: Could we have a moment
9 just to --

10 THE COURT: Go ahead.

11 ATTORNEY FALLON: -- contemplate the
12 meaning of all that?

13 THE COURT: Yes.

14 ATTORNEY FALLON: We'll proceed.

15 THE COURT: Then we'll bring William Mohr
16 out as the next juror.

17 Mr. Mohr, please raise your right hand
18 and the Clerk will administer the oath.

19 (Juror sworn.)

20 THE CLERK: Please be seated.

21 THE COURT: Mr. Mohr, you have already
22 completed a written questionnaire in this case.
23 This afternoon we're moving on to the next phase of
24 jury selection which is voir dire.

25 The attorneys for each of the parties,

1 in a few minutes, will have a chance to ask you
2 some questions relating to your qualifications as
3 a juror. You should know that if you are
4 selected to serve as a juror in this case, that
5 the jury will not be sequestered. That means you
6 will be able to report home each day after the
7 trial proceedings are completed for that day.

8 The jurors will continue to be
9 prohibited from learning anything about this case
10 through the media; be it radio, television,
11 newspaper, the internet, or any other source.
12 And the jurors will be prohibited from discussing
13 the case, either among themselves, or with anyone
14 else, including members of their family.

15 The proceedings today are open, but
16 during voir dire we do not allow cameras in the
17 courtroom and the members of the media are not
18 permitted to disclose the names of potential
19 jurors or jurors in their news accounts of these
20 proceedings. In addition, if you're selected to
21 serve as a juror, the cameras will not be
22 permitted to show the jury during the trial.

23 At this time we will proceed to voir
24 dire questioning. Mr. Fallon.

25 ATTORNEY FALLON: Thank you.

1 VOIR DIRE EXAMINATION

2 BY ATTORNEY FALLON:

3 Q. Good afternoon, Mr. Mohr.

4 A. Yes.

5 Q. My name is Tom Fallon and I'm an Assistant
6 Attorney General with the Wisconsin Department of
7 Justice. I'm one of the prosecutors in this
8 case. To my immediate left is Mr. Ken Kratz.
9 He's a Calumet County District Attorney and
10 special prosecutor as well.

11 Thank you for coming in this afternoon.
12 The point of the afternoon session here is to
13 follow up on some of the information that you
14 provided in your questionnaire last Monday. And
15 that's where we'll begin.

16 Seems to me you have a few relationships
17 with which are of interest to the parties here.
18 And the Court has just advised us, we're under
19 the impression that your wife is an employee of
20 the Clerk of Court's Office?

21 A. Yes, a temporary employee.

22 Q. All right. And temporary at the current time as
23 I understand?

24 A. Yes.

25 Q. All right. And she previously worked at the

1 Clerk of Court's Office?

2 A. Yes.

3 Q. All right. Has she officially retired and is
4 just coming back to help out?

5 A. Correct.

6 Q. All right. Could you tell us when she retired?

7 A. Um, June of '05, I believe.

8 Q. June of '05. All right.

9 A. Yes.

10 Q. Okay. And how long did she work in the office;
11 do you recall?

12 A. 13 or 14 years.

13 Q. All right. Had she had other county employment
14 before she was in the Clerk's Office?

15 A. No.

16 Q. All right. And her current duties in the Clerk's
17 Office, if you know, are what?

18 A. Just the Clerk of Court.

19 Q. All right. Very good. And you said temporary,
20 is it for a period of time longer than the
21 expected length of this trial or is it ...

22 A. No, just about the six week period.

23 Q. Just to help out for the overload as a result of
24 the trial?

25 A. Right.

1 Q. Okay. More to the point, how well do you know
2 any of your wife's co-workers?

3 A. That was one of the questions I wanted to ask
4 about.

5 Q. All right.

6 A. I believe the question stated, do you personally
7 know, and then they went quite a lengthy list of
8 names.

9 Q. Right.

10 A. And that the word personally was, the more I
11 thought about it after I filled this out, I
12 wondered what they meant by personally.

13 Q. Okay.

14 A. I have been to parties with one or two
15 individuals on that list, like a graduation
16 party, a Christmas party, things of that nature.

17 Q. All right. Well, let's -- let's change the
18 adjective from personally or the -- and go to, of
19 the individuals in the office say, for instance,
20 do you know the woman here, Janet Bonin?

21 A. Yes.

22 Q. All right. Would you say that you are a friend,
23 a close friend, close acquaintance, casual
24 acquaintance; how would you describe your
25 knowledge of her?

1 A. Casual acquaintance.

2 Q. Okay.

3 A. By that I mean, once a year maybe I see her --

4 Q. All right.

5 A. -- out.

6 Q. In a setting other than the courthouse?

7 A. Right.

8 Q. All right. Who else in the office would you say

9 is in that category, casual acquaintance,

10 somebody that you would know?

11 A. Probably Mary Jo Murray.

12 Q. Mary Jo Murray?

13 A. Murray.

14 Q. Okay.

15 A. And under the same casual acquaintance.

16 Q. Sure. All right. Do you know the Clerk of

17 Court, Lynn Zigmunt?

18 A. About the same.

19 Q. Okay.

20 A. Acquaintance.

21 Q. Anyone else that you can think of that you have

22 at least some kind of casual relationship with?

23 A. Probably Brenda, she's been ... Brenda Smith.

24 Q. All right.

25 A. Actually, several of them, I mean they have all

1 been to the same Christmas party --

2 Q. Right.

3 A. -- or birthday or graduation party.

4 Q. Parties, right.

5 A. So, Nicole. I don't remember a lot of the other

6 names.

7 Q. All right. Are any of them -- Would you consider

8 any of them close friends, you know, somebody

9 that you see more often, more socially, than

10 these traditional Christmas gatherings or special

11 occasion events?

12 A. Brenda, we had a -- what you call a -- AA

13 meetings, alcohol --

14 Q. Right. Sure.

15 A. We used to gather, but we don't even do that any

16 more.

17 Q. All right.

18 A. That was like a once a month thing and we just

19 did that --

20 Q. Sure.

21 A. -- over the winter.

22 Q. Okay.

23 A. And we haven't done that this winter --

24 Q. All right.

25 A. So --

1 Q. Okay. Well, the reason we ask is, there's a
2 possibility that some of those individuals may
3 show up as witness in this case; it's still yet
4 to be determined if that occurs. And so the
5 question is, since your wife has worked in that
6 office for a number of years and is now
7 temporarily filling in, if that were to occur
8 would you have a problem, would you be
9 uncomfortable as a juror trying to assess the
10 credibility of these witnesses?

11 A. No.

12 Q. All right. You feel that you could evaluate
13 their testimony the same as you would any other
14 witness that might appear in the case?

15 A. Yes.

16 Q. All right. You feel pretty confident about that.

17 A. Yes.

18 Q. Even though your wife is now back working in the
19 office as a temporary clerk and should you be
20 selected as a juror in this case; do you have any
21 worries or concerns about the affect or any
22 feedback you would get from a verdict you reach,
23 whether it's a guilty verdict or a not guilty
24 verdict? Do you think that might cause some
25 problems at home, or any other issues for you and

1 your wife?

2 A. No, certainly not.

3 Q. All right. Okay. Now, there was one other
4 relationship that I wanted to clarify. In answer
5 to the question, do you know or are you
6 acquainted with any member of Steven Avery's
7 family or any of his relatives, you answered yes.
8 I think you said my wife's brother's wife is a
9 cousin. Would that be your sister-in-law is a
10 cousin of Mr. Avery?

11 A. My wife's sister-in-law.

12 Q. Your wife's sister --

13 A. Through marriage this is.

14 Q. Okay.

15 A. And it would be a distant cousin, like a third or
16 possibly a fourth --

17 Q. Okay.

18 A. -- cousin.

19 Q. You are sure that it's third or fourth degree
20 cousin?

21 A. Yeah.

22 Q. Okay. Not anything closer than that?

23 A. No.

24 Q. Do you have occasion at all to see the
25 sister-in-law at all?

1 A. Once a year maybe --

2 Q. All right.

3 A. -- Christmas time --

4 Q. All right.

5 A. -- possibly.

6 Q. Have you had any contact with her or any member

7 of her family since this case has grabbed the

8 headlines, as it were?

9 A. No.

10 Q. All right. The fact that you have this

11 relationship, does that make it uncomfortable for

12 you to be a juror in this case and to have to

13 render a verdict of either guilty or not guilty,

14 based on the evidence?

15 A. No.

16 Q. All right. You feel pretty confident that you

17 would be able to decide this case solely on the

18 evidence that's presented in the trial and

19 without deference to any association through

20 the -- your -- through marriage or through your

21 wife's work?

22 A. Yeah, that wouldn't have any impact on it.

23 Q. All right. And you are pretty confident of that?

24 A. Yes.

25 Q. All right. Okay. There's been a, as you are

1 probably aware, a fair amount of publicity about
2 this case, so I want to start with that. And
3 there's several questions of interest to both
4 parties, relative to the publicity. Now, when
5 you were asked the question in your
6 questionnaire, you indicated you haven't formed
7 any opinions based on the publicity; is that
8 correct?

9 A. That's correct.

10 Q. All right. And you say, have you discussed this
11 case at length with any other persons, you
12 answered yes. And in your explanation, you said
13 you have maintained that Mr. Avery could be
14 innocent; is that correct?

15 A. Yes.

16 Q. With whom would you have had that discussion?

17 A. Oh, my brothers and sisters and also on my wife's
18 side, her brothers and sisters.

19 Q. Okay. All right. So you have had some family
20 discussion regarding this particular case?

21 A. Yes.

22 Q. All right. In terms of that discussion, during
23 the course of it, was any of the expected or
24 anticipated evidence in this case part of the
25 discussion, the arguments, or the give and take?

1 A. What do you mean by expected?

2 Q. Well, for instance, when you discussed the case
3 with your brothers and sisters and your wife's
4 brothers and sisters, I would imagine, you know,
5 there would be some, well, I think he's guilty
6 because of X, Y and Z; somebody else say, well,
7 you know, I'm not so sure about that because of
8 A, B and C. I mean is that the kind of
9 discussion that you are having?

10 A. Mm-hmm.

11 Q. All right. So my question, then, to you, sir, is
12 what information do you have or that was
13 presented to you during the course of these
14 discussions; what kind of information did the
15 media provide you that was fueling the discussion
16 as it were?

17 A. That the evidence was found at the salvage yard,
18 the body, and it was in the burn barrel; there
19 was keys found in the trailer, that belonged to
20 the car, her car.

21 Q. Right. Any discussion regarding a fellow by the
22 name of Brendan Dassey and what he may or may not
23 have said as part of the family discussion?

24 A. Yes, his name was brought up. And it was just
25 kind of, yes, he could have been there; no, he

1 couldn't have been there. Just, nothing
2 definite. Nothing definitive. It was just ...

3 Q. All right. Was there any discussion from any of
4 the family members regarding the details of what
5 Mr. Dassey is reported to have described
6 happened?

7 A. If I remember right, just something said about,
8 he was physically there at the time it happened.

9 Q. All right. Do you recall any other details that
10 are attributed to Mr. Dassey's description of the
11 events?

12 A. None.

13 Q. All right. In terms of the coverage of this
14 case, did you recently receive a letter from
15 Judge Willis asking you to refrain from reading
16 and watching the news relative to this case?

17 A. Yes.

18 Q. All right. And have you been able to abide by
19 that?

20 A. Yes.

21 Q. What's the last thing you remember seeing, or in
22 the news -- or hearing about in the news,
23 regarding this case, before you stopped paying
24 attention altogether?

25 A. Just that the trial was going to take place this

1 week --

2 Q. All right.

3 A. -- as soon as they had the jurors picked.

4 Q. All right. So you haven't paid attention to any
5 of the recent news articles or any of the issues
6 that the lawyers have been arguing in court about
7 or any of that?

8 A. No.

9 Q. All right. And you are not familiar with any
10 discussion of any blood, or blood evidence, or
11 anything like that?

12 A. There was some vial, or blood vial found.

13 Q. Okay. What do you recall or remember about that?

14 A. It was supposedly tampered with.

15 Q. All right.

16 A. It was unsecured or in an unsecured area.

17 Q. All right. And do you have any recollection as
18 to where that area would be or any other details
19 about that?

20 A. I believe it was in the Clerk of Court Office.

21 Q. Okay. All right. And the fact that there's the
22 possibility of some evidence that's associated
23 with the police, where your wife works; is that
24 going to present any problems for you?

25 A. No.

1 Q. All right.

2 A. No, I believe that happened while she was not
3 employed there.

4 Q. All right. And what -- what do you believe
5 happened while she was not employed there?

6 A. I -- I don't know.

7 Q. Okay. I was just curious as to your choice of
8 words, when you said -- why you chose that choice
9 of words, in terms of whatever happened, or you
10 believe it happened when she wasn't employed
11 there. So I'm thinking that you must have
12 something in your head that something must have
13 happened?

14 A. Well, they said that blood had been tampered
15 with.

16 Q. Okay.

17 A. And I'm saying that must have happened sometime
18 prior to her going back there as a temporary.

19 Q. Okay.

20 A. That's all.

21 Q. Now, why do you say that?

22 A. I believe that evidence came out about -- it was
23 before she started there as a temporary. That
24 evidence must be a couple weeks old, for sure.

25 Q. All right.

1 A. And she just started working there this last
2 Monday.

3 Q. All right. Well, if it came to pass that the
4 evidence was in the possession of the Clerk's
5 Office for 10 years, would that change your
6 opinion and make it perhaps difficult for you to
7 sit on this case?

8 A. No.

9 Q. It would not?

10 A. It would not make it.

11 Q. All right. And why wouldn't it?

12 A. She didn't have accessibility to the sample.

13 Q. Okay.

14 A. So I feel it didn't affect her.

15 Q. All right. And how would you know that?

16 A. She told me that.

17 Q. All right.

18 ATTORNEY FALLON: Could I have a moment,
19 your Honor.

20 Q. (By Attorney Fallon)~ Just a couple more
21 questions. So I take it there's been at least
22 some discussion in your family, with your wife,
23 about this blood vial?

24 A. That was the only discussion --

25 Q. All right.

1 A. -- that she did not have accessibility to the
2 sample.

3 Q. Okay. Any other discussion as to who may have
4 had access to the blood vial?

5 A. I don't believe so.

6 Q. Are you reasonably sure or just nothing that
7 comes to your mind right now?

8 A. Nothing comes to my mind now.

9 Q. All right. Now, you indicated that -- that in
10 the discussions with the family members you
11 maintain that it's possible that Mr. Avery could
12 be innocent; is that correct?

13 A. That's correct.

14 Q. All right. And what was your thinking or how did
15 that come to pass?

16 A. Well, I believe every person is innocent until
17 proven guilty. And I will look at the evidence
18 presented and come up with the -- hopefully a
19 fair and just judgment on this.

20 Q. Okay. You feel pretty confident in your ability
21 to do that?

22 A. Yes.

23 Q. Okay. Also, I note from your questionnaire that
24 it looks like you had an encounter with an
25 individual who was not all that pleasant and was

1 attempting to fight with you; is that correct?

2 A. That's correct.

3 Q. And you made a complaint to the police
4 department?

5 A. Well, we were both taken into custody that
6 evening.

7 Q. All right.

8 A. And I never saw this person before in my life.
9 And in fact I tried avoiding him and when I
10 turned my back on him, he jumped me and that's
11 when the police showed up. It was right at the
12 intersection of Washington and 8th Street. So it
13 was a pretty prominent intersection in town.

14 Q. Sure.

15 A. And good thing they came along when they did
16 because they pulled him off of me and they kept
17 asking him what I done to make him want to fight
18 with me. And they asked -- they asked him that
19 three times and I wondered, does -- is there a
20 relationship there; why would they put it that
21 way.

22 Q. Mm-hmm.

23 A. And they asked me, do you know this person and
24 why do you want to fight with him. And I says, I
25 told you already, I don't want to fight with him.

1 I refused to fight. And when I turned my back,
2 that's when he jumped me --

3 Q. Mm-hmm.

4 A. -- and that's when you people showed up.

5 Q. Okay. So it was just happenstance that they
6 showed up right at that moment?

7 A. Right.

8 Q. Okay. And did you know the guy?

9 A. No, never saw him in my life.

10 Q. Never saw him before?

11 A. No.

12 Q. All right. So it was a mystery to everyone as to
13 why he decided to pick a fight with you?

14 A. Yes.

15 Q. Okay. And apparently there was no follow-up
16 report filed, or no charges filed, or any of that
17 sort?

18 A. No, the police said they would, after they
19 released us the next morning --

20 Q. Right.

21 A. -- they said that they would call to find out, or
22 to let us know if they are going to press charges
23 or not. And they never called.

24 Q. All right. Now, was that -- Did -- That other
25 guy had -- can you think of any reason, I mean,

1 did he have too much to drink? I mean, did he
2 mistake you for somebody else? Did -- Any idea?

3 A. I think he maybe thought my car should have been
4 going faster than what it was, because he was
5 right on my bumper.

6 Q. I see.

7 A. I had a '68 Camaro Rally Sport. It was a nice
8 looking vehicle.

9 Q. All right.

10 A. And he stayed right on my bumper. And it was
11 foolish of me to pull into the Pizza Garden
12 parking lot. I should have went right to the
13 police station.

14 Q. I see. So he was a traffic vigilante as we say.
15 All right.

16 A. Yeah, I couldn't shake him. I tried a couple --
17 going from north of town to the Pizza Garden,
18 which was right downtown. I tried a couple of
19 side streets and I couldn't shake him. I thought
20 I was in his way, you know.

21 Q. All right.

22 A. But he just kept right on me.

23 Q. Okay. Well, how did you feel about the fact that
24 the police didn't ask the D.A. to press charges?

25 A. I felt, at the time, that they didn't do their

1 job. But thinking back on it, I thought, well,
2 it was his word against my word and they just
3 came upon two people fighting, so I suppose I
4 could see their side of it too.

5 Q. All right. In retrospect, do you think it was
6 handled fairly or unfairly?

7 A. I would have to say fairly --

8 Q. All right.

9 A. -- just going by their evidence and what -- what
10 I told hem.

11 Q. All right. So, with the passage of time, you
12 have had the ability to reflect on it and have a
13 somewhat, I suspect, different perspective than
14 you had that night when it happened?

15 A. Right.

16 Q. Okay. All right. Well, the reason that's of
17 some importance to all of us here is that there's
18 going to be fair amount of testimony from law
19 enforcement officers of all sizes and shapes and
20 departments and what have you, police and sheriff
21 and the like. And one of the things as a juror
22 you will be asked to do is to evaluate the
23 credibility of witnesses.

24 And the Court will be instructing you
25 that you should evaluate the credibility, the

1 honesty, the believability of all of the
2 witnesses the same. In other words, just because
3 they are a police officer, or an expert witness,
4 or even a defendant, for that matter, you should
5 evaluate their testimony the same as you would
6 anyone else. Do you think you could follow that
7 instruction?

8 A. Yes, I do.

9 Q. All right. Is there any doubt in your mind,
10 based on this, you know, encounter with this
11 crazy guy that, you know, although you might have
12 wanted to see charges pressed years ago; is there
13 any way that would affect your ability to
14 evaluate the testimony of the officers the same
15 as you would any other witness?

16 A. No, that wouldn't affect it.

17 Q. All right. Now, apparently you have also had, I
18 take it, some good experiences with the Manitowoc
19 Sheriff's Department. You mentioned some work
20 they do with the fire department?

21 A. Yes.

22 Q. Have you an association with the fire department
23 at all?

24 A. No, I'm a volunteer fireman.

25 Q. Oh, you are a volunteer, that was what I was

1 getting at.

2 A. Yes.

3 Q. All right. So tell me about your encounters
4 working with the Sheriff's Department as a
5 volunteer fireman?

6 A. On certain accident scenes out in the country, we
7 would need traffic control. And at times they
8 would block intersections or block off parts of
9 the road, whatever we needed, when they had
10 personnel available to do that. But, now, most
11 of the time, it's just the fire departments
12 themselves that are doing the traffic control.

13 Q. I see. So when you -- So, did you have any
14 direct contact with members of the sheriff's
15 department for traffic control or firefighting
16 duties, as a volunteer.

17 A. I would have to say no.

18 Q. Okay. All right. But -- So your opinion or your
19 impression then comes from just your volunteering
20 and being on the scene. And it -- I take it, it
21 generally seemed to you that everything was
22 working smoothly and people were doing what they
23 were supposed to and getting along?

24 A. That's correct.

25 Q. Okay. Now, as a volunteer fireman, have you ever

1 participated, for instance, in any missing person
2 searches or anything like that?

3 A. A number of years ago there was a search in the
4 Town of Two Creeks, where I am a volunteer in, of
5 a missing person.

6 Q. In the town of -- I'm sorry?

7 A. Two Creeks.

8 Q. Two Creeks, okay. And what kind of role did you
9 have assisting in that?

10 A. We walked down the road, Highway 42, looking in
11 culverts for a possible body.

12 Q. Okay.

13 A. And places where a body could be dumped.

14 Q. Sure. Was there any -- was the person located at
15 all?

16 A. No.

17 Q. All right. How long were you involved in the
18 search?

19 A. Oh, part of an afternoon, I will say two, three
20 hours.

21 Q. All right. Were you part of a -- an overall team
22 or organized plan of searching, or were you just
23 more or less on your own?

24 A. Yes. It was through the fire department. It was
25 -- most of the department was involved.

1 Q. Okay. Who was coordinating the search, by the
2 way, overall; the sheriff or a local police, or
3 who was helping orchestrate the search, or was it
4 just some private citizens?

5 A. I believe it was under direction of the county
6 traffic department.

7 Q. County traffic department, okay.

8 A. They are the ones who page us out for any fire
9 calls or anything, so, I'm thinking that
10 direction would have had to come through them.

11 Q. Okay. Did you find that -- How did you like that
12 experience of participating in a missing person
13 search, only to find no person?

14 A. I was glad it turned out that way.

15 Q. All right. And why was that, almost afraid that
16 you would find somebody deceased?

17 A. Yeah. And wondered what the -- what the
18 condition would be --

19 Q. Right.

20 A. -- of that body.

21 Q. Now, in terms of the big picture perspective
22 here, was that person ever located, to your
23 knowledge?

24 A. I don't remember. That's quite a number of years
25 ago.

1 Q. Okay. Now, since this case, you might, if
2 selected as a juror, hear evidence that's how
3 this case started. The fact that you have
4 participated in one of those searches, does that
5 raise any question in your mind as to whether you
6 would be able to listen to the evidence in this
7 case and decide this strictly on what's presented
8 in this case?

9 A. That wouldn't bother me.

10 Q. Okay.

11 ATTORNEY FALLON: One moment.

12 Q. (By Attorney Fallon)~ I just have a couple last
13 questions. I see you served on a jury once
14 before.

15 A. Yes.

16 Q. Was that a -- a civil case or a criminal case?
17 And the reason I ask is you checked civil, but
18 you said you found a verdict of guilty, so I'm --
19 what kind of -- if you could tell us a little bit
20 about the case?

21 A. Yeah, I'm confused as far as civil or criminal,
22 it was a drunken driving charge.

23 Q. Oh, I see. Okay. All right. Well, that could
24 be either one. All right. So how long did the
25 trial last?

1 A. It was just one day.

2 Q. All right. And were you asked to make a
3 determination, based on reasonable doubt, or was
4 the burden for the prosecutor clear and
5 convincing evidence?

6 A. It was beyond a reasonable doubt.

7 Q. Okay. How long did the deliberations go? An
8 hour, two hours, three?

9 A. I'm going to say an hour.

10 Q. All right. Were you the foreperson?

11 A. No.

12 Q. Okay. Was there anything about the experience of
13 working with your peers, other community members,
14 in evaluating the evidence and debating the pros
15 and cons of each side's arguments; was there
16 anything about that experience that causes or --
17 any question in your mind as to whether you could
18 perform that role again, even in this case, where
19 the stakes are much higher?

20 A. No, that wouldn't bother me.

21 ATTORNEY FALLON: All right. I will pass
22 the juror for now.

23 THE COURT: Mr. Strang.

24 ATTORNEY STRANG: Thank you.

25 **VOIR DIRE EXAMINATION**

1 BY ATTORNEY STRANG:

2 Q. Good afternoon, Mr. Mohr.

3 A. Yes, good afternoon.

4 Q. I'm Dean Strang and this is Jerome Buting and
5 Steven Avery. We're the defense lawyers
6 defending Mr. Avery. Let me go to this incident
7 where the fellow jumped on you?

8 A. Okay.

9 Q. That was, I think you said that was right here;
10 it wound up at the corner of 8th and Washington?

11 A. Yes.

12 Q. Was it the Manitowoc Police Department who
13 happened on you?

14 A. Yes.

15 Q. It had nothing to do with the sheriff's
16 department?

17 A. Right.

18 Q. And if I under -- if I understood you correctly,
19 you come here today presuming Mr. Avery innocent?

20 A. Right.

21 Q. And you haven't made any further decision or
22 opinion about the case other than he, like anyone
23 charged with a crime, is presumed innocent?

24 A. Correct.

25 Q. What I -- What I need to know is that, then, if

1 you are asked in the end to be one of the people
2 who actually serve on the jury, that you would
3 consider any evidence that we offer just as you
4 would consider any evidence the State offers?

5 A. Right.

6 Q. That you would be willing to consider both sides?

7 A. Right.

8 Q. If we offer evidence?

9 A. Yeah.

10 Q. All right. You understand, first of all, that we
11 don't have any burden of proof, the accused in
12 this country has no burden to prove himself
13 innocent; rather the State or the government has
14 the burden to prove him guilty, beyond a
15 reasonable doubt?

16 A. Correct.

17 Q. And that's a rule you can follow?

18 A. Yup.

19 Q. However, if we would call witnesses for the
20 defense, maybe, for example, a witness to explain
21 why someone might confess to something he really
22 didn't do, if that became an issue in the case,
23 would you listen to that sort of testimony from
24 the defense, just as you would listen to the
25 State's testimony?

1 A. Yes.

2 Q. If we offered evidence tending to suggest that
3 law enforcement officers had a bias in the case,
4 or reasons to get out of line, cross a line,
5 would you at least listen to that evidence with
6 an open mind?

7 A. Yes.

8 Q. One of the things that's difficult in any
9 criminal case, both for the man or woman accused
10 and for the defense lawyers is to decide whether
11 the accused should testify in his own defense or
12 not testify. Do you understand that in this
13 country, a person accused of a crime has the
14 right to choose to do either; that is, to testify
15 or to decline to testify?

16 A. Yes.

17 Q. Is that a rule that you can live with if the
18 Court instructs you on it?

19 A. Yes.

20 Q. You can follow that?

21 A. Yes.

22 Q. And if Mr. Avery, with our advice, were to decide
23 to take the stand and testify, could you consider
24 his testimony just as that of any other witness?

25 A. Yes.

1 Q. You, of course, don't know, you can't know,
2 whether you would believe him or not believe him,
3 just like you couldn't know whether you would
4 believe or not believe any other witness?

5 A. That's correct.

6 Q. But you would hear him and consider the same
7 factors in deciding whether to believe him or
8 not?

9 A. Yes.

10 Q. Same with a police officer; regardless whether we
11 called the police officer or the State called
12 him?

13 A. Yes.

14 Q. What if Mr. Avery, again, on our advice, decided
15 not to testify, would you be able and willing,
16 you know, really to follow and embrace the rule
17 from the Court that the defendant's decision not
18 to testify is something you cannot consider as
19 any evidence of guilt and, in fact, cannot
20 consider at all in deciding whether the State has
21 proven him guilty beyond a reasonable doubt;
22 could you follow that rule?

23 A. Could you explain that again.

24 Q. It got long, I'm sorry. If he decides not to
25 testify --

1 A. Okay.

2 Q. -- in this trial, he does not take the witness
3 stand --

4 A. I wouldn't have a problem with that.

5 Q. -- could you follow a rule that says you can't
6 even consider it, cannot even consider that fact
7 in weighing the evidence and deciding your
8 verdict?

9 A. Yes, I could.

10 Q. Can you see, or do you agree, I guess I will ask
11 you, that the defendant faces the risk, if he
12 does testify, that people will think he's up
13 there going to say anything to try to save his
14 skin? Can you see how that might be a concern if
15 you are the defendant?

16 A. Yes, but I wouldn't -- that thought wouldn't have
17 entered my mind.

18 Q. Okay. Your mind, but you can see how it might
19 enter the accused's mind?

20 A. Right.

21 Q. And at the same time, can you see how the accused
22 might say, boy, if I don't testify, will the
23 jurors think I'm hiding something, or that I must
24 be guilty, otherwise I would get up and say I was
25 innocent? Can you see how he might -- he might

1 feel that way?

2 A. Mm-hmm.

3 Q. Yes, no?

4 A. Yes.

5 Q. Okay. But in the end, you are willing to live by
6 rules that say you can't speculate on those
7 reasons, you are just here to consider the
8 evidence and decide whether the State has proved
9 the case, beyond a reasonable doubt?

10 A. That's correct.

11 Q. Suppose that, at the end of all the evidence from
12 either side or both, you were left with the sense
13 that the defendant could be guilty, but that you
14 were not convinced of it, beyond a reasonable
15 doubt, and yet you didn't know who did kill this
16 young woman, if he didn't. Could you vote not
17 guilty if you just were not convinced, beyond a
18 reasonable doubt, that Mr. Avery was the one who
19 killed Teresa Halbach?

20 A. Yes, I could.

21 Q. And live with the uncertainty about who did it?

22 A. Yes.

23 ATTORNEY STRANG: That's all I have. Thank
24 you very much.

25 THE COURT: Anything else? If not, Mr.

1 Mohr, we'll have the Clerk escort you from the
2 courtroom at this time.

3 (Wherein the juror was excused.)

4 THE COURT: Counsel, is there a motion from
5 either party?

6 ATTORNEY FALLON: From the State there will
7 be, your Honor. I didn't move right away, I wanted
8 to hear Mr. Mohr's response to the rest of my
9 questions and to Mr. Strang's as well and think
10 about this. And I have come to the conclusion that
11 we believe that Mr. Mohr should be struck for cause
12 and would so move.

13 My concern is wholly related to the
14 potential that witnesses from the Clerk's Office
15 will be called to the stand in this case. I am
16 concerned by the fact that if he were selected as
17 a juror, he would have knowledge about the
18 workings of the office which may extend beyond
19 that which is introduced as evidence.

20 He's already had a discussion with his
21 wife regarding what she knows or does not know of
22 the existence of this vial of blood and whether
23 she had access to it. And based on what the
24 parties know, in terms of the circumstances of
25 the evidence, I'm not sure that he has all the

1 information.

2 Nonetheless, I think that what we have
3 here is an individual that -- I'm not sure if
4 it's best articulated as an objective bias or a
5 statutory bias, most likely objective bias for
6 his -- by his association with potential
7 witnesses. Admittedly, they are casual
8 acquaintances, but then again, his wife worked in
9 that office during much of the time in which that
10 vial of blood was part of a previous proceeding
11 and he's had those discussions. And quite
12 frankly, I think the possibility of -- of -- of
13 information extraneous to what is introduced is
14 too high to take that chance. And we move that
15 he be struck for cause.

16 THE COURT: Mr. Strang.

17 ATTORNEY STRANG: Thank you, your Honor.
18 There is not cause to strike Mr. Mohr. Let's go
19 back, for starters, to the case that Mr. Fallon
20 cited yesterday arising out of District 1, District
21 1 Court of Appeals, in which someone who actually
22 was an employee of the District Attorney's Office of
23 Milwaukee County, albeit in the Juvenile Section,
24 not downtown, herself served on a juror (sic).

25 And the law of Wisconsin was that that

1 was not cause for a strike, where she said that,
2 although employed by the same agency that was
3 prosecuting the criminal case, she could be fair
4 in the case. This is at least two steps removed
5 from that situation.

6 One, the Manitowoc County Clerk's Office
7 is not involved in this case, either as a
8 prosecuting party, a defending party, or an
9 investigating party.

10 Second, there is no claim by the
11 defense, certainly no claim by the State, of
12 which I'm aware, of any wrong doing by anyone in
13 the Clerk's Office to the extent that some member
14 of the Clerk's Office may be a witness in the
15 case. It would not be where his or her own
16 conduct is at issue at all. It would be to
17 establish a physical location of a box or a file
18 and what was known about it's condition if
19 anything.

20 So the casual acquaintance with Janet
21 Bonin, for example, who I think we have all
22 agreed we aren't going to call as a witness so
23 that she can continue to serve as the Clerk,
24 really would have no bearing at all on any claim,
25 defense, prosecution theory being offered in the

1 case.

2 And the familiarity with, let's say,
3 Lynn Zigmunt, who conceivably could be a witness,
4 a casual acquaintance, one time a year, maybe at
5 the Christmas party or the graduation party,
6 sounds to me ever so much like Jacqueline
7 Ungrodt's acquaintance with Mr. Kratz, the woman
8 who is married to the former Corporation Counsel
9 of Calumet County and sees Mr. Kratz annually at
10 the bar dinner, the bench bar dinner, whatever it
11 is.

12 Indeed, that sounds like a longer
13 standing annual renewal and more recently sharing
14 the same table over dinner during the pendency of
15 this case. It sounded like a closer connection
16 and that was not cause to strike Mrs. Ungrodt, in
17 the Court's view. So we're removed from that, I
18 think, considerably here with Mr. Mohr.

19 And I can't -- I can't think of any
20 other reason, nor have I heard one, that would be
21 offered to strike him for cause. So --

22 THE COURT: Let me help focus the
23 argument --

24 ATTORNEY STRANG: Sure.

25 THE COURT: -- for the parties a bit here.

1 Neither party is arguing, and I agree in terms of
2 subjective bias, it appears this would be a very
3 good juror. He seems to have a concept of what a
4 juror's duty is and be willing to fill it. And in
5 terms of familiarity with members of the Clerk's
6 Office, I'm not sure that that alone would give the
7 Court too much concern; although, I don't know what
8 evidence the parties intend to introduce.

9 What bothers me a bit is that because --
10 he mentioned in one answer that he spoke to his
11 wife and learned that she would not have access
12 to the -- to the disputed evidence, the blood
13 vial, that in the course of deliberations he may
14 know something about the operation of the Clerk's
15 Office that wasn't brought in in evidence, by
16 virtue of his wife having worked there. And
17 the -- if some juror asks a question, in the
18 course of their deliberations, the difficulty he
19 may have in disclosing, discussing, or taking
20 into consideration, just for his own
21 deliberations, knowledge about the operations of
22 that office that were not part of the evidence in
23 this case. That I view as a concern.

24 ATTORNEY STRANG: And here is why I think
25 it's not a concern. This Court was very clear in

1 it's written ruling on the admissibility of evidence
2 concerning the vial of blood that the only period of
3 time we're allowed to talk about is November 3,
4 November 4 and November 5, 2005.

5 Now, that's clearly a period of time
6 when his wife was not employed at the Clerk's
7 Office, either as a full-time person, because she
8 had retired some months earlier, or in the
9 temporary position that apparently she assumed
10 just -- I wasn't clear whether it was Monday,
11 February 5 or Monday, January 29, when he said
12 last Monday. But I took it as one or the other,
13 that she began her temporary employment here in
14 2007.

15 So given the limitation that the Court
16 has placed on evidence concerning possible access
17 to the blood vial, he just would not be in a
18 position to know anything from his wife.

19 THE COURT: Well, I understand that, but
20 what about the questions about how difficult it is
21 to get into the office, where those files are
22 typically kept, that type of thing. I mean, she
23 could have some background information that isn't
24 necessarily date specific that could --

25 And, again, I'm operating at a

1 disadvantage here; I don't know what evidence you
2 folks are going to be introducing. But it seems
3 to me that, my biggest concern, as I evaluate his
4 qualifications as a juror are, would be
5 information that he may possess that may be
6 difficult to point a finger to now, because
7 nobody knows the significance of it.

8 ATTORNEY STRANG: Well, that's right. And,
9 you know, the record we have, none of that was
10 brought out, but beyond that, you know, we had a
11 young woman yesterday whose boyfriend's aunt is
12 Kelli Tice with the sheriff's department. Now,
13 might she know something about the operation of the
14 Manitowoc Sheriff's Department that would cause her
15 to be considering that information in weighing
16 testimony about the operation of that department,
17 sure, but, you know, this is --

18 THE COURT: This is a little closer than
19 that, though, he's said he's already talked to her
20 about it, his wife, and she said that she didn't
21 have access to it.

22 ATTORNEY STRANG: She said that she had no
23 access to it, as I understood him, that's correct.

24 THE COURT: Yeah.

25 ATTORNEY STRANG: And I'm not saying it's a

1 perfect match. I'm just saying that we're going to
2 have these connections and we're going to have to
3 rely, in the end, on the instruction the Court will
4 give the jurors that they are to decide the case
5 only on the evidence before them.

6 I mean, goodness knows, we have been
7 concerned about that and up to this point the
8 Court hasn't been willing to do anything curative
9 beyond that. So I -- And, you know, I don't
10 think anything more would be necessary here.
11 This is someone who, at least I took him to be
12 comfortable following the rules, so to speak, as
13 the Court gives them.

14 THE COURT: Mr. Fallon.

15 ATTORNEY FALLON: Thank you. Just for the
16 record, the case to which I referred to the other
17 day and to which counsel refers again today is **State**
18 **vs. Dale Smith**, common spelling, 2006, Wisconsin
19 Opinion No. 74. It's a Supreme Court opinion.

20 I think I do see a difference between
21 the **Smith** case and the judicial -- or excuse me,
22 the administrative assistant who worked for the
23 District Attorney's Office out in juvenile court
24 who was then seated as a juror for a felony court
25 case downtown.

1 And the distinction is that she had no
2 other connection whatsoever with the case that
3 she sat as a juror on, other than through the
4 ranks, she worked for the same person as the
5 prosecutor, downtown. And the prosecutor, in
6 fact, if I recall correctly, did not know this
7 person well, if at all.

8 In the case at hand, we have a possible
9 juror here who knows several people in the
10 office. He has, again, as I said, asked
11 questions of his wife regarding this vial of
12 blood, which may or may not be introduced and may
13 or may not be a big factor or central focus of
14 the case. Its future remains to be seen.

15 But having said that, the Court made the
16 comments that I would make now, and that is,
17 there are other bits of information and that
18 includes access to the Clerk's Office who had --
19 who may or may not have had keys, who may or may
20 not have access to the cipher lock to get through
21 the second security door and the like.

22 And there's a variety of possible bits
23 of evidence which could be introduced, or for
24 whatever reason are omitted by the parties. And
25 that evidence, it may be omitted by error because

1 we overlooked it or there may be an intentional--
2 well, I don't want to ask that question.

3 And the possibility that that juror may
4 know the answer or could find out the answer,
5 raises a question relative to the possibility of
6 objective bias existing and/or developing during
7 the course of the trial. And that's why I think
8 it is different. And if we take the general
9 proviso of the *Lindell* case, I think the
10 appearance or the prospect of bias occurring is
11 at least real enough to justify an excuse for
12 cause. Thanks.

13 ATTORNEY STRANG: Well, although, by my eye
14 on the clock, Mr. Fallon's voir dire went well over
15 the 20 minutes the Court had described, the juror is
16 still here; I mean, we can -- we can ask these
17 questions. There's just nothing here suggesting
18 that he's got any extra knowledge of the procedures
19 of that office or any way to know what the access
20 was or what the procedures were --

21 THE COURT: Okay.

22 ATTORNEY STRANG: -- during the period of
23 time.

24 THE COURT: I think that's a valid
25 suggestion. I will note the defense that time

1 didn't come close to using their 20 minutes, so
2 that's a fair suggestion. Let's bring the juror
3 back in. I will give both parties an opportunity.

4 ATTORNEY STRANG: Does the Court want to
5 start.

6 THE COURT: I will let you start.

7 You may be seated Mr. Mohr. The parties
8 have a few more questions they would like to
9 address to you. I will let -- Mr. Strang, you
10 may continue.

11 **VOIR DIRE EXAMINATION**

12 BY ATTORNEY STRANG:

13 Q. Lucky you. Was your wife, Alice Mohr, employed
14 in any fashion at the Clerk of Court's Office
15 between November 3 and November 5, 2005?

16 A. Yes.

17 Q. I -- I'm sorry, I -- I understood you to say she
18 retired in June of 2005 was I wrong about that.

19 A. Maybe, Janet -- Can you help me with that, Janet?
20 I thought it was June 2005.

21 THE CLERK: I know the answer.

22 THE COURT: I'm told the Clerk knows the
23 answer. I don't know if the parties want that -- I
24 mean the juror --

25 ATTORNEY FALLON: I don't have any problem

1 with her providing the answer. We're just trying to
2 figure out the parameters of where we are.

3 THE COURT: It's not a question of a
4 witness at a trial so.

5 ATTORNEY STRANG: No, let's get the answer.

6 THE CLERK: No, she wasn't.

7 ATTORNEY STRANG: Okay. All right.

8 Q. (By The Court)~ Is that good enough for you?

9 A. Sure.

10 Q. Okay. Have you ever -- In connection with this
11 case, have you ever discussed with your wife the
12 specifics of who had access to what areas of the
13 Clerk's Office.

14 A. No.

15 Q. Was the discussion with her more simply that she
16 did not have access to whatever this file was
17 with the vial of blood?

18 A. Correct.

19 Q. Did she tell you anything at all about whether it
20 was possible or not possible for someone outside
21 the Clerk's Office to have obtained access to the
22 vial of blood between November 3 and November 5,
23 2005?

24 A. I don't remember if she did or not, if it was. I
25 don't know if it's possible.

1 Q. But in any event, I guess she wasn't working
2 there during those three days?

3 A. Which three days?

4 Q. November 3 to November 5, 2005.

5 A. Correct.

6 Q. And if -- if the Court instructs you, in the end,
7 if you serve on the jury, the Court instructs you
8 to decide this case only on the evidence you hear
9 in the courtroom, not anything you may know or
10 think you know from the media, or from your wife,
11 or from a neighbor, or any other source than
12 outside this courtroom; can you follow the
13 instruction scrupulously to decide this case only
14 on the evidence you heard in court?

15 A. Yes.

16 Q. Including if that evidence were to conflict with
17 something you think your wife might say if you
18 asked her; can you follow the Court's rule to
19 decide the case, only on the evidence you
20 actually hear in this courtroom?

21 A. Yes.

22 Q. Any question at all about that?

23 A. I wouldn't be asking my wife because if I would
24 be on the jury, I would be prohibited to talk to
25 her about it.

1 Q. And would you live with that rule too?

2 A. Yes.

3 Q. Thank you.

4 THE COURT: Mr. Fallon.

5 ATTORNEY FALLON: Thank you.

6 **VOIR DIRE EXAMINATION**

7 BY ATTORNEY FALLON:

8 Q. Mr. Mohr, when did you have the discussion with
9 your wife regarding the possibility of her having
10 access or not having access to the vial of blood?
11 When did that occur?

12 A. I'm not real good on dates here.

13 Q. Within the last month?

14 A. I would say yes.

15 Q. All right. Was there anyone else present other
16 than just the two of you?

17 A. No.

18 Q. As best you can, can you tell us what was
19 discussed. What did she tell you, everything
20 that you can recall of that conversation?

21 A. Just that the vial was in the office and that it
22 was in an unsecure area -- or maybe I picked that
23 up off the TV, I'm not sure now.

24 Q. Okay.

25 A. But that's all I remember.

1 Q. Okay. Did she describe to you how it was not
2 possible for her, or how she could not have had
3 access to the vial?

4 A. No.

5 Q. She just said, Bill, I didn't have any access to
6 it. Did you ask the question or did she
7 volunteer it to you?

8 A. She volunteered it to me.

9 Q. Okay. Any particular reason how that came up in
10 the conversation?

11 A. Probably since we heard it on the news.

12 Q. Okay. Do you recall what you heard on the news?

13 A. Just basically that, that it was a vial of blood,
14 old -- old sample of blood.

15 Q. Okay.

16 A. And that it had been tampered with. And I
17 believe the TV showed a security tape or
18 something that you could see was ripped or
19 something off of that sample.

20 Q. And how do you know -- Do you know if it's been
21 tampered with or is that just an impression you
22 have, or where does that come from?

23 A. Just took the media's word for it.

24 Q. Okay. Why would you take the media's word for
25 that?

1 A. That's the only source. And don't get me wrong,
2 I take everything that the media says with a
3 grain of salt.

4 Q. All right.

5 A. I don't necessarily believe it or not believe it.

6 Q. All right. So do you have an opinion right now
7 as to whether that sample was tampered?

8 A. No.

9 Q. All right. So you are just using that phrase
10 because that's how it was portrayed by the media?

11 A. Right.

12 Q. All right. So, it's your recollection that your
13 wife just volunteered that information?

14 A. Yes.

15 Q. Okay. One second. Where did your wife tell you
16 the vial was located, such that she did not have
17 access to it?

18 A. She just -- If I recall the words, it was in a
19 file. That's all she said.

20 Q. In a file.

21 A. In a file.

22 Q. So you don't know if it was in a secured or
23 unsecured area?

24 A. No, I don't.

25 Q. And if it's in an unsecure area, she would have

1 had access to it?

2 A. I suppose if she would have known that it was
3 there, maybe she didn't even know it was there.

4 I have no idea.

5 Q. All right. So you are just taking her at her
6 word when she says, I didn't have access to it?

7 A. Correct. Yeah. I don't know the office myself.
8 I don't know the layout, so I wouldn't even know
9 where it's stored. It was a surprise to me to
10 find out that something like that would be stored
11 in that office.

12 Q. Right.

13 ATTORNEY FALLON: That's all.

14 **VOIR DIRE EXAMINATION**

15 BY THE COURT:

16 Q. Mr. Mohr, do you recall getting the letter from
17 the Court a month or so ago notifying you about
18 your service in this trial and asking you not to
19 talk to anybody about it or watch any more news
20 media coverage?

21 A. Yes, I do.

22 Q. The letter?

23 A. Yes.

24 Q. Do you know if -- Did this discussion with your
25 wife; do you know if it happened before or after

1 you got the letter?

2 A. I really can't say for sure.

3 Q. Have you had any other discussions about this
4 case with your wife other than on that one
5 occasion.

6 A. No.

7 Q. And this question may have been asked already,
8 but just to clarify, did you, other than
9 remembering your wife's statement that she didn't
10 have access to this file, was there any other
11 discussion you had with her about this case and
12 the evidence in the Clerk's Office?

13 A. No.

14 THE COURT: All right. The Clerk will
15 escort you from the courtroom at this time.

16 (Wherein the juror was excused.)

17 THE COURT: Any further brief argument from
18 either party?

19 ATTORNEY FALLON: Quite frankly, I think
20 the responses helped the State both on this argument
21 and in -- with respect to the potential evidence of
22 this case. I think the information obtained --
23 possessed by Mr. Mohr is very helpful to the State
24 and it would be great to have him on the jury, quite
25 frankly. But I don't want to take a chance that

1 this conviction is reversed as a result of
2 information that he has that no other juror may
3 have.

4 And can you just possibly imagine the
5 discussion, let's just say, for instance, the
6 vial of blood was a central aspect of the case,
7 because we still don't know if it is. But let's
8 assume that it is. And let's assume there was a
9 question about who had access, or who would have
10 known where it was.

11 Can you imagine the discussion, I mean
12 after the arguments of counsel, and Mr. Mohr were
13 to say, well, geez, my wife works there and she
14 didn't even know where it was, how can we expect
15 one of these officers to perhaps have snuck in
16 there and gotten it.

17 I mean, it's powerful, great stuff,
18 helps us, but I don't want to take a chance of
19 this conviction being reversed because of a juror
20 has knowledge of the internal workings and the
21 viable possibilities or impossibilities of access
22 to that office. And as further evidence, he
23 can't separate right now whether it's in a secure
24 or unsecure area and he doesn't even know if he
25 got that from his wife or the media. In

1 fairness, this person should not sit as a juror.

2 THE COURT: Mr. Strang.

3 ATTORNEY STRANG: I disagree. I mean
4 there's no risk of the conviction being reversed on
5 this; we're the ones who are opposing the motion to
6 strike him for cause. And by the time -- Just if
7 the Court's rulings remain as they are and are not
8 reconsidered in any way, the jury in the end will
9 know a lot more from the evidence about where this
10 vial was, who may have had access to it, than
11 Mr. Mohr presently knows from the TV. And that,
12 what he knows from the television or the media,
13 sounds to me like more than he knows from Mrs. Mohr.

14 THE COURT: All right. The Court's
15 impression from Mr. Mohr when he came back is that
16 he does not remember -- well, he doesn't remember
17 much detail about what he was told. He doesn't
18 really remember whether the information he does
19 have, limited as it may be, came from his wife or
20 from the news media.

21 I -- I don't -- I don't believe he
22 claims or would claim to possess any specific
23 enough information that would impact this case
24 one way or another. He only had one discussion
25 with his wife and it appears to relate to just

1 her feelings, whether she had access to the
2 evidence.

3 And it does not appear to have been in
4 great detail, nor do I believe that it happened
5 after the Court's letter went out. It appears
6 to -- because it doesn't mention any testing of
7 the blood, but rather the existence of the blood
8 evidence, I believe that relates back to the
9 December hearing over in Chilton. So, I'm going
10 to accept Mr. Mohr as a juror in this case.

11 Counsel, because of the fact that we
12 were concerned about running short on jurors this
13 morning, they called some in slightly out of
14 order. I think these are jurors who would be
15 called in any event, so I'm looking at No. 66 as
16 the next juror to call, if you have got that
17 questionnaire ready. Because of the length of
18 time the jurors have been waiting.

19 ATTORNEY BUTING: So the other ones coming
20 up are not here yet?

21 THE COURT: No, they are here, but they got
22 here later than these. As a courtesy to the jurors.

23 The other thing I would note is, at the
24 break, I would like to address Juror 74, because
25 he falls into the same category, been here since

1 this morning; actually, I think it was earlier.
2 But let's take Juror 66, Mr. Pederson at this
3 time.

4 ATTORNEY STRANG: Let me -- Let me just
5 give the Court a heads up. We only grabbed the
6 questionnaires through No. 72, thinking we were safe
7 because only 12 were coming here.

8 THE COURT: Okay. We'll -- I will give you
9 a copy to look at at the break.

10 ATTORNEY BUTING: We have looked at 74
11 already, though.

12 THE COURT: You have?

13 ATTORNEY STRANG: Right, but --

14 ATTORNEY BUTING: We're ready for that one.

15 ATTORNEY STRANG: But in terms of being
16 ready, we --

17 THE COURT: I hope that's the last one.
18 But we'll take Juror 66 at this time.

19 Mr. Keehan, please raise your right hand
20 and the clerk will swear you in.

21 (Juror sworn.)

22 THE CLERK: Please be seated.

23 THE COURT: Mr. Keehan, you have already
24 filled out a questionnaire in this case, today we're
25 moving on to the next phase of jury selection which

1 is voir dire. The attorneys for the parties will
2 have a chance in a few minutes to ask you some
3 questions regarding the case.

4 Before we get to that, I want to let you
5 know that the jurors in this case will not be
6 sequestered. That means at the conclusion of
7 court proceedings each day the jurors will be
8 permitted to return home.

9 We're able to do that because of the
10 requirement that the jurors not learn anything
11 about this case from the media during the course
12 of the trial; either radio, television,
13 newspaper, internet, or anything else. And that
14 the jurors continue to be prohibited from
15 discussing the case with anyone, including other
16 jurors and members of their families during the
17 course of the trial.

18 Although the proceedings today are open,
19 no cameras are allowed in the courtroom during
20 voir dire and the media is prohibited from
21 disclosing the identity of jurors in reports of
22 these proceedings.

23 In addition, should you be selected to
24 serve as a juror, the cameras are not permitted
25 to show the jurors during the trial. In the

1 event you continue on in this case, you will be
2 notified in a day or two when you are to return
3 to court.

4 At this time, Mr. Fallon will ask you
5 some questions.

6 **VOIR DIRE EXAMINATION**

7 BY ATTORNEY FALLON:

8 Q. Good afternoon, sir.

9 A. Good afternoon.

10 Q. My name is Tom Fallon. I'm an Assistant Attorney
11 General with the Wisconsin Department of Justice.
12 I'm one of the prosecutors in this case. To my
13 immediate left is Mr. Ken Kratz, Calumet County
14 District Attorney and lead prosecutor in this
15 matter. Good afternoon and thank you for coming
16 back this afternoon.

17 Court and counsel, we have some
18 questions for you to follow up on some of the
19 information you provided in your questionnaire to
20 assist us in selecting a jury in this case.

21 I guess I would like to begin with, just
22 briefly, a little bit about your employment. How
23 long have you worked at your current paper
24 company?

25 A. 15 years.

1 Q. All right. And what duties have you performed
2 for the company?

3 A. I have been driving roll clamp truck for the last
4 11 years and then I was, like, general helping
5 between different jobs --

6 Q. Right.

7 A. -- wherever they needed me, until I took this job
8 that I'm on now.

9 Q. All right. All right. And one of the primary
10 purposes for inquiring about your work situation
11 is, as you have probably figured out from the
12 questionnaire and perhaps other sources, this may
13 be a rather lengthy trial.

14 A. Yeah.

15 Q. Might run six weeks?

16 A. Yeah.

17 Q. Is there any concern in your mind as to whether
18 you would be able to have sufficient income to
19 support yourself and your family if you were
20 selected as a jury -- juror during this time?

21 A. I don't think so. The only thing that would be
22 is because I run a small part-time business. We
23 would have weekends off, right?

24 Q. Right.

25 A. Okay. No, I wouldn't have no problem. My

1 company does pick up part of the -- of the money
2 for jury duty, so ...

3 Q. Okay. What kind of part time business do you run
4 on the weekends?

5 A. I chain saw carve part-time -- or everyday, I
6 should say. That's what I was doing this morning
7 when they called me.

8 Q. All right. I saw that from your questionnaire.
9 What kind of carvings do you do?

10 A. Basically everything you can think of. We have
11 done from bears, eagles, gnomes. The nativity
12 scene in Two Rivers by the park across from the
13 courthouse --

14 Q. Right.

15 A. -- I have done that.

16 Q. Okay.

17 A. The only other one would be along Memorial Drive,
18 that big bear by the Honey Pot and then the sign
19 I carved.

20 Q. All right. So you are pretty active with that
21 business?

22 A. Yeah, it's -- it's -- right now it's starting to
23 pick up again for spring and then into summer.
24 Fall, mostly is my busiest time.

25 Q. All right. Now is that the business that your

1 wife is involved in as well?

2 A. Yeah, she does most of the staining or painting
3 on it.

4 Q. Okay.

5 A. Yeah.

6 Q. Any other employees that might be dependent upon
7 you and your wife for that work, that you might
8 be letting down?

9 A. No, we just go by, basically by orders. People
10 call me. It's by word of mouth. No advertising,
11 no web pages or nothing like that, so ...

12 Q. Okay. Very well. Next thing I wanted to talk
13 about is your familiarity with some of the
14 potential witnesses in this particular case.
15 Apparently you recognize the names of Brendan and
16 Brian Dassey?

17 A. Yes. My -- I had noted on there too, that my son
18 went to school -- grade school at Reedsville.

19 Q. All right.

20 A. I don't know the exact date when it was. It was
21 -- God, I would have to say maybe third, second
22 grade, somewhere in that area.

23 Q. All right. And your son went to school with
24 which one?

25 A. Brandan (sic), actually, is the same age as my

1 son.

2 Q. Okay. All right. And how about Brian Dassey?

3 A. I wasn't quite sure on the age differences. I
4 know both boys did go to Reedsville at one time,
5 many, many years back. I -- Like I said, I don't
6 know for sure what year. I was thinking maybe it
7 was 15, 20, 17 years ago, something like that.

8 Q. Okay.

9 A. No, it would have to be less. It would have to
10 be maybe 10, maybe 12 years ago. I don't know
11 the exact date. I would have to ask my son. He
12 would know for sure, but I know it was grade
13 school.

14 Q. All right. Did you yourself have any
15 interactions with either Brendan or Brian?

16 A. No, never knew the kids.

17 Q. All right. Were they close friends of your son,
18 do you think?

19 A. No, no, he had them in maybe a class and that was
20 it.

21 Q. All right.

22 A. Like I said, he only knew him for maybe a year or
23 two and that was it.

24 Q. So, they weren't, like, close friends --

25 A. No.

1 Q. -- or acquaintances --

2 A. No.

3 Q. -- they just happened to be in the same
4 classroom?

5 A. Yeah, same class.

6 Q. All right. Well, since you happen to know them
7 and there's a possibility that one or both of
8 them may appear, it's still a very open question
9 as to that; the fact that they may appear as
10 witnesses in this particular case, would that
11 cause you any concern as to whether you could be
12 a juror in this case?

13 A. No.

14 Q. All right. Do you think you could evaluate their
15 testimony, their credibility, their
16 believability, their honesty, the same as you
17 would any other witness?

18 A. Yes.

19 Q. All right. As you are no doubt aware and from
20 some of the comments that you made in your
21 questionnaire, this case has received a pretty
22 fair amount of publicity?

23 A. Yes.

24 Q. All right. So we want to talk a little bit about
25 that, if we could. You indicated that you get

1 your news from a variety of sources; radio,
2 television, newspapers, neighbors, etcetera.
3 Given those sources, which one would you say
4 provides you with the greatest information
5 regarding this?

6 A. I would have to say the morning news. It's
7 basically I watch it for about an hour in the
8 morning until I get back outside; 6:30 get my kid
9 up for school, my son. And then it's probably
10 until about 7:30 when I flip it off, so ... And
11 then it's sporadic. It's when I'm here, while
12 I'm getting my son ready for school and getting
13 my stuff going for the day, so...

14 Q. So, it's on as background noise as it were --

15 A. Yeah, more or less. Yeah.

16 Q. -- for that first hour in the morning while
17 everybody is getting ready?

18 A. Yes.

19 Q. Okay. Do you read the newspapers regularly?

20 A. No, very seldom. It's maybe once or twice a
21 week. And if it is, it's at work and it's
22 usually a day late paper that we get --

23 Q. Okay.

24 A. -- that somebody just tosses on the table, so...

25 Q. Okay. So that's not a regular source of news for

1 you?

2 A. No. No. Usually weekend paper and that's about
3 it.

4 Q. All right. Weekend, Sunday paper?

5 A. Yeah, Sentinel, Press Gazette.

6 Q. Okay. Sentinel, meaning the Milwaukee Sentinel?

7 A. Yes, I'm sorry, yes, Milwaukee sentinel.

8 Q. And the Green Bay Press Gazette?

9 A. Yeah.

10 Q. Okay. Now, you also mentioned radio as a
11 possible source for your news. Tell us a little
12 bit about that, how much of that?

13 A. APL, I listen to, so it's very seldom. They have
14 a news thing in the morning, maybe five minutes.
15 And that's about it. And they really don't talk
16 a lot about it.

17 Q. So it's just a real encapsulated --

18 A. Yeah. Yeah.

19 Q. -- headline news for the day.

20 A. Yeah. I try to listen to more music than news,
21 so ...

22 Q. Okay. All right. All right. Given that -- And
23 how about your neighbors?

24 A. No, I don't. We live about a quarter mile off
25 the highway where I live now and our nearest

1 neighbor is about two miles away --

2 Q. All right.

3 A. So, there's -- And it's just an elderly women --
4 woman that we -- that is our neighbor, so ...

5 Q. And with this weather, I'm sure it's a long walk
6 up that driveway?

7 A. Oh, yeah. Just a little bit.

8 Q. All right. Based on that -- those sources of
9 information, what do you recall hearing about
10 this case? I mean, we're interested in knowing
11 how much you have heard about it.

12 What's your first -- Well, we'll start
13 with your first recollection of the case?

14 A. I knew two of the guys that were on the
15 Kellnersville Fire Department that were in the
16 search. But I really didn't talk to them. My
17 son goes to school with their kids. They had
18 said a few things about it.

19 Then, mostly from the newspaper,
20 television. When we would go out you talk to
21 people, people talked about it --

22 Q. Right.

23 A. -- stuff like that.

24 Q. So that's kind of the word of mouth source?

25 A. Yeah, it's -- that's basically the way it is.

1 Like at work, it's a lot of guys that work second
2 shift. We don't see a lot of news because
3 everybody is doing things in the morning before
4 you get to work. And then that's how, you sit
5 around the lunch table and a few people talk and
6 that's about it.

7 Q. All right.

8 A. So ...

9 Q. Have there ever been any extensive discussions
10 regarding the media coverage or the information
11 provided by the media?

12 A. No, just bits and pieces as people talk about it,
13 but that's about it.

14 Q. All right.

15 A. You know, other than, just general stuff, yeah.

16 Q. I'm sorry?

17 A. Just general stuff.

18 Q. All right.

19 A. Yeah.

20 Q. What's the next thing you remember after the
21 initial search and all that; what's the next
22 media bit of information you recall?

23 A. Just the arrest and stuff that, they had found
24 the body --

25 Q. Okay.

1 A. -- and things like of that nature.

2 Q. Okay. Any details stick out in your mind from
3 that earlier coverage?

4 A. No, not really. I really don't, anything on, you
5 know, top off my head, no, I can't think of
6 anything. Like I said, the way the finding and
7 then the arrest and stuff like that. But I
8 really didn't pay much attention to it. I'm just
9 finishing up building a log home, so I'm working
10 on that besides my other stuff, so, that's what
11 we've been doing.

12 Q. Just a little busy.

13 A. Yeah, I really don't pay a lot of attention to
14 the news --

15 Q. All right.

16 A. -- or politics, or the last election that's been,
17 so ...

18 Q. All right.

19 A. Try to turn it off so I don't have to listen to
20 it.

21 Q. All right. That's fair enough. There is one
22 thing that's of some interest, since your son
23 went to school with one or both of the Dassey
24 boys; did you pay any more attention to the case
25 when Mr. Dassey was arrested?

1 A. No, actually, I didn't even know about it until
2 my son had said that he had knew Brendan from
3 school. And we didn't even know he was at
4 Reedsville at that time.

5 Well, then close friends of ours that do
6 live in Reedsville, their -- would be his brother
7 -- friend of ours brother was on the school board
8 and then they were talking about it. And that
9 was the only thing that I knew about it. So I
10 never even knew that they were living in the area
11 at that time. So that was the only time that was
12 ever brought up.

13 Q. So you have -- you did not watch any of the media
14 coverage or -- regarding his arrest or any of his
15 involvement in the case?

16 A. No, just what people talk about at work. So I
17 did not -- I saw a little bit of it, but I really
18 didn't pay much attention to it.

19 Q. Okay. In terms of what people talked about at
20 work, can you recall any of that conversation at
21 this time?

22 A. No, just basically what they had heard on the
23 news, you know, like I said, when the arrest was
24 made and the other stuff that they had found, the
25 search that was going on. But that was about it,

1 the normal stuff people would usually talk about,
2 you know, when it's going on.

3 I mean, they are still talking about it
4 now, but like I said, I don't pay a lot of
5 attention to it. Because we take breaks at
6 different times. It's when you get a break or
7 when you can, that's when you go. And sometimes
8 there may be one person or there may be five in
9 there and there might be nobody in there at all,
10 so ...

11 Q. In the break room you are talking about?

12 A. Yes, in the break room, I'm sorry.

13 Q. Sure. Are there any details at all that stick in
14 your head from any of that break room
15 conversation?

16 A. When they had found the body I believe -- I know
17 there was a number of people that were talking
18 about it.

19 Q. Okay.

20 A. And then how they had found it. And then I know
21 a guy had said that he had talked to a friend or
22 a brother of his that was in the search and then
23 that, you know, that they were checking the cars
24 and stuff like that, but that was about it.

25 Q. All right. No other details as to how she died,

1 or what happened, or any of the those details,
2 none of that sticks in your head?

3 A. No, nothing. I know they had said something
4 about there was a rape, I believe.

5 Q. Okay.

6 A. But that was, you know ...

7 Q. That's only from what you heard in the break
8 room --

9 A. Yeah, that's only from what I heard, yeah, from
10 other guys talking and people, but nothing. I
11 don't remember reading anything about it. I know
12 I heard it on the TV. I know Channel 11 was
13 broadcasting it, but that was -- that was about
14 it.

15 Q. So it's all pretty fuzzy?

16 A. It's not fuzzy. I mean, I know what had happened
17 or what they had reported on TV.

18 Q. Well, that's what I'm trying to get at, if you
19 could tell us what you remember there?

20 A. I know they were searching for the body because
21 it's -- or searching for her. Then it went to
22 what I remember next is that they had found her
23 at the junkyard. And then the coverage on TV, I
24 know they had showed it from an aerial view,
25 roped off, where they found -- they thought they

1 found the body.

2 Q. Mm-hmm.

3 A. And then how they were coming up with some of the
4 evidence and stuff like that, so ... Like I
5 said, it was bits and pieces. It's not that I
6 was paying attention to it the whole time so ...

7 Q. Okay. All right. Well, we would like to ask you
8 some questions about, you know, as a result of
9 these various sources of information. You know
10 the break room chatter and some of the coverage
11 you saw on TV and the like. Right now, I mean,
12 as Mr. Avery sits here, do you have any opinion
13 as to whether you think he's guilty or not?

14 A. Yes, I do.

15 Q. Okay.

16 A. Yeah.

17 Q. All right. What is your opinion?

18 A. That he is probably guilty, yes.

19 Q. Probably?

20 A. Yeah, probably guilty. But like I said, we were
21 told by the Judge before and then in the letters,
22 that we have to keep an open mind and, you know,
23 until the evidence is brought in front --

24 Q. Right.

25 A. -- so...

1 Q. So that's just an impression you have based on
2 the break room chatter --

3 A. Yes.

4 Q. -- and what the media coverage is?

5 A. Yes. Yes.

6 Q. All right. Now, you -- Are you saying that's --
7 you have a real strong opinion on that, or that's
8 just the impression that is held by you or the
9 community?

10 A. Yeah, held by the community, the impression the
11 way people are talking.

12 Q. Right.

13 A. For me personally, I have no opinion right now,
14 you know.

15 Q. You don't know?

16 A. I don't know. I don't know the whole -- the
17 whole story. Like I said, I haven't been really
18 keeping up with everything. I do have other
19 things besides the TV, newspapers, so ...

20 Q. Right. So, in terms of whatever that information
21 -- or not whatever, but the information that you
22 have been exposed to; do you feel pretty
23 confident you can set that aside and follow the
24 Judge's advice and --

25 A. Yeah, I think so.

1 Q. -- if you were selected as a juror, you could
2 decide this case just based on what you hear in
3 the courtroom?

4 A. I think so, yes.

5 Q. All right. Now, you realize that Mr. Avery is
6 presumed innocent?

7 A. Yes.

8 Q. All right. And that he remains innocent unless
9 and until we can convince you with solid evidence
10 that he is guilty, beyond a reasonable doubt?

11 A. Yes.

12 Q. All right. And you accept that --

13 A. Yes.

14 Q. -- that he doesn't have to do anything?

15 A. No.

16 Q. All right.

17 A. Right.

18 Q. And that the only one with a burden of proof or
19 responsibility in this courtroom is the State?

20 A. Yes.

21 Q. All right. Okay.

22 ATTORNEY FALLON: I will pass the juror.

23 THE COURT: Mr. Strang.

24 ATTORNEY STRANG: Thank you.

25 VOIR DIRE EXAMINATION

1 BY ATTORNEY STRANG:

2 Q. And thank you. I want to start by asking you how
3 to pronounce your last name.

4 A. Keehan.

5 Q. Keehan?

6 A. Yes.

7 Q. Okay. And I'm Dean Strang, Jerome Buting, Steven
8 Avery. Jerry Buting and I are defending
9 Mr. Avery. Did I -- Did I catch, and I'm not
10 sure I did, but did I -- did I understand you
11 correctly that you work second shift at
12 Weyerhaeuser?

13 A. Yes, I do.

14 Q. So when does that shift run.

15 A. From 2 until 10. And usually by the time I get
16 home, it's 10:30. And then from 10:30, I have a
17 shop, so I work outside either on carvings or I'm
18 working on a Jeep right now, so ...

19 Q. You're not carving a jeep, presumably?

20 A. No, no, I'm doing fabrication work on it.

21 Q. Okay. You -- You asked a question about whether
22 we were going to go weekends?

23 A. Yeah.

24 Q. And I'm not so sure the lawyers really can answer
25 that.

1 A. Okay.

2 Q. It would be for the Court to answer, but let me
3 ask you a little bit about whether weekends would
4 change the balance for you on the hardship
5 question?

6 A. No, just that it would give me more time to do my
7 sideline job, Saturday it would be. I mean, I do
8 carve Saturdays now, because I work second. But
9 usually mornings is when I do carving to keep up
10 with my orders.

11 Q. Right. It was pretty clear, correct me if I'm
12 wrong --

13 A. Yeah.

14 Q. -- it was pretty clear to me that you produce
15 some income from these carvings.

16 A. Yes.

17 Q. It's not just pure hobby.

18 A. No. No. Actually, there was a meeting I had
19 gone to -- well, we were supposed to go to two
20 weeks ago in Wisconsin Dells. I do most of the
21 Chapters of Wisconsin Water Fowl. I don't know
22 if you're familiar with that. And then I sell
23 them at cost, carvings, and then they auction
24 them off at their banquets for --

25 Q. Sure.

1 A. -- money itself. And then I have a few churches
2 I have to do, Roncalli High School, I have an
3 order to do for their auction coming up, so ...

4 Q. So these are orders with firm delivery deadlines?

5 A. Yeah, I have April, March, I believe, is where I
6 have a few that I have. I have some stuff
7 already done and built up for inventory, so to
8 speak.

9 Q. Mm-hmm.

10 A. So ...

11 Q. Okay. I think this is going to be okay, but you
12 are the guy that has to say. And certainly at
13 the end of the case there would -- when all the
14 evidence is in and the lawyers, we have all had
15 our say, the jury gets the case to decide,
16 obviously?

17 A. Yeah.

18 Q. And at that point, it's entirely possible that,
19 you know, that it would not be an 8:30 to 5 kind
20 of --

21 A. Yeah, I understand that. Yeah.

22 Q. For however long the jury deliberations went on.

23 A. Right.

24 Q. Which none of us can control and you can't even
25 predict because that's up to the 12.

1 A. Yeah, I understand that. I'm just saying if
2 there wouldn't be working weekends kind of a --
3 So ...

4 Q. Okay. I mean --

5 A. Yeah.

6 Q. Look, there's no shame in saying this is a
7 problem.

8 A. Yeah.

9 Q. We just need to know now --

10 A. No, no.

11 Q. If it will --

12 A. It will not be a problem.

13 Q. Okay.

14 A. I will make it work. It is not a problem.

15 Q. All right. What high school does your son go to?

16 A. Reedsville.

17 Q. And you -- The connection to Brendan and Brian
18 Dassey is really just through your son?

19 A. Yes. And then, like I said, friends of ours that
20 do live in Reedsville and his brother was on the
21 school board at that time, they had mentioned it
22 a few times.

23 But like I said, I have never known
24 Brendan and never met Brendan or his brother.
25 Like I said, the only time I knew they were there

1 is when my son had said that Brendan had gone to
2 school with him, or he was in the same class.
3 And I don't know what grade it was, I really
4 didn't ask him, so ...

5 Q. What else did your son tell you about Brendan?

6 A. He was in the slow part of classes. He wasn't in
7 their class, but he had his own teacher --

8 Q. Mm-hmm.

9 A. -- with a few others kids so that -- He wasn't --
10 I don't know how to explain there. How do you
11 say that, not handicapped, but he was just a slow
12 learner.

13 Q. Right. Right.

14 A. So that was all that he had said about it. He
15 didn't know Brendan -- He knew Brendan, but he
16 didn't hang around with him. He wasn't friends
17 with him, so ...

18 Q. Okay. I mean, so did your son tell you that
19 Brendan was in some of our regular classes with
20 us --

21 A. Yes.

22 Q. -- and some of them he would be taken out --

23 A. Correct.

24 Q. -- with a small --

25 A. Yes.

1 Q. -- group of --

2 A. Yes.

3 Q. -- other kids?

4 A. Yeah.

5 Q. Just to help the slower learner?

6 A. Yes. Like I think it was Math class and -- I

7 don't what their class room was, but their was

8 two classes that he was in a different class for,

9 or with them, so ...

10 Q. Okay. All right. Anything else at all that he

11 told you about -- about, you know, more recent

12 stuff --

13 A. No.

14 Q. -- or what he thought about the allegations?

15 A. No, nothing.

16 Q. Okay. And in answering Mr. Fallon on something

17 when he was asking you about publicity after

18 Brendan got charged, you may remember that Steven

19 was charged back --

20 A. Yes.

21 Q. -- in November of 2005?

22 A. Yes.

23 Q. And then Brendan Dassey gets charged in -- right

24 at the beginning of March, 2006.

25 A. Yeah. I kind of remember a little bit on the TV

1 about it. But that was -- his involvement, I
2 really don't remember what was said about -- I
3 just know that he was arrested. My son had
4 brought it up and said that he went to school
5 with him, but that was basically about it.

6 Q. Okay. And you said you saw a little bit and I
7 understand you don't remember, necessarily, all
8 the details of that. But do you remember, was it
9 a news conference you saw, or a 6 o'clock news
10 report, or a court proceeding, since some of
11 those have been televised? Do you remember kind
12 of what it was you saw?

13 A. If it was anything, probably be in the morning
14 during the news at 6:30, 7:00. Just that they
15 were bringing him in to -- I remember seeing him
16 on TV, he was in handcuffs and then a jumper suit
17 and that they were taking him here at the
18 courthouse or the jail and then they were
19 transferring him to Sheboygan, I believe.

20 Q. Okay.

21 A. So that was about it and then that they were
22 charging him with helping out with the murder,
23 something to that affect.

24 Q. So probably more like a news report?

25 A. Yeah.

1 Q. Not so much a news conference?

2 A. No.

3 Q. Did you see Mr. Kratz, the gentleman closest to
4 you, in any, you know, news appearances or news
5 conferences?

6 A. No, seen his face on TV, but that was about it.

7 Q. Okay. All right. WAPL, that's your station so
8 to speak?

9 A. Yeah, I've listened to that and sometimes the
10 Razor on 94.

11 Q. Out of Milwaukee?

12 A. I believe so. I don't know for sure. It's
13 occasionally, my son flips my channels on me all
14 of the time so it's kind of whatever, if it gets
15 too head bang music, I have got to turn it off.

16 Q. Okay.

17 A. So ...

18 Q. And that was where I was going is WAPL is sort of
19 a classic rock --

20 A. Yes.

21 Q. -- or '70s rock --

22 A. Yeah.

23 Q. -- format?

24 A. Yeah, it's -- And that's occasionally I listen to
25 it in the morning.

1 Q. Are you a talk radio guy at all?

2 A. No, no, I really don't listen to any.

3 Q. Or call in?

4 A. No.

5 Q. Any of that?

6 A. No.

7 Q. Did your -- When your son told you this little
8 bit about Brendan, did he, that is your son, did
9 he, you know, sort of characterize this in any
10 way for you, like that he was surprised, or he
11 wasn't surprised, or he didn't think Brendan
12 could do something like this, or he could see
13 just how he could do it, any of that kind of
14 subjective stuff, if you know what I mean?

15 A. No, the only thing he had said, that he was
16 surprised that he seen Brendan on the TV and that
17 the kids at school were talking about it.

18 Q. Mm-hmm.

19 A. As to anything else, no he never said nothing.

20 Q. Are you -- You are, obviously, a member of the
21 paper workers, which is an AFL-CIO affiliate?

22 A. Yeah, we just joined steel workers through the
23 AFL-CIO.

24 Q. Okay. And you're in a union shop where you had
25 to join the union?

1 A. Yes, sir.

2 Q. Okay. And are you active in the union?

3 A. No, I'm not. Just a member, because where I

4 work, I have to be a member of the union.

5 Q. Right.

6 A. So that's -- that's ...

7 Q. You pay your dues?

8 A. That's right, yeah.

9 Q. Okay. Is that -- Is that something that you are

10 happy about, or sticks in your craw, or a little

11 of both depending on --

12 A. No, the union is good in some ways, and some ways

13 not, but the only thing is they just upped our

14 dues again, so, I'm not real happy about that.

15 Q. Okay. And you are no longer a foreman, but you

16 were for a time a foreman on the second shift?

17 A. Yes, that was at Valders' Stone and Marble when I

18 used to work there. I was there for nine and a

19 half years and I was a shift general foreman on

20 second, so ...

21 Q. Okay.

22 A. I didn't know if that pertained to anything so I

23 just wrote it down.

24 Q. Sure, that's good. And I'm not going to go

25 deeply into this, I have a specific reason for

1 asking this; I don't know what a clamp truck is?

2 A. In the paper mill I work it's -- we make
3 cardboard boxes, mostly tissue boxes, like you
4 see your Viva --

5 Q. Sure.

6 A. -- or stuff like that. And what I do is I bring
7 in 8,000 pound rolls of paper and it's a huge
8 forklift with a V-6 Chevy engine in it. And it
9 clamps the paper. And I bring it in, I lay it on
10 the floor, they run one off the roll and then I
11 take it back out.

12 Q. Okay. But it's an open cab --

13 A. Yes, yeah.

14 Q. -- and not something with a radio in it?

15 A. No, no. It's in the plant.

16 Q. Got it. I was -- I ended up a little bit
17 confused, which is probably me not you. But
18 on -- on opinions of Mr. Avery's guilt, or
19 possible, probable guilt, is this something that
20 you tend to think at this moment he's guilty or
21 your sense is that other people tend to think he
22 is guilty?

23 A. No. I kind of think he is, yes.

24 Q. Okay.

25 A. And a lot of people, I believe they do think he

1 is.

2 Q. And do you hear -- I mean, of the folks you are
3 hanging around with, do you hear anybody taking
4 the contrary position sort of saying, oh, you
5 know, I think -- I think he didn't do it or ...

6 A. Nothing -- nobody that I work with. My wife had
7 said that there were a few people she works with
8 in Green Bay that had talked about that they
9 figured he was set up in a way, so ...

10 Q. Where does Lois work?

11 A. De Leers Millwork in Green Bay. She's a cabinet
12 maker.

13 Q. Okay. So she's getting some chitty chat about
14 this too?

15 A. Yeah. Yeah. Yeah.

16 Q. And then you and she talk about it some.

17 A. Not too often, usually when I talk to her it's at
18 night, usually on my break I will call her from
19 the cell phone and then I talk to her. Because
20 by the time I get home, she's already in bed.

21 She's up at 4 to be at work at 5.

22 Q. She's a first shift?

23 A. Yeah, so we -- the only time we talk during the
24 week is on the phone or write a note.

25 Q. Okay. So where she's at, she tells you that

1 maybe there's some split opinion, where the
2 people you're around, they all think he is
3 guilty?

4 A. Yeah, pretty much. Yeah, Green Bay, they are
5 kind of different talk.

6 Q. Okay. Or apparently, that's your wife's
7 experience.

8 A. Yeah.

9 Q. And, you know, it looks like you don't have a
10 daughter or anything?

11 A. Yeah, she's -- actually goes to school in Fox
12 Valley and she works and lives in Fox -- in the
13 Fox Valley -- in Appleton I should say. She's
14 19.

15 Q. Oh, okay, so you do have --

16 A. Yeah, I have an older daughter and then my son is
17 17.

18 Q. Okay. I'm sorry, you didn't list the daughter,
19 is that just because she's out of the house?

20 A. Yeah, I didn't know if it pertained because she's
21 over 18, so I didn't know and she's pretty much
22 on her own.

23 Q. Sure. Sure. And I'm sorry, she's in the Fox
24 Valley somewhere?

25 A. Yeah, she goes to Fox Valley Tech. She lives in

1 Appleton, on the east side, so ...

2 Q. Right. She's a full-time student or something?

3 A. Full-time student and then she works part-time?

4 Q. And not married?

5 A. No, not yet, I hope.

6 Q. Well, I mean, so she's not that much younger than

7 Teresa Halbach was. And when this -- when this

8 all broke, so to speak, or came out, was this

9 part of your reaction as a dad?

10 A. More when she went missing, yeah, you know, it

11 kind of puts it in the back of your head, I would

12 believe, but, yeah, a little bit.

13 Q. Sure.

14 A. Yeah.

15 Q. Okay. So, I mean, I can ask this a number of

16 ways, but why would you not think Steven Avery is

17 guilty, given what everybody around you is saying

18 and the media and, you know, your daughter.

19 A. Why wouldn't I not think he is not guilty?

20 Q. Yeah, why would you not think he is guilty?

21 A. Yeah, I mean, automatically, it was the first

22 thought, but until I was given the letter by the

23 Judge that we should consider this a different

24 way, well, then it was, you know, trying to think

25 of it that way, so ...

1 Q. Right, I mean --

2 A. You know.

3 Q. -- everybody -- everybody gets to have their
4 opinion, but I guess if you are a juror, then you
5 have to take on a different role?

6 A. Yes, that's the way I had taken it. Yeah, and
7 then so trying to think of it as a different way,
8 I believe, so ...

9 Q. Yeah, and -- and I really -- I really do
10 appreciate that. I think that's -- that's right.
11 And by the same token, I need your -- I really
12 need your honesty in telling me whether you have
13 any questions about your ability to set aside,
14 you know, the perfectly understandable opinions
15 you have formed over a period of time, as you
16 come into the prospect, at least, of serving on
17 this jury. If you have any doubts about that,
18 you should tell us about those now.

19 A. If I have doubts of being on the jury or ...

20 Q. Your ability to set aside those opinions
21 entirely.

22 A. No, I think I can. Like I said, since before I
23 had not really thought about it until now, when
24 I'm actually -- I have to think about it. And I
25 have been thinking about it. And it's -- it's a

1 lot -- a lot of pressure, so to speak. But I
2 think I can if I was selected as a jury (sic).
3 So ...

4 Q. And where do you feel the pressure; what is
5 exactly the pressure you are feeling on that?

6 A. God, I don't know. It's more, if I'm going to be
7 on the jury and then having to -- if I have to,
8 can put somebody behind bars or, you know,
9 that -- that way, I guess.

10 Q. Sure.

11 A. I mean, in talking to people at work that have
12 found out that I am being selected for this,
13 telling me that, you know, we should be doing the
14 right thing. It's like, you know, I'm not
15 listening to what you guys are telling me, so
16 it's pretty much trying to keep an open mind --

17 Q. Okay.

18 A. -- is what I'm saying.

19 Q. Okay. But you are getting some pressure, in
20 other words --

21 A. Oh, yeah.

22 Q. -- from people saying --

23 A. Yes.

24 Q. -- convict him, do the right thing?

25 A. Oh, yeah. Oh yeah.

1 Q. Yeah.

2 A. Yes.

3 Q. So that's one kind of pressure you could be
4 feeling. Are you also feeling pressure about,
5 you know, stuffing down or quieting down the
6 little voice in your own head that says, gee, I
7 think -- I think he probably is guilty?

8 A. Yeah. Oh, yeah. Yeah.

9 Q. Okay. And I think I heard you say that in any
10 really serious case, you would probably feel a
11 lot of pressure about actually making a decision
12 that's a thumbs up or a thumbs down. It has a
13 huge impact on people.

14 A. Yeah, probably somewhat, yeah. Like I said, I
15 told them that it would be, as the evidence was
16 brought forth, I think then I could keep an open
17 mind on that, you know.

18 Q. Okay. So let's say you serve on the jury and you
19 go all the way through and, you know, you just
20 are not convinced, based on the evidence, that
21 the State has proven this, beyond a reasonable
22 doubt.

23 And I'm going to make it harder on you.
24 I'm going to ask you to assume that you say, you
25 know, he might have done it. Strang and Buting,

1 they didn't convince me that he didn't do it. He
2 might have done it, but I'm just not convinced,
3 beyond a reasonable doubt, that he did it. So,
4 under the law, I have to vote not guilty.

5 If you came to that, I don't know if you
6 will or won't, but if you did come to that, can
7 you take what you are going to get the next
8 morning or the next afternoon at work?

9 A. Yeah, I think so.

10 Q. Why?

11 A. It's something I would have to live with, not
12 them. So, I mean, whatever they say it's -- I
13 mean, I only work with these guys for eight
14 hours. It's not like I have to live with them,
15 so ... Yeah, I ...

16 Q. Well, they are going to make -- they might make
17 you feel like they have to live with it, if you
18 hear comments like, oh, you let him back out on
19 the street.

20 A. Mm-hmm.

21 Q. Can you do that?

22 A. Yeah, I don't see why not. Yeah. Yeah, I have
23 no problem with that.

24 Q. One thing that we'll have to decide at this
25 table, the three of us, is whether Mr. Avery

1 would testify in his own defense. And that's a
2 tough call because, you know, on the one hand, if
3 the defendant testifies, somebody could say,
4 well, of course he's going to get up and deny it,
5 you know, he's trying to save his skin. If he
6 decides not to testify, then people may say,
7 what's he got to hide.

8 (Loud noise.)

9 THE COURT: That's our signal that the
10 battery is going on the microphone. So, we'll take
11 a short break. It's very subtle.

12 Mr. Strang, you may continue.

13 ATTORNEY STRANG: Thank you.

14 Q. (By Attorney Strang)~ If you -- So, if he doesn't
15 testify, you know, has he -- has he got something
16 to hide or, you know, geez, if I was charged and
17 I didn't do it, I would get up and say that I
18 didn't do it. Are you likely to have either one
19 of those feelings or both?

20 A. I don't think so. Isn't it basically on what the
21 evidence you guys bring to us, that we have to
22 decide.

23 Q. What those guys bring.

24 A. I'm sorry, what they have to.

25 Q. Yeah. Now, that's not to say that we won't

1 cross-examine people or we may even call
2 witnesses. But the real bottom line on it is the
3 Judge, the Judge's instructions, which will be, I
4 think, to this effect: One, if Mr. Avery
5 testifies, you have to consider him like any
6 other witness. Consider the same things you
7 would in deciding whether you believe anyone
8 else.

9 A. Mm-hmm. Okay.

10 Q. Okay. He is just another witness. Or, two, I
11 think the Judge will tell you, in effect, if
12 Mr. Avery does not testify, you can't even
13 consider that. You can't speculate on why he
14 didn't. You can't consider it evidence of guilt.
15 You can't consider it at all in deciding whether
16 the State proved him guilty, beyond a reasonable
17 doubt. Can you follow those instructions?

18 A. Yes, I think I could.

19 Q. You may hear -- While we're talking about
20 witnesses, you may hear evidence tending to
21 suggest that police officers are not telling the
22 truth, one or more police officers are not
23 telling the truth in reports or on the witness
24 stand.

25 That can be a hard pill for people to

1 swallow. The police officers are sworn to uphold
2 the law. They generally do. They are people we
3 look up to often. But in the end, you have to
4 consider them as any other witness, too, and
5 weigh, do I believe this? What are the reasons?
6 Does this testimony make sense or not make sense
7 to me? Can you do that?

8 A. I think, so.

9 Q. Can you envision a circumstance in which a police
10 officer might lie under oath?

11 A. No, I don't.

12 Q. Can you envision a circumstance where any witness
13 might lie under oath?

14 A. Possibly, I don't know, it's ...

15 Q. Okay. And that's where I'm going at?

16 A. Yeah.

17 Q. Do you think the oath is so important to people
18 that no one ever violates an oath?

19 A. I would hope so. I would hope so, that it would
20 be.

21 Q. Well, we all hope so.

22 A. Yeah, but is it, I don't know.

23 Q. Okay. And other than if you have seen a robo cop
24 movie, have you ever met a police officer who
25 wasn't human?

1 A. No.

2 Q. Okay. So if the question really is, can you let
3 them be human too and weigh their testimony just
4 like you would weigh the testimony of any other
5 witness?

6 A. Yeah, I suppose I could.

7 Q. It sounded like -- If you have questions about
8 that, please just say so. There's no wrong
9 answer here.

10 A. No, I don't have any questions about that.
11 I'm -- I mean, if they swear the oath, then I'm
12 hoping that they are telling the truth.

13 Q. So am I.

14 A. Yes.

15 Q. But in the end, if testimony conflicts and you
16 have to make a choice ...

17 A. Can I make that choice?

18 Q. Yeah.

19 A. I think I can.

20 Q. You will probably hear a good deal of scientific
21 evidence in this case as well. And then you may
22 hear evidence about the absence of scientific
23 evidence. Is scientific evidence something that
24 you think you can pay attention to?

25 A. I think so, yes.

1 Q. How do you think it rates as compared to other
2 types of evidence, eyewitness testimony or other
3 witnesses?

4 A. I really can't answer that, I don't know the
5 difference. You mean, if somebody is telling me,
6 or if they are showing me on a slide show, is
7 that what you are saying?

8 Q. Yeah, it's a clumsy question. Do you put any
9 special stock in science as being especially
10 certain or one hundred percent black/white kind
11 of thing or no?

12 A. You mean like as in DNA evidence or stuff like
13 that?

14 Q. Sure.

15 A. I would think so, yes, it should be.

16 Q. Okay.

17 A. Yes.

18 Q. That is, if the science is good?

19 A. Yes. I would, yeah.

20 Q. But even if it's -- even if it's an expert who's
21 testifying to some specialized scientific
22 knowledge; do you understand that witness you
23 also have to weigh as just another witness?

24 A. Yes. Are you asking me to -- if I could
25 understand it, I would think so, yes.

1 Q. Okay. What do you know, if anything, about
2 Mr. Avery's background with being let out of
3 prison because of DNA showed that someone else
4 committed the crime he was convicted for?
5 A. It's what I know or what I heard?
6 Q. Heard.
7 A. What I heard. Basically a group of college
8 students had found something with the DNA, that's
9 about it. And that he was released after 18
10 years, I believe, or 13.
11 Q. Long time?
12 A. Yeah, it was a long time.
13 Q. Yes. Do you have any questions about whether he
14 really was innocent of that, it was a mistaken
15 conviction?
16 A. No, I have no questions about that.
17 Q. My last question, although I may ask you why, but
18 really my last question is, do you want to be on
19 this jury?
20 A. Kind of teetering, yes and no.
21 Q. So tell me why?
22 A. I don't know. It more is the length of the
23 trial, I believe, would be one of them. But I
24 don't know. I have never done it before, so I --
25 I'm kind of -- I'm kind of not sure if I want to

1 be. So ... It's hard to explain.

2 Q. Yeah, but you are doing all right. I mean, you
3 have never done it before, is that a pro or a
4 con?

5 A. Yeah. Yeah, I guess it would be a pro.

6 Q. Like a learning experience?

7 A. Yes. Yeah. People I have talked to that have
8 been on jury duty and said they were the same
9 way, but once they did it, it was -- it was a
10 good experience.

11 Q. Okay. And the length of the trial is something
12 new that I'm sort of hearing from you, I think.
13 That sounded like a minus.

14 A. No, just that it's -- I mean, I can do it. It's
15 not a problem, it's just that, you know, the
16 length of it, being off of work and stuff like
17 that, so, I mean, but it's not a problem. It's
18 -- If I have to, I have to; if I don't, I don't.
19 It's not ...

20 Q. Okay.

21 A. So, yeah, I don't know how else to explain it.
22 You know, it's just ...

23 Q. Nobody wants to be drafted?

24 A. Yeah. That's it, yeah, there you go. Yeah.

25 Q. Okay. Thanks.

VOIR DIRE EXAMINATION

1
2 BY THE COURT:

3 Q. Mr. Keehan, just a follow-up. I think I
4 understood most of your answers, but you
5 indicated that, based on what you have heard and
6 read so far in the media and from other people,
7 you think the defendant is guilty?

8 A. Yes.

9 Q. Based on what you --

10 A. Based on what I have heard and seen, yeah.

11 Q. But you also indicated that if you were selected
12 for the jury you could follow the Court's
13 instructions and base your decision only on the
14 evidence?

15 A. I believe I could, yes.

16 Q. You understand, if you're on the jury and we go
17 to trial, everybody starts from zero.

18 A. Yes.

19 Q. That's essentially what it means. Nothing's
20 proven, except the evidence that comes in at
21 trial, the State starts from scratch. You can
22 only base your decision on the evidence that
23 comes in. Even in light of what you heard before
24 today, do you feel that you can base your
25 decision on the evidence at trial if you're

1 selected to serve?

2 A. I think I could, yes.

3 THE COURT: All right. The Clerk will
4 escort you from the courtroom at this time.

5 (Wherein the juror was excused.)

6 THE COURT: Counsel, any motion from either
7 party?

8 ATTORNEY FALLON: None from the State.

9 ATTORNEY STRANG: I do. I do, and I
10 realize this is a tough one because it's -- so much
11 of it is -- is demeanor and a sense of ambivalence
12 of this gentleman. And I think you -- I would have
13 to cast it as subjective bias. I mean, he was
14 candid about telling us the opinion he is coming
15 into with. And I also took him at his word when he
16 said he, you know, he really would try to follow the
17 rules and set that aside.

18 So, you know, this is tough, because I
19 don't get to make the demeanor and the
20 credibility call, the Court does. But I -- I'm
21 left with a real sense of unease about the
22 understandable bias that he comes into.

23 And one thing that was -- that really
24 sort of crystalized this for me was his -- his
25 volunteered comment that he's getting some

1 pressure from co-workers saying, you got to do
2 the right thing here and convict this guy. I
3 mean, those weren't his exactly his words, but
4 that was -- that's what he -- he said in his own
5 words.

6 So this is one of these tough ones. I
7 understand that it's close and so much of it
8 turns on things that won't appear in black and
9 white on the paper. But I think there's cause to
10 let him go and we're hearing that with the
11 reluctance about the length of the trial and
12 weekends and feeling pressure in different ways.
13 So I'm going to move to strike him and I
14 understand why the State is not and not joining
15 that, but that's my motion.

16 THE COURT: All right. I also agree this
17 is a situation, as in many cases, where the Court's
18 decision is based on the demeanor of the witness.
19 However, I come to a different conclusion than the
20 defense did. I did ask a follow-up question or two
21 because I was concerned, based on the witness'
22 statement -- or the juror's statements, which I
23 believe were quite honest and forthright.

24 He frankly admitted, based on what he's
25 read and heard so far, essentially, if he had to

1 say something today, he would say, based on what
2 he knows, that the defendant is guilty. But he
3 also seemed to express a clear understanding of
4 the fact that if selected as a juror he would
5 have to set those opinions aside. I believe he
6 can.

7 He did not go into extensive detail of
8 any reasons why I think he could not set his
9 opinions aside; that is, he hasn't been following
10 the case so closely that his -- his mind is made
11 up. I also sat back and took notice when he gave
12 the answer to the question about, well, I, you
13 know, get pressure from my co-workers and they
14 are telling me to do the right thing.

15 But I was more impressed with his answer
16 where he said that, yes, if I didn't think the
17 State met its burden I would vote not guilty and
18 that's because I have to live with myself more
19 than I'm concerned about living with them.

20 That showed me that this is a juror who
21 I believe has the courage of his convictions and
22 I believe him when he says he can set his
23 opinions aside and follow the evidence at trial.
24 So I'm going to retain him as a juror in this
25 case.

1 ATTORNEY STRANG: Maybe the Court solved
2 the problem, but the Court was cutting in and out on
3 the microphone and it may have gotten better after
4 the Court adjusted the mike.

5 THE COURT: Yeah, I'm not sure, since I'm
6 not battery powered I'm not sure where the problem
7 is coming from. But I may have to take a look at
8 it.

9 At any rate, let's take our break at
10 this time. Counsel, what I would like you to do
11 is take a break and stop in at chambers at 3:15.
12 We still have a significant number of jurors back
13 there. I would like to cut some of them loose.
14 So we'll be talking about how far we're going to
15 go today.

16 ATTORNEY FALLON: Thank you.

17 (Recess taken.)

18 THE COURT: All right. At this time we're
19 back on the record, outside the presence of any
20 members of the jury panel. Mr. Strang, you
21 indicated you had a matter you wished to bring up.

22 ATTORNEY STRANG: I do, very briefly. I
23 wanted to clarify my comments about the demeanor of
24 Patrick Keehan, the last juror we spoke with. Just
25 out of fairness to him and -- and so that I really

1 am clear, it was a demeanor issue, but it was not
2 dishonesty I was hearing. It was discomfort that I
3 was hearing with him. I didn't have any honesty
4 issue at all. I just -- The ambivalence and the
5 discomfort was the demeanor point that I was
6 raising.

7 THE COURT: Okay. That's the way I
8 understood it as well.

9 We're dealing here with information from
10 jurors, rather than testimony. And I don't know
11 quite how to approach this, but I feel compelled
12 to tell the parties that there was a reference in
13 the statements from one of the jurors to AA
14 meetings and I only wish to point out to the
15 parties that AA doesn't always mean the first
16 thing that necessarily comes to your mind.

17 ATTORNEY STRANG: Oh, we need to know that.
18 Do we know what it does mean?

19 THE COURT: Well, Janet Bonin, the Clerk,
20 is the one that brought it to my attention. As we
21 know, I think some questions were asked of her
22 because she knew the juror. Janet, go ahead.

23 THE CLERK: They call them attitude
24 adjustment meetings, that's what the AA means.

25 ATTORNEY STRANG: Okay. That's great,

1 because we did jump to the -- not about Janet or
2 anybody else but ...

3 THE COURT: I don't think any questions
4 were asked that referred to Alcoholics Anonymous,
5 which is perhaps the most common usage. And so I
6 don't know at this point what to make of it or not
7 make of it, but it's also the type of information
8 that many times jurors would be asked to be kept
9 confidential.

10 ATTORNEY STRANG: Right.

11 THE COURT: And I don't want anybody to
12 draw any inferences from just the fact that letters
13 were used without any information about what it was
14 the juror was talking about. Obviously, at this
15 point, the juror is no longer here so there's
16 nothing further we can do about it.

17 ATTORNEY BUTING: Judge, speaking of
18 confidentiality, you realize that this next juror,
19 Question No. 75, he did answer yes. I don't know
20 that it's the kind of material or subject that you
21 would want or think should be discussed privately,
22 but he did ask.

23 THE COURT: All right. This is
24 Mr. Pederson.

25 ATTORNEY BUTING: Yes.

1 THE COURT: Let me briefly review that. I
2 think I can probably address his concern in my
3 opening comments as part of it. Thank you for
4 pointing that out to the Court, however.

5 All right. At this point we're going to
6 take one juror out of order who has been here
7 quite a while today. That is, Mr. Pederson,
8 Juror 66. So we will have him come in at this
9 time.

10 ATTORNEY KRATZ: I'll be examining him,
11 Judge.

12 THE COURT: Okay. Mr. Pederson, please
13 raise your right hand and the Clerk will administer
14 the oath to you.

15 (Juror sworn.)

16 THE CLERK: Please be seated.

17 THE COURT: Mr. Pederson, you pronounce
18 your name that way?

19 MR. PEDERSON: Yes.

20 THE COURT: Mr. Pederson, you have already
21 filled out a written questionnaire in this case.
22 Today we're moving on to the next phase of the jury
23 selection process which is known as voir dire.

24 During this portion of the process, the
25 attorneys for the parties can ask you questions

1 in order to follow up on some of your answers in
2 your questionnaire that address your
3 qualifications to serve as a juror in this case.

4 Before we get to those questions, I have
5 some information to pass on to you. First of
6 all, the jurors selected in this case will not be
7 sequestered. That means that at the end of the
8 court proceedings every day the jurors will be
9 permitted to return home. The prohibition on any
10 exposure to news media accounts of the case will
11 continue.

12 That means that the jurors will not be
13 permitted to obtain information about the case
14 from any newspaper, television, radio, or
15 internet sources and the jurors will continue to
16 be required not to discuss the matter, including
17 with any other jurors or with any family members
18 during the course of the trial.

19 I can also tell you that although the
20 proceedings today are open to the public, during
21 voir dire we do not allow cameras in the
22 courtroom and the jurors are not permitted to be
23 photographed.

24 I can also tell you that the law does
25 not allow the media to identify jurors in news

1 reports of these matters. And also, should you
2 be selected as a juror in this case, cameras are
3 not permitted to show the faces of the jurors,
4 such that any individual jurors can be
5 identified.

6 If you are retained on the jury panel
7 after questioning today, you will receive a
8 telephone call in the next day or two notifying
9 you when to report back to court.

10 I note, before I allow Mr. Kratz to
11 begin questioning, in your answer to Question 75
12 of the questionnaire, you indicated matters that
13 you regarded as personal and I think they related
14 to your possible identification as a juror. I
15 hope I have identified your concerns.

16 MR. PEDERSON: Yes, you have.

17 THE COURT: Thank you. All right.

18 Mr. Kratz, you may proceed.

19 ATTORNEY KRATZ: Thank you.

20 **VOIR DIRE EXAMINATION**

21 BY ATTORNEY KRATZ:

22 Q. Mr. Pederson, as the Judge has eluded, my name is
23 Ken Kratz. I'm the Calumet County D.A. and the
24 special prosecutor in this case, lead counsel.
25 Seated with me this afternoon is Tom Fallon. He

1 is an Assistant Attorney General who will be
2 helping not only in this process, but through the
3 presentation of the case. I would like to
4 welcome you for this part of the process.

5 Mr. Pederson, you have filled out a
6 lengthy questionnaire and we do have some
7 follow-up questions on that questionnaire. I
8 understand, based upon your response, that you
9 have learned quite a bit about this case through
10 various sources. Let me ask you first, would you
11 say that most of your news comes from radio, or
12 internet, or TV, or what source?

13 A. Yeah, I haven't followed it very closely. I have
14 seen headlines in some newspapers and there was
15 one article I skimmed in a newspaper. And I have
16 seen some headlines on TV and I have heard a few
17 things on the radio.

18 Q. When you say you haven't followed it very
19 closely; do you mean lately you haven't or even
20 back from when this case first started?

21 A. Even back. I can tell you the facts I know or --
22 well, shouldn't be considered facts at this
23 point, but I can tell you what I think I know.

24 Q. At least the news reports, what it is that you
25 have heard from news reports, why don't you go

1 ahead and start there and we'll have some
2 follow-ups.

3 A. Well, what I heard reported was that the body was
4 found on Mr. Avery's property. And I read some
5 comments Mr. Avery made about his nephew. And
6 there was a headline or something to the effect
7 of -- well, there was something about a vial of
8 blood and that's about what I know.

9 Q. All right.

10 A. So ...

11 Q. Mr. Pederson, based upon those news reports, your
12 questionnaire indicates that you may have formed
13 an opinion, or at least the media reports may
14 have directed you one way or another regarding
15 the guilt or innocence of Mr. Avery; is that
16 correct?

17 A. Yes, at this time I do have an opinion.

18 Q. And I think your opinion is that Mr. Avery may in
19 fact be guilty of the charges for which he faces;
20 is that correct?

21 A. Correct.

22 Q. You also indicate, however, in your
23 questionnaire, that if instructed by the Court to
24 set aside those opinions, which the Court
25 undoubtedly would do, that you believe that you

1 would be able to do that; is that still your
2 opinion today?

3 A. I believe I would be able do that.

4 Q. All right. Why don't we start there since that
5 is a extremely important topic. If the Judge
6 instructs you that that's what you have to do; in
7 other words, if the defendant sits in this
8 courtroom presumed innocent --

9 A. Correct.

10 Q. -- would you be able to follow that instruction?

11 A. I believe so.

12 Q. If the Judge instructs you that the only decision
13 that he wants any juror to make is based upon
14 information that comes from evidence, that is,
15 from witnesses, or documents, or other admitted
16 evidence in the case; would you be able to base
17 your decision solely upon that evidence and set
18 aside, perhaps, what you may have read, or what
19 you may have heard, or what you may have thought
20 that you knew coming into the case?

21 A. I believe so.

22 Q. All right. If the Judge instructs that you must
23 do that, Mr. Pederson, can you give us your
24 assurance that that is in fact what you will do
25 as a juror?

1 A. Yes.

2 Q. All right. You understand, I suspect, that the
3 difference between news reports, that is, what
4 the news may report some people may have said or
5 what may have been found and what actually might
6 be introduced in evidence of a case?

7 A. Correct, I do.

8 Q. Are you familiar with Mr. Avery himself, or his
9 history, or his connection with something called
10 the Project Innocence in Wisconsin?

11 A. Well, I understand that he had been previously,
12 apparently, falsely accused and convicted. And
13 based on DNA evidence, he was exonerated
14 eventually.

15 Q. All right.

16 A. So -- And I understand also that -- that there
17 was a civil case that he won against the County
18 of Manitowoc.

19 Q. All right. Would knowledge of those facts or, at
20 least what you think you know of Mr. Avery's
21 past, would that affect your decision making in
22 this case, or would you be able, again, to set
23 that aside and base your decision solely on the
24 evidence in this case?

25 A. I could set that aside.

1 Q. In your questionnaire, you mentioned that you
2 have some background in DNA evidence, at least
3 some general knowledge of it, and more
4 specifically in the area of chemistry; is that
5 right?

6 A. Well, yeah, I would say, perhaps some very
7 general knowledge. I have some knowledge of
8 chemistry. I'm by no means an expert, but I do
9 have some general knowledge.

10 Q. Let me ask you this, Mr. Pederson, do you hold an
11 opinion, at least generally, that DNA evidence is
12 reliable in what you have heard or what you have
13 come to understand about DNA analysis, that it
14 provide courts or provides other investigators a
15 good basis for making positive identifications?

16 A. Yes, I believe it's reliable. I understand it
17 is.

18 Q. In your questionnaire, you mention that you had
19 some knowledge of a woman by the name of Lori
20 Dassey. Can you tell me about that, please.

21 A. Well, I understand that she was the wife of
22 Mr. Avery and that's about all I know. And I
23 work with her.

24 Q. Do you work with her on a daily basis?

25 A. No.

1 Q. How well do you know Ms Dassey?

2 A. Just at a professional level. I have never
3 discussed anything about --

4 Q. Do you work in the same department or the same
5 area?

6 A. No, we work in separate buildings and in
7 different departments.

8 Q. Do you ever have occasion to speak with her
9 either about personal matters or anything other
10 than work related topics?

11 A. Not to date.

12 Q. Has Ms Dassey ever had an occasion to talk to you
13 either about Steven Avery, about her marriage, or
14 about any part of this case?

15 A. Not to date.

16 Q. If instructed by the Court, which I'm sure it
17 would occur if you were a juror in this case,
18 could you assure us that you would have no such
19 conversations with Ms Dassey, or anybody for that
20 matter, regarding the facts and circumstances
21 surrounding this case?

22 A. Yes, I could.

23 Q. Mr. Pederson, you appear to be the primary bread
24 winner within your home, would working for --
25 excuse me -- would serving for a six week trial

1 create a financial hardship for you or your
2 family?

3 A. No, it would not.

4 Q. Is there a reason for that?

5 A. Well, the policy at my place of employment, I
6 understand, is they would continue paying me my
7 nominal salary through the course of a jury
8 trial.

9 Q. All right. Have you had any contacts at all with
10 Manitowoc County law enforcement? I notice that
11 you mentioned there was a vandalism case that you
12 had reported. But did you -- have you had any
13 other more specific contacts with law enforcement
14 agencies?

15 A. There's one I forgot to mention on there, I have
16 a neighbor who is a police officer and I don't
17 know his name.

18 Q. Is he a Manitowoc County sheriff's deputy or work
19 for some municipality?

20 A. I believe he works for the Manitowoc City Police,
21 I believe.

22 Q. All right. Have you had any discussions with
23 your neighbor about this case or about the facts
24 or circumstances surrounding this case?

25 A. No, I have not.

1 Q. You say that you have an overall positive opinion
2 of the job that the Manitowoc County law
3 enforcement community is doing?

4 A. Yes, I do. I have no reason to not have that, I
5 guess.

6 Q. Mr. Pederson, is there any reason that I may not
7 have asked you that you believe disqualifies you
8 to sit on this case, or anything that we haven't
9 asked either in writing or from me orally today,
10 that you believe we should know that would
11 disqualify you as a potential juror?

12 A. None that I can think of.

13 Q. All right.

14 ATTORNEY KRATZ: That's all the questions I
15 have of this particular juror, Judge. Thank you.

16 THE COURT: All right. Mr. Buting.

17 ATTORNEY BUTING: Yes, thank you, Judge.

18 **VOIR DIRE EXAMINATION**

19 BY ATTORNEY BUTING:

20 Q. Good afternoon.

21 A. Good afternoon.

22 Q. My name is Jerome Buting and I, along with Dean
23 Strang, are defending Steven Avery here today.

24 A. Mm-hmm.

25 Q. Okay. I have, first, some background questions,

1 if you don't mind. Do you have a degree in
2 engineering?

3 A. Yes.

4 Q. What kind of engineering?

5 A. Well, I have a degree in electrical engineering
6 and also a degree in physics.

7 Q. Okay. And both of those are from the University
8 of North Dakota?

9 A. Correct.

10 Q. And you have four children?

11 A. Yup.

12 Q. And your wife is not employed outside the home?

13 A. Correct.

14 Q. And you are not originally from this area; is
15 that right?

16 A. That's correct.

17 Q. You are from Missouri?

18 A. Well, I was born in Missouri and then I also
19 lived there during high school for two years.

20 Q. Your father move around; your family move around?

21 A. No, I moved to Missouri and lived with my
22 grandparents for -- there's family issues, so I
23 lived with my grandparents for two years --

24 Q. I see.

25 A. -- during high school.

1 Q. During high school?

2 A. Yup.

3 Q. And where were you before that?

4 A. Before that, I was in North Dakota.

5 Q. Okay. So you were born in Missouri, then grew up

6 mostly in North Dakota?

7 A. Born in Missouri and I understand about six

8 months of age we moved to Connecticut and then

9 when I was probably second grade, moved to North

10 Dakota.

11 Q. Okay.

12 A. So ...

13 Q. Missouri kind of has the nickname of the "show me

14 state", right?

15 A. Yeah.

16 Q. Did you live there long enough to adopt that

17 yourself, that motto?

18 A. I don't think so.

19 Q. Well, in this case, you are going to have to, if

20 you're a juror. You are going to have to adopt

21 that motto that the State has to show you.

22 A. Okay. I understand what you are saying.

23 Q. Okay.

24 A. They have the -- They -- The burden is upon them

25 to present the evidence is what you are saying.

1 Q. Right. Now, as long as we're talking about that,
2 the defense may or may not present any evidence.
3 You know, in any criminal trial, we could just
4 sit here and do nothing and let them fail to
5 convince you, beyond a reasonable doubt. We're
6 not going to do that here. I will let you know;
7 we're not going to just sit here. We will
8 cross-examine their witnesses and we'll probably
9 put on some of our own.

10 A. Okay.

11 Q. Maybe, maybe not.

12 A. Mm-hmm.

13 Q. But if we do that, if we do put on any witnesses
14 and do put on a defense, are you going to say to
15 us, show me that Mr. Avery is innocent?

16 A. No, that's -- Yeah, I can see where you are
17 going, that can be -- I can see where that could
18 be a tough distinction to draw.

19 Q. It is. It is kind of unnatural for jurors
20 because --

21 A. Right.

22 Q. And sometimes, you know, they teach defense
23 attorneys, sometimes the best defense is to put
24 on no defense, because it forces the jury to look
25 at the State's evidence and the State's evidence

1 only. And if they --

2 A. Mm-hmm.

3 Q. -- are unable to convince you, then that's it,
4 you don't do any weighing. Now, on the other
5 hand, when the defendant puts on any evidence,
6 the natural tendency is, you kind of weigh one
7 side against the other.

8 A. Right.

9 Q. And you say, well, which one is more believable,
10 or which one is more credible and that tends to
11 get jurors away from their real function which is
12 to first decide, has the State convinced me,
13 beyond a reasonable doubt. That's what you would
14 have to do here. And it's really, I think, kind
15 of an unnatural way of doing things and probably
16 for a scientist it's very unnatural. But do you
17 think you could do that?

18 A. I believe so.

19 Q. Along those lines -- might as well deal with this
20 right now --

21 A. Uh-huh.

22 Q. -- is the question of whether or not a defendant
23 testifies at a trial. And for some of the same
24 reasons attorneys -- defense attorneys may advise
25 their clients not to take the stand, because they

1 are concerned maybe that the jurors are going to
2 start thinking, well, has he convinced me that
3 he's innocent.

4 And that's a real risk. And so
5 sometimes, that's one reason maybe defense
6 attorneys say, don't put the client on. There's
7 other reasons, the concern that if a defendant
8 does testify that jurors may not listen to what
9 he says, they may not believe him or her because
10 after all, they are the defendant.

11 A. Mm-hmm.

12 Q. They got everything -- They have got reasons and
13 motives to lie, right? Can you understand that
14 concern?

15 A. Yes, I can, yup.

16 Q. But if you're selected for this jury, the Judge
17 will, I'm sure, instruct you that if the
18 defendant testifies, you have to take his
19 testimony just like any other witness. You have
20 to weigh his testimony the same way as anybody
21 else. You can't just discount his testimony
22 by -- because of his status as a defendant. Can
23 you do that?

24 A. Yes.

25 Q. And on the other hand, if he -- if he does not

1 testify, the Judge will also instruct you that
2 you cannot consider that in any way. You can't
3 speculate on why he didn't testify. You can't
4 hold it against him. You can't think he must
5 have had something to hide, or whatever. You
6 really have to put that completely out of your
7 mind.

8 A. I understand.

9 Q. Will that be hard for you to do? I mean, are you
10 the kind of person that likes to hear both sides?

11 A. Well, generally, I think I am the kind of person
12 that likes to hear both sides.

13 Q. I think most people are.

14 A. So ... Yup.

15 Q. So, again, it's kind of an unnatural thing that
16 we ask jurors to do.

17 A. Right.

18 Q. But it's based on hundreds of years of law and
19 practice. And there are very, very good reasons
20 for it. And if you are selected for the jury,
21 you have to promise -- you have to promise the
22 Court and the attorneys and everybody that you
23 really will follow that instruction; do you think
24 you can?

25 A. Yes.

1 Q. Okay.

2 A. I think I can. It's a -- Yup.

3 Q. It's something you really have to just keep in
4 your mind and, you know, whenever those other
5 thoughts come in, you have got to say, wait a
6 minute, I have to -- I'm not supposed to do that.
7 Okay?

8 A. Right.

9 Q. Now, as a scientist, I mean, you are familiar
10 with the scientific method, right?

11 A. Yes.

12 Q. Which is, among other things, involves testing,
13 replicating those tests, having a peer review of
14 those tests?

15 A. Yup.

16 Q. And that until somebody is able to do that, just
17 because someone may -- Well, strike that. Let me
18 ask it this way. Have you ever heard of junk
19 science?

20 A. Oh, yeah.

21 Q. Do you think there is a lot of that out there?

22 A. There is.

23 Q. What is -- In your mind, what is that?

24 A. Well, people posit theories and -- and they --
25 they may, you know, back it up with evidence, but

1 they really haven't tested it and it's not
2 repeatable. And, typically, when they do that,
3 the facts, or supposed facts, sometimes they are
4 facts and true, but you don't see the whole
5 picture.

6 So they are telling you facts and
7 framing them in a way that supports a theory.
8 And they are not showing you other things that
9 aren't consistent with that.

10 Q. Okay. And -- So when -- when a -- sometimes
11 actual scientists with degrees come forward and
12 have those opinions and express those --

13 A. Correct.

14 Q. -- opinions. And -- But you, as a scientist, can
15 recognize that they are not always true?

16 A. Yes.

17 Q. They are theories. They may be true, but until
18 they have been replicated and studied by others
19 and reported on, they may not be, right?

20 A. Mm-hmm.

21 Q. You have to say yes or no for the court reporter.

22 A. Yes.

23 Q. Okay. Now, forensic science is a little bit in a
24 world of its own when it comes to that. And I
25 wonder how much knowledge you have about forensic

1 science and how much has been tested and
2 replicated and how much is not. Do you have any
3 knowledge about that?

4 A. Very little.

5 Q. Okay.

6 A. I don't think I have much knowledge of that.

7 Q. Okay. Well, in this case, you may or may not
8 hear some challenges to the basis of opinions
9 that are presented. That is, not -- not
10 necessarily the underlying science, but maybe the
11 -- the interpretations, the conclusions that you
12 can draw from things. Okay? Is that something
13 you would be able to listen to and discriminate
14 and consider?

15 A. I believe so.

16 Q. If -- So if an expert testifies here in this
17 trial and expresses an opinion, because that
18 person is an expert or scientist at some level,
19 are you going to just accept it more than you
20 would any other opinion?

21 A. Not necessarily. Even in junk science, in the
22 press, there's experts with sometimes widely
23 differing opinions, even in real science for that
24 matter.

25 Q. Okay. And even in -- in forensic science, crime

1 labs, have you heard of problems where crime labs
2 have been shown not to be reliable results -- or
3 not to have reliable results?

4 A. I haven't heard of that, but I can imagine that
5 happening.

6 Q. Have you heard even the FBI lab was examined in a
7 number of instances because of problems that they
8 were having with reliability with their results?
9 Had you heard that?

10 A. I hadn't heard that.

11 Q. You hadn't, okay. You mentioned that DNA, you
12 believe DNA is -- is reliable, right?

13 A. Yeah, generally. Yup.

14 Q. Is it infallible?

15 A. No, it is not infallible.

16 Q. Okay. And more importantly, do you look beyond
17 just the result, or will you look beyond just the
18 result to find out how the result was obtained in
19 the scientific process?

20 A. Yeah. That's what you -- Yes.

21 Q. Okay. And you have probably heard garbage in
22 garbage out?

23 A. Yes.

24 Q. And you are familiar with that?

25 A. Yup.

1 Q. And so, for instance, if evidence is not
2 collected properly and it's contaminated right
3 then and there --

4 A. Mm-hmm.

5 Q. -- no matter what the result is later, it's
6 garbage in, it's going to be garbage out?

7 A. Yeah. Typically, yeah, that's the way it is.

8 Q. Okay.

9 A. So ...

10 Q. Do you follow protocols in your ...

11 A. Yes, I do.

12 Q. Okay.

13 A. In my place of employment --

14 Q. Yes.

15 A. -- I think you're ...

16 Q. Yes.

17 A. Yes.

18 Q. Scientific protocols that are set out for testing
19 or whatever?

20 A. Yeah, I think it would be fair to call them
21 scientific, yeah.

22 Q. Okay.

23 A. You could look at it that way.

24 Q. Well, are you familiar -- I mean, in general,
25 with laboratory or scientific tests, certain

1 protocols are followed, are designed to, you
2 know, through the process.

3 A. Yes.

4 Q. Yes. Okay. And if someone doesn't follow that
5 protocol, deviates from that protocol; is that
6 something you would consider in terms of whether
7 to accept the reliability of the results?

8 A. It is a reason to question the reliability of the
9 results, yes.

10 Q. Okay. Do you ever watch CSI shows, those kinds
11 of things?

12 A. No.

13 Q. Cold Case, or any of those?

14 A. Uh-uh. I have seen -- I don't know if I have
15 even seen a whole episode, but I have seen them
16 on -- seen them on television. I don't even know
17 if I have sat through a whole episode, but ...

18 Q. Okay. All right. Let me switch here for a
19 minute, topics entirely, and go back to something
20 that Mr. Kratz asked you. Your contact with Lori
21 Dassey, sounds like you haven't really talked
22 personally with her about her marriage or her
23 relationship with Mr. Avery?

24 A. No, I haven't.

25 Q. Have you heard talk around the plant or, you

1 know, of other people maybe who have?

2 A. Yes, I have.

3 Q. And have you heard any negative things about that
4 relationship or about Mr. Avery?

5 A. Yes, I have.

6 Q. Could you please tell us what kinds of things you
7 have heard.

8 A. Well, I heard that she was divorced from him
9 because -- well, the words I heard were to the
10 effect that he wasn't a very nice individual.
11 That's what I remember hearing.

12 Q. Do you remember any details about what
13 allegations perhaps were made?

14 A. Yeah, actually there was -- recently I was
15 walking by a cubicle at my office and they were
16 chatting about the case. There's a number of
17 people who were up for jury duty where I work, or
18 potential jurors.

19 Q. Yeah, we have noticed that, seems to be a
20 productive pool, but go ahead.

21 A. Anyway, but -- but one thing I did overhear was
22 that he had sent some kind of threats or
23 something when he was incarcerated or something
24 to that affect.

25 Q. Were those other people who were -- who had also

1 gotten, you know, a summons like you and were
2 going to be in the pool?

3 A. No, they weren't. As far as I know, they weren't
4 people who had gotten summons.

5 Q. You -- You know people who have gone through
6 messy divorces?

7 A. Yeah.

8 Q. Do you know sometimes a lot of negative,
9 bitter --

10 A. Yeah.

11 Q. -- talk goes on?

12 A. Yeah.

13 Q. And can you imagine that someone who is wrongly
14 convicted and imprisoned and then also taken away
15 from his wife and kids and has his visitation cut
16 off might have some pretty strong feelings?

17 A. I can.

18 Q. Might even say some pretty nasty things.

19 A. Yeah, I can understand that.

20 Q. Would you be able to put -- put -- set aside any
21 of those -- any information you may have heard
22 outside of court about whatever bitterness or,
23 you know, nasty things there might have been in
24 that relationship?

25 A. Yes.

1 Q. And not let it influence your verdict at all
2 here?

3 A. Yes.

4 Q. Okay. And did anybody at the place where you
5 work, do they know that you were also one of the
6 ones who had gotten the summons?

7 A. Yes.

8 Q. And did anybody come up to you and talk to you
9 about it or ask you any questions?

10 A. Yeah, they have -- they have -- they have asked
11 me questions and mostly with regard to where they
12 are at in the jury selection process. Mostly
13 about that.

14 Q. Has anybody tried to talk to you about the case
15 or the facts?

16 A. Um, yeah, people have kind of ribbed me about it.
17 And I walked away a few times when I felt like it
18 was getting -- you know, things were being said
19 that I shouldn't hear.

20 Q. Sure.

21 A. Because I'm --

22 Q. When --

23 A. A potential juror.

24 Q. -- you say ribbed you, that's kind of like ...

25 A. Rib. Ribbed.

1 Q. Okay.

2 A. Like prod me, joke around kind of.

3 Q. What kind of things were they saying?

4 A. Well, some people would, you know, joke around
5 and say I'm going to let him off. Other people
6 would say go in there and tell them you're going
7 to hang him and you will get off the jury pool
8 and things like this, so ...

9 Q. So, you're getting some advice on how to get out
10 of this --

11 A. Ha, ha, ha, yeah.

12 Q. -- responsibility. Did any -- Did you take any
13 of that to heart?

14 A. No.

15 Q. Any concerns that no matter which way your
16 verdict is that maybe when you come back that you
17 might be -- you might get more ribbing or
18 something more serious, that people will be angry
19 at you if you voted one way as opposed to
20 another?

21 A. Well, that's crossed my mind. It's crossed my
22 mind. I haven't been terribly concerned about it
23 but, you know, I mean, it's a potential
24 ramification for a juror.

25 Q. Sure, in a high publicity case like this

1 especially, right?

2 A. Right.

3 Q. And do you think that you would be more likely to
4 get those kinds of comments if you returned a not
5 guilty verdict, than if you returned a guilty
6 verdict?

7 A. I think if I return a not guilty verdict, I may
8 be more likely to get those comments; that's my
9 opinion.

10 Q. And how does that make you feel, then, in terms
11 of whether you can really be a fair and honest
12 jury -- juror in this case?

13 A. Well, I believe I can be an honest juror in this
14 case. If I return a not guilty verdict and get
15 flak, then, I'd probably get kind of upset. But,
16 I mean, I -- I don't think it will influence my
17 decision.

18 Q. Can you ensure us, not just that you don't think;
19 can you say, I promise it's not going to
20 influence?

21 A. Yes, I can. I promise.

22 Q. Okay.

23 A. It won't influence my decision.

24 Q. Because you will have to live with it one way or
25 the other, they won't.

1 A. That's correct.

2 Q. Okay. You also mentioned some knowledge about
3 Mr. Avery's wrongful conviction. I think you
4 used the word, apparently he was wrongly
5 convicted; was there any doubt in your mind that
6 he was --

7 A. Well, based on what was said in the press, it's
8 pretty obvious he was wrongfully convicted.

9 Q. Right.

10 A. And that based on DNA evidence.

11 Q. Right.

12 A. I mean, that's the big thing there.

13 Q. And that it also matched someone else who was
14 actually a suspect all along?

15 A. Oh, I hadn't heard that part of it.

16 Q. You hadn't heard that part of it?

17 A. No.

18 Q. Okay.

19 A. But that's good that that -- anyway --

20 Q. Okay.

21 A. -- whatever. It's immaterial, I guess, in this
22 case, but ...

23 Q. It's immaterial unless there's some harboring --
24 unless you harbored some doubts like maybe he
25 somehow --

1 A. Okay.

2 Q. -- got off on a technicality or something like
3 that. If you had any doubts like that, then I
4 would like to know that.

5 A. Well, in my mind if the DNA evidence didn't match
6 Mr. Avery, then it's pretty certain that he
7 wasn't the perpetrator of the crime, so ...

8 Q. Okay.

9 THE COURT: Mr. Buting, you are going to
10 have to wrap it up.

11 Q. Well, I -- I really appreciate your candor, sir,
12 but there is something that is a little bit
13 concerning and that's mainly that you -- what you
14 wrote in your questionnaire, that at this time I
15 believe he's guilty, but I don't know this beyond
16 a reasonable doubt; is that still the way you
17 feel?

18 A. Yes.

19 Q. You see, if you're selected as a juror here,
20 you've got to -- you've got to change that
21 opinion. You can't have that opinion because you
22 have to presume that he is innocent --

23 A. Correct.

24 Q. -- right now?

25 A. I understand that.

1 Q. And that's different than saying I think he's
2 guilty, but I'm just not at a reasonable doubt
3 yet. You can't start off that way?

4 A. I understand, presumed innocent.

5 Q. And do you really think -- And, you know, I
6 really appreciate your honesty and the Court and
7 counsel does too. Do you really think that you
8 can put aside those feelings, because it's hard
9 for anybody to, and really give Mr. Avery the
10 benefit of the presumption of innocence, if you
11 are selected as a juror?

12 A. Yes.

13 THE COURT: All right. Mr. Pederson, at
14 this time I'm going to have the Clerk escort you
15 from the courtroom.

16 MR. PEDERSON: Okay. Thank you.

17 (Wherein the juror was excused.)

18 THE COURT: Are there any motions from
19 either party?

20 ATTORNEY KRATZ: Not from the State, your
21 Honor.

22 ATTORNEY BUTING: No motion, your Honor.

23 THE COURT: Okay. All right. Mr. Pederson
24 will be in the jury panel. Next is Mr. Dao.

25 Please raise your right hand, Mr. Dao.

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(Juror sworn.)

THE CLERK: Please be seated.

THE COURT: Mr. Dao, you are welcome to keep your jacket on if you wish, but if you want to take it off, you can as well.

Mr. Dao, you have already completed a written questionnaire in this case. Today we're moving on to the next phase of jury selection which is the voir dire process.

Each of the attorneys will have an opportunity to ask you some questions, most of them will probably be follow-ups to information that you gave on your written questionnaire.

Before we get to that point, I want you to be aware of a few things. First of all, the jury in this case will not be sequestered during the trial. That means that at the end of the trial proceedings each day, the jurors will be permitted to return home for the evening and then report back the next day for jury service.

The Court will continue the prohibition on learning anything about the case through the news media. That means that jurors cannot listen to reports on the radio, read things in the newspaper, watch television, check the internet,

1 or do anything like that to get information about
2 the case during the trial. And the jurors are
3 also not allowed to talk about the case with my
4 one, including other jurors or members of their
5 families.

6 The proceedings today are open to the
7 public, but we do not allow cameras in the
8 courtroom during voir dire, so the news media is
9 not here to film you. In addition, members of
10 the media cannot use your name in their reports
11 of the proceedings in this case. And, finally,
12 if you are selected as a juror, the cameras in
13 the courtroom at that time will not be permitted
14 to show the faces of the jurors.

15 If you are retained as a juror after the
16 questioning today, you will be given a telephone
17 call in the next day or two to let you know when
18 to report back to court.

19 Will it be Mr. Kratz or Mr. Fallon? Mr.
20 Fallon, you may proceed.

21 **VOIR DIRE EXAMINATION**

22 BY ATTORNEY FALLON:

23 Q. Good afternoon, sir. How are you?

24 A. Good afternoon.

25 Q. Could do you pronounce your name for us?

1 A. Hoang.

2 Q. And you're -- Very good. Mr. Hoang?

3 A. Yes.

4 Q. Very good. My name is Tom Fallon. I'm an
5 Assistant Attorney General. I work for the State
6 of Wisconsin in Madison. And I'm one of
7 prosecutors, that's one of the persons attempting
8 to prove this gentleman's guilt, Mr. Avery.

9 Working with me, right to my left, is
10 Mr. Kratz. He's the District Attorney in the
11 nearby county, Calumet County. And he is also
12 the lead special prosecutor in this matter. So,
13 again, good afternoon and welcome.

14 This is part of our jury selection
15 process and the attorneys, myself and Mr. Kratz
16 and Mr. Strang and Mr. Buting have a few
17 questions to follow up on some of the information
18 you provided in the questionnaire.

19 I guess I would like to begin with your
20 questionnaire and ask you a question about your
21 comfort in participating in the process, since I
22 guess English is not your first language,
23 correct?

24 A. Correct.

25 Q. All right. Let me just first say that I -- I --

1 I thought your responses to the questions were --
2 were accurate. They made sense, so. We -- I
3 just wanted to explore your answer as to how
4 comfortable you are with English. All right?

5 A. Okay.

6 Q. How long have you been in our country?

7 A. Um, in May will be 13.

8 Q. 13 years?

9 A. Wait, hold on. Let me think, let's see. I came
10 in U.S. May 22, 1992, so, actually, going on 15
11 years.

12 Q. Fifteen years. All right. So you would have
13 been about 10 years old at the time.

14 A. Yes.

15 Q. All right. So your education has been here in
16 America?

17 A. Yes.

18 Q. All right. And how long have you been speaking
19 English pretty comfortably?

20 A. I would say starting, probably, junior high --

21 Q. All right.

22 A. -- and high school years.

23 Q. And how far, again, did you go in school, sir?

24 A. I went to LTC for a year I was going to finish
25 it, but I guess work kind of interfered with my

1 education, so I kind of stop awhile.

2 Q. All right. So you take a little break from
3 education to make some money to work?

4 A. Yeah.

5 Q. All right. What were you studying at Lake (sic)?

6 A. I study accounting.

7 Q. Anything else in particular that struck you as
8 interesting?

9 A. Mostically (phonetic) just business, computer,
10 technology, things like that.

11 Q. Very good. Were you doing good in school?

12 A. I would say somewhat.

13 Q. Very good. Now, at any point in the proceedings
14 this afternoon, if I ask a question, or the
15 Judge, or either of Mr. Strang or Mr. Buting, if
16 whoever asks a question and you are not real sure
17 what we're asking, you know, please, tell us, you
18 know.

19 A. Okay.

20 Q. And believe me, it's more likely going to be our
21 fault than yours, the way the question is asked,
22 it could be just us lawyers goofing it up, so
23 bear with us. All right?

24 A. Okay.

25 Q. Okay. One of the important questions that we

1 wanted to ask you about is, this case has
2 received a great deal of publicity. Lots of news
3 coverage about it. And we just wanted to ask you
4 a few questions about what you may have seen on
5 the television, or heard on the radio, or read in
6 the newspaper. All right?

7 A. (No verbal answer.)

8 Q. I see you don't spend a lot of time watching the
9 news on television; is that...

10 A. No.

11 Q. All right. And would it be fair to say that you
12 get most of your information from the newspaper?

13 A. I would say somewhat --

14 Q. All right.

15 A. -- newspaper.

16 Q. Okay. And where else do you get, you know, some
17 news as to what's going on?

18 A. Sometime I run into, like, article on internet --

19 Q. All right.

20 A. -- if I got free time to search the web.

21 Q. Okay. So you do use -- you have a computer at
22 home?

23 A. No, I use the computer at work --

24 Q. All right.

25 A. -- or else library sometime.

1 Q. Okay. And what are some of the things that you
2 like to read up on, using the computer?

3 A. Honestly, anything, I guess.

4 Q. All right. Well, it could be sports; it might be
5 something about accounting or bookkeeping; it
6 might be news; world events; maybe what's going
7 on back in your home country; any of those
8 things?

9 A. I read, somewhat, sports, little bit news.

10 Q. Okay.

11 A. On how the world is going.

12 Q. Okay. Do you remember reading, for instance,
13 we'll start with the internet. Do you remember
14 reading anything about this case on the internet?

15 A. No, I haven't.

16 Q. All right. Have you seen anything on the
17 television at all about this case?

18 A. No.

19 Q. No, not any of the newscasts or anything?

20 A. Starting last week, we came here to do the
21 questionnaires. I did later, I went by my
22 girlfriend's workplace. And I accidentally saw,
23 like, you know, a title of article there, but I
24 didn't actually read it.

25 Q. Okay.

1 A. So other than that I have no idea.

2 Q. Okay. So you are not really familiar with any of
3 the facts about this case?

4 A. No.

5 Q. Okay. All right. Good. There's one other
6 question that I wanted to just touch base with
7 you on and that was toward the end of the
8 questionnaire. And then I will finish up with
9 some general principles of how our system works
10 to make sure that you understand those.

11 But one of the things that you did say
12 in the back of your questionnaire, in response to
13 the question, do you hold any religious or
14 philosophical beliefs that forbid you from
15 rendering judgment or, you know, basically
16 determining guilt or innocence; determining
17 whether somebody actually committed a crime or
18 not.

19 And you answered yes. And I was
20 wondering if you could explain a little bit
21 further your Buddhism and how that may impact
22 your ability to be a juror for us.

23 A. Well, in my family, we have very strong belief in
24 Buddhism.

25 Q. Okay.

1 A. And part of that is, like, we not supposed to
2 judge other people, or any objects, or person.

3 Q. Okay.

4 A. Also, it's always believe that if somebody done
5 something, we give them another chance to make it
6 right.

7 Q. Mm-hmm. Okay. Well, let me ask about that
8 judgment. Now, is that a judgment in the sense
9 of a spiritual judgment, or -- or does it also
10 include trying to decide whether something
11 happened or not, or whether somebody did
12 something or did not do something? Can you tell
13 me a little bit more about the judgment which is
14 contemplated in that Buddhist tenet.

15 A. From what I known and learned, mostically from
16 what we seen and what is appearing, somewhat
17 spiritual, but mostically, just, don't judge
18 anybody and until, you know, knowed all the
19 facts.

20 Q. Okay.

21 A. But majority of it, just -- just that we don't
22 judge anybody, no either they did something right
23 or wrong.

24 Q. Okay. Well, one of the purposes for a trial like
25 this in the United States is to try to determine

1 whether somebody actually committed a crime, did
2 something wrong. And that determination is
3 usually left to 12 people like yourself; 12
4 citizens who sit in the jury box and they listen
5 to all the evidence, as much facts as the
6 lawyers, that's lawyers here and at that table,
7 choose to present to the jurors. And they put
8 all that information in there and then the jury
9 decides whether the person committed the crime or
10 not?

11 A. Okay.

12 Q. Do you understand that?

13 A. Yes.

14 Q. Okay. Now, given that process, is this something
15 that you could do with your religious belief, or
16 do you think your Buddhism would say, you know,
17 that's not something we should do?

18 A. Honestly, from my point of view, I would think
19 it's more like probably not be able to do it.

20 Q. You don't think you would be able to do it?

21 A. No.

22 ATTORNEY FALLON: Okay. I'm going to stop
23 there.

24 THE COURT: Any questions from the defense?

25 ATTORNEY STRANG: I do.

1 VOIR DIRE EXAMINATION

2 BY ATTORNEY STRANG:

3 Q. I'm sorry. Mr. Hoang, my name is Dean Strang and
4 this is Jerome Buting and Steven Avery. We're
5 the defense. And let me just pick up where
6 Mr. Fallon left off with you, if that's all
7 right.

8 In your country, here in your country,
9 jurors are finders of facts. The Judge is the
10 finder of law, jurors are finders of facts, I
11 think you will learn. And 12 people in the end
12 will determine here what the facts are, at least
13 whether the State has proven, beyond a reasonable
14 doubt, the facts as it alleges. Is the process
15 of deciding facts something that you do in your
16 everyday life?

17 A. I will say, yes.

18 Q. I mean, in some sense, I suppose we all have to
19 decide facts, is the price on a gallon of orange
20 juice at Pick and Save lower than the price on
21 the orange juice at Copps, or something. But, of
22 course, the facts here are more serious than
23 that, but in the end, that's what you will be
24 asked to do, is to find facts and to apply a
25 burden of proof. And you understand that in your

1 country here, the burden of proof, to prove the
2 accused person guilty, beyond a reasonable doubt,
3 lies with the State, not with the defense?

4 A. I'm sorry.

5 Q. Sure, let me try it again. Mr. Avery is charged
6 with some crimes?

7 A. Okay.

8 Q. Right. Here, in America, in the country you and
9 I share, the government has the burden of proving
10 its accusations, beyond a reasonable doubt. They
11 have to prove him guilty under the facts and the
12 law. He does not have to prove himself innocent.
13 Is that something you understand and can accept?

14 A. Yes.

15 Q. If the Judge instructs you that the State has the
16 burden to prove guilt, beyond a reasonable doubt,
17 could you follow that instruction?

18 A. Yes.

19 Q. If the Court instructs you that, here in your
20 country, a person accused of a crime is presumed
21 to be innocent, unless and until the State can
22 prove him guilty, beyond a reasonable doubt;
23 could you follow that instruction?

24 A. Yes.

25 Q. In collaboration with 11 other jurors, if you

1 serve on this jury, do you think you can try to
2 reach a consensus about the facts and whether the
3 accusations here are proven, beyond a reasonable
4 doubt, or not?

5 A. I think I can.

6 Q. Can you follow the Judge's instruction on the law
7 of the United States of America and the State of
8 Wisconsin in doing that?

9 A. Yes.

10 Q. As he sits here now, do you have any opinion at
11 all about whether Mr. Avery is guilty or not
12 guilty of the charges he faces? Can you hold on
13 to that neutrality, that evenness, not having an
14 opinion one way or the other, until you have
15 heard all of the evidence in this case and have a
16 chance to decide the facts?

17 A. I think I can.

18 Q. Would you listen to any witnesses the State
19 called and give their testimony your fair and
20 honest attention?

21 A. Yes.

22 Q. And when one of the two defense lawyers asks
23 questions of those witnesses on
24 cross-examination, will you also listen to that
25 testimony and give it your fair and honest

1 consideration?

2 A. Yes.

3 Q. If we decide to present witnesses, and we don't
4 have to do that, but if we did decide to present
5 witnesses, would you listen to our witnesses and
6 give them the same fair and honest consideration
7 that you would give the State's witnesses?

8 A. Yes.

9 Q. Including when the prosecutors are asking
10 questions of our witnesses?

11 A. Yes.

12 Q. If Mr. Avery decides to testify, could you
13 consider him in the same way you would consider
14 every other witness in deciding the facts?

15 A. Yes.

16 Q. What if he decides not to testify, knowing that
17 he does not have to prove himself innocent and he
18 simply, with our advice, decides not to testify;
19 could you follow the Court's instruction that you
20 may not consider that as a mark against
21 Mr. Avery, or as any evidence of his guilt,
22 indeed, you may not consider that at all in
23 deciding the facts or whether the State has
24 proven guilt, beyond a reasonable doubt?

25 A. I guess I can do that.

1 Q. If this was asked, I apologize, and just stop me,
2 because I missed it if it was asked. But if you
3 had the privilege and the duty of serving on this
4 jury, which could go six weeks or something like
5 that, would it cause you or your family any
6 financial hardship so extreme that the Court
7 ought to consider that?

8 A. Honestly, at this time, yes, it would be.

9 Q. And tell me a little bit about that Mr. Hoang, if
10 you would?

11 A. Well, as of a year ago, I did had problem with
12 credit cards, so I filed bankruptcy and that.
13 And I still be able to keep my car and my truck
14 and continue payments on that. And plus, right
15 now, I been working at this one company for a
16 year.

17 Q. Yes.

18 A. Mostly all my earning incomes go toward the cars,
19 the insurance, somewhat toward the food and
20 rents. Right now I stay with my girlfriends.

21 Q. Mm-hmm.

22 A. And in household, she got three kids, so mostly
23 we're trying to help each other out.

24 Q. Right. And you work at Great Lakes Technical?

25 A. Technology.

1 Q. Technology. Do you know whether they will
2 continue to pay your salary if you are on jury
3 duty or not?

4 A. I did speak to the human resource about couple
5 days ago and notified them that I might be
6 selected for this. And according to the handbook
7 is only saying that it will pay up to eight hours
8 a day, or the max is 10 days. So that's why I
9 ask them, what happen if this trial take, you
10 know, six weeks or more. And I didn't hear any
11 answer back yet, according to that.

12 Q. Okay. They are checking on that or do you expect
13 an answer back on that?

14 A. Yeah, I expect an answer back from that.

15 Q. But you don't have it yet?

16 A. No.

17 Q. Okay. And it looks like you don't have a second
18 part-time job?

19 A. No.

20 Q. Okay.

21 ATTORNEY STRANG: Just one moment, if I
22 may, Mr. Hoang and your Honor.

23 Q. (By Attorney Strang)~ Do you have any way of
24 knowing when you may have an answer from your
25 employer on whether they would continue to pay

1 your -- your salary, beyond 10 days?

2 A. Honestly, I don't know, because the headquarters
3 in Plymouth, that's where everything is down
4 there. And here -- We have HR here, but
5 everything that I go to her, she have to confirm
6 with the owners down there.

7 Q. Okay. So, you don't know when --

8 A. So, honestly I don't know when.

9 Q. -- you'll have an answer. Okay. I think -- I
10 think those are all the questions I have. Thank
11 you.

12 A. Okay.

13 THE COURT: I have got a couple.

14 VOIR DIRE EXAMINATION

15 BY THE COURT:

16 Q. I want to refer back to your answers about how
17 your religion might affect your ability to serve
18 as a juror in this case.

19 A. Okay.

20 Q. If you are selected for the jury, you and the
21 other 11 jurors will have to determine whether
22 the State has proven, by facts beyond a
23 reasonable doubt, that the defendant is guilty of
24 this charge. And if the jury finds the State has
25 met its burden, then they are instructed to find

1 the defendant guilty. But if the jurors find
2 that the State has not met the burden, then they
3 find the defendant not guilty. Will your
4 religious beliefs affect your ability to make
5 that decision?

6 A. I would say no.

7 Q. That they won't affect it?

8 A. From what I learned, you know, we not supposed to
9 do it, but since I have been here long enough and
10 I did kind of understand somewhat the law, so I
11 would say I can put somewhat aside and make that
12 decision myself.

13 THE COURT: Okay. I just -- The legal
14 system doesn't make people give up their religious
15 beliefs in order to be jurors.

16 A. Okay.

17 Q. That's what I want to make sure of. I don't want
18 to be -- I want to make sure that the legal
19 system isn't putting pressure on you to do
20 something that you don't want to do. We -- The
21 legal system wants to honor your conscience and
22 let you exercise it as you wish.

23 Do you feel that in some way you would
24 have to sacrifice your beliefs, or do you just
25 feel comfortable that you could -- you could

1 serve as a juror and it wouldn't force you to
2 compromise your religious beliefs in any way?

3 A. Honestly, right now, I would say half and half.

4 Q. I can only ask you to give an honest answer. If
5 that's the most honest answer you have, I will
6 accept that answer. That's the way you feel?

7 A. Honestly, I don't think I should be able to do it
8 due to what I somewhat have very strong belief
9 in.

10 THE COURT: Okay. All right. Thank you.
11 The Clerk will escort you from the courtroom at this
12 time.

13 (Wherein the juror was excused.)

14 THE COURT: Is there a motion from either
15 party?

16 ATTORNEY FALLON: I think, reluctantly,
17 otherwise, I think the juror is suitable, although
18 the economic hardship issue developed by Mr. Strang
19 at the end is also a consideration. But there's
20 something about his approach that suggests to me he
21 really wants to participate in that process since
22 he's now in this country and wants to be part of the
23 system.

24 But I guess I was not entirely convinced
25 that he is comfortable with that, given his

1 religious upbringing. And I think we ought to
2 honor that. And even if he has some doubt and is
3 half and half, I just don't think we should put
4 him in that situation.

5 THE COURT: Mr. Strang.

6 ATTORNEY STRANG: This is a very, very
7 tough call. The Court's questions were appropriate.
8 And I understand the possible financial hardship
9 issue. And I understand the conscience issue. And
10 where civic duty collides with conscience, as people
11 express that through obligations to family, or
12 obligations to faith, it gets very tough.

13 And what I -- what I really would like
14 to do here and propose, is that the Court give
15 him an instruction that we want to hear, by
16 tomorrow night or by Friday morning, what the
17 employer's position is, if he's heard, he can't
18 force it, but if he's heard, on the wage
19 replacement issue.

20 If he has no assurance that he will be
21 paid beyond 10 days, or he's been told he won't
22 be, then I equally, reluctantly, would join the
23 motion and acknowledge he has to be struck for
24 cause. If the wage issue goes away, the hardship
25 issue goes away, I think it's worth asking him

1 there whether that affects the half and half
2 answer he gave on this conflict between duty and
3 privilege as a naturalized citizen of this
4 country to participate in the institutions of his
5 new country and honoring his faith. And so, in a
6 sense, I'm asking the Court to hold the motion in
7 abeyance; I may have to join it in the end.

8 THE COURT: I agree that if the only
9 outstanding issue were the financial issue I would
10 be inclined to consider the defense recommendation
11 here. But my primary concern and this is another
12 one of those demeanor cases, when Mr. Fallon
13 finished his questions the -- I got the impression
14 that the juror just felt uncomfortable and following
15 up what he wrote in his written questionnaire did
16 not feel he would be able to serve in this case.

17 When Mr. Strang asked a number of
18 questions specifically related to the duty of a
19 juror, he was giving answers that indicated he
20 could serve. And because of that ambiguity, I
21 asked him a few follow-up questions which I tried
22 to tailor as specifically I could to recognize
23 the balance between a juror who's interested in
24 serving with getting the opportunity to do so and
25 yet not asking a juror to sacrifice his religious

1 beliefs in order to be a juror.

2 I believe that the juror understood the
3 nature of the questions and my observation of his
4 demeanor suggested that he held, I guess, a
5 wrestling match in his own conscience with
6 whether or not he felt he could reconcile his
7 religious beliefs with the duties that would be
8 imposed upon a juror. And based on the last
9 answers that he gave, I felt that he genuinely
10 felt that his service as a juror would compromise
11 his religious beliefs.

12 He indicated he holds those near and
13 dear to him. And that serving as a juror could
14 well compromise those beliefs. And I think while
15 we ask a lot of jurors in terms of time, in terms
16 of attention and in terms of sacrifice, one thing
17 we don't ask them to do is give up religious
18 beliefs to serve as a juror. And for that
19 reason, I'm going to excuse this juror.

20 THE COURT: The next juror is Mr. Lafond.

21 All right. Mr. Lafond, please raise
22 your right hand and the clerk will administer the
23 oath.

24 (Juror sworn.)

25 THE CLERK: Please be seated.

1 THE COURT: Mr. Lafond, you have already
2 completed a written jury questionnaire in this case.
3 Today we're moving on to the next phase of jury
4 selection which is the voir dire process.

5 In a few minutes the attorneys will have
6 an opportunity to ask you some questions that
7 relate to your qualifications as a juror. Many
8 of them will follow up on answers that you gave
9 in your questionnaire.

10 Before we get to that, I can inform you
11 that the jury in this case will not be
12 sequestered. That means that members of the jury
13 will be permitted to return home each day after
14 court and then come back the next morning.

15 Because of that fact, we will continue
16 the requirement that the jurors not be exposed to
17 any information about this case from any news
18 media including newspapers, television, radio and
19 the internet. And that the jurors not converse
20 about the case with anyone including members of
21 their families or other jurors until it's time to
22 deliberate at the close of the case.

23 These proceedings today are open to the
24 public, but we do not permit cameras in the
25 courtroom during the voir dire process. And the

1 media is not allowed to disclose the names of
2 jurors in news reporting of this case.

3 In addition, if you are selected to
4 serve on the jury, cameras are not permitted to
5 film the jurors during the trial process itself.

6 If you remain as a juror after
7 questioning today, you will get telephone
8 instructions within the next day or two letting
9 you know when it's time to return to court.

10 Mr. Fallon.

11 **VOIR DIRE EXAMINATION**

12 BY ATTORNEY FALLON:

13 Q. Good afternoon. Is it Mr. Lafond?

14 A. Lafond, yes.

15 Q. Very good. My name is Tom Fallon. I'm an
16 Assistant Attorney General with the Wisconsin
17 Department of Justice. I'm a prosecutor in this
18 particular case. I'm working with Mr. Ken Kratz.
19 He is the gentleman to my left, the District
20 Attorney in Calumet County. And he's the lead
21 prosecutor in this prosecution.

22 We're here this afternoon to follow up
23 and ask some additional questions of you, based
24 on your responses that you provided in the
25 questionnaire last Monday. I wanted to begin

1 briefly, rather quickly, with a few questions
2 regarding your employment. I see by trade you
3 are a tool and die maker?

4 A. I was until Paragon Electric moved out of town.

5 Q. All right.

6 A. I have been a machinist for the last seven years.

7 Q. Okay. And you are currently with HMF
8 Innovations?

9 A. Yes.

10 Q. If you would help me out, I'm not from the area,
11 so what kind of business is that?

12 A. We make specialty machinery for people all over
13 the country, a lot of house testing equipment, a
14 lot of jobs for Caterpillar, a lot of jobs for
15 right around town here.

16 Q. Okay. So is it heavy equipment that you are
17 involved in producing?

18 A. It can be anything from real tiny stuff up to
19 machinery that's 100 and 150 feet long.

20 Q. All right. Very good. And how long have you
21 been with the new company here?

22 A. Seven years.

23 Q. Seven years, I see, okay. All right. Now, the
24 other thing I wanted to verify with you is a
25 response that you gave us to the very last

1 question in the questionnaire.

2 Recognizing the fact that this case may
3 very well go six weeks, in which case from most
4 likely Monday through Friday, for about nine
5 hours a day or so, you will be tied up involved
6 in the court proceedings if you are selected as a
7 juror. Would that cause any financial hardship
8 on you and/or your family if you were away from
9 work that long?

10 A. No.

11 Q. All right. So you have, I take it, some
12 assurances that you will be able to at least have
13 sufficient income during this period if you were
14 selected as a juror?

15 A. My company will pay for it, he said.

16 Q. All right. Very good. Okay. I see for some of
17 the civic groups that you are involved in you are
18 involved with the Knights of Columbus at your
19 local church?

20 A. Mm-hmm, yes.

21 Q. All right. And chairman of the spaghetti dinner
22 and the church bingo and the Men's Club and those
23 are all associated with your church?

24 A. Basically, yes, mm-hmm.

25 Q. And is -- The church that you belong to is St.

1 Peter, the Fisherman?

2 A. Yes, it is.

3 Q. Okay. Very good. All right. Have you been a
4 long time member of those various organizations?

5 A. Pretty much all my life, 25, 30 years, yeah.

6 Q. All right. Are you -- I take it, then, you are a
7 life long resident of this area, Manitowoc
8 County?

9 A. Yes. Yes, mm-hmm.

10 Q. Okay. All right. Well, a matter of concern to
11 all of us in selecting the jurors for this case
12 is how much they may have heard about the case in
13 the media and whether that's led to any really
14 strongly held or felt opinions about the case and
15 things of that sort. So that's what I would like
16 to talk about at this moment. All right?

17 A. Sure.

18 Q. First, it looks like you get your news sources
19 from a variety of sources, or radio, television,
20 and the newspapers and that you do read the
21 newspaper daily; is that correct?

22 A. That's correct.

23 Q. And you also apparently watch, fairly regularly,
24 the news broadcasts?

25 A. Yes.

1 Q. Okay. Now, do you get your news from any other
2 source, like say the internet perhaps; do you
3 have a computer at home that you might use,
4 or ...

5 A. We have got a computer, but I don't -- I don't
6 use it for news.

7 Q. Okay. Okay. Did you receive a directive from
8 the Court, oh, about three weeks or so ago,
9 asking that since you might be a juror in this
10 particular case that you would -- it would be
11 appreciated if you would refrain from reviewing
12 or listening to any of the news commentary
13 regarding this case? Did you get that?

14 A. Yes, I did.

15 Q. All right. And have you been able to honor that
16 request?

17 A. Not totally, the newspaper is the easy part, but
18 the place that I'm employed at is a small machine
19 shop and we have radios playing all day long in
20 every corner. The news is on all day long and so
21 I have heard some of it at work, you know --

22 Q. Okay.

23 A. -- different things. Mostly about jury selection
24 has been this week.

25 Q. All right. Well, let me ask you, then, just

1 figuring in the last three weeks, we'll work with
2 that bit of information. What do you recall
3 hearing either on the radio or from any other
4 news source about the case?

5 A. Well, I remember something last Friday about some
6 blood that's going to be tested, whether or not
7 it's got this preservative in or something.

8 Q. Okay.

9 A. That's the only thing that really pops into my
10 mind.

11 Q. Okay. What about anything involving the charges
12 in the case, or anything involving a fellow by
13 the name of Brendan Dassey, any of that ring a
14 chord with you?

15 A. Well, yeah, I wasn't real sure if it was in the
16 last three weeks, but I believe he's -- he had
17 confessed to helping out and now he's recanted
18 that story --

19 Q. Okay.

20 A. -- and taken it back.

21 Q. All right. Anything else that you recall now,
22 just from that in the last three weeks, that
23 you ...

24 A. No.

25 Q. All right. How about when the case first broke,

1 when the news story first broke about this woman,
2 Teresa Halbach's disappearance and within the
3 week, the arrest of the defendant here,
4 Mr. Avery. Did you follow those telecasts?
5 A. Very closely.
6 Q. You did?
7 A. Mm-hmm. Yes.
8 Q. All right. And did you follow the media coverage
9 with respect to the arrest of Mr. Dassey and --
10 and his statements regarding his involvement from
11 about 11 --
12 A. Yes.
13 Q. -- 11 months ago?
14 A. Sure. Yes, I did.
15 Q. All right. And do you recall any of the details
16 from either one of those media coverage?
17 A. Of his arrest, or of the reasons for his arrest?
18 Q. Yeah, whatever you can tell us that you recall.
19 A. Well, just that he was arrested. And then I
20 remember seeing pictures of a red house trailer.
21 And they had pictures of a burn pit and stuff,
22 where supposedly her body had been burned. And
23 they had found bone fragments. I'm sure -- I
24 can't think of a lot of things right now. I'm
25 sure if you jog my memory, there will be a lot

1 more things.

2 Q. Okay.

3 A. But I watched pretty much all of it.

4 Q. All right.

5 A. We were pretty much glued to the TV.

6 Q. Okay. So it would be fair to say that you
7 followed the case fairly closely up until you got
8 the directive from the Court?

9 A. Yes, mm-hmm.

10 Q. All right. Well, here's the reason we ask these
11 questions. And in the questionnaire, in response
12 to one question you said, have you formed any
13 personal opinions based on the publicity. And
14 you said, yes, based on the publicity, that he
15 may be guilty.

16 And then the next question was -- or the
17 two questions later, you were asked, have you
18 formed any opinion yourself, based on the
19 information that you had from any source, of his
20 guilt or innocence. And you said, yes and you
21 said, again, he may be guilty.

22 You followed that up with an answer to a
23 question that the Court will advise you that, if
24 you are selected as a juror, you would be
25 required to set aside that information that you

1 heard in the media and decide this case only on
2 the evidence which is presented during the trial.

3 And you answered that case -- or that
4 question yes. Do you feel -- still feel you
5 would be able to do that, or do you feel that
6 your opinion is pretty well set, based on all the
7 information that you have from following the case
8 so closely?

9 A. I guess I would have to say that my opinion is
10 pretty well set but, you know, if there was earth
11 shaking type evidence that would change my mind,
12 sure. But whether or not that happens, I don't
13 know, but my mind is pretty well -- pretty well
14 made up, sure.

15 Q. Yeah. So in other words, you know -- so your
16 answer to the question might be different, then,
17 today from last week; in other words, you don't
18 think you would be able to set aside that
19 information?

20 A. Like I said, if it was something that was -- that
21 really changed my mind, yeah. I mean, it would
22 have to be something really substantial that
23 everything that I have heard right now in through
24 the media, I formed an opinion that is fairly
25 strong and it would not be easy to change it,

1 but ...

2 Q. All right. Even though Mr. Avery is presumed
3 innocent?

4 A. Even though.

5 Q. Okay. One second, please.

6 ATTORNEY FALLON: We don't have any more
7 questions for the witness.

8 THE COURT: All right. The Clerk will
9 escort you from the courtroom at this time.

10 (Wherein the juror was excused.)

11 THE COURT: Counsel, do you have a joint
12 motion to make?

13 ATTORNEY FALLON: I think it's quite
14 apparent the witness is -- or excuse me, the juror
15 is fairly well set in his ways; although his
16 questionnaire didn't seem to read that way, I think
17 we have to take his comments at his word. And I
18 would just as soon see if there's -- I think there's
19 one last juror there we might be able to talk to,
20 but it didn't seem that this would be all that
21 productive. No, I think he would need to be struck
22 for cause.

23 THE COURT: Does the defense agree?

24 ATTORNEY STRANG: On this one, I have to
25 agree.

1 THE COURT: The Court agrees as well. We
2 will -- The Court will order the juror stricken for
3 cause and we'll take Tim Holsen as the last juror
4 today.

5 Mr. Holsen, please raise your right hand
6 and the Clerk will swear you in.

7 (Juror sworn.)

8 THE CLERK: Please be seated.

9 MR. HOLSEN: Thank you.

10 THE COURT: Mr. Holsen, you have already
11 completed a written questionnaire in this case. At
12 this time we're moving on to the next stage of voir
13 dire -- or the next stage of the jury selection
14 process which is known as voir dire.

15 The attorneys have a chance to ask you
16 some questions as follow-up to the information
17 you provided on your questionnaire.

18 Before we get to that, I have got a few
19 pieces of information to pass on to you. First
20 of all, the jury in this case will not be
21 sequestered. That means that the jurors will be
22 permitted to return home each day after the trial
23 and return the next morning.

24 The prohibition on learning anything
25 from the news media will continue throughout the

1 trial; that is, the jurors cannot consult the
2 television, radio, newspapers, the internet, or
3 anything else to learn anything about the case,
4 other than the evidence presented in court. And
5 the jurors are prohibited from discussing the
6 case with anyone, including family members and
7 other jurors until it's time to deliberate.

8 Although the proceedings today are open,
9 the Court does not allow cameras in the courtroom
10 during voir dire proceedings. And the news media
11 is not permitted to disclose the names of jurors.

12 In addition, if you are selected to
13 serve on the jury, any cameras at the trial will
14 not be permitted to show the jurors in anyway
15 that identifies who they are.

16 If you are continued as a juror after
17 proceedings today, you will receive telephone
18 instructions in the next day or two letting you
19 know when to return to court.

20 Mr. Fallon, will you be asking questions
21 for the State?

22 ATTORNEY FALLON: Yes, thank you.

23 THE COURT: Very well.

24 **VOIR DIRE EXAMINATION**

25 BY ATTORNEY FALLON:

1 Q. Good afternoon, Mr. Holsen, my name is Tom
2 Fallon. I'm an Assistant Attorney General with
3 the Wisconsin Department of Justice and I'm one
4 of the prosecutors in this case. I'm based in
5 Madison, helping out here. To my immediate left
6 is Mr. Ken Kratz, the District Attorney for
7 Calumet County. He's also a special prosecutor
8 and the lead prosecutor in this matter.

9 This is our opportunity, as attorneys,
10 to follow up and ask a few additional questions
11 of you, based on some of the information you
12 provided last week, to help us in selecting a
13 jury for this case.

14 First, had a couple of general questions
15 regarding your employment. As I understand it,
16 you are currently with the Kohler Company?

17 A. That's correct.

18 Q. And what do you do for them? You are into
19 supervising but ...

20 A. I'm a supervisor of materials, management,
21 shipping; actually about four departments.

22 Q. Okay. And how long have you been with that
23 company?

24 A. Twenty-two years.

25 Q. Just wanted to verify, one of the responses you

1 gave is a consideration for all of us here. On
2 the very last question of the questionnaire,
3 there is -- or there was a question regarding if
4 this case were, in fact, to take six weeks, as to
5 whether that would cause some particular hardship
6 for you.

7 And there's -- kind of looks like there
8 might be two angles here for us to explore. So
9 let me, first, take the obvious one. Would you
10 be allowed to take leave of absence, as it were,
11 from the Kohler Company to sit as a juror if you
12 were selected?

13 A. Yes, I would.

14 Q. Okay. So you would be able to have sufficient
15 income coming in?

16 A. Yes.

17 Q. Okay. And the second part of it is, one of the
18 things that was mentioned on page three of your
19 questionnaire and again at the end, and you're
20 involved in some online schooling?

21 A. Yes, I'm going to UW Stout for my Bachelor's
22 Degree, online. So I'm taking classes currently.

23 Q. All right. And this is all distance learning, I
24 guess --

25 A. Right.

1 Q. -- as they say?

2 A. Correct.

3 Q. How much time does that take of your day to
4 participate in that?

5 A. Twelve hours a week. Approximately twelve hours
6 a week.

7 Q. Twelve hours a week. And is that something where
8 you are actually participating in a class that's
9 live online, or is it something that's -- you
10 download the course assignments, for instance,
11 work on them and then complete them? How does it
12 work.

13 A. Correct. There's quizzes online and then papers
14 due online.

15 Q. All right.

16 A. So online time is probably, you know, three to
17 four hours a week; the rest is all study.

18 Q. Study, okay.

19 A. Correct.

20 Q. And when do you normally do that work?

21 A. Usually on weekends.

22 Q. Okay. All right. So, if -- Technically
23 speaking, then, if the Court were not in session
24 on the weekends and you got home at say 6 o'clock
25 every night, would you still be able to continue

1 with the online work?

2 A. I think so, yeah.

3 Q. Okay. All right. Well, the other matter of
4 concern to us is the -- any opinions or thoughts
5 you may have about the case as a result of quite
6 a bit of publicity. And it seems that at least
7 you are familiar with some of that publicity.
8 You get news from both radio and television; is
9 that right?

10 A. Correct.

11 Q. Of the two, which one would you say you get most
12 of your news from?

13 A. Probably the television.

14 Q. All right. And let's start there. How often do
15 you watch the local TV news?

16 A. Nightly.

17 Q. Nightly?

18 A. Mm-hmm.

19 Q. Okay. So my next question, then, is have you at
20 all been following this case since it's
21 inception?

22 A. Since it's inception, pretty much, yeah. See,
23 it's close to home. I live real close to
24 Mishicot, so it's close to home. Yes, I have
25 been following it.

1 Q. All right. And have you lived in Mishicot for a
2 substantial period of time?

3 A. Yes, since 2000.

4 Q. Since 2000. So you have been there the last
5 seven years and you were born in Manitowoc, in --

6 A. Right.

7 Q. -- the city here?

8 A. Correct.

9 Q. Did you live in the city before you moved to
10 Mishicot?

11 A. Yes.

12 Q. Okay. So, you have got a little bit of a commute
13 down to Kohler?

14 A. Yeah.

15 Q. Okay. All right. I will get back to the
16 television in just a second. I also see that you
17 read the newspapers fairly regularly?

18 A. Correct.

19 Q. Which papers do you read?

20 A. Mostly online, Herald-Times, Sheboygan Press and
21 sometimes the Green Bay Press Gazette.

22 Q. All right. Do you read all three papers pretty
23 regularly or is it one week you might read one
24 and the next week --

25 A. Yeah, it's intermittently --

1 Q. Okay.

2 A. -- during the week, yeah.

3 Q. Whatever seems to strike your interest?

4 A. Following sports a little bit and business.

5 Q. Would it be fair to say if one paper has a story
6 that kind of strikes your interest you might
7 follow that story in the paper for a couple
8 days --

9 A. Correct.

10 Q. -- and then switch back to one of the other
11 papers?

12 A. Correct.

13 Q. Okay. All right. Now, with respect to this
14 particular case, what coverage do you remember --
15 Well, first of all, I'm going to do this in
16 reverse order. A couple weeks ago, I believe you
17 may have received or should have received a
18 letter from the Court advising you that the
19 possibility of being a juror was rather imminent?

20 A. Correct.

21 Q. And that you were asked not to watch or pay
22 attention to any more media whenever you could
23 avoid it?

24 A. Correct.

25 Q. All right. And did you receive the letter?

1 A. Yes, I did.

2 Q. Okay. Have you been able to follow the Court's
3 advice?

4 A. For the most part. I mean, it's still on just
5 about every news channel every time you turn it
6 on. But I make an effort to leave the room when
7 it comes on, so.

8 Q. Okay. All right. In terms of any coverage of
9 the case, in say the last three weeks or four
10 weeks, within the last month; what, if anything,
11 or what do you remember seeing or hearing about
12 the coverage of the case during that period?

13 A. Basically, just some of the charges that were
14 brought against Mr. Avery.

15 Q. Okay.

16 A. That was a big thing. And, then, of course, a
17 little bit about the jury selection, until I
18 received that letter.

19 Q. All right. Any particular details of any of the
20 court proceedings in the last three or four
21 weeks? Anything strike your fancy, or catch your
22 interest, or do you happen to overhear at work,
23 or anything?

24 A. You know, it's pretty hard, everybody talks about
25 it everywhere. So I try to ignore it and not,

1 you know, make conversation about it. So I would
2 have to answer that nothing in particular strikes
3 me at this time.

4 Q. All right. All right. Well, let's take about
5 the -- the -- the one year period before that.
6 Would you say you followed this case closely
7 or ...

8 A. Yeah, I would say closely, yes.

9 Q. All right. And have you watched any of the --
10 any news conferences or just the news stories?

11 A. Mostly just the news stories.

12 Q. All right.

13 A. And the big part is when it was developing, you
14 know, everybody wanted to know what was going on,
15 what was happening. And being a small community,
16 it was, you know, of interest.

17 Q. So in November, December of 2005 and January,
18 February, March of 2006, you paid pretty close
19 attention?

20 A. Yes, very close.

21 Q. All right. How about through this past summer?

22 A. Tapered off quite a bit.

23 Q. All right.

24 A. The media got a hold of it and it became less
25 interesting, I guess.

1 Q. I'm sorry?

2 A. The mediate -- media became more interested. It
3 became more widespread and I guess my interest, I
4 withdrew a little bit.

5 Q. All right. Starting when?

6 A. Probably this summer.

7 Q. Okay.

8 A. This past summer.

9 Q. All right. Well, we wanted to talk to you about
10 some of the opinions you may or may not have
11 formed as a result of all that media coverage and
12 ask you this. I mean, you, first of all,
13 understand that as Mr. Avery sits here today, the
14 law presumes him innocent?

15 A. Correct.

16 Q. You understand that?

17 A. I understand that.

18 Q. All right. And do you accept that principle?

19 A. I do accept that, yes.

20 Q. Okay. Now, I know there's been an awful lot of
21 media coverage here, so we'll get right to the
22 point. Have you formed any opinion that he is
23 guilty, based strictly on what the media has told
24 you of the facts?

25 A. No.

1 Q. All right. Are you concerned about the manner --
2 Well -- All right. Let me ask it this way. Is
3 there anything about Mr. Avery, or his family, or
4 his past that has led to forming any kind of
5 opinions about his guilt or innocence?

6 A. I don't know the family.

7 Q. Okay.

8 A. But being from a small area, you do hear rumors
9 so, you know, I have heard some of those.

10 Q. All right. All right. Now, these rumors, can I
11 assume you are taking them for just what they
12 are, rumors?

13 A. Correct.

14 Q. All right. And has -- has that information all
15 led to any opinions of his guilt, based on rumor?

16 A. You know, let me give you a little background.
17 Coming from Manitowoc, it's just a little bit
18 bigger than where I live now, Francis creek. And
19 when you move to a small community like Francis
20 Creek, everybody knows everybody and everybody
21 talks. And a lot of that is just rumors. I try
22 not to get caught up in that; I really do.

23 Q. All right. So you don't pay much attention to
24 that.

25 A. No, sir.

1 Q. All right. Well, so just that I'm clear, as he
2 sits here today, you don't have any particular
3 opinion of his guilt or innocence?

4 A. No, sir.

5 Q. All right. And the Court did ask, in the
6 questionnaire here, is if you did have any
7 opinions or any thoughts regarding the crime or
8 his involvement or whatever, that if you were
9 selected as a juror you would be asked to set
10 that aside and decide his guilt or innocence
11 solely on the evidence which we present in the
12 courtroom?

13 A. To the best of my ability, correct.

14 Q. Right. And you answered yes?

15 A. Correct.

16 Q. Do you still feel that way --

17 A. Yes, I do.

18 Q. -- today? Okay.

19 A. Yup.

20 Q. I wanted to also follow up with a couple of other
21 questions regarding some experiences that you
22 have had with law enforcement, if I may?

23 A. Sure.

24 Q. I'm just struggling just a bit, as the light goes
25 down and my age goes up, my ability to read

1 without my reading glasses diminishes ever so
2 slightly. But it looks like you have had some
3 experiences with some of the county law
4 enforcement officers. So tell us a little bit
5 about that.

6 A. Sure. I was good friends with Tom Jansen, who
7 was a county officer for a number of years. And
8 our kids were very close, a lot of sporting
9 activities, camping, things like that. He has
10 since moved to the western part of the state and
11 really haven't had much contact with him.

12 Q. All right. And how long ago did he move away?

13 A. That was probably a year and a half ago.

14 Q. All right. But you were pretty good friends up
15 to that point?

16 A. Yes, we were, yeah.

17 Q. Okay. Did he ever talk about the business of law
18 enforcement with you?

19 A. No.

20 Q. All right.

21 A. No, we kept that separate. We really didn't talk
22 work, we just had more fun with family and
23 friends.

24 Q. Okay. So no plumbing and no law enforcement?

25 A. Exactly. No toilets and --

1 Q. Work and -- All right. Very good.

2 A. -- no law enforcement.

3 Q. Now, you also indicated that you did have -- was
4 it a friend or a friend's son was killed on an
5 ATV accident?

6 A. That is correct, yeah.

7 Q. Now, was that something that was a pure
8 accident --

9 A. Yeah.

10 Q. -- or was there something --

11 A. Pure accident.

12 Q. Okay. So there was no reason for any law
13 enforcement investigation?

14 A. No.

15 Q. Just a sad occurrence?

16 A. Exactly.

17 Q. Okay. All right. Now, because you were such
18 good friends with this former officer, Tom
19 Jansen, do you think your friendship with him
20 would have any impact on your ability to evaluate
21 a law enforcement officer's testimony the same
22 way you would evaluate any other person's
23 testimony?

24 A. I would still hold it in high regard, so.

25 Q. All right. All right. That's fair, you would

1 expect them to be credible, right?

2 A. Very credible, yes.

3 Q. Okay. However, when it comes to a court of law,
4 there's an instruction the Court will provide to
5 all the jurors and it tells you that we take all
6 witnesses as they are and that those witnesses
7 should be evaluated on the same standard; in
8 other words, treated the same. You look at them
9 and you determine their believability, their
10 honesty, their credibility, the same as you would
11 any other person; do you think you could do that?

12 A. Yes.

13 Q. Okay.

14 ATTORNEY FALLON: I will pass the juror.

15 THE COURT: Mr. Buting.

16 ATTORNEY BUTING: Thank you, Judge.

17 **VOIR DIRE EXAMINATION**

18 BY ATTORNEY BUTING:

19 Q. My name is Jerome Buting and I, along with
20 Attorney Dean Strang, defend Mr. Avery here,
21 okay?

22 A. Okay.

23 Q. Now, Mr. Holsen, you were here last week and
24 filled out one of these questionnaires, right?

25 A. That's correct, sir.

1 Q. And you took your time and carefully read all the
2 questions?

3 A. Yes, I did.

4 Q. And you answered them really from the heart?

5 A. Yes, I did.

6 Q. And, in fact, you signed it, swearing that it was
7 true; is that right?

8 A. That's correct.

9 Q. Under penalty of perjury?

10 A. Yes, sir.

11 Q. And last week, you were asked if there was any
12 reason that you could not be a fair and impartial
13 juror?

14 A. Correct.

15 Q. And you said, yes, there was. And you said that
16 this is so close to home and I have kids that go
17 to Mishicot and we have heard so much about it,
18 if I were selected I would do my best to be fair?

19 A. That's correct. I still feel the same way, yes.

20 Q. But, then, you also said, in answer to a question
21 Mr. Fallon asked, if you had any opinions that
22 had been formed --

23 A. Mm-hmm.

24 Q. -- today. And I don't know if you forgot what
25 you said last week, but when you were asked that

1 question, if you had formed any personal opinions
2 about the case based on publicity, last week you
3 said, yes, you had; do you remember?

4 A. Yes.

5 Q. And you had said that -- one of your opinions was
6 that the Avery family has problems?

7 A. That's, again, you know, what we hear as rumors
8 and it's hard when you are a small community like
9 we are, you hear everything.

10 Q. Sure, I know you do.

11 A. And, you know, I guess I'm just trying to balance
12 that, sir, so.

13 Q. Sure, but that's an opinion --

14 A. I understand.

15 Q. -- that's an opinion that last week, when you
16 filled this out, you had said you had formed,
17 correct?

18 A. Correct.

19 Q. Okay. And you also expressed some real concern
20 about the knowledge that you had gotten from the
21 coverage, right?

22 A. Correct.

23 Q. And you said that, when asked to describe what
24 you remember about it, you used these terms about
25 how sad and how savage it was and that it was so

1 close to home, that my kids -- and that my kids
2 saw it and that it -- it had ties with Mishicot
3 school with Branden?

4 A. Correct.

5 Q. Is that where your kids go?

6 A. Correct.

7 Q. They go to the same high school as Brendan
8 Dassey?

9 A. Correct.

10 Q. Were they in the same grade as him?

11 A. I believe -- Eric is 15 and my daughter is 13, so
12 they are a year younger, I believe.

13 Q. Okay. And you also said that you were concerned,
14 or you asked if you discussed this case at length
15 with any other persons and you said, yes, my
16 wife, as we are concerned about our kids?

17 A. Correct.

18 Q. As they go to the same school as some Avery's and
19 how close to home it is.

20 A. Mm-hmm. Correct.

21 Q. Right?

22 A. Mm-hmm.

23 Q. So, you're concerned that there could be some --
24 maybe some fall out if ...

25 A. Correct. It's a small community.

1 Q. It's a small community and if you -- if you voted
2 to -- for not guilty -- or if you voted Mr. Avery
3 guilty, you would be concerned about some
4 retribution?

5 A. Either way.

6 Q. Either way.

7 A. Either way.

8 Q. And it is a small community. And that's a pretty
9 hard thing to put aside, right?

10 A. Correct.

11 Q. And we're not asking you to be super human here.
12 I mean, you are a human being like everybody else
13 and, you know, you are not expected to be a
14 perfect juror in every case, right?

15 A. Understood, correct.

16 Q. You may be a perfectly fine juror in some cases
17 and others maybe not?

18 A. That's correct.

19 Q. And in this case, you also talked about how, if
20 you had formed any opinion whatsoever about
21 Mr. Avery's guilt or innocence and, again, last
22 week you said, yes, you had?

23 A. Correct.

24 Q. And that you mentioned the past history of
25 Mr. Avery and the gore of it, as covered by TV

1 news, papers, and radio, right?

2 A. Correct. Let me explain a little bit. Most of
3 this was directed at my children, you know, as
4 any parent, very concerned about them. So,
5 that's -- that's the answer.

6 Q. And did you -- Did you see a news conference
7 where Mr. Kratz, in fact, warned that any
8 children under the age of 15 should probably not
9 listen to it?

10 A. I do not recall.

11 Q. Or did your wife see that and talk to you about
12 it?

13 A. That's possible. I don't think I saw it. I have
14 heard about it a little bit but. I mean, it's
15 just -- it's a -- it's a -- Again, let me put it
16 this way, it's a sad case and you don't ever want
17 your children exposed to things like that that
18 happen in the world, unfortunately.

19 Q. Right. And so I'm wondering, you know, given all
20 of that and it's closeness to home and the way
21 that it's really -- really affected your feelings
22 and your -- about your children and your wife's
23 concerns --

24 A. Right.

25 Q. -- if you really think that you would be a good

1 juror for this case?

2 A. I would say no, but if -- if I was called to do
3 so, I would do so.

4 Q. Okay. Well, I mean, you are called to try and
5 be -- you're called to be a fair jury -- juror.
6 And if, in a particular case, if that's asking
7 too much of you, there's nothing to be ashamed
8 of, you understand that?

9 A. Understood.

10 Q. And that if this is really something that you
11 just think would be too difficult, there's no
12 shame whatsoever in telling the Court that you
13 really think you wouldn't be a good juror in this
14 case?

15 A. Okay. And I -- Actually, I probably wouldn't be,
16 being it's so close to home and that's why I
17 wrote it.

18 Q. Okay. I appreciate that. I just wanted to
19 clarify it --

20 A. Sure.

21 Q. -- because today it seemed like -- and sometimes
22 when jurors come in to Court, they feel like they
23 don't want to say that they can't be a fair juror
24 because that reflects on them. And it's not
25 really true. I mean, we all have different life

1 experiences and this one obviously hit very close
2 to you.

3 A. Correct.

4 Q. So I want you to -- It's important because,
5 Mr. Avery, despite what all you have heard,
6 Mr. Avery -- you haven't heard it all. And he
7 deserves the presumption of innocence and
8 deserves to start with jurors who have a clean
9 slate and can start, really, from zero?

10 A. Okay.

11 Q. And if you are not somebody who can do that, then
12 in all honesty, I wish you would please tell us
13 that.

14 A. Okay. I already have.

15 Q. That you can't?

16 A. Correct.

17 Q. Thank you. I appreciate that, sir.

18 A. No problem.

19 THE COURT: All right. We'll have the
20 Clerk escort you from the courtroom at this time.

21 (Wherein the juror was excused.)

22 THE COURT: Mr. Buting, does the defense
23 have a motion?

24 ATTORNEY BUTING: I do. I move to strike.

25 THE COURT: Anything from the State?

1 ATTORNEY FALLON: No, we'll join, based on
2 the last set of responses; I think it's evident.

3 THE COURT: The Court agrees. The Court
4 will order that Mr. Holsen be stricken for cause.
5 And I will see you at 8:30 tomorrow morning.
6 Anything before we go?

7 ATTORNEY FALLON: Just a quick question,
8 Judge, how far down the list should we prepare to
9 --in other words, how many do you think you will be
10 calling in tomorrow, so that we'll have all of the
11 information?

12 THE COURT: I would say, well, to be safe
13 14; hopefully, it won't take us that many.

14 ATTORNEY STRANG: And Mrs. Gonia is the
15 first one.

16 THE COURT: She is the next one, correct.

17 ATTORNEY STRANG: Okay. Thank you.

18 ATTORNEY FALLON: That comes up to, by my
19 count, Juror No. 87.

20 ATTORNEY BUTING: Pretty much finishes that
21 second page completely.

22 ATTORNEY FALLON: Right. That would take
23 us through the second page.

24 ATTORNEY BUTING: Yes.

25 ATTORNEY FALLON: That's what I had come up

1 with.

2 ATTORNEY BUTING: Okay.

3 THE COURT: The last juror is what number?

4 ATTORNEY STRANG: Eighty-seven maybe.

5 ATTORNEY FALLON: Juror No. 87 would be 14.

6 THE COURT: Okay.

7 ATTORNEY FALLON: That's what I come up

8 with.

9 THE COURT: Okay. Let's do that, prepare
10 up to 87.

11 ATTORNEY FALLON: All right.

12 THE COURT: All right. Just a second,
13 here's the jurors I have got left. I got No. 60.

14 ATTORNEY FALLON: Yes.

15 THE COURT: Sixty-five.

16 ATTORNEY FALLON: Correct.

17 THE COURT: Sixty-seven.

18 ATTORNEY FALLON: Yes.

19 THE COURT: Sixty-eight.

20 ATTORNEY FALLON: Yes.

21 THE COURT: Seventy-one.

22 ATTORNEY FALLON: Correct.

23 THE COURT: Seventy-two.

24 ATTORNEY FALLON: Yes.

25 THE COURT: Seventy-four.

1 ATTORNEY FALLON: Yes.

2 THE COURT: Seventy-five.

3 ATTORNEY FALLON: Seventy-five is excused.

4 THE COURT: Seventy-five is out.

5 ATTORNEY FALLON: They are excused.

6 THE COURT: Okay. Seventy-six.

7 ATTORNEY FALLON: Yes.

8 THE COURT: Seventy-seven.

9 ATTORNEY FALLON: Seventy-seven, oh, that's

10 the one that we kicked. That was already out.

11 ATTORNEY KRATZ: Did you?

12 ATTORNEY FALLON: Yes.

13 ATTORNEY KRATZ: I didn't have that written

14 down.

15 THE COURT: All right. So 78, 79, 81.

16 ATTORNEY FALLON: Right.

17 THE COURT: Eighty-six.

18 ATTORNEY FALLON: And 87.

19 THE COURT: Let's include 88. Oops, 88 --

20 ATTORNEY BUTING: Eighty-eight is gone. I

21 don't have 77 off.

22 ATTORNEY FALLON: That was --

23 THE COURT: To be safe, let's go through

24 91.

25 ATTORNEY BUTING: Okay.

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THE COURT: Okay.

ATTORNEY FALLON: Okay. So that's 90 and
91. That's fine.

(Proceedings concluded.)

1 STATE OF WISCONSIN)
)ss
2 COUNTY OF MANITOWOC)

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I, Diane Tesheneck, Official Court Reporter for Circuit Court Branch 1 and the State of Wisconsin, do hereby certify that I reported the foregoing matter and that the foregoing transcript has been carefully prepared by me with my computerized stenographic notes as taken by me in machine shorthand, and by computer-assisted transcription thereafter transcribed, and that it is a true and correct transcript of the proceedings had in said matter to the best of my knowledge and ability.

Dated this 10th day of September, 2006.

Diane Tesheneck, RPR
Official Court Reporter

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