

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

3 STATE OF WISCONSIN,

4 PLAINTIFF,

JURY TRIAL
VOIR DIRE DAY 4

5 vs.

Case No. 05 CF 381

6 STEVEN A. AVERY,

7 DEFENDANT.
8

9
10 **DATE:** FEBRUARY 8, 2007

11 **BEFORE:** HON. PATRICK L. WILLIS
12 Circuit Court Judge

13 **APPEARANCES:**

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

16 THOMAS FALLON
Special Prosecutor
17 On behalf of the State of Wisconsin.

18 NORMAN A. GAHN
Special Prosecutor
19 On behalf of the State of Wisconsin.

20 DEAN STRANG
Attorney at Law
21 On behalf of the defendant.

22 JEROME BUTING
Attorney at Law
23 On behalf of the defendant.

24 STEVEN A. AVERY
Defendant
25 Appeared in person.

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PARTIAL TRANSCRIPT OF PROCEEDINGS

Reported by Jennifer K. Hau, RPR

Official Court Reporter

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1 THE COURT: At this time the Court calls
2 State of Wisconsin vs. Steven Avery. It's Case No.
3 05 CF 381. Uh, we are here today continuing with
4 the process of jury selection. Will the parties
5 state their appearances for the record, please?

6 ATTORNEY FALLON: Good morning, Your
7 Honor. May it please the Court, State appears by
8 Assistant Attorney General Tom Fallon, and Ken
9 Kratz, special prosecutors.

10 ATTORNEY BUTING: Morning, Your Honor.
11 Jerome Buting and Dean Strang appearing with
12 Mr. Avery.

13 THE COURT: All right. Before we
14 resume, uh, voir dire this morning, uh, I think
15 yesterday the Court was informed that the -- I'm
16 not sure that my notes are specific enough here,
17 but I had jurors 75 and 77 listed as
18 possibilities that the parties would be, uh,
19 jointly requesting that they be excused for
20 cause.

21 ATTORNEY FALLON: Um, I had Juror No. 75
22 as being previously excused by the Court and, uh,
23 77, I -- I thought that that may have been
24 discussed either Monday or Tuesday.

25 THE COURT: That does ring a bell about

1 Juror 75. I will, um, try to verify that with my
2 judicial assistant. Um, I don't have the reason
3 committed to memory but, um -- All right. We'll
4 address those issues later and bring in the first
5 juror at this time, which is Juror No. 60, Judith
6 Kania.

7 Ms. Kania, at this time I'll ask you to
8 raise your right and the clerk will administer
9 the oath.

10 (Juror sworn)

11 THE CLERK: Please be seated.

12 THE COURT: Uh, Ms. Kania, you've
13 already completed a jury questionnaire in this
14 case. Today we're moving on to the next step of
15 jury selection process which is called voir dire.
16 Uh, in this stage each of the attorneys, or the
17 attorneys for each side, will be permitted to ask
18 you some additional questions that relate to your
19 qualifications as a juror.

20 Uh, before we get to their questions, I
21 want to pass some information on to you. First
22 of all, if you are selected as a juror in this
23 case, I want you to know that the jurors will not
24 be sequestered. That means that the jurors will
25 be permitted to return home each day, uh, after

1 that day's proceedings in the trial, and, uh,
2 because of that fact, the Court will continue the
3 restriction that the jurors not be exposed to any
4 type of media information about the case, be it
5 radio, television, newspaper, the internet or any
6 other source, and jurors will continue to be
7 prohibited from discussing the case, uh, with
8 anyone, including members of their family or
9 other jurors until all of the evidence has been
10 received.

11 Uh, you should also know that, although
12 these proceedings today are open to the public,
13 the Court does not allow cameras in the courtroom
14 during individual voir dire and the media is not
15 permitted to identify the jurors by name in any
16 media reports of these proceedings.

17 In addition, should you be selected as a
18 juror, you should know that, uh, while cameras
19 are permitted in the courtroom during the trial,
20 they're not permitted to, uh, show the members of
21 the jury.

22 Um, in the event you, uh, continue on
23 the jury panel after today, uh, you'll get a
24 telephone call probably sometime today letting
25 you know when you will be reporting back for the

1 next step in the process.

2 Mr. Fallon? All right at this time

3 Mr. Fallon, uh, will ask you questions.

4 **VOIR DIRE EXAMINATION**

5 BY ATTORNEY FALLON:

6 Q Good morning.

7 A Good morning.

8 Q Um, my name is Tom Fallon. I'm an Assistant
9 Attorney General with the Wisconsin Department of
10 Justice and I'm one of the prosecutors in this
11 case. To my immediate left is Mr. Ken Kratz, the
12 Calumet County District Attorney and lead
13 prosecutor.

14 We're here this morning to follow up
15 with some, uh, questions regarding the
16 information you provided last week, uh, to help
17 us in, uh, selecting a jury for this case.

18 Um, first of all, is your last name
19 pronounced Kania?

20 A Kania. Right.

21 Q All right. Very good. Um, and do you prefer
22 Miss? Missis?

23 A Missis is good.

24 Q Very good. All right. Um, very good. Uh,
25 you're currently employed at the, uh, uh, Forder

1 (phonetic) Needle Company here in Manitowoc?

2 A Foster.

3 Q Or -- sorry?

4 A Foster Needle.

5 Q Foster? Okay. Very good. And, uh, how long

6 have you been employed there?

7 A Twenty years.

8 Q Uh, and you're a furnace operator?

9 A Yes.

10 Q What, exactly, does that entail?

11 A I take needles out of a box and put them on a

12 conveyor belt that goes into a furnace to heat them

13 up.

14 Q Oh, I see. Okay. And, uh, previously you worked

15 at, uh, the Mirro Aluminum Company?

16 A Um-hmm.

17 Q And what did you do for them?

18 A I worked in the Teflon department, spraying the

19 Teflon on the --

20 Q All right.

21 A -- pans.

22 Q And, um, how long did you, uh, work for them?

23 A I think it was four years.

24 Q Very good. Now, um, if you were, uh, selected as

25 a juror in this case, um, you've previously

1 indicated that, even if the case were to take six
2 weeks or, perhaps, a tad longer, uh, that
3 wouldn't, um, cause any financial hardship as
4 near as you can figure?

5 A I don't think so.

6 Q All right. So you feel pretty comfortable about
7 your ability to serve, uh, for that extended
8 period?

9 A I think so.

10 Q Okay. All right. Um, I want to talk, now, if I
11 may, about, uh, the, uh, pretrial publicity that
12 this case has generated. From my review of the
13 information you provided, it -- it appears that
14 you, um, at least watch the news somewhat
15 regularly?

16 A Um-hmm. Yes.

17 Q All right. And, um, you indicated you get your
18 news from the newspapers, television and, uh,
19 discussions with your neighbors?

20 A Right.

21 Q All right. Um, excuse me, of those, where would
22 you say you get the majority of your news?

23 A Television.

24 Q From television?

25 A Um-hmm.

1 Q All right. Uh, in terms of the television
2 coverage, how often do you watch the -- the news
3 on television?

4 A Every day.

5 Q All right. And, um, in addition to the -- the
6 news programs, do you watch any special news
7 events or special news channels?

8 A No.

9 Q All right. Um, with respect to the coverage of
10 this particular case, did you follow it closely,
11 somewhat closely or not at all?

12 A Somewhat.

13 Q Somewhat. Uh, about three weeks ago, uh, the
14 Court sent out a letter to prospective jurors,
15 uh, asking them to refrain from, um, reading or
16 listening to any of the coverage about this case.
17 Have -- Did you get that letter?

18 A I think I did. Yes.

19 Q All right. And have you been able to honor that
20 request?

21 A Not exactly. No.

22 Q Okay. Well, we'll talk a little bit about that.
23 And let's just start, say, from the last three
24 weeks or so. Uh, approximately -- well, tell us
25 what news coverage of the -- of this case that

1 you recall being, uh, exposed to.

2 A Well, I guess, general, most of the details, you
3 know. What all happened.

4 Q Okay. Well, tell us about that. Whatever you
5 can remember hearing about the case in the last
6 couple of weeks.

7 A Last couple weeks, huh? Okay. Um, oh, boy. I guess
8 the van, the way it was covered up in -- in the -- in
9 the salvage yard.

10 Q Okay.

11 A And the key found in the house.

12 Q All right.

13 A And I guess the nephew confessing that he helped
14 Mr. Avery kill, if he did, um, um --

15 Q All right. Any -- anything else stick in your
16 mind? Anything about blood evidence? Anything
17 about --

18 A Yeah. There was some blood evidence that --

19 Q What do you recall hearing about that?

20 A That it was put in the van, somehow. It was in the
21 van. Put it that way.

22 Q All right. Now, did that come from, um -- that
23 information, did that come from, uh, television,
24 from reading the newspaper, or your husband, or
25 friends, or how do you think you came upon that?

1 A I think maybe the newspaper.

2 Q From the newspaper?

3 A Uh-huh.

4 Q All right. Do you read the newspaper regularly?

5 A Yes. Uh-huh.

6 Q And, um, daily?

7 A Yes.

8 Q All right. Uh, have you been reading the news
9 coverage about this case, um, in the last three
10 or four weeks?

11 A Sometimes, yes.

12 Q Sometimes. All right. Um, well, based on the
13 information that you have read in the paper, you,
14 um, answered a question, um, first, that the only
15 person you really talk about this with, I take
16 it, is your husband?

17 A Um-hmm.

18 Q That's a yes?

19 A Yes.

20 Q Okay. Um, when asked if you had any specific
21 opinion as to Mr. Avery's guilt or innocence
22 based on what you've seen and heard, uh, you
23 indicated, uh, while just in general the news
24 media about the evidence found in the home and
25 the junk yard, and you seemed to indicate earlier

1 that, um, most of the evidence seems to point to
2 Mr. Avery but that's just what you heard.

3 A Right.

4 Q All right. Is -- is that your impression still
5 as you sit here today?

6 A I guess I still do feel he's guilty.

7 Q All right.

8 A From what I heard.

9 Q From what you heard?

10 A Right.

11 Q All right. Now, you do understand, um -- Well,
12 let me ask you this, because there are a couple
13 of questions that you, uh, forgot to answer here
14 and we want to ask about those. Uh, one of the
15 questions is, um, if you have formed any opinions
16 as to Mr. Avery's guilt or innocence, based on
17 information from any source, would you be able,
18 should you be selected as a juror, to set aside
19 those opinions and base your decision only on the
20 evidence presented in court?

21 A It would be quite hard.

22 Q All right. And why would that be?

23 A Because I guess I feel in my gut that he's guilty.

24 Q Okay. Even though you understand he is presumed
25 innocent?

1 A Right.

2 Q All right. You don't think you could accept any
3 ext -- instruction from the Court that you should
4 honor that presumption of innocence and decide
5 his guilt only on the evidence presented?

6 A I'm not really sure, but I don't think so.

7 Q You don't think so?

8 A No.

9 Q All right.

10 ATTORNEY FALLON: I have nothing else.

11 THE COURT: All right. Um, Mr. Strang, are
12 you willing to forgo your right to question this --

13 ATTORNEY STRANG: I -- I am. Thank you,
14 Your Honor.

15 THE COURT: All right. Uh, at this time,
16 Ms. Kania, we'll have the clerk escort you from the
17 courtroom.

18 (Wherein juror is escorted out)

19 THE COURT: The parties have a joint
20 recommendation with respect to this juror?

21 ATTORNEY FALLON: Uh, yes. I think the
22 answers are rather clear, and her inability to,
23 um, uh, refrain from the latest coverage I think
24 make her, uh, unsuited for this service.

25 THE COURT: Does the defense concur?

1 ATTORNEY STRANG: The motion's joint.

2 THE COURT: Uh, the Court feels there's
3 clear -- a clear basis here to excuse this juror
4 for cause and the Court will do so.

5 Uh, next bring in Mr. Mueller. Uh, Mr.
6 Mueller, please raise your right hand and the
7 clerk will administer the oath to you.

8 (Juror sworn)

9 THE CLERK: Please be seated.

10 THE COURT: Uh, Mr. Mueller, you've already
11 completed a written questionnaire in this case.
12 Today we're moving on to the next step in the jury
13 selection process which is known as voir dire. Uh,
14 during this process, the attorneys for each of the
15 parties will have a chance to ask you some follow-up
16 questions to the information that you provided in
17 your questionnaire. Before that questioning begins,
18 uh, there are a few pieces of information I wish to
19 pass onto you.

20 First of all, if you are selected as a
21 juror in this case, you should know the jury will
22 not be sequestered. That means you will be
23 permitted to return home at the end of the court
24 proceedings, uh, each day and then report back
25 the following day. Uh, because of that fact,

1 we're going to continue to require that the
2 jurors not, uh, be exposed to any news media
3 coverage concerning the case, whether it be from
4 radio, television, newspapers, or the internet.

5 In addition, the jurors are not
6 permitted to discuss the case with anyone during
7 the trial, including, uh, other jurors or members
8 of the jurors' families.

9 The proceedings today are open, but
10 during voir dire, the Court does not allow
11 cameras in the courtroom and you should also know
12 that members of the media are prohibited from
13 identifying the jurors by name in any news
14 reports concerning this matter.

15 Finally, if you are selected on the
16 jury, you should also know that the cameras,
17 while they're permitted in the courtroom during
18 the trial, are not permitted to show the jurors
19 in any way that identifies them.

20 Uh, in the event you continue to be
21 eligible as a juror after the questioning this
22 morning, you'll get a telephone call later today
23 letting you know when to report for the next step
24 in the process.

25 Mr. Fallon, go ahead.

VOIR DIRE EXAMINATION

1
2 BY ATTORNEY FALLON:

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

11 A Mueller.

12 Q Mueller. Uh, Mr. Mueller, we have a -- a few,
13 uh, additional questions for you based on some of
14 the information you provided last week in the
15 questionnaire and like to follow up on that if we
16 could.

17 Um, first, I'd like to simply ask, um,
18 you currently, uh, work at Riesterer and, uh,
19 Schnell?

20 A Yes.

21 Q All right. Uh, service technician, I take it?

22 A Yes.

23 Q And how long have you been with them?

24 A Seven years.

25 Q Um, and, uh, previous place you worked at, um,

1 Siemers Holsteins?

2 A Yes.

3 Q Is that a -- a dairy, uh --

4 A Dairy farm.

5 Q -- operation?

6 A Yes, that's correct.

7 Q All right. What did you do for them?

8 A Um, maintenance.

9 Q Okay. And how long did you work for them?

10 A Four years. And I still work part-time for them.

11 Q You still work -- I'm sorry?

12 A I work part-time in summer for them.

13 Q Part-time? Okay. If you could just speak up

14 just a little bit more because we're having a

15 little trouble hearing you, okay? Thanks. Um,

16 you've had some, uh, technical college

17 experience?

18 A Yes.

19 Q All right. And, uh, accounting and bookkeeping?

20 A No.

21 Q Hmm?

22 A No.

23 Q No? Um, let's see. Uh, you indicated, uh, in a

24 question, have you ever taken courses in or do

25 you consider yourself knowledgeable in any of the

1 areas, you checked accounting. Was that a -- an
2 error?

3 A Uh, no. With -- I do part-time farm work.

4 Q Okay.

5 A And I do run a small cash crop operation. So I do do
6 my books --

7 Q Ah.

8 A -- in my accounting that way.

9 Q Okay. So just, uh, the nature of your work --

10 A Yes.

11 Q -- gets you a little bit into that field.

12 A Yes.

13 Q Keeping track of the money and all.

14 A Yes.

15 Q Okay. I gotcha. Okay. Uh, the next, uh --
16 Well, let me ask one, uh, question related to
17 your employment. Uh, the last question of the
18 questionnaire asks, uh, a question about, um,
19 whether your selection as a juror would cause any
20 type of economic hardship or something for you,
21 and you indicated that, uh, no, that it would
22 not, even if the case were to last, say, six
23 weeks or, perhaps, a little bit longer. Uh, is
24 that still the case today?

25 A Yes.

1 Q Okay. So you -- you feel reasonably comfortable
2 you'll have sufficient income or you have
3 sufficient savings set aside to carry you through
4 the -- the six-week period?

5 A I should, yes.

6 Q Okay. All right. Well, I'd like to talk a
7 little bit about some of the pretrial publicity
8 that this case has, um, generated, and, uh, I
9 note, uh, from your questionnaire that, um, you
10 have a variety of news sources?

11 A Yes.

12 Q Okay. Um, radio, television, newspapers,
13 neighbors, and, um, you say other from
14 conversations at taverns or other social events,
15 I take it?

16 A Yes.

17 Q Okay. Well, when you look at all those sources,
18 where would you say you get most of your news
19 from?

20 A Mostly be from the newspaper and TV.

21 Q Newspaper and television? All right. And, um,
22 you read the newspaper pretty regularly?

23 A Yes.

24 Q All right. And television news you watch --

25 A Pretty much every night.

1 Q -- every night? Do you watch the, um, five
2 o'clock, six o'clock, ten o'clock news or --

3 A Mostly ten o'clock.

4 Q Ten o'clock? And, um -- and you do listen to the
5 radio?

6 A Yes.

7 Q All right. And, uh, is the radio on at work
8 wherever you're working?

9 A Yes.

10 Q All right. And what kind of station? Is there
11 a -- is it a talk radio? A news station? Or
12 music that's mostly --

13 A Pretty much music.

14 Q All right. Uh, so you don't listen to a news
15 station network that much?

16 A No.

17 Q No?

18 A No.

19 Q Okay. Um, you were asked, uh -- Well, let me ask
20 you this: Uh, about, well, maybe three weeks or
21 so ago, uh, did you get a letter from the Court
22 asking, uh -- letting you know that you were a
23 possible prospective juror and, uh, to refrain
24 from reading any of the newspaper coverage or
25 listening to any of the television coverage of

1 the case?

2 A Yes.

3 Q All right. And were you able to comply with
4 that?

5 A Not fully.

6 Q Okay. Well, what happened or was it --

7 A Basically being in a bar. You know, they have the
8 news on.

9 Q Okay.

10 A See it. Um, you know, just stopping by my folks and
11 they had a -- the paper out and you'd see something.

12 Q Right. Um, I realize that you would -- you know,
13 it's pretty hard to avoid headlines and something
14 coming over the -- the airways, but I guess
15 the -- uh, the question probably is more aptly
16 asked is, did you pay close attention to the
17 story on the television or did you read any of
18 the stories in the newspaper?

19 A Yes.

20 Q You did. All right. And, uh, what do you
21 recall, um, uh, seeing on the television or
22 learning about the case, say, just in the last
23 three weeks?

24 A Uh, about the vial of blood.

25 Q Okay. And what do you recall hearing or seeing

1 about that?

2 A That it was possibly tampered with.

3 Q All right. Uh, what else?

4 A Um, that was pretty much the last of it that I heard.

5 Q All right. Um, any details about that stick in
6 your head?

7 A Not really.

8 Q Okay. Um, how about the time period, say, in the
9 year before that? You know, uh, before you got
10 the letter going back to January or December.
11 January of '06 or December of '05, uh, November
12 of '05. Do you remember any of the coverage when
13 the case first broke?

14 A Yes.

15 Q All right. And, um, would you say you followed
16 the events as reported in the news closely or not
17 too closely?

18 A Uh, I followed them pretty closely.

19 Q You did. Um, how about, um, from, um, March, uh,
20 of last year through the summer and into this
21 fall? Were you still following the case closely
22 or not closely?

23 A Uh, I was following it pretty close.

24 Q Okay. All right. Well, um, the reason I ask is
25 that, uh, you indicated, uh, in answer to a

1 question, um, have you formed any personal
2 opinions about this case based on the publicity,
3 and you said, no. Is that your -- is that still
4 accurate today?

5 A Yes.

6 Q Okay. And, um, the other question was, uh, have
7 you formed any opinions whatsoever of -- of
8 Mr. Avery's guilt or innocence based on anything
9 you read or heard in the -- in the paper, the
10 television, or the tavern, or anywhere else, and
11 you indicated, no.

12 A Yes.

13 Q All right. Is -- is that still your, uh, opinion
14 today? You don't really have an opinion on his
15 guilt or innocence?

16 A Yes.

17 Q Okay. Now, do you -- The Court will, uh,
18 instruct you that, you know, just as Mr. Avery
19 sits here today, he's presumed innocent. He's
20 presumed not to have done one blessed thing. And
21 do you understand that?

22 A Yes.

23 Q Okay. And the Court will ask you to accept that
24 proposition and decide this case solely on the
25 evidence that's presented in the courtroom.

1 A Yes.

2 Q Do you think you can do that?

3 A Yes.

4 Q All right. Is there any question or doubt in
5 your mind that you would be able to do that?

6 A Little bit.

7 Q Okay. Well, let's talk a little bit. What
8 raises some concern in your mind?

9 A Well, there's a lot of talk there was, uh -- with the
10 police tampering, possibly.

11 Q Right.

12 A And that other stuff, um --

13 Q What's the other stuff?

14 A Uh, they had something that the cops or the police
15 had mishandled some evidence that was found in -- you
16 know, it's just hard to meet the -- you don't know
17 what was all tampered with or --

18 Q Or not?

19 A Or not.

20 Q All right. All right. So, in other words, you
21 really don't know what happened in the case as
22 you sit here today?

23 A Yes.

24 Q Okay. So the fact that you don't know about any
25 of the facts or what the evidence will be, um, do

1 you think that would make it easier for you to
2 accept the proposition that Mr. Avery is innocent
3 until he's proven guilty, or harder?

4 A Probably make it harder.

5 Q All right. Not knowing anything would make it
6 harder?

7 A Yeah.

8 Q Why would that be?

9 A Because you wouldn't know -- You're making a judgment
10 on, you know, stuff that he -- you don't know what
11 was all --

12 Q I'm sorry?

13 A Don't know what was all messed with.

14 Q Okay.

15 A Or what was -- what was there and what was added, and
16 so I got a feeling it would be hard for me to make a
17 decision that way.

18 Q Okay. Well, as you go through, um, your
19 experiences in life you make decisions every day
20 based on the information that you have in front
21 of you; right?

22 A Yes.

23 Q Okay. So if, um, the attorneys here, if we, um,
24 are presenting the evidence over the course of
25 the -- the trial -- and especially the State,

1 we're the ones that have the burden of proof, not
2 Mr. Avery, you understand that?

3 A Yes.

4 Q And we have to prove him guilty beyond a
5 reasonable doubt, and -- and if we don't, then
6 you must find him not guilty. Do you understand
7 that?

8 A Yes.

9 Q All right. So if after, um -- do you realize
10 that after six weeks of, uh, sitting as a juror,
11 you will have a -- a -- a far greater bit of
12 knowledge than you do right now?

13 A Yes.

14 Q All right. And, uh, because right now, I think
15 you said you really don't know what happened or
16 who did what; correct?

17 A Yes.

18 Q All right. So if we're both -- if the State is
19 starting from zero, from ground level, um,
20 wouldn't it seem easier for you to accept the --
21 the possibility that Mr. Avery is -- is innocent
22 until proven guilty?

23 A Yes.

24 Q I'm sorry?

25 A Yes.

1 Q Okay. All right. Okay. Now, you indicated
2 that, um -- I take it you watch some television
3 shows like, uh, *Crime Scene Investigation* or
4 *Bones* or --

5 A Yes.

6 Q Law enforcement type shows?

7 A Yes.

8 Q And you indicated that you found them, um, very
9 realistic?

10 A Yes.

11 Q All right. Tell us about why you think they're
12 realistic. Very realistic.

13 A Only pretty much kind of just sum up how the crime
14 scene processing and how just following evidence, um,
15 looking at different things that can factor in a --
16 in a case.

17 Q Okay. Um, do you think everything that you see
18 on the -- on these television shows, that the,
19 um, investigators can do on television, that
20 those things can be done in real life?

21 A Yes.

22 Q All of them?

23 A Yes.

24 Q Okay. Do you think it can be done as quickly as
25 it is done on the television shows?

1 A No.

2 Q I'm sorry?

3 A No.

4 Q No? Okay. Um, what else is, um, not as
5 accurately portrayed in those shows as, uh -- as
6 your understanding of what happens in the real
7 world on crime scene investigations?

8 A Uh, just the time, basically, that it takes for them
9 to, uh, I don't know, look at the evidence and all
10 that.

11 Q All right. Well, you don't really believe that
12 law enforcement has the ability to flash back to
13 when the crime occurred and try to figure out who
14 did what, do you?

15 A Uh, no.

16 Q Okay. So that would be a little somewhat
17 unrealistic?

18 A Yes.

19 Q Okay. And, um, do you think that there could be
20 mistakes made?

21 A As to?

22 Q Well, during the investigative process. I mean,
23 they don't seem to make any mistakes on the
24 television, do they?

25 A I'd like to think they don't.

1 Q Okay. You'd like to think who doesn't; the
2 television or the real world?

3 A The real world.

4 Q Okay. Um, are mistakes possible in your mind?

5 A Yes.

6 Q Okay. Okay. Um, I also noted from your, uh,
7 report that, uh, you, uh, at least know, I think,
8 uh, Deputy Jost?

9 A Yes.

10 Q All right. And how do you know Deputy Jost?

11 A Um, he was one of the officers at a traffic accident
12 I was at. And he is also related to one of my
13 friends.

14 Q He's related to one of your friends? Um, how
15 often do you, uh, speak with Officer Jost?

16 A Uh, maybe once a year.

17 Q Okay. So he's not really a close friend or an
18 acquaintance?

19 A Not to me, no.

20 Q Okay.

21 A Just through --

22 Q You just --

23 A -- friends I know.

24 Q Okay. You just know who he is.

25 A Yes.

1 Q Okay. So you haven't had any discussions of,
2 uh -- about law enforcement or investigations or
3 anything like that with him?

4 A No.

5 Q Okay. Now, you said he was at some, um, accident
6 scene that you were, uh --

7 A Yes.

8 Q -- at? Tell us about that.

9 A Uh, basically, it was a girl that was going to pull
10 out into the intersection and stopped kind of halfway
11 through it and I rear-ended her with my truck.

12 Q Okay. All right. And, um, he was the one that
13 responded?

14 A He was the one that responded, yes.

15 Q Okay. And, um, how did that -- how did that go?
16 Was that -- do you think it was all handled
17 fairly and appropriately?

18 A Yes.

19 Q Okay.

20 A It was --

21 Q Was there any complaints? Did you think anything
22 was not handled right or that, perhaps, you
23 weren't sure you did fairly or anything like
24 that?

25 A No.

1 Q No. Okay. But apparently you have had some
2 contacts, or you're at least aware of some
3 contacts where um, um, things did not go so well
4 with law enforcement?

5 A Yes.

6 Q All right. Well, tell us about that.

7 A Uh, my friend, who had a DWI probably six months ago,
8 was, um -- had a law enforcement that was supposedly
9 dropping off, uh -- I don't know if it was some
10 tickets or citation or something, and once in a while
11 there would be a police car sitting on our road. Um,
12 he would not call my friend telling him that he was
13 going to drop off the papers. He'd just more or less
14 pop in or stop in randomly.

15 Q Okay.

16 A Um, but he would be sitting on the road couple of --
17 uh, probably, say, three or four times just with the
18 car shut off, no lights on, just sitting.

19 Q Okay.

20 A Um, and once in a while he wouldn't even stop in.
21 He'd just be parked out there and neighbors would
22 drive through and see a police car sitting with no
23 lights on or nothing.

24 Q Just sitting -- just sitting on the side of the
25 road?

1 A Yeah. Parked. Waiting.

2 Q So, um, did you consider that some form of
3 harassment just because the officer was sitting
4 on the road?

5 A Yeah. We felt -- or at least I felt -- because it
6 was really -- he wasn't making any attempt to contact
7 my friend just to say, I'm going to be here, I'll
8 stop in at this time, or are you available at this
9 time to receive these citations or tickets, and more
10 or less just kind of felt like he was waiting or
11 trying to find something that was --

12 Q Something else wrong?

13 A -- that was wrong, yeah, or --

14 Q Okay. Um, is it possible that the officer was
15 monitoring traffic or -- or, perhaps,
16 investigating some other matter in addition to
17 dropping off these citations for your friend?

18 A Not on a small country road I don't think.

19 Q I'm sorry?

20 A We live on a small country road so it's not a --

21 Q Not very likely?

22 A All -- all the neighbors know pretty much everybody.

23 Q Okay.

24 A And --

25 Q All right. Well, given that experience, um, do

1 you think that, um, if there were a lot of, uh,
2 police officers and sheriff's deputies testifying
3 in this case, that you could evaluate their
4 testimony the same as you would any other witness
5 or do you think you would be much harder on them?

6 A I would --

7 Q I'm sorry?

8 A What do you mean by that? I'm --

9 Q Well, the -- the Court will -- will give you an
10 instruction, if you're selected as a juror, as to
11 how to evaluate the credibility, the
12 believability, the honesty of witnesses. And the
13 instruction the Court will give you will tell you
14 that you should evaluate all witnesses the same
15 way. You know, you consider how they look and
16 how they act on the stand, and how they talk, and
17 whether they're consistent or not consistent with
18 a previous statement.

19 In other words, you would evaluate all
20 the witnesses the same and you wouldn't hold
21 anything against one police officer, or a -- or a
22 scientist, or, uh, even Mr. Avery, if he were to
23 testify, and yet you would evaluate their
24 believability according to the same standard?

25 A Yes.

1 Q Do you think you could do that or do you think
2 you'd be harder on the police?

3 A No. I believe I could do that.

4 Q Okay. There's no doubt in your mind about that?

5 A Yes.

6 Q Okay. Um, my last question is, um, the Court
7 will be instructing you, uh, not to read, watch,
8 or listen to any accounts of the trial if you
9 were selected as a juror. Uh, and, uh, the
10 Court, uh, did note in the questionnaire here
11 that the rule would be strictly enforced. And
12 when asked if you would find it difficult to
13 follow such an instruction you indicated, yes.
14 Can -- can you tell us why you would have a hard
15 time following that?

16 A No. I -- like I said, you go out. I live a sociable
17 life, too, and if they got it on at a bar, or people
18 are talking about it, ain't going to go out of my way
19 to talk about it, but it will be still following or
20 seeing what's going on.

21 Q Well, do you think you'd be able to say to them,
22 hey, look, you know, I'm on this jury, I -- I --
23 we just can't talk about this. Do you think
24 you'd be able to tell your friends that?

25 A No.

1 Q You couldn't do that?

2 A No, I couldn't.

3 Q Um, do you think you'd be able to just turn off
4 the television and walk out of a room?

5 A Uh, probably be kind of hard. I live with three
6 other guys, so --

7 Q All right. So you don't -- you don't think you
8 could abide by that Court's instruction?

9 A It would be hard to.

10 Q All right.

11 ATTORNEY FALLON: Um, I don't have any
12 other questions for this witness, Judge.

13 THE COURT: All right. Mr. Strang?
14 Mr. Strang.

15 **VOIR DIRE EXAMINATION**

16 BY ATTORNEY STRANG:

17 Q Hi. Uh, Dean Strang, Jerome Buting, Steven
18 Avery. Um, this, uh, Deputy Jason Jost, um, do
19 you like the guy? Not like the guy?

20 A Yes. I have respect for him, yes.

21 Q Okay. Um, how about police officers in general,
22 just to cut right through it, do they -- do they
23 ever lie?

24 A I've never really dealt with any of them.

25 Q Do you think they might lie on oath just like

1 any -- under oath just like anyone else or no?

2 A Could be, yes.

3 Q Same as any other witness? Or more likely? Less
4 likely?

5 A Maybe less likely.

6 Q Okay. Um, I think that's all I have. Thanks.

7 **VOIR DIRE EXAMINATION**

8 BY THE COURT:

9 Q Um, Mr. Mueller, the, uh -- some questions were
10 asked about, uh, news accounts. You indicate
11 that if the Court told you not to, uh, see any
12 news accounts of this case that you could, uh --
13 you'd not be of -- you'd not be able to follow
14 that direction?

15 A It would be hard to, yes.

16 Q And tell me why again?

17 A Well, basically, I like going -- I go out like
18 everyone else, and, you know, if you're standing,
19 talking and there's a news flash or something, um,
20 you know, you got to respect other people for wanting
21 to see it. But -- I don't know. It's -- it's going
22 to be all around. It's going to be hard not to
23 notice it.

24 Q When you talk about when you go out, what --
25 going out where?

1 A Uh, I usually go out to taverns. Um, you know, I
2 like my fire -- Friday night fish fry. And through
3 the fire department, you know, a lot of people talk.
4 We usually get done with a meeting or a drill we --
5 downstairs we turn the news on, um, you know, see
6 what local fires have happened and what else is all
7 on.

8 Q Okay.

9 THE COURT: Any --

10 **VOIR DIRE EXAMINATION**

11 BY ATTORNEY STRANG:

12 Q When -- when -- when people talk or watch the --
13 the TV on this case around you, um, they talk
14 about whether Avery's guilty or not guilty?

15 A Yes.

16 Q What do they tend to think?

17 A Is -- If he's guilty or not?

18 Q Yeah.

19 A Um, majority of people think he's guilty.

20 Q And how about you?

21 A I'm undecided on it.

22 Q So to stay undecided, as -- as you would need to
23 be for a few weeks, can you stay away from that
24 kind of conversation with a court ordering you to
25 do it?

1 A I guess I'd have to if the Court's ordering me to do
2 it.

3 Q The Court would be ordering you.

4 A Yes.

5 Q Um, it would be just a few weeks. After the
6 trial was over, of course, you could do whatever
7 you wanted. But during this trial with a court
8 order, can you stay away from that kind of stuff?

9 A It's going to be hard. Probably not.

10 Q Okay. Thanks.

11 THE COURT: All right. The clerk will
12 escort you from the courtroom at this time.

13 (Wherein juror is escorted out)

14 THE COURT: Counsel, does either party
15 have a motion?

16 ATTORNEY FALLON: Uh, yes, Your Honor,
17 I -- I do. I think, um, the juror must be struck
18 for cause. Uh, one, he indicated that he really
19 didn't think he could abide by the Court's
20 instruction to refrain from media coverage and
21 discussing the matter and I think we have to take
22 him at his word, especially in light of the fact
23 that he continued to monitor news reports even
24 after receiving the Court's letter instructing
25 him otherwise.

1 And, um, I think based on that
2 information he has to be excused. It's just too
3 much of a risk.

4 THE COURT: Mr. Strang?

5 ATTORNEY STRANG: Uh, I -- I can't
6 honestly oppose that.

7 THE COURT: Okay. Uh, the Court agrees.
8 The juror will be ordered stricken for cause. We'll
9 move on to the next juror which I believe is, uh,
10 let's see, Mr. Gray. Mr. Gray, please raise your
11 right hand and the clerk will administer the oath to
12 you.

13 (Juror sworn)

14 THE CLERK: Please be seated.

15 THE COURT: Uh, Mr. Gray, you've already
16 completed a written jury questionnaire in this case.
17 Today we're moving on to the next phase of the jury
18 selection process which is known as voir dire.

19 The attorneys for each of the parties
20 will have an opportunity to ask you some follow-
21 up questions relating mostly to information that
22 you provided on the questionnaire. Uh, before we
23 begin that process, uh, there's a few pieces of
24 information I wish to pass on to you.

25 First, the jury in this case will not be

1 sequestered. That means the jurors will be
2 permitted to return home at the end of each day
3 following the conclusion of court proceedings.
4 Uh, because of that fact, we will continue to
5 require that the jurors not be exposed to any
6 media accounts of the case; whether it be by
7 television, radio, newspaper, internet, or
8 otherwise, and the jurors will continue to be
9 prohibited from discussing the case with anyone,
10 including the other jurors, during the trial, or
11 any family members.

12 You should know that although these
13 court proceedings today are open to the public,
14 Court does not permit cameras in the courtroom
15 during the jury selection process, and the media
16 is prohibited from disclosing the names of the
17 jurors in any media accounts.

18 In addition, should you be selected to
19 serve on the jury, uh, while cameras are allowed
20 to cover the trial, they're not permitted to, uh,
21 show the jurors during the trial.

22 If you remain on the jury panel after
23 questioning today, you'll receive a telephone
24 call later today to let you know when to return
25 to court. Mr. Fallon.

VOIR DIRE EXAMINATION

1
2 BY ATTORNEY FALLON:

3 Q Good morning, sir.

4 A Morning.

5 Q My name is Tom Fallon. I'm an Assistant Attorney
6 General with the Wisconsin Department of Justice.
7 I'm a prosecutor in this case. To my immediate
8 left is Mr. Ken Kratz, uh, the Calumet County
9 District Attorney and special prosecutor.

10 Uh, good morning and thanks for
11 returning, helping us out. Um, the attorneys
12 have a few questions for you to follow up on some
13 of the information you provided last week in your
14 questionnaire, and, uh, we appreciate your help.

15 I see, Mr. Gray, that you're currently
16 retired from, uh, GTE?

17 A That's correct.

18 Q Okay. And, uh, you were there 35 years?

19 A That's correct.

20 Q What -- what position or what did you do for GTE?

21 A A number of positions. Um, primarily in the, uh,
22 central office equipment, large systems. Um, I
23 installed, maintained, modified, changed.

24 Q Okay. All right. During your, uh, time there --
25 Excuse me. During your time there, did you have

1 any supervisory responsibilities --

2 A Yes.

3 Q -- or run any departments or anything?

4 A Yes.

5 Q Tell us about that.

6 A Uh, I was first level, um, um, supervisor at, uh,
7 Slinger -- in the Slinger area for awhile, uh, and
8 then transferred back up to Two Rivers from Slinger.

9 Q Okay. And how many people did you supervise or
10 oversee?

11 A I believe 11.

12 Q Okay. And how long did -- did you do the
13 supervisory -- or how long were you a supervisor?

14 A Couple years.

15 Q Couple years?

16 A Uh-huh.

17 Q Did you enjoy it?

18 A Yes.

19 Q You did. Okay. Uh, I also see that, uh, you,
20 um, served in the, uh, Air Force?

21 A Yes.

22 Q Uh, and what did you do in the Air Force?

23 A Communications.

24 Q And what did that involve? What type of
25 communication work were you involved in?

1 A Uh, communications at, uh, radar sites.

2 Q Okay.

3 A Uh, that would be tying a -- a -- radar units
4 together for communications to talk to each other and
5 that sort of thing.

6 Q Connecting a system, in other words, so that
7 everybody could talk?

8 A Yes.

9 Q I see. And you did that for, uh, four years did
10 I see?

11 A I served four years, yes.

12 Q Four years? All right. And what rank did you
13 achieve before retiring from that?

14 A E-4.

15 Q And -- what -- what is that?

16 A Well, that would be Airman First.

17 Q Airman First. Okay. Did you enjoy your, um,
18 time in the Air Force?

19 A Yes.

20 Q Yeah?

21 A Yeah. It was good.

22 Q Well, you seemed to hesitate a little. I just
23 thought I'd ask. You know, sometimes --

24 A Good and bad.

25 Q Yeah, I would imagine. All right. Um, okay. I,

1 um, see that, uh, you do, uh -- you like to
2 travel in your spare time. Um, what kind of
3 traveling do you like to do? Is that around
4 here? This country? Or do you travel overseas
5 much? Or --

6 A No, not overseas. Um, my family lives in Texas. We
7 go there a lot.

8 Q Okay.

9 A Um, and we -- we visit national parks and that sort
10 of thing.

11 Q I see. Okay. All right. Well, one of the
12 things of concern to, um, all of us here that
13 we'd like to talk to you about is, um, the news
14 coverage which has attended this trial, or the
15 prospect of this trial, and ask you some
16 questions about that.

17 And it appears that you obtain your news
18 from a variety of sources; radio, newspaper,
19 television, and magazines. And let me first ask,
20 where would you say you get the -- the vast
21 majority of your news? Or is it evenly split?

22 A The vast majority would be newspaper.

23 Q From the newspaper.

24 A Yeah.

25 Q All right.

1 A Various newspapers.

2 Q Okay. What papers, uh, do you read?

3 A Uh, the *Milwaukee Sentinel*, the *Green Bay Press*, and

4 the, uh, *Manitowoc Herald Times*.

5 Q All right. And do you read, uh, them, uh, daily

6 or regularly?

7 A Pretty much. Not all three but, um, I -- I read the

8 paper almost every day.

9 Q Okay. So you're reading one -- at least one of

10 those papers every day?

11 A Yes.

12 Q Okay. And, uh, how about, uh, television news?

13 A Very little.

14 Q Very little. All right. Um, and, uh, magazines.

15 What kind of magazines do you regularly read?

16 A *National Geographic*, that sort of thing.

17 Q All right. Uh, any news magazines like

18 *U.S. World Report*, or *Forbes*, or anything like

19 that?

20 A Many years ago but not anymore.

21 Q Okay. All right. Okay. I see from your

22 questionnaire that once you received your

23 notification from the Court you made a conscious

24 effort to avoid any news, um, about the case; is

25 that correct?

1 A That's very true.

2 Q All right. And, uh, as you sit here today you
3 can tell us that in the last three weeks you've
4 managed to pretty much avoid the news coverage?

5 A It's impossible to avoid all that --

6 Q Sure.

7 A -- but, yes.

8 Q Okay.

9 A Yeah.

10 Q You haven't read any detailed articles or --

11 A No.

12 Q -- anything? All right.

13 A No. I had my wife sensor the paper for me.

14 Q All right. And, um, any -- did you see anything
15 on television or hear anything on the radio?

16 A No. On television, not at all.

17 Q Okay.

18 A Um, the radio, just short blurbs.

19 Q Sure. Um, and as I see your, um, questionnaire,
20 you indicate you haven't formed any opinions at
21 all one way or another about this particular
22 case?

23 A No.

24 Q So as you sit here today you don't have any
25 opinion at all as to whether Mr. Avery is guilty

1 or innocent of what he's been charged with?

2 A No. That's what the trial is for.

3 Q Okay. So you have no problem at this time
4 presuming him innocent until or unless he's
5 proven guilty beyond a reasonable doubt?

6 A No.

7 Q Okay. And you think you can follow that and
8 accept that principle, uh, as this trial would
9 begin if you were selected as a juror?

10 A Yes, I believe so.

11 Q Okay. All right. I just have one, uh, last
12 question: You did indicate that you did have
13 some concern about possibly serving as a jury --
14 uh, as a juror. I understand your mother is, uh,
15 ill down in San Antonio?

16 A That's correct.

17 Q All right. Um, what -- how is she doing lately?

18 A I talked to my sister Tuesday and she's a little
19 better. Her attitude and, uh, will to survive is --
20 is much improved.

21 Q She's on the uptake, more or less, at least for
22 the time being?

23 A Yes.

24 Q Okay. Um, is she at home or is she hospitalized?

25 A Uh, she's -- hospital, therapy and nursing home for

1 the last four, five months.

2 Q Okay. But she seems to be relatively stable at
3 the current time?

4 A Yes.

5 Q Okay.

6 A Her, um -- she had an operation on her hip and it --

7 Q Sure.

8 A -- got infected and that sort of thing, and, uh, the
9 last time I talked to my sister, then she said the
10 wound was, quote, healing. Finally.

11 Q All right. So things seem to be getting better.

12 A Better, yes.

13 Q Okay. All right. Um, thanks. That's all I
14 have.

15 ATTORNEY FALLON: I'll pass the juror.

16 THE COURT: Mr. Strang?

17 ATTORNEY STRANG: Thank you, Your Honor.

18 **VOIR DIRE EXAMINATION**

19 BY ATTORNEY STRANG:

20 Q Um, good morning.

21 A Morning.

22 Q Uh, Dean -- Dean Strang, Jerome Buting, Steven
23 Avery. Um, Mr. Buting and I, uh, are defending
24 Mr. Avery. Um, and I -- I thought I would, um,
25 start by going back, um, just a little bit with

1 you. Um, you mentioned that you had been parish
2 president, or maybe you still are, um, parish
3 president.

4 A Yeah, that was '70's and '80's.

5 Q Okay.

6 A A long time ago.

7 Q And how long did you do that? You said two
8 terms, but I don't know how long the terms were.

9 A Each was a year.

10 Q Each was one year?

11 A Um-hmm.

12 Q Okay. And then sat on the parish school board as
13 well?

14 A For several years.

15 Q Uh, again, in the '70's and '80's?

16 A Yes.

17 Q When your -- when your boys were growing up?

18 A That's correct.

19 Q Are you still active in the parish?

20 A Um, not as much as I used to be but, yeah, I still do
21 some volunteer work.

22 Q And as -- as we come a little bit closer in time,
23 now, um, I'm -- I'm just sort of curious, um, how
24 much you and your wife followed, um, the
25 disappearance of Teresa Halbach, and then, um,

1 the discoveries, um, you know, on what people
2 have been calling the Avery property?

3 A Yes.

4 Q Uh, and then the arrest of Steven Avery?

5 A Yes.

6 Q Did you follow that pretty closely, initially?

7 A In the early days, yes.

8 Q Okay. And, um, what do you mean by "the early
9 days", Mr. Gray?

10 A In the first, uh, month, two months. That -- that
11 time period through there. Yeah.

12 Q Okay. And, uh, followed it pretty closely how?

13 A With the -- the news, the paper, that sort of thing,
14 but I -- I wouldn't say I followed it closely. I
15 knew it was going on, but, uh, I had other things
16 too.

17 Q Sure. Okay. And -- and even back then, um, I
18 guess where I'm going is were you -- were you
19 picking up most of what you did through the
20 newspaper --

21 A Yes.

22 Q -- as opposed to watching TV in the middle of the
23 day or something?

24 A Yes. I never watch television in the day.

25 Q Okay. Um, do you -- do you re -- remember a

1 young man named Brendan Dassey?

2 A The name, yes, um-hmm.

3 Q And what do you know about, um, young Brendan

4 Dassey?

5 A Personally, nothing.

6 Q Well, I mean, know from the paper or --

7 A Oh. That he was -- he's being -- he's implicated.

8 Q Okay. And any -- any understanding of how or why

9 he's implicated or --

10 A Yes. Uh, that was -- that came out very early.

11 Q Tell -- tell me a little bit about that. What --

12 what you've learned from the paper or TV or

13 wherever.

14 A That he was, uh -- was accused, arrested, uh,

15 questioned, that sort of thing. And, uh, that, uh,

16 he gave some sort of confession.

17 Q Um-hmm. Did you hear that he later took that

18 confession back or recanted?

19 A Yes, I did.

20 Q Um, do you remember how you heard about the

21 confession and then the recantation?

22 A Probably in the paper.

23 Q What do you suppose all of that has to do with

24 Steven Avery?

25 A I'm not sure.

1 Q Um, how about your wife? Have you -- you and
2 your wife discussed the case back in the early
3 days?

4 A No. The -- back then, yeah, we did to some extent.
5 Yes. Um-hmm.

6 Q Did -- does she have any opinion about whether
7 Mr. Avery did it, or didn't do it, or --

8 A She said she definitely wouldn't want to be on the
9 jury.

10 Q Okay. What did -- what did that mean?

11 A That she couldn't, uh, get the -- the details out of
12 her mind.

13 Q Oh. Okay.

14 A Um-hmm.

15 Q Uh, just that they -- all of the allegations
16 and --

17 A Yes.

18 Q -- the ugliness of it --

19 A Yes.

20 Q -- all? How about you? I mean, these are ugly
21 allegations. Um, uh, how -- how has that
22 affected you?

23 A I can, um, erase things in my mind so that they --
24 you know, if it -- they're not important, I pay no
25 attention to them.

1 Q And, I guess, are these important? Is it
2 important when a young woman goes missing and
3 then apparently --

4 A I'm not talking about the -- the act. I'm talking
5 about since I was in the, uh, jury pool.

6 Q Okay. And -- but I am talking about the --

7 A Is there a picture still in my mind?

8 Q Yes.

9 A Yes. Yes.

10 Q What -- what's the picture?

11 A That, uh, a young woman shouldn't be violated.

12 Q Um, violated meaning raped, or killed, or --

13 A Any --

14 Q -- her body mutilated or --

15 A Any of the above.

16 Q Any of that? Okay. Um, and do you react to that
17 in specific as a young woman shouldn't be or that
18 shouldn't happen to anyone?

19 A To a human being.

20 Q A human being? Um, do you -- do you have
21 grandkids?

22 A Yes.

23 Q And is there a level at which you're reacting to
24 this as a grandfather with grandkids who may be
25 about that age or in their 20's?

1 A No. No.

2 Q Okay. Um, what do you know about Mr. Avery's
3 background before that? Specifically, um --

4 A I'd --

5 Q (Unintelligible) -- or conviction.

6 A I -- I remember, uh, the first time Mr. Avery was --
7 was convicted, but, uh, had long since not thought
8 anything at all about it.

9 Q You actually remember the first trial involving
10 Mr. Avery?

11 A I remembered the first, uh, incidents and, uh,
12 conviction.

13 Q Okay.

14 A As far as the trial details, no.

15 Q Right. But the -- but the conviction, and then
16 do you -- do --

17 A That it occurred.

18 Q -- do you remember what eventually happened with
19 that conviction --

20 A Yes, I do.

21 Q -- many years later?

22 A Yes, I do.

23 Q What?

24 A It was thrown out. Um --

25 Q And do you have -- do you -- do you know why?

1 I'm just --

2 A Yes. Because of the DNA.

3 Q Okay. And what -- what was your reaction to that
4 when that conviction gets thrown out because of
5 the DNA?

6 A Honestly, I thought the Sheriff's Department bungled
7 the job.

8 Q Um, and that the State Crime Lab got it right
9 with the -- the DNA was -- Gregory Allen was the
10 guy who committed the rape and the assault, not
11 Steven Avery?

12 A That's my understanding, yes.

13 Q And do -- um, did -- did you then hear about the
14 lawsuit?

15 A Yes.

16 Q What was your reaction to that?

17 A I thought he had a right to it.

18 Q Um, now, you know, all of us, obviously, bring
19 the little bits and pieces of what we know and
20 think with us, and when you assemble all of that
21 together and then make --

22 A Um-hmm.

23 Q -- you know, whatever efforts --

24 A Um-hmm.

25 Q -- you can to take on the role of a juror --

1 A Yes.

2 Q -- um, are you quite comfortable that if you
3 served here, uh, you could view Mr. Avery as
4 starting with a -- a clean slate all together?

5 A Yes. Yes.

6 Q Uh, why?

7 A Because I feel that everybody has the right to a fair
8 hearing.

9 Q Um-hmm. Wouldn't -- mustn't he have done
10 something here if he's in the courtroom sitting
11 in that chair?

12 A My position is accused doesn't mean guilty.

13 Q Not even maybe guilty or probably guilty?

14 A No. Maybe, but not until after the trial.

15 Q Okay. And, um, who would you expect to prove him
16 guilty or innocent here?

17 A Mr. Kratz.

18 Q Or the people at this table at least?

19 (No verbal response)

20 Q Okay. Uh, beyond a reasonable doubt? Could you
21 hold them to that standard?

22 A Yes.

23 Q If the Judge instructed that was the standard?

24 A Correct.

25 Q Do you expect Mr. Buting and I to prove him

1 innocent?

2 A No. Just to refute their evidence.

3 Q Right. And -- and I expect we probably will, um,
4 attack or -- or try to show another side to some
5 of their evidence. Some of their evidence we
6 probably won't have any -- any dispute with. But
7 whatever we do, can you bear in mind and honor
8 the rule that we don't have to do anything? We
9 don't have to prove a blessed thing to you?

10 A Yeah.

11 Q Um, that is, Mr. Avery or any -- you know, his
12 lawyers acting for him --

13 A Yeah.

14 Q -- do not have to prove his innocence?

15 A Yes.

16 Q Is that something you can accept?

17 A Yes.

18 Q So the only burden of proof lies with the
19 State --

20 A Yes.

21 Q -- and its lawyers, um, to prove him guilty
22 beyond a reasonable doubt?

23 A Yes.

24 Q Now, uh, as I've said, I'm not -- we're not going
25 to sit here like bumps on a log. That's just not

1 what we do. Um, and if we cross-examine some
2 witnesses, you would listen to that evidence just
3 as you would to the direct testimony?

4 A Yes.

5 Q Or the direct examination of those witnesses?

6 A Yes.

7 Q Um, one of the decisions we would have to make at
8 some point would be whether to call witnesses of
9 our own in what's called the defense case --

10 A Um-hmm.

11 Q -- whether to put on a defense case at all.

12 A Yeah.

13 Q Um, if we put on a defense case, will you give
14 our witnesses, Mr. Avery's witnesses, the same
15 fair consideration you would give the State's
16 witnesses?

17 A Yeah. Yes.

18 Q Um, the toughest call in that respect is whether
19 to call Mr. Avery as a witness or not. Um, if --
20 if he's innocent, would you expect him to
21 testify?

22 A Not if he doesn't want to.

23 Q Why not?

24 A Because that's his right.

25 Q I understand. And that's -- you know, as a

1 matter of the American Constitution and, uh,
2 our -- our core values here, that's -- you know,
3 that's the correct answer everyone would say.

4 But, um, it's tougher to follow that
5 sometimes in real life. Why do you think you
6 could follow the Judge's instruction that
7 Mr. Avery has a right not to testify and you
8 can't consider that as any evidence at all?

9 A That's what I believe.

10 Q That is -- that is what you believe.

11 A What I believe. That's it.

12 Q That's why you spent your time in the Air Force?

13 A Well, no. It's just what I believe.

14 Q Yeah. Okay. Um, how about if he does testify?

15 If he were to testify, um, I would think it might
16 be natural for a juror to say, well, of course he
17 denies doing it. You know, he's not going to get
18 up and admit it. He's trying to save himself.

19 Um, would you come at it with that attitude?

20 A I don't know if you'd call it an attitude, but it's
21 true, he -- he doesn't want to -- he doesn't plead
22 guilty, he doesn't want to be guilty, so, yeah.

23 Q Right. Right. But, um --

24 A Uh, neither. I wouldn't take it either way.

25 Q Okay. And -- and, really, in the end, I think

1 that the -- the law that the Court probably would
2 give you is if he testified --

3 A Um-hmm.

4 Q -- um, he would be considered like any other
5 witness?

6 A I suppose.

7 Q You would weigh his testimony, listen carefully,
8 and decide whether you believe it or not believe
9 it --

10 A Yeah.

11 Q -- just like you would anybody else --

12 A Yes.

13 Q -- testifying?

14 A Yes.

15 Q Could you do that?

16 A Yeah.

17 Q Um, there are other witnesses, um, who present
18 similar problems for some people in evaluating,
19 but this is sort of the flip side from -- from --
20 at least for many people. Um, law enforcement
21 officers will testify here. Some of them will be
22 in uniform.

23 A Um-hmm.

24 Q Um, and, um, when you hear a law enforcement
25 officer testify, are -- are you willing and able

1 to look at him or her as just another human being
2 and just another witness?

3 A Yeah, I think so. Um-hmm. He's sworn an oath.

4 Q Who's like any witness who's taken an oath --

5 A Um-hmm.

6 Q -- to tell the truth. But what I'm getting at is
7 do you think there's anything about, um, going
8 into the profession of law enforcement that makes
9 you more likely or less likely than someone in
10 any other calling in life to tell the truth under
11 oath?

12 A No, I don't think so.

13 Q Um, you -- you would be able to listen to a law
14 enforcement officer's testimony and weigh it just
15 as you would Mr. Avery's or, you know, um, any
16 other citizen or witness who might be called?

17 A Yeah, I think so. Um-hmm.

18 Q Um, you sound just a little bit tentative about
19 that. Maybe you could -- maybe you could talk --

20 A No. A -- a witness is a witness. They're sworn.
21 Uh, they're -- they're not supposed to lie.

22 Q Right.

23 A So I would accept what they say.

24 Q But -- and -- and that's what we all want to do.
25 The -- the messy reality of life in trials is

1 that sometimes, um, in fact, not infrequently,
2 one witness is saying black and another witness
3 is saying white --

4 A Um-hmm.

5 Q -- on some point that matters.

6 A Um-hmm.

7 Q So they both can't be correct.

8 A Yeah.

9 Q Um, and the issue is whether you come into this
10 with some bias for or against --

11 A No.

12 Q -- a witness just because of the clothes they're
13 wearing or the job they have?

14 A No. No.

15 Q In the end, you may have to sort out conflicting
16 testimony?

17 A Correct.

18 Q And can you consider all witnesses evenly and
19 equally from the starting point in doing that?

20 A Yeah.

21 Q Did your, um, telephone installation, or, you
22 know, I guess it was larger systems you were
23 working with, did the installation and
24 maintenance of those systems require of you, um,
25 better than an average grasp of electrical

1 engineering or --

2 A Yes.

3 Q -- at least of electronics?

4 A Yes.

5 Q Did you acquire that in the Air Force or at least
6 get training in that?

7 A Started the air, but, uh, continued going to school
8 afterward. But, uh, through the company and that --
9 that sort of thing.

10 Q Okay. Um, did that, um, strike a cord with you,
11 um, in -- in terms of an interest in science at
12 all or --

13 A Uh, very much. Yeah.

14 Q Yeah.

15 A In electronics, um-hmm.

16 Q In electronics in --

17 A Yes.

18 Q -- specific?

19 A Um-hmm.

20 Q Okay. Um, do you -- and I'm -- I'm curious what
21 you bring of that interest or that bent, um, to
22 the courtroom in looking at or expecting
23 scientific evidence?

24 A Easy. It's, um, logic. Math, electronics is pure
25 logic.

1 Q Okay. And would you extend that to other, um,
2 physical sciences? Like the -- like biological
3 science?

4 A Um, yeah, somewhat. Uh, no. No. Uh, electronics is
5 math and math is straight. Yeah. It's pure logic.
6 No, um, biological -- you mean, human, animal. Yeah.
7 No, there are too many variations there.

8 Q Um, variations in terms of how the specimens are
9 collected, or preserved, or tested?

10 A Oh, specimens. Oh. No. That -- that I -- I -- I
11 don't know. I have no idea.

12 Q Okay. Um, but, again, what I'm -- what I'm
13 interested in is if somebody comes in and they've
14 got, let's say, expertise in ballistics --

15 A Um-hmm.

16 Q -- do you understand what I mean by --

17 A Yes.

18 Q -- ballistics? Um, looking under a microscope
19 at, uh, bullets, or fragments of bullets, or
20 cartridge casings --

21 A Um-hmm.

22 Q -- um, sometimes the boring of, uh, short or long
23 barrels on firearms. Um, so they come in with
24 this specialized expertise.

25 A Right.

1 Q Um, are you likely to give them much more credit
2 simply because of that expertise?

3 A Yes.

4 Q Uh, tell me a little bit about why?

5 A As an expert, they -- theoretically, they know what
6 they're doing. It's a science. It's what they do.

7 Q Um-hmm.

8 A So -- so, yeah, I respect -- I respect that.

9 Q Okay. And -- and are you willing and able to
10 probe on whether they've done good science in a
11 particular case?

12 A If the subject comes up, sure.

13 Q Sure. Okay. So even if the principles are
14 sound --

15 A Um-hmm.

16 Q -- you'd be willing to look at, well, was the
17 human part of -- of the process also sound?

18 A The human part of the evidence gathering? Is that
19 what you're saying?

20 Q Evidence gathering, evidence maintaining,
21 evidence testing, that kind of thing?

22 A I would want to make sure that there was a -- uh, an
23 unbroken train.

24 Q Look at the whole -- the whole series of
25 events --

1 A Um-hmm.

2 Q -- that lead to the scientific testimony?

3 A Yeah.

4 Q Okay. While we're on that, um, in more recent
5 weeks, let's say in the last, oh, eight weeks,
6 roughly, seven, eight weeks, um, have you heard
7 anything about a blood vial that --

8 A I heard --

9 Q -- referred to this case?

10 A I've heard about a blood vial, but I don't know what
11 they were talking about.

12 Q What the status is or what role, if any, it
13 plays?

14 A That's right.

15 Q Um, how did you hear about that?

16 A Before I could get out of the room when the
17 television was on.

18 Q Okay. All right. No. That -- Yeah. No.
19 I'm -- I hope that didn't sound accusatory --

20 A No.

21 Q -- you know. Um, do you remember about when?
22 Was it before or after Christmas?

23 A I think it was after Christmas.

24 Q Okay. Did that cause you to form any opinion at
25 all about the case?

1 A I wondered what they were talking about, but that's
2 all.

3 Q So more wondering than having an opinion?

4 A Beg your pardon?

5 Q More wondering than actually having an opinion?

6 A Yeah.

7 Q Um, last -- last area. Um, do you want to serve
8 on the jury in this case?

9 A Want to? No. Will? Yes.

10 Q Okay. Um, will, because it's a -- a civic duty?

11 A Yeah.

12 Q And why not want to?

13 A I would just as soon not. I would prefer not to. I
14 can't tell you why. I just would prefer not to.

15 Q Okay. And, um, I'm just -- I'm going to explore
16 that just a little bit, and if it gets
17 uncomfortable, tell me. All right?

18 THE COURT: I'm -- I'm sorry, Mr. Strang.
19 Time's up.

20 JUROR GRAY: Beg your pardon?

21 THE COURT: At this time, we'll have the
22 clerk escort you from the courtroom.

23 (Wherein juror is escorted out)

24 THE COURT: Is there a, um, motion from
25 either party?

1 already filled out a, uh, juror -- written juror
2 questionnaire in this case. Today we're moving
3 on to the next step of the proceedings, which is
4 known as voir dire. The attorneys will each have
5 a chance to ask you some questions, which, for
6 the most part, will follow up on information that
7 you provided in your questionnaire.

8 Before we get to those questions, um, I
9 want to make sure you understand that the jurors
10 selected in this case will not be sequestered.
11 That means the jurors will be -- be permitted to
12 return home each day at the end of court
13 proceedings for that day. And because of that,
14 the jurors will continue to be subject to the
15 rule that, uh, they cannot have any media
16 exposure to this case either in radio,
17 television, newspaper, the internet.

18 Uh, and jurors will not be permitted to
19 discuss the case with anyone, including family
20 members or other jurors until it's time to
21 deliberate.

22 The proceedings in this case are open,
23 but during voir dire, the Court does not allow
24 cameras in the courtroom, and, uh, members of the
25 media are prohibited from using your name in any

1 court reports about -- or any news media reports
2 about this case.

3 If you are selected to serve as a juror,
4 uh, you should know that, uh, while cameras may
5 be in the courtroom for the trial, they're not
6 permitted to show the jurors.

7 Uh, in the event you remain on the jury
8 panel after today's proceedings, you'll get
9 another call, probably sometime later today,
10 telling you when to report back.

11 Mr. Fallon, you may begin.

12 **VOIR DIRE EXAMINATION**

13 BY ATTORNEY FALLON:

14 Q Good morning, Mr. Wardman.

15 A Morning.

16 Q My name is Tom Fallon. I'm an Assistant Attorney
17 General with the Wisconsin Department of Justice.
18 I'm one of the prosecutors in this case. To my
19 immediate left is Mr. Ken Kratz, the Calumet
20 County District Attorney, and lead special
21 prosecutor in this matter.

22 Um, thanks for coming in this morning.
23 We had a few questions we wanted to, uh, follow
24 up with, uh, based on the information you
25 provided last week. Sorry we didn't get to you

1 yesterday. I know you were here.

2 Um, I have a couple of, uh, preliminary
3 questions, then I just wanted to talk about one
4 area of concern, uh, to all of us here.

5 Um, my first question is, if you can
6 help me out because I'm not from the area, um,
7 you indicated you're not currently employed and
8 your principle occupation used the designation
9 E-C-K?

10 A Yeah. Eck Foundry.

11 Q Oh, Eck Foundry.

12 A Yeah.

13 Q Oh, I'm sorry. Okay. What kind of, um, work did
14 you do at the foundry?

15 A I was a lead man on the -- and worked on the bench in
16 the clean air room.

17 Q Lead man?

18 A Lead man.

19 Q Okay. Can you tell me a little bit about -- I'm
20 not quite familiar with that. What -- what does
21 that person do?

22 A It was my job to see that the castings were cleaned
23 right and shipped out.

24 Q Okay. Um, did that involve any supervisory
25 responsibilities?

1 A Yes, some.

2 Q Okay. Tell us about that.

3 A I had to watch the guys and -- and train them and

4 everything --

5 Q I see.

6 A -- so they knew what they were doing.

7 Q Okay. And how long were you a supervisor of

8 sorts?

9 A Um, I believe it was 21 years.

10 Q Twenty-one years. Okay. And how long did you

11 work at the, uh, factory?

12 A Twenty-eight.

13 Q Twenty-eight. So 21 out of the 28 years you were

14 in some responsibility as a supervisor for

15 others?

16 A Yes.

17 Q Okay. Okay. Um, you indicated in terms of, uh,

18 volunteer work two things of interest to us. Uh,

19 Union 301? That's associated with the -- the

20 foundries work --

21 A Yes.

22 Q -- that you did?

23 A Yes.

24 Q Okay. And what, uh, specific, uh --

25 A Oh, I -- I don't do -- dealing with the, uh, union no

1 more.

2 Q Okay.

3 A I didn't know if you meant now or --

4 Q Well --

5 A -- if ever.

6 Q Well, thanks for clearing that -- I was going to,

7 uh, get to that. But you're no longer in the,

8 uh --

9 A Union, no.

10 Q Okay. No -- Okay. So you don't even do any

11 volunteer work or currently --

12 A I do volunteer work but not for the union.

13 Q Not for the union. Okay. Very good. Um, how

14 long were you in the union?

15 A Twenty-eight years.

16 Q All right. So even as -- even though you had

17 some supervisory responsibilities, you were

18 still, uh, a member of the union at the foundry?

19 A Yes.

20 Q I see. Okay. Did you have any, uh, special

21 responsibilities as a member of the union like

22 maybe being a steward or anything --

23 A Yes.

24 Q -- like that?

25 A I was a steward.

1 Q You were. Okay. And how long were you a union
2 steward?

3 A Three years.

4 Q Okay. Uh, was that toward the end of your time
5 before retirement or was that earlier on in your
6 career?

7 A Earlier on.

8 Q Okay. Did you enjoy that union work?

9 A Yes.

10 Q You did. Okay. Were you -- were, uh, you
11 involved in representing any of your colleagues
12 in any, uh, labor disputes or, um, management
13 labor issues of any kind?

14 A One.

15 Q Just one. All right. And how was that process?

16 A Uh, he got some, uh, disciplinary action.

17 Q Okay. Um, do you think it was overall on balance
18 appropriately handled?

19 A Yes, it was appropriately handled.

20 Q Okay. Um, in your, um, work at the foundry, um,
21 were you responsible for drawing up any security
22 guidelines or, uh, safety guidelines for work at
23 the foundry of the people you were supervising?

24 A Uh, well, we had some insurance guys there that one
25 time, and we did -- yeah, a little bit.

1 Q A little bit. But it wasn't a big part of what
2 you were doing?

3 A No.

4 Q Okay. Um, in terms of problem-solving and -- and
5 dealing with, um, uh -- or -- or formulating
6 opinions, or speaking with people, trying to
7 understand a point of view, would you consider
8 yourself a -- a big picture person or more of a
9 detail-oriented guy?

10 A Detail, I think.

11 Q Okay. Um -- Okay. Tell me about the volunteer
12 work you do at the Sheriff's Department.

13 A Uh, we go on -- uh, out on patrol and we check, uh,
14 houses and that, if people have went on vacation, and
15 abandoned cars, and just keep our eyes open.

16 Q And how often do you do that?

17 A Uh, once a week.

18 Q Now, you're not a, um, licensed law enforcement
19 officer --

20 A No.

21 Q -- correct? All right. And you're not carrying
22 a weapon when you're assisting?

23 A No.

24 Q Okay. Um, but you do ride in the squad car with
25 other deputies?

1 A No.

2 Q Oh, you don't. Okay. Well, tell us how you work
3 then?

4 A It's both -- uh, both of us are volunteers and we --
5 we get four hour shifts.

6 Q Oh. So there's just you and one other guy who
7 help out?

8 A Correct. There's always two.

9 Q Okay. How do you get your assignments? Or how
10 do you know what to do?

11 A Uh, we have a, um -- I forget, now, what they -- how
12 they say it, but it's -- it's a book, and it tells us
13 which, uh -- where to go.

14 Q Okay. And these are people who may be out of
15 town and have apparently asked the Sheriff's
16 Department to keep an eye on things to make sure
17 that no one breaks in?

18 A Correct.

19 Q I see. Okay. So do you use a -- a county
20 vehicle or do you use your own car?

21 A County.

22 Q Okay. How long have you been doing that, sir?

23 A Uh, since November last year.

24 Q Okay. And, um, when did you retire, by the way,
25 from the foundry?

1 A Uh, '99. I crushed three vertebrae in my back. I'm
2 on disability.

3 Q Okay. I'll come back to the volunteer work in a
4 minute. But I just want to make sure, uh,
5 because of your disability and your back injury,
6 um, would serving on a juror -- on a jury, and,
7 you know, it might require sitting for an hour
8 and a half or two hours at a time, um, before you
9 get a break, would that cause any problems for
10 you in being -- as being a juror or do you think --

11 A No. If I get too much pain or something I just take
12 a pill.

13 Q Okay. And, um, does that affect your ability to
14 think and remember things if you have to take any
15 pain medication?

16 A No.

17 Q Okay. So it's pretty well under control then?

18 A Yes.

19 Q Okay. All right. Um, in terms of the, um -- the
20 volunteer work, then, for the Sheriff's
21 Department, during, uh -- I take it you're still
22 doing that today?

23 A Yes.

24 Q And once a week for four hours?

25 A Yes.

1 Q Okay. Um, while engaging in that work, have you
2 had an opportunity to, uh, meet or become
3 familiar with various members of the, uh,
4 Sheriff's Department?

5 A Not -- not right now, no.

6 Q Okay.

7 A Because I just started.

8 Q Oh, just started. So --

9 A Well, since November.

10 Q Was that November of '06 or November --

11 A Six.

12 Q Oh. So this is just for the last three months?

13 A Yes.

14 Q I see. Okay. All right. Um, I believe you said
15 in your questionnaire you do have, um, one son
16 that is a member of the Sheriff's Department?

17 A Yes, I do.

18 Q Okay. Now, um, how long has he been a member of
19 the Sheriff's Department?

20 A Oh, five -- five years I think.

21 Q All right. And, uh, do you ever have occasion to
22 talk shop with your son about law enforcement
23 work in general?

24 A Not much, no. He won't tell me much.

25 Q All right. Um, very good. Well, let me ask, uh,

1 because this is a -- a matter of interest to all
2 of us here, um, if you were selected as a juror
3 in this case, and since your son is a member of
4 the Manitowoc Sheriff's Department, and since
5 there will be a pretty fair number of police
6 officers, and sheriff's deputies, and state
7 patrol officers, and other law enforcement people
8 testifying, do you think you could evaluate their
9 testimony the same as you would any other
10 witness?

11 A Yes, I believe I could.

12 Q Okay. In other words, you don't think you'd be,
13 you know, more favorably disposed to believing
14 them than you would over any other witness?

15 A No.

16 Q Okay. And you realize they're human just like
17 anybody else? They can make a mistake? And they
18 might even lie as much as the next guy?

19 A Yes.

20 Q All right. So as a juror, your job is to listen
21 and evaluate their testimony the same as you
22 would any other witness?

23 A Yes.

24 Q All right. And you think you could do that?

25 A Yes.

1 Q You feel pretty confident about that?

2 A Yes, I do.

3 Q Okay. Um, um, just one last couple of questions.

4 Uh, have you ever had any other law enforcement
5 experience other than just the past three months
6 of -- of helping out?

7 A No.

8 Q All right. Uh, any law enforcement training at
9 all?

10 A No. None.

11 Q Okay. And -- well, do you think that you could
12 accept, uh, an instruction from the Judge that if
13 you were selected as a juror in this case, you
14 could presume that Mr. Avery is innocent unless
15 and until the State can prove him guilty beyond a
16 reasonable doubt?

17 A Yes.

18 Q All right. You accept that basic proposition in
19 our law?

20 A Yes, I do.

21 Q All right. And you feel comfortable that you can
22 abide by that?

23 A Yes.

24 Q All right. And, um, I take it from your
25 questionnaire that you don't have any opinions of

1 Mr. Avery's, um, guilt or innocence at -- at all
2 at this time?

3 A No.

4 Q All right. Um, so you feel that you can give
5 both the State and Mr. Avery a fair shake in this
6 trial?

7 A Yes, I believe I can.

8 Q And that you would decide his guilt or innocence
9 only on what the evidence is that is presented
10 during the course of the trial?

11 A Yes.

12 Q All right. Is there any concern in your mind
13 that if, you know, you thought and you listened
14 to all the evidence, you say, geez, I just don't
15 think the State, uh, convinced me. Do you think
16 you could, uh, be comfortable rendering a verdict
17 of not guilty?

18 A Yes.

19 Q All right. And do you think that would cause any
20 concern or any problems with, perhaps, talking to
21 your son who's a law enforcement officer? Do you
22 think that might hinder your relationship at all?

23 A No.

24 Q All right.

25 ATTORNEY FALLON: I'll pass the juror.

1 THE COURT: Mr. Buting?

2 ATTORNEY BUTING: Thank you.

3 **VOIR DIRE EXAMINATION**

4 BY ATTORNEY BUTING:

5 Q Good morning.

6 A Good morning.

7 Q My name's Jerome Buting, and this is Attorney
8 Dean Strang, and we represent Steven Avery.
9 Okay? I'd like to, uh, pick up on some things
10 that Mr., uh -- Mr. Fallon spoke about, but also
11 a few other things. But -- but let me first ask,
12 your volunteer work that you do with the Sheriff,
13 um, can you tell me why you decided to do that?

14 A I wanted something to do.

15 Q Okay. But, you know, there's lot of -- lots of
16 things you can volunteer for. Why that
17 particular --

18 A I kind of wanted to see what they -- what they did.

19 Q Okay. But why? I mean --

20 A I was curious.

21 Q Do you have a particular interest in law
22 enforcement though?

23 A No.

24 Q I mean, you could volunteer for, you know,
25 Habitat for Humanity or the --

1 A I don't have to do that much walking.

2 Q Okay. Um, your -- was it your son's involvement
3 with the Department maybe that piqued your
4 interest a little bit?

5 A Yeah, that was a little bit, too.

6 Q Had you ever wanted to be in law enforcement?
7 Thought, you know, be kind of interesting to do?

8 A No, not really.

9 Q How did the opportunity arise for you to do this?

10 A I heard that you could, uh, volunteer.

11 Q Um, and so who did you meet and what did you do?

12 A Uh, Peggy Holmes. I met her, and talked to her, and
13 she signed me up. They did a background check on me
14 and I got in.

15 Q Okay. And you -- you actually have a squad car
16 that you drive around?

17 A Yeah. It says "volunteer" on the side.

18 Q Okay. Um, and you work with another gentleman?

19 A Yes.

20 Q Or woman?

21 A Sometimes, yes.

22 Q And your son is -- what is his rank or what --

23 A He's a sergeant.

24 Q He's a sergeant?

25 A Yes.

1 Q Same last name?

2 A Yes.

3 Q Does he -- has he had any involvement in the

4 Steven Avery case?

5 A Yeah. He's standing outside the door.

6 Q Okay. So, um -- so he's had du -- duties here

7 in -- in the courthouse; right?

8 A Yes.

9 Q Um, did you ever talk to him about this at all?

10 A No.

11 Q Ever talk to him about the Avery case?

12 A No. But he had to take training or something for

13 some kind of gizmo they've used. Other than that,

14 no.

15 Q Stun belt?

16 A Yeah.

17 Q Okay. So he talked to you about the training he

18 had to do for that?

19 A Yeah. He mentioned it. That was about it. Because

20 I asked him why he had to go to school.

21 Q Do you think that, um -- do you think the police

22 officers would come into court and lie?

23 A Yeah.

24 Q Under oath?

25 A Yeah.

1 Q Why?

2 A Because they can get away with it.

3 Q How do they get away with it?

4 A Some judges believe them.

5 Q Okay. Um, and juries as well?

6 A Yeah.

7 Q Do you think that they have any more inclination
8 or likelihood of lying than -- than another -- any
9 other witness?

10 A No.

11 Q Would you think that they feel like they can get
12 away with it more easily than, say, another --
13 any other witness?

14 A It depends on the situation.

15 Q Do you think sometimes they're -- they're good at
16 lying under oath?

17 A Yeah.

18 Q Better than the average person?

19 A No.

20 Q So why do you think they're good?

21 A They get away with it.

22 Q Have you ever heard of that happening?

23 A Yeah.

24 Q When or where?

25 A When I went to court.

1 Q Okay. And you went to court on -- on a OWI case?

2 A Yeah.

3 Q Can you tell me a little bit about what happened
4 there?

5 A Yeah. They arrested me. I had one beer. I wasn't
6 drunk. But the reason I got into it with them is I
7 always keep three bucks over my sun adviser and they
8 took it. And I knew if I brought it up in court that
9 they would, you know, laugh it off and -- and think I
10 was pulling something. But I never said, boo. The
11 officer brought it up that I said I rob -- uh, that
12 he robbed me.

13 Q Okay.

14 A And the judge believed him.

15 Q Okay. So you were pulled over. Was this a first
16 offense OWI?

17 A Yes.

18 Q How long ago was this?

19 A Ten years.

20 Q And was this the Sheriff's Department?

21 A No. Police. I don't even think he's an officer
22 anymore.

23 Q Okay. Do you know what department?

24 A No.

25 Q Manit --

1 A Just city.

2 Q Manitowoc though?

3 A Yeah.

4 Q Okay. And you're saying that when you were
5 arrested, you had -- this -- this officer took
6 three dollars cash that you had in --

7 A Yeah.

8 Q -- your car? Um, and did you bring that up in
9 court?

10 A No.

11 Q But he brought it up and said that you claimed
12 he -- that he stole something from you?

13 A That he took the money, yeah.

14 Q Okay. And then did you respond to that in court
15 and say, no, it's -- I mean, he did, yes,
16 officer -- yes --

17 A I didn't say nothing because it ain't going to do me
18 no good.

19 Q So you actually sat there and saw him lie under
20 oath?

21 A Yes.

22 Q Right in front of your face?

23 A Yes.

24 Q And the judge believed him?

25 A Yeah.

1 Q In your opinion anyway. Um, how did that make
2 you feel?

3 A Mad, but there ain't nothing I can do about it.

4 Q You think it happens to others, too?

5 A I don't know. That I couldn't tell you.

6 Q Do you, uh -- do you think it's possible that in
7 this case, the Steven Avery case, that officers
8 would come in -- into court and lie?

9 A I don't know. I'd have to hear them.

10 Q Do you think officers could do -- or deputies,
11 or -- or any law enforcement officer, could do
12 more than just lie under oath, but maybe even
13 cross the line and falsify a report?

14 A Yeah.

15 Q What about crossing the line and actually
16 planting evidence or altering evidence in some
17 way?

18 A Depends if he didn't like him.

19 Q Depends what?

20 ATTORNEY FALLON: I'm sorry?

21 THE WITNESS: Depends if he didn't like
22 him.

23 Q (By Attorney Buting) Meaning the defendant?

24 A Yeah.

25 Q So if an officer just really didn't like a

1 particular defendant, you could see situations
2 where they might actually go to the -- to the
3 length of planting evidence or tampering it with
4 evidence in a case?

5 A Maybe.

6 Q Have you ever heard of that happening?

7 A No.

8 Q Do you have any reason to believe that people in
9 the Manitowoc County Sheriff's Department would
10 be capable of doing such a thing?

11 A I wouldn't think so.

12 Q Do you have any reason to believe that -- that
13 they could not? I mean, in other words, because
14 your son is there, and you're volunteering there,
15 do you think that it's just not possible that
16 anybody in that Department would do such a thing?

17 A It's possible.

18 Q What if you came to the conclusion that that
19 happened in this case, um, that somebody in the
20 very department that you volunteer for would do
21 such a thing such as tampering with evidence or
22 planting evidence? How would that make you feel?

23 A Mad.

24 Q Mad?

25 A Yes.

1 Q Would that affect your -- your verdict?

2 A Yes.

3 Q How?

4 A I don't know. I -- I would plead not guilty for him.

5 Q Do you think that there would be any

6 repercussions afterwards for you?

7 A No, I don't think so.

8 Q Do you think the people in the department that

9 you volunteer for would be unhappy with you?

10 A I don't think so.

11 Q If this involved, in this case, very high ranking

12 members of the department you work for,

13 sergeants, lieutenants, things of that nature, do

14 you think that, uh, they would be unhappy if you

15 would return a not guilty verdict?

16 A I don't think so, no.

17 Q Well, now your son is a sergeant. Um, what if

18 you came to the conclusion that another sergeant,

19 or even someone above him, had committed

20 misconduct in this case? Would you be capable of

21 rendering a not guilty verdict?

22 A Yes.

23 Q Do you think your son would be unhappy with that?

24 A No.

25 Q Why not?

1 A Because it's -- I'm being honest.

2 Q Has he ever told you anything about the Sheriff's
3 Department that would lead you to, um, think that
4 this, um -- that this kind of misconduct could be
5 possible?

6 A No. He don't talk about his work.

7 Q All right. Could you tell me what you know about
8 this case from publicity, media?

9 A They say he killed her and burned her up. That's
10 about it.

11 Q And what -- what's your view about that?

12 A I -- I hate to say it, but I ain't really got no
13 view.

14 Q Well, do you think --

15 A It's wrong, but --

16 Q Why do you say you hate to say it?

17 A I don't know. I just don't know what to tell you.

18 Q Well, do you think that the media's portrayal of
19 Mr. -- the things you hear in the media about
20 Mr. Avery, uh, makes it look like he's probably
21 guilty or probably innocent?

22 A I'm undecided with that, because I didn't get to see
23 that much and then he told me -- the Judge told me
24 not to watch. So I -- I ain't seen nothing.

25 Q Okay. Did you see any press conferences in this

1 case? By the --

2 A No.

3 Q -- the Sheriff?

4 A No.

5 Q Prosecutor?

6 A No. I seen it way in the beginning and that was
7 about it.

8 Q And can you remember any details about what
9 you -- you heard or saw?

10 A No. They just showed it -- I think it was his farm
11 and, um, trailer house, and the tape around the
12 barrel, and that was about it.

13 Q Okay. Do you know the name Brendan Dassey?

14 A No.

15 Q Do -- or if I refer to him as -- as Mr. Avery's
16 nephew, do you recall any reports about him?

17 A Uh, yeah. Uh, not really. Well, I knew he was
18 involved but that was it. I didn't real -- I really
19 don't watch the news that much I'm sorry to say.

20 Q Okay. Well, you -- you say you knew that he was
21 involved. Did you hear any news reports that he
22 had made any kind of statements admitting that he
23 was involved or --

24 A No.

25 Q Did you ever hear any reports that he had, uh,

1 later denied his involvement and recanting the
2 confession? Withdrawing the confession? Do
3 you --

4 A No.

5 Q -- remember -- you hadn't heard anything about
6 that at all?

7 A No.

8 Q Do you think that's possible that somebody might
9 confess to something that's -- that they didn't
10 really do?

11 A Yes.

12 Q Why?

13 A Under duress.

14 Q Pressure from the police?

15 A Well, anybody.

16 Q Okay.

17 A Family or something.

18 Q Um, did you hear anything in the news reports
19 about, um -- about a blood vial?

20 A No.

21 Q Have you heard anything at all about whether
22 there might be any kind of tampering with
23 evidence or planting of evidence?

24 A No.

25 Q Do you remember Mr. Avery's statements when he

1 was first arrested in which he denied any
2 involvement and claimed somebody was trying to
3 frame him?

4 A Yeah. Yeah, I think I did.

5 Q What's your thought about that?

6 A Nothing.

7 Q Do you -- um, do you think that -- I mean, as
8 you -- as you look at this case and what you've
9 heard about this case, do you think Steven
10 Avery's being framed?

11 A I don't know.

12 Q Think it's possible that he is?

13 A I -- I don't know. I can't answer that.

14 Q Okay.

15 A Couldn't even tell you.

16 Q You don't -- you don't know one way or the other;
17 right?

18 A Right.

19 Q You don't know whether he's guilty either?

20 A Correct.

21 Q What do you know about his past? Can you tell me
22 what you know about Mr. Avery?

23 A I seen it when he got out.

24 Q Out of prison?

25 A Yes.

1 Q Okay. So you knew that he was wrongly convicted?
2 A Yes. And I was surprised to hear him on the next
3 time on the news about him.
4 Q About him suddenly being charged with something?
5 A Yes.
6 Q Okay. Any doubt in your mind that he was wrongly
7 convicted and spent all that time in prison?
8 A The first time?
9 Q Yeah.
10 A Yeah. They were wrong.
11 Q They were wrong?
12 A Yes.
13 Q Okay. And, uh, how did you feel about that?
14 A I don't know how to say that. He's just -- be --
15 they were wrong, but I know it happens.
16 Q You know it happens?
17 A Yes.
18 Q Okay. How do you know it happens?
19 A They did it to him.
20 Q Okay. Um, were you also aware of a lawsuit that
21 he filed?
22 A Yeah.
23 Q Against the county?
24 A Yes.
25 Q Do you have any thoughts or opinions about that?

1 A I think he should get the money.

2 Q Okay. Let me just brief -- very briefly go over
3 a couple of other things here. Did you, uh -- in
4 your OWI case, uh, it sounds like you actually
5 had a hearing?

6 A Yes.

7 Q Um, did you go to a trial?

8 A Yes.

9 Q Did you have a lawyer?

10 A Yes.

11 Q Did you testify?

12 A No.

13 Q You didn't take the witness stand?

14 A No, I don't think I did.

15 Q Okay. Um, did your lawyer -- or did you
16 understand that you had a constitutional right
17 not to testify?

18 A No.

19 Q Uh, is there some particular reason why you did
20 not? Or you --

21 A I just didn't know. I didn't know until now.

22 Q That you had a right not to?

23 A Yes.

24 Q Um, did, uh --

25 ATTORNEY FALLON: Your Honor, I'm going

1 to -- can we approach the bench?

2 THE COURT: Sure.

3 (Discussion off the record)

4 Q (By Attorney Buting) The, uh -- the
5 questionnaire that you filled out I think, uh,
6 had a question that -- that told you about a -- I
7 don't recall the number right now, but I think it
8 told you that the defendant has a right -- a
9 constitutional right not to testify if he -- he
10 and his lawyer so choose?

11 A If you say so. I don't remember.

12 Q You don't remember?

13 A Sorry to say, no. I just filled it out to get out.

14 Q Okay. Um, well, just to quickly go over with
15 you, the -- the Judge will instruct you that if
16 Mr. Avery chooses not to testify under the -- you
17 know, if it's our advice that he not testify,
18 that you can't consider that against him in any
19 way. Um, in other words, some people might think
20 if a defendant doesn't testify, you know, he must
21 have something to hide?

22 A Yes.

23 Q Is that something you might be concerned about?

24 A No.

25 Q So if Mr. Avery chooses not to testify, will that

1 affect you in any way in thinking that -- that
2 he's still innocent?

3 A No.

4 Q And if he does testify, uh, will you be able to
5 consider his testimony just the same as any other
6 witness?

7 A Yes.

8 Q Or will you think that he's more likely to lie
9 just because he's the defendant in the case and
10 he's trying to get off?

11 A Possible.

12 Q Well, will you be able to consider his testimony
13 in the same way as any other witness though?

14 A Oh, yes.

15 Q Okay. You show -- you watch, uh, *C.S.I.* shows, I
16 think; right?

17 A Yes.

18 Q And, uh, it's your opinion that they are very
19 realistic?

20 A Some of them. Some of it, yes.

21 Q Do you think that the -- for instance, the
22 evidence that they can find at crime scenes is --
23 is -- all those tests, that that's pretty
24 realistic?

25 A Pretty much.

1 Q Maybe that --

2 A Surprised at what they find, yeah.

3 Q Okay. Maybe they can't do them as quickly as
4 they show on TV, but the tests, themselves,
5 you'd -- you tend to think they're realistic?

6 A Yes.

7 Q And so, uh -- I mean, most crime scenes you'd
8 expect there would be lots of evidence available?

9 A Yes.

10 Q And if there wasn't -- if there was a lack of
11 physical evidence at a crime scene, is that
12 something that would give you concern about
13 whether or not there might be reasonable doubt?

14 A Yes.

15 Q Let me ask you this final question: Uh, do you
16 want to be on this jury or do you not want to be
17 on this jury?

18 A It's a tossup. Maybe. I don't want to be.

19 Q You don't want to -- you prefer not to be?

20 A Yeah.

21 Q Why?

22 A I, um -- I like what I do for the Sheriff's
23 Department. I hate to miss it.

24 Q And -- and you think -- you really think that
25 you'd be able to sit back there in that jury room

1 and, um, not be in some way biased against
2 Mr. Avery just be -- I mean, because you work so
3 closely with that Sheriff's Department?

4 A No.

5 Q All right. Thank you.

6 THE COURT: All right. We'll have the
7 clerk escort you from the courtroom at this time,
8 Mr. Wardman.

9 (Wherein juror is escorted out)

10 THE COURT: Um, Counsel, is there a
11 motion from either party?

12 ATTORNEY FALLON: None from the State.

13 ATTORNEY BUTING: No, Your Honor.

14 THE COURT: All right. Uh, Mr. Wardman
15 will be considered in. And, um, we'll take a break
16 at this time. Report back at 5 minutes to 11.

17 (Recess had at 10:42 a.m.)

18 (Reconvened at 10:58 a.m.)

19 THE COURT: Before we bring in the next
20 juror, I just wanted to, uh, make a follow-up
21 response to defense counsel's objection on the,
22 uh -- uh, my imposition of the 20-minute time limit
23 on the questioning of Mr. Gray. Uh, as I think I
24 indicated yesterday, I allowed at least each of the
25 parties once to exceed the 20-minute time limit

1 because I thought the nature of the answers being
2 given by the juror warranted it.

3 In the case of, uh, Mr. Gray, uh, I did
4 not detect any answers that he gave to questions
5 along the way that would have indicated the
6 questions could not be handled within 20 minutes
7 and that is why I terminated the questioning.

8 Uh, I believe our next juror is, uh, No.
9 71, Nancy Steinmetz.

10 Uh, Ms. Steinmetz, please raise your
11 right hand and the clerk will administer the oath
12 to you.

13 (Juror sworn)

14 THE CLERK: Please be seated.

15 THE COURT: Uh, Ms. Steinmetz, you've
16 already completed a written jury questionnaire in
17 this case. Uh, this morning we're going to move on
18 to the next step of the jury selection process which
19 is known as voir dire.

20 The attorneys for each of the parties
21 will have a chance to ask you some questions
22 relating to your qualifications of a juror. For
23 the most part they will follow up on answers that
24 you gave in your jury questionnaire.

25 Before we begin those questions, I want

1 you to know that the jurors in this case will not
2 be sequestered. That means at the end of court
3 proceedings each day the jurors will be permitted
4 to return home.

5 Uh, because of that fact, we will
6 continue to require that the jurors not be
7 exposed to any publicity concerning this case
8 during the trial, whether it be from radio,
9 television, newspapers, the internet, or any
10 other source. And, in addition, the jurors will
11 be prohibited from, uh, communicating with anyone
12 about the case, including other jurors or members
13 of the jurors' family.

14 These proceedings today are open to the
15 public, but the Court does not allow cameras in
16 the courtroom during jury voir dire proceedings,
17 and the members of the media are not permitted to
18 use the names of the jurors in their reporting of
19 this matter.

20 In addition, uh, should you be selected
21 to serve as a juror, you should know that while
22 there may be cameras in the courtroom during the
23 trial, they're not permitted to focus on the
24 jurors in a way that discloses the identity of
25 the jurors.

1 Uh, finally, if you remain on the jury
2 panel after today's proceedings, you'll be
3 notified when to record -- report back to court
4 again. Uh, it will probably be a notification
5 sometime today.

6 JUROR STEINMETZ: Okay.

7 THE COURT: At this time, I believe
8 Mr. Kratz will be, uh, asking you questions on
9 behalf of the State.

10 ATTORNEY KRATZ: Thank you, Judge.

11 VOIR DIRE EXAMINATION

12 BY ATTORNEY KRATZ:

13 Q Ms. Steinmetz, good morning. My name is Ken
14 Kratz. I'm the Calumet County District Attorney.
15 I'm the lead prosecutor in this case. With me
16 this morning is Tom Fallon --

17 A Morning.

18 Q -- from the Department of Justice, Attorney
19 General's Office. He'll be assisting not only
20 this morning but also throughout the, uh -- the
21 case.

22 Uh, I note, uh, Ms. Steinmetz that you
23 currently work at the American Club; is that
24 correct?

25 A Correct.

1 Q And you are involved in, uh, some kind of, um, a
2 secretarial position? At least answering phones;
3 is that right?

4 A Telecommunications.

5 Q Okay. Could you describe that a little more in
6 detail? What is it that you do there?

7 A Um, I take the incoming calls and, uh, direct them to
8 the correct place of business.

9 Q It's a rather large facility so I suspect there's
10 a lot of incoming calls or places throughout
11 them; is that --

12 A Correct.

13 Q -- is that correct? You've done it for 22 years;
14 is that right?

15 A No, I've done that for about, uh, four years. About,
16 um, ten years prior to that I was still at the
17 American Club and I was in a supervisory position in
18 the, uh, banquet area.

19 Q Ms. Steinmetz, uh, where would you say that you
20 get most of your news from; the television,
21 newspapers, or some other sources?

22 A Um, not much of anywhere. Um, I was working night
23 shift so I didn't watch the news. Um, don't get a
24 newspaper. We do get a *Newsweek* which I read a
25 little bit once in a while, but that's about it.

1 Q Is -- could be more of a national or world
2 publication?

3 A It's a -- a world news. If we do see something, um,
4 I take my 20-minute break up in the break room and
5 they do have a TV, but it's set at world news, and
6 then I guess the *Newsweek* is kind of like more of a
7 world news.

8 Q Do I understand that you're still working, uh,
9 second shift, or a later shift, or has that gone,
10 uh, to a different shift?

11 A About six months ago I -- my -- my hours changed. I
12 do three days during the day and then I do two -- two
13 night shifts.

14 Q All right. Uh, your husband is involved in
15 farming?

16 A Correct.

17 Q And, uh, has that been for most of his life?

18 A All of his life.

19 Q All right. Ms. Steinmetz, if you do receive any
20 local news because of where you work, would it be
21 fair to assume that it, um, may be more centered
22 in the Sheboygan County area rather than
23 Manitowoc or is that not necessarily true?

24 A To be honest with you, I don't know much news about
25 anything I guess.

1 Q Not much about either, huh?

2 A No.

3 Q All right.

4 A No.

5 Q Have you, um, heard of, uh, the case for which
6 you are summoned here as a potential juror; the
7 Steven Avery case?

8 A About, oh, over a year ago maybe, um, around
9 Halloween time, um, just very little bit of it. Not
10 much of anything. And then day goes on as -- as
11 normal. I -- I didn't --

12 Q Are you gen --

13 A -- pay attention to it.

14 Q I'm sorry to interrupt you. Are you generally
15 aware of the allegations against Mr. Avery?

16 A I am at this point, yes.

17 Q Did you become aware of those because of your
18 involvement in this case and the instructions by
19 the Judge, or was that from, uh, either a news
20 source or out in the community somewhere?

21 A Um, that, um -- when I got my first questionnaire,
22 um, in October, and it said from this period to this
23 period, and I'm thinking, well, my husband just got
24 his jury duty, and it's only a month, and he has to
25 call in. And I've never been asked before, and I'm

1 thinking, well, this is a little strange.

2 And I mentioned it to, um, one of my,
3 uh, associates, and she says, oh, I bet I know
4 what it is, and she went on the computer, and she
5 says, I bet it's the, uh, Avery case, and I said,
6 no way. And that was about all that I got
7 involved on that, because then if it was, I
8 shouldn't be trying to see what I could find out
9 about it or anything.

10 Q About three weeks ago, or perhaps even a little
11 more, you received a letter from the Judge, uh,
12 instructing you not to watch any news accounts or
13 not to read anything about this case; is that
14 right?

15 A Correct.

16 Q Have you been able to do that?

17 A No. I see a flash, my ears close, my -- my eyes
18 close. I plug my ears, count to 50. So, no, I have
19 seen absolutely nothing.

20 Q All right. So you've done your absolute best --

21 A My absolute best.

22 Q -- to avoid any, uh, any influence. That's good.
23 Ms. Steinmetz, uh, do you watch, uh, much
24 television, uh, at home in the evenings or,
25 specifically, shows that, uh, may be a

1 crime-related *C.S.I.* or anything like that?

2 A Um, on occasion we will watch, um, *C.S.I.* Not very
3 often. Not very often at all. Um --

4 Q Let me just stop you there. Does that kind of
5 show or that topic, if you will, of show, does
6 that interest you?

7 A It -- not -- it's a little bit interesting but, um,
8 you know, I -- I -- it's not something that I have to
9 turn on to watch. It's just something that we turn
10 on because there's nothing else on at the time or
11 we've, uh -- just don't have anything else to do. We
12 just flip the stations and once in a while we -- we
13 watch it.

14 Q Do you watch any other, um, shows that are not
15 necessarily, uh, only entertainment but perhaps
16 more of a documentary nature? *Forensic Files* or
17 anything that --

18 A No.

19 Q -- are -- are, uh, depictions of what is supposed
20 to be real life kinds of cases?

21 A No. We watch, um, a lot of the Discovery Channel,
22 how do you make this, or how is this made. Um, I
23 watch, um, *Gray's Anatomy*. I like that. I watch
24 *Ugly Betty*. And that's about as late as I stay up.
25 And by the time you get home from work, and make

1 dinner, and clean up, you know, there's only a little
2 bit of time that we might sit in front of the tube.
3 And I'm in bed by nine.

4 Q All right. I suspect from *Gray's Anatomy* or any
5 of those kind of shows, uh, you don't necessarily
6 believe that you have a good grasp, of, uh, the
7 medical field or anything like that, do you?

8 A No. It's just entertainment. Kind of who's doing
9 what with who. A little soap opera.

10 Q Are you familiar with a -- a kind of evidence
11 called DNA evidence?

12 A Yes.

13 Q Tell me what you know about that.

14 A From what I know, it's just that DNA can be matched
15 up to fit another person's identity. That it's like,
16 um, a fingerprint where only one person has the
17 specific little things that show up in the DNA.

18 There are --

19 Q That it's unique to one -- one --

20 A Exactly.

21 Q -- person and nobody else has the same DNA?

22 A Right. It's like --

23 Q All right.

24 A -- a fingerprint. It can't be related to anyone
25 else.

1 Q And from what you've known or heard about that
2 on, uh -- on TV, would you suspect that to be,
3 um, relatively accurate kinds of information? In
4 other words, that that is an accurate way to, uh,
5 identify either evidence or individuals from
6 which DNA came?

7 A I would think it would be pretty darn close to
8 accurate.

9 Q All right. What I'm asking, though, is, is there
10 anything that you know about DNA evidence that
11 causes you pause or concern about that kind of
12 analysis or that kind of evidence?

13 A No, I don't think so.

14 Q Have you had any, uh, run-ins -- I -- I -- I note
15 that your answer was, no, but let me ask you this
16 a little broader. Experiences, perhaps, with the
17 Manitowoc County law enforcement, uh, officials
18 that in some way questions you, uh, either about
19 their integrity or about the job that they're
20 doing?

21 A No.

22 Q You have a generally positive or negative view
23 about how the Manitowoc law enforcement community
24 is -- is doing their job?

25 A I've only been in Manitowoc maybe a handful of times.

1 Q I meant the county. The --

2 A The county.

3 Q -- entire county law enforcement community. Do
4 you know -- uh, do you have an opinion about how
5 they're doing their job?

6 A None whatsoever.

7 Q Do you feel safe in your community?

8 A Yes.

9 Q Okay. Um, Ms. Steinmetz, uh, would you consider
10 yourself a detailed-oriented person that likes to
11 make lists and things like that, or do you
12 consider yourself more of a big picture kind of a
13 person?

14 A Uh, detail orientated. In fact, we just had a little
15 appreciation thing with all the employers two weeks
16 ago and I got a little plaque saying that the
17 detail-orientated, you know, team worker. That type
18 of thing.

19 Q All right. That's nice. Do you like puzzles?

20 A Somewhat. Not real difficult ones, but --

21 Q What kind of puzzles do you like?

22 A Um, I like the kind where you can just kind of like
23 find the words within. Um --

24 Q Word search?

25 A Yes. That's -- otherwise I don't do too much for

1 puzzles.

2 Q All right. Uh, not a jigsaw puzzle person or
3 anything like that?

4 A No.

5 Q Ms. Steinmetz, if you had to serve on this, uh,
6 perhaps six-week jury process, would that cause
7 any personal or financial hardship for you?

8 A No.

9 Q Let me ask you this, Ms. Steinmetz: Once you,
10 even several months ago, thought that you might
11 possibly be on this important jury --

12 A Um-hmm.

13 Q -- did you look forward to that? Do you look
14 forward to being a member of this jury or would
15 you kind of, uh, feel awkward or concerned about
16 that?

17 A I don't feel awkward. Um, I -- I -- it's probably
18 like a 50-50. Um, I -- I would, um, take it very
19 seriously. It would kind of -- if I knew that I was
20 part of it, it's like, okay, um, I'm -- was selected,
21 I'm a fairly smart person, I think, but it would
22 still have -- it's -- it's a major decision that
23 would be -- you'd have to be really sure --

24 Q Sure.

25 A -- about, you know. So it -- it's kind of like a

1 50-50.

2 Q So you would take your responsibilities very
3 seriously and you'd be able to listen to the
4 instructions that the Court would give you in
5 deciding this case; is that what --

6 A Yes.

7 Q -- you're telling us?

8 A Yes.

9 Q All right. And although, um, maybe not looking
10 forward to it, if asked to serve, you'd certainly
11 do that; is that right?

12 A Yes.

13 Q Now, you have all sons; is that right?

14 A Yes, I do.

15 Q No daughters?

16 A No daughters.

17 Q Um, are any of your sons married?

18 A One is married. My oldest.

19 Q And do you have any grandchildren?

20 A No.

21 Q Have either of your sons or your daughter-in-law
22 spoken to you about the Steven Avery case?

23 A No.

24 Q Do you know if they're aware of it?

25 A I think so, because when I, um, got my first notice,

1 I had it up on the refrigerator, and when they would
2 come home, you know, that it might be, but we haven't
3 talked about anything with it.

4 Q Okay. You've told us in your questionnaire --
5 and -- and -- and I'm almost through here -- but
6 you've told us in your questionnaire that, uh,
7 you have not formed an opinion about Mr. Avery's,
8 uh, guilt or innocence, and any opinion that you
9 may have, you'd be able to set aside deciding
10 this case solely on the evidence as presented.
11 Is that still true today?

12 A Very much so.

13 Q As Mr. Avery sits here, uh, today he is presumed,
14 uh, innocent, uh, and may or may not, um, testify
15 in, uh, this case. Uh, are you familiar at all
16 with those legal principles that we have in this
17 country?

18 A Uh, it's my understanding that a person's innocent
19 until proven, without a question, guilty.

20 Q And when you hear evidence, either from law
21 enforcement officers, scientists, or -- or
22 citizens, would you be able to listen to
23 everybody's testimony, giving that testimony such
24 weight as you believe it's entitled to receive?

25 A Yes.

1 Q Is there anything, Mrs. Steinmetz, that I haven't
2 asked you? Uh, any pause that you have about,
3 uh, sitting on this jury, or something, uh, that,
4 uh, perhaps wasn't in the questionnaire that you
5 feel would disqualify you as a potential juror in
6 this case?

7 A No.

8 Q All right.

9 ATTORNEY KRATZ: With that, that's all I
10 have, Judge. Thank you.

11 THE COURT: All right. Mr. Buting?

12 ATTORNEY BUTING: Thank you, Judge.

13 **VOIR DIRE EXAMINATION**

14 BY ATTORNEY BUTING:

15 Q Good morning.

16 A Good morning.

17 Q Um, how do you pronounce your name?

18 A Steinmetz.

19 Q Steinmetz. Okay. Spelled a little differently
20 sometimes.

21 A It is. I -- my first four years of marriage I
22 spelled it wrong. Until mother-in-law pointed it
23 out.

24 Q Well, my name's Jerome Buting, this is Dean
25 Strang, and we represent Steven Avery.

1 A All right.

2 Q Uh, we really appreciate you coming here today,
3 and, uh, I can tell you really, um, take this
4 seriously. You have, uh -- well, I'll talk about
5 your sons in just a minute, but your --

6 A Okay.

7 Q -- your husband's a -- a farmer. So you live --
8 what kind of a farm is it? Dairy farm?

9 A It's a -- a dairy farm. He's, uh -- he was raised as
10 a farmer. Um, he had his, um, own business. He was
11 an AI technician. And then, um, one of the farms
12 that he would do his breeding at, they were enlarging
13 and they had persuaded him to give his business up
14 and relocate to this other farm. And it's a very
15 large dairy farm, and he just -- he's just a farmhand
16 worker.

17 Q Oh, I see. So it's, uh -- it's not his farm --

18 A No, it is not. No.

19 Q Okay. Yeah, because I was wondering why none of
20 your sons decided to go into farming or work with
21 him, but I guess that explains it.

22 A One was going to college for veterinarian medicine,
23 but he made the decision, well, it -- it wasn't for
24 me, and I have to be happy, and so he went into a
25 different field.

1 Q I see one of them's in the Peace Corps.

2 A That's the one that was going to be a veterinarian,
3 yes.

4 Q Is he overseas then or --

5 A Him and his wife are in, um, Costa Rica.

6 Q Okay. So do you get to see them, uh, very often
7 or --

8 A No. I haven't seen them since they left in, uh,
9 first part of June.

10 Q Okay. Now, I know you've, uh -- sounds like
11 you've done a good job of trying to shield
12 yourself from any -- any information in the news,
13 but, um, every once in a while some blurb will
14 come on the radio, perhaps, or do you listen to
15 the radio when you drive?

16 A I have a CD in the car.

17 Q Okay. So let me just ask you: Are you familiar
18 with the name Brendan Dassey?

19 A No.

20 Q Okay. Have you heard anything about a blood
21 vial?

22 A No.

23 Q Okay. You've done very well.

24 A Thank you. I've tried really hard.

25 Q Um, you said that you've had no real, uh,

1 exposure to police, or you didn't -- you didn't
2 have any opinion one way or the other about kind
3 of job Manitowoc County Sheriff's Department is
4 doing?

5 A No. I just get aggravated when solicitation calls
6 from them, and they identify themselves, and I'm
7 thinking, oh, my God, what happened? Someone get
8 hurt in the family? And it's just a solicitation for
9 donation and --

10 Q Yeah.

11 A -- I just ask them, please don't call back.

12 Q Okay.

13 A That's about as close as I come to them.

14 Q Okay. Do you think that, um -- you're going to
15 be hearing from -- testimony from police officers
16 in this case --

17 A Um-hmm.

18 Q -- and one of the things you -- you have to do
19 when you're a juror, if you're selected, is to
20 determine the truthfulness or untruthfulness of
21 what people testify about. Do you think that if
22 somebody takes the witness stand and takes the
23 oath, anybody, that they're always going to tell
24 the truth?

25 A I would like to think they do.

1 Q Okay. But do you think -- in reality, do you
2 think they always do?

3 A Yes. I think so. I think if -- Yes, I do.

4 Q Okay. Well, what if in this case, as a juror,
5 you hear testimony from one witness that does not
6 seem to be true, that seems to be inconsistent
7 with what another witness has said, or maybe even
8 directly contrary to what they, them --
9 themselves, said at a different time --

10 A Um-hmm.

11 Q -- how are you going to deal with that?

12 A I'd have to think that somewhere someone wasn't being
13 completely honest and we would have to, um, probably
14 just continue to hear what others have to say, and be
15 a matter of putting the, uh, pieces together so that
16 if the person that wasn't being truthful would end up
17 somehow stumbling over things, because if you keep
18 saying untruths, you end up getting caught up into
19 something, and something would probably show up more
20 definite that they weren't truthful.

21 Q Okay. Um, what I'm getting at is that -- that,
22 you know, if you're selected as a jury -- juror
23 on this case, you're -- you're going to have to
24 do more than just assume or -- that everything
25 that's said on that witness stand is the truth.

1 A Um-hmm.

2 Q You're going to have to -- the Judge will
3 instruct you how to determine the credibility of
4 witnesses and what -- you look at their demeanor,
5 and what they say, and when -- what they said in
6 the past, and all of those factors you consider,
7 um, to resolve any -- any question about whether
8 the person's telling the truth. Do you think you
9 can do that?

10 A Yes, I do.

11 Q Okay. And, in particular, if law enforcement
12 officers, sheriff's deputies, or police officers
13 come up and take the witness stand, the Judge is
14 going to tell you that you have to also treat
15 them the same way as any other witness and judge
16 their credibility the same way. Do you think you
17 can do that?

18 A Yes.

19 Q You don't think that just because they're police
20 officers there's just no way they would ever lie
21 under oath?

22 A Um, I don't know. They probably could. They're just
23 like anybody else. If -- if a normal person lies
24 under oath, I mean -- but I -- I -- again, I would, I
25 don't know, be -- I would like to think they

1 wouldn't.

2 Q Sure. You -- you'd hope not. We'd all hope
3 that --

4 A Exactly.

5 Q -- of everybody. But, um, you may have to make
6 those kinds of determinations in this case, and I
7 want to be sure that you're -- you feel able to
8 do that.

9 A I do.

10 Q Okay.

11 A I do.

12 Q Okay. Do you think that if you heard evidence
13 that -- that gave you reason to -- to be
14 concerned that, perhaps, the police did even a
15 little bit more than lie under oath, but that
16 maybe even they -- they became so involved and
17 convinced that the person was guilty that they
18 crossed the line and either would alter their
19 reports or maybe even plant evidence against a
20 person, do you -- would you consider that?

21 A Well, it -- it would be -- wouldn't it be difficult
22 to know if they planted evidence or whatever for me
23 to assume that until several other people and
24 everything's coincided together?

25 Q Sure.

1 A I mean, I wouldn't be able to make that decision
2 knowing someone says, well, this, this, this. I have
3 nothing to base that --

4 Q Sure.

5 A -- that isn't the truth until, perhaps, other things
6 come together on it.

7 Q Right. And -- and, obviously, you've heard no
8 evidence at this point, so I'm not asking you
9 to -- to make any kind of decisions in -- at this
10 point, but I'm just wondering if you will be open
11 to listen to all of the evidence and to consider,
12 um, whether, you know, if -- if some evidence
13 tends to point that way --

14 A Um-hmm.

15 Q -- um, whether you would consider that as a
16 possibility or whether, because of some of
17 your -- your beliefs that you bring into the
18 case, you would just say, no, there's just no
19 way. I can't even accept that would ever happen.

20 A No. Um, I'm -- I'm completely open-minded. Um --

21 Q Okay.

22 A -- very open-minded.

23 Q Okay. I -- I -- I can see that. I appreciate
24 that. Um, and the, uh -- one of the questions in
25 the questionnaire, um, goes along with a -- an

1 instruction sometimes the judges give, and it
2 talks about a defendant's constitutional right
3 not to testify?

4 A Um-hmm.

5 Q And sometimes that's hard for people because
6 they -- they want to, you know, in their -- their
7 daily lives, when you try and find out -- make
8 decisions, you like to hear both sides. Are you
9 one of those kinds of people that like to hear
10 both sides before you make a decision?

11 A Um, yes. However, if, um, let's say Mr. Avery's, um,
12 side has all these witnesses and you feel comfortable
13 in that, I -- why would, um -- if -- and if Mr. Avery
14 isn't comfortable with going up there and having
15 someone try to tear him down a little bit, and it
16 wouldn't be to his benefit if he felt that the other
17 witnesses were positive for you, why would he go up
18 and possibly have it be a negative for himself?

19 Q Okay. And so -- so you could follow the -- the
20 Court's instruction that you're not supposed to
21 consider that decision against him in some way,
22 or speculate?

23 A Correct.

24 Q And, uh, because of the -- because the State has
25 the -- the burden of proof, um, if the defense

1 did put on any witnesses, would you hold us up to
2 some burden and say, well, you haven't proven
3 your case?

4 A I don't know.

5 Q Because what -- what you have to do is you have
6 to look only at -- at -- means you have to look
7 at the State's case and see if the State has
8 convinced you beyond a reasonable doubt.

9 A Correct.

10 Q And I just want to be sure that you -- you're not
11 going to impose some burden on Mr. Avery to prove
12 that he's innocent.

13 A No.

14 Q You can do that?

15 A I can do that.

16 Q Okay. All right. Thank you very much, ma'am.
17 Appreciate it.

18 A All right.

19 THE COURT: At this time, uh, the clerk
20 will escort you from the courtroom.

21 JUROR STEINMETZ: I think I need a glass
22 of water. Thank you, everyone.

23 ATTORNEY BUTING: Thank you.

24 (Wherein juror is escorted out)

25 THE COURT: Counsel, any, uh, motion from

1 part, they'll be follow-up questions to
2 information that you provided with your
3 questionnaire.

4 Before we get to those questions, I can
5 inform you that the, uh, jurors who are selected
6 in this case will not be sequestered. That is,
7 they will be permitted to return home each day at
8 the conclusion of each day of the court
9 proceedings and then return the next day.

10 Because of that fact, we'll continue to
11 require that the jurors, uh, not be exposed to
12 any news media accounts of the case, whether it
13 be from television, radio, newspaper, or the
14 internet, or any other source, and, in addition,
15 the jurors will be prohibited from, uh, talking
16 to anyone else, or communicating in any way about
17 the case. That would include other jurors or
18 members of the jurors' families.

19 The proceedings this morning are open to
20 the public, but the Court does not permit cameras
21 in the courtroom during the jury selection
22 process. Uh, and the, uh, news media are not
23 permitted to use the names of jurors in any news
24 accounts of the proceedings today.

25 If you are selected as a juror, you

1 should also know that while there may be cameras
2 in the courtroom during the trial, they are not
3 permitted to, uh, focus on or identify the jurors
4 in any way.

5 If you remain on the jury panel after
6 the questioning today, you'll get a call probably
7 later this afternoon, uh, letting you know when
8 to report back to court.

9 Um, Mr. Fallon, are you handling this
10 one?

11 (No verbal response)

12 THE COURT: Very well.

13 **VOIR DIRE EXAMINATION**

14 BY ATTORNEY FALLON:

15 Q Good morning, Ms. Salomon.

16 A Good morning.

17 Q My name is Tom Fallon. I'm an Assistant Attorney
18 General with the, uh, Wisconsin Department of
19 Justice. I'm one of the prosecutors in the case.
20 To my immediate left is Mr. Ken Kratz, uh, the
21 Calumet County District Attorney and lead special
22 prosecutor for this matter.

23 Good morning and, uh, thank you for
24 coming in today and helping us out. I'd like to
25 begin with a -- a few questions, um, about your,

1 um -- I guess your former work. Uh, you were,
2 uh, editor of a community newspaper?

3 A Yes.

4 Q All right. And, what kind of publication was
5 that? Is it weekly? Daily?

6 A It was monthly.

7 Q A monthly?

8 A Right. And, uh, it was basically homeowner's board
9 notes. Um, the sheriff would submit a report.

10 Q Okay.

11 A Library -- local library.

12 Q All right.

13 A That type of information.

14 Q Did you cover anything, as some people would say,
15 some of the hard news stories of the -- of the
16 time?

17 A No.

18 Q Okay. So this was just more, uh, community?
19 What's going on in the community?

20 A Right. Right.

21 Q Okay. Um, did you enjoy that work?

22 A Very much.

23 Q Yeah. And how long did you do it?

24 A Twenty-nine years.

25 Q Were you the editor for the entire time?

1 A Yes.

2 Q Okay. Uh, would it be fair to say you enjoyed
3 writing or was it more the whole --

4 A I didn't have to do a lot of --

5 Q All right.

6 A -- the writing.

7 Q Okay.

8 A You know, it was kind of an assembly process.

9 Q Oh, so you enjoyed putting the paper together?

10 A Yes.

11 Q Okay.

12 A Um-hmm.

13 Q I gotcha.

14 A But for want of a title, that's what they called me.

15 Q Fair enough. Uh, did you get to choose the
16 headline as the editor or did you leave that to
17 the writer of the article?

18 A No, it was all mine.

19 Q Okay. All right. Well, um, I also have to ask,
20 because I was struck by, um, two things, uh,
21 hobbies of yours that looked interesting. Um,
22 Civil War, uh, and blue grass music. Interesting
23 mix. I -- to me they wouldn't seem to go
24 together. Um, what is it about, uh, the Civil
25 War that you find interesting?

1 A Uh, there's a lot of family history --

2 Q Okay.

3 A -- with the county, which is basically what brought

4 my son and I here. Um --

5 Q Okay.

6 A The monument that's at the corner of the courthouse

7 property is ancestors and --

8 Q Oh, very good. All right. And, um, I see, yes,

9 you're originally from Lincoln, Nebraska, but you

10 spent some time in the state of Washington?

11 A A lot of time, yes.

12 Q All right. And then how long have you been in

13 Manitowoc County then?

14 A Two years.

15 Q I see. Oh, all right. So you're recent to this

16 area?

17 A Yep.

18 Q Um, so you have, um -- through, uh, generations

19 you have a family connection to this county then?

20 A Yes, um-hmm.

21 Q I see. Uh, is that -- that's directly connected

22 to, uh, Civil War service?

23 A Yes. All of it. Um-hmm.

24 Q All right. Uh, and, um, how about, uh, blue

25 grass music? What -- what do you find

1 interesting about that?

2 A Um, just the rhythm, I guess. I --

3 Q Uh, have you been a fan of blue grass for quite
4 some time?

5 A Uh, no, not really. Not really. Basically, we got
6 involved in the Two Rivers shows that -- that come
7 monthly and --

8 Q All right.

9 A -- find that it's, uh, very enjoyable.

10 Q Very well. Well, let me ask -- um, I see, from
11 your other pursuits you're a Sunrise Optimist
12 and, of course, the Civil War Roundtable, uh, and
13 other historical, uh, events. Um, in -- in your
14 involvement in those cases have you, uh, been
15 called upon to, um, offer, uh, opinions or
16 directions for the organization at all? I mean,
17 any kind of, uh, supervisory advise -- advising
18 that you might do with those volunteer groups?

19 A Not advisory, no.

20 Q Okay. All right. Well, let me ask then, as a
21 person who was, um, at least in the media, at
22 least in the print media business for, uh, some
23 time, um, do you, um, regularly get your news
24 from, uh, the newspaper, or television, or where
25 would you say you got most of your news from?

1 A Probably television.

2 Q All right. And, uh, how often do you watch, uh,
3 televised news casts?

4 A Basically, I have CNN on for company during the day.

5 Q All right.

6 A But, watch it, um, I can't say that I do.

7 Q So it's background information?

8 A Right.

9 Q Um, in terms of your news casts, do you prefer,
10 uh, a more, uh, national or global perspective
11 than the local news? Is that what I'm detecting?

12 A Yes.

13 Q All right. Um, have you paid -- Uh, I see you
14 get the local paper here just on the weekends?

15 A Right.

16 Q All right. Now, um, the reason we ask is we want
17 to get at least an understanding of -- of what
18 you may be familiar with or how much you -- you
19 have heard about the case through both, uh, the
20 newspaper and television coverage of it.

21 And, um, about three weeks ago or so,
22 uh, you, I believe, received a letter from the
23 Judge advising you that you were a prospective
24 juror in this matter, and I think it, uh, asked,
25 that, uh, among other things, that you refrain

1 and make any reasonable effort not to watch any
2 of the news coverage or the -- read any of the
3 newspapers and -- and the like. Did you get that
4 letter?

5 A Yes, I did.

6 Q All right. And have you been able to abide by
7 it?

8 A Yes, I have.

9 Q All right. Uh, prior to getting that letter, um,
10 had you followed the case at all in the media
11 coverage?

12 A Uh, I was aware of it, but, uh, not as a daily thing
13 or a -- or a -- no.

14 Q There wasn't anything particularly interesting
15 about it that -- that had you follow it closely?

16 A Uh, no, I don't think so.

17 Q All right. Um, well, one of the reasons we ask
18 these questions is that we're hopeful that
19 prospective jurors come in with -- without any
20 opinions about the case at all, and -- and that's
21 what we'd like to ask. Um, based on your
22 familiarity with, uh, the media coverage that you
23 have, uh, seen and/or read, do you have any
24 opinion today at all as to whether Mr. Avery is
25 guilty or innocent of the charges leveled against

1 him?

2 A Um, no, I wouldn't think that I do.

3 Q All right. Well, you -- you -- you answered no
4 last week, and I did detect a little bit of a
5 hesitancy. Um, do you -- do you have an opinion
6 as to whether you think he's guilty or not, or --

7 A No, I don't.

8 Q Okay.

9 A My hesitancy was basically for media coverage in
10 general, I guess.

11 Q Okay. So, in other words, you have some reason
12 to doubt whether you have all of the information?

13 A Yes.

14 Q All right. Fair enough. Um, you understand, uh,
15 that in this particular case Mr. Avery is
16 presumed innocent unless and until the State can
17 convince the jury beyond a reasonable doubt of
18 his guilt?

19 A Yes.

20 Q All right. And, uh, you would be instructed on
21 that principle by the Court here, and do you have
22 any problem in accepting it and following it?

23 A No, I do not.

24 Q All right. Um -- okay. Now, I just wanted to
25 touch base on, uh, one other, um, matter. Well,

1 two matters. Um, one of the last questions that
2 you were asked last week is, um, you were advised
3 that there's a possibility, in fact a pretty good
4 possibility, this case may last six weeks.

5 And, uh, we wanted to make sure that all
6 of the prospective jurors in this case wouldn't
7 suffer any kind of emotional or financial
8 hardship if they were selected to, uh, serve as a
9 juror. And you indicated, uh, at that time that
10 you didn't think that would pose any problem for
11 you. Is that still your opinion today?

12 A Yes.

13 Q Okay. Um, in terms of, uh, evaluating, uh,
14 witnesses and testimony, uh, that will be
15 presented during the course of the trial, uh,
16 you'll be instructed that you would evaluate the
17 believability, the honesty, or the credibility
18 of -- of witnesses according to the same
19 standard. In other words, you would look at and
20 treat all witnesses alike and evaluate them for
21 their truthfulness, their honesty, the same as
22 you would any other person, do you understand?

23 A Um-hmm.

24 Q All right. And that includes police officers?
25 So even if a police officer were, uh, to take the

1 stand, and there'll be quite a bit of law
2 enforcement testimony in this case, you would be
3 required to evaluate their truthfulness the same
4 as you would any other person regardless of
5 whether they were a police officer, or a
6 scientist, or a -- or a truck driver, you would
7 treat them all alike in evaluating their
8 believability. Do you think you can do that?

9 A I think I can.

10 Q All right. All right. Um, and, lastly, I just
11 had a question, uh, would you like to serve on
12 this jury or would you rather not?

13 A I don't really think I have a --

14 Q An opinion?

15 A -- an opinion on that.

16 Q Okay.

17 A I --

18 Q So you're a fatalist. Whatever happens, happens?

19 A Well, I don't know about fatalist, but --

20 Q Very good. Thanks very much.

21 THE COURT: All right. Uh, Mr. Strang?

22 **VOIR DIRE EXAMINATION**

23 BY ATTORNEY STRANG:

24 Q Morning.

25 A Morning.

1 Q I'm Dean Strang, and this is Jerome Buting, and
2 Steven Avery. We're -- we're defending
3 Mr. Avery. That is, Jerry Buting and I are. Um,
4 by starting in 1850 and moving forward, I don't
5 mean to suggest I'm going to take all that much
6 time with you, but, um, the, uh -- the, uh, mid
7 19th Century connections to this county, were
8 they on your husband's side of the family or on
9 your side of the family?

10 A My husband's side.

11 Q Okay. And, um, how long did you spend in
12 Lincoln, Nebraska as a little girl?

13 A Uh, probably year-and-a-half.

14 Q And then off to the state of Washington?

15 A Yes.

16 Q Um, is it Burien? Is -- I'm not sure I'm reading
17 your handwriting correctly on the town. I see
18 Reynold?

19 A Where I went to school.

20 Q Yes.

21 A Burien, um-hmm.

22 Q Burien. Um, is that western Washington or
23 eastern Washington? I don't -- I'm not familiar
24 with Burien.

25 A It's, uh -- it's basically south of Seattle.

1 Q Okay.

2 A Yeah.

3 Q Just south of Tacoma or well south?

4 A No, not south. No. It's -- it's closer to Seattle
5 than Tacoma.

6 Q Oh, okay.

7 A Yeah. It's not --

8 Q So it's --

9 A -- even halfway.

10 Q -- it's in the metropolitan area?

11 A Yes.

12 Q Okay. Um, and did you, um -- did you move -- two
13 years ago, did you move directly to Manitowoc
14 with your son from western Washington?

15 A No. Um, my husband had passed away about 12 years
16 ago --

17 Q Um-hmm.

18 A -- but, um, I had a big house that I got rid of, got
19 rid of my business, and, um, he said, my -- my son
20 was living in Appleton at the time, and --

21 Q Oh.

22 A -- he said, well, why don't you try Wisconsin? So I
23 said, well, I'd try a couple of winters here, because
24 they are different than the winters I think I was
25 used to.

1 Q Um-hmm.

2 A And, um, I think they were rather mild winters. So
3 that's -- basically, I've been in the state for four
4 years, but --

5 Q Okay. Um, you, um, paused a little bit and
6 confessed some hesitation, um, a few moments ago
7 and said that that was about media coverage. I
8 want to hear a little bit more about your
9 hesitation with respect to media coverage.

10 A Well, since I get almost all of my information from,
11 basically, television, I, uh -- I don't know, I guess
12 maybe I view it all as being edited to pull your
13 chain. Um --

14 Q Okay. Um --

15 A I know the programming is. That's the way I feel,
16 but I think sometimes the news is that way also.

17 Q Well, they're in a business?

18 A Right.

19 Q Right? I mean, it's -- most of the media are for
20 profit; right?

21 A Yes.

22 Q Um, was -- was the community newspaper that you,
23 you know, ran, published, edited, was that, um, a
24 for profit -- profit thing or was -- was that a
25 not for profit?

1 A It was a for profit run by a non-profit organization.

2 Q Was it part of a little chain of community
3 newspapers?

4 A No. No.

5 Q Independent?

6 A Yes.

7 Q Um, let's -- let's get into some stuff that, in
8 general, concerns the -- the relationship of the
9 government to the citizen, okay? A little bit?
10 Um, you'll be told, I think, by the Judge that
11 the lawyers at that table over there representing
12 the state of Wisconsin bear the burden of proof
13 in this case. Um, and that the lawyers at this
14 table, or Mr. Avery for that matter, do not bear
15 any burden of proof. Is that a system within
16 which you can function well? Rules you can
17 accept?

18 A I think I probably can, yes. I -- I have not had any
19 experience before with --

20 Q On a jury?

21 A On a jury, right.

22 Q Right. Um, but this is -- this is a -- a
23 criminal accusation rather than a civil
24 accusation, so in civil case each side may have a
25 burden of proof on this point or that point.

1 Here, only the State has the burden of proof the
2 Judge will tell you. And it's a very high
3 burden. Uh, it's proof beyond a reasonable
4 doubt.

5 Um, is there anything about that scheme,
6 if you will, that set of legal rules -- I don't
7 mean anything bad by scheme -- but that set of
8 legal rules, um, that you could not work with
9 him?

10 A I don't believe so.

11 Q Um, we may take an active role in the case.
12 We're -- we're entitled to do that, and I expect
13 that Mr. Buting and I won't sit like bumps on a
14 log, but, um, can you promise today that you
15 would not hold us to proving Steven Avery's
16 innocence?

17 A Yes.

18 Q Rather, you would hold them to proving his guilt?

19 A Yes.

20 Q Um, if we offer testimony or exhibits, um, will
21 you consider the defense offerings just the same
22 as you would consider the State offerings?

23 A Yes, I would.

24 Q One of the toughest questions in offering
25 evidence or not for the people at this table is

1 whether Mr. Avery should testify in his own
2 defense. Um, are you familiar with the rule in
3 America that a defendant has a privilege not to
4 testify in his trial if he chooses?

5 A Yes.

6 Q Um, are you also aware under American law and our
7 constitution that the defendant has an absolute
8 right to testify in his own defense if he
9 chooses?

10 A I would assume that, yes.

11 Q If Mr. Avery, in the end, testified, um, would
12 you be able to treat him just like any other
13 witness in deciding whether you believe him?

14 A I think I could, yes.

15 Q And if -- if the decision at this table was that
16 he was not going to testify, um, would you want
17 to know why?

18 A Possibly.

19 Q I -- I'm going to confess that was a bit of a
20 trick question, because you won't learn why, and,
21 uh, if he makes that decision, you'll actually be
22 told, I think, by the Judge, that you simply
23 cannot consider, um, the fact that the defendant
24 did not testify in deciding whether the State
25 proved him guilty beyond a reasonable doubt.

1 Um, but I -- it was a trick question. I
2 don't mean to be tricking you. Do you -- can you
3 understand why there might be a number of reasons
4 that someone who says he's innocent, nevertheless
5 does not take the witness stand and testify in
6 his own defense?

7 A Yes, I think so.

8 Q Um, I -- you mentioned some of them, I think,
9 that may be worried about being tripped up by
10 lawyers on the other side? That -- that may be
11 one reason?

12 A I don't know that that crossed my mind.

13 Q What does cross your mind?

14 A Well, basically, I guess the only case that I've ever
15 paid any attention to was the O. J. Simpson case.

16 Q Um-hmm.

17 A And whether that was also edited for the public, I
18 don't know.

19 Q And how do you link that up to a defendant not
20 testifying? As I recall, Mr. Simpson did not
21 testify --

22 A He did not. Right.

23 Q -- in that case, and what -- what connection are
24 you drawing there?

25 A Um, only that that's my only, I guess, frame of

1 reference --

2 Q Um-hmm.

3 A -- um, as to why a -- a defendant would or would not
4 choose to testify.

5 Q Well, and in the end, because there are so many
6 reasons that may go into it, some of them having
7 to do more with the defense lawyers than -- than
8 the accused himself, in -- because there are so
9 many reasons, you'll simply be told you -- you
10 can't speculate about that or even consider, um,
11 the fact that a defendant did not testify if
12 that's the choice in the end. Um, and I just
13 need to know whether you can follow that rule if
14 the Court instructs you that way?

15 A I think I could, yes.

16 Q You come here, um, without any opinion at all,
17 which is about guilt or innocence, which is what
18 a potential juror should be, um, saying sitting
19 today in your chair, um, and I -- I simply need a
20 commitment from you, if you -- if you can offer
21 it to me, that when the Judge instructs you that
22 the presumption of innocence stays with
23 Mr. Avery, not just today but through the entire
24 trial, right up to the time the jury begins to
25 deliberate its verdict at the very end of the

1 case, that presumption of innocence never
2 waivers, never changes, until you begin your
3 deliberations, and then you decide guilt or
4 innocence. Is that an instruction you can
5 follow?

6 A Yes, I can.

7 Q Some of the agents of the State, um, who may
8 testify -- uh, will testify, I'm sure, are law
9 enforcement officers from a variety of agencies.
10 You'll see law enforcement officers testifying
11 here. You've already answered in your
12 questionnaire that you could follow an
13 instruction that you would consider their
14 testimony just like the testimony of any other
15 witness who may be from any other calling or
16 vocation under the sun.

17 Um, and I'm -- I'm going to explore that
18 a little bit. Do you -- do you accept that under
19 the right circumstances a law enforcement
20 officer, just like anyone else, might violate the
21 oath and testify to something untruthful even
22 though sworn to tell the truth?

23 A Yes.

24 Q You don't think law enforcement officers have any
25 special proclivity to tell the truth under oath

1 or, for that matter, to lie under oath, do you?

2 A Uh, no.

3 Q Uh, you accept that they're human just like
4 everyone else who would take the witness stand?

5 A Yes.

6 Q Um, have you had any experience where you thought
7 a law enforcement officer was not honest?
8 Whether you've seen it on CNN or experienced it
9 in your personal life?

10 A No, I have no personal experience with it.

11 Q But you're open to considering their motives to
12 testify truthfully or falsely, um, their
13 potential biases or prejudices, their weaknesses
14 of recollection, just like anyone else's?

15 A Like anyone else's.

16 Q You're relatively new to -- to this area, and,
17 actually, just four years in Wisconsin. Have you
18 picked up anything along the way about
19 Mr. Avery's more distant past conviction in 1985,
20 um, that later, uh, was overturned when DNA
21 established that another man actually committed
22 the crime, not Mr. Avery?

23 A I -- I heard that story, yes.

24 Q Okay. Where did you pick that up?

25 A Uh, basically from television.

1 Q Okay. Um, do you -- do you have any questions
2 about that? Any -- any lingering doubt that
3 maybe Mr. Avery was guilty, or any belief that
4 because he wasn't guilty, he was really innocent,
5 that that somehow affects how you would look at
6 this case?

7 A No. I didn't have any other feelings on it either
8 way.

9 Q Well, did you hear about the lawsuit that
10 followed his exoneration and release?

11 A Yes.

12 Q What -- what were your opinions about that
13 lawsuit as a Manitowoc County taxpayer?

14 A Um, I think at the time I hadn't been in the state
15 for very long and, um, I don't know that I gave that
16 a whole bit of consideration either.

17 Q One -- one way or the other?

18 A Right.

19 Q Okay. I think that's all I have for you. Thank
20 you.

21 THE COURT: Mr. Fallon?

22 ATTORNEY FALLON: Yes. I have one
23 question for the juror.

24 **VOIR DIRE EXAMINATION**

25 BY ATTORNEY FALLON:

1 Q Um, I'm just curious about your reference to the
2 O. J. Simpson case. Does that have any impact on
3 you as you sit and possibly end up as a juror in
4 this case?

5 A I don't think so. No, I haven't.

6 Q I mean, do you have any opinion about that case
7 or anything that might, uh, affect your
8 deliberations here?

9 A Other than I'm probably one of the few that still
10 thinks that he might be innocent.

11 Q Okay. All right. Um, in terms of evaluating
12 this particular, um, case here, you would decide
13 this case, though, solely on what the information
14 is that we present?

15 A Yes.

16 Q Okay. Thanks.

17 THE COURT: All right. The, uh, clerk will
18 now escort you from the courtroom.

19 (Wherein juror is escorted out)

20 THE COURT: Counsel, any motion from
21 either party?

22 ATTORNEY FALLON: None from the State.

23 ATTORNEY STRANG: No, Your Honor. Thank
24 you.

25 THE COURT: Very well. Uh, Ms. Salomon

1 will be, uh, in the jury panel. We'll take our, uh,
2 lunch break at this time. Uh, how about 12:45
3 report back?

4 ATTORNEY KRATZ: That's fine. Thank
5 you, Judge.

6 ATTORNEY FALLON: Uh, Judge, did you
7 check on those two jurors? The, uh -- I think it
8 was 75 and 77? I had 75 already excused and --

9 THE COURT: Seventy-five was excused by the
10 Court. There was an illness question, actually. I
11 don't think that juror even completed the
12 questionnaire.

13 ATTORNEY FALLON: Okay. Right.

14 THE COURT: Um, seventy-seven, my, um, uh,
15 court reporter informs me that she could find
16 nothing in her notes except a mention late yesterday
17 about the fact that there was a question but nothing
18 to show that, uh --

19 ATTORNEY FALLON: All right. I thought
20 that was included in one of our previous
21 discussions. Thanks.

22 (Recess had at 11:58 a.m.)

23 (Reconvened at 12:48 p.m.)

24 THE COURT: At this time we'll go back on
25 the record. Um, Mr. Strang, I believe there was a

1 matter you wished to bring up before we call the
2 first juror?

3 ATTORNEY STRANG: Yes, thank you. I
4 received a letter by hand-delivery this morning
5 from the Manitowoc County District Attorney
6 who's, uh, named on the defense witness list, and
7 I think the, um, sensible thing to do here is
8 just to excuse him altogether from the
9 sequestration order.

10 I -- I don't think there's any realistic
11 concern that the order would be necessary in his
12 instance, so I suggest we simply exempt him from
13 it.

14 THE COURT: Any objection from anyone?

15 ATTORNEY FALLON: No.

16 ATTORNEY STRANG: No. Thank you.

17 ATTORNEY FALLON: No objection.

18 THE COURT: All right. The Court will, uh,
19 grant that request and excuse the district --
20 Manitowoc County District Attorney from the
21 exclusion order for witnesses in this case.

22 Um, Counsel, I was going to call the,
23 uh -- one of the next jurors out of order.
24 There's a Mr. -- I'm not sure how he pronounces
25 his name. It's No. 87, David Guckeisen or

1 Guckeisen. He's the only juror who's been
2 waiting around since this morning.

3 ATTORNEY KRATZ: All right.

4 THE COURT: Um, I'll give you a couple
5 minutes to, uh, take a look at his questionnaire
6 before we call him in.

7 ATTORNEY KRATZ: Thank you.

8 THE COURT: Please raise your right hand,
9 sir.

10 (Juror sworn)

11 THE CLERK: Please be seated.

12 THE COURT: And it's Mr. Guckeisen; is
13 that correct?

14 JUROR GUCKEISEN: That's correct, Your
15 Honor.

16 THE COURT: Mr. Guckeisen, you've
17 already filled out a written questionnaire in
18 this case. Today we're moving on to the next
19 phase of jury selection which is, uh, individual
20 voir dire. Each of the attorneys, uh, will have
21 an opportunity to ask you some, uh, questions,
22 relating to your qualifications as a juror. In
23 most cases, the questions will be follow-ups to
24 information you provided in your written
25 questionnaire.

1 Before we get to that, uh, part of the
2 proceedings, I can tell you that the jurors in
3 this case who are selected will not be
4 sequestered. That is, they will be able to
5 return, uh, home each day after the court
6 proceedings for that day.

7 Uh, and that although the proceedings,
8 uh, today in court are open to the public, the
9 Court does not permit cameras in the courtroom
10 during voir dire proceedings.

11 Uh, in addition, the media is not
12 allowed to disclose the names of the jurors in
13 reports of these proceedings.

14 Finally, if you are selected to serve as
15 a juror, the cameras that cover the trial will
16 not be able to, uh, show the jurors in any way
17 that allows identification of who they are.

18 Uh, I can tell you that if you remain
19 eligible as a juror after the questioning today,
20 uh, you'll get another telephone call from the
21 Clerk's Office probably later today letting you
22 know when to report back to court.

23 Mr. Fallon, are you going to handle this
24 one?

25 ATTORNEY FALLON: Yes.

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THE COURT: Very well.

VOIR DIRE EXAMINATION

BY ATTORNEY FALLON:

Q Good afternoon, Mr. Guckeisen.

A Good afternoon.

Q Um, my name is Tom Fallon. I'm an Assistant Attorney General with the Wisconsin Department of Justice, and I'm one of the special prosecutors in this case. Uh, to my immediate left is Mr. Ken Kratz, the Calumet County District Attorney and lead prosecutor. Um, thanks for, uh, coming back this afternoon.

I wanted to ask you a few questions about some of the information you provided in your questionnaire last week, and, uh, if I may, like to begin with, uh, a little bit about your, um, employment history.

I see that you're, um -- I take it you're currently working at, um, KMC Stamping and Laser Form?

A Correct.

Q All right. What kind of business is that?

A It's a metal stamping-type business. Um, mostly metals. Uh, parts for cars, tractors, trucks.

Q And what position do you hold with them?

1 A I am the CAD-CAM programmer. That's Computer-aided
2 Design, Computer-aided Manufacturing.

3 Q So what does it do?

4 A Actually, what I do is I'll take a formed up object
5 and metal and lay it out in the flat and then program
6 one of the three laser machines to cut it out.

7 Q I see. And how long have you been doing that
8 work, sir?

9 A Since 19 -- around 1978.

10 Q Okay. So quite sometime, 26, 7, 8 years?

11 A Approximately, right.

12 Q And that's in, um, Port Washington, Wisconsin?

13 A That's correct.

14 Q So you've got a little bit of a commute, do you?

15 A Yeah. Forty-four miles one way, every day.

16 Q Every day. And how many days a week? Five?

17 A Five. Sometimes six, but usually it's five.

18 Q Okay. And, uh, you've previously worked at a
19 location in, uh, Mequon?

20 A Um-hmm.

21 Q And, uh, what did you do for -- is it, uh,
22 Biersach and Neidermeyer?

23 A Right. It was the same thing.

24 Q Oh, same kind of work?

25 A Same kind of work, correct.

1 Q And, uh, I see, also, you did, uh, some work for
2 the, uh, Kiel Police Department?

3 A Right. Um-hmm.

4 Q And what kind of work is that, sir?

5 A I was there for approximately 11 years. That was,
6 uh, approximately seven years part-time, four years
7 full time.

8 Q Uh, seven full and four part? Or did I have that
9 the other way around? Seven part --

10 A Seven part-time and four full time.

11 Q Okay. And what did you do for them?

12 A I was a police officer.

13 Q Okay.

14 A And --

15 Q You were.

16 A The seven years part-time was reserve police, and
17 then part-time police officer.

18 Q All right. Now, what kind of duty did you have,
19 uh, when you were at the Kiel, uh, Department?

20 A Uh, just your normal patrolman-type of duty.
21 Checking doors, uh, making arrests, uh, speeding, you
22 know, domestics, which -- whatever came up, that's
23 what we would do.

24 Q All right. Now, I see, also, from your, um,
25 questionnaire you have some, uh, experience as a

1 fingerprint technician?

2 A Yes. That's when I was on the force.

3 Q Oh, you were.

4 A Um-hmm.

5 Q Okay. Well, tell us about that.

6 A I came down and had classes, uh, down in the
7 basement, across the street I believe it was, and to
8 learn how to categorize and to take fingerprints --
9 fingerprints the proper way, cat -- classify them,
10 and then make out the documents to send them in for,
11 you know, registration or classification.

12 And then try to, uh, take a fingerprint
13 and check on the parts we -- or the prints we had
14 at the time to see if there was any type of
15 matches with the certain criteria that was, uh --
16 at that time. Now they don't do that much
17 anymore but --

18 Q Okay.

19 A -- you know, when you did it physically --

20 Q Right.

21 A -- one at a time, and -- and try to find out --

22 Q Right. And are you referring to today the -- lot
23 of it is automated; is that --

24 A Right. Yeah. Today most of it is auto -- automated
25 with the checking to find out, you know, rather than

1 five or six different, uh, cards, now they just kind
2 of go through the database and find any matches and
3 then work that way.

4 Q All right. And then you start and check that
5 from there?

6 A Right.

7 Q Okay. Now, when you were with the Kiel
8 Department, was there anyone else on the
9 Department who, uh, shared those duties or were
10 you, uh, the fingerprint guy?

11 A Um, actually there was another which would be, um,
12 Rick Sloan. He was the chief at -- a few years back
13 and he did some fingerprinting, too. But, usually,
14 because of my shift being, uh, three to eleven in the
15 afternoon, evening, that's when the fingerprinting
16 was done for people that were going to go, like, uh,
17 for, serv -- uh, into, uh, service, or people that
18 were coming to be nationalized and go through their
19 procedures to become a American citizen, we'd have to
20 fingerprint them.

21 Q Sure.

22 A Children, so that in case they got lost we could find
23 them again.

24 Q Okay. Um, I take it from your history, then,
25 that you did that work, uh, or were doing that

1 job the same time you were doing your metal
2 stamping work?

3 A No, that --

4 Q No?

5 A -- was prior to metal --

6 Q Oh, that was prior to --

7 A Prior to metal --

8 Q I see.

9 A -- stamping. Correct.

10 Q So your, uh, uh, law enforcement experience, uh,
11 preceded your experience in the metal stamping
12 business?

13 A That's correct. Um-hmm.

14 Q So it's been, then, 28 years or so since you were
15 in law enforcement?

16 A Yeah, just about. Um-hmm. Approximately.

17 Q Uh, as a fingerprint analyst, did you have
18 occasion to go to crime scenes and -- and attempt
19 to lift prints from scenes?

20 A Yes. In fact, uh, there was a couple. One I recall
21 was a, um, car theft.

22 Q Okay.

23 A And we lifted the prints. Eventually going through
24 and sending them into the state of Wisconsin, the
25 crime lab for the FBI, we did find out whose they

1 were because they weren't on any records we had, of
2 course.

3 Q Right. Right. Uh, did you, uh, have occasion to
4 work any homicides, uh, for use with
5 fingerprinting?

6 A No. No.

7 Q Okay.

8 A Nothing in that. We've had, you know, dead
9 body-types things, or expired people calls, but this
10 was no homicides. These were natural deaths on all
11 of them.

12 Q I see. All right. Now, as a result of having
13 worked in law enforcement, I would imagine you
14 have, uh, some friends who are still in law
15 enforcement?

16 A Right. That's --

17 Q And --

18 A -- correct.

19 Q And --

20 A They are actually retired.

21 Q They are all retired?

22 A They're all retired, right.

23 Q However, I note from the questionnaire that you
24 are at least familiar with Investigator, uh,
25 Dedering?

1 A I'm not sure. That's why I circled it. What would
2 his first name be? Because I do know one. And I
3 don't know --

4 Q This is a John.

5 A -- if it's the right one. John?

6 Q This is a John Dederling, Calumet County?

7 A Yes, I would know who he was, but that's 20, 30 years
8 ago.

9 Q So you can't say that you're like close friends
10 or --

11 A No.

12 Q -- acquaintances --

13 A No.

14 Q You just recog --

15 A Not at all. No.

16 Q You just recognize the name?

17 A I just recognize the name. That's why.

18 Q All right. Who else, um, do you, um -- well, who
19 would you consider a close friend or a close
20 acquaintance, um, that is in law enforcement now
21 or has retired from law enforcement?

22 A I would say, uh, a retired detective from Manitowoc
23 County, which would be Larry Conrad, and, also, uh,
24 retired chief of police of the city of Manitowoc. I
25 mean, we get together couple times a year, but that's

1 not where once a week we're together or, you know, we
2 talk once a week. It's three or four times a year.
3 Basically, it's going to car swap meets. That's
4 about it.

5 Q All right. And what would, uh, that person --
6 the retired, uh, chief's name be?

7 A Rich Brey. Rich Brey.

8 Q All right.

9 A B-r-e-y.

10 Q Oh.

11 A Richard.

12 Q Thank you.

13 A Okay.

14 Q All right. Now, um, as you might -- as you might
15 imagine, there's, uh, going to be a -- a fair
16 amount of, um, law enforcement testimony
17 associated with a case like this.

18 A Um-hmm.

19 Q And, uh, the question that we all have in our
20 minds, uh, is that since you were a former law
21 enforcement officer, uh, do you think that you
22 could evaluate the testimony of a law enforcement
23 officer the same as you would any other witness
24 in determining whether they were telling the
25 truth or not?

1 A Yeah. That's the way I was brought up. I -- I would
2 have to answer yes to that.

3 Q All right. So you wouldn't give them any more
4 slack or any less slack than you would any other
5 witness in evaluating their credibility?

6 A No, I don't believe so.

7 Q All right. Now, I did want to touch base with
8 one, um, health-related issue, uh, just in case
9 you were, uh, selected as a juror. You mention
10 you -- uh, you have, um, some high blood pressure
11 which is, uh, treated by medication?

12 A Um-hmm.

13 Q Um --

14 A Exactly.

15 Q Okay. Uh, is that more or less under control
16 such --

17 A Oh, yes. Yes. It actually isn't really that high,
18 but they thought just as, you know, kind of a
19 preventive-type thing I take the medication, so --

20 Q And otherwise then your health is good?

21 A Correct.

22 Q Okay. Now, uh, I'm sure you recognize from
23 reading the last, uh, uh, question, uh, that, um,
24 this trial may very well go for, um, six weeks or
25 so. And I believe the Court has already answered

1 one primary question of yours, and that is the --
2 whether the jury would be sequestered?

3 A Correct. Yes.

4 Q Well, since -- assuming that the jurors are able
5 to follow the Judge's instructions that's not
6 likely to happen, um, is there any other reason
7 why you think you might not be able to serve as a
8 juror if you were selected?

9 A No, absolutely not.

10 Q All right. Um, the other -- or area of, uh,
11 two -- two other incidental questions, uh,
12 considering your law enforcement experience and
13 that you work with computers and in the stamping
14 business, would you consider yourself a -- a
15 detail-oriented person or more of a big picture
16 guy when it comes to forming opinions or solving
17 problems or the like?

18 A Probably more of a detail-type person.

19 Q Okay. Um, and, uh, you hate working on puzzles
20 or is that all right?

21 A I work on puzzles every day, I guess, so, yeah, I do
22 like it.

23 Q Okay. Um, very good. Let's talk a little bit
24 about, um, publicity, uh, with this, uh, case.
25 It looks like you get most of your news, uh, from

1 the television?

2 A Actually -- Excuse me. Actually, I very rarely watch
3 news.

4 Q Okay. Um, have you been following the events of
5 this case very much at all?

6 A Uh, when it first started, you know, when everything
7 came about, then I watched it, but, like I say, I
8 very seldom watch any news or anything. With working
9 full-time, and then I have two part-time, uh, uh, you
10 could say jobs, or whatever, and, uh, businesses, you
11 might say, so I very seldom get the chance to watch
12 news, so I haven't been watching anything in a long
13 time now.

14 Q All right. Um, did you recently receive a letter
15 from the Court about three weeks ago advising you
16 that there was a possibility you could be a juror
17 in this case and asking that you refrain from
18 watching or reading about any of the coverage of
19 this case?

20 A Yes, I did.

21 Q All right. And were you able to abide by that
22 request?

23 A Yes, I was. Uh-huh.

24 Q All right. All right. Um, so based on the
25 information that you had early on, you know,

1 going back a year or so ago, have you formed any
2 opinions about whether Mr. Avery is guilty or
3 innocent of the charge for which he's been, um --

4 A Actually, I have not.

5 Q No opinion?

6 A Because I didn't see both sides of the question or
7 the other side of the coin.

8 Q Right.

9 A In other words, like, you only hear one thing, you
10 don't hear both, so --

11 Q All right. So you're saying that there's just
12 not enough information for you based on your
13 little exposure to it to make any opinion list.

14 A Absolutely right. Um-hmm.

15 Q All right. Now, you understand from your
16 previous work, I would imagine, as a law
17 enforcement officer, that Mr. Avery is, uh,
18 presumed innocent unless and until the State can
19 prove him guilty beyond a reasonable doubt?

20 A Yes.

21 Q Now, as law a law enforcement officer, do you
22 accept that proposition?

23 A Yes.

24 Q All right. And, uh, when the Court instructs you
25 on that, that you would follow that instruction?

1 A Yes.

2 Q All right. And you understand, of course, that,
3 uh, as part of that whole process, Mr. Avery
4 doesn't have to present a defense at all?

5 A That's what his Honor told us, uh, when we -- about a
6 week or so ago. He expressed that to us.

7 Q All right.

8 A Um-hmm.

9 Q So you're aware of that and you realize that if
10 they presented no evidence at all, it's
11 entirely -- you'd have to evaluate his guilt or
12 innocence solely on the evidence that Mr. Kratz
13 and I would present to you?

14 A That would be correct.

15 Q All right.

16 A Um-hmm.

17 Q And if we didn't convince you beyond a reasonable
18 doubt, you'd have to find him not guilty even if
19 he didn't say a word?

20 A Yes.

21 Q All right. And do you think --

22 A That's correct.

23 Q Do you think you could do that?

24 A I believe I could.

25 Q All right. That's all I have.

1 ATTORNEY FALLON: I'll pass.

2 THE COURT: All right. Mr. Buting?

3 ATTORNEY BUTING: Thank you, Judge.

4 **VOIR DIRE EXAMINATION**

5 BY ATTORNEY BUTING:

6 Q Good afternoon.

7 A Good afternoon.

8 Q My name's Jerome Buting and this is Dean Strang.

9 We're the attorneys defending Steven Avery.

10 A Okay.

11 Q You mentioned that you had two part-time jobs in
12 addition to your job as a, uh, CAD programmer?

13 A Correct. These are actually two part-time
14 businesses. One is, um, auto cleaning and detailing
15 products, and I've just started a part-time locksmith
16 business.

17 Q Okay. And those part-time, uh -- the -- the auto
18 detailing thing, is that something you do in the
19 evenings?

20 A Actually, I don't do the detailing. I sell the
21 products. And it's -- this time of the year you
22 don't sell much of it because of being cold. But in
23 the summer I go to swap meets and sell it there. So
24 usually just products. I don't do the service,
25 actually, myself.

1 Q I see. Are these things like Armor All and --
2 or -- or similar types of products?

3 A It's a similar type, yes.

4 Q Not that name brand though?

5 A Right. Not that name brand.

6 Q And the locksmith, uh, business is something
7 that's, uh, recent?

8 A Right. I been doing it for about three years. But I
9 actually started a business as such just a little
10 over two years ago.

11 Q And how did you learn how to work on locks?

12 A I went to a class at, uh, Fox Valley Tech in
13 Appleton. It was a -- over a week class and we
14 became certified.

15 Q Okay. You have to have some kind of state
16 certification for that or --

17 A No, you don't, actually. And not in this state.

18 Q Okay. And so that's just something you do in the
19 evenings or weekends or --

20 A Correct. That's exactly right.

21 Q Your, uh, groups or organizations that you
22 mentioned in your questionnaire, um, Associated
23 Locksmiths of America? What -- what is that
24 exactly?

25 A That's actually a large group of locksmiths. You

1 belong to that and they give you information. You
2 can buy books or manuals through it. Um, they used
3 to have an online chat line where you could ask
4 questions, but they took care of that, so we can't do
5 that anymore. But it's a lot for information that
6 you might not know or lot of, uh, older locksmiths
7 will put on that you, you know, gain knowledge doing
8 it that way.

9 Q Okay. You also mention Wisconsin Law Enforcement
10 Officers Association? Are you still a member of
11 that?

12 A Yeah. I'm an inactive member. But I've been in that
13 since I was in the, uh, police department in Kiel,
14 which was 1977, around in that area.

15 Q Okay. So do you go -- go to any meetings or
16 anything like that?

17 A No.

18 Q Um, by being inactive, I mean, what -- what do
19 you -- do you get publications mailed to you or
20 what --

21 A Right.

22 Q -- do you do?

23 A We -- we do get a -- a publication, but it's -- they
24 call it "inactive." In other words, they'll send you
25 publications, but you don't go to meetings or

1 anything as such. You know, just -- I give them the
2 money and they send me a, uh -- a magazine once in a
3 while or, uh, you know, some information, but that's
4 about as far as that would go.

5 Q Now, how did you make the transition from being a
6 police officer to a CAD programmer?

7 A I was -- I started off just working with the sheet
8 metal after I had resigned from the Kiel Department,
9 and, uh, at that point everything was done manually,
10 and they started getting more updated technology with
11 computers, and I gradually worked into that. And
12 that's how I started, and -- and just continued on
13 going into this type of work.

14 Q So it wasn't something that -- that you started
15 before you left, uh, the police department? It
16 was --

17 A No.

18 Q -- something after?

19 A No.

20 Q May I ask why you resigned from the police
21 department?

22 A Uh, was a lot of small town politics. That's, uh,
23 what -- I got to the point where, finally, I didn't
24 believe I was doing the people or the citizens of
25 Kiel justice because I couldn't do my job because of

1 these politics that were going on. And I felt that,
2 uh, there was nothing I could do, so I ended up
3 resigning.

4 Q Were there, um, problems that -- that you were
5 having in -- internally in the police department
6 with supervisors or anything of that sort?

7 A Not so much internally but, uh, it had to do with the
8 city government you might say.

9 Q I mean, I don't mean to pry, really. It's --
10 it's, uh -- but I -- I need to know a little bit
11 about your background and how you have -- how you
12 come into the -- the situation you might find
13 yourself.

14 Were -- were they, uh -- I mean,
15 complaints of this -- that they were -- they had
16 against -- about -- about your job performance or
17 something that --

18 A It wasn't so much as a job performance. It was like,
19 uh, nit-picky little things like fuzz on your -- the
20 hammer of your gun. And we had cloth seats in the
21 squad car, so you're bound to get that.

22 But, um, they were to the point where
23 they would walk or ride their bikes at two, three
24 o'clock in the morning, and following me around
25 to see if I was checking doors, of what I was

1 doing, and it just got to the point where, you
2 know, it was more of a harassment-type thing.

3 It wasn't, they could say, well, you're
4 not doing your job, or you're not doing it well
5 enough, but all this other culmination of
6 nit-picky things and --

7 Q Um-hmm.

8 A -- I just --

9 Q Sure.

10 A -- didn't feel that I was serving the community to
11 the best I could.

12 Q And were these, um -- you said city government.

13 Was this like the city Mayor or the --

14 A Mayor and the -- and some of the councilmen.

15 Q Um, and were they harassing just you or others in
16 the department as well?

17 A Actually, it was me, because when I was hired, there
18 were two on the city council that wanted a relation
19 of their's hired at that time, and because he wasn't,
20 that's what started this all off.

21 Q I see.

22 A And it just kept getting worse so --

23 Q Sure. Okay. I understand. You also mentioned,
24 uh, that you knew a Mike Klaeser on the witness
25 list?

1 A What Mike Klaeser would that be? Because I do know a
2 Mike Klaeser, but if it's the right one or wrong one
3 I don't know.

4 Q I believe he's the Calumet, uh, coroner?

5 A No. No. The one I know is, uh -- runs a, uh, bait
6 shop in Kiel. That's Mike Klaeser, so --

7 Q Okay.

8 A Okay.

9 Q Thank you. Well, I don't think we'll be hearing
10 from him. Um, so you have an interest in, uh --
11 in terms of magazines, you seem to have an
12 interest in vehicles; *Vintage Trucks, Model T,*
13 *Tow Times*, those --

14 A Um-hmm. I -- I like older cars. I can't afford
15 them, but I like them.

16 Q Ever work on them? Uh, you know, kits or doing
17 mechanical work with engines?

18 A Yeah, on my own vehicles. I've got a -- an '88 Ford
19 Bronco, and that's a show truck, so I do all my own
20 work on that, but --

21 Q Sort of a hobby you like to do? Work on --

22 A When I --

23 Q -- with your hands?

24 A -- get a chance. Right.

25 Q Okay. Now, you said you remember some -- from --

1 well, if -- if -- in terms of your source of
2 knowledge of news, would it be more TV or, um,
3 newspapers, or internet, or what?

4 A Actually, if I do see any news, it's on the internet.
5 But I don't subscribe to a paper, I don't watch much
6 television, except maybe like the history channel, or
7 discovery, or learning. That's because a lot of
8 times I get home too late to be able to watch news
9 anyway, so --

10 Q Sure.

11 A -- it's something that you can get up for the next
12 day going back to work, so --

13 Q So when you say, "internet," what kind of sites
14 are -- do you get your news from on the internet?

15 A Actually, it would be like from the *Manitowoc Herald*
16 *Times* and --

17 Q Okay.

18 A -- *Sheboygan Press*. Just kind of local news.

19 Q Okay. So you do get some local news. It's just
20 through the -- the internet instead of --

21 A Right. And it's very, very seldom, unless there's
22 something that I really wanted to see or find out
23 about. But --

24 Q You remember when this case first arose, though,
25 is that what you said?

1 A Yeah.

2 Q You do recall?

3 A Yes. Last year sometime. I couldn't tell you when,
4 but --

5 Q And what do -- what do you recall about it?

6 A The only thing that I can recall about it was that
7 there was a lady that was missing, and that there was
8 being search -- or she was being searched for, and
9 that who was possibly being accused of this, and
10 where it was, which I have no idea where that was
11 taken place but -- and that's about as far as it
12 went, you know.

13 Q Do you recall seeing any news conferences or
14 seg -- excerpts from news conferences with
15 Mr. Kratz or Sheriff Pagel?

16 A No, I don't recall ever seeing that.

17 Q Does the name Brendan Dassey mean anything to
18 you?

19 A No, sir.

20 Q Um, do you know -- remember hearing anything
21 about the nephew of Mr. Avery?

22 A I've heard about a nephew, but I couldn't say what
23 the name was.

24 Q Well, can you tell me what you heard about that
25 nephew?

1 A Um, that he might have had something to do with it.
2 That's what I saw on the news and that's as far as it
3 went.

4 Q Okay. So you recall something about, um, uh,
5 statements that he may have made initially
6 admitting involvement?

7 A That's the only thing I do remember.

8 Q Any of the details of that story that he first
9 told?

10 A Not really. No, sir.

11 Q And did -- did you also learn about his later
12 recantations of that confession?

13 A No, sir, I did not.

14 Q Okay. Um, have you heard anything about a blood
15 vial involved in this case, potentially?

16 A No, sir, I have not.

17 Q Have you talked to any -- I'm sorry. Are you,
18 uh -- you're single? Okay. Um, do you have a
19 significant other that you confide in and talk
20 to --

21 A No, sir.

22 Q -- those things? Have you talked to other people
23 in the community about this case at all? Heard
24 their opinions?

25 A That would have been months ago. Lately, not. I --

1 I -- since we got the, uh, letter from the Judge, I
2 try to stay out of any conversations or anything like
3 that. If they start, I just tell them I ain't going
4 to talk about it as such, and that's --

5 Q Sure.

6 A -- about it.

7 Q Well, that's good. I appreciate that. But
8 months ago, when you would talk to people,
9 what -- what sort of opinions were you hearing?
10 That he was -- Mr. Avery was probably guilty? Or
11 that he was probably being framed? Or what were
12 you hearing?

13 A Actually, just about what you were saying. It's
14 both. That he was being framed; no, he was guilty;
15 um, no, he wasn't guilty. And this was personal
16 opinions from people. I have no idea, you know,
17 where they were basing them off of. I would assume
18 TV and rad -- and radio, or whatever, but, you know,
19 I have no clue where they were getting their
20 information.

21 Q And did you ever -- I mean, did you have any
22 leaning either way yourself when you would hear
23 and talk to these people?

24 A Not actually, because I don't watch that much about
25 it, and I didn't at the time either, so I really

1 wasn't up on it to say, yeah, okay, he was, or he is
2 guilty, or, no, he's not guilty, he's being framed,
3 and why he's being framed, I would have no clue,
4 so --

5 Q Okay. Do you know anything about his background?

6 A The only thing that I know about a background is
7 possibly because he have a junk dealership or junk
8 yard. That's about it.

9 Q Well, do you that -- do you know anything about
10 the wrongful conviction that he had? He was
11 in -- where he was in prison and there was, um --
12 exonerated when -- by DNA that matched somebody
13 else for the real crime?

14 A That I heard about.

15 Q You did hear about that?

16 A But I just heard, you know, bits and pieces that
17 that's what had happened, but that's as far as it --
18 it went with that, too.

19 Q And what do you think about that?

20 A It's hard to say. If that's the truth, okay, then.
21 But I haven't heard both sides of that story either.
22 And I kind of am one of these detail-type people.
23 Unless you tell me both sides, I can't make an
24 opinion on it.

25 Q So do you -- so you're not -- you're not sure, in

1 fact, whether he was actually innocent even of
2 that case?

3 A I don't know, because I don't know the circumstances.
4 Like you were saying, um, he was exonerated because
5 of something. Well, that's all I know about it. I
6 don't know what it was or what it -- you know, what
7 it entailed. That's just the part that you had
8 mentioned.

9 Q Do you also recall anything about a lawsuit that
10 was filed after that?

11 A No, sir.

12 Q You, uh -- just a few more things here. You --
13 you mentioned, uh, court TV, and then you put,
14 parentheses, "*Cops*." What -- what does that
15 mean?

16 A That's a show that they show once in a while on court
17 TV, uh --

18 Q Oh, I see.

19 A -- called *Cops* and --

20 Q So, you don't -- you watch that particular show.
21 Do you watch trials or any segments of trials?

22 A No. The only thing that -- and -- and I put it on
23 there, but I can't think the exact name of it. It's
24 got something to do with *48 Hours*, where it's
25 homicide, and then they go out and they think they

1 got the party. It's supposed to be a live-type
2 thing. Lot of times you get the wrong person because
3 of what you're expect -- expecting or suspecting, and
4 when it -- the real stuff comes out, then they wind
5 up that that's not the person anyway. But I get to
6 watch those maybe once, twice a month or so.

7 Q You mentioned that, uh -- actually, as I look at
8 the question, maybe it wasn't the best phrase.
9 It asks whether you've had any good or bad
10 experiences with Manitowoc County Sheriff's
11 Department. You checked, yes. But then your
12 answer -- I can't tell whether that's good or bad
13 experiences?

14 A Oh, it was good experiences, because at that time I
15 was, um, in law enforcement. So we would bring
16 people over to the -- the facility across the street,
17 or we'd have to come over here for court. But that
18 was only when I was on the police department. Other
19 than that, I've never had any bad experiences with
20 any law enforcement agency.

21 Q Either while you were a -- an officer or, uh --
22 either within your own department, or your
23 experience maybe with others, that -- have you
24 ever encountered a situation where police
25 officers maybe shade the truth a little bit?

1 A I hate to say this, but, yes, I did at one point.

2 Q To -- now, I'm not going to ask you to name any
3 names or anything of that sort, but did it
4 involve, uh, actually coming into court and
5 testifying under oath?

6 A It never got that far.

7 Q Okay.

8 A It never came to court.

9 Q Did it involve changing reports or something of
10 that nature, or monkeying around with the
11 evidence, or --

12 A Doctoring the report a little bit as to times.

13 Q Okay. And, uh, did anybody ever find out about
14 it?

15 A Uh, if I'm not mistaken, the police chief did find
16 out about it.

17 Q Okay. Now, would you be able to listen to police
18 officers testifying here and, uh, consider the
19 possibility that maybe something like that or
20 worse happened in this case?

21 A It's possible. You know, it, uh -- everybody's
22 human, and, you know, everybody can make a mistake
23 now and then or, you know, change their opinion of
24 something. So I can't say, you know, for certain
25 that because a law enforcement officer walked up here

1 right now and said, this is what happened, that
2 that's a hundred percent true.

3 Q But, realistically, uh, if you -- if you search
4 your heart of hearts, you know, as a former
5 police officer still involved with the
6 association and having that affinity to them, do
7 you really think that you would maybe be a little
8 bit partial towards officers coming in and
9 testifying?

10 A I'm sure, somewhat, you know, being human as I am, I
11 somewhat have that, but you have to listen to the
12 evidence and weigh that evidence of what is going on
13 at the particular time.

14 Q So it would be hard for you to, uh, consider the
15 possibility that -- that one or more officers in
16 this case may have even planted evidence?
17 Something that serious?

18 A I'd hate to think so, but, um, it could be possible.
19 Anything's possible nowadays.

20 Q And you'd be able to consider that?

21 A If it came to it, yes.

22 Q Would you --

23 A Or there was evidence as such.

24 Q Okay. And would you require that Mr., uh --
25 Mr. Avery actually prove that to you in order to

1 find him not guilty?

2 A I'd have to go with what, uh, the evidence did show.
3 If there was evidence that what this officer said was
4 true, then I would have to worry about somebody
5 saying, no, it isn't true, and explaining it to me
6 why it isn't. In other words, the two sides of that
7 story.

8 Q Well, if you, um -- if you heard evidence that --
9 that gave you a, um, sus -- reasonable doubt,
10 real concerns, maybe some suspicions that,
11 perhaps, this was done, but not conclusive
12 videotape evidence proving that this -- some
13 evidence was planted in this case, would you --
14 would you consider that as part of the overall
15 evaluation of the evidence of whether or not
16 there's reasonable doubt?

17 A Oh, certainly. Certainly, I would.

18 Q Or would you require that Mr. Avery actually
19 prove that conclusively to you before you could
20 even consider it?

21 A Excuse me. If I had doubts about something that I
22 heard, I would not have to have him prove otherwise.
23 I would, uh, weigh that with the rest of the
24 testimony that would come out and work it from there.

25 In other words, um, it would be maybe he

1 can't prove that it's wrong, but maybe I have a
2 real good suspicion it is. And then I would have
3 to weigh that with the rest of the things that
4 are being said and shown, etc.

5 Q Okay. And, uh, you mentioned last week his Honor
6 told you that you, um -- that Mr. Avery has a --
7 a right not to even testify or present any
8 defense at all; right?

9 A That's correct.

10 Q Is that a new concept for you?

11 A I don't think it is. I'd heard of it before. I've
12 never been involved in it, of course. But I've heard
13 of it.

14 Q Well, you mentioned that you'd -- you're -- you'd
15 like to hear both sides. Several times you've
16 said that in -- in other contexts. So you're the
17 kind of person who likes to hear both sides
18 before you decide something?

19 A I would like to, but if there is an overwhelming
20 doubt in my mind to where I could not say guilty or
21 innocent right there and then, I could make a
22 judgment then at that point, and then there would not
23 be a reasonable doubt to convict Mr. Avery.

24 Q Then there would not be or --

25 A There would be a reasonable doubt not to convict him.

1 That's what I was trying to say.

2 Q Okay.

3 A Not to convict.

4 Q And would you hold those two lawyers over there
5 to the entire burden of proof? Make them prove
6 Mr. Avery guilty beyond a reasonable doubt and
7 not require Mr. Avery to do anything?

8 A Well, as far as the Judge had mentioned, I guess
9 that's what is supposed to happen. We have to prove
10 him -- or I shouldn't say myself. But he has to be
11 proven to be guilty as he's assumed innocent right
12 now.

13 Q I understand the Judge is going to instruct you
14 of that. What I just want to understand is can
15 you -- I mean, for some people that's hard. Not
16 everybody is a perfect jury for every case.

17 Some cases are -- you know, you may be a
18 very good juror in one case, but not in another.

19 A Um-hmm.

20 Q And sometimes people come into a case and say --
21 and in their heart of hearts they think, you
22 know, I really just don't think this is right for
23 me. Um, I would have to hear from Mr. Avery
24 first, for instance. Is that something that --
25 that you might worry about or might have concerns

1 about?

2 A That would be hard to say, because I'm not in the
3 situation right now where Mr. Avery is not going to
4 testify or whatever. But, I'd still have to go with
5 the premise that he is innocent until he's actually
6 proven guilty. So if he doesn't want to testify,
7 that's his, uh, choice and his position.

8 Q Well, do you realize that there could be a lot of
9 reasons why someone -- a defendant may not
10 testify? In other words, can you imagine someone
11 to be innocent and still not testify?

12 A I can imagine it could be.

13 Q Okay. And so if the Judge instructs you, you
14 can't consider that if that happens, you have
15 to -- you'll be able to follow that?

16 A Right. Exactly.

17 Q And, on the other hand, if he does testify, and
18 he might, there's a whole lot of things that --
19 to be decided, would you be able to listen to his
20 testimony just like any other witness?

21 A Sure. Exactly. I would have no problem with that.

22 Q So having thought about all of this, and
23 understanding some of the issues, not a lot of it
24 is -- well, is this really -- is this really a
25 jury you think you can or should sit on?

1 A I believe I should. I believe I really should,
2 because --

3 Q Why?

4 A -- I don't have a bias one way or the other right
5 now. Um, I can't say whether he's guilty or innocent
6 because I don't know anything about the trial as
7 such, or about the accusations, or anything else,
8 being that I don't see very much news, etc., I don't
9 watch it, and, um, so I would be a -- a biased person
10 and have to weigh the evidence on both sides to find
11 out which was which, and whether he would be, in my
12 eyes, guilty or he would be innocent.

13 Q All right. Well, thank you, sir. Appreciate it.

14 THE COURT: All right. Thank you,
15 Mr. Guckeisen. The, uh, clerk will escort you from
16 the courtroom at this time.

17 (Wherein juror is escorted out)

18 THE COURT: Counsel, any motion from either
19 party?

20 ATTORNEY FALLON: None from the State.

21 ATTORNEY BUTING: Judge, I do have a
22 motion, actually, and it's not to -- to strike
23 this juror, yet, but it's to defer a decision on
24 it, because -- and I -- I -- as I look at the
25 computer-generated random list, um, taking jurors

1 out of order hasn't been a problem to now, but as
2 I look at it now, we're getting close to the end,
3 and it's possible that, um, there may be four
4 other jurors in line that we would end up
5 seating, or should end up seating before this
6 juror.

7 And, in fairness, to make sure that
8 there's completely random and that both sides
9 have a fair opportunity, I think we should go
10 back to that and, uh, if -- you know, if we need
11 to talk to Mr. Defore (phonetic), for instance,
12 out of line, he might -- let's see. I -- I see
13 that there's, um -- he would be the fourth in
14 line anyway, so, you know, we might be able to do
15 that, but, you know, it may very well be that
16 those next four would be seated as proper jurors,
17 in which case we would never get to this one.

18 THE COURT: Mr. Fallon?

19 ATTORNEY FALLON: Um, in -- interesting
20 argument, but we're in the same boat, I guess.
21 If we have a juror who passes, I think we ought
22 to seat them. Um, it -- sure, we have concerns
23 regarding the next, uh, several jurors being
24 called in as well. Uh, in fact, um, I have my
25 doubts as to whether a couple of them will make

1 the grade as it were.

2 Um, if he -- if he, uh, passes, he
3 passes. He should be seated. Um, the fact that
4 he happened to be here early or whatever, is --
5 is fine. Uh, you know, it works both ways as the
6 next several jurors will soon --

7 THE COURT: All right.

8 ATTORNEY FALLON: -- demonstrate here.

9 THE COURT: Well, um, it's probably a
10 reason for, uh, not taking any jurors, after
11 Mr. Guckeisen, on the list from here on out until
12 we've got them. Um, I think there's something to be
13 said for the defense's argument.

14 What I'm going to do at this time is
15 include him, or at least on a contin --
16 conditional basis, include him as a member of the
17 jury given the instruction that he may be called
18 back.

19 Uh, if we somehow do wind up with enough
20 jurors in front of him, uh, then, uh, we'll take
21 the ones in order in front of him.

22 ATTORNEY BUTING: Thank you very much.

23 THE COURT: So, next we're -- Uh, yes,
24 we'll take Mr. Defere next. And after that, we go
25 back in order.

1 Uh, before we begin with the
2 questioning, I can tell you that the jury in this
3 case is not going to be sequestered. That means
4 that at the end of the trial each day the jurors
5 will be permitted to go home. Um, we're able to
6 do that because there'll be a continuing
7 obligation on the part of the jurors not to learn
8 anything from the news media about the case.
9 That is, not to, uh, learn anything from radio,
10 television, newspapers, or the internet about the
11 case, and, also, not to discuss -- make sure you
12 don't discuss the case with anyone, including any
13 other members of the jury, until it's time to
14 deliberate at the close of the trial, uh, or
15 any -- anyone else, including members of your
16 family, during the trial.

17 These proceedings are open to the public
18 today, but the Court does not permit cameras in
19 the courtroom during the jury selection process.
20 Uh, in addition, the media is not allowed to
21 disclose the name of the jurors, uh, as we con --
22 conduct this process.

23 And if you are selected for the jury,
24 uh, you should know that during the trial there
25 may be cameras in the courtroom, but they're not

1 permitted to focus on the jurors in any manner
2 that individually identifies them.

3 Uh, if you, uh, remain on the jury
4 panel, you'll receive instructions before you
5 leave today, uh, as to, uh, when you may be
6 called back.

7 Mr. Fallon, are you handling this one
8 for the State?

9 ATTORNEY FALLON: I am.

10 **VOIR DIRE EXAMINATION**

11 BY ATTORNEY FALLON:

12 Q Good afternoon, Mr. Defere.

13 A Good afternoon.

14 Q My name is Tom Fallon. I'm an Assistant Attorney
15 General with the Wisconsin Department of Justice,
16 uh, and I am one of the prosecutors in this case.
17 To my immediate left is Mr. Ken Kratz, the
18 Calumet County District Attorney and lead special
19 prosecutor in this prosecution.

20 Um, thanks for coming in this afternoon.

21 Uh, we have some, uh, questions to ask, um, of
22 you based on the information you provided in your
23 questionnaire last week, all right?

24 A I understand.

25 Q All right. And if you could speak clearly so our

1 reporter here can take down what you're saying,
2 that would really help us out. Um, I want to
3 begin with, uh, you are currently not employed;
4 is that correct?

5 A Yes. I'm a student at LTC.

6 Q And what are you studying at LTC?

7 A My GED.

8 Q I'm sorry?

9 A My GED.

10 Q Okay. And that's, uh -- just so I'm clear,
11 you're working for your, uh, graduate equivalency
12 degree? Your high school degree?

13 A Yes, sir.

14 Q All right. How long have you been employed in
15 that capacity? Or, excuse me, going back to
16 school in other words?

17 A Since I've been laid off in late October.

18 Q And --

19 A Using time wisely.

20 Q I'm sorry?

21 A Use the time wisely.

22 Q All right. Where were you laid off from?

23 A Tower Tech.

24 Q Okay. And what did you do for them?

25 A Yard man.

1 Q How long were you employed by them?

2 A Three-and-a-half-months.

3 Q And why were you laid off?

4 A I believe they got slow. They -- they never really
5 gave me an answer. They laid several -- several of
6 us off at the same time.

7 Q Okay. They never gave you an explanation?

8 A No, not really. They left me a voicemail one morning
9 and just said they didn't need us no more.

10 Q Okay. Did you, uh, happen to call in and ask,
11 hey, what's up, or what's going on?

12 A Yes. And most I got from it was slow or nothing
13 really direct.

14 Q Are you collecting any unemployment?

15 A Yes, I am.

16 Q And how long have you been collecting
17 unemployment?

18 A Since, I believe, November 1.

19 Q All right. Uh, and your, uh, wife works I take
20 it?

21 A Yes.

22 Q All right. Now, um, if you were, uh, selected as
23 a juror in this particular case, there's a, uh,
24 good possibility that your service would last for
25 a period of six weeks. Um, would that cause any

1 economic hardship on you and/or your wife, uh,
2 during that time where you're, uh, here, uh --

3 A No, not really.

4 Q All right. You think you'd have adequate funds
5 to, uh, get you through this time frame?

6 A Yes.

7 Q All right. Very good. Prior to working at, um,
8 Tower Tech, where did you -- where were you
9 employed?

10 A Labor Ready.

11 Q And what did you do for them?

12 A That was a temporary service. I worked at Northern
13 Labs for awhile.

14 Q And what did you do in that capacity?

15 A Forklift driver.

16 Q All right. And how long did you work there?

17 A Um, probably about three months until I got hired at
18 Tower Tech.

19 Q All right. And, uh, prior to that, where were
20 you employed?

21 A Um, probably through Labor Ready, couple other
22 temporary services. Um, I couldn't tell you names
23 offhand right now. They bounced me around a little
24 bit.

25 Q All right. Well, tell us about the job that

1 you've held the longest.

2 A Mirro.

3 Q And how long did you work for them?

4 A Little over six years.

5 Q All right. And what did you do for them?

6 A Material handler, forklift driver.

7 Q And, um, how come you are not with that company?

8 A The place shut down and moved to Mexico.

9 Q Okay. All right. So has it been a little tough

10 finding steady work since then?

11 A Yes. Um, for about a year we moved down to Waukesha,

12 and there I went to school for ATS. That's how I

13 ended up back in Manitowoc, but --

14 Q All right.

15 A -- it was my goal. I want a house up here, too.

16 Q Now, uh, I understand you belong to one, uh -- a

17 motorcycle club?

18 A Yes, I do.

19 Q And what's the name of that club?

20 A Immortals --

21 Q All right. And what's --

22 A -- Motorcycle Club.

23 Q I'm sorry?

24 A Immortals Motorcycle Club.

25 Q And what type of club -- club is that?

1 A It's a motorcycle club. Just bunch of guys get
2 together. They ride together. We have charities, a
3 Wal-Mart charity. And just hang out.

4 Q All right. Now, is it, uh -- does it have a good
5 reputation? This motorcycle club?

6 A To be honest, some people have a bad reputation with
7 it, some people are hard workers and have families,
8 or --

9 Q Uh-hmm.

10 A -- upright citizens.

11 Q Uh, do some consider it a -- a gang, for lack of
12 a better term?

13 A I don't.

14 Q Well, I mean, how about others?

15 A I don't think so. We're considered a club.

16 Q All right. Uh, as a club, have you had any, uh,
17 encounters with law enforcement officers?

18 A Um, not me directly. As a club, you know -- club,
19 you know, oriented, but I'm sure there's other
20 members that have been.

21 Q All right. But has, uh, law enforcement had, uh,
22 problems with the club? The organization as
23 itself?

24 A Um, trying to think. Probably before I was in.

25 Q All right. How long have you been a member of

1 this club?

2 A Um, about four years.

3 Q And when did you join?

4 A Was it -- maybe 2001, maybe. I couldn't tell you
5 offhand.

6 Q All right. What were the initiation, uh,
7 responsibilities to gain admittance to the club?

8 A Um, just be around. Be a good member. Help people
9 out. Somebody was moving or something, they call you
10 up, go give them a hand.

11 Q Okay. All right. Now, in terms of your, um,
12 association with this club, uh, have you ever had
13 any direct contact with members of law
14 enforcement?

15 A Not with the club, but I have separately.

16 Q All right. And, in fact, you've had a number
17 of -- of contacts with law enforcement; is that
18 correct?

19 A Yes.

20 Q All right. Um, uh, a number of arrests; is that
21 correct?

22 A Yes.

23 Q All right. Uh, tell us about those, please?

24 A Where do you want me to start?

25 Q Uh, well, the beginning is always a good spot.

1 A I had a problem with drinking for a long time.

2 Q Okay.

3 A I've got several drunk drivings.

4 Q All right.

5 A I got a few disorderly conducts. I couldn't tell you

6 how many.

7 Q Okay. Um, how about a battery complaint?

8 A Yeah, I probably got one of them.

9 Q All right. And, uh, how many drunk drivings do

10 you think you've had?

11 A Three. Not proud of them.

12 Q All right. And how many disorderly conducts?

13 A I probably had a couple.

14 Q All right.

15 A You probably know better than me.

16 Q So you've had a -- a fair amount of contact with

17 the law enforcement system; is that correct?

18 A Yes, I do.

19 Q And when was the last time you were arrested and

20 convicted of an offense, sir?

21 A Um, December, maybe.

22 Q December of --

23 A Sheboygan County. December of this last year.

24 Q All right. December of '06?

25 A Yep.

1 Q All right. And what was that for?

2 A Um, I believe it was battery. It was altercation in
3 a bar.

4 Q Excuse me. Is, um -- is that matter still
5 pending, sir?

6 A No, that's closed.

7 Q It is? All right. Were you convicted of
8 battery?

9 A Yes.

10 Q Are you on probation?

11 A No.

12 Q Uh, what -- what was the penalty?

13 A I believe it was just a fine.

14 Q You believe or it was?

15 A That's all I paid. I was -- I didn't get nothing
16 else out of it.

17 Q I'm sorry?

18 A I didn't get nothing else out of it. It was just a
19 fine.

20 Q All right. So you've had a number of disorderly
21 conducts, at least two batteries, and three OWI
22 convictions?

23 A Yes.

24 Q All right. So, would it be fair to say that you
25 had, um, significant contact with law enforcement

1 officers in your life?

2 A Yes.

3 Q All right. And, uh, you are, uh, just so I'm
4 clear, 34 years of age?

5 A Yes.

6 Q Now, let's talk about your, uh, contact with law
7 enforcement. In those cases were you treated
8 fairly?

9 A Yes.

10 Q All right. You have no problem with the
11 activities of the law enforcement officers?

12 A Nope.

13 Q All right. Let's -- let's take those, uh, OWI,
14 uh, matters. Um, did you plead guilty to those
15 offenses or did you take any of those to trial?

16 A The last one I took to court.

17 Q All right.

18 A To trial.

19 Q All right. And, uh, where was that, sir?

20 A Uh, Manitowoc County.

21 Q All right. And, um, do you know, uh, which
22 branch of court or who your judge was?

23 A I think it was this courtroom.

24 Q All right.

25 A I couldn't tell you which judge it was anymore.

1 Q All right. And, uh, during the course of that,
2 uh, uh, trial, was there testimony from the law
3 enforcement officers?

4 A I believe so. Yes.

5 Q All right. You believe so?

6 A I -- it's been five years, Your Honor. Yes, I
7 believe -- or District Attorney. I'm nervous. Yes,
8 there was testimony.

9 Q All right. And, uh, how many officers testified
10 in that case?

11 A One, two. I couldn't remember. There was a couple.

12 Q All right. Uh, in -- in your own defense, were
13 any witnesses called?

14 A I believe so. I -- I don't remember.

15 Q You don't remember.

16 A I -- I believe so, but I don't remember.

17 Q Did you testify?

18 A I think -- yeah, yeah, I did. I did.

19 Q All right. And, uh, you were convicted?

20 A Yes, I was.

21 Q All right. Did the law enforcement officers tell
22 the truth?

23 A Best of their abilities, yes. Best of their ability,
24 you know, yes.

25 Q All right. And did you tell the truth?

1 A Yes.

2 Q All right. Um, if they were telling the truth
3 and you were telling the truth, both of you can't
4 be right, can they?

5 A Um, how do I explain? I was wrong for the drunk
6 driving. I did it. But circumstances happened
7 weren't quite accurate.

8 Q As reflected how, sir?

9 A The way things went. That -- when he entered my
10 house, when it all went down, I think there was
11 confusion. It was dark. I don't think things went
12 down the right -- everything was seemed.

13 Q All right. Well, what does that have to do with
14 whether you were driving under the influence or
15 not?

16 A My attorney, I think, was trying to get me off on a
17 technicality.

18 Q All right.

19 A And -- and that's where I think he was coming around
20 where the whole -- the whole situation wasn't right.

21 Q Well, did the officers, uh, testify truthfully
22 regarding your driving ability that night?

23 A Um, I wasn't in the car. I was in my house.

24 Q All right. But were you driving?

25 A Yes, but no one seen me.

1 Q Okay. Were you -- had you been drinking when you
2 were driving?

3 A Yes.

4 Q All right. And you were under the influence when
5 you were driving?

6 A Yes.

7 Q Okay. Did you -- and you testified that you were
8 not under the influence?

9 A I never said that. It -- it's -- what it was, was
10 the way they entered my house. It's not -- it's not
11 really about the officers being right/wrong. They
12 testified. I did. But some laws my lawyer believed
13 were broken when they entered my house.

14 Q All right.

15 A That's -- that was the -- what my lawyer had -- was
16 going across trying to get to the bottom of.

17 Q All right.

18 A It's been over, like, five years. Like I said, I
19 don't remember everything right now.

20 Q All right. Well, how about in this, uh, very
21 last case? The one you -- where you were
22 convicted of battery? Uh, what happened in that
23 case?

24 A We were out. I just got out of school -- AT -- ATS
25 School, Sun Prairie. Friend of mine wanted to take

1 me out. I got back, so we went out. He brought
2 another --

3 COURT REPORTER: Slow down, please.

4 JUROR DEFERE: Oh, okay. I apologize.
5 And he wanted to take me out for a couple of
6 drinks. We met up with a friend of his. Um, he
7 got in some trouble at -- at a bar, and we told
8 him, leave. Get away from us.

9 So we went on our merry way and did what
10 we had to do. And then we ran into him little
11 bit later on in the evening. We walked in. He
12 was -- he's a very mouthy person. He was getting
13 beat on about -- by about three, four people. I
14 noticed it right away and I went over to his
15 defense. I regret going over to his defense
16 because he never thanked me afterwards. And then
17 we all -- we got arrested.

18 Q (By Attorney Fallon) All right. And, uh, you
19 were convicted of battery?

20 A Yep.

21 Q All right.

22 A I didn't fight it. I -- I knew I was wrong. I
23 should have turned my head and let him get beat on
24 because he -- he had it coming.

25 Q Right.

1 A Maybe it sounds bad but it's true.

2 Q All right. Now, let me go back to something for
3 a minute. Um, how about your other, uh, drunk
4 driving matters? Uh, were the -- did you review
5 the police reports associated with your arrests?

6 A The other two drunk drivings?

7 Q Yes.

8 A Um, right. Them were like probably '94, '95. I
9 haven't look at them in years, but I was driving. I
10 got -- I was arrested, drunk drivings. No excuse,
11 but, actually, going into remembering the details of
12 the police report, I don't remember none of that no
13 more.

14 Q All right. Well, were you treated fairly by the
15 officers?

16 A Yes.

17 Q All right. And, uh, uh, they were truthful in
18 their representations in the reports?

19 A I would think so. Yes, I would think so. It's been
20 so many years.

21 Q All right. But you don't know?

22 A I don't remember.

23 Q All right.

24 A That's probably the correct way of saying it.

25 Q Well, there's going to be a fair amount of law

1 enforcement testimony associated with this case,
2 Mr. Defere, and, uh, the question of, uh, concern
3 to all of us, and especially the State here, is
4 whether or not you can evaluate the law
5 enforcement officers' testimony, uh, fairly and
6 impartially, and given your, uh, criminal
7 history, do you think you can do that?

8 A Yes, because if I can't, because this is a big case,
9 there's a lot of people on the line here, if I feel
10 that I can't be honest, I would tell you right now I
11 can't be honest about it.

12 Q All right. And what makes you think that you
13 will be, uh, comfortable in evaluating the
14 testimony of the police officers in this case?

15 A If I feel uncomfortable about anything that goes on
16 here, I will let whoever I need to know that I cannot
17 be on the jury no more.

18 Q All right.

19 A If I feel impartial towards anybody, or I don't
20 understand or anything, I'm going to come forward
21 because this is -- this is not a joke. This is not a
22 drunk driving case.

23 Q All right. All right. Appreciate that. Now,
24 have you been following this case at all?

25 A No, not really. We don't have local channels. We

1 got Sat -- Dish Network and we got no basic channels.
2 My wife tells me a little bit about it, but that's
3 about it. I told -- not since I had to come in here,
4 I -- anybody's talked to me, I told them, I don't
5 want to know anything about it.

6 Q All right. What have you heard about the case?

7 A Mr. Avery's -- Mr. Avery's been arrested for murder.
8 There's some blood stuff in a folder or something,
9 and didn't -- going to court back and forth. Like, I
10 haven't really been following this seriously.

11 Q All right. What else do you, uh, recall hearing
12 about the publicity in this case?

13 A I don't -- you can't believe everything you hear.

14 Q Right.

15 A It's --

16 Q Well, have you heard -- have you heard anything
17 about a -- a guy by the name of Dassey?

18 A Oh, the broth -- the cousin or -- the cousin of it?
19 Cousin of Mr. Avery? Yeah, I've heard -- yeah,
20 he's -- he's -- yeah, he's accused of the murder,
21 too.

22 Q All right. What do you remember hearing about
23 his involvement?

24 A He's party to a crime.

25 Q All right.

1 A I don't -- I don't know a whole great deal about it.

2 Q Well, do you recall any of the details which

3 were, uh, supposedly, um, described by Mr. Dassey

4 upon his arrest?

5 A No, I don't remember. And I've been purposely not

6 watching the news or paying any attention to it.

7 I -- before I really paid much attention to it. I

8 got enough things in my own life to really care about

9 anybody else.

10 Q I won't argue with that.

11 A I don't drink no more. If you're thinking of drunk

12 drivings.

13 Q My, um, question, um, is that, uh, can you tell

14 us a little bit about what your wife told you

15 about the case in your discussions with her?

16 A That's been well over a week ago. She follows it. I

17 don't.

18 Q She follows the case?

19 A Yeah. I don't.

20 Q Does she follow it pretty closely?

21 A Not really. She -- she hears something on the news

22 before she goes to bed. That's about it.

23 Q Well, then how would you know if she's been

24 following the case?

25 A She watches TV. She watches TV at night. I know she

1 watches it.

2 Q How do you know she watches it?

3 A She watched -- Well, she goes to bed at night, I'm in
4 the living room watching my shows, and she goes in
5 the bedroom and watches her TV every night.

6 Q Okay.

7 A So --

8 Q I guess if you haven't talked that much to her,
9 I'm just curious as to how you would know that
10 she's watching the coverage of this as opposed to
11 anything else?

12 A She'll watch the news in general. She watch --
13 whatever comes on, she watches it.

14 Q Okay. Including this?

15 A Yeah. See, in -- let me explain. In our bedroom, we
16 have no satellite, and she has a little TV, black and
17 white TV, that's where she watches our local stuff.
18 I sit in my living room, my 40-inch -- 40-inch TV and
19 I watch my shows. My sci-fi, my history channels,
20 that's what I get into. Public news and local stuff
21 like that don't trip my trigger.

22 Q Okay. All right. But, uh, so you've at least
23 had some discussions, I take it, with your wife
24 about what's going on with this case?

25 A Before I was -- I had to come in here.

1 Q All right?

2 A But not a whole lot, because don't -- stuff like
3 this -- this murder cases, or anything with -- or
4 forensics doesn't trip my trigger.

5 Q All right.

6 A It does my wife. I'll be honest about that.

7 Q Okay. Just a couple, uh, questions and I'll be
8 done. Do you have any opinion at all, Mr., uh,
9 Defere, as to whether, uh, Mr. Avery is guilty of
10 the offense for which he's charged?

11 A I can't make that -- I can't make assumption.

12 Q All right. Why not?

13 A The trial's not done.

14 Q Right.

15 A Haven't heard all the facts.

16 Q Right. And what if the only facts you hear in
17 the case are those presented by the State, and he
18 chooses to present no facts at all?

19 A Told me it's up to just go by the facts. Whatever is
20 presented to us is all we got to go on.

21 Q All right. And if the State fails to convince
22 you beyond a reasonable doubt, would you acquit
23 Mr. Avery?

24 A Would that be the -- would that be the -- what we'd
25 have to do? I don't understand what you're saying

1 right now.

2 Q All right. Well, you -- you've had, uh, a case
3 of your own where the jury was instructed that if
4 they were going to convict you of drunk driving,
5 they had to be convinced beyond a reasonable
6 doubt that you were, uh, driving under the
7 influence; right?

8 A Yeah.

9 Q All right.

10 A So -- so you're basically saying if the facts are
11 stated that if you brought the facts out stating that
12 he was guilty? Is that what you're saying?

13 Q Right. Well, what if -- what if we didn't quite
14 convince you beyond a reasonable doubt, but yet
15 you didn't hear anything from the, uh -- from Mr.
16 Avery and his lawyers? Would you find him guilty
17 or would you find him not guilty?

18 A I don't know what I would do.

19 Q You don't know what you'd do?

20 A I don't -- I don't know what I would do. I -- I
21 don't.

22 Q Well, if the score -- Court were to instruct you
23 that you don't have to, um, uh -- you can't hold
24 it against him if he chose not to put any
25 evidence in, if he chose not --

1 A Okay. Okay.

2 Q -- to testify?

3 A I follow you. Um, so basically is saying if he's --
4 if -- I guess I'd have to go with the evidence.
5 If -- if there's not enough to convict him, then
6 that's the way it would have to be.

7 Q All right. So what would you determine -- would
8 you vote guilty or not guilty then?

9 A Probably not guilty.

10 Q All right.

11 ATTORNEY FALLON: Um, I notice that my
12 time's about -- I'll pass this juror.

13 THE COURT: Mr. Buting?

14 **VOIR DIRE EXAMINATION**

15 BY ATTORNEY BUTING:

16 Q Good afternoon, sir. Um, my name's Jerome
17 Buting, and this is Dean Strang, and we're both
18 the attorneys representing Steven Avery here
19 today. I appreciate your coming here and being
20 so forthright.

21 A I'm nervous.

22 Q I can understand that. Almost everybody who sits
23 up there is. Really. You're not alone.

24 Um, Mr., uh, Fallon went through great
25 detail your background and your contact with the

1 police, but I take it that you can put aside any
2 of those instances and not let that affect you in
3 evaluating the testimony or the evidence in this
4 case; is that right?

5 A Yes.

6 Q And, in fact, in, uh, most of those instances it
7 seems like, uh, you admit you were in the wrong?

8 A I'm the -- yes, I'm no angel.

9 Q Okay. You've had some problem with alcohol and
10 you've been honest about that. We appreciate
11 that. Really. And you're trying to work on that
12 right now?

13 A Since I've been married and my wife don't drink, I
14 don't. Very seldom. I'll admit, I drink maybe once
15 a month, but it's better than what it used to be,
16 four times a week, but --

17 Q Okay.

18 A I got a good woman.

19 Q I'm glad to hear that. And you, um -- you feel
20 confident that if selected for this jury, you
21 could follow the Judge's instructions?

22 A Yes.

23 Q And that you would bring whatever life
24 experiences you have to this case just like any
25 other jury -- juror; right?

1 A Could you, um, explain what you mean?

2 Q All right. Let -- that may be a bad question.

3 But you're, uh -- despite whatever contacts you

4 may have had with the police, you're not going to

5 be un -- unduly favorable or sympathetic to the

6 defense; right?

7 A What's in my past has got no part with this.

8 Q Has nothing to do with Mr. Avery at all?

9 A No. This -- this is between right or wrong and --

10 and what happened. If I -- if anything that's my

11 life is going to affect me or affect anything going

12 on here, I -- I'd tell you -- I'd tell you right now,

13 I'm not the person to pick.

14 Q I appreciate that, sir. I -- I really do. Um, I

15 think you understand this is very serious matter

16 for both sides.

17 A It's -- it's also going to be a burden on all of us

18 jurors. It's going to be a burden on -- on us. We

19 got to put our life on hold for six weeks. It's

20 going to affect me looking for a job and, you know,

21 so on and so on, my wife, and daily -- daily things

22 to do around the house and --

23 Q Sure. But --

24 A It's not a joke.

25 Q And knowing all that, you're still willing to --

1 to serve and do your civic duty?

2 A It's my duty, just like there -- our soldiers are
3 overseas fighting for us. If we can't be proud
4 Americans like they're being proud over there, what
5 good are they -- are they fighting for? Got to be
6 that way.

7 Q All right. Thank you very much, sir. Appreciate
8 it.

9 THE COURT: All right. Uh, Mr. Defere,
10 the, uh, clerk will escort you from the courtroom.

11 (Wherein juror is escorted out)

12 THE COURT: Counsel? Mr. Fallon?

13 ATTORNEY FALLON: May I confer?

14 THE COURT: Go ahead.

15 ATTORNEY FALLON: Obviously, this juror
16 causes the State some concern, so we're
17 deliberating as to whether we want to make a
18 motion to strike for cause. And I guess on
19 balance, we are going to make that request. Um,
20 it's a close question in some respects, and in
21 others, a rather clear one.

22 We're going to move that the juror be
23 struck for cause on the, uh, theory of -- of
24 objective bias. Um, although the juror's actual
25 answers seemed adequate, some would say more than

1 adequate, to, uh, justify seating the juror, I'm
2 concerned that given the big picture here, that
3 those answers may not very well be credible.

4 We have an individual, um -- and he'd
5 like us to believe that he's turning his life
6 around and he's, uh, straightening himself out,
7 uh, apparently recently getting married, etc.,
8 but I guess even that does not ring true. After
9 all, he has a December, 2006 conviction for
10 battery in Sheboygan County, and by my account,
11 that is only, uh, six weeks ago, seven.

12 Uh, this is an individual with, uh,
13 three OWI convictions, several disorderly
14 conducts, and another additional battery
15 conviction, with numerous law enforcement
16 contacts.

17 I also, uh, have a question, uh, to
18 doubt the, uh, circumstances surrounding his
19 affiliation with the motorcycle club as being
20 entirely on the up and up.

21 I think that applying the objective bias
22 standard, uh, could a reasonable person hearing
23 all they have heard about Mr. Defere come to a
24 reasoned conclusion that he could give the State
25 a fair shake? I think one would have to say, not

1 withstanding his answers, that a reasonable
2 person would not come to that conclusion. And,
3 uh, as a result, given the extensive criminal
4 history and the recency of it, uh, 2005 and 2006,
5 uh, we'd ask the Court to strike this juror for
6 cause.

7 Um, like I said, the, uh -- the words
8 seemed good, but they don't match, I don't think,
9 the background and the recent history, and I --
10 I'm unconvinced by his demeanor. Uh, he strikes
11 me as somebody who's a little too anxious and a
12 little too willing to waive the flag.

13 And I know that may sound harsh, um, but
14 that's our assessment of this juror and would ask
15 that he be struck for cause.

16 THE COURT: Mr. Buting?

17 ATTORNEY BUTING: Judge, we object to
18 that. There's no -- no grounds for cause for
19 this juror. Yes, I can understand why the State
20 doesn't want him on the panel. Obviously, the
21 State will intend to use a peremptory given the
22 rather grueling cross-examination Mr. Fallon gave
23 this young man, but the fact of the matter is not
24 only did he answer the questions appropriately,
25 the -- the explanations were appropriate and his

1 demeanor was appropriate.

2 This is a man who, yes, he's had some
3 difficulties with the law and he freely admitted
4 it, but I didn't hear him blaming the State for
5 any of them. He's blamed himself. He admits he
6 had an alcohol problem. Even the most recent
7 one, he admits he was trying to help a friend and
8 he should have stayed out of it. He's not
9 blaming the State.

10 He's not somebody coming in here and
11 saying, you know, I've got a vendetta against the
12 police or against prosecutors. It's a young man
13 who's had difficulties, but there's no reason to
14 think that he can't put those aside like any
15 other juror who's -- former police officers, if
16 we want to believe his answers.

17 All jurors bring their life experiences
18 with them collectively to the jury, and this
19 gentleman has every bit as much a right to do his
20 civic duty, to sit on this jury, as anyone else.
21 So I -- I -- I think there's absolutely no record
22 to justify striking this juror for cause, and I
23 would move to deny the State's motion.

24 THE COURT: All right. Well, I -- I
25 understand why the, uh, State would be initially,

1 uh, concerned, given the juror -- or the juror's,
2 uh, record, um, but I have to say that based on not
3 only the content of his answers, but his demeanor,
4 uh, I found him to be believable -- be believable.

5 It would have been, um -- I'm sure it
6 was difficult, in a courtroom of a number of
7 people, for him to, uh, discuss and admit his
8 criminal past, although it's misdemeanors and,
9 um, uh, drunk driving, and it didn't involve
10 felonies, but I -- I thought he was believable
11 and forthright.

12 He acknowledged his culpability, I
13 think, with respect to virtually every conviction
14 that he had. It's true that he did contest, uh,
15 his -- I believe it was his most recent OWI, but
16 he, frankly, indicated that it was based more not
17 on his own feeling that he was not guilty, but on
18 a theory of defense his attorney recommended, and
19 he pursued it.

20 He said on a couple of it -- and a -- a
21 couple of occasions he believed that he had been
22 treated fairly by officers, and I just didn't
23 detect anything in his answers to, um, suggest
24 that, uh, he was not being forthright with those
25 answers.

1 Um, he also seemed to have a solid grasp
2 on the fact that this case involves charges more
3 serious than any of the ones he was involved with
4 himself. And, um, I -- I think he is -- he is
5 aware of the fact, he recognizes the
6 responsibility, and, uh, has indicated that he
7 could, um, uh, safely face that responsibility
8 and be a part of the jury in this case. So I'm
9 going to deny the motion and make him part of the
10 jury panel.

11 Uh, let's see. Jenny, how are you
12 doing? Do you want a break or do you want to
13 take one?

14 COURT REPORTER: Let's do one more.

15 THE COURT: Okay. How about Mr.
16 Wichlacz?

17 THE CLERK: We have --

18 THE COURT: Well, no, we're taking them
19 in order now. Oh, oh, is he here yet?

20 THE CLERK: I don't know. There were
21 only three ladies in there when I was there.

22 THE COURT: Okay. How about -- well --

23 ATTORNEY FALLON: He's not -- No. 68
24 was, uh -- or is he not here yet either?

25 THE COURT: Well, for --

1 THE CLERK: I'll go check.

2 THE COURT: Yeah. See if he's here.

3 Let's start taking them in order.

4 Ms. Barber, please raise your right hand
5 and the -- the clerk will administer the oath.

6 (Juror sworn)

7 THE CLERK: Please be seated.

8 THE COURT: Uh, Ms. Barber, you've already
9 filled out a written jury questionnaire in this case
10 last week. Today we're moving on to the next phase
11 of jury selection, which is the voir dire process.

12 The attorneys for both sides will have
13 an opportunity to ask you some questions that
14 relate to your qualifications to serve as a
15 juror. In many cases those questions will relate
16 back to, um, answers that you gave on your
17 written questionnaire.

18 Before we begin the questioning, I can
19 let you know that the, uh, jurors selected to
20 hear this case will not be sequestered. That
21 means the jurors will be permitted to go home
22 each night after the day's proceedings. And, uh,
23 because of that fact, there will be a continuing
24 uh, ban on any juror exposure to news media
25 accounts of the case, whether it be on

1 television, radio, the newspapers, the internet,
2 or anywhere else.

3 In addition, the jurors will be
4 prohibited from discussing the case with anyone
5 during the course of the trial, including any
6 family members, or even the other jurors, until
7 all of the evidence in the case has been
8 received.

9 Today's proceedings are, uh, not closed
10 to the public, but during voir dices, uh,
11 proceedings, the Court does not allow cameras in
12 the courtroom. In addition, the members of the
13 news media are not permitted to disclose the
14 names of the jurors in their reports of the court
15 proceedings today.

16 Uh, finally, you should know that if
17 you're selected to serve as a juror in this case,
18 there may be cameras in the courtroom, but
19 they're not permitted to show the faces of the
20 jurors.

21 Uh, in the event that you remain on the
22 jury panel after questioning today, you'll
23 receive further instructions, probably by a
24 telephone call later today, as to when to report
25 back to court. Mr. Kratz, you may begin.

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ATTORNEY KRATZ: Thank you, Judge.

VOIR DIRE EXAMINATION

BY ATTORNEY KRATZ:

Q Good afternoon, Ms. Barber.

A Good afternoon.

Q I'm Ken Kratz, the Calumet County District Attorney, who will be serving as lead prosecutor in this case. With me this afternoon is Tom Fallon. Mr. Fallon's an Assistant Attorney General. He works for the Department of Justice. He'll be assisting me not just this afternoon, but also through the presentation of -- of this trial.

As the Judge has explained, there are some follow-up questions to your answers given, uh, in your questionnaire, uh, that we need to ask of you.

Um, first of all, you, um, still work at, uh, Worthington Cylinders; is that correct?

A Yes, I do.

Q And that's in Chilton --

A Yes.

Q -- is that correct? All right. How long have you, uh, worked at that position?

A Twenty-eight years. I had to try and think.

1 Q All right. You've indicated on the, um,
2 questionnaire that you had previous employment at
3 Chilton Products; is that correct?

4 A Yes. Um, Worthington Cylinders took over the Chilton
5 Products half of the cylinders, so altogether in that
6 company building I've been there 28 years.

7 Worthington -- I've been there with Worthington for
8 four, because they bought out --

9 Q All right. I know that, but probably nobody else
10 in this room does.

11 A Okay.

12 Q That -- that's why I -- I asked that, Ms. Barber.

13 A Okay.

14 Q The, um, connection with, uh, Chilton, that is
15 the connection with Calumet County, also, uh,
16 causes you to have some familiarity with
17 Mr. Pagel; is that right?

18 A Yes.

19 Q Can you describe that?

20 A Actually, Jerry and I went to school together.

21 Q All right.

22 A And that's how I know him. I know him enough to go
23 to him and say, hi, Jer, how's things, and --

24 Q All right. Have you had any discussions with
25 Mr. Pagel about this particular case?

1 A No, I haven't.

2 Q You were aware, however, early on of Mr. Pagel's,
3 uh, involvement in the investigation of this
4 case?

5 A Actually, not. The last time I saw him, none of this
6 had happened, so --

7 Q What I'm saying is, you realized early on in this
8 investigation --

9 A Oh.

10 Q -- that Mr. Pagel was involved in the
11 investigation?

12 A Yes. That's why I put it down.

13 Q And did you also realize early on that my office,
14 that is the Calumet County D.A.'s Office, uh, had
15 taken over responsibility of the prosecution in
16 the case?

17 A No, not really.

18 Q All right. Ms. Barber, where is it that you, uh,
19 most often receive your news?

20 A Most often, uh, television.

21 Q And, uh, had you recalled, and as you sit here
22 this afternoon, do you recall, uh, television
23 news stories regarding this case?

24 A Yes.

25 Q Let's go way back to the beginning of this case

1 in early November of 2005. Did you remember
2 reports of, uh, Teresa Halbach having been
3 missing and there was some missing persons or
4 search efforts for her?

5 A Yes.

6 Q You didn't participate in the search for Ms.
7 Halbach at all, did you?

8 A No, I didn't.

9 Q Do you know Ms. Halbach's family or, uh, anybody
10 that might be related to her?

11 A No.

12 Q You live in Valders; is that right?

13 A Yes.

14 Q Which would be just over the Calumet
15 County/Manitowoc County border; is that right?

16 A About seven miles in, yes.

17 Q All right. Now, uh, you don't know Investigator
18 Mark Wiegert?

19 A No, I don't.

20 Q Ms. Barber, uh, you mentioned in your report that
21 you've had some contact with law enforcement, uh,
22 officials. Uh, we're going to talk about your
23 son in -- in -- in just a moment, but --

24 A Okay.

25 Q -- um, have you personally had any contact with

1 law enforcement officials that in any way has
2 left a bad taste in your mouth about police
3 officers generally?

4 A No.

5 Q Have you had any contacts with law enforcement
6 that, uh, have been positive in nature? They've
7 helped you either, um, solve a crime for which
8 you may have been a victim or, uh, maybe just
9 helped on -- on some citizen call that you might
10 have made?

11 A I have to answer no to that. Um, if I could preface
12 some of it?

13 Q Sure. Go ahead.

14 A I'm a member of the Calumet County Fair Board. Every
15 Labor Day weekend I was in charge of cleaning the
16 restrooms for the fair. The police officers patrol
17 the grounds all night. My contact with some of them
18 have been through the course of the evening, sitting
19 and having a cup of coffee at three o'clock in the
20 morning when we were finished.

21 Q Okay.

22 A You know, all of those are positive things.

23 Q Would that be Calumet County Sheriff's, uh,
24 Officers, or city of Chilton officers, or both
25 that --

1 A Both.

2 Q -- would help with that? Are you familiar with,
3 uh, the former chief, uh, Mr. Albeyll, from
4 Chilton?

5 A Yes, I am.

6 Q And would those, uh, contacts have been positive
7 as well?

8 A Definitely.

9 Q Now, Ms. Barber, you had, uh, mentioned quite
10 candidly in your responses that your son had had,
11 uh, a legal problem or run-in with the law?

12 A Okay. I had two different sons.

13 Q Two different sons?

14 A Two different counties.

15 Q Two different counties, two different run-ins?

16 A Yes.

17 Q Let's talk about, uh, the one that you mentioned
18 here. There was a -- a burglary, uh, conviction?
19 Uh, which, uh --

20 A That was my youngest son.

21 Q Your youngest? And about how long ago did that
22 happen?

23 A Oh, I'm going to say 18 years.

24 Q So quite a long time ago?

25 A Yeah. He was -- he just turned 18 and you know how

1 stupid they can be at --

2 Q I do.

3 A -- 18.

4 Q I have a --

5 A Me, too.

6 Q -- 19-year-old son. What, uh -- what county did
7 that occur in?

8 A Calumet.

9 Q And the, um, prosecution, um, since it was 18
10 years ago, um, may have been actually just before
11 I became district attorney, Mr. Poppy was
12 probably the D.A. then?

13 A Yes, he was.

14 Q Is there anything about that prosecution, uh,
15 that you felt your son was treated unfairly or
16 anything -- anything like that?

17 A Um, well, I felt the kid that was in it -- it with
18 him should have gotten a little harsher. The kid
19 with him was only 17 and he got slapped on the hand
20 and --

21 Q Well, since I wasn't involved, I'm going to ask
22 you a very, uh, direct question. The fact that,
23 um, my predecessor, the former district attorney,
24 was involved in that case, would you in any way
25 hold that prosecution against our case here?

1 That is, against either me --

2 A No, not at all.

3 Q -- or our --

4 A I didn't hold it against the Court either. You know,
5 he -- he deserved what he got. I just felt it should
6 have gone a little further.

7 Q I understand. There was also, um, at least after
8 his conviction, you mentioned some, uh,
9 misunderstanding or some problem with his
10 receiving, um, Huber or --

11 A No.

12 Q -- work release privileges?

13 A Other son.

14 Q Oh, we're on the different case?

15 A Exactly.

16 Q All right. Let me just finish up with your
17 youngest son. Was there --

18 A All right.

19 Q -- anything else -- you'll have to wait until I'm
20 done talking. She can't take down both of us at
21 the same time.

22 A Okay.

23 Q Is there anything about your youngest son's
24 conviction, um, that, uh, was either handled
25 inappropriately, uh, or after his, um,

1 supervision or contact with law enforcement that
2 you feel was handled inappropriately?

3 A No, I don't.

4 Q All right. You said that there was another son
5 that was involved in something?

6 A Yes my --

7 Q And --

8 A -- second. That was Manitowoc County.

9 Q What kind of case was that?

10 A That was, um, drunken driving, fleeing.

11 Q About how long ago was that, Ms. Barber?

12 A Fifteen years.

13 Q Did that result in a conviction?

14 A Yes.

15 Q And did it result in any kind of a punishment for
16 your second son?

17 A He -- nine months in jail.

18 Q Is there anything about that investigation or
19 prosecution that you believe was inappropriately
20 handled?

21 A No.

22 Q By the way, each of these sons, have they, um,
23 for lack of a better turn -- uh, term,
24 straightened themselves out and doing well now?

25 A Yes, they have.

1 Q Okay. Any other law enforcement contacts either
2 positive or negative that you think that we
3 should know about to consider whether or not you
4 should serve on this jury?

5 A That would be the only --

6 Q Um, you consider yourself a -- a detail-oriented
7 person? Do you make a lot of lists?

8 A No.

9 Q So you're more of a big picture --

10 A Apparently.

11 Q Ms. Barber, are you aware -- and I think that
12 you've mentioned that you are -- at least
13 generally familiar with some TV shows that deal
14 with, uh, crime scene investigations; *C.S.I.*, or,
15 um, shows like that; is that correct?

16 A Right.

17 Q Do you enjoy that kind of topic?

18 A Yes, I do.

19 Q You must be familiar, then, with a kind of
20 forensic identification which is called DNA
21 evidence; is that right?

22 A Right.

23 Q From what you've read, or what you've known, or
24 what you've seen on TV, do you believe that to be
25 generally a, uh -- a -- a --

1 scientifically-accepted principle? In other
2 words, you think that that's an accurate way for
3 identification in crime scene-type cases?

4 A Yes, I do.

5 Q Anything that you've learned about DNA analysis,
6 uh, or DNA testing that you at all question those
7 results?

8 A No.

9 Q Are you familiar with Mr. Avery at all, and his
10 past?

11 A Um, from originally, that would be about it. Um,
12 when it first -- when he first got let out of jail
13 and --

14 Q Tell me about that. What do you remember?

15 A That, um, he was wrongfully convicted, spent 18 years
16 in prison, and then, finally, was able to be let out.
17 I'm not sure I remember what came up that -- I think
18 the person who identified him said he was the wrong
19 person or something. I'm not real familiar with -- I
20 just remember him going on the Channel 11's makeover,
21 and getting his hair cut, and --

22 Q All right.

23 A -- spruced up.

24 Q Do you remember that, uh, wrongful conviction, or
25 his exoneration, that is, his release in that

1 case, was the result of DNA evidence?

2 A Now that you mention it, yes.

3 Q All right. And, generally, at least that concept
4 of, uh, exonerating people that are wrongfully
5 convicted, do you believe that to be a good
6 thing?

7 A Yes, I do.

8 Q Are you familiar with something called the
9 Innocence Project?

10 A That's the group out of Madison that investigates
11 certain crimes?

12 Q Investigates, uh, people that they believe have
13 been wrongfully accused or convicted?

14 A Okay. Yes. I -- I have heard of it.

15 Q All right. Ms. Barber, since this would be a
16 six-week trial, do you have any concerns that
17 sitting on this jury would cause you some
18 financial or other kind of hardship?

19 A No.

20 Q Uh, would your company continue to pay you if you
21 had to sit on this jury?

22 A Oh, yes.

23 Q Last question, and this is, I guess, more a -- of
24 a general question than something specific, but
25 is this something -- something that you want to

1 do? Is this a jury you'd like to serve on?

2 A Yes, I would.

3 Q Can you tell me why?

4 A I just feel I'm open-minded enough, um, to hear all
5 the facts. I -- I feel I was fair with pretty much
6 everything I do.

7 Q So you believe that you'd be able to evaluate
8 both sides, you'd be able to evaluate the
9 evidence, listen to the witnesses' testimony,
10 attribute whatever weight you think it deserved,
11 and make a reasonable decision?

12 A Yes, I do.

13 ATTORNEY KRATZ: That's all the
14 questions I have, Judge. Thank you.

15 THE COURT: Mr. Strang?

16 ATTORNEY STRANG: Thank you.

17 **VOIR DIRE EXAMINATION**

18 BY ATTORNEY STRANG:

19 Q And thank you for coming in. My name is Dean
20 Strang, and --

21 A Hi, there.

22 Q -- this is Jerome Buting -- and --

23 A Hi.

24 Q -- Steven Avery, uh, after his makeover. Um --

25 A Yeah.

1 Q And, uh, I -- I, too, appreciate you coming in,
2 probably sitting around for a good bit of time
3 waiting for us.

4 Um, easy one first, and I'm probably
5 being way too cautious on this, but you're on the
6 Manitowoc side of the county line?

7 A Yes.

8 Q You live in Manitowoc County?

9 A Yes.

10 Q Okay. Um, and -- and yet, you're -- you --
11 you're clearly very involved, still, in civic
12 life in Chilton, uh, Calumet --

13 A Yes.

14 Q -- County? Uh, tell me a little bit about that.
15 How that came -- comes to be?

16 A The Calumet County Fair Board?

17 Q Um-hmm.

18 A Well, all you had to be was a stockholder in the fair
19 association to become on the board of directors, and
20 I just felt it was something I enjoyed doing. Taking
21 part in the fair, and --

22 Q Sure.

23 A -- putting my input in where I could -- I actually
24 thought I did a good job.

25 Q Okay. Any -- any particular responsibility on

1 the board for one aspect of the annual fair or
2 not?

3 A Well, I was in charge of the restroom cleaning.

4 Q Uh-huh.

5 A And, if -- my judge of going to other fairs, and
6 everybody has to use the restroom, half the time you
7 don't want to walk into them. I made it my point
8 that people weren't going to shy away because it was
9 not clean. So --

10 Q You got it. Um, and you graduated from Chilton
11 High School?

12 A Yes, I did.

13 Q How long did you spend living in the Chilton
14 area?

15 A I moved into the Manitowoc/Valders area in '89, so up
16 until --

17 Q Up until then --

18 A Right.

19 Q -- did you live right in Chilton or --

20 A Yes, I did.

21 Q Okay. Um, do you have any grandkids?

22 A Seven.

23 Q How old is the oldest?

24 A Nineteen.

25 Q And the youngest?

1 A She was a year in June.

2 Q Okay. Uh, is -- is the 19-year-old a -- a young
3 man or young woman?

4 A Young woman.

5 Q Uh, in the area? All -- all seven of them?

6 A She goes to, um, cosmetology school in Appleton.

7 Q Uh-huh. And, um, you noted here that your, um --
8 your husband has a chronic health condition that,
9 you know, often can be controlled by medication
10 or diet?

11 A Right.

12 Q Um, does that give you any concern about being
13 away from the home eight hours a day or nine
14 hours a day?

15 A No. No. In fact, Sunday he leaves for South
16 Carolina for a week. He's a construction
17 millwright --

18 Q Oh.

19 A -- so they send him all over the country. He pretty
20 much is okay.

21 Q Oh.

22 A Yeah.

23 Q Okay. I -- I just -- I just wanted to be sure.

24 A I'm sorry. I --

25 Q You know, we -- this can be -- I mean, being on

1 a -- on a jury is something of a hardship, but
2 there should be a limit to --

3 A Right.

4 Q -- just how much of a hardship. Um, active in
5 your union --

6 A Yes.

7 Q -- obvious, I think?

8 A Well, I was an officer in my union. I still am a
9 union member.

10 Q Um-hmm. Have you ever been a steward?

11 A I was the financial officer, and on the bargaining
12 committee, and safety committee, and I was -- well,
13 being on the bargaining committee, I was a steward,
14 so -- same --

15 Q One -- one in the same. Yeah. Okay. Um, so
16 when -- when this all first came up, when Teresa
17 Halbach disappeared, and they were looking for
18 her, and then they arrested Steven Avery, um,
19 did -- did you follow this pretty closely at the
20 time?

21 A No.

22 Q Okay.

23 A Not really. I -- the names were unfamiliar --

24 Q Sure.

25 A -- and I guess it wasn't something that I really took

1 an interest in.

2 Q Okay. And that -- that's sort of what I'm
3 exploring. I mean, some people might react to
4 this as a mom, or as a grandmother, others not
5 react to it at all if it's not connected, and I'm
6 just -- I'm just trying to gauge how much you
7 sort of plugged into -- into this?

8 A Well, pretty much not much.

9 Q Um-hmm.

10 A I mean, un -- unless it's, I guess, something that
11 directly involves me, I guess I -- I can hear it and
12 just -- no, it's -- it's nothing that I followed that
13 close.

14 Q Okay.

15 A I mean, I didn't go out of my way to grab a newspaper
16 article and read it or make it a point that that's
17 where I had to be, in front of the television, and --

18 Q Got it.

19 A -- usually had something better.

20 Q Okay. No, I -- I've got it. I just --

21 A Okay.

22 Q Um, now, by the same token, you know, here it is
23 more than a year later, he's here, we're in
24 court, do you assume he's probably guilty? Do
25 you assume he's probably innocent? Do you have

1 any --

2 A I really have no judgment on that at all. I -- I
3 never really looked at it in the way -- one way or
4 another. It's -- it's something that I guess needed
5 to be proved first.

6 Q Well, why is he here if he didn't do something
7 wrong?

8 A Well, that's what I'd like to know.

9 Q Okay. And, in finding that out, I mean, you
10 know, of course you'd like to know that --

11 A Right.

12 Q -- and finding that out, whose job is that to
13 show you? Their's? Mine? Both?

14 A I would think both. I -- I feel both sides really
15 should present everything.

16 Q Um-hmm. Um, very natural feeling. And you're --
17 now, you're walking into a legal system that has
18 some different rules for nearly ancient or at
19 least five or six hundred years worth of reasons,
20 I guess, um, and I think Judge Willis will tell
21 you, and I'm quite confident he'll tell you, that
22 in a criminal case like this it's actually just
23 the State that has the burden of proof. The
24 lawyers at this table. They -- they have the
25 only burden of proving anything, and they have to

1 prove Mr. Avery guilty beyond a reasonable doubt
2 if they can.

3 A Okay.

4 Q Um, we don't have to prove him innocent.

5 A Okay.

6 Q Can you accept that and live with those rules?

7 A Sure. It's a rule.

8 Q It -- it is a rule. And the question is whether
9 you would resist that or, in the end, not be able
10 to follow that for --

11 A No, I feel that's -- if that's the rule, and that's
12 what needs to be done, that's what should be done
13 then.

14 Q Right. And I'm -- I'm only predicting what the
15 Court's going to tell you. I mean, in the end,
16 the Court's going to give you the rules, not me.

17 A Okay.

18 Q Um, just trying to predict, since I've been doing
19 this for awhile. Um, and, um, you know, another
20 rule in that respect that we would have to know
21 that you can live with, and I think you've
22 already told me you -- you can and you do, is
23 that he's presumed innocent. That is, Steve
24 Avery is.

25 A Right.

1 Q Not just today, actually, but through this whole
2 trial, right up until the end when -- when you
3 folks, the jury, starts to deliberate.

4 A Right.

5 Q Okay. Only then do you decide what happened, but
6 you've got to presume him innocent right up until
7 you walk into the jury room and start
8 deliberating.

9 A Exactly.

10 Q Okay. Um, now, you know, there are two sides
11 here. He does have a couple of lawyers, and
12 we're not going to just sit here, although we
13 could, under the law. Um, so if we cross-examine
14 the State's witnesses, will you listen to their
15 answers when Jerry Buting or I are asking them
16 questions just as when the prosecutors are?

17 A Yes.

18 Q Weigh it the same?

19 A Yes.

20 Q How about if we actually call witnesses of our
21 own as defense witnesses? Will you consider
22 Mr. Avery's evidence just as you would the
23 State's?

24 A Yes, I would.

25 Q Um, and the same would be true if they

1 cross-examine our witnesses? Will you listen to
2 the answers given when they ask questions?

3 A Yes.

4 Q Okay. The toughest call on -- on a witness would
5 be Mr. Avery, himself. Uh, and here's, again, an
6 area where there's specific rules. Um, because
7 there are a whole variety of reasons, even an
8 innocent person might not testify. Um, if
9 Mr. Avery decided not to testify, I think the
10 Court will tell you that you can't consider that
11 at all as any evidence of guilt or even consider
12 it at all in deciding whether the State has
13 proven him guilty beyond a reasonable doubt. Can
14 you do that?

15 A Yes.

16 Q Even if you don't hear the other side of the
17 story straight from the horse's mouth, so to
18 speak?

19 A Yes.

20 Q Um, do you understand that there -- there may be
21 a variety of reasons why an innocent person would
22 not testify in his own defense?

23 A Yes, I do. I -- because I watch *C.S.I.* --

24 Q Um-hmm.

25 A -- any, really, court dramas, um, like *S.H.A.R.K.*, I

1 mean, he's a -- portrayed as an excellent D.A. They
2 bring out the fact that defendants do not need to
3 talk --

4 Q Um-hmm.

5 A -- or say anything. And I guess that's -- I accept
6 that.

7 Q Okay. Um -- And I don't -- I don't watch a lot
8 of these shows, actually, but the one I tune into
9 once in a while is *Law and Order*, and it strikes
10 me, and see if you share the same experience,
11 basically the storylines in *Law and Order* are
12 either the guilty guy gets convicted or the
13 guilty guy gets off somehow?

14 A Yeah.

15 Q I don't see a lot of storylines with innocent
16 guys. Um, I don't know about *C.S.I.* or --

17 A Well, the -- *C.S.I.* never goes into court. I was
18 trying --

19 Q Sure.

20 A -- to pick one out that I watch.

21 Q Ab -- absolutely. And I -- I just -- I guess is
22 there room in your mind for an innocent man being
23 wrongly charged?

24 A Oh, sure.

25 Q And in that regard, you paused for a little bit

1 when Mr. Kratz asked you, um, whether you think
2 exonerating wrongfully convicted people is a good
3 thing or not. You paused and you gave --

4 A Well, I had to think about that.

5 Q Yeah.

6 A You know, it's -- it's one of those, hmm, and then
7 you think about it a minute, and, yes. That's --

8 Q Is -- is -- I mean, would the concern be that
9 somebody not get out on just a technicality?

10 A Oh, definitely. It's --

11 Q But if -- if someone was truly, actually
12 innocent, I -- I take it you would not want them
13 sitting in prison --

14 A Right.

15 Q -- for a crime they actually didn't do?

16 A Exactly.

17 Q So, I mean, in his situation where the DNA proved
18 that a specific other man actually did the rape,
19 not him, it excluded him and showed who did do
20 the rape --

21 A Right.

22 Q -- you would want somebody like that, I assume,
23 to get out of prison that day; right?

24 A Yes.

25 Q Okay.

1 A And I -- actually, when it came out, I was -- I was
2 glad to hear it, you know, that everything was
3 justified, that they were able to do something like
4 this for him.

5 Q Right. Okay. And did -- did you hear about the
6 lawsuit that he filed after getting out?

7 A I -- I heard something about it. I -- it's probably
8 like the rest of the -- I wasn't involved. The
9 name's not familiar.

10 Q But did the -- did the sympathy stick with him or
11 go away when you found out that he filed a
12 lawsuit to try to get some money for that?

13 A Well, to me it would be only fair, that if he was
14 wrongly convicted of something, to -- to lose 18
15 years of pay. It's only fair that he gets the chance
16 to make it up.

17 Q I hear the union steward.

18 A I'm sorry.

19 Q No. No. Um, not at all. Um, um, you'll hear a
20 lot of law enforcement officers, um, testify
21 here, um, maybe for both sides, but -- but
22 regardless who calls them, you know, there are a
23 lot of law enforcement officers testify. I will
24 ask, and I think the Court will instruct you,
25 that in weighing the testimony of a police

1 officer or a law enforcement officer, um, to
2 consider that person's testimony just like you
3 would any other human being who took the witness
4 stand. Can you do that?

5 A Oh, yes. I mean they're human. They're human
6 beings.

7 Q Right. I --

8 A Okay.

9 Q Exactly.

10 A That's --

11 Q Any -- any witness here will be, and, um, I --
12 you would hope that every witness would tell the
13 truth under oath?

14 A Yes.

15 Q Um, but is a law enforcement officer any more
16 likely to honor that oath than anyone else who
17 does some other line of work?

18 A It shouldn't be. Everyone who takes an oath to tell
19 the truth should be telling the truth --

20 Q Right.

21 A -- no matter who they are.

22 Q And in -- can you look beyond the badge and --

23 A Oh, yes.

24 Q -- and decide, do I believe this? Does it make
25 sense? Is there a reason this person might or

1 might not lie? And consider every witness in
2 that way, including police officers?

3 A Oh, yes.

4 Q What -- what, if anything, have you heard about a
5 blood vial? A vial of blood that may be at issue
6 in this case?

7 A That -- if it came up, it came up after I got my
8 paper from the courthouse, and I -- I have a mute
9 button on my TV that's getting a real healthy
10 workout.

11 Q Okay. So you -- the answer is you just don't
12 know anything at all about it?

13 A No, I don't.

14 Q Okay. All right. Um, last sort of question or
15 two, um, you work with a number of people at
16 Worthington?

17 A Yes, I do.

18 Q Um, whatever your verdict would be, if you -- if
19 you serve on this jury, when you go back to work,
20 my guess is there are going to be people -- be
21 people who think you did the right thing, and
22 people who are not very happy with you.

23 A Right.

24 Q How are you going to deal with that?

25 A Well, I'll put it this way, I work the fifth shift at

1 either favorably inclined or unfavorably inclined
2 based on your acquaintance with him --

3 A Right.

4 Q -- which I gather is not close, but you know who
5 he is?

6 A Right.

7 Q Uh, if you're selected as a juror, would you give
8 any more or less weight to his testimony should
9 he be called to testify?

10 A I wouldn't give more or less.

11 THE COURT: Thank you. The, uh, clerk
12 will --

13 ATTORNEY STRANG: I -- I'm sorry. I --
14 I -- I had one followup --

15 THE COURT: Okay.

16 ATTORNEY STRANG: -- on that.

17 **VOIR DIRE EXAMINATION**

18 BY ATTORNEY STRANG:

19 Q I think you just moved to Valders in 1989?

20 A Yes.

21 Q Did you -- did you know former Police Chief
22 Wiegert?

23 A No.

24 Q Okay.

25 A No. Actually, I don't know my neighbors either.

1 Q Okay.

2 THE COURT: Um, Linda will escort you from
3 the courtroom at this time.

4 (Wherein juror is escorted out)

5 THE COURT: Counsel, any motion from either
6 party?

7 ATTORNEY KRATZ: No.

8 ATTORNEY STRANG: No, Your Honor.

9 THE COURT: All right. If not, the Court
10 will accept Ms. Barber as a juror. We'll take our
11 afternoon break at this time and resume at, uh, five
12 after three. Uh, in two minutes I'd like to see the
13 counsel in my chambers.

14 ATTORNEY BUTING: What time af -- after
15 three?

16 THE COURT: Five after.

17 (Recess had at 2:45 p.m.)

18 (Conclusion of reporting by Jennifer Hau)

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1 STATE OF WISCONSIN)
)SS.
2 COUNTY OF MANITOWOC)

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I, Jennifer K. Hau, Official Court Reporter for Circuit Court Branch 3 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 ____ day of _____, 2007.

Jennifer K. Hau, RPR
Official Court Reporter

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