

1 MR. RICHARD MERSON.

2 THE COURT: DO ANY OF YOU KNOW EITHER OF THE  
3 ATTORNEYS IN THIS CASE, OR THE DEFENDANT? IF SO  
4 PLEASE RAISE YOUR HANDS.

5 DO ANY OF YOU KNOW THE WITNESSES ANNOUNCED  
6 IN THIS CASE? IF SO, PLEASE RAISE YOUR HANDS.

7 YES, MA'AM?

8 MS. THOMPSON: I KNOW OFFICER SCOTT WITH THE  
9 ORLANDO POLICE DEPARTMENT.

10 THE COURT: AND YOU'RE MARY THOMPSON?

11 MS. THOMPSON: YES, SIR.

12 THE COURT: ANYONE ELSE?

13 MR. BENDER: THAT WOULD BE OFFICER DAVE SCOTT.

14 MS. THOMPSON: OKAY. I DON'T KNOW HIM.

15 THE COURT: THIS IS A DIFFERENT OFFICER SCOTT?

16 MS. THOMPSON: (NODS HEAD)

17 THE COURT: ALL RIGHT. DO ANY OF YOU KNOW OF ANY  
18 REASON WHY YOU COULD NOT SIT AS A FAIR AND IMPARTIAL  
19 JUROR ON CASE OF THIS NATURE? IF SO, PLEASE RAISE  
20 YOUR HANDS.

21 THE STATE MAY PROCEED.

22 MR. BENDER: THANK YOU, YOUR HONOR.

23 GOOD MORNING, LADIES AND GENTLEMEN. I'M  
24 GLAD WE HAD SOME VOLUNTEERS FOR JURY DUTY TODAY.

25 MY NAME IS MARK BENDER. I'M A PROSECUTOR

1 FOR THE STATE ATTORNEY'S OFFICE HERE IN ORLANDO.  
2 WE ARE HERE, AS THE JUDGE HAS SAID, TO TRY A CRIMINAL  
3 CASE AGAINST THE DEFENDANT, SCOTTY MERSON.

4 BEFORE I ASK YOU A FEW QUESTIONS, LET  
5 ME JUST PREFACE BY STATING THE PURPOSE OF OUR JURY  
6 SELECTION PROCESS TODAY IS NOT TO PROBE INTO YOUR  
7 BACKGROUNDS OR INQUIRE ABOUT YOUR PERSONAL LIFE.  
8 BUT THE PURPOSE OF JURY SELECTION IS TO ENSURE THAT  
9 MR. MERSON RECEIVES A FAIR TRIAL FROM A JURY THAT  
10 IS FAIR AND IMPARTIAL.

11 AND THAT'S SOMETIMES A RATHER HIGH STANDARD  
12 TO REACH, BUT IT'S ONE THAT WE HAVE BEEN UTILIZING IN  
13 THIS COUNTRY FOR WELL OVER TWO HUNDRED YEARS. THE  
14 JURY SYSTEM HAS ITS CRITICS, HAS ITS CYNICS, BUT IT'S  
15 BEEN WORKING FOR A NUMBER OF CENTURIES.

16 THE REASON WE ARE ASKING YOU QUESTIONS HERE  
17 TODAY IS NOT BECAUSE WE THINK SOME OF YOU MAY NOT BE  
18 ABLE TO BE JURORS. THE REASON THAT WE ARE ASKING YOU  
19 QUESTIONS HERE TODAY IS TO ENSURE THAT EACH AND EVERY  
20 ONE OF YOU, IF SELECTED, COULD JUDGE THIS CASE SOLELY  
21 ON THE MERITS AS PRESENTED AND NOT LET YOUR PERSONAL  
22 FEELINGS OR EXPERIENCES CLOUD THE SCOPE OF THIS DUTY.

23 BECAUSE, BELIEVE IT OR NOT, THE STATE IS  
24 CONCERNED THAT MR. MERSON RECEIVES A FAIR TRIAL AND  
25 PARTICULARLY ON A CASE AS SENSITIVE AND EMOTIONAL

1 AS ONE OF A SEXUAL BATTERY ON A CHILD.

2 SO IF I DO ASK YOU A QUESTION THAT YOU  
3 WOULD RATHER NOT DISCUSS AS A GROUP, WE CAN TALK TO  
4 JUDGE SPRINKEL IN PRIVATE. I DON'T ENVISION REALLY  
5 GETTING INTO THAT KIND OF DEPTH.

6 THE REASON I WOULD LIKE TO TALK -- THE  
7 FIRST THING I WOULD LIKE TO TALK ABOUT IS THREE  
8 THEORIES OF LAW. THE JUDGE HAS MENTIONED ONE.

9 WE ALL KNOW THAT ANYONE CHARGED WITH A  
10 CRIME IN THIS COUNTRY IS PRESUMED INNOCENT UNTIL  
11 PROVEN GUILTY. THIS IS A STANDARD BY WHICH WE HAVE  
12 LED THIS COUNTRY INTO DEMOCRACY. AND IT'S SOMETHING  
13 I HOLD DEAR, AND I'M SURE ALL OF YOU DO, AS WELL.

14 THE PRESUMPTION OF INNOCENCE STAYS WITH  
15 THE DEFENDANT UP TO AND UNTIL ALL OF THE EVIDENCE HAS  
16 BEEN PRESENTED AND YOU HEAR THE JUDGE'S INSTRUCTIONS  
17 ON THE LAW THAT APPLIES TO THIS PARTICULAR CASE, AND  
18 THEN YOU RETIRE TO DELIBERATE.

19 THAT PRESUMPTION OF INNOCENCE IS ATTACHED  
20 RIGHT NOW. THE INFORMATION THAT THE JUDGE READ TO  
21 YOU IS MERELY AN ACCUSATORY DOCUMENT CHARGING MR. MERSON  
22 WITH A CRIME. IT IS NOT EVIDENCE.

23 I'M SURE THAT ALL OF YOU UNDERSTAND THAT  
24 CONNECTED VERY CLOSELY TO THIS THEORY OF PRESUMPTION  
25 OF INNOCENCE IS WHAT WE CALL BURDEN OF PROOF.

1 TO OVERCOME THE PRESUMPTION OF INNOCENCE,  
2 THE STATE MUST PRESENT EVIDENCE SUFFICIENT TO OVERCOME  
3 THE PRESUMPTION OF INNOCENCE. AND THAT IS WHAT WE  
4 CALL THE BURDEN OF PROOF. AND IT IS THE STATE'S  
5 BURDEN ALONE TO OVERCOME THAT PRESUMPTION OF INNOCENCE.

6 DOES EVERYONE UNDERSTAND THAT THE STATE MUST  
7 PROVIDE EVIDENCE TO YOU AND THE DEFENDANT, MR. MERSON,  
8 AND HIS ATTORNEY NEED NOT PRESENT ANY EVIDENCE?

9 DOES EVERYONE UNDERSTAND THAT? RAISE YOUR  
10 HANDS PLEASE.

11 PROSPECTIVE JURORS: (INDICATING)

12 MR. BENDER: THE THIRD THEORY IS WHAT WE CALL  
13 THE BURDEN OF REASONABLE DOUBT; OR, TO PUT IT ANOTHER  
14 WAY, THE STATE MUST OVERCOME THE PRESUMPTION OF  
15 INNOCENCE BY PRESENTING EVIDENCE BEYOND AND TO THE  
16 EXCLUSION OF EVERY REASONABLE DOUBT.

17 AND UP UNTIL THAT TIME THE PRESUMPTION OF  
18 INNOCENCE STAYS WITH THE ACCUSED UNTIL IT IS OVERCOME  
19 BY EVIDENCE, THE BURDEN OF PROOF, BEYOND AND TO THE  
20 EXCLUSION OF EVERY REASONABLE DOUBT.

21 NOW, THE JUDGE WILL EXPLAIN THOSE TERMS IN  
22 GREATER DETAIL TO YOU LATER, AND YOU WILL HEAR DURING  
23 THE ARGUMENTS OF THE ATTORNEYS A LITTLE BIT MORE ABOUT  
24 THAT.

25 BUT DOES EVERYONE HAVE A GRASP AND UNDERSTAND

1           THOSE THREE CONCEPTS? BECAUSE THEY'RE VERY CRITICAL  
2           AND VERY IMPORTANT.

3                         AND JURY SELECTION IS PERHAPS THE MOST  
4           CRITICAL OF ANY TRIAL, AND IT'S IMPORTANT THAT WE  
5           UNDERSTAND THESE TRADITIONS THAT WE HAVE CARRIED IN  
6           THESE JURY PROCEEDINGS.

7                         BEFORE I BEGIN ANY QUESTIONING LET ME JUST  
8           SAY THERE ARE NO RIGHT OR WRONG ANSWERS. THERE ARE  
9           NO RIGHT OR WRONG OPINIONS HERE. WE MERELY WANT TO  
10          FIND OUT HOW YOU FEEL ABOUT THIS PARTICULAR CASE.

11                        AND IF YOU ARE NOT SELECTED AS A JUROR,  
12          PLEASE DO NOT TAKE IT PERSONALLY. IT DOES NOT IMPINGE  
13          UPON YOUR CHARACTER OR YOUR ABILITY TO SIT AS A JUROR.  
14          IT IS MERELY THAT WE WANT TO ENSURE THAT MR. MERSON  
15          RECEIVES A FAIR TRIAL. DOES EVERYONE UNDERSTAND THAT?

16                        ALSO, BECAUSE OF THE NUMBER OF YOU -- WE  
17          HAVE 36 OF YOU HERE IN THE ROOM TODAY. AND BECAUSE  
18          OF THE LIMITED TIME I MAY NOT BE ABLE TO TALK WITH  
19          EACH AND EVERY ONE OF YOU.

20                        AND A LOT OF PEOPLE ARE GOING TO SAY, "HOW  
21          ARE YOU GOING TO FIND OUT HOW I FEEL, MR. BENDER, IF  
22          I DON'T TALK WITH YOU IN A GREAT DETAIL?"

23                        IF THE QUESTION APPLIES TO YOU, IF I ASK  
24          JUST THE AUDIENCE IN GENERAL HERE, IF YOU WOULD LIKE  
25          TO ELABORATE OTHER THAN A NO OR YES ANSWER, PLEASE

1 FEEL FREE TO INTERRUPT ME IF YOU FEEL YOU WOULD LIKE  
2 TO DISCUSS SOMETHING ON AN ISSUE THAT WE ARE TALKING  
3 ABOUT.

4 I KNOW IT'S SOMETIMES AWKWARD, AND WE DON'T  
5 LIKE TALKING IN FRONT OF GROUPS THAT MUCH. BUT THIS  
6 IS A TIME THAT YOU NEED TO LET US KNOW HOW YOU FEEL.  
7 YOU NEED TO LET US KNOW IF YOU HAVE A PARTICULAR  
8 BELIEF ABOUT SOMETHING.

9 WOULD EVERYONE AGREE TO DO THAT?

10 PROSPECTIVE JURORS: YES.

11 MR. BENDER: WONDERFUL.

12 THIS CASE INVOLVES A SEXUAL BATTERY ON  
13 A CHILD UNDER THE AGE OF 12. I'M SURE IMMEDIATELY,  
14 WHEN THE JUDGE READ THAT CHARGE TO YOU, A LOT OF  
15 PEOPLE HAD THAT KNOTTED IN THEIR STOMACH. BECAUSE  
16 IT EVOKES A LOT OF EMOTION.

17 ANYONE HERE, BECAUSE OF THE NATURE OF  
18 THE CHARGE, FEELS THAT THEY COULD NOT BE FAIR AND  
19 IMPARTIAL; THAT THE NATURE OF THE CHARGE, FOR WHATEVER  
20 REASON, YOU WOULD FEEL UNCOMFORTABLE ABOUT SITTING  
21 IN JUDGMENT OR SITTING IN TRIAL TODAY AND TOMORROW?  
22 FOR ANY REASON WHATSOEVER?

23 PROSPECTIVE JURORS: (NO RESPONSE)

24 MR. BENDER: ANYONE? YES, MA'AM?

25 MS. LUNDSKOW: I DON'T KNOW. I WOULD WANT TO

1 BE, BUT I DON'T KNOW IF I COULD.

2 MR. BENDER: YOU ARE MISS LUNDSKOW?

3 MS. LUNDSKOW: LUNDSKOW.

4 MR. BENDER: DO YOU FEEL YOU WOULD BE UNABLE TO? ✓

5 MS. LUNDSKOW: WELL, I WANT TO BE. AND I THINK ✓  
6 OF MYSELF AS AN OPEN-MINDED PERSON. BUT I WAS VIOLATED ✓  
7 AS A CHILD, AND I'M -- I JUST DON'T KNOW IF I COULD. ✓

8 MR. BENDER: DO YOU FEEL THAT YOU WOULD BE YOU  
9 WOULD PREFER NOT TO SIT? DO YOU THINK BECAUSE OF  
10 WHAT HAS HAPPENED IN YOUR PAST, THAT IT MIGHT MAKE  
11 YOU BE UNABLE TO PUT THAT ASIDE AND BE FAIR AND  
12 IMPARTIAL IN THE CASE TODAY?

13 MS. LUNDSKOW: I WOULD TRY TO BE, BUT I DON'T  
14 KNOW HOW MUCH IT WOULD COLOR IT.

15 MR. BENDER: OBVIOUSLY, YOU UNDERSTAND THAT  
16 THIS CASE TODAY DOES NOT INVOLVE ANYTHING THAT HAS  
17 HAPPENED TO ANY OF US IN THE PAST. AND THAT IDEALLY,  
18 THEORETICALLY, WE WANT TO BE ABLE TO PUT BLINDERS  
19 ON, IN ESSENCE, NOT TO LEAVE OUT OUR COMMON LIFE  
20 EXPERIENCE, BUT WE WANT TO NOT LET THAT INFLUENCE  
21 US ON THIS PARTICULAR CASE.

22 BECAUSE EACH CASE HAS ITS OWN EVIDENCE AND  
23 IT'S OWN PARTICULAR SET OF FACTS. DO YOU THINK YOU  
24 WOULD BE ABLE TO PUT THAT ASIDE AND LISTEN ONLY TO  
25 THE EVIDENCE, OR DO YOU FEEL THAT YOU WOULD BE UNABLE

1 TO?

2 MS. LUNDSKOW: I THOUGHT I MADE THAT CLEAR.  
3 I WANT TO, AND I'M GOING TO REALLY STRIVE TO DO THAT.

4 MR. BENDER: I UNDERSTAND.

5 MS. LUNDSKOW: BUT I JUST FEEL LIKE I SHOULD BE  
6 FAIR WITH YOU AND LET YOU KNOW THAT I HAVE EMOTIONS  
7 ABOUT THIS.

8 MR. BENDER: I UNDERSTAND. AND I'M NOT TRYING ✓  
9 TO REITERATE THE SUBJECT. BUT I WANTED TO MAKE SURE.  
10 YOU'VE NOT REALLY STATED UNEQUIVOCALLY THAT YOU WOULD  
11 BE FAIR AND IMPARTIAL. YOU SEEM TO HAVE SOME DOUBT  
12 IN YOUR MIND.

13 AND THAT'S OKAY. I'M NOT BEING CRITICAL.  
14 BUT WE WANT TO MAKE SURE THAT YOU WOULD BE ABLE TO  
15 PUT THAT ASIDE. AND YOU'VE TOLD ME THAT YOU COULD,  
16 AND I APPRECIATE THAT.

17 THE COURT: HER STATEMENT WAS SHE WOULD TRY. ✓

18 SO I JUST WANT TO MAKE CERTAIN WE'VE GOT  
19 AN UNDERSTANDING HERE; THAT YOU WOULD DO YOUR BEST  
20 TO TRY TO SET THAT ASIDE?

21 MS. LUNDSKOW: RIGHT.

22 MR. BENDER: THANK YOU, MISS LUNDSKOW. ✓

23 IS IT MRS. NELSON?

24 MS. NELSON: YES.

25 MR. BENDER: HOW ARE YOU TODAY?



1 MS. NELSON: FINE, THANKS.

2 MR. BENDER: IS THERE SOMETHING THAT MIGHT CAUSE  
3 YOU A PROBLEM?

4 MS. NELSON: EVENTS IN MY CHILDHOOD.

5 MR. BENDER: SAME QUESTIONS THAT I ASKED  
6 MISS LUNDSKOW. DO YOU FEEL THAT YOU WOULD BE UNABLE  
7 TO BE FAIR AND IMPARTIAL IF YOU WERE SELECTED?

8 MS. NELSON: HONESTLY, I COULD NOT.

9 MR. BENDER: YOU COULD NOT?

10 MS. NELSON: NO.

11 MR. BENDER: THANK YOU VERY MUCH. I APPRECIATE  
12 YOUR HONESTY.

13 IS THERE ANYONE ELSE? OUT OF 36 PEOPLE  
14 ONLY TWO HAVE SOME PROBLEM?

15 MR. ROSCOE SMITH: I HATE TO TO SAY ONE WAY OR  
16 THE OTHER.

17 MR. BENDER: WELL, CERTAINLY JURY SERVICE IS A  
18 DIFFICULT TASK. IT'S ONE THAT YOU'RE CALLED UPON TO  
19 LEAVE YOUR FAMILY, YOUR FRIENDS AND YOUR EMPLOYER AND  
20 COME DOWN AND SIT. AND THOSE THAT ARE SELECTED HAVE  
21 TO DECIDE SOME VERY DIFFICULT CASES.

22 THERE'S NO QUESTION THAT THIS IS NOT GOING  
23 TO BE A DAY AT THE PARK OR A FUN EXPERIENCE, NECESSARILY.  
24 BUT IT'S ONE THAT IS REQUIRED AND NECESSARY.

25 SO I'M NOT SAYING IT'S GOING TO BE AN

1 ENJOYAABLE EXPERIENCE, BUT IT'S CERTAINLY GOING TO BE  
2 ONE THAT IS GOING TO REQUIRE YOUR UNDIVIDED ATTENTION  
3 AND YOUR CONCENTRATION. AND SOMETIMES THOSE THINGS  
4 ARE DIFFICULT TO DO BECAUSE OF THE NATURE OF THE CASE.

5 IS THERE ANYONE HERE THAT HAS A CHILD, OF  
6 WHATEVER AGE? WHO, HERE, HAS CHILDREN?

7 PROSPECTIVE JURORS: (INDICATING)

8 MR. BENDER: HAS ANYONE HERE EVER HAD YOUR CHILD  
9 TELL YOU A LIE? THAT WAS SORT OF AN OBVIOUS QUESTION.

10 WHO HERE BELIEVES THAT AS A GENERAL RULE,  
11 HOWEVER, THAT CHILDREN GENERALLY TELL THE TRUTH? WHO  
12 HERE BELIEVES THAT CHILDREN GENERALLY TELL THE TRUTH?

13 PROSPECTIVE JURORS: (INDICATING)

14 MR. BENDER: AGAIN, THERE'S NO RIGHT OR WRONG  
15 OPINION OR ANSWER.

16 AND THIS IS, AGAIN, A GENERAL QUESTION TO  
17 THE ENTIRE PANEL: DO YOU BELIEVE THAT KIDS TEND TO  
18 BE TRUTHFUL WHEN THEY REPORT OR DISCLOSE SEXUAL ABUSE?  
19 WHO HERE BELIEVES THAT THEY ARE GENERALLY TRUTHFUL?

20 PROSPECTIVE JURORS: (INDICATING)

21 MR. BENDER: DOES EVERYONE UNDERSTAND MY QUESTION?  
22 WHO HERE BELIEVES THAT CHILDREN REPORT BEING SEXUALLY  
23 ABUSED BY AN ADULT; THAT THEY ARE GENERALLY BEING  
24 TRUTHFUL?

25 PROSPECTIVE JURORS: (INDICATING)

1 MR. BENDER: JUST ABOUT EVERYBODY.

2 CERTAINLY, CHILDREN DO LIE. BUT WOULD YOU  
3 ALL AGREE THAT ADULTS LIE, AS WELL?

4 PROSPECTIVE JURORS: (INDICATING)

5 MR. BENDER: SO, PERHAPS, LET ME ASK THE QUESTION  
6 TO AN INDIVIDUAL.

7 MISS -- IS IT --JUNG?

8 MS. JUNG: JUNG.

9 MR. BENDER: DO YOU THINK THAT CHILDREN LIE MORE  
10 THAN ADULTS?

11 MS. JUNG: I THINK THEY WILL EXAGGERATE THE TRUTH,  
12 OR NOT THE TRUTH. BUT I THINK THAT ADULTS WILL LIE.

13 MR. BENDER: DO YOU THINK ADULTS ARE MORE PRACTICED  
14 IN THE ART OF DECEPTION?

15 MS. JUNG: I THINK THEY KNOW WHEN THEY'RE LYING.  
16 I DON'T THINK CHILDREN KNOW, NECESSARILY, WHEN THEY  
17 ARE TELLING A LIE. I THINK ADULTS KNOW WHEN THEY ARE  
18 TELLING A LIE.

19 MR. BENDER: ADULTS KNOW, THEMSELVES?

20 MS. JUNG: OH, THEY KNOW WHEN THEY'RE TELLING  
21 A LIE.

22 MR. BENDER: AS WE GROW UP DO WE BECOME BETTER  
23 AT DECEIVING? LIKE IF I ASK YOU, "DO YOU LIKE MY  
24 TIE?" AND YOU GO TO YOURSELF, "IT'S AN AWFUL TIE."  
25 BUT SOMETIMES YOU MAY SAY, "YES, THAT'S A LOVELY TIE."

1 MS. JUNG: YES. ADULTS ARE BETTER AT DECEIVING.

2 MR. BENDER: NOT NECESSARILY LITTLE WHITE, POLITE  
3 LIES, BUT THEY ACTUALLY LIE TO AVOID TROUBLE OR TO  
4 GET OUT OF SOME CONSEQUENCES. DO YOU THINK ADULTS  
5 LIE BECAUSE OF THOSE REASONS?

6 MS. JUNG: YES, I THINK ADULTS DO THAT.

7 MR. BENDER: IS THERE ANYONE HERE WHO WOULD AGREE  
8 WITH MISS JUNG'S STATEMENTS?

9 PROSPECTIVE JURORS: (NO RESPONSE)

10 MR. BENDER: WOULD EVERYONE AGREE THEN?

11 PROSPECTIVE JURORS: YES.

12 MR. BENDER: HAS ANYONE HERE EVER TESTIFIED IN  
13 COURT BEFORE, AS A WITNESS?

14 LET ME START OVER HERE. MISS BRYAN, HOW  
15 ARE YOU?

16 MS. BRYAN: I'M FINE. I TESTIFIED HERE A YEAR  
17 AGO.

18 MR. BENDER: IN THIS COURTROOM?

19 MS. BRYAN: YEAH.

20 MR. BENDER: THAT WAS A CRIMINAL CASE.

21 MS. BRYAN: YEAH. TIM TERRY WAS THE PROSECUTOR.

22 MR. BENDER: THANK YOU, MISS BRYAN.

23 AND, MR. SMITH?

24 MR. RICHARD SMITH: YES.

25 MR. BENDER: WHEN WAS THAT?

1 MR. RICHARD SMITH: 1973, '72, I'M SORRY.

2 MR. BENDER: WAS THAT A CRIMINAL CASE, AS WELL?

3 MR. RICHARD SMITH: NO, IT WAS A CIVIL CASE.

4 MR. BENDER: ANYONE ELSE?

5 MISS BRYAN, I'LL ASK YOU THIS QUESTION.

6 WERE YOU PRESENT DURING THE TESTIMONY OF ANY OTHER

7 WITNESSES, EITHER FOR THE STATE OR THE DEFENSE?

8 MS. BRYAN: NO.

9 MR. BENDER: YOU TESTIFIED AND THEN LEFT THE  
10 COURTROOM?

11 MS. BRYAN: YES.

12 MR. BENDER: MR. SMITH, WERE YOU PRESENT DURING  
13 THE TESTIMONY OF ANY OTHER WITNESSES IN YOUR CASE?

14 MR. RICHARD SMITH: YES.

15 MR. BENDER: MISS BRYAN, DO YOU THINK THAT THERE'S  
16 IN YOUR MIND -- JUST YOUR THINKING; NOT WHAT I MIGHT BE  
17 THINKING OR SOMEONE ELSE -- DO YOU THINK THAT A PERSON  
18 CAN BE CONVICTED ON A CRIME BASED ON THE TESTIMONY OF  
19 ONE WITNESS AND ONE WITNESS ALONE?

20 MS. BRYAN: I THINK IT WOULD BE DIFFICULT, BUT  
21 I THINK IT'S POSSIBLE.

22 MR. BENDER: A SITUATION WHERE SOMEONE IS WALKING  
23 DOWN THE STREET, SAY, TAKING A LATE NIGHT STROLL THROUGH  
24 THEIR NEIGHBORHOOD. MAYBE, THEY'VE HAD A LATE DINNER,  
25 AND THEY HAVE DECIDED TO WALK THE DOG OR WALK THEMSELVES.

1                   AND AS THEY'RE WALKING DOWN THE STREET --  
2                   IT'S A LATE NIGHT -- SOMEONE JUMPS OUT OF THE BUSHES,  
3                   TAKES THEIR WALLET AND RUNS OFF.

4                   THERE'S NO WITNESSES IN THE NEIGHBORHOOD  
5                   THAT SAW THE ROBBERY. AND IT IS A ROBBERY WHEN YOU  
6                   TAKE SOMETHING BY FORCE OR THREAT.

7                   YOU GOT A GOOD LOOK AT THEM. YOU CAN  
8                   IDENTIFY THIS PERSON. AND YOU CALL THE POLICE. THEY  
9                   COME TO YOUR RESIDENCE.

10                  YOU DO A DRIVE-BY, THROUGH THE NEIGHBORHOOD,  
11                  AND YOU SPOT THE PERSON THAT LOOKS LIKE THE MAN THAT  
12                  MIGHT HAVE ROBBED YOU. YOU IDENTIFY HIM THERE AT THE  
13                  SCENE; NO OTHER WITNESSES; NO OTHER PHYSICAL PIECE OF  
14                  EVIDENCE.

15                  HE'S SOMEHOW DITCHED THE WALLET. ALL HE  
16                  HAS IS THE CASH, WHICH CAN'T BE TRACED AND NO OTHER  
17                  WEAPON.

18                  DO YOU THINK YOUR TESTIMONY ALONE WOULD  
19                  BE SUFFICIENT?

20                  MS. BRYAN: NO. BUT YOU HAVE TO PROVE IT BEYOND  
21                  A REASONABLE DOUBT, AND THERE'S REALLY NO EVIDENCE  
22                  AGAINST HIM. IT'S DARK, EXCEPT FOR THE PERSON.

23                  MR. BENDER: DO YOU THINK THAT A LOT OF CRIMINAL  
24                  CASES ARE LIKE THAT, WHERE YOU HAVE ONE PERSON'S WORD  
25                  AGAINST ANOTHER?

1 MS. BRYAN: YEAH.

2 MR. BENDER: AND DO YOU THINK THAT IF I TOLD YOU  
3 THAT FLORIDA LAW DOES ALLOW FOR A CONVICTION BASED ON  
4 ONE PERSON'S TESTIMONY AND THAT A CONVICTION CAN BE  
5 OBTAINED IF THAT PERSON TESTIFIES, WOULD YOU BELIEVE  
6 THAT IT'S POSSIBLE, BASED ON THAT PERSON'S WORD AND IF  
7 YOU WATCHED THEM ON THE WITNESS STAND AND LISTENED TO  
8 THEIR CREDIBILITY?

9 MS. BRYAN: IF YOU COULD CONVINCe THE JURY BEYOND  
10 A REASONABLE DOUBT. BUT IF THERE'S DOUBT, THEN THE  
11 PERSON HAS TO BE CONSIDERED.

12 MR. BENDER: CLEARLY, YES, IF THERE'S REASONABLE  
13 DOUBT IN ANY CASE, WHETHER IT BE 20 WITNESSES OR ONE.

14 WHAT I'M SAYING IS --

15 MS. BRYAN: YES, I THINK ONE PERSON COULD.

16 MR. BENDER: IF I WAS ABLE TO IDENTIFY THAT PERSON,  
17 AND I TOLD YOU, "THAT'S THE MAN THAT POINTED THAT GUN  
18 IN MY FACE AND TOOK MY WALLET. THAT'S HIM," DO YOU  
19 THINK IF THE JURY BELIEVED THAT PERSON, THAT THAT WOULD  
20 BE SUFFICIENT TO CONVICT THAT PERSON?

21 MS. BRYAN: (NODS HEAD)

22 MR. BENDER: OKAY. WHO WOULD DISAGREE?

23 PROSPECTIVE JURORS: (INDICATING)

24 MR. BENDER: YOU DISAGREE, MR. KELEMEN?

25 MR. KELEMEN: WELL, I WOULD, I WOULD THINK THERE'S

1 MORE EVIDENCE REQUIRED.

2 MR. BENDER: WOULD YOU AGREE OR DISAGREE THAT  
3 MANY TIMES WE HAVE ONE PERSON'S WORD AGAINST ANOTHER?

4 MR. KELEMEN: I WOULD I THINK SO.

5 MR. BENDER: AND MANY TIMES THAT'S THE PROVINCE  
6 OF THE JURY TO MAKE THOSE DETERMINATIONS.

7 CREDIBILITY, AS THE JUDGE WILL EXPLAIN TO  
8 YOU LATER, IS PERHAPS THE SINGLE GREATEST CRITERIA.  
9 AND THAT IS THE SOLE -- YOU ARE THE SOLE JUDGE, AS  
10 JURORS, OF A WITNESS' CREDIBILITY; NOT ME, NOT THE  
11 JUDGE, NOT THE COURT REPORTER, BUT THE JURY.

12 AND, CLEARLY, IN MANY CASES, MANY CASES IN  
13 OUR CRIMINAL SYSTEM AS WELL AS OUR CIVIL SYSTEM INVOLVE  
14 ONE PERSON'S WORD AGAINST ANOTHER PERSON'S WORD.

15 AND THE REASON WE HAVE JURIES IS TO RESOLVE  
16 THOSE DIFFERENCES. DOES THAT MAKE SENSE?

17 MR. KELEMEN: I STILL CAN'T SEE ONE PERSON'S WORD  
18 AGAINST ANOTHER, WITHOUT OTHER EVIDENCE.

19 MR. BENDER: BUT IF YOU WERE ASKED TO MAKE THAT  
20 DECISION?

21 MR. KELEMEN: IF I WAS ASKED TO MAKE THAT DECISION?

22 MR. BENDER: IN OTHER WORDS, IF YOU'RE SELECTED  
23 AS A JUROR, WOULD YOU BE ABLE -- OF COURSE, WITH ALL  
24 THE RULES OF EVIDENCE AND THE JUDGE'S INSTRUCTIONS AND  
25 THE LAW, OF COURSE, THE STATE HAS TO PROVE IT, AND YOU



1 HAVE TO BE CONVINCED BEYOND A REASONABLE DOUBT THAT  
2 A CRIME WAS COMMITTED.

3 BUT COULD YOU FIND THAT EVIDENCE? COULD  
4 YOU FIND THAT BURDEN BEING MET, BASED ON ONE PERSON'S  
5 TESTIMONY?

6 MR. KELEMEN: IF I'M CONVINCED BEYOND A REASONABLE  
7 DOUBT, YES, I GUESS I COULD.

8 MR. BENDER: THAT'S ALL I'M ASKING.

9 DOES EVERYONE UNDERSTAND --

10 MR. KELEMEN: WHAT I'M SAYING, IT WOULD BE HARD  
11 TO CONVINC ME WITH ONE PERSON'S WORD AGAINST THE  
12 OTHER. THAT'S WHAT I'M SAYING.

13 MR. BENDER: I UNDERSTAND. DO YOU UNDERSTAND,  
14 IF YOU'RE SELECTED, THAT IN ESSENCE YOUR JOB IS TO  
15 DECIDE, AND YOU WOULD BE ASKED TO MAKE A DECISION.  
16 AND, AS I SAID, BEFORE IT'S NOT AN EASY TASK ALL THE  
17 TIME.

18 CLEARLY, IT WOULD BE WONDERFUL IF WE HAD  
19 EVERY CASE AND A SITUATION WHERE IT WAS COMMITTED IN  
20 FRONT OF DOZEN OF WITNESSES. THAT IS NOT ALWAYS THE  
21 CASE, AS YOU KNOW.

22 SO I'M NOT ASKING FOR YOU TO CHANGE YOUR  
23 OPINION. I GUESS WHAT I WOULD LIKE TO KNOW IS: IS  
24 THERE ANYONE HERE WHO WOULD NOT UNDER ANY CIRCUMSTANCES  
25 WHATSOEVER, PERIOD, END OF REPORT, NOT BE ABLE TO

1 CONVICT BASED ON ONE PERSON'S TESTIMONY?

2 MR. ROSCOE SMITH: WHEN YOU'RE SCARED AND DISCUSS  
3 LIKE THAT, SOMETIMES YOU DON'T SEE WHAT YOU THINK YOU  
4 SEE.

5 MR. BENDER: OF COURSE. AND THAT HAS TO DO WITH  
6 CREDIBILITIES, RIGHT?

7 MR. ROSCOE SMITH: RIGHT.

8 MR. BENDER: I'M NOT ASKING YOU TO CONVICT. I'M  
9 ASKING YOU, IF THAT WITNESS CONVINCES YOU BEYOND A  
10 REASONABLE DOUBT, ONLY IF THAT IS MET, WOULD YOU BE  
11 ABLE TO CONVICT BASED ON ONE PERSON'S TESTIMONY?

12 MR. ROSCOE SMITH: IT WOULD HAVE TO BE AWFUL  
13 STRONG; EXCITED, NERVOUS, SCARED, IT'S AWFUL EASY --

14 THE COURT: THE QUESTION IS: IF THE STATE PROVED  
15 ITS CASE BEYOND AND TO THE EXCLUSION OF EVERY REASONABLE  
16 DOUBT, BASED ON ONE PERSON'S TESTIMONY, COULD YOU  
17 CONVICT THAT PERSON?

18 MR. ROSCOE SMITH: WELL, IF THE EVIDENCE WAS  
19 STRONG ENOUGH, BUT IT WOULD HAVE TO BE VERY STRONG.

20 MR. BENDER: ALL RIGHT. THE JUDGE WILL EXPLAIN  
21 WHAT THE STATE'S BURDEN IS, AND I TRIED TO TOUCH ON  
22 THAT A LITTLE BIT EARLIER. THE BURDEN IS BEYOND  
23 EVERY REASONABLE DOUBT, AND THE JUDGE WILL EXPLAIN  
24 REASONABLE DOUBT TO YOU.

25 REASONABLE DOUBT, HOWEVER, IS NOT AN

1           IMAGINED DOUBT. IT'S NOT A FIXED DOUBT. IT'S NOT  
2           A SPECULATIVE DOUBT. IT'S ONE THAT YOU CAN ATTACH A  
3           REASON TO. AND I GUESS TO BE HONEST, SOMETIMES I HAVE  
4           A DIFFICULT TIME COMING UP WITH AN EXACT DEFINITION  
5           OF REASONABLE DOUBT.

6                         HOWEVER, THE EVIDENCE MUST CONVINCING YOU  
7           BEYOND ANY REASONABLE DOUBT. IN OTHER WORDS, THE STATE  
8           NOT PROVING THE COLOR OF THE SOCKS IS NOT A REASONABLE  
9           DOUBT AS TO WHETHER A PERSON COMMITTED A CRIME, BECAUSE  
10          THAT'S NOT NECESSARILY AN ELEMENT OF THE OFFENSE.

11                        BUT IF YOU CAN ATTACH A REASON TO IT, IF  
12          THERE'S SOME EVIDENCE, OR LACK OF EVIDENCE, THAT YOU  
13          CAN ATTACH A REASON TO, YES, THEN YOU MUST FIND THE  
14          DEFENDANT NOT GUILTY. BECAUSE THE STATE HAS NOT MET  
15          ITS BURDEN OF PROOF.

16                        AND WE ARE VERY COGNIZANT OF THAT. AND  
17          WE ARE TELLING YOU THE STATE MUST MEET ITS BURDEN OF  
18          PROOF BEFORE YOU CAN FIND A PERSON GUILTY OF A CRIME.

19                        BUT, AS JUDGE SPRINKEL ASKED, PUTTING THAT  
20          ASIDE, IF THE STATE DOES MEET THAT BURDEN -- IT'S NOT  
21          AN IMPOSSIBLE BURDEN. IT'S NOT A HUNDRED PERCENT  
22          CERTAINTY. IT'S NOT BEYOND A SHADOW OF A DOUBT.  
23          IT'S BEYOND EVERY REASONABLE DOUBT.

24                        AND ONCE THAT BURDEN IS MET, WHETHER IT'S  
25          PRESENTED BY ONE WITNESS OR FIFTY, YOU WOULD BE ABLE

1 TO CONVICT BASED ON THAT ONE PERSON'S TESTIMONY?

2 MR. ROSCOE SMITH: IF THE EVIDENCE WAS STRONG  
3 ENOUGH.

4 MR. BENDER: RIGHT. I UNDERSTAND.

5 ANYONE HERE WHO DOES NOT UNDERSTAND WHAT  
6 I'M ASKING? IF NOT, DOES EVERYONE AGREE THAT IF THE  
7 STATE MEETS ITS BURDEN, EVEN IF IT'S ONLY ONE WITNESS,  
8 IF THAT WITNESS CONVINCES YOU BEYOND A REASONABLE DOUBT,  
9 ANYONE HERE WHO COULD NOT CONVICT? RAISE YOUR HAND,  
10 PLEASE.

11 PROSPECTIVE JURORS: (NO RESPONSE)

12 MR. BENDER: ALL RIGHT. I TAKE IT THEN EVERYONE  
13 COULD; IS THAT RIGHT?

14 PROSPECTIVE JURORS: (NO RESPONSE)

15 MR. BENDER: WOULD EVERYONE AGREE TO LISTEN  
16 CAREFULLY TO ALL THE EVIDENCE THAT'S PRESENTED?

17 I KNOW SOMETIMES WE'VE SEEN ON TV AND  
18 PARTICULARLY THERE ARE CERTAIN TRIALS THAT CAN DRAG  
19 ON FOR WEEKS AND MONTHS. THIS IS NOT GOING TO BE ONE  
20 THAT IS GOING TO DRAG ON FOR WEEKS AND MONTHS.

21 BUT WE'RE ALL HUMAN. SOMETIMES WE'LL BE  
22 LISTENING AND THEN SOMETHING WILL CATCH YOUR EYE OUT  
23 OF THE WINDOW, AND BEFORE YOU KNOW IT WE MAY HAVE  
24 MISSED A COUPLE OF MINUTES OF TESTIMONY OF THIS CASE.

25 IT'S GOING TO BE VERY CRITICAL; IT'S GOING

1 TO REQUIRE YOUR UNDIVIDED ATTENTION. IT'S NOT GOING  
2 TO BE SEVEN OR EIGHT HOURS OF LISTENING TO EVIDENCE.  
3 IT'S NOT GOING TO BE THAT WAY. WE WILL GET BREAKS.

4 BUT ANYONE HERE WHO WOULD NOT BE ABLE TO  
5 GIVE THEIR UNDIVIDED ATTENTION TO THIS CASE? AND  
6 THAT'S OKAY IF YOU COULDN'T. PLEASE BELIEVE ME, IT'S  
7 OKAY.

8 EVERYONE HERE, BY A SHOW OF HANDS, WOULD  
9 BE ABLE TO GIVE THEIR UNDIVIDED ATTENTION TO THIS CASE?

10 PROSPECTIVE JURORS: (INDICATING)

11 MR. BENDER: ANYONE HERE WHO THINKS, FOR ANY  
12 REASON, THAT THE CRIMINAL JUSTICE SYSTEM TREATS THOSE  
13 ACCUSED OF CRIMES, SEXUAL CRIMES AGAINST CHILDREN OR  
14 ADULTS, THAT THE SYSTEM TREATS THEM UNFAIRLY OR TOO  
15 HASHLY?

16 PROSPECTIVE JURORS: (NO RESPONSE)

17 MR. BENDER: EVERYONE UNDERSTANDS THAT BIAS,  
18 PREJUDICE, SYMPATHY -- I'M NOT TALKING ABOUT PREJUDICE  
19 IN A RACIAL CONTEXT, OR ANYTHING OF THAT NATURE. I'M  
20 TALKING ABOUT OUR BIAS, OR PREJUDICES, AND WE ALL HAVE  
21 THEM.

22 DOES EVERYONE AGREE THAT THEY WILL NOT  
23 ALLOW THOSE FACTORS TO BE CONSIDERED DURING THEIR  
24 DELIBERATIONS? DID EVERY ONE UNDERSTAND THAT?

25 PROSPECTIVE JURORS: (NO RESPONSE)

1 MR. BENDER: AS THE JUDGE WILL EXPLAIN TO YOU,  
2 AND AGAIN AS I TOLD YOU, YOU DON'T LEAVE YOUR COMMON  
3 SENSE OUTSIDE THE COURTROOM DOOR. WE'RE NOT ASKING  
4 YOU TO FORGET ABOUT YOUR OWN LIFE EXPERIENCES, WHICH  
5 GIVE US CERTAIN INSTINCTIVE FEELINGS.

6 BUT WHAT I'M ASKING YOU IS: WILL EVERYONE  
7 AGREE THAT THEY WILL NOT LET EXTRANEOUS INFLUENCES,  
8 WHICH HAVE NO BEARING ON THE FACTS OF THIS CASE, WILL  
9 EVERYONE AGREE NOT TO LET THAT INFLUENCE YOUR DECISION  
10 IF SELECTED?

11 THIS CASE WILL BE DECIDED ON THE MERITS AND  
12 THE EVIDENCE ALONE. WILL EVERYONE AGREE TO DO THAT?

13 PROSPECTIVE JURORS: YES.

14 MR. BENDER: WONDERFUL.

15 ANOTHER THING CONNECTED TO THAT IS, YOUR  
16 JOB, AS JURORS, IS TO DECIDE THE FACTS AND RENDER A  
17 VERDICT BASED ON THOSE FACTS PRESENTED.

18 DOES EVERYONE UNDERSTAND THAT THE JUDGE'S  
19 JOB, AMONG OTHER THINGS -- HE HAS MANY OTHER  
20 RESPONSIBILITIES. BUT THE JUDGE'S JOB WILL BE TO  
21 DECIDE WHAT A FAIR AND APPROPRIATE SENTENCE WILL BE?  
22 THAT THAT IS NOT IN YOUR PROVINCE AS JURORS.

23 DOES ANYONE HAVE A PROBLEM WITH THAT? YOU  
24 DON'T SAY, "WELL, GOSH, I THOUGHT I WOULD PARTICIPATE  
25 IN THE SENTENCING PHASE"?

1 DOES ANYONE HAVE A PROBLEM WITH THAT?

2 PROSPECTIVE JURORS: (NO RESPONSE)

3 MR. BENDER: WE'RE PROVIDED A COPY OF YOUR  
4 QUESTIONNAIRES THAT YOU FILLED OUT. AND REST ASSURED  
5 THAT THE ONLY INFORMATION WE HAVE IS BASIC INFORMATION.  
6 SOME OF YOU HAVE FILLED IN YOUR ADDRESSES. THOSE HAVE  
7 BEEN BLACKED OUT SO THEY'RE NOT AVAILABLE.

8 BUT WE HAVE SOME GENERAL INFORMATION ABOUT  
9 YOUR LIFE HERE IN ORANGE COUNTY; IF YOU HAVE ANY  
10 CHILDREN; SEVERAL QUESTIONS INVOLVING INVOLVEMENT IN  
11 THE SYSTEM, BE IT CIVIL OR CRIMINAL; YOUR JOB, YOUR  
12 WIFE OR HUSBAND'S JOB. THAT TYPE OF THING.

13 SO THAT GIVES US A LOT OF INFORMATION, AND  
14 WE DON'T NEED TO GO INTO THAT. BESIDES I THINK THAT  
15 WOULD BE PRETTY BORING ASKING EACH AND EVERY ONE OF  
16 YOU WHAT YOUR FAVORITE COLOR IS. THAT'S NOT REAL  
17 DECISIVE, ASKING THOSE TYPE OF QUESTIONS.

18 IF YOU WONDER WHY WE'RE NOT ASKING ABOUT  
19 YOUR BACKGROUNDS, WE DO HAVE THESE HERE. AND I JUST  
20 HAVE A FEW MORE QUESTIONS TO ASK, AND I'M GOING TO  
21 SIT DOWN.

22 REALLY, I HAVE ONLY TWO, AND THEY DEAL WITH  
23 THE CONCEPTS THAT WE SPOKE ABOUT AT THE VERY BEGINNING,  
24 THE THREE CONCEPTS: THE PRESUMPTION OF INNOCENCE,  
25 BURDEN OF PROOF AND REASONABLE DOUBT.

1 AS YOU ALL KNOW, THIS IS REAL LIFE. WE'RE  
2 NOT WATCHING L.A. LAW --

3 MS. BUSH: OR SOME OTHER JUDGE ON TV. I WATCH  
4 THAT ALL THE TIME OR HALF THE TIME. ANYWAY, I COULDN'T  
5 BELIEVE SOME OF THOSE CASES.

6 MR. BENDER: AND THOSE ARE SOMETIMES BASED ON REAL  
7 LIFE. BUT THOSE ARE ACTORS, PORTRAYING ROLES. WE'RE  
8 NOT DOING THAT HERE TODAY.

9 MS. BUSH: YEAH.

10 MR. BENDER: THIS IS NOT A DOC-U-DRAMA. THIS IS  
11 REAL LIFE.

12 I KNOW EVERYONE IS TAKING THIS REAL SERIOUSLY.  
13 BUT I WANT EVERYONE TO UNDERSTAND THE SERIOUSNESS OF  
14 THESE CHARGES. AND IF THERE IS ANYONE HERE, FOR ANY  
15 REASON, WHO FEELS -- OTHER THAN THOSE WHO HAVE ALREADY  
16 SPOKEN, AND I APPRECIATE YOUR CANDOR AND HONESTY.

17 IF THERE IS ANYONE HERE HERE WHO, FOR ANY  
18 REASON, FEELS THEY WOULD BE UNABLE TO SIT AS JURORS;  
19 THAT THEY WOULD BE UNABLE TO GIVE THEIR UNDIVIDED  
20 ATTENTION AND REACH A FAIR AND IMPARTIAL VERDICT BASED  
21 ON THE EVIDENCE -- OR IF THEY FEEL THAT THEY JUST DON'T  
22 WANT TO BE HERE; THEY'VE GOT DEADLINES AT WORK, THIS  
23 IS A LAST SELL -- AND WE KNOW IT IS. AND I KNOW ALL  
24 OF US HAVE BETTER THINGS TO BE DOING.

25 I DON'T ANTICIPATE THAT THIS TRIAL IS GOING



1 TO TAKE THROUGH TOMORROW; POSSIBLY INTO THURSDAY.

2 DON'T YOU AGREE, MR. EIDE?

3 MR. EIDE: (NODS HEAD)

4 MR. BENDER: SO THIS IS NOT GOING TO BE TWO OR  
5 THREE YEARS OUT OF YOUR LIFE, LIKE SOME TRIALS TAKE,  
6 OR EVEN TWO OR THREE WEEKS.

7 BASED ON THAT, IS THERE ANYONE HERE NOW --  
8 YOU'VE GOT YOUR CHANCE TO RAISE YOUR HANDS, NOT BECAUSE  
9 YOU'VE GOT A HANGNAIL. BUT IF YOU'VE GOT A LEGITIMATE  
10 REASON WHY YOU DON'T WANT TO PARTICIPATE IN THIS TRIAL,  
11 LET US KNOW NOW.

12 YES, SIR?

13 MR. LITTLE: I HAVE A LITTLE JOB THAT I WAS  
14 SUPPOSED TO GO ON TOMORROW, WORKING AROUND THE CHURCH.  
15 THEY CALLED ME LAST NIGHT. I TOLD THEM I HAD TO COME  
16 DOWN HERE TODAY. AND I WAS HOPING THIS WOULD BE THE  
17 LAST DAY.

18 MR. BENDER: MR. LITTLE, DO YOU THINK IF YOU  
19 CALLED THEM AND EXPLAINED THAT YOU HAD TO SIT AS A  
20 JUROR, THAT WOULD CAUSE ANY PROBLEMS?

21 MR. LITTLE: WELL, IT'S SOMETHING THAT'S SUPPOSED  
22 TO BE DONE TOMORROW; YOU KNOW, HAULING AROUND THE  
23 CHURCH.

24 MR. BENDER: DO YOU THINK YOU MIGHT BE THINKING  
25 ABOUT THAT A LITTLE BIT MORE THAN THE TRIAL, IF YOU

1 WERE SELECTED?

2 MR. LITTLE: WELL, IF I WAS SELECTED I WOULD TRY  
3 TO COME.

4 MR. BENDER: IF YOU WERE SELECTED WOULD THAT  
5 CREATE SOME HARDSHIP FINANCIALLY FOR YOU, SIR?

6 MR. LITTLE: IF I DIDN'T GET THE JOB I MIGHT LOSE  
7 MY JOB. BECAUSE I'VE BEEN WORKING FOR THEM ABOUT FOUR  
8 OR FIVE YEARS.

9 MR. BENDER: YOU UNDERSTAND YOUR EMPLOYER, IF YOU  
10 ARE SELECTED AS A JUROR, CANNOT FIRE YOU.

11 MR. LITTLE: OKAY.

12 MR. BENDER: THEY ARE PROHIBITED BY LAW, WITH  
13 SEVERE PUNISHMENT IF THEY DO.

14 MR. LITTLE: THANK YOU. I DIDN'T KNOW THAT.

15 MR. BENDER: SO, HOPEFULLY, THEY WOULD NOT BE  
16 SO INCONSIDERATE TO FIRE YOU. BUT IF THEY DID, YOU  
17 WOULD HAVE RECOURSE. THAT WOULD NOT BE PERMITTED.

18 DOES THAT HELP OUT A LITTLE BIT?

19 MR. LITTLE: THAT HELPS.

20 MR. BENDER: IS THERE ANYONE ELSE BESIDES

21 MR. LITTLE? OKAY, MISS HOGAN?

22 MS. HOGAN: YES.

23 MR. BENDER: HOW ARE YOU DOING?

24 MS. HOGAN: OKAY.

25 MR. BENDER: WHAT'S YOUR HARDSHIP?

1 MS. HOGAN: I WAS ASKED TO TELL YOU THAT I HAVE  
2 TWO CLASSES TONIGHT, THAT BEGIN AT 4:30.

3 MR. BENDER: WHERE AT?

4 MS. HOGAN: I GO TO THE UNIVERSITY OF CENTRAL  
5 FLORIDA.

6 MR. BENDER: THAT'S MY ALMA MATER.

7 MS. HOGAN: I DON'T THINK THAT THIS WOULD REFLECT.

8 MR. BENDER: 4:30, IT MOST LIKELY WOULD. I DON'T  
9 KNOW WHAT JUDGE SPRINKEL'S SCHEDULE IS. BUT I WOULD  
10 THINK, EVEN IF WE BROKE EARLY, IT WOULD BE DIFFICULT.

11 ARE THEY CLASSES THAT YOU WOULD BE UNABLE  
12 TO MAKE UP, OR DO YOU HAVE EXAMS TODAY?

13 MS. HOGAN: WELL, I WORK FIFTY HOURS A WEEK, AND  
14 I TAKE TWO CLASSES AT NIGHT AND I DON'T HAVE MUCH TIME  
15 TO MAKE THEM UP.

16 MR. BENDER: THAT'S UNDERSTANDABLE. WE'LL  
17 CERTAINLY TAKE THAT INTO CONSIDERATION.

18 DO YOU THINK THAT, AS I ASKED MR. LITTLE,  
19 THAT THAT MIGHT PROVE TO BE A DISTRACTION FOR YOU, NOT  
20 BEING ABLE TO GIVE YOUR UNDIVIDED ATTENTION, ET CETERA?

21 MS. HOGAN: ARE YOU SAYING, IF WE'RE HERE UNTIL  
22 SEVEN O'CLOCK AT NIGHT?

23 MR. BENDER: YES, YOU COULD SAY THAT.

24 MS. HOGAN: YES, SIR, I DO BELIEVE IT WOULD BE  
25 A DISTRACTION FOR ME.

1 MR. BENDER: I THANK YOU FOR BRINGING THAT TO  
2 MY ATTENTION.

3 THE COURT: LET ME, AS A COURTESY -- THE ATTORNEYS  
4 CAN ASK THIS QUESTION. BUT WE CONSIDER IT YOUR CIVIC  
5 DUTIES TO SERVE AS JURORS, IF YOU'RE ON THE VOTER  
6 REGISTRATION ROLES. THAT IS OUR METHOD OF SELECTING  
7 JURORS.

8 THOSE OF YOU WHO HAVE REQUESTED TO BE  
9 EXCUSED IN THE PAST BECAUSE OF CONFLICTS, AND YOU MAY  
10 WILL HAVE REQUESTED TO BE EXCUSED BECAUSE YOU WERE A  
11 STUDENT OR BECAUSE OF JOB PROBLEMS, THOSE HAVE ALREADY  
12 BEEN REVIEWED BY A JUDGE, TO DETERMINE WHETHER TO  
13 GRANT THOSE REQUESTS FOR BEING EXCUSED FROM JURY DUTY.

14 ONCE YOU'RE SUMMONED TO JURY DUTY, YOU'RE --  
15 I GUESS THE ONLY WAY TO PUT IT -- YOU'RE OURS UNTIL  
16 THE CASE IS CONCLUDED.

17 IN THIS TRIAL WE ANTICIPATE THAT IT WILL  
18 GO TWO DAYS. IT MAY WELL GO THREE DAYS. WE MAY WELL  
19 BE HERE UNTIL SIX OR SEVEN OR EIGHT OR NINE OR TEN  
20 O'CLOCK AT NIGHT. WE WILL BE HERE AS LONG AND FOR  
21 WHATEVER HOURS ARE NECESSARY IN ORDER TO GET THE CASE  
22 COMPLETED.

23 AND WE ALL HAVE REASONS WHY WE WOULD RATHER  
24 BE SOMEWHERE ELSE. SOME OF YOU FEEL IT MAY BE  
25 INTERESTING TO SERVE ON A JURY. AND, THEREFORE, MAKING

1            THAT DECISION, YOU'RE WILLING TO FOREGO WHATEVER ELSE  
2            YOU WERE DOING.

3                        BUT AS JURORS AND AS CITIZENS OF OUR  
4            COUNTRY AND STATE, IT IS YOUR DUTY TO SERVE AS JURORS.  
5            SO, UNFORTUNATELY, THERE MAY WELL BE CONFLICTS THAT  
6            WILL INTERFERE; SUCH AS CLASSES OR EMPLOYMENT, THAT  
7            WILL HAVE TO BE FOREGONE AS A RESULT OF YOUR JURY  
8            DUTY, IF YOU ARE IN FACT SELECTED.

9                        WE'VE GOT 36 PEOPLE OUT HERE AND WE'RE  
10           ONLY GOING TO SELECT SIX PEOPLE, MUST POSSIBLY, TWO  
11           ALTERNATES TO SIT ON THIS JURY. SO YOU MAY WELL BE  
12           EXCUSED FOR ANY NUMBER OF REASONS OR YOU MAY NOT BE  
13           GOTTEN TO, AS FAR AS BEING SELECTED FOR JURY DUTY.

14                      BUT I DIDN'T WANT TO OPEN UP EVERYBODY'S  
15           REASONS AS TO WHY THEY WOULD PREFER NOT SERVING  
16           BECAUSE OF CONFLICTS. BECAUSE, FRANKLY, AS JURORS  
17           ONCE YOU WERE SUMMONED TO COURT THAT IS YOUR DUTY TO  
18           SERVE AS A JUROR.

19                      YOU MAY PROCEED.

20                      MR. BENDER: THANK YOU, YOUR HONOR.

21                      I JUST WANT TO ECHO THAT WE DO SYMPATHIZE,  
22           AND I THINK JUDGE SPRINKEL SAID IT VERY ELOQUENTLY;  
23           CIVIC DUTY IS IMPORTANT IN THIS COUNTRY.

24                      IS THERE ANYONE ELSE, THOUGH; THERE IS  
25           JUST A TREMENDOUS PRESSURE OUTSIDE THAT NEEDS TO BE

1           TAKEN OF, THAT YOU WOULD LIKE TO BRING TO OUR ATTENTION,  
2           OTHER THAN EMPLOYMENT?

3                        IS THERE ANYONE HERE THAT HAS ANY PHYSICAL  
4           LIMITATION THAT MIGHT MAKE IT DIFFICULT FOR THEM TO  
5           SIT AS JURORS.   YES, SIR?

6                        MR. KELEMEN:   I HAVE A SLIGHT HEARING PROBLEM.  
7           I CAN HEAR EVERYTHING HERE PRETTY GOOD.   BUT IF I GET  
8           TO SOMEBODY WITHIN A CERTAIN RANGE, SOMETIMES I CAN'T  
9           HEAR THEM.

10                      MR. BENDER:   OKAY.   WE DO HAVE A MICROPHONE SYSTEM  
11           HERE IN THE COURTROOM.   DO YOU THINK THAT WILL POSE  
12           ANY PROBLEM?

13                      THE COURT:   WELL, WE DO AND WE DON'T.   MINE WORKS,  
14           BUT THE WITNESS' DOESN'T.   YOU NEED TO HEAR THE WITNESS'  
15           TESTIMONY MORE THAN YOU DO ANYTHING THAT I SAY.

16                      IT WORKS.   BUT WHEN WE TURN IT ON, FOR SOME  
17           REASON, THE RADIO STATION COMES ON.   AND WE'VE BEEN  
18           UNABLE TO SOLVE THIS PROBLEM YET, AFTER SIX MONTHS.  
19           WE FIGURED THE MAINTENANCE PEOPLE WOULD HAVE TO SOLVE  
20           IT.   AND WE HAVEN'T FIGURED OUT WHAT RADIO STATION IT  
21           IS.   BUT WE TURN ON THE MICROPHONE, AND AFTER A MINUTE  
22           OR TWO MUSIC COMES ON.

23                      SO IF YOU DO HAVE A DIFFICULT TIME HEARING,  
24           THIS MICROPHONE DOES NOT WORK.   BUT THAT'S IMPORTANT  
25           FOR US TO KNOW THAT.   SO I APPRECIATE YOUR LETTING US

1 KNOW THAT.

2 MR. BENDER: IS THERE ANYONE ELSE THAT HAS  
3 PROBLEMS SITTING FOR LONG PERIODS? WE'LL BE TAKING  
4 BREAKS. IT'S NOT GOING TO BE AN ENDURANCE CONTEST.

5 MR. ROSCOE SMITH: I HAVE HEARING PROBLEMS, ALSO.  
6 YESTERDAY I COULDN'T HEAR ANYTHING OVER THERE.

7 MR. BENDER: I KNOW ERIC AND I TALK PRETTY LOUD.

8 MR. GREEN?

9 MR. GREEN: YES, I HAVE A SLIGHT HEARING PROBLEM,  
10 TOO. BECAUSE I WORKED IN A NOISY PLANT FOR YEARS.

11 MR. BENDER: HAVE YOU BEEN ABLE TO HEAR OKAY SO  
12 FAR?

13 MR. GREEN: SO FAR, YES.

14 MR. BENDER: ANYONE ELSE?

15 PROSPECTIVE JURORS: (NO RESPONSE)

16 MR. BENDER: THERE WILL BE TESTIMONY THAT FOR  
17 MOST OF YOU, AT SOME POINTS IN TIME, WILL BE RATHER  
18 UNPLESANT. AND WHILE, CERTAINLY, I DO NOT RELISH  
19 THE IDEA OF PUTTING A SMALL CHILD ON THE STAND TO  
20 DESCRIBE IT, IT IS NECESSARY. IT IS NECESSARY TO  
21 PRESENT THAT EVIDENCE.

22 I'M ASKING YOU, HOWEVER, WILL ANYONE --  
23 ANYONE HERE WHO WOULD BE SERIOUSLY OFFENDED OR TROUBLED  
24 BY THE PRESENTATION OF SUCH NECESSARY TESTIMONY TO  
25 THE POINT WHERE THEY WOULD BE UNABLE TO SIT AS JURORS?

1 PROSPECTIVE JURORS: (NO RESPONSE)

2 MR. BENDER: THE CORRELARY THEN, DOES EVERYONE  
3 UNDERSTAND THAT THAT IS A NECESSARY FUNCTION THAT WE  
4 MUST DO? AND IS THERE ANYONE HERE WHO WOULD HOLD IT  
5 AGAINST ME FOR HAVING TO PUT A SMALL CHILD ON TO  
6 DESCRIBE A SEXUAL BATTERY THAT WAS COMMITTED AGAINST  
7 HER?

8 DOES EVERYONE UNDERSTAND THE REASON THAT  
9 THAT HAS TO BE?

10 PROSPECTIVE JURORS: (NO RESPONSE)

11 MR. BENDER: IF THE STATE DOES NOT MEET ITS BURDEN  
12 OF PROOF, ANYONE HERE WHO COULD NOT RETURN A VERDICT  
13 OF NOT GUILTY?

14 YOU UNDERSTAND THE QUESTION? IF THE STATE  
15 DOES NOT MEET ITS BURDEN OF PROOF, YOUR DUTY -- IT'S  
16 NOT A POSITION. YOUR DUTY IS TO FIND THE DEFENDANT  
17 NOT GUILTY. DOES EVERYONE UNDERSTAND THAT?

18 HOWEVER, IF THE STATE DOES, THROUGH  
19 COMPETENT TESTIMONY, PROVE EACH AND EVERY ELEMENT OF  
20 THE TWO CHARGES BEYOND EVERY REASONABLE DOUBT, ANYONE  
21 HERE WHO COULD NOT FIND THE DEFENDANT GUILTY?

22 PROSPECTIVE JURORS: (NO RESPONSE)

23 MR. BENDER: I TAKE IT THEN EVERYONE, IF THE  
24 EVIDENCE IS PRESENTED, COULD; IS THAT CORRECT?

25 PROSPECTIVE JURORS: YES.