

1 MR. BENDER: THANK YOU ALL VERY MUCH FOR YOUR
2 TIME. I APPRECIATE IT.

3 THE COURT: THE DEFENSE MAY INQUIRE.

4 MR. EIDE: THANK YOU, YOUR HONOR.

5 MAY IT PLEASE THE COURT. THERE WAS ONE
6 OTHER THING, ONE OTHER PERSON I DIDN'T MENTION EARLIER
7 WHEN I INDICATED WHO WE WOULD BE CALLING.

8 THERE IS GOING TO BE ONE OTHER ATTORNEY
9 TRYING THIS CASE. RIGHT NOW SHE IS IN OTHER DEPOSITIONS
10 IN OTHER COURTROOM APPEARANCES. HER NAME IS PATRICIA
11 CASHMAN. DOES ANYONE HERE KNOW HER?

12 WE APOLOGIZE FOR HER NOT BEING HERE NOW,
13 BUT SHE HAD OTHER OBLIGATION.

14 OKAY. MY NAME IS ERIC EIDE, AS THE JUDGE
15 STATED EARLIER. THIS IS SCOTTY MERSON, AND HE IS THE
16 MAN THAT HAS BEEN CHARGED IN THIS CASE.

17 NOW, THERE'S A LOT OF THINGS THAT WE'LL GO
18 THROUGH NOW, AND A LOT OF THINGS THAT WE'LL GO THROUGH
19 THROUGHOUT THE CASE THAT COULD BE UNCOMFORTABLE. AND,
20 LIKE MR. BENDER STATED TO YOU, WE'RE NOT BRINGING
21 THESE OUT BECAUSE WE RELISH IT; ONLY BECAUSE THAT'S
22 THE WAY THINGS MUST COME OUT.

23 WOULD ANYONE HERE HOLD THAT AGAINST
24 MR. MERSON; THAT THE FACTS THAT WILL COME OUT OR THE
25 QUESTIONS THAT WE HAVE TO ASK WILL BE UNCOMFORTABLE?

1 IS THERE ANYONE HERE WHO WOULD HOLD IT
2 AGAINST MR. MERSON?

3 PROSPECTIVE JURORS: (NO RESPONSE)

4 MR. EIDE: I WANT TO GO THROUGH AND ASK A FEW
5 QUESTIONS BASED ON THESE FORMS THAT YOU FILLED OUT,
6 THESE QUESTIONNAIRES. BEAR WITH ME A LITTLE BIT AS
7 I GO THROUGH THEM. THERE WERE A COUPLE OF THINGS I
8 HAD QUESTIONS ABOUT ON THEM.

9 AND LET ME SEE. MS. O'CONNOR --

10 MS. O'CONNOR: YES.

11 MR. EIDE: YOU SAID THAT YOU HAD A FRIEND THAT
12 WAS A LAW ENFORCEMENT OFFICER. YOU HAVE A CLOSE
13 FRIEND OR RELATIVE? YOU CHECKED YES AND NO ON THAT.

14 DO YOU HAVE A FRIEND OR RELATIVE THAT'S
15 A LAW ENFORCEMENT OFFICER?

16 MS. O'CONNOR: NO. I DON'T KNOW WHY I PUT THAT
17 DOWN. MY DAUGHTER DATED A POLICEMAN ONCE, A LONG
18 TIME AGO.

19 MR. EIDE: IS THERE ANYTHING ABOUT YOUR DAUGHTER
20 DATING A POLICEMAN, HOWEVER LONG AGO, ANYTHING ABOUT
21 THAT THAT WOULD AFFECT YOUR DECISION IN THIS CASE?

22 MS. O'CONNOR: NO.

23 MR. EIDE: YOU STATED THAT YOUR HUSBAND WAS
24 RETIRED AIR FORCE.

25 MS. O'CONNOR: YES.

1 MR. EIDE: WHAT DID HE DO IN THE AIR FORCE?

2 MS. O'CONNOR: HE WAS A PILOT.

3 MR. EIDE: DID HE TRAVEL A LOT?

4 MS. O'CONNOR: YES.

5 MR. EIDE: DID YOU GET TO TRAVEL WITH HIM?

6 MS. O'CONNOR: QUITE A BIT.

7 MR. EIDE: WHERE DID YOU GO?

8 MS. O'CONNOR: GERMANY. HE WAS IN KOREA, JAPAN.

9 MR. EIDE: I WAS KIND OF A NAVY BRAT. MY DAD
10 GOT OUT RIGHT AFTER I WAS BORN.

11 BUT YOU TRAVELED AROUND A LOT?

12 MS. O'CONNOR: I LOVED IT.

13 MR. EIDE: YOU GET WHOLE NEW EXPERIENCES BY HAVING
14 THAT BACKGROUND.

15 MS. O'CONNOR: YES.

16 MR. EIDE: MRS. BUSH, YOU STATED THAT YOU WERE
17 DIVORCED. HOW LONG HAVE YOU BEEN DIVORCED?

18 MS. BUSH: I WAS DIVORCED, IT'S BEEN ABOUT 12
19 YEARS NOW.

20 MR. EIDE: WHAT DID YOUR EX-HUSBAND DO?

21 MS. BUSH: I LIVED WITH MY MOTHER-IN-LAW, AND HE
22 WENT TO SCHOOL.

23 MR. EIDE: WHAT DO YOU DO NOW?

24 MS. BUSH: I'M A STUDENT AT VALENCIA COMMUNITY
25 COLLEGE.

1 MR. EIDE: DO YOU GO FULL-TIME?

2 MS. BUSH: I GO PART-TIME. I GO THREE DAYS A
3 WEEK.

4 MR. EIDE: WHAT ELSE DO YOU DO, ANYTHING ELSE?

5 MS. BUSH: NO. SCHOOL TAKES UP ENOUGH. WITH
6 TWO SUBJECTS IT TAKES A LOT OF YOUR TIME, WITHOUT
7 GOING TO WORK, TOO.

8 MR. EIDE: MARK AND I KNOW. WE SPENT SEVEN YEARS
9 ON THIS.

10 OKAY, MISS THOMPSON, YOU STATED THAT YOU
11 KNEW OFFICER SCOTT. HOW DO YOU KNOW OFFICER SCOTT?

12 MS. THOMPSON: I DON'T KNOW THAT PARTICULAR
13 OFFICER SCOTT. BUT I HAVE A CO-WORKER, MRS. SCOTT,
14 AND THAT'S HER HUSBAND.

15 MR. EIDE: DO YOU KNOW ANY OTHER LAW ENFORCEMENT
16 OFFICERS?

17 MS. THOMPSON: YES. I ALSO HAVE A FRIEND IN
18 JACKSONVILLE THAT'S ON THE POLICE DEPARTMENT.

19 MR. EIDE: HAVE YOU EVER BEEN AROUND WHEN EITHER
20 OF THOSE PEOPLE TALKED ABOUT THEIR JOBS OR WHAT THEY
21 DO?

22 MS. THOMPSON: AS FAR AS MY FRIEND IN JACKSONVILLE,
23 HE WAS USUALLY AFTER THE SCENE. AND BOTH TIMES THEY
24 WERE NOT DISCUSSED. AND I'VE ONLY SEEN MR. SCOTT A
25 COUPLE TIMES AT SOCIAL FUNCTIONS.

1 MR. EIDE: ANYTHING ABOUT KNOWING OFFICERS THAT
2 YOU THINK WOULD MAKE IT DIFFICULT TO SIT ON A CASE
3 WHERE OFFICERS ARE TESTIFYING?

4 MS. THOMPSON: NO.

5 MR. EIDE: IF YOU HAD TESTIMONY FROM AN OFFICER
6 THAT WAS DIFFERENT FROM THE TESTIMONY OF A CIVILIAN,
7 WOULD YOU NECESSARILY BELIEVE THE OFFICER JUST BECAUSE
8 THEY WERE AN OFFICER?

9 MS. THOMPSON: I DON'T BELIEVE SO. I THINK IT
10 WOULD DEPEND, LIKE MR. BENDER SAID, ON THE CREDIBILITY
11 OF THE WITNESS SPEAKING.

12 MR. EIDE: MR. SMITH, YOU STATED THAT YOU WORKED
13 IN THE STOCKROOM. WHAT DID YOU DO THERE?

14 MR. ROSCOE SMITH: OH, LIFTED THE TRUCKS, AND
15 PEOPLE CAME TO THE OUTSIDE DOCK WITH STUFF THAT WERE
16 TOO LARGE TO HANDLE AND STUFF LIKE THAT.

17 MR. EIDE: WERE YOU WITH A LOT OF PEOPLE?

18 MR. ROSCOE SMITH: QUITE A FEW.

19 MR. EIDE: DID YOU WORK AT NIGHT?

20 MR. ROSCOE SMITH: DAYTIME AND SOME NIGHTTIME,
21 MOSTLY DAYS.

22 MR. EIDE: HOW DID YOU LIKE WORKING WITH PEOPLE?

23 MR. ROSCOE SMITH: GREAT.

24 MR. EIDE: EVER HAVE ANY PROBLEMS WITH PEOPLE
25 THAT JUST REALLY GOT TO YOU AT ANY TIME?

1 MR. ROSCOE SMITH: OH, A LOT OF TIME YOU GET A
2 LOT OF CUSTOMERS. THERE ARE TWENTY-ONE RETIRED AND
3 BEEN BACK ABOUT 13 YEARS IN ALL. AND YOU GET THAT
4 ALL THE TIME.

5 MR. EIDE: SO YOU'RE STILL WORKING NOW, PART-TIME?

6 MR. ROSCOE SMITH: HMM-HMM.

7 MR. EIDE: IS IT MISS JUNG?

8 MS. JUNG: YES.

9 MR. EIDE: DO YOU BY CHANCE KNOW MISS SCHILLING?

10 MS. JUNG: NO.

11 MR. EIDE: SHE ALSO WORKS AT MARTIN-MARIETTA.

12 WHAT DO YOU DO THERE?

13 MS. JUNG: I WORK IN BUSINESS OPERATIONS, DOING
14 MEASURES.

15 MR. EIDE: AND COMPUTER WORK?

16 MS. JUNG: COMPUTER WORK; DEALING WITH PEOPLE,
17 FINANCIAL INFORMATION.

18 MR. EIDE: MISS O'REILLY, YOU LISTED THAT YOU
19 WERE SELF-EMPLOYED. WHAT DO YOU DO?

20 MS. O'REILLY: ESTATES, BUYING OLD HOMES AND
21 THEN RE-BUILD IT AND RESALE IT.

22 MR. EIDE: YOUR OWN VERSION OF "THIS OLD HOUSE".

23 DO YOU DO THE WORK, TOO?

24 MS. O'REILLY: YES, I WORK FOR A COMPANY.

25 MR. EIDE: WHAT IS THAT?

1 MS. O'REILLY: IT'S A CUSTOM JEWELRY COMPANY;
2 AS THEIR SALES REPRESENTATIVE.

3 MR. EIDE: DO YOU EVER HELP YOUR HUSBAND WITH
4 THE HOUSES?

5 MS. O'REILLY: NO, NOT MUCH.

6 MR. EIDE: DO YOU LIVE IN THE HOUSES THAT YOU
7 FIX UP?

8 MS. O'REILLY: YEAH. WELL, WE LIVE IN ONE, YOU
9 KNOW. BUT THE OTHERS, FOR BUSINESS AND SELL.

10 MR. EIDE: IS THAT WHAT YOU BASICALLY DO ON THE
11 WEEKEND? IS THAT YOUR HOBBY?

12 MS. O'REILLY: NOT REALLY. I MEAN, IT'S WORK,
13 LIKE FOR HIS BUSINESS.

14 MR. EIDE: WHAT DO YOU DO WITH YOUR FREE TIME?

15 MS. O'REILLY: WELL, I GUESS LAY OUT IN THE SUN,
16 TAKE IT EASY FOR THE WEEKEND AND THINGS LIKE THAT.

17 MR. EIDE: I BET YOUR TAN IS A LITTLE BETTER THAN
18 MINE. I DON'T SEEM TO GET MUCH OF A TAN.

19 ALL RIGHT. THANK YOU.

20 MS. O'REILLY: YOU'RE WELCOME.

21 MR. EIDE: MISS -- IS IT PREISSER?

22 MS. PREISSER: PREISSER.

23 MR. EIDE: YOU WORK AT DREAM LAKE ELEMENTARY.
24 WHERE IS THAT?

25 MS. PREISSER: IN APOPKA.

1 MR. EIDE: AND YOUR HUSBAND WORKS AS AN ASSISTANT
2 PRINCIPAL. WHERE IS THAT?

3 MS. PREISSER: ALSO, IN APOPKA.

4 MR. EIDE: SAME SCHOOL?

5 MS. PREISSER: NO.

6 MR. EIDE: WHAT GRADE DO YOU TEACH?

7 MS. PREISSER: ALL ELEMENTARY GRADES. I TEACH
8 A RESOURCE CLASS, AND THEY COME TO MY ROOM ONE DAY
9 A WEEK.

10 MR. EIDE: IS THAT WHAT YOU ALWAYS WANTED TO BE
11 WHEN YOU GREW UP, IS A TEACHER?

12 MS. PREISSER: I WOULD SAY SO. I WAS IN FUTURE
13 TEACHERS WHEN I WAS IN JUNIOR HIGH, AS MY CLUB. I
14 TAUGHT HIGH SCHOOL FOR A WHILE, AND THEN I'VE JUST
15 BEEN IN ELEMENTARY SCHOOL FOR THE LAST COUPLE OF YEARS.

16 MR. EIDE: BECAUSE YOU DEAL WITH KIDS EVERY DAY,
17 DAY IN AND DAY OUT, AS A PART OF YOUR JOB, IS THERE
18 ANYTHING ABOUT THE CHARGE OF SEXUAL BATTERY ON A
19 CHILD THAT YOU THINK WOULD JUST BE, YOU FIND OFFENSIVE,
20 OR A PROBLEM FOR YOU?

21 MS. PREISSER: I FIND SEXUAL BATTERY OFFENSIVE.
22 BUT THE CHARGES WOULD NEED TO BE BASED ON EVIDENCE
23 AND TESTIMONY AND ALL THOSE THINGS. YOU KNOW. THE
24 REASONABLE DOUBT AND ALL THOSE THINGS THAT HAVE
25 ALREADY BEEN TALKED ABOUT.

1 MR. EIDE: I DON'T THINK THERE'S ANYONE HERE
2 WHO WOULDN'T FIND THE CHARGE OF SEXUAL BATTERY
3 OFFENSIVE. I GUESS WHAT I'M TRYING TO SAY, JUST THE
4 FACT THAT YOU WORK WITH KIDS, WOULD YOU FIND IT SO
5 EGREGIOUS THAT YOU COULDN'T SIT ON A TRIAL INVOLVING
6 AN ALLEGATION OF THAT TYPE?

7 MS. PREISSER: I THINK THAT I COULD BE FAIR.
8 I'VE WORKED WITH CHILDREN OF ALL AGES, AND ALL OF THE
9 CHILDREN THAT I HAVE WORKED WITH HAVE NOT NECESSARILY
10 BEEN ALL GOOD CHILDREN OR PERFECT CHILDREN.

11 AND SO SOMETIMES, ESPECIALLY IN THE HIGH
12 SCHOOL, YOU HAVE SOME CHILDREN WHO ARE WONDERFUL AND
13 OTHER CHILDREN WHO ARE NOT SO WONDERFUL, AND THEY ALL
14 NEED AMOUNTS OF ATTENTION AND CONCERN.

15 MR. EIDE: IN YOUR EXPERIENCES AS A TEACHER, I
16 ASSUME YOU'VE SEEN THAT CHILDREN CAN LIE?

17 MS. PREISSER: YES, THEY CAN.

18 MR. EIDE: HAVE YOU EVER SEEN CHILDREN LIE TO
19 GET OUT OF BAD SITUATIONS OR ANYTHING EVER THAT TYPE?

20 MS. PREISSER: YES.

21 MR. EIDE: WOULD YOU SAY THAT A WONDERFUL CHILD
22 WOULD BE MORE LIKELY, OR LESS LIKELY, TO LIE THEN A
23 PROBLEM CHILD?

24 MS. PREISSER: I THINK, YOU KNOW, THE CIRCUMSTANCES
25 AND THE CHILD, EACH CASE WOULD BE DIFFERENT. I DON'T

1 THINK YOU CAN GENERALIZE TOO MANY THINGS WHEN IT COMES
2 TO CHILDREN. BECAUSE THEY ALL HAVE THEIR OWN DIFFERENT
3 PERSONALITIES AND BACKGROUND AND TALENTS.

4 MR. EIDE: IN YOUR EXPERIENCES WORKING WITH KIDS
5 AND THINGS, HAVE YOU EVER SEEN A SITUATION WHERE THE
6 KID -- AND YOU REALLY BELIEVED THE KID WASN'T TELLING
7 THE TRUTH -- REALLY BELIEVED THAT THEY WERE?

8 MS. PREISSER: I DON'T KNOW. I DON'T KNOW THAT
9 I CAN SAY THAT. I HAVE HAD A LOT OF EXPERIENCE WITH
10 CHILDREN, AND IT HAS SHOWN ME THAT IT IS POSSIBLE.

11 GENERALLY, CHILDREN ARE NOT PRACTICED LIARS,
12 AND THERE ARE SIGNALS THAT GIVE IT AWAY. THEY CAN'T
13 LOOK AT YOU IN THE EYE, AND THINGS LIKE THAT, THAT
14 ARE CLUES TO HOW THEY FEEL ABOUT WHAT THEY'RE SAYING.

15 MR. EIDE: YOU HAVE SIX KIDS OF YOUR OWN?

16 MS. PREISSER: YES.

17 MR. EIDE: AND DO THEY GO TO SCHOOL WITH YOU?

18 MS. PREISSER: THREE OF THEM ARE IN ELEMENTARY.

19 MR. EIDE: YOU GET THEM ALL DAY AND ALL NIGHT?

20 MS. PREISSER: NO, NONE OF THEM ARE IN MY CLASS,
21 THANK GOODNESS, FOR THEIR SAKE.

22 MR. EIDE: I CAN IMAGINE WHAT MY MOTHER WOULD
23 HAVE HAD TO GO THROUGH 24 HOURS A DAY. ANYTHING ABOUT
24 YOUR KIDS -- COULD YOU ALWAYS TELL WHEN THEY'RE LYING?

25 MS. PREISSER: I LIKE TO THINK THAT I COULD.

1 THAT MIGHT BE JUST EGO. BUT I THINK SO.

2 MR. EIDE: THANK YOU.

3 MS. ROBINSON, YOU AND YOUR HUSBAND BOTH
4 WORK AT FLORIDA AUTO AUCTION?

5 MS. ROBINSON: CORRECT.

6 MR. EIDE: YOU'VE BOTH WORKED THERE RIGHT FROM
7 THE BEGINNING?

8 MS. ROBINSON: NO, I WORKED THERE FIRST.

9 MR. EIDE: HOW LONG HAVE YOU WORKED THERE TOGETHER?

10 MS. ROBINSON: THREE YEARS.

11 MR. EIDE: DO YOU SEE HIM?

12 MS. ROBINSON: HARDLY EVER.

13 MR. EIDE: AND YOU'VE GOT ONE CHILD, CHRISTOPHER?

14 MS. ROBINSON: CORRECT.

15 MR. EIDE: HAVE YOU EVER HAD CHRISTOPHER TELL
16 YOU SOMETHING YOU DIDN'T QUITE BELIEVE WAS TRUE?

17 MS. ROBINSON: YES.

18 MR. EIDE: WHAT ABOUT A SITUATION THAT YOU DIDN'T
19 THINK WAS TRUE BUT YOU REALLY BELIEVED THAT HE THOUGHT
20 IT WAS, HAVE YOU EVER HAD THAT COME UP?

21 MS. ROBINSON: WHAT WAS THAT AGAIN?

22 MR. EIDE: SOMETHING THAT YOU FIGURED WHAT HE'S
23 TOLD YOU WASN'T RIGHT. BUT YOU ALSO KNEW THAT WHAT HE
24 WAS SAYING HE THOUGHT WAS RIGHT?

25 MS. ROBINSON: I DON'T THINK SO.

1 MR. EIDE: OKAY. DO YOU DO THINGS WITH YOUR SON
2 ON THE WEEKEND?

3 MS. ROBINSON: HMM-HMM.

4 MR. EIDE: WHAT DO YOU DO?

5 MS. ROBINSON: HE'S IN SOCCER. WE GO TO SOCCER
6 GAMES EVERY SATURDAY AND PLAY TENNIS, SHOP.

7 MR. EIDE: ALL RIGHT. THANKS.

8 MR. BURNS, DO YOU WORK AT K-MART?

9 MR. BURNS: YEAH.

10 MR. EIDE: YOU SAID YOUR SPOUSE WORKS AT D.C.P.S.,
11 AMELIA STREET.

12 MR. BURNS: THAT'S A SCHOOL.

13 MR. EIDE: WHAT IS IT?

14 MR. BURNS: ROLLING HILLS SCHOOL.

15 MR. EIDE: DO YOU EVER TALK TO HER ABOUT KIDS
16 SHE DEALS WITH AT SCHOOL AND THINGS LIKE THAT?

17 MR. BURNS: I DON'T DEAL WITH KIDS AT SCHOOL.

18 MR. EIDE: DO YOU EVER GO UP THERE AND SEE HER
19 OR ANYTHING OF THAT SORT?

20 MR. BURNS: (SHAKES HEAD)

21 MR. EIDE: YOU SERVED ON A JURY BEFORE?

22 MR. BURNS: YEAH.

23 MR. EIDE: YOU SERVED AS AN ALTERNATE.

24 ANYTHING ABOUT THAT JURY SERVICE THAT WOULD
25 HAVE ANY BEARING ON THIS CASE?

1 MR. BURNS: NO.

2 MR. EIDE: ALL RIGHT. THANKS.

3 MR. BURNS: OKAY.

4 MR. EIDE: MISS LUCAS --

5 MS. LUCAS: YEAH.

6 MR. EIDE: YOU DIDN'T CHECK WHETHER OR NOT YOU
7 WERE RELATED TO AN OFFICER. ARE YOU RELATED TO A
8 LAW ENFORCEMENT OFFICER IN ANY WAY?

9 MS. LUCAS: NO.

10 MR. EIDE: YOU'RE RETIRED NOW?

11 MS. LUCAS: YES.

12 MR. EIDE: WHAT DID YOU DO FOR A LIVING?

13 MS. LUCAS: I WAS A MAID.

14 MR. EIDE: HOW LONG DID YOU DO THAT?

15 MS. LUCAS: I WORKED AT HOTELS.

16 MR. EIDE: HOW LONG DID YOU DO THAT?

17 MS. LUCAS: WELL, I WAS A MAID ABOUT 16 OR 20
18 YEARS, FOR ONE COMPANY.

19 MR. EIDE: YOU WORKED IN ORLANDO HOTELS?

20 MS. LUCAS: NO, TALLAHASSEE.

21 MR. EIDE: SO YOU DIDN'T HAVE TO PUT UP WITH
22 QUITE AS MANY TOURISTS AS WE HAVE IN ORLANDO?

23 MS. LUCAS: NO, I HAVEN'T WORKED DOWN HERE SINCE
24 I'VE BEEN LIVING HERE.

25 MR. EIDE: MR. GREEN, YOU SAID YOU WERE RETIRED.

1 WHAT ARE YOU RETIRED FROM?

2 MR. GREEN: CONTINENTAL CAN COMPANY.

3 MR. EIDE: WHAT DID YOU DO THERE?

4 MR. GREEN: MAKE CANS. I WAS IN MAITENANCE.

5 MR. EIDE: IF I REMEMBER CORRECTLY, YOU SAID YOU
6 ALSO HAD A LITTLE HEARING PROBLEM?

7 MR. GREEN: YES.

8 MR. EIDE: LIKE MR. BENDER SAID, WE BOTH ARE
9 PRETTY LOUD. WE HAVE BIG MOUTHS; SOME PEOPLE HAVE
10 ACCUSED US.

11 BUT IF YOU'RE PICKED AND DON'T HEAR US,
12 JUST RAISE YOUR HAND. WE DON'T WANT YOU TO MISS
13 ANYTHING. OKAY?

14 MR. GREEN: ALL RIGHT. THERE'S ANOTHER THING.
15 I WORKED AS A POLICE OFFICER FOR SEVERAL YEARS, TOO.

16 MR. EIDE: WHEN DID YOU DO THAT?

17 MR. GREEN: IT WAS IN THE LATE 60'S, '71, I THINK.

18 MR. EIDE: HOW MANY YEARS?

19 MR. GREEN: BETWEEN SIX AND EIGHT YEARS. I'M NOT
20 SURE EXACTLY.

21 MR. EIDE: WHERE DID YOU WORK?

22 MR. GREEN: OCOEE.

23 MR. EIDE: SO YOU STILL HAVE PEOPLE ON THE FORCE
24 THAT ARE FRIENDS.

25 MR. GREEN: A COUPLE OF THEM.

1 MR. EIDE: IS THERE ANYTHING ABOUT BEING A POLICE
2 OFFICER THAT WOULD AFFECT YOU IN THIS CASE AT ALL?

3 MR. GREEN: OFFICERS' TESTIMONY MIGHT, BUT I'M
4 NOT POSITIVE ON THAT.

5 MR. EIDE: SO YOU THINK IF AN OFFICER WERE TO
6 GIVE CERTAIN TESTIMONY AND A CIVILIAN WERE TO GIVE
7 SOMETHING TOTALLY DIFFERENT, WOULD YOU TEND TO BELIEVE
8 THE OFFICER A LITTLE MORE?

9 MR. GREEN: I PROBABLY WOULD, BECAUSE OF TESTIMONY
10 BACK WHEN I WAS A POLICE OFFICER.

11 MR. EIDE: OKAY. LET ME GIVE YOU AN EXAMPLE THEN.
12 LET'S SAY THAT YOU HAVE JUST COME TO THIS PLANET FROM
13 WHEREVER. AND TWO PEOPLE COME UP TO YOU. ONE'S IN A
14 UNIFORM, YOU KNOW, IS AN OFFICER AND THE OTHER PERSON
15 IS JUST A CIVILIAN.

16 AND YOU ASK THEM WHAT COLOR THE SKY IS,
17 AND THE OFFICER SAYS THE SKY IS GREEN. AND YOU ASK
18 THE CIVILIAN AND THE CIVILIAN SAYS THE SKY IS RED.

19 WOULD YOU TEND TO BELIEVE THE SKY IS MORE
20 LIKELY GREEN THAN RED JUST BECAUSE THAT PERSON IS AN
21 OFFICER?

22 MR. GREEN: WELL, NO.

23 MR. EIDE: WELL, IF YOU DIDN'T KNOW IT WAS BLUE.

24 MR. GREEN: I WOULDN'T PROBABLY KNOW WHAT COLOR
25 IT WAS, EITHER.

1 MR. EIDE: SO THEN YOU WOULDN'T NECESSARILY
2 BELIEVE WHAT AN OFFICER SAYS OR A CIVILIAN SAYS?

3 MR. GREEN: WELL, IF I WAS FROM ANOTHER PLANET
4 I WOULDN'T KNOW AN OFFICER FROM A CIVILIAN.

5 MR. EIDE: IF YOU DID KNOW IT WAS DEFINITELY AN
6 OFFICER AND YOU KNEW THAT OFFICER AND YOU KNEW OF THEM
7 BEING AN OFFICER, WOULD YOU BELIEVE THERE TESTIMONY
8 MORE THAN A CIVILIAN, JUST BECAUSE THEY'RE AN OFFICER
9 AND FOR NO OTHER REASON?

10 MR. GREEN: WELL, YES. BECAUSE I WAS AN OFFICER.

11 MR. EIDE: ALL RIGHT.

12 IS IT AUTRY?

13 MR. AUTRY: RIGHT.

14 MR. EIDE: I WASN'T ABLE TO PRONOUNCE A-U-T-R-Y.

15 YOU WORK AT SENNOCO?

16 MR. AUTRY: CORRECT.

17 MR. EIDE: WHAT DO YOU DO THERE?

18 MR. AUTRY: I'M A BUYER.

19 MR. EIDE: PURCHASING?

20 MR. AUTRY: RIGHT.

21 MR. EIDE: A LOT OF COMPUTERS?

22 MR. AUTRY: RIGHT.

23 MR. EIDE: DO YOU DEAL WITH PEOPLE?

24 MR. AUTRY: QUITE A FEW PEOPLE.

25 MR. EIDE: ALL RIGHT.

1 MR. EIDE: MISS LUNSKOW, MARK TALKED TO YOU A
2 LITTLE BIT ABOUT WHETHER OR NOT, BASED ON THESE FACTS,
3 YOU COULD KEEP ALL OF THESE THINGS OUT OF YOUR MIND.

4 I DON'T WANT TO DWELL ON IT. IF IN THE
5 MIDDLE OF TESTIMONY, IF YOU'RE SERVING ON THE JURY,
6 YOU HEARD SOME THINGS THAT BROUGHT BACK BAD MEMORIES
7 ABOUT WHAT HAPPENED TO YOU, WOULD YOU BE ABLE TO PUT
8 THOSE THINGS IMMEDIATELY OUT OF YOUR MIND AND NOT
9 EVEN THINK ABOUT THOSE OR BE SWAYED BY THOSE AT ALL?

10 MS. LUNSKOW: I DON'T THINK THAT I WOULD BE ✓
11 SWAYED. I THINK THAT MY EMOTIONS -- I'VE ALREADY
12 FELT EMOTIONS HERE TODAY. AND SO I WOULD FEEL THE
13 EMOTIONS. I WOULD TRY TO GIVE THE PERSON A FAIR
14 SHAKE, AS I WOULD WANT THE PERSON TO GIVE ME. ✓

15 MR. EIDE: OKAY. THANK YOU.

16 MISS KERLEY?

17 MS. KERLEY: CORRECT.

18 MR. EIDE: YOU DIDN'T CHECK WHETHER OR NOT YOU
19 KNEW AN OFFICER. DO YOU HAVE ANY RELATIVES THAT
20 ARE OFFICERS?

21 MS. KERLEY: NO.

22 MR. EIDE: YOU SAID YOUR HUSBAND WAS RETIRED.
23 WHAT'S HE RETIRED FROM?

24 MS. KERLEY: HE RETIRED FROM A FACTORY IN IOWA.

25 MR. EIDE: WHAT DID HE DO THERE?

1 MS. KERLEY: HE WAS ON MAINTENANCE AND STOCKROOM.

2 MR. EIDE: OKAY. THANK YOU.

3 MR. SMITH, YOU STATED THAT YOUR WIFE WAS
4 SELF-EMPLOYED. WHAT DOES SHE DO?

5 MR. RICHARD SMITH: SHE'S MAKES CRAFTS AND SELLS
6 THEM AT THE CRAFT SHOWS.

7 MR. EIDE: DO YOU EVER GO WITH HER AND WORK WITH
8 HER AT THOSE?

9 MR. RICHARD SMITH: I GO WITH HER BUT NOT MUCH
10 WORK.

11 MR. EIDE: IS THIS ON WEEKENDS?

12 MR. RICHARD SMITH: YES.

13 MR. EIDE: THAT'S THE LAST THING I GUESS YOU WANT
14 TO DO ON WEEKENDS, IS WORK.

15 MR. RICHARD SMITH: THAT'S CORRECT.

16 MR. EIDE: YOU STATED THAT YOU'RE PRESIDENT OF
17 INTERACTIVE CRAFTS CORPORATION. IS THAT YOUR OWN
18 COMPANY?

19 MR. RICHARD SMITH: YES.

20 MR. EIDE: DO YOU STILL WORK THERE?

21 MR. RICHARD SMITH: YES.

22 MR. EIDE: YOU DRIVE IN TO TAMPA EVERY DAY?

23 MR. RICHARD SMITH: YES.

24 MR. EIDE: ACTUALLY, IT'S PROBABLY BETTER DRIVING
25 THAT WAY.

1 MR. RICHARD SMITH: WELL, MY OFFICE IS AT I-4
2 AND 301, AND THAT'S ABOUT 12 MILES BEFORE YOU GET IN
3 TO TAMPA. THE WORSE THING DRIVING IS GOING THROUGH
4 ORLANDO. AND I LIVE ON THE WEST SIDE OF ORLANDO SO
5 I GET THE BEST OF THE DRIVE.

6 MR. EIDE: YOU PROBABLY GET TO WORK QUICKER THAN
7 IF YOU SAID TO DRIVE TO ALTAMONTE.

8 MR. RICHARD SMITH: PROBABLY. IT TAKES ONE HOUR.

9 MR. EIDE: IN YOUR JOB, WHAT ARE YOU DOING? DO
10 YOU STILL DO THE MANUFACTURING?

11 MR. RICHARD SMITH: IT'S -- WE MANAGE ENGINEERING
12 RECORDS IN THE COMPUTER AND KEEP A DATA BASE OF
13 ENGINEERING RECORDS FOR UTILITIES. AND THEY SEND US
14 THEIR WORK ORDER CHANGES AND THEN CALL THE NUMBERS UP
15 ON THE COMPUTER AND UPDATE THEM AN RE-DISTRIBUTE THEM.

16 MR. EIDE: DEALING WITH COMPUTERS LIKE YOU DO,
17 CAN COMPUTERS MAKE MISTAKES?

18 MR. RICHARD SMITH: ABSOLUTELY.

19 MR. EIDE: I KNOW WHEN I TOOK MY COMPUTER CLASS,
20 IT WAS GARBAGE IN; GARBAGE OUT. MEANING, IF I COULDN'T
21 PUT THE STUFF INTO IT, IT WASN'T GOING TO GIVE ME MUCH.
22 MY PROBLEM WAS I THOUGHT I WAS PUTTING EVERYTHING IN
23 RIGHT. AND IT SOMETIMES WASN'T GIVING ME ANYTHING.

24 DOES THAT EVER HAPPEN?

25 MR. RICHARD SMITH: YES. YOU KNOW THE NEW

1 VIRUSES AND EVERYTHING, THE COMPONENTS ARE WEAK;
2 ANYTHING CAN CAUSE PROBLEMS WITH THE COMPUTER. BUT,
3 IN GENERAL, IT'S SAFE TO SAY THAT "GARBAGE IN, GARBAGE
4 OUT" IS CORRECT.

5 MR. EIDE: OKAY. THANKS.

6 MAXINE SWAN, YOU STATED YOU'RE RETIRED NOW.

7 MS. SWAN: YES.

8 MR. EIDE: WHAT DID YOU DO BEFORE YOU RETIRED?

9 MS. SWAN: I WAS A HOUSEWIFE.

10 MR. EIDE: WHAT DID YOUR HUSBAND DO?

11 MR. SWAN: HE WAS AN ABTRACTOR.

12 MR. EIDE: WHAT DOES AN --

13 MS. SWAN: IT HAS TO DO WITH THE LEGAL OWNERSHIP
14 OF PROPERTY.

15 MR. EIDE: WAS HE AN ATTORNEY?

16 MS. SWAN: NO.

17 MR. EIDE: MORE LIKE APPRAISER, GOING BACK AND
18 LOOKING AT THE RECORDS?

19 MS. SWAN: HE WAS NOT A PRACTICING ATTORNEY,
20 BUT IT WAS ALMOST THE SAME THING.

21 MR. EIDE: DID HE WORK ON HIS OWN?

22 MS. SWAN: HE WORKED FOR A COMPANY.

23 MR. EIDE: HOW MANY KIDS DID YOU HAVE?

24 MS. SWAN: TWO.

25 MR. EIDE: WHAT DO THEY DO NOW?

1 MS. SWAN: ONE'S IN WASHINGTON. HE'S A WRITER.
2 THE OTHER ONE IS IN COLUMBUS, OHIO, AND HE HAS A JOB
3 AS HEAD OF AN INSURANCE OFFICE.

4 MR. EIDE: MR. RAZZANO --

5 MR. RAZZANO: YES.

6 MR. EIDE: YOU SAID YOU SERVED ONCE BEFORE ON A
7 CRIMINAL JURY?

8 MR. RAZZANO: YES.

9 MR. EIDE: YOU WOULD BE ABLE TO PUT THAT CASE OUT
10 OF YOUR MIND IF YOU WERE SELECTED TO SERVE ON THIS ONE?

11 MR. RAZZANO: YES.

12 MR. EIDE: YOU SAID YOU WORK NOW AT NATIONAL CAR
13 RENTAL?

14 MR. RAZZANO: YES.

15 MR. EIDE: WHAT DO YOU DO THERE?

16 MR. RAZZANO: I'M A LONG DISTANCE DRIVER. I DRIVE
17 CARS OUT TO THE HOTELS AND DISNEY AND VARIOUS OTHER
18 LOCATIONS.

19 MR. EIDE: IN OTHER WORDS, YOU PURPOSELY DRIVE
20 ON I-4 EVERY DAY?

21 MR. RAZZANO: YES.

22 MR. EIDE: OKAY. THANK YOU.

23 I WANT TO GO THROUGH NOW AND ASK SOME
24 GENERALIZED QUESTIONS ON SOME THINGS AND KIND OF
25 GO THROUGH SOME QUESTIONS AND HAVE JUST A LITTLE BIT

1 OF DISCUSSION.

2 MR. BENDER TALKED ABOUT BURDEN OF PROOF,
3 AND YOU'LL HEAR THOSE THREE WORDS OVER AND OVER. WE
4 SEEM TO HAVE CATCH PHRASES IN LAW.

5 DOES EVERYONE UNDERSTAND HERE THAT THE
6 STATE MUST PROVE EACH AND EVERY ELEMENT OF THE CRIME
7 CHARGED BEYOND A REASONABLE DOUBT? ANY QUESTION AS
8 TO THAT?

9 IN OTHER WORDS, IF THERE'S FOUR ELEMENTS
10 THAT MUST BE PROVEN FOR ONE CRIME AND FOUR ELEMENTS
11 FOR ANOTHER CRIME, THE STATE MUST CONVINCING YOU BEYOND
12 A REASONABLE DOUBT AS TO EACH OF THOSE EIGHT ELEMENTS.

13 DOES EVERYONE UNDERSTAND THAT?

14 PROSPECTIVE JURORS: (NO RESPONSE)

15 MR. EIDE: NOW, WOULD YOU ALL AGREE THEN THAT
16 IF THE STATE PROVED THREE OR FOUR IN BOTH CASES, THAT
17 THEY HAVEN'T MET THEIR BURDEN? IS THERE ANY QUESTION
18 ABOUT THAT?

19 MR. FISHER --

20 MR. FISHER: YES, SIR.

21 MR. EIDE: IF YOU HAD ELEMENT A, B, C AND D, IN A
22 PARTICULAR CRIME, AND YOU THOUGHT THE STATE PROVED A
23 AND B IN YOUR MIND -- THERE WAS NO REASON IN YOUR MIND;
24 YOU WERE SURE OF IT. THEY PROVED C AND D, YOU WEREN'T
25 SURE, AND YOU DON'T THINK THAT WAS BEYOND A REASONABLE

1 DOUBT. WHAT DO YOU THINK YOU WOULD HAVE TO DO AT THAT
2 POINT?

3 MR. FISHER: IT SEEMS TO ME THE STATE WOULD HAVE
4 TO PROVE ALL FOUR ELEMENTS.

5 MR. EIDE: WOULD YOU AGREE THEN THAT YOU WOULD
6 HAVE TO COME BACK WITH A VERDICT OF NOT GUILTY?

7 MR. FISHER: (NODS HEAD)

8 MR. EIDE: LIKE MR. BENDER STATED AND I STATED
9 EARLIER, THE CHARGE INVOLVES ALLEGATIONS OF SEXUAL
10 ABUSE ON A CHILD.

11 DOES EVERYONE UNDERSTAND THAT'S WHAT THEY
12 ARE AT THIS POINT? THEY'RE ALLEGATIONS. THEY'RE
13 NOTHING MORE THAN ALLEGATIONS.

14 DOES ANYONE HAVE A PROBLEM COMING BACK AND
15 SAYING TO THE JUDGE THAT WE THINK SOMETHING HAPPENED
16 OR WE DON'T THINK THIS PERSON DID IT, AND LETTING
17 SOMETHING THAT HAPPENED, SOMETHING BAD THAT HAPPENED
18 JUST GO UNCHECKED IN THIS CASE? DOES ANYONE HAVE A
19 PROBLEM WITH THAT?

20 BECAUSE IDENTIFICATION IS ONE OF THE
21 ELEMENTS; THAT EVEN THOUGH SOMETHING HAPPENED, YOU
22 BELIEVED IT WAS THE PERSON THAT WAS ALLEGED.

23 SOME OF YOU HAVE SERVED ON CIVIL JURIES,
24 AND I KNOW THAT, OR BEEN INVOLVED WITH CIVIL CASES.
25 DOES EVERYONE HERE UNDERSTAND THE BURDEN BETWEEN THE

1 CIVIL BURDEN AND THE CRIMINAL?

2 WHICH IS, CIVIL IS A PREPONDERANCE OF
3 EVIDENCE, A WEIGHING. BEYOND A REASONABLE DOUBT IS A
4 MUCH HIGHER STANDARD. DOES ANYONE HAVE A PROBLEM WITH
5 THE DIFFERENCE IN THAT BURDEN?

6 DOES EVERYONE UNDERSTAND THAT IN A CIVIL
7 TRIAL ALL YOU HAVE IS A QUESTION AS TO WHETHER THIS
8 OR THAT HAPPENED? AND THE RESULT COULD BE A CIVIL
9 JUDGMENT OR SOMETHING OF THAT SORT.

10 AND IN CRIMINAL, IT INVOLVES CONSTITUTIONAL
11 RIGHTS. IT INVOLVES CERTAIN PENALTIES. AND IT
12 INVOLVES THE RECORDS, HAVING RECORDS.

13 DO YOU UNDERSTAND THAT'S WHY WE HAVE A
14 HIGHER BURDEN?

15 PROSPECTIVE JURORS: (NO RESPONSE)

16 MR. EIDE: YOU KNOW, BEYOND A REASONABLE DOUBT
17 AND THE OTHER BUZZ WORD PHRASE THAT WE HAVE IS
18 "PRESUMPTION OF INNOCENCE," THOSE THINGS.

19 YOU ALL UNDERSTAND THAT THOSE ARE BUILDING
20 BLOCKS TO OUR CONSTITUTION. TWO HUNDRED YEARS AGO
21 THOSE ARE THINGS THAT WE STARTED ON, AND WE'RE STILL
22 GOING ON IT.

23 IS THERE ANYTHING ABOUT THOSE -- YOU THINK
24 IT'S TOO SOFT OF A BURDEN, OR DO YOU THINK IT'S JUST
25 NOT RIGHT THAT THE STATE SHOULD BE HELD TO SUCH A

1 BURDEN? ANYONE WHO THINKS THAT?

2 PROSPECTIVE JURORS: (NO RESPONSE)

3 MR. EIDE: MISS BRYAN, YOU SAID TO MR. BENDER
4 THAT YOU HAD TESTIFIED IN A RAPE TRIAL?

5 MS. BRYAN: HMM-HMM.

6 MR. EIDE: IS THERE ANYTHING ABOUT THAT CASE
7 THAT YOU WOULD HOLD OVER AND BRING INTO THIS CASE?

8 MS. BRYAN: NO. IT WAS A SERIES OF CHARGES OF
9 KIDNAPPING, FALSE IMPRISONMENT. I THINK THOSE WERE
10 THE BAD ONE'S.

11 MR. EIDE: DO YOU THINK IT WOULD BE TOUGH FOR
12 YOU TO PUT THAT CASE BEHIND YOU AND LET IT OUT AND
13 JUST THINK ONLY OF THIS CASE? BECAUSE IT COULD
14 INVOLVE SOME OF THE SAME ALLEGATIONS.

15 MS. BRYAN: I WORKED FOR SPOUSE ABUSE FOR A YEAR,
16 AND I DEALT WITH PEOPLE WHO WERE GUILTY AND INNOCENCE
17 AND FOUND THAT WAY BY THE COURTS.

18 AND I DIDN'T HAVE A PROBLEM. AND, ACTUALLY,
19 SOME OF THOSE CASES INVOLVED CHILDREN, AND SOMETIMES A
20 PERSON'S OWN CHILD WAS ON TRIAL. AND I DIDN'T REALLY
21 HAVE THAT MUCH OF A PROBLEM WITH THAT.

22 MR. EIDE: DO YOU THINK IN THIS CASE THAT YOU
23 CAN PUT ALL OF THOSE FACTS BEHIND YOU? EVEN SOMETHING
24 THAT BRINGS MEMORIES BACK, COULD YOU PUT IT BEHIND YOU
25 AND THINK ONLY OF THIS CASE?

1 MS. BRYAN: I WOULD HOPE SO.

2 MR. EIDE: DOES ANYONE ELSE HERE KNOW ANYONE
3 WHO'S BEEN SEXUALLY ASSAULTED OR MOLESTED, OTHER THAN
4 THE PEOPLE WE'VE TALKED ABOUT? ANYONE ELSE?

5 PROSPECTIVE JURORS: (NO RESPONSE)

6 MR. EIDE: NOW, I WANT TO TALK A SECOND AND GO
7 BACK TO THAT BUZZ PHRASE, "PRESUMPTION OF INNOCENCE".

8 NOW, THE PRESUMPTION OF INNOCENCE IS THAT
9 IF WE HAD THE VERDICTS RIGHT NOW, THAT MR. MERSON IS
10 INNOCENT. THERE HAS BEEN NO FACTS AND THERE'S BEEN
11 NO PROOF.

12 AND THAT BURDEN STAYS WITH MR. MERSON
13 THROUGHOUT THE ENTIRE TRIAL. SO AT THE END OF THE
14 TRIAL, HE STILL HAS THAT BURDEN. WHEN YOU LEAVE THE
15 JURY BOX AND GO BACK TO THE JURY ROOM, THAT PRESUMPTION
16 IS STILL THERE.

17 THE PRESUMPTION EXISTS UNTIL A JURY DECIDES
18 THAT THE STATE HAS PROVEN EVERY ELEMENT BEYOND A
19 REASONABLE DOUBT.

20 AS YOU HEAR EVIDENCE OF THE ALLEGATIONS
21 AGAINST MR. MERSON, IS THERE ANYONE THAT'S GOING TO
22 THINK THAT THEY COULD THROUGHOUT THE WHOLE THING UPHOLD
23 THAT PRESUMPTION OF INNOCENCE? IS THERE ANY PROBLEM
24 WITH THAT?

25 OKAY, MISS COLE?

1 MS. COLE: YES.

2 MR. EIDE: IF WE SENT YOU BACK IN THE JURY ROOM
3 RIGHT NOW AND SAID DECIDE THIS CASE, WHAT WOULD YOUR
4 VERDICT BE?

5 MS. COLE: I WOULD HAVE NO OPINION, SINCE I DON'T
6 HAVE ANY EVIDENCE.

7 MR. EIDE: WELL, DO YOU UNDERSTAND THAT IF WE HAD
8 A JURY VERDICT COME BACK RIGHT NOW, THAT IT WOULD HAVE
9 TO BE NOT GUILTY BECAUSE THE STATE HASN'T PRESENTED
10 ANY EVIDENCE?

11 MS. COLE: YES, UN-HUH, YOU CAN'T DECIDE SOMETHING
12 WITHOUT EVIDENCE.

13 MR. EIDE: THERE'S ANOTHER LITTLE THING THAT WE
14 HAVE IN OUR CONSTITUTIONAL; THAT A DEFENDANT, A PERSON
15 ACCUSED, A CITIZEN ACCUSED, SOMEONE ALLEGED TO HAVE
16 DONE SOMETHING, HAS A RIGHT TO TESTIFY IN COURT OR
17 TO NOT TESTIFY IN COURT.

18 AND THE JUDGE WILL INSTRUCT YOU IT'S NOT
19 NECESSARY, THAT YOU DON'T HAVE TO TAKE THE STAND OR
20 YOU CAN TAKE IT IF YOU WANT, AND THAT YOU WOULDN'T
21 BE ABLE TO HOLD ANYTHING AGAINST THAT PERSON FOR
22 CHOOSING NOT TO TAKE THE STAND.

23 AND THERE'S A LOT OF REASONS YOU WOULD NOT
24 TAKE THE STAND, NERVOUSNESS, OR NOTHING THAT YOU WOULD
25 ADD MORE THAN OTHER PEOPLE DID.

1 DOES ANYONE THINK THAT MR. MERSON WOULD
2 HAVE TO TAKE THE STAND TO PROVE HIS INNOCENCE IN THIS
3 CASE AT ALL?

4 PROSPECTIVE JURORS: (NO RESPONSE)

5 MR. EIDE: IS THERE ANYONE GOING TO QUESTION WHY
6 HE DIDN'T TAKE THE STAND, OR WHAT THE PROBLEM WAS IF
7 HE DOESN'T? IS THERE ANY PROBLEM WITH THAT NOW?

8 PROSPECTIVE JURORS: (NO RESPONSE)

9 MR. EIDE: THERE'S ALSO A WORD MR. BENDER BROUGHT
10 UP A LITTLE BIT AND YOU'LL HEAR THROUGHOUT, THE QUESTION
11 OF CREDIBILITY. AND THAT'S GOING TO BE THE TOTAL JOB
12 OF THE JURY.

13 AND SOME OF YOU HAVE KIDS, AND SOME OF YOU
14 DON'T. WE'VE ALL HAD LIFE EXPERIENCES. AND I GUESS
15 YOU'RE THE EXPERT WITNESSES ON CREDIBILITY. AND THAT'S
16 WHAT THE JOB IS.

17 IS THERE ANYONE HERE, THOUGH, THAT WOULD
18 TEND TO BELIEVE BECAUSE OF PAST EXPERIENCES, A PERSON
19 WHO IS A STATE WITNESS OVER A PERSON WHO IS MR. MERSON'S
20 WITNESS JUST BECAUSE OF THEIR BEING STATE WITNESSES?

21 OKAY. ANYONE THAT WOULD NECESSARILY BELIEVE
22 A VICTIM OVER SOMEBODY WHO IS TOTALLY DENYING IT,
23 SIMPLY BECAUSE OF THEM COMING FORWARD AS A VICTIM?

24 PROSPECTIVE JURORS: (NO RESPONSE)

25 MR. EIDE: WHAT I MEAN BY THAT, YOU ALSO SEE

1 POLICE REPORTS AND EVERYTHING SAYING HOW TOUGH IT IS
2 FOR SOMEONE WHO HAS BEEN A VICTIM OF A SEXUAL ASSAULT
3 TO COME FORWARD. THERE'S A LOT OF THINGS THEY HAVE
4 TO GO THROUGH.

5 WOULD YOU BELIEVE THAT THAT PERSON IS MORE
6 LIKELY TO BE CREDIBLE, SIMPLY BECAUSE THEY'VE DECIDED
7 TO MAKE THAT CHOICE, THEN SOMEONE WHO IS ACCUSED OF IT?

8 PROSPECTIVE JURORS: (NO RESPONSE)

9 MR. EIDE: OKAY. THERE'S ALWAYS GOING TO BE
10 JUST GENERAL EVIDENCE THROUGHOUT, THAT I THINK THERE'S
11 A DISTINGUISHMENT NECESSARY BETWEEN FACT AND OPINION.

12 DOES EVERYONE UNDERSTAND THE DIFFERENCE
13 BETWEEN WHAT IS A FACT AND WHAT IS AN OPINION?

14 FOR INSTANCE, THE FACT IS I'M WEARING A
15 BLACK SUIT, ALL RIGHT, OR DARK BROWN. THAT'S A FACT.
16 WHETHER OR NOT MY SUIT IS UGLY, NICE, CHEAP, WHATEVER,
17 THAT'S AN OPINION. DOES EVERYONE UNDERSTAND THAT?

18 PROSPECTIVE JURORS: (NO RESPONSE)

19 MR. EIDE: NOW, THERE'S ANOTHER LITTLE SAYING
20 THAT GOES, "HONEST MEN MAY DIFFER AS TO OPINION".
21 AND YOU SEE IT ALL THE TIME. OUR CONGRESS RIGHT NOW
22 IS DIFFERING AS TO WHETHER THIS IS GOOD FOR THE BUDGET
23 OR THAT IS.

24 AND WE HOPE, SINCE WE'VE ELECTED THEM,
25 THEY'RE TRYING TO DO THE BEST FOR EVERYBODY. BUT

1 OF THE STORY" IS SOMETHING WHERE HE TELLS YOU A LITTLE
2 BIT OF A STORY FOR ABOUT 30 SECONDS OR A MINUTE AND
3 GOES THROUGH THE FACTS AND SAYS THIS HAPPENED AND WE
4 KNOW ABOUT THIS AND THAT.

5 AND HE GOES THROUGH A LITTLE STORY. AND
6 HE TELLS YOU ABOUT SOMETHING, AND YOU'RE LISTENING
7 BECAUSE IT'S NEAT. WHATEVER HE'S GOING OVER IS
8 INTERESTING.

9 AND THEN HE'LL SAY, "WE'LL COME BACK IN
10 A MINUTE FOR THE REST OF THE STORY." AND THEN YOU'RE
11 SITTING THERE WONDERING WHAT HAPPENED.

12 SOMETIMES YOU'LL SIT THERE AND SAY, "I THINK
13 I KNOW WHAT IT IS." DO YOU PEOPLE DO THAT, TRYING TO
14 GUESS WHAT PAUL WOULD COME UP WITH.

15 AND THEN HE'LL COME BACK AND GIVE YOU THE
16 REST, AND MAYBE IT'S TOTALLY DIFFERENT FROM WHAT YOU
17 THOUGHT. AND HE SAYS, "AND THAT'S THE REST OF THE
18 STORY."

19 AND THAT'S KIND OF WHAT WILL HAPPEN TODAY
20 AND TOMORROW IN TRIAL. THE STATE WILL PRESENT THEIR
21 EVIDENCE FIRST. AND AT ONE POINT, WHEN IT'S OUR TURN,
22 WE'LL COME UP AND PRESENT THE REST OF THE STORY.
23 IT'S THE SAME; YOU HAVE TO LOOK AT EVERYTHING.

24 DOES EVERYONE PROMISE THAT THEY WILL LOOK
25 AT THE WHOLE CASE AND JUDGE THE WHOLE CASE, EVERYTHING,

1 BEFORE THEY MAKE A DECISION?

2 IS THERE ANYONE HERE THAT'S GOING TO HAVE
3 ANY TROUBLE WAITING FOR THE REST OF THE STORY AT ALL?

4 PROSPECTIVE JURORS: (NO RESPONSE)

5 MR. EIDE: NOW, THERE'S A FEW OTHER THINGS THAT
6 I WANT TO TOUCH ON, JUST A COUPLE OF MORE.

7 THE COURT: COUNSEL, APPROACH THE BENCH.

8 (THEREUPON, COUNSEL APPROACHED THE BENCH, AND THE
9 PROCEEDINGS WERE HAD OUTSIDE THE HEARING OF THE JURY, AND
10 OFF THE RECORD.)

11 MR. EIDE: OKAY. DOES ANYONE HERE OPPOSE SEX
12 EDUCATION IN OUR CLASSROOMS, AT ALL? JUST OUTRIGHT,
13 "I CAN'T STAND IT. I DON'T LIKE IT"?

14 PROSPECTIVE JURORS: (NO RESPONSE)

15 MR. EIDE: DOES ANYONE HERE THINK THAT THERE'S
16 TOO MUCH SEX AND VIOLENCE ON TV AND THAT OUR KIDS,
17 US, WE'RE EXPOSED TO TOO MUCH? DOES ANYBODY HERE
18 THINK THAT?

19 PROSPECTIVE JURORS: (INDICATING)

20 MR. EIDE: I'M YOUNG. I'M 27 NOW, AND I HAVE
21 NOTICED CHANGES. HAS EVERYONE NOTICED A CHANGE IN
22 WHAT COMES ON TV AND IN THE MEDIA?

23 DOES ANYONE HERE DISAGREE THAT I GUESS THE
24 KIDS TODAY ARE SHOWN A LITTLE MORE ABOUT SEX, VIOLENCE
25 THEN YOU WERE OR I WAS WHEN WE WERE KIDS?

1 SOMETHING ABOUT THAT, THAT SEX AND VIOLENCE
2 IS ON TV AND PEOPLE ARE EXPOSED TO THAT, YOU THINK IS
3 JUST SO OUTRAGEOUS THAT WHEN YOU START HEARING ABOUT
4 THESE THINGS IT GETS YOUR BLOOD BOILING TO THE POINT
5 THAT MAYBE IN THIS CASE WHEN YOU HEAR IT YOU WOULDN'T
6 BE ABLE TO HEAR ALL THE EVIDENCE AND JUDGE FREELY?

7 IS THERE ANY PROBLEM WITH THAT FROM ANYONE?

8 PROSPECTIVE JURORS: (NO RESPONSE)

9 MR. EIDE: THE EVIDENCE WILL COME OUT, AND
10 THROUGHOUT IT, IT'S GOING TO BE SUCH THAT I'M GOING
11 TO BE THE ADVERSARY TO THE CHILDREN. I'M GOING TO BE
12 THE ONE THAT STEPS UP AND ASKS THE CHILDREN QUESTIONS.
13 AND I'M DOING IT FOR MR. MERSON.

14 IS ANYONE GOING TO HOLD IT AGAINST
15 MR. MERSON OR ME, OR WHATEVER, THAT I'M GOING UP AND
16 CROSS-EXAMINING THE CHILDREN? IS THAT A PROBLEM WITH
17 ANYONE? DOES EVERYONE REALIZE THAT'S JUST MY JOB?

18 PROSPECTIVE JURORS: (NO RESPONSE)

19 MR. EIDE: IS ANYONE GOING TO HOLD IT AGAINST
20 EITHER MR. BENDER OR MYSELF FOR STANDING UP AND
21 OBJECTING TO ANY POINT THAT WE THINK WE NEED TO?

22 IF WE HOLD CONFERENCES UP WITH THE JUDGE,
23 LIKE WE JUST DID THERE, IS ANYONE GOING TO FIGURE
24 WE'RE TRYING TO HIDE SOMETHING FROM YOU GUYS OR HOLD
25 IT AGAINST US?

1 PROSPECTIVE JURORS: (NO RESPONSE)

2 MR. EIDE: NOW, I DON'T WANT YOU TO THINK THAT
3 WE WILL BE, BECAUSE WE'RE THE DEFENSE, WE'LL BE
4 CONDONING SEXUAL BATTERY ON CHILDREN, OR ANYTHING.

5 NO, I DON'T THINK ANYONE OUT THERE WOULD.
6 BUT THE QUESTION HERE IS GOING TO BE WHETHER IT
7 OCCURRED, WHETHER THE PERSON DID IT.

8 AND DOES EVERYONE AGREE THAT JUST THE FACT
9 THAT THIS HAPPENED IS TERRIBLE. BUT THAT WE WON'T
10 HOLD IT AGAINST MR. MERSON JUST BECAUSE IT MAY OR MAY
11 NOT HAVE OCCURRED? DOES EVERYONE AGREE WITH THAT?

12 AND IT WILL BE THAT YOU WILL HOLD THE STATE
13 TO THE BURDEN TO PROVE THAT IT WAS ACTUALLY MR. MERSON
14 THAT DID IT AND THAT IT DID OCCUR?

15 PROSPECTIVE JURORS: (NO RESPONSE)

16 MR. EIDE: A COUPLE OF MORE THINGS, AND THEN I'LL
17 WRAP IT UP.

18 IS IT MISS ROMOT?

19 MS. ROMOT: YES.

20 MR. EIDE: DO YOU BELIEVE THAT KIDS ARE ABLE TO
21 TELL STORIES?

22 MS. ROMOT: YEAH.

23 MR. EIDE: DO YOU THINK THEN THAT IT'S POSSIBLE
24 THAT CHILDREN WOULD EXAGGERATE OR LIE ABOUT THINGS OF
25 THAT SORT, ABOUT SEX?

1 MS. ROMOT: EXAGGERATE OR LIE? I GUESS.

2 MR. EIDE: DOES ANYONE HERE THINK CHILDREN COULD
3 NOT LIE ABOUT A SUBJECT INVOLVING SEX?

4 MR. GORDON: REPEAT THAT, PLEASE.

5 MR. EIDE: WOULD EVERYONE BELIEVE THAT A CHILD
6 COULD LIE ABOUT SEX? IN OTHER WORDS, BECAUSE IT'S SEX
7 AND SOMETHING THAT SEVEN, EIGHT, NINE, TEN-YEARS-OLD,
8 IT'S NOT SOMETHING THAT THEY SHOULD BE INVOLVED IN,
9 THAT THEY COULD STILL KNOW ABOUT IT AND COULD STILL
10 EXAGGERATE A LIE.

11 DOES ANYONE HAVE A PROBLEM WITH THAT?

12 PROSPECTIVE JURORS: (NO RESPONSE)

13 MR. EIDE: IS THERE ANYONE ELSE THAT WE'VE GONE
14 OVER, MYSELF SINCE TAKING OVER, THAT YOU'VE HEARD
15 ABOUT OR YOU JUST, YOU CAN'T BELIEVE OR YOU JUST FIND
16 SO APPAULING THAT YOU CAN'T SIT ON THIS JURY? ANYONE
17 AT ALL?

18 IS THERE ANYTHING ABOUT MR. MERSON OR MYSELF
19 THAT SAYS, "I JUST CAN'T DO IT"?

20 MR. ROSCOE SMITH: MAY I ASK YOU ONE QUESTION?
21 I WORKED FOR J.C. PENNY'S, RUNNING THEIR GAS PUMPS.

22 HIS FACE LOOKS AWFUL FAMILIAR. BUT YOU
23 SEE HUNDREDS OF PEOPLE COME IN AND OUT OF THERE.

24 MR. EIDE: ANYTHING ABOUT THE FACT THAT YOU MAY
25 OR MAY NOT HAVE SEEN MR. MERSON AT THAT PUMP, THAT

1 WOULD SWAY YOU?

2 MR. ROSCOE SMITH: NO. THE FACE DOES LOOK VERY
3 FAMILIAR. THE NAME DON'T MEAN ANYTHING, BUT THE FACE
4 LOOKS FAMILIAR.

5 MR. EIDE: ANYTHING ABOUT HIM BEING POSSIBLY
6 FAMILIAR THAT'S GOING TO SWAY YOU?

7 MR. ROSCOE SMITH: IT'S LIKE I SAID, THE FACE
8 DOES LOOK FAMILIAR. I'M NOT SURE WHETHER HE TRADED
9 THERE. BECAUSE YOU SEE HUNDREDS OF PEOPLE. I'VE
10 BEEN THERE 23 YEARS, ALTOGETHER.

11 MR. EIDE: I THANK YOU FOR BRINGING THAT UP.

12 IS THERE ANYTHING ELSE THAT ANYONE HAS,
13 THAT SAYS, "I JUST CAN'T DO IT AT ALL"?

14 PROSPECTIVE JURORS: (NO RESPONSE)

15 MR. EIDE: I APPRECIATE YOUR PATIENCE. IT TAKES
16 A LOT TO SIT HERE AND LISTEN TO US AND GO THROUGH IT.
17 AND I APPRECIATE IT. MR. MERSON APPRECIATES IT.

18 AND THE JUDGE WILL GO THROUGH SOME THINGS
19 NOW, AND WE'LL PROBABLY SEE YOU BACK IN A FEW MINUTES.
20 THANK YOU VERY MUCH.

21 THE COURT: WITHDRAW THE JURY.

22 (THEREUPON, THE VENIRE DEPARTED THE COURTROOM, AFTER
23 WHICH THE FOLLOWING PROCEEDINGS TRANSPYRED:)

24 THE COURT: WHY DON'T YOU ALL TAKE A FEW MINUTES
25 TO GO THROUGH YOUR LISTS, AND YOU ALL CAN GO AHEAD