

I N D E X

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PAGE

Court's Voir Dire	12
State's Voir Dire	107
Defense Voir Dire	143
Peremptory Challenges	188

1 (On April 16, 2012, with all counsel present as indicated
2 on the appearances, the following transpired *in chambers*.)

3 THE COURT: All right. We appear the 16th of
4 April, 2012. This is the matter of the State of Oklahoma
5 vs. Charles Allan Dyer, Case No. CF-2010-17.

6 We are in chambers outside the presence of potential
7 jurors. I'm present with counsel. There are no unresolved
8 motions at this time.

9 It was brought to my attention off the record and the
10 Court had previously, when we tried this matter last in
11 January -- the Court had a Motion in Limine from the State
12 that the Court heard argument from counsel and made a ruling
13 on at the time just prior to beginning jury selection *in*
14 *camera*, and I neglected to memorialize that by a written
15 court minute, and I have a -- a rough draft copy of what
16 transpired in Chambers at the time we made that ruling, and
17 I had sustained the State's Motion in Limine saying
18 specifically that consistent with the case law submitted by
19 counsel that mere innuendo, speculation or suggestion that
20 someone else may have perpetrated this particular crime
21 requires that in order to assert such an affirmative defense
22 a specific evidence tying that individual to this crime is
23 going to have to be elicited first, and I indicated at that
24 time that the Court would be prepared to take a -- undergo
25 an *in camera* hearing to address that issue before any such

1 evidence would be offered. The ruling is the same.

2 All right. Anything else we need to put on the record
3 before we begin?

4 MR. HOCH: Judge, I renew my Motion for a Change of
5 Venue. Again, last night Channel 7 News puts on another
6 thing about the trials that are coming up and mentioning
7 Mr. Dyer and saying he was on the FBI's Ten Most Wanted List
8 for awhile and then, again, this morning Duncan Banner has a
9 front page article with his mug shot picture.

10 I'll grant you this article wasn't as bad as the one
11 back in January, but nevertheless he's the center of
12 attention. The media seems to focus on him for some reason,
13 and I believe it's going to make it impossible to pick
14 impartial jurors.

15 MS. HIXON: Your Honor, Channel 7 covers every
16 county in our judicial district so the statute's allowing
17 motion to change venue would require us to change venue to
18 another one of those counties. So I -- I think we should
19 wait until -- see how jury selection goes; we picked a jury
20 fairly easily last time.

21 THE COURT: Any other argument to the merits of
22 what he's arguing today?

23 MR. WALTERS: Your Honor, there's -- there's been
24 no evidence that's been presented that this panel has been
25 tainted in any way, shape or form. I think just, as the

1 Court ruled last time, until such time as it is established
2 by evidence that this panel has been unduly influenced or
3 contains some sort of bias that it's untimely at this time,
4 ask the Court to hold in abeyance a ruling on that until
5 such time it's established it is tainted.

6 THE COURT: Anything, Mr. Hoch?

7 MR. HOCH: Not on that issue, no.

8 THE COURT: Well, I saw the article in the Banner
9 this morning. Court recalls media coverage of your client
10 both prior to the last trial, the trial before that and in
11 between, not only by print media locally but by the
12 telemedia out of Lawton, Channel 7.

13 I don't feel like there is sufficient basis at this time
14 for me to conclude that it -- that we could not get a fair
15 impartial jury. I think the best way -- procedure to handle
16 that would be as I handled that last time, take your motion
17 for change of venue and hold it in abeyance.

18 MR. HOCH: Thank you.

19 THE COURT: I don't find a basis to grant it
20 outright at this time. I will hold that in abeyance pending
21 jury selection and, if necessary, reurge it then and I'll
22 reconsider depending upon how we get along.

23 Anything else?

24 MR. HOCH: Just one administrative deal, Judge.

25 On waiving, last week when we did the strikes and it was --

1 THE COURT: Well, it was a little longer than a
2 week ago.

3 MR. HOCH: No, not here. This was --

4 THE COURT: It may seem just like a week ago.

5 MR. HOCH: This was another trial with the same DA
6 but what we did were defense gets last chance to waive, so
7 like if I waive, State waived, I would still get another
8 chance to waive. I want to see if it's --

9 THE COURT: Parties waive back to back, it's over.

10 MR. HOCH: Okay.

11 THE COURT: Unless you're telling me you waive your
12 fourth peremptory challenge only.

13 MR. HOCH: Okay.

14 THE COURT: But if the State waives and you waive,
15 no longer reservation, it's done. You waive and the State
16 waives, it's done.

17 MR. HOCH: So I need to say I waive only this
18 challenge?

19 THE COURT: That's right. State same.

20 Anything else?

21 (No verbal response.)

22 THE COURT: I think I have covered this before when
23 we were here -- you weren't here -- when we argued your last
24 motion which was a Motion to Dismiss. I think you had
25 someone covering for you, but at the time -- and it's

1 consistent with the previous ruling in January, I had
2 previously ruled that the Court on December the 30th, 2011,
3 and August 1, 2011, counsel for -- December -- must have
4 been December 2010 when we first --

5 MS. HIXON: No, April was when it went to trial.

6 THE COURT: Yeah, December 30, 2011, was most
7 recent before now and August 1, 2011, counsel had asserted
8 previous motions that were ruled on prior to the trial not
9 only in April of -- August of last year, I think. Well,
10 April, 2011, and I think in January 2012, and I had ruled on
11 those motions and accordingly all motions previously
12 asserted by State and Defendant and along with the Court's
13 rulings on those motions previously presented, argued
14 motions remain in full force and effect.

15 I don't think the Court has changed any of those
16 particular rulings. Specifically, I think, the stipulation
17 that it's not going to be necessary for the Court to conduct
18 a second *in camera* hearing touching upon the State's notice
19 to -- or intent to use hearsay evidence of a child under the
20 age of 12, I think it is, or is it 13?

21 MS. HIXON: 13.

22 THE COURT: Court has previously conducted a
23 hearing on that, has made rulings on that. I think the
24 stipulation previously by counsel was the evidence would be
25 no different. I think the Defendant had argued that a

1 different result asking the Court to conclude differently
2 than it did previously but I overruled that, as well.

3 MR. HOCH: Judge, I think I just have to review the
4 objection --

5 THE COURT: Certainly.

6 MR. HOCH: -- for a new trial, so same objection.

7 THE COURT: Very good. Same ruling.

8 Anything else?

9 MS. HIXON: No.

10 THE COURT: Okay. Let's go get started then.

11 (The following proceedings occurred in open court:)

12 BAILIFF KETCHUM: All rise.

13 THE COURT: All right. Take your seats, ladies and
14 gentlemen.

15 All right. This is the matter of the State of Oklahoma
16 vs. Charles Allan Dyer, Case No. CF-2010-17.

17 Is the State ready?

18 MS. HIXON: Ready, Your Honor.

19 THE COURT: Is the Defendant ready?

20 MR. HOCH: Defendant is ready, Your Honor.

21 THE COURT: I'm going to ask the -- I'll ask the
22 Clerk to call from the pool of prospective names --
23 prospective jurors 12 names, please, and when your name is
24 called I'll ask you to have a seat in the jury box.

25 You'll notice that in the back row of the jury box there

1 are seven red chairs. I'm going to ask the first person to
2 have -- have a seat in the chair closest to my end of the
3 courtroom on the back row next to the wall. We'll fill up
4 the first six chairs; we'll leave the seventh chair open.
5 The seventh person whose name is called we'll ask to have a
6 seat on the front row on the chair closest to my end of the
7 courtroom, please. All right.

8 CLERK CUNNINGHAM: Lea Marie Hamel, Lea Marie
9 Hamel, H-a-m-e-l, Juror No. 139.

10 Patricia A. Smith, Patricia A. Smith, S-m-i-t-h, No.
11 292.

12 Sharon Marie Smith, Sharon Marie Smith, S-m-i-t-h, 293.

13 Michael Duane Pirtle, Michale Duane Pirtle, P-i-r-t-l-e,
14 No. 251.

15 Joyce Ann Way, Joyce Ann Way, W-a-y, No. 327.

16 Alva Ray Marley, Alva Ray Marley, M-a-r-l-e-y, No. 195.

17 Landy Mark Suniga, Landy Mark Suniga, S-u-n-i-g-a,
18 No. 309.

19 Tyler Alvin Kessinger, Tyler Alvin Kessinger,
20 K-e-s-s-i-n-g-e-r, No. 178.

21 Tracie Gaye Thomas, Tracie Gaye Thomas, No. 316.

22 Wanda C. Simpson, Wanda C. Simpson, S-i-m-p-s-o-n, No.
23 288.

24 Jay Scott Shoemate, Jay Scott Shoemate, S-h-o-e-m-a-t-e,
25 No. 286.

1 William Herschel Murrah, William Herschel Murrah,
2 M-u-r-r-a-h, No. 231.

3 THE COURT: All right. Ladies and gentlemen, I'm
4 going to have the Clerk call some additional names. We'll
5 ask these individuals to have a seat on the first three --
6 we'll utilize the first three rows of the audience at this
7 time on your left.

8 So I'll ask you, ladies and gentlemen, on the first
9 three rows, I'm going to ask you to filter back at least
10 four rows behind. You will leave these -- those seats open
11 on those pews. As your name is called, we'll ask the first
12 individual to have a seat on the very first row closest to
13 the aisle, which will be on your right side, so the far
14 right end of that open pew. It will be right off of the
15 center aisle and then we'll seat the next four individuals
16 -- or five individuals -- from your left to right there.

17 All right. Six additional names, please.

18 CLERK CUNNINGHAM: Mildred Estep White, Mildred
19 Estep White, W-h-i-t-e, Juror No. 330.

20 Terri Lynn McPherson, Terri Lynn McPherson,
21 M-c-P-h-e-r-s-o-n, Juror No. 210.

22 MS. HIXON: I'm sorry. I didn't get that last
23 name.

24 CLERK CUNNINGHAM: Mildred White.

25 THE COURT: No. 14?

1 CLERK CUNNINGHAM: McPherson, Terri McPherson,
2 M-c-P-h-e-r-s-o-n, Juror No. 210.

3 Joy Anne Jackson, Joy Anne Jackson, J-a-c-k-s-o-n,
4 No. 166.

5 Katelyn Nicole Stankorb, Katelyn Nicole Stankorb,
6 S-t-a-n-k-o-r-b, Juror No. 300.

7 Katie Darlene Matthews, Katie Darlene Matthews, No. 197.

8 Vonn Dale Saltzman, Vonn Dale Saltzman. It's
9 S-a-l-t-z-m-a-n, No. 275.

10 THE COURT: Okay. We're going to call six
11 additional names. We'll have these individuals have a seat
12 on the second pew, again seated from your left to right off
13 the center aisle.

14 Ladies on the first row, you might want to kind of move
15 as far to your left as possible, make sure everybody has got
16 room, and I think Ms. Saltzman may be a little short there.
17 There we go. Very good.

18 Six additional names, please.

19 CLERK CUNNINGHAM: Jimmy Don Shaw, Jimmy Don Shaw,
20 S-h-a-w, Juror No. 280.

21 Teresa Morgan, Teresa Morgan, M-o-r-g-a-n, 223.

22 Pattie May Phillips, Pattie May Phillips,
23 P-h-i-l-l-i-p-s, 249.

24 Neoma Gayle Price, Neoma Gayle Price, P-r-i-c-e,
25 No. 255.

1 Julie Ann Postlethwaite, Julie Ann Postlethwaite,
2 P-o-s-t-l-e-t-h-w-a-i-t-e, 254.

3 Jennifer Michelle Wood, Jennifer Michelle Wood, W-o-o-d,
4 333.

5 THE COURT: I'm going to ask the Clerk to call
6 three additional names. We'll ask these individuals to have
7 a seat on the third row, again seating from your right to
8 left beginning right off the center aisle, please.

9 CLERK CUNNINGHAM: Bryan Scott Wagner, Bryan Scott
10 Wagner, W-a-g-n-e-r, 324.

11 Harvard Lynn Tomlinson, Harvard Lynn Tomlinson,
12 T-o-m-l-i-n-s-o-n, 317.

13 Janada Lynn Jenkins, Janada Lynn Jenkins, J-e-n-k-i-n-s,
14 No. 167.

15 THE COURT: All right. Ladies and gentlemen, we're
16 going to begin what -- the first part of jury selection
17 process and that's an opportunity where not only myself then
18 counsel to ask potential jurors questions touching upon your
19 qualifications. The law requires that you answer these
20 questions under oath so I'm going to ask all jurors present
21 in the courtroom, not only the 12 we put in the jury box but
22 the 18 we put in the first two-and-a-half rows as well as
23 all other jurors in the courtroom, as well, to please
24 stand -- as you're able -- raise your right hand and accept
25 your oath with respect to questions for jury qualifications

1 in this case.

2 ALL PROSPECTIVE JURORS: (Complying.)

3 CLERK CUNNINGHAM: Do you and each of you solemnly
4 swear to answer true to all questions asked you as to your
5 qualifications as jurors in the case on trial, so help you
6 God?

7 PROSPECTIVE JURORS: I do.

8 THE COURT: Some of you having difficulty standing,
9 please, feel free to remain seated.

10 Ladies and gentlemen, I will tell you that the questions
11 that will be asked of potential jurors will be addressed
12 only to those jurors presently seated in the jury box and
13 those 18 seated in the first two-and-a-half rows. The
14 questions will be general questions, typically calling for a
15 "yes" or "no" response and depending upon a particular "yes"
16 or "no" response to a particular question, it might
17 necessitate a need to ask individual questions of that
18 particular juror individually.

19 It will not be necessary for other jurors present in the
20 courtroom other than those seated in the jury box and the
21 first two-and-a-half rows to respond to those questions. I
22 will ask you, however, to follow those questions as they're
23 asked during the process and this process will work its way
24 through and there will be people that will be excused during
25 this particular process, and they'll be replaced from those

1 of you that are still in the audience that are still in the
2 general jury pool.

3 A reminder, these questions are not couched with an
4 intent to put someone unnecessarily on the spot or to
5 embarrass you or to create any anxiety other than what you
6 already, I'm sure, are feeling having been summoned for jury
7 duty. The questions are basically to ascertain if you know
8 anything about the case, any of the participants or anything
9 of that nature, or whether or not you have a preconceived
10 idea or notion as to what should happen in this trial
11 because we don't know yet. You haven't heard any of the
12 evidence.

13 Now, given everyone's individual life experiences or
14 family life experiences, some of the questions that may be
15 asked may be of a nature that given your particular life
16 experience or family life experience or circumstance is just
17 something that you individually don't feel comfortable
18 discussing or talking about in an open setting such as this
19 courtroom and if that should be the case, just let me know
20 and we'll visit one on one, just you and I and the lawyers
21 involved. We don't have to have that discussion in the open
22 courtroom.

23 All right. Ladies and gentlemen, the case that's been
24 called for trial -- as you noted, I -- I called the case is
25 the Matter of the State of Oklahoma vs. Charles Allan Dyer.

1 I will tell you, ladies and gentlemen, that the State of
2 Oklahoma in this case is represented by Mrs. Carrie Hixon.
3 She's an assistant district attorney. She's typically the
4 assistant district attorney over in Jefferson County, but we
5 see her on a quite frequent basis here in Stephens County
6 and she's indicated her presence by standing.

7 Also prosecuting the case is Mr. James Walters. He is
8 the First Assistant District Attorney, and he offices
9 primarily in the Grady County office in Chickasha, but we
10 have him here on a frequent -- quite frequently.

11 The Defendant in this case is Mr. Charles Allan Dyer who
12 is seated across the courtroom at counsel table. He's
13 indicated his presence by standing, and he's being
14 represented in this matter by Mr. Albert -- we call him
15 "Al" -- Hoch. Mr. Hoch practices law in Oklahoma City, and
16 he's no stranger to Stephens County, as well.

17 I make these instructions to you, ladies and gentlemen,
18 because I'm going to ask: Are there any of you, ladies and
19 gentlemen, that know the three lawyers who I've just
20 introduced? Any of you know the three lawyers? Let me see
21 a show of hands. Any of you that know the three lawyers.

22 (No verbal response.)

23 THE COURT: Are any of you familiar with or know
24 Mr. Dyer?

25 PROSPECTIVE JUROR SHARON SMITH: (Indicating.)

1 THE COURT: All right. Sharon Smith, you indicated
2 you know Mr. Dyer?

3 PROSPECTIVE JUROR SHARON SMITH: Yes.

4 THE COURT: How do you know Mr. Dyer?

5 PROSPECTIVE JUROR SHARON SMITH: I went to school
6 with him and his father was our preacher that married my
7 sister, and his ex-brother-in-law was my --

8 THE COURT: All right. Without getting into those
9 particular acquaintances specifically, is it fair to say
10 that based upon the acquaintance that you've indicated to me
11 you have, you've kind of followed this situation as it's
12 transpired here?

13 PROSPECTIVE JUROR SHARON SMITH: Yes.

14 THE COURT: Is it such that you probably might have
15 access to information that probably other jurors wouldn't
16 about these circumstances?

17 PROSPECTIVE JUROR SMITH: Yes.

18 THE COURT: Is it such that given that information
19 and your acquaintance, you feel like you could be a fair and
20 impartial juror in any way?

21 PROSPECTIVE JUROR SMITH: No.

22 THE COURT: All right. Without getting into
23 specifics I'm going to ask at this time if the State has any
24 objection if I excuse Mrs. Sharon Smith for cause?

25 MS. HIXON: No, Your Honor.

1 THE COURT: What says the Defendant?

2 MR. HOCH: No, sir.

3 THE COURT: Thank you, Mrs. Smith. I am going to
4 excuse you from this particular case. I am going to ask you
5 to report back Wednesday -- Wednesday of this week. Make
6 sure you call the jury call-in number, please.

7 PROSPECTIVE JUROR SHARON SMITH: (Nodding.)

8 MR. HOCH: Judge, may we approach?

9 THE COURT: Yes, come on up.

10 (The following bench conference occurred outside the
11 hearing of the prospective jurors and the Defendant:)

12 THE COURT: I think Mrs. White who is next up may
13 be having hearing difficulties.

14 MR. HOCH: That's -- that's why I was coming up,
15 Judge. She's having to ask the lady next to her, and I was
16 going to see if you could inquire of her.

17 THE COURT: I'm not going to ask her to move.

18 (The bench conference concluded and the following
19 proceedings occurred in open court:)

20 Mrs. White? Mrs. White?

21 PROSPECTIVE JUROR WHITE: (Nodding.)

22 THE COURT: Are you -- ma'am, are you having
23 hearing difficulty? Do you have difficulty hearing me,
24 ma'am?

25 PROSPECTIVE JUROR WHITE: (Indicating.)

1 THE COURT: Why don't you -- come on up here and
2 let me visit with you, if you don't mind, please. Right up
3 here, please.

4 PROSPECTIVE JUROR WHITE: (Complies.)

5 THE COURT: Are you having some difficulty hearing
6 me from where you're sitting out there?

7 PROSPECTIVE JUROR WHITE: Well, yes. I left my
8 hearing aid at home; I've got one.

9 THE COURT: But right now you're having difficulty
10 hearing me?

11 PROSPECTIVE JUROR WHITE: Just a little bit today.
12 I've got a cold coming.

13 THE COURT: Okay. Do you typically wear a hearing
14 aid?

15 PROSPECTIVE JUROR WHITE: Yes.

16 THE COURT: And if you have your hearing aid in
17 would you be able to hear what's going on?

18 PROSPECTIVE JUROR WHITE: Oh, it's great. It's
19 great.

20 THE COURT: And are you having difficulty this
21 morning without them?

22 PROSPECTIVE JUROR WHITE: (No verbal response.)

23 THE COURT: Can you hear me without them?

24 PROSPECTIVE JUROR WHITE: A little bit, just a
25 little bit.

1 THE COURT: Do you think it might be a situation
2 that you might miss something without your hearing aid this
3 morning if you -- you don't have your hearing aid with you.
4 You said you left them at home?

5 PROSPECTIVE JUROR WHITE: Well, I could call
6 someone to bring it.

7 THE COURT: Let me do this: I'm going to -- I
8 think you're having some difficulty because I think you've
9 asked some people around you what's going on.

10 PROSPECTIVE JUROR WHITE: Yeah, I have.

11 THE COURT: It's going to be important that you be
12 able to hear everything that's going on --

13 PROSPECTIVE JUROR WHITE: Uh-huh.

14 THE COURT: -- okay?

15 One of the things that we ask -- obviously, you want to
16 serve, is that correct, ma'am, as a juror?

17 PROSPECTIVE JUROR WHITE: Uh-huh.

18 THE COURT: If you -- if you think with your
19 hearing aids that you can hear what's going on -- I'm not
20 going to -- that's not going to disqualify you as a juror --

21 PROSPECTIVE JUROR WHITE: Uh-huh.

22 THE COURT: -- but I think it might be a limitation
23 with you this morning because it's going to be important you
24 hear what's going on this morning, as well.

25 PROSPECTIVE JUROR WHITE: Okay.

1 THE COURT: I'm going to excuse you from this case,
2 but I think you still -- you're telling me you still want to
3 serve; is that correct?

4 PROSPECTIVE JUROR WHITE: Yes, I do.

5 THE COURT: All right. I'm going to ask you to
6 come back Wednesday and make sure you wear -- bring your
7 hearing aids with you, okay?

8 PROSPECTIVE JUROR WHITE: I will.

9 THE COURT: All right.

10 PROSPECTIVE JUROR WHITE: Come back Wednesday?

11 THE COURT: Yes, ma'am. Make sure you wear your
12 hearing aids.

13 PROSPECTIVE JUROR WHITE: I will. Thank you.

14 THE COURT: Thank you for coming in.

15 PROSPECTIVE JUROR WHITE: Uh-huh.

16 THE COURT: See you Wednesday.

17 PROSPECTIVE JUROR WHITE: Is that all?

18 THE COURT: That's all.

19 PROSPECTIVE JUROR WHITE: Bye-bye.

20 THE COURT: Let me inquire, make sure counsel has
21 no objection. I've excused Ms. White for cause at this
22 time?

23 MR. HOCH: No, Your Honor.

24 MS. HIXON: No, Your Honor.

25 THE COURT: Mrs. McPherson, I'm going to ask you to

1 have a seat in the jury box where Ms. Smith was.

2 I saw another hand over here in the jury box.

3 PROSPECTIVE JUROR SUNIGA: (Indicating.)

4 THE COURT: Yes, Mr. Sun -- "Sungine"?

5 PROSPECTIVE JUROR SUNIGA: "Suniga."

6 THE COURT: "Suniga." I don't know Charles Dyer
7 personally, but I have a friend who was recently in the
8 lock-up with him in Stephens County, and I --

9 MR. HOCH: Judge, may we approach?

10 THE COURT: All right. So you probably know more
11 about this case than probably other jurors have?

12 PROSPECTIVE JUROR SUNIGA: Yes, Your Honor.

13 THE COURT: Approach.

14 (The following bench conference occurred outside the
15 hearing of the prospective jurors and the Defendant:)

16 MR. HOCH: I was just going to ask to bring him to
17 the bench before he contaminates the entire pool.

18 THE COURT: I'm willing just to ask the question
19 whether or not he would feel qualified to serve.

20 MR. HOCH: Okay.

21 THE COURT: All right. Anything else?

22 MR. HOCH: No.

23 (The bench conference concluded and the following
24 proceedings occurred in open court:)

25 THE COURT: All right. Obviously, you know more

1 than what the other jurors might know. Do you feel like you
2 would be a fair and impartial juror?

3 PROSPECTIVE JUROR SUNIGA: I don't think I would be
4 fair, no, sir.

5 THE COURT: If there is no objection, I'll excuse
6 Mr. Suniga.

7 MS. HIXON: No, Your Honor.

8 MR. HOCH: No, Your Honor.

9 THE COURT: I am going to ask you to report
10 Wednesday, though. Come back Wednesday. You'll call the
11 jury call-in number Tuesday night, please.

12 PROSPECTIVE JUROR SUNIGA: Yes, Your Honor.

13 THE COURT: Thank you.

14 Ms. Jackson, I'm going to ask you to come up and have a
15 seat in the jury box.

16 PROSPECTIVE JUROR JACKSON: (Complies.)

17 THE COURT: All right. Anyone else in the jury box
18 that knows any of the attorneys or Mr. Dyer?

19 (No verbal response.)

20 THE COURT: First row out here, the three ladies
21 remaining, any of you know Mr. Dyer?

22 (No verbal response.)

23 THE COURT: Second row?

24 (No verbal response.)

25 THE COURT: Third row -- or any of the attorneys

1 involved in this case?

2 PROSPECTIVE JURORS: (Nodding negatively.)

3 THE COURT: All right. I'm going to ask the Clerk
4 to call three additional names from the pool of prospective
5 jurors. We'll ask those individuals to have a seat on the
6 third row and on the fourth slot off of the center aisle
7 and, please, stay in the same order in which you're -- you
8 are called, please.

9 CLERK CUNNINGHAM: Betty Lou Harris, Betty Lou
10 Harris, H-a-r-r-i-s, Juror No. 141.

11 Blaine Joseph Solie, Blaine Joseph Solie, S-o-l-i-e,
12 295.

13 Jessicah Holt McLemore, Jessicah Holt McLemore,
14 M-c-L-e-m-o-r-e, Juror No. 208.

15 THE COURT: All right. The three additional jurors
16 who I've named -- who have come up, let me ask of you, Do
17 any of you know the three attorneys who I've introduced so
18 far?

19 PROSPECTIVE JURORS: (Nodding negatively.)

20 THE COURT: Any of you know those?

21 PROSPECTIVE JURORS: (Nodding negatively.)

22 THE COURT: Any of you know Mr. Dyer?

23 PROSPECTIVE JUROR McLEMORE: (Indicating.)

24 THE COURT: Yes, Ms. McLemore?

25 PROSPECTIVE JUROR McLEMORE: I don't know him

1 personally but my brother-in-law was a paramedic this --

2 THE REPORTER: I can't hear.

3 THE COURT: If you'll stand up.

4 PROSPECTIVE JUROR McLEMORE: My brother-in-law was
5 a paramedic in Marlow and he responded to a scene --

6 THE COURT: Okay. Let me visit with you privately
7 if you don't mind.

8 PROSPECTIVE JUROR McLEMORE: (Approaches bench.)

9 (The following bench conference occurred outside the
10 hearing of the prospective jurors and the Defendant:)

11 THE COURT: Okay. Last year sometime you indicate
12 your brother-in-law is a paramedic and responded to a scene.
13 What was that scene that you're familiar with that he
14 responded to.

15 PROSPECTIVE JUROR McLEMORE: I believe that was
16 gunshots.

17 THE COURT: Okay. This case doesn't involve a
18 shooting so I think you might -- you might be familiar with
19 another case that isn't on the docket that involves a
20 shooting, but you don't know Mr. Dyer personally?

21 PROSPECTIVE JUROR McLEMORE: No.

22 THE COURT: I think we're -- we have a case by the
23 name of Maher that I think is -- it's on this docket that
24 involves a shooting, and you think you might have confused
25 the two?

1 PROSPECTIVE JUROR McLEMORE: (Nodding.)

2 THE COURT: I haven't told you enough about this
3 case to make that call, have I?

4 PROSPECTIVE JUROR McLEMORE: (Shaking head.)

5 THE COURT: When I give you some more facts about
6 the case I will tell you this particular gentleman is
7 charged with sexual child abuse that occurred back in July
8 of 2009, between July of 2009 and January of 2010.

9 PROSPECTIVE JUROR McLEMORE: (Shaking head.)

10 THE COURT: Okay. I don't think it involves a
11 shooting. So you -- you're not familiar with anything about
12 this case so far, are you?

13 PROSPECTIVE JUROR McLEMORE: (Shaking head.)

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

15 MR. HOCH: No, sir.

16 MS. HIXON: No.

17 THE COURT: We'll ask you to have a seat then right
18 where you were.

19 PROSPECTIVE JUROR McLEMORE: (Complies.)

20 (The bench conference concluded and the following
21 occurred in open court:)

22 THE COURT: All right. Ladies and gentlemen, I
23 will -- I'm going to tell you a little bit about this case.
24 I will tell you that in this particular case the State of
25 Oklahoma has alleged and charged the Defendant with the

1 criminal offense of child sexual abuse. It's alleged that
2 this act occurred sometime between July 7, 2009, and January
3 4, 2010, here in Stephens County and it's alleged these acts
4 were committed upon his seven-year-old daughter, who was
5 seven at the time, by the name of Haley Dyer.

6 It's alleged that he committed lewd and insidious (sic)
7 sexual acts upon her. These are the facts in the
8 allegations as I know them so far.

9 Having disclosed to you the nature of the offense that
10 we're talking about and the date and time that was involved,
11 are there any of you, ladies and gentlemen, that have
12 personal knowledge about this case? Not something that you
13 read in the newspaper or something you may have heard on TV
14 but have personal knowledge about it? Let me first ask
15 these 12 in the jury box.

16 Any of you have any personal knowledge about the facts
17 of this case?

18 PROSPECTIVE JURORS: (Shaking heads negatively.)

19 THE COURT: First row out here in the audience?

20 PROSPECTIVE JURORS: (Shaking heads negatively.)

21 THE COURT: Second row?

22 (No verbal response.)

23 THE COURT: Third row?

24 PROSPECTIVE JUROR WAGNER: (Indicating.)

25 THE COURT: Mr. Wagner, you indicate that you may

1 have some means of having personal knowledge about the case?

2 PROSPECTIVE JUROR WAGNER: I work with a guy who
3 his granddaughter is the alleged victim.

4 THE COURT: All right. So you -- you know someone
5 who knows the victim in this case?

6 PROSPECTIVE JUROR WAGNER: Yes.

7 THE COURT: Well, you know someone who is the
8 grandfather of the victim?

9 PROSPECTIVE JUROR WAGNER: Yes. I know Carl Wylie.

10 THE COURT: All right. Have you had any
11 discussions or conversations with him about these
12 circumstances?

13 PROSPECTIVE JUROR WAGNER: Have I had --

14 THE COURT: Has he had conversations or discussions
15 with you or even said anything about this case?

16 PROSPECTIVE JUROR WAGNER: I've heard about this
17 case. I know all about it.

18 THE COURT: Through him or others?

19 PROSPECTIVE JUROR WAGNER: Through him.

20 THE COURT: All right. It may very well be true
21 that you -- would it be a true statement that you might have
22 heard circumstances that as a comparison of yourself with
23 the other jurors they're unaware of based on all you know?

24 PROSPECTIVE JUROR WAGNER: (Nodding.)

25 THE COURT: On the basis of that do you feel you

1 could be a fair and impartial juror based upon that?

2 PROSPECTIVE JUROR WAGNER: No.

3 THE COURT: All right. Any objection if I excuse
4 Mr. Wagner for cause?

5 MS. HIXON: No, Your Honor.

6 THE COURT: What says the Defendant?

7 MR. HOCH: No, Your Honor.

8 THE COURT: Mr. Wagner, I appreciate your -- your
9 honesty and that's what we're asking for. I am going to
10 excuse you from this case. I am going to ask you, however,
11 to return Wednesday of this week at 9:00. I'll ask you to
12 call the jury call-in number the evening before, make sure
13 there hasn't been a change, but I appreciate you being here
14 this morning. You're free to go.

15 All right. Anyone else have any personal knowledge
16 concerning the facts of this case?

17 (No verbal response.)

18 THE COURT: All right. Ladies and gentlemen on the
19 fourth row, I'm going to -- on the fourth row I'm going to
20 need your row so I'm going to ask y'all to relocate yourself
21 a little further back in the courtroom, and I'll ask the
22 Clerk to call one additional juror from the pool of
23 prospective jurors. We'll ask this individual to have a
24 seat on the fourth row off of the center aisle, just -- just
25 that first slot right off the center aisle, please.

1 CLERK CUNNINGHAM: Gayle Jean Taliaferro, Gayle
2 Jean Taliaferro, T-a-l-i-a-f-e-r-r-o, Juror No. 310.

3 THE COURT: Ms. Taliaferro, were you able to hear
4 my comments up to this point in time from where you were
5 seated in the courtroom?

6 PROSPECTIVE JUROR TALIAFERRO: Yes.

7 THE COURT: Do you know the three attorneys who
8 I've introduced?

9 PROSPECTIVE JUROR TALIAFERRO: I do not.

10 THE COURT: All right. Do you know Mr. Dyer?

11 PROSPECTIVE JUROR TALIAFERRO: I do not.

12 THE COURT: Do you know anything about this case
13 other than what I've disclosed this morning?

14 PROSPECTIVE JUROR TALIAFERRO: Only what I've --

15 THE COURT: All right.

16 THE REPORTER: I can't hear you.

17 PROSPECTIVE JUROR TALIAFERRO: Only what I've seen
18 on TV.

19 THE COURT: Okay. We'll get to that in a moment.
20 All right. But other than that you don't have any personal
21 knowledge?

22 PROSPECTIVE JUROR TALIAFERRO: (Shaking head.)

23 THE COURT: Very Good. All right. We might as
24 well cover that right now.

25 Ladies and gentlemen, there has been media coverage of

1 this -- this case predominantly probably trial -- leading up
2 to this particular trial in this case today and that's
3 probably going to be fair to say that probably many of you
4 may, if you think back, may have seen something in the
5 newspaper or seen something on TV about this case or about
6 Mr. Dyer.

7 I'm -- I'm going to ask you some questions about that,
8 particularly, but it's going to be -- there's nothing wrong
9 with having remembered that you may have seen something
10 about this case in the newspaper. There's nothing wrong
11 about having seen a report in the news -- in the news about
12 this particular case because we all watch the news. We all
13 read (sic) TV. We don't know what we might have in the
14 future to have contact with and there's nothing wrong with
15 that. The issue, though, is if you recall reading or seeing
16 something in the newspaper about this or seeing something on
17 TV, the question is, is whether or not what you've seen on
18 TV and read in the newspaper, has that in any way colored or
19 made -- had a bearing on your judgment with respect to this
20 case?

21 The purpose of a trial is for a jury to hear the
22 evidence and rely solely upon the evidence that they see and
23 hear in the courtroom and apply that to the law that the
24 judge gives you as to those particular facts and render a
25 decision based solely upon the evidence as you see and hear

1 in the courtroom. All of us have common experiences, have
2 been exposed to various things in life, news media
3 reportings, and so forth. The issue is, is whether or not
4 that has caused you to believe one thing or another that may
5 become an issue in this case.

6 So in responding to the question about whether or not
7 you recall seeing anything in the news media, the question's
8 going to be is, Does that in any way feel -- you feel affect
9 your ability to sit as a fair and impartial juror? Has that
10 caused you to believe that something happened or something
11 didn't happen, or whether or not you can put all that aside
12 and just decide this case by what you see and hear in the
13 courtroom? It may very well be something completely
14 different than what you may think or recall that you may
15 have seen on TV about this case or read in the newspaper.
16 The point is, Can you set that aside and decide this case
17 solely upon what you see and hear in this courtroom?

18 All right. Is there -- let's do it this way. Is there
19 anyone that has -- don't -- that you -- that don't recall
20 seeing anything -- report in the news media about this case?
21 Any of you don't remember -- don't remember seeing anything
22 in the newspaper?

23 PROSPECTIVE JURORS: (Indicating.)

24 THE COURT: Most of you have, you think?

25 Mrs. Jackson, you don't -- do you remember seeing or

1 hearing anything in the newspaper or TV about this case?

2 PROSPECTIVE JUROR JACKSON: No, sir.

3 THE COURT: So -- so the fact you may not have seen
4 or heard anything, there's nothing for you to remember about
5 this case other than what you see and hear in this
6 courtroom. Is that a fair statement?

7 PROSPECTIVE JUROR JACKSON: Yes, sir.

8 THE COURT: Mr. Kessinger, did I see your hand,
9 too?

10 PROSPECTIVE JUROR KESSINGER: Yes, sir.

11 THE COURT: You don't recall seeing or -- seeing
12 something in the newspaper or the TV about this case and it
13 could have been several months ago, as well?

14 PROSPECTIVE JUROR KESSINGER: No, not at all.

15 THE COURT: Anyone else in the jury box don't
16 recall seeing or hearing anything about the case?

17 (No verbal response.)

18 THE COURT: First row. Ms. Saltzman, you don't
19 remember seeing anything?

20 PROSPECTIVE JUROR SALTZMAN: If I did, I forgot.

21 THE COURT: And if you did remember would you be
22 able to set that aside and decide this case solely upon what
23 you see and hear in the courtroom?

24 PROSPECTIVE JUROR SALTZMAN: (Nodding.)

25 THE COURT: All right. Second row. Anyone not

1 remember seeing anything about the --

2 PROSPECTIVE JUROR WOOD: (Indicating.)

3 THE COURT: Ms. Wood, same question. Don't recall
4 seeing or hearing anything?

5 PROSPECTIVE JUROR WOOD: I don't watch the news or
6 read the newspaper.

7 THE COURT: All right. Very good.

8 Anyone else on the second row?

9 (No verbal response.)

10 THE COURT: Third row?

11 PROSPECTIVE JUROR TOMLINSON: (Indicating.)

12 THE COURT: Mr. Tomlinson, do you remember seeing
13 or -- anything in the news media about this case in any way?

14 PROSPECTIVE JUROR TOMLINSON: No.

15 THE COURT: Very good.

16 PROSPECTIVE JUROR TALIAFERRO: (Indicating.)

17 THE COURT: Finally, Ms. Taliaferro in the back
18 row. You've indicated you may have seen or heard something
19 in the news media about this case?

20 PROSPECTIVE JUROR TALIAFERRO: Yes.

21 THE COURT: All right. Let's take it -- let's take
22 it the other way around. Those of you that have -- that are
23 remaining -- that based upon the fact that I asked this
24 case -- this question in reverse, the rest of you I think
25 have some recollection of seeing something in the report or

1 news media about the circumstances involving this case.

2 Are there any of you, ladies and gentlemen, that recall
3 seeing things in the news media about this case that you
4 would not be able to set that aside and decide this case
5 solely upon what you see and hear in the courtroom? Any of
6 you -- any of you have your mind already made up based upon
7 what you've seen and heard reported in the news media?

8 PROSPECTIVE JUROR SHOEMATE: (Indicating.)

9 THE COURT: Mr. Shoemate?

10 PROSPECTIVE JUROR SHOEMATE: Yes, sir.

11 THE COURT: You've already got an opinion about
12 this case?

13 PROSPECTIVE JUROR SHOEMATE: Yes, sir.

14 THE COURT: You can't set it aside because what you
15 saw on -- on TV or read in the newspaper may not be what --
16 may come to be as the evidence comes forward. Do you
17 understand that?

18 PROSPECTIVE JUROR SHOEMATE: Yes, sir.

19 THE COURT: But you're telling me that what you've
20 seen and heard you would not be able to set that aside and
21 judge this case just as if you hadn't heard or seen
22 anything. Is that a fair statement?

23 PROSPECTIVE JUROR SHOEMATE: Yes, sir.

24 THE COURT: State wish to make any inquiry of
25 Mr. Shoemate?

1 MS. HIXON: No, Your Honor.

2 THE COURT: Mr. Hoch?

3 MR. HOCH: No, Your Honor.

4 THE COURT: All right. Any objection if I excuse
5 Mr. Shoemate for cause?

6 MS. HIXON: No, Your Honor.

7 MR. HOCH: No Your Honor.

8 THE COURT: Thank you, Mr. Shoemate. I appreciate
9 your candor. I am going to ask you to report Wednesday
10 morning at 9:00.

11 I think, Ms. Wade, I see your hand -- no, it's
12 Mr. Pirtle.

13 PROSPECTIVE JUROR PIRTLE: Yes, sir.

14 THE COURT: You indicated that you've seen
15 something about this case in the news media, and you think
16 it might affect your judgment in this case?

17 PROSPECTIVE JUROR PIRTLE: Yes, sir. In 1988 my
18 daughter was sexually abused, and I -- I drew an opinion --

19 THE COURT: All right.

20 PROSPECTIVE JUROR PIRTLE: -- of that real quick.

21 THE COURT: All right. And what you saw on -- may
22 have seen or heard in the news media about this is such that
23 you don't think you can set that circumstance aside --

24 PROSPECTIVE JUROR PIRTLE: Right.

25 THE COURT: -- depend on what you saw and judge

1 this case solely upon the facts, the evidence that comes
2 forward in this courtroom alone? You don't think you could
3 do that?

4 PROSPECTIVE JUROR PIRTLE: I don't think I could.

5 THE COURT: Any inquiry of Mr. Pirtle?

6 MS. HIXON: No, Your Honor.

7 MR. HOCH: No, Your Honor.

8 THE COURT: Any objection if I excuse Mr. Pirtle
9 for cause?

10 MS. HIXON: No, Your Honor.

11 MR. HOCH: No, Your Honor.

12 THE COURT: I'm going to ask you to report back
13 Wednesday.

14 PROSPECTIVE JUROR PIRTLE: Yes, sir.

15 THE COURT: First row, ladies?

16 PROSPECTIVE JUROR MATTHEWS: (Indicating.)

17 THE COURT: Yes, Ms. Matthews?

18 PROSPECTIVE JUROR MATTHEWS: Something that
19 happened to myself growing up. I think I should be excused.

20 THE COURT: All right. We're talking about news
21 media, though, but --

22 PROSPECTIVE JUROR MATTHEWS: Nothing to do with him
23 but just reliving, you know.

24 THE COURT: Are you telling me there has been some
25 occurrence or situation in your life which you feel would --

1 has had an impact that you feel --

2 PROSPECTIVE JUROR MATTHEWS: Right. How I feel
3 about it, yes.

4 THE COURT: All right. You don't believe that you
5 could give the State a fair trial or give the Defendant a
6 fair trial because of that?

7 PROSPECTIVE JUROR MATTHEWS: Well, I might be
8 prejudiced to the facts going on.

9 THE COURT: All right. All right. So you have a
10 prejudice one way or the other?

11 PROSPECTIVE JUROR MATTHEWS: Yes.

12 THE COURT: And you couldn't set that prejudice
13 aside because of what -- your previous experience?

14 PROSPECTIVE JUROR MATTHEWS: I don't know for sure.
15 That's why I said that.

16 THE COURT: All right. You don't know for sure?

17 PROSPECTIVE JUROR MATTHEWS: Correct.

18 THE COURT: Is it possible that you could?

19 PROSPECTIVE JUROR MATTHEWS: Possible.

20 THE COURT: All right. Very well.

21 Second row. Any of you, ladies and gentlemen, have had
22 any -- based upon exposure to the news media about this case
23 that has in any way caused or affected you to already have
24 your mind made up or could not set it aside?

25 PROSPECTIVE JUROR MORGAN: (Indicating.)

1 THE COURT: Yes, Ms. Morgan?

2 PROSPECTIVE JUROR MORGAN: I feel --

3 THE REPORTER: I can't hear.

4 PROSPECTIVE JUROR MORGAN: From what I've seen on
5 the news I feel that I also may -- have an opinion already
6 set.

7 THE COURT: All right. Given the fact that what
8 evidence may actually come forward may not be about what you
9 saw or remember seeing or hearing in the news media. Is
10 that what you're telling me?

11 PROSPECTIVE JUROR MORGAN: Yes.

12 THE COURT: You don't believe you could set that
13 aside and judge this case solely upon what you see and hear
14 in the courtroom? Is that what you're telling me, ma'am?

15 PROSPECTIVE JUROR MORGAN: Yes.

16 THE COURT: All right. Any inquiry of Ms. Morgan
17 for cause?

18 MS. HIXON: No, Your Honor.

19 MR. HOCH: No, Your Honor.

20 THE COURT: All right. Ms. Morgan, I'm --
21 Ms. Morgan, I'm going to excuse you for cause. I'm going to
22 ask you to report back Wednesday, please. You're free to
23 go. 9:00.

24 Ms. Phillips, I think you raised your hand, as well?

25 PROSPECTIVE JUROR PHILLIPS: Yes, sir.

1 THE COURT: Are you telling me that you recall
2 seeing something in the news media that has caused you to
3 already have an opinion or preconceived notion as to how
4 this case should --

5 PROSPECTIVE JUROR PHILLIPS: Well, I have a
6 granddaughter that was sexually abused by her father at age
7 five and so I don't think I could make a good judgment in
8 this case.

9 THE COURT: All right. You don't feel like you
10 could set that aside and judge this case solely upon the
11 evidence in this case? Is that what you're telling me,
12 ma'am?

13 PROSPECTIVE JUROR PHILLIPS: I really don't know.

14 THE COURT: All right. You're unsure at this time?

15 PROSPECTIVE JUROR PHILLIPS: I'm unsure, sir.

16 THE COURT: All right. But there's nothing that --
17 about this in the news media that you've seen that would
18 affect your ability to decide this case?

19 PROSPECTIVE JUROR PHILLIPS: No.

20 THE COURT: All right. Anyone else in the second
21 row has had any opinions that they've formed based upon what
22 they've seen in the newspaper that couldn't set it aside and
23 listen to this evidence today and the next several days?

24 (No verbal response.)

25 THE COURT: All right. Third row. Any of you,

1 ladies and gentlemen, have had anything that you've seen in
2 the newspaper that would affect your ability to set --
3 not -- not able to set this aside and decide this case?

4 PROSPECTIVE JURORS: (Shaking heads.)

5 THE COURT: Ms. Taliaferro, I think -- you know,
6 you've indicated you've seen something in the news media. I
7 may have already asked you this, Would you be able to set
8 that aside and decide this case solely upon what you see and
9 hear in the courtroom?

10 PROSPECTIVE JUROR TALIAFERRO: (Inaudible.)

11 THE REPORTER: I can't see her or I can't hear her,
12 Judge.

13 THE COURT: I'm going to remind, ladies and
14 gentlemen, the young lady seated just below me is the court
15 reporter. She is making the record, or taking everything
16 down, so try to make yourself heard. It may be hard for her
17 to hear you and it helps if she can see you.

18 PROSPECTIVE JUROR TALIAFERRO: (Moving.)

19 THE COURT: Now, Ms. Taliaferro -- there you go.

20 PROSPECTIVE JUROR TALIAFERRO: Yes.

21 THE COURT: All right. Now what you may recall
22 seeing or in the news media reported, or whatever, can you
23 set that aside and decide this case solely upon what we see
24 and hear in this courtroom?

25 PROSPECTIVE JUROR TALIAFERRO: Yes, sir.

1 THE COURT: Very good.

2 All right. Ms. Stankorb, I'm going to ask you to have a
3 seat up in the jury box, top row, fourth chair from the
4 right, please.

5 PROSPECTIVE JUROR STANKORB: (Complies.)

6 THE COURT: Ms. Matthews, I'm going to ask you to
7 step up and have a chair -- seat in the jury box, first row,
8 next to the last chair, please.

9 PROSPECTIVE JUROR MATTHEWS: (Complies.)

10 THE COURT: I'm going to ask the Clerk to call from
11 the pool of prospective jurors five additional names. We'll
12 ask these individuals to have a seat on the fourth row,
13 please, seated from your right to left beginning first
14 person to have a seat right next to Ms. Taliaferro right off
15 the aisle, please.

16 CLERK CUNNINGHAM: Glenda G. McBride, Glenda G.
17 McBride, M-c-B-r-i-d-e, No. 199.

18 Cynthia Lynne Jones, Cynthia Lynne Jones, J-o-n-e-s,
19 No. 174.

20 THE COURT: Just a minute.

21 CLERK CUNNINGHAM: (Pausing.)

22 THE COURT: All right. Continue, please.

23 CLERK CUNNINGHAM: Linda Fay Kincannon, Linda Fay
24 Kincannon, K-i-n-c-a-n-n-o-n, Juror No. 356.

25 Kathy Denise Keele, Kathy Denise Keele, K-e-e-l-e,

1 No. 177.

2 Tina Michelle McAdams, Tina Michelle McAdams,
3 M-c-A-d-a-m-s, 198.

4 THE COURT: All right. Ladies and gentlemen, I'm
5 going to -- I'm going to address these catch-up questions
6 with the five additional jurors who have been brought up and
7 seated in the fourth row.

8 "McBride." Is that correct?

9 PROSPECTIVE JUROR McBRIDE: "McBride."

10 THE COURT: "McBride," I'm sorry. Were you able to
11 hear my questions and comments from where you were seated in
12 the courtroom?

13 PROSPECTIVE JUROR McBRIDE: Yes, sir.

14 THE COURT: Do you know any of the attorneys
15 involved in this case?

16 PROSPECTIVE JUROR McBRIDE: No, sir.

17 THE COURT: Do you know Mr. Dyer?

18 PROSPECTIVE JUROR McBRIDE: No, sir.

19 THE COURT: Do you recall seeing anything in the
20 news media about this case that would in any way cause you
21 to already make your mind up about this case or cause you --
22 to influence you one way or the other how this case should
23 resolve -- be resolved?

24 PROSPECTIVE JUROR McBRIDE: Yes, sir, probably. I
25 would say "probably."

1 THE COURT: All right. So you've seen something
2 reported in the news media that you believe you feel
3 would -- you could not set that aside, put it out of your
4 self-consciousness, but -- but you're telling me it would
5 influence how you feel like this case should resolve itself?

6 PROSPECTIVE JUROR McBRIDE: Yes, Your Honor, and
7 also my work that I do. Your Honor, I deal with children in
8 high school. I constantly hear about sexual abuse.

9 THE COURT: Okay. But it's primarily your
10 recollection of seeing things reported about this case in
11 the news media that you think that you could not set that
12 aside and decide this case?

13 PROSPECTIVE JUROR McBRIDE: Yes.

14 THE COURT: All right. Any inquiry by the State
15 for cause?

16 MS. HIXON: No, Your Honor.

17 THE COURT: Mr. Hoch?

18 MR. HOCH: No, Your Honor.

19 THE COURT: All right. Ms. McBride, I'm going to
20 excuse you from this case. I appreciate your candor. I'm
21 going to ask you to report Monday, please -- not Monday --
22 Wednesday. I'm sorry, Wednesday at 9:00. Call us Tuesday
23 evening. Thank you.

24 Ms. Jones, were you able to hear my comments up to this
25 point in time?

1 PROSPECTIVE JUROR JONES: Yes, I was.

2 THE COURT: Do you know any of the attorneys who
3 I've introduced so far?

4 PROSPECTIVE JUROR JONES: No, I do not.

5 THE COURT: Do you know Mr. Dyer?

6 PROSPECTIVE JUROR JONES: I know Mr. Dyer's
7 parents.

8 THE COURT: All right. And is that an old
9 acquaintance or a recent acquaintance, or how would you
10 describe that acquaintance?

11 PROSPECTIVE JUROR JONES: I've known them about 25
12 years.

13 THE COURT: All right.

14 PROSPECTIVE JUROR JONES: Not close close, but I
15 have visited with his father.

16 THE COURT: All right. Have -- in that course of
17 acquaintance has it come about that you've had conversations
18 about the circumstances that brought us here today?

19 PROSPECTIVE JUROR JONES: Yes, sir.

20 THE COURT: Are you -- are those such that you feel
21 like that would affect your ability to sit as a fair and
22 impartial juror in any way?

23 PROSPECTIVE JUROR JONES: Yes, sir.

24 THE COURT: Any inquiry of Ms. Jones for cause?

25 MS. HIXON: No, Your Honor.

1 THE COURT: Mr. Hoch?

2 MR. HOCH: No, sir, Your Honor.

3 THE COURT: All right. Thank you, Ms. Jones. I'm
4 going to excuse you, ask you to come back Wednesday at 9:00.

5 PROSPECTIVE JUROR JONES: Okay.

6 THE COURT: Thank you.

7 Ms. Kincannon, were you able to hear my questions and
8 statements up to this point in time?

9 PROSPECTIVE JUROR KINCANNON: Yes, sir.

10 THE COURT: Do you know the attorneys involved in
11 this case?

12 PROSPECTIVE JUROR KINCANNON: No, sir.

13 THE COURT: Do you know Mr. Dyer?

14 PROSPECTIVE JUROR KINCANNON: No, sir.

15 THE COURT: Anything you know about the facts of
16 this case other than what we've talked about here today?

17 PROSPECTIVE JUROR KINCANNON: No, sir.

18 THE COURT: Do you recall whether or not you may
19 have seen or heard anything reported about this in the news
20 media in any way?

21 PROSPECTIVE JUROR KINCANNON: No, sir.

22 THE COURT: So if there is it didn't make an
23 impression upon you and you can decide this case solely upon
24 what you see and hear in the courtroom. Is that a fair
25 statement, ma'am?

1 PROSPECTIVE JUROR KINCANNON: Yes, sir.

2 THE COURT: Ms. Keele?

3 PROSPECTIVE JUROR KEELE: Yes, sir.

4 THE COURT: Do you know the attorneys involved in
5 this case --

6 PROSPECTIVE JUROR KEELE: No.

7 THE COURT: -- or Mr. Dyer?

8 PROSPECTIVE JUROR KEELE: No.

9 THE COURT: Do you know anything about the case
10 other than what I have told you so far?

11 PROSPECTIVE JUROR KEELE: No.

12 THE COURT: And do you recall seeing or hearing
13 anything in the news media about this case that would in any
14 way affect your ability to sit as a fair and impartial juror
15 in any way?

16 PROSPECTIVE JUROR KEELE: No.

17 THE COURT: Cause you to -- to have a belief about
18 something that may very well be an issue involved in this
19 case?

20 PROSPECTIVE JUROR KEELE: No.

21 THE COURT: Thank you.

22 Ms. McAdams?

23 PROSPECTIVE JUROR McADAMS: Yes.

24 THE COURT: Do you know the attorneys involved in
25 this case?

1 PROSPECTIVE JUROR McADAMS: No.

2 THE COURT: Or Mr. Dyer?

3 PROSPECTIVE JUROR McADAMS: No.

4 THE COURT: Have you -- recall seeing or reading
5 anything about this case in the news media that would in any
6 way affect your ability to sit as a fair and impartial juror
7 in any way?

8 PROSPECTIVE JUROR McADAMS: No.

9 THE COURT: All right. I'm going to ask the Clerk
10 to call four additional names. I'll ask these individuals
11 to have a seat on the fifth row, please.

12 MS. HIXON: Your Honor, before we do that may I get
13 another form?

14 THE COURT: Certainly. We'll make more impanelment
15 forms available for counsel.

16 So those ladies and gentlemen that are in the fifth row,
17 I'll ask you to filter back.

18 CLERK CUNNINGHAM: Stephen Charles Upchurch,
19 Stephen Charles Upchurch, U-p-c-h-u-r-c-h, 321.

20 Mark Anthony Remley, Mark Anthony Remley, R-e-m-l-e-y,
21 Juror No. 260.

22 Ralph Allen McDaniel, Ralph Allen McDaniel,
23 M-c-D-a-n-i-e-l, Juror No. 204.

24 Horace Nichols, Jr., Horace Nichols, Jr., N-i-c-h-o-l-s,
25 Juror No. 236.

1 Gilberta Lee True, Gilberta Lee True, T-r-u-e, No. 318.

2 THE COURT: All right. I'm going to address my
3 comments, again, to the five individuals who last were
4 seated.

5 Mr. Upchurch, do you know any of the attorneys who I've
6 introduced so far?

7 PROSPECTIVE JUROR UPCHURCH: No, sir.

8 THE COURT: Do you know Mr. Dyer?

9 PROSPECTIVE JUROR UPCHURCH: No, sir.

10 THE COURT: Do you know anything about the facts of
11 this case so far?

12 PROSPECTIVE JUROR UPCHURCH: No, sir.

13 THE COURT: Do you recall seeing or reading
14 anything in the news media about this case that you feel
15 like would affect your ability to sit as a fair and
16 impartial juror in any way?

17 PROSPECTIVE JUROR UPCHURCH: No, sir.

18 THE COURT: Mr. Remley, same questions.

19 PROSPECTIVE JUROR REMLEY: No, sir.

20 THE COURT: Do you know the attorneys involved?

21 PROSPECTIVE JUROR REMLEY: No.

22 THE COURT: Do you know Mr. Dyer?

23 PROSPECTIVE JUROR REMLEY: No, I don't.

24 THE COURT: Do you know anything about the case?

25 PROSPECTIVE JUROR REMLEY: No, sir.

1 THE COURT: Do you recall seeing anything reported
2 in the news media about the case that you feel you would not
3 be able to disregard and decide this case solely upon what
4 you see and hear in the courtroom?

5 PROSPECTIVE JUROR REMLEY: No, sir.

6 THE COURT: All right.

7 Mr. McDaniel.

8 PROSPECTIVE JUROR McDANIEL: (Nodding.)

9 THE COURT: Do you know the attorneys involved in
10 the case?

11 PROSPECTIVE JUROR McDANIEL: No, sir.

12 THE COURT: Or Mr. Dyer?

13 PROSPECTIVE JUROR McDANIEL: No, sir.

14 THE COURT: Anything about the case that -- other
15 than what I've talked about with you today -- do you know
16 anything about the case?

17 PROSPECTIVE JUROR McDANIEL: No, sir.

18 THE COURT: Same question about news media. Do you
19 recall seeing anything or hearing anything reported about
20 this case in the news media?

21 PROSPECTIVE JUROR McDANIEL: May have seen it on
22 TV. I --

23 THE COURT: All right. If you recall that you
24 have, would you be able to disregard that and decide this
25 case solely upon what you see and hear in the courtroom?

1 Can you do that, sir?

2 PROSPECTIVE JUROR McDANIEL: Yes, sir.

3 THE COURT: Mr. Nichols?

4 PROSPECTIVE JUROR NICHOLS: Yes, sir.

5 THE COURT: Do you know the attorneys involved in
6 the case?

7 PROSPECTIVE JUROR NICHOLS: No.

8 THE COURT: Or Mr. Dyer?

9 PROSPECTIVE JUROR NICHOLS: No.

10 THE COURT: Do you recall seeing anything reported
11 or in the news media about the case?

12 PROSPECTIVE JUROR NICHOLS: I kept up with it in
13 the newspaper.

14 THE COURT: In what?

15 PROSPECTIVE JUROR NICHOLS: I kept up with it in
16 the newspaper.

17 THE COURT: All right. What you recall seeing in
18 the newspaper about this case, is that going to -- is that
19 going to cause you to have already decided what -- what
20 ought to be the outcome in this case in any way?

21 PROSPECTIVE JUROR NICHOLS: (Shaking head
22 negatively.)

23 THE COURT: Can you disregard what you see and
24 have -- what you recall seeing reported in the news media
25 about this case and decide this case solely upon what you

1 see and hear in this courtroom?

2 PROSPECTIVE JUROR NICHOLS: (No audible response.)

3 THE COURT: Can you do that, sir?

4 PROSPECTIVE JUROR NICHOLS: Yes.

5 THE COURT: Is that -- is that correct, sir?

6 PROSPECTIVE JUROR NICHOLS: Yes.

7 THE COURT: All right.

8 Ms. True, do you know any of attorneys I've introduced
9 so far?

10 PROSPECTIVE JUROR TRUE: No, sir.

11 THE COURT: Do you know Mr. Dyer?

12 PROSPECTIVE JUROR TRUE: No.

13 THE COURT: Do you know anything about this case?

14 PROSPECTIVE JUROR TRUE: No, sir.

15 THE COURT: Or do you recall seeing anything in the
16 news media about this case that you would not be able to set
17 aside and decide this case solely upon what you see and hear
18 in the courtroom?

19 PROSPECTIVE JUROR TRUE: If I saw it, I don't
20 remember about it.

21 THE COURT: All right. If you -- if you did in the
22 course of how this progresses, if you recall or remember
23 seeing anything, can you set that aside and just decide it
24 on what you see and hear in the courtroom?

25 PROSPECTIVE JUROR TRUE: Yes.

1 THE COURT: Very good. Thank you.

2 All right. Ladies and gentlemen, counsel have advised
3 me that their -- there will be several witnesses that will
4 testify in this case. I'm going to read those names to you.
5 It's a fairly extensive list, and I'll take these in groups
6 and I'm going to inquire as to whether or not you may know
7 any of these particular witnesses, how you might know them,
8 whether or not your acquaintance with these witnesses is in
9 any way going to affect your ability to judge their
10 credibility as opposed to someone that you didn't know.

11 All right. Let me go through these individually at this
12 time, and I'll read -- read them in groups: Valerie Dyer,
13 Hayley Dyer, Jessica Taylor, Dr. Preston Waters. I will
14 tell you that Valerie Dyer and Hayley Dyer live here in
15 Duncan. Miss Hayley Dyer is the victim in this case.

16 Jessica Taylor lives in Norman. She is a -- what we
17 call a forensic interviewer. Dr. Waters, obviously, is a
18 physician who maintains a medical practice here in Duncan;
19 a Donald Rains who is an agent with the Oklahoma State
20 Bureau of Investigation.

21 All right. Those of you over in the jury box, do any of
22 you know any of those individuals?

23 PROSPECTIVE JUROR THOMAS: (Indicating.)

24 THE COURT: Yes. Yes, ma'am?

25 PROSPECTIVE JUROR THOMAS: I work at the hospital

1 so I know Dr. Waters.

2 THE COURT: Ms. Thompson; is that correct?

3 PROSPECTIVE JUROR THOMAS: Thomas.

4 THE COURT: Thomas. All right. The fact that you
5 work at the hospital and you know who he is, is your
6 acquaintance such -- is that going to cause you to judge his
7 credibility one way or the other?

8 PROSPECTIVE JUROR THOMAS: No.

9 THE COURT: Would you be able -- if he were to
10 testify in this case, could you look at his testimony in the
11 same light as someone that you didn't know?

12 PROSPECTIVE JUROR THOMAS: Oh, sure.

13 THE COURT: Is that a fair question?

14 PROSPECTIVE JUROR THOMAS: (Nodding.)

15 THE COURT: Anyone else in the first row over here
16 in the jury box?

17 (No verbal response.)

18 THE COURT: Second row?

19 (No verbal response.)

20 THE COURT: All right. Ms. Saltzman, you're the
21 sole -- sole occupant in the first row out here. Any of
22 those witnesses you know?

23 PROSPECTIVE JUROR SALTZMAN: No.

24 THE COURT: How about the second row? Any of you
25 know those individuals?

1 (No verbal response.)

2 THE COURT: Third row?

3 PROSPECTIVE JUROR JENKINS: (Indicating.)

4 THE COURT: Yes, Ms. Jenkins?

5 PROSPECTIVE JUROR JENKINS: Dr. Waters is my family
6 physician.

7 THE COURT: All right. He's your family physician?

8 PROSPECTIVE JUROR JENKINS: Uh-huh.

9 THE COURT: If he were to testify in this case, is
10 that relationship that you have with him, is that such that
11 you're going to judge his testimony in a different light as
12 opposed to someone that didn't testify --

13 PROSPECTIVE JUROR JENKINS: No, sir.

14 THE COURT: -- that testified that you didn't know,
15 rather?

16 PROSPECTIVE JUROR JENKINS: It would have no
17 bearing.

18 THE COURT: You don't think it would have a
19 bearing?

20 PROSPECTIVE JUROR JENKINS: No.

21 THE COURT: Thank you, ma'am.

22 Anyone else on the third row?

23 (No verbal response.)

24 THE COURT: Fourth row?

25 (No verbal response.)

1 THE COURT: Finally, the fifth row?

2 (No verbal response.)

3 THE COURT: All right. Let me continue with the
4 list of witnesses, please.

5 Brett Williams, an agent with the -- a federal law
6 enforcement agency; Lawson Guthrie, formerly of the Stephens
7 County Sheriff's Department and now an investigator with the
8 District Attorney's office; a Lori Crosby of Duncan; Amanda
9 Monsalve of Marlow; Micah Simmons of Duncan.

10 Any of you ladies and gentlemen in the jury box know any
11 of those individuals?

12 PROSPECTIVE JURORS: (Shaking heads negatively.)

13 THE COURT: Ms. Saltzman?

14 PROSPECTIVE JUROR SALTZMAN: (Shaking head
15 negatively.)

16 THE COURT: Second row in the audience?

17 (Shaking heads negatively.)

18 THE COURT: Third row?

19 (No verbal response.)

20 THE COURT: Fourth row?

21 (No verbal response.)

22 THE COURT: Fifth row?

23 (No verbal response.)

24 THE COURT: Very good. Let me continue. Mandy
25 Lindstrom, also of Marlow; Jan Dyer of Marlow; John Robert

1 Davis of Fullerton, California; Mike Hollingsworth of -- I
2 believe -- I don't see a specific location but in the State
3 of Montana.

4 Ladies and gentlemen in the jury box, any of you know
5 any of those individuals?

6 PROSPECTIVE JURORS: (Shaking heads negatively.)

7 THE COURT: Ms. Saltzman?

8 PROSPECTIVE JUROR SALTZMAN: No.

9 THE COURT: Second row of the jury?

10 PROSPECTIVE JURORS: (Shaking heads negatively.)

11 THE COURT: Third row?

12 PROSPECTIVE JURORS: (Shaking heads negatively.)

13 THE COURT: Fourth row?

14 (No verbal response.)

15 THE COURT: Fifth row?

16 PROSPECTIVE JURORS: (Shaking heads negatively.)

17 THE COURT: Thank you. Let me continue.

18 Amy Dark of Jonesboro, Tennessee; Josh Seely, a deputy
19 with the Stephens County Sheriff's Department; Christopher
20 or Chris Lemons of the Stephens County Sheriff's Department;
21 Detective Donnie Foraker of the Duncan Police Department;
22 Ryan Long, also a deputy with the Stephens County Sheriff's
23 Department.

24 Are there any of you ladies and gentlemen in the jury
25 box that know any of those individuals?

1 (No verbal response.)

2 THE COURT: Ms. Saltzman?

3 (No verbal response.)

4 THE COURT: Second row in the audience?

5 (No verbal response.)

6 THE COURT: Third row?

7 PROSPECTIVE JUROR JENKINS: (Indicating.)

8 THE COURT: All right. Third row. Ms. Jenkins,
9 you indicated you might know some of these individuals?

10 PROSPECTIVE JUROR JENKINS: Donnie Foraker. Just
11 know who he is.

12 THE COURT: Are you close friends or just know who
13 he is?

14 PROSPECTIVE JUROR JENKINS: I -- I just know him.

15 THE COURT: All right. The fact that you know him
16 and in the capacity that you know him, if he were to testify
17 in this case is your acquaintance with him such that that's
18 going to cause you to give him greater credence to his
19 testimony or less credence just because you know him?

20 PROSPECTIVE JUROR JENKINS: (Shaking head
21 negatively.)

22 THE COURT: Okay. I think I saw another row --
23 another hand in that row, as well.

24 PROSPECTIVE JUROR SOLIE: (Indicating.)

25 THE COURT: Yes, Mr. Solie.

1 PROSPECTIVE JUROR SOLIE: Yeah, he's my neighbor,
2 Donnie Foraker.

3 THE COURT: All right. The fact that he's your
4 neighbor, if he were to testify in this case is that going
5 to cause you to believe him any more or believe him any less
6 just because he's your neighbor and you know him that way?

7 PROSPECTIVE JUROR SOLIE: No.

8 THE COURT: Will you judge his testimony in the
9 same light as you would someone you didn't know. Is that a
10 fair statement, sir?

11 PROSPECTIVE JUROR SOLIE: Yes.

12 THE COURT: All right. Did I see another hand in
13 that row?

14 (No verbal response.)

15 THE COURT: All right. Fourth row?

16 PROSPECTIVE JUROR McADAMS: (Indicating.)

17 THE COURT: Mrs. McAdams?

18 PROSPECTIVE JUROR McADAMS: Yes, I -- I used to
19 work with Josh Seely.

20 THE COURT: All right. And was that while he was
21 in law enforcement or before he --

22 PROSPECTIVE JUROR McADAMS: It was before.

23 THE COURT: All right. And the fact that you used
24 to work with him, if he were to testify in this case, is
25 your acquaintance with him such that's going to cause you to

1 believe him any more or believe him any less by the way you
2 know him?

3 PROSPECTIVE JUROR McADAMS: No, sir.

4 THE COURT: All right. You can judge him in the
5 same light as anyone else. Is that a fair statement, ma'am?

6 PROSPECTIVE JUROR McADAMS: Yes.

7 THE COURT: Thank you.

8 Finally, the fifth row.

9 PROSPECTIVE JUROR UPCHURCH: (Indicating.)

10 THE COURT: Yes, Mr. Upchurch?

11 PROSPECTIVE JUROR UPCHURCH: I know Josh Seely.

12 THE COURT: And how would you characterize your
13 acquaintance with Deputy Seely?

14 PROSPECTIVE JUROR UPCHURCH: I've known him for
15 about 20 years.

16 THE COURT: All right. The fact that you know him
17 and in the capacity that you know him if he were to testify
18 in this case, would that -- your knowledge and acquaintance
19 with him, is that going to cause you to believe him any more
20 or any less just because you know him?

21 PROSPECTIVE JUROR UPCHURCH: No, sir.

22 THE COURT: You're going to judge his testimony
23 as -- as you would anyone else. Is that a fair statement,
24 sir?

25 PROSPECTIVE JUROR UPCHURCH: Yes, sir.

1 THE COURT: All right. Anyone else in that row
2 know any of those witnesses?

3 (No verbal response.)

4 THE COURT: All right. Let me continue. A Justin
5 McCowen of Duncan; a Marvin Dutton of Duncan; a James Hekia
6 of Duncan; Justin Dill of Marlow; and, Mrs. Cunningham, the
7 court clerk -- Margaret Cunningham, the lady to my left over
8 here (indicating).

9 All right. Let me ask those of you in the jury box, any
10 of you know any of those individuals?

11 (No verbal response.)

12 THE COURT: Ms. Saltzman?

13 PROSPECTIVE JUROR SALTZMAN: (Shaking head
14 negatively.)

15 THE COURT: Second row in the audience, please.

16 (No verbal response.)

17 THE COURT: Third row?

18 (No verbal response.)

19 THE COURT: Fourth row?

20 (No verbal response.)

21 THE COURT: Yes, Ms. Taliaferro?

22 PROSPECTIVE JUROR TALIAFERRO: Maggie Cunningham.

23 THE COURT: All right. In the event that she were
24 to testify in this case, is her -- your acquaintance with
25 Ms. Cunningham such that that's going to cause you to

1 believe her testimony any more or any less just because you
2 know her?

3 PROSPECTIVE JUROR TALIAFERRO: No.

4 THE COURT: Thank you. Anyone else in that row?

5 (No verbal response.)

6 THE COURT: And, finally, the fifth row?

7 (No verbal response.)

8 THE COURT: Thank you. We've touched upon this
9 briefly with some inquiry and responses by some jurors and,
10 ladies and gentlemen, I've told you that you we're dealing
11 with an offense that's alleged to have occurred. That
12 particular offense is what we refer to as child sexual
13 abuse. In the course of testimony you may hear testimony
14 involving that -- it's alleged that Mr. Dyer had
15 inappropriate sexual contact, inappropriate sexual acts
16 between -- alleged between Mr. Dyer and his seven-year-old
17 daughter, Hayley Dyer.

18 Are there any of you ladies and gentlemen that given the
19 nature of -- the subject of the offense that we're dealing
20 with and the subject that may be discussed in this case,
21 are -- do any of you have strong personal feelings given the
22 nature of that type of acts, the subject that would preclude
23 you from being a fair and impartial juror in any way?

24 All right. First row anyone?

25 (No verbal response.)

1 THE COURT: Second row?

2 PROSPECTIVE JUROR HAMEL: (Indicating.)

3 THE COURT: Ms. Hamel?

4 PROSPECTIVE JUROR HAMEL: I have family members
5 that have had -- had things --

6 THE COURT: Have been victimized in a sexual manner
7 inappropriately?

8 PROSPECTIVE JUROR HAMEL: Yes.

9 THE COURT: Would that be such that you would not
10 be able to set that aside and render a decision and come to
11 a decision in this case solely upon what's happened in this
12 case and the evidence that you see and hear in this
13 courtroom and be able to set that aside?

14 PROSPECTIVE JUROR HAMEL: I don't think I could,
15 and I don't think it would be fair of me for him.

16 THE COURT: All right. So what you're saying is
17 you understand that the circumstances that you're familiar
18 with is a different situation?

19 PROSPECTIVE JUROR HAMEL: Yes, sir.

20 THE COURT: And that the circumstances involved in
21 this case, the law requires that it be judged and determined
22 based upon the evidence that happens and presented solely
23 from this jury in this case?

24 PROSPECTIVE JUROR HAMEL: Yes.

25 THE COURT: And not be influenced by a similar

1 situation of a family member that may have been exposed to.
2 Do you understand that?

3 PROSPECTIVE JUROR HAMEL: I understand that.

4 THE COURT: You don't believe you could do that?

5 PROSPECTIVE JUROR HAMEL: No, sir.

6 THE COURT: I understand. All right.

7 Any inquiry for cause?

8 MS. HIXON: No, Your Honor.

9 THE COURT: Mr. Hoch?

10 MR. HOCH: No, sir.

11 THE COURT: Ms. Hamel, I'm going to excuse you from
12 this case. I'm going to ask you to report back Wednesday at
13 9:00, please. You are free to go.

14 PROSPECTIVE JUROR HAMEL: Yes, sir.

15 THE COURT: I saw another hand.

16 PROSPECTIVE JUROR STANKORB: (Indicating.)

17 THE COURT: Ms. Stankorb?

18 PROSPECTIVE JUROR STANKORB: I have three small
19 children. I have a three-year-old daughter, an
20 eight-year-old son and a five-year-old son, and I don't
21 think I could do it.

22 THE COURT: Okay. The Court is -- they haven't
23 been exposed or anything of the nature that we talk about in
24 this case?

25 PROSPECTIVE JUROR STANKORB: No.

1 THE COURT: I know all of us have children. All of
2 us -- most of us in this room either have children, have
3 raised small children, have small grandchildren and
4 that's -- that's common to all of us. And the fact that
5 each of us have that experience and situation, are you
6 saying that given the subject of this matter you don't
7 believe that you could sit as a fair and impartial juror in
8 this case?

9 PROSPECTIVE JUROR STANKORB: No, sir.

10 THE COURT: You don't believe so?

11 PROSPECTIVE JUROR STANKORB: No.

12 THE COURT: Any inquiry from the State?

13 MS. HIXON: No, Your Honor.

14 MR. HOCH: No, Your Honor.

15 THE COURT: Ms. Stankorb, thank you for your -- for
16 your responses. I'm going to excuse you from this case.
17 I'll ask you to report back Wednesday morning at 9:00.

18 Anyone else in the back row?

19 PROSPECTIVE JUROR MARLEY: (Indicating.)

20 THE COURT: Yes, Mr. Marley?

21 PROSPECTIVE JUROR MARLEY: Well, I just love kids,
22 and I didn't know what this was until you told us and it's
23 making me have an opinion.

24 THE COURT: Well, we --

25 PROSPECTIVE JUROR MARLEY: I don't think this is

1 fair.

2 THE COURT: Okay. We all have opinions. We all
3 have opinions on what we see and hear and opinions on life
4 experiences and other purposes and life experiences. The
5 question here is whether or not you can set those opinions
6 aside and decide this case with an open mind based upon the
7 evidence -- whatever it may be -- and, again, I'm going to
8 tell you the State's going to have to prove this case, okay?
9 Going to have to prove to you beyond a reasonable doubt.

10 Are you telling me that based on your feelings that the
11 State's not going to have to prove as much to you as they
12 probably should just because we're dealing with the subject
13 matter here?

14 PROSPECTIVE JUROR MARLEY: That's right.

15 THE COURT: You don't believe you could set that
16 aside and hold yourself to the -- to the standard that the
17 Court would ask you to hold yourself to to judge this case?

18 PROSPECTIVE JUROR MARLEY: I don't think I can.

19 THE COURT: I understand.

20 Any inquiry by the State?

21 MS. HIXON: No, Your Honor.

22 MR. HOCH: No, Your Honor.

23 THE COURT: Thank you, Mr. Marley. I'm going to
24 excuse you for cause, ask you to come back Wednesday morning
25 at 9:00. I appreciate you being here.

1 Ms. Saltzman, I'm going to ask you the same question.

2 PROSPECTIVE JUROR SALTZMAN: (Shaking head
3 negatively.)

4 THE COURT: Is there anyone on the second row that
5 given the nature of this case, the circumstances, the
6 offense charged, the fact that there may be some discussion
7 about inappropriate sexual contact, sexual actions involving
8 a child, do any of you have personal strong feelings,
9 personal convictions, that just -- just the subject alone
10 without hearing anything at all would -- would cause you to
11 be anything less than a fair and impartial juror, keeping in
12 mind that you have to hear the evidence and make a
13 determination after you've heard all the evidence? Anyone
14 have any strong feelings one way or the other that way?

15 PROSPECTIVE JURORS: (Shaking heads negatively.)

16 THE COURT: How about the third row?

17 PROSPECTIVE JURORS: (Shaking heads negatively.)

18 THE COURT: Fourth row?

19 PROSPECTIVE JURORS: (Shaking heads negatively.)

20 THE COURT: Fifth row?

21 PROSPECTIVE JURORS: (Shaking heads negatively.)

22 THE COURT: Ms. Saltzman, you've probably sat there
23 on the hard bench longer than anyone else. I'm going to
24 have you come up and have a seat in the jury box, first
25 chair in the back row, please.

1 PROSPECTIVE JUROR SALTZMAN: (Complies.)

2 THE COURT: Mr. Shaw, I'm going to ask you to step
3 up and have a seat in the jury box, the back row, will be
4 the fourth chair, please.

5 PROSPECTIVE JUROR SHAW: (Complies.)

6 THE COURT: I'm going to ask the Clerk to call from
7 the pool of prospective jurors six additional names. We'll
8 ask these individuals to have a seat now on the vacant first
9 row, please. Seated from your right to left beginning off
10 of the center aisle, please. Six names.

11 CLERK CUNNINGHAM: Erma Etta Potts, Erma Etta
12 Potts, P-o-t-t-s, Juror No. 264.

13 Randy Ray Shirley, Randy Ray Shirley, S-h-i-r-l-e-y,
14 Juror No. 285.

15 THE COURT: All right. Ms. Potts? Where did
16 Ms. Potts -- Ms. Potts?

17 PROSPECTIVE JUROR POTTS: (Indicating.)

18 THE COURT: Why don't you come all the way to the
19 front. Have a seat front row. Right off the center aisle
20 and Mr. Shirley right next to you.

21 CLERK CUNNINGHAM: Amber Maree Leonard -- I believe
22 it's Denham now?

23 PROSPECTIVE JUROR DENHAM: Yes.

24 CLERK CUNNINGHAM: Amber Maree Leonard Denham, and
25 it's D-e-n-h-a-m, Juror No. 189.

1 Lesia Shannon Moran, Lesia Shannon Moran, M-o-r-a-n,
2 Juror No. 219.

3 Debra Ann Hutchins, Debra Ann Hutchins, H-u-t-c-h-i-n-s,
4 Juror Number 165.

5 CLERK CUNNINGHAM: Judge, that's all of those.
6 That's all of the white panel.

7 THE COURT: All right. Start the next panel.

8 CLERK CUNNINGHAM: Blain Degraff Howard, Blain
9 Degraff Howard, H-o-w-a-r-d, Juror No. 161.

10 THE COURT: All right. Ladies and gentlemen, I
11 want to address my questions to the six individuals who's --
12 who were just seated on the first row. Are there any of you
13 ladies and gentlemen who know the attorneys who I've
14 introduced?

15 (No verbal response.)

16 THE COURT: Any of you know Mr. Dyer?

17 PROSPECTIVE JUROR POTTS: (Indicating.)

18 THE COURT: Ms. Potts?

19 PROSPECTIVE JUROR POTTS: I not only know him, I
20 know his parents and my daughter and son-in-law and
21 granddaughter have gone to church with them many, many years
22 and in his younger years also, so I'm --

23 THE COURT: I assume based upon the acquaintance
24 that you've discussed --

25 PROSPECTIVE JUROR POTTS: Yes, I have discussed --

1 THE COURT: -- you have discussed -- you've known
2 him for a long time?

3 PROSPECTIVE JUROR POTTS: Yes.

4 THE COURT: And -- and his parents, as well. Would
5 it be fair to say that you've been party or privy to some
6 discussions that may have -- the circumstances have brought
7 us all here today? Is that a fair statement, ma'am?

8 PROSPECTIVE JUROR POTTS: The last trial I did
9 discuss it, yes.

10 THE COURT: All right. Very good. Anything about
11 that you feel that you could not set aside and sit -- and be
12 as a fair and impartial juror in this case?

13 PROSPECTIVE JUROR POTTS: I do have a preconceived
14 opinion.

15 THE COURT: Okay. Any objection if I excuse
16 Ms. Potts for cause?

17 MS. HIXON: No, Your Honor.

18 MR. HOCH: No, Your Honor.

19 THE COURT: Thank you, Ms. Potts. I appreciate it.
20 I'm going to ask you to report back Wednesday, however,
21 9:00. Wednesday -- this Wednesday -- unless you've already
22 been excused.

23 PROSPECTIVE JUROR POTTS: I need to be excused for
24 a funeral. There was a death over the weekend.

25 THE COURT: All right. I'll excuse you until

1 Monday.

2 PROSPECTIVE JUROR POTTS: Thank you.

3 THE COURT: Make a note of that, please.

4 BAILIFF KETCHUM: (Nodding.)

5 THE COURT: All right. The remaining five on the
6 first row, any of you know any of the attorneys I've
7 introduced so far?

8 (No verbal response.)

9 THE COURT: Any of you know Mr. Dyer?

10 PROSPECTIVE JUROR MORAN: I know his parents.

11 THE COURT: Okay. Ms. -- Ms. --

12 PROSPECTIVE JUROR MORAN: I went to church with
13 them. I've known them for about 16 years.

14 THE COURT: All right.

15 PROSPECTIVE JUROR MORAN: Although I haven't talked
16 to them in a few years.

17 THE COURT: All right. So would it be fair to say
18 the fact that you may know his parents, would it be fair to
19 say that you haven't had any opportunity to discuss or talk
20 about any of the circumstances that have brought us here
21 today?

22 PROSPECTIVE JUROR MORAN: No, I haven't discussed
23 it with them.

24 THE COURT: The fact that you know his parents, do
25 you feel like that would in any way affect your ability to

1 sit as a fair and impartial juror in this case?

2 PROSPECTIVE JUROR MORAN: I will do my best not to
3 let it -- I mean, we'll just talk at first -- do the
4 paperwork, filled out --

5 THE COURT: Certainly, certainly.

6 PROSPECTIVE JUROR MORAN: I will do my best --

7 THE COURT: All right. You understand that this
8 case is to be judged solely upon the evidence that's brought
9 before you as a juror in this case, in this courtroom, and
10 you must make that decision solely upon that and not make it
11 upon the fact that you may be acquainted with and know his
12 parents?

13 PROSPECTIVE JUROR MORAN: Uh-huh.

14 THE COURT: Can you do that?

15 PROSPECTIVE JUROR MORAN: Uh-huh. I believe so.

16 THE COURT: If -- if you're called upon as a juror
17 can you set that relationship aside and judge this case
18 solely upon what you see and hear in this courtroom?

19 PROSPECTIVE JUROR MORAN: I think so.

20 THE COURT: Might be difficult?

21 PROSPECTIVE JUROR MORAN: Uh-huh.

22 THE COURT: Would you be able to look them in the
23 face and say, Look, I made a decision based on the evidence?

24 PROSPECTIVE JUROR MORAN: Uh-huh.

25 THE COURT: If -- it may not be a decision that's,

1 obviously, not favorable to them. Can you do that?

2 PROSPECTIVE JUROR MORAN: I believe so.

3 THE COURT: All right. Thank you, ma'am.

4 Anyone else?

5 (No verbal response.)

6 THE COURT: All right. The fact that we're dealing
7 with the subject matter that we're dealing with, any of you
8 have any strong feelings one way or the other about the
9 subject matter?

10 PROSPECTIVE JUROR HOWARD: (Indicating.)

11 THE COURT: Yes, Mr. Howard?

12 PROSPECTIVE JUROR HOWARD: I'm pretty biased.

13 THE COURT: All right. Are you saying your bias is
14 such -- you know, it can be either way, but your bias is
15 such that you feel like because of the nature of this case
16 you would not be able to sit as a fair and impartial juror,
17 sir?

18 PROSPECTIVE JUROR HOWARD: Yes, sir.

19 THE COURT: All right. Any objection if I excuse
20 Mr. Howard?

21 MS. HIXON: No, Your Honor.

22 MR. HOCH: No, Your Honor.

23 THE COURT: Thank you, Mr. Howard. I appreciate
24 your candor and honesty. I am going to ask you to come back
25 Wednesday of this week, 9:00.

1 PROSPECTIVE JUROR HOWARD: Yes, sir. Could I get a
2 piece of paper from the Court Clerk or something for my
3 employer?

4 THE COURT: That you were here today?

5 PROSPECTIVE JUROR HOWARD: No, for Wednesday.

6 THE COURT: Well, just -- show them your jury
7 summons. The jury summons requires you to be here basically
8 every day for the next two weeks.

9 PROSPECTIVE JUROR HOWARD: Okay.

10 THE COURT: If they've got an issue, have your
11 employer call the Court Clerk.

12 PROSPECTIVE JUROR HOWARD: Yes, sir.

13 THE COURT: Yes, sir.

14 PROSPECTIVE JUROR HOWARD: Thank you.

15 THE COURT: All right. We're going to -- let me
16 ask one other question before we take the noon recess. I've
17 read a list of names of potential witnesses to the jury who
18 may testify in the case. Those four of you remaining on the
19 front row, do you recall whether or not you may know or be
20 acquainted with any of those individuals?

21 (No verbal response.)

22 THE COURT: All right. Very good.

23 Ladies and gentlemen, it's about -- a few minutes
24 towards 12 noon. We're going to take the noon recess. It's
25 going to be very important that all of you return when we

1 come back after the noon recess.

2 Those of you that are seated in the jury box, I will ask
3 you to have a seat in the same chairs that you are in in
4 relation to each other. Those of you that are sitting in
5 the first five rows in the audience, look around and get an
6 idea of where you are because I'm going to ask you to be --
7 and have a seat back in the same place you are in relation
8 to anyone else -- everyone else.

9 Those jurors who are still present in the courtroom
10 whose name has not been called, it's also going to be
11 important that you come back, as well. So we're going to
12 stand in recess until 1:15. I'm going to ask you all to be
13 back here in the courtroom at 1:15.

14 Don't talk about the case. I am going to ask you to do
15 one important thing, it's going to be tough to do and, that
16 is, don't talk about the case with anyone. Don't allow
17 anyone to visit with you about the case. Do not make or
18 form an opinion about the case.

19 All right. Y'all have a good lunch. Be safe. We'll
20 see you at 1:15.

21 (At this point court was recessed for lunch after which
22 the following proceedings occurred:)

23 BAILIFF KETCHUM: All rise.

24 THE COURT: Take your seats, ladies and gentlemen.

25 All right.

1 Okay. Those five of you that are still on the front
2 row, let me ask, Are there any of you ladies and gentlemen
3 that recall seeing anything reported about this case in the
4 news media?

5 PROSPECTIVE JUROR MORAN: (Indicating.)

6 THE COURT: Yes, Ms. "Moran"?

7 PROSPECTIVE JUROR MORAN: "Moran."

8 THE COURT: Moran. I don't want you to recount
9 what it is but if you recall seeing something in the news
10 media about this case, is that something, you think, that's
11 going to already cause you to have an opinion about this
12 case or can you set that aside and decide this solely upon
13 what you see and hear in the courtroom?

14 PROSPECTIVE JUROR MORAN: Yes.

15 THE COURT: "Yes," you can set it aside?

16 PROSPECTIVE JUROR MORAN: I can set it aside.

17 THE COURT: All right. There's nothing about what
18 you see -- saw reported in the news media that would affect
19 your ability to sit as a fair and impartial juror; is that
20 correct?

21 PROSPECTIVE JUROR MORAN: I can do that.

22 THE COURT: All right. Thank you.

23 Anyone else in the front row?

24 PROSPECTIVE JUROR SHIRLEY: (Indicating.)

25 THE COURT: Yes, Mr. Shirley.

1 PROSPECTIVE JUROR SHIRLEY: Newspaper and TV.

2 That's all.

3 THE COURT: Is that in any way going to color your
4 judgment in any way or cause you to believe anything just
5 because you saw it in the news media report?

6 PROSPECTIVE JUROR SHIRLEY: No.

7 THE COURT: No? Very good.

8 Now anyone else?

9 (No verbal response.)

10 THE COURT: Now, we seated some jurors further back
11 on row three and four and I may have neglected to ask, with
12 respect to the list of juror -- list of witnesses who I've
13 read, I'll read those juror -- those names again to the jury
14 if I need to, but do any of you recall knowing any of those
15 potential witnesses who may testify in this case?

16 Do I need to read that list to you again?

17 (No verbal response.)

18 THE COURT: Anyone -- one at a time. Any of you
19 know any of those particular -- potential witnesses in this
20 case?

21 (No verbal response.)

22 THE COURT: Okay. Very good.

23 All right. Ladies and gentlemen, I'm sure this is not
24 going to be the last time that you're going to hear some
25 questions about the area which I talk about but it is to the

1 point where I think we can move on at this time.

2 Are there any of you ladies and gentlemen that are
3 presently serving in the area of law enforcement in any way?

4 (No verbal response.)

5 THE COURT: All right. Let me ask you this: Are
6 there any of you ladies and gentlemen that have in the past
7 served in law enforcement in any way?

8 PROSPECTIVE JURORS: (Indicating.)

9 THE COURT: All right. Ms. Jenkins?

10 PROSPECTIVE JUROR JENKINS: I was a sheriff's
11 reserve one time.

12 THE COURT: All right. Here in Stephens County or
13 somewhere else?

14 PROSPECTIVE JUROR JENKINS: Yes, Stephens County.

15 THE COURT: About how long ago?

16 PROSPECTIVE JUROR JENKINS: 17 years ago.

17 THE COURT: Anything in that experience or
18 situation would affect your ability to sit as a fair and
19 impartial juror in any way?

20 PROSPECTIVE JUROR JENKINS: No.

21 THE COURT: I think I saw another hand back here.

22 PROSPECTIVE JUROR TRUE: (Indicating.)

23 THE COURT: Ms. True; is that correct?

24 PROSPECTIVE JUROR TRUE: Yes.

25 THE COURT: Yes, ma'am?

1 PROSPECTIVE JUROR TRUE: I was a correctional
2 officer for eight years, but it's been about eight years
3 since I was retired.

4 THE COURT: All right. Who -- did you work for the
5 State of Oklahoma or did you work for a private contractor?

6 PROSPECTIVE JUROR TRUE: State of Oklahoma.

7 THE COURT: Okay. Anything in that experience you
8 feel would affect your ability to sit as a fair and
9 impartial juror in any way?

10 PROSPECTIVE JUROR TRUE: I've thought about that
11 ever since I come in here and I believe I could be fair.

12 THE COURT: Very good.

13 Anyone else?

14 (No verbal response.)

15 THE COURT: Let me ask that same question with
16 respect to: Are there any of you ladies and gentlemen whose
17 members of your immediate family, spouse, child, so forth,
18 that are presently serving as a law enforcement officer in
19 any way?

20 PROSPECTIVE JURORS: (Shaking heads negatively.)

21 THE COURT: How about over here in the jury box?

22 PROSPECTIVE JURORS: (Shaking heads negatively.)

23 THE COURT: First row?

24 (No verbal response.)

25 THE COURT: Second row?

1 (No verbal response.)

2 THE COURT: Third?

3 (No verbal response.)

4 THE COURT: Fourth and fifth?

5 PROSPECTIVE JUROR McADAMS: (Indicating.)

6 THE COURT: Yes, Ms. McAdams?

7 PROSPECTIVE JUROR McADAMS: Rusty Smith out at
8 Duncan Lake and he's my cousin.

9 THE COURT: All right. But you've -- we've talked
10 about -- let me ask you this: The fact that he's listed as
11 a witness and may testify in this matter, I think we've
12 talked about that, did we not?

13 PROSPECTIVE JUROR McADAMS: Yes.

14 THE COURT: That's not going to affect your ability
15 it sit as a fair and impartial juror in any way; is that
16 correct?

17 PROSPECTIVE JUROR McADAMS: No.

18 THE COURT: All right. I've introduced to you,
19 ladies and gentlemen, Mr. Walters and Mrs. Hixon. They are
20 assistant district attorneys that are handling this case.
21 The district attorney is Mr. Jason Hicks; he was in here
22 first thing this morning when we began jury orientation.
23 There are other assistants that work out of the Stephens
24 County office: Greg Steward, Marvin Quinn and occasionally
25 Mr. Justin -- we call him "Chip" -- Garrett. Those are the

1 district attorneys -- the staff of the district attorney's
2 office.

3 In addition to me introducing Mr. Walters and Ms. Hixon,
4 are there any of you that may be familiar with those
5 individuals?

6 (No verbal response.)

7 THE COURT: All right. Ladies and gentlemen, are
8 there any of you that have had any professional dealings
9 with the district attorney's office and when I say
10 "professional dealings" that means you, yourself, may have
11 been the victim of a crime in which the district attorney's
12 office handled, you may have been a witness in a case that
13 was handled or prosecuted by the district attorney's office
14 or you may have been the subject of a criminal prosecution
15 yourself in the past.

16 Do any of you fall within any of that category when I
17 say "dealings with the district attorney's office"?

18 PROSPECTIVE JUROR McPHERSON: (Indicating.)

19 THE COURT: Ms. McPherson?

20 PROSPECTIVE JUROR McPHERSON: It was in Lawton.

21 THE COURT: All right. But not this district
22 attorney's office?

23 PROSPECTIVE JUROR McPHERSON: No.

24 THE COURT: Now you have had some dealings with the
25 district attorney's office over there. In what capacity was

1 that in reference to yourself?

2 PROSPECTIVE JUROR McPHERSON: We had charges filed
3 against a man. He was 52 and he took off with my
4 15-year-old daughter.

5 THE COURT: All right. So you were the victim of a
6 crime. Anything about that experience you feel would affect
7 your ability to sit as a fair and impartial juror in this
8 case?

9 PROSPECTIVE JUROR McPHERSON: No, sir.

10 THE COURT: You understand the circumstances
11 concerning that case are particular to that and have really
12 no bearing on the facts of this case?

13 PROSPECTIVE JUROR McPHERSON: Correct.

14 THE COURT: Do you accept that and understand that?

15 PROSPECTIVE JUROR McPHERSON: Yes.

16 PROSPECTIVE JUROR KESSINGER: (Indicating.)

17 THE COURT: Mr. Kessinger?

18 PROSPECTIVE JUROR KESSINGER: Yes, sir.

19 THE COURT: Yes, sir?

20 PROSPECTIVE JUROR KESSINGER: I had charges filed
21 against me.

22 THE COURT: All right. Are there presently charges
23 pending?

24 PROSPECTIVE JUROR KESSINGER: No.

25 THE COURT: All right. Have those been resolved?

1 PROSPECTIVE JUROR KESSINGER: Yes.

2 THE COURT: None of those resulted in a felony
3 conviction. Is that a fair statement?

4 PROSPECTIVE JUROR KESSINGER: That's true.

5 THE COURT: Anything about that experience you feel
6 would affect your ability to sit as a fair and impartial
7 juror in this case?

8 PROSPECTIVE JUROR KESSINGER: No, sir.

9 THE COURT: All right. All things considered do
10 you feel like you were treated fairly and appropriately
11 under the circumstances?

12 PROSPECTIVE JUROR KESSINGER: Yes, I believe I was.

13 THE COURT: District attorneys shouldn't have any
14 reason to believe that they may be there starting one step
15 behind anyone else because they may have had some dealings
16 with you in their office? Is there any reason for you to
17 feel that way?

18 PROSPECTIVE JUROR KESSINGER: No, sir.

19 THE COURT: Anyone else over here?

20 (No verbal response.)

21 THE COURT: First row, any dealings with the
22 district attorney's office?

23 PROSPECTIVE JUROR DENHAM: (Indicating.)

24 THE COURT: Ms. Denham; is that correct?

25 PROSPECTIVE JUROR DENHAM: Yes. Bogus checks in

1 Cleveland County.

2 THE COURT: All right. Were you the subject of
3 that prosecution -- was that in Cleveland County?

4 PROSPECTIVE JUROR DENHAM: Yes.

5 THE COURT: None of those resulted in a felony
6 conviction, did they?

7 PROSPECTIVE JUROR DENHAM: No.

8 THE COURT: Anything about that experience you feel
9 would affect your ability to sit as a fair and impartial
10 juror in this case?

11 PROSPECTIVE JUROR DENHAM: No.

12 THE COURT: All in all do you think you were
13 treated fairly and appropriate under the circumstances?

14 PROSPECTIVE JUROR DENHAM: (Nodding.)

15 THE COURT: Anyone else in the front row?

16 (No verbal response.)

17 THE COURT: Second row?

18 PROSPECTIVE JUROR PRICE: (Indicating.)

19 THE COURT: Ms. Price?

20 PROSPECTIVE JUROR PRICE: Yes. I had a charge
21 against me and it was bogus checks also.

22 THE COURT: Here in Stephens County?

23 PROSPECTIVE JUROR PRICE: Yes, sir.

24 THE COURT: About how long ago?

25 PROSPECTIVE JUROR PRICE: Oh, it's been over 10

1 years.

2 THE COURT: All right. Is it fair to say that did
3 not result in a felony conviction of any kind?

4 PROSPECTIVE JUROR PRICE: I had felony charges
5 against me, but I was not convicted.

6 THE COURT: Okay. Anything about that experience
7 or situation you feel would affect your ability to sit as a
8 fair and impartial juror?

9 PROSPECTIVE JUROR PRICE: No.

10 THE COURT: Given the circumstances you feel you
11 were treated fairly and appropriately?

12 PROSPECTIVE JUROR PRICE: Yes.

13 THE COURT: Anyone else on the second row?

14 (No verbal response.)

15 THE COURT: How about the third row?

16 PROSPECTIVE JUROR TOMLINSON: (Indicating.)

17 THE COURT: Yes, Mr. Tomlinson?

18 PROSPECTIVE JUROR TOMLINSON: I'm a victim of a
19 robbery, and I was a witness for the district attorney. The
20 case was pled out before trial.

21 THE COURT: About how long ago was that, sir?

22 PROSPECTIVE JUROR TOMLINSON: Eight years.

23 THE COURT: Anything about that situation or
24 experience you feel would affect your ability to sit as a
25 fair and impartial juror?

1 PROSPECTIVE JUROR TOMLINSON: No.

2 THE COURT: I doubt very seriously if there's
3 anybody in the district attorney's office now that was
4 probably in there at that time.

5 PROSPECTIVE JUROR TOMLINSON: No.

6 THE COURT: Very good. The fact that you were the
7 victim of a robbery would that in any way affect your
8 ability to sit as a fair and impartial juror in this case?

9 PROSPECTIVE JUROR TOMLINSON: No.

10 THE COURT: Thank you, sir.

11 Anyone else on the third row?

12 (No verbal response.)

13 THE COURT: How about the fourth row?

14 (No verbal response.)

15 THE COURT: And finally the fifth row?

16 PROSPECTIVE JUROR UPCHURCH: (Indicating.)

17 THE COURT: Yes, Mr. Upchurch?

18 PROSPECTIVE JUROR UPCHURCH: I was a witness about
19 nine years ago.

20 THE COURT: What kind of a case, sir?

21 PROSPECTIVE JUROR UPCHURCH: It was a rape by
22 instrumentation.

23 THE COURT: Anything about that experience you feel
24 would affect your ability to sit as a fair and impartial
25 juror in any way?

1 PROSPECTIVE JUROR UPCHURCH: No, sir.

2 THE COURT: Can you set those circumstances aside
3 and judge this case solely upon the evidence that you see
4 and hear in this courtroom, sir?

5 PROSPECTIVE JUROR UPCHURCH: Yes, sir.

6 THE COURT: Thank you.

7 I think I saw another hand on the back row.

8 PROSPECTIVE JUROR TRUE: (Indicating.)

9 THE COURT: Yes, Ms. True?

10 PROSPECTIVE JUROR TRUE: I had a restraining order
11 on another person. It's been probably 15, 16 years ago.

12 THE COURT: All right. And did the district
13 attorney's office help you in that matter?

14 PROSPECTIVE JUROR TRUE: They were very good.

15 THE COURT: Anything about that experience you feel
16 would affect your ability to sit as a fair and impartial
17 juror in this case?

18 PROSPECTIVE JUROR TRUE: No.

19 THE COURT: Very good. One thing we talked about
20 earlier this morning I want each of you to understand and
21 there are basic rules of law that you'll hear more about and
22 that is that Mr. Dyer in this case pursuant to his
23 constitutional right is presumed to be innocent of the
24 allegations that the State makes against him and that
25 presumption of innocence continues throughout this trial

1 until you take the case and start deciding it back in the
2 jury room.

3 Do any of you have any problem with that concept and
4 with the idea that as Mr. Dyer sits over here, he is
5 presumed innocent of these charges? Anyone have any problem
6 with that?

7 (No verbal response.)

8 THE COURT: Very good. Another point that we need
9 to talk about is that this case began by the district
10 attorney filing a piece of paper in the Court Clerk's
11 office. We call that piece of paper an Information.

12 The law is that that is nothing more than the procedural
13 means by which a criminal case begins. The law also
14 specifically states that it is not evidence of a crime and
15 there should be no presumption or any kind of innuendo
16 attached to the fact that that statement -- that Information
17 has been filed. You cannot make any presumptions about his
18 guilt just because it's been filed or be prejudiced against
19 him because it has been filed.

20 Can you each accept and understand that proposition?

21 PROSPECTIVE JURORS: (Nodding.)

22 THE COURT: I also want you to understand and most
23 importantly in a criminal case such as this one,
24 particularly this one, the district attorney who represents
25 the State of Oklahoma has what we call the burden of proof.

1 They must prove their allegations and they must prove them
2 by what we call "beyond a reasonable doubt." That's the
3 highest burden of proof that our courts recognize.

4 What also that entails is that at a point in time during
5 this trial you will learn that the offense that we're
6 dealing with has several elements that will require that the
7 district attorney prove each of those elements and prove
8 each of those elements beyond a reasonable doubt. You would
9 not be warranted in returning a verdict of guilty unless you
10 are convinced that the State's evidence establishes guilt
11 beyond a reasonable doubt and proves each of the elements
12 beyond a reasonable doubt.

13 Do each of you understand and accept that concept?

14 PROSPECTIVE JURORS: (Nodding.)

15 THE COURT: Does anyone have a problem with that?

16 (No verbal response.)

17 THE COURT: At the end of this trial after you have
18 heard all of the evidence, the Court will give you what we
19 call the instructions in this case. The instructions
20 contain the law that's applicable to this case. It will
21 tell you what the elements are. It will tell you what
22 things you must look for, and so forth.

23 Can each of you give us your assurance, particularly
24 myself, counsel and particularly Mr. Dyer, your assurance
25 that if selected as a juror in this case you'll listen to

1 the evidence, follow the instructions and render a fair and
2 impartial verdict? Can you each -- each one of you do that?

3 PROSPECTIVE JURORS: (Nodding.)

4 THE COURT: Ladies and gentlemen, I will tell you
5 that I have blocked off my calendar for the next four days
6 to try this case. I think that's probably a fair -- fair
7 estimate how long it will take to try this case. So the 12
8 jurors and two alternates that we'll seat in this case will
9 have to be available through -- through Thursday of this
10 case.

11 Now, are there any of you that have previously been
12 excused prior to today for any of those days during the rest
13 of this week?

14 (No verbal response.)

15 THE COURT: All right. Given the fact that I think
16 that I can probably unequivocally say that all of us in this
17 room probably would much rather be somewhere else than here
18 today, there may be some of you that do have pressing issues
19 at home or at work, may have an ill loved one at home or
20 someone -- or something that's just going to be in the
21 forefront of your subconscious and you're going to be
22 thinking about and it may interfere with you seeing and
23 picking up on everything that you need to see and hear in
24 the courtroom.

25 Are there any of you ladies and gentlemen that have a

1 situation at home or at work that's just -- you know, it's
2 just unavoidable. It's going to be on your -- it is going
3 to be on your mind and might be a distraction for you?

4 (No verbal response.)

5 THE COURT: Is there anything that I would not know
6 to ask, that counsel would not know to ask or haven't had a
7 chance to ask yet that you feel would affect your ability to
8 sit as a fair and impartial juror in any way?

9 (No verbal response.)

10 THE COURT: One of the issues -- the primary issue
11 that you're going to be called upon is to make a
12 determination of certain issues in this case. Are there any
13 of you that have personal preference, a mind-set, or just a
14 general philosophy that just would prohibit you from sitting
15 in judgment of another individual?

16 (No verbal response.)

17 THE COURT: I will tell you, ladies and gentlemen,
18 that individuals who have been convicted of the crime that
19 we're dealing with, it carries a punishment of a period of
20 incarceration in the penitentiary and that will be one of
21 the issues this jury would be called upon to determine
22 should it make a finding of guilty.

23 Are there any of you that have personal convictions,
24 personal preferences or feelings that would just prohibit
25 you from making a decision in this case knowing full well

1 that that decision may result in someone spending time in
2 the penitentiary?

3 (No verbal response.)

4 THE COURT: I'm going to ask each of you to tell us
5 a little bit about yourself and primarily what we're
6 interested in is what does your family at home consist of,
7 your occupation and that of your spouse. If you're retired
8 tell me what it was that you were last doing when you --
9 before you retired if you were occupied (sic) -- in that
10 line of work before you retired and whether or not you've
11 served on a jury before and we'll start with you,
12 Ms. Saltzman.

13 PROSPECTIVE JUROR SALTZMAN: I'm an ombudsman. I
14 work at ASCOG, Association of South Central Oklahoma
15 Governments. I'm an ombudsman supervisor which means I'm a
16 long-term advocate for people in nursing homes. I have
17 Stephens, Grady and McClain Counties, and I have served on a
18 jury two years ago.

19 THE COURT: All right. What does your family
20 consist of at home?

21 PROSPECTIVE JUROR SALTZMAN: Just me.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR SALTZMAN: I have grand -- I have
24 kids and grand kids.

25 THE COURT: Okay. And you say you served on a jury

1 some years ago. Was it a criminal case or a civil case or
2 do you remember?

3 PROSPECTIVE JUROR SALTZMAN: It was a civil; it was
4 insurance.

5 THE COURT: All right. Did the jury reach a
6 verdict in that case?

7 PROSPECTIVE JUROR SALTZMAN: Yes.

8 THE COURT: Anything about that you feel would
9 affect your ability to serve as a juror in this case?

10 PROSPECTIVE JUROR SALTZMAN: No.

11 THE COURT: Mrs. Smith?

12 PROSPECTIVE JUROR SMITH: Hi. My name is Patty
13 Smith. I'm the mother of two. They are grown. I have four
14 wonderful grandchildren. I worked for Halliburton for 31
15 years. I did serve on one other jury about 13 years ago.
16 It was a civil trial.

17 THE COURT: Anyone at home at this time?

18 PROSPECTIVE JUROR SMITH: Just me and my husband.

19 THE COURT: All right. Is he still working or is
20 he retired?

21 PROSPECTIVE JUROR SMITH: No, he's retired.

22 THE COURT: What kind of work did he retire from?

23 PROSPECTIVE JUROR SMITH: He worked at Family
24 Dollar Distribution Center.

25 THE COURT: Anything about the fact that you served

1 on a jury some time ago affect your ability to sit as a fair
2 and impartial juror in this case?

3 PROSPECTIVE JUROR SMITH: No.

4 THE COURT: Thank you.

5 Ms. McPherson?

6 PROSPECTIVE JUROR McPHERSON: I'm Terri McPherson.
7 I'm divorced. Got four kids, seven grand kids. I work at
8 First Bank & Trust in Duncan 11 years.

9 THE COURT: Ever served on a --

10 PROSPECTIVE JUROR McPHERSON: Never served on a
11 jury --

12 THE COURT: Thank you.

13 PROSPECTIVE JUROR McPHERSON: -- no, sir.

14 THE COURT: Mr. Shaw?

15 PROSPECTIVE JUROR SHAW: I work for Atlas Pipeline.
16 I have three children and two of them are grown. I still
17 have one at home and a wife at home.

18 THE COURT: All right. Is she a homemaker?

19 PROSPECTIVE JUROR SHAW: Yes.

20 THE COURT: Have you ever served on a jury before?

21 PROSPECTIVE JUROR SHAW: No, sir.

22 THE COURT: Thank you.

23 Ms. Way?

24 PROSPECTIVE JUROR WAY: Yes. My name is Joyce Way.
25 I'm a homemaker. I have two children. My husband works for

1 Terraco, and I have never served on a jury before.

2 THE COURT: Mrs. Phillips?

3 PROSPECTIVE JUROR PHILLIPS: Yes. I'm a widow. My
4 name is Pattie Phillips, and I'm retired from being a
5 hospice nurse out of Oklahoma City.

6 I have four children. My two older children are grown,
7 and I have actually adopted the two younger children; they
8 were my grandchildren, and my husband is deceased. He was
9 in the United States Air Force for 29 years.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR PHILLIPS: And I'm just retired
12 at home.

13 THE COURT: Have you ever served on a jury before?

14 PROSPECTIVE JUROR PHILLIPS: No. I was called, but
15 I didn't make it into the box.

16 THE COURT: Thank you.

17 Mrs. Jackson?

18 PROSPECTIVE JUROR JACKSON: Joy Jackson. I am a
19 widow. I live alone. I have four grown -- five grown
20 children, 12 grandchildren. I worked at the VFW as a
21 secretary for two years. I am retired.

22 THE COURT: Have you ever served on a jury before?

23 PROSPECTIVE JUROR JACKSON: No, sir.

24 THE COURT: Thank you.

25 Mr. Kessinger.

1 PROSPECTIVE JUROR KESSINGER: I'm Tyler Kessinger,
2 a single father. I have a three-year-old daughter. I
3 currently work for Halliburton, and I've never served on a
4 jury trial before.

5 THE COURT: All right. Thank you.

6 Mrs. Thomas?

7 PROSPECTIVE JUROR THOMAS: I'm Tracie Thomas, and I
8 work for Duncan Regional Health Foundation. I have three
9 grown children and four grandchildren and it is me and my
10 husband, and he's a teacher and coach in Marlow.

11 THE COURT: Have you ever served on a jury before?

12 PROSPECTIVE JUROR THOMAS: I did about 15 or 20
13 years ago in Texas.

14 THE COURT: All right. Anything about that
15 experience you feel would affect your ability to serve as a
16 juror here?

17 PROSPECTIVE JUROR THOMAS: No.

18 THE COURT: Thank you.

19 Mrs. Simpson?

20 PROSPECTIVE JUROR SIMPSON: I'm Wanda Simpson. I'm
21 a retired Halliburton employee. I'm a widow, two children,
22 four grandchildren, and one great grandchild. I've never
23 served on a jury.

24 THE COURT: Thank you, ma'am.

25 Ms. Matthews?

1 PROSPECTIVE JUROR MATTHEWS: I'm Katie Matthews,
2 and I used to teach school and work in day-cares and used to
3 be a foster parent, and I have 10 foster grand kids, and I'm
4 raising a set of twin girls now, nine-year-olds, and my
5 husband is a market analyst and that's it.

6 THE COURT: Have you ever served on a jury before?

7 PROSPECTIVE JUROR MATTHEWS: No.

8 THE COURT: Thank you.

9 Mr. Murrah?

10 PROSPECTIVE JUROR MURRAH: I'm a precision
11 machinist out at MIC. I have a wife and two kids.

12 THE COURT: Is she employed outside the home?

13 PROSPECTIVE JUROR MURRAH: No. She's a
14 stay-at-home mother.

15 THE COURT: All right. Have you ever served on a
16 jury before?

17 PROSPECTIVE JUROR MURRAH: No, I have not.

18 THE COURT: Thank you.

19 Mrs. Price?

20 PROSPECTIVE JUROR PRICE: I'm a homemaker. I have
21 three grown children. I have four great -- I have four
22 grandchildren, and my husband works at Stim Lab.

23 THE COURT: Have you ever served on a jury before?

24 PROSPECTIVE JUROR PRICE: Yes.

25 THE COURT: How long ago?

1 PROSPECTIVE JUROR PRICE: Oh, 24, 25 years ago.

2 THE COURT: Did the jury reach a decision in that
3 case?

4 PROSPECTIVE JUROR PRICE: Yes.

5 THE COURT: Anything about that experience you feel
6 would affect your ability to serve in this case?

7 PROSPECTIVE JUROR PRICE: No.

8 THE COURT: Thank you.

9 Mrs. Postlethwaite.

10 PROSPECTIVE JUROR POSTLETHWAITE: I'm Julie
11 Postlethwaite. I just got married a month ago. My husband
12 works at Cameron International; he's an engineer. I work at
13 First Bank & Trust. I'm a bank teller and this is my first
14 time to be on a jury.

15 THE COURT: Very good.

16 Mrs. Wood?

17 PROSPECTIVE JUROR WOOD: I'm Jennifer Wood. I'm a
18 single mom; two girls, 10 and 17. I go to school for
19 medical entrance coding at Red River, and I've never served
20 on a jury before.

21 THE COURT: Thank you, ma'am.

22 Mr. Tomlinson?

23 PROSPECTIVE JUROR TOMLINSON: I'm semi-retired.
24 I'm still doing some stuff. I have five children; wife,
25 Judy, and I've never served on a jury.

1 THE COURT: All right. What kind of work are you
2 retired from and continue to do at this time, Mr. Tomlinson?

3 PROSPECTIVE JUROR TOMLINSON: Well, I retired from
4 Halliburton. I'm an engineer, and I -- I now do export --
5 exporting oil and gas equipment to Algeria.

6 THE COURT: All right. Thank you, sir.

7 Mrs. Jenkins?

8 PROSPECTIVE JUROR JENKINS: Yes, my name is Janada
9 Jenkins and I work at the Cancer Center of Southwest
10 Oklahoma, RN, oncology, and I have three grown children and
11 six grandchildren.

12 THE COURT: Have you ever served on a jury before?

13 PROSPECTIVE JUROR JENKINS: I have twice.

14 THE COURT: All right. Last time about how long
15 ago was that?

16 PROSPECTIVE JUROR JENKINS: Both of them more than
17 16 years ago.

18 THE COURT: All right. Did the jury reach verdicts
19 in each of those matters?

20 PROSPECTIVE JUROR JENKINS: One did not and the
21 other one settled out of court.

22 THE COURT: All right. Anything about those
23 experiences you feel would affect your ability to serve as a
24 juror in this case?

25 PROSPECTIVE JUROR JENKINS: No.

1 THE COURT: Thank you.

2 Mrs. Harris?

3 PROSPECTIVE JUROR HARRIS: I'm Betty Harris and I
4 work at Duncan High School.

5 THE COURT: Who's at home with you?

6 PROSPECTIVE JUROR HARRIS: I'm married.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR HARRIS: He works for Waller's
9 Machine Shop.

10 THE COURT: All right. Any children at this time
11 at home?

12 PROSPECTIVE JUROR HARRIS: No.

13 THE COURT: Have you ever served on a jury before?

14 PROSPECTIVE JUROR HARRIS: Yes.

15 THE COURT: About how long ago?

16 PROSPECTIVE JUROR HARRIS: I think about 10 years
17 ago.

18 THE COURT: Did the jury reach a verdict in that
19 case?

20 PROSPECTIVE JUROR HARRIS: (Inaudible.)

21 THE COURT: Anything about that experience you feel
22 would affect your ability to serve as a juror in this case?

23 PROSPECTIVE JUROR HARRIS: No.

24 THE COURT: Thank you.

25 THE REPORTER: Did she say the jury did get a

1 verdict?

2 THE COURT: I think you said there's nothing in
3 that that would affect your ability to sit as a juror; is
4 that correct? Mrs. Harris?

5 PROSPECTIVE JUROR HARRIS: No.

6 THE COURT: Anything in that experience that would
7 affect your ability to serve as a juror in this case?

8 PROSPECTIVE JUROR HARRIS: No.

9 THE COURT: Now, the jury that you sat on, did it
10 reach a verdict?

11 PROSPECTIVE JUROR HARRIS: Yes.

12 THE COURT: Okay. Thank you.

13 Mr. Solie?

14 PROSPECTIVE JUROR SOLIE: Blaine Solie, I'm an
15 electrician. My wife's a nurse. I have two kids and I've
16 never served on a jury before.

17 THE COURT: Thank you. Are you presently married,
18 you said?

19 PROSPECTIVE JUROR SOLIE: Yes.

20 THE COURT: Does your wife work outside the home?

21 PROSPECTIVE JUROR SOLIE: Yes. She's a nurse.

22 THE COURT: Okay. I'm sorry. I missed that.

23 Ms. McLemore?

24 PROSPECTIVE JUROR McLEMORE: I'm Jessicah McLemore.
25 I live with my mom and four siblings. I'm currently

1 unemployed, and I've never served on a jury.

2 THE COURT: Thank you, ma'am.

3 Ms. Taliaferro?

4 PROSPECTIVE JUROR TALIAFERRO: I'm Gayle
5 Taliaferro. I work for Dr. Brendhan Fritts. My husband
6 works for Halliburton, no children at home, and I served on
7 a jury about 25 years ago.

8 THE COURT: Did the jury reach a verdict in that
9 matter?

10 PROSPECTIVE JUROR TALIAFERRO: They did.

11 THE COURT: Anything about that experience would
12 affect your ability to serve as a juror in this case?

13 PROSPECTIVE JUROR TALIAFERRO: No.

14 THE COURT: Thank you.

15 Ms. Kincannon.

16 PROSPECTIVE JUROR KINCANNON: My name's Linda
17 Kincannon and I work as operations manager for Peoples Bank
18 & Trust in Oklahoma City. I don't have anybody at home. My
19 son lives in Dallas and I've never been on a jury.

20 THE COURT: Thank you, ma'am.

21 Ms. Keele?

22 PROSPECTIVE JUROR KEELE: I'm Kathy Keele and my
23 husband and I are home by ourselves. We've got four grown
24 kids, eight grand kids. My husband is a minister at
25 Chisholm Trail, and I'm a secretary.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR KEELE: And I have served on a
3 jury.

4 THE COURT: About how long ago did you last serve
5 on a jury?

6 PROSPECTIVE JUROR KEELE: About four or five years
7 ago.

8 THE COURT: Anything about that experience would
9 affect your ability to serve in this case?

10 PROSPECTIVE JUROR KEELE: No.

11 THE COURT: Did the jury reach a verdict in that
12 case?

13 PROSPECTIVE JUROR KEELE: Yes.

14 THE COURT: Thank you.

15 Ms. McAdams?

16 PROSPECTIVE JUROR McADAMS: Yes. I'm Tina McAdams.
17 I work for Halliburton. I'm a single mom and I have a
18 10-year-old son in my home, and I never served on a jury.

19 THE COURT: Thank you, ma'am.

20 Mr. Upchurch?

21 PROSPECTIVE JUROR UPCHURCH: I'm Stephen Upchurch.
22 I'm a truck driver, divorced, no children, and I've never
23 served on a jury.

24 THE COURT: Thank you.

25 Mr. Remley?

1 PROSPECTIVE JUROR REMLEY: Mark Remley. I'm in
2 construction. I work for Dan's Pools. I have nobody at
3 home -- I'm a widower. I never served on a jury.

4 THE COURT: About how long ago?

5 PROSPECTIVE JUROR REMLEY: About seven years.

6 THE COURT: Did the jury reach a verdict in that
7 matter?

8 PROSPECTIVE JUROR REMLEY: It pled out halfway
9 through.

10 THE COURT: Anything about that experience you feel
11 would affect your ability to serve in this case?

12 PROSPECTIVE JUROR REMLEY: No.

13 THE COURT: Thank you.

14 Mr. McDaniel?

15 PROSPECTIVE JUROR McDANIEL: I'm Ralph McDaniel. I
16 work at Halliburton, real estate solutions. My wife works
17 as an RN at Duncan Regional; three kids, four grand kids.
18 Never been on a jury.

19 THE COURT: Thank you.

20 Mr. Nichols?

21 PROSPECTIVE JUROR NICHOLS: I'm Horace Nichols, Jr.
22 I have -- my wife and I both drive a truck and five
23 children, 13 grandchildren, and I have served on a jury.

24 THE COURT: About how long ago, sir?

25 PROSPECTIVE JUROR NICHOLS: About 18 years.

1 THE COURT: Did the jury reach a verdict in that
2 matter?

3 PROSPECTIVE JUROR NICHOLS: Yes, it did.

4 THE COURT: Anything in that experience you feel
5 would affect your ability to serve as a juror in this case?

6 PROSPECTIVE JUROR NICHOLS: None at all.

7 THE COURT: Thank you.

8 Ms. True?

9 PROSPECTIVE JUROR TRUE: My name is Gilberta True.
10 I have a significant other at home. He works at Ring
11 Manufacturing in Marlow. I'm retired from the Department of
12 Corrections of Oklahoma. I have three children and -- two
13 children, three grandchildren. Never served on a jury
14 before.

15 THE COURT: Thank you, ma'am.

16 Mr. Shirley?

17 PROSPECTIVE JUROR SHIRLEY: Randy Shirley is the
18 name. I've got a wife, Janet. I have five children, eight
19 grandchildren. I work at Tubbs Aviation at Duncan Airport.
20 My wife is a retired schoolteacher from Comanche. She's now
21 teacher's aide, and I have served on a jury.

22 THE COURT: All right. About how long ago was the
23 last time, sir?

24 PROSPECTIVE JUROR SHIRLEY: I'm thinking about 13
25 years.

1 THE COURT: All right. Did the jury reach a
2 verdict in that matter?

3 PROSPECTIVE JUROR SHIRLEY: Yes.

4 THE COURT: Anything about that experience you feel
5 would affect your ability to serve in this case?

6 PROSPECTIVE JUROR SHIRLEY: No.

7 THE COURT: Ms. Denham?

8 PROSPECTIVE JUROR DENHAM: I'm Amber Denham. I
9 have five boys. My husband and I are both disabled and
10 never served on a jury.

11 THE COURT: All right. Does your disability affect
12 your ability to serve as a juror?

13 PROSPECTIVE JUROR DENHAM: No.

14 THE COURT: Thank you.

15 Have you ever served before?

16 PROSPECTIVE JUROR DENHAM: No.

17 THE COURT: Thank you.

18 Ms. Moran?

19 PROSPECTIVE JUROR MORAN: My name is Lesia Moran.
20 My husband works for Cactus. I home school four children.
21 I teach art and painting, and I've never served on a jury
22 before.

23 THE COURT: Thank you.

24 Ms. Hutchins?

25 PROSPECTIVE JUROR HUTCHINS: Debra Hutchins. I'm

1 an IT manager. I work for a company out of Arkansas called
2 Fidelity Informational Services. My husband is retired from
3 IBM. I have one son, two grandchildren. I did serve on a
4 jury about four years ago and we did reach a verdict.

5 THE COURT: Anything in that experience you feel
6 would affect your ability to serve as a juror in this case?

7 PROSPECTIVE JUROR HUTCHINS: No, sir.

8 THE COURT: Thank you.

9 Those -- you ladies and gentlemen that are seated in the
10 jury box here as well as those seated in the first five rows
11 out here, are there any of you related to one another by
12 blood or marriage? Any relations?

13 (No verbal response.)

14 THE COURT: All right. Any of you know -- any of
15 you know one another?

16 PROSPECTIVE JURORS: (Nodding.)

17 THE COURT: Okay. So it would be a fair assumption
18 that some of you know each other?

19 PROSPECTIVE JURORS: (Nodding.)

20 THE COURT: All right. Let me ask you this one
21 question: Those of you that may know one another, is there
22 anything in that relationship that you feel you couldn't
23 serve and work together and at some time come -- be in a
24 room together and talk things out? Anything to prevent you
25 from doing that?

1 (No verbal response.)

2 THE COURT: Very good. All right.

3 State may inquire for cause.

4 MS. HIXON: Thank you.

5 Good afternoon. I apologize up front. I tried to take
6 good notes and sometimes I can't read my own handwriting so
7 if I mispronounce your name or something, please correct me
8 and I'll apologize.

9 As the judge introduced, my name is Carrie Hixon, I'm an
10 assistant district attorney and this is James Walters; he's
11 our First Assistant District Attorney. We're here today
12 representing the State of Oklahoma and citizens of Stephens
13 County.

14 Ladies and gentlemen, it's extremely important to both
15 the State and the defense that we are able to find a fair
16 and impartial jury. We don't want anybody who is biased
17 either for or against the State or for or against the
18 Defendant. So the whole point of this process is not to pry
19 into your personal lives and there may be some tough
20 questions asked just due to the nature of this case, but the
21 whole point is just to make sure -- because we're all raised
22 in different generations with different biases, um,
23 different family beliefs, different cultures and all of that
24 is important when trying to figure out if you can be a fair
25 and impartial juror in this particular case, okay?

1 This is also the only time during the course of this
2 trial -- over the next four days or however long it lasts --
3 that I'm going to be able to talk to you directly and you'll
4 be able to talk to me or that Mr. Walters or even Mr. Hoch
5 will be able to talk to you. And if we see you in the
6 hallway and we duck our head, you know, we don't smile or we
7 avoid eye contact, I promise you none of us are trying to be
8 rude. We just don't want anybody seeing us saying "good
9 morning" to you or do anything that is going to make
10 somebody think that we're trying to sway you one way or the
11 other, okay? So that's why. I promise we're not trying to
12 be rude.

13 By now you know that this is a case about child sexual
14 abuse. Does anyone here believe that sometimes these things
15 happen in families, have for generations, but when they do
16 the State should not get involved and should stay out of
17 family business? Is there anyone with that belief -- just
18 by a show of hands that this is something that is private
19 within a family and that the State of Oklahoma should stay
20 out of it?

21 (No verbal response.)

22 MS. HIXON: Would you expect that a person who
23 commits a crime of this nature would do it in a public place
24 where there's witnesses or a private place where there's not
25 any witnesses?

1 PROSPECTIVE JUROR McPHERSON: Private.

2 MS. HIXON: And I apologize. I heard a voice. Is
3 that Ms. McPherson?

4 PROSPECTIVE JUROR McPHERSON: Private.

5 MS. HIXON: You think private.

6 Show of hands who would agree with Ms. McPherson?

7 PROSPECTIVE JURORS: (Indicating.)

8 MS. HIXON: Does anyone disagree and think that
9 it's something that would be a crime that is committed in a
10 public place?

11 PROSPECTIVE JURORS: (Indicating.)

12 MS. HIXON: Thank you.

13 MR. HOCH: Judge, can we approach the bench?

14 THE COURT: Yes, sir.

15 (The following bench conference occurred outside the
16 hearing of the prospective jurors and the Defendant:)

17 MR. HOCH: Judge, I think we've got another person
18 struggling to hear back there, the black lady --

19 THE COURT: Who is that?

20 MS. HIXON: It's Mrs. Harris.

21 THE COURT: Ms. Harrison (sic)?

22 MR. HOCH: Mrs. Harris. She keeps, like, turning
23 and acting like she can't hear. Could you inquire if she's
24 able to hear?

25 THE COURT: Sure.

1 (The bench conference concluded and the following
2 proceedings occurred in open court:)

3 THE COURT: All right. Is everyone able to hear
4 what we're saying? Is anyone having any difficulty hearing
5 us?

6 PROSPECTIVE MALE JUROR: I do.

7 THE COURT: Okay. We're going to -- we're going to
8 try to make ourselves heard but predominantly at this
9 particular point in time I want to make sure that the 12
10 jurors in the jury box and potential jurors in the first
11 five rows or six rows back here are able to hear what's
12 going on.

13 PROSPECTIVE JUROR TRUE: (Indicating.)

14 THE COURT: Yes, Ms. True. You're having
15 difficulty hearing?

16 PROSPECTIVE JUROR TRUE: I can't hear most of what
17 the jurors are saying.

18 THE COURT: What other jurors are saying, all
19 right. I'm going to ask everybody to speak up. Some of you
20 are soft spoken and like me I tend to trail off with my
21 voice and probably just the pitch of my voice is hard to
22 hear. So just make sure we make ourselves heard because I
23 think your responses, too, are key to what -- other jurors
24 may have an opportunity to be asked the same questions and
25 it helps them to understand what we're asking.

1 All right. If at a particular point in time any of you
2 are having difficulty hearing, let us know. We'll make an
3 effort to make ourselves heard.

4 MS. HIXON: Okay. So, Ms. McPherson, you would
5 agree that it would be unlikely to have an eyewitness to a
6 sexual assault case?

7 PROSPECTIVE JUROR McPHERSON: Yes.

8 MS. HIXON: Okay. Does that make sense to everyone
9 else that sometimes there are no eyewitnesses to a sexual
10 assault case?

11 PROSPECTIVE JURORS: (Nodding.)

12 MS. HIXON: Does that bother anybody if there's no
13 eyewitness and maybe the only witness is the victim?

14 PROSPECTIVE JUROR McPHERSON: To me it would be
15 kind of like a he said/she said thing.

16 MS. HIXON: Okay. And if it's a he said/she said
17 thing, um, would you be able to listen to both sides and to
18 what he said and she said and judge the credibility on this
19 witness stand and be able to reach a decision about who you
20 believe is telling the truth?

21 PROSPECTIVE JUROR McPHERSON: I think I could, yes.

22 MS. HIXON: Would you require additional evidence
23 other than he said/she said before you're able to make a
24 decision?

25 PROSPECTIVE JUROR McPHERSON: Yes.

1 MS. HIXON: Okay.

2 THE COURT: Counsel, approach.

3 (The following bench conference occurred outside the
4 hearing of the prospective jurors and the Defendant:)

5 THE COURT: She is thinking in a case of this
6 nature probably corroboration is necessary. You've opened
7 yourself --

8 MS. HIXON: I'll clear it up.

9 (The bench conference concluded and the following
10 proceedings occurred in open court:)

11 MS. HIXON: So, Ms. McPherson, some type of
12 corroboration from one person's story or the other person's
13 story would be important to you. Would you agree with that?

14 PROSPECTIVE JUROR MCPHERSON: Yes.

15 MS. HIXON: Who else would agree with that
16 statement?

17 PROSPECTIVE JURORS: (Indicating.)

18 MS. HIXON: Okay. Thank you very much.

19 PROSPECTIVE JUROR MCPHERSON: You're welcome.

20 MS. HIXON: Okay. Along those lines what if our
21 only victim is a child victim? Is anyone here going to have
22 a problem listening to a child testify and trying to figure
23 out if that child is telling the truth or not?

24 (No verbal response.)

25 MS. HIXON: By show of hands, who believes that a

1 child can be a victim of crime?

2 PROSPECTIVE JURORS: (Indicating.)

3 MS. HIXON: Would you agree that a child should
4 never be a victim of any kind of sexual abuse?

5 PROSPECTIVE JURORS: (Indicating.)

6 MS. HIXON: How many believe that children are not
7 capable of telling the truth?

8 PROSPECTIVE JURORS: (Indicating.)

9 MS. HIXON: Does anyone believe that children are
10 not capable of telling the truth about subject matters like
11 sexual abuse?

12 PROSPECTIVE JUROR PRICE: (Indicating.)

13 MS. HIXON: Ma'am, you think a child cannot tell
14 the truth?

15 PROSPECTIVE JUROR PRICE: (Nodding.)

16 MS. HIXON: Thank you for your honesty. I
17 appreciate that.

18 And, Ms. Price, because you believe that a child is not
19 capable of telling the truth, do you think you would find it
20 difficult listening to a child victim testifying about
21 sexual abuse?

22 PROSPECTIVE JUROR PRICE: Yes.

23 MS. HIXON: Do you think that would affect your
24 ability to be fair and impartial and judge her testimony?

25 PROSPECTIVE JUROR PRICE: No.

1 MS. HIXON: Would you give her testimony the same
2 -- because she's a child -- the same weight and credibility
3 as you would an adult?

4 PROSPECTIVE JUROR PRICE: Yes.

5 MS. HIXON: Okay: But as you sit here now you
6 believe a child is not capable of telling the truth?

7 PROSPECTIVE JUROR PRICE: I have a reason behind
8 that.

9 MS. HIXON: But that is what you're saying,
10 correct?

11 PROSPECTIVE JUROR PRICE: There are, yes. There
12 are times when they do not.

13 MS. HIXON: Okay. And maybe I asked that poorly
14 and that's another thing, I apologize. Sometimes I will
15 phrase my questions poorly. So do you believe that
16 sometimes children are capable of telling the truth about
17 child sexual abuse?

18 PROSPECTIVE JUROR PRICE: Yes.

19 MS. HIXON: Okay. Thank you very much.

20 By a show of hands who here would like to volunteer to
21 tell us about your first sexual appearance?

22 (No verbal resposen.)

23 MS. HIXON: Okay. I'm joking, of course. I would
24 never ask you to do that, but I'm sure some of you felt a
25 little panicked when I asked that question.

1 And could you agree with me that soon that's going to be
2 asked of a nine-year-old little girl and that that may be a
3 difficult thing for her to do?

4 PROSPECTIVE JURORS: Correct, yes.

5 MS. HIXON: Thank you.

6 How many of you would have a difficult time sitting on
7 the witness stand in a courtroom full of strangers and
8 discussing your first sexual experience?

9 PROSPECTIVE JURORS: (Indicating.)

10 MS. HIXON: Would you want to answer questions of
11 that nature?

12 PROSPECTIVE JURORS: No.

13 MS. HIXON: Would anyone want to?

14 (No verbal response.)

15 MS. HIXON: Would your hesitation or openness to
16 discuss things of that nature depend, um, about whether or
17 not that was a good or bad experience for you? Would that
18 make a difference to anyone?

19 (No verbal response.)

20 MS. HIXON: And, Ms. Way, did you raise your hand?

21 PROSPECTIVE JUROR WAY: (Shaking head.)

22 MS. HIXON: Oh, I'm sorry.

23 Would it make a difference to anyone whether it was a
24 good or bad sexual experience in your openness to discuss
25 it?

1 PROSPECTIVE JUROR SALTZMAN: (Nodding.)

2 MS. HIXON: Ms. Saltzman, you nodded your head?

3 PROSPECTIVE JUROR SALTZMAN: I would think if it
4 was a good experience you would be more apt to talk about it
5 versus if it was a bad experience.

6 MS. HIXON: Okay. Thank you.

7 By show of hands who would agree with Ms. Saltzman, if
8 it was a good experience it would be easier to talk about
9 than a bad one?

10 PROSPECTIVE JURORS: Yes.

11 MS. HIXON: Who -- who would disagree and say it
12 would be difficult to talk about regardless?

13 MS. HIXON: Okay.

14 UNIDENTIFIED PROSPECTIVE JUROR: (Indicating.)

15 MS. HIXON: Thank you.

16 UNIDENTIFIED PROSPECTIVE JUROR: (Indicating.)

17 MS. HIXON: Thank you.

18 Would it -- Ms. Saltzman, would your ability to discuss
19 that -- would the difficulty level of discussing that change
20 if the person you were talking about was present in the room
21 with you?

22 PROSPECTIVE JUROR SALTZMAN: It could.

23 MS. HIXON: Does anyone agree with that, that that
24 may be a factor?

25 PROSPECTIVE JURORS: (Indicating.)

1 MS. HIXON: Would you agree that that may be the
2 case for a small child, as well, when she's testifying?

3 PROSPECTIVE JURORS: Yes.

4 MS. HIXON: Do you think that that level of
5 difficulty would change depending on the relationship
6 between a victim and alleged perpetrator, whether it was a
7 stranger or somebody they knew?

8 PROSPECTIVE JUROR MATTHEWS: (Indicating.)

9 MS. HIXON: Mrs. Matthews, I saw you raise your
10 hand -- nod your head?

11 PROSPECTIVE JUROR MATTHEWS: Yes, I think it would
12 make a difference.

13 MS. HIXON: How so?

14 PROSPECTIVE JUROR MATTHEWS: -- comes forward with
15 it, somebody that they cared about, than if it was a
16 stranger.

17 MS. HIXON: Who agrees with Ms. Matthews and thinks
18 that it would be more difficult to testify about that or
19 talk about that if it was someone they knew and cared about
20 versus a stranger?

21 PROSPECTIVE JURORS: (Indicating.)

22 MS. HIXON: Does anyone disagree with what
23 Ms. Matthews said?

24 (No verbal response.)

25 MS. HIXON: Thank you.

1 How many of you are willing to listen to what this child
2 says and judge her credibility and use your own judgment to
3 determine if you believe she's telling the truth in this
4 case?

5 PROSPECTIVE JURORS: (Indicating.)

6 MS. HIXON: Is there anyone that cannot listen to
7 the testimony of a child in this matter?

8 (No verbal response.)

9 MS. HIXON: If the majority of our case and
10 evidence is the testimony of a child, how many of you -- if
11 you believe what she says is true, how many of you would
12 have a hard time convicting anybody because the evidence is
13 coming from a child?

14 (No verbal response.)

15 MS. HIXON: And I apologize because this is going
16 to be an offensive question, How many -- and if you've
17 already discussed it we don't need to get into it again, I
18 know a couple have come forward already, but those of you
19 that haven't mentioned anything, how many of you -- a close
20 family member or relative have been a victim of some type of
21 sexual assault, child sexual abuse or something of that
22 nature regardless of whether or not it was reported to law
23 enforcement or not?

24 PROSPECTIVE JUROR KESSINGER: (Indicating.)

25 MS. HIXON: Let me -- I apologize. In the box,

1 Mr. Kessinger?

2 PROSPECTIVE JUROR KESSINGER: Yes, sir.

3 MS. HIXON: Are you comfortable telling us --
4 without giving a name -- was it a relative or close friend?

5 PROSPECTIVE JUROR KESSINGER: It was my brother.

6 MS. HIXON: Okay. Was that reported to law
7 enforcement?

8 PROSPECTIVE JUROR KESSINGER: No.

9 MS. HIXON: So there was never any prosecution out
10 of that?

11 PROSPECTIVE JUROR KESSINGER: No.

12 MS. HIXON: Would that experience with your -- now
13 was your brother the alleged victim?

14 PROSPECTIVE JUROR KESSINGER: No. I was.

15 MS. HIXON: Okay. Does that experience -- is that
16 experience going to make it difficult for you to listen to a
17 case such as this?

18 PROSPECTIVE JUROR KESSINGER: No.

19 MS. HIXON: Do you think you can be fair and
20 impartial?

21 PROSPECTIVE JUROR KESSINGER: Yes.

22 MS. HIXON: Thank you.

23 Anyone else up here in the box?

24 PROSPECTIVE JUROR PHILLIPS: (Indicating.)

25 MS. HIXON: Ms. Phillips, I know you discussed your

1 grandchildren?

2 PROSPECTIVE JUROR PHILLIPS: Yes.

3 MS. HIXON: Is there anyone else that's been a
4 victim?

5 PROSPECTIVE JUROR PHILLIPS: No.

6 MS. HIXON: Okay. Thank you very much.

7 And down here I saw a show of hands. Ms. Denham?

8 PROSPECTIVE JUROR DENHAM: It was a friend of mine.
9 He was accused of molesting his daughter.

10 MS. HIXON: Okay. And was that a close friend?

11 PROSPECTIVE JUROR DENHAM: Yes.

12 MS. HIXON: Okay. Thank you for your honesty.

13 PROSPECTIVE JUROR MORAN: (Indicating.)

14 MS. HIXON: Ms. Moran, did you raise your hand?

15 PROSPECTIVE JUROR MORAN: Yes, I did. Two
16 different times in my adult -- I mean, in my younger life
17 some very close friends of ours, the daughter accused the
18 father. Father was convicted but later on she came back and
19 she said she lied and it ended badly.

20 MS. HIXON: Thank you for that.

21 PROSPECTIVE JUROR MORAN: And in my adult life a
22 very good friend of ours, very close, when the husband
23 passed away the wife remarried and then the daughter accused
24 the stepfather. They couldn't state that he -- prove that
25 he didn't. She came back and said she lied. He went to

1 prison for two years and then he came back --

2 MS. HIXON: Okay.

3 PROSPECTIVE JUROR MORAN: -- but both of them are
4 old cases.

5 MS. HIXON: So in both of those cases the child
6 recanted?

7 PROSPECTIVE JUROR MORAN: Yes.

8 MS. HIXON: Thank you.

9 Anyone else out here?

10 PROSPECTIVE JUROR UPCHURCH: (Indicating.)

11 MS. HIXON: Mr. Upchurch?

12 PROSPECTIVE JUROR UPCHURCH: Just the one I talked
13 about earlier. It was a friend of mine that I was a
14 witness.

15 MS. HIXON: Now you said that you were a witness.
16 Were you a witness -- was your friend the victim in that?

17 PROSPECTIVE JUROR UPCHURCH: Yes.

18 MS. HIXON: So were you a witness for the
19 prosecution --

20 PROSPECTIVE JUROR UPCHURCH: Yes.

21 MS. HIXON: -- in that case?

22 PROSPECTIVE JUROR UPCHURCH: I was on the phone. I
23 wasn't an actual witness seeing it happen.

24 MS. HIXON: Okay. But you had some information
25 that you were able to bring forth --

1 PROSPECTIVE JUROR UPCHURCH: Yes.

2 MS. HIXON: -- in that case? Okay. Is that
3 experience going to affect your ability to consider the
4 evidence in this case?

5 PROSPECTIVE JUROR UPCHURCH: No.

6 MS. HIXON: Thank you.

7 Is there anyone else back here that raised their hand?

8 PROSPECTIVE JUROR PRICE: (Indicating.)

9 MS. HIXON: Oh, I apologize, Ms. Price?

10 PROSPECTIVE JUROR PRICE: My nephews, had two
11 nephews.

12 MS. HIXON: And this is where you discussed --

13 PROSPECTIVE JUROR PRICE: Yes, ma'am.

14 MS. HIXON: Thank you. I appreciate your honesty.

15 Anyone here that raised their hands, did they have to
16 testify in court -- other than Mr. Upchurch. Did anyone
17 else have to testify in court in relation to the relative,
18 family member, in that case?

19 PROSPECTIVE JUROR MORAN: We just -- it was, you
20 know, character.

21 MS. HIXON: Okay. So you didn't have to testify in
22 court?

23 PROSPECTIVE JUROR MORAN: No.

24 MS. HIXON: Thank you.

25 Now, Ms. Moran, you mentioned that you're friends with

1 the Defendant's parents and went to church with them; is
2 that right.

3 PROSPECTIVE JUROR MORAN: We've just known each
4 other a really long time. We took vacations and stuff
5 together.

6 MS. HIXON: You took vacations together?

7 PROSPECTIVE JUROR MORAN: We did.

8 MS. HIXON: About how long ago did you take
9 vacations with them?

10 PROSPECTIVE JUROR MORGAN: Last time about 14 years
11 ago.

12 MS. HIXON: Where did you go?

13 PROSPECTIVE JUROR MORAN: We went to Branson,
14 Missouri.

15 MS. HIXON: How long were you there?

16 PROSPECTIVE JUROR MORAN: Five years but that was
17 with their real father. We've done nothing with the
18 stepfather.

19 MS. HIXON: Okay. Now, you understand at the end
20 of this trial the State's going to be asking you to find the
21 Defendant guilty and send him to prison? Do you understand
22 that?

23 PROSPECTIVE JUROR MORAN: Uh-huh.

24 MS. HIXON: If you're chosen to be on this jury and
25 that's asked of you and the jury reaching a verdict and

1 finds him guilty based on the evidence and it comes time to
2 deliberate on sentencing, are you truthfully under oath
3 telling this Court that you would be able to send him to
4 prison and then go to church on Sunday and see his mother?

5 PROSPECTIVE JUROR MORAN: Yes.

6 MS. HIXON: That's -- that's not going to bother
7 you at all?

8 PROSPECTIVE JUROR MORAN: No.

9 MS. HIXON: So when you're -- you're not going to
10 be sitting there thinking, What's she going to think of me?

11 PROSPECTIVE JUROR MORAN: Not if it's my honest
12 opinion.

13 MS. HIXON: Okay. Thank you. I appreciate that.

14 Has anyone here -- another sensitive question -- has
15 anyone here, a close friend or family member, ever been
16 accused of committing a sexual crime?

17 (No verbal response.)

18 MS. HIXON: Okay. Anyone -- yes, Ms. Saltzman?

19 PROSPECTIVE JUROR SALTZMAN: Yes. I have a cousin
20 who is currently in prison for sexually assaulting children.

21 MS. HIXON: Is it a close cousin?

22 PROSPECTIVE JUROR SALTZMAN: No.

23 MS. HIXON: Is there anything about that that's
24 going to affect your ability to be fair in this case, listen
25 to evidence?

1 PROSPECTIVE JUROR SALTZMAN: No.

2 MS. HIXON: Anyone here, close friend or family
3 member, ever been -- well, strike that.

4 Anyone here ever been a foster parent?

5 PROSPECTIVE JUROR MATTHEWS: (Indicating.)

6 MS. HIXON: Ms. Matthews, I knew you mentioned that
7 earlier. Thank you for that.

8 Is there anyone else here who has ever been a foster
9 parent?

10 (No verbal response.)

11 MS. HIXON: Thank you.

12 Is anyone here, close friend or relative, ever been
13 involved in an ugly divorce?

14 PROSPECTIVE JURORS: (Indicating.)

15 MS. HIXON: Okay. Of those that raised their hand,
16 um, did anyone ever accuse you of molesting a child during
17 that divorce?

18 (No verbal response.)

19 MS. HIXON: No?

20 (No verbal response.)

21 MS. HIXON: I'm sure many of you -- um, in today's
22 day and age, a lot of people go through divorces and things.
23 How many of you know many people who have been through ugly
24 divorces?

25 (No verbal response.)

1 MS. HIXON: How many people know people who have
2 been through just a really knock-down, drag-out ugly
3 divorce?

4 (No verbal response.)

5 MS. HIXON: Anyone?

6 (No verbal response.)

7 MS. HIXON: Okay. Thank you.

8 And in any of those cases, those ugly divorces, did
9 those ever involve anything with regard to child sexual
10 abuse? All those ugly divorces you've ever thought about,
11 any child falsely accuse a parent of molesting them?

12 PROSPECTIVE JUROR MORAN: No.

13 MS. HIXON: Thank you.

14 Does anyone here -- education wise, does anyone here
15 have any -- ever took classes in the areas of psychology,
16 counseling, criminal law or computers?

17 PROSPECTIVE JUROR SALTZMAN: (Indicating.)

18 MS. HIXON: Okay. Let's start in the box.

19 Ms. Saltzman?

20 PROSPECTIVE JUROR SALTZMAN: Behavioral science.

21 MS. HIXON: Okay. And where was that at?

22 PROSPECTIVE JUROR SALTZMAN: I got my degree in --
23 at Weatherford College.

24 MS. HIXON: Okay. Is your degree in behavioral
25 science?

1 PROSPECTIVE JUROR SALTZMAN: Yes.

2 MS. HIXON: Okay. And what did that study entail?

3 PROSPECTIVE JUROR SALTZMAN: Well, I mean, I took
4 courses on child psychology and, you know, behaviors.

5 MS. HIXON: Okay. Did you ever take any classes
6 with regard to forensic interviewing of children or anything
7 of that nature --

8 PROSPECTIVE JUROR SALTZMAN: No.

9 MS. HIXON: -- or did your classes touch on those?

10 PROSPECTIVE JUROR SALTZMAN: No.

11 MS. HIXON: No?

12 PROSPECTIVE JUROR SALTZMAN: No.

13 MS. HIXON: Did they -- did those courses touch on
14 anything with regard to body language and trying to
15 determine if someone is telling the truth or not based upon
16 their body language or anything like that?

17 PROSPECTIVE JUROR SALTZMAN: Yeah.

18 MS. HIXON: It did?

19 PROSPECTIVE JUROR SALTZMAN: (Nodding.)

20 MS. HIXON: And approximately how many classes did
21 you have in that?

22 PROSPECTIVE JUROR SALTZMAN: Oh, it would have just
23 been like a semester.

24 MS. HIXON: Okay. Was it like an undergraduate --

25 PROSPECTIVE JUROR SALTZMAN: Yes.

1 MS. HIXON: -- level for that? Thank you very
2 much, Ms. Saltzman.

3 Anyone else in the box? Um, areas of psychology,
4 counseling, criminal or computers?

5 PROSPECTIVE JUROR DENHAM: (Indicating.)

6 MS. HIXON: Okay. Ms. Denham?

7 PROSPECTIVE JUROR DENHAM: I took classes in
8 paralegal.

9 MS. HIXON: In paralegal, okay. Did you finish
10 that course?

11 PROSPECTIVE JUROR DENHAM: Yes.

12 MS. HIXON: Are you working as a paralegal now?

13 PROSPECTIVE JUROR DENHAM: No.

14 MS. HIXON: Have you in the past?

15 PROSPECTIVE JUROR DENHAM: No.

16 PROSPECTIVE JUROR MORAN: (Indicating.)

17 THE COURT: Thank you for that.

18 Ms. Moran?

19 PROSPECTIVE JUROR MORAN: Psychology and child
20 development, early childhood, but that's it.

21 MS. HIXON: For teaching or counseling?

22 PROSPECTIVE JUROR MORAN: For teaching.

23 MS. HIXON: Okay. And where is that at?

24 PROSPECTIVE JUROR MORAN: Here.

25 MS. HIXON: Is there anyone else?

1 PROSPECTIVE JUROR POSTLETHWAITE: (Indicating.)

2 MS. HIXON: Ms. Postlethwaite?

3 PROSPECTIVE JUROR POSTLETHWAITE: It was

4 Postlethwaite; it's now Drake.

5 MS. HIXON: I'm sorry?

6 PROSPECTIVE JUROR POSTLETHWAITE: It's now Drake.

7 MS. HIXON: Drake, D-r-a-k-e?

8 PROSPECTIVE JUROR DRAKE: Yes.

9 MS. HIXON: Ms. Drake, what classes have you taken?

10 PROSPECTIVE JUROR DRAKE: Just the general

11 psychology classes.

12 MS. HIXON: Okay. Nothing specially geared towards

13 forensic interviewing of children or anything of that

14 nature?

15 PROSPECTIVE JUROR DRAKE: No, just for my degree.

16 MS. HIXON: Okay. Thank you, Ms. Drake.

17 I saw another -- Mr. Tomlinson?

18 PROSPECTIVE JUROR TOMLINSON: Yes. What -- what

19 was the -- the laundry list of --

20 MS. HIXON: Psychology, criminal law, counseling or

21 computers?

22 PROSPECTIVE JUROR TOMLINSON: I've taken some

23 prelaw.

24 MS. HIXON: Okay. Where was that at?

25 PROSPECTIVE JUROR TOMLINSON: Legal research in

1 Joplin, Missouri.

2 MS. HIXON: Okay. And what areas of law was that
3 in?

4 PROSPECTIVE JUROR TOMLINSON: Well, general, I
5 guess. It was just prelaw and legal research.

6 MS. HIXON: Was there a focus on the business law
7 side of things?

8 PROSPECTIVE JUROR TOMLINSON: Yes, apparently.

9 MS. HIXON: Okay. Thank you very much.

10 Mrs. Jenkins?

11 PROSPECTIVE JUROR JENKINS: Yes. Just general
12 psychology and computer -- for my degree.

13 MS. HIXON: Was it basic entry level?

14 PROSPECTIVE JUROR JENKINS: Basic entry level.

15 MS. HIXON: And on your computer classes did you
16 discuss cloning of hard drives or anything of that nature?

17 PROSPECTIVE JUROR JENKINS: Not at all.

18 MS. HIXON: And did you discuss any kind of
19 forensic interviewing technique of children?

20 PROSPECTIVE JUROR JENKINS: No.

21 MS. HIXON: Thank you very much.

22 Anyone else?

23 PROSPECTIVE JUROR TRUE: (Indicating.)

24 MS. HIXON: Mrs. True?

25 PROSPECTIVE JUROR TRUE: Yes. I was a correctional

1 officer. We took classes in several things, not
2 particularly children, but I worked mainly on the sex
3 offenders unit.

4 MS. HIXON: Okay. And were those classes
5 throughout the Department of Corrections that you took?

6 PROSPECTIVE JUROR TRUE: Yes.

7 MS. HIXON: Okay. Thank you very much.
8 Anyone else out there?

9 (No verbal response.)

10 MS. HIXON: Okay. Anyone here have a close friend
11 or family member that is a psychologist or psychiatrist or
12 anything of that nature?

13 (No verbal response.)

14 MS. HIXON: Has anyone here been convicted of a
15 felony or tried for a felony?

16 (No verbal response.)

17 MS. HIXON: Um, I had a juror one time in a case I
18 tried after the fact tell me that unless she could see it
19 for herself, had she been a fly on the wall in the room or
20 it was caught on camera, that there was no way possible that
21 she could ever find anybody guilty of any crime whatsoever
22 if she herself did not witness it.

23 Is there anybody that has beliefs like that? That you
24 would need to see it for yourself and not just listen to
25 people testify on the witness stand before you could believe

1 a crime was committed?

2 (No verbal response.)

3 MS. HIXON: Thank you.

4 Does everyone understand that most of the time crime is
5 not caught on tape?

6 (No verbal response.)

7 MS. HIXON: Is anyone going to require me to show a
8 videotape of a crime in this case?

9 (No verbal response.)

10 MS. HIXON: Okay. How many of you watch CSI, Law
11 and Order, or crime shows on TV?

12 PROSPECTIVE JURORS: (Indicating.)

13 MS. HIXON: I watch them, too. I love them. You
14 know, one of those -- those things.

15 PROSPECTIVE JUROR THOMAS: (Indicating.)

16 MS. HIXON: Okay. Mrs. Thomas?

17 PROSPECTIVE JUROR THOMAS: Thomas.

18 THE COURT: Okay. You raised your hand, right?

19 PROSPECTIVE JUROR THOMAS: Yes.

20 MS. HIXON: What do you like best about them?

21 PROSPECTIVE JUROR THOMAS: Oh, gosh. Just them
22 finding the evidence and bringing it to trial and presenting
23 it.

24 MS. HIXON: Okay. Do you understand that that's
25 made for entertainment value?

1 PROSPECTIVE JUROR THOMAS: Yes.

2 MS. HIXON: Okay. Does anyone here believe that a
3 crime can happen, police can investigate it, it go through
4 everything and go to trial and all that's done in 45 minutes
5 in an episode?

6 (No verbal response.)

7 MS. HIXON: Does anyone here think that's possible?

8 (No verbal response.)

9 MS. HIXON: Does anyone here believe that the
10 techniques that CSI uses are possible in real life? Does
11 anyone believe that you can, you know, vacuum out a trash
12 bin, you know, 10 cities away and find the one hair that
13 connects somebody to a crime or things of that nature? Does
14 anyone believe that the same technology used in CSI is close
15 to real life?

16 PROSPECTIVE JUROR McPHERSON: (Nodding.)

17 MS. HIXON: Okay. Ms. McPherson, you said you do
18 believe that that is close to real life?

19 PROSPECTIVE JUROR McPHERSON: I'm going to get rid
20 of my green jacket.

21 MS. HIXON: And I ask because it's important. It's
22 important for me to know what your expectations are. So do
23 you believe that that is similar to real life what you see
24 on -- on CSI and those types of shows?

25 PROSPECTIVE JUROR McPHERSON: The way technology

1 has improved, yes.

2 MS. HIXON: All right. Thank you for your honesty.

3 Was there anyone else that believed that the way things
4 work on CSI and these television shows that that technology
5 is similar to what Oklahoma law enforcement officers have?
6 Okay. By show of hands if you do believe it's similar.

7 PROSPECTIVE JUROR JACKSON: (Indicating.)

8 MS. HIXON: Um, Ms. Jackson?

9 PROSPECTIVE JUROR JACKSON: Yes, ma'am.

10 PROSPECTIVE JUROR THOMAS: (Indicating.)

11 MS. HIXON: Okay. Ms. Thomas, you believe it's
12 similar?

13 PROSPECTIVE JUROR THOMAS: (Nodding.)

14 MS. HIXON: Anyone else? Anyone else in the box
15 believe it's similar?

16 (No verbal response.)

17 MS. HIXON: Anyone out here believe it's similar?

18 PROSPECTIVE JUROR TOMLINSON: Not in the timespan
19 but --

20 MS. HIXON: But you believe that same technology is
21 out there?

22 PROSPECTIVE JUROR SHIRLEY: They use microscopes,
23 right?

24 MS. HIXON: Other than Mr. Shirley is there anyone
25 out here that believes that that technology used on these

1 television shows is similar to what Oklahoma law enforcement
2 would have available?

3 UNIDENTIFIED PROSPECTIVE FEMALE JUROR: I have a
4 question -- I hate to do this, but we had to close our
5 business down today. Can we leave and come back?

6 THE COURT: No, ma'am. No, ma'am. I'm sorry.

7 UNIDENTIFIED PROSPECTIVE FEMALE JUROR: Just making
8 sure. I didn't want to be here if I didn't need to be.

9 THE COURT: You -- you may be needed. We won't
10 have a -- we won't have a jury until these jurors are sworn
11 in.

12 Thank you.

13 MS. HIXON: And of those few that raised your hand
14 that you believe it's similar, on a scale of one to 10, say
15 one being completely unrealistic to 10 being exactly how it
16 is in real life, on a scale of one to 10 how realistic do
17 you think that technology on CSI and those shows are with
18 how it is today?

19 Mrs. Thomas?

20 PROSPECTIVE JUROR THOMAS: It's about five in
21 Oklahoma.

22 MS. HIXON: Ms. Jackson?

23 PROSPECTIVE JUROR JACKSON: About six.

24 MS. HIXON: Ms. McPherson?

25 PROSPECTIVE JUROR McPHERSON: Probably about seven.

1 PROSPECTIVE JUROR SHIRLEY: (Indicating.)

2 MS. HIXON: And I know I had a hand out here.

3 Mr. Shirley?

4 PROSPECTIVE JUROR SHIRLEY: Five.

5 MS. HIXON: Thank you very much.

6 Um, with that regard, DNA evidence, since we're talking
7 about CSI, we talked about listening to witnesses on the
8 stand and trying to determine if they're telling the truth
9 or not. Is there anyone here that would absolutely require
10 DNA evidence before you could find somebody guilty of a sex
11 crime?

12 (No verbal response.)

13 MS. HIXON: Is that something that in your mind is
14 necessary to have, you know, since there is technology out
15 there, is that something in your mind -- and you may need a
16 few minutes to think about it, that's fine -- but is there
17 anyone here that even if you believe the witnesses on the
18 witness stand think that there still must be DNA evidence
19 before you would be able to convict?

20 (No verbal response.)

21 MS. HIXON: Anyone?

22 (No verbal response.)

23 MS. HIXON: Thank you.

24 Can you all agree with me that there might be reasons
25 why there's not DNA evidence?

1 PROSPECTIVE JURORS: (Nodding.)

2 MS. HIXON: Um, the judge instructed you and told
3 you that the State of Oklahoma, we bear the burden of
4 proving the Defendant guilty beyond a reasonable doubt, and
5 he mentioned to you that you're going to receive
6 instructions on different elements of the crime, that we
7 have to prove each of those elements beyond a reasonable
8 doubt before you're able to convict that -- this Defendant
9 of the crime.

10 Does everyone remember the judge telling you that?

11 PROSPECTIVE JURORS: (Nodding.)

12 MS. HIXON: Does anyone have a problem with that?

13 (No verbal response.)

14 MS. HIXON: Will all of you promise and agree to
15 hold us to our burden of proof and require us to prove each
16 of those elements beyond a reasonable doubt?

17 PROSPECTIVE JURORS: (Nodding.)

18 MS. HIXON: Make us do our job?

19 PROSPECTIVE JURORS: (Nodding.)

20 MS. HIXON: With that being said if there is some
21 question out there that you may be curious about but it's
22 not related to one of those elements that I have to prove,
23 do you all promise -- and, Ms. Thomas, you're looking at me
24 kind of confused. Say there are a certain number of
25 elements, you know, three, four, five, however many elements

1 the judge is going to tell you, and the State has to prove
2 all of those elements beyond a reasonable doubt before you
3 can convict this Defendant.

4 All of you have grown up in different families and
5 different environments and you all in your own minds
6 probably are going to have different individual questions
7 and curiosities about things that I may not answer for you.
8 We may not -- for a number of reasons we don't -- may not be
9 able to present to you as a jury.

10 If there is some curiosity out there that you have or
11 information that you're like, Man, I wish -- you know, she
12 would have told me about this, if that --

13 MR. HOCH: Judge, can we approach?

14 THE COURT: Yes.

15 (The following bench conference occurred outside the
16 hearing of the prospective jurors and the Defendant:)

17 MR. HOCH: Judge, I object to the State hinting at
18 there's -- they've already said "there's things for whatever
19 reason we can't present. I wish they would have shown
20 this." They're -- they're going all the way around it and
21 hinting that there's something that we aren't being allowed
22 to show you. I'd object. It's trying to plant the seed in
23 the jury's mind that there's something that they are keeping
24 out.

25 MS. HIXON: Your Honor, I anticipate Mr. Hoch is

1 going to --

2 THE REPORTER: I can't hear you.

3 MS. HIXON: I anticipate Mr. Hoch is going to do
4 the exact same thing he did at the last trial and say that
5 if there is no evidence it's because it doesn't exist.
6 That's his exact words during his *voir dire* last time.

7 THE COURT: Objection overruled.

8 (The bench conference concluded and the following
9 proceedings occurred in open court:)

10 MS. HIXON: If you're given a list of all the
11 elements that I have to prove, okay, that's my job. That's
12 why I'm in this courtroom. I'm trying to prove these
13 elements, okay. If you have a curiosity about something
14 that's unrelated to these elements, will you promise not to
15 hold me to a burden higher than what the law requires and
16 make me prove this extra thing out here that you're just
17 curious about if it does not pertain to these elements?

18 That question make sense, Ms. Thomas?

19 PROSPECTIVE JUROR THOMAS: Yes.

20 MS. HIXON: Does everyone agree not -- is that
21 question confusing to anybody?

22 (No verbal response.)

23 MS. HIXON: Okay. Is there anyone here that is
24 going to hold me to a higher burden than what the judge is
25 going to instruct you and what the law requires of me?

1 (No verbal response.)

2 MS. HIXON: Thank you.

3 So when the judge gives you the jury instructions in
4 this case at the close of evidence, does everyone here
5 promise to follow those jury instructions as the judge
6 instructs you?

7 PROSPECTIVE JURORS: Yes.

8 MS. HIXON: And do you promise to apply what facts
9 we present in court to those instructions in reaching your
10 verdict?

11 PROSPECTIVE JURORS: Yes.

12 MS. HIXON: Does everyone here understand that if
13 the State meets its burden and proves each of those elements
14 beyond a reasonable doubt that it is your job and duty to
15 find the Defendant guilty?

16 MR. HOCH: Judge, can we approach?

17 THE COURT: Yes.

18 (The following bench conference occurred outside the
19 hearing of the prospective jurors and the Defendant:)

20 MR. HOCH: Judge, there is absolutely no duty,
21 there is nowhere in the instructions that it says they must
22 convict somebody. They do not have a duty. They have a --
23 they have a responsibility to follow the law, but what she's
24 asking is them to promise they're going to come back and say
25 "guilty." It's improper, we'd object and move for a

1 mistrial.

2 THE COURT: I'll sustain the objection.

3 MS. HIXON: Your Honor, the instruction says that
4 if you find elements -- you must return a record of guilty.

5 MR. HOCH: No, it doesn't. There is never anywhere
6 in the instruction that says you must find somebody guilty.
7 It says you must find them not guilty when they don't do it.

8 THE COURT: I think the court instructs the jury
9 it's your responsibility as jurors to determine the facts
10 and follow the rules of law as stated in these instructions
11 to which a fair and impartial verdict of guilty or not
12 guilty based upon the evidence that's been determined by --

13 MR. HOCH: And that's what I'm saying. So,
14 Judge --

15 (The bench conference concluded and the following
16 proceedings occurred in open court:)

17 THE COURT: The objection will be sustained. The
18 jury will be instructed to disregard counsel's last
19 question. You may rephrase your question.

20 MS. HIXON: Okay. Thank you.

21 (The bench conference resumed outside the hearing of the
22 prospective jurors and the Defendant:)

23 MR. HOCH: Judge, I have one other thing. Judge,
24 also based on that we move for a mistrial.

25 THE COURT: Motion's overruled.

1 MR. HOCH: Okay.

2 (The bench conference concluded and the following
3 proceedings occurred in open court:)

4 MS. HIXON: And you understand that if the State
5 does not meet its burden of proof, if I fail to prove those
6 elements beyond a reasonable doubt -- each of those elements
7 -- then it's your job as a jury to find the Defendant not
8 guilty?

9 PROSPECTIVE JURORS: (Nodding.)

10 MS. HIXON: Would y'all agree with me on that?

11 PROSPECTIVE JURORS: Yes.

12 MS. HIXON: All right. Does that bother anybody?
13 Does it bother anybody that you're going to hear evidence
14 and hear facts and be required to apply those facts only to
15 what the law tells you? Does that bother anybody?

16 (No verbal response.)

17 MS. HIXON: Would you all agree that if you don't
18 like the law that the place to take that matter up is with
19 your legislature, with your congressman to get the law
20 changed?

21 PROSPECTIVE JURORS: (Nodding.)

22 MS. HIXON: But do y'all promise, as you sit here
23 today, to apply the facts of this case and to the law as it
24 is presented to you and the elements that you are given?

25 PROSPECTIVE JURORS: (Nodding.)

1 MS. HIXON: Is there anyone here without hearing
2 any evidence that -- if the judge instructs you that this
3 crime carries up to life imprisonment, is there anyone here
4 without hearing any evidence that's going to have a hard
5 time sending a man to prison if you find him guilty of this
6 offense? Is there anybody that that would just weigh
7 heavily on their mind to send anybody to prison for a crime?

8 (No verbal response.)

9 MS. HIXON: Okay. Pass the panel.

10 THE COURT: Ladies and gentlemen, I think this is a
11 good time to take the mid-afternoon break. You've been in
12 here since 1:15. We're going to take a mid-afternoon break.
13 I'll ask all the 12 jurors in the jury box, those jurors
14 seated in the first five rows, when we come back from the
15 break, please have a seat in the same seats you are in in
16 relation to each other.

17 This is a long, tedious process. We are not through
18 yet. We are getting pretty close, but I am going to need
19 all the jurors back when we come back from the break. Let
20 me ask everybody to be back in the courtroom at a quarter
21 till the hour. That is a quarter till 3:00 -- 2:45.

22 (At this point there was a short break after which the
23 following proceedings occurred in open court:)

24 MR. HOCH: Ladies and gentlemen, as the judge told
25 you, my name is Al Hoch. I practiced out of Oklahoma City

1 years ago. I used to be the head public defender down here,
2 here and in Lawton and a couple other counties, but I have a
3 few questions to go over.

4 As the judge told you if something such as on some
5 matter is too personal or whatever, you can just tell him
6 you prefer to come up here. So instead of not saying
7 something, please do that.

8 Everybody agree with that?

9 PROSPECTIVE JURORS: (Nodding.)

10 MR. HOCH: Up here and back there (indicating)?

11 PROSPECTIVE JURORS: (Nodding.)

12 MR. HOCH: Most of the questions I have are because
13 somewhere in the last 25, 26 years something came up --
14 usually after a trial is over or somewhere halfway through
15 it -- and people are like, Ooh, I should have said that. So
16 even if we pass a question and you think about something,
17 just raise your hand and say, "Oh, a few minutes ago" or
18 else come up, whatever -- "a few minutes ago you asked me
19 about such and such and I forgot but I remember now,"
20 whatever may affect your decision one way or the other,
21 because what everybody is trying to get is people who aren't
22 biased one way or the other.

23 Everybody has some life experiences that affect you one
24 way or another, but we're trying to make sure everybody can
25 be as fair as possible. Everybody agreed, right?

1 PROSPECTIVE JURORS: (Nodding.)

2 MR. HOCH: And along with that I know the State
3 touched on it, we try as much as possible to avoid saying
4 anything to you, to try to avoid being on the elevator at
5 the same time, whatever, simply so nobody says something
6 about "What were they talking about?" when it could have
7 been, you know, "Hey, did you see the Thunder game" or
8 whatever, but obviously no one wants to think that somebody
9 is talking about something else.

10 The other thing is, this obviously is not a personality
11 contest between me and DAs. I would hate to think that
12 somebody would ever get convicted or something because of
13 me, because I know -- people have told me -- I'm somewhat
14 gruff sometimes. So I apologize for that up front, but I
15 also ask don't let that affect Charles Dyer.

16 Everybody agree with that?

17 PROSPECTIVE JURORS: Yes.

18 MR. HOCH: I have a few things to go over. Um, as
19 far as prior jury service, who alls jury service was on
20 criminal jury? Anybody up front?

21 (No verbal response.)

22 MR. HOCH: And in the back?

23 PROSPECTIVE JUROR SHIRLEY: (Indicating.)

24 MR. HOCH: And it may take me a second with all my
25 charts.

1 Okay. Is it Mr. Shirley?

2 PROSPECTIVE JUROR SHIRLEY: Yes.

3 THE COURT: You were on a criminal jury?

4 PROSPECTIVE JUROR SHIRLEY: I think --

5 THE REPORTER: I can't hear him.

6 MR. HOCH: Sir, if you could speak up just a
7 hair --

8 PROSPECTIVE JUROR SHIRLEY: Okay.

9 MR. HOCH: -- because this lady types down
10 everything.

11 PROSPECTIVE JUROR SHIRLEY: I understand. It was a
12 fraud -- no, I'm sorry. It was embezzlement. There you go.
13 That may not be qualifying what you wanted, but that's what
14 it was.

15 MR. HOCH: Well, the difference normally is in
16 civil cases, like a car wreck or something, usually
17 somebody's trying to get money from insurance or somebody
18 else or something like that. In a criminal case usually
19 it's the State versus somebody where they're trying to
20 convict somebody and put them in jail.

21 Is yours the type -- the second type where they're
22 trying to convict somebody or were they just trying to get
23 money from somebody?

24 PROSPECTIVE JUROR SHIRLEY: Get the money.

25 MR. HOCH: Okay. So that's a civil case, okay?

1 PROSPECTIVE JUROR SHIRLEY: Okay.

2 MR. HOCH: That's fine, sir, because -- and the
3 reason I ask it -- well, I'll go ahead and start now.
4 There's a difference in the burden of proof like the judge
5 talked about. A civil case, like if somebody is suing you
6 because as you ran the stop sign and hit their car, or
7 whatever, the burden of proof is just a preponderance of
8 evidence, meaning more probably so than not that they have
9 to show -- be able to get money from you. And then the next
10 one above that is clear and convincing, like if they were
11 trying to take your kids away from you because you're a bad
12 parent or whatever -- not you, sir -- just in general.

13 And then the third type is beyond a reasonable doubt
14 which is up to each individual person to decide what in
15 their mind is reasonable doubt, and your idea may be
16 different than the lady next to you or the man behind you.
17 So it's something you have to decide. And you can do that,
18 right, sir?

19 PROSPECTIVE JUROR SHIRLEY: Yes.

20 THE COURT: Who else was on criminal juries in the
21 back.

22 PROSPECTIVE JUROR HUTCHINS: (Indicating.)

23 MR. HOCH: Okay. Is it Ms. Hutchins?

24 PROSPECTIVE JUROR HUTCHINS: Yes, sir.

25 MR. HOCH: You were -- how long ago?

1 PROSPECTIVE JUROR HUTCHINS: About four years.

2 MR. HOCH: And it wasn't either one of these DAs or
3 me that was the attorney on it, correct?

4 PROSPECTIVE JUROR HUTCHINS: It was someone else.

5 MR. HOCH: Who else?

6 PROSPECTIVE JUROR HARRIS: (Indicating.)

7 PROSPECTIVE JUROR PRICE: (Indicating.)

8 MR. HOCH: As you can see, I'm going through my
9 chart.

10 Is it Ms. Harris?

11 PROSPECTIVE JUROR PRICE: Yes.

12 MR. HOCH: Ms. Harris, you were -- were you on a
13 jury?

14 PROSPECTIVE JUROR HARRIS: It's been about 10 years
15 or so ago.

16 MR. HOCH: Okay. Anything that -- was it me or
17 either one of these?

18 PROSPECTIVE JUROR HARRIS: No.

19 MR. HOCH: Okay.

20 Then, Ms. Price, did you raise your hand?

21 PROSPECTIVE JUROR PRICE: Yes, sir.

22 MR. HOCH: How long ago?

23 PROSPECTIVE JUROR PRICE: Oh, it's been 20, 25
24 years ago.

25 MR. HOCH: Were either one of you two the

1 foreperson of that jury?

2 PROSPECTIVE JUROR PRICE: (Shaking head.)

3 MR. HOCH: Ms. Harris, were you?

4 PROSPECTIVE JUROR HARRIS: No.

5 MR. HOCH: Okay.

6 PROSPECTIVE JUROR JENKINS: (Indicating.)

7 MR. HOCH: Is it Ms. Jenkins?

8 PROSPECTIVE JUROR JENKINS: Yes.

9 MR. HOCH: How long ago was yours?

10 PROSPECTIVE JUROR JENKINS: Over 16 years.

11 MR. HOCH: Was it me that was on there?

12 PROSPECTIVE JUROR JENKINS: No.

13 MR. HOCH: And were you the foreperson?

14 PROSPECTIVE JUROR JENKINS: What do you mean

15 "foreperson"?

16 MR. HOCH: Were you the foreman, the one that

17 signed the paper?

18 PROSPECTIVE JUROR JENKINS: No, sir.

19 MR. HOCH: And anybody else from those last two

20 rows?

21 PROSPECTIVE JUROR TALIAFERRO: (Indicating.)

22 MR. HOCH: Okay. And I can't read my writing here.

23 Ms. Taliaferro?

24 PROSPECTIVE JUROR TALIAFERRO: Yes.

25 MR. HOCH: Were you -- how long ago?

1 PROSPECTIVE JUROR TALIAFERRO: About 25 years.

2 MR. HOCH: Okay. And were you the foreperson on
3 that one?

4 PROSPECTIVE JUROR TALIAFERRO: (Shaking head.)

5 MR. HOCH: And anybody else raise their hand?

6 PROSPECTIVE JUROR REMLEY: (Indicating.)

7 MR. HOCH: Okay.

8 So is it Mr. "Remley," sir?

9 PROSPECTIVE JUROR REMLEY: Uh-huh.

10 MR. HOCH: And how long ago, sir?

11 PROSPECTIVE JUROR REMLEY: Seven years.

12 MR. HOCH: Was it either one of these DAs or me?

13 PROSPECTIVE JUROR REMLEY: No.

14 MR. HOCH: Were you the foreperson of that, sir?

15 PROSPECTIVE JUROR REMLEY: No.

16 MR. HOCH: And did anybody else raise their hand?

17 PROSPECTIVE JUROR NICHOLS: (Indicating.)

18 MR. HOCH: Is it Mr. Nichols?

19 PROSPECTIVE JUROR NICHOLS: Yes, sir.

20 MR. HOCH: How long ago, sir?

21 PROSPECTIVE JUROR NICHOLS: It's been about 18
22 years.

23 MR. HOCH: Pardon?

24 PROSPECTIVE JUROR NICHOLS: About 18.

25 MR. HOCH: I think I may have been in --

1 PROSPECTIVE JUROR NICHOLS: No. This was in
2 Houston, Texas.

3 MR. HOCH: In Houston, okay.

4 Were you the foreperson, sir?

5 PROSPECTIVE JUROR NICHOLS: (Shaking head.)

6 MR. HOCH: All right. Thank y'all.

7 Anybody have the DA's office doing -- not prosecuting
8 anybody but doing work for you, like collecting checks for
9 your business, collecting child support for you, doing
10 anything -- setting up protective orders for you, doing
11 anything like that? Anybody up here in the box?

12 (No verbal response.)

13 MR. HOCH: Anybody in the back?

14 PROSPECTIVE JUROR DENHAM: (Indicating.)

15 MR. HOCH: And, ma'am, is it Ms. Denham?

16 PROSPECTIVE JUROR DENHAM: Child support.

17 MR. HOCH: They collect child support for you?

18 PROSPECTIVE JUROR DENHAM: Yes, Cleveland County.

19 MR. HOCH: Okay. Since the DA's office does that
20 you're not worried that -- I want to make sure nobody is
21 worried about if I don't say guilty they're going to quit
22 making the effort?

23 PROSPECTIVE JUROR DENHAM: No.

24 MR. HOCH: Because that's a different county,
25 right?

1 PROSPECTIVE JUROR DENHAM: Right.

2 MR. HOCH: No worries about that?

3 PROSPECTIVE JUROR DENHAM: No.

4 MR. HOCH: Anybody else in the back have anything
5 like that?

6 (No verbal response.)

7 MR. HOCH: Anybody work for DHS or have family
8 members, friends, relatives that do?

9 (No verbal response.)

10 MR. HOCH: Anybody up front?

11 PROSPECTIVE JURORS: (Shaking heads.)

12 MR. HOCH: Anybody in the back?

13 PROSPECTIVE JURORS: (Shaking heads.)

14 MR. HOCH: Tell you what, it may make it quicker
15 than me looking if you just --

16 PROSPECTIVE JUROR JENKINS: I'm Janada Jenkins. I
17 have an ex-sister-in-law and sister-in-law that works for
18 DHS; one in Waurika and one in Duncan.

19 MR. HOCH: And do you talk to them about their
20 work?

21 PROSPECTIVE JUROR JENKINS: Not at all. I haven't
22 seen -- I actually haven't seen either one of them in
23 months.

24 MR. HOCH: All right. So nothing about that fact
25 is going to --

1 PROSPECTIVE JUROR JENKINS: No.

2 MR. HOCH: -- make a difference one way or the
3 other?

4 PROSPECTIVE JUROR JENKINS: No.

5 MR. HOCH: Anyone else have anybody --

6 PROSPECTIVE JUROR SALTZMAN: (Indicating.)

7 MR. HOCH: Ms. Saltzman?

8 PROSPECTIVE JUROR SALTSMAN: Yes. Um, I -- I work
9 for ASCOG, but I -- my boss is -- is out of the State
10 Ombudsman Office which is the Aging Services Division of
11 OK DHS.

12 MR. HOCH: All right. Anything about your work or
13 anything that would make it hard to go back or that somebody
14 from your office --

15 PROSPECTIVE JUROR SALTZMAN: No.

16 MR. HOCH: I just want to make sure nobody is
17 worried about losing a job over a verdict they would reach.

18 PROSPECTIVE JUROR SALTZMAN: No.

19 MR. HOCH: And we touched on it that some of you
20 know each other. In the box, anybody up here know the other
21 jurors?

22 PROSPECTIVE JUROR THOMAS: I know Janada.

23 MR. HOCH: Okay. Which one is Janada?

24 PROSPECTIVE JUROR JENKINS: (Indicating.)

25 MR. HOCH: Okay. Ms. Jenkins.

1 How do you know her, ma'am?

2 PROSPECTIVE JUROR THOMAS: She works at the
3 hospital also. I work there, too.

4 MR. HOCH: Are either one of you the supervisor
5 over the other?

6 PROSPECTIVE JUROR THOMAS: No.

7 MR. HOCH: Anyone else know anyone?

8 PROSPECTIVE JUROR SALTZMAN: I know Betty Lou
9 Harris.

10 MR. HOCH: You know Ms. Harris?

11 PROSPECTIVE JUROR SALTZMAN: I used to work with
12 her.

13 MR. HOCH: Okay. And that is from work before?

14 PROSPECTIVE JUROR SALTZMAN: Work before.

15 MR. HOCH: All right. Nothing about that
16 relationship is going to make you -- obviously, we don't
17 look for people forming alliances with each other?

18 PROSPECTIVE JUROR SALTZMAN: No.

19 PROSPECTIVE JUROR MORAN: (Indicating.)

20 MR. HOCH: And -- too many notes here.

21 Ms. Moran?

22 PROSPECTIVE JUROR MORAN: Yes. I know Jessicah;
23 we go to church together.

24 THE REPORTER: You know who?

25 PROSPECTIVE JUROR MORAN: Jessicah -- I mean,

1 Ms. McLemore.

2 MR. HOCH: Ms. McLemore?

3 PROSPECTIVE JUROR MORAN: Uh-huh.

4 MR. HOCH: All right. And how often do you see
5 each other? Every week?

6 PROSPECTIVE JUROR MORAN: Sometimes but not in a
7 little while. We've missed quite a bit.

8 MR. HOCH: Anything about that relationship, ma'am,
9 that's going to make you want to decide one way or the
10 other?

11 PROSPECTIVE JUROR MORAN: No.

12 MR. HOCH: All right. Anybody else?

13 PROSPECTIVE JUROR PRICE: I know Janada.

14 MR. HOCH: And, ma'am, I'm sorry, what was your
15 name again? It will save me looking --

16 PROSPECTIVE JUROR PRICE: Neoma Price.

17 MR. HOCH: Ms. Price, you know Ms. Jenkins, don't
18 you?

19 PROSPECTIVE JUROR PRICE: Yes.

20 MR. HOCH: How?

21 PROSPECTIVE JUROR PRICE: We used to work together.

22 MR. HOCH: All right. Nothing about that that's
23 going to affect you one way or the other?

24 PROSPECTIVE JUROR PRICE: No.

25 MR. HOCH: Anybody else that we haven't covered?

1 PROSPECTIVE JUROR JENKINS: I know people, but it's
2 not going to affect anything.

3 MR. HOCH: Okay.

4 PROSPECTIVE JUROR MATTHEWS: I have a cousin, but
5 he's not in this batch right here --

6 MR. HOCH: Not in --

7 PROSPECTIVE JUROR MATTHEWS: -- but he's in this
8 room, but it's not going to matter.

9 MR. HOCH: Okay. I also try to get y'all's name
10 for the court reporter because one of my friends -- well,
11 I'll tell you, an ex-girlfriend was a court reporter and
12 that was one of her pet peeves that I wouldn't get names and
13 it makes it a mess trying to get that.

14 What is your name again?

15 PROSPECTIVE JUROR MATTHEWS: Matthews, Katie.
16 Katie Matthews.

17 MR. HOCH: Ms. Matthews, okay. And who was it you
18 know again, I'm sorry?

19 PROSPECTIVE JUROR MATTHEWS: I have a cousin, but
20 he's not in this --

21 MR. HOCH: Oh, he's not.

22 PROSPECTIVE JUROR MATTHEWS: -- he's in this room
23 but not -- not in this right here (indicating).

24 MR. HOCH: He hasn't been called yet?

25 PROSPECTIVE JUROR MATTHEWS: No.

1 MR. HOCH: All right.

2 Anybody work for any counseling services, have friends,
3 relatives that do that?

4 PROSPECTIVE JURORS: (Shaking heads.)

5 MR. HOCH: Anybody in the back?

6 (No verbal response.)

7 MR. HOCH: And I know a couple of you have touched
8 on nasty divorces. If it's something you need to come to
9 the bench to talk about, please do, but, Ms. Saltzman, you
10 raised your hand about that?

11 PROSPECTIVE JUROR SALTZMAN: Nasty divorces?

12 MR. HOCH: Yes.

13 PROSPECTIVE JUROR SALTZMAN: Well, just friends.
14 I think all divorces are nasty but nothing bad bad.

15 MR. HOCH: Okay. And Ms. Thomas?

16 PROSPECTIVE JUROR THOMAS: My sister has been
17 through several.

18 MR. HOCH: Several nasty divorces?

19 PROSPECTIVE JUROR THOMAS: Uh-huh.

20 MR. HOCH: And along with that, ma'am, some people
21 in divorces do anything to win, right?

22 PROSPECTIVE JUROR THOMAS: Yes.

23 MR. HOCH: And would you agree that some people go
24 as far as lying --

25 PROSPECTIVE JUROR THOMAS: Yes.

1 MR. HOCH: -- to win in a divorce?

2 PROSPECTIVE JUROR THOMAS: (Nodding.)

3 MR. HOCH: And along -- most times -- lots of times
4 for money?

5 PROSPECTIVE JUROR THOMAS: (Nodding.)

6 MR. HOCH: But sometimes for custody?

7 PROSPECTIVE JUROR THOMAS: (Nodding.)

8 MR. HOCH: And do me a favor, ma'am, instead of
9 nodding --

10 PROSPECTIVE JUROR THOMAS: Okay.

11 MR. HOCH: -- if you could say "yes" and "no"
12 because it's easier to take that down than shaking your head
13 or -- sometimes you can't tell if it's a shake or a nod,
14 okay?

15 PROSPECTIVE JUROR THOMAS: Okay.

16 MR. HOCH: Would everybody agree sometimes people
17 will go to extreme lengths, including lying or having others
18 lie, to gain an advantage in a divorce case?

19 PROSPECTIVE JURORS: Yes.

20 MR. HOCH: Everybody in the back agree with that?

21 PROSPECTIVE JURORS: (Nodding.)

22 MR. HOCH: That people will go to extreme lengths?

23 PROSPECTIVE JURORS: (Nodding.)

24 MR. HOCH: And would everybody agree that accusing
25 your spouse of crimes, including child molesting, is an

1 extreme length?

2 PROSPECTIVE JURORS: Yes, sir.

3 MR. HOCH: Everybody in the back agree with that?

4 PROSPECTIVE JURORS: (Nodding.)

5 MR. HOCH: And is it Ms. Moran?

6 PROSPECTIVE JUROR MORAN: Yes.

7 MR. HOCH: You said -- you started to tell the
8 State about something where you've known two people that
9 have been falsely accused?

10 PROSPECTIVE JUROR MORAN: Yes. When -- um, when I
11 was growing up a very close family -- our family and their
12 family were very close friends. The daughter accused her
13 father. He was convicted, went to prison. That ended in a
14 very nasty divorce, but she came back as an adult and said
15 she had made it up.

16 And then in my adult life some very close friends of
17 ours that we used to do things with, um, her husband passed
18 away and the woman remarried and her daughter accused the
19 stepfather, um, but she came back and said that she lied and
20 they couldn't prove that, um, so they went for something
21 else and they proved that instead. It was some mistakes he
22 made so he served two years, but they all -- they're happy.
23 They are all together now. So --

24 MR. HOCH: But you realize that people will --

25 PROSPECTIVE JUROR MORAN: Yes.

1 MR. HOCH: -- children will lie?

2 PROSPECTIVE JUROR MORAN: Yes.

3 MR. HOCH: Does everybody agree that children can
4 tell the truth --

5 PROSPECTIVE JURORS: Right.

6 MR. HOCH: -- but children can also lie?

7 PROSPECTIVE JURORS: Yes.

8 MR. HOCH: Everybody in the back agree with that?

9 PROSPECTIVE JURORS: (Nodding.)

10 MR. HOCH: And when children get in trouble, have
11 any of y'all known them to lie because they're in trouble?

12 PROSPECTIVE JURORS: Yes.

13 MR. HOCH: Everybody in the back?

14 PROSPECTIVE JURORS: (Nodding.)

15 MR. HOCH: And sometimes the greater the trouble
16 they're in, the greater the lie? Would everybody agree with
17 that?

18 PROSPECTIVE JURORS: Yes.

19 MR. HOCH: Everybody agree?

20 PROSPECTIVE JURORS: (Nodding.)

21 MR. HOCH: Does everybody agree that children can
22 be coached?

23 PROSPECTIVE JURORS: Yes.

24 MR. HOCH: Even by a professional?

25 PROSPECTIVE JURORS: Yes.

1 MR. HOCH: Everybody in the back agrees with me?

2 PROSPECTIVE JURORS: Yes.

3 MR. HOCH: And the longer somebody has alone with a
4 child, would you agree that it's easier to coach them?

5 PROSPECTIVE JURORS: Yes.

6 MR. HOCH: And easier to get them to say what they
7 want?

8 PROSPECTIVE JURORS: Yes.

9 MR. HOCH: Everybody agree with that?

10 PROSPECTIVE JURORS: Yes.

11 MR. HOCH: Everybody up here?

12 PROSPECTIVE JURORS: (Nodding.)

13 MR. HOCH: Everybody in the back agree with that?

14 PROSPECTIVE JURORS: Yes.

15 MR. HOCH: Do y'all think you can judge when
16 somebody has coached a child and what their motives may be?

17 PROSPECTIVE JURORS: (Nodding.)

18 MR. HOCH: Everybody up here think they can judge
19 that?

20 PROSPECTIVE JURORS: Yes.

21 MR. HOCH: Everybody in the back?

22 PROSPECTIVE JURORS: (Nodding.)

23 MR. HOCH: Even if it's a professional in some
24 field?

25 PROSPECTIVE JURORS: (Nodding.)

1 MR. HOCH: Would everybody agree some professionals
2 aren't above that?

3 PROSPECTIVE JURORS: Yes.

4 MR. HOCH: Just because you get the schooling or
5 license doesn't make you above that?

6 PROSPECTIVE JURORS: Right.

7 MR. HOCH: Anybody taking chemistry or anything in
8 college or high school?

9 PROSPECTIVE JUROR JENKINS: (Indicating.) That's
10 part of the requirements for --

11 MR. HOCH: That dealt with microscopes and things
12 like that?

13 PROSPECTIVE JUROR JENKINS: Yes.

14 MR. HOCH: Did y'all have mass spectrometers --

15 PROSPECTIVE JURORS: No.

16 MR. HOCH: -- or centrifuges?

17 (No verbal response.)

18 PROSPECTIVE JUROR TOMLINSON: (Indicating.)

19 MR. HOCH: That's Mr. Tomlinson, right, sir
20 (indicating)?

21 PROSPECTIVE JUROR TOMLINSON: Yes, sir.

22 MR. HOCH: Okay. You understand, sir, we all pay
23 taxes for government, right?

24 PROSPECTIVE JUROR TOMLINSON: (Nodding.)

25 MR. HOCH: Along with that we pay for chemists,

1 forensic people at OSBI, right?

2 PROSPECTIVE JUROR TOMLINSON: (Nodding.)

3 MR. HOCH: Everybody expects their taxes to be used
4 properly, right?

5 PROSPECTIVE JURORS: Right.

6 MR. HOCH: That reminds me of one other thing.
7 Does anybody have any time constraints or anything that --
8 you haven't filed taxes or extension that you're going to
9 have to get done early tomorrow or whatever, tonight, to get
10 them done?

11 (No verbal response.)

12 MR. HOCH: Anybody up front?

13 (No verbal response.)

14 MR. HOCH: Anybody in the back?

15 (No verbal response.)

16 MR. HOCH: Okay. I just want to make sure that
17 somebody is not here tomorrow going, Oh, my God.

18 Okay. So, Mr. Tomlinson, back what you said, you were
19 lucky to have a microscope, you understand a lot of millions
20 of dollars go to forensic people here in the state from your
21 taxes?

22 PROSPECTIVE JUROR TOMLINSON: (Nodding.)

23 MR. HOCH: Sir, if you can do me a favor, say "yes"
24 or "no" --

25 PROSPECTIVE JUROR TOMLINSON: Yes, I understand.

1 MR. HOCH: And you also understand they have a
2 multi-million dollar facility up in Edmond for OSBI?

3 PROSPECTIVE JUROR TOMLINSON: I don't know that.

4 MR. HOCH: Okay. Would it surprise you to learn
5 that?

6 THE COURT: Counsel, approach, please.

7 (The following bench conference occurred outside the
8 hearing of the prospective jurors and the Defendant:)

9 THE COURT: It's been a long day. Let's --

10 MR. HOCH: I'll get off of it.

11 THE COURT: And let's don't have Discovery Oklahoma
12 right here.

13 MR. HOCH: Don't have what, I'm sorry?

14 THE COURT: Discovery Oklahoma.

15 MR. HOCH: Oh, okay.

16 (The bench conference concluded and the following
17 proceedings occurred in open court:)

18 MR. HOCH: All right. Everybody agrees that the
19 State ought to use its resources, right?

20 PROSPECTIVE JURORS: Yes.

21 MR. HOCH: And the State talked about having
22 evidence. Part of the time in trials there is no evidence.
23 Everybody understands that, right?

24 PROSPECTIVE JURORS: (Nodding.)

25 MR. HOCH: Would everybody agree one of the big

1 reasons you may not have evidence is there is no evidence?

2 (No verbal response.)

3 MR. HOCH: Everybody understand that?

4 PROSPECTIVE JURORS: (Nodding.)

5 MR. HOCH: And one of the reasons there may be no
6 evidence is when something doesn't happen it doesn't exist.

7 Would everybody agree with that?

8 PROSPECTIVE JURORS: (Nodding.)

9 MR. HOCH: Everybody agree with that?

10 PROSPECTIVE JURORS: Yes.

11 MR. HOCH: The State's talked about elements that
12 they have to prove and they have to -- and the instructions
13 are going to tell you they have to prove each and every one
14 beyond a reasonable doubt and when they can't these
15 instructions also tell you you must find somebody not
16 guilty. It doesn't give you an option.

17 The law is you must find somebody not guilty. And it
18 doesn't matter if it's four out of five, nine out of 10, 99
19 out of a hundred isn't good enough. You have to -- they
20 have to prove each and every one. If they can't do it,
21 anybody up here have a problem coming back and telling these
22 two, "You didn't prove your case --

23 PROSPECTIVE JURORS: No.

24 MR. HOCH: -- and we found him not guilty."

25 Anybody up here have a problem with that?

1 (No verbal response.)

2 MR. HOCH: Anybody in the back have a problem with
3 this?

4 PROSPECTIVE JURORS: No.

5 MR. HOCH: Because, obviously, Ms. Moran said after
6 somebody gets sent to jail, years later when somebody says,
7 "Well, I lied about it. Sorry." That guy has still been in
8 there.

9 Everybody agree to that?

10 PROSPECTIVE JURORS: Yes.

11 MR. HOCH: Everybody in the back?

12 PROSPECTIVE JURORS: (Nodding.)

13 MR. HOCH: Would everybody agree that's wrong?

14 PROSPECTIVE JURORS: Yes.

15 MR. HOCH: Anybody feel differently?

16 (No verbal response.)

17 MR. HOCH: Ms. Matthews?

18 PROSPECTIVE JUROR MATTHEWS: Yes.

19 MR. HOCH: You talked earlier about abuse victims
20 and being a foster parent?

21 PROSPECTIVE JUROR MATTHEWS: Right.

22 MR. HOCH: And you thought that it might be hard
23 or maybe not even possible for you to be fair because of --
24 because of your --

25 PROSPECTIVE JUROR MATTHEWS: I know how I feel

1 about people that abuse people.

2 MR. HOCH: Okay.

3 PROSPECTIVE JUROR MATTHEWS: I mean, if they're
4 innocent, they're innocent, but if they're guilty God has to
5 forgive them because I don't, you know. I mean, I have to
6 pray about it a lot, you know.

7 MR. HOCH: Okay. Well, ma'am, you understand --

8 PROSPECTIVE JUROR MATTHEWS: But if he's -- if
9 he's -- he's innocent he shouldn't pay for a crime he hasn't
10 done.

11 MR. HOCH: And nobody should?

12 PROSPECTIVE JUROR MATTHEWS: Right.

13 MR. HOCH: But, ma'am, you understand I don't have
14 to prove somebody innocent --

15 PROSPECTIVE JUROR MATTHEWS: Right.

16 MR. HOCH: -- for one thing it's --

17 THE DEFENDANT: They're innocent until proven
18 guilty.

19 MR. HOCH: Well, not only that, it's hard to prove
20 a negative.

21 PROSPECTIVE JUROR MATTHEWS: Yes.

22 MR. HOCH: Would you agree with that?

23 PROSPECTIVE JUROR MATTHEWS: Uh-huh.

24 MR. HOCH: But part of the purpose of *voir dire*,
25 ma'am, is to make sure I'm not starting out with two strikes

1 and it's Nolan Ryan sitting there --

2 PROSPECTIVE JUROR MATTHEWS: Right.

3 MR. HOCH: -- throwing 98 miles an hour. Is that
4 what's happening here, ma'am, because only you know. But
5 I want to make sure because of your answers from before
6 that -- are you truly able --

7 PROSPECTIVE JUROR MATTHEWS: Like I said, I didn't
8 know for sure.

9 MR. HOCH: And the problem is, ma'am, you're the
10 only one that's going to be able to answer this --

11 PROSPECTIVE JUROR MATTHEWS: Correct.

12 MR. HOCH: -- but if it was your brother or your
13 son, whoever, sitting over here, would you feel comfortable
14 with 12 people just like you deciding their fate?

15 PROSPECTIVE JUROR MATTHEWS: I don't know.

16 MR. HOCH: Would they be able to get a fair trial
17 with 12 people just like you?

18 PROSPECTIVE JUROR MATTHEWS: If I would be
19 prejudiced against a child molester, I don't know, you know.

20 MR. HOCH: And, ma'am, what I'm -- what I'm getting
21 at is --

22 PROSPECTIVE JUROR MATTHEWS: Right.

23 MR. HOCH: -- it's going to be extremely difficult
24 for me to get a fair trial from you, isn't it?

25 PROSPECTIVE JUROR MATTHEWS: Well, if I think he's

1 innocent that's one thing, but if I think he's guilty, it's
2 another.

3 MR. HOCH: Well, what I'm getting at, ma'am, are
4 you already predisposed to thinking somebody's guilty?

5 PROSPECTIVE JUROR MATTHEWS: No, because I don't
6 know his case. I don't even remember hearing about it, but
7 I -- I -- I'm -- my point is when I know somebody's guilty
8 it's hard for me to have mercy on them. You know what I
9 mean?

10 Let's say the one that bothered me, let's put it that
11 way, and I've dealt with kids in the foster care program
12 that their dads have molested them and I've seen what it's
13 done to the child, you know, that -- you know, and I've seen
14 what they've been through over it and what torment they went
15 through as -- growing up, you know. That is where I'm
16 coming from but also I don't want to see a man spend time
17 behind bars if he's innocent.

18 MR. HOCH: And, ma'am, do you think a child would
19 come in here -- could possibly come in here and lie about
20 something like that?

21 PROSPECTIVE JUROR MATTHEWS: I think children are
22 able to lie, yes.

23 MR. HOCH: Even about something like this?

24 PROSPECTIVE JUROR MATTHEWS: If encouraged into
25 doing it, but it's -- it would be hard for any child to sit

1 there and say it and to go through it.

2 MR. HOCH: So, ma'am, you tell me you think you can
3 really be fair?

4 PROSPECTIVE JUROR MATTHEWS: I don't know.

5 MR. HOCH: Well, the problem is, ma'am, what we're
6 trying to do is, we're trying to be sure here, okay, and
7 I'm -- I'm not trying to pick on you or anything.

8 PROSPECTIVE JUROR MATTHEWS: I know. That's fine.
9 That's fine.

10 MR. HOCH: But with all your experiences here --

11 PROSPECTIVE JUROR MATTHEWS: Right.

12 MR. HOCH: -- do you think, do you honestly think
13 you can give us a fair shake?

14 PROSPECTIVE JUROR MATTHEWS: I think it might be
15 better to have somebody else here.

16 MR. HOCH: Because bottom line is, ma'am, no matter
17 how much everybody tells you about --

18 PROSPECTIVE JUROR MATTHEWS: Right.

19 MR. HOCH: -- what your duty is and what your
20 responsibility are and -- what your responsibilities are and
21 how you're supposed to go about this, deep down --

22 PROSPECTIVE JUROR MATTHEWS: Right.

23 MR. HOCH: -- you're predisposed to convicting
24 somebody, aren't you?

25 PROSPECTIVE JUROR MATTHEWS: No, but I think

1 somebody else can fill this chair better than I could --

2 MR. HOCH: Okay.

3 PROSPECTIVE JUROR MATTHEWS: I'll put it that way,
4 but I'm not deep down disposed of convicting somebody that's
5 not guilty -- that's not guilty of doing it, but somebody
6 else could probably fill this chair better than I could.

7 MR. HOCH: Okay. Because I'm pretty much going to
8 have to prove his innocence, aren't I?

9 PROSPECTIVE JUROR MATTHEWS: Right. That's
10 correct.

11 MR. HOCH: Okay.

12 Judge, may we approach?

13 THE COURT: Any inquiry by the State?

14 MS. HIXON: Yes.

15 THE COURT: You may inquire.

16 MS. HIXON: Ma'am, no one's asking you to forget
17 about your life experiences --

18 PROSPECTIVE JUROR MATTHEWS: Right.

19 MS. HIXON: -- and your past when you come in here.

20 PROSPECTIVE JUROR MATTHEWS: Right.

21 MS. HIXON: What we're trying to find out here is,
22 as Charles Dyer sits here today --

23 PROSPECTIVE JUROR MATTHEWS: Right.

24 MS. HIXON: -- you've heard no evidence.

25 PROSPECTIVE JUROR MATTHEWS: No.

1 MS. HIXON: If you were going to have to decide his
2 guilt or innocence --

3 PROSPECTIVE JUROR MATTHEWS: Right at this present
4 time?

5 MS. HIXON: -- at this present time?

6 PROSPECTIVE JUROR MATTHEWS: I don't know him from
7 Adam; he's not guilty as far as I'm concerned right at this
8 moment.

9 MS. HIXON: Okay. So -- so you would require the
10 State to prove beyond a reasonable doubt that he's guilty of
11 this crime before you would convict him?

12 PROSPECTIVE JUROR MATTHEWS: That's right.

13 MS. HIXON: Okay. And if there is a -- if he is
14 convicted --

15 PROSPECTIVE JUROR MATTHEWS: Right.

16 MS. HIXON: -- and there is a range of punishment,
17 would you consider that entire range of punishment from the
18 lowest range to the highest range in determining what
19 punishment you think is appropriate?

20 PROSPECTIVE JUROR MATTHEWS: Yes.

21 MS. HIXON: So as he sits now you don't think he's
22 automatically guilty?

23 PROSPECTIVE JUROR MATTHEWS: No.

24 THE COURT: All right. You may continue.

25 MR. HOCH: Ma'am, obviously, not to pick on you,

1 but --

2 THE COURT: Counsel, approach.

3 (The following bench conference occurred outside the
4 hearing of the prospective jurors and the Defendant:)

5 THE COURT: If you've got a motion, make it now and
6 move on. I think she's answered both of your questions.

7 MR. HOCH: Well, Judge, she said she's -- she said
8 she was going to require me to prove that he's innocent.

9 THE COURT: No, she said --

10 MR. HOCH: That's what I was going to ask.

11 THE COURT: Then limit it -- it doesn't meet the
12 requirement at this point in time.

13 MR. HOCH: Okay. Ma'am, do you understand the
14 State's burden of proof, right?

15 PROSPECTIVE JUROR MATTHEWS: Right.

16 MR. HOCH: But you're going to make me also prove
17 to you that he's innocent, correct?

18 PROSPECTIVE JUROR MATTHEWS: Correct.

19 MR. HOCH: Even though you understand --

20 PROSPECTIVE JUROR MATTHEWS: Not exactly. You
21 mean, prove that he's innocent of doing it?

22 MR. HOCH: Yes, ma'am.

23 PROSPECTIVE JUROR MATTHEWS: Well, right now he's
24 innocent of doing it until you prove that he's not innocent
25 of doing it.

1 MR. HOCH: But at some point you're going to make
2 me come back and prove his innocence; is that right?

3 PROSPECTIVE JUROR MATTHEWS: I don't know.

4 MR. HOCH: Ma'am, do you understand I don't have to
5 do anything?

6 PROSPECTIVE JUROR MATTHEWS: No. I know that.

7 MR. HOCH: But the way you believe, I should do
8 something to prove he's innocent, correct?

9 PROSPECTIVE JUROR MATTHEWS: He's innocent until
10 he's proven he's guilty, isn't he, by law?

11 MR. HOCH: Right.

12 PROSPECTIVE JUROR MATTHEWS: Okay.

13 MR. HOCH: But what I'm asking, is there something
14 I'm going to have to do to prove his innocence to you?

15 PROSPECTIVE JUROR MATTHEWS: (No verbal response.)

16 THE COURT: If you can answer that "yes" or "no,"
17 ma'am, I think is what he's asking for.

18 PROSPECTIVE JUROR MATTHEWS: Okay.

19 THE COURT: Yes or no.

20 PROSPECTIVE JUROR MATTHEWS: No, not that I see of.
21 I haven't heard anything saying he was guilty yet.

22 MR. HOCH: Ma'am, do you expect me to put on
23 witnesses to prove his innocence? I guess that's what I'm
24 getting at.

25 PROSPECTIVE JUROR MATTHEWS: After I've heard

1 somebody say that he's guilty of it?

2 MR. HOCH: Right. If somebody says something, do
3 you think I have a responsibility to put on witnesses to say
4 he's innocent?

5 PROSPECTIVE JUROR MATTHEWS: Yes, if -- if the
6 child's come forward and said he's guilty.

7 MS. HIXON: Your Honor, may we approach?

8 THE COURT: Yes, ma'am.

9 (The following bench conference occurred outside the
10 hearing of the prospective jurors and the Defendant:)

11 MS. HIXON: Your Honor, I think Mr. Hoch is
12 confusing this line of questioning. That's -- I mean,
13 that's a legal presumption. I don't think she understands
14 what he's asking.

15 THE COURT: I don't think she does either.

16 Clarify it.

17 (The bench conference concluded and the following
18 proceedings occurred in open court:)

19 MR. HOCH: Okay. Ma'am, you understand that the
20 law is, like you said, people are innocent, presumed
21 innocent, right?

22 PROSPECTIVE JUROR MATTHEWS: Right.

23 MR. HOCH: And the law also is that I don't have to
24 do anything other than show up.

25 PROSPECTIVE JUROR MATTHEWS: Okay.

1 MR. HOCH: But by your thinking, ma'am, for him to
2 be found not guilty here, am I going to have to --

3 THE COURT: Mr. Hoch, if you'll complete the
4 correct statement to the jury in your line of inquiry. You
5 left out an important element in your inquiry.

6 MR. HOCH: Okay.

7 THE COURT: Which is the State's burden.

8 MR. HOCH: Okay. The State has the burden of proof
9 that somebody is guilty.

10 PROSPECTIVE JUROR MATTHEWS: Right.

11 MR. HOCH: And my question is: Do you feel along
12 with that that I have some burden to prove him not guilty?

13 PROSPECTIVE JUROR MATTHEWS: If they don't prove
14 he's guilty, he's -- he's not guilty.

15 MR. HOCH: But do you believe, ma'am, that also I
16 have some duty or some burden to prove somebody not guilty?

17 THE DEFENDANT: You have a duty to him.

18 MR. HOCH: And do I have to do it to your
19 satisfaction -- to prove him not guilty?

20 PROSPECTIVE JUROR MATTHEWS: If I believe he's
21 guilty from what I've heard, I don't think you could prove
22 he wasn't.

23 MR. HOCH: And, ma'am, have you seen stuff in the
24 papers about this?

25 PROSPECTIVE JUROR MATTHEWS: No. I don't even -- I

1 don't even remember hearing about it. If I have, I've
2 forgot about it.

3 MR. HOCH: Okay.

4 Judge, may I approach?

5 THE COURT: Yes, sir.

6 (The following bench conference occurred outside the
7 hearing of the prospective jurors and the Defendant:)

8 MR. HOCH: Judge, again, I'd move to excuse her for
9 cause for her last -- for her response before the last
10 question. I didn't want to emphasize it by coming up here
11 after that one. She's going to place a burden on us to
12 prove him not guilty or innocent, but she's expecting me to
13 prove him not guilty.

14 MS. HIXON: Your Honor, that's not what she said.
15 She -- she said that if -- she would require the State to
16 prove that he's guilty and that if we didn't do that then
17 he's not guilty. I think she's confused by Mr. Hoch's line
18 of questioning, and I don't think he's done enough to excuse
19 her for cause.

20 THE COURT: I don't believe you've established a
21 bias -- a natural bias --

22 MR. HOCH: Okay.

23 THE COURT: -- at this time. It's unclear to me --
24 well -- it's clear to me that she's not -- it's clear she's
25 not understanding what you're saying to her, and I think she

1 understands that it -- and answered appropriately that she
2 understands the burden rests with the State of Oklahoma.

3 MR. HOCH: Well, Judge --

4 THE COURT: She's acknowledged that.

5 MR. HOCH: Judge, if --

6 THE COURT: She's saying the State of Oklahoma has
7 to prove that he is, in fact, guilty. There's nothing to
8 prove that so that's what she's saying. I think that's what
9 is confusing her.

10 MR. HOCH: And along with that, though, Judge, at
11 the very start when the Court was doing the questioning she
12 was saying that she thought she couldn't be fair.

13 THE COURT: She said she thought she could, she
14 thought she could and she could try. She didn't say, no,
15 she could not.

16 MR. HOCH: I know, Judge, but she started out
17 raising her hand about concerns about that.

18 THE COURT: She's still telling me that she thought
19 she could be fair.

20 MR. HOCH: Okay. I'll move on, Judge. Oh, I'm
21 sorry. Did you rule on that?

22 THE COURT: Overruled.

23 MR. HOCH: On my challenge for cause?

24 THE COURT: On your challenge for cause.

25 MR. HOCH: Okay. Thanks.

1 (The bench conference concluded and the following
2 proceedings occurred in open court:)

3 MR. HOCH: Everybody understand people can have
4 motives to testify, right?

5 PROSPECTIVE JURORS: Yes.

6 MR. HOCH: And along with that some people who may
7 be coming on the short end in the divorce could have their
8 own motives. Would everybody agree with that?

9 PROSPECTIVE JURORS: Yes.

10 MR. HOCH: Does everybody believe that somebody's
11 drug use could affect the outcome of a divorce?

12 PROSPECTIVE JURORS: Yes.

13 MR. HOCH: And could be motive to do something to
14 get an upper hand?

15 PROSPECTIVE JURORS: Yes.

16 MR. HOCH: Everybody agree with that up front?

17 PROSPECTIVE JURORS: Yes.

18 MR. HOCH: Everybody in the back agree with that?

19 PROSPECTIVE JURORS: Yes.

20 MR. HOCH: Everybody understand there wouldn't be
21 an eyewitness if a crime didn't occur?

22 PROSPECTIVE JURORS: Right.

23 MR. HOCH: Everybody in the back understand that?

24 PROSPECTIVE JURORS: (Nodding.)

25 MR. HOCH: Anybody have any experience in the

1 psychology courses you took with behavioral psychology and
2 abnormal psychology?

3 PROSPECTIVE JURORS: (Shaking heads.)

4 MR. HOCH: Anybody up here?

5 (No verbal response.)

6 MR. HOCH: Anybody in the back?

7 (No verbal response.)

8 MR. HOCH: Anybody have any experiences with -- I
9 mean, any type of what behavior designed to manipulate
10 somebody else?

11 PROSPECTIVE JURORS: No.

12 PROSPECTIVE JUROR SALTZMAN: Just in my study for
13 my degree.

14 MR. HOCH: And, ma'am, you understand some people
15 can be manipulated?

16 PROSPECTIVE JUROR SALTZMAN: Yes.

17 MR. HOCH: And that's Mrs. Saltzman, right?

18 PROSPECTIVE JUROR SALTZMAN: Yes.

19 MR. HOCH: I have to do that to make sure we have
20 it all clear.

21 But along with that, children are easier to manipulate
22 than an adult. Would you agree?

23 PROSPECTIVE JUROR SALTZMAN: I'm sure.

24 MR. HOCH: Everybody agree with that?

25 PROSPECTIVE JURORS: Yes.

1 MR. HOCH: Everybody in the back agree with that?

2 PROSPECTIVE JURORS: (Nodding.)

3 MR. HOCH: Anybody else have any experiences with
4 any studies or work of that nature?

5 PROSPECTIVE JURORS: No.

6 MR. HOCH: Anybody in the back?

7 (No verbal response.)

8 MR. HOCH: Anybody heard about reinforcing
9 behavior?

10 Ms. Saltzman, have you heard about that?

11 PROSPECTIVE JUROR SALTZMAN: Well, like a reward.

12 MR. HOCH: Right. And if behavior is reinforced,
13 is it more likely to occur?

14 PROSPECTIVE JUROR SALTZMAN: Yes.

15 MR. HOCH: And children can be reinforced in their
16 behavior, correct?

17 PROSPECTIVE JUROR SALTZMAN: (Nodding.)

18 THE COURT: Including what they say?

19 PROSPECTIVE JUROR SALTZMAN: (Nodding.)

20 MR. HOCH: Everybody agree with that?

21 PROSPECTIVE JURORS: Yes.

22 MR. HOCH: Everybody in the back agree with that?

23 PROSPECTIVE JURORS: Yes.

24 MR. HOCH: Everybody agree that sometimes people's
25 stories change for a reason?

1 PROSPECTIVE JURORS: Yes.

2 MR. HOCH: Sometimes that reason is the stories
3 aren't necessarily correct or true. Everybody agree with
4 that?

5 PROSPECTIVE JURORS: Yes.

6 THE COURT: Everybody in the back agree with that?

7 PROSPECTIVE JURORS: (Nodding.)

8 MR. HOCH: Everybody understands that -- we've
9 talked about the burden of proof is beyond a reasonable
10 doubt, but one person's reasonable doubt may be different
11 than somebody else's. Everybody agree with that?

12 PROSPECTIVE JURORS: Yes.

13 MR. HOCH: Along with discussing things, also would
14 everybody agree that being on a jury leads to a conscious
15 moral decision that you have to make?

16 PROSPECTIVE JURORS: Yes.

17 MR. HOCH: And you wouldn't want anybody forcing
18 you to change your decision against your conscience, would
19 you?

20 PROSPECTIVE JURORS: No.

21 MR. HOCH: Everybody in the back feel the same way?

22 PROSPECTIVE JURORS: Yes.

23 MR. HOCH: And by the same token you shouldn't do
24 that to somebody else. Would you agree with that?

25 PROSPECTIVE JURORS: Yes.

1 MR. HOCH: Everybody agree with that?

2 PROSPECTIVE JURORS: Yes.

3 MR. HOCH: And everybody has heard about the
4 elements, agrees that when the State can't prove their case,
5 you must find somebody not guilty, correct?

6 PROSPECTIVE JURORS: Correct.

7 MR. HOCH: And everybody's seen the deputy come up
8 here. When somebody's in custody deputies bring them back
9 and forth.

10 Does anybody have a problem with that?

11 PROSPECTIVE JURORS: (Shaking heads.)

12 THE COURT: Anybody in the back?

13 PROSPECTIVE JURORS: (Shaking heads.)

14 MR. HOCH: The other thing, we all go back and
15 forth to the bench a bunch. Anybody have a problem with
16 that?

17 PROSPECTIVE JURORS: (Shaking heads.)

18 MR. HOCH: Sometimes it's to say, "Can we take a
19 break?" Sometimes it's to say, "It's cold in this place."

20 Everybody agrees it's cold in here, right?

21 PROSPECTIVE JURORS: Yes.

22 THE COURT: I can put everybody's mind to ease:
23 The air conditioning in this building is efficient but it's
24 not that efficient. It's either hot or it's cold. It's
25 hard to get something in between. I'm sorry.

1 MR. HOCH: Ms. Phillips?

2 PROSPECTIVE JUROR PHILLIPS: Yes.

3 MR. HOCH: You talked earlier about the grand kids
4 that you have and it being hard for you since it's an abuse
5 case, correct?

6 PROSPECTIVE JUROR PHILLIPS: Yes, sir.

7 MR. HOCH: Is yours going to be a decision that
8 because of the grand kids that it's going to be a decision
9 that you're going to be leaning towards the State or feeling
10 you should do something to convict or punish somebody?

11 PROSPECTIVE JUROR PHILLIPS: No. I -- I would base
12 my decision on the evidence. I have nothing against this
13 gentleman at all, whatsoever. I don't believe in punishing
14 somebody for something they didn't do.

15 MR. HOCH: Because it would be wrong like Ms. Moran
16 talked about to send somebody to prison --

17 PROSPECTIVE JUROR PHILLIPS: Yes.

18 MR. HOCH: -- for somebody to come back later and
19 admit that they lied?

20 PROSPECTIVE JUROR PHILLIPS: That's right.

21 MR. HOCH: Because you can't give somebody those
22 years back?

23 PROSPECTIVE JUROR PHILLIPS: That's right.

24 MR. HOCH: Everybody agrees you can't give those
25 years back?

1 PROSPECTIVE JUROR PHILLIPS: No, you can't.

2 MR. HOCH: And, ma'am, you understand the State has
3 the burden of proof?

4 PROSPECTIVE JUROR PHILLIPS: Absolutely, yes.

5 MR. HOCH: But by the same token, I -- it's hard to
6 prove a negative, right?

7 PROSPECTIVE JUROR PHILLIPS: Yes.

8 MR. HOCH: And you understand for that same reason
9 I don't have a burden to prove somebody innocent?

10 PROSPECTIVE JUROR PHILLIPS: Yes.

11 MR. HOCH: And you agree that's the way it should
12 be?

13 PROSPECTIVE JUROR PHILLIPS: Yes.

14 MR. HOCH: Everybody up here agree that that's the
15 way it should be?

16 PROSPECTIVE JURORS: Yes.

17 MR. HOCH: Everybody in the back agree that's the
18 way it should be?

19 PROSPECTIVE JURORS: Yes.

20 MR. HOCH: Anybody feel differently?

21 (No verbal response.)

22 MR. HOCH: I only have a couple more things.
23 Anybody sitting there saying, I'm glad the judge, the DA,
24 the defense lawyer up there now, didn't ask blank, whatever,
25 because I'd have to go and give an answer about that because

1 it could affect my decision one way or the other? Anybody
2 having those thoughts? There's some question that one of us
3 should have asked that we missed that somehow was going to
4 affect you in making a decision here?

5 (No verbal response.)

6 MR. HOCH: Anybody up front?

7 (No verbal response.)

8 MR. HOCH: Anybody in the back sitting there
9 thinking, Good thing he didn't ask such-and-such?

10 (No verbal response.)

11 MR. HOCH: Last thing: Would all of you if it was
12 you on trial for the same type of allegations, your brother,
13 your son, whoever, would you want 12 people just like you
14 deciding your fate?

15 PROSPECTIVE JURORS: (Nodding.)

16 MR. HOCH: Everybody up here feel that way?

17 PROSPECTIVE JURORS: (Nodding.)

18 MR. HOCH: Anybody feel differently? You wouldn't
19 want 12 people just like you for whatever reason?

20 (No verbal response.)

21 MR. HOCH: You would want 12 people just like you
22 to give a fair trial?

23 PROSPECTIVE JURORS: (Nodding.)

24 MR. HOCH: Everybody up here feel that way?

25 PROSPECTIVE JURORS: (Nodding.)

1 MR. HOCH: Everybody in the back feel that way?

2 PROSPECTIVE JURORS: (Nodding.)

3 MR. HOCH: Anybody feel differently?

4 (No verbal response.)

5 MR. HOCH: Does everybody understand just because
6 the State chooses to charge somebody does not mean they did
7 anything?

8 PROSPECTIVE JURORS: Right.

9 MR. HOCH: Everybody agree with that?

10 PROSPECTIVE JURORS: (Nodding.)

11 MR. HOCH: Thank you, ladies and gentlemen.

12 Judge, can we approach?

13 THE COURT: Certainly.

14 (The following bench conference occurred outside the
15 hearing of the prospective jurors and the Defendant:)

16 MR. HOCH: Pass for cause with the exception of the
17 one that was overruled earlier.

18 THE COURT: Very good.

19 (The bench conference concluded and the following
20 proceedings occurred in open court:)

21 THE COURT: All right. Counsel, you need to take a
22 few moments before we exercise our peremptory challenges?

23 MR. HOCH: Yes, sir.

24 MS. HIXON: (Nodding.)

25 (There was a short pause in proceedings after which the

1 following bench conference occurred:)

2 THE COURT: All right. Counsel ready to exercise
3 peremptory challenges?

4 MR. HOCH: Yes.

5 THE COURT: All right. If you'd join me sidebar,
6 please.

7 (The following sidebar conference was outside the
8 hearing of the prospective jurors and the Defendant:)

9 THE COURT: Okay. State may exercise its first
10 peremptory challenge, if you'll give me a name and the seat
11 number they're in presently.

12 MS. HIXON: No. 3, McPherson.

13 THE COURT: What was that?

14 MS. HIXON: No. 3, McPherson.

15 THE COURT: That will move Mrs. Price to seat
16 three.

17 All right. Defendant's first peremptory challenge.

18 MR. HOCH: Number 11, Ms. Matthews.

19 THE COURT: That will move Mrs. Drake -- I think
20 you also had her previously as Mrs. Postlethwaite, but it's
21 Postlethwaite-Drake, to seat 11.

22 State may exercise its second peremptory challenge.

23 MS. HIXON: No. 3, Price.

24 THE COURT: That will move Mrs. Wood to seat three.
25 The Defendant may exercise its second peremptory.

1 MR. HOCH: No. 6, Ms. Phillips.

2 THE COURT: That will move Mr. Tomlinson to seat
3 six.

4 State may exercise its third peremptory challenge.

5 MS. HIXON: No. 7, Jackson.

6 THE COURT: That will move Mrs. Jenkins to seat 7.
7 Defendant may exercise its third peremptory challenge.
8 Gosh, it is cold in here.

9 MR. HOCH: No. 4, Mr. Shaw.

10 THE COURT: That will move Mrs. Harris to four.
11 State's fifth peremptory challenge.

12 MS. HIXON: No. 8, Kessinger.

13 THE COURT: That will move Mr. Solie to seat eight,
14 Blaine Solie.

15 Defendant may exercise his fourth peremptory challenge.

16 MR. HOCH: No. 2, Ms. Smith, Patricia Smith.

17 THE COURT: That will move Mrs. McLemore to seat
18 two, Jessicah.

19 State may exercise its fifth and final peremptory
20 challenge.

21 MS. HIXON: No. 2, McLemore.

22 THE COURT: That will move Mrs. Taliaferro to seat
23 two.

24 Defendant may exercise its fifth -- his fifth and final
25 peremptory challenge.

1 MR. HOCH: If I strike one I'm moving Kincannon in
2 there?

3 THE COURT: I'm sorry?

4 MR. HOCH: If I strike one that moves Kincannon?

5 THE COURT: Next one up -- next one up is
6 Ms. Kincannon.

7 MR. HOCH: Judge, notwithstanding my challenge for
8 cause which -- I'd request an extra challenge because of
9 that as a matter -- as a strategic matter I have to waive
10 based on Ms. Kincannon.

11 THE COURT: You don't get more than five.

12 MR. HOCH: I know, but just for the record.

13 THE COURT: For the record, that's whatever you
14 want to do.

15 MR. HOCH: I have to waive.

16 THE COURT: All right. What we have is we have
17 Ms. Saltzman in one. We have Mrs. Taliaferro in two. We
18 have Mrs. Wood in three. We have Mrs. Harris in four. We
19 have Mrs. Wade in five. We have Mr. Tomlinson in six. We
20 have Mrs. Jenkins in -- in 7 -- what's her first name,
21 Jenkins?

22 CLERK CUNNINGHAM: Janada.

23 THE COURT: J-a-n-a-d-a.

24 We have Mr. Solie in eight. We have Mrs. Thomas in
25 nine. We have Mrs. Simpson in 10. We have Mrs. Drake --

1 Postlethwaite-Drake in 11. We have Mr. Murrah in 12.

2 Okay. I will seat two alternates. You've got
3 Kincannon, Keele, McAdams, Upchurch, Remley, McDonald,
4 Nichols and True coming up.

5 MR. HOCH: How many challenges do we get?

6 THE COURT: You get one -- each party gets one
7 challenge for each alternate. So, if the State doesn't
8 exercise and you do then the next person is seated.

9 MR. HOCH: Okay.

10 THE COURT: Gosh, it's colder down here than it is
11 up there.

12 MS. HIXON: Kincannon.

13 MR. HOCH: Jackson.

14 MS. HIXON: Kincannon should be the first.

15 THE COURT: All right. We'll do it up there.

16 MS. HIXON: Okay.

17 (The sidebar conference concluded and the following
18 proceedings occurred in open court:)

19 MR. HOCH: Judge, could we approach a second?

20 THE COURT: Yes.

21 (The following bench conference occurred outside the
22 hearing of the prospective jurors and the Defendant:)

23 MR. HOCH: Judge, the juror on the very end on the
24 front row in the gray sweatshirt -- I left my sheet back
25 there -- I think he would be number 12 --

1 THE COURT: Mr. Murrah.

2 MR. HOCH: -- looks like he's sleepy and according
3 to Mr. Dyer he was sleeping through part of this, but right
4 now it looks like he's totally out.

5 THE COURT: I'm sure we will --

6 MR. HOCH: But for that reason we would request if
7 he can't stay awake to remove him for cause. I don't know
8 if he's got some issue about work or he's needing to sleep
9 or what.

10 THE COURT: What says the State?

11 MS. HIXON: He passed him for cause and observed
12 his behavior during the entire jury selection process.

13 MR. HOCH: I know, Judge, but he's nodding out now
14 so --

15 THE COURT: Well, we'll deal with it as we go
16 along. I'll visit with him right now.

17 MR. HOCH: Okay.

18 (The bench conference concluded and the following
19 proceedings occurred in open court:)

20 THE COURT: All right. Mr. Murrah, may I see you
21 just a moment, please.

22 JUROR MURRAH: (Nodding.)

23 (The following bench conference occurred with Juror
24 Murrah outside the hearing of the jury panel:)

25 THE COURT: Have you been nodding off some?

1 JUROR MURRAH: A little bit. I'll -- I'll keep up.

2 THE COURT: I'm sorry?

3 JUROR MURRAH: I did a little bit, but I'll keep
4 up.

5 THE COURT: Okay. And were you awake last night?

6 JUROR MURRAH: A little bit, yes.

7 THE COURT: If you were to continue, would you get
8 enough sleep for your -- do you normally work nights?

9 JUROR MURRAH: Just late, early mornings. 13,
10 14-hour days.

11 THE COURT: Okay. If you were to continue would
12 you get enough sleep -- do you work normally nights or days?

13 JUROR MURRAH: Days.

14 THE COURT: Okay. If you make jury duty you
15 wouldn't be going to work, right?

16 JUROR MURRAH: Right.

17 THE COURT: Okay. Go ahead and have a seat.

18 (The bench conference with Juror Murrah concluded.)

19 THE COURT: Counsel -- may I see counsel?

20 (The following bench conference occurred outside the
21 hearing of the jury and the Defendant:)

22 MR. HOCH: He indicates that he works 14-hour days.
23 He works -- he's indicated to me that he was nodding off and
24 I asked him if he understands -- if you're not -- if you're
25 here for jury duty he's not going to expect you to work

1 and -- if -- are you going to get plenty of rest, stay with
2 us, and he assured me he would.

3 MR. HOCH: Yes.

4 MS. HIXON: (Nodding.)

5 THE COURT: All right. Ladies and gentlemen, as
6 I've indicated earlier, at a point in the trial after we
7 conclude jury selection process, I told you that counsel
8 each have a right to excuse jurors. They each have an
9 opportunity to excuse five jurors. They don't have to give
10 me a reason. They don't have to have a reason. That's what
11 we were doing when I asked counsel to join me at sidebar.

12 All right. I'm going to excuse the following jurors.
13 These jurors that are being excused, I'm going to ask you
14 for now -- I'm going ask you to return Wednesday. I feel
15 fairly confident that before I get to Wednesday we'll have
16 some additional instructions for you so make sure you call
17 Tuesday evening.

18 All right. I'm going to -- I'm going to revise that.
19 I'm going to give you the rest of the week off. Those
20 jurors that will be excused when we finish this today will
21 be excused and not asked to come back until Monday.

22 All right. Mrs. Smith, you've been excused. You may
23 step down. You're free to go.

24 Ms. McPherson, you're excused and free to go.

25 Mr. Shaw, you've been excused, sir, and you are free to

1 go.

2 Ms. Phillips, you've been excused and are free to go.
3 Thank you for being here. We'll see you Monday. Call in
4 Sunday evening.

5 PROSPECTIVE JUROR PHILLIPS: At 9:00?

6 THE COURT: Or after five o'clock Friday.

7 PROSPECTIVE JUROR PHILLIPS: Okay. Call at five
8 o'clock Friday?

9 THE COURT: There will be further instructions on
10 the answering machine by 5:00 p.m. Friday.

11 PROSPECTIVE JUROR PHILLIPS: Okay. Thank you.

12 THE COURT: Mrs. Jackson, you've been excused. We
13 appreciate you being here. You're free to go.

14 PROSPECTIVE JUROR JACKSON: Thank you, sir.

15 THE COURT: Mr. Kessinger, you've been excused and
16 you're free to go. Thank you for being here.

17 Ms. Matthews, you've been excused and you're free to go.
18 Thank you for being here. We'll ask you to return on
19 Monday.

20 PROSPECTIVE JUROR MATTHEWS: Okay.

21 THE COURT: Thank you.

22 Mrs. Price, you've been excused and are free to go.

23 Ms. Drake, I'm going to ask you to step up and have a
24 seat in the jury box, the very first row, the first chair
25 that you're going to come to right straight in front of you.

1 There is a gate in front of you. Have a seat right there in
2 front of that chair.

3 Mrs. Wood, I'm going to ask you to have a seat in the
4 jury box, please. Top row, second vacant chair from the
5 left, would be third chair from -- I'm sorry -- second chair
6 from your right.

7 JUROR WOOD: This one right here (indicating)?

8 THE COURT: Yes, ma'am. One, two, three. Counting
9 up -- Ms. Saltzman, that's one; next open chair is two and
10 then third one is yours. Right there (indicating). There
11 we go. It's like playing musical chairs, isn't it?

12 Mr. Tomlinson, I'm going to ask you to step up and have
13 a seat in the jury box. We'll ask you to have a seat in the
14 top row, next to the last chair from the left. There will
15 be a chair to your right that will be left vacant.

16 Mrs. Jenkins, I'm going ask you to step up and have a
17 seat in the jury box, first chair, first row. Right here in
18 the corner (indicating).

19 Mrs. Harris, I'm going to ask you to have a seat in the
20 jury box, please, ma'am. The top row, fourth chair from the
21 right.

22 Mr. Solie, I'm going to ask you to step up and have a
23 seat in the jury box, first row, second chair from the
24 right, sir.

25 Mrs. McLemore, you've been excused and are free to go.

1 Thank you for being here. I ask you to come back Monday.

2 Mrs. Taliaferro, I'm going to ask you to have a seat in
3 the jury box, please, the one remaining chair in the top row
4 on the right, please.

5 JUROR TALIAFERRO: (Complies.)

6 THE COURT: All right. Ladies and gentlemen, the
7 12 of you will be the jury that will be sworn to try this
8 case. The law requires that you take an oath of office as a
9 juror, so I'm going to ask the 12 of you to please stand,
10 raise your right hand and accept this oath from the Clerk.

11 CLERK CUNNINGHAM: Do you and each of you solemnly
12 swear to well and truly try the issues about to be submitted
13 to you on the case on trial and a true and correct verdict
14 render according to the law and evidence, so help you God?

15 JURORS: I do.

16 THE COURT: Thank you, ladies and gentlemen.

17 Ladies and gentlemen, I am going to seat two alternates.
18 The next juror up is Mrs. Kincannon. I'm going to ask the
19 State, does the State wish to exercise a peremptory?

20 MS. HIXON: No, Your Honor.

21 THE COURT: Does the Defendant?

22 MR. HOCH: Yes, sir, Your Honor.

23 THE COURT: Thank you, Ms. Kincannon. You're
24 excused.

25 PROSPECTIVE JUROR KINCANNON: I'm excused?

1 THE COURT: You're excused. I'm going to ask you
2 to come back Monday.

3 Ms. Keele, I'm going to ask you to have a seat in the
4 jury box, the one remaining red chair up at the top, please.

5 JUROR KEELE: (Complies.)

6 THE COURT: All right. Alternate number two. Next
7 individual up is Mrs. McAdams. I'll ask, Does the State
8 wish to exercise a peremptory challenge?

9 MS. HIXON: Yes, Your Honor.

10 THE COURT: All right. Ms. McAdams, you're free to
11 go. I'll ask you to come back Monday.

12 Mr. Upchurch -- does the Defendant wish to exercise his
13 peremptory challenge?

14 MR. HOCH: Judge, if I can have one second?

15 THE COURT: Certainly.

16 MR. HOCH: Yes, sir, we do.

17 THE COURT: Thank you, Mr. Upchurch. You've been
18 excused and are free to go.

19 Mr. Remley, I'm going to ask you to step up and have a
20 seat in the one remaining seat we have in the jury box, that
21 is the second alternate's chair.

22 THE COURT: All right. I'm going to ask Ms. Keele
23 and Mr. Remley to please stand, raise your right hand and
24 accept your oath as alternate jurors, please.

25 CLERK CUNNINGHAM: Do you solemnly swear that you

1 will well and truly try all issues finally submitted to you
2 in the case at bar and a true verdict render according to
3 the law and the evidence, so help you God?

4 PROSPECTIVE JUROR REMLEY: I do.

5 PROSPECTIVE JUROR KEELE: I do.

6 THE COURT: All right. Thank you.

7 Ladies and gentlemen, while Mrs. Ketchum passes out and
8 distributes among you juror buttons I'll take this
9 opportunity to thank all the other remaining jurors, whether
10 you've been called tentatively or not. I know it's been a
11 long afternoon and some of you are somewhat frustrated, and
12 I can understand your frustration. It's a tedious process,
13 but it would not work without your participation, and we
14 certainly appreciate it.

15 I am going to excuse you until Monday. That's a week
16 from today. You do not have to come back until Monday and
17 be here at 9:00 a.m. If there's a change in plans, those
18 plans will be provided to you if you'll call -- with any new
19 messages. It will be after 5:00 p.m. this Friday. So with
20 our thanks and appreciation, you're free to go.

21 (Jury panel exited the courtroom.)

22 THE COURT: Let me see counsel.

23 (The following bench conference occurred outside the
24 hearing of the jury and Defendant:)

25 THE COURT: Let the record reflect that the

1 Defendant had asked to excuse juror being seated in seat
2 number 11, Katie Matthews, for cause. The Court overruled
3 that.

4 Court notes that the Defendant only used four of its
5 five peremptory challenges without expressing an objection
6 of cause to any other juror other than Mr. Murrah which he
7 had previously passed for cause. So having -- even if
8 Mr. Hoch would -- Court erred in its denial of his challenge
9 for cause, he still had an extra challenge for cause which
10 he did not use.

11 MS. HIXON: Your Honor, the State would still
12 request that we give openings in the morning and I think it
13 would be -- I would prefer that in our presentation of the
14 case.

15 MR. HOCH: I don't care one way or the other.

16 THE COURT: I don't want to waste daylight.

17 MS. HIXON: I know.

18 MR. HOCH: That may be a --

19 THE COURT: We can do opening.

20 MR. HOCH: I don't care one way or the other when
21 we make them, Judge, but I do have to request the Court to
22 contact the jail because I need to get in tonight.

23 THE COURT: I'll make sure the sheriff is aware.

24 MR. HOCH: Okay. I appreciate it.

25 THE COURT: It's not going to take 10 or 15 minutes

1 to read those jury instructions?

2 MS. HIXON: I think they're tired and ready to go
3 home.

4 MR. HOCH: I don't mind reading the instructions.
5 If they want to put off the opening, I figure we might as
6 well read the instructions.

7 MS. HIXON: That's what we would ask.

8 MR. HOCH: I don't care when we do opening.

9 MS. HIXON: Thank you.

10 THE COURT: Ladies and gentlemen, it's been a long
11 day. It's approaching 4:00. I think what we'll do, we'll
12 take up a housekeeping issue which the Court will read to
13 you its initial jury instruction and then we'll take the
14 evening recess at that time and that will be a fairly early
15 recess for you. I know it's been tiring. You're tired of
16 listening to us, tired of listening to a lot of things
17 repetitively and I think it will move much quicker at this
18 particular point in time.

19 Ladies and gentlemen, you've been selected and sworn as
20 the jury to try the case of the State of Oklahoma against
21 Charles Allan Dyer. The Defendant is charged with the crime
22 of child sexual abuse by an Information filed by the State.
23 The Information in this case is the formal method of
24 accusing the Defendant of a crime. The Information is not
25 evidence and the law is you should not allow yourselves to

1 be influenced against the Defendant by reason of the filing
2 of the Information.

3 The Defendant has pled not guilty to this charge. A
4 plea of not guilty puts in issue each element of the crime
5 with which the Defendant is charged. A plea of not guilty
6 requires the State to prove each element of the crime beyond
7 a reasonable doubt.

8 The Defendant is presumed innocent of the crime and that
9 presumption continues unless after consideration of all of
10 the evidence you are convinced of his guilt beyond a
11 reasonable doubt. The State has the burden of presenting
12 the evidence that establishes guilt beyond a reasonable
13 doubt.

14 The Defendant must be found not guilty unless the State
15 produces evidence which convinces you beyond a reasonable
16 doubt of each element of the crime.

17 Evidence is the testimony from the witnesses under oath,
18 agreements as to fact made by the attorneys and the exhibits
19 admitted into evidence during the trial. It is your
20 responsibility as jurors to determine the facts from the
21 evidence, to follow the law as stated in the instructions
22 from the judge, and to reach a verdict of either not guilty
23 or guilty based upon the evidence. It is your
24 responsibility as jurors to determine the credibility of
25 each of the witnesses and the weight to be given the

1 testimony of the witness.

2 In order to make this determination you may properly
3 consider the overall reaction of the witness while
4 testifying, his or her frankness or lack of frankness, his
5 or her interest and bias, if any. The means and opportunity
6 the witness had to know the matters about which the witness
7 is testifying and the reasonableness or unreasonableness of
8 his or her testimony in light of all of the evidence in the
9 case.

10 You are not required to believe the testimony of any
11 witness simply because he or she is under oath. You may
12 believe or disbelieve all or part of the testimony of any
13 witness. It is your duty to determine what testimony is
14 worthy of belief and what testimony is not worthy of belief.
15 It is my responsibility as the judge in the case to ensure
16 that the evidence is presented according to the law, to
17 instruct you as to the law, and to rule on objections raised
18 by the attorneys. No statement or ruling by me is intended
19 to indicate an opinion concerning the facts or the evidence.

20 It is the responsibility of the attorneys to present the
21 evidence, to examine and cross-examine witnesses and to
22 argue the evidence. No statement or argument of the
23 attorneys is evidence.

24 From time to time during the trial the attorneys may
25 raise objections. When an objection is made you should not

1 speculate on the reason of why the objection was made. When
2 an objection is approved or sustained by me you should not
3 speculate on what might have occurred or what might have
4 been said had the objection not been sustained. Throughout
5 the trial we must ask that you remain alert and attentive.
6 Do not form or express an opinion about the case until it is
7 submitted to you for your decision.

8 Do not discuss the case among yourselves until that
9 time. Do not discuss the case with anyone else or permit
10 anyone else to discuss the case in your presence. Do not
11 talk to the attorneys, the Defendant or the witnesses.

12 If anyone should attempt to discuss this case with you,
13 report that incident to me, my bailiff or other court staff
14 members, and we will deal with it appropriately. Do not
15 read newspaper reports, accounts about this trial or glean
16 information from the internet. Do not watch any television
17 broadcasts that may reference or may report this particular
18 case. Most importantly, again, do not obtain any
19 information from the internet or any other source about this
20 case or the issues, parties or the witnesses involved in
21 this case.

22 As I say, do not watch or listen to television or any
23 radio reports about it. Do not attempt to visit a scene or
24 the -- or investigate this case on your own.

25 Now, most importantly, regarding the use of cell phones,

1 computers or any other communication or electronic device,
2 you are instructed as follows: In the courtroom use of cell
3 phones, computers or other communication or electronic
4 devices in the courtroom at any time for any purpose is
5 strictly prohibited. You may not view or send any texts,
6 email or other similar communication, nor take photographs,
7 make audio or video recordings or play games on your
8 electronic device while in the courtroom.

9 The electronic communication device should either be
10 turned off or placed in a totally silent -- not vibrate --
11 but totally silent mode while you're in the courtroom.

12 During recesses and breaks you may use your electronic
13 device in their normal fashion and normal manner outside the
14 courtroom and outside the courthouse during your recesses or
15 breaks from activities in the courtroom. It might be -- you
16 can use that to let family members know that you'll be home
17 at an anticipated time or whatever.

18 I will tell you that at the close of the evidence, when
19 you've retired to the jury room to deliberate this case, the
20 law prohibits you from taking any electronic communication
21 device with you into the jury room at that time. You'll be
22 required to leave your electronic communication device
23 either -- with the bailiff for safekeeping until you're
24 released from deliberations. If you don't want to do that I
25 will give you a -- a time frame when I anticipate the case

1 will be submitted to you in a break prior to that time so
2 that if you wish you may leave them in your automobiles for
3 safekeeping.

4 You may not utilize an electronic device to research the
5 law or any fact connected or matter connected with the case.
6 You may not send or publish for viewing by a third party
7 your experiences or observations or any other matter
8 regarding the trial while serving as a juror. You are
9 permitted, however, to communicate matters regarding
10 scheduling or when you expect to be home, or similar matters
11 to family members so long as you are outside the courtroom.

12 You may not electronically communicate with fellow
13 jurors during the trial or anyone else associated with the
14 trial.

15 You'll be permitted to take notes during the
16 presentation of the evidence in this case and in this regard
17 I will admonish you and regard you of this: One, note
18 taking is permitted, but it's not required; two, take notes
19 sparingly. Do not try to write down all of the testimony.
20 Your notes will only be used for the purpose of refreshing
21 your memories.

22 (Juror's cell phone went off.)

23 THE COURT: That's okay.

24 MR. HARRIS: I thought it was off.

25 THE COURT: I do, too. I sometimes think that and

1 my wife sometimes, I think, just calls me knowing I'm in
2 court thinking it might work.

3 Okay. Back to note taking, your notes may only be used
4 for purposes of refreshing your memory. They may be helpful
5 when dealing with measurements, times, distances, identities
6 and relationships. Three, be brief in your note taking. It
7 is for you to determine the credibility of a witness. To do
8 so you must observe them. Do not let note-taking distract
9 you from this duty. Your notes are for your own private use
10 only. Do not share your notes with fellow jurors during the
11 presentation of the evidence in this case.

12 You may discuss the contents of your notes with fellow
13 jurors only after all sides have rested and you have begun
14 your deliberations. I will tell you that when we come back
15 into the courtroom in the morning, you will find blue
16 notebooks in your chairs. There will be notebook paper
17 there and there will be pencils in there.

18 If you take notes I'm going to ask you to use that
19 material provided for you, and I will tell you that when we
20 take each recess make sure your notes are in the three-ring
21 binder, close them and leave them in your chair in the
22 courtroom; they'll be secure, and they'll also be secured in
23 the courtroom during any overnight recess. No one will look
24 at them and you'll find them back in your chairs when you
25 return back to the jury box in the courtroom.

1 I will tell you that any notes that you take at the
2 conclusion of the trial after you've completed your
3 deliberations they'll be destroyed. No one will have access
4 to them.

5 We're going to take an evening recess and I will tell
6 you at this particular point in time that when we first come
7 back in the morning the order of this trial will be that the
8 attorney for the State will read the Information in this
9 case and the plea of the Defendant and will give an opening
10 statement. The attorney for the Defendant may give an
11 opening statement after the opening statement of the State's
12 attorney or they may elect to reserve, or refrain, or delay
13 their opening statement until the conclusion of the evidence
14 by the State. In this regard I will remind you that opening
15 statements are not evidence but serve as guides so that you
16 may better understand and evaluate the evidence when it is
17 presented.

18 Following the opening statements first thing in the
19 morning witnesses will be called to testify. Witnesses are
20 sworn and then examined and cross-examined by the attorneys.
21 Exhibits may also be introduced into evidence.

22 After the evidence is completed I will instruct you as
23 to the law applicable to the case. The attorneys will then
24 be permitted to make closing arguments. Closing arguments
25 are not evidence and are permitted for purpose of persuasion

1 only. When closing arguments have completed the case will
2 be submitted to you for decision. You will then retire and
3 consider your verdict.

4 All right. Ladies and gentlemen, before we take a break
5 you've got juror buttons. I'm going to ask you to take that
6 juror button and fix it to your clothing so it's prominently
7 displayed whenever you're in the courthouse. The reason for
8 that is that it identifies you as a juror, qualified, sworn
9 and acting. That way those of us that are familiar with all
10 the rules will not make any comments or make any statements
11 or say anything in your presence that we shouldn't.

12 I will also tell you that when you leave this evening
13 for the evening recess, wear the juror button home. When
14 you leave home to come back to the courthouse tomorrow, put
15 it on. Bring it here. Bring it to the courthouse and wear
16 it.

17 Now, I will tell you that the layout of this particular
18 floor -- this is the -- this is the top floor. All of the
19 courtrooms are located on this floor, along with the Court
20 Clerk's office. This end of the courthouse where I'm seated
21 is the south end of the courthouse (indicating). So, if
22 you're not oriented once you got in here -- there are are no
23 windows -- you're seated on the east side of the courtroom.
24 Across is the west side.

25 Out in the lobby when you came in the courtroom you

1 notice there are three sets of doors into this courtroom and
2 you can see those three sets of doors from the lobby.

3 Further to the west of the third west door in this courtroom
4 is another door. It leads to a corridor that comes down to
5 the south end of that hallway.

6 At the far south end of that hallway in that corridor is
7 the jury room. It sits in the southwest corner of this
8 floor and it's a large room and there is a table with more
9 than enough chairs for you. There are two rest room
10 facilities in that facility.

11 I'm going to ask that when you are on breaks and when
12 you come to the courthouse and congregate and before you
13 come into the courtroom, I'll ask you to use those rest room
14 facilities and do not use the other public rest room
15 facilities on this floor or any other floor and the reason
16 is that will minimize the opportunity for you to have
17 contact with persons who are not interested in this case and
18 it's important that you not have any contact with anyone or
19 opportunity for anyone to visit with you about the case.
20 You know, when parties to a case see someone talking to a
21 juror they get nervous so that causes questions to be asked
22 and that creates the possibility of difficulty so I'm trying
23 to minimize those particular situations. So when you come
24 to the courthouse tomorrow morning, I'm going to ask you to
25 return and be in the jury room by 9:00.

1 So, if you get here -- I'll tell you that the doors to
2 this building open at 8:30. It's on an electronic time
3 system so you can't get in before then, but if you come
4 in -- if you want to come as early as 8:30 you're welcome
5 to -- but when you enter the courthouse I'm going to ask you
6 to come down -- from the lobby of this floor come down that
7 corridor on the -- on the west side of entry from the lobby
8 and come all the way down and go into the jury room and use
9 those rest room facilities in there. There is a coffee
10 machine in there and we'll have it ready for you to have
11 coffee in there in the morning before we begin.

12 Now, it's gotten cooler in here. More so than it was
13 this morning. That's just the nature of the beast and the
14 air conditioners in this building. It's either cold or it's
15 hot. It can just as easily be warm tomorrow. It won't be
16 uncomfortably warm, but it could very well be warm. So,
17 ladies, you might want to bring sweaters, but keep in mind
18 too, you know, bring -- bring clothing that you feel
19 comfortable layering so if it does get warm you can make
20 that particular adjustment.

21 All right. Anything else from counsel before we take
22 recess?

23 MR. HOCH: Not at this time.

24 MS. HIXON: No, Your Honor.

25 THE COURT: All right. I will remind you every

1 time we take a recess: Do not discuss the case, do not
2 visit with anyone. Do not visit with anyone else about the
3 case. Do not allow anyone else to visit with you. Do not
4 look at any newspaper or other media reports of this trial.

5 Now, obviously, you're going to go home this evening or
6 you're going to see someone when you leave the courthouse.
7 More than likely they're going to know that you've been
8 called for jury duty, and you're going to show up and, Oh,
9 you've got a juror button on. They're going to go, Oh, boy.
10 What's going on at the courthouse? What do you hear? Just
11 explain to them that you cannot talk to them about it yet.
12 You just can't say anything. There will be a point when
13 this case is over that you're welcome to talk to anybody you
14 want to about anything you want to about the case but not
15 until then, all right?

16 All right. If you call the jury call-in number tonight
17 and it tells the other jurors not to be here until Monday,
18 that's good for them, but I need to see all of you -- all 14
19 of you -- back in here in the morning. So disregard any
20 instructions for anyone to be here another day. I need to
21 see all of you back in the jury room by 9:00.

22 Get a good night's sleep. As I say, you'll find jury
23 buttons (sic) when you come into the -- in the jury box.
24 We'll ask you to take the same seats that you are in
25 relation to each other.

1 All right. Any questions?

2 (No verbal response.)

3 THE COURT: If you want you can follow Mrs. -- my
4 bailiff out of the courtroom. She will show you where the
5 jury room is, and you can actually take the corridor so you
6 know how to get in and out of here.

7 All right. With that we'll see you in the jury room at
8 9:00 in the morning. Mrs. Ketchum will show you where the
9 jury room is, show you the rest room facilities, and show
10 you how to get out.

11 (The jury exited the courtroom at this point.)

12 THE COURT: Sheriff, Mr. Hoch wanted me to remind
13 you that Mr. Hoch may want access to Mr. Dyer this evening
14 in the jail.

15 SHERIFF: Okay. I'll see to that.

16 THE COURT: All right. Anything else?

17 MS. HIXON: Your Honor, just the State would invoke
18 the rule of sequestration.

19 THE COURT: All right. The record will reflect
20 that the State has invoked the rule of sequestration. If
21 there are witnesses present who may testify in this matter
22 you may not be present in the courtroom during the testimony
23 of other witnesses, nor may you discuss what you anticipate
24 your testimony to be with witnesses who have already
25 testified or who haven't testified. I'll ask counsel to

1 remind your witnesses of the admonition, as well.

2 MR. HOCH: Yes, Your Honor.

3 THE COURT: Anything else?

4 MR. HOCH: No, Your Honor.

5 MS. HIXON: No.

6 THE COURT: All right. We'll -- we'll stand in
7 recess until 9:00 a.m. You might wait until jurors are all
8 cleared. I don't know whether or not they're all cleared.

9 SHERIFF: (Nodding.)

10 THE COURT: All right. Anything else?

11 (No verbal response.)

12 THE COURT: All right. We'll stand in recess then.

13 (Proceedings recessed for the evening.)

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

STATE OF OKLAHOMA)
) SS:
COUNTY OF STEPHENS)

I, SUSAN L. GRIGGS, CSR, RPR, Official Court Reporter within and for the State of Oklahoma, do hereby certify that on the 16th day of April, 2012, before the HONORABLE JOSEPH H. ENOS, in the District Court of Stephens County, State of Oklahoma, I reported in machine shorthand the proceedings had and the evidence given, and the above and foregoing is a full, true, correct and complete transcript of the proceedings had and the testimony given, together with the objections of counsel and the rulings of the Court thereto, taken at said time and place.

WITNESS my hand and seal this ____ day of _____, 2012.

SUSAN L. GRIGGS, CSR, RPR