

R E P O R T E R ' S   R E C O R D  
VOLUME 5 OF 53

Trial Court Cause No. 380-80047-01

THE STATE OF TEXAS                   \*           IN THE 380TH DISTRICT COURT

V.   \*

IVAN ABNER CANTU                   \*           OF COLLIN COUNTY, TEXAS

REPORTER'S RECORD - VOLUME 5  
PRETRIAL HEARING - JUROR EXCUSES  
CAPITAL MURDER JURY TRIAL

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On the 17th day of August, 2001, the Juror Excuses came on to be heard outside the presence of a jury, in the above-entitled and -numbered cause; and the following proceedings were had before the Honorable Charles F. Sandoval, Judge Presiding, held in McKinney, Collin County, Texas:

Proceedings reported by Computerized Stenotype Machine; Reporter's Record produced by Computer-Assisted Transcription.

LISA M. RENFRO, Texas CSR #4534  
Official Court Reporter - 380th Judicial District Court  
210 S. McDonald Street, McKinney, Texas 75069  
(972) 548-4661

2001 AUG 17 10:19

CLERK OF DISTRICT COURT  
COLLIN COUNTY, TEXAS  
BY *[Signature]* DEPUTY

APPEARANCES

1  
 2 ATTORNEYS FOR THE STATE OF TEXAS  
 3 MR. BILL SCHULTZ  
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 4 MS. GAIL T. FALCO  
 SBOT NO. 00787450  
 5 MS. JAMI LOWRY  
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 McKinney, Texas 75069  
 9 Telephone: (972) 548-4323  
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 11 ATTORNEYS FOR THE DEFENDANT  
 12 MR. MATTHEW GOELLER  
 SBOT NO. 08059260  
 13 MR. DON N. HIGH  
 SBOT NO. 09605050  
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 15 GRUBBS, HIGH, GOELLER & ASSOCIATES  
 400 Chisholm Place, Suite 400  
 16 Plano, Texas 75075  
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PROCEEDINGS

1  
 2 (Open court, jury not present.)  
 3 THE COURT: 380-80047; State of Texas versus  
 4 Ivan Abner Cantu, the Defendant and attorney for the Defendant  
 5 are present. The attorneys for the State are present, and  
 6 this is the Friday before trial. So, we've got some word from  
 7 the clerk that there are some people who would like to present  
 8 excuses for not appearing on Tuesday -- this coming Tuesday,  
 9 the 21st, and there are nine people on this list, but three  
 10 apparently have failed to appear this morning. So, if they  
 11 have any excuses they're going to have make them on Tuesday.  
 12 But at any rate, both sides ready to call these people and see  
 13 what excuses they have?  
 14 MS. FALCO: Yes, sir.  
 15 MR. GOELLER: Yes, sir.  
 16 THE COURT: All right. Let's start at the top  
 17 of the list, and both sides have lists as I understand it.  
 18 The first one that's present, I understand, is Franklin  
 19 Ferrell. Do you want to ask Mr. Ferrell to come on up?  
 20 MR. SCHULTZ: Do you want us at the bench,  
 21 Judge?  
 22 THE COURT: Yes. That might be a good idea.  
 23 And for the record, Franklin Ferrell is Juror  
 24 Number 16 on the list.  
 25 Yes, sir. Are you Franklin Ferrell?

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PROSPECTIVE JUROR: I am.

1  
 2 THE COURT: Come on up to the bench, please.  
 3 In fact, I better swear you in.  
 4 (Prospective juror sworn.)  
 5 THE COURT: You're Franklin Ferrell; is that  
 6 correct?  
 7 PROSPECTIVE JUROR: Yes, sir.  
 8 THE COURT: And I understand that you might  
 9 like to be excused from jury duty; is that correct?  
 10 PROSPECTIVE JUROR: Yes, sir, I -- I would like  
 11 to be, and the reason is that I planned a vacation. I'm  
 12 taking my newborn son back to Huntington, West Virginia for  
 13 his baby dedication next Wednesday.  
 14 THE COURT: What's a baby dedication?  
 15 PROSPECTIVE JUROR: That's taking him to the  
 16 church, give him over -- turn him over to God. Kind of swear  
 17 him into God's service.  
 18 THE COURT: What church is it?  
 19 PROSPECTIVE JUROR: It's Christ Temple Church.  
 20 I have a letter from the church, also, Your Honor.  
 21 THE COURT: Let me ask the attorneys if they  
 22 would like to ask Mr. Ferrell any questions.  
 23 MS. FALCO: We have no questions, Your Honor.  
 24 THE COURT: Do you have any questions?  
 25 MR. GOELLER: Just very briefly.

## DIRECT QUESTIONS

1  
2 BY MR. GOELLER:  
3 Q. My name is Matthew Goeller, Mr. Ferrell. When you  
4 were talking to the judge, I couldn't quite hear. We're not  
5 miked in here with microphones. You're going to take your son  
6 to West Virginia?  
7 A. Yes, sir.  
8 Q. Okay. And when do you leave?  
9 A. We were supposed to leave last night. We don't have  
10 money to fly. We're just driving back.  
11 Q. Okay. When does the ceremony actually start?  
12 A. It's Wednesday. They dedicate babies on the  
13 Wednesday service.  
14 Q. Okay. I guess it's pretty important to you that you  
15 go?  
16 A. Yes. I need to be there to -- as part of the  
17 service.  
18 Q. Okay. If you weren't able to go, how would that  
19 affect you?  
20 A. Well, that would cause postponing -- right now my  
21 wife has -- she has extended her maternity leave, and she's on  
22 the no-pay part of her maternity part of leave right now, and  
23 last week and this week were no-pay weeks for her. And the  
24 reason that we've had to delay this trip is because he had  
25 tumors on his renal glands and had to have surgery, so we've

1 been having to deal with that.  
2 Now he's healthy, he's fine, and there's nothing  
3 wrong. We had to delay it for that reason, and I guess it  
4 would be the financial burden partially, and we've had family  
5 members that are planning that live in Newport, Virginia, and  
6 they scheduled time off to be in Huntington for the ceremony,  
7 also.  
8 Q. Okay. What religious -- religion?  
9 A. It's full gospel.  
10 MR. GOELLER: I don't have any other  
11 questions.  
12 THE COURT: I'm assuming this is not a baptism,  
13 right?  
14 PROSPECTIVE JUROR: No, sir. It's more of a  
15 Protestant ceremony, like a Catholic baptism. It's where we  
16 turn the child over to God for God's service.  
17 THE COURT: It's kind of like a baptism?  
18 PROSPECTIVE JUROR: Yes, sir. Yes, Your Honor.  
19 THE COURT: But I'm sure very different.  
20 PROSPECTIVE JUROR: It's more different. We  
21 pray for the child and pray that God will protect him. And  
22 say, well, the child is God's now. We turn him over to God's  
23 service, and the parents are there to swear on oath that  
24 they'll raise him up in God's service, and they're really  
25 guardians over him now.

1 THE COURT: All right. Is there anything else  
2 from either side?  
3 MS. FALCO: Not from the State, Your Honor.  
4 MR. GOELLER: No, Your Honor.  
5 THE COURT: Do you want me to have Mr. Ferrell  
6 wait right outside here?  
7 MR. GOELLER: That would be fine, Judge.  
8 THE COURT: Sir, why don't you go with the  
9 bailiff. Wait right outside that door, and I'll call you back  
10 in in a moment.  
11 MR. GOELLER: May I have just a moment, Judge?  
12 THE COURT: Yes.  
13 MR. GOELLER: Are you going to -- are we going  
14 to talk to the Court about our decisions or opinions after  
15 each one?  
16 THE COURT: Well, the only problem with doing  
17 all of them is you might have a tendency -- by the time you  
18 get to Number Nine, you might have tendency to forget what  
19 Number One has to say, and the record may not be clear about  
20 it. So, I think that's why we probably should do it; do you  
21 all agree?  
22 MS. FALCO: Yes, sir.  
23 MR. SCHULTZ: You know, it doesn't seem like if  
24 he's only going to be gone a couple of days, I mean, I'm not  
25 sure why we have to lose him altogether? Couldn't we catch up

1 with him somehow, seems like?  
2 THE COURT: The problem is he wouldn't -- if  
3 we're talking about -- in other words, put him down towards  
4 the bottom of the stack?  
5 MR. SCHULTZ: Yeah. I mean, he'd have to do  
6 his questionnaire a different time, I guess, and we'd have to  
7 treat him special that way. But I don't know why we've got to  
8 lose him over this because it's going to be a short trip.  
9 MS. FALCO: He'd miss the general voir dire.  
10 THE COURT: Any suggestions or any comments or  
11 any objections?  
12 MR. GOELLER: My only comment would be that the  
13 defense would object to the Court excusing the juror.  
14 THE COURT: Mr. Schultz is suggesting that we  
15 can just excuse him for a few days.  
16 MR. GOELLER: Sure.  
17 THE COURT: And then bring him back. The thing  
18 is I'm going to have to go through the whole qualification and  
19 exemption process with him, and the whole process at a later  
20 time with him alone, or with anybody else that might fall into  
21 his category. And also -- wait a minute, but -- and if  
22 he's -- if he -- right now he's Number 16. And so if he's not  
23 present, I don't know if he -- we would probably get to him  
24 theoretically on Friday following the -- well, Friday the  
25 first week -- Friday of the next week, and I don't know if

1 he'd be back by then.

2 MR. SCHULTZ: You certainly can excuse him if  
3 you want to.

4 THE COURT: And that also applies to Number 10,  
5 which is going to be the very next, Hilda Lauriello, which is  
6 next, and that would apply to her, too. So anyway, you would  
7 object to it?

8 MR. GOELLER: Yes, Your Honor.

9 THE COURT: And I tell you what, I don't want  
10 to stand in the way of Mr. Ferrell's First Amendment rights,  
11 and so I'm going to excuse Number 16, Franklin Ferrell.

12 MR. GOELLER: Just for the record, would you  
13 note our objection to the Court excusing the juror?

14 THE COURT: Yes.

15 MR. GOELLER: And we would further object that  
16 Mr. Ferrell has not stated any reasons that would excuse him  
17 from jury service under the Texas Code of Criminal Procedure.  
18 And we further object that the excusal of the juror violates  
19 my client's constitutional rights, his Fourth, Fifth, Eighth,  
20 Fourteenth Amendments of the Texas Constitution.

21 THE COURT: Okay. Would you ask Mr. Ferrell to  
22 please step back in?

23 All right. Mr. Ferrell, you are finally excused,  
24 sir.

25 PROSPECTIVE JUROR: Thank you, Your Honor.

1 THE COURT: Oh, but I tell you what, you're  
2 excused at this time. I tell you what I'm going to do: I'm  
3 going to ask the clerk to reschedule you and come back for  
4 jury service, probably in a few weeks.

5 PROSPECTIVE JUROR: That will be fine.

6 THE COURT: Thank you. The next one on my list  
7 is Hilda Lauriello.

8 Yes, ma'am, come on up.

9 Let me ask you to raise your right hand, please.

10 (Prospective juror sworn.)

11 THE COURT: All right. You're Hilda Lauriello?

12 PROSPECTIVE JUROR: Correct.

13 THE COURT: I want to ask you, you want to tell  
14 the court that you have some excuse for being absent next  
15 week; is that correct?

16 PROSPECTIVE JUROR: Actually, I just needed two  
17 days. 21st is fine; it's just the 22nd, 23rd.

18 THE COURT: Okay. You are Juror Number 10.  
19 Then I tell you what, that would be fine. Then you could come  
20 on the 21st, and then you could be back with us on the 24th?

21 PROSPECTIVE JUROR: Correct.

22 THE COURT: Does that eliminate any problems as  
23 far as everybody is concerned?

24 MR. SCHULTZ: That's fine with us.

25 MS. FALCO: That's fine with us, Your Honor.

1 THE COURT: Then I tell you what, we'll see you  
2 on the morning of the 21st about 9:00. And then we'll give  
3 you a couple of days off.

4 PROSPECTIVE JUROR: Here?

5 THE COURT: No. I tell you what, we're going  
6 to be in the building that's just south of here.

7 (Discussion off the record.)

8 THE COURT: We'll see you at 9:00 Tuesday  
9 morning.

10 The next one is Number 24, Michael O. McKinney.

11 Yes, sir. Come on up to the bench, please. Would  
12 you raise your right hand, please?

13 (Prospective juror sworn.)

14 THE COURT: Put your hand down. Are you  
15 Michael O. McKinney?

16 PROSPECTIVE JUROR: Yes, sir.

17 THE COURT: Tell me why you would like to be  
18 absent next Tuesday.

19 PROSPECTIVE JUROR: I'm going to be off on  
20 symposium. I've got a flight out Tuesday morning.

21 THE COURT: What kind of symposium?

22 PROSPECTIVE JUROR: We're doing a presentation  
23 for a business group.

24 THE COURT: What business?

25 PROSPECTIVE JUROR: Blockbuster.

1 THE COURT: Blockbuster Video?

2 PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: Tell me about the symposium.

4 PROSPECTIVE JUROR: Well, we're putting  
5 together a couple of business cases that we've got coming up  
6 to improve our earnings.

7 THE COURT: What's your role in this?

8 PROSPECTIVE JUROR: My role is I'm the  
9 presenter.

10 THE COURT: And if you were absent, who would  
11 do it?

12 PROSPECTIVE JUROR: Right now, it hasn't been  
13 decided.

14 THE COURT: But they would find someone?

15 PROSPECTIVE JUROR: They probably could, yes,  
16 sir.

17 THE COURT: I understand. Let me ask you, is  
18 there any question from the State with regard to this  
19 witness -- this juror?

20 MR. SCHULTZ: No, sir.

21 THE COURT: Do you have any questions?

22 MR. GOELLER: No, sir.

23 THE COURT: All right, sir. I will not excuse

24 you from jury service so you must be here on 21st. Thank you.

25 The next one is Terry Minton.

1 Say, and for the record, Alden Franco, Number 151;  
2 Lynda Duncan, Number 156; and Eric Thiel or Thiel appear to be  
3 absent even though they indicated they might have an excuse.  
4 So, whatever excuses they have, we'll hear at a later date,  
5 meaning next Tuesday.

6 Raise your right hand, please, sir.  
7 (Prospective juror sworn.)

8 THE COURT: Are you Terry Minton?

9 PROSPECTIVE JUROR: Yes, sir.

10 THE COURT: Put your hand down. And I want to  
11 ask you why you would like to be absent next Tuesday.

12 PROSPECTIVE JUROR: I travel for my job, and I  
13 will be in El Paso and New Mexico next Tuesday.

14 THE COURT: Is there anything beyond that?

15 PROSPECTIVE JUROR: Beyond that?

16 THE COURT: Yes, sir.

17 PROSPECTIVE JUROR: I'll be back in town on  
18 Thursday next week, and I'll be gone all next week.

19 THE COURT: Is there any question from either  
20 the State or the defense?

21 MR. SCHULTZ: Nothing from the State.

22 DIRECT QUESTIONS

23 BY MR. GOELLER:

24 Q. Sir, tell me where you're going.

25 A. I'm going to Las Cruces, New Mexico on Tuesday.

1 Q. Okay, for? What's the specific reason?

2 A. Work, uh-huh.

3 Q. Work?

4 A. Right.

5 Q. But specifically work for what reason?

6 A. I always do this business presentation for this  
7 company, and I'll be attending a business presentation  
8 meeting.

9 Q. What if you were not able to attend? How would that  
10 affect you personally and professionally?

11 A. Well, my company would have to pay American Airlines  
12 to reschedule my trip. Other than that, I don't think it  
13 would affect me personally. I'd, of course, do what you guys  
14 told me to do.

15 THE COURT: I used to travel to Las Cruces for  
16 business myself. Probably different business, though.

17 MR. GOELLER: I don't have any further  
18 questions.

19 THE COURT: Anything else from the State?

20 MS. FALCO: No, Your Honor.

21 THE COURT: Mr. Minton, I cannot excuse you,  
22 so we'll see you Tuesday morning.

23 The next juror is William Richeson, Jr., Juror  
24 Number 142.

25 (Discussion off the record.)

1 THE COURT: Yes, sir. Would you raise your  
2 right hand, please?

3 (Prospective juror sworn.)

4 THE COURT: Put your hand down. Are you  
5 William E. Richeson, Jr.?

6 PROSPECTIVE JUROR: Correct.

7 THE COURT: Tell me why you'd like to be absent  
8 on Tuesday.

9 PROSPECTIVE JUROR: I'm going to be in Phoenix  
10 the whole week.

11 THE COURT: What are you going to be doing?

12 PROSPECTIVE JUROR: Work related.

13 THE COURT: All right. Is there anything else?

14 PROSPECTIVE JUROR: No, sir.

15 THE COURT: All right, sir. Is there any  
16 question from the State?

17 MR. SCHULTZ: No, sir.

18 THE COURT: How about from the defense?

19 DIRECT QUESTIONS

20 BY MR. GOELLER:

21 Q. Sir, if you were not able to attend how would that  
22 affect you personally and professionally?

23 A. It's a 2002 planning session, and I'm pretty well  
24 involved in this organization. So, it would affect an  
25 organization, too.

1 Q. Would you suffer any financial setbacks personally?

2 A. Personally? Probably not, no.

3 Q. Professionally, or the organization would?

4 A. Yeah, the organization would.

5 Q. Okay. What are your plans personally and  
6 professionally for, say, the next month and a half, two  
7 months?

8 A. I don't foresee any trips that would be occurring,  
9 other than this one. This is just our annual planning  
10 session.

11 MR. GOELLER: Okay, sir. That's all I have.

12 MR. SCHULTZ: I've got just a couple of  
13 questions.

14 CROSS-QUESTIONS

15 BY MR. SCHULTZ:

16 Q. Let me explain to you. This is a case that we  
17 anticipate will take a fair amount of time, and it's not  
18 perhaps important to go into it right now what it is -- what  
19 the nature of this criminal case is. Suffice it to say that  
20 everybody in this courtroom would agree it's a very important  
21 case. And not that all cases aren't important, but maybe this  
22 more than anything else. I guess the question is, it sounds  
23 like you would rather not be on a jury if you had a choice.  
24 If somebody said, what do you want to do, and your answer  
25 would probably be you don't. Is that a fair statement?

1 A. Not necessarily.  
 2 Q. Are you willing -- we're not giving you the choice,  
 3 but are you willing to serve if called upon?  
 4 A. Yes.  
 5 Q. And do you realize in the grand scheme of things  
 6 this is even more important than your work in this case?  
 7 A. Sure. I understand that.  
 8 Q. And I guess kind of Mr. Goeller hinted at this, but  
 9 I'll be more direct: Even if it doesn't go the way it works  
 10 for your business, you wouldn't hold that against either side,  
 11 or you wouldn't come in feeling you were being put upon to do  
 12 your public duty; is that correct?  
 13 A. No, I would not.  
 14 MR. SCHULTZ: Thank you, sir.  
 15 THE COURT: Anything else?  
 16 MR. GOELLER: Nothing else, sir.  
 17 THE COURT: Sorry, I cannot excuse you, so  
 18 we'll see you Tuesday, the 21st.  
 19 PROSPECTIVE JUROR: Thank you.  
 20 THE COURT: Thank you, sir.  
 21 And the last one that we're going to interview this  
 22 morning Lynnette Riggio -- Lynnette I. Riggio.  
 23 Raise your right hand, please.  
 24 (Prospective juror sworn.)  
 25 THE COURT: Are you Lynnette Riggio?

1 PROSPECTIVE JUROR: Riggio.  
 2 THE COURT: Let me ask you why you'd like to be  
 3 absent on Tuesday.  
 4 PROSPECTIVE JUROR: I am in charge of a  
 5 conference that starts on the 21st and goes through the 23rd.  
 6 THE COURT: What kind of conference?  
 7 PROSPECTIVE JUROR: It's a device field  
 8 (inaudible) for devices in Radiological Health Joint Meeting.  
 9 THE COURT: And where is the conference going  
 10 to be?  
 11 PROSPECTIVE JUROR: It is in Dallas.  
 12 THE COURT: How long does it go on?  
 13 PROSPECTIVE JUROR: Just through Thursday  
 14 evening.  
 15 THE COURT: And what is your role?  
 16 PROSPECTIVE JUROR: My role is the  
 17 coordinator. I'm also the executive secretary for that  
 18 meeting, so I will be taking all the minutes and preparing  
 19 reports as a result of that meeting.  
 20 THE COURT: All right. That's good. Let me  
 21 ask the State, do you have any questions for this lady?  
 22 MR. SCHULTZ: No, sir.  
 23 THE COURT: Any questions from Mr. Goeller?  
 24 MR. GOELLER: No, sir.  
 25 THE COURT: I cannot excuse you, so we'll see

1 you on the 21st.  
 2 PROSPECTIVE JUROR: Thank you.  
 3 THE COURT: And I think that concludes. And  
 4 just to make it clear, I excused Juror Number 16 and did not  
 5 excuse Number 10, Number 24, Number 38, Number 142 and  
 6 Number 64. Number 151, Number 156 and Number 70 have failed  
 7 to appear today, so if they have excuses I suppose we'll see  
 8 them at a later date. Is there anything else from either  
 9 side?  
 10 MS. FALCO: No, sir.  
 11 THE COURT: Do you want to call the names that  
 12 remain, Alden Franco, Lynda Duncan and Eric Thiel, just to  
 13 see?  
 14 (Bailiff calls the hall.)  
 15 THE BAILIFF: No, sir.  
 16 THE COURT: Their names were called, and  
 17 apparently they're not here. So, if there's nothing from  
 18 either side, both sides are excused in the Cantu case.  
 19 Do we have anything else?  
 20 MR. SCHULTZ: My understanding is we do not.  
 21 THE COURT: You-all want me to get a copy to  
 22 keep of what I plan to say?  
 23 MR. SCHULTZ: Yes, sir.  
 24 THE COURT: Was there anything else that you  
 25 needed, Mr. Goeller?

1 MR. GOELLER: I thought there was some mention  
 2 yesterday that you were going to give us a copy of your  
 3 schedule.  
 4 THE COURT: If you want me to.  
 5 Sure, I'd be glad to.  
 6 (End of Volume 3.)  
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1 Say, and for the record, Alden Franco, Number 151;  
 2 Lynda Duncan, Number 156; and Eric Thiel or Thiel appear to be  
 3 absent even though they indicated they might have an excuse.  
 4 So, whatever excuses they have, we'll hear at a later date,  
 5 meaning next Tuesday.  
 6 Raise your right hand, please, sir.  
 7 (Prospective juror sworn.)  
 8 THE COURT: Are you Terry Minton?  
 9 PROSPECTIVE JUROR: Yes, sir.  
 10 THE COURT: Put your hand down. And I want to  
 11 ask you why you would like to be absent next Tuesday.  
 12 PROSPECTIVE JUROR: I travel for my job, and I  
 13 will be in El Paso and New Mexico next Tuesday.  
 14 THE COURT: Is there anything beyond that?  
 15 PROSPECTIVE JUROR: Beyond that?  
 16 THE COURT: Yes, sir.  
 17 PROSPECTIVE JUROR: I'll be back in town on  
 18 Thursday next week, and I'll be gone all next week.  
 19 THE COURT: Is there any question from either  
 20 the State or the defense?  
 21 MR. SCHULTZ: Nothing from the State.  
 22 DIRECT QUESTIONS  
 23 BY MR. GOELLER:  
 24 Q. Sir, tell me where you're going.  
 25 A. I'm going to Las Cruces, New Mexico on Tuesday.

1 Q. Okay, for? What's the specific reason?  
 2 A. Work, uh-huh.  
 3 Q. Work?  
 4 A. Right.  
 5 Q. But specifically work for what reason?  
 6 A. I always do this business presentation for this  
 7 company, and I'll be attending a business presentation  
 8 meeting.  
 9 Q. What if you were not able to attend? How would that  
 10 affect you personally and professionally?  
 11 A. Well, my company would have to pay American Airlines  
 12 to reschedule my trip. Other than that, I don't think it  
 13 would affect me personally. I'd, of course, do what you guys  
 14 told me to do.  
 15 THE COURT: I used to travel to Las Cruces for  
 16 business myself. Probably different business, though.  
 17 MR. GOELLER: I don't have any further  
 18 questions.  
 19 THE COURT: Anything else from the State?  
 20 MS. FALCO: No, Your Honor.  
 21 THE COURT: Mr. Minton, I cannot excuse you,  
 22 so we'll see you Tuesday morning.  
 23 The next juror is William Richeson, Jr., Juror  
 24 Number 142.  
 25 (Discussion off the record.)

1 THE COURT: Yes, sir. Would you raise your  
 2 right hand, please?  
 3 (Prospective juror sworn.)  
 4 THE COURT: Put your hand down. Are you  
 5 William E. Richeson, Jr.?  
 6 PROSPECTIVE JUROR: Correct.  
 7 THE COURT: Tell me why you'd like to be absent  
 8 on Tuesday.  
 9 PROSPECTIVE JUROR: I'm going to be in Phoenix  
 10 the whole week.  
 11 THE COURT: What are you going to be doing?  
 12 PROSPECTIVE JUROR: Work related.  
 13 THE COURT: All right. Is there anything else?  
 14 PROSPECTIVE JUROR: No, sir.  
 15 THE COURT: All right, sir. Is there any  
 16 question from the State?  
 17 MR. SCHULTZ: No, sir.  
 18 THE COURT: How about from the defense?  
 19 DIRECT QUESTIONS  
 20 BY MR. GOELLER:  
 21 Q. Sir, if you were not able to attend how would that  
 22 affect you personally and professionally?  
 23 A. It's a 2002 planning session, and I'm pretty well  
 24 involved in this organization. So, it would affect an  
 25 organization, too.

1 Q. Would you suffer any financial setbacks personally?  
 2 A. Personally? Probably not, no.  
 3 Q. Professionally, or the organization would?  
 4 A. Yeah, the organization would.  
 5 Q. Okay. What are your plans personally and  
 6 professionally for, say, the next month and a half, two  
 7 months?  
 8 A. I don't foresee any trips that would be occurring,  
 9 other than this one. This is just our annual planning  
 10 session.  
 11 MR. GOELLER: Okay, sir. That's all I have.  
 12 MR. SCHULTZ: I've got just a couple of  
 13 questions.  
 14 CROSS-QUESTIONS  
 15 BY MR. SCHULTZ:  
 16 Q. Let me explain to you. This is a case that we  
 17 anticipate will take a fair amount of time, and it's not  
 18 perhaps important to go into it right now what it is -- what  
 19 the nature of this criminal case is. Suffice it to say that  
 20 everybody in this courtroom would agree it's a very important  
 21 case. And not that all cases aren't important, but maybe this  
 22 more than anything else. I guess the question is, it sounds  
 23 like you would rather not be on a jury if you had a choice.  
 24 If somebody said, what do you want to do, and your answer  
 25 would probably be you don't. Is that a fair statement?

1 A. Not necessarily.

2 Q. Are you willing -- we're not giving you the choice,  
3 but are you willing to serve if called upon?

4 A. Yes.

5 Q. And do you realize in the grand scheme of things  
6 this is even more important than your work in this case?

7 A. Sure. I understand that.

8 Q. And I guess kind of Mr. Goeller hinted at this, but  
9 I'll be more direct: Even if it doesn't go the way it works  
10 for your business, you wouldn't hold that against either side,  
11 or you wouldn't come in feeling you were being put upon to do  
12 your public duty; is that correct?

13 A. No, I would not.

14 MR. SCHULTZ: Thank you, sir.

15 THE COURT: Anything else?

16 MR. GOELLER: Nothing else, sir.

17 THE COURT: Sorry, I cannot excuse you, so  
18 we'll see you Tuesday, the 21st.

19 PROSPECTIVE JUROR: Thank you.

20 THE COURT: Thank you, sir.

21 And the last one that we're going to interview this  
22 morning Lynnette Riggio -- Lynnette I. Riggio.

23 Raise your right hand, please.

24 (Prospective juror sworn.)

25 THE COURT: Are you Lynnette Riggio?

1 you on the 21st.

2 PROSPECTIVE JUROR: Thank you.

3 THE COURT: And I think that concludes. And  
4 just to make it clear, I excused Juror Number 16 and did not  
5 excuse Number 10, Number 24, Number 38, Number 142 and  
6 Number 64. Number 151, Number 156 and Number 70 have failed  
7 to appear today, so if they have excuses I suppose we'll see  
8 them at a later date. Is there anything else from either  
9 side?

10 MS. FALCO: No, sir.

11 THE COURT: Do you want to call the names that  
12 remain, Alden Franco, Lynda Duncan and Eric Thiel, just to  
13 see?

14 (Bailiff calls the hall.)

15 THE BAILIFF: No, sir.

16 THE COURT: Their names were called, and  
17 apparently they're not here. So, if there's nothing from  
18 either side, both sides are excused in the Cantu case.

19 Do we have anything else?

20 MR. SCHULTZ: My understanding is we do not.

21 THE COURT: You-all want me to get a copy to  
22 keep of what I plan to say?

23 MR. SCHULTZ: Yes, sir.

24 THE COURT: Was there anything else that you  
25 needed, Mr. Goeller?

1 PROSPECTIVE JUROR: Riggio.

2 THE COURT: Let me ask you why you'd like to be  
3 absent on Tuesday.

4 PROSPECTIVE JUROR: I am in charge of a  
5 conference that starts on the 21st and goes through the 23rd.

6 THE COURT: What kind of conference?

7 PROSPECTIVE JUROR: It's a device field  
8 (inaudible) for devices in Radiological Health Joint Meeting.

9 THE COURT: And where is the conference going  
10 to be?

11 PROSPECTIVE JUROR: It is in Dallas.

12 THE COURT: How long does it go on?

13 PROSPECTIVE JUROR: Just through Thursday  
14 evening.

15 THE COURT: And what is your role?

16 PROSPECTIVE JUROR: My role is the  
17 coordinator. I'm also the executive secretary for that  
18 meeting, so I will be taking all the minutes and preparing  
19 reports as a result of that meeting.

20 THE COURT: All right. That's good. Let me  
21 ask the State, do you have any questions for this lady?

22 MR. SCHULTZ: No, sir.

23 THE COURT: Any questions from Mr. Goeller?

24 MR. GOELLER: No, sir.

25 THE COURT: I cannot excuse you, so we'll see

1 MR. GOELLER: I thought there was some mention  
2 yesterday that you were going to give us a copy of your  
3 schedule.

4 THE COURT: If you want me to.  
5 Sure, I'd be glad to.

6 (End of Volume 5.)

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1 REPORTER'S CERTIFICATE  
2 THE STATE OF TEXAS \*

3 COUNTY OF COLLIN \*  
4

5 I, Lisa M. Renfro, Official Court Reporter in and  
6 for the 380th District Court of Collin County, State of Texas,  
7 do hereby certify that the above and foregoing contains a true  
8 and correct transcription of all portions of evidence and  
9 other proceedings requested in writing by counsel for the  
10 parties to be included in this volume of the Reporter's  
11 Record, in the above-styled and -numbered cause, all of which  
12 occurred in open court or in chambers and were reported by me.

13 I further certify that the total cost for the  
14 preparation of this Reporter's Record is contained in  
15 Volume 53 and was paid by Collin County.

16 WITNESS MY OFFICIAL HAND this the <sup>4th</sup> day of  
17 January, 2003.

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