

IT'S ALL ABOUT POWER!

proceedings themselves, where ever they may occur, whether in the courtroom building or out of it. I understand that the cause of extraneous influence is not limited to non-judicial persons, and that it includes extraneous influence by anyone including court personel, marshals, judges, or even other jurors, or anyone else. I understand "extrinsic material" to mean any information that was not acquired from the witnesses or evidence presented in the court while the trial was in progress with the defendants being present. I further understand that the source of extrinsic material is not limited by time, place, person, or intention. I understand extrinsic material to include any information brought to the attention of any juror by any person or other conveyance including other jurors themselves and at any time whether during jury selection, trial, deliberation, or in between and at any place, whether at court or out of court, if that information is not information that was gained from witnesses or evidence in the trial itself.

I have been given an opportunity to consider this statement in the privacy of my home with no other persons present to influence me and I believe it is my duty to give this sworn statement.

I was extremely distressed about the way the trial was conducted and about the jury deliberations. At one point in the trial I reached a decision to go to the judge to express my deep concern. That night, however, I experienced severe chest pains

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from angina and became so concerned about my own health that I decided I could not go forward with a protest to the Judge. I did not have the strength to stand up to my convictions at the time the jury deliberated. For about a year after the decision I suffered from severe guilt, depression and anger about the result.

My concern began at the start of the trial. It is difficult for me to recall all the specific gestures, comments and nuances I heard and saw in the jury that was selected, but it was clear to me from the beginning that the questioning of the jury by the judge did not at all get to the question of the jurors' preconceived biases and prejudices against the men on trial. In fact, I was shocked when the lawyers did not question the jurors as I expected them to do after the judge had asked some questions that I felt did little to bring out the real feelings of the persons selected.

As I have stated above, it is difficult for me to remember the specific things that made the biases obvious to me at that time. I recall one day shortly after the start of the trial a statement was made in the jury room about how tough a case this was going to be for the jurors. One of the jurors, a Mrs. Lahren, stated, "I don't know what is so tough about it, we will just go down the list and...." I have difficulty remembering her exact words, but it was clear her intent was that we would just convict them all. On another occasion, after a defense pathologist from Minot had testified, we were returning to the Holiday Inn. One

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of the jurors, John Anderson, stated in reference to the doctor's testimony, "Well that was sure a bunch of bullshit." The jurors spoke with bias and ridicule about the defendants' lawyers. One lawyer was labeled "chicken lips" early in the trial and was referred to by that name a number of times after that by jurors. Another lawyer was criticized frequently by the jurors in ways that made it clear his client's case was being affected by how the jurors felt about the lawyer. One morning a juror announced that he had seen one of the defense lawyers and his wife and another couple walk across the Holiday Inn parking lot the previous evening and they were all laughing. The juror said he thought that was awful and was an indication the lawyer was not taking the case seriously.

On another occasion, one of the lawyers criticized the manner in which something was handled by Mr. Crooks, the Assistant U.S. Attorney. I thought it was extremely inappropriate for the judge to come to Mr. Crooks' defense and in effect give a testimonial for his good character because of the many years he had worked with him. One other time we became aware that there had been some kind of contract or agreement between Mr. Crooks and Mr. Nodland and that the government was refusing to follow that agreement. I felt it was very wrong for the judge to refuse to enforce that agreement. Once one of the jurors stated she was offended by the fact that some of the family members of the defendants were sitting in a front row in the audience section.

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She said they were trying to play on our sympathy. I answered this by saying the family members of U.S. Marshals were sitting in the front row on the other side.

There were many more incidents in the jury room, in the van taking us to and from the hotel, and at other times that made it clear to me that many of the jurors had made up their minds before the trial was completed. There were numerous incidents of juror remarks about the witnesses, the lawyers and the evidence that were prejudicial to the defendants and many of these came during the trial before the evidence was all in. The attitude of some of the jurors seemed to be that this was already decided and the introduction of these comments and conduct didn't matter. I was bothered when the judge let a gun, that seemed to be important, be introduced and just put in with the rest of the evidence after all the witnesses were called, and even after some of the lawyers were done with their final arguments. I was appalled when one of the male jurors took the gun out of the sealed bag in the jury room after we had been told we could not do that. I was the one who shouted at that juror to put it back when I saw him examining it.

At one point in time during deliberations, half or more of the jurors got up from the table where we were deliberating and went into the adjoining room. I heard them continue to discuss issues of the trial in that room while some of us other jurors remained in the jury room. When they came back into the room,

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one of them more or less announced that a decision had been reached and that was the way it was going to be. He also said it was not that important as Broer would get little, if any, time anyway. I have deep regrets that I did not stick by my conviction in these discussions.

During deliberations, juror August Pankow argued law. He said, "That's the law. Somebody comes to arrest you. You surrender. And that's it. There's no in between there, no extenuating circumstances."

It was all these kinds of statements and conduct that led me to conclude during the trial that the defendants were not getting a fair trial, that the jurors had not been screened carefully enough, and that there was a strong bias against the defendants even before the trial started. This is what I wanted to talk to the judge about, but I just could not find the courage and strength to do so during the trial.

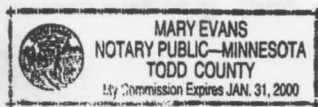
When the jury was polled, I told myself that I was going to say that it was not my verdict. Somehow when it came to me, I could not. I am truly sorry today that I did not.

Further affiant sayeth not.

Dated this 9th day of February, 1999.

Marlys Klimek
MARLYS KLIMEK

SUBSCRIBED AND SWORN BEFORE ME ON THIS 9th DAY OF February, 1999.



Mary Evans
NOTARY PUBLIC
State of North Dakota
My commission expires: 1-31-2000

Appendix C-6

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