

IN THE DISTRICT COURT OF APPEAL  
FOR THE FOURTH DISTRICT  
STATE OF FLORIDA

JOHN B. GOODMAN,

*Appellant,*

v.

STATE OF FLORIDA,

*Appellee.*

**Case No. 4D12-1930**

Circuit Court No. 2010CF005829AXXMB  
15<sup>th</sup> Jud. Cir., Palm Beach County, Florida

**APPELLANT'S MOTION TO RECONSIDER  
ORDER DENYING MOTION TO STAY AND  
TO RELINQUISH JURISDICTION BASED  
ON NEWLY DISCOVERED JUROR  
MISCONDUCT**

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**APPELLANT’S MOTION TO RECONSIDER ORDER DENYING  
MOTION TO STAY AND TO RELINQUISH JURISDICTION  
BASED ON NEWLY DISCOVERED JUROR MISCONDUCT**

The Appellant, JOHN B. GOODMAN, through undersigned counsel, respectfully moves this Court to reconsider its order, dated March 22, 2013, denying his Motion To Stay and To Relinquish Jurisdiction based on newly discovered evidence establishing an entirely new basis to relinquish jurisdiction for an evidentiary hearing in the Circuit Court. In particular, counsel learned for the first time on March 21, 2013, that Juror Dennis DeMartin – the juror whose various other forms of misconduct already constitutes a basis to reverse Mr. Goodman’s conviction – has self-published a new “book” available on Amazon.com entitled *Will she Kiss*

*Me or Kill Me*, a copy of which is attached hereto as **Exhibit 1**.<sup>1</sup> In this new book, Mr. DeMartin disclosed for the first time that, while living in another state, his ex-wife “had been drinking” and driving one night, crashed her sports car, “walked away from the accident” and was subsequently and, in Mr. DeMartin’s words, “naturally ... arrested for DUI.” *Id.* at p. 3. Mr. DeMartin did not disclose whether his ex-wife was convicted but explained that she entered some kind of “DUI program” where she met “another partner” who also “drank a lot” and began an affair with him – an affair which led to the couple’s divorce. *Id.* at p. 4. Mr. DeMartin then moved to Florida and joined a Church group where he met another woman he later married “who was divorced from her husband due to excessive alcohol.” *Id.* at pp. 5-6.

In his appeal before this Court, Mr. Goodman is seeking to reverse his conviction for DUI Manslaughter/Leaving the Scene of an Accident. During voir dire the jurors were specifically asked whether “anyone in the panel themselves, *close friend or family member or someone that affects you*, ever been arrested, charged or convicted or accused of crime.” See **Exhibit 2**, Transcript Excerpt, Vol. 8, at pp. 915-16 (emphasis added). Other jurors disclosed arrests of friends and family

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<sup>1</sup> After learning about the book, counsel purchased a copy from Amazon.com. The book arrived on March 21, 2013. According to Amazon.com, the book was published on March 14, 2013, although the last page of the book, itself, uses the date March 19, 2013.



members, including DUI arrests of spouses and in-laws. *See id.* at p. 927, 936-45. Mr. DeMartin, however, denied knowing about **any** similar arrests and : “I’m even trying to think of any family. I don’t think any of my family had any problems.” *Id.*

Mr. DeMartin’s misconduct was obviously deliberate. Later during voir dire the prosecutor indicated that she had some kind of record showing that Mr. DeMartin had been a witness to a car crash in 2001. *Id.* at p. 962. He did not remember but returned after lunch to report that he had called his “ex-wife to see what I did in 2001” and that she reminded him that they had once been in a bank where they were “held up” and then later “saw a motor cyclist get killed.” *See Exhibit 3*, Transcript Excerpt, Vol. 9, at p. 983. He made these disclosures, while continuing to conceal his ex-wife’s DUI arrest.

We respectfully submit that Mr. DeMartin deliberately withheld the information about his ex-wife. His new book also reveals the possible motivation for his lie: “When I became a juror and was encouraged to write a book on being involved in the trial, I rushed through the process after the trial was over” and published his first book concerning Mr. Goodman’s trial. *See Exhibit 1*, Prefix (emphasis added). Mr. DeMartin has never disclosed that his decision to write a book on Mr. Goodman’s trial was “encouraged” by an unidentified third party.

If Mr. DeMartin had been truthful and disclosed that his ex-wife's arrest for DUI (with leaving the scene) had led to a divorce caused by his ex-wife's affair with another drinker, counsel would have moved to strike Mr. DeMartin for cause and, if that had failed, counsel would have used a peremptory challenge to keep him off the jury.<sup>2</sup> As demonstrated below, Mr. DeMartin's deliberate concealment of conduct that would obviously have led to his elimination from the jury, standing alone, violated Mr. Goodman's rights under both Florida law and the Due Process and Impartial Jury Clauses of the United States Constitution. *See* U.S. Const., Amend. VI ("In all criminal prosecutions, the accused shall enjoy the right to ... an impartial jury....").<sup>3</sup> Accordingly, the Court should remand for an evidentiary hearing, pursuant

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<sup>2</sup> As Mr. Goodman is arguing in his appeal, counsel also would have moved to strike or used a peremptory challenge to strike Mr. DeMartin had he disclosed his intention to write a book about trial. Until now, however, counsel had no knowledge about a third party "encouraging" Mr. DeMartin to do so.

<sup>3</sup> The book reveals that DeMartin lied about other matters as well. During questioning by the Circuit Court about his drinking experiment, the Court asked whether Mr. DeMartin had "any hydrocodone in your system at the time that you had these drinks." Supp. Rec. at p. 000082. Mr. DeMartin responded: "I don't even know what hydrocodone is." *Id.* In his new book, however, Mr. DeMartin was extremely critical of the fact that his so called "New Love Interest" had apparently been addicted to the "same drug" which she was taking for back pain. **Exhibit 1**, at pp. 1, 33. After writing that he wanted to get his "New Love Interest" off the drugs, Mr. DeMartin then wrote (underlying by Mr. DeMartin):

"This is why I was so upset even during the trial that I

(continued...)

to Rule 3.575 of the Florida Rules of Criminal Procedure, and to confirm Mr. DeMartin's misconduct. *See Tripp v. State*, 874 So.2d 732, 734 (Fla. 4th DCA 2004). In light of Mr. DeMartin's additional revelation about having been "encouraged" to write a book about the trial by an unidentified third party, the Court should also permit questioning on that subject, as well.<sup>4</sup> In support of this supplemental motion, Mr. Goodman submits the following memorandum.

### **MEMORANDUM**

#### **I. MR. DEMARTIN'S CONCEALMENT OF HIS EX-WIFE'S ARREST, IF CORROBORATED AT A HEARING, WOULD REQUIRE A NEW TRIAL**

The purpose of voir dire is "to ascertain whether a cause for challenge exists, and to ascertain whether it is wise and expedient to exercise the right of peremptory

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<sup>3</sup>(...continued)

wrote about in my other book, "Believing in the Truth". I know people are guilty for what they do, however, I do believe it is the doctors that keep giving the controlled drugs that cause the patients to sometimes do the wrong thing as they are not in control of their full senses or their actions."

*Id.* at pp. 33-34. As discussed in Mr. Goodman's appellate briefs, the Circuit Court found Mr. DeMartin to be credible during its interrogation of Mr. DeMartin.

<sup>4</sup> Towards the end of Mr. DeMartin's new book, he also discusses the drinking experiment he conducted, which is one of the grounds for Mr. Goodman's direct appeal. *See Exhibit 1*, at pp. 87-89 (reiterating that he "wanted to know if I would have all my faculties to act rationally after 3 drinks" and based on his test "I found that I would have had problems doing the right thing after 3 drinks").

challenge.” *Loftin v. Wilson*, 67 So. 2d 185, 192 (Fla. 1953) (citation omitted). *Accord State Farm Mutual Auto. Ins. Co. v. Lawrence*, 65 So.3d 52, 55 (Fla. 2d DCA 2011). For this reason, lawyers “are entitled to ask, and receive truthful and complete responses to, the relevant questions which they pose to prospective jurors.” *Roberts ex rel. Estate of Roberts v. Tejada*, 814 So. 2d 334, 342 (Fla. 2002). *See generally McDonough Power Equipment, Inc. v. Greenwood*, 464 U.S. 548, 554 (1984) (voir dire protects a defendant’s rights “by exposing possible biases, both known and unknown on the part of potential jurors”); *Mu’Min v. Virginia*, 500 U.S. 415 (1991)(voir dire “assists counsel in exercising peremptory challenges”)

A juror who “conceals a material fact relevant to the controversy [] is guilty of misconduct, and such misconduct [] is prejudicial to the party, for it impairs his right to challenge.” *Loftin*, 67 So. 2d at 192 (citation omitted). Despite the use of the term “misconduct,” the concealment at issue does not have to be intentional because the verdict may be impaired regardless of the juror’s motives. *See Roberts*, 814 So. 2d at 343-44; *Smiley v. McCallister*, 451 So. 2d 977, 978 (Fla. 4<sup>th</sup> DCA 1984). “Therefore, when a party discovers posttrial that a juror may have concealed a material fact— whether actively, passively, or unintentionally – confidence in the integrity of the jury process and in a fair verdict is called into doubt.” *State Farm Mutual Auto. Ins. Co.*, 65 So.3d at 55.

In determining whether a juror's nondisclosure of information during voir dire warrants a new trial, Florida courts employ a three-part test. The aggrieved party must establish that: (1) the undisclosed information was relevant and material to jury service; (2) the juror concealed the information during questioning, and (3) the concealment was not due to a lack of the moving party's diligence. *State Farm Fire and Cas. Co. v. Levine*, 837 So. 2d 363, 364 (Fla. 2002), citing *De La Rosa v. Zequeira*, 659 So. 2d 239, 241 (Fla. 1995). In contrast to what is needed to prove entitlement to a new trial, a party seeking only a juror interview must merely establish reasonable grounds to believe that nondisclosure of relevant and material information occurred. *See Sterling v. Feldbaum*, 980 So. 2d 596, 598 (Fla. 4th DCA 2008); *Tripp*, 874 So.2d at 734; *Smiley*, 451 So. 2d at 978; *State Farm Mutual Auto. Ins. Co.*, 65 So.3d at 55-56. *See also* Fla. R. Civ. P. 1.431(h) (providing that "a party who believes that grounds for legal challenge to a verdict exist . . . may move for an order permitting an interview of a juror or jurors *to determine whether the verdict is subject to the challenge.*" (emphasis added). *Cf. United States v. McGivney*, 429 F.2d 1019, 1026 (5<sup>th</sup> Cir. 1970) ("[w]hen jury misconduct is alleged in the defendant's motion for new trial, the trial judge has a duty to ... conduct a full investigation to ascertain whether the alleged jury misconduct actually occurred"). Taking Mr. DeMartin's own published words "at face value," there are reasonable grounds to believe that he

concealed material information during voir dire. *State Farm Mutual Auto. Ins. Co.*, 65 So.3d at 55-56. All three requirements for a new trial would be established if Mr. DeMartin's description of his ex-wife's arrest is accurate.

**A. The Undisclosed Arrest of Mr. DeMartin's Ex-Wife For DUI/ Leaving the Scene and Subsequent Divorce Was Plainly "Material"**

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"It is well-established that there are no bright-line rules with respect to the materiality prong of the *De La Rosa* test, and that the materiality of concealed information must be determined on a case-by-case basis. *Levine*, 837 So. 2d at 366. The prior experience withheld does not have to be exactly like the current case. *See Roberts*, 814 So. 2d at 341 (quashing district court order that had reversed a trial court's granting of a new trial). However, in the instant case, the charges and the concealed information were extremely similar. Mr. Goodman was charged with DUI Manslaughter/Leaving the Scene. Mr. DeMartin's ex-wife was apparently arrested for DUI and she had left allegedly left the scene, as well. Although Mr. DeMartin did not reveal whether his ex-wife's accident resulted in any injuries or deaths, the accidents were otherwise virtually identical.

As this Court recognized in *Smiley*, in a trial involving a traffic accident, "similar accidents and injuries in which other relatives and family members of prospective jurors have been involved are of utmost interest to the parties for it can

have a strong influence on a juror's approach to the resolution of litigation arising out of such accidents.” *Smiley*, 451 So. 2d at 978. *See also Hicks v. Wiperfurth*, 73 So.3d 297 (Fla. 5<sup>th</sup> DCA 2011) (granting new trial in automobile accident negligence case where a juror failed to disclose, among other things, that he had been involved in several accidents in the past)

Had Mr. Goodman's counsel known of Mr. DeMartin's ex-wife's arrest, they certainly would have followed up with additional questions which would have revealed how the DUI arrest led to his ex-wife's affair with another drinker and ultimately to the couple's divorce. Those facts would have warranted Mr. DeMartin's removal for cause. And, if the Circuit Court would have denied such a request, counsel would have used an peremptory challenge to remove him. But this opportunity was denied to Mr. Goodman. Nondisclosure is considered to be material “if it is substantial and important so that if the facts were known, the defense may have been influenced to peremptorily challenge the juror from the jury.” *Roberts*, 814 So. 2d at 341.<sup>5</sup> This standard can be applied if the jurors' prejudice or bias is

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<sup>5</sup> The Sixth Amendment standard is more stringent. To obtain a new trial under the Sixth Amendment, the defendant must show that the juror's correct answer to a question “would have provided a valid basis for a challenge for cause.” *McDonough*, 464 U.S. at 556. Additionally, the defendant must show that the fairness of the trial was affected either by the juror's “motives for concealing [the] information” or the “reasons that affect [the] juror's impartiality.” *Id.* Although not necessary for the  
(continued...)

revealed. But here, the prejudice to Mr. Goodman was even more fundamental. His legal right to inquire and uncover bias or prejudice, and to exercise its peremptory challenge, was compromised by Mr. DeMartin's nondisclosure.

**B. Mr. DeMartin Concealed Relevant, Material Information During Questioning**

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The “concealment” prong of the *De La Rosa* test is established met when a juror fails to respond truthfully to a specific question, even during collective questioning. *De Rosa*, 659 So.2d at 241. *See also Morgan v. Milton*, 105 So.3d 545 (Fla. 1<sup>st</sup> DCA 2012); *Royal Caribbean Cruises, Ltd. v. Pavone*, 92 So.3d 243 (Fla. 3<sup>d</sup> DCA 2012). Mr. DeMartin was asked, in pertinent part, whether he had any “*close friend or family member or someone that affects you*” who had “ever been arrested, charged or convicted or accused of crime.” This question was patently “straight forward and not reasonably susceptible to misinterpretation.” *Rogers v. Rogers*, 78 So.3d 42, 45 (Fla. 4<sup>th</sup> DCA 2012) (citations omitted). An ex-wife certainly qualifies under the plain meaning of the question, either as a “family member” or the catch-all “someone that affects you.” Indeed, DeMartin heard other jurors’ disclose DUI

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<sup>5</sup>(...continued)

Court’s determination in this case, we believe Mr. DeMartin’s conduct also violated Mr. Goodman’s Sixth Amendment rights under this standard.



arrests of spouses and in-laws in response to this question.<sup>6</sup> *Cf. United States v. Colombo*, 869 F.2d 149, 152-53 (2d Cir.1989)(remanding for further fact-finding concerning allegation that a juror failed to disclose that her brother-in-law was a government attorney).

An analogous situation occurred in *Forbes v. State*, 933 So. 2d 706 (Fla. 4<sup>th</sup> DCA 2006). In *Forbes*, a 19-year-old prospective juror denied that “he had any criminal charges pending against him” or that he or any member of his family had ever been arrested. 933 So. 2d at 708-09. Shortly thereafter, the State learned that the juror had pending charges for possession of more than 20 grams of marijuana and that the juror’s father had been arrested twice. The trial court found the juror in direct

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<sup>6</sup> Both dictionaries and courts have routinely found that the terms “family member” and “relative” to include spouses and other in-laws. *See Prock v. Southern Farm Bureau Cas. Ins. Co.*, 99 Ark. App. 381, 260 S.W.3d 737 (2007) (term “family member” is “unambiguous” and includes “kin, by blood, marriage, or adoption”) (citations omitted); *Slokus v. Utica First Ins. Co.*, No.UWYCV085011071S (Conn. Super. July 14, 2001), 2011 Conn. Super. LEXIS 1759, at \*\*17-19 (collecting dictionary definitions and holding that “[t]he court ... finds only one plausible interpretation of the term ‘relative’ and that the term ‘relative’ clearly means a ‘connection by blood, marriage, or adoption.’”). *See, e.g., Aji v. Allstate Ins. Co.*, 416 So.2d 1225 (Fla. 3d DCA 1982) (brother-in-law); *Vernatter v. Allstate Ins. Co.*, 362 F.2d 403 (4<sup>th</sup> Cir. 1966) (uncle-in-law); *Fidelity & Ca. Co. Of New York v. Jackson*, 297 F.2d 230 (4<sup>th</sup> Cir. 1961) (mother-in-law”); *Groves v. State Farm Life & Cas. Co.*, 171 Ariz 191, 829 P.2d 1237 (Ariz App. 19992) (former son-in-law); *Mickelson v. Am. Family Mut. Ins. Co.*, 329 N.W.2d 814 (Minn. 1983) (domestic partner); *Hayes v. Am. Standard Ins. Co.*, 847 S.W.2d 150 (Mo. Ap. 1993) (daughter of policy holders’s deceased paramour); *Sjogren v. Metro. Prop. & Cas. Ins. Co.*, 703 A.2d 608, 612 (R.I. 1997) (former step-son).

criminal contempt and sentenced him to four months in prison for lying during voir dire in a criminal case regarding his and his family members' criminal histories. *Id.* at 710. This Court subsequently affirmed, emphasizing:

Truth and candor during voir dire are critical to a trial judge's task of administering justice and preserving every litigant's right to a fair and impartial jury. In maintaining the integrity and efficacy of the jury selection process, trial judges are dependent upon a prospective juror's honest and candid responses, particularly on matters that bear directly on his or her qualifications and fitness to serve.

*Id.* at 713.

Also similar, although based on the constitutional standard, is the Eleventh Circuit's opinion in *United States v. Carpa*, 271 F.3d 962 (11<sup>th</sup> Cir. 2001) (per curiam). In that case, during *voir dire* the district court asked each prospective juror whether he or she had ever been "charged with a crime" but added "by that I mean something you understood might have resulted in being imprisoned if you were convicted." Juror No. 505 responded: "I was stopped last year and charged with driving with a suspended driver's license. It was an unpaid traffic ticket. It has since been resolved, no problem." 271 F.3d at 964. In fact, the juror was on probation following a felony arrest for driving with a suspended license and required to serve 60 days in jail on weekends. *Id.*

After the trial, the concealed evidence was discovered and the trial court held a hearing where an FBI agent testified that the juror had previously been charged with burglary, contributing to the delinquency of a minor, disorderly conduct, grand theft and driving with a suspended or revoked license. *Id.* at 965. However, each charge had either been dropped or resulted in a withhold of adjudication (under Florida law). *Id.* The final withhold required the juror to serve 60 days in custody and 18 months probation but after the judge learned that the juror had been a witness in *Carpa*, the jail portion of the sentence was waived. *Id.* at 965-66. After hearing only the FBI agent's testimony, the district court denied the defendant's mistrial motion because the charges had resulted in withholds of adjudication. *Id.* at 966. The court also reasoned that "the mixed verdict was strong evidence that Juror 505 was not biased." *Id.* The Eleventh Circuit, however, reversed, finding that the district court's inquiry had been insufficient in light of the possibility that the juror deliberately concealed his criminal background so that he could use his jury service to get his sentence reduced and because the same prosecutor "who tried the underlying case" was involved in the investigation of the juror. *Id.* at 968. The Court believed that investigation of such allegations was important because "[a] juror's dishonesty is a strong indication of bias. *Id.* at 967, citing *United States v. Perkins*, 748 F.2d 1519, 1533 (11<sup>th</sup> Cir. 1984); (citation omitted).

Whether to avenge his broken marriage, to write a book about the trial after being “encouraged” to do so by a third party or for some other reason known only to him, Mr. DeMartin concealed this information. *See generally* Note, *Satisfying the Appearance of Justice When a Juror’s Intentional Nondisclosure of Material Information Comes to Light*, 35 U. MEM. L REV. 315, 339 (Winter 2005) (“A potential juror might lie during voir dire for the purpose of gaining a seat on the jury so as to influence the disposition of the case. Such a person might harbor a selfish desire to send a message of some kind, or to gratify an excessive sense of civic duty, *or to avenge past wrongs, or even to gather material for a novel or a memoir.*”) (emphasis added). That he committed other forms of misconduct as well, therefore, should not be surprising. “[I]f a juror treats with contempt the court’s admonition to answer voir dire questions truthfully, she can be expected to treat her responsibilities as a juror -- to listen to the evidence, not to consider extrinsic facts, to follow the judge’s instructions -- with equal scorn.” *Dyer v. Caledron*, 151 F.3d 970, 982 (9<sup>th</sup> Cir. 1998) (“A perjured juror is as incompatible with our truth-seeking process as a judge who accepts a bribe.”).

**C. Mr. Goodman Acted Diligently**

“The ‘due diligence’ test requires that counsel provide a sufficient explanation of the type of information which potential jurors are being asked to disclose.” *Kelly*

*v. Community Hosp. of Palm Beaches, Inc.*, 818 So. 2d 469, 475 (Fla. 2002). The other jurors obviously had no problem understanding that the question would apply to a spouse and were not too intimidated or shy to speak up. The failure of Mr. DeMartin to answer a direct, plain-spoken question about the prior arrests of “family members” or even just “someone that affects you” was not due to lack of diligence by Mr. Goodman. It was juror misconduct. *See generally Conaway v. Polk*, 453 F.3d 567, 585 (5<sup>th</sup> Cir. 2006) (holding that a catch all question during voir dire about whether there was “any reason whatsoever” to think that the juror could be fair should have prompted disclosure that juror was the double first cousin of a co-defendant’s father).

With Mr. DeMartin essentially lying in response to the question, there was no reason for counsel to dig deeper. Nor could counsel be expected to investigate each juror during the trial – much less each juror’s family members. The Florida Supreme Court has, in any event, ruled that such a search is not necessary during the trial. *Roberts*, 814 So. 2d at 345 (ruling that a trial lawyer cannot be expected to be both in the courtroom presenting a case and at the same time in a different location investigating jurors’ histories).

Nor did counsel have any reason, or ability, to investigate whether jurors had family members or friends who might have been arrested. No court has ever imposed

such a requirement. And, from Mr. DeMartin's book, it appears that the ex-wife's arrest occurred in another state. Counsel have also brought this matter to the Court's attention as soon as was practicable after learning about the book, which itself was only published on March 14, 2013.

### CONCLUSION

Once a defendant shows that a juror has concealed relevant, material information, the unfair prejudice is established. *Loftin*, 67 So. 2d at 192. New trials have been granted in similar circumstances. *De La Rosa*, 659 So. 2d at 242; *Kelly*, 818 So. 2d at 476. Mr. Goodman need hardly state that the integrity of the jury-selection process is critical to the proper functioning of the court system. Accordingly, Mr. Goodman respectfully urges this Court to stay the appeal and remand for an evidentiary hearing into Mr. DeMartin's misconduct. *See Tripp*, 874 So.2d at 733-34; *Davis v. State*, 778 So.2d 1096 (Fla. 4<sup>th</sup> DCA 2001); *Smiley*, 451 So.2d at 979. *State Farm Mutual Auto. Ins. Co.*, 65 So.3d at 56.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed via eDCA to the Fourth District Court of Appeals, and e-mailed and mailed, via FedEx, to Richard Valuntas, Assistant Attorney General, Office of the Attorney General, 1515 North Flagler Drive, Suite 900, West Palm Beach, Florida, 33401, this 25<sup>th</sup> day of March, 2013.

/s/G. Richard Strafer  
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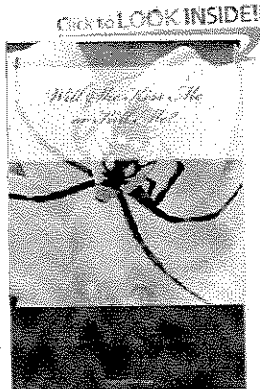
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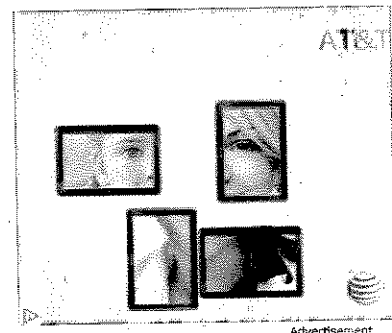
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*Will She Kiss Me  
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*Dennis De Martin*

# Will She Kiss Me or Kill Me?

Dennis Charles DeMartin

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# EXHIBIT 2

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE NO. 2010 CF 005829 AMB DIV "W"

STATE OF FLORIDA,

-VS-

JOHN GOODMAN,

Defendant.

---

**COPY**

JURY TRIAL BEFORE THE HONORABLE JEFFREY COLBATH  
Volume 8 of 27  
(Pages 871 through 963)

Thursday, March 8, 2012  
10:17 a.m. - 12:05 p.m.

PALM BEACH COUNTY COURTHOUSE, COURTROOM 11F  
205 North Dixie Highway  
West Palm Beach, Florida

Stenographically Reported By:

MELINDA COLCHICO, RDR, CSR(CA), FPR

ROBIN L. MERKER, RPR, FPR

SUSAN SHELLING, RPR, CSR(NY), FPR

1           how do I know?

2                   Let me tell you right off, being a juror, it's  
3           work. It's duty. It's not like television where we  
4           can wrap it all up in an hour, and every single  
5           question you have will be answered by instant replay.  
6           It's work.

7                   Ms. Nosworthy, are you willing to work?

8                   MS. NOSWORTHY: I've been working all my life,  
9           so why not.

10                  MS. COLLINS: Are you able to resolve the  
11           conflict?

12                  MS. NOSWORTHY: Yes.

13                  MS. COLLINS: Mr. James, what about you? Are  
14           you willing to put the time in?

15                  MR. JAMES: Yes, ma'am.

16                  MS. COLLINS: Let me tell you, there was no  
17           camera out there that night. There was no push-play,  
18           answer all the questions.

19                  Does everyone understand it's going to be work?

20                  Now, I asked anyone if anyone's ever been a  
21           victim of a crime. Now I'm going to ask the same  
22           question from a different point of view.

23                  Has anyone in the panel themselves, close  
24           friend or family member or someone that affects you,  
25           ever been arrested, charged or convicted or accused

1 of a crime?

2 All right. So let's go through that.

3 Let me start over here, so it doesn't get real  
4 boring.

5 Mr. Viellot, have you ever had anyone that was  
6 arrested or convicted of a crime, close friend,  
7 family member, yourself?

8 MR. VIELLOT: No.

9 MS. COLLINS: Ms. Zuloaga?

10 MS. ZULOAGA: Yes, I have, a family member. My  
11 boss.

12 MS. COLLINS: Do you mind sharing what it was?

13 MS. ZULOAGA: Trafficking cocaine.

14 MS. COLLINS: Trafficking cocaine?

15 MS. ZULOAGA: Um-hmm.

16 MS. COLLINS: Was that something that was  
17 recent?

18 MS. ZULOAGA: Yes. But I can't say it was  
19 actually trafficking in cocaine. He had it on him.

20 Possession, I guess it was.

21 MS. COLLINS: Well, it's really interesting.

22 People say trafficking. Really, trafficking cocaine  
23 is just possession of a lot of it.

24 MS. ZULOAGA: Oh. Okay.

25 MS. COLLINS: Yeah.

1 MS. ZULOAGA: He did have it in his possession.

2 MS. COLLINS: It's possession of over a certain  
3 amount.

4 Do you feel he was treated fairly?

5 MS. ZULOAGA: I do.

6 MS. COLLINS: Do you have any feelings about  
7 that prosecution that you think would affect your  
8 ability to sit as a juror?

9 MS. ZULOAGA: Not at all.

10 MS. COLLINS: Was it here in Palm Beach County?

11 MS. ZULOAGA: It was.

12 MS. COLLINS: And you feel he was treated  
13 fairly?

14 MS. ZULOAGA: Yes.

15 MS. COLLINS: By the police?

16 MS. ZULOAGA: I do.

17 MS. COLLINS: And by the prosecution?

18 MS. ZULOAGA: Not necessarily the media so  
19 much, but...

20 MS. COLLINS: So but in terms of the  
21 prosecution, do you feel he was treated fairly?

22 MS. ZULOAGA: I do.

23 MS. COLLINS: And the judges in the court  
24 system?

25 MS. ZULOAGA: Yeah.



1 MS. COLLINS: Mr. Harris, what about you,  
2 anyone?

3 MR. HARRIS: Friends and acquaintances. I  
4 can't really recall all of them, but drug related.

5 MS. COLLINS: Do you feel that anyone in that  
6 situation was treated unfairly?

7 MR. HARRIS: Not at all.

8 MS. COLLINS: Not at all? Okay.

9 Mr. Arguelles?

10 MR. ARGUELLES: Yes.

11 MS. COLLINS: Was that here in Palm Beach  
12 County?

13 MR. ARGUELLES: In Kentucky, when I lived in  
14 Kentucky.

15 MS. COLLINS: Recently?

16 MR. ARGUELLES: Years ago.

17 MS. COLLINS: Do you feel he was treated  
18 fairly?

19 MR. ARGUELLES: Yes.

20 MS. COLLINS: Do you mind sharing with us what  
21 kind of case it was?

22 MR. ARGUELLES: Trafficking in cocaine.

23 MS. COLLINS: Where are you from originally --

24 MR. ARGUELLES: It was like five years in  
25 prison.

1 MS. COLLINS: Was it federal or state?  
2 MR. ARGUELLES: Federal.  
3 MS. COLLINS: Do you mind if I ask where you're  
4 from?  
5 MR. ARGUELLES: Cuba.  
6 MS. COLLINS: Your accent is melodious, and I  
7 wasn't sure where you were from.  
8 Mr. Guncheon, what about you?  
9 MR. GUNCHEON: As I told you yesterday, three  
10 DUIs.  
11 MS. COLLINS: And you've also been a victim of  
12 a DUI crash?  
13 MR. GUNCHEON: Correct.  
14 MS. COLLINS: Has anyone or a close family  
15 member ever been accused of a crime?  
16 MR. GUNCHEON: Yeah. Accused, molestation.  
17 MS. COLLINS: Now, so someone in your family  
18 was accused -- were they treated fairly by the  
19 police?  
20 MR. GUNCHEON: I would say so, yes.  
21 MS. COLLINS: Were they treated fairly by the  
22 system?  
23 MR. GUNCHEON: Wasn't enough evidence. The way  
24 I feel about it, he was guilty, and got away with it.  
25 MS. COLLINS: Well, did you -- did that leave

1           any feelings with you -- so now you've had two  
2           situations: one for yourself and one for a close  
3           friend on pretty serious charges; people walked free.  
4           That hasn't affected you at all?

5           MR. GUNCHEON: Not really. I mean, it's the  
6           job of the lawyers and the State to do a case. But,  
7           you know, they mess it up --

8           MS. COLLINS: How recently was that molestation  
9           charge?

10          MR. GUNCHEON: Oh, shoot. She was  
11          18 -- 16 years old, and I was 18. So I'm in my  
12          forties. So 20 years, 25 years.

13          MS. COLLINS: Ms. Culmer, how about you?

14          MS. CULMER: Myself, I actually used my  
15          sister's name driving. I think I was 20. I didn't  
16          have a driver's license.

17          MS. COLLINS: Like Mr. Harris described?

18          MS. CULMER: Yes. I think I was either 20 or  
19          19. I used her name. Don't quote me on the age. I  
20          used her name and got away with it.

21          Actually, I forgot about it. And I didn't get  
22          a ticket, didn't think anything of it. You're young,  
23          you don't know anything of it.

24          She actually got pulled over in a rental car  
25          one day and she called me and she goes, "I need you

1 to come pick me up." And I said, "I'll pick you up,  
2 why?" She said, "Oh, the police pulled me over and  
3 they're saying I've got a warrant out." It was in  
4 Fort Lauderdale. She was like, "They're going to  
5 take me to jail." She was crying.

6 And they were like, "We obviously know it's not  
7 you, but you need to get this taken care of." She  
8 had to do an affidavit.

9 And she goes down. It's like the picture's  
10 actually of you, but I don't want to tell them that I  
11 know you, so you need to call a lawyer and get this  
12 fixed. Like what?

13 Everything was actually taken care of by  
14 getting a lawyer in Fort Lauderdale and paying for my  
15 ticket, my license, and I had to pay him. And he  
16 took care of the whole thing without me doing any  
17 time or anything like that.

18 MS. COLLINS: When your sister got the  
19 warrant -- did you remember it was you or you didn't  
20 make a connection?

21 MS. CULMER: No, I didn't. I still didn't make  
22 any connection.

23 I didn't know it until actually she went down  
24 to Fort Lauderdale and she called me, when she was  
25 leaving out of there, she does -- she filled out this

1           thing saying that she didn't know me. But she saw a  
2           picture of me. And she was like, "It was you, you  
3           actually used my name that day," or whatever.

4           And I was like, I didn't remember anything  
5           about remembering using her name because it had been  
6           a while ago.

7           But that was taken care of with no problem.

8           And then, like my family, my family's always  
9           been in trouble throughout the course of the years:  
10          my dad, my brothers, all of them were in trouble,  
11          whether it be drugs or --

12          MS. COLLINS: Just like we said earlier, you  
13          can't pick your family.

14          So it was mostly drug stuff with your dad and  
15          your brothers.

16          MS. CULMER: Yes. Mainly drugs. All of them  
17          are actually drug related, either drugs or driving.  
18          Driving while the license was suspended or whatever.

19          MS. COLLINS: Did either your father or your  
20          brother ever have drug addictions that actually led  
21          to them committing other unrelated crimes?

22          MS. CULMER: Yes. All of them.

23          MS. COLLINS: Like breaking into cars and  
24          stuff?

25          MS. CULMER: No breaking into cars. Just

1           mainly, I think they have a low tolerance level for  
2           drugs and alcohol, and it just plays a big part in  
3           the decisions that they made.

4           MS. COLLINS: Got it. Got it.

5           Do you feel any of those situations with your  
6           brothers or your dad, that any of them were treated  
7           unfairly by either the system or the police?

8           MS. CULMER: Sometimes, and sometimes no. I  
9           figure, you know, you're weighing what you do. And  
10          at the end of the day, if you're found guilty for it,  
11          then you have to, you know, suffer the consequences;  
12          but no.

13          Sometimes they are and sometimes they aren't,  
14          you know. It just depends on the situation at hand.

15          Like my brother running from the police one  
16          day. And then he ended up passing out behind -- at  
17          the bus terminal, like, wall or whatever; he jumped  
18          over a wall and ended up passing out after a car  
19          accident that he caused. You caused it. Ultimately  
20          you have to pay the price.

21          MS. COLLINS: When that case went through the  
22          court system, was he treated fairly by the police?

23          MS. CULMER: Yeah. Um-hmm.

24          Actually, they took some time off. You know,  
25          they worked with him, you know, because they noticed

1           that he had a problem. And that I do appreciate, you  
2           know, because, you know, at times people, they need  
3           help.

4           MS. COLLINS: Sure. Now, has there ever been a  
5           situation with your family members that have been  
6           involved with law enforcement or with the system  
7           where you feel they weren't treated fairly?

8           MS. CULMER: No, not really.

9           MS. COLLINS: Anything about those situations  
10          that you think would affect your ability to sit as a  
11          juror?

12          MS. CULMER: No.

13          MS. COLLINS: Ms. Lopez, what about you?

14          MS. LOPEZ: My brother, yeah, dealing in drugs.

15          MS. COLLINS: Recently?

16          MS. LOPEZ: No, that was many years ago. Maybe  
17          ten years ago, maybe.

18          MS. COLLINS: How's he doing now?

19          MS. LOPEZ: He's doing better.

20          MS. COLLINS: Doing better?

21          How do you feel he was treated by the police  
22          and by the system?

23          MS. LOPEZ: Fair.

24          MS. COLLINS: Anything about that situation  
25          that you think would affect your ability to sit as a

1 juror?

2 MS. LOPEZ: No.

3 MS. COLLINS: Ms. Hallison-Mischler?

4 MS. HALLISON-MISCHLER: It would be my brother.  
5 I believe drugs; I'm not sure. I don't really know a  
6 lot of the details. But I know there was court time  
7 and I don't think he ever served time.

8 MR. COLLINS: Older brother?

9 MS. HALLISON-MISCHLER: Younger brother.

10 MS. COLLINS: Younger brother. So you were  
11 already out of the house.

12 MS. HALLISON-MISCHLER: I was out of the house.  
13 It's gone on after I moved, so we're not really in  
14 contact about it.

15 MS. COLLINS: So you are picking who your  
16 family can be. You're just, Whoa. Stepping away.

17 MS. HALLISON-MISCHLER: Yeah, so.

18 MS. COLLINS: Any belief from what you know  
19 that he was treated unfairly by the system or by the  
20 law enforcement?

21 MS. HALLISON-MISCHLER: None that I understand.  
22 It was him, and he had to go in and do his thing and  
23 do his community service and whatever it is he had to  
24 do.

25 MS. COLLINS: Ms. Stanley?



1 MS. STANLEY: DUI, when I was 18.

2 MS. COLLINS: I think the statute of  
3 limitations has run on that. I don't think anything  
4 you do at 18 should really count.

5 MS. STANLEY: I was only one point over the  
6 legal limit.

7 MS. COLLINS: And I'm really glad you mentioned  
8 that. Because what's interesting is, a lot of people  
9 don't understand that DUI is a crime.

10 MS. STANLEY: Yeah.

11 MS. COLLINS: So you were 18?

12 MS. STANLEY: I was 18.

13 MS. COLLINS: Were you treated fairly by law  
14 enforcement?

15 MS. STANLEY: Yes, I was.

16 MS. COLLINS: What about by the system?

17 MS. STANLEY: Yes, I was.

18 MS. COLLINS: Now, as someone who was charged  
19 with DUI, at the time that you were driving, did you  
20 feel like you were okay, or did you feel like you  
21 shouldn't have been driving?

22 MS. STANLEY: I was 18. Well, my roommate was  
23 too drunk to drive and I knew I only had a couple of  
24 drinks and I thought I was more sober than he was and  
25 I thought he can't get us home.

1                   And the police officer followed us from the  
2                   bar. And of course I was yelling at my roommate who  
3                   was too drunk to drive. And we were swerving on the  
4                   road, and that's how I got pulled over.

5                   MS. COLLINS: Do you think you were treated  
6                   unfairly at all?

7                   MS. STANLEY: No, I don't.

8                   MS. COLLINS: Let me see. Thank you.

9                   Ms. Kingham, what about you? Nothing?

10                  MS. KINGHAM: I know my husband had an incident  
11                  when he was 17 before we met, but --

12                  MS. COLLINS: All right. Nothing that has  
13                  affected you?

14                  MS. KINGHAM: No.

15                  MS. COLLINS: Ms. Nosworthy?

16                  MS. NOSWORTHY: No.

17                  MS. COLLINS: No friends or family members?

18                  MS. NOSWORTHY: My husband's brother. But that  
19                  was like over 20 years ago. When I got married with  
20                  him, I didn't know about it. It's just a story that  
21                  was told to me. So...

22                  MS. COLLINS: And what was the story?

23                  MS. NOSWORTHY: Well, he's from Jamaica, so he  
24                  tries to bring some marijuana inside an oxygen tank.  
25                  So I guess he got arrested and did his time. But at

1 the time I met him, I didn't even know about it.

2 MS. COLLINS: It was probably in the '80s, and  
3 marijuana in the '80s --

4 MS. NOSWORTHY: He thought he could get away  
5 with it.

6 MS. COLLINS: It was like a dive tank? Like  
7 for scuba diving tank?

8 MS. NOSWORTHY: No. He's a mechanic, so he  
9 brings oxygen tanks for welding.

10 MS. COLLINS: Got it. Got it.

11 Mr. James, what about you?

12 MR. JAMES: I had a coworker go to federal  
13 prison for conspiracy.

14 MS. COLLINS: I remember that. That was about  
15 two years ago?

16 MR. JAMES: Two years ago.

17 MS. COLLINS: And you luckily weren't involved  
18 in that group.

19 MR. JAMES: I wasn't involved in that group.

20 MS. COLLINS: They were bringing in stuff for  
21 the prisoners.

22 MR. JAMES: They weren't actually bringing it  
23 in, but they were just taking it from Point a to  
24 Point be and getting money for it. But it wasn't  
25 actually drugs.

1 MS. COLLINS: They were giving stuff to the  
2 prisoners the prisoners shouldn't have.

3 MR. JAMES: The prisoners shouldn't have.

4 MS. COLLINS: Do you feel that they were  
5 treated unfairly?

6 MR. JAMES: No.

7 MS. COLLINS: Think they got what they  
8 deserved?

9 MR. JAMES: Yes.

10 MS. COLLINS: Anything about the way that was  
11 investigated that bothered you?

12 MR. JAMES: No, ma'am.

13 MS. COLLINS: Ms. Marotta, what about you?

14 MS. MAROTTA: I had a sister that had a little  
15 run-in with a DUI about ten years ago.

16 MS. COLLINS: Now, by a little run-in with a  
17 DUI, did she have a crash?

18 MS. MAROTTA: No.

19 MS. COLLINS: And how was she treated?

20 MS. MAROTTA: Correctly.

21 MS. COLLINS: She got caught fair and square?

22 MS. MAROTTA: Yes.

23 MS. COLLINS: What's interesting is,

24 Ms. Stanley, Ms. Marotta, you've indicated you've had  
25 family members or yourselves with the DUI.

1 Do you know the difference between a DUI and a  
2 DUI manslaughter?

3 MS. STANLEY: Someone dies in a manslaughter  
4 case.

5 MS. COLLINS: Really, it's luck.

6 MS. MAROTTA: Yeah, it is.

7 MS. COLLINS: Let's go over here and start with  
8 Mr. Copeland.

9 MR. COPELAND: My brother, younger brother. He  
10 pled to child endangerment, oh, say, ten years ago,  
11 in Missouri.

12 MS. COLLINS: Child endangerment can mean just  
13 about anything.

14 MR. COPELAND: He was given three years'  
15 probation. Probation officer recommended that he  
16 stay in probation. The judge actually said I'm not  
17 going to follow a recommendation from the probation  
18 officer, I'm going to give you a chance to serve six  
19 months and then your rights are restored, you're free  
20 to go.

21 He did his six months, and he's free and clear.

22 MS. COLLINS: Do you think he was treated  
23 fairly?

24 MR. COPELAND: Yes.

25 MS. COLLINS: Anything about that that would

1           affect your ability in this case to sit as a juror?

2           MR. COPELAND: No.

3           MS. COLLINS: Ms. Perez?

4           MS. PEREZ: Younger sister.

5           MS. COLLINS: Okay.

6           MS. PEREZ: She got caught with marijuana, and  
7 she did, like, community service.

8           MS. COLLINS: Was she a juvenile?

9           MS. PEREZ: Yeah.

10          MS. COLLINS: Anything about that experience  
11 that you felt she wasn't treated fairly?

12          MS. PEREZ: No.

13          MS. COLLINS: Anything about that do you think  
14 would affect your ability to sit as a juror?

15          MS. PEREZ: No.

16          MS. COLLINS: Ms. Sweeney.

17          MS. SWEENEY: I have two older brothers. Both  
18 had DUIs.

19          MS. COLLINS: How long ago was that?

20          MS. SWEENEY: Maybe like four years ago. One  
21 of them was about eight years ago, and about four  
22 years ago for the other brother.

23          MS. COLLINS: How do you feel they were  
24 treated?

25          MS. SWEENEY: They were treated based on their

1 actions.

2 MS. COLLINS: Now, were they -- in your  
3 opinion, were they guilty or did they get caught fair  
4 and square?

5 MS. SWEENEY: They were guilty.

6 MS. COLLINS: How are they doing now?  
7 Obviously alcohol is an issue now.

8 MS. SWEENEY: They've stopped and they've moved  
9 on. They haven't gotten a DUI or anything with  
10 alcohol.

11 MS. COLLINS: Anything about that situation  
12 that you think would affect your ability to sit as a  
13 juror?

14 MS. SWEENEY: No.

15 MS. COLLINS: Mr. Morse?

16 MR. MORSE: Two occasions. On one occasion I  
17 had a friend who was charged with possession of  
18 narcotics. A little bit unfairly treated, according  
19 to him. During the arrest, the officer -- the pills  
20 were his roommate's, who wasn't present at the time  
21 of the arrest.

22 The officer, according to my friend, told him  
23 that somebody was going to be charged with possession  
24 for it. So my friend took the blame for possession  
25 of the pills and served a year in jail in Palm Beach

1 County.

2 MS. COLLINS: He spent a year in jail for  
3 possession?

4 MR. MORSE: For possession of the pills.

5 MS. COLLINS: What was the other one?

6 MR. MORSE: The other one was a friend who was  
7 involved in involuntary manslaughter while under the  
8 influence of narcotics, just a few pills.

9 MS. COLLINS: So I guess he or she provided  
10 pills to another person, and they died?

11 MR. MORSE: No. He was under the influence.  
12 He was behind the wheel. He rear-ended a car which  
13 went out into traffic and hit an oncoming car and  
14 killed a person in that oncoming car.

15 MS. COLLINS: How long ago was that?

16 MR. MORSE: Six or seven years ago.

17 MS. COLLINS: Was that here in Palm Beach  
18 County?

19 MR. MORSE: Yes.

20 MS. COLLINS: Was Ms. Roberts the prosecutor?

21 MR. MORSE: I really don't know. I didn't  
22 follow the case that closely. I found out a little  
23 bit from a friend, but not that much.

24 MS. COLLINS: How do you feel that that friend  
25 was treated by the system, if you know?



1 MR. MORSE: From what I understand and what I  
2 heard, it seemed like he unfortunately got -- he was  
3 treated fairly and was given -- he was sentenced  
4 accordingly, according to the law.

5 MS. COLLINS: It seems like -- was this friend,  
6 like, a nice person?

7 MR. MORSE: Yes. He was a very nice person.  
8 Someone I knew from high school. This happened years  
9 after. He was -- kind of started running around with  
10 a different group of people. I still kept in touch  
11 with him, but --

12 MS. COLLINS: Do you feel that either the  
13 story, someone you feel was treated unfairly  
14 according to them or treated fairly, do you think  
15 those situations would affect your ability to sit as  
16 a juror in this case?

17 MR. MORSE: No. I don't know whether or  
18 not -- I have a friend who was presumably charged  
19 with possession. Quite honestly, I couldn't tell you  
20 if he was telling me the truth.

21 MS. COLLINS: No?

22 MR. MORSE: So, I mean, he is still a friend of  
23 mine; probably one of my best friends at this time.  
24 So I can only trust what he said.

25 MS. COLLINS: Do you think that would affect

1           your ability -- thinking about law enforcement, that  
2           maybe law enforcement said that to him, so maybe  
3           they're doing something wrong in this case, or can  
4           you wait and listen to what law enforcement has to  
5           say and judge the credibility?

6           MR. MORSE: I can listen to the evidence.

7           MS. COLLINS: Great.

8           Ms. Mohan?

9           MS. MOHAN: A friend now recently doing jail  
10          time for burglary and possession of marijuana.

11          MS. COLLINS: Do you feel they were treated  
12          fairly?

13          MS. MOHAN: Yeah.

14          MS. COLLINS: Anything about that experience  
15          that you think would affect you?

16          MS. MOHAN: No.

17          MS. COLLINS: Mr. Clifton?

18          MR. CLIFTON: Myself, about seven years ago, I  
19          was arrested for battery.

20          MS. COLLINS: And you completed the pretrial  
21          intervention program, the charges were dropped?

22          MR. CLIFTON: Yeah.

23          MS. COLLINS: How do you feel that the system  
24          treated you?

25          MR. CLIFTON: Very well.

1 MS. COLLINS: No problems with it at all?

2 MR. CLIFTON: No. Professional and efficient.

3 MS. COLLINS: Do you feel that anything about  
4 that situation in terms of the way the law  
5 enforcement handled it or the way the State  
6 Attorney's Office handled it was inappropriate?

7 MR. CLIFTON: No.

8 MS. COLLINS: All right. Thank you for sharing  
9 that.

10 And Mr. St. John?

11 MR. ST. JOHN: No.

12 MS. COLLINS: Nothing?

13 Mr. Cuffe?

14 MR. CUFFE: When my son was a teenager, he got  
15 caught with a joint, and he had to do intervention  
16 for about six months.

17 MS. COLLINS: And do you feel he was treated  
18 fairly?

19 MR. CUFFE: Yes.

20 MS. COLLINS: Was that a good thing,  
21 intervention for him?

22 MR. CUFFE: Sure was. An eye opener for him.

23 MS. COLLINS: Good.

24 Ms. Lewis, what about you?

25 MS. LEWIS: DUI, myself and friends.

1 MS. COLLINS: And how do you feel about that  
2 case in terms of yourself first: Do you feel you  
3 were treated fairly?

4 MS. LEWIS: Yes, I do.

5 MS. COLLINS: Got caught fair and square?

6 MS. LEWIS: Yeah.

7 MS. COLLINS: Did you change your actions at  
8 all after you got one or two?

9 MS. LEWIS: Yeah.

10 MS. COLLINS: What changed in your life?

11 MS. LEWIS: Well, I have a CDL license. Back  
12 then, you could do hardship. It was down the road  
13 they changed the rules at work, too. So we get drug  
14 and Breathalyzer random at work.

15 MS. COLLINS: At work?

16 MS. LEWIS: Yes.

17 MS. COLLINS: And what about your friends, do  
18 you have any friends that you feel were treated  
19 unfairly?

20 MS. LEWIS: Overly fairly. Some got out; some  
21 did time.

22 MS. COLLINS: So anything about those  
23 experiences that you think would affect your ability  
24 to sit as a juror?

25 MS. LEWIS: No.

1 MS. COLLINS: Ms. Radaci?

2 MS. RADACI: No one.

3 MS. COLLINS: Nothing?

4 Mr. Whittaker?

5 MR. WHITTAKER: I had a cousin that was  
6 arrested for DUI, an open container, on South Beach.  
7 Spent the night in jail and then hired a lawyer. And  
8 he lived in San Francisco, so the charges were  
9 dropped.

10 MS. COLLINS: Do you feel he got away with it  
11 or do you think that he should have come back? Do  
12 you have any feelings about the way his DUI was  
13 handled?

14 MR. WHITTAKER: No, not really.

15 MS. COLLINS: Okay. Do you think he was  
16 treated fairly?

17 MR. WHITTAKER: Yeah.

18 MS. COLLINS: Ms. Rollings?

19 MS. ROLLINGS: Nothing.

20 MS. COLLINS: Ms. Janock?

21 MS. JANOCK: No.

22 MS. COLLINS: Mr. DeMartin?

23 MR. DeMARTIN: In 50-years-plus driving, I had  
24 maybe three speeding tickets. Listening to all this,  
25 I must have had a very boring life.

1 MS. COLLINS: It's really interesting -- a lot  
2 of people find jury selection a little tedious, but  
3 it's so interesting to see what different members of  
4 the same community you lived with have had such  
5 different experiences. So I really appreciate all of  
6 you just speaking up and sharing it with us.

7 MR. DeMARTIN: I know. I'm even trying to  
8 think of my family. I don't think any of my family  
9 had any problems.

10 MS. COLLINS: Thanksgiving must be boring at  
11 your house.

12 MR. DeMARTIN: I never heard so much.

13 MS. COLLINS: Ms. Delano, what about you?

14 MS. DELANO: I join his club.

15 MS. COLLINS: Thanksgiving's boring at your  
16 house?

17 MS. DELANO: Boring.

18 MS. COLLINS: Ms. Phillips?

19 MS. PHILLIPS: Speeding tickets.

20 MS. COLLINS: Those aren't criminal, thank  
21 goodness; otherwise, more of us would be answering  
22 this question.

23 MS. PHILLIPS: And I had a coworker last year  
24 was arrested overnight for domestic violence.

25 MS. COLLINS: Was that person treated fairly by

1 the system?

2 MS. PHILLIPS: Yes, she was.

3 MS. COLLINS: So it was a she who was arrested  
4 for domestic violence.

5 MS. PHILLIPS: (Shakes head up and down.)

6 MS. COLLINS: That's very interesting. A  
7 minority, but it happens.

8 Mr. Harris can tell you, it happens. Once in a  
9 while the man is the victim and the female is the  
10 aggressor.

11 Any other incidents with someone?

12 MS. PHILLIPS: No.

13 MS. COLLINS: Ms. Dubeau?

14 MS. DUBEAU: A lot of work that I do, we arrest  
15 a lot of people for shoplifting.

16 MS. COLLINS: From Publix, you think?

17 MS. DUBEAU: Yeah.

18 Anyway, every person that is arrested, even  
19 though they've done something incorrectly, has always  
20 been treated very fairly.

21 MS. COLLINS: Now, as the manager -- are you  
22 the manager of the Royal Palm Publix?

23 MS. DUBEAU: I was, but I'm in Boynton Beach  
24 now.

25 MS. COLLINS: Every time that somebody is

1 arrested from Publix for shoplifting or passing a bad  
2 check or using a fraudulent credit card, as the  
3 manager, are you listed actually as the victim?

4 MS. DUBEAU: I have been, yes.

5 MS. COLLINS: Have you ever testified in a  
6 criminal case because of that?

7 MS. DUBEAU: I was called once, but we didn't  
8 have enough evidence on our side, so it was dropped.

9 MS. COLLINS: Anything about any of those  
10 experiences that you think would affect your ability  
11 to sit as a juror?

12 MS. DUBEAU: No, not at all.

13 MS. COLLINS: Mr. Greene?

14 MR. GREENE: Nothing.

15 MS. COLLINS: Ms. Ryan-Cardenas?

16 MS. RYAN-CARDENAS: Just arrested a few times  
17 for drugs.

18 MS. COLLINS: The one who stole your identity?

19 MS. RYAN-CARDENAS: Yes.

20 MS. COLLINS: Do you feel he was treated  
21 fairly?

22 MS. RYAN-CARDENAS: He got away with a lot of  
23 it and got stuck on the rest.

24 MS. COLLINS: He should have been treated  
25 harsher?



1 MS. RYAN-CARDENAS: Yes.

2 MS. COLLINS: You think he should have been  
3 treated more fairly?

4 MS. RYAN-CARDENAS: Yes.

5 MS. COLLINS: Anything about that situation  
6 that you think would affect your ability to sit as a  
7 juror?

8 MS. RYAN-CARDENAS: No.

9 MS. COLLINS: Dr. Popper?

10 DR. POPPER: My youngest son.

11 MS. COLLINS: Okay. The one who wants to go  
12 into nursing?

13 DR. POPPER: Yes.

14 MS. COLLINS: Do you mind sharing with us?

15 DR. POPPER: When he was a minor, we had an  
16 incident of marijuana possession, and recently we  
17 had, I guess, theft.

18 MS. COLLINS: Do you feel that the system  
19 treated him fairly?

20 DR. POPPER: Yes.

21 MS. COLLINS: Maybe like Ms. Ryan-Cardenas  
22 says, maybe they should have treated him a little  
23 more fairly?

24 Sometimes when you get someone young, like  
25 Mr. Cuffe was saying, hit them hard, it kind of

1 changes their attitude.

2 Was that the way it hit your son?

3 DR. POPPER: It's working.

4 MS. COLLINS: Anything about that incident that  
5 you think would affect your ability -- when someone's  
6 a juvenile and they get arrested, it's almost like  
7 you have to go and be involved and go to court every  
8 time.

9 Anything about that that would affect your  
10 ability?

11 DR. POPPER: Wouldn't affect it at all. The  
12 last incident, he was not a minor.

13 MS. COLLINS: The last one.

14 And Ms. Finch?

15 MS. FINCH: Nothing.

16 MS. COLLINS: Mr. Scroggs?

17 MR. SCROGGS: Yeah, two incidents about  
18 25 years ago, personal DUI.

19 MS. COLLINS: All right.

20 MR. SCROGGS: And about ten years ago, my  
21 nephew is a substance abuser, got into a standoff  
22 with police and ended up taking his own life.

23 MS. COLLINS: My goodness, I'm so sorry.

24 In that situation and the situation where you  
25 were arrested for DUI, do you feel in either of those

1 situations that the police acted inappropriately?

2 MR. SCROGGS: In my personal situation, no.

3 In the standoff, there was just a lot of  
4 confusion about the chain of events. But at the end  
5 of the day, he had made some bad choices and put  
6 himself in bad situations.

7 MS. COLLINS: That's horrible. And a lot of  
8 times it's easy to look back and say maybe they could  
9 have done this or that.

10 But your view is, it played out the way it  
11 played out and no one's to blame?

12 MR. SCROGGS: Yeah.

13 MS. COLLINS: Thanks for sharing that.

14 Mr. Ellsworth?

15 MR. ELLSWORTH: My wife.

16 MS. COLLINS: Which one?

17 MR. ELLSWORTH: This one.

18 MR. COLLINS: I'm sorry. I had to say it.

19 MR. ELLSWORTH: DUI.

20 MS. COLLINS: Okay. Was that recently?

21 MR. ELLSWORTH: About nine, maybe ten years  
22 ago.

23 MS. COLLINS: And how do you feel she was  
24 treated? She got caught fair and square?

25 MR. ELLSWORTH: Big pain in the neck. I had to

1 take her to driving school, take her to probation.  
2 She's crazy. She's 15 years younger than me. She's  
3 nuts.

4 MS. COLLINS: But you love her.

5 MR. ELLSWORTH: Yeah, I do. I really do.

6 MS. COLLINS: But do you feel she was treated  
7 fairly? I'm sure it was a huge inconvenience for  
8 you, but do you feel she was treated fairly by the  
9 system?

10 MR. ELLSWORTH: Yes.

11 MS. COLLINS: What about by law enforcement  
12 officers?

13 MR. ELLSWORTH: Well, she met them more than I  
14 did.

15 MS. COLLINS: Well, yes.

16 MR. ELLSWORTH: I wasn't there when she was --

17 MS. COLLINS: But I'm sure, as you told  
18 her -- have you told us what she does for a living;  
19 stay home and aggravate you, I'm sure she told you  
20 about it.

21 So what she shared with you, did she share with  
22 you that was there any problems with how law  
23 enforcement handled it?

24 MR. ELLSWORTH: No, she just didn't like being  
25 handcuffed.

1 MS. COLLINS: I don't know anyone who does.  
2 I'm sure there are some people that like being  
3 handcuffed. I used to live in Key West, so...

4 There are some people that like that.

5 All right. Now, I've just asked the whole  
6 panel has anyone ever been a victim of a crime, has  
7 anyone ever been charged or themselves, a close  
8 family member been a victim or charged with a crime.  
9 And many of you were very candid. And I appreciate  
10 that.

11 Is there anyone that was uncomfortable  
12 answering in a group, maybe who fits in one of those  
13 categories and would like to approach to talk about  
14 it? Anyone? No.

15 Great. Thank you so much.

16 Who watches "CSI"? "CSI New York," "CSI  
17 Miami," "CSI Las Vegas," "Law & Order," "Law & Order  
18 SVU," "Cold Case," "Forensic Files," "Numbers"? Any  
19 of those shows that involve -- law shows. Law shows.

20 They're like the top six shows out of the top  
21 ten, and have been for the last what, 15 years. I  
22 can date myself and say "Perry Mason," "LA Law."

23 Everyone watches those shows; otherwise they  
24 wouldn't be in the top ten.

25 Can we all agree that those shows are written

# EXHIBIT 3

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE NO. 2010 CF 005829 AMB DIV "W"

STATE OF FLORIDA,

-VS-

JOHN GOODMAN,

Defendant.

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**COPY**

JURY TRIAL BEFORE THE HONORABLE JEFFREY COLBATH  
Volume 9 of 27  
(Pages 964 through 1141)

JURY SELECTION

Thursday, March 8, 2012  
1:23 p.m. - 5:30 p.m.

PALM BEACH COUNTY COURTHOUSE, COURTROOM 11F  
205 North Dixie Highway  
West Palm Beach, Florida

Stenographically Reported By:

MELINDA COLCHICO, RDR, CSR(CA), FPR

ROBIN L. MERKER, RPR, FPR

SUSAN SHELLING, RPR, CSR(NY), FPR

1 straight.

2 MR. BLACK: Yeah. So how -- did you hire the  
3 lawyer personally or did the union?

4 MS. ROLLINGS: It was a union representative  
5 lawyer, yes.

6 MR. BLACK: Okay. Was there an administrative  
7 hearing or something like that?

8 MS. ROLLINGS: I guess you could call it that.

9 MR. BLACK: All right. And how was the  
10 relationship with the lawyer?

11 MS. ROLLINGS: Good.

12 MR. BLACK: Okay. Thank you. And yes, sir,  
13 Mr. DeMartin.

14 MR. DeMARTIN: First I want to apologize.  
15 Before our lunch, I went and called my ex-wife to see  
16 what I did in 2001. That's the only time I hired a  
17 lawyer. She recalls that we were in a bank once when  
18 we got held-up, and once we saw a motorcyclist get  
19 killed. Those are the only two things, and I'm sorry  
20 I didn't even remember. The only time I hired one  
21 was for my divorce.

22 MR. BLACK: All right. Well, Mr. DeMartin, you  
23 do not have to apologize to us, number one. But how  
24 was the relationship with the lawyer? How did that  
25 work out?



1 MR. DeMARTIN: Well, I didn't get what I  
2 wanted, but what can you do.

3 MR. BLACK: Right. But despite that, how  
4 was -- at the end of it, how did you look back on how  
5 you dealt with the lawyer? Did you feel --

6 MR. DeMARTIN: It was good because afterward he  
7 helped me with a trust.

8 MR. BLACK: Okay. All right, sir.

9 MR. DeMARTIN: We are okay.

10 MR. BLACK: Thank you very much. Anybody in  
11 the third row who has hired a lawyer? Mr. Ellsworth?

12 MR. ELLSWORTH: Yes. Three times. Three  
13 divorces.

14 MR. BLACK: Yes.

15 MR. ELLSWORTH: Two in New York and one down  
16 here.

17 MR. BLACK: You know, divorce lawyers are like  
18 a different part of the profession. But how did --  
19 how was your relationship with just your lawyers?

20 MR. ELLSWORTH: I loved the first one; loved  
21 the third one; the second one I lost the house. So  
22 we didn't do too good.

23 MR. BLACK: All right. But what's your --  
24 after having gone through three different lawyers,  
25 what's your general impression about lawyers? You