

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF WYOMING

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4 UNITED STATES OF AMERICA,

5 Plaintiff,

6 vs.

7 NATHANIEL SOLON,

8 Defendant.
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Case No. 07-CR-032-B
Volume I of VI (Partial)
(Pages 1-6)
Cheyenne, Wyoming
November 3, 2008
1:25 p.m.

10 TRANSCRIPT OF TRIAL PROCEEDINGS
11 MOTIONS IN LIMINE

12 BEFORE THE HONORABLE CLARENCE A. BRIMMER
13 UNITED STATES DISTRICT JUDGE

14 APPEARANCES:

15 For the Plaintiff:

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P R O C E E D I N G S

(Motion in limine proceedings commenced

1:25 p.m., November 3, 2008.)

(Following out of the presence of the defendant.)

THE COURT: The defendant's motion to suppress the criminal record of the defendant -- I haven't seen the motion, but I gather that's what it is --

MR. ANDERSON: It is essentially -- it was couched in 404(b) terms, but it really also kind of goes to 609, Rule 609. And again, Judge, I will be very careful in how I examine Mr. Doyle. I won't go to the felony conviction.

THE COURT: It is denied as moot in view of the agreement of the parties regarding the handling of this issue of the defendant's prior criminal record.

Now, Tom, with respect to your motion to obtain clarification prior to trial regarding the defendant's withdrawn guilty plea, do you want to speak to it?

MR. SMITH: Judge, I, likewise, think that motion is moot. Jim has agreed that he will not address that guilty plea that was previously entered.

THE COURT: Aren't you going to use --

MR. ANDERSON: I'm not going to use that, Judge. The only way that I will bring up anything that happened at that felony -- that change of plea hearing is if Mr. Solon were to testify and he were to testify to something materially

1 different than what he said under oath that day, I might say,
2 "Well, you've testified under oath previously in this matter,"
3 and ask him some questions along those lines under 60 --

4 THE COURT: His testimony before this Court is fair
5 game to all.

6 MR. ANDERSON: I understand, Judge. But I'm -- I want
7 to be ultra careful on that particular point. And I don't
8 believe that I will be introducing that soliloquy or colloquy
9 with the Court at his change of plea hearing unless he
10 testifies during trial and it runs contrary, and then I think
11 it is fair game under Rule 613, prior inconsistent statement.

12 MR. SMITH: Agreed, Your Honor.

13 THE COURT: Okay. Then the motion of the defendant
14 for clarification is granted with this clarification.

15 MR. ANDERSON: Thank you, Judge. I think that's all
16 we had to talk to the Court about, other than to get some
17 direction from you.

18 How long would you -- because this is a computer case
19 and because it deals with a fairly sensitive topic of child
20 pornography, Tom and I were both thinking that our voir dres
21 would run about 45 minutes, with the Court's permission. I
22 know that's longer than you typically allow the lawyers to voir
23 dire, but because it is -- we touch upon sexual abuse of
24 children --

25 THE COURT: In the past 20 minutes was the limit, but

1 why do you need more?

2 MR. ANDERSON: Well, I think that when we're talking
3 about a sensitive topic, about the sexual abuse of children and
4 whether or not anyone needs to respond to those types of
5 questions, perhaps even out of the hearing of the rest of the
6 jurors, we might want to allocate a little time to explore
7 those issues.

8 THE COURT: We're not going to do anything out of the
9 presence of the jury if we can avoid it.

10 MR. ANDERSON: I was thinking if we have a woman or a
11 man on the panel that may have been sexually abused as a child,
12 they certainly probably would not like to talk about a topic
13 like that before the rest of the jurors.

14 THE COURT: Well, if we have anything like that of
15 course we will have to do it, but I don't like to because it
16 slows us down. All right, well, we will.

17 MR. ANDERSON: What do you want to do tomorrow about
18 election day as far as court time?

19 THE COURT: What we will do is adjourn at 4:00 and
20 everybody will go home.

21 Have you voted? Then you don't need to worry about
22 going back.

23 MR. SMITH: Judge, it has been a long time since I've
24 had a case with you. May I ask how we exercise peremptory
25 challenges in your court, whether it is by written note passed

1 to you or --

2 THE COURT: We don't do that note business. You just
3 sing it out. And, you know, that note I think is silly.
4 Everybody knows who is challenging who and it doesn't deceive a
5 soul.

6 MR. SMITH: I might disagree with that, but anyway, I
7 just need to know your -- the way you do it. Thank you.

8 THE COURT: The way we do it is that we will have the
9 plaintiff's number one and then the defendant's one and two and
10 then the plaintiff's number two and then the defendant's three
11 and four and then plaintiff's third and defendant's five and
12 six and fourth and seven and eight, and then we are into one at
13 a time to get to the others because then it is evened out so we
14 end up with an even group.

15 (Motion in limine proceedings concluded

16 1:35 p.m., November 3, 2008.)

17 (Jury Selection not transcribed.)

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21 (Trial proceedings recessed

22 5:00 p.m., November 3, 2008.)
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C E R T I F I C A T E

I, JANET DAVIS, Federal Official Court Reporter for
 the United States District Court for the District of Wyoming, a
 Registered Merit Reporter and Federal Certified Realtime
 Reporter, do hereby certify that I reported by machine
 shorthand the foregoing proceedings contained herein on the
 aforementioned subject on the date herein set forth, and that
 the foregoing pages constitute a full, true and correct
 transcript.

Dated this 17th day of March, 2009.



JANET DAVIS
 Federal Official Court Reporter
 Registered Merit Reporter
 Federal Certified Realtime Reporter