

THE STATESMAN

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Announcements:

Any veteran or their dependants, who qualifies for the G.I. Bill, may now apply their veteran's benefits toward tuition at GWC.

The George Wythe College Alumni Association now officially organized, is hosting The First Annual Alumni and Friends Gala in conjunction with Commencement Exercises October 14th and 15th in Cedar City, Utah. [More Info](#)

Seminars:

August 17–18 [Summer Seminar: Shakespeare](#)

August 2–28 [Summer Seminar: The Great Political Thinkers](#)

September 1 [School Starts On-Campus](#)


For a Face to Face with Greatness seminar in your area, [click here](#).

**GWC Alumni Association Sponsor's the
2004 Andau Character Prize Winners**
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A Juror's Experience

By Kelly Rogers



The potential jurors arrived at the courthouse at 8:30am Monday morning. On the door of the courtroom it states the case on the docket: "The State of Utah vs. _____" for charges of "murder" (a first degree felony) and "desecration of a human body" (a third degree felony). This case was more serious than I thought it was going to be. I looked around after we had all filed into the courtroom and I was surprised at how many people there were—seventy of us in all. The court clerk handed out a twelve page questionnaire to each of us to fill out. There were questions such as: "Are you a U.S. Citizen?" "Where do you live?" "What magazines and newspapers do you read?" "Have you been a victim of a crime?" etc. There was also the question "Do you know any of these people?" and it listed the defendant, the victim, the family, the witnesses and the defense and prosecuting attorneys. I knew one person in the list—one of the prosecuting attorneys. He was a man in my neighborhood. I circled his name and finished the questions. The last question was "Is there any reason the defense wouldn't want you on the jury?"

It took about an hour for everyone to fill out their questionnaires. We watched a video about jury service in Utah and then the Clerk read off our names and put us into a random seating assignment starting in the jury box and extending into the gallery. I was in the jury box, juror number ten. It took two hours to get this far.

The attorneys and the defendant came in at this point and the judge asked each of us to stand and introduce ourselves, tell our spouse's name and what we and/or our spouse did for a living. This was the first opportunity for the attorneys to put names and faces together and get to know us as potential jurors. When introductions were finished, the judge asked us questions like "Is anyone here not a resident of Utah County?" "Is anyone here not a citizen of the United States?" "Do you know any of the people seated at the tables?" (This was in reference to the attorneys, the defendant and the one police detective seated with the prosecution.) There were three of us who knew the same prosecuting attorney (the man in my neighborhood). The judge then asked how we knew him and what kind of relationship it was—work, social, etc. Next the judge asked, "Do you know any of the other potential jurors in this room?" For those who answered yes, the judge followed up with questions on the relationship and whether or not it would be a problem serving on a jury with that person.

Finally we were given a short break while the attorneys and the defendant retired to the judge's chambers, after which they began calling us back one person at a time. By noon they had only gone through five potential jurors. They dismissed everyone for lunch and had us report back at staggered times. The next ten jurors at 12:45pm, the next ten at 1:30pm and everyone else at 2pm.

I found out later that the judge and attorneys were starting to get a little worried. They had to have twenty-two acceptable potential jurors to work with and at that point they didn't have any. Together, they would look at each questionnaire and then either accept, dismiss or call in the person if they had questions. Due to my acknowledged relationship with one of the lawyers, I was taken to the judge's chambers for further questions. In the presence of the attorneys and the defendant the judge asked me questions regarding my relationship with that particular attorney. He asked me again about my relationship with him; if we were affiliated with the same church; if we saw each other socially; if my husband had a relationship with him; if I could serve on the jury without being partial to his side because I knew him. I said that I thought I could, because my neighbor and I didn't really know each other except as acquaintances. Then he asked, "If

you were the defendant, Mr. _____, "would you have any reason not to want yourself on the jury?" I thought carefully about this I and replied, "I have been studying government for the past few years and have gained a new appreciation for our judicial system. I know how important it is for Mr. _____ to have an impartial jury to have a fair trial. I believe I can be impartial."

After 4:00pm they stopped interviewing people and everyone was called back to their assigned seats in the courtroom. The judge explained that the attorneys would now go through the peremptory process: there were now twenty-two acceptable jurors and each side could strike out six for any reason. This would leave them a total of ten people, eight jurors and two alternates. At 4:30pm they announced the jury selection and dismissed the rest. I was surprised that with my relationship to the prosecuting attorney, the defense had not stricken my name during the peremptory process; I was juror number three.

At this point the Judge spoke to us directly and gave us our instructions. He expressed appreciation for us as jurors and emphasized the importance of our role. "The court will rise when you walk into the room out of respect; even the judge rises for the jury," he said. "If it were practical, we would give you each a black robe like mine to show the respect your position deserves." He told us that even though there were a lot of things wrong with the judicial system in the United States it was still better than any other in the world and one of the greatest things is that someone is innocent until proven guilty. He reminded us that the burden of proof lay with the state and if the state couldn't make a good enough case against Mr. _____, that we would be obligated to return a verdict which reflected that. At this point, as I looked at the defendant, I felt the power and the importance of this. In my eyes Mr. _____ was innocent unless the state could prove him guilty beyond a reasonable doubt.

We were each given binders with paper, pen, seventeen pages of instructions from the court and a general guide to jury deliberations. We were instructed to follow along as the judge read each of the instructions to us. These included general instructions; a list of contents of the binder; what rules apply to recess; the roles of the judge, the jury and the lawyers; an outline

of the trial; the charges and presumption of innocence; the jury's role in this case; what is evidence; what should not be considered evidence; the judge's role in overruling or sustaining admissible evidence, how to make decisions about the evidence, deciding whether to believe a witness; what to do if a witness purposely gives false testimony; who is responsible to convince the jury; how convinced must the jury be before deciding the defendant is guilty; what is reasonable doubt; how to evaluate doubt; and questions from the jurors.

We were then sent home and told to report at 9:20am the following morning so we could start at 9:30am. We were instructed to meet the bailiff up on the third floor where he would take us down the back side of the building in the security elevator to the jury room close to the courtroom on the second floor, thus avoiding contact with any people involved in the case. Due to delays (defendant was pleading guilty to the lesser charge), the proceedings didn't start until 11a.

As a jury, we spent this time getting acquainted with each other. Our jury included an engineer, a salesman, a beautician, a business owner, a bank examiner, a department director at a university, homemakers, a semi-retired secretary and a teacher. Their ages ran from 25-63 years. The conversation between us was interesting to me because the one thing that brought us all together is the one thing we couldn't talk about. One of the jurors seemed particularly anxious and asked if anyone else had been able to sleep the night before. He said he was up until 3:00 a.m. thinking about the case and he still seemed a little nervous.

At 11:00am we were called to the courtroom for opening remarks. The prosecuting attorney went first. He talked for about 45 minutes building his case. He showed some pictures up on a screen and the more gruesome ones he passed around the jury box. Then the defense attorney presented his case. Mr. _____ wasn't saying that he didn't kill this woman, just that he didn't mean to do it. The defense attorney said as the story unfolded we would see how they had been a happy couple whose relationship had deteriorated because they both had drinking problems—it was a horrible accident. The attorney reminded us that to be found guilty of murder we had to be convinced that

the defendant had intended to kill this woman.

After lunch we began to hear different witnesses for the prosecution. The first witness called was the victim's son. It became apparent during his testimony that their family had a history with the local police. The young man seemed to be on a first name basis with several of the police officers in town. As I thought about him taking the oath (and then his friend, a convicted felon, who testified after him), I wondered if the oath meant anything to them? I thought of Tocqueville's account in *Democracy in America* of the judge who won't allow a man's testimony because he doesn't believe in God. The judge said that if the man doesn't believe in God, then we have no reason to believe his testimony would be honest. I wondered how honest these two young men were and what credence I could give their testimonies.

We had been given a small notebook to take notes in if we desired. Since we were instructed to find intent, I mostly just tried to listen to the witnesses and judge their motivations, actions and appearance. Did they seem credible? I referred back to the jury instructions on evidence: Should it be believed? How important is it? What can I infer or conclude from it? We heard testimonies from the victim's son and his friend, from the neighbors, from police detectives, police officers, the coroner who performed the autopsy, a blood examiner, a blood alcohol expert, the defendant, a friend of the defendant, and the defendant's brother.

An interesting thing about this trial that was new to Utah was the jury being able to ask questions of the witnesses. This doesn't happen in every trial, only at the judge's discretion and fortunately for us, our judge liked to use this method. After the prosecuting and defending attorneys finished their examinations of the witness, the judge would ask for questions from the jury. We would write them down on paper and hand them to the bailiff who would take them to the judge. The judge would then look at the questions and if he thought they were relevant and admissible he would invite the attorneys to the bench where he would ask if they had any objections to the questions being put to the witness. The first day the judge asked our questions and reworded them if they needed it. After the first day, he gave them to the attorneys and they asked the questions verbatim. We all agreed that we

preferred the judge ask the questions because he made them sound more intelligent. The jury posed some great questions and in the attorneys' closing remarks both sides used information that we had brought out.

We generally had recesses mid-morning and mid-afternoon and each time, the judge would have to read a statement to us requesting that we not talk to anyone about the trial during the recess. I think we all had it memorized by time we were done.

Although originally predicted to go for three weeks, the trial went one and a half weeks. During the closing arguments, which lasted about one and a half hours, the prosecution gave their thoughts, the defense responded and then the prosecution got the last say. As jurors, we were trying to keep our minds open. We were instructed to not make any judgments until we had all the information, but by this point as each side gave their argument, I felt like I kept swaying to their view. Both sides seemed plausible.

The Judge then dismissed the one alternate juror who was left, reducing our number to eight. We broke for deliberations at 6:45 Tuesday evening. We could now talk about the case amongst ourselves. We selected a foreman and after a vote, we officially adjourned at 7:30pm. When we came back the next morning at 9:00am, I felt a lot more alert and ready to discuss the case.

We took our first vote. Three of the jurors were ready to convict the defendant of murder one right away, but we went through the case and put in order all the events so we could get a complete picture in our minds. We also had all of the evidence that was entered in the case in the room with us. We looked at the pictures, discussed the bruises and marks and even took one of the carpet samples out of the bag and looked at it again. It was obvious that the defendant's story wasn't accurate.

We took another vote—now it was six votes to convict and two unsure. I was still one of the unsure. The foreman of the jury was the other one. Even though I knew the defendant's story wasn't entirely true, I wasn't sure at what point it was false. And I couldn't absolutely without doubt convict him of intent.

It was interesting how each juror brought experiences

with them that were applicable to the case. Three of the jurors had experience with alcoholism and told about instances that related to our case. Another juror had helped a woman in an abusive situation and used those experiences to understand the situation. I have a cousin who is a compulsive liar and has been in and out of prison and used that knowledge in judging the defendant's testimony. Just the month before I had talked to my Uncle about his son; he said the same thing that the defendant's brother had said, "He's my brother (son), I love him, I always *want* to believe him." Compulsive liars usually do mix some truth with their fiction and it is hard to tell what to believe.

During the lunch break we looked through the exhibits. This was when I found a piece of evidence that convinced me. Defense exhibit two was a list of items seized from the house after the crime. The defense attorney submitted it because it listed all the medications that the police found in the house that the victim was taking. It was another item though that caught my attention; the contents of a note that completely refuted a crucial part of the defendant's testimony. When he was asked about this particular question on the witness stand, he had denied it absolutely. After seeing the contents of this note, suddenly the last bits of doubt that I had entertained dissipated; he knowingly lied point-blank to the jury. I was convinced he was guilty of murder one and so was the other juror who had been unsure.

Juror instruction number twenty states:

"To convict the Defendant on Count 1, Murder, you must believe from all the evidence and beyond a reasonable doubt each of the following elements:

- (1) That [the defendant],
- (2) On or about [date]
- (3) Intentionally or knowingly caused the death of [the victim], or;
- (4) Intending to cause serious bodily injury to another, committed an act clearly dangerous to human life that caused the death of [the victim], or;
- (5) Acting under circumstances evidencing a depraved indifference to human life, engaged in conduct which created a grave risk of death to another and thereby caused

the death of [the victim].

If you find from all the evidence that each and every element as explained in this instruction has been proved beyond a reasonable doubt, you must find the Defendant guilty. However, if you find that one or more of the above elements have not been proved beyond a reasonable doubt, you must find the Defendant not guilty.”

To reach a verdict in this case the jurors had to be unanimous in their decision. We all had to believe that points one and two were certain and either all or one of the points three, four and five were true. One of us could have thought the defendant was guilty of point five, but not three or vice versa, and our decision would still be unanimous.

The foreman took the final poll and we stated our decision and what points we believed him guilty of. Then he took the verdict paper, marked our decision and signed it. We called the bailiff and he delivered the paper to the Judge who noted the verdict and sent it back to us. He also brought back evaluation forms for us to fill out on the Judge. (These are partly where the ratings we see on election ballots come from.) Once they had everyone gathered back into the courtroom the jury went back in. The Judge asked for the foreman to deliver the decision to the bailiff who took it to the clerk who then read the decision to the court. After this the Judge asked each juror individually if they agreed with this decision. When it was over, the Judge excused the jury from the box. We were told that we could either leave the courtroom or move to the gallery to watch the rest of the proceedings. We all moved to the gallery and listened to the last few minutes which consisted of setting the sentencing date. It had to be no less than 2 days and no more than 45 days from the end of the trial.

After the trial was over and we returned to the jury room to pick up our belongings, the Judge came and talked with us. He thanked us again for our service and asked us if we had any questions for him. We found out some of the defendant’s former criminal history, how the jury selection worked, why the jury got to ask questions and other things.

It was a strange feeling when we left. We had spent six days learning about each others’ lives and now

we were leaving and probably would never see each other again. Some of us planned to return to the sentencing, but I think most of them won’t. We were thrown together for six days, became a part of each other’s lives and shared something that no one else can share with us and yet there is nothing to bring us back together and probably if we got back together we wouldn’t have anything to talk about.

I was grateful for that prosecuting attorney in my neighborhood, I knew I would be able to talk about it with someone else who had been a part of the experience. My neighbor and I saw each other a few days later and we both learned of the other’s desire to meet and talk over the trial. He asked about my thoughts on the trial, the impression I had of their witnesses, the attorneys themselves and some of the evidence that had been submitted. He said the prosecution had no idea what verdict we were going to come back with, he thought we could have gone either way. I asked him about some of the evidence submitted, the background of the defendant and previous crimes and how I had not been cut from the jury—he said he was shocked by that as much as I was! He kept expecting the jury list to come back from the defense with my name crossed off. We talked about the odds of both of us ending up on the same case. There are 12 County Prosecutors and about 200,000 potential jurors in Utah County; an amazing coincidence.

There was another murder trial a few months after this one and as I read the newspaper accounts each day, I knew that what I was reading was only part of the story. From my experience I know that the reporter does not always represent fairly and accurately what actually happened in the courtroom. The case was more difficult than the one I was on, because it wasn’t just intent they were deciding, it was whether or not the defendant actually committed the murder. And when the jury only deliberated 4 or 5 hours before coming to their decision, I wondered if the jury was fair to the defendant. Our case was much more clear-cut than theirs and it took us that long. I wondered if the jury was fair and impartial and looked at it without prejudice. These are questions that I will always wonder now when I read about trials.

One thing you can be sure of when you receive a jury duty notice—it will never be convenient. I had

to sacrifice many other experiences to fulfill this responsibility. People asked me later, “why didn’t you just tell them you home schooled and needed to be with your children,” or “why didn’t you tell them you were already registered to take classes in Cedar City and would be out of town”—in other words, “you had valid reasons to get dismissed, why didn’t you use them?” At the time, I did rationalize through these things in my mind; there were opportunities that I would miss that week that I wouldn’t be able to experience again, but I also knew that I could do it, that I had a duty to society to serve and that at that moment it was more important than my personal plans. It was time to step up and put into practice what I had been learning through my George Wythe College classes over the previous two years. The sacrifice was worth it.

GWC Alumni Association Sponsor’s the 2004 Andau Character Prize Winners

In the fall of 1956, Hungarian youth risked their lives promoting the cause of liberty. Fighting against the Communists with home-made grenades, pieces of pipe and hearts endowed with freedom, determination was their banner. Boys and girls alike confronted the tanks and machine guns. In the streets of Budapest they hid in doorways waiting for the right moment to light jars of gasoline, with a rag as a fuse, throwing them under or in passing tanks in an effort to gain an advantage. At the Bridge of Andau, under the watchful eyes of Russian guards in the watchtowers and in freezing temperatures, young men risked their lives crossing frigid canals to guide lost refugees to safety. Such is thier example of courage and dedication to the cause of liberty.

Each year at Doughty’s Mammoth Valley Ranch, in the Cedar Breaks region of Southern Utah, a number of participants in the “Youth For America Conferences” exhibit their commitment to liberty, by dedicating hundreds of hours to reading and studying the classics, as a means of preparation for a chance to compete and be awarded the **Andau Character Prize**. A few qualify to become finalists with only one

person per conference being awarded the prize, based upon intense scrutiny of their written essay, analysis of their character, and a grueling oral examination which challenges their verbal skills and knowledge base.

This year the recipients are:

Tatiana Milne of Bountiful, Utah

Robert Burton of Lethbridge, Alberta, Canada

Last years recipients were:

Kylie Thomas of Salt Lake City, Utah

Jacob Goodrich of Mountain Home, Idaho

The recipient’s of the Andau Character Prize will be honored at the “First Annual Alumni and Friends Gala” October 14 and 15. Recipients of the Andau Character Prize receive a full one year scholarship to George Wythe College, sponsored by the Alumni Association.

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