

STATE OF MINNESOTA  
COUNTY OF LYON

IN DISTRICT COURT  
FIFTH JUDICIAL DISTRICT

STATE OF MINNESOTA,

Plaintiff,

File No. 42-CR-08-220

vs.

OLGA MARINA FRANCO DEL CID,

ORDER

Defendant.

WHEREAS the above-entitled matter has been set for a jury trial,

WHEREAS it will be necessary to examine prospective jurors about any possible exposure to prejudicial material, and the Court has the discretion to Order that the voir dire examination rules of Minnesota Rule of Criminal Procedure 26.02, Subd. 4(3)(c) be used,

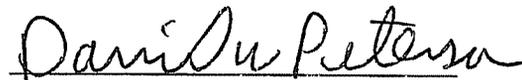
Based upon all the files and records herein,

**IT IS HEREBY ORDERED:**

1. Voir dire examination of prospective jurors shall be conducted using the procedures of Minn. R. Crim. Pro. 26.02, Subd. 4(3)(c) for individualized voir dire, and the examination of each prospective juror shall take place outside of the presence of other chosen and prospective jurors.
2. Pursuant to Minn. R. Crim. Pro. 26.02, Subd. 6, Defendant shall be entitled to five (5) peremptory challenges and the State to three (3) peremptory challenges.

Dated: July 8, 2008

BY THE COURT:

  
David W. Peterson  
Judge of District Court

**MEMORANDUM**

Minnesota Rule of Criminal Procedure 26.02, Subd. 4(3)(a) outlines the general procedure for jury selection. A number of prospective jurors, equal to the total to be used at trial

plus the number of peremptory challenges, are called, sworn, and examined as a pool. However, by Order of the Court, the procedures in Subdivision 4(3)(c) may be used instead. Under those procedures, prospective jurors are drawn from the pool, sworn, and examined individually.

Defendant first examines a prospective juror and may then challenge the juror for cause, exercise a peremptory challenge, or accept the juror. If the prospective juror is not excused, the State then may examine the prospective juror and then challenge for cause, exercise a peremptory challenge, or accept the juror. This process continues until there are a number of persons equal to the number of which the jury will be composed for trial, plus any alternates.

In this case, the Court orders that the process outlined in Rule 26.02, Subd. 4(3)(c) be used. Subdivision 4(2)(a) provides that this Court has the discretion to order that the examination of jurors take place outside the presence of other jurors, both those already chosen as well as prospective jurors. However, subdivision 4(2)(b) provides that:

“Whenever there is a significant possibility that individual jurors will be ineligible to serve because of exposure to prejudicial material, the examination of each juror with respect to the juror’s exposure shall take place outside the presence of other chosen and prospective jurors.” (Emphasis supplied.)

In this case, it is inevitable that a number of prospective jurors will need to be questioned about what they may have previously heard about this case from news media, internet blogs, or even personal accounts and conversations. The common-sense rationale behind the rule is to be able to discover to what, if any, prejudicial material a potential a prospective juror has been exposed without exposing the other jurors to it in doing so. The mandatory language of the rule requires that the necessary examination occur outside of other chosen and prospective jurors’ presence.

*Done 7-8-07*