



PATRICK L. WILLIS, CIRCUIT JUDGE

MANITOWOC COUNTY  
STATE OF WISCONSIN  
FILED

SEP 28 2009

CLERK OF CIRCUIT COURT

MANITOWOC COUNTY COURTHOUSE  
1010 SOUTH 8TH STREET, BOX 2000  
MANITOWOC, WISCONSIN 54221-2000  
PHONE (920) 683-2758

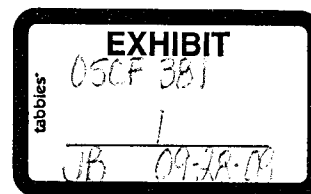
CIRCUIT COURT  
BRANCH 1

DIANE TESHENECK  
REPORTER — (920) 683-4043

SEALED FILE MEMO

March 16, 2007

Re: Excused Juror  
State of Wisconsin v. Steven Avery  
Case No. 05 CF 381



On Thursday, March 15, 2007 sometime around 9:00 p.m. the court received a telephone call from Sheriff Pagel indicating one of the jurors had presented a request to a deputy that he be excused from further jury service because of an unforeseen family emergency. Specifically, Rich Mahler was distraught and felt he could no longer serve as a juror. He reported his stepdaughter was involved in a traffic accident earlier in the evening which resulted in the totaling of her vehicle. I received no information about any injuries. His wife was very upset about the accident and of the amount of time Mr. Mahler had been away from the family because of the trial. He reiterated that his family and especially his wife were very embarrassed by news reports at the time of original voir dire that he was living off the proceeds of her trust fund. There was also a suggestion that the juror and his wife had been having some form of marital difficulties before the trial and the juror felt it was vital for his marriage that he be excused.

The court, while mindful of its duty to exert reasonable efforts to avoid the discharge of a juror once deliberations have begun, nevertheless concluded the request appeared to have merit and warranted further consideration. The court contacted Attorney Kratz and defense counsel by conference telephone call to inform them of the request. Counsel agreed that if the information presented to the court was correct, excusing the juror was appropriate. Counsel authorized the court to speak with the juror and excuse the juror if the information provided to the court was verified.

359  
(1)

Following the conference call, I called Sheriff Pagel back. He was at the hotel, I believe originally in the parking lot. I told him I'd like to speak to Mr. Mahler. My recollection is that the sheriff called me back shortly thereafter and apparently handed the phone to Mr. Mahler. I could immediately sense that Mr. Mahler was distraught. He sounded depressed. He spoke quietly and slowly. He confirmed the information I'd been told. He indicated he and his wife had had some marital problems before the trial and the trial was putting an extra strain on the relationship. He again mentioned, as he had during individual voir dire of the jurors on Monday, that his wife was upset about the trust fund reports involving a musician juror on the news. Things apparently boiled over when his stepdaughter was involved in a vehicle accident this evening and he was not there to provide support. My reading, without pressing him with questions too specific, was that he felt the future of his marriage was at stake if he was not excused. At that point I told him I'd heard all I needed to know. I thanked him for his service. I indicated that I would not specify the nature of his request to be excused on the record. He thanked me for that. Sheriff Pagel indicated he would have Mr. Mahler transported to his vehicle at Reisterer and Schnell.

I prepared this Memo to elaborate on the comments I made on the record this morning so that the record concerning why the juror was excused would be complete. I did pass on to counsel in chambers before going on the record my report of my conversation with Mr. Mahler last evening.

#### Addendum

Before the jury resumed deliberations on Friday, March 16, 2007, Robbie removed the sheets from the flip chart that were written on yesterday and will shred them. Some photos that were taped to the flip chart were removed and put back in the photo albums in their original order. These steps were taken to assure the jury did indeed begin their deliberations anew.