

1 defendant, being first duly sworn, was examined by counsel  
2 and testified as follows, to-wit:)

3

4 THE COURT: Okay. Mr. Parmenter, will ask you some  
5 questions, sir. And speak right up so we can make a  
6 recording of this.

7 THE WITNESS: All right.

8

9

DIRECT EXAMINATION

10

11 BY MR. PARMENTER:

12

13 Q. Mr. Cheney, could you state your full name,  
14 please.

15 A. Robert G. Cheney.

16 Q. And a --

17 A. C-H-E-N-E-Y.

18 Q. And what is your address?

19 A. My home address?

20 Q. Yes.

21 A. (No response.)

22 Q. Or, your work address would be fine.

23 A. 1875 Park Avenue. Boise.

24 Q. Officer Cheney, what is your occupation?

25 A. I'm a correctional officer with the State of

CHENEY - Def.  
Dt - Parmenter

1 Idaho.

2 Q. And how long have you been a correctional  
3 officer?

4 A. A little over four years.

5 Q. Do you know Rick Leavitt?

6 A. Yes, sir. I do.

7 Q. And how do you know him?

8 A. Through work. He's housed in the maximum  
9 security unit that I work in.

10 Q. All right. Do you get to know most of those  
11 inmates fairly well?

12 A. I would say fairly well, yes. Working with them  
13 on a daily basis you get to know them.

14 Q. All right. And do you feel you've gotten to  
15 know Mr. Leavitt to some extent?

16 A. Yeah. Through a, let's say, officer/inmate  
17 relationship, yes.

18 Q. And what kind of inmate, as far as it relates to  
19 you, has Mr. Leavitt been?

20 A. Mr. Leavitt has never been a management problem.  
21 He's always been very easy to deal with.

22 Q. All right. Have you ever had any conversations  
23 with Mr. Leavitt of a personal, or I guess just joking  
24 around type nature?

25 A. Oh, yeah. We -- in working with him for three

1 years down there in A House we -- you get to tell jokes back  
2 and forth. Not really personal conversations --

3 Q. Okay.

4 A. -- but the common chit chat.

5 Q. All right. Officer Cheney, have you ever had  
6 problems with other inmates?

7 A. Several times. Anywhere from a verbal  
8 confrontation to attempted physical confrontation.

9 Q. And have you ever had any of those kinds of  
10 problems with Mr. Leavitt?

11 A. No, sir. Not that I recall.

12 Q. Is there anything else you would care to add  
13 about Mr. Leavitt?

14 A. No. Not right off hand. That's -- as I said,  
15 he's been an easy inmate to work with.

16 Q. All right. That's --

17 A. Because he hasn't been any management problem.

18 Q. All right. Thank you, Officer.

19 That's all I have.

20 THE COURT: Mr. Moss, will ask you a few questions  
21 here.

22 THE WITNESS: All right.

23 THE COURT: He's the prosecuting attorney.  
24  
25

CHENEY - Def.  
Dt - Parmenter

1 CROSS EXAMINATION

2  
3 BY MR. MOSS:

4  
5 Q. Officer Cheney, how are you today?

6 A. Just fine, sir. Thank you.

7 Q. It's good to hear you.

8 Officer Cheney, you indicated that there are  
9 problems with other inmates, and I guess that's something we  
10 could anticipate.

11 How many inmates do you have over there?

12 A. It varies. We have -- you know, there's  
13 different custody levels in that one house. So it can vary  
14 up to, at times it can vary up to seventy-two or less.

15 Q. I see. And over the years you've been there,  
16 there have been various verbal confrontations with various  
17 inmates, I understand?

18 A. Oh, yes, sir. Verbal and like I said all the  
19 way up to physical confrontation.

20 Q. Uh-huh. I don't know many of the maximum  
21 security people. I know a couple.

22 Do you happen to be acquainted with Randy McKinney?

23 A. Yes, sir, I do.

24 Q. How's he been?

25 A. He's had some problems there. He's never given,

CHENEY - Def.  
X - Moss

1 you know, never given me any problems.

2 Q. Uh-huh.

3 A. But he's had problems with other officers.

4 Q. So far -- so far as you're concerned, your  
5 testimony relative to Randy McKinney would be the same as it  
6 is to Mr. Leavitt then, is that true to say?

7 A. Yes, sir. It would be.

8 Q. Thank you.

9 I -- just a few minutes ago, Mr. Parmenter, Mr.  
10 Leavitt's lawyer, let me look at some things he intends to  
11 offer into court here. A very few of the sheets that are  
12 completed there. Where I guess guards or correctional  
13 officers rate the inmates, or at least they report on them.

14 Are you aware of these documents -- what I'm talking  
15 about?

16 A. Not seeing them, it's very hard for me to say.

17 Q. Let me check and see if I can get a name for  
18 them.

19 A. Okay.

20 (Short pause.)

21 Q. (BY MR. MOSS) Officer Cheney, I have some of  
22 those sheets here now. I guess they're called-- at the --  
23 the "30 Day Review."

24 A. Okay. Yes. As a regular house officer, we  
25 usually don't have a chance to be involved with the review

1 process. That's usually handled by some of the  
2 psychologists and the social workers down there.

3 Q. I see. Well, I noted on reviewing a half or  
4 dozen or so of those reviews that Mr. Parmenter has on Mr.  
5 Leavitt that it reports that he has had trouble with another  
6 inmate named Sivak. Are you acquainted with that?

7 A. Just on a personal basis. I can say I don't  
8 think there's very few inmates down there that haven't had  
9 problems with Mr. Sivak.

10 Q. Uh-huh. But were you personally involved in the  
11 confrontation between Mr. Leavitt and Mr. Sivak?

12 A. No, sir, I wasn't.

13 Q. Okay. Were you aware of it?

14 A. Yeah. I had heard about it. You know, we --  
15 the officers, you know, give briefings back and forth on  
16 what occurs and that, you know, during the day. And just  
17 from one officer to another, yes, I heard about it.

18 Q. Well, Officer, isn't it fair to say, the bottom  
19 line is though most of your inmates are not really what you  
20 would call a management problem, are they?

21 A. No, sir, they're not.

22 Q. You've got them locked in cells, is that  
23 correct?

24 A. Yes, sir, they are.

25 Q. And so it's rather difficult for them to be too

1 much of a problem, is that fair to say?

2 A. Yes, sir. When they're locked up on a daily,  
3 basically twenty-three hours a day, there's very little  
4 chance for them to be a problem.

5 Q. Thank you.

6 MR. MOSS: I don't have any questions, Your Honor.

7 MR. PARMENTER: I don't have anything further.

8 Thank you, Officer Cheney.

9 THE WITNESS: Uh-huh.

10 MR. PARMENTER: I would next call Richard Baldwin.

11 MR. BALDWIN: Hello.

12 MR. PARMENTER: Hello. Mr. Baldwin?

13 MR. BALDWIN: Yes, sir.

14 THE COURT: Mr. Baldwin, this is the judge speaking.

15 It's a little unusual, but I'm actually going to have the  
16 clerk repeat the oath over the phone to you. If you'd  
17 answer appropriately, please.

18 MR. BALDWIN: Yes, sir.

19

20

21

RICHARD BALDWIN

22

23 (Being called as a witness at the instance of the  
24 defendant, being first duly sworn, was examined by counsel  
25 and testified as follows, to-wit:)

CHENEY - Def.  
X - Moss

DIRECT EXAMINATION

BY MR. PARMENTER:

Q. Officer Baldwin, would you please state your full name, and spell your last name.

A. Richard M. Baldwin. B-A-L-D-W-I-N.

Q. And what is your address, Officer?

A. 1075 Park Boulevard.

Q. And what is your occupation?

A. Correctional officer.

Q. And how long have you been a correctional officer?

A. Approximately a year and three months.

Q. And in that period of time have you ever come to know an inmate named Rick Leavitt?

A. Yes, sir.

Q. And how long have you known Mr. Leavitt?

A. Approximately eight months.

Q. And what units have you worked did you know him from?

A. Unit A.

Q. Is that the unit you've generally worked at since you've been employed there?

A. Basically.

1 Q. Officer, as far as your knowledge of Mr. Leavitt  
2 and your dealings with him, what kind of inmate has he been?

3 A. I've had no management problems with him on my  
4 unit on my shift.

5 Q. All right. Have you ever had any management  
6 problems with any other inmates?

7 A. Not to any large extent, no.

8 Q. Okay. Have you ever discussed matters with him  
9 or talked to him on a formal or informal basis?

10 A. Several times on an informal basis.

11 Q. Okay. And what's his demeanor? What's he like  
12 to talk to?

13 A. Say that again, please.

14 Q. What is he like to talk to?

15 A. Friendly.

16 Q. Has he ever showed you any of his poetry?

17 A. Yes, sir.

18 Q. That's all I have.

19 Thank you, Officer.

20

21 CROSS EXAMINATION

22

23 BY MR. MOSS:

24

25 Q. Officer Baldwin, I'm Tom Moss. I'm the

1 prosecutor. You and I have never met or spoken to each  
2 other before, have we?

3 A. No, sir.

4 Q. It's good to hear you today.

5 Officer, isn't it fair to say that the great  
6 majority of prisoners are really no management problem. Is  
7 that a fair statement?

8 A. That's fair to say.

9 MR. MOSS: I don't have any other questions, Your  
10 Honor.

11 MR. PARMENTER: Nothing further.

12 We would next call Kathy Lillybridge.

13 THE COURT: I'm not sure she heard.

14 MR. PARMENTER: Kathy Lillybridge, please.

15 MS. LILLYBRIDGE: Hello.

16 THE COURT: Ma'am, we'll repeat an oath over the  
17 phone. If you'd please repeat back appropriately.

18

19 KATHY LILLYBRIDGE

20

21 (Being called as a witness at the instance of the  
22 defendant, being first duly sworn, was examined by counsel  
23 and testified as follows, to-wit:)

24

25

DIRECT EXAMINATION

BY MR. PARMENTER:

Q. Is it Miss or Mrs.?

A. Ms.

Q. Ms. Ms. Lillybridge, could you state your name for the record, please.

A. Mary K. Lillybridge.

Q. And could you spell your last name, please.

A. L-I-L-L-Y-B-R-I-D-G-E.

Q. Officer Lillybridge, what is your occupational address?

A. 1072 Park Avenue.

Q. All right. And your occupation, please?

A. Correctional officer.

Q. And Officer, how long have you been a correctional officer?

A. Three and a half years.

Q. All right. During that period of time, have you ever come to know Rick Leavitt?

A. Yes, sir. I worked with him approximately fourteen months in Unit A and then about four months off and on in the visiting room.

Q. All right. And how was he, or how did he act

LILLYBRIDGE - Def.  
Dt - Parmenter

1 during those times that you knew him?

2 A. He was never a management problem as far as with  
3 me personally.

4 Q. All right. Let me ask you this. Was he ever a  
5 discipline problem?

6 A. No. I never had any problem.

7 Q. Do you ever have inmates that are, I guess, what  
8 you would term as discipline problem as far as beating on  
9 bars or being disruptive?

10 A. Well, once in a while.

11 Q. Have you ever known Mr. Leavitt to do those kind  
12 of things?

13 A. No. I've never known him to do that.

14 Q. All right.

15 Have you ever talked with him on an informal basis?

16 A. Oh, quite a few times.

17 Q. All right. How is he? Is he friendly or  
18 unfriendly?

19 A. He's always been friendly. Treated me with --  
20 with respect.

21 Like I said, I've never had any problem with Mr.  
22 Leavitt at all.

23 Q. All right. I just received a note from, I guess  
24 a note of thanks from you about a poem he wrote. Can you  
25 explain what happened there?

LILLYBRIDGE - Def.  
Dt - Parmenter

1           A. Oh, I was working day shift. And I was going  
2 down the tiers. And you stop and you chat with them, as  
3 you're doing things. And I mentioned that my sister was  
4 getting married. And I was leaving that afternoon to go to  
5 her wedding in Oregon. And Leavitt told me to stop back by  
6 his cell after I got off shift and he would have a poem for  
7 her. And -- which he did. A very nice poem.

8           Q. Okay.

9           A. And I took it up and gave it to my sister as a  
10 gift. And told her that Mr. Leavitt had written it in honor  
11 of her wedding.

12          Q. All right.

13          A. And I thanked him, for the poem.

14          Q. As far as management problems, Officer  
15 Lillybridge, is it fair to say that many of your inmates ar  
16 not management problems?

17          A. Many of them?

18          Q. Yes.

19          A. That's a difficult statement. It depends on how  
20 many you mean by many?

21          Q. Okay. Do you occasionally have discipline or  
22 management problems with some of the inmates?

23          A. Oh, yes.

24          Q. But Mr. Leavitt has never been in that category  
25 as far as you're concerned?

LILLYBRIDGE - Def.  
Dt - Parmenter

1 A. Not as far as I'm concerned.

2 Q. Thank you.

3 MR. PARMENTER: That's all I have.

4 THE COURT: The prosecutor will ask you some  
5 questions.

6

7

CROSS EXAMINATION

8

9 BY MR. MOSS:

10

11 Q. Ms. Lillybridge, how are you this afternoon?

12 A. I'm fine. Thank you.

13 Q. And you and I have never met or spoken together,  
14 have we?

15 A. No, we haven't.

16 Q. You indicated that as far as you are concerned  
17 you haven't had any management problems with Mr. Leavitt.

18 You don't pretend to be speaking for the many other  
19 employees or officers that work at the facility?

20 A. No, sir. I was talking about personally.

21 Q. Your own personal --

22 A. I know that, through briefing in the unit. As  
23 Mr. Cheney was saying earlier, when you have briefing. I  
24 have heard that he has been a problem with some officers.

25 I'm speaking strictly for myself.

LILLYBRIDGE - Def.  
X - Moss

1 Q. Okay. You have heard that he has had problems  
2 with other officers other than yourself?

3 A. Yes, sir.

4 Q. Your relationship with Mr. Leavitt, it's always  
5 been in the capacity of him being a prisoner and you being a  
6 correctional officer, is that fair to say?

7 A. Oh, yes, sir.

8 Q. You've never been alone with him in an  
9 uncontrolled environment, is that correct?

10 A. No.

11 Q. Thank you.

12 MR. MOSS: I have no further questions -- now, I  
13 better make sure --

14 Q. (BY MR. MOSS) You have never been alone with  
15 him in an uncontrolled environment?

16 A. By uncontrolled, meaning --

17 Q. Outside of the prison.

18 A. Oh, no, sir. No. Only in a prison situation.

19 Q. Thank you.

20 MR. MOSS: I have no further questions.

21 MR. PARMENTER: Just a couple of questions.

22

23

24

25

REDIRECT EXAMINATION

1 BY MR. PARMENTER:

2

3 Q. Officer Lillybridge, this information you  
4 obtained from Officer Cheney, you don't have any personal  
5 knowledge of any other incidents with other officers?

6 A. No. Just at briefing, when I would go in on day  
7 shift in Unit 8.

8 Q. Uh-huh.

9 A. If there'd been a problem, we were briefed on  
10 it. And I know that he -- I can remember one incident.

11 Q. Okay.

12 A. And I can't even remember the details that well.

13 Q. All right. Thank you.

14 MR. PARMENTER: That's all I have.

15 THE COURT: Any further witnesses at this number?

16 MR. PARMENTER: Yes, I do have one other witness.

17 The other officer might not be there yet.

18 Mr. Wilson?

19 OFFICER LILLYBRIDGE: Just a moment.

20 (Short pause.)

21 MR. WILSON: Yes, sir.

22 MR. PARMENTER: Is Officer Langworthy there yet?

23 MR. WILSON: Officer Langworthy hasn't arrived yet.

24 I just went out and checked. And he is not quite here yet.

25 So ---

LILLYBRIDGE - Def.  
Rdt - Parmenter

1 that case?

2 A. Not that I've heard of.

3 Q. All right. Thank you.

4 MR. PARMENTER: That's all I have.

5 THE COURT: You may step down. Thank you, ma'am.

6 THE WITNESS: (Doing so.)

7 MR. PARMENTER: Your Honor, perhaps we could try  
8 that officer again.

9 (Short pause while telephone call was placed to  
10 Edwin Langworthy at the State Board of Correction.)

11 THE COURT: Is he on the line?

12 THE CLERK: Yes, he's on the line.

13 THE COURT: Sir, this is the judge speaking.

14 The clerk will repeat the oath over the phone. If  
15 you'd answer appropriately. And then we'll ask you some  
16 questions.

17 MR. LANGWORTHY: Yes, Your Honor.

18

19 EDWIN ALVIN LANGWORTHY

20

21 (Being called as a witness at the instance of the  
22 defendant, being first duly sworn, was examined by counsel  
23 and testified as follows, to-wit:)

24

25

DIRECT EXAMINATION

BY MR. PARMENTER:

Q. Officer Langworthy, could you state your full name, please. And spell your last name.

A. Yes. Edwin Alvin Langworthy.

That's L-A-N-G-W-O-R-T-H-Y.

Q. Okay. Thank you.

And your address, sir?

A. (No response.)

Q. Your address?

A. My address? My residential address?

Q. Either one.

A. I live at 2302 Kootenai in Boise, Idaho.

Q. All right. And Officer, what is your occupation?

A. I'm a correctional officer at the Idaho State Correctional Institute.

Q. All right. And how long have you been a correctional officer there?

A. Approximately seven years.

Q. Do you know Rick Leavitt?

A. Yes, I do.

Q. And how long have you known Mr. Leavitt?

LANGWORTHY - Def.  
Dt - Parmenter

1 A. Oh, approximately three years.

2 Q. All right. And in what capacity have you come  
3 to know Mr. Leavitt?

4 A. Originally as correctional officer in charge of  
5 the law library for a period of approximately eighteen  
6 months. I had rather frequent contact with him there. And  
7 from that period on in the visiting room.

8 Q. All right. And can you just explain briefly  
9 what inmates do in the law library and the visiting room?

10 A. Well, the inmates, and I'm going to refer  
11 directly to the Death Row inmates, are brought in. Put in  
12 to study booths. Individual study booths. And basically  
13 they'll do their research and their case preparation in the  
14 study booths.

15 Q. Okay.

16 A. And the visiting room is basically the same  
17 situation. They are brought in and placed into the visiting  
18 booths for non-contact visiting.

19 Q. All right. Has Mr. Leavitt ever been any kind  
20 of a problem during any of those -- or in any of those  
21 areas, as far as you know?

22 A. No.

23 Q. Okay. And are they hand-cuffed in these areas  
24 that you referred to; the law library, for example?

25 A. No. They will come in in restraints. And

LANGWORTHY - Def.  
Dt - Parmenter

1 they'll be placed in the booths, and the restraints are  
2 removed. The same with the visiting room.

3 Q. All right. Has --

4 A. I stand corrected. Now, in the visiting room,  
5 I'm sorry, the policy is that the handcuffs are placed in  
6 the front position in front of their bodies. They are in  
7 handcuffs at that point.

8 Q. I see. Officer, --

9 THE COURT: Just a second.

10 MR. PARMENTER: Just a moment, Officer.

11 (Short pause.)

12 Q. (BY MR. PARMENTER) Officer, have you ever had  
13 occasion to speak with Mr. Leavitt on an informal basis?

14 A. Well, yes. There is occasion when we'll just  
15 basically chit chat a little bit.

16 Q. And has Mr. Leavitt generally been friendly with  
17 you?

18 A. Yes, he has.

19 Q. Have you ever had any kind of difficulty with  
20 him at all personally?

21 A. No, I have no.

22 Q. Have you ever had problems with other inmates?

23 A. Well, yes.

24 Q. Thank you, Officer Langworthy.

25 MR. PARMENTER: That's all I have.

LANGWORTHY - Def.  
Dt - Parmenter

1 THE COURT: Sir, Mr. Moss, may ask you a question.

2

3

CROSS EXAMINATION

4

5

BY MR. MOSS:

6

7

Q. Officer Langworthy, my name is Tom Moss and I'm  
8 the Bingham County Prosecuting Attorney.

9

10

You and I have never met or talked together before,  
have we?

11

A. No, sir. Not to my knowledge.

12

13

Q. I just want to make sure that we have a clear  
understanding.

14

15

16

Now when -- your involvement with Mr. Leavitt is  
when he is brought to the library or the visiting room, is  
that what I understood?

17

A. That is correct.

18

19

20

21

Q. And when he comes to the visiting room, he's  
brought in in shackles. He's taken into a small room, and  
his handcuffs are moved so that they're not behind him  
anymore but in front of him?

22

A. That is correct.

23

Q. And he's in a -- how large is this room?

24

25

A. Oh, it's -- it's a small area. It's just  
basically a booth. It's probably three and a half by three

LANGWORTHY - Def.  
X - Moss

1 and a half square, as far as the floor space area is  
2 concerned.

3 Q. And while he's in there, is he locked in?

4 A. Yes, he is.

5 Q. Okay. And when he goes into the study room, how  
6 large is that booth?

7 A. Are you referring to the law library?

8 Q. Yes.

9 A. It's a little bit larger. It's probably, oh,  
10 let's say, five by three and a half. Or maybe a five by  
11 four I would say.

12 Q. Okay. And is he -- again, is he locked into  
13 that room?

14 A. Yes, he is locked in.

15 Q. Okay. So it's kind of hard to get in trouble  
16 under those conditions, isn't it?

17 A. Well, that's the purpose of the room. To keep  
18 them from getting into trouble.

19 Q. Right. Now, you're speaking from your  
20 observations only, I take it.

21 A. Yes, I am.

22 Q. You're not speaking of any problems that Mr.  
23 Leavitt may have had with other personnel at the prison?

24 A. No. That I couldn't answer to. Only from my  
25 own personal contact with him.

LANGWORTHY - Def.  
X - Moss

1 Q. Okay. And I take it that there are numerous  
2 correctional people that have regular contact with him?

3 A. Yes, there are.

4 Q. I don't know a lot of other inmates but, just as  
5 an example, I was involved in the prosecuting of a man named  
6 Paul Rhoades. Do you -- are you acquainted with him?

7 A. I have only met that man on two occasions in the  
8 visiting room.

9 Q. Okay. Did he appear to be a problem?

10 A. No. I haven't had any problem with him either.

11 Q. Okay. Do you happen to know Randy McKinney?

12 A. Yes, I do.

13 Q. Have you ever had any problems with him?

14 A. No, I haven't. I'm going back a lot more years  
15 with Randy McKinney, but --

16 Q. He --

17 A. -- no, I haven't had any problems with Randy  
18 McKinney either.

19 Q. He's been there well over twice as long as Mr.  
20 Leavitt, hasn't he?

21 A. Yes.

22 Q. And you've never had any trouble with him  
23 either?

24 A. No.

25 MR. MOSS: I don't believe I have any other

LANGWORTHY - Def.  
X - Moss

1 questions.

2 Thanks, Officer.

3 THE WITNESS: Thank you.

4 MR. PARMENTER: Officer Langworthy, just a couple of  
5 other questions.

6

7

REDIRECT EXAMINATION

8

9 BY MR. PARMENTER:

10

11 Q. Can inmates cause problems even though they're  
12 shackled or hand-cuffed?

13 A. Oh, certainly. If they're determined to cause  
14 trouble, they would be able to, yes.

15 Q. All right. And have you ever --

16 A. We have them controlled, but they could cause --  
17 conceivably cause problems.

18 Q. And I think we've primarily been talking about  
19 management type problems.

20 Have you ever had discipline type problems where  
21 they beat on bars or cause disruptive, or do disruptive  
22 things?

23 A. Are you referring to the inmates in general, or  
24 to Leavitt particularly?

25 Q. Well, I'm referring right now to inmates in

1 general?

2 A. Yes. We've had that problem.

3 Q. All right. Have you ever know Mr. Leavitt to do  
4 those kinds of things?

5 A. No. I can't say that I have.

6 MR. PARMENTER: Thank you.

7 THE COURT: Thank you, sir.

8 MR. PARMENTER: Your Honor, could we take just a  
9 brief recess?

10 THE COURT: Sure.

11 MR. PARMENTER: Five minutes.

12 THE COURT: We'll take a five minute recess.

13 (Whereupon the court recessed at 3:39 o'clock p.m.

14 and reconvened at 3:55 o'clock p.m., after which the  
15 following proceedings were had in the presence of the court,  
16 counsel for the parties, and the defendant, to-wit:)

17

18 THE COURT: Mr. Parmenter, if you'd like to proceed.

19 MR. PARMENTER: Thank you, Your Honor. I would call  
20 Rick Leavitt.

21 Your Honor, might I also move for the admission of,  
22 I believe that's Defendant's Exhibits 1 through 8.

23 (Whereupon Defense Exhibits 1 through 8, inclusive,  
24 were offered into evidence.)

25 THE COURT: Mr. Moss, do you have any objections?

LANGWORTHY - Def.  
Rdt - Parmenter