

S T A T E O F M I C H I G A N
I N T H E C I R C U I T C O U R T F O R T H E C O U N T Y O F K E N T

PEOPLE OF THE
STATE OF MICHIGAN,

Plaintiff,

Case No. 93-63014-FHA
93-63014-FHB

vs

Hon. Dennis C. Kolenda

DANIEL ARTHUR TURNER AND

STEPHEN DENNIS TURNER,

Defendant.

MOTION FOR SEQUESTERED AND INDIVIDUALIZED VOIR DIRE
OR ALTERNATIVELY FOR PROSPECTIVE
JURORS TO COMPLETE QUESTIONNAIRES

NOTICE OF HEARING

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**MOTION FOR SEQUESTERED AND
INDIVIDUALIZED VOIR DIRE FOR
FOR PROSPECTIVE JURORS TO
COMPLETE SUPPLEMENTAL
JUROR QUESTIONNAIRES**

NOW COME the Defendants, DANIEL ARTHUR TURNER AND STEPHEN DENNIS TURNER, by and through their respective attorneys and hereby respectfully request this Court to grant their Motion for Sequestered and Individualized Voir Dire or Alternatively for Prospective Jurors to Complete Supplemental Questionnaires. In support of the Motion the Defendants state:

1. Defendant, STEPHEN DENNIS TURNER, is charged with one count of Criminal Sexual Conduct in the First Degree, as an aider and abettor and one count of Criminal Sexual Conduct in the Second Degree.

2. Defendant, DANIEL ARTHUR TURNER, is charged with two counts of Criminal Sexual Conduct in the First Degree, Child Enticement and as a Third Felony Offender.

3. The above captioned case has received pre-trial publicity and has been the subject of media coverage. (See, Exhibits A and

B).

4. The articles have discussed such topics as Defendant, DANIEL TURNER'S, intent to undergo a sex change operation and the fact that the Defendants were cross dressers.

5. The articles also state that police seized several photographs of children and a bag of children's toys from the Defendant's apartment.

6. Newspaper articles also pointed out that Defendant, DANIEL TURNER, has a 1987 and a 1979 burglary conviction in the Milwaukee area, in which it is believed that DANIEL TURNER was stealing women's clothing.

7. The articles also pointed out the Honorable J. Michael Christensen, in denying to set bonds for the Defendants, believed the Defendants to be "extreme dangers to members of our society."

8. The articles also pointed out that the police recovered a card from the "Milwaukee Transgender Program", a book entitled, "Ideologies of Cross Dressers" and a poem entitled, "All You Straight Queers."

9. The information contained in these articles is inflammatory, fear-provoking and highly prejudicial to the Defendants. The issues of transgenderism, cross dressing and child molestation are sure to invoke bias and prejudice in potential jurors.

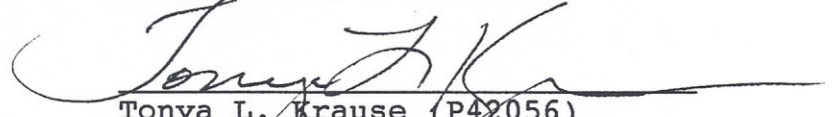
10. In order to prevent tainting the entire venire, it is necessary that individualized and sequestered voir dire be conducted of each potential juror.

11. Alternatively, if sequestered and individualized voir dire is denied by this Court, the Defendants alternatively request that the Court allow the prospective jurors to complete the questionnaires submitted to the Court by defense counsel. (See attached exhibit C).

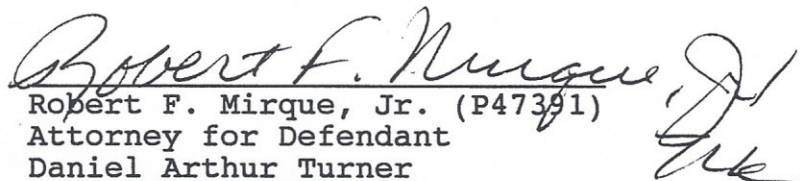
WHEREFORE the Defendants move this Honorable Court to grant their Motion for Sequestered and Individualized Voir Dire or Alternatively for Prospective Jurors to Complete Supplemental Questionnaires.

Dated: November 22, 1993

Respectfully Submitted,



Tonya L. Krause (P42056)
Attorney for Defendant
Stephen Dennis Turner



Robert F. Mirque, Jr. (P47391)
Attorney for Defendant
Daniel Arthur Turner

S T A T E O F M I C H I G A N
IN THE CIRCUIT COURT FOR THE COUNTY OF KENT

PEOPLE OF THE
STATE OF MICHIGAN,

 Plaintiff,

Case No. 93-63014-FHA
 93-63014-FHB

vs

Hon. Dennis C. Kolenda

DANIEL ARTHUR TURNER AND

STEPHEN DENNIS TURNER,

 Defendant.

BRIEF IN SUPPORT OF
MOTION FOR SEQUESTERED
INDIVIDUALIZED VOIR DIRE FOR
FOR PROSPECTIVE JURORS TO
COMPLETE QUESTIONNAIRES

FACTS

The facts are outlined in the preceding Motion and the attached newspaper articles. (Exhibits A and B).

LAW AND ARGUMENT

The constitutional right afforded to a criminal defendant to a trial by an impartial jury is "fundamental to the American scheme of justice," and is thus binding on the states through the Due Process Clause of the 14th Amendment. Duncan v Louisiana, 391 U.S. 145, 149; 88 S Ct 1444; 20 L Ed 2d 491 (1968). While MCR 2.511 affords a trial judge some discretion in deciding in how to conduct voir dire, the exercise of that discretion is circumscribed by the need to protect the Defendant's constitutional rights. Cummings v Dugger, 862 F 2d 1504, 1507 (C A 11, 1989).

An important purpose of voir dire is to expose the existence

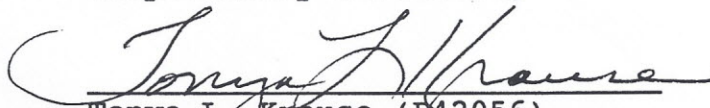
of actual prejudice which would form the basis for a challenge of cause. See MCL 768.10; MSA 28.1033.

In the present case, in order to expose juror attitudes, prejudices and biases about transgenderism, cross dressing, and criminal sexual conduct, it is necessary to ask potential jurors extensive questions about those subjects, as well as to any media exposure the prospective jurors may have had to those issues and this case. If these attitudes, prejudices and biases are discussed openly in front of all potential jurors, the entire jury panel could be unnecessarily tainted. Therefore, it is necessary to conduct sequestered and individualized voir dire as it relates to the pre-trial publicity and about the sensitive issues of transgenderism and cross dressing.

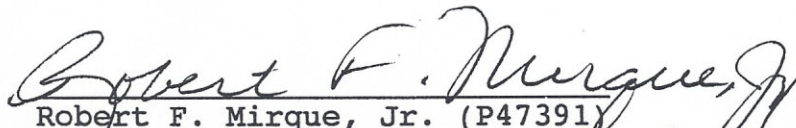
Alternatively, if the Court does not grant sequestered and individualized voir dire, the Court should allow defense counsel to submit jury questionnaires on those subjects to be completed by the potential jurors. Attached as Exhibit C is a proposed supplemental juror questionnaire.

Dated: November 22, 1993

Respectfully Submitted,



Tonya L. Krause (P42056)
Attorney for Defendant
Stephen Dennis Turner



Robert F. Mirque, Jr. (P47391)
Attorney for Defendant
Daniel Arthur Turner

Grand Rapids Press - 7-10-93

Brothers charged in rape of girl, 11

By John Hogan
The Grand Rapids Press

One of two brothers charged Friday with raping an 11-year-old girl and forcing her to wear woman's clothing planned to undergo a sex-change operation, police said.

Inside the suspect's Southeast Side apartment, police found documents detailing the operation, as well as sex aids, children's toys and women's undergarments, according to investigators and court documents.

The suspect, 35-year-old Daniel Arthur Turner, allegedly grabbed the girl outside his apartment building, northwest of 44th Street and Kalamazoo Avenue SE, and raped her in an apartment he shared with his brother.

Police were called Wednesday when the victim's father tried to attack the suspects with a crowbar after learning of the assault.

Daniel Turner was arraigned Friday for child enticement and first-degree criminal sexual conduct, felonies punishable by up to life in prison. He has burglary convictions in 1987 and 1979 in the Milwaukee area, which authorities say they believe involved stealing women's clothing.

The suspect's brother, 30-year-old Stephen Dennis Turner, is alleged to have held the victim and fondled her during the attack. He was arraigned Friday on two counts of first-degree criminal sexual conduct.

Both men asked for court-appointed attorneys for their preliminary examinations, scheduled for July 20.

Grand Rapids District Judge Michael Christensen ordered them held without bond in the Kent County Jail, calling the brothers "extreme dangers to members of our society."

Meanwhile, Grand Rapids police plan to contact Wisconsin authorities to see if Daniel Turner is being investigated for crimes there, authorities said.

Police searched the Turners' apartment Thursday and recovered several photos of children, a bag of children's toys and clothes, and a box of lingerie, court records show.

Police also recovered a card from the "Milwaukee Transgender program," a book entitled "ideologies of cross-dressers" and a poem entitled: "All you straight queers," court documents show.

According to court records, the girl was in her yard Wednesday afternoon when a man wearing lipstick grabbed her and took her into his apartment.

Daniel Turner allegedly removed the victim's clothes and sexually assaulted her, court records show. She was shown a videotape of adult strip poker, and also was forced to wear adult female undergarments, she told investigators.

After the assault, Daniel Turner told her: "Get out of here and if you tell anyone, I will kill you," police records show.

The girl told her mother, and the woman confronted the men while her husband searched for a crowbar, court records show.

"When she asked him why he raped her daughter, Daniel put his hands up and stated: 'I don't know why,'" according to a search warrant affidavit in Grand Rapids District Court. The girl's father then arrived with a crowbar, at which point the suspect "shut his door and locked them out," court records show. The father started hitting the door with the crowbar, and a neighbor called police.

Brothers face trial in sexual assault on girl, 10

By John Hogan

The Grand Rapids Press

For several days, the 10-year-old girl delighted in catching an occasional glimpse of the "strange men" wearing lipstick and women's clothing in their Southeast Side apartment building.

"I laughed when me and my little sister ran past the window," the girl testified Tuesday in Grand Rapids District Court. "I told my little sister I was going to get a camera and take pictures."

But childhood curiosity quickly turned to terror when the man in lipstick — identified as Daniel Arthur Turner — dragged her into his apartment July 7 and sexually assaulted her with help from his younger brother, Stephen Turner.

The girl was fondled, forced to perform oral sex, wear women's clothing and play a strip video poker game, she testified Tuesday during a preliminary examination for her alleged attackers.

Before being released, she was told to hold a butter knife to the throat of Stephen

Turner while his brother took a photo.

They told her if she reported the sexual assaults, they would use the picture to prove they were victimized by the knife-wielding girl, said Helen Brinkman, assistant Kent County prosecutor.

Daniel Turner, 35, was ordered Tuesday to stand trial in Kent County Circuit Court on charges of child enticement and first-degree criminal sexual conduct.

Stephen Turner, 30, was bound over to Circuit Court on charges of first- and second-degree criminal sexual conduct. Police say he aided and abetted his brother's sexual attack, and also fondled the girl.

Grand Rapids District Judge Joel Hoekstra ordered the men held without bond in the Kent County Jail pending trial.

The young victim was the only witness to testify. She cried while describing the sexual assaults, and her father at one point left the courtroom.

She told the court that she was playing with sticks and rubber bands outside her apartment near 44th Street and Kalamazoo Avenue SE when Daniel Turner

grabbed her and dragged her into the apartment. "He took me to the room and takes off my clothes in his apartment," she testified.

After the sexual assault, Stephen Turner took the girl into another room, she testified. He held the girl down and fondled her chest, the girl told the court.

She then was forced to play a video strip poker game and told to try on women's clothing, she testified.

Before she was set free, the men posed her for the picture with a butter knife, and threatened to kill her if she told anyone, she testified.

The girl told her mother of the assault, and the woman confronted the men while her husband searched for a crowbar, court records show.

"When she asked him why he raped her daughter, Daniel put his hands up and stated: 'I don't know why,'" according to a search warrant affidavit.

Police were alerted to the assault when the victim's father tried to attack the suspect with a crowbar.



Stephen Turner, front, and Daniel Turner, rear.

Grand Rapids Press

7-21-93 (Metro)

SUPPLEMENTAL JUROR QUESTIONNAIRE

Juror Number _____

This questionnaire will assist the Judge and the attorneys in the jury selection process. The information requested will not be used for any other purpose and will be kept confidential. We appreciate your time and cooperation in completing this questionnaire. Please read all of the questions carefully and notify court personnel if you need assistance.

1. Have you, or anyone you know, been involved in a situation involving rape or sexual abuse?

_____ Yes

_____ No

a) If yes, please explain. _____

2. Have you, or anyone you know, been involved in a situation involving child abuse?

_____ Yes

_____ No

a) If yes, please explain. _____

3. Do you prefer not to sit on a case involving the issue of Rape or Child Molestation?

____Yes

____No

4. What are your thoughts and opinions about a man who dresses in womens' clothing? _____

5. Do you think that a man who dresses in womens' clothing is a homosexual?

____Yes

____No

a) If yes, why? _____

6. Do you think that a man who dresses in womens' clothing is a "pervert" or a "sexual deviant"?

____Yes

____No

a) If yes, please explain. _____

7. If you heard testimony that the Defendants were cross dressers, i.e., dressed in womens' clothing, would you

automatically assume that they were guilty of the alleged offense?

____ Yes

____ No

a) If yes, why? _____

8. If you heard testimony in a rape or child molestation case that the Defendants were cross dressers, could you listen to the evidence and decide the case in a fair and impartial manner?

____ Yes

____ No

a) Explain your answer. _____

9. Prior to coming to court today, did you hear any news stories or read any new articles about this case?

____ Yes

____ No

a) If yes, please describe what information you have been exposed to and when it was you were exposed to the information.

b) What impact has the information you were exposed to had on you? _____

c) Based on the information you have been exposed to, have you formed an opinion about this case?

_____Yes

_____No

i) If yes, what opinion have you formed? _____

10. What is your opinion on the accuracy of newspaper stories?
