

11 1 Q Given the appropriate case would you have  
2 any difficulty being a group of -- one of a group of 12  
3 people and returning a verdict of death if you thought that  
4 was what it should be?

5 A I don't think so.

6 Q You don't think you'd have any difficulty?

7 A No.

8 MR. SEATON: We'd pass for cause, Judge.

9 THE COURT: Mr. Dunleavy.

10  
11 EXAMINATION

12  
13 BY MR. DUNLEAVY:

14 Q Sir, you made a comment a couple times in  
15 your questionnaire about if you are going -- if you can  
16 afford a good lawyer you can get away with almost anything  
17 or you can get away with alot.

18 Would you hold it against Mr.  
19 Rippo if he had a court-appointed attorney?

20 A No, I don't think I would.

21 Q You understand that that's the way the  
22 system works sometimes, people are just appointed?

23 A Yes.

24 Q Now, you also indicated on the question

11 1 about an eye for an eye, that you believe in an eye for an  
2 eye concept.

3 A Yes.

4 Q Is that correct?

5 A Yes.

6 Q Is that one of the reasons why you support  
7 the death penalty?

8 A Probably so.

9 Q Where did you come up with the concept of an  
10 eye for an eye?

11 A Probably the bible, my up-bringing, you  
12 know.

13 Q Are you aware that that's old testament  
14 concept?

15 A I think I was aware of it.

16 Q But you don't have any problems applying it  
17 today?

18 A I don't think that I would.

19 Q Question 75, if the prosecutor goes to the  
20 trouble of bringing somebody to trial the person is probably  
21 guilty, and you indicated you agreed with that.

22 A Yes.

23 Q You understand that the prosecutor doesn't  
24 know if they did it or not. It's up to the Jury to make

11 1 that decision?

2 A Probably so. I just said probably.

3 The point I want --

4 Q Does that mean that you are presuming that  
5 my client is guilty because we're here today?

6 A I don't believe that I'm presuming anything.

7 Q So you are going to keep an open mind and  
8 listen to both sides?

9 A I believe that I will.

10 Q The rights of a person charged with a crime  
11 are better protected than the rights of a victim?

12 A I agree with that. I agree that's the way  
13 it should be, too.

14 Q That basically rights only come into place  
15 when you come into a courtroom or come into contact with the  
16 defendant?

17 A If -- if the State want to accuse somebody,  
18 I think their rights should be protected to the maximum.

19 Q So you don't think that's a bad idea?

20 A No; I don't think so, no.

21 Q People accused of serious crimes are treated  
22 too lightly by the courts.

23 Now, are you saying that people  
24 don't get enough -- sentences are too lenient?

1 A Yes, yes, I am saying it.

2 Q And in your case, I believe you said the man  
3 who pled guilty to murdering your father got roughly ten  
4 years?

5 A From I what I understand, yes.

6 Q Now, if one of the options is life without  
7 the possibility of parole, and the Judge will explain to you  
8 that means ten years to his first parole board, it doesn't  
9 mean he makes it. Would you consider that too light a  
10 sentence to consider?

11 A For a double murder?

12 Q Well, it would be ten years for each murder,  
13 but --

14 A Yes, I would -- yes, I would consider it.

15 Q For you it would be either, and the other  
16 option wouldn't be there.

17 A Well, it depends on what the Judge is --

18 Q The Judge can only instruct you on what the  
19 law is,

20 The question is: In your own  
21 mind do you think you could give fair consideration to the  
22 possibility of getting parole?

23 A If I heard the facts, but I think it would  
24 be difficult.



12

1 Q You understand there is a lot of different  
2 murders.

3 A No minds --

4 Q It is a terrible amount, and that's why the  
5 jury system has to make that decision.

6 A I think I would.

7 Q What do you think of the idea of being asked  
8 to decide the difficulty, but it has to be done, you think  
9 it could be?

10 A Yes.

11 Q What do you think of the idea of you  
12 personally accepting that responsibility?

13 I mean, they call you in for  
14 jury, you don't know if you are going to be on a auto  
15 accident case or a theft case, and all of a sudden someone  
16 is talking to you about killing somebody. What do you think  
17 of that idea?

18 A I would leave it up to the Judge himself  
19 (sic) for sentencing, but if that answers the question  
20 that's what I would do.

21 Q But since it's an obligation, you are going  
22 to follow it?

23 A Yeah.

24 MR. DUNLEAVY: Thank you, Your Honor.

12 1 No further questions. I would  
2 pass for cause.

3 THE COURT: All right. At this time we're  
4 going to take our lunch recess. We will reconvene at 1:45.

5 Remember, do not converse among  
6 yourselves or with anyone else on any subject connected with  
7 this trial; or read, watch, listen to any report or  
8 commentary on the trial by any medium of information,  
9 including without limitation, newspapers, television or  
10 radio; or form or express any opinion on any subject  
11 connected with this trial until the matter is finally  
12 submitted to you.

13 I would like to talk to counsel  
14 in chambers and Mrs. Zero, and we'll have the court reporter  
15 attend in chambers

16 (Whereupon, the following  
17 proceedings were had in  
18 chambers, outside the presence  
19 of the prospective jury  
20 panel.)

20 THE COURT: All right. The record will  
21 reflect we're in chambers, outside the presence of jury.

22 The Juror 123 is present, Mrs.  
23 Zero; present are both attorneys for the defense and both  
24 attorneys for the State.

12

1 Mrs. Zero, my bailiff has  
2 indicated to me that your husband is a policeman.

3 PROSPECTIVE JUROR 123, MS. ZERO: Yes, he  
4 is.

5 THE COURT: And what is his full name?

6 PROSPECTIVE JUROR 123, MS. ZERO: William  
7 Thomas Zero, the second.

8 THE COURT: And he's with Metropolitan  
9 Police Department?

10 PROSPECTIVE JUROR 123, MS. ZERO: He's with  
11 Metro.

12 THE COURT: And I believe my bailiff  
13 indicated that your husband knows the defendant in this  
14 case.

15 PROSPECTIVE JUROR 123, MS. ZERO: Yes, he  
16 does. He's had occasion to be involved with him separate of  
17 this incident.

18 When I -- last evening he  
19 said -- when he asked he said if you are going to be here,  
20 because I called him at 3:20 and said, you know, left a  
21 message on his voice mail that it would probably be until  
22 5:00 o'clock or so, when I got home he said it must be a  
23 criminal case.

24 I said yes, and I indicated it

12

1 was a double homicide, because I don't want to be sitting  
2 there if he has information and something should get out.

3 And when I indicated the area,  
4 he said that was -- and I didn't say any names -- he said  
5 four years ago? He knew. And he's -- but he also  
6 indicated --

7 THE COURT: Did you ever hear about this  
8 case before?

9 PROSPECTIVE JUROR 123, MS. ZERO: I probably  
10 did, but with all of them that I see in the paper it doesn't  
11 stick out in my mind.

12 THE COURT: Okay. Would the fact alone that  
13 your husband has indicated to you that he has had contact  
14 with Mr. Rippe before, does that sort of put your mind that  
15 maybe he's a trouble-maker and you formed an opinion on this  
16 case prior to it even going to trial?

17 PROSPECTIVE JUROR 123, MS. ZERO: I would  
18 say it would be more difficult to be open minded about it.

19 And I wouldn't want it to slip  
20 if I'm in there when you asked me if I'm aware and I say  
21 yes, my husband is an officer, I don't want to leave out the  
22 fact because I think it would be a lie if it came up later.

23 But it could biased people if I  
24 said that he had had some other run-in that my husband had

13

13 1 knowledge of him prior to this incident.

2 THE COURT: Well, my question is: Do you  
3 think with that knowledge that your husband has given you  
4 that would make you not be fair and impartial on this Jury?

5 PROSPECTIVE JUROR 123, MS. ZERO: I think it  
6 would make it difficult.

7 THE COURT: With permission of counsel, I'm  
8 going to excuse Miss zero.

9 MR. WOLFSON: No objection.

10 MR. SEATON: No objection.

11 THE COURT: All right. Thank you very much.

12 PROSPECTIVE JUROR 123, MS. ZERO: Thank you.

13

14 (Whereupon, the prospective  
15 juror was excused.)

16

17 (Whereupon, a recess was had in  
18 the proceedings, at the  
19 conclusion of which the  
20 following was had:)

21

22

23

24

25

1 LAS VEGAS, NEVADA, WEDNESDAY, JANUARY 31, 1996, 1:45 p.m.

2  
3 (Whereupon, the following  
4 proceedings were had in  
5 chambers, outside the presence  
6 of the prospective jury  
7 panel.)

8 THE COURT: In chambers. We're on the  
9 record.

10 Let the record reflect we're in  
11 chambers, with both counsel for the defendant, as well as  
12 the State.

13 And Juror number 150, Mr. --  
14 PROSPECTIVE JUROR 150, MR. GILL: Richard  
15 Gill.

16 THE COURT: -- Mr. Gill is in chambers also.  
17 I understand there is a  
18 problem.

19 PROSPECTIVE JUROR 150, MR. GILL: Well, I  
20 wanted to let you know that there might be a problem.

21 I put down on my form there  
22 that my mom has ALS, which is basically known as Lu Gariks  
23 (sic) disease.

24 On January 7th the doctor told  
my mom -- my dad, privately, that my mom had roughly two to

1 four months to live.

2 He also told her -- told him  
3 that within a month to two she would be bedridden. She is  
4 now already bedridden.

5 THE COURT: Does she live here?

6 PROSPECTIVE JUROR 150, MR. GILL: She lives  
7 in Boise, Idaho.

8 THE COURT: Okay. Well, let me ask you  
9 this: Do you, first of all, want to go and spend some time  
10 with your mother?

11 PROSPECTIVE JUROR 150, MR. GILL: I spend --  
12 I fly and visit her at least once a month. Okay.

13 I have a plane ticket for next  
14 Friday afternoon to fly out for the weekend already.

15 The big thing I wanted to let  
16 you know was that my dad -- I talk to my dad a couple times  
17 a week long distance, and last night he informed me that in  
18 his opinion she wouldn't make it for over another month.

19 So if this case was to go the  
20 three to four weeks --

21 THE COURT: Now, you got problem on your  
22 mind. I don't know that you could concentrate on this  
23 trial. Okay?

24 PROSPECTIVE JUROR 150, MR. GILL: Okay.

1 THE COURT: Number one.

2 And I'm sure that in the event  
3 she does pass on, you know, that you got to get out of here,  
4 so --

5 PROSPECTIVE JUROR 150, MR. GILL: Yeah.

6 THE COURT: I would excuse you from service  
7 with permission of counsel.

8 MR. SEATON: We would agree.

9 MR. DUNLEAVY: Stipulate.

10 MR. WOLFSON: Thank you, sir. Good luck.

11 THE COURT: I hope everything is okay.

12 (Whereupon, a recess was had in  
13 the proceedings, at the  
14 conclusion of which the  
following was had:)

15 THE COURT: Now we're still in chambers.  
16 with counsel and Juror Number 101, whose name is --

17 PROSPECTIVE JUROR 101, GREG WALLACE: Greg  
18 Wallace.

19 THE COURT: -- Greg Wallace. And I  
20 understand you have a problem.

21 PROSPECTIVE JUROR 101, GREG WALLACE: I just  
22 got done talking to my wife, and it may or may not be, I'll  
23 just tell you what I know.

24 She has tried to make a



1 doctor's appointment to get an examination. And I just  
2 called her right now to see if she knew any more.

3 She will not be able to talk to  
4 the doctor until after 2:00, and yesterday they told her  
5 that they have no appointments available until March.

6 And I said, well, if you are  
7 going in to have the, you know, the examination, I probably  
8 wouldn't go but for the results.

9 I'm sure you would want me.

10 And she goes I can try to get  
11 the examination either after Court is out or early in the  
12 morning that day, if that would make it easier.

13 And I said yes, that will be  
14 fine.

15 But so it may not be an issue,  
16 but if the doctor says I can only see you at 2:00 in the  
17 afternoon I need you to come in, I would like to be there  
18 with her based on -- so she can get the results from the  
19 examination.

20 THE COURT: Tomorrow afternoon, you mean?

21 PROSPECTIVE JUROR 101, GREG WALLACE: No,  
22 she does not have the examination scheduled yet. She -- and  
23 I do not know when she will be able to get in for the  
24 examination.

1 Right now it may not be until  
2 March, but if they can get her in earlier they will.

3 And then once she gets the  
4 results of the examination, I would like to be with her at  
5 that time.

6 She did say for the results of  
7 the examination she would request that the doctor have an  
8 appointment early in the morning, so I can meet it if it is  
9 deemed that, you know, I'm on jury duty that I can meet  
10 before I showed up for jury duty.

11 So it may not be as much as an  
12 issue as what I thought it was before lunch. She needs go  
13 in for a memography, is what it is.

14 THE COURT: A what?

15 PROSPECTIVE JUROR 101, GREG WALLACE: A  
16 memography.

17 THE COURT: She's got lumps on her breasts?

18 PROSPECTIVE JUROR 101, GREG WALLACE: She --  
19 yeah, that's what she said she found, and she wants --

20 THE COURT: She has to determine whether  
21 they are cancerous or benign, is that right?

22 PROSPECTIVE JUROR 101, GREG WALLACE: I  
23 guess, I don't know. I've never been through this.

24 THE COURT: You seem very upset over this.

1 Are you going to be able to concentrate if you are chosen on  
2 this jury or is your mind going to be worried about your  
3 wife?

4 PROSPECTIVE JUROR 101, GREG WALLACE: Yeah,  
5 I would be --

6 THE COURT: I know it sounds cold the way I  
7 put it.

8 PROSPECTIVE JUROR 101, GREG WALLACE: No. I  
9 would --

10 THE COURT: But I understand your concern  
11 for your wife.

12 PROSPECTIVE JUROR 101, GREG WALLACE: I  
13 would be able to -- right.

14 THE COURT: And this is very important to  
15 Mr. Rippo and the State.

16 PROSPECTIVE JUROR 101, GREG WALLACE: Right.

17 THE COURT: You know.

18 PROSPECTIVE JUROR 101, GREG WALLACE: Right.

19 THE COURT: And if your mind is going to be  
20 wondering, we should know.

21 PROSPECTIVE JUROR 101, GREG WALLACE: Right.

22 THE COURT: I know, I want you to be honest.

23 PROSPECTIVE JUROR 101, GREG WALLACE: If it  
24 is deemed that I would be -- if it is deemed that I would be

2

1 on the Jury, I would be able to concentrate. Right now I'm  
2 also probably very nervous about speaking with you, to be  
3 honest, so --

4 THE COURT: So you want to remain part of  
5 the panel?

6 PROSPECTIVE JUROR 101, GREG WALLACE: If  
7 that is what you would like.

8 THE COURT: Now, in the event she gets an  
9 appointment for next week, what is going to happen?

10 PROSPECTIVE JUROR 101, GREG WALLACE: If she  
11 gets the examination she will be able to go to the  
12 examination by herself.

13 It is the results from the  
14 examination with the doctor.

15 THE COURT: Okay. And then how -- you have  
16 no idea how long it takes to get the results?

17 PROSPECTIVE JUROR 101, GREG WALLACE: I have  
18 no idea. Sorry.

19 MR. WOLFSON: Something like that is pretty  
20 quick.

21 MR. DUNLEAVY: Two or three days. I've been  
22 through it.

23 THE COURT: That's what I figured.

24 PROSPECTIVE JUROR 101, GREG WALLACE: And if

2

1 she requested that the doctor see her, you know, based on  
2 the result, I don't know what to tell you.

3 If she can see the doctor at  
4 9:00 in the morning, I -- I could probably still -- if the  
5 results were not good, then I will probably be quite upset  
6 and probably not be able to continue.

7 THE COURT: I imagine.

8 Anyone have any questions?

9 MR. HARMON: What are the doctors hours?

10 You said 9:00 in the morning.

11 Is that when the office opens, or is it 8:00?

12 PROSPECTIVE JUROR 101, GREG WALLACE: I  
13 believe it is 9:00, and I do not think she can make an  
14 appointment until after -- even if she was able to make an  
15 appointment at 5:30, you know, being out of here by 5:30, I  
16 would -- I won't know about the possibilities of that.

17 I mean, if I knew we could  
18 always be out of here by 4:30 every day and she got an  
19 appointment at 5:00 or something, that would be all right.

20 MR. DUNLEAVY: Has anyone ever had a  
21 doctor's appointment on time?

22 THE COURT: Yeah, I have.

23 MR. SEATON: My major concern, I think, is  
24 the worse of all scenarios, if it came back bad, I would --

2 1 and this again is cold -- but we would be concerned about  
2 your ability -- I mean any of us if our wives were  
3 involved --

4 PROSPECTIVE JUROR 101, GREG WALLACE: And  
5 honestly I would tell you at that time it would probably not  
6 be wise for me to continue at that time.

7 MR. SEATON: Yes.

8 MR. WOLFSON: Are we in a position where we  
9 need to be concerned about the number of jurors, or are we  
10 still safe in that area?

11 THE COURT: I could always order more.

12 MR. WOLFSON: We started out with --

13 THE BAILIFF: Sixty nine.

14 THE COURT: With 69.

15 MR. SEATON: With 69.

16 MR. DUNLEAVY: I think we're still safe.

17 MR. SEATON: I think we're pretty safe.

18 MR. WOLFSON: Well, if we're in safe waters,  
19 my position would be in deference to this gentleman --

20 THE COURT: There will be other juries you  
21 can serve on, you know.

22 PROSPECTIVE JUROR 101, GREG WALLACE: Well,  
23 I also --

24 THE COURT: And maybe this is not the point

2

1 in time in your life to -- to be on a jury, you know. There  
2 will be other times you will be called probably.

3 PROSPECTIVE JUROR 101, GREG WALLACE: Okay.

4 So with permission of counsel, I'll excuse you, sir,

5 MR. SEATON: No objection.

6 MR. WOLFSON: No objection.

7 THE COURT: Thank you very much.

8 MR. WOLFSON: Good luck, sir.

9 PROSPECTIVE JUROR 101, GREG WALLACE: Thank  
10 you.

11 (Whereupon, the prospective  
12 juror was excused.)

13 (Whereupon, a recess was had in  
14 the proceedings, at the  
15 conclusion of which the  
16 following was had:)

17 THE COURT: We are on the record. Have a  
18 seat, please.

19 PROSPECTIVE JUROR 109, MS. CLARK: Thank  
20 you.

21 THE COURT: Juror number 109. Mrs. --

22 PROSPECTIVE JUROR 109, MS. CLARK: Clark.

23 THE COURT: -- Clark.

24 I understand you have a problem  
25 with being on the jury.

26 PROSPECTIVE JUROR 109, MS. CLARK: Yes, I am

2 1 ashamed to say so, sir.

2 THE COURT: You don't have to be ashamed.

3 PROSPECTIVE JUROR 109, MS. CLARK: But I --  
4 I really feel that I don't have the courage of my  
5 convictions that I thought when this began.

6 THE COURT: Courage in what respect?

7 PROSPECTIVE JUROR 109, MS. CLARK: Well, I  
8 answered all the questions as intelligently and honestly as  
9 I could on the questionnaire, and I knew what to expect, I  
10 thought; but the moment that I sat down in that jury box,  
11 the sheer magnitude of the responsibility just overwhelmed  
12 me.

13 By the time I got home last  
14 night, I was almost physically ill. I couldn't sleep. Woke  
15 my husband up about a quarter to 2:00 this morning and  
16 talked to him. And he said that I should talk to you, if  
17 possible, instead of doing it in open court.

18 THE COURT: Okay. Do you think this is --  
19 the burden of sitting on this type of a case, a murder  
20 case --

21 PROSPECTIVE JUROR 109, MS. CLARK: Yes.

22 THE COURT: -- is so overwhelming to you  
23 that --

24 PROSPECTIVE JUROR 109, MS. CLARK: Yes, it



3  
1 is.

2 THE COURT: -- that you may become ill over  
3 this?

4 PROSPECTIVE JUROR 109, MS. CLARK: I do.

5 THE COURT: Is that what you are saying?

6 PROSPECTIVE JUROR 109, MS. CLARK: That's  
7 what I'm saying.

8 THE COURT: That's nothing to be ashamed of.

9 PROSPECTIVE JUROR 109, MS. CLARK: Well, I  
10 am because I thought I was smarter than that.

11 MR. DUNLEAVY: Maybe it's because you are  
12 smart.

13 THE COURT: Anyone have any questions?

14 MR. SEATON: Is it over the prospect of  
15 having to consider the death penalty that it really gets  
16 you?

17 PROSPECTIVE JUROR 109, MS. CLARK: I believe  
18 in the death penalty, but I don't believe in my ability to  
19 inflict it on someone.

20 MR. SEATON: Nothing to be ashamed of.  
21 It's --

22 THE COURT: That's why we have all these  
23 questions, to find out these things. And that's why I asked  
24 you to be open, and it's a tough thing to do, you know.

3  
1 PROSPECTIVE JUROR 109, MS. CLARK: Yes, it  
2 is.

3 THE COURT: And we all respect you for your  
4 candor.

5 But with permission of counsel,  
6 I'm going to excuse Mrs. Clark.

7 MR. DUNLEAVY: I'd just like to ask, are you  
8 saying you could not consider the death penalty?

9 PROSPECTIVE JUROR 109, MS. CLARK: I really  
10 don't think I would be able to inflict it on someone else.

11 I believe in it, but not in my  
12 ability to say execute this person.

13 THE COURT: All right. You are excused.  
14 Stop at the Jury commissioners on the way out, please.

15 PROSPECTIVE JUROR 109, MS. CLARK: Thank you  
16 very much.

17 THE COURT: All right. Thank you. Very  
18 nice to meet you.

19 MR. SEATON: We thank you for your candor.

20 THE COURT: We thank you for your candor.

21  
22 (Whereupon, the prospective  
Juror was excused.)

23 MR. WOLFSON: Good afternoon, ma'am.

24 PROSPECTIVE JUROR 109, MS. CLARK: Good

3 1 afternoon.

2 (Whereupon, a recess was had in  
3 the proceedings, at the  
4 conclusion of which the  
5 following was had:)

6 THE COURT: Okay. The record will reflect  
7 we're still in chambers, outside the presence of the other  
8 Jurors, all counsel are present, and Juror Number 144,  
9 Mr. --

10 PROSPECTIVE JUROR 144, MR. FEE: F E E,  
11 Wayne Fee.

12 THE COURT: -- Mr. Fee is present.

13 Okay. What --

14 PROSPECTIVE JUROR 144, MR. FEE: I have --  
15 if you'd like to see it, I recently had a hearing aid -- a  
16 hearing test done by an M.D. specializing in ears, and he  
17 says that a hearing aid won't help me a bit. He says  
18 that -- I was in the back row yesterday. I could hear  
19 everything you said. You talk in low tones. But when the  
20 panel started talking, they don't talk in all low tones and  
21 some words don't sound like what they are, and -- and I get  
22 distorted as to what's being said. I wouldn't feel a bit  
23 right --

24 THE COURT: So you don't feel with your  
hearing problem that you could hear all the evidence that's

3 1 being presented, even though you would be closer to the --

2 PROSPECTIVE JUROR 144, MR. FEE: I'm sure of  
3 that.

4 THE COURT: Because your problem is with the  
5 tones of each individual's voice?

6 PROSPECTIVE JUROR 144, MR. FEE: That is  
7 right.

8 MR. DUNLEAVY: He did indicate in his  
9 questionnaire that he has a hearing problem with high tones  
10 and --

11 THE COURT: Okay. With permission of  
12 counsel, I'll excuse Mr. Fee then.

13 MR. SEATON: No objection.

14 MR. DUNLEAVY: No objection.

15 THE COURT: All right. Thank you very much,  
16 sir. Stop at the jury commissioner's office on the way out.

17 PROSPECTIVE JUROR 144, MR. FEE: Thank you.

18 THE COURT: Thank you.

19  
20 (Whereupon, the prospective  
21 juror was excused.)

22 (Whereupon, the following  
23 proceedings were had in open  
24 court, in the presence of the  
prospective jury panel:)

3 1 THE COURT: Counsel stipulate to the  
2 presence of the Jury panel?

3 MR. WOLFSON: Yes, Your Honor.

4 MR. SEATON: Yes, Judge, we will.

5 THE COURT: Okay. Juror number seven,  
6 Patricia Albers.

7 PROSPECTIVE JUROR 100, MS. ALBERS: Yes,  
8 here.

9 THE COURT: I mean, Juror number eight, I'm  
10 sorry. That was Mr. Wallace, right, that we just excused?

11 MR. SEATON: Yes.

12 THE COURT: All right. So the clerk will  
13 call the next in line to take seat number eight.

14 THE CLERK: Shelby Romero.

15 MR. HARMON: What was that badge number?

16 THE CLERK: Pardon me.

17 MR. SEATON: The badge number?

18 THE COURT: 112.

19 You are 112, is that correct?

20 PROSPECTIVE JUROR 112, MS. ROMERO: Yes.

21 THE COURT: And should we fill the other  
22 seat now?

23 MR. WOLFSON: Yes, sir.

24 THE COURT: I believe Mr. -- who was it?

MR. WOLFSON: Miss Clark --

THE COURT: Mrs. Clark was excused. So  
we'll call the next in line to take seat number 12.

THE CLERK: Pamela Terry.

THE COURT: Badge number 114.

THE COURT: Okay. Mrs. -- is it Miss  
Romero?

PROSPECTIVE JUROR 112, MS. ROMERO: Yes.

THE COURT: You have to speak up.

PROSPECTIVE JUROR 112, MS. ROMERO: Okay.

THE COURT: Yes?

PROSPECTIVE JUROR 112, MS. ROMERO: Yes.

THE COURT: Have you been listening to the  
questioning?

PROSPECTIVE JUROR 112, MS. ROMERO: Yes.

THE COURT: After listening to all the  
questions that's transpired over the past couple days, does  
anything come to your mind at this time that you feel we  
should know about regarding your qualifications to sit as a  
juror in this case?

PROSPECTIVE JUROR 112, MS. ROMERO: No.

THE COURT: Okay. I'm going to -- Mr.  
Seaton --

MR. SEATON: Thank you, Judge.

THE COURT: You may inquire of Mrs. Romero.

(Whereupon, Prospective Juror  
112, SHELBY ROMERO, was  
examined as follows:)

EXAMINATION

BY MR. SEATON:

Q You didn't know you were going to come back  
after lunch and get put up in the panel, did you?

A No, I didn't.

Q Are you nervous about it at all?

A Yes.

MR. SEATON: Your Honor, are we skipping  
number --

THE COURT: Oh, we didn't speak to Miss --

PROSPECTIVE JUROR 100, MS. ALBERS: Albers.

THE COURT: Is it Miss or Mrs?

PROSPECTIVE JUROR: Ms.

THE COURT: All right. Let's start with  
Juror number seven.

(Whereupon, Prospective Juror  
100, PATRICIA ALBERS, was  
examined as follows:)

EXAMINATION

BY MR. SEATON:

Q We weren't overlooking you on purpose. We

1 Just get forgetful once in a while.

2 You indicated I think you work  
3 in federal court.

4 A Yes, I do.

5 Q Could you tell us a little bit about that,  
6 what the job is.

7 A My title is financial specialist. We are,  
8 however, a little understaffed. So I take on additional  
9 responsibilities regard attorney admissions. I do a  
10 little --

11 Q Does that mean attorneys admitting to  
12 certain things or letting them into something?

13 A No. Letting them practice before the  
14 federal bar.

15 Q Okay.

16 A I do all the certificates and all the  
17 paperwork and all the things associated with that.

18 My financial jobs are  
19 processing fine payments, bonds payments, that kind of  
20 thing, daily receipts, vouchers, we pay the clerk's office,  
21 pay the bills for all the federal agencies in the area, and  
22 I process those vouchers.

23 Q Okay. In federal court they have, as they  
24 do in this court house, civil and criminal case, do they



4 1 not?

2 A Yes.

3 Q And you are aware, at least, of the  
4 existence of those cases?

5 A Yes.

6 Q Do you go in and watch any of them?

7 A No.

8 Q Without getting into alot of detail, you  
9 know your mind better than we do, is there anything about  
10 the nature of your job, the people you come into contact  
11 with, any of the things that you do or see or hear or read  
12 that would have any impact upon you at all in this  
13 particular case?

14 A I don't believe so.

15 Q No. Do you see defendants in criminal  
16 court? You mentioned paying fines.

17 A Yes. The intake area, which is not near  
18 my -- the office is separated into two sides. I'm on the  
19 administrative side.

20 Occasionally we see people  
21 being brought in in the morning, and depending upon when  
22 they get there, the parking, whatever, but that -- that's  
23 the most interaction.

24 Q I take it then from your answer you don't

1 have very much interaction at all with criminal defendants  
2 in the federal courts.

3 A No.

4 Q And of course none in this particular  
5 courthouse?

6 A No.

7 Q You were another of the potential jurors who  
8 filled out a questionnaire who indicated that life without  
9 is the worse penalty for a defendant.

10 And you've heard us asking  
11 other people, without repeating all those questions, can you  
12 give us an explanation of how you feel about that?

13 A I -- I think actually when I read that  
14 question, the way it was worded was something about what  
15 would be harder on me, and I think I made a distinction in  
16 my mind that, that were it me, I would think that having no  
17 possibility of an end would be worse.

18 I -- I didn't mean to rule out  
19 death as certainly not a devastating thing. I think that it  
20 would be.

21 Q Okay. In the context of the trial that we  
22 find ourselves in now, that you find yourself in, you may  
23 well become one of the individuals who have the  
24 responsibility for determining the penalty to be given.

4 1 And you've heard my question  
2 before. If it turns out that the death penalty is available  
3 to you and you think it's a particularly heinous situation  
4 and you want the worse of punishments, does this answer  
5 indicate that you would rule out death or favor the other  
6 penalty over it just because of your feelings?

7 A No. I -- I think that once I were to become  
8 aware of the facts of the case, then I would evaluate each  
9 of the punishments against those facts.

10 Q Okay.

11 A It would be what would be appropriate.

5 12 Q So hypothetically put yourself now in the  
13 position of searching out for the worse of the punishments,  
14 you wanted to punish the defendant as badly as you could,  
15 which of the three would you mark down on this piece of  
16 paper?

17 A I think death would be the worse.

18 Q Do you believe in the death penalty?

19 A Yes, I do.

20 Q Do you think it should be a part of our  
21 system?

22 A Yes, I do.

23 Q Have you always felt that way?

24 A Yes.

5

1 Q Have you -- you -- I think I asked you  
2 obviously I was paying attention to the wrong thing.

3 I asked you if you believed in  
4 this all of your life.

5 A Yes.

6 Q And you've always held these views?

7 A Yes.

8 Q You do agree that the other punishments can  
9 be considered as well?

10 A Yes.

11 Q Then you will consider all three?

12 A Yes.

13 MR. SEATON: Thank you very much.

14 Pass the juror for cause,

15 Judge.

16 THE COURT: Okay. Mr. Dunleavy

17

18 EXAMINATION

19

20 BY MR. DUNLEAVY:

21 Q I notice that you indicated you believe in  
22 an eye for an eye.

23 A Yes, I do.

24 Q What does that mean to you?

5

1           A       I -- I think that in my own life some of the  
2 best lessons I've learned has been when things that I have  
3 done to other people have been done to me, and I could be on  
4 the receiving end of that. And -- and it gave me a better  
5 sense of why it was an inappropriate thing.

6           Q       So if someone was a rapist, the appropriate  
7 punishment would be to have them raped?

8           A       Possibly.

9           Q       If if they are an arsonist, you should burn  
10 their house down?

11          A       Perhaps.

12          Q       Do you have any problems with those  
13 concepts?

14          A       I think that's a logical conclusion to draw  
15 from that, and if that would be something that would make an  
16 impression and perhaps mitigate that behavior, then, yes,  
17 that would be reasonably fair --

18          Q       You also indicated that you were asked if  
19 you believe the system unduly favored someone accused, and  
20 you indicated yes, because of suppression of evidence.

21                               Now, how do you know evidence  
22 is going to be suppressed?

23          A       I don't think that you do. I think that --  
24 that --

5  
1 Q Well, in this case would you be sitting  
2 there wondering, gee, what's going on? Is somebody holding  
3 something back from me on either side?

4 A No.

5 Q Or are you just going to accept the evidence  
6 as presented?

7 A No, because my job, as a juror, is to  
8 evaluate the evidence as it is presented to me.

9 Q I think you also made an indication that you  
10 see people being brought in and out on a regular basis to  
11 the federal court, and that that could effect your way you  
12 feel about a case.

13 I believe your answer was I  
14 tend to be conservative, I see defendants arriving for court  
15 on an almost daily basis. It might effect my objectivity.

16 A I think the way it was worded I -- it was  
17 about the only thing I think -- if that entered into my mind  
18 of something that might possibly effect it.

19 Q You understand the objectivity is pretty  
20 important in a case like this. Somebody's life is at stake.

21 A Oh, absolutely.

22 Q Now, before we ever get to the penalty  
23 phase, there is a first phase, the not guilty phase.

24 In that phase you understand

5

1 that innocence does not enter into it, even though people  
2 talk about innocence alot. We're not in a church. We're in  
3 a court of law. And under the law if there is a reasonable  
4 doubt, it means a person is not guilty is a matter of law.  
5 It doesn't mean he's innocent. It means that the State  
6 failed to meet its burden of proving somebody beyond a  
7 reasonable doubt.

8                                    Could you sit there and say,  
9 gee, somebody is accused of a really serious crime and it  
10 doesn't get any more serious than this, but I don't think  
11 the State met that burden and I -- would you hold them to  
12 that burden or would you say, you know, they ought to be  
13 given a little slack because it's a really serious case?

14                    A        No. I think the more serious the more they  
15 ought to be held to that standard.

16                    Q        You also indicated that you felt the system  
17 was overburdened. Is that going to effect the way you look  
18 at this case?

19                    A        I don't think so.

20                                    I think that I had that answer  
21 because since I've worked in the federal court my  
22 responsibilities have increased because our staff has not.

23                                    I think that's more just from a  
24 personal view point of responsibility on my part that I

1 hear. I mean, this has -- I assume followed some sort of  
2 logical progression to get here, and now it's a matter of  
3 evaluating the facts that will be presented.

4 Q Now, in this case, you know, it's a double  
5 murder case.

6 A Yes.

7 Q If you should find someone guilty of  
8 committing two first degree murders, would you consider life  
9 with the possibility of parole knowing that that meant ten  
10 years to life?

11 A I -- I think that it has to be considered.

12 Q Well, okay. Would you give it serious  
13 consideration? Would you say, yeah, it's out there, that's  
14 nice, let's move on?

15 A No. I think each of the three punishments  
16 that have been outlined need serious consideration as to why  
17 they would be appropriate or why they would not be  
18 appropriate.

19 Q Now, when you were asked about your beliefs  
20 in the death penalty, there was no hesitation whatsoever.  
21 You immediately said yes, I believe in it.

22 A Uh-huh.

23 Q Do you think it should be an easy decision  
24 whether or not you vote for death?

RENEE SILVAGGIO, CCR 122 391-0379

A Yes, sometimes.



6

1 A No, no. It's so absolute. I think there  
2 needs to be alot of thought that goes into that.

3 I -- I just think that I've sat  
4 here for two days and listened to people answer that  
5 question, and it's kind of a yes or no -- at least I viewed  
6 it that way.

7 Q Well now, in your system you see alot of  
8 people that are complaining because something went wrong in  
9 their case somewhere along the line. You are aware that's  
10 going on in the federal courts.

11 A Yes, sometimes.

12 Q And it's not unusual that something did go  
13 wrong.

14 A That's true.

15 Q You understand that the death penalty kind  
16 of stops anybody from ringing that bell.

17 A Yes.

18 Q But you don't have any problems with that as  
19 a form of punishment?

20 A No.

21 MR. DUNLEAVY: No further questions, Your  
22 Honor. We'll pass for cause.

23 (Whereupon, a recess was had in  
24 the proceedings, at the  
conclusion of which the

6

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following was had:)

ATTEST: Full, true and complete transcript of proceedings.

---

RENEE SILVAGGIO, CCR 122  
Official Court Reporter

RENEE SILVAGGIO, CCR 122 391-0379

ORIGINAL

-FILED IN OPEN COURT-

*February 1, 1996*

LORETTA BOWMAN, CLERK

By *Josephine Day* Deputy

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

MICHAEL DAMON RIPPO,

Defendant.

Case No. C 106784

Dept. No. IV

Docket No. C

REPORTER'S TRANSCRIPT OF PROCEEDINGS

VOLUME II

BEFORE THE HONORABLE GERARD J. BONGIOVANNI

Wednesday, January 31, 1996

2:30 p.m.

Reported by: Gerri Lapthorne, C.C.R. No. 82

LAS VEGAS, NEVADA REPORTING SERVICES (702) 382-7530

CE

1 APPEARANCES:

2  
3 For the State:

MELVYN T. HARMON,  
Deputy District Attorney  
and  
DANIEL M. SEATON,  
Deputy District Attorney

6 For the Defendant:

STEVEN WOLFSON  
and  
PHILIP H. DUNLEAVY

8 ---o0o---

1 LAS VEGAS, NEVADA JANUARY 31, 1996 2:30 P.M.

2  
3  
4 (The following proceedings were  
5 had in open court in the presence and  
6 hearing of the prospective jurors.)  
7

8 THE COURT: Proceed with the inquiry of  
9 Juror No. 112, Shelby Romero.

10  
11 SHELBY ROMERO

12 a prospective juror, was examined as  
13 follows:  
14

15 EXAMINATION

16 BY MR. SEATON:

17 Q. Miss Romero, again, how do you do?

18 A. Good.

19 Q. And, as I started to say before we  
20 realized that we were out of turn, you were one of  
21 the individuals who mentioned life without being  
22 worse than any of the other penalties.

23 Can you explain that for us?

24 A. I think when I read that question I took

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1 it as a personal response. For me life in prison  
2 without the possibility of parole would be the  
3 worst.

4 Q. And in the context of a criminal jury  
5 trial where the jury is assessing that the steepest  
6 penalty they could, if that's what their druthers  
7 were, what would that be to you then?

8 A. The worst possibility.

9 Q. For someone else, not for yourself?

10 A. For someone else the hardest decision  
11 would definitely be making the decision of whether  
12 or not this person should be put to death.

13 Q. Let me ask it to you this way.

14 If you were trying to select the  
15 worst of the three punishments for someone else,  
16 which would it be?

17 A. The death penalty.

18 Q. So it was just your own personal  
19 observation --

20 A. Yes.

21 Q. -- about what your feelings would be --

22 A. Yes.

23 Q. -- that in that situation that caused  
24 you to say that?

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1 Do you believe in the death  
2 penalty?

3 A. Yes, I do.

4 Q. Have you always?

5 A. Yes.

6 Q. Have you had an opportunity in your  
7 lifetime to discuss it with others either in school  
8 or socially with friends?

9 A. Yes.

10 Q. And have you always taken the position  
11 that the death penalty is appropriate?

12 A. Yes.

13 Q. You recognize, of course, that the deep  
14 seriousness of this matter that's before us --

15 A. Yes, I do.

16 Q. -- and the nature of that decision, but  
17 when you were out in the audience did you hear me  
18 talk to one of the other jurors about the difference  
19 between philosophically talking about the death  
20 penalty that we are doing right this minute and a  
21 group of people going into a room and voting on  
22 whether or not to impose the death penalty.

23 Quite a different situation,  
24 would you agree?

1 A. I would agree.

2 Q. As you observe the defendant here in  
3 between the two lawyers, does that change your mind,  
4 bother you at all, or do you think you still have  
5 the capacity to go into the jury deliberation room  
6 and make such a decision?

7 A. I feel I could make such a decision.

8 MR. HARMON: Good. Thank you very much.

9 Pass for cause, Judge.

10 THE COURT: Mr. Dunleavy.

11

12 EXAMINATION

13 BY MR. DUNLEAVY:

14 Q. The answer: I believe in the death  
15 penalty. Why?

16 A. I believe such people that have  
17 committed crimes that warrant the death penalty in  
18 circumstances have proven that that person is  
19 guilty, that they deserve maximum punishment.

20 Q. And in your opinion what crimes deserve  
21 the death penalty?

22 A. A number of different crimes deserve the  
23 death penalty, but definitely murder.

24 Q. Definitely murder.



1                   So if you find someone guilty of  
2 murder, you think the appropriate punishment would  
3 be the death penalty?

4           A.       Not in every case.

5           Q.       And how would you determine which case  
6 it's appropriate in?

7           A.       Based upon the facts that were  
8 presented.

9           Q.       What kind of murder would not justify  
10 the death penalty?

11          A.       A murder in which the facts prove that  
12 this person was acting in a way that, perhaps, was  
13 in self-defense or --

14          Q.       Well, if someone acted in self-defense,  
15 you understand that wouldn't be murder?

16          A.       Okay.

17          Q.       So it has to be someone who's been  
18 convicted of first degree murder, not second degree  
19 murder, not manslaughter, but first degree murder,  
20 which shows there was some premeditation or malice  
21 involved?

22          A.       Okay.

23          Q.       If you found somebody guilty of that  
24 kind of crime, would you consider life with the

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1 possibility of parole as a viable option?

2 A. Yes, I would.

3 Q. Why?

4 A. I would base my decision on whatever  
5 facts were presented. I don't feel like I can give  
6 an accurate answer without knowing those facts.

7 Q. But you have no problem saying that you  
8 believe in the death penalty?

9 A. Correct.

10 Q. Do you think there would be something  
11 wrong with a country that did away with the death  
12 penalty?

13 A. No.

14 Q. Do you know if countries have done that?

15 A. I do not know of specific countries.

16 Q. You've never read up on the subject or  
17 studied it in any way, college classes or just  
18 reading in magazines or anything about the history  
19 of the death penalty?

20 A. No, I haven't.

21 Q. Newspapers, you know, they have covered  
22 it?

23 A. No.

24 Q. Read any articles on that?

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1 A. No.

2 Q. What do you think of the idea of being  
3 brought in here and asked to make a decision whether  
4 or not to kill somebody?

5 A. It's the biggest decision anybody could  
6 ever be asked to make.

7 Q. Do you understand it can't get any more  
8 serious than this?

9 A. Yes.

10 Q. Now, a lot of people put down the worst  
11 form of punishment would be life without the  
12 possibility of parole, but then when they're asked  
13 by the State, it's the death penalty.

14 Can you think of reasons why life  
15 without would be worse?

16 A. Why I think life without possibility of  
17 parole would be worse than death?

18 Q. Mm-hmm.

19 A. Because being in prison without no hope  
20 of ever getting out I think would be more difficult  
21 to handle than death itself.

22 Q. But you think the worst punishment would  
23 be death?

24 A. Making the decision of killing somebody

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1 is the worst punishment.

2 Q. Now, you were asked: A defendant in a  
3 criminal trial should be required to prove his or  
4 her innocence. And you indicated you agreed.

5 Have you ever realized that it's  
6 basically impossible to prove innocence?

7 A. I thought about that question quite a  
8 bit. I think there should be some sort of area that  
9 the defendant needs to prove of his. I know how you  
10 say not necessarily innocence, but not necessarily  
11 not guilty. You should have to prove he's not  
12 guilty.

13 Q. You understand the way the American  
14 system works, Mr. Wolfson and I never have to stand  
15 up and say a word?

16 A. I understand.

17 Q. Mr. Rippe can sit there through the  
18 entire trial and play tick-tack-toe --

19 A. I understand.

20 Q. -- and it makes no difference.

21 If the State fails to prove him  
22 guilty beyond a reasonable doubt, he's not guilty as  
23 a matter of law.

24 A. I understand.

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1 Q. And that innocence is basically a term  
2 that has no legal definition.

3 A. I understand.

4 Q. Are you comfortable with that idea?

5 A. Yes.

6 Q. Are you going to hold the defendant to a  
7 standard where you expect him to do something to  
8 prove his innocence?

9 A. No.

10 Q. You understand that he doesn't have to  
11 do anything?

12 A. I understand.

13 Q. You also indicated that you felt the  
14 rights of people charged were protected more than  
15 the rights of others?

16 A. Yes.

17 Q. Common answer.

18 You understand that basically  
19 these rights that most people are talking about come  
20 into effect in a court of law?

21 A. Yes.

22 Q. You have the exact same rights.  
23 Fortunately, you're not sitting here in a court of  
24 law as a defendant.

1 A. Right.

2 Q. So you realize everybody's rights are  
3 protected the same; it's just that they only come  
4 into effect at certain times. They can't have  
5 judges on the street corners saying, wait a minute,  
6 that's a violation of rights. That has to be  
7 brought into a court of law where that's decided.

8 A. Yes, I understand.

9 Q. So you're not going to say that he's  
10 sitting here with some secret advantage or something  
11 and hold it against him?

12 A. No, I would not.

13 MR. DUNLEAVY: Thank you. I have no  
14 further questions, your Honor. I would pass for  
15 cause.

16 THE COURT: Mr. Seaton, you may inquire.

17 MR. HARMON: I'll do this one, your  
18 Honor.

19 THE COURT: Mr. Harmon, you may inquire.  
20  
21  
22  
23  
24

ANGELA PADILLA OSORIO

a prospective juror, was examined as follows:

EXAMINATION

BY MR. HARMON:

Q. Good afternoon. Is it Osorio?

A. Osorio.

Q. I notice in the questionnaire that you have a number of lawyers in your family?

A. Yeah, my father was a lawyer, my grandfather, both of them are lawyers.

Q. And you had a cousin a lawyer?

A. Yes. Yeah.

Q. And a cousin a judge?

A. Yeah, two of them judges.

Q. Are these persons who live in your native land or here in the United States?

A. No, in the Philippines.

Q. How long have you lived in this country?

A. 12 years.

Q. How did it happen that you moved from the Philippines to America?

A. I got widowed. I got widowed and I went

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1 here for a trip, and because I have family here, and  
2 I met my husband here, and I got married. That's  
3 how it was.

4 Q. What is your attitude about serving as a  
5 jury on this type of case?

6 A. I think I would be like serving the  
7 country that I adopted and I would like to do that.

8 Q. So that it's something that you look  
9 forward to doing?

10 A. Kind of, yes.

11 Q. If selected, are you the type of person  
12 who would be able to make the difficult decisions  
13 required in passing judgment on Mr. Ripppo?

14 A. I think so. I'm a very fair person. I  
15 would weigh the things over carefully.

16 Q. And fairness is certainly one of the  
17 qualities we would be looking for.

18 Additionally, and this is  
19 particularly if the second phase occurs; that is, if  
20 the jury had the additional responsibility of fixing  
21 a punishment, it would require certain amount of  
22 emotional toughness. I don't think anyone would say  
23 it's pleasant or easy --

24 A. I know it would be hard.



1 Q. -- to choose a punishment for murder of  
2 the first degree, but you feel you're the type of  
3 person who would be able to do that?

4 A. I think so.

5 Q. You believe that the punishment should  
6 fit the crime?

7 A. Of course, yes.

8 Q. What is your position regarding capital  
9 punishment; would you say you're for or against it?

10 A. You mean death?

11 Q. Yes.

12 A. I am for it.

13 Q. Why are you in favor of capital  
14 punishment?

15 A. Yes.

16 Q. Why?

17 A. Because I think there are people that  
18 cannot be reformed. Because I think prison is a  
19 reformatory place. It's also a punishment for  
20 people that committed a crime, but mostly we put  
21 them there to reform them, but if I can see that  
22 this person cannot be reformed, then he's got to  
23 die, because he will be a menace to society, he goes  
24 out. And that's what my personal opinion is.

1 Q. Do you appreciate that any proper  
2 verdict must be based solely upon the evidence that  
3 you hear in the courtroom?

4 A. Yes. Of course, yes.

5 Q. For example, during the first phase of  
6 the trial when you would determine if Mr. Rippe was  
7 guilty or not guilty, at that stage of the  
8 proceedings you shouldn't be concerned about  
9 punishment.

10 A. Yes.

11 Q. You would just focus on the issues  
12 before you. Can you do that?

13 A. Of course. Yes.

14 Q. It's going to be brought out that this  
15 crime occurred at a certain location. Would you  
16 resist the temptation, perhaps, to go there and to  
17 carry on some investigation of your own?

18 A. Oh, no, I won't. I would just, you  
19 know, try to figure out what the evidence that you  
20 present in court and go from there, because those  
21 evidence are from the people that really know what  
22 they are doing, and I think that I don't have to do  
23 it on my own.

24 Q. You understand that the alleged crime

1 scene may have changed in the past four years; it  
2 might not be the same anyway as it was then?

3 A. Yeah.

4 Q. It's imperative that the jury decide  
5 this case solely upon the evidence introduced during  
6 the trial, applying to that the Court's legal  
7 instructions. And I take it from your answers you  
8 can do that?

9 A. Yes.

10 MR. HARMON: Thank you. Pass for cause.

11 THE COURT: Mr. Wolfson.

12 MR. WOLFSON: Thank you, Judge.

13

14 EXAMINATION

15 BY MR. WOLFSON:

16 Q. Good afternoon, Miss Osorio.

17 A. Good afternoon.

18 Q. You said, I believe, that you feel the  
19 death penalty is appropriate for people who can't be  
20 reformed in jail?

21 A. Yes.

22 Q. Is that what you said?

23 A. Yes.

24 Q. Is it fair then to say that you can

1 judge from the facts of a case whether or not a  
2 person can be reformed in prison and, therefore, you  
3 can decide whether they can be reformed now versus  
4 while they're in prison?

5 A. Yeah. I think when you present the way  
6 that the murder was committed, you could see from it  
7 what it was, a vicious crime, a crime that was done  
8 for no reason at all, or something like that, and  
9 those are the people that really shouldn't be within  
10 society.

11 Q. So you're of the opinion that if a  
12 person commits a vicious murder -- all murders are  
13 vicious, but I think you know what I mean?

14 A. Yes.

15 Q. Some of it are worse than others.

16 That that fact by itself tends to  
17 make you believe that that person cannot be changed  
18 and, therefore, there is no chance at reformation of  
19 that person?

20 A. Well, like I said, it depends on what  
21 the -- you know, they present, you know, to the, you  
22 know, to the evidence of the case.

23 And because I understand that the  
24 they going to show us the character of the person

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1 that committed it, or -- and so we could, based on  
2 that and the witnesses and everything. And so if I  
3 really think that this person is not -- able to  
4 commit another murder, if he's out, then definitely  
5 I would go for death.

6 Q. I believe you said yesterday that you  
7 remembered this case from the media?

8 A. It's just, you know, one news after  
9 another that you see in the papers, but I didn't  
10 really pay no attention to it. You know, I'm not  
11 the kind of person that dwell on those things, like,  
12 you know.

13 Q. But do you have a memory of hearing  
14 about this case?

15 A. Yes, because I heard, I think, at work  
16 and then I saw it on television, but not really. I  
17 didn't really think anything about it.

18 Q. I don't want you to relate what you may  
19 remember hearing, but you think that four years ago  
20 when this crime occurred that you have a specific  
21 memory of hearing about this case?

22 A. I just remember that it was in that  
23 place because some people are saying that that place  
24 is a bad area.

1 Q. The location?

2 A. And they say that there was a murder  
3 committed there and, you know, and so that's how I  
4 remember it. And, plus, you know, I saw it on, I  
5 think, I can't remember any more, on television or  
6 newspaper, but I did recall that I heard about this  
7 case.

8 Q. Do you watch a lot of television?

9 A. No.

10 Q. Do you watch any television?

11 A. I don't have time.

12 Huh?

13 Q. Do you watch any television?

14 A. I do, but I prefer to watch comedies.

15 Q. What's your favorite comedy?

16 A. I used to like a lot Cheers. I watch  
17 Friends and those sort of things.

18 Q. Did you have occasion to watch any of  
19 the O.J. Simpson trial?

20 A. Well, of course, yes. I think everybody  
21 did.

22 Q. Did you watch the actual trial itself or  
23 did you watch the commentaries or the news  
24 broadcasts during the evening?

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1           A.       You know, you cannot help it. When you  
2 turn on your television, it's there. And so, you  
3 know, it's one of those things, but I don't really  
4 watch it from -- like some other people do that they  
5 tune to it and all that. I'm not that kind of  
6 person.

7           Q.       If I were to ask you how much of it you  
8 watched, how would you categorize that; were you a  
9 mild watcher --

10          A.       Mild. I should say mild.

11          Q.       Do you remember who the lawyers were in  
12 the O.J. Simpson case?

13          A.       I know Marsha Clark was, and Shapiro,  
14 and that's all I could remember. And there is  
15 another guy with Marsha Clark. And a lot of other  
16 lawyers with O.J., and I really don't remember  
17 names.

18          Q.       Do you remember hearing in the O.J.  
19 Simpson case a lot of information was provided by  
20 the Los Angeles Police Department?

21          A.       What kind of information?

22          Q.       Do you remember hearing that it was  
23 pretty clear that the Los Angeles Police Department  
24 made some mistakes in their investigation?

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1 A. Oh, yeah, of course.

2 Q. Do you remember hearing that?

3 A. I did.

4 Q. What do you recall about that issue?

5 A. Well, there -- they were saying that the  
6 evidence was --

7 MR. HARMON: Objection, your Honor. I  
8 don't know why this is relevant to this case. Her  
9 impressions about what she heard during the Simpson  
10 case regarding the Los Angeles Police Department.

11 MR. WOLFSON: I guess, if I was a  
12 prosecutor, I'd say the same thing, Judge, but we  
13 ask people about their television programs. We ask  
14 them everything.

15 Now, the O.J. Simpson, like it or  
16 not, is a big part of everybody's life and their  
17 impressions, I believe, are relevant, and I'm going  
18 to be short on this issue.

19 MR. HARMON: Well, he may ask if  
20 anything concerning her viewing of the Simpson case  
21 would impact her attitude about this case, but to  
22 ask her now to relate the information which  
23 surfaced, which are simply allegations concerning  
24 another department, is not relevant.

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1 THE COURT: I'm going to sustain the  
2 objection.

3 MR. WOLFSON: Are you precluding me from  
4 asking any questions?

5 THE COURT: No. You may rephrase your  
6 question.

7 MR. WOLFSON: Okay. Thank you, Judge.

8 BY MR. WOLFSON:

9 Q. Do you believe as you sit here today  
10 that the investigation by the Los Angeles Police  
11 Department was less than perfect?

12 MR. HARMON: Objection. That isn't  
13 relevant, your Honor.

14 MR. WOLFSON: Judge, we're not dealing  
15 with relevancy. This is not --

16 MR. HARMON: We are.

17 MR. WOLFSON: -- an evidentiary hearing  
18 where the rules of evidence apply. If that were the  
19 case, hearsay would apply. I mean not relevance. I  
20 think it is relevant.

21 THE COURT: Are you asking her if she  
22 has an opinion as to whether the --

23 MR. WOLFSON: I'm asking her if she  
24 remembers hearing certain allegations made against

1 the Los Angeles Police Department. Allegation  
2 probably isn't the word. Certain facts about their  
3 investigation. I'm asking her if she remembers  
4 hearing that.

5 THE COURT: I'll allow that question.

6 MS. KEITHLEY: Yeah, they were saying,  
7 but I don't really know --

8 THE COURT: Just answer yes or no.  
9 That's all he asked.

10 MS. KEITHLEY: Oh, yes.

11 BY MR. WOLFSON:

12 Q. Did you form any opinions yourself about  
13 the truth or falsity of the LAPD's investigation?

14 A. Yes.

15 Q. What role do you feel a police  
16 department plays in a criminal case?

17 A. Very important role.

18 Q. Could you elaborate? What do you mean?

19 A. Well, first of all, the evidence. They  
20 are the ones to gather the evidence, and that's  
21 mostly what it is.

22 Q. Miss Osorio, did you form any opinions  
23 about this case when you heard it in the media four  
24 years ago?

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1 A. No.

2 Q. As you sit here today, do you believe  
3 that you can base a verdict, if you're chosen as a  
4 juror, on just what you listen to here in court?

5 A. Yeah, I base everything on the evidence  
6 presented here.

7 MR. WOLFSON: I'll pass for cause.

8 THE COURT: Okay. Before we begin with  
9 the next witness I want to advise everyone in the  
10 jury panel that the attorneys involved in this case  
11 and court personnel, other than my bailiff, are not  
12 permitted to speak to you.

13 It's for ethical reasons they are  
14 bound by not to speak to you. So if you see them  
15 passing you in the hall and they just walk right by  
16 you, don't think they're snubbing you or anything.  
17 It's just that they're bound by ethics not to talk  
18 to you. And I trust that you not speak to them  
19 either.

20 Okay. Mr. Seaton.

21 MR. SEATON: Yes, Judge.

22 THE COURT: You may inquire of  
23 Mr. Berger.

24

GERALD BERGER

a prospective juror, was examined as follows:

EXAMINATION

BY MR. SEATON:

Q. How are you doing this afternoon, Mr. Berger?

A. Fine, sir.

Q. Been waiting for the train to come around?

A. Slow train.

Q. You're right about that.

Let me get through, perhaps, an uncomfortable part first.

I read where a family member had been charged with a crime. Not necessarily interested in going into any details about that, only how that experience affected you.

Was there a -- how did that case turn out; was it dismissal or conviction?

A. It wasn't a trial. It was a commitment.

Q. Okay, because of the age?

A. Just barely 18, that's correct.

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1 Q. Did that bother you at all? Were you  
2 bothered about the proceedings?

3 A. I was sad and upset.

4 Q. Did you think that the individual was  
5 treated fairly?

6 A. I didn't go into the courts. I really  
7 don't know. I just couldn't come to grips with  
8 that.

9 Q. Too close to home?

10 A. That's correct.

11 Q. Were there other family members who did  
12 attend and get close to it?

13 A. No.

14 Q. Do you feel any bitterness at all toward  
15 the legal system that handled that individual?

16 A. No.

17 Q. So in your eyes that then there may have  
18 been some cause for the authorities to be alarmed?

19 A. I wouldn't say alarmed.

20 Q. Some legitimacy to the charge?

21 A. Well, he admitted it.

22 Q. I see. How long ago was that?

23 A. 20 years ago.

24 Q. Have any impact on this trial, in your

1 participation in it?

2 A. No, sir.

3 Q. How do you feel about the death penalty?

4 A. I agree with the death penalty.

5 Q. Have you always?

6 A. Well, it's hard to say. I don't think  
7 you grew up thinking about that, but as you kind of  
8 mature you start thinking about things and that's  
9 one of the things that comes into your mind. I  
10 don't dwell on it, no.

11 Q. Do you have opportunities to discuss it  
12 with other people?

13 A. Not really.

14 Q. Just sort of self-contained thoughts?

15 A. Self-contained, but sometimes they will  
16 come out. You'll see articles in the paper or  
17 something will come up in a conversation. Nothing  
18 that you don't initiate the conversation is what I'm  
19 trying to say.

20 Q. Do you, like a couple of other of our  
21 potential jurors, agree that it plays an important  
22 role in the criminal justice system?

23 A. Oh, yes, it does.

24 Q. If you were to have the opportunity to

1 include it or not include it, would you include it?

2 A. Yes, I would.

3 Q. How about the responsibility and spoken  
4 about here in this courtroom of you, yourself,  
5 having to be one of those people to implement this  
6 portion of the criminal justice system?

7 A. Oh, I could do it. I've been in life  
8 and death situations before.

9 Q. In combat?

10 A. Not in combat, but flying, yes.

11 Q. And you think that you have the ability  
12 to not be turned away by the heavy duty, let's call  
13 it, of the jury?

14 A. No.

15 MR. SEATON: Thank you very much.

16 Pass for cause, Judge.

17 THE COURT: All right.

18

19 EXAMINATION

20 BY MR. DUNLEAVY:

21 Q. You indicated that the death penalty  
22 plays an important role in our society. What role  
23 is that?

24 A. Well, it creates a finality to an

1 individual that we feel has done something that  
2 deserves the death penalty.

3 Q. And life in prison without the  
4 possibility of parole isn't final?

5 A. I don't think there is such a thing. I  
6 think possibly 10, 15, 20, 30 years down the road  
7 maybe the law will change, so to say that that's  
8 final, I don't think so. Death is final.

9 Q. And you're aware that for a while that  
10 the country did away with the death penalty?

11 A. This country?

12 Q. Yes.

13 A. No, I wasn't.

14 Q. In the '60s and '70s?

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

16 Q. Didn't see any change in societies one  
17 way or the other because of it?

18 A. If you say that we did away with it, I  
19 haven't seen much change; no, sir.

20 Q. What do you think of the concept that  
21 punishment should be tempered with mercy?

22 A. That's fair.

23 Q. Do you think that's kind of the American  
24 way?

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1 A. I believe so.

2 Q. One of the things we're supposed to  
3 stand for?

4 A. I believe so.

5 Q. You were a major in the Air Force?

6 A. That's correct.

7 Q. You saw no combat?

8 A. No.

9 Q. Now, when you were young did you look  
10 for a chance to go to combat?

11 A. No, but it was expected if we did have  
12 to go into combat, that's correct.

13 Q. Have you ever done things when you were  
14 young that you wouldn't do when you got older?

15 A. I don't think so.

16 Q. Never did anything young and foolish?

17 A. I probably did, but, you know, that's a  
18 long time ago.

19 Q. You recognize a lot of people do?

20 A. Yes, sir, I do.

21 Q. And when they mature, they get older,  
22 they wouldn't do the same things?

23 A. I would hope not.

24 Q. Now, one of the possibilities here is if

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1 he's convicted of murder is life with the  
2 possibility of parole, and you recognize that people  
3 when they're young and sit here in court may not be  
4 the same person that goes before a parole board 10  
5 to 20 years --

6 A. I understand that.

7 Q. Is that something that you would take  
8 into consideration in deciding what a punishment  
9 should be?

10 A. Yes, I would.

11 Q. Are you in a position where you would  
12 automatically say, I really favored one punishment  
13 over the other?

14 A. No.

15 Q. You indicate a defendant in a criminal  
16 trial should be required to prove his or her  
17 innocence. And I'm sure you heard me talk a little  
18 bit about innocence?

19 A. If I did, that's not correct.

20 Q. What is your belief on that?

21 A. Well, there has to be proof that  
22 somebody did something wrong, and, as you said,  
23 somebody doesn't have to prove his innocence, but  
24 his guilt has to be proven.

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1 Q. Innocence is a word that's used a lot by  
2 people, but you understand, despite what the media  
3 says, no jury can find a man innocent. You have two  
4 options. Guilty beyond a reasonable doubt or not  
5 guilty, which means that as a matter of law if there  
6 is reasonable doubt, he's not guilty.

7 You could, in fact, look at  
8 somebody and think, I think he did it, but I haven't  
9 been convinced beyond a reasonable doubt, and  
10 innocence is not a factor. That's for -- take that  
11 to church. We're in a court of law. The law says  
12 it's either beyond a reasonable doubt or it's not.

13 Are you comfortable with that  
14 concept?

15 A. Certainly.

16 Q. Would you keep an open mind and sit  
17 there and evaluate reasonable doubt?

18 A. I've tried to be fair-minded all my  
19 life.

20 MR. DUNLEAVY: I have no further  
21 questions, your honor. I would pass for cause.

22 THE COURT: Thank you.

23 Mr. Harmon.

24 MR. HARMON: Yes, your Honor.

1 THE COURT: Inquire of Mrs. Grace.

2  
3 LOUISE COVINGTON GRACE

4 a prospective juror, was examined as  
5 follows:

6  
7 EXAMINATION

8 BY MR. HARMON:

9 Q. Good afternoon, ma'am.

10 What is your attitude about  
11 serving as a juror on this type of case?

12 A. When I received my summons I kind of  
13 debated about it, and I was told when I called that  
14 I did not have to serve, because I was over 65, but  
15 I thought since I wanted to do my duty I would try  
16 and see if I couldn't do it.

17 I find that it's way too  
18 stressful. I have high blood pressure that's really  
19 under control with medication, but I've had a  
20 headache today that I don't even know what's been  
21 going on.

22 Q. Well, you've had a couple of days now to  
23 be exposed to the type of case it is.

24 A. Yes.

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1 Q. You had served twice before as a juror,  
2 as I recall?

3 A. Yes.

4 Q. But on cases that didn't have nary the  
5 seriousness of this case; is that correct?

6 A. That's true, and a long time ago.

7 Q. There certainly aren't any right or  
8 wrong answers, but we need to have conscientious and  
9 honest answers.

10 What is your feeling now, Mrs.  
11 Grace; do you feel that you're going to have the  
12 physical and emotional toughness to handle the  
13 difficult decisions required of a juror in this  
14 case?

15 A. I don't think so.

16 Q. If you were seated where the attorneys  
17 or Mr. Rippe were seated, I'm speaking about the  
18 prosecution and the defense, would you want a juror  
19 of your frame of mind to sit in judgment?

20 A. The way I feel right now, no.

21 Q. Why is that?

22 A. I just don't feel good. I'm sorry.

23 THE COURT: With permission of counsel  
24 I'm going to excuse Mrs. Grace.

1 MR. WOLFSON: No objection.

2 THE COURT: Thank you very much for your  
3 honesty, Mrs. Grace. You're excused. Stop at the  
4 Jury Commissioner's on the way out.

5  
6 (Prospective juror excused.)

7  
8 MR. WOLFSON: Thank you, your Honor.

9 THE COURT: The clerk will now call the  
10 next in line to take seat No. 11.

11 THE CLERK: Charlotte Proto, 115.

12  
13 CHARLOTTE A. PROTO  
14 a prospective juror, was examined as  
15 follows:

16  
17 EXAMINATION

18 BY THE COURT:

19 Q. Miss Proto?

20 A. Yes.

21 Q. How are you today?

22 A. Fine, thank you.

23 Q. Have you been listening to all these  
24 questions?

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1 A. Yes, I have.

2 Q. After listening to all these questions  
3 does anything come to your mind that you feel we  
4 should know about your qualifications to sit as a  
5 juror in this case?

6 A. No.

7 THE COURT: Mr. Harmon, you may inquire.

8 MR. HARMON: Yes, your Honor. Thank  
9 you.

10

11 EXAMINATION

12 BY MR. HARMON:

13 Q. In looking over your questionnaire,  
14 perhaps I just misunderstood what you were saying,  
15 but you seemed to indicate some difficulty in  
16 considering equally the three punishments provided  
17 for murder of the first degree in this state.

18 A. I don't recall that. Maybe I'm not  
19 remembering right.

20 Q. You're not going to remember the  
21 particular question number, but there is one that  
22 asks about the state of mind regarding punishment,  
23 and it's the one which says: In your present state  
24 of mind can you, if selected as a juror, consider

1 equally all three possible forms of punishment and  
2 select the one that is most appropriate under the  
3 facts and law of this case?

4 The three, of course, meaning  
5 capital punishment, life without parole and life  
6 with parole.

7 And your response was: Not sure.

8 A. Okay. I recall it now. I think that to  
9 be honest I haven't had any great reason to think  
10 about the death penalty. And over the last couple  
11 of days my mind has become clear as far as I believe  
12 that the system we have is the best that we have  
13 now, and that each option given to us must be  
14 considered equally.

15 Q. So you are in all good conscience  
16 telling us this afternoon that if we select you as a  
17 juror, and if at some point in this trial it becomes  
18 necessary for the jury to consider the subject of  
19 punishment, that you can consider all three of the  
20 punishments provided for murder of the first degree  
21 equally?

22 A. I believe that I can.

23 Q. That you're not leaning towards one or  
24 the other at this time?

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1 A. No.

2 Q. If the issue is left solely up to you,  
3 would we have capital punishment in this State?

4 A. Yes.

5 Q. Why is your answer yes to that question?

6 A. I believe that there are some crimes of  
7 such severity that warrant the death penalty.

8 Q. Do you think that you're the type of  
9 person who will be able to make the difficult  
10 decisions required to pass judgment on Mr. Ripppo,  
11 the defendant?

12 A. I've given that a lot of thought, and  
13 yes, I believe that I have the responsibility to  
14 think about everything equally and that I'm capable  
15 of making a decision.

16 Q. But with full realization that you  
17 haven't heard any of the evidence. We don't even  
18 know if the jury will reach a second phase of a  
19 penalty hearing, but assuming that happened, and  
20 assuming after you heard the penalty hearing you had  
21 considered evidence regarding aggravating  
22 circumstances and mitigating circumstances you were  
23 of the opinion that capital punishment was proper,  
24 do you think you're the type of person to come back

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1 into the courtroom and look at the defendant and  
2 participate in a finding of a death sentence?

3 A. I believe I could.

4 MR. HARMON: Thank you.

5 Pass for cause.

6 THE COURT: Mr. Wolfson.

7 MR. WOLFSON: Thank you, Judge.

8

9 EXAMINATION

10 BY MR. WOLFSON:

11 Q. Do I pronounce your last name Proto?

12 A. Proto, yes.

13 Q. Proto, thank you.

14 Mrs. Proto, we have the advantage  
15 of this juror questionnaire, and we also have a  
16 computer print-out form on each of you. And the  
17 computer print-out says that you are a widow; is  
18 that right?

19 A. That's correct.

20 Q. Did your husband die of natural causes?

21 A. He was in a boating accident.

22 Q. Thank you. I'm sorry.

23 You responded to the prosecutor's  
24 question as to whether or not you could come back

1 into this room if the facts and the case were  
2 appropriate and render a judgment of death, and you  
3 said that you thought if the facts were appropriate  
4 that you could.

5 Would you agree that that should  
6 not be a rushed or hurried decision?

7 A. Most definitely.

8 Q. I think everybody in this room agrees  
9 that if the case reaches that second phase, that the  
10 deliberation process is a process where the jury by  
11 themselves sit in a room and deliberate together and  
12 that after enough time has elapsed the appropriate  
13 decision is made.

14 Would you agree with that  
15 concept?

16 A. Yes.

17 Q. I notice that question No. 63, asked  
18 you: Is there any reason why you might feel rushed  
19 or hurried to bring this case to a conclusion?

20 And you're smiling. You know  
21 where I'm going.

22 You answered: Yes. And you  
23 said: Business pressures. Need to prepare for  
24 inspection at laboratory.

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1 And you work at APL, don't you?

2 A. That's correct, APL.

3 Q. I think you can imagine that if we get  
4 to that stage that the Court, the lawyers, Mr.  
5 Rippe, of course, doesn't want a juror who feels a  
6 pressure like that.

7 So if you're selected as a juror,  
8 how will you put aside those business pressures?

9 A. I've thought about that some too since I  
10 answered the question. And I have evaluated what's  
11 necessary of me as a supervisor of this department.

12 And I feel that it's able to be  
13 taken care of, if necessary, on a Saturday or during  
14 the early morning hours, and I feel comfortable with  
15 the fact that my work pressures would not interfere.

16 Q. If this -- if you're selected as a  
17 juror, the case may take two or three weeks.

18 A. Correct.

19 Q. And are you saying that you've made  
20 arrangements if you're selected to --

21 A. Yes.

22 Q. -- deal with your work pressures?

23 A. Yes.

24 Q. You may hear evidence that certain

1 testing was done at APL in this case.

2 You don't perform any toxicology  
3 testing yourself, do you?

4 A. No.

5 Q. What exactly do you do at APL?

6 A. I run the medical transcription  
7 department. We type pathology reports dictated by  
8 the pathologists. Those on surgeries, organs  
9 removed from surgery and their diagnoses.

10 Q. Do you know any of the pathologists in  
11 town?

12 A. Several.

13 Q. You mentioned that you know David  
14 Mulkey --

15 A. That's correct.

16 Q. -- is that right?

17 Would you place any greater  
18 weight or emphasis on a pathologist or coroner's  
19 testimony because you have that certain degree of  
20 familiarity, if you will?

21 A. I can't say that I would judge it any  
22 better or worse than anybody else's. I explained to  
23 the Judge earlier that I believe Dr. Mulkey to be an  
24 honest person, but I can't say that I would give his

1 testimony credence over anyone else's.

2 Q. Have you ever known your lab -- and I  
3 don't mean that your personal lab, the lab that  
4 you're employed at. Have you ever known there to be  
5 mistakes made at your lab?

6 A. Oh, definitely.

7 Q. What is your specialized training in?

8 A. Medical transcription.

9 MR. WOLFSON: Thank you.

10 Pass for cause.

11 THE COURT: Okay. Mr. Seaton.

12 MR. SEATON: Thank you, Judge.

13 THE COURT: You may inquire of Mrs.

14 Terry.

15

16 PAMELA SUE TERRY

17 a prospective juror, was examined as  
18 follows:

19

20 EXAMINATION

21 BY MR. SEATON:

22 Q. Good afternoon.

23 A. Hi.

24 Q. Boy, you have a real conflict at work,

1 don't you? You know what I'm going to ask you?

2 A. Yes, I do.

3 Q. You work for a law firm?

4 A. Yes, I do.

5 Q. And so does your husband?

6 A. Yes.

7 Q. The same law firm?

8 A. Yes.

9 Q. Is it a problem?

10 A. Between us or between --

11 Q. The members of the firm?

12 A. No. Actually, no.

13 Q. Does he do any criminal work at all?

14 A. No.

15 Q. Does anyone in the firm do any criminal

16 work?

17 A. It's all strictly civil.

18 Q. It's a fairly large firm, is it not?

19 A. Yes.

20 Q. And been around town for a number of

21 years?

22 A. Mm-hmm. Yes.

23 Q. Do you know any of the parties here?

24 A. No, I do not.

1 Q. I think you were asked that before?

2 A. No, I do not.

3 Q. Do you know if your husband does?

4 A. I have not discussed this with him, so I  
5 have not told him who any of you are, so I honestly  
6 could not answer that.

7 Q. You know that's the rule?

8 A. I do know that's the rule, yes.

9 Q. And you're going to obey that rule?

10 A. Yes.

11 Q. It's an important one. We lawyers think  
12 we know everything and we want to tell our wives  
13 about it. So it's important that you don't chat  
14 with us about your husband, if you're selected.

15 Can you conceive of any problem  
16 that your relationship as a secretary to a law firm  
17 or your relationship to your husband, who is a  
18 lawyer for a law firm, would cause you in this  
19 trial?

20 A. No.

21 Q. Have you thought about that?

22 A. Yes, I have, because I knew you would  
23 ask me.

24 Q. And you also knew I was going to ask you



1 about this life without being the stiffest penalty?

2 A. Yes.

3 Q. Tell me what your thoughts are on that.

4 A. Hearing everybody else being asked the  
5 same question, of course, I've answered that many  
6 times. When I answered that question I put myself  
7 in that position.

8 Q. As a juror having the responsibility of  
9 deciding, after assuming that the guilt of Mr. Rippe  
10 has been found out, his penalty, would you apply  
11 that standard to Mr. Rippe if you were seeking out  
12 the worst possible punishment?

13 A. It would be an option.

14 Q. If you had decided in your own mind that  
15 he should receive the worst of the penalties, which  
16 one would you think that would be, for him?

17 A. That's a hard question. Probably the  
18 death penalty.

19 Q. You say probably. Do you think that  
20 that is probably the correct answer that will stay  
21 with you throughout the pendency of the trial?

22 A. The way I feel about it is that it is an  
23 option. I don't look at it as just that is straight  
24 across the board, an answer, so it's an option.

1                   Based on everything that I would  
2 hear, I would weigh it and discuss with my peers and  
3 see, but, you know, it is definitely an answer,  
4 but -- I mean an option.

5           Q.       Before you got up there you were sitting  
6 out in the audience as we were discussing these and  
7 other things with members of the jury up here.

8                   Did you hear all of the questions  
9 and answers okay?

10          A.       Yes.

11          Q.       And sort of answered them to yourself --

12          A.       Yes.

13          Q.       -- as they were being asked?

14                   Did you hear anything that you  
15 feel you need to comment on now that we have not  
16 touched upon with you?

17          A.       No.

18          Q.       Think you could be a fair and impartial  
19 juror?

20          A.       Yes.

21          Q.       Fair to -- both to Mr. Rippe and to the  
22 State?

23          A.       Yes.

24          Q.       And just one other thing I want to touch

1 on. When we were speaking with other jurors we were  
2 talking about the process and particularly the part  
3 about aggravating circumstances and mitigating  
4 circumstances. Did you follow along with that okay?

5 A. Yes, I understood your explanation.

6 Q. And understood that aggravation were  
7 things bad about the defendant, mitigation were  
8 things good about the defendant?

9 A. Yes.

10 Q. And I take it you would take all of  
11 those things, the good and the bad, into  
12 consideration when deciding within that range of  
13 punishment, life with to the death penalty, that you  
14 were going to decide?

15 A. Yes, I would.

16 Q. Is that fair?

17 A. Yes, I would.

18 MR. SEATON: Thanks very much.

19 Pass for cause, Judge.

20 THE COURT: Mr. Dunleavy.

21

22 EXAMINATION

23 BY MR. DUNLEAVY:

24 Q. What's your husband's name?

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1 A. Brian Terry.

2 Q. Brian Terry. Obviously, we don't know  
3 many civil lawyers.

4 You and several other people have  
5 put down: Life without the possibility as the worst  
6 possible punishment for me, but for somebody else  
7 it's death.

8 Now, maybe I'm a little dense,  
9 but can you explain to me why you think what's worse  
10 for you would not be worse for someone else?

11 A. That's a good question. I would just  
12 have to say sometimes, not that I have discussed it  
13 a lot, because I haven't, which is a question I  
14 wasn't asked, but sometimes in social situations  
15 that people think that death is the ultimate and the  
16 finality and would be the worst.

17 Q. But not to you personally?

18 A. Not to me personally, no.

19 Q. Mr. Seaton asked you about sitting there  
20 and listening to the other questions that are being  
21 asked and that you have been answering them to  
22 yourself as you go along, and I think most people  
23 have.

24 What's the toughest question you

1 heard?

2 A. By far the toughest question I've heard  
3 is, what are your feelings about being on a jury in  
4 a case such as this.

5 Q. In a death case?

6 A. Yes.

7 Q. And everybody uses the term death or  
8 execution, but bottom line is we're talking about  
9 killing somebody, right?

10 A. Yes.

11 Q. That's pretty serious concept?

12 A. Yes.

13 Q. If you were creating this ideal country  
14 that Mr. Seaton talks about, would you have a death  
15 penalty?

16 A. Yes, I would.

17 Q. Do you think it's necessary?

18 A. I don't know.

19 Q. Would you agree with the premise that  
20 all murders are bad?

21 A. No.

22 Q. There are good murders?

23 A. No. I take that back. There are not  
24 good murders, but different levels.

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1 Q. And you recognize that even though they  
2 have talked about the aggravation and mitigation?

3 A. Yes.

4 Q. And you'll be instructed on that later  
5 on, if we ever get to that phase, but even if they  
6 show every possible aggravating factor and you don't  
7 see any mitigating factors, the law still says you  
8 never have to return a death penalty.

9 A. Yes.

10 Q. Do you think that's indicating that  
11 maybe they think it should be reserved for only the  
12 most egregious cases even if there are mitigating  
13 circumstances?

14 A. That's a possibility.

15 Q. How do you know when a case is one of  
16 those? What criteria would you use to make that  
17 decision?

18 A. To be honest, this is the first time  
19 I've ever really been presented with that question  
20 to think about. I don't know.

21 Q. What do you think about the idea that we  
22 call people in here and put this burden on your  
23 shoulders?

24 A. That's the tough question. You asked me

1 earlier, what do I think about it. I feel like it  
2 is a tough burden. I think it's very important  
3 responsibility.

4 Q. By now you know a lot of people when  
5 they're asked this question of what's the most  
6 severe punishment don't even agree on that.

7 What do you think of the idea of  
8 convicting someone of two first degree murders,  
9 which by law is the most serious murder, and  
10 considering the possibility of parole?

11 A. I agree with your statement that you  
12 made earlier about when you were inquiring of  
13 another juror about things that you do when you're  
14 younger. I do believe that people can change. I do  
15 believe that people grow and mature. So I don't  
16 have a problem with that. As an option.

17 Q. Have you ever heard the theories or seen  
18 the studies in the newspapers that basically for the  
19 most part people outgrow crime as they get older,  
20 the crime rate drops off?

21 A. No, I haven't.

22 MR. DUNLEAVY: The Court's indulgence  
23 just one second.

24

1 BY MR. DUNLEAVY:

2 Q. On question No. 56, which was: What's  
3 wrong with the criminal justice system?

4 And people have written a lot of  
5 books on that. You indicated convicted criminals  
6 are let out of jail too soon. You realize that  
7 basically life without means just that?

8 A. I'm sorry, I got lost.

9 Q. Are you aware that life without means  
10 life without?

11 A. Yes.

12 Q. And that if someone's convicted with  
13 life with murder case it means 10 years to the first  
14 board.

15 Do you think that's too soon to  
16 consider somebody released on a murder case?

17 A. I don't know if I think that's too soon.

18 Q. You've seen a lot of the media about how  
19 people are let out early and how the system is  
20 lenient. There's been a lot about that in the  
21 papers and on the news. Have you seen any of that?

22 A. No, I haven't.

23 Q. Have you seen any of the studies  
24 indicating that in reality people did more time at

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1 the turn of the century than they do today?

2 A. No, I haven't.

3 Q. Do you have any reason to believe that  
4 you can't be fair to both sides?

5 A. No, I do not.

6 Q. Are you comfortable with the idea that  
7 innocence is not an issue here?

8 A. Yes, I understand.

9 Q. It's beyond a reasonable doubt.

10 A. Mm-hmm.

11 MR. DUNLEAVY: No further questions,  
12 your Honor. I pass for cause.

13 THE COURT: Counsel, approach the bench,  
14 please.

15 (A sidebar conference was had out of  
16 the hearing of the prospective jurors  
17 and the court reporter.)

18  
19 Want to hear some good news?

20 The 12 people sitting in the box,  
21 in the jury box, are going to be excused until  
22 Friday morning at 10:00.

23 Now, all of you, we're also going  
24 to take about a 10 minute recess, so remember you're

1 admonished not to converse among yourselves or with  
2 anyone else on any subject connected with the trial;  
3 read, watch, listen to any report or commentary on  
4 the trial by any medium of information; including,  
5 without limitation, newspapers, television or radio,  
6 or form or express any opinion on this trial until  
7 the case is finally submitted to you.

8 We'll see you 12, 10:00 Friday  
9 morning.

10 Okay. The rest of you we'll see  
11 in about 10 minutes.

12  
13 (The following proceedings were had in  
14 chambers, out of the presence and  
15 hearing of the prospective jurors.)

16  
17 THE COURT: Mrs. Wanecek is present, all  
18 the attorneys are present in chambers, outside the  
19 presence of the other jurors.

20 I believe you indicated to my  
21 bailiff you have a problem?

22 MS. KEITHLEY: Yes.

23 THE COURT: Please state your problem.

24 MS. KEITHLEY: I've been a second grade

1 school teacher and I have an autistic child in my  
2 classroom who needs aid, and he has an aide Monday  
3 through Thursday, but I'm concerned now because  
4 Friday she's not there, and so I've had different  
5 subs every day, and Friday there will not be anybody  
6 there that he is familiar with, and that's the  
7 problem in the autistic child, his inner action  
8 skills.

9 So if there is two strangers in  
10 the room, and it's going to be every Friday, it's  
11 not going to be -- because that's the -- it's social  
12 interaction.

13 THE COURT: It won't be a problem  
14 really. What is it, next Friday?

15 MR. WOLFSON: No, I think it's the  
16 following Friday.

17 THE COURT: The following Friday there  
18 won't be a problem because you'll be at work,  
19 because we're not having court that day.

20 MS. KEITHLEY: I see.

21 THE COURT: But this Friday and the next  
22 one, I guess there would be a problem.

23 MS. KEITHLEY: Yeah, because his aide is  
24 not there those days, and he definitely has to have

1 full-time assistance.

2 THE COURT: And what does that mean,  
3 chaos or --

4 MS. KEITHLEY: His problem is anger.  
5 He's mildly autistic. And, yes, if he doesn't  
6 follow the same schedule every day and he's not  
7 familiar with all the people he works with, then he  
8 elicits anger and can hurt other children.

9 And when I do have an aide  
10 that's -- she prevents that, and in most situations,  
11 but Friday she's not there.

12 THE COURT: And he disrupts the whole  
13 class?

14 MS. KEITHLEY: Yes, because the problem  
15 is he can hurt another child so . . .

16 THE COURT: So you're saying --

17 MS. KEITHLEY: My concern, he has two  
18 strangers there on Fridays. It will be a definite  
19 problem.

20 MR. DUNLEAVY: My wife's a school  
21 teacher. I know what she's talking about.

22 THE COURT: With permission of counsel,  
23 excuse this juror.

24 MR. WOLFSON: I have an ADH child, which

1 is not as bad as autism.

2 MS. KEITHLEY: This is autism.

3 MR. WOLFSON: But there are some  
4 similarities so . . .

5 MS. KEITHLEY: Yeah, similar.

6 With the ADH child usually does  
7 not need aide, but the way he's been categorized, he  
8 does have to have full-time assistance in the  
9 classroom. He's never alone.

10 THE COURT: We'll excuse.

11 MR. WOLFSON: Thank you very much,  
12 ma'am. We appreciate it.

13 THE COURT: Stop at the Jury  
14 Commissioner's Office on your way out and tell them  
15 you're excused.

16  
17 (Prospective juror excused.)

18  
19 (After a recess the following  
20 proceedings were had in open court  
21 in the presence and hearing of the  
22 prospective jurors.)

23  
24 THE COURT: Counsel stipulate to the

1 presence of the jury?

2 MR. DUNLEAVY: Yes, your Honor.

3 MR. SEATON: Yes, Judge.

4 THE COURT: All right. The clerk will  
5 now call the next 12 in order to take seats in the  
6 jury box.

7 THE CLERK: Janice Fisher.

8 MR. HARMON: What's that badge number?

9 MS. KEITHLEY: 116.

10 THE CLERK: Loren Sweeney. Judith  
11 Morgen.

12 MR. SEATON: Could you give us the badge  
13 numbers on each?

14 THE COURT: Sweeney's 117. Morgen is  
15 118.

16 THE CLERK: 119, Sabrina Carlson-Gould.  
17 121, Madeline Workman. 125, Sadie Davis.

18 MR. WOLFSON: Is 123 excused?

19 THE COURT: 124 was excused. 123 was  
20 excused.

21 THE CLERK: 129, Isabel Garcia.

22 MR. DUNLEAVY: 126 was excused.

23 THE COURT: 126 was excused.

24 THE CLERK: 130, Vicki Drake. 131,

1 Thomas Cunningham. 132, Harlan Woehrle. 133, Alvin  
2 Caldwell. 135, Kenneth Muller.

3 THE COURT: Here we go again.

4 Everybody organized?

5 MR. SEATON: Were you going to ask some  
6 questions first, Judge, or did you want under the  
7 circumstances to go right into it?

8 THE COURT: Go ahead. I think  
9 everybody's listened to all the questions so far and  
10 it's fresh in their memory, so I think we'll just  
11 proceed with the questioning of counsel.

12  
13 JANICE FISHER

14 a prospective juror, was examined as  
15 follows:

16  
17 EXAMINATION

18 BY MR. SEATON:

19 Q. Miss Fisher?

20 A. Yes.

21 Q. You indicated that you had two  
22 difficulties, and I can't even remember a couple of  
23 days ago if you mentioned these to the Court when  
24 the panel was being asked about the difficulties

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1 with serving, but you have babysitting problems and  
2 a husband, I think, who has medical problems?

3 A. Okay. I'm -- on the babysitting  
4 problems, I worked that out.

5 Q. Okay. Good.

6 A. And my husband, the only problem I would  
7 have is if it was to where we couldn't go home at  
8 night, because he has to have someone with him, you  
9 know. During the day he has someone with him so --  
10 but at night somebody has to be there.

11 Q. You heard the Judge say that typically  
12 we quit at 4:30, and I think another time he  
13 indicated he didn't know of any reason to  
14 sequester --

15 A. Yes.

16 Q. -- the jury?

17 A. Yes.

18 Q. So with that in mind does that ease your  
19 mind to some extent?

20 A. Yes.

21 Q. And so do you think either of those are  
22 a problem at all?

23 A. No.

24 Q. You had mentioned in your questionnaire



1 you were one of those individuals that said life  
2 without the possibility of parole was the worst of  
3 the sentences.

4 Do you believe that just for  
5 yourself or in terms of everyone?

6 A. Just for myself.

7 Q. You've heard our questions and our  
8 concern about people who had said that and trying to  
9 determine whether or not in a case like this, a  
10 double murder case, where in the event the jury got  
11 to the issue of penalty, and if the jury, if you as  
12 a juror member, felt that crime and the character of  
13 the defendant was of such a nature that you wanted  
14 to impose the worst penalty, would that be the death  
15 penalty or life without the possibility of parole or  
16 life with the possibility of parole?

17 A. I'm not sure. It depend on the evidence  
18 and --

19 Q. Let me spell it out maybe in a little  
20 bit more clear terms.

21 Assuming all of what I just said  
22 before, the heinous crime, the finding of guilty,  
23 and that this was indeed a case that was eligible  
24 for the death penalty.

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1                   If all of those things happened,  
2                   and, as we stand here today, we don't know until it  
3                   actually does happen. Mr. Harmon and/or myself  
4                   might stand before the jury and suggest to the jury  
5                   that the death penalty was the appropriate penalty.

6                   Now, with your frame of mind  
7                   about the seriousness of those penalties, which one  
8                   of them is the worse, are you more likely to say to  
9                   yourself, well, now, wait a minute, they're asking  
10                  for the death penalty, but I really think life  
11                  without the possibility is worse and that's the one  
12                  I want to give? How do you stand in that area?

13                A.       Well, I believe in the death penalty.

14                Q.       Okay.

15                A.       And, well, for me life without parole  
16                would be worse.

17                Q.       Why would that be worse?

18                A.       Because I wouldn't want to spend the  
19                rest of my life behind bars. I'd rather die than  
20                live that way.

21                Q.       You're a fairly young person?

22                A.       Mm-hmm.

23                Q.       Truly, if you were faced with -- if you  
24                found yourself in that horribly unfortunate

1 situation, to be faced with those two penalties, and  
2 you could choose, you would choose to die rather  
3 than to live out the rest of your natural life?

4 A. For me, yes.

5 Q. Do you think then, putting this back  
6 into the context of your being a juror now, and  
7 you're not in that unfortunate situation, but you're  
8 doing to gauge what penalty ought to be for Mr.  
9 Rippo, should we get to that point, and if you  
10 decided that this case was a case that called for  
11 the worst penalty, okay, what penalty would that be?

12 A. Death.

13 Q. Okay. So for him the standard would be  
14 different than what you feel about it for yourself?

15 A. Yeah, it's different for everyone.

16 Q. You said that you believe in the death  
17 penalty. Have you always believed in the death  
18 penalty?

19 A. Yes.

20 Q. Have you had an opportunity to discuss  
21 it with various people or in groups in school or  
22 anything like that?

23 A. Not really.

24 Q. Do you think about it occasionally?

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1 A. Just in the family.

2 Q. I'm sorry?

3 A. Just within my family.

4 Q. Does your family share your views or are  
5 there people within the family who think that the  
6 death penalty is not a good thing?

7 A. Most of them share the views.

8 Q. When various cases come a long that are  
9 newsworthy that we see on TV or in the newspapers,  
10 and they're death penalty kind of cases, do you  
11 think about how you would -- and your, I'm sorry,  
12 how you and your views would be put forth in a case  
13 like that, if you see a particular set of facts and  
14 you say, oh, that person deserves the death penalty  
15 or they don't deserve the death penalty?

16 A. No not really.

17 Q. You don't have those thoughts?

18 How do you feel about serving on  
19 this jury; is it something you want to do?

20 A. Yeah.

21 Q. Tell us why.

22 A. I think it would be interesting and, you  
23 know, I'd be doing my duty as a citizen.

24 Q. Will you be disappointed if you're not

1 picked?

2 A. No, not really.

3 Q. You have other things to do?

4 A. Either way I'm fine.

5 MR. SEATON: Thank you very much for  
6 your candor.

7 Pass for cause.

8 THE COURT: Mr. Dunleavy.

9

10 EXAMINATION

11 BY MR. DUNLEAVY:

12 Q. Mr. Seaton talked to you about the fact  
13 that this case is about a heinous crime.

14 What's that mean to you?

15 A. I'm not sure.

16 Q. Do you know it's a death case, that  
17 somebody died?

18 A. Yes.

19 Q. And, in fact, in this case two people  
20 died is what this case is all about.

21 Now, do you think you could  
22 honestly look at somebody and say, I think I should  
23 consider parole for somebody that I have just  
24 convicted of killing two people?

- 1 A. Yes.
- 2 Q. You can give equal consideration to all?
- 3 A. Yes.
- 4 Q. Now, you had no hesitation in saying, I
- 5 believe in the death penalty?
- 6 A. Yeah.
- 7 Q. Why?
- 8 A. I don't know. I always believed in it.
- 9 Q. Have you ever read any of the research
- 10 indicating whether or not it works as a deterrent?
- 11 A. No.
- 12 Q. Do you have any idea how much it costs?
- 13 A. No.
- 14 Q. Are you aware that there have been
- 15 periods of time where in America there was no death
- 16 penalty?
- 17 A. No.
- 18 Q. That there are many other countries in
- 19 the world that do not have it?
- 20 A. Yes, I'm aware there are a lot that
- 21 don't.
- 22 Q. And does that make it a lesser country?
- 23 A. No.
- 24 Q. Now, you indicated that you thought life

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1 without would be the worst punishment for you?

2 A. Mm-hmm.

3 Q. But it wouldn't be the worst punishment  
4 for someone else?

5 A. It depends.

6 Q. And how do you determine weight, it  
7 depends on --

8 A. The individual, the person.

9 Q. The kind of crime?

10 A. Yeah, the kind of crime.

11 Q. What do you think about the idea of  
12 being asked to order someone to be killed?

13 A. It's a hard decision.

14 Q. Do you think it should be a hard  
15 decision?

16 A. Yes.

17 Q. Have you ever been responsible for  
18 killing somebody?

19 A. No.

20 Q. Are you ready today to say that you can  
21 be fair to both sides in this case?

22 A. Yes.

23 Q. What do you think of the idea that  
24 innocence is not the criteria, that it's beyond a

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1 reasonable doubt, and anything less than that means  
2 that he's not guilty as a matter of law; it doesn't  
3 mean the person may or may not be innocent, it means  
4 the State hasn't convinced you beyond a reasonable  
5 doubt?

6 A. That's fair.

7 Q. Do you think that's a fair system?

8 A. Yes.

9 Q. Do you think it's a fair system when you  
10 have a concept of punishment should be tempered with  
11 mercy?

12 A. What do you mean?

13 Q. Well, some people say that punishment  
14 should be tempered with mercy, that there should  
15 always be a quality of mercy to it.

16 Do you think that's a fair  
17 concept?

18 A. Yes.

19 Q. Do you think you can have mercy for  
20 somebody and order them to be killed?

21 A. Yes.

22 Q. You don't see any dichotomy there?

23 A. I'm not sure.

24 Q. This isn't something you spend a lot of



1 time thinking about?

2 A. No.

3 Q. Now, if -- at the end of the trial, the  
4 jury will deliberate. If the Judge needed you to  
5 deliberate into the evening one night or something,  
6 would that be a hardship; would it be something that  
7 you could make arrangements for?

8 A. I'd be able to make arrangements.

9 Q. Would you have to know in advance if  
10 that was going to happen, so you could make those  
11 arrangements?

12 A. Just within a day or two.

13 Q. So if we needed you to deliberate in the  
14 evening, you'd need a day notice to make  
15 arrangements?

16 A. Yes.

17 MR. DUNLEAVY: I have no further  
18 questions, your Honor.

19 I would ask that if the Court  
20 wants to inquire about whether or not she can  
21 accommodate deliberations. Other than that I would  
22 pass for cause.

23 THE COURT: Okay.

24

EXAMINATION

BY THE COURT:

Q. Usually, what I do is when the jury goes out for deliberations I leave it up to the jury how long in the evening they wish to deliberate.

Okay. I know the Court could advise you a day in advance, because I'm going to know when you're going to go out and begin your deliberations. I'm going to know what day that's going to be, but maybe you might be deliberating two or three days before you make a decision.

Now, would that change your answer in any way?

A. Into the evening would be no problem. It's staying overnight, you know, staying away from home overnight.

Q. I usually leave it up to the jury.

Now, if they vote, okay, we'll work until 8:00 at night, is that going to be a problem?

A. No.

THE COURT: All right. Mr. Harmon, you may inquire.

LOREN R. SWEENEY

a prospective juror, was examined as follows:

EXAMINATION

BY MR. HARMON:

Q. Good afternoon.

THE COURT: Who is it?

MR. HARMON: Mrs. Sweeney.

THE COURT: Mrs. Sweeney.

BY MR. HARMON:

Q. I notice here in the questionnaire that you have a brother-in-law who's a judge?

A. No, it's an attorney. Did it say judge on there?

Q. I thought it did, but I'll certainly accept your answer.

A. Attorney. He's not a judge.

Q. But he's someone that you don't have regular contact with?

A. No. He lives in town, but we don't get together very often.

Q. Is he someone who practices criminal law?

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1 A. I believe so. I don't talk to him about  
2 his work at all.

3 Q. What is the name of the attorney?

4 A. Orin Grossman.

5 Q. Have you ever had discussions with him  
6 on the subject of criminal law or the criminal  
7 justice system?

8 A. No.

9 Q. You've sat here now for the better part  
10 of two days. You witnessed a rather tedious process  
11 of the examination of other prospective jurors.

12 What do you think at this point  
13 about the invitation we're extending to you to be a  
14 juror on the case where there are two counts of  
15 murder alleged and there is the possibility that the  
16 jury may be called upon to affix a punishment?

17 A. I was on a murder trial before so I've  
18 done that. It wasn't a case of the death penalty,  
19 but I feel I could handle the situation and make the  
20 decision.

21 Q. In the other case, as I remember, that  
22 was about 10 years ago, maybe a little less?

23 A. Yeah.

24 Q. That was here in Las Vegas?

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1 A. Yes.

2 Q. Were any of the attorneys involved in  
3 this case involved as lawyers in that case?

4 A. I don't believe so. I don't remember  
5 the attorneys' names.

6 Q. Was there anything at all about that  
7 experience that would carry over and influence your  
8 approach to this case?

9 A. I think the experience carries over in  
10 that I was a juror and they went through a -- the  
11 system before. There was nothing -- it was not a  
12 negative experience or it wasn't anything that would  
13 persuade me to feel one way or another. It was a  
14 positive experience.

15 Q. Without indicating which way, did that  
16 jury reach a verdict?

17 A. Yes.

18 Q. I'm sure you learned then that other --  
19 in that other case that it's imperative that a jury  
20 base its verdict solely upon the evidence?

21 A. Mm-hmm.

22 Q. I would assume you also understand that  
23 the jury has a duty to follow the Court's legal  
24 instructions?

1 A. Yes.

2 Q. A proper verdict wouldn't be based upon  
3 any speculation, for example, about cost or expense  
4 involved --

5 A. Unh-unh.

6 Q. -- race or really any type of prejudice  
7 or public opinion, sympathy?

8 None of these things would be a  
9 proper basis for a verdict. Do you agree with that?

10 A. Yes, I agree.

11 Q. What is your attitude about the various  
12 punishments of which are provided for murder of the  
13 first degree in this State?

14 A. I think the death penalty is an extreme  
15 punishment and shouldn't be taken lightly and  
16 shouldn't be given probably to everyone who has  
17 murdered someone, but I believe it should be  
18 offered.

19 I believe there are some cases  
20 that it's necessary, but I also think that there is  
21 sometimes that people make absolutely horrendous  
22 mistakes in their life that could they do it over  
23 again or should they spend the rest of their lives  
24 alive, they wouldn't make that decision again.

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1 Not necessarily does that make  
2 them a bad person, what they did, if they did a  
3 horrible, horrendous thing, but that they may, you  
4 know, and should be forgiven in some instances.

5 Q. I am concluding from your answer that  
6 your frame of mind at this time is one of being able  
7 to consider all three punishments --

8 A. Yes.

9 Q. -- equally?

10 A. Definitely.

11 Q. You are not leaning one way or another?

12 A. No.

13 Q. And you can certainly envision cases  
14 where a life sentence, either with or without the  
15 possibility of parole, would be proper for murder of  
16 the first degree?

17 A. Yes.

18 Q. Is it also correct that you can think of  
19 cases where you would believe that capital  
20 punishment is proper?

21 A. Yes.

22 Q. If you feel the type of emotional  
23 toughness, if after you had heard all the evidence,  
24 that you thought this was a case where death was

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1 proper, could you come into the courtroom and share  
2 the responsibility with the other jurors of voting  
3 for capital punishment?

4 A. Yes, I could.

5 Q. You're one of a rather lengthy list of  
6 persons who indicated that you felt that the most  
7 extreme punishment -- maybe extreme is the wrong  
8 word -- that the worst punishment would be life  
9 without parole?

10 A. Maybe I've seen too many bad prison  
11 movies. I don't know. It seems like a horrible way  
12 to live, and I guess for myself, I'm not necessarily  
13 afraid of death or dying, more of the way in which I  
14 might die, but I'm not afraid to die, so I don't  
15 think that that would be horrendous as far as I'm  
16 concerned.

17 I'm not worried about that, but I  
18 think it's definitely the most serious decision we  
19 could make; that if we had to choose three, the  
20 death penalty would be the most severe for the  
21 victim and as well as their family and everyone  
22 involved.

23 Q. Would you think that after you had  
24 considered all of the evidence and if it was the



1 jury's responsibility to impose a punishment, and  
2 assuming just for the sake of the question that you  
3 thought Mr. Rippo should receive the most severe  
4 punishment, are you indicating that would be death?

5 A. Yes.

6 Q. Is there anything in your life now that  
7 would be a serious distraction which would prevent  
8 you from giving your full attention to these  
9 proceedings when the Court is in session?

10 A. No.

11 MR. HARMON: Thank you.

12 Pass for cause.

13 THE COURT: Mr. Wolfson.

14 MR. WOLFSON: Thank you, Judge.

15

16 EXAMINATION

17 BY MR. WOLFSON:

18 Q. Good afternoon, Mrs. Sweeney.

19 A. Hi.

20 Q. The case that you served on as a juror  
21 about nine or 10 years ago was a murder case here in  
22 Clark County, was it not?

23 A. Yes.

24 Q. In this building?

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1 A. Yes.

2 Q. And do you remember what judge presided  
3 over that case?

4 A. Yes. Judge Mendoza. He had no sense of  
5 humor compared to him.

6 Q. You can attribute that to you and not  
7 us, right? Evidently, the lawyers made such an  
8 impression that you don't remember who they are?

9 A. They weren't as eloquent or as what you  
10 would expect attorneys to be in a murder case,  
11 that's for sure, but I don't remember them.  
12 Probably if I saw them, I would remember them. Not  
13 by name.

14 Q. I'm sorry?

15 A. I don't remember their names. And I  
16 hope none of you were them.

17 MR. SEATON: We were just saying it was  
18 probably us.

19 BY MR. WOLFSON:

20 Q. Was there one prosecutor and one defense  
21 lawyer in that case, one for each side, if you will?

22 A. No, there were additional, I believe. I  
23 think there was a female public defender and two on  
24 the prosecution, I believe.

1 Q. So they ganged up on the defendant in  
2 that case?

3 A. I'm not sure. He might -- he or she  
4 might have had two, but I don't remember.

5 Q. I think the Judge asked the entire panel  
6 actually early on if you had ever heard of any of  
7 the lawyers in this case, and there are four of us,  
8 and I believe everyone answered negatively, that  
9 they had not heard of any of the lawyers.

10 Have you ever heard of any of the  
11 prosecutors, Mel Harmon or Dan Seaton, before this  
12 case?

13 A. I don't believe so, no. I've seen you  
14 on television and that's about it. That's where it  
15 ends.

16 Q. You're a real estate agent; is that  
17 right?

18 A. Mm-hmm.

19 Q. You work for the Americana Group?

20 A. Yes.

21 MR. WOLFSON: Judge, I feel compelled to  
22 advise that I have a house listed with the Americana  
23 Group.

24 MR. SEATON: If he thinks he's going to

1 get her to help him.

2 MS. KEITHLEY: I'd be glad to give you  
3 my card after.

4 BY MR. WOLFSON:

5 Q. In all seriousness, I do have a house  
6 listed with your company, and I'm sure if you were  
7 chosen as a juror, that you would understand your  
8 obligation to not look up my listing or any  
9 particulars because that would be evidence or  
10 information outside of this courtroom.

11 You understand that, don't you?

12 A. I have no problem with that.

13 Q. I can't hear you.

14 A. I have no problem with that. I would  
15 not look anything up.

16 THE COURT: I could order you to take it  
17 off the market.

18 MR. WOLFSON: I'd like it to be taken  
19 off the market another way. Sold.

20 BY MR. WOLFSON:

21 Q. On page 8 of the questionnaire a  
22 question was asked: In your opinion what is wrong  
23 with the criminal justice system?

24 Mrs. Sweeney, you answered: Time

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1 is probably the most difficult factor. It seems  
2 courts are full and it often takes years to get to  
3 court.

4 I think you're right. I think a  
5 lot of cases take too long to get to court.

6 This case is four years down the  
7 road. Now, you have not been given any information  
8 as to why we are sitting here four years later;  
9 isn't that accurate?

10 A. Sure.

11 Q. Would it be fair to say that you would  
12 not hold that delay against either side in this  
13 case?

14 A. Of course, I would not hold it against  
15 anyone.

16 Q. I don't believe that any information  
17 will be presented to you to suggest why we're  
18 sitting here four years later, but the frustration  
19 which you voiced in this response should not be part  
20 of your decision-making process.

21 Would you agree with that?

22 A. Yes.

23 Q. If you sit as a juror in this case, the  
24 case may take two to three weeks, and that means

1 Monday through Friday for three weeks, save and  
2 except one day off, we're talking about on the 16th,  
3 you would have to be in the courtroom during regular  
4 business hours.

5 I think Mr. Harmon, perhaps,  
6 touched on this. I couldn't hear, but would that  
7 severely impact your job to the point where it would  
8 distract you from sitting as a juror or affect your  
9 ability to concentrate and give us both a fair  
10 trial?

11 A. No. My husband and I are both realtors,  
12 so he's kind of taking over recently. I had a child  
13 19 months ago, so I haven't been working full-time,  
14 so it wouldn't be a problem.

15 Q. Did you watch any of the O.J. Simpson  
16 trial?

17 A. No. I watched the commentary, but not  
18 the actual trial. Except for the verdict. I  
19 watched the verdict.

20 Q. Everybody watched the verdict.

21 Do you remember what kind of  
22 commentary you watched? Was there a particular show  
23 or newscast that you would watch every night?

24 A. No.

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1 Q. Did you ever watch the Geraldo Rivera  
2 CNBC show that aired nightly at 9:00?

3 A. No.

4 Q. Is there anything about the O.J. Simpson  
5 matter that would influence you in this case?

6 A. No.

7 MR. WOLFSON: Thank you very much.

8 Pass for cause.

9 THE COURT: Mr. Seaton, you may inquire  
10 of Miss Morgen, 118.

11

12 JUDITH LENORE MORGEN

13 a prospective juror, was examined as  
14 follows:

15

16 EXAMINATION

17 BY MR. SEATON:

18 Q. How are you today?

19 A. Fine, thank you.

20 Q. I got the indication in some of your  
21 answers that business was pressing?

22 A. Yes.

23 Q. Can you tell us about that?

24 A. I have a type of job that has updates on

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1 a daily or weekly basis to. I work for a  
2 construction news reporting company, and we're short  
3 staffed.

4 Q. A construction news reporting company.  
5 You report the construction news?

6 A. Right, throughout the State.

7 Q. A newsletter?

8 A. Well, it's more than that. It goes on  
9 computer systems and magazines and that type of  
10 products. And there is a lot of things that are out  
11 for bid and the people within the industry need to  
12 know what's happening.

13 And I have people covering for  
14 me, but, you know, looking at it three, four weeks  
15 down the line, I don't know, you know, how, you  
16 know, how they're doing their job in addition to my  
17 job.

18 Q. What do you think, is it going to cause  
19 you such a concern that you're not going to be  
20 paying attention to what's going on here in court?

21 A. I hope that it doesn't, but I cannot say  
22 truthfully is that it would be no problem. Yeah, it  
23 would be a problem.

24 Q. Do you feel that the people who are

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1 covering for you at work will be adequately able to  
2 do that for the next two or three weeks?

3 A. Well, we're in a process of a managerial  
4 changeover within the western half of the country,  
5 and they have done outbacks within the office.

6 So unless they allow -- we have a  
7 part-time worker, and unless they allow her to work  
8 full-time during my absence, I don't know. I don't  
9 know. I'm in between managers right now, and I  
10 don't know who I could even talk to to get advice on  
11 this.

12 Q. You can understand our concern about it?

13 A. Absolutely.

14 Q. We need 12 people up there who are  
15 honing in on the witness?

16 A. Absolutely.

17 Q. And the evidence and on a day-to-day  
18 basis, collecting everything, not just most of it  
19 into their heads?

20 A. Right. Right.

21 Q. You're the only person who can give us  
22 an approximation here?

23 A. Right.

24 Q. What you think would be the case? How

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IN THE SUPREME COURT OF THE STATE OF NEVADA

\*\*\*\*\*

MICHAEL RIPPO,  
Appellant,

No. 53626

-vs-

E.K. McDANIEL, et al.,  
Respondent.

**FILED**

OCT 19 2009

TRACEY A. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

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36 37	State's Motion to Dismiss and Response to Defendant's Petition for Writ of Habeas Corpus (Post-Conviction)	04/23/08	JA08673-JA08746 JA08747-JA08757
2	State's Motion to Expedite Trial Date or in the Alternative Transfer Case to Another Department	02/16/93	JA00268-JA00273
2	State's Opposition to Defendant's Motion for Discovery and State's Motion for Reciprocal Discovery	10/27/92	JA00260-JA00263
2	State's Opposition to Defendant's Motion to Exclude Autopsy and Crime Scene Photographs	02/07/94	JA00346-JA00350
18	State's Opposition to Defendant's Supplemental Points and Authorities in Support of Petition for Writ of Habeas Corpus (Post-Conviction)	10/14/02	JA04154-JA04201
2	State's Response to Defendant's Motion to Strike Aggravating Circumstance Numbered 1 and 2 and for Specificity as to Aggravating Circumstance Number 4	02/14/94	JA00367-JA00370
18	State's Response to Defendant's Supplemental Petition for Writ of Habeas Corpus (Post-Conviction)	04/06/04	JA04259-JA04315
2	State's Response to Motion to Disqualify the District Attorney's Office and State's Motion to Quash Subpoenas	02/14/94	JA00358-JA00366
18	Supplemental Brief in Support of Defendant's Petition for Writ of Habeas Corpus (Post-Conviction)	02/10/04	JA04206-JA04256


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17 18	Supplemental Points and Authorities in Support of Petition for Writ of Habeas Corpus (Post-Conviction)	08/08/02	JA04052-JA04090 JA04091-JA04153
15	Verdicts	03/06/96	JA03399-JA03402
16	Verdicts and Special Verdict	03/14/96	JA03835-JA03840

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(A recess was taken in the  
proceedings.)

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ATTEST: Full, true and accurate transcript of  
proceedings:



GERRI LAPTHORNE, C.C.R. NO. 82

LAS VEGAS, NEVADA REPORTING SERVICES (702) 382-7530

000452

# COPY

## DISTRICT COURT CLARK COUNTY, NEVADA

The State of Nevada,	)	
	)	
Plaintiff,	)	
	)	Case No. C106784
vs.	)	Dept. No. IV
	)	Docket No. "C"
Michael Damon Ripppo,	)	
#0619119	)	
Defendant.	)	

Before the Honorable Gerard J. Bongiovanni  
Tuesday, January 30, 1996, 3:30 o'clock p.m.

Reporter's Transcript of Proceedings  
JURY TRIAL

VOLUME III

REPORTED BY: Renee Silvaggio, C.C.R. No. 122

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RENEE SILVAGGIO, CCR 122 391-0379

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APPEARANCES:

For the State: MELVYN T. HARMON, ESQ.  
DANIEL SEATON, ESQ.  
Deputies District Attorney

For the Defendant: STEVEN B. WOLFSON, ESQ.  
PHILIP H. DUNLEAVY, ESQ.  
Attorneys at Law

Law Clerk: Delwin Potter

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Las Vegas, Nevada, January 30, 1996, 3:30 o'clock p.m.

(Whereupon, the following  
proceedings were had in open  
court in the presence of the  
prospective jury panel:)

THE BAILIFF: Your Honor, Juror 103 has a  
question she would like to ask.

THE COURT: Juror 103, Mrs. Osorio?

PROSPECTIVE JUROR 103, MS. OSORIO: Right  
here. I'm Angela Osorio.

THE COURT: What is your name for the  
record?

PROSPECTIVE JUROR 103, MS. OSORIO: Angela  
Osorio.

THE COURT: Okay.

PROSPECTIVE JUROR 103, MS. OSORIO: And I'm  
103.

THE COURT: Okay.

PROSPECTIVE JUROR 103, MS. OSORIO: I just  
want to ask for the schedule so I could, you know, relate it  
to my boss so he could get a replacement for me.

THE COURT: What do you want to do?

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PROSPECTIVE JUROR 103, MS. OSORIO: What days we will be here and how long, so he could find out --

THE COURT: Monday through Friday, except for when we have holidays, and one Friday is --

MR. WOLFSON: The 16th.

THE COURT: -- the 16th of February we will not work because one of the attorneys has a seminar that he signed up for that -- so we're not going to have court on February 16th or the 19th.

Usually we begin between 10:00 and 10:30 in the morning, because I have a morning calendar each day that I have to go through before we begin the trial.

So usually we will get started then and we will go from when we begin in the morning until noon; you will be given an hour and a half, to 1:30, for lunch; we'll start at 1:30; and we will go to 4:30.

PROSPECTIVE JUROR 103, MS. OSORIO: Okay. So I'll just tell them three weeks off then, yeah?

THE COURT: Pardon me?

PROSPECTIVE JUROR 103, MS. OSORIO: Three weeks off?

THE COURT: Three weeks off.

PROSPECTIVE JUROR 103, MS. OSORIO: Yeah?

-- 000456

1 THE COURT: Three to four weeks.

2 PROSPECTIVE JUROR 103, MS. OSORIO: Three to  
3 four weeks, okay, all right.

4 THE COURT: Usually if they estimate three  
5 weeks, usually it takes a little longer.

6 PROSPECTIVE JUROR 103, MS. OSORIO: All  
7 right. Thank you.

8 THE COURT: That's been my experience.

9 PROSPECTIVE JUROR 103, MS. OSORIO: Thank  
10 you, Your Honor.

11 THE COURT: They'll probably prove me wrong  
12 this time, I don't know.

13 Okay. Does that clear up all  
14 your questions?

15 PROSPECTIVE JUROR 103, MS. OSORIO: Yes.

16 THE COURT: Does counsel stipulate to the  
17 presence of jury panel?

18 MR. SEATON: Yes, Judge.

19 MR. DUNLEAVY: Yes, Your Honor.

20 THE COURT: All right. At this time I'm  
21 going to ask some additional questions of the jurors seated  
22 in the panel.

23 Remember, all these questions  
24 apply to everybody. So keep them in mind so when you are

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1 brought up here you will have them fresh in your mind.

2 After I'm done asking  
3 questions, the attorneys for both the State and the defense,  
4 will have an opportunity to ask questions.

5 All right. Now, have any of  
6 you heard anything about this case prior to coming to court  
7 today.

8 (Whereupon, affirmative  
9 response from prospective Jury  
panel.)

10

11 THE COURT: State your name and badge.  
12 number.

13 PROSPECTIVE JUROR 101, MR. WALLACE: Greg  
14 Wallace, badge number 101.

15 I remember when it happened and  
16 I read about it in the paper a little bit.

17 THE COURT: Okay. Have you discussed the  
18 case with anyone?

19 PROSPECTIVE JUROR 101, MR. WALLACE: No.

20 THE COURT: Okay. And by virtue of what  
21 you've read or heard about the case, have you formed an  
22 opinion as to the guilt or innocence of the defendant?

23 PROSPECTIVE JUROR 101, MR. WALLACE: No.

24 THE COURT: No?

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PROSPECTIVE JUROR 101, MR. WALLACE: No.

THE COURT: Okay. So you feel that you could base your decision on the evidence that you hear from the testimony of the witnesses who may testify and any exhibits that are admitted into evidence?

PROSPECTIVE JUROR 101, MR. WALLACE: Yes.

THE COURT: All right. Anyone else read or heard about this case?

(Whereupon, affirmative response from prospective jury panel.)

THE COURT: Yes, ma'am?

PROSPECTIVE JUROR 103, MS. OSORIO: Juror 103, Angela Osorio. I just read it in the papers, the same as he did.

THE COURT: The same as --

PROSPECTIVE JUROR 103, MS. OSORIO: Yeah.

THE COURT: And have you formed an opinion as to the guilt or innocence?

PROSPECTIVE JUROR 103, MS. OSORIO: No, I'm not -- that's it.

THE COURT: Okay. And do you think you could base any decision you may give based on the evidence that is presented to you?

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1 PROSPECTIVE JUROR 103, MS. OSORIO: Yes.

2 THE COURT: Okay. All right. Have any of  
3 you been closely associated with or ever been involved in  
4 the criminal justice system before, either as a victim of a  
5 crime, a witness in a case, or a defendant in a criminal  
6 case?

7 (Whereupon, affirmative  
8 response from prospective jury  
9 panel.)

10 THE COURT: Oh, you are popular, 103.

11 PROSPECTIVE JUROR 103, MS. OSORIO: 103,  
12 just a victim of a crime.

13 THE COURT: State your name again.

14 PROSPECTIVE JUROR 103, MS. OSORIO: I'm  
15 Angelo Osorio.

16 And I have been robbed twice.  
17 And my daughter was robbed, you know, and her house was  
18 robbed.

19 THE COURT: What do you mean robbed?

20 PROSPECTIVE JUROR 103, MS. OSORIO: Oh,  
21 somebody snatched my purse at Lucky's.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR 103, MS. OSORIO: And  
24 then my son did --

000460

MRI-PD-87058-R000467

2 1 THE COURT: Okay. And did they catch that  
2 person?

3 PROSPECTIVE JUROR 103, MS. OSORIO: They  
4 didn't, but I --

5 THE COURT: They did or didn't?

6 PROSPECTIVE JUROR 103, MS. OSORIO: They  
7 didn't.

8 THE COURT: Okay. Because they didn't --

9 PROSPECTIVE JUROR 103, MS. OSORIO: As far  
10 as I know, they did not find him, so they didn't, but I  
11 reported it to the police.

12 THE COURT: Okay. And because of what  
13 happened and the police didn't catch the guy, do you have  
14 any ill-will or animosity towards the --

15 PROSPECTIVE JUROR 103, MS. OSORIO: No, not  
16 really.

17 THE COURT: Because they --

18 PROSPECTIVE JUROR 103, MS. OSORIO: Because  
19 they didn't catch the guy.

20 THE COURT: Only one of us can talk at a  
21 time, okay, because she can't take us both down at once.  
22 She's not that good.

23 You have no animosity towards  
24 the police department for not catching this person?

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1 PROSPECTIVE JUROR 103, MS. OSORIO: No.

2 THE COURT: And what was the other one --

3 PROSPECTIVE JUROR 103, MS. OSORIO: My son's  
4 car was stolen on my driveway, but they got the guy.

5 THE COURT: They got the guy?

6 PROSPECTIVE JUROR 103, MS. OSORIO: Uh-huh.

7 THE COURT: And did you -- did that person  
8 go to a trial?

9 PROSPECTIVE JUROR 103, MS. OSORIO: Yes, he  
10 did.

11 THE COURT: And did you have to testify at  
12 that trial or --

13 PROSPECTIVE JUROR 103, MS. OSORIO: No, I  
14 didn't. It was my son.

15 THE COURT: Your son had to?

16 PROSPECTIVE JUROR 103, MS. OSORIO: Uh-huh.

17 THE COURT: Did you go to the trial and  
18 watch?

19 PROSPECTIVE JUROR 103, MS. OSORIO: No, I  
20 didn't. He did.

21 THE COURT: Okay. And were you happy with  
22 the way the police department handled that case?

23 PROSPECTIVE JUROR 103, MS. OSORIO: Yes.

24 THE COURT: And the court system, do you

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3

1 have any problem with the court system?

2 PROSPECTIVE JUROR 103, MS. OSORIO: No  
3 problem at all.

4 THE COURT: Okay. Because of these things,  
5 do you feel just because someone is charged with a crime  
6 that they're automatically guilty?

7 PROSPECTIVE JUROR 103, MS. OSORIO: Of  
8 course not, no.

9 THE COURT: Do you think you could be fair  
10 and impartial in this case?

11 PROSPECTIVE JUROR 103, MS. OSORIO: Yes.

12 THE COURT: Okay. Anyone else? Yes.

13 PROSPECTIVE JUROR 100, MS. ALBERS: Pat  
14 Albers, badge number 100.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR 100, MS. ALBERS: My home  
17 was burglarized about six or seven years ago in California,  
18 twice.

19 THE COURT: Twice?

20 PROSPECTIVE JUROR 100, MS. ALBERS: In a  
21 relatively short period of time.

22 THE COURT: Did --

23 PROSPECTIVE JUROR 100, MS. ALBERS: They got  
24 little things the first time, and T.V.s and VCRs the second.

.. 000463



3

1 THE COURT: They never --

2 PROSPECTIVE JUROR 100, MS. ALBERS: They  
3 never caught them.

4 THE COURT: They never caught them?

5 PROSPECTIVE JUROR 100, MS. ALBERS: No.

6 THE COURT: And do you have any ill-will  
7 toward the police department in the way they handled the  
8 investigation?

9 PROSPECTIVE JUROR 100, MS. ALBERS: No.

10 THE COURT: Did they come to your house  
11 and --

12 PROSPECTIVE JUROR 100, MS. ALBERS: Yes,  
13 they did.

14 THE COURT: Did they take fingerprints --

15 PROSPECTIVE JUROR 100, MS. ALBERS: Made  
16 quit a mess, yes; but never caught them.

17 And I now work for the federal  
18 court here in Nevada.

19 THE COURT: Okay. Anyone else?

20 (Whereupon, affirmative  
21 response from prospective jury  
22 panel.)

23 PROSPECTIVE JUROR 101, MR. WALLACE: Yes,  
24 sir. Greg Wallace, badge number 101.

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1 My wife's purse was stolen  
2 once. She didn't even report it, and eventually they found  
3 it at a police station. She went to pick it up later.

4 THE COURT: Okay. And nobody was ever  
5 charged with that?

6 PROSPECTIVE JUROR 101, MR. WALLACE: No.  
7 That was never reported.

8 THE COURT: All right.

9 Sir?

10 PROSPECTIVE JUROR 93, MR. ESCALANTE:  
11 Gildardo Escalante, badge 93.

12 My house was robbed twice also.

13 THE COURT: Burglarized you mean?

14 PROSPECTIVE JUROR 93, MR. ESCALANTE: Yes,  
15 sir, it was.

16 THE COURT: You weren't in the house?

17 PROSPECTIVE JUROR 93, MR. ESCALANTE: I was  
18 in -- my daughter was in the house and they pushed her  
19 around and they stole jewelry, and the police came six hours  
20 later.

21 THE COURT: So it was -- and did they catch  
22 the --

23 PROSPECTIVE JUROR 93, MR. ESCALANTE: No.  
24 They knew the people's names and the individuals, but they

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MRP-07058-R0000472

3

1 requested not to prosecute them, the police did.

2 THE COURT: The police requested you not to  
3 prosecute?

4 PROSPECTIVE JUROR 93, MR. ESCALANTE: Yes,  
5 sir, if the items were returned.

6 PROSPECTIVE JUROR 93, MR. ESCALANTE:  
7 That's -- do you have any animosity toward the police  
8 department?

9 PROSPECTIVE JUROR 93, MR. ESCALANTE: No, I  
10 haven't.

11 THE COURT: -- the way they acted?

12 PROSPECTIVE JUROR 93, MR. ESCALANTE: No, I  
13 don't.

14 THE COURT: You went along with that, that  
15 you didn't --

16 PROSPECTIVE JUROR 93, MR. ESCALANTE: No, I  
17 didn't. I saw them about six times, and after about two  
18 months I got tired of it and just gave up. I was robbed  
19 after that again.

20 THE COURT: And then what happened the  
21 second time?

22 PROSPECTIVE JUROR 93, MR. ESCALANTE:  
23 Nothing.

24 THE COURT: Were you home?

000466

3

1 PROSPECTIVE JUROR 93, MR. ESCALANTE: No, I  
2 was not.

3 THE COURT: You were burglarized?

4 PROSPECTIVE JUROR 93, MR. ESCALANTE: Yes,  
5 sir.

6 THE COURT: And they didn't catch the  
7 burglar?

8 PROSPECTIVE JUROR 93, MR. ESCALANTE: No,  
9 they did not.

10 THE COURT: Did they come and investigate  
11 it?

12 PROSPECTIVE JUROR 93, MR. ESCALANTE: Six  
13 hours later, yes, sir, after I reported it.

14 THE COURT: And do you have any ill-will,  
15 the way the police handle that case?

16 PROSPECTIVE JUROR 93, MR. ESCALANTE: No, I  
17 did not.

18 THE COURT: All right. Did you have  
19 something, sir?

20 A VOICE: No.

21 THE COURT: Anyone else?

22 (Whereupon, negative  
23 response from prospective Jury  
panel.)

24 THE COURT: Okay. Are any of you now

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MRJPO-87858-R0008474

3 1 involved in law enforcement or have, in the past, been  
2 involved in law enforcement or close family members or  
3 friends?

4  
5 (Whereupon, affirmative  
6 response from prospective jury  
panel.)

7 PROSPECTIVE JUROR 108, MR. BLAZAK: Jim  
8 Blazak, 108.

9 My stepson.

10 THE COURT: Okay. And would that fact make  
11 you tend to favor --

12 PROSPECTIVE JUROR 108, MR. BLAZAK: No, it  
13 wouldn't.

14 THE COURT: Do you think you could remain  
15 fair and impartial?

16 PROSPECTIVE JUROR 108, MR. BLAZAK: I would  
17 sure try to be, yes, sir.

18 THE COURT: Okay. Who else?

19 Yes, ma'am, state your name and  
20 badge number.

21 PROSPECTIVE JUROR 105, MS. GRACE: 105,  
22 Louise Grace.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR 105, MS. GRACE: My

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4

1 husband's daughter's husband is a policeman in the City of  
2 El Monte.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR 105, MS. GRACE: I see him  
5 maybe one day a year.

6 THE COURT: All right. So would you tend,  
7 because of that fact, to give more credence to testimony of  
8 of police officers simply because they are involved in law  
9 enforcement?

10 PROSPECTIVE JUROR 105, MS. GRACE: Not  
11 particularly.

12 THE COURT: Okay. Anyone else?

13 (Whereupon, affirmative  
14 response from prospective jury  
panel.)

15  
16 PROSPECTIVE JUROR 99, MR. COKE: Number 99,  
17 Merle Coke.

18 My son-in-law is a constable

19 MR. WOLFSON: I can't hear him.

20 THE COURT: Your son is a police officer?

21 PROSPECTIVE JUROR 99, MR. COKE:  
22 Son-in-law.

23 THE COURT: Son-in-law, where?

24 PROSPECTIVE JUROR 99, MR. COKE: Texas.

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4  
1 THE COURT: In Texas?

2 And would that fact tend to  
3 make you favor or give more credence to testimony of law  
4 enforcement officers simply because they are --

5 PROSPECTIVE JUROR 99, MR. COKE: No, sir.

6 THE COURT: You think you could be fair both  
7 to the State of Nevada as well as the defendant in this  
8 case?

9 PROSPECTIVE JUROR 99, MR. COKE: Yes, sir.

10 THE COURT: Yes

11 PROSPECTIVE JUROR 100, MS. ALBERS: Pat  
12 Albers, badge 100.

13 I have a pretty good friend  
14 that's a police officer in North Las Vegas.

15 THE COURT: And who is that?

16 PROSPECTIVE JUROR 100, MS. ALBERS: Pardon  
17 me?

18 THE COURT: What's his name or her name?

19 PROSPECTIVE JUROR 100, MS. ALBERS: Susan  
20 Suttles, actually it's a her.

21 THE COURT: It's always a her. Okay. And  
22 the same question, would that -- will you still be able to  
23 remain fair and impartial?

24 PROSPECTIVE JUROR 100, MS. ALBERS: Yes.

000470

4

1 THE COURT: Okay. Have any of you ever  
2 served as Jurors before?

3 (Whereupon, affirmative  
4 response from prospective jury  
panel.)

5 THE COURT: Okay. Yes, sir.

6 PROSPECTIVE JUROR 94, MR. HARVEY: Juror 94,  
7 Jeff Harvey, twice.

8 THE COURT: In Las Vegas?

9 PROSPECTIVE JUROR 94, MR. HARVEY: In the  
10 State of Ohio.

11 THE COURT: And were those civil or criminal  
12 cases?

13 PROSPECTIVE JUROR 94, MR. HARVEY: Criminal  
14 cases.

15 THE COURT: And without telling me the  
16 verdict of those cases, was the jury able to reach a  
17 verdict?

18 PROSPECTIVE JUROR 94, MR. HARVEY: Yes.

19 THE COURT: And were you the foreman of  
20 either of those juries?

21 PROSPECTIVE JUROR 94, MR. HARVEY: No, sir.

22 THE COURT: Okay. Yes, ma'am.

23 PROSPECTIVE JUROR 95, MS. PEDERSEN: Cindy  
24 Pedersen, number 95.

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4  
1 THE COURT: Okay. Have any of you ever  
2 served as jurors before?

3 (Whereupon, affirmative  
4 response from prospective jury  
panel.)

5 THE COURT: Okay. Yes, sir.

6 PROSPECTIVE JUROR 94, MR. HARVEY: Juror 94,  
7 Jeff Harvey, twice.

8 THE COURT: In Las Vegas?

9 PROSPECTIVE JUROR 94, MR. HARVEY: In the  
10 State of Ohio.

11 THE COURT: And were those civil or criminal  
12 cases?

13 PROSPECTIVE JUROR 94, MR. HARVEY: Criminal  
14 cases.

15 THE COURT: And without telling me the  
16 verdict of those cases, was the jury able to reach a  
17 verdict?

18 PROSPECTIVE JUROR 94, MR. HARVEY: Yes.

19 THE COURT: And were you the foreman of  
20 either of those juries?

21 PROSPECTIVE JUROR 94, MR. HARVEY: No, sir.

22 THE COURT: Okay. Yes, ma'am.

23 PROSPECTIVE JUROR 95, MS. PEDERSEN: Cindy  
24 Pedersen, number 95.

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4

1 I was a Juror here in Las  
2 Vegas, Christensen's Court.

3 THE COURT: Judge Christensen?

4 And was it a civil or criminal  
5 case?

6 PROSPECTIVE JUROR 95, MS. PEDERSEN:  
7 Criminal.

8 THE COURT: And without telling me what the  
9 verdict was, was there a verdict reached in that case?

10 PROSPECTIVE JUROR 95, MS. PEDERSEN: Yes.

11 THE COURT: And were you the foreperson in  
12 that Jury?

13 PROSPECTIVE JUROR 95, MS. PEDERSEN: No.

14 THE COURT: Anybody else been a Juror?

15 (Whereupon, affirmative  
16 response from prospective Jury  
panel.)

17 THE COURT: Yes, ma'am?

18 PROSPECTIVE JUROR 105, MS. GRACE: 105,  
19 Louise Grace.

20 This was in California in the  
21 Downey Municipal Court. It was small claims.

22 MR. DUNLEAVY: I'm sorry, Your Honor. I  
23 can't hear.

24 PROSPECTIVE JUROR 105, MS. GRACE: Small

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1 claims court.

2 THE COURT: Small claims court in  
3 California?

4 PROSPECTIVE JUROR 105, MS. GRACE: In  
5 Downey, California and also in east Los Angeles.

6 THE COURT: They have juries on small  
7 claims?

8 PROSPECTIVE JUROR 105, MS. GRACE: They did  
9 there for some reasons.

10 THE COURT: No wonder they are going  
11 bankrupt.

12 Okay. And without telling me  
13 the verdict, was the jury able to reach a verdict --

14 PROSPECTIVE JUROR 105, MS. GRACE: Yes.

15 THE COURT: -- in that case?

16 PROSPECTIVE JUROR 105, MS. GRACE: Yes.

17 THE COURT: Were you the foreperson on that  
18 jury?

19 PROSPECTIVE JUROR 105, MS. GRACE: No, sir,  
20 no.

21 THE COURT: Okay. Were you a juror any  
22 other time?

23 PROSPECTIVE JUROR 105, MS. GRACE: Yes.

24 THE COURT: Where?

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4

1 PROSPECTIVE JUROR 105, MS. GRACE: In East  
2 Los Angeles.

3 THE COURT: Civil or criminal case?

4 PROSPECTIVE JUROR 105, MS. GRACE: I guess  
5 you'd say criminal.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR 105, MS. GRACE: It was  
8 for indecent exposure.

9 THE COURT: I guess that would be a criminal  
10 case?

11 PROSPECTIVE JUROR 105, MS. GRACE: And use  
12 of drugs.

13 THE COURT: Okay. And without telling me  
14 the verdict, were you able to reach a verdict, the jury, in  
15 that case?

16 PROSPECTIVE JUROR 105, MS. GRACE: Yes.

17 THE COURT: And were you the foreperson in  
18 that jury?

19 PROSPECTIVE JUROR 105, MS. GRACE: No, sir.

20 THE COURT: Okay. Anyone else?

21 (Whereupon, negative response  
22 from prospective jury panel.)

23 THE COURT: Okay. Okay. If any of you were  
24 accused of a crime, would you want 12 persons in the same

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4  
1 frame of mind that you are in today sitting in judgment of  
2 you?

3 Do all of you feel comfortable  
4 with that?

5 (Whereupon, affirmative  
6 response from prospective jury  
panel.)

7 THE COURT: Okay. If you are selected as a  
8 juror, this trial is going to be divided into maybe two  
9 phases.

10 In the first phase the jury  
11 will determine the guilt or innocence of the defendant.  
12 In this first phase the jury will not consider punishment.  
13 It's simply to determine the guilt or innocence of the  
14 defendant.

15 In the event the defendant is  
16 found guilty of first degree murder, then a second phase  
17 will begin, and that will be to determine the punishment.

18 In the State of Nevada there  
19 are three possible forms of punishment that a jury may  
20 consider, and then selects the one that they feel is most  
21 appropriate under the law and the facts of the case. The  
22 three possible forms of punishment for first degree murder  
23 are the imposition of the death penalty, life imprisonment  
24 with the possibility of parole, and life imprisonment

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4  
5

1 without the possibility of parole.

2 Do you understand these three  
3 separate punishments?

4

5 (Whereupon, affirmative  
6 response from prospective jury  
7 panel.)

7

8 THE COURT: In your present state of mind  
9 can you, if you are selected as a juror, consider equally  
10 all three possible forms of punishment and select the one  
11 that you feel is most appropriate?

12 (Whereupon, affirmative  
13 response from prospective jury  
14 panel.)

14

15 THE COURT: Do any of you have any  
16 conscientious, moral or religious objections to the  
17 imposition of the death penalty?

18 (Whereupon, negative response  
19 from prospective jury panel.)

19 THE COURT: Okay. Your answer is no --

20 Yes, sir.

21 PROSPECTIVE JUROR 108, MR. BLAZAK: Jim  
22 Blazak, 108.

23 In my religious beliefs, I'm a  
24 Christian. I believe that by giving someone the death

000477

5 1 penalty you've taken all possibilities of ever giving them  
2 the chance to accept Christ, if they take their life; and I  
3 believe that with my whole heart and soul.

4 THE COURT: Are you telling me that, in  
5 other words, you could not come back with a death penalty  
6 for punishment?

7 PROSPECTIVE JUROR 108, MR. BLAZAK: I don't  
8 believe I could.

9 THE COURT: And there is nothing that could  
10 convince you to do so?

11 PROSPECTIVE JUROR 108, MR. BLAZAK: No.

12 THE COURT: In other words, under no  
13 circumstances could you vote --

14 PROSPECTIVE JUROR 108, MR. BLAZAK: God says  
15 to forgive, to give a person a chance.

16 And I can see locking a person  
17 up for the rest of their natural life, but I can't see  
18 taking their life. It's the way I feel.

19 THE COURT: Okay. Sir, then I'm going to  
20 excuse you from service. Thank you very much. Stop at the  
21 jury commissioner's office on the way out.

22  
23 (Whereupon, the prospective  
24 juror was excused.)

000478

5

1 THE COURT: All right. This is going to  
2 conclude my questions to the panel.

3 At this time I'll --

4 MR. DUNLEAVY: Do you want the put another  
5 one in the box, Your Honor, or --

6 THE COURT: Well, did you want to do it that  
7 way or just go --

8 MR. SEATON: It might be helpful, Judge, to  
9 replace them as we --

10 THE COURT: All right. The clerk will now  
11 call the next in line to take juror seat number twelve --  
12 was it?

13 THE CLERK: Melba Clark.

14 THE COURT: Mrs. Clark, how are you today?

15 PROSPECTIVE JUROR 109, MS. CLARK: I'm fine.

16 THE COURT: Have you been listening to the  
17 questions that I've been asking?

18 PROSPECTIVE JUROR 109, MS. CLARK: I have,  
19 and I would like to, if I may, clarify one of the answers  
20 that I gave on the questionnaire, which may be misleading.

21 THE COURT: All right. Let's pull out her  
22 questionnaire then. This is number --

23 PROSPECTIVE JUROR 109, MS. CLARK: 109.

24 THE COURT: -- 109. Which question are you

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5

1 referring to?

2 PROSPECTIVE JUROR 109, MS. CLARK: It's the  
3 one pertaining to whether or not you believe a person may be  
4 innocent or guilty just because he is on trial. And I  
5 didn't mean exactly what I said on there.

6 THE COURT: Well, let's find it first.

7 MR. SEATON: Page 75, Your Honor.

8 THE COURT: That seems to be the one.

9 PROSPECTIVE JUROR 109, MS. CLARK: The only  
10 thing I meant by that was --

11 THE COURT: You said if the prosecutor goes  
12 to the trouble of bringing someone to trial the person is  
13 probably guilty, and you agreed?

14 PROSPECTIVE JUROR 109, MS. CLARK: No, I  
15 don't really.

16 THE COURT: You checked off agree.

17 PROSPECTIVE JUROR 109, MS. CLARK: I checked  
18 off agreed, but when I think about it, the only thing I  
19 meant by that was that in the opinion of the Court the  
20 person has been indicted, and that was the only reason that  
21 I checked that.

22 THE COURT: So you agree with the principle  
23 of law that simply because a person is charged with a crime  
24 does not make him guilty of that crime, you agree with that?

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5

1 PROSPECTIVE JUROR 109, MS. CLARK: That's --  
2 that's correct.

3 THE COURT: And you understand that it's the  
4 State's burden to prove the guilt beyond a reasonable doubt?

5 PROSPECTIVE JUROR 109, MS. CLARK: I think  
6 so, yes.

7 THE COURT: Okay. Do you have any other  
8 comments on the other questions that I've asked this panel?

9 PROSPECTIVE JUROR 109, MS. CLARK: No, sir.

10 THE COURT: Okay. At this time I'm going to  
11 let Mr. Seaton -- we'll go right down the line, beginning  
12 with Juror number one, Mr. Escalante, you may inquire of Mr.  
13 Escalante.

14 (Whereupon, Prospective Juror  
15 93, GILDARDO ESCALANTE,  
was examined as follows:)

16  
17 EXAMINATION  
18

19 BY MR. SEATON:

20 Q Good afternoon.

21 A Good afternoon.

22 Q Now, it's your turn to talk a little bit.

23 The first thing I want to do,  
24 Mr. Escalante, is touch a little bit on what the Judge was

000481

5       1       saying about the nature of the proceedings, that there is --  
2       it's sort of a two-stage process.

3                       There is a stage, the first one  
4       that we'll go into, where we determine the guilt or  
5       innocence of Mr. Rippo; and then the second one where we  
6       determine the penalty, in the event that the jury has  
7       returned a verdict of first degree murder.

8                       Did you understand that?

9               A       Yes, I did.

10              Q       Do you understand -- do you agree with that  
11       kind of a system?

12              A       I fought for it, yes.

13              Q       Okay. Good.

14                       Are you familiar at all with  
15       either of these systems? Have you been a party to them  
16       before as a juror or a witness or an observer?

17              A       No.

18              Q       And the Judge indicated to you that in the  
19       guilt phase, that there won't be any subject of penalty come  
20       up. We won't talk about it, consider it, won't even enter  
21       into your deliberations. You understand that?

22              A       Yes, sir.

23              Q       In the penalty phase, once -- and this is  
24       only assuming, of course, that the verdict of first degree

000482

6 1 murder has been rendered by the jury, then it becomes the  
2 jury's responsibility to determine one of those three  
3 sentences that the Judge was calling off for you before:  
4 Life with, life without the possibility of parole, and the  
5 death penalty. Do you follow that all right?

6 A Yes, I do.

7 Q You don't have any difficulty with any one  
8 of those sentences?

9 A No, I don't.

10 Q Let me tell you just a little bit in very  
11 generic terms what will be going on, and certainly tell  
12 everyone else, too, in that penalty phase, should we get  
13 there, there will be evidence presented of what we call  
14 aggravating circumstances and mitigating circumstances.

15 And without getting into  
16 defining them, it simply means the aggravating circumstances  
17 are bad things having to do with Mr. Ripppo, and the  
18 mitigating circumstances are good things having to do with  
19 him.

20 Do you follow that?

21 A Yes, sir.

22 Q Okay. Do you think those would be helpful  
23 to you as a Juror --

24 A Definitely.

000483

Q -- in rendering a decision?

In addition to that -- well, let me go through the process to let you know how you get to being able to determine whether or not the death penalty should be applied to this particular case.

In order for that to happen, you have got to find that the State of Nevada, Mr. Harmon and myself representing it, have presented an aggravating circumstance, or more, two or more -- well, the rule is one or more, I want to make myself clear, beyond a reasonable doubt.

You have got to believe that what we have presented to you occurred beyond any reasonable doubt. Do you understand that?

A Yes, I do.

Q And the defense will have the opportunity to present any mitigating circumstances, the good things about Mr. Rippo.

If the State does not present to your satisfaction any evidence of aggravating circumstances, you may not consider the death penalty. There must be an aggravating circumstance, or more, in order for you to take on that role.

Assuming that happens, and

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1 mitigation is shown on the other side, you then have the  
2 opportunity, and, in fact, it is required of you that you  
3 weigh those two. You weigh the aggravating circumstances  
4 against the mitigating circumstances. A thought process --

5 A Uh-huh.

6 Q -- which is more important.

7 And it isn't a numerical weigh,  
8 ten on one side and three on the other. It's what are the  
9 importance of each.

10 Do you follow that?

11 A Yes, I do.

12 Q Do you agree with that? Do you think that  
13 is a good thing for you to be doing as a juror?

14 A Yes.

15 Q All right. When you have made that weigh,  
16 one against the other, if you find that the mitigating  
17 circumstances outweigh the aggravating circumstances, you  
18 may not consider the death penalty. Just as in the same  
19 instance as if no aggravating circumstances have been found  
20 at all.

21 You are with me there?

22 A I think so.

23 Q Okay. Let's make sure.

24 You will consider the

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1     aggravating and mitigating circumstances, and you'll weigh  
2     them in your mind, and all of the jurors that are with you  
3     will do the same thing.

4                     If you decide that the  
5     mitigating circumstances, which have been presented to you,  
6     the good things about the defendant, are more important,  
7     outweigh the bad things about the defendant, then you would  
8     say that the mitigation outweighs the aggravation.

9             A        Yes.

10            Q        And in that situation, the jury may not  
11     consider the death penalty. All right?

12            A        Uh-huh.

13            Q        The other side of the coin obviously is if  
14     you decide that the aggravating circumstances have more  
15     weight to them than do the mitigating circumstances, then  
16     you are entitled to consider the death penalty.

17                     Do you understand that?

18            A        Yes, I do.

19            Q        Okay. And you must go through that, all of  
20     those steps, all of the jurors must, in order to get to a  
21     position to where you are legally allowed to consider the  
22     death penalty as one of the three potential penalties.

23                     Now, we've pretty much gone  
24     through that system. Does that sound like a workable system

000486

6 1 to you, something that you can involve yourself in and feel  
2 comfortable in rendering such an important decision?

3 A Yes.

4 Q Okay. The other thing I will say to you,  
5 just by way of information, is that what we've just gone  
6 through doesn't mean that you must find the death penalty in  
7 the event the aggravation outweighs mitigation. It is  
8 simply that you are now allowed to consider it. Can you  
9 make-up your own mind for whatever reason you wish?

10 A I understand that.

11 Q You will also be given, after the  
12 aggravation, you will learn things about the defendant that  
13 don't have to do with aggravation. They may be aggravating,  
14 but they may not be aggravating circumstances. There are  
15 certain ones that are laid out that must be complied with.  
16 Things about his character, and, again, there will be good  
17 and bad character shown.

18 You will be able to take that  
19 into consideration in your deliberations as a Juror as to  
20 whether or not Mr. Ripppo should receive the death penalty.

21 In addition to that, you will  
22 be able to look back on the guilt phase, which was that  
23 first phase that we held, where you found him guilty of  
24 first degree murder, hypothetically right now, and look at

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1 the heinousness of the crime, the nature of the crime, how  
2 bad it was, and all the circumstances surrounding that.

3 So to wrap all of that up, you  
4 will be able to take all of those things into consideration  
5 in determining -- making your decision as to whether or not  
6 Mr. Rippo should get life with, life without, or the death  
7 penalty.

8 Do you understand all of that  
9 that I've just gone through?

10 A Yes, sir, I do.

11 Q And do you feel comfortable with it?

12 A Yes.

13 Q Okay. How do you feel about the death  
14 penalty? Let me ask a real open-ended question. Can you  
15 give us just a brief synopsis of your thoughts on the death  
16 penalty?

17 Let me help you a little bit.  
18 Is it an appropriate thing in our criminal justice system?

19 A I feel in the justice system it's one of the  
20 variables that was made available as an outcome, as a  
21 decision that has to be made by 12 responsible individuals,  
22 not by one.

23 Q Okay. But what I'm asking you, and I  
24 understand what you are saying, but to take that a step

000488

7 1 further, do you yourself agree that it should be a part of  
2 the criminal justice system?

3 A Yes, I do.

4 Q All right. So you believe in the death  
5 penalty?

6 A Yes.

7 Q Have you held that belief all of your life?

8 A Yes.

9 Q Okay. Has it waivered at any point in time  
10 throughout your life?

11 A No.

12 Q Could you, as an individual sitting on the  
13 jury, assuming -- or understanding that you believe in it,  
14 could you, as the one sitting on the jury be the person to  
15 vote for the death penalty?

16 A If the circumstances arose, yes.

17 Q Okay. You probably don't know what those  
18 circumstances are yet?

19 A No, I don't.

20 Q I guess.

21 And do you think that -- the  
22 Judge used an interesting term. He said that the jury must  
23 be able to consider the three penalties equally. Are you in  
24 that situation?

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7

1 A Yes.

2 Q All right.

3 MR. SEATON: Thank you.

4 I have no further questions,

5 Judge.

6 THE COURT: Mr. Wolfson.

7 MR. WOLFSON: Thank you.

8

9

EXAMINATION

10

11 BY MR. WOLFSON:

12 Q Good afternoon, sir.

13 A Yeah.

14 Q Mr. Escalante, have you ever been asked  
15 before this afternoon whether you would ever consider giving  
16 someone the death penalty?

17 A No.

18 Q Okay. That's the answer I expected, of  
19 course.

20 Until one sits in a criminal  
21 trial where if a person is convicted of first degree murder  
22 that option is made available, you would probably never be  
23 asked that question other than in a social setting.

24 A That's correct.

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7

1 Q Do you understand that under the principles  
2 of law the only time you will be asked to consider that is  
3 upon a conviction, and that if there is no conviction in  
4 this case of first degree murder, then the issue of the  
5 death penalty doesn't even come about.

6 A Yes.

7 Q Do you understand that principle?

8 A Yes.

9 Q For the benefit of all you folks, as you  
10 probably know, you were all asked to fill out a juror  
11 questionnaire, I believe this morning -- or yesterday  
12 morning, I believe.

13 THE COURT: Yesterday.

14 BY MR. WOLFSON:

15 Q And we have the benefit of having these and  
16 your answers, and I want to ask you a question, sir, about  
17 one of the questions. It is the last question on the  
18 questionnaire, where it says indicate your opinion of the  
19 following statements. And the statements or questions are  
20 if the prosecutor goes to the trouble of bringing someone to  
21 trial, the person is probably guilty.

22 And then the questionnaire  
23 asked you for one of four answers -- or actually one of  
24 five: Strongly agree, agree, strongly disagree, disagree,

000491

7 1 or no opinion.

2 A No opinion.

3 Q And the questionnaire -- and you know where  
4 I'm going -- had four subcategories on that issue, and you  
5 answered no opinion on all of them.

6 Did you not take the time to  
7 think about the questions or do you truly not have an  
8 opinion on those issues?

9 A Presently I don't have an opinion about  
10 those for the simple reason that I don't know enough of the  
11 variables in that decision-making process to make a decision  
12 at that time and say, yes, it was -- he was guilty or not  
13 guilty or whatever, even in the hypothetical case. So I  
14 cannot give you an honest opinion.

15 Q Fair enough. Fair enough.

16 What type of case do you  
17 believe a jury should give the death penalty?

18 A Of course, a criminal case that involves the  
19 taking of a person's life.

20 Q Okay. Would you agree that there are  
21 different types of criminal cases, different types of murder  
22 cases --

23 A Yes.

24 Q -- where the circumstances are different

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1 between each case?

2 A Yes, sir.

3 Q Would you agree that some murder cases are  
4 appropriate and some are not appropriate for the death  
5 penalty?

6 A In regards to what, the death penalty?

7 Q Yes.

8 Q Putting it another way, do you believe that  
9 everyone who is convicted of first degree murder should  
10 automatically receive the death penalty?

11 A No, sir.

12 Q So you would agree that even if a jury were  
13 to convict somebody of first degree murder, that that, by  
14 itself, doesn't mean that they should receive the death  
15 penalty punishment?

16 A That's correct.

17 Q Do you agree with that principle of law?

18 A Yes, I do.

19 Q You've worked for the Union Pacific Railroad  
20 for quite a long time, is that right?

21 A Thirty-one years.

22 Q You are a manager. What does a manager do?

23 A I do alot of everything. I do discipline; I  
24 do -- I used to do hiring and firing; I teach people to

000493

8 1 become engineers; I super- -- supervise about 300 people at  
2 a time in the territory; I have to be budget conscience as  
3 well as safety conscience; those are -- and I have nine  
4 specific goals that are designated that we have to maintain  
5 and achieve; at the same time we improve the quality of our  
6 service as well as maintain our correspondence in talking to  
7 our customers.

8 Q Okay. Thank you.

9 A I also own a flower shop on the side.

10 Q You own a flower shop on the side?

11 A Yes, my wife and I.

12 Q Okay. Very good. It keeps you pretty busy,  
13 I'm sure.

14 A That's why I had two heart attacks.

15 Q Mr. Escalante, how would you feel if you sat  
16 on this jury and after two or three weeks the jury reached a  
17 verdict and the verdict was something less than the death  
18 penalty and you had to go back to your employees or fellow  
19 workers and perhaps they asked you questions about the case,  
20 how would you feel having to perhaps explain your vote to  
21 some of your employees or fellow workers?

22 A I've had to do discipline as a manager on  
23 the railroad, and I always look in the mirror and shave. So  
24 I've never had to worry about looking in the mirror. I

000494

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1 would --

2 Q I can't think of a more difficult  
3 responsibility than having to sit in judgment of a fellow  
4 human being.

5 Now, I don't believe you've  
6 served as a juror before, have you?

7 A No, no.

8 Q So if you are selected on this jury you will  
9 have to sit in judgment of another human being and make some  
10 very difficult decisions.

11 Do you want to serve as a Juror  
12 in a case like this?

13 A Do I want to? No. But I feel it would be  
14 very interesting.

15 MR. WOLFSON: Thank you.

16 Thank you, Judge.

17 THE COURT: All right.

18 MR. SEATON: We pass for cause.

19 THE COURT: As to the defendant?

20 MR. WOLFSON: So does the defense.

21 THE COURT: Okay. Mr. Seaton, are you  
22 handling Juror number 2, Mr. Harvey?

23 MR. SEATON: Yes, Judge.

24

000495



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(Whereupon, Prospective Juror  
94, JEFFERY HARVEY, was  
examined as follows:)

EXAMINATION

BY MR. SEATON:

Q Mr. Harvey, I don't want to go over what I  
went over with Mr. Escalante entirely.

You follow the two-part system?

A Yes, sir.

Q The guilty phase and penalty phase?

The aggravating circumstances  
and mitigating circumstances, did you have a problem with  
any of that?

A No, sir.

Q Within the framework of your own mind the  
way you operate day-to-day, can you work within that system  
of without having difficulty?

A Yes.

Q Mr. Wolfson brings up a -- well, no. Let me  
do something else first.

How are your feelings on the  
death penalty? The same kind of questions I asked Mr.  
Escalante.

000496

8 1 A I've had reservations.

2 Q Okay. Can you tell us about those.

3 A Just personal feelings at times about, you  
4 know, whether or not it's an appropriate form of punishment.

5 Q And what -- what motivates those feelings?  
6 What thoughts are you having pro and con?

7 A That it's a final verdict, whatever, if by  
8 some determining factor, whatever, an error is made, there  
9 is no way to ever reverse that error.

10 Q What does that mean to you in the terms of  
11 your own ability to sit as a juror in this case and be able  
12 to contemplate all three punishments equally?

13 A I think that with the death penalty, the  
14 prosecution would have to do a good job of proving the  
15 aggravating circumstances.

16 Q As you heard me say to Mr. Escalante, the  
17 the prosecution must prove the aggravating circumstances  
18 beyond a reasonable doubt. We will have to prove the case  
19 in the guilt phase beyond a reasonable doubt.

20 A Right.

21 Q All of the elements and everything having to  
22 do with that case, our burden is to prove that beyond a  
23 reasonable doubt.

24 A Right.

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1 Q We will have done that with the guilt phase.  
2 Now we're in the penalty phase and your major concern is the  
3 aggravating circumstances.

4 The Judge is going to instruct  
5 you as to what beyond a reasonable doubt means. There is a  
6 definition for it, and you will have it within both phases  
7 of the case.

8 Do you agree with what the  
9 Judge said earlier, in that you will follow the law --

10 A Yes.

11 Q -- as he gives it to you, even though you  
12 think it might be a little bit different?

13 A Yes.

14 Q Okay. You don't have a problem with that  
15 concept?

16 A No, I don't.

17 Q Okay. And you are not going to be that far  
18 apart obviously, I assume.

19 Because of your feelings about  
20 the finality of the death penalty, are you going to increase  
21 the burden of the State just a notch or two with the  
22 aggravating circumstances because you are so concerned about  
23 the finality?

24 A I would say if an instruction says you do it

000498

9 1 beyond a reasonable doubt, and I have it and I agree with  
2 that, then I can consider that.

3 Q So whatever the standard is you've held us  
4 to in the guilt phase, you would hold us to that same exact  
5 standard in the penalty phase?

6 A Yes.

7 Q With all of this in mind, the Judge asked  
8 you an interesting question that I'm going to reverse.

9 He asked you would you want to  
10 sit in judgment -- if you were the defendant would you want  
11 12 people of your mind to sit in judgment of you?

12 And all of you, by not  
13 answering, answered yes.

14 Now that you are sitting down  
15 here where Mr. Harmon and I are sitting, would you, if you  
16 were in our shoes, would you want 12 people of your state of  
17 mind regarding this concern about the finality of the death  
18 penalty, would you want 12 people like that sitting on the  
19 jury?

20 A Yes.

21 Q Okay. Let's talk about that finality for  
22 just a moment.

23 You have, throughout your life,  
24 I would assume, thought about, talked about the death

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9

1 penalty.

2 A In social-type conversation.

3 Q You are at a party and it comes up.

4 A Yeah.

5 Q Or a case comes up and you talk about the  
6 pros and cons --

7 A Uh-huh.

8 Q Do I take it for the most part, other than  
9 these reservations, you have been for it?

10 A No.

11 Q You've been against it?

12 A Probably had -- yes, I lean on the against  
13 side.

14 Q Okay. Okay.

15 Let's do a little hypothetical  
16 here. You are given the opportunity to start a brand new  
17 nation and you get to -- you are the dictator. You get to  
18 layout all the laws. You are working on your criminal  
19 Justice system. Is the death penalty apart of it? You get  
20 the final say so. Nobody can contest it.

21 A No.

22 Q It's not a part of it.

23 Do you -- I got to reask a  
24 question now.

000500

9

1 Do you, sitting here where Mr.  
2 Harmon and I are sitting, still want 12 jurors of your state  
3 of mind, if we are --

4 A Well --

5 Q -- if the facts show and we stand before you  
6 and say the death penalty is appropriate in this case --

7 A And if you prove it, then I don't have a  
8 problem with it.

9 Q And you could implement it even though you  
10 are not wild about it, is that a fair way to say it?

11 A That is correct.

12 Q All right. Everything we've been talking  
13 about is of a philosophical and conceptual nature, is it  
14 not?

15 A Yes, sir.

16 Q Let's get down to reality.

17 I want you for just a moment to  
18 look at the gentleman at the end of the next table in the  
19 white sweater. That's Mr. Rippo.

20 MR. DUNLEAVY: Your Honor, I'm going to  
21 object. They can't ask to make a predecision to a  
22 particular individual that's on trial before them at this  
23 time.

24 MR. SEATON: I'm not.

000501

THE COURT: Overruled.

MR. SEATON: I'm just going to talk about the seriousness of the death penalty.

BY MR. SEATON:

Q As he sits here, he's a living, breathing human being, has or had parents at some time, led a life like other people. We don't know anything about him as we start this process.

And it may come, depending on the evidence, that we would stand before you and suggest that that man receive the death penalty.

Would you agree with me that that is reality?

A Yes.

Q That is hard reality and it's something quite different from philosophical musings about the death penalty.

A That's correct.

Q Are you with me there?

A Yes.

Q Have you thought about that in those terms since knowing that you were going to come in and sit on a death penalty case?

A I didn't know ahead of time.

000502

1 Q When you filled out the questionnaire --

2 A They gave you a little indication --

3 Q Yeah. Any of these joggling feelings that  
4 may cause you to reconsider your position, make you more  
5 against the death penalty than you had before?

6 A No, I don't believe so.

7 Q All right. So to sum up, do I take it then  
8 that if you heard adequate evidence in your own mind that  
9 there were aggravating circumstances have been met beyond  
10 the standard and you thought this was a case of a certain  
11 nature, that you would be able to come back into this  
12 courtroom and render a verdict of death against Mr. Rippo?

13 A Yes.

14 MR. SEATON: Thank you very much.

15 Pass for cause.

16 THE COURT: Mr. Dunleavy?

17  
18 EXAMINATION

19  
20 BY MR. DUNLEAVY:

21 Q Sir, you indicated you have some  
22 reservations about the idea about the death penalty?

23 Don't you think everybody  
24 should have some reservations about killing another man?

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10

1 A Yes.

2 Q Do you think that's an appropriate approach?

3 A I would think so.

4 Q Now, to regress a little bit and try and  
5 clear up a couple issues.

6 The Judge has instructed you  
7 the defendant is protected by the presumption of innocence  
8 at this point. But you understand that when it gets to the  
9 end of the trial, innocence is not a factor. No jury can  
10 find a man innocent.

11 You have two choices: Guilty  
12 beyond a reasonable doubt, or not guilty; which means if  
13 there is a reasonable doubt as a matter of law he's not  
14 guilty.

15 You could even look at a  
16 defendant and say, you know, I think he did it but it's not  
17 proven beyond a reasonable doubt. So as a matter of law  
18 he's not guilty.

19 Do you have a problem with that  
20 concept?

21 A No.

22 Q You are comfortable with the idea that it's  
23 an all or nothing, and the State has to prove it beyond a  
24 reasonable doubt, and the Judge will define what that is to

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10

1 you.

2 A Yes, sir.

3 Q Now, there is also alot of talk obviously  
4 about the death penalty.

5 And we're entitled to people  
6 that, as the questionnaire asked you on 46, that would  
7 consider each of the penalties equally. And you have three  
8 options: Life with the possibility of parole, life without  
9 the possibility of parole, and death. And we want people to  
10 consider all three of those.

11 Now, you know in this case it's  
12 a double murder case. Can you say today that if you, in  
13 fact, find somebody guilty of committing two murders you  
14 will give consideration to life with the possibility of  
15 parole?

16 A Yes, I believe so.

17 Q And you would also consider life without the  
18 possibility of parole?

19 A Yes, sir.

20 Q And we know you would consider the death  
21 penalty.

22 Now, also on question 56, you  
23 indicated that the problem with the Justice system is it  
24 takes too long, and that's probably a fairly popular belief.

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10

1                                   You realize that this case  
2 occurred February 18th, 1992.

3                   A       Today I found that out, yes.

4                   Q       That's a long time ago.

5                   A       Yes, it is.

6                   Q       Are you going to hold it against either side  
7 because for whatever reason this case has taken a long time  
8 to get to court?

9                   A       No. I didn't know anything about it before,  
10 so --

11                  Q       But you are not going to say, well, gee,  
12 somebody has to be punished?

13                  A       It took so long to get here, no.

14                  Q       You served on a murder trial once before?

15                  A       Yes.

16                  Q       Was it a death case?

17                  A       No, it was not.

18                  Q       So you haven't had to confront these issues  
19 before?

20                  A       Not this one, no.

21                  Q       What do you think of the idea of a society  
22 that says let's pull 12 people in off the street and make  
23 them decide whether or not to kill somebody?

24                               Do you think that's an ideal

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10 1 system?

2 A I don't know of anyone better.

3 Q What do you think personally about the idea  
4 of being asked to make that kind of decision?

5 A I think it's a tough decision.

6 Q You think it should be a tough decision?

7 A Yes, it should be.

8 Q You also indicated the rights of a person  
9 charged with a crime are better protected than the rights of  
10 the victim.

11 You understand that the way our  
12 system works, your rights, quote/unquote, come into play in  
13 a courtroom, not out in the streets.

14 If somebody violates your  
15 rights out in the street they come into court.

16 A Right.

17 Q And that's the only way it works. And that,  
18 in theory, if someone commits a crime, they violated  
19 somebody's rights, and you come in here and the defendant  
20 has rights while he's in here.

21 A Correct.

22 Q So as a rule everybody has the same rights.  
23 It's just a matter of when do you use them.

24 So do you still agree that the

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11 1 rights of the person charged are better protected or do you  
2 think they are all protected about the same?

3 A I guess they are protected about the same.

4 Q I mean it's a philosophical concept, but you  
5 understand there is a difference there?

6 A Right, how you are putting it, right.

7 MR. DUNLEAVY: Thank you, Your Honor.

8 I have no further questions. I  
9 would pass for cause.

10 THE COURT: All right. Mr. Seaton, you may  
11 inquire of Mrs. Pedersen.

12 (Whereupon, Prospective Juror  
13 95, CINDY PEDERSEN, was  
examined as follows:)

14 EXAMINATION

15

16 BY MR. SEATON:

17 Q How are you today?

18 A Fine thanks.

19 Q Good.

20 Before we get into all of this,  
21 actually this part of it, but you said something interesting  
22 on your questionnaire -- and, as a matter of fact, Mr.  
23 Escalante did too, and maybe I'll jump back after you've  
24 answered and ask you what he thinks about it.

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11

1 You told us -- and many people  
2 did by the way -- that you thought that -- let me be fair  
3 and read exactly what it was.

4 Question 46-D, on page seven,  
5 was -- it says: Overall in considering general issues of  
6 punishment, which do you think is worse for a defendant;  
7 life with the possibility of parole, life without the  
8 possibility of parole, and death? And you checked life  
9 without the possibility of parole.

10 Do you recall that?

11 A Yes, I do.

12 Q Okay. And you said in your explanation you  
13 would live without freedom, you live without life.

14 Can you explain that just a  
15 little bit.

16 A Well, if he's in there for the rest of his  
17 life, he's not living his life.

18 Q Okay. Would it be your opinion, and it's  
19 hard what -- let's not talk about Mr. Rippe, because we  
20 don't know what he thinks.

21 But just the average person in  
22 your mind, if they are given the choice between dying at  
23 that moment or living the rest of whatever their natural  
24 life is in prison, do you think they would choose to die

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11 1 rather than to live out their life?

2 A I guess probably based on if it was my  
3 decision, I'd rather die.

4 Q Would you?

5 A Instead of living in a cell for the rest of  
6 my life.

7 Q Okay. All right.

8 When you -- if you get to the  
9 point where you are a juror, you have found the defendant  
10 guilty of first degree murder, you have gone through the  
11 penalty phase, aggravating circumstances have been shown to  
12 you beyond a reasonable doubt, you think that those  
13 aggravating circumstances outweigh the mitigating  
14 circumstances and you are now able to contemplate the  
15 penalty, and hypothetically you think this is a situation  
16 that calls for the harshest punishment. Now you have to  
17 decide what the harshest punishment is.

18 You, I take it, if you were the  
19 defendant, you would think that having to live your life out  
20 in a situation without parole would be the harshest --

21 A No.

22 Q -- situation?

23 A If there -- if there was something so  
24 violent and so hateful in somebody, I would think the death

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11

1 penalty would be appropriate.

2 Q All right. Thank you. Okay.

3 A But that would have to be a very vicious act  
4 on someone.

5 Q I understand.

6 But so if you were searching  
7 out for the worse of punishments for someone, you wouldn't  
8 use the standard that you were using for yourself in filling  
9 out this questionnaire?

10 A No.

11 Q It would be to administer the death penalty?

12 A I would look at all three, and depending on  
13 what the facts were and, like you said, the trial and then  
14 the person's past, it all has to come together.

15 Q Okay. Mr. Harvey told us that he kind of  
16 leans against the death penalty.

17 Do you have a leaning?

18 A No. It's pretty open.

19 Q Okay. If you were setting up the new nation  
20 would you include death penalty as one of the potential  
21 punishments for murderers to receive?

22 A I would probably have all three.

23 Q Okay. Have you held those opinions for  
24 long?

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MR LPO-07058-R000518

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1 A Yes.

2 Q Are they pretty strong opinions?

3 A Uh-huh.

4 Q Okay.

5 MR. SEATON: I have no further questions,  
6 Judge. Pass for cause.

7 Thank you.

8 THE COURT: Mr. Wolfson.

9 MR. WOLFSON: Thank you, Judge.

10

11 EXAMINATION

12

13 BY MR. WOLFSON:

14 Q Good afternoon, Pam.

15 Pedersen is how you pronounce  
16 your last name?

17 A It's really Pedersen.

18 Q Pedersen, even with the T, okay.

19 It is Mrs. Pedersen, is it not?

20 A Yes.

21 Q Mrs. Pedersen, do you believe in the concept  
22 of fairness in punishment?

23 A Yes.

24 Q If I were to ask you to state a couple of

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1 factors that you think are appropriate in considering what  
2 is fairness in punishment, what would you tell us?

3 A Fairness in punishment, I guess it -- the  
4 degree, it would be the degree of the crime.

5 Q Do you think that a person's character is  
6 important?

7 A Very.

8 Q You are going to hear evidence in this case,  
9 if you are selected as a Juror, that others were involved in  
10 this crime.

11 In fact, I'm confident that the  
12 State of Nevada is going to present a witness by the name of  
13 Diana Hunt, who is going to come in this courtroom --

14 MR. SEATON: Judge, I'm not sure that this  
15 is the time to talk about the facts as they will be  
16 presented, particularly since we're the ones who will be  
17 presenting those facts.

18 MR. WOLFSON: I'm not talking about the  
19 facts. I just have a general question about another  
20 person's role in the crime. I'm not going to discuss alot  
21 of facts.

22 THE COURT: All right. I'll allow to you  
23 continue.

24 MR. WOLFSON: Thank you.

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12

1 THE COURT: Objection overruled.

2 BY MR. WOLFSON:

3 Q I'm confident that you are going to hear  
4 testimony from another person by the name of Diana Hunt, who  
5 will admit to you their participation in this crime, and you  
6 will learn what punishment they received for their  
7 participation.

8 Do you think that that is a  
9 factor that you should consider in determining the  
10 punishment if you find Mr. Rippo guilty of anything?

11 A I think I will just base what he has done on  
12 just him.

13 Q Do you want to serve as a juror in a case  
14 like this?

15 A Yes.

16 Q And I don't recall whether you answered  
17 whether you've been a juror before. Have you been a juror  
18 before?

19 A Yes, I have.

20 Q I think, as I recall now before I even get  
21 to it on the sheet, I couldn't read one of the words you  
22 wrote. That's why I couldn't recall. You listed as a civil  
23 case --

24 A Right. It was criminal.

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1 Q And then did you put misdemeanor,  
2 misdemeanor on your question --

3 A That's what I thought it was.

4 Q Okay. A misdemeanor is a criminal offense.  
5 So do you believe it was a criminal case?

6 A Yeah, yeah. After being here today it was  
7 criminal.

8 Q Was that here in Nevada?

9 A Uh-huh, yes.

10 THE COURT: You have to say yes.

11 BY MR. WOLFSON:

12 Q And you actually sat as a Juror where the  
13 Jury deliberated and reached a verdict?

14 A Yes.

15 Q About how many years ago was that?

16 A I'm guessing, six.

17 Q Was it a long trial or a short trial?

18 A Four days.

19 Q Were you the foreman of that jury?

20 A No.

21 Q Was there anything about that Jury process  
22 that would suggest to you that improvements need to be made  
23 in our jury system?

24 A No. It's pretty impressed. It was the way

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12

1 everyone deliberated. I was glad there was 12 people.

2 Q In other words, the process itself where the  
3 12 of you went back into a room and discussed the facts of  
4 the case?

5 A Right.

6 Q Were you an active participant in that  
7 deliberation or a more passive participant?

8 A Really I was both. It depended on what we  
9 were talking about at the time, 'cause it was more than one  
10 charge.

11 Q So many issues you had stronger opinions or  
12 more to offer the group, if you will, as compared to others?

13 A Right.

14 Q And do you attend college now?

15 A Yes.

16 Q Mrs. Pederson, you are at U.N.L.V., is that  
17 right?

18 A Uh-huh, 5:30.

19 Q Well, not literally right now.

20 A Four nights a week.

21 Q You are attending college this semester?

22 A Yes.

23 Q Do you go to any of the Rebel Basketball  
24 games?

000516

MR1PPO-07058-R0000523

12

1 A Don't have time.

2 Q Your major, or area of concentration, is

3 MIS?

4 A Uh-huh, yes.

5 Q What is that?

6 A Management Information Systems.

7 Q Could you break that down for us a little.

8 A It's management in computers.

9 Q What do you feel a lawyer's role is in a  
10 criminal case?

11 Let's start with the  
12 prosecution, what do you believe their job is?

13 A To present the facts. Both of your jobs are  
14 to present the facts.

15 Q Do you believe that just because the  
16 prosecution calls a witness, that that witness is telling  
17 the truth?

18 A No.

19 MR. WOLFSON: Thank very much.

20 Pass for cause.

21 THE COURT: Okay. At this time we'll recess  
22 until tomorrow morning at 10:30.

23 Remember, do not converse among  
24 yourselves or with anyone else on any subject connected with

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MRIPPO-87058-R0000524

12 1 this trial; read, watch, listen to any report or commentary  
13 2 on the trial by any medium of information, including without  
3 limitation newspapers, television or radio; or form or  
4 express any opinion on the trial until the matter is finally  
5 submitted to you. Have a good evening.

6  
7 (Whereupon, the prospective  
8 jury panel was excused for the  
9 evening and the following  
10 proceedings were had in  
11 chambers, outside the presence  
of the prospective jury panel,  
with the exception of  
Prospective Juror 111,  
KATHERINE MARCELL:)

12  
13 THE COURT: All counsel are present. This  
14 is in chambers.

15 The record will reflect we're  
16 outside the presence of the jury and in chambers; all  
17 attorneys are present, and Juror Number 111, Mrs. --

18 PROSPECTIVE JUROR 111, MS. MARCELL:  
19 Marcell.

20 THE COURT: -- Mrs. Marcell.

21 Mrs. Marcell is the lady who  
22 has to bring her husband for surgery in the morning.

23 PROSPECTIVE JUROR 111, MS. MARCELL: My  
24 mother.

000518

1 THE COURT: Your mother for foot surgery.

2 Where is it?

3 I thought we were going to get  
4 through her today, but we didn't. So she's not going to be  
5 able to be here tomorrow.

6 MR. WOLFSON: May I ask if it's just a  
7 one-day event?

8 PROSPECTIVE JUROR 111, MS. MARCELL: Well,  
9 it wasn't, but I mean, I -- it depends if I can talk the  
10 doctor into prescribing a nurse to come in and help.

11 MR. WOLFSON: Oh, you mean even after the  
12 surgery?

13 MR. DUNLEAVY: She's 80 some years old sore.

14 PROSPECTIVE JUROR 111, MS. MARCELL: She's  
15 89.

16 THE COURT: Okay. With permission of  
17 counsel, I'm just going to excuse Mrs. Marcell.

18 Any objection?

19 MR. SEATON: No.

20 THE COURT: You are excused, ma'am. All  
21 right, nice meeting you.

22 (Whereupon, the prospective  
23 juror was excused.)  
24

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1 MR. POTTER: While we're on the record --

2 MR. DUNLEAVY: A juror came up and asked a  
3 question of Mr. Harmon and he answered. I don't know what  
4 was said, but I want to make a record of it, that if that  
5 juror comes up, we need to determine what was said between  
6 the prosecution and this prospective juror, and I don't  
7 think it's proper.

8 MR. HARMON: Well, I can explain it now.

9 She asked me a question. I  
10 said you will have to talk to the bailiff.

11 MR. DUNLEAVY: And I --

12 MR. SEATON: And she began to talk to him.  
13 She is the wife of a police officer.

14 THE COURT: Okay.

15 MR. HARMON: And she wanted to know if that,  
16 in and of itself, was going to a disqualification. And he  
17 seemed not to know. I told her no, it isn't.

18 THE COURT: Okay. All right.

19 MR. HARMON: That was what was said.

20 THE COURT: I think the first thing in the  
21 morning I better tell the jurors not to converse with any of  
22 the attorneys.

23 MR. WOLFSON: Yeah, any of the lawyers or  
24 anything.

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13

1 THE COURT: All right, or anything but Mr.  
2 Oleary.

3 THE BAILIFF: But you did right. You  
4 directed them to me and --

5 MR. WOLFSON: Mel did, but I'll take the  
6 credit.

7 THE BAILIFF: Well, she kind of spoke off  
8 the hook.

9 THE COURT: Okay.

10 MR. WOLFSON: 10:30, Judge?

11 THE COURT: 10:30.

12 (Whereupon, the evening recess  
13 was had in the proceedings.)  
14 \* \* \* \* \*

15 ATTEST: Full, true and accurate transcript of proceedings.  
16  
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RENEE SILVAGGIO, CCR 122  
Official Court Reporter

000521

ORIGINAL

-FILED IN OPEN COURT-

*Subramaniam* 1996  
LORETTA BOWMAN, CLERK  
By *[Signature]* Deputy

DISTRICT COURT  
CLARK COUNTY, NEVADA

The State of Nevada, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
Michael Damon Rippe, )  
#0619119 )  
Defendant. )

Case No. C106784  
Dept. No. IV  
Docket No. "C"

Before the Honorable Gerard J. Bongiovanni  
Wednesday, January 31, 1996 11:15 o'clock a.m.

Reporter's Transcript of Proceedings  
JURY TRIAL

VOLUME I

REPORTED BY: Renee Silvaggio, C.C.R. No. 122

CE

RENEE SILVAGGIO, CCR 122 391-0379

## 1 APPEARANCES:

2 For the State:

3 MELVYN T. HARMON, ESQ.  
4 DANIEL SEATON, ESQ.  
5 Deputies District Attorney

6 For the Defendant:

7 STEVEN B. WOLFSON, ESQ.  
8 PHILIP H. DUNLEAVY, ESQ.  
9 Attorneys at Law

10 Law Clerk:

11 Delwin Potter  
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RENEE SILVAGGIO, CCR 122 391-0379

1 Las Vegas, Nevada, Wednesday, January 31, 1996, 11:30 a.m.

2  
3 \* \* \* \* \*

4  
5 (Whereupon, the following  
6 proceedings were had in  
7 chambers outside the presence  
8 of the jury.)

9 THE COURT: All right. Let the record  
10 reflect we're outside the the presence of the jury in the  
11 Damon Rippo case. Present in Dan Seaton, Phillip Dunleavy,  
12 Mel Harmon and Steve Wolfson.

13 And Juror number -- I don't  
14 have my glasses -- 487, your name is --

15 PROSPECTIVE JUROR 487, MS. WILKINSON: Susan  
16 Wilkinson.

17 THE COURT: Susan Wilkinson.

18 Mr. O'leary indicated you  
19 wanted -- you don't believe that you should be on the jury  
20 for some reason.

21 PROSPECTIVE JUROR 487, MS. WILKINSON: I  
22 didn't say that. I just wanted to say that I don't believe  
23 I could vote for the death penalty in case of a conviction.

24 And I noticed that you excused  
that gentleman yesterday who didn't believe he could either.

RENEE SILVAGGIO, CCR 122 391-0379

1 MR. WOLFSON: Excuse me. Before we go any  
2 further, with all due respect to this juror, I think we  
3 should have this in open court, like we examine all the  
4 jurors, so that the State and the defense has an opportunity  
5 to ask this lady more questions about that --

6 THE COURT: Well, I was going to give you  
7 that opportunity here.

8 I just didn't want her to have  
9 to sit -- have her sit there all day until she was chosen,  
10 and it might not even be today by the time we get to her,  
11 and she might have to come back tomorrow, and the result may  
12 be that if she can't possibly, in any way, come out with a  
13 death penalty, if it reached that point, we wasted two days  
14 of her life for nothing.

15 MR. DUNLEAVY: Well, Your Honor, that's very  
16 unfortunate, but what happened yesterday is we had a juror  
17 in here who said I couldn't possibly consider the death  
18 penalty and was excused for that purpose.

19 Now we have another, we're  
20 entitled to educate the entire jury panel that what the  
21 State is after is a jury that will kill. We're entitled to  
22 that.

23 And unfortunately it's  
24 inconvenient for this lady, but we have a right to try and

1 let the whole jury panel know what the State is after, is  
2 just a jury that will kill.

3 THE COURT: Well, I don't think that's a  
4 fair --

5 MR. DUNLEAVY: I think we should be allowed  
6 to do this in open court.

7 THE COURT: I don't think that's a fair  
8 statement of what the State is after..

9 MR. SEATON: We appreciate that, Judge.

10 MR. DUNLEAVY: Well --

11 MR. HARMON: Well, Judge, she's here now and  
12 I don't think there is anything to prohibit either party  
13 from exploring this subject to find out whether she's  
14 qualified or not.

15 THE COURT: I don't either.

16 There is going to be plenty  
17 other jurors that could you educate the rest of the panel on  
18 the death penalty.

19 I mean, there is only so much  
20 you could say about it. So if you want to question the -- I  
21 forgot your name.

22 MR. HARMON: I would like to ask her a few  
23 questions, Your Honor.

24 THE COURT: Okay.

1 PROSPECTIVE JUROR 487, MS. WILKINSON: And I  
2 want to say, I've never been to court before, and I am so  
3 impressed with all of you, and I -- I would be happy to be  
4 part of this. It's not that at all. I'm not trying to get  
5 out of it. I just wanted to --

6 THE COURT: Nobody says you were.

7 PROSPECTIVE JUROR 487, MS. WILKINSON: I  
8 Just wanted to -- I noticed you excused that one gentleman  
9 and I thought, well, maybe I am just wasting the Court's  
10 money and everything.

11 THE COURT: Mr. Harmon wants to ask you a  
12 few questions.

13 MR. HARMON: You've indicated that you  
14 weren't sure if you could, and really from our point of view  
15 the question is are you of a frame of mind of where  
16 regardless of the evidence you heard, that you would  
17 automatically vote against capital punishment?

18 PROSPECTIVE JUROR 487, MS. WILKINSON: I've  
19 never had to face this so much, but it's just I'm a Catholic  
20 and I just -- it's -- I'm -- it's just all lives are sacred,  
21 all life, even though a murder's life too. I don't think  
22 it's ours to take.

23 MR. HARMON: We understand what you are  
24 saying, and you are certainly entitled to your opinion.



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We want you to be just as open  
about your opinions as is possible.

PROSPECTIVE JUROR 487, MS. WILKINSON: I  
am,

MR. HARMON: Are you telling us then that  
regardless of how terrible the crimes might be, that you  
would still automatically disregard capital punishment and  
be limited only to a consideration of one of the life  
sentence: Life with or life without parole?

PROSPECTIVE JUROR 487, MS. WILKINSON:  
That's the way I feel now.

I know nothing about the case.  
And, as I said, I've never had any -- I've never had to  
explore it this deeply.

The way I feel right now, I  
couldn't condemn another person to death; certainly to be  
punished, but --

THE COURT: Could you think of any situation  
where you could?

PROSPECTIVE JUROR 487, MS. WILKINSON: I  
don't know. Maybe -- I don't know. I feel so bad to take  
your time.

THE COURT: Don't worry about our time.

PROSPECTIVE JUROR 487, MS. WILKINSON: I

2 1 don't know maybe, like -- see, I have young daughters, but I  
2 also a young son; and I -- I think I really would be very  
3 much involved in this emotionally, and maybe I could.

4 But -- but right now my -- my  
5 mental state would be, no, I couldn't. But I don't know. I  
6 couldn't honestly tell you.

7 MR. HARMON: In your mental state now what  
8 you are saying is that regardless of the facts or  
9 circumstances you could not vote for the imposition of  
10 capital punishment?

11 PROSPECTIVE JUROR 487, MS. WILKINSON: The  
12 way I feel right now, that's the way I feel right now, yes,  
13 that's my intellectual opinion.

14 MR. WOLFSON: If I may, ma'am, and we  
15 appreciate your candor, and we know that this isn't easy for  
16 you, and we thank you for coming in and talking to us about  
17 this. And I think you can tell how important this issue is  
18 to this case?

19 PROSPECTIVE JUROR 487, MS. WILKINSON:  
20 Absolutely.

21 MR. WOLFSON: You did say, if I may use my  
22 own words, that at the present time you don't feel you  
23 could.

24 PROSPECTIVE JUROR 487, MS. WILKINSON: Yeah.

MR. WOLFSON: But you don't know how you might feel after you listen to the evidence in the case?

PROSPECTIVE JUROR 487, MS. WILKINSON:  
That's true.

MR. WOLFSON: Is that an accurate statement?

PROSPECTIVE JUROR 487, MS. WILKINSON: I --  
yes, I did say that.

But I think -- I think to try to deal with it without emotion, I probably still -- would come back to what I stated, I probably could not condemn a person to death. I could not know he was going to be executed that night, knowing that my voted caused that to happen, so --

MR. SEATON: I think we have a challenge for cause, Judge.

THE COURT: Okay. In other words, you are telling me you could not vote that way?

PROSPECTIVE JUROR 487, MS. WILKINSON: Yes.

THE COURT: Under any circumstance?

MR. DUNLEAVY: May I ask a some questions?

You understand --

MR. HARMON: May she answer the Judge's question first?

MR. DUNLEAVY: I thought maybe I could

2 1 clarify.

2 THE COURT: I think that's a pretty clear  
3 question.

4 I mean, put in your mind the  
5 most heinous crime you could think of, the most aggravating  
6 circumstances you could think of, and then when it comes  
7 right down to it -- and this person was found guilty of the  
8 murder in the first degree -- could you give that person the  
9 death penalty or is it -- you just can't do it?

10 This is the time to be honest.  
11 If you can't do it, just say so.

12 PROSPECTIVE JUROR 487, MS. WILKINSON: I  
13 would want to. If it were the most heinous crime, I would  
14 want to; I don't think I could.

15 THE COURT: Wanting to and being able to do  
16 it -- some people just are not strong enough to take -- to  
17 vote on taking a person's life.

18 PROSPECTIVE JUROR 487, MS. WILKINSON: Yes.

19 THE COURT: And if you are one of those  
20 persons, now is the time to say it.

21 PROSPECTIVE JUROR 487, MS. WILKINSON: I  
22 think I am one of those.

23 THE COURT: That's what we're getting at.

24 PROSPECTIVE JUROR 487, MS. WILKINSON: I

2

1 think I'm one of those persons.

2

3

THE COURT: Okay. Now you could ask your questions.

4

5

MR. DUNLEAVY: You understand that this day nobody is supposed to decide on any kind of a punishment?

6

7

PROSPECTIVE JUROR 487, MS. WILKINSON: Yes, sir.

8

9

10

MR. DUNLEAVY: It's just saying that if the State should present you with sufficient facts, could you, in any conceivable way, consider that as an option?

11

12

13

14

And I see it differently than a Judge. I think it takes strength of conviction to vote against death. But would you have an open mind and try and try and consider all three?

15

16

17

18

You are never required --

PROSPECTIVE JUROR 487, MS. WILKINSON: Oh, I would always have an open mind. I could have an open mind. That's why I'm vacillating here because --

19

20

21

22

THE REPORTER: One person at a time.

PROSPECTIVE JUROR 487, MS. WILKINSON: -- I do have an open mind, and that is why this is so difficult for me.

23

24

MR. DUNLEAVY: And you are never required to -- or committed to any verdict in advance. That's

2

1

something you would have to just dissolve with your own  
conscience at the time that it comes up.

2

3

PROSPECTIVE JUROR 487, MS. WILKINSON: No.

4

5

MR. DUNLEAVY: I think what everybody wants  
to know is could you give the consideration to all three?

6

7

PROSPECTIVE JUROR 487, MS. WILKINSON: I  
could certainly give consideration.

8

9

10

And, as I said, I've never had  
to deal with anything this like this. So I don't really  
know.

11

12

13

THE COURT: Anyone else have any questions?

14

3

15

16

You said something just now to  
Mr. Dunleavy as to you would be willing to consider all  
three.

17

18

19

20

Let me point out that perhaps a  
consideration of all three wouldn't be a legitimate  
consideration unless you knew in your heart you could impose  
all three.

21

22

23

24

PROSPECTIVE JUROR 487, MS. WILKINSON:

Uh-huh.

MR. SEATON: Those two are really tied in  
together.

3 1 PROSPECTIVE JUROR 487, MS. WILKINSON: Yeah.

2 MR. SEATON: And so that's the question  
3 we're really getting down to, not, well, do you have the  
4 capability to go in and indulge in philosophical games in  
5 the jury room; but talking about whether or not the death  
6 penalty is correct.

7 But having the -- and I don't  
8 know who is right, the strength of character or the ability,  
9 the willingness to be one of a member of 12 jurors who would  
10 vote for death.

11 We need to know whether or not  
12 you've got that ability, and it's really what the Judge  
13 said.

14 It -- as tough a question as it  
15 is, it's a very simple question.

16 PROSPECTIVE JUROR 487, MS. WILKINSON: Yeah.

17 MR. SEATON: You either believe in your  
18 heart that you would be able to vote for the death penalty  
19 or you believe, as you started to tell us earlier, that it  
20 would just be -- you have too much reverence for life and  
21 you wouldn't want to take someone else's or be a part of a  
22 group that had the responsibility for taking someone else's  
23 life.

24 Based on those considerations,

3  
1 the question we need to know the answer to, I guess, is as  
2 you are sitting here today, not what might be possible in  
3 the future, but your mind today, would it allow you, in any  
4 one of these kind of cases that we've been talking about,  
5 to not only to consider but to actively be a part in giving  
6 the death penalty to another human being?

7 PROSPECTIVE JUROR 487, MS. WILKINSON: No.

8 MR. SEATON: That's the answer.

9 THE COURT: All right.

10 MR. SEATON: Thanks very much. It's tough,  
11 I know.

12 THE COURT: All right. I'm going to excuse  
13 you from service. Thank you very much.

14 PROSPECTIVE JUROR 487, MS. WILKINSON: Thank  
15 you.

16 MR. WOLFSON: Thank very much, ma'am.

17 THE COURT: Just stop at the jury  
18 commissioner's on the way out.

19 PROSPECTIVE JUROR 487, MS. WILKINSON: I'm  
20 sorry.

21 MR. SEATON: It's not your fault.

22 MR. WOLFSON: It's nothing to be sorry for  
23 or --

24 PROSPECTIVE JUROR 487, MS. WILKINSON: I'm



1 really impressed --

2 THE COURT: A verdict like that is something  
3 you've got to live with the rest of your life.

4 PROSPECTIVE JUROR 487, MS. WILKINSON:

5 That's true.

6 THE COURT: And I'm sure that's part of the  
7 consideration too, and it's better that you tell us now than  
8 when it's too late.

9 PROSPECTIVE JUROR 487, MS. WILKINSON: Yes.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR 487, MS. WILKINSON: Thank  
12 you very much.

13 THE COURT: All right. Thank you very much.  
14 Very nice meeting you. Have a good day.

15 PROSPECTIVE JUROR 487, MS. WILKINSON: Thank  
16 you.

17 (Whereupon, the prospective  
18 juror was excused.)

19  
20 THE COURT: We're now off of the record.

21 (Whereupon, an off-the-record  
22 discussion was had.)

23 THE BAILIFF: Your Honor, this gentleman  
24 came to me and said he'd become aware of the fact that he

3 1 had worked with the victim's mother for over a period of  
2 time --

3 THE COURT: Okay. Sit down, sir.

4 What is your badge number?

5 PROSPECTIVE JUROR 151, MR. SEID: Seid,

6 S E I D.

7 THE COURT: And you became aware you worked  
8 with one of the victim's mother?

9 PROSPECTIVE JUROR 151, MR. SEID: I believe  
10 it's the victim's mother.

11 THE COURT: What is her name.

12 PROSPECTIVE JUROR 151, MR. SEID: Because I  
13 heard about this case -- I work for Nevada Power.

14 MR. WOLFSON: I believe it's -- excuse me.  
15 I believe you work with the defendant's mother.

16 PROSPECTIVE JUROR 151, MR. SEID: The  
17 defendant's mother.

18 MR. WOLFSON: Mr. Rippo's mother.

19 PROSPECTIVE JUROR 151, MR. SEID: All right.  
20 And I saw her after we went into break yesterday and she  
21 came in, Carol Duncan.

22 MR. WOLFSON: Right that's.

23 PROSPECTIVE JUROR 151, MR. SEID: Okay.  
24 When I found out I was going to be on jury duty, quite a few

3. 1 people said about this case was coming up. And when you  
2 started reading off a bunch of names, they didn't mean  
3 anything because I couldn't put faces to it. And then this  
4 one guy says, well, I know somebody at Caesars whose  
5 daughter and all that, and so I figured that has got to be  
6 another case, Caesars --

7 THE COURT: Where do you work?

8 PROSPECTIVE JUROR 151, MR. SEID: I work at  
9 Nevada Power.

10 THE COURT: And the defendant's mother works  
11 at Nevada Power?

12 PROSPECTIVE JUROR 151, MR. SEID: In fact,  
13 I've worked with her at the power plant over on the east  
14 side of town.

15 And then I go, wait a minute,  
16 this is the case, and I know too much about it.

17 THE COURT: You know alot of facts about the  
18 case? Have you discussed it with her?

19 PROSPECTIVE JUROR 151, MR. SEID: I've heard  
20 alot of stuff going through Nevada Power, since I was called  
21 for jury duty, since people have heard this particular case  
22 was coming up.

23 THE COURT: Well, I guess the question is:  
24 you've talked to different people about the case?

1 PROSPECTIVE JUROR 151, MR. SEID: I've --  
2 they kind of talked to me, and I've talked to them.

3 THE COURT: And have you talked to the  
4 defendant's mother about the case?

5 PROSPECTIVE JUROR 151, MR. SEID: No.

6 THE COURT: Okay. And after talking to all  
7 these other people at Nevada Power, have you formed an  
8 opinion as to the guilt or innocence of the defendant?

9 PROSPECTIVE JUROR 151, MR. SEID: I think I  
10 did. I don't think I could be partial on this particular  
11 case.

12 THE COURT: Okay. And do you think you  
13 could put all that out of your mind and listen to the  
14 evidence and base a decision on the evidence?

15 PROSPECTIVE JUROR 151, MR. SEID: I don't  
16 think so, 'cause I've heard too many nasty things and that's  
17 what, you know, about this.

18 This has been going on for  
19 about, like you say, three years. So there has been a lot of  
20 things going on about this case.

21 MR. WOLFSON: Closer to four.

22 THE COURT: Four years.

23 PROSPECTIVE JUROR 151, MR. SEID: And people  
24 I work with know Carol. I've worked with Carol. I've

1 worked at the power plant. I mean --

2 THE COURT: Just the fact that you worked  
3 with the defendant's mother would put alot of pressure on  
4 you in even having to --

5 PROSPECTIVE JUROR 151, MR. SEID: I think it  
6 will --

7 THE COURT: -- even having to sit in  
8 Judgment of her son, is that correct?

9 PROSPECTIVE JUROR 151, MR. SEID: That would  
10 be a hard thing to do, yes.

11 THE COURT: You don't think you could do  
12 that -- you don't think you could do that?

13 PROSPECTIVE JUROR 151, MR. SEID: No.

14 THE COURT: Okay. With permission of  
15 counsel, I'm going to excuse the Juror.

16 MR. SEATON: Yes, Judge.

17 MR. WOLFSON: Yes, sir.

18 THE COURT: Thank you very much. Stop at  
19 the Jury commissioner's office on the way out.

20 MR. WOLFSON: Thank you, sir.

21 (Whereupon, the prospective  
22 Juror was excused.)

23 (Whereupon, a recess was had in  
24 the proceedings, at the  
conclusion of which the  
following was had:)

1 (Whereupon, the following  
2 proceedings were had in open  
3 court in the presence of the  
4 prospective jury panel.)

5 THE COURT: State of Nevada versus Michael  
6 Rippo.

7 Let the record reflect the  
8 presence of the defendant, his attorneys Philip Dunleavy and  
9 Steve Wolfson --

10 A VOICE: Will you speak up, sir.

11 THE COURT: Dan Bowman for the State -- Dan  
12 Bowman, he was here this morning -- Dan Seaton for the  
13 State and Mel Harmon for the State.

14 Do counsel stipulate to the  
15 presence of the jury panel?

16 MR. WOLFSON: Yes, Your Honor.

17 MR. DUNLEAVY: Yes.

18 MR. SEATON: Yes, Judge.

19 THE COURT: All right. Where did we leave  
20 off yesterday now?

21 MR. SEATON: I think Mr. Bartley is the --

22 THE COURT: Mr. Bartley, okay. Mr. Seaton  
23 may inquire of Mr. Bartley.

24 MR. SEATON: Thank you, Judge.

(Whereupon, Prospective Juror  
96, JOHN BARTLEY, was examined  
as follows:)

EXAMINATION

BY MR. SEATON:

Q Good morning, Mr. Bartley.

A Good morning.

Q As the Jury selection process goes along we  
will be able to cut down on the questions a little bit.

You can see already from the  
first three Jurors that are honing in on particular areas.  
We'll be able to sort through the same information and still  
be interested in the same thing.

But let me go into a little bit  
what I did yesterday.

Most of what I went through  
with Mr. Escalante about the process that we're going  
through, did you pretty well understand the processes I was  
explaining to him?

You didn't have a difficulty  
with the fact that it's a two stage trial, I mean a guilt  
phase and then a penalty phase?

A No.

Q And the mitigating and aggravating

1 circumstances, without knowing particularly what they are,  
2 you understand the idea behind those and the weighing?

3 A Uh-huh.

4 THE COURT: Sir, you have to answer yes or  
5 no. The court reporter doesn't know how to write that.

6 MR. SEATON: Are you going to let him get  
7 away with that?

8 THE COURT: Maybe she does, but she can't  
9 translate it.

10 BY MR. SEATON:

11 Q So you don't have a difficulty with that  
12 system, I take it?

13 A No.

14 Q All right. Can you tell us how you feel  
15 about the death penalty?

16 A I am in favor of the death penalty.

17 Q All right. You think then in a perfect  
18 society it should be a part of the criminal justice system?

19 A I thought about that and my thoughts are  
20 it's the law of the State of Nevada and I am a -- a person  
21 of the State of Nevada, and I will follow those laws --

22 Q All right.

23 A -- that the legislature passed that and  
24 other people above me, and my thoughts are that's what



4 1 they're there for.

2 Q Aside from those things, now you and I are  
3 going to talk hypothetically. Those things are removed from  
4 consideration.

5 Do you believe in the death  
6 penalty?

7 A Yes.

8 Q All right. So if you were creating the  
9 nation that Mr. Escalante created you would put the death  
10 penalty in as a part of the criminal justice system?

11 A Yes.

12 Q It would be your choice and you could put it  
13 in or not have it.

14 A Correct.

15 Q And you think it would be appropriate?

16 A Uh-huh, yes.

17 Q Have you held these opinions for some period  
18 of time?

19 A Yes.

20 Q During our -- well, you started off in this  
21 case by filling out the questionnaire, and it obviously  
22 alluded to the death penalty. Then you came in here  
23 yesterday and heard all the talk about it.

24 You undoubtedly thought about

5

1 the death penalty to some extent since that time; is that  
2 correct?

3 A Correct.

4 Q Any changes of thoughts, any -- any  
5 differences at all?

6 A No.

7 Q Okay. You probably knew I'm going to  
8 mention this. You said something in your questionnaire --  
9 you know what I'm going to get at? -- 46-D, of course you  
10 don't remember the questions by their numbers, but this was  
11 the one that asked which punishment was worse for the  
12 defendant. Do you remember that?

13 A Right, life imprisonment without the  
14 possibility.

15 Q You said life with the possibility?

16 A Without.

17 Q Well, yours is checked off life with.

18 A Then it's a mistake. It should have been  
19 without the possibility of parole.

20 Q Okay. I had a discussion with one of the  
21 jurors before you about that very thing.

22 What are your thoughts about  
23 the issuing of a penalty by a jury?

24 If you got to the point, you

5

1 found guilt, you found aggravating circumstances, you found  
2 that they outweighed the mitigating circumstances, and now  
3 you are contemplating which penalty to give, and you thought  
4 this was a particularly bad crime and you want to do give  
5 the worse punishment possible, would it be the life without  
6 the possibility of parole or the death penalty?

7 A The death penalty.

8 Q Okay. So from that perspective you think  
9 that the death penalty would be worse for the defendant?

10 A No. I think life without the possibility of  
11 parole --

12 Q Would be --

13 A -- would be the worse in my opinion --

14 Q All right.

15 A -- than the death penalty.

16 Q I asked the question that was probably  
17 poorly worded yesterday. Let me try again.

18 If any individual were faced  
19 with the prospect of choosing for themselves what was going  
20 to happen to them, they would either die or they would get  
21 life without the possibility of parole, which do you think  
22 would be the choice?

23 A Life without the possibility of parole.

24 Q They would prefer that to death?

5

1 A Yes.

2 Q All right. Can you tell me how that  
3 balances out with your comment that you think that life  
4 without the possibility of parole is worse than the death  
5 penalty?

6 A In my opinion there is most -- and I guess I  
7 refer to the State of Nevada, is there are very few people  
8 put to death in the State of Nevada.

9 And the death -- the life  
10 imprisonment without the possibility of parole seems to be  
11 the way the system is going and that, to me, it would be a  
12 far more -- to be able -- to spend that time in prison for  
13 the rest of my life would be far worse than death.

14 Q The answer you gave me a little earlier was  
15 that if you were looking for the worse punishment for the  
16 worse crime you would select the death penalty. Do you  
17 still hold that view?

18 A Correct.

19 Q Okay. Is there anything else you wish to  
20 tell us in this particular area that maybe I'm not asking  
21 about, a thought that you are holding that you would want to  
22 share with us?

23 A No. I -- I don't think so.

24 I know it's a very confusing

5 1 situation, where you have the death penalty and the crime  
2 could warrant the death penalty. And that is the law of the  
3 State. And as long as it is the law of the State that can  
4 be there, but if you have an option of what I think is the  
5 worse would be life imprisonment without the possibility of  
6 parole.

7 Q Well, then I go back to my earlier question,  
8 and I guess I just don't understand the distinction.

9 If you -- if you've gone  
10 through the system here in this particular case and you've  
11 gotten -- and, of course, this is hypothetical at this time,  
12 but you've gotten to the point in your own mind where you  
13 think that you've just got to issue the worse possible  
14 punishment --

15 A Then it would be the death penalty.

16 MR. SEATON: Okay. All right. Thanks very  
17 much.

18 And I'd pass for cause, Judge.

19 THE COURT: Mr. Dunleavy.

20  
21 EXAMINATION

22  
23 BY MR. DUNLEAVY:

24 Q I see you are from Rhode Island. Does Rhode

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5 1 Island have the death penalty?

2 A I left there when I was 15. I don't know.

3 Q So you don't know.

4 What state did you come from  
5 most recently?

6 A I've been in Nevada since '66. California.

7 Q Okay. I thought it said two and a half  
8 years in Nevada, so I --

9 A Two and a half years at my a- -- at the  
10 address I'm living at.

11 Q Oh, okay, I misunderstood. I'll sorry.

12 Now, there was some questions  
13 about your family regarding, for instance, your father and  
14 mother, who are apparently deceased. Did they ever work in  
15 law enforcement or any -- any law enforcement related  
16 fields?

17 A No.

18 Q What about your brothers and sisters?

19 A No.

20 Q The District Attorney has made references to  
21 things such as you will have the option to choose death if  
22 you find certain circumstances,

23 Do you think that's an option  
24 that you should look forward to?

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6

1 A No. I don't think it's a great option.

2 Q One thing that hasn't been explained is they  
3 talked about aggravating and mitigating a little bit  
4 yesterday; and, in fact, you will be instructed that there  
5 are certain limited aggravating circumstances and that they  
6 must be proven beyond a reasonable doubt.

7 If you found every aggravating  
8 circumstance on the list and you found no mitigating  
9 circumstances whatsoever, the law is still that you never  
10 have to impose the death penalty.

11 Do you understand that? It's  
12 never required. It's solely up to the jury to decide  
13 whether or not that punishment is suitable no matter who the  
14 defendant is.

15 A I understand.

16 Q That's why it's left to the jury to make  
17 that decision.

18 What do you think of the idea  
19 of just pulling 12 people in off the street and saying the  
20 at the sight of him the man should be killed?

21 A Killed is a rough word.

22 Q It's a rough act.

23 A Put to death.

24 Q Is the outcome different?

6

1 A It's the law of the State. It's the law of  
2 the people in the State of Nevada, and to -- to say to pull  
3 12 people in off the street, I would say that that's the way  
4 our system works. That's the way it's been working for  
5 years and it will continue to work far after we're gone.

6 Q And you think it's a good --

7 A Long after.

8 Q So you think it's a good system?

9 A It's an excellent system.

10 Q You indicated that you thought not many  
11 people in Nevada are put to death.

12 A I was trying to think last night when the  
13 last one was, and I -- I couldn't remember.

14 Q You realize the more it happens the less  
15 publicity it gets?

16 A True.

17 Q Now, you know, this case that we're here on  
18 today is a double capital murder case, which means that if  
19 someone is found guilty they are asking you to find him  
20 guilty of two different murders, if you found somebody  
21 guilty of two different murders could you give equal  
22 consideration to life with the possibility of parole?

23 A Yes.

24 Q Just the same as you would to the death



6

1 penalty?

2 A Yes.

3 Q Just the same as you would to live without?

4 A I'd say yes.

5 Q You indicated that -- I used the word  
6 "kill," and that that was a very strong word.

7 I mean, there is some  
8 semantics. You can call it an execution. You can call it a  
9 death penalty. What happens to the person is he's killed,  
10 is that correct?

11 A Yes.

12 Q I mean, it may be a strong word, but it's a  
13 strong act.

14 A Correct.

15 Q You don't have any problem with considering  
16 the idea of ordering someone to be killed?

17 A No.

18 MR. DUNLEAVY: Thank you. No further  
19 questions.

20 THE COURT: Pass for cause, Mr. Dunleavy? Do  
21 you pass this witness for cause -- I mean this juror for  
22 cause?

23 MR. DUNLEAVY: Yes, Your Honor.

24 THE COURT: Thank you.

6 1 MR. HARMON: I'll take the next one, Your  
2 Honor.

3 THE COURT: Okay. Mr. Harmon, you may  
4 inquire of Mr. Shrivastava.

5 (Whereupon, Prospective Juror  
6 97, KRISHNA SHRIVASTAVA, was  
7 examined as follows:)

8 EXAMINATION

9 BY MR. HARMON:

10 Q You are originally from India, sir?

11 A That's correct.

12 Q How long have you been in this country?

13 A I've been here about 23 years.

14 Q Was it about 33 years --

15 A Twenty three.

16 Q Twenty three.

17 Do you have any problem at all  
18 speaking and understanding the English language?

19 A Not -- not that I know of.

20 There might be a problem in  
21 understanding me, that could be my accent or it could be a  
22 hearing problem on the other side; but I understand English  
23 fully well.

24 Q Well, what caused you to come to this

6

1 country?

2 A I came here to do graduate work in urban  
3 planning and architecture.

4 Q Just out of curiosity, do they have capital  
5 punishment in India?

6 A They do, yes.

7 Q What are your feelings on that subject?  
8 Would you characterize yourself as someone who is for or  
9 against the death penalty?

10 A I wouldn't say I'm for or against. As long  
11 as the law gives it as an option, it's an option to be  
12 considered depending on the nature of the crime.

13 Q Do you realize, as the Court has already  
14 emphasised, that the Court has a duty to follow -- that the  
15 jury has a duty to follow the Court's instructions?

16 A That's correct.

17 Q It really would be various judges in this  
18 courtroom. Judge Bongiovanni is the judge of the law, and  
19 the jury will judge the facts.

20 A That's correct.

21 Q So if selected you wouldn't have any choice,  
22 you would be obligated at every phase of the trial to follow  
23 the Court's instructions. Will you do that?

24 A That's correct, I would.

7 1 Q Occasionally we encounter persons who find  
2 it very difficult once they're in the Jury box and faced  
3 with the responsibility, a person finds it extremely  
4 difficult to pass judgment on some other person.

5 I'm not suggesting that it's  
6 ever easy or pleasant; but the question is, sir, are you the  
7 type of person who will be able to make the difficult  
8 decisions required in this case?

9 A Well, I think both in passing a judgment in  
10 the case it's also making a decision based on the facts.

11 It's a question of whether I  
12 will be able to operate the week from the shop or not, and I  
13 think I would be I would be able to based on my background.

14 Q Like some of the other Jurors that you  
15 indicated that in your opinion life without parole is --  
16 would be the worse type of punishment.

17 A That's correct.

18 Q Are you telling us if you had the misfortune  
19 to be a person who was subjected to those punishments and if  
20 you could make a choice, that you would prefer death over a  
21 life sentence?

22 A Well, to take it down to this case, it would  
23 depend on the facts.

24 In a hypothetical situation,

7 1 okay, the look at the options.

2 Life without parole means you  
3 are there vegetating for your natural life. You got things  
4 to ponder about and there is nothing you can do about it.

5 Death is a finite conclusion of  
6 the issue, and you don't have to worry about it any more  
7 once the act takes place.

8 Life with parole possibility  
9 still gives you the option of coming back and either being  
10 rehabilitated or committing the same crime again.

11 With that perspective, I think  
12 life without parole is still the worse option from the  
13 persons being tried --

14 Q My question is: If you had the misfortune  
15 of having that as your option, would you choose death over  
16 life?

17 A If I had the option for myself and I was the  
18 criminal, I would probably go for death for myself and get  
19 it over with, because life without parole would not only be  
20 agonizing for me but would be agonizing for alot of other  
21 people.

22 Q As has been explained all this talk about  
23 punishment may be strictly an academic exercise that the  
24 jury does not convict the defendant of murder in the first

7 1 degree?

2 A That's correct.

3 Q It's only if that happens --

4 A That's correct.

5 Q -- that there would be a penalty phase.

6 The concern frankly of a  
7 prosecutor in this type of case is whenever a juror  
8 indicates that he or she believes life without parole is the  
9 worse punishment, is the question about whether that would  
10 translate then into a decision if the Juror felt that the  
11 worse punishment was called for. Would your view, for  
12 example, translate into a vote for life without as opposed  
13 to the death sentence?

14 A Not necessarily.

15 It would depend on the facts  
16 presented in the Court.

17 Q Had you heard anything at all about this  
18 case before you came to Court?

19 A No. I've been in town for about five years  
20 and I don't recall it, no.

21 Q So to this point you are completely open  
22 minded about this case?

23 A That's correct.

24 Q At this point you can consider equally the

7 1 three punishments?

2 A I could.

3 Q And you understand that any decision  
4 regarding guilty or not guilty must be based solely upon the  
5 evidence presented during the trial?

6 A That's correct too.

7 Q How do you feel about this opportunity being  
8 extended to you of being a Juror on this case?

9 A I think it's a good opportunity. To give  
10 you a parlin (sic) situation, a few years ago I was invited  
11 to join the project blueprint sponsored by United Way.

12 The way I addressed my boss at  
13 work on giving me that time off to do that was it gives me  
14 an opportunity to give back to the society that I have  
15 adopted.

16 Q So it's a responsibility you are willing to  
17 accept?

18 A Right.

19 MR. HARMON: Thank you. Pass for cause.

20 THE COURT: Mr. Wolfson?

21 MR. WOLFSON: Thank you

22

23 EXAMINATION

24 BY MR. WOLFSON:

Q Good morning, sir.

A Good morning,

Q Mr. Shrivastava, you said something a few moments ago that I wanted to ask you for an elaboration, if I could.

You said that you could make the difficult decisions based upon your background, I believe is the phrase you used.

A Right.

Q What background were you referring to, sir?

A Well, I -- I moved here about 24 -- 23 years ago. That was a big decision. When I came for graduate school and I had job offers here I had the option then of moving back to India, continuing with my private practice, then deciding to stay on, getting into management, where I've had to make decisions in hiring and firing, I've had to make decisions on executing projects, you cut away the facts, the pros and cons of an issue and come to a conclusion that you can live with.

And I think so far I've been pretty successful in what I've done, but I don't see any reason why I would tend to make a wrong decision in this case if I'm selected.

Q Thank you, sir.



1 Mr. Shrivastava, I've noticed  
2 that you have two daughters yourself, is that right?

3 A That's correct.

4 Q And they're relatively young, I believe  
5 about the ages of 12 and 10.

6 A That's correct.

7 Q I believe that you will probably hear from  
8 the parents or parent of one or both of the girls that were  
9 killed that are the subject of this case. And from my  
10 experience that's an emotional part of any murder case, when  
11 a parent testifies in the trial of an individual that's  
12 charged with killing their child.

13 A Uh-huh.

14 Q The girls in this case are just that, two  
15 girls. I believe older, of course, probably in their  
16 mid-20s, in that year when they met their death.

17 My question, sir, is you having  
18 two daughters yourself, do you think that you might be  
19 unjustly influenced -- or perhaps effected would be a better  
20 word because you yourself have two daughters?

21 A I don't think so.

22 I stated earlier, I think I  
23 will base my decisions on the facts presented, but that's  
24 all I've got to consider.

1 I've been in alot of situations  
2 where I had to look at things in an objective manner rather  
3 than a subjective manner.

4 Q They give you such small spaces to write on  
5 these questionnaires that even a good penman sometimes it's  
6 difficult to read. And I'm trying to read under  
7 occupational volunteer work, the name of your business, you  
8 put science --

9 A I put science applications, international  
10 corporation.

11 Q Could you tell me what that company does and  
12 what you do for that company.

13 A That company is, I believe, the second or  
14 the third largest employee-owned company in the technical  
15 area. We are heavily involved with defense department,  
16 D.O.E., NASA, and the Department of Navy and Army, a long  
17 range research, computer systems and those kind of things.

18 We are even involved here on  
19 the Yucca Mountain project as part of the management and  
20 operating contractor team.

21 My function is in the project  
22 controls area --

23 Q Project controls area?

24 A Controls area.

RENEE SILVAGGIO, CCR 122 391-0379

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Q Thank you.

You are a senior planner?

A That's correct.

Q If I were to ask you to describe what your day-to-day job is, I mean, what do you do, sir?

A Okay. Getting to the specific job, I support some elements of the project in terms of long range planning, under what work should be done and how do we execute it and all those kind of things, working with the technical people, looking at the budgets and their performance, measurement, those kind of things.

Q Is your employer a private company?

A It is a private company.

Q It contracts with the United States government?

A That's correct.

Q If I were to ask you how many employees that you have under your management, is that an appropriate question?

A It's an appropriate question. I don't have anyone under my management at this time.

I am working in the department that has about ten people.

Q I mean, are they your equals or do you

8 1 supervise them?

2 A They are equal; but with the seniority I've  
3 got and the experience I've got, you know, since I'm a more  
4 equal than others kind of a situation.

5 Q Do you have a security clearance because of  
6 this?

7 A No.

8 Q This trial may last two or three weeks, and,  
9 of course, if you are selected as a juror you would be  
10 required to come every day, of course, from about 10:00 to  
11 5:00 roughly.

12 Is that something that would be  
13 easy for you to accomplish with your employer?

14 A I already discussed it last night with my  
15 boss, and there seems to be no problem.

16 Things that I was doing I can  
17 delegate it or have someone else take care of it when I'm  
18 here. And if absolutely necessary I can go in in the  
19 morning and get some things done and, you know, give the  
20 direction to the right people to keep things moving.

9 21 Q I need to ask you a personal question, sir,  
22 and I guess we could say that all of these are personal, but  
23 this one is a little bit more than others.

24 Have you ever been

9

1 discriminated against because of your nationality?

2 A Well, I don't think so, but it's a question  
3 of -- it's a subject of issue.

4 You are discriminated against  
5 if you feel you have been discriminated against or if you  
6 can prove it. Okay? Depending on the level you look at, it  
7 would be a totally different situation.

8 But overall I don't think I've  
9 been discriminated against.

10 MR. WOLFSON: Okay. Thank you very much for  
11 your answers.

12 I will pass for cause.

13 THE COURT: Okay. Mr. Seaton? You may  
14 inquire of the -- Mr. Cock. This is number 99.

15 MR. HARMON: I'll do that one too, Your  
16 Honor.

17 THE COURT: Mr. Harmon.

18 Mr. Seaton had moved like he  
19 was going to get started.

20 MR. SEATON: I was going to write, Judge.

21  
22 (Whereupon, Prospective Juror  
23 99, MERLE COKE, was examined  
24 as follows:)

9

EXAMINATION

BY MR. HARMON:

Q Mr. Coke, how do you feel about the possibility of serving as a juror on this type of case?

A I just as soon not be here.

A I don't feel comfortable with it at all?

A The more I've thought about it the more I ain't comfortable with it.

Q Are you the type of person who is going to be able to pass judgment on the defendant, Mr. Rippo?

A Well, like the Judge asked yesterday, if you want 12 people with your attitude judging you, the more I thought about it, nope.

Q Why is your answer --

A I'm too hot headed --

Q Did you say too hot headed?

A Yeah. I don't -- I won't want 12 people like me judging me.

I mean, you asked me to be honest, you know, yesterday. You was talking about everybody says what they thought.

Q Did you know anything about this case before you came into the courtroom?

A No, sir. I had never heard of it before.

9 1 Q I assume that's still true, all you know is  
2 what we've explained to you here?

3 A Yeah, what you mentioned in the courtroom.

4 Q I don't suppose that any human being would  
5 ever be entirely comfortable when faced with responsibility  
6 we place upon jurors in a murder case.

7 Just accepting that as perhaps  
8 the attitude of most decent-minded persons, is it a  
9 responsibility you can accept and handle?

10 A Well, you want me to make a decision -- you  
11 are asking me now, and I don't even know all the facts, but  
12 I -- I believe in the death penalty. I'm not saying I don't  
13 believe that.

14 But I just don't feel  
15 comfortable with the role as a juror in this.

16 Q Why do you believe in the death penalty,  
17 sir?

18 A I believe there is people that don't deserve  
19 to be here, like Charles Manson and those type people.

20 Q Do you understand that potentially there are  
21 two phases to this trial?

22 A Yeah, I understood that part.

23 Q Do you feel you are the type of person who  
24 would be able to decide, based upon the evidence and the

9

1 Court's legal instructions, whether Mr. Rippo was guilty or  
2 not guilty of the crimes charged, could you make that  
3 decision?

4 A I don't know. That's part of my -- what  
5 I'm -- my problem is. I don't know if I could.

6 Q Well, naturally there are many variables  
7 involved, and I don't suppose we ever know for sure.

8 So it is difficult, but I would  
9 imagine you can understand our point of view.

10 A Oh, yeah, somebody has to do it.

11 Q It will be too late if we go through the  
12 entire evidence and you discover, in the jury deliberation  
13 room, that you cannot make a decision regarding guilt or  
14 innocence. So we really need to have your best opinion  
15 about what your frame of mind is now. Can you make that  
16 decision?

17 A I don't think so.

18 MR. HARMON: We'll challenge for cause, Your  
19 Honor.

20 MR. WOLFSON: No objection.

21 THE COURT: Thank you very much, Mr. Coke.  
22 You are excused.

23 PROSPECTIVE JUROR 99, MR. COKE: Thank you,  
24 sir.



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(Whereupon, the prospective juror was excused.)

THE COURT: The clerk may now call the next in line to take seat number six.

THE CLERK: Joe Martinez.

MR. SEATON: What number, please?

THE CLERK: 110.

THE COURT: Mr. Martinez, how are you today?

PROSPECTIVE JUROR 110, MR. MARTINEZ: I'm fine.

THE COURT: Have you been listening to all these questions yesterday and today?

PROSPECTIVE JUROR 110, MR. MARTINEZ: Yes, I have.

THE COURT: Okay. Do you have anything presently in your mind that -- any opinions on what we've been talking about that you feel we should know at this time?

PROSPECTIVE JUROR 110, MR. MARTINEZ: No.

THE COURT: Mr. Seaton, are you going to inquire of Mr. Martinez?

MR. SEATON: I think I am, Judge. Thank you.

THE COURT: Okay.

(Whereupon, Prospective Juror  
110, JOE MARTINEZ, was  
examined as follows:)

EXAMINATION

BY MR. SEATON:

Q Good morning, Mr. Martinez -- good  
afternoon, I guess.

A Good morning.

Q It just went into the afternoon.  
Sitting out here were you able  
to hear --

A Yes, I was.

Q -- yesterday and today all of the questions  
and answers?

A Yes.

Q Okay. Were you able to follow along pretty  
easily?

A Yes.

Q Okay. Did you have any difficulty with the  
things that Mr. Harmon and I have been talking about  
relative to the procedure that this trial will take, the  
fact that there are two parts to it?

A No.

Q And you understand the mitigating and

10

1       aggravating circumstances?

2               A       I think I do.

3               Q       Okay. Is that a system that you could work  
4       in, not have too much difficulty with?

5               A       Yes, I think I could.

6               Q       You were one of those individuals -- and  
7       there were quite a few -- who said that they thought life  
8       without the possibility of parole was worse than any of the  
9       other sentences.

10                               You've heard our discussions  
11       with other people about that. Can you fill us in as to how  
12       you feel about that?

13               A       Well, it's a -- it depends on the length of  
14       the sentence. A prison life with some people could be  
15       extremely difficult.

16                               Now, with the death penalty and  
17       lethal injection, it, you know, might -- who knows? I you  
18       just -- it was a hypothetical question, so I just --

19               Q       All right. Mr. Harmon asked the question  
20       interestingly to the last juror.

21                               If you found yourself in that  
22       situation where you were the individual who was going to get  
23       one of those penalties, which would be your preference to --  
24       to receive the death penalty or to live out the remainder of

10

1 your life in prison?

2 A I don't believe I could choose death. I  
3 would choose life without.

4 Q You would hang onto life?

5 A Yes, I believe I would.

6 Q Can you tell us how these thoughts of yours  
7 might translate in the event that you found yourself in the  
8 position where you were contemplating which one of the three  
9 penalties to give, and you thought it was a particularly bad  
10 crime that needed severe punishment, which would be the most  
11 severe punishment in your eyes?

12 A For a -- for murder, it would have to be  
13 death, I would -- I would believe.

14 Q Okay. All right.

15 You have had a couple of  
16 unfortunate situations in your life, as I read through your  
17 questionnaire.

18 In question 49 I believe you  
19 indicated that you have a son who is in prison.

20 A Yes, I do.

21 Q Do you know the charge?

22 A No, I don't.

23 Q Had you become estranged from your son?

24 A Yes.

10

1 Q So you are just aware that he's there, but  
2 you don't know why?

3 A Right.

4 Q Where is he in prison?

5 A He's in Texas Hondo?

6 THE REPORTER: Pardon me.

7 PROSPECTIVE JUROR 110, MR. MARTINEZ: Hondo,

8 H O N D O, Texas.

9 BY MR. SEATON:

10 Q How long ago was he put in prison?

11 A He's been in about five years now.

12 Q How old was he when he went there?

13 A He was about 19 at the time.

14 Q Have he been a particularly problematic  
15 child?

16 A No, he wasn't. He wasn't until he left my  
17 household, you know, right after he graduated from high  
18 school.

19 Q And then when the trial came about you did  
20 not attend --

21 A No, I did it.

22 Q -- I take it.

23 Were you living here and he was  
24 there?

10

1 A No. I was living in Texas at the time.

2 Q And you've not had any contact with him?

3 A No. He writes my wife, but that's about it.

4 Q Do you know what his sentence was?

5 A He should be getting out pretty soon, but I  
6 don't know the exact amount -- amount of time.

7 Q Do you know whether or not it was a crime  
8 anything similar to what we're here for today?

9 A No, no. It was a misdemeanor or maybe a  
10 light felony, but that was about it.

11 Q All right. Any part of that experience in  
12 your life that would affect you in any way in this trial?

13 A I don't believe that it would.

14 Q You wouldn't -- do you feel badly toward the  
15 Texas criminal justice system because they put your son in  
16 prison?

17 A Well, if I would have had some money, if I  
18 would have spent money on lawyers, he probably wouldn't have  
19 got, you know, any kind of time; but that's -- he -- he was  
20 probably -- did some wrong things, so I guess he deserved  
21 punishment.

22 Q So you don't harbor any grudges against the  
23 system?

24 A No, no.

10

1 Q You are not going to harbor any grudges  
2 against Mr. Harmon or myself?

3 A No.

4 Q Or the other side?

5 I mean, it may be lawyers --

6 A I don't believe that I wouldn't.

7 Q The lawyers didn't so a good enough job, you  
8 wouldn't hold it against these gentlemen?

9 A I don't think I would.

10 Q You also indicated in question 51 that your  
11 dad had been murdered.

12 A Yes, that's correct.

13 Q That was fairly recent, wasn't it?

14 A That was almost three years ago.

15 Q Was that a criminal act?

16 A Yes, it was.

17 Q Did they find the individual who committed  
18 that --

19 A Yes, they did.

20 Q Did they take him to trial?

21 A Yes.

22 Q Was he convicted?

23 A Yes.

24 Q Were you any part of that case at all?

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- 10  
11
- 1 A No, I wasn't. The State plea bargained with  
2 him. He never went to the actual jury trial.
- 3 Q He didn't get to this point?
- 4 A No.
- 5 Q You said with that plea bargain --
- 6 A Not really, no.
- 7 Q You didn't think he got treated strongly  
8 enough?
- 9 A Yes.
- 10 Q What sort of sentence did he get?
- 11 A I -- I really don't know for a fact, but I  
12 understand, because I had already left the State, I  
13 understand he got, like, ten years.
- 14 Q Did he plead guilty to a man slaughter or a  
15 murder or do you know?
- 16 A I couldn't tell you for sure.
- 17 Q But it was something less than what he was  
18 originally charged with?
- 19 A Right, I would say so.
- 20 Q And that was in Texas as well?
- 21 A Right.
- 22 Q Well, the same question about that, would it  
23 impact your presence here in any decisions that you might  
24 make in this trial?



11

1 A I don't think that it would.

2 Q Do you want to be here?

3 A I'm not overly enthusiastic about it, but --

4 Q I'm sure. No one is.

5 Do you mind being here?

6 A No. I -- somebody's duty. They've got to  
7 do it.

8 Q Do you feel you owe that particular kind of  
9 duty to the State?

10 A Yes. It's everyone's duty, I guess.

11 Q Your feelings about whether or not you want  
12 to be here aren't going to impact any decisions that you  
13 make here?

14 A No.

15 Q Three weeks, if that's what it is, give or  
16 take a few days, that's not going to bother you?

17 A No.

18 Q Do you believe in the death penalty?

19 A Yes.

20 Q Have you always?

21 A Yes.

22 Q Do you think it should be a part of our  
23 criminal justice system?

24 A Yes.