

11

1 A I just don't remember.

2 Q Do you know if paramedics or police or
3 anybody had been in there and moved anything?

4 A I wouldn't know that.

5 Q Were you there when the photograph was
6 taken?

7 A Oh, not in there, no.

8 Q In the apartment?

9 A No.

10 Q Do you have any idea if it was hours later
11 or minutes later?

12 A I wouldn't have any idea.

13 Q Were you fingerprinted?

14 A Yes, sir.

15 MR. DUNLEAVY: Court's indulgence just a
16 second.

17 THE COURT: Okay.

18 BY MR. DUNLEAVY:

19 Q Now, did the fingerprints -- or the police
20 specifically take your fingerprints on this case? Did they
21 come in and roll your prints or --

22 A It was quite a bit later when they did.

23 Q Are we talking days, weeks, months?

24 A I think weeks.

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1 Q Weeks?

2 A Weeks, at least weeks.

3 Q But you were contacted in relation to the
4 case and they took the prints?

5 A Yes.

6 Q You didn't make any effort to search the
7 room yourself, did you?

8 A No, sir.

9 Q Did you straighten anything up while you
10 were in there?

11 A No, sir.

12 Q Did you have to clear a path to walk in and
13 out or could you just walk?

14 A Just stepped over things, as far as I can
15 remember.

16 MR. DUNLEAVY: Court's indulgence just a
17 minute.

18
19 (Whereupon, a sotto voce at this time.)
20

21 MR. DUNLEAVY: I have no further questions,
22 Your Honor.

23 THE COURT: Redirect?

24 MR. HARMON: A few questions, Your Honor.

001072

Thank you.

REDIRECT EXAMINATION

BY MR. HARMON:

Q I missed your answer on cross, Mr. Hooper.

About how long the first time
were you in the apartment?

A Just a few minutes.

Q What does that mean?

A Less than five.

Q Less than five minutes?

A Yes, sir.

Q Can you tell us the approximate dimensions
of this studio apartment at 317?

MR. DUNLEAVY: Your Honor, could I ask him
to define that question? Are we talking overall, including
closet and bathroom, for example, or just one room?

BY MR. HARMON:

Q Overall, the dimensions, sir.

A Oh, it's -- I can't remember anymore.

(Whereupon, a sotto voce at this time.)

BY MR. HARMON:

Q Do you know just generally how many square

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1 feet it would have been?

2 A I think the square footage was, like, maybe
3 450, something like that. I don't know.

4 Q About 450 square feet?

5 A I believe so, yes.

6 Q You mentioned that, at some point after you
7 left, there was also a maintenance man in the apartment.

8 A Yes, sir.

9 Q Someone there besides Mac Holloway?

10 A Yes.

11 Q Do you recall the name of this person?

12 A Yes, I do.

13 Q What was the name of the maintenance man?

14 A John Ladocher (sic).

15 Q Will you --

16 MR. DUNLEAVY: I'm sorry, Your Honor. I
17 didn't get the last name again.

18 THE WITNESS: Ladocher.

19 THE COURT: Will you spell it?

20 THE WITNESS: No.

21 BY MR. HARMON:

22 Q But you are saying Ladocher?

23 A Right.

24 Q Do you have a recollection now of seeing

001074

12 1 this black Datsun of Lauri Jacobson's in the apartment
2 complex lot for a few days before you discovered her body?

3 A Well, I don't know -- I can't remember now
4 how long -- how many days I noticed it sitting there, but
5 that just --

6 Q Well, you were asked on cross-examination
7 about seeing some keys inside the car.

8 A Yes.

9 Q Do you have a memory of walking up close
10 enough to the vehicle to make that observation?

11 A Very vague memory; just --

12 Q But if you referred to keys in some other
13 report, are you talking about apartment keys or ignition
14 keys?

15 A All -- I -- I really don't know. I'm
16 just -- I think I'm probably just referring to, like,
17 ignition keys. I'm not really sure what, you know. It's
18 been a long time.

19 Q It is somewhat difficult to remember back to
20 February 1992; is that correct?

21 A Yes, sir.

22 Q Have you done your best, sir?

23 A Yes, I have.

24 MR. HARMON: Thank you.

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That's all, Your Honor.

THE COURT: Anything further?

MR. DUNLEAVY: Very briefly, Your Honor.

RE CROSS-EXAMINATION

BY MR. DUNLEAVY:

Q Your memory was a lot fresher when you testified before the Grand Jury, was it not?

A Yes, sir.

Q And when you used the word keys, plural, would that mean that in your recollection at that time, there was more than one key?

A I would suppose, yes. I --

Q Do you remember who asked you to get fingerprinted?

A No, I don't.

Q Detective Scholl or Detective Dibble or --

A I'm not really sure who it was.

Q No recollection?

A No.

Q Where did you go to get fingerprinted for this case?

A Somewhere right off Fremont Street. I'm not sure.

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1 Q They didn't come out and -- roll you there?

2 A No, I went there.

3 MR. DUNLEAVY: No further questions.

4 Your Honor.

5 MR. HARMON: No further, Judge.

6 THE COURT: Thank you, Mr. Hooper. You are
7 excused.

8 THE WITNESS: Okay.

9 (Whereupon, the witness
10 was excused.)

11 MR. SEATON: We'll call Darryl Johnson.

12 THE COURT: Okay.

13

14 Whereupon,

15 DARRYL JOHNSON

16 having been called as a witness by the Plaintiff and
17 having been first duly sworn to tell the truth, the
18 whole truth and nothing but the truth, was examined
19 and testified as follows:

20 THE CLERK: Thank you. Please be seated.

21 Will you state your name and
22 spell it for the record, please.

23 THE WITNESS: Officer Darryl Johnson;

24 D-a-r-r-y-l, J-o-h-n-s-o-n.

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12

DIRECT EXAMINATION

BY MR. SEATON:

Q Officer Johnson, how are you employed?

A I'm a police officer with the Las Vegas
Metro Police Department.

Q And how long have you been so employed?

A About seven and a half years now.

Q Were you working in that capacity in
February of 1992?

A Yes, I was.

Q At that time, what were your duties as a
police officer?

A I was a patrol officer.

Q What does that mean?

A I answer calls that are received by the
dispatch and I do kind of preliminary investigations on
crimes.

Q Did you have a partner at that time?

A Yes, I did.

Q And what was that person's name?

A Officer Gosler.

Q G-o-s-l-e-r?

A Correct.

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12

1 Q And how did the two of you get around? Did
2 you have a vehicle?

3 A Yes.

4 Q A police --

5 A It was a marked patrol vehicle.

6 Q Parked?

7 A Marked patrol vehicle.

8 Q Were you in uniform at that time when you
9 did that?

10 A Yes.

11 Q Calling your attention to February the 20th,
12 1992, were you on duty on that day?

13 A Yes, I was.

14 Q And were you with Officer Gosler?

15 A Yes.

16 Q And driving in a unit?

17 A Yes.

18 Q What shift did you work that day?

19 A Day shift.

20 Q Was -- I'm sorry.

21 A It was from 7:45 to 5:45 in the evening.

22 Q Was there a particular area of town in which
23 you worked?

24 A Yes.

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1 Q Tell us what that was.

2 A It was called the Strip area. It was
3 basically between Maryland Parkway, the railroad tracks to
4 the west, and Sahara to the north and the airport to the
5 south.

6 Q Are you familiar with Cambridge Street?

7 A Yes.

8 Q Is it encompassed in that area?

9 A Yes, it is.

10 Q Did there come a time that morning, around
11 ten o'clock in the morning, when you were called by your
12 dispatch?

13 A Yes.

14 Q And did they tell you that there was a place
15 you had to go?

16 A Yes.

17 Q Where did they say?

18 A 3600 South Cambridge, Apartment 317.

19 Q Did you go there?

20 A Yes, I did.

21 Q Do you know for sure today that that was the
22 actual address, the 3600?

23 A I'm pretty sure that's it.

24 Q What time of the day did you get there?

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13

1 A Approximately ten a.m.

2 Q Did you and Officer Gosler meet with any
3 people?

4 A Yes, I did.

5 Q With whom did you meet, do you recall?

6 A A maintenance man -- or -- it was either a
7 maintenance man, security guard and the manager of the
8 apartment complex.

9 Q Did you recognize the individual who walked
10 out of the courtroom just now?

11 A Not, not really.

12 Q But you met with a maintenance man and the
13 manager as well?

14 A Yes, sir. It was two people that I met
15 with.

16 Q Were they both male?

17 A Yes.

18 Q Did you ask them what had occurred?

19 A Yes.

20 Q And did they tell you?

21 A Yes.

22 Q As a result of the conversations that you
23 had with them, did you go to a particular apartment number?

24 A Yes.

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13

1 Q Let me show you, if I can, what has been
2 marked as State's Exhibit Number 5.

3 Do you recognize that
4 particular building?

5 A Yes, I do.

6 Q And what is it?

7 A It's the Katie Arms apartment building.

8 Q Is that where you responded on February the
9 20th, 1992?

10 A Yes.

11 Q And you see that there is a door circled
12 there?

13 A Yes.

14 Q Is that the door of the apartment to which
15 you went?

16 A Yes.

17 Q Okay. Thank you.

18 When -- did you go there with
19 Officer Gosler?

20 A Yes, I did.

21 Q And did you make entry into the apartment?

22 A Yes.

23 Q Was it already open or did someone have to
24 use a key?

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13

1 A I think the manager had to use a key.

2 Q And when you went inside, were there any
3 living people who were in the apartment who had been there
4 before?

5 A No.

6 Q When you went inside the apartment, describe
7 what the apartment looked like as you came in.

8 A It was a studio-type apartment, no bedrooms.
9 I think it had two sort of twin beds or couch type bed, and
10 there was a kitchen area to the left; and as you walked
11 through the apartment, the bathroom was in the back on the
12 left and the closet was on the right, to the rear.

13 Q Did you look through those areas of the
14 apartment, which you have just described, to see if there
15 were any other people in there?

16 A Yes.

17 Q And --

18 A I didn't go into the bathroom. Officer
19 Gosler went into the bathroom to look to make sure no one
20 was in there.

21 But the both of us did go into the rear
22 of the apartment.

23 Q And is that where the closet that you
24 mentioned is located?

001083

1 A Yes, it is.

2 Q Did you see anything in that closet?

3 A Yes.

4 Q What did you see in there?

5 A Two females that appeared to be deceased,

6 laying on the ground.

7 Q I'd now like to show you State's Exhibit

8 19 -- 19, and ask if you can identify that photograph?

9 A Yes, I can.

10 Q Tell us what it is, please.

11 A It appears to have two females lying on the

12 ground in the closet area.

13 Q Are those the two females that you had

14 mentioned earlier which you saw in Apartment 317 --

15 A Yes.

16 Q -- on February the 20th, 1992?

17 A Yes.

18 Q The photograph, as you see it now, to the

19 best of your recollection, is that the way you observed

20 things when you walked into the apartment?

21 A Yes, it is.

22 Q When you went into the apartment -- as a

23 police officer, have you been trained as to how to handle a

24 crime scene such as this, in terms of touching things?

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1 A Yes.

2 Q What is that training? Tell us in a
3 shorthand language.

4 A Basically we shouldn't touch anything unless
5 we have to.

6 Q And how did you react on this particular
7 day, with that in mind?

8 A After we saw that there was no one else in
9 the apartment, we didn't touch anything -- well, I didn't
10 touch anything.

11 Q All right. Did you see Officer Gosler touch
12 anything?

13 A No, I didn't.

14 Q When you saw what is shown in State's
15 proposed -- or State's Exhibit 19, did you call anyone else
16 to the scene?

17 A Yes, I did.

18 Q Who did you call?

19 A Well, I notified the supervisor and I also
20 had dispatch notify the homicide section, the detectives, to
21 respond to the scene.

22 Q And did they ultimately respond to the
23 scene?

24 A Yes, they did.

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1 Q More Metro police officers and the homicide
2 detectives?

3 A Yes.

4 Q How about anyone from Mercy Ambulance or a
5 place like that, did anyone like that arrive?

6 A Yes.

7 Q When, in relationship to these other people
8 arriving, did they get there?

9 A They arrived, I think, shortly after we did.

10 Q Before any other police officers got there?

11 A Yes.

12 Q And how many individuals came into the
13 apartment from Mercy Ambulance?

14 A One.

15 Q Did you see -- were you in there when that
16 happened?

17 A Yes.

18 Q Did you see where that person went?

19 A Yes, I did.

20 Q And where did they go?

21 A They went into the closet area.

22 Q Did you see them touch anything other than
23 walking through to get to the closet area?

24 A No, I did not.

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14

1 Q What did they do? What did that paramedic
2 do once in the closet area?

3 A He checked the bodies.

4 Q Did he move them at all?

5 A No.

6 Q Did he change the po- --

7 A He did not -- I'm sorry.

8 Q -- the position of the bodies at all as they
9 are shown in Exhibit 19?

10 MR. DUNLEAVY: Your Honor, I'd object. He
11 hasn't laid a foundation that this officer was in the
12 position to see what the --

13 THE COURT: Sustained.

14 BY MR. HARMON:

15 Q Were you in a position to see what this
16 particular Mercy Ambulance individual was doing?

17 A Yes, I was.

18 Q You were standing in a position to see what
19 is depicted in State's Exhibit Number 19?

20 A Yes.

21 Q And in terms of what that individual did
22 with the bodies, tell us to the best of your ability.

23 A He -- I'm not sure what areas of the bodies
24 he touched exactly, but to the best of my recollection, he

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14

1 checked for maybe a pulse or any signs that someone would be
2 living.

3 Q We see -- let me show you the picture again.

4 We see in the photograph that
5 the arms and legs are in particular positions and --
6 relative to each other.

7 Did he do anything to change
8 those positions?

9 A Not that I recall.

10 Q All right. So this picture is similar to
11 the way you first saw the bodies when you went into the
12 apartment?

13 A Yes.

14 Q While you were there and able to observe,
15 did other officers come into the apartment?

16 A Yes.

17 Q I suppose I should finish with the paramedic
18 first, or the Mercy Ambulance individual.

19 Did that person leave?

20 A Yes.

21 Q Okay. Leaving the bodies as they were?

22 A Yes.

23 Q All right. After that person left, then my
24 question applies: Did you see other police officers come

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14

1 into the apartment?

2 A Yes, I did.

3 Q Did you take particular note to watch them

4 to see whether or not anyone touched or moved anything

5 inappropriately?

6 A Yes.

7 Q Did you see any such touching or moving?

8 A No.

9 Q Okay. And did the homicide detectives

10 eventually arrive?

11 A Yes, they did.

12 Q And once they arrived, what happened -- what

13 did you do at that time?

14 A I just basically stayed outside the

15 apartment for a brief time.

16 Q When the homicide detectives in -- you had

17 mentioned earlier in your duties, you make preliminary

18 investigations of crime scenes, if called upon.

19 A Yes.

20 Q Is that correct?

21 A Yes.

22 Q Is that what you were doing in this

23 particular situation?

24 A Yes.

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14

1 Q And once the homicide detectives arrive, do
2 your duties then, in terms of preliminary investigation,
3 end?

4 A Yes.

5 Q And did they end on this particular date?

6 A Yes, they did.

7 Q To your knowledge then, of all the things
8 you saw, from the time you arrived until the time the
9 homicide detectives arrived, was anyone in the apartment
10 moving or touching things inappropriately?

11 A No.

12 MR. SEATON: Thank you very much.

13 Cross the witness.

14 THE COURT: Cross-examination?

15

16 CROSS-EXAMINATION

17 BY MR. WOLFSON:

18 Q Are you aware one of your fellow police
19 officer's fingerprints was found inside the closet?

20 A Yes.

21 Q So your efforts at preserving the crime
22 scene weren't very good, were they?

23 MR. SEATON: Well, I object to that
24 characterization. He can ask him whether they were

001090

1 successful or not, but --

2 THE COURT: One at a time.

3 MR. SEATON: I'm still talking.

4 THE COURT: Rephrase your question, Mr.

5 Wolfson.

6 BY MR. WOLFSON:

7 Q Were you successful at preserving the crime
8 scene, recognizing that one of your fellow officer's
9 fingerprints was within feet of these bodies?

10 A I would say yes.

11 Q Officer Johnson, how long have you been with
12 the Las Vegas Metropolitan Police Department?

13 A Seven and a half years.

14 Q So back in 1992, it would have been about
15 three and a half years?

16 A Correct.

17 Q And you were part of a training unit on
18 February 24th, 1992?

19 A Yes.

20 Q What was the duties of your training unit?
21 I mean, what do we mean by training unit?

22 A I was a field training officer. I trained
23 individuals after they completed their time in the police
24 academy.

001091

14 1 It's an 18-week period that
2 they ride with field training officers and be -- and they
3 get evaluated during that time.

4 Q Police officers have locations of the city
5 that they patrol in, do they not?

6 A Yes.

15 7 Q And back in February of 1992, did you have a
8 particular location or beat on your day -- on your shift
9 that day?

10 A Yes.

11 Q Did it have a name to it?

12 A Yes.

13 Q What was the name of it?

14 A Two Nora 34; N as in Nancy.

15 Q Two Nora 34?

16 A Correct.

17 Q And the approximate square mileage, if
18 that's the best way to estimate the size of that beat?

19 A In square miles?

20 Q Or maybe it's easier if you put a street on
21 the north, south, east and west boundaries.

22 A Okay. Flamingo to the north, Maryland
23 Parkway to the east, I-15 -- well, the railroad tracks and
24 I-15 are kind of interchanges to the west, and the airport

001092

1 area. Well, actually, it would be just north of the airport
2 area.

3 Q Thank you.

4 How long had you been an
5 officer in that beat?

6 A At that time?

7 Q Yes.

8 A Approximately a little bit over a year.

9 Q Would you say that you were pretty familiar
10 with that general area?

11 A Yes.

12 Q I mean, forgive me if I'm wrong, but you
13 worked four days a week, every week for a year, you become
14 pretty familiar with the area you are working, do you not?

15 A Yes.

16 Q Had you, during that year, every responded
17 to the Katie Arms Apartments for other calls?

18 A Yes.

19 Q Would you please describe the type of
20 apartment building or complex that the Katie Arms Apartments
21 was?

22 A As far as what type of calls I would respond
23 to?

24 Q Fair enough.

001093

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1 A A variety of different types of calls;
2 anywhere from domestic violence type calls, general
3 disturbance type calls. That apartment complex was probably
4 no different than any other one in that area. It was a
5 variety of calls.

6 Q A lot of calls involving drugs or controlled
7 substances?

8 A Yeah, I responded to those type calls.

9 Q Would you say that those types of calls were
10 more common for that apartment complex than others in other
11 areas of the city?

12 MR. HARMON: They had a unique feature of
13 them. Maybe that's a better way of asking the question.

14 THE WITNESS: I -- there are apartment
15 complexes that probably have less narcotics type calls than
16 that one, yes.

17 BY MR. WOLFSON:

18 Q Are you aware of the type of rental
19 arrangements people have when they stay at the Katie Arms
20 Apartments? And I'm, of course, asking you about February
21 of '92.

22 A Right. Honestly I can't remember if that
23 was a daily, weekly or not, or if it was a monthly rental.

24 Q I think we've already heard evidence that it

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15

1 was common for residents to have weekly rentals --

2 A Okay.

3 Q -- at the Katie Arms Apartments.

4 Does that sound accurate?

5 A For that area, yes.

6 Q Were many of the tenants transient in nature
7 that would stay at the Katie Arms Apartments?

8 A Yes.

9 Q Now, at about ten a.m. on February 24th,
10 when you arrived, you weren't the first officer on the
11 scene, were you?

12 A Yes, I was. I arrived simultaneously with
13 another officer.

14 Q I have the advantage of having your
15 officer's report; and obviously your memory was probably
16 better that day than it is today; isn't that a fair
17 statement?

18 A Probably.

19 Q And I'm not trying to trick you, but I will
20 submit to you that at the bottom of the second paragraph,
21 you state that Officer Flenner had told dispatch that he had
22 already arrived on the scene.

23 Does that sound familiar?

24 A You'd have to read more to it than that in

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1 order for me to give you an answer.

2 Q If I showed you your report, would it help
3 refresh your memory as to what you put regarding who may
4 have arrived first?

5 A Yes.

6 MR. WOLFSON: May I approach?

7 THE COURT: You may.

8 MR. WOLFSON: I'm directing your attention
9 to the second paragraph.

10 Counsel, you know what report
11 I'm talking about, don't you?

12 MR. SEATON: Yes.

13 BY MR. WOLFSON:

14 Q Do you remember what you put in your report?

15 A Yes.

16 Q Is it not true that you had stated in your
17 report, I believe as I understand the wording, that Officer
18 Flenner had informed dispatch that he had already arrived on
19 the scene?

20 A He arrived -- by arriving on the scene, he
21 arrived in the area, I would say.

22 Q Very good. Thank you.

23 Q And why did you go to that call? What were
24 you told by dispatch as to why you should respond to that

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1 scene?

2 A Could you repeat the question, please?

3 Q Why did you respond to the Katie Arms
4 apartment? What were you told by your dispatch, Officer?5 A Well, number one, the call came out very
6 suspicious and I was just right down the street, so I was
7 closer to the other unit that was dispatched; and also it
8 was good training for my trainee in the car with me.

16

9 Q So when you arrived at that location, the
10 only thing you knew was that somebody had given somebody
11 information that something was suspicious?

12 A Yes.

13 Q You didn't know it was a homicide?

14 A Well, I knew that there were two bodies that
15 were found in the closet.16 Q You knew that before you arrived at the
17 scene?

18 A Yes. That was given in the call.

19 Q Okay. Okay. So the call came over as being
20 suspicious, but you also knew, when you arrived, that
21 somebody had reported the two bodies were found in a closet?

22 A Yes.

23 Q Okay. Can you tell us who went in the
24 apartment first and who followed after that?

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16

1 A I think it was Officer Gosler went in first,
2 then myself, then Officer Flenner.

3 Q And did you proceed in that simultaneous
4 fashion; in other words, one after another, within a few
5 moments of each other, is my question.

6 A Yes, all three of us went in at the same
7 time.

8 Q And who discovered the bodies in the closet
9 first?

10 A It would have to be -- Officer Gosler would
11 have had to have seen the bodies first, but we were within a
12 foot of each other as we went into the apartment.

13 Q Okay. So very shortly thereafter, all three
14 of you realized you had a potential homicide, did you not?

15 A Yes. Well, not as soon as we saw the
16 bodies. I mean, we looked, and then, after seeing what we
17 saw, then, yes.

18 Q Then you probably approached them a little
19 closer to get a good view; would that be a fair
20 representation?

21 A I didn't.

22 Q Who did?

23 A Officer Gosler didn't.

24 Q Did or did not?

001098

1 A Did not.

2 Q Well, how close did you get, sir?

3 A In the area that is in front of the

4 bedroom -- I mean, not the bedroom, but in front of the

5 bathroom, but where you can see down into the closet area.

6 Q If I were to ask you to estimate how many

7 feet you were within the girls, what would you say?

8 A Probably -- I don't know, three feet, maybe.

9 Q There was no movement on the part of the

10 girls?

11 A Right.

12 Q That's a question.

13 A No.

14 Q Did you see any movement on the part of the

15 girls?

16 A No.

17 Q Did you form an opinion whether or not they

18 were dead or alive at that moment, after you took a few

19 moments to reflect on what you saw?

20 A I -- I thought that they were.

21 Q Okay. Now, you have received certain

22 training in crime scene preservation, have you not?

23 A Yes.

24 Q Tell the jury what type of training you

001093

16

1 received in the preservation of crime scenes.

2 A Well, we received some type of training in
3 the academy. I can't recall how many hours it is. But
4 generally, in a situation like that, once you find a scene
5 which you think is a homicide, it's best to secure the scene
6 and then call the detectives out and turn the crime scene
7 over to the detectives.

8 Q So you received training in the academy,
9 which it was about three and a half years before this
10 date --

11 A Yes.

12 Q Did you ever have any subsequent training
13 during your three and a half years, attend courses or go to
14 academies out of state or anything of that nature during
15 this three and a half years?

16 A I've had training since -- I've had training
17 since the academy, but I can't really tell you if it was
18 prior to this incident or not.

19 Q And what do you recall as to what you were
20 trained as to why you preserve crime scenes? What is the
21 purpose of that?

22 A You wouldn't want to destroy any evidence
23 that's on a crime scene.

24 Q And why do you not want to destroy evidence

001100

1 that's on a crime scene?

2 A You want to catch the person that
3 perpetrated the crime.

4 Q Okay. Would it be fair to say that when a
5 person is brought to trial, the best possible preservation
6 of evidence occurs for the protection of the State's
7 interest, as well as the charged defendant?

8 A Yes.

9 Q Okay. What steps did you take to preserve
10 that crime scene?

11 A We taped off the --

12 Q Sir, what steps did you take to preserve the
13 crime scene; not what we did, what did you do?

14 A Well, I made sure my trainee stayed outside.

15 Q Your trainee?

16 A Yes.

17 Q Okay. What was his name?

18 A Gosler.

19 Q Okay. But Gosler had already gone in; is
20 that right?

21 A That's correct.

22 Q So are you telling us that you then
23 requested that he step outside?

24 A Yes; and I gave him some duties to do.

001101

MRIPPO-07058-R0800913

16 1 Q Okay. And all of those duties, I assume,
2 were outside the apartment?

3 A Yes.

4 Q Okay. What else did you do?

5 A After that happened?

6 Q What else did you do to take steps to
7 preserve this crime scene?

8 A I made sure -- while I was inside the
9 apartment, I made sure nothing else was touched.

10 Q By whom?

11 A By anybody.

12 Q Were you the senior officer at the scene?

13 A When I initially arrived, yes.

14 Q Between you and the other two, were you the
15 senior officer?

16 A Yes.

17 Q Now, isn't it true that there were actually,
18 at some point in time, six patrol officers that had entered
19 the apartment before homicide, before Mercy?

20 A I -- I don't think six people entered before
21 Mercy arrived, no.

22 Q Officer, it's spelled S-m-y-t-h -- I don't
23 know if that's Smith or Smyth.

24 A Smyth.

001102

17

1 Q Did Officer Smyth enter the apartment?

2 A Yes, she did.

3 Q And did she enter the area where the closet
4 was, where the bodies were found?

5 A Not to my -- no.

6 Q Not to your knowledge?

7 A Both; she didn't.

8 Q Were you present during the entire time that
9 Officer Smyth was inside the apartment?

10 A Yes.

11 Q And you are telling us that she never
12 entered the closet area?

13 A If you are asking me did she go in where the
14 bodies were, no, she didn't.

15 Q But she entered the apartment at least,
16 isn't that true?

17 A Yes.

18 Q And so did Officer Clark?

19 A Yes.

20 Q And so did Officer Morales?

21 A Yes.

22 Q And isn't it true that Officer Morales and
23 Clark went over to where the girls were in the closet area
24 and looked at the bodies?

001103

17

1 A They were in front of the closet.

2 Q Did they look at the bodies, sir?

3 A Yes.

4 Q You put that in your report, didn't you?

5 A That they looked at the bodies, yes.

6 Q I count that up as six officers that entered
7 that apartment: Officers Clark, Flenner, Morales, Smyth,
8 Gosler and yourself.

9 Does that sound like a fair
10 representation?

11 A Yes.

12

13 (Whereupon, a sotto voce at
14 this time.)

BY MR. WOLFSON:

15 Q Isn't it true that you gave permission to
16 Officer Smyth to go up and take a look at the bodies --

17 A Yes.

18 Q -- or to go into the apartment?

19 So there were six officers that
20 were within just a few feet of the bodies; isn't that true?

21 A I'll say at least five. I -- I don't know
22 if Officer Morales -- I can't recall if he did or not.

23 Q I want to show you what's been admitted as
24 State's Exhibit 19 and ask you to take a look at that

001104

17

1 photograph.

2 And you've seen that
3 photograph, haven't you?

4 A Yes, I have.

5 Q Would it be fair to say that that is a
6 photograph looking at the girls, into the closet?

7 A Yes.

8 Q So there is a threshold there where one of
9 the girls is lying, isn't that true?

10 A Yes.

11 Q Do you know what I mean by threshold?

12 A Yes.

13 Q What do we mean by threshold?

14 A Well, the -- there is, like, a di- -- a
15 dividing -- dividing the closet from this area where the
16 the --

17 Q A door jamb?

18 A Yeah.

19 Q Is that a fair way to put it?

20 A Yeah.

21 Q Where the door jamb separates the interior
22 of the closet from the hallway; is that a good explanation?

23 A I don't know if I would call it a hallway,
24 but it's -- it separates that area in between the closet and

001105

MRIPPO-07058-R0000917

17

1 the bathroom.

2 Q Okay. To your knowledge, how many of the
3 six officers that entered this apartment crossed -- crossed
4 the threshold and entered the interior of the closet?

5 A One.

6 Q And who is that?

7 A Officer Flenner.

8 Q Flenner?

9 A Yes.

10 Q Did you?

11 A No.

12 Q Thank you.

13 Would it be fair to say that
14 the area surrounding where the girls were found, meaning the
15 interior of the closet and the area just outside, would be a
16 primary area for crime scene preservation?

17 A Yes.

18 Q Have you ever had any training in the
19 gathering of physical evidence at a crime scene?

20 A Yes.

21 Q What type of training?

22 A Very basic training while I was in the
23 academy.

24 Q And would this be so that you, as a police

001106

17

1 officer who goes to a crime scene, would generally be aware
2 of what the crime lab people do when they come to a scene?

3 A Generally speaking, yes.

4 Q So that you can assist them -- in other
5 words, if you know what their job is in gathering the
6 evidence, would it be fair to say that that aids you in your
7 process of preserving the crime scene?

8 A Yes.

9 Q What is the yellow tape called that we see
10 on television that cordons off areas where crimes occur?
11 You've got to have a fancy name.

12 A I'm not --

13 Q Yellow tape?

14 A Yellow tape is all they call it, police
15 tape.

16 Q Okay. Does it --

17 A Yellow tape.

18 Q Does it have wording on it?

19 A Yes.

20 Q Okay. Do you carry that in your vehicle?

21 A Yes.

22 Q Is that part of your job in crime scene
23 preservation to cordon off crime scene areas?

24 A Yes.

001107

MR:ppo-07058-R0900919

17

1 Q Of course, we're talking about back in
2 February of '92?

3 A Yes.

4 Q Did you have any of that yellow crime scene
5 tape in your possession in February of 1992?

6 A I think we did.

7 Q Okay.

8 A I'm pretty sure.

9 Q Would it have been standard for you to have
10 had that in your car?

11 A Yes, they come in all vehicles.

18

12 Q Showing you what's been marked as State's
13 Exhibit Number 5.

14 Do you see any of that yellow
15 tape in that photograph?

16 A Yes.

17 Q Where is it in that photograph; and would
18 you tell the jury which photograph we're looking at just
19 generally.

20 A I'm looking at a photograph that shows the
21 west side of the apartment building, showing Apartment 317
22 and the apartments on the west side.

23 MR. WOLFSON: With the Court's permission --
24 I believe the jury has already seen this photograph.

001108

18

1 Could the officer just hold it
2 up so they will see what photographs he's talking about.

3 THE COURT: Hold it towards the jury.

4 THE WITNESS: (Complies.)

5 MR. WOLFSON: Thank you, Officer.

6 BY MR. WOLFSON:

7 Q Did you place that yellow tape at this crime
8 scene?

9 A I don't recall if I did or not.

10 Q Okay. Do you recall --

11 A I don't think I did.

12 Q You do or do not?

13 A I don't think I did.

14 Q Okay. Officer, do you recall whether or not
15 any of this yellow tape was placed on the interior of the
16 apartment?

17 A No.

18 Q You don't recall or it wasn't?

19 A It wasn't.

20 Q All right. So somebody had the foresight to
21 make a determination to cordon off the general area of the
22 apartment unit, and that's exhibited by this picture?
23 (Indicating) Is that right?

24 A Yes.

001109

18

1 Q But you don't recall whether or not somebody
2 cordoned off the area where the murders took place?

3 (Indicating)

4 A No one put yellow tape there, no.

5 Q Officer, were you there when the crime lab
6 arrived?

7 A Yes.

8 Q What's the purpose of a crime lab?

9 MR. SEATON: Judge, I'm going to object to
10 that. We've got criminalists coming in. They can tell
11 that. This man is a patrolman, not a crime lab --

12 THE COURT: Well, if he knows, he can
13 answer.

14 THE WITNESS: To gather evidence.

15 BY MR. WOLFSON:

16 Q And did you see any crime lab people gather
17 evidence while you were there?

18 A No.

19 Q Did you see crime lab personnel there?

20 A Yes.

21 Q Were you not in the apartment so you could
22 not see and that's why you didn't see them gather evidence?
23 Were you outside?

24 A I was outside.

001110

18

1 Q How long were you at the crime scene?

2 A Probably at least an hour. I don't know
3 exactly; can't recall.

4 MR. WOLFSON: Court's indulgence.

5 (Whereupon, a sotto voce at
6 this time.)

6 MR. WOLFSON: That concludes my

7 cross-examination, Judge.

8 MR. SEATON: No redirect.

9 THE COURT: Thank you, sir.

10 Officer Johnson, you are
11 excused.

12 (Whereupon, the witness
13 was excused.)

14 MR. SEATON: Call Carrie Burns.

15 THE CLERK: Right up here, please.

16 Please remain standing and
17 raise your right-hand.

18

19 Whereupon,

20

CARRIE BURNS

21 having been called as a witness by the Plaintiff and
22 having been first duly sworn to tell the truth, the
23 whole truth and nothing but the truth, was examined
24 and testified as follows:

001114

1 Q How long were you at the crime scene?

2 A Probably at least an hour. I don't know
3 exactly; can't recall.

4 MR. WOLFSON: Court's indulgence.

5 (Whereupon, a sotto voce at
6 this time.)

7 MR. WOLFSON: That concludes my
8 cross-examination, Judge.

9 MR. SEATON: No redirect.

10 THE COURT: Thank you, sir.
11 Officer Johnson, you are
12 excused.

13 (Whereupon, the witness
14 was excused.)

15 MR. SEATON: Call Carrie Burns.

16 THE CLERK: Right up here, please.

17 Please remain standing and
18 raise your right-hand.

19 Whereupon,
20

CARRIE BURNS

21 having been called as a witness by the Plaintiff and
22 having been first duly sworn to tell the truth, the
23 whole truth and nothing but the truth, was examined
24 and testified as follows:

001112

1

2

THE CLERK: Please be seated.

3

4

Will you state your name and
spell it for the record, please.

5

6

THE WITNESS: Carrie Burns; C-a-r-r-i-e,
B-u-r-n-s.

7

THE CLERK: Thank you.

8

9

10

11

12

DIRECT EXAMINATION

13

BY MR. SEATON:

14

Q Are you preparing to leave the country?

15

A Yeah.

16

Q When do you leave?

17

A Monday.

18

Q Where are you going?

19

A Germany.

20

Q Do you know an individual by the name of

21

Diana Hunt?

22

A Yes.

23

Q How is Diana Hunt related to you, if at

24

all?

001113

1 FROM THE AUDIENCE: No, sir.

2 THE COURT: Okay.

3 BY MR. SEATON:

4 Q Did there come a period of time in the late
5 afternoon or early evening when Diana Hunt came to that
6 residence?

7 A Yes.

8 Q Do you remember what time of the day on
9 Teresa's birthday, February 19th, 1992, it was?

10 A It was in the afternoon, early evening.

11 Q Did she come there with anybody else?

12 A No.

13 Q Do you know how she came there and in what
14 sort of a vehicle?

15 A No.

16 Q Who was in the house?

17 A I believe just Tom Christos, Teresa and I.

18 Q Did anyone leave the house after Diana had
19 gotten there?

20 A Teresa and Diana.

21 Q How long a period of time was it from the
22 time that Diana got there until they left?

23 A I'm not sure; maybe an hour.

24 Q Do you know where they were going?

001114

1 A They were going shopping to get Teresa a
2 birthday present.

3 Q And did they, in fact, leave?

4 A Yes.

5 Q Let me take you to the next day, February
6 the 20th -- well, let me ask you this: During the rest of
7 that late afternoon, evening and into the nighttime hours,
8 until the next day, did you see Teresa Perillo?

9 A No, huh-uh.

10 Q She was gone from the house the entire time?

11 A Yeah.

12 Q Did you stay there that entire time at the
13 house?

14 A Yeah.

15 Q Did there come a time, after noon of the
16 next day, when you saw either Diana Hunt or Teresa --

17 MR. DUNLEAVY: Your Honor, I'm going to
18 object to the leading nature. He's telling her what time,
19 what day. We can ask and see what the witness knows, but
20 it's improper for the D.A. to tell them what time and days.

21 THE COURT: Sustained. Rephrase, please.

22 MR. SEATON: But I do want to take her to
23 the next day.

24 THE COURT: That's fine.

001115

19

1 BY MR. SEATON:

2 Q On the next day, February the 20th, 1992, did
3 you have an occasion to see Diana Hunt?

4 A Yes.

5 Q And what time of the day was that?

6 A Um, I think it was in the afternoon.

7 Q All right. Was she by herself?

8 A Yes.

9 Q Did she do anything when she came to the
10 house?

11 A Yeah, she came to get clothes -- clothes for
12 Teresa.

13 Q Did she get some clothes for Teresa?

14 A Yeah.

15 Q How did she go about doing that?

16 A She packed a suitcase for her.

17 Q Did she take that suitcase and leave?

18 A Yeah.

19 Q Did you see that day the car that she was
20 in?

21 A Yeah.

22 Q Can you tell us what that car looked like?

23 A It was a red sports car.

24 Q A red sports car?

001116

1 While she was there, was there
2 any problem, any problems that arose at all?

3 A No.

4 MR. SEATON: Court's indulgence, please.

5 THE COURT: Okay.

6 BY MR. SEATON:

7 Q I'm showing you what has been marked for
8 purposes of identification as State's Proposed Exhibits 64
9 and 65.

10 Do you want to take those?
11 Looking at those two
12 photographs, can you tell us if that automobile appears to
13 be familiar to you at all?

14 A It looks like the one she came in, except
15 for the fender.

16 Q What do you mean except for the fender?

17 A The fender wasn't primered -- I'm sorry.
18 The fender wasn't primered. I mean, if it's the same car.

19 Q You are pointing to the photograph which is
20 designated proposed 64 when you were making the comment.

21 Do you see something about that
22 fender that you referred to that is different?

23 A The car she came in was all red.

24 Q And how is this picture different from that?

001117

1 A It's got a primered fender.

2 Q Okay. In terms of color, shape, size, make,
3 does this appear to be a car similar to the one you saw
4 her -- when we speak of her, are we talking about Diana
5 Hunt?

6 A Yes, sir.

7 Q -- that you saw Diana Hunt come to your
8 house in after noon on February the 20th, 1992?

9 A Yes, sir.

10 Q All right. Thank you.

11 And when she left with the
12 suitcase of clothes, did she leave in that automobile, the
13 one shown in 64 and 65?

14 MR. DUNLEAVY: Objection, Your Honor. She
15 hasn't testified that that was the car, only that it's one
16 similar.

17 MR. HARMON: I'll rephrase.

18 THE COURT: Rephrase, please.

19 BY MR. SEATON:

20 Q Did she leave in the car that you saw that
21 was similar to the car that you just identified in 64 and
22 65?

23 A Yes, sir.

24 Q You were spending a good deal of time with

001118

1 Diana Hunt at that time?

2 A No, sir.

3 Q Did you see her during those -- that period
4 of time on occasion?

5 A Not really.

6 Q Do you know of your own knowledge at that
7 time if she had a boyfriend?

8 A I believe so. I'm not sure.

9 Q Did you -- did you know the name of the
10 boyfriend?

11 MR. DUNLEAVY: Your Honor --

12 THE WITNESS: Yeah.

13 MR. DUNLEAVY: Your Honor, I object. If she
14 didn't know if she has one, it would be hard for her to know
15 the name.

16 THE COURT: Sustained the objection.

17 BY MR. SEATON:

18 Q Well, let me ask a little bit more.

19 Were you aware that Diana Hunt
20 had a male friend that she spent time with?

21 A From hearsay.

22 Q From whose hearsay?

23 A Hearsay.

24 I guess her -- T.C. or her,

001119

1 Teresa, said so long ago, I'm not sure.

2 Q Who is T.C.?

3 A Tom Christos.

4 Q Around the time of Diana Hunt coming to the
5 house and picking up the clothes of Teresa Perillo and
6 leaving in the red sports car, did you receive a call, phone
7 call, that you answered?

8 A Yes.

9 Q Did the caller identify him or herself?

10 A Yes.

11 Q How did they identify themselves?

12 A As Mike.

13 Q As Mike? And who did Mike ask for?

14 A For Diana.

15 Q Was Diana there at that time?

16 A No, sir.

17 Q Did you tell Mike that?

18 A Yes.

19 Q Did Mike tell you anything else?

20 A Yeah, he left it the -- said to leave a
21 message to her.

22 MR. WOLFSON: Objection; hearsay.

23 THE COURT: Sustained.

24 BY MR. SEATON:

001120

1 Q You had not met anyone named Mike?

2 A No.

3 Q Did you believe that you knew how that Mike

4 was related to Diana?

5 A No.

6 MR. WOLFSON: Objection; that calls for --

7 MR. SEATON: She just said no.

8 MR. WOLFSON: Well, I'm still going to

9 object.

10 THE REPORTER: Just a --

11 MR. WOLFSON: He interrupted me. I

12 interrupted you.

13 MR. HARMON: I will withdraw the question.

14 THE COURT: All right. The question is

15 withdrawn.

16 MR. SEATON: And I have no further

17 questions.

18 MR. WOLFSON: Will you please strike the

19 answer.

20 THE COURT: The answer will be stricken.

21 MR. WOLFSON: Court's indulgence.

22 (Whereupon, a sotto voce at

23 this time.)

24 THE COURT: Now you want me to be

001121

1 intelligent, too.

2

3

CROSS-EXAMINATION

4

BY MR. DUNLEAVY:

5

Q Now, you've known Diana most of your life;

6

she is your cousin?

7

A Yeah. I didn't -- I didn't know her as a

8

little kid. I mean, I -- I don't have no recollection

9

because we were so young.

10

Q You indicated she was living with you or

11

living with T.C. and that you were living there at the same

12

time; is that correct?

13

A No, sir.

14

Q No? She visited you on a regular basis?

15

A My cousin, Diana Hunt?

16

Q Uh-huh.

17

A No.

18

Q Did you hang out with her a lot?

19

A About a year before that.

20

Q Is that when you guys would go out and watch

21

bands and stuff like that?

22

A Yeah.

23

Q Did you work days or nights or --

24

A When?

001122

1 Q When you were hanging out with her?

2 A Um, I don't think I was working at all then.

3 Q And why did you stop hanging out with her?

4 A Um --

5 MR. SEATON: Objection as to the relevancy
6 of that. Let's establish when she stopped hanging out with
7 her at least.

8 THE COURT: Lay a foundation.

9 BY MR. DUNLEAVY:

10 Q Okay. You were hanging out with her about a
11 year before, on a regular basis, going and watching bands,
12 things like that; and then there came a time when you
13 stopped hanging out with her; is that correct?

14 A Yes.

15 Q When was that?

16 A Sometime during the summer, the year before.

17 Q So --

18 THE COURT: What year? Let's get a year
19 now.

20 BY MR. DUNLEAVY:

21 Q July, August of '91?

22 A Yeah.

23 Q And why did you --

24 THE COURT: Is that a yes?

001123

1 THE WITNESS: Yes. I'm sorry. Yes, sir.
2 I'm sorry.

3 THE COURT: You have to say yes or no.
4 BY MR. DUNLEAVY:

5 Q Was there a particular reason that you
6 decided to stop hanging out with her?

7 MR. SEATON: And, Judge, now I will
8 interpose the objection that I said before: Now that we
9 know it's July or August, some half a year before these
10 killings, there is no relevancy.

11 MR. DUNLEAVY: Your Honor, may I approach
12 the bench? We can make an offer of proof as to the
13 relevance.

14 THE COURT: Okay. Approach.

15
16 (Discussion had off the record.)
17

18 BY MR. DUNLEAVY:

19 Q Was there a particular reason why you
20 stopped hanging out with her on a regular basis?

21 A Yeah.

22 Q What was that?

23 THE COURT: Yes.

24 THE WITNESS: Yes. I'm sorry.

001124

1 BY MR. DUNLEAVY:

2 Q What was that?

3 A She was just part- -- partying too much and
4 I couldn't -- she would steal my clothes, and lying to me
5 and just --

6 Q So you had --

7 A Pretty minor stuff, but, you know, it got on
8 my nerves.

9 Q Not if it's your clothes, right?

10 A Yeah; nothing major.

11 Q You said lying to you on a regular basis?

12 A Yeah, just -- yeah.

13 Q Is that pretty common for her?

14 A It wasn't at first, no.

15 Q Was she heavily involved in drugs at the
16 time?

17 A I don't know -- I don't think so. I think
18 she was just drinking then. I'm not sure because I stopped
19 hanging around her. So --

20 Q What about Tom Christos and Teresa; you
21 lived in the house with them; is that correct?

22 A Yeah, I did.

23 Q Was there a lot of drug use going on?

24 A Not that I'm aware of, no.

001125

NR1PFG-07058-R0000937

1

MR. DUNLEAVY: No? Okay.

2

No further questions.

3

THE COURT: Redirect?

4

MR. SEATON: No redirect, Judge.

5

THE COURT: Okay. Thank you very much.

6

You are excused.

7

THE WITNESS: You are welcome.

8

(Whereupon, the witness
was excused.)

9

10

MR. HARMON: Your Honor, may we approach the

11

bench?

12

THE COURT: Yes.

13

14

(Discussion had off the record.)

15

16

THE COURT: All right. We're going to

17

recess for the afternoon.

18

Remember: Do not converse

19

among yourselves or with anyone else on any subject

20

connected with this trial;

21

Read, watch, listen to any

22

report or commentary on the trial by any medium of

23

information, including without limitation, newspaper,

24

television or radio;

001126

1 Or form or express any opinion
2 on any subject connected with the trial until this case is
3 finally submitted to you.

4 Have a good weekend. You are
5 excused.

6 I'll see counsel in chambers.

7 Oh, I didn't tell you what time
8 to come back on Monday. You don't want to know? About
9 10:30 Monday.

10
11 (Proceedings adjourned until
12 Monday, February 5, 1996, at
13 10:30 a.m.)

14 * * * * *

15
16
17
18
19 ATTEST: Full, true and accurate transcript of proceedings.

20
21 RENEE SILVAGGIO, C.C.R. NO. 122
22 OFFICIAL COURT REPORTER
23
24

001127

COPY

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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,)	
)	Case No. C 106784
vs.)	Dept. No. IV
)	Docket No. C
MICHAEL DAMON RIPPO,)	
)	
Defendant.)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS
VOLUME II
BEFORE THE HONORABLE GERARD J. BONGIOVANNI
Monday, February 5, 1996
2:30 p.m.

Reported by: Gerri Lapthorne, C.C.R. No. 82 001202

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

1 APPEARANCES:

2
3 For the State: MELVYN T. HARMON,
4 Deputy District Attorney
5 and
6 DANIEL M. SEATON,
7 Deputy District Attorney

8 For the Defendant: STEVEN WOLFSON
9 and
10 PHILIP H. DUNLEAVY

11 ---o0o---

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INDEX OF EXHIBITS

Page

State's Exhibit 104 received:

104

1 LAS VEGAS, NEVADA FEBRUARY 5, 1996 2:30 P.M.

2
3
4 (After a recess the following
5 proceedings were had in open court
6 in the presence and hearing of the
7 jury.)
8
9

10 D I A N A H U N T, having been called as a witness
11 by the State, having been previously sworn to tell
12 the truth, the whole truth and nothing but the
13 truth, was examined and testified as follows:
14
15

16 DIRECT EXAMINATION

17
18 (Continued)

19 BY MR. HARMON:

20 Q. After Mr. Ripppo had used the towel and
21 the cloth to wipe everything down, did the two of
22 you leave?

23 A. Yes.

24 Q. Did you take anything with you from

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

001205

1 inside the apartment?

2 A. No.

3 Q. What about Mike Ripppo, did he take
4 anything with him?

5 A. He had the bag of -- like two bags, gym
6 bags.

7 Q. You went out the door?

8 A. Yes.

9 Q. What happened after you left; was the
10 door closed or was it left open?

11 A. He closed the door and he locked it. He
12 had a key, and he locked the deadbolt lock.

13 Q. Do you know where Mr. Ripppo got the key
14 he used?

15 A. No.

16 Q. Did you have any type of key to the
17 apartment?

18 A. No.

19 Q. After he locked the deadbolt to the
20 front door, did he keep the key?

21 A. Yes.

22 Q. Did he still have the stun gun?

23 A. Yes.

24 Q. Do you know at that point where the

1 steak knife was at?

2 A. No.

3 Q. You mentioned earlier inside the
4 apartment that Mr. Rippo used the knife to cut the
5 cords on certain appliances?

6 A. Yes.

7 Q. Did you ever see him do anything else
8 with the steak knife?

9 A. No.

10 Q. What happened after the two of you left
11 the apartment?

12 A. He walked me to the car, to the Pinto.

13 Q. Did you have a conversation at that
14 point?

15 A. Yeah. I was crying, and I said, what do
16 I do?

17 And he said, just go home and
18 wait for me, and don't start tweaking now. He said,
19 nobody got hurt and nobody has to. That he knew
20 what he was doing.

21 Q. Did he tell you where to go at that
22 time?

23 A. He told me to go back to Deidre's.

24 Q. And did he tell you how to get back

1 there?

2 A. No. He said, just drive.

3 Q. Did you return to Deidre D'Amore's

4 place?

5 A. Yes.

6 Q. How did you get there?

7 A. I drove the Pinto.

8 Q. With Mr. Rippo?

9 A. No.

10 Q. What happened to Mr. Rippo?

11 A. I left him there.

12 Q. What do you mean you left him there?

13 A. He was standing in the parking lot when

14 I drove off.

15 Q. Did you have any understanding as you

16 drove off about when he would recontact you?

17 A. No. He just said he would call.

18 Q. What was your state of mind at the time

19 you drove off?

20 A. I was in shock.

21 Q. But you've indicated that you were sick

22 the night before?

23 A. Yes.

24 Q. That you had been throwing up?

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1 A. Yes.

2 Q. Were you still ill?

3 A. Yes.

4 Q. What were your thoughts concerning the
5 two young women; Denise Lizzi and Lauri Jacobson?

6 A. I knew in my heart, I knew that they
7 weren't. He said they -- that they were still
8 alive, but I knew in my heart they couldn't still be
9 alive.

10 Q. Why did you know in your heart they
11 still couldn't be alive?

12 A. Because I heard that noise and I saw
13 what was happening.

14 Q. What noise are you talking about?

15 A. It was -- I never heard anything like
16 it. I can't even describe it.

17 Q. Who was making the noise?

18 A. Denise.

19 Q. What did it sound like?

20 A. It sounded like an animal noise.

21 Q. Is that what prompted you to crawl into
22 the bedroom area?

23 A. Yes.

24 Q. Anywhere inside of the apartment did you

1 see any evidence of bleeding?

2 A. No, I didn't see any.

3 Q. You said that you were asked on a couple
4 of occasions to clean up the apartment?

5 A. Yes.

6 Q. Was there blood to your knowledge inside
7 the apartment?

8 A. Well, he told me that there was blood.

9 Q. When did Mr. Ripppo tell you there was
10 blood?

11 A. He went into the closet and he untied
12 Denise's feet, and I asked him what he was doing,
13 and he said that he had bled on her pants, that she
14 had cut him or made him bleed.

15 Q. During the struggle?

16 A. Yes.

17 Q. You said that he untied her legs?

18 A. Yes.

19 Q. This is Denise you're referring to?

20 A. Yes.

21 Q. Did you see what the defendant did then?

22 A. He took off her shoes, her boots, and he
23 rolled her over and undid her pants and pulled them
24 off.

1 Q. Do you know what happened to the pants
2 and shoes of Denise?

3 A. He stuck them in the black bag.

4 Q. Did you ever see them again?

5 A. No.

6 Q. Did the defendant tell you why he didn't
7 want an article of clothing left on Denise that had
8 his blood on it?

9 A. He just said, I bled on her pants and I
10 have to take them.

11 Q. To your knowledge of when that you and
12 Mr. Rippo left the apartment, were the two young
13 women still tied up or had they been untied?

14 A. He untied -- at some point he untied
15 Lauri's hands and, I believe, her feet. I remember
16 her hands were untied. And he untied Denise's feet
17 to take her shoes off.

18 Q. Did he leave her feet untied?

19 A. Yes.

20 Q. Do you have an estimate of how long you
21 and Mr. Rippo were inside the apartment of Lauri
22 Jacobson that day, that Tuesday, February 18?

23 A. I would say total approximately two
24 hours.

1 Q. Afterward did you drive the Pinto back
2 to Deidre's place?

3 A. Yes.

4 Q. Did you hear from Mr. Rippo later on?

5 A. Yes. Later that evening he called.

6 Q. The same evening?

7 A. Yes.

8 Q. Did you remember about what time it was
9 that he called?

10 A. I just remember it was getting dark
11 outside.

12 Q. Did you have a telephone conversation
13 with him?

14 A. Yes.

15 Q. What was the nature of the conversation?

16 A. He told me to meet him at his friend's
17 shop, and he told me how to get there.

18 Q. Did you know the friend?

19 A. I had met him on one occasion.

20 Q. Who was the friend whose shop he wanted
21 you to meet him at?

22 A. His name was Tom Sims.

23 Q. Did you as a result of the telephone
24 conversation go to that location?

1 A. Yes.

2 Q. How did you get from Deidre D'Amore's

3 place to Tom's shop?

4 A. I drove the Pinto.

5 Q. What happened when you arrived there?

6 A. He was there with Tom and another guy

7 was there.

8 Q. The defendant was there with Tom Sims?

9 A. Yes.

10 Q. Do you know the other guy who was also

11 there?

12 A. It was just a guy that worked there.

13 And Mike said, I have a car for you.

14 Q. He said that to you?

15 A. Yeah.

16 Q. Did you see the car?

17 A. Yeah.

18 Q. Describe the car that you saw.

19 A. It was a maroon Nissan, like a 300.

20 Q. Did Mr. Rippo tell you whose car it was?

21 A. No, not then.

22 Q. Did he explain where he got the car at

23 that time?

24 A. He said he stole it from some people

1 that would be out of town.

2 Q. Did you have any conversation with him
3 about what was to happen to this car he said he had
4 for you?

5 A. He wanted me to get paperwork for the
6 car.

7 Q. What do you mean, paperwork for the car?

8 A. Like title, something to license it
9 with.

10 Q. Did you know any person or persons who
11 might help in that regard?

12 A. Yes.

13 Q. Whom did you know?

14 A. A friend of mine, TC, Tom Christos.

15 Q. Would you spell the last name?

16 A. C-r-i-s-t-o-s.

17 Q. Did you know at the time you saw this
18 maroon Nissan whose car it was?

19 A. I had an idea.

20 Q. Why did you have an idea whose car it
21 was?

22 A. Because I had seen it one other time
23 when I went to The Points, these apartments.

24 Q. The Points is an apartment complex?

1 A. Yes.

2 Q. The one time you saw it did you
3 associate the car or at least a car which looked
4 like that with Denise Lizzi?

5 A. Well, later on the car was in somebody
6 else's parking place and I asked the person later
7 whose car it was.

8 MR. WOLFSON: Objection; hearsay.

9 THE COURT: Sustained.

10 BY MR. HARMON:

11 Q. So at the apartment complex called The
12 Points you had seen this vehicle before?

13 A. Yes.

14 Q. As a result of information you had
15 acquired did you think, perhaps, when you saw the
16 car at Tom's shop that you knew whose vehicle it
17 was?

18 A. Yes.

19 Q. Whose car did you think it was?

20 MR. WOLFSON: Objection; speculation.
21 Think, perhaps, maybe she knows. That's
22 speculation.

23 MR. HARMON: Your Honor, we're talking
24 about the state of mind of this witness, that's all.

1 THE COURT: Objection overruled.
 2 BY MR. HARMON:
 3 Q. Whose car did you think it was?
 4 A. I thought it was Denise's.
 5 Q. Did you remember where the car was
 6 parked in relation to this shop owned by Tom Sims?
 7 A. It was right in front of his shop doors.
 8 Q. Did you drive the car anywhere from that
 9 location?
 10 A. Yes, I did.
 11 Q. Had you had anything to do with bringing
 12 this maroon Nissan to Tom's shop?
 13 A. No.
 14 Q. Why did you drive the car?
 15 A. I took it to my friends.
 16 Q. I'm asking why you drove?
 17 A. Because he told me to.
 18 Q. He meaning Mike Ripppo?
 19 A. Yes.
 20 Q. What friends did you take it to?
 21 A. Tom Christos..
 22 Q. Did you have a conversation with
 23 Mr. Christos --
 24 A. Yes.

1 Q. -- about the car?

2 A. Yes.

3 Q. The following day, Wednesday, February
4 19, did you have contact with Mike Rippo, the
5 defendant?

6 A. Yes, I did.

7 Q. Did the two of you have occasion to go
8 to a shopping mall?

9 A. Yes.

10 Q. What mall did you go to?

11 A. The Meadows Mall.

12 Q. What car were you in to go to the
13 Meadows Mall?

14 A. I don't remember. I can't remember if
15 it was the Pinto or the maroon car.

16 Q. By the maroon car --

17 A. Denise's car.

18 Q. You don't remember whether it was Mike
19 Rippo's car or the car you think belonged to Denise?

20 A. Right.

21 Q. Who was driving the car on the way to
22 the Meadows?

23 A. Mr. Rippo.

24 Q. Did you have a conversation with him as

1 you drove to the Meadows Mall on Wednesday, February
2 19, about any shopping he had already done that day?

3 A. Yes.

4 Q. Was it just the two of you in the car?

5 A. Yes.

6 Q. What did he tell you?

7 A. He told me he had bought an air
8 compressor and some tools at Service Merchandise
9 that morning.

10 Q. He mentioned Sears also?

11 A. Yes.

12 Q. What exactly is it that you remember him
13 saying?

14 A. Just that he had bought an air
15 compressor and that he had to go pick it up later.

16 Q. But you mentioned two businesses, you
17 mentioned Service Merchandise and Sears?

18 MR. DUNLEAVY: Objection, your Honor.
19 Actually, the DA mentioned Sears. She just said
20 yes.

21 THE COURT: That's true.

22 BY MR. HARMON:

23 Q. I suggested the second, but you affirmed
24 that is what he said?

1 A. Yes.

2 Q. Did he mention he had been to two
3 places?

4 A. He said Sears and Service Merchandise.

5 Q. Did he make it clear to you of where he
6 had gone to make the purchase of the air compressor?

7 A. Service Merchandise.

8 Q. And the other?

9 A. Service Merchandise.

10 Q. But not Sears?

11 A. No. I thought they were the same place.

12 Q. Did he tell you when he had gone there?

13 A. That morning.

14 Q. Did Mr. Rippo tell you how he had made
15 the purchase; that was, whether he paid cash or used
16 a credit card?

17 A. He said he had used a credit card.

18 Q. Did he tell you what credit card he
19 used?

20 A. No.

21 Q. What happened when the two of you got to
22 the Meadows Mall?

23 A. We went to a shop in the mall that sold
24 glasses, sunglasses and glasses.

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1 Q. Do you remember the name of the shop?
 2 A. The Sunglass Factory, or something like
 3 that. I don't remember.
 4 Q. How did it happen that the two of you
 5 went there?
 6 A. He just said, come on, we're going
 7 somewhere.
 8 Q. Had you discussed beforehand --
 9 A. No.
 10 Q. -- that you wanted to buy some
 11 sunglasses?
 12 A. No.
 13 Q. Did both of you go into The Sunglass
 14 Factory or store?
 15 A. Yes.
 16 Q. How long did you stay there?
 17 A. About 20 minutes.
 18 Q. Were purchases made?
 19 A. Yes.
 20 Q. What did you buy there?
 21 A. Two pairs of sunglasses.
 22 Q. One for each of you?
 23 A. Yes.
 24 Q. Do you remember what brand the

1 sunglasses were?

2 A. They were Oakley's.

3 Q. Both of them?

4 A. Yes.

5 Q. Did you buy them?

6 A. No.

7 Q. Did you have the money to buy them?

8 A. No.

9 Q. Who did buy the sunglasses?

10 A. Mr. Ripppo.

11 Q. Do you know whether he paid cash or used
12 a credit card?

13 A. He used a credit card.

14 Q. Did you know what credit card it was?

15 A. Not then, no.

16 Q. Could you tell what type of credit card
17 it was?

18 A. It was a gold VISA card.

19 Q. During the transaction did you realize
20 what name was on the gold VISA credit card?

21 A. No.

22 Q. Who signed the credit card slip?

23 A. Mr. Ripppo.

24 Q. You saw him do that?

1 A. Yes.

2 Q. Did you go to any other stores at the
3 Meadows Mall?

4 A. No.

5 Q. Just to the sunglass place?

6 A. Yes.

7 Q. What happened after your visit to the
8 Meadows Mall?

9 A. I left and we went back to Deidre's
10 house, and Mike was upstairs doing something, and I
11 got in his wallet.

12 Q. Why did you get in his wallet?

13 A. Because I was going to take money or
14 something to get away from him.

15 Q. Why did you want to get away from him?

16 A. Because I was scared of him.

17 Q. Up to this point had your fear of
18 Mr. Rippo translated into any effort to contact law
19 enforcement?

20 A. That day I talked to Deidre about
21 getting ahold of someone.

22 Q. As a result of the conversation with
23 Deidre D'Amore, did you have a name?

24 A. She told me Kyle Edwards.

1 Q. Except, however, for the conversation
2 with her, had you contacted anyone in law
3 enforcement up to this point?

4 A. Not at that point.

5 Q. Hadn't called 911?

6 A. Not yet.

7 Q. What were you waiting for?

8 A. I was scared to call anyone.

9 Q. Why were you scared?

10 A. Because he told me if I told anyone,
11 that he would kill Deidre and her daughter too. She
12 had a little girl living there with her.

13 Q. He meaning Mike Rippo, the defendant?

14 A. Yes.

15 Q. Did you take him seriously?

16 A. Yes.

17 Q. So you've indicated that you went into
18 his wallet while he was upstairs?

19 A. Yes.

20 Q. What were you looking for?

21 A. Money. Something.

22 Q. Did you find any money?

23 A. No.

24 Q. Did you find -- you took --

- 1 A. I took a credit card.
- 2 Q. Describe the credit card you took.
- 3 A. It was a gold VISA.
- 4 Q. Did you notice the name of the gold
- 5 VISA?
- 6 A. I did.
- 7 Q. At that time you did?
- 8 A. I don't know if it was then or later on,
- 9 but I noticed that it wasn't his name.
- 10 Q. It wasn't Mike Rippo's name?
- 11 A. Yes.
- 12 Q. What was the name?
- 13 A. Denny Mason.
- 14 Q. M-a-s-o-n?
- 15 A. Yes.
- 16 Q. Did you know who Denny Mason was?
- 17 A. No.
- 18 Q. Did you have any idea who this Denny
- 19 Mason person was?
- 20 A. No.
- 21 Q. Did you associate Denny Mason to either
- 22 Denise Lizzi or Lauri Jacobson?
- 23 A. No.
- 24 Q. But you took the credit card?

1 A. Yes.

2 Q. What happened then?

3 A. I went back to TC's house, Tommy
4 Christos.

5 Q. Why did you go back there?

6 A. Because he was supposed to have the
7 paperwork for the car.

8 Q. Did you make contact with Tom Christos?

9 A. Yes, I did.

10 Q. Did you have a conversation with him?

11 A. Yes.

12 Q. Did you get the paperwork?

13 A. No. He didn't have it ready.

14 Q. What happened?

15 A. His girlfriend, Teresa, was there, and
16 it was her birthday, and she wanted to go somewhere,
17 and he didn't want her to leave. And she was
18 dressed up, all ready to go. And she asked me to
19 take her. He told me to go get the car, the maroon
20 car. So she asked to come with me.

21 Q. Who told you to go get the maroon car?

22 A. Tommy Christos.

23 Q. So I gather if he asked you to do that,
24 that you weren't driving the maroon Nissan at that

1 time?

2 A. No. I was driving my car.

3 Q. Did you and Teresa -- did you explain to
4 us her last name?

5 A. I don't even remember her last name.

6 Q. Did you and Teresa go somewhere
7 together?

8 A. Yes. She came with me to get the other
9 car.

10 Q. Where did you go to get the other car?

11 A. In the apartment complex behind Deidre's
12 house. That's where the car was parked.

13 Q. Was it covered or uncovered?

14 A. It was covered.

15 Q. Who covered it?

16 A. I did.

17 Q. What did you put over it?

18 A. A car cover.

19 Q. Why did you cover it up?

20 A. Because it was a stolen car.

21 Q. Do you remember what car you drove with
22 Teresa to the location where the maroon Nissan had
23 been stored?

24 A. My Dodge Colt.

1 Q. Did you leave the Dodge Colt at that
2 location?

3 A. Yes.

4 Q. What happened?

5 A. I left my car there and we got into the
6 Nissan and went back. We were heading back to TC's
7 house.

8 Q. TC is Tom Christos?

9 A. Yes.

10 Q. You say you were heading back. Did you
11 get back to his place?

12 A. No. On the way back Teresa started
13 crying, and she was begging me, please don't take me
14 back, that -- she was saying that he had been
15 beating her and he wouldn't let her leave the house,
16 and it was her birthday and she just didn't want to
17 go back.

18 Q. As a result of that did you take her
19 somewhere?

20 A. Yes.

21 Q. Where did you go?

22 A. I took her to the Marker Downs.

23 Q. What is the Marker Downs?

24 A. It's a bar that was right behind Tom

1 Sims' shop.

2 Q. Did you spend some time there?

3 A. Yeah.

4 Q. Did you also go to a shopping mall?

5 A. Yes.

6 Q. When was that, before or after you went
7 to the Marker Downs?

8 A. I think it was before. I'm not sure.

9 Q. Why did you go with Teresa to a shopping
10 mall?

11 A. Because Mike found out -- Mr. Rippo
12 found out I had the credit card, and he was calling
13 around trying to take -- tell me to give it back.

14 So I told him I'd meet him at the
15 shopping mall to give him back the card and he had
16 to bring me some money.

17 Q. Where exactly were you when you had the
18 conversation with Mr. Rippo about returning the car?

19 A. I had his beeper at the time.

20 Q. So he called you on the beeper?

21 A. I called him. He beeped me.

22 Q. He beeped you. As a result of that did
23 you call him?

24 A. Yes.

1 Q. Where did you call?

2 A. I called him from the mall, and I told
3 him to meet me there.

4 Q. You called to Deidre D'Amore's place?

5 A. I don't remember where I called.

6 Q. Did he give you a number to call?

7 A. Yeah, there was a number.

8 Q. Did you have a conversation with him?

9 A. Yes.

10 Q. What did you talk about?

11 A. He was mad. He wanted the credit card
12 back.

13 Q. And --

14 A. And he said I shouldn't have taken it
15 and it was his and he wanted it back.

16 Q. Did he share with you at that time how
17 he happened to have a credit card under the name
18 Denny Mason?

19 A. No.

20 Q. Did you agree that he could have it
21 back?

22 A. Yes. I said he could have it back if he
23 brought me some money.

24 Q. What mall were you calling from?

- 1 A. The Meadows.
- 2 Q. So you're once more at the Meadows Mall?
- 3 A. Yes.
- 4 Q. This is still February 19?
- 5 A. Yes.
- 6 Q. Did you ever meet up with the defendant
- 7 at the Meadows Mall that day?
- 8 A. No. We waited until the mall closed.
- 9 Q. We is yourself and Teresa?
- 10 A. Yes.
- 11 Q. Did you use the credit card while you
- 12 were at the Meadows Mall?
- 13 A. Yes, I did.
- 14 Q. What did you use it to buy?
- 15 A. I bought Teresa a birthday present.
- 16 Q. What did you buy her?
- 17 A. Cologne. Obsession.
- 18 Q. Did you thereafter go somewhere else
- 19 with Teresa?
- 20 A. To the bar.
- 21 Q. The Marker Downs?
- 22 A. Yes.
- 23 Q. How long had you stayed there?
- 24 A. Long enough for her to get drunk.

1 Q. Did you go somewhere else?

2 A. Yes. I took her to another bar, Club
3 Rock, and I called TC from there.

4 Q. What did you tell TC?

5 A. I said I needed to bring her home, that
6 she was drunk, and I couldn't be driving that car
7 around, and that I had to bring her home.

8 Q. Did he want her home?

9 A. No. He was very mad, mad at me for
10 having her with me, and he said he didn't want her
11 back and not to bring her back there, and he was
12 mad.

13 Q. As a result of that conversation did you
14 make an effort to find a place to stay that night?

15 A. Yes, I did.

16 Q. What did you do?

17 A. I went from motel to motel until I found
18 a place that had a room that would take a credit
19 card, and I got us a room.

20 Q. Where did you get the two of you --

21 A. At the Gold Coast.

22 Q. Was it just the two of you?

23 A. No. There was some people we picked up
24 at this bar and took back with us.

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1 Q. Which bar?

2 A. Club Rock.

3 Q. How many people did you pick up?

4 A. Two.

5 Q. Who were these two people?

6 A. Two guys that were playing there in the

7 band.

8 Q. In the band at Club Rock?

9 A. Yes.

10 Q. Where was it you stayed that night?

11 A. At the Gold Coast.

12 Q. Did you use the credit card in the name

13 Denny Mason at the Gold Coast?

14 A. Yes.

15 Q. Do you remember now what time it was,

16 approximately, when you checked into the Gold Coast?

17 A. I don't remember.

18 Q. Was it sometime the night of February

19 19, 1992?

20 A. It was in the late afternoon, I think,

21 more, or the evening. I can't remember.

22 Q. Did you continue to have the maroon

23 Nissan --

24 A. Yes.

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- 1 Q. -- that evening?
- 2 A. Yes.
- 3 Q. While you were with Teresa, did you ever
- 4 go anywhere to get some spray paint?
- 5 A. Yes.
- 6 Q. Was that also on February 19?
- 7 A. I can't remember.
- 8 Q. Where did you go to get spray paint?
- 9 A. To my friends' house, Jason and Rick.
- 10 Q. Do you remember their last names?
- 11 A. No, not now.
- 12 Q. Why did you go to their place to get
- 13 some paint?
- 14 A. Because they worked on cars and I
- 15 thought they would probably have some.
- 16 Q. What did you want to use the paint for?
- 17 A. I wanted to spray it on the car because
- 18 I was driving a car around -- I was stuck driving
- 19 the car, and the car was stolen, and I wanted to
- 20 change the appearance.
- 21 Q. But were you able to obtain some paint
- 22 from Jason and Rick?
- 23 A. Yes. Some primer.
- 24 Q. What did you do with the primer paint?

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1 A. I sprayed on it the front fender of the
2 car.

3 Q. Do you remember where you were when you
4 did that?

5 A. At their house.

6 Q. But I gather from your testimony you
7 don't remember if this was on the 19th or after
8 that?

9 A. Right.

10 Q. Did there come a time when you learned
11 that the crime at the Katie Arms apartment complex
12 had been discovered?

13 A. Yes.

14 Q. How did that come to your attention?

15 A. I was back at the same place, Rick and
16 Jason's, and it came on the news.

17 Q. What was your reaction to the news of
18 what had occurred?

19 A. I knew, I knew for sure then with no
20 doubt that they were dead and that that's whose car
21 I had.

22 Q. Did you continue to drive the car?

23 A. No. I drove it to where I left it.

24 Q. Where did you leave it?

1 A. I left it at the Albertson's on Rainbow.
2 I left it out toward the street because I thought
3 that the police would see it.

4 Q. Did you make any effort immediately
5 after you learned that for sure these two young
6 women had been killed to get in touch with the
7 police?

8 A. When I talked to Deidre next I did.

9 Q. What were your efforts to contact the
10 police?

11 A. I asked Deidre to help me get in touch
12 with somebody and --

13 MR. WOLFSON: I'm going to object;
14 anticipating hearsay.

15 THE COURT: Sustained.

16 BY MR. HARMON:

17 Q. Is this the same conversation you've
18 already referred to?

19 A. No. This was a different one.

20 Q. This is a second time you asked?

21 A. Yes.

22 Q. As a result of the conversation did you
23 get the name of someone?

24 A. Yes.

1 Q. What was the name?

2 A. Kyle Edwards.

3 Q. So you're saying this is the second time
4 you got the name Kyle Edwards?

5 A. Yes.

6 Q. Did you try to reach a Kyle Edwards at
7 the police department?

8 A. Through Deidre I did.

9 Q. What do you mean through Deidre?

10 A. She said she had already spoken --

11 MR. WOLFSON: Objection; hearsay.

12 THE COURT: Sustained.

13 MR. WOLFSON: Move to strike.

14 THE COURT: It will be stricken.

15 MR. WOLFSON: Ask the witness to be
16 cautioned to not relate what other people say.

17 THE COURT: You can't say what someone
18 else told you. You can only state from your
19 personal observation.

20 BY MR. HARMON:

21 Q. You don't have any legal training, do
22 you, Miss Hunt?

23 A. No.

24 Q. You didn't go to law school?

1 A. No.

2 Q. What is the extent of your formal
3 education?

4 A. I graduated high school and I'm in
5 college.

6 Q. You say you graduated high school, did
7 you say, and college?

8 A. I'm in college.

9 Q. That you're in college.

10 Are you schooled in the rules of
11 evidence in courts of law?

12 A. No.

13 Q. Did you ever attempt on your own to get
14 in touch with anyone at the police department?

15 A. That one time I did.

16 Q. What were your efforts?

17 A. I called them on the phone.

18 Q. Do you remember where you were when you
19 placed the call?

20 A. At Deidre's apartment.

21 MR. DUNLEAVY: Could we specify who them
22 is; Highway Patrol --

23 THE COURT: Who did you call on the
24 phone?

1 THE WITNESS: I called the homicide.

2 BY MR. HARMON:

3 Q. Where were you when you placed the call?

4 A. At Deidre's apartment.

5 Q. By yourself?

6 A. Yes.

7 Q. You've just indicated in response to the
8 Court that you called someone in homicide?

9 A. Yes.

10 Q. Were you able to talk to anyone?

11 MR. WOLFSON: Objection. I would just
12 like a little better foundation as to when this
13 occurred.

14 THE COURT: Lay a better foundation.

15 BY MR. HARMON:

16 Q. Do you remember approximately when this
17 call was?

18 A. The day I saw it on the news, the 20th.

19 Q. February 20, 1992?

20 A. Yes.

21 Q. Do you remember about what time of the
22 day or night it was --

23 A. No.

24 Q. -- that you made the call?

1 A. When I called him it was after that. It
2 was on -- the first time I called him directly was,
3 I think, the 29th.

4 Q. Well, that's what you were asked about.
5 When is it that you first learned
6 that the two young women had for sure been killed?

7 A. When I saw it on the news.

8 Q. Do you know what date that was?

9 A. The 20th.

10 Q. But you're indicating it was more like
11 February 29 of when you actually --

12 A. When I actually spoke to that man on the
13 phone it was the 29th.

14 Q. You did speak with someone on the
15 telephone --

16 A. Yes.

17 Q. -- at the police department?

18 A. Yes.

19 Q. Did you have a number that you had
20 called?

21 A. Yes.

22 Q. Where did you get the number?

23 A. From Deidre.

24 Q. When you called the number did you ask

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1 for a particular person?

2 A. Yes.

3 Q. Did you speak with someone?

4 A. Yes.

5 Q. Without going into the conversation, did
6 that person identify himself or herself?

7 A. Yes.

8 Q. By what name?

9 A. Kyle Edwards.

10 Q. Previously, on that day, had you had
11 contact with the defendant, Mike Rippo --

12 A. Yes.

13 Q. -- on February 29 --

14 A. Yes.

15 Q. -- 1992?

16 How did you happen to have
17 contact with Mr. Rippo on that day?

18 A. He was trying to get into the apartment
19 where I was, Deidre's.

20 Q. Was it while that was happening that you
21 attempted to reach Kyle Edwards of the police
22 department?

23 A. Yes.

24 Q. What did you say to Mr. Edwards?

1 A. I told him that he was at the door, that
2 he was trying to get in the door.

3 Q. About how long were you on the
4 telephone?

5 A. About five minutes.

6 Q. After the telephone conversation did you
7 go anywhere with Mr. Rippo?

8 A. After he came in the house, and he left
9 that day, and I came back later. I called the house
10 first and Deidre was home and I asked her, is Mike
11 there? And she said, no.

12 And I said, are you sure? And
13 she said, yes. And I came to get the rest of my
14 stuff, and when I got there he was there, and he was
15 waiting in the house.

16 Q. About what time was this?

17 A. In the afternoon.

18 MR. DUNLEAVY: I'm sorry, your Honor.
19 I'm confused. I thought he came over in the evening
20 to get in and she called Kyle Edwards. I guess I'm
21 confused as to timing.

22 BY MR. HARMON:

23 Q. Can you clarify the timing; you're
24 saying that he was coming into Deidre's place and

1 you called Kyle Edwards?

2 A. Yes.

3 Q. You said that you then left?

4 A. I left Deidre's house the day that he
5 ended up with me. I came back over there and he was
6 waiting there for me.

7 Q. But was that the same day or a different
8 day?

9 A. I'm not sure. It might have been the
10 next day. I know it was February 29 when I went
11 back over there, and he was waiting there for me,
12 and I got in my car to leave, and he got in my car
13 also.

14 Q. Do you have some difficulty after almost
15 four years in remembering specific dates?

16 A. Yes. Yes, I do.

17 Q. But you're saying that there was an
18 occasion when Mr. Rippo got into your car with you?

19 A. Yes.

20 Q. What car were you driving at that time?

21 A. The Dodge Colt, my car.

22 Q. Did you want him to get into the car
23 with you?

24 A. No.

1 Q. Now, is this after you had the
2 conversation with Kyle Edwards?

3 A. Yes.

4 Q. What happened after Mr. Ripppo got into
5 your Dodge with you?

6 A. He wouldn't get out. He kept asking,
7 telling me to come with him, and telling me not to
8 leave, and he wouldn't get out of my car.

9 Q. Were you driving at that time or was the
10 car parked?

11 A. I was still in the parking lot at that
12 time.

13 Q. Still in which parking lot?

14 A. In Deidre's.

15 Q. Did you at that point have any intention
16 of continuing the relationship with Mr. Ripppo?

17 A. No.

18 Q. You said he was telling you not to
19 leave?

20 A. Yes.

21 Q. Why was he telling you not to leave?

22 A. I think he was actually -- when I was in
23 the house he wanted me to come upstairs with him,
24 and I wouldn't, because there was no reason to go

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1 upstairs, and I was afraid if I went upstairs with
2 him I'd never come back down.

3 So I ran out of the house and got
4 into my car, and he followed me and got into my car
5 also, and he was saying, don't leave, don't go
6 anywhere.

7 Q. Did Mr. Rippo ever tell you what would
8 happen if you left?

9 A. Yes. That was later on that day though.

10 Q. Did you end up driving somewhere with
11 him in the car?

12 A. Yeah. I took off driving. He wouldn't
13 get out of the car so I started driving to my friend
14 Doug's house.

15 Q. What is Doug's last name?

16 A. Starts with a Z. Ziltz, I think. I
17 can't remember, even remember.

18 Q. Do you know how it's spelled?

19 A. Z-i-l-t-z.

20 Q. First name was Doug?

21 A. Yes.

22 Q. While you were driving in the direction
23 of Doug's place did the conversation continue with
24 Mr. Rippo?

1 A. Yes.

2 Q. What do you remember about the
3 conversation?

4 A. He told me -- he started out saying that
5 he wanted to kill every -- quite a lot of people, me
6 included. And he said -- he started talking about
7 what he would do to me if I left. And he started
8 explaining what he did to the girls in the
9 apartment.

10 Q. What did he tell you he would do to you
11 if you left?

12 A. He told me that he would do the same
13 thing to me that he did to them. And he also told
14 me, I'll hang you in the legal system, when I
15 suggested we go talk to the police.

16 Q. Did you suggest that the two of you go
17 to the police?

18 A. Yeah.

19 Q. Did Mr. Rippe agree to that?

20 A. No.

21 Q. You mentioned earlier in your testimony
22 that on the day this happened, Tuesday, February 18,
23 that when you drove off you left him standing in the
24 parking lot of the Katie Arms?

1 A. Yes.

2 Q. On this day when you were riding with
3 him, which you've indicated you believe to be
4 February 29, did Mr. Rippo tell you whether he ever
5 went back into the apartment?

6 A. He said he did.

7 Q. He told you that on that occasion?

8 A. He said he had gone back.

9 Q. Did he tell you when he went back?

10 A. He just said, I went back that evening.
11 That same day. I took it it was the same day.

12 Q. Did he tell you what happened when he
13 went back?

14 A. He said he went back and he had cut
15 their throats and that he had jumped up and down on
16 them. And he was just saying all kinds of things
17 that he had done.

18 Q. Did you have any way of knowing whether
19 this was accurate information that he was giving?

20 A. No.

21 Q. Did it scare you?

22 A. I believed him.

23 Q. Did you ever have any conversation with
24 Mr. Rippo about who it was he had called from Lauri

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1 Jacobson's apartment?

2 A. Yes. That's when he told me.

3 Q. That same day while you were in the
4 Dodge?

5 A. Yeah.

6 Q. Did you ask him about it?

7 A. Yes. I asked him, how did you know the
8 phone was going to ring? And I was asking him all
9 kinds of questions.

10 Q. What did Mr. Rippo say to you?

11 A. He said he had called Alice, his friend
12 Alice, and told her to call back.

13 Q. Did he tell you why he called Alice?

14 A. I guess because he trusted her.

15 Q. Did he tell you why he wanted someone,
16 whether it was Alice or another person, to call the
17 apartment at that time?

18 A. To occupy Lauri.

19 Q. Lauri Jacobson?

20 A. Yes.

21 Q. To occupy her what, why?

22 A. So he could rob Denise.

23 Q. Did Mr. Rippo tell you whether he
24 explained any of that to his friend Alice?

1 A. He didn't tell me.

2 Q. You mentioned that that day you had gone
3 back over to Deidre's place to collect all of your
4 belongings?

5 A. Yes.

6 Q. Had you picked up your belongings?

7 A. Yes. They were all in my car.

8 Q. At some point did you jump out of your
9 car?

10 A. Yes. My car -- he was driving -- we
11 were driving and the car ran out of gas and on
12 Sahara, and he was still telling me not to leave,
13 not to get out of the car, and I just jumped out of
14 the car and started running down the road, waving my
15 arms.

16 Q. Did you attempt to take anything with
17 you from the car?

18 A. No. I just jumped out.

19 Q. Where did you go?

20 A. I ran down the road and flagged down the
21 first car that came by. And then I went to the gas
22 station that was up the road and I called my friend
23 Doug.

24 Q. Did you talk with him?

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1 A. Yeah. He said he would come get me.

2 Q. Did he?

3 A. Yeah.

4 Q. When you say that you had all of your
5 belongings in your Dodge, will you describe for us
6 the types of things that you had?

7 A. I had clothes and all my personal stuff.

8 Q. Did you have any type of luggage or
9 carrying bags?

10 A. Yes. I had a brown bag that had all my
11 pictures in it and some hygiene items, and I had
12 some other bags with clothes and stuff like that.

13 Q. Do you know what happened to Mr. Ripppo
14 and to your Dodge car after you jumped out and left?

15 A. Well, I know that when me and Doug came
16 back to see if he was still there he was gone and
17 some of my stuff was gone out of my car. The door
18 was still open.

19 Q. Was the car still stopped there on
20 Sahara at the same place where it had run out of
21 gas?

22 A. Yes.

23 Q. What was missing from the car?

24 A. My bag with all my pictures in it and --

1 MR. HARMON: May I have the Court's
2 indulgence?

3 THE COURT: You may.

4 Maybe we should take a short
5 recess.

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

14
15 (After a recess the following
16 proceedings were had in open court
17 in the presence and hearing of the
18 jury.)

19
20 Counsel stipulate to the presence
21 of the jury?

22 MR. SEATON: Yes, your Honor.

23 MR. DUNLEAVY: Yes, your Honor.

24 THE COURT: You may continue with your

1 direct examination.

2 MR. HARMON: Thank you.

3 Judge, may I approach the
4 witness?

5 THE COURT: You may.

6 MR. DUNLEAVY: Your Honor, before he
7 asks to open that, we do have an objection to that
8 piece of evidence.

9 Examining it, it appears that the
10 evidence tape has actually been cut and resealed
11 with regular scotch tape.

12 I would also submit that there is
13 no chain as to where this came from or how it got
14 here, and I think that needs to be laid before they
15 start handing the evidence to the witness.

16 MR. HARMON: Not necessarily, your
17 Honor.

18 What we'd like to do is just to
19 show her the bag. She is not going to recognize the
20 bag, but we simply want the record to show, and I'll
21 ask her this, if the bag in is intact, it's in a
22 sealed condition.

23 Counsel can make whatever record
24 he wants to describe the seals, but we're entitled

1 then once the record shows that it's in tact to have
2 her look at the contents, and that's what we want to
3 have her do, to find out if she recognizes the
4 contents.

5 It appears it's going to be a
6 brown bag, and we want her then to look at what's
7 inside the bag. It's just certainly more
8 expeditious to do that now than to call her back
9 after we put the impounding officer on.

10 That person will be called as a
11 witness. That person can explain how he or she
12 acquired the bag, but this is simply for the purpose
13 of identification now, Judge.

14 MR. DUNLEAVY: Your Honor, they're
15 getting the cart before the horse; particularly,
16 since this is the kind of item that's normally kept
17 in an evidence locker. It's evidence, obviously.

18 There is no foundation how it got
19 out, and the seals, the Court can take a look, have
20 scotch tape on them instead of the regular evidence
21 tape.

22 THE COURT: I will reserve ruling on the
23 admissibility of the evidence until proper
24 foundation is laid.

1 MR. DUNLEAVY: We're objecting to them
2 having a witness testify to what's in there when
3 they haven't laid a foundation to show it's
4 admissible.

5 MR. HARMON: And we're representing,
6 Judge, that the impounding officer is going to be
7 called as a witness. She is Debbie McCracken of the
8 crime lab of the police department.

9 THE COURT: All right. Your objection's
10 overruled.

11 MR. HARMON: Thank you.

12 BY MR. HARMON:

13 Q. Miss Hunt, I'm showing you a large
14 evidence bag. It's been marked by the clerk as
15 Proposed Exhibit No. 92.

16 Now, all that we want you to do
17 will be to examine the bag, have you look at the
18 bottom -- the sides, I'm sorry.

19 THE COURT: There are brackets
20 underneath that. Push up on that. Brackets
21 underneath.

22 MR. HARMON: You need to push over there
23 too. Thank you.

24

1 BY MR. HARMON:

2 Q. -- to tell us if the bag does appear to
3 be sealed at this time?

4 A. Yes, it appears to be sealed. Yeah.

5 Q. What we want you to do now, using the
6 scissors I'm handing you, will be to cut open the
7 bag.

8 Perhaps, you can just cut right
9 across at the top.

10 MR. DUNLEAVY: Your Honor, we'd ask she
11 cut somewhere where there are no seals.

12 THE COURT: Maybe on the side up above.

13 THE WITNESS: Right here?

14 MR. DUNLEAVY: Turn the bag around. I
15 believe the other side has no tape on it.

16 MR. HARMON: May want to cut vertically
17 as well.

18 And now down at the end.

19 Thank you. Will you now remove
20 the contents.

21 BY MR. HARMON:

22 Q. For the record, Miss Hunt, what have you
23 just removed from Proposed Exhibit 92, the evidence
24 bag?

1 A. A bag. A brown bag.

2 Q. Do you recognize the brown bag?

3 A. Yes.

4 Q. Whose brown bag is it?

5 A. Mine.

6 Q. How do you recognize it?

7 A. Because it's my bag. I remember this
8 bag.

9 MR. HARMON: Your Honor, may we have the
10 bag marked as Proposed 92-A?

11 THE COURT: You may.

12 MR. DUNLEAVY: Your Honor, I'd ask to
13 have her state what is there about this bag that's
14 unique that she can identify.

15 MR. HARMON: Is he asking to take her on
16 voir dire --

17 THE COURT: Do you want to take her on
18 voir dire?

19 MR. HARMON: -- or is he wanting me to
20 ask his questions for him?

21 MR. DUNLEAVY: I just was asking for
22 foundation. If you want me to do it, I'll be glad
23 to do it.

24 MR. HARMON: We're going to go into the

1 contents of the bag. It would certainly assist her
2 in determining whose bag it is.

3 MR. DUNLEAVY: Your Honor, maybe the
4 contents are letters, maybe not. The question right
5 now is is it her bag.

6 MR. HARMON: And she said it was.

7 MR. DUNLEAVY: And I'm saying there was
8 an inadequate foundation.

9 THE COURT: Mr. Dunleavy wants to take
10 her on voir dire regarding the bag.

11 MR. HARMON: That's fine.

12

13 VOIR DIRE EXAMINATION

14 BY MR. DUNLEAVY:

15 Q. You took a quick look at this bag.

16 Is there anything about the
17 outside of this bag that says it's yours as opposed
18 to any other bag like this?

19 A. No.

20 Q. Do you have any idea how many of these
21 bags were made?

22 A. No.

23 Q. You don't have your name on it or your
24 initials or anything like that?

1 A. No.

2 Q. So the best you could say is this is a
3 bag similar to the one you have?

4 A. Exactly similar to the one I had.

5 Q. A brown basically plastic shoulder bag?

6 A. Yes.

7 MR. DUNLEAVY: I just want to lay a
8 foundation. All she's doing is saying whatever the
9 DA wants her to say. We don't know if that's her
10 bag or not.

11 MR. HARMON: That is not necessarily
12 true.

13 THE COURT: She said what she wanted to
14 say, not what the DA wanted her to say.

15

16 DIRECT EXAMINATION

17 (Continued)

18 BY MR. HARMON:

19 Q. Miss Hunt, you previously mentioned that
20 on February 29 your car stalled on Sahara?

21 A. Yes.

22 Q. That you were with Mr. Rippo and you
23 said you jumped out?

24 A. Yes.

1 Q. That you had referred to a brown bag
2 that was in the car.

3 Where in the car was the bag?

4 A. Right behind the driver's seat in the
5 back seat on the floor.

6 Q. As you look at Proposed Exhibit 92-A,
7 does it look like the brown bag you left behind in
8 the car?

9 A. Yes.

10 Q. Now, you mentioned sometime later you
11 and your friend Doug returned to the location where
12 the car had run out of gas?

13 A. Yes.

14 Q. But you've already told us a bag was
15 missing. What bag was missing?

16 A. This bag.

17 Q. A bag identical to this bag?

18 A. Yes.

19 Q. Will you look inside the bag now,
20 Proposed Exhibit 92-A.

21 Do you observe various contents
22 inside the bag?

23 A. Yes.

24 Q. Do you recognize any of the contents of

1 the bag?

2 A. Not this stuff on top I don't.

3 Q. Will you remove --

4 MR. WOLFSON: I can't hear the witness,
5 Mr. Harmon. Could you please ask the witness to
6 speak up?

7 THE COURT: Speak up.

8 THE WITNESS: I don't recognize this,
9 all this stuff on the top, no.

10 BY MR. HARMON:

11 Q. Will you remove the contents of the bag,
12 please, and simply for the record describe each item
13 as you remove it.

14 A. A tape cassette.

15 MR. DUNLEAVY: Your Honor, could we have
16 her identify as to what kind and by name and so
17 forth?

18 THE WITNESS: Black Sabbath tape
19 cassette with tape in it.

20 A blue address book.

21 MR. HARMON: That's fine.

22 THE WITNESS: I don't know about this.
23 I don't remember.

24

1 BY MR. HARMON:

2 Q. And, perhaps, as you go through these
3 items that we could have you -- you indicated you
4 didn't recognize any of the items at the top?

5 A. Right.

6 Q. Will you put to the right any items you
7 don't recognize?

8 A. Okay.

9 Q. And if you come across anything in
10 Proposed Exhibit 92-A that you do recognize, will
11 you put that in a separate pile to your left?

12 A. Okay.

13 This is a compact mirror.

14 Q. You recognize that or don't recognize
15 that?

16 A. I don't recognize it. This is a --
17 something.

18 Q. Just describe its physical appearance.

19 A. It's like a garage door opener, or an
20 alarm or something. A black -- it's black.

21 A purple thing. I don't know.

22 Purple. I don't know what it is. A purple thing.

23 Q. Some type of purple bag or purse?

24 A. Something you put something in.

1 A tape cassette, Guns & Roses. A
2 black address book. Another tape cassette that says
3 Guns & Roses.

4 MR. DUNLEAVY: That one's in a --

5 THE WITNESS: It's in a -- just a
6 regular tape thing. The tape says Metal Church.

7 A plan -- a day planner. A black
8 and gray wallet. A small black purse thing. A
9 change purse or something.

10 A Norelco case, black case.
11 Two -- a package of correction fluid with two things
12 in it, two vials.

13 A package of razor blades. A
14 black key holder thing. A leather -- this is mine.
15 This is a --

16 MR. HARMON: You need to keep your voice
17 up.

18 THE WITNESS: This is an organizer.

19 BY MR. HARMON:

20 Q. So you recognize --

21 A. That's mine, yeah.

22 Q. -- that?

23 A. This is an opener of some kind. It's
24 yellow. It says Alliance on it.

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1 These are -- this is my sister.
2 These are pictures of mine.

3 MR. DUNLEAVY: How many of them?

4 THE WITNESS: There is three right
5 there.

6 MR. DUNLEAVY: Are those Polaroid?

7 THE WITNESS: Yes.

8 This is a notebook, a small
9 notebook.

10 BY MR. HARMON:

11 Q. What color is it?

12 A. Blue.

13 A bottle of baby oil, which I
14 don't really remember in that if that was mine or
15 not.

16 And hair spray. Deodorant.

17 This is a letter to my brother.
18 That's mine.

19 Q. That's written on pink paper?

20 A. Yes.

21 This is my sister's. My sister's
22 social security card -- thing.

23 MR. DUNLEAVY: Is that Xerox copy?

24 THE WITNESS: Yes. And her license.

1 These are pictures of mine.

2 Do you want to know how many
3 there are or what?

4 MR. HARMON: Don't try to count them
5 all, but go as quickly as you can through them so we
6 can determine if you recognize all of these as your
7 pictures.

8 THE WITNESS: Yes, they're all mine.

9 There is an envelope from the
10 Gold Coast. There is two postcards. Also from the
11 Gold Coast.

12 A notebook. A note pad from the
13 Gold Coast. There is pens. Three pens. A tire
14 gauge checker thing. A razor. A toothbrush. Two
15 more razors. Two Gold Coast matchbooks. Another
16 razor.

17 There is a paper that says,
18 Chuck, and it has a phone number.

19 BY MR. HARMON:

20 Q. Is that yours?

21 A. I don't recognize it, no.

22 Q. Put that to the right then.

23 A. Makeup remover.

24 Do you want me to dump that out

1 or what?

2 Q. Just describe for us generally are there
3 still some loose contents in 92-A?

4 A. Yeah.

5 MR. DUNLEAVY: Your Honor, I would
6 object to just describe loosely. If the State wants
7 to move it into evidence, we want on the record what
8 it is.

9 THE WITNESS: Here's an earring that I
10 don't recognize. I don't remember. And there is --

11 MR. HARMON: If I'm -- I didn't mean,
12 counsel, she wasn't to describe them. I'm not sure
13 that she has to remove --

14 THE WITNESS: There is caps and like a
15 Q-tip and some plastic razor covers. And two more
16 razor covers. And that's it.

17 BY MR. HARMON:

18 Q. Now, Miss Hunt, of the items that you
19 have removed from Proposed Exhibit 92-A, have you
20 attempted to segregate them; have you put on the
21 left the things that you either recognize or with
22 the knowledge very probably are yours?

23 A. Yes.

24 Q. And what about the things on the right?

1 A. Those are not mine.

2 Q. What about these last items?

3 A. They were probably mine on the bottom of
4 the bag.

5 Q. Probably yours that you had in the bag.
6 So may we move those over to this pile?

7 As you look at the things to your
8 right, is there anything there that you recognize as
9 belonging to you or your friends or members of your
10 family?

11 A. No.

12 Q. When you jumped out of the car on
13 February 29, 1992, on Sahara Avenue, were the items
14 which are to your right on the witness stand inside
15 the bag?

16 A. No.

17 Q. Are you sure of that?

18 A. I'm positive.

19 Q. Do you have any idea how these items got
20 inside the bag?

21 A. No.

22 MR. HARMON: Your Honor, with the
23 Court's permission, what we'd like to do is to have
24 each of the items that the witness is indicating are

1 not hers marked as 92-A-1 through whatever.

2 THE COURT: You may do so.

3 MR. HARMON: May we do that?

4 MR. DUNLEAVY: Every item should be
5 marked so we can keep track and examine her on these
6 issues.

7 THE COURT: You want every item marked
8 separately?

9 MR. DUNLEAVY: If the State wants only a
10 certain group marked, your Honor. Everything should
11 be marked or --

12 THE COURT: All the things that she
13 indicated are not hers are 92-A what?

14 MR. HARMON: They can just be contents
15 inside the bag.

16 THE COURT: They can all be kept
17 together in a bag or something.

18 MR. DUNLEAVY: Can we have an
19 opportunity to look at the photos?

20 THE COURT: Sure.

21 MR. HARMON: Perhaps, your Honor, we
22 could have the items that she recognizes marked
23 collectively as 92-A-2. Would that be satisfactory?

24 THE COURT: That would be fine with me.

1 There is no objection?

2 MR. WOLFSON: I'm sorry, I didn't hear
3 what Mr. Harmon said.

4 THE COURT: All the items that she
5 recognizes as hers will be marked as 92-A-2.

6 MR. WOLFSON: A-2, okay.

7 A-1 are those that she didn't,
8 and A-2 are those that she did.

9 MR. HARMON: 92-A-1 through whatever.

10 THE COURT: Maybe we could get a bag and
11 put all of them inside.

12 Why don't you put -- do that, put
13 all A-1 that she didn't recognize back in the
14 evidence bag. Put all the things that she
15 recognizes to be hers back in the brown bag.

16 MR. HARMON: We would prefer, your
17 Honor --

18 THE COURT: Unless you want to get
19 separate bags.

20 MR. HARMON: -- that we have the items
21 she does not recognize marked individually.

22 THE COURT: Individually?

23 MR. HARMON: Yes.

24 THE COURT: Okay.

1 MR. HARMON: This will be 92-A-2
2 collectively, but we're talking here about -- I
3 understand the problem, but we need to make it 92 --

4 THE COURT: B.

5 MR. HARMON: -- B. Yes. I'm sorry.

6 THE COURT: 92-B are items -- you don't
7 want them individually marked?

8 MR. HARMON: No.

9 Your Honor, may I again approach
10 the witness?

11 THE COURT: You may.

12 If you're going to be marking
13 more exhibits, you're going to confuse her, I'll
14 tell you right now.

15 MR. HARMON: We've already got these
16 marked.

17 THE COURT: Are they already marked?

18 MR. HARMON: Yes.

19 BY MR. HARMON:

20 Q. Miss Hunt, earlier in your testimony you
21 referred to a maroon Nissan that you drove from Tom
22 Sims' shop.

23 In fact, you referred to driving
24 it to various locations and at some point you

1 mentioned that you acquired some primer paint --

2 A. Yes.

3 Q. -- and you sprayed one of the fenders?

4 A. Yes.

5 Q. I'm showing you two photographs. They
6 are marked as Proposed Exhibit 64 and 65.

7 Do you recognize the vehicle
8 shown in those photographers?

9 A. Yes. It looks like the same car. It
10 is. This one looks the same.

11 MR. DUNLEAVY: Which one is this one?

12 THE COURT: Describe which picture.

13 THE WITNESS: Both. They're -- it's the
14 same car. It's Denise's car.

15 THE COURT: The pictures have a tag on
16 the back.

17 BY MR. HARMON:

18 Q. You have referred to Proposed 64 --

19 A. 64.

20 Q. -- that you indicated that you were sure
21 of when you looked at that picture?

22 A. Yes.

23 Q. Why is that?

24 A. Because the primer on the door. I mean

COPY

DISTRICT COURT
CLARK COUNTY, NEVADA

The State of Nevada,)	
)	
Plaintiff,)	
)	Case No. C106784
vs.)	Dept. No. IV
)	Docket No. "C"
Michael Damon Rippo,)	
#0619119)	
Defendant.)	
)	
)	

Before the Honorable Gerard J. Bongiovanni
Friday, February 2, 1996, 10:20 o'clock a.m.

Reporter's Transcript of Proceedings

JURY TRIAL

VOLUME VI

REPORTED BY: Renee Silvaggio, C.C.R. No. 122

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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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000948

1 Las Vegas, Nevada, Friday, February 2, 1996, 10:20 a.m.

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* * * * *

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THE COURT: Case Number C106784, the State
of Nevada versus Michael Damon Ripppo.

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10

Let the record reflect the
presence of the defendant, with his attorneys, Steven
Wolfson and Philip Dunleavy; Mel Harmon and Dan Seaton
appearing on behalf of the State of Nevada.

11

12

13

14

Okay. Ladies and gentlemen,
what we've been doing the last -- for the full week is
selecting jurors who may sit and act as jurors in this
trial.

15

16

17

18

In our system, the attorneys
for both sides have the right to ask that a particular
person not serve as a juror. These requests are called
challenges.

19

20

21

I'm sure you all saw, during
the course of jury selection, that certain people were
excused when a challenge for cause was made.

22

23

24

A challenge for cause means
that the answers by a particular juror were evident that he
or she could not sit and be fair or impartial in this case.

000943

1 All of you present in the
2 audience have been passed for cause and have gotten by this
3 type of challenge.

4 There is, however, a second
5 type of challenge called a peremptory challenge. This means
6 that a Juror may be excused from service without either side
7 having to give a reason for the excusal.

8 That is where we are presently.
9 You've all been passed on the for cause challenges and now
10 we're going to begin exercising our peremptory challenges.

11 I don't want any of you to be
12 offended if you are excused by these peremptory challenges.
13 It's just part of our system of Jury selection to insure
14 that -- to protect the rights of the parties under our
15 system of government.

16 So what we're going to do now
17 is begin the process of the State and the defense exercising
18 their peremptory challenges.

19 Okay. The State may --

20 MR. SEATON: We will need a copy of the --

21 THE COURT: Don't you have one?

22 THE CLERK: Leo has them.

23 For the record, I think we
24 should put, like, one for State, defense one --

000959

1 MR. WOLFSON: No, there is rows, Judge;
2 there is plaintiff on one side and defendant on the other.

3 THE COURT: Oh, that's right. Okay. That
4 takes care of that thought.

5 While they are doing this,
6 we're going to pick 12 jurors to serve on the jury and four
7 alternate jurors to also sit during this trial.

8 Alternate jurors are necessary
9 in the event that a juror becomes sick or it becomes known
10 to the Court that they are otherwise unqualified to sit as a
11 juror for some other reason.

12 So what we're going to pick is
13 12 people to sit on the jury and four alternates.

14 All right. The court clerk
15 will now call the jurors that are going to sit on this case.

16 Mr. O'Leary, my bailiff, will
17 indicate to you where you are to sit.

18 THE CLERK: Gildardo Escalante.

19 THE BAILIFF: Come right across the front,
20 sir, if you would.

21 THE CLERK: Cindy Pedersen;
22 Krishna Shrivastava;
23 Shelby Romero;
24 Gerald Berger;

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Charlotte Proto;
Pamela Terry;
Loren Sweeney;
Myrna Keithley;
Thomas Cunningham;
Harlan Woehrie;
Steven Flood.

THE COURT: Okay. This is our 12 people who
will serve as Jurors.

We'll now state the names of
the four alternate jurors.

THE CLERK: Sandra Pacheco;
Lora Rogers;
Jack Hooper;
Deanna Brown.

THE COURT: These are our four alternate
Jurors.

I would ask that you take the
same seats every time you come back to court. Okay.

Okay. Ladies and gentlemen,
our jury selection has been completed. On behalf of the
parties in the Eighth Judicial District Court and myself,
and all the other participants in the court, I would at this
time thank you very much.

000952

1 I know it's been a long week
2 for you and I'm sure its affected your personal lives a
3 great deal just being here for this week.

4 So on behalf of the Eighth
5 Judicial District Court, at this time, you are discharged
6 from service, and thank you very much again.

7 You may leave the courtroom.
8 Stop at the Jury commissioner's office on the way out.

9 (Whereupon, the remaining
10 prospective Juror panel was
excused.)

11 THE COURT: At this time, the clerk will now
12 administer the oath of service to the 12 Jurors.

13 THE CLERK: Will the 12 Jurors please stand
14 and raise your hands.

15 THE COURT: Not the alternates.

16 (Whereupon, the Jury panel
17 was sworn.)

18 THE CLERK: Thank you. Please be seated.

19 THE COURT: The clerk will now issue the
20 oath of service to the four alternate jurors.

21 THE CLERK: Would the alternates please
22 stand and raise their right hands.

23 (Whereupon, the alternate
24 jurors were sworn.)

000953

1 THE CLERK: Thank you. Please be seated.

2 THE COURT: All right. At this time, we're
3 going to take a short recess because we have matters to be
4 heard outside your presence.

5 So, remember: Do not converse
6 among yourselves or with anyone else on any subject
7 connected to this trial;

8 Read, watch, listen to any
9 report or commentary on the trial by any medium of
10 information, including, without limitation, newspaper,
11 television or radio;

12 Or form or express any opinion
13 on the trial until the case is finally submitted to you.

14 Before I excuse them, are there
15 people in court that you've -- presently that you told me
16 about in chambers?

17 MR. DUNLEAVY: Yes, Your Honor.

18 THE COURT: Okay. Would you identify them,
19 please.

20 MR. WOLFSON: Judge, I think it should be
21 done out of the presence of the jury.

22 THE COURT: Well, I don't want either side
23 to have contact with the others.

24 MR. SEATON: I think out of the presence of

000954

1 the jury.

2 THE COURT: Out of the presence, okay.

3 All right. Please leave the
4 courtroom.

5 (The following proceedings were
6 had in open court outside the
presence of the jury:)

7 THE COURT: The record will reflect we are
8 now outside the presence of the jury.

9 Okay. Somebody had a motion?

10 MR. HARMON: The State had a motion.
11 Perhaps, though, Your Honor, we could pursue making our
12 record about the exclusionary rule. The State will be
13 invoking the rule at this time.

14 THE COURT: Okay. The exclusionary rule
15 will be in force.

16 MR. HARMON: But the parties have agreed
17 that certain family members, who we anticipate would be
18 called as witnesses, should the jury convict Mr. Rippo of
19 murder of the first degree at a penalty hearing, that those
20 family members have a desire to be in the courtroom during
21 this phase of the trial, and the parties have agreed that
22 certain persons may do so. That would be the mother and
23 father of both victims, and, as I recall, the mother also of
24 the defendant, Mr. Rippo.

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1 THE COURT: Okay. And are these parties in
2 the courtroom at the present time? All these people? I
3 believe that would be five people.

4 MR. HARMON: Perhaps we could have them
5 stand, Your Honor.

6 THE COURT: Would you stand up, please.
7 And who is that other gentleman
8 that just stood?

9 MR. LIZZI: Victim's brother, Nicholas
10 Lizzi, L-i-z-z-i.

11 MR. HARMON: Your Honor, at this point, we
12 have not anticipated using the brother as a victim
13 **impartial witness.

14 MR. WOLFSON: And that's fine. He can stay
15 in the courtroom.

16 MR. DUNLEAVY: We would ask that all parties
17 be admonished.

18 THE COURT: Okay. I'm going to admonish
19 them now.

20 I'm going to ask all you people
21 now not to talk to the jury at all, wear any kind of badges
22 indicating who you are, victims, family or whatever, and do
23 not have any contact whatsoever with this jury. If you do,
24 it may contaminate the jury and cause a mistrial in this

000956

1 matter.

2 I know you are all under a lot
3 of stress and have been for the past four years, and for
4 something like this to happen now and wind up having to do
5 this all over again is not going to benefit anybody.

6 So, please, don't talk to
7 anyone or give any indication to any of the jurors who you
8 are.

9 MR. DUNLEAVY: Your Honor, we were also
10 asking that they be admonished -- I mean, there is going to
11 be some very upsetting things come out in this trial -- that
12 they be admonished to not cry or nod their heads or do
13 anything that indicates their feelings regarding the
14 testimony.

15 If they feel they have a
16 problem, they are going to have to leave and come back in.

17 THE COURT: If someone becomes so upset over
18 testimony that's being given and cannot control themselves,
19 I'm going to ask you to get up and leave on your own
20 volition, because if that persists and an outbreak occurs, I
21 don't want to have to tell you in the middle of the
22 proceedings to leave.

23 If I have to do that, then you
24 are not going to be let back in to see -- to view the

000957

1 remainder of the trial. So I know it's hard, but please
2 control yourselves.

3 Anything else in this regard?

4 MR. HARMON: Not in this regard, Your Honor.

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

6 You may be seated.

7 MR. HARMON: Your Honor, the State had
8 another legal matter that it wished to present to the Court.

9 We naturally have no way of
10 knowing what the strategies will be of the defense in this
11 case, but out of an abundance of caution, before the
12 presentation of opening statements, we wanted to make the
13 Court and counsel aware that we intend to assert the hearsay
14 objection to -- I would say -- almost in their entirety, the
15 various statements made by the defendant after the
16 commission of this crime.

17 In fact, to a substantial
18 number of people, Mr. Rippa made statements that, in effect,
19 pointed the finger at Diana Hunt as one of the primary
20 perpetrators of the crime.

21 It's our position that these
22 were self-serving statements made by him, and we just want
23 the Court and counsel to be on notice.

24 Our statute, N.R.S. 51.035,

000958

1 subheading (3)(a), is very clear on this subject.

2 As the Court knows, the statute
3 reads:

4 Hearsay means a statement
5 offered in evidence to prove the truth of the
6 matter asserted unless," and then dropping to
7 subheading (3), "the statement is offered against a
8 party, and is, (a) his own statement, in either his
9 individual or a representative capacity.

10 We don't want the defense to be
11 alluding -- now maybe they didn't intend to in their opening
12 statement -- but we don't want to be in the position, Judge,
13 of constantly having to object and perhaps appear rude and
14 disrespectful during the defense opening remarks.

15 If they are going to be
16 alluding to self-serving statements made by the defendant
17 outside of the courtroom, the statute is clear, that there
18 really are three requirements in this category:

19 It must be the statement of the
20 defendant; to be admissible, it must be a statement offered
21 against him; and when that declaration was made, it must
22 have been inconsistent with the position now taken by the
23 defendant in court.

24 There are a number of Nevada

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1 cases which support the position that we take at this time.
 2 They are Johnstone v. State, J-o-h-n-s-t-o-n-e, reported at
 3 93 Nevada, page 427, at 566 Pacific 2nd, 1130, a 1977 case;
 4 Guy v. State, G-u-y, at 108
 5 Nevada 770, 839 Pacific 2nd, 578, a 1992 decision;
 6 Shaw v. State, S-h-a-w, 104
 7 Nevada, 100, 753 Pacific 2nd, 888, a 1988 decision.
 8 And consistent in their
 9 analysis with the three cases I have alluded to so far,
 10 Aguilar v. State, A-g-u-i-l-a-r, 98 Nevada, 18, 639 Pacific
 11 2nd, 533, a 1982 decision; and Turner v. State, T-u-r-n-e-r,
 12 98 Nevada 1036, 67 -- it appears 14 Pacific 2nd, 1062, a
 13 1982 decision.

14 THE COURT: Response?

15 MR. DUNLEAVY: Your Honor, briefly.

16 We all know that there is 28 to
 17 30 exceptions to the hearsay rule, so just because something
 18 is hearsay doesn't mean it can't come in, specifically, for
 19 instance, Tom Christos, who was acting as an agent of the
 20 police and wore a wire into the jail to talk to my client
 21 for the express purpose of eliciting incriminating
 22 statements.

23 Unfortunately, he didn't give
 24 him any. He specifically told him he wasn't involved and

000963

1 told him who was involved.

2 Now, if you make a statement to
3 the police or an agent of the police saying you didn't do
4 it, that's admissible.

5 The other thing I would point
6 out is that any of these, if they try and raise something
7 about a recent fabrication, then statements that were made
8 contemporaneous with the act or closely associated with it
9 are admissible to reflect any inference of a recent
10 fabrication of the defense. And those are two widely
11 recognized exceptions, I believe.

12 MR. HARMON: We don't disagree with the last
13 analysis, but, frankly, we can't imagine that happening
14 unless Mr. Rippo elects to take the witness stand and
15 subject himself to cross-examination.

16 We vigorously take exception to
17 the comment that if you are an agent of the police and you
18 make a statement to that agent, or if you are making a
19 statement to police officers, that somehow that makes an
20 out-of-court declaration not hearsay.

21 There is no such exception,
22 Your Honor. The statute is crystal clear, as are the cases.

23 These out-of-court hearsay
24 statements, if they are offered on behalf of Mr. Rippo, are

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1 inadmissible. And we're making it clear now that we have no
2 intention -- whether it's Tom Christos or Detective Scholl
3 or any other witness, we have no intention of introducing
4 these hearsay, self-serving statements that, in fact, are
5 consistent -- not inconsistent; they are consistent with the
6 position now taken by this defendant at trial. We're not
7 going to offer those against him.

8 Therefore, regardless of the
9 person to whom they are made, they're inadmissible, unless
10 the defense can come up with some valid exception to the
11 rule.

12 MR. DUNLEAVY: Well, of course, they are not
13 going to offer them against him because he says he didn't do
14 it, but I believe that there are authority -- and I don't
15 have it with me since I didn't know we were going to have
16 this motion today, we weren't put on notice of it -- that if
17 someone makes an exculpatory statement to the authorities,
18 that it's admissible.

19 And I submit that even
20 Christos, who is wearing a wire -- at the express direction
21 of the police, went into the jail and had a contact visit
22 with this man, wearing a wire for the purpose of getting him
23 to confess, and instead, he said he didn't do it, that's
24 relevant and that's admissible and we would provide points

000962

14 1 and authorities on Monday, because I didn't know they were
2 going to raise this today, and I wasn't prepared to bring it
3 in.

4 THE COURT: Okay. I'll reserve ruling on
5 that.

6 MR. HARMON: We'll be very interested in
7 seeing that authority, Judge.

8 THE COURT: I'll reserve ruling on that. I
9 think, for the most part, the State is right.

10 MR. HARMON: We're urging --

11 THE COURT: I guess I'm going to have to
12 wait until it comes up before I can rule on it.

13 MR. HARMON: We're urging the Court though
14 to admonish the defense not to get into a contested area.
15 The statute is very clear. It doesn't make any difference
16 who you are talking to.

17 They're saying that if we
18 choose, for example, not to offer the two separate
19 statements made by this defendant to the police department,
20 which are essentially self-serving, if we choose not to
21 introduce those, they can bring them in, and the defense
22 gets his version before the jury without taking a witness
23 stand?

24 It doesn't work that way. We

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1 cannot cross-examine those self-serving statements, and
2 whether it's Christos or Scholl, they are inadmissible.
3 They are not offered against him. That's the language of
4 our statute.

5 MR. WOLFSON: I would ask Your Honor to
6 reserve your ruling until the parties have a chance to
7 present you with authorities.

8 To satisfy the State of Nevada
9 at this point, I am giving the opening statement in this
10 case. I do not plan to tell the Jury, in my opening
11 statement, anything regarding what our client may have said
12 to anybody.

13 MR. HARMON: Very well.

14 MR. WOLFSON: So for purposes of today's
15 opening statement, and I believe that is the purpose for
16 you --

17 MR. HARMON: It is.

18 MR. WOLFSON: -- at least raising it now,
19 I'm not going to mention that in my opening statement.

20 THE COURT: And when are these authorities
21 going to be presented to the Court?

22 MR. DUNLEAVY: Monday morning, since
23 obviously we won't be able to do it today.

24 THE COURT: Okay. Could you have them --

000964

14 1 does the State need time to respond to them or just orally
2 or --

3 MR. HARMON: Well, we're going to be
4 proceeding with the testimony.

5 If -- if we could get them
6 somewhat before we start the court on Monday, so we can at
7 least consider them, perhaps nine o'clock, if the Court is
8 intending to start at ten.

9 THE COURT: Probably on Monday, with the
10 criminal calendar, we won't get started until probably
11 10:30, closer to 10:30.

12 MR. HARMON: Well, we would like to have
13 the --

14 THE COURT: If the defense could provide the
15 State at nine o'clock on Monday morning with these
16 authorities and at least give them an hour and a half to
17 make any -- to review them, they can make an opening
18 response prior to starting the trial on Monday.

19 MR. HARMON: Thank you.

20 THE COURT: Okay?

21 Anything else?

22 MR. HARMON: Not by the State, Your Honor.

23 THE COURT: All right. Let's take five
24 minutes. Then we'll bring the jury in and get started with

000965

opening statements.

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

THE COURT: Where is Mr. Seaton?

MR. HARMON: He will be right back, Your Honor.

THE COURT: Counsel stipulate to the presence of the Jury?

MR. HARMON: Yes, Your Honor.

MR. DUNLEAVY: Yes, Your Honor.

THE COURT: Okay. I don't know, is -- the exclusionary rule is in effect.

Is there anyone presently in the courtroom who may testify in this matter?

(No response.)

MR. HARMON: That would be excepting the stipulat- --

THE COURT: Excepting those stipulated to.

All right. Ladies and

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14

1 gentlemen, you are admonished that no juror declare to a
2 fellow juror any fact relating to this case of his own
3 knowledge; and if any juror discovers, during the trial, or
4 after the jury has retired, that he or any other juror has
5 personal knowledge of any of the facts in controversy in
6 this case, he shall disclose such a situation to me in the
7 absence of the other jurors.

8 This means that if you learn,
9 during the course of the trial, that you are acquainted with
10 the facts of this case or the witnesses, and you have not
11 previously disclosed that information to me, you must then
12 declare that to me through my bailiff.

13 As I stated before, during the
14 course of the trial, the attorneys and the court personnel,
15 other than my bailiff, will not be permitted to talk to you.

15

16 You are further admonished not
17 to visit the scene where any of the acts or occurrences made
18 mention of during this trial have occurred unless
19 specifically asked to do so by the Court.

20 What I'm now going to say is
21 intended to serve as an introduction to this trial. It is
22 not a substitute for the detailed instructions on the law,
23 which I will give you at the end of the trial.

24 This is a criminal case

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1 commenced by the State of Nevada, which I may sometimes
2 refer to as the State against Michael Ripppo.

3 This case is based upon an
4 Information --

5 MR. HARMON: Indictment, Your Honor.

6 THE COURT: Indictment, I'm sorry.

7 The clerk will now read the
8 Indictment to the ladies and gentlemen of the jury and state
9 the plea of the defendant to that indictment.

10 THE CLERK: Rex Bell, District Attorney,
11 Nevada Bar 001799, Attorney for Plaintiff, the
12 State of Nevada, filed in open court, January 3rd,
13 1996, Loretta Bowman, Clerk, by Josephine Bohn,
14 Deputy.

15 District Court, Clark County,
16 Nevada.

17 The State of Nevada, Plaintiff,
18 versus Michael Damon Ripppo, Defendant.

19 Case Number C106784, Department
20 Number IV, Docket Number C.

21 Amended Indictment.

22 The defendant above named,
23 Michael Damon Ripppo, accused by the Clark County
24 Grand Jury of the crimes of murder, Felony N.R.S.

000963

15

1 200.010, 200.030; Robbery, Felony, N.R.S. 200.380;
2 Possession of Stolen Vehicle, Felony N.R.S.
3 205.273; Possession of Credit Cards Without
4 Cardholder's Consent, Felony, N.R.S. 205.690;
5 Unauthorized Signing of Credit Card Transaction
6 Document, Felony, N.R.S. 205.750; and Aiding and
7 Abetting, N.R.S. 195.020, committed at and within
8 the County of Clark, State of Nevada, on or between
9 February 18th, 1992, and February 20th, 1992, as
10 follows:

11 Count I, Murder: The defendant, Michael
12 Damon Rippo, did, on or between February 18th,
13 1992, and February 20th, 1992, then and there
14 willfully, feloniously and without authority of
15 law, with malice aforethought and premeditation,
16 and/or during the course of committing robbery
17 and/or kidnapping and/or burglary, kill Lauri M.
18 Jacobson, a human being, by strangulation,
19 defendant being aided or abetted by Diana Lee Hunt
20 in the perpetration of said crime by defendant
21 and/or Diana Lee Hunt entering 3890 South
22 Cambridge, Apartment 317, Las Vegas, Clark County,
23 Nevada, by defendant deciding to rob Lauri M.
24 Jacobson and/or Denise M. Lizzi, by defendant

000969

15

1 privately discussing how the crime was going to be
2 committed with Diana Lee Hunt, by defendant
3 surreptitiously arranging to have another person
4 make a diversionary telephone call to Lauri M.
5 Jacobson so that she might be more easily
6 overpowered by Diana Lee Hunt striking Lauri M.
7 Jacobson on the head with a bottle, by defendant
8 using a stun gun to subdue Denise M. Lizzi, by
9 defendant binding the hands and feet and tying gags
10 around the mouths of both female victims, by
11 defendant demanding to know the location of drugs,
12 money and other valuables; defendant being assisted
13 by Diana Lee Hunt in forcefully removing property
14 from the persons -- person or presence of the two
15 victims, defendant and/or Diana Lee Hunt, killing
16 Lauri M. Jacobson and/or Denise M. Lizzi, defendant
17 wiping off surfaces touched inside the apartment
18 and defendant and Diana Lee Hunt then fleeing the
19 scene of the crime with a stolen 1988 Nissan
20 automobile, a stolen Citibank Gold Visa credit
21 card, and other stolen property.

22 Count II, Murder: Defendant,
23 Michael Damon Ripppo, did, on or between, February
24 18th, 1992 and February 20th, 1992, then and there

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16

1 willfully, feloniously, without authority of law,
2 with malice aforethought, and premeditation and/or
3 during the course of committing robbery and/or
4 kidnapping and/or burglary, kill Denise M. Lizzi, a
5 human being, by strangulation, defendant being
6 aided or abetted by Diana Lee Hunt in the
7 perpetration of said crime by defendant and/or
8 Diana Lee Hunt entering 3890 South Cambridge,
9 Apartment 317, Las Vegas, Clark County, Nevada, by
10 defendant deciding to rob Lauri M. Jacobson and/or
11 Denise M. Lizzi, by defendant privately discussing
12 how the crime was to be committed with Diana Lee
13 Hunt, by defendant surreptitiously arranging to
14 have another person make a diversionary phone call
15 to Lauri M. Jacobson so that she might more easily
16 be overpowered, by Diana Lee Hunt striking Lauri M.
17 Jacobson on the head with a bottle, by defendant
18 using a stun gun to subdue Denise M. Lizzi, by
19 defendant binding the hands and feet and tying the
20 gags around the mouths of both female victims, by
21 defendant demanding to know the location of drugs,
22 money and/or valuables; defendant being assisted by
23 Diana Lee Hunt in forcefully removing property from
24 the person or presence of the two victims.

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1 defendant and/or Diana Lee Hunt killing Lauri M.
2 Jacobson and/or Denise M. Lizzi, defendant wiping
3 off surfaces touched inside the apartment and
4 defendant and Diana Lee Hunt then fleeing the scene
5 of the crime with a stolen 1988 Nissan automobile,
6 a stolen Citibank Gold Visa credit card and other
7 stolen property.

8 Count III, Robbery: Defendant
9 Michael Damon Ripppo did, on or between February
10 18th, 1992 and February 20th, 1992, then and there
11 willfully, unlawfully, and feloniously, take
12 personal property, to-wit: A 1988 Nissan, bearing
13 Nevada license number 139 CUS, and/or credit cards
14 in her possession, from the person of Denise M.
15 Lizzi, or in her presence, by means of force or
16 violence, or fear of injury to, and without the
17 consent and against the will of the said Denise M.
18 Lizzi, defendant being aided or abetted by Diana
19 Lee Hunt in the manner described in Counts I and
20 II.

21 Count IV, Possession of Stolen
22 Vehicle: Defendant Michael Damon Ripppo did, on or
23 between February 18th, 1992 and February 20th,
24 1992, then and there willfully, unlawfully and

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1 feloniously, possess a stolen motor vehicle
2 wrongfully taken from Denny Mason, to-wit: A 1988
3 Nissan, bearing Nevada license number 139 CUS,
4 which defendant knew or had reason to believe had
5 been stolen.

6 Count V, Possession of Credit
7 Card Without Cardholder's Consent: Michael --
8 defendant Michael Damon Rippo, did, on or about
9 February 19th, 1992, willfully and unlawfully, and
10 feloniously, have in his possession, without the
11 consent of the cardholder, a credit card, to-wit:
12 Citibank Gold Visa credit card, number
13 4271382060293848, issued in the name of Denny
14 Mason, with intent to circulate, use, sell or
15 transfer said card, with intent to defraud the said
16 Denny Mason and/or the issuer of said credit card.

17 Count VI, Unauthorized Signing
18 of Credit Card Transaction Document: Defendant
19 Michael Damon Rippo did, on or about February 19th,
20 1992, willfully, unlawfully and feloniously, with
21 intent to defraud, sign a sales slip which
22 evidenced a credit card transaction at Sunglass
23 Company, Meadows Mall, 4300 Meadows Lane, Las
24 Vegas, Clark County, Nevada, by presenting Citibank

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1 Gold Visa credit card, number 4271382060293848,
2 issued in the name of Denny Mason, to Angie
3 Sposito, and signing the name Denny Mason to said
4 sales slip for the purchase of \$304.95 in
5 merchandise, defendant not being the cardholder,
6 and not being authorized by the cardholder to use
7 said card, or to sign cardholder's name.

8 Rex Bell, District Attorney,
9 Nevada Bar 1799, by Melvyn T. Harmon, Chief Deputy,
10 District Attorney, Nevada Bar Number 000862.

17

11 To which the defendant has
12 entered pleas of not guilty.

13 THE COURT: Thank you. All right. Thank
14 you.

15 All right. This case is based
16 upon an Indictment that has just been read by the clerk.

17 You should and continually
18 understand that the indictment is simply a charging document
19 and is not, of itself, in any sense, evidence of guilt of
20 the defendant.

21 The State, therefore, has the
22 burden of proving each of the essential elements of the
23 Indictment beyond a reasonable doubt.

24 The purpose of this trial is to

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17 1 determine whether the State has met that burden.

2 It is your primary
3 responsibility, as jurors, to find and determine the facts.
4 Under our system of criminal procedure, you are the sole
5 Judge of the facts.

6 You are to determine the facts
7 from the testimony that you hear and the evidence presented
8 from the witness stand, including exhibits introduced into
9 evidence and accepted by the Court. It is up to you to
10 determine the inferences which you may feel may properly be
11 drawn from the evidence.

12 The parties may sometimes
13 present objections to some of the testimony or other
14 evidence. At times, I may sustain objections or direct that
15 you disregard certain testimony or exhibits.

16 You must not consider any
17 evidence that the Court has sustained objections to and
18 you've been asked to disregard.

19 It is the duty of all lawyers
20 to object to evidence which they believe may not properly be
21 offered to the Court, and you should not be prejudiced in
22 any way by any lawyer who makes objections on behalf of the
23 party he represents.

24 The case is going to proceed in

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17 1 the following manner:

2 First, the State may make an
3 opening statement outlining its case.

4 The defendant may make an
5 opening statement, but, as we all know during your
6 examination as Jurors, the defense is under no obligation to
7 make any statements or offer any evidence in this case.

8 After the State's opening
9 statement, as I said, the defendant may make an opening
10 statement or may reserve the right to make an opening
11 statement at the close of the State's case.

12 Opening statements are like a
13 road map. They serve as an introduction to the evidence
14 that the party making that statement intends to prove.

15 After opening statements, the
16 State will present its case. This is done by introducing
17 witnesses in evidence to you.

18 Again, the defendant has a
19 right not to introduce any evidence.

20 Okay. The law never imposes
21 upon a defendant in a criminal trial the burden of calling
22 any witnesses or introducing any evidence.

23 At the close of the State's
24 case, the defense may then call -- present its case, if they

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17

1 so desire.

2 At the conclusion of the
3 defense's case, if any, the State will be -- will be then
4 able to call rebuttal witnesses. This is so because the
5 State has the burden of proof.

6 After all the witnesses and
7 testimony are completed, then I will instruct you on the law
8 as it applies to this case; and then we will close out the
9 case with closing arguments of counsel.

10 The State will have an
11 opportunity to speak to you twice because they do have the
12 burden of proof in this case.

13 Okay. At this time, we're
14 going to begin with opening arguments.

15 Who wishes to open for the
16 State?

17 MR. HARMON: I'll do that, Your Honor.

18 THE COURT: Mr. Harmon.

19 MR. HARMON: May it please the Court,
20 counsel; good morning, ladies and gentlemen.

21 I first want to congratulate
22 you on being selected as jurors. It has been an arduous
23 process. It may be a dubious honor.

24 As we learn during the

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1 selection process, not many of you would choose to be on
2 this type of case. This is a very serious responsibility.
3 You were selected because, by your answers, by your
4 demeanor, by the types of persons you appeared to be, it
5 seemed that you could approach this case fairly and
6 objectively.

7 Some persons have said that
8 when a jury is selected and when it sits in judgment on some
9 other person in the community, that represents the finest
10 hour of our American system of jurisprudence.

11 I encourage you, having been
12 selected, to be fully attentive to all that goes on. We're
13 not going to indicate to you that there won't be some slow
14 times during the trial. We're not following any particular
15 script. But you are now the judges of the facts in this
16 case.

17 If it's going to help to take
18 notes, do so.

19 The statements of the attorneys
20 are not evidence. The only evidence that you will hear in
21 this case will come from the witness stand, through the
22 various exhibits that may be introduced, and any
23 stipulations that the parties enter into.

24 If you conscientiously approach

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1 this case and if you decide it solely upon the evidence,
2 fairly and impartially and justly, that's all we can ask,
3 that you do your very best.

4 The poet Fitzgerald tells us
5 the bird of time --

6 MR. DUNLEAVY: Your Honor, I'm going to
7 object. This is not an opening statement. The opening
8 statement is supposed to be what the facts are going to show
9 in the trial --

10 MR. HARMON: Well, the facts --

11 MR. DUNLEAVY: -- not to instruct the jury
12 on the law, not to cite poetry.

13 MR. HARMON: The facts are going to show
14 that life is short, and the poet tells us that the bird of
15 time has but a little way to flutter and the bird is on the
16 wing.

17 Ladies and gentlemen, we all
18 know, and any murder case establishes beyond a reasonable
19 doubt, that life is fragile.

20 MR. DUNLEAVY: Your Honor, I want a running
21 objection. This is argument. This is improper statement.

22 THE COURT: Mr. --

23 MR. HARMON: I'm telling the jury, Your
24 Honor, what the evidence is going to show.

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18

1 THE COURT: Okay.

2 MR. HARMON: Which is, in the lives of two
3 young women, Lauri Jacobson and Denise Lizzi, mortality
4 ended with shocking suddenness.

5 Lauri Jacobson moved into the
6 Katie Arms apartment at 3890 South Cambridge Street,
7 Apartment 317, on February the 8th, 1992. She moved in
8 there by herself. She was making weekly payments.

9 I suppose it could be said by
10 this evidence that the bird of time was fluttering even on
11 that day for her. She had rent that was due the following
12 Saturday, February the 15th, 1992.

13 She didn't make the rent
14 payment. She fell behind on her rent, and she came into the
15 office, at the Katie Arms apartment complex, which is a
16 rather large apartment building, consisting of about 106
17 units, on Monday, February the 17th, and basically expressed
18 that she knew she was behind, but she intended to come in
19 later that day and bring her rent to date.

20 And then the office manager,
21 Wayne Hooper, observed that she seemed to go immediately
22 down to her car and she got into it. The evidence will show
23 it was a black Datsun. And he saw that it had a flat tire,
24 and even though there was a flat tire, she drove the car out

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1 of the parking lot and was followed closely by a red vehicle
2 that Mr. Hooper thought perhaps was a red Camaro. He
3 couldn't tell who was driving the car.

4 The evidence will show that, in
5 fact, the individual was a close friend of Lauri Jacobson,
6 Wendy Liston, and they went in tandem to Discount Tires on
7 South Maryland Parkway.

8 The evidence will establish
9 that Lauri dropped her Datsun off at Discount Tires; had
10 them check out the condition of the flat tire; then she was
11 taken back to Katie Arms by Wendy Liston.

12 The bird of time was on the
13 wing on Monday, February the 17th.

14 The following morning, the
15 evidence will suggest, Lauri Jacobson went to Discount
16 Tires, and on Tuesday, February the 18th, 1992, at 10:48
17 a.m. -- a receipt found by the police in her vehicle will
18 corroborate that -- she took her vehicle and presumably
19 returned to the Katie Arms apartment complex. She was
20 obviously there somewhere around twelve o'clock noon on that
21 date.

22 Denise Lizzi was a close friend
23 of Lauri Jacobson. She did not live at the Katie Arms
24 apartment complex, but from time to time, she visited her

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18

1 good friend at Apartment 317.

2 Denise Lizzi was a young single
3 woman. She had various boyfriends. Two of them, I will
4 identify at this time. As the evidence will show, one was
5 Michael Beaudoin, B-e-a-u-d-o-i-n.

6 Miss Lizzi spent quite a bit of
7 time with Mr. Beaudoin up until February the 1st, 1992, when
8 they had a very serious disagreement.

19

9 They parted company on that
10 date, and the following day, February the 2nd, 1992, Mr.
11 Beaudoin was arrested and stayed as a guest of the Clark
12 County Detention Center until late in February, 1992.

13 Denise Lizzi also had a
14 boyfriend named Denny Mason. Mr. Mason, you will learn, is
15 a local businessman. Among his ventures was a business
16 called Security Enterprises. He had a 1988 red Nissan that,
17 with his permission, he let Denise Lizzi drive, and she
18 frequently drove that car. The registered owner was Mr.
19 Mason's business, Security Enterprises.

20 The evidence will show on
21 Tuesday, February the 18th, 1992, Denise Lizzi was driving
22 Mr. Mason's 1988 Nissan, but Mr. Mason is expected to
23 indicate that the last direct contact that he had with
24 Denise was on Saturday, February the 15th.

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19
1 On that date, he not only
2 talked with her person to person, but he spoke with her by
3 telephone. When he conversed with her in person, he gave
4 her \$20, or some amount of money, and he also provided her
5 with his Citibank Visa Gold Card. She had that on her
6 person for the remainder of the day, with the full
7 permission of Mr. Mason to use it.

8 On Saturday night, February the
9 15th, at about 12:30 in the morning, Mr. Mason had his last
10 contact with Denise Lizzi. She spoke with him by telephone
11 and indicated she was at the Rio Hotel with friends.

12 As I've indicated, this
13 evidence is going to show that on Tuesday, February the
14 18th, 1992, with the bird of time in full flight, Denise
15 Lizzi decided to drive Mr. Mason's red Nissan to the Katie
16 Arms apartment complex to visit Lauri Jacobson.

17 And this evidence is going to
18 show that on that date, that most unfortunate date for these
19 two young women, the bird of time came to roost for both of
20 them in Apartment 317 of the Katie Arms apartment complex,
21 and it came to roost between approximately twelve o'clock
22 noon and one o'clock in the afternoon.

23 Well, someone has said there is
24 madness loose in the world, and madness occurred on that

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19
1 date.

2 I've already alluded to the
3 apartment manager, the office manager, Wayne Hooper. Mr.
4 Hooper had been there when Lauri Jacobson came in earlier in
5 the week and represented that she would be right back to pay
6 her rent. A number of days went by and Mr. Hooper noticed
7 that her black Datsun was parked in the same place in the
8 parking lot of the Katie Arms.

9 And he and his wife were also
10 concerned that she was quite a bit in arrears on her rent,
11 and so he and a security officer of the Katie Arms, on
12 Thursday, February the 20th, 1992, shortly after the office
13 had opened at nine o'clock in the morning, they decided to
14 go check on Lauri Jacobson and also to try to determine what
15 the situation was regarding her rent, which was now days
16 overdue.

17 Between nine and ten o'clock in
18 the morning, on that Thursday, February the 20th, Wayne
19 Hooper and Mac Holloway, the security officer, went to
20 Apartment 317 on the third floor. They knocked. A number
21 of times they knocked on the door with no response.

22 Mr. Hooper had a pass key. He
23 used it. He noted that the deadbolt lock on the entrance
24 door was in place. So he had to use the pass key to get

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1 inside. He further noticed that the night lock was
2 unlocked.

3 They entered. There was no
4 sign of movement inside. You will learn that 317 is just a
5 small studio apartment.

6 They stepped a little ways into
7 the apartment, observed, in the opinion of Mr. Hooper, that
8 it was a total mess. There were things, articles of
9 clothing strewn about. And then they looked to the area of
10 a large wall walk-in closet and observed a pair of legs on
11 the floor protruding from the closet floor. They checked
12 and discovered, side-by-side, face down, the bodies of two
13 persons.

14 These witnesses did not closely
15 examine the two victims. As I recall, one or the other at
16 least touched the leg of the victim on the right and could
17 tell that there was no sign of life. So they, therefore,
18 contacted law enforcement.

19 As I've indicated, the two
20 bodies were face down. Lauri Jacobson was located to the
21 left. She was clad in blue sweat pants, a white T shirt and
22 white socks.

23 Denise Lizzi, just to her
24 right, had her legs protruding out. She actually was.

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20 1 positioned somewhat lower, at about elbow level with Lauri
2 Jacobson, but the bodies were basically touching. She was
3 clad in a white sweat shirt, a black muscle shirt, pink
4 panties and white socks.

5 Law enforcement responded. It
6 was apparent from the condition of these two individuals
7 that this was a homicide.

8 Representatives of the crime
9 lab arrived. They examined the scene. They sketched the
10 scene. They took photographs.

11 After the initial investigatory
12 work had been completed, the bodies were removed to the
13 Clark County Morgue.

14 On the day following the
15 discovery, February the 21st, 1992, a Friday, the chief
16 medical examiner in Clark County, Dr. Sheldon Green,
17 performed autopsy examinations upon the victims identified
18 as Denise Lizzi and Lauri Jacobson.

19 Dr. Green determined that -- he
20 autopsied Denise first -- that she was approximately five
21 feet six and a half inches in height, about 118 pounds. He
22 observed evidence of early postmortem decomposition.

23 Now, the words -- he's going to
24 indicate it was apparent that she had been dead for a

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20

1 certain interval prior to the discovery of the crimes.

2 A gag had been forced into her
3 mouth. The gag was a black sock. It was held in place by a
4 ligature fashioned from a black brassiere. There was a
5 knotted piece of a black knit scarf tied around the left
6 wrist. There was also a restraint tied on the right wrist,
7 consisting of part of some blue sweat pants.

8 There were prominent ligature
9 marks, which encircled the entire neck of Denise Lizzi. The
10 individual marks were about five-sixteenths of an inch wide
11 consisting of three parallel lines of slight abrasion and
12 bruising.

13 There were ligature marks
14 around both wrists and faint ligature marks just above the
15 ankles. Additionally, there were two small stab wounds to
16 the left neck. There were multiple fresh hemorrhages in the
17 soft tissues of the neck.

18 As a result of his external and
19 internal examinations, Dr. Green concluded that the cause of
20 death of Denise Lizzi was ligature strangulation and
21 gagging.

22 And he'll tell you a ligature
23 is basically any type of instrument, whether it's a string
24 or a cord or a belt or some piece of clothing, that when

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1 fashioned in a way that it can be used on the neck, that
2 basically will be his explanation of what he means by
3 ligature.

4 Dr. Green concluded that the
5 manner of death was homicide. And homicide is a general
6 term. It refers simply to a death which is caused at the
7 hands of some other person.

8 Lauri Jacobson was also
9 examined. At the time of the autopsy, she was about five
10 feet nine inches tall. She weighed approximately 148
11 pounds. The doctor observed that with her it was not simply
12 early, but moderate postmortem decomposition.

13 As he will explain, suggesting
14 that there may have been -- although there are various
15 occurrences which could account for the difference in the
16 condition of the bodies, the difference in the rate of
17 decomposition may suggest that Lauri Jacobson was killed
18 during some interval before Denise Lizzi, whose remains were
19 less decomposed.

20 Lauri Jacobson was observed by
21 Dr. Green to have a four inch scratch, approximately in the
22 mid line of her neck. Just below this scratch was a one and
23 three-quarters inch scratch with a penetrating cutting wound
24 three-eighths of an inch long at one end. Just below the

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1 right ear was a small penetrating cutting wound.

2 There was extensive hemorrhage
3 within the soft tissues of the front of the neck, more
4 prominent on the right side of the neck than on the left
5 side, with an incomplete fracture of the thyroid cartilage
6 in the mid line.

7 There were faint ligature or
8 restraint marks present on the wrists and ankles of Lauri
9 Jacobson. In the opinion of Dr. Green, her cause of death,
10 asphyxia, due to manual strangulation, manual meaning using
11 of the hands.

12 Well, Shakespeare said on one
13 occasion, "Truth will come to light; murder cannot be hid
14 long."

15 Ladies and gentlemen, the
16 primary issue of this jury is undoubtedly not going to be to
17 determine if heinous crimes occurred. Two young women were
18 murdered at the Katie Arms. The serious issue to be
19 resolved in this case is to identify the perpetrator or
20 perpetrators of those crimes.

21 I will suggest, consistent with
22 the remark of the sage about murder not being hid long, that
23 the police got a major break on March the 1st, 1992. In the
24 3500 block of Nelson, a number of persons had gathered, and

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1 two persons, who you will learn are principals in this case,
2 got into an altercation, after doing some finger pointing at
3 each other in the presence of other witnesses.

4 And the two persons finger
5 pointing were the defendant, Mr. Rippo, and the lady who was
6 then his girlfriend, Diana Hunt.

7 As a result of certain
8 allegations she was making in the presence of these other
9 witnesses, just outside 3512 Nelson, early in the morning on
10 March the 1st, 1992, Mr. Rippo came running around and
11 physically assaulted Diana Hunt.

12 He began to punch her in the
13 face. He produced a stun gun and held it against her back;
14 and then he began to choke her, until she was rendered
15 helpless, and eventually the other persons helped extricate
16 Mr. Rippo from Diana Hunt.

17 The result was the police were
18 called and a number of people, who were at that scene, began
19 to make statements to the police about what they had
20 overheard. And Hunt, in particular, later that morning, at
21 about seven o'clock in the morning, at the police station,
22 made a statement, and she identified a person who was
23 responsible for these murders. And from that moment on, the
24 police began to focus their investigation on herself and the

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1 defendant, Michael Rippo.

2 The State, during the course of
3 this trial, will offer a number of categories of evidence
4 connecting Mr. Rippo and, in fact, Miss Hunt to the
5 perpetration of these crimes.

6 But you will learn, during the
7 course of the trial, that on May the 19th, 1992, Diana Lee
8 Hunt entered into a plea bargain with law enforcement
9 authorities; and on that date, in the presence of her
10 attorney, William H. Smith, a local lawyer, and in the
11 presence of representatives of the office of the District
12 Attorney, and in the presence of detectives from the Las
13 Vegas Metropolitan Police Department Homicide Bureau, she
14 made a lengthy statement.

15 She further agreed to cooperate
16 as a State's witness at all further proceedings in
17 connection with this case. Her benefit, and it was
18 substantial, was to be permitted to plead guilty to robbery.

19 You will learn that she entered
20 that plea of guilty and she received a 15 year sentence and
21 she is at the Nevada State Prison. She will be produced by
22 the State as a witness.

23 Now, you will learn, during
24 this trial, there are two basic categories of evidence that

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1 are available in any criminal case. One is direct evidence;
2 the other is circumstantial.

3 Direct evidence is anything
4 that a witness perceives with any of his or her physical
5 senses, and circumstantial is everything else. You will
6 have the luxury in this case, and it is a luxury in a murder
7 case, of hearing the testimony, the eyewitness account of
8 Diana Hunt.

9 You are the judges of the
10 evidence; you are the judges of credibility of the
11 witnesses; and you will have a chance to determine whether
12 she is giving a credible version of what happened.

13 Miss Hunt is going to tell you
14 that she and Mr. Rippo had been going together for a few
15 weeks. She met him sometime in January 1992, so it had not
16 been a lengthy relationship. They were living together at
17 the house of a mutual acquaintance, Deidre D'Amore. They
18 weren't paying rent. They were just basically there at the
19 good graces of Miss D'Amore.

20 On Tuesday morning, February
21 the 18th, 1992, Miss Hunt will explain that she was awakened
22 at about ten o'clock in the morning by the defendant, and he
23 told her to get up and indicated that she had to come with
24 him.

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1 Miss Hunt will explain that she
2 had been using some methamphetamine, sometimes, by slang,
3 characterized as speed, and that she had been sick all night
4 and she didn't really feel like getting up at that time.
5 But with the encouragement of Mr. Rippo, she did, and they
6 left together in his Pinto vehicle.

7 And she's going to claim that
8 initially she didn't even know where they were going, but
9 they left together and eventually arrived at the Katie Arms
10 apartment complex.

11 She will further explain that
12 she knew Mr. Rippo had been there the day before, because
13 when he came back the evening of Monday, February the 17th,
14 he explained that Lauri Jacobson, whom he knew -- in fact,
15 he had had a certain relationship with her at some time
16 before, he will indicate that -- he indicated to Diana Hunt
17 that Jacobson had to move out of her apartment and he said
18 he'd been over there Monday helping her move.

19 And when they arrived, on
20 Tuesday, at the Katie Arms, he explained that she needed to
21 go up with him, that they were going to continue to help
22 Lauri Jacobson move out of her apartment complex.

23 They did go upstairs. They
24 were invited in to Apartment 317. Jacobson knew the

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1 defendant, Mr. Ripppo, quite well. She didn't know Diana
2 Hunt very well. But they came in; they were welcome.

3 They were there for a short
4 period of time when Mr. Ripppo produced a small vial, which
5 he had represented earlier to Diana Hunt that he had
6 received from Lauri Jacobson, and he explained he brought it
7 back, and in the presence of Hunt, the two used a needle to
8 inject whatever was in this small vial, but it had been
9 represented to be morphine.

10 Once more, the visit seemed to
11 be cordial to a point, when, with the window open from this
12 third floor apartment, with the curtain open, Jacobson made
13 the observation that Denise had just arrived. At that
14 point, she made a statement, which, in substance, was that
15 Denise, because she didn't particularly like Mr. Ripppo,
16 probably wouldn't come up to the apartment if she knew he
17 was here, and so she would go down and talk to her and try
18 to persuade her to come up to the apartment.

19 Lauri Jacobson left, according
20 to Diana Hunt, and she didn't measure the time, but it was
21 perhaps 15 or 20 minutes that she was gone. And during that
22 period of time, the window was closed by Mr. Ripppo. And
23 during that period of time, Mr. Ripppo was observed by Diana
24 Hunt to make a telephone call from Lauri Jacobson's

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1 apartment.

2 Diana Hunt will say that she
3 didn't know who he was calling, but she knows he called
4 someone. And then he told her to give him the stun gun that
5 was inside her purse.

6 She's going to indicate it was
7 in there because he was always -- whether it was teasing or
8 in a more malicious way -- was always using the thing on
9 her, and so she tried to keep it in her purse. But she will
10 explain, with Jacobson outside, he asked her for it, and she
11 wanted to know why, and she will explain he said just give
12 it to me.

13 And she will indicate she still
14 didn't feel well; she was still sick; she didn't want to be
15 there. And then, after a few minutes, Denise Lizzi came up
16 to the apartment with Lauri Jacobson and they entered.

17 It was Diana Hunt's observation
18 that Denise did seem somewhat wary when she observed that
19 Mike Rippo was there. She threw down her Jean or Levi
20 Jacket. She went immediately into the bathroom. And it was
21 the perception of Diana Hunt that, inside the bathroom, some
22 type of drug was being ingested by Denise Lizzi, and perhaps
23 Lauri Jacobson, who also went into the bathroom, and
24 possibly by the defendant, Mr. Rippo.

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1 At some point after the two
2 ladies had come into the apartment, and while they were in
3 the bathroom, Rippo, the defendant, came out to Diana Hunt,
4 who was seated on a couch just inside the door, and he had,
5 in his hand, a bottle of beer.

6 He told Hunt at that time that
7 he wanted her to take the bottle of beer and when the
8 telephone rang, and when Lauri Jacobson answered the
9 telephone, and while she was speaking to whomever was going
10 to call, he wanted Diana Hunt to hit Jacobson on the back of
11 the head with the bottle of beer, and then he said, "Because
12 I'm going to rob Denise."

3

13 Well, this evidence is going to
14 show that Hunt, at that point, for whatever reason -- and
15 she'll be on the witness stand to give any excuse she might
16 have -- but she did something very stupid. She took the
17 bottle.

18 And a few minutes later, the
19 telephone did ring. She will indicate that when the phone
20 rang, two things happened: Jacobson came out of the
21 bathroom to answer the telephone, and Mr. Rippo went into
22 the bathroom.

23 The telephone was located just
24 a few feet away from this couch Diana Hunt was sitting on.

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3 1 And Lauri Jacobson, according to her, took the phone and set
2 it down on the floor and then kind of squatted down on the
3 floor with her back to Diana Hunt and picked up the
4 telephone and began to talk to someone.

5 And at that point, Hunt did the
6 second thing that was very stupid. She took that bottle of
7 beer and she cracked it over the back of Lauri Jacobson's
8 head, hard enough that, according to Diana Hunt, the bottle
9 of beer broke.

10 Hunt fell forward -- excuse
11 me -- Jacobson fell forward and to the side and seemed to be
12 either unconscious or, at the least, dazed for a few
13 moments. And then Diana Hunt could hear the noise of a
14 scuffle inside the bathroom and she could hear the sound she
15 recognized of this stun gun zapping someone, and she could
16 hear sounds which indicated discomfort coming from Denise
17 Lizzi. And then she became aware that there was a struggle,
18 which was moving from the bathroom into the closet area,
19 involving Mr. Ripppo and the second victim, Denise Lizzi.

20 And Hunt will say, at this
21 point, she started to say to him, you know, that that isn't
22 necessary, come on, let's go. And her version is going to
23 to be she was alarmed; that because the sounds of distress
24 began while the phone had fallen, it was either off the hook

000997

3 1 or still in the grip of Jacobson, she began to say, Lauri,
2 Lauri, Lauri.

3 And Lauri Jacobson began to
4 arise a little bit and wanted to know what had happened,
5 wanted to know why Diana Hunt hit her with a bottle.

6 And Hunt indicated it would be
7 all right, that she wasn't going to be hurt, that Mike had
8 just wanted to rob Denise.

9 And Lauri made the comment how
10 uncool this was, that as guests in their home, this sort of
11 thing would happen.

12 And then the defendant came out
13 to the area where Jacobson was still half sitting, half
14 lying on the floor, and proceeded -- at that time, he had a
15 knife in his hand. Hunt thought it looked like a steak
16 knife.

17 She saw him pick up several
18 appliances, one she was sure of was an iron, and he used the
19 knife to cut the cord from the iron. And he had another
20 appliance, whether it was a stereo or a hair dryer, she
21 wasn't sure, but he also cut the cord from that appliance,
22 and then he bound the hands of Lauri Jacobson behind her,
23 with her hands behind. She was sitting at this point. He
24 also bound her feet, which were in front of her.

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3

1 And then he produced what
2 appeared to Hunt to be a purple bandana and forced that into
3 her mouth. And it was about this time that persons could
4 hear someone walking down onto the balcony outside the
5 apartment and someone began to knock on the door of
6 Apartment 317.

7 Mike Rippo told Diana Hunt not
8 to say anything, and she didn't say anything. And Lauri
9 Jacobson couldn't say anything because she had a purple
10 bandana stuffed in her mouth.

11 And it is unclear what the
12 exact condition was of Denise Lizzi in the closet at that
13 time. The evidence will -- like much of the evidence, there
14 are -- various inferences can be drawn, that in all
15 probability the evidence --

16 MR. DUNLEAVY: Your Honor, I'm going to
17 object to any inferences of probability in an opening
18 statement.

19 MR. HARMON: This is just semantics, Your
20 Honor.

21 THE COURT: Objection overruled.

22 MR. HARMON: But no one knows for sure what
23 the evidence will be until we hear it.

24 But Wendy Liston, who had

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3 1 accompanied Lauri Jacobson to Discount Tires the day before,
2 will be called as a witness. She's going to indicate she
3 not only visited on Monday, it was her habit to be concerned
4 about her friend Lauri, because Lauri was hard up
5 financially, and she typically would come by during her
6 lunch break.

7 And on Tuesday, February the
8 18th, Wendy Liston, during her lunch break, came by
9 Apartment 317 and she noticed the window was closed and the
10 curtains were drawn. And she knocked on the door vigorously
11 and she called out for Lauri, and no one responded, not a
12 sound from inside Apartment 317.

13 She further noticed, because
14 she knew both of the girls -- she was a very close friend of
15 Lauri Jacobson, but she also knew Denise Lizzi and she was
16 familiar with the car that Denise generally drove -- and she
17 noticed that both of their cars, the black Datsun and the
18 red Nissan, were parked in the parking lot of the Katie
19 Arms.

20 She got no response; eventually
21 she left.

22 Well, on the inside, Mr. Rippo
23 and Diana Hunt heard these emphatic knocks. When she left,
24 matters deteriorated inside. And it was observed by Diana

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4 1 Hunt that the bindings were tightened. At some point, the
2 position of Lauri Jacobson was changed and her feet -- she
3 was stretched out on her stomach and the binding of her feet
4 and her arms were connected.

5 And she also observed that the
6 defendant picked her up and began to drag her or lift her,
7 about the way you would move a suitcase, and she could tell,
8 as this happened, Lauri Jacobson was choking and she could
9 see that she was taken by Mr. Rippo into the closet.

10 She also observed, at some
11 point, that Mr. Rippo reached onto the floor, he picked up
12 some type of object and forced it into the mouth of Denise
13 Lizzi. She heard additional sounds, went to look in, and at
14 some point, saw the defendant was straddling Miss Lizzi.
15 She was face down; he had his knee in her back. He had
16 ligatures that he was pulling tight. Diana Hunt is going to
17 tell you that there were sounds, ghastly sounds, coming from
18 Denise that sounded to her like an animal. And Mr. Rippo
19 was straining to the point where Denise was lifted a little
20 off the floor.

21 And then Mr. Rippo told Diana
22 Hunt to clean up. And she'll indicate that she really
23 wasn't sure what he was referring to, but thought he was
24 talking about the spilled beer and the glass, because it

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4 1 even splattered on some of the sentimental belongings of
2 Lauri Jacobson. She'll explain she started to clean those
3 up. She picked up the glass and other areas were wiped down
4 and then they left.

5 And she'll explain that she
6 expressed, as they were leaving to him, you hurt those
7 girls; and that his response was no, they weren't hurt
8 seriously. Their air was just caught cut off and they will
9 be okay in a little while.

10 And she observed, as they left,
11 that he had keys and he, in fact, locked the apartment, but
12 he kept the keys with him. He also had some type of
13 carrying bag over one of his shoulders, which he did not
14 have when they had arrived at the Katie Arms apartments.

15 And so Diana Hunt will provide
16 direct evidence, an eyewitness account, of what happened on
17 that Tuesday, February the 18th, at Apartment 317.

18 There will be additional
19 evidence that the defendant and Miss Hunt were in
20 possession, after the crimes, of Denise Lizzi's car, the red
21 1988 Nissan.

22 Hunt will indicate that after
23 the two left Apartment 317 on the day of the crimes, they
24 went downstairs and Mr. Rippe told her to go back home, to

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4 1 go to D'Amore's place. And she said she took the Pinto, his
2 car, and did drive back to the apartment.

3 He told her to stay there until
4 he got in touch with her. And Hunt will mention that when
5 she drove off, he was still standing in the parking lot
6 outside the Katie Arms apartment complex.

7 Later that evening, she got a
8 telephone call from Michael Rippo and Michael Rippo asked
9 her to meet him. He told her to meet him at a bar close to
10 a business of a person who was an acquaintance of Mr. Rippo.
11 He will be identified as Tom Sims, and he had a maintenance
12 business called Tommy's Maintenance, which was located at
13 Spring Mountain and Valley View.

5 14 Miss Hunt will indicate that
15 she did meet with Mr. Rippo later that evening, and at some
16 point, they went together to Tom Sim's business, and when
17 they got there, she saw this red Nissan parked and became
18 aware that Mr. Rippo had moved it from the Katie Arms to
19 that point.

20 Tom Sims will be called also as
21 a witness and he will indicate he'd known Mr. Rippo for
22 quite a while. He will indicate that he didn't know Hunt
23 really at all. And he will say, at perhaps one or two or
24 three o'clock in the afternoon, still on Tuesday, February

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5 1 18th, without any advance notice -- not that that was
2 necessary and usual -- but without any knowledge that Mike
3 Rippo would come to the business, Mr. Rippo showed up by
4 himself.

5 Mr. Sims was using the
6 telephone. He will testify he just became aware that Mr.
7 Rippo was there. There were other employees about and other
8 customers. So he completed his telephone call, but during
9 the course of the telephone conversation, he became aware
10 that Mr. Rippo had a suitcase, and that he seemed to be
11 going through items inside the suitcase.

12 Conversation was completed.
13 Mr. Sims went over, he had a conversation with Mike Rippo
14 and wanted to know what was in the suitcase. Well, just
15 odds and ends. And at that time, you could see there were a
16 bunch of tapes. And Rippo told him, well, you can have the
17 tapes, if you want. In fact, you can have -- you can have
18 the suitcase too.

19 And Mr. Sims took the suitcase
20 and the tapes, and he'll say there were quite a number of
21 them, perhaps 40 or 50 tapes. The only thing he noticed is
22 they had DL on the tapes.

23 He had a further conversation
24 with the defendant, which was I've got a car outside; and

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5 1 Sims is going to indicate that Mr. Rippo already had
2 2 approached him several days before wanting to borrow some
3 3 money.

4 And Mr. Rippo at this time
5 5 said, well, I'm sure that I can get the \$2,000 now because
6 6 the car's outside that I want you to look at, and \$2,000 is
7 7 going to be a very good price for this car.

8 On the way out, Mr. Rippo
9 9 indicated something that certainly caught the attention, of
10 10 Mr. Sims. It at least made him a little bit wary at the
11 11 vehicle. And the comment was someone died because of this
12 12 car. Sims looked at it. It did appear to be a fairly late
13 13 model Nissan. It was a red car, a maroon or burgundy. He
14 14 noticed it was in reasonably good shape. But on one of the
15 15 fenders, there was an indentation which he noticed. It
16 16 appeared that the car had been struck with some type of
17 17 object.

18 He wasn't interested. He, on
19 19 his own, concluded right away this has to be a stolen car,
20 20 and he was particularly concerned about someone dying as a
21 21 result of this car. And in so many words, he told Mike
22 22 Rippo that he wanted the car moved from the property.

23 Well, Mr. Rippo stayed around
24 24 for a period of time; then he left. And it was later that

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1 evening that Mr. Rippo returned with Diana Hunt. And
2 eventually, at the persistence of Mr. Sims, and others at
3 the business, the car was moved. And there will be evidence
4 that it was driven also by Diana Hunt; in fact, that she
5 drove it away from Tommy's Maintenance Shop.

6 The vehicle in question was the
7 car that was regularly driven by Denise Lizzi, the car given
8 to her by her boyfriend Denny Mason.

9 The following day, Wednesday,
10 February the 19th, Mr. Rippo and Diana Hunt went to the
11 Meadows Mall. Among businesses they visited was one called
12 Sun Gear, the sunglass shop. And there, the evidence will
13 show, by the testimony of Diana Hunt and the sales clerk,
14 Angie Sposito, S-p-o-s-i-t-o, a purchase of two sunglasses
15 was made by this man and woman with the man signing the
16 credit card.

17 The amount of the purchase --
18 these are rather expensive glasses, \$160 for one, 125 for
19 the other. With a 1995 sales tax, the total transaction
20 amount came to 304.95. It was a Visa Gold Card that was
21 used and it was in the name Denny Mason.

22 Mr. Mason will be called as a
23 witness. He will indicate, from the witness stand, Denise
24 Lizzi had his permission to use his car, to use his credit

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5 1 card, but Mr. Rippo and Miss Hunt and no other individuals
2 had his permission to be using his credit card or his
3 vehicle.

4 There will be additional
5 evidence that the defendant and Miss Hunt were in possession
6 of property stolen from Lauri Jacobson and Denise Lizzi.
7 I've already alluded to the suitcase and its contents.

8 Tom Sims didn't know -- at two
9 o'clock, assuming that was about when Mr. Rippo came by on
10 Tuesday, he didn't know about any murder. There wasn't any
11 murder discovered until Thursday, February the 20th, when
12 Wayne Hooper and the security guard came by shortly before
13 ten o'clock in the morning.

14 But once the discovery was
15 made, there was publicity about it, and Tom Sims, later, on
16 Thursday, February the 20th, heard that a double murder had
17 occurred at the Katie Arms apartment complex, and he
18 eventually heard the identity of the victims.

19 Well, he'd already heard the
20 comment about someone died for this car. And he's expected
21 to tell you he had a very bad feeling come over him and he
22 already knew, but he had to see it again on his own. He
23 went back and looked at these tapes that he had been given
24 by Mr. Rippo, and noticed for sure there was a DL on at

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1 least most of them.

2 As I recall, he still didn't
3 know at that point for sure what the other female victim was
4 named, but he learned later that it was Lauri Jacobson, and
5 then noticed that on the suitcase there was a name tag in
6 that name.

7 On the evening of February the
8 29th, 1992, this other boyfriend of Denise Lizzi, whom I
9 have mentioned in my remarks, Mike Beaudoin, who had now
10 been released from the Detention Center -- I explained that
11 was late February, around February the 25th, 1992, that Mr.
12 Beaudoin was released -- he was contacted by the defendant,
13 Mike Rippe, and by telephone, they agreed to meet at the
14 Showboat Hotel on the evening of February the 25th. They
15 met there and Mr. Rippe turned over to Mike Beaudoin some
16 property which consisted of a carrying bag and contents.

17 Mr. Beaudoin took possession of
18 the bag and the contents. He looked at them right there at
19 the Showboat. He, as I recall, was there with a friend
20 Darryl Scott, and they noticed that inside were some objects
21 they recognized. Several of the objects were automatic gate
22 and garage door openers.

23 In fact, these gentlemen knew
24 that Denise, on occasion, had stayed at the residence of

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1 Denny Mason, a boyfriend, and just to be sure if any of
2 these automatic openers would operate the gate leading into
3 his property, they drove over there and discovered that one
4 of these openers, which was inside the bag given to Mr.
5 Beaudoin by the defendant, in fact, opened the gate to Denny
6 Mason's property.

7 They also noticed a Plan Your
8 Day notebook. They noticed several address books. And I
9 will represent the various witnesses will identify these
10 address books. They're address books which belonged to both
11 Lauri Jacobson and Denise Lizzi inside this bag the
12 defendant had given Michael Beaudoin.

13 There also were some little
14 coin purses. One snap coin purse in particular, and a black
15 coin purse with a white stripe will be identified by
16 witnesses as belonging to Denise Lizzi.

17 But, ladies and gentlemen,
18 there will also be evidence that the defendant admitted to
19 various people his involvement in these crimes.

20 He called Thomas Sims on or
21 about February the 26th, 1992, which coincidentally was
22 known by Mr. Sims to be the birthday of Michael Rippo, and
23 during the telephone conversation, Mr. Rippo explained that
24 he left something at Tommy's Maintenance on February the

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1 18th, 1992, and he wanted to retrieve that item.

2 Well, Mr. Sims will explain he
3 wasn't talking about the tapes. He wasn't talking about the
4 suitcase. He was talking about a little bottle, which he
5 said had some morphine in it, that he had put inside the
6 refrigerator at Tommy's Maintenance, and he wanted to
7 recover that item.

7

8 But Mr. Sims will indicate he
9 didn't know what Mike Rippo was talking about, but he went
10 and looked in the refrigerator. Sure enough, there was a
11 little bottle with some type of fluid in it.

12 And so he agreed to meet with
13 Mr. Rippo later that evening; and they had decided, at the
14 request of Mr. Sims -- because by now, he was certainly
15 aware of this individual and he wanted it to be a sort of
16 public place -- that they would meet at Caribbean Charlie's
17 on the Strip.

18 And he got in his vehicle and
19 was headed in that direction. He will explain he got to
20 thinking, I don't know if I ought to meet with him at all,
21 when there was a call on his cellular telephone.

22 He answered, as he drove along.
23 It was Mr. Rippo, who explained that he had some car
24 trouble; that, in fact, he wouldn't be able to meet at

001010

7 1 Caribbean Charlie's; that he was out at Rainbow, I think,
2 and Spring Mountain, close to the Thrifty Mart.

3 And this gave Sims even more
4 concern -- the place of the meeting was now being changed --
5 but that he went out to Spring Mountain and Rainbow, but was
6 careful to be observant as to whether there would be some
7 indication in this parking lot that the vehicle was
8 disabled, as Mr. Rippo had represented.

9 He saw the car and, sure
10 enough, there seemed to be a puddle of oil or something,
11 which allayed his concern to some extent, delayed his
12 concern to some extent.

13 He got out and he gave Mr.
14 Rippo the item that he wanted, this little vial of what
15 purported to be morphine.

16 And then Mr. Sims, during the
17 course of a short conversation at the parking lot, got a
18 little braver and indicated to Rippo something about that
19 property he acquired and accused Mr. Rippo of being involved
20 in the murder of those two girls.

21 And according to Thomas Sims,
22 like any of the other evidence, that you must consider all
23 the factors in determining credibility, the defendant said:
24 Yes, I strangled those bitches.

001011

7 1 They then got into Sims' car
2 and while driving down Spring Mountain Road, towards the
3 Stardust, Sims persisted in trying to find out a little bit
4 more information. He wanted to know of Mr. Rippo if he was
5 alone when he did it, and the defendant told him no, Diana
6 was with him.

7 And then Sims wanted to know
8 the answer to a logical question: Well, if she was there,
9 can you trust her?

10 And Mr. Rippo, according to Tom
11 Sims, said: I'm sure I can because she not only was there,
12 she initiated the action. She hit Lauri Jacobson with a
13 bottle of beer.

14 Now, Mr. Sims had been picking
15 up a little information about the case from the newspapers
16 or wherever. It may have been totally incorrect, but his
17 state of mind was such that it prompted him -- because he
18 remembered something to indicate there was trauma to the
19 face or a part of the body of one of the victims, and he
20 inquired about that.

21 The defendant, according to
22 him, said that he was dragging one of these girls into the
23 closet or a back room when she fell and her face hit the
24 coffee table.

001012

1 Sims then asked: Well, why did
2 you take the pants off of one of victims?

3 And the evidence will show that
4 Denise Lizzi didn't have her outer garments on, only her
5 pink underpants.

6 The response was by Mr. Rippe
7 that during the altercations with the victims, he cut his
8 finger and he bled on her pants, and he was concerned about
9 the investigation connecting his blood and that's why he not
10 only took her pants off, he took them with him.

11 Sims asked him why he did it,
12 and the comment to Sims was: Well, the first one was an
13 accident, so he had to kill the second one.

14 He then commented that both of
15 those girls were really fine. I could have fucked both of
16 them. He indicated he didn't with the comment: I'm cured.

17 Additionally, the prosecution
18 will present the testimony of a person or persons who shared
19 cells in the Clark County Detention Center with the
20 defendant after his arrest on this charge, to whom he
21 confided his responsibility in the murder of these two young
22 women.

23 Ladies and gentlemen, the
24 primary question to be resolved by you, as the triers of the

001013

8 1 facts in this case, is to answer this question: Who
2 committed the vicious, senseless robbery-murder of two young
3 Las Vegas women on Tuesday, February the 18th, 1992, around
4 twelve o'clock noon at the Katie Arms apartment complex,
5 Apartment 317?

6 The evidence in this case is
7 going to show that the motive was robbery and also other ill
8 feelings that related to events prior to that date.

9 The evidence will show that the
10 accomplice of this perpetrator was 27 year old Diana Hunt.

11 The evidence will further show
12 that the perpetrator, the killer, is almost 31 years of age.
13 He's approximately five feet four inches tall, perhaps 150
14 pounds or less.

15 The evidence will show in this
16 case he used the element of surprise and a stun gun and a
17 steak knife and various ligatures and his hands to cruelly
18 murder two human beings.

19 He caused the bird of time to
20 flutter on February the 18th, 1992 and to come to roost
21 where Lauri Jacobson and Denise Lizzi were. Lauri was 27.
22 Denise was 25.

23 This evidence is going to show
24 he is a killer and he is in this courtroom. He's Michael

001014

8

1 Rippo.

2 THE COURT: Mr. Wolfson.

3 MR. WOLFSON: Counsel approach the bench?

4 THE COURT: Yes.

5

6 (Whereupon, an off-the-record
7 discussion was had.)

7

8

9 THE COURT: All right. We'll take our noon
10 recess. We will return here at ten minutes to two and we'll
11 hear the opening statement of the defendant.

12 Remember: Do not discuss this
13 case among yourselves or with anyone else;

14 Read any -- read, watch or
15 listen to any commentary on this case by any medium of
16 information, including, without limitation, newspapers, TV
17 or radio;

18 Or form or express any opinion
19 on this case until the matter is finally submitted to you.

20 Have a good lunch.

21

22 (Whereupon, the proceedings
23 were recessed for lunch.)

23

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001015

Las Vegas, Nevada, February 2, 1996, 2:00 p.m.

* * * * *

(The following proceedings were
had in open court outside the
presence of the jury:)

THE COURT: Let the record reflect the
presence of the defendant and his attorneys; the attorneys
for the State.

The record will also reflect we
are outside the presence of the jury.

You had something?

MR. DUNLEAVY: A couple things, Your Honor.

Probably the first one, which
is the simplest one, is I notice there is a couple
prospective jurors that have come back to watch the trial.
I would just like to make sure they are admonished not to
speak to anybody on the panel since they may or may not know
that that is prohibited.

THE COURT: Ladies, the two which are the
prospective jurors -- there is three of you back there --
you understand you are not supposed to talk to anyone on the
panel or anyone else. Okay.

MR. DUNLEAVY: The second one, Your Honor.

001016

1 is a motion for a mistrial.

2 Throughout Mr. Harmon's opening
3 statement, he made references to statements Mr. Sims was
4 going to accredit to our client. We've been provided
5 discovery on Mr. Sims, including the statement given to the
6 police and his Grand Jury testimony. None of this was ever
7 discussed.

8 We've never heard anything
9 about this. We've never provided any discovery indicating
10 that he had any information outside this.

11 To be sandbagged in opening
12 statement that our client supposedly confessed to somebody
13 is not the way it's supposed to be done. We have discovery
14 orders filed in a timely manner. They were granted.

15 Clearly, inculpatory statements
16 by our client is something we're entitled to be advised of.
17 We never heard them at all until Mr. Harmon made his opening
18 statement, and I submit to you that's improper and grounds
19 for a mistrial.

20 And, thirdly, I would put on
21 the record that we're going to need an evidentiary hearing
22 on State's Exhibits 19 through 63, which are photos of
23 bodies and, in my opinion, redundant, photos of autopsy,
24 which are inflammatory, and I don't think -- they're

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1 entitled to one or two, but I think 23 photos of it is a
2 little excessive. And I wish we could argue that when the
3 Judge could view those photos.

4 MR. WOLFSON: Your Honor, I just want to
5 amplify one thing, and that is the matter that Mr. Dunleavy
6 mentioned regarding Mr. Sims and what Mr. Harmon said Mr.
7 Sims would testify to regarding alleged statements by
8 Michael Ripppo.

9 I have ten of these volumes
10 (indicating) for this case. Three or four of them are the
11 discovery alone. I have Mr. Sim's voluntary statement. I
12 have Mr. Sim's Grand Jury testimony. Nowhere in any of that
13 does Mr. Sims say anything close to Mr. Ripppo admitting
14 involvement in these murders.

15 Mr. Harmon obviously has come
16 into this information, either through a pretrial with Mr.
17 Sims or other statements.

18 Now, these are statements of
19 our client. Pursuant to 174.235, we are obligated -- we are
20 allowed -- they are obligated to provide us with those
21 things, which they have not.

22 I would ask for an evidentiary
23 hearing on this issue. Here I am about to give an opening
24 statement in response to Mr. Harmon and I'm totally

001018

1 surprised by this new information that has come to the
2 attention of the State, I don't know when.

3 I mean, Judge, they gave us a
4 crime report by criminologist Alan Cabralis Thursday or
5 Friday, that was authored in February of '92 --

6
7 (Whereupon, a sotto voce at
8 this time.)

9 MR. WOLFSON: -- an additional statement by
10 another witness, Mr. Lewis.

11 This is -- this is a
12 criminologist's report from three years and eleven months
13 ago, that we got last Thursday.

14 So, Judge, at the very least,
15 I'd like to hear from the State, in an evidentiary fashion,
16 how they came upon Mr. Sim's information and why it wasn't
17 provided to us until the opening statement.

18 THE COURT: Response?

19 MR. HARMON: Your Honor, Tom Sims testified
20 before the Grand Jury. So it's not any secret that he's a
21 witness.

22 As the Court knows, the same
23 rule of endorsing all prospective witnesses doesn't
24 necessarily apply to Grand Jury proceedings, but to make

001019

1 1 sure that the defense knew exactly who the witnesses were,
2 that we intended to present witnesses from in our case in
3 chief, we provided a lengthy list, very similar to what we
4 do in the case of an Information.

5 Once again, Thomas Sims' name
6 was listed. Judge, we don't own these witnesses. They may
7 have information that's helpful to the State, but we do not
8 have a proprietary interest in people like Thomas Sims.

9 The defense has access. Once a
10 witness is listed, the defense also has the option of
11 conducting pretrial conferences. Mr. Sims did not testify
12 to any confession made by Mr. Rippo to him at the Grand Jury
13 hearing, that's correct. He did not allude, in statements
14 to the police, made in 1992, to admissions made to him by
15 the defendant.

16 For the first time, a week ago
17 today, when I met Thomas Sims, and conducted a pretrial
18 conference with the man, he disclosed the information.

19 Judge, there aren't any written
20 or recorded statements. I sat in my office and heard him
21 relate what he is saying Mr. Rippo said to him.

22 That's the long and short of
23 it. It is not unusual when witnesses are interviewed during
24 a pretrial conference or a pre-hearing conference of any

001020

2

1 kind that they have remembered additional information.

2 Whether he's embellishing for
3 his own motives or whether he now finally is telling us all
4 that he knows, I can't represent to the Court or counsel. I
5 only know what the man said to me.

6 We cannot make it discoverable.
7 I -- I couldn't even represent to the Court or counsel
8 precisely what the man is going to say on the witness stand.

9 MR. DUNLEAVY: He did in opening statement
10 to the jury, Your Honor.

11 MR. HARMON: I related during my opening
12 statement what the man told me verbally during the
13 conference.

14 Judge, the defense has the same
15 option with each of these witnesses.

16 THE COURT: You have investigators and go
17 interview all these witnesses.

18 MR. DUNLEAVY: Your Honor, they provided us
19 with 168 witnesses. Last week, they gave us a shortened
20 list. But our investigator spent a lot of time looking for
21 people on that 168 named list that aren't going to be
22 called. Obviously, we haven't gone back and interviewed Mr.
23 Sims, because we had his statement to the police and his
24 Grand Jury testimony.

001021

2 1 So we went out looking for
2 people that we didn't have things on to try and put the case
3 together.

4 MR. HARMON: Well, he was certainly on the
5 shortened list. The defense had to have known -- because of
6 the original information he gave, that of seeing this
7 vehicle at his business on the day of the crime, of hearing
8 a statement from the defendant, this car caused a murder,
9 and because of discussion about money and leaving town, they
10 had to know Thomas Sims was going to be a witness. That's
11 the only point I'm making. And nothing written or recorded;
12 he came in at a pretrial conference and made the disclosures
13 one week ago.

14 THE COURT: Motion for mistrial is denied.

15 Anything else?

16 MR. DUNLEAVY: Not at this time, Your Honor.

17 THE COURT: Get the jury.

18 MR. DUNLEAVY: Your Honor, they do intend to
19 use at least one of the photos in that group that we want a
20 hearing on.

21 THE COURT: Do you want to go over these
22 first before we begin?

23 MR. DUNLEAVY: Well, they told me they were
24 going to use one of them with the first witness and Danny

001022

1 can show it to the Court.

2 I think counsel --

3 MR. DUNLEAVY: It's probably the least
4 objectionable.

5 MR. SEATON: Let me show --

6 THE COURT: As long as you are going to
7 limit it to the one.

8 MR. SEATON: Today it's only the one.

9 THE COURT: And then we'll go over the other
10 ones before -- at a recess or something outside the presence
11 of the jury.

12 Okay. Get the Jury.

13
14 (The following proceedings were
15 had in open court in the
16 presence of the jury:)

17 THE COURT: Good afternoon, ladies and
18 gentlemen.

19 Counsel stipulate to the
20 presence of the jury?

21 MR. SEATON: Yes, Judge.

22 MR. DUNLEAVY: Yes, sir.

23 THE COURT: Mr. Wolfson, you may make your
24 opening statement.

001023

MR. WOLFSON: Thank you, Your Honor.

Good afternoon, ladies and gentlemen.

I, too, on behalf of co-counsel, Mr. Dunleavy, and Michael, want to congratulate you folks.

After a three day torturous process of grilling you folks on your personal lives and how you thought about this and what would you do if that, you have been selected as jurors.

I submit to you that when the case is finally given to you for decision, that this may be one of the hardest decisions you will ever make. You are going to have to decide from the evidence whether the evidence supports what the government wants or whether the evidence supports what we suggest it doesn't support.

But I ask you in this opening statement to pay close attention; listen to all of the evidence, because I'm sure when the case is finally submitted to you, you will be convinced that the State has not met their burden.

I submit to you that this case should really be titled with two titles: One, The State of Nevada versus Michael Rippe; and, two, Diana Hunt versus the

001024

3

1 truth.

2

You will see that: She alone

3

says that Michael Rippo committed these crimes; she alone is

4

the one who says Michael Rippo was in the apartment on

5

February 18th, 1992. The evidence will show that she is not

6

believable.

7

The evidence will show that

8

there is no physical evidence to support her assertion that

9

Michael Rippo spent two hours inside this apartment.

10

The prosecutor said there is

11

two types of evidence: Direct evidence and circumstantial

12

evidence.

13

Us lawyers, us judges, use

14

these terms that we're taught in law school to describe the

15

evidence.

16

Direct evidence is, as Mr.

17

Harmon says, someone who is an eyewitness, someone who says

18

I saw that event happen with my own eyes. That is direct

19

evidence.

20

The evidence will show that

21

there is only one person who will testify on behalf of the

22

State of Nevada who claims to have percipient knowledge, who

23

claims to have seen the crime committed, and that is Diana

24

Hunt.

001025

3

1 We also have circumstantial
2 evidence, which, as Mr. Harman very eloquently stated, was
3 everything else besides direct evidence. A perfect example
4 of circumstantial evidence is a fingerprint. A fingerprint
5 is something other than direct evidence, something other
6 than eyewitness perception.

7 We all grow up watching
8 television and hearing on television from Perry Mason:
9 Objection, Your Honor, that's circumstantial evidence.

10 And I remember growing up,
11 before I became a lawyer, with the impression that
12 circumstantial evidence was something less than direct
13 evidence; it's not as good; it's not as reliable. That's
14 not true.

15 The evidence in this case, I
16 submit, will show you that the physical evidence, the
17 circumstantial evidence, or the lack thereof, is more
18 compelling than the direct evidence.

19 The evidence will show that
20 there is a total lack -- there is no physical evidence to
21 connect Michael Rippo with this apartment.

22 You must keep in mind that, at
23 the beginning of this trial, Mr. Seaton stood up and read
24 off a list of 165 witnesses, thereabouts. I counted the

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3 1 number up quickly and it's pretty close to 165 witnesses.

2 You must understand, ladies and
3 gentlemen, that those are the witnesses that are our
4 witnesses too.

5 You will see, from the
6 procedure of the trial, as His Honor has instructed you,
7 that they have the burden of proof, so they go first. To
8 meet their burden, to attempt to convince you, they call
9 witnesses to the witness stand.

10 But, ladies and gentlemen,
11 these witnesses are our witnesses too. So when you listen
12 to the witnesses that are called by the State, please keep
13 in mind that we're not going to call them ourselves because
14 they called them first, but they're equally our witnesses
15 too.

16 A criminal case begins with a
17 crime; in this case, an ugly, terrible crime. It is
18 followed by an investigation; in this case, by the police
19 department.

20 We, as citizens, rely on police
21 to do a competent job. We rely on the police, who go to a
22 crime scene, to gather evidence to bring to a courtroom in
23 this search for the truth.

24 You will learn, from the

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3

1 evidence, that the investigation in this case was seriously
2 compromised -- remember that word, seriously compromised --
3 by the methods of evidence gathering.

4 In this case, Michael is
5 charged with a number of felony crimes. Most of our
6 discussion from Tuesday through yesterday involved the crime
7 of murder. But you probably learned, for the first time
8 today, that Michael is charged with other crimes. Michael
9 is charged with one count of robbery, one count of
10 possession of stolen vehicle, and two counts of credit card
11 fraud.

12 Ladies and gentlemen, the
13 evidence will show that Michael Damon Rippo is guilty of
14 credit card fraud. We are not contesting that Michael Rippo
15 used the credit cards of another person without their
16 permission.

17 We are not going to suggest to
18 you, from this evidence, that he had the permission of Denny
19 Mason to use Denny Mason's credit card.

20 But, ladies and gentlemen, the
21 evidence will show that he's guilty only of credit card
22 fraud and not of murder.

23 A reading of the Indictment,
24 which Miss Clerk so -- did so well this morning, shows the

001028

4 1 State themselves don't really know what happened either.

2 How many and/or were mentioned
3 to you in the reading of the Indictment? And I'm not going
4 to go through it all, but I count approximately eight
5 and/or in the count of murder, that their allegation is
6 that Michael Rippo and/or Diana Hunt did this.

7 The evidence will show that the
8 State of Nevada doesn't even really know what happened.

9 The evidence will show,
10 according to Diana Hunt, that she spent approximately two
11 hours in this apartment, but there is no physical
12 connection, as to what she claims, between Michael Rippo and
13 that apartment.

14 If you believe Diana Hunt, you
15 must believe that Michael Rippo was in the apartment for
16 approximately two hours.

17 The evidence will show that
18 Metro criminologists responded to this apartment; that they
19 gathered certain physical evidence; that they gathered
20 fingerprints; that Metro gathered hair and fiber analysis;
21 that the criminalist gathered footwear impressions; and
22 finally, that fingernail scrapings were taken from Miss
23 Jacobson and Miss Lizzi at the time of the autopsy.

24 There are reasons why police

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4 1 departments go to crime scenes to gather evidence.

2 I submit the evidence will
3 show -- because we have the Diana Hunts of the world, the
4 evidence will show that Diana Hunt was charged with murder.
5 She was charged with murder alone, with Michael Rippo, but
6 she was charged, and that two months later, the evidence
7 will show, she turned, she flipped.

8 I believe it was the day before
9 her preliminary hearing she became the State's witness.

10 The evidence will show that
11 that is one of the reasons why police departments gather
12 evidence, to support their case.

13 You will hear that of all of
14 the fingerprints gathered, none of them are Michael Rippo's.

15 The evidence will show that of
16 the hair and fiber particles that were recovered from this
17 crime scene, none of them come back to Michael Rippo. You
18 will hear that footwear samples were taken. You will hear
19 no evidence that any of those footwear samples -- I submit
20 to you, the evidence will show that a criminologist saw
21 something on the floor, that he, in his expert training,
22 thought was the print possibly of the killer or killers, so
23 he recovered the footwear print. You will hear no evidence
24 that it matched Michael Rippo's footwear.

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4

1 Finally, you will hear evidence
2 that fingernail scrapings were taken from the two girls.
3 The evidence will show that this is done for a purpose,
4 because in many cases when victims are flinging for their
5 lives, fending off attackers, they will come into contact
6 with their attacker; and oftentimes, the attacker's hair or
7 skin or blood will lodge under the fingernails of the
8 victim.

9 The evidence will show that
10 those scrapings were taken for analysis. The evidence will
11 show that there is no serological value and there is nothing
12 to match that substance to Michael Rippo.

13 So what we have, the evidence
14 will show, is Diana Hunt, who pled guilty to robbery. Two
15 months after she was charged with murder, the State of
16 Nevada allowed her to plead guilty to robbery, not murder.

17 The Indictment says that she
18 aided and abetted Michael Rippo in committing this crime.
19 The evidence will show that she is guilty of murder, but
20 that the State of Nevada allowed her to plead guilty to
21 robbery. You will hear the sentence she received for that
22 robbery, fifteen years.

23 The evidence will show that she
24 has already been up to the parole board. She already came

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4 1 before a body who has the power to release her. I believe
2 the evidence will show that they denied her parole.

3 The evidence will show that the
4 State of Nevada, the District Attorney's Office, has the
5 power to offer plea bargains, incentives, deals, letters to
6 parole boards, letters to help people, and that it is
7 oftentimes done in exchange for things.

8 You might call it test to
5 9 money, as well as testimony, that the State of Nevada
10 bargains for.

11 You will hear that that is
12 exactly what happened with Diana Hunt, that just before her
13 hearing, just before she was going to come to court on
14 murder charges, she was approached, she cut a deal with the
15 State of Nevada.

16 You will also hear testimony, I
17 submit, that shows that Tom Sims, who Mr. Harmon states said
18 Michael admitted these crimes -- you will hear testimony
19 that Mr. Sims provided a voluntary statement to the police
20 weeks after the crime. He did say that he came into contact
21 with Mr. Ripppo, pretty much as Mr. Harmon explained.

22 He didn't say anything in his
23 voluntary statement to the police about what Michael Ripppo
24 said and that he confessed to the murder. Tom Sims then

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1 appeared before the Grand Jury, and under oath, provided
2 testimony. Once again, witness Tom Sims never said anything
3 while under oath that Michael Rippo confessed to murder.

4 I believe the evidence will
5 show that Tom Sims only recently -- and isn't that ironic, I
6 use the word recently -- but now, I say four years later --
7 says, oh, yeah, and I forgot to tell ya, Michael also
8 admitted to his involvement and killed these two girls.

9 Ladies and gentlemen, I ask you
10 to pay close attention. I urge you not to form opinions
11 early. The Court has and will continue to advise you to
12 wait until all of the evidence is in. Wait until you can
13 gauge the credibility of all of the witnesses, the State's
14 witnesses and the defense witnesses, before you can analyze
15 and compare the testimony between the two witnesses, before
16 you start forming opinions.

17 I'm confident that you will be
18 shown pictures, which are not pretty pictures. We are not
19 saying that two girls did not wrongly come to their death.

20 What we are saying is the
21 evidence will show and that you will be convinced that
22 Michael Rippo did not commit these murders.

23 So you are going to have a
24 tendency, it's human nature, to react, to start to form

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5 1 opinions, 'cause it's human nature to do so, when you are
2 shown a picture. I submit the evidence will show it's going
3 to be offensive, but I urge you to wait until all of the
4 evidence is in so that you can carefully analyze all the
5 witnesses.

6 And I'm confident, when the
7 case is finally submitted to you, in two weeks or so, that
8 you will say to the State of Nevada that they have not met
9 their burden, and that Michael Rippe is not guilty of
10 murder. Thank you.

11 THE COURT: Thank you, Mr. Wolfson.

12 The State may call its first
13 witness.

14 MR. HARMON: Wayne Hooper.

15 THE COURT: Wayne Hooper.

16 THE CLERK: Would you remain standing,
17 please, and raise your right-hand.

18
19 Whereupon,

20 WAYNE HOOPER

21 having been called as a witness by the Plaintiff and
22 having been first duly sworn to tell the truth, the
23 whole truth and nothing but the truth, was examined
24 and testified as follows:

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5 1 THE CLERK: Thank you. Please be seated.
2 Would you state your name and
3 spell it for the record, please.

4 THE WITNESS: Wayne S. Hooper.

5 THE CLERK: Middle initial again, please.

6 THE WITNESS: S, Steven.

7 MR. HARMON: Mr. Hooper, you may want to
8 bring the microphone just a little bit closer.

9 THE WITNESS: Is that okay?

10
11 DIRECT EXAMINATION

12 BY MR. HARMON:

13 Q Mr. Hooper, are you familiar with an
14 apartment complex called the Katie Arms?

15 A Yes, sir.

16 Q How is it that you know of that business?

17 A I was a manager.

18 Q How long were you a manager there?

19 A For two years.

20 Q During what time frame, sir?

21 A From January of '91 through -- to February
22 of '93, I believe.

23 Q During the month of February, 1992, did you
24 have contact with a young lady, who became a tenant at the

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5 1 Katie Arms, by the name of Lauri Jacobson?

2 A Yes, I did.

3 Q Do you remember when it was that she began
4 to live at your former business?

5 A I believe it was February 8th.

6 Q Of 1992?

7 A Yes, sir.

8 Q What type of place is the Katie Arms? Will
9 you tell us, first of all, where it's located?

10 A It's at 3890 Cambridge. And it's a weekly
11 apartment complex.

12 Q And that was 3890 Cambridge Avenue?

13 A Right.

14 Q Is that in Las Vegas, Clark County, State of
15 Nevada?

16 A Yes, sir.

17 Q It is an apartment building?

18 A Yes, sir.

19 Q Do you recall how many units?

20 A 106 units.

21 Q Did you say 106?

22 A Yes, sir.

23 Q Realizing that you are having to think back
24 a number of years about this, do you remember if you were in

001036

5

1 the office when Lauri Jacobson checked in on that date?

2 A Yes, I was. I was in there with my -- with
3 my wife.

4 Q What is your wife's name?

5 A Bonnie.

6 Q B-o-n-n-e-y?

7 A I-e.

8 Q Was she also a manager at the Katie Arms?

9 A Yes, sir.

6

10 Q When Lauri Jacobson checked in to Katie Arms
11 was she staying there on a weekly basis?

12 A Yes, sir.

13 Q Do you happen to remember what she was
14 charged for the apartment she was given?

15 MR. WOLFSON: Objection; hearsay.

16 THE COURT: Overruled.

17 BY MR. HARMON:

18 Q Do you remember what she was charged, sir?

19 A Yes, sir. \$110 a week.

20 Q Do you recall what apartment --

21 A Apartment 317.

22 Q That's on the third floor?

23 A Yes, sir.

24 Q What type of apartment was that, if you are

001037

6

1 able to characterize it?

2 A It's a studio apartment.

3 Q What is a studio apartment?

4 A It just has a small cook stove, comes
5 furnished with a T.V. and two day beds that are
6 perpendicular at the corner that can be folded out or put
7 together to make a queen-size bed.

8 Q If Lauri Jacobson was paying by the week,
9 and if she gave you \$110 on February the 8th, when was her
10 next payment due?

11 A That would have been the 15th.

12 Q February 15th?

13 A Right.

14 Q Do you recall now whether either you or your
15 wife, Bonnie, received the payment from Lauri Jacobson on
16 February the 15th?

17 MR. DUNLEAVY: Objection; there is no
18 foundation he would know if his wife got it.

19 THE COURT: Sustained.

20 BY MR. HARMON:

21 Q As a manager at the Katie Arms, did you stay
22 apprised of the status of rent payments on specific
23 apartments?

24 A Yes, sir. I checked every morning.

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1 Q If someone became overdue, would that come
2 to your attention?

3 A Yes, sir.

4 Q Do you have the knowledge now whether Lauri
5 Jacobson made the payment for Apartment 317 on February the
6 15th, 1992?

7 MR. WOLFSON: Objection; hearsay; beyond the
8 witness' personal knowledge.

9 How would he learn, Judge, by
10 reading it off a piece of paper? That's hearsay.

11 MR. HARMON: Your Honor, we're talking about
12 a manager; we're talking about the regular activities of the
13 business; we're talking about activities that he has
14 familiarity about.

15 THE COURT: Well, the records kept, maybe he
16 could testify off of the business records, if they had any.

17 MR. HARMON: Even if there aren't any
18 records being presented at this time, this witness, Judge,
19 is in a position to know as manager whether he had a reason
20 to be concerned about the non-payment of rent.

21 MR. WOLFSON: He would have either learned
22 that from a conversation with Miss Jacobson herself, which
23 would be hearsay; reading it off a business document, which
24 there is no foundation for, so that would be hearsay; or a

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1 discussion with his wife, and that would be hearsay.

2 MR. HARMON: Well, it ends up impacting his
3 state of mind and -- his state of mind because he ended up
4 checking on her at some point. It doesn't necessarily go to
5 the truth.

6 MR. DUNLEAVY: Your Honor, may we approach
7 for a moment?

8 MR. HARMON: It's simply offered to explain
9 why he acted subsequently in a certain way.

10 THE COURT: I'm going to overrule the
11 objection. You may answer.

12 MR. HARMON: Thank you.

13 THE WITNESS: I forgot what the question was
14 now.

15 BY MR. HARMON:

16 Q Did she make payment on February the 15th,
17 1992?

18 A No, she did not.

19 Q Several days later, did you see Lauri
20 Jacobson in the office of the Katie Arms?

21 A Yes, sir.

22 Q Did you carry on a conversation with her?

23 A No. She just ran in the office and --

24 MR. WOLFSON: Objection. I don't know what

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6

1 he's going to say, but it's a yes or no question.

2 THE COURT: Sustained.

3 BY MR. HARMON:

4 Q Well, my question is: Did you carry on a
5 conversation with her?

6 A She talked. I didn't.

7 Q You say she just ran into the office?

8 A Right; and --

9 Q Do you remember about what time of the day
10 it was?

11 A No, I really don't remember what time of the
12 day that was.

13 Q Was it during the daytime?

14 A Yes, sir, it was.

15 Q Do you have a recollection now of what day
16 it was?

17 A Monday or Tuesday. I'm not sure which day
18 it was.

19 Q The Monday or Tuesday following February the
20 15th?

21 A Yeah, like the 17th or 18th or --

22 Q Of February, 1992?

23 A Right.

24 Q You say she just ran in.

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6

1 About how long was she in the
2 office?

3 A She just came in and said, yeah --

4 MR. WOLFSON: Objection; hearsay.

5 THE COURT: The question was how long was
6 she in the office?

7 MR. HARMON: Yes.

8 THE COURT: He could answer that.

9 THE WITNESS: Thirty seconds.

10 BY MR. HARMON:

11 Q Apparently she said something to you?

12 A Yes.

13 Q Without going into the hearsay statement
14 that Lauri Jacobson made, was it relating to rent payment?

15 MR. WOLFSON: Objection; leading. It's
16 another way of getting to a hearsay statement.

17 THE COURT: Sustained.

18 MR. HARMON: I'm just trying to go around
19 the hearsay.

20 I didn't hear the Court's
21 ruling.

22 THE COURT: I sustained the objection.

23 BY MR. HARMON:

24 Q As a result of what she said, did you expect

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6 1 to get the rent?

2 A Yes, sir.

3 Q Did you see where Miss Jacobson went after
4 she left the office?

5 A Just left the property.

6 Q Were you familiar at that time with the type
7 of car she drove?

8 A Yes, sir, I was.

9 Q What do you remember about her vehicle?

10 A Black Datsun, I think it was.

11 Q Shortly after Miss Jacobson had visited the
12 office on either Monday or Tuesday, February the 17th or
13 18th, 1992, did you observe her black Datsun?

14 A Yes, I did.

15 Q Tell us what you saw.

16 A Well, she had the tire just about flat and
17 she was driving off.

18 MR. DUNLEAVY: Your Honor, could we ask him
19 to move the microphone a little closer. It's very hard to
20 hear him.

21 MR. WOLFSON: I don't know if it was planted
22 by prosecution or not, but there is an air conditioning
23 blower right here, Judge, so if you hear me talk about --

24 THE COURT: That was planted by me, not the

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7

1 prosecutor.

2 MR. WOLFSON: That's what Mr. Dunleavy is
3 referring to. You can see the little thing blowing.

4 THE COURT: Mr. O'Leary can fix it. This
5 way he doesn't have to listen to it.

6 MR. WOLFSON: He can't hear you, Judge.

7 BY MR. HARMON:

8 Q Mr. Hooper, when you saw the black Datsun,
9 did you recognize it as the Lauri Jacobson car?

10 A Yes, I did.

11 Q And you mention there was a tire which is
12 almost flat?

13 A Yes, sir.

14 Q Did you have any idea at that point where
15 she was going?

16 A No, I did not.

17 Q How soon after she had been in the office
18 was it that you saw the car leaving the premises?

19 A I think it was just a short time later. I'm
20 not sure of the time frame.

21 Q Did you notice any other car in close
22 proximity to the black Datsun?

23 A It was a red -- it was a Cor-- -- Camaro or a
24 Firebird. I'm not sure what it was.

001044

1 Q Were you familiar with that vehicle?

2 A No, I wasn't.

3 Q Did you identify it to any particular tenant
4 at the Katie Arms?

5 A No.

6 Q How is it that you noticed this red vehicle
7 in connection with Jacobson's black Datsun?

8 A Well, it was following her car close.

9 Q I want to direct your attention now to
10 several days later, specifically a Thursday, February the
11 20th, 1992.

12 On that date, during the
13 morning, did you have a concern about Lauri Jacobson?

14 A Well, it -- the car hadn't moved for some
15 time and her rent still hadn't been paid.

16 MR. WOLFSON: I'm going to object and ask
17 Your Honor to strike that as being nonresponsive.

18 MR. HARMON: Well, he just anticipated --

19 THE COURT: Overruled.

20 MR. HARMON: He just anticipated the next
21 question, is all, Your Honor.

22 BY MR. HARMON:

23 Q I take it your answer to my question is yes?

24 A Yes.

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7

1 Q And you are telling us why you had a
2 concern?

3 A Yes.

4 MR. DUNLEAVY: Your Honor, we'd ask the
5 Court to direct the witness to only answer the question.

6 THE COURT: Will you please just answer the
7 question. Don't volunteer any additional information.

8 THE WITNESS: Okay.

9 THE COURT: Thank you.

10 BY MR. HARMON:

11 Q Are you telling us, Mr. Hooper, that on
12 Thursday, February the 20th, the rent still hadn't been paid
13 by Lauri Jacobson?

14 A That's right.

15 Q Now, you've mentioned --

16 MR. DUNLEAVY: Your Honor, we're going to
17 renew the hearsay objection as to that issue.

18 THE COURT: Overruled.

19 BY MR. HARMON:

20 Q You've mentioned that her car hadn't moved
21 for a few days.

22 A That's right.

23 Q Now, you had mentioned, on either Monday or
24 Tuesday, the 17th or 18th, observing it leaving the premises

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1 with a tire that was almost flat.

2 A Yes.

3 Q Subsequent to that date, had you seen the
4 vehicle in the parking lot?

5 A On Monday?

6 Q Not on Monday, sir, but just sometime after
7 that date?

8 A Yes.

9 Q Did you see it move for a several day period
10 of time?

11 A Not that I recall, no.

12 Q As a result of your concern, what happened
13 the morning of February the 20th?

14 A Well, I decided to go up to the apartment
15 and see what was going on.

16 Q Did you take anyone with you, sir?

17 A A security guard.

18 Q Will you identify the security officer?

19 A It was Mac Holloway.

20 Q Please spell his name, sir.

21 A M-a-c is his first name; Holloway,
22 H-o-l-l-o-w-a-y.

23 Q What happened when you and Mr. Holloway got
24 to Apartment 317?

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7

1 A When -- I knocked two or three times.

2 Q Do you remember about what time of the day
3 this was?

4 A Just that it would be after nine o'clock.

5 Q Why do you say it would be after nine
6 o'clock?

7 A That's when the office opens.

8 Q Are referring to nine o'clock in the
9 morning?

10 A Yes, sir.

8

11 Q When you knocked a number of times on the
12 door, did you get any response?

13 A No, sir.

14 Q As a result of getting no response, what
15 happened?

16 A I used my master key to get in.

17 Q At the time you used your master key to
18 enter, could you determine the condition of the front door?

19 A I'm not sure what you mean by that.

20 Q Well, did you have to use a key to get in?

21 A Yes, I did.

22 Q There one key or -- excuse me, one lock or
23 various locks?

24 A There are two locks.

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1 Q What did you determine about the condition
2 of the locking mechanisms on the door to 317?

3 A The deadbolt was locked, but the bottom lock
4 wasn't.

5 Q Did you say the bottom lock was not?

6 A Right.

7 Q So you are telling us that you used your
8 master key --

9 A Yes.

10 Q -- on the dead bolt lock?

11 A Yes, sir.

12 Q What happened then?

13 A I just opened the door and, I guess I
14 hollered manager or something.

15 Q Did both you and Mr. Holloway enter
16 Apartment 317?

17 A Yes, sir.

18 Q When you entered, did you see any sign of
19 movement?

20 A No.

21 Q What did you observe about the condition of
22 the apartment?

23 A It was just -- looked like it had been
24 ransacked or just a total mess.

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1 Q Why do you say it looked like it had been
2 ransacked?

3 A Well, there was beer bottles on the floor
4 and a phone was laying in the middle of the floor, off the
5 hook; and there was clothes every where, you know; nothing
6 was arranged.

7 Q Did you begin to look around?

8 A Yes, sir.

9 Q What did you observe in addition to what you
10 mentioned?

11 A Well, I just walked to the back where the
12 lights for the closet and the bathroom are. I turned the
13 lights on.

14 Q When you turned -- when -- you say you
15 turned the lights on. Which lights is that?

16 A Well, the bathroom and the closet light are
17 right next -- I turned them both on at the same time.

18 Q When you walked in, were there any lights on
19 in Apartment 317?

20 A No.

21 Q After you turned the bathroom and closet
22 lights on, did you see any person or persons?

23 A I saw two.

24 Q Where were the two people you saw?

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1 A They were laying in the closet.

2 Q Do you remember the size of this closet you
3 are referring to?

4 A It's a large walk in.

5 Q Where in the closet did you see the two
6 persons?

7 A At the very -- just as you entered the
8 closet.

9 Q Did you see any movement in connection with
10 either person at that time?

11 A No, I didn't.

12 Q Do you remember how the persons were lying
13 on the floor?

14 A Face down, both.

15 Q Do you remember what the relationship was of
16 one to the other? How close to --

17 A They were right next to each other.

18 Q Did either you or Mac Holloway, in your
19 presence, make any effort to determine if there were vital
20 signs?

21 A I called Mac, and I don't know what he did.

22 Q Did you detect -- I assume you don't have
23 any training as a paramedic or --

24 A No, sir.

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1 Q -- as a coroner or investigator?

2 A No, sir.

3 Q Did you see any evidence of life?

4 A No, sir.

5 MR. HARMON: May I approach the witness.

6 Your Honor?

7 THE COURT: You may.

8 BY MR. HARMON:

9 Q I'm showing you, Mr. Hooper, State's
10 Proposed Exhibits 5 and 19.

11 Will you examine both pictures,
12 sir, and tell us if you recognize what is shown in them.

13 Let's start with number 5, to
14 your right.

15 A Okay.

16 Q Did you recognize what is shown in proposed
17 Exhibit 5?

18 A Yes, sir.

19 Q What is it?

20 A That's the Katie Arms and that's Apartment
21 317.

22 Q I'm going to furnish you a red pen. I'd
23 like you to use that to circle, on proposed Exhibit 5, the
24 entrance way to Apartment 317.

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1 Will you put your initials just
2 outside the circle, please, again in red.

3 I want you now, Mr. Hooper, to
4 examine proposed Exhibit 19.

5 Do you recognize the scene
6 depicted in that photograph?

7 A Yes, I do.

8 Q Have you seen that room and what you see
9 depicted in the photograph before?

10 A Yes.

11 Q When was it?

12 A That -- on the 20th of February.

13 Q 1992?

14 A Yes, sir.

15 Q What part of the Katie Arms complex is
16 depicted in proposed Exhibit 19?

17 A That's the walk in closet in 317.

18 Q Are these the two bodies that you saw there?

19 A Yes, sir.

20 Q Are they in substantially the same condition
21 in this photograph as you remember seeing them Thursday,
22 February the 20th, 1992?

23 A Yes, sir.

24 Q How long were you inside the apartment, sir,

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1 that day?

2 A At this -- at this time, maybe just a very
3 few minutes.

4 Q Did you return after that?

5 A Yes, sir.

6 Q Were the police contacted after you realized
7 that there were two bodies inside Apartment 317?

8 A Yes, sir, they were.

9 Q Who contacted the police?

10 A My wife.

11 Q How soon after you had observed the bodies
12 was that?

13 MR. DUNLEAVY: Objection, Your Honor; there
14 is no foundation he knows.

15 THE COURT: Sustained.

16 BY MR. HARMON:

17 Q Were you there when your wife contacted the
18 police?

19 A Yes, I was.

20 Q How quickly after you made the discovery of
21 the bodies was it?

22 A Five minutes at the most.

23 Q Did representatives of the police department
24 arrive?

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1 A Yes, sir.

2 Q Did you make the apartment accessible to the

3 investigating officers?

4 A Yes, sir.

5 Q During the time that you and Mr. Holloway

6 initially were inside the apartment, do you recall if you

7 disturbed anything, at least deliberately?

8 A Not that I recall.

9 Q Do you remember changing the position at all

10 of either of the bodies?

11 A No.

12 Q Once you found the remains, did you do your

13 best to maintain the condition of the apartment just as you

14 had found it?

15 A Yes, sir.

16 MR. HARMON: Your Honor, the State offers

17 proposed Exhibits 5 and 19.

18 MR. DUNLEAVY: No objection, Your Honor.

19 THE COURT: 5 and 19 will be admitted.

20 (Whereupon, State's Exhibits

21 5 and 19 were admitted into

22 evidence.)

23 MR. HARMON: Thank you, Your Honor.

24 May we publish these

photographs to the jury at this time?

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1 THE COURT: You may do so.

2 MR. HARMON: Thank you.

3 And may the Jurors be
4 instructed just to pass them along each row.

5 May I have the Court's
6 indulgence?

7 THE COURT: Yes.

8

9 (Whereupon, a sotto voce at this time.)

10

11 MR. HARMON: May I have the the Court's
12 indulgence a little longer, Your Honor?

13 THE COURT: Yes.

14 BY MR. HARMON:

15 Q Mr. Hooper, I'm showing you a large evidence
16 envelope that's been marked by the clerk as proposed Exhibit
17 84.

18 Will you look at it, sir, and
19 tell us if it is in a sealed condition at this time?

20 A Appears to be.

21 Q I'm going to hand you a pair of scissors the
22 clerk has furnished us.

23 Will you cut the envelope,
24 proposed 84, along the side, and then remove its contents,

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1 please.

2 A (Complies.)

3 Q Thank you.

4 Will you state for the record
5 what you are removing.

6 A Looks like two plastic --

7 Q And you can pull them completely out, sir.

8 A Okay.

9 Q Have you removed two ziploc plastic baggies,
10 which both appear to have documents inside of them?

11 A Yes, sir.

12 Q Does one of these have a document which, at
13 the top, reads Kotie Arms Apartments?

14 A Yes, it does.

15 MR. HARMON: Your Honor, may we have the
16 clerk mark this baggie and its contents as proposed 84-A?

17 THE COURT: You may.

18 MR. HARMON: The one relating to Kotie Arms.

19 BY MR. HARMON:

20 Q And do you see another baggie that appears
21 to have a Discount Tire document?

22 A Yes, sir.

23 MR. HARMON: May that be marked, Your Honor,
24 as proposed 84-B?

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1 THE COURT: It may.

2 MR. DUNLEAVY: The defense would like an
3 opportunity to look at these.

4 THE COURT: The defense may look at them.

5 (Whereupon, State's Exhibits
6 84, 84-A and 84-B were marked
for identification.)

7 BY MR. HARMON:

8 Q Mr. Hooper, I'm showing you proposed
9 proposed Exhibit 84-A.

10 Will you simply look at the
11 contents and tell us if you recognize the document which
12 bears the title Katie Arms Apartments?

13 A Yes, sir, I do.

14 Q How is it that you recognize that document?

15 A Well, our standard rent receipt.

16 Q When you say our standard rent receipt, are
17 you speaking of the Katie Arms apartment complex?

18 A Yes, sir.

19 Q Do you recognize any of the writing on the
20 document?

21 A You mean whose handwriting?

22 A Yes, do you recognize what --

23 Q Yes.

24 A Yes, I do.

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1 Q Whose handwriting is it, sir?

2 A My wife, Bonnie's.

3 Q Does this appear to be a document prepared
4 in connection with Lauri Jacobson?

5 A Yes, it does.

6 Q Is it a business record of the Katie Arms?

7 A Yes.

8 Q Does it appear to be true and correct, sir?

9 A Except for the room number.

10 Q What do you mean except for the room number?

11 A She wrote down the wrong room number.

12 Q What room number appears on proposed 84-A?

13 A 319.

14 Q Did Lauri Jacobson live in 319?

15 A No, sir.

16 MR. DUNLEAVY: Your Honor, I'm going to
17 object to his testifying that she wrote down the room
18 document -- or room number. There is no foundation how he
19 would know that. Maybe she rented 319.

20 MR. HARMON: Well, he's going explain it.

21 MR. DUNLEAVY: Your Honor, the whole thing
22 is they are basing this stuff on business records, the
23 reliabilities of business records. Well, he's just
24 testified the business record is in error supposedly.

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1 THE COURT: Lay some foundation, please.

2 BY MR. HARMON:

3 Q Mr. Hooper, why are you indicating that the
4 entry on proposed Exhibit 84-A, where it says 319 was rented
5 to Lauri Jacobson, is wrong?

6 A Why am I saying that?

7 Q Yes.

8 A 319 was already occupied.

9 Q Do you know that of your own personal
10 knowledge?

11 A Yes, sir.

12 Q Do you happen to remember the occupants of
13 319?

14 A I don't remember their names.

15 Q What do you remember about them?

16 A Well, it was a -- I think they were a young
17 Spanish couple.

18 Q Do you know for a fact that in February,
19 1992, it was this young Spanish couple who inhabited
20 Apartment 319?

21 A Yes, sir.

22 Q When you discovered the bodies in 317, were
23 you going to that apartment because you knew that was the
24 apartment rented to a particular person?

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1 A Yes, I was.

2 Q And what person was that?

3 MR. DUNLEAVY: Your Honor, I would object,
4 because he would have known that based on the business
5 records, and they've just established the business records
6 are not reliable.

7 MR. HARMON: Well, that's not necessarily
8 true.

9 THE COURT: Overruled.

10 BY MR. HARMON:

11 Q Why were you going to 317 on Thursday,
12 February the 20th, 1992?

13 A To see why she hadn't paid her rent.

14 Q To see why Lauri Jacobson hadn't paid her
15 rent?

16 A Right.

17 Q Did you know that she occupied Apartment
18 317?

19 A Yes, sir.

20 Q Except for what you perceive to be an error
21 in the entry of the apartment number, does proposed Exhibit
22 84-A appear to be true and accurate?

23 MR. DUNLEAVY: Your Honor, I would object.
24 There is no way in the world he would know that when part of

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1 the document is in error, whether or not another part is in
2 error. There is no foundation that he can determine that.

3 THE COURT: I'm going to overrule the
4 objection.

5 MR. HARMON: The State offers proposed 84-A,
6 Your Honor.

7 MR. DUNLEAVY: Over our objection, Your
8 Honor. They have not established that it's reliable in any
9 way. He's sitting there in self-serving statements, well,
10 it's all reliable, but the one thing we can establish isn't
11 reliable. Well, maybe there is other things unreliable in
12 it. This document is not a reliable document.

13 MR. HARMON: Your Honor, he said it was
14 prepared as a business record. He recognizes his wife's
15 handwriting. He's the manager. She's a co-manager. The
16 name on it is Lauri Jacobson. It has a date, an amount.

17 THE COURT: It will be admitted.

18 MR. HARMON: Thank you.

19 (Whereupon, State's Exhibit
20 84-A was admitted into
evidence.)

21 THE COURT: Mr. Harmon, would you collect
22 the Exhibits 5 and 19.

23 MR. HARMON: Yes, sir. Thank you.

24 May I again have the Court's

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1 indulgence?

2 THE COURT: Yes.

3

4 (Whereupon, a sotto voce at this time.)

5

6 MR. HARMON: That concludes direct, Your
7 Honor.

8 THE COURT: Cross-examination.

9

10 CROSS-EXAMINATION

11 BY MR. DUNLEAVY:

12 Q Where is your office in relation to the rest
13 of the Katie Arms?

14 A Where is the photographs --

15 Q Sir, showing you what's been admitted into
16 evidence as State's Exhibit 5. This is your apartment
17 building or a portion of it? (Indicating)

18 A Yes, sir.

19 Q Is your office shown in this photograph?

20 A Yes, it is.

21 Q Where would your office be?

22 A The bottom left.

23 Q Could we have you mark that?

24 Perhaps you could just write

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1 office. She's given you a blue pen. If you could just
2 write office where your office could be in that photograph.

3 A Across the door there or --

4 Q In the area, sir, so everybody will know
5 what area you are talking about.

6 A Oh.

7 Q It's in basically the bottom left-hand
8 corner of the photograph.

9 A (Complies.)

10 Q Is that the bottom left-hand corner pretty
11 much on the ground floor?

12 A Right.

13 Q Okay. Do you try and keep an eye on the
14 comings and goings of the parking lot in that area?

15 A No, 'cause I didn't -- I did maintenance
16 too, so I wasn't in the office all the time.

17 Q Okay. Were you familiar with people that
18 were daily visitors to the area?

19 A No.

20 Q You didn't try and check on anything like
21 that?

22 A No, not normally, no.

23 Q Now, at nine o'clock in the morning, you had
24 a security guard on duty at the apartments?

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1 A No, he wasn't on duty.

2 Q You had to call him from somewhere to

3 come --

4 A He lived in the complex.

5 Q So you just went and got him?

6 A Right.

7 Q Did he work for his rent kind of thing or --

8 A Yeah, he did, I believe.

9 Q What kind of tenants do you have there?

10 A What kind of tenants?

11 Q Uh-huh.

12 A There is a variety, you know, casino workers
13 and some retired and --

14 Q Have you ever had any problems with drugs or
15 alcohol in your complex there?

16 A Yes, we have.

17 Q Is that one of the reasons they have
18 security guards?

19 A Yes, sir.

20 Q Now, Miss Jacobson had only been there about
21 a week; is that correct?

22 A Yes, sir.

23 Q And then you said, in your opinion, she was
24 about five days behind on the one week's rent?

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1 A Yes, sir.

2 Q Is it normal for you to wait five days for
3 somebody who is paying week to week?

4 A No, it's not.

5 Q Do you remember any other reasons you went
6 up to that apartment?

7 A No, not any other -- other reasons, I don't
8 think.

9 Q Do you remember testifying at the Grand
10 Jury?

11 A Yes, sir.

12 Q Do you remember testifying there that her
13 car hadn't been moved in about four, five days --

11

14 A Yeah.

15 Q -- and that her keys were in the car?

16 A Right, uh-huh.

17 Q So is that a double key deadbolt up there?
18 In other words, do you need a key from the inside to get
19 out?

20 A No.

21 Q So if somebody wanted to leave the place
22 locked up, they could have locked it and just put the keys
23 back in the car downstairs?

24 A Right, uh-huh.

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1 Q But you did see the keys in the car?

2 A I don't know that that was an apartment key.

3 Q But you did say that you saw the keys were
4 in her car downstairs?

5 A Well, I think I meant that, like, the
6 ignition key or something.

7 Q And just didn't say --

8 A I'm not sure.

9 Q Do you remember today one way or the other?

10 A No, I don't.

11 Q You indicated that the interior of the
12 apartment looked like it had been ransacked?

13 A Yes, sir.

14 Q Now, had you ever been in that apartment
15 before since she had occupied it?

16 A Oh, no, I hadn't.

17 Q Have you ever had tenants in there that are
18 pretty sloppy housekeepers?

19 A Yes.

20 Q Some of them look like they are ransacked on
21 a good day?

22 A Well, I haven't seen anything quite that
23 bad.

24 Q But you hadn't been in that one since she

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11

1 had occupied it?

2 A No, sir.

3 Q You say the phone was off the hook?

4 A Yes, sir.

5 Q Was it beeping the way it does sometimes
6 when you leave it off the hook or --

7 A No.

8 Q Did you hang it up?

9 A I don't think so.

10 Q Now, were you the first one through the door
11 or the security guard?

12 A I was.

13 Q And were the blinds drawn?

14 A Yes, sir.

15 Q Was it light enough in there that you could
16 see without light?

17 A Yes, sir.

18 Q So did you turn the light switch on for the
19 front room, living room area?

20 A I don't know -- I don't remember if I did
21 that or not.

22 Q There is another one -- you go into the
23 closet and the bathroom opens into the closet or how does
24 that work?

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1 A The closet is to the right and the bathroom
2 is to the left.

3 Q Open area?

4 A The closet is an open area.

5 Q Is the light switch on the right or the
6 left?

7 A On the left.

8 Q And you would have touched the light switch?

9 A Yes.

10 Q Turned the lights on?

11 A Yes, sir.

12 Q Did you do that or the security guard?

13 A I believe I did.

14 Q Did you go into the kitchen area?

15 A Maybe later.

16 Q How long were you in the apartment?

17 A The first time, I was there just a few
18 minutes.

19 Q Less than five?

20 A I -- I believe so, yes.

21 Q And then you went back?

22 A Later, after, yes.

23 Q Same day?

24 A Yes, sir.

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1 Q How long were you in the apartment that
2 time?

3 A I had to wait for the police.

4 Q So you went back up to wait for the police?

5 A Yes, sir.

6 Q Did you leave the security guard in there
7 while you went down to ask somebody to call the police?

8 A I think so.

9 Q So he was in there alone for a while?

10 A Well, the other maintenance man was there by
11 then, I think.

12 Q So there was a maintenance man in the
13 apartment as well?

14 A Yes, sir.

15 Q Do you have any idea what they touched or
16 moved or anything?

17 A No, sir.

18 Q You looked at a photograph and identified it
19 as looking like the area where you saw the bodies when you
20 first saw them; is that correct?

21 A That's right.

22 Q Do you know -- did you study carefully
23 enough to know if anything had been moved from the time you
24 first saw it to the time that photograph was taken?

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14 1 Q If you were Mr. Rippo and you were on trial,
2 would you want people like yourself sitting in judgment?

3 A I think so.

4 MR. WOLFSON: Thank you.

5 Pass for cause.

6 THE COURT: Okay. Mr. Seaton, you may
7 inquire of Mrs. Pacheco.

8 (Whereupon, Prospective Juror
9 140, SANDRA PACHECO, was
examined as follows:)

10 EXAMINATION

11 BY MR. SEATON:

12 Q Good morning.

13 A Good morning.

14 Q You waited a long time to get up to this
15 position.

16 A Yes, sir.

17 Q And you've listened to everything that's
18 gone on?

19 A Yes.

20 Q Were you able to hear all right when you
21 were sitting out here?

22 A Yes.

23 Q To that extent, partake in the discussions
24 that were going on?

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14 1 A Yes, sir.

2 Q What's your feelings about being here and

3 being a part of this?

4 A Well, if I had a preference, I'd probably

5 prefer that this was a different sort of case --

6 Q Go ahead.

7 A -- instead of one that is so involved.

8 Q So serious?

9 A Yes.

10 Q Is it the death penalty aspect of it?

11 A Well, maybe not that so much as just

12 everything to be considered.

13 Q The fact that it's a murder?

14 A Yes.

15 Q A double murder?

16 A Yes.

17 Q Does that trouble you?

18 A Well, it doesn't trouble me. I just think

19 it's an awful lot to consider.

20 Q Okay. A lot of responsibility --

21 A Yes.

22 Q -- for you as an individual?

23 A Yes, yes.

24 Q Okay. All right.

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1 Are you the kind of individual
2 who, over your life, has accepted responsibility?

3 A Well, if I need to I can.

4 Q Okay. It's something you prefer not to do
5 as much as possible?

6 A I'd probably prefer not to be the leader.

7 Q Okay. Well, we'll let Mr. Flood be the
8 leader.

9 Well, when you say not be the
10 leader, you don't want to be the foreman or --

11 A Yes; or a supervisor or whatever you might
12 wish to call it.

13 Q Okay. Okay.

14 A Yes.

15 Q Jurors are pretty democratic animals
16 typically. They do have a leader in a foreman, but they all
17 discuss things as -- I think they do. I have not been on
18 one.

15

19 Can you get along in that kind
20 of an atmosphere --

21 A I believe so.

22 Q -- where the give and take of ideas, pro and
23 con, on certain areas -- in certain areas?

24 A Yes.

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1 Q If you are chosen as a Juror in this case,
2 there are some pretty awesome responsibilities that go along
3 with it.

4 Would you guess more than any
5 than you've ever had before in your life?

6 A I'm sure there is more than what I've had.

7 Q Okay. You know yourself better than we do
8 obviously. Are you going to be able to handle those
9 responsibilities?

10 A I think I would be able to.

11 Q Okay. You have seen some emotionalism among
12 some of the Jurors who, when finally faced with and
13 realizing the enormity of this kind of decision-making
14 process, just almost broke down and really didn't handle it
15 very well.

16 Do you not put yourself in that
17 camp? Are you going to be able to handle it okay?

18 A Well, I've been very nervous about it --

19 Q Okay.

20 A -- but I would hope that I would handle it a
21 little bit better than that.

22 Q Have you been -- have you been nervous about
23 the responsibility of a juror or just getting up here and
24 having to talk to us folks?

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1 A Well, just awaiting the process.

2 Q Yeah, yeah. So in your estimation, from all
3 the parties' points of view here, we obviously want people
4 who -- I mean, they don't have to be muscle builders or
5 tough people, but they do need to have the capability to
6 understand what's going on, listen to probably some not very
7 pretty testimony, see some not very pretty pictures, and to
8 make some very hard decisions.

9 Do you think that you would be
10 the kind of individual that the lawyers are looking for in
11 this case?

12 A Well, just from what I've heard, I think so.

13 Q Okay. We're not going to overly upset you
14 and ruin your life for a few weeks by this process?

15 A I don't think so.

16 Q Okay. Okay.

17 What would your position be as
18 to the death penalty?

19 A Well, I -- I believe there may be instances
20 where that is definitely a possibility to consider.

21 Q Okay. And would you be one of those people
22 who would be willing to consider it?

23 A Yes.

24 Q Okay. Do you think that the death penalty

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1 is appropriately placed in our system?

2 A I think it is as an option.

3 Q You would prefer it to be there than not to
4 be there?

5 A Well, I don't really know if I have personal
6 thoughts that way, whether I would say yes or no.

7 But I do believe it -- it could
8 be a possibility.

9 Q Okay. Let's say now that we've gone through
10 the process and there has been a finding of guilt; there
11 have been aggravating circumstances proven beyond a
12 reasonable doubt; they outweigh any mitigating circumstances
13 that have been shown; and you are now able to pursue the
14 thoughts of which penalty to give. One of them is the death
15 penalty.

16 But further assume that you
17 have come to the conclusion that the crimes were so heinous,
18 the character of Mr. Rippe is bad enough, that he deserves
19 the worst of the punishments.

20 Is that going to be the death
21 penalty in your mind?

22 A That is a very good possibility.

23 Q Well --

24 A Yes, yes.

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1 Q Okay. The reason I ask that is you gave the
2 answer that most gave, that they thought that life without
3 the possibility of parole was the worst of the punishments.

4 And like most, were you
5 contemplating that on your own behalf?

6 A Yes, that was a personal opinion.

7 Q Okay. In punishing someone else who
8 obviously was fighting against that outcome, would you then
9 think that that would be the worst punishment for them?

10 A Well, I -- I believe that it's possible.
11 They may feel that the death penalty would be the worst
12 decision.

13 Q Okay. That brings us to the last of the
14 questions; and that is: Do you think that you believe
15 strongly enough in the death penalty that you think -- you
16 think enough of it to be a part of our system, that if you
17 were faced with the prospect of wanting to give him the
18 worst of all the punishments, that you would have the
19 strength of character to do it?

20 A Well, I think I would be. I -- I really
21 can't say absolutely yes.

22 Q Okay. You've never been in that position
23 obviously?

24 A No, I haven't.

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1 Q Can you illuminate us a little bit more on
2 your thoughts in that area?

3 A Well, I think it's an awful large
4 responsibility to have to say that Mr. So and So is going to
5 be put to death for something that he personally did.

6 Q The question has been asked of many of the
7 jurors: If you were sitting in these chairs or those
8 chairs, would you want jurors like yourself sitting in
9 judgment?

10 The -- let's just see if we can
11 answer that question.

12 If you were in Mr. Ripppo's
13 chair in his position, would you want jurors like yourself?

14 A Well, I feel that I've always been a fair
15 minded person, and -- yes.

16 Q And if you were in the chairs of Mr. Harmon
17 or myself, and we are in the position -- we may be in the
18 position, depending on the evidence, to ask that the death
19 penalty be rendered as a verdict, would you want -- if you
20 were in these chairs asking for that, would you want 12
21 jurors like yourself --

22 A Yes.

23 Q So you are capable --

24 A Yes, sir, I believe I am.

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1 Q So you are capable of going in any direction
2 in this particular case?

3 A Well, I think I'm open minded enough that
4 hearing all the details, then to consider what should be
5 done.

6 Q You've been very candid with us in telling
7 us that you've not ever been in this position before, and
8 you think that these things might occur and you believe that
9 the outcome might be a certain way.

10 Do you think that there is any
11 possibility that between now and the end of the trial when
12 you begin your deliberations, that you may change your mind,
13 that you may say, for example, as I think a couple of jurors
14 have said, I just can't do this sort of thing; it's got to
15 be left in the hands of somebody else?

16 A Well, I think -- I think I could make a
17 decision. But, again, I can't really say definitely yes, I
18 can, because I don't really know.

19 Q Are you going to do your best?

20 A Yes, absolutely.

21 MR. SEATON: Thank you very much.

22 Pass for cause, Judge.

23 THE COURT: Mr. Dunleavy.

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EXAMINATION

BY MR. DUNLEAVY:

Q Noon on day three of this fun adventure.

What would you say is the toughest question you've heard asked so far?

A If you believe in the death penalty. It's a big decision.

Q Is that something you had ever given any real thought to before?

A Not a lot.

Q What do you think of the idea of being asked to accept that kind of responsibility?

A Well, I hope I would be able to accept that responsibility if it's offered to me.

Q Do you think the death penalty sends a message to anybody?

A Not in particular.

Q Now, when you go into the jury room for deliberations in the first phase of this trial, the options will be guilty beyond a reasonable doubt or not guilty. Innocence is not a factor in that.

Do you understand that?

A Yes.

Q You have to make up your own mind -- you

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1 will see the witnesses on the stand and you will look at
2 them, and some of them, you may say, boy, I believe
3 everything they said. Some of them you may say, that guy is
4 lying. And you have to make that decision yourself and then
5 decide how to weigh the evidence.

6 If you weigh the evidence one
7 way and the other 11 people say we disagree, would you say,
8 you know, I have to live with my own thoughts in my own
9 heart or would you say, well, I'll go along with the group?

10 A No. I think I would ask the group to tell
11 me why they disagree or if -- say something to me that's
12 going to change my way of thinking, prove one way or the
13 other to me.

14 Q And if they didn't change it, would you
15 stick by your guns?

16 A I think I would -- yes, stay with the
17 decision I made.

18 Q Now, the D.A. talks a lot about will you be
19 tough enough to come back with the death penalty?

20 I think he said something about
21 moral courage to do that.

22 You realize not everybody
23 believes that that's a courageous thing to do?

24 A Yes. I'm not.

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16

1 Q And, in fact, it may be -- take a lot more
2 moral courage to show leniency and compassion to someone?

3 A Yes.

4 Q Do you have any problem in saying that I
5 will consider all of the available punishments?

6 A No. I believe I can consider everything.

7 Q Would your friends say you are a liberal or
8 a conservative?

9 A My friends would say -- probably
10 conservative.

11 Q And why is that?

12 A Well, I'm not as outgoing about a lot of
13 things as others, not as much of an outgoing person maybe.

14 Q You indicated that -- in your opinion,
15 what's wrong with the criminal justice system --
16 overprotectiveness of criminals and too lenient in
17 sentencing.

18 A Well, at the time I answered that, I really
19 wasn't thinking of a murder --

20 Q Well, we sandbag you with these questions.

21 A Yes.

22 Q You don't know what's going on.

23 A Yes. And I was thinking of something maybe
24 of a lesser magnitude.

000835

16 1 Q You realize that all the options in this
2 case are serious?

3 A Yes, absolutely.

4 Q And you will fairly consider all three
5 options?

6 A I certainly will try to do that.

7 MR. DUNLEAVY: No further questions, Your
8 Honor.

9 I pass for cause.

10 THE COURT: Okay. Who is going to inquire
11 of Mr. Miller?

12 MR. HARMON: Okay. I'll do that, Judge.

13 THE COURT: Okay. Mr. Harmon.

14 (Whereupon, Prospective Juror
15 141, CHRISTOPHER MILLER, was
examined as follows:)

17 16 EXAMINATION

17 BY MR. HARMON:

18 Q Good afternoon, Mr. Miller

19 A Good afternoon.

20 Q How long have you lived in Clark County,
21 sir?

22 A Seven years.

23 Q Where did you move from?

24 A Hawaii.

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17

1 Q Are you employed?

2 A No.

3 Q Do you still live at home?

4 A Yes.

5 Q How do you feel, Mr. Miller, about the
6 prospect of being a Juror on a double murder case?

7 A I think it's perfectly fine.

8 Q You are willing to accept the
9 responsibility?

10 A Yes.

11 Q Do you understand the seriousness of this
12 matter?

13 A Yes.

14 Q Had you had occasion to consider, before you
15 came to the courthouse, whether you were for or against
16 capital punishment?

17 A I don't really give much thought to it. I
18 guess I'm for it. My parents are for it.

19 Q Have you given some more thought to the
20 subject since we began the jury selection process?

21 A Yes. I think I'm for it.

22 THE COURT: You have to speak up, sir.

23 BY MR. HARMON:

24 Q You mentioned in the questionnaire that you

000837

17 1 had an aunt who touched a guy to get a point across?

2 A Yes.

3 Q I thought that was an interesting way to
4 describe that.

5 What was the situation? Just
6 how firm was the touching?

7 A I'm not really sure, but it happened in
8 Pahrump. She was --

9 Q In Pahrump?

10 A Yeah.

11 MR. WOLFSON: I'm sorry. I cannot hear this
12 Juror.

13 THE COURT: Could you speak up, Mr. Miller?

14 PROSPECTIVE JUROR 141, MR. MILLER: She --
15 let's see. She was arrested for touching a guy because
16 of -- she was trying to talk to him.

17 BY MR. HARMON:

18 Q I gather you don't know the particulars?

19 A Well, it was about teachers sleeping with
20 their students and she brought it to court or something; and
21 she was trying to talk to the attorneys or something like
22 that and they weren't -- they weren't listening to her.

23 Q Was she charged with some type of offense as
24 a result of what happened?

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17 1 A I don't know. I just know that she went to
2 jail.

3 Q How long ago was this?

4 A I don't know; like a month ago maybe.

5 Q Maybe how long?

6 A A month.

7 Q Is there anything about the situation
8 involving your aunt that would influence your attitude
9 concerning this case?

10 A No.

11 Q Had you heard anything about this case
12 before you came to the courthouse?

13 A No.

14 Q Do you still feel like you are open minded?

15 A Yes.

16 Q Do you understand the importance of basing a
17 verdict solely upon the evidence?

18 A Yes.

19 Q Would you agree that such considerations as
20 race or gender or sympathy would not be a proper basis for a
21 verdict?

22 A Yes.

23 Q Some people find it very difficult, when it
24 comes right down to the responsibility of doing it, to pass

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17

1 Judgment on another human being.

2 You are a young man, Mr.

3 Miller. Do you feel despite your youth that you would have
4 the intestinal fortitude to pass judgment on this defendant,
5 Mr. Rippe?

6 MR. DUNLEAVY: Your Honor, I'm going to
7 object to that. There is no showing -- intestinal fortitude
8 one way or the other.

9 THE COURT: Overruled.

10 BY MR. HARMON:

11 Q I'm not indicating in which direction, for
12 the benefit of Mr. Dunleavy, the judgment would go, but you
13 are going to be required to make judgments in this
14 courtroom.

15 A Yes.

16 Q Do you have the intestinal fortitude to do
17 that; that is, to come back in and vote according to your
18 belief, given the evidence that you hear and the law of the
19 case?

20 A Yes.

21 Q If you had your choice, would you serve or
22 not serve on the jury?

23 A Not serve.

24 Q Why is that?

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17

1 A It's boring.

2 THE COURT: I didn't hear your answer.

3 MR. HARMON: He said it's boring.

4 PROSPECTIVE JUROR 141, MR. MILLER: This is
5 boring.

6 BY MR. HARMON:

7 Q And evidently you don't have great hope that
8 we're going to get this too much more interesting as you go
9 along?

10 A I didn't hear you.

11 Q Well, your primary concern is that you are
12 afraid you will be bored during the case?

13 A No. I mean, this part --

14 Q This part of it?

15 A Waiting, coming back; you know, three days,
16 just sitting out there, listening, that was boring.

17 Q Did you feel like you have a responsibility
18 as a citizen to serve?

19 A Yes.

20 Q Mr. Ripppo is also a very youthful man. If
21 you were called upon to fix his punishment, and if, after
22 you had considered all of the circumstances, you were
23 convinced that he ought to get the worst punishment, if you
24 were convinced that he ought to get a death sentence --

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17

1 A Uh-huh.

2 Q -- would you be able to come back in here
3 and vote for that type of punishment?

4 A Yes.

5 MR. HARMON: Thank you.

6 Pass for cause.

7 THE COURT: Mr. Wolfson.

8 MR. WOLFSON: Thank you, Judge.

9

10

EXAMINATION

11

BY MR. WOLFSON:

12

Q Mr. Miller, are you attending college now?

13

A No.

14

Q I notice on your questionnaire you did put
15 down that I think you had attended community college?

16

A Yes, just for a semester.

17

Q And you are not working now; is that right?

18

A Yeah.

18

19

Q You did work; you worked at a car rental
20 agency; is that right?

21

A Yes.

22

Q Are you looking for work?

23

A Yes.

24

Q In response to one of the questions, you

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1 said that you don't care for racist people.

2 A Yes.

3 Q And I think that that's a fair statement for
4 all.

5 My question is: If one of the
6 witnesses or one of the participants in this trial was
7 accused of using a racist remark --

8 A Uh-huh.

9 Q -- a name, phrase, would that affect your
10 judgment in analyzing that witness' testimony?

11 A I'm not sure.

12 Q Mr. Miller, you live at home; is that right?

13 Yes.

14 Q With both of your parents?

15 A Yes.

16 Q Do your parents work outside of the home?

17 A Yes.

18 Q And what do they do?

19 A My dad works at Hughes and my mom is a
20 teacher.

21 Q Is she a teacher with the Clark County
22 School District?

23 A Yes.

24 Q Have you ever been involved with the

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1 criminal justice system yourself?

2 A Yes.

3 Q In what fashion?

4 A A speeding ticket and two tickets for not
5 wearing my seatbelt.

6 Q Is that the extent of it, three tickets?

7 A Yes, sir.

8 Q Okay. Anything about those events that
9 would affect your judgment in this case?

10 A No.

11 Q If you were me, Mr. Miller, and you were
12 representing Mr. Ripppo, is there anything you think that I
13 would want to know about you in determining whether to
14 choose you as a juror in this case that we haven't
15 discussed?

16 A I don't know.

17 Q No? You can't think of anything?

18 A No.

19 MR. WOLFSON: Okay. Thank you, sir.

20 Pass for cause.

21 THE COURT: All right. Let's take our noon
22 recess. We'll reconvene at 1:30.

23 Remember: Do not discuss this
24 case among yourselves or with anyone else;

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Read, watch, listen to any
report or commentary on the case by any medium of
information, including, without limitation, TV, newspaper or
radio;

Or form any opinions on the
case until this matter is finally submitted to you.

1:30. Have a good lunch.

(Whereupon, at 12:15 p.m.,
the proceedings were
recessed.)

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000845

RENEE SILVAGGIO, CCR 122 391-0379

Las Vegas, Nevada, February 1, 1996, 1:25 p.m.

* * * * *

THE COURT: Counsel stipulate to the presence of the remaining jurors and the jury panel?

MR. SEATON: Yes, Your Honor.

MR. DUNLEAVY: Yes, Your Honor.

THE COURT: Okay. I think we were going to begin with Mr. Ceglarsky.

PROSPECTIVE JUROR 142, MR. CEGLARKSY: Yes, sir.

THE COURT: Mr. Seaton.

MR. SEATON: Thank you, Judge.

THE COURT: Is that the right pronunciation, Ceglarsky?

PROSPECTIVE JUROR 142, MR. CEGLARKSY: Yes, it is.

(Whereupon, Prospective Juror 142, THOMAS CEGLARKSY, was examined as follows:)

EXAMINATION

BY MR. SEATON:

Q One of the questions in here, Mr. Ceglarksy, you answer in terms of someone in the family -- I'm not sure

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RENEE SILVAGGIO, CCR 122 391-0379

1 1 if it was yourself or someone else -- that had a D.U.I.
2 experience.

3 A My -- my nephew.

4 Q Okay. Was there any particular problems
5 with that case?

6 A No, sir.

7 Q Was he taken through the system?

8 A That I don't really know.

9 Q You don't harbor any feelings, I take it,
10 one way or the other about --

11 A Correct.

12 Q Okay. How do you feel about being here on
13 the third day, getting ready to go into a fairly major case?

14 A Do I have to elaborate on this particular
15 three days or can I elaborate to when I received my
16 subpoena?

17 Q Whatever you like.

18 A When I received my subpoena, I definitely
19 didn't want to come here, being as when I called for my
20 starting date, I came here figuring that I would be on a
21 civil trial. Never in my wildest dreams did I ever figure
22 this would be a criminal trial.

23 Q Okay.

24 A I filled out the questionnaire Monday. I

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1 Just thought it was a standard questionnaire, knowing I'm
2 not familiar at all with the Judicial system.

3 It wasn't until Tuesday that I
4 came to the realization that I possibly might be sitting in
5 on a murder trial.

6 It's like the weight of the
7 world landed on my shoulders, and all I could say to myself
8 was, oh, my God. But, like everybody else here, there is
9 nobody that really wants to be here. But I feel I'm a very
10 firm -- very fair individual, that if I was sitting where
11 Mr. Rippe is sitting right now, I would, beyond a shadow of
12 a doubt, want 12 people sitting here in the Jury exactly
13 like I am.

14 Q There are two sides that have to be treated
15 fairly in each case, his and the State's.

16 A Yes, sir, I realize that.

17 Q They need a fair shot as well.

18 A Yes, sir.

19 Q Would you have the same answer about sitting
20 in one of these two chairs?

21 A Yes, sir.

22 Q Okay. So you put yourself pretty much in
23 the middle, in neutral in this case, in terms of --

24 A Yes, I do.

000848

1 Q -- in terms of leanings or anything of that
2 nature?

3 A Correct.

4 Q Okay. What you said, that when you first
5 got your -- your jury summons, you didn't want to be here at
6 all, what was the cause for those feelings initially?

7 A I'm -- I'm pretty much satisfied with my
8 life, going to work, going home, just minding my own
9 business, staying in my little 70 by 110 piece of property,
10 and I'm very content with my life.

11 Q And you didn't want us bothering that happy
12 life?

13 A Well, I just don't want to interfere with
14 it. I have my own little world.

15 Q A lot of people don't like change, and this
16 is --

17 A Correct.

18 Q -- a significant change --

19 A Yes, sir.

20 Q -- to come down here.

21 Are you comfortable with that
22 change now that you've been here a few days and you know
23 what it's all about?

24 A Yes, sir, I am.

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1 1 Q Okay. If you were to be asked then, at this
2 point in time, do you want to serve --
3 A Yes, sir, very much.
4 Q Okay. You'd be disappointed if one side or
5 the other let you go?
6 A No, sir.
7 Q You wouldn't be disappointed?
8 A No, sir.
9 Q You could go back to that --
10 A Yes, sir.
11 Q -- 70 by a hundred --
12 A Yes, sir.
13 Q Okay. You were one of the individuals who
14 answered that life without the possibility of parole was the
15 worst of the punishments.
16 And you've heard us discuss a
17 lot of people --
18 A Yes, sir, I have.
19 Q I don't need to ask you any questions; just
20 tell us your explanation.
21 A Well, I feel I'm -- I'm a very good person.
22 And I don't know of any circumstances, God forbid, that I
23 would be sitting down there where Mr. Rippe is.
24 I feel that if I were sitting

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1 where Mr. Rippo is, it's because of circumstances that were
2 really beyond my control.

3 And if I were sitting there, in
4 my heart of hearts, knowing what kind of a person I am,
5 knowing that irregardleses of what evidence was brought
6 before the Court, knowing in my heart of hearts that I were
7 innocent, the hardest person -- the hardest choice of all
8 would be life without possibility of parole.

9 But knowing in my heart of
10 hearts that I'm truly innocent, irregardless of what
11 evidence comes across, there is always that slim chance that
12 somebody might dig into my trial and find out I was unjustly
13 accused where I might be pardoned, paroled, whatever the
14 correct word is.

15 But if I've -- yes, I did
16 commit the crime, there is no doubt beyond a shadow of a
17 doubt in my mind, I did it, I know I did it, I would want
18 the death penalty for myself.

19 The thought of incarceration
20 for the rest of my life, just -- that would be a horror.

21 Q Death would be better? Death would be
22 better?

23 A If I -- if --

24 Q If you were guilty?

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2 1 A If I truly -- the blood is on my hand, I'm
2 truly guilty, yes.

3 Q Is that the standard that you will use in
4 this trial in determining Mr. Rippo's punishment, should we
5 get to that point?

6 A No, that isn't the standard.

7 I -- my views on the death
8 penalty are -- I realize murder is murder, but there are
9 degrees of murder, such as a crime of passion, where one
10 temporarily commits an act of murder, where it isn't their
11 normal nature to be a violent individual, I think would
12 deserve a different punishment than a Charles Manson type
13 crime.

14 Q Okay. So you, like many of the other
15 jurors, would be willing to listen to the mitigating and the
16 aggravating circumstances, the nature of the defendant's
17 character, both good and bad, prior to making any decision?

18 A Yes, sir.

19 Q And use those things as bases for your
20 decision?

21 A Yes, sir.

22 Q The better the person, the lesser the crime,
23 the lighter the punishment?

24 A Not necessarily.

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- 2
- 1 Q Okay. Can you fill in the gaps a little?
- 2 A Well, I would have to go back to the type of
- 3 a crime -- and I use it as an example, a Charles Manson type
- 4 crime. To me, that's the most severe type of murder that I
- 5 could possibly imagine.
- 6 Q When you just go into a house and slaughter
- 7 people?
- 8 A That was just -- that was horrible --
- 9 horror. It was just horror. Like I said, there is murder
- 10 where there are -- it's a crime of passion, where a usually
- 11 gracious individual loses it temporarily and commits an act
- 12 of murder. He's a good person all his life, but he -- has a
- 13 temporary setback in what his values are in life, and
- 14 something like this occurs.
- 15 Q And as you sit there, you have no idea, do
- 16 you, in what position Mr. Rippe would be?
- 17 A No, sir, at this time, I have -- I don't
- 18 know anything about the trial even, nothing whatsoever.
- 19 Q Okay.
- 20 A I don't know the prosecuting or the
- 21 defending attorneys. I don't know the judge. I know nobody
- 22 here.
- 23 Q Do you think you'll be a fair juror?
- 24 A I want 12 people just like me if I was

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2

1 sitting in Mr. Rippo's chair right now.

2 MR. SEATON: Thank you very much.

3 PROSPECTIVE JUROR 142, MR. CEGLARSKY: You
4 are quite welcome.

5 MR. SEATON: Pass for cause.

6 THE COURT: Mr. Dunleavy.

7

8

EXAMINATION

9

BY MR. DUNLEAVY:

10 Q You started off by saying in your wildest
11 dreams you didn't think this would be a criminal case.

12 A No, sir.

13 Q It kind of turned into your wildest
14 nightmare now?

15 A There is a heavy burden on my shoulders, but
16 I feel a responsibility to be a juror on this trial. I
17 don't want to say I want excused from this because of this
18 reason or that reason. I feel I must be here. This is my
19 duty; not obligation, duty.

20 Q Well, it would be scary to have 12 people up
21 there who are looking forward to doing this.

22 But do you understand that the
23 way the system works here, we have to go through a first
24 phase first?

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2

1 A Yes, sir.

2 Q And the criteria there is guilty beyond a
3 reasonable doubt, or not guilty?

4 A Yes, sir.

5 Q And many people sit there and look for
6 innocence. Innocence basically belongs in a church, not a
7 court of law?

8 A I realize that.

9 Q The issue is: Can the State prove someone
10 guilty beyond a reasonable doubt?

11 A man could be perfectly
12 innocent, but if you were convicted -- or convinced he's
13 guilty beyond a reasonable doubt, then as a matter of law,
14 he's guilty --

15 A Yes, sir.

16 Q -- and vice versa.

17 He could be guilty and you are
18 not convinced, that means he's not guilty as a matter of
19 law?

20 A Correct.

21 Q How do you feel about that system?

22 A I think it's the best system we have going
23 in the United States today; and until they come up with a
24 better system, I think it's fine.

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NR1PPO-07058-R0001043

2 1 Q Hopefully, there is always room for
3 2 improvement, but it is the only system going in America
4 3 today.

5 Now, 46(b), in your present
6 state of mind, could you, if selected as a juror, consider
7 equally all three possible forms of punishment?

8 Mr. Rippo is sitting there
9 today. We may some day come to a penalty phase where you
10 are going to have to decide punishment.

11 A Yes, sir.

12 Q If you, in fact, found someone guilty of two
13 first degree murders --

14 A Yes, sir.

15 Q -- and you will be given instructions as to
16 what a first degree murder is, but it's the serious kind --
17 could you consider life with the possibility of parole as an
18 appropriate punishment?

19 A Yes, sir.

20 Q You'd wait and see what all the facts
21 were --

22 A Yes, sir.

23 Q -- that are going to come out?

24 Question Number 56: In your
opinion, what is wrong with the criminal justice system?

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MR100-07058-R0001044

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1 And your answer was: Blue
2 collar criminals locked up, while early released violent
3 criminals because of lack of space.

4 A Yes, sir.

5 Q You understand that what we're talking about
6 here, life without basically means that, you spend the rest
7 of your life in prison?

8 A Yes, sir.

9 Q And the first -- the life with that we're
10 talking about means ten years to his first parole board.

11 A Yes, sir.

12 Q And that doesn't mean he'll make it on his
13 first board.

14 A Correct.

15 Q That's the first time he would ever go.

16 Do you think those are three
17 fair ranges?

18 A Yes, sir.

19 Q Do you think the death penalty is
20 appropriately set aside for the worst of the worst?

21 A Yes, sir -- well, excuse me; excuse me.

22 What do you mean set aside?

23 Q To be imposed only on the worst of the worst
24 kind of criminals?

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RENEE SILVAGGIO, CCR 122 391-0379

JA001131

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1 A Yes, sir.

2 Q And I think there has been some discussion
3 to the fact that even if you found all the aggravating
4 circumstances, and none of the mitigating circumstances, as
5 a jury, you never have to kill. They leave that decision
6 solely up to you. There is never an obligation to return
7 one of those three verdicts.

8 A Correct.

9 Q How do you think that is? Is that a fair
10 system?

11 A Yes, sir.

12 Q Any doubt you can be fair to both sides?

13 A No, sir, none whatsoever. As I said before,
14 I want 12 people like me if I was sitting there.

15 MR. DUNLEAVY: No further questions, Your
16 Honor.

17 Pass for cause.

18 THE COURT: Okay. We may inquire of Mr.
19 Sicotte.

20 PROSPECTIVE JUROR 147, MR. SICOTTE: That's
21 close enough, Your Honor.

22 MR. HARMON: I'll do it, Your Honor.

23 THE COURT: Mr. Harmon.

24

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(Whereupon, Prospective Juror
147, MARCEL SICOTTE, was
examined as follows:)

EXAMINATION

BY MR. HARMON:

Q How do you pronounce it, sir?

A Sicotte.

Q Sicotte?

A Yes, sir.

Q Mr. Sicotte, how do you feel about the
invitation being extended to you to serve as a juror on this
case?

A I don't feel I should be here because
I've -- in the last three days, I've already based an
opinion. And the reason for that basis: I have five
daughters and three granddaughters; and basically because
the crime was committed against a female, I feel that -- if
it would happen to one of my children or my grandchildren,
we would not have a trial here today because he wouldn't be
here.

Q Are you tell- --

A That's my opinion.

Q -- telling us that because you have raised
five daughters, that you don't feel that you could give Mr.
Rippo a fair trial, in view of the fact that the two alleged

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1 victims were young women?

2 A That's correct.

3 MR. HARMON: Nothing further, Your Honor.

4 MR. DUNLEAVY: Challenge for cause,

5 Your Honor.

6 THE COURT: Okay. Mr. Sicotte, I'm going to
7 excuse you. Thank you very much for your time.

8 PROSPECTIVE JUROR 147, MR. SICOTTE: Thank
9 you.

10 THE COURT: Stop at the jury commissioner's
11 on the way out, please.

12 PROSPECTIVE JUROR 147, MR. SICOTTE: Thank
13 you, Your Honor.

14 THE COURT: You are welcome.

15 The clerk will now call the
16 next in line to take Mr. Sicotte's seat.

17 THE CLERK: Number 491, Jack Laino.

18 THE COURT: Mr. Laino, how are you today?

19 PROSPECTIVE JUROR 491, MR. LAINO: Fine,
20 Your Honor.

21 THE COURT: I guess you are the last one on
22 our jury -- on our jury list; is that correct?

23 Have you ever served on a jury
24 before?

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3

1 PROSPECTIVE JUROR 491, MR. LAINO: No, Your
2 Honor.

3 THE COURT: Okay. Have you been listening
4 to all the questioning for the past three days?

5 PROSPECTIVE JUROR 491, MR. LAINO: Yes, Your
6 Honor.

7 THE COURT: After listening to all these
8 questions, do you -- does anything come to your mind you
9 think we should know about your qualifications to sit as a
10 Juror in this case?

11 PROSPECTIVE JUROR 491, MR. LAINO: No, Your
12 Honor.

13 THE COURT: Okay. Mr. Harmon.

14 MR. HARMON: Thank you, Judge.

15 (Whereupon, Prospective Juror
16 491, JACK LAINO, was
examined as follows:)

17 EXAMINATION

18 BY MR. HARMON:

19 Q Is it Laino?

20 A Yes, sir.

21 Q Mr. Laino, how do you feel about the
22 prospect of serving as a Juror on this type of case?

23 A It's a privilege, sir.

24 Q So it's certainly a responsibility that you

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3 1 are willing to accept?

2 A Yes, sir.

3 Q Are you the type of person who will be able
4 to pass judgment on someone else and make the difficult
5 decisions required of you in a murder case?

6 A Yes, sir.

7 Q Will you base your finding of guilty or not
8 guilty solely on the evidence introduced during the trial?

9 A Yes, sir.

10 Q What are your feelings about punishment,
11 should you be called upon to fix a punishment?

12 A The punishment should fit the crime, sir.

13 Q Would you describe yourself as being for or
14 against capital punishment?

15 A After listening to the questions of -- all
16 the questioning, and it's coming to a little bit of clarity
17 for me, I think that -- that the plea -- can you restate the
18 question again?

19 Q I'm asking you, generally speaking, are you
20 for or against capital punishment?

21 A For.

22 Q Why are you for it?

23 A Well, I think there is some people that you
24 can put them away for -- you can put them in prison, but if

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4 1 they're -- for example, this case, if they're murderers and
2 they continue on murdering, nobody would be safe. So it
3 would be important to get rid of the individual from
4 society.

5 Q As the Court has made clear to the
6 prospective jurors, in this state, there are three
7 punishments provided for murder of the first degree.

8 Is your frame of mind such that
9 you are able at this time to consider equally the three
10 punishments?

11 A Yes, sir.

12 Q You, of course, don't know anything about
13 the case; is that correct?

14 A That's correct.

15 Q Had you heard any news accounts or read any
16 newspaper accounts about the case before you came to the
17 courthouse?

18 A No, sir.

19 Q At this point then, regarding guilt or
20 innocence or any of the punishments, you are completely open
21 minded; is that true?

22 A Yes, sir.

23 Q Do you think that you are the type of person
24 who has the strength of his conviction, so that if you once

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1 arrive at a conclusion, you will stand by the position you
2 reached?

3 A Yes, sir.

4 Q Mr. Rippo is a young man, probably pretty
5 much in the same age frame as yourself.

6 Is that going to be a problem
7 for you in this case?

8 A No, sir.

9 Q If, after you've heard everything, you
10 believed that he ought to receive the worst punishment,
11 would you have the strength to vote for capital punishment?

12 A Yes, sir.

13 MR. HARMON: Thank you.

14 Pass for cause.

15 THE COURT: Mr. Wolfson.

16 MR. WOLFSON: Thank you, Judge.

17

18 EXAMINATION

19 BY MR. WOLFSON:

20 Q Good afternoon, sir.

21 It might also take strength and
22 commitment, if you felt it appropriate, to vote for a lesser
23 punishment, assuming we even get that far, of a life
24 sentence.

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1 Would you, sir, if it was
2 appropriate in your mind, express your views on a lesser
3 punishment in the deliberation room with your fellow jurors
4 and have the strength and commitment to do that as well?

5 A Yes, sir.

6 Q You were in the Army infantry; is that
7 right?

8 A Yes, sir.

9 Q 1984 through '87 roughly?

10 A That's correct.

11 Q Were you overseas, sir?

12 A For a month. I went a reforger (sic) to
13 Germany. It's an exercise, a military exercise.

14 Q The rest of the time though you were in the
15 United States?

16 A That's correct.

17 Q Where were you stationed?

18 A Fort Riley, Kansas.

19 Q Forgive my naivete, but you did graduate to
20 the rank of E-3.

21 And what is that?

22 A It's a Private First Class.

23 Q Were your parents in the service?

24 A Yes, sir, my father was.

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1 Q Was he in the Army?

2 A Yes.

3 Q And did he spend a few years in the Army or
4 more than just a few years?

5 A Roughly, like, 16, 17 years with the Army
6 Reserve.

7 Q I hate to ask you a question -- I don't mean
8 to embarrass you -- but you did admit in this questionnaire
9 that you were arrested for a D.U.I. at one time?

10 A That's correct.

11 Q And when was that and was it here in Clark
12 County?

13 A Yes, sir. November 4th, 1989.

14 Q Quite a while ago?

15 A Yes.

16 Q And is there anything about that experience
17 that affects you in your judgment in this case?

18 A No, sir.

19 Q Were you prosecuted by the District
20 Attorney's Office?

21 A Yes, sir.

22 Q In Clark County, one can be prosecuted for a
23 misdemeanor by either the City Attorney's Office or the
24 District Attorney's Office, depending on where in the county

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1 it occurs.

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And is it your memory that it was in the county, and you were prosecuted in this building, versus a City prosecutor's office?

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A Yes, sir.

6

7

Q I trust Mr. Seaton and Mr. Harmon were not the prosecutors in that case?

8

A I don't recall, sir.

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Q Before you came to the courthouse -- in response to your juror summons, if you were asked whether you were a person who was for or against the death penalty, before you came to the courthouse, how would you have answered?

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A That I didn't really know. I'm -- it changed. It -- I didn't have a firm belief either way. You know, people talk about things, say things, but I don't think they mean a lot of things they say until they come into the gravity of a situation that we're in; and a lot of people do a lot of soul searching, which I've done in the past couple of days, and I've come to some conclusions about it, and some of them I've stated earlier.

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Q As you sit here now, do you feel that you can voice the opinion that you are either for or against the death penalty?

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1 A Yes; yes, sir.

2 Q And which position do you take?

3 A For the death penalty, sir.

4 Q And I understand your answer just a few
5 moments ago, before you came to the courthouse, you were
6 really never probably put in a position where you were
7 directly asked, you know, what are your feelings, which way
8 would you vote, and questions like that. And you've been
9 sitting around for a couple of days and been forced to do
10 some soul searching, like you say.

11 And after listening to the
12 discussions, you've now come to the opinion that you would
13 say you are for the death penalty.

14 Is that an accurate reflection
15 of your change of mind, if you will?

16 A Yes, sir.

17 Q How would you feel if you were Mike Rippe --
18 and pretend you are sitting where he is -- and you just
19 heard a juror say that. Would you want that type of juror
20 sitting in judgment of you?

21 And that's probably the
22 toughest question I've asked.

23 MR. HARMON: Well, it's also irrelevant,
24 Your Honor.

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5 1 MR. WOLFSON: This question has been asked.
2 THE COURT: This question has been asked
3 before.

4 MR. HARMON: Well, that doesn't make it
5 relevant just because it's been asked before.

6 THE COURT: Overruled.

7 PROSPECTIVE JUROR 491, MR. LAINO: I want to
8 base my -- if I was in Mr. Ripppo's spot, I wouldn't base the
9 whole individual on just the one answer. I would look at --
10 but he doesn't get a chance to pick or choose, but I -- I
11 believe that I would make a good juror in the fact that I
12 would weigh the circumstances and try to choose the correct
13 punishment, if it even gets that far.

14 BY MR. WOLFSON:

15 Q Can you think of any examples of the types
16 of decisions in life that are as important as this type of
17 decision might be?

18 Putting it another way: Can
19 you give us what perhaps has been the most difficult
20 judgment in life you've ever made up to this point?

21 A Well, I thought a little bit about what you
22 just asked, and I don't -- I can't think of any other
23 situation where, you know, people would take this much time
24 to make a decision on -- on a possible execution. Even in

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1 the Army, if you go to war, it's pretty fast. I mean,
2 whatever is going to happen, I mean, you just do it.

3 This is very conscious
4 deliberation, careful, I mean, long, drawn out to make the
5 right decision, and I can't think of any other situation in
6 my mind that would equal that.

7 MR. WOLFSON: Okay. Thank very much, sir
8 for your answers.

9 We will pass for cause.

10 THE COURT: Okay. You may inquire of Mrs.
11 Rogers.

12 MR. HARMON: I'll do that, Your Honor.

13 (Whereupon, Prospective Juror
14 149, LORA ROGERS, was
examined as follows:)

15 EXAMINATION

16 BY MR. HARMON:

17 Q Good afternoon.

18 Mrs. Rogers, I notice in the
19 questionnaire on the series of questions that inquire about
20 involvement with the criminal justice system, you may --
21 that you didn't have any involvement, but you had known
22 people who did.

23 A Yes.

24 Q Any personal -- close personal friends who

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1 have had brushes with the criminal justice system?

2 A My husband has had -- what did you call
3 them -- brushes? I don't know.

4 Q That was my word.

5 Just how close were his brushes
6 with the system?

7 A He had had, when we first got married --
8 today's my anniversary, 27 years.

9 Q Congratulations.

10 A -- and so when we were first married and
11 very young, he had -- it's been a long time -- so he had
12 some brushes which were burglary, burglary tools, possession
13 of marijuana, and he had done some time on that, I think ten
14 months or something like that. I don't remember. It's been
15 a very long time.

16 Q You said this was early in your marriage?

17 A Yes. Actually '69, 1969.

18 Q Did you form any opinions as a result of his
19 involvement with the system about how justice had worked in
20 his case?

21 A I was -- because we were newlyweds also,
22 that wasn't my lifestyle, and I was pregnant with -- with
23 my -- with our son. And it was very upsetting to me because
24 I knew he would have to do some time. But because I know

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5 1 what he had done was wrong, I knew that he had to do -- I
2 2 knew that he had to do the time, and so I really never had
3 3 any problem with the judicial system. It's just the way I
4 4 was brought up.

5 5 Q But you don't harbor any ill feelings
6 6 towards courts or prosecutors or policemen --

6 7 A No, I don't --

8 8 Q -- by the manner in which your husband's
9 9 case was handled?

10 A No. I have high respect for the judicial
11 11 system.

12 Q That was a long time ago. And so I take it
13 13 that that would have nothing to do with any decision you
14 14 might make as a juror in this case.

15 A No. It just makes -- I feel that it just
16 16 makes me that much more sensitive to life. It just -- that
17 17 I've experienced -- I don't know. How can I explain what
18 18 I'm saying?

19 I'm not above someone that has
20 20 done something wrong. I personally have not been in any
21 21 trouble. But, like I said, because it hit close to home, to
22 22 me, I know what it's -- I know what it's like. You know,
23 23 some people don't have any connections with crime, I guess
24 24 you could say. I don't know. Please forgive my words. But

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1 I just feel that that's just an experience in my life that I
2 am -- I could be sensitive to.

3 Q Did you know anything at all about this case
4 before you came to the courthouse to begin filling out the
5 questionnaire?

6 A No, sir.

7 Q You don't remember any pretrial publicity
8 about it?

9 A No.

10 Q Is it accurate to say that at the present
11 time you are completely open minded about this case?

12 A Yes, sir.

13 Q You already have mentioned your son, is it?

14 A Yes.

15 Q As I recall from the questionnaire, he's 26
16 now.

17 A Uh-huh.

18 Q So he would be a few years younger than the
19 defendant, Mr. Rippo.

20 A Yes.

21 Q Is the similarity of age going to be a
22 problem to you?

23 A No. I thought about that, and it -- it
24 wouldn't be a problem to me.

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6 1 Q But, you are going to be called upon, of
2 course, to make some very difficult decisions. You've got
3 to listen to the evidence and first decide whether Mr. Rippo
4 is guilty or not guilty.

5 A Yes, sir.

6 Q Are you going to relate unnecessarily to the
7 defendant because you will be thinking, well, suppose, by
8 some unfortunate circumstances, my son was sitting in that
9 position?

10 A I'm sure, because human nature -- I would
11 have thoughts run through my mind on that. But I also know,
12 too, that -- that I have a duty, if chosen as a Juror, to
13 weigh all the evidence and the facts and to judge a
14 situation and be able to put aside my feelings or any --
15 anything that would be an example to something outside the
16 court.

17 Q Are you employed outside of the home?

18 A Yes.

19 Q What do you do?

20 A I work at Wal Mart. I sell jewelry at
21 Wal Mart in the jewelry department.

22 Q How long have you been employed by Wal Mart?

23 A I think three years in two months.

24 Q What about your husband, what does he do for

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1 a living?

2 A He's a carpenter foreman.

3 Q How long has he been in carpentry?

4 A Ever since I've known him; since '67, 1967.

5 Q What are your views about punishment, in the
6 event that becomes relevant to this case?

7 A I believe that -- the options that the
8 Court, the State of Nevada, offers for us as jurors to
9 choose from, I think that they're fair.

10 Q At this time, are you able to consider all
11 three of the punishments equally?

12 A Yes, sir.

13 Q What are your thoughts specifically about
14 capital punishment? Are you for or against it?

15 A I am for capital punishment.

16 Q Why are you for it?

17 A I believe in law and order. I believe that
18 we -- for us to live and to work in a community, we need law
19 and order. So if an individual has chosen to break the law,
20 then he -- not he -- then that individual has put their self
21 in the position that others, by law, would be judged. And
22 because there is an option -- I lost my track here. I would
23 consider one of the three fairly.

24 Q Do you believe that you have the emotional

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6 1 toughness -- if this Jury had the responsibility of fixing
2 punishment, and if you decided that this case required the
3 worst punishment to be imposed, would you have the toughness
4 to come into the court and vote for capital punishment?

5 A Yes, sir.

6 MR. HARMON: Thank you.

7 Pass for cause, Your Honor.

8 THE COURT: Mr. Dunleavy -- Mr. Wolfson.

9 MR. WOLFSON: I'll be asking. Thank you,

10 Judge.

11
12 EXAMINATION

13 BY MR. WOLFSON:

14 Q Good afternoon, ma'am.

15 A Hello.

16 Q You noted in your questionnaire that
17 religion is a very important part of your life.

18 A Yes, it is.

19 Q And you stated that you attend services
20 quite often; is that right?

21 A Yes, sir.

22 Q Is there anything about your religious
23 beliefs and your religious convictions that contradict the
24 choice that you may have to make in one of the three

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6 1 punishments?

2 A No, sir.

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

5 A Yes, I did.

6 It was the most in passing by
7 the television. I don't watch much television. So --

8 Q Did it make any kind of a significant impact
9 on you to the point where it would influence you in your
10 decision making in this case?

11 A No, sir.

12 Q I believe you said that you -- and these are
13 my words, forgive me -- that you believe in the criminal
14 justice system or the judicial system. You have confidence
15 in it, and words to that effect.

16 Did what you learned about the
17 O.J. Simpson trial change those views at all?

18 A No, sir.

19 Q You are going to hear evidence in this case
20 concerning the death of two women. These women were not
21 much younger than you. They were close in age to you,
22 relatively speaking.

23 How do you think that that will
24 make you feel as a Juror in your job? Is viewing the

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1 evidence, without sympathy being permitted, going to affect
2 you because you are a woman and two women died in this case?
3 Do you think that that would overly affect you to the point
4 where you couldn't be unbiased and you would be overly
5 emotionally affected?

6 A No, sir.

7 Q If I were to ask you to look at yourself and
8 describe yourself as either a strong willed or a moderately
9 willed or mild willed person, how would you describe
10 yourself?

11 A Strong willed.

12 Q If you had a choice right now and we were in
13 a private room where nobody would hear about your answer,
14 and you had a choice whether to sit or not sit on this jury,
15 what would your choice be?

16 A My choice would be to sit on the jury if --
17 if I'm chosen; and if I'm not, that's -- that's fine.

18 MR. WOLFSON: Thank you.

19 Pass for cause.

20 THE COURT: You may inquire of Mr. Foley.

21 MR. HARMON: I'll do it, Judge.

22 THE COURT: Okay.

23

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(Whereupon, Prospective Juror
481, DANIEL FOLEY, was
examined as follows:)

EXAMINATION

BY MR. HARMON:

Q Good afternoon, sir.

A Good day, sir.

Q You did something rather extraordinary,
which is, after being excused, you came back to us and got
yourself reinstated.

A I'm in a situation where I can serve and I
feel it's my duty to serve and I actually feel privileged to
serve.

Q We do appreciate that attitude and I know
the Court already expressed his point of view.

You mentioned in the
questionnaire an experience that involved you and your wife.

A Yes, sir.

Q It was one of domestic violence?

A Yes, I did.

Q How long ago was that?

A It was three years ago.

Q You described the situation. She was
apparently destroying some property?

A She was extremely distraught and she started

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7 1 throwing things around in the kitchen and she had thrown one
2 item at me and hurt me. So I expedited her from the
3 property. And once she calmed down, where I thought she had
4 calmed down, she came back into the house and she called
5 911.

6 In Henderson, it's customary
7 for them to keep someone in jail overnight just so that
8 neither of the parties suffer any further injury, so I
9 stayed the night in jail.

10 Q You also indicated that the result was that
11 you pled no contest.

12 A Yes, I did. There were three -- three
13 options at hand: First was to pay a counselor \$200 to seek
14 counseling. I didn't feel that I needed counseling.

15 The other -- one of the others
16 was to pay the court fine, which was \$200.

17 And the other was to pay \$200
18 to a lawyer to seek a trial, and -- or to dismiss charges or
19 to go in that direction.

20 And I felt -- I had just landed
21 this -- my -- I had just landed a job, and it was in my best
22 interest not to miss any work and not to have any discussion
23 of that at my work at that time, so I opted to pay the court
24 costs.

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1 Q You expressed the point of view in the
2 questionnaire that you felt like you've actually been
3 punished for something you didn't do.

4 A Well, yes. I was fined \$200 for something
5 that I felt was -- anyone would have had to have done.

6 Q You are still married to the same lady?

7 A Yes, I am.

8 Q Do you harbor any ill feelings towards law
9 enforcement or --

10 A No, I do not.

11 Q -- or persons who operate within the
12 criminal justice system as a result of that?

13 A I felt that that case was unjust, but I
14 don't hold it against anybody.

15 Q Are you very confident, Mr. Foley, that that
16 incident would not affect your attitude of this case in any
17 way?

18 A Absolutely.

19 Q Had you heard anything about this case
20 before you came to the courthouse to fill out the
21 questionnaire?

22 A I may have seen the defendant on T.V.
23 recently, but I'm not sure, and it would not affect my
24 judgment in any way.

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1 Q You certainly haven't formed any opinion
2 about the case at this point?

3 A No.

4 Q What are your feelings about the punishments
5 prescribed for murder of the first degree in this state?

6 A If, in fact, he is charged guilty, I will
7 weigh the evidence and choose the proper punishment, defined
8 by the Nevada state law.

9 Q You don't have any type of moral or
10 conscientious objection against any of the punishments?

11 A No, I do not.

12 Q Generally speaking, would you describe
13 yourself as being for or against capital punishment?

14 A In my earlier years, I was more for it,
15 because I didn't understand that it is more expensive -- I
16 thought it was more of a burden on society; but knowing now
17 that it is more of a burden on society to execute an
18 individual, I have waived that thought.

19 Q In the questionnaire that -- you, I'm sure,
20 will not remember the number -- but there is (a), (b), (c)
21 and two which are (c) and (d), which are part of question
22 46. It deals with the ranges of punishment.

23 46(a) inquires if you are of
24 such a state of mind that you could not consider the full

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8 1 range of punishments in this case, and you checked yes for
2 that.

3 Was that a mistake on your part
4 or --

5 A Obviously.

6 Q Are you at this time --

7 A Oh, well --

8 Q -- of a state of mind --

9 A When I read -- when I read -- when I read
10 that, I didn't -- I didn't take that and say a case. I must
11 have -- must have misunderstood what was written.

12 I'm sorry.

13 Q Well, I just wanted to find out if perhaps
14 you had misunderstood the question. It may not be as
15 artfully worded --

16 A I understand. There was not enough
17 information on there to make any kind of judgment in my
18 opinion.

19 Q Are you of a frame of mind now where you can
20 consider the full range of punishments provided for the
21 murder in the first degree?

22 A Obviously I don't understand the question,
23 because there hasn't been any facts presented for me to make
24 that --

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1 Q Well, we're just asking you for a commitment
2 now that you are able to consider life with the possibility
3 of parole, life without, or the death penalty.

4 A Yes, sir. After the -- the facts that have
5 been presented and it was -- when we get to come to the --
6 conclude that he was guilty, and then, yes, I could weigh
7 the three possibilities.

8 Q It certainly is very hypothetical at this
9 point. There will only be a penalty hearing. The Judge
10 only gets involved if the defendant is convicted of murder
11 of the first degree.

12 A Right.

13 Q But we would like to know now -- it would be
14 too late to get to a penalty hearing and then discover that
15 certain of the jurors could not consider all of the
16 punishments prior.

17 A I didn't want to put on my part that I'm
18 ready right now to convict this man --

19 Q Sure.

20 A -- and that's why I put that.

21 Q And we wouldn't want anyone to take that
22 position.

23 A I'm -- I just misread it.

24 Q It certainly is accurate that the

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1 prosecution, which files the charges, carries the burden of
2 proof, throughout any trial.

3 Mr. Foley, would you have the
4 same type of emotional strain if you thought that the
5 defendant had been proven guilty beyond a reasonable doubt
6 of first degree murder and if you thought all of the
7 circumstances required the worst punishment, would you have
8 the strength to come in here and make a judgment which was
9 that this would be?

10 A By this defendant?

11 I could.

12 Q You could do that?

13 A Yes, sir.

14 MR. HARMON: Thank you.

15 Pass for cause.

16 THE COURT: Mr. Wolfson.

17 MR. WOLFSON: Thank you, Judge.

18

19 EXAMINATION

20 BY MR. WOLFSON:

21 Q Would you agree that it might take as much
22 strength and stamina and commitment to return a verdict of
23 life imprisonment rather than death and tell the prosecution
24 they're wrong, if under the appropriate scenario you

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1 believed in that?

2 A It would be much more difficult to come back
3 with a death sentence than it would be a life sentence.

4 Q On your questionnaire, Mr. Foley, Mr.
5 Dunleavy pointed out to me that you didn't answer one of the
6 questions. So let me explore that with you for a moment.

7 And that question was: Would
8 your views or state of mind prevent or substantially impair
9 the performance of your duty as a Juror in accordance with
10 the Court's instructions on the law?

11 A I must not have understood the question then
12 and I still don't understand it now.

13 Would you repeat it, please?

14 Q A lawyer must have written the question. Of
15 course, like so many others, you have to read them two or
16 three times to really appreciate them, so I can understand
17 your answer.

18 For your benefit, Mr. Foley, I
19 think the law statewide is that for a person who is arrested
20 for domestic violence, they must spend 12 hours in jail.
21 It's not Just Henderson.

22 A Right. Okay, sir.

23 Q Let's talk about that for a moment, if you
24 will.

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1 As I understood what you spoke
2 with Mr. Harmon about, you basically said that you didn't
3 commit the crime, but that in the interest of what's best
4 for you, when you were confronted with a few choices -- this
5 is after your arrest I'm talking about, and when you
6 actually go to court and have to deal with the system --

7 A Yes.

8 Q -- you are presented with a few choices, and
9 that even though you weren't guilty, you chose to end the
10 matter by pleading no contest.

11 A Yes.

12 Q So in your case, an innocent man was
13 convicted of a crime.

14 A Yes.

15 Q Mr. Foley, did you, early on in our
16 presentation of this case a couple days ago, indicate that
17 you may know some of the witnesses?

18 A No, I did not.

19 Q You were not one of those questioned?

20 If you were sitting where I am,
21 Mr. Foley, as Michael's lawyer, is there anything about
22 yourself emotionally, psychologically, anything about your
23 background, anything about how you might feel that I should
24 know about, in determining whether I should select you as a

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1 Juror?

2 A No. I would feel delighted, probably
3 considerably delighted to serve.

4 MR. WOLFSON: Thank you.

5 Pass for cause.

6 THE COURT: You may now inquire of Mr.
7 Bonnin.

8 PROSPECTIVE JUROR 482, MR. BONNIN: Yes.

9 (Whereupon, Prospective Juror
10 482, ROBBIN BONNIN, was
examined as follows:)

11 EXAMINATION

12 BY MR. SEATON:

13 Q It's Bonnin?

14 A Bonnin.

15 Q Well, we're getting close to the end here.

16 What are your doubts now after
17 three days about your being here?

18 A I'm a little frustrated. I started out last
19 Wednesday, got delayed over until Friday; then to Monday,
20 now Tuesday, and Wednesday and Thursday.

21 Q You were pulled in last week as a Juror?

22 A Called last week.

23 Q And we put you down near the end here.

24 How bothersome is that

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1 frustration?

2 A It's part of the system. But, I mean,
3 it's -- it's like when I answered what was wrong with the
4 court system, it's overloaded; it's somehow that the entire
5 show couldn't get on as planned.

6 Q Okay. Let's -- let's take what we've been
7 doing here as an example.

8 Before I start, I'll tell you I
9 share a lot of your frustration, but I want your feelings
10 about what we're doing here.

11 We obviously talked to every
12 juror individually. We ask them a lot of the same
13 questions, but we try to hold them fairly short.

14 Do we -- in that three day
15 process that we're going through, in your view, while we're
16 in here doing it, is it a waste of time?

17 A No. It's a necessary part of the system for
18 you to obtain what you are looking for and the defendant to
19 get what he is looking for.

20 Q Somehow there will be a neutral, middle
21 ground that we can have a jury that can aid both sides.

22 A I doubt that, but --

23 Q The frustration that you feel, will it get
24 in the way of your doing a decent job of being a juror?

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1 A Not really.

2 Q How do you feel after listening to all these
3 comments about the death penalty?

4 A I'm very ambivalent as far as the death
5 penalty is concerned.

6 Q Can you explain your ambivalence to us?

7 A I'm neither for it nor against it. I would
8 never get on a soap box and get up there and say we've got
9 to execute, all for one, or get up and say it's the wrong
10 thing. It's there. It's part of the law. You use it.

11 Q Do you mind it being a part of the law?

12 A No.

13 Q Okay. Can you use it as a juror if you
14 think it's appropriate?

15 A Probably.

16 Q Probably?

17 A I -- I've got to have facts before I can say
18 yes, I'm going to do it.

19 Q I understand. I understand.

20 A Okay.

21 Q There are -- there are varying degrees of
22 murders which take place --

23 A Yes.

24 Q -- some not as violent, not as nasty, not as

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1 heinous as others.

2 A Yes.

3 Q We've seen them throughout the years in the
4 newspapers. It's pretty easy to pick out the particularly
5 bad ones.

6 A Yes.

10

7 Q And I mean, from what we read in the
8 newspaper, if we could consider that to be evidence, but
9 we're -- are you able to look at those and say, oh, yeah,
10 this was a real bad one and we might be able to consider the
11 death penalty there; and over here, there is one that's not
12 nearly so bad and it probably wouldn't apply?

13 A There are a lot of times that newspaper
14 accounts are very exaggerated and are very short, missing a
15 whole lot of details.

16 Q Right.

17 A And it's the details that really are the
18 thing that makes up your mind not to -- I mean, not to get
19 carried away by the sentiment, which, all of a sudden, the
20 headline, which is on there.

21 Q So you would be looking for as many facts as
22 possible, both pro and con, regarding, first of all, guilty
23 or not guilty, guiltiness of Mr. Rippo, and then the penalty
24 to be given to him if he is found guilty; is that correct?

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1 A Yes.

2 Q Do you anticipate -- have you ever been a
3 Juror? I can't remember your -- questionnaire?

4 A This is the third time I've been called.
5 The first time, Just got sent home. The second time, I got
6 in and there was a plea. So we never went to deliberations
7 or anything else.

8 Q Okay.

9 A And --

10 Q So this will be the first time that you
11 have -- if it goes that far, that you would go forward and
12 deliberate in a case?

13 A Yes, I have never deliberated in one.

14 Q As a person who may potentially be
15 deliberating somewhere down the road, do you anticipate that
16 you will hear every available fact that speaks toward the
17 crimes that were committed?

18 A Well, now, that's the function of a jury, to
19 hear those and to basically file them away for, you know,
20 recall when you are in deliberations.

21 Q You necessarily have to rely on witnesses to
22 come in and tell their story and sift through what they say
23 to determine what the truth is, do you not?

24 A Yes.

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1 Q Do you think that every witness that has
2 anything to say about this case, first of all, could be
3 found, and, second of all, could be talked in to coming in
4 here so that you get every single thing before you?

5 A Well, let me put it this way: I mean, the
6 only way we could ever, ever know every fact is if there
7 was -- some reason there happened to be a camera in the sky
8 looking down --

9 Q Exactly.

10 A -- that we could see, you know, that we
11 could replay the incident from the start to finish; because
12 your memory, my memory, and everything else is selective in
13 what we use and what we -- others use.

14 Q Well, I could say something else about our
15 memory, yours and mine, at our age, probably, but I
16 wouldn't.

17 So you appreciate the
18 difficulty that a jury has in sifting through some of the
19 facts that are presented to them, that they are not going to
20 get everything because there aren't cameras at all crime
21 scenes.

22 A Well, you sift through the facts when they
23 are in -- when they are opposed to each other.

24 If A gets up there and says he

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1 did it and B gets up there and says, no, he did it, you
2 know, then it's a question of credibility.

3 Q Would you be surprised if at the end of the
4 trial, you -- you were in deliberations and you turned to
5 your fellow jurors and you said, I've got a question that
6 they didn't answer, something out there that -- there is an
7 answer to it and we weren't given it, would that surprise
8 you if that would happen?

9 A For me personally?

10 Q Uh-huh, yes.

11 A Only if that particular fact became relevant
12 to the determination of guilt or innocence.

13 Q I think what I'm suggesting to you is that
14 you are not getting all the facts. You are not going to
15 have every question answered.

16 A Oh, that's understandable.

17 Q Okay. Understanding that, are you able then
18 to take the facts which are given to you, and there will be
19 many, and sift through those and still be able to come to a
20 decision?

21 MR. DUNLEAVY: I'm going to object to that
22 question unless he knows what facts are missing. Nobody
23 could possibly answer that question.

24 PROSPECTIVE JUROR 482, MR. BONNIN: And to

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10 1 tell you the truth, it means -- if there is no testimony
2 given, how would I know the fact is missing?

3 I mean, I -- I have to rely on
4 what the testimony would be.

5 MR. SEATON: Okay. Fair enough.

6 THE COURT: Okay.

7 BY MR. SEATON:

8 Q Do you want to be here as a juror?

9 A I have no problems being here.

10 Q And your feelings on capital punishment?

11 A I am -- it's the law.

12 Q And you don't mind being the individual who
13 ultimately may have to decide whether or not to impose that
14 particular punishment?

15 A If -- if the trial and the facts and
16 everything warrant it, I have no problems with it.

17 MR. SEATON: Thank you very much.

18 Pass for cause, Judge.

19 THE COURT: Mr. Dunleavy.

20
21 EXAMINATION

22 BY MR. DUNLEAVY:

23 Q The District Attorney began by saying a few
24 questions, and by now, you all know that attorneys have a

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1 different idea of a few questions than almost anybody else
2 in the planet.

3 You've been sitting here for
4 three days paying attention. What's the one question you
5 haven't heard asked you think should be?

6 A Oh, God.

7 MR. WOLFSON: That was it.

8 BY MR. DUNLEAVY:

9 Q If you don't have it, that's fine.

10 A I'm not tuned in on that.

11 Q Now the D.A. talks some about what happens
12 if witnesses don't show up or something.

13 You understand they have to
14 present a case?

15 A Yeah.

16 Q And if the case is less than beyond a
17 reasonable doubt, then, as a matter of law, it means not
18 guilty; it's more than beyond a reasonable doubt, it means
19 guilty.

20 A Yes.

21 Q Do you understand that's the standard?

22 A Right.

23 Q It's not speculating about who didn't show
24 up or what might have happened outside the courtroom. It

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11 1 has to happen here in front of you and be given to you or it
2 didn't exist.

3 A Correct.

4 Q Are you comfortable with that idea?

5 A Yes. I mean, how else can you do it, right?

6 A Right.

7 Q Now, a couple of questions I want to go into
8 very briefly.

9 On 31, you have three brothers,
10 I believe, all retired?

11 A Yes.

12 Q Were any of them in law enforcement or
13 attorneys or judges or --

14 A No.

15 Q A good family. Okay.

16 A The closest you'd come to one was a fireman.

17 Q I see that at one time you gave money to the
18 ACLU.

19 Were you an active supporter or
20 anything like that?

21 A No. I -- I gave ten dollars.

22 Q Just a weak spot one day?

23 A Right. Oh, the mailing got to me.

24 Q And like many, many people, you put down

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11 1 that life without the possibility of parole would be the
2 worst punishment from your perspective?

3 A For me -- I'm talking as an individual --
4 for me to go through life behind granite walls and not be
5 able to listen to what radio I wanted or what television I
6 wanted and see what animals or movies I wanted or to go out
7 and have a beer or do anything, I mean, I'd rather be dead.

8 Q That's a major sacrifice.

9 But what do you think of the
10 number of people that say that's the worst punishment to
11 them, but, oh, the real worst punishment is death? Why do
12 you think there is two worst punishments?

13 A I don't think you are talk- -- you know, you
14 are asking me about what my worst punishment is.

15 Q Uh-huh.

16 A I don't know what the worst punishment for
17 he to be. I know, in that sense, punishment would be, you
18 know, decided as to after a guilt is found, but, I mean, it
19 would depend upon the circumstances.

20 Q So you will reserve judgment or any of that
21 until you've gotten all the facts?

22 A Yes.

23 Q Question 62: What type of bias or
24 prejudices might you have that could affect your judgment in

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1 this case?

2 And your answer was: I'd like
3 to think of myself as even minded, but it would depend on
4 the circumstances.

5 What kind of circumstances
6 could cause you a problem there?

7 A I can't think of any straight off. It
8 would -- you know, it's like -- it's like trying to answer
9 the question I'll be even minded. Would something set me
10 off? It's possible. I mean, I try to be honest with it and
11 say -- oh, God, I don't know. I can't think of anything
12 straight off.

13 But I know, in that sense, that
14 on occasion, I mean, I do become opinionated.

15 Q I think everybody probably does.

16 A Yeah, I mean --

17 Q Now, on Question 75, something I've talked
18 about to many jurors, the right of persons charged of crimes
19 are better protected than the rights of the victim.

20 What rights did you have in
21 mind when you said yes?

22 A I was -- I was thinking not in terms of
23 sitting here at a trial. I was thinking in terms of
24 generally, out -- because here, as far as that goes, it's a

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11 1 different situation when you have the -- his rights being
2 protected, as opposed to a victim or anything else.

3 Actually, the victim of the
4 crime has no rights anymore because -- I mean, his rights
5 have been violated; they've been taken away by supposedly --

6 Q Part of the reason of the crime.

7 A Yeah, but what we're talking about is what
8 is right.

12 9 Q Right. That's why I asked you what kind of
10 rights you had in mind.

11 A Yeah.

12 Q What do you think of the idea of going
13 through a process like this where they're trying to find 12
14 people who will agree that they would impose the death
15 penalty under the right circumstances, to kill somebody?

16 A Although I don't, I don't oppose the death
17 penalty. I don't especially care for that particular phase
18 of it, because, to me, it seems almost like you are hunting
19 a jury that's going to hang somebody.

20 Q You will make an effort to be fair to both
21 sides in this case?

22 A It's impossible.

23 Q Well, are you going to try and be fair to
24 both sides?

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1 A Of course.

2 Q And if you were Mr. Rippo, would you be
3 comfortable with the idea of 12 jurors thinking like you do?4 A I have no way of getting into Mr. Rippo's
5 mind to make that decision for him. That was something that
6 he would have to make.

7 Q Same thing with the State?

8 A Same thing with the State. I mean, whatever
9 the information that is given me, I mean, I will basically
10 make a best decision on my abilities and the information as
11 it comes.

12 MR. DUNLEAVY: Thank you, sir.

13 No further questions,
14 Your Honor. Pass for cause.15 THE COURT: Okay. You may inquire of Mr.
16 Reinert.

17 MR. SEATON: Thank you, Judge.

18 (Whereupon, Prospective Juror
19 484, BRIAN REINERT, was
examined as follows:)

20

21 EXAMINATION

22 BY MR. SEATON:

23 Q Mr. Reinert.

24 A Yes.

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1 Q Is that the proper pronunciation?

2 A Reinert.

3 Q This question 46(a) pops up again. A lot of
4 people have trouble with this thing, with the way it's
5 written, but it's essentially asking: Is your state of mind
6 such that you can consider the full range of punishment --

7 A Yes.

8 Q -- which means the life with, life without
9 and the death penalty?

10 A Yes.

11 Q You answered yes, you could not consider,
12 but I think it's that almost a double negative we throw in
13 there that --

14 A I can consider -- I can consider it.

15 Q You could consider them both?

16 A Yes.

17 Q Okay. How do you feel about being here and
18 perhaps being selected as a juror?

19 A It doesn't bother me.

20 Q Is it something you want to do?

21 A No. I can do it.

22 Q Is it something you want to do?

23 A No.

24 Q You'd rather be some place else?

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12 1 A Yes.
2 Q You work for National RX --
3 A Yes.
4 Q -- a prescription drug distributing company?
5 A Yes. Do they have a warehouse here or --
6 A Yeah.
7 Q -- shipping place, I guess?

8 Is this the main one or are
9 there others around the country?

10 A I think there is others in other states, but
11 there is only one here.

12 Q I see. You indicated, like many others,
13 your feelings that life without the possibility of parole
14 was the worst punishment.

15 A For me.

16 Q And that's the answer that many people have
17 given.

18 You don't think that would
19 necessarily apply to Mr. Ripppo?

20 A No.

21 Q If you were seeking out, after hearing the
22 trial and the penalty phase, the worst punishment that you
23 could give him, if that's what you thought was appropriate,
24 what would it be?

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1 A It would be death.

2 Q Okay. What about your ability to come back
3 with such a verdict, would that be troublesome at all for
4 you?

5 A No.

6 Q You will —

7 A If I felt he did it or if he's guilty, I can
8 come back with that decision.

9 Q Okay. You believe in the death penalty?

10 A Yes.

11 Q Have you always believed in the death
12 penalty?

13 A As far as I remember.

14 Q Okay. You're fairly young. You're 20 years
15 old.

16 Have you had an opportunity to
17 think about, to discuss, the death penalty with other
18 people?

19 A No.

20 Q Did you ever study it in school?

21 A No.

22 Q Okay.

23 A Not that I remember.

24 Q Have your thoughts arisen mostly from

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1 reading things, seeing things on T.V.?

2 A Yes.

3 Q Do you think your -- the thoughts that you
4 carry with you today are pretty firmly implanted in your
5 mind?

6 A No.

7 Q Is there a possibility that as the trial
8 wears on, you could realize, even more than you do today,
9 and I'm sure everybody does to a very large extent, the
10 seriousness of what's going on?

11 A Sure.

12 Q And is it possible that you might come to a
13 different conclusion? Maybe on one hand, you still believe
14 in the death penalty, but on the other, you might prefer not
15 to be the person who was responsible for voting for it
16 against a particular individual?

17 Could that happen, do you
18 think? Could you have that --

19 A Could you say that again?

20 MR. SEATON: Yeah.

21 MR. WOLFSON: Exactly.

22 BY MR. SEATON:

23 Q If the court reporter laughs at you, you
24 know your question is too long. She's the one writing it

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12 1 down.

2 Let me give you an example, and
3 I will talk about both sides. I'll talk about the defense
4 first.

5 And this gentleman next to you,
6 I think, probably hit the nail on the head closer than
13 7 anybody has. When the case is all said and done, the facts
8 come out the way that they're anticipated to, these
9 gentlemen will be asking the Jury to come back with the
10 smallest punishment possible, the life with.

11 A Right.

12 Q You understand that.

13 And we have said on a number of
14 occasions, if the evidence turns out as we anticipate, that
15 we may be before you asking for the death penalty. So the
16 two sides are diametrically opposed.

17 A Uh-huh.

18 Q What the system wants is a Jury of 12 people
19 who, when they're selected and when the trial starts, and
20 they don't know anything about the case, can go either way.

21 A Yeah, I know that.

22 Q If they have the capability of coming back
23 with either of those two punishments or the one in between,
24 the life without the possibility of parole.

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1 Are you with me?

2 A Yes.

3 Q Okay. Think about how unfair it would be to
4 them, for example, if you said, yes, I can -- and they've
5 asked a number of jurors, can you come back with a life with
6 the possibility of parole verdict if the facts are right,
7 and people have said yes.

8 And if you were to go into --
9 and tell them that, and then hear the case, go into the jury
10 deliberation room, and having been thinking about it for the
11 few weeks that you are here, say to yourself, you know, I
12 heard somebody say in the jury that anybody who kills
13 anybody ought to get killed himself, and I'm just not going
14 to consider that life with, I don't believe in that any
15 more, I've changed my mind, that would be unfair to them?

16 A Right.

17 Q Do you agree?

18 A I agree.

19 Q Yeah, because they would have thought you
20 were going to think some different way.

21 A Right.

22 Q Similarly, on our side, if you heard all the
23 evidence and you went back and you said I've been thinking
24 about this and I still believe in the death penalty, but I

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13 1 think only God should have the right to end someone's life,
2 that would be unfair to the State, because then we would
3 have gotten a Juror who couldn't possibly have come back
4 with the death penalty.

5 Taking a long way around to ask
6 you the question: Do you think because of your age -- and
7 that's the reason I'm asking you this --

8 A Right.

9 Q -- that you might be susceptible to changing
10 your mind about these views that you have?

11 A No.

12 Q Okay. You think you could be a fair Juror?

13 A Sure.

14 Q You do your best to listen carefully, and
15 being away from work isn't going to interfere or anything
16 like that?

17 A No.

18 Q Has work said it would be okay?

19 A Yeah, it's fine.

20 MR. SEATON: Okay. Thanks very much.

21 Pass for cause.

22 THE COURT: Mr. Wolfson, Mr. Dunleavy. You
23 guys are playing games on me.

24 MR. WOLFSON: Odd, even; odd, even.

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EXAMINATION

3

BY MR. DUNLEAVY:

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Q Do you think it's only the young that are
susceptible to changing their minds?

5

6

A No.

7

Q Anybody can do that, right?

8

A Sure.

9

Q Now, by now, the emphasis is on question 46.

10

You indicated on the first one the answer was yes, but to
try and break it down into English, said that you didn't
think you could consider all three punishments?

11

12

13

A Did I say this on there?

14

Q It's not hard to misunderstand some of those
questions.

15

16

Is there one that you have
reservations about or is it just a misunderstanding on the
questionnaire?

17

18

19

A I think it's a misunderstanding.

20

Q That's what happens when you let lawyers
near a typewriter, you know.

21

22

Then on (d), it looks like you
had checked death and scratched out and put life without as
to what you thought was the worst.

23

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1 Did you change your mind while
2 you were filling it out or --

3 A No. I -- I didn't know I did that. Life
4 without parole would be the worst for me.

5 Q For you.

6 Now, I asked this other
7 gentleman, and several other people, I believe, that why is
8 it you think that you perceive life without as the worst on
9 a personal basis, but whenever they ask you what's the worst
10 punishment, it's death?

11 A I'm not sure. I --

12 Q Would you think you are doing somebody a
13 favor by giving them the death penalty?

14 A No, 'cause they might not want to die.

15 Q You indicated, Question 56, in your opinion,
16 what's wrong with the criminal justice system? It lets too
17 many guilty people go free.

18 How does that happen?

19 A It just seems like a lot of guilty people
20 are let free; either they spent some time in jail, but they
21 get out early or they didn't serve at all any prison time.

22 Q So if somebody gets probation, you feel
23 that's a miscarriage of justice? Probation meaning released
24 before they do any prison time?

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1 A Right. No, no. It depends on what they
2 did.

3 Q I mean, a lot of these -- when you answer
4 this, you are not sitting there getting hammered and
5 everybody questioning you. Now we're sitting here trying to
6 get techniques, and obviously you've had three days to give
7 a lot of thought to punishment that you probably never done
8 before.

9 A Right.

10 Q Have you changed any of your thoughts
11 relating to punishment?

12 A No, not that I can think of.

13 Q Question Number 62: What type of bias or
14 prejudice might you have that could affect your judgment in
15 this case?

16 I don't consider myself a
17 racist towards others, but I do prejudge them sometimes by
18 what some of them say towards whites or by how they blame
19 the problems on the whites.

20 Is there a problem here that we
21 need to know about, that if this case hinged on one witness
22 who was black --

23 A No, I'm not racist at all.

24 Q -- would there be a problem?

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14

1 A I'm not a racist person at all.

2 Q Okay.

3 A If someone were to say something to me, I
4 prejudice sometimes, but --

5 Q Now, the State asked you about what your
6 beliefs are on the death penalty.

7 And you don't have any problem
8 with the concept?

9 A No.

10 Q You also put down that you believe in an eye
11 for an eye.

12 What does that mean to you?

13 A Well, if someone does something to me, I'm
14 going to do it back to them; not like, say, they kill one of
15 my family members, I'll probably -- if it was them, I'll
16 kill one of their family members.

17 Q Don't you think the courts can handle the
18 problem?

19 A Well, that's just -- that's the way I was
20 raised.

21 Q So if somebody stole from you, you would
22 steal from them?

23 A No, but I'd get them back somehow.

24 Q If somebody ran into you with their car, you

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14

1 would run into them with your car?

2 A No, no.

3 Q Where does this concept stop?

4 A I couldn't say.

5 Q Have you ever given it a lot of thought?

6 A No, not really.

7 Q You realize that if you went through with
8 what you are talking about, you'd wind up sitting in Mr.
9 Rippo's seat.

10 A Yeah, I'm sure I would.

11 Q Do you think that's a good idea?

12 A No.

13 Q Another question that I've talked to a lot
14 of people about: Rights of a person charged with a crime
15 are better protected.

16 Do you still agree that that's
17 right, or -- do you understand that those rights come into
18 play now here in the courtroom?

19 A Sure.

20 Q And, unfortunately, there is no way to
21 enforce those rights out on the streets or we wouldn't have
22 any crime.

23 A Yes.

24 Q Do you have any doubts as to whether or not

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14 1 you can consider both sides of this case and keep an open
2 mind until it's submitted to you?

3 A No.

4 Q You don't hear the first witness and say,
5 oh, well, that's it, I've made up my mind? You are going to
6 wait until you've heard it all and get it submitted to you
7 and then you'll think about it?

8 A Yeah.

9 MR. DUNLEAVY: I have no further questions,
10 Your Honor. I'd pass for cause.

11 THE COURT: Thank you. Mr. Seaton, you may
12 inquire of Miss Durante.

13 PROSPECTIVE JUROR 486, MS. DURANTE: Uh-huh.

14 (Whereupon, Prospective Juror
15 486, MS. DURANTE, was
examined as follows:)

16 EXAMINATION

17 BY MR. SEATON:

18 Q How are you this afternoon?

19 A Just fine.

20 Q Good. Well, you've got that same disease
21 that the gentleman sitting next to you has got, and we all
22 wish we had --

23 A I'm young.

24 Q -- you're young.

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14

1 How do you -- you heard all my
2 questions with him?

3 A Uh-huh.

4 Q How do you think that impacts you?

5 A Most of the time, I honestly feel that
6 younger people are not taken seriously. I feel they're
7 taken very lightly and I feel a lot of people do not give
8 their judgment or any of their beliefs much consideration,
9 because due to the fact that most people are older in this
10 room --

11 Q Be careful what you say now.

12 A I'm sorry. Not insulting. Sorry.

13 I feel that a lot of people may
14 actually consider what would -- we would think as younger
15 people or how we would feel as younger people not as heavily
16 as they would weigh an older person's opinion.

17 Q Fair enough. I understand.

18 Do you want to be a juror in
19 this case?

20 A I would like to be a juror; not
21 necessarily -- it doesn't have to be this case. I would be
22 flattered if I was chosen as a juror in this case because
23 the way things are going, I can tell it's a tedious process,
24 choosing and selecting certain people that would be fair to

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1 both sides.

2 Q All right. Can you be --

3 A Yes.

4 Q -- fair to both sides?

5 A Uh-huh.

15

6 Q What are your views on capital punishment?

7 A I honestly feel capital punishment provides
8 somewhat of a deterrent to heavy crime, major crime; but I
9 don't see much of an effect.

10 So, yes, I believe in capital
11 punishment, and I believe that if it is there as an option,
12 I could honestly consider it. But I haven't -- being as
13 it's been said earlier, it's -- the more it happens, the
14 less you hear about it. So I honestly don't know if it is a
15 deterrent to crime, but I do see it as a deterrent.

16 Q Okay. If you got into that situation that
17 we've talked about with many other jurors, where you were
18 considering penalty and you thought it should be harsh --
19 the harshest of penalties, would your opinion then be that
20 it would be the death penalty?

21 A I would feel in my own case, as it says on
22 my survey, that if somebody told me all my freedom was being
23 taken away, but I was still going to have to live with
24 myself after I had been found guilty, I was going to have no

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15 1 freedoms, no choice, no nothing, life without possibility of
2 parole, I would feel, for me, that would be the worst.

3 But I also can't say that death
4 would not be the worst either, because if somebody was going
5 to sit there -- 12 people, my peers, were going to sit there
6 and judge me and think that I was so horrible that I should
7 be killed, I would also think that that could be a very
8 horrible thing to hear. I think that would be a terrible
9 way of being punished.

10 Q If it comes down to Mr. Ripppo, if we get to
11 that point, which of those views is going to sway you in the
12 way you -- you arrive at a decision?

13 A Depending on what is displayed, what is
14 posed to me, either could come into play.

15 If I feel that it's not
16 necessary that this man die, then I will not impose the
17 death penalty. If I feel that it's necessary that he dies
18 because he's committed such a vile crime, I will consider
19 the death penalty.

20 Q Okay. And at age 19, you've got the ability
21 to make that kind of a hard choice?

22 A I believe I do.

23 Q You belong to -- or belonged to something
24 called the Clark County Youth Law Association?

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15

1 A Uh-huh.

2 Q What is that?

3 A Clark County Youth Law Association is a
4 group of younger people -- the majority when I started were
5 17 and 18, even some 16 -- and what they do is they offer
6 classes in certain types of trials. You learn terminology;
7 you learn proceedings; you learn different methods of
8 research, and things of that nature, in law, criminal or
9 civil.

10 Most of the time, they handled
11 more civil than criminal teachings. And after you went
12 through these classes, you would -- there is monthly
13 meetings -- you discuss what went on, if anybody missed a
14 class or anything.

15 And after you've gone through
16 the classes, you have the opportunity to take -- I am not
17 sure because I never took it -- but it's either the bar exam
18 or a mock bar exam, and if you pass it, you can actually be
19 certified to handle juvenile court cases, other than
20 criminal.

21 Q Okay. Was it something that was implemented
22 through the high schools?

23 A Actually I heard about it outside of high
24 school, but I do recall that they passed out flyers.

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15 1 Q Did you feel it was a beneficial experience
2 for the time that you spent at it?

3 A Uh-huh, uh-huh.

4 THE COURT: That yes?

5 PROSPECTIVE JUROR 486, MS. DURANTE: Yes.
6 I'm sorry. I'm sorry.

7 MR. SEATON: I don't think I have any more
8 questions. Thanks.

9 Pass for cause, Judge.

10 THE COURT: Mr. Dunleavy.

11
12 EXAMINATION

13 BY MR. DUNLEAVY:

14 Q Forgive me, but I don't recall: Was I one
15 of the instructors in your youth law program?

16 A I don't believe so. I never attended any of
17 the classes. I was in college --

18 Q Oh, okay.

19 A -- for part of the time.

20 Q In that case, I wasn't.

21 A Nope.

22 Q Did you learn anything in that youth law
23 program about the death penalty or philosophies regarding
24 the way cases are handled that would affect the way you look

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15 1 at this case?

2 A No. Most of the discussing of the way cases
3 are handled, this type of a case or the death penalty, I
4 learned through a class called C.A.P., which is Current
5 American Problems, when I was in California; also we
6 discussed it in government my senior year in high school.

16 7 Q On Question 56, in your opinion what's wrong
8 with the criminal justice system, your answer was: There
9 are loopholes.

10 A Uh-huh. I knew this was going to be asked.
11 I didn't put very much thought into that.

12 And what I meant was basically
13 what a lot of other people I heard say: There are a lot of
14 circumstances that arise that are beyond some people's
15 control that set things back, as in put cases back in time,
16 or as I've also heard, set some people that -- that I may
17 feel are guilty, set them free.

18 Q Well, these people you are talking about,
19 based on what you've seen in the newspapers or T.V. or --

20 A Most of it, I would say media, yes.

21 Q You recognize that sometimes they distort
22 things a little bit?

23 A Yes, uh-huh.

24 Q As a matter of fact, there has been a lot of

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1 talk about the O.J. case.

2 Did you watch any of that case?

3 A Unfortunately. I visit my grandparents a
4 lot and my grandfather was the avid O.J. watcher, so I heard
5 it more than saw it, but sitting in the kitchen, you can't
6 help but hear. He's deaf. He has the T.V. on real loud.

7 Q Well, you know, one of the problems in
8 society is that probably the only people in America that
9 didn't hear all of the other comments were the jury.

10 A Uh-huh -- yes.

11 Q They had to make the decision based on what
12 they heard, and they didn't have access to newspapers and
13 Geraldo and and all the rest of the garbage going on out
14 there. They just listened to what happened in the
15 courtroom.

16 A Right.

17 Q Do you understand that's what's got to
18 happen here?

19 A Right. And I feel that the way that they
20 didn't have any outside access to the media probably made it
21 better in the case.

22 When you hear the mumbo --

23 Q As long as you are not the one sequestered?

24 A Right. When you hear the mumbo Jumbo

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1 outside, compared to what really happened -- which being
2 that I'm young and I have two years out of high school, I
3 know -- that he said-she said, he said-she said, I know how
4 that works quite a bit. And you can't take what he said and
5 she said so heavily when it comes to outside of the court.
6 Nobody knows what goes on inside. It's not there.

7 Q And you are also involved in Child Seekers?

8 A Uh-huh, yes.

9 Q What is that?

10 A Nevada Child Seekers is a group of people --
11 right now, two women run it -- and they work with Nevada
12 police enforcement or law enforcement and outlying counties
13 in states like Arizona and California, even as far as
14 Wyoming I think they've also done, to help locate or find
15 missing children.

16 When you see missing children
17 alerts on television, like on Fox 5 --

18 Q Do you go out and knock on doors looking for
19 them or --

20 A No, we do not. I personally am not allowed
21 to get involved in any of the law details.

22 Q Why is that?

23 A Because I am not -- I'm not a lawyer. I am
24 not a police officer. I'm not a law enforcement person.

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16 1 All I've done for them is help them do fingerprinting in
2 public. I would get the kids lined up. I would shoot their
3 pictures --

4 Q Oh, okay.

5 A -- things like that. I just volunteer work.

6 Q Child identification kits?

7 A Right. I do volunteer work for them.

8 Q Good. Now, in any of your duties, have you
9 ever looked at whether or not murder is one of the lowest
10 recidivism rates?

11 A Actually I haven't.

12 Q You put down here that parole may give them
13 an opportunity to commit the crime again.

14 A I do believe that if somebody has the
15 opportunity to be paroled and they are not qualified -- or
16 they have not reformed themselves at all, but are well
17 enough that they can show the parole board, hey, I've
18 changed, look, I can draw pretty flowers, you can let me go,
19 if they have not changed, in all actuality, they do have the
20 opportunity to get out and do it again.

21 And I am not saying that all
22 people will do that. And I'm not saying that if this man
23 were sent to prison on a life sentence with possibility of
24 parole that he would get out and do it again. I personally

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1 would not see anybody wanting to do it again and go back to
2 that place.

3 Q Are you aware that a lot of people go to the
4 parole board and don't get out?

5 A Yes.

6 Q And that in a case like this, where
7 basically his first trip to the parole board would be ten
8 years --

9 A Uh-huh, yes.

10 Q -- people can change a lot in ten years?

11 A Yes.

12 Q You've changed in the last ten years?

13 A Yes, I have.

14 Q Expect to change a lot more in the next ten?

15 A Yes, I do.

16 Q Now, on Question 70, do you believe in the
17 adage an eye for an eye, you drew a box around the question
18 first.

19 Why is that?

20 A It honestly caught me off guard. I was
21 reading questions that were based on how do you feel about
22 this, how do you feel about that. I read a selection about
23 a murder case, and then it comes to do you believe in an eye
24 for an eye. I actually had to sit and think about it.

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1 In some cases, I would think
2 maybe an eye for an eye would apply, but I generally do not
3 live by if you beat up my brother, I'm going to beat you up,
4 if you steal something from you, I'm stealing something from
5 you. I do not believe in that. I've always been someone
6 can help me take care of this the correct way.

7 Q And you checked the box that says no, you
8 don't believe in that.

9 A Right.

10 Q Do you see any contradiction between that
11 and saying that you believe in the death penalty?

12 A No, because I'm not saying that this man
13 should be put to death because he killed somebody.

14 I'm saying I feel --

15 Q Then why would he be put to death?

16 A Because, yes, it would have to be proven to
17 me that he did it beyond a reasonable doubt, murder in the
18 first degree.

19 But I think that the death
20 penalty should be reserved for if I think this man has no
21 possibility of reform, I think he has no chance of living
22 ever a decent life, I don't think that he is qualified to
23 live amongst everybody else. Then I would think I would
24 consider the death penalty, but not because of the fact that

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1 he killed somebody, but because I think that there is no way
2 this man can change and he is a vile person.

3 Q What do you think about the idea of saying
4 killing is wrong; therefore, we're going to kill you?

5 A Right. And I thought about that when you
6 said it earlier, and it's a tough question to answer because
7 there is no way really to dance around it. You can't -- I
8 cannot answer that question directly and give it an honest
9 answer. I'd have to say I don't know.

10 Q Do you think by the time you are through with
11 this you should get a credit in philosophy?

12 A I hope so.

13 MR. DUNLEAVY: No further questions, Your
14 Honor. I pass for cause.

15 THE COURT: Okay. All right. You may
16 inquire of --

17 MR. WOLFSON: Judge, may counsel approach
18 the bench?

19 THE COURT: Sure.

20 (Discussion had off the record.)

21 THE COURT: All right. We'll take about a
22 ten-minute recess.

23 Remember: Do not converse
24 among yourselves or with anyone else on any subject

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1 connected this trial;

2 Read, watch, listen to any
3 report or commentary on the trial;

4 Or form any opinion on this
5 trial until the matter is finally submitted to you.

6 (Whereupon, the proceedings
7 were recessed.)

8 THE COURT: Could you please stipulate to
9 the presence of the jury panel?

10 MR. SEATON: Yes, Judge.

11 MR. DUNLEAVY: Yes, Judge.

12 THE COURT: Okay. Now begin inquiry of Mr.
13 Hopper.

14 PROSPECTIVE JUROR 489, MR. HOOPER: Hooper.

15 THE COURT: Hooper. I haven't got a name
16 right yet.

17 MR. HARMON: I'll do it, Your Honor.

18 THE COURT: Okay, Mr. Harmon.

19

20

21 (Whereupon, Prospective Juror
22 489, JACK HOOPER, was
examined as follows:)

23

EXAMINATION

24

BY MR. HARMON:

000927

1 Q Good afternoon, sir.

2 Mr. Hooper, what are your
3 feelings about serving as a juror on this case?

4 A Well, I would like to serve, but if I don't,
5 I won't feel slighted.

6 Q Do you feel that you have some of the
7 qualities that would make you an effective juror in this
8 kind of proceeding?

9 A Yes, sir, I do.

10 Q But what is there about you that would make
11 you a good juror?

12 A I think some of it has to do with -- no
13 offense to this young lady -- with my age. I have served
14 before. It was a good experience. I lead a good life. I
15 can be fair and honest to both sides, as required by the
16 law.

17 Q Did you know anything at all about this case
18 when you came to the courthouse to fill out the
19 questionnaire?

20 A No, sir, I did not.

21 Q So I would presume that you still have a
22 mind which is totally open regarding the facts of the case?

23 A Yes, sir, that's correct.

24 Q Do you understand the importance of basing a

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1 verdict strictly upon the evidence introduced in the trial?

2 A Yes, sir, I do.

3 Q Do you also understand that a Juror has a
4 solemn duty to follow the Court's instructions?

5 A Yes, sir, I do.

6 Q The Court decides what the law is which
7 applies to the facts, and the jury has no choice in that
8 matter; they must follow the Court's instructions.

9 A Yes, sir.

10 Q Will you do that?

11 A Yes, sir, I will.

12 Q As we've explained, there are various phases
13 to the trial.

14 If the jury should convict Mr.
15 Rippo of murder of the first degree, there will be a second
16 phase, the penalty hearing.

18

17 What are your views regarding
18 punishment, if punishment becomes relevant for the jury?

19 A I, like so many others before me, will have
20 to hear the facts of the case.

21 If the severity of the crime
22 calls for the death penalty, I can vote for the death
23 penalty, but I will remain open throughout the trial on all
24 three of the options that we have at this time.

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1 Q At this time, are you telling us that you
2 are able to consider equally the three punishments provided
3 for first degree murder?

4 A Yes, sir, I am.

5 Q You are not leaning in any particular
6 direction now?

7 A No, sir, I am not.

8 Q Philosophically, will you describe yourself
9 as being for or against capital punishment?

10 A Well, I tell you, up until Monday, I really
11 haven't given it much thought. It's not even something I've
12 discussed with people, as we like to say, in the social
13 setting.

14 There obviously is a need for
15 it or we wouldn't have it, and if the severity of the crime
16 and my 11 fellow jurors call for it, then I will vote for
17 it.

18 Q Is there anything in your personal life
19 which would prevent you from giving your full attention to
20 this trial during the court hours if selected as a juror?

21 A No, sir.

22 MR. HARMON: Thank you.

23 Pass for cause.

24 MR. WOLFSON: Thank you, Judge.

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THE COURT: Mr. Wolfson.

EXAMINATION

BY MR. WOLFSON::

Q Good afternoon, Mr. Hooper.

Mr. Hooper, you've just said something, and you probably didn't mean the exact -- exact thing you said. You said if the other 11 of my fellow jurors felt that way, then I'd probably go that way, or words to that effect.

A No, that's not what I meant, Mr. Wolfson.

Q Why don't you elaborate for us for a moment.

A If -- if we all draw the same conclusion, that the severity of the crime would call for the death penalty, well, then, I could -- I would vote for death.

Q You understand that if you are a juror with the other 12 eventual jurors, that it's an independent decision that you must make within yourself within this deliberation process?

A Yes, sir.

Q You were a juror before; is that right?

A Yes, sir.

Q And I believe you said in 1991, you served in a fraud case.

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1 Was that a civil case?

2 A No, sir, it was criminal.

3 Q The reason I asked you about civil -- and
4 Just so you'll see, as I have your questionnaire -- and if I
5 may, Judge, I think you circled civil here, (indicating) and
6 if that's a mistake, that's fine.

7 A It's a mistake.

8 Q Okay. Very good.

9 So you remember now, sir, that
10 it was a criminal case.

11 A Yes, sir, and the two defendants were sent
12 to prison now.

13 Q Now, you served as a juror, but you didn't
14 decide punishment in that case, did you?

15 A No, sir. As a matter of fact, I only read
16 about it later in the newspaper, much later. I -- I believe
17 they were sentenced two to three months after the trial was
18 over with and I just happened to read it in the newspaper or
19 I wouldn't have even known.

20 Q Was that a case that occurred here in this
21 courthouse?

22 A No, sir. It was at the federal building.

23 Q Okay. But it was the federal building,
24 right, two blocks away?

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18

1 A Yes, the Foley building; yes, sir.

2 Q Were you the foreman of that jury, sir?

3 A No, sir.

4 Q Do you understand that the burden of proof
5 that the prosecution in that case had, and those were
6 federal prosecutors, is the same exact burden that these two
7 gentlemen have in this case?

8 A Yes, sir.

9 Q That being to prove their case beyond a
10 reasonable doubt?

11 A Yes, sir.

12 Q I'm forced to ask you the some question I've
13 asked a few other Jurors, Mr. Hooper; and that is: That I
14 recognize that you have two daughters and their ages are 29
15 and 27, and there is going to be testimony about the two
16 deaths in this case being two females right about that same
17 age.

18 And I have two girls, quite
19 young now, because I'm not as old as the prosecutors and my
20 children are much younger --

21 MR. SEATON: Or as wise.

22 BY MR. WOLFSON:

23 Q -- but I can empathize and I can just say
24 how it must feel for a Juror to incorporate one's own life

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1 in to their feelings because you will probably have family
2 members of the victims come in and testify, and they're
3 probably going to cry, as they should, because their
4 children are dead.

5 Will you be able to separate
6 that particular emotion, because you have yourself two
7 daughters, from your consideration of the evidence?

8 A I believe I -- I can, yes.

9 Q Okay. Do you recognize why I asked that
10 question and why you may be a little different than this
11 lady, perhaps, because she has no children, or somebody else
12 that has two sons?

13 A Certainly.

19

14 My family is -- is and will
15 always be the world to me; and raising two young ladies that
16 my wife and I have done, that was the most important thing
17 in my life the last 29 years.

18 Q I think you implied early on -- here we go
19 using you as an example -- that you perhaps feel you'd make
20 a better juror than your next door neighbor here because you
21 are a little older.

22 A I didn't mean to imply that, if I did.

23 I have more experience in life
24 per se. I'm quite a bit older than this young lady. But

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19 1 I'm not saying that I would make a better juror than she.

2 Q All right. This young lady is obviously
3 articulate, intelligent, educated, but you seem to think
4 that because you perhaps are twice her age that that brings
5 you to be a better juror. And I'm not saying whether you
6 are right or wrong, but that's what I'm drawing from your
7 responses.

8 And my question is: Why do you
9 think you would be a better juror because you are older?
10 What do you bring to both yourself individually, when you
11 make your own decision, as well as to the group in the
12 deliberation room?

13 A Well, there again, sir, I'm not saying
14 that -- if I did imply that I would be a better juror,
15 I'm -- I would like to say that I think I would make a good
16 juror because I would listen, I would pay attention to the
17 facts that are presented, and that's how I would base my
18 decision.

19 Q All right.

20 A It's not that my mind is going to be
21 wondering about my job or any young children in school or
22 discipline or anything like that.

23 Q You don't have those outside --

24 A I have no problem with any of that.

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Q -- distractions.

Do you read newspapers?

A I like to read the newspaper, but I have a granddaughter that lives with me. Now when I come home from work every afternoon at five, she's -- she's there waiting for me, and my opportunity to read is after her bedtime.

Now, after nine o'clock at night, I'm just about ready to go to bed when she goes to bed, and I do try to make an attempt to read the sports section and the business section.

But as far as the first three sections of the paper, I mean, I may not get to that more than once or twice a week at the most.

Q When you do read the newspapers, do you read stories thoroughly or do you just brush over headlines?

A I read the headline, and if it gets my attention, I'll read the story.

Q What about television, do you listen to the news and watch the news on a regular basis?

A No, I do not.

Q When you drive in your car, do you listen to the radio?

A I do, but I -- I don't listen to any news stations. I listen to the oldies station.

000936

RENEE SILVAGGIO, CCR 122 391-0379

19 1 Q Okay. Do you know if a person is imposed
2 with the death penalty in the State of Nevada how that death
3 penalty is carried out?

4 A No, sir, I do not.

5 Q If you were given the choice of sitting on
6 this jury or not, and you could answer privately, even
7 though you can't, what would your answer be?

8 A To sit on the jury.

9 MR. WOLFSON: Thank you, sir.

10 Pass for cause.

11 THE COURT: You may inquire of --

12 PROSPECTIVE JUROR 490, MS. BROWN: You can
13 get this one right, Judge.

14 THE COURT: You can go ahead.

15 Deanna Marie Brown.

16 PROSPECTIVE JUROR 490, MS. BROWN: Right.

17 (Whereupon, Prospective Juror
18 490, DEANNA BROWN, was
examined as follows:)

19
20
21 EXAMINATION

22 BY MR. HARMON:

23 Q You may be the last person we get to talk
24 to.

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19

1 A Yes. And there is not a hole I can crawl
2 into either.

3 Q Well, I'll try not to make you feel like you
4 need to.

5 You have heard everything?

6 A Yes, sir.

7 Q You've heard every bit of it.

8 Tell us why -- or how you feel
9 about being here.

10 A I'd rather be some place else.

11 Q Okay.

12 A It's a -- it's a very grave situation that
13 we're being asked to weigh here. It's a -- something I'd
14 rather not do, but if I was called by the State of Nevada to
15 do it, I would -- I would accept it only because if
16 everybody turned it down, there wouldn't be any fair
17 decisions received in this courtroom because there wouldn't
18 be anybody to give them.

19 Q Could you be one of the people to help give
20 those kind of fair decisions?

21 A I'm an open minded person that doesn't -- I
22 form my own opinions on things, so I think I could.

23 Q You've heard all the talk about the death
24 penalty.

000938

19 1 What are your views?

2 A I feel that it has a place in our society
3 today. It's the ultimate form of punishment and it should
4 go with the ultimate crime.

20 5 It would be a very hard
6 decision to come to. The facts would have to -- to be
7 extremely heinous for somebody to come to that decision, to
8 take something that's precious -- there is nothing more
9 precious than life -- to take somebody's life away from
10 them.

11 But I -- I feel that it has a
12 place for something, that it's -- as a form of punishment
13 that could be waived on somebody for an extreme crime.

14 Q Have you thought this way about the death
15 penalty most of your life?

16 A As far back as I can remember. I'm sure, as
17 a young person, I didn't even give it any thought.

18 But as a -- an older adult,
19 that's never been -- at my age, you would think that I've
20 been called to jury duty three or four times, but this is my
21 first time, and that's a -- it's hard to believe somebody 46
22 years old has never been called to jury duty before.

23 Q Are you glad for the opportunity?

24 A I was very aggravated at the time. I

000939

20 1 thought, no, my life is too hectic, I can't do this. I work
2 ten hours a day. I am president of my homeowners'
3 association. I'm on three committees for that.

4 Q You sound like the kind of person who should
5 be on a jury.

6 A I don't know. But I'm sure everybody feels
7 that way, that their life is too busy to do this, but
8 somebody has to -- this man could be innocent, this man
9 could be guilty. We need somebody to decide that.

10 Q And you think you could do that fairly?

11 A I do.

12 Q And in the event that you thought he was
13 guilty and thought that he deserved the worst of
14 punishments, do you have the capacity within you to render a
15 decision on the death penalty?

16 A Yes, I do.

17 Q You've sat here and looked at him for a
18 considerable period of time.

19 A Yes.

20 Q Young, nice looking fellow.

21 A Yes, he is.

22 Q Does that bother you?

23 A Having him in the courtroom, I think is his
24 right to be here, and it would be my right to be there too.

000940

20 1 So it shouldn't bother me.

2 MR. SEATON: Thank you very much.

3 Pass for cause.

4 THE COURT: Mr. Dunleavy.

5
6 EXAMINATION

7 BY MR. DUNLEAVY:

8 Q Your duty to society, if called upon, you
9 would do it, to return a verdict of death; is that correct?

10 A Not my duty to society to do that.

11 If the crime warranted death,
12 that -- if the crime was so extremely heinous, I think that
13 is the ultimate punishment that can be inflicted on
14 somebody.

15 Q I believe you said to the D.A. though, if
16 called upon, you would serve, and if you served and you felt
17 it was necessary, you would impose it.

18 A Yes, if I felt it was necessary.

19 Q So if somebody called upon you to carry out
20 the execution, would you do it?

21 A If I -- if I personally could --

22 Q Uh-huh.

23 A -- perform a lethal injection? I don't know
24 if I personally could do it.

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1 I had to sign the papers to
2 terminate my mother's life. That was very difficult.

3 Q Living will?

4 A No. I'm a sole child.

5 Q Different scenarios though?

6 A Yes, very.

7 Q That was when she was elderly and ill?

8 A No, she wasn't elderly, but she was very
9 ill.

10 Q Would your friends call you a liberal or a
11 conservative?

12 A I'm very conservative.

13 Q Very conservative?

14 A I think so. I'm not a party person.

15 Q Too late. (Indicating)

16 A A little bit.

17 Q You indicated on question Number 76: I
18 don't know that I could be impartial or not.

19 A I'm -- I don't think I --

20 Q The question was: What is it about yourself
21 that makes you feel you can be a fair and impartial juror?

22 Answer was: I don't know that
23 I can be impartial.

24 A Well, I don't remember putting that down

000942

20 1 there, but I -- my day starts at 2:30 in the morning and by
2 4:30, when I was doing that, I was very tired.

3 Q Now you are a school teacher?

4 A No, I'm not. I'm a bookkeeper for Lucky's.

5 Q Oh, I'm sorry. It's your daughter that's a
6 school teacher.

7 A Yes.

8 Q And you are active in your homeowners'
9 association?

10 A Yes.

11 Q So you take a lot of responsibility?

12 A I do.

13 Q What do you think of the idea of the State
14 putting this responsibility on you to come in and decide if
15 a young man should live or die?

16 A I think we have the only system in the world
17 that -- right now, I feel that this is the best one.

18 I'd rather have 12 people
19 decide my fate rather than one. And this -- I don't know
20 how the State could do it any other way.

21 Q Do you know if most countries have just done
22 away with the death penalty?

23 A I don't know that for a fact.

24 I would -- it would be great if

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1 they would do away with the death penalty here. If nobody
2 would kill anybody would be great.

3 But it's --

4 Q That it would.

5 A But I feel it's a deterrent too.

6 Q Now you said you felt it was a deterrent?

7 A Yes.

8 Q Have you ever read any studies indicating it
9 was a deterrent?

10 A I haven't. I haven't. But if somebody
11 threatened me, to take my life away from me if I committed
12 this crime, I feel it would deter me from doing it.

13 Q But you've never read any scientific
14 studies?

15 A No, I have not.

16 Q Or any of the historical studies on it?

17 A I have not.

18 Q Do you know that when they used to hang
19 pickpockets, pickpockets used to work the crowd after the
20 hangings?

21 A They cut their hand off too for doing that.

22 Q Different country.

23 Do you have any doubt that you
24 can be fair and impartial to both sides?

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1 A I feel that I'm very open minded and a fair
2 person, that I would be fair to both sides.

3 MR. DUNLEAVY: Thank you.

4 No further questions.

5 Your Honor. Pass for cause.

6 THE COURT: I think that gives us 36.

7 MR. HARMON: It does.

8 THE COURT: Okay. Ladies and gentlemen, I'm
9 going to excuse you until tomorrow morning at ten a.m. You
10 will report back here.

11 Remember, do not converse among yourselves
12 or with anyone else on any subject connected with this
13 trial;

14 Read, watch, listen to any
15 newspaper, television or radio, or article -- I mean radio,
16 concerning this trial;

17 Or form or express any opinion
18 on the trial until this case is finally submitted to you.
19 We'll see you tomorrow at ten a.m.

20 (Proceedings recessed until Friday,
21 February 2, 1996, at 10:00 a.m.)

22 ATTEST: Full, true and correct transcript of proceedings.

23
24 RENEE SILVAGGIO, CCR NO. 122

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33	264. Probation Officer's Report, Case No. 23042, Juvenile Division, Clark County, Nevada, filed April 29, 1981		JA07815-JA07823
33	265. Baseline Psychiatric Evaluation, Southern Desert Correctional Center, by Franklin D. Master, M.D., dated April 9, 1982		JA07824
33	266. Confidential Psychological Evaluation by Eric S. Smith, Ph.D., Timothy L. Boyles, M.A., James F. Triggs, Ed.D., dated February 11, 1982		JA07825-JA07827
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--FILED IN OPEN COURT--

February 6, 1996

LORETTA BOWMAN, CLERK

By *Josephine*

Deputy

ORIGINAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

The State of Nevada,)
)
 Plaintiff,)
)
 vs.)
)
 Michael Damon Rippo,)
 #0619119)
 Defendant.)

Case No. C106784
Dept. No. IV
Docket No. "C"

Before the Honorable Gerard J. Bongiovanni
Monday, February 5, 1996, 1:30 o'clock p.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: MELVYN T. HARMON, ESQ.
3 DANIEL SEATON, ESQ.
Deputies District Attorney

4 For the Defendant: STEVEN B. WOLFSON, ESQ.
5 PHILIP H. DUNLEAVY, ESQ.
6 Attorneys at Law

7 Law Clerk: Delwin Potter
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RENEE SILVAGGIO, CCR 122 391-0379

I N D E X

WITNESS ON BEHALF OF PLAINTIFF:

PAGE

HUNT, Diana

Direct Examination by Mr. Harmon

29

-000-

RENEE SILVAGGIO, CCR 122 391-0379

7 1 Las Vegas, Nevada, February 5, 1996, 1:30 o'clock p.m.

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3 * * * * *

4
5 (The following proceedings were
6 had in chambers, outside the
7 presence of the jury:)

8 THE COURT: Let the record reflect all the
9 attorneys are here. We're outside the presence of the jury
10 on the State of Nevada versus Michael Rippo.

11 MR. DUNLEAVY: Your Honor, basically,
12 something we thought we ought to put on the record because
13 of the part of the newspaper this weekend -- and I'm under
14 the impression that the State has at least been in touch
15 with defense to find out whether or not they thought this
16 case would be interrupted if there was a possible
17 Indictment.

18 I'm also under the impression
19 the jury was admonished not to read anything about Rippo.
20 They were not admonished not to read anything about the
21 Court. This weekend, they saw fit to run a lengthy article
22 about Your Honor.

23 And the inference is that
24 because the State is -- obviously has to cooperate with the

1 feds in reviewing cases of alleged bias, that there may be
2 pressure placed on the Court to show favor to the State.

3 There is also the inference:
4 What happens if you are indicted during this trial?

5 Is it going to be because the
6 State thinks their case is going south and they need an
7 Indictment?

8 I mean, the questions are out
9 there. They are just question marks. I think we need to
10 put it on record.

11 The reason I say that is it was
12 brought to my attention. There is a case called In Re
13 McFall (sic), of a Judge who was indicted and cooperated
14 with the government; and as part of that -- and, of course,
15 I'm not privy to your lawsuit. I don't believe anybody in
16 this room is -- but in that case, the Judge wound up wearing
17 a wire, setting up some other Judges, and 29 cases were
18 overturned because the Judge was basically under pressure to
19 cooperate with the government during the time that he was
20 trying these cases.

21 And the cite for this case is
22 617 Atlantic 2nd, 707, PA 1992.

23 Now, like I say, I have no --
24 no idea what's going on in your case other than the fact

7 1 the --

2 THE COURT: Neither do I.

3 MR. DUNLEAVY: -- they found it necessary to
4 smear you.

5 THE COURT: I know as much as you do, what
6 the newspaper writes.

7 MR. DUNLEAVY: But there is a problem when
8 the newspaper starts writing about it at length. And I just
9 wanted to put on the record that I think there may be a
10 potential conflict. If they try and put any pressure, it
11 would be incumbent upon the Court to show how tough it can
12 be and how it can be favorable to the State, and that's an
13 issue that my client in a death penalty should have put on
14 the record.

15 MR. SEATON: I need to respond just a little
16 bit.

17 THE COURT: Okay.

18 MR. SEATON: And I want the record to
19 reflect that Mr. Dunleavy and Mr. Wolfson brought this to
20 Mr. Harmon's and my attention at 10:30 or thereabouts; and
21 it just so happened, as this conversation started, Stu Bell
22 was standing there.

23 And the conversation came about
24 as a result of Mr. Dunleavy and I speaking last week as to

8 1 what might happen along these lines.

2 And I told Mr. Dunleavy that
3 the feeling that I had, from the information that I had
4 received -- and there was nothing more -- any more formal
5 than talking to Chuck Thompson and Stu Bell: Do you know
6 what's going on?

7 And they said not really,
8 except they didn't think that -- if anything was going to
9 happen, it wasn't going to happen soon, and the trial would
10 not be harmed in any way by it.

11 I think Mr. Dunleavy then spoke
12 with Mr. Wolfson and they decided that this motion might
13 be -- might be necessary.

14 Stu Bell said some interesting
15 things to us, what he said in front of them, and some which
16 he said to me just after. And I'll lead off by saying he
17 said that if you want him to come down and talk to you, be
18 put on the stand or whatever, he'd be happy to do that.

19 But I will report to you that
20 he told me that when the search warrant occurred, that the
21 feds called him and -- just as sort of a courtesy call --
22 told him that that was going to be happening and said to
23 him: Is there anything else you want to know?

24 Because they only told him that

1 one was being served or had been. I don't remember. It was
2 probably had been. They didn't want him reading anything in
3 the papers.

4 And he said absolutely not. I
5 don't want to hear a word. I have to work with this Judge.
6 I don't want to know any information whatsoever. And he
7 said, to this date, he knows of no information at all.

8 And so, I think the major thing
9 that I want to point out, it is two different governmental
10 entities. The State of Nevada, in terms of the District
11 Attorney's Office at least, and through Stu, I can speak for
12 our office, we have nothing to do with any sort of -- what
13 we're reading about in the newspapers, because that's all I
14 know, is the same thing that you read.

15 We don't have any agreements
16 with them, any working arrangements with them. We don't
17 have anything with them and don't anticipate having any.

18 And so, I can't see that the
19 State of Nevada, in here before you now, would have any
20 emphasis one way or the other on any rulings or decisions
21 that you might make. In fact, we want to make it abundantly
22 clear that there is nothing like that going on. And we
23 just -- we want to say what we believe is true anyway, which
24 is, that you are not going to take sides.

8

1

I mean, I don't -- I don't

2

think so.

3

MR. DUNLEAVY: And I would be the first to

4

go on the record to say I don't see any indications of

5

anybody taking sides, but in a death penalty, when I don't

6

know if the State is cooperating with them or not, I don't

7

know, you know, any of these things, I think it is incumbent

8

upon us to put it on the record.

9

MR. SEATON: I can say as an officer of the

10

Court, we are not -- and that is through Stu Bell, and if

11

you want further words out of him, he will be happy to give

12

them -- but we just don't think -- we don't think there is

13

anything to this motion, and that perhaps you want to give

14

your feelings to some extent.

15

THE COURT: Before I place myself in that

16

position of taking sides, I would just get off the case.

17

MR. SEATON: Fair enough.

18

MR. DUNLEAVY: I just -- because of the

19

nature of the case, I felt we had to put it on the record.

20

THE COURT: I feel no --

21

MR. DUNLEAVY: Especially after the paper

22

yesterday.

23

MR. SEATON: And the only other thing that

24

we need to put on the record, from our point of view, is

8 1 that, excuse me, this is a motion which could have been put
2 on the record some time ago. It is a very tardy motion.
3 We've all known, from reading the papers, what's been going
4 on to the extent that we know.

5 And --

6 MR. DUNLEAVY: Well, he may not believe it,
7 but yesterday was the first article I ever read about this.
8 People have told me it's been in the paper. I haven't seen
9 it; never bothered to look at it.

10 MR. WOLFSON: Well, you know, just to add to
11 that a little, Mr. Seaton, my co-counsel, Mr. Dunleavy, told
12 me the middle of last week that he had a conversation with
13 you on this topic.

14 We had already begun and, in
15 fact, probably reached the close of jury selection at that
16 point, and we went right into the beginning of the trial
17 with opening statements, and the first few witnesses, and we
18 needed to do a little legal research.

9 19 So we didn't become aware of --
20 or at least I didn't become aware of any potential contact
21 between the State of Nevada and the federal authorities
22 until last Thursday or so. And a day later, we did our
23 research and that's why we're bringing it now.

24 MR. DUNLEAVY: In the case I cited,

1 basically the federal Public Defender's Office hearing about
2 this case. Just brought me the case and said you ought to
3 know about this and I read it this weekend.

4 MR. SEATON: Well, I can assure you that
5 neither I nor Mr. Harmon have had any contact with the feds;
6 and I learned from my boss this morning, Stu Bell, that he,
7 nor any other person in our office, to his knowledge, has
8 had contact.

9 So I --

10 THE COURT: Well, would there be any
11 difference if Metro ever conducted an investigation? I
12 don't know. I heard a rumor to that effect, but I don't
13 know if it's true.

14 MR. WOLFSON: It's very common for Metro's
15 intelligence --

16 THE COURT: I think I read something in the
17 paper to that effect in one of those articles.

18 MR. WOLFSON: It's very common for Metro's
19 intelligence units to work with federal law enforcement
20 agencies in a joint effort. I don't know whether they are
21 doing that in this case or not.

22 THE COURT: I don't know either.

23 MR. SEATON: I have no idea.

24 MR. WOLFSON: It's not been uncommon.

9

1

THE COURT: Merry Christmas.

2

MR. WOLFSON: May I have the Court's

3

indulgence for a moment?

4

MR. HARMON: Happy New Year.

5

6

(Whereupon, a sotto voce at this time.)

7

8

MR. SEATON: Now, if we -- say that in a

9

murder trial, we get reversed --

10

MR. HARMON: That's why I say Merry

11

Christmas, Mr. Rippo.

12

MR. DUNLEAVY: Well, the bottom line, I

13

guess we would just say it's up to the Court whether you

14

feel the situation is such that you should recuse.

15

And in all seriousness, this

16

case was delivered to me because the P.D. heard we were in

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this case and said we ought to know about it. And I felt in

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a death penalty, it's incumbent on me to put it in the

19

record.

20

THE COURT: I could assure you I have no

21

bias toward each -- to either side.

22

MR. DUNLEAVY: I don't have anything

23

further.

24

THE COURT: The way I feel, that other thing

1 is just going to go away.

2 MR. DUNLEAVY: Well, that article didn't
3 seem like anything -- well, it's a slow newsday, so let's
4 hammer somebody.

5 THE COURT: But you never know.

6 MR. WOLFSON: I think the timeliness of some
7 of these news articles, in particular the one yesterday
8 morning, is what prompted us, and made us conclude that we
9 needed to put something on the record this morning.

10 THE COURT: Well, probably every morning,
11 you will have to do it. It seems like the Sun is the one
12 that puts them in the Sunday paper.

13 MR. DUNLEAVY: Well, could we just have a
14 continuing motion then?

15 MR. SEATON: Well, the only other thing we
16 have to do --

17 THE COURT: Now, I have this Juror, Mr.
18 Cunningham. His employer has called my office --

19 MR. SEATON: Is that the butcher?

20 MR. POTTER: No, it's Juror --

21 MR. WOLFSON: The baker.

22 THE COURT: No. His employer is very, very
23 mad that he is on this Jury and has indicated -- I think he
24 even said in court, his job might be on the line if it's the

1 note to the bailiff this morning.

2 MR. WOLFSON: I thought it was just a phone
3 call from the employer that he was aware of.

4 THE COURT: He handed you a note?

5 THE BAILIFF: I asked him for the employer's
6 address, and for the secretary --

7 THE COURT: Okay. Why don't you get Mr.
8 Cunningham, bring him in here. We might as well take care
9 of this.

10 MR. WOLFSON: Are we off the record for a
11 moment?

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

15 THE COURT: Mr. Cunningham.

16 JUROR CUNNINGHAM: Yes.

17 THE COURT: Who is your employer?

18 JUROR CUNNINGHAM: Unifirs; U-n-i-f-i-r-s.
19

20 EXAMINATION

21 BY THE COURT:

22 Q And who is your boss -- your boss' name?

23 A The brand new man, his name is Richard Tarr,
24 T-a-r-r.

9 1 same person.

2 And I told him that --

3 MR. DUNLEAVY: It's Number 10.

4 THE COURT: I told him, under the law, his
5 employer can't fire him for service on the jury; but now his
6 employer, I guess, called this morning. I wouldn't talk to
7 him. I just said he had all last week to come forward with
8 reasons why he shouldn't be on the jury and he failed to do
9 so. Now he's been picked as a juror and it's too late. I'm
10 going to keep him on the jury.

11 MR. WOLFSON: I think that will --

12 THE COURT: But I think there is a lot of
13 animosity on the part of the employer. My secretary
14 indicated he's going to write me a nasty letter.

15 So --

16 MR. WOLFSON: I think that Mr. Cunningham
17 should be asked about it himself in camera, and that would
18 be my request.

19 MR. DUNLEAVY: Whether it would affect
20 his --

21 MR. WOLFSON: Right, if he knows what his
22 employer is doing, if he knows whether his job is on the
23 line.

24 MR. POTTER: He knows, because he handed a

10 1 Q Okay. He called here this morning and
2 talked to my secretary. I don't know --

3 What's the problem? He doesn't
4 want you on the jury? Is your job so indispensable to your
5 employment that nobody else can do it or what?

6 A No, he's trained in it.

7 I'm just an office
8 administrator. And his only explanation to me is that he
9 doesn't want to have to pay for a temporary and pay me
10 salary to be on a jury for the time I'm going to be on this
11 jury, and that's basically it.

12 Q He was very irate, my secretary said.

13 Is your job on the line? Did
14 he indicate -- make any indication to you of that fact?

15 A No, he hasn't threatened my job or anything,
16 but he's just been calling me constantly and -- and --

17 Q Did we have a conversation like this during
18 selection? I know I had that conversation with somebody.

19 A No, it wasn't with me, no.

20 But, you know, I -- I had -- my
21 previous boss, Jack Charles, was informed of the jury duty;
22 and I asked him if I should ask for a delay or, you know --
23 and he said no, to go through with jury duty, to do what I
24 had to do, so that I can get it over with.

1 Q Uh-huh.

2 A And he -- and he had no problem with any of
3 this.

4 And then they -- suddenly, he
5 was out and a new boss was brought in, and it's the new boss
6 that has this big problem.

7 Q You realize under the law of our state, you
8 can't -- they can't fire you or terminate you for serving on
9 a jury.

10 A Right. And I understand it and it's great.
11 I just --

12 Q By the same token, if it is going to be a
13 pressure on you that you cannot fully concentrate on the
14 trial, listening to the testimony, that might affect your
15 ability to serve as a juror.

16 A It wouldn't affect me at all if -- if -- if
17 my employer would just stop badgering me, calling me all the
18 time, and -- and telling me that, at any cost, I have to get
19 someone to contact him or he's going to contact someone
20 because of my need to be at the office, if he would just
21 stop bothering me on that level, I won't have any problems
22 whatsoever, because I don't mind --

23 Q And if he continues calling -- what does he
24 do, call you at home at night?

10 1 A Yeah. He calls me in the morning and --
2 like this morning, he called me up at eight o'clock this
3 morning and --

4 Q What did he tell you?

5 A He told me this morning, what I found out,
6 'cause he -- he informed me to speak to you on Friday,
7 saying it was an undue --

8 Q Burden?

9 A -- burden on my position for me to go on to
10 be on this jury.

11 And I did speak to the bailiff
12 and we got that straightened out. I did call Friday
13 afternoon to inform my boss of that.

14 He wasn't there. My old boss
15 was there. I informed him of that. My old boss said there
16 is no problem and to continue on.

17 And then, I got my call this
18 morning from the new boss, stating that he wanted a phone
19 number to who he could call 'cause this is an undue stress
20 upon my position.

21 And I -- and personally, I know
22 that's not to be the fact. I know they can get someone to
23 cover that position. He simply does not want to spend the
24 money.

RENEE SILVAGGIO, CCR 122 391-0379

10 1 Q Is it a small company or --

2 A No, it's huge. It's the third largest
3 uniform company in the United States.

4 Q So the extra money that's being spent for a
5 temporary would have no effect on you --

6 A None. Just his little location. But in the
7 scheme of the entire company, it would do nothing. It
8 wouldn't even be a blink of an eye.

9 Q Do you want to serve on this jury?

10 A Yes, I do.

11 THE COURT: Anybody have any questions?

12

13

EXAMINATION

14 BY MR. WOLFSON:

15 Q Do you feel that if you continue to serve,
16 sir, that knowing your direct boss' feelings would have an
17 effect on you in this case?

18 A No. As long as I know that my boss has been
19 aware or has been advised of the law, that I cannot be
20 terminated because I'm on a jury, then I'm fine.

21 THE COURT: You understand that just because
22 the law says you cannot be, it doesn't mean that it can't
23 happen

24 JUROR CUNNINGHAM: Yeah, I understand that.

11 1 THE COURT: Then you might have to get an
2 attorney and sue your company.
3 JUROR CUNNINGHAM: Yeah, I understand that.
4 THE COURT: Okay.
5 MR. WOLFSON: I think, on behalf of Mr.
6 Rippo, we're comfortable with this man continuing to serve.
7 THE COURT: Is the State comfortable?
8 MR. HARMON: Yes, yes.
9 THE COURT: Okay. You will remain on.
10 MR. WOLFSON: Thank you.
11 THE COURT: All right. What we're going to
12 do is break for lunch. Come back at 1:30 and we'll get
13 started.
14 THE BAILIFF: All right, Judge.
15 THE COURT: Thank you.
16 JUROR CUNNINGHAM: Thank you.
17 (Whereupon, the Juror
18 was excused.)
19 MR. WOLFSON: May we go off the record?
20 THE COURT: Off the record.
21
22 (Discussion had off the record.)
23
24 MR. DUNLEAVY: Back on the record.

11 1 I had objected to their
2 references that we could not bring in some exculpatory
3 statements of my client; and they were objecting under the
4 hearsay issue.

5 And I agreed that unless they
6 open the door, by trying to bring in subsequent statements
7 or something, we can't. If they open the door, then we will
8 come prancing in. And I think they agree to that.

9 The law is there. If they try
10 and bring in other statements that are inconsistent, then we
11 can bring in previous, either consistent or inconsistent,
12 statements.

13 MR. HARMON: We do agree with that, Judge.

14 We just want to make it clear
15 again that the evidence code, 51.035, declares that these
16 out-of-court hearsay, self-serving statements must be
17 offered against the defendant; and if that doesn't happen
18 and if the door doesn't swing open, then it's subject to the
19 hearsay exclusion.

20 MR. DUNLEAVY: And we agree to that.

21 THE COURT: All right.

22 MR. DUNLEAVY: One other thing I believe we
23 talked about is they have listed, what, five or six Jail
24 house snitches.

11 1 Well, technically, you can't
2 call witnesses to say our client is in jail or in prison,
3 but they're putting the defense in the position -- one of
4 the ways you cross-examine these people is the fact that
5 they are cons looking for a deal.

6 So they're putting the defense
7 in the position of having to say that our client is in jail
8 in order to defend our client.

9 MR. WOLFSON: Not only in jail, but many of
10 these conversations occurred in state prison.

11 MR. DUNLEAVY: In maximum security.

12 MR. WOLFSON: So it's not just our client
13 being temporarily housed awaiting trial, but depending on
14 how you examine these witnesses, we're afraid of it coming
15 out that he was in state prison at the time of these
16 statements.

17 MR. HARMON: Well, perhaps it necessarily
18 will have to come out that there is a custodial setting. I
19 don't think we can let in the conversations entirely out of
20 context.

21 MR. DUNLEAVY: The -- particularly, I need
22 to cross-examine them about the fact they are in prison
23 looking for deals.

24 MR. HARMON: Well, that's the reason it has

11 1 to stay in a custodial context. We don't have to establish
2 what facility.

3 And, surely, on a double murder
4 case, it's not going to come as any surprise to the jury
5 that he is in custody. We're not going to be bringing out
6 that it is related in any way to some other criminal
7 history. We're going to relate right to this case.

8 MR. DUNLEAVY: Oh, I just want to make sure
9 we put on the record, yeah, nobody is going to talk about
10 he's in custody perhaps on this case.

11 THE COURT: I think they're worried about
12 how they are going to cross-examine these people.

13 MR. WOLFSON: I think Mr. Dunleavy is
14 concerned --

15 THE COURT: The cross-examination would
16 bring out that they're --

17 MR. DUNLEAVY: Even Tom Sims met Rippe in
18 maximum on his previous case.

19 MR. HARMON: He's been admonished not to
20 allude to that. We may ask him how long he's known him, but
21 not where or under what circumstances they met. We're not
22 bringing that out.

23 THE COURT: Some of your questions on
24 cross-examination may trigger that answer.

11

1 MR. DUNLEAVY: That's going to be a real
2 problem.

3 THE COURT: That's what I can foresee.

4 MR. HARMON: Well, we've both got to be
5 careful.

6 MR. SEATON: We do because we could do
7 things that are too prejudicial, and they then could do
8 things that would open the door for us to go in and inquire
9 further to clear up the picture, so I think both sides --

10 THE COURT: Well, I think if they ask
11 questions on cross, it brings this out, then I could see
12 problems with them, ineffective assistance of counsel later
13 down the line.

14 MR. SEATON: But I think as a starter, I
15 agree with Mel that we can talk about a custodial setting,
16 but not pinpoint where it was and for what purpose.

17 Do you gentlemen agree with
18 that?

12

19 MR. WOLFSON: No, I agree, but I think our
20 point -- and I think the Judge is hitting on this, that if
21 Phil cross-examines Donald Hill, he must go in -- for
22 effective cross-examination into some of the bases to --

23 MR. DUNLEAVY: Where this conversation
24 occurred.

12

1 MR. WOLFSON: Where Donald Hill was, what he
2 was under sentence for at the time, and that may -- we're
3 being forced to bring out perhaps our client's custody
4 status, in addition to just being in a custodial setting,
5 but that he was in Ely State Prison or Indian Springs State
6 Prison.

7 MR. DUNLEAVY: That is the context of how
8 these conversations come about is important.

9 MR. HARMON: You are not being forced to do
10 anything though. You do many things as a matter of trial
11 strategy, if it's your choice.

12 MR. DUNLEAVY: Not to defend our client.

13 MR. HARMON: In order to effectively
14 cross-examine, then you do that.

15 MR. DUNLEAVY: Well, the State can just call
16 in --

17 MR. HARMON: But the alternative is to
18 preclude this type of evidence and that would be
19 inappropriate too.

20 MR. DUNLEAVY: Well, I don't know. I mean,
21 State can say we're going to call somebody from max, because
22 we know when we call them, the defense is going to have to
23 admit their client is in maximum.

24 MR. HARMON: Well, that's not the reason for

12 1 calling any of these witnesses.

2 MR. SEATON: We call them because they gave
3 a statement.

4 MR. DUNLEAVY: In exchange for agreements.

5 MR. SEATON: We will ask them about that.

6 MR. DUNLEAVY: Obviously. But when we do,
7 we have to put in context where they are and what the
8 charges are.

9 MR. SEATON: Life is full of tough choices.

10 MR. WOLFSON: I think what we're mainly
11 concerned about is our client's custodial status.

12 MR. DUNLEAVY: Before jury.

13 I mean, it's almost impossible
14 to say this conversation occurred at maximum security, but
15 you are supposed to assume that our client is in custody on
16 this case or something.

17 I mean, there is a --

18 MR. WOLFSON: Well, perhaps we could request
19 the State -- and I'm sure you've done it so far -- but
20 perhaps another reminder to your witnesses to just avoid any
21 mention of Michael's reason for being in custody, other than
22 you are accused of murder and you are awaiting trial.

23 MR. HARMON: They will be advised of that.

24 MR. SEATON: We've been doing that and we'll

12

1 continue to do that. We were just as worried about that as
2 you are.

3 MR. WOLFSON: Our client is in custody on a
4 parole revocation. He's re-serving, if you will, a life
5 sentence, and that's what we want to avoid.

6 THE COURT: I understand. I'm aware of it.

7 MR. WOLFSON: Okay. Thank you very much.

8 THE COURT: Okay. 1:30.

9 MR. HARMON: Okay.

(Whereupon, the proceedings
were recessed for lunch.)

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Las Vegas, Nevada, February 5, 1996, 1:35 p.m.

* * * * *

(The following proceedings
were had in open court in
the presence of the Jury:)

THE COURT: State of Nevada versus Michael

Damon Rippo.

Let the record reflect the
presence of the defendant, and his attorneys, Steven Wolfson
and Philip Dunleavy; Dan Seaton and Mel Harman for the
State.

Counsel stipulate to the
presence of the Jury?

MR. SEATON: Yes.

MR. DUNLEAVY: We will, yes, Judge.

THE COURT: I'd like to apologize that we're
getting started late today. I had a long morning calendar
and then other hearings, and we had a couple of matters
outside your presence on this case. That's why we're
getting started late.

The State may now call its next
witness.

MR. HARMON: Diana Hunt.

1 THE CLERK: Remain standing, please, and
2 raise your right hand.

3
4 Whereupon,

5 DIANA LEE HUNT

6 having been called as a witness by the Plaintiff and
7 having been first duly sworn to tell the truth, the
8 whole truth and nothing but the truth, was examined
9 and testified as follows:

10 THE CLERK: Thank you.

11 Please be seated.

12 Will you state your name and
13 spell it for the record.

14 THE WITNESS: Diana Hunt; D-i-a-n-a,
15 H-u-n-t.

16 THE CLERK: Thank you.

17
18 DIRECT EXAMINATION

19 BY MR. HARMON:

20 Q Is it Miss Hunt?

21 A Yes.

22 Q How old are you?

23 A I'm 27.

24 Q Where were you born and raised?

- 1 A Las Vegas.
- 2 Q Do you know the defendant in this action,
- 3 Michael Rippo?
- 4 A Yes, I do.
- 5 Q How is it that you know him?
- 6 A I met him in 1992.
- 7 Q Do you remember about when in 1992 it was?
- 8 A Approximately the second week in January.
- 9 Q After you met him in January 1992, did you
- 10 become friends?
- 11 A Yes, we did.
- 12 Q Did you, at any time, become boyfriend and
- 13 girlfriend?
- 14 A Yes; we started dating.
- 15 Q For about how long did you have that
- 16 relationship?
- 17 A About three weeks.
- 18 Q Miss Hunt, did you know personally the two
- 19 victims in this case, Denise Lizzi and Lauri Jacobson?
- 20 A No, I didn't.
- 21 Q Did you personally harbor any type of ill
- 22 feeling toward either of those persons?
- 23 A No.
- 24 Q You mention for about three weeks you had

1 the relationship of girlfriend to Michael Rippo?

2 A Yes.

3 Q Is the person with whom you had that
4 relationship present in the courtroom this afternoon?

5 A Yes, he is.

6 Q Will you point to him and describe some
7 article of clothing he's wearing today.

8 A He's right there. He has the greenish blue
9 sweater on. (Indicating)

10 MR. HARMON: Your Honor, may the record show
11 that the witness has identified the defendant, Michael
12 Rippo?

13 THE COURT: The record will so reflect.

14 MR. HARMON: Thank you.

15 BY MR. HARMON:

16 Q Did you, for a period of time, live with
17 Michael Rippo?

18 A Yes, I did.

19 Q Where did you live together?

20 A In a house on Gowan Road.

21 Q That's G-o-w-a-n?

22 A Yes.

23 Q Was the house on Gowan Road in Las Vegas?

24 A Yes.

1 Q About how long did you live there?

2 A About three weeks.

3 Q Do you know a lady identified as Deidre

4 D'Amore?

5 A Yes, I do.

6 Q How is it that you know her?

7 A She was a friend of Michael's.

8 Q When you refer to Michael, are you speaking

9 of the defendant, Mr. Rippo?

10 A Yes.

11 Q Did you and Michael Rippo stay, for a period

12 of time, with Deidre D'Amore?

13 A Yes.

14 Q For how long?

15 A A week, maybe two.

16 Q I want to direct your attention to Monday,

17 February the 17th, 1992.

18 On that date, where were you

19 and Mr. Rippo living?

20 A With Deidre.

21 Q Did she live in a house or an apartment?

22 A It was, like, a townhouse.

23 Q Do you recall the address?

24 A I know it was on Smoke Ranch and Torrey

1 Pines.

2 Q That is also in Las Vegas?

3 A Yes.

4 Q During your relationship with the defendant,

5 did you learn whether Mr. Rippo knew Lauri Jacobson?

6 A Yes.

7 Q How did you learn about that?

8 A He talked about her, that he used to date

9 her.

10 Q That he used to date Lauri Jacobson?

11 A Yes.

12 Q Did you learn whether Mr. Rippo knew Denise

13 Lizz?

14 A He mentioned her.

15 Q On Monday, February the 17th, 1992, did Mr.

16 Rippo go somewhere, to your knowledge?

17 A On the 17th?

18 Q Yes.

19 A Yes, he went to Lauri Jacobson's apartment,

20 he said.

21 Q When was it that he told you where he was

22 going?

23 A He didn't tell me where he was going. He

24 told me when he got back where he had been.

1 Q What time was that, when you had the
2 conversation with him about where he had been?

3 A Late in the afternoon on the 17th.

4 Q Of February, 1992?

5 A Yes.

6 Q Where were you when you had the conversation
7 with Mr. Rippo about where he had been?

8 A At Deidre's house.

9 Q What did he tell you?

10 A He said he had been over there helping her
11 move.

12 Q Over there helping who move?

13 A Helping Lauri move.

14 Q Did you know at that time where Lauri
15 Jacobson lived?

16 A No, I didn't.

17 Q Had you ever been to Lauri Jacobson's
18 residence?

19 A No.

20 Q Did you and Mr. Rippo have access to
21 vehicles in February 1992?

22 A Yes.

23 Q What cars?

24 A We had his white Pinto and I had a car. It

2 1 was a Dodge Colt.

2 Q You were staying, you said, with Deidre
3 D'Amore?

4 A Yes.

5 Q Did she have a vehicle?

6 A She had an Isuzu truck.

7 Q When you had the conversation with Mr. Rippa
8 about being at Lauri Jacobson's residence Monday, February
9 the 17th, did he tell you why Lauri was going to move?

10 A He said she couldn't pay her rent and she
11 had --

12 MR. WOLFSON: I'm going to object on the
13 grounds of potentially double hearsay. Where would Michael
14 have learned this but from another out-of-court declarant,
15 and that would be hearsay.

16 THE COURT: Sustained.

17 MR. HARMON: What part is sustained, Judge?

18 THE COURT: His objection as to what -- what
19 he stated to her regarding that she was going to move.

20 You could probably rephrase it
21 if you want.

22 BY MR. HARMON:

23 Q But he did make it clear that he had been
24 over to her place helping her move?

2 1 A Yes.

2 Q Did you have any discussion that evening

3 about any plans the two of you might have for the following

4 day, Tuesday --

5 A No.

6 Q -- February the 18th?

7 A None.

8 Q The following day, during the morning hours,

9 did something happen?

10 A Yes.

11 Q Tell us what happened.

12 A He came in about nine o'clock and woke me

13 up. I was sleeping upstairs.

14 Q Did you have a conversation when Mr. Ripppo

15 woke you up?

16 A Yes. He said to get up and get dressed,

17 that we had to go.

18 Q Did he tell you where you had to go?

19 A Not at that time.

20 Q Did you want to get up at about nine o'clock

21 in the morning and go somewhere?

22 A No.

23 Q Why is that?

24 A I was sick.

2

1 Q Why were you sick?

2 A Because I had been using drugs; and a few
3 days before that, I guess, I used bad drugs or did them
4 wrong.

5 Q What type of drugs had you been using?

6 A Methamphetamine.

7 Q Had you slept well the night of February the
8 17th?

9 A No. I'd been up throwing up all night. I
10 was sick.

11 Q Nevertheless, did you agree to go with Mr.
12 Rippo?

13 A He told me I couldn't stay there without
14 him, that I had to go with him.

15 Q By there, you are still referring to Deidre
16 D'Amore's place?

17 A Yes.

18 Q As a result of him waking you up and the
19 conversation you had, did the two of you go somewhere?

20 A Yes.

21 Q What vehicle, if any, did you use?

22 A The Pinto, the white Pinto.

23 Q The car of the defendant, Mr. Rippo?

24 A Yes.

2

1 Q Who drove the car?

2 A Mr. Rippo.

3 Q Will you estimate about what time it was
4 when you left Miss D'Amore's place?

5 A Approximately ten.

6 Q Where did you go?

7 A We went to apartment building -- Katie Arms
8 Apartments.

9 Q Did you know why you went to that location?

10 A I asked him, and he said we were going to
11 help Lauri move.12 Q At what point did you ask Mr. Rippo why you
13 were going there?14 A When we were driving, I asked him where we
15 were going.16 Q Do you know about how long it took you to
17 get from Miss D'Amore's place to the Katie Arms Apartments?

18 A About a half an hour.

19 Q Had you been to the Katie Arms apartment
20 complex prior to this date?

21 A No.

22 Q What happened when the two of you arrived
23 there?

24 A He parked the car and we got out of the car

2

1 and we walked up three flights of stairs and halfway down
2 the balcony to her apartment.

3 Q What happened then?

4 A And then -- her door was open, I believe,
5 and we went in and her and Mike were just talking and --

6 Q You said you believed her door was just
7 open.

8 Did you simply walk in to the
9 apartment, as you remember, or did you knock before
10 entering?

11 A He knocked on the door. The -- the window
12 was open and the stereo was on and I believe the door was
13 open. I can't remember. But he knocked and she was right
14 there at the door and said come in.

15 Q As you think back about this now, do you
16 have any recollection of ever having seen Lauri Jacobson
17 before that moment?

18 A Yes, I'd seen her.

19 Q You had seen her before that?

20 A Yes.

21 Q Do you remember how often you had seen her?

22 A I think twice at Fuddy Duddy's.

23 Q What is Fuddy Duddy's?

24 A It was, like, a nightclub.

2

1

Q Have you ever been formally introduced to
her?

2

3

A Once.

4

Q At Fuddy Duddy's?

5

That's yes?

6

A Yes.

7

Q What happened after you and Mr. Rippo
entered the apartment?

8

9

A I sat on the couch. There was couches

10

there. I sat down --

11

Q Where was the couch you sat on in relation
to the front door?

12

13

A Right behind the front door.

14

Q When you first arrived, was anyone else
there besides Lauri Jacobson?

15

16

A No.

17

Q What happened?

18

A I sat on the couch. They were laughing and
talking and running around the apartment, and they were
doing drugs.

19

20

21

And then Lauri looked out the

22

window and she said Denise is here.

23

Q You have mentioned that after your arrival,
that the defendant and Lauri were laughing and talking and

24

3

3 1 running around --

2 A Yeah.

3 Q -- in the apartment.

4 What do you mean?

5 A I mean, they were just talking. They were
6 visiting. They were friends.

7 Q Now you mentioned there came a time when you
8 were aware they were doing drugs.

9 A Yes.

10 Q What do you mean?

11 A I saw them do drugs.

12 Q You saw what happen?

13 A Mike -- Mr. Rippe went in the kitchen area
14 and he had a small brown viol of what he said was morphine,
15 and he used a needle and he injected it in himself, and then
16 he handed it to Lauri.

17 Q He injected the substance from this small
18 brown viol in to what part of his body?

19 A His arm.

20 Q Did you see if anything happened regarding
21 Lauri Jacobson?

22 A I saw her draw up the drugs and inject it in
23 her left wrist.

24 Q Now, who had said what was contained inside

3

1 the small brown vial?

2 A Mr. Rippo.

3 Q Do you remember him saying it was morphine?

4 A Yes.

5 Q When did he say that?

6 A The day before, when he brought it home from
7 Lauri's. I guess that's where he had been.

8 Q But you've already mentioned that when you
9 saw Mr. Rippo at Miss D'Amore's place, in the late afternoon
10 or evening of February the 17th, that he said where he had
11 been.

12 Did you see this small brown
13 vial that evening?

14 A Yes, I did.

15 Q Where was Mr. Rippo when you saw it?

16 A He was there in the house with us, with me
17 and Deidre.

18 Q Was there any conversation with him about
19 the vial?

20 A Yes, because he put it in the refrigerator.

21 Q What did he say about it?

22 A Well, the little girl -- Deidre's little
23 girl got in the refrigerator and it was within her reach,
24 and Deidre asked what it was --

3

1

MR. WOLFSON: Objection; hearsay.

2

THE COURT: Sustained.

3

BY MR. HARMON:

4

Q Then you say that there was some

5

conversation about it?

6

A Yes.

7

Q As a result of the little girl being able to

8

reach it?

9

A Yes.

10

Q What, if anything, did the defendant, Mr.

11

Rippo, say?

12

A He told me it was morphine.

13

Q Did he tell you where he had acquired the

14

morphine?

15

A From Lauri.

16

Q Lauri Jacobson?

17

A Yes.

18

Q Did he tell you whether he had purchased it

19

or whether she had just given it to him?

20

A He didn't say.

21

Q Did you know, when you were at Lauri's

22

apartment the next day, whether it was the same small brown

23

vial?

24

A It looked to be the same.

5 1 Q Will you indicate with your hand about how
2 large it was?

3 A About that. (Indicating)

4 Q You are indicating, what, perhaps two, two
5 and a half inches high?

6 A Yes; and it was square.

7 Q Did you ever have a chance to actually look
8 at it to see whether there was a fluid inside the vial?

9 A Yes.

10 Q Was there?

11 A Yes.

12 Q About how -- could you tell how much fluid
13 was inside of it?

14 A About half of the bottle was full.

15 Q Were you given any type of injection from
16 whatever was inside the brown vial?

17 A No.

18 Q Did you ingest any type of drugs at Lauri
19 Jacobson's apartment?

20 A No.

21 Q In addition to observing Mr. Rippo and Lauri
22 inject with the needle in to their arms what appeared to
23 have come from this bottle, did you see them ingest any
24 other type of drug?

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A No.

Q Now you've mentioned at some point someone else arrived?

A Yes.

Q How did you learn about that?

A The window was open and Lauri saw -- saw her pull up outside.

Q Did Lauri make some comment at that point?

A Yes.

MR. WOLFSON: Objection; hearsay.

THE COURT: Sustained.

MR. HARMON: Your Honor, I would represent to the Court it isn't necessarily offered for the truth, but, in this instance, offered to explain that Lauri Jacobson went somewhere. So it's simply offered to explain why she left the apartment.

MR. WOLFSON: But the out-of-court statement by Miss Jacobson is not needed to prove that up.

What this witness saw and what this witness saw took place next can answer that question.

I can't cross-examine this out-of-court statement.

MR. HARMON: Well, that's true, Your Honor, but if a statement prompts subsequent action, that goes to

3 1 state of mind, and that's an exception under which we --

2 THE COURT: All right. I'll overrule the
3 objection. You may answer the question.

4 BY MR. HARMON:

5 Q What did Lauri say?

6 A She said: Denise is here.

7 Q At that point, what happened?

8 A She said that Denise didn't -- won't want to
9 come in --

10 MR. WOLFSON: Objection. Same objection;
11 hearsay.

12 THE COURT: Sustained.

13 MR. HARMON: And it's offered for the same
14 reason, Judge.

15 THE COURT: I am going to sustain that.

16 BY MR. HARMON:

4 17 Q As a result of the remark that Lauri made,
18 did she leave the apartment?

19 A Yes, she did.

20 Q About how long was she gone?

21 A Approximately 20 minutes.

22 Q During that approximate 20 minute interval,
23 did you and Mr. Rippe remain in Lauri's apartment?

24 A Yes.

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Q What happened during that time?

A Well, when Lauri left the apartment, my -- or Mr. Rippo closed the curtains and closed the window and came to me and said give me my stun gun that was in my purse.

Q Did you ask the defendant, Mr. Rippo, why he wanted the stun gun?

A Yes, I did.

Q What did he say to you?

A He told me just to shut up and give it to him.

Q Did you give it to him?

A Yes.

Q Did you know at that point why he wanted it?

A No.

Q Now, you have indicated that after he had closed the curtain and the window, he asked you to give him, I think you said that he said, his stun gun, my stun gun?

A Yes.

Q If it was his, how did it happen to be in your purse?

A Because I hid it from him in my purse.

Q Why did you want to hide it from him?

A Because he liked to stun me with it.

4 1 Q After you gave Mr. Rippe the stun gun -- by
2 the way, will you describe the object that you are
3 characterizing as a stun gun?

4 A It's about six -- five or six inches long;
5 it's about two or three inches wide; and it has two prongs
6 on top that are about an inch and a half or two inches
7 apart; and it had a trigger button on the side.

8 Q To your knowledge, was this stun gun
9 operational?

10 A Yes.

11 Q Did it make any type of noise when it was
12 used?

13 A Yes, it made a zapping noise.

14 Q You've indicated that you had it in your
15 purse because Mr. Rippe liked to use it on you.

16 A Yes.

17 Q Was that in a teasing way?

18 A Well, like when I was asleep or something.

19 Q What would be the effect when the stun gun
20 was used?

21 A It hurt; it shocked you.

22 Q It what?

23 A Shocked you.

24 Q So it produced an electrical shock?

4

1 A Yes.

2 Q While Lauri Jacobson was out of the

3 apartment, did either you or Mr. Rippo make a telephone call

4 from inside the apartment?

5 A Mr. Rippo did.

6 Q Was there a telephone inside Lauri's

7 apartment?

8 A Yes.

9 Q Do you know who Mr. Rippo called?

10 A I do now.

11 Q At the time he made the call, did you know?

12 A No.

13 Q Did he tell you he was going to call anyone?

14 A No.

15 Q What did you see him do?

16 A I saw him get on the phone to make a phone

17 call.

18 Q Do you remember about how long he was on the

19 telephone?

20 A About five minutes.

21 Q What happened then?

22 A Then he hung up the phone and he was just

23 wandering around the apartment.

24 Q You've indicated that Lauri was gone for

4 1 about 20 minutes.

2 A Yes.

3 Q After about 20 minutes, what happened?

4 A She came back in with Denise.

5 Q You previously mentioned that you weren't
6 well acquainted with either of these ladies, Lauri Jacobson
7 or Denise Lizzi.

8 A Yeah.

9 Q But you had met Denise also or had you?

10 A I met her on one occasion.

11 Q Did Denise come into the apartment with
12 Lauri Jacobson?

13 A Yes.

14 Q What happened after she came in?

15 A She took her coat off and threw it on the
16 table and went to the -- to the bathroom.

17 Q What type of coat was Denise wearing that
18 she took off and threw on the table?

19 A A Levi jacket.

20 Q Where were you situated in the apartment at
21 the time Lauri Jacobson came back with Denise?

22 A I was still in the same place, on the couch,
23 behind the door.

24 Q Had you moved from that point?

4 1 A No.

 2 Q Where is it that Denise went?

 3 A To the bathroom.

 4 Q What happened at that time?

 5 A Her and Lauri were both in the bathroom and

 6 they were talking and -- and laughing; and Mr. Rippo went to

 7 the refrigerator, in the apartment, and got a beer and

 8 brought it to me.

 9 Q Had you asked him to go to the refrigerator

 10 and get you a beer?

 11 A No.

 12 Q While Lauri and Denise were still in the

 13 bathroom, did you have a conversation with Michael Rippo?

 14 A When he brought me the beer, he said: When

 15 Lauri answers the phone, I want you to hit her with this

 16 bottle so I can rob Denise.

 17 Q What was your reaction to that statement by

 18 Mr. Rippo?

 19 A I told him I didn't want to do it, that I

 20 didn't feel good, that I wasn't up for it.

 21 Q Up until that moment, had you been expecting

 22 anything unusual to happen there at Lauri Jacobson's

 23 apartment?

 24 A No.

4 1 Q Did you personally come to the apartment
2 that day with any intention to commit a robbery?

3 A No.

5 4 Q You mentioned you had the stun gun in your
5 purse originally.

6 A Yes.

7 Q Had you come to the apartment intending to
8 use the stun gun on either Lauri Jacobson or any guest she
9 might have in the apartment?

10 A No.

11 Q So what happened after you told Mr. Rippe
12 that you didn't want to do it, that you didn't feel good,
13 that you weren't up to it?

14 A He said too bad; just do what I tell you.

15 Q Did he give you the bottle of beer?

16 A Yes.

17 Q Describe the bottle.

18 A It was a small neck, brown bottle of
19 non-alcoholic beer.

20 Q Had he opened the bottle for you?

21 A I don't remember. I really don't remember.

22 Q So you don't know if the lid -- or if the
23 cap was still on the bottle?

24 A No.

5

1 Q What happened after that?

2 A I just held it and sat there and had -- and
3 the phone rang a few minutes after that.

4 Q You said -- how long had elapsed before the
5 telephone rang?

6 A Just a few minutes.

7 Q What happened when the phone rang?

8 A Lauri came out of the bathroom and came to
9 answer the phone; and the phone was on the floor, right at
10 my feet. And she went back to -- and when she bent down and
11 she was talking on the phone for a second and I took and I
12 hit her with the bottle.

13 Q Where did you hit her with the bottle?

14 A On the back of the head.

15 Q How hard did you hit her?

16 A Hard enough to break the bottle.

17 Q But what do you mean by hard enough?

18 A The bottle broke. That's how hard --

19 Q What happened to the contents of the bottle?

20 A The glass broke.

21 Q What happened to Lauri Jacobson?

22 A She fell down. She fell forward on her
23 elbows and --

24 Q Why did you hit Lauri Jacobson with a bottle

5 1 when the telephone rang?

2 A That's what he told me to do.

3 Q Why would you go along with something like
4 that?

5 A Because I didn't want him coming after me.

6 Q You said that Lauri fell forward.

7 Do you know if it knocked her
8 out?

9 A I didn't knock her completely out.

10 Q What do you mean?

11 A Because she was -- she's still moving. She
12 was dazed.

13 Q When the telephone rang, do you recall where
14 Mr. Ripppo was?

15 A He was in the room when it rang, and then
16 when Lauri came out of the bathroom to answer the phone, he
17 went to the bathroom.

18 Q You saw Mr. Ripppo go into the bathroom?

19 A Yes.

20 Q To your knowledge, was Denise still in the
21 bathroom?

22 A Yes.

23 Q After you hit Lauri Jacobson, could you hear
24 anything happening in the bathroom?

5

1 A Yes.

2 Q What could you hear?

3 A I heard that stun gun going off. And I
4 heard them arguing -- or yelling. I heard Denise's voice
5 and I heard his voice.

6 Q Did there come a time when the struggle
7 moved from the bathroom to some other location?

8 A Yes. He wrestled her. She was fighting
9 him, and he wrestled her across the hall into a big -- there
10 was a big closet there across the hall.

11 Q At that time, did you remain in the room
12 where Lauri was?

13 A I was in the room with Lauri, and then I ran
14 over to the doorway, because I still heard that stun gun
15 going off.

16 Q When you say you ran over to that doorway,
17 are you talking about the doorway to the closet?

18 A Yes.

19 Q What kind of closet is this?

20 A It's a real big closet. It's really like a
21 little room. It's a big room.

22 Q Is there a door to the closet or was it
23 simply a walk in?

24 A There is no door.

RENEE SILVAGGIO, CCR 122 391-0379

5

1 Q When you got to the doorway area, could you
2 see what was happening inside the closet?

3 A Yes.

4 Q What did you observe?

5 A He had wrestled Denise to the ground and he
6 was, like, sitting on her, and she was on her side, and he
7 was still stunning her with the stun gun.

8 Q Did you actually see the stun gun in Mr.
9 Rippo's hand at the scene of the accident?

10 A Yes.

11 Q Do you recall in which hand he had the gun?
12 Do you recall what part of Denise's body --

13 A All over on her side.

14 Q Do you know if Mr. Rippo is left handed or
15 right handed?

16 A I think he's right handed.

17 Q What happened after you went to the closet
18 doorway and saw what was happening?

19 A I told him to stop, that was enough with the
20 stun gun, and he told me to shut up, that he knew what he
21 was doing.

22 Q As a result of that reaction by Mr. Rippo,
23 what did you do?

24 A I went back -- he told me to go back in with

6

6 1 Lauri.

2 Q Did you go back to where Lauri was?

3 A Yes.

4 Q What was Lauri doing at that time?

5 A She was sitting -- trying to sit up and she
6 was holding her head.

7 Q Did you make any effort to arouse her
8 further?

9 A Yes, I did.

10 Q What did you do?

11 A I helped her sit up.

12 Q Did there come a time when Mr. Rippo emerged
13 from the closet area?

14 A Yes.

15 Q When was that?

16 A He heard -- me and Lauri were sitting there
17 talking --

18 MR. DUNLEAVY: Objection, Your Honor. There
19 is no way she knows what somebody else heard.

20 THE COURT: Sustained.

21
22 BY MR. HARMON:

23 Q Is this a large apartment?

24 A No, it was a studio.

6

1 Q Is it your testimony that you had begun to
2 talk to Lauri Jacobson?

3 A Yes.

4 Q What were you talking about with her?

5 A I was telling her -- she was asking me why I
6 hit her, and I told her it had nothing to do with her, that
7 Mr. Rippo wanted to rob Denise.

8 Q At some point, did Mike Rippo come out of
9 the closet?

10 A Yes.

11 Q What happened then?

12 A He had a knife in his hand.

13 Q Do you know where he had acquired the knife?

14 A No. I didn't see him get it.

15 Q Will you describe the knife?

16 A It was just a serrated, brown handled
17 steak -- steak knife.

18 Q Do you know whether he had the knife when
19 you first arrived at the apartment?

20 A Uh-huh.

21 Q He didn't or you don't know?

22 A I don't know. I never saw him with it.

23 Q Okay. To your knowledge, had you ever seen
24 the steak knife before?

6

1 A No.

2 Q Did Mr. Rippo use the steak knife?

3 A Yes.

4 Q What happened?

5 A There was some appliances sitting right
6 outside the closet door and he reached down and cut the
7 cords off of the appliances.

8 Q What types of appliances?

9 A I remember one was an iron, but I can't
10 remember what the other ones were.

11 Q To your memory, how many cords did he cut
12 from appliances?

13 A Two, that I remember.

14 Q Did he use the steak knife in making the
15 cuts?

16 A Yes.

17 Q What did he do with the cords?

18 A He came up to where me and Lauri were. He
19 told Lauri to lay down.

20 Q Did she lay down?

21 A Not right away. She argued, but then she
22 laid down.

23 Q What do you mean she argued?

24 A She said you don't want to do this. I'm not

6 1 going to do anything.

2 And I said the same thing. I
3 said she is not going to do anything.

4 Q Did she eventually lay down?

5 A Yes.

6 Q On her stomach or on her back?

7 A On her stomach.

8 Q What happened then?

9 A He told her to put her hands behind her back
10 and he tied her hands.

11 Q Did he tie her hands together?

12 A Yes.

13 Q What about her feet?

14 A He tied her feet together too.

15 Q Did you protest in any way at this time
16 about what he was doing?

17 A Yes. I told him there was no reason to tie
18 her up. She said there was no reason; she wasn't going to
19 do anything. She wanted the IIC (ph) claim.

20 Q And what was the reaction of Mr. Ripppo?

21 A He said it was insurance.

22 Q Insurance? Did he explain what he meant?

23 A No.

24 Q At some time, was -- at some point, was

6

1 anything placed inside Lauri Jacobson's mouth?

2 A Yes.

3 Q What did you see happen?

4 A He came out of the -- went back in the
5 closet and came out with a bandana.

6 Q Do you recall the color of the bandana?

7 A I think it was purple, but I'm not positive.

8 Q What did he do with the bandana?

9 A He tied it in her mouth.

10 Q What do you mean he tied it in her mouth?

11 A He jabbed her with -- or he tied it around
12 her head.

13 Q During the time that Lauri Jacobson was
14 being tied and gagged, did you hear any sounds from the
15 closet area?

16 A No. I -- I could hear Denise cry, but --

17 Q Could you hear Denise Lizzi?

18 A Yes.

19 Q Did you attempt, at that time, to go to her
20 assistance?

21 A Yes. I went and looked in the closet.

22 Q When you went in the closet, what did you
23 see this time?

24 A Mike was in there. He had tied her hands

6 1 behind her back. She was sitting up and he had tied her
2 feet together and he was asking her all kinds of questions.

3 Q What do you mean all kinds of questions?

7 4 A Like where do you get your drugs, and he was
5 asking her about who lives in some house somewhere, but I
6 don't even know where the house was; just really strange
7 questions.

8 Q Was Denise replying to these questions?

9 A She was saying -- I don't know what you
10 want. But -- and she was trying.

11 Q Did there come a time when you became aware
12 that someone was approaching Lauri Jacobson's apartment?

13 A Yes. That was after.

14 Q After you saw what happened to Denise in the
15 closet?

16 You have to answer out loud.

17 A Yes.

18 Q What did happen?

19 A Well, he -- then he put something in
20 Denise's mouth. I'm not sure what.

21 Q But you saw that Mr. Rippo put something in
22 her mouth?

23 A And so she fell on her side.

24 And I told him -- I was telling

7
1 him let's just go, because obviously she didn't have
2 anything to rob or whatever he wanted to rob.

3 And he stood up and he -- he
4 told me I told you not to tell me what to do and he shoved
5 me.

6 And I fell on my butt in the
7 hallway, and I was crying then.

8 Q Did you hear steps outside the apartment at
9 about this time?

10 A Yeah. You could hear somebody on the
11 balcony.

12 Q Tell us what happened.

13 A Well, he put -- he put his hand on my mouth.
14 He was telling me to shut up and stop crying and quit
15 tweaking (sic).

16 And we heard somebody coming
17 and he told everybody to be quiet, not say anything. And
18 somebody came to the door of the apartment and was knocking
19 on the door; and it was a woman and she was yelling for
20 Lauri.

21 Q Did Lauri say anything when the woman called
22 out for her?

23 A No.

24 Q She still had a gag in her mouth?

7 1 A Yes.

2 Q Did you say anything?

3 A No.

4 Q Did anyone inside Lauri Jacobson's apartment

5 say anything to the person who was outside the apartment?

6 A No.

7 Q How long did this woman remain outside the

8 apartment, to your knowledge?

9 A Just for about five minutes.

10 Q During the five minutes, what was he doing?

11 A Yelling at the woman and yelling for Lauri.

12 Q And yelling at you?

13 A Yes.

14 Q After about five minutes, could you tell

15 whether the woman had left?

16 A We could hear her walking away.

17 Q What happened then inside the apartment?

18 A Then, Mr. Ripppo, he -- he changed. He was,

19 like, I'm sorry. You know, I'm sorry I got out of control,

20 and if everybody just cooperates, then everything will be

21 all right.

22 Q He was really apologetic?

23 A He just -- he just had a different attitude

24 from the beginning.

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1 Q Well, what happened then, a minute or so?

2 A Then we went out back to the room and Lauri
3 was still laying there --

4 Q Still on her stomach?

5 A Yes.

6 Q Hands and feet still tied?

7 A Yes.

8 Q Is the gag still in her mouth?

9 A Yes. And she got down on her back and it
10 was tightening up the cords around her wrist.

11 Q Did you say anything?

12 A Yeah. I told him why are you doing that?

13 And he looked right at me -- I
14 was standing right by the bathroom door, and he looked right
15 at me and put the stun gun on her back and started stunning
16 her with the stun gun.

17 Q How did you feel at that time when you
18 witnessed that sort of thing happening?

19 A I was scared, but I was mad too because I
20 know how that stun gun feels, and I just wanted him to quit
21 stunning her.

22 Q Did you tell him that?

23 A Yes.

24 Q Did he stop?

7 1 A No.

2 So I -- I ran at him and I
3 grabbed his right hand -- it was in his right hand -- and I
4 grabbed his wrist, and instead of pulling backward, he
5 pulled forward and I tripped over Lauri and fell.

6 Q Miss Hunt, how large are you?

7 A I'm five eight.

8 Q About how much do you weigh?

9 A 123.

10 Q Did you weigh more or less on February the
11 the 18th, 1992 than you weigh now?

12 A I weighed less.

13 Q What was your approximate weight back in
14 February 1992?

15 A About 105.

16 Q What about the defendant, Mr. Rippe, do you
17 know his approximate height?

18 A He's about five seven. He's about five
19 seven.

20 Q Do you have an estimate of how much he
21 weighed in February 1992?

22 A I'd say 170.

23 Q As you look at him now here in court, would
24 you say Mr. Rippe weighs more or less at this time than he

1 did in February 1992?

2 A Less.

3 Q So you are telling us that you ended up
4 falling down?

5 A Yes.

6 Q What happened then?

7 A I was kind of dazed, but not really. I
8 turned around and he was -- he had taken another cord or a
9 belt or something -- I couldn't see what it was -- and he
10 had put it through the ties on her feet and her wrists, and
11 put it around her neck --

12 MR. DUNLEAVY: I'm sorry, Your Honor, is
13 this Denise or Lauri?

14
15 BY MR. HARMON:

16 Q Will you clarify who you are referring to?

17 A That was Lauri.

18 Q Where are you positioned at the time this is
19 happening?

20 A I'm on the floor right by Lauri -- right --
21 there was a table there and I fell on the table and fell on
22 the ground, and I was laying on the ground right by Lauri.

23 Q In what manner are you laying?

24 A I was on all -- I fell forward, but I turned

8. 1 over and was sitting -- sitting up facing that when I saw
2 this.

3 Q So what is it that you saw Mr. Rippe do at
4 this time regarding Lauri Jacobson?

5 A He was dragging her across the floor, trying
6 to pick her up with the cord.

7 Q What had he done to enable him to drag her
8 across the floor?

9 A He had put some cord or belt -- I couldn't
10 see what it was -- through the cords on her hands and her
11 feet and put it around her neck and picked her up like a
12 suitcase and was dragging her across the floor.

13 Q In what direction?

14 A Toward the closet.

15 Q Could you tell what the condition was of
16 Lauri Jacobson?

17 A She was choking.

18 Q Was she taken completely into the closet?

19 A Yes.

20 Q What happened then?

21 A I crawled across the -- the floor and I -- I
22 was throwing in -- and there was a garbage bag there and I
23 was throwing up in it, and I heard a noise coming from the
24 closet, and I -- I looked -- went over and I looked into the

8 1 closet, and he had -- Mr. Rippo had his knee in the small of
2 Denise's back and he had something around her neck and he
3 was pulling on it and he was choking her.

4 Q Could you tell whether Mike Rippo was
5 asserting pressure to the body of Denise Lizzi?

6 A He was pulling really hard. He was pulling
7 so hard that the whole front of her was up off the ground
8 and his arms were straining.

9 Q What was your response when you saw
10 something like that happen?

11 A I couldn't even -- I couldn't even
12 comprehend what I was seeing. I don't know if I fainted or
13 what happened, but he was shaking me, saying get up, we've
14 got to go.

15 Q What happened when you say Mr. Rippo was
16 shaking you and he said we've got to go?

17 A He said we've got to hurry up and get out of
18 here.

19 And I was hysterical. I was
20 saying you choked them. I saw you choke them.

21 And he said, no, I didn't. I
22 just cut off their air and we have to hurry up before they
23 wake up.

24 Q At the time when that verbal exchange

8 1 occurred between you and Mr. Rippo, were you able to see the
2 two young women, Denise and Lauri?

3 A Yes.

4 Q Where were they at that time?

5 A They were both laying in the closet. Lauri
6 was face down and Denise was right next to her and she was
7 also face down.

8 Q Do you remember, as you looked into the
9 closet, who was on the left and who would have been to the
10 right?

11 A Lauri was on the left and Denise was on the
12 right.

13 Q Do you remember how their bodies were lying
14 in relation to each other?

15 A They were right next to each other.

16 Q Did the feet of either of the young ladies
17 extend farther out of the closet at that time?

18 A No.

19 Q So when you say right next to each other,
20 basically level with each other?

21 A Yes.

22 Q When you glanced in at that time, were they
23 both still tied?

24 A Yes.

RENEE SILVAGGIO, CCR 122 391-0379

MRIPPO-07038-01075

JA001401-070

8

1

Q Did you observe movement?

2

A No.

3

Q Not from either of the young ladies?

4

A No.

5

Q What happened after Mr. Rippe said that you

6

had to get out of there?

7

A He said to -- he had a bag in his hand and

8

he said put everything in the bag.

9

Q What type of bag did he have in his hand?

10

A It was like a gym bag.

11

Q Do you know where he got the bag?

12

A Well, he must have got it there. He dumped

13

clothes out of it.

14

Q You saw him dump clothes out of the bag?

15

A Yes.

16

Q When he dumped the clothes out of the bag,

17

where did they go?

18

A On the floor.

19

Q Did you see whether anything was placed in

20

the bag at that time?

21

A Yes. He started grabbing all kind of things

22

and putting it in the bag.

23

Q Well, what sorts of things are you talking

24

about?

RENEE SILVAGGIO, CCR 122 391-0379

9 1 A All kinds of wierd, like, pieces of paper,
2 whatever happened to be right there. Like there was papers
3 and some little boxes, and Just -- I didn't -- wierd stuff.

4 Q Did these things come from inside the
5 apartment?

6 A Yes.

7 Q Did you see Mr. Rippo put them in this bag?

8 A Yes.

9 Q What color was the bag?

10 A Black.

11 Q Had you ever seen the bag prior to that
12 occasion?

13 A No.

14 Q Did Mr. Rippo tell you to do anything?

15 A He told me to clean up and put everything in
16 the bag.

17 Q Did you clean up?

18 A Well, earlier, when he told me to clean up,
19 I thought he meant clean up the beer that was spilled when I
20 hit Lauri with the bottle, and I was cleaning up the beer,
21 thinking that's what he meant. And I was wiping off her
22 pictures. And I didn't know what he meant.

23 Q Well, the second time when he told you to
24 clean up, did you follow his instructions?

9 1 A I just held the bag that he was putting --
2 he was putting some stuff in it.

3 Q Did you see whether anything was wiped down
4 while you were there in the apartment?

5 A He wiped the whole apartment down.

6 Q Who wiped the whole apartment down?

7 A Mr. Rippo.

8 Q Did you see him do that?

9 A Yes, I did.

10 Q What did he use to wipe the apartment down?

11 A He had a rag, and there was a towel also.

12 Q When you say he wiped everything down, what
13 are you talking about?

14 A I mean, he was just running all over the
15 apartment wiping everything off.

16 Q Surfaces inside the apartment?

17 A Uh-huh -- yes.

18 (Whereupon, a recess was had in
19 the proceedings.)
20
21
22
23
24

ORIGINAL

-FILED IN OPEN COURT-

February 6, 1996

LORETTA BOWMAN, CLERK

By *Josephine Sub* 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

Monday, February 5, 1996

2:30 p.m.

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

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



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APPEARANCES:

For the State: MELVYN T. HARMON,
Deputy District Attorney
and
DANIEL M. SEATON,
Deputy District Attorney

For the Defendant: STEVEN WOLFSON
and
PHILIP H. DUNLEAVY

---ooo---

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INDEX OF EXHIBITS

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State's Exhibit 104 received:

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1 LAS VEGAS, NEVADA FEBRUARY 5, 1996 2:30 P.M.

2
3
4 (After a recess the following
5 proceedings were had in open court
6 in the presence and hearing of the
7 jury.)
8
9

10 DIANA HUNT, having been called as a witness
11 by the State, having been previously sworn to tell
12 the truth, the whole truth and nothing but the
13 truth, was examined and testified as follows:
14
15

16 DIRECT EXAMINATION

17
18 (Continued)

19 BY MR. HARMON:

20 Q. After Mr. Rippo had used the towel and
21 the cloth to wipe everything down, did the two of
22 you leave?

23 A. Yes.

24 Q. Did you take anything with you from

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

1 inside the apartment?

2 A. No.

3 Q. What about Mike Rippo, did he take
4 anything with him?

5 A. He had the bag of -- like two bags, gym
6 bags.

7 Q. You went out the door?

8 A. Yes.

9 Q. What happened after you left; was the
10 door closed or was it left open?

11 A. He closed the door and he locked it. He
12 had a key, and he locked the deadbolt lock.

13 Q. Do you know where Mr. Rippo got the key
14 he used?

15 A. No.

16 Q. Did you have any type of key to the
17 apartment?

18 A. No.

19 Q. After he locked the deadbolt to the
20 front door, did he keep the key?

21 A. Yes.

22 Q. Did he still have the stun gun?

23 A. Yes.

24 Q. Do you know at that point where the

1 steak knife was at?

2 A. No.

3 Q. You mentioned earlier inside the
4 apartment that Mr. Rippe used the knife to cut the
5 cords on certain appliances?

6 A. Yes.

7 Q. Did you ever see him do anything else
8 with the steak knife?

9 A. No.

10 Q. What happened after the two of you left
11 the apartment?

12 A. He walked me to the car, to the Pinto.

13 Q. Did you have a conversation at that
14 point?

15 A. Yeah. I was crying, and I said, what do
16 I do?

17 And he said, just go home and
18 wait for me, and don't start tweaking now. He said,
19 nobody got hurt and nobody has to. That he knew
20 what he was doing.

21 Q. Did he tell you where to go at that
22 time?

23 A. He told me to go back to Deidre's.

24 Q. And did he tell you how to get back

1 there?

2 A. No. He said, just drive.

3 Q. Did you return to Deidre D'Amore's
4 place?

5 A. Yes.

6 Q. How did you get there?

7 A. I drove the Pinto.

8 Q. With Mr. Rippo?

9 A. No.

10 Q. What happened to Mr. Rippo?

11 A. I left him there.

12 Q. What do you mean you left him there?

13 A. He was standing in the parking lot when
14 I drove off.

15 Q. Did you have any understanding as you
16 drove off about when he would recontact you?

17 A. No. He just said he would call.

18 Q. What was your state of mind at the time
19 you drove off?

20 A. I was in shock.

21 Q. But you've indicated that you were sick
22 the night before?

23 A. Yes.

24 Q. That you had been throwing up?

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1 A. Yes.

2 Q. Were you still ill?

3 A. Yes.

4 Q. What were your thoughts concerning the
5 two young women; Denise Lizzi and Lauri Jacobson?

6 A. I knew in my heart, I knew that they
7 weren't. He said they -- that they were still
8 alive, but I knew in my heart they couldn't still be
9 alive.

10 Q. Why did you know in your heart they
11 still couldn't be alive?

12 A. Because I heard that noise and I saw
13 what was happening.

14 Q. What noise are you talking about?

15 A. It was -- I never heard anything like
16 it. I can't even describe it.

17 Q. Who was making the noise?

18 A. Denise.

19 Q. What did it sound like?

20 A. It sounded like an animal noise.

21 Q. Is that what prompted you to crawl into
22 the bedroom area?

23 A. Yes.

24 Q. Anywhere inside of the apartment did you

1 see any evidence of bleeding?

2 A. No, I didn't see any.

3 Q. You said that you were asked on a couple
4 of occasions to clean up the apartment?

5 A. Yes.

6 Q. Was there blood to your knowledge inside
7 the apartment?

8 A. Well, he told me that there was blood.

9 Q. When did Mr. Rippe tell you there was
10 blood?

11 A. He went into the closet and he untied
12 Denise's feet, and I asked him what he was doing,
13 and he said that he had bled on her pants, that she
14 had cut him or made him bleed.

15 Q. During the struggle?

16 A. Yes.

17 Q. You said that he untied her legs?

18 A. Yes.

19 Q. This is Denise you're referring to?

20 A. Yes.

21 Q. Did you see what the defendant did then?

22 A. He took off her shoes, her boots, and he
23 rolled her over and undid her pants and pulled them
24 off.

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1 Q. Do you know what happened to the pants
2 and shoes of Denise?

3 A. He stuck them in the black bag.

4 Q. Did you ever see them again?

5 A. No.

6 Q. Did the defendant tell you why he didn't
7 want an article of clothing left on Denise that had
8 his blood on it?

9 A. He just said, I bled on her pants and I
10 have to take them.

11 Q. To your knowledge of when that you and
12 Mr. Rippo left the apartment, were the two young
13 women still tied up or had they been untied?

14 A. He untied -- at some point he untied
15 Lauri's hands and, I believe, her feet. I remember
16 her hands were untied. And he untied Denise's feet
17 to take her shoes off.

18 Q. Did he leave her feet untied?

19 A. Yes.

20 Q. Do you have an estimate of how long you
21 and Mr. Rippo were inside the apartment of Lauri
22 Jacobson that day, that Tuesday, February 18?

23 A. I would say total approximately two
24 hours.

1 Q. Afterward did you drive the Pinto back
2 to Deidre's place?

3 A. Yes.

4 Q. Did you hear from Mr. Rippo later on?

5 A. Yes. Later that evening he called.

6 Q. The same evening?

7 A. Yes.

8 Q. Did you remember about what time it was
9 that he called?

10 A. I just remember it was getting dark
11 outside.

12 Q. Did you have a telephone conversation
13 with him?

14 A. Yes.

15 Q. What was the nature of the conversation?

16 A. He told me to meet him at his friend's
17 shop, and he told me how to get there.

18 Q. Did you know the friend?

19 A. I had met him on one occasion.

20 Q. Who was the friend whose shop he wanted
21 you to meet him at?

22 A. His name was Tom Sims.

23 Q. Did you as a result of the telephone
24 conversation go to that location?

1 A. Yes.

2 Q. How did you get from Deidre D'Amore's
3 place to Tom's shop?

4 A. I drove the Pinto.

5 Q. What happened when you arrived there?

6 A. He was there with Tom and another guy
7 was there.

8 Q. The defendant was there with Tom Sims?

9 A. Yes.

10 Q. Do you know the other guy who was also
11 there?

12 A. It was just a guy that worked there.
13 And Mike said, I have a car for you.

14 Q. He said that to you?

15 A. Yeah.

16 Q. Did you see the car?

17 A. Yeah.

18 Q. Describe the car that you saw.

19 A. It was a maroon Nissan, like a 300.

20 Q. Did Mr. Ripppo tell you whose car it was?

21 A. No, not then.

22 Q. Did he explain where he got the car at
23 that time?

24 A. He said he stole it from some people

1 that would be out of town.

2 Q. Did you have any conversation with him
3 about what was to happen to this car he said he had
4 for you?

5 A. He wanted me to get paperwork for the
6 car.

7 Q. What do you mean, paperwork for the car?

8 A. Like title, something to license it
9 with.

10 Q. Did you know any person or persons who
11 might help in that regard?

12 A. Yes.

13 Q. Whom did you know?

14 A. A friend of mine, TC, Tom Christos.

15 Q. Would you spell the last name?

16 A. C-r-i-s-t-o-s.

17 Q. Did you know at the time you saw this
18 maroon Nissan whose car it was?

19 A. I had an idea.

20 Q. Why did you have an idea whose car it
21 was?

22 A. Because I had seen it one other time
23 when I went to The Points, these apartments.

24 Q. The Points is an apartment complex?

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1 A. Yes.

2 Q. The one time you saw it did you
3 associate the car or at least a car which looked
4 like that with Denise Lizzi?

5 A. Well, later on the car was in somebody
6 else's parking place and I asked the person later
7 whose car it was.

8 MR. WOLFSON: Objection; hearsay.

9 THE COURT: Sustained.

10 BY MR. HARMON:

11 Q. So at the apartment complex called The
12 Points you had seen this vehicle before?

13 A. Yes.

14 Q. As a result of information you had
15 acquired did you think, perhaps, when you saw the
16 car at Tom's shop that you knew whose vehicle it
17 was?

18 A. Yes.

19 Q. Whose car did you think it was?

20 MR. WOLFSON: Objection; speculation.
21 Think, perhaps, maybe she knows. That's
22 speculation.

23 MR. HARMON: Your Honor, we're talking
24 about the state of mind of this witness, that's all.

1 THE COURT: Objection overruled.

2 BY MR. HARMON:

3 Q. Whose car did you think it was?

4 A. I thought it was Denise's.

5 Q. Did you remember where the car was
6 parked in relation to this shop owned by Tom Sims?

7 A. It was right in front of his shop doors.

8 Q. Did you drive the car anywhere from that
9 location?

10 A. Yes, I did.

11 Q. Had you had anything to do with bringing
12 this maroon Nissan to Tom's shop?

13 A. No.

14 Q. Why did you drive the car?

15 A. I took it to my friends.

16 Q. I'm asking why you drove?

17 A. Because he told me to.

18 Q. He meaning Mike Ripppo?

19 A. Yes.

20 Q. What friends did you take it to?

21 A. Tom Christos.

22 Q. Did you have a conversation with
23 Mr. Christos --

24 A. Yes.

1 Q. -- about the car?

2 A. Yes.

3 Q. The following day, Wednesday, February
4 19, did you have contact with Mike Rippo, the
5 defendant?

6 A. Yes, I did.

7 Q. Did the two of you have occasion to go
8 to a shopping mall?

9 A. Yes.

10 Q. What mall did you go to?

11 A. The Meadows Mall.

12 Q. What car were you in to go to the
13 Meadows Mall?

14 A. I don't remember. I can't remember if
15 it was the Pinto or the maroon car.

16 Q. By the maroon car --

17 A. Denise's car.

18 Q. You don't remember whether it was Mike
19 Rippo's car or the car you think belonged to Denise?

20 A. Right.

21 Q. Who was driving the car on the way to
22 the Meadows?

23 A. Mr. Rippo.

24 Q. Did you have a conversation with him as

1 you drove to the Meadows Mall on Wednesday, February
2 19, about any shopping he had already done that day?

3 A. Yes.

4 Q. Was it just the two of you in the car?

5 A. Yes.

6 Q. What did he tell you?

7 A. He told me he had bought an air
8 compressor and some tools at Service Merchandise
9 that morning.

10 Q. He mentioned Sears also?

11 A. Yes.

12 Q. What exactly is it that you remember him
13 saying?

14 A. Just that he had bought an air
15 compressor and that he had to go pick it up later.

16 Q. But you mentioned two businesses, you
17 mentioned Service Merchandise and Sears?

18 MR. DUNLEAVY: Objection, your Honor.
19 Actually, the DA mentioned Sears. She just said
20 yes.

21 THE COURT: That's true.

22 BY MR. HARMON:

23 Q. I suggested the second, but you affirmed
24 that is what he said?

1 A. Yes.

2 Q. Did he mention he had been to two
3 places?

4 A. He said Sears and Service Merchandise.

5 Q. Did he make it clear to you of where he
6 had gone to make the purchase of the air compressor?

7 A. Service Merchandise.

8 Q. And the other?

9 A. Service Merchandise.

10 Q. But not Sears?

11 A. No. I thought they were the same place.

12 Q. Did he tell you when he had gone there?

13 A. That morning.

14 Q. Did Mr. Rippe tell you how he had made
15 the purchase; that was, whether he paid cash or used
16 a credit card?

17 A. He said he had used a credit card.

18 Q. Did he tell you what credit card he
19 used?

20 A. No.

21 Q. What happened when the two of you got to
22 the Meadows Mall?

23 A. We went to a shop in the mall that sold
24 glasses, sunglasses and glasses.

1 Q. Do you remember the name of the shop?

2 A. The Sunglass Factory, or something like
3 that. I don't remember.

4 Q. How did it happen that the two of you
5 went there?

6 A. He just said, come on, we're going
7 somewhere.

8 Q. Had you discussed beforehand --

9 A. No.

10 Q. -- that you wanted to buy some
11 sunglasses?

12 A. No.

13 Q. Did both of you go into The Sunglass
14 Factory or store?

15 A. Yes.

16 Q. How long did you stay there?

17 A. About 20 minutes.

18 Q. Were purchases made?

19 A. Yes.

20 Q. What did you buy there?

21 A. Two pairs of sunglasses.

22 Q. One for each of you?

23 A. Yes.

24 Q. Do you remember what brand the

1 sunglasses were?

2 A. They were Oakley's.

3 Q. Both of them?

4 A. Yes.

5 Q. Did you buy them?

6 A. No.

7 Q. Did you have the money to buy them?

8 A. No.

9 Q. Who did buy the sunglasses?

10 A. Mr. Rippe.

11 Q. Do you know whether he paid cash or used
12 a credit card?

13 A. He used a credit card.

14 Q. Did you know what credit card it was?

15 A. Not then, no.

16 Q. Could you tell what type of credit card
17 it was?

18 A. It was a gold VISA card.

19 Q. During the transaction did you realize
20 what name was on the gold VISA credit card?

21 A. No.

22 Q. Who signed the credit card slip?

23 A. Mr. Rippe.

24 Q. You saw him do that?

1 A. Yes.

2 Q. Did you go to any other stores at the
3 Meadows Mall?

4 A. No.

5 Q. Just to the sunglass place?

6 A. Yes.

7 Q. What happened after your visit to the
8 Meadows Mall?

9 A. I left and we went back to Deidre's
10 house, and Mike was upstairs doing something, and I
11 got in his wallet.

12 Q. Why did you get in his wallet?

13 A. Because I was going to take money or
14 something to get away from him.

15 Q. Why did you want to get away from him?

16 A. Because I was scared of him.

17 Q. Up to this point had your fear of
18 Mr. Rippo translated into any effort to contact law
19 enforcement?

20 A. That day I talked to Deidre about
21 getting ahold of someone.

22 Q. As a result of the conversation with
23 Deidre D'Amore, did you have a name?

24 A. She told me Kyle Edwards.

1 Q. Except, however, for the conversation
2 with her, had you contacted anyone in law
3 enforcement up to this point?

4 A. Not at that point.

5 Q. Hadn't called 911?

6 A. Not yet.

7 Q. What were you waiting for?

8 A. I was scared to call anyone.

9 Q. Why were you scared?

10 A. Because he told me if I told anyone,
11 that he would kill Deidre and her daughter too. She
12 had a little girl living there with her.

13 Q. He meaning Mike Rippo, the defendant?

14 A. Yes.

15 Q. Did you take him seriously?

16 A. Yes.

17 Q. So you've indicated that you went into
18 his wallet while he was upstairs?

19 A. Yes.

20 Q. What were you looking for?

21 A. Money. Something.

22 Q. Did you find any money?

23 A. No.

24 Q. Did you find -- you took --

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- 1 A. I took a credit card.
- 2 Q. Describe the credit card you took.
- 3 A. It was a gold VISA.
- 4 Q. Did you notice the name of the gold
- 5 VISA?
- 6 A. I did.
- 7 Q. At that time you did?
- 8 A. I don't know if it was then or later on,
- 9 but I noticed that it wasn't his name.
- 10 Q. It wasn't Mike Rippe's name?
- 11 A. Yes.
- 12 Q. What was the name?
- 13 A. Denny Mason.
- 14 Q. M-a-s-o-n?
- 15 A. Yes.
- 16 Q. Did you know who Denny Mason was?
- 17 A. No.
- 18 Q. Did you have any idea who this Denny
- 19 Mason person was?
- 20 A. No.
- 21 Q. Did you associate Denny Mason to either
- 22 Denise Lizzi or Lauri Jacobson?
- 23 A. No.
- 24 Q. But you took the credit card?

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1 A. Yes.

2 Q. What happened then?

3 A. I went back to TC's house, Tommy
4 Christos.

5 Q. Why did you go back there?

6 A. Because he was supposed to have the
7 paperwork for the car.

8 Q. Did you make contact with Tom Christos?

9 A. Yes, I did.

10 Q. Did you have a conversation with him?

11 A. Yes.

12 Q. Did you get the paperwork?

13 A. No. He didn't have it ready.

14 Q. What happened?

15 A. His girlfriend, Teresa, was there, and
16 it was her birthday, and she wanted to go somewhere,
17 and he didn't want her to leave. And she was
18 dressed up, all ready to go. And she asked me to
19 take her. He told me to go get the car, the maroon
20 car. So she asked to come with me.

21 Q. Who told you to go get the maroon car?

22 A. Tommy Christos.

23 Q. So I gather if he asked you to do that,
24 that you weren't driving the maroon Nissan at that

1 time?

2 A. No. I was driving my car.

3 Q. Did you and Teresa -- did you explain to
4 us her last name?

5 A. I don't even remember her last name.

6 Q. Did you and Teresa go somewhere
7 together?

8 A. Yes. She came with me to get the other
9 car.

10 Q. Where did you go to get the other car?

11 A. In the apartment complex behind Deidre's
12 house. That's where the car was parked.

13 Q. Was it covered or uncovered?

14 A. It was covered.

15 Q. Who covered it?

16 A. I did.

17 Q. What did you put over it?

18 A. A car cover.

19 Q. Why did you cover it up?

20 A. Because it was a stolen car.

21 Q. Do you remember what car you drove with
22 Teresa to the location where the maroon Nissan had
23 been stored?

24 A. My Dodge Colt.

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1 Q. Did you leave the Dodge Colt at that
2 location?

3 A. Yes.

4 Q. What happened?

5 A. I left my car there and we got into the
6 Nissan and went back. We were heading back to TC's
7 house.

8 Q. TC is Tom Christos?

9 A. Yes.

10 Q. You say you were heading back. Did you
11 get back to his place?

12 A. No. On the way back Teresa started
13 crying, and she was begging me, please don't take me
14 back, that -- she was saying that he had been
15 beating her and he wouldn't let her leave the house,
16 and it was her birthday and she just didn't want to
17 go back.

18 Q. As a result of that did you take her
19 somewhere?

20 A. Yes.

21 Q. Where did you go?

22 A. I took her to the Marker Downs.

23 Q. What is the Marker Downs?

24 A. It's a bar that was right behind Tom

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1 Sims' shop.

2 Q. Did you spend some time there?

3 A. Yeah.

4 Q. Did you also go to a shopping mall?

5 A. Yes.

6 Q. When was that, before or after you went
7 to the Marker Downs?

8 A. I think it was before. I'm not sure.

9 Q. Why did you go with Teresa to a shopping
10 mall?

11 A. Because Mike found out -- Mr. Rippe
12 found out I had the credit card, and he was calling
13 around trying to take -- tell me to give it back.

14 So I told him I'd meet him at the
15 shopping mall to give him back the card and he had
16 to bring me some money.

17 Q. Where exactly were you when you had the
18 conversation with Mr. Rippe about returning the car?

19 A. I had his beeper at the time.

20 Q. So he called you on the beeper?

21 A. I called him. He beeped me.

22 Q. He beeped you. As a result of that did
23 you call him?

24 A. Yes.

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1 Q. Where did you call?

2 A. I called him from the mall, and I told
3 him to meet me there.

4 Q. You called to Deidre D'Amore's place?

5 A. I don't remember where I called.

6 Q. Did he give you a number to call?

7 A. Yeah, there was a number.

8 Q. Did you have a conversation with him?

9 A. Yes.

10 Q. What did you talk about?

11 A. He was mad. He wanted the credit card
12 back.

13 Q. And --

14 A. And he said I shouldn't have taken it
15 and it was his and he wanted it back.

16 Q. Did he share with you at that time how
17 he happened to have a credit card under the name
18 Denny Mason?

19 A. No.

20 Q. Did you agree that he could have it
21 back?

22 A. Yes. I said he could have it back if he
23 brought me some money.

24 Q. What mall were you calling from?

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1 A. The Meadows.

2 Q. So you're once more at the Meadows Mall?

3 A. Yes.

4 Q. This is still February 19?

5 A. Yes.

6 Q. Did you ever meet up with the defendant

7 at the Meadows Mall that day?

8 A. No. We waited until the mall closed.

9 Q. We is yourself and Teresa?

10 A. Yes.

11 Q. Did you use the credit card while you

12 were at the Meadows Mall?

13 A. Yes, I did.

14 Q. What did you use it to buy?

15 A. I bought Teresa a birthday present.

16 Q. What did you buy her?

17 A. Cologne. Obsession.

18 Q. Did you thereafter go somewhere else

19 with Teresa?

20 A. To the bar.

21 Q. The Marker Downs?

22 A. Yes.

23 Q. How long had you stayed there?

24 A. Long enough for her to get drunk.

1 Q. Did you go somewhere else?

2 A. Yes. I took her to another bar, Club
3 Rock, and I called TC from there.

4 Q. What did you tell TC?

5 A. I said I needed to bring her home, that
6 she was drunk, and I couldn't be driving that car
7 around, and that I had to bring her home.

8 Q. Did he want her home?

9 A. No. He was very mad, mad at me for
10 having her with me, and he said he didn't want her
11 back and not to bring her back there, and he was
12 mad.

13 Q. As a result of that conversation did you
14 make an effort to find a place to stay that night?

15 A. Yes, I did.

16 Q. What did you do?

17 A. I went from motel to motel until I found
18 a place that had a room that would take a credit
19 card, and I got us a room.

20 Q. Where did you get the two of you --

21 A. At the Gold Coast.

22 Q. Was it just the two of you?

23 A. No. There was some people we picked up
24 at this bar and took back with us.

- 1 Q. Which bar?
- 2 A. Club Rock.
- 3 Q. How many people did you pick up?
- 4 A. Two.
- 5 Q. Who were these two people?
- 6 A. Two guys that were playing there in the
- 7 band.
- 8 Q. In the band at Club Rock?
- 9 A. Yes.
- 10 Q. Where was it you stayed that night?
- 11 A. At the Gold Coast.
- 12 Q. Did you use the credit card in the name
- 13 Denny Mason at the Gold Coast?
- 14 A. Yes.
- 15 Q. Do you remember now what time it was,
- 16 approximately, when you checked into the Gold Coast?
- 17 A. I don't remember.
- 18 Q. Was it sometime the night of February
- 19 19, 1992?
- 20 A. It was in the late afternoon, I think,
- 21 more, or the evening. I can't remember.
- 22 Q. Did you continue to have the maroon
- 23 Nissan --
- 24 A. Yes.

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1 Q. -- that evening?

2 A. Yes.

3 Q. While you were with Teresa, did you ever
4 go anywhere to get some spray paint?

5 A. Yes.

6 Q. Was that also on February 19?

7 A. I can't remember.

8 Q. Where did you go to get spray paint?

9 A. To my friends' house, Jason and Rick.

10 Q. Do you remember their last names?

11 A. No, not now.

12 Q. Why did you go to their place to get
13 some paint?

14 A. Because they worked on cars and I
15 thought they would probably have some.

16 Q. What did you want to use the paint for?

17 A. I wanted to spray it on the car because
18 I was driving a car around -- I was stuck driving
19 the car, and the car was stolen, and I wanted to
20 change the appearance.

21 Q. But were you able to obtain some paint
22 from Jason and Rick?

23 A. Yes. Some primer.

24 Q. What did you do with the primer paint?

1 A. I sprayed on it the front fender of the
2 car.

3 Q. Do you remember where you were when you
4 did that?

5 A. At their house.

6 Q. But I gather from your testimony you
7 don't remember if this was on the 19th or after
8 that?

9 A. Right.

10 Q. Did there come a time when you learned
11 that the crime at the Katie Arms apartment complex
12 had been discovered?

13 A. Yes.

14 Q. How did that come to your attention?

15 A. I was back at the same place, Rick and
16 Jason's, and it came on the news.

17 Q. What was your reaction to the news of
18 what had occurred?

19 A. I knew, I knew for sure then with no
20 doubt that they were dead and that that's whose car
21 I had.

22 Q. Did you continue to drive the car?

23 A. No. I drove it to where I left it.

24 Q. Where did you leave it?

1 A. I left it at the Albertson's on Rainbow.
2 I left it out toward the street because I thought
3 that the police would see it.

4 Q. Did you make any effort immediately
5 after you learned that for sure these two young
6 women had been killed to get in touch with the
7 police?

8 A. When I talked to Deidre next I did.

9 Q. What were your efforts to contact the
10 police?

11 A. I asked Deidre to help me get in touch
12 with somebody and --

13 MR. WOLFSON: I'm going to object;
14 anticipating hearsay.

15 THE COURT: Sustained.

16 BY MR. HARMON:

17 Q. Is this the same conversation you've
18 already referred to?

19 A. No. This was a different one.

20 Q. This is a second time you asked?

21 A. Yes.

22 Q. As a result of the conversation did you
23 get the name of someone?

24 A. Yes.

1 Q. What was the name?

2 A. Kyle Edwards.

3 Q. So you're saying this is the second time
4 you got the name Kyle Edwards?

5 A. Yes.

6 Q. Did you try to reach a Kyle Edwards at
7 the police department?

8 A. Through Deidre I did.

9 Q. What do you mean through Deidre?

10 A. She said she had already spoken --

11 MR. WOLFSON: Objection; hearsay.

12 THE COURT: Sustained.

13 MR. WOLFSON: Move to strike.

14 THE COURT: It will be stricken.

15 MR. WOLFSON: Ask the witness to be
16 cautioned to not relate what other people say.

17 THE COURT: You can't say what someone
18 else told you. You can only state from your
19 personal observation.

20 BY MR. HARMON:

21 Q. You don't have any legal training, do
22 you, Miss Hunt?

23 A. No.

24 Q. You didn't go to law school?

1 A. No.

2 Q. What is the extent of your formal
3 education?

4 A. I graduated high school and I'm in
5 college.

6 Q. You say you graduated high school, did
7 you say, and college?

8 A. I'm in college.

9 Q. That you're in college.

10 Are you schooled in the rules of
11 evidence in courts of law?

12 A. No.

13 Q. Did you ever attempt on your own to get
14 in touch with anyone at the police department?

15 A. That one time I did.

16 Q. What were your efforts?

17 A. I called them on the phone.

18 Q. Do you remember where you were when you
19 placed the call?

20 A. At Deidre's apartment.

21 MR. DUNLEAVY: Could we specify who them
22 is; Highway Patrol --

23 THE COURT: Who did you call on the
24 phone?

1 THE WITNESS: I called the homicide.
2 BY MR. HARMON:
3 Q. Where were you when you placed the call?
4 A. At Deidre's apartment.
5 Q. By yourself?
6 A. Yes.
7 Q. You've just indicated in response to the
8 Court that you called someone in homicide?
9 A. Yes.
10 Q. Were you able to talk to anyone?
11 MR. WOLFSON: Objection. I would just
12 like a little better foundation as to when this
13 occurred.
14 THE COURT: Lay a better foundation.
15 BY MR. HARMON:
16 Q. Do you remember approximately when this
17 call was?
18 A. The day I saw it on the news, the 20th.
19 Q. February 20, 1992?
20 A. Yes.
21 Q. Do you remember about what time of the
22 day or night it was --
23 A. No.
24 Q. -- that you made the call?

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1 A. When I called him it was after that. It
2 was on -- the first time I called him directly was,
3 I think, the 29th.

4 Q. Well, that's what you were asked about.
5 When is it that you first learned
6 that the two young women had for sure been killed?

7 A. When I saw it on the news.

8 Q. Do you know what date that was?

9 A. The 20th.

10 Q. But you're indicating it was more like
11 February 29 of when you actually --

12 A. When I actually spoke to that man on the
13 phone it was the 29th.

14 Q. You did speak with someone on the
15 telephone --

16 A. Yes.

17 Q. -- at the police department?

18 A. Yes.

19 Q. Did you have a number that you had
20 called?

21 A. Yes.

22 Q. Where did you get the number?

23 A. From Deidre.

24 Q. When you called the number did you ask

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1 for a particular person?

2 A. Yes.

3 Q. Did you speak with someone?

4 A. Yes.

5 Q. Without going into the conversation, did
6 that person identify himself or herself?

7 A. Yes.

8 Q. By what name?

9 A. Kyle Edwards.

10 Q. Previously, on that day, had you had
11 contact with the defendant, Mike Rippe --

12 A. Yes.

13 Q. -- on February 29 --

14 A. Yes.

15 Q. -- 1992?

16 How did you happen to have
17 contact with Mr. Rippe on that day?

18 A. He was trying to get into the apartment
19 where I was, Deidre's.

20 Q. Was it while that was happening that you
21 attempted to reach Kyle Edwards of the police
22 department?

23 A. Yes.

24 Q. What did you say to Mr. Edwards?

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1 A. I told him that he was at the door, that
2 he was trying to get in the door.

3 Q. About how long were you on the
4 telephone?

5 A. About five minutes.

6 Q. After the telephone conversation did you
7 go anywhere with Mr. Ripppo?

8 A. After he came in the house, and he left
9 that day, and I came back later. I called the house
10 first and Deidre was home and I asked her, is Mike
11 there? And she said, no.

12 And I said, are you sure? And
13 she said, yes. And I came to get the rest of my
14 stuff, and when I got there he was there, and he was
15 waiting in the house.

16 Q. About what time was this?

17 A. In the afternoon.

18 MR. DUNLEAVY: I'm sorry, your Honor.
19 I'm confused. I thought he came over in the evening
20 to get in and she called Kyle Edwards. I guess I'm
21 confused as to timing.

22 BY MR. HARMON:

23 Q. Can you clarify the timing; you're
24 saying that he was coming into Deidre's place and

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1 you called Kyle Edwards?

2 A. Yes.

3 Q. You said that you then left?

4 A. I left Deidre's house the day that he
5 ended up with me. I came back over there and he was
6 waiting there for me.

7 Q. But was that the same day or a different
8 day?

9 A. I'm not sure. It might have been the
10 next day. I know it was February 29 when I went
11 back over there, and he was waiting there for me,
12 and I got in my car to leave, and he got in my car
13 also.

14 Q. Do you have some difficulty after almost
15 four years in remembering specific dates?

16 A. Yes. Yes, I do.

17 Q. But you're saying that there was an
18 occasion when Mr. Rippo got into your car with you?

19 A. Yes.

20 Q. What car were you driving at that time?

21 A. The Dodge Colt, my car.

22 Q. Did you want him to get into the car
23 with you?

24 A. No.

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1 Q. Now, is this after you had the
2 conversation with Kyle Edwards?

3 A. Yes.

4 Q. What happened after Mr. Ripppo got into
5 your Dodge with you?

6 A. He wouldn't get out. He kept asking,
7 telling me to come with him, and telling me not to
8 leave, and he wouldn't get out of my car.

9 Q. Were you driving at that time or was the
10 car parked?

11 A. I was still in the parking lot at that
12 time.

13 Q. Still in which parking lot?

14 A. In Deidra's.

15 Q. Did you at that point have any intention
16 of continuing the relationship with Mr. Ripppo?

17 A. No.

18 Q. You said he was telling you not to
19 leave?

20 A. Yes.

21 Q. Why was he telling you not to leave?

22 A. I think he was actually -- when I was in
23 the house he wanted me to come upstairs with him,
24 and I wouldn't, because there was no reason to go

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1 upstairs, and I was afraid if I went upstairs with
2 him I'd never come back down.

3 So I ran out of the house and got
4 into my car, and he followed me and got into my car
5 also, and he was saying, don't leave, don't go
6 anywhere.

7 Q. Did Mr. Rippo ever tell you what would
8 happen if you left?

9 A. Yes. That was later on that day though.

10 Q. Did you end up driving somewhere with
11 him in the car?

12 A. Yeah. I took off driving. He wouldn't
13 get out of the car so I started driving to my friend
14 Doug's house.

15 Q. What is Doug's last name?

16 A. Starts with a Z. Ziltz, I think. I
17 can't remember, even remember.

18 Q. Do you know how it's spelled?

19 A. Z-i-l-t-z.

20 Q. First name was Doug?

21 A. Yes.

22 Q. While you were driving in the direction
23 of Doug's place did the conversation continue with
24 Mr. Rippo?

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1 A. Yes.

2 Q. What do you remember about the
3 conversation?

4 A. He told me -- he started out saying that
5 he wanted to kill every -- quite a lot of people, me
6 included. And he said -- he started talking about
7 what he would do to me if I left. And he started
8 explaining what he did to the girls in the
9 apartment.

10 Q. What did he tell you he would do to you
11 if you left?

12 A. He told me that he would do the same
13 thing to me that he did to them. And he also told
14 me, I'll hang you in the legal system, when I
15 suggested we go talk to the police.

16 Q. Did you suggest that the two of you go
17 to the police?

18 A. Yeah.

19 Q. Did Mr. Ripppo agree to that?

20 A. No.

21 Q. You mentioned earlier in your testimony
22 that on the day this happened, Tuesday, February 18,
23 that when you drove off you left him standing in the
24 parking lot of the Katie Arms?

1 A. Yes.

2 Q. On this day when you were riding with
3 him, which you've indicated you believe to be
4 February 29, did Mr. Rippo tell you whether he ever
5 went back into the apartment?

6 A. He said he did.

7 Q. He told you that on that occasion?

8 A. He said he had gone back.

9 Q. Did he tell you when he went back?

10 A. He just said, I went back that evening.
11 That same day. I took it it was the same day.

12 Q. Did he tell you what happened when he
13 went back?

14 A. He said he went back and he had cut
15 their throats and that he had jumped up and down on
16 them. And he was just saying all kinds of things
17 that he had done.

18 Q. Did you have any way of knowing whether
19 this was accurate information that he was giving?

20 A. No.

21 Q. Did it scare you?

22 A. I believed him.

23 Q. Did you ever have any conversation with
24 Mr. Rippo about who it was he had called from Lauri

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1 Jacobson's apartment?

2 A. Yes. That's when he told me.

3 Q. That same day while you were in the
4 Dodge?

5 A. Yeah.

6 Q. Did you ask him about it?

7 A. Yes. I asked him, how did you know the
8 phone was going to ring? And I was asking him all
9 kinds of questions.

10 Q. What did Mr. Rippo say to you?

11 A. He said he had called Alice, his friend
12 Alice, and told her to call back.

13 Q. Did he tell you why he called Alice?

14 A. I guess because he trusted her.

15 Q. Did he tell you why he wanted someone,
16 whether it was Alice or another person, to call the
17 apartment at that time?

18 A. To occupy Lauri.

19 Q. Lauri Jacobson?

20 A. Yes.

21 Q. To occupy her what, why?

22 A. So he could rob Denise.

23 Q. Did Mr. Rippo tell you whether he
24 explained any of that to his friend Alice?

1 A. He didn't tell me.

2 Q. You mentioned that that day you had gone
3 back over to Deidre's place to collect all of your
4 belongings?

5 A. Yes.

6 Q. Had you picked up your belongings?

7 A. Yes. They were all in my car.

8 Q. At some point did you jump out of your
9 car?

10 A. Yes. My car -- he was driving -- we
11 were driving and the car ran out of gas and on
12 Sahara, and he was still telling me not to leave,
13 not to get out of the car, and I just jumped out of
14 the car and started running down the road, waving my
15 arms.

16 Q. Did you attempt to take anything with
17 you from the car?

18 A. No. I just jumped out.

19 Q. Where did you go?

20 A. I ran down the road and flagged down the
21 first car that came by. And then I went to the gas
22 station that was up the road and I called my friend
23 Doug.

24 Q. Did you talk with him?

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1 A. Yeah. He said he would come get me.

2 Q. Did he?

3 A. Yeah.

4 Q. When you say that you had all of your
5 belongings in your Dodge, will you describe for us
6 the types of things that you had?

7 A. I had clothes and all my personal stuff.

8 Q. Did you have any type of luggage or
9 carrying bags?

10 A. Yes. I had a brown bag that had all my
11 pictures in it and some hygiene items, and I had
12 some other bags with clothes and stuff like that.

13 Q. Do you know what happened to Mr. Rippo
14 and to your Dodge car after you jumped out and left?

15 A. Well, I know that when me and Doug came
16 back to see if he was still there he was gone and
17 some of my stuff was gone out of my car. The door
18 was still open.

19 Q. Was the car still stopped there on
20 Sahara at the same place where it had run out of
21 gas?

22 A. Yes.

23 Q. What was missing from the car?

24 A. My bag with all my pictures in it and --

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1 MR. HARMON: May I have the Court's
2 indulgence?

3 THE COURT: You may.

4 Maybe we should take a short
5 recess.

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

14
15 (After a recess the following
16 proceedings were had in open court
17 in the presence and hearing of the
18 jury.)

19
20 Counsel stipulate to the presence
21 of the jury?

22 MR. SEATON: Yes, your Honor.

23 MR. DUNLEAVY: Yes, your Honor.

24 THE COURT: You may continue with your

1 direct examination.

2 MR. HARMON: Thank you.

3 Judge, may I approach the
4 witness?

5 THE COURT: You may.

6 MR. DUNLEAVY: Your Honor, before he
7 asks to open that, we do have an objection to that
8 piece of evidence.

9 Examining it, it appears that the
10 evidence tape has actually been cut and resealed
11 with regular scotch tape.

12 I would also submit that there is
13 no chain as to where this came from or how it got
14 here, and I think that needs to be laid before they
15 start handing the evidence to the witness.

16 MR. HARMON: Not necessarily, your
17 Honor.

18 What we'd like to do is just to
19 show her the bag. She is not going to recognize the
20 bag, but we simply want the record to show, and I'll
21 ask her this, if the bag in is intact, it's in a
22 sealed condition.

23 Counsel can make whatever record
24 he wants to describe the seals, but we're entitled

1 then once the record shows that it's in tact to have
2 her look at the contents, and that's what we want to
3 have her do, to find out if she recognizes the
4 contents.

5 It appears it's going to be a
6 brown bag, and we want her then to look at what's
7 inside the bag. It's just certainly more
8 expeditious to do that now than to call her back
9 after we put the impounding officer on.

10 That person will be called as a
11 witness. That person can explain how he or she
12 acquired the bag, but this is simply for the purpose
13 of identification now, Judge.

14 MR. DUNLEAVY: Your Honor, they're
15 getting the cart before the horse; particularly,
16 since this is the kind of item that's normally kept
17 in an evidence locker. It's evidence, obviously.

18 There is no foundation how it got
19 out, and the seals, the Court can take a look, have
20 scotch tape on them instead of the regular evidence
21 tape.

22 THE COURT: I will reserve ruling on the
23 admissibility of the evidence until proper
24 foundation is laid.

1 MR. DUNLEAVY: We're objecting to them
2 having a witness testify to what's in there when
3 they haven't laid a foundation to show it's
4 admissible.

5 MR. HARMON: And we're representing,
6 Judge, that the impounding officer is going to be
7 called as a witness. She is Debbie McCracken of the
8 crime lab of the police department.

9 THE COURT: All right. Your objection's
10 overruled.

11 MR. HARMON: Thank you.

12 BY MR. HARMON:

13 Q. Miss Hunt, I'm showing you a large
14 evidence bag. It's been marked by the clerk as
15 Proposed Exhibit No. 92.

16 Now, all that we want you to do
17 will be to examine the bag, have you look at the
18 bottom -- the sides, I'm sorry.

19 THE COURT: There are brackets
20 underneath that. Push up on that. Brackets
21 underneath.

22 MR. HARMON: You need to push over there
23 too. Thank you.

24

1 BY MR. HARMON:

2 Q. -- to tell us if the bag does appear to
3 be sealed at this time?

4 A. Yes, it appears to be sealed. Yeah.

5 Q. What we want you to do now, using the
6 scissors I'm handing you, will be to cut open the
7 bag.

8 Perhaps, you can just cut right
9 across at the top.

10 MR. DUNLEAVY: Your Honor, we'd ask she
11 cut somewhere where there are no seals.

12 THE COURT: Maybe on the side up above.

13 THE WITNESS: Right here?

14 MR. DUNLEAVY: Turn the bag around. I
15 believe the other side has no tape on it.

16 MR. HARMON: May want to cut vertically
17 as well.

18 And now down at the end.

19 Thank you. Will you now remove
20 the contents.

21 BY MR. HARMON:

22 Q. For the record, Miss Hunt, what have you
23 just removed from Proposed Exhibit 92, the evidence
24 bag?

1 A. A bag. A brown bag.

2 Q. Do you recognize the brown bag?

3 A. Yes.

4 Q. Whose brown bag is it?

5 A. Mine.

6 Q. How do you recognize it?

7 A. Because it's my bag. I remember this
8 bag.

9 MR. HARMON: Your Honor, may we have the
10 bag marked as Proposed 92-A?

11 THE COURT: You may.

12 MR. DUNLEAVY: Your Honor, I'd ask to
13 have her state what is there about this bag that's
14 unique that she can identify.

15 MR. HARMON: Is he asking to take her on
16 voir dire --

17 THE COURT: Do you want to take her on
18 voir dire?

19 MR. HARMON: -- or is he wanting me to
20 ask his questions for him?

21 MR. DUNLEAVY: I just was asking for
22 foundation. If you want me to do it, I'll be glad
23 to do it.

24 MR. HARMON: We're going to go into the

1 contents of the bag. It would certainly assist her
2 in determining whose bag it is.

3 MR. DUNLEAVY: Your Honor, maybe the
4 contents are letters, maybe not. The question right
5 now is is it her bag.

6 MR. HARMON: And she said it was.

7 MR. DUNLEAVY: And I'm saying there was
8 an inadequate foundation.

9 THE COURT: Mr. Dunleavy wants to take
10 her on voir dire regarding the bag.

11 MR. HARMON: That's fine.

12

13 VOIR DIRE EXAMINATION

14 BY MR. DUNLEAVY:

15 Q. You took a quick look at this bag.

16 Is there anything about the
17 outside of this bag that says it's yours as opposed
18 to any other bag like this?

19 A. No.

20 Q. Do you have any idea how many of these
21 bags were made?

22 A. No.

23 Q. You don't have your name on it or your
24 initials or anything like that?

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1 A. No.

2 Q. So the best you could say is this is a
3 bag similar to the one you have?

4 A. Exactly similar to the one I had.

5 Q. A brown basically plastic shoulder bag?

6 A. Yes.

7 MR. DUNLEAVY: I just want to lay a
8 foundation. All she's doing is saying whatever the
9 DA wants her to say. We don't know if that's her
10 bag or not.

11 MR. HARMON: That is not necessarily
12 true.

13 THE COURT: She said what she wanted to
14 say, not what the DA wanted her to say.

15
16 DIRECT EXAMINATION

17 (Continued)

18 BY MR. HARMON:

19 Q. Miss Hunt, you previously mentioned that
20 on February 29 your car stalled on Sahara?

21 A. Yes.

22 Q. That you were with Mr. Rippe and you
23 said you jumped out?

24 A. Yes.

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1 Q. That you had referred to a brown bag
2 that was in the car.

3 Where in the car was the bag?

4 A. Right behind the driver's seat in the
5 back seat on the floor.

6 Q. As you look at Proposed Exhibit 92-A,
7 does it look like the brown bag you left behind in
8 the car?

9 A. Yes.

10 Q. Now, you mentioned sometime later you
11 and your friend Doug returned to the location where
12 the car had run out of gas?

13 A. Yes.

14 Q. But you've already told us a bag was
15 missing. What bag was missing?

16 A. This bag.

17 Q. A bag identical to this bag?

18 A. Yes.

19 Q. Will you look inside the bag now,
20 Proposed Exhibit 92-A.

21 Do you observe various contents
22 inside the bag?

23 A. Yes.

24 Q. Do you recognize any of the contents of

1 the bag?

2 A. Not this stuff on top I don't.

3 Q. Will you remove --

4 MR. WOLFSON: I can't hear the witness,
5 Mr. Harmon. Could you please ask the witness to
6 speak up?

7 THE COURT: Speak up.

8 THE WITNESS: I don't recognize this,
9 all this stuff on the top, no.

10 BY MR. HARMON:

11 Q. Will you remove the contents of the bag,
12 please, and simply for the record describe each item
13 as you remove it.

14 A. A tape cassette.

15 MR. DUNLEAVY: Your Honor, could we have
16 her identify as to what kind and by name and so
17 forth?

18 THE WITNESS: Black Sabbath tape
19 cassette with tape in it.

20 A blue address book.

21 MR. HARMON: That's fine.

22 THE WITNESS: I don't know about this.
23 I don't remember.

24

1 BY MR. HARMON:

2 Q. And, perhaps, as you go through these
3 items that we could have you -- you indicated you
4 didn't recognize any of the items at the top?

5 A. Right.

6 Q. Will you put to the right any items you
7 don't recognize?

8 A. Okay.

9 Q. And if you come across anything in
10 Proposed Exhibit 92-A that you do recognize, will
11 you put that in a separate pile to your left?

12 A. Okay.

13 This is a compact mirror.

14 Q. You recognize that or don't recognize
15 that?

16 A. I don't recognize it. This is a --
17 something.

18 Q. Just describe its physical appearance.

19 A. It's like a garage door opener, or an
20 alarm or something. A black -- it's black.

21 A purple thing. I don't know.

22 Purple. I don't know what it is. A purple thing.

23 Q. Some type of purple bag or purse?

24 A. Something you put something in.

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1 A tape cassette, Guns & Roses. A
2 black address book. Another tape cassette that says
3 Guns & Roses.

4 MR. DUNLEAVY: That one's in a --

5 THE WITNESS: It's in a -- just a
6 regular tape thing. The tape says Metal Church.

7 A plan -- a day planner. A black
8 and gray wallet. A small black purse thing. A
9 change purse or something.

10 A Norelco case, black case.
11 Two -- a package of correction fluid with two things
12 in it, two vials.

13 A package of razor blades. A
14 black key holder thing. A leather -- this is mine.
15 This is a --

16 MR. HARMON: You need to keep your voice
17 up.

18 THE WITNESS: This is an organizer.

19 BY MR. HARMON:

20 Q. So you recognize --

21 A. That's mine, yeah.

22 Q. -- that?

23 A. This is an opener of some kind. It's
24 yellow. It says Alliance on it.

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1 These are -- this is my sister.
2 These are pictures of mine.

3 MR. DUNLEAVY: How many of them?

4 THE WITNESS: There is three right
5 there.

6 MR. DUNLEAVY: Are those Polaroid?

7 THE WITNESS: Yes.

8 This is a notebook, a small
9 notebook.

10 BY MR. HARMON:

11 Q. What color is it?

12 A. Blue.

13 A bottle of baby oil, which I
14 don't really remember in that if that was mine or
15 not.

16 And hair spray. Deodorant.

17 This is a letter to my brother.

18 That's mine.

19 Q. That's written on pink paper?

20 A. Yes.

21 This is my sister's. My sister's
22 social security card -- thing.

23 MR. DUNLEAVY: Is that Xerox copy?

24 THE WITNESS: Yes. And her license.

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1 These are pictures of mine.

2 Do you want to know how many
3 there are or what?

4 MR. HARMON: Don't try to count them
5 all, but go as quickly as you can through them so we
6 can determine if you recognize all of these as your
7 pictures.

8 THE WITNESS: Yes, they're all mine.

9 There is an envelope from the
10 Gold Coast. There is two postcards. Also from the
11 Gold Coast.

12 A notebook. A note pad from the
13 Gold Coast. There is pens. Three pens. A tire
14 gauge checker thing. A razor. A toothbrush. Two
15 more razors. Two Gold Coast matchbooks. Another
16 razor.

17 There is a paper that says,
18 Chuck, and it has a phone number.

19 BY MR. HARMON:

20 Q. Is that yours?

21 A. I don't recognize it, no.

22 Q. Put that to the right then.

23 A. Makeup remover.

24 Do you want me to dump that out

1 or what?

2 Q. Just describe for us generally are there
3 still some loose contents in 92-A?

4 A. Yeah.

5 MR. DUNLEAVY: Your Honor, I would
6 object to just describe loosely. If the State wants
7 to move it into evidence, we want on the record what
8 it is.

9 THE WITNESS: Here's an earring that I
10 don't recognize. I don't remember. And there is --

11 MR. HARMON: If I'm -- I didn't mean,
12 counsel, she wasn't to describe them. I'm not sure
13 that she has to remove --

14 THE WITNESS: There is caps and like a
15 Q-tip and some plastic razor covers. And two more
16 razor covers. And that's it.

17 BY MR. HARMON:

18 Q. Now, Miss Hunt, of the items that you
19 have removed from Proposed Exhibit 92-A, have you
20 attempted to segregate them; have you put on the
21 left the things that you either recognize or with
22 the knowledge very probably are yours?

23 A. Yes.

24 Q. And what about the things on the right?

1 A. Those are not mine.

2 Q. What about these last items?

3 A. They were probably mine on the bottom of
4 the bag.

5 Q. Probably yours that you had in the bag.
6 So may we move those over to this pile?

7 As you look at the things to your
8 right, is there anything there that you recognize as
9 belonging to you or your friends or members of your
10 family?

11 A. No.

12 Q. When you jumped out of the car on
13 February 29, 1992, on Sahara Avenue, were the items
14 which are to your right on the witness stand inside
15 the bag?

16 A. No.

17 Q. Are you sure of that?

18 A. I'm positive.

19 Q. Do you have any idea how these items got
20 inside the bag?

21 A. No.

22 MR. HARMON: Your Honor, with the
23 Court's permission, what we'd like to do is to have
24 each of the items that the witness is indicating are

1 not hers marked as 92-A-1 through whatever.

2 THE COURT: You may do so.

3 MR. HARMON: May we do that?

4 MR. DUNLEAVY: Every item should be
5 marked so we can keep track and examine her on these
6 issues.

7 THE COURT: You want every item marked
8 separately?

9 MR. DUNLEAVY: If the State wants only a
10 certain group marked, your Honor. Everything should
11 be marked or --

12 THE COURT: All the things that she
13 indicated are not hers are 92-A what?

14 MR. HARMON: They can just be contents
15 inside the bag.

16 THE COURT: They can all be kept
17 together in a bag or something.

18 MR. DUNLEAVY: Can we have an
19 opportunity to look at the photos?

20 THE COURT: Sure.

21 MR. HARMON: Perhaps, your Honor, we
22 could have the items that she recognizes marked
23 collectively as 92-A-2. Would that be satisfactory?

24 THE COURT: That would be fine with me.

1 There is no objection?

2 MR. WOLFSON: I'm sorry, I didn't hear
3 what Mr. Harmon said.

4 THE COURT: All the items that she
5 recognizes as hers will be marked as 92-A-2.

6 MR. WOLFSON: A-2, okay.

7 A-1 are those that she didn't,
8 and A-2 are those that she did.

9 MR. HARMON: 92-A-1 through whatever.

10 THE COURT: Maybe we could get a bag and
11 put all of them inside.

12 Why don't you put -- do that, put
13 all A-1 that she didn't recognize back in the
14 evidence bag. Put all the things that she
15 recognizes to be hers back in the brown bag.

16 MR. HARMON: We would prefer, your
17 Honor --

18 THE COURT: Unless you want to get
19 separate bags.

20 MR. HARMON: -- that we have the items
21 she does not recognize marked individually.

22 THE COURT: Individually?

23 MR. HARMON: Yes.

24 THE COURT: Okay.

1 MR. HARMON: This will be 92-A-2
2 collectively, but we're talking here about -- I
3 understand the problem, but we need to make it 92 --

4 THE COURT: B.

5 MR. HARMON: -- B. Yes. I'm sorry.

6 THE COURT: 92-B are items -- you don't
7 want them individually marked?

8 MR. HARMON: No.

9 Your Honor, may I again approach
10 the witness?

11 THE COURT: You may.

12 If you're going to be marking
13 more exhibits, you're going to confuse her, I'll
14 tell you right now.

15 MR. HARMON: We've already got these
16 marked.

17 THE COURT: Are they already marked?

18 MR. HARMON: Yes.

19 BY MR. HARMON:

20 Q. Miss Hunt, earlier in your testimony you
21 referred to a maroon Nissan that you drove from Tom
22 Sims' shop.

23 In fact, you referred to driving
24 it to various locations and at some point you

1 mentioned that you acquired some primer paint --

2 A. Yes.

3 Q. -- and you sprayed one of the fenders?

4 A. Yes.

5 Q. I'm showing you two photographs. They
6 are marked as Proposed Exhibit 64 and 65.

7 Do you recognize the vehicle
8 shown in those photographs?

9 A. Yes. It looks like the same car. It
10 is. This one looks the same.

11 MR. DUNLEAVY: Which one is this one?

12 THE COURT: Describe which picture.

13 THE WITNESS: Both. They're -- it's the
14 same car. It's Denise's car.

15 THE COURT: The pictures have a tag on
16 the back.

17 BY MR. HARMON:

18 Q. You have referred to Proposed 64 --

19 A. 64.

20 Q. -- that you indicated that you were sure
21 of when you looked at that picture?

22 A. Yes.

23 Q. Why is that?

24 A. Because the primer on the door. I mean

1 on the fender.

2 Q. Is the primer paint on the fender the
3 paint which was sprayed on by you?

4 A. And also the -- yes, and also the
5 mirror. I remember the mirror was broken like that.

6 Q. You're indicating --

7 A. The driver's side.

8 Q. -- the rear-view mirror on the driver's
9 side?

10 A. Yes.

11 Q. Are you able to say by looking at the
12 photos of the vehicle in Proposed Exhibit 64 and 65,
13 that these are photographs of the car you drove away
14 from Tom Sims' shop the evening of February 18,
15 1992?

16 A. Yes.

17 MR. DUNLEAVY: I object. There is no
18 foundation on 65 yet. If there is anything on 65
19 she recognizes.

20 THE COURT: Sustained.

21 MR. HARMON: I thought she said she
22 recognized them both.

23 MR. DUNLEAVY: I only heard 64.

24 THE COURT: I only heard 64.

1 THE WITNESS: I recognize 65 also.

2 THE COURT: Do you -- how do you
3 recognize 65?

4 THE WITNESS: Because it's the same car.
5 The license is the same.

6 THE COURT: Okay.

7 BY MR. HARMON:

8 Q. Earlier in your testimony you talked
9 about pickup truck that belonged to Deidre D'Amore?

10 A. Yes.

11 Q. I'm showing you Proposed Exhibit 68.

12 Do you recognize the truck shown
13 in that photograph?

14 A. Yes.

15 Q. Whose truck is it?

16 A. Deidre's.

17 Q. What type of truck is it?

18 A. An Isuzu. It's tan in color.

19 Q. Do you have any personal knowledge of
20 whether Mike Rippo ever had access to Deidre's Isuzu
21 pickup truck?

22 A. Yes. He drove it.

23 Q. You saw him drive it on occasion?

24 A. Yes.

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1 Q. You referred to a Pinto that was owned
2 by Mr. Rippo, the defendant?

3 A. Yes.

4 Q. I'm showing you Proposed Exhibit 71 and
5 72.

6 A. Yes, that's the car.

7 Q. Do you recognize the vehicle shown in
8 those photographs?

9 A. Yes.

10 Q. What car is that?

11 A. That's Mr. Rippo's Pinto.

12 Q. You've also alluded to a Dodge, did you
13 say, Dodge Colt?

14 A. Yes.

15 Q. That was your car?

16 A. Yes.

17 Q. I'm showing you Proposed Exhibit 74 and
18 75.

19 Do you recognize the vehicle
20 shown in those pictures?

21 A. Yes.

22 Q. Whose car is it?

23 A. That was my car.

24 Q. Also, Proposed Exhibit 78.

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1 Do you recognize the business
2 shown in that photograph?

3 A. That's Tom Sims' shop.

4 Q. You mentioned that when you went down
5 the evening of February 18, 1992 to meet Mr. Ripppo,
6 that you observed a maroon Nissan; in fact, the same
7 vehicle which is marked Proposed Exhibit 64 and 65?

8 A. Yes.

9 Q. That was parked somewhere in
10 relationship to Mr. Sims' shop; is that correct?

11 A. Yes.

12 Q. Where was it parked?

13 A. Right here in this space.

14 MR. DUNLEAVY: May the record reflect
15 she's indicating the bottom left-hand corner of the
16 photograph.

17 THE COURT: On which exhibit?

18 Turn the exhibit over. What
19 number?

20 THE WITNESS: 78.

21 BY MR. HARMON:

22 Q. I'm handing you a red pen. I realize we
23 can only see in the lower left-hand corner of the
24 photograph part of the parking space, but would you

1 put an N for Nissan in red at that location?

2 To your memory was the car parked
3 in that parking space?

4 A. Yes.

5 Q. Will you circle the N that you have
6 placed on Proposed Exhibit 78 and put your initials
7 outside of the circle?

8 Thank you.

9 Your Honor, may we again have the
10 Court's indulgence?

11 THE COURT: You may.

12 BY MR. HARMON:

13 Q. I'm showing you now, Miss Hunt, several
14 documents, but one has been marked as Proposed
15 Exhibit 102, and the other, it's a series of pages
16 marked Proposed 103.

17 Are you able to tell by examining
18 these what they are?

19 A. They're -- it's a bill, bills from a
20 Gold Coast.

21 MR. DUNLEAVY: Which one is she
22 referring to?

23 THE WITNESS: All of them.

24 MR. HARMON: She's referring to Proposed

1 Exhibits 102 and 103.

2 THE COURT: Bills or receipts; how would
3 you describe them?

4 THE WITNESS: I guess receipts. From
5 the credit card.

6 BY MR. HARMON:

7 Q. You mentioned previously in your
8 testimony that you and Teresa, the girlfriend of Tom
9 Christos, and two of the band members that you
10 picked up at the Club Rock, went to the Gold Coast
11 and stayed?

12 A. Yes.

13 Q. Are you able to say whether these
14 records, Proposed Exhibits 102 and 103, refer to the
15 room you rented at the Gold Coast?

16 MR. DUNLEAVY: Your Honor, I would
17 object. First, 102 appears to be Xerox copy of
18 something. I don't know if there is any foundation
19 that that's an authentic copy. I don't know where
20 it came from. I think they have to lay a
21 foundation.

22 MR. HARMON: That's what we're trying to
23 do, your Honor. We have to go one step at a time.

24 MR. DUNLEAVY: She's not qualified to

1 testify to business records of the Gold Coast Hotel.

2 MR. HARMON: She may be able to
3 recognize writing on the documents.

4 THE COURT: I'll overrule the objection
5 at this time until more foundation.

6 BY MR. HARMON:

7 Q. Are you examining now Proposed 103?

8 A. Yes, I am. I'm looking at these phone
9 numbers, and I remember some of these phone numbers,
10 so I made these calls.

11 Q. Let me return then to the question of a
12 few moments ago.

13 Are you able to tell us after
14 examining Proposed Exhibits 102 and 103, whether
15 these documents relate to the room that you rented
16 at the Gold Coast?

17 A. Yes.

18 MR. DUNLEAVY: Objection, your Honor.
19 She only looked at 103.

20 MR. HARMON: That is not true. They're
21 all right in front of her, Judge.

22 THE WITNESS: Yes.

23 BY MR. HARMON:

24 Q. Do these documents relate to the room

1 you rented for yourself, Teresa, and the two band
2 members --

3 A. Yes.

4 Q. -- at the Gold Coast?

5 A. Yes.

6 Q. And now how is it that you're able to
7 identify these documents either as original
8 documents or copies of the transaction which
9 occurred at the Gold Coast either on February 19 or
10 February 20, 1992?

11 A. Because that's -- I write -- I wrote
12 this.

13 Q. You're referring now to Proposed Exhibit
14 102?

15 A. 102.

16 Q. What did you write --

17 A. I wrote --

18 Q. -- on Proposed 108?

19 A. I wrote what was on the credit card.

20 Q. Does that appear to be the copy of a
21 registration card?

22 A. Yes.

23 Q. Can you just read into the record what
24 words you wrote on Proposed 102 that you recognize?

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1 A. Denny R. Mason, 7201 West Park, Las
2 Vegas, Nevada.

3 Q. Are you telling us that all that is in
4 your handwriting?

5 A. Yes.

6 Q. Would you recognize your handwriting,
7 whether it was on the original or a copy?

8 A. Yes.

9 Q. Does Proposed Exhibit 102 appear to be
10 simply a copy?

11 A. Yes.

12 Q. Do you remember either from your
13 independent memory or by examining the documents
14 what room it is you rented?

15 A. 1033.

16 Q. At the Gold Coast?

17 A. Yes.

18 Q. Does it appear that the card, the copy
19 of the card, Proposed 102, filled out by yourself,
20 is true and accurate?

21 A. Is it true and accurate?

22 Q. Is the copy in substantially --

23 A. Yes.

24 Q. -- the same condition as the original

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1 registration card you filled out?

2 A. Yes.

3 Q. Now, regarding the other record,
4 Proposed 103, which appears to list room charges --

5 A. Yes.

6 Q. -- is that one for 1033 also?

7 A. Yes, it is.

8 Q. Do you recognize a number of the charges
9 of which appear on the record as charges you would
10 have incurred?

11 A. Yes.

12 Q. Explain what you mean.

13 A. Because I used the phone there. I
14 called a lot of people, a lot of numbers, and --

15 Q. Did you end up paying for any charges
16 that resulted either from the rental of the room or
17 anything else that resulted while you were in the
18 room?

19 A. Did I end up paying?

20 Q. Yes.

21 A. No. I just signed the credit or --

22 Q. That's what I mean, did you pay cash or
23 use a credit card?

24 A. I used a credit card.

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1 Q. Are you the person who used the credit
2 card?

3 A. Yes.

4 Q. What credit card did you use?

5 A. Denny Mason's credit card.

6 Q. The gold VISA credit card?

7 A. Yes.

8 MR. HARMON: Your Honor, at this time
9 the State offers Proposed Exhibits 102 and 103.

10 MR. WOLFSON: May I take a look at
11 those, please?

12 THE COURT: You may.

13 MR. DUNLEAVY: Your Honor, we would ask
14 the Court reserve ruling on this until after
15 cross-examination.

16 THE COURT: All right. I'll reserve
17 ruling.

18 BY MR. HARMON:

19 Q. Miss Hunt, regarding the portion of 102
20 that related to your handwriting as you were
21 checking into the Gold Coast, do you recall now how
22 you knew what address to indicate for that of Denny
23 Mason?

24 A. It was on the credit card. It was on

1 the -- as far as I know, it was on the credit card.

2 Q. I've forgotten the street numbers, but
3 you had indicated West Park?

4 A. West Park.

5 Q. And what's the full address?

6 A. 7201 West Park.

7 Q. It's your belief now that address was
8 right on the credit card?

9 A. I believe so. I don't remember.

10 Q. After February 29, did you have further
11 contact with defendant, Mr. Rippe, either later that
12 night or early the next morning?

13 A. Yes.

14 Q. Do you recall where that was?

15 A. At a house in North Las Vegas on Nelson
16 Street.

17 Q. How did you happen to be at a house on
18 Nelson Street in North Las Vegas?

19 A. There was a girl, Brenda, that I had
20 met.

21 Q. Do you remember Brenda's last name?

22 A. Brummell, I think. Brummell.

23 Q. Brummell or Brummet?

24 A. I'm not sure.

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1 Q. But you knew a woman named Brenda?

2 A. Yes.

3 Q. How did it happen that you were at the
4 address on Nelson Street in connection with Brenda?

5 A. Brenda told me that I could come --

6 MR. WOLFSON: Objection; hearsay.

7 THE COURT: Sustained.

8 BY MR. HARMON:

9 Q. Did you have a conversation with Brenda?

10 A. Yes.

11 Q. As a result of the conversation did you
12 go to an address on Nelson Street?

13 A. Yes.

14 Q. Were there other persons there?

15 A. Her uncle or her -- some relative of
16 hers was there.

17 Q. Did you know whether this was Brenda's
18 place or the uncle's place?

19 A. I think it was the uncle's place.

20 Q. Do you recall the name of the uncle?

21 A. No.

22 Q. At some point after you arrived there
23 did the defendant, Mr. Rippe, also appear on the
24 scene?

1 A. Yes.

2 Q. Had you been expecting him to come

3 there?

4 A. No.

5 Q. Did you want to see Mike Ripppo again?

6 A. No.

7 Q. Did you have a confrontation with Mr.

8 Ripppo?

9 A. Yes.

10 Q. At this address on Nelson Street?

11 A. Yes.

12 Q. About what time of the night was it?

13 A. It was like 2 in the morning.

14 Q. Was it inside the residence or outside?

15 A. Outside.

16 Q. At some point did you say something to

17 Mr. Ripppo?

18 A. Yes.

19 Q. Where was he when you first remember

20 that you were aware he was there?

21 A. He pulled up in Deidre's truck in the

22 driveway.

23 Q. In the Isuzu pickup truck?

24 A. Yes.

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1 Q. The same one you identified in one of
2 the photographs earlier?

3 A. Yes.

4 Q. Did he get out?

5 A. Yes, he got out of the truck. He opened
6 the door to get out and he started yelling.

7 Q. As a result of him starting to yell did
8 you yell something at him?

9 A. Yes.

10 Q. What did you yell at him?

11 A. I told -- he had said something about --
12 MR. DUNLEAVY: Objection; nonresponsive,
13 your Honor. She was asked what she said.

14 THE WITNESS: I said, you killed those
15 girls, and I can prove it.

16 BY MR. HARMON:

17 Q. At that point did Mr. Rippe do
18 something?

19 A. Yes.

20 Q. What did he do?

21 A. He ran around the front of the truck and
22 started punching me in the face.

23 Q. Were there others in the area of this
24 fight when it occurred?

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1 A. Yes.

2 Q. What other persons were there?

3 A. Michael Beaudoin. Dan, I think his last
4 name is Barton. There was a lady there that I don't
5 even remember her name. Brenda was there.

6 There was some other guys there
7 that were -- came with Mike Beaudoin and Dan that I
8 don't know who they were.

9 Q. You've indicated that when you made the
10 statement that you have referred to the defendant
11 came running around and punched you in the face?

12 A. Yes.

13 Q. Are you talking about with fists?

14 A. Yes.

15 Q. He hit you once or various times?

16 A. He hit me over and over.

17 Q. In the face?

18 A. Yes.

19 Q. What happened then?

20 A. He was trying to get me down and I just
21 kept going backwards, and he reached in his belt and
22 got the stun gun out, and he started stunning me
23 with it.

24 Q. Where did he stun you with the stun gun?

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1 A. All over. My side of me, and then he
2 held it on my back, and that's when I went down.

3 Q. Is this the same stun gun that you
4 referred to earlier in your testimony?

5 MR. DUNLEAVY: Objection, your Honor.
6 There is no foundation that she'd know whether or
7 not it's the same one.

8 THE COURT: Lay a foundation.

9 MR. HARMON: Well, the question asked
10 for yes or no, your Honor.

11 THE COURT: Do you know if it's the same
12 one?

13 THE WITNESS: Yes, it was the same one.

14 BY MR. HARMON:

15 Q. How do you know it's the same one?

16 A. Because I had seen it so many times, and
17 I've been stunned with it so many times, and I know
18 that's the only stun gun he had.

19 Q. You say that after you were stunned all
20 over with the gun you started to go down?

21 A. When he held it on my back, on my spine.
22 I went down.

23 Q. Did the defendant do anything else
24 besides punch you in the face and stun you with the

1 stun gun?

2 A. Yes. He started choking me.

3 Q. How did he start to choke you?

4 A. With his hands on my throat.

5 Q. Then what happened?

6 A. He was banging my head, choking me.

7 Q. Banging your head where?

8 A. Into the pavement.

9 Q. What were these other people doing who
10 were there?

11 A. Watching.

12 Q. Did they come to your assistance?

13 A. No. They just watched.

14 And then I knew I was passing
15 out, and I looked at Mike Beaudoin, and I told him,
16 I said, I can prove that. I can prove it. And when
17 I said that they jumped on him and pulled him off.

18 Q. They pulled Mr. Rippo off of you?

19 A. Yes.

20 Q. Do you know whether the police were
21 notified?

22 A. Yeah, the police came.

23 Q. Were you involved in contacting the
24 police?

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1 A. No. I was almost unconscious laying in
2 the driveway.

3 Q. Had you suffered injuries as a result of
4 the fight?

5 A. Yes.

6 Q. What, in what way?

7 A. My head was cut, the back of my head.
8 And I had burns all over me from the stun gun. I
9 was shaking. I was -- my muscles were wiggling out
10 from the stun gun.

11 Q. What about your face; you've
12 indicated --

13 A. I had a black eye. I had a fat lip. I
14 had two black eyes, and my lip was split.

15 Q. Do you know who it was who contacted the
16 police?

17 A. No.

18 Q. Did the police arrive sometime after the
19 injuries had been inflicted upon you?

20 A. Yes.

21 Q. Was Mr. Ripppo still there?

22 A. No. He had ran away.

23 Q. Did you see him run away?

24 A. No. I couldn't.

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1 Q. How do you know he ran away?

2 A. Because they told me. Dan and Mike
3 Beaudoin.

4 MR. DUNLEAVY: Objection to the answer
5 as hearsay. Ask that it be stricken.

6 THE COURT: Sustained. It will be
7 stricken.

8 BY MR. HARMON:

9 Q. I take it of your own personal knowledge
10 you only know that Mr. Rippe was not present when
11 the police arrived?

12 A. Yes.

13 Q. Did you have occasion later that morning
14 to give a statement to representatives of the Las
15 Vegas Metropolitan Police Department?

16 A. Yes.

17 Q. Do you remember where you gave the
18 statement?

19 A. At the police station.

20 Q. Do you remember who interviewed you?

21 A. Detectives Dibble and Scholl.

22 Q. Do you recall about what time the
23 interview occurred?

24 A. It was about 3 in the morning. I guess.

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1 I'm not positive.

2 Q. Did you tell them everything that you
3 knew about the killing Denise Lizzi and Lauri
4 Jacobson at that time?

5 A. No.

6 Q. Why not?

7 A. Because they asked me why he was doing
8 that to me, and I asked them, if I tell you, are you
9 going to protect me? And they said no.

10 Q. Were you in fear at that time for your
11 life?

12 A. Yes.

13 Q. Did there come a time when you were
14 placed under arrest for offenses relating to the
15 killing and robbery of Denise Lizzi and Lauri
16 Jacobson?

17 A. Yes.

18 Q. Where were you at the time you were
19 arrested?

20 A. I was in Yerington, Nevada.

21 Q. On what date were you arrested?

22 A. April 21.

23 Q. 1992?

24 A. Yes.

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1 Q. Why had you gone to Yerington, Nevada?

2 A. Because I told the police that I was
3 leaving town and they wanted to know --

4 MR. WOLFSON: Objection; hearsay.

5 THE COURT: Sustained.

6 BY MR. HARMON:

7 Q. You're indicating you told the police
8 that you were leaving town?

9 A. Yes.

10 Q. Are you saying that you advised someone
11 in the police department that you were going to a
12 particular destination?

13 A. Yes.

14 Q. Did you tell them Yerington, Nevada?

15 A. Yes.

16 Q. After your arrest did there come a time
17 when you worked out some type of agreement with law
18 enforcement?

19 A. Yes.

20 Q. Did you have an attorney at that time?

21 A. Yes.

22 Q. What was the agreement you worked out?

23 A. That I would not be prosecuted for the
24 murders or in exchange for my testimony.

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1 MR. HARMON: Your Honor, may I again
2 approach the witness?

3 THE COURT: You may.

4 BY MR. HARMON:

5 Q. Miss Hunt, I'm showing you a four-page
6 document which has been marked as Proposed Exhibit
7 104.

8 Are you familiar with that
9 document?

10 A. Yes, I am. This is the plea agreement
11 that we made.

12 Q. Is it signed by you?

13 A. Yes.

14 Q. Does it bear a particular date when it
15 was signed?

16 A. June 2, 1992.

17 Q. Did you sign the document freely and
18 voluntarily?

19 A. Yes.

20 Q. Is it also signed by your attorney?

21 A. Yes.

22 Q. Who was your attorney?

23 A. William H. Smith.

24 Q. Is it signed also by two prosecutors --

1 A. Yes.

2 Q. -- from the Office of the District
3 Attorney?

4 A. Yes.

5 Q. Who are they?

6 A. Teresa Lowry and William Hine.

7 Q. Does Proposed Exhibit -- I've forgotten
8 the number.

9 THE COURT: 104.

10 BY MR. HARMON:

11 Q. -- 104 appear to be a true and correct
12 copy of the plea agreement you signed on June 2,
13 1992?

14 A. Yes.

15 MR. HARMON: Your Honor, the State
16 offers Proposed Exhibit 104.

17 MR. DUNLEAVY: No objection, your Honor.
18 I believe it's part of the court record.

19 THE COURT: 104 will be admitted.

20

21 (State's Exhibit 104
22 received in evidence.)

23

24

1 BY MR. HARMON:

2 Q. Now, you've indicated that part of the
3 understanding is that you wouldn't be prosecuted for
4 murder if you would cooperate with the State?

5 A. Yes.

6 Q. Had you murdered anyone?

7 A. No.

8 Q. Did you have any intention on Tuesday,
9 February 18, 1992, that either of these two young
10 women would be killed?

11 A. No.

12 Q. Did you personally get involved in the
13 choking to death either of them?

14 A. No.

15 Q. Did you tie either of the young ladies
16 up?

17 A. No.

18 Q. Did you apply any type of ligature to
19 the neck or any other part of the body of either
20 Lauri Jacobson or Denise Lizzi?

21 A. No.

22 Q. Who did those things?

23 A. Michael Rippo.

24 Q. The defendant who is here in the

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1 courtroom?

2 A. Yes.

3 Q. However, you did aid in something; is
4 that correct?

5 A. Yes.

6 Q. What did you aid in, Miss Hunt?

7 A. I hit Lauri Jacobson with that bottle
8 when he told me to.

9 Q. Why did you hit her with the bottle?

10 A. Why did I? Because he told me to and I
11 didn't want to argue. I didn't want to -- I didn't
12 want him on me.

13 Q. Did Mr. Rippo tell you why he wanted you
14 to hit Lauri Jacobson with the bottle?

15 MR. DUNLEAVY: It's been asked and
16 answered, your Honor.

17 THE COURT: I'll allow her to answer it.

18 THE WITNESS: So that he could rob
19 Denise.

20 BY MR. HARMON:

21 Q. In connection with the agreement that
22 you worked out with law enforcement as is reflected
23 in Exhibit 104, did you enter a plea of guilty to a
24 crime?

1 A. Yes, I did.

2 Q. Of what crime did you please guilty to?

3 A. Robbery.

4 Q. Did you later receive a sentence for
5 robbery?

6 A. Yes, I did.

7 Q. What was your sentence?

8 A. 15 years Nevada State Prison.

9 Q. Are you presently incarcerated in Nevada
10 State Prison system?

11 A. Yes, I am.

12 Q. Are you serving your 15 year sentence --

13 A. Yes.

14 Q. -- in connection with a robbery?

15 Had you had any type of
16 discussion with Mr. Rippe prior to February 18,
17 1992, wherein he indicated any type of disagreement
18 or any type of problem of which he might have with
19 either Lauri or Denise?

20 A. Yes, he did.

21 Q. Did you have a conversation with him
22 about that?

23 A. Yes.

24 Q. Where were you when you had the

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1 conversation?

2 A. At the house on Gowan Road.

3 Q. Are you able to tell us approximately
4 when the conversation happened?

5 A. It was before February 1.

6 Q. 1992?

7 A. Yes.

8 Q. How much before?

9 A. Approximately a week.

10 Q. Why do you use February 1, 1992 as a
11 frame of reference?

12 A. Because that's the date, I believe, that
13 Michael Beaudoin got arrested.

14 Q. Who is Michael Beaudoin?

15 A. He was a guy that I met that I used to
16 buy drugs from.

17 Q. Used to buy drugs from him?

18 A. Yes.

19 Q. So you're indicating, perhaps, a week
20 before February 1 of 1992, at the house on Gowan
21 Street is where and when you had the conversation
22 with Mr. Ripppo?

23 A. Yes.

24 Q. Was it just the two of you who

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1 participated in the conversation?

2 A. No. There was a girl Roxanne there,
3 Roxanne Holloway.

4 Q. The last name is Holloway?

5 A. Yes, I believe so.

6 Q. H-o-l-l-o-w--a-y?

7 A. I'm not positive about that, but as far
8 as I remember.

9 Q. What did Mr. Rippo tell you on that date
10 concerning any disagreement that he had with Lauri
11 Jacobson or Denise Lizzi?

12 A. Well, he had -- he had had a problem
13 with them prior to that that I didn't know about,
14 and I was trying to find out what the problem was so
15 that I could hook him up with -- up with Michael
16 Beaudoin, so that I didn't have to go between the
17 two of them.

18 And nobody wanted to deal with
19 Mr. Rippo, and I was trying to find out why, and the
20 reason Denise, I guess, didn't like him.

21 MR. WOLFSON: Objection. This is
22 nonresponsive and hearsay.

23 THE COURT: Sustained.
24

1 BY MR. HARMON:

2 Q. What I'm asking you now is what it was
3 that Mr. Rippo said to you about any disagreement he
4 had with Denise or Lauri?

5 A. He said that they had burned him on a
6 drug deal.

7 Q. Did he elaborate about what he was
8 talking about?

9 A. He said that he was trying to buy drugs
10 from Denise and he had went through Lauri and when
11 they brought the drugs, meaning Lauri and Denise,
12 brought the drugs to his house, the drugs were no
13 good.

14 Q. Did he tell you who specifically he
15 believed had burned him?

16 A. Denise.

17 Q. Did he tell you why he believed it was
18 Denise?

19 A. Because that's who he had wanted to go
20 through to get -- that's who he went to to get the
21 drugs.

22 Q. You've described in your testimony a
23 certain manner in which you saw that the defendant
24 had tied up Lauri Jacobson?

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1 A. Yes.

2 Q. And that you were describing how he
3 carried her much as a person might carry a suitcase
4 from the living room to the closet?

5 MR. DUNLEAVY: Your Honor, I'm going to
6 object. This is a leading statement. He's telling
7 her what to say.

8 MR. HARMON: Well, she's already said
9 this, your Honor.

10 MR. DUNLEAVY: Then it's asked and
11 answered and it's improper.

12 MR. HARMON: It's not. It's preliminary
13 to another question.

14 THE COURT: Overruled.

15 BY MR. HARMON:

16 Q. Had you ever seen Mr. Rippe tying a
17 person or persons in that manner before?

18 A. Yes.

19 Q. Where was this?

20 A. At the house on Gowan Road.

21 Q. Can you tell us approximately when this
22 occurred?

23 A. In January.

24 Q. Early, middle or late January?

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1 A. Late January.

2 Q. Late January, 1992?

3 A. Yes.

4 Q. What persons were there?

5 A. Myself, Chris Lloyd, Ricky Price, and
6 Michael Rippo.

7 Q. You've already mentioned that you lived
8 at this house on Gowan Road with Mr. Rippo.

9 Who are these other persons;
10 Chris Lloyd and Ricky Price?

11 A. They were friends of Mr. Rippo's, and
12 they were -- they hung out there. They were there
13 most of the time with us.

14 Q. What occurred on this occasion in late
15 January in the presence of yourself, Ricky Price and
16 Chris Lloyd?

17 A. We were all sitting around in the living
18 room and Rippo was talking about how to restrain
19 somebody, and he was showing us.

20 Q. Did he demonstrate to some extent what
21 he knew how to do?

22 A. Yes.

23 Q. How did he demonstrate?

24 A. He asked me to lay down so he could show

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1 them.

2 Q. Did you lay down?

3 A. Yes.

4 Q. When you laid down what did he do?

5 A. He tied my hands behind my back and my
6 feet.

7 Q. With what?

8 A. A karate belt thing. A tie from a
9 karate.

10 Q. Did he explain if you were tied in this
11 fashion, what he could do?

12 A. Yes.

13 Q. What did he say?

14 A. He just said it was easy to restrain
15 somebody that way.

16 Q. The morning this happened, February 18,
17 1992, had you ingested any type of drugs at Deldre
18 D'Amore's place before you and Mr. Ripppo went --

19 A. No.

20 Q. What about Mr. Ripppo, had he ingested
21 any type of dope?

22 A. I don't know.

23 Q. How would you describe your frame of
24 mind that day?

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1 MR. DUNLEAVY: At what time, your Honor?
2 I'm sure it changed.

3 THE COURT: Lay a foundation.

4 BY MR. HARMON:

5 Q. Well, let's start with the period of
6 time when you were inside Lauri Jacobson's
7 apartment; what was your frame of mind?

8 A. When I first got there?

9 Q. At anytime while you were there.

10 A. Well, I was sick when I got there. I
11 wasn't thinking right. I wasn't feeling good.

12 Q. But were you thinking straight?

13 A. I don't -- not like I'm thinking now.

14 Q. Have you in prior statements ever
15 described your brain as being pretty screwed up that
16 day?

17 A. Yes.

18 Q. When you have said that what did you
19 mean?

20 A. I mean I hadn't had any sleep in days
21 and weeks, and I hadn't been eating. I had been
22 doing drugs and I was just a mess.

23 Q. At the specific time when some person
24 called the apartment of Lauri Jacobson, and,

1 apparently, you already had this bottle in your hand
2 at that moment; did you have any idea who was
3 calling?

4 A. No.

5 Q. After you struck Lauri on the head, did
6 you call out her name for any reason?

7 A. Yes, I did.

8 Q. At what point did you do that?

9 A. I went -- when I went to the bathroom
10 and I looked in and he was wrestling with Denise.
11 He was still stunning her. I kept hearing that stun
12 gun. And I told him to quit, and when he wouldn't,
13 I started yelling for Lauri to get up.

14 Q. Do you have any idea how many times you
15 called her name?

16 A. Two or three times.

17 Q. Are you able to estimate how soon this
18 was after the phone had rung?

19 A. It happened so fast. Almost a minute
20 maybe.

21 Q. What happened to the telephone when you
22 hit Lauri Jacobson in the back of the head?

23 A. She dropped it.

24 Q. Was it at that point off the hook?

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

1 A. Yes.

2 MR. HARMON: May I again approach the
3 witness, your Honor?

4 THE COURT: You may.

5 MR. HARMON: This is Proposed 19.

6 BY MR. HARMON:

7 Q. I'm showing you now, Miss Hunt, Proposed
8 Exhibit 19.

9 Do you recognize what is shown in
10 this photograph?

11 A. Yes.

12 Q. What is depicted in Proposed Exhibit 19?

13 A. That's Lauri and Denise, but that's not
14 how I saw them last.

15 Q. As you look at the photograph, starting
16 with the body to the right, who is that?

17 A. That's Denise.

18 Q. Denise Liuzzi?

19 A. Yes.

20 Q. And who is to her immediate left?

21 A. Lauri Jacobson.

22 Q. Now, you've indicated that the positions
23 of the bodies in that photograph, Proposed Exhibit
24 19, aren't exactly as you remember them --

1 A. No.

2 Q. -- from the last time you saw them?

3 A. Right.

4 Q. What is different?

5 A. The last time I saw them they were

6 level. They were both side by side in the closet.

7 Q. In the photograph, Proposed Exhibit 19,

8 are the legs of one of the victims extending out

9 farther --

10 A. Yes.

11 Q. -- than the other?

12 A. Yes.

13 Q. Whose legs are extending out the

14 farthest?

15 A. Denise's.

16 Q. Except for that difference, is Proposed

17 Exhibit 19 an accurate photograph of what you

18 remember when you last looked inside the closet?

19 A. Yes.

20 Q. Are the two young ladies dressed the

21 same as you remember them being dressed when you

22 last looked at them?

23 A. Yes.

24 MR. HARMON: Your Honor, may we have the

1 Court's indulgence?

2 THE COURT: Yes.

3 MR. HARMON: Your Honor, that concludes
4 direct.

5 THE COURT: All right. This is a good
6 time to break for the day. We'll begin tomorrow
7 morning at 9:45.

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

16 Have a good evening.

17 (Proceedings adjourned to
18 Tuesday, February 6 1996
19 at 9:45 a.m.)

20 ---o0o---

21
22 ATTEST: Full, true and accurate transcript of
23 proceedings:

24 
GERRI LAPTHORNE, C.C.R. NO. 82

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

CLARK COUNTY, NEVADA

◆ ◆ ◆ ◆ ◆

In The Matter of:
Search Warrant No.

ORDER SEALING AFFIDAVIT

UPON the Ex-Parte Application of the State of Nevada, by and through, JOHN P. LUKENS, Chief Deputy District Attorney, and good cause appearing, it is therefore ORDERED that:

The Affidavit in Support of the Search Warrant is sealed until further order of this Court.

DATED this 30 day of September, 1993.

By:

John Patrick Lukens, Esq.
Chief Deputy District Attorney

Judge

SEARCH WARRANT

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

The State of Nevada, to any Peace Officer in the County of Clark.

Proof by Affidavit having been made before me by R. Chandler, said Affidavit attached hereto and incorporated herein by reference, that there is probable cause to believe certain property, namely:

1. Documents and other handwriting exemplars of the Defendant Michael Rippo;

2. Limited items of personal property which would show the identity of persons in control of said premises, which items of property would consist in part of, but not be limited to, rent receipts, addressed envelopes and mail, photographs, leases, and utility bills.

is presently located at:

3117 Whispering Willow
Las Vegas, Nevada


A single story off-white stucco residence with brown trim. As you look at the residence from the street, there is garage on the right side of the house.

and as I am satisfied that there is probable cause to believe that said property is located as set forth above and that based upon the Affidavit attached hereto there are sufficient grounds for the

issuance of the search warrant.

You are hereby commanded to search forthwith said premises for said property. If the property is there, you are directed to seize it, prepare a written inventory of the property seized, and make a return to me within ten days.

DATED this 30 day of September, 1993.


Judge

APPLICATION AND AFFIDAVIT FOR A SEARCH WARRANT

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

R. Chandler, being first duly sworn deposes and states that he is the Affiant herein and is a Homicide Detective with the Las Vegas Metropolitan Police Department presently assigned to the Homicide Division. That I have been employed with the Las Vegas Metropolitan Police Department for the past 22 years and have been assigned to the Homicide Division for the past 1 years.

There is probable cause to believe that certain property described hereinafter will be found at the following described location, to wit:

3117 Whispering Willow
Las Vegas, Nevada

A single story off-white stucco residence with brown trim. As you look at the residence from the street, there is garage on the right side of the house.

The property referred to and sought to be seized consists of the following:

1. Documents and other handwriting exemplars of the Defendant Michael Rippo;

2. Limited items of personal property which would show the identity of persons in control of said premises, which items of property would consist in part of, but not be limited to, rent receipts, addressed envelopes and mail, photographs, leases, and

utility bills.

The property hereinbefore described constitutes evidence which tends to demonstrate that the criminal offenses of Murder, Robbery w/ Use of a Deadly Weapon, and Unauthorized Signing of a Credit Transaction Document have been committed by the Michael Rippo. That said offenses are a violation of the laws of the State of Nevada.

In support of your Affiant's assertion to constitute the existence of probable cause to believe the above, the following facts are offered:

1) On February 18, 1992, Denise Lizzi and Lauri Jacobsen were murdered by an individual named Michael Rippo.

2) Present in the apartment shortly before the murder was a woman by the name of Diana Hunt. She has stated and given a statement to the effect that Michael Rippo killed the two women.

3) Taken from Denise Lizzi at the time she was murdered was a credit card in the name of Denny Mason. This credit card was used for purchasing goods and services by both Diana Hunt and Michael Rippo. A signature purported to be Michael Rippo's appears on at least one credit card transaction record.

4) When requested and ordered to give a handwriting exemplar for comparison of his handwriting with that on the credit card transaction by Judge Bongiovanni, Michael Rippo refused and has never complied.

5) According to an inmate by the name of David Levine, who is currently incarcerated with Michael Rippo, Michael Rippo corresponds with a person by the name of Alice Starr. He sends her

letters in an envelope with the return address of "David Levine." Alice Starr resides at the above described address.


6) Levine's statement about the correspondence was confirmed by a security guard at the prison. There were at least 3 letters from David Levine to Alice Starr at the above described address.

7) That based upon the above, it is reasonable to believe that letters or other documents with Michael Rippo's handwriting will be found inside the above described residence.

8) That since some of the information contained in this affidavit is supplied by a person presently incarcerated in the Nevada State Prison system, the same system that houses Michael Rippo, it is requested that this affidavit be sealed. To release the information would place his life in danger.


Officer

Subscribed and Sworn to before me this 30 day of September, 1993.


Judge

Drafted By:


John F. Lukens
Chief Deputy District Attorney

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL RIPPO,

Appellant,

-vs-

E.K. McDANIEL, et al.,

Respondent.

No. 53626

FILED

OCT 19 2009

TRACEY K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

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1 do you feel about that; do you think you'll -- from
2 that perspective do you think you'll be an okay
3 juror? darnedest

4 A. I will certainly do my darnedest to give
5 it a hundred and 10 percent concentration.

6 Q. Even if it got down to the point that
7 you were a little concerned about what was going on
8 at work, you weren't sure that your job was getting
9 done, would you be able to just say, I got to put
10 that aside --

11 A. Yes.

12 Q. -- I've got to do what's here for eight
13 hours --

14 A. Yes.

15 Q. -- and however long we're here, and then
16 turn your attention to the work; would you be able
17 to do that?

18 A. Yes.

19 Q. Because of this problem do you have a
20 feeling of would you rather serve as a juror or not?

21 A. Truthfully, not.

22 Q. You'd love for me to ask you the magic
23 question that just allowed you to float out of here,
24 right?

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1 A. Yeah.

2 Q. It's not going to happen.

3 How about in other respects; this
4 is a serious case, one dealing with the death
5 penalty, and we'll get to your attitudes on that in
6 a moment, but just while we're here talking about
7 your druthers, job aside, would you want to serve as
8 a juror in this case?

9 A. I believe it is my duty to do that at
10 least one time in my lifetime.

11 Q. Aside from it being a duty, is it
12 something that you would look forward to, think that
13 it would be, I think in the words of another juror,
14 an interesting experience?

15 A. Oh, definitely.

16 Q. You don't shy away from doing this
17 particular duty?

18 A. No.

19 Q. How are your attitudes about the death
20 penalty; what can you tell us about that?

21 A. I've been toying with this question for
22 the last several days. It's never really come into
23 any type of a presence per se. I was not really a
24 fan of the O.J. club.

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1 I don't normally pay attention to
2 trials and juries. An occasional Perry Mason way
3 back when, and that was about it. So I'm not
4 really -- I believe that the death penalty should be
5 an option between life, life with parole, life
6 without parole, and the death sentence, but I don't
7 know if I believe in it.

8 If you want an answer. I don't
9 know if I could honestly use that as an option
10 for -- you know, in reference to a conviction.

11 Q. Let me see if I heard you right. You
12 think that in our criminal justice system the death
13 penalty is appropriately placed as one of the
14 potential punishments for first degree murder?

15 A. Right.

16 Q. Did you then suggest that you're not
17 sure if you yourself personally can be involved in
18 that particular decision making?

19 A. Right.

20 Q. So you believe in the death penalty?

21 A. Right.

22 Q. You're just not sure that you can
23 implement it --

24 A. Correct.

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1 Q. -- as a juror?

2 A. Correct.

3 Q. Let's explore that a little bit.

4 Tell us the problems that you
5 have with being the implementer of the death penalty
6 as a juror?

7 A. I just don't know if I could in all good
8 conscience within myself be okay to put somebody to
9 death.

10 Q. Let's test that just a little bit.

11 I want you to look over at Mr.
12 Rippo here. Look at him. Don't look at me. And
13 early on in the trial I said this, I think, to
14 Mr. Escalante, the very first juror we had.

15 He's a living, breathing human
16 being, nice looking fellow. Has parents. He's done
17 good things. He's, as we know him right now, he's
18 one of us.

19 And this case is about maybe
20 about providing the evidence comes out in a certain
21 way, may be about suggesting to the jury that that
22 particular person should receive the death penalty.

23 And this is the old philosophical
24 versus reality discussion that we were having early

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1 on in the jury selection, but it's a real thing.
2 It's not philosophical any more.

3 Do you go along with that?

4 A. Right.

5 Q. You recognize the responsibility that
6 you as a juror would have?

7 A. Yes.

8 Q. Mr. Harmon, I think, asked another juror
9 a little bit ago, could they come back into the
10 courtroom and look at Mr. Rippe and deliver a
11 verdict of death.

12 I'll put that to you and not --
13 you don't know if he deserves it or not?

14 A. Right.

15 Q. We're assuming that in your mind that
16 says that the system should have a death penalty in
17 it that this person is probably deserving of it.

18 The question is, could you do
19 that?

20 A. Probably in all good conscience, no.

21 Q. No matter what the case?

22 A. Well, I would have to know the facts
23 first.

24 Q. You don't get that privilege,

1 unfortunately. We have got to talk hypothetically,
2 obviously, because we're not going to argue the case
3 before you at this juncture, but can you -- you've
4 got a certain philosophical personal bent against
5 the death penalty, against you being a person who
6 would implement it.

7 Can you imagine a case that would
8 change you and you'd vote for the death penalty, or
9 are you pretty steadfast in that conviction?

10 A. Not steadfast. Convince me otherwise
11 and, you know, possibly my mind could change, but it
12 would take a lot of convincing to change it.

13 Q. You've heard that the trial is divided
14 into two parts, the guilt and the penalty phase?

15 A. Yes.

16 Q. You've also heard people say that during
17 the guilt phase you can't think about punishment,
18 you can't let that affect your judgment.

19 Now, that's like unringing a
20 bell. You know that punishment is somewhere down
21 the line.

22 A. Right.

23 Q. But as you decide guilt or innocence or
24 guilty or not guilty, you have got to just not

1 consider the punishment side of it, but nothing that
2 in the back of your mind that if you find the
3 defendant guilty of first degree murder you are then
4 going to be faced with this question that you
5 probably don't want to be faced with.

6 Would that make it more difficult
7 to deliver the appropriate verdict in the guilty
8 phase?

9 A. Probably not. At that point.

10 Q. It would not impair your ability to
11 reach a decision?

12 A. No.

13 Q. You've heard us talking about fairness,
14 equality, and all of that here, and what we're all
15 after are jurors who can equally consider the three
16 penalties.

17 And now we get down to that
18 question. Do you think that you would be able to
19 consider the death penalty equally along with these
20 other penalties?

21 A. Yes.

22 Q. The question was asked early on in the
23 jury selection, if you were Mr. Ripppo, if you were
24 sitting in his chair, would you want 12 jurors of a

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1 mind similar to yours.

2 How would you answer that
3 question?

4 A. Yes, I would.

5 Q. And if you were sitting in the chairs of
6 Mr. Harmon or myself, and ultimately we get to the
7 point of where we're asking for the death penalty,
8 would you want 12 jurors, if you were in these
9 chairs, to have your mind to be in the panel?

10 A. Yeah.

11 MR. SEATON: Pass for cause, Judge.
12 Thank you.

13 THE COURT: Mr. Dunleavy.

14
15 EXAMINATION

16 BY MR. DUNLEAVY:

17 Q. You indicated to the State that you
18 wouldn't discard the death penalty, but that it
19 would take a lot of convincing?

20 A. Yeah.

21 Q. Don't you think it should?

22 A. Absolutely.

23 Q. Have you ever been asked to consider
24 anything more serious than that?

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1 A. No.

2 Q. Now, there is a lot of talk about what
3 happens in the penalty phase, but I want to go back
4 for a minute and talk to you about the trial phase.

5 A lot of people, the news talks
6 about so and so was found innocent or so and so was
7 pled innocent. In reality that doesn't happen.
8 Journalists say that, but no jury can find a man
9 innocent. The criteria is guilty beyond a
10 reasonable doubt or not guilty.

11 How do you feel about that
12 concept?

13 A. I think that's a fair concept.

14 Q. And that the defendant doesn't have to
15 try and prove anything.

16 A. Right.

17 Q. You understand that innocence is a
18 difficult concept of to prove.

19 Now, the question is if the State
20 has enough evidence beyond a reasonable doubt and as
21 a matter of law, he's guilty. And if they don't
22 have enough evidence beyond a reasonable doubt, then
23 as a matter of law he's not guilty.

24 A. Right.

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1 Q. You don't have any problems with that?

2 A. No.

3 Q. When you were asked in question 75 you
4 indicated that you agreed that he should be required
5 to prove his innocence.

6 A. It was a misunderstanding of --

7 Q. The last page of a long questionnaire.

8 A. Right.

9 Q. You also indicated that you agreed that
10 if the prosecutor went to the trouble of bringing
11 this charge, that he must be guilty.

12 What do you think of that?

13 A. Well, having sat here for the last
14 couple of days and understanding certain terms which
15 were not familiar to me, or explanations of
16 innocence and guilt and such, I have to rescind my
17 answer on that one.

18 Q. You recognize that attorneys have a
19 tendency to speak in a language nobody else speaks?

20 A. Correct.

21 Q. And some of them know it.

22 You also said that rights of a
23 person charged with a crime are better protected
24 than the rights of the victim.

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1 You understand that I've talked
2 to other people --

3 A. Right.

4 Q. -- that the rights really come into play
5 here?

6 A. Right.

7 Q. And, unfortunately, a victim doesn't
8 have a judge and a jury standing by on that, but
9 that's why we wind up here in court --

10 A. Right.

11 Q. -- so you can decide that:

12 People accused of serious crimes
13 are treated too lightly by the courts.

14 Now, here you know that the
15 options are life without the possibility of parole,
16 life with the possibility of parole, and death?

17 A. Right.

18 Q. Are any of those too light?

19 A. No.

20 Q. Now, 10 years to life, is that a fair
21 punishment for somebody convicted of a first degree
22 murder?

23 A. Possibly. Again, I don't know. It
24 depends on the severity of the crime.

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1 Q. You recognize that there are different
2 kinds of victims?

3 A. Right.

4 Q. And there are different levels of
5 severity?

6 A. Right.

7 Q. And you'll keep an open mind and reserve
8 your thoughts until after you've heard all of the
9 evidence?

10 A. Yes.

11 MR. DUNLEAVY: Thank you. I have no
12 further questions.

13 I pass the witness.

14 THE COURT: Okay. Mr. Harmon, you may
15 inquire of Mrs. Carlson-Gould.

16

17 SABRINA CARLSON-GOULD

18 a prospective juror, was examined as
19 follows:

20

21 EXAMINATION

22 BY MR. HARMON:

23 Q. Good afternoon.

24 A. Good afternoon.

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1 Q. You're an elementary school teacher?

2 A. Yes, I am.

3 Can I save you a little bit of
4 questioning?

5 Q. Perhaps.

6 A. I don't think I would make a very good
7 juror, because my mind would be on my classroom, and
8 also I don't think I could be impartial to the
9 defendant, because I have two daughters. I think I
10 would get very emotional about it. And I don't
11 think I would want to. I don't think if I were him,
12 I would want me on the jury because --

13 Q. You're telling us that first that you
14 don't feel you could give your full attention to the
15 proceeding?

16 A. Mm-hmm.

17 Q. And second, that you feel you'd be
18 partial because of having two daughters?

19 A. Yes.

20 MR. HARMON: We'll submit it, your
21 Honor.

22 THE COURT: You're excused. Thank you
23 very much.

24

1 Q. You're an elementary school teacher?

2 A. Yes, I am.

3 Can I save you a little bit of
4 questioning?

5 Q. Perhaps.

6 A. I don't think I would make a very good
7 juror, because my mind would be on my classroom, and
8 also I don't think I could be impartial to the
9 defendant, because I have two daughters. I think I
10 would get very emotional about it. And I don't
11 think I would want to. I don't think if I were him,
12 I would want me on the jury because --

13 Q. You're telling us that first that you
14 don't feel you could give your full attention to the
15 proceeding?

16 A. Mm-hmm.

17 Q. And second, that you feel you'd be
18 partial because of having two daughters?

19 A. Yes.

20 MR. HARMON: We'll submit it, your
21 Honor.

22 THE COURT: You're excused. Thank you
23 very much.

24

(Prospective juror excused.)

The clerk will now call the next
in line to take seat No. 4.

THE CLERK: Carter Ruess.

MS. KEITHLEY: 136.

CARTER WARREN RUESS

a prospective juror, was examined as
follows:

EXAMINATION

BY THE COURT:

Q. Mr. Ruess, you've been listening to all
these questions?

A. Yes, sir.

Q. Has anything come to your mind that you
feel we should know about your qualifications to sit
as a juror?

A. No, sir.

THE COURT: Okay, Mr. Seaton.

EXAMINATION

BY MR. SEATON:

Q. You've been able to hear the lawyers' discussions with the various jurors while you were sitting in the back?

A. Yes, sir.

Q. All right. Can you tell us how you feel about the death penalty?

A. I believe in the death penalty.

Q. Have you always?

A. Pretty much so, yes.

Q. Can you tell us why?

A. Well, I think as I wrote on the form, an eye for an eye concept.

Q. Is that strict eye for an eye; for example, all murderers should be given the death penalty?

A. No.

Q. Would you have the ability to contemplate the three punishments that have been listed before you?

A. Yes.

Q. So you can conceive of situations where a person who has murdered could have an opportunity

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1 for parole at some later time?

2 A. Right, in an emotional-type murder, not
3 premeditated, I could envision that.

4 Q. But -- and you could also envision very
5 serious heinous-type murders where you think the
6 death penalty would be appropriate?

7 A. Correct.

8 Q. Were there any other things that you
9 have heard us discuss that you would have answers
10 that you think any of the lawyers would be
11 interested in?

12 A. No. Everything's been pretty much
13 straight forward.

14 Q. Are you a pretty good decision maker?

15 A. Yes.

16 Q. Do you do that in your business?

17 A. No. I work for the post office. There
18 is not much decision there. Just separating zip
19 codes.

20 Q. Admitting to that is like admitting
21 you're a lawyer.

22 A. But in my personal life I think I'm
23 pretty logical.

24 Q. And pretty fair?

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1 A. Yes.

2 MR. HARMON: Thanks very much.

3 Pass for cause, Judge.

4 THE COURT: Mr. Dunleavy.

5

6 EXAMINATION

7 BY MR. DUNLEAVY:

8 Q. No hesitation that you believe in an eye
9 for an eye?

10 A. Correct.

11 Q. And when you meet with friends have you
12 ever had the discussion of the death penalty come
13 up?

14 A. In social settings, yes.

15 Q. What's your position?

16 A. I believe that death penalty should be
17 an option.

18 Q. Just an option?

19 A. Well, as I was telling the other
20 gentleman, and there are certain cases where people
21 are motivated to kill someone else where they didn't
22 think about it prior to, and I think possibly under
23 those circumstances that that would not be a death
24 penalty case, but again, you got to look at all the

1 facts, and I don't have all the facts so . . .

2 Q. Well, at the end of the first phase,
3 first degree murder will be one of the options.
4 There will be other levels. Only if first degree
5 murder is found as guilty, we even get to the second
6 phase. So you have to have a murder that involved
7 premeditation or a heinous murder to even get to
8 that phase.

9 So if we get to that phase, you
10 found someone guilty of a first degree murder,
11 knowing that, would you consider life with the
12 possibility of parole as a legitimate option?

13 A. Probably not.

14 Q. And why is that?

15 A. I think premeditated murder is somebody
16 knows that they're going to take the life of someone
17 else, and to me that is so heinous that --

18 Q. Automatically, that option's out.

19 What about life without the
20 possibility of parole?

21 A. I would consider that.

22 Q. So your options would be life without
23 the possibility of parole and death?

24 A. Pretty much so.

1 Q. Between those two which way are the
2 scales leaning?

3 A. Again, I'd have to get some facts here.

4 Basically, when I hear somebody
5 talk about the death penalty, in a particular case
6 on a TV, I keep everything in abeyance. It's like a
7 little chamber in my mind with a folder on it that
8 says death penalty, and that folder happens to be
9 empty.

10 I can't be in a courtroom or
11 inside somebody's mind or just listen on a TV and
12 make those kind of decisions. Until I have, it's
13 empty, until I have some input, some data that I can
14 make rational decisions.

15 Q. On question 56 you were asked in your
16 opinion what is wrong with the criminal justice
17 system, and your answer was, we don't use the death
18 penalty more often.

19 So you feel the problem is we're
20 not killing enough people?

21 A. No, that's not what I'm implying by
22 answer the question the way I did.

23 Q. Okay. What were you implying?

24 A. There are certain people who are in the

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1 criminal justice system, I believe --

2 Q. Other than lawyers, I hope.

3 A. Right. My dad's a lawyer so -- but
4 where the case is already over, they have been
5 convicted, and all the evidence or a majority of the
6 evidence or sufficient amount of the evidence has
7 come forward and been relayed to a TV, newspaper
8 article, some kind of media, where I have been able
9 in my mind to make a decision based on the limited
10 information I have that that person should have
11 gotten the death penalty and he's still sitting in
12 prison.

13 So based on that kind of
14 reasoning, I think that there are not enough people
15 who have eventually gotten the death penalty. There
16 is a -- once you get into prison and you've been
17 given the death penalty, then you can go to higher
18 courts and make appeals and things like that, and I
19 think those kinds of ideas come into play.

20 Q. When you're reading these articles did
21 you ever notice the ones where they decide that a
22 mistake was made?

23 A. Yes.

24 Q. And that they have convicted the wrong

1 person?

2 A. Yes.

3 Q. How do you undo the death penalty?

4 A. You don't. You make damn sure that you
5 have made the right decision to begin with.

6 Q. Now, on question 75: If the prosecutor
7 goes to the trouble of bringing someone to trial,
8 you indicated you strongly agreed that the person
9 must have done it.

10 A. Well, again, like I'd like to agree with
11 the lady on my left, now that I know the definition
12 of some of the terms in the past couple days and
13 some of the answers other people have given, I would
14 say that there is sufficient evidence there to
15 indicate that that person is most likely the person
16 that should be tried in this particular case.

17 Q. Now, you also indicated people accused
18 of serious crimes are treated too lightly.

19 Do you think that life with the
20 possibility of parole is just too light a sentence
21 for someone convicted of murder?

22 A. No. I think this goes back to what I
23 was saying before. When you've got somebody who's
24 already been convicted, who's been in prison for 10

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1 or 12 years, he's gone through five or six appeal
2 processes, that was in my mind when I answered that
3 question.

4 Q. Do you think maybe those processes are
5 going on because there might be a mistake?

6 A. There is a possibility.

7 Q. Do you think it's a good idea to rush to
8 an execution?

9 A. No.

10 Q. But in a first degree murder case, you
11 would not consider life with the possibility of
12 parole as an option?

13 A. I would consider it as an option.

14 Q. Give it serious equal consideration?

15 A. Yes, correct.

16 Q. I thought earlier you said you would not
17 in a first degree murder case?

18 A. After that I believe I misunderstood
19 what you were saying.

20 Q. So you would consider all of the --

21 A. I would consider all three options.

22 Q. And if you were Mr. Rippe sitting here,
23 would you feel comfortable having you on the jury
24 making that call?

1 A. I'd feel real comfortable if I was on
2 the jury if I were him, yes.

3 Q. The same with the State?

4 A. My job -- this is my job for the next
5 three or four weeks, whatever it takes, and my job
6 is to do just as much justice to society as it is to
7 this individual sitting here.

8 Q. You indicated you believe in an eye for
9 an eye?

10 A. Correct.

11 Q. What does that mean to you?

12 A. Well, if somebody commits a crime, that
13 they should be punished equally in the way that they
14 committed that crime.

15 For example, if I went and stole
16 \$5.00 out of your wallet, I might have to do \$5.00
17 worth of service work for the community or for you
18 or something like that. Whatever society determined
19 was equal punishment.

20 Q. If I raped somebody in your family,
21 you'd rape somebody in my family?

22 A. Not necessarily, but you're looking at
23 me going and doing something to your family as a
24 punishment, but there is another way to get that

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1 punishment accomplished, and that's through putting
2 somebody in prison, and as long as that person is
3 put in prison for a sufficient amount of time for
4 the crime, then I would be satisfied.

5 Q. Well, that's kind of a crux is how much
6 is a sufficient amount of time. Say first degree
7 murder.

8 A. Well, that's a difficult decision to
9 make.

10 Q. Would you say 10 years could be
11 considered sufficient?

12 A. Depending on the facts. I could say
13 that would be sufficient.

14 MR. DUNLEAVY: No further questions,
15 your Honor. Pass the witness.

16 THE COURT: Mr. Harmon.

17
18 MADeline EDITH WORKMAN

19 a prospective juror, was examined as
20 follows:

21
22 EXAMINATION

23 BY MR. HARMON:

24 Q. Mrs. Workman, good afternoon.

1 A. Good afternoon.

2 Q. What is your attitude about serving as a
3 juror on this type of case?

4 A. I don't wish to do it. I don't wish to
5 be put in a position to kill someone or make the
6 decision to kill someone. I don't believe in an eye
7 for an eye.

8 I believe in treating people like
9 I like them to treat me. And, of course, if
10 everybody believed that, then there would be no
11 crime. No, there would be no need for lawyers or
12 judges.

13 Q. Exactly, but everything does --

14 A. But life's not like that.

15 Q. Are you telling us that your frame of
16 mind is such that you simply could not make a
17 judgment?

18 A. No. My frame of mind, I'm a very
19 positive decisive person. I don't believe in things
20 that people tell me per se. I have to see it in
21 black and white as such as evidence and I will make
22 my decision.

23 If I make my decision and it's
24 different from the group of people that I'm with,

1 I'm not going to be bullied into changing my mind,
2 because once my mind is made up, it's made up.

3 But, on the other hand, I don't
4 wish to carry around the burden for the rest of my
5 life if I have to decide someone deserves the death
6 penalty that whether I made the right decision or
7 the wrong decision.

8 Because, like you said many
9 times, this gentleman over here has parents, has
10 brothers, has sisters, has friends, has enemies. We
11 all do. We all do bad things in our lives. I've
12 done things being older than I am now, because I'm
13 older than dirt, but when I was younger I would have
14 never done.

15 Q. Well, in this case that we're talking
16 about an allegation that Mr. Rippe murdered two
17 young women.

18 A. And right now it's just an allegation.
19 Nobody knows that.

20 Q. That's exactly correct.

21 A. He was accused of that. And he doesn't
22 have to prove it. The burden of proof is on you,
23 and if you prove to me that he has done this and
24 convinced me by physical evidence that he has done

1 this, the majority of the burden that you have to
2 carry around for the rest of your life is that you
3 convinced me that he did it and that I made the
4 decision to do the death penalty or not.

5 It can be the death penalty or
6 life without parole, life with parole. All three of
7 them are pretty severe. All three of those kind of
8 situations are terrible, but I think death is worst
9 of all because the majority of time most people live
10 in their own little prisons anyway.

11 Q. Well, I don't necessarily disagree with
12 the things that you're saying. We would be
13 surprised if we encountered persons if they had --
14 who, if they had their choice, wished to be jurors
15 in a murder case.

16 A. And if I have to do it, I have to do it,
17 because I'm bound by that by law, and I follow the
18 laws, and because I'm a responsible person in my own
19 conscience makes me follow the laws.

20 Q. This is the point that we want to
21 address is whether you have the emotional toughness?

22 A. I have the emotional toughness to do
23 anything that I wish to do.

24 Q. The sense of commitment?

1 A. I have the emotion and I have the sense
2 of commitment. Whatever I do I give it 110 percent.

3 Q. Do you have the ability to give your
4 full attention --

5 A. I have --

6 Q. -- to these proceedings?

7 A. I have the ability to give my full
8 attentions, to disassociate my private life from
9 this, but whether I have the ability not to take
10 this home and burden myself into my private life and
11 destroy my private life, I don't know.

12 Q. That's the part that a prosecutor has
13 some concern about in reading your questionnaire,
14 because I noticed in two separate places you
15 indicated you would always wonder about whether the
16 decision you made was right.

17 A. I worked in management for many years,
18 and I've had to make decisions that affected
19 people's lives all the time as far as what shifts
20 they work, whether I fire them or whether I keep
21 them, but that's something they can recover from.

22 I've been fortunate enough in my
23 life that I have never done anything that someone
24 else has to make the judgment on me whether I live

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1 or whether I die.

2 Q. If we select you as a juror on this
3 case, will you decide the case as solely upon the
4 evidence that you hear in the courtroom?

5 A. That's the only way you can decide.

6 Q. You wouldn't let any feelings of
7 sympathy for the defendant or the victims or the
8 families of the parties sway you?

9 A. No, because I wouldn't be associating
10 with them. I'd be listening to the facts.

11 Q. It may be, however, if there is a
12 penalty hearing, it's quite possible you would hear
13 statements by family members on whatever of the
14 victims in this case, and on behalf of Mr. Rippe,
15 the defendant.

16 A. I think I would have a certain amount of
17 sympathy for the victims and a certain amount of
18 sympathy for the accused.

19 Q. You understand that I'm indicating to
20 you that sympathy is never a proper basis for a
21 verdict?

22 A. No, it's not. Sympathy even in
23 workplace is not a basis.

24 Q. Is that a principle that you can abide

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1 by?

2 A. What, having simply?

3 Q. Not having sympathy and making the tough
4 decisions required in this case.

5 A. We all have tough decisions to make.

6 Q. I'm not talking about outside of the
7 courtroom, but, Mrs. Workman, I'm talking --

8 A. If I had to, I can.

9 Q. -- this case.

10 A. If I had to make a decision in this
11 case, I could make the decision in this case and it
12 would be what I truly believed in. It would be
13 truly from the physical evidence. Not by the looks
14 of anyone, not by anyone convincing me of anything
15 else.

16 Q. But would you describe yourself as being
17 for or against the death penalty?

18 A. I have no opinion in that because I've
19 never thought about it. My own personal self, I
20 wouldn't want the death penalty, but I have no
21 opinion on whether I'm for it or against it because
22 I've never really looked into it. I've never read
23 anything on it or really watched anything on it.

24 Q. If you were at either of the counsel

1 tables in this case, would you want a juror of your
2 frame of mind to sit in judgment?

3 A. Well, if I was the defense, I'd probably
4 want a juror of my frame of mind.

5 Q. Why is that?

6 A. Why?

7 Q. Yes.

8 A. Because I'm not going -- I'm not just
9 going to say give him the death penalty.

10 If I was the prosecutor, maybe I
11 wouldn't, because if the prosecution was looking for
12 the death penalty, I wouldn't be what they would be
13 looking for, because you want to have someone, yes,
14 that has the ability to vote for the death penalty,
15 and you also want the ability of someone that
16 wouldn't consider it. I don't know if I could.

17 If I knew for certain someone did
18 something and they deserved the death penalty, I
19 don't know if I could say, yes, give him the death
20 penalty. I don't know if I could be that cold and
21 callous towards life.

22 Q. Well, I don't suppose anyone knows
23 beforehand.

24 A. I've never been put in that position so

1 I can't even --

2 Q. But to wait until the jury is
3 deliberating is obviously too late to discover, and
4 so what is your best judgment now; are you able to
5 equally consider all three of the punishments?

6 A. I can equally consider them, but I can't
7 say I could equally -- I can't say I could equally
8 apply all three of them.

9 Q. Can you think of any case where you
10 would believe that you could come into this
11 courtroom and vote to impose capital punishment?

12 A. No, no.

13 Q. Are you telling us as you sit here this
14 evening that regardless of the circumstances of the
15 case that you would automatically vote for some
16 other punishment than death?

17 A. I'm saying I can't say what case you'd
18 have to give the death penalty, no. I can't say I
19 wouldn't vote for, but I can't say I would either.
20 I don't know. I don't know if I could do that.

21 An example is my husband's always
22 wanted me to learn to use the gun he has at home. I
23 don't know if I learned to use that gun, if somebody
24 someone actually attacked me, if I could shoot my --

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1 that gun to shoot and to protect. I don't know.

2 Unless I'm in that position, I'm
3 not going to say one would or not. I have no
4 opinion on it. I can only give you opinions on
5 things that I have done or that I can do.

6 MR. HARMON: All right. Thank you.

7 We'll pass for cause, your Honor.

8 MR. WOLFSON: Thank you, Judge.

9

10 EXAMINATION

11 BY MR. WOLFSON:

12 Q. Mrs. Workman, we all appreciate your
13 honesty, and it's getting late, so I only have a few
14 questions for you. Thank you.

15 The lawyers in this case want to
16 know if you are chosen as a juror and if the jury
17 votes guilty on first degree murder, and if the case
18 gets to a penalty hearing, whether you would at
19 least consider the three possible punishments?

20 A. You'd have to consider because those are
21 the three punishments you put for us. Whether I
22 could vote to it, I don't know.

23 Q. And these are difficult questions. All
24 of us lawyers are asking each of you to tell us what

1 you'd do if, but we don't give you what the if is,
2 and I can appreciate that, but you would consider
3 all three if we reached that point?

4 Is that a yes?

5 A. Yes.

6 Q. The reporter has to take it down.

7 A. I know, she doesn't understand nods.

8 Q. You're from the country of England; is
9 that right?

10 A. No, I am an American. My father was
11 American, my mother is English, and when I was born
12 I was born an American.

13 Q. Oh, okay. I have on your
14 questionnaire --

15 A. I was born in England, and I'm an
16 American, I'm a born American.

17 Q. Okay. Do you know that they don't have
18 the death penalty in England?

19 A. No, I was not aware of that.

20 MR. WOLFSON: I will pass for cause.

21 Thank you, ma'am.

22 THE COURT: Mr. Seaton, you may inquire
23 of Mrs. Davis.

24 MR. HARMON: I'll be doing this one too,

1 Judge.

2 THE COURT: Okay.

3 MR. SEATON: The younger Mr. Seaton.

4

5 SADIE JANE DAVIS

6 a prospective juror, was examined as
7 follows:

8

9 EXAMINATION

10 BY MR. HARMON:

11 Q. Miss Davis, how do you feel about
12 serving as a juror on this type of case?

13 A. Well, I've had a very difficult time in
14 the past two days of dealing with all this. I guess
15 I realized when I started filling out the
16 questionnaire what it was about. And it's been very
17 difficult. I don't know if I can make the decision
18 or not. I don't know if I can sit in judgment of
19 somebody else's life.

20 Q. It's always difficult to try to predict
21 what we'll be able to cope with somewhere down the
22 road. Unfortunately, we're in a position of needing
23 to get some type of firm commitment now.

24 A. I don't feel I can give you a firm

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1 commitment at this time that, yes, I could go for
2 the death penalty. I feel that I just -- I could
3 not give you that commitment.

4 MR. DUNLEAVY: I object, your Honor. I
5 don't believe that's the law. Ask them fairly
6 consider it, and they're not allowed to make a
7 commitment at the beginning of the trial.

8 THE COURT: You're right.

9 Ask some more questions.

10 MR. HARMON: I will.

11 BY MR. HARMON:

12 Q. We don't want to put the cart before the
13 horse, but there are various decisions that have to
14 be made in the case.

15 The first phase of the case will
16 involve guilt or not guilt. Do you feel that you're
17 of the frame of mind that you could listen to the
18 evidence and apply to the facts the Court's legal
19 instructions and from that reach a decision
20 regarding guilt or innocence?

21 A. Honestly, at this time, no.

22 MR. HARMON: Thank you.

23 We'll challenge for cause, your
24 Honor.

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1 MR. WOLFSON: May I have your
2 indulgence?

3 THE COURT: You may.

4 MR. WOLFSON: Judge, I'd like to ask a
5 few questions.

6 THE COURT: You may.

7
8 EXAMINATION

9 BY MR. WOLFSON:

10 Q. Good afternoon, ma'am.

11 So, Mrs. Davis, it is Mrs. Davis,
12 is it not?

13 A. Yes.

14 Q. Mrs. Davis, what have you heard the last
15 couple of days that causes you to believe that you
16 can't consider the three punishments, if asked; is
17 there anything particular?

18 A. There isn't any particular thing. It's
19 just that I have always tried to not sit in judgment
20 of other people. That whatever they do they have to
21 accept that responsibility. If it's wrong, then
22 they have to accept the responsibility.

23 I don't feel that I can sit in
24 judgment and say, well, you're wrong, and I don't

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1 feel that that's my place to judge another person.
2 I feel that that's our maker's place to judge them.

3 And at that point I have a hard
4 time knowing that a decision that I possibly could
5 make could possibly take this person's life. And
6 that is where I have sat here and listened for the
7 past two days of all that's been said, and I've had
8 a hard time dealing with it for my own emotional
9 standpoint.

10 Q. A number of people in this courtroom in
11 the last couple of days have said our system in this
12 country is the fairest and the best.

13 A. I will agree.

14 Q. You would agree with what I just said?

15 A. Yes, I would agree. I would also say
16 that there are, and, thank God, there are people
17 that are stronger than other people, and I'm not
18 saying that I'm not a strong person. There are just
19 times that I don't feel that it is my -- that I can
20 fairly sit in judgment of somebody else.

21 Q. Mrs. Davis, life would be easy if we --
22 and I don't mean to sound condescending, but life
23 would be easy if we didn't have some civic duties.

24 A. I agree.

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1 Q. And one of our civic duties, if called
2 upon, is to sit in judgment.

3 If you were asked to sit on this
4 jury, and three weeks from now this jury was in a
5 deliberation room, and that means you and 11 other
6 people, and we are beyond today, if you will, could
7 you deliberate and participate with other 11 in that
8 process -- and I'm talking about the first phase of
9 the case -- and come to a decision whether somebody
10 is guilty or not guilty of a crime?

11 A. I would do my best, but I'm not going to
12 sit here and say, yes, absolutely, I would, but I
13 would do my best.

14 Q. And at the same time you're not saying
15 that you can't or wouldn't?

16 A. That's correct.

17 Q. Isn't that fair?

18 A. That's fair.

19 Q. I mean I agree the last 48 hours for
20 persons who are not familiar with the system have
21 been pretty hard. We're talking about serious
22 things here, and some of the things --

23 A. Very difficult.

24 Q. -- jurors have come forward and said

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1 emotionally, I just can't do it.

2 A. And I know where they're coming from
3 because I'm there. I have emotions up to here.

4 Q. You don't want to sit on this panel?

5 A. No.

6 THE COURT: I've heard enough.

7 I'm going to excuse you. Thank
8 you very much, Mrs. Davis.

9
10 (Prospective juror excused.)

11
12 The clerk will now call the next
13 in line to take seat No. 6.

14 THE CLERK: Myrna Keithley.

15 MR. WOLFSON: What number is that?

16 THE CLERK: 137.

17
18 MYRNA SUE KEITHLEY

19 a prospective juror, was examined as
20 follows:

21
22 EXAMINATION

23 BY THE COURT:

24 Q. Good afternoon.

1 A. Good afternoon.

2 Q. Do you know of any reason why you
3 couldn't sit and be a fair and impartial juror in
4 this case?

5 A. No.

6 THE COURT: Mr. Harmon.

7 MR. HARMON: Thank you, Judge.

8 THE COURT: You may inquire.

9

10 EXAMINATION

11 BY MR. HARMON:

12 Q. What is your feeling, Miss Keithley,
13 about sitting as a juror in this case?

14 A. Well, I kind of agree with everybody,
15 that they hate to do it, but somebody's got to do
16 it, so I would be willing.

17 Q. I don't think anyone is implying that
18 it's something which is easy or pleasant. The fact
19 is, as you indicate, someone that needs to perform
20 the civic responsibility.

21 Do you feel that you have the
22 emotional and mental toughness to do the job?

23 A. I think so. It would be a hard -- it
24 would be hard to execute the death penalty on

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1 somebody, but the way the world is, we have to get
2 tough and show the people that don't obey the law
3 that, you know, things will be done.

4 Q. Do you believe that persons who commit
5 serious crimes must be held personally responsible
6 for their actions?

7 A. Yes.

8 Q. Do you believe that the punishment
9 should fit the nature of the crime?

10 A. Yes, I do.

11 Q. How would you characterize your views
12 concerning punishment; are you for or against the
13 death penalty?

14 A. Well, I've always thought that I was for
15 it, and I've always thought that if it was enforced
16 more, we wouldn't have so much crime. And that's
17 just always been how I believed. That if you commit
18 a crime and there is reason of evidence, that you
19 have to pay for what you've done.

20 Q. You were one in quite a lengthy list of
21 persons who when asked your personal view about what
22 punishment would be worse for a defendant, you
23 indicated life without parole.

24 THE COURT: Is that a yes?

1 MS. KEITHLEY: Yes.

2 BY MR. HARMON:

3 Q. Are you indicating that from a personal
4 reference?

5 A. That's how I'd feel.

6 Q. You're telling us --

7 A. I think it would be hard to live that
8 way.

9 Q. -- that if you had the unfortunate
10 requirement of making a choice, you would choose
11 death over life in the State prison?

12 A. Yes, I would.

13 Q. Assuming for a moment for the sake of
14 argument that in this case the jury found beyond a
15 reasonable doubt that Mr. Rippe was guilty of murder
16 of the first degree, and then you had to consider
17 punishment. And assuming after the conclusion of
18 the penalty hearing that you thought that he should
19 receive the worst punishment; the choices, of
20 course, are death, life without and life with.

21 How would you vote as a juror?

22 A. Well, I'd really hate to say now because
23 I don't know any of the evidence.

24 Q. I'm not asking you to prejudge the

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1 evidence. I'm just asking you, assuming for a
2 moment that you thought that he deserved the worst
3 punishment, what would you feel as a juror would be
4 the worst?

5 A. I would feel death would be the worst.

6 Q. Do you think that you have the type of
7 commitment to your conviction, if you honestly felt
8 that way, to come into the courtroom and look at the
9 defendant and share in that type of judgment?

10 A. I wouldn't like it, no. I wouldn't like
11 to do it, but it would be very hard, but, like I
12 say, if you're on the jury, that's your commitment.

13 Q. Do you understand that a true and just
14 verdict is based solely upon the evidence; you
15 aren't to consider anything that is outside of the
16 courtroom?

17 A. Right.

18 Q. And that you could abide by that
19 principle?

20 A. Definitely.

21 Q. Can you give your full attention to
22 these proceedings throughout the length of the
23 trial?

24 A. Yes.

1 MR. HARMON: Thank you.

2 Pass for cause.

3 THE COURT: Mr. Wolfson.

4 MR. WOLFSON: Thank you, Judge.

5

6 EXAMINATION

7 BY MR. WOLFSON:

8 Q. Good afternoon, Mrs. Keithley.

9 Your husband is a security
10 supervisor?

11 A. Yes. My son.

12 Q. That's your son. I'm sorry, your son is
13 a security supervisor for the Fremont Experience; is
14 that right?

15 A. Mm-hmm.

16 Q. Does he share with you any of his work
17 stories or anything?

18 A. No.

19 Q. The Freeman Street Experience is a new
20 experience?

21 A. It's new, yes.

22 Q. Of course. Has he had any incidents
23 that he's brought home and discussed with you or
24 shared with you?

1 A. No.

2 Q. I want to ask you about one of your
3 answers on the questionnaire, if I could.

4 The question was: In your
5 opinion what is wrong with the criminal justice
6 system?

7 And your answer was: Money seems
8 to talk, especially for the rich.

9 And then, if I can read your
10 writing, you put: This is bizarre.

11 A. Yeah. Well, what I think is if you have
12 money to get good lawyers, you have a better chance.
13 And for the ordinary person or the poor person that
14 comes into a court that has done a terrible crime, I
15 don't know whether -- I don't know if he would get a
16 fair trial or not in comparison to somebody that can
17 really pay for it.

18 Q. Do you have any preconceived opinions
19 about Mr. Rippe's lawyers? I mean somebody already
20 mentioned that they have seen my TV commercial.

21 A. No, not at all.

22 Q. So you would be able to put whatever
23 notions you have about the lawyers that Mr. Rippe
24 has, whether he's a rich person or a poor person,

1 and has paid for lawyers or has court-pointed
2 lawyers, would you be able to put that issue aside
3 and base your decisions just on the evidence?

4 A. Yes, I would.

5 Q. Do you feel comfortable with that theme?

6 A. Yes.

7 Q. Another question in the questionnaire
8 was: If the prosecutor goes to the trouble of
9 bringing someone to trial, the person is probably
10 guilty.

11 And you had five options, and you
12 chose the answer: Agree.

13 Is that how you feel?

14 A. No. I didn't understand it. No. I
15 believe you're not guilt until you're proven that
16 you're -- I believe you're innocent until proven
17 guilty. I believe that in anybody.

18 Q. The next question was: A defendant in a
19 criminal trial should be required to prove his or
20 her innocence.

21 And you checkmarked agree.

22 A. Well, I meant the evidence, the evidence
23 that you show should prove it. Should prove that
24 the defendant is innocent.

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1 Q. Now, you've been listening the last
2 couple of days, I'm sure, when we have discussed
3 these concepts with other jurors, haven't you?

4 A. Mm-hmm.

5 Q. Is that a yes?

6 A. Yes.

7 Q. You understand that it is the
8 prosecutors that have the burden of proof and that
9 they must present enough evidence --

10 A. I said it backwards, didn't I?

11 Q. Yes, you did.

12 You understand that the
13 prosecutors have the burden of proof --

14 A. That's right.

15 Q. Please wait for me to finish, okay?

16 You understand the prosecutors
17 have the burden of proof and that we do not have to
18 prove anything?

19 A. That's true. I'm sorry.

20 Q. Do you agree with that concept?

21 A. I suppose.

22 MR. WOLFSON: Thank you, ma'am.

23 Pass for cause.

24 THE COURT: All right. At this time

1 we'll break for the evening. We'll reconvene at
2 10:15 tomorrow.

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

11 Have a good evening.

12
13 (Proceedings adjourned to
14 Thursday, February 1, 1996
15 at 10:15 a.m.)

16 ---ooo---

17
18 ATTEST: Full, true and accurate transcript of
19 proceedings:

20 
21 GERRI LAPTHORNE, C.C.R. NO. 82

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23
24

COPY

DISTRICT COURT
CLARK COUNTY, NEVADA

The State of Nevada,)	
)	
Plaintiff,)	
)	Case No. C106784
vs.)	Dept. No. IV
)	Docket No. "C"
Michael Damon Rippo,)	
#0619119)	
Defendant.)	
)	
)	

Before the Honorable Gerard J. Bongiovanni
Thursday, February 1, 1996, 10:20 o'clock a.m.
Reporter's Transcript of Proceedings
JURY TRIAL

VOLUME I

REPORTED BY: Renee Silvaggio, C.C.R. No. 122

000752

RENEE SILVAGGIO, CCR 122 391-0379

1

1

APPEARANCES:

2

For the State:

MELVYN T. HARMON, ESQ.

DANIEL SEATON, ESQ.

3

Deputies District Attorney

4

5

For the Defendant:

STEVEN B. WOLFSON, ESQ.

PHILIP H. DUNLEAVY, ESQ.

6

Attorneys at Law

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Law Clerk:

Delwin Potter

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RENEE SILVAGGIO, CCR 122 391-0379

Las Vegas, Nevada, February 1, 1996, 10:20 o'clock a.m.

* * * * *

THE COURT: This is the continuation of the Rippo trial.

MR. WOLFSON: Good morning, Judge.

THE COURT: The State of Nevada versus Michael Rippo.

Let the record reflect the presence of the defendant, and his attorneys; and both attorneys for the State.

I believe we left off yesterday, we were going to begin with -- let me see.

MR. HARMON: Mrs. Garcia, Your Honor.

THE COURT: Where is my list?

Mrs. Garcia? Okay.

MR. HARMON: I'll do that.

THE COURT: Mr. Harmon, you may inquire of Mrs. Garcia.

(Whereupon, Prospective Juror 129, ISABEL GARCIA, was examined as follows:)

EXAMINATION

BY MR. HARMON:

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1 Q Good morning.

2 A Good morning.

3 Q As we start the third day of this, what are
4 your feelings, Mrs. Garcia, about being a juror on this type
5 of case?

6 A The past three days have been very stressful
7 and seeing everybody gets very emotional.

8 I feel that serving on a
9 jury -- I always used to think -- was a privilege as well as
10 a duty.

11 Now, in this particular case, I
12 think it's more of a very tedious, stressful duty.

13 Q Is it a tedious and stressful duty that you
14 don't think you will be able to handle?

15 A In my nature --

16 Q Is it something that you will be able to
17 cope with?

18 A I think I -- I think I could.

19 Q So you are telling us that despite the
20 emotion involved and the stress involved, you are willing to
21 accept the responsibility?

22 A If I had to, yes.

23 Q I notice in reading the questionnaire that
24 you apparently were the victim of a bank robber.

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1 A Yes, seven months ago.

2 Q You are employed at a bank?

3 A Yes, I am.

4 Q Did it happen at your work place?

5 A Yes.

6 Q Was anyone arrested in connection with that
7 matter?

8 A Yes, he was. I -- seven minutes after he
9 left the bank, the police picked me up and we went to
10 identify him.

11 Q Has there been a disposition to that case?

12 A Yes. He pled guilty and I think that the
13 sentencing was last Friday. I don't know the outcome yet.
14 I chose not to be there.

15 Q Is there anything about that experience
16 that's going to spill over and affect your attitude towards
17 this case?

18 A No.

19 Q I think, as you can appreciate, we need --
20 to the extent that is humanly possible -- to have jurors
21 involved in this case who can be totally open minded and
22 objective, who are going to base their decisions strictly
23 upon the evidence introduced during this trial.

24 A Right.

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1 Q And do you think you can do that?

2 A I think I can. I've served on a jury before
3 and I managed to do that quite well.

4 Q You also mention that in 1993 that your
5 daughter --

6 A Yes.

7 Q -- was the victim and involved a boyfriend.

8 A Yes.

9 Q Was he arrested in connection with that
10 matter?

11 A He was arrested and in jail for six months
12 pending trial because he was pleading self defense.

13 Q You indicated, in the questionnaire, on this
14 particular case, it seemed to you like there were too many
15 postponements.

16 I assume you were talking about
17 that case, the one involving your daughter and her
18 boyfriend.

19 A Yes. Too many postponements on the defense
20 part. He was always sick or wanted another public defender
21 or he didn't want time or always -- always an excuse.

22 Q In this case, and I'm talking about the case
23 of the State of Nevada versus Michael Rippo, the evidence is
24 going to indicate that the offenses occurred in February

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1 1992.

2 A Uh-huh.

3 Q You understand that you are not to speculate
4 about why it is almost four years later that we're going to
5 go to trial.

6 Do you understand that?

7 A Yes.

8 Q Are you going to be able to resist the
9 temptation of speculating about why we are going to trial on
10 the case at this time?

11 A Well, I think with the instance with my
12 daughter's boyfriend, of course, because I saw it was my
13 daughter who was beaten and left half dead and, you know,
14 everything was taken from her, I, being in the audience,
15 every time it came to trial, wanted it, you know, to come to
16 a decision, get it over and done with.

17 But I -- that was on a
18 personal -- that was more personal to me.

19 I think if I -- if it's another
20 individual, who I have never seen or known or I know nothing
21 of, I would think it would be something totally different.

22 Q Well, you agree in this case not to hold it
23 against either party that there has been delays in bringing
24 the case to trial.

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A Yes.

Q That is not relevant; do you understand that?

A Right.

Q Do you also understand that during the first phase of the trial, when you are trying to decide guilt or innocence, that you are not to speculate about punishment.

A Right.

Q That factors such as race or sympathy, or really bias of any kind, just aren't pertinent to the case?

A Uh-huh, I understand.

Q Is there going to be any type of problem for you in dealing with this type of case because of what happened to your daughter, where she was victimized, realizing that it was two young women who were victims in this case?

A I honestly -- I don't think so. I cannot say yes or no. I don't think it would, but I can't just give a direct answer, yes, it is, or, no, it's not.

Q Well, do you understand that, in all fairness to both sides, particularly to the defendant, Mr. Rippe --

A Uh-huh.

Q -- it's really incumbent upon the jury to be able to decide the case based solely upon the law which

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1 applies and the facts --

2 A Yes.

3 Q -- of this particular criminal --

4 A Yes, I understand.

5 Q Are you going to try to do that to the very
6 best of your ability?

7 A Yes, I am.

8 Q If Mr. Rippo is convicted of first degree
9 murder, and if the jury should become involved in fixing a
10 punishment, are you of a frame of mind now that you can
11 consider equally the three punishments provided for murder
12 of the first degree?

13 A Yes, I could.

14 Q In terms of capital punishment, would you
15 describe yourself as being for or against the death penalty
16 generally?

17 A I never really gave it much thought as being
18 for or against. I've always been just -- because I knew
19 that that's the way it is, that's -- that's part of the law.

20 But lately, I just feel that
21 if -- if the sys- -- if the criminal sys- -- if the system
22 allowed for capital punishment, then it should be an option
23 for the jury. I mean, all three should be considered
24 equally.

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2 1 Q Naturally you haven't heard any of the
2 evidence, and so what I'm asking you is strictly a
3 hypothetical question.

4 But assuming that a penalty
5 hearing is necessary in this case --

6 A Uh-huh.

7 Q -- and assuming, after you have heard all
8 the evidence, you concluded that the death sentence was a
9 proper punishment for the murderer of the two young women in
10 this case, do you think you would have the emotional and
11 mental toughness to come back into the courtroom and share
12 the responsibility of that type of decision?

13 A Assuming that the sentence had been death,
14 you mean?

15 Q Assuming that that was your belief concerning
16 what was proper, would you have the sense of commitment to
17 be able to come back into the courtroom and vote for a death
18 sentence for Mr. Ripppo?

19 A It would be very hard, but I think I would.

20 MR. HARMON: Thank you.

21 Pass for cause, Your Honor.

22 THE COURT: Mr. Wolfson.

23 MR. WOLFSON: Thank you, Judge.

24

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EXAMINATION

BY MR. WOLFSON:

Q Good morning, Mrs. Garcia.

A Good morning.

Q Mrs. Garcia, regarding the bank robbery incident, were you yourself an employee who was approached by the actual robber and forced to give over the bank's property?

A Yes, I was.

Q What is your position at the bank?

A I'm the vault teller.

Q So as the vault teller, if the bank robber wants to pull off a good robbery, he'll not only try the teller's money, but he may actually try and go to the vault to take money out of the vault, and because you are the vault teller, you were the lucky person on this day; is that right?

A I don't necessarily think it was because I was a vault teller. When a customer or anybody comes in, nobody knows who the vault teller is.

Q I understand.

A I mean, we all have the same amount of limits and to have in hand --

Q I understand. But that day and that moment,

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2 1 you were the person at that location that got approached by
2 this bank robber; is that right?

3 A That's correct.

4 Q Okay. Did he have a gun?

5 A He said -- the note said he had a gun. I
6 never saw a gun.

7 Q Okay. I'm sure that you are quite alarmed,
8 if not terrified, by this event.

9 A When it first happened, I wasn't. I think it
10 took two to three days to realize what had happened.

11 Q Okay.

12 A I, more or less -- it's part of the job.
13 It's something we're trained for. So when it happened, I --
14 I was, more or less, ready.

15 Q Okay.

16 A I -- I saw him in line and I knew he was
17 going to rob me. So -- so I think I prepared myself not to
18 panic, not to -- to try to remember to do everything that
19 we're supposed to do.

20 Q And then perhaps it set in, the full
21 effect --

22 A A few days later.

23 Q -- a couple days later?

24 A As I heard it in the news and saw it in the

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3 1 newspaper, then I realized what had happened.

2 Q Mrs. Garcia, I would hope that you could
3 appreciate that I'm Michael's lawyer, with Mr. Dunleavy, and
4 that I share the same concern as Mr. Harmon, that we try and
5 have 12 people who can bring to this trial objective,
6 uninfluenced attitudes.

7 And life has provided you with
8 three things that perhaps could affect your state of mind in
9 this trial.

10 The first is the bank robbery.
11 And I don't know if it would influence you or not, but it
12 was fairly recent and it was a crime against a person. So
13 I'm sure that you've admitted it's affected you already to a
14 certain extent.

15 There was then the incident
16 with your daughter. Apparently she was beaten up by a
17 boyfriend; is that right?

18 A That's correct.

19 Q I can tell you that you are going to hear
20 testimony in this case that allegedly Michael assaulted his
21 then girlfriend.

22 Additionally, you are going to
23 hear evidence, allegations, that Michael committed these
24 crimes as well, which are against women.

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1 Finally, you have a 22 year old
2 daughter; is that right?

3 A That's correct.

4 Q The evidence is going to show that the girls
5 that were killed in this case were in their 20s, I believe.

6 So, as Michael's lawyer, I'm
7 trying to evaluate whether you, with these three things in
8 mind, will be able to consider the case fairly, and fairly
9 to Michael.

10 Now, we want fairness to the
11 State of Nevada and we want fairness to Michael Rippo, but
12 you have these three events in your life.

13 So my question then is: Do you
14 really believe that you can give fair, uninfluenced focus in
15 this case with these three events that have occurred in your
16 life?

17 Tough question, I know.

18 A Yeah, it is.

19 Q I'm only looking for an honest answer.

20 A I believe I could, but maybe in fairness to
21 Michael -- there -- there would always -- I don't know. I'm
22 sorry.

23 Q We would all hate -- if a day or a week from
24 now, if you come to that point where you may not be able to

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3
1 say to yourself and to us in this courtroom that you can be
2 fair, we would hate for that to happen.

3 And I know it's a difficult
4 thing. I'm asking you to predict not only how you feel
5 today but how you might feel a week into the trial.

6 So let me ask you one more
7 time: Do you think that you should sit on a case like this?

8 A I've always been a fair person and I
9 never -- I never -- until I hear all the facts -- I could
10 come to my own decision.

11 I believe I could, but I don't
12 know just -- now that ever- -- you know, you all are asking
13 me about my daughter. I -- it's too many bad memories.

14 MR. WOLFSON: And -- Mrs. Garcia, I'm sorry
15 if I upset you.

16 Could I hand her a tissue,
17 Judge?

18 THE COURT: Yes.

19 BY MR. WOLFSON:

20 Q You know, my questions cause you to be
21 very honest with us and I apologize I upset you.

22 Mrs. Garcia, the prosecutor
23 talks about toughness and commitment.

24 A Uh-huh.

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3 1 Q And the prosecutor talks about whether you
2 think you have the toughness and the commitment to come into
3 this courtroom and look at Michael, if appropriate, and
4 render a death penalty.

5 My question, Mrs. Garcia, is
6 that under the right facts and circumstances, that perhaps
7 it takes just as much toughness and commitment, if you are
8 convinced, to look at Mr. Harmon and say I don't think the
9 death penalty is appropriate in this case and that I think
10 that a life sentence is appropriate.

11 Do you believe that you would
12 have the toughness and commitment, if the facts proved so,
13 to look at Mr. Harmon and Mr. Seaton and give them that kind
14 of verdict?

15 A Yes.

16 MR. WOLFSON: Thank you very much.

17 We will pass for cause.

4 18 THE COURT: Mr. Seaton, you may inquire of
19 Mrs. Drake.

20 (Whereupon, Prospective Juror
21 130, VICKI DRAKE, was
22 examined as follows:)

23 EXAMINATION

24 BY MR. SEATON:

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1 Q Good morning.

2 A Good morning.

3 Q Well, as Mr. Harmon indicated, we've been
4 three days at this now. We've had a good deal of time to
5 think about all of the questions that have been asked.

6 Any comments you want to make,
7 how you feel about being a part of these proceedings?

8 A Well, when I first received the Jury
9 summons, I was excited, because I've never had to do
10 anything like this before.

11 I was excited the first day,
12 sitting in that little room, until we got the questionnaire,
13 and then I realized what type of case it would be.

14 I'm not real excited now. I
15 think it's my duty as an American citizen to be here. The
16 excitement has gone away now. I didn't think it was going
17 to be this type of trial.

18 Q But the reality has set in now?

19 A Yes.

20 Q Duty aside, how do you feel about being
21 here?

22 A I'm glad I'm here right now.

23 Q Okay. If given a choice, would you serve or
24 not serve?

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1 A I would serve.

2 Q All right. You are one of those individuals
3 who said that life without the possibility was the worst
4 sentence?

5 A Yes.

6 Q Could you comment on that?

7 A Death is so final. If you receive the death
8 penalty, in the back of your mind you know you are going to
9 die some day.

10 If you receive life without
11 possibility of parole, it's -- you're in prison the rest of
12 your life; you have nothing to look forward to; it's just an
13 end to your life.

14 Q You then think that most people -- would you
15 yourself choose death over life in prison?

16 A If I was in that situation, I would want
17 death.

18 Q You would want death?

19 A Yes.

20 Q Okay. As a juror sitting in judgment of Mr.
21 Rippe, if we get to that particular point, are you going to
22 use that standard in terms of trying to sort out what the
23 worst punishment was, if that's what you were looking for?

24 A No, because I don't know what his thoughts

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4
1 are. That's just my feeling. I don't know what he would
2 want.

3 I would weigh all three options
4 evenly.

5 Q Do you believe in the death penalty?

6 A Yes, certain cases.

7 Q Okay. A little bit of a hesitation there?

8 A Uh-huh.

9 Q Enlighten us a little more, if you would.

10 A I don't believe everybody should get the
11 death sentence for doing a very serious crime. There is
12 people out there that probably deserve it. We don't know
13 because we don't know the facts.

14 Q Do you understand some of the things we were
15 talking about before in terms of aggravation and
16 mitigation --

17 A Yes.

18 Q -- that those things and a great deal of the
19 defendant's character, both good and bad, will come before
20 you; you will know him as the individual he has been
21 throughout his life?

22 A Yes.

23 Q Would you use those things to find one of
24 the particular penalties to give in this particular case?

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1 A Probably. I'd look at everything.

2 Q I would gather that from your earlier
3 statement about not everyone deserves the death penalty,
4 that you would take -- let's just take the good side of it.

5 You would take all of the good
6 things about him and weigh that in terms of whether or not
7 he should be eligible for the death penalty?

8 A Yes, I would.

9 Q As well as the bad things?

10 A Bad things.

11 Q Of course, that's the weighing process that
12 we were talking about before.

13 You understood that, didn't
14 you?

15 A Yes.

16 Q Do you agree that that's a pretty good
17 system?

18 A Yes.

19 Q And that is, indeed, what allows jurors to
20 distinguish between the three penalties; That you get a
21 good, hard look at the individual they are sentencing and
22 know him as best they can, in this situation that they be
23 in.

24 A Yes.

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1 Q Do you think you can work within that system
2 all right?

3 A Yes, I could.

4 Q Thank you.

5 Is there anything else that you
6 can think of that should come before us?

7 A No.

8 MR. SEATON: Thank you very much.

9 Pass for cause.

10 THE COURT: Mr. Dunleavy.

11

12 EXAMINATION

13 BY MR. DUNLEAVY:

14 Q Good morning.

15 A Good morning.

16 Q I see that you are heavily involved in DARE.

17 A Yes.

18 Q Tell me about the program.

19 A It's a program that we teach to the sixth
20 graders in Clark County for -- to resist drugs and alcohol.

21 Q It's sending out a message that drugs are
22 wrong?

23 A Yes.

24 Q And that the whole thrust of that is that

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1 stay away from drugs?

2 A Stay away from drugs and alcohol.

3 Q Do you have strong beliefs about the drug
4 problem in America today?

5 A Yes, I do.

6 Q Throughout this trial, evidence is going to
7 come out -- almost everybody, short of police officers, in
8 this case is involved in drugs at some level. Most of the
9 men remain as drug users.

10 Is that going to affect your
11 ability to look at these people and evaluate their
12 testimony?

13 A Me being in DARE, is that going to --

14 Q Yes.

15 A No.

16 Q Do you have opinions that people that are
17 involved in drugs are automatically bad or automatically
18 good or just --

19 A No, I don't think everybody involved in drugs
20 is automatically bad, you know.

21 Q You understand a lot of people get in it for
22 different reasons?

23 A Yes.

24 Q And there is some -- unfortunately, some

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1 very strong pull to get people in to drugs?

2 A Yes.

3 Q Talking about considering equally the
4 punishments, as we know, one of the punishments here is to
5 kill Mr. Rippo.

6 A Yes.

7 Q Would you accept the general premise that
8 killing is wrong?

9 A I think killing is wrong.

10 Q And in the DARE program, they say drugs are
11 wrong, so don't use drugs.

12 A Yes.

13 Q Do you think it sends a consistent message
14 to say killing is wrong, so we're going to kill you for
15 doing it?

16 A I think that's wrong what you just said.

17 Q Isn't that the outcome, that because someone
18 is killed, they are going to be put to death?

19 A I don't understand your question.

20 Q The death penalty --

21 A Yes.

22 Q -- what does it mean?

23 A That you are going to put somebody to death.

24 Q And on Question Number 56, in your opinion,

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5 1 what's wrong with the criminal Justice system, you said more
2 persons should be put to death.

3 A Was that the last question?

4 Q No.

5 A Oh.

6 Q 56 on page eight.

7 Is this your (indicating) --

8 A Okay. What I meant on that question was the
9 criminals that have done something, you know, very, very
10 bad, you know, murder, I believe that if they get the death
11 sentence that it should be carried out. It shouldn't be
12 prolonged 15 or 20 years to have us pay for somebody's
13 support.

14 If the jury votes for the death
15 sentence, I believe it should be carried out swiftly.

16 Q Do you know if it costs more to execute
17 somebody than it does to keep them in prison the rest of
18 their life?

19 A No, I didn't know that.

20 Q Do you know whether or not delays are there
21 to try and avoid the execution of innocent people?

22 A I don't know that.

23 Q There has been several people that have
24 commented that they're upset about the fact there is a lot

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1 of delays in cases; and sometimes those delays are caused by
2 the defense, sometimes by the prosecution, sometimes by the
3 crowded calendars of the courts and sometimes for reasons
4 that nobody has any control over.

5 Are you going to hold it
6 against Mr. Ripppo that for this case we're coming in here
7 basically four years after it happened?

8 A No.

9 Q Now, in the first phase, the issue is guilt
10 beyond a reasonable doubt, and many people put down that
11 they believe that the defendant -- and you strongly
12 indicated -- that he should be required to prove his
13 innocence.

14 We've talked a lot about that
15 in the last couple of days.

16 A Yes.

17 Q And it's a confusing concept.

18 But you understand innocence is
19 not applicable in the courtroom.

20 A Yes.

21 Q The issue is beyond a reasonable doubt or
22 not beyond a reasonable doubt.

23 Could you look at somebody and
24 think in the back of your mind, gee, I think they did it,

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1 but it hasn't been proven to me beyond a reasonable doubt,
2 so find them not guilty?

3 A Yes.

4 Q You also indicated people accused of serious
5 crimes are treated too lightly.

6 Do you think that life with the
7 possibility of parole is too light a sentence for somebody
8 convicted of a -- of a first degree murder?

9 Not a second degree murder, not
10 a manslaughter, not any other crimes. The only crimes in
11 this state that we even consider the death penalty is first
12 degree murder.

13 Do you think life with the
14 possibility of parole is too easy for somebody that's been
15 convicted of that crime?

16 A Without knowing all the facts in the case --
17 I don't know the actual involvement, what led up to the
18 murder, so I would keep my options open.

19 I -- I can't say it's a light
20 sentence. I can't say it's a too heavy sentence without
21 knowing what led up to this.

22 Q Now, Mr. Seaton talked briefly about the
23 aggravating, mitigating factors, but one thing you have to
24 remember, and they've mentioned, aggravating factors must be

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1 proven to you beyond a reasonable doubt.

2 A Yes.

3 Q Mitigating factors don't have to, because
4 the legislature is telling you you've got to decide whether
5 or not this person should die, and they don't tie your hands
6 in that.

7 If they, in fact, showed you
8 every aggravating factor known and we showed no mitigating
9 factors whatsoever, you never have to return a death
10 penalty.

11 Do you understand, it's never
12 obligated?

13 A Yes.

14 Q Do you have any problems with that concept?

15 A No.

16 Q What do you think of the idea that
17 punishment should be tempered with mercy?

18 A I don't know. I've never given it any
19 thought.

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20 Q Do you think punishment should always be
21 harsh?

22 A No. Depending on what the circumstances
23 are.

24 Q If you were Mr. Rippo, would you want 12

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1 jurors of your state of mind to be sitting there in
2 judgment?

3 A Yes.

4 Q And the fact that you are involved in DARE
5 is not going to affect you when you hear that people in this
6 case are involved in drugs?

7 A No, it wouldn't affect me at all.

8 Q Even if they were involved in sales of
9 drugs?

10 A It wouldn't affect me at all.

11 MR. DUNLEAVY: I would pass for cause, Your
12 Honor.

13 THE COURT: Okay. Mr. Seaton, you may
14 inquire of Mr. Cunningham.

15 MR. HARMON: I have Mr. Cunningham,
16 Your Honor.

17 THE COURT: All right, Mr. Harmon, go ahead.

18 (Whereupon, Prospective Juror
19 131, THOMAS CUNNINGHAM, was
examined as follows:)

20 EXAMINATION

21 BY MR. HARMON:

22 Q Good morning, sir.

23 A Good morning.

24 Q How long have you lived in Clark County?

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A Since 1980.

Q Did your family move here?

A Yes.

Q I gather that you haven't served as a juror before?

A No.

Q What do you think about the opportunity of serving on this case?

A I think that it would be -- it would be an experience that I would never forget, that's for sure, and something that I have always wanted to do as my obligation.

And when I received my jury summons, I was actually excited to get the opportunity to serve on a jury, and being here for almost a week now, it hasn't changed that much.

I just -- the only thing that's really changed, I guess, is the excitement of being a juror, and the seriousness of what a juror is and what he does has set in, and I'm taking it a lot more seriously than I did when I came here on Monday.

Q Do you believe you are the type of person who will have the strength to pass judgment on another human being?

A Yes, I am.

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1 Q If it becomes necessary for the Jury to
2 become involved in the punishment process, do you have any
3 argument with any of the punishments provided in this state
4 for murder of the first degree?

5 A None whatsoever. I think they're all
6 equally as fair depending on the case.

7 Q Are you willing to reserve any Judgment
8 about the punishment and not even to speculate about
9 punishment until after a penalty hearing might become
10 necessary?

11 A Absolutely. I don't like to put the cart in
12 front of the horse. I don't like doing that.

13 Q Well, what are your views about capital
14 punishment? Are you for or against it?

15 A I've never really been faced with the
16 question.

17 The last three days I've been
18 thinking about it and trying to remember the last time I
19 ever discussed it. And the last time I could remember
20 discussing it was in my government class in 1994, when I was
21 a senior in high school. And at that time, and I believe to
22 this day, I've always believed in capital punishment; but
23 I've -- I've never been faced with a situation of deciding
24 if capital punishment were deserved or not.

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1 Q That, of course, is a hard decision to be
2 required to make.

3 A It is.

4 Q In the event it was necessary -- just assume
5 for a moment that the jury should conclude that Mr. Rippo
6 has been proven guilty beyond a reasonable doubt of murder
7 in the first degree. A penalty hearing occurred; there are
8 mitigating and aggravating circumstances which are
9 presented.

10 And let's further assume that
11 after all of that, that you have personally concluded that
12 the proper punishment in this case would be the death
13 sentence.

14 Do you feel like you have the
15 intestinal fortitude, the strength of your conviction, to
16 come back into the courtroom in open court, in full view of
17 the defendant, and be involved in that type of verdict?

18 A Yes, I do.

19 And I've given that a lot of
20 thought 'cause that question has been asked of quite a few
21 jurors.

22 And as I thought about it more,
23 if -- if the death penalty were seriously -- a serious
24 consideration and we felt, as a juror of -- if 12 people

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1 felt that the crime was serious enough to warrant the death
2 penalty, and in my own mind to -- to make that not so much
3 easier, but more compatible to me, would be that I would not
4 be the only person in that room making that decision.

5 There would be 11 other people
6 in that room that would have to come to that decision; and
7 so, you know, I alone wouldn't feel like I'm sitting here
8 passing judgment by myself. I'm here with 11 other people,
9 and that's the way I feel about it.

10 MR. HARMON: Thank you, sir.

11 Pass for cause, Your Honor.

12 THE COURT: Mr. Wolfson.

13 MR. WOLFSON: Thank you, Judge.

14 Your indulgence for one moment.

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16 (Whereupon, a sotto voce at this time.)

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18 EXAMINATION

19 BY MR. WOLFSON:

20 Q Good morning, sir.

21 A Good morning.

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22 Q I agree with what you just said, that should
23 you be a juror and should you be asked to return a verdict,
24 that it's the 12 of you that ultimately come into the

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7 1 courtroom and the foreman perhaps signs the verdict form,
2 but it's the 12 of you that vote unanimously for whichever
3 verdict you feel is appropriate.

4 Do you understand though that
5 it is your individual judgment which causes you to vote one
6 way or another, independent of the other 11 people?

7 A Yes, I understand that.

8 Q Okay. You will be instructed, should you
9 become a juror, that you, as a deliberation process, should
10 listen to your fellow jurors, have an open mind, consider
11 all the evidence, but it is your independent judgment that
12 makes or breaks whatever vote you choose.

13 Do you agree with that
14 principle?

15 A Yes.

16 Q From your questionnaire, you like comedy.

17 A Yes.

18 Q Your three favorite shows were Home
19 Improvement, Roseanne and Friends.

20 A Yes.

21 Q Okay. You didn't list Jerry Seinfeld
22 though?

23 A No.

24 Q Do you watch that show?

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1 A Occasionally.

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

4 A The only things that I ever watched on the
5 O.J. Simpson trial was the -- the slow -- slow speed chase
6 at the very beginning, because it was on when I got home,
7 and the verdict.

8 In between, basically all I
9 ever heard was from other people. I never watched it. I
10 never paid attention to it.

11 Q Did you watch almost the first day of the
12 case and the last day --

13 A The last day.

14 Q -- of the case? Okay.

15 From what you did hear about
16 the case though, from talking to other people -- we were all
17 inundated from the media -- did you form any impressions
18 that would influence you in this case from your
19 understanding of what happened in the O.J. Simpson trial?

20 A No. It's two different cases.

21 Q You work for Universe Corporation?

22 A Yes.

23 Q What does that corporation do?

24 A That's an industrial uniform company. We

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1 make uniforms for industrial companies.

2 Q Are they a local company here in Nevada?

3 A We just started in Nevada in April, and our
4 plant is out of Ontario, California.

5 Q Okay. And you've just been working for that
6 company for eight or ten months?

7 A Yes.

8 Q Before that, you worked another job with
9 Professional Corporate Services?

10 A Yes.

11 Q And before that though, you spent a number
12 of years with a company -- and I can't read your writing. I
13 apologize.

14 A That's all right. It's very unusual. I've
15 listed there Billeting, B-i-l-l-e-t-i-n-g, and Food
16 Services. That is the military's way of saying lodging and
17 food services.

18 I was a manager for six and a
19 half years at the Indian Springs Air Force Base with a
20 private contractor for lodging and food service.

21 Q Now, you are 24 years old; is that right?

22 A Yes.

23 Q Did you attend college at all?

24 A No. I have just taken some continuing

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education at U.N.L.V.

Q In management?

A Yes.

Q I don't believe you've ever served as a juror before, have you?

A No.

Q So your first shot is right here in a big case; is that right?

A Yes.

Q As you sit here now, are you nervous?

A A little. I'm not used to being questioned.

Q This question has been asked of many other jurors:

If you were Michael Rippo and you were on trial, would you want 12 people of your frame of mind making the decisions on your case?

A Absolutely.

MR. WOLFSON: Okay. Thank you.

Pass for cause.

THE COURT: All right.

Mr. Seaton, you may inquire of --

MR. SEATON: It's Mr. Woehrle, I believe.

(Whereupon, Prospective Juror

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132. HARLAN WOHRLE, was
examined as follows:)

EXAMINATION

BY MR. SEATON:

Q Is that the right pronunciation?

A It sure is.

Q They do Woehrle all the time, I guess, don't
they?

A They really -- they really mess that last
name up.

Q Well, I got lucky. That's Mr. Woehrle.
I'll try to call you that then.

You are one of the few people
that said that death was the worst of all punishments.

A Uh-huh.

Q Tell us why.

A Well, I -- I enjoy living. I have -- I look
forward to each day, getting up and doing my thing. And I
think -- I don't look forward to dying, that's for -- for
sure. And I think that a death penalty would be the worst
thing that you could ever give a person.

Q You've lived a few years.

A Yeah, I guess so.

Q Throughout those years, have you found

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1 yourself in -- well, not the best of conditions; wherever
2 you were in your life at that time could have been better;
3 you were hoping for an upward turn?

4 A I went through the Depression years, if
5 that's what you mean.

6 Q You didn't mind living then?

7 A I -- as a kid, we didn't realize it was bad
8 news.

9 I -- now I realize it must have
10 been tough on my parents, but as kids, we had -- we just
11 went day for day.

12 Q Would you agree with those who say that life
13 is so precious that they just wouldn't give it up for
14 anything?

15 A Would you rephrase that?

16 Q Would you agree with those people who think
17 that life is so precious that they wouldn't want to give it
18 up; they'd want to continue living in spite of whatever bad
19 conditions might be set upon them at the moment?

20 A Well, depending on those bad conditions,
21 could --

22 Q Well --

23 A That's a tough question.

24 Q All right. Let's see if we can narrow it

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1 down a little bit.

2 You have to go to prison.

3 A Oh, I see.

4 Q You have to be there for the rest of your
5 life.

6 A Uh-huh.

7 Q You have to watch somebody else's television
8 and listen to somebody else's music, and perhaps be around
9 people that you don't want to be around --

10 A Uh-huh.

11 Q -- but you are living.

12 A Yeah.

13 Q Would that be the better choice than not to
14 live at all, in your estimation?

15 A Well, now that's a bad choice; but, by the
16 same token, if I had a choice of living, as compared to
17 dying at an early age -- of course, I'm just about around
18 the corner now -- I'd take the living.

19 Q Okay. Do you believe in the death penalty?

20 A Yes, I do.

21 Q Do you think it ought to be a part of the
22 system?

23 A Yes, sir.

24 Q Do you think that there are other viable

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1 alternatives to the death penalty?

2 A Yes, I do.

3 Q A person commits first degree murder, you
4 need to look at more of the facts and circumstances to
5 determine which penalty is applicable?

6 A That's right.

7 Q So you could give a person who has killed
8 life with the possibility of parole, provided that the
9 circumstances were right?

10 A I would weigh all three factors.

11 Q And you, I would take it, from this brief
12 conversation, would have the strength of character to return
13 a verdict of death against this particular individual, Mr.
14 Rippo, if you thought the circumstances warranted it?

15 A Yes. If they warrant it, yes.

16 Q Do you want to serve?

17 A Yes.

18 Q Okay.

19 A Well, I'm not that thrilled about it, let's
20 put it that way; but, like the other members of the panel
21 have stated, that when they get their summons to serve, it's
22 a duty of being an American citizen. But as I said before,
23 I don't think any of us are really overjoyed to be here.

24 MR. SEATON: Thank you.

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Pass for cause, Judge.

THE COURT: Mr. Dunleavy.

EXAMINATION

BY MR. DUNLEAVY:

Q What do you think of the idea of coming somewhere like this and going through a procedure to pick 12 people that say they consider killing somebody?

A What do I think of the idea?

Q Uh-huh. Does it seem barbaric or does it seem like a good idea?

A I -- I guess it's the only way you can do it. You have to pick a jury of your peers and go from there.

Q And you have no idea -- no problem with the fact that his peers must, in fact, agree to kill?

A What was that again?

Q Do you have any problem with the fact that these peers that you mentioned, a jury of his peers, have to agree to kill in order to sit on the jury?

A Well, there again, it warrants -- it's up to the facts of the case.

You are asking us questions that we don't know how this case is being presented.

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1 None of us want to kill
2 anybody, that's for sure.

3 Q Now you got a couple of weeks under you.
4 Did you ever do things when you were younger that you
5 wouldn't do today?

6 A Certainly.

7 Q Do you think almost everybody has?

8 A Absolutely.

9 Q People change as they get older?

10 A Sure they do.

11 Q Do you know anybody who didn't change as
12 they got older?

13 A No.

14 Q Kind of a natural phenomenon?

15 A I agree.

16 Q There has been some talk about the O.J. case
17 here.

18 Did you watch the O.J. case?

19 A Well, I was kind of -- couldn't help it. My
20 wife watched it all the time, and I just passed through the
21 room. It got awfully boring after a while, I thought.

22 Q Well, you have been here for three days.
23 You can see this is right up there with watching paint dry.

24 A Yeah, it's getting there; it's getting

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1 there.

2 Q Unfortunately, it's an arduous process we
3 have to go through.

4 A I understand.

5 Q Do you understand it's an important process?

6 A Absolutely.

7 Q Now, you are not going to hold it against
8 Mr. Rippe that he doesn't have the Dream Team in here,
9 right?

10 A No.

11 MR. WOLFSON: Excuse me. I take exception
12 to that.

13 BY MR. DUNLEAVY:

14 Q You indicated that you believe in an eye for
15 an eye.

16 A Yes, I do, but I -- when that question
17 appeared on the questionnaire, it took me back to the days
18 when I was in the service, and in those days, an eye for an
19 eye was -- was the number one rule of thumb.

20 In other words, you ask any
21 Marine at Guadalcanal or Saipan or Iwo Jima, if ten of their
22 buddies were wiped out, they'd go back and get ten of
23 theirs.

24 Now, an eye for an eye in this

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1 courtroom today, no, I don't agree with what you said, if
2 you rape my daughter, I'd rape your daughter.

3 Q You are --

4 A I would have you arrested and prosecuted.
5 That's not an eye for an eye.

6 Q That's the way to do it.

7 A Right.

8 Q And you were on the New Jersey during
9 World War II?

10 A That's right.

11 Q So you saw some serious action and you've
12 seen people killed?

13 A Uh-huh.

14 Q Have you had occasion to see that since the
15 end of the war?

16 A No.

17 Q You were asked: The rights of persons
18 charged with crimes are better protected than the rights of
19 the victim.

20 Now, obviously, in the abstract
21 on this form, it means one thing. We've talked about it a
22 lot here in court since then.

23 Does your view on that change
24 at all?

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1 A Well, there is -- those questions remind me
2 of the questionnaire when you get your driver's license.
3 They -- they're misleading, and possibly I put down the
4 wrong answers.

5 Q Do you understand everybody has the same
6 rights?

7 A Absolutely, yes.

8 Q And if -- those rights come in to play here
9 in this courtroom?

10 A Uh-huh.

11 Q So, do you have any doubt that you could
12 fairly consider all three punishments in this case?

13 A I could consider all three. I have no
14 doubts.

15 Q That could be a misleading question. There
16 is lot of semantics.

17 Some people could say, well, I
18 can consider it, but I know what I am going to come up with;
19 and other people will say, yeah, I'll weigh all three and
20 try and decide based on this individual case.

21 Which way are you leading?

22 A I weigh my decision based on the facts of
23 the case.

24 Q So you have no problem being fair in this

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1 case?

2 A No, not at all.

3 MR. DUNLEAVY: Thank you.

4 I have no further questions,
5 Your Honor. I pass for cause.

6 THE COURT: Mr. Harmon, you may inquire of
7 Mr. Caldwell.

8 (Whereupon, Prospective Juror
9 133, ALVIN CALDWELL, was
examined as follows:)

10 EXAMINATION

11 BY MR. HARMON:

12 Q Good morning. Sir, do you still work with
13 Albertson's?

14 A Yes.

15 Q What do you do there?

16 A I'm a meat cutter.

17 Q How long have you lived in Clark County?

18 A Nine years.

19 Q Mr. Caldwell, what is your attitude about
20 serving as a juror on this type of case?

21 A I feel comfortable.

22 Q Is there anything concerning your employment
23 or your personal life that would prevent you from giving
24 your full to these proceedings when the court is in session?

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1 A No.

2 Q Do you understand the importance of this
3 matter?

4 A Yes.

5 Q Do you feel like you have the inner
6 toughness to deal with the important decisions required of
7 the jury?

8 A Yes.

9 Q Concerning punishment, if that becomes a
10 decision the jury must make, would you describe yourself as
11 being for or against capital punishment?

12 A For.

13 Q Is this a position you've just acquired or
14 have you held that view for some time?

15 A For a while.

16 Q Why would you describe yourself as being for
17 the death sentence?

18 A I believe what goes around comes around.

19 Q I know that's a phrase that we hear quite
20 often. Would you explain to us what that means to you?

21 A I feel like if -- like -- I feel if you do
22 something that's wrong, that's punishable or something, like
23 you'll get -- you'll get yours in the end.

24 Do you know what I'm saying?

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9 1 Whether it be death or anything like -- you'll get punished
2 somehow or some way down the line or something like that.

3 Q Do you believe that those who commit serious
4 violent crimes should be held personally responsible for
5 what they do?

6 A Yes, I do.

7 Q Do you feel like any punishment imposed
8 should fit the nature of the crime committed?

9 A Yes.

10 Q In this case, if, after you had heard all
11 the evidence, the defendant was convicted of first degree
12 murder, and after a penalty hearing, if you personally
13 believe that the nature of these crimes and the type of
14 person Mr. Ripppo was that made him someone who should be
15 given capital punishment, would you have the strength to do
16 your conviction, to come into the courtroom and share in
17 that type of vote?

18 A Yes.

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

20 THE COURT: Mr. Wolfson.

21 MR. WOLFSON: Thank you, Judge.

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EXAMINATION

24 BY MR. WOLFSON:

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9 1 Q Good morning, sir.

2 A Good morning.

3 Q Do you believe that every person who commits

4 a serious murder -- we've talked before about some murders

5 being less serious than others, and I think you know what I

6 mean by that -- that a person who commits a serious murder

7 should automatically receive the death penalty?

8 A I didn't say that. I believe he should be

9 punished in some way.

10 Q Do you believe that a person, over time, can

11 reform?

12 A Yeah, they -- they can.

13 Q I think we'd all probably agree that there

14 is exceptions to everything, and that perhaps some people

15 can't.

16 But, generally, do you think

17 that human beings, over time, reform?

18 A In most cases.

19 Q You are another individual that likes comedy

20 shows.

21 A Yeah.

22 Q You watch Jerry Seinfeld, I see.

23 A Yes.

24 Q If I were to ask you to identify with one of

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1 the characters, who do you think you are most like on the
2 Jerry Seinfeld show?

3 A I -- I -- I don't really know. I never
4 recall thought about it that way.

5 Q You've been employed at Albertson's for about
6 seven -- six, seven years now; is that right?

7 A Nine years.

8 Q Nine years. My sheet says March of '88.
9 So --

10 A Okay.

11 Q And have you been a meat cutter the whole
12 time or have you graduated up --

13 A I've been a meat cutter the whole time.

14 Q The last question on the questionnaire, I
15 think that -- now that we've been discussing this question
16 for three days, I think a lot of us would agree that if we
17 thought about our answers a little better, perhaps we'd
18 change them --

19 A Yeah.

20 Q -- and in 75(b), you were asked to indicate
21 your opinion to the following statement, and the statement
22 was: The defendant in a criminal trial should be required
23 to prove his or her innocence.

24 And you -- you marked strongly

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1 agree.

2 A Yeah.

3 Q Do you feel that way as you sit here now?

4 A No. Just as these guys are here to -- for
5 the guilty, like you hear not guilty, if I was in his case,
6 I would feel like I would have to get some evidence together
7 to try to prove myself innocent, not guilty. And that's the
8 way I thought the court system worked. But sitting here now
9 after all this time, I see it's not that way.

10 Q Okay. Good. Then you've been educated a
11 little?

12 A Yes.

13 Q Let's make sure you are clear.

14 The State of Nevada has the
15 burden of proof; they have to prove that the defendant in a
16 criminal case is guilty beyond a reasonable doubt.

17 A Okay.

18 Q A defendant in a criminal case doesn't have
19 the burden to do anything. As has been discussed, Mr.
20 Rippo, through his lawyers, can sit here and virtually do
21 nothing, and if you are not convinced, as a juror, that they
22 have met their burden in proving guilt beyond a reasonable
23 doubt, even though we haven't done anything, you can still
24 vote not guilty.

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1 A Right.

2 Q Do you understand that principle of law?

3 A Yes.

4 Q Do you accept it now as a potential Juror?

5 A Yes.

6 Q The law in this country says that a person
7 is entitled to a jury of his peers, of persons like him or
8 similar to him. And perhaps you and this other gentleman
9 are very much like Michael, in the sense of age. You are 28
10 years old. The evidence will come in that May 4, Michael, I
11 think, is going to be 31.

12 How do you feel about sitting
13 in judgment with somebody that is so close in age to you,
14 when you may have to decide whether he's guilty or not
15 guilty of murder and perhaps what punishment should be
16 imposed?

17 A I feel if I was sitting in his chair and he
18 was on the panel up here, he'd treat me fairly. So I feel
19 I -- I have to treat him fairly.

20 Q So you would want people in your frame of
21 mind sitting in judgment of you should that ever occur?

22 A Yes.

23 MR. WOLFSON: Okay. Thank you, sir.

24 Pass for cause.

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RENEE SILVAGGIO, CCR 122 391-0379

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1 THE COURT: Mr. Harmon, you may inquire of
2 Mr. Muller.

3 Is it pronounced Muller, sir?

4 PROSPECTIVE JUROR 135, MR. MULLER: Muller.

5 THE COURT: I'm sorry.

6 PROSPECTIVE JUROR 135, MR. MULLER: That's
7 all right.

8 (Whereupon, Prospective Juror
9 135, KENNETH MULLER, was
examined as follows:)

10 EXAMINATION

11 BY MR. HARMON:

12 Q Mr. Muller, in the questionnaire, you
13 indicated you had a sister-in-law who had some brush with
14 the criminal justice system.

15 A Yes, sir, in Kentucky.

16 Q How long ago was that?

17 A About five years ago.

18 Q Do you know many of the details of that
19 event?

20 A Not really. She was arrested for allegedly
21 taking contraband into a prison system.

22 Q Is there anything about that situation that
23 would carry over and influence your attitude towards this
24 case?

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1 A No, sir.

2 Q You appreciate the importance of basing any
3 verdicts in this courtroom strictly upon the evidence
4 introduced during the trial?

5 A Yes, sir.

6 Q Do you understand that a proper verdict is
7 not something based upon race or bias or prematurely
8 speculating about punishment or sympathy or factors like
9 that?

10 A Yes, sir.

11 Q But can you abide by that concept?

12 A Definitely.

13 Q If it became necessary, as a Juror in this
14 case, to consider punishment, would you be able to do that?

15 A I believe I could, yes.

16 Q How do you feel about serving as a juror on
17 this type of case?

18 A I don't think anybody is ever ready, but
19 it's part of your duty. That's part of living in this
20 country.

21 Q You have accepted the responsibility of
22 being a juror on two other occasions?

23 A Yes, sir.

24 Q Is there anything about those experiences

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1 that would impact your role in this case in a negative way?

2 A No, sir.

3 Q How do you feel about the punishments
4 provided in this state for murder of the first degree?

5 A Looking at all three of them, I'd say it's
6 very fair. Without knowing exactly all the details, if it
7 goes to a decision, the three, I think, are very fair. It's
8 like the beginning, the middle of the road and an end.

9 Q Are you saying that you are certainly in a
10 frame of mind now where you can consider equally the three
11 penalties?

12 A If I have all the details, yes.

13 Q Of course, you don't have any details at
14 this point.

15 A That's true.

16 Q So you are not leaning in any direction in
17 terms of --

18 A Correct.

19 Q Can you think of circumstances and of cases,
20 crimes, where you believed capital punishment was proper?

21 A Yes, sir.

22 Q If, after you have heard all the evidence in
23 this case, you thought it was proper in this situation,
24 would you have the strength in your conviction to vote for

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1 it?

2 A If all the details were given and everything
3 left no doubt, I would have no problem with it.

4 Q As has been explained recently, the
5 prosecution, at each stage of the trial, has the burden of
6 proving its case beyond a reasonable doubt.

7 A Yes.

8 Q Would you hold the prosecutors to that
9 burden?

10 A Yes.

11 Q Is there anything about your work or your
12 personal life at this time that would prevent you from
13 giving your full attention to this trial?

14 A No, sir, there is no problem.

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

16 THE COURT: Mr. Wolfson.

17 MR. WOLFSON: Thank you, Judge.

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EXAMINATION

20 BY MR. WOLFSON:

21 Q Sir, is your last name pronounced Muller or
22 Muller?

23 A Muller.

24 Q Muller. Thank you.

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1 Mr. Muller, as was stated, you've served
2 on a Jury twice before; is that right?

3 A Correct.

4 Q And both times they were criminal cases?

5 A Correct.

6 Q But you failed to list the year of the
7 cases.

8 Do you recall when you served?

9 A One was 10 or 12 years ago. In fact, I
10 found out today that you were the prosecuting attorney on
11 that one.

12 Q How did I do?

13 A They plea bargained.

14 Q Oh, okay. Is that the case that did not go
15 to the Jury?

16 A Correct.

17 Q Now you said that you found out that I was
18 the prosecutor.

19 How did you find out that I was
20 the prosecutor?

21 A Um, you looked familiar, and I couldn't
22 place it, except for maybe the T.V. ads. When you were
23 questioning one of the previous jurors about does anybody
24 look familiar, that's when it finally clicked in. And I was

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11 1 asking Leo this morning if -- you know, you were -- when you
2 said yes, that's what brought it to mind.

3 Q Were you actually impaneled on the jury and
4 evidence began in that case --

5 A Yes.

6 Q -- and then -- and then, before you began
7 the deliberation process, you were informed that the case
8 had settled?

9 A Yes.

10 Q I was the prosecutor, before becoming a
11 private lawyer, in the same office that is prosecuting this
12 case, and I believe that's what you are talking about.

13 Is there anything about that
14 fact that causes you to form an opinion of either me
15 personally or lawyers who go from prosecution to defense?

16 A No.

17 Q You understand this is more of a question
18 that it's very common for lawyers to begin their careers as
19 prosecutors and then finish their careers -- like I'm so
20 old, I'm finishing my career -- moving on in their careers
21 as a private lawyer.

22 A Yes, sir.

23 Q The fact that that case was plea bargained,
24 and for whatever reason was taken away from you before you

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1 could actively participate, anything about that that would
2 influence you in this case?

3 A Being my first time as a juror, I -- there
4 were a lot of us that were very nerved at it and the people
5 that were involved.

6 We were kind of glad it went
7 that way.

8 Q Did I speak with you after the case?

9 A I think you did briefly. I'm not positive.

12

10 Q It's very common for lawyers at the ends of
11 cases to speak to jurors. Lawyers learn from jurors what
12 they liked and what they didn't like and jurors learned from
13 lawyers as well.

14 So nothing about that
15 interaction leaves you an impression of me that would affect
16 this case, does it?

17 A No, sir.

18 Q And then you sat on another case, a land
19 fraud criminal case; is that right?

20 A Yes, sir.

21 Q And was that more recently than the first
22 case?

23 A Yes. That was five or six years ago.

24 Q State court or federal court?

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1 A I believe it was state court.

2 Q In this building?

3 A Yes.

4 Q And that case went to a verdict; is that
5 right?

6 A Yeah.

7 Q Were you the foreman of that jury, by any
8 chance?

9 A No, I was not.

10 Q Now, by coincidence, I wasn't the lawyer on
11 that case, was I?

12 A No.

13 Q Now, that would be a coincidence, wouldn't
14 it?

15 Are you in the Air Force now?

16 A As a civil servant, yes.

17 Q You've been in the Air Force for a number of
18 years, have you -- haven't you?

19 A I've been connected with them since roughly
20 1972.

21 Q Were you actually in the service and now you
22 are --

23 A Yes.

24 Q -- you are a private citizen, but you still,

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1 as a civil servant, have them as your employer?

2 A Correct.

3 Q And you are an airplane mechanic; is that
4 right?

5 A Yes, sir.

6 Q You have a son and a daughter; is that
7 right?

8 A Yes, sir.

9 Q You've heard me ask this question before:

10 You are certainly, if chosen as
11 a juror, going to hear evidence about the deaths of two
12 young women about the same age range as your son and
13 daughter.

14 Will you be able to separate
15 that potential emotion that may hit you because you have
16 young children yourself from your role as a juror in
17 deciding the case?

18 A Yes, sir.

19 Q If you were Mr. Rippo, would you want people
20 of your frame of mind to sit in judgment of you?

21 A Yes, I think I would.

22 MR. WOLFSON: Thank you.

23 We will pass for cause.

24 THE COURT: Okay. With permission of

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1 counsel, I'm going to excuse the 12 members seated to my
2 left in the jury box until tomorrow morning at ten a.m.

3 MR. SEATON: No, Judge.

4 THE COURT: Remember, you are admonished not
5 to converse among yourselves or with anyone else on any
6 subject connected with this trial;

7 Read, watch, listen to any
8 report or commentary of the trial by any medium of
9 information, including without limitation, newspapers,
10 television and radio;

11 Or form or express any opinion
12 on this case until this matter is finally submitted to you.

13 Have a good day. We'll see you
14 tomorrow morning, ten a.m.

15 (Whereupon, the prospective
16 jurors were excused for the
day and left the courtroom.)

17 THE COURT: All right. The clerk will now
18 call the next 12 names to take the injury box.

19 THE CLERK: Number 139, Steven Flood;
20 Number 140, Sandra Pacheco;
21 Number 141, Christopher Miller;
22 Number 142, Thomas Ceglarsky;
23 Number 147, Marcel Sicotte;
24 Number 149, Lora Rogers;

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1 Number 481, Daniel Foley;
2 Number 482, Robbin Bonnin;
3 Number 484, Brian Reinert;
4 Number 486, Jennifer Durante;
5 Number 489, Jack Hooper;
6 Number 490, Deanna Brown.

7 THE COURT: All right. Why don't we take a
8 five-minute recess, then we'll get started again.

9 Remember: Don't discuss the
10 case among yourselves or with anyone else or form any
11 opinion on this case until the matter is submitted to you.

12

13 (Recess taken.)

14

15 THE COURT: Counsel stipulate to the
16 presence of the remainder of the jury panel?

17 MR. DUNLEAVY: Yes, Your Honor.

18 MR. SEATON: Yes, Judge.

19 THE COURT: Okay. I guess we're going to
20 begin with Mr. Flood.

21 MR. HARMON: I will be doing that, Your
22 Honor.

23 THE COURT: Mr. Harmon.

24 (Whereupon, Prospective Juror

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139, STEVEN FLOOD, was
examined as follows:)

EXAMINATION

BY MR. HARMON:

Q Good morning, sir.

A Good morning.

Q How do you feel, Mr. Flood, about the
opportunity to serve on this jury?

A I find it interesting; also nerve wracking.

Q A little what did you say?

A Nerve wracking.

Q Well, no one is going to suggest ever that
it's easy or pleasant to be called upon to pass judgment on
some other human being.

A I think that's probably the hardest thing to
do.

Q But do you feel that you will be able to
cope with the difficult decisions required in this case?

A Yes, I will.

Q Will any verdict that you reach be based
solely on the evidence?

A Yes.

Q You don't carry with you any particular
biases that would somehow detract you from just focusing on

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1 the law of the case and the facts?

2 A No.

3 Q What are your feelings about the punishments
4 provided for first degree murder?

5 A I think there is a place for all three.

6 Q Is your frame of mind at this time such that
7 you can consider equally the three punishments provided?

8 A Yes.

9 Q Are you for or against the death penalty
10 generally?

11 A Generally I'm for it.

12 Q Why are you for it?

13 A Because in certain circumstances, I think it
14 warrants it.

15 Q Are you also willing, however, to consider
16 whatever aggravating and mitigating circumstances may be
17 presented at a penalty hearing?

18 A Yes, I do.

19 Q So you are not ruling out any of the
20 punishments at this time?

21 A Pardon me?

22 Q You are not ruling out any of the
23 punishments at this time?

24 A No, I'm not.

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1 Q Is there anything in your life that would
2 prevent you from giving your full attention to the trial
3 when the court is in session?

4 A No.

5 Q Did you know anything at all about this case
6 before you came to the courthouse?

7 A No. I didn't live here then.

8 Q How long have you lived in Clark County?

9 A Two and a half years.

10 Q Where did you move from?

11 A California.

12 Q What prompted your move to Clark County,
13 Nevada?

14 A Jobs.

15 Q If, after all the evidence has been
16 presented, and if you were involved in the task of fixing
17 punishment, and if you felt that because of the nature of
18 these crimes, the worst punishment was called for, would you
19 have the intestinal fortitude to come in the courtroom and
20 vote for a death sentence?

21 A I think so. I think it would be the hardest
22 thing I'd ever have to do.

23 Q But do you think that you would have the
24 strength of your conviction to do it if you conscientiously

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1 believed that that was the proper thing to do?

2 A Yes, sir.

3 MR. HARMON: Thank you.

4 Pass for cause.

5 THE COURT: Mr. Wolfson.

6 MR. WOLFSON: Thank you, Judge.

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EXAMINATION

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BY MR. WOLFSON:

10 Q Good morning, sir.

11 A Good morning.

12 Q Mr. Flood, you have an uncle who is either a
13 Judge or a lawyer?

14 A He's an attorney, yes, in California.

15 Q And is this your wife's brother?

16 A No, he's my uncle. He's my uncle. My --
17 my -- he's my aunt's husband.

18 Q And what kind of law does he practice in
19 California?

20 A Civil; I think civil.

21 Q Civil?

22 A Yes.

23 Q How often do you talk to him or see him?

24 A I haven't seen him in 20 years.

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1 Q You haven't talked to him either?

2 A No.

3 Q It's fair to say that nothing about --

4 A I really don't even know him that well.

5 Q Okay. It's fair to say nothing about him or
6 what he does would affect you in this case?

7 A No.

8 Q Have you, yourself, ever been involved in
9 the criminal justice system before?

10 A One time I was cited for trespassing on
11 Indian land. I was hiking in Palm Springs. It's called
12 Tochwitz Canyon. It's a place where people hike and it's
13 illegal because it's Indian land and we didn't have
14 permission.

15 So I was cited and got a ticket
16 for it and I had to go to a trial where the JP gave the --
17 he said what the maximum sentence was; and then we left and
18 we came back that same day and he told us what he would give
19 us, and we got a year -- or a year's probation, I think, and
20 a \$50 fine.

21 Q Were you actually on probation for a year?

22 A Yes, yes. And -- when he told us that the
23 maximum penalty was five years in jail, I think, and a \$1500
24 fine, we almost died. There was six of us that got tickets.

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RENEE SILVAGGIO, CCR 122 391-0379

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1 Q Were you in federal court?

2 A I'm not sure what it was. It was in court
3 in Palm Springs. I'm not sure.

4 Q Okay. Was it a tribal court?

5 A No. It was -- no, I think it was a
6 misdemeanor court because there was other people in there
7 for misdemeanor violations.

8 Q Okay.

9 A I'm not sure. It happened so many years
10 ago.

11 Q And after hearing what you heard about the
12 potential penalties, you decided it was in your best
13 interest to accept a settlement?

14 A Yes.

15 Q And you did?

16 A Yes.

17 Q And were you actually on probation with a
18 probation officer?

19 A No, we didn't have a probation officer.

20 Q It's more of an informal probation?

21 A Yeah; I think so, yeah. We didn't even live
22 in the county. So I -- I don't even remember how -- well, I
23 guess we lived in the same county, but we didn't live in
24 that town, so I didn't know --

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1 Q Okay. Anything about that experience that
2 would affect you or influence you in this case?

3 A No.

4 Q Did you have a lawyer?

5 A No, we didn't think we needed one. We
6 thought we did afterwards though.

14

7 Q Did you have occasion to watch any of the
8 O.J. Simpson case?

9 A I didn't watch the trial itself, but I
10 watched commentary on it.

11 Q Were you a regular watcher, a
12 semi-regular --

13 A Semi-regular.

14 Q What commentary did you watch? Did you
15 watch a particular program?

16 A Mostly news commentary on CNN and other --
17 the regular channel news. I'm a news watcher.

18 Q Do you feel that you got a pretty good
19 mixture of what was happening in the case by watching the
20 commentary at night?

21 A I don't know. I -- after watching the whole
22 thing, I -- I just have less belief in the media than
23 anything, watching the whole thing.

24 Q All right. Anything about that trial, the

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1 O.J. Simpson case, that caused you to form opinions about
2 the criminal justice system that would influence you in this
3 case?

4 A No.

5 Q Have you ever been asked before this week
6 what your thoughts on the death penalty were?

7 A I don't know if I was ever asked. But I --
8 I have talked about it in the past.

9 Q In social settings --

10 A Right.

11 Q -- with friends?

12 A Right.

13 Q Would you say that you are an advocate of
14 the death penalty?

15 A Not -- I don't know if I'm an advocate of
16 the death penalty, but I think certain circumstances warrant
17 it, depending on the severity of the crime.

18 Q You've never served on a jury before, have
19 you?

20 A No.

21 Q If you are selected as a juror in this case
22 and you sit through a two week trial, and at the end of the
23 trial, you are instructed by the Court on the law, and you
24 go back into the deliberation room to begin your discussions

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1 of the case, and you felt strongly one way or another, but
2 the majority of the people in the room felt another way, how
3 would you handle that situation?

4 A I would want them to convince me otherwise,
5 that I -- and I would keep an open mind though.

6 Q Do you consider yourself to be a leader or a
7 follower?

8 A I'm probably a leader.

9 Q If you were given the choice, once again,
10 should you be selected as a Juror, of being the foreman and
11 somebody said, Mr. Flood, we think you are the guy that
12 should lead this Jury, we're going to give you the choice of
13 being the foreman, would you accept that or would you say
14 no, I'd rather not be the foreman?

15 A I don't know if I would be the one to be
16 that person, but I think I would accept it if it was handed
17 to me.

18 Q I can tell you, as has already been
19 mentioned by a number of the lawyers, that there is going to
20 be a lot of discussion about drug use in this case.

21 Do you have any particular
22 opinions or will that adversely affect you if the subject of
23 drug use enters into this case?

24 A I don't think so.

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