

IN THE SUPREME COURT OF THE STATE OF NEVADA

LUIS A, HIDALGO, JR.

Appellant,

vs.

THE STATE OF NEVADA

Respondent.

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CASE NO.: 54209

On Appeal from a Final Judgment of
Conviction entered by The Eighth Judicial
District Court

APPELLANT'S APPENDIX

Volume 7 of 25

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¹ This CD is a copy of the original. The copy was prepared by a Clark County employee at the Regional Justice Center in Las Vegas Nevada. Eight hard copies of the CD are being mailed to the Nevada Supreme Court.

² Id.

³ Id.

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3 DISTRICT COURT
4 CLARK COUNTY, NEVADA
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6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 LUIS ALONSO HIDALGO III and LUIS

10 HIDALGO, JR.,

11 Defendants.
12

CASE NO. C212667/ C241394
DEPT. XXI

13 BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE

14 WEDNESDAY, JANUARY 28, 2009

15 RECORDER'S TRANSCRIPT OF HEARING RE:

16 JURY TRIAL

17 APPEARANCES:

18 FOR THE STATE:

MARC P. DIGIACOMO, ESQ.
GIANCARLO PESCI, ESQ.
Deputy District Attorneys

20 FOR LUIS HIDALGO III:

JOHN L. ARRASCADA, ESQ.
CHRISTOPHER W. ADAMS, ESQ.

22 FOR LUIS HIDALGO, JR:

DOMINIC P. GENTILE, ESQ.
PAOLA M. ARMENI, ESQ.

24
25 RECORDED BY: JANIE L. OLSEN, COURT RECORDER

JRP TRANSCRIBING
702.635.0301

1 LAS VEGAS, CLARK COUNTY, NV, WEDNESDAY, JAN. 28, 2009

2
3 THE COURT: A couple updates on our jurors. Juror No. 1 -- Juror No.
4 15, Scott Wintrip came in this -- he called and then he came in this morning
5 saying that the stress has exacerbated, apparently, his irritable bowel syndrome
6 and he finds this to be problematic sitting in the jury box. And he brought a
7 prescription with him, it's an old prescription, it's from '06.

8 He didn't want to be here anyway. He had said something about
9 being a loan processor. But we did check out what the prescription is for and it is
10 prescribed for irritable bowel syndrome, so I guess we'll excuse him.

11 MR. GENTILE: Sure.

12 THE COURT: Okay. And that's number 15. I've also made an --

13 Did the other guy -- Jeff, did the other guy show up?

14 THE MARSHAL: I called out to the hallway. We're going to have to wait
15 until roll call because he didn't answer as of five minutes ago.

16 THE COURT: All right.

17 MR. DIGIACOMO: Mr. Ricks?

18 THE COURT: Huh?

19 MR. DIGIACOMO: Is that Mr. Ricks?

20 THE MARSHAL: Ricks.

21 THE COURT: It's our blazer, yes.

22 MS. ARMENI: The one that told us he wasn't going to be here?

23 MR. DIGIACOMO: He didn't show up?

24 THE MARSHAL: He wasn't here as of five minutes ago.

25 MR. DIGIACOMO: Ricks is the blazer. I don't remember who he is.

1 MR. PESCI: Oh, blazer. I thought you said laser. I'm like, what?

2 MR. DIGIACOMO: He's 51.

3 MR. GENTILE: Can we have a few minutes to set up, Judge?

4 THE COURT: Yeah.

5 (Off-record colloquy)

6 THE COURT: All right. Are we ready to start?

7 MR. ADAMS: Judge, we have one matter --

8 THE COURT: Okay.

9 MR. ADAMS: -- before we --

10 THE CLERK: Hold on.

11 MR. ADAMS: -- have the jurors in.

12 THE COURT: All right. What is it?

13 MR. ADAMS: As the Court is aware, we've been the last lawyers into the
14 case, and we've been relying upon the oral history of others as to the history of
15 the case to date. Our understanding is that there have been transcripts that the
16 State provided, created and provided to the defense. The defense did transcripts
17 themselves over the body wire, the May 23rd body wire.

18 This morning we received a second transcript from the State which
19 includes significantly different language on a key point about what allegedly -- a
20 comment made by Mr. Hidalgo III to Deangelo Carroll. And the language --
21 there's not a page number, but it says from the mouth of Little Louie, next time
22 you do something stupid like that, I told you that you should've taken care of TJ.
23 But -- and then there's a blank -- all the fucking time, but -- blank -- Casey --
24 blank -- priors. How do you know this guy?

25 We've listened to the tape over and over. Our understanding is the

1 agreement of the Court is they could introduce their transcript, which was created
2 two or three or four years ago, we could introduce the transcript made by the
3 defense, and now on the second day of trial we're getting something completely
4 different.

5 And if it's the intention of them to introduce it, I don't know that we --
6 either side would be prepared to fully litigate it now. But I think the best evidence
7 is the tape and we object to this and we think it's improper.

8 MR. GENTILE: We had an audibility hearing. It would be different if we
9 had not, but we did. And at the audibility hearing the issue was for the Court to
10 make a determination as to whether this was something that was audible on the
11 tape or not. It would seem to me that it's only fair that before that tape is played
12 you listen to that tape and see if this is a reasonable interpretation of that tape. If
13 it is, then it is. But -- but this is the State unilaterally changing at a, you know,
14 way late time.

15 THE COURT: Right.

16 Mr. Di -- I mean, it seems a bit late that now all of the sudden, you
17 know, getting ready for trial there's a new transcript. I mean, if that was what
18 was apparent in listening to the tape, then why wasn't it in the State's first
19 transcript?

20 MR. GENTILE: Before we go any further, there's one more thing. One
21 of the things that I really feel prejudiced about, and have for a long time, is the
22 fact that Anabel Espindola's debriefing was not transcribed --

23 THE COURT: Was not recorded.

24 MR. DIGIACOMO: -- and you have refused to give us, even though we
25 requested, over the State's objection because they're contending that it's

1 somehow work product, the notes that were taken by the law enforcement
2 officers that were present. Teresa Kyger was there. She's a Metro officer.
3 Okay? And -- and so this is just, you know, piling onto that.

4 If there is something in those notes back then that says that this is
5 something that she told them back then, great. If it's not, to my way of thinking,
6 now it becomes Brady.

7 THE COURT: Mr. DiGiacomo.

8 MR. DIGIACOMO: Yes, Judge. Approx -- if you recall the history of this
9 case, the motion for the audibility hearing occurred prior to the entry of a plea by
10 Ms. Espindola. At the time the State -- the State provided to the defense, I
11 believe, and I may be wrong, but the State provided to the defense a copy of a
12 transcript. And as the Court is aware, the best evidence is the tape itself. And
13 the defense has provided us a copy of -- of a transcript. I don't -- I'm assuming
14 they're using the same one, but I don't know that for a fact is true.

15 Approximately two weeks ago when Mr. Arrascada and Mr. Adams
16 were in my office I directed them specifically to this point. And I said, look, I've
17 been listening to these tapes, in this portion right here you can hear your client
18 say take care of TJ, specifically referred them to that section and told them to
19 listen to that tape because that is going to be an issue that the State is going to
20 raise during the course of this trial.

21 During the time period that we went over the recordings with the
22 witness who is going to authenticate the transcripts, they made changes to the
23 transcripts. When that was completed, I've turned that over to the defense.
24 There is no difference between the -- the recordings that are being provided to
25 the defense previously and the recordings now.

1 To say that the State can't say, ladies and gentlemen, when you
2 listen to this -- this recording, you are going to hear Little Lou say this. If it's not
3 on there, then that's going to look really bad for the State because it's going to
4 make our credibility look really bad. To assert that they didn't know about it when
5 I specifically directed them to that page, to that line, and exactly what I thought
6 was being said on that line is an assertion that's not real fair to the State at this
7 particular point in time.

8 THE COURT: Yeah. I think the issue -- and I don't know if this is their
9 issue, but I think the issue is this. You know, the tape is what it is, but it's difficult
10 to hear what's on the tape. And when the State gives a transcript, there are
11 some jurors that may defer to the transcript or it's suggestive to them that, well,
12 maybe that's what I hear, whereas if they heard it cold without a transcript, they
13 may not be able to hear anything.

14 And I think that that's the bigger point that sub -- you know,
15 subconsciously, even if they're reading it, oh, yeah, yeah, yeah, that's what I'm
16 hearing. And so there is a power in the transcript, and I think that that may be
17 what their concern is.

18 And then kind of on the timeliness issue that, you know, they didn't
19 know that was going to be part of the transcript or not part of the transcript,
20 honestly, in terms of somehow changing the transcript or being able to modify
21 the -- the transcript or increase the comprehension based on the interview with
22 Anabel Espindola, I don't believe that there was anything in the notes that would
23 reflect that that could've been done. But the notes will speak for themselves, and
24 they are a Court's exhibit.

25 What was told to the detectives that's not reflected in the notes,

1 obviously we don't know what that is.

2 MR. GENTILE: No, but it would -- two -- two issues, two things I'd like to
3 say.

4 Number one, I have no dispute over what Mr. DiGiacomo said
5 because I wasn't there. Okay? I also could say that nobody that represents Mr.
6 Hidalgo III ever told me what Mr. DiGiacomo said. This is a conspiracy case.
7 The State has wailed from the beginning about the representation of both of
8 these people by one lawyer. Okay? They have gotten their way.

9 And so it would seem to me that because it's a conspiracy case and
10 because they're trying to take the position, at least at that point in time, that
11 things that are being uttered on this tape were part of that conspiracy --

12 THE COURT: Right.

13 MR. GENTILE: -- I should've been advised of this, not this morning for
14 the first time.

15 THE COURT: All right. Here's what we're going to do. Because the jury
16 is out in the hallway we can proceed with jury selection. We don't need to make
17 a determination of the issue of the tape. I mean, you know, two poss -- three
18 possibilities. They get to use the revised transcript, they don't get to use the
19 revised transcript, they get to use the original transcript, or nobody gets to use a
20 transcript and we play the tape and we play the tape and we play the tape and
21 we take it -- let them go in the back and they can figure out what the tape says.
22 So I'll decide which of those three options.

23 Like I said, there is a certain suggestive power in the transcript both
24 ways, no matter whose transcript it is. And so, you know, typically when they're
25 hard to hear, it is helpful for the jury to have a transcript. And typically that's why

1 I allow it. But I'll determine which of those three avenues we're going -- we're
2 going to use.

3 Now, obviously, if we don't have a transcript we may have to play
4 the tape more, and certainly, you know, they'll have it one way or the other and
5 be playing it, I'm sure, during their deliberations anyway.

6 MR. GENTILE: My best guess is that we're going to hear it plenty of
7 times in this trial.

8 But separate and apart from that, officially now for the record I want
9 to renew my request for the notes that were taken during the debriefing of Anabel
10 Espindola prior -- during the course of the -- her cooperation with -- with the
11 District Attorney's office, the State, and the Las Vegas Metropolitan Police
12 Department.

13 Again, I want to reiterate, and sure as heck the jury is going to hear
14 this, when she was originally interviewed by Metro she was videotaped just like
15 everybody else was. This is the only person in this whole case that has spoken
16 that -- with law enforcement in preparation in the investigation of this case where
17 there was not a --

18 THE COURT: Videotape.

19 MR. GENTILE: -- simultaneous record made. And so the notes are the
20 next best thing to it and I think I'm entitled to it.

21 THE COURT: Okay. Anything else on the notes?

22 Oh, Mr. Adams.

23 MR. ADAMS: We join that request, Your Honor.

24 THE COURT: Okay.

25 Mr. DiGiacomo, anything else on the notes?

1 MR. DIGIACOMO: No, other than you've reviewed the notes and -- and
2 certainly the suggestion that somehow we learned this information from an
3 interview with Anabel Espindola, I don't -- during the time of a proffer, I mean,
4 there's no evidence --

5 THE COURT: Yeah.

6 MR. DIGIACOMO: -- to support that --

7 THE COURT: And as I --

8 MR. DIGIACOMO: -- whatsoever.

9 THE COURT: -- recollect from the notes, there's nothing to suggest that
10 that's how they were able to enhance the transcript from the interview. Now,
11 there's still the separate issue of whether or not you're entitled to the --

12 MR. GENTILE: Right.

13 THE COURT: -- notes anyway just for purposes of your cross-
14 examination and trial preparation and all of that, which is separate and apart from
15 the transcript issues, and I'll -- I'll consider that further. I mean, you know, I don't
16 remember exactly what my thinking was on the notes, but I'll review -- revisit.
17 I do --

18 MR. GENTILE: Thank you, Judge.

19 THE COURT: I mean, the notes, just so you know, there's not a lot on
20 the notes. As I recollect, and this was awhile ago that I looked at it, it was a
21 single sheet, I think, of --

22 Does this comport with your recollection?

23 -- of legal --

24 MR. DIGIACOMO: I actually have no recollection of what those notes
25 are, actually, Judge. You have them, I think.

1 THE COURT: -- of legal paper and there wasn't a lot on it.

2 MR. GENTILE: Well --

3 THE COURT: But that's my recollection. And, again --

4 MR. GENTILE: We asked --

5 THE COURT: -- it was -- I -- I need to review that again because I -- I
6 don't remember exactly what my reasoning was and -- and we did litigate this
7 thoroughly and it was thoroughly briefed before. But I recognize that there is a
8 separate issue from the tape on the notes, and you're going to want the notes
9 regardless of what we do with the transcripts.

10 MR. GENTILE: Well, and -- and -- and one of the things that happened
11 because the Court did not conduct an evidentiary hearing on it is that we don't
12 know that you have been given all of the notes. We don't know that everybody
13 that was at that hearing, at that debriefing, tendered their notes to you. And --
14 and I don't -- there's nothing in this record --

15 THE COURT: Right. And without --

16 MR. GENTILE: -- to indicate that --

17 THE COURT: -- giving you the notes, you can't effectively question the
18 detectives as to did you take notes --

19 MR. GENTILE: Right.

20 THE COURT: -- and showing you this piece of notepaper, is this the
21 notes -- are these the notes that you took? And then if they're not, then we'll
22 know that we're missing notes and you can't effectively do that unless you have
23 the notes.

24 MR. GENTILE: Or at least the notes and we have a hearing.

25 THE COURT: I appreciate that.

1 MR. GENTILE: Okay. Thank you.

2 MR. ADAMS: Judge, two things very quickly. One is we would -- Mr.
3 DiGiacomo's representations we have some agreement with them that we did
4 meet with him and he did tell us that he heard something which is separate and
5 apart from whether the transcript would be amended by him or by anyone at
6 his -- at his direction.

7 We would like clarity on the transcript issue prior to opening
8 statement if at all possible because --

9 THE COURT: Okay.

10 MR. ADAMS: -- I think it's very important.

11 THE COURT: And then, obviously, regardless of what's in the transcript
12 the State is still free, as the defense is still free, to say listen to the tape, you'll
13 hear this, that --

14 MR. ADAMS: Absolutely.

15 THE COURT: -- or the other thing.

16 MR. ADAMS: Absolutely.

17 THE COURT: So in terms of what the State can open with, they can still
18 say when you listen to the tape, and since the transcript isn't an exhibit, I think it
19 would be sort of improper for either side to refer to what's in the transcript. It
20 really is the tape.

21 So I think in terms of opening, both sides can say this is what you'll
22 hear in the tape. And, obviously, you'll open after they did. The State told you
23 that you're going to hear, you know, this, that, and the other thing, but, ladies and
24 gentlemen, you know, listen carefully to the tape, it's not there or whatever.

25 MR. ADAMS: Your Honor, if there is a document created for the

1 purposes of litigation by the State, and they are going to take the position and
2 argue that there is incriminating language and it's not on the document that they
3 created for litigation two years ago, I think it is fair game and very appropriate for
4 us to point that out to the jurors and to explain to the jurors that they are now
5 arguing and asking you to do something that not even their experts heard on the
6 tape four years ago when they understood the significance of it. I think that's a
7 completely proper argument from the defense over their burden of proof and their
8 failure to meet it.

9 MR. GENTILE: And just --

10 THE COURT: That's a good argument. Yeah.

11 MR. GENTILE: -- just to add to that, frankly, the tape itself is a document
12 that was created in anticipation of litigation. The tape itself is.

13 MR. ADAMS: Judge, I did say I had two things. The second is I'm
14 starting with Mr. Marcella, and I need two minutes to run down the hall very
15 quickly before we start if --

16 THE COURT: Run.

17 MR. ADAMS: -- before the jurors --

18 THE COURT: Just so --

19 MR. ADAMS: -- come in.

20 THE COURT: -- you know, I'm very punctual unless I'm in calendar, and
21 then I go long. But when I say 9:30, that means 9:30. That means everybody in
22 their seats at 9:30 ready to start. That doesn't mean I take the bench 9:30. I'm
23 just telling you folks. Some, not you guys, but some lawyers we got to go find.

24 Go ahead. Run.

25 MR. GENTILE: Your Honor, we -- we were here and we were ready to

1 set up.

2 THE COURT: No, no, no. I know you were ready.

3 MR. GENTILE: Okay.

4 THE COURT: But if I say -- now, when I have calendars, that's different
5 because I tend to go late. But if it's a 9:30 start, I expect everyone here by 9:15
6 so you can get set up and everything. Because when I take the bench at 9:30,
7 that means to start at 9:30 with everybody in their seats. And I know --

8 MR. GENTILE: And I --

9 THE COURT: -- everybody is different, but that's --

10 MR. GENTILE: And I can assure you that any busy lawyer appreciates
11 that.

12 THE COURT: But --

13 MR. GENTILE: And you know that.

14 THE COURT: -- I will tell you that when I have criminal calendars, often
15 I'm optimistic on how long they'll take and so you may wind up waiting.

16 What we'll do is we'll just -- we'll finish with the people who are left in
17 the box, and then we'll fill the empty seats and go through those people before
18 we get 14 for cause. Do you see what I mean? Because three is empty, and
19 there may be another person I excused in the box.

20 (Off-record colloquy)

21 THE COURT: Mr. Arrascada, what I was saying is I know chair three is
22 empty. We may have lost another in the box. We'll finish the people in the box,
23 and then we'll call the next two up until we can get 14 qualified.

24 (Off-record colloquy)

25 THE COURT: You guys ready? Everybody ready? All right.

1 MR. ADAMS: Yes, thank you.

2 THE MARSHAL: Ready for the jury, Your Honor?

3 THE COURT: Yeah. Thanks, Jeff.

4 THE MARSHAL: Jury is coming in.

5 (Prospective jury panel enters at 9:59 a.m.)

6 THE COURT: All right. Court is now back in session. The record will
7 reflect the presence of the State through the Deputy District Attorneys, Mr.
8 DiGiacomo and Mr. Pesci, the presence of the defendant Mr. Hidalgo, Jr. along
9 with his attorneys, Ms. Armeni and Mr. Gentile, the presence of the defendant
10 Mr. Hidalgo III along with his attorneys, Mr. Adams and Mr. Arrascada, the
11 officers of the court, and the members of the prospective jury panel.

12 Good morning everybody. Before we resume the questioning of the
13 panel, Ms. Husted will take the roll of the prospective jurors. And once again,
14 ladies and gentlemen, when your name is called, please answer present or here.

15 Ms. Husted.

16 THE CLERK: Juror No. 1, Fatime Espino.

17 PROSPECTIVE JUROR NO. 001: Present.

18 THE CLERK: 2, Linda Silber.

19 PROSPECTIVE JUROR NO. 002: Present.

20 THE CLERK: 4, Joseph Marcella.

21 PROSPECTIVE JUROR NO. 004: Present.

22 THE CLERK: 6, Sabrina Golmassian.

23 PROSPECTIVE JUROR NO. 006: Present.

24 THE CLERK: 9, Shawn McLaughlin.

25 PROSPECTIVE JUROR NO. 009: Present.

1 THE CLERK: 10, Paula Urbanick.
2 PROSPECTIVE JUROR NO. 010: Present.
3 THE CLERK: 12, Karin Meeker.
4 PROSPECTIVE JUROR NO. 012: Present.
5 THE CLERK: 16, Antoine Williams.
6 PROSPECTIVE JUROR NO. 016: Here.
7 THE CLERK: 17, Kevin Keegan.
8 PROSPECTIVE JUROR NO. 017: Present.
9 THE CLERK: 30, Steven Avalone.
10 PROSPECTIVE JUROR NO. 030: Present.
11 THE CLERK: 32, Antone Cook.
12 PROSPECTIVE JUROR NO. 032: Present.
13 THE CLERK: 35, Alicia Jackson.
14 PROSPECTIVE JUROR NO. 035: Present.
15 THE CLERK: 36, David Sargent.
16 PROSPECTIVE JUROR NO. 036: Present.
17 THE CLERK: 37, Roger O'Neill.
18 PROSPECTIVE JUROR NO. 037: Present.
19 THE CLERK: 38, Emertha Wright.
20 PROSPECTIVE JUROR NO. 038: Present.
21 THE CLERK: 39, Michael Freeman,
22 PROSPECTIVE JUROR NO. 039: Here.
23 THE CLERK: 41, Mark Rogol.
24 PROSPECTIVE JUROR NO. 041: Present.
25 THE CLERK: 45, Julieto Vale.

1 PROSPECTIVE JUROR NO. 045: Here.
2 THE CLERK: 47, Michael Cannata.
3 PROSPECTIVE JUROR NO. 047: Present.
4 THE CLERK: 48, Susan Dendiu.
5 PROSPECTIVE JUROR NO. 048: Dendiu, here.
6 THE CLERK: 51, Stephen Ricks.
7 PROSPECTIVE JUROR NO. 051: Present.
8 THE CLERK: 52, Crystal Decorte.
9 PROSPECTIVE JUROR NO. 052: Here.
10 THE CLERK: 55, Austin Guerrero.
11 PROSPECTIVE JUROR NO. 055: Present.
12 THE CLERK: 56, Steve Escobedo.
13 PROSPECTIVE JUROR NO. 056: Present.
14 THE CLERK: 57, Rhonda Michelle Gaddy.
15 PROSPECTIVE JUROR NO. 057: Present.
16 THE CLERK: 58, Gina Ryeczyk.
17 PROSPECTIVE JUROR NO. 058: Exactly. Present.
18 THE CLERK: Thank you.
19 61, Patricia Lopez.
20 PROSPECTIVE JUROR NO. 061: Here.
21 THE CLERK: 65, Kris Dane.
22 PROSPECTIVE JUROR NO. 065: Here.
23 THE CLERK: 67, David K. Wallace.
24 PROSPECTIVE JUROR NO. 067: Here.
25 THE CLERK: 68, Kelly Dietz.

1 PROSPECTIVE JUROR NO. 068: Present.
2 THE CLERK: 69, Sharon Garhardt.
3 PROSPECTIVE JUROR NO. 069: Present.
4 THE CLERK: 70, Anne Bonds.
5 PROSPECTIVE JUROR NO. 070: Present.
6 THE CLERK: 71, Shea Palluck.
7 PROSPECTIVE JUROR NO. 071: Here.
8 THE CLERK: 75, Kelli Woodland.
9 PROSPECTIVE JUROR NO. 075: Present.
10 THE CLERK: 79, Jim E. Matthews II.
11 PROSPECTIVE JUROR NO. 079: Present.
12 THE CLERK: 80, Adriana Gamino.
13 PROSPECTIVE JUROR NO. 080: Here.
14 THE CLERK: 84, Guadalupe McRoy.
15 PROSPECTIVE JUROR NO. 084: Present.
16 THE CLERK: 86, James Denino.
17 PROSPECTIVE JUROR NO. 086: Here.
18 THE CLERK: 87, Paul Adkins.
19 PROSPECTIVE JUROR NO. 087: Here.
20 THE CLERK: 89, Kenneth Patterson.
21 PROSPECTIVE JUROR NO. 089: Here.
22 THE CLERK: 90, Nicole Pezza.
23 PROSPECTIVE JUROR NO. 090: Pezza, here.
24 THE CLERK: 92, Christopher Lemke.
25 PROSPECTIVE JUROR NO. 092: Present.

1 THE CLERK: 93, Gary Urgola.

2 PROSPECTIVE JUROR NO. 093: Here.

3 THE CLERK: 97, Ray Cordova.

4 PROSPECTIVE JUROR NO. 097: Here.

5 THE COURT: All right.

6 When we took our evening recess, Mr. Gentile, had you finished
7 questioning Juror No. 4, Mr. Marcella?

8 MR. GENTILE: Yes.

9 THE COURT: All right.

10 Mr. Adams.

11 MR. ADAMS: Good morning.

12 PROSPECTIVE JUROR NO. 004: Good morning.

13 MR. ADAMS: How are you?

14 PROSPECTIVE JUROR NO. 004: Older than dirt.

15 MR. ADAMS: Well, I hope that's good. I hope it's rich dirt. I wanted to
16 follow up first on a couple of things Mr. -- that you answered to Mr. Pesci and Mr.
17 Gentile. I believe Mr. Pesci asked you, and if it was Mr. DiGiacomo, I apologize
18 to them, but I believe Mr. Pesci asked you if there wasn't enough evidence could
19 you return a verdict of not guilty?

20 And you paused before answering. And Mr. Gentile, I think, got up
21 and said, you paused, I want to check with you about that, Mr. Marcella. And you
22 said, actually, I think I meant just the opposite. So I was a little confused. Can
23 you help me understand --

24 PROSPECTIVE JUROR NO. 004: Well --

25 MR. ADAMS: -- where you're --

1 PROSPECTIVE JUROR NO. 004: -- if there --

2 MR. ADAMS: -- coming from?

3 PROSPECTIVE JUROR NO. -- is insufficient evidence, then, obviously, I
4 can return a not guilty. If there is a sufficient amount of evidence, then obviously
5 I could find a guilty verdict.

6 MR. ADAMS: All right. So your pause in the first question, was that just
7 processing the question?

8 PROSPECTIVE JUROR NO. 004: Well, it's just old and I got confused
9 on the question.

10 MR. ADAMS: You had indicated -- Mr. Gentile asked you about fear.
11 And I think you had indicated that you had more clarity when you've been in a
12 stressful situation.

13 PROSPECTIVE JUROR NO. 004: It's training.

14 MR. ADAMS: Can you explain that to me a little bit?

15 PROSPECTIVE JUROR NO. 004: I was in the Air Force. I was in the
16 right seat of a fighter. So you were taught to be a lot more focused when things
17 get worse.

18 MR. ADAMS: Do -- do you think that's the natural reaction?

19 PROSPECTIVE JUROR NO. 004: Not for most people, no, but for me it
20 is.

21 MR. ADAMS: Was it that way before your training, if you -- if you
22 remember.

23 PROSPECTIVE JUROR NO. 004: Well, in -- in New York it's -- well,
24 growing up you have a tendency to survive, and growing up in the streets you do.
25 You have a tendency to look for the opportunity to -- to survive.

1 MR. ADAMS: Do you -- do you know whether you go straight to clarity or
2 whether there's some sort of process to get there?

3 PROSPECTIVE JUROR NO. 004: You have to assess any situation to
4 get to clarity, so it's a matter of understanding that, in fact, there is an issue. And
5 if -- if it's a reactionary, if there's a situation where you automatically go into a
6 fear mode, then I'll automatically try to get some focus and that I can resolve the
7 issue.

8 MR. ADAMS: Does that mean -- I guess, does that mean at first you
9 recognize -- and I'm not trying to --

10 PROSPECTIVE JUROR NO. 004: No, I'm listening.

11 MR. ADAMS: -- to put too much psychobab -- psychobabble out there,
12 but is it at first you find yourself in a stressful situation, then you recognize it, and
13 then you try to rely on your training to then make sense of it and to have clarity?

14 PROSPECTIVE JUROR NO. 004: Yeah, if you've got the time to go
15 through that kind of analysis, and -- and obviously, it's -- there are dependencies,
16 of course. But it's no different -- there are differences if you're just about ready to
17 hit something, it automatically, you're stepping on the brake. That's clarity. You
18 know exactly what you've done, but it starts down that path. So there's -- there's
19 many situations. It depends on the circumstance.

20 MR. ADAMS: Have you had situations where you've encountered a
21 stressful situation either driving and about to hit somebody or anything else
22 where you didn't get to this clarity until after you'd experienced some confusion
23 or lack of clarity?

24 PROSPECTIVE JUROR NO. 004: Of course. When -- once something
25 happens, whether it's a condition or a conversation or what have you, if there's a

1 threat to that, sometimes when you assess it afterward, then you'll find out that
2 either you looked at it wrong, you didn't understand it completely, you made
3 certain assumptions. So [inaudible] answer to that question.

4 MR. ADAMS: Mr. Arrascada asked the jury yesterday a question, and I
5 want to present it to you. And if your family is anything like my family, there may
6 have been some quotes from time to time about if I can get my hands on that
7 person I'd ring their neck.

8 When you've heard somebody suggest that the law be broken and
9 you thought they didn't mean it, have you have a situation like that in your life?

10 MR. PESCI: And, Judge, I apologize. I'm going to object. I think we're
11 going afield of 7.70 about hypotheticals. I don't think this is appropriate under the
12 rules.

13 THE COURT: You are getting into a little bit of hypothetical. I mean, you
14 can ask the question maybe in another way.

15 MR. ADAMS: Sure. Have you thought you've heard -- have you heard
16 someone say something and you felt they didn't really mean it?

17 PROSPECTIVE JUROR NO. 004: Of course.

18 MR. ADAMS: How could you tell? How would you try to figure out
19 whether they meant it or that it was hot air or -- or they didn't mean it?

20 PROSPECTIVE JUROR NO. 004: It's context; context, body language,
21 an understanding of the situation.

22 MR. ADAMS: An understanding of the person?

23 PROSPECTIVE JUROR NO. 004: Yeah, if I knew the person, certainly.

24 MR. ADAMS: How would you try to figure that out if you did not know the
25 person?

1 PROSPECTIVE JUROR NO. 004: Again, context, the overall situation,
2 body language, the way folks are discussing things.

3 MR. ADAMS: In a situation like that in a context would it make -- and I'll
4 use the ring the neck example. Would it make a difference if that was some sort
5 of familial situation, a family --

6 MR. PESCI: Again --

7 MR. ADAMS: -- relationship?

8 MR. PESCI: Again I'm going to renew because we're in the facts of the
9 case now. This is a hypothetical based on the facts.

10 THE COURT: I agree.

11 MR. ADAMS: Judge, my position is it's not a hypothetical.

12 THE COURT: Well, I -- I'm sure that is your position, but --

13 MR. ADAMS: Judge, may we approach?

14 THE COURT: Yeah, you may.

15 (Conference at the bench)

16 PROSPECTIVE JUROR NO. 004: Your Honor, this isn't fair until I get
17 my second cup of coffee.

18 THE COURT: I'm already on my third, so I'm at a little bit of an
19 advantage up here.

20 MR. ADAMS: You indicated, Mr. Marcella, that you would try to look at
21 the context.

22 PROSPECTIVE JUROR NO. 004: Uh-huh.

23 MR. ADAMS: How would a familiar relationship factor into that one way
24 or another?

25 PROSPECTIVE JUROR NO. 004: Well, it'd just be another factor. All of

1 the other factors are absolutely necessary for me to make any kind of an
2 assessment. If you add anything else it would be just emotion.

3 MR. ADAMS: Would you require someone to get up and explain their
4 words to you to understand the context?

5 This appears dangerous.

6 PROSPECTIVE JUROR NO. 004: There's a little set screw behind it.

7 MR. ADAMS: I'm going to let Mr. Gentile mess with that when he's back
8 up.

9 PROSPECTIVE JUROR NO. 004: Yes. You know, if it's going to be
10 children, obviously you have certain rights there and a responsibility to move
11 them in a right direction, so I would ask where that was coming from.

12 In another case if it's -- it's something I need not get involved in,
13 that's something else. And if I have a responsibility to an employee or at -- or at
14 work, then obviously I need to assess the situation because of other employees
15 that may be affected.

16 MR. ADAMS: So I in a situation of your child to provide the proper
17 guidance, you would -- you would need an answer from them? In the context
18 of -- and I think everybody understands that. In the context of the courtroom --

19 PROSPECTIVE JUROR NO. 004: Uh-huh.

20 MR. ADAMS: -- if you were a juror and you were asked to assess the
21 credibility and you were told the defendant never has to testify and you can't hold
22 that against them, how do you think you'd react in that situation in assessing the
23 context?

24 PROSPECTIVE JUROR NO. 004: If -- if -- and I've got to ask another
25 question for your question. If there's --

1 MR. ADAMS: Sure.

2 PROSPECTIVE JUROR NO. 004: If there is information that's necessary
3 that's going to come from that side of the court, will someone else be
4 representing that? There -- what I'm trying to say is it doesn't necessarily have to
5 come from the individual, but it has to come from those -- those folks that are
6 representing them and if there's a clarity between what's happening on both
7 sides.

8 MR. ADAMS: All right. The Judge will tell you that the defendant never
9 has to prove anything. The burden of proof is always on the State. If there were
10 a question about it, would you be able to say the State's got to be the one to
11 prove that, not the defense?

12 PROSPECTIVE JUROR NO. 004: I don't have a problem with that.

13 MR. ADAMS: Okay. Pardon me for just a second.

14 Thank you, Your Honor.

15 THE COURT: All right. Thank you.

16 We are on Ms. Golmassian.

17 PROSPECTIVE JUROR NO. 006: Judge, before they question me can I
18 just say that I'd like to be excused from jury duty because of finance -- extreme
19 financial hardship. I spoke with my supervisor yesterday, and as you know I
20 work at the college teaching writing at the writing center.

21 THE COURT: Uh-huh.

22 PROSPECTIVE JUROR NO. 006: And I'm a part time at will employee.
23 And they're not going to cover this, the -- my pay over these next two weeks and
24 that's -- that's -- I freelance write and I do that. I don't have any freelance work
25 coming up, so I'm relying solely on that income, that part time income, and it's

1 not going to be there. So that's half of my income for -- for the month of February
2 and I'm just -- I'm not going to be able to either pay my rent or, you know, buy
3 food, have gas, and pay my bills. It's just not going to work.

4 THE COURT: Well --

5 PROSPECTIVE JUROR NO. 006: And --

6 THE COURT: Yes?

7 PROSPECTIVE JUROR NO. 006: And also I'm Buddhist, I'm a
8 practicing Buddhist, and I can't -- I spoke with the people at my temple, and I
9 can't pass judgment on -- on anybody. So especially in this kind of case, I just
10 would not feel comfortable doing that on moral grounds.

11 THE COURT: Okay. And obviously, I mean, you heard a lot of people
12 have hardship cases.

13 PROSPECTIVE JUROR NO. 006: Yeah, I know.

14 THE COURT: They're back here today.

15 PROSPECTIVE JUROR NO. 006: I understand that.

16 THE COURT: And it's --

17 PROSPECTIVE JUROR NO. 006: I completely --

18 THE COURT: -- very difficult in our economy. We can't have a jury --

19 PROSPECTIVE JUROR NO. 006: I understand that.

20 THE COURT: -- of just people that work for the County or people who
21 work for the State or elderly people who are retired.

22 PROSPECTIVE JUROR NO. 006: I completely understand that.

23 THE COURT: Now, you -- you're part time at the community college?

24 PROSPECTIVE JUROR NO. 006: Yes, I'm a part time at will employee,

25 so --

1 THE COURT: And you --

2 PROSPECTIVE JUROR NO. 006: -- it will put my job in jeopardy --

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 006: -- and --

5 THE COURT: And you teach a writing workshop?

6 PROSPECTIVE JUROR NO. 006: I teach at the writing center, yes.

7 THE COURT: Okay. And what hours do you teach?

8 PROSPECTIVE JUROR NO. 006: I teach on Monday eight to seven. I
9 teach on Wednesday ten to seven. It depends on as they need me, but Fridays,
10 I'm there on Fridays, and then on the weekends as well.

11 THE COURT: Okay. So obviously you can work on the weekends.

12 PROSPECTIVE JUROR NO. 006: I can, but that's not enough money to
13 cover. This would be extremely disastrous to -- to me. I don't know how I
14 would -- I mean, I would -- I would not be able to pay my rent. It's that serious.
15 And I -- I wanted to check with my supervisor before I said anything because
16 yesterday you did tell the court that, you know, hey, you know, we can't have a
17 room full of people walking out because of financial reasons.

18 THE COURT: Right. And you can appreciate that both sides have a
19 right to a cross section of our community, not --

20 PROSPECTIVE JUROR NO. 006: I totally --

21 THE COURT: -- just people --

22 PROSPECTIVE JUROR NO. 006: -- understand.

23 THE COURT: -- who are retired or people who work in one industry, like
24 I said. City, State, and County employees get paid anyway, but we can't have a
25 jury of just those people or just wealthy people or --

1 PROSPECTIVE JUROR NO. 006: Right.

2 THE COURT: -- you know what I mean.

3 PROSPECTIVE JUROR NO. 006: But I'm -- I'm the sole -- I'm the only
4 person at my -- at -- you know, I'm single, I live at home, I mean, I --

5 THE COURT: You live at home with your parents?

6 PROSPECTIVE JUROR NO. 006: No, I live at home like by myself.

7 THE COURT: Okay. And you don't have any children?

8 PROSPECTIVE JUROR NO. 006: I don't have any children. I have
9 three cats and those can get expensive. But, I mean, still, I mean, I make about
10 \$1400 a month from that part time income. My rent is \$700 a month. So if you
11 take away half that income, that's what I'm going to be left with for that -- for -- for
12 the month of February. So -- and that's -- you can verify this totally. It's not
13 going to work.

14 And also, like I said, my religious beliefs --

15 THE COURT: Yeah, I mean --

16 PROSPECTIVE JUROR NO. 006: -- are going to have to prevent --

17 THE COURT: -- not to --

18 PROSPECTIVE JUROR NO. 006: -- prevent me from this.

19 THE COURT: And I don't -- isn't that something that you would've been
20 aware of as a Buddhist yesterday what your --

21 PROSPECTIVE JUROR NO. 006: Well, I was --

22 THE COURT: -- beliefs --

23 PROSPECTIVE JUROR NO. 006: -- thinking about it.

24 THE COURT: -- are and your --

25 PROSPECTIVE JUROR NO. 006: I was thinking --

1 THE COURT: -- ability to --

2 PROSPECTIVE JUROR NO. 006: -- about it.

3 THE COURT: -- judge others?

4 PROSPECTIVE JUROR NO. 006: See, when I came here to the
5 courtroom, I -- I have never been selected for jury duty before and I didn't know
6 how I was going to respond to this. It's my civic duty to come here and I was
7 here. I didn't know I was going to be in the jury box. So I -- I sat here and --
8 and -- and thought about it the whole day.

9 THE COURT: And also people are subject to contempt of court if they
10 don't appear.

11 PROSPECTIVE JUROR NO. 006: Right. Right. So I was here and, you
12 know, I showed up and here I am and I thought about it yesterday. I also did
13 contact, you know, my supervisor to make sure that, you know, I -- I, you know,
14 wasn't going to -- to be paid for it. And then I contacted, you know, my --

15 THE COURT: So basically you've --

16 PROSPECTIVE JUROR NO. 006: -- temple.

17 THE COURT: -- already missed Monday and Tuesday, which is today
18 and yesterday. I'm sorry, you've missed Tuesday, today is Wednesday. You
19 don't work Wednesdays or Thursdays.

20 PROSPECTIVE JUROR NO. 006: I -- I do work Wednesdays.

21 THE COURT: Oh.

22 PROSPECTIVE JUROR NO. 006: I'm trying to work as much as I can,
23 actually, because they've -- with the budget cuts they've had to let go of some
24 people and so they're letting me work extra hours so I'm trying to come in as
25 much --

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THE COURT: All right.

PROSPECTIVE JUROR NO. 006: -- as I can to supplement --

THE COURT: Thank you.

I'll see counsel up here.

(Conference at the bench)

MR. DIGIACOMO: May I, Judge?

THE COURT: Yes, Mr. DiGiacomo, go ahead.

MR. DIGIACOMO: Is it Golmassian?

PROSPECTIVE JUROR NO. 006: Uh-huh.

MR. DIGIACOMO: You said something -- and the financials is something, a decision for the Court.

PROSPECTIVE JUROR NO. 006: Okay.

MR. DIGIACOMO: But let me ask you a couple of questions --

PROSPECTIVE JUROR NO. 006: Sure.

MR. DIGIACOMO: -- about some of the other things you said. You said something about you're a practicing Buddhist.

PROSPECTIVE JUROR NO. 006: That's right.

MR. DIGIACOMO: And that last night you contacted somebody about --

PROSPECTIVE JUROR NO. 006: Yes.

MR. DIGIACOMO: -- your obligations are under the religion.

PROSPECTIVE JUROR NO. 006: Yes.

MR. DIGIACOMO: Okay. And I guess I don't want you to ever disclose what you talked to -- to your fellow religious people about. You know, it's like priest penitent you don't want to -- but ultimately you've come to a conclusion that you can't sit in judgment in this particular case.

1 PROSPECTIVE JUROR NO. 006: Yes, that is correct.

2 MR. DIGIACOMO: So that your religious beliefs are such that at the end
3 of the day if you're in that back room, not guilty or guilty, either way, your -- your
4 religion says don't raise your hand because you don't do judging --

5 PROSPECTIVE JUROR NO. 006: That's right.

6 MR. DIGIACOMO: -- despite what the rules of the Court offer. Okay. I
7 have to ask you a couple other questions, though. You said that you were a
8 freelance journalist; correct?

9 PROSPECTIVE JUROR NO. 006: Yes.

10 MR. DIGIACOMO: And you've written some for papers. Did you say you
11 also wrote for magazines as well?

12 PROSPECTIVE JUROR NO. 006: Yes.

13 MR. DIGIACOMO: What kind of magazines did you write for?

14 PROSPECTIVE JUROR NO. 006: I write --

15 MR. DIGIACOMO: Are -- go ahead.

16 PROSPECTIVE JUROR NO. 006: I write for 944, primarily that's the
17 magazine I work with now.

18 MR. DIGIACOMO: And I apologize, I don't know what 944 is.

19 PROSPECTIVE JUROR NO. 006: Lifestyle, like fashion, arts, culture --

20 MR. DIGIACOMO: Okay.

21 PROSPECTIVE JUROR NO. 006: -- magazine.

22 MR. DIGIACOMO: You don't do any crime reporting; do you?

23 PROSPECTIVE JUROR NO. 006: No.

24 MR. DIGIACOMO: Okay. And you've never -- I guess have you ever
25 covered like any sort of crime beat or anything --

1 PROSPECTIVE JUROR NO. 006: Nope.

2 MR. DIGIACOMO: -- like that for a newspaper or --

3 PROSPECTIVE JUROR NO. 006: No --

4 MR. DIGIACOMO: -- anything?

5 PROSPECTIVE JUROR NO. 006: -- I haven't.

6 MR. DIGIACOMO: Okay. What is your educational background?

7 PROSPECTIVE JUROR NO. 006: I have a bachelors in English and
8 writing.

9 MR. DIGIACOMO: And how long ago did you get the bachelors?

10 PROSPECTIVE JUROR NO. 006: In 2004.

11 MR. DIGIACOMO: Okay. So from 2004 on have you been doing
12 journalism, or was it before you even got your bachelors that you did journalism?

13 PROSPECTIVE JUROR NO. 006: I was doing it throughout. But I was
14 actually going to go to law school. I got into law school, and I dodged that bullet I
15 have to say.

16 MR. DIGIACOMO: Lucky you. Some of us weren't quite as brilliant.

17 The last area I want to go to is, we've been talking about this, do you
18 have an opinion as to the strip club industry one way or the other?

19 PROSPECTIVE JUROR NO. 006: It's something I would not like to
20 participate in, but I don't pass judgment on other people.

21 MR. DIGIACOMO: Fair enough. Thank you very much.

22 Judge, we'll --

23 THE COURT: All right.

24 MR. DIGIACOMO: -- submit it.

25 THE COURT: Thank you.

1 Mr. Arrascada. Thank you.

2 MR. ARRASCADA: Yes, Your Honor.

3 I want to make sure I pronounce your name right. Ms. Golmassian?

4 PROSPECTIVE JUROR NO. 006: Ms. Golmassian.

5 MR. ARRASCADA: Golmaska. I'm going to butcher that, so --

6 PROSPECTIVE JUROR NO. 006: Golmassian.

7 MR. ARRASCADA: -- ma'am, may I -- Golnasia? Okay. I, unfortunately,
8 no one in my family dodged the bullet in law school. It's like a shotgun that hit
9 our family. Sister, father, everyone. You -- you -- you were talking about your
10 religious beliefs and passing judgment on people.

11 PROSPECTIVE JUROR NO. 006: Yes.

12 MR. ARRASCADA: And then at the end you made a comment to Mr.
13 DiGiacomo about I don't judge other people or some -- or you -- you made a
14 comment. What was that comment you made to?

15 PROSPECTIVE JUROR NO. 006: I believe I said I don't pass judgment
16 on other people. I don't.

17 MR. ARRASCADA: Okay. Well, the prosecutors ask, coming down the
18 line, everybody about are you able to pass judgment. And I'm assuming all of
19 you have this conception, and you do, that a trial is about passing judgment in
20 kind of a moral aspect. Is that how you were talking about it?

21 PROSPECTIVE JUROR NO. 006: Yes, in -- in -- yes. Because that's
22 what it would be ultimately. It would be determining somebody else's fate. And
23 it's sort of a karmic issue if -- I -- I don't want to take any active role in changing
24 that person's -- changing that person's fate. And especially in this kind of
25 situation it just would be wrong for me, would feel wrong for me.

1 MR. ARRASCADA: Okay. From a moral standpoint, is that --

2 PROSPECTIVE JUROR NO. 006: From a -- yes, from a religious
3 standpoint. It's just -- it's one of the precepts. We -- we don't do that, and that
4 also includes in this kind of situation, yes.

5 MR. ARRASCADA: Okay. Keeping in mind your religious beliefs, in your
6 day to day life are you allowed or are you able to gather facts and make decision
7 on the weightier affairs in your life?

8 PROSPECTIVE JUROR NO. 006: Yes. In my own life, yes.

9 MR. ARRASCADA: Okay. And those are done because they're
10 important decisions based on the information that you have, or how is that done?

11 PROSPECTIVE JUROR NO. 006: I'm sorry. Can you --

12 MR. ARRASCADA: Yeah.

13 PROSPECTIVE JUROR NO. 006: -- rephrase that?

14 MR. ARRASCADA: You're making an important decision in your life.

15 PROSPECTIVE JUROR NO. 006: Uh-huh.

16 MR. ARRASCADA: How do you go about processing to make that
17 decision of, yes, I'm going to buy the house or, yes, I'm going to -- I need to have
18 this elective surgery done. How do you go about that?

19 PROSPECTIVE JUROR NO. 006: Well, it's a personal decision based
20 on -- you know, it's a case by case thing. If I -- you know, if I -- well, I don't want
21 to say case, but based on the situation I determine what would be the best
22 decision for myself.

23 MR. ARRASCADA: Okay. And do you try and gather as much factual
24 information as you can?

25 PROSPECTIVE JUROR NO. 006: Yes.

1 MR. ARRASCADA: Okay. And then make a well informed decision
2 based on that?

3 PROSPECTIVE JUROR NO. 006: Yes.

4 MR. ARRASCADA: Okay. Surprisingly, when this case is over, if you
5 have the privilege of being on this jury, you don't have a judgment form. What it
6 is is a verdict form. And what you're doing is all of you are going to be making
7 decisions based on the facts and the law that's provided by the Judge. Is that
8 somehow similar to what you were just talking about making important decisions
9 in your life?

10 PROSPECTIVE JUROR NO. 006: It's more similar to what I was talking
11 about when I said I can't pass judgment on anybody, including making a verdict.

12 MR. ARRASCADA: Okay. So even if you're processing facts and
13 applying the law to make a decision and --

14 PROSPECTIVE JUROR NO. 006: Not on anybody else's life. On my
15 own I can do that, but not anybody else's.

16 MR. ARRASCADA: Okay. I appreciate that. Have you ever heard
17 someone suggest that the law be broken?

18 PROSPECTIVE JUROR NO. 006: Explain.

19 MR. ARRASCADA: Or may --

20 PROSPECTIVE JUROR NO. 006: Can you --

21 MR. ARRASCADA: Yeah. Sort of like as Mr. Adams was speaking with
22 Mr. Marcella, you hear someone say, my God, that person has me so angry I
23 could just ring their neck. Have you ever heard someone say something of that
24 nature in your life or --

25 PROSPECTIVE JUROR NO. 006: Not -- not like -- not in a -- in a silly

1 way, but in a serious way do you mean? Like which way do you mean?

2 MR. ARRASCADA: How have you taken it? You've heard it, obviously.

3 PROSPECTIVE JUROR NO. 006: Have I heard somebody saying sort
4 of a phrase like that in jest or in real life, like -- like implying that the law should
5 really be broken?

6 MR. ARRASCADA: You tell me.

7 PROSPECTIVE JUROR NO. 006: I have --

8 MR. ARRASCADA: You've heard -- you've heard it; correct? You've
9 heard someone just say that --

10 PROSPECTIVE JUROR NO. 006: Have I heard what?

11 MR. ARRASCADA: -- that generic --

12 PROSPECTIVE JUROR NO. 006: That generic phrase that you just
13 said?

14 MR. ARRASCADA: Or something similar.

15 PROSPECTIVE JUROR NO. 006: You just said something like that, so,
16 yes, I have just heard --

17 MR. ARRASCADA: Okay.

18 PROSPECTIVE JUROR NO. 006: -- someone say it.

19 MR. ARRASCADA: And when you heard it, how were you -- how did you
20 interpret it?

21 PROSPECTIVE JUROR NO. 006: How did I interpret it? I don't
22 remember the context of it because I don't remember a particular incident of that
23 happening.

24 MR. ARRASCADA: What would go into it for you to make that
25 determination as you were saying, were they serious or were they joking?

1 PROSPECTIVE JUROR NO. 006: It depends on the context. And like I
2 said, I don't remember a particular instance of -- of anyone saying that. The last
3 time I've heard it, you just said it. And that -- this is the context that it's in, so --

4 MR. ARRASCADA: Okay. And when you play out -- when you're
5 determining context, what -- what thought process goes into that for you? What
6 is it that you need?

7 PROSPECTIVE JUROR NO. 006: When I'm determining context? Can
8 you --

9 MR. ARRASCADA: You mentioned is it said in jest? What makes you
10 believe something is said like that in jest?

11 PROSPECTIVE JUROR NO. 006: It depends on the context, and there
12 are a lot of factors that go into the context.

13 MR. ARRASCADA: Okay. And what are those factors?

14 PROSPECTIVE JUROR NO. 006: And I can reiterate what everybody
15 else said here. I mean, it's kind of obvious as to what kind things that people --
16 situational, you know, factors that come into play.

17 MR. ARRASCADA: So you agree with what Mr. Marcella was saying
18 when he described the factors he would look at?

19 PROSPECTIVE JUROR NO. 006: Yes.

20 MR. ARRASCADA: Well, as we've gone through this process, now we're
21 in our second day of selecting a jury, as you're well aware, this case is what's
22 also known as the Palomino murder for hire case. Has this discussion that I've
23 had with you or that the Judge has had or the prosecutors have had or anyone
24 else and Mr. Gentile's had, has it jogged your memory if you've read anything
25 about this -- this case?

1 PROSPECTIVE JUROR NO. 006: I can't say that -- that I have read
2 anything about this case previously before.

3 MR. ARRASCADA: Just give me one moment, please.

4 Thank you very much.

5 THE COURT: All right. Thank you.

6 Ms. Armeni.

7 MS. ARMENI: Good morning Ms. Golassian.

8 PROSPECTIVE JUROR NO. 006: Golmassian.

9 MS. ARMENI: Golmassian. I was practicing. I wanted to follow up with.
10 You're a writer. Have you ever heard of Strip Club Magazine --

11 PROSPECTIVE JUROR NO. 006: No.

12 MS. ARMENI: -- or Strip Magazine?

13 PROSPECTIVE JUROR NO. 006: No, I haven't.

14 MS. ARMENI: Now, would you -- would you be opposed to writing for
15 that type of magazine?

16 PROSPECTIVE JUROR NO. 006: It's not that I'm passing judgment on
17 that kind of magazine because I don't do that, but I would -- I would not.

18 MS. ARMENI: And can you tell me why you -- why you wouldn't?

19 PROSPECTIVE JUROR NO. 006: It's a preference thing.

20 MS. ARMENI: Okay. Just it's something that -- you'd rather write about
21 other things; is that fair?

22 PROSPECTIVE JUROR NO. 006: Yes.

23 MS. ARMENI: And what kind of things do you write about?

24 PROSPECTIVE JUROR NO. 006: I write about everything. I write about
25 business, I write about fashion, I write food and restaurant reviews. I write just

1 about everything, I guess.

2 MS. ARMENI: And what kind of businesses do you generally write
3 about?

4 PROSPECTIVE JUROR NO. 006: It depends. I don't do business
5 writing anymore, but --

6 MS. ARMENI: The form says you have 20 years of education; is that
7 right?

8 PROSPECTIVE JUROR NO. 006: Um --

9 MS. ARMENI: Well, why don't you tell us about your education.

10 PROSPECTIVE JUROR NO. 006: I have a bachelor's degree.

11 MS. ARMENI: And what's your bachelor's in?

12 PROSPECTIVE JUROR NO. 006: English and writing.

13 MS. ARMENI: And you talked about, I think, when you were 18 you were
14 arrested; is that right?

15 PROSPECTIVE JUROR NO. 006: I was.

16 MS. ARMENI: And did you have an attorney?

17 PROSPECTIVE JUROR NO. 006: No, I don't believe so.

18 MS. ARMENI: Looking back on it do you think -- well, let me ask it a
19 different way. At that time did you know any attorneys?

20 PROSPECTIVE JUROR NO. 006: No.

21 MS. ARMENI: If you would've known an attorney, do you think you
22 would've called them?

23 PROSPECTIVE JUROR NO. 006: Perhaps. I don't remember how
24 serious the situation was. I don't think I needed an attorney, no.

25 MS. ARMENI: Okay. So do you think -- in your opinion, is it only in a

1 serious situation, if you had an attorney friend, you said you were thinking about
2 law school, say you had an attorney friend or somebody in the family and you
3 had a question, would you -- would you call them, or would you only call them if it
4 was a serious issue?

5 PROSPECTIVE JUROR NO. 006: Um --

6 MS. ARMENI: Or let me phrase it a different way. What kind of
7 situations would you call an attorney? Maybe that's easier.

8 PROSPECTIVE JUROR NO. 006: Well, I do know attorneys personally.

9 MS. ARMENI: Okay.

10 PROSPECTIVE JUROR NO. 006: So I would call them, you know, for a
11 number of things, you know.

12 MS. ARMENI: Can you -- can you think of anything off the top of your
13 head what you might call them for?

14 PROSPECTIVE JUROR NO. 006: Including going to the gym or, you
15 know --

16 MS. ARMENI: How about law related?

17 PROSPECTIVE JUROR NO. 006: If I was in a car accident I would call
18 an attorney.

19 MS. ARMENI: Okay. Can you think of any other situation that you may
20 call them?

21 PROSPECTIVE JUROR NO. 006: If I -- yes, if I was in serious trouble,
22 yes, I would call an attorney?

23 MS. ARMENI: And what would you consider serious trouble?

24 PROSPECTIVE JUROR NO. 006: I don't know, something criminal I
25 guess.

1 MS. ARMENI: So if you thought -- if -- if you committed a crime or
2 thought maybe the cops were going to talk to you, that would be something --
3 would you consider that serious?

4 PROSPECTIVE JUROR NO. 006: Yes, I think so.

5 MS. ARMENI: Can you think of a situation, and I know you haven't
6 had -- this is different than what all the other questions that have been asked.
7 You probably didn't think of an answer to this, but can you think of a situation that
8 maybe if you were in fear or you were scared of something that maybe you
9 wouldn't do the right thing?

10 PROSPECTIVE JUROR NO. 006: No.

11 MS. ARMENI: You think you would always do the right thing?

12 PROSPECTIVE JUROR NO. 006: I don't know.

13 MS. ARMENI: Well, let me ask you, do you think that fear would play -- if
14 you were fearful or if you were scared, do you think maybe you would make the
15 same choice you would make if you weren't scared?

16 PROSPECTIVE JUROR NO. 006: I have no way of knowing that.

17 MS. ARMENI: Do you think it affects -- would affect you at all, or do you
18 think you --

19 PROSPECTIVE JUROR NO. 006: I -- I don't know.

20 MS. ARMENI: Okay. So you think you -- you don't know in that -- are
21 you saying maybe that you would -- would you have to be in that situation to
22 know?

23 PROSPECTIVE JUROR NO. 006: I think so.

24 MS. ARMENI: Is that fair?

25 PROSPECTIVE JUROR NO. 006: Yeah, that's fair.

1 MS. ARMENI: Do you have any experience with gangs?

2 PROSPECTIVE JUROR NO. 006: No.

3 MS. ARMENI: And when I say gang, what do you think of?

4 PROSPECTIVE JUROR NO. 006: I think of street gangs, you know, rap
5 music and street gangs and the stuff that's on TV.

6 MS. ARMENI: Is there a gang -- is there a gang that you can think of off
7 the top of your head when you think -- when I throw gang out there and I say
8 have you ever heard of a gang?

9 PROSPECTIVE JUROR NO. 006: Yes, I have.

10 MS. ARMENI: Tell us what those are.

11 PROSPECTIVE JUROR NO. 006: The Crips and the Bloods.

12 MS. ARMENI: Okay.

13 PROSPECTIVE JUROR NO. 006: Maybe they're not even around
14 anymore. I don't know.

15 MS. ARMENI: Court's indulgence.

16 Pass for cause, Your Honor.

17 THE COURT: All right. Thank you.

18 State may question Mr. McLaughlin.

19 MR. PESCI: Thank you, Judge.

20 Sir, has there been any burning answer you've been wanting to give
21 as we've been painstakingly going through this? All right. I didn't think so. I just
22 wanted to throw it out there.

23 Now, your sister shot someone who broke into your home and was
24 attacking your father?

25 PROSPECTIVE JUROR NO. 009: He was selling something through the

1 RJ and these people showed up and pretended to purchase these items, and
2 instead attacked my father with a crowbar. And then she -- and he went after her
3 and she shot him.

4 MR. PESCI: All right. If I understand correctly the person breaking into
5 your home survived.

6 PROSPECTIVE JUROR NO. 009: Not my home, my father's home.

7 MR. PESCI: I apologize. I meant --

8 PROSPECTIVE JUROR NO. 009: Yes, he -- somehow he survived. I
9 don't know how, but he did.

10 MR. PESCI: And I think you said that he -- he was criminally charged?

11 PROSPECTIVE JUROR NO. 009: Yes --

12 MR. PESCI: He got some time?

13 PROSPECTIVE JUROR NO. 009: -- he's in prison.

14 MR. PESCI: He got time out of that?

15 PROSPECTIVE JUROR NO. 009: Uh-huh.

16 MR. PESCI: And I apologize. I'm doing this -- she's recording
17 everything, so we can't --

18 PROSPECTIVE JUROR NO. 009: Okay.

19 MR. PESCI: -- talk at the same time. She just can't pick both of us up at
20 the same time, so I'll try not to speak over you. I apologize.

21 Did you, your sister, or your dad ever have to come to court in
22 relation to that incident?

23 PROSPECTIVE JUROR NO. 009: I didn't. I'm not sure if they -- I
24 believe my father and my sister had to go.

25 MR. PESCI: Did -- did he or she ever talk to you about that, coming to

1 court, being a witness, things of that nature?

2 PROSPECTIVE JUROR NO. 009: For me to be a witness?

3 MR. PESCI: No, did -- did they --

4 PROSPECTIVE JUROR NO. 009: Or for them?

5 MR. PESCI: -- talk about their experience about coming to court and
6 maybe being a witness?

7 PROSPECTIVE JUROR NO. 009: I would -- I -- I don't remember. This
8 happened eight or nine years ago.

9 MR. PESCI: Okay. Overall, as far as you know, was your dad and your
10 sister, were they happy with the outcome?

11 PROSPECTIVE JUROR NO. 009: Oh, yes. Yes.

12 MR. PESCI: Your sister was never charged with anything?

13 PROSPECTIVE JUROR NO. 009: No.

14 MR. PESCI: Okay.

15 PROSPECTIVE JUROR NO. 009: No, it was self defense.

16 MR. PESCI: All right. You said that you bar tend?

17 PROSPECTIVE JUROR NO. 009: Yes.

18 MR. PESCI: And you've been doing it for quite some time?

19 PROSPECTIVE JUROR NO. 009: Yes.

20 MR. PESCI: Okay. Do people sometimes talk a lot to you when they're
21 at the bar?

22 PROSPECTIVE JUROR NO. 009: Yes.

23 MR. PESCI: Sometimes are they under the influence of alcohol when
24 they're doing that?

25 PROSPECTIVE JUROR NO. 009: Correct, yes.

1 MR. PESCI: And maybe even something else that they're under the
2 influence of?

3 PROSPECTIVE JUROR NO. 009: Yes.

4 MR. PESCI: Okay. Sometimes are they really incoherent and hard to
5 track or follow?

6 PROSPECTIVE JUROR NO. 009: Yes.

7 MR. PESCI: Sometimes, even though they are drinking and may be
8 under the influence of something, can you understand what they're saying?

9 PROSPECTIVE JUROR NO. 009: Sometimes, yes.

10 MR. PESCI: Can they have a conversation with you and follow what you
11 say and respond appropriately based on your questions?

12 PROSPECTIVE JUROR NO. 009: No.

13 MR. PESCI: No?

14 PROSPECTIVE JUROR NO. 009: No.

15 MR. PESCI: All right. So all the people that are there drinking, they're
16 just --

17 PROSPECTIVE JUROR NO. 009: Not all the people.

18 MR. PESCI: I guess what I'm trying to say is can you have people who
19 are drinking something who can still be coherent?

20 PROSPECTIVE JUROR NO. 009: It depends on how much they've
21 been drinking.

22 MR. PESCI: All right. And if they're -- they're drinking too much, you're
23 obviously not serving them anymore; right?

24 PROSPECTIVE JUROR NO. 009: Yes.

25 MR. PESCI: Okay. You have some -- some people come in and -- and

1 tell you some interesting stories.

2 PROSPECTIVE JUROR NO. 009: Yes.

3 MR. PESCI: Sometimes do you think that those are credible and
4 sometimes do you think that they're not credible?

5 PROSPECTIVE JUROR NO. 009: I don't think about it.

6 MR. PESCI: You don't?

7 PROSPECTIVE JUROR NO. 009: No.

8 MR. PESCI: You try not to spend too much time talking with them?

9 PROSPECTIVE JUROR NO. 009: It's not that. It's -- I never dwell upon
10 what people say. I don't think about what they say.

11 MR. PESCI: Okay. Now, there's been some back and forth about the
12 wording of this, but if you're a juror, there -- there isn't a judgment form that you
13 sign, it's a verdict form. But in coming to that verdict, you, as jurors, make a
14 judgment as to the evidence. And you make a judgment as to whether or not the
15 State's proven this case. Do you have any problem doing that when it will have
16 an effect on another human being?

17 PROSPECTIVE JUROR NO. 009: Yes, I do.

18 MR. PESCI: Why is that?

19 PROSPECTIVE JUROR NO. 009: I normally don't judge. Normally I
20 never judge. People tell -- tell me stories or whatever they want. Whatever
21 makes them happy, that's fine with me.

22 MR. PESCI: I think you told me you have three kids.

23 PROSPECTIVE JUROR NO. 009: Yes, I do.

24 MR. PESCI: And they're not grown up, but they're old enough to interact
25 with each other quite a bit?

1 PROSPECTIVE JUROR NO. 009: 15 --

2 MR. PESCI: And you don't have to say it.

3 PROSPECTIVE JUROR NO. 009: Oh, okay. Yes.

4 MR. PESCI: But, I mean, they're old enough to get into arguments with
5 each other?

6 PROSPECTIVE JUROR NO. 009: Oh, yes.

7 MR. PESCI: Have you ever had discrepancies over who finished the
8 food in the fridge that wasn't supposed to, or things of that nature?

9 PROSPECTIVE JUROR NO. 009: Yes.

10 MR. PESCI: Do you ever kind of sift through that and figure out who
11 really did it or what really happened?

12 PROSPECTIVE JUROR NO. 009: Yes.

13 MR. PESCI: Have to make decisions as far as, okay, this person is
14 going to have whatever punishment or not going to have punishment, things of
15 that nature?

16 PROSPECTIVE JUROR NO. 009: Uh-huh. Yes.

17 MR. PESCI: Okay. And I understand generally speaking you say you
18 don't want to judge, you don't want to sit there and say I don't like this person or
19 that person, but in the concept of having to sift through facts and make
20 judgments as to those facts, do you think you can do that?

21 PROSPECTIVE JUROR NO. 009: Yes.

22 MR. PESCI: Do you think you could be fair to both sides?

23 PROSPECTIVE JUROR NO. 009: Yes.

24 MR. PESCI: Okay. We pass for cause.

25 THE COURT: All right. Thank you.

1 Mr. Arrascada or Mr. Adams.

2 MR. ARRASCADA: Sure.

3 THE COURT: All right.

4 MR. ARRASCADA: Thank you, Your Honor.

5 Mr. McLaughlin; right?

6 PROSPECTIVE JUROR NO. 009: Yes.

7 MR. ARRASCADA: In the beginning you were kind of -- you were asked
8 by the prosecutor that global question is anything popping into your mind after
9 you heard all of this, and you said, I'm good. I'm going to ask what do you mean
10 by that?

11 PROSPECTIVE JUROR NO. 009: I'm fine. I -- nothing has popped in
12 my head. I'm listening.

13 MR. ARRASCADA: You're listening.

14 PROSPECTIVE JUROR NO. 009: Uh-huh.

15 MR. ARRASCADA: And nothing's popped into your head that -- nothing
16 popped into your head that you felt you needed to talk about?

17 PROSPECTIVE JUROR NO. 009: [inaudible].

18 MR. ARRASCADA: Let's talk a little bit about this whole concept of
19 judgment. As you sit here are you viewing that as a religious or a moral play in
20 your mind?

21 PROSPECTIVE JUROR NO. 009: I have most of my life, even as a
22 child, never spent much time judging other people. People tell me stories and
23 that's fine, whatever makes them happy. I don't think one way or another about
24 it.

25 MR. ARRASCADA: When you're making important decisions in your

1 life --

2 PROSPECTIVE JUROR NO. 009: Uh-huh.

3 MR. ARRASCADA: -- weightier decisions such as buying a home where
4 my kids, you know, go to college or helping them in that decision, would you
5 agree that those types or decisions are you're coming to a judgment decision on
6 what you should do?

7 PROSPECTIVE JUROR NO. 009: Yes. When it comes to my -- my
8 children and myself, yes.

9 MR. ARRASCADA: And when you're doing that, what do you do to make
10 that right decision because it's so important?

11 PROSPECTIVE JUROR NO. 009: I look at everything and hope for the
12 best.

13 MR. ARRASCADA: Okay. And then you reach a decision --

14 PROSPECTIVE JUROR NO. 009: Yes.

15 MR. ARRASCADA: -- is that right? Okay. And that's the type of
16 judgment that you may be called to reach if you have the privilege of serving on
17 this jury. Is that something you'd be able to do? Listen to all the facts, gather the
18 information, and make a decision?

19 PROSPECTIVE JUROR NO. 009: Yes.

20 MR. ARRASCADA: And if you made a decision, and, as I said, if you
21 have the privilege of being on the jury you've got 12 other folks with you --

22 PROSPECTIVE JUROR NO. 009: Uh-huh.

23 MR. ARRASCADA: -- and if your decision is different than everyone
24 else's, would you be able to stay with that decision?

25 PROSPECTIVE JUROR NO. 009: Yes.

1 MR. ARRASCADA: And express your opinions to the other 11 that are
2 saying you're wrong?

3 PROSPECTIVE JUROR NO. 009: Yeah.

4 MR. ARRASCADA: You'd be able to hold your ground and try and
5 convince them if you needed to?

6 PROSPECTIVE JUROR NO. 009: Uh-huh. Yes.

7 MR. ARRASCADA: You said when the prosecutor was speaking to you
8 about you're a bartender. You hear all kinds of things from that other side of the
9 bar; correct?

10 PROSPECTIVE JUROR NO. 009: Yes.

11 MR. ARRASCADA: In that situation have you ever heard someone talk
12 about breaking the law or someone -- and they didn't really mean it or what you
13 thought of it when they had said it?

14 PROSPECTIVE JUROR NO. 009: I don't think much about it.

15 MR. ARRASCADA: Do you believe them?

16 PROSPECTIVE JUROR NO. 009: I don't think much about it whether
17 they're telling the truth or their not. I don't think much about it.

18 MR. ARRASCADA: So it's black and white for you and you just move
19 on?

20 PROSPECTIVE JUROR NO. 009: I move on very quickly. I never dwell
21 upon what anybody says.

22 MR. ARRASCADA: Okay. You have regulars that come to see you at
23 the bar; is that correct?

24 PROSPECTIVE JUROR NO. 009: Yes.

25 MR. ARRASCADA: Okay. And those are people that you've become

1 friendly with, but in that work environment?

2 PROSPECTIVE JUROR NO. 009: Yes, they're customers.

3 MR. ARRASCADA: Okay. And if one of those customers that you're
4 friendly with, you know by a first name, had said, listen, I'm so angry today, give
5 me a beer, I could just ring my loan officer's neck. How would you interpret that
6 being as it's someone you know and he's there to talk to you?

7 PROSPECTIVE JUROR NO. 009: Somebody who's angry, upset,
8 frustrated.

9 MR. ARRASCADA: Would you believe that he's serious?

10 PROSPECTIVE JUROR NO. 009: Like I said, I don't -- I wouldn't -- no, I
11 just don't care. I mean, if -- if -- my life is my three kids and myself. I listen to
12 stories all day long. Whether they're true or not, that's not up for me to decide.

13 MR. ARRASCADA: But would you be able to, if you have the privilege of
14 being on this jury, listen to everything and make a decision?

15 PROSPECTIVE JUROR NO. 009: I believe I could.

16 MR. ARRASCADA: I asked the question prior, now that you've been
17 sitting here for a day and a half or a day, I guess, total if you look at the time, has
18 any discussion in this courtroom amongst your fellow potential juror's questions
19 from myself of the prosecutor or Mr. Gentile and Ms. Armeni or the Court, has
20 any of that jogged your memory about the Palomino case that we're here for?

21 PROSPECTIVE JUROR NO. 009: No, because I don't read the
22 newspaper or watch the news.

23 MR. ARRASCADA: Okay. And do you have any recollection, if any of
24 your customers or if anyone discussed it at the bar?

25 PROSPECTIVE JUROR NO. 009: No.

1 MR. ARRASCADA: Okay. Just give me a moment. I need to -- I really
2 appreciate your time.

3 THE COURT: All right. Thank you.

4 Ms. Armeni.

5 MS. ARMENI: Yes, Your Honor.

6 Good morning, Mr. McLaughlin. Back to the bartender issue.
7 South -- you're a bartender at South Point?

8 PROSPECTIVE JUROR NO. 009: Yes.

9 MS. ARMENI: And how long have you been a bartender total?

10 PROSPECTIVE JUROR NO. 009: Behind the bar as a bar back and a
11 bartender, six years.

12 MS. ARMENI: And where were you before South Point?

13 PROSPECTIVE JUROR NO. 009: Gold Coast.

14 MS. ARMENI: And before then? Or is that your first --

15 PROSPECTIVE JUROR NO. 009: Gold Coast. I've been there since I
16 was 16.

17 MS. ARMENI: Oh, okay. Not bartending, though?

18 PROSPECTIVE JUROR NO. 009: No.

19 MS. ARMENI: Okay.

20 PROSPECTIVE JUROR NO. 009: I started off as a dishwasher, then a
21 cook, and then went to the bar.

22 MS. ARMENI: And you come across probably a lot of interesting people
23 bartending.

24 PROSPECTIVE JUROR NO. 009: Correct, yes.

25 MS. ARMENI: And would you -- you see a lot of intoxicated people, I

1 would imagine.

2 PROSPECTIVE JUROR NO. 009: Yes.

3 MS. ARMENI: And what kind of things have you seen when people are
4 intoxicated? What kind of things do they do?

5 PROSPECTIVE JUROR NO. 009: Well, urinate on themselves, defecate
6 on themselves, throw up, pass out.

7 MS. ARMENI: Do you see people -- do people -- do you feel like people
8 get more brave when they start -- when they're intoxicated, start talking smack a
9 little easier?

10 PROSPECTIVE JUROR NO. 009: Yeah. Yes.

11 MS. ARMENI: Have you ever seen people fight at your bar?

12 PROSPECTIVE JUROR NO. 009: Once.

13 MS. ARMENI: Have you ever heard of the term whiskey muscles?

14 PROSPECTIVE JUROR NO. 009: No.

15 MS. ARMENI: Well, basically, what I was asking about the intoxication,
16 people kind of get that bravo sense, right, when they're -- when they're
17 intoxicated? They're more willing --

18 PROSPECTIVE JUROR NO. 009: Yes, but most people that I've -- that
19 get drunk, at least around me or my bar experience, not so much for fighting but
20 just to talk to women.

21 MS. ARMENI: Oh, that's what they do at your bar?

22 PROSPECTIVE JUROR NO. 009: Most of the time.

23 MS. ARMENI: Now --

24 PROSPECTIVE JUROR NO. 009: Most people don't fight.

25 MS. ARMENI: Well, that's good. You've got a calm bar then.

1 PROSPECTIVE JUROR NO. 009: Brave enough to talk to women.

2 MS. ARMENI: How about at the Gold Coast? Was it that calm there
3 too?

4 PROSPECTIVE JUROR NO. 009: Yeah. I've never seen a fight there at
5 the bar.

6 MS. ARMENI: You work at some good bars, or maybe not so good bars;
7 huh?

8 PROSPECTIVE JUROR NO. 009: No, we just cut them off before they
9 get to that level, or hopefully stop it before it gets to that level.

10 MS. ARMENI: Now, we talk -- somebody had asked you about when
11 they're talking about intoxication, drugs, alcohol. What -- what kind of -- do you
12 know anybody that has -- has done drugs?

13 PROSPECTIVE JUROR NO. 009: Yes.

14 MS. ARMENI: And what kind of drugs?

15 PROSPECTIVE JUROR NO. 009: Coke, marijuana -- God, just crystal
16 meth, pills.

17 MS. ARMENI: And what kind of effect has -- have those drugs had on
18 people?

19 PROSPECTIVE JUROR NO. 009: It ruined all their lives.

20 MS. ARMENI: Do you think it affected their judgment?

21 PROSPECTIVE JUROR NO. 009: Yeah.

22 MS. ARMENI: And do you know any lawyers?

23 PROSPECTIVE JUROR NO. 009: No.

24 MS. ARMENI: Do you -- so you have nobody to call if -- if you had a --
25 what would you do if you got yourself in a situation and you needed a lawyer?

1 What would you do?

2 PROSPECTIVE JUROR NO. 009: Look through the yellow pages. I
3 have -- I don't know any lawyers.

4 MS. ARMENI: You'd just pick one out of the yellow pages?

5 PROSPECTIVE JUROR NO. 009: Pretty much, yes.

6 MS. ARMENI: Do you come in contact -- when you're bartending, do you
7 come in contact with strippers, dancers?

8 PROSPECTIVE JUROR NO. 009: Actually, I don't know if any of my
9 customers are strippers. I do know one cocktail waitress was -- was a stripper.

10 MS. ARMENI: Okay. Now she's a cocktail waitress?

11 PROSPECTIVE JUROR NO. 009: Yes.

12 MS. ARMENI: Do you have any contact with taxicab drivers that come
13 into your bar?

14 PROSPECTIVE JUROR NO. 009: Not that I know of, no.

15 MS. ARMENI: Do you know any taxicab drivers?

16 PROSPECTIVE JUROR NO. 009: No.

17 MS. ARMENI: And do you have -- back to the strip clubs, do you have
18 an opinion one way or the other about strip clubs?

19 PROSPECTIVE JUROR NO. 009: No. Everybody's there to make
20 money.

21 MS. ARMENI: You heard me ask Ms. Golmassian about -- about gangs.
22 When I say gang to you, what's the first thing that you think of?

23 PROSPECTIVE JUROR NO. 009: A lot of friends I grew up with.

24 MS. ARMENI: Okay. Can you tell me a little bit more about that?

25 PROSPECTIVE JUROR NO. 009: A lot of them are gang members.

1 MS. ARMENI: In a specific type of gang?

2 PROSPECTIVE JUROR NO. 009: 28th Street, Rollin' 60 Crips. I went to
3 school with a lot of gang members.

4 MS. ARMENI: And what was your experience with that?

5 PROSPECTIVE JUROR NO. 009: Not too much that I remember. That
6 was when I was a kid.

7 MS. ARMENI: Were you fearful of them, or were they -- were these
8 friends of yours?

9 PROSPECTIVE JUROR NO. 009: No, just --

10 MS. ARMENI: Or, you know, acquaintances?

11 PROSPECTIVE JUROR NO. 009: I mean, they're kids in the
12 neighborhood. Was I afraid of them? No.

13 MS. ARMENI: And on that topic of fear, is it -- have -- can you think of a
14 situation in your life that if you were fearful of something that maybe you wouldn't
15 choose to do the right thing?

16 PROSPECTIVE JUROR NO. 009: Be more --

17 MS. ARMENI: Well, let me ask it a different way. Have you ever been
18 fearful in -- you have kids, so I can imagine that -- now that I have a kid I
19 understand --

20 PROSPECTIVE JUROR NO. 009: Uh-huh.

21 MS. ARMENI: -- fearful is an everyday occurrence. But has there been
22 a time in your life that you've been fearful or scared?

23 PROSPECTIVE JUROR NO. 009: Oh, yes.

24 MS. ARMENI: And can you tell me about that time?

25 PROSPECTIVE JUROR NO. 009: Only for my kids.

1 MS. ARMENI: Okay.

2 PROSPECTIVE JUROR NO. 009: Them going to school, them being
3 okay in school.

4 MS. ARMENI: So as a parent, if you think something was going to
5 happen to your kids, that -- that's a scary situation; right?

6 PROSPECTIVE JUROR NO. 009: Yes.

7 MS. ARMENI: And in those -- do you -- being fearful, do you think
8 people are clear when they're scared? Do you think they make the same kind of
9 judgment that they would make if -- if they weren't scared? How do you think
10 fear affects people?

11 PROSPECTIVE JUROR NO. 009: They become -- they don't rationalize
12 the situation. They just react.

13 MS. ARMENI: They don't have time to think about the situation?

14 PROSPECTIVE JUROR NO. 009: No.

15 MS. ARMENI: Let me just --

16 Court's indulgence.

17 Thank you, Mr. McLaughlin.

18 THE COURT: All right. Thank you --

19 MS. ARMENI: Pass for cause --

20 THE COURT: -- Ms. Armeni.

21 MS. ARMENI: -- Your Honor.

22 THE COURT: State may question Ms. Urbanick.

23 MR. DIGIACOMO: Good Morning.

24 PROSPECTIVE JUROR NO. 010: Good morning.

25 MR. DIGIACOMO: We already talked a little bit yesterday, so I

1 [inaudible]. I don't think I asked you if you had an opinion about the strip club
2 industry. Do you have an opinion?

3 PROSPECTIVE JUROR NO. 010: I feel sorry for the women that have
4 no self respect that they are -- are in there. And yet I understand on the flip side
5 it's a business.

6 MR. DIGIACOMO: And are you catching her or do you need her to
7 speak up?

8 THE RECORDER: Yeah, I was just thinking that myself.

9 MR. DIGIACOMO: I can come get it.

10 PROSPECTIVE JUROR NO. 010: I can project.

11 MR. DIGIACOMO: That'll make it a little easier.

12 PROSPECTIVE JUROR NO. 010: Thank you.

13 MR. DIGIACOMO: And obviously, you know, whatever somebody's
14 opinion of someone's choice in their career or what type of business you're in, in
15 this particular case whether or not you think the strip club business is a good idea
16 or a bad idea, can you set aside those opinions and look at the evidence that's
17 presented to you?

18 PROSPECTIVE JUROR NO. 010: I can. I mean, we're going to have to
19 address this not to pass judgment --

20 MR. DIGIACOMO: Okay.

21 PROSPECTIVE JUROR NO. 010: -- on people. I feel a camaraderie
22 because I have an hour and a half of sleep because I thought I would be the only
23 one that would feel this way. So I feel a camaraderie. Not for the same reasons.

24 MR. DIGIACOMO: Okay. Let me -- maybe I can -- maybe I can --

25 PROSPECTIVE JUROR NO. 010: So just FYI.

1 MR. DIGIACOMO: Right. Well, then I'm going to go there and ask the
2 questions. And maybe as an explanation, you know, there are passing
3 judgments in the sense of determining somebody's sentence, and there is
4 passing judgment in the sense of returning a verdict in a criminal trial where the
5 Judge gives you the law, you look at the facts, you apply the two of those
6 together, and you make a determination of what happened.

7 And if that determination is such that you feel an abiding conviction
8 of the truth of the charge and we've proved our case beyond a reasonable doubt,
9 then you check that box and you raise your hand and you say guilty. And if you
10 don't, you say, hey, I have a doubt, I just -- I don't know. Then you check that
11 box that says not guilty.

12 So maybe it's the term using judgment that's part of the problem.
13 But from the look on your face I can tell that there's more to it, so why don't you
14 explain to me.

15 PROSPECTIVE JUROR NO. 010: I was raised at age four because of
16 something that happened in my family that you do not judge people or someone
17 will be hurt.

18 MR. DIGIACOMO: Okay.

19 PROSPECTIVE JUROR NO. 010: And as Dr. Phil would say, as a child
20 you have a clean slate and your parents write on that slate to what you become,
21 and this is so ingrained in me.

22 MR. DIGIACOMO: Okay.

23 PROSPECTIVE JUROR NO. 010: And I can further if you want
24 explanation.

25 MR. DIGIACOMO: No, I -- I mean, I understand where you're coming

1 from, you know, as a personal --

2 PROSPECTIVE JUROR NO. 010: This is --

3 MR. DIGIACOMO: As a moral point of view or as your -- as your make
4 up as a person you say I don't want to judge. But you do agree with me, I would
5 think, that we live in a society that has laws; right?

6 PROSPECTIVE JUROR NO. 010: That is correct.

7 MR. DIGIACOMO: And as citizens of our community, there's -- I mean,
8 you don't want prosecutors like myself and Mr. Pesci making a decision as to
9 who is guilty or not guilty; right?

10 PROSPECTIVE JUROR NO. 010: If you can do it all the more power to
11 you.

12 THE COURT: I think what Mr. DiGiacomo is getting at is at the
13 conclusion of the case, if you're selected, I'll read the law, the instructions on the
14 law.

15 PROSPECTIVE JUROR NO. 010: I understand that.

16 THE COURT: And as a jury you don't have to make a determination,
17 and we ask you not to, of whether you agree with the law or it's a good law or
18 you would change the law. You are to accept the instructions on the law as I
19 give to you, and then along with your fellow jurors.

20 You are to consider the evidence which, once again, is the testimony
21 and the exhibits and determine whether or not the State has proven the
22 defendant's guilt beyond a reasonable doubt. It doesn't involve making a moral
23 determination.

24 It's beyond, you know, what's implicit in that. But do you understand
25 that? And then the question of sentencing is up to the Court, not up to the jury.

1 PROSPECTIVE JUROR NO. 010: Thank you. And, yes, I do
2 understand that. For me, I don't know what I can say about yesterday, but you
3 asked me a question and I fixated on one word in that and I answered how I felt.
4 When I was --

5 MR. DIGIACOMO: You can tell me what the word is.

6 THE COURT: You can tell us what the word was, not the question.

7 PROSPECTIVE JUROR NO. 010: Fair.

8 MR. DIGIACOMO: Okay.

9 PROSPECTIVE JUROR NO. 010: And I said yes, and I meant it. I didn't
10 even get to that second door out there and my stomach just -- it was so knotted.
11 I made a beeline to that bathroom. I mean, I was just -- it was almost in a panic
12 state. And only because it took me -- I couldn't figure out why. And it took me all
13 night to figure out. And it was -- I just -- it was a feeling of judgment, the word
14 judgment.

15 MR. DIGIACOMO: And I guess the question is, at the end of the day, if
16 you wind up in that back room, whether -- whatever what you feel, whether it's
17 guilty or not guilty, can you raise your hand and vote? Because we got to know
18 that now.

19 THE COURT: Because one way or the other you're making a choice.
20 Did the State prove it or did the State not prove it beyond a reasonable doubt.
21 And, again, that's explained to you what exactly that means in the instructions.

22 PROSPECTIVE JUROR NO. 010: Mentally, I can separate that.
23 Emotionally, I don't know if I can. I wrestled with this question all night long. And
24 because I don't have -- I'm afraid of a repercussion of me.

25 MR. DIGIACOMO: What do you mean by a repercussion of you?

1 PROSPECTIVE JUROR NO. 010: When this trial is over with, because
2 how I feel inside, it's a gut thing, how am I going to handle this the rest of my life
3 either way. Because I don't see this. I mean, there are more than just these two
4 gentlemen and their family's lives here that is at a balance. And -- and I don't
5 know. And because I don't know, I mean, I don't have a religious background. If
6 you absolutely have to have a yes or a no right now, I'd have to say no.

7 MR. DIGIACOMO: And unfortunately for us, at this time, this is the last
8 chance the lawyers are going to be talking to you directly.

9 PROSPECTIVE JUROR NO. 010: Can I have some water?

10 MR. DIGIACOMO: Sure.

11 PROSPECTIVE JUROR NO. 010: No, I have on here. I just --

12 THE COURT: I'm sorry?

13 MR. DIGIACOMO: Oh, you have it with you?

14 THE COURT: Oh.

15 MR. DIGIACOMO: She was asking if she can have water.

16 THE COURT: You know what actually I needed a break anyway, not
17 related to the discussion that's going on. So let's go ahead and take a quick, just
18 about a ten or so minute break.

19 And, ladies and gentlemen, before you leave, once again I need to
20 remind you of the admonishment that during our very brief break don't discuss
21 anything relating to the case with each other or with anyone else. Don't read,
22 watch, or listen to any reports of or commentaries on any subject relating to the
23 case. Please don't form or express an opinion.

24 And if everyone will please follow Officer Wooten --

25 Where is he?

1 Well, just go through the double doors. The other officer will -- will
2 lead you out.

3 (Recess taken at 10:59 a.m.)

4 (Off-record colloquy)

5 THE COURT: All right. On the record, the State wanted to challenge
6 prospective juror No. 7 for cause.

7 MR. DIGIACOMO: Well, first, on the record, we wanted to challenge
8 prospective juror No. 5, Ms. Golmassian for cause.

9 THE COURT: All right. And I think we had agreed at the bench that no
10 one was going to oppose a for cause challenge on Ms. Golmassian as well as a
11 hardship.

12 MR. GENTILE: I agreed, but I don't think that --

13 THE COURT: Mr. Adams.

14 MR. ADAMS: Well, after we heard the rest of her answers, I became
15 convinced that she's a conscientious juror and would be able to serve and we
16 would ask that she be qualified.

17 THE COURT: Okay. I was going to excuse her anyway on a hardship
18 basis, but, as you know, I didn't want to do that until we qualified everyone else
19 because that would encourage other people to have the same excuses.

20 So I'm not going to excuse Ms. Golmassian until we've got 13
21 qualified in the box. At that point I'm going to excuse her and then bring another
22 and we'll have the 14. Hopefully at some point in the next year or so we'll have
23 14 and we can begin our peremptory challenges.

24 Now, on juror No. 7, did the State wish to make a for cause
25 challenge at this time?

1 MR. DIGIACOMO: Well, Judge, I am going to make a for cause
2 challenge, but I'm also not done questioning --

3 THE COURT: Okay. All right.

4 MR. DIGIACOMO: -- her. So the -- the choice of the Court as to whether
5 or not you want me to make a record now, but I -- I think at this point --

6 THE COURT: I'll just say --

7 MR. DIGIACOMO: -- she said she can't do it --

8 THE COURT: Well, my --

9 MR. DIGIACOMO: -- but she hasn't really told us why.

10 THE COURT: My inclination is that at this point you don't have enough
11 for a for cause challenge because she said, you know, she doesn't want to, she
12 doesn't want to sit in judgment. But at the end of the day, she can go back there
13 and make a determination one way or the other. So I don't think you have
14 enough for a for cause challenge at this point.

15 But that's my -- my opinion now. You're free to keep questioning
16 her. And, obviously, unless the defense agrees to a for cause challenge, they
17 have a right to question her and try to re -- you know, rehabilitate her.

18 But I think, you know, what I'm hearing from her is it would be
19 difficult, she feels uncomfortable, she felt nauseated or physically ill yesterday,
20 but that it's not impossible.

21 And as, I think both sides can appreciate, it's not uncommon for
22 jurors to find this very difficult and to be, you know, stressed out and -- and ill and
23 everything like that. I'm not satisfied that it's just such an extent that her health
24 demands that she be excused. I know that's not what you're saying, but I don't --
25 I don't hear it yet, so --

1 Okay. Let's bring them in.

2 Anything else? No? Okay.

3 MR. ARRASCADA: No, Your Honor.

4 MR. ADAMS: Your Honor, will you have the need for lawyers for the
5 remainder of the day?

6 THE COURT: I told him I don't need any lawyers. It's like P&P, those
7 reports from P&P.

8 MS. ARMENI: I'll remember that.

9 THE COURT: On both ways. Sometimes they're --

10 (Prospective jury panel enters at 11:15 a.m.)

11 THE COURT: All right. Court is now back in session. The record will
12 reflect the presence of the State through the Deputy District Attorneys, the
13 presence of both defendants along with their counsel, the officers of the court,
14 and the members of the prospective jury panel.

15 Before Mr. DiGiacomo resumes his questioning, I do need to
16 admonish everyone, the individuals in the jury box as well as the ladies and
17 gentlemen seated in the audience. As you know, these proceedings are being
18 recorded and our court recorder, Ms. Olsen, needs to hear what's being said for
19 the record, meaning what I say, what the lawyers say, and what the prospective
20 jurors say.

21 There are microphones located around the courtroom, and when we
22 have jurors talking to one another in the box or jurors talking to one another in
23 the audience and making comments, that can get picked up and it makes Ms.
24 Olsen's job of having an accurate recording very, very difficult.

25 So I know it can be boring just sitting out there in the audience

1 listening to the same questions over and over again. I have a joke, voir dire
2 means to tell the truth, I like to say voir dire means the really boring part. I know
3 it can be long and frustrating, but I really need all of you to please be quiet during
4 the questioning of the other prospective jurors because we're having interference
5 on our court recording. All right? Thank you.

6 Mr. DiGiacomo, you may resume your questioning of Mr. Urbanick.

7 MR. DIGIACOMO: Thank you.

8 And I'm sorry. I know it's a terrible position to have to sit in. Right?

9 PROSPECTIVE JUROR NO. 010: I -- Your Honor, I'm sorry. And I
10 apologize to everyone in here.

11 THE COURT: And, again, Mr. Urbanick, there is no right or wrong
12 answer. We're try -- you know, it's how you feel, it's what you're opinion is. And
13 so --

14 PROSPECTIVE JUROR NO. 010: It's who I am.

15 THE COURT: -- by definition, there can't be a right answer or a wrong
16 answer. But both sides are entitled to delve in. And, again, as I told you in the
17 beginning, it can become quite personal. And we recognize people aren't used
18 to necessarily speaking in public and it can become maybe embarrassing or
19 difficult, but both sides are entitled to have a full inquiry as you can understand.

20 PROSPECTIVE JUROR NO. 010: Absolutely.

21 MR. DIGIACOMO: So, Mr. DiGiacomo.

22 PROSPECTIVE JUROR NO. 010: I'm here. Yeah.

23 MR. DIGIACOMO: Now, we've had a little break, you've gone outside,
24 you've come back in. And I think right when we stopped you were saying if I had
25 to give my answer today it would be no.

1 PROSPECTIVE JUROR NO. 010: And that is correct.

2 MR. DIGIACOMO: After having sat out there, sat outside for a little while
3 and then coming back in, do you still agree with that statement that if you had to
4 make -- if you had to say to yourself today could I do this, the answer is no?

5 PROSPECTIVE JUROR NO. 010: That is correct.

6 MR. DIGIACOMO: One of the things that you also said was this isn't just
7 about deciding the -- the fate of two individuals that are sitting over at those
8 tables; correct?

9 PROSPECTIVE JUROR NO. 010: And their family.

10 MR. DIGIACOMO: And their family; right?

11 PROSPECTIVE JUROR NO. 010: Uh-huh.

12 MR. DIGIACOMO: You -- how do I phrase this? The Court has told you
13 that punishment is not something that can be considered by a jury when deciding
14 guilt or innocence.

15 PROSPECTIVE JUROR NO. 010: Uh-huh. Yes.

16 MR. DIGIACOMO: And I'm sure she's going to instruct you that -- that
17 your verdict can't be influenced by sympathy, prejudice, or some other foreign
18 influence on the facts of the case.

19 PROSPECTIVE JUROR NO. 010: Yes, I heard that.

20 MR. DIGIACOMO: And I -- and -- and certainly there are affects to a -- to
21 a jury verdict in a number of ways, you know, not just for the individuals standing
22 in this room, but, you know, there's a victim, there's -- there's all kinds of affects
23 of a jury that we ask that jury to set aside and make a determination. And what
24 you're telling the Court is that when you look deep into your heart you say to
25 yourself I can't do that? Is that a fair characterization?

1 PROSPECTIVE JUROR NO. 010: Yes, it is.

2 MR. DIGIACOMO: And let me ask you another way. When you say you
3 can't do that, does it mean you can't do it for one side or the other or you can't do
4 it for both sides?

5 PROSPECTIVE JUROR NO. 010: I can't do it for either side.

6 THE COURT: So if you were selected as a juror and you -- you know
7 you would come in every day and, I'm sure, listen to the evidence as
8 conscientiously as you could and -- and you went back into the jury room, what
9 do you mean you couldn't do it?

10 PROSPECTIVE JUROR NO. 010: I absolutely couldn't check the box
11 guilty or not guilty.

12 THE COURT: So when the other --

13 PROSPECTIVE JUROR NO. 010: Is -- is there not --

14 THE COURT: Yes?

15 PROSPECTIVE JUROR NO. 010: -- a gentleman has died? Was there
16 not brought up a death?

17 THE COURT: Right.

18 PROSPECTIVE JUROR NO. 010: There is a family connected to that
19 man. You check one box or the other, you have passed a judgment and
20 someone is hurt.

21 THE COURT: So you would do what, not participate or not discuss the
22 evidence or not raise your hand or --

23 PROSPECTIVE JUROR NO. 010: I --

24 THE COURT: I guess --

25 PROSPECTIVE JUROR NO. 010: -- couldn't decide.

1 THE COURT: -- because there is a diff --

2 PROSPECTIVE JUROR NO. 010: I couldn't --

3 THE COURT: -- difference --

4 PROSPECTIVE JUROR NO. 010: I couldn't --

5 THE COURT: -- between it being difficult and it being gut-wrenching and
6 traumatic and not doing it. Do you understand what I'm saying? Because for
7 many, many people everyone appreciates that this is a -- I mean, it's a civic duty,
8 but it's also a grave responsibility to sit on a jury. And to -- it's -- it's important
9 and everyone appreciates that. So do you see what I'm saying? I mean, no one
10 is here to say that it can't be difficult and there's nothing wrong with that.

11 PROSPECTIVE JUROR NO. 010: I understand that. For me, it -- I've
12 had three times in my life where I have absolutely felt this way. And the
13 repercussion of those times I can't let go of. It runs over and over and over in my
14 head. And I just can't let go of it. And I understand it's my own torture, but that's
15 who I am.

16 THE COURT: Okay. And I -- I --

17 PROSPECTIVE JUROR NO. 010: And if I pick guilty or not guilty, this is
18 going to run over and over and over again the rest of my life because it isn't just
19 one set. I don't know how to explain it.

20 THE COURT: All right.

21 Mr. DiGiacomo.

22 MR. DIGIACOMO: Judge, I'll submit.

23 THE COURT: All right.

24 Mr. -- who wants to go first? Mr. Gentile, thank you.

25 MR. GENTILE: Is it Mrs. Urbanick?

1 PROSPECTIVE JUROR NO. 010: Yes, it is. Hello.

2 MR. GENTILE: Tell me if I'm right or if I'm wrong. You're concerned that
3 if you participate as a juror, later on you're going to think about what you did;
4 right?

5 PROSPECTIVE JUROR NO. 010: Yes.

6 MR. GENTILE: So is everybody that's in this box.

7 PROSPECTIVE JUROR NO. 010: I believe that.

8 MR. GENTILE: Everyone, that's a guarantee. Now, is it that you're
9 afraid that you might make a mistake? Because everybody is going to think
10 about that later too.

11 PROSPECTIVE JUROR NO. 010: No.

12 MR. GENTILE: It's not?

13 PROSPECTIVE JUROR NO. 010: No.

14 MR. GENTILE: You understand that the reason that we have the
15 reasonable doubt standard is exactly --

16 PROSPECTIVE JUROR NO. 010: For me.

17 MR. GENTILE: -- what you're talking about?

18 PROSPECTIVE JUROR NO. 010: Yes.

19 MR. GENTILE: You understand that -- well, I can't tell you what
20 reasonable doubt is. Only the Judge can, and she won't until --

21 PROSPECTIVE JUROR NO. 010: Yeah.

22 MR. GENTILE: -- later. But it isn't some lightweight thing. You can
23 figure that out by yourself.

24 PROSPECTIVE JUROR NO. 010: Yes.

25 MR. GENTILE: Okay. Do you have -- have you ever served as a juror

1 before?

2 PROSPECTIVE JUROR NO. 010: I have not. I have never even been
3 summonsed. This is the first time.

4 MR. GENTILE: So it's really the consequences to someone that flow
5 from whatever decision you make that has you feeling [inaudible]?

6 PROSPECTIVE JUROR NO. 010: The consequences to their life, yeah.

7 MR. GENTILE: And you would --

8 PROSPECTIVE JUROR NO. 010: Yes.

9 MR. GENTILE: -- carry that as a consequence of your life?

10 PROSPECTIVE JUROR NO. 010: Isn't that sad?

11 MR. GENTILE: No, I think --

12 PROSPECTIVE JUROR NO. 010: But, yes.

13 MR. GENTILE: -- it's wonderful, to be honest with you. Okay? I mean,
14 that -- believe me when I tell you everybody at a different level is going to feel the
15 way that you feel. Maybe not to the same level that you do. Can we get you to
16 come to grips with that? Because it doesn't sound like you're going to have any
17 trouble listening to the evidence. You're not telling us that.

18 PROSPECTIVE JUROR NO. 010: No. No.

19 MR. GENTILE: Okay. And it doesn't have -- doesn't sound like you're
20 going to have any trouble in terms of once the Judge tells you what reasonable
21 doubt is weighing that evidence --

22 PROSPECTIVE JUROR NO. 010: That's --

23 MR. GENTILE: -- right?

24 PROSPECTIVE JUROR NO. 010: That is correct.

25 MR. GENTILE: What you're telling us is that the trouble isn't going to

1 start until after you weigh the evidence and you make your decision as to
2 whether it meets your reasonable doubt standard.

3 PROSPECTIVE JUROR NO. 010: I don't know if I can make a decision
4 because although I hear this, you're talking of rewiring 50 years.

5 MR. GENTILE: I'm sorry. I --

6 PROSPECTIVE JUROR NO. 010: You don't understand.

7 MR. GENTILE: No, tell me.

8 PROSPECTIVE JUROR NO. 010: Okay.

9 MR. GENTILE: Tell us.

10 PROSPECTIVE JUROR NO. 010: I was raised until I was 11 years old
11 in a very small farming community, all white. In the late '50s my aunt married a
12 black man. And my parents drilled into us, my two sisters and myself, you do
13 not --

14 MR. GENTILE: It was a big breakthrough.

15 PROSPECTIVE JUROR NO. 010: You just don't -- you don't make
16 choices, you just -- against people. You don't --

17 MR. GENTILE: You're not making choices against people here. And I'm
18 the person who represents this man and I'm telling you that your role here isn't to
19 make a choice against him. Okay? Your role here is to make a determination as
20 to how much proof there is and are you satisfied with it. To look into the proof, to
21 look behind it to see if it's something you believe. Just because somebody is
22 saying it doesn't mean you believe it.

23 PROSPECTIVE JUROR NO. 010: Would you repeat that, please?

24 MR. GENTILE: I -- if I can. Just because some -- your -- your job is to
25 look at the proof and behind it, to see what it means, to see if it's something that

1 you can embrace as something that you can believe to a pretty high degree of
2 satisfaction. That's your job. Okay? To look behind what's being said, at who is
3 saying it, and do you believe them. Now, these are decisions that you have to
4 make about people you don't know, but we need people that can do that.

5 PROSPECTIVE JUROR NO. 010: I can -- of course I sit here and make
6 judgments on people in my mind, but when you're so hardwired that you don't let
7 those judgments be known, not to judge the people.

8 MR. GENTILE: Can you appreciate -- I mean, first of all, everybody here
9 respects you, and I'm sure that everybody here agrees, we respect you
10 immensely because you've been honest and open. That's what we need more
11 than anything at this stage. Both sides do. Okay?

12 PROSPECTIVE JUROR NO. 010: Uh-huh.

13 MR. GENTILE: But by the same token, because we respect you and
14 because we appreciate it, we're trying to explain more of our system. So at the
15 end if you can't do it, we -- then you can't do it. All right? But it -- but I think
16 maybe it's the mechanics of this. You haven't sat as a juror before and that's the
17 reason I'm going into just exactly what the mechanics of what's going to happen.

18 PROSPECTIVE JUROR NO. 010: I understand that. I do.

19 MR. GENTILE: You've watched enough television for that; is that it?

20 PROSPECTIVE JUROR NO. 010: I guess so. I -- I just -- I just don't
21 know what's going to happen behind that closed door. And like I said to him --

22 MR. GENTILE: You're not alone.

23 PROSPECTIVE JUROR NO. 010: -- if I have to make -- I understand
24 that. But if I -- I know right now I am passing judgment. I have to go back and in
25 my mind absolutely try. And trust me, I try. And I think that's where the emotion

1 came from. It's rewiring me.

2 MR. GENTILE: Let's go --

3 PROSPECTIVE JUROR NO. 010: I'm not trying to get out of this. I'm
4 really not. I don't have the economic thing. I just -- I'm just telling you I have a
5 real problem.

6 MR. GENTILE: Okay.

7 THE COURT: May I see counsel at the bench please.

8 (Conference at the bench)

9 MR. GENTILE: Thank you.

10 THE COURT: All right. Thank you, Mr. Gentile.

11 Mr. Adams.

12 MR. ADAMS: Thank you.

13 Hi, Ms. Urbanick. I just want to explore this a little bit further with
14 you. And do you understand why we're so interested in this? In your feelings?

15 PROSPECTIVE JUROR NO. 010: No.

16 MR. ADAMS: Are you a conscientious person? Do you view yourself as
17 being conscientious? Would you be --

18 PROSPECTIVE JUROR NO. 010: I never --

19 MR. ADAMS: -- surprised to know --

20 PROSPECTIVE JUROR NO. 010: -- thought about it.

21 MR. ADAMS: -- that your answers may sound to others as if you're
22 very -- a very conscientious person, a very careful person, a person who really
23 considers and thinks about things? Would that surprise you if somebody
24 assessed you that way?

25 PROSPECTIVE JUROR NO. 010: No.

1 MR. ADAMS: And what I'd like to ask you about is some of the stuff
2 you've been talking to the other lawyers about. You were saying to the Judge
3 that you weren't sure if you could make a decision back in the jury room; right?
4 One way or another, you didn't know if you could decide not guilty or you could
5 decide to convict two people.

6 PROSPECTIVE JUROR NO. 010: That is correct.

7 MR. ADAMS: Can you think of a situation or are you open to the fact that
8 there might be so much proof that that could be a very easy decision? That there
9 can be eye witnesses, there can be DNA, there can be videotape, that it would
10 be very, very easy to convict someone based on the facts that you hear in the
11 courtroom and the law that the Judge gives you?

12 PROSPECTIVE JUROR NO. 010: Intellectually, yes.

13 MR. ADAMS: And it's just in your gut that you're not so sure?

14 PROSPECTIVE JUROR NO. 010: That is correct.

15 MR. ADAMS: And are you also -- and you're also -- the government can
16 present a case and there's no evidence, nothing makes sense, and that that
17 might be an easy situation for jurors to find somebody not guilty. Intellectually,
18 you get that?

19 PROSPECTIVE JUROR NO. 010: Yes.

20 THE COURT: Well, I think the issue isn't for jurors. It's for her.

21 MR. GENTILE: Right.

22 MR. ADAMS: Right. And that's what I was -- thank you. Thank you,
23 Your Honor. And the question I have for you is the question the Judge
24 prompted -- helped me with. For you, in that situation where there is a
25 tremendous amount of proof, could you do it? Could you find somebody guilty

1 after you've heard all the evidence or are you really saying there's just no way
2 you could do that even for somebody really, really guilty, no question about it?

3 PROSPECTIVE JUROR NO. 010: Does that pertain to this case?

4 MR. ADAMS: Well --

5 PROSPECTIVE JUROR NO. 010: I mean, I just --

6 MR. ADAMS: -- you haven't heard any evidence in this case. That's the
7 hard part. I know. It's -- it's kind of unfair; right?

8 PROSPECTIVE JUROR NO. 010: Well, like I said, I don't sit there and
9 see these two. There's a missing part. There's just a whole other family. And to
10 go in there and decide somebody gets hurt, I just --

11 THE COURT: So your fear is the family of the defendants or the family
12 of the victim and what impact your decision could have on those people that you
13 may or may not know about or see. Is that kind of what you're saying?

14 PROSPECTIVE JUROR NO. 010: Yes. It -- it's making a judgment, and
15 when that happens, someone is going to get hurt. And I know I keep saying that
16 because that is just what was so drummed into me as -- as a child having to fight
17 off discrimination.

18 MR. ADAMS: All right. And having to fight off stereotyping?

19 PROSPECTIVE JUROR NO. 010: Yes.

20 MR. ADAMS: And what we're talking about is something different.

21 PROSPECTIVE JUROR NO. 010: And I -- I totally understand that.
22 Emotionally I'm trying to get to the point. And like I said last night, I'm trying to
23 make sense of this that I can come in here and I'm just struggling, obviously.

24 MR. ADAMS: Well, we -- we are. We're struggling with you.

25 PROSPECTIVE JUROR NO. 010: I'm sorry.

1 MR. ADAMS: No, there's --

2 PROSPECTIVE JUROR NO. 010: I -- I --

3 MR. ADAMS: -- again, there is no reason to be sorry for anything. You
4 should feel sorry if you didn't bring this up, you know, because we all want to
5 know. We all want to know that. So I guess -- I guess I have to get back to the
6 million dollar question for you. At the end of the day, without having heard any --
7 any evidence or lack of evidence, are you open to the idea that you would be
8 able to make a determination in the jury room one way or the other based on all
9 the facts and all the law that the Judge gives you? Is that a possibility for you?

10 PROSPECTIVE JUROR NO. 010: A possibility?

11 MR. ADAMS: Yeah.

12 PROSPECTIVE JUROR NO. 010: If I could hang in there intellectually
13 and do that and not have emotion come in, of which I know you come through
14 and you say you can't do the emotion. I don't know if I can cut that out.

15 THE COURT: All --

16 MR. ADAMS: If you were selected and you --

17 May I have one more question?

18 THE COURT: Oh, I'm sorry. I thought you were done.

19 MR. ADAMS: If you were selected and you went back there and you
20 decided that you could reach a judgment, you would; correct? If you heard all
21 the evidence and you said, yeah, I can do this one? Well, let me ask it this way.
22 If you went back there and you decided I can't decide one way or another, I told
23 them that, I don't know why I'm on this jury, I can't make the decision. Could you
24 then at least send a note to the Judge and let her know, you know, I'm having
25 this situation and I'm not going to be able to decide on way or another? Could

1 you do that?

2 PROSPECTIVE JUROR NO. 010: I would hope so.

3 MR. ADAMS: Could you ask other jurors to send that note out for you if
4 you couldn't make that -- do that yourself?

5 MR. DIGIACOMO: I apologize, Judge, that's a question that's probably
6 objectionable.

7 THE COURT: I'll let her answer.

8 PROSPECTIVE JUROR NO. 010: Give a note to someone? Don't you
9 hand that to a bailiff?

10 MR. ADAMS: Yeah.

11 PROSPECTIVE JUROR NO. 010: Okay.

12 THE COURT: Very good.

13 MR. ADAMS: That was not intended --

14 PROSPECTIVE JUROR NO. 010: What does --

15 MR. ADAMS: -- as a trick question.

16 PROSPECTIVE JUROR NO. 010: What does Bailiff Wooten do? I, you
17 know --

18 THE COURT: We got to have him do something.

19 MR. ADAMS: And you would do that? You would send the word out to
20 the Court and let that word come out that I just can't make the decision at this
21 time? But you won't know that until the end of the case; right?

22 PROSPECTIVE JUROR NO. 010: Well, now you changed the wording
23 from the original question. The original --

24 MR. ADAMS: I'm not --

25 PROSPECTIVE JUROR NO. 010: -- question was not --

1 MR. ADAMS: -- intending to.

2 PROSPECTIVE JUROR NO. 010: -- at this time. You didn't put that in
3 this time. You said if I couldn't, if I absolutely couldn't do it, to give a note to her.

4 MR. ADAMS: And you could do that?

5 PROSPECTIVE JUROR NO. 010: Yes. And then you said at this time
6 the second time around.

7 MR. ADAMS: I meant at that time, somewhere down the road if you
8 were selected. So the -- the same thing.

9 PROSPECTIVE JUROR NO. 010: Yes.

10 MR. ADAMS: Thank you very much.

11 THE COURT: All right. Thank you.

12 And now the State may question Ms. Meeker, I think is next.

13 MR. PESCI: Thank you, Judge.

14 How are you, ma'am?

15 PROSPECTIVE JUROR NO. 012: I'm good, thank you.

16 MR. PESCI: Any burning response you want to give us? Any of these
17 questions that you'd want to respond to and you just couldn't wait for that
18 microphone to come to you so you can tell us?

19 PROSPECTIVE JUROR NO. 012: Oh, all of them.

20 MR. PESCI: Now, you said you have a practicum coming up?

21 PROSPECTIVE JUROR NO. 012: Yes, it's part of my last semester.

22 MR. PESCI: And do you think that you can focus on the evidence
23 knowing that you have this work coming up or can you set that aside while you're
24 here and take care of that when you go home?

25 PROSPECTIVE JUROR NO. 012: Well, I can keep about 12 things

1 going in my head at the same time, so I don't know that that's ever been an
2 issue.

3 MR. PESCI: Okay, so you don't --

4 PROSPECTIVE JUROR NO. 012: I can focus on all 12.

5 MR. PESCI: You don't foresee it being an issue here then?

6 PROSPECTIVE JUROR NO. 012: No, not that.

7 MR. PESCI: All right. The State calls witnesses, we bring them in, and
8 we present the evidence. We have the burden. Do you have any problem with
9 that?

10 PROSPECTIVE JUROR NO. 012: No.

11 MR. PESCI: The defendant does not have to do a thing. Do you have
12 any problem with that?

13 PROSPECTIVE JUROR NO. 012: No, that's the rule.

14 THE RECORDER: Ma'am, could you hold the mic up closer to your face.

15 PROSPECTIVE JUROR NO. 012: Oh, sure. I can also yell.

16 THE COURT: We'll just let you use the microphone.

17 PROSPECTIVE JUROR NO. 012: Oh, thank you.

18 MR. PESCI: There's been some questions about a lot of different topics.
19 We're focusing for a second on firearms. Are you that person that has such a
20 strong feeling about firearms one way or the other?

21 PROSPECTIVE JUROR NO. 012: Yes, I have very strong feelings about
22 firearms.

23 MR. PESCI: Would those strong feelings make it such that you would
24 automatically find somebody guilty or automatically find somebody not guilty
25 when there is a firearm involved?

1 PROSPECTIVE JUROR NO. 012: I don't know that I could necessarily
2 put my feelings aside about firearms. But I don't think it would -- the way you
3 phrased the question, I don't think that it would automatically --

4 MR. PESCI: You don't have to --

5 PROSPECTIVE JUROR NO. 012: -- lead to guilt or not guilty.

6 MR. PESCI: And that's the question. You don't have to put aside your
7 feelings.

8 PROSPECTIVE JUROR NO. 012: Oh, okay.

9 MR. PESCI: I mean, you're going to be asked about strip clubs and
10 drugs and all that other stuff. The question is not do you have those feelings.
11 You can have those. The question is will they affect your ability to be fair to
12 either side?

13 PROSPECTIVE JUROR NO. 012: On firearm, probably no.

14 MR. PESCI: What do you mean by that?

15 PROSPECTIVE JUROR NO. 012: You don't know the word probably?
16 That's not good.

17 MR. PESCI: I'm sorry. I mean you probably could be fair or you
18 probably could not be fair?

19 PROSPECTIVE JUROR NO. 012: Oh, on the issue of firearm I could
20 probably be fair.

21 MR. PESCI: Okay. Do you think you could be fair to both sides?

22 PROSPECTIVE JUROR NO. 012: Yes.

23 MR. PESCI: Is there any reason why you can't be a juror in this case?

24 PROSPECTIVE JUROR NO. 012: Well, that's for you to decide, but --

25 THE COURT: Well, anything you -- you know about.

1 PROSPECTIVE JUROR NO. 012: I -- I have -- I have -- as I've gotten
2 older -- I mean, I thought about this a lot last night because it's important. I
3 mean, the whole judicial system is important. And as I've gotten older there's a
4 handful of things that I just -- I'm not going to be fair about anymore. I just made
5 decisions about them. I don't like them. I think they're bad. These are my
6 opinions. Everybody has a right.

7 MR. PESCI: I'm going to go out on a limb. The strip club is one of them?

8 PROSPECTIVE JUROR NO. 012: Yes.

9 MR. PESCI: Okay.

10 PROSPECTIVE JUROR NO. 012: Well, yeah. Uh-huh.

11 MR. PESCI: All right. Now, this case deals with strip clubs and you've
12 heard that from the other side. And you have your opinion about strip clubs and
13 that's fine, and I'm sure they'll explore it some more with you.

14 But the question I think that the Court and either side wants to know
15 is because of that feeling will you automatically find guilt or innocence and can
16 you be fair even though you have those feelings?

17 Because you -- you can think of strip clubs as despicable, you can
18 think it's great for the economy. Whichever way you're on this issue, the
19 question is can you just limit it to the evidence that will come in as opposed to
20 your feelings about strip clubs?

21 PROSPECTIVE JUROR NO. 012: I guess my answer would be no
22 because my feelings don't just come to -- aren't about what happens at strip
23 clubs, it's about people that choose to own and operate them, perpetuate the
24 whole scenario.

25 MR. PESCI: Okay.

1 PROSPECTIVE JUROR NO. 012: So I guess to be honest, no. That's
2 one of the things I've made a real clear decision about in my life.

3 MR. PESCI: That you don't feel highly or you don't think highly of --

4 PROSPECTIVE JUROR NO. 012: Oh, gosh, no.

5 MR. PESCI: -- of the industry and the people involved in the industry.

6 PROSPECTIVE JUROR NO. 012: Correct.

7 MR. PESCI: And particularly I think you just talked about the owners.

8 PROSPECTIVE JUROR NO. 012: Yeah, because they're the ones that
9 started it.

10 MR. PESCI: Okay. Do you accept that the -- the fact that, as the Judge
11 has told you, determination can only be made based on the evidence? And I
12 think you were just asked or the other juror was just asked about whether, you
13 know, there could be DNA, there could be video and making a determination that
14 could be easier or not as easy. Could you promise the Court to make your
15 determination on the evidence and the evidence alone?

16 PROSPECTIVE JUROR NO. 012: No, I can't. No. I mean, I'd love to
17 and maybe when I was younger I could've. Because I've -- I've just made
18 decisions on certain things. I mean, I thought about it and thought about it last
19 night. I spent time searching whether -- because I place a high value on fairness,
20 but there's a handful of things I'm just not going to do that with.

21 MR. PESCI: Okay. Does -- do those handful of things besides strip
22 clubs, do some of them deal with drugs or alcohol?

23 PROSPECTIVE JUROR NO. 012: Drugs, illicit drugs.

24 MR. PESCI: All right. And what are illicit drugs --

25 PROSPECTIVE JUROR NO. 012: Illegal.

1 MR. PESCI: -- in your mind?

2 PROSPECTIVE JUROR NO. 012: Illegal, not --

3 MR. PESCI: It's not --

4 PROSPECTIVE JUROR NO. 012: -- prescription medication.

5 MR. PESCI: I was just going to go there. It's not pharmaceuticals that
6 you get from the doctor?

7 PROSPECTIVE JUROR NO. 012: No.

8 MR. PESCI: Do you feel about illicit drugs as you do about the strip club
9 industry?

10 PROSPECTIVE JUROR NO. 012: Yes.

11 MR. PESCI: And are these feelings such that you're going to -- you're
12 going to lean to or you're going to find a person guilty without even hearing
13 evidence, or can you wait for the evidence?

14 PROSPECTIVE JUROR NO. 012: I'm going to have to listen to the
15 evidence. I'm saying that it clouds my judgment.

16 MR. PESCI: Okay. All right. It clouds your judgment --

17 PROSPECTIVE JUROR NO. 012: Significantly.

18 MR. PESCI: It clouds it because of the way you feel about the issue?

19 PROSPECTIVE JUROR NO. 012: Uh-huh.

20 MR. PESCI: Let me put it to you this way then -- then I'll go sit down.

21 Even with those -- those opinions, if we, the State, don't meet our burden and we
22 just don't prove it to you, do you have a problem coming back with a not guilty
23 verdict?

24 PROSPECTIVE JUROR NO. 012: Well I'd have a problem, but I'd do it.

25 THE COURT: I'm sorry?

1 MR. PESCI: You'd have a --

2 PROSPECTIVE JUROR NO. 012: I'd have a problem, but I'd do it.

3 MR. PESCI: Meaning --

4 THE COURT: When you say you'd have a problem, what do you mean
5 you'd have a problem?

6 PROSPECTIVE JUROR NO. 012: Personally I'd have a problem.

7 THE COURT: Why is that?

8 PROSPECTIVE JUROR NO. 012: Because of how I feel about these
9 issues. But I would do it because that's the law.

10 MR. PESCI: Right. And -- and when I say it's -- it's our burden, if we
11 just -- this is going to be really bad vernacular, if our case just falls on its face, do
12 you -- even though you have these personal things, can you say, well, the State
13 didn't prove it beyond a reasonable doubt? And the Judge will tell you what that
14 standard is.

15 PROSPECTIVE JUROR NO. 012: Yeah, I'd have to, but I wouldn't like it.

16 MR. PESCI: Okay. Thank you.

17 MR. ADAMS: Judge, may we approach?

18 THE COURT: Yeah.

19 (Conference at the bench)

20 THE COURT: All right. I believe next up is Mr. Williams.

21 Oh, no, I didn't mean to forget about you.

22 PROSPECTIVE JUROR NO. 030: Avalone.

23 THE COURT: See, you're out of order on my sheet.

24 PROSPECTIVE JUROR NO. 030: Yeah, I know. I'm 30.

25 THE COURT: Next up is Mr. Avalone. All right.

1 And I believe Mr. DiGiacomo will be questioning Mr. Avalone; is that
2 right?

3 MR. DIGIACOMO: Yes, Judge.

4 THE COURT: All right.

5 MR. DIGIACOMO: I know you had a note on the first day, but you're fine
6 as long as you get out of here at 5:00; right?

7 THE COURT: Yeah.

8 MR. DIGIACOMO: Okay. And I'm sorry, this has been so long now, I
9 didn't write down everything that you said before. What is it you do for a living?

10 PROSPECTIVE JUROR NO. 030: I work at Mandalay as a -- in the
11 engineering department.

12 MR. DIGIACOMO: Engineering department?

13 PROSPECTIVE JUROR NO. 030: Painting, wallpaper, drywall.

14 MR. DIGIACOMO: Yeah, okay. And how long have you been working in
15 that industry? Not necessarily Mandalay Bay, but --

16 PROSPECTIVE JUROR NO. 030: 25 years maybe.

17 MR. DIGIACOMO: 25 years?

18 PROSPECTIVE JUROR NO. 030: Yeah.

19 MR. DIGIACOMO: And you said you had two kids, and how -- how old
20 are they?

21 PROSPECTIVE JUROR NO. 030: Five and eight.

22 MR. DIGIACOMO: We've gone round and round here on a lot of subject
23 matters. There seems to be a couple hot button issues. Let's start with -- with
24 the strip clubs.

25 PROSPECTIVE JUROR NO. 030: There's a lot of them. My ex-wife was

1 a stripper.

2 MR. DIGIACOMO: You're ex-wife was a stripper?

3 PROSPECTIVE JUROR NO. 030: And a cocktail waitress.

4 MR. DIGIACOMO: Do -- now that she's your ex-wife maybe your opinion
5 has changed, but --

6 PROSPECTIVE JUROR NO. 030: She's in Arizona on medication and
7 doesn't even know what's going on, you know, due to drugs, you know.

8 MR. DIGIACOMO: So you -- you've also had contact people who,
9 obviously, have been under the influence of illicit drugs.

10 PROSPECTIVE JUROR NO. 030: My brother tried to commit suicide,
11 you know. He's on medication now too.

12 MR. DIGIACOMO: Did you form an opinion as to whether or not, I don't
13 know, the legitimacy, let's say, of strip clubs? Do you think they should be
14 around or shouldn't be around or --

15 PROSPECTIVE JUROR NO. 030: It's a business. People make
16 choices, you know.

17 MR. DIGIACOMO: Right. And there's nothing about that business or
18 that choice is going to affect your ability to be fair and impartial here; is there?

19 PROSPECTIVE JUROR NO. 030: No. But drugs and alcohol, that's a
20 part of the business. Most of the girls are doing it.

21 MR. DIGIACOMO: Fair enough.

22 PROSPECTIVE JUROR NO. 030: You know, but they make a choice,
23 you know.

24 MR. DIGIACOMO: Certainly. The other thing is, and you've kind of
25 talked about it a little bit, but we've haven't brought this up in a little while, but

1 there will be a witness who was a former co-defendant in this case. Merely
2 because the person at one point in time was a defendant and now is testifying,
3 can you still judge her credibility and determine whether or not she's telling the
4 truth or not?

5 PROSPECTIVE JUROR NO. 030: Co-defendant?

6 MR. DIGIACOMO: Yeah.

7 PROSPECTIVE JUROR NO. 030: As far as --

8 MR. DIGIACOMO: Well, I mean, there are some people who say, you
9 know, hey, she was a co-defendant, now she's testifying for the State. The fact
10 that she was involved I'm just going to wholly reject her testimony. And if the
11 Judge tells you that's not the law, that you can certainly consider the fact that she
12 was involved with criminal activity but you have to judge her credibility, we need
13 to know that you can do that.

14 PROSPECTIVE JUROR NO. 030: Yeah.

15 MR. DIGIACOMO: You're willing to --

16 PROSPECTIVE JUROR NO. 030: I can be fair about it.

17 MR. DIGIACOMO: Right. You'd be willing to listen to her and say, hey --

18 PROSPECTIVE JUROR NO. 030: Yeah.

19 MR. DIGIACOMO: -- yeah, I know she was a co-defendant, but let's see
20 if what she's saying makes sense. You could do that?

21 PROSPECTIVE JUROR NO. 030: Yeah.

22 MR. DIGIACOMO: I've stood up here for the better part of two days now.
23 Is there anything I've asked or the attorneys have asked that you think may be
24 important and we should know about your ability to be a juror?

25 PROSPECTIVE JUROR NO. 030: I can be fair.

1 MR. DIGIACOMO: You can be fair?

2 PROSPECTIVE JUROR NO. 030: Yeah. I've done things, cab drivers,
3 you know, one of my buddies used to manage a strip club. He'd bring people in,
4 they'd give money, you know.

5 MR. DIGIACOMO: They'd give money to the cab drivers?

6 PROSPECTIVE JUROR NO. 030: Yeah.

7 MR. DIGIACOMO: It's all -- it's all part of the business; right?

8 PROSPECTIVE JUROR NO. 030: Yeah. You bring a party there that's
9 50 bucks. Yeah.

10 MR. DIGIACOMO: Okay.

11 PROSPECTIVE JUROR NO. 030: That was it.

12 MR. DIGIACOMO: Thank you very much, sir.

13 Judge, we pass for cause.

14 THE COURT: All right. Thank you, Mr. DiGiacomo.

15 Who would like to go next for the defense? Ms. Armeni?

16 MS. ARMENI: Good morning. Where's the guy next to you?

17 PROSPECTIVE JUROR NO. 030: I don't know.

18 MS. ARMENI: You ran him off? Sorry.

19 MR. GENTILE: This is aggravating me. I got to fix this.

20 PROSPECTIVE JUROR NO. 030: Yeah. Tighten that screw. There you
21 go.

22 MS. ARMENI: Is that what it is?

23 MR. GENTILE: There it is.

24 MS. ARMENI: Thanks.

25 Mr. Avalone, before you were an engineer, what -- what kind of --

1 have you -- well, let me ask a different way. Have you ever worked in the -- the
2 bar or restaurant business?

3 PROSPECTIVE JUROR NO. 030: Bouncer in Club Ra for one year.

4 MS. ARMENI: At Club Ra you were a bouncer?

5 PROSPECTIVE JUROR NO. 030: Front door, yeah.

6 MS. ARMENI: Okay. Tell me a little bit about your experience as a
7 bouncer at Ra.

8 PROSPECTIVE JUROR NO. 030: A lot of experiences there. Like a
9 married male with a woman, you know, stuff like that, you know.

10 MS. ARMENI: So you dealt --

11 PROSPECTIVE JUROR NO. 030: People drink --

12 MS. ARMENI: -- with probably a lot --

13 PROSPECTIVE JUROR NO. 030: -- and their wedding rings come off,
14 you know, stuff like that.

15 MS. ARMENI: Okay.

16 PROSPECTIVE JUROR NO. 030: Alcohol and -- you know.

17 MS. ARMENI: So you've definitely seen --

18 PROSPECTIVE JUROR NO. 030: We've had a lot of people, you know.

19 MS. ARMENI: So you -- you've seen people intoxicated, obviously, and
20 you see how it affects them?

21 PROSPECTIVE JUROR NO. 030: Had drinks thrown at me, got in the
22 middle of domestic disputes, people swinging and getting hit and you've got to,
23 you know, try to be nice and walk them out. This is with cameras all around, you
24 know.

25 MS. ARMENI: Well, let me ask you this.

1 PROSPECTIVE JUROR NO. 030: You want to do something and you
2 can't.

3 MS. ARMENI: I want to ask you what -- what you do if the cameras
4 aren't around.

5 PROSPECTIVE JUROR NO. 030: There's plenty of eyes in the sky
6 watching. We take a week class on what to do and not to do, so you can't say I
7 didn't know, you know. You have to sign papers that you do know, so --

8 MS. ARMENI: And what is it about your -- your experiences as a
9 bouncer and now as an engineer, what do you think about your life experience as
10 a single parent that would make you a good juror?

11 PROSPECTIVE JUROR NO. 030: I can be fair. You know, even though,
12 you know, I was married with an ex that did crystal meth and destroyed her life,
13 you know. My brother, I got a cousin who is still crippled from drugs, so --

14 MS. ARMENI: Drugs have played a -- you've seen drugs play a very --

15 PROSPECTIVE JUROR NO. 030: Yeah.

16 MS. ARMENI: -- negative part in your life.

17 PROSPECTIVE JUROR NO. 030: You know, people make choices, you
18 know.

19 MS. ARMENI: So you feel -- why do you feel like you'll be a good juror?

20 PROSPECTIVE JUROR NO. 030: Because I've seen it. I've seen what
21 goes on, you know, in the business.

22 MS. ARMENI: And you'd keep an --

23 PROSPECTIVE JUROR NO. 030: I've been to strip clubs.

24 MS. ARMENI: -- you'd keep an open mind?

25 PROSPECTIVE JUROR NO. 030: Yeah.

1 MS. ARMENI: And on the flip side, to flip it on you, based on those
2 experiences that you were just telling us about, how would -- what would make
3 you a bad juror?

4 PROSPECTIVE JUROR NO. 030: If I heard the evidence and -- I don't
5 know. I don't think I'd be a bad juror. I would just listen to the facts and go from
6 there and judge it.

7 MS. ARMENI: And you'd wait --

8 PROSPECTIVE JUROR NO. 030: Not on discrimination and not on color
9 or race or anything, you know, just from being around the streets at a young age,
10 you can read, you can see, you know.

11 MS. ARMENI: So what you're telling us is you would listen to everything
12 before you made a --

13 PROSPECTIVE JUROR NO. 030: Right.

14 MS. ARMENI: -- before you went back to the jury room and started
15 deliberating?

16 PROSPECTIVE JUROR NO. 030: Absolutely.

17 MS. ARMENI: You'd be fair to everybody? Fair to the State and fair to
18 Mr. Hidalgo, our client?

19 PROSPECTIVE JUROR NO. 030: Right. Like you speaking of gangs
20 earlier, I've seen people that look like gang people and you talk to them and
21 you're like, whoa, you know.

22 MS. ARMENI: You can't judge --

23 PROSPECTIVE JUROR NO. 030: Yeah.

24 MS. ARMENI: -- a book by its cover --

25 PROSPECTIVE JUROR NO. 030: Yeah, it's --

1 MS. ARMENI: -- all the time.

2 PROSPECTIVE JUROR NO. 030: -- just the way they look, you know.

3 MS. ARMENI: What is -- you bring up gangs, what's your experience
4 with gangs?

5 PROSPECTIVE JUROR NO. 030: New York, you know.

6 MS. ARMENI: And I'll ask you kind of the same question that I've asked
7 a couple other people. When I throw out the word gang to you, what do you think
8 about?

9 PROSPECTIVE JUROR NO. 030: People that can't take care of
10 themselves that need people to watch their back, you know.

11 MS. ARMENI: And have --

12 PROSPECTIVE JUROR NO. 030: And maybe no --

13 MS. ARMENI: -- you ever --

14 PROSPECTIVE JUROR NO. 030: Oh, sorry.

15 MS. ARMENI: No, go ahead.

16 PROSPECTIVE JUROR NO. 030: Maybe no -- not good parents to
17 guide them. That's their way of kind of protection.

18 MS. ARMENI: And do you think at times gangs are scary?

19 PROSPECTIVE JUROR NO. 030: Oh, yeah.

20 MS. ARMENI: Yeah.

21 PROSPECTIVE JUROR NO. 030: They're ruthless a lot of them.

22 MS. ARMENI: Have you --

23 PROSPECTIVE JUROR NO. 030: They'll just kill you in a minute, you
24 know.

25 MS. ARMENI: And is that based on personal experience or is that --

1 how -- how you make that statement. Why do you make that statement?

2 PROSPECTIVE JUROR NO. 030: I've seen fights when someone is
3 knocked out and they keep hitting the person while they're down, you know, and
4 they're kicking and punching. And when they enter a gang they get jumped in.
5 They get beat up. They all jump in and start ruthlessly punching and kicking the
6 person, you know? It's just crazy.

7 MS. ARMENI: And do you know any lawyers?

8 PROSPECTIVE JUROR NO. 030: In New York I did. I played hockey
9 with a few of them, but I don't talk to them anymore.

10 MS. ARMENI: And if --

11 PROSPECTIVE JUROR NO. 030: Some had [inaudible], you know.

12 MS. ARMENI: There's a whole spectrum; is that what you're saying?

13 PROSPECTIVE JUROR NO. 030: Right.

14 MS. ARMENI: And if -- if there came a situation in your life that you
15 needed to call a lawyer, what -- how would you go about doing it?

16 PROSPECTIVE JUROR NO. 030: Depends on the situation. Criminal
17 lawyer, you know, car accident --

18 MS. ARMENI: Okay.

19 PROSPECTIVE JUROR NO. 030: -- Glen Lerner, you know.

20 MS. ARMENI: That's a good thing.

21 PROSPECTIVE JUROR NO. 030: Yeah, bankruptcy --

22 MS. ARMENI: So you're telling me the lawyers need to advertise? Is
23 that --

24 PROSPECTIVE JUROR NO. 030: Yeah.

25 MS. ARMENI: -- how we get our clients?

1 PROSPECTIVE JUROR NO. 030: Yeah, that all depends on what you
2 want. You got to see who is who and, of course, you know, ask around, you
3 know.

4 MS. ARMENI: And would it be your first instinct to go to a lawyer in -- in
5 those -- in any type of -- in -- in a -- in a situation that was -- could be life altering
6 for you?

7 PROSPECTIVE JUROR NO. 030: Yeah.

8 MS. ARMENI: And why would that be?

9 PROSPECTIVE JUROR NO. 030: If -- if it was relating to family, you
10 want to think of doing something wrong, but, you know, that's -- your freedom is
11 the best thing in this world, and your help, let the attorneys deal with it.

12 MS. ARMENI: And what do you mean -- you said when you're dealing
13 with family. Can you -- can you explain that a little bit more?

14 PROSPECTIVE JUROR NO. 030: Well, that's the only time I've
15 questioned, you know, doing something to somebody, you know. If they hurt my
16 kids or my family then your first reaction is maybe to do some damage, you
17 know.

18 MS. ARMENI: Okay.

19 PROSPECTIVE JUROR NO. 030: Not kill them, but, you know -- you
20 know, what I mean, that's just --

21 THE COURT: Depending on the cameras.

22 PROSPECTIVE JUROR NO. 030: Right. You know what I'm saying.
23 It's -- it's -- that's when you -- you may not think straight. When you see
24 someone real close to you get hurt, you know, you may react the wrong way, you
25 know.

1 MS. ARMENI: And if you were afraid -- you bring up a good point. So if
2 you -- you do have kids. And if you were afraid for your kids or you were afraid
3 for a situation, would that idea of being afraid or scared, do you think that would
4 cloud your judgment a little bit, or do you think you would be -- how -- how do you
5 think if you were scared or you were frightened, how do you think that would
6 affect your decision making?

7 PROSPECTIVE JUROR NO. 030: I may react that they're thinking. we
8 just go on instinct and do something stupid possibly. But if he had one time, you
9 know, it depends on the person, I think.

10 MS. ARMENI: All right.

11 PROSPECTIVE JUROR NO. 030: You know? I would call a lawyer. I
12 would try to get an attorney involved. It's like my kids in school. They get hit, the
13 first thing you want to do is hit them back.

14 But you don't do that anymore, you know, tell the teacher. If it
15 happens again, tell me and I'll tell the teacher, you know. When I was raised,
16 punch them back, you know, but it's just not the right thing to do, you know.

17 MS. ARMENI: Court's indulgence.

18 THE COURT: All right.

19 MS. ARMENI: Thank you, Mr. Avalone.

20 THE COURT: All right. Mr. Arrascada.

21 MR. ARRASCADA: Mr. Avalone, right?

22 PROSPECTIVE JUROR NO. 030: Yeah.

23 MR. ARRASCADA: Thank you for your candor, by the way.

24 PROSPECTIVE JUROR NO. 030: [indecipherable].

25 MR. ARRASCADA: No, it's great. It really is. That's what we're here for.

1 We're here to talk and really this is the only time we get to talk. Okay?

2 PROSPECTIVE JUROR NO. 030: All right.

3 MR. ARRASCADA: You mentioned one thing about when you were at
4 Club Ra, I think it was called.

5 PROSPECTIVE JUROR NO. 030: Yeah.

6 MR. ARRASCADA: And I'm sorry, I'm from Reno, so I don't know all the
7 clubs.

8 PROSPECTIVE JUROR NO. 030: All right.

9 MR. ARRASCADA: That you said you see married men with women,
10 that type of stuff.

11 PROSPECTIVE JUROR NO. 030: Yeah.

12 MR. ARRASCADA: Is that a big deal to you? Do you judge those
13 people because it's a married man with a woman not his wife?

14 PROSPECTIVE JUROR NO. 030: Yeah, that bothers me.

15 MR. ARRASCADA: It does?

16 PROSPECTIVE JUROR NO. 030: Because I'm not that way. You know,
17 most people, a lot of people are though.

18 MR. ARRASCADA: Okay. And so when you say it bothers you, would it
19 affect your ability to be fair?

20 PROSPECTIVE JUROR NO. 030: Well, no, if something -- if -- in what
21 situation, like what --

22 MR. ARRASCADA: Well --

23 PROSPECTIVE JUROR NO. 030: I wouldn't use -- I would just -- if I was
24 in a court, no, that would have nothing to do with anything.

25 MR. ARRASCADA: Okay. And you were -- so it would have nothing to

1 do with the evidence that you're looking at --

2 PROSPECTIVE JUROR NO. 030: Right.

3 MR. ARRASCADA: -- and the facts and the circumstances?

4 PROSPECTIVE JUROR NO. 030: Right. I wouldn't hold any grudges.

5 No, that's their business, you know.

6 MR. ARRASCADA: Okay. And you were talking about how I'd want to
7 hear the evidence and the facts. And would you take it on yourself, and it seems
8 like you're this kind of person, to review and view things with a critical eye and
9 ear? Do you know what I mean by that?

10 PROSPECTIVE JUROR NO. 030: No, not really.

11 MR. ARRASCADA: Would you look at everything and make your own
12 decisions and not base it on maybe I'm telling you one thing and they're telling
13 you one thing? Would you look at it and make your own decisions on what --
14 what's truthful and not truthful?

15 PROSPECTIVE JUROR NO. 030: Yeah, I think I would.

16 MR. ARRASCADA: And --

17 PROSPECTIVE JUROR NO. 030: It's what's presented, you know.

18 MR. ARRASCADA: Okay. And in your time at Ra or in other -- it seems
19 like you've had a ton of life experience.

20 PROSPECTIVE JUROR NO. 030: Oh, one year it was, yeah, a lot.

21 MR. ARRASCADA: Okay. Did you ever hear someone talk about
22 wanting to break the law but maybe they didn't really mean it?

23 PROSPECTIVE JUROR NO. 030: Yeah.

24 MR. ARRASCADA: Okay.

25 PROSPECTIVE JUROR NO. 030: Someone tried to beat up my boss,

1 you know.

2 MR. ARRASCADA: Someone talked about beating up your boss?

3 PROSPECTIVE JUROR NO. 030: Yeah. About five guys, you know, got
4 thrown out.

5 MR. ARRASCADA: Okay.

6 PROSPECTIVE JUROR NO. 030: And they came and they actually took
7 a swing at him.

8 MR. ARRASCADA: Uh-huh.

9 PROSPECTIVE JUROR NO. 030: I knocked them down. No punches,
10 you know, and then the head of security came in and --

11 MR. ARRASCADA: But you were saying you -- you don't think they
12 really meant to hurt your boss?

13 PROSPECTIVE JUROR NO. 030: I think they did.

14 MR. ARRASCADA: Okay, so you're talking about a different situation.

15 MR. GENTILE: There were cameras.

16 MR. ARRASCADA: [inaudible].

17 PROSPECTIVE JUROR NO. 030: Women cursed their husbands and
18 I'm going to, you know --

19 MR. ARRASCADA: Kick you where it hurts.

20 PROSPECTIVE JUROR NO. 030: Yeah, all that.

21 MR. ARRASCADA: You -- how do you know that -- whether they mean it
22 or not?

23 PROSPECTIVE JUROR NO. 030: You really don't. Their drunks. It's
24 hard to say, you know. People are -- they're not themselves when they're drunk
25 most people.

1 MR. ARRASCADA: Okay. So they may not mean it because actually
2 they're drunks.

3 PROSPECTIVE JUROR NO. 030: Right.

4 MR. ARRASCADA: So are you saying you'd want to see the -- the facts
5 and the circumstances to decide if they really meant it?

6 PROSPECTIVE JUROR NO. 030: Pretty much, you know. It's hard to
7 say though, you know.

8 MR. ARRASCADA: See their demeanor?

9 PROSPECTIVE JUROR NO. 030: Yeah. Most of the people that I've
10 dealt with when that did happen they were intoxicated.

11 MR. ARRASCADA: Okay.

12 PROSPECTIVE JUROR NO. 030: You know? So you're in a club
13 scene, you know, that's -- that's what's there, you know.

14 MR. ARRASCADA: You were talking a bit about fear. Can that be a
15 similar reaction for someone that's all of the sudden very afraid of something and
16 they're not thinking things through?

17 PROSPECTIVE JUROR NO. 030: Yeah, when you're -- when you're
18 afraid, definitely. You try to protect yourself, you know.

19 MR. ARRASCADA: And what about if it's your family?

20 PROSPECTIVE JUROR NO. 030: It feels the same, I think.

21 MR. ARRASCADA: It's important?

22 PROSPECTIVE JUROR NO. 030: Yeah.

23 MR. ARRASCADA: I really appreciate it.

24 PROSPECTIVE JUROR NO. 030: Okay.

25 MR. ARRASCADA: Thank you.

1 PROSPECTIVE JUROR NO. 030: Thank you.

2 THE COURT: All right. Thank you.

3 Mr. -- not it's Mr. Williams' turn.

4 Mr. DiGiacomo.

5 MR. DIGIACOMO: We've figured out that I get the odd seats, he gets
6 the even seats.

7 Well, obviously I'm going to get to the hot button issues with you. I
8 guess I need to start back with you talked about two things yesterday. One
9 involved your interaction with a police officer 26 years ago. So when you were a
10 young kid, when you were a younger man; correct?

11 PROSPECTIVE JUROR NO. 016: Yes.

12 MR. DIGIACOMO: All right. And certainly, at least from your point of
13 view, the officer wasn't behaving appropriately? Is that what I took out of the --

14 PROSPECTIVE JUROR NO. 016: Right.

15 MR. DIGIACOMO: And -- and he eventually -- he winds up arresting you
16 and you felt like the entire thing went bad?

17 PROSPECTIVE JUROR NO. 016: Right.

18 MR. DIGIACOMO: Did you wind up having to go to court on that?

19 PROSPECTIVE JUROR NO. 016: Yes, I did.

20 MR. DIGIACOMO: So -- so someone filed charges against you at some
21 point, or was it a citation?

22 PROSPECTIVE JUROR NO. 016: Yeah, I got a ticket.

23 MR. DIGIACOMO: You got a ticket?

24 PROSPECTIVE JUROR NO. 016: Yeah.

25 MR. DIGIACOMO: Okay. And when you went to court did you have to

1 go through the process?

2 PROSPECTIVE JUROR NO. 016: Yes.

3 MR. DIGIACOMO: And what eventually happened?

4 PROSPECTIVE JUROR NO. 016: I was found guilty.

5 MR. DIGIACOMO: Did you have like a trial in front of a judge, or did you
6 wind up entering some sort of plea?

7 PROSPECTIVE JUROR NO. 016: I had to enter a plea.

8 MR. DIGIACOMO: You entered a plea? Did you have a lawyer?

9 PROSPECTIVE JUROR NO. 016: No.

10 MR. DIGIACOMO: Okay. Overall, does that interaction with the justice
11 system at all sway your opinion one way or the other about whether or not the
12 system is fair or unfair?

13 PROSPECTIVE JUROR NO. 016: Not that situation, no.

14 MR. DIGIACOMO: Okay. Are there other things in your life that have
15 caused you to form an opinion as to whether or not the system is fair or unfair?

16 PROSPECTIVE JUROR NO. 016: There's other situations with police
17 officers, yes.

18 MR. DIGIACOMO: And so you've had more than one situation with
19 police officers where you've felt like they were inappropriate?

20 PROSPECTIVE JUROR NO. 016: Yeah.

21 MR. DIGIACOMO: Okay. And based upon -- well, let me ask you this.
22 Have you ever had an interaction with a police officer that they did act
23 appropriately?

24 PROSPECTIVE JUROR NO. 016: Yes, I have.

25 MR. DIGIACOMO: Okay. And do you would agree with me that -- that,

1 as with any line of work, there are good cops and there are bad cops?

2 PROSPECTIVE JUROR NO. 016: Yes.

3 MR. DIGIACOMO: Okay. And merely because -- obviously I'm hoping
4 that the officers that were involved with you would come walking in here, but 26
5 years ago, I doubt it. But obviously, I guess the question is do you think that the
6 criminal justice system is fair or unfair?

7 PROSPECTIVE JUROR NO. 016: I think it's fair.

8 MR. DIGIACOMO: At the end of the day?

9 PROSPECTIVE JUROR NO. 016: Yes.

10 MR. DIGIACOMO: Okay. You also talked about a cousin who had some
11 pretty serious charges.

12 PROSPECTIVE JUROR NO. 016: Yes.

13 MR. DIGIACOMO: And he's in prison now; right?

14 PROSPECTIVE JUROR NO. 016: Yes.

15 MR. DIGIACOMO: Okay. Was he charged here in Las Vegas?

16 PROSPECTIVE JUROR NO. 016: Yes.

17 MR. DIGIACOMO: Was he prosecuted, I'm assuming, by my office if
18 he's still in prison now.

19 PROSPECTIVE JUROR NO. 016: Yeah.

20 MR. DIGIACOMO: Okay. What about him? Do you think he was treated
21 fairly?

22 PROSPECTIVE JUROR NO. 016: I -- I can't really say about him
23 because I -- I really didn't get involved with it. So I really don't know.

24 MR. DIGIACOMO: You just said that overall you thought the system was
25 fair, but you don't know in that particular case whether or not it was or wasn't

1 because you don't know specifically what happened; right?

2 PROSPECTIVE JUROR NO. 016: No, I don't.

3 MR. DIGIACOMO: You didn't sit at the trial and you didn't see what the
4 witnesses said?

5 PROSPECTIVE JUROR NO. 016: No.

6 MR. DIGIACOMO: He went to trial, though?

7 PROSPECTIVE JUROR NO. 016: Yeah.

8 MR. DIGIACOMO: Let's talk about strip clubs for just a moment. Do you
9 have an opinion about them?

10 PROSPECTIVE JUROR NO. 016: No, I don't.

11 MR. DIGIACOMO: Do you frequent them?

12 PROSPECTIVE JUROR NO. 016: No, I don't.

13 MR. DIGIACOMO: Okay. And so when you say you don't have an
14 opinion, it's not like you think they're good for -- for the economy or that, like Mr.
15 Pesci said before, or that they're bad for the girls that are working for them, you
16 just don't have an opinion one way or the other?

17 PROSPECTIVE JUROR NO. 016: No, not one way or another.

18 MR. DIGIACOMO: Okay. And so clearly the fact that this case
19 surrounds that type of business shouldn't have any effect upon your ability to be
20 fair and impartial?

21 PROSPECTIVE JUROR NO. 016: No.

22 MR. DIGIACOMO: Is there anything that any of us have said over -- over
23 the course of two days not that would make you want to answer it or you think
24 that you couldn't be a fair and impartial juror?

25 PROSPECTIVE JUROR NO. 016: Not that I can remember, no.

1 MR. DIGIACOMO: If you were sitting where Mr. Pesci and I are sitting or
2 if you were sitting where the Hidalgo's were sitting, do you think 12 people like
3 you would make a good jury?

4 PROSPECTIVE JUROR NO. 016: I would -- I would say yes.

5 MR. DIGIACOMO: You think you're fair?

6 PROSPECTIVE JUROR NO. 016: Yes.

7 MR. DIGIACOMO: You think you could make a decision?

8 PROSPECTIVE JUROR NO. 016: Yes.

9 MR. DIGIACOMO: Thank you very much.

10 Judge --

11 THE COURT: All right. Thank you, Mr. DiGiacomo.

12 Who would like to go next?

13 MS. ARMENI: Good afternoon there, Mr. Williams.

14 PROSPECTIVE JUROR NO. 016: Hello.

15 MS. ARMENI: Good afternoon. Going back to the situation, I mean,
16 years and years ago you didn't have a lawyer. If you knew a lawyer, would you
17 have called one?

18 PROSPECTIVE JUROR NO. 016: I don't think so.

19 MS. ARMENI: No? You would've just handled it through the system?

20 PROSPECTIVE JUROR NO. 016: Yeah.

21 MS. ARMENI: And why do you say that?

22 PROSPECTIVE JUROR NO. 016: I couldn't afford one.

23 MS. ARMENI: Okay. Well, if we threw money out, money wasn't the
24 object, and you -- you knew one and you didn't have to pay them, would you
25 have called one?

1 PROSPECTIVE JUROR NO. 016: No.

2 MS. ARMENI: Still no? How come?

3 PROSPECTIVE JUROR NO. 016: I don't know. It's -- I -- it's hard to
4 say. I really -- I really don't -- I really don't feel I -- I should have someone fight
5 my own battles for me unless it was something really, really serious.

6 MS. ARMENI: So --

7 PROSPECTIVE JUROR NO. 016: I think -- I think I should be the one to
8 stand up for myself.

9 MS. ARMENI: But you understand in the courtroom a lot of times people
10 are appointed lawyers.

11 PROSPECTIVE JUROR NO. 016: Yes.

12 MS. ARMENI: That's -- that's how our system works; right?

13 PROSPECTIVE JUROR NO. 016: Yes.

14 MS. ARMENI: If people can't afford them, they're appointed lawyers.
15 And do you think that's an important part of our system?

16 PROSPECTIVE JUROR NO. 016: For some people, yes.

17 MS. ARMENI: Are you saying if it was a little bit more serious than what
18 you had been arrested for initially that you would've wanted a lawyer?

19 PROSPECTIVE JUROR NO. 016: I really can't say. I -- I -- if it was
20 more serious, I probably would try to find one, yes.

21 MS. ARMENI: Do you not like lawyers?

22 PROSPECTIVE JUROR NO. 016: No, that's not it at all.

23 MS. ARMENI: Okay. So you don't have any feelings one way or the
24 other about lawyers?

25 PROSPECTIVE JUROR NO. 016: No.

1 MS. ARMENI: It's just that you'd rather handle your own business?

2 PROSPECTIVE JUROR NO. 016: Right.

3 MS. ARMENI: Now, I know you said earlier when the Judge was asking
4 you questions, you have a 20 year old?

5 PROSPECTIVE JUROR NO. 016: Yes.

6 MS. ARMENI: Girl or boy?

7 PROSPECTIVE JUROR NO. 016: Boy.

8 MS. ARMENI: And what does he do?

9 PROSPECTIVE JUROR NO. 016: He sells stuff on eBay.

10 MS. ARMENI: He does? Okay. What kind of stuff?

11 PROSPECTIVE JUROR NO. 016: Computers, games, stuff like that.

12 MS. ARMENI: When I say the word gang to you, what do you think of?

13 PROSPECTIVE JUROR NO. 016: Family.

14 MS. ARMENI: Okay. Tell me what your experience is with that?

15 PROSPECTIVE JUROR NO. 016: I knew a few people that were in a
16 gang and they -- they had broken homes, no father, mother on drugs that didn't
17 care about them, so they was seeking a family.

18 MS. ARMENI: And what -- what specific gangs?

19 PROSPECTIVE JUROR NO. 016: Oh, this was years ago. I -- it was
20 gangs in California I -- I knew, but not here.

21 MS. ARMENI: Okay. Do you remember the names of those gangs in
22 California?

23 PROSPECTIVE JUROR NO. 016: No, I don't.

24 MS. ARMENI: Do you remember what area about or is it where you
25 were from?

1 PROSPECTIVE JUROR NO. 016: The San Francisco area.

2 MS. ARMENI: The San Francisco area?

3 PROSPECTIVE JUROR NO. 016: Yeah.

4 MS. ARMENI: Ever hear of MS-13?

5 PROSPECTIVE JUROR NO. 016: No.

6 MS. ARMENI: When I throw out the word drugs to you, what comes to
7 mind?

8 PROSPECTIVE JUROR NO. 016: People on marijuana, cocaine, stuff
9 like that.

10 MS. ARMENI: Okay. And what's been your experience with people on
11 cocaine or marijuana?

12 PROSPECTIVE JUROR NO. 016: My uncles and my cousins.

13 MS. ARMENI: And did they -- how did they act?

14 PROSPECTIVE JUROR NO. 016: They weren't themselves. It changed
15 them a lot?

16 MS. ARMENI: In what -- in what ways?

17 PROSPECTIVE JUROR NO. 016: It made them do things that I thought
18 they wouldn't do if they were in their right state of mind.

19 MS. ARMENI: Did you think it alters like the perception?

20 PROSPECTIVE JUROR NO. 016: Yeah.

21 MS. ARMENI: Yeah. Maybe it makes them think a little bit differently?

22 PROSPECTIVE JUROR NO. 016: Yes.

23 MS. ARMENI: Now, if you were chosen as a juror and at the end of the
24 day you go back to the -- the room to deliberate and there are 11 jurors that are
25 different than what your opinion is, would you feel comfortable saying, you know

1 what guys, I respect your opinion, but I don't believe that.

2 PROSPECTIVE JUROR NO. 016: I sure can.

3 MS. ARMENI: Yeah? You would speak up and let everybody know?

4 PROSPECTIVE JUROR NO. 016: Yes.

5 MS. ARMENI: And you'd feel comfortable sharing your views with the 11
6 other people in the room with you?

7 PROSPECTIVE JUROR NO. 016: I have no problem.

8 MS. ARMENI: We've talked a little bit about -- about fear. Can you think
9 of a time in your life where you've been fearful or scared?

10 PROSPECTIVE JUROR NO. 016: Yeah.

11 MS. ARMENI: And how did -- how did that affect you?

12 PROSPECTIVE JUROR NO. 016: It helped me -- made me feel
13 helpless, like there was nothing I could do.

14 MS. ARMENI: How did -- okay. And explain that a little bit more to me.
15 Why did -- why did you feel helpless?

16 PROSPECTIVE JUROR NO. 016: It -- it was because of my mother, she
17 was sick. And the doctor said she was going to die, and that scared me and
18 there was nothing I could do.

19 MS. ARMENI: It's a pretty bad feeling, huh?

20 PROSPECTIVE JUROR NO. 016: Yes.

21 MS. ARMENI: And do you believe that when people -- sorry. Do you
22 believe when people are fearful that they may be -- they don't -- it clouds their
23 judgment?

24 PROSPECTIVE JUROR NO. 016: It can, yes.

25 MS. ARMENI: Court's indulgence.

1 THE COURT: Okay.

2 MS. ARMENI: Your Honor, I'll pass for cause. Thank you.

3 THE COURT: All right. Thank you.

4 MS. ARMENI: Thank you, sir.

5 THE COURT: Mr. Adams.

6 PROSPECTIVE JUROR NO. 016: Thank you.

7 MR. ADAMS: Hello, Mr. Williams.

8 PROSPECTIVE JUROR NO. 016: Hello.

9 MR. ADAMS: How -- I think Ms. Armeni just ask you about whether this
10 fear could cloud somebody's judgment. You said yes. Can you explain to me
11 how?

12 PROSPECTIVE JUROR NO. 016: I think if -- if you get in a certain
13 situation and something crazy, you're not really thinking straight, so you tend to
14 react instead of thinking about what are you going -- what you're doing.

15 MR. ADAMS: And sometimes -- sometimes after you think about it would
16 you not make the same decision?

17 PROSPECTIVE JUROR NO. 016: No. If you had an opportunity to
18 assess the situation and -- and think about what you can do, I think it would be a
19 whole lot different.

20 MR. ADAMS: Going back to some of the stuff Mr. Avalone was talking
21 about there at -- at Ra, which apparently is a club none of us should go to, in that
22 situation have you seen people who said they're going to hit somebody?

23 PROSPECTIVE JUROR NO. 016: Yeah.

24 MR. ADAMS: And have you seen them sometimes when they've hit
25 people?

1 PROSPECTIVE JUROR NO. 016: Yeah.

2 MR. ADAMS: Have you seen people who've said I'm going to hit
3 somebody and then they don't hit them?

4 PROSPECTIVE JUROR NO. 016: Yes.

5 MR. ADAMS: How -- when somebody says something like that, I'm
6 going to hit somebody, how do you know whether they're telling the truth,
7 whether they're going to really act on it?

8 PROSPECTIVE JUROR NO. 016: Just by watching them, they're
9 demeanor, how they act --

10 MR. ADAMS: Okay.

11 PROSPECTIVE JUROR NO. 016: -- knowing the person.

12 MR. ADAMS: And could they say it as serious as can be, I'm going to hit
13 somebody, and still not mean it?

14 PROSPECTIVE JUROR NO. 016: Yeah.

15 MR. ADAMS: Have you seen that situation?

16 PROSPECTIVE JUROR NO. 016: Yes.

17 MR. ADAMS: So you need to look at everything to figure out kind of
18 what they mean?

19 PROSPECTIVE JUROR NO. 016: Yes.

20 MR. ADAMS: Thank you.

21 THE COURT: All right. Thank you, Mr. Adams.

22 Ladies and gentlemen, I think we're going to go ahead and take our
23 lunch recess now. We're going to be in recess for an hour and 15 minutes to
24 give you all time to eat as well as get back through the metal detector at the north
25 gate. Let's go ahead and we will be in recess until 1:30.

1 Once again, during the recess I must remind everyone of the
2 admonishment that you're not to discuss this case or anything relating to the
3 case or any person relating to the case with each other or with anyone else. Do
4 not read, watch, or listen to any reports of or commentaries on any subject matter
5 relating to the case. Don't do any independent research on any subject relating
6 to this trial, and please don't form or express an opinion.

7 I would ask that two jurors remain in the courtroom. That would be
8 juror No. 51, and juror No. 69. If you would remain in the courtroom.

9 Everyone else please get your belongings and follow Officer
10 Wooten, who has lost his tie, through the double doors of the courtroom.

11 (Recess taken at 12:16 p.m.)

12 THE COURT: Is the -- is the vestibule open?

13 THE OFFICER: No, ma'am. Oh, yes. Yes, it is.

14 THE COURT: Okay. At this time I would ask badge No. 51, Mr. Ricks, if
15 you would just go wait in the vestibule until one of our bailiffs goes and gets you.
16 It's just that open door right there to the side.

17 And then, Ms. Garhardt, can you just have a seat somewhere in the
18 jury box, please.

19 And, Ms. Garhardt, the reason I asked you to say into the break a
20 little bit is I needed to follow up on something you said yesterday out of the
21 presence of the other jurors. Okay? And what that was is you indicated
22 yesterday that you had recollected or recalled reading something about this case
23 in the Review Journal; is that right?

24 PROSPECTIVE JUROR NO. 069: I remember reading something, but I
25 don't remember what.

1 THE COURT: Okay. And now --

2 PROSPECTIVE JUROR NO. 069: And I think I also heard something on
3 the news, but, again, I listen to the news every day. I read the newspaper on the
4 weekends, and then during the week sometimes.

5 THE COURT: Okay. And what -- is there a particular news channel that
6 you tend to watch?

7 PROSPECTIVE JUROR NO. 069: Channel three.

8 THE COURT: Channel three. Okay. Now, with respect to the RJ you
9 thought, I think, yesterday you said it was eight months to one year ago that you
10 saw something?

11 PROSPECTIVE JUROR NO. 069: Yeah. And I truly don't remember. I
12 just know it was awhile ago.

13 THE COURT: Okay. And can you remember any specifics of what you
14 may have read in the paper?

15 PROSPECTIVE JUROR NO. 069: Nothing.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 069: It wasn't one that was really catching
18 my eyes that's something that I'd want to follow.

19 THE COURT: Okay. And then the same question for what -- if you
20 remember anything you may have heard on the news?

21 PROSPECTIVE JUROR NO. 069: No.

22 THE COURT: Okay. Now, obviously, things are not comprehensively or
23 completely reported in the news. Things are inaccurately --

24 PROSPECTIVE JUROR NO. 069: Yes, I know.

25 THE COURT: -- reported --

1 PROSPECTIVE JUROR NO. 069: I've been reported incorrectly myself.

2 THE COURT: I have too. In any event, if during the trial you remember
3 something and you're selected as a juror, would you be able to set that aside,
4 anything you may have seen or heard in the media, and base your verdict just on
5 the evidence, the testimony, and the exhibits?

6 PROSPECTIVE JUROR NO. 069: Yes, because I truly don't remember
7 anything that I read or heard.

8 THE COURT: All right. Thank you, ma'am.

9 Would the State like to follow up with any questions?

10 MR. DIGIACOMO: No, Your Honor.

11 THE COURT: Does the defense wish to follow up on any questions with
12 Ms. Garhardt?

13 MR. GENTILE: Not Mr. Hidalgo, Jr.

14 THE COURT: Thank you.

15 MR. ARRASCADA: Or the third, Your Honor.

16 THE COURT: All right. Thank you.

17 Ms. Garhardt, in a minute I'm going to go ahead and send you on
18 your lunch break. Some of the other jurors may wonder why we kept you.
19 Please don't discuss my questions or what's just transpired in the courtroom with
20 any of your other prospective jurors.

21 Additionally, obviously, if you do remember something that you've
22 read in the media, please don't --

23 PROSPECTIVE JUROR NO. 069: Okay.

24 THE COURT: -- disclose that or discuss that with anyone.

25 PROSPECTIVE JUROR NO. 069: Uh-huh.

1 THE COURT: All right. Thank you, ma'am. And you're free to --

2 PROSPECTIVE JUROR NO. 069: Go eat.

3 THE COURT: -- take your lunch break. Yes.

4 (Prospective juror No. 69 exits the courtroom)

5 THE COURT: And then if you'd have Mr. Rick come in, please. She's
6 free to go to lunch.

7 Mr. Ricks, just have a seat somewhere there in the jury box, please,
8 sir.

9 Mr. Ricks, the reason I asked you to come in separately and took
10 you sort of out of -- go ahead and sit down -- out of order is that my bailiff has --
11 Officer Wooten has reported to me that you approached him a couple of times on
12 our break expressing a hardship with your work, and I wanted to follow up on
13 that. You work as a glazier?

14 PROSPECTIVE JUROR NO. 051: I did. I currently am the office
15 manager for Go Glass, Incorporated.

16 THE COURT: Office manager for what?

17 PROSPECTIVE JUROR NO. 051: Go Glass, Incorporated.

18 THE COURT: Okay. And is that glass installation? What is it?

19 PROSPECTIVE JUROR NO. 051: Yeah. We fix broken windows and
20 stuff like that, shower, install shower doors, mirrors for homeowners as well as
21 businesses and apartment comp -- communities.

22 THE COURT: Okay. And are you married, sir?

23 PROSPECTIVE JUROR NO. 051: I am engaged.

24 THE COURT: Okay. And does your fiancé live with you or --

25 PROSPECTIVE JUROR NO. 051: Yes.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NO. 051: She --

3 THE COURT: Does she work?

4 PROSPECTIVE JUROR NO. 051: She did. She lost her job at the Ritz
5 Carlton in Lake Las Vegas.

6 THE COURT: Okay. I think you said that yesterday. And then do you
7 have any children living with you?

8 PROSPECTIVE JUROR NO. 051: Not living with me.

9 THE COURT: But you have the \$500 child support --

10 PROSPECTIVE JUROR NO. 051: Yeah.

11 THE COURT: -- to -- to Florida, was it?

12 PROSPECTIVE JUROR NO. 051: Yes.

13 THE COURT: Okay. And your -- can you explain more fully the -- the
14 basis of your hardship? Because, obviously, you've heard --

15 PROSPECTIVE JUROR NO. 051: Yes.

16 THE COURT: -- for two days a lot of people have hardships and difficulty
17 and some of it's financial, and you've heard from a few different parents that
18 have issues with picking up their children and whatnot. So that's. you know -- I
19 mean, again, I wish we could excuse everyone that had difficulty --

20 PROSPECTIVE JUROR NO. 051: Right.

21 THE COURT: -- but we just can't. So can you explain to me more fully
22 the nature of your hardship?

23 PROSPECTIVE JUROR NO. 051: With -- without her working, I make a
24 decent wage, but without her working the impact of, you know, I'm probably a
25 month behind. I just paid my rent close to a month late with a promise to my

1 landlord that I would pay him on time this time.

2 THE COURT: Okay. And you live in an apartment?

3 PROSPECTIVE JUROR NO. 051: I live in a home.

4 THE COURT: All right. And what's your monthly rent?

5 PROSPECTIVE JUROR NO. 051: My monthly rent is 650.

6 THE COURT: Okay. And then what do you make as a -- and, again, I
7 don't mean to pry. What do you make as an office manager?

8 PROSPECTIVE JUROR NO. 051: I make \$16 an hour.

9 THE COURT: Okay. And what hours do you work?

10 PROSPECTIVE JUROR NO. 051: I work Monday through Friday, 8:00
11 a.m. to 4:30 p.m.

12 THE COURT: Okay. And then you're not being paid for being here?

13 PROSPECTIVE JUROR NO. 051: No, ma'am.

14 THE COURT: You don't have vacations or sick time or anything like
15 that?

16 PROSPECTIVE JUROR NO. 051: I did. Yesterday I did use a vacation
17 day. And to be completely open and honest with you, it was my intention to not
18 come here today and deal with the risks as they came.

19 THE COURT: Right. And I know you -- my bailiff told you what -- that we
20 issue a show cause, and if you don't, that you could be subject to contempt of
21 court.

22 PROSPECTIVE JUROR NO. 051: However, when I called my boss --
23 I've worked for this company for several years. It's a mom and pop company.
24 I'm treated very good there. And when I called him and explained, you know, my
25 financial situation and I cannot afford to take the day off, he said he hopes, you

1 know, that -- that I would make the right decision and come and that, you know,
2 since I've had such a good relationship, he did pay me for today.

3 But he also has claimed to me that I don't have any vacation time
4 coming up for, I think, until March. And my birthday was on the 26th of January
5 and we're allowed one vacation day, so I was able to use that yesterday. So --
6 and he did offer to me to pay today, but, again, we are a small company and, you
7 know, with the economy it's not the best time right now.

8 Not to mention we have one of our employees out doing something
9 else so it's also kind of hurting that small company because mainly for 250
10 accounts we have two installers.

11 THE COURT: Okay. So you were paid today and yesterday, but you're
12 concerned about the rest of the week and next week?

13 PROSPECTIVE JUROR NO. 051: Yeah. He can't continue on and he
14 explained to me, he apologizes, but he understands my duty. He helped me out
15 by paying me today, but it's something he can't continue to do.

16 And the -- the situation that I have with that is that I explained to your
17 bailiff yesterday, I stood up and made the statement that in no way can what the
18 Court offers compensate for what I make. It's not that I, you know, I'm above
19 something or, you know, it's that every penny I make right now -- I have two
20 degrees in the IT field, and I ended up going back to Go Glass where I worked
21 when I was going through college.

22 THE COURT: Okay. Does the State have any questions for Mr. Ricks
23 on the hardship issue?

24 MR. DIGIACOMO: No, Judge.

25 THE COURT: Does the defense have any questions for Mr. Ricks on the

1 hardship issue?

2 MR. GENTILE: No, Your Honor.

3 MS. ARMENI: No, Your Honor.

4 THE COURT: Submit it to the Court?

5 MR. ARRASCADA: Yes, Your Honor.

6 THE COURT: I'll see counsel up here.

7 (Conference at the bench)

8 THE COURT: What I'm going to do is somewhat -- somewhat reluctantly
9 release you on a hardship. This will not count as jury service, however, so you
10 may be called again.

11 Please don't discuss -- if you, when you're leaving today, if some of
12 the other jurors ask you what's transpired in the courtroom or why you were
13 excused or if you were excused, please don't discuss anything relating to that
14 with any of the other prospective jurors. Do you understand that?

15 PROSPECTIVE JUROR NO. 051: Yes, ma'am.

16 THE COURT: All right. Thank you. You are excused.

17 PROSPECTIVE JUROR NO. 051: Upon leaving, it would be an honor
18 and a privilege to serve on a jury and I wish I was in a financial situation to where
19 I was able. I look forward to it --

20 THE COURT: Yeah.

21 PROSPECTIVE JUROR NO. 051: -- and I hope I'm in a better situation.

22 THE COURT: And, honestly, like I said, you know, we can't excuse
23 everyone. We try to ascertain as best as we can who it's really a financial
24 hardship for and who maybe it isn't. And, you know, sometimes we get it right,
25 and sometimes we don't.

1 But, you know, we obviously don't want people to be homeless or
2 not pay their bills. But, you know, like I said before, we can't excuse everyone
3 because then everyone would say financial hardship and that's why I don't want
4 you to discuss it with the other jurors. All right. Thank you, sir.

5 PROSPECTIVE JUROR NO. 051: Thank you. Do I go back down to --

6 THE COURT: Yeah, you need to go back down to get processed
7 through jury services. Just tell them you were excused so they don't send you to
8 another department.

9 PROSPECTIVE JUROR NO. 051: Thank you.

10 THE COURT: Because otherwise you could be stuck on a construction
11 defect for a few months. All right. Thank you.

12 (Prospective juror No. 51 exits the courtroom)

13 THE COURT: Jeff, would you bring Ms. Dane in?

14 MR. DIGIACOMO: Oh, is Ms. Dane still out there?

15 THE COURT: This is the one with the kids that she needs --

16 MR. DIGIACOMO: The 2:30?

17 THE COURT: She wants to leave now.

18 MR. GENTILE: That makes a lot of us.

19 THE COURT: Huh?

20 MR. GENTILE: So do a lot of us.

21 MR. DIGIACOMO: Yeah, I'll volunteer.

22 MR. ADAMS: She's also converting to Buddhism.

23 THE COURT: Did she leave?

24 THE MARSHAL: Ms. Dane's not here.

25 THE COURT: Well, Ms. Dane either left or she's going to be scrambling

1 to find someone to pick up her kids.

2 All right. We'll see you all back here at 1:30.

3 MR. GENTILE: Thank you.

4 THE COURT: Oh, and I just need to also, before we go off the record, I
5 need to put on the record that juror No. 8 was a for cause challenge from the
6 defense, and she -- that was granted, the lady in the box.

7 MR. DIGIACOMO: Ms. Meeker, juror No. 12?

8 THE COURT: Ms. Meeker who said that she had a strong aversion to
9 strip club owners was challenged, I believe, by both defendants, and that for
10 cause challenge was granted.

11 MR. DIGIACOMO: And have we made the record on Urbanick as well?

12 THE COURT: I believe we did, but I can do it again.

13 Ms. Urbanick, juror No. 7, the State challenged her for cause.
14 Initially, I didn't think there was enough, but upon further questioning and Mr.
15 Gentile's attempts to rehabilitate her, he was unable to do that.

16 And so I think you would concede that point, Mr. Gentile?

17 MR. GENTILE: What's that, Urbanick?

18 THE COURT: Yeah.

19 MR. GENTILE: Yeah.

20 THE COURT: Juror No. 7. Notwithstanding his earnest efforts, he could
21 not rehabilitate her and so juror No. 7 is also excused for cause.

22 Just to remind the lawyers, chairs six and seven are the two
23 alternate chairs. If we need to call in an alternate chair, six goes in first, chair
24 seven goes in second.

25 MR. GENTILE: Your Honor, I -- I -- you know, I responded to the

1 question that you put to me. I was not able to rehabilitate her, but I believe Mr.
2 Adams, if you look at the record carefully, probably did.

3 MR. ADAMS: The -- our position is that she said she would listen to all
4 the evidence, listen to all the law, and she would wait until the end to decide if
5 she would be able to notify the Court if she were unable to, which is the purpose
6 of having alternates, we believe that she was qualified and just won our --

7 THE COURT: Well, except if she were called in as an alternate in chair
8 No. 7, that would be -- there would be only 12. And, to me, all she said was,
9 well, if she couldn't she -- first of all she didn't want to give a note. Then
10 secondly maybe she could get somebody else a note. And I'm not going to seat
11 a juror who pretty much has said, well, if you force me to do it, I'm going to hang
12 the jury one way or the other.

13 Because it wasn't even like she was saying she would be going for
14 an acquittal or a conviction, she'd be hanging the jury either way because my --
15 in my view, and the record speaks for itself, in my view she said she wasn't
16 willing to participate and then would send out a note.

17 And so if she's not participating, like I just said, she's hanging the
18 jury either for acquittal, or she's hanging the jury for guilt, depending on which
19 way they were going. And I'm not going to seat somebody knowing that. So --

20 MR. ADAMS: Judge, I understand completely your ruling. May I, in
21 about three sentences finish --

22 THE COURT: Sure.

23 MR. ADAMS: -- making our part of the record --

24 THE COURT: Fine.

25 MR. ADAMS: -- on that.

1 THE COURT: That's fine.

2 MR. ADAMS: My assessment of her is that she had heightened
3 conscientiousness and that she was taking the questions asked in a very serious
4 way and it was not that she in no way was trying to shut down and say she would
5 not participate.

6 She was concerned about how much the decision either way would
7 weigh on her for the rest of her life. And I think that's exactly the sort of juror
8 that -- that we would love to have --

9 THE COURT: And I agree --

10 MR. ADAMS: -- in all the cases.

11 THE COURT: -- with you 100 percent, Mr. Adams. And the jurors that
12 say, you know, it's difficult and it's going to weigh on my mind, I don't excuse
13 them. But in my view when I asked her pointed questions, you know, could you
14 raise your hand, I think the State asked could you check the box, she said no.

15 And so, to me, that's indicating an unwillingness to participate,
16 number one. And she even seemed reluctant to engage in the deliberative
17 process with the other jurors. And, you know, I -- I can't seat somebody who, in
18 their questioning, is indicating, in my view, a refusal to participate. But, again,
19 the record speaks for itself.

20 All right. We'll see you back here at 1:30.

21 MR. DIGIACOMO: Thank you, Judge.

22 (Recess taken at 12:32 p.m.)

23 THE COURT: Jeff, are you ready?

24 THE MARSHAL: Yes, Judge.

25 THE COURT: Bring them in.

1 (Prospective jury panel enters at 1:33 p.m.)

2 THE COURT: All right. Court is now back in session. The record will
3 reflect the presence of the State through the Deputy District Attorneys, the
4 presence of the defendants along with their counsel, the officers of the court, and
5 the members of the prospective jury panel.

6 And where were we when we took our lunch recess?

7 MR. GENTILE: I think Mr. Keegan is up next.

8 THE COURT: All right. Mr. Pesci, you may question Mr. Keegan.

9 MR. PESCI: Thank you, Judge.

10 Sir, kind of focusing back on that '77 incident, it was contributing to
11 the delinquency of a minor was the name of it originally?

12 PROSPECTIVE JUROR NO. 017: There were two. There were two.
13 There was trespassing and contributing to the delinquency of a minor.

14 MR. PESCI: I think you said it ended up being resolved or worked out.

15 PROSPECTIVE JUROR NO. 017: I paid a \$35 fine and [indecipherable].
16 They were two employees of mine who worked in the kitchen. They were -- I've
17 been thinking about that. They were high school graduates, one was 17 years
18 old. It wasn't like I had -- I was doing something inappropriate. They were both
19 males.

20 MR. PESCI: Uh-huh.

21 PROSPECTIVE JUROR NO. 017: I was doing nothing inappropriate
22 whatsoever. It was just a situation.

23 MR. PESCI: Okay. Did you have an attorney represent you?

24 PROSPECTIVE JUROR NO. 017: No, I did not.

25 MR. PESCI: Looking back on that situation, do you feel -- how do you

1 feel the system treated you?

2 PROSPECTIVE JUROR NO. 017: To me right now, it's water under the
3 bridge. I was treated roughly by the officer.

4 MR. PESCI: You said that --

5 PROSPECTIVE JUROR NO. 017: A lot rougher than what -- but I
6 understand the other side of it. In those days in Las Vegas it was during the
7 culinary strikes or a restaurant got blown up. There were things going on in Las
8 Vegas in those days, and this had to do with the union strike. It was a union of
9 greens keepers, I believe they were Teamsters, and they were on strike. And
10 what was happening was people were going in at night in the dark and damaging
11 the golf course, so they hired Henderson Police as security. It was in
12 Henderson.

13 MR. PESCI: Okay. I guess did it leave a bad taste in your mouth such
14 that you would hold that against either side in this case?

15 PROSPECTIVE JUROR NO. 017: No, not at all.

16 MR. PESCI: And as you put it, water under the bridge?

17 PROSPECTIVE JUROR NO. 017: I've made a lot of friends with police
18 officers in Henderson since then.

19 MR. PESCI: Okay. Now, what do you do at the golf course now?

20 PROSPECTIVE JUROR NO. 017: I'm -- I work in the pro shop.
21 Basically, I -- customer service, I answer the phone, I make tee times, I take their
22 money when they go to play golf, and I'm also a starter. It's a part time job.

23 MR. PESCI: What's a starter?

24 PROSPECTIVE JUROR NO. 017: The starter is the man that lines the
25 people up on the tee box to make sure that they're going off on time, get the next

1 group lined up.

2 MR. PESCI: Okay. Do you ever have any of the golfers have disputes
3 as far as who gets to go first?

4 PROSPECTIVE JUROR NO. 017: A little bit in the morning. It's usually
5 not a problem. We're pretty organized.

6 MR. PESCI: Now, before that what did you do? You bartended, I
7 believe?

8 PROSPECTIVE JUROR NO. 017: I did. I worked 28 years at Lake
9 Mead Marina in several capacities, but most of it was as bar supervisor, the
10 bartender.

11 MR. PESCI: When you were the bar supervisor, how many people did
12 you supervise?

13 PROSPECTIVE JUROR NO. 017: Well, I was a food and beverage
14 manager, and then I supervised 20, probably 25; the bar supervisor, five and
15 under.

16 MR. PESCI: Did you ever have to make decisions as far as resolving
17 disputes and there were two different sides explained as --

18 PROSPECTIVE JUROR NO. 017: Certainly.

19 MR. PESCI: -- what you do? Do you think that you have skills or talents
20 in being able to do that, to ferret through things?

21 PROSPECTIVE JUROR NO. 017: I -- I'm very fair. I'm very -- I take in
22 all the information and process it and try and make a very fair decision.

23 MR. PESCI: Do you think you could be fair to both sides in this case?

24 PROSPECTIVE JUROR NO. 017: I'm sure I could.

25 MR. PESCI: Could you hold the State to the State's burden?

1 PROSPECTIVE JUROR NO. 017: Yes, I could.

2 MR. PESCI: And if we didn't meet that burden, would you have a
3 problem coming back with a not guilty verdict?

4 PROSPECTIVE JUROR NO. 017: No, I would not.

5 MR. PESCI: We pass for cause, Your Honor.

6 THE COURT: All right. Thank you. Mr. Arrascada or Mr. Adams, would
7 you like to go next?

8 MR. ARRASCADA: Sure.

9 THE COURT: All right.

10 MR. ARRASCADA: Thank you.

11 Mr. Keegan.

12 PROSPECTIVE JUROR NO. 017: Yes.

13 MR. ARRASCADA: How are you doing?

14 PROSPECTIVE JUROR NO. 017: Good.

15 MR. ARRASCADA: You -- you spoke about that time where you went to
16 go fish for golf balls and you ended up getting arrested; is that right?

17 PROSPECTIVE JUROR NO. 017: Yes.

18 MR. ARRASCADA: When they arrested you, did you try explaining
19 yourself?

20 PROSPECTIVE JUROR NO. 017: We did. I did. It was myself and a
21 friend of mine who was visiting from out of state, and then the two young men.
22 And they basically just grabbed myself and the other men and handcuffed us and
23 we didn't know why. We -- we never left the parking lot. It wasn't gated and it
24 wasn't dark.

25 MR. ARRASCADA: And despite your telling them you're not doing what

1 you're arresting me for, they didn't listen?

2 PROSPECTIVE JUROR NO. 017: No, they didn't.

3 MR. ARRASCADA: And if you had said nothing, would you assume you
4 would get arrested?

5 PROSPECTIVE JUROR NO. 017: We would've got arrested, yes.

6 MR. ARRASCADA: And it's the system that you had to go through; is
7 that right?

8 PROSPECTIVE JUROR NO. 017: We were incarcerated. We had to
9 get -- had to get bailed out.

10 MR. ARRASCADA: Now, what was -- what was the end result of that?

11 PROSPECTIVE JUROR NO. 017: We went to court and we were fined
12 \$35. I think we pled nolo contendere or no contest.

13 MR. ARRASCADA: To what?

14 PROSPECTIVE JUROR NO. 017: Contributing to the delinquency of a
15 minor and trespassing.

16 MR. ARRASCADA: Was that what you were originally charged with?

17 PROSPECTIVE JUROR NO. 017: Yes.

18 MR. ARRASCADA: Did you have a lawyer?

19 PROSPECTIVE JUROR NO. 017: No.

20 MR. ARRASCADA: In hindsight, do you wish you had?

21 PROSPECTIVE JUROR NO. 017: I would've yeah.

22 MR. ARRASCADA: Okay.

23 PROSPECTIVE JUROR NO. 017: I would. Of course.

24 MR. ARRASCADA: And I think you mentioned about sealing or
25 something, sealing a record or it's still on your record?

1 PROSPECTIVE JUROR NO. 017: I believe it is. I'm not sure. And what
2 has happened is in the last year I became unemployed so I -- there's questions
3 on applications that say have you ever been arrested. And it just -- I'm not sure
4 and so I fill it out and say yes. I've been honest.

5 MR. ARRASCADA: Well, yeah, and why did you -- why do you feel now
6 in hindsight you wish you had a lawyer?

7 PROSPECTIVE JUROR NO. 017: Because I would've pled not guilty
8 and gotten off.

9 MR. ARRASCADA: What would your lawyer have done for you?

10 PROSPECTIVE JUROR NO. 017: Hopefully -- well, he would've done a
11 lot more than I did because I just did nothing and just said no contest, let me out
12 of here for \$35. Hopefully he would've pled my case and we would've got the
13 two young men up there and they would've told -- said exactly what was going
14 on.

15 MR. ARRASCADA: Presented your case? Because at that point you
16 knew your words didn't matter.

17 PROSPECTIVE JUROR NO. 017: Right.

18 MR. ARRASCADA: Okay. And that signi -- is that something that would
19 be significant in your mind? Let me --

20 PROSPECTIVE JUROR NO. 017: Not at all.

21 MR. ARRASCADA: -- rephrase that. So that's the value of what a
22 lawyer would've been to you?

23 PROSPECTIVE JUROR NO. 017: Yeah, I -- I should've hired a lawyer.

24 MR. ARRASCADA: You mentioned that you, for I think it was 20 some
25 odd years, you worked at Lake Mead Marina?

1 PROSPECTIVE JUROR NO. 017: Yes.

2 MR. ARRASCADA: How many years was that for?

3 PROSPECTIVE JUROR NO. 017: I worked there from 1979 through
4 2000 -- into 2008, so 28, 29 years.

5 MR. ARRASCADA: Sir, the -- the Lake Mead Highway is going to be
6 mentioned during this trial and that -- that is -- that's where this killing occurred.
7 Do you have any memory of it from 2005 of it being discussed or anything?

8 PROSPECTIVE JUROR NO. 017: No, I don't. Lake Mead Highway like
9 Northshore Road around Lake Mead or --

10 MR. GENTILE: Yeah.

11 MR. ARRASCADA: Yes.

12 THE COURT: Yeah.

13 PROSPECTIVE JUROR NO. 017: Because I basically worked at Lake
14 Mead Marina which is on the Boulder City end and I live in Boulder City. So
15 really I don't remember it.

16 MR. ARRASCADA: Okay. Great. And nothing that we've all discussed
17 here today or yesterday has maybe made you say, oh, gosh, I remember reading
18 about this?

19 PROSPECTIVE JUROR NO. 017: Not at all.

20 MR. ARRASCADA: Okay. The -- the prosecutor was asking you that --
21 from a golf setting, and maybe even your bartending setting, that you're used to
22 settling disputes if you -- if you have to; correct?

23 PROSPECTIVE JUROR NO. 017: More -- probably more so in the bar
24 setting than the golf setting.

25 MR. ARRASCADA: Okay. Have you ever heard anyone suggest that a

1 law -- that they break -- that they're going to break the law and you know they're
2 really not telling the truth?

3 PROSPECTIVE JUROR NO. 017: Of course. I've heard you asking
4 these other --

5 MR. ARRASCADA: Yeah, the --

6 PROSPECTIVE JUROR NO. 017: -- prospective jurors, that's why. But
7 usually I take it with a grain of salt. You know, I'm going to ring my boss's neck
8 or I'm going to kick somebody in the behind.

9 MR. ARRASCADA: What goes into that analysis for you to take it with a
10 grain of salt?

11 PROSPECTIVE JUROR NO. 017: I guess it would depend on the
12 person saying it and maybe the tone of voice or his hand gestures.

13 MR. ARRASCADA: And what if you don't know that person?

14 PROSPECTIVE JUROR NO. 017: Then I might not take it with a grain of
15 salt.

16 MR. ARRASCADA: Would you still apply the analysis you just said?

17 PROSPECTIVE JUROR NO. 017: Yes.

18 MR. ARRASCADA: Okay. If you didn't know that person, would you
19 close off regarding that or would you look at it to see the full analysis?

20 PROSPECTIVE JUROR NO. 017: I might be a little curious about it. I
21 might not just say, oh, he's kidding.

22 MR. ARRASCADA: Would you need that person to explain himself, or
23 would the facts of the situation --

24 PROSPECTIVE JUROR NO. 017: No, I would --

25 MR. ARRASCADA: -- explain it?

1 PROSPECTIVE JUROR NO. 017: No, I would just -- what -- what -- I
2 wouldn't care. I mean, if somebody said I'm going to ring my wife's neck and
3 he's sitting at my bar and his wife's not sitting at my bar, why would I want him to
4 explain himself?

5 MR. ARRASCADA: How would you take that? With a grain of salt or --

6 PROSPECTIVE JUROR NO. 017: I would -- as long as he wasn't real
7 rude or belligerent, I'd give him his beer or whatever.

8 MR. ARRASCADA: Okay.

9 PROSPECTIVE JUROR NO. 017: I'd keep an eye on him, maybe.

10 MR. ARRASCADA: Would you go running to the phone to call the
11 police?

12 PROSPECTIVE JUROR NO. 017: Not at all.

13 MR. ARRASCADA: Why not?

14 PROSPECTIVE JUROR NO. 017: He hasn't done anything wrong.

15 MR. ARRASCADA: Just words?

16 PROSPECTIVE JUROR NO. 017: Just words. We're just talking about
17 words that you hear in the home all the time. I'm going to ring your neck or I'm
18 going to kick or whatever. We didn't say I'm going to kill somebody. That'd be
19 different maybe.

20 MR. ARRASCADA: What if they just wished somebody dead, like I just
21 wish my wife would go away and leave, I wish she was dead?

22 PROSPECTIVE JUROR NO. 017: Well, see, you don't sound sincere to
23 me.

24 MR. ARRASCADA: I don't?

25 PROSPECTIVE JUROR NO. 017: No.

1 MR. ARRASCADA: I'm sorry.

2 PROSPECTIVE JUROR NO. 017: No, I'm just saying --

3 MR. ARRASCADA: I am very sincere.

4 PROSPECTIVE JUROR NO. 017: No, I'm just saying if they said it the
5 way you just said it I wouldn't --

6 MR. ARRASCADA: Oh, I see what you're saying. You're looking at my
7 projection --

8 PROSPECTIVE JUROR NO. 017: Right.

9 MR. ARRASCADA: -- the situation we're in.

10 PROSPECTIVE JUROR NO. 017: You didn't really just wish your wife
11 was dead.

12 MR. ARRASCADA: Of course not.

13 PROSPECTIVE JUROR NO. 017: Right. I just -- and I could read that.

14 MR. GENTILE: Not with all the cameras.

15 MR. ARRASCADA: 40 of them all around us.

16 So -- so what you're saying is that decision you made went into how
17 it was said and the context and getting to know me just a bit through everybody
18 else here; is that right?

19 PROSPECTIVE JUROR NO. 017: And -- exactly, who said it, maybe
20 how he was dressed, maybe how he looked, whatever, just the whole big
21 prospective of the whole thing.

22 MR. ARRASCADA: Okay. Thank you.

23 PROSPECTIVE JUROR NO. 017: You're welcome.

24 THE COURT: All right. Thank you.

25 Mr. Gentile.

1 MR. GENTILE: Thank you, Judge.

2 All right, Mr. Keegan, I've got a question for you. I kind of gave
3 myself up. I was the one who told Paola to ask if you, Mr. McLaughlin, had ever
4 heard the term whiskey muscles. I've now been informed that what used to be
5 whiskey muscles is now called liquid courage. Does that mean anything to you?

6 PROSPECTIVE JUROR NO. 017: Yes, it does.

7 MR. GENTILE: Okay. What's it mean?

8 PROSPECTIVE JUROR NO. 017: Well, I used to personally take liquid
9 courage sometimes before I went down a ski slope in the -- it might be like a
10 peppermint schnapps or something like that perhaps, something to keep me a
11 little warm and make me ski a little better, in my own eyes.

12 MR. GENTILE: Have you ever seen -- how many years you've been --
13 how many years did you actually tend bar? How many years did you stand --

14 PROSPECTIVE JUROR NO. 017: I have actually --

15 MR. GENTILE: -- behind the bar and serve?

16 PROSPECTIVE JUROR NO. 017: I have actually worked in the bar
17 business on and off, mostly on, since 1970.

18 MR. GENTILE: Okay. That's awhile.

19 PROSPECTIVE JUROR NO. 017: Mostly I took a couple years off to be
20 in the service and a couple of different restaurant management businesses and
21 things.

22 MR. GENTILE: When were you in the military?

23 PROSPECTIVE JUROR NO. 017: I was in the military 1972 through '74.

24 MR. GENTILE: What branch of the service?

25 PROSPECTIVE JUROR NO. 017: The Army.

1 MR. GENTILE: I think you know what I mean when I talk about whiskey
2 muscles.

3 PROSPECTIVE JUROR NO. 017: Yeah, I do.

4 MR. GENTILE: Have you ever seen -- what -- what do you think I mean
5 when I say that?

6 PROSPECTIVE JUROR NO. 017: A person who is pretty -- pretty much
7 belligerent because he's drunk who is maybe looking for trouble, maybe picking a
8 fight, thinks he might be able to beat up Mike Tyson type of attitude.

9 MR. GENTILE: It kind of affects your perception.

10 PROSPECTIVE JUROR NO. 017: Yes, it does.

11 MR. GENTILE: That's what I'm talking about. Have you seen drugs or
12 alcohol affect people's perception?

13 PROSPECTIVE JUROR NO. 017: Yes, I have.

14 MR. GENTILE: Let's talk about drugs, different than whiskey.

15 PROSPECTIVE JUROR NO. 017: Yes.

16 MR. GENTILE: Other than the sense that it's unlawful. When I talk
17 about drugs, what -- what comes to your mind?

18 PROSPECTIVE JUROR NO. 017: The things that I've had experience
19 with in my encounters with other people would be marijuana, cocaine, possibly
20 Quaaludes, and I've seen people on meth, but I'm not familiar with it really at all.

21 MR. GENTILE: Okay. Kind of the same affect?

22 PROSPECTIVE JUROR NO. 017: I don't like people's attitudes when
23 they're on meth.

24 MR. GENTILE: Okay.

25 PROSPECTIVE JUROR NO. 017: I see that's more of a --

1 MR. GENTILE: I'm talk -- I'm trying to -- I'm trying to draw that -- let me
2 put it to you this way. You've seen people that -- where -- where alcohol has
3 affected their perception and their behavior.

4 PROSPECTIVE JUROR NO. 017: Correct.

5 MR. GENTILE: Have you seen the same thing with drugs?

6 PROSPECTIVE JUROR NO. 017: Yes.

7 MR. GENTILE: Did you ever drive a cab?

8 PROSPECTIVE JUROR NO. 017: No.

9 MR. GENTILE: You're smiling. Why?

10 PROSPECTIVE JUROR NO. 017: Well, when I first came to Vegas I
11 used to be in management at the Vineyard Restaurant in the Boulevard Mall. I
12 don't know if anyone's familiar with it.

13 MR. GENTILE: Oh, yeah.

14 PROSPECTIVE JUROR NO. 017: It's been gone --

15 MR. GENTILE: It's been gone --

16 PROSPECTIVE JUROR NO. 017: -- or several years.

17 MR. GENTILE: -- a long time.

18 PROSPECTIVE JUROR NO. 017: But I wasn't there two weeks and this
19 group of six people came in and I seated them. And I went back to the door and
20 here is a cab driver with his hand out. And being, I guess, a hick from upstate
21 New York, I had never seen anything like that. And he said, you owe me this
22 much, this is what Battista pays me. That's just what he said, this is what
23 Battista gives me.

24 MR. GENTILE: Uh-huh.

25 PROSPECTIVE JUROR NO. 017: And I sent him on his way with

1 nothing in his hand, but that's why I smiled.

2 MR. GENTILE: Probably never brought anybody back to you.

3 PROSPECTIVE JUROR NO. 017: No, he probably didn't, but we didn't
4 need him.

5 MR. GENTILE: I understand. But you -- you understand that that goes
6 on.

7 PROSPECTIVE JUROR NO. 017: I do.

8 MR. GENTILE: Okay. It sort of comes with the territory, you might say.

9 PROSPECTIVE JUROR NO. 017: I dealt with it also at -- down at Old
10 Vegas. Are you familiar with Old Vegas? I used to work there.

11 MR. GENTILE: I've got you beat by a couple of years.

12 PROSPECTIVE JUROR NO. 017: Okay. And the bus drivers and limo
13 drivers used to stop in and bring people for lunch and everything on the way to
14 the dam and they got a certain amount of money for doing that there.

15 MR. GENTILE: On the racetrack out there, just right there.

16 PROSPECTIVE JUROR NO. 017: There was a racetrack out there, yes.

17 MR. GENTILE: Okay. Gangs.

18 PROSPECTIVE JUROR NO. 017: I'm really not familiar with gangs.

19 MR. GENTILE: Okay. Not -- maybe not on a personal level. Have you
20 heard or read about gangs?

21 PROSPECTIVE JUROR NO. 017: Of course, I have.

22 MR. GENTILE: Okay. Any come to mind in terms of names?

23 PROSPECTIVE JUROR NO. 017: Well, the Bloods and the Crips, and
24 then I -- I think of the Sharks in Westside Story, a nice positive gang with Olivia
25 Newton-John.

1 MR. GENTILE: Well, there's a knifing at the end of Westside Story.

2 PROSPECTIVE JUROR NO. 017: Well, I know it, but --

3 MR. GENTILE: The -- so the Bloods and the Crips, what's your
4 impression?

5 PROSPECTIVE JUROR NO. 017: Nothing.

6 MR. GENTILE: You have no direct contact?

7 PROSPECTIVE JUROR NO. 017: None, whatsoever. Nothing positive.

8 MR. GENTILE: Nothing positive. Okay.

9 PROSPECTIVE JUROR NO. 017: I was at Magic Mountain years ago,
10 and I noticed a lot of young men wearing a certain ball cap of a university on the
11 east coast. And I kept wondering what the heck that was. And finally I realized it
12 was a gang is what it was. They were all wearing -- they were wearing
13 Georgetown hats. Whatever gang that is, I don't know, but that's exactly what it
14 was.

15 MR. GENTILE: But in any case, it is nothing positive?

16 PROSPECTIVE JUROR NO. 017: No.

17 MR. GENTILE: Would you want to have one mad at you?

18 PROSPECTIVE JUROR NO. 017: No, of course not.

19 MR. GENTILE: You know, you -- you've told us how long you've been
20 here. Are you from upstate New York?

21 PROSPECTIVE JUROR NO. 017: Yes, I am.

22 MR. GENTILE: About where?

23 PROSPECTIVE JUROR NO. 017: I grew up in Binghamton, which is
24 south of Syracuse. I came here from Syracuse.

25 MR. GENTILE: Okay. If you served on -- let me ask you this. Obviously,

1 and I don't want to belabor it, this is important. It's important to us and it's going
2 to be important to the people who sit as jurors. Do you want to be on this jury?

3 PROSPECTIVE JUROR NO. 017: It's my civic duty, and if I'm chosen,
4 I'll be happy to serve on this jury.

5 MR. GENTILE: Do you think Mr. Hidalgo, Louis Hidalgo, I., the man
6 sitting next to Ms. Armeni, can trust you to give him a fair trial?

7 PROSPECTIVE JUROR NO. 017: I think he can, yes.

8 MR. GENTILE: Do you think the State can trust you to give them a fair
9 trial?

10 PROSPECTIVE JUROR NO. 017: Yes, they can.

11 MR. GENTILE: And you understand that -- I know you understand what
12 the burden of proof is. We've been going over it over and over again, and you
13 probably knew it before you ever got here. Have you ever been a juror?

14 PROSPECTIVE JUROR NO. 017: No, I have not.

15 MR. GENTILE: Thank you.

16 THE COURT: All right. Thank you, Mr. Gentile.

17 The State may question the next prospective juror.

18 MR. GENTILE: Mr. Cook.

19 PROSPECTIVE JUROR NO. 032: Your Honor, before these gentlemen
20 and possibly that young lady start interrogating me, I would like to be dismissed,
21 request dismissal.

22 THE COURT: No. Is there a reason for that? I hesitate to ask.

23 PROSPECTIVE JUROR NO. 032: I consider it as a hardship. I have my
24 wife's birthday coming up next week, anniversary, I have tickets bought to visit
25 my twins in Grand Junction. Yes.

1 THE COURT: All right. Well, I'm sorry, the time to have disclosed that --
2 and, again, you've heard from so many people that have had hardships and
3 we're not excusing them, and the time to have disclosed all of that was
4 yesterday. So, I'm sorry, but I can't excuse you for that. And like I said, we've
5 heard from a lot of people that are missing work that have childcare issues that
6 they're having to resolve, and so, no, you cannot be excused.

7 Mr. DiGiacomo.

8 MR. DIGIACOMO: Thank you.

9 You mentioned family members in Grand Junction?

10 PROSPECTIVE JUROR NO. 032: Correct.

11 MR. DIGIACOMO: I'm sorry?

12 PROSPECTIVE JUROR NO. 032: No, I'm flying into Grand Junction.
13 They're not in Grand Junction.

14 MR. DIGIACOMO: When are you flying in?

15 PROSPECTIVE JUROR NO. 032: On the 12th.

16 MR. DIGIACOMO: 12th of February? Can I ask you how long you've
17 been in Vegas?

18 PROSPECTIVE JUROR NO. 032: Most of my life. I was born in
19 Caliente.

20 MR. DIGIACOMO: Okay. During the time, apparently, that you were in
21 South Dakota, you told us about that incident.

22 PROSPECTIVE JUROR NO. 032: That was South Dakota, yes.

23 MR. DIGIACOMO: That was South Dakota. Were you there -- I mean,
24 obviously you had a political agenda when you were up there related to gaming.
25 Was that related to an employer here or did you choose upon yourself to go out

1 there, how did that work out?

2 PROSPECTIVE JUROR NO. 032: Well, me and some other gentlemen
3 opened up five little casinos up there.

4 MR. DIGIACOMO: Okay. And so the result of that -- that -- the political
5 nature of that whole thing was a result of your business situation up there and
6 then ultimately someone didn't like your position and -- and it came back to you?

7 PROSPECTIVE JUROR NO. 032: Correct.

8 MR. DIGIACOMO: Okay. How long have you been back from South
9 Dakota?

10 PROSPECTIVE JUROR NO. 032: I've been here in Vegas for the last
11 eight years.

12 MR. DIGIACOMO: And during that time period did you work for Harley
13 Davidson that whole time?

14 PROSPECTIVE JUROR NO. 032: Yes.

15 MR. DIGIACOMO: And you kind of said you're kind of a jack of all trades
16 for them. Whatever they told --

17 PROSPECTIVE JUROR NO. 032: Now I am, yes.

18 MR. DIGIACOMO: Okay. Originally what were you?

19 PROSPECTIVE JUROR NO. 032: General manager.

20 MR. DIGIACOMO: And during that time period did you have to deal with
21 disputes between customers?

22 PROSPECTIVE JUROR NO. 032: Many.

23 MR. DIGIACOMO: And what about between employees and customers?

24 PROSPECTIVE JUROR NO. 032: That's why I'm no longer the general
25 manager. I didn't want to deal with the employee and customer issues any

1 longer, and I backed away and I'm only working part time.

2 MR. DIGIACOMO: All right. Let me ask you about strip clubs. Any
3 problem with them? Nothing about your feelings with them would affect your
4 deliberations in this particular case?

5 PROSPECTIVE JUROR NO. 032: No.

6 MR. DIGIACOMO: Despite your reservations considering the hardship
7 of -- of the situation, do you think you could be a fair juror if the Judge says
8 you've got to stay?

9 PROSPECTIVE JUROR NO. 032: Of course. I've, you know, dealt with
10 many, many employees over the years.

11 MR. DIGIACOMO: Anything that we've asked in the last two days you
12 need to tell us?

13 PROSPECTIVE JUROR NO. 032: I didn't hear you.

14 MR. DIGIACOMO: Anything we've asked in the last couple days that --
15 that you feel the need to answer?

16 PROSPECTIVE JUROR NO. 032: Not that I can think of.

17 MR. DIGIACOMO: Thank you very much, Judge.

18 THE COURT: All right. Thank you, Mr. DiGiacomo.

19 Who would like to go next? Mr. Gentile or Ms. Armeni?

20 MS. ARMENI: Good afternoon, Mr. Cook. I'll --

21 PROSPECTIVE JUROR NO. 032: Good afternoon --

22 MS. ARMENI: -- try not to --

23 PROSPECTIVE JUROR NO. 032: -- young lady.

24 MS. ARMENI: -- interrogate you.

25 PROSPECTIVE JUROR NO. 032: I didn't hear you.

1 MS. ARMENI: I said I'll try not to interrogate you.

2 PROSPECTIVE JUROR NO. 032: Thank you.

3 MS. ARMENI: I'll just ask nice questions. Can you tell me a little bit
4 about your educational background?

5 PROSPECTIVE JUROR NO. 032: I'm a high school dropout. I went into
6 the Navy when I was -- in 1959. I got my GED in the Navy. I had a bit of training
7 in the Navy. I became a corpsman. I worked at Balboa Hospital. And I've taken
8 many classes over the years working for different companies and --

9 MS. ARMENI: And what kind of -- were those -- you were in gaming, but
10 what kind of classes did you take?

11 PROSPECTIVE JUROR NO. 032: You know, self help classes,
12 management classes, courses on whatever product I happen to be dealing with
13 at the time.

14 MS. ARMENI: Do you have any experience with taxicabs?

15 PROSPECTIVE JUROR NO. 032: Yeah, I ride in them. I've had a
16 couple friends over the years who drove cabs intermittent times. I worked at the
17 Horseshoe and we gave turkeys to all the cab drivers every year at Christmas
18 time.

19 MS. ARMENI: I'm sure they came back.

20 PROSPECTIVE JUROR NO. 032: Of course.

21 MS. ARMENI: And did the taxicab drivers speak to you about their
22 experiences?

23 PROSPECTIVE JUROR NO. 032: No, [inaudible].

24 MS. ARMENI: What about a lawyer? Do you have anybody that you
25 could call if you needed to?

1 PROSPECTIVE JUROR NO. 032: Many.

2 MS. ARMENI: Many? And would you -- if you got yourself in a situation
3 that you think you needed assistance, would you call them?

4 PROSPECTIVE JUROR NO. 032: Yes, I would. Probably meet them for
5 a cocktail and discuss it.

6 MS. ARMENI: If I throw out the word gangs to you, what -- what do you
7 think of?

8 PROSPECTIVE JUROR NO. 032: Vagos, Hells Angels, Crips, Bloods,
9 like everybody else.

10 MS. ARMENI: And do you have any experience with gangs?

11 PROSPECTIVE JUROR NO. 032: I've been on surveillance cameras at
12 times at the Harley store when we've had events and we've had two rival gangs
13 in the parking lot. And I've been on surveillance cameras watching them and so
14 forth. But as far as personally dealing with them, other than trying to sell them a
15 motorcycle, no.

16 MS. ARMENI: And then what about drugs? What do you think of when I
17 tell you drugs?

18 PROSPECTIVE JUROR NO. 032: You know, all in all they're chemicals.
19 Even fear can be a drug, as they were talking about earlier.

20 MS. ARMENI: And we'll get -- we'll get to that. I'll ask you about that.
21 What -- have you seen people on drugs?

22 PROSPECTIVE JUROR NO. 032: Yes.

23 MS. ARMENI: What kind of drugs?

24 PROSPECTIVE JUROR NO. 032: All of them.

25 MS. ARMENI: Okay. And has it been your experience that it's changed

1 their perception?

2 PROSPECTIVE JUROR NO. 032: Yes, it alters. I mean, all the
3 chemicals alter.

4 MS. ARMENI: What's been your experience as far as how it alters?

5 PROSPECTIVE JUROR NO. 032: Anything from -- it depends on the
6 drug, of course. It can be anything from calmness to irate and violence.

7 MS. ARMENI: So you def -- you think either way, either one spectrum or
8 the next, you feel like it alters -- alters somebody's perception, ability, decision
9 making?

10 PROSPECTIVE JUROR NO. 032: Yes.

11 MS. ARMENI: Okay. Now, you throw out fear, you went ahead of me.
12 Can you think of a time in your life when you've been fearful or scared?

13 PROSPECTIVE JUROR NO. 032: Yes.

14 MS. ARMENI: And during that time, and you don't have to tell me about
15 that time, but when you're thinking about it, do you feel that it somehow affected
16 your thinking at that time?

17 PROSPECTIVE JUROR NO. 032: Yes.

18 MS. ARMENI: And in -- why -- why do you say that?

19 PROSPECTIVE JUROR NO. 032: Well, because of the time periods and
20 different things that happened at the time --

21 MS. ARMENI: Well, pick out one.

22 PROSPECTIVE JUROR NO. 032: When I've been fearful when I was at
23 the lake, you know, in the '60s at the lake and a boat ran over a girl, ripped her
24 head open and her arm and so forth, and of course it was fearful. And we had to
25 take her out of the water and that was a fearful situation.

1 MS. ARMENI: I can imagine so. Did you feel like at that time, and that's
2 pretty traumatic, did you feel like you were rationally thinking at that time or
3 were -- how were you feeling at that moment in that example you gave?

4 PROSPECTIVE JUROR NO. 032: Well, because of my medical
5 background I immediately went into action and tried to do something. I don't
6 know that I would've done that without a background in medicine.

7 MS. ARMENI: Sure, you were kind of --

8 PROSPECTIVE JUROR NO. 032: I know that I felt an extreme amount
9 of fear.

10 MS. ARMENI: But some -- you make a good point. Somebody that
11 maybe wasn't as medically trained may have handled that situation a little bit
12 different.

13 PROSPECTIVE JUROR NO. 032: There were people there that did
14 handle it different.

15 MS. ARMENI: Okay. What were their reactions?

16 PROSPECTIVE JUROR NO. 032: Some of them started crying, some of
17 them, oh my gosh, some of them froze.

18 MS. ARMENI: Okay. Thank you.

19 THE COURT: All right. Thank you, Ms. Armeni.

20 Mr. Arrascada.

21 MR. ARRASCADA: Thank you, Your Honor. Court's indulgence.

22 Good afternoon, Mr. Cook. Sir, all our discussions we've had in the
23 past day and today has it jogged your mind at all or your memory about whether
24 you followed this case or read about it awhile back?

25 PROSPECTIVE JUROR NO. 032: No, I did not read about it.

1 MR. ARRASCADA: Okay. And is it fair to say all you know is what we've
2 talked about?

3 PROSPECTIVE JUROR NO. 032: Correct.

4 MR. ARRASCADA: And before we got a chance to talk to you, you
5 mentioned to the Judge that you'd like a hardship, and the prosecutor asked you
6 that if you're picked for this jury you will be able to serve; is that right?

7 PROSPECTIVE JUROR NO. 032: I'll have to, won't I?

8 MR. ARRASCADA: You will. And I -- I've said before to some other
9 folks that I look at it as a privilege, and I truly do believe it's a privilege to be in a
10 jury.

11 PROSPECTIVE JUROR NO. 032: Well, I don't. I don't think it's a
12 privilege and I don't think I'm a chosen one. I think if I'll be selected, I have to do
13 it, and I don't feel it's a privilege being chosen.

14 MR. ARRASCADA: How will you proceed through it, though, if you're on
15 the jury, listen to the facts, the evidence?

16 PROSPECTIVE JUROR NO. 032: Of course.

17 MR. ARRASCADA: Be open minded? Not reach any conclusions or
18 decisions until the end?

19 PROSPECTIVE JUROR NO. 032: Correct. I mean, you'll have to prove
20 it to it, you know, without any doubt that it's --

21 MR. ARRASCADA: You mean, they will, the prosecutor?

22 PROSPECTIVE JUROR NO. 032: Oh, you're the defense. I see.

23 MR. ARRASCADA: That's right. I represent Louis Hidalgo III. They'd
24 have to prove it; correct?

25 PROSPECTIVE JUROR NO. 032: Of course.

1 MR. ARRASCADA: I appreciate your time.

2 THE COURT: All right. Thank you, Mr. Arrascada.

3 The State may question Ms. Jackson.

4 MR. PESCI: Thank you.

5 Want to start with the microphone?

6 PROSPECTIVE JUROR NO. 035: Yeah, I suppose.

7 MR. PESCI: Okay.

8 PROSPECTIVE JUROR NO. 035: I don't know if I need it.

9 MR. PESCI: All right. She'll let us know if --

10 PROSPECTIVE JUROR NO. 035: I'm pretty loud, so --

11 MR. PESCI: Okay. If -- if we're not --

12 PROSPECTIVE JUROR NO. 035: Teacher voice.

13 MR. PESCI: -- she'll let us know. You indicated that you teach second
14 grade?

15 PROSPECTIVE JUROR NO. 035: Yes.

16 MR. PESCI: How long have you been doing that?

17 PROSPECTIVE JUROR NO. 035: For six years.

18 MR. PESCI: Did you do something before that or is --

19 PROSPECTIVE JUROR NO. 035: Yes, I -- well, I actually -- I taught -- I
20 taught second grade for three years and I taught special ed for three years.

21 MR. PESCI: Did you have special training for the specialty special ed
22 classes?

23 PROSPECTIVE JUROR NO. 035: Yeah, I have a dual degree in special
24 education and elementary education.

25 MR. PESCI: Did you get that here in Las Vegas or was it somewhere

1 else?

2 PROSPECTIVE JUROR NO. 035: No, University of Wyoming.

3 MR. PESCI: You talked about how your husband works with the DOJ?

4 PROSPECTIVE JUROR NO. 035: The Department of Defense.

5 MR. PESCI: Oh, all right.

6 PROSPECTIVE JUROR NO. 035: .He has a contract.

7 MR. PESCI: A contract?

8 PROSPECTIVE JUROR NO. 035: The company that he works for, yes.

9 MR. PESCI: Okay. And how long has he been doing that?

10 PROSPECTIVE JUROR NO. 035: He has been there four years.

11 MR. PESCI: For years?

12 PROSPECTIVE JUROR NO. 035: Yeah.

13 MR. PESCI: Is that kind of what brought you here to Las Vegas or had
14 you been here already?

15 PROSPECTIVE JUROR NO. 035: No, that is what brought us here.

16 They needed teachers and --

17 MR. PESCI: You've served -- you served before on a jury and it was a
18 civil case?

19 PROSPECTIVE JUROR NO. 035: Yes.

20 MR. PESCI: And if I understood correctly, there was a settlement before
21 you deliberated?

22 PROSPECTIVE JUROR NO. 035: Yes.

23 MR. PESCI: Did you even ever get to jury instructions? Did the judge
24 ever give instructions on the law?

25 PROSPECTIVE JUROR NO. 035: No.

1 MR. PESCI: Okay. You indicated that your husband had an incident
2 with a DUI?

3 PROSPECTIVE JUROR NO. 035: Yes.

4 MR. PESCI: Did that happen here?

5 PROSPECTIVE JUROR NO. 035: No, that was in Florida.

6 MR. PESCI: And I think you said you hired an attorney to take care of it.

7 PROSPECTIVE JUROR NO. 035: Yes. He was in Florida on spring
8 break. We were in college at the time. And rather than having to go back to
9 Florida for court we hired an attorney to take care of it for us.

10 MR. PESCI: So the questions that have come about attorneys from the
11 defense side, you don't see a problem with calling attorneys?

12 PROSPECTIVE JUROR NO. 035: No.

13 MR. PESCI: Okay. Maybe that'll spare you some of those questions.
14 Do you feel the system treated your husband properly? Do you have any bad
15 feelings about how that ended up?

16 PROSPECTIVE JUROR NO. 035: No. No, he deserved it.

17 MR. PESCI: Kind of building on some of the questions that have been
18 asked to you about what if somebody says they want to break the law. You
19 remember hearing some of those questions --

20 PROSPECTIVE JUROR NO. 035: Uh-huh.

21 MR. PESCI: -- that have been over here?

22 PROSPECTIVE JUROR NO. 035: Sure.

23 MR. PESCI: And then they're followed up with, well, how do you know if
24 the person is blowing off steam or being truthful, do you remember those
25 questions?

1 PROSPECTIVE JUROR NO. 035: Uh-huh. Yes.

2 MR. PESCI: Okay. Would you take other things into consideration to
3 make that determination?

4 PROSPECTIVE JUROR NO. 035: Sure.

5 MR. PESCI: Would you look at the actions of a person after they said
6 something to make a determination as whether what they said was, in fact,
7 truthful and not blowing off steam?

8 PROSPECTIVE JUROR NO. 035: Yeah. I think emotion is a big factor
9 in that, how a person is feeling at the time.

10 MR. PESCI: Would the tone of the voice of the individual, would that
11 also assist you in making that determination?

12 PROSPECTIVE JUROR NO. 035: Yeah, if it's an angry voice or, yeah,
13 sure.

14 MR. PESCI: Okay. And hearing from somebody else that was even
15 there when it happened, would that assist you in your determination?

16 PROSPECTIVE JUROR NO. 035: Yes.

17 MR. PESCI: The fact that someone was at one time a defendant and is
18 now testifying for the State, does that mean to you that this person's testimony
19 should be viewed differently, should not even be considered, how would you take
20 that into consideration?

21 PROSPECTIVE JUROR NO. 035: I will, you know, look at that person
22 as any other witness. I don't --

23 MR. GENTILE: Your Honor --

24 PROSPECTIVE JUROR NO. 035: -- really think it --

25 MR. GENTILE: -- may we approach?