

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: Oaky. 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?

1 THE COURT: Sure.

2 (Conference at the bench)

3 THE COURT: Just to clarify a point that -- that may have occurred to
4 some people, maybe it didn't. There are certain rules that govern how
5 accomplice witness testimony is treated that is different from how the testimony
6 of other witnesses are treated. And if you are selected, you will be instructed on
7 that at the conclusion of the case.

8 So, Mr. Pesci, go on.

9 MR. PESCI: Thank you, Judge.

10 It's kind of crazy to ask you about that law when you haven't heard it,
11 so I'm going to put it to you this way.

12 PROSPECTIVE JUROR NO. 035: Okay.

13 MR. PESCI: Whatever she tells you is the law, will you follow it?

14 PROSPECTIVE JUROR NO. 035: Yes, of course.

15 MR. PESCI: Okay. Now, let's assume that there is an accomplice that
16 testifies that Her Honor gives you those instructions and you follow those
17 instructions, will you automatically flush that person's testimony down the toilet
18 just because --

19 MR. ARRASCADA: Judge --

20 MR. PESCI: -- that person --

21 MR. ARRASCADA: -- I'm sorry --

22 MR. PESCI: -- is an accomplice?

23 MR. ARRASCADA: -- we have to object under rule 7.7 I believe it is,
24 hypothetical.

25 THE COURT: Let me rephrase the question. I think this is where Mr.

1 Pesci is going.

2 But it's not, Mr. Pesci, you can maybe ask your question again.

3 The issue is just because someone is an accomplice, once you get
4 the instructions would you automatically not believe them or not consider their
5 testimony just automatically without listening to it, observing their demeanor,
6 considering other factors? And there's instructions on all the different things that
7 you can consider.

8 PROSPECTIVE JUROR NO. 035: No.

9 THE COURT: All right. Was that essentially your question?

10 MR. PESCI: That was wonderful. Thank you.

11 THE COURT: Thank you.

12 MR. PESCI: Let's go with the fear concept that's been discussed, and
13 maybe we won't get a hypothetical issue on that one. In the fear context with any
14 witness, will you take into consideration that fear could be a part of it?

15 PROSPECTIVE JUROR NO. 035: Sure.

16 MR. PESCI: What people's actions are can be influenced by fear?

17 PROSPECTIVE JUROR NO. 035: Sure, of course they can.

18 MR. PESCI: Notwithstanding the fact that fear can be a part of it, when
19 you look at the facts that have been presented to you to determine whether or
20 not something happened or did not happen, do you think you can be fair to both
21 sides?

22 PROSPECTIVE JUROR NO. 035: Yes.

23 MR. PESCI: Thank you.

24 Pass for cause.

25 THE COURT: All right. Thank you.

1 Mr. Arrascada, Mr. Adams, would you like to go next?

2 MR. ARRASCADA: I think Mr. Adams.

3 THE COURT: Thank you.

4 MR. ADAMS: Hello.

5 PROSPECTIVE JUROR NO. 035: Hi.

6 MR. ADAMS: Just when you thought all the questions were going to be
7 the same, it got changed up on you a little bit.

8 PROSPECTIVE JUROR NO. 035: A curveball. All right. I'm ready.

9 MR. ADAMS: You were asked about accomplices and would you
10 necessarily reject them or necessarily believe them. And you said, no, it would
11 depend or you would have to look at everything.

12 PROSPECTIVE JUROR NO. 035: Uh-huh.

13 MR. ADAMS: What would you look at?

14 PROSPECTIVE JUROR NO. 035: The evidence and what's presented
15 from the State and from the defendants.

16 MR. ADAMS: You think it makes a difference that somebody was
17 charged before they became a witness?

18 PROSPECTIVE JUROR NO. 035: No.

19 MR. ADAMS: Do you think it makes a difference they might have been
20 facing the death penalty before they became a witness?

21 PROSPECTIVE JUROR NO. 035: It might.

22 MR. ADAMS: That would be the sort of information you would need to
23 consider.

24 PROSPECTIVE JUROR NO. 035: Yes.

25 MR. DIGIACOMO: Judge, may we approach?

1 THE COURT: Sure.

2 (Conference at the bench)

3 MR. ADAMS: You said you would want to consider everything.

4 PROSPECTIVE JUROR NO. 035: Uh-huh.

5 MR. ADAMS: Well, let me rephrase the last question. Would part of that
6 everything for you be to consider if somebody was facing a severe punishment
7 before they cut a deal, before they gave information to the State, and then later
8 they were facing a less punishment, a minimum punishment?

9 PROSPECTIVE JUROR NO. 035: I would like to think that people are
10 doing it for the right reasons.

11 MR. ADAMS: Sure.

12 PROSPECTIVE JUROR NO. 035: But you have to look at all the
13 evidence and I really think it would make a difference seeing that person and
14 what their demeanor is and whether they, you know, talk about the situation. I
15 think that would make -- that makes a difference.

16 MR. ADAMS: So you'd want to hear them and see them to assess
17 whether you can believe them?

18 PROSPECTIVE JUROR NO. 035: Yeah, and to, you know, just to take
19 everything into account. You can't -- just because -- just because of that reason
20 that doesn't mean that -- you know, do you see what I'm saying?

21 MR. ADAMS: Yeah.

22 PROSPECTIVE JUROR NO. 035: Maybe I'm --

23 MR. ADAMS: Somebody cut a deal and tell the truth.

24 PROSPECTIVE JUROR NO. 035: Right.

25 MR. ADAMS: But somebody could --

1 PROSPECTIVE JUROR NO. 035: Like I said --

2 MR. ADAMS: -- cut a deal --

3 PROSPECTIVE JUROR NO. 035: -- I'd like to --

4 MR. ADAMS: -- and lie?

5 PROSPECTIVE JUROR NO. 035: -- think that people are doing things
6 for the right reason and that's why they did it, it wasn't to save their own hide, you
7 know.

8 MR. ADAMS: Do you think sometimes people say stuff to save their
9 hide?

10 PROSPECTIVE JUROR NO. 035: Sure.

11 MR. ADAMS: And how would you try to figure that out? How do you
12 figure that out --

13 PROSPECTIVE JUROR NO. 035: As you know --

14 MR. ADAMS: -- with your second graders?

15 PROSPECTIVE JUROR NO. 035: -- I teach second grade, so I have lots
16 of that. You know, of course sometimes it's I know the child and I know that they
17 have a history of not telling the truth. And second graders are really good at
18 telling on each other so there's always a witness, so I can usually tell by that also
19 and just by the way they carry themselves.

20 And second graders have their hearts on their sleeves. If they're not
21 telling the truth, I can just look at them and I just say, look, I need you to tell me
22 the truth and I'm going to be very disappointed if you don't. And then, ahhhh,
23 and then it all comes out.

24 MR. ADAMS: You understand that sometimes in court in might not be
25 quite that direct.

1 PROSPECTIVE JUROR NO. 035: Sure. Yeah, of course. We're talking
2 about seven and eight year olds. Yes, of course. I would hope that I could look
3 at him and say, I'm going to be very disappointed if you're not telling the truth, but
4 that may not work.

5 MR. ADAMS: We've asked some other jurors about have you heard
6 people make comments.

7 PROSPECTIVE JUROR NO. 035: Sure. Yeah.

8 MR. ADAMS: And have you heard people say things about breaking
9 the -- that would suggest they were breaking the law?

10 PROSPECTIVE JUROR NO. 035: Sure.

11 MR. ADAMS: When you thought they didn't mean it?

12 PROSPECTIVE JUROR NO. 035: Uh-huh. Sure, yes.

13 MR. ADAMS: And what's -- how would you -- how -- how do you look at
14 that? How do you view that?

15 PROSPECTIVE JUROR NO. 035: Well, honestly, my husband's a
16 perfect example. He'll say things about people. He's made a comment about an
17 ex boss, that if he met him in a dark alley it wouldn't be a pretty site. You know, I
18 don't think if that actually happened, you know, if he actually had that, you know,
19 choice to take a baseball bat to him in a dark alley that he would because that's
20 not my husband. He's, you know, he just -- he wouldn't do that.

21 MR. ADAMS: Did you say he wouldn't do that or he would?

22 PROSPECTIVE JUROR NO. 035: He would not. He would not.

23 MR. ADAMS: And that's something so words alone you would have to
24 look beyond that to --

25 PROSPECTIVE JUROR NO. 035: Sure, yes.

1 MR. ADAMS: Let me ask you about fear. Can you think about a
2 situation where you've been in fear?

3 PROSPECTIVE JUROR NO. 035: Sure.

4 MR. ADAMS: And how did you react to that? Not what did you do, but
5 did you have more clarity or was there some confusion?

6 PROSPECTIVE JUROR NO. 035: No, there was confusion. I really -- I
7 truly think people -- it's a fight or flight. And if you can't get out of the situation,
8 most people will do what they need to do to survive.

9 MR. ADAMS: Thank you --

10 PROSPECTIVE JUROR NO. 035: Thank you.

11 MR. ADAMS: -- for your time.

12 THE COURT: All right. Thank you, Mr. Adams.

13 Ms. Armeni.

14 MS. ARMENI: Yes, Your Honor.

15 Good afternoon, Ms. Jackson. You said something a little bit earlier
16 about emotions affect people.

17 PROSPECTIVE JUROR NO. 035: Sure.

18 MS. ARMENI: Can you explain that a little bit to me, to us?

19 PROSPECTIVE JUROR NO. 035: Well, I think, you know, especially
20 when I think about my children, you know, if someone -- if I -- of course I love my
21 second graders and I -- I shouldn't say love because I don't actually love them,
22 but I care deeply for them and their well being. And if they get hurt, I deal with it
23 a lot differently than like my daughter last night took a soccer ball to the face.
24 You know, it's a little different. It's -- the way that you react with emotions is -- is
25 different.

1 MS. ARMENI: Depending on, I guess, people that are involved --

2 PROSPECTIVE JUROR NO. 035: Sure.

3 MS. ARMENI: -- it sounds lie?

4 PROSPECTIVE JUROR NO. 035: Yes.

5 MS. ARMENI: I guess they left the hot topic issue of the strip clubs to me
6 since nobody asked that. I get to ask you, what's your feelings on strip clubs?

7 PROSPECTIVE JUROR NO. 035: I don't have any opinion. It's -- you
8 know, everybody makes a choice and if that's their choice then that's their
9 choice.

10 MS. ARMENI: Now, I think Mr. Pesci had asked you, you've been
11 teaching six years?

12 PROSPECTIVE JUROR NO. 035: Yes.

13 MS. ARMENI: And what did you do before that?

14 PROSPECTIVE JUROR NO. 035: I waited tables and I was a bartender
15 through college.

16 MS. ARMENI: Seems to be what a lot of us do to get through.

17 PROSPECTIVE JUROR NO. 035: Yes.

18 MS. ARMENI: What was your experience as a bartender?

19 PROSPECTIVE JUROR NO. 035: It was interesting.

20 MS. ARMENI: Let me back up. Where did you bartend?

21 PROSPECTIVE JUROR NO. 035: I bartended in a small bar in Laramie,
22 Wyoming, at the University of Wyoming.

23 MS. ARMENI: So all college kids?

24 PROSPECTIVE JUROR NO. 035: Actually, I was in a very small bar that
25 nobody knew about. It was all regulars. It was older. Every once in awhile we

1 had college kids come in, but not very often.

2 MS. ARMENI: And what was your experience with people who were
3 intoxicated?

4 PROSPECTIVE JUROR NO. 035: You know, every once in awhile I had
5 the belligerent. I had to throw them out, you know. They -- like we've talk -- you
6 know, everybody has talked about their, you know, people, the liquid courage
7 and telling lots of stories. They want to tell you their life story.

8 MS. ARMENI: Now, you've heard me ask other people about gangs.
9 What -- what's your experience with gangs?

10 PROSPECTIVE JUROR NO. 035: I don't really -- I grew up in a small
11 town in Wyoming, so I don't really have any experience besides, you know, of
12 course in college we had to take classes on gangs and how to handle that in the
13 classroom and things --

14 MS. ARMENI: Tell --

15 PROSPECTIVE JUROR NO. 035: -- like that.

16 MS. ARMENI: Tell us a little bit about those classes.

17 PROSPECTIVE JUROR NO. 035: Actually, they mostly were multi-
18 cultural, you know, we had to read -- I can't even remember the name of the
19 book now and I wish I could. But it was -- it was all about a kid in a gang. It
20 was -- when I think of gangs, honestly, I -- I feel sorry for the people. It's almost
21 like a ditch effort for some affection.

22 MS. ARMENI: And if I asked you to name a specific gang, what's --
23 what's the first gang that comes to mind?

24 PROSPECTIVE JUROR NO. 035: The typical, the Bloods, Crips.

25 MS. ARMENI: Do you have any experience with taxicabs?

1 PROSPECTIVE JUROR NO. 035: Just riding in them.

2 MS. ARMENI: I think that's it. Thank you, Ms. Jackson.

3 PROSPECTIVE JUROR NO. 035: Thank you.

4 THE COURT: All right. Thank you, Ms. Armeni.

5 Ms. Husted, if you would please call up the next prospective jurors to
6 take chairs three and nine.

7 THE CLERK: Juror No. 36.

8 MR. DIGIACOMO: Three and?

9 THE COURT: Three -- oh, I'm sorry. Three and ten. I misspoke.

10 MR. DIGIACOMO: Ten. Thank you.

11 THE COURT: Thank you.

12 THE CLERK: 36, Mr. Sargent.

13 THE COURT: All right. Mr. Sargent, come on down. And if you would
14 just have that empty seat there in the front row of our jury box, chair No. 3.

15 And in chair No. 10?

16 PROSPECTIVE JUROR NO. 036: Do I have to sit in the front row?

17 Can't I sit in the back?

18 THE COURT: You do. No, we go in order, sorry. What's wrong with the
19 front row? You can see better.

20 PROSPECTIVE JUROR NO. 036: I don't know. I don't like the front row.

21 THE CLERK: Badge 37, Rodger O'Neill.

22 THE COURT: And Mr. O'Neill, if you'd take the back row.

23 If you'd really be much more comfortable in the back row --

24 PROSPECTIVE JUROR NO. 036: I'm okay.

25 THE COURT: -- we can switch you out. We keep track of everyone

1 according to the chairs that they sit in and that's why everybody has to be in the
2 same chair.

3 All right. I'm going to start with you, Mr. Sargent. What do you do
4 for a living, sir?

5 PROSPECTIVE JUROR NO. 036: Tow truck driver.

6 THE COURT: You're a tow truck driver. And how long have you been
7 doing that?

8 PROSPECTIVE JUROR NO. 036: Six years.

9 THE COURT: Okay. What did you do prior to being a tow truck driver?

10 PROSPECTIVE JUROR NO. 036: Dump truck driver.

11 THE COURT: Oh, okay. So you've been a driver of --

12 PROSPECTIVE JUROR NO. 036: I've been -- I'm a truck driver.

13 THE COURT: A professional driver your whole career?

14 PROSPECTIVE JUROR NO. 036: Professional driver, yes.

15 THE COURT: All right. And are you married, sir?

16 PROSPECTIVE JUROR NO. 036: Yes.

17 THE COURT: What does your wife do?

18 PROSPECTIVE JUROR NO. 036: She stays at home with -- with the
19 kids. She's a stay at home mom.

20 THE COURT: Okay. And how many kids do you have?

21 PROSPECTIVE JUROR NO. 036: Two.

22 THE COURT: And the ages?

23 PROSPECTIVE JUROR NO. 036: 11 and 9.

24 THE COURT: 11 and 9. Okay.

25 And let's see, Mr. O'Neill, what do -- what do you do again for a

1 living?

2 PROSPECTIVE JUROR NO. 037: I'm retired.

3 THE COURT: Retired from?

4 PROSPECTIVE JUROR NO. 037: From the restaurant business.

5 THE COURT: That's right. Okay. And I may have asked you and I
6 apologize if I'm repeating myself. Are you married, sir?

7 PROSPECTIVE JUROR NO. 037: No, I'm not.

8 THE COURT: Okay. Any children?

9 PROSPECTIVE JUROR NO. 037: Three.

10 THE COURT: Grown?

11 PROSPECTIVE JUROR NO. 037: Grown and flown.

12 THE COURT: Okay. All right. Have either one of you, either Mr.
13 Sargent or Mr. O'Neill ever served as a juror before?

14 PROSPECTIVE JUROR NO. 036: No.

15 PROSPECTIVE JUROR NO. 037: No. I've been called before, but
16 never impaneled.

17 THE COURT: Okay. Have you ever gotten this far to being in the box?

18 PROSPECTIVE JUROR NO. 037: No.

19 THE COURT: All right. And have either one of you ever been the victim
20 of a serious crime?

21 PROSPECTIVE JUROR NO. 036: No.

22 PROSPECTIVE JUROR NO. 037: Yeah, I was -- I'm from New York,
23 and I was mugged.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 037: I was mugged here in town also, by

1 the way, not -- not three blocks from here.

2 THE COURT: Okay. When you were mugged in New York, how long
3 ago was that?

4 PROSPECTIVE JUROR NO. 037: 1972.

5 THE COURT: Okay. And did you report that to -- I'm assuming New
6 York City; right?

7 PROSPECTIVE JUROR NO. 037: Yes.

8 THE COURT: Okay. Did you report that to the police in New York City?

9 PROSPECTIVE JUROR NO. 037: Yes, ma'am.

10 THE COURT: All right. Did they ever catch anybody?

11 PROSPECTIVE JUROR NO. 037: No, ma'am.

12 THE COURT: Was a weapon or --

13 PROSPECTIVE JUROR NO. 037: Not a chance. Yeah, there was a
14 knife involved.

15 THE COURT: A knife involved. Okay. And then the mugging here, you
16 said it was about three blocks from the courthouse?

17 PROSPECTIVE JUROR NO. 037: Yeah, it was a -- I call it a mugging, it
18 was a strong-arm robbery.

19 THE COURT: Okay. So no weapon was involved in that one?

20 PROSPECTIVE JUROR NO. 037: A beer bottle.

21 THE COURT: Okay. A broken beer bottle or was it the --

22 PROSPECTIVE JUROR NO. 037: No.

23 THE COURT: -- threat that they were going to --

24 PROSPECTIVE JUROR NO. 037: He didn't --

25 THE COURT: -- break the bottle?

1 PROSPECTIVE JUROR NO. 037: -- even hold it by the neck. He held it
2 by the barrel of the bottle.

3 THE COURT: Okay. And did you report that to Las Vegas Metro?

4 PROSPECTIVE JUROR NO. 037: Yeah. Yeah, that was a total waste of
5 time.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NO. 037: Yes, I did report it.

8 THE COURT: Was it a waste of time because they didn't find anybody,
9 or do you feel like they didn't take your complaint seriously?

10 PROSPECTIVE JUROR NO. 037: Well, they took it seriously, however,
11 both they and I knew that not a blessed thing was going to happen with it.

12 THE COURT: Okay. Do you fault the police for that, or do you think
13 that's --

14 PROSPECTIVE JUROR NO. 037: No, no, no.

15 THE COURT: -- kind of just the situation?

16 PROSPECTIVE JUROR NO. 037: The circumstance.

17 THE COURT: Okay. Let me expand my last question. Have -- do either
18 of you have any current or former spouses or family members that have been the
19 victim of a serious crime?

20 PROSPECTIVE JUROR NO. 036: Yes.

21 THE COURT: All right. Mr. Sargent.

22 PROSPECTIVE JUROR NO. 036: I have a cousin who's currently
23 serving a life sentence for killing somebody.

24 THE COURT: Okay. And where -- where is he serving his time? Here in
25 this state or --

1 PROSPECTIVE JUROR NO. 036: Western Maryland.

2 THE COURT: Western Maryland. Okay. And how long ago did that
3 incident occur?

4 PROSPECTIVE JUROR NO. 036: Probably about 17 years ago.

5 THE COURT: 17 years ago. All right. And were you living in Maryland
6 at the time?

7 PROSPECTIVE JUROR NO. 036: [inaudible].

8 THE COURT: All right.

9 THE RECORDER: Excuse me. I'm sorry I have to interrupt. He's
10 serving time for what?

11 PROSPECTIVE JUROR NO. 036: Murder.

12 THE COURT: Murder.

13 THE RECORDER: Oh, okay.

14 THE COURT: And maybe we can get Mr. O'Neill to hand you the
15 microphone. Thank you.

16 Now, the victim of this killing, was that somebody you knew?

17 PROSPECTIVE JUROR NO. 036: No.

18 THE COURT: Okay. And were you close with this cousin?

19 PROSPECTIVE JUROR NO. 036: Yeah, kind of. Yeah, we grew up
20 together.

21 THE COURT: Okay. Now, when he was arrested and charged with this
22 crime, did you follow the case at all?

23 PROSPECTIVE JUROR NO. 036: Not that well, ma'am.

24 THE COURT: Okay. Did you --

25 PROSPECTIVE JUROR NO. 036: He -- when this took place we were

1 both considerably older. I had moved to another state where I met my wife, so
2 blah, blah, blah, and then this happened, and that's how I found out about it, so --

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 036: It as family members I found out
5 about it from.

6 THE COURT: Okay. Did you ever talk to your cousin about the --

7 PROSPECTIVE JUROR NO. 036: Yeah, I went -- I went and visited him
8 in -- in --

9 THE COURT: Prison?

10 PROSPECTIVE JUROR NO. 036: -- prison a couple of times. We talked
11 and, you know, it happened.

12 THE COURT: Okay. Do you have any feelings or opinion about how
13 your cousin was treated by law enforcement or by the court system?

14 PROSPECTIVE JUROR NO. 036: If he wouldn't have been in that
15 situation he wouldn't have to worry about it, so --

16 THE COURT: Okay. All right. Any other -- any other situations in your
17 background or your family background?

18 What about you, Mr. O'Neill?

19 PROSPECTIVE JUROR NO. 037: No, not really. There was a burglary,
20 but nothing major.

21 THE COURT: Okay. The burglary, were you a victim of that?

22 PROSPECTIVE JUROR NO. 037: No, my -- my ex-wife was the victim.

23 THE COURT: Okay. Were you married to her at the time?

24 PROSPECTIVE JUROR NO. 037: No, but I was the first one called.

25 THE COURT: Okay. And do you know if anyone was ever apprehended

1 in connection with that?

2 PROSPECTIVE JUROR NO. 037: No. A suspect was detained, but
3 never arrested or charged.

4 THE COURT: Okay. And where did that occur?

5 PROSPECTIVE JUROR NO. 037: In Howard Beach, Queens.

6 THE COURT: Okay. And now I'm going to ask you, have you or anyone
7 close to you ever been arrested or charged with a crime?

8 PROSPECTIVE JUROR NO. 037: No.

9 THE COURT: Nothing. Okay. And again to both of you, have either
10 you, yourselves, ever worked in law enforcement or do you have family members
11 or anyone close to you that's ever worked in law enforcement?

12 PROSPECTIVE JUROR NO. 036: No.

13 PROSPECTIVE JUROR NO. 037: No.

14 THE COURT: All right. Mr. Sargent, to you first, you've heard these
15 many, many hours everything that we've been asking and the lawyers and I have
16 discussed with all of the prospective jurors. Did you hear any questions that I
17 asked or any of the lawyers asked that you felt like you wanted to raise your
18 hand and answer or had a strong opinion about?

19 PROSPECTIVE JUROR NO. 036: No, I'm okay.

20 THE COURT: All right. Anything at all in your background or family
21 background that would impact your ability to be completely fair and impartial to
22 both sides?

23 PROSPECTIVE JUROR NO. 036: No.

24 THE COURT: All right. If you were seated over there where the
25 prosecutors, Mr. DiGiacomo and Mr. Pesci are seated, would you be comfortable

1 having a juror just like you?

2 PROSPECTIVE JUROR NO. 036: Yes.

3 THE COURT: All right. And what if you were seated where Mr. Hidalgo,
4 Jr. and his lawyers are seated, would you be comfortable with a juror just like
5 you?

6 PROSPECTIVE JUROR NO. 036: Yes.

7 THE COURT: And the same question obviously goes for Mr. Hidalgo III
8 and his attorneys, should they be comfortable with you?

9 PROSPECTIVE JUROR NO. 036: Yes.

10 THE COURT: All right. Thank you, sir. Would you hand the microphone
11 back to Mr. O'Neill.

12 Mr. O'Neill, I know you've been in the front row over there listening
13 to everything that's been discussed these days. Anything that's been discussed,
14 any questions that you would've had to raise your hand and answer in the
15 affirmative?

16 PROSPECTIVE JUROR NO. 037: No, it's -- it's just that there's been a
17 lot of discussion about fear.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 037: And I've had some experience with
20 fear.

21 THE COURT: Okay. Tell me about that.

22 PROSPECTIVE JUROR NO. 037: Well, I've been in a near drowning
23 situation. I've been right next to an automobile, severe automobile accident, and
24 I have a brother who was supposed to testify in a court case and didn't because
25 of fear. So fear is a strong motivation. It can go either way, you know.

1 THE COURT: The brother, was that to testify in this jurisdiction?
2 PROSPECTIVE JUROR NO. 037: No. No, ma'am.
3 THE COURT: In New York?
4 PROSPECTIVE JUROR NO. 037: No, this is -- this was a long time ago
5 in New Jersey.
6 THE COURT: Okay. Was he fearful of retaliation by the --
7 PROSPECTIVE JUROR NO. 037: Yes.
8 THE COURT: -- people he was --
9 PROSPECTIVE JUROR NO. 037: Yes.
10 THE COURT: -- testifying against?
11 PROSPECTIVE JUROR NO. 037: Yes.
12 THE COURT: All right. As a result of that fear he didn't testify?
13 PROSPECTIVE JUROR NO. 037: He did not testify.
14 THE COURT: He did not testify.
15 PROSPECTIVE JUROR NO. 037: and I couldn't talk him into it.
16 THE COURT: Okay. But you tried?
17 PROSPECTIVE JUROR NO. 037: I did try.
18 THE COURT: And why is that?
19 PROSPECTIVE JUROR NO. 037: Because I thought it was the right
20 thing to do.
21 THE COURT: Okay. Now, anything in your background or your family
22 background that would impact your ability to be completely fair and impartial to
23 both sides?
24 PROSPECTIVE JUROR NO. 037: Absolutely not.
25 THE COURT: All right. I'm going to ask you the same thing. If you were

1 seated where the prosecutors, Mr. DiGiacomo and Mr. Pesci are seated, would
2 you be comfortable having a juror just like you?

3 PROSPECTIVE JUROR NO. 037: Yes, I would.

4 THE COURT: And what if you were seated where Mr. Hidalgo III and his
5 lawyers, Mr. Adams and Mr. Arrascada are seated, would you be comfortable
6 with a juror just like you?

7 PROSPECTIVE JUROR NO. 037: Yes, I would.

8 THE COURT: And obviously the same question goes for Mr. Hidalgo, Jr.
9 and his attorneys, Ms. Armeni and Mr. Gentile, should they be comfortable with
10 you as a juror?

11 PROSPECTIVE JUROR NO. 037: Yes.

12 THE COURT: You'll be fair and impartial to both sides?

13 PROSPECTIVE JUROR NO. 037: Yes, I can.

14 THE COURT: All right. Thank you, sir.

15 State, you may follow up with Mr. Sargent. I'll let you do both of
16 them at once, Mr. Sargent and Mr. O'Neill.

17 MR. DIGIACOMO: Okay. I'll try and be brief since you've sat here now
18 for a couple days. Any opinions on strip clubs, Mr. Sargent?

19 PROSPECTIVE JUROR NO. 036: No.

20 MR. DIGIACOMO: It won't affect your opinion one way or the other?

21 PROSPECTIVE JUROR NO. 036: No.

22 MR. DIGIACOMO: The family member in Maryland that was convicted of
23 murder, my impression from you was that the killing occurred, but there may
24 have been some extenuating circumstances.

25 PROSPECTIVE JUROR NO. 036: Yeah, from what -- from what I heard,

1 you know, from what I heard it was drug related.

2 MR. DIGIACOMO: I'm -- I'm guessing from the way you've answered the
3 question that you don't think that your -- your family member was treated unfairly
4 by the system?

5 PROSPECTIVE JUROR NO. 036: No.

6 MR. DIGIACOMO: You thought that the circumstances were unfortunate
7 that ultimately --

8 PROSPECTIVE JUROR NO. 036: Yes.

9 MR. DIGIACOMO: -- it wound up with him killing somebody?

10 PROSPECTIVE JUROR NO. 036: Yes.

11 MR. DIGIACOMO: Nothing about that is going to affect your --

12 PROSPECTIVE JUROR NO. 036: No.

13 MR. DIGIACOMO: -- deliberations in this particular case?

14 PROSPECTIVE JUROR NO. 036: No.

15 MR. DIGIACOMO: We haven't talked about this a lot, but the fact that an
16 individual has one time been a defendant and now is a witness who is going to
17 testify, merely that fact alone wouldn't cause you to wholeheartedly reject what
18 she had to tell you; would it?

19 PROSPECTIVE JUROR NO. 036: No. No.

20 MR. DIGIACOMO: It'd be a factor, obviously.

21 PROSPECTIVE JUROR NO. 036: The way it was stated earlier that, you
22 know, if -- if she was trying to -- if the defendant or the witness was trying to
23 prevent being executed, then, yeah, I think that what she has to say makes a big
24 deal. You know what I mean? Because obviously she's saying what she wants
25 to say to keep that from happening, so --

1 MR. DIGIACOMO: Certainly. What if --

2 PROSPECTIVE JUROR NO. 036: I watch enough court on TV. I see
3 how it goes.

4 MR. DIGIACOMO: Right. Any person facing a criminal trial is facing
5 substantial penalties when the nature of the crime as murder.

6 PROSPECTIVE JUROR NO. 036: Right.

7 MR. DIGIACOMO: You'd agree with me; correct?

8 PROSPECTIVE JUROR NO. 036: Right.

9 MR. DIGIACOMO: And sometimes those individuals have information
10 which would be very relevant as to the guilt or innocence of other people?

11 PROSPECTIVE JUROR NO. 036: Right.

12 MR. DIGIACOMO: And certainly the fact that at one point the State was
13 prosecuting her and now she's testifying is something you have to consider and
14 in evaluating whether or not she's telling the truth or not; correct?

15 PROSPECTIVE JUROR NO. 036: Exactly. Yes.

16 MR. DIGIACOMO: But you wouldn't wholeheartedly reject --

17 PROSPECTIVE JUROR NO. 036: No.

18 MR. DIGIACOMO: -- the witness --

19 PROSPECTIVE JUROR NO. 036: No.

20 MR. DIGIACOMO: -- merely because she was a defendant?

21 PROSPECTIVE JUROR NO. 036: No.

22 MR. DIGIACOMO: Thank you very much, Mr. Sargent.

23 Mr. O'Neill.

24 PROSPECTIVE JUROR NO. 037: Yes, sir.

25 MR. DIGIACOMO: Generally the same kind of questions for the most

1 part. You have any opinions about strip clubs?

2 PROSPECTIVE JUROR NO. 037: No. I have friends that have been in
3 the business, both female and male. I have no problem with it.

4 MR. DIGIACOMO: Okay. And certainly we've talked already a little bit
5 about your experience with an individual who worked in -- in a strip club.

6 PROSPECTIVE JUROR NO. 037: Correct.

7 MR. DIGIACOMO: So nothing about that fact is going to affect your
8 ability to be fair and impartial?

9 PROSPECTIVE JUROR NO. 037: No, sir.

10 MR. DIGIACOMO: Anything about anything else we've talked about here
11 going to affect your ability to be fair and impartial?

12 PROSPECTIVE JUROR NO. 037: No.

13 MR. DIGIACOMO: Thank you very much, then.

14 THE COURT: All right. Thank you --

15 MR. DIGIACOMO: Pass.

16 THE COURT: -- Mr. DiGiacomo.

17 Who would like to go next?

18 MR. ARRASCADA: I guess we would, Your Honor.

19 THE COURT: All right, Mr. Arrascada. Thank you.

20 MR. ARRASCADA: Thank you.

21 Where about in western Maryland, sir?

22 PROSPECTIVE JUROR NO. 036: It's called Frederick County.

23 MR. ARRASCADA: Fredrick County, towards Mount Pleasant, in that
24 area?

25 PROSPECTIVE JUROR NO. 036: Yes. You know that area?

1 MR. ARRASCADA: Yeah, that's where my family is from. You said
2 you've been a truck driver all your life?

3 PROSPECTIVE JUROR NO. 036: Yes.

4 MR. ARRASCADA: And now you're a tow truck driver?

5 PROSPECTIVE JUROR NO. 036: Yes.

6 MR. ARRASCADA: I would have to guess you've had some people
7 angry with you.

8 PROSPECTIVE JUROR NO. 036: Oh, yeah.

9 MR. ARRASCADA: With the boots and all that other type of stuff; right?

10 PROSPECTIVE JUROR NO. 036: The boots?

11 MR. ARRASCADA: Yeah. Do you ever have to deal with people whose
12 cars have been --

13 PROSPECTIVE JUROR NO. 036: No, I don't do that kind of stuff.

14 MR. ARRASCADA: You just get their cars to --

15 PROSPECTIVE JUROR NO. 036: You know what AAA is?

16 MR. ARRASCADA: I do.

17 PROSPECTIVE JUROR NO. 036: That's what I do.

18 MR. ARRASCADA: Okay. Have you ever had people when you show
19 up and they're --

20 PROSPECTIVE JUROR NO. 036: I rate because they've been sitting in
21 112 degree heat waiting for me?

22 MR. ARRASCADA: And it's their mechanic's fault.

23 PROSPECTIVE JUROR NO. 036: Yes, of course.

24 MR. ARRASCADA: Okay. Have they ever said anything about --

25 PROSPECTIVE JUROR NO. 036: I just got his car out of the garage and

1 it's going right back.

2 MR. ARRASCADA: Okay. What do they say about their mechanic?

3 PROSPECTIVE JUROR NO. 036: They're pretty upset.

4 MR. ARRASCADA: Okay. Could they say things about them that you
5 know they probably really don't mean?

6 PROSPECTIVE JUROR NO. 036: Of course.

7 MR. ARRASCADA: Okay. And what -- what makes it, if they said I
8 could -- I could just ring his neck, I've had my car here four times and it's still, you
9 know, here I am in 112 degree heat waiting for you for an hour.

10 PROSPECTIVE JUROR NO. 036: Well, obviously, you know, the -- the
11 idea that their car broke down and the fact that they just got it back and now
12 they're looking at more money, the inconvenience that it has to be towed. So,
13 you know, all those things come into play that, you know, they would be upset to
14 the point where they would say things that they didn't mean.

15 MR. ARRASCADA: Okay. And you take all those things into a factor
16 before you decide, well, I better call the police, this guy is looking at ringing
17 someone's neck.

18 PROSPECTIVE JUROR NO. 036: Yeah.

19 MR. ARRASCADA: Okay.

20 PROSPECTIVE JUROR NO. 036: Yes. I -- I've been in a situation
21 where I had to call the police on someone because they were very, very, very
22 upset. Very upset.

23 MR. ARRASCADA: At you?

24 PROSPECTIVE JUROR NO. 036: Yes.

25 MR. ARRASCADA: Okay. So you were in fear?

1 PROSPECTIVE JUROR NO. 036: No. Well, it wasn't --

2 MR. ARRASCADA: I don't mean --

3 PROSPECTIVE JUROR NO. 036: I don't --

4 MR. ARRASCADA: -- to insult you. You probably don't get --

5 PROSPECTIVE JUROR NO. 036: I don't think --

6 MR. ARRASCADA: -- very fearful.

7 PROSPECTIVE JUROR NO. 036: It wasn't so much that I was afraid for
8 my life because he was going to -- he just was really, really irate and -- and then
9 what happens in my situation is whenever they get to that point I have to call my
10 supervisor, my supervisor calls the police, and that's how that happened.

11 MR. ARRASCADA: And in the situation --

12 PROSPECTIVE JUROR NO. 036: Because whenever they decided
13 they're going to -- this is the way they're going to be regardless of what you say,
14 you know what I mean. I'm here to help you, I'm trying to help you, it doesn't
15 matter what I say, it just gets blown out of proportion.

16 MR. ARRASCADA: And the other situation, 112 degree heat, upset with
17 their mechanic, you look at all the factors before you decide are they serious or --

18 PROSPECTIVE JUROR NO. 036: Yeah.

19 MR. ARRASCADA: Have you ever -- well, and I'm not going to ask
20 about your cousin, but you have a cousin -- let me rephrase it. Your cousin is in
21 prison; is that right?

22 PROSPECTIVE JUROR NO. 036: Yes.

23 MR. ARRASCADA: Okay. Have you ever had a -- and you said it was
24 with drugs?

25 PROSPECTIVE JUROR NO. 036: Yeah, it was drug related. I know

1 that.

2 MR. ARRASCADA: Have you ever had a family member that may have
3 been in that 112 degree heat situation where they're getting really upset about
4 something and say something [inaudible].

5 PROSPECTIVE JUROR NO. 036: Not in the 112 heat, but, yeah, like
6 someone else I think made a reference to me that -- I've had my wife -- I've
7 heard my wife say things that I know she doesn't mean, but she's saying
8 because she's mad. People in the neighborhood, other parents, I hate to say
9 this, but, you know, I'd kill that son of a bitch if I could, you know, stuff like that.

10 But -- but I know she's mad and, you know, you've got to take it
11 like -- like someone said, you've got to take it with a grain of salt, you know. I
12 mean, it's my wife. I know my wife. I know how she is. I know when she gets
13 mad she likes to blurt out things that she doesn't mean.

14 MR. ARRASCADA: And so you know --

15 PROSPECTIVE JUROR NO. 036: Now, a perfect stranger --

16 MR. ARRASCADA: Uh-huh.

17 PROSPECTIVE JUROR NO. 036: -- I don't know them. I don't know
18 what they're capable of doing. I don't know, you know, just because they say it
19 they don't mean it. You know what I mean? Because I don't know them and I
20 don't know what they're actually capable of doing.

21 MR. ARRASCADA: Okay. And that kind of goes back to the 112 degree
22 heat; right? If you look at all the facts, is that how you would do it to figure out --

23 PROSPECTIVE JUROR NO. 036: Yes.

24 MR. ARRASCADA: -- what it is?

25 PROSPECTIVE JUROR NO. 036: Yes.

1 MR. ARRASCADA: And in the situation, you said perfect stranger, I
2 don't know what they mean. Would you use your abilities you've learned in
3 dealing with folks to analyze the situation?

4 PROSPECTIVE JUROR NO. 036: Listen to them, yes.

5 MR. ARRASCADA: And decide what they meant?

6 PROSPECTIVE JUROR NO. 036: Yes.

7 MR. ARRASCADA: And if they intended it? Is that --

8 PROSPECTIVE JUROR NO. 036: Yes.

9 MR. ARRASCADA: Okay. How long have you lived here in Las Vegas?

10 PROSPECTIVE JUROR NO. 036: Nine years.

11 MR. ARRASCADA: Nine years. How long have you been driving the
12 tow truck?

13 PROSPECTIVE JUROR NO. 036: Six years.

14 MR. ARRASCADA: Six years? Has anything we've talked about with
15 the Palomino Club and everything else and the Judge, the prosecutors, Mr.
16 Gentile or Ms. Armeni, has that jogged your memory that you may have read or
17 seen something about this case?

18 PROSPECTIVE JUROR NO. 036: I've heard about it when I showed up
19 for this.

20 MR. ARRASCADA: And as you sit there now is your mind open to hear
21 this case?

22 PROSPECTIVE JUROR NO. 036: Oh, yeah.

23 MR. ARRASCADA: Okay. And just -- you mentioned you've seen a lot
24 of this court stuff on TV; right? You've probably figured out by now that the case
25 doesn't start and end within one hour.

1 PROSPECTIVE JUROR NO. 036: Of course. I was -- I was naïve. I
2 figured if I could make to 5:00 yesterday I was cool, so --

3 MR. ARRASCADA: Okay.

4 PROSPECTIVE JUROR NO. 036: It didn't work out like that.

5 MR. ARRASCADA: Are you still cool?

6 PROSPECTIVE JUROR NO. 036: [inaudible].

7 MR. ARRASCADA: [inaudible]. Okay. But you're okay with listening to
8 all --

9 PROSPECTIVE JUROR NO. 036: Yeah.

10 MR. ARRASCADA: Okay. And not making a decision, not figuring this
11 case would be done in an hour?

12 PROSPECTIVE JUROR NO. 036: Right.

13 MR. ARRASCADA: You're okay?

14 PROSPECTIVE JUROR NO. 036: Yeah.

15 MR. ARRASCADA: All right. Appreciate it. Do you mind if I talk to Mr.
16 O'Neill then?

17 PROSPECTIVE JUROR NO. 036: Yeah.

18 MR. ARRASCADA: Mr. O'Neil, I think you said you read about this case
19 or followed is; is that incorrect?

20 PROSPECTIVE JUROR NO. 037: Yeah, that's correct.

21 MR. ARRASCADA: Okay. And is there anything you read about from
22 the past and now as you sit here today that could affect your ability to be a fair
23 juror?

24 PROSPECTIVE JUROR NO. 037: No. I read about allegations. I'm
25 sitting here with allegations. The fact that they were arrested in the case and -- I

1 went through my recollections where I don't know if you want me to repeat them
2 or not.

3 THE COURT: No, I don't think we need to.

4 MR. GENTILE: We did those yesterday.

5 THE COURT: Yeah.

6 MR. ARRASCADA: We -- we talked about them yesterday, sir.

7 PROSPECTIVE JUROR NO. 037: Yeah, we did that yesterday.

8 MR. ARRASCADA: Yeah, that's fine.

9 PROSPECTIVE JUROR NO. 037: That's where I stand.

10 MR. ARRASCADA: Okay. I will be repetitive. A question on that
11 standard.

12 PROSPECTIVE JUROR NO. 037: All right. Sure.

13 MR. ARRASCADA: The situation as you were speaking about, just
14 where you see somebody or you hear somebody say something about breaking
15 the law, how do you know if they mean it or not?

16 PROSPECTIVE JUROR NO. 037: For the most part it's nonsense.

17 MR. ARRASCADA: It's nonsense?

18 PROSPECTIVE JUROR NO. 037: For the most part. Usually if
19 somebody intends to kill somebody, they're not going to say, hey, I'm going to go
20 kill him. You know, that -- that stuff is said in the heat of the moment. And if you
21 know the person, they you -- you for sure know whether he's real or not real. For
22 the most part that's just, you know, I'll ring her neck. Have you ever -- have you
23 ever seen or even heard of somebody ringing somebody's neck?

24 MR. ARRASCADA: Only in the cartoons.

25 PROSPECTIVE JUROR NO. 037: Only in the cartoons or on the chicken

1 farm, but, you know, that's mostly bull.

2 MR. ARRASCADA: I appreciate your honesty, Mr. O'Neil and Mr.
3 Sargent. Thank you.

4 THE COURT: All right. Thank you, Mr. Arrascada.

5 And is it going to be Ms. Armeni?

6 MS. ARMENI: Yes, Your Honor.

7 I'll start with you, Mr. O'Neil, since you've got the microphone.

8 PROSPECTIVE JUROR NO. 037: Yes, ma'am.

9 MS. ARMENI: You said you had two adult children?

10 PROSPECTIVE JUROR NO. 037: No, I said I had three adult children.

11 MS. ARMENI: Oh, I'm sorry. Three adult children that are grown and
12 flown; right?

13 PROSPECTIVE JUROR NO. 037: Right.

14 MS. ARMENI: Okay. Tell me what they do for a living.

15 PROSPECTIVE JUROR NO. 037: My daughter right now is doing
16 nothing but popping babies, but --

17 MS. ARMENI: It is a full time job.

18 PROSPECTIVE JUROR NO. 037: She has an MBA and was working for
19 JP Morgan before -- before all the nonsense.

20 MS. ARMENI: And what -- what about your other two, the ones that
21 aren't popping out babies?

22 PROSPECTIVE JUROR NO. 037: Well, the oldest boy, Scott, he's a
23 professional photographer doing both architectural and model work. And my --
24 my youngest brother is a restaurant chain supervisor.

25 MS. ARMENI: Followed her father's footsteps?

1 PROSPECTIVE JUROR NO. 037: No, he didn't. No, he's a good kid.
2 He went to work for McDonald's, went to college, got a degree in aerospace
3 engineering, and went back to McDonald's.

4 MS. ARMENI: Whatever works; right?

5 PROSPECTIVE JUROR NO. 037: That's what it is. He's in charge of a
6 district of 27 stores and he does all right.

7 MS. ARMENI: And you said you were formerly in the restaurant
8 business; right?

9 PROSPECTIVE JUROR NO. 037: Right. I was in the restaurant
10 business in New York.

11 MS. ARMENI: And tell me, what did you do?

12 PROSPECTIVE JUROR NO. 037: Owned and operated.

13 MS. ARMENI: Okay. Tell me a little bit about -- so when you owned and
14 operated, how many employees did you have under you?

15 PROSPECTIVE JUROR NO. 037: 107 in one location, 83 in another.

16 MS. ARMENI: Okay. That's a lot of employees. Did you have managers
17 underneath you?

18 PROSPECTIVE JUROR NO. 037: Off and on.

19 MS. ARMENI: Okay.

20 PROSPECTIVE JUROR NO. 037: I went through men just like you go
21 through -- I was going to say stockings, women don't wear them anymore.

22 MS. ARMENI: Pantyhose, we do, I guess.

23 PROSPECTIVE JUROR NO. 037: I went through men a lot.

24 MS. ARMENI: So you -- there -- there were times when you could find a
25 good one that you had a good supervisor --

1 PROSPECTIVE JUROR NO. 037: Right.

2 MS. ARMENI: -- or a manager running your places?

3 PROSPECTIVE JUROR NO. 037: Right.

4 MS. ARMENI: Now, Judge Adair had asked you, asked both of you,
5 actually, if you were -- if you could be fair to both sides, the State and us, and
6 you said yes.

7 PROSPECTIVE JUROR NO. 037: Yes.

8 MS. ARMENI: Could you tell me -- what in your mind, what does fair
9 mean?

10 PROSPECTIVE JUROR NO. 037: Well, fair means making the judgment
11 based on the evidence and testimony put in front of you and approaching it with
12 no prejudices either way. That's fair.

13 MS. ARMENI: And when -- in your opinion, when is that time to make
14 the decision?

15 PROSPECTIVE JUROR NO. 037: When the case is finished.

16 MS. ARMENI: When it's been submitted to the jury?

17 PROSPECTIVE JUROR NO. 037: Right. You assume up until that point
18 that you don't have all the information.

19 MS. ARMENI: Right. What's your experience with taxicabs? Do you
20 have any experience with taxicabs?

21 PROSPECTIVE JUROR NO. 037: I said I'm from New York.

22 MS. ARMENI: That's right. You know --

23 PROSPECTIVE JUROR NO. 037: We walk --

24 MS. ARMENI: -- how to catch --

25 PROSPECTIVE JUROR NO. 037: We walk out --

1 MS. ARMENI: -- a taxicab.

2 PROSPECTIVE JUROR NO. 037: -- a door and we put a hand in the air.

3 MS. ARMENI: That's your experience?

4 PROSPECTIVE JUROR NO. 037: Yeah.

5 MS. ARMENI: What about gangs. I know, you're from New York, so
6 you --

7 PROSPECTIVE JUROR NO. 037: Gangs, oddly enough, in the city I
8 didn't have any exposure. So my answer to gangs is not going to -- there's
9 nothing positive, okay. Hells Angels would jump to my mind, but people on the
10 west coast it's Crips and Bloods, 28th Street here in town.

11 MS. ARMENI: And you're -- you're throwing out names of gangs. How --

12 PROSPECTIVE JUROR NO. 037: Right.

13 MS. ARMENI: -- are you familiar with those gangs?

14 PROSPECTIVE JUROR NO. 037: Media. Did I ever date a gang
15 member? No.

16 MS. ARMENI: How about lawyers? Have you ever dated a lawyer?

17 PROSPECTIVE JUROR NO. 037: Oh, my God.

18 THE COURT: If the answer is --

19 MS. ARMENI: Is that worse?

20 THE COURT: If the answer is yes, stop there. I don't want to know any
21 more.

22 PROSPECTIVE JUROR NO. 037: That would be a moral issue.

23 MS. ARMENI: Do you know any lawyers, Mr. O'Neill?

24 PROSPECTIVE JUROR NO. 037: Yes, as a matter of fact, I do, and I -- I
25 like her.

1 MS. ARMENI: Okay. Well, that's a good start. Would you call upon
2 them if something came up in your life, something important?

3 PROSPECTIVE JUROR NO. 037: Yes. I -- I've used lawyers frequently
4 in business and matrimonial, although I've only been married once.

5 MS. ARMENI: That's it?

6 PROSPECTIVE JUROR NO. 037: But, boy, that was something to
7 unwind, let me tell you.

8 MS. ARMENI: And how about -- I'm scared to -- how about drugs?
9 What's your --

10 PROSPECTIVE JUROR NO. 037: How about that?

11 MS. ARMENI: I know. I'm --

12 THE COURT: I think juror No. 2, if you were still with that comedy club,
13 there's a lot of talent up here in the box.

14 PROSPECTIVE JUROR NO. 037: We're both from the same area; right?
15 I'm really -- I'm not trying to be funny.

16 MS. ARMENI: No, we appreciate it. I'm sure everybody needs a little
17 levity right now.

18 PROSPECTIVE JUROR NO. 037: It's just that after listening to the same
19 questions. Okay. How about drugs?

20 MS. ARMENI: You should have your answer for me because you've
21 been listening --

22 PROSPECTIVE JUROR NO. 037: I do.

23 MS. ARMENI: -- to all of these; right?

24 PROSPECTIVE JUROR NO. 037: I --

25 MS. ARMENI: So what's the answer?

1 PROSPECTIVE JUROR NO. 037: I can submit it to you in writing.

2 MS. ARMENI: No, no, I don't need it in writing.

3 THE COURT: No, we've got to have it verbally.

4 PROSPECTIVE JUROR NO. 037: Okay. As far as drugs go, I have
5 known drug users, I've seen people in -- and nobody mentioned heroin which
6 surprised the hell out of me. I've seen people on heroin as well as crystal and
7 then some of the scary ones, angel dust, I mean, that's scary stuff.

8 MS. ARMENI: Right.

9 PROSPECTIVE JUROR NO. 037: Cocaine and marijuana, just altered
10 states, you know, just -- the -- the -- neither one of them really generate violence
11 in my opinion. Crystal meth is a different story. And angel or PCP, you don't
12 want to go there. That's --

13 MS. ARMENI: Well, you throw out PCP. Have you -- you said you've
14 seen somebody on PCP?

15 PROSPECTIVE JUROR NO. 037: Oh, yeah.

16 MS. ARMENI: And physically what do they look like?

17 PROSPECTIVE JUROR NO. 037: Physically, other than their dilation in
18 their eyes, you can't tell a hell of a lot of difference unless they are at that
19 moment in a manic state. If they're in a manic state, you know --

20 MS. ARMENI: And I know this sounds a little bit -- I mean, probably kind
21 of a dumb question, but how do you -- in your opinion, how do you think drugs
22 affect people? In what ways do they affect people?

23 PROSPECTIVE JUROR NO. 037: They alter their normal behavior, they
24 affect their inhibitions, and they change the whole thing. You're dealing with a
25 different person. You take -- you take the body and you've got the body, but

1 everything else is different because they're not responsible. They're responsible
2 for taking the drugs which makes them responsible for the behavior on the drugs,
3 but they're not directly responsible for the behavior without the drugs --

4 MS. ARMENI: Thank you, Mr. O'Neill.

5 PROSPECTIVE JUROR NO. 037: -- in my opinion.

6 MS. ARMENI: Mr. Sargent, I'm going to ask you the same question
7 about fair Judge Adair asked. You said you could be fair to all parties involved.

8 PROSPECTIVE JUROR NO. 036: Yes.

9 MS. ARMENI: In your opinion, what -- define -- what's the definition of
10 fair? What -- what do you think fair means?

11 PROSPECTIVE JUROR NO. 036: To be, you know, to be open, to be --
12 to listen, to not be judgmental on one side or the other, you know, to listen to all
13 the facts and see, you know, take -- take my own opinion of what -- what I hear,
14 make my own opinion of what I hear.

15 MS. ARMENI: And when you go back to that room and you're one of the
16 jurors and there's 11 other jurors that are saying, you know, we feel strongly
17 about this way, we feel strongly and this is our opinion. Do you think you're one
18 of those people that would feel comfortable standing up and saying --

19 PROSPECTIVE JUROR NO. 036: Yeah.

20 MS. ARMENI: -- I don't agree with any of you?

21 PROSPECTIVE JUROR NO. 036: Oh, yeah.

22 MS. ARMENI: You would voice your --

23 PROSPECTIVE JUROR NO. 036: Yeah.

24 MS. ARMENI: -- voice your opinion? Would you consider yourself a
25 leader or a follower?

1 PROSPECTIVE JUROR NO. 036: Oh, definitely a leader.

2 MS. ARMENI: Definitely a leader? And why do you say that?

3 PROSPECTIVE JUROR NO. 036: I don't like to follow. I like to do things
4 my way.

5 MS. ARMENI: Would any experience -- I know you've had experience
6 driving yourself. Any experience with cab drivers?

7 PROSPECTIVE JUROR NO. 036: Oh, yeah.

8 MS. ARMENI: Yeah? What have your experiences been like?

9 PROSPECTIVE JUROR NO. 036: What do you want to know?

10 MS. ARMENI: Whatever you want to tell me.

11 PROSPECTIVE JUROR NO. 036: Well, I got a couple of friends. I got
12 an ex-friend here in Vegas who is a cab driver. We used to work together. He
13 was a tow truck driver, and he's told me some stories, stuff that he does and
14 things that he gets away with, and how much he's been paid to take people
15 certain places, you know, to try to get people to go to certain places. You know,
16 if he can get them to go to this place, he gets more money. If he gets them to go
17 out to the chicken ranch, he gets a whole bunch of money.

18 MS. ARMENI: Lawyers, do you know any lawyers?

19 PROSPECTIVE JUROR NO. 036: No.

20 MS. ARMENI: And if you were in a situation that -- a situation that you
21 felt was a big deal, would you call a lawyer?

22 PROSPECTIVE JUROR NO. 036: Oh, yeah, because he knows the law
23 better than I do, so --

24 MS. ARMENI: He knows the law? Do you feel -- and why -- why is that
25 important?

1 PROSPECTIVE JUROR NO. 036: Because I don't want to get in trouble.
2 I mean, I wouldn't be -- I want to have a fair trial, how about that?

3 MS. ARMENI: That sounds good. Any experience -- last question. Any
4 experience with gangs?

5 PROSPECTIVE JUROR NO. 036: No, not really. No. Just like
6 everybody else, TV, media, that kind of stuff.

7 MS. ARMENI: Right.

8 PROSPECTIVE JUROR NO. 036: Nothing major. No, not really, no.

9 MS. ARMENI: If I throw out kind of the same question I've been asking
10 everybody else, if I ask you to name a gang, what would -- what would you say?

11 PROSPECTIVE JUROR NO. 036: I guess what everybody else has
12 said. I don't know the gangs here. I haven't been here long enough to know any
13 of them, so --

14 MS. ARMENI: Okay. But where you're from?

15 PROSPECTIVE JUROR NO. 036: No, nope.

16 MS. ARMENI: No? Nothing?

17 PROSPECTIVE JUROR NO. 036: I grew up on a farm, so --

18 MS. ARMENI: No gangs there?

19 PROSPECTIVE JUROR NO. 036: Yeah.

20 MS. ARMENI: Okay. Thank you.

21 THE COURT: All right. Thank you. I'll see counsel at the bench, please.

22 (Conference at the bench)

23 THE COURT: All right. Ladies and gentlemen, okay, at this point in
24 time, the juror in chair No. 5, Ms. Golmassian is excused.

25 And Officer Wooten, as soon as he's -- will direct you from the

1 courtroom.

2 All right. And, Ms. Husted, please call the next up.

3 THE CLERK: Badge 38, Emertha Wright.

4 THE COURT: Excuse me. I'll see counsel at the bench again.

5 Ms. Wright, just have a seat there in the empty chair.

6 (Conference at the bench)

7 THE COURT: Don't get too comfortable because we're taking our break.

8 All right. We're going to go ahead and take a real quick recess for
9 ten minutes. And, ladies and gentlemen, obviously the admonition is still in
10 place. During the recess don't talk about the case or anything relating to the
11 case. Don't read, watch, or listen to anything relating to the case or do anything
12 else relating to the case.

13 Everyone follow Officer Wooten through the double doors. We'll see
14 everyone back here in ten minutes, which will be 3:05.

15 (Recess taken at 2:56 p.m.)

16 (Prospective jury panel enters at 3:08 p.m.)

17 THE COURT: All right. Court is now back in session. The record will
18 reflect the presence of the State, the defendants and their counsel, the officers of
19 the court, and the members of the prospective jury panel.

20 And good afternoon, Ms. Wright. What do you do for a living,
21 ma'am?

22 PROSPECTIVE JUROR NO. 038: Right now I'm on layoff, but I'm a
23 union member, 872 Laborers.

24 THE COURT: Okay. And how long have you been with that union?

25 PROSPECTIVE JUROR NO. 038: A little over a year.

1 THE COURT: What did you do prior to that?

2 PROSPECTIVE JUROR NO. 038: I was a cab driver.

3 THE COURT: You were a cab driver. Finally, a cab driver. All right. Did
4 you work as a cab driver here in Las Vegas?

5 PROSPECTIVE JUROR NO. 038: Yes, I did. My first company for one
6 year was A Cab, my second company was Desert Cab for four years.

7 THE COURT: Okay. And just Desert Cab and what was the first one?

8 PROSPECTIVE JUROR NO. 038: A Cab.

9 THE COURT: A Cab. How long in total did you work as a cab driver?

10 PROSPECTIVE JUROR NO. 038: Five years.

11 THE COURT: Five years. Okay. And did you -- was there ever any talk
12 about anything relating to this case that you can remember in the workplace?

13 PROSPECTIVE JUROR NO. 038: Nothing that I can remember at all.

14 THE COURT: Okay. Now, when you were a cab driver, did you work
15 one shift or several different shifts or -- or how did that work?

16 PROSPECTIVE JUROR NO. 038: I shortly and very briefly worked a day
17 shift.

18 THE COURT: Uh-huh.

19 PROSPECTIVE JUROR NO. 038: But most of my shifts was from 3 p.m.
20 until 3 a.m.

21 THE COURT: So essentially the swing shift?

22 PROSPECTIVE JUROR NO. 038: Yes.

23 THE COURT: Now, you've heard some of the questions and some of the
24 conversation with some of the other prospective jurors on the issue of tipping cab
25 drivers to bring customers to bars or clubs or what not. Are you familiar with that

1 practice here in southern Nevada?

2 PROSPECTIVE JUROR NO. 038: Yes, I am.

3 THE COURT: Okay. And were you aware that that practice sometimes
4 occurs in the strip club industry?

5 PROSPECTIVE JUROR NO. 038: Definitely.

6 THE COURT: Okay. Did you ever have any personal involvement with
7 that practice?

8 PROSPECTIVE JUROR NO. 038: Definitely, yes, but never at the
9 Palomino.

10 THE COURT: Okay. So with some of the other -- with some of the other
11 clubs?

12 PROSPECTIVE JUROR NO. 038: Yes.

13 THE COURT: Okay. But you never actually had any personal
14 experience at the Palomino Club; is that right?

15 PROSPECTIVE JUROR NO. 038: That is correct.

16 THE COURT: Okay. Did you ever take fares to the Palomino Club that
17 you can recall?

18 PROSPECTIVE JUROR NO. 038: Possibly, yes. I'm quite sure, you
19 know.

20 THE COURT: Okay. But if you did, you would --

21 PROSPECTIVE JUROR NO. 038: Wait, no. I'm sorry. I never got paid
22 by them --

23 THE COURT: Right.

24 PROSPECTIVE JUROR NO. 038: -- so that would be a no.

25 THE COURT: Okay. All right. All right. And are you married?

1 PROSPECTIVE JUROR NO. 038: Yes.

2 THE COURT: And what does your husband do?

3 PROSPECTIVE JUROR NO. 038: He's a respiratory therapist.

4 THE COURT: Okay. Does he work in a hospital setting or in a
5 physician's office or what?

6 PROSPECTIVE JUROR NO. 038: Hospital.

7 THE COURT: Okay. Which hospital does he work at?

8 PROSPECTIVE JUROR NO. 038: Desert Springs and Sunrise.

9 THE COURT: All right. And do you have any children?

10 PROSPECTIVE JUROR NO. 038: Yes.

11 THE COURT: How many and the age range?

12 PROSPECTIVE JUROR NO. 038: I have a 19 year old daughter, and a
13 16 year old son.

14 THE COURT: Okay. And do they both live here in Clark County?

15 PROSPECTIVE JUROR NO. 038: Yes.

16 THE COURT: Okay. Have you ever served as a juror before?

17 PROSPECTIVE JUROR NO. 038: No.

18 THE COURT: Have you or anyone close to you ever been the victim of a
19 serious crime?

20 PROSPECTIVE JUROR NO. 038: Yes.

21 THE COURT: Okay. Tell me.

22 PROSPECTIVE JUROR NO. 038: I guess probably about 18 years -- I
23 mean, not 18, probably about 14 years ago I was a victim of a drive by shooting.

24 THE COURT: Okay. And did that happen here in Clark County?

25 PROSPECTIVE JUROR NO. 038: Yes.

1 THE COURT: Okay. Were you -- were you in a car or were you out on
2 the sidewalk or where were you?

3 PROSPECTIVE JUROR NO. 038: I was actually bringing my son -- I had
4 just gotten off a shift, picked up my son from child care, and we were headed
5 home.

6 THE COURT: Okay. And someone fired into your vehicle?

7 PROSPECTIVE JUROR NO. 038: No, we were walking. I had just
8 gotten --

9 THE COURT: Oh, I'm sorry.

10 PROSPECTIVE JUROR NO. 038: -- off the bus. Yeah.

11 THE COURT: Okay. And was that a gang related drive by shooting, do
12 you know?

13 PROSPECTIVE JUROR NO. 038: Yes, it was.

14 THE COURT: Okay. Do you feel or do you believe that you and your
15 son were being targeted, or was it more you were just kind of in the range of fire,
16 or was it just a random thing, if you know?

17 PROSPECTIVE JUROR NO. 038: It was definitely just a random thing,
18 stupid people doing stupid things.

19 THE COURT: Okay. Were either you or your son hit?

20 PROSPECTIVE JUROR NO. 038: No, we weren't.

21 THE COURT: Okay. And did you report that to law enforcement?

22 PROSPECTIVE JUROR NO. 038: No, I didn't.

23 THE COURT: And why not?

24 PROSPECTIVE JUROR NO. 038: Because there were other people
25 there and one of the people that were there was hit. My main priority was to get

1 my son home and make sure that he was fine, although he would've been
2 because I covered his body with mine. But once I got him home and made sure
3 that he was fine, then I wanted to make sure that I was fine.

4 And then when I went to the neighbor's house who did get shot, the
5 police officer asked me what was I doing with a child outside at this time of night
6 and that I needed to go back home, so I never made a statement.

7 THE COURT: Okay. And what agency was it? Was it like Henderson,
8 North Las Vegas, or Las Vegas?

9 PROSPECTIVE JUROR NO. 038: North Las Vegas.

10 THE COURT: North Las Vegas. Okay. And how do you feel about the
11 way that police officer interacted with you and treated you when you encountered
12 him at your neighbor's home?

13 PROSPECTIVE JUROR NO. 038: I think that he was a very ignorant
14 individual.

15 THE COURT: Okay. Because of the comment he made?

16 PROSPECTIVE JUROR NO. 038: Yes.

17 THE COURT: Okay. And so obviously you were never a witness in
18 court or anything like that on that case?

19 PROSPECTIVE JUROR NO. 038: No.

20 THE COURT: Any other situations where you or a family member has
21 been the victim of a serious crime?

22 PROSPECTIVE JUROR NO. 038: No.

23 THE COURT: What about the flip side of that? Have you or anyone
24 close to you been arrested or charged with a criminal offense?

25 PROSPECTIVE JUROR NO. 038: No.

1 THE COURT: Okay. Now, you've heard all of the questions these many
2 hours and the discussions. Any of those that you had a strong opinion about,
3 anything anyone's asked or any of the other jurors have said that you felt strongly
4 about, you wanted to raise your hand and say, yes, that pertains to me or that
5 pertains to a family member? Anything like that?

6 PROSPECTIVE JUROR NO. 038: No.

7 THE COURT: Okay. Anything you think we'd be interested in knowing
8 about you based on our discussions with all of the other jurors?

9 PROSPECTIVE JUROR NO. 038: No.

10 THE COURT: Any reason you can't be a completely fair and impartial
11 juror to both sides if you're selected to serve?

12 PROSPECTIVE JUROR NO. 038: No.

13 THE COURT: All right. Thank you, ma'am.

14 State, Mr. Pesci.

15 MR. PESCI: Thank you, Judge.

16 Ma'am, you indicated that you have, in fact, brought fares to the
17 Palomino Club?

18 PROSPECTIVE JUROR NO. 038: No.

19 MR. PESCI: You never? I thought -- I misunderstood that. I'm sorry.

20 PROSPECTIVE JUROR NO. 038: I've never been paid by the Palomino,
21 and that's the only reason that I know that I never dropped any passengers off
22 there.

23 MR. PESCI: Okay.

24 PROSPECTIVE JUROR NO. 038: I may have picked them up, but never
25 a drop off.

1 MR. PESCI: And in the process of picking up, did you ever interact with
2 any of the doormen or people up front?

3 PROSPECTIVE JUROR NO. 038: No.

4 MR. PESCI: The name Timothy Hadland ring any bells?

5 PROSPECTIVE JUROR NO. 038: No.

6 MR. PESCI: TJ?

7 PROSPECTIVE JUROR NO. 038: No.

8 MR. PESCI: Okay. The incident where you and your son were shot at,
9 do you know what happened as far as if there was a case that came from that?

10 PROSPECTIVE JUROR NO. 038: I don't believe that there was. I really
11 don't know, but I don't believe that there was a case because, of course, I wasn't
12 called as a witness.

13 MR. PESCI: And that officer that -- that made that comment, that
14 experience, would that affect the way you assess other police officers?

15 PROSPECTIVE JUROR NO. 038: No, not at all.

16 MR. PESCI: Would you -- would you hold what that officer did against
17 the officers that come and testify in this case?

18 PROSPECTIVE JUROR NO. 038: No, not at all.

19 MR. PESCI: Do you think you can be fair to both sides?

20 PROSPECTIVE JUROR NO. 038: Yes, I do.

21 MR. PESCI: I'll just ask you now about the strip clubs. Do you have any
22 problems with strip clubs?

23 PROSPECTIVE JUROR NO. 038: No problems with strip clubs.

24 MR. PESCI: Someone going and getting an attorney, any problems with
25 that?

1 PROSPECTIVE JUROR NO. 038: No problem with attorneys.
2 MR. PESCI: We pass for cause, Your Honor.
3 THE COURT: All right. Thank you, Mr. Pesci.
4 Who would like to go next? All right, Mr. Arrascada, I guess it -- or --
5 MR. ARRASCADA: Actually, I guess --
6 MR. GENTILE: No, no, go right ahead.
7 MR. ARRASCADA: It'll be Mr. Adams up.
8 THE COURT: All right, Mr. Adams.
9 MR. ARRASCADA: Yes.
10 MR. ADAMS: Hi, Ms. Wright.
11 PROSPECTIVE JUROR NO. 038: Hello.
12 And there's just one thing.
13 THE COURT: Yes?
14 PROSPECTIVE JUROR NO. 038: I'm Rotich. I've been Rotich for two
15 years. But every time you guys send a service, you send it under my maiden
16 name.
17 THE COURT: Oh, okay. So we have the wrong name for you.
18 PROSPECTIVE JUROR NO. 038: Yes.
19 THE COURT: All right. And can you just tell me your true name?
20 PROSPECTIVE JUROR NO. 038: Emertha Rotich.
21 THE COURT: Is that R-O-T-I-C-H?
22 PROSPECTIVE JUROR NO. 038: Yes.
23 THE COURT: All right. Thank you. Hopefully, if you're selected serve
24 you won't get a new summons in the name of Rotich because you should be
25 good for three years if you're selected.

1 MR. ADAMS: Hi, Ms. Rotich. How are you?

2 PROSPECTIVE JUROR NO. 038: I'm doing good.

3 MR. ADAMS: I wanted to follow up on a few questions related to this --
4 this terrible thing, the drive by shooting. Did you know whether the person who
5 was hit, what happened in court?

6 PROSPECTIVE JUROR NO. 038: I don't know whether or not it went to
7 court. I know he was hit in the foot and that's about all that I can really
8 remember.

9 MR. ADAMS: Did he -- did you talk to him later about it?

10 PROSPECTIVE JUROR NO. 038: That was -- as far as finding out if he
11 was okay and other than that, no.

12 MR. ADAMS: About his court experience beyond knowing that --

13 PROSPECTIVE JUROR NO. 038: Once again --

14 MR. ADAMS: -- he survived?

15 PROSPECTIVE JUROR NO. 038: -- I don't know whether or not he went
16 to court or not.

17 MR. ADAMS: You said that you went over to check on him and you had
18 this experience with the officer. And I'm going to talk to you a little more about
19 that in a minute. Was -- did -- did you have any feelings one way or the other
20 about whether you wanted to be a witness or didn't want to be a witness?

21 PROSPECTIVE JUROR NO. 038: Well, I didn't go to check on him that
22 night. I went to give my statement, but, yes, I was there and, yes, we were also a
23 victim. That's why I went over there.

24 MR. ADAMS: And that was your intention until you encountered or ran
25 into this one officer?

1 PROSPECTIVE JUROR NO. 038: Yes.

2 MR. ADAMS: Okay. Have you had other dealings with police officers?

3 And I don't mean like -- well, whatever that may be.

4 PROSPECTIVE JUROR NO. 038: Yes.

5 MR. ADAMS: Have you always been treated in that same way, or have
6 you gotten better treatment depending on the officer?

7 PROSPECTIVE JUROR NO. 038: Much better treatment from every
8 other officer.

9 MR. ADAMS: I guess I'll -- what do you think was going on with this
10 officer this night? You think he was just a rude guy?

11 PROSPECTIVE JUROR NO. 038: I think that he probably stereotyped
12 me as a young mother who didn't know what she was doing and in a bad
13 neighborhood and that I probably needed to mind my own business, although in
14 that case it was my business.

15 MR. ADAMS: There have been some questions as you've been sitting
16 here waiting about fear. I'm assuming you were afraid --

17 PROSPECTIVE JUROR NO. 038: Definitely.

18 MR. ADAMS: -- for yourself and for your child.

19 PROSPECTIVE JUROR NO. 038: More so for my child.

20 MR. ADAMS: Can you tell me whether things sped up for you or whether
21 they slowed down or how you reacted to that terribly stressful situation?

22 PROSPECTIVE JUROR NO. 038: They sped up. My first priority was to
23 make sure that my son was okay. And, I mean, I quickly checked him right there,
24 but I also quickly made it home and then took him out of the baby strap and
25 checked him once again to make sure that he was okay, and then my concern

1 was for myself.

2 MR. ADAMS: Do you have any idea the amount of time that passed
3 before things sort of calmed back down for you?

4 PROSPECTIVE JUROR NO. 038: Even up 'til the time when I went to
5 go and see the police officer, things were still going fast because it was make
6 sure we're okay, go do the report. I did everything that I thought I was supposed
7 to do.

8 MR. ADAMS: Have you had other times where you've experienced a
9 great stress, and I suspect maybe not as stressful as that situation, but where --
10 did you always react the same way to stress?

11 PROSPECTIVE JUROR NO. 038: Yes.

12 MR. ADAMS: Strip clubs. You've been outside a bunch of them in your
13 cab.

14 PROSPECTIVE JUROR NO. 038: Yes.

15 MR. ADAMS: Have you ever been in a strip club?

16 PROSPECTIVE JUROR NO. 038: Yes. They throw parties for the cab
17 drivers.

18 MR. ADAMS: Well, what are your opinions about strip clubs?

19 PROSPECTIVE JUROR NO. 038: I like the parties. Normally they give
20 out nice prizes.

21 MR. ADAMS: Okay. What sort of prizes?

22 PROSPECTIVE JUROR NO. 038: TVs, DVDs, laptop computers,
23 money.

24 THE COURT: Do they take crashers?

25 PROSPECTIVE JUROR NO. 038: As a cab driver, you can get anybody

1 that you want in free.

2 MR. ADAMS: Do you have an opinion -- there have been other people
3 with strong opinions about strip clubs, strip club owners, strip club employees.
4 What's your opinion about strip clubs and the people who work there and the
5 people who go there?

6 PROSPECTIVE JUROR NO. 038: I believe that it's a legal business,
7 and as long as it's legal, I really don't have a problem with it.

8 MR. ADAMS: You don't have a problem with it. Does that mean you
9 think it's a good thing or it's just not your -- not your thing?

10 PROSPECTIVE JUROR NO. 038: It's --

11 MR. ADAMS: To each their own?

12 PROSPECTIVE JUROR NO. 038: It's a good thing for the people who
13 like it. And for the people who don't like it, then they need to stay out.

14 MR. ADAMS: I'm going to let you talk a lot more about cabs with Mr.
15 Gentile.

16 THE COURT: All right. Thank you, Mr. Adams.

17 Mr. Gentile.

18 MR. GENTILE: I'm not going to talk to you about cabs.

19 PROSPECTIVE JUROR NO. 038: Okay.

20 MR. GENTILE: Okay? But I am going to talk to you about gangs. This
21 drive by, any reason for you to believe that it might've been a gang involved?

22 PROSPECTIVE JUROR NO. 038: Yes.

23 MR. GENTILE: Why do you think so?

24 PROSPECTIVE JUROR NO. 038: Because that's normally the activities
25 of gang members is they do drive by's.

1 MR. GENTILE: Okay. And you were living in North Las Vegas at the
2 time?

3 PROSPECTIVE JUROR NO. 038: Yes.

4 MR. GENTILE: When I say gang to you, in North Las Vegas at the
5 time --

6 PROSPECTIVE JUROR NO. 038: Uh-huh.

7 MR. GENTILE: -- what's coming to your mind?

8 PROSPECTIVE JUROR NO. 038: The Crips and the Bloods.

9 MR. GENTILE: And this shoot -- this drive by shooting, do you have any
10 reason to believe that the shooter, or shooters because you don't know how
11 many people were shooting at you, so when you're getting shot at you don't
12 know how many people are shooting. That's been my experience. In any case,
13 the -- do you have any reason to believe that whoever was shooting knew who
14 you were?

15 PROSPECTIVE JUROR NO. 038: No. Actually, before they started
16 shooting they screamed out the window, what set are you from? So that kind of
17 guaranteed that they were gang members.

18 MR. GENTILE: I tell you why I ask you that. You went back to be a
19 witness; am I right?

20 PROSPECTIVE JUROR NO. 038: I didn't go back. What happened is
21 that we were all -- we all lived in the same neighborhood. There was a Circle K
22 right there and that's where the bus drops you off at.

23 MR. GENTILE: Right. It's at Owens and Las Vegas Boulevard?

24 PROSPECTIVE JUROR NO. 038: Yeah. The guys were in the Circle K
25 that were walking with me. And when they saw me, they decided to walk along

1 with me and my child.

2 MR. GENTILE: So the -- the police remained with you, is that what
3 you're saying, or the shooters?

4 PROSPECTIVE JUROR NO. 038: No.

5 THE COURT: You mean --

6 PROSPECTIVE JUROR NO. 038: They guy who was shot.

7 THE COURT: -- the other people that were shot at.

8 MR. GENTILE: Oh, the other --

9 PROSPECTIVE JUROR NO. 038: There was other --

10 MR. GENTILE: -- guy that was shot.

11 PROSPECTIVE JUROR NO. 038: -- people there that was --

12 MR. GENTILE: Okay.

13 PROSPECTIVE JUROR NO. 038: -- walking with us.

14 MR. GENTILE: So you remained there with them and you never went
15 away?

16 PROSPECTIVE JUROR NO. 038: No, I went straight home. Like I said,
17 I went straight home, I checked on my child, I checked on myself, and then I went
18 to the guy's house who lived, he was my neighbor, so he lived a few doors down
19 so I could make the report.

20 MR. GENTILE: So you went to his house knowing that the police were
21 there?

22 PROSPECTIVE JUROR NO. 038: Yes.

23 MR. GENTILE: Okay. That's what I'm trying to get at. Thank you for
24 clearing that up.

25 PROSPECTIVE JUROR NO. 038: You're welcome.

1 MR. GENTILE: The point is that you didn't have to go back. Nobody
2 called you to go --

3 PROSPECTIVE JUROR NO. 038: No.

4 MR. GENTILE: -- to his house to make the report?

5 PROSPECTIVE JUROR NO. 038: No.

6 MR. GENTILE: Is that right?

7 PROSPECTIVE JUROR NO. 038: Yes.

8 MR. GENTILE: And you went back because you wanted to make the
9 report to let the police know that you were also a victim?

10 PROSPECTIVE JUROR NO. 038: Yes, and I thought it was the right
11 thing to do.

12 MR. GENTILE: Right. But when you went back you felt that whoever did
13 the shooting did not know you --

14 PROSPECTIVE JUROR NO. 038: Correct.

15 MR. GENTILE: -- and did not know where you lived.

16 PROSPECTIVE JUROR NO. 038: Correct.

17 MR. GENTILE: Okay. So if you went and made the report, you weren't
18 afraid at that point of retribution on the part of the shooter?

19 PROSPECTIVE JUROR NO. 038: No.

20 MR. GENTILE: Am I right?

21 PROSPECTIVE JUROR NO. 038: Correct.

22 MR. GENTILE: Because it didn't figure to be even possible.

23 PROSPECTIVE JUROR NO. 038: Right.

24 MR. GENTILE: Drugs. I'm going to ask you about drugs. When I say
25 the word drugs what comes to your mind?

1 PROSPECTIVE JUROR NO. 038: Marijuana, cocaine, meth.

2 MR. GENTILE: And have you in your lifetime known people who have
3 used drugs?

4 PROSPECTIVE JUROR NO. 038: Yes.

5 MR. GENTILE: And been under the influence of drugs --

6 PROSPECTIVE JUROR NO. 038: Yes.

7 MR. GENTILE: -- in your presence?

8 PROSPECTIVE JUROR NO. 038: Yes.

9 MR. GENTILE: What's your impression about the difference between
10 those -- did you know those people when they weren't under the influence of
11 drugs?

12 PROSPECTIVE JUROR NO. 038: Um --

13 MR. GENTILE: Or were they always under the influence? I mean, that's
14 not funny --

15 PROSPECTIVE JUROR NO. 038: They were pretty much --

16 MR. GENTILE: -- but I guess you --

17 PROSPECTIVE JUROR NO. 038: -- always under --

18 MR. GENTILE: -- got to ask that.

19 PROSPECTIVE JUROR NO. 038: -- the influence of drugs.

20 MR. GENTILE: I'm sorry?

21 PROSPECTIVE JUROR NO. 038: They were always under --

22 MR. GENTILE: Okay.

23 PROSPECTIVE JUROR NO. 038: -- the influence of drugs.

24 MR. GENTILE: I don't think I have any other questions. Thank you.

25 PROSPECTIVE JUROR NO. 038: You're welcome.

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

2 All right. At this time the juror in chair No. 7, Ms. Urbanick is
3 excused. Officer Wooten will direct you from the courtroom and give you further
4 instructions.

5 Ms. Husted, call up the next prospective juror.

6 THE CLERK: Badge 39, Michael Freeman.

7 THE COURT: All right. Mr. Freeman, if you'd have that empty chair
8 there in the jury box.

9 PROSPECTIVE JUROR NO. 039: Okay.

10 THE COURT: Good afternoon.

11 PROSPECTIVE JUROR NO. 039: Hello.

12 THE COURT: What do you do for a living, sir?

13 PROSPECTIVE JUROR NO. 039: I'm a high school teacher for the
14 Clark County School District.

15 THE COURT: All right. Do you teach a particular subject or subjects?

16 PROSPECTIVE JUROR NO. 039: Business.

17 THE COURT: Business. All right. And to all -- I guess now they have
18 four levels in the high schools -- all four grade levels or just one or what?

19 PROSPECTIVE JUROR NO. 039: Yeah. It's an elective, so --

20 THE COURT: Okay. And are you married, sir?

21 PROSPECTIVE JUROR NO. 039: I'm single.

22 THE COURT: All right. Do you have any children?

23 PROSPECTIVE JUROR NO. 039: No.

24 THE COURT: Have you ever been a juror before?

25 PROSPECTIVE JUROR NO. 039: Yes.

1 THE COURT: Okay. How many times?

2 PROSPECTIVE JUROR NO. 039: Once.

3 THE COURT: All right. How long ago was that?

4 PROSPECTIVE JUROR NO. 039: Once in '86 or '87.

5 THE COURT: All right. Was that here in Clark County?

6 PROSPECTIVE JUROR NO. 039: No.

7 THE COURT: Where was it?

8 PROSPECTIVE JUROR NO. 039: In Oregon.

9 THE COURT: Okay. And do you recall whether that was a civil case or
10 a criminal case?

11 PROSPECTIVE JUROR NO. 039: It was civil.

12 THE COURT: All right. Now, without telling us what the verdict was, did
13 the jury in that case reach a verdict?

14 PROSPECTIVE JUROR NO. 039: Yeah. I don't remember what it was,
15 actually.

16 THE COURT: Okay. And do you remember if you were the foreperson
17 of that jury?

18 PROSPECTIVE JUROR NO. 039: I wasn't.

19 THE COURT: You were not the foreperson. Okay. Have you or anyone
20 close to you ever been the victim of a serious crime?

21 PROSPECTIVE JUROR NO. 039: My home was burglarized.

22 THE COURT: And was that here in Clark County?

23 PROSPECTIVE JUROR NO. 039: Yes.

24 THE COURT: All right. Was anyone home at the time?

25 PROSPECTIVE JUROR NO. 039: No.

1 THE COURT: Okay. Did you report that to law enforcement?

2 PROSPECTIVE JUROR NO. 039: I did.

3 THE COURT: Okay. And what jurisdiction was it? Was it Las Vegas,
4 Henderson?

5 PROSPECTIVE JUROR NO. 039: Las Vegas.

6 THE COURT: Las Vegas. Okay. Did they ever catch anybody?

7 PROSPECTIVE JUROR NO. 039: No.

8 THE COURT: All right. Do you have an opinion about how the police
9 treated you, handled your case?

10 PROSPECTIVE JUROR NO. 039: Well, they were fine, but there's a lot
11 of burglaries.

12 THE COURT: Okay. I'm going to ask you the flip of that. Have you or
13 anyone close to you ever been arrested or charged with a crime?

14 PROSPECTIVE JUROR NO. 039: No.

15 THE COURT: Okay. You've heard, again, everything we've talked about
16 all of these hours. Anything based on the questions I've asked and the various
17 lawyers have asked that you would've had to answer in the affirmative, anything
18 that you feel strongly about?

19 PROSPECTIVE JUROR NO. 039: No.

20 THE COURT: Okay. Any strong feelings one way or the other about
21 strip clubs?

22 PROSPECTIVE JUROR NO. 039: They're okay. I mean, you know, it's
23 not where I spend my entertainment dollar, but --

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 039: -- they're legal, so --

1 THE COURT: But you respect other people's right to -- to do that?

2 PROSPECTIVE JUROR NO. 039: Yes.

3 THE COURT: Okay. Any reason at all, anything in your background or
4 your family background that would impact your ability to be completely fair and
5 impartial to both sides if you are selected to serve?

6 PROSPECTIVE JUROR NO. 039: No, I think I could be fair.

7 THE COURT: All right. Can you promise me you'll keep an open mind
8 and base your verdict solely upon the evidence that's presented during the trial?

9 PROSPECTIVE JUROR NO. 039: Yes.

10 THE COURT: All right. Thank you, sir, State.

11 MR. DIGIACOMO: I think I'm probably out of questions then, Judge. We
12 pass for cause.

13 THE COURT: All right. Thank you.

14 Who would like to go first for the defense? Mr. Arrascada?

15 MR. ARRASCADA: Yes, Your Honor.

16 THE COURT: All right. Thank you.

17 MR. ARRASCADA: Good afternoon, Mr. Freeman. How are you doing?

18 PROSPECTIVE JUROR NO. 039: I'm good.

19 MR. ARRASCADA: Good. You said you teach business in high school?

20 PROSPECTIVE JUROR NO. 039: Yes.

21 MR. ARRASCADA: Okay. And you're originally from Oregon?

22 PROSPECTIVE JUROR NO. 039: Yes.

23 MR. ARRASCADA: And what -- where did -- did you go to one of the
24 Oregon schools for college?

25 PROSPECTIVE JUROR NO. 039: University of Oregon.

1 MR. ARRASCADA: Okay. And what did you major in?

2 PROSPECTIVE JUROR NO. 039: Business.

3 MR. ARRASCADA: Would that be a lot like -- from a history/philosophy
4 major, would that have a lot of accounting and things of that nature?

5 PROSPECTIVE JUROR NO. 039: Well, I was a marketing major, so I
6 took the minimal amount of accounting.

7 MR. ARRASCADA: So the minimal amount of --

8 PROSPECTIVE JUROR NO. 039: I think it was three classes.

9 MR. ARRASCADA: Okay. Regarding the mathematics it was more
10 focusing on the marketing?

11 PROSPECTIVE JUROR NO. 039: Oh, yeah, we had to take math, well
12 like business calculus. But as far as accounting, I think just three.

13 MR. ARRASCADA: Just three? Okay. And what about from a math
14 standpoint?

15 PROSPECTIVE JUROR NO. 039: Well, I took the college calculus, the
16 business calculus.

17 MR. ARRASCADA: And when did you move here to Clark County?

18 PROSPECTIVE JUROR NO. 039: About eight years ago.

19 MR. ARRASCADA: And you've been teaching here ever since?

20 PROSPECTIVE JUROR NO. 039: Yes.

21 MR. ARRASCADA: And I'm going to ask you the -- I'm assuming -- I
22 know you've been listening to everybody.

23 PROSPECTIVE JUROR NO. 039: Right.

24 MR. ARRASCADA: You've heard this question asked about seven
25 different ways to Sunday, but I'm just going to ask it. Have you ever, when

1 you've been in your classes teaching or with family or friends, anyone you know,
2 have you ever heard someone suggest or suggest breaking the law when they
3 really didn't mean it?

4 PROSPECTIVE JUROR NO. 039: Yeah, I've heard that.

5 MR. ARRASCADA: Okay. And was it in the classroom setting or the
6 school setting?

7 PROSPECTIVE JUROR NO. 039: I'm pretty sure I've heard it in the
8 classroom and outside as well.

9 MR. ARRASCADA: And did you believe them?

10 PROSPECTIVE JUROR NO. 039: Well, maybe sometimes in the
11 classroom when you hear students talking about driving and you know they don't
12 have a driver's license, so, yes, I believe them.

13 MR. ARRASCADA: And what, if anything, do you do about it?

14 PROSPECTIVE JUROR NO. 039: Well, you say, hey, don't do that, do
15 your parents know. And some of them say my mom wants me to run for the
16 grocery store or something, you know.

17 MR. ARRASCADA: Outside of that driving context when you know
18 they're not old enough, have you ever heard anyone suggest or say that they're
19 going to break law and really -- and you don't believe they're serious?

20 PROSPECTIVE JUROR NO. 039: Well, probably, but not with students.
21 I mean, you hear people say things like, oh, you know, I could just kill him or
22 something. But if you know the person or you know their tone or you're watching
23 their body language, you know, then you know they're not really going to do it.
24 Because if everybody who said something like that did it, we'd be calling the
25 police all the time.

1 MR. ARRASCADA: What -- and I -- you said if you knew the person.
2 What if you don't know the person?

3 PROSPECTIVE JUROR NO. 039: If you don't know the person, I don't
4 know if I've ever heard anybody I didn't know it say it maybe except
5 overhearing -- well, no, I know my students too, so I don't know, you know. I
6 mean --

7 MR. ARRASCADA: Okay. Can -- can you --

8 PROSPECTIVE JUROR NO. 039: I can't recall an instance when there
9 wasn't anybody I didn't know or I overheard them say something like that.

10 MR. ARRASCADA: Apparently you've given this some thought.

11 PROSPECTIVE JUROR NO. 039: I've had a day and a half.

12 MR. ARRASCADA: A day and a half, so have we. And obviously you've
13 given it some thought. What -- what would you -- how would you give the -- do
14 the analysis if you didn't know the person?

15 PROSPECTIVE JUROR NO. 039: I guess I'd listen to their tone, if I
16 could see their face I'd look at their face and their body language. I'd see the
17 context of where they were saying it, where we were, if I overheard it. I don't
18 know, you know.

19 MR. ARRASCADA: Would the context of the --

20 PROSPECTIVE JUROR NO. 039: If they were angry, if they were joking
21 around.

22 MR. ARRASCADA: Would the context of the entire conversation have
23 an impact on you?

24 PROSPECTIVE JUROR NO. 039: It probably would, yes.

25 MR. ARRASCADA: It's amazing after a day and a half I still have to look

1 at my [inaudible]. Thank you for your time.

2 THE COURT: All right. Thank you, Mr. Arrascada.

3 Ms. Armeni, are you next?

4 MS. ARMENI: Yes, Your Honor.

5 Good afternoon, Mr. Freeman.

6 PROSPECTIVE JUROR NO. 039: Good afternoon.

7 MS. ARMENI: When you were in college did you ever work in a bar or a

8 restaurant?

9 PROSPECTIVE JUROR NO. 039: I did not.

10 MS. ARMENI: No? What did you do before you were teaching?

11 PROSPECTIVE JUROR NO. 039: I managed a KB Toy and Hobby, one

12 of those --

13 MS. ARMENI: Toy stores.

14 PROSPECTIVE JUROR NO. 039: -- toy stores.

15 MS. ARMENI: I'm very familiar with them now.

16 PROSPECTIVE JUROR NO. 039: Yes.

17 MS. ARMENI: Okay. And were you -- you said managed.

18 PROSPECTIVE JUROR NO. 039: Yes.

19 MS. ARMENI: How many employees did you manage?

20 PROSPECTIVE JUROR NO. 039: I think seven.

21 MS. ARMENI: Seven?

22 PROSPECTIVE JUROR NO. 039: That was a long time ago.

23 MS. ARMENI: Did you have many supervisors underneath you?

24 PROSPECTIVE JUROR NO. 039: No. It was like the manager and then

25 another full time employee and then part timers that came in and, you know. And

1 then I also worked as a janitor.

2 MS. ARMENI: Right after that? After KB or --

3 PROSPECTIVE JUROR NO. 039: Well, that was after that, yes,
4 because then I decided I wanted to become a teacher so I had to put myself
5 through.

6 MS. ARMENI: And you teach high school?

7 PROSPECTIVE JUROR NO. 039: Yes.

8 MS. ARMENI: And being a high school teacher, do you have experience
9 with drugs?

10 PROSPECTIVE JUROR NO. 039: I'm sure that some of the students do
11 them. I've -- I haven't seen them do them in class, but -- so I guess, no, but, you
12 know, we're supposed to be on the lookout for that, but I -- I haven't seen any in
13 my classes.

14 MS. ARMENI: And when you say you're supposed to be on the lookout,
15 have you received a certain kind of training regarding drugs?

16 PROSPECTIVE JUROR NO. 039: Well, Metro comes in once in awhile
17 and they do the drug thing combined with the gang unit, there's a gang unit guy
18 that comes around with the book, but we haven't had that for a few years.

19 MS. ARMENI: And what do they explain to you in this --

20 PROSPECTIVE JUROR NO. 039: You know, just to be looking for --

21 MS. ARMENI: -- mini class?

22 PROSPECTIVE JUROR NO. 039: -- for drawings on notebooks or
23 something or if your students write on the desk, look for certain symbols.

24 MS. ARMENI: And that's more gang related; right?

25 PROSPECTIVE JUROR NO. 039: Right. And not so much on the drugs.

1 I mean, you know, if we see a kid who is acting strangely, we usually just are
2 supposed to send them to the nurse, so --

3 MS. ARMENI: And while you mentioned this gang officer comes in and
4 speaks to you about gangs and to be on the lookout for them --

5 PROSPECTIVE JUROR NO. 039: Right.

6 MS. ARMENI: -- do you have experience being a teacher with gangs?

7 PROSPECTIVE JUROR NO. 039: I've never seen any of my students as
8 far as I know. You know, and then they say look for flashing or something, but I
9 don't get it. I don't -- I just don't know what it is. I mean, even when they tell us I
10 don't know, so -- and then if you say to the kids, you know, what gang are you in,
11 just joking, nobody's ever admitted to being in one. So I don't --

12 MS. ARMENI: No? So no personal. Do you have experience through
13 the media? Do you hear about gangs?

14 PROSPECTIVE JUROR NO. 039: Well --

15 MS. ARMENI: Have you heard about gangs, I guess I mean.

16 PROSPECTIVE JUROR NO. 039: Well, you know, just once in awhile
17 on the news or sometimes when I walk my dog my park might be tagged, you
18 know.

19 MS. ARMENI: And is there a gang that comes to mind if I -- if I just throw
20 out the word gang? Is there some kind of --

21 PROSPECTIVE JUROR NO. 039: Well, there's the Crips and Bloods like
22 everybody says.

23 MS. ARMENI: The popular ones.

24 PROSPECTIVE JUROR NO. 039: And then there's that one, 113 or 311,
25 I don't know, it's one of those numbers.

1 MS. ARMENI: Okay.

2 PROSPECTIVE JUROR NO. 039: I don't know.

3 MS. ARMENI: How about do you know any lawyers?

4 PROSPECTIVE JUROR NO. 039: Yes, I have a friend who is a lawyer.

5 MS. ARMENI: Okay. And if you were in a situation that you felt like you
6 needed help with, what would you do?

7 PROSPECTIVE JUROR NO. 039: I would call a lawyer.

8 MS. ARMENI: How about taxicabs?

9 PROSPECTIVE JUROR NO. 039: I've only ridden in them.

10 MS. ARMENI: You've only ridden in them?

11 PROSPECTIVE JUROR NO. 039: Yeah.

12 MS. ARMENI: That's been your only experience?

13 PROSPECTIVE JUROR NO. 039: Yes.

14 MS. ARMENI: All right. And -- and we asked the fear question. How --
15 when somebody is fearful or scared, how does that -- how does that affect them?

16 PROSPECTIVE JUROR NO. 039: I think some people might make poor
17 decisions, but I also think other people, they might just act on instinct very quickly
18 and they might make better decisions to get out of the situation.

19 MS. ARMENI: Last question, I promise. Judge Adair had asked if you
20 would be fair to both sides. What -- what does fair mean to you?

21 PROSPECTIVE JUROR NO. 039: I'm going to listen to all the evidence
22 and listen to the Judge's instructions and base my decision on that.

23 MS. ARMENI: Thank you, Mr. Freeman.

24 PROSPECTIVE JUROR NO. 039: You're welcome.

25 THE COURT: All right. Thank you.

1 At this time, the juror in chair No. 8, Ms. Meeker, is excused, and
2 Officer Wooten will direct you from the courtroom.

3 And, Ms. Husted, please call up the name of the next prospective
4 juror.

5 THE CLERK: Badge 41, Mark Rogol.

6 THE COURT: Mr. Rogol, am I saying that right?

7 PROSPECTIVE JUROR NO. 041: Correct.

8 THE COURT: Have the empty chair there in the back corner.

9 PROSPECTIVE JUROR NO. 041: All right.

10 THE COURT: Good afternoon.

11 PROSPECTIVE JUROR NO. 041: Good afternoon.

12 THE COURT: And I think I wrote down yesterday that you at some point
13 had contact or worked for Yellow Checker Star; is that right?

14 PROSPECTIVE JUROR NO. 041: About seven years ago for about
15 three months.

16 THE COURT: Okay. And you -- were you a cab driver?

17 PROSPECTIVE JUROR NO. 041: Yes.

18 THE COURT: All right. And other than the three months that you
19 worked there, have you worked as a cab driver any other time?

20 PROSPECTIVE JUROR NO. 041: No.

21 THE COURT: Okay. And why only three months?

22 PROSPECTIVE JUROR NO. 041: I started working for a casino as a
23 proposition player in a poker room and ended up being able to give up the cab
24 driving.

25 THE COURT: Okay. And what do you do now for a living?

1 PROSPECTIVE JUROR NO. 041: Poker dealer.

2 THE COURT: Okay. And how long have you lived here in Southern
3 Nevada?

4 PROSPECTIVE JUROR NO. 041: About 15 years.

5 THE COURT: All right. Where are you from originally?

6 PROSPECTIVE JUROR NO. 041: New York City.

7 THE COURT: I -- that's why I had to ask. We've got the three New
8 Yorkers there in the corner. Where in New York?

9 PROSPECTIVE JUROR NO. 041: Queens originally.

10 THE COURT: All right. And are you married, sir?

11 PROSPECTIVE JUROR NO. 041: Divorced.

12 THE COURT: Okay. Do you have any children?

13 PROSPECTIVE JUROR NO. 041: She's grown.

14 THE COURT: All right. And now during this three and a half month
15 period, did you work a particular shift or did you work all different shifts?

16 PROSPECTIVE JUROR NO. 041: I was on the day shift.

17 THE COURT: You were on the day shift. All right. Did you ever have
18 occasion, probably less occasion during the day than on a swing shift, but did
19 you ever have occasion to take fares to any kind of strip clubs?

20 PROSPECTIVE JUROR NO. 041: I did, yes.

21 THE COURT: All right. Now, you've heard talk with one of the other, a
22 couple, actually, of the other perspective jurors about this practice of tipping cab
23 drivers. Are you familiar with that practice?

24 PROSPECTIVE JUROR NO. 041: I'm familiar with it. At that time I
25 believe it was temporarily not legal to do so and I had gotten some

1 complimentary cards that got people in, but I never directly got tips from the
2 places.

3 THE COURT: Okay. So they -- in other words, during that period of time
4 they'd try to get business by giving out these complimentary cards.

5 PROSPECTIVE JUROR NO. 041: Right.

6 THE COURT: Now, do you know if you ever took any fares to the
7 Palomino Club or picked anybody up from the Palomino Club?

8 PROSPECTIVE JUROR NO. 041: I might have. I don't recall.

9 THE COURT: Okay. Do you have any recollection of knowing anybody
10 who has ever worked at the Palomino Club?

11 PROSPECTIVE JUROR NO. 041: No.

12 THE COURT: Okay. Have you ever been a juror before?

13 PROSPECTIVE JUROR NO. 041: No.

14 THE COURT: Okay. Have you or anyone close to you ever been the
15 victim of a serious crime?

16 PROSPECTIVE JUROR NO. 041: No.

17 THE COURT: What about the flip of that, arrested or charged with a
18 crime?

19 PROSPECTIVE JUROR NO. 041: I was charged with buying marijuana
20 from a police officer in Florida.

21 THE COURT: In Florida. Okay. How long ago was that?

22 PROSPECTIVE JUROR NO. 041: That was back around in the -- in the
23 '70s.

24 THE COURT: In the '70s. Okay. And were charges actually filed --

25 PROSPECTIVE JUROR NO. 041: In the '80s, rather.

1 THE COURT: In the '80s. Did you have you have to go to court on that
2 or what happened?

3 PROSPECTIVE JUROR NO. 041: Yeah, I did and charges were
4 dropped.

5 THE COURT: Okay. Now, did you hire a lawyer or --

6 PROSPECTIVE JUROR NO. 041: No.

7 THE COURT: Okay. Did you have a lawyer appointed for you?

8 PROSPECTIVE JUROR NO. 041: No.

9 THE COURT: And why -- why didn't you hire a lawyer or try to get a
10 lawyer?

11 PROSPECTIVE JUROR NO. 041: I didn't think it was that serious. At
12 one point they went for the evidence and when someone came back it was
13 dismissed. Apparently it went up in smoke or something.

14 THE COURT: All right. It's just that -- it must be that New York comedy
15 thing. All right. Now, was this kind of -- I'm assuming an undercover officer, it
16 was like a sting operation?

17 PROSPECTIVE JUROR NO. 041: Yes.

18 THE COURT: Now, were you targeted or how did you kind of come
19 into --

20 PROSPECTIVE JUROR NO. 041: I drove into an area and there --

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NO. 041: -- what looked like a type of area
23 what that was --

24 THE COURT: All right.

25 PROSPECTIVE JUROR NO. 041: -- going on.

1 THE COURT: Do you have any feelings about the police in -- either in
2 relation to the fact that they had this undercover operation going or how you were
3 treated once you were arrested, any feelings one way or the other?

4 PROSPECTIVE JUROR NO. 041: I basically have respect for the law.

5 THE COURT: Okay. Now, again, you've heard everything we've talked
6 about with all of the other prospective jurors. Anything based on my questions or
7 any of the lawyers' questions that you think we would need to know about you or
8 be interested in based on all of our other discussions?

9 PROSPECTIVE JUROR NO. 041: No.

10 THE COURT: Okay. How do you feel about strip clubs?

11 PROSPECTIVE JUROR NO. 041: They're fine. I've gone to them.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 041: I do it anymore, but I have in the past.

14 THE COURT: All right. Have you personally ever patronized the
15 Palomino Club?

16 PROSPECTIVE JUROR NO. 041: No, I don't believe so.

17 THE COURT: Okay. Any reason, anything in your background or your
18 family background that would impact your ability to be completely fair and
19 impartial to both sides?

20 PROSPECTIVE JUROR NO. 041: No.

21 THE COURT: If you're selected to serve, will you be able to keep an
22 open mind and base your verdict upon the evidence that's presented during this
23 trial?

24 PROSPECTIVE JUROR NO. 041: Yeah, I'd base it on the evidence. I'd
25 also consider the reason someone would be testifying.

1 THE COURT: Okay. So you'd consider their motivation and bias and
2 that sort of thing?

3 PROSPECTIVE JUROR NO. 041: Yes.

4 THE COURT: All right. Thank you, sir.

5 State.

6 MR. PESCI: Thank you, Judge. I'm just going to go to one because she
7 said almost everything. Did I understand correctly that you went to law school for
8 a year and a half?

9 PROSPECTIVE JUROR NO. 041: Correct.

10 MR. PESCI: Why did it take a year and a half to figure out this was not
11 the thing to do?

12 PROSPECTIVE JUROR NO. 041: I did a year at Brooklyn Law School, I
13 transferred to Vermont Law School, and I took a leave after -- after a year.

14 MR. PESCI: Did you ever want to go back? Is it something that you
15 wanted?

16 PROSPECTIVE JUROR NO. 041: I regret that I didn't finish it, yes.

17 MR. PESCI: Was there a particular area of the law that you wanted to
18 work within?

19 PROSPECTIVE JUROR NO. 041: I wanted [indecipherable].

20 MR. PESCI: Did you really? Have you ever done anything with that?
21 Have you ever done anything as far as like --

22 PROSPECTIVE JUROR NO. 041: I handled my own divorce.

23 MR. PESCI: Oh, did you?

24 PROSPECTIVE JUROR NO. 041: In town, yes.

25 MR. PESCI: Did you ever work at a law firm or anything like that?

1 PROSPECTIVE JUROR NO. 041: I did some law clerking in New York
2 also, basically postponing, saying that the attorney was busy with another matter,
3 reset the case, that was about it.

4 MR. PESCI: Ever do any legal research?

5 PROSPECTIVE JUROR NO. 041: No.

6 MR. PESCI: Outside of class, I guess I should say.

7 PROSPECTIVE JUROR NO. 041: Yeah, no, not outside of class, no.

8 MR. PESCI: You ever do any criminal law or work in criminal cases?

9 PROSPECTIVE JUROR NO. 041: No.

10 MR. PESCI: The Judge has talked to you about that incident with the
11 police. Any bad taste in your mouth about law enforcement?

12 PROSPECTIVE JUROR NO. 041: I -- I could be fair. And like I say, I
13 basically respect the people in law enforcement.

14 MR. PESCI: And the officers that we call won't have anything to do with
15 the incident back there?

16 PROSPECTIVE JUROR NO. 041: No.

17 MR. PESCI: All right. You can be fair to both sides?

18 PROSPECTIVE JUROR NO. 041: Yes.

19 MR. PESCI: We pass for cause, Judge.

20 THE COURT: All right. Thank you. Who would like to go first for the
21 defense? Mr. Adams? Oh, I'm sorry, Mr. Gentile.

22 MR. ARRASCADA: Mr. Gentile will.

23 MR. GENTILE: Mr. Rogol, you only worked as a cab driver for three
24 months?

25 PROSPECTIVE JUROR NO. 041: Yes.

1 MR. GENTILE: When was that?

2 PROSPECTIVE JUROR NO. 041: About seven years ago.

3 MR. GENTILE: Okay. 2002, around like -- yeah, 2002, 2003 roughly.

4 Now, they gave you passes?

5 PROSPECTIVE JUROR NO. 041: I believe I might have gotten them
6 from other cabbies or --

7 MR. GENTILE: Right. Okay. Now, you can tell me yes or no. You said
8 that you were never paid directly by the clubs.

9 PROSPECTIVE JUROR NO. 041: Correct.

10 MR. GENTILE: But you would tell a passenger, hey, I can get you in for
11 free?

12 PROSPECTIVE JUROR NO. 041: Right. Sometimes I --

13 MR. GENTILE: And they'd give you some money; right?

14 PROSPECTIVE JUROR NO. 041: Yes.

15 MR. GENTILE: So that's -- that was the gaff at that point in time when it
16 was illegal to pay directly to the cab driver.

17 PROSPECTIVE JUROR NO. 041: Correct.

18 MR. GENTILE: So the free passes were intended to get you some
19 money.

20 PROSPECTIVE JUROR NO. 041: Yes.

21 MR. GENTILE: Okay. Those free passes are still -- well, you wouldn't
22 know that. Okay. So in reality the method changed, but the system didn't.

23 PROSPECTIVE JUROR NO. 041: Correct.

24 MR. GENTILE: Okay. You ever been afraid?

25 PROSPECTIVE JUROR NO. 041: I used to work in the glass business,

1 and there are times I'd be holding onto a huge piece of glass and --

2 MR. GENTILE: A glass floor?

3 PROSPECTIVE JUROR NO. 041: Glass, window glass.

4 THE COURT: Like installation.

5 MR. GENTILE: Oh, glazing. Okay. Well, that was pretty much just a
6 survival problem.

7 PROSPECTIVE JUROR NO. 041: Yes.

8 MR. GENTILE: That kind of fear. Did you ever get hurt?

9 PROSPECTIVE JUROR NO. 041: I've had some cuts, yes. Nothing
10 very serious, no.

11 MR. GENTILE: Let's take it out of that context. Have you ever been
12 afraid in just your day to day life?

13 PROSPECTIVE JUROR NO. 041: I've been in neighborhoods in New
14 York that were scary, yes.

15 MR. GENTILE: And what was your instinct?

16 PROSPECTIVE JUROR NO. 041: Keep my wits about me, look around,
17 see who's around me.

18 MR. GENTILE: Get out as soon as you could?

19 PROSPECTIVE JUROR NO. 041: Yes.

20 MR. GENTILE: Okay. Gangs. Are you from New York City?

21 PROSPECTIVE JUROR NO. 041: Queens.

22 MR. GENTILE: Queens. When I say the work gang, today, now, here,
23 what comes to your mind?

24 PROSPECTIVE JUROR NO. 041: Hells Angel. I've never had direct
25 contact, but the media, the California gangs, that sort of thing.

1 MR. GENTILE: When you were driving a cab, did you ever -- in Las
2 Vegas, did you ever get into some neighborhoods that you thought were a little
3 dicey?

4 PROSPECTIVE JUROR NO. 041: There were some, but compared to
5 some of the bad ones in New York, nothing so scary.

6 MR. GENTILE: Do you get a warm comfortable, comfy feeling when you
7 hear the word gang?

8 PROSPECTIVE JUROR NO. 041: No, it's a bad connotation.

9 MR. GENTILE: Just the opposite then? But your knowledge of gangs
10 come from the media basically.

11 PROSPECTIVE JUROR NO. 041: Right.

12 MR. GENTILE: Not direct contact.

13 PROSPECTIVE JUROR NO. 041: Yes.

14 MR. GENTILE: Did you ever hire a lawyer?

15 PROSPECTIVE JUROR NO. 041: Once, yes. Aaron and Paternoster.

16 MR. GENTILE: A personal injury case?

17 PROSPECTIVE JUROR NO. 041: No, actually, I was considering
18 bankruptcy at the time. They told me an amount that it would cost me per month.
19 It turned out to be much higher than what I paid them, so it did me no good.

20 MR. GENTILE: Well, when you had a problem that you thought was life
21 affecting to you, you went and hired somebody that would give you a price.

22 PROSPECTIVE JUROR NO. 041: Yes.

23 MR. GENTILE: Did you ever have an ongoing -- well, I'll ask the
24 question a little bit differently. Have you ever had your own business?

25 PROSPECTIVE JUROR NO. 041: Yes.

1 MR. GENTILE: Did you have a business lawyer?

2 PROSPECTIVE JUROR NO. 041: No.

3 MR. GENTILE: Nobody to consult with?

4 PROSPECTIVE JUROR NO. 041: No.

5 MR. GENTILE: What was the nature of your business?

6 PROSPECTIVE JUROR NO. 041: It was a glass business. I had it with
7 a partner in New York. Glass storefronts and [inaudible].

8 MR. GENTILE: So you didn't even have a business lawyer of any kind?

9 PROSPECTIVE JUROR NO. 041: No.

10 MR. GENTILE: You had a CPA, an accountant of any kind?

11 PROSPECTIVE JUROR NO. 041: My partner's wife took care of the
12 books.

13 MR. GENTILE: Have you ever been in -- was it a cash business?

14 PROSPECTIVE JUROR NO. 041: Part of it was cash.

15 MR. GENTILE: Driving a taxi is a cash business too.

16 PROSPECTIVE JUROR NO. 041: Yes. Well, everything goes on the
17 meter, so, yeah, but it's physically cash.

18 MR. GENTILE: The controls are tight.

19 PROSPECTIVE JUROR NO. 041: Yes.

20 MR. GENTILE: The company can't steal from you?

21 PROSPECTIVE JUROR NO. 041: I don't know.

22 MR. GENTILE: When I use -- when I say the word drugs what comes to
23 mind?

24 PROSPECTIVE JUROR NO. 041: Marijuana and other -- cocaine, that
25 sort of thing.

1 MR. GENTILE: Now, you're -- you're dealing poker now?

2 PROSPECTIVE JUROR NO. 041: Yes.

3 MR. GENTILE: Where?

4 PROSPECTIVE JUROR NO. 041: Mandalay Bay.

5 MR. GENTILE: And how long have you been there?

6 PROSPECTIVE JUROR NO. 041: Mandalay, about two and a half
7 years.

8 MR. GENTILE: Where did you deal before that?

9 PROSPECTIVE JUROR NO. 041: Luxor for about four years.

10 MR. GENTILE: Now, the giveaway whiskey and wine and beer and --

11 PROSPECTIVE JUROR NO. 041: Right.

12 MR. GENTILE: -- all kinds of things that people are --

13 PROSPECTIVE JUROR NO. 041: Yes.

14 MR. GENTILE: -- that you deal cards to --

15 PROSPECTIVE JUROR NO. 041: Yes.

16 MR. GENTILE: -- right?

17 PROSPECTIVE JUROR NO. 041: Uh-huh.

18 MR. GENTILE: Sometimes they drink [inaudible].

19 PROSPECTIVE JUROR NO. 041: Yes.

20 MR. GENTILE: Sometimes that affects their luck, if there is such a thing.

21 PROSPECTIVE JUROR NO. 041: Yes. It certainly affects their
22 performance at the table, yes.

23 MR. GENTILE: You've seen people fold winning hands because they
24 have too much whiskey in them --

25 PROSPECTIVE JUROR NO. 041: Yes.

1 MR. GENTILE: -- haven't you?

2 PROSPECTIVE JUROR NO. 041: Yes.

3 MR. GENTILE: You've seen people bet totally losing hands that were --
4 they had nothing on the bar because they had too much whiskey in them?

5 PROSPECTIVE JUROR NO. 041: Yes.

6 MR. GENTILE: Now, unless things have changed a whole lot in the last
7 two days, usually you don't see people smoking at the table --

8 PROSPECTIVE JUROR NO. 041: Correct.

9 MR. GENTILE: -- while they're playing cards.

10 PROSPECTIVE JUROR NO. 041: Yes.

11 MR. GENTILE: Have you ever had the suspicion that perhaps somebody
12 that you've dealt cards to in the last five years was intoxicated on a non-liquid
13 chemical?

14 PROSPECTIVE JUROR NO. 041: Yes.

15 MR. GENTILE: And they don't perform any better than the drunks do
16 when it comes to folding winning hands and betting losing hands, do they?

17 PROSPECTIVE JUROR NO. 041: I don't know. I think that someone
18 that is drunk is more impaired than someone that has smoked marijuana unless
19 they've done it to very high excess.

20 MR. GENTILE: And, of course, you don't know that other than what
21 someone tells you.

22 PROSPECTIVE JUROR NO. 041: I -- I've smoked in the past and I've
23 played poker while in the past also. I haven't done -- I don't even drink or do any
24 drugs for many, many years now.

25 MR. GENTILE: Okay. Did smoking weed improve your performance at

1 the poker table?

2 PROSPECTIVE JUROR NO. 041: Probably not.

3 MR. GENTILE: It's fair to say? When you said you have gone to strip
4 clubs in the past, here in Las Vegas?

5 PROSPECTIVE JUROR NO. 041: Yes.

6 MR. GENTILE: When was the last time? Don't tell us where, just --

7 PROSPECTIVE JUROR NO. 041: Several years ago.

8 MR. GENTILE: Several years ago. To the best of your knowledge,
9 you've never been in the Palomino Club?

10 PROSPECTIVE JUROR NO. 041: I don't think so.

11 MR. GENTILE: Thank you.

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

13 Mr. Adams.

14 MR. ADAMS: Hello Mr. Rogol.

15 PROSPECTIVE JUROR NO. 041: Hello.

16 MR. ADAMS: Why are you not going to strip clubs anymore?

17 PROSPECTIVE JUROR NO. 041: I have a girlfriend and I have no
18 desire to go to strip clubs.

19 MR. ADAMS: I want to talk to you a little bit about the situation down in
20 Florida.

21 PROSPECTIVE JUROR NO. 041: Okay.

22 MR. ADAMS: I'm pretty confident the statute of limitation would've run by
23 now. Tell us about that a little bit more. It was some undercover operation?

24 PROSPECTIVE JUROR NO. 041: Yes.

25 MR. ADAMS: Were you buying pot from the guy?

1 PROSPECTIVE JUROR NO. 041: Yes.

2 MR. ADAMS: Was there a wire, a tape recording, video camera, what
3 sort of evidence did they claim they had?

4 PROSPECTIVE JUROR NO. 041: I don't believe there was any of that,
5 just his testimony.

6 MR. ADAMS: And how did the case get dropped? Do you know?

7 PROSPECTIVE JUROR NO. 041: When they went for the evidence,
8 someone came back and spoke to the judge and case dismissed.

9 MR. ADAMS: So you don't know what happened, whether they lost the
10 drugs or --

11 PROSPECTIVE JUROR NO. 041: I don't know.

12 MR. ADAMS: Okay. Did you feel like that was a fair -- that you were
13 treated fairly?

14 PROSPECTIVE JUROR NO. 041: I felt it was entrapment. I felt that the
15 officer asked me if I wanted something which I thought qualified as entrapment.

16 MR. ADAMS: All right. Were you planning on presenting an entrapment
17 defense?

18 PROSPECTIVE JUROR NO. 041: Yes.

19 MR. ADAMS: Did you make that known to the officer or to the court?

20 PROSPECTIVE JUROR NO. 041: I think I may -- no, I believe so, yes.

21 MR. ADAMS: And you felt it should be entrapment because they came
22 to you, you didn't --

23 PROSPECTIVE JUROR NO. 041: Right.

24 MR. ADAMS: -- go to them?

25 PROSPECTIVE JUROR NO. 041: I didn't ask them. They asked me.

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MR. ADAMS: Thank you.

PROSPECTIVE JUROR NO. 041: You're welcome.

THE COURT: All right. Thank you, Mr. Adams.

Both sides pass for cause?

MS. ARMENI: Yes, Your Honor.

MR. ARRASCADA: Yes, Your Honor.

MR. DIGIACOMO: Yes, Your Honor.

THE COURT: All right. State, make your challenge.

MR. DIGIACOMO: Thank you, Judge. The State would thank and
excuse, he's in seat No. 13, but he's juror No. 32, Mr. Cook.

THE COURT: Mr. Cook, you are excused.

PROSPECTIVE JUROR NO. 032: Thank you, Your Honor.

THE COURT: All right. Officer Wooten is going to direct you from the
courtroom.

And, Ms. Husted, please call up the name of the next prospective
juror.

THE CLERK: Yes, Your Honor. Badge 45, Juliето Vale.

MR. ADAMS: Judge, may we approach briefly?

THE COURT: You may.

MR. ADAMS: Thanks.

THE COURT: Mr. Vale, just have that empty seat there in the jury box.

(Conference at the bench)

THE COURT: All right. Let's see, is it Juliето?

PROSPECTIVE JUROR NO. 045: Yes, ma'am.

THE COURT: All right. Mr. Vale, what do you do for a living, sir?

1 PROSPECTIVE JUROR NO. 045: I'm a warehouse attendant.

2 THE COURT: Okay. And what kind of a business or company do you
3 work for?

4 PROSPECTIVE JUROR NO. 045: Steve Wynn's Encore and Wynn.

5 THE COURT: Okay. So you work for the Wynn and the Encore?

6 PROSPECTIVE JUROR NO. 045: Yes, ma'am.

7 THE COURT: All right. And how long have you been doing -- doing that
8 type of work, warehousing?

9 PROSPECTIVE JUROR NO. 045: I've been doing that since I've been
10 here in the US.

11 THE COURT: Okay. And how long have you been here in the United
12 States?

13 PROSPECTIVE JUROR NO. 045: Close to 24 years.

14 THE COURT: Okay. And have you lived here in southern Nevada the
15 whole time?

16 PROSPECTIVE JUROR NO. 045: Going on eight years.

17 THE COURT: Okay. Where did you -- where did you come to initially?

18 PROSPECTIVE JUROR NO. 045: California, San Francisco?

19 THE COURT: Okay. And where are you from?

20 PROSPECTIVE JUROR NO. 045: I'm from the Philippines.

21 THE COURT: From the Philippines. Okay. And what did you do when
22 you were living in San Francisco?

23 PROSPECTIVE JUROR NO. 045: The same thing, warehouse attendant
24 also.

25 THE COURT: Okay. And are you married, sir?

1 PROSPECTIVE JUROR NO. 045: Yes, ma'am.
2 THE COURT: What does your wife do?
3 PROSPECTIVE JUROR NO. 045: She's a nurse.
4 THE COURT: All right. And is she a registered nurse or --
5 PROSPECTIVE JUROR NO. 045: Registered.
6 THE COURT: A registered nurse. Is she from the Philippines as well?
7 PROSPECTIVE JUROR NO. 045: Yes.
8 THE COURT: Now, does your wife work for a hospital or for a
9 physician?
10 PROSPECTIVE JUROR NO. 045: A hospital.
11 THE COURT: What hospital does she work at?
12 PROSPECTIVE JUROR NO. 045: Valley.
13 THE COURT: Okay. And do you know what her assignment is in
14 Valley? Is she like ER or obstetrics or --
15 PROSPECTIVE JUROR NO. 045: MICU.
16 THE COURT: Oh, she's an ICU nurse.
17 PROSPECTIVE JUROR NO. 045: Yes, ma'am.
18 THE COURT: Oh, okay. That's pretty demanding. How long has she
19 been a nurse?
20 PROSPECTIVE JUROR NO. 045: I would say over ten years.
21 THE COURT: Okay. And do you have any children?
22 PROSPECTIVE JUROR NO. 045: Yes.
23 THE COURT: How many and the age range?
24 PROSPECTIVE JUROR NO. 045: I have two ten years old and one 14
25 months.

1 THE COURT: And the two that are ten, they're twins I'm assuming?
2 PROSPECTIVE JUROR NO. 045: No, it's from my previous marriage.
3 THE COURT: Okay. Have you ever served as a juror before?
4 PROSPECTIVE JUROR NO. 045: No.
5 THE COURT: Okay. Have you or anyone close to you ever been the
6 victim of a serious crime?
7 PROSPECTIVE JUROR NO. 045: No.
8 THE COURT: Okay. What about the flip side of that? Have you or
9 anyone close to you ever been arrested or charged with a crime?
10 PROSPECTIVE JUROR NO. 045: No.
11 THE COURT: Okay. You've heard everything that I've asked and the
12 lawyers have asked these two days. Anything based on that that you think we
13 would like to know about you or your family based on our questions and
14 discussions?
15 PROSPECTIVE JUROR NO. 045: No.
16 THE COURT: Okay. What are you feelings about strip clubs?
17 PROSPECTIVE JUROR NO. 045: I don't have a problem with them
18 really. It's just business, especially here in Las Vegas.
19 THE COURT: Okay.
20 PROSPECTIVE JUROR NO. 045: So I don't have any issue with it.
21 THE COURT: Okay.
22 PROSPECTIVE JUROR NO. 045: As long as they're permitted.
23 THE COURT: As long as they're what?
24 PROSPECTIVE JUROR NO. 045: As long as they're permitted.
25 THE COURT: Permitted. Okay. So you're fine with legal strip clubs?

1 PROSPECTIVE JUROR NO. 045: Yes, ma'am.

2 THE COURT: Okay. Do you have any personal experience going to
3 strip clubs?

4 PROSPECTIVE JUROR NO. 045: I've been there once.

5 THE COURT: Okay. Have you been to the Palomino Club?

6 PROSPECTIVE JUROR NO. 045: No, I've never heard of it.

7 THE COURT: Okay. Now, if you're selected as a juror, is there any
8 reason at all that you cannot be completely fair and impartial to both sides?

9 PROSPECTIVE JUROR NO. 045: No, I could be fair.

10 THE COURT: All right. Thank you, sir.

11 State.

12 MR. DIGIACOMO: Thank you, Judge.

13 Thank you, sir.

14 We pass for cause.

15 THE COURT: All right. Thank you.

16 Who would like to go first for the defense?

17 MS. ARMENI: Hi Mr. Vale.

18 PROSPECTIVE JUROR NO. 045: Hello.

19 MS. ARMENI: Mr. Vale, do you have any experience with lawyers?

20 PROSPECTIVE JUROR NO. 045: No.

21 MS. ARMENI: Do you know any lawyers?

22 PROSPECTIVE JUROR NO. 045: Yes, I do.

23 MS. ARMENI: You do? And if there was a time in your life that
24 something that was important to you came up, would you call that lawyer?

25 PROSPECTIVE JUROR NO. 045: Probably I would, but they're not here

1 in the US.

2 MS. ARMENI: Okay. Would you maybe call them to get a name? How
3 about any experience with taxicabs?

4 PROSPECTIVE JUROR NO. 045: No.

5 MS. ARMENI: Just riding in them?

6 PROSPECTIVE JUROR NO. 045: I've never been in a taxicab.

7 MS. ARMENI: Never?

8 PROSPECTIVE JUROR NO. 045: Never.

9 MS. ARMENI: Okay.

10 PROSPECTIVE JUROR NO. 045: I've been driving all my life.

11 MS. ARMENI: You've been driving all your life?

12 PROSPECTIVE JUROR NO. 045: Yes.

13 MS. ARMENI: Okay. What about drugs? Any -- what's your experience
14 with drugs?

15 PROSPECTIVE JUROR NO. 045: Friends, marijuana, heroin, cocaine.

16 MS. ARMENI: And -- and when these friends were on these types of
17 drugs, what -- how did it affect them?

18 PROSPECTIVE JUROR NO. 045: They were acting silly and being
19 goofy and really stupid. They were not themselves at all.

20 MS. ARMENI: Now, we -- we keep hearing this term fair, you know, a fair
21 juror. What would make you a fair juror?

22 PROSPECTIVE JUROR NO. 045: I would listen from both sides about
23 the evidence which is it's not -- which it's true or not from based on their story
24 and your story, so --

25 MS. ARMENI: Okay. And if you were in -- in the back after you -- you

1 were given the case to deliberate and your opinion was different than anybody
2 else's, would you have a problem telling everybody else what your opinion was?

3 PROSPECTIVE JUROR NO. 045: No, I wouldn't.

4 MS. ARMENI: You wouldn't be embarrassed?

5 PROSPECTIVE JUROR NO. 045: No.

6 MS. ARMENI: Okay. And what do you think makes you a good juror?

7 PROSPECTIVE JUROR NO. 045: I would listen to the evidence and all
8 the information that I could [inaudible].

9 MS. ARMENI: Okay. Let me flip that on you. This requires an honest
10 answer.

11 THE RECORDER: I'm sorry, Ms. Armeni, would you hand him the
12 microphone please.

13 MS. ARMENI: Mr. Vale the microphone?

14 THE RECORDER: Yes.

15 MS. ARMENI: Sure.

16 THE RECORDER: Thank you.

17 MS. ARMENI: Speak loudly so she can hear you.

18 PROSPECTIVE JUROR NO. 045: Okay.

19 MS. ARMENI: I'm going to switch the topic. We were talking -- let's talk
20 about fear. Can you remember a time in your life when you've been fearful?

21 PROSPECTIVE JUROR NO. 045: I've never been/

22 MS. ARMENI: You've never been scared?

23 PROSPECTIVE JUROR NO. 045: Scary movies.

24 MS. ARMENI: Scary movies?

25 PROSPECTIVE JUROR NO. 045: That's about it.

1 MS. ARMENI: That's the extent of being scared?

2 PROSPECTIVE JUROR NO. 045: Yeah.

3 MS. ARMENI: Okay. Do you think that when people are scared they
4 may react differently to things?

5 PROSPECTIVE JUROR NO. 045: I believe so.

6 MS. ARMENI: I think the flip question I was going to ask you is I've
7 asked if you would -- if you -- what makes you a good juror. What do you think
8 would make you a bad juror?

9 PROSPECTIVE JUROR NO. 045: You mean a bad juror or a good
10 juror?

11 MS. ARMENI: Why -- why wouldn't someone want you on their jury?

12 PROSPECTIVE JUROR NO. 045: It depends on the explanation from
13 both sides and on my behalf I would consider this a jury and it will be my first
14 time so it will be a good experience.

15 MS. ARMENI: Thank you, Mr. Vale.

16 PROSPECTIVE JUROR NO. 045: Uh-huh.

17 THE COURT: Thank you.

18 Mr. Arrascada.

19 MR. ARRASCADA: Yes, Your Honor.

20 Good afternoon, Mr. Vale.

21 PROSPECTIVE JUROR NO. 045: Good afternoon.

22 MR. ARRASCADA: I want to talk to you a little bit more about you said a
23 couple times that you'd need to hear from both sides in order to be able to be a
24 juror? Is that accurate?

25 PROSPECTIVE JUROR NO. 045: Yes, from --

1 MR. ARRASCADA: What do you mean by that?

2 PROSPECTIVE JUROR NO. 045: What I mean is from the evidence
3 from both sides. Any -- I don't know how to call this, but evidence like a video or
4 whoever is going to be called to the stand and listening to more detail from --
5 from both ends.

6 MR. ARRASCADA: What if all you hear is the prosecutors' side and it
7 just doesn't make sense to you. Are you still going to require to hear from us?

8 PROSPECTIVE JUROR NO. 045: Yes, I would -- I would so.

9 MR. ARRASCADA: Okay. And there's -- because you require to hear
10 from us, if we don't do anything or say anything, you would always decide for the
11 prosecutor; is that right?

12 PROSPECTIVE JUROR NO. 045: It -- it depends on the evidence that
13 they had also.

14 MR. ARRASCADA: But if you don't hear from us, and I don't want to put
15 words in your mouth so I want to make sure we're clear here, if we don't do
16 anything or say anything, you would not decide for us? Is that clear? Is that
17 right?

18 PROSPECTIVE JUROR NO. 045: I'm not really sure.

19 MR. ARRASCADA: Well, you've said that you'd have to hear both sides;
20 isn't that right?

21 PROSPECTIVE JUROR NO. 045: Yeah.

22 MR. ARRASCADA: Okay. If you only hear from them and it doesn't
23 meet the burdens that they need to meet --

24 PROSPECTIVE JUROR NO. 045: Uh-huh.

25 MR. ARRASCADA: -- would you still find only for them because we're

1 not going to say anything?

2 PROSPECTIVE JUROR NO. 045: I would consider hearing from in your
3 side.

4 MR. ARRASCADA: So you would require in order for you to participate
5 in this jury, you'd require both sides to give you evidence; is that right?

6 PROSPECTIVE JUROR NO. 045: Yes, that's right.

7 MR. ARRASCADA: And if our side does not give you evidence, every
8 time you're going to -- if we don't give you evidence, every time you'll decide for
9 the government; is that right?

10 PROSPECTIVE JUROR NO. 045: I don't have any answers for that
11 because, like I said, I need some more info to get my decision.

12 MR. ARRASCADA: Would you be prejudice against the other side, the
13 defense, if we don't give you any evidence?

14 PROSPECTIVE JUROR NO. 045: No.

15 MR. ARRASCADA: Would you hold it against us in this case if we don't
16 give you any evidence?

17 PROSPECTIVE JUROR NO. 045: No.

18 MR. ARRASCADA: You would not?

19 PROSPECTIVE JUROR NO. 045: I would not, but as a crime, what had
20 occurred and then --

21 MR. ARRASCADA: Pardon me?

22 PROSPECTIVE JUROR NO. 045: Whatever they had, case that they
23 had going on, it will be based upon my knowledge to hear from -- from your side.

24 MR. ARRASCADA: And would you also, when talking about our side,
25 would one of your requirements be that you need to hear from Louis Hidalgo III,

1 for him to tell you his story?

2 PROSPECTIVE JUROR NO. 045: Yes, I believe so.

3 MR. ARRASCADA: And if Louis Hidalgo III did not get on the witness
4 stand and testify, then you'd hold that against him because you require to hear
5 from him; right?

6 PROSPECTIVE JUROR NO. 045: It depends on the -- the Judge's
7 decision and -- and the rest -- the rest of us.

8 MR. ARRASCADA: The Judge doesn't have a decision in that, so
9 would you still -- would you hold it against Louis Hidalgo III if he did not testify?

10 PROSPECTIVE JUROR NO. 045: No.

11 MR. ARRASCADA: Okay. But you said you'd require to hear from him;
12 is that right?

13 PROSPECTIVE JUROR NO. 045: I thought you were representing him
14 as -- as an attorney.

15 MR. ARRASCADA: At least you're paying attention. The fellow before
16 you thought I was the prosecutor.

17 THE COURT: I think what Mr. --

18 MR. ARRASCADA: So we're doing better.

19 THE COURT: I'll see -- well, let me see counsel up here because I don't
20 want to put words in Mr. Arrascada's mouth.

21 (Conference at the bench)

22 THE COURT: All right. I'm -- hopefully I'm not stepping on Mr.
23 Arrascada's toes, but I think what we'd like to know --

24 MR. GENTILE: Please don't do that.

25 MR. ARRASCADA: Yeah, please don't, Your Honor.

1 THE COURT: All right, his toe.

2 Let me ask you this. You know, you said, well, you'd want to hear
3 both sides, but if you didn't hear both sides then maybe that would be -- I want
4 you to tell me in your own words what -- what you mean about this whole issue of
5 hearing both sides of the story.

6 PROSPECTIVE JUROR NO. 045: Depends on -- on the -- like I said it
7 depends on the evidence that they had.

8 THE COURT: Okay. Now, the evidence that who had?

9 PROSPECTIVE JUROR NO. 045: From both -- both parties.

10 THE COURT: Okay. So do you mean both parties meaning that table
11 and the gentlemen at these -- and lady -- at these two tables or do you mean the
12 two fellows sitting over there at that one table there?

13 PROSPECTIVE JUROR NO. 045: From -- from all of them.

14 THE COURT: So you'd want to hear evidence from all of them.

15 PROSPECTIVE JUROR NO. 045: Yes.

16 THE COURT: Do you expect to hear evidence from all of them?

17 PROSPECTIVE JUROR NO. 045: Like I said, I'm -- I'm not really sure
18 what they had -- they had in on the evidence that they have.

19 THE COURT: Okay. Well, what if Mr., you know, Gentile sits over there
20 filing his nails and Ms. Armeni is reading a magazine, and the two gentlemen,
21 they don't ask any questions or put on any witnesses and you hear the State's
22 case and it's like, you know what, this -- this just isn't making sense to me. What
23 then? What would you do in that situation? And I know it's hard because you
24 haven't heard the law and you don't know what the evidence is going to be.
25 What -- what are your feelings if something like that were to happen?

1 PROSPECTIVE JUROR NO. 045: You mean like --

2 THE COURT: Like they didn't put on any witnesses or call any witnesses
3 at all?

4 PROSPECTIVE JUROR NO. 045: Uh-huh.

5 THE COURT: And all you heard from was the witnesses that Mr.
6 DiGiacomo and Mr. Pesci called?

7 PROSPECTIVE JUROR NO. 045: I can only judge people by -- you're
8 not supposed to be judged without, like I said, being interrogated and being --
9 calling witnesses.

10 THE COURT: All right. Thank you.

11 Does anyone have any other questions for Mr. Vale?

12 MR. ARRASCADA: No, Your Honor.

13 MR. GENTILE: No, Your Honor.

14 THE COURT: All right.

15 All right. Thank you, Mr. Vale. I'm going to excuse you at this time.
16 Thank you for your participation.

17 And, Ms. Husted, I need you to call up the name of the next
18 prospective juror.

19 Mr. Vale, Officer Wooten is going to direct you from the courtroom.

20 And, Ms. Husted, who is up next?

21 THE CLERK: Badge 47, Michael Cannata.

22 THE COURT: All right. Good afternoon, Mr. Cannata.

23 PROSPECTIVE JUROR NO. 047: Good afternoon.

24 THE COURT: And you are a project manager and I can't read my writing
25 after that. Where do you work again?

1 PROSPECTIVE JUROR NO. 047: Cardinal Health.
2 THE COURT: I'm sorry?
3 PROSPECTIVE JUROR NO. 047: Cardinal Health.
4 THE COURT: All right. And are you married, sir? I may have asked you
5 that.
6 PROSPECTIVE JUROR NO. 047: Yes.
7 THE COURT: And what does your wife do?
8 PROSPECTIVE JUROR NO. 047: She's unemployed right now.
9 THE COURT: Okay. What did she do?
10 PROSPECTIVE JUROR NO. 047: She's an accountant.
11 THE COURT: Okay. A CPA or --
12 PROSPECTIVE JUROR NO. 047: No.
13 THE COURT: Okay. Is she currently looking for work?
14 PROSPECTIVE JUROR NO. 047: Absolutely.
15 THE COURT: Okay. Did she work for an accounting firm or some other
16 type of a business?
17 PROSPECTIVE JUROR NO. 047: She works for another business.
18 THE COURT: Okay.
19 PROSPECTIVE JUROR NO. 047: A corporate business.
20 THE COURT: A corporate business. All right. And do you have any
21 children?
22 PROSPECTIVE JUROR NO. 047: No.
23 THE COURT: Okay. Have you ever served as a juror before?
24 PROSPECTIVE JUROR NO. 047: No, ma'am.
25 THE COURT: All right. Have you or anyone close to you ever been the

1 victim of a serious crime?

2 PROSPECTIVE JUROR NO. 047: Yes.

3 THE COURT: Okay. Tell me about that.

4 PROSPECTIVE JUROR NO. 047: A home invasion in my house in '86.

5 THE COURT: Okay. Was that here in southern Nevada?

6 PROSPECTIVE JUROR NO. 047: No, California.

7 THE COURT: All right. And was anybody home at the time?

8 PROSPECTIVE JUROR NO. 047: Yes, my whole family.

9 THE COURT: Okay. Meaning you and your wife or --

10 PROSPECTIVE JUROR NO. 047: No, my father, my mother, and my

11 brother.

12 THE COURT: Okay. And how many people broke into the house if you

13 know?

14 PROSPECTIVE JUROR NO. 047: Just one.

15 THE COURT: Okay. And did that person confront you or other family

16 members?

17 PROSPECTIVE JUROR NO. 047: Absolutely. We -- we confronted him

18 actually and got him and waited for the cops to come.

19 THE COURT: Okay. So you were able to restrain the person?

20 PROSPECTIVE JUROR NO. 047: Uh-huh.

21 THE COURT: Is that yes?

22 PROSPECTIVE JUROR NO. 047: Yes.

23 THE COURT: For the recording.

24 PROSPECTIVE JUROR NO. 047: Yes, sorry.

25 THE COURT: All right. Did the person have a weapon?

1 PROSPECTIVE JUROR NO. 047: A screwdriver to get in the door.

2 THE COURT: Okay. And how is it that you were able to sort of
3 apprehend and restrain this person?

4 PROSPECTIVE JUROR NO. 047: My father was wrestling with him in
5 the living room and yelling for me. So when I came down we both jumped on top
6 of him and my brother called the police and they were -- they were close because
7 it was -- robberies were going on through the whole neighborhood.

8 THE COURT: Okay. Now, obviously they had a suspect. Were charges
9 ever filed?

10 PROSPECTIVE JUROR NO. 047: I don't know.

11 THE COURT: Okay. So you never had to go to court or anything like
12 that?

13 PROSPECTIVE JUROR NO. 047: No, ma'am.

14 THE COURT: Okay. Do you have any opinion as to how the police
15 handled the situation once they responded?

16 PROSPECTIVE JUROR NO. 047: It was very quick. They just came in,
17 grabbed him, and took off.

18 THE COURT: Okay. So no complaints?

19 PROSPECTIVE JUROR NO. 047: No.

20 THE COURT: All right. I'm going to ask you the flip side of that. Have
21 you or anyone close to you ever been arrested or charged with a crime?

22 PROSPECTIVE JUROR NO. 047: I was arrested for failure to appear on
23 not turning in a traffic court certificate.

24 THE COURT: All right. Was that here?

25 PROSPECTIVE JUROR NO. 047: No, in California.

1 THE COURT: All right. So it was kind of like a bench warrant situation?

2 PROSPECTIVE JUROR NO. 047: Yes, ma'am.

3 THE COURT: Okay. Any feelings about that, whether it was fair or
4 unfair?

5 PROSPECTIVE JUROR NO. 047: It was a misunderstanding on my
6 part. You know, one county didn't require it, another did, and I was -- I went to
7 traffic school in one county and I didn't have to go in, so I didn't think I had to do
8 it here, so I just let it go. I thought it was all done through the courts, but it
9 wasn't. I had to present my certificate at the courthouse, so --

10 THE COURT: So kind of a misunderstanding.

11 PROSPECTIVE JUROR NO. 047: Yeah, on my part.

12 THE COURT: All right. Anything else in your background your family
13 background involving arrests or contacts with law enforcement?

14 PROSPECTIVE JUROR NO. 047: No.

15 THE COURT: Okay. Again, you've heard all of the discussion these
16 couple days. Anything in your background or your family background that you
17 think we would be interested in knowing about you based on our discussions with
18 all of the other prospective jurors?

19 PROSPECTIVE JUROR NO. 047: No.

20 THE COURT: Okay. Do you have any strong feelings about strip clubs?

21 PROSPECTIVE JUROR NO. 047: No, not any strong feelings about
22 strip clubs. No.

23 THE COURT: Okay. Are you familiar with the Palomino Club?

24 PROSPECTIVE JUROR NO. 047: I'm familiar with it, just not as a
25 customer --

1 THE COURT: Not as a customer.

2 PROSPECTIVE JUROR NO. 047: -- but I'm familiar with the Palomino
3 name.

4 THE COURT: Okay. Do you have -- what are -- let me just ask you this.
5 You said you don't have any strong feelings about strip clubs, but what are your
6 feelings sort of generally about strip clubs?

7 PROSPECTIVE JUROR NO. 047: My feelings are, you know, it's a
8 business and the women are there to make their money and the business
9 owners are there to provide the business, and if that's their choice and what they
10 want to make their money at, I'd rather have them doing that than being out on
11 welfare or unemployed.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 047: So if it's their choice, they can do
14 what they want.

15 THE COURT: Now, if you're selected to serve as a juror, can you be fair
16 and impartial to the State, those two gentlemen sitting over there?

17 PROSPECTIVE JUROR NO. 047: To be honest with you, I -- I'm not
18 sure.

19 THE COURT: And why is that?

20 PROSPECTIVE JUROR NO. 047: Well, I lived in California and I grew
21 up with friends that are in gangs or have been in gangs, and they still are and I
22 know them, and so just that right there and the way the system works, I -- I don't
23 think I'd be a good juror for this one. I'd love to serve on a jury, but I just don't
24 think this would be a good case for me.

25 THE COURT: Okay. A couple of things. Now, I asked you about the

IN THE SUPREME COURT OF THE STATE OF NEVADA

LUIS A, HIDALGO, JR.

Appellant,

vs.

THE STATE OF NEVADA

Respondent.

CASE NO.: 54209
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On Appeal from a Final Judgment of
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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.

⁴ Id.

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Transcript (Grand Jury)	02/12/08	4	00578-00723
Transcript (Jury Trial Day 1: Jury Voir Dire)	01/27/09	6	01015-01172
Transcript (Jury Trial Day 2)	01/28/09	7-8	01173-01440
Transcript (Jury Trial Day 3)	01/29/09	9	01495-01738
Transcript (Jury Trial Day 4)	01/30/09	10-11	01739-02078
Transcript (Jury Trial Day 5)	02/02/09	12	02079-02304
Transcript (Jury Trial Day 6)	02/03/09	13	02305-02489
Transcript (Jury Trial Day 7)	02/04/09	14-15	02490-02748
Transcript (Jury Trial Day 8)	02/05/09	15	02752-02911
Transcript (Jury Trial Day 9)	02/06/09	16	02969-03153
Transcript (Jury Trial Day 10)	02/09/09	17-18	03154-03494
Transcript (Jury Trial Day 11)	02/10/09	19-20	03495-03811
Transcript (Jury Trial Day 12)	02/11/09	21-22	03812-04141
Transcript (Jury Trial Day 13)	02/12/09	23	04143-04385
Transcript (Jury Trial Day 13 (Excerpt))	02/12/09	23	04386-04388
Transcript (Jury Trial Day 14: Verdict)	02/17/09	24	04437-04444
Trial Memorandum (Hidalgo Jr.)	01/29/09	8	01441-01494
Verdict (Hidalgo Jr.)	02/17/09	24	04500-04501
Writ of Mandamus (Hidalgo III)	06/03/08	5	00841-00843

1 TRAN

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DISTRICT COURT
CLARK COUNTY, NEVADA

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 LUIS ALONSO HIDALGO III and LUIS

10 HIDALGO, JR.,

11 Defendants.

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.

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 --

1 THE COURT: All right.

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

3 THE COURT: Thank you.

4 I'll see counsel up here.

5 (Conference at the bench)

6 MR. DIGIACOMO: May I, Judge?

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

8 MR. DIGIACOMO: Is it Golmassian?

9 PROSPECTIVE JUROR NO. 006: Uh-huh.

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

12 PROSPECTIVE JUROR NO. 006: Okay.

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

14 PROSPECTIVE JUROR NO. 006: Sure.

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

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

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

19 PROSPECTIVE JUROR NO. 006: Yes.

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

21 PROSPECTIVE JUROR NO. 006: Yes.

22 MR. DIGIACOMO: Okay. And I guess I don't want you to ever disclose
23 what you talked to -- to your fellow religious people about. You know, it's like
24 priest penitent you don't want to -- but ultimately you've come to a conclusion
25 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 of 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