

1 potential jurors if they were victims of crime or accused of crime or had family
2 members that had been on either side of that. Any of those that you would've
3 had to answer in the affirmative?

4 PROSPECTIVE JUROR NO. 058: Victim of a crime, not really, but I was
5 actually arrested in 2001 --

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NO. 058: -- for a DUI.

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

9 PROSPECTIVE JUROR NO. 058: Yes, it was.

10 THE COURT: What agency was it? Was it Highway Patrol or Metro or --

11 PROSPECTIVE JUROR NO. 058: Highway Patrol arrested me --

12 THE COURT: Uh-huh.

13 PROSPECTIVE JUROR NO. 058: -- and then I had gone down on
14 Stewart and Las Vegas Boulevard or whatever that place is over there.

15 THE COURT: Okay. It's to the jail on Stewart?

16 PROSPECTIVE JUROR NO. 058: Yeah.

17 THE COURT: Okay. And was it a misdemeanor arrest?

18 PROSPECTIVE JUROR NO. 058: Uh-huh. Yes, it was.

19 THE COURT: Did you hire a lawyer?

20 PROSPECTIVE JUROR NO. 058: Yes, I did.

21 THE COURT: And did you go to trial on the case or was it negotiated or
22 what happened?

23 PROSPECTIVE JUROR NO. 058: Well, I went to court, and I don't even
24 know what happened. I went in and the judge said I don't want to see you again.
25 I said okay and left.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NO. 058: So that was basically it.

3 THE COURT: Okay. And was your lawyer with you at the time?

4 PROSPECTIVE JUROR NO. 058: Yes.

5 THE COURT: Okay. So I guess you feel like your lawyer did a pretty
6 good job.

7 PROSPECTIVE JUROR NO. 058: Yeah, he did.

8 THE COURT: All right. Based on what you've heard us discuss in the
9 past two days, is there anything in your background or your family background
10 based on our questions and discussions that you think we would be interested in
11 knowing about you?

12 PROSPECTIVE JUROR NO. 058: The only thing I could think of is my
13 dad was a Chicago cop back in the '70s.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 058: But that's been so long ago.

16 THE COURT: Okay. Did you grow up back in Chicago?

17 PROSPECTIVE JUROR NO. 058: I left there when I was eight and
18 came out here.

19 THE COURT: Okay. And were you parents divorced, or did your father
20 move out here too?

21 PROSPECTIVE JUROR NO. 058: They were divorced at the time, and
22 then they got back together once we moved to -- me and my mother moved out
23 here.

24 THE COURT: Okay. And then did your father, as a Chicago cop, was
25 he ever a detective or was he more a uniform?

1 PROSPECTIVE JUROR NO. 058: Uniform.

2 THE COURT: Uniform cop?

3 PROSPECTIVE JUROR NO. 058: Uh-huh.

4 THE COURT: Okay. But that was back when you were a child?

5 PROSPECTIVE JUROR NO. 058: Yes.

6 THE COURT: Okay. Any reason that you can't -- that you can think of
7 that would -- let me ask it this way. Anything in your background or your family
8 background that would impact your ability to be completely fair and impartial to
9 both sides in this case?

10 PROSPECTIVE JUROR NO. 058: No, not at all.

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

12 PROSPECTIVE JUROR NO. 058: I actually don't mind them at all.

13 THE COURT: Okay. Have you ever been to one?

14 PROSPECTIVE JUROR NO. 058: Yes, I have.

15 THE COURT: Okay. And what clubs here in town, if any, have you been
16 to?

17 PROSPECTIVE JUROR NO. 058: Do you want me to name them?

18 THE COURT: Yeah.

19 PROSPECTIVE JUROR NO. 058: I've been to Olympic Gardens,
20 Spearmint Rhino, and don't laugh, but Larry's Villa.

21 THE COURT: I'm sorry. You said not to laugh and I did.

22 PROSPECTIVE JUROR NO. 058: They had the beer specials at the
23 time.

24 THE COURT: There was what?

25 PROSPECTIVE JUROR NO. 058: The beer specials at the time.

1 THE COURT: So you were there more for the -- the cheap beer.

2 PROSPECTIVE JUROR NO. 058: Yeah, we'd -- we'd take a bunch of
3 our friends and go down there and just hang out.

4 THE COURT: Okay would this be a group of gals and guys or --

5 PROSPECTIVE JUROR NO. 058: Yeah, both.

6 THE COURT: Okay. All right. So you don't have any negative
7 feelings --

8 PROSPECTIVE JUROR NO. 058: No.

9 THE COURT: -- particularly about strip clubs?

10 PROSPECTIVE JUROR NO. 058: No.

11 THE COURT: All right. Have you ever been to the Palomino Club?

12 PROSPECTIVE JUROR NO. 058: No, I have not.

13 THE COURT: Are you familiar -- I mean have you heard of it?

14 PROSPECTIVE JUROR NO. 058: I've heard of it. I have no clue even
15 where it is

16 THE COURT: Okay. All right. Thank you.

17 State, you may question --

18 Am I say this right? Ms. Ryeczyk?

19 PROSPECTIVE JUROR NO. 058: Exactly.

20 THE COURT: All right.

21 MR. DIGIACOMO: Ms. Ryeczyk, I guess the only thing the Judge didn't
22 ask about was gangs. You have any interaction ever in your life with gang
23 members?

24 PROSPECTIVE JUROR NO. 058: Back when I was in high school.

25 MR. DIGIACOMO: And was it negative contact? Was every gangbanger

1 a bad guy?

2 PROSPECTIVE JUROR NO. 058: No.

3 MR. DIGIACOMO: Okay.

4 PROSPECTIVE JUROR NO. 058: No.

5 MR. DIGIACOMO: So depending on the situation?

6 PROSPECTIVE JUROR NO. 058: Yeah, I mean, I know they do stupid
7 stuff and, you know, things. But the guys I knew, they were -- you know, of
8 course they had their problems, but they were always nice to me.

9 MR. DIGIACOMO: Right. So merely because he was a gang member
10 didn't necessarily mean anything.

11 PROSPECTIVE JUROR NO. 058: No.

12 MR. DIGIACOMO: I guess we've talked about strip clubs. Maybe I'll ask
13 this question. We've talked a little bit about that a former defendant in this case
14 will be testifying. Now, obviously there's laws -- laws and the Court will give you
15 what the law is on it. But ultimately, at the end of the day, do you think that you
16 can assess a person's credibility and judge her actions for -- for why maybe she
17 committed the acts she committed?

18 PROSPECTIVE JUROR NO. 058: I would want to hear what she says. I
19 think we're talking about the co-defendant?

20 MR. DIGIACOMO: Correct.

21 PROSPECTIVE JUROR NO. 058: Yes. Well, I'd want to hear what she
22 says. I mean, just because she's getting off on a different sentence doesn't
23 mean anything to me, you know.

24 MR. DIGIACOMO: Right.

25 PROSPECTIVE JUROR NO. 058: She's going to say what she says,

1 and, you know, I think it's up to me to decide whether it's, you know, legit or not.

2 MR. DIGIACOMO: Sure. Merely because she was a former co-
3 defendant doesn't necessarily mean that she's lying is --

4 PROSPECTIVE JUROR NO. 058: No.

5 MR. DIGIACOMO: -- a fact that you'd consider?

6 PROSPECTIVE JUROR NO. 058: Yes, definitely.

7 MR. DIGIACOMO: I guess I probably don't have any other questions.

8 Anything that jogs your mind the last three days you think either Mr. Pesci or I --

9 PROSPECTIVE JUROR NO. 058: No, I've --

10 MR. DIGIACOMO: -- I should ask?

11 PROSPECTIVE JUROR NO. 058: Huh-uh. I've been trying to think
12 about this. I don't remember anything about the story or anything.

13 MR. DIGIACOMO: Great.

14 PROSPECTIVE JUROR NO. 058: I try not to watch the news too much.

15 MR. DIGIACOMO: Thank you very much.

16 PROSPECTIVE JUROR NO. 058: You're welcome.

17 THE COURT: All right. Thank you. Who would like to go next? Ms.
18 Armeni?

19 MS. ARMENI: Can you tell me how you went about hiring a lawyer for
20 your case?

21 PROSPECTIVE JUROR NO. 058: My friend at the time, I guess her
22 family was basically a Station Casino -- you know, owned Station Casinos and
23 they had a friend that they went to high school with, and so she says, well, why
24 don't you call him, you know, he knows -- you know, so basically word of mouth.

25 MS. ARMENI: Okay. Can I ask why you hired an attorney?

1 PROSPECTIVE JUROR NO. 058: For my DUI case.

2 MS. ARMENI: I'm sorry. I knew that. I was listening. I was listening.

3 Now, why -- why did you make a decision -- I mean, at what point did you call the
4 attorney, let me ask you that.

5 PROSPECTIVE JUROR NO. 058: Right when I had -- right after the day
6 after I got out of jail, a couple hours afterwards. But, yeah, I just knew right away
7 that it was something I would want to do. Any kind of case I would want to, you
8 know, get some kind of legal counsel from.

9 MS. ARMENI: What high school -- you're from here?

10 PROSPECTIVE JUROR NO. 058: Uh-huh.

11 MS. ARMENI: Grew up since eight?

12 PROSPECTIVE JUROR NO. 058: Yes.

13 MS. ARMENI: What high school did you go to?

14 PROSPECTIVE JUROR NO. 058: Bonanza.

15 MS. ARMENI: And at Bonanza or wherever growing up, did you have
16 experience with drugs?

17 PROSPECTIVE JUROR NO. 058: Yes.

18 MS. ARMENI: And what -- tell me what was your experience?

19 PROSPECTIVE JUROR NO. 058: In high school the normal, weed, acid,
20 I don't think they had ecstasy back then, but coke, you know. Not that I've done
21 any, but, you know, my friends have.

22 MS. ARMENI: Okay.

23 PROSPECTIVE JUROR NO. 058: And then older -- when I was older
24 crystal meth, the stuff that you shoot, I don't know what it's called, but stuff like
25 that. My across the street neighbor, actually, they were arrested for a meth lab.

1 MS. ARMENI: Okay. And what -- seeing those people on those drugs,
2 what was your impression of them?

3 PROSPECTIVE JUROR NO. 058: Well, they were a little silly. They
4 were different. Especially when they were on the -- the meth, it was just -- they
5 were just out of it, just completely out of it, you know. But it was fun messing with
6 them.

7 MS. ARMENI: And when you graduated Bonanza, did you go to college?

8 PROSPECTIVE JUROR NO. 058: No.

9 MS. ARMENI: No?

10 PROSPECTIVE JUROR NO. 058: No.

11 MS. ARMENI: Where did you go directly after that?

12 PROSPECTIVE JUROR NO. 058: I was just working since I was 16. I
13 worked at Macy's and probably when I was early 20s is when I got into banking
14 and I've been in banking since.

15 MS. ARMENI: Any experience with taxicabs?

16 PROSPECTIVE JUROR NO. 058: Just riding in them. They're too
17 expensive.

18 MS. ARMENI: And then you heard us talk about fear.

19 PROSPECTIVE JUROR NO. 058: Uh-huh.

20 MS. ARMENI: Can you recall a time in your life where you've been
21 fearful or scared?

22 PROSPECTIVE JUROR NO. 058: I really can't off the top of my head. I
23 mean, I work in a position where I could get robbed at any time, and that kind of
24 scares me and throws me for a loop. Not really scares me, it's just I don't know
25 what I would do in that situation. I think I would probably stay calm towards and

1 just, you know, go okay, whatever, here, you know. Because I look at -- I always
2 try to look at the bright side of things, especially when I'm going through things.
3 So I don't -- I don't think I would have any problem with, you know, anything that
4 would happen to me.

5 MS. ARMENI: Well, you bring up a good -- a good situation. I mean,
6 there's several tellers that are in there. Do you think every teller at the bank
7 when faced with a gun would react the same way?

8 PROSPECTIVE JUROR NO. 058: We're trained to. I -- I would like to
9 say yes. I know we got robbed a few months ago and everybody was calm and
10 collective during that.

11 MS. ARMENI: You've had training you said?

12 PROSPECTIVE JUROR NO. 058: Yeah.

13 MS. ARMENI: What kind of training do you get?

14 PROSPECTIVE JUROR NO. 058: Well, every -- every year or every so
15 often we get training, Metro, FBI comes out and, you know, goes through the
16 motions, goes through the motions, through, you know, what to do, just things
17 like that.

18 MS. ARMENI: Do you think because of that training you would hopefully
19 react calm like you said?

20 PROSPECTIVE JUROR NO. 058: Yes, definitely.

21 MS. ARMENI: If you didn't have that training, do you think -- would it be
22 different?

23 PROSPECTIVE JUROR NO. 058: If I was younger, maybe. But now
24 that I've been around it and been in it for so long, I -- it wouldn't phase me.

25 MS. ARMENI: Thank you.

1 PROSPECTIVE JUROR NO. 058: Thank you.

2 THE COURT: All right. Mr. -- oh, I think --

3 MS. ARMENI: I'm being called back.

4 THE COURT: -- she may --

5 MS. ARMENI: I apologize.

6 THE COURT: -- have another question.

7 MS. ARMENI: I may have another question.

8 I do have another question.

9 PROSPECTIVE JUROR NO. 058: That's okay.

10 MS. ARMENI: Sorry.

11 PROSPECTIVE JUROR NO. 058: That's all right.

12 MS. ARMENI: After your father -- you said he was a cop in Chicago?

13 PROSPECTIVE JUROR NO. 058: Yes.

14 MS. ARMENI: When he moved to Las Vegas, what did he do?

15 PROSPECTIVE JUROR NO. 058: I can't remember off the top of my
16 head. I know he -- well, he's been in security for so long. I know he worked -- I
17 can't remember if he worked as a corrections officer. I don't think he did, but he
18 did work at the prison as a guard.

19 MS. ARMENI: Do you know what prison? Was it like in Las Vegas?

20 PROSPECTIVE JUROR NO. 058: It was out towards Indian Springs.

21 MS. ARMENI: Okay.

22 PROSPECTIVE JUROR NO. 058: And he did work at the guard shacks
23 up there, area 50-something or other, 52, 51, those things out there, so -- but he
24 did work at the guard shacks. But ever since then he's been security.

25 MS. ARMENI: Security? And where -- is he still security?

1 PROSPECTIVE JUROR NO. 058: Yes, at Bally's. He works in the time
2 office over there.

3 MS. ARMENI: And before -- as it -- since he left corrections he went
4 straight into casinos or was there --

5 PROSPECTIVE JUROR NO. 058: Yeah. Yeah. And like when I first
6 came out here I was eight, so I don't really remember exactly what he was doing.
7 I can't remember if it was -- if he worked at the prison at that time, but he's
8 basically been in casinos for over 30 -- 30 years, 25 years, something like that.

9 MS. ARMENI: And does he talk to you about any of his experiences as a
10 security officer at Bally's or --

11 PROSPECTIVE JUROR NO. 058: No, he doesn't have any because he
12 works the back office in the time office, so --

13 MS. ARMENI: So it's not very exciting for him?

14 PROSPECTIVE JUROR NO. 058: No.

15 MS. ARMENI: Okay.

16 PROSPECTIVE JUROR NO. 058: Just, you know, movie stars that
17 come in he tells me about and stuff like that, but that's about it.

18 MS. ARMENI: All right. Court's indulgence.

19 THE COURT: All right.

20 MS. ARMENI: Let me double check please.

21 Okay. Thank you.

22 THE COURT: I think that's it.

23 MS. ARMENI: Yes, it is. Thank you.

24 THE COURT: Mr. Arrascada.

25 MR. ARRASCADA: Thank you, Your Honor.

1 Good afternoon, Ms. Ryeczyk.
2 PROSPECTIVE JUROR NO. 058: Good afternoon.
3 MR. ARRASCADA: Thank you for your patience the last few days.
4 PROSPECTIVE JUROR NO. 058: No, no problem. It gets me out of
5 work.
6 MR. ARRASCADA: You're not shy.
7 PROSPECTIVE JUROR NO. 058: No.
8 MR. ARRASCADA: I want to ask you a bit about your prior jury service.
9 PROSPECTIVE JUROR NO. 058: Sure.
10 MR. ARRASCADA: Please, please, please do not tell any of us the -- the
11 verdict. Okay?
12 PROSPECTIVE JUROR NO. 058: No.
13 MR. ARRASCADA: I want to ask about -- explain to me if you could the
14 deliberation process or how you approached it.
15 PROSPECTIVE JUROR NO. 058: Can you expand on that a little bit?
16 MR. DIGIACOMO: I -- I apologize, Judge.
17 THE COURT: Yeah.
18 MR. DIGIACOMO: I need to interpose an objection.
19 THE COURT: The -- I -- I sustain the objection. You need to ask a
20 different question. I mean, you know, like in assessing a witness's credibility
21 what kind of things would you look for, you know, something more along those
22 lines.
23 MR. ARRASCADA: In your jury service was it a -- let me ask this. Was it
24 a whodunit identity theft case?
25 PROSPECTIVE JUROR NO. 058: Basically. Well, it wasn't a whodunit,

1 it was trying to prove if that gentleman or that person did do it.

2 MR. ARRASCADA: Okay. And were you able to listen to all the
3 evidence?

4 PROSPECTIVE JUROR NO. 058: Yes.

5 MR. ARRASCADA: So you're aware that evidence can be a cross-
6 examination?

7 PROSPECTIVE JUROR NO. 058: Yep.

8 MR. ARRASCADA: And how did you go into weighing these witness or
9 their credibility as to whether this person was the one that stole identity?

10 PROSPECTIVE JUROR NO. 058: Well, not only were there witnesses,
11 but there were numerous cases of the evidence that was presented to us. I did
12 listen to everybody -- all the witnesses that were speaking, and they actually had
13 some pretty good acting on what they would say. I would just, you know, pick it
14 apart, write -- jot all the notes down. And when we would deliberate we would
15 talk about that.

16 MR. ARRASCADA: Okay. And you deliberate just the one time after the
17 case; is that right?

18 PROSPECTIVE JUROR NO. 058: You know what, I apologize. I can't --

19 MR. ARRASCADA: That's okay.

20 PROSPECTIVE JUROR NO. 058: -- remember if it was one day or two
21 days.

22 MR. ARRASCADA: Okay.

23 PROSPECTIVE JUROR NO. 058: I can't remember.

24 MR. ARRASCADA: But after the case was given to you?

25 PROSPECTIVE JUROR NO. 058: Yes.

1 MR. ARRASCADA: Okay. And were you able to voice -- I -- this is a
2 question I -- let me ask, were you able to voice your opinions?

3 PROSPECTIVE JUROR NO. 058: Yes, I was.

4 MR. ARRASCADA: Were you able to listen to other's opinions?

5 PROSPECTIVE JUROR NO. 058: Yes.

6 MR. ARRASCADA: When you were able to listen to others, did it ever
7 lead to you questioning your opinions and being able to participate in a
8 discussion?

9 PROSPECTIVE JUROR NO. 058: I would -- if they would say something
10 that kind of I wasn't sure of and it kind of sounded like, wow, that kind of sounds
11 good, I would actually break it down and think about it and talk to them about it
12 and say, well, this is what I think, you know, and see if we could come to a
13 mutual understanding on things. Does that make sense?

14 MR. ARRASCADA: It does.

15 PROSPECTIVE JUROR NO. 058: You know, just because maybe I
16 don't feel the same way they do, but they're explaining something to me and I'm
17 like, well, that kind of sounds right, but let me tell you what -- how I feel on this.
18 And then, you know, they're like, well, I didn't see it that way. And so we would
19 basically come to an understanding on, you know -- we would work as a team to
20 basically come to an understanding on things.

21 MR. ARRASCADA: And if you are on this jury, would you be there to
22 make sure everyone else -- it sounds like you guys did a [inaudible] --

23 PROSPECTIVE JUROR NO. 058: Yes.

24 MR. ARRASCADA: -- listen and discuss.

25 PROSPECTIVE JUROR NO. 058: Yes, make sure everybody's voice is

1 heard. Definitely.

2 MR. ARRASCADA: Okay. And I -- I would assume you wouldn't let
3 someone bully you around.

4 PROSPECTIVE JUROR NO. 058: No.

5 MR. ARRASCADA: Or anyone else.

6 PROSPECTIVE JUROR NO. 058: No.

7 MR. ARRASCADA: And you mentioned your father was a Chicago cop.

8 PROSPECTIVE JUROR NO. 058: Correct.

9 MR. ARRASCADA: And he's now been involved here in Las Vegas for
10 the past 30 years working at the prison, casinos, and security.

11 PROSPECTIVE JUROR NO. 058: Right.

12 MR. ARRASCADA: And because of your father's law enforcement
13 background and also the security background, do you have any biases or
14 opinions from being around him that if someone is accused of a crime they're
15 guilty?

16 PROSPECTIVE JUROR NO. 058: No, not at all.

17 MR. ARRASCADA: Explain that to me.

18 PROSPECTIVE JUROR NO. 058: I'm a very open-minded person. I
19 just -- I don't ever want to believe people are guilty unless I hear everything. I
20 don't like thinking like that. You know, I like to hear the facts, if I can, and base
21 my assumption on that. I don't -- you know, just because somebody says that
22 they're guilty doesn't necessarily mean they are.

23 MR. ARRASCADA: Thank you very much.

24 PROSPECTIVE JUROR NO. 058: Oh, you're welcome.

25 THE COURT: Ms. Ryeczyk, in a minute I'm going to have you exit the

1 courtroom --

2 PROSPECTIVE JUROR NO. 058: Sure.

3 THE COURT: -- and have a seat back out in the hallway.

4 PROSPECTIVE JUROR NO. 058: Okay.

5 THE COURT: But before I do it, I must direct you to please not discuss
6 what's just transpired in the courtroom, meaning our questions and your answers
7 and what not with the other prospective jurors.

8 PROSPECTIVE JUROR NO. 058: No problem.

9 THE COURT: All right. Thank you and go ahead and go back out
10 through the double doors and just have a seat out there in the hallway.

11 PROSPECTIVE JUROR NO. 058: Okay. Thank you.

12 THE COURT: All right. Thank you.

13 (Prospective juror No. 58 exits courtroom)

14 THE COURT: All right. State's third.

15 MR. DIGIACOMO: Judge, the State would thank and excuse -- I guess
16 he's not here, so it don't matter -- Mr. O'Neill in seat 10.

17 THE COURT: All right. Would you bring in Mr. O'Neill from seat 10.

18 You just have something against New Yorkers; don't you, Mr.
19 DiGiacomo?

20 MR. DIGIACOMO: He was born there, I lived next to there, we all know
21 better.

22 THE COURT: You from Jersey?

23 MR. DIGIACOMO: I'm from Jersey.

24 MR. GENTILE: What exit?

25 MR. DIGIACOMO: 172, my friend. Way up top.

1 THE COURT: Mr. O'Neil, just come on in. You can just stand right there.
2 I want to thank you for being here these three days and your patience and your
3 willingness to serve as a juror in this case, but you are excused at this point in
4 time, and you're free to leave. And did you leave any of your belongings in the
5 jury box?

6 PROSPECTIVE JUROR NO. 037: No.

7 THE COURT: All right, sir, thank you very much.

8 PROSPECTIVE JUROR NO. 037: Thank you.

9 THE COURT: And Officer Wooten will direct you from the courtroom.
10 Once again, I appreciate your willingness to serve as a juror in this trial.

11 MR. GENTILE: Thank you.

12 (Prospective juror No. 37 exits courtroom)

13 THE COURT: And, Jeff, if you would then bring in Patricia Lopez.

14 And he was in chair ten; right?

15 MR. DIGIACOMO: Yes.

16 MR. ADAMS: Judge, I have that we have 16 left counting Ms. Lopez. Is
17 that -- I just wanted to make sure --

18 THE COURT: That's about right. Yeah.

19 MR. ADAMS: -- I was somewhere in the ballpark.

20 THE COURT: And one of those is Frank Sinatra who there's a problem
21 with.

22 (Off-record colloquy)

23 THE COURT: Ma'am, come on down and just have a seat there in the
24 jury box please.

25 PROSPECTIVE JUROR NO. 061: Here?

1 THE COURT: Yeah, that's fine. What do you do for a living, ma'am?

2 PROSPECTIVE JUROR NO. 061: I work at JC Penny Home Store. I'm
3 the pricing accuracy associate.

4 THE COURT: Okay. That's the home store there on Rainbow?

5 PROSPECTIVE JUROR NO. 061: [inaudible].

6 THE COURT: Okay. The pricing accuracy associate. Does that mean
7 that you make sure they mark the merchandise correctly?

8 PROSPECTIVE JUROR NO. 061: My responsibility is to make sure that
9 all the signs are correct, all the clearance marking down, marking up.

10 THE COURT: Okay. And then are you married, ma'am?

11 PROSPECTIVE JUROR NO. 061: No.

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

13 PROSPECTIVE JUROR NO. 061: No.

14 THE COURT: All right. Have you ever been a juror before?

15 PROSPECTIVE JUROR NO. 061: Yes.

16 THE COURT: How many times?

17 PROSPECTIVE JUROR NO. 061: Once.

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

19 PROSPECTIVE JUROR NO. 061: Yes.

20 THE COURT: How long ago?

21 PROSPECTIVE JUROR NO. 061: About ten years ago.

22 THE COURT: Okay. And do you recall whether it was a civil case or a
23 criminal case?

24 PROSPECTIVE JUROR NO. 061: Criminal.

25 THE COURT: And don't tell us what the verdict was, but did the jury

1 reach a verdict?

2 PROSPECTIVE JUROR NO. 061: Yes.

3 THE COURT: Okay. Were you the foreperson of that jury?

4 PROSPECTIVE JUROR NO. 061: No.

5 THE COURT: Do you recall what the charges were?

6 PROSPECTIVE JUROR NO. 061: Burglary, I believe.

7 THE COURT: Okay. Was it a residential burglary, do you remember?

8 PROSPECTIVE JUROR NO. 061: No, commercial.

9 THE COURT: Commercial, okay. How did you feel about your jury
10 experience?

11 PROSPECTIVE JUROR NO. 061: It was all right.

12 THE COURT: Okay. You heard me ask some of the other potential
13 jurors if they've been the victim of crime or had family members victimized or
14 accused of crime. Any of those that you would've had to answer yes to?

15 PROSPECTIVE JUROR NO. 061: No.

16 THE COURT: Okay. How long have you lived here in southern Nevada?

17 PROSPECTIVE JUROR NO. 061: 13 years.

18 THE COURT: Where are you from originally?

19 PROSPECTIVE JUROR NO. 061: California.

20 THE COURT: Okay. And where in California did you live?

21 PROSPECTIVE JUROR NO. 061: I was born and raised in Pomona,
22 California, southern part of California. Then I lived in a couple different cities
23 southern California.

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

25 PROSPECTIVE JUROR NO. 061: I have no opinion.

1 THE COURT: Ever been to one?

2 PROSPECTIVE JUROR NO. 061: No.

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

6 PROSPECTIVE JUROR NO. 061: No.

7 THE COURT: All right. Thank you.

8 State, you may question Ms. Lopez.

9 MR. PESCI: Thank you.

10 Ma'am, I apologize if Her Honor asked this then I'll -- then stop me.
11 But has anyone -- either you or someone closely associated with you ever been
12 the victim of a crime?

13 PROSPECTIVE JUROR NO. 061: No.

14 MR. PESCI: And on the flip side, has anyone, you or anyone associated
15 with you ever been accused of a crime?

16 PROSPECTIVE JUROR NO. 061: No.

17 MR. PESCI: Do you have any strong feelings one way or the other about
18 firearms?

19 PROSPECTIVE JUROR NO. 061: I don't like them, but I realize
20 sometimes there is a purpose for them like if you go hunting or maybe a person
21 feels that they need one, need some kind of a weapon for self defense or home
22 invasion or -- but I personally, you know, don't like them.

23 MR. PESCI: Okay. And with that personal feeling in mind, would you
24 hold it against either side in this case the fact that there is going to be some
25 testimony about gunshot wounds and people dying by a gun?

1 PROSPECTIVE JUROR NO. 061: No.

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

3 PROSPECTIVE JUROR NO. 061: Yes.

4 MR. PESCI: Is there anything that you want to tell us about yourself that
5 we haven't gone over or asked about?

6 PROSPECTIVE JUROR NO. 061: I was in the Army for 20 years.

7 MR. PESCI: What did you do there?

8 PROSPECTIVE JUROR NO. 061: I was a dental assistant.

9 MR. PESCI: Have you done anything in the dental field after the Army?

10 PROSPECTIVE JUROR NO. 061: No.

11 MR. PESCI: Where were you stationed in the Army?

12 PROSPECTIVE JUROR NO. 061: I did three tours of Germany, and
13 then I was stationed at different places here in the States.

14 MR. PESCI: Okay. And what brought you to Las Vegas?

15 PROSPECTIVE JUROR NO. 061: I was married at the time and my ex-
16 husband works for Union Pacific Railroad, and he was transferred out here from
17 California.

18 MR. PESCI: Okay. And during the process -- you're divorced now?

19 PROSPECTIVE JUROR NO. 061: Yes.

20 MR. PESCI: Was there any legal proceedings in that divorce? Did you
21 have an attorney?

22 PROSPECTIVE JUROR NO. 061: No. He did it all. He wanted -- my
23 ex-husband wanted the divorce, so he went and got, I think a paralegal, and had
24 all the papers done and he just wanted me to sign.

25 MR. PESCI: Okay. The idea that someone would get an attorney, is that

1 something that you would hold against them?

2 PROSPECTIVE JUROR NO. 061: No.

3 MR. PESCI: Thank you.

4 THE COURT: All right. Thank you.

5 Who would like to go next? Ms. Armeni?

6 MS. ARMENI: Sure, Your Honor.

7 Good afternoon, Ms. Lopez.

8 PROSPECTIVE JUROR NO. 061: Hello.

9 MS. ARMENI: Ms. Lopez, what is it about your life experiences or what
10 you do -- well, let's -- let me actually make it a little bit more specific. What is it
11 about your job that you have right now that you think would make you a good
12 juror on this case?

13 PROSPECTIVE JUROR NO. 061: I -- in my job I have to be -- I'm
14 organized. I have to pay attention to detail on account of making sure that the
15 price is correct on the signs. I have to take care of any discrepancies that could
16 be -- you know, a customer finds, say, an item compared to the sign, if it's, you
17 know, incorrect then they call me to come and correct it. So I have to, you know,
18 be, I'd say, organized and know what I'm doing. And I take a lot of pride in my
19 job because I know I get audited every month or every week and then we have a
20 different company come quarterly, an outside company come and audit, and I
21 always get 100 percent on my --

22 MS. ARMENI: That's great.

23 PROSPECTIVE JUROR NO. 061: -- pricing.

24 MS. ARMENI: Congratulations.

25 PROSPECTIVE JUROR NO. 061: Thanks.

1 MS. ARMENI: You're from southern -- or you lived in southern California
2 for a little bit.

3 PROSPECTIVE JUROR NO. 061: I was -- I lived in southern California
4 until I was 19 and then I went into the Army.

5 MS. ARMENI: Okay. And back in -- with your experience in California,
6 you said Pomona, that you lived in Pomona?

7 PROSPECTIVE JUROR NO. 061: I was born in Pomona.

8 MS. ARMENI: Okay.

9 PROSPECTIVE JUROR NO. 061: And then I was -- was raised, it was in
10 a town called Glendora. It's in LA County.

11 MS. ARMENI: Did you have any experience with gangs?

12 PROSPECTIVE JUROR NO. 061: No.

13 MS. ARMENI: No?

14 PROSPECTIVE JUROR NO. 061: There weren't any around. Not that I
15 know of.

16 MS. ARMENI: Any -- when I say drugs, what drugs come to mind?

17 PROSPECTIVE JUROR NO. 061: I think of sleeping pills, xanax, things
18 that -- for depression, also like marijuana and cocaine, heroin.

19 MS. ARMENI: Do you think those drugs that you named, what kind of
20 effect do you think they have on people?

21 PROSPECTIVE JUROR NO. 061: Well, it -- they -- they will alter, you
22 know, a person's, they way they act. You know, if a person drinks too much or,
23 you know, it makes them -- I think it depends too if they're an emotional drunk or,
24 what is it, a violent drunk.

25 MS. ARMENI: Did you hear us use the word liquid -- liquid courage the

1 other day?

2 PROSPECTIVE JUROR NO. 061: Yeah.

3 MS. ARMENI: Okay.

4 PROSPECTIVE JUROR NO. 061: Yeah.

5 MS. ARMENI: What do you -- what does liquid courage mean to you?

6 PROSPECTIVE JUROR NO. 061: Well, I -- I think -- well, I sometimes
7 think if a person drinks too much, then of course they feel, well, I can go, you
8 know, tell off that person or -- or I'm going to go, you know, punch that guy out or
9 where they just have stronger feelings.

10 MS. ARMENI: Do you think that applies -- I think you're mentioning
11 alcohol, do you think that could also apply to drugs?

12 PROSPECTIVE JUROR NO. 061: Yes.

13 MS. ARMENI: And then we've also, you've heard us talk about fear.
14 How do you think fear or do you think fear affects somebody?

15 PROSPECTIVE JUROR NO. 061: Yes.

16 MS. ARMENI: And in what way?

17 PROSPECTIVE JUROR NO. 061: I -- I think it would depend on the
18 situation, how a person would -- would react to fear. I mean, I fear everyday
19 driving here in Las Vegas. So, you know, just however, you know, a person -- it
20 just depends on the situation.

21 MS. ARMENI: Court's indulgence.

22 THE COURT: Uh-huh.

23 MS. ARMENI: Thank you.

24 THE COURT: All right. Mr. Adams.

25 MR. ADAMS: Hi Ms. Lopez.

1 PROSPECTIVE JUROR NO. 061: Hello.

2 MR. ADAMS: If someone said I'm going to kill so and so, what's your
3 reaction?

4 PROSPECTIVE JUROR NO. 061: Well, it would depend on the person.
5 If I knew the person or knew the situation, you know, like sometimes, you know,
6 like at work you hear somebody say, oh, I'm going to -- I could kill that person or I
7 could, you know -- I think it just depends on knowing the person, the situation.

8 MR. ADAMS: Have you ever heard somebody say something like that?
9 I'm going to hit him, I'm going to -- and they actually go hit them?

10 PROSPECTIVE JUROR NO. 061: No.

11 MR. ADAMS: Okay. Not in the Army?

12 PROSPECTIVE JUROR NO. 061: No.

13 MR. ADAMS: Never any of that off base?

14 PROSPECTIVE JUROR NO. 061: No.

15 MR. ADAMS: All right. What year did you enlist?

16 PROSPECTIVE JUROR NO. 061: 1969.

17 MR. ADAMS: And why?

18 PROSPECTIVE JUROR NO. 061: Because my --

19 MR. ADAMS: Why for you?

20 PROSPECTIVE JUROR NO. 061: At that time my parents were in the
21 process of a divorce and I didn't know what I, you know, wanted to do with my
22 life. And my dad was the one, actually, that suggested that I go into the military.
23 And at that time it wasn't something, you know, that a woman did. And -- and so
24 I said, well, I'll give it a try, and I liked it.

25 MR. ADAMS: Was there -- was there a possibility that you would've

1 been sent to Vietnam?

2 PROSPECTIVE JUROR NO. 061: No.

3 MR. ADAMS: Because they weren't sending women over?

4 PROSPECTIVE JUROR NO. 061: They were. They were sending
5 mainly nurses, and I was a dental assistant.

6 MR. ADAMS: If there is -- if you hear that somebody is having an affair,
7 what sort of reaction do you have to that?

8 PROSPECTIVE JUROR NO. 061: My hair stands on the back of my
9 neck.

10 MR. ADAMS: Can you tell me a little more?

11 PROSPECTIVE JUROR NO. 061: Well, the reason is because that's
12 why my -- I am no longer married is because -- well, I've been married twice,
13 divorced twice, and both times it was because my ex-husbands had affairs.

14 MR. ADAMS: Do you -- I can't imagine those either time were pleasant
15 so I'm not trying to -- to ask a stupid question, and if it comes across as stupid I
16 apologize. Do you fault your husband or your husband and the person they were
17 having an affair with?

18 PROSPECTIVE JUROR NO. 061: Actually, I kind of fault both of them.
19 At first like I would fault the -- the woman, but then the second time it was like,
20 well, it was my -- my ex-husband. But still I kind of held -- held a grudge against
21 the woman.

22 MR. ADAMS: Did -- in that situation, did they know that your husband
23 was married?

24 PROSPECTIVE JUROR NO. 061: Yes.

25 MR. ADAMS: And did they know you?

1 PROSPECTIVE JUROR NO. 061: No.

2 MR. ADAMS: What do you think about a woman who would have an
3 affair if they knew you with one of your husbands? Does that make it different?

4 PROSPECTIVE JUROR NO. 061: Well, that happened too. My first
5 husband -- this was before we were married. I found out about he was having an
6 affair with a co-worker of mine. And then I didn't find out about it until after we
7 were married. But it was -- I just felt, you know, betrayed by her.

8 MR. ADAMS: Did you feel like the affair was a lie? Did you feel like you
9 were lied to?

10 PROSPECTIVE JUROR NO. 061: Yes.

11 MR. ADAMS: Have you heard the term informant from TV shows or
12 reading the paper?

13 PROSPECTIVE JUROR NO. 061: Yes.

14 MR. ADAMS: And what do you -- what do you think of that?

15 PROSPECTIVE JUROR NO. 061: Like a -- like a snitch.

16 MR. ADAMS: And do you have a reaction to whether that's -- or what's
17 your reaction to like a snitch?

18 PROSPECTIVE JUROR NO. 061: I think it -- it does -- you know, I
19 don't -- I don't really care. It doesn't bother me.

20 MR. ADAMS: Do you think sometimes snitches or informants are telling
21 the truth to help themselves out of a hotspot?

22 PROSPECTIVE JUROR NO. 061: Yes.

23 MR. ADAMS: Do you think sometimes they may be lying?

24 PROSPECTIVE JUROR NO. 061: Yes.

25 MR. ADAMS: If you were a juror, any idea how you would decide

1 between those two?

2 PROSPECTIVE JUROR NO. 061: Decide between them being a --

3 MR. ADAMS: How would you assess whether somebody or figure out
4 whether somebody was in a hotspot but telling the truth maybe to help
5 themselves out or whether they were lying to help themselves out?

6 PROSPECTIVE JUROR NO. 061: I'd have to hear everything, you
7 know, the whole situation about why this person was an informant or why -- like
8 say maybe to -- to save their own skin.

9 MR. ADAMS: What do you think about the criminal justice system?

10 PROSPECTIVE JUROR NO. 061: It's fair.

11 MR. ADAMS: You think so?

12 PROSPECTIVE JUROR NO. 061: Yes.

13 MR. ADAMS: Have you heard of cases where you think people have
14 gotten it wrong?

15 PROSPECTIVE JUROR NO. 061: Sometimes watching the news or
16 newspaper.

17 MR. ADAMS: And why do you think that happens?

18 PROSPECTIVE JUROR NO. 061: Well, either that there isn't enough
19 evidence, mainly that. A lot of times it seems like it was accident -- accidental.
20 Like, you know, you hear about these kids being left in the car and then nothing
21 happens to the -- the parents and, oh, I forgot.

22 MR. ADAMS: Do you feel like sometimes people get off who are guilty?

23 PROSPECTIVE JUROR NO. 061: I'm sure it happens.

24 MR. ADAMS: Do you think people are -- do you have any feelings about
25 whether you think the system is -- punishes too strongly or not strongly enough?

1 PROSPECTIVE JUROR NO. 061: I have no opinion.

2 MR. ADAMS: Okay. Let me look at my notes for a second. Pardon me.
3 If -- well, let me ask you. You served in a burglary trial. Did the defendant testify
4 in that case, the person accused of the crime?

5 PROSPECTIVE JUROR NO. 061: I don't remember.

6 MR. ADAMS: Do you -- do you have any feelings about whether
7 someone should testify or not?

8 PROSPECTIVE JUROR NO. 061: No, I have no opinion.

9 MR. ADAMS: And if the law is that you couldn't hold that against them --

10 PROSPECTIVE JUROR NO. 061: No.

11 MR. ADAMS: -- would you think they're a coward if they don't testify?

12 PROSPECTIVE JUROR NO. 061: No.

13 MR. ADAMS: What do you think your reaction would be?

14 PROSPECTIVE JUROR NO. 061: That they didn't need to testify
15 because all the evidence has already been brought out.

16 MR. ADAMS: Thank you very much.

17 THE COURT: All right. Thank you.

18 Ms. Lopez, thank you. In a moment I'm going to have you exit the
19 courtroom with Officer Wooten and have a seat back out in the hallway. Please
20 don't discuss what's transpired in the courtroom, our questions or our
21 discussions with any of the other potential jurors.

22 PROSPECTIVE JUROR NO. 061: Okay.

23 THE COURT: All right. Thank you. And follow Officer Wooten out into
24 the hallway.

25 (Prospective juror No. 61 exits courtroom)

1 THE COURT: Defense's third.

2 MR. DIGIACOMO: If they're going to discuss, may I run to the restroom
3 while they do that? Can I run to the restroom while they do their discussion?

4 THE COURT: All right. Run. Run, Mr. DiGiacomo.

5 MR. DIGIACOMO: You can excuse the next juror without me here.

6 THE COURT: That's true. Well, no one will think you were in custody or
7 anything.

8 (Recess taken at 3:59 p.m.)

9 THE COURT: As you guys exercise your challenges, be mindful that we
10 have three coming up who had raised their hand on hardships.

11 MR. GENTILE: Who -- who are they?

12 THE COURT: Frank Sinatra, Anne Bonds at position 70, and Shea
13 Palluck. Anne Bonds, something about she worked at the MGM or Mirage, I
14 don't remember what she said.

15 MR. GENTILE: Oh, yeah.

16 THE COURT: And then the other lady, her husband was the vice-
17 president of the Athletic Club.

18 MR. GENTILE: Mrs. Big Shot.

19 THE COURT: And she had the three kids, eight, six, and five. I'm just
20 saying, we can have -- we've ordered ten for tomorrow, just in case, but, you
21 know, we don't want to get there. So just be mindful, we have three coming up
22 who all had hardships.

23 MR. ARRASCADA: Oh, they did?

24 THE COURT: Yeah, Anne Bonds, Shea Palluck, and Frank Sinatra.

25 MR. GENTILE: Hey Frank.

1 THE COURT: All right. Defense, who's your third?
2 MR. ARRASCADA: Your Honor, we're going to thank and excuse Ms.
3 Lopez.
4 THE COURT: All right. Jeff --
5 MR. DIGIACOMO: You guys are killing me.
6 THE COURT: -- bring Ms. Lopez in.
7 MR. DIGIACOMO: She was a wonderful, wonderful person --
8 THE COURT: I thought she --
9 MR. DIGIACOMO: -- and would've made a great juror.
10 MR. ARRASCADA: Interesting.
11 MR. GENTILE: This is a woman who spent her life in the military and
12 has gun concerns?
13 MR. DIGIACOMO: If it's up to me, she'd make a great juror.
14 MR. PESCI: She didn't like -- didn't like a mistress.
15 THE COURT: Ms. Lopez, you can just stand right there. I want to thank
16 you very much for being here these three days and I want to thank you for your
17 willingness to serve as a juror. Unfortunately, we've seen some people that
18 wanted to get out of it, and I appreciate that you were willing to serve, however,
19 you are excused at this time.
20 PROSPECTIVE JUROR NO. 061: Oh, okay.
21 THE COURT: All right. Thank you very much.
22 PROSPECTIVE JUROR NO. 061: I'm going to act disappointed. I was
23 really looking forward to going back to work to take care of my signs.
24 THE COURT: Oh, yeah, well, you did a good job of acting disappointed.
25 Anyway, thank you again, and Officer Wooten will direct you from the courtroom.

1 And, Jeff, if you could bring in David Wallace.

2 THE MARSHAL: David Wallace?

3 THE COURT: Yes.

4 And, Ms. Lopez, you might have to get processed through
5 downstairs, but then you're free to go.

6 (Prospective juror No. 61 exits courtroom)

7 (Off-record colloquy)

8 MR. ARRASCADA: Judge, may we approach?

9 THE COURT: You may.

10 Mr. Wallace, just have a seat somewhere in the box there, please,
11 sir.

12 (Conference at the bench)

13 THE COURT: Mr. Wallace, what do you do for a living, sir?

14 PROSPECTIVE JUROR NO. 067: I teach high school.

15 THE COURT: All right. And are you in the Clark County School District?

16 PROSPECTIVE JUROR NO. 067: I am.

17 THE COURT: What subject matter do you teach?

18 PROSPECTIVE JUROR NO. 067: History and government.

19 THE COURT: History and government. And what school do you work
20 at?

21 PROSPECTIVE JUROR NO. 067: Las Vegas High School.

22 THE COURT: The new Las Vegas High School?

23 PROSPECTIVE JUROR NO. 067: No, the old Las Vegas High School in
24 the new building.

25 THE COURT: I -- oh, okay. There you go. How long have you been a

1 teacher?

2 PROSPECTIVE JUROR NO. 067: About 20 years.

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

4 PROSPECTIVE JUROR NO. 067: I am.

5 THE COURT: All right. And what does your wife do?

6 PROSPECTIVE JUROR NO. 067: She used to teach, and now she's
7 self employed.

8 THE COURT: Okay. In what kind of business?

9 PROSPECTIVE JUROR NO. 067: She does basically property
10 management.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NO. 067: And she helps her aging father run
13 some of his old businesses.

14 THE COURT: Okay. And what kind of businesses are those?

15 PROSPECTIVE JUROR NO. 067: He's -- he had properties, he's got
16 some LLCs, she does his finances. I think the term might be, what is it, girl
17 Friday?

18 THE COURT: Right, like a girl Friday?

19 PROSPECTIVE JUROR NO. 067: Yes. Yes.

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

21 PROSPECTIVE JUROR NO. 067: I have two, 16 and 18.

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

23 PROSPECTIVE JUROR NO. 067: I have not.

24 THE COURT: Okay. Have you ever gone through jury selection?

25 PROSPECTIVE JUROR NO. 067: I have. This is my fourth time in 12

1 years I have been called. I have never sat through three days of a voir dire. I've
2 been in the box once on a capital murder case, but they -- they asked me to
3 leave.

4 THE COURT: They did? Now, did they ask you to leave for cause, or
5 did they ask you to leave just when they when they went through the challenges?

6 PROSPECTIVE JUROR NO. 067: Yeah, they didn't give me a reason.

7 THE COURT: Okay. Do you remember -- well, I'm not going to even ask
8 that.

9 PROSPECTIVE JUROR NO. 067: Do I remember the case?

10 THE COURT: How long ago was that?

11 PROSPECTIVE JUROR NO. 067: It was in the '90s.

12 THE COURT: Okay. So quite awhile ago.

13 PROSPECTIVE JUROR NO. 067: Yeah, but it was -- it was a police
14 cadet officer who was convicted -- well, he was accused of murder and his two
15 attorneys, I recall, got him off. Palazzo and Tony Sgro, I think his name is.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 067: Palazzo kicked me off, though.

18 THE COURT: Oh, it was Palazzo that kicked you off.

19 PROSPECTIVE JUROR NO. 067: Yes, it was.

20 THE COURT: All right. I was once called for jury duty, and the two sides
21 fought over who got to kick me off, so -- did you feel disappointed?

22 PROSPECTIVE JUROR NO. 067: You know, I did. My feelings were
23 kind of hurt. It was like, what did I do, you know, what did I say? I answered two
24 questions. I teach government and, you know, I have nothing to do for the
25 summer, something like that.

1 THE COURT: Okay. So you were disappointed?

2 PROSPECTIVE JUROR NO. 067: I would say yeah. It's a good learning
3 experience for me.

4 THE COURT: Okay. And then you -- you obviously know the outcome
5 of the case. How is that? Did you follow it in the news or did you call the court or
6 what did you do?

7 PROSPECTIVE JUROR NO. 067: It was all over the news. I followed it.

8 THE COURT: All right. You heard me ask the other jurors if they'd been
9 victims of crime or had family members victimized or had been accused of a
10 crime or had family members accused of a crime. Any of that that you would've
11 had to answer yes to?

12 PROSPECTIVE JUROR NO. 067: Yeah. I've -- I've had family members
13 accused of crimes, there's been crimes committed, there was a burglary in my
14 house. I have -- I've been teaching for 20 years. I have students convicted of
15 crimes, I've had students have crimes committed against them.

16 THE COURT: Okay. And now when you say family members accused
17 of crimes, any close family members?

18 PROSPECTIVE JUROR NO. 067: A nephew.

19 THE COURT: A nephew?

20 PROSPECTIVE JUROR NO. 067: Yeah.

21 THE COURT: And what -- what crime or crimes has he been accused?

22 PROSPECTIVE JUROR NO. 067: You know, I couldn't even tell you. I
23 asked him. I don't think he was telling the truth. It's in the courts now.

24 THE COURT: Okay. The courts here in Clark County?

25 PROSPECTIVE JUROR NO. 067: Yes.

1 THE COURT: All right. So you haven't personally followed his case?

2 PROSPECTIVE JUROR NO. 067: No, I have not. I think it's only -- I
3 think March is the court date.

4 THE COURT: Okay. And do you know if that's a date for trial or a
5 preliminary hearing or do you have --

6 PROSPECTIVE JUROR NO. 067: It's got to be a preliminary hearing.

7 THE COURT: Okay. Because of the recency of the case?

8 PROSPECTIVE JUROR NO. 067: Yeah.

9 THE COURT: Okay. Now, as a high school teacher, and I'm not that
10 familiar with the old Las Vegas High School in the new location, but is there -- is
11 that a high school that has a gang problem?

12 PROSPECTIVE JUROR NO. 067: We are an inner city school. We have
13 gangs.

14 THE COURT: Okay. If you know, are any of your students or do you
15 believe any of your students are involved in gangs?

16 PROSPECTIVE JUROR NO. 067: None that -- I don't believe that any of
17 my students are in a street gang. I have -- I have students that are taggers and
18 tagger gangs. I've had students in the past in gangs. But I don't think I have any
19 this year.

20 THE COURT: Okay. And what gangs are -- have a presence at the Las
21 Vegas High School?

22 PROSPECTIVE JUROR NO. 067: It's the same that everybody else has
23 mentioned. We might have -- we might have some 28th Street up there. There's
24 Filipinos. There may -- I think they're the -- I don't know if they're the Pinoy Boys,
25 maybe not. They may be there.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NO. 067: I don't know. I generally have good
3 students and they're generally not involved in that. And I generally keep my
4 head down and mind my own business.

5 THE COURT: All right. Now, again, you've heard for the two days that
6 you were in here listening. All of the questions I've asked and the lawyers have
7 asked and the discussions we've had with the other jurors, anything based on all
8 of that that you think we would be interested in knowing about you?

9 PROSPECTIVE JUROR NO. 067: I don't think so. I think -- I think I'd be
10 a pretty good juror.

11 THE COURT: Okay. And why is that? Why do you think -- why do you
12 feel like you'd be a pretty good juror?

13 PROSPECTIVE JUROR NO. 067: A, I have a willingness to do it. There
14 are -- I sat out, you know, with my prospective members and it's just unbelievable
15 the amount of excuses that are being formulated to get out of this.

16 THE COURT: I'm sure as a government teacher you can appreciate the
17 importance of it.

18 PROSPECTIVE JUROR NO. 067: I have never -- I have never once
19 tried to get out of it, so -- and I have a good student teacher right now, so I got --
20 I'm good to go.

21 THE COURT: So no distractions? You'd be able to give us your
22 undivided attention?

23 PROSPECTIVE JUROR NO. 067: I -- I would be. I don't -- I don't know
24 that I can actually be good for one side or the other, but --

25 THE COURT: Well, we don't want one that's good for the State or good

1 for the defense. We just want people who are fair to both sides.

2 PROSPECTIVE JUROR NO. 067: Yeah, I think that's -- I could do that.
3 And of course everybody would say that absolutely, but I believe it. I -- I've gone
4 through all the questions, I've listened to every one of them. You know, have I
5 ever been afraid? Yes. How do I act when I'm afraid? Depends on the context,
6 you know, if I take, you know, flight or fight. I'll flight when I can, I'll -- you know,
7 I've fought, you know, when I had to or I acted like I would if I had to. Everything
8 is in context. Everything is time, place, and circumstance.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 067: To answer these questions again, I
11 can do it, I don't mind doing it.

12 THE COURT: Okay. And finally I'm going to ask you, what are your
13 feelings about strip clubs?

14 PROSPECTIVE JUROR NO. 067: I don't -- I've been at them. You
15 know, I'm kind of mixed about it. I know they provide an income for some girls,
16 but I also know that these clubs, there's a lot of drug use and there's a lot of --
17 they're a front for prostitution in many cases, and I -- I feel bad for the girls to a
18 certain extent that are there that are stuck in that situation.

19 There are some that do -- that play the game well and they -- they
20 work the business well and they make money. And others, others it's a sad spot,
21 but you can say that for a lot of businesses too.

22 THE COURT: Okay. Do you respect, I guess, the right of these
23 businesses to exist as long as they comply with whatever business licensing and
24 other --

25 PROSPECTIVE JUROR NO. 067: Yeah, I have no problem with it.

1 THE COURT: Let me ask you this. What clubs have you been to in
2 Clark County?

3 PROSPECTIVE JUROR NO. 067: Well, I have been to the Palomino.
4 That was before these guys owned it.

5 THE COURT: How do you know that?

6 PROSPECTIVE JUROR NO. 067: Because Tom Beam owned it back
7 them.

8 THE COURT: Okay. Did you know Tom Beam personally?

9 PROSPECTIVE JUROR NO. 067: No, my father-in-law and Tom Beam
10 were business associates and friends, and it was -- it was just kind of a joke that
11 he -- he wanted to get my brother-in-law in a little trouble with his wife, so he got
12 us a lifetime pass for the Palomino Club. And I don't go to the strip clubs, but I
13 went there that time and that was way back in the day.

14 THE COURT: Just one time?

15 PROSPECTIVE JUROR NO. 067: One time in the Palomino. Maybe on
16 my bachelor party, but that back in the mid '80s, and we were all over that night,
17 so I don't remember nothing.

18 THE COURT: Okay. And your father-in-law had a friendly Mr. Beam, is
19 it?

20 PROSPECTIVE JUROR NO. 067: Yeah, Tom Beam.

21 THE COURT: Okay. And they were in business together, but
22 businesses unrelated to strip clubs; is that right?

23 PROSPECTIVE JUROR NO. 067: Yeah, my -- my father-in-law was in
24 gaming. And Tom Beam was in all kinds of stuff, mostly I think real estate and
25 properties. Unique old guy, you know, Beam Hall at UNLV.

1 THE COURT: Oh, okay. And how long have you lived here in southern
2 Nevada?

3 PROSPECTIVE JUROR NO. 067: Since -- since '79, except for the
4 college years.

5 THE COURT: Okay. And where are you from originally?

6 PROSPECTIVE JUROR NO. 067: I'm an Air Force dependent, so I've
7 been all over.

8 THE COURT: All over.

9 PROSPECTIVE JUROR NO. 067: Yeah.

10 THE COURT: All right. And where did you go to college?

11 PROSPECTIVE JUROR NO. 067: I went -- I went to UNLV for a year,
12 UNR for two years, Cincinnati for three years.

13 THE COURT: Okay. All right. Thank you.

14 State, you may follow up with Mr. Wallace.

15 MR. PESCI: Thank you, Judge.

16 Sir, I think you said that it's unbelievable the amount of excuses
17 generated by the people outside.

18 PROSPECTIVE JUROR NO. 067: Unbelievable.

19 MR. PESCI: Okay. Can you tell me some of the excuses that you've
20 heard?

21 PROSPECTIVE JUROR NO. 067: Some of the excuses I've heard to get
22 out. I am broke -- this is on the fly. They've taken some of the good ones that
23 people used.

24 MR. PESCI: Let me ask you, just let me interrupt you for a second.

25 You've heard all of them in here, but the ones you're hearing outside right now,

1 those are the kinds of ones we want to hear about.

2 PROSPECTIVE JUROR NO. 067: No, not -- not at the moment outside.

3 MR. PESCI: Okay. So --

4 PROSPECTIVE JUROR NO. 067: I'm -- I'm kind of just reading my book
5 and doing crosswords and minding my own business.

6 MR. PESCI: So are the excuses, the ones you've heard that we've all
7 heard here in court?

8 PROSPECTIVE JUROR NO. 067: There's others.

9 MR. PESCI: Okay. Tell us about those.

10 PROSPECTIVE JUROR NO. 067: If I don't -- let me see here. I can
11 answer these questions like I don't know what I'm talking about, like the one poor
12 gentleman, the poor Filipino gentleman that obviously had trouble with the
13 language. There is others such as -- I really -- I need to -- I can't miss anymore
14 work, it costs me \$20 each day to come here, to get here in transportation, I got
15 to get out of here. I'll just -- you know, it just -- that kind of stuff.

16 MR. PESCI: Has anybody talked about how they may -- may vote?

17 PROSPECTIVE JUROR NO. 067: No. There's -- there's not a whiff of
18 that.

19 MR. PESCI: All right. You talked about your class, and in your class I
20 think you put it in the context of this year you don't think that you have any gang
21 members.

22 PROSPECTIVE JUROR NO. 067: Yeah, right.

23 MR. PESCI: Now, is your class an elective or is it a mandatory class, or
24 the classes I should say.

25 PROSPECTIVE JUROR NO. 067: I teach -- I teach a program at Las

1 Vegas. I'm the director of what's called the PAL program, Partnership of Las
2 Vegas. And it's juniors and seniors only and they go to school four days a week
3 in a classroom setting with a team of teachers. I'm one of them. I'm one of six.
4 And on Wednesdays, in lieu of classroom experience, they intern somewhere in
5 the community for six to eight hours unpaid. So they have to kind of apply to get
6 into the program.

7 MR. PESCI: Okay.

8 PROSPECTIVE JUROR NO. 067: And they go through an interview
9 process. Yesterday I had three students downstairs interning in this building.

10 MR. PESCI: But have you had or do you know of other gang members in
11 the high school, not necessarily in your classes?

12 PROSPECTIVE JUROR NO. 067: Do I know them personally?

13 MR. PESCI: No, I don't mean that way. Do you know of --

14 PROSPECTIVE JUROR NO. 067: I do know --

15 MR. PESCI: -- there being students that have --

16 PROSPECTIVE JUROR NO. 067: -- of the existence of gang members
17 in the -- in the school, yes.

18 MR. PESCI: And you still go to work?

19 PROSPECTIVE JUROR NO. 067: Everyday.

20 MR. PESCI: Even knowing that?

21 PROSPECTIVE JUROR NO. 067: Yeah.

22 MR. PESCI: Okay. Do you have any problems with the burden of proof
23 being on the State to prove --

24 PROSPECTIVE JUROR NO. 067: No.

25 MR. PESCI: -- beyond a reasonable doubt? Okay. Any problems with if

1 a defendant chooses not to testify?

2 PROSPECTIVE JUROR NO. 067: No.

3 MR. PESCI: You wouldn't hold that against him?

4 PROSPECTIVE JUROR NO. 067: No.

5 MR. PESCI: Okay. Thank you very much, sir.

6 THE COURT: All right. Who would like to go next? Mr. Gentile?

7 MR. GENTILE: Mr. Wallace, there's a couple things you said that I need
8 to probe a little bit.

9 PROSPECTIVE JUROR NO. 067: Sure.

10 MR. GENTILE: Okay? Because it wasn't so much what you said, but
11 the words, your choice of words and they can mean a lot of things.

12 PROSPECTIVE JUROR NO. 067: Okay.

13 MR. GENTILE: Okay. You talked about Tony Sgro and Louie Palazzo
14 kicking you off a jury.

15 PROSPECTIVE JUROR NO. 067: Yeah.

16 MR. GENTILE: And when you -- when you talked about the case you
17 said they got the guy off.

18 PROSPECTIVE JUROR NO. 067: Yep.

19 MR. GENTILE: Okay. Now, I didn't hear you say that the jury must've
20 felt there wasn't enough evidence to have these people found guilty. I heard you
21 say they got the guy off.

22 PROSPECTIVE JUROR NO. 067: Yes.

23 MR. GENTILE: To me, candidly, that's attitude.

24 PROSPECTIVE JUROR NO. 067: Okay.

25 MR. GENTILE: Okay? So tell me about it. Why'd you use those words?

1 PROSPECTIVE JUROR NO. 067: I'm not sure. I'm -- you know, if the
2 jury found him not guilty, then it was -- they probably did their job.

3 MR. GENTILE: Okay. Now, I'm not -- okay. I'll give you that.

4 PROSPECTIVE JUROR NO. 067: Yeah.

5 MR. GENTILE: Okay? I think we can even agree to that.

6 PROSPECTIVE JUROR NO. 067: Yeah.

7 MR. GENTILE: Here's my worry. And you, being a government -- I
8 shouldn't be pointing my finger at you, but you know what I'm saying.

9 PROSPECTIVE JUROR NO. 067: Yeah.

10 MR. GENTILE: Being a teacher of government, you can appreciate my
11 concern about subtle and hidden bias. And things like they got them off is a tell.
12 You're not a poker player probably --

13 PROSPECTIVE JUROR NO. 067: No.

14 MR. GENTILE: -- but you know what a tell is --

15 PROSPECTIVE JUROR NO. 067: Yeah.

16 MR. GENTILE: -- I'm sure. All right? Now, I'd like you to internalize a
17 little bit and -- and -- and tell you, and then you tell me, as to whether you think
18 you may have a propensity to favor the prosecution, just as a general value that
19 you possess.

20 PROSPECTIVE JUROR NO. 067: Probably not. No. Not that I know of.

21 MR. GENTILE: All right.

22 PROSPECTIVE JUROR NO. 067: The -- the implication was more that --
23 that Louie Palazzo specifically, you're dismissed, and it was more of why. I've
24 never had that question resolved in my mind.

25 MR. GENTILE: Sure. And I can appreciate that.

1 PROSPECTIVE JUROR NO. 067: It was never -- it was not pointed
2 towards -- no.

3 MR. GENTILE: And I probably should've defined --

4 PROSPECTIVE JUROR NO. 067: He was a snake in the grass because
5 he got this guy off? No. It's more like, you know, why -- why was I, you know,
6 dismissed? Not even a reason. And I'm sure that all the jurors come in, and I've
7 since talked with people about it, you know --

8 MR. GENTILE: Well, the truth is that when it's called a peremptory
9 challenge, you don't have to give a reason.

10 PROSPECTIVE JUROR NO. 067: Yeah, I understand. I understand.

11 MR. GENTILE: But I'll tell you what, if I knock you off this jury, I'll call you
12 up and I'll tell you. Okay?

13 PROSPECTIVE JUROR NO. 067: Thank you.

14 MR. GENTILE: All right. Now, another choice of words, and, again, what
15 I'm looking for here is -- is hidden bias, hidden to you maybe.

16 PROSPECTIVE JUROR NO. 067: Okay.

17 MR. GENTILE: You said that you know, you used these words, I know
18 that strip clubs are fronts for prostitution.

19 PROSPECTIVE JUROR NO. 067: Yeah.

20 MR. GENTILE: Those are the words you used.

21 PROSPECTIVE JUROR NO. 067: Yeah.

22 MR. GENTILE: Okay. So now I'm going to ask you something. How do
23 you know?

24 PROSPECTIVE JUROR NO. 067: I have friends, acquaintances, that
25 have used the -- have taken the -- have been there and have taken girls home.

1 MR. GENTILE: From the club?
2 PROSPECTIVE JUROR NO. 067: Yeah.
3 MR. GENTILE: During a shift?
4 PROSPECTIVE JUROR NO. 067: After hours.
5 MR. GENTILE: Okay.
6 PROSPECTIVE JUROR NO. 067: For money.
7 MR. GENTILE: What club are we talking about?
8 PROSPECTIVE JUROR NO. 067: For money.
9 MR. GENTILE: Are we talking about the Palomino Club?
10 PROSPECTIVE JUROR NO. 067: No. This -- these guys frequent the
11 Spearmint Rhino.
12 MR. GENTILE: Did you hear that?
13 All right. And this is recent I take it?
14 PROSPECTIVE JUROR NO. 067: Yeah.
15 MR. GENTILE: Spearmint Rhino is not that old. It's not in business that
16 long. All right. So when you say you know, you know because friends of yours
17 have told you that?
18 PROSPECTIVE JUROR NO. 067: Yes.
19 MR. GENTILE: Okay. And they have credibility with you?
20 PROSPECTIVE JUROR NO. 067: They do, in fact, have credibility with
21 me.
22 MR. GENTILE: Okay.
23 PROSPECTIVE JUROR NO. 067: Could they have been lying to me?
24 Yeah. I doubt it, but they could've.
25 MR. GENTILE: All right. But -- but -- but given the fact that it isn't that

1 big of a deal and you don't care anyhow, you don't care whether they were lying
2 or not. It's not something that worries you.

3 PROSPECTIVE JUROR NO. 067: No.

4 MR. GENTILE: Am I right?

5 PROSPECTIVE JUROR NO. 067: Yeah. I don't -- I don't -- yeah, I've
6 never thought about it until -- until you -- until the question was asked of me.

7 MR. GENTILE: That's why we get this opportunity.

8 PROSPECTIVE JUROR NO. 067: Yes.

9 MR. GENTILE: Okay? And I think you can now understand why it's so
10 important.

11 PROSPECTIVE JUROR NO. 067: Okay.

12 MR. GENTILE: Because I think you even have to admit to yourself that
13 those -- the use of those words, they speak something that we at least need to
14 make some inquiry into.

15 PROSPECTIVE JUROR NO. 067: I have no -- yeah. I have no problem
16 with you delving into that.

17 MR. GENTILE: Okay. Good. Good. You have some students that
18 interning downstairs in this building. Three of them this week.

19 PROSPECTIVE JUROR NO. 067: Yes.

20 MR. GENTILE: What -- what are they doing in terms of their internships?
21 I guess really what I'm saying --

22 PROSPECTIVE JUROR NO. 067: Yeah.

23 MR. GENTILE: -- is there are many different government subdivisions,
24 roles that are -- that take place in that building. I kind of want to know either what
25 agency or what department.

1 PROSPECTIVE JUROR NO. 067: Traffic enforcement, two students,
2 and one in records.

3 MR. GENTILE: Okay. DA records or clerk?

4 PROSPECTIVE JUROR NO. 067: Second floor records. I don't -- I don't
5 really know. I don't know the specific office.

6 MR. GENTILE: You ever have any students do any interning at the
7 public defender's office?

8 PROSPECTIVE JUROR NO. 067: Yes.

9 MR. GENTILE: And have you -- are you the one who made
10 arrangements for that?

11 PROSPECTIVE JUROR NO. 067: No. We have a job site coordinator.

12 MR. GENTILE: Job site coordinator?

13 PROSPECTIVE JUROR NO. 067: Yes, and he does that. And I have
14 not visited the public defender's office. We've also had internships with Louie
15 Palazzo.

16 MR. GENTILE: Well, why didn't you ask him why he threw you off the
17 jury?

18 PROSPECTIVE JUROR NO. 067: Because I never -- that wasn't my
19 responsibility to visit. We do -- ours is more geographic. I'm -- I'm all on the west
20 side, and then we have other people take other spots.

21 MR. GENTILE: All right. Good. How long have you lived here?

22 PROSPECTIVE JUROR NO. 067: Since 1979.

23 MR. GENTILE: All right. Now, you talked about gangs in your high
24 school and you said that you have them there. And certainly nobody questions
25 that fact. It's -- I would imagine that they may even have them at the Las Vegas

1 Academy for the Performing Arts. I don't know. You know, probably --

2 PROSPECTIVE JUROR NO. 067: That would be West Side Story gang.

3 MR. GENTILE: Yeah, right.

4 THE COURT: That's what I was going to say.

5 MR. GENTILE: Right. But -- but -- but you know where I'm coming from.

6 Probably every school in town except maybe that one has a real gang.

7 PROSPECTIVE JUROR NO. 067: Yeah.

8 MR. GENTILE: Here's -- let's talk about gang violence in your school.

9 Do you have that?

10 PROSPECTIVE JUROR NO. 067: Our school doesn't have a big
11 problem with that. Violence occurs, we have two full time school police officers
12 on campus and they do a pretty good job. We are overcrowded, and there are
13 times when the problems are worse than others. They do a pretty good job of
14 culling it out and -- and preventing it. They do. They do a really good job. So it
15 exists, but it's not -- it's not where I go to work, you know, it's not my job.

16 MR. GENTILE: So you don't come in contact with it, you yourself
17 personally?

18 PROSPECTIVE JUROR NO. 067: Well, I -- I see them every day. I'm
19 walking past them in the hall.

20 MR. GENTILE: Oh, I don't mean the gangsters. I'm talking about the
21 violence.

22 PROSPECTIVE JUROR NO. 067: Oh, the violence? No because it's --
23 it's rarely in the hallways. It's usually where there's a congregation. Usually
24 down at lunch time or right after school where they meet together and then come
25 in contact with each other.

1 MR. GENTILE: Okay. And at least in terms of your personal
2 involvement in it, it's really sort of incidental, if I understand it correctly. It's not
3 within your job description to be dealing with [inaudible]; am I right?

4 PROSPECTIVE JUROR NO. 067: Yes.

5 MR. GENTILE: Okay. Drugs. And now I'm not talking about your high
6 school. I'm talking about your life experience. Okay? Have you had anybody in
7 your life, and you'd be a rare person if you didn't, that used drugs, recreational
8 drugs?

9 PROSPECTIVE JUROR NO. 067: Yes.

10 MR. GENTILE: When I use that terminology, what comes to your mind?

11 PROSPECTIVE JUROR NO. 067: Recreational drugs? Well --

12 MR. GENTILE: I probably don't even need to use the word recreational.
13 I guess what I'm saying is any -- to me there's a difference between medicine
14 and drugs.

15 PROSPECTIVE JUROR NO. 067: Okay.

16 MR. GENTILE: Okay? So I'm using the word drugs.

17 PROSPECTIVE JUROR NO. 067: I have friends and associates and
18 family members who have abused all kinds of drugs. And you say we all know
19 them. I have friends that are -- friends that smoke pot still to this day in their -- in
20 their 40s on almost a daily basis. I've had people that have been into cocaine.
21 Students that have had drug problems from an early age and they -- and that --
22 you know, I've had students on heroin, I've had students taking crystal meth. It's
23 20 years of dealing, you know, of being in this town, being a teacher, being
24 around these people, growing up in this town. Yeah, there's been a lot of that.

25 MR. GENTILE: Okay. Do you feel -- well, I'm going to rephrase that too.

1 Do you deal with some kids at school that, I mean, even now that are, at least
2 you have a suspicion they're drug users?

3 PROSPECTIVE JUROR NO. 067: I would say I suspect some of my
4 students of being recreational drug users, and a recreational drug, not -- not as
5 serious as maybe crystal meth or heroin. They maybe smoke pot and drink on
6 the weekends and stuff like that.

7 MR. GENTILE: You think even at that level, in your experience, it can
8 have an effect on your students who are only using recreational drugs, an effect
9 on their perception and memory?

10 PROSPECTIVE JUROR NO. 067: At the time of their use, yeah.

11 MR. GENTILE: And of course, if they perceive it, there's a concern about
12 the perception at the moment of the -- of the intake of the info, then that would
13 remain. You're not going to --

14 PROSPECTIVE JUROR NO. 067: You mean their recollection of a
15 particular event while they were inebriated?

16 MR. GENTILE: Right.

17 PROSPECTIVE JUROR NO. 067: Yeah.

18 MR. GENTILE: Okay. Very good. Thank you. You did it better than I
19 did. Thank you.

20 PROSPECTIVE JUROR NO. 067: You're welcome.

21 MR. GENTILE: Keep that up. Taxicabs, you ever drive one?

22 PROSPECTIVE JUROR NO. 067: No.

23 MR. GENTILE: Do you know anything about -- you've heard this -- and
24 at this stage I think everybody's so well educated on it I think it's like beating a
25 dead horse. But have you had any contact with anybody in your life that drives a

1 cab?

2 PROSPECTIVE JUROR NO. 067: No.

3 MR. GENTILE: Okay. Did you ever hire a lawyer?

4 PROSPECTIVE JUROR NO. 067: Yeah.

5 MR. GENTILE: Can you tell us for what?

6 PROSPECTIVE JUROR NO. 067: I've hired a lawyer probably three or
7 four times. Two car accidents and what was called a DWAI in Colorado.

8 MR. GENTILE: DWAI.

9 PROSPECTIVE JUROR NO. 067: It's less than a DUI. I don't -- they
10 have --

11 THE COURT: Driving while almost intoxicated?

12 PROSPECTIVE JUROR NO. 067: Driving --

13 MR. GENTILE: Were you drinking Near Beer?

14 PROSPECTIVE JUROR NO. 067: I -- they had a -- Nevada was a .01, I
15 believe, and in Colorado they had a -- there was a law I was unaware of. It was
16 between .05 and whatever the -- under the --

17 THE COURT: It was like half of that.

18 PROSPECTIVE JUROR NO. 067: Yeah, and that's also against the law
19 there. And, yeah, I got arrested for that and called a lawyer.

20 MR. GENTILE: How long have you been teaching government?

21 PROSPECTIVE JUROR NO. 067: 18, 19 years almost.

22 MR. GENTILE: And what -- when you -- you have six years of a college
23 education, so my guess is you got a masters degree in there somewhere.

24 PROSPECTIVE JUROR NO. 067: Yeah.

25 MR. GENTILE: What was that all about?

1 PROSPECTIVE JUROR NO. 067: What was the masters --

2 MR. GENTILE: Yeah.

3 PROSPECTIVE JUROR NO. 067: -- degree about?

4 MR. GENTILE: The masters degree.

5 PROSPECTIVE JUROR NO. 067: The masters is in education.

6 MR. GENTILE: Okay. What about your undergraduate work?

7 PROSPECTIVE JUROR NO. 067: My undergraduate work was I had a
8 secondary education and a degree in international affairs.

9 MR. GENTILE: International affairs is a sort of a branch of government,
10 it's an aspect of government; isn't it?

11 PROSPECTIVE JUROR NO. 067: Yeah, it includes comparative
12 government, history, econ, you know.

13 MR. GENTILE: Now, I'm going to ask you one that I think maybe you've
14 thought about yourself over the years. Do you believe in our government, in the
15 way we run it?

16 PROSPECTIVE JUROR NO. 067: Yeah.

17 MR. GENTILE: Do you believe in the structure and its -- its checks and
18 balances?

19 PROSPECTIVE JUROR NO. 067: Yeah, I do.

20 MR. GENTILE: You recognize the jury system as one of those checks?

21 PROSPECTIVE JUROR NO. 067: Yeah, which is the -- maybe the root
22 of my annoyance that people go so far to -- to get out of it in this kind of a
23 situation because we have -- we have a system that works well for people. And,
24 you know, all you have to do is go to some countries where they don't have it to
25 appreciate it.

1 MR. GENTILE: Thank you, sir.

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

3 Mr. Adams.

4 MR. ADAMS: Hi Mr. Wallace.

5 PROSPECTIVE JUROR NO. 067: Hi.

6 MR. ADAMS: You've spoken a lot and my notes are very small. So
7 pardon me if I look down from time to time.

8 PROSPECTIVE JUROR NO. 067: Sure.

9 MR. ADAMS: What -- you said you've tried to figure out why you were
10 struck previously. What were the answers to the two questions?

11 PROSPECTIVE JUROR NO. 067: Why I was struck?

12 MR. ADAMS: Yeah.

13 PROSPECTIVE JUROR NO. 067: The question was what do you do for
14 a living and, you know, can you serve on the jury. Something like that. I don't
15 even remember. It was like one or two questions.

16 MR. ADAMS: So it was before you even got into your views about --

17 PROSPECTIVE JUROR NO. 067: They didn't ask me --

18 MR. ADAMS: -- anything.

19 PROSPECTIVE JUROR NO. 067: -- anything.

20 MR. ADAMS: Why did -- did that irritate you?

21 PROSPECTIVE JUROR NO. 067: Summer vacation, government
22 teacher, first time ever on jury duty, I wanted to serve. I thought it would be a
23 great experience.

24 MR. ADAMS: As somebody who was struck three times in one week, I
25 understand that for sure. I want to talk to you a little bit about some words you

1 used again, as similar to what Mr. Gentile did. When the Judge asked you would
2 you be, I guess, a fair juror or a good juror to both sides, you said a pretty good
3 juror, and then she started asking you the next question, and I really thought you
4 were about to put a but in there. Was I right?

5 PROSPECTIVE JUROR NO. 067: No. I don't -- I don't even remember.

6 MR. ADAMS: All right. Why did you say a pretty good juror?

7 PROSPECTIVE JUROR NO. 067: Well, I don't -- I don't really know what
8 a great juror does. I've not been in a jury before, so I'm not going to say that I'm
9 the greatest juror ever.

10 MR. ADAMS: Well --

11 PROSPECTIVE JUROR NO. 067: I'm also not going to say I'm a lousy
12 juror. I'm a pretty good juror I would imagine.

13 MR. ADAMS: If a student asks you, Mr. Wallace, what's a great juror in
14 your class, what do you tell them?

15 PROSPECTIVE JUROR NO. 067: Same things you've been telling
16 everybody here. You know, to be fair and impartial, to -- to weigh the evidence.

17 MR. ADAMS: And what's your idea of the proof beyond a reasonable
18 doubt? And I'm not asking you to write out a jury charge, but what's your idea of
19 the level of proof and whether you think it's a good thing or not.

20 MR. PESCI: Judge, I'm going to object to that.

21 THE COURT: Yeah.

22 MR. ADAMS: I'll rephrase.

23 THE COURT: All right.

24 MR. ADAMS: Keeping in mind you'll be instructed at the end --

25 PROSPECTIVE JUROR NO. 067: Sure.

1 MR. ADAMS: -- what's your notion from your everyday life that you bring
2 into the courtroom with you today as to proof beyond a reasonable doubt?

3 MR. PESCI: Objection, Your Honor.

4 THE COURT: Yeah, I think it's -- it's essentially the same question. I'll
5 see counsel up here.

6 (Conference at the bench)

7 MR. ADAMS: You had indicated -- I want to talk to you a little about
8 some of the components of the criminal justice system. And you indicated that
9 you think this works better than in other countries where there's --

10 PROSPECTIVE JUROR NO. 067: Yeah.

11 MR. ADAMS: -- not a system like this. What countries pop to mind, or
12 what components don't they have?

13 PROSPECTIVE JUROR NO. 067: They don't have a trial system.
14 There's people -- well, with any number of countries, Myanmar, Saudi Arabia,
15 you've got any number of sub-Saharan African nations that have no jury system,
16 no trial system. Any criticisms of the government, any criticisms anywhere result
17 in -- could result, do result in immediate death or imprisonment or torture or all of
18 the above.

19 MR. ADAMS: Okay. What do you think? Do you think our system has
20 too many rights for people accused of crimes?

21 PROSPECTIVE JUROR NO. 067: No, I don't.

22 MR. ADAMS: Do you think it has too few rights, not enough rights?

23 PROSPECTIVE JUROR NO. 067: You know, I don't, but I -- I do know
24 that -- that the justice system does change. I mean, there -- there's flexibility
25 within it to a certain degree that as -- as we evolve, as -- as the nation gets older,

1 it changes. So I can't say from one day to the next whether we have too many or
2 too few. I -- I can't really answer any of those questions 100 percent, with 100
3 percent clarity because I just don't know. I would say it works pretty well.
4 There's flaws, but it does a good job overall.

5 MR. ADAMS: If somebody who's accused of a crime here, in this
6 courtroom, not in -- in another country that you were talking about, here, chose
7 not to testify, what's your reaction to that?

8 PROSPECTIVE JUROR NO. 067: Well, my reaction to that is -- is that
9 they don't have to testify. That's -- that's the system and that's the way that it's
10 set up. And -- and I think of the Simpson trial and I bring that up in my class
11 because we teach government, he never took the stand once.

12 MR. ADAMS: A lot of people think -- well, what do you think about that?

13 PROSPECTIVE JUROR NO. 067: What do I think about him not taking
14 the stand?

15 MR. ADAMS: Yeah.

16 PROSPECTIVE JUROR NO. 067: I thought it was a good move on his
17 part not to take the stand.

18 MR. ADAMS: Do you think that was a signal that he was guilty?

19 PROSPECTIVE JUROR NO. 067: No, I don't think that was the signal
20 that he was guilty.

21 MR. ADAMS: All right. You think the evidence may have been the
22 signal?

23 PROSPECTIVE JUROR NO. 067: I think -- I think all the rest of the
24 evidence, yes.

25 MR. ADAMS: So you felt like the system got it wrong in that situation?

1 PROSPECTIVE JUROR NO. 067: No. Hold it, which system?

2 MR. ADAMS: The criminal justice system.

3 THE COURT: Judicial system, the justice system.

4 PROSPECTIVE JUROR NO. 067: You're talking about the juror, they
5 jury in that case --

6 MR. ADAMS: Yeah.

7 PROSPECTIVE JUROR NO. 067: -- got it wrong? I would say from
8 what I know, without having sat through all of it, based on my knowledge that,
9 yeah, I think they got that one wrong.

10 MR. ADAMS: Is that the sort of risk we, as a system, should be able to
11 tolerate?

12 PROSPECTIVE JUROR NO. 067: Yes.

13 MR. ADAMS: Why?

14 PROSPECTIVE JUROR NO. 067: You put your trust into a jury and you
15 trust that they're going to make the best decision based on the evidence they
16 have. It's -- it's a flawed system. It doesn't work on 100 percent of the cases,
17 but, you know what, I'm going to take it every time over -- over somebody else
18 sitting in judgment of me. I'd rather -- I'd rather we have people up here sitting in
19 judgment, and I'll take my chances with that.

20 MR. ADAMS: Thank you, for that. You had mentioned -- I think the first
21 thing was about some of the jurors, their comments outside, and you indicated in
22 three days of voir dire. Is there something about this voir dire process that
23 seems --

24 PROSPECTIVE JUROR NO. 067: No.

25 MR. ADAMS: -- too short or too long or frustrating?

1 PROSPECTIVE JUROR NO. 067: It's too -- those of us out there, it's
2 very long, it's exceedingly boring, it's exceedingly frustrating because we don't
3 quite know what's going on every time you sidebar. We don't know this stuff.
4 And for those of us that are curious and want to know that stuff, it's frustrating.

5 MR. ADAMS: Right.

6 PROSPECTIVE JUROR NO. 067: Three days is a long time for a voir
7 dire, I suppose, but in the conversations I've had, it's -- you've got to be careful.
8 You got to take your time. There's -- there's people's lives on the line. And
9 there's people that want justice and there's -- there's people that you're going to
10 deliberate on. So there's disgruntlement, but I think when -- when we sit and talk
11 about why they're going so long, then there's understanding too.

12 MR. ADAMS: People -- okay.

13 PROSPECTIVE JUROR NO. 067: Yeah. Yeah.

14 MR. ADAMS: Your understanding is it's a serious charge.

15 PROSPECTIVE JUROR NO. 067: Yes, it's my understanding. My
16 understanding is that now No. 68 on through 100 at 5:00, the Judge said at 5:00
17 she's going to have this jury picked.

18 THE COURT: No, I said if I -- I -- I may have said that. I said I promise
19 we'll have a jury today.

20 PROSPECTIVE JUROR NO. 067: Yes.

21 THE COURT: Now, I don't believe I limited myself to 5:00.

22 PROSPECTIVE JUROR NO. 067: Oh, okay.

23 THE COURT: But I could be mistaken.

24 PROSPECTIVE JUROR NO. 067: I won't -- mum's the word. I won't --

25 THE COURT: Yeah, I should've told people to pack a lunch, but --

1 PROSPECTIVE JUROR NO. 067: Well, you did say eat well before you
2 came.

3 MR. ADAMS: Mr. Wallace, the Judge had asked you if you had ever
4 been charged or accused of a crime or anyone in your family.

5 PROSPECTIVE JUROR NO. 067: No.

6 MR. ADAMS: I misunderstood that, then. I thought she had asked if you
7 knew people who were victims of crime or people who --

8 PROSPECTIVE JUROR NO. 067: She did ask me that.

9 THE COURT: I asked both.

10 MR. ADAMS: All right. Well, other than the DWAI, is there anything
11 else?

12 PROSPECTIVE JUROR NO. 067: That I've been charged with?

13 MR. ADAMS: Yes, sir.

14 PROSPECTIVE JUROR NO. 067: No. I've had traffic tickets.

15 MR. ADAMS: Other than -- other than traffic tickets.

16 PROSPECTIVE JUROR NO. 067: No. Nope.

17 MR. ADAMS: What happened in your DWAI case?

18 PROSPECTIVE JUROR NO. 067: I was at a brew pub in Colorado.

19 MR. ADAMS: Not --

20 PROSPECTIVE JUROR NO. 067: Oh, what happened?

21 MR. ADAMS: That was my question and it wasn't a --

22 PROSPECTIVE JUROR NO. 067: You're asking me what the outcome
23 was?

24 MR. ADAMS: Yes.

25 PROSPECTIVE JUROR NO. 067: I hired a local attorney because this

1 was over Christmas break. I came back, hired a local attorney, he took care of it,
2 sent me the bill.

3 MR. ADAMS: All right. Took care of it meaning you entered a guilty plea
4 or it was dismissed?

5 PROSPECTIVE JUROR NO. 067: It was not dismissed. I believe -- I
6 believe I was guilty of DWAI.

7 MR. ADAMS: And you believe you were punished in some way by a
8 fine?

9 PROSPECTIVE JUROR NO. 067: I was punished, yes. A few years of
10 worrying about it, feeling guilty, feeling lousy, paying the fine, having it on my
11 permanent record.

12 MR. ADAMS: Right.

13 PROSPECTIVE JUROR NO. 067: Etcetera and so on. Yeah.

14 MR. ADAMS: You indicated there were guards in your school. Are they
15 armed?

16 PROSPECTIVE JUROR NO. 067: Yes.

17 MR. ADAMS: Why?

18 PROSPECTIVE JUROR NO. 067: Probably protect -- self-protection.

19 MR. ADAMS: Do you think it's necessary?

20 PROSPECTIVE JUROR NO. 067: I think that it could be necessary.

21 MR. ADAMS: You -- the other day everyone was asked if they knew
22 anything about the case and there weren't many details given about the case.

23 PROSPECTIVE JUROR NO. 067: No.

24 MR. ADAMS: Now that you've sat in and heard more questions about
25 the Palomino Club murder for hire, does anything ring a bell?

1 PROSPECTIVE JUROR NO. 067: I have not heard anything specific
2 regarding this case. I'm aware of the ongoing issues of cab drivers being paid to
3 go to certain clubs.

4 THE COURT: How is it that you're aware of that?

5 PROSPECTIVE JUROR NO. 067: I -- I think I read about that. Maybe it
6 was even on TV on the news.

7 THE COURT: But you don't have any personal experience with that?

8 PROSPECTIVE JUROR NO. 067: No.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 067: No.

11 MR. ADAMS: What do you think about that? If that's true, what do you
12 think about it?

13 PROSPECTIVE JUROR NO. 067: What do you mean?

14 MR. ADAMS: If cab drivers are getting payola for dropping people off in
15 strip clubs.

16 PROSPECTIVE JUROR NO. 067: Do I think that's right or wrong?

17 MR. ADAMS: Yeah.

18 PROSPECTIVE JUROR NO. 067: I don't think it's one way or the other
19 right or wrong. I find it -- I find it's going to be, in terms of will it -- is there going
20 to be trouble down the road, yeah. I would imagine that this would eventually be
21 a really -- this could lead to some big time trouble.

22 MR. ADAMS: How so?

23 PROSPECTIVE JUROR NO. 067: Well, I think you've got these newer
24 big time clubs coming into town and I think they have a lot of money behind
25 them. And I think the smaller older clubs are going to have a hard time maybe

1 keeping up with them in terms of paying off whoever.

2 MR. ADAMS: I'm just about to the end, but I wanted to follow up on one
3 last question you were asked. And I think you were asked could you be fair to
4 both sides. And what I wrote down is you said, well, I know everyone says this,
5 but yes. And that may not be verbatim, but --

6 PROSPECTIVE JUROR NO. 067: Don't you get tired of hearing the
7 same answer over and over and over and over?

8 MR. ADAMS: Yeah, well how? Well, most people do say that. How or
9 why do you think you can be fair to both sides?

10 PROSPECTIVE JUROR NO. 067: Well, for the same reason probably
11 everybody else gave you. I'm going to look at the evidence and I'm going to
12 determine it based on what the Judge says are our parameters for deciding guilt
13 or innocence.

14 MR. ADAMS: Do you feel like you start leaning toward one side of the
15 other, toward the prosecution or toward the defense?

16 PROSPECTIVE JUROR NO. 067: At the moment?

17 MR. ADAMS: Yeah.

18 PROSPECTIVE JUROR NO. 067: No.

19 MR. ADAMS: Thank you very much.

20 PROSPECTIVE JUROR NO. 067: Thank you.

21 THE COURT: All right. Mr. Wallace, thank you very much. In a moment
22 I'm going to have you exit the courtroom with Officer Wooten. Before I do -- and
23 have a seat back out in the hallway. Before I do that, please don't discuss what's
24 just transpired in the courtroom or our questions or discussions with any of your
25 other --

1 PROSPECTIVE JUROR NO. 067: Very good.

2 THE COURT: -- prospective jurors.

3 And, Officer Wooten, would you bring in Ms. Dendiu.

4 (Prospective juror No. 67 exits courtroom)

5 THE COURT: And, State, figure out your fourth.

6 MR. DIGIACOMO: Are we going to tell -- are we staying, are we going,
7 are we --

8 THE COURT: We're staying.

9 MR. DIGIACOMO: Okay. Should we tell them since we promised them
10 they'd be gone at five?

11 THE COURT: I didn't promise them they'd be gone at five. That's a
12 bailiff issue. If they're concerned that they're here late, they can talk to the bailiff
13 about it.

14 MR. DIGIACOMO: Okay. My biggest concern is Mr. Avalone, but --

15 THE COURT: Well, Mr. -- I -- you know, Mr. DiGiacomo, I keep it all up
16 here. He's going to be called in at five if he hasn't been --

17 Ms. Dendiu?

18 PROSPECTIVE JUROR NO. 048: Yes.

19 THE COURT: We're going to go ahead and excuse you at this time.

20 PROSPECTIVE JUROR NO. 048: Okay.

21 THE COURT: Thank you and Officer Wooten will direct you from the
22 courtroom.

23 PROSPECTIVE JUROR NO. 048: Thank you.

24 THE COURT: Officer Wooten, go ahead and direct her from the
25 courtroom, please.

1 (Prospective juror No. 48 exits courtroom)

2 THE COURT: State.

3 MR. DIGIACOMO: Judge, 56, Escobedo, seat No. 2.

4 THE COURT: All right. Is that Mr. Escobedo?

5 MR. DIGIACOMO: Yes, Judge.

6 THE COURT: All right. Would you bring in Mr. Escobedo?

7 I was keeping Mr. Avalone until five in case he was your perempt,
8 that way he wouldn't have to come back. That's why I didn't excuse him with her.
9 But now that I see he's not your perempt, he'll be called in.

10 MR. DIGIACOMO: He may be shortly, though.

11 THE COURT: Mr. Escobedo, just come -- you can just stand right there
12 at the railing. I want to thank you very much for being here and your patience
13 these past three days. I also want to thank you for your willingness to serve as a
14 juror because as you've seen, unfortunately, a lot of people didn't appreciate the
15 importance of jury service, and I really want to thank you that you did appreciate
16 it and you were willing to be here as a jury -- a juror, excuse me. You are,
17 however, excused at this -- at this time. Thank you very much, and Officer
18 Wooten will direct you from the courtroom, sir.

19 PROSPECTIVE JUROR NO. 056: Thank you. Take care.

20 THE COURT: And then will you bring in Mr. Avalone.

21 (Prospective juror No. 56 exits courtroom)

22 MR. PESCI: Judge, before you do that or maybe after, we just want to
23 make the record that we did up at the bench --

24 THE COURT: Okay.

25 MR. PESCI: -- as far as defense counsel specifically saying as someone

1 who was struck three times in one week, I understand. It's inappropriate to align
2 ourselves with --

3 THE COURT: With the jurors.

4 MR. PESCI: -- the jury. And I would ask that you instruct the defense to
5 stop doing that.

6 MR. ADAMS: Rather than arguing, Your Honor, I'll say I'm sorry.

7 THE COURT: All right. You're sorry. Don't do it again.

8 MR. ADAMS: Thank you.

9 THE MARSHAL: Mr. Avalone?

10 THE COURT: Bring in Mr. Avalone.

11 Mr. Avalone, I know that you have to leave at 5:00.

12 PROSPECTIVE JUROR NO. 030: Yeah.

13 THE COURT: So I'm about to excuse you for the evening, but I'm not
14 excusing you permanently at this point in time. What I'm going to do is I'm going
15 to ask that you take Officer Wooten's card. He's going to put a phone number on
16 that, or there already is one. He's -- I guess he refuses to get business cards, so
17 he's going to give you the card of the JEA and that'll have my department phone
18 number and Officer Wooten is also going to write down his cell phone.

19 What I'd like you to do is tomorrow morning, between 8:00 and 8:30,
20 call Officer Wooten and see whether or not and at what time you need to report
21 back tomorrow. Okay? I'd also like for you to give Officer Wooten a telephone
22 number where you can be reached.

23 PROSPECTIVE JUROR NO. 030: All right.

24 THE COURT: All right. If you have a cell phone, please give him that
25 and your home phone number.

1 PROSPECTIVE JUROR NO. 030: Okay. Thank you.

2 THE COURT: All right. And you're excused for the evening. And the
3 admonition, sir, is still in place for the evening recess not to discuss the case or
4 anything relating to the case with anybody else and not to read, watch, or listen
5 to reports or commentaries on this case or anything relating to the case. Don't
6 do any independent research, don't visit the location, and please don't form or
7 express an opinion.

8 And Officer Wooten will give you his card and further instructions in
9 the vestibule. All right. Thank you, sir.

10 PROSPECTIVE JUROR NO. 030: All right. Take care.

11 (Prospective juror No. 30 exits courtroom)

12 THE COURT: And it's Ms. Dietz is next. I should've told him to bring in
13 Ms. Dietz before I told him to do that.

14 Did I say we -- I may have said we would be done by five.

15 MR. DIGIACOMO: You told them on the first day that we worked until
16 five you said you have other lives. Then you told them yesterday you promise to
17 have jury. And I was thinking to myself, wow, I don't know how those two are
18 going to --

19 THE COURT: Ma'am, come on down and have a seat somewhere here
20 in the jury box.

21 PROSPECTIVE JUROR NO. 068: Okay.

22 THE COURT: And do you pronounce your name Dietz?

23 PROSPECTIVE JUROR NO. 068: Dietz, yes.

24 THE COURT: All right. Ms. Dietz, what do you do for a living?

25 PROSPECTIVE JUROR NO. 068: I am a store director for Albertson's

1 grocery stores.

2 THE COURT: A store director for Albertson's?

3 PROSPECTIVE JUROR NO. 068: Yes.

4 THE COURT: So you're -- are you over the entire store at a particular
5 location?

6 PROSPECTIVE JUROR NO. 068: Yes, ma'am.

7 THE COURT: All right. And are you married?

8 PROSPECTIVE JUROR NO. 068: No.

9 THE COURT: Do you have any children?

10 PROSPECTIVE JUROR NO. 068: Yes. I have a 17 year old that is my
11 biological child, and then I have two children that are 11 and 9 that I have legal
12 guardianship from the state of Nevada over.

13 THE COURT: Okay. And are those children the children of a relative
14 or --

15 PROSPECTIVE JUROR NO. 068: Yes, they're my niece and nephew.

16 THE COURT: Okay. And, again, I don't mean to get real personal, but
17 how is it that you're raising your niece and nephew?

18 PROSPECTIVE JUROR NO. 068: My sister -- well, I guess we'll just pull
19 this out here. My sister became, from a recreational methamphetamine user --

20 THE COURT: I was thinking that that might be it.

21 PROSPECTIVE JUROR NO. 068: -- to a drug addict. We had custody
22 of the children before her death, but she did end up committing suicide in 2004.

23 THE COURT: Okay. And is it your feeling that that was related to or as
24 a result of her drug use?

25 PROSPECTIVE JUROR NO. 068: Absolutely.

1 THE COURT: Okay. Did she, as I know many drug addicts to have
2 contact with the criminal justice system?

3 PROSPECTIVE JUROR NO. 068: Yes.

4 THE COURT: Did she?

5 PROSPECTIVE JUROR NO. 068: Yes, she did.

6 THE COURT: Okay. She was arrested?

7 PROSPECTIVE JUROR NO. 068: Yes, she was.

8 THE COURT: Okay. Do you know if she was ever prosecuted, meaning
9 was a case ever filed against her?

10 PROSPECTIVE JUROR NO. 068: I do not know that. She was -- both
11 of the times when she was arrested, she was picked up on traffic warrants. I
12 know that I personally have paid off some of those traffic warrants. However, if
13 there was more behind it, because she tended to hide the drug usage from the
14 family, if there was more to it I do not know.

15 THE COURT: Okay. And oftentimes people involved in drugs it's kind of
16 a gateway to other crimes.

17 PROSPECTIVE JUROR NO. 068: Absolutely.

18 THE COURT: Do you know if your sister was ever involved in other
19 crimes, stealing or anything like that?

20 PROSPECTIVE JUROR NO. 068: No.

21 THE COURT: You don't know or --

22 PROSPECTIVE JUROR NO. 068: No, I do not know, and I don't believe
23 she was.

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

25 PROSPECTIVE JUROR NO. 068: Yes, I have.

1 THE COURT: Okay. How many times?

2 PROSPECTIVE JUROR NO. 068: I have served on two juries. One in
3 California, we did reach a verdict, it was a drug case. And the second one was
4 about four years ago here in Nevada, and by the time we got into hearing the trial
5 they had settled out of court.

6 THE COURT: Okay. Now, on the one where the jury did reach a
7 verdict --

8 PROSPECTIVE JUROR NO. 068: Yes.

9 THE COURT: -- don't tell me what the verdict was, but were you the
10 foreperson of that jury?

11 PROSPECTIVE JUROR NO. 068: No, I was not.

12 THE COURT: Okay. And how did you feel about your jury experience?

13 PROSPECTIVE JUROR NO. 068: I thought it was quite interesting. I
14 thought you learned a lot going into the process and so forth.

15 THE COURT: Okay. You kind of touched on this with your sister.
16 Anyone else or you yourself -- anyone else in your family or you yourself that's
17 been arrested or charged with a criminal offense?

18 PROSPECTIVE JUROR NO. 068: No.

19 THE COURT: Okay. Have you or anyone close to you ever been a
20 victim of a serious crime?

21 PROSPECTIVE JUROR NO. 068: No.

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

23 PROSPECTIVE JUROR NO. 068: I don't have an opinion on strip clubs,
24 to be honest with you.

25 THE COURT: Okay. Have you ever been to one?

1 PROSPECTIVE JUROR NO. 068: Absolutely not.

2 THE COURT: Okay. And you say absolutely not with a lot of conviction.
3 Why do you say it that way?

4 PROSPECTIVE JUROR NO. 068: It's just not the crowd that I tend to
5 run with. It's not the circle of friends that I tend to hang around with.

6 THE COURT: Okay. Do you have opinions about the kind of people that
7 maybe frequent strip clubs?

8 PROSPECTIVE JUROR NO. 068: No.

9 THE COURT: Okay. I mean, if you --

10 PROSPECTIVE JUROR NO. 068: That's their choice.

11 THE COURT: Okay. If you were to learn somebody liked to go to strip
12 clubs or occasionally went to strip clubs, would that cause you to have an opinion
13 or belief about that person?

14 PROSPECTIVE JUROR NO. 068: No.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 068: That's how they choose to live.
17 That's fine.

18 THE COURT: Okay. And what about do you -- many people in this town
19 work in strip clubs as bartenders or dancers or whatever.

20 PROSPECTIVE JUROR NO. 068: Yes.

21 THE COURT: Do you know anyone personally that's ever worked in a
22 strip club, if you know?

23 PROSPECTIVE JUROR NO. 068: No.

24 THE COURT: Okay. You've heard all of the questions and discussions.
25 Is there anything in your background or your family background that you think we

1 would be interested in knowing about based on our questions and discussions,
2 mine and the lawyers', with the other potential jurors?

3 PROSPECTIVE JUROR NO. 068: No. I think we pretty much covered
4 that. The only thing that I would probably bring up would be my sister and her
5 drug use.

6 THE COURT: All right. Thank you.

7 PROSPECTIVE JUROR NO. 068: You're welcome.

8 THE COURT: State.

9 MR. PESCI: Thank you, Judge.

10 Ma'am, you sat on a second jury trial?

11 PROSPECTIVE JUROR NO. 068: Yes.

12 MR. PESCI: It settled before deliberations?

13 PROSPECTIVE JUROR NO. 068: It did.

14 MR. PESCI: Were you selected? Did you get to the point where you
15 were on the jury and there was evidence?

16 PROSPECTIVE JUROR NO. 068: Yes, I was.

17 MR. PESCI: I might've misheard, and I apologize. The second one, was
18 that criminal as well, or was it civil?

19 PROSPECTIVE JUROR NO. 068: No, I believe it was a civil case. It
20 was a gentleman who had died in a rest home.

21 MR. PESCI: Okay.

22 PROSPECTIVE JUROR NO. 068: And so they were suing the insurance
23 and the rest home. And we started to hear the first witness. And we went to
24 break for lunch, and when we came back they dismissed us due to settling out of
25 court.

1 MR. PESCI: So you were never given any jury instructions in that civil
2 case?

3 PROSPECTIVE JUROR NO. 068: No. No.

4 THE COURT: All right. May I see counsel at the bench, please?

5 (Conference at the bench)

6 THE COURT: All right. Ms. Dietz, we're going to interrupt you for just
7 one minute, but stay right there.

8 PROSPECTIVE JUROR NO. 068: Not a problem.

9 THE COURT: And, Jeff, would you bring in Ms. Bonds.

10 Ms. Bonds?

11 PROSPECTIVE JUROR NO. 070: Yes.

12 THE COURT: Come on -- just -- you can just stand there at the railing. I
13 understand from my bailiff that you have to pick your children up; is that right?

14 PROSPECTIVE JUROR NO. 070: No, it's a prior engagement.

15 THE MARSHAL: The -- the first one is Safekey, this one has a prior
16 engagement.

17 PROSPECTIVE JUROR NO. 070: Oh, okay. You put them all together.
18 I thought it was one person.

19 THE MARSHAL: Oh, okay. Sorry. It was two different people.

20 THE COURT: All right. You have a prior engagement? And what is
21 that?

22 PROSPECTIVE JUROR NO. 070: It's -- there is the employee of the
23 year event at Bellagio and I'm supposed to attend tonight.

24 THE COURT: It's the what?

25 PROSPECTIVE JUROR NO. 070: The employee of the year event at

1 Bellagio. It's a yearly event for MGM Mirage.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 070: And I'm planning -- I'm planning to
4 attend.

5 THE COURT: What time is that event?

6 PROSPECTIVE JUROR NO. 070: It starts at 6:00.

7 THE COURT: You're not the employee of the year, are you?

8 PROSPECTIVE JUROR NO. 070: No, but I'm -- I'm one of the guests
9 that was mentioned.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NO. 070: If I miss much, I don't care.

12 THE COURT: Okay. Well, it was all on the same note, so I thought you
13 were the childcare person.

14 I'll see counsel back up here.

15 (Conference at the bench)

16 THE COURT: First, Ms. Dietz -- I'm sorry. No, not you.

17 Ms. Bonds.

18 PROSPECTIVE JUROR NO. 070: Yes.

19 THE COURT: Here's -- I can't let you go right now without questioning
20 you. I'm going to have you have a seat back outside in the hallway and we'll get
21 to you just as soon as we can.

22 PROSPECTIVE JUROR NO. 070: Okay.

23 THE COURT: And you may not be right on time for your event, but
24 you -- you will be able to get there at some point this evening.

25 PROSPECTIVE JUROR NO. 070: Okay. Thank you.

1 THE COURT: All right. Thank you.

2 And, Officer Wooten, if you would bring in Pezza, badge No. 90,
3 Nicole Pezza, badge 90. That's the Safekey issue.

4 (Prospective juror No. 70 exits courtroom)

5 PROSPECTIVE JUROR NO. 068: Judge, Adair, I don't have anything
6 planned for tonight, so if you want me to step out so you can bring her in to
7 question so she can go to her event, I would not mind.

8 THE COURT: Thank you. That is very gracious of you, but that's not
9 necessary.

10 PROSPECTIVE JUROR NO. 068: Okay.

11 THE COURT: But thank you. I appreciate that.

12 Ms. Pezza.

13 PROSPECTIVE JUROR NO. 090: Yes.

14 THE COURT: My bailiff handed me a note that you have childcare
15 issues; is that correct?

16 PROSPECTIVE JUROR NO. 090: Correct.

17 THE COURT: And what are those?

18 PROSPECTIVE JUROR NO. 090: My daughter is in Safekey, I don't
19 have a car, so my mom has to come pick me up to go get her.

20 THE COURT: Okay. Your mom can't just pick her up tonight and then --

21 PROSPECTIVE JUROR NO. 090: She can pick her up, but then how am
22 I going to get home?

23 THE COURT: She can't drive your child --

24 PROSPECTIVE JUROR NO. 090: She goes to -- she can drive my child
25 home, but she goes to work. She has to leave at six because she has to go to

1 work. She works the night shift. So I don't have any transportation.

2 THE COURT: All right. I'm going to go ahead and excuse you for this
3 evening, but not from jury service or coming back. I'm going to have you give
4 your home phone number as well as your cell phone number to Officer Wooten.
5 Officer Wooten is also going to give you a card that has my department number
6 and his cell phone on it. I want you to call at 8:00 a.m. tomorrow morning for
7 further instructions on when you have to report. Okay?

8 PROSPECTIVE JUROR NO. 090: Okay.

9 THE COURT: All right. Thank you.

10 PROSPECTIVE JUROR NO. 090: You're welcome.

11 (Prospective juror No. 90 exits courtroom)

12 THE COURT: And Mr. Pesci, I'm sorry we interrupted you, but you may
13 resume --

14 MR. PESCI: Thank you.

15 THE COURT: -- your questioning of Ms. Dietz.

16 MR. PESCI: Remember where we were?

17 PROSPECTIVE JUROR NO. 068: You were talking about the last jury I
18 served on and if we had -- if we got -- had gotten judge's instructions.

19 MR. PESCI: And you had not.

20 PROSPECTIVE JUROR NO. 068: No.

21 MR. PESCI: Okay. Thank you very much for telling us about your --
22 your sister. The question I wanted to ask, you said that there were warrants that
23 she was arrested on?

24 PROSPECTIVE JUROR NO. 068: Uh-huh.

25 MR. PESCI: Is that a yes?

1 PROSPECTIVE JUROR NO. 068: Thank you. Do you know did the
2 state of Nevada ever prosecute her on any of those warrants as far as you know,
3 the District Attorney's office?

4 PROSPECTIVE JUROR NO. 068: That I do not know.

5 MR. PESCI: The experience with your sister, do you think that that
6 would affect your assessment of the witnesses and the evidence in a way that
7 would be detrimental to either side?

8 PROSPECTIVE JUROR NO. 068: No, I do not. I think that she made
9 personal choices in her life and, unfortunately, those choices that she made were
10 her choices.

11 MR. PESCI: Thank you, Judge.

12 THE COURT: All right. Thank you.

13 Who would like to go next? Mr. Arrascada, thank you.

14 MR. ARRASCADA: Thank you.

15 Ms. Dietz, you mentioned --

16 PROSPECTIVE JUROR NO. 068: Yes.

17 MR. ARRASCADA: -- mentioned you're a store director for Albertson's.

18 PROSPECTIVE JUROR NO. 068: Yes, I am.

19 MR. ARRASCADA: Explain your position to me.

20 PROSPECTIVE JUROR NO. 068: I basically am over the entire
21 operation. I have 76 associates that are underneath me, seven department
22 heads that are closest to me, so I'm in charge of the whole operation.

23 MR. ARRASCADA: Is that multiple stores or is that one?

24 PROSPECTIVE JUROR NO. 068: No, I just have one location that I'm in
25 charge of.

1 MR. ARRASCADA: And you call it a -- you mention a location, I called it
2 a store. It's an Albertson's Super --

3 PROSPECTIVE JUROR NO. 068: It's an Albertson's Supermarket, yes.

4 MR. ARRASCADA: And it's a Sav-On, is that --

5 PROSPECTIVE JUROR NO. 068: Yes.

6 MR. ARRASCADA: Okay. You were speaking about your prior jury
7 service, and you mentioned service on the California case --

8 PROSPECTIVE JUROR NO. 068: Yes.

9 MR. ARRASCADA: -- which was a drug case criminal.

10 PROSPECTIVE JUROR NO. 068: Yes, it was.

11 MR. ARRASCADA: And you said I learned a lot.

12 PROSPECTIVE JUROR NO. 068: Yes.

13 MR. ARRASCADA: What did you learn?

14 PROSPECTIVE JUROR NO. 068: I just learned about the process. I
15 was 22 at the time. Going into the process I wasn't quite sure what the court
16 systems involved. So when I say I learned a lot, as far as going through a jury
17 selection, serving on a jury, going in and doing the jury -- back in the jury room
18 where you have to go through the deliberations and the evidence and so forth.
19 And I credit our foreman for keeping us on task and I was very impressed with
20 the system and how it worked.

21 MR. ARRASCADA: Okay. Did you have any --

22 MR. ADAMS: Can we pause for just a second.

23 THE COURT: Sure. Are they cold?

24 THE MARSHAL: Yes and no.

25 (Conference at the bench)

1 THE COURT: I'm sorry. Go on.

2 MR. ARRASCADA: We were speaking about everything you learned
3 being on the jury --

4 PROSPECTIVE JUROR NO. 068: Right.

5 MR. ARRASCADA: -- back when you were 21 years old.

6 PROSPECTIVE JUROR NO. 068: Yes. 22.

7 MR. ARRASCADA: 22, I'm sorry.

8 PROSPECTIVE JUROR NO. 068: Yeah.

9 MR. ARRASCADA: And did you have any -- when you left, did you leave
10 thinking, boy, the system would be better if this was different. And if so, what
11 was it?

12 PROSPECTIVE JUROR NO. 068: No, I don't think I left -- I think I left
13 knowing that we had a job to do, a service to perform, and I felt leaving there
14 very confident that's exactly what we had done.

15 MR. ARRASCADA: And you mentioned that you gave great credit to
16 your foreman on that.

17 PROSPECTIVE JUROR NO. 068: Absolutely.

18 MR. ARRASCADA: Were you able to express your views?

19 PROSPECTIVE JUROR NO. 068: Absolutely.

20 MR. ARRASCADA: Thoughts and opinions?

21 PROSPECTIVE JUROR NO. 068: Uh-huh. Yes.

22 MR. ARRASCADA: And were others?

23 PROSPECTIVE JUROR NO. 068: Yes.

24 MR. ARRASCADA: And was there a discussion that was had and points
25 of views made?

1 PROSPECTIVE JUROR NO. 068: There was many discussions had.
2 There was evidence that was brought back in. There was reports brought back
3 in, read back to us to make sure that everybody was clear on their decisions that
4 they were making.

5 MR. ARRASCADA: And were your feelings that -- that that was the right
6 way to go about it or the wrong way?

7 PROSPECTIVE JUROR NO. 068: I feel it as the right way to go about it
8 because I think that everybody, when they're making that type of decision, needs
9 to be very confident in the decision that they're making. And if that means that
10 they need to have some part of a testimony read back to them, that means that
11 they have to look at the evidence again, then that's what they need to do to be
12 confident with their own decision.

13 MR. ARRASCADA: If you're on this jury --

14 PROSPECTIVE JUROR NO. 068: Yes.

15 MR. ARRASCADA: -- would you -- would you be able to make sure
16 those same careful deliberations and deliberate and questions are going on in
17 this jury?

18 PROSPECTIVE JUROR NO. 068: Yes.

19 MR. ARRASCADA: And would you be okay with letting us know, the
20 lawyers and the Judge, if they weren't going well?

21 PROSPECTIVE JUROR NO. 068: I'd have no problem with that.

22 MR. ARRASCADA: You've been sitting here, I know, for three days and
23 we've asked --

24 PROSPECTIVE JUROR NO. 068: Yes.

25 MR. ARRASCADA: -- similar or same questions quite a bit. And I'd like

1 to know your answer from your own heart and your mind.

2 PROSPECTIVE JUROR NO. 068: Okay.

3 MR. ARRASCADA: You've heard --

4 THE COURT: I'm sorry. I -- I'm -- I'm sorry, Ms. Dietz.

5 PROSPECTIVE JUROR NO. 068: That's okay.

6 THE COURT: I'll see the lawyers up here at the bench please.

7 (Conference at the bench)

8 THE COURT: Jeff, bring in the rest of the jurors please.

9 Ms. Dietz, I'm going to make you stay since you were kind enough to
10 say --

11 PROSPECTIVE JUROR NO. 068: That's fine.

12 THE COURT: -- you could.

13 PROSPECTIVE JUROR NO. 068: I understand.

14 (Prospective jury panel enters at 5:11 p.m.)

15 THE COURT: All right. Ladies and gentlemen --

16 And if the lawyers can sit down so I can see everyone.

17 -- I had promised you yesterday that we would have a jury today. It
18 was my intention to stay as long as we needed today so that we could pick a jury
19 and those people who weren't going to be on the jury would not have to come
20 back for a fourth day. So that's why I wanted to work past five so we could get it
21 done.

22 However, because of the way the process works, it's important that
23 we go in a certain order. My bailiff, as you may have seen, a few people had
24 child care issues. My bailiff informs me that five or six people have come up to
25 him and told him that staying past 5:00 is a problem and that they cannot stay

1 past 5:00. Therefore, I'm going to have to excuse everyone reluctantly. I do
2 have one question for Ms. Garhardt who would be next. Where is Ms. Garhardt?

3 Ms. Garhardt, would you be able to stay past five today, or -- well,
4 it's already past five, or would you prefer not?

5 PROSPECTIVE JUROR NO. 069: I would prefer tomorrow.

6 THE COURT: Okay. That's fine. Basically I'm going to then remind
7 everyone of the admonition not to discuss this case. That means anything about
8 the case or the questionings or the reasonings behind the questioning. Please
9 don't speculate as you're walking to the parking lot or anything else about why
10 we're asking you certain questions.

11 Once again, don't read, watch, or listen to any reports of or
12 commentaries on any subject matter relating to the case. Don't do any
13 independent research. Don't visit any of the locations in question, and please
14 don't form or express an opinion. We will be reconvening at 9:00 a.m. tomorrow
15 morning.

16 Now, for those individuals who are seated in the jury box and the
17 individuals who have already been through the individual questioning in court, I'd
18 like those individuals, unless you have to leave right away, I'd like for those
19 individuals to remain in the hallway and to provide phone numbers for where you
20 can be reached this evening and tomorrow morning to my bailiff, Officer Wooten.
21 Everyone else, leave and come back at 9:00 a.m.

22 Does anyone have any questions?

23 Yes, sir?

24 PROSPECTIVE JUROR: So do -- I can volunteer to stay?

25 THE COURT: No.

1 PROSPECTIVE JUROR: Okay.

2 THE COURT: Because, again, we have to go in order.

3 PROSPECTIVE JUROR: Okay. I'm just volunteering.

4 THE COURT: Well, thank you and I appreciate it.

5 All right. If no one has any other --

6 Yes, sir?

7 PROSPECTIVE JUROR NO. 036: Is there any way we can make it
8 12:30?

9 PROSPECTIVE JUROR NO. 004: I -- I put him up to it. It works better
10 for my job.

11 THE COURT: You know what, and I'm sorry, but it doesn't work better
12 for -- no, the -- I mean, obviously this is taking a really long time. And the reason
13 we've had late starts is because the Court has had crowded calendars.
14 Tomorrow I don't have a calendar, so I really can't justify a late -- a late start.
15 And, you know, you may be excused tomorrow, and for those people who are
16 going to be excused, I'd rather do it sooner rather than later. I apologize. Like I
17 said, I did promise you. I broke my promise, and I blame Officer Wooten.

18 All right. If everyone please --

19 Yes, sir?

20 PROSPECTIVE JUROR: One more question. Do you have an
21 approximate time of what time we're going to leave tomorrow, or is it going to go
22 to 5:00?

23 THE COURT: Well, basically, no, we're not going to go -- I mean, if
24 you're on the jury we'll go until 5:00. If you're excused, it'll be just as soon as you
25 can be excused. And once again, for those people who were in the box, the

1 individuals who were questioned today individually, give your phone numbers to
2 Officer Wooten before you leave and just wait in the hall and the other jurors can
3 leave and we'll see them back at 9:00. The other jurors that you give your
4 numbers, come back at 9:00 unless we call you and tell you not to come back.

5 PROSPECTIVE JUROR: That sucks.

6 THE COURT: Sorry.

7 (Prospective jury panel recessed at 5:16 p.m.)

8 THE COURT: All right. Mr. Arrascada was questioning Ms. Dietz.

9 And, again, Ms. Dietz, thank you for your willingness to --

10 PROSPECTIVE JUROR NO. 068: Not a problem.

11 THE COURT: -- to stay late.

12 Go ahead.

13 MR. ARRASCADA: Thank you.

14 Ms. Dietz, I believe I was going to ask you a question you've heard
15 many times and I asked you to provide your own personal answer from your
16 head.

17 PROSPECTIVE JUROR NO. 068: Okay.

18 MR. ARRASCADA: And it's have you heard someone before suggest
19 they want to break the law, but you knew they didn't mean it?

20 PROSPECTIVE JUROR NO. 068: Yes.

21 MR. ARRASCADA: Tell me about that.

22 PROSPECTIVE JUROR NO. 068: In my line of work I hear it a lot.
23 Associates being angry with another associate and a threat of some type will be
24 made or something is said that would be classified as a threat.

25 MR. ARRASCADA: Okay. And because you're at the top, and I'm

1 assuming it all comes up to you.

2 PROSPECTIVE JUROR NO. 068: Yes, it does.

3 MR. ARRASCADA: Okay. Does -- how -- how do you go -- how do you
4 know when the associate is not -- not -- not serious about it?

5 PROSPECTIVE JUROR NO. 068: We have been trained to literally have
6 a process about it. And what I mean by that is we sit down and we talk to each
7 individual associate that's involved. They write down statements because their
8 statement right there on the piece of paper is really clear as to the frame of mind
9 that they're in at that time.

10 And then we just sit down with each associate and we distinguish if
11 the threat is a possibility or not a possibility by asking all the right questions, the
12 what, where, when, how, why. And then we distinguish from there. If we do feel
13 that there is a threat and the threat is pertinent, then we call in our loss
14 prevention and our human resources to come in to further investigate.

15 MR. ARRASCADA: Have -- have you ever had a situation where maybe
16 one of the associates didn't want to write down what they perceived happened or
17 what they said they did?

18 PROSPECTIVE JUROR NO. 068: Yes.

19 MR. ARRASCADA: What do you do in that situation under your
20 protocol?

21 PROSPECTIVE JUROR NO. 068: And then in that type of situation we
22 have verbal dialogue with that associate and we actually write the statement, on
23 this date at this time we spoke to this associate and detail out what we found in
24 our findings.

25 MR. ARRASCADA: Okay. Have you ever had where you go to the

1 verbal dialogue and the associate says I don't want to talk about it.

2 PROSPECTIVE JUROR NO. 068: I've had that.

3 MR. ARRASCADA: What do you do then?

4 PROSPECTIVE JUROR NO. 068: And then at that point, then we sit
5 there and we have to basically explain to that associate why we're concerned
6 about it. We explain to them why they can't go around and make those type of
7 threats and so forth. If at that time that associate's demeanor is still way off
8 balance with us, then we still call in our loss prevention and HR at that time to
9 deal with it.

10 MR. ARRASCADA: Because the associate won't talk to you?

11 PROSPECTIVE JUROR NO. 068: Yes.

12 MR. ARRASCADA: Is that held against them under the protocol?

13 PROSPECTIVE JUROR NO. 068: No, it is not.

14 MR. ARRASCADA: So is there other ways that you would go about
15 trying to determine was there serious -- were they serious, were they not, what
16 would you do?

17 PROSPECTIVE JUROR NO. 068: Well, that's where the second party
18 comes in as well. How the second party tells you what's going on can sort of put
19 you in the mindset of what that first party, how it was taken and so forth. And,
20 you know, then going to that second party, do you really feel that was a threat to
21 you and so forth.

22 MR. ARRASCADA: And would I be correct, your -- Albertson's, the store
23 has security cameras?

24 PROSPECTIVE JUROR NO. 068: Absolutely.

25 MR. ARRASCADA: And would that be something, going to the tape, so

1 to speak, that you'd look at to see are these people serious or did this happen?

2 PROSPECTIVE JUROR NO. 068: We go to the tapes quite often for all
3 sorts of things from sexual harassment cases to thievery type cases and so forth.

4 MR. ARRASCADA: I'm sorry. How long have you been the store
5 director for that location?

6 PROSPECTIVE JUROR NO. 068: I've been with the company for 24
7 years, but I've been a store director for them for five, and I've been in
8 management since I was 22.

9 MR. ARRASCADA: Okay. And is that protocol that you've been talking
10 with us about, is that something that you would -- would -- would that be
11 something you'd bring into the jury room or is that something you could set aside
12 and go with whatever the law -- the protocol you're given from the Judge?

13 PROSPECTIVE JUROR NO. 068: Yes, I could do the protocol from the
14 Judge. That is just basically how I would handle a situation, the question that
15 you asked me, in my work environment.

16 MR. ARRASCADA: Okay. What I'm trying to find out, and help me here
17 please.

18 PROSPECTIVE JUROR NO. 068: Sure.

19 MR. ARRASCADA: Is that so engrained within you that you're -- you've
20 been there for 20-plus years and management since you were 22. Is that so
21 engrained with you that that would be a bias -- a thought process bias you would
22 go through in order to reach conclusions or decisions regarding evidence or
23 whether somebody testifies or not?

24 PROSPECTIVE JUROR NO. 068: No, I don't believe so. I do think that I
25 make decisions all day long in my job and it's how it's presented to me, all of the

1 facts and so forth that come forth to me to make the decisions of what needs to
2 happen further.

3 MR. ARRASCADA: Okay.

4 PROSPECTIVE JUROR NO. 068: And if that was something that I had
5 to weigh from the Judge as far as how she was going to give me the law of how I
6 needed to follow it, then that's how I would follow it.

7 MR. ARRASCADA: Give me just one moment. Okay?

8 PROSPECTIVE JUROR NO. 068: Not a problem.

9 MR. ARRASCADA: Thank you.

10 You -- you very openly shared the situation with your sister.

11 PROSPECTIVE JUROR NO. 068: Yes.

12 MR. ARRASCADA: Do you feel at all that the system, the criminal justice
13 system somehow failed with your sister or for your family?

14 PROSPECTIVE JUROR NO. 068: No, I don't. I feel just the opposite.

15 MR. ARRASCADA: Why is that?

16 PROSPECTIVE JUROR NO. 068: I feel that the system, meaning child
17 protective services stepped in, and I felt that for what I needed to get done,
18 because of course my first concern was for my niece and nephew who were
19 quite young at this time, three and two years old, that they helped me get custody
20 of those children. When I mean help, meaning giving me all the right avenues to
21 take so that I could do that.

22 MR. ARRASCADA: And with your experience through that, with child
23 protective services and then also your experience twice being a juror, but once
24 actually being a part of a jury that deliberated in reaching a verdict --

25 PROSPECTIVE JUROR NO. 068: Right.

1 MR. ARRASCADA: -- do you feel that our system is fair?

2 PROSPECTIVE JUROR NO. 068: I do feel the system is fair.

3 MR. ARRASCADA: Thank you.

4 PROSPECTIVE JUROR NO. 068: You're very welcome.

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

6 Ms. Armeni.

7 MS. ARMENI: Last questioner. Ms. Dietz, Mr. Arrascada talked to you a
8 little bit about your job, so I just want to follow up a little bit.

9 PROSPECTIVE JUROR NO. 068: Sure.

10 MS. ARMENI: When you make -- when you make a decision --

11 PROSPECTIVE JUROR NO. 068: Yes.

12 MS. ARMENI: -- if you realize that afterwards that maybe you made the
13 wrong decision, can you fix that?

14 PROSPECTIVE JUROR NO. 068: Absolutely we can fix it.

15 MS. ARMENI: And how -- how do you fix it?

16 PROSPECTIVE JUROR NO. 068: If it is -- well, I guess when I make the
17 decision, that decision is not written concrete in stone until everything is
18 presented to our loss prevention or our HR, and then they come down and say,
19 okay, this is the disciplinary action we need to take. If it is -- and that's a serious
20 offense from thievery to dishonestly or breaking a company policy. And most of
21 the time it is a slap on the hand, which is a verbal write up or a written warning.

22 If we're going into something that is more of a suspension or a
23 termination, that is taken very heavily by our company and they, before rendering
24 that, will really investigate it out further. But if there is something, let's say, of --
25 not of that offense and I have two associates or an associate that I made a

1 mistake on, then, yes, I have to call them back into the office and basically tell
2 them, hey, you know what, I'm sorry, this is what happened and let's move
3 forward from this.

4 MS. ARMENI: Okay. So there are certain decisions that you are kind of
5 the person that makes the final decision --

6 PROSPECTIVE JUROR NO. 068: Yes. Yes.

7 MS. ARMENI: -- and other decisions that's the higher --

8 PROSPECTIVE JUROR NO. 068: The higher ups, yeah. Uh-huh.

9 MS. ARMENI: But you realize this. I mean, you've been on a jury before
10 so --

11 PROSPECTIVE JUROR NO. 068: Yes.

12 MS. ARMENI: -- do you realize that obviously if a mistake is made here,
13 you can't go back --

14 PROSPECTIVE JUROR NO. 068: And say I'm sorry.

15 MS. ARMENI: -- and fix it.

16 PROSPECTIVE JUROR NO. 068: You're absolutely correct.

17 MS. ARMENI: You said something, and I don't want to misquote you.

18 PROSPECTIVE JUROR NO. 068: Sure.

19 MS. ARMENI: But we were talking about strip clubs and you said
20 something about the fact of I don't really have an opinion of them but it isn't the
21 type of crowd I want to hang out with.

22 PROSPECTIVE JUROR NO. 068: Yeah, it's not -- it's not my cup of tea
23 as far as that goes.

24 MS. ARMENI: Can you just explain to me why you said that?

25 PROSPECTIVE JUROR NO. 068: Just the way I was raised and the

1 way that I was brought up. It's just not something that -- it's not something that I
2 would frequent or something that I would go to or something that, you know, if I
3 had friends in the industry, which could happen here in Las Vegas, I wouldn't
4 hold that against them or -- or that's their choice to do that type of job. As far as
5 me going and seeking out that kind of entertainment, it -- it's not for me.

6 MS. ARMENI: And that's what I wanted to clear up.

7 PROSPECTIVE JUROR NO. 068: Yeah.

8 MS. ARMENI: Because you had said, you know, I really don't have an
9 issue with it --

10 PROSPECTIVE JUROR NO. 068: Right.

11 MS. ARMENI: -- but I wanted to -- I mean, you understand, obviously --

12 PROSPECTIVE JUROR NO. 068: Absolutely.

13 MS. ARMENI: -- we may have employees of the Palomino Club that are
14 going to come in here. And would you have a problem with them just for the
15 simple fact that they're an employee of a strip club?

16 PROSPECTIVE JUROR NO. 068: Nope. That was the job that they
17 chose.

18 MS. ARMENI: And I don't mean to pry. Your sister, what was her
19 profession or job or did she have something that she normally did?

20 PROSPECTIVE JUROR NO. 068: She worked for the MGM Grand as a
21 slot attendant, I guess. And she also worked for Terrible Herbst in their vault.
22 And then she became unemployed and she was living in my home for quite a
23 long time as I was the bread winner.

24 MS. ARMENI: Any experience with lawyers?

25 PROSPECTIVE JUROR NO. 068: Yes.

1 MS. ARMENI: Okay. If you were in a situation that you felt like you
2 needed one, would you have somebody to call?

3 PROSPECTIVE JUROR NO. 068: Yes.

4 MS. ARMENI: Or let me actually ask you, through Albertson's, do you
5 guys have kind of a corporate counsel?

6 PROSPECTIVE JUROR NO. 068: Yes, we do.

7 MS. ARMENI: And that's somebody you can call whenever a legal
8 question comes -- or why don't -- can you give me an example of when you
9 would call them?

10 PROSPECTIVE JUROR NO. 068: Usually we don't call them, they call
11 us.

12 MS. ARMENI: Oh, okay.

13 PROSPECTIVE JUROR NO. 068: If there is a -- if there is a problem
14 and they're going to court or they're going to a case --

15 MS. ARMENI: Okay.

16 PROSPECTIVE JUROR NO. 068: -- they will contact us and say, hey,
17 we need you to -- or they'll prepare us for a trial or a deposition or so forth.

18 MS. ARMENI: So you don't -- has there ever been a time where maybe
19 it's been reversed and you've actually --

20 PROSPECTIVE JUROR NO. 068: No.

21 MS. ARMENI: No.

22 PROSPECTIVE JUROR NO. 068: There has not. As far as me using
23 lawyers, yes, I have used lawyers for the court case for my niece and nephew.

24 MS. ARMENI: Okay.

25 PROSPECTIVE JUROR NO. 068: Because after I was granted

1 guardianship, we then went into a custody battle for them.

2 MS. ARMENI: And can I ask how you went about getting that lawyer for
3 that situation?

4 PROSPECTIVE JUROR NO. 068: It was actually recommended by the
5 children's social worker.

6 MS. ARMENI: You've heard us ask a lot of questions about gangs.

7 PROSPECTIVE JUROR NO. 068: Yes.

8 MS. ARMENI: Do you -- what's your feeling on them?

9 PROSPECTIVE JUROR NO. 068: The hot topic.

10 MS. ARMENI: The hot topic. How do you feel about the hot topic?

11 PROSPECTIVE JUROR NO. 068: You know what, I went to Colton High
12 School and there was a gang in that high school. There was --

13 MS. ARMENI: Where is Colton High School?

14 PROSPECTIVE JUROR NO. 068: It's in California.

15 MS. ARMENI: Okay.

16 PROSPECTIVE JUROR NO. 068: We lived up in Grand Terrace which
17 was on the hill and we were known as the rich kids being bused down into this
18 lower income school. And you just learned to work around it. You learn to avoid
19 certain times of the day and hallways and that kind of stuff. And that has been
20 my only experience with that.

21 MS. ARMENI: Give me just a second.

22 PROSPECTIVE JUROR NO. 068: Not a problem.

23 MS. ARMENI: Court's indulgence.

24 Thank you very much.

25 PROSPECTIVE JUROR NO. 068: You're very welcome.

1 THE COURT: Ms. Dietz --

2 PROSPECTIVE JUROR NO. 068: Yes.

3 THE COURT: -- thank you very much. I'm going to ask that you just
4 have a seat in the hallway for right now.

5 PROSPECTIVE JUROR NO. 068: Sure.

6 THE COURT: And then Officer Wooten will be back out to get you in a
7 few minutes.

8 PROSPECTIVE JUROR NO. 068: Okay. Thank you very much.

9 (Prospective juror No. 68 exits courtroom)

10 MR. GENTILE: We are --

11 THE COURT: Who -- who is your fourth challenge?

12 MR. GENTILE: Our fourth challenge is the lady that just walked out, Ms.
13 Dietz.

14 THE COURT: Ms. Dietz. That's why I had her wait in the hallway.

15 MR. GENTILE: Thank you.

16 THE MARSHAL: Should I bring her in, Your Honor?

17 THE COURT: Yes.

18 (Off-record colloquy)

19 THE COURT: Ms. Dietz, I want to thank you very much for being here
20 these three days and your patience in what has been a really long process. I
21 also want to thank you for your willingness to serve because, as you've seen,
22 some people don't share that --

23 PROSPECTIVE JUROR NO. 068: Yes.

24 THE COURT: -- and appreciate their duty. You are excused, however,
25 at this time. And I once again want to thank you very much --

1 PROSPECTIVE JUROR NO. 068: Thank you.

2 THE COURT: -- because you've been very willing to serve and I really
3 appreciate that.

4 PROSPECTIVE JUROR NO. 068: Thank you.

5 THE COURT: All right. Thank you.

6 (Prospective juror No. 68 exits courtroom)

7 MR. DIGIACOMO: That is my definition of the perfect juror, and they kick
8 her.

9 THE COURT: You know who I thought was great, who would be a
10 tremendous government teacher, was Mr. Wallace.

11 MR. GENTILE: We didn't kick him.

12 MS. ARMENI: We didn't kick him.

13 MR. DIGIACOMO: But he's going to get --

14 THE COURT: I'm expecting you might. But I think -- I mean, I think as a
15 government, high school government teacher, he just seems like he would be a
16 great teacher.

17 MR. GENTILE: Yeah, he does.

18 THE COURT: In any event -- huh?

19 MR. GENTILE: He does look -- you know that's exactly the problem.

20 THE COURT: I know. That's why I'm expecting you to kick him.

21 MR. DIGIACOMO: The truth shall set you free.

22 THE COURT: All right. Just so you know, I kind of changed what I -- I
23 realized it was stupid to make everybody that's been interviewed sit here from
24 9:00 on. So what we're doing is the people who haven't been interviewed are
25 coming back at 9:00. And the people who have been interviewed were told to

1 come back at 12:30. But we have all of their phone numbers, so as people are
2 perempted, Jeff will call them and tell them they don't need to report.

3 MR. GENTILE: Okay.

4 THE COURT: The other people are prepared to report at 12:30 because
5 hopefully we'll have a jury by 12:30 and we can do openings. So --

6 MR. ADAMS: So would that be the intention to do openings and then
7 call -- call it a wrap if --

8 MR. GENTILE: Well --

9 MR. ADAMS: -- the openings --

10 THE COURT: No, the intention is --

11 MR. ADAMS: -- end at 4:00?

12 THE COURT: Well, and also I don't know who's going to be picked. So
13 we may have a jury of people who don't have child care issues and can stay past
14 5:00. I really don't want to stay past 5:00 tomorrow night because I have things
15 to do, but I -- other nights we will because we got to catch up and -- and make up
16 some time here.

17 MR. GENTILE: Right. Here's the only concern that I have.

18 MR. DIGIACOMO: I wasn't planning on having a witness tomorrow.

19 THE COURT: That's fine.

20 MR. DIGIACOMO: Because I figured our openings would cover the
21 afternoon --

22 THE COURT: That's fine.

23 MR. DIGIACOMO: -- if we get there.

24 THE COURT: If we get there.

25 MR. GENTILE: A couple of things. First of all, and Paola is going to

1 chew my leg off when I do this, but I just think it's the right thing to do. We are
2 going to file with the Court at this point our trial memorandum.

3 THE COURT: All right.

4 MR. GENTILE: It is redacted. What I did was, those things that I did not
5 want to reveal in terms of our -- our defense theory and certain facts, I have
6 redacted by highlighting them in black so that they can't be read.

7 THE COURT: Okay.

8 MR. GENTILE: There's never been an impression on here, so you won't
9 be able to see it at all. And I will serve one on the State right now. How many do
10 you need for your file?

11 THE COURT: Obviously -- Mr. Adams, do you have a copy of the brief?

12 MR. ADAMS: I'm fine. I'll -- I'll waive.

13 THE COURT: You've seen it and -- all right.

14 (Off-record colloquy)

15 MR. DIGIACOMO: Can we address something? It doesn't have to be --

16 THE COURT: Yeah.

17 MR. DIGIACOMO: -- on the record, but --

18 MS. ARMENI: Are we on the record?

19 THE RECORDER: We are.

20 THE COURT: We are right now.

21 MR. DIGIACOMO: I think there needs to be two rulings before my
22 opening as I was putting it together last night. So one of which I think maybe the
23 subject of one of the portions of his brief according to Mr. Gentile, the other one
24 is something we've already erased. And I'd just tell the Court generally what they
25 are, not that you need to discuss them now, but I do need between the time of

1 your ruling and the time you actually require me to open, approximately an hour
2 depending on what your ruling is as to one of those motions.

3 And the first is whether or not the position of Louis Hidalgo III is,
4 because I think I know what Mr. Louis Hidalgo, Jr.'s position is, to the statements
5 of Deangelo Carroll on the wire. I am offering the wires under Tannenbaum, and
6 when we did this in Counts we instructed the jury you cannot consider the
7 statements of Deangelo Carroll for the truth of the matter asserted.

8 And Mr. Gentile's, I believe, position is is that he is using them for
9 impeachment only. I don't know what Louis Hidalgo III's position is. There is a
10 statement by Deangelo Carroll that says something to the effect of what are you
11 worried about, Louie, you didn't have anything to do with it.

12 Now, if they're offering it for the truth of the matter asserted, that's
13 fine, but that will change the nature of the way the evidence comes in if they're
14 off -- if they're saying that that's used for impeachment of the other statements of
15 Deangelo Carroll that's coming in. That's different.

16 It's kind of a complex legal issue, but it -- the State shouldn't be
17 hampered from addressing the -- the issue of the jury during openings and not
18 have the defense stand up and go, well, Deangelo Carroll didn't do it. If that's
19 the case, then I -- I want to be able to address the substance of that statement in
20 my opening.

21 MR. GENTILE: Okay. And to respond to that, it is Mr. Hidalgo, Jr.'s
22 position, as I stated last week, that nothing in that tape should be admitted to him
23 as to him at all, period, because it is not a furtherance of the conspiracy that --
24 and we've been through that.

25 THE COURT: No, I know.

1 MR. GENTILE: Okay. Separate and apart from that, if you do admit it, if
2 you do make that decision, then as a matter of law, the statements of Deangelo
3 Carroll ought not to even be in that tape. And the reason the courts allow it to
4 remain in the tape is because they say that the responses that are made in that
5 instance by Mr. Hidalgo III and Anabel Espindola adopt as admissions the
6 statements of Mr. Carroll, which means that they are admitted for substantive
7 use.

8 THE COURT: Right.

9 MR. DIGIACOMO: Well, I -- they're not all adopt admissions. They give
10 context to these words of the defendants. Merely there is no response. When
11 Deangelo Carroll says what are you worried about Little Lou, you had nothing to
12 do with it, he doesn't say, you're right, I had nothing to do with it. There is no
13 adoption of that.

14 MR. GENTILE: His silence is that adopted admission. He doesn't
15 correct him.

16 MR. DIGIACOMO: He -- he goes on to talk about killing the witnesses. If
17 they are asserting --

18 THE COURT: Well, I think, though, actually you got -- I may be
19 mishearing Mr. DiGiacomo, but it sounds kind of like you're saying the same
20 things. You think the tape should come in for the substance of the statement,
21 and then he's saying, well, if they want this one statement, you want the
22 substance of the other statements coming in.

23 MR. DIGIACOMO: Right.

24 MR. GENTILE: No.

25 MR. DIGIACOMO: Well, what I'm saying is if the substance of that

1 statement comes in, it's offered for the truth of the matter and --

2 THE COURT: Then all the statements should be offered for the truth of
3 the matter.

4 MR. GENTILE: Which is why I object to it coming in at all as to Mr. Jr.

5 MR. DIGIACOMO: No, I don't necessarily think that.

6 MR. GENTILE: I agree with you. We're all in the same agreement, but
7 I'm saying that it can't come in as to Junior at all for that very reason.

8 MR. DIGIACOMO: Under 51.069, we would be able to -- to impeach that
9 particular statement. There is a reasonable explanation that Deangelo Carroll
10 gave prior to ever making that statement.

11 MR. ADAMS: That's never been provided to us.

12 MR. DIGIACOMO: That's not true.

13 MR. ADAMS: Never --

14 MR. DIGIACOMO: It's in -- that's in his 128-page statement. There's a
15 very reasonable explanation for what the meaning of that statement is --

16 MR. ADAMS: What is it?

17 MR. DIGIACOMO: -- and if the Court is going to -- I don't necessarily
18 have to give you my opening. What I'm saying is --

19 MR. ADAMS: Well, no, but he would like -- can you help him out? Can
20 you tell him where it is in the 120-page statement so Mr. Adams --

21 MR. GENTILE: I don't have any written statement --

22 MS. ARMENI: No.

23 MR. GENTILE: -- from Angelo -- from him. I have a transcript of a
24 videotape.

25 MR. DIGIACOMO: Yeah, the transcript.

1 THE COURT: He's talking about page --

2 MR. DIGIACOMO: In the video -- in the video Deangelo Carroll gives an
3 explanation as to a discussion that he had with Mr. H, and that discussion
4 explains the statement that Deangelo Carroll made on -- on -- on the wire.

5 THE COURT: You know what, maybe there is an easier way to address
6 this. And the easier way, at least for me, would be if you tell us what you would
7 like to say in your opening statement and then rather than dealing in hypothetical
8 and conjecture, if you just tell us what it is you would like to say, then both sides
9 of the defense or -- can say what they find objectionable and I can rule in a more
10 concrete way than trying to -- trying to guess at what maybe you're going to do.

11 MR. DIGIACOMO: But --

12 THE COURT: And I know you don't want to reveal your opening
13 statement, but to the extent that we can avoid a lengthy conference at the bench
14 and having you have to flip through your PowerPoint, let's just do it this way.

15 MR. DIGIACOMO: No, and I wasn't going to actually -- because I think
16 there's going to be certain legal rulings that the Court's going to have to make.
17 I'm not asking you to make those legal rulings.

18 What I'll say is if the position is it's coming in as substantive, I am
19 going to tell the jury when you -- when you hear this or if -- they may even hear it
20 during their opening, ladies and gentlemen, you will hear testimony that is going
21 to explain that this does not mean that Little Lou wasn't involved in the
22 conspiracy. But I can't make that statement if it's not offered for the truth of the
23 matter asserted.

24 If it's -- if it's -- I can only make that statement if it -- if it's coming in
25 as substantive evidence. I don't even need to discuss what the explanation is,

1 but I have a right to say to the jury before they're -- they're told in the opening,
2 hey, Deangelo Carroll said he didn't do it, then I have a right in my opening to
3 say to them, well, yes, but you're going to understand what the meaning of that is
4 at the end of this case, and that meaning is not what is going to be ascribed to it
5 or what you would naturally think he was saying in that statement. And that's all I
6 want to be able to say.

7 But I felt like it would be inappropriate for me to say that if it's not
8 being offered for the truth of the matter asserted. And so I just wanted to know
9 what the position of the defense is. Are they going to offer that for the truth of the
10 matter asserted, and if they are, then I'm -- then I'm -- I can't offer it for the truth
11 of the matter asserted, but if they are I have a right to comment on it.

12 MR. GENTILE: Okay. Make it straight. As to Junior, we're not offering it
13 at all. We're opposing it. If we get into our case in chief and we use the
14 videotape that he's talking about, we're using it as a prior inconsistent statement.

15 THE COURT: So just for impeachment?

16 MR. GENTILE: That's certainly our attitude.

17 THE COURT: So now it's clear, Mr. DiGiacomo?

18 MR. DIGIACOMO: I -- my problem has never been with Mr. H.

19 THE COURT: It's with --

20 MR. DIGIACOMO: It's with Louis Hidalgo III. If they're going to attempt
21 to argue to the jury that Mr. Carroll's statement means his client didn't do it, I
22 want to be able to comment on that fact during my opening.

23 THE COURT: All right.

24 MR. GENTILE: I'm sure that's what they're going to do.

25 MR. DIGIACOMO: That's -- that's -- that's why I'm saying it. As long as

1 there's an indication that that's what's going to happen, then I feel comfortable
2 making the statement I'm going to make to the jury.

3 THE COURT: And Mr. Gentile --

4 MR. GENTILE: But that doesn't mean --

5 THE COURT: -- doesn't really care because that doesn't go to his client
6 anyway.

7 MR. GENTILE: No, but it doesn't mean that the -- the videotape when it
8 does come in is used for substantive purposes. The State can never use that
9 tape for substantive purposes.

10 MR. ADAMS: And I don't understand how he can explain away
11 something from a videotape when the videotape is not admitted and we don't
12 know if it's going to be admitted.

13 MR. DIGIACOMO: I'm not going to say what's on there or how it is the
14 jury is going to know. I just want to have the right to comment that you heard that
15 statement and that statement is not going to mean at the end of this case that
16 Little Lou didn't do it or that Deangelo Carroll meant that Little Lou didn't do it.

17 MR. GENTILE: He can comment on it. He can comment on anything.
18 The question is is he going to be able to get the evidence in later for that
19 purpose?

20 THE COURT: Well, except it would be inappropriate for him to comment
21 on evidence that he knows isn't going to be admitted, number one. And number
22 two, Mr. DiGiacomo doesn't want to run the risk of commenting on evidence and
23 then having the jury sit there and say, well, wait a minute, he talked about this,
24 where was that, we didn't hear anything about it.

25 MR. ADAMS: What we would like to do, Judge, is to address the issue

1 after their opening statement.

2 THE COURT: No.

3 MR. DIGIACOMO: Well, my -- the issue is what I say.

4 MR. ADAMS: Because the sequencing of the order is they have to make
5 their argument and then we make ours. Alternatively, if the Court is not inclined
6 to do it that way --

7 THE COURT: I'm not.

8 MR. ADAMS: -- we'd like to think about it overnight and respond in an
9 educated fashion tomorrow.

10 THE COURT: All right. And, Mr. DiGiacomo, this hour that you need --

11 MR. DIGIACOMO: Relates to the transcript --

12 THE COURT: -- is that any --

13 MR. DIGIACOMO: -- not to that.

14 THE COURT: Okay. Now, there are other people in the DA's office that
15 are actually physically going to be able to do this work? So if I give you a ruling
16 at 9:30 somebody else can -- can do the work, it's not an hour of your time?

17 MR. DIGIACOMO: More like a lunch -- I need a lunch break.

18 THE COURT: Okay. You'll get a lunch break.

19 MR. DIGIACOMO: If the ruling is -- if the ruling is before the lunch break,
20 during the lunch break I can make whatever corrections.

21 THE COURT: Okay.

22 MR. DIGIACOMO: But essentially it relates to the transcript. I need to
23 know if you're going to let us use the transcript, one. And if -- if you're not --

24 THE COURT: So that's the second issue is the transcript? You know, I
25 was rethinking this issue, and I don't remember. I mean, it was so long ago.

1 There's been so many things in this case. But since there's a difference in the
2 transcript, and we're fighting over the transcript, and I know it can help the jury
3 listening to the tape, but maybe it would be better just to play the tape without
4 anybody's transcript --

5 MR. GENTILE: I'm -- I'm all -- I'm down with that.

6 THE COURT: -- and letting the jury listen and see what they --

7 MR. DIGIACOMO: If that's the Court's ruling, we're going to play it 100
8 times and we'll be here for three weeks because you can't --

9 MR. GENTILE: That's cumulative. You can't do that.

10 MR. DIGIACOMO: -- you -- you have to listen to this tape lots and lots of
11 times and you can't expect this jury to comprehensively understand the wording
12 on there. We have a witness who is going to authenticate the transcripts that we
13 provided to the defense. If the Court's ruling, and as I recall, this is a
14 demonstrative piece of evidence. It's not like it's a physical piece of evidence.

15 THE COURT: No, it's not. And last time I said, okay, use both
16 transcripts, but --

17 MR. DIGIACOMO: And if the Court's ruling is that you won't allow that
18 section to be played in front of the jury, I need to know that. I don't see how it
19 is -- I mean, what I guess I'll do is I'll bring in a blank board and ask Anabel to
20 write in on a blank board, okay, what exactly did you hear at this portion of the
21 transcript? I mean, ultimately, at the end of the day, I don't understand what the
22 problem is. It's the -- the evidence has been turned over to them forever.

23 MR. ADAMS: Anabel can testify to what she heard in the room. She
24 can't -- I don't think she's being offered as an authenticator of the transcript.

25 THE COURT: Well, except if she remembers the testimony and listened

1 to it and says, yeah, the -- or the conversation and says, yeah, that's what he
2 said.

3 MR. ADAMS: We sure would like some notes of that debriefing session,
4 Your Honor, because that is critical to us and we're entitled to know how she was
5 prepped, how she was prompted to come up and listen to this stuff and fill in the
6 gaps that are being filled in after the audibility hearing.

7 THE COURT: Okay. And that was with the district attorneys; right? Not
8 with the police, not when she was in custody?

9 MR. DIGIACOMO: That's correct.

10 THE COURT: Okay.

11 MR. DIGIACOMO: And they're certainly not entitled to any notes should
12 they exist.

13 THE COURT: So that's subsequent to the negotiation and all of that; is
14 that right?

15 MR. DIGIACOMO: Correct.

16 THE COURT: Okay. And when just did -- did this meeting occur where
17 she listened to the tape and the -- looked at the transcript and all that stuff?

18 MR. DIGIACOMO: What day is -- it was Monday because we were dark
19 Monday.

20 THE COURT: Okay. And where did it occur?

21 MR. DIGIACOMO: What?

22 THE COURT: Where?

23 MR. DIGIACOMO: In this building.

24 THE COURT: In the DA's office?

25 MR. DIGIACOMO: Well, it was brought -- no, it's not technically in the

1 DA's office, but it's a room in the regional justice center for in-custody interviews.

2 THE COURT: Okay. And who was there?

3 MR. DIGIACOMO: Myself, Mr. Pesci, and the transporting investigators,
4 and I believe Mr. Oram for part of the time was present.

5 THE COURT: Okay. And that would -- Would that be Mr. Faulkner?
6 Was he there?

7 MR. DIGIACOMO: Mr. Faulkner and --

8 THE COURT: Okay.

9 MR. DIGIACOMO: -- one of the transporting, and Mr. Doherty, I believe,
10 was the other transporting individual.

11 MR. ADAMS: We'd like to see some notes about how she was prompted
12 on this part of the tape. If she's going to say this is the creation, this is how they
13 came --

14 THE COURT: Well, first of all, those wouldn't be the investigator's notes
15 because that would be the DA's preparing for her testimony, which if there are
16 notes, that would be the lawyers' notes, number one. Because at this point in
17 time, the DA investigators are just, I'm assuming, transport. They have to have
18 her -- she's in custody, they bring her and what not. They're not really
19 investigating at this point if the lawyers are the ones that are doing it, number
20 one.

21 Number two, the reason I asked that was because it's not something
22 from previous when she initially met with Metro and had the debriefing and all of
23 that stuff. And you're certainly free to question her about it.

24 MR. ADAMS: But here's my concern, Judge. If they play the tape and
25 she has the transcript and no changes are made and then they say, well, listen to

1 this part again and they prompt her to a special section and talk to her about that,
2 that's Brady material. That if she did not identify this the first time that process is
3 Brady material. It's all fertile ground for cross-examination. I think we're entitled
4 to know all about what happened.

5 MR. DIGIACOMO: He's free to ask her.

6 MR. ADAMS: In advance of trial, in preparation of trial.

7 MR. GENTILE: You know, separate and apart from that whole issue it
8 seems to me that Anabel can testify -- excuse me, Ms. Espindola can testify to
9 anything that she thinks she hears on that tape. Nobody has a quarrel with that.
10 But to let her authenticate a transcript which isn't even evidence in the first place,
11 it's nothing more than her opinion at that point.

12 So if she can testify as a percipient witness that when we were there
13 this is what was said and the jury then listens to the tape and the jury decides
14 whether that's what they hear on it or not. I have no quarrel with that. As a
15 matter of fact, nobody could have a quarrel with that. But it's this -- it's the use of
16 the transcript itself that is the problem.

17 THE COURT: The second transcript.

18 MR. GENTILE: Right.

19 MR. ADAMS: The second transcript.

20 MR. DIGIACOMO: Well, there's a problem with the first transcript.
21 Who's going to authenticate the first transcript? Who's going to authenticate their
22 transcript? Because my understanding is that Anabel was part of the creation of
23 that --

24 MR. GENTILE: You don't need --

25 MR. DIGIACOMO: -- particular transcript.

1 MR. GENTILE: -- to authenticate a transcript. Okay?

2 MR. DIGIACOMO: Well, then what's the problem?

3 MR. GENTILE: You don't need to authenticate --

4 MR. PESCI: The same --

5 MR. GENTILE: -- a transcript.

6 MR. PESCI: -- arguments can be made for the defense --

7 THE COURT: Right. I mean --

8 MR. PESCI: -- because Ms. -- Ms. --

9 THE COURT: -- if -- if we are just going to do it, if nobody is -- I mean,
10 typically, you know, the detective will say, yeah, I listened to the transcript and
11 this accurately is what the conversation was and I followed along with the tape
12 and blah, blah, blah.

13 MR. PESCI: Right.

14 THE COURT: If we're not going to do that, if we're going to say, ladies
15 and gentlemen, the tape is difficult to hear or you're going to be the judge of
16 what's on the tape, but maybe to assist you two transcripts have -- there is
17 dispute over what's on the tape, but to maybe assist you, two transcripts have
18 been prepared. One has been prepared by the State, one has been prepared by
19 the defense, we're going to pass out the first transcript, we'd like you to listen,
20 and --

21 MR. GENTILE: Well, then I think we should be entitled at least to have it
22 play the second time with the other one.

23 THE COURT: And then contemporaneous.

24 MR. GENTILE: Yeah.

25 THE COURT: Then -- and then -- and then say, okay, now here's the

1 defense's version. Ladies and gentlemen, you're not going to have these
2 transcripts with you in the back so you have to -- they're not evidence, so you
3 have to listen to this testimony as carefully as you would to any other testimony
4 because it's -- you'll have the tape to play, but you won't have the transcript, so
5 please listen carefully to the tape as it's played, this is just to assist you, no one
6 is saying that this is the correct transcript or an incorrect transcript and we want
7 you to follow along and it's your collective hearing that controls here. And then
8 play the State's version, play the defense's version, and move on from there.

9 MR. ADAMS: The State's first original version that was ruled upon by the
10 court.

11 MR. DIGIACOMO: You didn't rule upon it. You just -- we didn't even get
12 that far. Look back at the transcript. You said the State can play theirs, the
13 defense can play theirs. The suggestion that somehow that a transcript that is
14 more accurate or is -- has more information filled into it, somehow that suddenly
15 makes a difference. They still have the same tape.

16 We've been here for three days on jury selection. They haven't told
17 you how they're prejudiced by the fact that there's additional words on the
18 transcript at all. It's -- if this jury doesn't hear what's on that transcript, it's very
19 bad for us. Right?

20 I don't understand what the prejudice to the defense is as to a
21 demonstrative piece of evidence. There's other demonstrative pieces of
22 evidence that I'm sure is being created or will be brought tomorrow. There's, you
23 know, aerial maps.

24 THE COURT: Right. Whatever.

25 MR. DIGIACOMO: These are all demonstrative kind of things. I don't

1 understand what the argument from the defense is that they were --

2 MR. PESCI: Plus the creation of the defense's --

3 MR. DIGIACOMO: -- entitled to it.

4 MR. PESCI: -- version of it was done with the same witness. They will
5 have the opportunity, because she's the State's witness now, to cross-examine
6 that particular witness. And it's not to authenticate, it's because that was the
7 person in the room. She was in there. She heard it all.

8 THE COURT: No, I know. She can say this is what was said or this is
9 what I remember or --

10 MR. PESCI: She was in the process with --

11 THE COURT: No, I get it.

12 MR. PESCI: -- defense counsel making their version.

13 MR. ADAMS: Judge, there was a joint defense agreement that Ms.
14 Espindola had entered into with Louis Hidalgo III that apparently has been
15 violated and I think we're going to need some sort of hearing on the extent of -- of
16 the violation and what it means. It's become clear now, based on their
17 representation that she has violated the joint defense agreement that was
18 effectuated between counsel for Mr. Hidalgo III and for Ms. Espindola.

19 MR. DIGIACOMO: And the courts have all said they're completely
20 unenforceable, Judge. Ms. Espindola does not have some duty to an
21 unenforceable document.

22 MR. GENTILE: Actually, the courts haven't said that, but --

23 MR. DIGIACOMO: What?

24 MR. GENTILE: I did a paper on that about six months ago. The courts
25 haven't said that. There's a bunch of Federal cases.

1 THE COURT: What did the courts say?

2 MR. GENTILE: They've reversed a couple of convictions on it. I'll bring
3 them to you tomorrow if I can find it.

4 THE COURT: All right. I mean, just -- if nobody is authenticating the
5 transcript and it's this is one version, here is another version, you know, I think
6 the fact that the other version may be better --

7 MR. GENTILE: Well --

8 THE COURT: -- or more complete --

9 Yes?

10 MR. GENTILE: I don't -- nobody needs to authenticate a transcript. I
11 think we're all in agreement with that.

12 THE COURT: Right. We're just going to pass them out.

13 MR. GENTILE: The transcript is nothing more than the State's opinion
14 as to what's on the tape.

15 THE COURT: As to what's on the tape and then --

16 MR. GENTILE: The best evidence of what's on the tape is the --

17 THE COURT: Is the tape.

18 MR. GENTILE: -- tape. The -- the additional evidence of what was said
19 comes from the witness's mouth. This is what I said, okay, or this is what I
20 heard.

21 THE COURT: Right.

22 MR. GENTILE: But to get into authenticating a transcript which has --

23 THE COURT: There's not going --

24 MR. GENTILE: -- no need to be authenticated --

25 THE COURT: There's not -- nobody is going to authenticate the

1 transcript. The only way the transcript will be used is just to say, you know, this
2 may assist you, the Court is not saying this is an accurate transcript, this is the
3 State's version of the transcript. The defense contests that there are parts that
4 are not accurate and has prepared its own. It's for you folks to judge what you
5 hear on the tape. You won't have the transcripts in the back. You need to listen
6 carefully and play the tape, and collectively decide as a jury what's on the tape. I
7 mean --

8 Yes?

9 MR. ADAMS: Well, which transcript are you now making reference to
10 because the -- that makes a difference.

11 THE COURT: You know what, can I do this. I don't have the second
12 transcript. Would you give me the -- Mr. DiGiacomo, this is your assignment.

13 MR. ARRASCADA: Judge --

14 THE COURT: The first transcript and the second transcript and highlight
15 what's new on the second transcript that's different from the first transcript so I
16 can see what we're talking about here.

17 MR. ARRASCADA: Judge, I think you'll find it's one gap has been filled.

18 MR. GENTILE: No, I -- I haven't checked them side by side either.

19 MR. DIGIACOMO: There's a word here, a word there, and --

20 THE COURT: Can you do that for me and just highlight on the second
21 transcript what the new words are so I can have a more concrete idea of what
22 we're dealing with and whether I think the late notice is prejudicial to the defense
23 or not? Because it's sort of hard to decide it unless I really see.

24 You know, if we're talking about pages and pages of new, you know,
25 inculpatory material, then that might be different than if we're talking about a

1 word here and there or a phrase here and there that previously was unintelligible.

2 So I'd like to be able to look at that before I make a decision.

3 MR. GENTILE: Well, I have -- okay. That's fine.

4 THE COURT: What?

5 MR. GENTILE: Nothing.

6 THE COURT: All right.

7 MR. ARRASCADA: Judge, will we be able to argue this more tomorrow?

8 THE COURT: You won't be able to argue it more tomorrow at 9:00 a.m.
9 because I want to start right at 9:00 a.m. But at some point you'll be able to
10 argue it more fully.

11 MR. ARRASCADA: Thank you.

12 MR. ADAMS: Thank you. Because that -- I think that makes a difference
13 for both of our entities.

14 MR. DIGIACOMO: And one -- one last question. If your ultimate
15 decision -- so long as your ultimate decision is no transcripts, then I -- if you're
16 going to say it could be either one of the two transcripts, is that -- if that's where
17 you're leaning then I just need to know that tonight because I'll -- I'll have the
18 second transcript ready for courtroom presentation that way it won't delay
19 anything.

20 THE COURT: Okay.

21 MR. DIGIACOMO: But if you say no, then I'll probably need about an
22 hour.

23 THE COURT: Okay.

24 MR. DIGIACOMO: Okay.

25 THE COURT: Well, we'll have a lunch break and whether you get to eat

1 lunch or you're working on your computer will remain to be seen.

2 (Proceedings adjourned at 5:55 p.m.)

3 -oOo-

4 ATTEST: I hereby certify that I have truly and correctly transcribed the
5 audio/video proceedings in the above-entitled case to the best of my ability.

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JULIE POTTER
TRANSCRIBER

IN THE SUPREME COURT OF THE STATE OF NEVADA

LUIS A, HIDALGO, JR.

Appellant,

vs.

THE STATE OF NEVADA

Respondent.

Electronically Filed
Feb 07 2011 01:32 p.m.
Tracie K. Lindeman
CASE NO.: 54209

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

APPELLANT'S AMENDED APPENDIX

Volume 9 of 25

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DOMINIC P. GENTILE
Nevada Bar No. 1923
PAOLA M. ARMENI, ESQ.
Nevada Bar No. 8357
GORDON SILVER
3960 Howard Hughes Pkwy., 9th Floor
Las Vegas, Nevada 89169
Telephone: (702) 796-5555

ATTORNEYS FOR THE APPELLANT LUIS A. HIDALGO, JR.

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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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1 TRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA
5

FILED
NOV 24 2009
Clerk of Court

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 LUIS ALONSO HIDALGO III and LUIS

10 HIDALGO, JR.,

11 Defendants.
12

CASE NO. C212667/ C241394
DEPT. XXI

13 BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE

14 THURSDAY, JANUARY 29, 2009

15 RECORDER'S TRANSCRIPT OF HEARING RE:

16 JURY TRIAL

17 APPEARANCES:

18 FOR THE STATE:

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

20 FOR LUIS HIDALGO III:

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

22 FOR LUIS HIDALGO, JR:

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

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

JRP TRANSCRIBING
702.635.0301

-1-

COPY

1 LAS VEGAS, CLARK COUNTY, NV, THURSDAY, JAN. 29, 2009

2
3 THE COURT: All right. Let's start.

4 (Prospective jury panel enters at 12:38 p.m.)

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

8 Ms. Husted, would you call the role of the jurors.

9 THE CLERK: Yes, Your Honor.

10 Badge 1, Fatime Espino.

11 PROSPECTIVE JUROR NO. 001: Present.

12 THE CLERK: 2, Linda Silber.

13 PROSPECTIVE JUROR NO. 002: Present.

14 THE CLERK: 4, Joseph Marcella.

15 PROSPECTIVE JUROR NO. 004: Present.

16 THE CLERK: 9, Shawn McLaughlin.

17 PROSPECTIVE JUROR NO. 009: Present.

18 THE CLERK: 16, Antoine Williams.

19 PROSPECTIVE JUROR NO. 016: Here.

20 THE CLERK: 17, Kevin Keegan.

21 PROSPECTIVE JUROR NO. 017: Present.

22 THE CLERK: 30, Steven Avalone.

23 PROSPECTIVE JUROR NO. 030: Present.

24 THE CLERK: 35, Alicia Jackson.

25 PROSPECTIVE JUROR NO. 035: Here.

1 THE CLERK: 36, David Sargent.
2 PROSPECTIVE JUROR NO. 036: Present.
3 THE CLERK: 37, Roger O'Neill.
4 PROSPECTIVE JUROR NO. 037: Present.
5 THE CLERK: 38, Emertha Rotich.
6 PROSPECTIVE JUROR NO. 038: Rotich.
7 THE CLERK: Rotich.
8 PROSPECTIVE JUROR NO. 038: Present.
9 THE CLERK: Thank you.
10 39, Michael Freeman,
11 PROSPECTIVE JUROR NO. 039: Here.
12 THE CLERK: 41, Mark Rogol.
13 PROSPECTIVE JUROR NO. 041: Present.
14 THE CLERK: 48, Susan Dendiu.
15 PROSPECTIVE JUROR NO. 048: Present.
16 THE CLERK: 51, Stephen Ricks. 51, Stephen Ricks.
17 MR. GENTILE: Your Honor, I think he was excused yesterday.
18 THE COURT: He was excused.
19 THE CLERK: He was?
20 MR. GENTILE: Yeah.
21 THE CLERK: 52, Crystal Decorte.
22 PROSPECTIVE JUROR NO. 052: Here.
23 THE CLERK: 55, Austin Guerrero.
24 PROSPECTIVE JUROR NO. 055: Present.
25 THE CLERK: 56, Steve Escobedo.

1 PROSPECTIVE JUROR NO. 056: Present.
2 THE CLERK: 57, Rhonda Michelle Gaddy.
3 PROSPECTIVE JUROR NO. 057: Present.
4 THE CLERK: 58, Gina Ryeczyk.
5 PROSPECTIVE JUROR NO. 058: Present.
6 THE CLERK: 61, Patricia Lopez.
7 PROSPECTIVE JUROR NO. 061: Here.
8 THE CLERK: 65, Kris Dane.
9 67, David K. -- did Kris Dane answer?
10 THE COURT: No, they were --
11 MR. DIGIACOMO: She was released yesterday.
12 THE COURT: -- excused.
13 MR. ADAMS: I believe Ms. Dane was released.
14 THE COURT: Yeah, thank you.
15 THE CLERK: 67, David K. Wallace.
16 PROSPECTIVE JUROR NO. 067: Here.
17 THE CLERK: 68, Kelly Dietz.
18 PROSPECTIVE JUROR NO. 068: Present.
19 THE CLERK: 69. Sharon Garhardt.
20 PROSPECTIVE JUROR NO. 069: Present.
21 THE CLERK: 70, Anne Bonds.
22 PROSPECTIVE JUROR NO. 070: Present.
23 THE CLERK: 71, Shea Palluck.
24 PROSPECTIVE JUROR NO. 071: Here.
25 THE CLERK: 75, Kelli Woodland.

1 PROSPECTIVE JUROR NO. 075: Present.
2 THE CLERK: 79, Jim E. Matthews II.
3 PROSPECTIVE JUROR NO. 079: Present.
4 THE CLERK: 80, Adriana Gamino.
5 PROSPECTIVE JUROR NO. 080: Here.
6 THE CLERK: 84, Guadalupe McRoy.
7 PROSPECTIVE JUROR NO. 084: Present.
8 THE CLERK: 86, James Denino.
9 PROSPECTIVE JUROR NO. 086: Here.
10 THE CLERK: 87, Paul S. Adkins.
11 PROSPECTIVE JUROR NO. 087: Here.
12 THE CLERK: 89, Kenneth Patterson.
13 PROSPECTIVE JUROR NO. 089: Here.
14 THE CLERK: 90, Nicole Pezza.
15 PROSPECTIVE JUROR NO. 090: Present.
16 THE CLERK: 92, Christopher Lemke.
17 PROSPECTIVE JUROR NO. 092: Present.
18 THE CLERK: 93, Gary Urgola.
19 PROSPECTIVE JUROR NO. 093: Here.
20 THE CLERK: 97, Ray Cordova.
21 PROSPECTIVE JUROR NO. 097: Here.
22 THE COURT: All right. Ms. Husted, please call up the name of the next
23 prospective juror to take the seat in the box.
24 THE CLERK: Yes, Your Honor.
25 Badge 48, Susan Den --

1 PROSPECTIVE JUROR NO. 048: Dendiu.

2 THE COURT: All right. Ms. Dendiu, have a seat there in the back row.

3 What do you do for a living, ma'am?

4 PROSPECTIVE JUROR NO. 048: I work part time at a health food store.

5 THE COURT: At a health food store?

6 PROSPECTIVE JUROR NO. 048: Uh-huh.

7 THE COURT: Are you like a cashier or something?

8 PROSPECTIVE JUROR NO. 048: Yeah, we do everything.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 048: Everybody rotates.

11 THE COURT: And are you married?

12 PROSPECTIVE JUROR NO. 048: Yes.

13 THE COURT: Okay. And what does your husband do?

14 PROSPECTIVE JUROR NO. 048: We own an oral care product.

15 THE COURT: Okay. And I know you have at least one child.

16 PROSPECTIVE JUROR NO. 048: Two.

17 THE COURT: Two. And the ages?

18 PROSPECTIVE JUROR NO. 048: Sixteen and four.

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

20 PROSPECTIVE JUROR NO. 048: No.

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

23 PROSPECTIVE JUROR NO. 048: My cousin, Tammy, was murdered in
24 1990.

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

1 PROSPECTIVE JUROR NO. 048: Chula Vista.
2 THE COURT: Chula --
3 PROSPECTIVE JUROR NO. 048: California.
4 THE COURT: -- Vista, California?
5 PROSPECTIVE JUROR NO. 048: Uh-huh.
6 THE COURT: Okay. Where were you living at the time of that incident?
7 PROSPECTIVE JUROR NO. 048: In Covina.
8 THE COURT: Okay. And that's relatively close to Chula Vista? Is that
9 San Diego area?
10 PROSPECTIVE JUROR NO. 048: It's the valley.
11 THE COURT: Okay.
12 PROSPECTIVE JUROR NO. 048: San Diego.
13 THE COURT: Okay. And was anyone ever apprehended or arrested in
14 connection with that?
15 PROSPECTIVE JUROR NO. 048: Yes.
16 THE COURT: Okay. And do you know if the case went to trial against
17 that person?
18 PROSPECTIVE JUROR NO. 048: Yes.
19 THE COURT: Okay. And did you follow the case?
20 PROSPECTIVE JUROR NO. 048: No.
21 THE COURT: Okay. Did you --
22 PROSPECTIVE JUROR NO. 048: A little bit.
23 THE COURT: Did other family members follow the case and sort of talk
24 to you about it?
25 PROSPECTIVE JUROR NO. 048: Yes.

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THE COURT: Okay. Was the person convicted?

PROSPECTIVE JUROR NO. 048: Yes.

THE COURT: Okay. And was it someone in -- someone she knew or a stranger situation or --

PROSPECTIVE JUROR NO. 048: It was a rapist, serial rapist.

THE COURT: Okay. Do you have any feelings based on what, you know, you were told by family members as well as sort of your own observations as to how the case was handled by law enforcement, the system, the prosecutors, the courts?

PROSPECTIVE JUROR NO. 048: Yeah, it was handled fair.

THE COURT: Let me ask you the flip of that. Have you or anyone close to you ever been arrested or charged with a crime?

PROSPECTIVE JUROR NO. 048: I was in high school for ditching school.

THE COURT: I think we'll forgive you for that one. They didn't actually arrest you, did they? Did they --

PROSPECTIVE JUROR NO. 048: Oh, yeah.

THE COURT: Oh, they did?

PROSPECTIVE JUROR NO. 048: Yeah.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 048: My mom made me sit there for eight hours.

THE COURT: Okay. And was that in California?

PROSPECTIVE JUROR NO. 048: Yes.

THE COURT: Okay. So they took you to juvenile detention or

1 something?

2 PROSPECTIVE JUROR NO. 048: No, they just took me at the local jail,
3 the holding unit.

4 THE COURT: Oh, okay. And your mother made you sit there for eight
5 hours?

6 PROSPECTIVE JUROR NO. 048: Oh, yeah, she was -- she was -- my
7 mom and dad were divorced, so she was working seven days a week. She
8 needed the money. She said let her sit there until I get off of work.

9 THE COURT: And I'm going to hazard to guess here, you didn't ditch
10 school after that.

11 PROSPECTIVE JUROR NO. 048: Yes, I did.

12 THE COURT: So it didn't work. All right. Any other arrests or criminal
13 offenses in your background or your family background?

14 PROSPECTIVE JUROR NO. 048: No.

15 THE COURT: Okay. Now, again, you've been sit --

16 PROSPECTIVE JUROR NO. 048: Oh, wait, there is one.

17 THE COURT: All right.

18 PROSPECTIVE JUROR NO. 048: My brother was shot at.

19 THE COURT: Okay. Where did that happen?

20 PROSPECTIVE JUROR NO. 048: In Pomona, California.

21 THE COURT: Okay. And was anyone ever arrested or charged with that
22 offense?

23 PROSPECTIVE JUROR NO. 048: No, he just took off.

24 THE COURT: Okay. Did he -- did your brother report it to police?

25 PROSPECTIVE JUROR NO. 048: No.

1 THE COURT: Okay. Why not, if you know?

2 PROSPECTIVE JUROR NO. 048: He was young, he was long haired. It
3 was in the '80s so he was pretty wild then too. So he just like fell.

4 THE COURT: Okay. Did he know or think he knew the people that
5 were -- the person or people who were shooting at him?

6 PROSPECTIVE JUROR NO. 048: Not that I recall.

7 THE COURT: Okay. Now, you've heard all of the discussion and all the
8 questions that I've asked and the lawyers have asked and everything we've
9 talked about with all of the other prospective jurors. I'm not going to go over all
10 the questions. Anything that any of us have talked about or asked that you
11 would've raised your hand or anything that you feel strongly about that you think
12 we need to know about you or a family member?

13 PROSPECTIVE JUROR NO. 048: That would affect me towards this
14 case?

15 THE COURT: Right.

16 PROSPECTIVE JUROR NO. 048: There was one gang that was
17 mentioned by an attorney that I don't really want to be involved in.

18 THE COURT: Okay. And just tell us what was the -- the -- a particular
19 gang?

20 PROSPECTIVE JUROR NO. 048: Yes.

21 THE COURT: Okay. And what was the name of that gang?

22 PROSPECTIVE JUROR NO. 048: MS-13.

23 THE COURT: Okay. And is that based on things you've heard about
24 MS-13 in the media or a personal experience or what?

25 PROSPECTIVE JUROR NO. 048: Media. As you know, I'm from

1 California. I lived in Covina, San Dimas, Ontario. My sister lived on Holt
2 Boulevard in Pomona, and my ex, the father of my son lived on Mission. So I've
3 seen it. I've seen MS-13 all over the walls.

4 THE COURT: Okay. And I may be mistaken, but MS-13, that's a Latino
5 gang from like Central --

6 PROSPECTIVE JUROR NO. 048: Well, it started in El Salvador.

7 THE COURT: -- Central America.

8 PROSPECTIVE JUROR NO. 048: Yeah.

9 THE COURT: Okay. And there's nothing involving anything like that in
10 this case.

11 PROSPECTIVE JUROR NO. 048: Well, I guess that's for me to decide.

12 THE COURT: Well, no. I mean you won't be hearing -- no, what I mean
13 is you won't be hearing any evidence of MS-13 or any gangs like that.

14 Is that right?

15 MR. DIGIACOMO: I wasn't the one who said it, Judge. So as far as I'm
16 aware there is no allegation of any involvement of MS-13, but it was them that
17 said it.

18 THE COURT: All right. Well, so does that sort of allay your concerns?

19 PROSPECTIVE JUROR NO. 048: No.

20 THE COURT: Okay. And why not?

21 PROSPECTIVE JUROR NO. 048: Because like I said, I've been in that
22 area where MS-13 is written. Well, of course, you know it's all over the country.
23 I saw Lisa Ling's report on the gang. I just don't want to have any involvement in
24 any gang at all.

25 THE COURT: Okay. Thank you.

1 State.

2 MR. DIGIACOMO: Maybe just briefly.

3 Is your concern something that if somehow you wind up convicting
4 somebody and there's gang involvement that there may be some retribution to
5 you later on?

6 PROSPECTIVE JUROR NO. 048: Sure.

7 MR. DIGIACOMO: That's the concern?

8 PROSPECTIVE JUROR NO. 048: Sure.

9 MR. DIGIACOMO: Okay.

10 PROSPECTIVE JUROR NO. 048: I'm a mother. I have a three year old.
11 I'm not going to go to the park after this is all over and be looking over my
12 shoulder. No way.

13 MR. DIGIACOMO: And obviously when you -- when you saw those
14 things about MS-13 and -- and the various TV shows and documentaries about
15 MS-13 and -- and the severe violence that they engage in, anybody watching that
16 says, oh, my God, these guys are crazy; right?

17 PROSPECTIVE JUROR NO. 048: Well, not only that. I have two nieces
18 and their father is Mexican. He's been in prison almost his whole life. He's a
19 heroin addict. And I've been to jail with my sister when I was in like junior high
20 and I went with my nieces to visit him. I saw it tattooed. I -- I've been around it.

21 MR. DIGIACOMO: Now -- and I think that it's unfortunate for the jury
22 that, sadly, I think gangs is going to play a very little role in this case, but I don't
23 know. At least from the State's point of view that one of the members of this -- of
24 the conspiracy was involved in a gang. But that it's gang related doesn't appear
25 to be -- the fact that -- that one member of this conspiracy may be involved in a

1 gang, that's enough to say to you I just can't sit on this jury and be fair?

2 PROSPECTIVE JUROR NO. 048: Yep.

3 MR. DIGIACOMO: And is it more likely that you would find the person
4 not guilty or more likely you'd find them guilty or is it you just don't want to be part
5 of this process --

6 PROSPECTIVE JUROR NO. 048: Right.

7 MR. DIGIACOMO: -- because of the ramifications.

8 PROSPECTIVE JUROR NO. 048: My family comes first.

9 MR. DIGIACOMO: Thank you.

10 I'll submit it, Judge.

11 MR. GENTILE: May I discuss something with the State for just a second
12 before I go forward?

13 THE COURT: Sure.

14 I'll see counsel up here please.

15 (Conference at the bench)

16 THE COURT: All right. Ladies and gentlemen, we're going to take a
17 brief recess. I would like Ms. --

18 And I'm sorry, how do you say your name?

19 PROSPECTIVE JUROR NO. 048: Dendiu.

20 THE COURT: -- Dendiu to remain in the courtroom. The rest of you,
21 once again, don't talk about the case or anything that's transpired in the
22 courtroom with each other or with anybody else.

23 Let's go ahead, in case people want to run downstairs and grab a
24 snack or something, we'll give you 'til 1:15.

25 (Recess taken at 12:54 p.m.)

1 THE COURT: All right. Mr. Gentile, you wanted to follow up with Ms.
2 Dendiu.

3 PROSPECTIVE JUROR NO. 048: We're all alone.

4 MR. GENTILE: And I don't need this. I don't have anything to put on it.
5 Here's the situation. If I hear you right, your concern is gang retaliation against
6 you. You're afraid of gang retaliation.

7 PROSPECTIVE JUROR NO. 048: I pretty much am biased against that.
8 Yes.

9 MR. GENTILE: Yeah. Who isn't?

10 PROSPECTIVE JUROR NO. 048: Right.

11 MR. GENTILE: That's not an issue.

12 PROSPECTIVE JUROR NO. 048: Right.

13 MR. GENTILE: Okay? Ordinarily we -- and I'm not going to go into the
14 facts of this case very much, okay, but there is going to be testimony in this case,
15 maybe, maybe, that some people that you're going to hear about were afraid of
16 gang retaliation. It didn't happen, but it's going to be testimony in the case.

17 But there's -- on the facts of this case, it -- it -- and especially with
18 respect to MS-13, MS-13 has nothing to do with this case, zero, other than
19 someone's knowledge of MS-13. Okay? Are you following me?

20 PROSPECTIVE JUROR NO. 048: Yeah.

21 MR. GENTILE: Okay. So -- and I think -- I think everybody in this
22 courtroom is in agreement -- and, you know, we do this for a living.

23 PROSPECTIVE JUROR NO. 048: I hope so.

24 MR. GENTILE: I mean, we're around this courthouse all the time and
25 we're aware of MS-13 and the Bloods and the Crips and all of that stuff. I mean,

1 it's not like we're walking in here as a rank outsider. That's not what this is
2 about.

3 PROSPECTIVE JUROR NO. 048: Uh-huh.

4 MR. GENTILE: There is no connection at all that I know of, and I think
5 Mr. DiGiacomo has already said as far as the State knows of, and Mr. Arrascada
6 and Mr. Adams probably never even heard of MS-13, I'm not sure.

7 THE COURT: Other than maybe on Dateline or something.

8 MR. GENTILE: Right. There is --

9 MR. ARRASCADA: No, they're pretty heavy in Reno, Your Honor.

10 THE COURT: Oh.

11 MR. GENTILE: There is really zero connection of MS-13. There will be
12 testimony, maybe, maybe, of prior experiences with gangs among which was
13 MS-13. Okay? So now that you know that all we're asking you to do here, I think
14 we can give you really top flight assurances that there is no shot at gang
15 retaliation in this case no matter what your verdict is.

16 Am I -- am I overstating my situation? Because I don't think I am.
17 And if I am, I want to be corrected.

18 MR. DIGIACOMO: I would certainly say that no juror has to worry about
19 retaliation from a gang member in this particular case.

20 MR. GENTILE: All right. And so --

21 PROSPECTIVE JUROR NO. 048: How do I know that?

22 MR. GENTILE: Because we're telling you.

23 THE COURT: Well, because we're telling you that it's not -- that this is
24 not a gang case. What Mr. Gentile has told you is someone may testify or you
25 may hear evidence that someone knew about gangs or thought about gangs.

1 And, Mr. Gentile, if I'm misstating, because obviously I don't present
2 the evidence, feel free to interrupt me.

3 But that's why we're telling you. That's -- I mean, if there is an attack
4 by a gang member on you or anyone associated with you, it would not be relating
5 to this case. That -- that's what we're telling you. I mean, it would be no different
6 than a case involving a random sexual assault or a child abuse case or any other
7 type criminal matter in that respect.

8 And does that -- do you think that accurately states the case, Mr.
9 Gentile?

10 MR. GENTILE: I do.

11 THE COURT: Mr. DiGiacomo, do you think that accurately states the
12 case?

13 MR. DIGIACOMO: It does. On that issue, yes.

14 THE COURT: And I think we're very -- we're all very confident in that --
15 that in terms of that, like I just said, this is no different than -- different than any
16 other criminal case that you might be asked to sit on.

17 MR. GENTILE: If there was any real gang connection to anybody in this
18 case, it would've been charged as part of the prosecution. At least that's my
19 experience, and I'm sure I'm not going to get a denial on the part of the
20 prosecutor. All right?

21 And see the reason that it's so important that you -- that you have
22 this information and why we took everybody else out of here is because what
23 we're looking for in jurors, both sides, is life experience and common sense.
24 You're actually going to get an instruction from the Judge at some point in time
25 that you're not limited to what you hear in the courtroom, that you're expected to

1 bring your life experience and common sense into your decision making.

2 And so you can see why your presence on this jury, as long as you
3 can be fair as to everything that you hear, is, you know, is important. And I know
4 that you would -- I know that you don't want to. Okay? But will you?

5 PROSPECTIVE JUROR NO. 048: Huh-uh.

6 THE COURT: I'm sorry. You said no?

7 PROSPECTIVE JUROR NO. 048: No. I don't want to be involved in
8 this. Like I said, you -- you guys are asking every single one of us about gangs.
9 There's a reason why you're doing that. And when I heard your assistant --

10 THE COURT: Ms. Armeni.

11 PROSPECTIVE JUROR NO. 048: -- yes, bring up, you know, MS-13 I
12 pretty much became bias at that point. And I don't think that's fair to Junior, his
13 father, and his family because they deserve a fair trial.

14 MR. GENTILE: Well, you understand that there's no allegation that
15 they're a part of MS-13 or that they're even connected.

16 PROSPECTIVE JUROR NO. 048: It was mentioned. I don't care.

17 MR. GENTILE: Well, it definitely engenders that kind of fear in people.
18 There's no question about it.

19 THE COURT: All right. Well --

20 PROSPECTIVE JUROR NO. 048: Well, you got to understand too, my
21 ex, the father of my son lived on Mission Boulevard. I drove through -- I mean in
22 Pomona. I lived in San Dimas, I lived in Covina, I lived in Ontario, I went to junior
23 high in Ontario, my brothers went to Chaffey High School. They used to have 13
24 on their hands, so I was aware of that stuff. I would drive through Pomona. I
25 mean, you can shake your head all you want. Have you ever --

1 THE COURT: All right. Okay.

2 PROSPECTIVE JUROR NO. 048: -- lived out there? I mean, it's scary
3 to me.

4 THE COURT: I --

5 PROSPECTIVE JUROR NO. 048: I don't want to do it.

6 THE COURT: It's scary to everybody. I mean, I'm not as personally
7 familiar with MS-13 and, you know, it's evidently a problem up in Reno. That's
8 not a big problem, thank God, knock on wood, here in Clark County. There are
9 other gangs that are a much bigger problem here in Clark County, at least
10 according to what I see as a judge and the cases that come before me.

11 But I understand that, you know, just from my familiarity with MS-13
12 is from articles in magazines and articles and reports. I think Dateline did a story,
13 that's why I mentioned Dateline. It's a scary thing and there is not anybody who
14 wouldn't consider MS-13 to be a scary frightening gang.

15 The issue is that's not what this case is about. And so knowing that
16 that's not what this case is about and that there's no evidence, no allegation,
17 nothing to suggest that anyone here is involved with MS-13, ever has been
18 involved with MS-13 or anything like that, it seems to us that maybe your concern
19 or your -- your fear of a bias isn't going to materialize because it's not an issue in
20 this case. That's where we're going with this. That's what we're getting at.

21 But you seem to say, well, I don't care if it's not an issue, I'm still
22 going to be biased even though now you've told me that MS-13 isn't really what
23 this case is about. And I don't know why Ms. Armeni mentioned it. I didn't even
24 hear her mention it, but -- but you did. And you're still saying, well, no, I can't be
25 fair based on something that's not even going to be involved in this case. Is that

1 what you're saying?

2 PROSPECTIVE JUROR NO. 048: I don't -- well, it's not just MS-13. It's
3 any gang.

4 THE COURT: Okay.

5 Mr. Adams, do you want to question Ms. Dendiu or Mr. Arrascada?

6 MR. ARRASCADA: Court's indulgence.

7 PROSPECTIVE JUROR NO. 048: Look, I just want to be honest.

8 THE COURT: No, and that's fine.

9 PROSPECTIVE JUROR NO. 048: Okay?

10 THE COURT: Like I told everybody else, there is no right answer. The
11 only wrong answer is a dishonest answer.

12 PROSPECTIVE JUROR NO. 048: Right. And, you know, I know you
13 give us instructions when we leave the courtroom, no one to discuss whatever,
14 but we all -- half of us park in the same park and we're getting to know each
15 other. This is the third day. I overhear people talking when we're walking out
16 about gangs. They don't want to be involved.

17 And I overheard one guy say, look, if I have to, I'll just plead not
18 guilty, they won't even know it's me. But I want to be fair. I want to be fair to you
19 and Junior and his family. I don't want to have to do that. I don't want to have to
20 do that. I think they deserve a fair trial.

21 THE COURT: Right. But all I'm saying is your concern -- if this were a
22 gang case you would say, yes, that would be a problem, but it's really not. And
23 so your fear of gang -- like I said, it could be a child abuse case or, you know --

24 PROSPECTIVE JUROR NO. 048: That would be a lot easier.

25 THE COURT: -- grand larceny from the Wal-Mart case, and it would be

1 the same involvement with gangs.

2 Mr. Arrascada, do you have anything that you would like to ask this
3 potential juror

4 MR. ARRASCADA: No, Your Honor.

5 THE COURT: All right. Thank you. I'm going to have you follow Officer
6 Wooten from the courtroom. Please don't discuss, obviously, and this is very,
7 very important, do not discuss what we have discussed with you in here, what
8 Mr. Gentile has told you or anything that's transpired in any of our questions or
9 discussions. All right?

10 PROSPECTIVE JUROR NO. 048: Thank you.

11 MR. ARRASCADA: Judge, actually, before Ms. Dendiu leaves, and it's
12 not questions regarding her gang fear, but she said that the jurors as --

13 MR. DIGIACOMO: Mr. Arrascada, if you can wait, we were going to
14 waive that issue too. So if we let her leave --

15 MR. PESCI: She's not leaving.

16 MR. DIGIACOMO: -- we can bring her back in.

17 MR. ARRASCADA: Okay.

18 MR. DIGIACOMO: She's not leaving for good.

19 MR. PESCI: She's just --

20 MR. ADAMS: Just stepping out for a second.

21 MR. DIGIACOMO: She's just stepping out for a moment.

22 MR. ADAMS: Okay.

23 (Prospective juror No. 48 exits courtroom)

24 MR. GENTILE: I think she's talking about Cannata.

25 THE COURT: All right. State?

1 MR. DIGIACOMO: Well, Judge, what I'm -- obviously it's my position
2 she's got to go, but I heard a bigger problem at the end of that which is the jury is
3 out there discussing the issue. And, in fact, she even says one guy says I'm not
4 going to say anything, I'm just going to vote not guilty if the gang issue comes up.

5 After we polled, I don't know if we want to just -- it may actually be
6 faster in this case to get the individual sequestered voir dire at some point. The
7 length of time that this is taking to go through -- people are hearing answers that
8 they want to hear and now they're starting using ways to get out of the situation.

9 MR. GENTILE: I wouldn't be opposed to that.

10 MR. DIGIACOMO: That'd be one, and then each person is going to have
11 to be polled on conversations and whether or not --

12 MR. PESCI: Right.

13 MR. DIGIACOMO: -- they've heard it, but we can do it one at a time as
14 we're bringing them in.

15 THE COURT: Well, Mr. Gentile, other than the fact that some of them
16 were voir dired collectively, if you will, and it's different from the way some of
17 them were voir dired, what's the basis of your objection?

18 MR. GENTILE: What objection?

19 MR. DIGIACOMO: He said he didn't object.

20 MR. GENTILE: I said I don't object.

21 THE COURT: Oh, I'm sorry. I thought you said you did object.

22 MR. GENTILE: No, I said I'd --

23 THE COURT: I mis --

24 MR. GENTILE: -- go along with that. No.

25 THE COURT: Oh, okay. That's great.

1 MR. GENTILE: We're getting to a point here --

2 THE COURT: Yeah, no.

3 MR. GENTILE: This is such a critical fact in this case.

4 THE COURT: Right.

5 MR. GENTILE: I mean --

6 THE COURT: We got to -- okay. I misheard you. I apologize. I think
7 let's go to individual voir dire then.

8 MR. DIGIACOMO: Two other things first.

9 THE COURT: And I think we need to bring her back and find out if she
10 knows the name of the individual who made those comments.

11 MR. GENTILE: That's what he was getting at.

12 THE COURT: And if she doesn't know the name of him, let's get a
13 physical description.

14 MR. DIGIACOMO: That's one thing I was going to say. The other thing
15 is there are 13 other people that have been passed for cause. I think each one
16 of them needs to be polled just one at a time. We have to bring them in, we have
17 to ask them about the conversation, and whether or not they've heard
18 conversations outside the courtroom and give them each an opportunity to have
19 that because we don't have a chance to talk to the rest of them. That's the only
20 way to cure it.

21 MR. GENTILE: Well, you know --

22 THE COURT: All right. Let's -- I'm inclined to excuse her, Ms. Dendiu,
23 but before we do that, we need to bring her in and question her about who said
24 what. I'll question her, State can question, you guys can follow upon the issue of
25 what she overheard and who was saying what.

1 Mr. Adams.

2 MR. ADAMS: Judge, I'm not as concerned about that issue as I might
3 normally find myself to be, and here is why. I mean, these people are here,
4 they're all -- it's not like we're glossing over missing issues with the jurors. I think
5 they're telling us the truth when they're under oath.

6 I think perhaps the most appropriate remedy, I suggest to the Court,
7 would just be to -- another instruction. Say, look, I know you're here a long time,
8 just don't talk anymore about it, if there is anything that was missed earlier,
9 please raise your hand and we can address it.

10 THE COURT: I mean, I --

11 MR. ADAMS: I don't get the sense -- and I've seen them outside
12 because we're stuck locked out also. They're not sitting there in cabals
13 discussing the case and how they're going to rig the case one way or the other.

14 THE COURT: No, I don't -- I don't -- I'm not concerned with that and I
15 don't think Mr. DiGiacomo is concerned with that. And, frankly, I agree with you.
16 I am less concerned about them talking about the case at this stage when there
17 hasn't been any evidence presented than if we were a couple days into the
18 presentation of evidence and would have to worry, well, hey, are they, you know,
19 getting together and talking about the evidence. They don't have a lot to talk
20 about.

21 And so I'm confident that what they're probably talking about is,
22 God, I wonder how gangs are involved, that guy got excused, the Judge yelled at
23 him and she got mad because he -- he was bringing up gangs, and what -- why --
24 what's the involvement with gangs, well, gee, I don't want to be retaliated on for
25 gangs, these gangs are a problem, there's gangs in my neighborhood. I think

1 that's more kind of the comments that probably we're hearing --

2 MR. ADAMS: Right.

3 THE COURT: -- about this. Because what else could they be talking
4 about?

5 MR. ADAMS: Right.

6 THE COURT: And -- and I think it's probably natural then, you know, oh,
7 hey that guy was afraid, well, I'm afraid too, or I hate gang members, or -- or,
8 heck, there was graffiti in my neighborhood, that kind of thing. And so I -- I would
9 be inclined to agree with you.

10 MR. ARRASCADA: And, Judge, I agree with everything you're saying,
11 but maybe perhaps it would be prudent to make sure that we're giving them the
12 admonition at every recess and --

13 THE COURT: I do give the admonition, but I'll give it more strongly.

14 Now, Mr. Gentile, obviously you're representing a different
15 defendant. What's your position on whether or not you want the Court to
16 question -- I think we need to question Ms. Dendiu anyway, but if we go and
17 question each of the people, well, did you overhear anybody talking? Because
18 like I said, you know, people may just have been saying, you know, there's gangs
19 in my neighborhood, I see gang graffiti, that kind of stuff, which, to me, is --

20 MR. GENTILE: I think that it would be appropriate --

21 THE COURT: -- innocuous.

22 MR. GENTILE: I think it would be appropriate to ask them as a panel if
23 they've heard any discussion from anybody that said that they were, no matter
24 what, they were going to vote not guilty.

25 MR. DIGIACOMO: Judge --

1 MR. GENTILE: I think that's fair.

2 MR. DIGIACOMO: Any discussion outside the courtroom, I mean --

3 MR. GENTILE: Outside of the courtroom.

4 THE COURT: And do the 13 people that have already been passed for
5 cause, ask them in the aggregate and then --

6 MR. GENTILE: But I think you do it both ways. I think you should also
7 ask, if you're going to say not guilty, I think you should also ask did you hear
8 anybody say that they were going to vote guilty.

9 MR. DIGIACOMO: Sure. I mean, yeah, we don't want to highlight what
10 they actually said.

11 MR. GENTILE: Right.

12 MR. DIGIACOMO: I agree with Mr. Gentile on that one.

13 THE COURT: Okay. And then --

14 MS. ARMENI: Third day. Finally.

15 THE COURT: I'm sorry?

16 MR. DIGIACOMO: Day three. It took us day three to agree on
17 something.

18 MR. PESCI: We should start with her just individually before we do that
19 with the 13.

20 THE COURT: No, we're going to --

21 MR. GENTILE: Right. No.

22 THE COURT: Here's my plan.

23 MR. PESCI: Okay.

24 THE COURT: We're going to start with her individually. Then we'll bring
25 the jurors, the other 13 in and ask them if they've heard anyone outside of the

1 courtroom saying, or even in the courtroom in the audience, saying that they had
2 made up their mind that they were going to vote guilty or not guilty or one way or
3 the other. And then you guys can follow up sort of on that issue, if you want to
4 follow up on the gang thing or whatever with them.

5 Then we take them out and we individually voir dire the next person.
6 Then we'll have 14 defense's first challenge. Whoever is excused we just bring
7 them in and say thank you, you're excused. Bring the next person in and do it
8 like that until all of the challenges have been exercised or waived.

9 MR. DIGIACOMO: I would -- the State would agree with that --

10 THE COURT: All right.

11 MR. DIGIACOMO: -- at this point.

12 THE COURT: Mr. Adams, agree with that? Arrascada?

13 MR. ADAMS: Judge, I have to be honest. I did not hear all of it. I was
14 thinking about the opening statement there for a second and I --

15 THE COURT: Well, we're never going to get there, so --

16 Mr. Gentile, Ms. Armeni, are you cool with doing it that way?

17 MR. GENTILE: Cool as a moose.

18 MR. ADAMS: So bringing them in one at a time. And then how -- how
19 with the strikes?

20 MR. ARRASCADA: We'll exercise them outside of their presence.

21 THE COURT: Right. We'll exercise them outside of the presence, then
22 Jeff will go get them, bring them in, I'll say thank you, you've been excused,
23 thank you for your willingness to serve, bye-bye. And then when they -- when
24 each new person comes in, I'm going to seat them where they would be seated
25 to make it easier on you guys.

1 MR. ADAMS: That is helpful. We think there is a --

2 THE COURT: Because otherwise I know you'll get confused. So, yeah,
3 so right now we have an opening in chair 13. The next individual juror that
4 comes in will be seated in chair 13. We'll all question that person, they'll be
5 taken out, your first challenge, and then whatever chair is empty then the next
6 person sits in that chair. That way visually you can -- it'll be easy for you.

7 MR. ADAMS: I think we -- and this is not a legal issue or really an
8 objection -- we like the -- like the idea of keeping it as a group discussion
9 because there is some benefit to it, but I understand the Court's concern.

10 THE COURT: Well, Mr. --

11 MR. ADAMS: And we're not objecting. We just --

12 THE COURT: Okay.

13 MR. ADAMS: -- like how it's --

14 THE COURT: I mean --

15 MR. ADAMS: -- been going.

16 THE COURT: -- I like it as a group discussion too. And, honestly, I
17 mean, I'll just be very candid here. The reason this is taking so long is because I
18 allowed individual voir dire. And that was in large measure because --

19 Frankly, Mr. Gentile, this is a compliment. If you hadn't been the
20 defense attorney on this, I probably would've steam rolled right over whoever it
21 was and said, no, you're not doing individual voir dire, we're doing it collectively,
22 and we would've been finished by yesterday before lunch. That's one reason it's
23 taking so long.

24 MR. ADAMS: Judge, Mr. Arrascada and I know you don't mean that.

25 THE COURT: No, I do.

1 MR. DIGIACOMO: Don't worry, the State understands.

2 MR. GENTILE: Let me -- let me just says this. I think now you
3 understand why I needed it. I mean, there are hot button --

4 THE COURT: No, there are.

5 MR. GENTILE: -- issues in this case.

6 THE COURT: But that's why it's taking --

7 MR. GENTILE: And when --

8 THE COURT: -- so long.

9 MR. GENTILE: -- we're all done, when we're finished with this trial, I'll
10 explain to you how we learned that.

11 MS. ARMENI: How we learned our hot button issues.

12 THE COURT: Well, the sex -- the sex club issue, I don't know, that's
13 pretty obvious.

14 MS. ARMENI: There's more to it, though.

15 THE COURT: All right. Bring -- bring in Mr. -- Ms. --

16 MS. ARMENI: Deniu -- Dendiu.

17 THE COURT: And I'm -- never again am I -- am I allowing individual voir
18 dire on anything other than a death case.

19 MR. DIGIACOMO: Judge --

20 MR. GENTILE: You shouldn't say that, Judge, because --

21 THE COURT: No, because you can still do individual voir dire. I let
22 people follow up in -- because I recognize the benefit. I think lawyers need to
23 talk to every single person in the panel to get a sense of how they're relating to
24 you and just to engage in some conversation even if it's not meaningful.

25 MR. ADAMS: This would not been --

1 MR. GENTILE: I don't' think we've done that.

2 MR. ADAMS: -- faster if everybody was talking about gangs as a group.
3 It wouldn't.

4 THE COURT: All right. Whatever.

5 MR. ADAMS: I mean, I don't think it would've.

6 MR. DIGIACOMO: It would've because if a whole bunch of people
7 wouldn't be talking, they wouldn't raise their hand and --

8 MR. ADAMS: Oh, but they would -- they would be talking.

9 MR. GENTILE: The strip club issue and the gangs issue we knew were
10 going to be substantial.

11 THE COURT: All right. And actually I do --

12 MR. GENTILE: It's actually turned out to be worse than I --

13 THE COURT: -- I do have to --

14 MR. GENTILE: -- thought it would be.

15 THE COURT: -- say that none of you are asking too many questions or
16 beating a dead horse or --

17 MR. GENTILE: Thank you, Judge.

18 (Prospective juror No. 48 enters courtroom)

19 THE COURT: Ma'am, just come on back up here to the jury box.

20 PROSPECTIVE JUROR NO. 048: Okay.

21 THE COURT: I needed to follow up on something. All right. And you
22 referenced a few minutes ago that there was a gentleman who had said he was
23 going to vote not guilty or guilty. Do you remember saying that?

24 PROSPECTIVE JUROR NO. 048: Uh-huh.

25 THE COURT: Is that yes?

1 PROSPECTIVE JUROR NO. 048: Yes.

2 THE COURT: And do you recall who that was?

3 PROSPECTIVE JUROR NO. 048: No, there was a group of us walking.

4 THE COURT: Okay. Can you describe what he looked like to me. I

5 mean, was he a white individual, African American --

6 PROSPECTIVE JUROR NO. 048: I think --

7 THE COURT: -- Latino.

8 PROSPECTIVE JUROR NO. 048: I think he was white.

9 THE COURT: Okay. And anything else you can recall about him, his
10 age, his height?

11 PROSPECTIVE JUROR NO. 048: Tall, I think.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 048: Older.

14 THE COURT: Older?

15 PROSPECTIVE JUROR NO. 048: Yeah.

16 THE COURT: All right. Anything else.

17 PROSPECTIVE JUROR NO. 048: That's all I remember.

18 THE COURT: Okay. And what -- what do you recollect him saying as
19 best as you can recall.

20 PROSPECTIVE JUROR NO. 048: I -- I remember talking about gangs
21 and if there was no gangs involved why are we all being questioned how we feel
22 about gangs and what comes to our mind first and some fear. And one guy
23 mentioned, well, if that was the case, I would just plead not guilty and they would
24 never know who it was.

25 THE COURT: Okay. And that was the tall older gentleman?

1 PROSPECTIVE JUROR NO. 048: Yes.

2 THE COURT: And did anyone else in this group of -- of people say
3 anything --

4 PROSPECTIVE JUROR NO. 048: No.

5 THE COURT: -- about gangs or -- how many people were there
6 altogether walking when this conversation occurred?

7 PROSPECTIVE JUROR NO. 048: About eight.

8 THE COURT: About eight of you. Okay. And what -- what was kind of
9 the substance of maybe other people's comments relating to this gang issue or --

10 PROSPECTIVE JUROR NO. 048: It was just the fact of our opinions
11 about gangs and if there was no gangs involved why are we being questioned so
12 much about it.

13 THE COURT: Okay.

14 State, do you wish to follow up with Ms. Dendiu?

15 MR. DIGIACOMO: A few questions.

16 There has been for awhile now, there is 14 people sitting up here at
17 this point and you just got up to this point. Do you recall, first of all, that the
18 gentlemen who said something to the effect if it got to that point I'd just plead not
19 guilty, vote not guilty, whatever he said, is he in this group of 14 that you recall?

20 PROSPECTIVE JUROR NO. 048: I don't think so.

21 MR. DIGIACOMO: Okay. What about anybody else in the group of
22 eight? Are any of them in this group that's up here?

23 PROSPECTIVE JUROR NO. 048: I don't recall. I'm not sure.

24 MR. DIGIACOMO: Okay. Other -- this is -- was this last night or the
25 night before, do you recall?

1 PROSPECTIVE JUROR NO. 048: Last night.

2 MR. DIGIACOMO: Okay. This is last night on the way out --

3 PROSPECTIVE JUROR NO. 048: Uh-huh.

4 MR. DIGIACOMO: -- to the car. So obviously it's people that are left
5 here today; right?

6 PROSPECTIVE JUROR NO. 048: Yes.

7 MR. DIGIACOMO: Okay. And since you've been here today, have there
8 been any discussions about what happened inside the room?

9 PROSPECTIVE JUROR NO. 048: No. I got here like at 10:20 -- no.
10 What time? 12 -- 12:25.

11 MR. DIGIACOMO: Do you have any recollection of any of the other
12 people in this group of eight that are out here? I mean, is there anybody that
13 you've kind of been palling around with since you've been a juror that you know
14 was in that group of eight?

15 PROSPECTIVE JUROR NO. 048: No.

16 MR. DIGIACOMO: Could you identify any of the people that were in that
17 group of eight if they were in the room? Don't worry, nobody is in trouble here.

18 PROSPECTIVE JUROR NO. 048: Oh, no, I'm not --

19 MR. DIGIACOMO: So if you're worried about, oh, man, I don't want to
20 snitch on somebody, that's not the problem.

21 PROSPECTIVE JUROR NO. 048: I -- I would be guessing.

22 MR. DIGIACOMO: Okay.

23 PROSPECTIVE JUROR NO. 048: All I could say it's people that park in
24 the validation where we get our ticket.

25 MR. DIGIACOMO: In the validation --

1 PROSPECTIVE JUROR NO. 048: Yeah.

2 MR. DIGIACOMO: -- lot over --

3 PROSPECTIVE JUROR NO. 048: Because we -- you know, we walk in
4 a group.

5 MR. DIGIACOMO: Okay. All right. Thank you very much.

6 THE COURT: And -- and do you recall what side of the courtroom this
7 individual is sitting on? I notice you've been on this side of the courtroom. Is he
8 on the same side as you or on the other side?

9 PROSPECTIVE JUROR NO. 048: I'm not sure.

10 THE COURT: Okay.

11 MR. ADAMS: She has been on the front row, so --

12 THE COURT: Right. I just thought, you know, so you don't know.

13 Mr. Adams, Mr. Arrascada, any follow up?

14 MR. ARRASCADA: No, Your Honor.

15 THE COURT: Mr. Gentile, Ms. Armeni, any follow up?

16 MR. GENTILE: No thank you, Judge.

17 THE COURT: All right. And, once again, I need to admonish you that
18 you're not to discuss anything that we have discussed in here with each other
19 or -- I'm sorry, with anyone in the jury. They may ask you, but you're not to tell
20 them what we've discussed. Okay?

21 PROSPECTIVE JUROR NO. 048: Sure.

22 THE COURT: All right. Thank you. I'm going to have Officer Wooten
23 escort you back out into the hallway.

24 (Prospective juror No. 48 exits courtroom)

25 THE COURT: Yeah, she's going to be excused. I just didn't want it to be

1 so obvious that when they all are sitting out in the hallway that she now
2 immediately be going back down to jury services. That's why I did it the way I did
3 it.

4 MR. DIGIACOMO: Okay. So are we going to bring the 13 now in?

5 THE COURT: Okay.

6 MR. DIGIACOMO: Just question them as a group as to what, you
7 know --

8 THE COURT: And that's what both sides want me to do? Okay.

9 Jeff, bring in the --

10 MR. ADAMS: I don't know that there's any --

11 THE COURT: Wait.

12 MR. ADAMS: -- cause for it.

13 THE MARSHAL: Just the ones in the box, right, Judge?

14 MR. ADAMS: I mean, she didn't indicate any reason that any of the 13
15 who've already been qualified have any -- have expressed any bias or done
16 anything.

17 MR. GENTILE: No. And I got to tell you something, I'm not so sure I
18 believe it at all at this point. I think that it's a finesse.

19 MR. ARRASCADA: Judge, she -- she was the one that tried getting off
20 when you asked right day one if there was reasons --

21 THE COURT: Right.

22 MR. ARRASCADA: -- that you can't be here. And obviously that's a hot
23 chair and she learned how to --

24 THE COURT: You know, I think I'm inclined to agree with the defense at
25 this point. These people have all been passed. And as we bring them in

1 individually, if there are people that said that we can question the individuals
2 themselves. I mean, if it's somebody that wants out of jury duty because they're
3 biased and -- or they're going to vote a certain way, they're going to tell us.

4 MR. PESCI: She just said she's not sure of those eight people whether
5 they're up here or not. She did not definitively say that they're not in this, Judge.
6 Now we are going to have somebody possibly that heard an individual say no
7 matter what I'm voting not guilty. What's it going to hurt to give us the chance to
8 ask those 13 individuals? How is that going to hurt them?

9 THE COURT: Well, it's not going to hurt them. I mean, is your -- is your
10 goal to ascertain who it is so when he comes in here we can make sure that
11 somehow he doesn't get on the jury by now saying he can be fair and impartial?

12 MR. PESCI: To figure out who he is, number one.

13 MR. DIGIACOMO: Yeah.

14 THE COURT: Is that your --

15 MR. DIGIACOMO: I mean, literally his statement is I'm not telling
16 anybody.

17 MR. PESCI: Right.

18 MR. DIGIACOMO: I'm just going to vote not guilty.

19 THE COURT: No, no, no.

20 MR. DIGIACOMO: I'm a phantom juror.

21 THE COURT: He didn't say I'm not going to tell anybody. I think what --
22 if you believe her -- what it was was, well, I'm not going to vote and then nobody
23 is going to know who it is, meaning like the gang, these retaliatory gang
24 members.

25 MR. DIGIACOMO: Now, I'm somewhat surprised that the defense

1 doesn't want to find out if any of the people were walking to the garage having a
2 communication and violation of the court order about not discussing the case.

3 MR. GENTILE: They do that all the time. Let's face the reality of what
4 we do for a living. Okay?

5 MR. PESCI: What if he had said guilty. Would you guys be taking a
6 different stance?

7 MR. ADAMS: Of course.

8 MR. PESCI: Well, there we go.

9 MR. ADAMS: Absolutely. Come on, there's no doubt about that.

10 MR. PESCI: What's it hurt to bring the 13 in?

11 MR. ADAMS: Judge, here's the situation, and obviously you can do what
12 you want to do on it. If these 13 are brought in and they're asked and one
13 person has a new comment to make about gangs, then we're going to have them
14 all 13 individually to address it.

15 We have 13 qualified and it's going to open the door and we're going
16 to be back in voir dire one by one with all of them about who said what, when, tell
17 us more about gangs now that you've reflected.

18 I'm a believer in getting as much information as possible, but I think
19 it's going to be very difficult to strategically get a minute or two of key information
20 without ripping it back open and we're starting back at the beginning.

21 THE COURT: All right.

22 MR. GENTILE: Can I --

23 THE COURT: Well, the other thing we could do is we could have Officer
24 Wooten take Ms. Dendiu aside and ask her which one of these individuals in the
25 hallway is the elderly gentleman or the older gentleman who made the comment.

1 MR. GENTILE: I have no --

2 THE COURT: And then she can --

3 MR. GENTILE: -- problem with that.

4 THE COURT: -- she can point him out and we'll know exactly who he is.

5 MR. ADAMS: If -- if she can recognize the person.

6 MR. ARRASCADA: I mean, I think the --

7 THE COURT: Well, if she can't recognize him, then I think we're starting
8 to go to her -- her credibility on whether or not this even happened.

9 MR. GENTILE: Right.

10 THE COURT: I am really reluctant, Mr. DiGiacomo, to open a whole
11 Pandora's box again. We have spent three days qualifying only 13 people. Well,
12 we had 14.

13 MR. DIGIACOMO: Why can't we call the group in -- I mean, here --
14 here's my position. They were qualified and then there was an act of misconduct
15 that the Court's now been told about. And what we've decided to do -- I mean, it
16 may not be --

17 THE COURT: All right.

18 MR. DIGIACOMO: -- misconduct that we --

19 THE COURT: Here's what --

20 MR. DIGIACOMO: -- care about --

21 THE COURT: I understand your position and I recognize the State's
22 legitimate interest in making sure someone doesn't get on a jury that's
23 automatically going to vote not guilty because they're concerned about gang
24 retaliation. And I am very confident that some juror who violated the Court's
25 order and is mouthing off to the other jurors about how he's voting not guilty is

1 going to come in here and he is going to say I can't be fair and impartial. So the
2 risk of that occurring in my view is very, extremely, exceedingly minimal. I'm
3 going to send Officer Wooten out there.

4 I want you to get Ms. Dendiu. I want you to pull her to the side, and I
5 want you to ask her to identify who this elderly gentleman is. And then I want
6 you to let her sit back down there, Officer Wooten, and then I want you to come
7 back and tell us what she said.

8 THE MARSHAL: Yes, Judge.

9 THE COURT: And then we'll make a determination if we need to call the
10 13 in.

11 But I think, Mr. DiGiacomo, you can appreciate the Court's concern
12 about now not exposing all these people to them now getting a second bite at
13 claiming that they can't be fair and impartial.

14 MR. DIGIACOMO: Well --

15 THE COURT: That is my concern.

16 MR. DIGIACOMO: Maybe I can reduce the concern. Maybe we just
17 bring in the 13 and just say, hey, look, the Court has been advised that there may
18 have been a conversation --

19 THE COURT: No, I wouldn't even say that. I -- the only the thing I would
20 even say is --

21 MR. DIGIACOMO: -- on the way to the garage.

22 THE COURT: -- has anyone overheard any of the jurors talking about
23 this case on the breaks or in the evening, and then see what they said. That's
24 the most I would do. I'm not going to say, oh, there was a conversation, and then
25 of course they're going to say, oh, yeah, I was there, I heard that conversation

1 when -- whether they did or they didn't. It's terrible that we don't have more
2 confidence. And generally I think jurors really are honest, but this has been an
3 arduous process and I think now people are really getting fed up and that's my
4 concern.

5 MR. GENTILE: I don't get that impression. I really don't. We're getting
6 fed up. That I'll give you. But I don't get the impression from the people that are
7 on the -- in the --

8 THE COURT: Well, maybe --

9 THE MARSHAL: I'm on the front line.

10 THE COURT: -- Officer Wooten --

11 THE MARSHAL: I can tell you right now they're getting fed up.

12 THE COURT: Yes, did you go out there?

13 MR. ADAMS: I asked Officer Wooten to stay in for a second. I was
14 hoping that on the question it could be that you would instruct Officer Wooten to
15 tell her if she can rather than directing her to identify him.

16 MR. PESCI: Want a physical line up? Should we get eight people that
17 look like him?

18 MR. DIGIACOMO: Should we get her a lawyer and --

19 MR. PESCI: Should we have the same --

20 MR. DIGIACOMO: -- get a lineup going?

21 MR. PESCI: -- hairdo?

22 MR. ADAMS: Well, because I don't -- because if her cred -- if -- if that's
23 not really true, I don't want her to be placed in the position where she feels like
24 she has to finger somebody --

25 THE COURT: Well --

1 MR. ADAMS: -- to get out of it.

2 THE COURT: Okay. I -- Officer Wooten, just say --

3 THE MARSHAL: I'll say it tactfully, Your Honor.

4 THE COURT: -- you know, can you recognize who it is.

5 MR. ADAMS: Are we at ease for five?

6 THE COURT: Well, I -- all right. I'm going to go be at ease.

7 MR. ADAMS: Thank you.

8 (Recess taken at 1:27 p.m.)

9 THE MARSHAL: Basically I pulled her on the side, I pulled her in the
10 hallway and I said, you know what, discreetly try to, you know, see if you see the
11 person. Let me know who he -- what he's wearing, and then I will discreetly talk
12 to him. She goes, well, before I look I have to use the restroom. So she went
13 and used the restroom, came back, and I said -- and then I said, well, you know,
14 can you go out there and look. She goes --

15 THE COURT: Realized there was no windows in the restroom.

16 THE MARSHAL: Then she goes basically we were walking in a group
17 and I don't think I'll be able to identify him. I go, well, you didn't even look
18 around. You should go out there and kind of look around. I mean, we're not
19 going to point you out. We just -- we just need to know.

20 I don't think I can identify any of them. He's some -- he might be
21 somebody down there, which they're all down there. So she wasn't able to give
22 me a definitive answer on who it may be.

23 THE COURT: All right. Let's go ahead -- we're going to bring in the next
24 prospective juror who is -- where are we?

25 MR. DIGIACOMO: Right after Dendiu, so Crystal Decorte.

1 THE COURT: Wait a minute.

2 MR. ADAMS: Judge, are you going to instruct the jury that we're
3 changing the --

4 THE COURT: No.

5 MR. ADAMS: -- the way we're going?

6 THE COURT: No, I -- in fact, I was going to tell the bailiff not to tell them
7 what we're doing and just bring them in.

8 MR. ADAMS: Okay.

9 THE COURT: Because, to me, I think it's better the less they know the
10 better, honestly, at this point. So, yeah, don't tell them. I mean, just go out there
11 and the next one is Crystal Decorte.

12 THE MARSHAL: You just want Crystal Decorte?

13 THE COURT: Just bring her in.

14 THE MARSHAL: Okay.

15 MR. DIGIACOMO: Let's see how nervous she looks when she walks in.
16 The first one. What'd I do? I need a lawyer.

17 (Off-record colloquy)

18 THE COURT: Ma'am, come on in. Just have a seat there in the back
19 row of the jury box please.

20 PROSPECTIVE JUROR NO. 052: Okay. Any?

21 THE COURT: Just chair 13 would be good. Just right there in the back,
22 or just wherever.

23 PROSPECTIVE JUROR NO. 052: Okay. There's nobody here.

24 THE COURT: Okay. Yeah. We're kind of questioning people
25 individually at this point. So I'm just going to go over all the questions --

1 PROSPECTIVE JUROR NO. 052: Okay.

2 THE COURT: -- that we've been asking. And what do you do for a
3 living?

4 PROSPECTIVE JUROR NO. 052: I'm a hairstylist.

5 THE COURT: Okay. And how long have you been working as a
6 hairstylist?

7 PROSPECTIVE JUROR NO. 052: Almost four years.

8 THE COURT: Okay. What did you do before that? Were you in school?

9 PROSPECTIVE JUROR NO. 052: Yeah.

10 THE COURT: Okay. And are you married?

11 PROSPECTIVE JUROR NO. 052: No.

12 THE COURT: Do you have any children?

13 PROSPECTIVE JUROR NO. 052: I have a six year old.

14 THE COURT: Okay. And have you ever been a juror before?

15 PROSPECTIVE JUROR NO. 052: No.

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

18 PROSPECTIVE JUROR NO. 052: My brother's ex-girlfriend, she was
19 found murdered about a couple months ago in her father's RV in California.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NO. 052: Yeah.

22 THE COURT: Now, at the time of this terrible crime was she still involved
23 with your brother?

24 PROSPECTIVE JUROR NO. 052: No. She was with him for a long time,
25 but she wasn't involved with my brother for about three years. It's just too much

1 drama with her family, so my brother was like just no more.

2 THE COURT: Okay. And she -- she was found murdered in California
3 just a few months ago?

4 PROSPECTIVE JUROR NO. 052: Yeah, in October.

5 THE COURT: Okay. Do you know if anybody was ever arrested or
6 apprehended in connection with that?

7 PROSPECTIVE JUROR NO. 052: Her father.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NO. 052: Yeah.

10 THE COURT: Did your brother or you follow the case against her father
11 at all? Do you know kind of --

12 PROSPECTIVE JUROR NO. 052: Yeah, he's in jail right now.

13 THE COURT: Okay. Is he in jail awaiting trial or was he convicted in a
14 trial or did he take a negotiation, do you know?

15 PROSPECTIVE JUROR NO. 052: Actually they had arrested him
16 because they had charges -- he had assaulted a police officer so they had put
17 him in jail for that. And while he was in jail for that they impounded his motor
18 home and that's when they found the body of his daughter.

19 THE COURT: Oh, okay.

20 PROSPECTIVE JUROR NO. 052: Yeah.

21 THE COURT: And what about the flip of that? Have you or anyone
22 close to you ever been arrested or charged with a crime?

23 PROSPECTIVE JUROR NO. 052: No.

24 THE COURT: Okay. You've heard everything we've talk -- where are
25 you from originally?

1 PROSPECTIVE JUROR NO. 052: Honolulu, Hawaii.

2 THE COURT: Oh, okay. Officer Wooten is from Maui, Hawaii.

3 PROSPECTIVE JUROR NO. 052: Really?

4 THE COURT: Uh-huh.

5 PROSPECTIVE JUROR NO. 052: How long have you been here in
6 Clark County?

7 PROSPECTIVE JUROR NO. 052: Nine years.

8 THE COURT: Nine years. Okay. And you've heard everything we've
9 talked about with all of the other prospective jurors. Anything that I've asked or
10 the lawyers have asked that you thought you would've had to raise your hand
11 and say, yes, I feel strongly about or, yes, that's happened to me or anything like
12 that?

13 PROSPECTIVE JUROR NO. 052: No.

14 THE COURT: Any reason you can't be fair and impartial if you're
15 selected to serve in this case?

16 PROSPECTIVE JUROR NO. 052: No.

17 THE COURT: Okay. If you're selected as a juror can you keep an open
18 mind and base your verdict on the evidence and wait until it's all been
19 presented?

20 PROSPECTIVE JUROR NO. 052: Definitely.

21 THE COURT: All right. Thank you.

22 MR. DIGIACOMO: Thank you, Judge.

23 Did you say you came from Hawaii?

24 PROSPECTIVE JUROR NO. 052: Yes.

25 MR. DIGIACOMO: Did you grow up there?

1 PROSPECTIVE JUROR NO. 052: Until I was 15.

2 MR. DIGIACOMO: Until you were 15, and then you came to Vegas?

3 PROSPECTIVE JUROR NO. 052: Uh-huh.

4 MR. DIGIACOMO: I'm going to talk a little bit about strip clubs. Do you
5 have an opinion one way or another about strip clubs?

6 PROSPECTIVE JUROR NO. 052: No.

7 MR. DIGIACOMO: Okay.

8 PROSPECTIVE JUROR NO. 052: That's their business.

9 MR. DIGIACOMO: That's their business?

10 PROSPECTIVE JUROR NO. 052: Yeah.

11 MR. DIGIACOMO: Ever been to one?

12 PROSPECTIVE JUROR NO. 052: No.

13 MR. DIGIACOMO: Anything like that? So it's not your cup of tea, but if
14 they want to --

15 PROSPECTIVE JUROR NO. 052: I don't care.

16 MR. DIGIACOMO: -- do it they can do it?

17 PROSPECTIVE JUROR NO. 052: I don't care.

18 MR. GENTILE: Uh -- never mind.

19 MR. DIGIACOMO: Let's talk about gangs. Do you know anything about
20 gangs?

21 PROSPECTIVE JUROR NO. 052: I hear about gangs and everything
22 but nothing to do with me.

23 MR. DIGIACOMO: Okay. Have you ever -- do you know any gang
24 members?

25 PROSPECTIVE JUROR NO. 052: No.

1 MR. DIGIACOMO: Okay. And so obviously nothing about gangs is
2 going to affect your ability to be fair and impartial?

3 PROSPECTIVE JUROR NO. 052: No.

4 MR. DIGIACOMO: Is there anything else that -- you've sat here for three
5 days now. So is there anything that I should be asking you that I don't know that
6 I haven't asked you yet?

7 PROSPECTIVE JUROR NO. 052: No.

8 MR. DIGIACOMO: All right. Thank you very much.

9 THE COURT: All right. Who would like to go next? Mr. Adams or Ms. --

10 MR. ARRASCADA: Ms. Armeni was standing --

11 THE COURT: All right.

12 MR. ARRASCADA: -- up, Your Honor. We'll go second, or third, I
13 should say.

14 MS. ARMENI: Ms. Decorte?

15 PROSPECTIVE JUROR NO. 052: Yes.

16 MS. ARMENI: Ms. Decorte, do you know any lawyers?

17 PROSPECTIVE JUROR NO. 052: No.

18 MS. ARMENI: If you needed a lawyer, how would you go about doing it?

19 PROSPECTIVE JUROR NO. 052: Ask around people who -- who have
20 had lawyers before to see who -- who's good or -- yeah.

21 MS. ARMENI: And if you weren't -- okay. Before you were a
22 hairdresser, what did you do?

23 PROSPECTIVE JUROR NO. 052: I've done a lot of things just --

24 MS. ARMENI: Tell me them.

25 PROSPECTIVE JUROR NO. 052: Just I worked in fast food, I worked in

1 Bellagio housekeeping, just different things.

2 MS. ARMENI: So it seems like you've had a lot of different kinds of jobs.

3 PROSPECTIVE JUROR NO. 052: Yeah.

4 MS. ARMENI: And from those jobs, what do you think would make you a
5 good juror? What did you learn from each of those jobs that you think would help
6 you as a juror in this case?

7 PROSPECTIVE JUROR NO. 052: Just dealing with people, different
8 people.

9 MS. ARMENI: And --

10 PROSPECTIVE JUROR NO. 052: Especially in my profession as a
11 hairdresser I deal with so many different personalities. It's -- yeah.

12 MS. ARMENI: Well, I mean, how do you think that would help you,
13 dealing with other people? Or that experience of dealing with other people?

14 PROSPECTIVE JUROR NO. 052: Just listening to -- to people's needs.

15 MS. ARMENI: Do you think on the reverse side that you would feel
16 comfortable telling other people what your needs are if you were in a room with
17 11 other people?

18 PROSPECTIVE JUROR NO. 052: Yeah.

19 MS. ARMENI: You'd feel comfortable --

20 PROSPECTIVE JUROR NO. 052: Yeah.

21 MS. ARMENI: -- voicing your opinion?

22 PROSPECTIVE JUROR NO. 052: Uh-huh.

23 MS. ARMENI: You heard us talk about fear.

24 PROSPECTIVE JUROR NO. 052: Yeah.

25 MS. ARMENI: Has there been a time in your life that you've been

1 fearful?

2 PROSPECTIVE JUROR NO. 052: Yeah.

3 MS. ARMENI: Okay. And how do you think -- when somebody's scared
4 or fearful, how do you think that affects them?

5 PROSPECTIVE JUROR NO. 052: I think sometimes they do things
6 that -- without thinking about the consequences.

7 MS. ARMENI: And last question, drugs, when I throw drugs out there,
8 what do you think?

9 PROSPECTIVE JUROR NO. 052: Marijuana, cocaine, yeah.

10 MS. ARMENI: Have you seen people on those kinds of drugs?

11 PROSPECTIVE JUROR NO. 052: Yeah.

12 MS. ARMENI: Yeah? And how -- explain to me what they act like.

13 PROSPECTIVE JUROR NO. 052: Stupid. Yeah, very stupid, desperate,
14 and they don't really do much with their lives. It's not a good thing.

15 MS. ARMENI: Thank you.

16 Oh, sorry, Court's indulgence.

17 THE COURT: All right.

18 MS. ARMENI: Ms. Decorte, do you speak Spanish?

19 PROSPECTIVE JUROR NO. 052: I'm not fluent, but I understand.

20 MS. ARMENI: You understand it?

21 PROSPECTIVE JUROR NO. 052: Yeah.

22 MS. ARMENI: Okay. It's easier to understand --

23 PROSPECTIVE JUROR NO. 052: Yeah.

24 MS. ARMENI: -- or listen than to speak; right?

25 PROSPECTIVE JUROR NO. 052: Yeah.

1 MS. ARMENI: Okay. Thank you.

2 THE COURT: All right. Thank you.

3 Mr. Arrascada.

4 MR. ARRASCADA: Thank you.

5 With that -- your speaking -- mentioned that you -- I know enough
6 Spanish to get myself in trouble, but not to get out, and my wife's fluent, so -- is
7 that from your family? Are you of Hispanic decent?

8 PROSPECTIVE JUROR NO. 052: Yeah, in Hawaii -- I'm part Puerto
9 Rican, and most of my friends and my -- my boyfriends and everything.

10 MR. ARRASCADA: Speak Spanish?

11 PROSPECTIVE JUROR NO. 052: Yeah.

12 MR. ARRASCADA: Okay. And your fam -- and your boy --

13 PROSPECTIVE JUROR NO. 052: My son's dad. Yeah.

14 MR. ARRASCADA: Okay. What about growing up in your family with
15 your parents? Did they speak Spanish?

16 PROSPECTIVE JUROR NO. 052: Not my parents, no. A lot of my
17 friends and everything.

18 MR. ARRASCADA: So that's how you've picked up your Spanish?

19 PROSPECTIVE JUROR NO. 052: Yeah, through all my friends and I
20 studied.

21 MR. ARRASCADA: In school?

22 PROSPECTIVE JUROR NO. 052: In school and -- yeah, I study a lot,
23 books, everything, yeah.

24 MR. ARRASCADA: Was that in high school?

25 PROSPECTIVE JUROR NO. 052: High school, after high school, middle

1 school.

2 MR. ARRASCADA: So middle school, you graduated from high school,
3 you've taken college classes too or junior college?

4 PROSPECTIVE JUROR NO. 052: No, I go just for -- just for hair.

5 MR. ARRASCADA: Just for hair?

6 PROSPECTIVE JUROR NO. 052: For a year.

7 MR. ARRASCADA: Okay. And were -- you were -- you were talking
8 about it and I just want to talk to you a little bit about what you said you that you'd
9 be a good juror because you're good at listening to people --

10 PROSPECTIVE JUROR NO. 052: Yeah.

11 MR. ARRASCADA: -- as you do --

12 PROSPECTIVE JUROR NO. 052: And I'm fair. I believe in being fair.

13 MR. ARRASCADA: Okay. And I would have to guess, I don't -- I don't
14 hang out at hair salons, but it is obvious -- but I would have to guess that there's
15 a lot of gossip that goes on; is that true?

16 PROSPECTIVE JUROR NO. 052: Yes.

17 MR. ARRASCADA: Tell me about it.

18 PROSPECTIVE JUROR NO. 052: Well, people come in and they -- they
19 talk about the news, what happened, did you hear about the news, did you hear
20 about so and so.

21 MR. ARRASCADA: And how are you to sort -- how do you sort out
22 what's gossip and what's true?

23 PROSPECTIVE JUROR NO. 052: By the demeanor, the way they --
24 you know, the way they look and I don't know.

25 MR. ARRASCADA: Okay. Well, you -- you do know. I want you to help

1 me out here. You said by the way they look, their demeanor, what do you mean
2 by that?

3 PROSPECTIVE JUROR NO. 052: I don't know. I just can tell when they
4 look serious.

5 MR. ARRASCADA: And you can tell their demeanor.

6 PROSPECTIVE JUROR NO. 052: I'm just trying to mind my own
7 business most of the time, you know, just do my job and, yeah.

8 MR. ARRASCADA: Okay. But you are listening to these people and you
9 filter it through. Is that what you're saying?

10 PROSPECTIVE JUROR NO. 052: Yeah.

11 MR. ARRASCADA: Okay. And you know -- you're able to filter gossip
12 from truth; is that fair?

13 PROSPECTIVE JUROR NO. 052: Yeah.

14 MR. ARRASCADA: For the most part?

15 PROSPECTIVE JUROR NO. 052: Uh-huh.

16 MR. ARRASCADA: But if -- if someone is saying something, you said by
17 the way they look, if they're serious, if they're saying something you think is
18 gossip, how -- how -- how would you determine what the truth is?

19 PROSPECTIVE JUROR NO. 052: I don't know. I don't know.

20 MR. ARRASCADA: Would you want to listen to others?

21 PROSPECTIVE JUROR NO. 052: Yeah.

22 MR. ARRASCADA: And learn the facts yourself?

23 PROSPECTIVE JUROR NO. 052: Yeah, ask around to see if it's true, do
24 some research, you know.

25 MR. ARRASCADA: And have you ever heard anyone say or suggest

1 breaking the law and you know they really don't mean it?

2 PROSPECTIVE JUROR NO. 052: No.

3 MR. ARRASCADA: Never?

4 PROSPECTIVE JUROR NO. 052: No.

5 MR. ARRASCADA: You never heard anyone say, God, I'm so mad I
6 could just ring their neck or I'm so upset with this, I just got a collection that was
7 from the power company and I just want to kill that person I talked to because --

8 PROSPECTIVE JUROR NO. 052: Yeah.

9 MR. ARRASCADA: -- they told me no problem. Have you ever heard
10 something like that?

11 PROSPECTIVE JUROR NO. 052: Yeah.

12 MR. ARRASCADA: Did you believe them?

13 PROSPECTIVE JUROR NO. 052: No, I just think they want to talk about
14 it, so they just need somebody to talk to. They're just frustrated. So maybe
15 they'll feel better. That's just their way of talking about it to get you to listen.
16 You'll be like, oh, what happened. You know?

17 MR. ARRASCADA: How did you know they weren't serious?

18 PROSPECTIVE JUROR NO. 052: Well, I just -- I just know. The feeling
19 I get.

20 MR. ARRASCADA: Is that -- you pointed to your heart. Is that a feeling
21 you get in your heart, or is one you get through thinking about it in your mind
22 also?

23 PROSPECTIVE JUROR NO. 052: Both.

24 MR. ARRASCADA: Thank you very much.

25 PROSPECTIVE JUROR NO. 052: Thank you.

1 THE COURT: All right. Thank you very much. I'm going to have you
2 exit the courtroom with Officer Wooten, and please don't talk about the questions
3 and what -- with the other jurors. And Officer Wooten will take you back out to
4 the hallway.

5 PROSPECTIVE JUROR NO. 052: Thank you.

6 (Prospective juror No. 52 exits courtroom)

7 THE COURT: All right. Defense's first.

8 MR. ARRASCADA: They're communal; right?

9 THE COURT: Yeah.

10 MR. ARRASCADA: Court's indulgence.

11 MR. GENTILE: What -- where is --

12 THE COURT: And she was in chair 13.

13 MR. GENTILE: 13. That's what I thought.

14 THE COURT: All right.

15 (Off-record colloquy)

16 THE COURT: All right. Defense's first challenge.

17 MR. ARRASCADA: Yes, Your Honor, it would be, I believe it's juror
18 No. -- Court's indulgence.

19 MR. GENTILE: Position No. 2.

20 MR. ARRASCADA: Position No. 2, Ms. Silber.

21 THE COURT: Okay. Ms. Silber in position No. 2.

22 Would you please bring Ms. Silber in, Jeff.

23 (Off-record colloquy)

24 THE COURT: Ms. Silber, you don't need to go back to the box. I want to
25 thank you very much for your participation being here and I really want to thank

1 you for your willingness to serve as a juror in this case. I really appreciate all of
2 that. I do. And you can see a lot of people, unfortunately, are not willing to
3 serve, and I'm sure you can appreciate how important it is that we get men and
4 women who are willing to serve as jurors and I appreciate that, that you were
5 willing to serve, but you are excused at this time. And this should satisfy your
6 jury service for the next three years.

7 PROSPECTIVE JUROR NO. 002: Thank you all.

8 THE COURT: Of course, that's only State court. That's only State court.
9 You can still have to serve in Illinois or Federal.

10 PROSPECTIVE JUROR NO. 002: That's quite all right.

11 THE COURT: And, again, thank you very much.

12 PROSPECTIVE JUROR NO. 002: Okay. Thanks guys.

13 THE COURT: All right.

14 (Prospective juror No. 2 exits courtroom)

15 And Officer Wooten, would you bring in Austin Guerrero who will
16 take chair No. 2.

17 THE MARSHAL: What was the name again?

18 THE COURT: Austin Guerrero.

19 And he may not sit in two, so just -- it's chair two.

20 MR. GENTILE: But we know that that's where he'll be.

21 (Off-record colloquy)

22 THE COURT: All right. Mr. Guerrero, go ahead and have a seat in the
23 jury box, please, sir.

24 PROSPECTIVE JUROR NO. 055: All right.

25 THE COURT: Just there in chair two would be great. Thank you.

1 PROSPECTIVE JUROR NO. 055: Right here in chair two?

2 THE COURT: Yeah. And I don't want you to feel singled out. We're
3 now questioning people individually. What do you do for a living, sir?

4 PROSPECTIVE JUROR NO. 055: I'm actually a diesel technician
5 apprentice for Cashman Equipment.

6 THE COURT: Okay. And how long have you been doing that?

7 PROSPECTIVE JUROR NO. 055: I've been doing that for about a year
8 and I'd say, a year and seven months. It's a two-year program. I got in with
9 Caterpillar, one of three in the state. I'm actually a full time student also with that.
10 So right now I'm -- I'm doing on the job training and it's all going towards credits
11 for the college classes in Phoenix.

12 THE COURT: Okay. And where are you a student at? Community
13 college or --

14 PROSPECTIVE JUROR NO. 055: It's a -- it's a community college out in
15 Phoenix, Arizona.

16 THE COURT: Oh, okay. And is -- and so your goal is to eventually
17 become a diesel mechanic; is that right?

18 PROSPECTIVE JUROR NO. 055: Diesel mechanic technician, yes.

19 THE COURT: Okay. And then what did you do prior to this training that
20 you're -- that -- that you're involved in now?

21 PROSPECTIVE JUROR NO. 055: Prior to that I was basically a cook --

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NO. 055: -- full time cook for two years before
24 that. So I was working for a little Italian restaurant. I started out as a
25 dishwasher, then I moved up to second in command on the line.

1 THE COURT: Okay. Was that here in -- in Las Vegas?

2 PROSPECTIVE JUROR NO. 055: Yes, it was.

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

4 PROSPECTIVE JUROR NO. 055: No, I'm not.

5 THE COURT: Do you have any children?

6 PROSPECTIVE JUROR NO. 055: No.

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

8 PROSPECTIVE JUROR NO. 055: No, I haven't.

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

11 PROSPECTIVE JUROR NO. 055: Actually, I would have to say no.

12 THE COURT: Okay. Well, that's a good thing. And what about the flip
13 of that, have you or anyone close to you ever been arrested or charged with a
14 crime?

15 PROSPECTIVE JUROR NO. 055: Not arrested, but detained and a
16 bunch of different run-ins with the cops and what not, so --

17 THE COURT: You personally?

18 PROSPECTIVE JUROR NO. 055: Uh-huh.

19 THE COURT: Okay. Detained like where they stop you and search your
20 car or what?

21 PROSPECTIVE JUROR NO. 055: I've been searched -- actually two
22 weeks ago on Tuesday I was searched.

23 THE COURT: Okay. How did that happen?

24 PROSPECTIVE JUROR NO. 055: Well, I was in a park. I think out in
25 Anthem and me and my brother, we were just making a little project, and when

1 two people seen the -- it was a Smirnoff Ice box that we had -- we had a couple
2 different things and that we were actually building -- that we were making out of,
3 a little hobby and what not. And somebody called us in and they said that we
4 were smoking weed and drinking. And so they came out, they searched us, and
5 we had like six different cop cars on us and a whole bunch of cops. It was just a
6 big scene pretty much.

7 THE COURT: And I'm guessing you didn't have any weed --

8 PROSPECTIVE JUROR NO. 055: No.

9 THE COURT: -- because you would've been arrested.

10 PROSPECTIVE JUROR NO. 055: Exactly.

11 THE COURT: Okay. And is that Las Vegas Metro's jurisdiction?

12 PROSPECTIVE JUROR NO. 055: No, it was Henderson.

13 THE COURT: Henderson. Okay. And how do you feel about the way
14 you were treated and handled by the police in that situation?

15 PROSPECTIVE JUROR NO. 055: My thoughts? It's perfectly fine with
16 me. I wasn't doing anything illegal, and they're just doing their job.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR NO. 055: So, you know --

19 THE COURT: So you don't have like a gripe or --

20 PROSPECTIVE JUROR NO. 055: No, not at all.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NO. 055: Not with Henderson. Metro is
23 perfectly fine with me. I had a run-in with the North Las Vegas Police officers
24 once. I was on the highway and headed to work at 5:00 in the morning when
25 they were off of the Craig and the 15. And the cop was headed to go through,

1 slammed on his brakes right in front of me. I was moving along at about 75 and I
2 had to swerve so I wouldn't kill the guy, it was a motorcycle cop. He gets behind
3 me and pulls me over. He comes up on the side and says are you pacing me,
4 boy? So I was like I'm just trying to get to work, this and that, and he went
5 through with writing me a ticket and so --

6 THE COURT: Do you -- so fair to say there are some good cops out
7 there and maybe some that aren't as good?

8 PROSPECTIVE JUROR NO. 055: For the most part, yes.

9 THE COURT: Okay. What about strip clubs? Do you have any feelings
10 one way or the other about strip clubs?

11 PROSPECTIVE JUROR NO. 055: Honestly, they don't really pertain to
12 me. I've been -- I've been to one here and one out in Phoenix, but it's just like,
13 you know, it's not my thing.

14 THE COURT: Okay. Which one did you go to here in town?

15 PROSPECTIVE JUROR NO. 055: Here it was Little Darlings.

16 THE COURT: Okay. So you've never been to the Palomino Club?

17 PROSPECTIVE JUROR NO. 055: Never.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 055: Never even heard of it, actually.

20 THE COURT: Okay. Now, you've heard everything we've talked with all
21 of these two days. Anything that I've asked or the lawyers have asked that you
22 felt like you wanted to raise your hand and say, yes, I have a feeling about that or
23 that's happened to me or that's happened to a family member, anything like that?

24 PROSPECTIVE JUROR NO. 055: Not so much. The whole -- the gang
25 thing, you know, a whole bunch of my friends, they're also involved with that. I

1 know a bunch of people actually when I was in high school and everything. I had
2 a couple run-ins with it. [indecipherable] kind of deal. But, you know, since then
3 it's just like life and I just kind of got away from it.

4 THE COURT: Okay. Now, did you grow up in Phoenix and go to high
5 school there?

6 PROSPECTIVE JUROR NO. 055: No, I actually grew up in Denver,
7 Colorado and I moved out here when I was 13. And then just in high school just
8 had a bunch of different run-ins.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 055: I guess it's a stage in life.

11 THE COURT: Okay. And so you went to public high school here in
12 Clark County?

13 PROSPECTIVE JUROR NO. 055: Yes, I did.

14 THE COURT: Where did you go to high school?

15 PROSPECTIVE JUROR NO. 055: It was down at Coronado.

16 THE COURT: Okay. And so there were gang members attending your
17 high school?

18 PROSPECTIVE JUROR NO. 055: Yeah, later on. In my first freshman
19 and sophomore year, perfectly fine then. When they started moving in, getting a
20 little bit older school, that's when everything started happening, so --

21 THE COURT: Okay. Did you ever actually have any problems or
22 conflicts with any gang members?

23 PROSPECTIVE JUROR NO. 055: A couple times, but nothing major.

24 THE COURT: Okay. What kind of run-ins?

25 PROSPECTIVE JUROR NO. 055: Run-ins, a couple fights, being

1 questioned out in the middle of the desert a couple times, fights that went on.

2 THE COURT: Okay. Now, were those like fist fights or were weapons --

3 PROSPECTIVE JUROR NO. 055: Fist fights, a couple weapons every
4 once in awhile.

5 THE COURT: Okay. What kind of weapons?

6 PROSPECTIVE JUROR NO. 055: Just knives at the time.

7 THE COURT: Just knives. Okay.

8 PROSPECTIVE JUROR NO. 055: Just knives.

9 THE COURT: And what are your feelings about gangs?

10 PROSPECTIVE JUROR NO. 055: Gangs in general, growing up around
11 then I'm kind of used to them. But this, my only thought is, you know, I don't
12 really want to end up on the opposite side of this being charged for something
13 that might happen later on in the future if, you know, something wrong turns out
14 or word gets out. There is that kind of an aspect. But other than that, you
15 know --

16 THE COURT: Okay. And, again, you've heard us tell the other people
17 it's really --

18 PROSPECTIVE JUROR NO. 055: It's really not really involved with it,
19 but it's --

20 THE COURT: Right. This really isn't a gang case.

21 PROSPECTIVE JUROR NO. 055: Exactly.

22 THE COURT: You know, there are cases where the motivation is a gang
23 and -- and as Mr. Gentile may have said, I don't remember if he said this or not,
24 then, you know, the State charges it as a gang crime.

25 PROSPECTIVE JUROR NO. 055: Correct.

1 THE COURT: There's nothing like that in this case. Okay? I just want to
2 assure you of that. Were you familiar with what gangs were prevalent at
3 Coronado High School?

4 PROSPECTIVE JUROR NO. 055: At the time the only one that was
5 really -- really there pretty much that I knew all my friends were into was the
6 Surenos, MS-13, I guess it's all kind of tied in together or whatever.

7 THE COURT: Okay. That's a Hispanic gang?

8 PROSPECTIVE JUROR NO. 055: Yes. It is.

9 THE COURT: Okay. And it looks like your Hispanic, sort of --

10 PROSPECTIVE JUROR NO. 055: Correct.

11 THE COURT: I was going to say ethnically Hispanic. Do you speak
12 Spanish?

13 PROSPECTIVE JUROR NO. 055: No, I don't, actually.

14 THE COURT: Okay. What about your parents? Do they speak
15 Spanish?

16 PROSPECTIVE JUROR NO. 055: Very, very little. Okay. All right.
17 Well, thank you. That's all the question I have for you.

18 The State can follow up.

19 MR. PESCI: Thank you, Judge.

20 I didn't understand that last discussion about gangs where you said
21 that there have been some incidents with some gang members and a knife.

22 PROSPECTIVE JUROR NO. 055: Uh-huh.

23 MR. PESCI: Okay. And I apologize. It's kind of normal talk to say, uh-
24 huh, but unfortunately she's recording everything. So whatever your answer is,
25 just make it yes or no or whatever it is. Uh-huh doesn't really work.

1 PROSPECTIVE JUROR NO. 055: Correct.

2 MR. PESCI: Sorry about that.

3 PROSPECTIVE JUROR NO. 055: Oh, no.

4 MR. PESCI: What was it that happened with this gang situation and
5 knife?

6 PROSPECTIVE JUROR NO. 055: Pretty much one if my friends has an
7 incident being, you know -- with all them I kind of look at them as my family
8 because my family is over 800 miles away, so my friends are my family pretty
9 much. Basically being there for him just in case anything happened, one thing
10 led to another, you know, we got into a fight over it.

11 MR. PESCI: And you say your family is away. Did your family stay in
12 Colorado?

13 PROSPECTIVE JUROR NO. 055: My immediate -- like my immediate
14 family, my parents and my brothers are here, but as far as my grandparents, my
15 cousins, all that, they're out there in Colorado.

16 MR. PESCI: Okay. Was this a dispute that your -- your friend had with
17 this other person and you kind of --

18 PROSPECTIVE JUROR NO. 055: It was an ongoing thing.

19 MR. PESCI: -- went together to -- to settle it or to have confrontation?

20 PROSPECTIVE JUROR NO. 055: Right. It was like an ongoing thing,
21 so --

22 THE RECORDER: I'm sorry. It was like a what?

23 PROSPECTIVE JUROR NO. 055: It was an ongoing thing.

24 THE RECORDER: Thank you.

25 MR. PESCI: The State's not charging this as a gang case.

1 PROSPECTIVE JUROR NO. 055: Correct.

2 MR. PESCI: So that's the -- however, it appears as if there's going to be
3 some evidence possibly presented to you about gangs within the course of this
4 trial.

5 PROSPECTIVE JUROR NO. 055: Uh-huh.

6 MR. PESCI: All right?

7 PROSPECTIVE JUROR NO. 055: Yes.

8 MR. PESCI: Will your experience with gangs or knowing people in gangs
9 affect you in being fair to either side?

10 PROSPECTIVE JUROR NO. 055: More than likely not. It's just a past
11 way of life so, therefore, I can probably deal with it.

12 MR. PESCI: Okay. And it doesn't matter if it's a past part of life or not,
13 don't -- don't worry about that. It's just a question of how that experience in your
14 life will affect the way you'll assess the evidence and whether you can be fair
15 really, at the end of the day, the question.

16 PROSPECTIVE JUROR NO. 055: Right. I understand how everything
17 works out as far as regarding that goes. I think that there might be kind of, I
18 guess you could say, like camaraderie, kind of a, you know, I got your back kind
19 of a deal with it, and I don't want that affect -- or to effect anything.

20 MR. PESCI: And unfortunately some officers have interacted with you
21 and --

22 PROSPECTIVE JUROR NO. 055: It's fine.

23 MR. PESCI: -- if there's a Henderson Police Officer that walks into this
24 courtroom, is that going to affect you based on the fact that those are the six cop
25 cars that Henderson apparently has free and willing to go stop somebody

1 who's --

2 PROSPECTIVE JUROR NO. 055: Henderson is perfectly fine with me. I
3 have no issues. Actually, a couple of my friends have gotten into the academy
4 and have gone through it, so they're fine.

5 MR. PESCI: North Town, different story?

6 PROSPECTIVE JUROR NO. 055: They're iffy, but I guess I can put that
7 aside.

8 MR. PESCI: All right. If someone from the North Las Vegas Police
9 Department takes the stand, can you be fair to the State?

10 PROSPECTIVE JUROR NO. 055: I can.

11 MR. PESCI: All right. Can you be fair to the defense?

12 PROSPECTIVE JUROR NO. 055: Most definitely.

13 MR. PESCI: We'll pass for cause, Your Honor.

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

15 Who would like to go first from the defense?

16 MR. GENTILE: I would.

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

18 MR. ARRASCADA: I guess that answers that.

19 THE COURT: It's pretty much whoever jumps up first gets to go first.

20 MR. GENTILE: Mr. Guerrero, am I right?

21 PROSPECTIVE JUROR NO. 055: Yes.

22 MR. GENTILE: Am I saying it right?

23 PROSPECTIVE JUROR NO. 055: Yes.

24 MR. GENTILE: Okay. Just a couple follow up questions. You said that
25 the strip club thing -- Mr. -- Mr. DiGiacomo keeps saying -- I'm trying to

1 remember the words, it's not your thing or something like that.

2 THE COURT: Cup of tea.

3 MR. GENTILE: Okay. But here -- here's what I want to know. That can
4 mean a lot of different things. You know, people use words and depending upon
5 how the words are spelled sometimes even you're not quite sure what they're
6 saying. But in any case, you know, saying that it's not your thing might be saying
7 that you don't like it, or saying that it's not your thing might mean, yeah, I can
8 take it or leave it. Okay? Now, you've been to a couple of strip clubs.

9 PROSPECTIVE JUROR NO. 055: Correct.

10 MR. GENTILE: To me it's a lot like window shopping, so it's not my
11 thing. Okay? But how do you feel about it?

12 PROSPECTIVE JUROR NO. 055: Overall, I have a couple friends that
13 are strippers. They're into that. I hold no grudges. It's their way. You know, to
14 me they're just people.

15 MR. GENTILE: You look down on them?

16 PROSPECTIVE JUROR NO. 055: Not at all.

17 MR. GENTILE: Do you look down on the guy that operates the club?

18 PROSPECTIVE JUROR NO. 055: Not at all.

19 MR. GENTILE: Not at all.

20 PROSPECTIVE JUROR NO. 055: No.

21 MR. GENTILE: It's a business.

22 PROSPECTIVE JUROR NO. 055: Exactly. It's --

23 MR. GENTILE: You worked in an Italian restaurant. Which one?

24 PROSPECTIVE JUROR NO. 055: It's called Alba Brothers. Alba
25 Brothers Italian Restaurant, it's just like a little storefront kind of a deal.

1 MR. GENTILE: Where is it?

2 PROSPECTIVE JUROR NO. 055: It's off of Horizon Ridge and Eastern.

3 MR. GENTILE: Advertise in La Voce?

4 PROSPECTIVE JUROR NO. 055: I think so.

5 MR. GENTILE: Oh, good.

6 PROSPECTIVE JUROR NO. 055: I know they do that, they do 89052

7 Magazine.

8 MR. GENTILE: Drugs. When I say drugs, what's that mean to you?

9 PROSPECTIVE JUROR NO. 055: Drugs, when I hear the word drugs I
10 think of ecstasy, I think of speed, I think of weed, just a couple others.

11 MR. GENTILE: Okay. There's no way you got through Coronado High
12 School without knowing some kids that were using drugs.

13 PROSPECTIVE JUROR NO. 055: A ton of them.

14 MR. GENTILE: I don't mean to stick my nose in your business. Okay?

15 PROSPECTIVE JUROR NO. 055: Uh-huh.

16 MR. GENTILE: Did it make them smarter?

17 PROSPECTIVE JUROR NO. 055: Actually, there was one kid it helped
18 him out, honestly.

19 MR. GENTILE: Is that right?

20 PROSPECTIVE JUROR NO. 055: Yeah. So other than that, like it was
21 the only way he actually got through high school.

22 MR. GENTILE: Yeah.

23 PROSPECTIVE JUROR NO. 055: But other than that, not so much.

24 MR. GENTILE: No.

25 PROSPECTIVE JUROR NO. 055: I know people that have been sent up

1 to Canada because of, you know, drug -- drug addictions and what not.

2 MR. GENTILE: Okay.

3 PROSPECTIVE JUROR NO. 055: They used to go up there and get
4 them away from it.

5 MR. GENTILE: All right. When you know that someone is a drug user,
6 you know that, you have -- does it affect your opinion on them?

7 PROSPECTIVE JUROR NO. 055: Not really. No.

8 MR. GENTILE: No? Okay. You ever drive a taxi?

9 PROSPECTIVE JUROR NO. 055: No, I haven't.

10 MR. GENTILE: Did you ever work at a business that paid taxi's to bring
11 people to them?

12 PROSPECTIVE JUROR NO. 055: Never.

13 MR. GENTILE: Did you ever hire a lawyer?

14 PROSPECTIVE JUROR NO. 055: Once.

15 MR. GENTILE: Okay. Tell me about it.

16 PROSPECTIVE JUROR NO. 055: I went through -- the same incident on
17 the highway with the cop, went through -- I was in Phoenix at the time. I had to
18 hire a lawyer so he go and present me at the court. And they went through and
19 he never showed up. So I actually had a warrant out for me at that point.

20 MR. GENTILE: Because -- because of the lawyer?

21 PROSPECTIVE JUROR NO. 055: Because of his negligence to show up
22 for me.

23 MR. GENTILE: Okay.

24 PROSPECTIVE JUROR NO. 055: And I actually got caught in the
25 crossfire with that. I had to go [inaudible].

1 MR. GENTILE: So when you hired that lawyer -- when you hired that
2 lawyer, you expected that lawyer to do something for you; didn't you?

3 PROSPECTIVE JUROR NO. 055: Uh-huh.

4 MR. GENTILE: It turns out that he didn't.

5 PROSPECTIVE JUROR NO. 055: He didn't. Still had to pay him, still
6 had to cover the ticket in the end.

7 MR. GENTILE: Well, I think that's all. Thanks, Mr. Guerrero.

8 PROSPECTIVE JUROR NO. 055: No problem.

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

10 Mr. Adams.

11 MR. ADAMS: Hi Mr. Guerrero.

12 PROSPECTIVE JUROR NO. 055: How you doing?

13 MR. ADAMS: Did you say earlier, and I was trying to listen and
14 sometimes when I'm trying to write down notes I miss some things. Did you say
15 earlier that you helped steer some people or helped get people away from
16 drugs?

17 PROSPECTIVE JUROR NO. 055: I have.

18 MR. ADAMS: Why was that?

19 PROSPECTIVE JUROR NO. 055: Because at the time -- well, the
20 person I mainly helped with that was my ex-girlfriend at the time. She thought I
21 would go through and help her out.

22 MR. ADAMS: Hang on. I -- I want to hear everything. I want to make
23 sure --

24 Can you hear?

25 THE RECORDER: Uh-huh.

1 MR. ADAMS: Okay. Sorry. Ex-girlfriend.

2 PROSPECTIVE JUROR NO. 055: Ex-girlfriend. She wanted to get on
3 speed to help her lose weight and what not. And for me, that's not -- that's not
4 an excuse. It's not a way of life, I guess you can say. So I went through and did
5 my best to get her away from it and it worked.

6 MR. ADAMS: All right. It did get her away from it.

7 PROSPECTIVE JUROR NO. 055: It got her away from it and she's
8 never gone on it.

9 MR. ADAMS: How about anyone else? Have you helped anyone else?

10 PROSPECTIVE JUROR NO. 055: I tried to go through and tell them not
11 to do it, but other than that, people make their own choices and their own
12 decisions and they will do what they do.

13 MR. ADAMS: And are you -- are we talking about some street drugs
14 you've --

15 PROSPECTIVE JUROR NO. 055: The street drugs and --

16 MR. ADAMS: -- encouraged people to get away from the street drugs?

17 PROSPECTIVE JUROR NO. 055: Yeah. Everything including
18 prescription.

19 MR. ADAMS: Okay.

20 PROSPECTIVE JUROR NO. 055: So xanax, morphine, you name it.

21 MR. ADAMS: And why were you trying to encourage people to get away
22 from it? I know that seems like an obvious question --

23 PROSPECTIVE JUROR NO. 055: Right.

24 MR. ADAMS: -- but I want to hear.

25 PROSPECTIVE JUROR NO. 055: Well, pretty much they're -- they're a

1 big portion of my life. And like I said, my family is out in Colorado so basically my
2 friends are my family and I don't want to see them go down that pass -- path and
3 end up, you know, basically in an early grave.

4 MR. ADAMS: So Mr. Gentile was asking you a question about drugs and
5 you said you don't judge anybody.

6 PROSPECTIVE JUROR NO. 055: Right.

7 MR. ADAMS: But is it fair to say that if you knew somebody was using
8 drugs you're going to be a little more skeptical of them?

9 PROSPECTIVE JUROR NO. 055: While they're on them, yes.

10 MR. ADAMS: Yeah.

11 PROSPECTIVE JUROR NO. 055: Other than that, you know, it's kind
12 of -- if they're on them I try to stay away from them because I don't want to be
13 caught up with it.

14 MR. ADAMS: Right.

15 PROSPECTIVE JUROR NO. 055: Also if they have it on them and I'm
16 also around, well, I can be part of whatever may happen if, you know, police
17 show up and I'm there and one thing leads to another.

18 MR. ADAMS: Have you ever had a friend who was on drugs lie to you or
19 steal from you?

20 PROSPECTIVE JUROR NO. 055: Never steal, but lie, yes.

21 MR. ADAMS: And were these the kind of friends who wouldn't have lied
22 or you don't think they'd have lied had they been clean?

23 PROSPECTIVE JUROR NO. 055: They probably wouldn't have lied.

24 MR. ADAMS: And that's one of the things you'd look at when you look at
25 somebody --

1 PROSPECTIVE JUROR NO. 055: Right.

2 MR. ADAMS: -- who's on drugs, whether they're believable or not
3 because people lie when they're doing drugs.

4 PROSPECTIVE JUROR NO. 055: Correct.

5 MR. ADAMS: And they steal. There are some people who don't think
6 our justice system is right. They think the state shouldn't have to prove people
7 guilty, that too many guilty people get off. What are your feelings about the
8 justice system?

9 PROSPECTIVE JUROR NO. 055: As far as guilty people getting off,
10 sometimes I think punishment should be a little bit more heavy on others --

11 MR. ADAMS: Sure.

12 PROSPECTIVE JUROR NO. 055: -- depending on what they're being
13 charged for. There's also some cases where I guess you could go a little bit
14 lenient depending on, you know, evidence according to or if somebody wants to
15 go through and make sure that somebody's not going to be out for awhile. It just
16 depends on the circumstance and whatever's going on at the time.

17 MR. ADAMS: Do you have any feelings about people who are convicted
18 of -- of murder, whether it's too light or too serious?

19 PROSPECTIVE JUROR NO. 055: Originally, I think it's an eye for an
20 eye. So if -- in that turn I think it should go the same way.

21 MR. ADAMS: So you think somebody should -- should forfeit their life if
22 they're convicted of murder?

23 PROSPECTIVE JUROR NO. 055: I'm pretty biased like that, yeah.

24 MR. ADAMS: Okay. What's that based on?

25 PROSPECTIVE JUROR NO. 055: Based on just pretty much my

1 upbringing. You know, everything that I've done -- for me, my life has been a
2 constant struggle. So I feel if I -- if I had to struggle, well, you know, I at least put
3 forth an effort, you know, in order to get wherever you want to be in your life. So
4 also, you know, if something happens, well, it should be done back to you, in my
5 opinion. So kind of -- I guess I'm judgmental at that point, so --

6 MR. ADAMS: You're introspective at that point.

7 PROSPECTIVE JUROR NO. 055: I guess you can say that.

8 MR. ADAMS: I think all -- all of us have our -- our judgments.

9 PROSPECTIVE JUROR NO. 055: I'm just quick to judge, quick to -- you
10 know, I'm also real bullheaded when it comes to that point. So I guess my
11 opinion might not be correct in certain forms I guess you can say.

12 MR. ADAMS: We appreciate your honesty. Oh, on the situation earlier
13 you talked about you were -- the police officers came up to you and your
14 brother --

15 PROSPECTIVE JUROR NO. 055: Correct.

16 MR. ADAMS: -- in the park a few weeks ago and they patted you down
17 or searched you.

18 PROSPECTIVE JUROR NO. 055: They patted down, searched the car,
19 searched out stuff on -- on the park bench, everything.

20 MR. ADAMS: Did they ask any permission to do that?

21 PROSPECTIVE JUROR NO. 055: They asked and I was perfectly fine
22 with it. Like I said, they're just doing their job also.

23 MR. ADAMS: There are some people who think that if they were
24 charged they automatically would testify.

25 PROSPECTIVE JUROR NO. 055: Uh-huh.

1 MR. ADAMS: And you strike me as a, you know, I pulled myself up and I
2 would want to be heard, I would face this; is that right?

3 PROSPECTIVE JUROR NO. 055: Right. I would.

4 MR. ADAMS: Would you require that of other people?

5 PROSPECTIVE JUROR NO. 055: Yes, I would, actually.

6 MR. ADAMS: And they would need to testify before you could get --
7 before you could find them not guilty?

8 PROSPECTIVE JUROR NO. 055: Correct.

9 MR. ADAMS: And that would be the case in this trial; right?

10 PROSPECTIVE JUROR NO. 055: Correct.

11 MR. ADAMS: Judge, may we confer --

12 THE COURT: Yeah. Sure.

13 MR. ADAMS: May we approach?

14 THE COURT: Yeah.

15 (Conference at the bench)

16 THE COURT: All right. Let's see, Mr. DiGiacomo.

17 MR. DIGIACOMO: No, it's Mr. Pesci.

18 THE COURT: Oh, I'm sorry.

19 MR. PESCI: I wasn't sure if he --

20 THE COURT: Oh, I thought Mr. Adams was done.

21 MR. ADAMS: Mr. Guerrero, on that point --

22 THE COURT: I'm sorry.

23 MR. ADAMS: -- Mr. Pesci is going to have some follow up.

24 THE COURT: All right. Mr. Pesci.

25 MR. PESCI: Thank you, Judge.

1 Sir, if I understood you correctly, you talked to us about the incident
2 in the parking lot with the Henderson Police Department that you didn't take that
3 personally or you didn't get overly angry, they were doing their job.

4 PROSPECTIVE JUROR NO. 055: No.

5 MR. PESCI: Okay.

6 PROSPECTIVE JUROR NO. 055: Exactly.

7 MR. PESCI: Can you accept the fact that sometimes within the law
8 things happen that we don't necessarily agree with or like?

9 PROSPECTIVE JUROR NO. 055: That's correct. Yeah.

10 MR. PESCI: Sometimes they're not what we would normally logically
11 think outside of a courtroom.

12 PROSPECTIVE JUROR NO. 055: Uh-huh.

13 MR. PESCI: Is that a yes?

14 PROSPECTIVE JUROR NO. 055: That is a yes.

15 MR. PESCI: Perfect. Thank you. Would you be willing to follow the
16 Court's order if you were selected as a juror?

17 MR. ADAMS: Your Honor, I object to that question. I object to a follow
18 the law question under Morgan versus Illinois. I think it's coercive and it doesn't
19 provide the Court --

20 MR. PESCI: I'm going to object to the --

21 MR. ADAMS: -- sufficient basis.

22 MR. PESCI: -- speaking objection.

23 THE COURT: All right. Well, I think you can -- I mean, would you follow
24 the Court's -- I think the question really is would you be able to follow the Court's
25 instructions on the law if maybe it's different from what your personal feelings are

1 as to what the law ought to be or even maybe what your understanding is, you
2 know. If you think the law is this way and I tell you it's something else, would you
3 be able to set that aside and follow the law that I give you and read to you?

4 PROSPECTIVE JUROR NO. 055: At the end of the day it would be the
5 law, so therefore I would I have to follow it and --

6 THE COURT: All right.

7 PROSPECTIVE JUROR NO. 055: -- abide by it.

8 MR. PESCI: And the law is that no defendant can be forced to testify.
9 That's the law.

10 PROSPECTIVE JUROR NO. 055: Correct.

11 MR. PESCI: You'll get an instruction no one can be forced to. And on
12 top of that, you can't even hold it against a defendant. You can't get back there
13 and say, you know what, he should testify. I wanted to hear him testify. He
14 didn't, and I'm going to hold it against him. You just can't do that. Can you
15 accept that?

16 PROSPECTIVE JUROR NO. 055: I'd have to pull it from within, but, yes,
17 I probably could.

18 THE COURT: Okay. Well, I mean, it's -- and, again, like I've told
19 everybody else, it's no right or wrong answer. The only wrong answer is a
20 dishonest answer. So as long as you're being truthful, there's no right or wrong
21 answer.

22 I mean, would you think, well, you know, wait a minute, if a -- if the
23 defendant, you know, didn't do it or had nothing to hide, they would get up on the
24 witness stand and testify, or would you be able to say, you know what, I
25 understand that I'm not supposed to think about this and I'm just going to look at

1 the evidence that was presented, not ask questions about what wasn't
2 presented, meaning if a defendant didn't testify or the defense didn't call any
3 witnesses or anything like that.

4 And I want you to answer me not yes or no, but answer that question
5 as best as you can in a sort of narrative fashion explaining what your feelings are
6 so I can understand. And, again, it is what it is. There is no right or wrong
7 answer, just truth. That's all I'm looking for.

8 PROSPECTIVE JUROR NO. 055: In that perspective, I like to know the
9 whole story beforehand. Instead of making a half truth decision, I'd rather have
10 all the facts in front of me, therefore I can base it off both sides, you know. In this
11 case hearing from the defendant and the State going at the same time, I wouldn't
12 even know both sides in order to come up with a full decision whether to be
13 honest within myself according to it.

14 THE COURT: Okay. Even if you're told, well, in our system of justice the
15 state or the government, because they're the ones with all the resources and the
16 power and everything like that and for many other reasons in our constitution
17 they have to prove guilt beyond a reasonable doubt. Defense doesn't have to do
18 anything.

19 PROSPECTIVE JUROR NO. 055: Correct.

20 THE COURT: Would you still expect the defense to do something?

21 PROSPECTIVE JUROR NO. 055: I would like it, but then again if there's
22 enough proof on the table, well --

23 THE COURT: Because it's -- they are the ones that have to prove
24 everything. The defense doesn't have to disprove anything, they don't have to
25 do -- in our system they don't have to do anything --

1 PROSPECTIVE JUROR NO. 055: Right.

2 THE COURT: -- because it's all on them. I mean, if they do something,
3 that's up -- you know, do you understand what I'm saying?

4 PROSPECTIVE JUROR NO. 055: I do.

5 THE COURT: That's the way our system is set up. Now, is that
6 something that you think -- and, again, just how you feel, how do you feel about
7 that if you sat as a juror and all you heard from was the State's witnesses and
8 what the State chose -- chose to put on?

9 PROSPECTIVE JUROR NO. 055: In that case I'd feel like I would be
10 making a half -- half -- you know, half based decision. But then again, you know,
11 it can go both ways because of the fact actions speak louder -- louder than
12 words. So with that, you know, I would have to go both ways because of the fact
13 if one thing is presented --

14 MR. PESCI: Let me ask you this.

15 If I could follow up, Judge?

16 THE COURT: That's fine. Absolutely.

17 MR. PESCI: Thank you.

18 Just so it's really clear, the male, the female, the two gentlemen
19 back here. They are not -- the defense attorneys, they are not the gentleman
20 that you hired and no showed.

21 PROSPECTIVE JUROR NO. 055: Okay.

22 MR. PESCI: I think -- I think it's -- you can tell so far from the way this
23 proceeding has gone, they've all shown up.

24 PROSPECTIVE JUROR NO. 055: Correct.

25 MR. PESCI: They're going to keep showing up. All right? There's a

1 distinction also between a defendant testifying and the way a case goes as far as
2 cross-examination and things of that nature. They -- they the defense have no
3 burden. There is nothing that they have to do.

4 PROSPECTIVE JUROR NO. 055: Okay.

5 MR. PESCI: That's what we're telling you in a vacuum. You can see so
6 far they've been doing lots of things.

7 PROSPECTIVE JUROR NO. 055: They have.

8 MR. PESCI: If they do nothing, if they choose to do nothing, that's one
9 issue. But what I'm trying to focus on right now is the defendants, would you
10 require that the defendants testify? That's kind of -- that's a separate issue right
11 now. The question is can you follow the law and not hold it against the
12 defendants if they choose to not testify?

13 PROSPECTIVE JUROR NO. 055: I could do that, yes.

14 MR. PESCI: Pass, Judge.

15 THE COURT: Do you want to follow up, Mr. Adams?

16 MR. ADAMS: If you'd rather me follow up than approach.

17 THE COURT: No, I'd rather you follow up.

18 MR. ADAMS: Sure.

19 Mr. Guerrero, you've given multiple answers to the same question. I
20 know this is difficult. Is what I hear you say that if you were a juror that you
21 would come to this courtroom with the belief an eye for an eye?

22 PROSPECTIVE JUROR NO. 055: I probably would, yes.

23 MR. ADAMS: And you'd come in with a pretty strong belief that you've
24 gotten this far and into school with a great career ahead of you because you've
25 made choices along the way to do the right thing.

1 PROSPECTIVE JUROR NO. 055: Correct. Basically, if it wasn't for
2 making those decisions, I wouldn't be in the situation I am right now.

3 MR. ADAMS: That's right. And you've seen --

4 PROSPECTIVE JUROR NO. 055: I would be also, you know, into
5 trouble if not in prison at this point in time.

6 MR. ADAMS: That's right. And you've seen a lot of your friends go that
7 other way.

8 PROSPECTIVE JUROR NO. 055: Yes, I have.

9 MR. ADAMS: And you've tried to tell them throughout that you've got to
10 do the right thing.

11 PROSPECTIVE JUROR NO. 055: Yes, I have.

12 MR. ADAMS: And part of doing the right thing is being accountable.

13 PROSPECTIVE JUROR NO. 055: Correct.

14 MR. ADAMS: And standing up and speaking out when something is right
15 or wrong; right?

16 PROSPECTIVE JUROR NO. 055: Correct.

17 MR. ADAMS: And one of those things is if you were in trouble, you
18 would speak out and either accept responsibility if you had done something
19 wrong and got caught --

20 PROSPECTIVE JUROR NO. 055: Correct.

21 MR. ADAMS: -- or if you were innocent you would certainly insist on
22 testifying and taking the stand; right?

23 PROSPECTIVE JUROR NO. 055: Right.

24 MR. ADAMS: That would be your right. And we're trying to get to is are
25 these such strong beliefs, and you strike me as a pretty earnest, committed

1 person --

2 PROSPECTIVE JUROR NO. 055: I am.

3 MR. ADAMS: -- that you would try to set that aside and follow the law,
4 but at the end of the day you still have some question about whether you would
5 demand somebody testifying.

6 PROSPECTIVE JUROR NO. 055: In the end I probably would end up
7 questioning it within myself. That's for sure.

8 MR. ADAMS: And you would try your best back in the jury room to be
9 fair. But you don't know as you're sitting here 100 percent you can make that
10 assurance to the Court.

11 PROSPECTIVE JUROR NO. 055: Correct.

12 MR. ADAMS: May we approach?

13 THE COURT: Sure.

14 (Conference at the bench)

15 THE COURT: All right. Mr. Guerrero, thank you for your honesty, thank
16 you for your willingness to serve. and also thank you for being here for three
17 days. I know it's an arduous process, but I'm sure you can appreciate how
18 important it is for both sides to ensure that the 14 people who are picked just
19 come at this with fresh eyes and, you know, give both sides a fair hearing. So
20 you are excused at this time. Please don't discuss our questions or what's
21 transpired in the courtroom just now with any of the other jurors. If, you know,
22 they ask you questions, please --

23 PROSPECTIVE JUROR NO. 055: I'll keep it quiet. I won't say nothing.

24 THE COURT: Right. Don't say anything. Thank you very much. Officer
25 Wooten will direct you from the courtroom.

1 And we'll now hear from Mr. Escobedo.

2 (Prospective juror No. 55 exits courtroom)

3 MR. DIGIACOMO: Just while he's coming in, I looked up Morgan v
4 Illinois and it doesn't stand for the proposition that that question was
5 inappropriate. It says that can't be the only question asked in a capital voir dire,
6 but certainly it's not an improper question to ask.

7 THE COURT: Well, and I don't know what they --

8 MR. ADAMS: I would love to respond, Judge.

9 THE COURT: I don't know what they --

10 MR. ADAMS: This is an area I teach.

11 THE COURT: I know.

12 MR. ADAMS: And I would love to --

13 THE COURT: I don't -- I don't know what they do in Georgia, but that's
14 pretty much everybody -- that's a stock question. Everybody asks it here all the
15 time. Now, that doesn't make it right that that's how we always do it, but that is
16 almost like a universal question.

17 MR. ADAMS: I understand that and I hear it all the time too in -- in
18 Georgia --

19 THE COURT: And we can --

20 MR. ADAMS: -- and other places.

21 THE COURT: -- argue about this later. I want to -- while the jurors are
22 here I want to move on to questioning. Make a mental note if you want to
23 address that in argument later.

24 Jeff, bring in Mr. Escobedo.

25 THE MARSHAL: And the last jury is -- the last juror is excused?

1 THE COURT: Right.

2 Hey, we've gotten through one round of challenges.

3 MR. DIGIACOMO: No we haven't because he just went for cause.

4 We're not actually done with that round.

5 THE COURT: No, no. We had a State's first and a defendant's first.

6 MR. DIGIACOMO: Yeah, I guess theoretically, yeah.

7 THE COURT: That's one round.

8 MR. DIGIACOMO: Depends on when you count the round over. I think
9 the round is over when the seat is filled again and you go State's second.

10 THE COURT: Oh, I don't. I'm --

11 Mr. Escobedo, come on down and have a seat in the jury box
12 please, sir. Just chair two is fine, wherever you're comfortable. And don't --
13 yeah, that's great. Don't feel singled out. We're just questioning people
14 individually right now. What do you do for a living, sir?

15 PROSPECTIVE JUROR NO. 056: I work for the public library, Clark
16 County public library.

17 THE COURT: And I need you to use the microphone because you -- you
18 have a low voice.

19 PROSPECTIVE JUROR NO. 056: I work for the Clark County public
20 library.

21 THE COURT: You work for the public library?

22 PROSPECTIVE JUROR NO. 056: Uh-huh.

23 THE COURT: Which one?

24 PROSPECTIVE JUROR NO. 056: The West Las Vegas.

25 THE COURT: Okay. And what do you do for the library?

1 PROSPECTIVE JUROR NO. 056: Well, I got my degree in library
2 science, but I'm doing computer work for them.

3 THE COURT: Okay. Where did you get your degree from?

4 PROSPECTIVE JUROR NO. 056: From the University of Wisconsin in
5 Milwaukee.

6 THE COURT: Okay. And where are you from originally?

7 PROSPECTIVE JUROR NO. 056: I'm originally from -- from Texas.

8 THE COURT: Okay. And I'm detecting a bit of an accent. Do you speak
9 Spanish?

10 PROSPECTIVE JUROR NO. 056: I speak Spanish, I speak a little bit of
11 Italian, and I speak Korean and Thai.

12 THE COURT: Oh, wow. Okay. How is it that you learned to speak
13 Korean?

14 PROSPECTIVE JUROR NO. 056: I was in the military.

15 THE COURT: Okay. And you served overseas in Korea?

16 PROSPECTIVE JUROR NO. 056: Yes.

17 THE COURT: And what about Thai?

18 PROSPECTIVE JUROR NO. 056: I traveled to Thailand numerous
19 times.

20 THE COURT: Okay. Well, that's a really different language from our
21 own, I guess.

22 PROSPECTIVE JUROR NO. 056: Yes. Yes, it is.

23 THE COURT: Now, what branch of the service were you in?

24 PROSPECTIVE JUROR NO. 056: The Air Force.

25 THE COURT: Okay. And were you enlisted or an officer?

1 PROSPECTIVE JUROR NO. 056: Enlisted.
2 THE COURT: Okay. How long ago did you get out of the service?
3 PROSPECTIVE JUROR NO. 056: 2004.
4 THE COURT: Okay. And are you married, sir?
5 PROSPECTIVE JUROR NO. 056: Yes, I am.
6 THE COURT: What does your wife do?
7 PROSPECTIVE JUROR NO. 056: She's a teacher.
8 THE COURT: Okay. Does she teach in the Clark County public school
9 system?
10 PROSPECTIVE JUROR NO. 056: Yes, she does.
11 THE COURT: And what grade level does your wife teach?
12 PROSPECTIVE JUROR NO. 056: She's teaching sixth grade now.
13 THE COURT: Okay. Do you have any children?
14 PROSPECTIVE JUROR NO. 056: I have three of them.
15 THE COURT: And how old are they? Are they grown?
16 PROSPECTIVE JUROR NO. 056: 13, 11, and 7.
17 THE COURT: Okay. So three young children in the home.
18 PROSPECTIVE JUROR NO. 056: Yes.
19 THE COURT: Okay. Have you ever been a juror before?
20 PROSPECTIVE JUROR NO. 056: Yes.
21 THE COURT: How -- how many times?
22 PROSPECTIVE JUROR NO. 056: Once.
23 THE COURT: And how long ago was that?
24 PROSPECTIVE JUROR NO. 056: It was many years ago.
25 THE COURT: Okay. Was that in Texas?

1 PROSPECTIVE JUROR NO. 056: That was in Texas.

2 THE COURT: Do you recall whether that was a criminal case or a civil
3 case?

4 PROSPECTIVE JUROR NO. 056: It was a criminal case.

5 THE COURT: Okay. And don't tell us what the verdict was, but did the
6 jury in that case reach a verdict?

7 PROSPECTIVE JUROR NO. 056: Yes, we did.

8 THE COURT: Were you the foreperson of that jury?

9 PROSPECTIVE JUROR NO. 056: No, I wasn't.

10 THE COURT: Okay. Now, have you or anyone close to you ever been
11 the victim of a serious crime?

12 PROSPECTIVE JUROR NO. 056: Serious crime? Define serious crime.

13 THE COURT: Well, what -- what do you -- a crime that you would
14 consider serious?

15 PROSPECTIVE JUROR NO. 056: Not serious. I've been -- I've had a
16 couple lawsuits against some companies, but not serious.

17 THE COURT: Okay. So you've been sued or you've sued companied?

18 PROSPECTIVE JUROR NO. 056: I -- I tried to -- I tried to sue two
19 companies, but I lost both cases.

20 THE COURT: Okay. Did the cases actually go to trial?

21 PROSPECTIVE JUROR NO. 056: Yes.

22 THE COURT: Okay. So you actually had a jury and you testified and all
23 that stuff?

24 PROSPECTIVE JUROR NO. 056: But it wasn't criminal. It was just
25 monetary type, you know, business type.

1 THE COURT: Okay. And then did these lawsuits take place in Texas or
2 here in Clark County or where were they?

3 PROSPECTIVE JUROR NO. 056: Here in Clark County.

4 THE COURT: Okay. Now, the first one, did you -- did you actually have
5 to testify? Was there a jury involved in those trials, or was it just in front of a
6 judge?

7 PROSPECTIVE JUROR NO. 056: Just in front of a judge.

8 THE COURT: Okay. And the judge ruled against you both times?

9 PROSPECTIVE JUROR NO. 056: Yes.

10 THE COURT: Okay. How do you feel -- it wasn't me, was it?

11 PROSPECTIVE JUROR NO. 056: No.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 056: I would remember that.

14 THE COURT: Okay. Now, the first lawsuit, what was that about?

15 PROSPECTIVE JUROR NO. 056: I'm trying to recall the first one. It had
16 to do with a contractor that was working on the house and didn't finish the work.

17 THE COURT: Okay. And did you pay the guy and then he --

18 PROSPECTIVE JUROR NO. 056: I paid the guy and then he
19 disappeared.

20 THE COURT: Okay. He disappeared. And then what was the second
21 lawsuit about?

22 PROSPECTIVE JUROR NO. 056: The second one was work on a -- on
23 a car.

24 THE COURT: I'm sorry?

25 PROSPECTIVE JUROR NO. 056: I took the van for -- for repairs, my

1 wife's van for repairs, and they were supposed to replace a part in the AC and
2 they replaced the whole AC system and they charged us like over \$2700 and
3 they didn't do anything -- any of the work they said they were going to do.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 056: We took the van out of there and it
6 was not working.

7 THE COURT: So it sounds like these two different businessmen or
8 business people --

9 PROSPECTIVE JUROR NO. 056: Correct. Uh-huh. They were not
10 associated.

11 THE COURT: -- they just ripped you off.

12 PROSPECTIVE JUROR NO. 056: Right.

13 THE COURT: Okay. Let me ask you if you or anyone close to you has
14 ever been arrested or charged with a crime?

15 PROSPECTIVE JUROR NO. 056: No, I haven't.

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

17 PROSPECTIVE JUROR NO. 056: Honestly?

18 THE COURT: Honestly.

19 PROSPECTIVE JUROR NO. 056: Honestly, okay. Well, I was in the
20 military and I was stationed in Korea and it seemed like every bar over there had,
21 you know, a strip joint. It seemed like every bar was a strip joint over there and
22 so --

23 THE COURT: And is that something the military men who were
24 stationed over there, is that, I'm guessing, something that they enjoy doing? Is
25 that fair?

1 PROSPECTIVE JUROR NO. 056: Well, if you want to go out for a drink,
2 or social, you know, socialize with other people, then there was a place to go.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 056: You go out to the club and have a
5 beer and while you're drinking a beer there's people dancing out there, you
6 know, and they have different levels of dancers and, you know.

7 THE COURT: And other things.

8 PROSPECTIVE JUROR NO. 056: Other things, other services.

9 THE COURT: All right. And let me ask you this. Here in town in Las
10 Vegas, the Las Vegas area, are you familiar with any of the strip clubs here in
11 town?

12 PROSPECTIVE JUROR NO. 056: I've heard of them. I've never been to
13 any of those.

14 THE COURT: You've never be to any of them?

15 PROSPECTIVE JUROR NO. 056: No.

16 THE COURT: So you've never been to the Palomino Club?

17 PROSPECTIVE JUROR NO. 056: No, I haven't.

18 THE COURT: Okay. Have you heard of the Palomino Club?

19 PROSPECTIVE JUROR NO. 056: Well, two days ago as I was driving
20 home I started recalling pieces of information from -- from this case. I don't know
21 if I have all the information and I don't know the accuracy or relevancy of the
22 information that I read.

23 THE COURT: Okay. So you started -- let me get -- let me see if I can
24 get this straight. You started remembering that maybe you had read about this
25 case?

1 PROSPECTIVE JUROR NO. 056: Yes.

2 THE COURT: Okay. And would that have been in the newspaper?

3 PROSPECTIVE JUROR NO. 056: I recall it was the Las Vegas Weekly
4 Magazine.

5 THE COURT: Okay. And what, if anything, did you remember reading?

6 PROSPECTIVE JUROR NO. 056: Do you want me to say?

7 THE COURT: Yes, just say it.

8 PROSPECTIVE JUROR NO. 056: Okay. What I recall is it had to do
9 with the Palomino history, you know, how it went from one owner to another
10 owner to another owner, and of course the last one was the Hidalgos. And there
11 was -- it was talking about the bad luck, bad luck of the casino, how it had gone
12 from one owner to another owner to another owner. The last one, of course, you
13 know, this is also a bad luck type of case, you know.

14 THE COURT: Okay. So it mentioned that there was this case in
15 connection with a bigger story about the Palomino Club.

16 PROSPECTIVE JUROR NO. 056: Correct. And it mentioned something
17 about some attorney buying the -- or acquiring the business in return for some
18 attorney services because the owner couldn't pay or couldn't provide -- or
19 couldn't, you know, provide the attorney services.

20 THE COURT: Okay. And how did you -- did you have an opinion about
21 that one way or the other?

22 PROSPECTIVE JUROR NO. 056: I -- I wouldn't pay much attention to
23 that because, you know, Las Vegas Weekly Magazine is not your most --

24 THE COURT: Reliable?

25 PROSPECTIVE JUROR NO. 056: -- reliable source.

1 THE COURT: And I'm glad you said that because that dovetails very
2 nicely into my next question. It's almost like you anticipated it. And obviously
3 you do appreciate that the media gets things wrong all the time and sometimes
4 their reporting is incomplete or inaccurate.

5 PROSPECTIVE JUROR NO. 056: Correct.

6 THE COURT: Okay. Would you be able to, if you're selected as a juror
7 in this case, if you remember anything else or what you do remember, could you
8 set that all aside and base your verdict only on the evidence that's presented
9 from the witness stand, the testimony of the witnesses, and the physical exhibits?

10 PROSPECTIVE JUROR NO. 056: Of course. You would want to have a
11 pretty well balanced, you know -- make -- make a decision based on a pretty well
12 distribution of, you know, what his testimony is or whatever -- whatever the
13 defense or whatever the prosecutors reveal.

14 THE COURT: Okay. So let's say you remember reading something but
15 there is no evidence of that in this case. Can you accept that you have -- can't
16 think about that, you only have to focus on what the evidence is and then
17 evaluate, yeah, I believe that testimony or I don't believe that testimony or
18 whatever?

19 PROSPECTIVE JUROR NO. 056: I think -- I'm not sure. I think in my
20 mind I want to question the -- how this came into place. It -- you know, I
21 remember reading about the [indecipherable] -- or from what you mentioned
22 earlier, he talked about somebody is going to sit in this also that used to be on
23 the defense or an attorney.

24 THE COURT: I -- I -- I'm sorry. I'm a little --

25 PROSPECTIVE JUROR NO. 056: I think I recall somebody mentioning

1 that --

2 THE COURT: Oh, another defendant might testify.

3 PROSPECTIVE JUROR NO. 056: Yeah, another defendant might
4 testify.

5 THE COURT: Somebody who was previously a defendant.

6 PROSPECTIVE JUROR NO. 056: Correct.

7 THE COURT: Okay. And then you said that you're going to wonder.
8 You're going to wonder what? Why they're testifying or what would you wonder
9 about?

10 PROSPECTIVE JUROR NO. 056: Correct. Why they're testifying and --
11 and what was offered to the person. You know, we have conversations about,
12 you know, people being offered a lesser charge, a lesser punishment in return for
13 testimonies and so on. I would want to know why.

14 THE COURT: Okay. Now, if that was addressed by the questions, then
15 would that sort of satisfy your curiosity on that issue?

16 PROSPECTIVE JUROR NO. 056: Say that again.

17 THE COURT: If -- okay. You would -- so you would want to know what
18 somebody's motivation was in now testifying or whether they were getting a deal
19 or a benefit?

20 PROSPECTIVE JUROR NO. 056: What's going through my mind at the
21 time, you know, I'm thinking client confidentiality, you know, is that in the
22 question. What was offered to the person and why was it offered to him, you
23 know. If you were to clear that for me and tell me that, you know, everything has
24 been set aside because we have other reasons or other cases or it's going to
25 something else, then, yes, I would put that on the side and -- and go by what is

1 presented to me.

2 THE COURT: Okay. And I guess my question is let's say you remember
3 reading something in the news or the Weekly newspaper and it's different from
4 something somebody testifies to during the trial, you understand that what's in
5 the Weekly isn't evidence and there is no -- you have to set that aside.

6 PROSPECTIVE JUROR NO. 056: Correct. I would just put that whole --
7 you know, whatever I recall from that I would put on the side --

8 THE COURT: All right.

9 PROSPECTIVE JUROR NO. 056: It's definitely scratch here --

10 THE COURT: Okay. And you --

11 PROSPECTIVE JUROR NO. 056: -- and we start from new.

12 THE COURT: -- you feel pretty confident you can do that?

13 PROSPECTIVE JUROR NO. 056: I feel confident I can do that.

14 THE COURT: Okay. I'm just curious, where are you from in Texas?

15 PROSPECTIVE JUROR NO. 056: Well, all over. I grew up in El Paso,
16 Dallas, been in Houston.

17 THE COURT: Okay. Now, you've heard everything we've all talked
18 about with all of the other prospective jurors. Anything based on that you feel like
19 you need to tell us or you think we would be interested in knowing about you or
20 your family?

21 PROSPECTIVE JUROR NO. 056: What I would like to know before we
22 go any further, what I would like to know is as we -- as the jurors start talking
23 about the -- the gangs and the -- the fear and that's -- that's become like a
24 concern also.

25 THE COURT: Okay. Now, when you say the jurors start talking about

1 gangs and fear, are you talking about what's happened here in the courtroom
2 during the questioning, or are you talking about jurors talking about this in the
3 hallway or in the --

4 PROSPECTIVE JUROR NO. 056: No, no. What -- what -- what was
5 here in the --

6 THE COURT: Here in the --

7 PROSPECTIVE JUROR NO. 056: -- courtroom.

8 THE COURT: -- courtroom.

9 PROSPECTIVE JUROR NO. 056: Uh-huh.

10 THE COURT: Okay. And basically as we said, and you've -- I'm --
11 earlier, this really is not -- there's no allegation that the individuals on trial here
12 are involved in a gang, have ever been involved in a gang, are affiliated with a
13 gang, or anything like that.

14 There may be some evidence that somebody -- that there is some
15 knowledge of a gang or someone else was involved in a gang that's not on trial
16 here. So other than sort of general fear, and I think everybody has some fear
17 about gangs and things like that, is there anything that's unique to your situation
18 or your experience involving gangs?

19 PROSPECTIVE JUROR NO. 056: Where I -- where I grew up in El
20 Paso, it seems like every -- every other block was a gang.

21 THE COURT: Okay. And -- and were those Hispanic gangs or what kind
22 of --

23 PROSPECTIVE JUROR NO. 056: Different types of gangs.

24 THE COURT: All black gangs, everything?

25 PROSPECTIVE JUROR NO. 056: Some of them didn't even have

1 names.

2 THE COURT: Okay. All right. Thank you, sir. I'm going to let the State
3 question you.

4 MR. PESCI: Thank you, Judge.

5 Sir, I think I heard you say we had conversations about someone
6 who could become defendant -- or was a defendant who would become a
7 witness. Is that what you said that we could have conversations or we had
8 conversations?

9 PROSPECTIVE JUROR NO. 056: I -- I don't recall that.

10 MR. PESCI: Well, has there been any conversations that you've heard
11 among jurors about the concept of somebody becoming a witness for the State
12 that wasn't involved?

13 PROSPECTIVE JUROR NO. 056: Okay.

14 MR. PESCI: Have you heard any conversations about that?

15 PROSPECTIVE JUROR NO. 056: No, I haven't.

16 MR. PESCI: Okay. So were -- were you talking about your personal
17 interest in knowing that?

18 PROSPECTIVE JUROR NO. 056: Yes.

19 MR. PESCI: Okay. You -- because you said you would want to know
20 why, why someone would become a witness for the State that was at one time a
21 defendant?

22 PROSPECTIVE JUROR NO. 056: Correct.

23 MR. PESCI: All right. And are you saying that that was just -- just your
24 thoughts and you didn't hear anybody else in this jury talking about that?

25 PROSPECTIVE JUROR NO. 056: Those would be my thoughts, yes.

1 MR. PESCI: Okay. You said that you were on a jury before in Texas
2 and it was criminal?

3 PROSPECTIVE JUROR NO. 056: Yes.

4 MR. PESCI: Okay. And, again, don't say what the verdict was. There
5 was a verdict. Did you actually participate in the deliberations?

6 PROSPECTIVE JUROR NO. 056: Yes.

7 MR. PESCI: All right. The law in Texas is probably different in some
8 senses than it is here in Nevada. Are you willing to -- to follow the instructions
9 the Court gives you here in this case?

10 PROSPECTIVE JUROR NO. 056: Of course.

11 MR. PESCI: Now, talk to me about specifically the Weekly. You heard a
12 bunch of information from your Weekly magazine. Do you -- do you remember
13 telling us about that?

14 PROSPECTIVE JUROR NO. 056: Say that again.

15 MR. PESCI: I believe that you told us that you read in the Las Vegas
16 Weekly about this particular incident; correct?

17 PROSPECTIVE JUROR NO. 056: Correct.

18 MR. PESCI: And kind of the history of the Palomino Club?

19 PROSPECTIVE JUROR NO. 056: Correct.

20 MR. PESCI: All right. And in that history did it discuss different things
21 that had gone on in that club?

22 PROSPECTIVE JUROR NO. 056: Really it was talking about the history
23 of the Palomino, how it came to place, how the bad luck part, you know, it went
24 from one owner to another.

25 MR. PESCI: What was some of the bad luck you remember reading

1 about?

2 PROSPECTIVE JUROR NO. 056: I don't -- I don't recall every single
3 piece of information. This was months, if not a year ago.

4 MR. PESCI: Okay. And -- and as the Court has explained, that's not
5 evidence. Whatever is there in that paper is not evidence in this case. It's
6 something separate and distinct. Can you limit your determination based on just
7 what the evidence is, the witnesses that come in, the exhibits that are shown?
8 Can you do that?

9 PROSPECTIVE JUROR NO. 056: Of course.

10 MR. PESCI: And set aside what it is that you've read already?

11 PROSPECTIVE JUROR NO. 056: Yes.

12 MR. PESCI: The -- the two incidents where you tried to take someone to
13 court and, unfortunately, it didn't end well for you, has that affected your overall
14 feelings towards the justice system?

15 PROSPECTIVE JUROR NO. 056: Well, of course.

16 MR. PESCI: How will those feelings affect your ability to be a juror?

17 PROSPECTIVE JUROR NO. 056: Not as a juror. I think it has affected
18 me personally as to the decision making process.

19 MR. PESCI: Which decision making process?

20 PROSPECTIVE JUROR NO. 056: The judge decisions.

21 MR. PESCI: And I think Her Honor has pointed out that wasn't her;
22 right?

23 PROSPECTIVE JUROR NO. 056: Correct.

24 MR. PESCI: So that -- that decision or those decisions you wouldn't hold
25 against this Court or this proceeding?

1 PROSPECTIVE JUROR NO. 056: Yeah, it's a different judge. I mean, I
2 would [indecipherable] with the other judge.

3 MR. PESCI: And the State of Nevada and the defense don't need to be
4 concerned about that?

5 PROSPECTIVE JUROR NO. 056: No. I -- that's a separate issue.

6 MR. PESCI: All right. If I wrote this right, Spanish, Italian, Korean, and
7 Thai; correct?

8 PROSPECTIVE JUROR NO. 056: Correct.

9 MR. PESCI: Where'd you pick up the Italian?

10 PROSPECTIVE JUROR NO. 056: I studied Italian, and the military also
11 took --

12 MR. PESCI: Were you based in Italy at any time?

13 PROSPECTIVE JUROR NO. 056: I studied Italian and I got my
14 proficiency level, three level just in case to be used as a linguist in Italy or any
15 other place that they have Italian personnel.

16 MR. PESCI: Okay. Do you have any difficulties sitting as a juror, making
17 a determination on the facts of this case?

18 PROSPECTIVE JUROR NO. 056: No, I don't have difficulties.

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

20 PROSPECTIVE JUROR NO. 056: Yes.

21 MR. PESCI: Pass for cause, Judge.

22 THE COURT: All right. Thank you. Who would like to go next?

23 Mr. Arrascada.

24 MR. ARRASCADA: Sure.

25 THE COURT: Thank you.

1 MR. ARRASCADA: Good afternoon, Mr. Escobedo.

2 PROSPECTIVE JUROR NO. 056: Good afternoon.

3 MR. ARRASCADA: So you're a very educated man, as you told us;
4 right?

5 PROSPECTIVE JUROR NO. 056: I don't think so.

6 MR. ARRASCADA: Well, you have a bachelors in library science.

7 PROSPECTIVE JUROR NO. 056: I have two bachelors, one in business
8 management, one in computer science, and one in -- in library science.

9 MR. ARRASCADA: Okay. So you have one in business management --

10 PROSPECTIVE JUROR NO. 056: Yes.

11 MR. ARRASCADA: -- computer science and library science?

12 PROSPECTIVE JUROR NO. 056: Correct.

13 MR. ARRASCADA: And when you were talking about -- I want to talk to
14 you a little about this. When you were talking about -- and the Judge called it you
15 were curious about things you've been hearing about in the courtroom; is that
16 correct?

17 PROSPECTIVE JUROR NO. 056: Correct.

18 MR. ARRASCADA: And that's a healthy thing. You're thinking, and
19 that's good. And all those curiosities when the trial starts, if you have the
20 privilege of being on this jury panel, you'll be able -- would you be able to put
21 those aside and just listen to the facts and the evidence?

22 PROSPECTIVE JUROR NO. 056: You keep saying the privilege. Okay.

23 MR. ARRASCADA: I feel it's a privilege --

24 PROSPECTIVE JUROR NO. 056: Okay.

25 MR. ARRASCADA: -- because very few of us get to do it. And most

1 jurors do after they sit, they say, boy, that was awesome.

2 THE COURT: I wanted to be a juror. I got called and they kicked me off
3 the panel and I was mad.

4 PROSPECTIVE JUROR NO. 056: I'd just as soon -- I'd just as soon
5 perform my jury services and get rid of this.

6 MR. ARRASCADA: You know, I actually had the privilege of being on a
7 jury, and it was one of the most remarkable experiences I've ever had. But you
8 can view it however you want.

9 PROSPECTIVE JUROR NO. 056: Okay. And --

10 MR. ARRASCADA: Okay.

11 THE COURT: If you're -- trust me on this. Like I said at the beginning, I
12 mean, I have literally, as either a lawyer or a judge, talked to thousands of people
13 who have served as jurors and they almost to a person are happy they have to
14 do it.

15 PROSPECTIVE JUROR NO. 056: Well, I think it's a good experience,
16 you know. And from my previous participation as a juror on a previous case, I
17 think it's a good experience. But I wouldn't go as far as saying it's a privilege, an
18 honor.

19 MR. ARRASCADA: It's an honor to be called twice, huh? You talked
20 about you've read about things in this case in a magazine some time ago; is that
21 right?

22 PROSPECTIVE JUROR NO. 056: Some time ago.

23 MR. ARRASCADA: Did you ever do any follow up?

24 PROSPECTIVE JUROR NO. 056: Research?

25 MR. ARRASCADA: Yeah.

1 PROSPECTIVE JUROR NO. 056: No, I didn't. I -- I just take the
2 papers -- I read papers all the time and, you know, articles. I can recall a whole
3 bunch of articles, but I don't go into the, you know, research of this particular, you
4 know, incident or so because it had nothing to do with me and my lifestyle or
5 anything in my life.

6 MR. ARRASCADA: Did you form any opinions that Louis Hidalgo III may
7 want to know about or the prosecutors may want to know about?

8 PROSPECTIVE JUROR NO. 056: At the time I was reading the paper or
9 do you mean now? What -- now you say we have to set them aside, so I don't
10 have opinions on that. But at the time when I read it, do you want to know that?

11 MR. ARRASCADA: Yes.

12 PROSPECTIVE JUROR NO. 056: Okay. I just thought it was a sad
13 situation for the Hidalgos. I thought it was a bad situation on -- on -- on the son.

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

15 PROSPECTIVE JUROR NO. 056: Well, I think it recalls saying
16 something that he had been working real hard and his father hired him to work
17 for -- in the business and something came about that they were having some
18 difficulty there, he is having some difficulty with a girlfriend or wife, I can't recall
19 the specifics.

20 MR. ARRASCADA: And you said he, is that the son?

21 PROSPECTIVE JUROR NO. 056: The son.

22 MR. ARRASCADA: Okay.

23 PROSPECTIVE JUROR NO. 056: He was having some difficulties with
24 either his girlfriend or wife. I can't recall the specifics. And as -- as a result he
25 retaliated against someone else or, you know, that kind of -- that's about as far

1 as I -- I got out of that. And because of that he -- his father had to hire an
2 attorney to get him out of the -- out of the trouble that he had gotten into. And the
3 father didn't have the finances to, you know, hire the attorney and he offered the
4 business in return to some attorney in -- he offered the Palomino in return for the
5 services.

6 MR. ARRASCADA: So tell me if I'm [inaudible].

7 PROSPECTIVE JUROR NO. 056: Okay.

8 MR. ARRASCADA: [inaudible] I understood what you're saying is that
9 your --

10 THE COURT: You need to speak up, Mr. Arrascada.

11 MR. ARRASCADA: Yeah, I will, Your Honor.

12 Your opinion when you read -- I don't think I need one. I just
13 became a little low there. Is it your opinion at least when you read this that it's
14 Louis Hidalgo III, my client, who has caused these problems?

15 PROSPECTIVE JUROR NO. 056: That's -- I think that's the way I
16 interpret the -- the article back then, you know. But I don't -- I don't -- to be
17 honest with you, I can't recall all the specifics. I mean, what I'm saying now, you
18 know, it may be insignificant because I don't know the -- all the in and outs. I
19 don't know the -- the specifics and I don't know the accuracy of the article. I don't
20 know what actually took place. It was just something that I read in entertainment
21 type -- as I look at the Weekly Magazine, it's just an entertainment type of
22 magazine.

23 MR. ARRASCADA: And would you want to hear from witnesses what
24 happened?

25 PROSPECTIVE JUROR NO. 056: Of course. Of course, yeah, I want to

1 hear all the facts, all the facts from the prosecutors, all the facts from the
2 defense, and all the witnesses that are presented in this case.

3 MR. ARRASCADA: Would you require Louis Hidalgo III to testify in this
4 case?

5 PROSPECTIVE JUROR NO. 056: I -- I don't know what the -- I don't
6 understand how do --

7 MR. ARRASCADA: Do you want him to -- do you require him --

8 PROSPECTIVE JUROR NO. 056: Will I require him?

9 MR. ARRASCADA: Would you require, in order to find Louis Hidalgo III
10 not guilty, do you need to hear from him on the witness stand?

11 PROSPECTIVE JUROR NO. 056: I don't think so. I think -- I think the
12 difference can present all the facts, can present all the facts. I don't think we
13 need to hear -- if I was selected with -- along with the other -- like when I say we,
14 it's me and the other members who are selected. I think we want to hear what is
15 presented from all the attorneys, all the defense attorneys, and what is presented
16 from all the prosecutors. And then based, you know, the -- the decisions, the
17 way the decisions, find out what, you know, what really took place.

18 MR. ARRASCADA: Court's indulgence.

19 Thank you.

20 THE COURT: All right. Mr. Gentile.

21 MR. GENTILE: Thanks.

22 Mr. Escobedo. That's a famous United State's Supreme Court
23 [inaudible] --

24 PROSPECTIVE JUROR NO. 056: I've been told. Yeah.

25 MR. GENTILE: How did you wind up at University of Wisconsin

1 Milwaukee? I mean, I heard Texas, I heard a lot of things, but we didn't hear
2 anything about Milwaukee. How did that happen?

3 PROSPECTIVE JUROR NO. 056: As far as what?

4 MR. GENTILE: Well, you got your degree there, I think.

5 PROSPECTIVE JUROR NO. 056: Correct.

6 MR. GENTILE: If my notes are right.

7 PROSPECTIVE JUROR NO. 056: Uh-huh.

8 MR. GENTILE: Were you stationed there?

9 PROSPECTIVE JUROR NO. 056: No, no. I took the -- took the course
10 online.

11 MR. GENTILE: Oh, okay.

12 PROSPECTIVE JUROR NO. 056: I was selected because I have a 3.8
13 grade point average in my computer science and a 3.6 in my -- yeah.

14 MR. GENTILE: What do you do to maintain your competency in the
15 Italian language?

16 PROSPECTIVE JUROR NO. 056: I -- I don't. I don't practice anymore. I
17 still know the language, but I -- no. It's very similar to Spanish, so you can, you
18 know, write and speak them the same.

19 MR. GENTILE: How often do you speak Spanish?

20 PROSPECTIVE JUROR NO. 056: My job requires from time to time to --
21 to talk to Spanish speaking people.

22 MR. GENTILE: So daily? Weekly?

23 PROSPECTIVE JUROR NO. 056: I would say more frequently.
24 Frequently. I would say maybe every other day.

25 MR. GENTILE: Okay. Did you ever drive a taxi?

1 PROSPECTIVE JUROR NO. 056: No.

2 MR. GENTILE: No? Well, I -- I know that if you -- okay. Now, if I
3 understand correctly, you were stationed in Korea.

4 PROSPECTIVE JUROR NO. 056: Correct.

5 MR. GENTILE: And that's where you went to the -- even in Korea it's
6 called Thai bars. I don't know why, but they do. But that's where you went to
7 the -- to the strip clubs?

8 PROSPECTIVE JUROR NO. 056: Yes.

9 MR. GENTILE: Okay. And were you stationed in Thailand?

10 PROSPECTIVE JUROR NO. 056: No. I was --

11 MR. GENTILE: You visited Thailand.

12 PROSPECTIVE JUROR NO. 056: Yeah, I -- in those days I used to
13 practice martial arts and so I used to go to Thailand to learn Thai boxing and --

14 MR. GENTILE: All right. But since you've been back here and out of the
15 military you haven't been to a strip club?

16 PROSPECTIVE JUROR NO. 056: No.

17 MR. GENTILE: But if I understand you correctly, this is not going to be
18 an issue for you. You're not going to get like even influenced by the fact that
19 there's a -- this involves a strip club. Am I right?

20 PROSPECTIVE JUROR NO. 056: Right.

21 MR. GENTILE: Okay. Because you've been to them, you've done your
22 thing, you don't do it anymore.

23 PROSPECTIVE JUROR NO. 056: Right.

24 MR. GENTILE: It's that simple.

25 PROSPECTIVE JUROR NO. 056: I can't afford it.

1 MR. GENTILE: That's a great answer. One of the things we're
2 concerned about is, you know, there's some people who because Louis, Jr.,
3 Louie, owned a strip club they're going to look down on him for that. Is that going
4 to be you?

5 PROSPECTIVE JUROR NO. 056: No. I look at strip clubs, strip joints as
6 I call them, as just another business.

7 MR. GENTILE: Okay.

8 PROSPECTIVE JUROR NO. 056: Just like there are massage parlors
9 out there and, you know, just like there's casinos. You know, people go throw
10 their money in a casino, so I think, you know, strip clubs are basically the same
11 thing.

12 MR. GENTILE: Did you ever own a business of your own?

13 PROSPECTIVE JUROR NO. 056: I owned a floor maintenance shop in
14 California.

15 MR. GENTILE: Maintenance in the sense of janitorial?

16 PROSPECTIVE JUROR NO. 056: We used to do primarily floors. You
17 know, strip the -- strip the floors and wax them, rewax them, carpet cleaning, that
18 type. I only had the business for maybe six months.

19 MR. GENTILE: This case that you sat on as a juror in Texas, I have a
20 couple, just two questions I want to ask you about that. Again, you can't tell us
21 about the verdict. What was the subject matter of the case? What kind of a
22 criminal case was it?

23 PROSPECTIVE JUROR NO. 056: It was a murder case.

24 MR. GENTILE: And did the defendant testify?

25 PROSPECTIVE JUROR NO. 056: It was -- most of the decision was

1 based on circumstantial evidence.

2 MR. GENTILE: So you -- so your memory is the defendant did not
3 testify?

4 PROSPECTIVE JUROR NO. 056: What happened was is somebody
5 was given -- was granted immunity for his testimony, and as a result of that we
6 had to work with circumstantial evidence from there on.

7 MR. GENTILE: Okay. Have you ever hired a lawyer?

8 PROSPECTIVE JUROR NO. 056: I should have.

9 MR. GENTILE: Yeah, you should have.

10 PROSPECTIVE JUROR NO. 056: The only reason why I didn't hire the
11 lawyer --

12 MR. GENTILE: Will you next time?

13 PROSPECTIVE JUROR NO. 056: The only reason I didn't hire the
14 lawyer is because I was only suing for maybe \$2,000.

15 MR. GENTILE: You were in small claims court.

16 PROSPECTIVE JUROR NO. 056: Small claims court. And then the, you
17 know, what the lawyers wanted was more money.

18 MR. GENTILE: Sure.

19 PROSPECTIVE JUROR NO. 056: But next time I may want to hire you.

20 MR. GENTILE: Okay. I think that's it.

21 THE COURT: All right. Mr. Escobedo --

22 MR. GENTILE: Oh, wait, there is one more thing. You know that -- that
23 Las Vegas Weekly article that you read?

24 PROSPECTIVE JUROR NO. 056: Okay.

25 MR. GENTILE: I -- I have it sitting on my desk. Okay? And I'm not

1 going to get into the content of the article. But I will tell you that from listening to
2 your responses regarding it, and I've read it a lot more recently than you have,
3 you are mixing parts of it.

4 PROSPECTIVE JUROR NO. 056: Okay.

5 MR. GENTILE: And so we're going to ask you -- because bottom line is
6 the way you're reporting it is not what's in the article.

7 PROSPECTIVE JUROR NO. 056: Okay.

8 MR. GENTILE: All right? So we're going to ask you to set it aside
9 completely, don't even think about it. Okay?

10 PROSPECTIVE JUROR NO. 056: That was the reason why I said, you
11 know, I can't -- I can't recall the accuracy of that article --

12 MR. GENTILE: Okay. And I assure you --

13 PROSPECTIVE JUROR NO. 056: -- and all the details.

14 MR. GENTILE: I assure you that your memory right now is taking about
15 three or four different parts of it and kind of put them together in a blender. And
16 the way you're reporting it is not the way it's in the article. But it's better that you
17 just forget the whole thing.

18 PROSPECTIVE JUROR NO. 056: Right. Right.

19 MR. GENTILE: Okay? And you'll do that?

20 PROSPECTIVE JUROR NO. 056: Of course.

21 MR. GENTILE: Okay.

22 THE COURT: Mr. Escobedo, thank you very much. Please don't
23 discuss what's transpired in our questions and our discussion with any of the
24 other prospective jurors. Thank you. I'd like you to follow Officer Wooten back
25 out to the hallway and just have a seat out there.

1 PROSPECTIVE JUROR NO. 056: Can I ask one question?

2 THE COURT: Sure.

3 PROSPECTIVE JUROR NO. 056: If I get selected for this, will I be the
4 alternate? Because I know that you have pretty much your panel.

5 THE COURT: The alternates, I'm not going to say, yes, you would be
6 the alternate or, no, you wouldn't be the alternate. The alternates are not
7 disclosed or not revealed until the very end of the case.

8 PROSPECTIVE JUROR NO. 056: All right. Thank you.

9 THE COURT: All right.

10 MR. PESCI: Judge, can we -- can we do follow up on that?

11 THE COURT: Yeah, I was just going to -- yeah, I was -- thank you. I
12 was going to --

13 MR. PESCI: Thanks.

14 THE COURT: Why is it that you're -- did you want to be the alternate or
15 not what to be the alternate?

16 PROSPECTIVE JUROR NO. 056: Well, I was just looking at the number
17 of people you have selected so far or the -- and it looks like you already have 14
18 people and you're just looking for maybe one more candidate or so.

19 THE COURT: No. Actually, do you remember when I made the -- I did
20 the introductory comments? I talked about there's challenges on both sides and
21 everyone, both sides get what's called peremptory challenges and that's because
22 it's just one more way of ensuring that we have a completely fair and neutral jury.

23 So, yes, a jury is composed of 12 members. There are 14
24 individuals, but the alternates are not revealed until the very end. And so two of
25 the 14 will be alternates, but I don't -- I don't know who those two will be at this

1 point. All right?

2 PROSPECTIVE JUROR NO. 056: All right.

3 THE COURT: And the reason for that is because we want everyone -- a
4 lot of times the alternates are called in and we want to make sure that all 14 are
5 paying equal attention to the -- to the testimony and the evidence. All right?

6 PROSPECTIVE JUROR NO. 056: Okay.

7 THE COURT: Thank you, sir. And once again, don't discuss what we've
8 discussed and particularly the issue of the alternates --

9 PROSPECTIVE JUROR NO. 056: Okay.

10 THE COURT: -- as well as anything else with the other jurors. I'd like
11 you to follow Officer Wooten out into the hallway and just have a seat out there.

12 PROSPECTIVE JUROR NO. 056: All right. Thank you.

13 THE COURT: Thank you, sir.

14 (Prospective juror No. 56 exits courtroom)

15 THE COURT: Round two.

16 MR. DIGIACOMO: Yeah. Now I think it's round two, Judge. Ding, ding.

17 THE COURT: Okay. State's second.

18 MR. PESCI: Before we do round two, Judge, I'd like to make a couple
19 requests.

20 THE COURT: Sure.

21 MR. PESCI: One thing I'd ask, the newspaper thing has come up a few
22 times. And the way it's been worded is to tell these jurors that it's inaccurate.
23 The last time we discussed it, I would request -- the State would request that you
24 do it in that fashion which is to say that's not evidence and to set that aside
25 instead of ascribing to it as it being wrong or not.

1 THE COURT: No, well --

2 MR. PESCI: Because there could be things that, from the State's
3 perspective, end up being accurate.

4 THE COURT: Right. Well, what I say, the way I do it, and I do this the
5 same way, is I say do you appreciate that often things are reported inaccurately
6 or incompletely in the media. I don't say it is inaccurate, I don't say it isn't
7 inaccurate.

8 MR. PESCI: And that would be our only request because --

9 THE COURT: That's how I do it.

10 MR. PESCI: -- there could be things that are accurate.

11 THE COURT: Right. I -- all I said is sometimes things are inaccurate,
12 sometimes things are incomplete, you can appreciate that. And I'm going to
13 continue doing it that way. I don't say whether it is accurate or isn't accurate.
14 Mr. Gentile, obviously, went beyond that and said it was inaccurate in some
15 measure.

16 MR. GENTILE: Well, I didn't --

17 MR. PESCI: That's my second request --

18 MR. GENTILE: I said his reporting --

19 MR. PESCI: -- actually, if I could finish my --

20 MR. GENTILE: -- his reporting mixed up parts of it.

21 THE COURT: Right. Yeah, he didn't say the article was inaccurate. He
22 said his recollection was inaccurate.

23 MR. GENTILE: But that's the second part of the request is that all the
24 parties refrain from indicating to potential jurors what they know. I know this or I
25 know that or it'd be -- it was my pleasure to be on a jury. We're -- we're crossing

1 the line by infusing ourselves into it. We're not allowed to do that in argument.
2 We're not allowed to do it here either. I think we need to stop doing that.

3 MR. ADAMS: Judge, before we complete all that, Louie is about -- didn't
4 take the five minute break earlier and --

5 THE COURT: He needs to go to the restroom.

6 MR. ADAMS: Very quickly. Yes.

7 THE COURT: All right. Officers, you can take him to the restroom.

8 And in the meantime, State --

9 Yeah, go ahead. He doesn't need to be here while the State figures
10 out who their second is.

11 MR. DIGIACOMO: Well, we know who it is, so --

12 THE COURT: Who is it?

13 MR. DIGIACOMO: It's the juror in seat No. 8, Mr. Rogol.

14 MR. PESCI: Badge No. 41, I believe.

15 MR. DIGIACOMO: Sorry, man, I know.

16 THE COURT: Well --

17 THE MARSHAL: Badge No. 41, Rogol?

18 MR. DIGIACOMO: Rogol.

19 THE COURT: Yeah, don't bring him in yet just in case he comments that
20 the defendant wasn't here. Out of an abundance of caution, we'll bring him in
21 when the defendant is back.

22 THE MARSHAL: Yes, Your Honor.

23 THE COURT: All right. I'm going to take two minutes.

24 MR. GENTILE: May we?

25 THE COURT: Yes.

1 MR. GENTILE: Thank you.

2 (Recess taken at 2:55 p.m.)

3 THE COURT: All right. Let's go ahead and -- everybody ready?

4 Everybody in place? Let's bring --

5 Jeff, bring Mr. Rogol in.

6 THE MARSHAL: Rogol.

7 (Off-record colloquy)

8 THE COURT: Mr. Rogol.

9 PROSPECTIVE JUROR NO. 041: Yes.

10 THE COURT: I want to -- and I know you left your jacket there in the
11 corner.

12 PROSPECTIVE JUROR NO. 041: Yes.

13 THE COURT: I want to thank you very much for your participation these
14 three very long days and your willingness to serve as a juror. I really appreciate
15 it. Obviously we've seen a lot of people who were not willing to serve.

16 PROSPECTIVE JUROR NO. 041: Yes.

17 THE COURT: You are excused at this time, though. Thank you very
18 much.

19 PROSPECTIVE JUROR NO. 041: All right. Thank you.

20 THE COURT: And this should satisfy, hopefully, your jury requirement at
21 least in state court. And your jacket --

22 PROSPECTIVE JUROR NO. 041: I'll go grab --

23 THE COURT: -- is there in the back.

24 PROSPECTIVE JUROR NO. 041: -- my stuff. Thank you.

25 THE COURT: And Officer Wooten will direct you from the courtroom.

1 And then, Jeff, next up is Rhonda Gaddy.

2 (Prospective juror No. 41 exits courtroom)

3 (Off-record colloquy)

4 THE COURT: Good afternoon.

5 PROSPECTIVE JUROR NO. 057: Good afternoon.

6 THE COURT: What do you do for a living?

7 PROSPECTIVE JUROR NO. 057: Pardon me.

8 THE COURT: What do you do for a living?

9 PROSPECTIVE JUROR NO. 057: I'm retired, I think.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NO. 057: I'm looking for something to do.

12 THE COURT: Okay. Where -- what did you used to do?

13 PROSPECTIVE JUROR NO. 057: I was a model for quite a few years
14 here in Vegas --

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 057: -- and I stopped when I had children.

17 THE COURT: Okay. What agency were you with?

18 PROSPECTIVE JUROR NO. 057: I started way back in the day with
19 Judy Morio with Universal.

20 THE COURT: I know Judy -- I remember Judy Morio from Universal.

21 PROSPECTIVE JUROR NO. 057: Yes, Judy Morio.

22 THE COURT: So that would've been in the late '70s --

23 PROSPECTIVE JUROR NO. 057: It was --

24 THE COURT: -- early '80s?

25 PROSPECTIVE JUROR NO. 057: It was probably -- I started when I was

1 in high school, probably 1978.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 057: And then Tina Lens, and then Jackie
4 Baskow.

5 THE COURT: I know Jackie Baskow.

6 PROSPECTIVE JUROR NO. 057: I love her. I know I need to call her.

7 THE COURT: Okay. In any event, where did you go to high school?

8 PROSPECTIVE JUROR NO. 057: Chaparral.

9 THE COURT: All right. And what year did you graduate?

10 PROSPECTIVE JUROR NO. 057: 1980.

11 THE COURT: All right. And are you married, currently married?

12 PROSPECTIVE JUROR NO. 057: I am currently married, but I'm in the
13 process of a divorce.

14 THE COURT: Okay. What does your husband, soon to be ex-husband,
15 do for a living?

16 PROSPECTIVE JUROR NO. 057: He is at Republic Services Disposal.

17 THE COURT: Okay. And what does he do for them?

18 PROSPECTIVE JUROR NO. 057: He was general manager and then
19 vice-president, and now since they merged with Allied, I don't know what he's
20 going to do.

21 THE COURT: Okay. And do you have any chil -- you said you do have
22 children.

23 PROSPECTIVE JUROR NO. 057: Yes. I have a 20 year old son at
24 UNLV, and an 18 year old daughter at Concordia Irvine.

25 THE COURT: Okay. And have you ever served as a juror before?

1 PROSPECTIVE JUROR NO. 057: No, never. All these years in town.

2 THE COURT: Okay. And you heard me ask the other potential jurors if
3 they've been victims of crime or arrested of crime or had family members in
4 either of those situations. And of -- would you have had to answer yes to any of
5 those questions?

6 PROSPECTIVE JUROR NO. 057: None.

7 THE COURT: None?

8 PROSPECTIVE JUROR NO. 057: None.

9 THE COURT: All right. You've heard our -- let me ask you this. How do
10 you feel about strip clubs?

11 PROSPECTIVE JUROR NO. 057: I'm -- nothing. I'm cool with it.

12 THE COURT: Okay. Have you ever been to one personally?

13 PROSPECTIVE JUROR NO. 057: I've never been to one.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 057: No.

16 THE COURT: And I imagine growing up here you may know people
17 who've worked in them?

18 PROSPECTIVE JUROR NO. 057: Yes, I have.

19 THE COURT: Okay. Anybody close to you that's worked in a strip club
20 either as a dancer or in management, anything like that

21 PROSPECTIVE JUROR NO. 057: I believe my niece, my brother's
22 daughter worked in one a couple of years ago, but I don't know which one.

23 THE COURT: Okay. Was she a dancer?

24 PROSPECTIVE JUROR NO. 057: She was a dancer.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR NO. 057: Uh-huh.

2 THE COURT: And do you have a -- how did you feel about that? Did
3 you think she shouldn't work there?

4 PROSPECTIVE JUROR NO. 057: No.

5 THE COURT: You were cool with it?

6 PROSPECTIVE JUROR NO. 057: I was cool it.

7 THE COURT: Okay. Now, you've heard everything. I'm not going to go
8 over all the questions. You've been sitting here for three days, two --

9 PROSPECTIVE JUROR NO. 057: I'm fascinated.

10 THE COURT: And you've heard everything we've discussed with all of
11 the other potential jurors. Anything that any of us have asked that you would've
12 had to raise your hand and say, yes, that's happened to me or I feel strongly
13 about that or that's happened to a family member or anything like that?

14 PROSPECTIVE JUROR NO. 057: No.

15 THE COURT: Anything that you can think of, any reason at all that you
16 would not be able to be completely fair and impartial to both sides if you're
17 selected to serve?

18 PROSPECTIVE JUROR NO. 057: I would be very fair.

19 THE COURT: All right. Thank you.

20 State, you may follow up with Ms. Gaddy.

21 MR. PESCI: Thank you, Judge.

22 Ma'am, you just said you're fascinated. What do you mean by that?

23 PROSPECTIVE JUROR NO. 057: Well, I'm fascinated at this whole area
24 and this whole -- everything about the system. And I've really honestly learned a
25 lot this last three days. I'm very disappointed in the human race as far as the

1 other jurors that have been dismissed.

2 MR. PESCI: Okay.

3 PROSPECTIVE JUROR NO. 057: I'm shocked.

4 MR. ARRASCADA: Judge, not an objection, but I'm not very mobile and
5 I can't see Ms. Gaddy with Mr. Pesci --

6 THE COURT: Ms. Gaddy, come on down to the front row, please.

7 MR. ARRASCADA: With Mr. Pesci -- it's Mr. Pesci standing in the way.

8 THE COURT: Well, I'm going to put her -- I'm going to put her in the
9 middle there.

10 PROSPECTIVE JUROR NO. 057: Okay.

11 THE COURT: If you'd just take a seat in the middle so we can all see
12 you.

13 PROSPECTIVE JUROR NO. 057: Okay.

14 THE COURT: And everybody can see you now?

15 PROSPECTIVE JUROR NO. 057: Okay.

16 THE COURT: All right. Thank you.

17 MR. PESCI: Can you see, defense counsel?

18 PROSPECTIVE JUROR NO. 057: Oh, now I still can't see you.

19 MR. ARRASCADA: No, Mr. DiGiacomo's head is --

20 MR. PESCI: Can -- can you see her now?

21 THE COURT: I was going to say, Mr. DiGiacomo, put your head on the
22 table.

23 MR. PESCI: What if I go over here, will that work?

24 MR. ARRASCADA: Perfect.

25 MR. PESCI: Ma'am, you said that you were disappointed with -- with all

1 of these individuals.

2 PROSPECTIVE JUROR NO. 057: Yeah, a little -- I'm very frustrated. I
3 really -- I'm shocked that they don't think this is a privilege. I'm very upset about
4 the people that don't feel that they should be up here. I don't understand it.

5 MR. PESCI: Okay. And I think you said you have not served on a jury
6 before?

7 PROSPECTIVE JUROR NO. 057: Never.

8 MR. PESCI: All right. Have you ever even been summonsed before?

9 PROSPECTIVE JUROR NO. 057: Yes, but my number was never -- you
10 know, you call the night before, it was never one of those -- I was never one of
11 those people to come in.

12 MR. PESCI: So you didn't have to -- to come into the building?

13 PROSPECTIVE JUROR NO. 057: Never been in ever.

14 MR. PESCI: Okay. When you say you're -- you're fascinated, is it this
15 particular case, or the concept of being able to serve?

16 PROSPECTIVE JUROR NO. 057: Period. Being able to serve. I don't --
17 it wouldn't matter what it would be.

18 MR. PESCI: The Judge asked you about strip clubs. That's been one of
19 the topics that's been discussed. But let's go over some of the other ones
20 because it seems you've already answered that. The idea of drugs, what is it
21 that comes to mind when you hear drugs?

22 PROSPECTIVE JUROR NO. 057: Drugs to me -- actually, the first thing
23 that comes to mind is a choice. Cocaine, heroin, ecstasy, there's a lot of drugs
24 out there.

25 MR. PESCI: Do you think people are responsible for those choices?

1 PROSPECTIVE JUROR NO. 057: Absolutely.

2 MR. PESCI: You were also -- in listening to all the other people, you've
3 heard some questions about fear. Do you remember those?

4 PROSPECTIVE JUROR NO. 057: Yes.

5 MR. PESCI: Do you think fear can factor into people's decision making
6 process?

7 PROSPECTIVE JUROR NO. 057: Absolutely.

8 MR. PESCI: Do you think even with fear we're responsible for our
9 actions?

10 PROSPECTIVE JUROR NO. 057: No.

11 MR. PESCI: How so?

12 PROSPECTIVE JUROR NO. 057: I don't -- I believe that if you are in
13 fear of your life or in fear of a threat or fearful at all, you may make a different
14 decision as you would -- as opposed to if you were in a normal state of mind.

15 MR. PESCI: Okay. So would that be a factor you would take into
16 consideration?

17 PROSPECTIVE JUROR NO. 057: Yes.

18 MR. PESCI: All right. With the presence of fear, with other factors
19 involved, could you make a determination and not make it just on the fact that
20 someone might be fearful?

21 PROSPECTIVE JUROR NO. 057: I can make a determination on
22 everything.

23 MR. PESCI: On all of the facts?

24 PROSPECTIVE JUROR NO. 057: Yes.

25 MR. PESCI: Okay. Let's see, there was also questions -- did you ever

1 drive a taxicab?

2 PROSPECTIVE JUROR NO. 057: No.

3 MR. PESCI: All right. I think that covers theirs, but they might come up
4 with something else. How about firearms? Do you have any strong feelings
5 about firearms one way or the other?

6 PROSPECTIVE JUROR NO. 057: No, I believe that if you want to own a
7 firearm, you have a right to own a firearm.

8 MR. PESCI: Do you -- are you comfortable with the concept that the
9 state has the burden of proof, that is that we have to prove this case beyond a
10 reasonable doubt?

11 PROSPECTIVE JUROR NO. 057: Yes.

12 MR. PESCI: And then as far as the fact that a defendant can never be
13 forced to testify and you cannot hold that against the defendant, do you have any
14 problems with that?

15 PROSPECTIVE JUROR NO. 057: No.

16 MR. PESCI: Are you the kind of person that you want to hear both
17 sides?

18 PROSPECTIVE JUROR NO. 057: I would like to hear any proof or -- the
19 burden of proof is obviously on you two.

20 MR. PESCI: Right.

21 PROSPECTIVE JUROR NO. 057: No, I think that's sufficient. I would
22 want to hear what you have -- what your proof is, what you have to say, and the
23 evidence.

24 MR. PESCI: And, you know, it's a difficult question because we ask it in
25 the sense of how and the way we all normally think, would you like to hear both

1 sides. It doesn't seem uncommon for someone to say they'd like to hear both
2 sides. But in a courtroom it's not forced or it's not required that you hear both
3 sides. And you're all right with that concept?

4 PROSPECTIVE JUROR NO. 057: I'm aware of that concept, yes. I'm
5 okay with that concept.

6 MR. PESCI: All right. And I think the one I missed was gangs. When
7 you think of gangs, what do you think of?

8 PROSPECTIVE JUROR NO. 057: The Bloods, the Crips, the -- I don't
9 know any gangs. I've never been associated with any gangs. Although, growing
10 up here I've heard of them, but, no, I'm --

11 MR. PESCI: Well, if you hear something about gangs, and again, the
12 State's not saying that this was a gang --

13 PROSPECTIVE JUROR NO. 057: Right.

14 MR. PESCI: -- crime, that there's a gang enhancement if that's the term
15 we would use here. But just if you hear something about gangs involved in a
16 case, would that necessarily make you go one way or the other as far as guilty or
17 not guilty?

18 PROSPECTIVE JUROR NO. 057: No.

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

20 PROSPECTIVE JUROR NO. 057: Absolutely.

21 MR. PESCI: All right. Pass, Judge.

22 THE COURT: All right. Thank you.

23 Who would like -- Mr. Gentile.

24 MR. GENTILE: He's taken all my questions. I guess we've taught him
25 well. You know, you kind of do hear both sides even in the govern -- even in the

1 State's case. Let me -- let me talk to you about that. You've seen enough TV for
2 that. Have you ever been -- have you ever sat through a trial not as a juror or
3 even part of one?

4 PROSPECTIVE JUROR NO. 057: I sat through part of Wayne Newton's
5 years ago.

6 MR. GENTILE: Okay.

7 PROSPECTIVE JUROR NO. 057: Yes.

8 MR. GENTILE: You saw a phenomenal lawyer, Mort Galane.

9 PROSPECTIVE JUROR NO. 057: Yes. I sat through, I think, a day or
10 two of that just for fun.

11 MR. GENTILE: But that's the only one?

12 PROSPECTIVE JUROR NO. 057: Yes.

13 MR. GENTILE: Okay. Well, then you know that even, you know, when
14 the prosecutors putting a witness on the stand --

15 PROSPECTIVE JUROR NO. 057: Uh-huh.

16 MR. GENTILE: -- he asks questions of the witness. But then we get to
17 come up and cross-examine that witness. Now, that's kind of proving things too;
18 isn't it?

19 PROSPECTIVE JUROR NO. 057: Uh-huh. Correct.

20 MR. GENTILE: All right. And so what -- what you're supposed to do,
21 and I think you are aware of it and I think that you get it, is that you're supposed
22 to listen to all of the questions of the witness and then you're going to decide
23 whether you, what, the witness? Believe.

24 PROSPECTIVE JUROR NO. 057: Believe the witness.

25 MR. GENTILE: Exactly. Okay. And one of the things that we're

1 concerned about this case and one of the reasons that I -- that -- that you would
2 make a good juror is because you have life experience in this city.

3 PROSPECTIVE JUROR NO. 057: Uh-huh.

4 MR. GENTILE: And you're supposed to bring that with you here and set
5 aside biases. Can you do that?

6 PROSPECTIVE JUROR NO. 057: Definitely.

7 MR. GENTILE: Have you ever hired a lawyer? It sounds like you're
8 about to.

9 PROSPECTIVE JUROR NO. 057: Yeah. Well, he doesn't -- he doesn't
10 want to get an attorney. I think that's kind of -- I ought to check that out.

11 MR. GENTILE: Have you ever hired a lawyer.

12 PROSPECTIVE JUROR NO. 057: He's like, we can do this without an
13 attorney. So I don't know if anybody's interested.

14 MR. GENTILE: Have you ever hired a lawyer?

15 PROSPECTIVE JUROR NO. 057: No.

16 MR. GENTILE: No?

17 PROSPECTIVE JUROR NO. 057: No. I have -- I'm pretty uneventful. I
18 have not been in need of an attorney.

19 MR. GENTILE: What would you do if you did? You've been here a long
20 time. You know a lot of people. Probably call Wayne Newton, I guess. Mort's
21 not with us anymore, so what would you do? How would you go about it?

22 PROSPECTIVE JUROR NO. 057: Oh, I would ask probably my father or
23 friends who they would recommend.

24 MR. GENTILE: Does your father have a lawyer?

25 PROSPECTIVE JUROR NO. 057: I'm sure.

1 MR. GENTILE: Is he in business?

2 PROSPECTIVE JUROR NO. 057: He's a financial planner. He has his
3 own business.

4 MR. GENTILE: And he's been here awhile?

5 PROSPECTIVE JUROR NO. 057: He was -- been here since I was
6 born.

7 MR. GENTILE: Okay.

8 PROSPECTIVE JUROR NO. 057: And, yeah.

9 MR. GENTILE: That was about 1963?

10 PROSPECTIVE JUROR NO. 057: '61.

11 MR. GENTILE: Oh, okay. My math isn't too good. Has your father had
12 a lawyer -- as far as you know, has he had a lawyer, a business lawyer that's
13 been -- that he's consulted with or had a relationship with?

14 PROSPECTIVE JUROR NO. 057: I don't believe so.

15 MR. GENTILE: Do you know of people who do other than Wayne
16 Newton?

17 PROSPECTIVE JUROR NO. 057: Oh, yeah.

18 MR. GENTILE: Okay. And so you don't -- what do you think of the fact
19 that -- that they have a business lawyer and a problem comes up and they go to
20 the lawyer?

21 PROSPECTIVE JUROR NO. 057: I think that's wonderful. Everybody
22 should have a general doctor and an attorney at all times.

23 MR. GENTILE: Thank you. I don't have anything further.

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

25 Mr. Adams.

1 MR. ADAMS: Hi Ms. Gaddy.

2 PROSPECTIVE JUROR NO. 057: Hi.

3 MR. ADAMS: I was really going to have no questions, but since I was
4 challenged to come up with new ones by the prosecutor, I can't, as a lawyer,
5 seem to help myself. When you hear the term prosecutor, what do you think?

6 PROSPECTIVE JUROR NO. 057: Prosecute.

7 MR. ADAMS: Prosecuting attorney, prosecute, what's -- what's the
8 impression that you have?

9 PROSPECTIVE JUROR NO. 057: To -- I don't want to say -- I want to
10 maybe prove punishment. Not punishment per se, but --

11 MR. ADAMS: Okay. How about people who do it for a living, the
12 prosecutors or district attorney? Do you have any reaction to that term?

13 PROSPECTIVE JUROR NO. 057: No.

14 MR. ADAMS: Good or bad or nothing?

15 PROSPECTIVE JUROR NO. 057: No, not bad at all.

16 MR. ADAMS: Okay. How about to defense lawyers? And more
17 specifically if you hear criminal defense lawyer, what's your thought?

18 PROSPECTIVE JUROR NO. 057: My thought is everybody has a right
19 to be defended regardless because you really don't know the story, the whole
20 story, and everybody deserves a chance.

21 MR. ADAMS: Okay. How about the term accused of a crime or
22 defendant? What's your sort of starting point with that?

23 PROSPECTIVE JUROR NO. 057: Accused of a crime, accusations are
24 all day long with everybody. So everybody is usually accused of something at
25 one time or another in their life. And I believe they deserve a right, have a right

1 to a fair trial, a fair listening of anyone.

2 MR. ADAMS: Great. Thank you very much.

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

4 Ms. Gaddy, in a moment I'm going to have you exit the courtroom
5 with Officer Wooten and have a seat back out there in the hallway. Please don't
6 discuss what's transpired in the courtroom, any of our questions or discussions
7 with the other potential jurors. Thank you, and --

8 PROSPECTIVE JUROR NO. 057: Thank you.

9 THE COURT: -- follow Officer Wooten from the courtroom.

10 (Prospective juror No. 57 exits courtroom)

11 THE COURT: And Officer Wooten, if you'd then bring in Ms. Ryeczyk.

12 THE MARSHAL: Ryeczyk.

13 MR. ADAMS: She's been dismissed I think.

14 THE COURT: Oh, I'm sorry. Wrong -- she has --

15 MR. DIGIACOMO: No, Gina Ryeczyk is here.

16 THE COURT: Not on my sheet.

17 MR. DIGIACOMO: Yeah, because your clerk always has to ask how to
18 say her name.

19 THE CLERK: She's here.

20 THE COURT: She's here. Ms. Ryeczyk. I may be saying it wrong.
21 Ryeczyk.

22 THE MARSHAL: What's her first name?

23 THE COURT: Gina Ryeczyk, badge 58.

24 MR. ARRASCADA: Judge, don't we have 14 now?

25 THE COURT: Oh, wait a minute.

1 MR. ARRASCADA: I may be confused, but I think we have 14.

2 THE COURT: I -- you're absolutely right. It's your challenge.

3 MS. ARMENI: Court's indulgence.

4 THE COURT: I'm sorry.

5 MR. ADAMS: May we have a moment to --

6 THE COURT: Of course.

7 MR. ADAMS: -- get all of our heads together.

8 Judge, we're, I think, prepared to tender our draft choice.

9 THE COURT: All right. Your second challenge is?

10 MR. ADAMS: For Ms. Espino, juror No. 1.

11 THE COURT: Juror No. 1. All right.

12 Officer Wooten, bring in Ms. Espino.

13 (Off-record colloquy)

14 THE COURT: Ms. Espino, I want to thank you very much for being here
15 these past three days and for your willingness to serve as a juror in this case, but
16 you are excused at this time. Did you leave any of your belongings in the
17 courtroom?

18 PROSPECTIVE JUROR NO. 001: I didn't.

19 THE COURT: All right. Thank you very much and you are excused.

20 (Prospective juror No. 1 exits courtroom)

21 THE COURT: Officer Wooten, if you would bring in Ms. Ryeczyk.

22 THE MARSHAL: Ms. Ryeczyk.

23 THE COURT: Thank you.

24 MR. ADAMS: Judge, I think there had been an objection about how we
25 address the jurors, and then there seems to be the same type of address made

1 by the prosecution, so I'm a little confused as to what we're doing.

2 MR. PESCI: Well, I would ask the defense counsel to cite the chapter
3 and verse as to where the State of Nevada has told the particular potential
4 juror --

5 THE COURT: I didn't catch it.

6 MR. PESCI: -- this or that or they know personally.

7 THE COURT: All right. Ms. Ryeczyk is coming in.

8 Ms. Ryeczyk, come on down and have a seat somewhere there in
9 the jury box, please. How about there in the front row in chair number one.

10 PROSPECTIVE JUROR NO. 058: Okay.

11 THE COURT: Have a seat. What do you do for a living?

12 PROSPECTIVE JUROR NO. 058: I work at Nevada Federal Credit
13 Union.

14 THE COURT: Okay. And what do you do for them?

15 PROSPECTIVE JUROR NO. 058: Everything.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 058: I do. I travel to all the branches and
18 whatever they need I do.

19 THE COURT: Okay. What's your job title?

20 PROSPECTIVE JUROR NO. 058: Team financial service associate.

21 THE COURT: Okay. Whatever that means.

22 PROSPECTIVE JUROR NO. 058: Exactly.

23 THE COURT: All right. And then are you married?

24 PROSPECTIVE JUROR NO. 058: No.

25 THE COURT: Do you have any children?

1 PROSPECTIVE JUROR NO. 058: No.
2 THE COURT: Okay. Have you ever been a juror before?
3 PROSPECTIVE JUROR NO. 058: I have.
4 THE COURT: Okay. How many times?
5 PROSPECTIVE JUROR NO. 058: Once.
6 THE COURT: How long ago?
7 PROSPECTIVE JUROR NO. 058: About four or five years ago.
8 THE COURT: And was that here in Clark County?
9 PROSPECTIVE JUROR NO. 058: Yes, it was.
10 THE COURT: Was that a criminal case or a civil case?
11 PROSPECTIVE JUROR NO. 058: It was criminal.
12 THE COURT: And don't tell us what the verdict was, but did the jury in
13 that case reach a verdict?
14 PROSPECTIVE JUROR NO. 058: Yes, we did.
15 THE COURT: Okay. And were you the foreperson of that jury?
16 PROSPECTIVE JUROR NO. 058: No, I wasn't.
17 THE COURT: How did you feel about your jury experience?
18 PROSPECTIVE JUROR NO. 058: I really enjoyed it. I was scared to do
19 it at first, but it was -- it was a rewarding -- rewarding job. I really enjoyed it.
20 THE COURT: Okay. And then do you recall what the charges were in
21 the -- in the --
22 PROSPECTIVE JUROR NO. 058: I do.
23 THE COURT: What were they?
24 PROSPECTIVE JUROR NO. 058: Identity -- identity theft.
25 THE COURT: In an identity theft. Okay. You heard me asking the other