describe you?

PROSPECTIVE JUROR NO. 053: Well, a nice guy, loyal --

MR. BROWN: How would your two buddies, your two cop friends in New York describe you?

PROSPECTIVE JUROR NO. 053: Extremely loyal, I'm extremely loyal. Good friend, pretty nice guy.

MR. BROWN: Dark secrets?

PROSPECTIVE JUROR NO. 053: What's that?

MR. BROWN: You don't have to disclose them, any dark secrets?

PROSPECTIVE JUROR NO. 053: Dark secrets?

MR. BROWN: Yeah.

PROSPECTIVE JUROR NO. 053: Everybody has dark secrets.

MR. BROWN: Just making sure.

PROSPECTIVE JUROR NO. 053: Medium light ones.

MR. BROWN: Well, how would you describe yourself, then?

PROSPECTIVE JUROR NO. 053: I'm -- loyal is my first name, I'm loyal, so.

MR. BROWN: Okay.

PROSPECTIVE JUROR NO. 053: Nice guy, willing to go out of my way for somebody. That's kind of a New York thing in my opinion. Make friends pretty easily.

1 MR. BROWN: In a case like this --
2 PROSPECTIVE JUROR NO. 053: Yeah.
3 MR. BROWN: -- you don't know much about it, but
4 you do know that there's a charge of a homicide. That means
5 we have a victim and we have an accused.
6 PROSPECTIVE JUROR NO. 053: Right.
7 MR. BROWN: We have the State, we have the
8 defense, we have the Court. Where would you say that your
9 loyalties would lie as you sit here right now?
10 PROSPECTIVE JUROR NO. 053: My loyalties would
11 lie right now to whatever evidence is presented.
12 MR. BROWN: Okay. And what do you mean by that?
13 PROSPECTIVE JUROR NO. 053: I would listen to the
14 evidence first and then I'll make my decision on what I think.
15 I don't think anything right now at all. I don't think
16 anybody is innocent or -- I mean, I think he's, you know,
17 innocent until you prove him guilty, but you have to give me
18 some evidence in the courtroom before I can make any kind of
19 decision.
20 MR. BROWN: Would you say, you know, that maybe
21 this loyalty that you have would be a -- will it be a loyalty
22 for the justice system?
23 PROSPECTIVE JUROR NO. 053: You talking about
24 personally, you --
25 MR. BROWN: I don't mean the State. I mean the

1 system itself.

2 PROSPECTIVE JUROR NO. 053: Personally, I'm a

3 loyal guy. I don't know if I'm loyal to the system.

4 MR. BROWN: Okay.

5 PROSPECTIVE JUROR NO. 053: I don't get into any

6 kind of trouble, I don't break any laws.

7 MR. BROWN: Okay. How do you feel about those

8 concepts you just mentioned to me, like presumption of

9 innocence?

10 PROSPECTIVE JUROR NO. 053: I feel it's the

11 truth. That's what it is. You're presumed innocent. You're

12 innocent until you're proven guilty.

13 MR. BROWN: Okay. What does that mean to you?

14 PROSPECTIVE JUROR NO. 053: Exactly what it says.

15 You're innocent until you're proven guilty.

16 MR. BROWN: That's kind of a legal term in it own

17 and it's one that you, as a juror, are required to consider.

18 I mean, when we're sitting at home and we're reading the

19 newspaper --

20 PROSPECTIVE JUROR NO. 053: Right.

21 MR. BROWN: -- and you read something that

22 happened, he's innocent, I wonder if he did you. You know,

23 that's -- that dirty, you know, I'm glad I don't live there or

24 whatever. And so that's not a citizen requirement. I mean,

25 we understand it as a legal principle. But you think that

1 that's something you can apply to the evidence as it's
2 presented in this case, that unless the evidence comes in and
3 takes him off that innocence pedestal, you can still hold him
4 to be innocent of what he's charged?
5 PROSPECTIVE JUROR NO. 053: Yes.
6 MR. BROWN: Okay. Now, we're not going to talk
7 about reasonable doubt, we'll get into that later, but, you
8 know, obviously, the evidence has to meet some standard.
9 PROSPECTIVE JUROR NO. 053: Sure.
10 MR. BROWN: Has to have some credibility to it.
11 Okay. Would you consider yourself, and I believe I'm only
12 going to give you these two choices, a thinker or a feeler?
13 PROSPECTIVE JUROR NO. 053: I'm pretty much a
14 thinker.
15 MR. BROWN: Okay. Analytical in things you do
16 and --
17 PROSPECTIVE JUROR NO. 053: Analytical, a little
18 bit.
19 MR. BROWN: Okay. Are you a leader or a follower
20 type?
21 PROSPECTIVE JUROR NO. 053: Used to be a leader.
22 A little more of a follower now.
23 MR. BROWN: Okay. Nothing wrong with that. How
24 do you feel about, you know, I was discussing the idea of
25 sitting in judgment of another person. You know, you

1 basically having their entire life, and future, and everything
2 in your hands. How do you feel about the responsibility of
3 that?
4 PROSPECTIVE JUROR NO. 053: I feel I can handle
5 that responsibility.
6 MR. BROWN: What is it about you that makes you
7 capable of handling that?
8 PROSPECTIVE JUROR NO. 053: I mean, I just feel I
9 could probably -- I could be able to handle it.
10 MR. BROWN: Any particular life experience or
11 anything that's happened to you or somebody that you know
12 that's given you, you know, this kind of a strength or
13 something?
14 PROSPECTIVE JUROR NO. 053: Not in particular,
15 no.
16 MR. BROWN: Okay. Growing up in New York City, I
17 imagine it was probably fairly diverse culturally?
18 PROSPECTIVE JUROR NO. 053: Certainly.
19 MR. BROWN: You've heard some questions about
20 race. If you could fill me in on your opinions about, let's
21 say, race and the criminal justice system.
22 PROSPECTIVE JUROR NO. 053: I mean, I went to --
23 I have quite a few black friends. I went to high school in
24 Coney Island. You know, Coney Island's a very diverse high
25 school. Probably 50 percent black, 50 percent white. You

1 know, I have a lot of friends and a couple close friends still
2 to this day. So race is really not an issue. We weren't
3 taught any different growing up.
4 MR. BROWN: Okay.
5 PROSPECTIVE JUROR NO. 053: Pretty diverse,
6 Brooklyn's pretty diverse.
7 MR. BROWN: Yeah. And you socialize somewhat
8 diversely as well? I mean, you said you had some friends that
9 were --
10 PROSPECTIVE JUROR NO. 053: Sure, sure.
11 MR. BROWN: Okay. So you don't see that there's
12 anything about that you're a white man from New York and he's
13 a black man from Las Vegas that would cause you any problems
14 in evaluating the evidence, and not drawing any stereotypical
15 type of conclusions?
16 PROSPECTIVE JUROR NO. 053: Not at all, not at
17 all.
18 MR. BROWN: All right. Prior to being a
19 dispatcher --
20 PROSPECTIVE JUROR NO. 053: Yeah.
21 MR. BROWN: -- what did you do? I mean, you have
22 a Ph.D -- I mean, I'm sorry, you have a Bachelor's degree in
23 Political --
24 PROSPECTIVE JUROR NO. 053: I have a Bachelor's
25 but I went to a family business. I ran -- my family owned a

1 cab company in New York. So right out of college, my dad
2 brought me in and I was managing the cab company for 14 years.
3 MR. BROWN: Oh, okay. So you did have some
4 supervisory type of responsibilities and, you know, you had to
5 fire people, and hire people and discipline and all that
6 stuff?
7 PROSPECTIVE JUROR NO. 053: Yeah, did all that.
8 MR. BROWN: Okay. That's back when you were a
9 leader?
10 PROSPECTIVE JUROR NO. 053: A little bit, yeah.
11 MR. BROWN: Okay.
12 PROSPECTIVE JUROR NO. 053: And the poker room
13 got the best of me out here.
14 MR. BROWN: Is that why you moved to Las Vegas?
15 PROSPECTIVE JUROR NO. 053: A little bit, yeah.
16 MR. BROWN: Okay.
17 PROSPECTIVE JUROR NO. 053: One of the reasons.
18 MR. BROWN: Hasn't been treating you so good?
19 PROSPECTIVE JUROR NO. 053: Not really, no.
20 MR. BROWN: Yeah, they don't build those hotels
21 on people who have a lot of success.
22 PROSPECTIVE JUROR NO. 053: Yeah, really.
23 MR. BROWN: While you were in school, did you
24 have any training in the legal system? Did you take any
25 classes, criminal justice, anything like that?

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2 brought me in and I was managing the cab company for 14 years.
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4 supervisory type of responsibilities and, you know, you had to
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23 MR. BROWN: While you were in school, did you
24 have any training in the legal system? Did you take any
25 classes, criminal justice, anything like that?

1 PROSPECTIVE JUROR NO. 053: No. I took Political
2 Science, it was my major.
3 MR. BROWN: Yeah. All right.
4 PROSPECTIVE JUROR NO. 053: And I didn't choose
5 that, really.
6 MR. BROWN: It chose you?
7 PROSPECTIVE JUROR NO. 053: It sort of did. I
8 couldn't pass calculus and get into business school, so --
9 MR. BROWN: That is kind of a flow chart down
10 there sometimes.
11 PROSPECTIVE JUROR NO. 053: Yeah.
12 MR. BROWN: Okay. I don't have anything else for
13 you, Mr. Kantor.
14 PROSPECTIVE JUROR NO. 053: Okay.
15 MR. BROWN: I appreciate your time. I pass, Your
16 Honor.
17 THE COURT: Go ahead and pass the microphone.
18 Mr. Fernandez.
19 PROSPECTIVE JUROR NO. 098: Yes.
20 THE COURT: How you doing today?
21 PROSPECTIVE JUROR NO. 098: Allergies, but I'm
22 here.
23 THE COURT: Allergies, yeah, that's a problem.
24 Is there any reason why you couldn't be fair and impartial as
25 a juror in this case?

1 PROSPECTIVE JUROR NO. 098: No.
2 THE COURT: Can you wait in forming your opinion
3 on the appropriate result until all the evidence has been
4 heard?
5 PROSPECTIVE JUROR NO. 098: Yes
6 THE COURT: Have you or anyone close to you
7 worked in law enforcement?
8 PROSPECTIVE JUROR NO. 098: I have had relatives
9 who have, and I had a friend who was enlisted in Metro here.
10 THE COURT: A friend in Metro here?
11 PROSPECTIVE JUROR NO. 098: I don't know if he's
12 still -- I don't know if he's still working Metro, but that's
13 the last I know.
14 THE COURT: Not a friend anymore?
15 PROSPECTIVE JUROR NO. 098: No, he's still a
16 friend. I just don't know if he's with Metro.
17 THE COURT: Don't know if he's with them anymore.
18 Okay, obviously he wasn't one of the individuals that was
19 identified earlier related to this case?
20 PROSPECTIVE JUROR NO. 098: No.
21 THE COURT: Okay. Do you think that you would
22 have a tendency to give greater weight to law enforcement
23 witnesses because of your relationship with several law
24 enforcement officers?
25 PROSPECTIVE JUROR NO. 098: No.

1 THE COURT: Do you think you can still be fair
2 and impartial?
3 PROSPECTIVE JUROR NO. 098: Yes.
4 THE COURT: Have you or anyone close to you been
5 charged with a serious crime?
6 PROSPECTIVE JUROR NO. 098: Yes.
7 THE COURT: Who's that?
8 PROSPECTIVE JUROR NO. 098: I've had two friends
9 both charged with DUI, and I've had one co-worker friend who
10 was arrested for embezzling.
11 THE COURT: Okay.
12 THE COURT RECORDER: For what? I'm not --
13 THE COURT: Embezzling.
14 PROSPECTIVE JUROR NO. 098: Embezzling.
15 THE COURT RECORDER: Can you pull that really
16 close or talk really loud?
17 PROSPECTIVE JUROR NO. 098: I had friend who was
18 arrested for embezzling.
19 THE MARSHAL: Folks, I know it's getting really
20 late in the day, but you need to keep your voices up for us,
21 please. Thank you.
22 THE COURT RECORDER: Thank you.
23 THE COURT: Okay. Now, the fact that those
24 people who were close to you had been charged with crimes like
25 that, did you feel that they were wrongly charged, or did you

1 feel it was appropriate that they were in that situation?
2 PROSPECTIVE JUROR NO. 098: I don't know too much
3 detail about two of them, but one who was charged with DUI is
4 a close friend, and I do have a great opinion of that one.
5 THE COURT: You do what?
6 PROSPECTIVE JUROR NO. 098: Have a great opinion
7 of my friend who was charged for DUI.
8 THE COURT: You have a great opinion of your
9 friend?
10 PROSPECTIVE JUROR NO. 098: Yes.
11 THE COURT: Do you think that he wasn't really
12 driving under the influence?
13 PROSPECTIVE JUROR NO. 098: Yes.
14 THE COURT: You think he was not, okay. Do you
15 feel that the police had a poor investigation in that
16 situation?
17 PROSPECTIVE JUROR NO. 098: I believe so.
18 THE COURT: And whatever may have happened in
19 that case, though, will you -- can you still be fair and
20 impartial in looking at Metro officers and not think, well,
21 you know, they did a bad job here because of what happened in
22 the other case?
23 PROSPECTIVE JUROR NO. 098: It's a different
24 case, of course.
25 THE COURT: Right. And so, you know, you'll have

1 to weigh the evidence here based on what's presented here in
2 the courtroom to evaluate the credibility of the individuals
3 and the circumstances here?
4 PROSPECTIVE JUROR NO. 098: Correct.
5 THE COURT: And you can do that?
6 PROSPECTIVE JUROR NO. 098: Yes.
7 THE COURT: Have you or anyone close to you been
8 the victim of a serious crime?
9 PROSPECTIVE JUROR NO. 098: Not that I can recall
10 right now.
11 THE COURT: Okay. Is there anything about the
12 charges in this case that would make it difficult for you to
13 be fair and impartial?
14 PROSPECTIVE JUROR NO. 098: Could you explain
15 that in further detail?
16 THE COURT: Well, there's the particular charges
17 in this case including a murder charge. Anything about the
18 fact that it's that type of circumstance that would make it
19 difficult for you to be fair and impartial?
20 PROSPECTIVE JUROR NO. 098: I can honestly say
21 I'm not comfortable with a murder charge in sitting --
22 THE COURT: You're not comfortable?
23 PROSPECTIVE JUROR NO. 098: I'm not comfortable
24 sitting on a jury that's a murder charge.
25 THE COURT: Why not?

1 PROSPECTIVE JUROR NO. 098: I guess most people
2 can say that they're comfortable with being judgmental, where
3 I'm not.
4 THE COURT: You're not comfortable being
5 judgmental?
6 PROSPECTIVE JUROR NO. 098: Um-hm.
7 THE COURT: And why, in particular, is a murder
8 charge different in that way for you?
9 PROSPECTIVE JUROR NO. 098: I'm -- I probably
10 would be better under a different circumstance than a criminal
11 case.
12 THE COURT: Now, I don't know that this makes a
13 difference to you, but the jurors aren't going to be concerned
14 about any potential sentence here. You're simply going to
15 make a decision guilty or not guilty. Does that affect how
16 you feel about it at all?
17 PROSPECTIVE JUROR NO. 098: I'll just say that if
18 I am picked, I can do the job. But if, you know, that's what
19 I can say.
20 THE COURT: If you're picked, you can do the job?
21 PROSPECTIVE JUROR NO. 098: If you think I'm a
22 good juror, I can definitely be impartial and weigh the
23 evidence.
24 THE COURT: And you'll stand up for the position
25 that you think is right based on the evidence?

1 PROSPECTIVE JUROR NO. 098: Yes.
2 THE COURT: You just don't like to have to do it?
3 PROSPECTIVE JUROR NO. 098: No.
4 THE COURT: Okay. I get that. Could you base
5 your verdict solely on the evidence and the law that applies
6 as stated in my instructions, without fear of criticism or
7 popular opinion?
8 PROSPECTIVE JUROR NO. 098: Yes.
9 THE COURT: Okay. You're not going to be
10 concerned that if you make a decision that you're going to
11 leave here and someone's going to say, oh, how could you have
12 voted that way? You're not going to worry about that?
13 PROSPECTIVE JUROR NO. 098: No.
14 THE COURT: Okay. Have you ever served as a
15 juror before?
16 PROSPECTIVE JUROR NO. 098: Never been selected.
17 THE COURT: If you were a party to this case,
18 would you be comfortable with jurors of a like frame of mind
19 as yourself sitting in judgment?
20 PROSPECTIVE JUROR NO. 098: Yes.
21 THE COURT: And how old are you?
22 PROSPECTIVE JUROR NO. 098: Twenty-eight.
23 THE COURT: How long have you lived here in Clark
24 County?
25 PROSPECTIVE JUROR NO. 098: Since 2001.

1 THE COURT: Okay. And are you employed?
2 PROSPECTIVE JUROR NO. 098: I am.
3 THE COURT: What do you do?
4 PROSPECTIVE JUROR NO. 098: I work with the State
5 Bar of Nevada.
6 THE COURT: Oh, really. What do you do?
7 PROSPECTIVE JUROR NO. 098: I'm the assistant
8 director of admissions.
9 THE COURT: Of admissions.
10 PROSPECTIVE JUROR NO. 098: Yes.
11 THE COURT: Ah. So, okay. So results just came
12 out recently.
13 PROSPECTIVE JUROR NO. 098: It just did.
14 THE COURT: You were involved with that?
15 PROSPECTIVE JUROR NO. 098: Yes, directly.
16 THE COURT: Okay. Are you married?
17 PROSPECTIVE JUROR NO. 098: I'm not.
18 THE COURT: You said you're not?
19 PROSPECTIVE JUROR NO. 098: Yes.
20 THE COURT: Do you have any children?
21 PROSPECTIVE JUROR NO. 098: No.
22 THE COURT: And what's the highest level of
23 education you completed?
24 PROSPECTIVE JUROR NO. 098: Bachelor's degree in
25 UNLV.

1 THE COURT: In what?
2 PROSPECTIVE JUROR NO. 098: Poly Sci.
3 THE COURT: Poly Sci also.
4 PROSPECTIVE JUROR NO. 098: Yes.
5 THE COURT: Okay. State.
6 MS. LUZAICH: I'm sorry to beat a dead horse, but
7 you said that you think you'd do better under circumstances
8 that are not criminal. Why?
9 PROSPECTIVE JUROR NO. 098: Well, I had to think
10 about that before I answered, and I tell you I'd like to go to
11 law school and criminal would not be my forte. It wouldn't.
12 MS. LUZAICH: And that's okay, I understand that,
13 you know, not everybody wants to do this. You know, me, I
14 love to get up and talk and you're all captive. But to sit as
15 a juror, why not in a criminal case?
16 PROSPECTIVE JUROR NO. 098: Just being honest, it
17 doesn't make me comfortable.
18 MS. LUZAICH: How does it not make you
19 comfortable?
20 PROSPECTIVE JUROR NO. 098: I don't like having
21 someone's life in my hands. I don't like that responsibility.
22 MS. LUZAICH: Okay. I mean, the way you
23 described it, I get it, you know, to have someone's life in
24 your hands. What you're going to do as a juror, and I
25 mentioned this with Ms. Yao, your job as a juror is to sit and

1 listen to what people tell you, after they, you know, swear to
2 tell the truth, the whole truth, listen to what they tell you
3 and look at any evidence that's admitted, and go back in the
4 deliberation room and talk amongst your fellow jurors and
5 decide has the State of Nevada, that would be us, proven
6 beyond a reasonable doubt the charges. I mean, all you have
7 to do is say, yes, the State proved the charges or no, they
8 did not. So, nobody's life is in your hands when you think
9 about it that way; right?
10 PROSPECTIVE JUROR NO. 098: Hard to answer that
11 question --
12 MS. LUZAICH: Well, you know --
13 PROSPECTIVE JUROR NO. 098: -- because --
14 MS. LUZAICH: -- if this were a capital case,
15 which it is not, if it were a capital case, you might have to
16 go back and decide penalty. Then, life, in theory, could be
17 in your hands. But you absolutely are never going to decide
18 the penalty if you convict. Does that make it any easier?
19 PROSPECTIVE JUROR NO. 098: Honestly, it doesn't,
20 but --
21 MS. LUZAICH: No, okay. Let me try it this way.
22 Somebody comes to your house in the middle of the night while
23 you're sleeping and steals your car. So, you call the police,
24 you report it. Eventually, your car is found in somebody's
25 possession, so that person is charge with either grand larceny

1 auto, or possession so stolen vehicle. A jury, like
2 yourselves, would sit and decide, did the State prove beyond a
3 reasonable doubt that he stole your car. It's basically the
4 same thing. Could you do that?
5 PROSPECTIVE JUROR NO. 098: I could do that.
6 MS. LUZAICH: Why not this?
7 PROSPECTIVE JUROR NO. 098: Well, I guess I don't
8 know how to answer that.
9 MS. LUZAICH: Okay.
10 PROSPECTIVE JUROR NO. 098: That directly
11 involves me, this doesn't.
12 MS. LUZAICH: Oh, I didn't mean you would decide
13 if he stole your own car, but okay. As the State Bar of
14 Nevada, Director of admissions --
15 PROSPECTIVE JUROR NO. 098: Assistant director.
16 MS. LUZAICH: Assistant director. You
17 participate in admitting or denying people the practice of
18 law; right? Now, there peoples lives are in your hands, but
19 you can do that?
20 PROSPECTIVE JUROR NO. 098: That's not my
21 decision. That's always up to the exam results and another
22 Committee that decides that. So I don't get to decide that.
23 MS. LUZAICH: Oh, you're going to just make this
24 harder and harder on me, now. Okay.
25 PROSPECTIVE JUROR NO. 098: I'm just answering

1 your questions honestly. I apologize.
2 MS. LUZAICH: See, you should be a lawyer.
3 You're arguing both sides. If you were going to be a lawyer,
4 what kind of law would you practice?
5 PROSPECTIVE JUROR NO. 098: Definitely not
6 criminal. Possibly something more along the lines of family
7 law, contract law.
8 MS. LUZAICH: See, now, family law, you want to
9 talk about life in your hands. Do you have any education for
10 doing what you do? I mean, I know you have a Bachelor of
11 Science in poly sci, but did you have to get any other
12 education to work at the State Bar?
13 PROSPECTIVE JUROR NO. 098: Other than just
14 computer experience, and the system experience, and my degree
15 does, in a little bit, relate to what I do.
16 MS. LUZAICH: Okay. But you don't deal with law
17 related issues, or do you?
18 PROSPECTIVE JUROR NO. 098: Not directly, I
19 should say.
20 MS. LUZAICH: Okay.
21 PROSPECTIVE JUROR NO. 098: We have attorneys on
22 committees for that.
23 MS. LUZAICH: Okay. And just to change the
24 subject entirely, you mentioned you have two friends that got
25 DUIs?

1 PROSPECTIVE JUROR NO. 098: Yes.
2 MS. LUZAICH: One of them you did not think
3 should have gotten a DUI?
4 PROSPECTIVE JUROR NO. 098: Yes.
5 MS. LUZAICH: Okay. Were you there when it
6 happened?
7 PROSPECTIVE JUROR NO. 098: I was not.
8 MS. LUZAICH: Had you been drinking with him
9 earlier?
10 PROSPECTIVE JUROR NO. 098: No.
11 MS. LUZAICH: Then what causes you to think that
12 he shouldn't have gotten it?
13 PROSPECTIVE JUROR NO. 098: Just my personal
14 opinion of my friend.
15 MS. LUZAICH: Is it possible that he drank a
16 little bit too much and then he got in the car and drove?
17 PROSPECTIVE JUROR NO. 098: I know him very well
18 and anytime I've known he's gotten to that situation where he
19 would have been drunk, he's never driven. I don't know if you
20 want me to go into further detail with that.
21 MS. LUZAICH: Well, no, no, no. I mean, some
22 people do things when they're drinking that they wouldn't
23 normally do just because they're drinking and don't realize;
24 right?
25 PROSPECTIVE JUROR NO. 098: It happens, yes.

1 MS. LUZAICH: Okay. Do you think that -- you
2 mentioned earlier that you thought the police did a poor
3 investigation. Why is that?
4 PROSPECTIVE JUROR NO. 098: They gave him no
5 breathalyser test and he's also a diabetic, so even if they
6 tried to make him do a road test, he really wasn't able to do
7 that because he's diabetic.
8 MS. LUZAICH: A diabetic can't do field sobriety
9 tests?
10 PROSPECTIVE JUROR NO. 098: If you ask him to
11 walk a straight line, he's a Level 2 diabetic, he wouldn't be
12 able to walk straight.
13 MS. LUZAICH: Balance issues?
14 PROSPECTIVE JUROR NO. 098: Um-hm.
15 MS. LUZAICH: Okay. And what you're describing
16 for us today, is that all based on things that your friend
17 told you after the fact?
18 PROSPECTIVE JUROR NO. 098: Yes.
19 MS. LUZAICH: Was it Metro that -- or was it
20 Henderson PD, did you say?
21 PROSPECTIVE JUROR NO. 098: It was Metro.
22 MS. LUZAICH: It was Metro. Did he tell you who
23 the officer was?
24 PROSPECTIVE JUROR NO. 098: He did not.
25 MS. LUZAICH: If you happen to find out that that

1 officer came into this court to testify in this trial, how
2 would that -- how would that cause you to view that officer's
3 testimony?
4 PROSPECTIVE JUROR NO. 098: Very good question,
5 and I think I know where you're going with that. Yes, I
6 probably would be a little impartial to that.
7 MS. LUZAICH: Do you think that if any officer
8 comes in here and testifies, you're going to be thinking about
9 that?
10 PROSPECTIVE JUROR NO. 098: I can't honestly say
11 I would or wouldn't.
12 MS. LUZAICH: Do you think that based on the fact
13 that you didn't think that officer did a good job with your
14 friend's investigation, you have an opinion about officers in
15 general?
16 PROSPECTIVE JUROR NO. 098: Of course I have
17 opinion about officers, good and bad.
18 MS. LUZAICH: Some are good, some are bad?
19 PROSPECTIVE JUROR NO. 098: Sure.
20 MS. LUZAICH: How do you tell which is which?
21 You personally?
22 PROSPECTIVE JUROR NO. 098: Depends on the
23 situation.
24 MS. LUZAICH: Okay. If you were me, representing
25 the State of Nevada, would you want you on this jury?

PROSPECTIVE JUROR NO. 098: Probably not.

MS. LUZAICH: Why is that?

PROSPECTIVE JUROR NO. 098: Just the way I feel right now and I feel uncomfortable, so.

MS. LUZAICH: Okay. And does my standing here and asking you question after question --

PROSPECTIVE JUROR NO. 098: Even more uncomfortable, every second passes.

MS. LUZAICH: I apologize. I certainly do not mean to make you uncomfortable.

PROSPECTIVE JUROR NO. 098: No problem.

MS. LUZAICH: Well, if you were a juror in this case, would you be able to reach a verdict one way or another? Would you be able to reach a verdict?

PROSPECTIVE JUROR NO. 098: It would be my duty, so, yes.

MS. LUZAICH: Okay. And if you sat in this case, if you did believe that the State of Nevada proved the charges beyond a reasonable doubt, would you be able to say the word guilty?

PROSPECTIVE JUROR NO. 098: Yes.

MS. LUZAICH: Thank you. Pass for cause.

PROSPECTIVE JUROR NO. 098: Thank you.

MR. BROWN: Good afternoon, Mr. Fernandez.

PROSPECTIVE JUROR NO. 098: Good afternoon.

1 MR. BROWN: I know you've decided not to go into
2 criminal law, but I wouldn't go into family law either. If
3 you don't like criminal law, you'll hate family law. So
4 there's a whole other world out there for you.
5 What I was -- what I will ask you real quickly,
6 though is, you've expressed this discomfort. But I think
7 you've made it clear that you'll follow your duty. The Judge
8 is going to read you the law, you know what the obligations
9 are, and you can do what you can do. You just have a little
10 bit of concern over the responsibility of making a big
11 decision like this.
12 PROSPECTIVE JUROR NO. 098: Yes.
13 MR. BROWN: Okay. Does that seem reasonable to
14 you, that a decision of this nature should cause an individual
15 some pause or concern?
16 PROSPECTIVE JUROR NO. 098: Yes.
17 MR. BROWN: Okay. In fact, it might be alarming
18 if somebody says, "It doesn't matter to me at all, I can do it
19 without even thinking twice about it or having any concern."
20 That would -- that seems like it would be more of a concern;
21 wouldn't it?
22 PROSPECTIVE JUROR NO. 098: Sure.
23 MR. BROWN: Okay. And I think Ms. Luzaich has
24 made it clear that as a legitimate translation, you don't have
25 somebody's life in your hands. But I've used that term in

1 referencing this responsibility. And with that, I think you
2 were just picking up on that. But you do -- you have a
3 responsibility to get things right where somebody's future is
4 certainly, you know, on the line. But if the State meets
5 their burden, and they provide the evidence, and you're
6 convince beyond a reasonable doubt, you are in a position
7 where you can do what the law requires you to do and you can
8 find somebody guilty?
9 PROSPECTIVE JUROR NO. 098: Yes.
10 MR. BROWN: But if they fail to meet their
11 burden, and they fail to prove to you with the evidence beyond
12 a reasonable doubt, could you equally come in and say, "I
13 don't think you've done it, State, I'm finding him not guilty
14 of that?"
15 PROSPECTIVE JUROR NO. 098: I'd hope so, yes.
16 MR. BROWN: Okay. I've got a pretty good idea,
17 so I don't think I need to followup on too much. I think what
18 I would ask you real quick is, are you a thinker or a feeler?
19 PROSPECTIVE JUROR NO. 098: I'm a thinker.
20 MR. BROWN: Okay. And a leader or a follower?
21 PROSPECTIVE JUROR NO. 098: Both.
22 MR. BROWN: Explain that to me. I think you can
23 be both, but go ahead and explain to me how you are both.
24 PROSPECTIVE JUROR NO. 098: Depends on the
25 situation. Some people can be better leaders, and I can be a

1 better support group.
2 MR. BROWN: Give me an example of a time in your
3 life where you just took charge and you were the lead?
4 PROSPECTIVE JUROR NO. 098: Well, I played
5 sports, so.
6 MR. BROWN: Oh.
7 PROSPECTIVE JUROR NO. 098: So, in some cases I
8 would have to be the leader.
9 MR. BROWN: Kind of the captain in the huddle?
10 PROSPECTIVE JUROR NO. 098: Yes.
11 MR. BROWN: Okay. And give me an example of a
12 situation or scenario where you may have been satisfied to
13 just sit back and let somebody else take the reins and you
14 follow along.
15 PROSPECTIVE JUROR NO. 098: Well, I'm also part
16 of a fraternity, too, so there is a president and that's when
17 I'm a follower.
18 MR. BROWN: Okay. Which fraternity?
19 PROSPECTIVE JUROR NO. 098: Right now I'm
20 pledging to a new one, Delta Lambda Phi.
21 MR. BROWN: Is that -- here at UNLV, then?
22 PROSPECTIVE JUROR NO. 098: Yes.
23 MR. BROWN: Okay. It's a new fraternity at the
24 campus, is that what you're saying?
25 PROSPECTIVE JUROR NO. 098: No, it's not at the

1 campus.

2 MR. BROWN: Okay. All right. I have no further

3 questions. I pass, Your Honor.

4 THE COURT: Thank you. Let me go ahead and take

5 a short break, let everyone stretch their legs and use the

6 facilities.

7 Again, during this break, Ladies and Gentlemen,

8 you are admonished not to talk or converse among yourselves or

9 with anyone else on any subject connected with this trial; or

10 to read, watch or listen to any report of or commentary on the

11 trial, or any person that's connected with the trial by any

12 medium of information including, without limitation,

13 newspapers, television, the internet and radio; or to form or

14 express any opinion on any subject connected with the trial

15 until the case is finally submitted to you. Ten.

16 THE MARSHAL: Okay, ten minutes, folks. All

17 rise.

18 THE COURT: Would counsel hold on just a minute.

19 (Prospective jurors exit the courtroom)

20 (Outside presence of prospective jurors)

21 THE COURT: All right. The jurors have left the

22 room. I think we need to discuss timing.

23 MS. LUZAICH: Yeah.

24 THE COURT: It's after 4:00 and we can't seem to

25 get through one row of jurors. I'm not really blaming you

1 guys. We've had an interesting crew of jurors today who have
2 had some issues that we did legitimately need to address.
3 So I just want to talk about timing and how long
4 to stay tonight. I mean, I don't see us finishing picking
5 this jury today.
6 MR. BROWN: Yeah, I would have to agree with the
7 Court. If you -- if we -- you know, when we broke after
8 lunch, I did a little bit of the math which was 32 jurors we
9 got it clear. If we averaged 10 minutes per juror, it's 320
10 minutes and that was going to take us through the rest of the
11 day. And of course we're going to do more than 32. We're
12 averaging a hair more than 10 minutes per juror, but I think
13 that we'll get closer to that as we get through some of these.
14 THE COURT: It does usually get shorter.
15 MR. BROWN: You know, it does pick up some speed.
16 THE COURT: Though like I said, I mean, we've
17 just had some issues.
18 MR. BROWN: But, I think that -- depending on how
19 late the Court wants to stay today, I think we probably, after
20 your morning calendar, pick in the morning and just stay until
21 we've got a panel and then break for lunch and come back and
22 open after whatever that is, 2:00, 2:30. You might want to
23 advise them today to make sure they have a snack coming in
24 before 10:00 because we may go -- that's just a
25 recommendation.

1 THE COURT: Right.
2 MR. BROWN: I think, you know, if we start
3 picking and then break for lunch and then come -- it just
4 drags it out. I think if we can kind of clean it up, we can
5 speed it along.
6 But I agree, I don't see us opening until
7 tomorrow afternoon.
8 MR. TOMSHECK: We don't have any conflicts
9 tonight, so we can stay.
10 MR. BROWN: Yeah, I don't have any conflicts
11 tonight. I don't know what, obviously, the jurors --
12 MS. LUZAICH: I think it's more of an issue for
13 the jurors.
14 MR. BROWN: Yeah.
15 THE COURT: Right, yeah. I mean --
16 MS. LUZAICH: Do you know, are you okay?
17 MR. ABOOD: Yeah.
18 THE COURT: I don't -- well -- yes?
19 (Off-record colloquy Court/Marshal)
20 THE COURT: There are some -- some jurors have
21 expressed some concerns about what time we're going to leave
22 already.
23 MR. BROWN: Yeah, I could hear him.
24 THE COURT: Now, I've just asked Anthony to quiz
25 them at least about how they'd feel about 5:30 to at least try

1 to get a little more time in. We'll see what he has to say
2 when he comes back in. Let's --
3 MR. ABOOD: It depends on who really has to
4 leave, Judge, as to whether or not we'll objection.
5 MR. BROWN: I think Ms. Yao has to be somewhere
6 at 4:40. Although I'm not sure. I don't think she understood
7 she had to be back again.
8 THE COURT: You know we're on the record, right?
9 MR. BROWN: Yes, Judge.
10 THE COURT: Say it again. Okay.
11 MR. BROWN: Yes, Judge.
12 THE COURT: And we've still got to take care of
13 Mr. Anderson before we leave today. I will dismiss him.
14 MS. LUZAICH: Because he's the first guy? Oh,
15 just let him not come back -- I guess, yeah, just at the end
16 of the day. Although if you have indicated that we're going
17 to start at 10:00 tomorrow --
18 THE COURT: Yeah.
19 MS. LUZAICH: -- if maybe the jury comes back at
20 9:30 so that they --
21 THE COURT: So we're ready to go.
22 MS. LUZAICH: -- saunter in and then we'll really
23 be ready at 10:00.
24 THE COURT: Okay. So, let's go ahead and take a
25 quick break for us to use the facilities, and I'll double

1 check on what my morning calendar looks like tomorrow also.
2 And I think we should be good to go on that in the morning.
3 Okay. Take a few.
4 (Court recessed at 4:10 p.m. until 4:19 p.m.)
5 (Outside presence of prospective jurors)
6 THE COURT: All right. Apparently most of the
7 jurors are uncomfortable and don't want to stay past 5:00.
8 They have other obligations or issues that they need to attend
9 to. My morning calendar, which is at -- it's a civil calendar
10 at 8:30, does not look like it's bad at all. We should be
11 able to start right at 10:00. And I probably will ask the
12 jurors to come a little before that so we can hopefully get
13 started right at 10:00. And we're going to have to move it
14 along and hopefully have fewer complicated stories from them
15 as we go along.
16 All right, let's go ahead and bring them in.
17 (In the presence of the prospective jurors)
18 THE COURT: You can go ahead and have a seat,
19 yeah.
20 (Pause in proceedings)
21 THE COURT: All right. Everybody can go ahead
22 and have a seat. Okay, we're up to Mr. Phillips back here.
23 PROSPECTIVE JUROR NO. 056: Yes.
24 THE COURT: Mr. Phillips, how are you doing
25 today?

1 PROSPECTIVE JUROR NO. 056: Doing fine, thank
2 you.
3 THE COURT: Good. Is there any reason why you
4 could not be complete fair and impartial as a juror in this
5 case?
6 PROSPECTIVE JUROR NO. 056: No.
7 THE COURT: Can you wait in forming your opinion
8 on the appropriate result until all the evidence has been
9 heard?
10 PROSPECTIVE JUROR NO. 056: Yes.
11 THE COURT: Have you or anyone close to you
12 worked in law enforcement?
13 PROSPECTIVE JUROR NO. 056: No.
14 THE COURT: Have you or anyone close to you been
15 charged with a serious crime?
16 PROSPECTIVE JUROR NO. 056: Yes. My girlfriend
17 was pulled over for an illegal lane change, and the officer
18 asked her if she had had anything to drink and she said, yes,
19 one beer before I left work. And he slapped the cuffs on her
20 and took her in.
21 THE COURT: Ah-ha.
22 PROSPECTIVE JUROR NO. 056: And she never lies to
23 me. I believe her when she said she had one beer.
24 THE COURT: Okay. And she was charged with DUI?
25 PROSPECTIVE JUROR NO. 056: Yes, ma'am. Yes,

1 Your Honor.
2 THE COURT: Okay. And what's the outcome of that
3 charge? Has there been a resolve? Has it been resolved yet?
4 PROSPECTIVE JUROR NO. 056: I didn't ask her the
5 result, but I believe she had to pay court costs or whatever.
6 I'm not sure exactly. She had to, you know, a payment plan,
7 one of those.
8 THE COURT: I see. Was that here in town?
9 PROSPECTIVE JUROR NO. 056: Yes.
10 THE COURT: And was it Metro?
11 PROSPECTIVE JUROR NO. 056: I believe it was
12 Highway Patrol. It was on I-95.
13 THE COURT: I see. Okay. All right. So you
14 don't think she should have been arrested for DUI, it sounds
15 like?
16 PROSPECTIVE JUROR NO. 056: I do not. She can
17 drink me under the table.
18 THE COURT: One drink wouldn't have impaired her,
19 you don't think?
20 PROSPECTIVE JUROR NO. 056: Not in the least.
21 THE COURT: Okay. All right, now, there are
22 going to be Metro officers that come and testify in this case.
23 Do you think that you can listen fairly to their testimony?
24 PROSPECTIVE JUROR NO. 056: Yes.
25 THE COURT: Do you think that you would have a

1 tendency to not want to believe them because of this incident
2 with your girlfriend?
3 PROSPECTIVE JUROR NO. 056: No, not at all.
4 THE COURT: Okay. Have you or anyone close to
5 you been the victim of a serious crime?
6 PROSPECTIVE JUROR NO. 056: Yes. Years ago I had
7 a fiancee right after I moved to Las Vegas. She was still in
8 West Virginia, and an arsonist set the apartment building on
9 fire and she was killed there.
10 THE COURT: Oh, my gosh. How long ago was that?
11 PROSPECTIVE JUROR NO. 056: Twenty years ago.
12 THE COURT: Wow. Did they ever catch the person
13 who did that?
14 PROSPECTIVE JUROR NO. 056: Yes.
15 THE COURT: They did.
16 PROSPECTIVE JUROR NO. 056: He was convicted,
17 yes.
18 THE COURT: Okay. Do you think there's anything
19 about that circumstance that would affect your ability to
20 listen to the evidence here and weigh it fairly and
21 impartially?
22 PROSPECTIVE JUROR NO. 056: No, not at all.
23 THE COURT: Okay. Is there anything about the
24 nature of the charges in this case that would make it
25 difficult for you to be fair and impartial?

1 PROSPECTIVE JUROR NO. 056: No.
2 THE COURT: Can you base your verdict solely on
3 the evidence that's brought out at the trial and the law that
4 applies as stated in my instructions without fear of criticism
5 or popular opinion?
6 PROSPECTIVE JUROR NO. 056: Yes.
7 THE COURT: Have you ever served as a juror
8 before?
9 PROSPECTIVE JUROR NO. 056: No.
10 THE COURT: If you were a party to this case,
11 would you be comfortable with jurors of a like frame of mind
12 as yourself sitting in judgment?
13 PROSPECTIVE JUROR NO. 056: Yes.
14 THE COURT: How old are you?
15 PROSPECTIVE JUROR NO. 056: Fifty-four.
16 THE COURT: How long have you lived here in Clark
17 County?
18 PROSPECTIVE JUROR NO. 056: Twenty-two years.
19 THE COURT: Okay. And are you employed?
20 PROSPECTIVE JUROR NO. 056: Yes.
21 THE COURT: What do you do?
22 PROSPECTIVE JUROR NO. 056: I'm a systems analyst
23 for MGM Mirage, IT.
24 THE COURT: Okay.
25 PROSPECTIVE JUROR NO. 056: Just as an FYI,

1 they're laying off in our department this week. Hopefully,
2 I'll --
3 THE COURT: This week, huh?
4 PROSPECTIVE JUROR NO. 056: This week.
5 THE COURT: Is it based on whether you go to work
6 tomorrow or not?
7 PROSPECTIVE JUROR NO. 056: I hope not.
8 THE COURT: I hope not, too. That would be
9 illegal, by the way, but anyway.
10 PROSPECTIVE JUROR NO. 056: Yeah.
11 THE COURT: But there are layoffs coming?
12 PROSPECTIVE JUROR NO. 056: They're cutting back
13 this week, yes.
14 THE COURT: Yeah, okay. All right. So you
15 mentioned your girlfriend. Does she work?
16 PROSPECTIVE JUROR NO. 056: Yes.
17 THE COURT: What does she do?
18 PROSPECTIVE JUROR NO. 056: She's a waitress at a
19 restaurant.
20 THE COURT: Okay. Do you have -- sorry?
21 PROSPECTIVE JUROR NO. 056: At a restaurant.
22 THE COURT: Do you have any children?
23 PROSPECTIVE JUROR NO. 056: No, no kids.
24 THE COURT: What's the highest level of education
25 you completed?

1 PROSPECTIVE JUROR NO. 056: Two years of college.
2 THE COURT: Okay. Were you pursuing any
3 particular major?
4 PROSPECTIVE JUROR NO. 056: Yes. MIS, back then
5 it was MIS.
6 THE COURT: Right. Okay. State.
7 MR. TOMSHECK: Mr. Phillips, right?
8 PROSPECTIVE JUROR NO. 056: Yes.
9 MR. TOMSHECK: I just want to make sure I get the
10 name right because I'm terrible with names. I think you'll
11 find that the further we go along here, the quicker it will
12 get. So I'm not going to have a lot for you. I just want to
13 ask you a couple of questions.
14 In regard to that with some of the other people
15 who's family members have been victims of crime before,
16 anything about what happened to you 20 years ago that you'd
17 hold against Mr. Porter?
18 PROSPECTIVE JUROR NO. 056: No.
19 MR. TOMSHECK: Would you just this case
20 independently on the facts of this case?
21 PROSPECTIVE JUROR NO. 056: Yes.
22 MR. TOMSHECK: Okay. At the conclusion of the
23 trial, if you go back in the deliberation room, you feel that
24 we've proven the case by -- beyond what the Judge defines for
25 you as reasonable doubt, you have no problem finding guilty?

1 PROSPECTIVE JUROR NO. 056: That's correct.
2 MR. TOMSHECK: Okay. On the other hand, if you
3 don't feel that we've proven it beyond a reasonable doubt as
4 the Judge defines it for you, you have no problem finding him
5 (indiscernible).
6 PROSPECTIVE JUROR NO. 056: Yes.
7 MR. TOMSHECK: So you can be fair?
8 PROSPECTIVE JUROR NO. 056: I can be fair.
9 MR. TOMSHECK: I want to talk to you real briefly
10 about your girlfriend and the situation with the DUI; okay?
11 PROSPECTIVE JUROR NO. 056: Um-hum. Yes, yes.
12 MR. TOMSHECK: You had said that you didn't feel
13 as though she should have been arrested; correct?
14 PROSPECTIVE JUROR NO. 056: Correct.
15 MR. TOMSHECK: And you base that in part on the
16 fact that she told you she'd only had one beer.
17 PROSPECTIVE JUROR NO. 056: Yes.
18 MR. TOMSHECK: And you believe her?
19 PROSPECTIVE JUROR NO. 056: Yes.
20 MR. TOMSHECK: And you trust her?
21 PROSPECTIVE JUROR NO. 056: She doesn't even lie
22 on a job application.
23 MR. TOMSHECK: She's got to be pretty honest then
24 because I know I did. That's a joke. Let me ask you this
25 question. If she had come home and said, "Look, I got popped

1 for a DUI, but I was drunk," would you have believed her?
2 PROSPECTIVE JUROR NO. 056: Yes.
3 MR. TOMSHECK: Okay. So the things that she
4 tells you, you take into consideration in whether or not she
5 did or didn't commit that DUI she was arrested for?
6 PROSPECTIVE JUROR NO. 056: Yes.
7 MR. TOMSHECK: Does she still have a driver's
8 license?
9 PROSPECTIVE JUROR NO. 056: Yes.
10 MR. TOMSHECK: Pass for cause. Thanks, Judge.
11 THE COURT: Thanks. Defense.
12 MR. ABOOD: Thank you, Your Honor. Good
13 afternoon, Mr. Phillips. No one close to you has been a
14 police officer is what you told us?
15 PROSPECTIVE JUROR NO. 056: Correct.
16 MR. ABOOD: Okay. But you have an opinion, at
17 least in the case involving your girlfriend, about, I guess,
18 it's the conduct of a police officer or is it the way he
19 investigated the case?
20 PROSPECTIVE JUROR NO. 056: It's -- he asked her
21 one question and then put her under arrest which I don't think
22 was --
23 MR. ABOOD: And you feel that that one question
24 just wasn't sufficient and he reached the wrong result?
25 PROSPECTIVE JUROR NO. 056: Exactly.

1 MR. ABOOD: Okay. Let's talk a little about
2 that. And I'm glad we're bringing up the police officer thing
3 because we keep talking a little about it. I guess what we
4 want to get to is, you know, there are going o be police
5 officers and detectives who testify in this case. And I think
6 we can agree that, I mean, generally speaking, police officers
7 are good people; aren't they?
8 PROSPECTIVE JUROR NO. 056: Oh, yes.
9 MR. ABOOD: Um-hm. And they try to do their jobs
10 in a good and thorough way, don't they?
11 PROSPECTIVE JUROR NO. 056: Yes.
12 MR. ABOOD: But frankly, I mean, we all try to do
13 our jobs in a good and thorough way; don't we?
14 PROSPECTIVE JUROR NO. 056: Yes.
15 MR. ABOOD: So, I mean, they're human just like
16 we are?
17 PROSPECTIVE JUROR NO. 056: Yes.
18 MR. ABOOD: And sometimes, would you agree, that
19 maybe they look backwards and wish that maybe they had done
20 something differently?
21 PROSPECTIVE JUROR NO. 056: I would hope so.
22 MR. ABOOD: Just like we do?
23 PROSPECTIVE JUROR NO. 056: Right.
24 MR. ABOOD: Okay. So there's nothing magical
25 about being a police officer that causes them to have anymore

1 legitimacy when they testify than anybody else; is that true?
2 PROSPECTIVE JUROR NO. 056: Yes.
3 MR. ABOOD: Okay. And sometimes in hindsight
4 it's okay to think that maybe they could have done something
5 differently?
6 PROSPECTIVE JUROR NO. 056: Yes.
7 MR. ABOOD: Okay. And even important things,
8 like when they investigate a case, like maybe this case, you'd
9 want to be satisfied that they did everything in terms of
10 following up on their investigation to satisfy you that our
11 client, Justin, is guilty beyond a reasonable doubt?
12 PROSPECTIVE JUROR NO. 056: Yes.
13 MR. ABOOD: Okay. And that may be a factor in
14 how this case goes; is that fair?
15 PROSPECTIVE JUROR NO. 056: Yes.
16 MR. ABOOD: Okay. So it's not that we have any
17 ill feelings towards them. We just expect that in an
18 important matter like this, that they would have done
19 everything that we wish they would have done?
20 PROSPECTIVE JUROR NO. 056: Right.
21 MR. ABOOD: Okay. Now, you heard the Judge also
22 talk about -- and again, I know we kind of have an
23 understanding of this. Do you have any questions or concerns
24 about the duty of the prosecutors to prove guilt beyond a
25 reasonable doubt?

1 PROSPECTIVE JUROR NO. 056: No.
2 MR. ABOOD: Okay. Do you have any questions or
3 concerns about the fact that Curtis Brown and Justin Porter
4 and I, we really don't have to give you anything for you to
5 find him not guilty?
6 PROSPECTIVE JUROR NO. 056: Correct.
7 MR. ABOOD: Okay. Do you feel that Justin should
8 tell you his side of the story in this case?
9 PROSPECTIVE JUROR NO. 056: No, not necessarily.
10 MR. ABOOD: Not necessarily because again, he
11 doesn't have to tell us anything; is that true?
12 PROSPECTIVE JUROR NO. 056: That's true.
13 MR. ABOOD: Okay. Would you be happier if, for
14 example, he gave statements to police and you got to hear what
15 those statements were concerning his involvement in this case?
16 You know, outside of court, if he gave statements concerning
17 his involvement in this case, is that something you'd be happy
18 to hear about?
19 PROSPECTIVE JUROR NO. 056: No. If it's not part
20 of the evidence.
21 MR. ABOOD: Suppose it is. In other words,
22 suppose that the State, as part of their case, are going to
23 either have a detective testify about statements he made, or
24 maybe even play for you the statements that he's made. Would
25 that be helpful to you?

1 PROSPECTIVE JUROR NO. 056: Yes.
2 MR. ABOOD: Okay. When people give a statement,
3 or when people talk about their involvement in certain events,
4 fair to say that they have a lot of different motivations
5 going on at the time that they might give a statement?
6 PROSPECTIVE JUROR NO. 056: I'm not sure I
7 understand.
8 MR. ABOOD: I understand. Well, it's my fault.
9 Let me clear it up a little bit. Sometimes when you have to
10 come to your own defense about something, is it fair to say
11 that in a circumstance like that, where you might be under the
12 gun, that you might have a lot of differing circumstances
13 going on in your head while you're trying to defend yourself?
14 PROSPECTIVE JUROR NO. 056: Yes.
15 MR. ABOOD: It can be difficult to do that, is
16 that fair to say.
17 PROSPECTIVE JUROR NO. 056: Yes.
18 MR. ABOOD: Defend oneself?
19 PROSPECTIVE JUROR NO. 056: Yes.
20 MR. ABOOD: Okay. Is there anything that you
21 expect from Curtis and I concerning the conduct of this case,
22 or what we present on behalf of our client?
23 PROSPECTIVE JUROR NO. 056: No.
24 MR. ABOOD: Okay. Do you kind of feel like
25 you've kind of been learning a few things from other people

1 that we've spoken to? In other words, this is kind of a
2 refresher course on how this system works; isn't it?
3 PROSPECTIVE JUROR NO. 056: It's a great country.
4 MR. ABOOD: It is; right? Absolutely. Any
5 concerns that you that you want to tell us about that the
6 Judge hasn't asked you about, or that the State or I haven't
7 asked you about?
8 PROSPECTIVE JUROR NO. 056: No.
9 MR. ABOOD: Okay. Sir, thank you very much. I'm
10 going to pass for cause, Your Honor.
11 THE COURT: Thank you. Go ahead and pass the
12 microphone. Ms. Inciso, is it?
13 PROSPECTIVE JUROR NO. 057: Inciso.
14 THE COURT: Inciso, okay. Ms. Inciso, is there
15 any reason you couldn't be a completely fair and impartial
16 juror in this case?
17 PROSPECTIVE JUROR NO. 057: No.
18 THE COURT: Can you wait in forming your opinion
19 on the appropriate result until all the evidence has been
20 heard?
21 PROSPECTIVE JUROR NO. 057: Yes.
22 THE COURT: Have you or anyone close to you
23 worked in law enforcement?
24 PROSPECTIVE JUROR NO. 057: No.
25 THE COURT: Have you or anyone close to you been

1 charged with a serious crime?
2 PROSPECTIVE JUROR NO. 057: No.
3 THE COURT: Have you or anyone close to you been
4 the victim of a serious crime?
5 PROSPECTIVE JUROR NO. 057: No.
6 THE COURT: Is there anything about the nature of
7 the charges in this case that would make it difficult for you
8 to be fair and impartial?
9 PROSPECTIVE JUROR NO. 057: No.
10 THE COURT: Can you base your verdict solely on
11 the evidence that comes out and the law that applies without
12 fear of criticism or popular opinion?
13 PROSPECTIVE JUROR NO. 057: Yes.
14 THE COURT: Have you ever served as a juror
15 before?
16 PROSPECTIVE JUROR NO. 057: No.
17 THE COURT: If you were a party with this case,
18 would you be comfortable with jurors of a like frame of mind
19 as yourself sitting in judgment?
20 PROSPECTIVE JUROR NO. 057: Yes.
21 THE COURT: And how old are you, ma'am?
22 PROSPECTIVE JUROR NO. 057: Forty-five.
23 THE COURT: And how long have you lived here in
24 Clark County?
25 PROSPECTIVE JUROR NO. 057: Since I was seven.

1 THE COURT: You've seen a lot of changes.
2 PROSPECTIVE JUROR NO. 057: Many.
3 THE COURT: Are you employed?
4 PROSPECTIVE JUROR NO. 057: For a week now.
5 THE COURT: Okay. What do you do?
6 PROSPECTIVE JUROR NO. 057: I work for the State
7 of Nevada.
8 THE COURT: Oh, what do you do?
9 PROSPECTIVE JUROR NO. 057: I'm an administrative
10 assistant in the Desert Regional Center, for the Regional
11 Center.
12 THE COURT: Right. Okay. Are you married?
13 PROSPECTIVE JUROR NO. 057: I am.
14 THE COURT: Does your spouse work?
15 PROSPECTIVE JUROR NO. 057: Yes.
16 THE COURT: What does he do?
17 PROSPECTIVE JUROR NO. 057: He owns his own
18 mobile detailing business.
19 THE COURT: Sure. Do you have children?
20 PROSPECTIVE JUROR NO. 057: Yes.
21 THE COURT: How many?
22 PROSPECTIVE JUROR NO. 057: Three.
23 THE COURT: How old are they?
24 PROSPECTIVE JUROR NO. 057: 20, 18 and 12.
25 THE COURT: Okay. And what's the highest level

1 of education you've completed?
2 PROSPECTIVE JUROR NO. 057: Twelfth.
3 THE COURT: Twelfth grade?
4 PROSPECTIVE JUROR NO. 057: Yes.
5 THE COURT: Okay. All right. State.
6 MS. LUZAICH: Thank you. Let me go over in my
7 head on that. Raising three kids, I expect you have to deal
8 with a lot of conflicts. This one said that one did, the
9 other one said the other did it. How did you resolve
10 conflicts like that?
11 PROSPECTIVE JUROR NO. 057: Well, I have a 20-
12 year-old and an 18-year-old that are a lot alike. They're
13 girls. So you just have to listen to both sides and kind of
14 come in between and figure out what you think is the best.
15 And you know your kids, so.
16 MS. LUZAICH: Okay. It's kind of like being a
17 juror except you don't know the witnesses.
18 PROSPECTIVE JUROR NO. 057: Right.
19 MS. LUZAICH: Do you think that you would be a
20 good juror?
21 PROSPECTIVE JUROR NO. 057: Yes.
22 MS. LUZAICH: What do you think would make you a
23 good juror?
24 PROSPECTIVE JUROR NO. 057: I think that I'm a
25 fair person and that I think things through, and I look at a

1 lot of different aspects.
2 MS. LUZAICH: Okay. Would you be able to wait
3 until you hear all the evidence before you make up your mind?
4 PROSPECTIVE JUROR NO. 057: Absolutely.
5 MS. LUZAICH: Listen carefully to everything
6 everybody says?
7 PROSPECTIVE JUROR NO. 057: Yes.
8 MS. LUZAICH: Do you have common sense?
9 PROSPECTIVE JUROR NO. 057: Yes.
10 MS. LUZAICH: And you'll bring it inside the
11 courtroom? You won't leave it outside because there's a flag
12 and a Judge in here?
13 PROSPECTIVE JUROR NO. 057: Yes.
14 MS. LUZAICH: Okay. In a criminal court, a jury
15 has to have a unanimous verdict for there to be a verdict. So
16 what happens if you go back in the deliberation room, and 11
17 people feel one way, it doesn't matter which way, but 11
18 people feel one way and you feel the other way. What are you
19 going to do?
20 PROSPECTIVE JUROR NO. 057: Well, I'm very true
21 to myself and I'm a strong person. So what I believe is what
22 I believe until you prove it to me otherwise.
23 MS. LUZAICH: Okay. So will you try and convince
24 the others of your point of view?
25 PROSPECTIVE JUROR NO. 057: I'll tell them why I

1 have my point of view.
2 MS. LUZAICH: Okay. Will you listen to what they
3 have to say, and be open to the fact that possibly you may
4 have either misheard something, or missed something?
5 PROSPECTIVE JUROR NO. 057: Of course.
6 MS. LUZAICH: And if that were the case, if they
7 were able to point to something that you either missed or
8 misheard, is it possible that you could change your mind?
9 PROSPECTIVE JUROR NO. 057: Yes.
10 MS. LUZAICH: But if you're sure, you know, you
11 didn't miss anything, you didn't mishear anything, you're sure
12 of your point of view, you going to hold your ground.
13 PROSPECTIVE JUROR NO. 057: Yes.
14 MS. LUZAICH: So it's Friday and it's 5 to 5:00
15 and it's 11 to 1. You won't change your mind just to go home?
16 PROSPECTIVE JUROR NO. 057: Absolutely not.
17 MS. LUZAICH: If you were me, on behalf of the
18 State of Nevada, would you want you as a juror?
19 PROSPECTIVE JUROR NO. 057: Yes.
20 MS. LUZAICH: Is there anything about you that
21 would prevent you from being able to sit in judgment of
22 someone?
23 PROSPECTIVE JUROR NO. 057: No.
24 MS. LUZAICH: So if you do sit as a juror, after
25 you hear all the testimony, see any evidence that's admitted,

1 PROSPECTIVE JUROR NO. 057: I actually don't
2 really have one way or the other.
3 PROSPECTIVE JUROR NO. 057: Do you think maybe
4 you'd feel differently if you were a young, black male and
5 you're looking on a sea of, you know, white and other faces
6 that are not black?
7 PROSPECTIVE JUROR NO. 057: Probably.
8 MR. ABOOD: Okay. And why do you feel that that
9 might concern you?
10 PROSPECTIVE JUROR NO. 057: Maybe he would want
11 somebody more -- I think that you're looking for peers like
12 yourself.
13 MR. ABOOD: Somebody that understands him?
14 PROSPECTIVE JUROR NO. 057: Yes.
15 MR. ABOOD: Somebody that's been through the same
16 kinds of things he has?
17 PROSPECTIVE JUROR NO. 057: Possibly.
18 MR. ABOOD: Someone that views the world through
19 his own upbringing, and the experiences he's had that might be
20 different from ours?
21 PROSPECTIVE JUROR NO. 057: Possibly, yes.
22 MR. ABOOD: And even though he's an American like
23 us, and grew up in our society like us, he has a specific
24 viewpoint that may be very different?
25 PROSPECTIVE JUROR NO. 057: Possibly.

1 MR. ABOOD: And you understand how recognizing
2 that, we may have to take extra -- maybe extra care in our
3 deliberation process, or in your deliberation process, to try
4 to understand where it is that the defendant, Justin Porter,
5 is coming from. Is that fair?
6 PROSPECTIVE JUROR NO. 057: Yes.
7 MR. ABOOD: Okay. The State asked you about
8 raising children. Did you say that you did have experience
9 with people who are 16, 17, 18 years old?
10 PROSPECTIVE JUROR NO. 057: Yes.
11 MR. ABOOD: Okay. They don't think like you and
12 I do; do they?
13 PROSPECTIVE JUROR NO. 057: No.
14 MR. ABOOD: Okay. Is there a certain growing up
15 process that people go through in that age that makes them
16 think about things differently and view things differently
17 than us adults?
18 PROSPECTIVE JUROR NO. 057: I would hope so.
19 MR. ABOOD: Have you seen that in your life?
20 PROSPECTIVE JUROR NO. 057: Yes.
21 MR. ABOOD: And do they kind of make decisions
22 differently than we do?
23 PROSPECTIVE JUROR NO. 057: Yes.
24 MR. ABOOD: And they do and say things
25 differently than we do?

1 PROSPECTIVE JUROR NO. 057: Yes.
2 MR. ABOOD: And you've seen that?
3 PROSPECTIVE JUROR NO. 057: Yes.
4 MR. ABOOD: Okay. Do you feel that -- do you
5 feel that based on your experience, you kind of have a better
6 understanding of how a 17-year-old may navigate through his
7 world as opposed to people our age? Or my age. I shouldn't
8 say our age. My guess is I'm a little bit older than you.
9 PROSPECTIVE JUROR NO. 057: For someone who -- if
10 someone didn't have children and gone through that, yes, I
11 would probably understand that better. Did I misunderstand
12 the question?
13 MR. ABOOD: No, I think it's my fault. Having
14 had the benefit of dealing with people that age, you kind of
15 have a better understanding?
16 PROSPECTIVE JUROR NO. 057: Yes.
17 MR. ABOOD: Okay. All right. And you'll
18 obviously bring that to your deliberations if you were on the
19 jury?
20 PROSPECTIVE JUROR NO. 057: Yes.
21 MR. ABOOD: Okay. We don't have any issues with
22 you concerning the State's burden in this case, the burden of
23 proof that they've got. We don't have any issues with the
24 fact that, hey, Curtis and I may decide that there's no good
25 reason for us to have Justin testify. Do you agree with that?

1 PROSPECTIVE JUROR NO. 057: Yes.
2 MR. ABOOD: And Justin doesn't have to prove his
3 innocence to you?
4 PROSPECTIVE JUROR NO. 057: No.
5 MR. ABOOD: Okay. Can you describe for me very
6 quickly the neighborhood that you grew up in, or the one that
7 you currently live in?
8 PROSPECTIVE JUROR NO. 057: It's Green Valley.
9 It's a family area, lot of families.
10 MR. ABOOD: Safe at night?
11 PROSPECTIVE JUROR NO. 057: I hope so.
12 MR. ABOOD: And so when you are out late at night
13 in your neighborhood, if you are, you don't feel any need to
14 have to protect yourself in anyway?
15 PROSPECTIVE JUROR NO. 057: Well, I grew up in
16 Vegas, so I probably think different, that I'm a girl, so I
17 would like to, if I go out late at night, I probably would
18 like someone to be with me.
19 MR. ABOOD: Um-hm. Having grown up in Vegas, you
20 recognize that we have different types of neighborhoods in
21 this town, some better than others?
22 PROSPECTIVE JUROR NO. 057: Yes.
23 MR. ABOOD: And you kind of have a sense of where
24 the good neighborhoods are and the ones that aren't so good?
25 PROSPECTIVE JUROR NO. 057: Yes.

1 MR. ABOOD: Okay. Is there anything that you
2 would like to tell us that the Judge hasn't asked you yet, or
3 that I haven't asked you, or the State?
4 PROSPECTIVE JUROR NO. 057: No.
5 MR. ABOOD: Okay. Would you like to be on the
6 jury?
7 PROSPECTIVE JUROR NO. 057: I think it would be
8 interesting.
9 MR. ABOOD: Okay. Thank you very much. Your
10 Honor, be happy to pass for cause.
11 THE COURT: Thank you. Ms. Grano?
12 PROSPECTIVE JUROR NO. 095: Grano.
13 THE COURT: Grano. How you doing today?
14 PROSPECTIVE JUROR NO. 095: Okay.
15 THE COURT: Okay? Good. You feeling all right
16 today?
17 PROSPECTIVE JUROR NO. 095: No. I have a pretty
18 bad headache.
19 THE COURT: Headache, okay. Well, we're going to
20 be getting out of here in just a few minutes, so you can get a
21 good night's sleep.
22 Is there any reason you couldn't be a completely
23 fair and impartial juror in this case?
24 PROSPECTIVE JUROR NO. 095: No.
25 THE COURT: Can you wait in forming your opinion

1 on the appropriate result until all the evidence is heard?
2 PROSPECTIVE JUROR NO. 095: Yes.
3 THE COURT: Have you or anyone close to you
4 worked in law enforcement?
5 PROSPECTIVE JUROR NO. 095: My father-in-law
6 does, but I'm not close to him and he's retired and --
7 THE COURT: Okay. Would that affect how you view
8 the testimony of law enforcement witnesses in this case?
9 PROSPECTIVE JUROR NO. 095: No.
10 THE COURT: Would you still listen to their
11 testimony and weigh their credibility like any other witness?
12 PROSPECTIVE JUROR NO. 095: Yes.
13 THE COURT: Have you or anyone close to you been
14 charged with a serious crime?
15 PROSPECTIVE JUROR NO. 095: No.
16 THE COURT: Have you or anyone close to you been
17 the victim of a serious crime?
18 PROSPECTIVE JUROR NO. 095: No.
19 THE COURT: Is there anything about the charges
20 in this case that would make it difficult for you to be fair
21 and impartial?
22 PROSPECTIVE JUROR NO. 095: No.
23 THE COURT: Can you base your verdict solely on
24 the evidence and the law that applies without fear of
25 criticism or popular opinion?

1 PROSPECTIVE JUROR NO. 095: Yes.
2 THE COURT: Have you ever served as a juror
3 before?
4 PROSPECTIVE JUROR NO. 095: No.
5 THE COURT: If you were a party to this case,
6 would you be comfortable with jurors of a like frame of mind
7 as yourself sitting in judgment?
8 PROSPECTIVE JUROR NO. 095: Yes.
9 THE COURT: Now, I'm sorry to hear that you're
10 having this headache today. Do you think that that's caused
11 by these proceedings in some way?
12 PROSPECTIVE JUROR NO. 095: I've been getting
13 headaches lately. I'm not really sure why.
14 THE COURT: Okay. Do you take any medicine for
15 it?
16 PROSPECTIVE JUROR NO. 095: It doesn't help.
17 THE COURT: Doesn't help. Does medicine that you
18 take make you drowsy or make it difficult to concentrate?
19 PROSPECTIVE JUROR NO. 095: No.
20 THE COURT: Okay. How old are you?
21 PROSPECTIVE JUROR NO. 095: Thirty-two.
22 THE COURT: And how long have you lived in Clark
23 County?
24 PROSPECTIVE JUROR NO. 095: Five years.
25 THE COURT: Where did you live before that?

1 PROSPECTIVE JUROR NO. 095: Lots of places. Most
2 recently, Chicago.
3 THE COURT: Okay. Are you employed?
4 PROSPECTIVE JUROR NO. 095: Yes.
5 THE COURT: What do you do?
6 PROSPECTIVE JUROR NO. 095: I'm a quality
7 assurance supervisor.
8 THE COURT: Where?
9 PROSPECTIVE JUROR NO. 095: With Beckle
10 (phonetic) at the airport.
11 THE COURT: Um-hm. Are you married?
12 PROSPECTIVE JUROR NO. 095: Yes.
13 THE COURT: Is your spouse employed?
14 PROSPECTIVE JUROR NO. 095: He is a full-time
15 student at CSN.
16 THE COURT: Great. Do you have any children?
17 PROSPECTIVE JUROR NO. 095: Yes, two.
18 THE COURT: How old?
19 PROSPECTIVE JUROR NO. 095: One will be two next
20 week and one's four months.
21 THE COURT: Okay. What's the highest level of
22 education you completed?
23 PROSPECTIVE JUROR NO. 095: Some graduate school
24 in Civil Engineering.
25 THE COURT: And is your undergrad degree in Civil

1 Engineering?

2 PROSPECTIVE JUROR NO. 095: Yes.

3 THE COURT: Okay. State.

4 MR. TOMSHECK: You mentioned that you've lived a

5 lot of places. Can I ask why?

6 PROSPECTIVE JUROR NO. 095: Just like to go

7 different places.

8 MR. TOMSHECK: Not like a military family or

9 anything?

10 PROSPECTIVE JUROR NO. 095: I stayed in the same

11 place till I graduated from high school, and then I moved a

12 lot.

13 MR. TOMSHECK: Okay. Prior to the five years you

14 lived in Clark County, you lived in Chicago?

15 PROSPECTIVE JUROR NO. 095: Yeah, I was in

16 Chicago for two years.

17 MR. TOMSHECK: Where at in Chicago?

18 PROSPECTIVE JUROR NO. 095: Downtown.

19 MR. TOMSHECK: In this trial, you may hear some

20 evidence or testimony about some police officers from Chicago.

21 Did you ever have any dealings with the Chicago police while

22 you were there?

23 PROSPECTIVE JUROR NO. 095: Well, my father-in-

24 law's a Chicago cop. Or was a Chicago cop. But I never had

25 any direct dealing with him.

1 MR. TOMSHECK: Anything about the time you spent
2 in Chicago, or having somebody in your family who was a police
3 officer in Chicago, anything about that that would bear on
4 your ability to be fair and impartial?
5 PROSPECTIVE JUROR NO. 095: I don't think so.
6 MR. TOMSHECK: The headaches that you talked
7 about that you're having, do they affect your ability to
8 concentrate at all?
9 PROSPECTIVE JUROR NO. 095: Yes.
10 MR. TOMSHECK: Okay. How so?
11 PROSPECTIVE JUROR NO. 095: They're really
12 intense. I don't know why I get them, so I can't do anything
13 about them.
14 MR. TOMSHECK: Have you been to a doctor?
15 PROSPECTIVE JUROR NO. 095: No, not yet.
16 MR. TOMSHECK: It's something that you were
17 having prior to coming in here and being in this room?
18 PROSPECTIVE JUROR NO. 095: I just got it this
19 afternoon and I think it might have been because I didn't eat
20 until 1:45. I have hyperglycemia and I'm breast feeding, so
21 physically I'm not doing too well.
22 MR. TOMSHECK: You have a little one at home?
23 PROSPECTIVE JUROR NO. 095: Yeah, I have two.
24 MR. TOMSHECK: How old is the youngest one?
25 PROSPECTIVE JUROR NO. 095: Four months. He'll

1 be four months tomorrow.
2 MR. TOMSHECK: Are you getting sleep?
3 PROSPECTIVE JUROR NO. 095: Not very much.
4 MR. TOMSHECK: I understand those physical
5 difficulties and the things you were talking about, the
6 headaches, would make it difficult. Let me just ask you, if
7 you are picked, will you do your best to pay attention as best
8 you can?
9 PROSPECTIVE JUROR NO. 095: Yes. I think it
10 would be interesting to be on the jury.
11 MR. TOMSHECK: Okay. Dealing with four lawyers
12 all afternoon probably makes the headache worse; right? That
13 I can understand.
14 When you first came in here and first sat down
15 way back earlier today when Ms. Luzaich got up and described
16 the charges in the case and she said the words murder and use
17 of a deadly weapon, how did that make you feel?
18 PROSPECTIVE JUROR NO. 095: I didn't really have
19 any particular feeling. And my job is -- all I do is look for
20 objective evidence and make conclusions and those kind of
21 things. So I'm used to just looking at things as whatever.
22 MR. TOMSHECK: So, with that kind of job, you
23 understand that that would be kind of similar to what you
24 would be doing if you were asked to be a juror?
25 PROSPECTIVE JUROR NO. 095: Yes.

1 MR. TOMSHECK: Would you try to do that for us?
2 PROSPECTIVE JUROR NO. 095: Yes.
3 MR. TOMSHECK: Okay. Appreciate your answers.
4 Pass for cause, Judge.
5 MR. ABOOD: Ma'am, I'm going to make a conscious
6 effort to keep my voice down. That's going to be extremely
7 difficult, but I don't want to make your circumstance any
8 worse.
9 THE COURT RECORDER: Not too down.
10 MR. ABOOD: And I didn't even know that's what my
11 voice sounded like when I wasn't yelling.
12 I'm a little concerned about the headache. My
13 guess is you are, too.
14 PROSPECTIVE JUROR NO. 095: Yeah.
15 MR. ABOOD: Do you think maybe that this is the
16 kind of thing where you might get a headache everyday that you
17 come in here?
18 PROSPECTIVE JUROR NO. 095: I haven't been
19 getting them everyday. Like maybe two days a week I've been
20 getting them.
21 MR. ABOOD: Couple days a week? Okay. So
22 today's your -- and I guess maybe you've got maybe one more
23 day of a headache, your best prediction?
24 PROSPECTIVE JUROR NO. 095: I guess so. Maybe.
25 MR. ABOOD: How do you feel about being in here

1 for the next week?

2 PROSPECTIVE JUROR NO. 095: Well, this morning I

3 thought it would be pretty interesting, then the headache came

4 on and I'm not sure. I'd be able to sleep in tomorrow, so

5 that will be good.

6 MR. ABOOD: Oh, I see. Yeah, that's going to be

7 helpful. I think you said that if you have to concentrate on

8 things that it makes it worse?

9 PROSPECTIVE JUROR NO. 095: I don't think I said

10 that.

11 MR. ABOOD: Well, where did I hear that from?

12 Oh, I think he asked you that; right? Tomsheck, Mr.

13 Tomsheck? Yeah, he might have asked you that. You know, it

14 sounds like you want to be on the jury, but you really can't

15 predict how this headache thing is going to work itself out in

16 the next week; is that fair?

17 PROSPECTIVE JUROR NO. 095: Yeah, that's fair.

18 MR. ABOOD: Okay. We're going to pack a bunch of

19 evidence in the next four or five days, four days maybe. Do

20 you think maybe based on this headache circumstance that you

21 have happening, that it might be better if you, maybe sat on a

22 different trial sometime in the future?

23 PROSPECTIVE JUROR NO. 095: I can't say. I mean,

24 if I get the headache, I'll be at work doing the same thing

25 with the headache, so, I don't know.

1 MR. ABOOD: So, I mean, you can hear, you can
2 listen to the State's evidence. And if you get a headache,
3 you'll let the bailiff know and he'll let the Judge know?
4 PROSPECTIVE JUROR NO. 095: Would everybody need
5 to know?
6 MR. ABOOD: Well, I think at least you should
7 tell the bailiff. I mean, you'd be able to do that; right?
8 THE MARSHAL: I'll be watching you.
9 PROSPECTIVE JUROR NO. 095: Oh, I guess so.
10 THE MARSHAL: (Inaudible).
11 MR. ABOOD: Okay. All right, good. Let me talk
12 to you about the photographs. And we brought this up a little
13 bit earlier. Do you remember what I said about the
14 photographs that the State's got?
15 PROSPECTIVE JUROR NO. 095: Yeah.
16 MR. ABOOD: Okay. And obviously it's a murder
17 case, pretty serious. And they've got photographs of this
18 gentleman who was shot to death. Now, obviously, they've got
19 a right to prove to you, an obligation to prove you, how this
20 thing happened, and part of the way they're going to do that
21 is by showing you evidence in the form of photographs of the
22 crime scene. So we've got a dead body, we've got blood all
23 over an apartment, things along those lines. And none of us
24 like to see that. We agree with that; right?
25 PROSPECTIVE JUROR NO. 095: Yeah.

1 MR. ABOOD: Are you going to be able to review
2 evidence like that?
3 PROSPECTIVE JUROR NO. 095: Yeah. Actually, when
4 you were talking about it earlier, I was thinking more along
5 the lines of the physics of the blood flying and stuff like
6 that. Not really being --
7 MR. ABOOD: So it's an analytical kind of thing.
8 PROSPECTIVE JUROR NO. 095: Yeah,
9 MR. ABOOD: Okay. Very good. And in evidence
10 like that, in photographs like that, even though they might be
11 unpleasant, they might actually be helpful to Curtis Brown and
12 Justin Porter also; is that right?
13 PROSPECTIVE JUROR NO. 095: Yeah.
14 MR. ABOOD: Okay. Do you expect anything from me
15 and Mr. Brown in terms of the defense of our client?
16 PROSPECTIVE JUROR NO. 095: I don't think so.
17 MR. ABOOD: And you know the State's going to do
18 the best they can to prosecute this case. Obviously you
19 expect us to do the best we can to defend this case; is that
20 right?
21 PROSPECTIVE JUROR NO. 095: Yeah, I would expect
22 it.
23 MR. ABOOD: Okay. And that's something that
24 leads to objections sometimes. And sometimes we got to come
25 up here and talk to the Judge without you guys listening and

1 stuff. Is that all okay with you, too?
2 PROSPECTIVE JUROR NO. 095: Yeah, except for
3 sometimes I can hear what you're saying up there.
4 MR. ABOOD: All right. Appreciate your letting
5 us know.
6 THE COURT: Uh-huh.
7 MR. ABOOD: So we'll have to be careful about
8 that as well. Ma'am, thank you very much for answering my
9 questions.
10 MR. BROWN: Hey, Joe?
11 MR. ABOOD: Hold on just one second, Judge, I'm
12 sorry.
13 MR. BROWN: (Inaudible).
14 MR. ABOOD: What her job is?
15 MR. BROWN: Yeah, I just missed it.
16 MR. ABOOD: What's your job?
17 PROSPECTIVE JUROR NO. 095: A quality assurance
18 supervisor. I actually have a degree in structural
19 engineering, but what I do now is -- well, lately I go to
20 contractors and make sure they have a quality system that
21 meets their requirements.
22 MR. ABOOD: She said quality something.
23 PROSPECTIVE JUROR NO. 095: Quality assurance --
24 MR. ABOOD: And your spouse's employment?
25 PROSPECTIVE JUROR NO. 095: I ask people

1 questions, I get objective evidence, and I write down what the
2 evidence is and write a report about it.
3 MR. ABOOD: You got that? Are you alright with
4 that?
5 PROSPECTIVE JUROR NO. 095: Kind of boring.
6 MR. ABOOD: Oh, it's kind of boring? What about
7 your spouse?
8 PROSPECTIVE JUROR NO. 095: He's a full-time
9 student at CSN in the physical therapy assistant program.
10 MR. ABOOD: That's right. Okay, and you can't
11 talk to your spouse about any of this.
12 PROSPECTIVE JUROR NO. 095: Yeah.
13 MR. ABOOD: Okay. Thank you very much. Your
14 Honor, I'll pass for cause.
15 THE COURT: Thank you. Mr. Berkner, how are you?
16 PROSPECTIVE JUROR NO. 059: Good.
17 THE COURT: Is there any reason you could not be
18 complete fair and impartial in this case?
19 PROSPECTIVE JUROR NO. 059: No reason.
20 THE COURT: Can you wait in forming your opinion
21 on the appropriate result until all the evidence has been
22 heard?
23 PROSPECTIVE JUROR NO. 059: Yes.
24 THE COURT: Have you or anyone close to you
25 worked in law enforcement?

1 PROSPECTIVE JUROR NO. 059: No.
2 THE COURT: Have you or anyone close to you been
3 charged with a serious crime?
4 PROSPECTIVE JUROR NO. 059: A lot of my employees
5 have been charged with serious crimes.
6 THE COURT: Okay.
7 PROSPECTIVE JUROR NO. 059: And one was killed.
8 THE COURT: One of your employees was killed?
9 PROSPECTIVE JUROR NO. 059: Yes, off site.
10 THE COURT: Not related to work?
11 PROSPECTIVE JUROR NO. 059: Not at work, but
12 still somebody --
13 THE COURT: Where do you work?
14 PROSPECTIVE JUROR NO. 059: Hudson News at the
15 airport. I'm the regional manager who run the gift shops
16 across several airports.
17 THE COURT: Right. Okay. And those that have
18 been charged with crimes, has that been related to work?
19 PROSPECTIVE JUROR NO. 059: Oh, related to work.
20 Mostly theft, some of them petty, some of them embezzlement.
21 THE COURT: Right.
22 PROSPECTIVE JUROR NO. 059: Depending on the
23 level of theft.
24 THE COURT: Okay. And that's in Metro's
25 jurisdiction?

1 PROSPECTIVE JUROR NO. 059: Yes. In this town
2 it's Metro, but I have airports across the nation, so.
3 THE COURT: Oh, I see. All right. And so do you
4 have any strong feelings one way or the other about Metro
5 officers or prosecutors here in Clark County?
6 PROSPECTIVE JUROR NO. 059: No feelings either
7 way, so.
8 THE COURT: Okay. You'd still be able to be fair
9 and impartial in weighing the testimony of the officers who
10 will come in here?
11 PROSPECTIVE JUROR NO. 059: Impartial. Every
12 case is separate. It's up to them to prove it.
13 THE COURT: Okay. And the employee that was the
14 victim of a crime, any -- was that someone you were close with
15 at all?
16 PROSPECTIVE JUROR NO. 059: It's not -- someone
17 close at work, yes.
18 THE COURT: I see.
19 PROSPECTIVE JUROR NO. 059: But she was killed at
20 home, so it's not work related.
21 THE COURT: Right. Now the fact that you were
22 close to someone at work who ended up being killed, do you
23 think that you're going to have a tendency to be thinking
24 about that situation in this case proceedings?
25 PROSPECTIVE JUROR NO. 059: No, no. That was a

1 couple years ago. That's not -- we weren't that close, but --
2 THE COURT: Okay. It's not still emotional --
3 PROSPECTIVE JUROR NO. 059: -- just someone I
4 knew of.
5 THE COURT: -- for you?
6 PROSPECTIVE JUROR NO. 059: It's not emotional.
7 THE COURT: Okay.
8 PROSPECTIVE JUROR NO. 059: Just was someone that
9 we lost in the work family that was (inaudible), so.
10 THE COURT: And you think that you can put that
11 aside and listen to the evidence in this case?
12 PROSPECTIVE JUROR NO. 059: Definitely,
13 definitely.
14 THE COURT: Okay. Anyone else that either you or
15 anyone else close to you who's been the victim of a serious
16 crime?
17 PROSPECTIVE JUROR NO. 059: No.
18 THE COURT: Is there anything about the charges
19 in this case that would make it difficult for you to be fair
20 and impartial?
21 PROSPECTIVE JUROR NO. 059: No.
22 THE COURT: Can you base your verdict solely on
23 the evidence and the law that applies without fear of
24 criticism or popular opinion?
25 PROSPECTIVE JUROR NO. 059: Yes.

1 THE COURT: Have you ever served as a juror
2 before?
3 PROSPECTIVE JUROR NO. 059: No.
4 THE COURT: If you were a party to this case,
5 would you be comfortable with jurors of a like frame of mind
6 as yourself sitting in judgment?
7 PROSPECTIVE JUROR NO. 059: Yes.
8 THE COURT: How old are you?
9 PROSPECTIVE JUROR NO. 059: Forty-seven.
10 THE COURT: And how long have you lived here?
11 PROSPECTIVE JUROR NO. 059: Three years.
12 THE COURT: Okay. And you've told me about your
13 employment. Are you the manager there?
14 PROSPECTIVE JUROR NO. 059: Actually regional
15 manager.
16 THE COURT: Regional manager.
17 PROSPECTIVE JUROR NO. 059: I've got six
18 airports.
19 THE COURT: Wow, okay. But based here in Vegas.
20 PROSPECTIVE JUROR NO. 059: Based here in Vegas,
21 yes.
22 THE COURT: Are you married?
23 PROSPECTIVE JUROR NO. 059: Yes.
24 THE COURT: Is your spouse employed?
25 PROSPECTIVE JUROR NO. 059: No.

1 THE COURT: Do you have any children?
2 PROSPECTIVE JUROR NO. 059: No.
3 THE COURT: What's the highest level of education
4 you completed?
5 PROSPECTIVE JUROR NO. 059: College graduate.
6 THE COURT: What was your degree in?
7 PROSPECTIVE JUROR NO. 059: Biology and
8 chemistry.
9 THE COURT: Okay. State.
10 MS. LUZAICH: A degree in biology and chemistry
11 and you run the stores?
12 PROSPECTIVE JUROR NO. 059: Yes. Got into retail
13 at the very beginning and just kind of stayed there.
14 MS. LUZAICH: Okay. There could, will, one never
15 knows, be some scientific evidence coming in during the course
16 of the trial. Now, do you think that you're going to sit
17 there and kind of second guess the people that come in and
18 testify?
19 PROSPECTIVE JUROR NO. 059: No, just take the
20 evidence as you present it. It's not like it's been, you
21 know, ten years since college (inaudible).
22 MS. LUZAICH: That was my next question. Ten
23 years since your degree? Or since your last classes, I guess?
24 PROSPECTIVE JUROR NO. 059: Fourteen years, yeah.
25 MS. LUZAICH: A long time, okay. So you think

1 science has changed a little since you got your degree?
2 PROSPECTIVE JUROR NO. 059: It's changed a little
3 bit, yeah.
4 MS. LUZAICH: Okay. You're a logical person?
5 Pretty --
6 PROSPECTIVE JUROR NO. 059: Very analytical, very
7 logical, look at the numbers and the evidence (inaudible).
8 MS. LUZAICH: Okay.
9 PROSPECTIVE JUROR NO. 059: (Inaudible).
10 MS. LUZAICH: Are you somebody who will then be
11 able to wait until you hear everything before making up your
12 mind?
13 PROSPECTIVE JUROR NO. 059: Definitely.
14 MS. LUZAICH: Okay. Have any opinion one way or
15 another about police?
16 PROSPECTIVE JUROR NO. 059: No. No, either way.
17 I run across great officers in the course of work, and I've
18 run across ones that are not culpable whatsoever, so. It's
19 like every other group of people, you get good ones and bad
20 ones.
21 MS. LUZAICH: Okay. And you won't treat police
22 officers different as far as evaluating their testimony than
23 anybody else?
24 PROSPECTIVE JUROR NO. 059: No. It's whatever
25 they present.

1 MS. LUZAICH: Having heard some questions that
2 have been asked again and again and again, is there anything
3 that you are dying to answer?
4 PROSPECTIVE JUROR NO. 059: No.
5 MS. LUZAICH: Knowing what you know about
6 yourself, is there any reason that you could not sit in
7 judgment of someone?
8 PROSPECTIVE JUROR NO. 059: No reason.
9 MS. LUZAICH: And if you were to sit as a juror
10 and you heard all the testimony and you saw all the evidence
11 that was admitted, if you were convinced beyond a reasonable
12 doubt the defendant committed the crimes as charged with,
13 would you be able to say the word guilty?
14 PROSPECTIVE JUROR NO. 059: Yes.
15 MS. LUZAICH: Thank you. Pass for cause.
16 MR. BROWN: Mr. Berkner, I got a biology and
17 chemistry degree and couldn't figure out what to do with it
18 either. I think they all went to CSI school. We'll find that
19 out.
20 I do have a couple of questions. I know you
21 weren't dying to answer any of the ones that were previously
22 asked, but I'm going to ask them just the same. And these
23 will sound familiar, but I'd like hear some of your answers as
24 well. And so somebody who's close to you, your wife, family,
25 friends, how would they describe you to me?

1 PROSPECTIVE JUROR NO. 059: Honest and
2 analytical.
3 MR. BROWN: Okay. And how would you describe
4 yourself?
5 PROSPECTIVE JUROR NO. 059: The same.
6 MR. BROWN: Anything else you would add? I mean,
7 you know, honest and analytical, that gives me a little
8 picture.
9 PROSPECTIVE JUROR NO. 059: Probably an
10 introvert, you know, not --
11 MR. BROWN: Kind of goes with the analytical
12 part, probably, huh.
13 PROSPECTIVE JUROR NO. 059: (Inaudible).
14 MR. BROWN: What is it exactly that your job
15 entails, that you do?
16 PROSPECTIVE JUROR NO. 059: Supervise the -- each
17 location in each airport has a general manager. And I'm some
18 of their immediate supervisor. So we (inaudible) inventory,
19 shrinkage, sales, and look at the sales numbers for trends in
20 either direction, so.
21 MR. BROWN: Okay.
22 PROSPECTIVE JUROR NO. 059: Selling more -- like
23 in this economy, what's selling more, what's selling less.
24 MR. BROWN: What is being sold in the store in
25 particular. Is it just a general store?

1 PROSPECTIVE JUROR NO. 059: It's -- we have,
2 actually, several concepts, but mostly newspapers, magazines,
3 T-shirts, sunglasses, food items. We also have other special
4 stores like Crabtree & Evelyn, kid's toys, (inaudible).
5 MR. BROWN: So you're responsible for the $8
6 snack even before I get on that plane.
7 PROSPECTIVE JUROR NO. 059: Yep.
8 MR. BROWN: All right. Now I know where to go.
9 PROSPECTIVE JUROR NO. 059: $3 water --
10 MR. BROWN: Three, where do you get $3 water?
11 PROSPECTIVE JUROR NO. 059: 2.49.
12 MR. BROWN: All right. I don't believe that,
13 Judge. I think it's $4 at least. Okay.
14 PROSPECTIVE JUROR NO. 059: (Inaudible).
15 MR. BROWN: Well, you do represent well, I'll
16 tell you that. Okay. Thinker or feeler? Obviously, I'm
17 going to go with thinker. Leader, follower?
18 PROSPECTIVE JUROR NO. 059: Leader.
19 MR. BROWN: And that's -- it's in most aspects of
20 your life?
21 PROSPECTIVE JUROR NO. 059: Most aspects, yeah.
22 MR. BROWN: Okay.
23 PROSPECTIVE JUROR NO. 059: Except for when
24 you're married.
25 MR. BROWN: That's a great answer. We can send

1 this transcript home with you. Mr. Fernandez was a little
2 uncomfortable and we talked earlier about, you know, having
3 somebody's life or future. How do you feel about sitting in
4 judgment of another person and the importance of what you have
5 to do?
6 PROSPECTIVE JUROR NO. 059: It's pretty much
7 important. The prosecution's going to have to prove without a
8 doubt in my mind for me to put somebody in prison for the rest
9 of their life, or whatever the sentence comes out to be. But
10 there can't be no circumstantial evidence. It's going to have
11 to be, you know, hard evidence that I can say, you know,
12 definitely.
13 MR. BROWN: Now, at the same time, you know, the
14 Judge is going to instruct you on the areas of law and you
15 know what they're going to help you with. They're going to
16 help you with things like what reasonable doubt is. You say
17 without a doubt. The standard's reasonable doubt. And you'll
18 operate within that, I assume. And then we're going to give
19 you instructions on all kinds of evidence, you know, direct
20 evidence, circumstantial evidence. And they'll enlighten you
21 as to what those things mean, and the weight you can give to
22 each of them. And so you'll have those boundaries to work
23 with.
24 But you feel comfortable in knowing that the
25 importance of the situation, you will hold these prosecutors

1 to the burden that they're responsible, before you, you just
2 start saying guilty of anything?
3 PROSPECTIVE JUROR NO. 059: No, they have to
4 prove it.
5 MR. BROWN: Okay. Now, that brings me to the
6 topic that we touched on and, you know, we hit hot spots every
7 now and then. We don't hit every juror with all of these, but
8 you know, they're thinking about them. And that's race.
9 Because, you know, that -- in just mentioning what I was just
10 saying, how does race and the criminal justice system go
11 together when I say that to you?
12 PROSPECTIVE JUROR NO. 059: It doesn't matter
13 what race. It's whoever committed the crime.
14 MR. BROWN: Do you see -- I mean, are you of the
15 opinion that, you know, the criminal justice system, every
16 time you turn on the news, there's more of one race than
17 another that seems to be getting into any trouble.
18 PROSPECTIVE JUROR NO. 059: (Inaudible).
19 MR. BROWN: Is that something that you think
20 about?
21 PROSPECTIVE JUROR NO. 059: I mean, I don't think
22 about it. I mean, you can pull statistics on it, but I don't
23 worry about it. Even in the -- in my job, we catch all
24 different races, tall, short, young, old, that are stealing.
25 It doesn't matter, so it's all across the board.

1 MR. BROWN: How do you feel about the saying,
2 accused or criminals, you know, the accused have too many
3 rights? Have you heard that before?
4 PROSPECTIVE JUROR NO. 059: I've heard that,
5 yeah.
6 MR. BROWN: What do you think when I say that?
7 Just -- did you say no?
8 PROSPECTIVE JUROR NO. 059: No, no.
9 MR. BROWN: Okay.
10 PROSPECTIVE JUROR NO. 059: (Inaudible)
11 MR. BROWN: You know, that's something that you
12 hear every now and then and I just kind of wonder what people
13 think when they hear that. How about --
14 PROSPECTIVE JUROR NO. 059: They're accused, but
15 they're not guilty.
16 MR. BROWN: Would you consider yourself a
17 competitive person?
18 PROSPECTIVE JUROR NO. 059: Yes.
19 MR. BROWN: Okay. Is there anything about you
20 that would -- that I should ask you? What's the question that
21 I should ask you, that you know you're sitting there either
22 saying I hope you don't ask, or I hope he does ask. Is there
23 a question I should be asking you that you can think of?
24 PROSPECTIVE JUROR NO. 059: The only question you
25 haven't asked is the background, where I grew up and school

1 and stuff. And it was a very white community.
2 MR. BROWN: Okay. But you --
3 PROSPECTIVE JUROR NO. 059: My job has taught me
4 diversity, but because I had 20 years in Missouri, a very
5 small towns, and --
6 MR. BROWN: You didn't have a whole lot of
7 culture diversity?
8 PROSPECTIVE JUROR NO. 059: Yeah, almost zero.
9 MR. BROWN: But if I understood you right, that
10 doesn't affect you in your views on minorities and crime one
11 way or another?
12 PROSPECTIVE JUROR NO. 059: No, my wife is
13 Filipino.
14 MR. BROWN: How about where you're living now?
15 What region of town, what area?
16 PROSPECTIVE JUROR NO. 059: Southwest of town.
17 MR. BROWN: A gated type of community?
18 PROSPECTIVE JUROR NO. 059: Gated community, yes.
19 MR. BROWN: So you'd feel very comfortable just
20 out on the street?
21 PROSPECTIVE JUROR NO. 059: Yeah (inaudible).
22 MR. BROWN: Walking the dog, or whatever. Okay.
23 Judge, I don't have any other questions for Mr. Berkner.
24 THE COURT: Pass for cause?
25 MR. BROWN: Yes, Your Honor, I'll pass for cause.

1 THE COURT: All right. Ladies and Gentlemen,
2 obviously we're not going to finish this process today. So
3 we're going to need you folks to come back tomorrow morning to
4 go ahead and finish. I'm going to -- first, let me go back.
5 Mr. Anderson, Juror 096.
6 PROSPECTIVE JUROR NO. 096: Yes.
7 THE COURT: On consideration, and counsel and I
8 have talked about it, we are going to go ahead and excuse you.
9 So you will not be required to come back tomorrow morning.
10 But I do appreciate your time here today.
11 PROSPECTIVE JUROR NO. 096: Okay.
12 THE COURT: We'll just fill it in the morning,
13 okay?. We'll just fill this spot in the morning.
14 The rest of you, I do need you to be back. I
15 want you to meet outside the courtroom where Anthony will meet
16 you out there at 9:45 in the morning. All right? We're going
17 to get started and do the best we can to get the jury
18 selection done and move on with the substance of the trial at
19 that time.
20 Now, again, during this process, you know, there
21 may be an employer or your spouse saying, well, what are you
22 doing and what's going on. You're not going to talk to them
23 about the case. You're going to say you're in the middle of
24 jury selection on a criminal case, period. That's all you can
25 say to anyone about this case. All right?

1 Now, so, along those lines, you are admonished
2 not to talk or converse among yourselves or with anyone else
3 on any subject connected with this trial; or to read, watch or
4 listen to any report of or commentary on the trial, or any
5 person connected with this trial by any medium of information
6 including, without limitation, newspapers, television, the
7 internet and radio; or to form or express any opinion on any
8 subject connected with this trial until the case is finally
9 submitted to you. Have a good night.
10 (Court recessed at 5:08 p.m., until Tuesday,
11 May 5, 2009, at 10:00 a.m.)
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CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

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1-25-10
DATE

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUSTIN JUG CAPRI PORTER, Appellant, vs. THE STATE OF NEVADA, Respondent.	))))))))))	No. 54866

APPELLANT'S APPENDIX – VOLUME VIII – PAGES 1635a - 1862

PHILIP J. KOHN
Clark County Public Defender
309 South Third Street
Las Vegas, Nevada 89155-2610

Attorney for Appellant

DAVID ROGER
Clark County District Attorney
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155

CATHERINE CORTEZ MASTO
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(702) 687-3538
Counsel for Respondent

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 19th day of April, 2010. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

CATHERINE CORTEZ MASTO
STEVEN S. OWENS

HOWARD S. BROOKS
PHILIP JAY KOHN

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

JUSTIN JUG CAPRI PORTER
c/o High Desert State Prison
P.O. Box 650
Indian Springs, NV 89018

BY _____
Employee, Clark County Public Defender's Office

THE COURT: Have you or anyone close to you worked in law enforcement?

PROSPECTIVE JUROR NO. 050: My roommate's father is a retired Metro officer.

THE COURT: All right. Have you ever talked to him about, you know, his day-to-day job duties?

PROSPECTIVE JUROR NO. 050: No.

THE COURT: Okay. The fact that your roommate's father is a Metro officer, would that affect your ability to fair and impartial in this case?

PROSPECTIVE JUROR NO. 050: No.

THE COURT: Do you think you would tend to give greater weight to testimony of Metro officers than you would other people because of that relationship?

PROSPECTIVE JUROR NO. 050: No.

THE COURT: Have you or anyone close to you been charged with a serious crime?

PROSPECTIVE JUROR NO. 050: My younger brother's been arrested for a DUI.

THE COURT: Okay. How long ago was that?

PROSPECTIVE JUROR NO. 050: I think two or three years ago.

THE COURT: Was that here in Clark County?

PROSPECTIVE JUROR NO. 050: Yes.

THE COURT: So was it Metro officers that had

1 picked him up?
2 PROSPECTIVE JUROR NO. 050: I think it was
3 Henderson.
4 THE COURT: It was Henderson? And do you know if
5 the Clark County District Attorney's office was involved in
6 that at all?
7 PROSPECTIVE JUROR NO. 050: No, I don't know.
8 THE COURT: Okay. Would the fact that that
9 occurred, that he was charged with that particular crime at
10 that time, would that affect your ability to be fair and
11 impartial in this case?
12 PROSPECTIVE JUROR NO. 050: Not at all.
13 THE COURT: You're not mad at Metro or the
14 prosecutors and going to take it out on them in this case?
15 PROSPECTIVE JUROR NO. 050: No.
16 THE COURT: Okay. And you're not going to tend
17 to favor a defendant because your brother was a defendant?
18 PROSPECTIVE JUROR NO. 050: No. We're not very
19 close, so.
20 THE COURT: Okay. I just have to make sure. You
21 know, someone may know someone who was charged, and they think
22 it was all wrong and shouldn't have happened and they're going
23 to make it right in this case. You understand why I have to
24 ask.
25 PROSPECTIVE JUROR NO. 050: Yes, ma'am.

1 THE COURT: Have you or anyone close to you been
2 the victim of a serious crime?
3 PROSPECTIVE JUROR NO. 050: No.
4 THE COURT: Is there anything about the charges
5 in this case that would make it difficult for you to be fair
6 and impartial?
7 PROSPECTIVE JUROR NO. 050: No.
8 THE COURT: Can you base your verdict solely on
9 the evidence that's brought out at the trial, and the law that
10 applies as stated in my instructions without fear of criticism
11 or popular opinion?
12 PROSPECTIVE JUROR NO. 050: Yes.
13 THE COURT: Have you ever served as a juror
14 before?
15 PROSPECTIVE JUROR NO. 050: No.
16 THE COURT: If you were a party to this case,
17 would you be comfortable with jurors of a like frame of mind
18 as yourself sitting in judgment?
19 PROSPECTIVE JUROR NO. 050: Yes.
20 THE COURT: How old are you, sir?
21 PROSPECTIVE JUROR NO. 050: I'm 44.
22 THE COURT: And how long have you lived here in
23 Clark County?
24 PROSPECTIVE JUROR NO. 050: I was born and raised
25 here.

1 THE COURT: Okay. Are you employed?
2 PROSPECTIVE JUROR NO. 050: Yes.
3 THE COURT: What do you do?
4 PROSPECTIVE JUROR NO. 050: I work for IGT,
5 International Game Technology as a requirements manager.
6 THE COURT: Still working there?
7 PROSPECTIVE JUROR NO. 050: Yes.
8 THE COURT: Okay. That's good. Are you married?
9 PROSPECTIVE JUROR NO. 050: No.
10 THE COURT: Do you have any children?
11 PROSPECTIVE JUROR NO. 050: No.
12 THE COURT: What's the highest level of education
13 you completed?
14 PROSPECTIVE JUROR NO. 050: A Bachelor's from
15 UNLV.
16 THE COURT: Pardon?
17 PROSPECTIVE JUROR NO. 050: A Bachelor's degree
18 from UNLV.
19 THE COURT: From UNLV, okay. All right, State?
20 MS. LUZAICH: Good afternoon, Mr. Tyrrell. How
21 you doing?
22 PROSPECTIVE JUROR NO. 050: Good.
23 MS. LUZAICH: You had mentioned that your
24 roommate's dad is retired Metro. Who's your roommate's dad?
25 PROSPECTIVE JUROR NO. 050: His name is Dan

1 THE COURT: Okay. Are you employed?
2 PROSPECTIVE JUROR NO. 050: Yes.
3 THE COURT: What do you do?
4 PROSPECTIVE JUROR NO. 050: I work for IGT,
5 International Game Technology as a requirements manager.
6 THE COURT: Still working there?
7 PROSPECTIVE JUROR NO. 050: Yes.
8 THE COURT: Okay. That's good. Are you married?
9 PROSPECTIVE JUROR NO. 050: No.
10 THE COURT: Do you have any children?
11 PROSPECTIVE JUROR NO. 050: No.
12 THE COURT: What's the highest level of education
13 you completed?
14 PROSPECTIVE JUROR NO. 050: A Bachelor's from
15 UNLV.
16 THE COURT: Pardon?
17 PROSPECTIVE JUROR NO. 050: A Bachelor's degree
18 from UNLV.
19 THE COURT: From UNLV, okay. All right, State?
20 MS. LUZAICH: Good afternoon, Mr. Tyrrell. How
21 you doing?
22 PROSPECTIVE JUROR NO. 050: Good.
23 MS. LUZAICH: You had mentioned that your
24 roommate's dad is retired Metro. Who's your roommate's dad?
25 PROSPECTIVE JUROR NO. 050: His name is Dan

1 Connell (phonetic) and I think he actually retired from their
2 Crime Scene Investigations Unit.
3 MS. LUZAICH: Okay. And are you close with your
4 roommate's dad?
5 PROSPECTIVE JUROR NO. 050: No, I see him every
6 once in a while for barbeques and things like that, but.
7 MS. LUZAICH: When you would see him, would you
8 sit down and talk about what he does?
9 PROSPECTIVE JUROR NO. 050: The only think he's
10 ever talked about is, he was with the Crime Scene fellows for
11 the MGM fire.
12 MS. LUZAICH: Okay. So as a crime scene analyst,
13 he didn't really come home with a bunch of stories for you
14 guys and stuff?
15 PROSPECTIVE JUROR NO. 050: No.
16 MS. LUZAICH: Do you watch CSI on TV?
17 PROSPECTIVE JUROR NO. 050: No, he hates that
18 show.
19 MS. LUZAICH: Does he hate it because it's
20 totally fake?
21 PROSPECTIVE JUROR NO. 050: Pretty much.
22 MS. LUZAICH: Okay. So you're not expecting any
23 of those crazy things that you see on TV to come out in court;
24 are you?
25 PROSPECTIVE JUROR NO. 050: No.

1 MS. LUZAICH: You would agree that it's all fake?
2 PROSPECTIVE JUROR NO. 050: Pretty much, yes.
3 MS. LUZAICH: Thank you. Other than him, you
4 don't know anybody involved in law enforcement?
5 PROSPECTIVE JUROR NO. 050: No.
6 MS. LUZAICH: So you don't have any opinion as to
7 police one way or another?
8 PROSPECTIVE JUROR NO. 050: No. Other than it's
9 a job I wouldn't want to do.
10 MS. LUZAICH: Why is that?
11 PROSPECTIVE JUROR NO. 050: It's just a very
12 rough job.
13 MS. LUZAICH: That's true. About yourself, you
14 work for IGT as, did you say, a requirements manager?
15 PROSPECTIVE JUROR NO. 050: Yes.
16 MS. LUZAICH: What does a requirements manager
17 do?
18 PROSPECTIVE JUROR NO. 050: We document from
19 customers, what they want, the particular gaming software,
20 what functions they want it to, and then we write those up
21 into use cases for the engineers to write the programs.
22 MS. LUZAICH: Okay, you're kind of a technical
23 person?
24 PROSPECTIVE JUROR NO. 050: Yes.
25 MS. LUZAICH: Would you consider yourself to be a

1 person with common sense?
2 PROSPECTIVE JUROR NO. 050: Yes.
3 MS. LUZAICH: Would you use it here in the
4 courtroom? You won't leave it outside just because there's a
5 Judge and a flag?
6 PROSPECTIVE JUROR NO. 050: Yes.
7 MS. LUZAICH: Knowing what you know about
8 yourself, is there any reason that you could not sit in
9 judgment of someone?
10 PROSPECTIVE JUROR NO. 050: No.
11 MS. LUZAICH: So if you sit as a juror in this
12 case and you listen to all the testimony and you see all the
13 evidence, if you were convinced beyond a reasonable doubt the
14 defendant committed the crimes he's charged with, would you be
15 able to say the word "guilty"?
16 PROSPECTIVE JUROR NO. 050: Yes.
17 MS. LUZAICH: Thank you. Pass for cause.
18 THE COURT: Defense?
19 MR. ABOOD: Mr. Tyrrell, likewise, obviously, if
20 you weren't satisfied that the State proved what they have
21 charged Mr. Porter with, beyond a reasonable doubt, would you
22 be able to say "not guilty"?
23 PROSPECTIVE JUROR NO. 050: Sure, yes.
24 MR. ABOOD: Okay. Now, you know, the reason we
25 ask all these questions, we're trying to get as fair a jury as

1 we can for both the prosecutors and for our client, Justin
2 Porter. I'm sure you understand that. And we all feel that
3 we can be fair. I mean, if you ask me, can I be fair, my
4 attitude is, yeah, I think I can be fair.
5 As you sit here today and you see Mr. Porter,
6 he's presumed innocent, and he's got a cloak of innocence
7 around him. Is there anything about what he's charged with,
8 or is there anything that you see from looking at him that
9 causes you any concern about a trial like this at all?
10 PROSPECTIVE JUROR NO. 050: No.
11 MR. ABOOD: Okay. You know, it can be an
12 uncomfortable topic, but I don't think it has to be. I want
13 to raise this issue of race with you. I don't know whether
14 you've noticed, but Justin's a black guy.
15 PROSPECTIVE JUROR NO. 050: I noticed.
16 MR. ABOOD: Okay. Is there -- have you had any
17 experiences in your life, or were you raised in a certain way,
18 you know, maybe with primarily white folks or something like
19 that, that causes you to have any feeling one way or the other
20 that you might not really, for example, understand Justin, or
21 his, you know, the way he lives or anything like that?
22 PROSPECTIVE JUROR NO. 050: No.
23 MR. ABOOD: Okay. Did you grow up with black
24 folks?
25 PROSPECTIVE JUROR NO. 050: Not in the house, but

1 you know, I went school with many black friends.
2 MR. ABOOD: You didn't have like black sisters
3 and brothers?
4 PROSPECTIVE JUROR NO. 050: No.
5 MR. ABOOD: No? No, obviously, what I mean is
6 did you go to school with black people?
7 PROSPECTIVE JUROR NO. 050: Yes.
8 MR. ABOOD: Did you have friendships with young
9 black guys or young black girls?
10 PROSPECTIVE JUROR NO. 050: Yes.
11 MR. ABOOD: Okay. Were you of these kind of sans
12 socio-economic status, if that's fair for me to say, as the
13 young black folks that you grew up with?
14 PROSPECTIVE JUROR NO. 050: I would say so, yes.
15 MR. ABOOD: Okay. Did you see any differences,
16 for example, in the way you were raised, than the way the
17 young black folks that you grew up with were being raised?
18 PROSPECTIVE JUROR NO. 050: Differences in what
19 way?
20 MR. ABOOD: Oh, I don't know. Did they share,
21 like, the same values that you did, things along those lines?
22 PROSPECTIVE JUROR NO. 050: I would say so, yes.
23 Yes.
24 MR. ABOOD: So -- and again, I don't think this
25 has to be an uncomfortable topic, but I think what I'm trying

1 to get at is, even in the back of your mind, you don't think
2 to yourself that, oh, you know, we got another young black guy
3 with a gun or something like that? But do you have any kind
4 of concern like that?
5 PROSPECTIVE JUROR NO. 050: No.
6 MR. ABOOD: Okay. So Justin can count on you
7 being as fair to him as you would expect him to be to you, if
8 you were sitting where he is?
9 PROSPECTIVE JUROR NO. 050: Correct.
10 MR. ABOOD: Okay. Very good. Race is not going
11 to be a problem with you?
12 PROSPECTIVE JUROR NO. 050: No.
13 MR. ABOOD: Okay. You heard the Judge tell you
14 that the State's obviously got to prove this case beyond a
15 reasonable doubt. I want to ask you a couple of questions to
16 clear that up real quick.
17 You know, Curtis and I can sit here quietly for
18 the next week and not ask any witness any question. Would you
19 be comfortable with that?
20 PROSPECTIVE JUROR NO. 050: Yes.
21 MR. ABOOD: All right. And the reason, of
22 course, is that we don't carry any burden. It's the State
23 that has the burden here. Does that make sense to you?
24 PROSPECTIVE JUROR NO. 050: Yes, it does.
25 MR. ABOOD: Okay. Now, obviously, we represent

1 Justin, and it's our hope that we can show that he's not
2 guilty, but we don't have to give you any evidence to show you
3 he's not guilty. You understand that?
4 PROSPECTIVE JUROR NO. 050: Okay.
5 MR. ABOOD: Well, let me -- let me clear that up
6 for you a little bit because it can be a little bit confusing.
7 Our defense could be based solely on picking apart the
8 evidence that the State introduced to you. Does that make
9 sense to you?
10 PROSPECTIVE JUROR NO. 050: I understand.
11 MR. ABOOD: Okay. So in other words, we don't
12 have to march anybody in here to tell you Justin didn't do
13 this. Is that fair?
14 PROSPECTIVE JUROR NO. 050: Okay, yes.
15 MR. ABOOD: Okay. And if you think about it, if
16 -- when the Judge gave us a break, if I left my watch right
17 here, and we came back and my watch was missing, and I said,
18 Mr. Tyrrell, you took my watch. Now, obviously, that wouldn't
19 be true; would it?
20 PROSPECTIVE JUROR NO. 050: No.
21 MR. ABOOD: Should you have to prove to me that
22 you didn't take my watch?
23 PROSPECTIVE JUROR NO. 050: No, you would have to
24 prove that I took it.
25 MR. ABOOD: Exactly, I'd have to prove you took

1 it because I'm making the allegation; true?
2 PROSPECTIVE JUROR NO. 050: Correct.
3 MR. ABOOD: And it would be very difficult for
4 you to prove that you didn't take it because what are you
5 going to say? All I can say is I didn't take it; true?
6 PROSPECTIVE JUROR NO. 050: Yes.
7 MR. ABOOD: Okay. I appreciate your not taking
8 my watch. All right. Let me ask you a few questions about
9 testifying. Now, we may very well decide that there's no good
10 reason for Justin to have to testify to you in this trial. Is
11 that fair?
12 PROSPECTIVE JUROR NO. 050: Yes.
13 MR. ABOOD: And obviously, you can't hold it
14 against a guy who's charged with crimes if he doesn't testify.
15 Have you heard that before?
16 PROSPECTIVE JUROR NO. 050: Yes.
17 MR. ABOOD: Okay. Public speaking, it can be --
18 it can make you nervous; can't it?
19 PROSPECTIVE JUROR NO. 050: It does me, yes.
20 MR. ABOOD: Okay. It does you? Well, let me put
21 it to you this way. If these people got to ask you questions
22 about everything that you just said, that would make it even
23 worse; wouldn't it?
24 PROSPECTIVE JUROR NO. 050: Probably.
25 MR. ABOOD: All right. So if you had your

1 choice, obviously, you would prefer not to have to answer
2 questions in public; true?
3 PROSPECTIVE JUROR NO. 050: Correct.
4 MR. ABOOD: So you understand why someone might
5 not want to testify?
6 PROSPECTIVE JUROR NO. 050: (No audible answer)
7 MR. ABOOD: Okay. Let me ask you very quickly.
8 I know that you're not such a young guy. Do you think people
9 in their teens, 16, 17, 18, do people in that age group think
10 differently than adults do?
11 PROSPECTIVE JUROR NO. 050: Yes.
12 MR. ABOOD: Okay. They just don't have the kind
13 of experience and judgment that we do; is that fair?
14 PROSPECTIVE JUROR NO. 050: I'd say sometimes
15 they lack a little bit of common sense.
16 MR. ABOOD: Okay. And if you sat in judgment of
17 someone who was in that age group, would you be able to keep
18 in mind that, well, people of that age group really don't
19 think maturely like adults do. Would you be able to keep that
20 in mind?
21 PROSPECTIVE JUROR NO. 050: Yes.
22 MR. ABOOD: Okay. I want to talk to you very
23 quickly about some evidence that you're going to see in this
24 case. The State is going to -- I mean, they've got an
25 obligation to prove these charges to you. They're going to

1 show you some photographs. And I want you to know right now,
2 some of these photographs, you know, and we've got a guy who's
3 been shot to death, and I can tell you that there's a
4 apartment that, you know, there's blood throughout the
5 apartment. And since they have to prove this case, they need
6 to show you photographs to help show how these things
7 happened.
8 I guess our concern, as defense lawyers, might be
9 that, look, they've got a right to show you these photos
10 because they have to prove the case. But do you think
11 photographs like that might cause you to react in such a way
12 that might anger you, or that might, you know, cause you to
13 have sympathy for the victim, and that you would then turn --
14 use that against us as the defense? Do you understand what
15 I'm getting at?
16 PROSPECTIVE JUROR NO. 050: I'm sure the
17 photographs will be disturbing, but I don't -- you know,
18 again, the State would have to prove that that person caused
19 the death.
20 MR. ABOOD: Um-hum. So there's nothing about
21 those photos themselves that will cause you to shut down on
22 Mr. Porter and not be able to give us a fair trial in this
23 case?
24 PROSPECTIVE JUROR NO. 050: No.
25 MR. ABOOD: Okay. And, in fact, is it fair for

1 me to say that it might be something about those photos that
2 we're actually able to use in our defense, that could be
3 helpful; is that fair?
4 PROSPECTIVE JUROR NO. 050: Correct.
5 MR. ABOOD: Okay. We talked a little bit about
6 the duties that these prosecutors have in proving this case.
7 And, in fact, we discussed a little bit the fact that Curtis
8 and I have very few duties to disprove anything.
9 Let me talk to you very quickly about your duties
10 as a juror if you were on this case. Sir, do you agree that
11 your opinion would be as important as anybody else's around
12 you?
13 PROSPECTIVE JUROR NO. 050: Yes.
14 MR. ABOOD: Okay. And, for example, you happen
15 to be an educated person, is your opinion as important as a
16 Ph.D?
17 PROSPECTIVE JUROR NO. 050: Yes.
18 MR. ABOOD: Okay. And some of the older, more
19 seasoned people that might end up on this jury, they've got a
20 lot more life experience than you do. Is your opinion even as
21 important as theirs?
22 PROSPECTIVE JUROR NO. 050: I think they're all
23 equally important.
24 MR. ABOOD: They're all equally important. Okay.
25 So, you don't -- you're not the kind of guy who is going to

1 change your opinion because someone more experienced or more
2 educated than you feels you are wrong; are you?
3 PROSPECTIVE JUROR NO. 050: No.
4 MR. ABOOD: Okay. Are you also comfortable
5 holding onto your opinion as long as you strongly believe it,
6 even in the face of people telling you that you're wrong?
7 PROSPECTIVE JUROR NO. 050: As long as I believe
8 it.
9 MR. ABOOD: As long as you believe it. So all 11
10 of the other jurors could think differently than you do, but
11 as long as you believe your opinion is true, you're going to
12 hold on to it?
13 PROSPECTIVE JUROR NO. 050: Yes.
14 MR. ABOOD: Okay. Now, if you were wrong, if
15 somebody convinced you that you were wrong, would you be able
16 to change your attitude based on a fair explanation that you
17 might be wrong?
18 PROSPECTIVE JUROR NO. 050: If it was based on
19 the evidence, yes.
20 MR. ABOOD: Okay. Now, are you going to feel
21 pressured to make a decision just to get out of here, let's
22 say, on Friday afternoon?
23 PROSPECTIVE JUROR NO. 050: No.
24 MR. ABOOD: Okay. Friday afternoon, Friday
25 night, you going to be okay to holding out as long as you feel

1 that it's your sincere belief that you're right?
2 PROSPECTIVE JUROR NO. 050: Yes.
3 MR. ABOOD: Okay. Let me ask you very quickly
4 about your neighborhood, sir. What kind of neighborhood do
5 you live in?
6 PROSPECTIVE JUROR NO. 050: Average neighborhood.
7 I mean, I feel like a middle class neighborhood.
8 MR. ABOOD: Middle class, okay. Is it a high
9 crime area?
10 PROSPECTIVE JUROR NO. 050: Not -- I hope not,
11 no.
12 MR. ABOOD: Not really?
13 PROSPECTIVE JUROR NO. 050: Not that I'm aware
14 of.
15 MR. ABOOD: Okay, I think you would know it if it
16 were, wouldn't you?
17 PROSPECTIVE JUROR NO. 050: I have an alarm
18 system on the house, but.
19 MR. ABOOD: Oh, okay. Well, let me ask you this.
20 Would you be comfortable going for a walk or going for a jog
21 or maybe walking your dog in the late evening hours?
22 PROSPECTIVE JUROR NO. 050: Yes.
23 MR. ABOOD: You would, okay. Now, you
24 understand, obviously, that not all people are that lucky, is
25 that true?

1 PROSPECTIVE JUROR NO. 050: Yes.
2 MR. ABOOD: Some people just don't live in a
3 neighborhood where they would feel safe doing that.
4 PROSPECTIVE JUROR NO. 050: Yes.
5 MR. ABOOD: Okay. And whether or not those
6 people contribute to that condition, they still have to live
7 in the fact that they don't live in a safe neighborhood; is
8 that true?
9 PROSPECTIVE JUROR NO. 050: Correct.
10 MR. ABOOD: Okay. Sir, is there anything that
11 you think we should know about you that I haven't asked you
12 about or the Judge hasn't asked you about yet?
13 PROSPECTIVE JUROR NO. 050: Not that I can think
14 of.
15 MR. ABOOD: Okay. Sir, thank you very much.
16 Thank you, Your Honor. We'll pass.
17 THE COURT: Thank you. Go ahead and pass the
18 microphone. Mr. Parkson?
19 PROSPECTIVE JUROR NO. 051: Yes, ma'am.
20 THE COURT: How are you doing today?
21 PROSPECTIVE JUROR NO. 051: Pretty good.
22 THE COURT: Good. Is there any reason why you
23 cannot be a completely fair and impartial juror in this case?
24 PROSPECTIVE JUROR NO. 051: No.
25 THE COURT: Can you wait in forming your opinion

1 on the appropriate result until all of the evidence has been
2 heard?
3 PROSPECTIVE JUROR NO. 051: Yeah, I think so.
4 THE COURT: You hesitated a little bit. Why is
5 that?
6 PROSPECTIVE JUROR NO. 051: Oh, I'm just nervous,
7 that's all.
8 THE COURT: Okay. I can understand that. Well,
9 so, you know, there's going to be different witnesses that are
10 going to come in during the course of the trial. And as a
11 juror, you need to listen to all of it, but you need to wait
12 until you've heard everything before you make your final
13 decision about what the right outcome is. You understand
14 that?
15 PROSPECTIVE JUROR NO. 051: Yes.
16 THE COURT: And you think you can do that?
17 PROSPECTIVE JUROR NO. 051: No, not really,
18 because I'm really concerned about my wife right now.
19 THE COURT: Concerned about your wife. Let me
20 look back at my notes and see what I missed here. Ah, okay.
21 Did you call her when you were on your lunch break?
22 PROSPECTIVE JUROR NO. 051: Yes, ma'am, I did.
23 THE COURT: Okay. And she didn't need you to
24 come rushing home?
25 PROSPECTIVE JUROR NO. 051: No, but she's not

1 feeling good and she's by herself. So, I mean, it's just --
2 she's always on my mind.
3 THE COURT: Okay. So that was the reason that
4 you were hesitating on waiting until the end to form your
5 opinion. It's not because of the evidence that you're
6 concerned, y You're concerned about your wife.
7 PROSPECTIVE JUROR NO. 051: No, it's just her
8 health has been deteriorating and I'm just -- it's -- I'm just
9 worried about her.
10 THE COURT: Counsel, please approach. And Mr.
11 Parkson, come on up here, please.
12 (Bench conference began)
13 THE COURT: Come stand over here. I just -- I
14 don't like to get into detailed medical questions in front of
15 everybody. So I wanted -- that's why I called you up here to
16 talk it.
17 PROSPECTIVE JUROR NO. 051: Okay.
18 THE COURT: What's the nature of her condition?
19 PROSPECTIVE JUROR NO. 051: She has a neuro --
20 something with her brain.
21 THE COURT: Okay.
22 PROSPECTIVE JUROR NO. 051: And she went in for a
23 CAT scan and she's -- she passes out. She's just -- they
24 can't figure out what's wrong with her, and she's been going
25 to the doctor like for three years. And regularly, I call her

1 anywhere from two to three times a day.
2 THE COURT: Right.
3 PROSPECTIVE JUROR NO. 051: Last year I had to
4 rush home to take her to the hospital. She's actually passed
5 out at the house, and they say she's got neuropathy. But
6 there's other things wrong with her that they're trying to
7 figure out. And it's just --
8 THE COURT: And she was just in the hospital last
9 weekend?
10 PROSPECTIVE JUROR NO. 051: Um-hm.
11 THE COURT: But they've released her again.
12 PROSPECTIVE JUROR NO. 051: Well, they only keep
13 her a for a few hours and only do just a little bit of checks.
14 And then they just let her go home. Last year when I called
15 the ambulance when she passed out at the house, they thought
16 she had a stroke and she was only in there for eight hours and
17 they let her go home.
18 THE COURT: Okay. So now, you called her over
19 the lunch hour.
20 PROSPECTIVE JUROR NO. 051: Um-hm.
21 THE COURT: And, I mean, obviously, you talked to
22 her.
23 PROSPECTIVE JUROR NO. 051: Right.
24 THE COURT: So she's not passed out. But you're
25 concerned that that's going -- that's coming on today?

1 PROSPECTIVE JUROR NO. 051: Well, it's not that
2 she -- it's just I don't -- I might have to take her to the
3 doctor at anytime. I mean, if she calls me and says she can't
4 -- she's having trouble standing, she's dizzy all the time,
5 and they can't -- she's going through all these tests, they
6 don't know what's wrong with her. And we just moved into an
7 apartment, so I don't know anybody, so.
8 THE COURT: Now, usually, in a typical day, you
9 go to work; is that right?
10 PROSPECTIVE JUROR NO. 051: Yes, ma'am.
11 THE COURT: And what do you do for a living?
12 PROSPECTIVE JUROR NO. 051: Construction.
13 THE COURT: You're in construction.
14 PROSPECTIVE JUROR NO. 051: Yes, ma'am.
15 THE COURT: And you call from construction?
16 PROSPECTIVE JUROR NO. 051: Yeah.
17 THE COURT: And there have been a few times, you
18 know, sometimes in the last year --
19 PROSPECTIVE JUROR NO. 051: Yeah.
20 THE COURT: -- you've had to leave?
21 PROSPECTIVE JUROR NO. 051: There's times that
22 I've had to leave.
23 THE COURT: Okay. But do you concentrate on your
24 work when you're at work?
25 PROSPECTIVE JUROR NO. 051: Yes and no. I mean,

1 she's basically all -- we just had our 29 anniversary. I mean
2 it's -- I'm worried about her.
3 THE COURT: Sure. But, I guess what I'm trying
4 to get at, is today different than any other day for you in
5 that way? Is that really every day is for you at this point?
6 PROSPECTIVE JUROR NO. 051: Every day I worry
7 about her.
8 THE COURT: Right.
9 PROSPECTIVE JUROR NO. 051: I'm worried if I'm
10 going to get a call that she's in the hospital, or if I got to
11 go home or God forbid, she kicks the bucket.
12 THE COURT: Right.
13 PROSPECTIVE JUROR NO. 051: I mean, it's just --
14 and since she's not diagnosed --
15 THE COURT: Right.
16 PROSPECTIVE JUROR NO. 051: -- I don't, you know,
17 it's just a matter of --
18 THE COURT: All right. So if you were at your
19 job today, and would you still be at work?
20 PROSPECTIVE JUROR NO. 051: If she wasn't okay,
21 no, I would have had to leave.
22 THE COURT: Okay. And, well, knowing what you
23 know right now, if today were your day at work right now,
24 would you still be at work, or would you be at home?
25 PROSPECTIVE JUROR NO. 051: I'd probably be at

1 home.
2 THE COURT: Because it's -- because it's --
3 what's happened that's worse then what your usual day is?
4 PROSPECTIVE JUROR NO. 051: Well, she's real
5 dizzy right now, and she's on -- when she went in, was it
6 Friday or Saturday, they gave her the dye. And I guess it
7 goes into your brain and stuff and she had a reaction to it.
8 And she hasn't -- I haven't left her all weekend. I've been
9 with her the whole time. And it's just -- I asked her how
10 she's doing. She says, well, you know, so-so, but it can
11 change from minute to minute. That's, you know, I -- I don't
12 know what's wrong with her.
13 THE COURT: All right.
14 PROSPECTIVE JUROR NO. 051: I mean, they're
15 trying to figure it out.
16 THE COURT: Right.
17 PROSPECTIVE JUROR NO. 051: I mean, it's just --
18 I'm going to be honest with you. I don't think I could keep
19 my mind here because I'd be worried about her.
20 THE COURT: Okay. All right. Go ahead and have
21 a seat. Counsel, stay here.
22 (PROSPECTIVE JUROR NO. 051 RETURNS TO SEAT)
23 MR. ABOOD: (Inaudible).
24 THE COURT: I know.
25 MR. ABOOD: (Inaudible).

1 MS. LUZAICH: Personally, I like him. I would
2 like to keep him as a juror. I mean, I -- there's no way I'd
3 say, hey, that guy's got to stay, no way.
4 THE COURT: I mean, if he -- what I was trying to
5 understand from him is if, you know, you'd be at work anyway,
6 so --
7 MS. LUZAICH: Right.
8 THE COURT: -- you're just doing the same thing
9 you would do at work. At least, unless he's lying to me, he's
10 telling me that if he were at work today, he would have left,
11 given the conversation he had. So I feel like I probably need
12 to let him go on a medical issue. I just -- I don't want her
13 to end up passed out at home because I kept him here in court.
14 MS. LUZAICH: (Inaudible).
15 THE COURT: That would not be good for any of us,
16 or for him, of course, most importantly. Any objections?
17 Okay. We're going to go ahead and excuse him.
18 (Bench conference concluded)
19 THE COURT: All right. Mr. Parkson, I'm going to
20 go ahead and excuse you based on your wife's medical
21 condition. I am sorry that you're in that situation, and I do
22 thank you for being here today to perform your duty as a
23 juror. You can just leave the microphone there in the chair.
24 THE CLERK: Next in seat number three, badge
25 number 105, Jessie Brizeno.

1 THE COURT: Mr. Brizeno, is it?
2 PROSPECTIVE JUROR NO. 105: Yes, it is.
3 THE COURT: All right. How are you doing today?
4 PROSPECTIVE JUROR NO. 105: Very good, thank you.
5 THE COURT: Good. Is there any reason why you
6 could not be a completely fair and impartial juror in this
7 case?
8 PROSPECTIVE JUROR NO. 105: Absolutely not.
9 THE COURT: Can you wait in forming your opinion
10 on the appropriate result until all the evidence has been
11 heard?
12 PROSPECTIVE JUROR NO. 105: Yes, I could.
13 THE COURT: Have you or anyone close to you
14 worked in law enforcement?
15 PROSPECTIVE JUROR NO. 105: No, they haven't.
16 THE COURT: Have you or anyone close to you been
17 charged with a serious crime?
18 PROSPECTIVE JUROR NO. 105: No.
19 THE COURT: Have you or anyone close to you been
20 the victim of a serious crime?
21 PROSPECTIVE JUROR NO. 105: My ex-wife, who we
22 just got divorced in June, she had a sister that was murdered
23 here in town back in the early -- early to mid-70s.
24 THE COURT: Sure. And --
25 PROSPECTIVE JUROR NO. 105: And we'd been married

1 for 25 years, so --
2 THE COURT: Right, sir.
3 PROSPECTIVE JUROR NO. 105: -- there's still some
4 emotional ties there.
5 THE COURT: Sure. Was there -- or did they catch
6 the person that did it?
7 PROSPECTIVE JUROR NO. 105: They did.
8 THE COURT: And was there a prosecution, then?
9 PROSPECTIVE JUROR NO. 105: There was and he was
10 convicted to life in prison.
11 THE COURT: Okay. And as you said, you know,
12 that was something that had an impact on you.
13 PROSPECTIVE JUROR NO. 105: Right.
14 THE COURT: Certainly at the time.
15 PROSPECTIVE JUROR NO. 105: Right.
16 THE COURT: Is there anything about you -- that
17 experience for you that you think would affect your ability to
18 be fair and impartial here?
19 PROSPECTIVE JUROR NO. 105: No.
20 THE COURT: Now, you're not going to hold it
21 against this defendant because somebody murdered that
22 relative, are you?
23 PROSPECTIVE JUROR NO. 105: I don't see me
24 holding it against him, no.
25 THE COURT: Are you going to be able to listen to

1 the evidence here and the facts here to make a decision on the
2 right outcome in this case?
3 PROSPECTIVE JUROR NO. 105: I do believe so.
4 THE COURT: Okay. Okay. And, you know, on the
5 other hand, you're not going to tend to favor the police or
6 the prosecutors because they succeeded in finding the right
7 person in that other case?
8 PROSPECTIVE JUROR NO. 105: No.
9 THE COURT: You're going to listen to what they
10 have to say, and weigh the credibility, and decide what the
11 right answer is?
12 PROSPECTIVE JUROR NO. 105: Correct.
13 THE COURT: Okay. Is there -- so, do you think
14 that given the nature of the charges in this case, do you
15 think that would make it difficult for you to be fair and
16 impartial?
17 PROSPECTIVE JUROR NO. 105: I don't believe so.
18 THE COURT: Can you base your verdict solely on
19 the evidence that comes out at trial and the law that applies
20 as stated in my instructions without fear of criticism or
21 popular opinion?
22 PROSPECTIVE JUROR NO. 105: Yes, I could.
23 THE COURT: Have you ever served as a juror
24 before?
25 PROSPECTIVE JUROR NO. 105: No, I haven't.

1 THE COURT: If you were a party to this case,
2 would you be comfortable with jurors of a like frame of mind
3 as yourself sitting in judgment?
4 PROSPECTIVE JUROR NO. 105: Yes, I would.
5 THE COURT: How old are you, sir?
6 PROSPECTIVE JUROR NO. 105: I'm 51.
7 THE COURT: And how long have you lived here in
8 Clark County?
9 PROSPECTIVE JUROR NO. 105: Since 1971.
10 THE COURT: Okay. Are you employed?
11 PROSPECTIVE JUROR NO. 105: Yes, I am.
12 THE COURT: What do you do?
13 PROSPECTIVE JUROR NO. 105: I'm a senior
14 locksmith at Bally's Casino Resort.
15 THE COURT: Okay. Are you married?
16 PROSPECTIVE JUROR NO. 105: No.
17 THE COURT: You have any children?
18 PROSPECTIVE JUROR NO. 105: I have a 22-year-old
19 son and an 18-year-old daughter.
20 THE COURT: Okay. Do either of them work?
21 PROSPECTIVE JUROR NO. 105: My son does. He
22 lives here in town, and my daughter goes to college in
23 Mississippi.
24 THE COURT: Okay. And what does your son do?
25 PROSPECTIVE JUROR NO. 105: I'm not really quite

1 sure what his occupation is. Answers the phone for a company
2 of some sort.
3 THE COURT: Okay.
4 PROSPECTIVE JUROR NO. 105: And he's a student at
5 UNLV as well.
6 THE COURT: Okay. And what's the highest level
7 of education you've completed?
8 PROSPECTIVE JUROR NO. 105: For myself?
9 THE COURT: Uh-huh.
10 PROSPECTIVE JUROR NO. 105: One year of college.
11 THE COURT: Okay. State?
12 MR. TOMSHECK: Mr. Brizeno?
13 PROSPECTIVE JUROR NO. 105: Brizeno, correct.
14 MR. TOMSHECK: To some of the questions the Judge
15 asked, and you've got to understand, a lot of times when we
16 talk to potential jurors, they really don't want to answer the
17 questions, and it's pretty obvious they're trying to get out
18 of the room. With you, it seemed like you were kind of more
19 enthusiastic; fair to say?
20 PROSPECTIVE JUROR NO. 105: I do.
21 MR. TOMSHECK: For instance, when she said, how
22 you doing, you said, very good. When she asked if there was a
23 reason you couldn't be fair and impartial, you said,
24 absolutely not.
25 Let me ask you this much. If you had your pick,

1 would you want to be someone selected as a juror in this case?
2 PROSPECTIVE JUROR NO. 105: I think I could be as
3 fair as anybody else in the building, or in this room.
4 MR. TOMSHECK: And you understand that's what all
5 of us want. We want to most fair and impartial 12, to 14
6 people in this box to decide the case.
7 PROSPECTIVE JUROR NO. 105: Correct.
8 MR. TOMSHECK: Do you understand that?
9 PROSPECTIVE JUROR NO. 105: Yes.
10 MR. TOMSHECK: I'm assuming you're not here just
11 because you want to be, though. You got a summons in the mail
12 just like everybody else --
13 PROSPECTIVE JUROR NO. 105: Correct.
14 THE COURT: -- that said you had to here.
15 PROSPECTIVE JUROR NO. 105: Right.
16 MR. TOMSHECK: Can I ask you, when you got that
17 summons and opened it up and you saw it, what did you think?
18 PROSPECTIVE JUROR NO. 105: Probably just like
19 everybody else, heck, I got to go to jury -- got to go to
20 court, you know. It's not something that we all wish upon
21 ourselves to have to come to court. But I've never seen the
22 system work, and I think it would be pretty interesting to see
23 how it works.
24 MR. TOMSHECK: So in spite of your interest and
25 your enthusiasm, you probably, much like everyone else, when

1 you saw that, kind of thought, darn it, I got to go down to
2 the court?
3 PROSPECTIVE JUROR NO. 105: Oh, yeah. We all got
4 better places we much rather be.
5 MR. TOMSHECK: Okay. And you can promise us, if
6 you are selected to be a juror, you'll be as fair and
7 impartial as you can possibly be?
8 PROSPECTIVE JUROR NO. 105: Absolutely.
9 MR. TOMSHECK: All right. And I don't want to
10 touch upon too sensitive a topic, but you understand we
11 sometimes have to ask those questions --
12 PROSPECTIVE JUROR NO. 105: Yes, sir, I do.
13 MR. TOMSHECK: -- to get those 12 impartial
14 people.
15 PROSPECTIVE JUROR NO. 105: Yes, sir.
16 MR. TOMSHECK: You mentioned, I believe, it was
17 your ex-wife's sister that was murder?
18 PROSPECTIVE JUROR NO. 105: One of my ex-wife's
19 -- my ex-wife, one of her sisters.
20 MR. TOMSHECK: Okay. And this was back when you
21 guys were married?
22 PROSPECTIVE JUROR NO. 105: No.
23 MR. TOMSHECK: Prior to being married?
24 PROSPECTIVE JUROR NO. 105: This was in the mid-
25 70s.

1 MR. TOMSHECK: Okay.
2 PROSPECTIVE JUROR NO. 105: We had been married
3 for 25 years this past June. And then we got divorced in
4 June.
5 MR. TOMSHECK: Okay. Were you guys -- were you
6 guys still -- were you together at the time?
7 PROSPECTIVE JUROR NO. 105: No.
8 MR. TOMSHECK: Okay. Was it prior to when you
9 started dating?
10 PROSPECTIVE JUROR NO. 105: Yes. But we were --
11 we went to high school together here.
12 MR. TOMSHECK: Okay.
13 PROSPECTIVE JUROR NO. 105: We didn't know each
14 other in school, but we did go to the same school
15 MR. TOMSHECK: Let me ask you this. Was your ex-
16 wife in your life at the time her sister was murdered?
17 PROSPECTIVE JUROR NO. 105: No.
18 MR. TOMSHECK: Did she talk to you about it?
19 PROSPECTIVE JUROR NO. 105: After, once we got
20 together and everything? Yeah. I've seen media clippings,
21 they kept a scrapbook, the family did. So I just read up on
22 it. I've seen the whole thing.
23 MR. TOMSHECK: Well, can I ask you, the guy that
24 was charged and ultimately convicted for the death of your
25 wife's sister, what was his relationship to your wife's

1 sister?

2 PROSPECTIVE JUROR NO. 105: No relationship at

3 all.

4 MR. TOMSHECK: Complete stranger?

5 PROSPECTIVE JUROR NO. 105: Yes.

6 MR. TOMSHECK: Okay. And you understand that

7 that homicide is separate and apart from the homicide which

8 the State's charged Mr. Porter with? You understand that?

9 PROSPECTIVE JUROR NO. 105: Yes, sir, I do.

10 MR. TOMSHECK: And you can separate those two in

11 your mind?

12 PROSPECTIVE JUROR NO. 105: Absolutely.

13 MR. TOMSHECK: Okay. Pass for cause, Judge.

14 THE COURT: Defense?

15 MR. ABOOD: Sir, good afternoon.

16 PROSPECTIVE JUROR NO. 105: Good afternoon.

17 MR. ABOOD: Sir, I'm not going to lie to you, I'm

18 concerned. Can you understand why I might be concerned?

19 PROSPECTIVE JUROR NO. 105: Like I said, this is

20 my first time in the system, so maybe -- I'm sure you're going

21 to enlighten me.

22 MR. ABOOD: I'm going to.

23 PROSPECTIVE JUROR NO. 105: I'm sure you are.

24 MR. ABOOD: I'm happy to do that. You know, I

25 speak for my client, Mr. Porter, and you understand that.

1 PROSPECTIVE JUROR NO. 105: I understand that.
2 MR. ABOOD: Okay. And what you've told us today
3 is that you've actually had a close member of your family
4 murdered.
5 PROSPECTIVE JUROR NO. 105: Yes, sir.
6 MR. ABOOD: And I'm sure that your wife agonized
7 over this. It was her sister.
8 PROSPECTIVE JUROR NO. 105: Yes, sir.
9 MR. ABOOD: And her agonizing over this, I mean,
10 she kept a scrapbook; am I right?
11 PROSPECTIVE JUROR NO. 105: Well, the -- her
12 parents did, her mom did.
13 MR. ABOOD: Her parents did.
14 PROSPECTIVE JUROR NO. 105: Right.
15 MR. ABOOD: Your parents-in-law.
16 PROSPECTIVE JUROR NO. 105: Her parents.
17 MR. ABOOD: I'm not good with that.
18 PROSPECTIVE JUROR NO. 105: Okay.
19 MR. ABOOD: But in any case, I mean, your wife's
20 agonized over this. Now, she's sharing those emotions with
21 you; isn't she?
22 PROSPECTIVE JUROR NO. 105: She has.
23 MR. ABOOD: And I mean, this has affected your
24 life profoundly?
25 PROSPECTIVE JUROR NO. 105: Correct.

1 MR. ABOOD: Not a lot of people have had
2 something like this happen in their own family; is that true?
3 PROSPECTIVE JUROR NO. 105: That's correct. It
4 was prior to us becoming a family, but yes.
5 MR. ABOOD: And yet, we're in a position where
6 we're going to try to evaluate whether or not you might be one
7 of the fairest people in this courtroom --
8 PROSPECTIVE JUROR NO. 105: I understand that.
9 MR. ABOOD: -- for our client who's charged with
10 murder. I mean, can you understand how that's a concern?
11 PROSPECTIVE JUROR NO. 105: I understand that as
12 well.
13 MR. ABOOD: Okay. Let me ask you this question.
14 And, again, because I sincerely believe you when you say you
15 think you can be fair. But let me ask you this. If you were
16 Mr. Porter, how would you feel about having someone in your
17 position sitting on his jury?
18 PROSPECTIVE JUROR NO. 105: Well, I can
19 understand Mr. Porter's thinking, his concern. But I'm not in
20 his mind and I don't know how he really thinks. I just know
21 how I think and how I react and how fair I am with people.
22 I've got control over one individual and sometimes that's an
23 all day job.
24 MR. ABOOD: Do you think that -- and I appreciate
25 your answer, by the way, sir. You know, during the course of

1 this trial when evidence is introduced concerning a murder,
2 and obviously, you'll think back to the experiences you had
3 going on in your own life; won't you?
4 PROSPECTIVE JUROR NO. 105: You know, again, it
5 was prior to me meeting my wife at the time. You know, I
6 didn't know her for -- I think we met each other in '85. The
7 murder happened in the mid-70s.
8 MR. ABOOD: Nonetheless, I mean, as you sit here,
9 most honestly, you can't guarantee us that when certain facts
10 and evidence come in, that your mind won't wander back to the
11 circumstance that happened with your wife's sister. I mean --
12 PROSPECTIVE JUROR NO. 105: I don't think anybody
13 could guarantee that, no.
14 MR. ABOOD: You would agree?
15 PROSPECTIVE JUROR NO. 105: I would agree.
16 MR. ABOOD: Do you think it would be more fair if
17 you were on a jury maybe in another kind of a criminal case,
18 or maybe a civil case?
19 PROSPECTIVE JUROR NO. 105: Would it be more fair
20 if I was on one of those other types of juries? Absolutely.
21 MR. ABOOD: For my client.
22 PROSPECTIVE JUROR NO. 105: Probably.
23 MR. ABOOD: Probably, okay. Sir, thank you very
24 much for honesty. Your Honor, we'd like to challenge for
25 cause.

1 THE COURT: Come on up.
2 (Bench conference began)
3 MR. ABOOD: The guy's had a sister-in-law
4 murdered, for Christ sake.
5 THE COURT: Who he never knew.
6 MR. ABOOD: (Inaudible).
7 MS. LUZAICH: It was 30 years ago and he wasn't
8 in her life.
9 MR. ABOOD: Okay, I don't want to spend a lot of
10 time arguing, Judge, (inaudible).
11 THE COURT: Denied.
12 MR. ABOOD: Okay.
13 (Bench conference concluded)
14 THE COURT: All right. Go ahead and pass the
15 microphone down. Ms. Yao?
16 PROSPECTIVE JUROR NO. 052: Yes.
17 THE COURT: How are you doing today?
18 PROSPECTIVE JUROR NO. 052: Good.
19 THE COURT: Good. Is there any reason why you
20 could not be completely fair and impartial if you're selected
21 in this case?
22 PROSPECTIVE JUROR NO. 052: Yeah, my comprehense
23 -- my comprehension is a little bit slow. Sometimes before I
24 had to say two or three times before I can understand what
25 they are saying.

1 THE COURT: Okay. So because of the language
2 issue?
3 PROSPECTIVE JUROR NO. 052: Yeah.
4 THE COURT: What is your first language?
5 PROSPECTIVE JUROR NO. 052: Chinese.
6 THE COURT: Chinese. Did you live in China?
7 PROSPECTIVE JUROR NO. 052: No. I am pure
8 Chinese, but born in the Philippines. That's why I can speak,
9 like, the dialogue, the --
10 THE COURT: Uh-huh.
11 PROSPECTIVE JUROR NO. 052: -- Filipino language.
12 THE COURT: Right.
13 PROSPECTIVE JUROR NO. 052: And my -- actually,
14 my Chinese is not the one that -- the original Chinese in --
15 because they are speaking, like, Mandarin. But mine is
16 (indiscernible), so it's like different language.
17 THE COURT: Okay. And so did you go to the
18 school -- go to school in the Philippines?
19 PROSPECTIVE JUROR NO. 052: Yeah.
20 THE COURT: And did you learn English there?
21 PROSPECTIVE JUROR NO. 052: Uh-huh. I graduate
22 Bachelor of Science in Secretarial Administration. It's a
23 four-year secretarial course.
24 THE COURT: Okay. And how long have you been in
25 the United States?

1 PROSPECTIVE JUROR NO. 052: Actually, nine years.
2 THE COURT: Nine years, okay.
3 PROSPECTIVE JUROR NO. 052: But I never worked.
4 THE COURT: You haven't ever worked here?
5 PROSPECTIVE JUROR NO. 052: My husband is a
6 Deputy Registrar of the Bureau of Motor Vehicles in Ohio. And
7 I just helping him in something like that. I never work
8 because right now he is retired and he don't want me to work
9 anymore. Just with him, you know, probably something like
10 that.
11 THE COURT: Now, during the proceedings here
12 today, have you understood the questions that I've been
13 asking?
14 PROSPECTIVE JUROR NO. 052: Yeah.
15 THE COURT: Okay. Do you and your husband own a
16 house here?
17 PROSPECTIVE JUROR NO. 052: Yeah, uh-huh.
18 THE COURT: And is it in both your names?
19 PROSPECTIVE JUROR NO. 052: Yeah.
20 THE COURT: And did you both have to sign
21 documents related to that purchase?
22 PROSPECTIVE JUROR NO. 052: Uh-huh.
23 THE COURT: And were those documents in English?
24 PROSPECTIVE JUROR NO. 052: Yeah.
25 THE COURT: But you felt comfortable enough to go

1 ahead and sign onto them?
2 PROSPECTIVE JUROR NO. 052: Yeah. Before we got
3 married, you know, because his children, he had children from
4 his previous wife and she died of uterus cancer.
5 THE COURT: Uh-huh.
6 PROSPECTIVE JUROR NO. 052: And, you know, for
7 me, it's just like I meet him, it's like through mail, you
8 know, and friends, something like that. And my purpose is
9 actually just to be companionship.
10 THE COURT: Okay.
11 PROSPECTIVE JUROR NO. 052: And when we got
12 married, everything should be in prenuptial. I just signed
13 everything just to prove that I'm not running after his money.
14 THE COURT: Right.
15 PROSPECTIVE JUROR NO. 052: So my purpose is just
16 for companionship.
17 THE COURT: Okay. Understood. Okay. All right.
18 Now, you understand that you need -- if you were to be a juror
19 in this case, you need to wait to hear all the evidence before
20 you decide your opinion about what the right outcome should
21 be. Can you do that?
22 PROSPECTIVE JUROR NO. 052: Yes.
23 THE COURT: Have you or anyone close to you
24 worked in law enforcement?
25 PROSPECTIVE JUROR NO. 052: No.

1 THE COURT: Have you or anyone close to you been
2 charged with a serious crime?
3 PROSPECTIVE JUROR NO. 052: No.
4 THE COURT: Have you or anyone close to you been
5 the victim of a serious crime?
6 PROSPECTIVE JUROR NO. 052: No.
7 THE COURT: Is there anything about the charges
8 in this particular case that would make it difficult for you
9 to be fair and impartial?
10 PROSPECTIVE JUROR NO. 052: No.
11 THE COURT: Can you base your verdict solely on
12 the evidence and the law that applies without fear of
13 criticism or popular opinion?
14 PROSPECTIVE JUROR NO. 052: Yeah.
15 THE COURT: Have you ever served as a juror
16 before?
17 PROSPECTIVE JUROR NO. 052: No, it's my first
18 time.
19 THE COURT: First time, okay. How long -- when
20 did you become a citizen?
21 PROSPECTIVE JUROR NO. 052: 2005.
22 THE COURT: Pardon me?
23 PROSPECTIVE JUROR NO. 052: 2005.
24 THE COURT: 2005, got it. If you were a party to
25 this case, would you be comfortable with jurors of a like

1 frame of mind as yourself sitting in judgment?
2 PROSPECTIVE JUROR NO. 052: Yes.
3 THE COURT: How old are you, ma'am?
4 PROSPECTIVE JUROR NO. 052: Fifty-seven.
5 THE COURT: Okay. How long have you lived here
6 in Clark County?
7 PROSPECTIVE JUROR NO. 052: Six years.
8 THE COURT: Okay. And where were you right
9 before that?
10 PROSPECTIVE JUROR NO. 052: Ohio.
11 THE COURT: That's right, you mentioned you had
12 been in Ohio. And you mentioned you're not working, correct?
13 PROSPECTIVE JUROR NO. 052: No.
14 THE COURT: Okay. And your husband, is he
15 working now?
16 PROSPECTIVE JUROR NO. 052: No, he's retired from
17 General Motors.
18 THE COURT: Okay. Okay. Do you have -- so you
19 mentioned he has children. Do you have any children of your
20 own?
21 PROSPECTIVE JUROR NO. 052: No.
22 THE COURT: But you -- how old are his children?
23 PROSPECTIVE JUROR NO. 052: Like 44, 43, 42, 41.
24 THE COURT: Okay. All right. And you said you
25 had gotten a college degree in the Philippines; is that right?

1 PROSPECTIVE JUROR NO. 052: Right.
2 THE COURT: And what was your degree in again?
3 PROSPECTIVE JUROR NO. 052: Bachelor of Science
4 in Secretarial Administration.
5 THE COURT: Great. Okay, State.
6 MS. LUZAICH: Ms. Yao, you'd indicated that you
7 have a hard time understanding?
8 PROSPECTIVE JUROR NO. 052: Yeah, sometimes you
9 have to say -- I mean, you have to repeat two or three times
10 before I can understand. Even my step-daughter, when they are
11 talking to me and, you know, I have, what's that? Can you
12 repeat it again? Sometimes two or three times before I can
13 understand what they are saying.
14 MS. LUZAICH: You seem to be doing okay here.
15 PROSPECTIVE JUROR NO. 052: Yeah.
16 MS. LUZAICH: Is there anything that we have
17 talked about that you have not understood?
18 PROSPECTIVE JUROR NO. 052: No (inaudible).
19 MS. LUZAICH: Okay. And when we go through the
20 trial, police officers are going to come in and talk about,
21 they found a body. I mean, that's fairly easy to understand,
22 right?
23 PROSPECTIVE JUROR NO. 052: Yeah.
24 MS. LUZAICH: We're not going to be talking about
25 rocket science here or anything like that. If you sit as a

1 juror, will you just raise your hand if you don't understand
2 something and ask it to be repeated?
3 PROSPECTIVE JUROR NO. 052: Uh-huh.
4 MS. LUZAICH: Okay. When you say that you have a
5 Bachelor of Science in Secretarial Administration, have you
6 ever used that degree?
7 PROSPECTIVE JUROR NO. 052: No.
8 MS. LUZAICH: When did you get it?
9 PROSPECTIVE JUROR NO. 052: (Inaudible).
10 MS. LUZAICH: More than 20 years ago? Less than
11 20 years ago?
12 PROSPECTIVE JUROR NO. 052: 1974.
13 MS. LUZAICH: Okay, I can't add that fast. More
14 than 20 years ago. And where did you get it? I'm sorry, I
15 didn't hear when you said earlier.
16 PROSPECTIVE JUROR NO. 052: What school?
17 MS. LUZAICH: Yeah, where were you living when
18 you --
19 PROSPECTIVE JUROR NO. 052: In the Philippines.
20 MS. LUZAICH: In the Philippines. When did you
21 come to the United States to begin with?
22 PROSPECTIVE JUROR NO. 052: 1999.
23 MS. LUZAICH: Before you came to the United
24 States, did you work in the Philippines?
25 PROSPECTIVE JUROR NO. 052: Yeah.

1 MS. LUZAICH: Do you drive?
2 PROSPECTIVE JUROR NO. 052: Usually it's my
3 husband who is driving (inaudible) he's there waiting for me.
4 MS. LUZAICH: Oh, so that's how you got here
5 today? Where's he at?
6 PROSPECTIVE JUROR NO. 052: He's on the third
7 floor.
8 MS. LUZAICH: Just sitting there?
9 PROSPECTIVE JUROR NO. 052: Um-hm. Waiting for
10 me.
11 MS. LUZAICH: Okay.
12 PROSPECTIVE JUROR NO. 052: Actually, it should
13 be him, not me. He likes this kind of, you know, every day
14 he's looking at those Law and Order and CSI.
15 MS. LUZAICH: He likes those shows?
16 PROSPECTIVE JUROR NO. 052: He likes them.
17 MS. LUZAICH: Do you watch them with him?
18 PROSPECTIVE JUROR NO. 052: I don't like those.
19 MS. LUZAICH: No? How come? Why, why not?
20 PROSPECTIVE JUROR NO. 052: I like the, what you
21 call that, LMN? Lifetime --
22 MS. LUZAICH: Women's, okay.
23 PROSPECTIVE JUROR NO. 052: Yes.
24 MS. LUZAICH: You like that. Okay. Happier kind
25 of things?

1 PROSPECTIVE JUROR NO. 052: I likes movie. He
2 likes Law and Order, Criminal Case. Actually, he should be a
3 lawyer.
4 MS. LUZAICH: Okay. Well, you know, if you sit
5 on this jury, you can't talk to your husband about what you
6 see in court; do you understand that?
7 PROSPECTIVE JUROR NO. 052: Okay.
8 MS. LUZAICH: Not until after the trial's over.
9 PROSPECTIVE JUROR NO. 052: Uh-huh.
10 MS. LUZAICH: Will you be able to do that, not
11 talk to him about it?
12 PROSPECTIVE JUROR NO. 052: I try not to.
13 MS. LUZAICH: Okay. The Judge will be mad if you
14 do.
15 THE COURT: Hold it in until it's all over; do
16 you understand that?
17 PROSPECTIVE JUROR NO. 052: Okay.
18 THE COURT: Okay. Can you do that?
19 PROSPECTIVE JUROR NO. 052: Yeah.
20 THE COURT: Okay.
21 MS. LUZAICH: Okay. Is there anything about you
22 that would make you unable to sit in judgment of somebody
23 else?
24 PROSPECTIVE JUROR NO. 052: I don't think so.
25 MS. LUZAICH: Okay. So as a juror, what your job

1 would be is to sit here and listen to the witnesses who
2 testify, look at any evidence that's admitted, and while
3 talking with the other jurors in the back room, make a
4 decision whether the State of Nevada, that's us, whether we've
5 proved the case beyond a reasonable doubt. Is that something
6 that you can do?
7 PROSPECTIVE JUROR NO. 052: Yes.
8 MS. LUZAICH: Okay. And if, after you listen to
9 all of the witnesses testify and you look at any evidence
10 that's admitted, if you are convinced beyond a reasonable
11 doubt that the defendant did commit the crimes he's charged
12 with, would you be able to say the word guilty?
13 PROSPECTIVE JUROR NO. 052: Yes.
14 MS. LUZAICH: Okay. Thank you. Pass for cause.
15 MR. BROWN: Thank you, Judge. Good afternoon,
16 Ms. Yao.
17 PROSPECTIVE JUROR NO. 052: Good afternoon, sir.
18 MR. BROWN: One more attorney's worth of
19 questions, hopefully. Now, I obviously -- you know, I do have
20 some concerns, I mean. And you've expressed your concerns and
21 we're very appreciative that you raised your hand and said, I
22 have trouble understanding some things. And you seem to, when
23 you maybe don't interpret a question or understand it
24 completely, you just agree. You say yes, or you just kind of
25 go along with that. Is that a fair, accurate statement of

1 kind of how you react when you don't understand something?
2 PROSPECTIVE JUROR NO. 052: Yeah.
3 MR. BROWN: See, just like that. Okay. I kind
4 of had a feeling you were going to say that, you know. You
5 know, and because the importance, you know, the Judge and the
6 State have asked you if you've kind of understood as we've
7 gone along so far and on the general scope, you probably have.
8 Do you think that you've understood everything we've talked
9 about here everyday from a language perspective?
10 PROSPECTIVE JUROR NO. 052: Yes.
11 MR. BROWN: Okay. We haven't really got into any
12 legal words. I mean, you know, you can't have a case like
13 this without some legal words. We try and keep them to a
14 minimum just because they're, you know, kind of hard to
15 understand for everybody. But have you had any training, or
16 have you studied or have any education in the American legal
17 system?
18 PROSPECTIVE JUROR NO. 052: No.
19 MR. BROWN: One of the things that's important in
20 the legal system here obviously is that the State has to
21 approve Mr. Porter is guilty of all the offenses that they've
22 alleged beyond a reasonable doubt. Now, I'm not going to ask
23 you the details of what that means, because the Judge is going
24 to give you the law. But when I say the concept, beyond a
25 reasonable doubt, do you understand what I mean?

1 PROSPECTIVE JUROR NO. 052: I understand.
2 MR. BROWN: What do you understand that to mean?
3 And I'm not trying to put you on the spot or embarrass you,
4 I'm really not. I'm just trying to find out if you truly are
5 understanding some of the things that we know, and we have the
6 benefit of knowing, that will be important later on in this
7 case. And, you know, we really only get one opportunity to
8 kind of present things and get it out there.
9 And so, do you feel comfortable sitting here as a
10 juror in judgment of the life and future of another person,
11 with the language restrictions that you have? Do you feel
12 that you are comfortable sitting here as a juror?
13 I mean, if it were up to you, would you rather
14 not sit on this jury because of the language issues?
15 PROSPECTIVE JUROR NO. 052: Yeah.
16 MR. BROWN: I mean, I'll be certainly happy to,
17 in a moment, to ask the Court to excuse you for that reason in
18 just a moment, but I want to give you an opportunity to really
19 express how you feel about it. Do you want to do that? No?
20 Okay.
21 Your Honor, just based on that and then, I have
22 some other points we can make at the bench, but I would like
23 to -- I think this juror's expressed her concerns legitimately
24 and I would ask that she be excused for that cause at this
25 point.

1 THE COURT: Come on up.
2 (Bench conference begins)
3 MR. BROWN: One of the things I noticed
4 (indiscernible) when you asked her a question, she didn't
5 answer. She was kind of went off on this thing about marrying
6 her husband or not marrying her husband for money.
7 (Inaudible).
8 THE COURT: Well, because what I was asking her
9 about was signing the papers and language --
10 MR. BROWN: Never touched on it.
11 THE COURT: -- that she was telling me about
12 basically that she ended up signing off on the papers to make
13 sure no one looks -- no one thought she was gold digger, so.
14 MS. LUZAICH: Which wasn't -- no, it was an
15 appropriate answer, because she said no. And I know she's
16 saying that she -- it's like she signed the prenup because she
17 wanted to be here and she (inaudible).
18 THE COURT: And, I mean, I asked -- some of the
19 questions I asked are yes questions, and some of them are no
20 questions and we kind of have to know what followed them to
21 give the yes or no. And she seemed to follow my questions
22 when I (indiscernible).
23 MR. BROWN: I think when I gave her the
24 opportunity, she can't explain why she couldn't (inaudible)
25 understand the certain concepts. What I would do if she is

1 going to stay, I'm going to insist on (indiscernible) Chinese
2 interpreter. I think it's the only way we can be sure that
3 she's understanding. I don't want to exclude her just based
4 on that, but I think we're going to need an interpreter that
5 can hook her up with headphones who can interpret everything,
6 you know.
7 UNKNOWN SPEAKER: I think she told me she doesn't
8 need that.
9 MR. BROWN: I don't think she would. I asked her
10 if she could understand --
11 THE COURT: Yeah.
12 MR. BROWN: -- and she obviously said no.
13 UNKNOWN SPEAKER: Yeah. She's obviously more
14 comfortable in her own language.
15 THE COURT: Well, of course she is.
16 MS. LUZAICH: Of course she is. And (inaudible).
17 MR. ABOOD: I don't think she's up to speed to
18 even know when she's not understanding something. And she is
19 rarely going to raise her hand when she doesn't understand
20 something.
21 MR. BROWN: I (indiscernible) she's not
22 understanding a lot of these questions.
23 MR. TOMSHECK: He's asked her a lot of questions
24 and she responded to them.
25 MR. BROWN: Yes or no.

1 MS. LUZAICH: No, no, no. She's talking about
2 her husband liking Law and Order, and she likes the Women's
3 Network.
4 MR. BROWN: That wasn't in response to a
5 question.
6 MS. LUZAICH: She's carrying -- yes, it was, it
7 was.
8 MR. ABOOD: I asked her (inaudible).
9 MS. LUZAICH: She's carrying on a --
10 MR. ABOOD: She doesn't speak English very well.
11 MR. BROWN: (Inaudible). She doesn't comprehend.
12 She doesn't. And she's trained herself how to socialize with
13 English speakers. I mean, look, I'm not saying she's bad.
14 MS. LUZAICH: This isn't a social situation.
15 MR. TOMSHECK: I think they can (inaudible), I
16 don't think she's (indiscernible). She's made it clear
17 (indiscernible).
18 MR. BROWN: She's a non-issue. She will not
19 participate in this -- in the jury process one way or another.
20 She will go with whatever (inaudible) because she's going to
21 go (inaudible). I don't think that she's appropriate as a
22 juror because somebody who should be sitting here that might
23 benefit is going to be (inaudible).
24 MR. TOMSHECK: This has nothing to do with, I
25 think, of being Chinese.

1 MR. ABOOD: I didn't even get into that, but no.
2 I don't think that.
3 THE COURT: I didn't know it was Chinese.
4 MR. ABOOD: It's Tibet.
5 MS. LUZAICH: Tibet.
6 THE COURT: Okay.
7 MS. LUZAICH: Isn't Tibet (inaudible)?
8 THE COURT: Yeah, that's right. But we're not
9 going to talk about that.
10 MR. ABOOD: (Indiscernible) at the Golden Gate.
11 THE COURT: At the Golden Gate, really?
12 MS. LUZAICH: Yes, he actually (inaudible) -- I
13 know this case gets better everyday, doesn't it.
14 THE COURT: Yeah, okay. All right. So --
15 MR. BROWN: And I asked her if she wanted to be
16 excused for her language issue. It's not just to get out of
17 here, she --
18 THE COURT: No, I don't think she's trying to get
19 out of here. She raised the issue --
20 MR. BROWN: (Inaudible).
21 THE COURT: -- but frankly, it seemed to me like
22 she was understanding pretty well.
23 MS. LUZAICH: I agree.
24 MR. BROWN: She understands the basic -- or we
25 think she does. We think she does, because she says, yeah,

1 yeah. She does a lot of agreeing. When I asked her to speak
2 to me on a specific thing, she's not been doing it. Now, you
3 might get her to start telling stories, she'll do that. But
4 that's based on not answering any particular question as to
5 speaking. She's not addressing specific questions. I have
6 real concerns about her. But again, I think she's
7 (inaudible).
8 THE COURT: Well --
9 MS. LUZAICH: Yeah, but that's not the --
10 MR. BROWN: No, that's what I mean. I shouldn't
11 (inaudible).
12 MS. LUZAICH: A standup for a challenge for cause
13 is --
14 MR. BROWN: (Inaudible) language barrier.
15 MS. LUZAICH: (Inaudible) language barrier.
16 MR. BROWN: Well, I want -- if you want, I'll go
17 back and ask her if she preferred having an interpreter, if
18 she says yes, then --
19 THE COURT: No, no, it's not about whether she
20 would prefer it.
21 MR. BROWN: Well, if she --
22 THE COURT: I mean, anybody who comes to this
23 country and has learned -- or grown up with a different
24 language would rather have an interpreter. But that doesn't
25 mean we have to provide one.

1 MR. BROWN: And some really need it. She --
2 THE COURT: Some of them really need it.
3 UNKNOWN SPEAKER: If she had said (inaudible).
4 THE COURT: I have to say, I feel like she
5 understood and that's where I am.
6 MS. LUZAICH: The fact that she was able to talk
7 about signing it so people didn't think she was a gold digger
8 demonstrates she knew exactly what you were asking her.
9 THE COURT: Right. And --
10 MS. LUZAICH: (Inaudible).
11 THE COURT: Because I was trying to probe what
12 she knew about the English language, and how she has
13 functioned in the English language being that she hasn't
14 worked here.
15 MR. BROWN: Maybe you could ask her some
16 additional questions, like legal kind of talk questions.
17 MS. LUZAICH: She doesn't have to understand
18 legalese. I mean, the average juror doesn't understand that.
19 THE COURT: Right. And --
20 MR. BROWN: Maybe she doesn't like law shows
21 because she doesn't understand what's going on.
22 THE COURT: But she understands Lifetime.
23 MR. BROWN: What's that?
24 THE COURT: All right. I'm denying the challenge
25 for right now. I feel like she was understanding.

1 (Bench conference concluded)
2 MR. BROWN: Well, you're not free to go yet. I'm
3 just going to ask you some general questions now. Apparently,
4 you know, the Court and the State are of the opinion that you
5 might understand sufficiently enough to be an eligible juror
6 in this case. I just raise the questions from the defense
7 perspective that there may be things that are important that
8 you don't comprehend, and I think you've agreed with me in the
9 past that that's true.
10 But let's move on to something else for a second
11 and maybe we'll come back to it if you think it's important.
12 Now, you indicated that your husband likes all the legal
13 shows? I mean, does he watch CSI and --
14 PROSPECTIVE JUROR NO. 052: Every night.
15 MR. BROWN: Well, it's on every channel in Hawaii
16 and, you know, everywhere else. I know it's not Hawaii.
17 Going to get the CSI people on me. But you don't particularly
18 enjoy those shows?
19 PROSPECTIVE JUROR NO. 052: No.
20 MR. BROWN: Do you know why?
21 PROSPECTIVE JUROR NO. 052: I don't know, but no
22 action.
23 MR. BROWN: No action.
24 PROSPECTIVE JUROR NO. 052: Yes.
25 MR. BROWN: Well, let me ask you this question.

1 Do you understand everything that's going on when you're
2 watching those legal shows?
3 PROSPECTIVE JUROR NO. 052: Yeah.
4 MR. BROWN: You do?
5 PROSPECTIVE JUROR NO. 052: Uh-huh.
6 MR. BROWN: Okay. So if you understand that,
7 then you should be able to understand this?
8 PROSPECTIVE JUROR NO. 052: I understand it, but
9 I see -- I'm not interested.
10 MR. BROWN: Okay, well --
11 PROSPECTIVE JUROR NO. 052: I'd rather like the
12 LMN. Lifetime for Women.
13 MR. BROWN: Well, they got cameras in here.
14 Maybe it will be a Lifetime for Women show one day, and you'll
15 watch it and you'll say, I was there.
16 PROSPECTIVE JUROR NO. 052: In Lifetime for
17 Women, it's just very light and you can understand every
18 detail that they are saying.
19 MR. BROWN: Right. So you --
20 PROSPECTIVE JUROR NO. 052: (Inaudible) you know.
21 MR. BROWN: So there are some details that may
22 slip past you in some of these legal shows, but you get the
23 big picture.
24 PROSPECTIVE JUROR NO. 052: Um-hm.
25 MR. BROWN: Or does your husband explain it to

1 you?
2 PROSPECTIVE JUROR NO. 052: He said I should be a
3 lawyer, you know.
4 MR. BROWN: You should be a lawyer?
5 PROSPECTIVE JUROR NO. 052: No, he.
6 MR. BROWN: Oh, he should be a lawyer.
7 PROSPECTIVE JUROR NO. 052: Because he likes
8 those movies.
9 MR. BROWN: Okay. Well, let me ask you this
10 question about you. What would somebody who's close to you,
11 maybe your husband or really close friend, how would they
12 describe you to me? If we were just out and they were
13 describe -- how would they describe you to me?
14 PROSPECTIVE JUROR NO. 052: I don't know.
15 MR. BROWN: How would your husband describe you?
16 PROSPECTIVE JUROR NO. 052: Describing me?
17 MR. BROWN: Um-hm. How would he describe you?
18 PROSPECTIVE JUROR NO. 052: He said I am kind.
19 MR. BROWN: Kind.
20 PROSPECTIVE JUROR NO. 052: Uh-huh. Generous.
21 MR. BROWN: All right.
22 PROSPECTIVE JUROR NO. 052: And he likes me as I
23 am.
24 MR. BROWN: Okay. How would you describe you?
25 PROSPECTIVE JUROR NO. 052: He is --

1 MR. BROWN: No, no. How would you describe
2 yourself?
3 PROSPECTIVE JUROR NO. 052: Myself?
4 MR. BROWN: Yeah. You're on one of those game
5 shows, you know, before you go on the dating show, you have to
6 fill out a questionnaire and describe yourself. How would you
7 describe yourself?
8 PROSPECTIVE JUROR NO. 052: I don't know how
9 could I -- how can I describe myself.
10 MR. BROWN: Are you kind?
11 PROSPECTIVE JUROR NO. 052: Yeah, I'm kind.
12 MR. BROWN: Are you generous?
13 PROSPECTIVE JUROR NO. 052: Generous.
14 MR. BROWN: All right.
15 PROSPECTIVE JUROR NO. 052: And charitable.
16 MR. BROWN: Charitable. So you would describe
17 yourself similar to how your husband would describe you?
18 PROSPECTIVE JUROR NO. 052: No.
19 MR. BROWN: No?
20 PROSPECTIVE JUROR NO. 052: I mean, yeah, yeah,
21 because every time I have something, I give it to my sister,
22 you know, something like that. I am so charitable.
23 MR. BROWN: Okay. Have you been in a position,
24 either when you were in the Philippines or when you're here,
25 where you've been responsible for making a decision that

1 affects another person's life?
2 PROSPECTIVE JUROR NO. 052: No.
3 MR. BROWN: Okay. Not a -- you haven't had to
4 fire anybody from a job?
5 PROSPECTIVE JUROR NO. 052: No.
6 MR. BROWN: You haven't had to hire anybody for a
7 job?
8 PROSPECTIVE JUROR NO. 052: No.
9 MR. BROWN: Have you ever supervised, you know,
10 employees?
11 PROSPECTIVE JUROR NO. 052: No.
12 MR. BROWN: You didn't -- and the children that
13 your husband has, were they already grown up when you met
14 them?
15 PROSPECTIVE JUROR NO. 052: Yeah, they are --
16 actually, they are doctors, you know. And two of them are
17 doctors, one is a math teacher in Ohio, and the other one is
18 Ph.D. All of them are very bright students.
19 MR. BROWN: Yeah. Don't get into a Trivial
20 Pursuit game with that family. Yeah, I guess what I'm getting
21 at is, how do you feel about, you know, because as a juror,
22 you have to sit in judgment of another person. I mean, that's
23 part of what comes with the job of being a juror. How do you
24 feel about that?
25 PROSPECTIVE JUROR NO. 052: I feel okay.

1 MR. BROWN: You feel okay? You think you can do
2 that?
3 PROSPECTIVE JUROR NO. 052: Yeah.
4 MR. BROWN: Anything about it that concerns you?
5 PROSPECTIVE JUROR NO. 052: No.
6 MR. BROWN: Okay. That's fair. Mr. Abood was
7 talking early on in the selection process about, you know, the
8 topic of race. And so I'm going to raise that with you just
9 really quickly. Have you had, you know, when you -- either
10 here in the United States, in Ohio, or in Las Vegas or even in
11 the Philippines, have you had an occasion to either work, or
12 live or socialize with the African-American race?
13 PROSPECTIVE JUROR NO. 052: Yes.
14 MR. BROWN: How do you feel about -- well, do you
15 have any opinions, just generally, about black people in
16 general?
17 PROSPECTIVE JUROR NO. 052: No.
18 MR. BROWN: Negative, positive, just nothing?
19 PROSPECTIVE JUROR NO. 052: Yes.
20 MR. BROWN: Okay. Pardon me?
21 PROSPECTIVE JUROR NO. 052: Just fair.
22 Everybody's the same, you know.
23 MR. BROWN: Fair?
24 PROSPECTIVE JUROR NO. 052: Um-hm.
25 MR. BROWN: Okay. I want to make sure you're

1 saying fair and not fear.
2 PROSPECTIVE JUROR NO. 052: No, no, fair.
3 MR. BROWN: That would have been my
4 misunderstanding.
5 PROSPECTIVE JUROR NO. 052: Everybody is equal,
6 same.
7 MR. BROWN: I appreciate -- thank you, I
8 appreciate that. Now, you said that your husband's job was
9 with the Department of Motor Vehicles?
10 PROSPECTIVE JUROR NO. 052: Um-hm.
11 MR. BROWN: What did he do there? Was the
12 supervisor?
13 PROSPECTIVE JUROR NO. 052: No, he works with the
14 castings.
15 MR. BROWN: I'm --
16 PROSPECTIVE JUROR NO. 052: Involve castings, you
17 know.
18 MR. BROWN: Oh, okay. I don't know what that is,
19 but I don't really -- I don't think I need to. It's just he
20 -- you know, how long was he employed in that?
21 PROSPECTIVE JUROR NO. 052: I think it's like 18
22 years. I don't -- more than 10 years.
23 MR. BROWN: And then he retired? I'm sorry?
24 PROSPECTIVE JUROR NO. 052: He retired because he
25 handled the license bureau in Ohio.

1 MR. BROWN: Okay. So he retires from that and
2 then you just -- you guys move out to Las Vegas. Both
3 retired? I mean, neither one of you work right now?
4 PROSPECTIVE JUROR NO. 052: I'm not working, but
5 he's with -- when we met, he's already in the -- he's already
6 the registrar in Motor Vehicle. He's already have a business.
7 MR. BROWN: Okay.
8 PROSPECTIVE JUROR NO. 052: So he did retire in
9 Motor -- General Motors.
10 MR. BROWN: I see, okay. And so, but here, he's
11 not working either?
12 PROSPECTIVE JUROR NO. 052: No, he's retired.
13 MR. BROWN: Okay. Without telling me
14 specifically the streets or anything, what area of town do you
15 live in? Summerland or --
16 PROSPECTIVE JUROR NO. 052: Henderson.
17 MR. BROWN: Henderson?
18 PROSPECTIVE JUROR NO. 052: Uh-huh.
19 MR. BROWN: And the neighborhood you live in, is
20 it a gated community?
21 PROSPECTIVE JUROR NO. 052: Not a gated, but it
22 Sun City Anthem.
23 MR. BROWN: Sun City Anthem, okay, I know exactly
24 where you're at. Now, I only have a few more questions and to
25 let everybody else know, they actually speed up as we move

1 along, so they not all take this long. But with our legal
2 system, did you have to study the American legal system before
3 you were allowed to become a citizen here?
4 PROSPECTIVE JUROR NO. 052: No.
5 MR. BROWN: All right. So you don't -- you're
6 not familiar with any of the legal concepts we have. And I
7 mean and the Judge, frankly, is going to give us some law. I
8 mean, she's going to give us some instructions that guide us
9 in all of this stuff. And one of those is going to be that a
10 defendant in a criminal case, or an accused in any criminal
11 matter is not forced to take the witness stand and testify in
12 front of you. Do you understand what means?
13 PROSPECTIVE JUROR NO. 052: Yes.
14 MR. BROWN: How do you feel about that? That
15 somebody might not have -- might not take the stand and
16 testify in their own defense? What do you think?
17 PROSPECTIVE JUROR NO. 052: If that is the case,
18 then, you have to follow the law because the Judge says.
19 MR. BROWN: Okay. I mean -- and that's what the
20 law says, but what do you feel about it? Do you think
21 somebody should? You think --
22 PROSPECTIVE JUROR NO. 052: Yeah, I think they
23 ought to, you know, show that he's not guilty, prove that he's
24 not guilty (inaudible).
25 MR. BROWN: Um-hm. I understand. And you know,

1 we're -- sometimes when we're talking back and forth, we speak
2 in reverse terms, but you said something that's very
3 interesting, and that's that he needs to prove he's not
4 guilty. I am not taking my watch off and putting it on the
5 counter, only because I don't trust Mr. Abood to not take it.
6 But that's the point he was trying to make is, how do you
7 prove that you're not guilty?
8 Now, I understand you said that, you know, he has
9 to prove he's not guilty. You want him to testify to prove
10 he's not guilty. Is that what you expect from Mr. Abood and
11 myself and Mr. Porter, is to prove to you that he didn't do
12 what he's accused of doing?
13 THE COURT RECORDER: I can't hear that.
14 MR. BROWN: She was whispering --
15 THE COURT: I didn't hear the answer.
16 MR. BROWN: -- and I believe you said I don't
17 know how to answer. But I -- you know. And you -- I don't
18 mean to put you on the spot, and I apologize, but I mean, you
19 understand that if you were in this unfortunate position, you
20 would want your lawyer to know everything that he could,
21 reasonably, about the people that are going to be making this
22 decision. And that's all we're trying to do.
23 And so, when you say I don't know the answer,
24 that's fine. I mean, you know, we operate on a presumed
25 innocent standard here in the United States, and in these

1 courtrooms. And what that means, and I'm not trying to
2 educate and be a civil class, but he sits here not guilty and
3 the State has to prove he's guilty. It's that simple, okay.
4 If they don't prove he's guilty, he's not guilty.
5 But that doesn't mean that's what everybody
6 really thinks the way it should work. How do you think it
7 should work? Should he prove he didn't do it?
8 PROSPECTIVE JUROR NO. 052: Yeah.
9 MR. BROWN: Okay. And that's just honest how you
10 feel about it?
11 PROSPECTIVE JUROR NO. 052: Um-hm.
12 MR. BROWN: You know, the Judge is going to read
13 the law and the instructions that tell you that that's not the
14 way it is. But in your heart, you want him to put on some
15 evidence, or take the stand and prove to you he didn't do this
16 offense.
17 THE COURT: Is that yes?
18 PROSPECTIVE JUROR NO. 052: Yes.
19 MR. BROWN: I appreciate, and I thank you for
20 that answer. And Judge, I would move once again, with new
21 grounds as well, but I'm going to move to have her dismissed.
22 THE COURT: All right. Hold on just a minute.
23 All right. Ms. Yao, hold onto the mic, you're not done,
24 ma'am. Ms. Yao, if you are told -- well, I asked earlier of
25 everybody if you would be able to follow my instructions on

1 the law. Will you follow what I tell you the law is?
2 PROSPECTIVE JUROR NO. 052: Yes, of course.
3 THE COURT: And so, if I tell you that it's the
4 State's burden to prove the defendant guilty beyond a
5 reasonable doubt, would you follow that instruction?
6 PROSPECTIVE JUROR NO. 052: Yes.
7 THE COURT: So it's the State that has to prove
8 the defendant guilty. It's not the defendant who has to prove
9 he's not guilty. Do you understand that?
10 PROSPECTIVE JUROR NO. 052: (No audible
11 response).
12 THE COURT: And so, even though you might feel,
13 you know, you might be coming into court and think otherwise,
14 but if I tell you that's the legal standard, will you follow
15 that instruction?
16 PROSPECTIVE JUROR NO. 052: Yes.
17 THE COURT: And you'll require the State to meet
18 its burden of proving him guilty beyond a reasonable doubt?
19 PROSPECTIVE JUROR NO. 052: Yes.
20 THE COURT: Is that right?
21 PROSPECTIVE JUROR NO. 052: Yeah.
22 THE COURT: You'll require the State to meet that
23 burden. Would you?
24 PROSPECTIVE JUROR NO. 052: Yes.
25 THE COURT: And if the State meets its burden of

1 proving the defendant guilty beyond a reasonable doubt, would
2 you be able to reach a verdict of guilty?
3 PROSPECTIVE JUROR NO. 052: Yes.
4 THE COURT: If the State does not meet its burden
5 of proving the defendant beyond a reasonable doubt, would you
6 be able to reach a verdict of not guilty?
7 PROSPECTIVE JUROR NO. 052: Correct.
8 THE COURT: You would do that if the State didn't
9 meet its burden? Do you understand my questions?
10 PROSPECTIVE JUROR NO. 052: Yes.
11 THE COURT: Okay. Do you want to approach?
12 (Bench conference begins)
13 MR. BROWN: Well, I mean, I've made the record,
14 you know, I mean, I --
15 THE COURT: You have, I just don't think --
16 MR. ABOOD: (Inaudible).
17 MR. TOMSHECK: I don't think I've ever tried a
18 case where somebody actually said that defendant's got to
19 prove his innocence (inaudible).
20 MR. ABOOD: Well, that explains why we're always
21 (inaudible).
22 MR. BROWN: (Inaudible).
23 THE COURT: Right. I mean, I --
24 MR. BROWN: There's a difference between --
25 because she came from a different culture where there is a

1 different system that (inaudible) very often culturally
2 (inaudible) different standard, you prove you didn't do it.
3 You know, our system is (inaudible).
4 THE COURT: I think it's -- well, let me hear
5 from you.
6 MS. LUZAICH: I just don't think that it rises to
7 the level of cause.
8 MR. ABOOD: Why are you so committed to this
9 juror? (Inaudible).
10 MR. TOMSHECK: Because we can't just be kicking
11 everybody out.
12 MS. LUZAICH: Yeah.
13 THE COURT: Because from which everyone that has
14 spoken so far.
15 MS. LUZAICH: Pretty much.
16 MR. BROWN: After this (inaudible).
17 MR. ABOOD: You tried to get (Inaudible).
18 MS. LUZAICH: Yeah.
19 MR. ABOOD: (Inaudible) one person up there, his
20 sister-in-law's been murdered (Inaudible).
21 UNKNOWN SPEAKER: (Inaudible).
22 THE COURT: I've had some people who -- I mean,
23 if she would say, yeah, that's the way I'm going to apply it
24 as a juror, and she couldn't put aside that thought process,
25 then that would be a real problem and she'd be out of here.

1 But you know, that's the way she came in thinking, but if we
2 tell her that that's not the way our system works and this is
3 what the instructions are, she's telling me she's going to
4 follow it.
5 MR. BROWN: I just think --
6 THE COURT: I don't think I have cause.
7 MR. BROWN: Yeah, I just don't think she
8 understands what you're saying, I mean, when you're saying
9 (inaudible) -- she's a yes, ma'am. That's okay. I mean, our
10 records (inaudible).
11 MS. LUZAICH: Most of the jurors don't understand
12 what we're saying. It's got nothing to do with the language
13 barrier. She, at least, is smart.
14 UNKNOWN SPEAKER: She is smart.
15 THE COURT: She is.
16 UNKNOWN SPEAKER: She is smart.
17 MS. LUZAICH: Yes.
18 MR. BROWN: But, I'll do two things, okay, just
19 for the record (inaudible).
20 THE COURT: Right.
21 MR. BROWN: If she makes it in, I will make a
22 record asking for an interpreter (inaudible), make a record
23 (inaudible) -- I need to do that.
24 THE COURT: Okay. So I'm denying it for now. I
25 understand the objection.

1 (Bench conference concluded)
2 THE COURT: Okay. All right, Ms. Yao, you can go
3 ahead and pass the microphone now. You already did. Okay.
4 Mr. Kantor, how are you doing today?
5 PROSPECTIVE JUROR NO. 053: Good. How are you?
6 THE COURT: I'm good. Is there any reason why
7 you could not could not be a completely fair and impartial
8 juror in this case?
9 PROSPECTIVE JUROR NO. 053: No.
10 THE COURT: Can you wait in forming your opinion
11 on the appropriate result until all the evidence has been
12 heard?
13 PROSPECTIVE JUROR NO. 053: Yes.
14 THE COURT: Have you or anyone close to you
15 worked in law enforcement?
16 PROSPECTIVE JUROR NO. 053: Two of my really
17 close friends from New York are police officers.
18 THE COURT: In New York?
19 PROSPECTIVE JUROR NO. 053: Yeah.
20 THE COURT: Okay. And do you talk to them about
21 their work at all?
22 PROSPECTIVE JUROR NO. 053: Not that much. We've
23 spoken before.
24 THE COURT: Sure.
25 PROSPECTIVE JUROR NO. 053: I've known them my

1 whole life.
2 THE COURT: Right.
3 PROSPECTIVE JUROR NO. 053: (Inaudible).
4 THE COURT: Sure. And so the fact that you have
5 close friends who are police officers
6 PROSPECTIVE JUROR NO. 053: Right.
7 THE COURT: -- do you think that you would tend
8 to give greater weight to the testimony of police officers
9 because of that?
10 PROSPECTIVE JUROR NO. 053: Not necessarily.
11 Those two guys happen to be really nice. I know a lot of
12 police officers that aren't nice.
13 THE COURT: Okay.
14 PROSPECTIVE JUROR NO. 053: You know, I mean, I
15 don't -- because they're police officers doesn't mean I take
16 them, you know, that what they're telling me is true.
17 THE COURT: Right, right.
18 PROSPECTIVE JUROR NO. 053: A hundred percent.
19 THE COURT: And so, you need to, as a juror weigh
20 their credibility like -- it's your job as a juror to weigh
21 the credibility of every witness who testifies.
22 PROSPECTIVE JUROR NO. 053: Absolutely.
23 Absolutely.
24 THE COURT: And you think -- you don't think
25 you're going to automatically give them great credibility --

1 PROSPECTIVE JUROR NO. 053: No.
2 THE COURT: -- because they come in with a badge?
3 PROSPECTIVE JUROR NO. 053: No, no.
4 THE COURT: Have you or anyone close to you been
5 charged with a serious crime?
6 PROSPECTIVE JUROR NO. 053: No.
7 THE COURT: Have you or anyone close to you been
8 the victim of a serious crime?
9 PROSPECTIVE JUROR NO. 053: No.
10 THE COURT: Is there anything about the charges
11 in this case that would make it difficult for you to be fair
12 and impartial?
13 PROSPECTIVE JUROR NO. 053: No.
14 THE COURT: Excuse me. Can you base your verdict
15 solely on the brought out at the trial and the law that
16 applies as stated in my instructions to you without fear of
17 criticism or popular opinion?
18 PROSPECTIVE JUROR NO. 053: Yes.
19 THE COURT: Have you ever served as a juror
20 before?
21 PROSPECTIVE JUROR NO. 053: No.
22 THE COURT: If you were a party to this case,
23 would you be comfortable with jurors of a like frame of mind
24 as yourself sitting in judgment?
25 PROSPECTIVE JUROR NO. 053: Yes.

1 THE COURT: How old are -- excuse me, hold old
2 are you, sir?
3 PROSPECTIVE JUROR NO. 053: 38.
4 THE COURT: And how long have you lived here in
5 Clark County?
6 PROSPECTIVE JUROR NO. 053: Almost four years
7 now.
8 THE COURT: Where did you live before that?
9 PROSPECTIVE JUROR NO. 053: New York City,
10 Brooklyn.
11 THE COURT: Right, okay. Are you employed? You
12 told me you were. Who do you work for?
13 PROSPECTIVE JUROR NO. 053: I have. ODS
14 Limousines, On Demand Sedan Limousines.
15 THE COURT: Right, okay. Are you married?
16 PROSPECTIVE JUROR NO. 053: No.
17 THE COURT: Do you have children?
18 PROSPECTIVE JUROR NO. 053: No.
19 THE COURT: What's the highest level of education
20 you completed?
21 PROSPECTIVE JUROR NO. 053: Bachelor's degree.
22 THE COURT: In what?
23 PROSPECTIVE JUROR NO. 053: PS, political
24 science.
25 THE COURT: Okay. That's what my degree is in.

1 State.
2 MR. TOMSHECK: Do you drive a limo?
3 PROSPECTIVE JUROR NO. 053: No, I'm the
4 dispatcher.
5 MR. TOMSHECK: Okay. When you work as a
6 dispatcher, do you work, like, the night shift, day shift,
7 does it vary?
8 PROSPECTIVE JUROR NO. 053: 7:00 in the morning
9 to 5:00 at night.
10 MR. TOMSHECK: So we don't have to worry about
11 you coming in here, should you be tired from working all
12 night?
13 PROSPECTIVE JUROR NO. 053: No, no, not at all.
14 MR. TOMSHECK: You mentioned you had some friends
15 of yours that just happen to be police officers and you think
16 they're good guys because they're your buddies; right?
17 PROSPECTIVE JUROR NO. 053: They're my -- I knew
18 them before they were police officers. I grew up with them.
19 So, just because they're police officers, they're still nice
20 guys anyway.
21 MR. TOMSHECK: And that's precisely my point. I
22 mean, Ms. Luzaich and I are going to ask that if you be picked
23 to be a juror, you promise us that you'll treat every witness
24 the same, whether they're --
25 PROSPECTIVE JUROR NO. 053: Sure.

1 MR. TOMSHECK: -- a cop or a judge or priest,
2 whoever they are?
3 PROSPECTIVE JUROR NO. 053: Yes.
4 MR. TOMSHECK: You agree that you will do that?
5 PROSPECTIVE JUROR NO. 053: Yes.
6 MR. TOMSHECK: And you agree with me, there's
7 probably some good cops out there and there's also probably
8 some bad cops?
9 PROSPECTIVE JUROR NO. 053: Yes.
10 MR. TOMSHECK: Just like there's, you know, good
11 lawyers and bad lawyers. Just, you'll promise us that you'll
12 put aside your feelings towards law enforcement and --
13 PROSPECTIVE JUROR NO. 053: Yes.
14 MR. TOMSHECK: -- evaluate every witness just the
15 same?
16 PROSPECTIVE JUROR NO. 053: Yes.
17 MR. TOMSHECK: Okay. Pass for cause, Judge.
18 MR. BROWN: No, I got it. Boy, he's anxious to
19 talk, isn't he? Must be one of the good lawyers.
20 Mr. Kantor, early on and I just want to address
21 this because it was a concern of yours when the Judge was
22 asking questions before, that you had serious concerns about
23 being here --
24 PROSPECTIVE JUROR NO. 053: Financially, yes.
25 MR. BROWN: Financial concerns. And let's just

1 -- if you can just readdress that really quickly because --
2 PROSPECTIVE JUROR NO. 053: Well, I'm not on
3 salary. I get paid for the hours that I'm there. So if I
4 don't show up the next four days, they'll put somebody else in
5 to fill in. I won't get paid.
6 MR. BROWN: Okay. You won't get paid, but you
7 don't lose your job?
8 PROSPECTIVE JUROR NO. 053: Probably won't lose
9 my job, no.
10 MR. BROWN: Well --
11 PROSPECTIVE JUROR NO. 053: I mean, I hope not.
12 THE COURT: It would be against the law, yes.
13 MR. BROWN: Well, the law won't allow you to lose
14 your job.
15 THE COURT: That would be a problem.
16 MR. BROWN: If you lose your job, call the Judge.
17 So you're just not going to get a paycheck?
18 PROSPECTIVE JUROR NO. 053: I'm not concerned
19 about losing my job.
20 MR. BROWN: Okay.
21 PROSPECTIVE JUROR NO. 053: I'm concerned about
22 falling behind in bills.
23 MR. BROWN: All right. You just get the fine
24 salary that the Clark County gives you for your service as a
25 juror on this case. And that's not quite going to get it

1 done?

2 PROSPECTIVE JUROR NO. 053: Not quite, no.

3 MR. BROWN: But I think, just to go a little

4 further on that, what does that mean to you? I mean, you

5 don't get paid for the week. Some people don't get paid for

6 the week, it sets them back, but the bills get paid, the

7 food's on the table, they make it up in a little while and

8 every is good.

9 PROSPECTIVE JUROR NO. 053: It will set me back

10 if I -- I mean, the complex I live in, I do believe by the

11 10th, if you don't pay your rent, they put the papers through

12 to do the -- to padlock your door with the Sheriff and it's

13 serious. If you don't have your rent by a certain date, they

14 go through the paperwork. It's not like I can speak to

15 somebody and say, hey, please, do me a favor and, you know,

16 give me a couple weeks, they (inaudible).

17 MR. BROWN: Well, that's my question to you. I

18 mean, are you fighting off the eviction notice?

19 PROSPECTIVE JUROR NO. 053: I'm not fighting.

20 I'm nervous about next month. I've paid my rent for this

21 month.

22 MR. BROWN: Okay.

23 PROSPECTIVE JUROR NO. 053: But I'm going to be

24 behind a week. I pretty much need all the money that I make,

25 I don't earn that much, pretty much to pay my rent. I know

1 it's not that, you know, to pay all my bills. I need pretty
2 much what I earn. If I lose a week of work, I'm going to have
3 trouble paying all my bills.
4 MR. BROWN: Okay. Where does that put you
5 mentally as you're sitting as a juror in what clearly is a
6 very serious criminal case?
7 PROSPECTIVE JUROR NO. 053: I'm a little stressed
8 about it, but I'll have to figure out a way if I get put on
9 the case, you know.
10 MR. BROWN: Well, I mean, I'm not going to say
11 the ball's entirely in your court, as we've kind of seen, but
12 where we are on this issue is kind of with you right now. Are
13 you -- you think you're okay? You can put that mental stress
14 aside, you'll make up the money somehow, you'll make ends
15 meet, you'll conduct your service to the community and be a
16 juror? Or are you saying, I can't pay my bills, I run the
17 risk of being thrown out on the street, having my phone --
18 PROSPECTIVE JUROR NO. 053: I don't know if it's
19 going to get that extreme.
20 MR. BROWN: Okay.
21 PROSPECTIVE JUROR NO. 053: But I don't know.
22 I'll be honest, I can't answer it right now. I don't want to
23 say one way or the other. I don't know. I haven't sat down
24 and calculated anything, I don't even know exacts. But it
25 will be a little bit of a burden, yes.

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUSTIN JUG CAPRI PORTER, Appellant, v. THE STATE OF NEVADA, Respondent.	)))))))))	No. 54866

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APPELLANT'S APPENDIX – VOLUME VIII – PAGES 1635a - 1862

PHILIP J. KOHN
Clark County Public Defender
309 South Third Street
Las Vegas, Nevada 89155-2610

Attorney for Appellant

DAVID ROGER
Clark County District Attorney
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155

CATHERINE CORTEZ MASTO
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(702) 687-3538

Counsel for Respondent

INDEX
JUSTIN PORTER
Case No. 54866

	PAGE NO.
Amended Criminal Complaint filed 08/22/00	009-024
Amended Information filed 05/02/01	233-249
Criminal Complaint filed 08/15/00	001-008
Defendant Justin Porter's Reply To State's Written Argument Regarding Defendant's Jackson v. Denno Hearing filed 10/09/06	751-762
Defendant's Motion To Strike State's Notice of Intent To Seek Death Penalty filed 03/10/05	559-618
Defendant's Written Argument Regarding the Preliminary Hearing Received in JC 02/28/01	025-095
Defendant's Written Argument Regarding the Preliminary Hearing filed 02/27/01	104-175
District Court Minutes through 10/14/09	1055-1104
Ex Parte Order for Transcript filed 01/26/09	979-980
Ex Parte Order for Transport filed 08/02/07	765-766
Ex Parte Order for Transport filed 12/10/07	863-865
Ex Parte Order for Transport filed 06/23/08	962
Expedited Order for Transcript filed 06/25/08	963
Information filed 04/26/01	216-232
Instructions to the Jury filed 05/08/09	1012-1048
Judgment of Conviction filed 10/13/09	1051-1052
Justice Court Minutes through 04/18/01	096-103
Justin Porter's Motion to Remand The Case To Juvenile Court and Conduct a Hearing As To Whether He Should Be Certified as an Adult Filed 09/26/02, Date of Hrg: 10/14/02	369-385

Justin Porter's Motion to Remand The Case
To Juvenile Court and Conduct a Hearing
As To Whether He Should be Certified As An Adult,
Filed 06/05/08, Date of Hrg: 06/16/08..... 882-894

Motion for Jury Questionnaire, Filed 04/14/09
Date of Hrg: 04/27/09..... 985-1009

Motion In Limine To Prohibit the State From Referring
To The Decedent, Gyaltso Lungtok, As A Former "Monk",
Filed 04/13/09, Date of Hrg: 04/27/09..... 981-984

Motion to Dismiss Notice of Intent to Seek Death
Penalty For Violation of International Treaty and
Customary Law, Filed 10/10/02, Date of Hrg: 10/21/02.... 426-439

Motion to Sever Counts XXX, XXXI, XXXII Charging
Murder and Related Crimes Against Gyaltso Lungtok,
From The Remaining Counts in the Second Amended
Information filed 05/15/08, Date of Hrg: 05/28/08..... 868-881

Motion to Suppress Defendant's Confessions
And Admissions to Metro and Chicago Detectives
Based on Violation of His Miranda Rights and
Involuntariness and Request for Jackson v. Denno,
Hearing, filed 09/26/02, Date of Hrg: 10/14/02..... 386-425

Notice of Appeal filed 10/29/09..... 1053-1054

Notice of Department Reassignment filed 03/09/06..... 677

Notice of Department Reassignment filed 01/12/07..... 763

Notice of Department Reassignment filed 01/22/07..... 764

Notice of Intent to Seek Death Penalty
Filed 08/03/01..... 334-336

Notice to Place on Calendar filed 03/28/01..... 176

Notice of Witnesses and/or Expert Witnesses
Filed 08/20/07..... 767-862

Order filed 09/25/01..... 353-354

Order filed 05/07/08..... 866-867

Order (For Psychiatric Examination) filed 02/05/04..... 555-558

Order Denying Defendant's Motion to Dismiss Notice of Intent to Seek Death Penalty for Violation of International Treaty and Customary Law, filed 01/02/03.. 553-554

Order Denying Defendant's Motion to Remand to Juvenile Court filed 11/06/08..... 977-978

Order Granting Defendant's Motion to Sever Counts XXX, XXXI, XXXII, Charging Murder and Related Crimes Against Gyaltso Lungtok, From the Remaining Counts In the Second Amended Information filed 07/03/08..... 975-976

Order to Transport filed 01/03/02..... 366

Order to Transport filed 07/25/02..... 367

Order to Transport filed 07/30/02..... 368

Petition for Writ of Habeas Corpus filed 07/03/01..... 250-283

Reply Brief filed 09/19/01..... 337-352

Return to Writ of Habeas Corpus filed 07/31/01..... 285-333

Second Amended Information filed 10/11/01..... 355-365

State's Opposition to Defendant's Motion to Dismiss Notice of Intent to Seek Death Penalty for Violation Of International Treaty and Customary Law, Filed 11/19/02, Date of Hrg: 11/26/02..... 440-468

State's Opposition to Defendant's Motion to Remand The Case To Juvenile Court And Conduct a Hearing As To Whether He Should Be Certified As An Adult, Filed 11/19/02 Date of Hrg: 11/26/02..... 469-505

State's Opposition to Justin Porter's Motion to Remand Case to Juvenile Court to Conduct a Hearing As To Whether He Should be Certified as an Adult, filed 06/12/08 Date of Hrg: 06/16/08..... 926-961

State's Opposition to Defendant's Motion to Sever Counts XXX, XXXI, XXXII, Charging Murder and Related Crimes Against Gyaltso Lungtok, From The Remaining Counts In the Second Amended Information, Filed 06/12/08 Date of Hrg: 06/18/08..... 895-925

State's Opposition To Defendant's Motion to Suppress Defendant's Confessions and Admissions to Metro and Chicago Detectives Based on Violation of his Miranda Rights and Involuntariness and Request for Jackson v. Denno, Hearing, filed 12/02/02, Date of Hrg: 12/17/02..... 506-552

State's Response to Defendant's Written Argument Regarding the Preliminary Hearing filed 04/06/01..... 177-215

State's Written Argument Regarding Defendant's Jackson v. Denno Hearing filed 08/18/06..... 678-750

Third Amended Information filed 04/30/09..... 1010-1011

Verdict filed 05/08/09..... 1049-1050

Writ of Habeas Corpus filed 07/13/01..... 284

Written Argument Regarding Defendant Justin Porter's Jackson v. Denno Hearing filed 08/24/05..... 619-676

TRANSCRIPTS

Jury Trial - Day 1, Monday, May 4, 2009
Filed 01/27/10..... 1635a-1862

Jury Trial - Day 2, Tuesday, May 5, 2009
Filed 01/27/10..... 1863-2203

Jury Trial - Day 3, Wednesday, May 6, 2009
Filed 01/27/10..... 2204-2450

Jury Trial - Day 4, Thursday, May 7, 2009
Filed 01/27/10..... 2451-2646

Jury Trial - Day 5, Friday, May 8, 2009
Filed 01/27/10..... 2647-2708

Reporter's Transcript, Filed 12/11/09
Date of Hrg: 08/23/06..... 1519-1524

Reporter's Transcript, Filed 12/07/06
Date of Hrg: 11/15/06..... 1529-1602

Reporter's Transcript, Filed 01/09/07
Date of Hrg: 12/19/06..... 1603-1611

Reporter's Transcript of Arraignment, Filed 05/21/01
Date of Hrg: 05/02/01..... 1105-1111

Reporter's Transcript of Continuance, Filed 07/18/03
Date of Hrg: 07/14/03..... 1135-1139

Reporter's Transcript of Defendant's Motion To
Remand Case to Juvenile Court/Calendar Call
Filed 12/07/09, Date of Hrg: 06/23/08..... 1628-1631

Reporter's Transcript of Defendant's Motion To
Remand Case To Juvenile Court/Defendant's Motion
To Sever Courts XXX, XXXI, and XXXII, Filed 07/01/08,
Date of Hrg: 06/18/08..... 964-974

Reporter's Transcript of Evidentiary Hearing
Filed 03/09/04, Date of Hrg: 03/08/04..... 1146-1384

Reporter's Transcript of Evidentiary Hearing
Filed 02/09/05, Date of Hrg: 02/08/05..... 1398-1443

Reporter's Transcript of Evidentiary Hearing
Filed 02/10/05, Date of Hrg: 02/09/05..... 1444-1492

Reporter's Transcript of Hearing
Filed 08/31/04, Date of Hrg: 08/19/04..... 1390-1396

Reporter's Transcript of Hearing
Filed 12/15/09, Date of Hrg: 03/24/05..... 1493-1494

Reporter's Transcript of Hearing
Filed 12/15/09, Date of Hrg: 12/09/05..... 1495-1497

Reporter's Transcript of Hearing
Filed 12/15/09, Date of Hrg: 01/03/06..... 1498-1502

Reporter's Transcript of Hearing
Defendant's Various Motions, Filed 03/05/03
Date of Hrg: 11/25/02..... 1118-1122

Reporter's Transcript of Hearing In Re:
Petition for Writ of Habeas Corpus (Murder)
Filed 09/17/01, Date of Hrg: 09/06/01..... 1112-1116

Reporter's Transcript of Hearing Scheduled Evidentiary Hearing, Filed 09/30/03 Date of Hrg: 09/15/03 1140-1145

Reporter's Transcript of Hearing Various Defense Motions (Murder With Use of a Deadly Weapon) Filed 11/21/02, Date of Hrg: 10/14/02 1129-1134

Reporter's Transcript of Hearing Various Motions Filed 03/31/04, Date of Hrg: 03/17/04 1385-1389

Reporter's Transcript of Proceedings Filed 12/22/09, Date of Hrg: 04/10/06 1503-1509

Reporter's Transcript of Proceedings Filed 12/22/09, Date of Hrg: 04/24/06 1510-1512

Reporter's Transcript of Proceedings Filed 12/22/09, Date of Hrg: 05/01/06 1513-1514

Reporter's Transcript of Proceedings Filed 12/22/09, Date of Hrg: 06/19/06 1515-1518

Reporter's Transcript of Proceedings Filed 12/22/09, Date of Hrg: 08/30/06 1525-1528

Reporter's Transcript of Proceedings Filed 12/22/09, Date of Hrg: 01/03/07 1616-1618

Reporter's Transcript of Proceedings Filed 12/22/09, Date of Hrg: 01/10/07 1619-1621

Reporter's Transcript of Setting of Motions Filed 12/18/02, Date of Hrg: 12/17/02 1123-1128

Reporter's Transcript of Status Check: Negotiations, Filed 12/07/09 Date of Hrg: 09/19/07 1622-1627

Reporter's Transcripts of Status Check: Status of Case, Filed 12/07/09 Date of Hrg: 01/31/07 1612-1615

Reporter's Transcript of Status Check: Trial Setting for Severed Counts/Deft's Motion to Remand Case to Juvenile Court/ Calendar Call, Filed 12/07/09 Date of Hrg: 06/25/08 1632-1635

Transcript of Proceedings, Sentencing
Filed 12/29/09, Date of Hrg: 09/30/09..... 2709-2715

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CLARK COUNTY, NEVADA
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THE STATE OF NEVADA Plaintiff, vs. JUSTIN D. PORTER, Defendant.	CASE NO. C-174954 DEPT. NO. 6 **Transcript of Proceedings**

BEFORE THE HONORABLE ELISSA CADISH, DISTRICT COURT JUDGE

JURY TRIAL - DAY 1

MONDAY, MAY 4, 2009

APPEARANCES:

FOR THE PLAINTIFF: LISA LUZAICH, ESQ.
Chief Deputy District Attorney

JOSH TOMSHECK, ESQ.
Deputy District Attorney

FOR THE DEFENDANT: CURTIS BROWN, ESQ.
JOSEPH ABOOD, ESQ.
Deputy Public Defenders

COURT RECORDER:

JESSICA RAMIREZ
District Court

TRANSCRIPTION BY:

VERBATIM DIGITAL REPORTING, LLC
Littleton, CO 80120
(303) 915-1677

Proceedings recorded by audio-visual recording, transcript produced by transcription service.

001635A

1 LAS VEGAS, NEVADA, MONDAY, MAY 4, 2009, 11:25 A.M.
2 (Outside the presence of the prospective jurors)
3 THE COURT: All right. We are on the record.
4 The jurors are being brought upstairs and gathered to go ahead
5 and come in for our jury selection. We have pulled 75
6 potential jurors for this trial.
7 What we're going to do is, we ultimately want to
8 seat 14 jurors to have two alternates for the week. We do not
9 select our alternates -- I don't know if I've told you this
10 already. We don't select our alternates until the end of the
11 trial, and we do it randomly with the bingo balls at that
12 point. So we'll be selecting 14.
13 You each have, I believe, nine peremptories on
14 this case. So we will be qualifying 32 jurors for cause and
15 then you'll do your peremptories on a piece of paper that
16 you'll pass back and forth at the end.
17 So when we seat the folks, we're going to, I
18 guess I'll be asking some questions that, the general
19 questions that I will ask of the entire group. And then I'll
20 start going through one by one and asking each juror some
21 questions, and followed by each of you having the opportunity
22 to question each of those potential jurors. And you'll either
23 pass each for cause, or you'll let me know if there's a
24 challenge and we can take up those matters at the bench.
25 Our bench conferences are on the record, just so

1 you know that. We'll put on the white noise so others can't
2 hear, but it will be on the record.
3 So, what we've tried to do, we've got not only
4 the rows of people inside the jury box, but we've got a front
5 row here and some here behind you, and I think still the first
6 three in the first row will be among that -- the 32 group that
7 we'll be focusing on, although obviously, as people are
8 excused for cause, we'll bring up, then, other jurors in order
9 to replace any that are excused at that particular time.
10 During the course of the jury selection, early on
11 when I have you introduce yourselves and any witnesses, you
12 obviously don't need to disclose what witnesses you wish to
13 call. That will be your call at that point.
14 But I'm going to need you to give a brief
15 description of the nature of the case so I can ask them if
16 there's anything about the nature of the case that would be a
17 problem for them in hearing the case. I expect it to be a
18 very brief, neutral description of this is what the case is
19 about rather than an opening statement or a closing argument.
20 So, try to keep it brief at that point.
21 Anything else I need to mention. Obviously,
22 among my questions to them will be if they, you know, have
23 heard anything about this case or know anything about it and
24 we'll follow up on that if they think that they have.
25 Any questions about that process? We're going to

1 have a pretty full courtroom, bringing 75 in here, so.
2 MS. LUZAICH: Judge, one thing that we have
3 agreed on, if it's okay with the Court, we've discussed prior
4 to coming in and the defense had discussed with their client,
5 we would like to -- if there's a first degree murder
6 conviction, we would like to waive jury sentencing and have
7 the Court sentence.
8 THE COURT: Oh.
9 MS. LUZAICH: I believe that will speed things
10 up, for one, but it will also speed up jury selection because
11 we don't have to ask them about that.
12 THE COURT: Ah, okay. Yeah, that is new because
13 I was anticipating --
14 MR. BROWN: And Your Honor will not have to voir
15 dire the panel on the penalty issues either, if that was in
16 your notes.
17 THE COURT: Yes, and I had some research going on
18 about the penalty phase, so I can stop that.
19 MS. LUZAICH: I figured that would cut quite a
20 bit of time off the trial and that would make everybody a
21 little more comfortable.
22 THE COURT: Right. We'll just focus on the guilt
23 phase. Okay. And so -- and the defense agrees to do it as
24 well?
25 MR. BROWN: Yes, Your Honor. And in the event of

1 a conviction, we'll prepare a stipulation as required by
2 statute and sign it and submit it to the Court.
3 THE COURT: Okay. Okay. Yeah, that should help
4 move things along, so. Okay.
5 Anthony, are they all upstairs now?
6 THE CLERK: Yes, Judge.
7 THE COURT: Okay.
8 THE CLERK: In looking at your sheet, everybody's
9 here except Michael Brinkmann, number 0066. He's a no-show.
10 THE COURT: Okay.
11 THE CLERK: Michael Brinkmann.
12 THE COURT: Do we have --
13 THE CLERK: That would be first page on your
14 calendar, counsel. Brinkmann, Michael, no-show.
15 THE COURT: So we have 74 then? Or did they add
16 someone else?
17 THE CLERK: No, they didn't add anybody.
18 THE COURT: Okay. So it's 74. Okay. All right.
19 Let's go off the record, then, to go ahead and get the chart
20 ready.
21 (Off record at 11:31 a.m. to 11:45 a.m.)
22 (In the presence of the prospective jurors)
23 THE COURT: You folks on that side can go ahead
24 and have a seat once you're all in place. Go ahead.
25 (Pause in proceedings)

1

2 THE COURT: All right. Good morning, everybody.
3 This is the time set for the trial of Case Number C-174954,
4 the State of Nevada, plaintiff versus Justin D. Porter, the
5 defendant. The record will reflect the presence of the
6 defendant and his counsel, the Deputy District Attorneys and
7 all officers of the court.
8 Are the parties ready to proceed?
9 MS. LUZAICH: State's ready.
10 MR. BROWN: Yes, Your Honor.
11 MR. ABOOD: Yes, Your Honor.
12 THE COURT: Okay. All right. Ladies and
13 Gentlemen, you're in Department 6 of the Eighth Judicial
14 District Court of the State of Nevada. My name is Elissa
15 Cadish and I'm the presiding judge.
16 Let me take this opportunity to introduce the
17 staff with whom you may be coming into contact during these
18 proceedings. To my far right is Jessica Ramirez. She's the
19 court recorder. She'll be making sure everything that is said
20 during the trial is preserved in case of an appeal. Because
21 everything is being recorded, it's important that you keep
22 your voice up when you say anything that needs to go on the
23 record.
24 To my immediate right is Keith Reed. He's our
25 courtroom clerk. He's the one who swears witnesses, marks

1 exhibits, keeps track of evidence and prepares minutes or
2 descriptions of the proceedings for the official record.
3 Anthony Russo is the Marshal in charge of
4 courtroom security. You met him already. And he'll be the
5 only person with whom you may talk directly during the course
6 of the trial.
7 At this time, do either of the parties desire to
8 present a challenge to the prospective jury panel as a whole?
9 MS. LUZAICH: No, Judge.
10 MR. BROWN: No, Your Honor.
11 THE COURT: Okay. All right. Mr. Clerk, please
12 call the roll of the panel of prospective jurors. When your
13 name is called, please answer "present" or "here".
14 THE CLERK: Jeannette Honey?
15 PROSPECTIVE JUROR NO. 049: Here.
16 THE CLERK: George Tyrrell?
17 PROSPECTIVE JUROR NO. 050: Here.
18 THE CLERK: Jan Parkenson -- Parkson?
19 PROSPECTIVE JUROR NO. 051: Here.
20 THE CLERK: Juliet Yao?
21 PROSPECTIVE JUROR NO. 052: Here.
22 THE CLERK: Jonathan Kantor?
23 PROSPECTIVE JUROR NO. 053: Here.
24 THE CLERK: Angela Barsekian?
25 PROSPECTIVE JUROR NO. 055: Here.

1 THE CLERK: Terry Phillips?
2 PROSPECTIVE JUROR NO. 056: Here.
3 THE CLERK: Deana Inciso?
4 PROSPECTIVE JUROR NO. 057: Here.
5 THE CLERK: Inciso. Ivy Benfield?
6 PROSPECTIVE JUROR NO. 058: Here.
7 THE CLERK: Brian Berkner?
8 PROSPECTIVE JUROR NO. 059: Here.
9 THE CLERK: Randall Wight?
10 PROSPECTIVE JUROR NO. 060: Here.
11 THE CLERK: Ronnie Long?
12 PROSPECTIVE JUROR NO. 063: Here.
13 THE CLERK: Jean Snowder?
14 PROSPECTIVE JUROR NO. 064: Here.
15 THE CLERK: Julia Hidrosollo?
16 PROSPECTIVE JUROR NO. 065: Here.
17 THE CLERK: Donna Luce?
18 PROSPECTIVE JUROR NO. 067: Here
19 THE CLERK: Wayne Spring?
20 PROSPECTIVE JUROR NO. 069: Here.
21 THE CLERK: Glenn Goldberg?
22 PROSPECTIVE JUROR NO. 070: Here.
23 THE CLERK: Crystal Hutchison?
24 PROSPECTIVE JUROR NO. 072: Here.
25 THE CLERK: Terry Inabnitt?

1 PROSPECTIVE JUROR NO. 073: Here.
2 THE CLERK: Suzanne Mundy?
3 PROSPECTIVE JUROR NO. 074: Here.
4 THE CLERK: Cari Boyd-Dutt?
5 PROSPECTIVE JUROR NO. 075: Here.
6 THE CLERK: Anthony, is it Baio?
7 PROSPECTIVE JUROR NO. 076: Baio.
8 THE CLERK: Baio.
9 PROSPECTIVE JUROR NO. 076: Here.
10 THE CLERK: Joyce Anaya?
11 PROSPECTIVE JUROR NO. 077: Here.
12 THE CLERK: Meghan Lafleur?
13 PROSPECTIVE JUROR NO. 078: Here.
14 THE CLERK: Steven Larson?
15 PROSPECTIVE JUROR NO. 080: Here.
16 THE CLERK: Nicole Weissman?
17 PROSPECTIVE JUROR NO. 081: Here.
18 THE CLERK: Phyllis Hichen?
19 PROSPECTIVE JUROR NO. 082: Here.
20 THE CLERK: Deborah Conway?
21 PROSPECTIVE JUROR NO. 083: Here.
22 THE CLERK: Judy -- excuse me, Joan Judy?
23 PROSPECTIVE JUROR NO. 084: Here.
24 THE CLERK: Joe Martinez?
25 PROSPECTIVE JUROR NO. 085: Here.

1 THE CLERK: Charles F. Stockwell?
2 PROSPECTIVE JUROR NO. 086: Here.
3 THE CLERK: David Bourgon?
4 PROSPECTIVE JUROR NO. 087: Here.
5 THE CLERK: Jay E. Cole?
6 PROSPECTIVE JUROR NO. 092: Here.
7 THE CLERK: Charity, is it Grano?
8 PROSPECTIVE JUROR NO. 095: Here.
9 THE CLERK: Matthew Anderson?
10 PROSPECTIVE JUROR NO. 096: Here.
11 THE CLERK: Linda Weaver?
12 PROSPECTIVE JUROR NO. 097: Here.
13 THE CLERK: Deanrick Fernandez?
14 PROSPECTIVE JUROR NO. 098: Here.
15 THE CLERK: Thomas Flynn?
16 PROSPECTIVE JUROR NO. 099: Here.
17 THE CLERK: Joel Di Pasqualucci?
18 PROSPECTIVE JUROR NO. 101: Yeah, Di Pasqualucci,
19 here.
20 THE CLERK: Dusti Armstrong?
21 PROSPECTIVE JUROR NO. 103: Here.
22 THE CLERK: Michael McWhirter?
23 PROSPECTIVE JUROR NO. 104: Here.
24 THE CLERK: Jessie Brizeno?
25 PROSPECTIVE JUROR NO. 105: Here.

1 THE CLERK: Richard Landini?
2 PROSPECTIVE JUROR NO. 106: Here.
3 THE CLERK: Andrea Montgomery?
4 PROSPECTIVE JUROR NO. 107: Here.
5 THE CLERK: Samantha, is it Yazzi?
6 PROSPECTIVE JUROR NO. 108: Here.
7 THE CLERK: Samantha Yazzi. Monique Doulton?
8 PROSPECTIVE JUROR NO. 109: Here.
9 THE CLERK: Aldo Cavallo?
10 PROSPECTIVE JUROR NO. 110: Here.
11 THE CLERK: Kenneth Hildebrandt?
12 PROSPECTIVE JUROR NO. 111: Here.
13 THE CLERK: Matthew Scovill?
14 PROSPECTIVE JUROR NO. 112: Here.
15 THE CLERK: Wade Cotten?
16 PROSPECTIVE JUROR NO. 113: Here.
17 THE CLERK: Edward W. Wageman II?
18 PROSPECTIVE JUROR NO. 115: Here.
19 THE CLERK: Michael Jasberg?
20 PROSPECTIVE JUROR NO. 117: Here.
21 THE CLERK: Leonor Maclan?
22 PROSPECTIVE JUROR NO. 118: Here.
23 THE CLERK: Jessica Wheeler?
24 PROSPECTIVE JUROR NO. 123: Here.
25 THE CLERK: Derrick Sharp?

1 PROSPECTIVE JUROR NO. 124: Here.
2 THE CLERK: Christopher Johnson?
3 PROSPECTIVE JUROR NO. 125: Here.
4 THE CLERK: Lamar Kruitbosch?
5 PROSPECTIVE JUROR NO. 128: Here.
6 THE CLERK: Susan Sincaban?
7 PROSPECTIVE JUROR NO. 130: Here.
8 THE CLERK: Diane Thompson?
9 PROSPECTIVE JUROR NO. 131: Here.
10 THE CLERK: Tijana Watson?
11 PROSPECTIVE JUROR NO. 133: Here.
12 THE CLERK: Evelyn Palmer?
13 PROSPECTIVE JUROR NO. 134: Here.
14 THE CLERK: Brook Hammond?
15 PROSPECTIVE JUROR NO. 135: Here.
16 THE CLERK: Toronda Rae Thornton?
17 PROSPECTIVE JUROR NO. 136: Present.
18 THE CLERK: Lawrence Cardona?
19 PROSPECTIVE JUROR NO. 139: Here.
20 THE CLERK: Roderick Richter?
21 PROSPECTIVE JUROR NO. 140: Here.
22 THE CLERK: Lori Rackley?
23 PROSPECTIVE JUROR NO. 141: Here.
24 THE CLERK: Kevin Stover?
25 PROSPECTIVE JUROR NO. 144: Here.

1 THE CLERK: Roy Hunter?
2 PROSPECTIVE JUROR NO. 146: Here.
3 THE CLERK: Julia E. Winter?
4 PROSPECTIVE JUROR NO. 149: Here.
5 THE CLERK: Robert Legault?
6 PROSPECTIVE JUROR NO. 150: Here.
7 THE CLERK: Lorenzo Nichols?
8 PROSPECTIVE JUROR NO. 152: Here.
9 THE CLERK: Patricia Pasko?
10 PROSPECTIVE JUROR NO. 153: Here.
11 THE CLERK: David Lewis?
12 PROSPECTIVE JUROR NO. 154: Here.
13 THE CLERK: Peter Mihailoff?
14 PROSPECTIVE JUROR NO. 158: Here.
15 THE CLERK: Panel is present, Your Honor.
16 THE COURT: Thank you. Is there anyone whose
17 name was not called? No? Great, okay.
18 We're about to commence what is called the voir
19 dire process. This is the process by which we select a jury
20 and our goal is to find a jury made up of fair and impartial
21 jurors. I'm going to be asking you questions and the
22 attorneys will have an opportunity to ask you questions as
23 well. At times, the questions may seem somewhat personal.
24 It's not that we're trying to make you uncomfortable by
25 digging into your personal business. We're simply trying to

1 make sure that we have fully explored and can assure ourselves
2 that you can be a fair and impartial juror for this particular
3 kind of case.
4 There will be -- the parties will have the
5 opportunity to make challenges also during the course of these
6 proceedings. There will be challenges for cause, if somebody
7 has a conflict with the trial, or simply cannot be fair and
8 impartial for this case. Additionally, the parties will have
9 the opportunity to make peremptory challenges where a
10 particular reason need not be given for those challenges.
11 If you were excused under either of these
12 procedures, please don't be insulted or disappointed. It's
13 just part of the process designed to ensure a fair and
14 impartial jury in this case.
15 Now, this process is done under oath. So, will
16 you all please stand and raise your right hand so the clerk
17 can administer the oath.
18 (Prospective jurors sworn)
19 THE CLERK: Thank you. Please be seated.
20 THE COURT: All right. Now, I know there is a
21 lot of folks in here and especially those of you that I can't
22 even hardly see back in the corner, it may be a little hard
23 for you to pay attention during the course of the process, but
24 I'm going to ask you to do that. We're going to have some
25 introductions of the people involved in the case, the nature

1 of the case and you're going to be asked questions about that
2 after that happens. So I need you all to pay attention to
3 what's going on and what's being said.
4 Ms. Luzaich or co-counsel, please introduce
5 yourself, tell the prospective jurors the names of the
6 witnesses that you intend to call and a very brief description
7 of the nature of the case.
8 MS. LUZAICH: Thank you. Good morning, Ladies
9 and Gentlemen. My name is Lisa Luzaich. With me is Josh
10 Tomshack. We represent the State of Nevada.
11 Over the next week, we are going to be presenting
12 to you evidence of a murder that occurred back in early June
13 of 2000. You're going to hear about Gyaltso Lungtok, a
14 gentleman from Tibet, so if I brutalize his name, I apologize,
15 who was found dead in his apartment on June 10th of 2000 by
16 his friend.
17 You're going to hear from friends and neighbors
18 of the victim. You're going to hear from a bunch of police
19 officers from the Las Vegas Metropolitan Police Department.
20 You're going to hear about a trip to Chicago. You're going to
21 hear about friends of the defendant's as well. The defendant,
22 Justin Porter, was ultimately charged in this case with
23 burglary with a weapon, murder with use of a deadly weapon and
24 attempt robbery with the use of a deadly weapon.
25 I'm going to read a bunch of names to you. I

1 promise I am not going to call all of the names that I'm going
2 to read, but if you don't hear from these people particularly,
3 you're going to hear about them. And we basically want to
4 know, do you know any of the people involved in the case
5 because that way you could know something about the case and
6 you're not suppose to do that.
7 So over the course of the next week, you're going
8 to hear from or about a bunch of officers from the Las Vegas
9 Metropolitan Police Department. And in no particular order,
10 Officer Mark Misuraca, Detective Barry Jensen, Detective
11 Thomas Thowsen, Detective Teresa Kyger, Detective Michael
12 Thompson, Detective Ken Hefner, Detective James LaRochelle,
13 Detective Laura Anderson, Detective Michael Casteneda,
14 Detective Deborah Love.
15 You're going to hear from and about some people
16 from the Crime Lab at Metro as well. Excuse me, David Welch,
17 Joel Geller, Richard Good.
18 You're going to hear from some crime scene
19 analysts from Metro; David Lamaster, Jeff Smink, Maria Thomas
20 who is now Maria Lopez, Gary Reed.
21 You're going to hear from or about some
22 detectives from the Chicago Police Department; Sam Cirone,
23 Kriston Kato and Ed Cunningham.
24 You're going to hear from and about some medical
25 examiners at the Clark County Coroner's office; Alane Olson

1 and Sheldon Green.

2 And then you're going to hear from some people

3 who have no affiliation whatsoever with any police department.

4 As I indicated, Gyaltso Lungtok is the victim in this case and

5 then you'll hear from or about Jay Cleveland, Derrick

6 Sterling, Alemayehu Awalom, who also goes by Al, Nan Winters,

7 Angela Smith-Porter, George Porter, Dina Regalado-Ordonez,

8 Rebeca Regalado-Gonzalez, Kristopher Deloney, Maria Schwinof,

9 Chanel or Nel Matthews, Kurtis Richards and Antwoyne Wilson.

10 Thank you.

11 THE COURT: Thank you. Counsel for defendant, go

12 ahead and introduce yourself and your client.

13 MR. ABOOD: Yes, thank you, Your Honor. Good

14 morning, Judge. Good morning, Ladies and Gentlemen. My name

15 is Joseph Abood. I'm a defense lawyer and I have the pleasure

16 of working with Mr. Curtis Brown. He's also a defense lawyer.

17 We represent Justin Porter who's seated here this morning.

18 Mr. Porter has pled not guilty to the three

19 counts that Ms. Luzaich made mention to in her statement and

20 we appreciate your involvement. Thank you very much. Thank

21 you, Judge.

22 THE COURT: Thank you. All right. Now, I'm

23 going to be asking some questions and if you do need to

24 respond affirmatively, raise your hand. We'll then get you a

25 microphone and when you speak, you will need to state your

1 name and the last three digits of your badge number on the
2 record so when things are later transcribed, it will be clear
3 who was speaking at any given time.
4 All right. Have any of you been convicted of a
5 felony? One over here.
6 PROSPECTIVE JUROR NO. 063: My name is Ronnie --
7 hello? Hello, my name is Ronnie Long. My last numbers is 063
8 and yes.
9 THE COURT: Okay. Have you had your civil
10 rights, including your right to serve as a juror restored to
11 you?
12 PROSPECTIVE JUROR NO. 063: That's no.
13 THE COURT: You have not?
14 PROSPECTIVE JUROR NO. 063: No, ma'am.
15 THE COURT: How long ago was the conviction?
16 PROSPECTIVE JUROR NO. 063: '89.
17 THE COURT: And where was that?
18 PROSPECTIVE JUROR NO. 063: Norfolk, Virginia.
19 THE COURT: Okay. And there hasn't been any
20 subsequent order restoring your civil rights?
21 PROSPECTIVE JUROR NO. 063: Not have -- not yet.
22 I have -- actually, in about maybe less than a month, it will
23 be sealed and expunged.
24 THE COURT: Okay. But that hasn't occurred yet?
25 PROSPECTIVE JUROR NO. 063: No.

1 THE COURT: Okay. In that case, I believe I need
2 to excuse you at this time. I do thank you very much for
3 being here today and being willing to serve as a juror. You
4 can just -- well, we'll get the microphone.
5 THE MARSHAL: Just bring the mic with you and
6 step down for me, sir.
7 (Pause in proceedings)
8 THE COURT: Thanks.
9 PROSPECTIVE JUROR NO. 085: 085, Joe Martinez. I
10 was convicted of a felony when I was 16 years old. That was
11 many years ago. I'm 66 now. But I put in a year in a State
12 Reformitory.
13 THE COURT: As a juvenile?
14 PROSPECTIVE JUROR NO. 085: Yes.
15 THE COURT: It was a juvenile offense?
16 PROSPECTIVE JUROR NO. 085: Yes.
17 THE COURT: Without looking at the statute, I
18 don't believe that precludes jury service if it's a juvenile
19 offense. Any --
20 MS. LUZAICH: Unless it was certified out.
21 THE COURT: Pardon?
22 MS. LUZAICH: Unless it was certified.
23 THE COURT: Where did that occur? Where were you
24 at the time, sir?
25 PROSPECTIVE JUROR NO. 085: I'm sorry?

1 THE COURT: Where were you -- what -- where were
2 you at the time of the conviction?
3 PROSPECTIVE JUROR NO. 085: Utah.
4 THE COURT: Can you hold the microphone in front
5 of you?
6 PROSPECTIVE JUROR NO. 085: Yes.
7 THE COURT: No, not up here, down here.
8 PROSPECTIVE JUROR NO. 085: Yes, yes.
9 THE COURT: Thank you.
10 PROSPECTIVE JUROR NO. 085: In Utah.
11 THE COURT: In Utah. Okay. All right. And you
12 were -- did you actually go to trial, or was there a plea?
13 PROSPECTIVE JUROR NO. 085: Yes, it -- no, not
14 trial, just a judge. The judge sentenced me to reform school.
15 THE COURT: Okay. And that was convicted as a
16 juvenile to your understanding? You weren't convicted as an
17 adult?
18 PROSPECTIVE JUROR NO. 085: As an -- not as an
19 adult. Just as a juvenile.
20 THE COURT: As a juvenile.
21 MS. LUZAICH: That would not preclude him.
22 THE COURT: Okay. All right. Thank you, sir. I
23 appreciate you letting me know that. All right. So let's go
24 ahead and bring someone up to the seat up front then.
25 THE CLERK: Next in seat number 12 will be badge

1 number 092, Jay E. Cole.
2 THE COURT: All right. Next question, raise your
3 hand if you are not a United States citizen. One over here.
4 PROSPECTIVE JUROR NO. 058: Name is Ivy Benfield,
5 badge 058. I'm a national citizen from American Samoa.
6 THE COURT: Pardon my ignorance, but isn't
7 American Samoa part of the United States?
8 PROSPECTIVE JUROR NO. 058: It is, but I'm --
9 I've always been excused because I am not a --
10 THE COURT: It's not considered a United States
11 citizen?
12 PROSPECTIVE JUROR NO. 058: No. I mean, I could
13 raise my hand.
14 THE COURT: No, I appreciate you letting me know
15 if -- you have been excused before based on that?
16 PROSPECTIVE JUROR NO. 058: Yes, in California.
17 Every time I was called.
18 THE COURT: You were -- were you born and raised
19 there? In American Samoa?
20 PROSPECTIVE JUROR NO. 058: I was born in '65 and
21 moved here to California in '72.
22 THE COURT: Okay. But from '65 to '72 was in
23 American Samoa? Is that yes?
24 PROSPECTIVE JUROR NO. 058: Yes.
25 THE COURT: Sorry, I just want to be clear.

1 Well, you got me. I thought that was part of the U.S.
2 MR. ABOOD: Yeah, Your Honor, my understanding
3 was that it was a protectorate.
4 THE COURT: Ahh.
5 MR. ABOOD: Or something along those lines.
6 THE COURT: So not an actual --
7 MR. ABOOD: But frankly, I thought they were also
8 citizens. I don't have any information one way or the other.
9 THE COURT: Haven't had that come up before. You
10 got me there. All right. Are you willing to serve as a
11 juror, ma'am?
12 PROSPECTIVE JUROR NO. 058: Actually, my husband
13 was laid off, like, six months ago and I'm the only income.
14 THE COURT: Okay. We can talk about those issues
15 later.
16 MS. LUZAICH: Your Honor, can we approach?
17 THE COURT: Yes.
18 (Bench conference begins)
19 THE COURT: I don't -- I mean, I don't want to
20 risk having --
21 MS. LUZAICH: Can she (inaudible) --
22 THE COURT: Okay. Good, thanks.
23 MR. ABOOD: Yeah, no, she may have a hardship
24 anyways. (Inaudible).
25 THE COURT: Well, we'll deal with that when that

1 comes up. Yeah. I just, I don't want to end up seating her
2 and then have a defective verdict because it turns out she
3 can't be on the jury.
4 THE COURT: Okay. Thanks.
5 MS. LUZAICH: (Inaudible).
6 THE COURT: Right, right.
7 (Bench conference concluded)
8 THE COURT: Ma'am, do you know if -- have you
9 been able to vote in elections here?
10 PROSPECTIVE JUROR NO. 058: No.
11 THE COURT: You're not permitted to register to
12 vote?
13 PROSPECTIVE JUROR NO. 058: No. Correct. My mom
14 -- well, my mom told me I can do everything but vote. That's
15 all my understanding was.
16 THE COURT: Okay. I think I'd better excuse you
17 just because I don't want to risk it in case you can't serve.
18 I do appreciate you being here and letting me know that as
19 soon as I asked the question.
20 THE CLERK: Next in seat number 9 badge number
21 095, Charity Grano.
22 THE COURT: All right. Next, now I'm talking to
23 everyone again. Is there anyone who has such a sympathy,
24 prejudice or bias relating to age, religion, race, gender or
25 national origin that you feel would affect your ability to be

1 an open-minded, fair and impartial juror? Anyone have such a
2 sympathy, prejudice or bias on one of those bases? I've got
3 no hands, great.
4 Are any of you acquainted with the defendant or
5 his attorneys? No hands.
6 Are any of acquainted with the two Deputy
7 District Attorneys that are here? No, okay.
8 Are any of you acquainted with the District
9 Attorney for Clark County, David Roger, or other personnel in
10 the District Attorney's office? Okay, I've got a couple of
11 hands.
12 PROSPECTIVE JUROR NO. 128: My name is Lamar
13 Kruitbosch, badge number 128.
14 THE COURT: Okay. Tell me who you know, what the
15 relationship is.
16 PROSPECTIVE JUROR NO. 128: I'm employed, self-
17 employed in law enforcement.
18 THE COURT: You're self-employed in law
19 enforcement?
20 PROSPECTIVE JUROR NO. 128: I'm a bail bond
21 owner.
22 THE COURT: Oh, okay, all right. And so you've
23 had occasion to deal with the District Attorney's office?
24 PROSPECTIVE JUROR NO. 128: Yes, ma'am.
25 THE COURT: All right. Do you think there's

1 anything about those connections that you've had with
2 representatives at the District Attorney's office that would
3 affect your ability to be a fair and impartial juror in this
4 case?
5 PROSPECTIVE JUROR NO. 128: No, Your Honor.
6 THE COURT: And you don't know the particular
7 District Attorneys who are here today?
8 PROSPECTIVE JUROR NO. 128: No, Your Honor.
9 THE COURT: Okay. Thank you, sir.
10 PROSPECTIVE JUROR NO. 135: Brook Hammond, badge
11 number 135. I'm an attorney in town and so I've had occasion
12 to deal with the District Attorneys. I don't believe that
13 there's any reason that it would affect my ability on this
14 case.
15 THE COURT: Okay. And we're going to be getting
16 to this, but I'll ask you now. Do you know the defense
17 attorneys at all?
18 PROSPECTIVE JUROR NO. 135: No.
19 THE COURT: Okay. And I'm sorry, you don't know
20 the particular Deputy District Attorneys here today?
21 PROSPECTIVE JUROR NO. 135: I do not.
22 THE COURT: Okay. Thank you.
23 PROSPECTIVE JUROR NO. 088: Dave Bourgon, number
24 088. I know Elly (phonetic) Thompson, counsel for where we
25 work.

1 THE COURT: And is he in the District Attorney's
2 office?
3 PROSPECTIVE JUROR NO. 088: He's a District
4 Attorney, but he helps out with matters at the airport.
5 THE COURT: Oh, the airport, okay. All right.
6 And again, will that affect your ability to be a fair and
7 impartial juror in this case?
8 PROSPECTIVE JUROR NO. 088: No, ma'am.
9 THE COURT: And you don't know the particular
10 Deputy District Attorneys who are here?
11 PROSPECTIVE JUROR NO. 088: No, ma'am.
12 THE COURT: Okay. Thank you, sir.
13 PROSPECTIVE JUROR NO. 083: Debbie Conway, number
14 083. And our office deals often times with David Rogers and a
15 number of the attorneys in his office.
16 THE COURT: What office are you in?
17 PROSPECTIVE JUROR NO. 083: I'm the County
18 Recorder.
19 THE COURT: You are, aren't you. No wonder your
20 name sounded familiar. Okay. Yes, you do. Okay, now the
21 fact that you've had dealings with David Roger and other
22 members of the District Attorney's office, do you think that
23 that would affect your ability to be a fair and impartial
24 juror in this case?
25 PROSPECTIVE JUROR NO. 083: No.

1 THE COURT: Do you think you can still listen to
2 the evidence and weigh it fairly to come to a decision?
3 PROSPECTIVE JUROR NO. 083: Yes.
4 THE COURT: Okay. Thank you. Appreciate your
5 time. Was there someone -- yeah, there were more up front.
6 PROSPECTIVE JUROR NO. 055: Hi, 055 is my badge
7 number. Angela Barsekian. And just for the Court's
8 information, Your Honor, I was trained as a sexual assault
9 nurse examiner. And so I did come into contact with the
10 District Attorney's office and several Metro officers and
11 detectives, went on patrol with them and worked with them, but
12 not active in that for over a year. So I just wanted you to
13 know.
14 THE COURT: Okay. But I just want to be clear,
15 though. You don't know or haven't worked with the particular
16 Deputy District Attorneys who are here?
17 PROSPECTIVE JUROR NO. 055: I don't think so.
18 THE COURT: And you don't know the defense
19 attorneys or the defendant?
20 PROSPECTIVE JUROR NO. 055: No.
21 THE COURT: And would that -- would the fact that
22 you had occasion to work with the District Attorney's office
23 in the context that you mentioned, would that affect your
24 ability to be fair and impartial in this case? Do you think
25 you could still weigh the evidence fairly?

1 PROSPECTIVE JUROR NO. 055: Yes.
2 THE COURT: Okay. Is there anyone else?
3 THE MARSHAL: No, Judge.
4 THE COURT: Okay. Thank you. Now, are any of
5 you acquainted with any of the witnesses or people who have
6 had some involvement in the case whose names were identified
7 earlier? Got one hand back there, I see.
8 PROSPECTIVE JUROR NO. 097: Linda Weaver, badge
9 number 097. I'm acquainted with Ken Hefner from the
10 Metropolitan Police Department. We're members of the same
11 church.
12 THE COURT: Okay. And I don't know if Mr. Hefner
13 is -- or Officer Hefner is going to be testifying during the
14 course of the case, but if -- tell me, you go to the same
15 church.
16 PROSPECTIVE JUROR NO. 097: So I --
17 THE COURT: Do you see him outside of the context
18 of church services?
19 PROSPECTIVE JUROR NO. 097: No. Just, well, when
20 I see him, you know, at the store, someplace we speak and --
21 THE COURT: Right.
22 PROSPECTIVE JUROR NO. 097: -- you know, we're
23 friends, but no.
24 THE COURT: You don't get together to -- on
25 social occasions?

1 PROSPECTIVE JUROR NO. 097: No.
2 THE COURT: Okay. And if he were to come in and
3 testify in this case, do you think that you could weigh his
4 testimony fairly and impartially just like any other
5 witnesses's testimony?
6 PROSPECTIVE JUROR NO. 097: Yes. I mean, I would
7 probably believe what he said because we go to the same
8 church.
9 THE COURT: Okay.
10 PROSPECTIVE JUROR NO. 097: But I would try to be
11 impartial.
12 THE COURT: Okay. Now, it would be important, in
13 fact, you'd be required as a juror to listen to his testimony
14 as anyone else, not to just assume that because he goes to
15 your church --
16 PROSPECTIVE JUROR NO. 097: Right.
17 THE COURT: -- he must be telling the truth. You
18 understand that?
19 PROSPECTIVE JUROR NO. 097: I do understand that.
20 THE COURT: And you have -- but it is the jurors
21 to weigh the credibility of any witness based on the
22 information presented here in the courtroom. Do you think you
23 can do that?
24 PROSPECTIVE JUROR NO. 097: Yes, I think I could.
25 I don't know. Since he goes to my church, I would probably

1 want to believe that he was telling the truth.
2 MS. LUZAICH: Can we approach?
3 THE COURT: Yes.
4 (Bench conference began)
5 MS. LUZAICH: Hefner's not going to testify. He
6 was a Sergeant (indiscernible) at the time. I read his name
7 just because if somebody knows him, if they had talked about
8 this particular case.
9 THE COURT: Sure.
10 MS. LUZAICH: But he's not going to testify.
11 THE COURT: Okay.
12 MS. LUZAICH: Thank you.
13 THE COURT: Let me fool around about whether she
14 -- certainly whether she's ever talked to him about the case
15 and if she --
16 MS. LUZAICH: (Indiscernible).
17 THE COURT: -- if he doesn't testify, if she's
18 going to give greater weight to others at the Department.
19 MR. ABOOD: Yeah, my concern is --
20 THE COURT: Be concerned about what church he's
21 in, too.
22 MR. ABOOD: My only concern is the continued
23 questioning here, like (indiscernible) otherwise wouldn't be
24 allowed to do (indiscernible) involved in this case, it's
25 going to give it a heightened level to everybody else. I'd

1 almost prefer maybe doing her separate (indiscernible).
2 THE COURT: Well, all I'm going to ask now is
3 whether she's ever talked to him about the case and I'm going
4 to let her know he's not going to testify and whether she
5 would give greater weight to other members of the Metro at
6 this point. That's all I was planning to do.
7 MR. ABOOD: I guess we can wait till we talk to
8 her, (indiscernible). My concern is --
9 MS. LUZAICH: I don't think we need to go any
10 further with her at this point because she said they don't
11 socialize.
12 MR. ABOOD: Yeah.
13 MS. LUZAICH: So, I mean, anything else can just
14 be for kind of us. I don't think that it's cause at this
15 point.
16 MR. ABOOD: I don't think (inaudible).
17 THE COURT: So you don't think I need to even --
18 MR. ABOOD: (Inaudible) takes us. But obviously,
19 if she says that she's talked to him, what I'm going to ask is
20 if he's ever talked to her about any case, just generalize it
21 as opposed to this case.
22 THE COURT: Oh, yeah. I mean, I'm not going to
23 go there now.
24 MS. LUZAICH: I'd rather do that than
25 (indiscernible).

1 THE COURT: Right.
2 MR. ABOOD: But she said she was going to do it.
3 THE COURT: Well, I was going to ask if he had
4 ever talked to her about this case. But I can put that off
5 for you to do later if you'd rather.
6 MR. ABOOD: (Inaudible) case and we can do that.
7 Then --
8 MR. BROWN: Stuff you're concerned (inaudible).
9 MR. ABOOD: Yeah.
10 THE COURT: So, sorry. You just want to deal
11 with it later than?
12 MR. ABOOD: Yeah.
13 THE COURT: So we'll just go on for now?
14 MR. ABOOD: (Inaudible).
15 THE COURT: You don't -- so you don't even want
16 me to tell her at this point that he's not going to testify?
17 MR. ABOOD: Not yet.
18 MS. LUZAICH: No.
19 THE COURT: Okay.
20 (Conclusion of bench conference)
21 THE COURT: All right. You can go ahead and have
22 a seat for now, ma'am. Thank you. Was there anyone else who
23 knew any of the witnesses or people with knowledge or some
24 involvement in the case? No other hands that I'm seeing.
25 Okay.

1 All right. This case is expected to finish this
2 week. It may go until Friday. Is there -- now, we
3 understand, I understand that for each of you to be here, it's
4 inconvenient. There's other places you're rather be, other
5 things you need to be doing. So I do understand that.
6 But my question now is whether serving this week
7 for this trial as a juror would represent an undue burden for
8 you? Okay.
9 PROSPECTIVE JUROR NO. 049: 049, Jeannette Honey.
10 THE COURT: Okay.
11 PROSPECTIVE JUROR NO. 049: I'm the only one
12 working and I have rent that's due on Wednesday.
13 THE COURT: Sorry, I --
14 PROSPECTIVE JUROR NO. 049: I have rent that's
15 due on Wednesday and I'm just like $500 short on it. And I
16 just -- I don't know what to do. And I'm the only one
17 working.
18 THE COURT: You're $500 short on it now?
19 PROSPECTIVE JUROR NO. 049: Yeah.
20 THE COURT: And I'm sorry, so --
21 PROSPECTIVE JUROR NO. 049: I know. I just
22 wanted to let you know that. I'll do it if I have to do it,
23 but.
24 THE COURT: Well, now, what do you do for a
25 living?

1 PROSPECTIVE JUROR NO. 049: I'm a cocktail
2 waitress at the Hacienda.
3 THE COURT: Okay. And if you were -- what shift
4 do you work?
5 PROSPECTIVE JUROR NO. 049: I work day shift,
6 8:00 to 4:00.
7 THE COURT: Okay. So you're here today. So if
8 you were here this week --
9 PROSPECTIVE JUROR NO. 049: Today's my day off,
10 so.
11 THE COURT: Today's your day off.
12 PROSPECTIVE JUROR NO. 049: Yeah.
13 THE COURT: Okay. So you would be working
14 tomorrow and Wednesday and the rent's due Wednesday?
15 PROSPECTIVE JUROR NO. 049: Yeah.
16 THE COURT: And you would be able to get enough
17 during those couple of days to be able to make your payment?
18 PROSPECTIVE JUROR NO. 049: Yeah, yeah.
19 THE COURT: But you won't be able to if you don't
20 work those couple days; is that correct?
21 PROSPECTIVE JUROR NO. 049: Yes.
22 THE COURT: And who else is in your household?
23 PROSPECTIVE JUROR NO. 049: My husband and my
24 son.
25 THE COURT: And you're the only one working right

1 now?
2 PROSPECTIVE JUROR NO. 049: Yeah.
3 THE COURT: Okay. All right. Who else?
4 PROSPECTIVE JUROR NO. 051: My name is Jan
5 Parkson. My number is 051. My wife has been ill for about
6 three years and she's steadily getting worse and I need to
7 call her like every two to three hours to make sure she's on
8 her medication. And I'm the only one that can check up on
9 her. So if something happens, I need to be able to leave
10 right away to get her to the hospital or whatever.
11 THE COURT: Okay. So let me explore that a
12 little bit. Calling every two to three hours I don't think
13 would be a problem if you were here. But you're saying that
14 you might need to rush home?
15 PROSPECTIVE JUROR NO. 051: Well, there's times
16 I've had to leave work to take her to the hospital.
17 THE COURT: How often does that happen?
18 PROSPECTIVE JUROR NO. 051: In the last year,
19 it's happened four times. It just happened this week, past
20 weekend.
21 THE COURT: Just this past weekend?
22 PROSPECTIVE JUROR NO. 051: Yes.
23 THE COURT: And is she still in the hospital?
24 PROSPECTIVE JUROR NO. 051: No, she's at home.
25 THE COURT: Okay. Thank you.

1 PROSPECTIVE JUROR NO. 053: My name is Jonathan
2 Kantor, and I'm 053. If I don't work, I don't get paid. Same
3 situation as the first lady. I work for a limousine company.
4 I'm a dispatcher, I'm not on salary, I'm per hour. So if I
5 don't, like -- I'm off today, I work Tuesday through Friday,
6 7:00 to 5:00. If I don't show up, they just put someone else
7 in and I don't get paid. (Inaudible).
8 THE COURT: Okay and thank you.
9 PROSPECTIVE JUROR NO. 064: I'm Jean Snowder,
10 064. I'm a single parent and today's my day off. I work as a
11 caretaker for two elderly ladies in Sun City. One is macular
12 degeneration and so she's almost completely dependent on my
13 help. And the other just got out of the hospital and
14 dependent on my help as well. Not to mention the fact that I
15 need to make the money since that's -- I'm the only provider.
16 THE COURT: So you're a caregiver for these
17 women, then?
18 PROSPECTIVE JUROR NO. 064: That's correct.
19 THE COURT: Women. And do you just work -- so
20 what days do you work?
21 PROSPECTIVE JUROR NO. 064: I work Tuesday
22 through Friday.
23 THE COURT: Does someone else take care of them
24 on the other days?
25 PROSPECTIVE JUROR NO. 064: Yes.

1 THE COURT: So they have to have somebody there?
2 PROSPECTIVE JUROR NO. 064: On the weekends.
3 THE COURT: So today is your day off. There's
4 someone else that takes care of them on your day off?
5 PROSPECTIVE JUROR NO. 064: On -- today's my day
6 off, except every other Monday, then I work, but today was my
7 day off. On the weekends, I have my ministry that I partake
8 in.
9 THE COURT: I just want to be clear, though.
10 Like today, when it's your day off, someone else is taking
11 care of these two women?
12 PROSPECTIVE JUROR NO. 064: That's correct.
13 THE COURT: Okay. And so, if you weren't there
14 for them Tuesday to Friday of this week, would they have to
15 arrange for someone else to be there to care for them?
16 PROSPECTIVE JUROR NO. 064: I don't know what
17 they would do and I wouldn't make any money. And I'm the
18 only --
19 THE COURT: I understand that.
20 PROSPECTIVE JUROR NO. 064: -- provider in my
21 home.
22 THE COURT: Do you ever take a week off for a
23 vacation or things like that?
24 PROSPECTIVE JUROR NO. 064: I haven't had a
25 vacation since I've lived in Vegas, for seven years.

1 THE COURT: Okay. Thank you.
2 PROSPECTIVE JUROR NO. 073: Terry Inabnitt, badge
3 number 073. I have airline tickets purchased for tomorrow.
4 My daughter's graduation on Friday.
5 THE COURT: I'm sorry, what's your badge number
6 again?
7 PROSPECTIVE JUROR NO. 073: 073, please.
8 THE COURT: 073. And you're flying tomorrow to
9 where?
10 PROSPECTIVE JUROR NO. 073: Indiana.
11 THE COURT: And when is the graduation?
12 PROSPECTIVE JUROR NO. 073: In Kentucky.
13 THE COURT: Sorry, when?
14 PROSPECTIVE JUROR NO. 073: Oh, I'm sorry, this
15 Friday.
16 THE COURT: Thank you. All right.
17 PROSPECTIVE JUROR NO. 081: Nicole Weissman, 081.
18 I have a nine-year-old and an eleven-year-old boy that I drive
19 to school and pick up everyday and we have no family or
20 relatives to watch the kids. I did get somebody to take them
21 this morning, however, it was a stretch. So I'm just
22 concerned about the rest of the week, that I'm going to be --
23 have anxiety all week because I really don't have a babysitter
24 or anything like that for them to ever pick them up and take
25 them home. And then my husband works all different shifts.

1 THE COURT: Okay. Thank you.
2 PROSPECTIVE JUROR NO. 073: Terry Inabnitt, badge
3 number 073. I have airline tickets purchased for tomorrow.
4 My daughter's graduation on Friday.
5 THE COURT: I'm sorry, what's your badge number
6 again?
7 PROSPECTIVE JUROR NO. 073: 073, please.
8 THE COURT: 073. And you're flying tomorrow to
9 where?
10 PROSPECTIVE JUROR NO. 073: Indiana.
11 THE COURT: And when is the graduation?
12 PROSPECTIVE JUROR NO. 073: In Kentucky.
13 THE COURT: Sorry, when?
14 PROSPECTIVE JUROR NO. 073: Oh, I'm sorry, this
15 Friday.
16 THE COURT: Thank you. All right.
17 PROSPECTIVE JUROR NO. 081: Nicole Weissman, 081.
18 I have a nine-year-old and an eleven-year-old boy that I drive
19 to school and pick up everyday and we have no family or
20 relatives to watch the kids. I did get somebody to take them
21 this morning, however, it was a stretch. So I'm just
22 concerned about the rest of the week, that I'm going to be --
23 have anxiety all week because I really don't have a babysitter
24 or anything like that for them to ever pick them up and take
25 them home. And then my husband works all different shifts.

1 THE COURT: Um-hm.
2 PROSPECTIVE JUROR NO. 081: So it's not like I
3 have somebody there that can watch them.
4 THE COURT: So you're normally at home during the
5 day?
6 PROSPECTIVE JUROR NO. 081: Yeah.
7 THE COURT: And sorry, you said you had a
8 relative taking -- helping you today?
9 PROSPECTIVE JUROR NO. 081: No, I don't have any
10 relatives here or anything.
11 THE COURT: So what were you doing today?
12 PROSPECTIVE JUROR NO. 081: Oh, I asked somebody
13 that I knew at school.
14 THE COURT: Oh.
15 PROSPECTIVE JUROR NO. 081: And I dropped them
16 off at like 5:30 because they live across town.
17 THE COURT: Do you know if there's a safe-key
18 available at your children's school?
19 PROSPECTIVE JUROR NO. 081: Only till, I think,
20 4:00, possibly 3:30. It's a private school.
21 THE COURT: I see.
22 PROSPECTIVE JUROR NO. 081: So it's not, yeah.
23 So they have to be driven and it's 30 minutes from the house.
24 THE COURT: Okay. Thank you.
25 PROSPECTIVE JUROR NO. 082: Phyllis Hichen, 082.

1 THE COURT: Yes, ma'am.
2 PROSPECTIVE JUROR NO. 082: I'm the only one
3 that's working. My husband stays at home with our son. He's
4 a special ed student and he home schools him.
5 THE COURT: And what do you do for a living?
6 PROSPECTIVE JUROR NO. 082: Housekeeper at the
7 Rio. I work from 8:00 to 4:00.
8 THE COURT: Okay, thanks.
9 PROSPECTIVE JUROR NO. 084: Joan Judy, 084.
10 THE COURT: Yes, ma'am.
11 PROSPECTIVE JUROR NO. 084: The company that I
12 work for, it's AM-PM Convenience Store. They don't provide
13 for any compensation --
14 THE COURT: Right.
15 PROSPECTIVE JUROR NO. 084: -- for working -- for
16 jury services.
17 THE COURT: Right.
18 PROSPECTIVE JUROR NO. 084: And so it would be a
19 hardship on me financially.
20 THE COURT: When you say it would be a hardship
21 on you, if you were here this week and didn't get paid because
22 you were here this week?
23 PROSPECTIVE JUROR NO. 084: I would not be able
24 to pay my bills. I have no vacation time or sick time with
25 this company yet that I can use.

1 THE COURT: Do you think that your financial
2 hardship is to the point that you feel you would have
3 difficulty concentrating on the evidence here this week?
4 PROSPECTIVE JUROR NO. 084: Absolutely.
5 THE COURT: Do you rent your residence or do you
6 own it?
7 PROSPECTIVE JUROR NO. 084: I'm purchasing it.
8 THE COURT: Purchasing. So you have a mortgage
9 payment?
10 PROSPECTIVE JUROR NO. 084: Yes, ma'am.
11 THE COURT: And has the May payment been made? I
12 mean, the payment that was due at the beginning of May?
13 PROSPECTIVE JUROR NO. 084: Not yet. It will be
14 paid before it's late.
15 THE COURT: Before the 15th or something?
16 PROSPECTIVE JUROR NO. 084: Before the 16th, yes.
17 THE COURT: Okay. And do you have the money to
18 pay it?
19 PROSPECTIVE JUROR NO. 084: Not yet, ma'am.
20 THE COURT: Okay.
21 PROSPECTIVE JUROR NO. 084: Your Honor.
22 THE COURT: Okay. Thank you.
23 PROSPECTIVE JUROR NO. 097: I hate to talk again,
24 I'm Linda Weaver, 097. We purchased airline tickets and gave
25 them to our daughter and her husband for Christmas to go to

1 southern California on Wednesday afternoon. So, you know.
2 THE COURT: Sorry, you're -- so you're flying
3 this Wednesday afternoon?
4 PROSPECTIVE JUROR NO. 097: Yeah. And it's all,
5 you know, prepaid, so. Just thought I'd let you know.
6 THE COURT: Yes, thank you.
7 PROSPECTIVE JUROR NO. 096: Matthew Anderson,
8 number 096. I just started a job maybe two months ago and my
9 fiancee just got laid off about two weeks ago. And we just
10 purchased a home late last year in October. So, yeah, taking
11 a week off with no pay would really throw a wrench in it, you
12 know, so.
13 THE COURT: Would you be able to make your
14 mortgage payment this month?
15 PROSPECTIVE JUROR NO. 096: Yeah, we just made
16 it, but still, me being the only one working, it's kind of a
17 heavy load, you know.
18 THE COURT: Sure. Thank you.
19 PROSPECTIVE JUROR NO. 085: Martinez, 085. My
20 problem is that I have a hard time hearing. If I'm not
21 looking you right in the face, I can't hear you and it
22 wouldn't be fair to --
23 THE COURT: We're going to take care of that
24 right now, sir. Hold on just a minute.
25 THE MARSHAL: Hold on.

1 THE COURT RECORDER: So that means that he'll
2 have super hearing.
3 THE COURT: Yeah, right. Make sure you're
4 careful around the mics.
5 (Pause in proceedings)
6 THE MARSHAL: All right. Here you go, sir.
7 Okay, Judge, say something, please.
8 THE COURT: Can you hear me now, sir?
9 PROSPECTIVE JUROR NO. 085: Oh, yeah, I hear you.
10 THE COURT: All right. Perfect. All right. I
11 wish all the problems were that easy to solve.
12 PROSPECTIVE JUROR NO. 109: Monique Doulton, 109.
13 I'm also in a home caregiving situation. Right now I'm the
14 only person who can do this as my other relatives all live
15 out-of-state. My father is in his 70s and he has a broken
16 pelvis and right now he is very dependent on me to help out
17 until he is further along in his recovery. For me to try to
18 get someone to replace me, you know, my sister, she would have
19 to arrange in advance to get out of her work and that would
20 not be something I could have done at the drop of a hat for
21 the length of time that is concerned.
22 THE COURT: And I'm sorry, who is it who is
23 recovering that you're --
24 PROSPECTIVE JUROR NO. 109: My father.
25 THE COURT: Your father. And he had some kind of

1 surgery or something?
2 PROSPECTIVE JUROR NO. 109: He fractured his
3 pelvis.
4 THE COURT: I see.
5 PROSPECTIVE JUROR NO. 109: He is on a walker at
6 the moment.
7 THE COURT: And so, is he at home?
8 PROSPECTIVE JUROR NO. 109: He's at home.
9 THE COURT: And so you go over there everyday or
10 you're living there?
11 PROSPECTIVE JUROR NO. 109: Actually, I'm living
12 in at the moment. I'm --
13 THE COURT: You live with him.
14 PROSPECTIVE JUROR NO. 109: That's my -- the
15 situation at the moment. I am living with him and looking
16 after the household.
17 THE COURT: Okay. And so you're not there today.
18 What's -- who's taking care of him?
19 PROSPECTIVE JUROR NO. 109: We've had a neighbor
20 who is not always there, but they were -- I talked with them
21 and they agreed to help out for today. But they are not
22 normally, really around enough for me to make that a longer
23 term, sort of situation.
24 THE COURT: Okay. But he needs to have someone
25 there with him all day?

1 PROSPECTIVE JUROR NO. 109: Yes. He's still in a
2 lot of pain. He's on a lot of medication and it's hard for
3 him to get around the home. And I worry about him falling
4 again. This is the second time this year. And just preparing
5 his meals and making sure that he's comfortable. There just
6 isn't anybody else in Nevada for us at the moment to be able
7 to help out.
8 THE COURT: Okay. Thank you.
9 PROSPECTIVE JUROR NO. 113: My name is Wade
10 Cotten, badge number 113. I won't be able to pay my bills if
11 I work over -- today is even crippling my financial situation
12 as it is. Over the past eight months, we've been losing our
13 hours. And I use to make good money, but now that we've been
14 so -- you know, we -- I never thought this would happen, you
15 know, the economy going down and everything. And they're
16 actually taking our hours away. I used to work 12 hours a
17 day, now I work 8 to 10 hours a day. And the last month I
18 think I've worked -- was able to work two hours overtime for
19 each week which is hurting us financially, and one week would
20 really kill me.
21 I have a wife and child. My wife has been trying
22 to get a job for over a year to deal with it, cover the, you
23 know, the financial situation. And everybody's moving to
24 Nevada to get a job. My wife says that she can't get a job.
25 Nobody, you know, everybody's from California, everybody is

1 coming from everywhere and we can't find a job now.
2 THE COURT: All right. What do you do for a
3 living?
4 PROSPECTIVE JUROR NO. 113: I'm a welder. Heavey
5 duty repairman. I am not going to lose my job, but the
6 problem is is the -- and, you know, we were -- well, it's just
7 hard, you know. I wish we had saved our money, you know. I
8 mean, we've already went through our savings already. You
9 know, (inaudible) -- we're trying not to use our credit cards
10 anymore. You know, we used them, they're all maxed out, it
11 doesn't matter, you know. We pay the minimum (inaudible) but
12 still, you know, they want the $40 out of $45 we sent them,
13 you know, for interest. I can't pay everything down, you
14 know. It's getting hard. And if you guys pick me, I'm in big
15 trouble.
16 THE COURT: Okay. Thank you.
17 PROSPECTIVE JUROR NO. 115: My name's Ed Wageman,
18 115. I don't own a car. It takes me two hours to get here.
19 It takes me a bike ride to the bus stop and then two busses up
20 here. And I don't know if I like the idea of going home on my
21 bike after being a juror on a murder trial all day.
22 THE COURT: Okay.
23 PROSPECTIVE JUROR NO. 134: Hi, I'm Evelyn Palmer
24 and my badge number is 134. I, too, work for -- I work for a
25 residential company. It's (indiscernible) Incorporated. It's

1 a group home setting, and they are not paying me for being
2 here. And I'm taking care of actually three children at home.
3 My son, who is 26, was laid off, so he's been with me now for
4 about two, almost three months. And then I have my 19-year-
5 old and his girlfriend staying with me.
6 And plus my 19-year-old has Crohn's disease and
7 I'm still trying to get money after child support stopped and
8 we had Kaiser back in California, I'll have him go back there
9 to get himself checked out and get his medicine. Right now I
10 can't afford $141 for just one of his medicines. So I'm
11 really, really hard right now.
12 THE COURT: Right.
13 PROSPECTIVE JUROR NO. 134: It's pretty bad for
14 me.
15 THE COURT: Okay, thank you.
16 PROSPECTIVE JUROR NO. 136: Toronda Thornton,
17 badge number 136. It would just be a burden financially to be
18 here. Like most people in the courtroom --
19 THE COURT: I'm sorry, I need you to speak up.
20 PROSPECTIVE JUROR NO. 136: It would be a burden
21 to be here financially like most people in this courtroom. I
22 need to work in order to take care of my family and pay my
23 bills. Me and my husband, we both do work, but we work
24 opposite shifts so that we can care for our one-year-old
25 daughter. So, when he gets off and gets home in the morning,

1 it's usually around 7:00, 7:30, I wouldn't even be here. I'd
2 have to be here at 8:00, on time. My schedule at my job is
3 noon to 6:00, Tuesday through Friday and 9:00 to 1:00 on
4 Saturdays. So, I'm just lucky to be off today to even make it
5 here today. So I would not really want to be here.
6 THE COURT: So what shift does your husband work?
7 PROSPECTIVE JUROR NO. 136: He goes in at 10:00
8 p.m. and usually he'll try to get some overtime. He works for
9 a contracted security company, which they just changed his
10 contract and he had to take a pay in cut by $3.00. So any
11 overtime that they offer him helps, as well as myself. So,
12 you know, just the hours and me being able to get here at 8:00
13 is difficult.
14 THE COURT: Oh, because he -- so he finishes work
15 at 6:00 in the morning?
16 PROSPECTIVE JUROR NO. 136: He gets off -- he
17 works 10:00 p.m. to 6:00 a.m. And then if they offer him to
18 stay an hour or two, he usually does. So he usually gets home
19 between 7:00, 7:30, sometimes 8:00 in the morning. And then I
20 go to work from noon to 6:00 p.m.
21 THE COURT: Right.
22 PROSPECTIVE JUROR NO. 136: Or, you know, if I
23 can go in a little bit earlier sometimes I do.
24 THE COURT: And what about if we just need you to
25 be here at 10:00 in the morning the other days, would you be

able to do that?

PROSPECTIVE JUROR NO. 136: Well, then, I wouldn't be getting paid at work and so.

THE COURT: Wouldn't be getting paid at work.

PROSPECTIVE JUROR NO. 136: And I'm also under probation. I just started my job. And it's a six-month probation.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 136: And I need to be there because I'm a pharmacy technician and I'm hoping to take the National Certification. So every day that I'm there is actually, like, a class for me. I'm doing hands-on training. I'm doing on-the-job training. That's the way the job, the company that I work for offers. So each day that I'm at work benefits me in order to be able to take this test I need to take at the end of this year.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 136: So I need to be at work.

THE COURT: Thank you.

PROSPECTIVE JUROR NO. 140: Roderick Richter, number 140. I'm a candidate for the North Las Vegas Police Department and I have a meeting with my background investigator on the 7th at 8:00 in the morning.

THE COURT: Sorry, when is it?

1 PROSPECTIVE JUROR NO. 140: On the 7th.
2 THE COURT: On the 7th, when?
3 PROSPECTIVE JUROR NO. 140: 8:00 in the morning.
4 They could range -- a three to four hour meeting is what they
5 told us to allow. Where do you want me to --
6 THE COURT RECORDER: I'm not picking you up --
7 THE MARSHAL: Just speak up, that's all.
8 PROSPECTIVE JUROR NO. 140: Okay.
9 THE MARSHAL: Raise your voice a little, sir.
10 THE COURT REPORTER: I didn't get the two to four
11 what?
12 THE COURT: Three to four hours.
13 PROSPECTIVE JUROR NO. 140: Three to four hours.
14 THE COURT RECORDER: Okay.
15 THE COURT: All right. So it's the whole morning
16 that day. Okay. There was someone else back there?
17 PROSPECTIVE JUROR NO. 130: Hi, my name is Susan
18 Sincaban, badge number 130. I just think it would be unfair
19 for the trial that if I would be one of the jurors because I
20 work -- not only do I need one of those headphones, but I work
21 graveyard. I don't get off until 7:00, 8:00, 9:00 in the
22 morning. At this hour, actually, I'm very, very sleepy. I
23 don't think I could pay attention, I mean, to -- I've been
24 yawning the whole day since I got here. Again, truly, this is
25 the hour that I sleep.

1 THE COURT: Right. So you worked last night; is
2 that right?
3 PROSPECTIVE JUROR NO. 130: No, not last night, I
4 did not work. But it's just --
5 THE COURT: You're very tired today even though
6 you didn't work last night?
7 PROSPECTIVE JUROR NO. 130: Well, I did kind of
8 some errands, you know. No, I -- I'm not. I did not work
9 last night. But it's just like a routine for me, Your Honor.
10 I've been working for the job for 16 years.
11 THE COURT: I see. And what -- when -- what days
12 do you work?
13 PROSPECTIVE JUROR NO. 130: Wednesday, Thursday,
14 Friday, Saturday. And then they call me once in a while on
15 weekdays. On Mondays and Tuesdays.
16 THE COURT: I can't hear you.
17 PROSPECTIVE JUROR NO. 130: They call me once in
18 a while on my days off also.
19 THE COURT: Okay.
20 PROSPECTIVE JUROR NO. 130: But, I'm just saying
21 that I get off, you know, at this hour.
22 THE COURT: Right, right.
23 PROSPECTIVE JUROR NO. 130: Although I think I
24 could be a sharp --
25 THE COURT: So this is the time you usually

1 sleep? This is the time you usually sleep?
2 PROSPECTIVE JUROR NO. 130: Yes, absolutely.
3 THE COURT: Okay. Thank you.
4 PROSPECTIVE JUROR NO. 130: Sorry.
5 PROSPECTIVE JUROR NO. 154: Thank you. My name
6 is David Lewis, badge 154. I'm the only provider in the house
7 and due to the economic conditions, I'm now working on a per
8 diem basis and I have to be on call and available from 6:00 to
9 about 4:00. And that's the only source of income. It's per
10 diem pay. If I'm not there to do the job when they call, then
11 I lose that income. But more potentially, I would lose the
12 ability to be called back again for the work, so.
13 THE COURT: Who is it you get calls from?
14 PROSPECTIVE JUROR NO. 154: Surgery Centers,
15 individual physician's office. I do surgical equipment
16 repair.
17 THE COURT: I see.
18 PROSPECTIVE JUROR NO. 154: So the problem is not
19 only just loss of income for this week, but I would be taken
20 off the list that, you know, that would call me back in the
21 weeks to coming.
22 THE COURT: Okay. Anyone else?
23 PROSPECTIVE JUROR NO. 149: Julia Winter, 149. I
24 have hearing aids and one went out last week, so I'm going to
25 need one of those headsets.

1 THE COURT: You need a headset also. We can do
2 that. Do we have another one?
3 THE MARSHAL: (Inaudible), Judge.
4 THE COURT: We'll have to track one down.
5 THE MARSHAL: Can I track one down? Absolutely.
6 THE COURT: Okay. Was there -- was that the last
7 person?
8 THE MARSHAL: I believe so.
9 THE COURT: Okay. So we'll make sure we take
10 care of that issue.
11 I want to ask just a couple more questions of
12 everybody and then I'll talk to counsel. Okay. So I need
13 everybody paying attention again now.
14 The folks who sit as jurors in a case are the
15 ones who will make the decision. They become the judges of
16 the questions of fact, what really happened. But I, as the
17 Judge, am the Judge of the questions of law and I will give
18 you instructions on what the law is. And you, as jurors,
19 would be required by your oath to follow my instructions on
20 the law. Even if they were different from what you thought
21 the law was, or what you thought the law ought to be, you're
22 required to assume that what I say is the law and you have to
23 follow it.
24 Is there anyone who would have difficulty doing
25 that? Got one back there.

1 PROSPECTIVE JUROR NO. 136: Toronda Thornton,
2 136.
3 THE COURT: I'm sorry, your name?
4 PROSPECTIVE JUROR NO. 136: Toronda Thornton,
5 136.
6 THE COURT: Thornton. Thank you. Yes, ma'am.
7 PROSPECTIVE JUROR NO. 136: Well, I mean, you're
8 saying that I would have to assume that what you're saying is
9 the law.
10 THE COURT: Right.
11 PROSPECTIVE JUROR NO. 136: But what if I did not
12 agree with it?
13 THE COURT: That's right.
14 PROSPECTIVE JUROR NO. 136: And that would be,
15 you know, just a conflict that I wouldn't want to be
16 responsible or be -- to have anything to do with someone
17 else's, in this case, murder trial, someone else's life
18 possibly being taken away. You know, I wouldn't want to put
19 that on myself.
20 THE COURT: Well --
21 PROSPECTIVE JUROR NO. 136: Just the fact that
22 what you're saying is, I have to assume that what you're
23 saying is to be the law or be true. But that doesn't
24 necessarily --
25 THE COURT: No. I'm not going to tell you what's

1 true. I'm going to tell you what the law is. It's up to the
2 jurors to decide the facts. So, in other words, I'm going to
3 read instructions to you that tell you about the definitions
4 of the crimes that are charged here and what that means so
5 that the jurors can decide if that crime has been proven
6 beyond a reasonable doubt or not.
7 You'd be required to follow what I tell you the
8 law is in terms of the elements and things that have to be
9 proven in the case.
10 PROSPECTIVE JUROR NO. 136: Right. So then I
11 would have to take what you're saying on face value. I
12 wouldn't be able to research it for myself.
13 THE COURT: Right. I don't think you know more
14 about the law than I do. Do you have some legal training,
15 ma'am?
16 PROSPECTIVE JUROR NO. 136: No, but I mean, I
17 would ask someone else if I had a chance to.
18 THE COURT: Okay. You're going to be instructed
19 also that you're not allowed to do that. As a juror, you're
20 not allowed to go do any independent research. You're
21 required to rely only on what happens here in the courtroom.
22 We're going to be talking more about that later as well.
23 PROSPECTIVE JUROR NO. 136: I understand. I'm
24 just being honest and speaking how I feel. And I -- you know,
25 that's just how I am. I don't really take things on face

1 value, anything that anyone tells me. If I'm not certain,
2 I'll do research for myself. In this case, I wouldn't be able
3 to. I'll be forced into a situation where I would have to
4 take what you say --
5 THE COURT: That's right.
6 PROSPECTIVE JUROR NO. 136: -- at face value and
7 take it to be the truth and I'm not comfortable with doing
8 that. So I'm just expressing that, that's all.
9 THE COURT: Okay. Thank you.
10 PROSPECTIVE JUROR NO. 055: Hi, badge number 055,
11 Angela Barsekian. If I understood Your Honor, what you were
12 saying, if I was on a jury involving a murder, that could
13 involve a death sentence. I don't believe in the death
14 penalty, so.
15 THE COURT: Okay.
16 PROSPECTIVE JUROR NO. 055: (Inaudible)
17 THE COURT: All right. Not an issue in this
18 case, but I appreciate you letting me know that. Okay.
19 All right. Now, under our system of criminal
20 justice, there are certain principles that apply in every
21 criminal trial. And they are, that the charging document
22 which has been filed in this case is a mere accusation that is
23 not evidence of guilt. That the defendant is presumed
24 innocent and the State must prove that the defendant is guilty
25 beyond a reasonable doubt.

1 Are there any of you who don't understand or
2 believe in those basic precepts of American justice? I don't
3 see any hands, great. Okay.
4 Do any of you know anything about this case other
5 than what's been stated in the courtroom today? Any of you
6 heard or read anything about the case, know anything other
7 than what we've been discussing these last couple hours here
8 in court? No, great. Okay.
9 All right. Counsel, please approach and bring
10 your notes.
11 (Bench conference began)
12 THE COURT: Okay.
13 MS. LUZAICH: This is actually getting somewhat
14 amusing.
15 THE COURT: Well, you know. There are actually a
16 fair amount of decent excuses today, so let's -- I'm just
17 going through what I have in terms of my notes. I don't know
18 if I've got the names for that.
19 Okay. I've got starting with Ms. Honey, 049.
20 MS. LUZAICH: Danger, danger.
21 MR. BROWN: Can we go now? Do we go now?
22 THE COURT: Sounded fine.
23 MR. BROWN: That's why I asked.
24 THE COURT: She says she still short on paying
25 her rent that's due this Wednesday and she --

1 MS. LUZAICH: Yeah, Curtis volunteered to pay her
2 rent.
3 THE COURT: You know, here's the thing.
4 Generally for folks that just tell me, you know, which happens
5 a lot, I'm going to lose my pay this week and it will be hard
6 on me, frankly I generally don't excuse them simply because
7 they say that, because everyone has that situation.
8 If they go further and start -- and really can't
9 pay their bills, where it's going to be a real hard, true
10 hardship for them, then I'm more inclined to excuse. I feel
11 like she was pretty specific about what she needed --
12 UNKNOWN MALE SPEAKER: Yeah, I think she
13 (indiscernible) or something.
14 THE COURT: That's what she said, she's $500
15 short and she would be able to get that money in the next
16 couple days to pay it if she worked. So I'm going to excuse
17 her unless you convince me otherwise. Okay.
18 Parkson, his wife's ill, he needs to call her
19 every two to three hours, which we can certainly accommodate.
20 He may need to rush home. I want to -- I guess I'm not
21 inclined to let him go now.
22 MR. ABOOD: When he's done calling his wife, he
23 can hang up and call 911.
24 MS. LUZAICH: 911, exactly.
25 UNKNOWN MALE SPEAKER: (Indiscernible).

1 THE COURT: All right. Kantor, 053. Right, he's
2 a limo company dispatcher, he's not going to paid. I didn't
3 hear anything specific enough to convince me. So, I'm going
4 to leave him for now. We can explore it further when you
5 question individually.
6 Snowder, number 064 -- sorry?
7 MS. LUZAICH: You know, can you go up to 55 and
8 she's not the financial issue. She was the sexual assault
9 nurse examiner.
10 THE COURT: Right.
11 MS. LUZAICH: I'm just afraid that she will know
12 that a lot of these guys work sexual assault. I mean --
13 THE COURT: Oh.
14 MS. LUZAICH: -- so that (inaudible).
15 THE COURT: You know, that's why -- I mean, I
16 asked her if she knew this defendant or the defense attorneys
17 because obviously, I didn't want -- I knew that there were
18 these other charges.
19 MR. TOMSHECK: We've taken great pains to keep
20 the detectives from talking about that. So --
21 THE COURT: Yeah.
22 MR. TOMSHECK: -- (indiscernible).
23 THE COURT: Right. So you're concerned she may
24 just pick up from who comes into court that there's a sexual
25 assault issue.

1 UNKNOWN MALE SPEAKER: Well, everyone involved
2 (indiscernible) sex assault (indiscernible).
3 THE COURT: When they're questioned, though, in
4 the course of your questioning, we're not going to cover that
5 they're in a sex assault unit, right?
6 MR. ABOOD: Right. We've been through that.
7 THE COURT: You mean further?
8 MR. ABOOD: Yes.
9 THE COURT: Right.
10 MR. ABOOD: They're all just going to be
11 detectives.
12 THE COURT: Okay. So, but that's --
13 MR. ABOOD: She's just a potential
14 (indiscernible).
15 THE COURT: Right. If she knows that.
16 MR. BROWN: She wouldn't make it through
17 deliberations without making reference to the fact that any
18 one of these guys work on sexual assault cases. There's just
19 too many. At least it's (inaudible) smarter memory
20 (indiscernible).
21 MR. ABOOD: Right.
22 MR. BROWN: If she starts yelling or something.
23 MS. LUZAICH: I've been doing sexual assault for
24 10 years (indiscernible).
25 MR. ABOOD: The fact that she was working with

1 the DA's office.
2 MS. LUZAICH: And I'm surprise that she does not.
3 THE COURT: Right. And that's why I, you know.
4 MR. ABOOD: She just doesn't remember.
5 MR. BROWN: Right.
6 MR. ABOOD: I'm surprised she said she doesn't
7 remember (indiscernible).
8 MS. LUZAICH: (indiscernible).
9 MR. ABOOD: I know. (indiscernible).
10 MS. LUZAICH: Yeah.
11 THE COURT: Stipulate to excusing her? Well,
12 given those concerns and the fact that her work as a sex
13 assault nurse might lead her to either know that the police
14 are involved in a sex assault, or she may remember that you
15 have worked in a sex assault unit. That could definitely
16 improperly impact the jury deliberations. So I'll go along
17 with that stipulation.
18 All right. Sorry, so who was I down to?
19 Snowder, 064, yes, all right. Oh, she's the one who's --
20 MS. LUZAICH: I'm just irritated that she's
21 wearing a hat in court.
22 THE COURT: You know, I thought about that, too.
23 And then I was going to ask her to remove it and then I
24 thought maybe there's some reason I don't know about, you
25 know. I'll ask Anthony about that later and see if he talked

1 to her about it because I'm surprise he didn't tell her to
2 take it off.
3 MS. LUZAICH: (indiscernible).
4 UNKNOWN MALE SPEAKER: (indiscernible).
5 THE COURT: Okay. So she wanted to tell me that,
6 you know, that she's a single parent and is losing money,
7 which I understand. But I'm more concerned about elderly
8 ladies that she's a caregiver for, frankly, than I am about
9 her coming --
10 UNKNOWN MALE SPEAKER: (indiscernible).
11 THE COURT: Okay. Well, that's not cause.
12 UNKNOWN MALE SPEAKER: (indiscernible).
13 MS. LUZAICH: She was.
14 THE COURT: But I am concerned about these older
15 women that she cares for everyday need to have a caregiver and
16 don't have someone to care for them if she's not there. So
17 I'll excuse her.
18 Then Inabnitt, flying for a person's graduation.
19 I'm not keeping that person.
20 MS. LUZAICH: Which one is that?
21 THE COURT: He's 073.
22 MS. LUZAICH: (Inaudible).
23 THE COURT: Right. He's flying to Indiana.
24 Yeah. Okay. Weismann, oh, I see. Weismann, issues with drop
25 off and pick up for school.

1 MS. LUZAICH: Yeah, I was so irritated with that
2 because my kids are in safe-key (indiscernible).
3 THE COURT: So are mine. But she's in a private
4 school and they don't have after school care? Maybe they
5 don't, I don't know. I've never used private schools.
6 MS. LUZAICH: I can't afford it (inaudible).
7 THE COURT: Yeah, exactly. I don't know. Any
8 feelings one way or the other on her?
9 MR. ABOOD: (Inaudible). She doesn't want to be
10 here. She used the word that (inaudible) anxiety during the
11 case. Have anxiety during this case.
12 THE COURT: Yeah. And she did say that, that she
13 would -- I mean, if -- maybe they don't have after school
14 care. And then she's going to have a real problem.
15 MS. LUZAICH: I was thinking (inaudible).
16 THE COURT: I'm going to excuse her. If she
17 doesn't have coverage for her kids, that's not going good.
18 It's going to be a problem.
19 Hichen, 082. She's the only one working. Her
20 husband home schools her son. I didn't hear any detail on
21 hardship though.
22 MS. LUZAICH: Yeah, she didn't.
23 THE COURT: So I'm going waive her for now. She
24 may convince me on individual questioning, but she hasn't
25 convinced me yet.

1 Judy, 084, also --
2 MS. LUZAICH: She said she can't pay her bills.
3 THE COURT: Right. She did say she can't pay her
4 bills, so there is a real hardship. She was pretty specific.
5 All right, I'll excuse her. Of course, then they're going to
6 figure out what they have to say which is always my concern
7 when I start asking them the specific questions.
8 All right. Weaver, she's also got airline
9 tickets prepaid. She's leaving Wednesday afternoon, I think
10 she said.
11 MS. LUZAICH: Who's that?
12 THE COURT: Weaver, 097.
13 UNKNOWN MALE SPEAKER: (Inaudible).
14 THE COURT: Oh, that's --
15 MS. LUZAICH: (Inaudible)
16 THE COURT: Right. I'm sorry?
17 MS. LUZAICH: 96, Matthew Anderson. I just --
18 THE COURT: Oh, I have -- okay. He must have
19 spoke afterwards because --
20 MS. LUZAICH: Oh.
21 THE COURT: -- I have -- I wrote notes when they
22 were speaking instead of in the chart order, so.
23 MS. LUZAICH: I'm sorry. Is Linda Weaver going?
24 THE COURT: Okay, sorry. So, Weaver I'm going to
25 go ahead and excuse because of the plane tickets, which, you

1 know, given what she already said is probably okay, too.
2 Anderson. He's made this month's house payment,
3 but fiancee is laid off. He started a job two months ago.
4 They just bought a house. I'm inclined to leave him for now.
5 MS. LUZAICH: Yeah, he hasn't (inaudible).
6 THE COURT: We took care of Martinez's hearing
7 issue. Okay. Now, this is just the order I have which is
8 109, Doulton.
9 MS. LUZAICH: Dad's broken (inaudible).
10 THE COURT: Yeah, I think I've got to let that
11 one go, yes.
12 Cotten, 113.
13 MS. LUZAICH: He's the first one that finally
14 mentioned the economy.
15 MR. BROWN: (Inaudible).
16 THE COURT: Yes, yes. He kept going on and on.
17 All right. So I will excuse him.
18 MS. LUZAICH: (Inaudible)
19 THE COURT: Yeah, I know. I'm glad we've got a
20 lot of people. And I know, there's been more good excuses
21 than I usually hear. I usually just hear well, (inaudible).
22 MR. BROWN: (Inaudible) ride his bike.
23 THE COURT: That's this Wageman.
24 MS. LUZAICH: (Inaudible).
25 THE COURT: No. I mean, he doesn't have a car,

1 so he takes a bus. So, yes, it takes a while.
2 MR. ABOOD: He says it takes two hours to get to
3 the bus or something like that.
4 MS. LUZAICH: I wrote (inaudible).
5 THE COURT: Well, okay. I'm not going to excuse
6 him now. We can explore, personally, individual questioning.
7 Okay, so I've got Palmer, 134. And that's the one that she's
8 got three kids at home.
9 MS. LUZAICH: Three adult kids and not a damn job
10 between them.
11 THE COURT: And the 19-year-old has Crohn's and
12 medical expenses that she can't pay for.
13 MS. LUZAICH: I did write that.
14 THE COURT: I wrote down the Crohn's. All right.
15 Excuse her.
16 MS. LUZAICH: (Inaudible).
17 THE COURT: I think it's Thornton, 136.
18 MR. BROWN: (Inaudible).
19 THE COURT: I -- sorry, my notes are in the order
20 they spoke and not in the number order.
21 MS. LUZAICH: Yeah.
22 MR. ABOOD: Okay. So we're on --
23 THE COURT: I'm on 136.
24 MS. LUZAICH: 136.
25 THE COURT: Thornton. But she's the one who

1 works opposite shifts. So when I put her down we wouldn't
2 start till 10:00 so she could get here in the morning, then
3 she went back to this financially.
4 MR. ABOOD: She won't listen to your law.
5 THE COURT: Oh, is she the one on that?
6 MS. LUZAICH: Yes.
7 THE COURT: You're right, she's the one on that,
8 too.
9 UNKNOWN MALE SPEAKER: (Inaudible).
10 THE COURT: I know. She didn't raise her hand on
11 that.
12 UNKNOWN MALE SPEAKER: (Inaudible).
13 THE COURT: She's clearly just -- she's clearly
14 just trying to get off.
15 MR. ABOOD: Yeah.
16 THE COURT: But, but in terms of evaluating
17 cause, though, she's got the conflict issues with her
18 husband's schedule and she, if she's going to have a struggle
19 following my instructions on the law that's a problem. So I'm
20 going to excuse her.
21 Richter has his North Vegas Police Department
22 interview.
23 UNKNOWN MALE SPEAKER: He's not going to be able
24 to reschedule that.
25 THE COURT: I don't know.

1 MS. LUZAICH: You would think that the North
2 Vegas Police Department wants people to sit as jurors.
3 (Inaudible) alternative schedule and maybe he could, like,
4 call them at the break and explain that he's a potential on a
5 jury.
6 UNKNOWN MALE SPEAKER: But they may be pretty
7 firm because it's North Las Vegas.
8 MS. LUZAICH: This is a (inaudible).
9 UNKNOWN MALE SPEAKER: During the interview
10 they're going to find out (inaudible).
11 (Indiscernible cross-talking)
12 THE COURT: You know we're on the record, right?
13 MR. ABOOD: That's okay.
14 THE COURT: Okay. Just reminding you.
15 MR. ABOOD: When I'm kidding, I'll make that in
16 the record.
17 THE COURT: Okay, good. When you are. So we can
18 ask him if it's -- if he can try to call in and reschedule it.
19 Otherwise, we'll hear further from him this afternoon if we
20 get that far.
21 UNKNOWN MALE SPEAKER: I can probably make a call
22 and reschedule it pretty easy. (Inaudible).
23 THE COURT: Sincaban, number 130.
24 MS. LUZAICH: (Inaudible).
25 THE COURT: Oh.

1 MR. ABOOD: (Inaudible).
2 THE COURT: But she didn't work last night, but
3 she's used to sleeping at this time.
4 MS. LUZAICH: I understand. I lived with a
5 graveyard cop for a long time.
6 THE COURT: You do get use to that schedule.
7 MR. ABOOD: I've been in courts where graveyard
8 people were informed by the court (inaudible).
9 THE COURT: You're not supposed to go to work.
10 MR. ABOOD: (Inaudible).
11 THE COURT: She'll follow that.
12 MR. ABOOD: -- hardship questions, but she didn't
13 get into that. But that's where I think (Inaudible).
14 THE COURT: No, she was more about the being
15 tired than anything else.
16 MR. BROWN: (Inaudible). Because she can't
17 (inaudible).
18 THE COURT: Right, because everyone that works
19 during the day is going to be missing their (indiscernible),
20 right? All right. So I'll leave her for now.
21 Number 154, Lewis.
22 MS. LUZAICH: (Inaudible).
23 THE COURT: Right. But, so he's not only going
24 to miss calls this week, but it may affect his future.
25 MS. LUZAICH: He'll be taken off the call list.

1 THE COURT: I guess if he can't help them this
2 week or something. I'm going to -- I guess I'm not convinced
3 yet.
4 MR. ABOOD: Yeah, we might be able to readdress
5 it later. He's pretty far down the list. He may not even
6 make it.
7 THE COURT: Right.
8 MR. ABOOD: But if he does then we can get into
9 (indiscernible).
10 THE COURT: Right. Right. We can follow up on
11 anyone that's left later. And we just -- she just needed a
12 headset. Excuse that one. And Barsekian was concerned about
13 the death penalty, but not an issue. Do you have any others?
14 That's all I have in my notes.
15 MR. BROWN: I have the bail bondsman (inaudible).
16 MS. LUZAICH: (Inaudible).
17 THE COURT: How can you be in private law
18 enforcement?
19 MR. BROWN: (Inaudible).
20 THE COURT: Okay. Well, she's been excused
21 anyway, actually, so.
22 MR. BROWN: She already said the death penalty
23 (iaudible).
24 THE COURT: Yeah, yeah. She was being excused
25 anyway. Okay. So, I'm going to excuse them. Oh, it is 1:00

1 after all and then we'll take a break till 2:00, I guess.
2 MR. ABOOD: Okay.
3 MS. LUZAICH: Sure.
4 THE COURT: We can stay a little pass five if we
5 need to, so. All right. Thanks.
6 (Conclusion of bench conference)
7 THE COURT: All right. I am excusing the
8 following individuals at this time. Those of you who are not
9 excused, just, I guess, know that we are going to be talking
10 to the rest of you individually as we go through the process.
11 So, there will be further conversations.
12 At this time, though, I am excusing Juror Number
13 055, Ms. Barsekian; Number 049, Ms. Honey; 064, Ms. Snowder;
14 073, Inabnitt; Juror 081, Ms. Weissmann; 084, Ms. Judy; 097,
15 Ms. Weaver; 109, Ms. Doulton; 113, Mr. Cotten; 134, Ms.
16 Palmer; 136, Ms. Thornton; 149, Ms. Winter. I think that's
17 it.
18 To all of you that I've just announced, you are
19 excused at this time. Thank you very much for your time here
20 this morning and being willing to serve as jurors.
21 THE MARSHAL: Folks, go back down to the third
22 floor, tell them you were excused. They'll put you on nice,
23 one month civil trial.
24 THE COURT: Isn't there a construction defect
25 case starting today?

1 THE MARSHAL: Yes. I believe Judge Johnson has
2 got a nice four-month --
3 (Pause in proceedings)
4 THE COURT: All right. We're going to go ahead
5 and replace a few seats and then we're going to let everyone
6 take a lunch break. Let's go ahead and the first fill-in.
7 THE CLERK: Yes, Your Honor.
8 THE COURT: In order. In seat order.
9 THE CLERK: In seat number 1, next will be badge
10 number 096, Matthew Anderson.
11 Next, in seat number 6, badge number 098,
12 Deanrick Fernandez.
13 Next, in seat number 13, badge number 099, Thomas
14 Flynn.
15 Next, in seat number 19, badge number 101, Joel
16 Di Pasqualucci.
17 Next, in seat number, that will be 25, be badge
18 number 103, Dusti Armstrong.
19 THE COURT: That's 26. Is that 25 or 26?
20 MR. BROWN: I have 26.
21 THE COURT: Oh, it's seat 26. Yeah, it's
22 Weissmann that was excused.
23 THE CLERK: Oh, I'm sorry. That's correct. I'm
24 sorry.
25 MR. ABOOD: And I'm sorry, what was the

1 replacement juror?
2 THE CLERK: 26, it's 103, Dusti Armstrong.
3 MR. ABOOD: Okay.
4 THE COURT: 25 was still -- it's still Mr.
5 Larson. Okay. Okay.
6 THE CLERK: Um-hum. That's correct.
7 THE COURT: Okay. And seat number 29, next will
8 be badge number 104, Michael McWhirter.
9 THE COURT: Okay. Yeah, okay. All right.
10 Ladies and Gentlemen, at this time we are going to go ahead
11 and take a lunch break. I know that you've been here at the
12 courthouse and certainly this morning and unfortunately there
13 were some delays that caused us to get started here in the
14 courtroom a little later than we had hoped.
15 So, we will go ahead and take a lunch break until
16 2:00. Try to be back outside the courtroom here at that time
17 and we'll continue the jury selection process here today.
18 I do want to let you know that during the course
19 of the trial, the attorneys, witnesses and parties are not
20 allowed to speak with you on their breaks, and they're aware
21 of that obligation that they have. So you may see them out in
22 the hallway or in the elevator, coming in and out of the
23 courthouse, what have you. Please don't think they're being
24 rude or disrespectful if they take a different elevator, or
25 don't engage you in conversation at those times. They are

1 prohibited by ethics and applicable rules from speaking with
2 you during the course of the proceedings.
3 In addition, I am admonishing you, as I will
4 during every single break that we have throughout the entire
5 trial process. And that is these three rules you are required
6 to follow.
7 You're not to talk or converse among yourselves
8 or with anyone else on any subject connected with this trial;
9 or to read, watch or listen to any report of or commentary on
10 the trial, or any person connected with this trial by any
11 medium of information including, without limitation,
12 newspapers, television, the internet and radio; or to form or
13 express any opinion on any subject connected with this trial
14 until the case is finally submitted to you.
15 Now, I just want to add a little note here. You
16 can tell people you're in the process of jury selection on a
17 criminal case. You do not tell them anything more than that.
18 Now, I've told you, one of the things I just said
19 is you can't do any research or look at any report or
20 commentary on newspapers, television, the internet and radio.
21 You don't email anyone, you don't text anyone, you don't tweet
22 anyone. You don't communicate at all with anyone outside this
23 courtroom about this case, okay. I just want to make sure
24 that we're very clear. There's been some issues with jurors
25 in other cases here and elsewhere that have had such

1 communications and it's caused some problems for their cases.
2 It's very important that you not discuss the case at all with
3 anyone else, okay? Thank you very much. We'll see you in an
4 hour.
5 (Court recessed at 1:09 p.m. until 2:09 p.m.)
6 (Outside presence of prospective jurors)
7 THE COURT: All right. The one juror who was not
8 here this morning has appeared. We're just going to -- I told
9 them to send him up because I don't want him getting out of
10 it, so we're going to put him just at the end because he
11 wasn't here for all the general questions this morning and in
12 the unlikely event we get to him, we can ask him all those
13 questions. And apparently, the North Las Vegas police guy can
14 reschedule the interview if he needs to.
15 MR. ABOOD: He let you know, Judge? He let you
16 know that?
17 THE COURT: Through the Marshal, yes.
18 MR. ABOOD: Oh.
19 THE COURT: I had the Marshal ask him.
20 MS. LUZAICH: Judge, did the Court let juror
21 number --
22 MR. BROWN: Winter? It's 49, wasn't it?
23 MS. LUZAICH: 149, Julia Winter go?
24 THE COURT: No. She just needed a headset.
25 MS. LUZAICH: Right, right, but --

1 MR. BROWN: Yeah, but you announced her name as
2 the excused and sent her home.
3 THE COURT: I did?
4 MR. TOMSHECK: Yeah, you did.
5 THE COURT: Okay. My mistake. I did not intend
6 to.
7 MR. BROWN: Well, unless she was lying, she
8 didn't hear you and should be back after the lunch break.
9 MS. LUZAICH: But I'm curious if maybe somebody
10 is still here that shouldn't be.
11 THE COURT: So who didn't I excused here. Okay.
12 Here's what I intended to do. Barsekian, 55; Honey, 49;
13 Snowder, 64, Inabnitt, 73; Weissman, 81; Judy, 84; Weaver, 97;
14 Doulton, 109; Cotten, 113; Palmer, 134; Thornton, 136. They
15 were all excused?
16 THE CLERK: Yes.
17 THE COURT: I must have -- I had put an arrow by
18 her because I wanted to remember to get her the headset. I
19 must have misread that when I was going through as one of my
20 X's. I apologize for that folks.
21 MS. LUZAICH: I just wanted to make sure that she
22 was actually --
23 THE COURT: Yeah, apparently misread my note.
24 MS. LUZAICH: Are we on the record?
25 MR. BROWN: She just hit the voir dire lottery.

1 THE COURT: Yeah, she did, didn't she.
2 MS. LUZAICH: Judge, since we are on the
3 record --
4 THE COURT: Yep.
5 MS. LUZAICH: -- can I just clean up, I had
6 mentioned earlier this morning. I e-filed the other day a
7 Third Amended Information reflecting only the charges that we
8 are proceeding on, Counts 1, 2 and 3. The defense, Mr. Abood
9 and Mr. Brown and Mr. Tomsheck and myself met previously and
10 had agreed upon the language that should be contained within.
11 So there shouldn't be any problems.
12 THE COURT: Okay. And we do have that. Counsel,
13 do you agree?
14 MR. BROWN: Yes, Your Honor.
15 THE COURT: Okay. Okay. All right, I'm going to
16 be starting with individual right now.
17 MR. BROWN: Okay, Your Honor.
18 (In the presence of prospective jurors)
19 THE COURT: All right. Welcome back, everybody.
20 At this time, we're going to go ahead and start some
21 questioning of the individual jurors, starting with Mr.
22 Anderson.
23 All right. Mr. Anderson, is there any reason why
24 you couldn't be a completely fair and impartial juror if
25 you're selected in this case?

1 PROSPECTIVE JUROR NO. 096: No, I don't think so
2 except for my mind would kind of be elsewhere, but you know,
3 elsewhere on work and bills and --
4 THE COURT: Okay, that relates to the financial
5 issues we talked about earlier?
6 PROSPECTIVE JUROR NO. 096: Yeah, pretty much.
7 THE COURT: Okay. So, all right, you mentioned
8 that issue to me earlier this morning. So, tell me what, you
9 know -- I understand, and I wrote down that you just started
10 the job recently and your fiancee's been laid off; correct?
11 PROSPECTIVE JUROR NO. 096: Right.
12 THE COURT: Okay. And so being off one week from
13 work, that -- what's going to be the result of that for you
14 personally?
15 PROSPECTIVE JUROR NO. 096: Just shortage on
16 money, you know. Where am I going to make up the rest of it,
17 you know. Especially just purchasing a new home, you know,
18 it's a bigger responsibility than I'm used to and I need --
19 THE COURT: Okay.
20 PROSPECTIVE JUROR NO. 096: -- I need all the
21 income I can get, pretty much, with just me working.
22 THE COURT: Okay. All right. Aside from that,
23 is there any other reason why you couldn't be a fair and
24 impartial juror?
25 PROSPECTIVE JUROR NO. 096: No.

1 THE COURT: Okay. Can you wait in forming your
2 opinion on the appropriate result until all the evidence has
3 been heard?
4 PROSPECTIVE JUROR NO. 096: I'm sorry, can you
5 say that again?
6 THE COURT: Sure. Can you wait in forming your
7 opinion on the appropriate result until all the evidence has
8 been heard?
9 PROSPECTIVE JUROR NO. 096: I believe so.
10 THE COURT: Have you or anyone close to you
11 worked in law enforcement?
12 PROSPECTIVE JUROR NO. 096: No.
13 THE COURT: Have you or anyone close to you been
14 charged with a serious crime?
15 PROSPECTIVE JUROR NO. 096: No, not -- no, not
16 that I can remember.
17 THE COURT: Okay. Have you or anyone close to
18 you been the victim of a serious crime?
19 PROSPECTIVE JUROR NO. 096: No.
20 THE COURT: Is there anything about the nature of
21 the particular charges in this case that would make it
22 difficult for you to be fair and impartial?
23 PROSPECTIVE JUROR NO. 096: No.
24 THE COURT: Can you base your verdict solely on
25 the evidence brought out at the trial and the law that applies

1 as stated in my instructions to you without fear of criticism
2 or popular opinion?
3 PROSPECTIVE JUROR NO. 096: Yeah, I believe so.
4 THE COURT: Have you ever served as a juror
5 before?
6 PROSPECTIVE JUROR NO. 096: No.
7 THE COURT: If you were a party to this case,
8 would you be comfortable with jurors of a like frame of mind
9 as yourself sitting in judgment?
10 PROSPECTIVE JUROR NO. 096: Yeah.
11 THE COURT: How old are you, sir?
12 PROSPECTIVE JUROR NO. 096: Twenty-four.
13 THE COURT: And how long have you lived here in
14 Clark County?
15 PROSPECTIVE JUROR NO. 096: About two years.
16 THE COURT: And I know you mentioned you're
17 working. What is it you do again?
18 PROSPECTIVE JUROR NO. 096: Construction,
19 plastering.
20 THE COURT: Construction -- oh, plastering.
21 PROSPECTIVE JUROR NO. 096: Plasterer, yeah.
22 THE COURT: Okay. And you mentioned you are --
23 you have your fiancee. What was she doing before she was laid
24 off?
25 PROSPECTIVE JUROR NO. 096: She was working at

1 IGT as a compliance analyst. And she just got laid off. They
2 just had a really big layoff, so --
3 THE COURT: Yeah.
4 PROSPECTIVE JUROR NO. 096: -- she was one of
5 them. And I was just laid off recently, and I had just got
6 this job maybe two months ago at Fountain Blue.
7 THE COURT: Right. Oh, okay.
8 PROSPECTIVE JUROR NO. 096: And my company is
9 going on another layoff because, I'm sure you read in the
10 newspaper that they're shutting down. So I just want to be
11 there for as long and for as consecutive as possible.
12 THE COURT: Right. And do you have any children?
13 PROSPECTIVE JUROR NO. 096: No.
14 THE COURT: Okay. What's the highest level of
15 education you've completed?
16 PROSPECTIVE JUROR NO. 096: Eleventh, 11th grade.
17 THE COURT: State?
18 MR. TOMSHECK: Mr. Anderson, I just -- maybe I've
19 just been reading between the lines here, but when the Judge
20 asked you a question about whether or not you or someone you
21 know had been charged with a serious crime, you kind of
22 hesitated and said, um, then you said, I can't remember. What
23 did you mean by that?
24 PROSPECTIVE JUROR NO. 096: I -- for as much as I
25 can remember, no, I can't remember any serious crimes.

1 MR. TOMSHECK: Have you ever been charged with
2 any non-serious crimes?
3 PROSPECTIVE JUROR NO. 096: Yeah, I believe when
4 I was like 16, petty theft.
5 MR. TOMSHECK: As a juvenile?
6 PROSPECTIVE JUROR NO. 096: Yes.
7 MR. TOMSHECK: What about in the adult system?
8 PROSPECTIVE JUROR NO. 096: No.
9 MR. TOMSHECK: Ever had any interactions with
10 cops, like in a traffic stops, or just in your daily life?
11 PROSPECTIVE JUROR NO. 096: Yeah, speeding
12 tickets, I believe, but they're all paid.
13 THE COURT: We're not checking, it's okay.
14 MR. TOMSHECK: That's good. You kind of laughed
15 when you -- was that because of the speeding tickets, or is
16 there something about those experiences, dealing with cops,
17 that you think might have caused that laughter?
18 PROSPECTIVE JUROR NO. 096: I'm not sure, I --
19 because maybe because it's kind of common. So trying to think
20 of what had happened, I was just -- I don't know, I don't want
21 to lie to you.
22 MR. TOMSHECK: Okay. If I were to ask you of
23 your opinion of police in general, what would you tell me?
24 PROSPECTIVE JUROR NO. 096: They've kind of got a
25 bad job because everybody they come in contact with is in a

1 pretty bad mood because they're in contact with them.
2 MR. TOMSHECK: All right. So like when you got
3 stopped by the police, I imagine you probably weren't in a
4 good mood?
5 PROSPECTIVE JUROR NO. 096: Correct.
6 MR. TOMSHECK: Anything about the fact that you
7 dealt with the cops before and haven't been in a good mood
8 when you did, that would it impact your ability to be fair and
9 impartial here?
10 PROSPECTIVE JUROR NO. 096: No, I don't think so.
11 MR. TOMSHECK: When the police come in and
12 testify, and Ms. Luzaich told you we're going to hear from
13 some police in this trial, you'll listen to their testimony
14 and evaluate it like everybody else's?
15 PROSPECTIVE JUROR NO. 096: Yeah.
16 MR. TOMSHECK: Okay. You said you've been here
17 in Clark County for two years; is that right?
18 PROSPECTIVE JUROR NO. 096: Yeah, correct.
19 MR. TOMSHECK: And where did you come from?
20 PROSPECTIVE JUROR NO. 096: Florida.
21 MR. TOMSHECK: I imagine it was the good job
22 market which brought you to Vegas, huh?
23 PROSPECTIVE JUROR NO. 096: Correct.
24 MR. TOMSHECK: Okay. And certainly that's
25 changed in the last couple years, fair to say?

1 PROSPECTIVE JUROR NO. 096: Correct.
2 MR. TOMSHECK: And obviously there's a lot of
3 people you heard about that talked about that, so we're all
4 empathetic of that situation. But should you be picked to be
5 a juror in this case, you understand this is an important
6 trial, right?
7 PROSPECTIVE JUROR NO. 096: Correct.
8 MR. TOMSHECK: You know it's a murder charge?
9 PROSPECTIVE JUROR NO. 096: Right.
10 MR. TOMSHECK: Right? So if -- there's a lot of
11 this left to go on, so I don't know if you're going to be, but
12 if you're picked to be a juror, would you promise us that
13 because this is such an important trial, you'll do the best
14 you can to put that other stuff out of your mind and do your
15 job here?
16 PROSPECTIVE JUROR NO. 096: I can't promise that,
17 you know, because I'm going to be thinking about it. And I'm
18 not going to lie and say my mind is going to -- is 100 percent
19 going to be here because it's not. I understand that this is
20 somebody's life on the line, but I have my life to think
21 about, too, and I need to think of how I'm going to re-
22 compensate where I'm losing, you know.
23 MR. TOMSHECK: And that's understandable. But my
24 question is, can you promise us, if you're picked to be a
25 juror, can you promise the four attorneys, the defendant and

1 the Judge that you'll do the best that you can?
2 PROSPECTIVE JUROR NO. 096: I'll try, yeah.
3 MR. TOMSHECK: Judge, we'll pass for cause.
4 MR. ABOOD: Thank you, Your Honor.
5 THE COURT: Go ahead.
6 MR. ABOOD: Mr. Anderson?
7 PROSPECTIVE JUROR NO. 096: Yes.
8 MR. ABOOD: Okay. Sir, let me get straight to
9 the point. You're going to try to. And I appreciate that.
10 And I appreciate that that's your answer. But is it fair for
11 me to say that it's going to be a difficulty for you to put
12 the kind of attention and the kind of time into this case that
13 you would want a juror to put into your case if you were
14 sitting here where Mr. Porter is?
15 PROSPECTIVE JUROR NO. 096: No, I would
16 definitely want somebody else.
17 MR. ABOOD: You would want somebody else?
18 PROSPECTIVE JUROR NO. 096: Yes.
19 MR. ABOOD: And it's because your mind is just
20 frankly on other things and you're not going to lie to us
21 about that?
22 PROSPECTIVE JUROR NO. 096: Correct.
23 MR. ABOOD: Okay. If you had your way,
24 obviously, you wouldn't be chosen to be on this jury?
25 PROSPECTIVE JUROR NO. 096: Right.

1 MR. ABOOD: Okay. Your Honor, based on that
2 circumstance, I think I'd like to challenge for cause right
3 now and not waste the Court's time.
4 THE COURT: All right. Come on up.
5 (Bench conference begins)
6 MR. ABOOD: Seems like a nice kid, but --
7 THE COURT: Well, he was smart enough to learn
8 the magic words.
9 MS. LUZAICH: Yeah.
10 THE COURT: I don't know, I mean, if he's telling
11 me he can't concentrate on the trial, I'm going to let him go.
12 But at the same time, I'm concerned everyone else, then, that
13 we're about to talk to is going to say the same magic words.
14 MS. LUZAICH: (Inaudible).
15 MR. ABOOD: I think it is what it is. I mean,
16 if you brow-beat them all they're all say (indiscernible).
17 MR. TOMSHECK: I'm not going to waste time asking
18 questions. If you think that he should go, then. I mean, we
19 passed for cause, but.
20 THE COURT: I guess where I am is I think he
21 probably should go for cause, but I'm a little concerned about
22 everyone else.
23 MR. ABOOD: I know. Well, I don't think that
24 this is going to -- I mean, this seems kind of (inaudible)
25 earlier, I think it was more serious with him than it was for

1 (indiscernible).
2 MR. TOMSHECK: My only concern is, Judge, if we
3 let him go based on those answers, I think we'll get those
4 answers from everyone.
5 THE COURT: So maybe if we can like not make him
6 -- like, make him wait in the courtroom somewhere. You know
7 what I mean?
8 THE COURT: Yeah, we can do so.
9 MR. TOMSHECK: Or we can leave him sit up there
10 (inaudible).
11 THE COURT: Excuse him later?
12 MR. TOMSHECK: Yeah, that's fine. Maybe if you
13 try to move on to (inaudible).
14 THE COURT: And I just won't have you pass for
15 cause and we'll reserve the cause issue.
16 MR. ABOOD: Yeah, (inaudible).
17 THE COURT: If you go ahead and ask if you're --
18 I don't know. Now, he's going to think that -- he knows you
19 raised the issue, so he's going to think I turned it down.
20 MR. TOMSHECK: I think if we just bury it a
21 little bit (inaudible).
22 MS. LUZAICH: Let him go on a break?
23 MR. TOMSHECK: Yeah, like when we take the
24 afternoon break, just fill the seat afterwards. I just am
25 concerned that everyone --