

1 aside?

2 PROSPECTIVE JUROR NO. 072: I'm going to try. I
3 mean, I would try, but I would like to hear it. You know,
4 it's a big deal what happened, so.

5 MR. BROWN: I mean, the paradox, as you can see,
6 I mean, every witness gets on the witness stand and says what
7 they have to say.

8 PROSPECTIVE JUROR NO. 072: Um-hum.

9 MR. BROWN: Some of them have a bias one way or
10 another, and the lawyers will talk about it or it's obvious.

11 PROSPECTIVE JUROR NO. 072: Um-hm.

12 MR. BROWN: For example, if Mr. Porter were to
13 get on the witness stand and say something, he obviously has a
14 motive to maybe not tell the truth. He's got a lot on the
15 line.

16 PROSPECTIVE JUROR NO. 072: Um-hum.

17 MR. BROWN: And so you evaluate what he's saying,
18 and say, well, maybe he's not telling the truth. But then if
19 he doesn't get on the witness stand, you think, he should have
20 got on the witness stand and told me what happened. So you
21 see how it's kind of a rock and hard place --

22 PROSPECTIVE JUROR NO. 072: Yeah.

23 MR. BROWN: -- either way you go --

24 PROSPECTIVE JUROR NO. 072: Yeah.

25 MR. BROWN: -- that he's the most, you know, he

1 has the most to gain or lose.

2 PROSPECTIVE JUROR NO. 072: Um-hum.

3 MR. BROWN: And so, you can see there has to be a
4 decision made at some point as to whether that's appropriate.
5 But what's important is, can you evaluate the evidence and not
6 say to yourself, he didn't take the stand, he must be guilty?

7 PROSPECTIVE JUROR NO. 072: No, I'm not going to
8 do that.

9 MR. BROWN: Okay. Because otherwise I'm faced
10 with, he took the stand, he must be lying. So it's a tough
11 situation either way. Thank you. I don't have anything
12 further, Judge, I pass for cause.

13 THE COURT: Thank you. All right. We're going
14 to go ahead and take our lunch break at this point, have you
15 come back at 1:30. When you come back, I want you to meet
16 outside the courtroom doors at 1:30. Ms. Hidrosollo, when I
17 excuse everyone, would you stay behind for just a moment,
18 okay? All right.

19 All of you, during this recess you are admonished
20 not to talk or converse among yourselves or with anyone else
21 on any subject connected with this trial; or to read, watch or
22 listen to any report of or commentary on the trial, or any
23 person connected with this trial by any medium of information
24 including, without limitation, newspapers, television, the
25 internet or radio; or to form or express any opinion on any

1 subject connected with this trial until the case is finally
2 submitted to you. See you at 1:30.

3 (Prospective jurors recessed at 12:27 p.m.)

4 (Outside the presence of the prospective jurors)

5 (Prospective Juror No. 65 present)

6 THE COURT: All right. So the potential jurors
7 other than Ms. Hidrosollo have left the room.

8 Ms. Hidrosollo, we just wanted to follow up with
9 something that you had said earlier when we were questioning
10 you. You mentioned that there was a period of time when you
11 were training to possibly become a sex assault nurse; if that
12 right?

13 PROSPECTIVE JUROR NO. 065: Yes.

14 THE COURT: When was that, that you were going
15 through that?

16 PROSPECTIVE JUROR NO. 065: 2000.

17 THE COURT: In 2000 you did that?

18 PROSPECTIVE JUROR NO. 065: Yes.

19 THE COURT: How long was the training that you
20 went through?

21 PROSPECTIVE JUROR NO. 065: Well, you have to go
22 to a like three-day lectures.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NO. 065: And then you have to
25 do some exams, you have to follow the nurse examiner.

1 THE COURT: Uh-huh.

2 PROSPECTIVE JUROR NO. 065: And then you have to
3 have like five court, you have to witness.

4 THE COURT: Five court proceedings?

5 PROSPECTIVE JUROR NO. 065: Yeah.

6 THE COURT: Okay. And --

7 PROSPECTIVE JUROR NO. 065: You know, I followed
8 one, then I didn't.

9 THE COURT: You only went to one and that was
10 enough that you made your decision it wasn't what you wanted
11 to do.

12 PROSPECTIVE JUROR NO. 065: Right.

13 THE COURT: Okay. I understand that. But you
14 mentioned earlier that you knew or had met Debbie Love. Do
15 you remember that?

16 PROSPECTIVE JUROR NO. 065: Well, she used to go
17 to UMC. She's been going there, you know, to talk to the
18 victims.

19 THE COURT: So, right. So, right. She's with
20 Metro; right? You understand that?

21 PROSPECTIVE JUROR NO. 065: Yes.

22 THE COURT: And so she comes to see patients at
23 UMC to talk to them about police business sometimes?

24 PROSPECTIVE JUROR NO. 065: Right. And I still,
25 whenever there's a sexual assault, I still -- I'm like the

1 first one to see them first. You know, like triage, ask them
2 all the questions, what happened, report to the police, and
3 call the police and call the detective, I still do that. But
4 I don't examine them.

5 THE COURT: Okay. Have you -- in the course of
6 your training, or back in 2000, did you actually participate
7 in any of the sex assault exams?

8 PROSPECTIVE JUROR NO. 065: Yeah.

9 THE COURT: You did. Were you -- but working
10 with someone who was more experienced in that area?

11 PROSPECTIVE JUROR NO. 065: Yeah.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 065: I collected some
14 evidence and --

15 THE COURT: Okay. And -- all right. Now, with
16 respect to -- is Debbie Love a detective? Is that the right
17 term?

18 MS. LUZAICH: Yes.

19 THE COURT: Detective Love. When you had
20 exposure to Detective Love, say, do you still see her
21 regularly?

22 PROSPECTIVE JUROR NO. 065: Not anymore.

23 THE COURT: Not anymore. When's the last time
24 you talked to Detective Love?

25 PROSPECTIVE JUROR NO. 065: I can't recall. It's

1 been a while.

2 THE COURT: It's been a while. If she were to
3 come and testify in this case, do you think that you could be
4 fair and impartial in how you weigh her testimony?

5 PROSPECTIVE JUROR NO. 065: Yes.

6 THE COURT: You don't think you'd tend to give
7 her testimony greater weight because you know her and you
8 respect her?

9 PROSPECTIVE JUROR NO. 065: No.

10 THE COURT: No, okay. All right. Do you want to
11 question, follow up on that?

12 MS. LUZAICH: You know what? Can we approach
13 actually?

14 THE COURT: Yes, sure.

15 (Bench conference begins)

16 (Inaudible)

17 MS. LUZAICH: Here's the issue.

18 THE COURT: She may have done --

19 MS. LUZAICH: All the sexual assault victims were
20 examined 2000.

21 THE COURT: At UMC.

22 MS. LUZAICH: Detective Love (inaudible) --

23 MR. ABOOD: July or later.

24 MS. LUZAICH: Debbie Love is a sexual assault
25 detective.

1 THE COURT: Right, I know, and so like I'm
2 struggling between wanting to --

3 MS. LUZAICH: And she's the one who in this case
4 that took the buccal.

5 THE COURT: Right. I'm struggling between
6 wanting to ask more questions, but not wanting to give her too
7 much information.

8 MR. TOMSHECK: I don't think she can sit. I'm
9 just concerned that she says something, and if she leaves the
10 room back there and says, yeah, Debbie Love is a sexual
11 assault detective.

12 MS. LUZAICH: In 2000.

13 THE COURT: That's true. If she knows that she
14 was --

15 MR. BROWN: I can't judge another, so I'm sitting
16 (inaudible).

17 MS. LUZAICH: Okay.

18 MR. BROWN: It's the Court's call.

19 THE COURT: Say that again.

20 MR. BROWN: Oh, I'm just screwing around with
21 these guys. I can't stipulate to her removal, but I'll just
22 submit it to the Court.

23 THE COURT: Okay.

24 MR. TOMSHECK: I mean, I think if we asked her
25 what kind of crimes she thinks Debbie Love is associated with

1 it, she says sex assault, I don't think --

2 MR. BROWN: I don't think she honestly remembers
3 anything (inaudible), but there is a slight risk and you can
4 been trying to avoid it, but I get that.

5 THE COURT: Yeah. I mean, she clearly knows that
6 Detective Love does sex assault. I mean, she was talking
7 about coming to talk to those victims. I mean --

8 MS. LUZAICH: Right.

9 THE COURT: -- she clearly knows that. Now, I
10 don't know if she's going to put two and two together and
11 realize why is she involved in this case, which isn't a sex
12 assault.

13 MR. TOMSHECK: If she says something and the
14 other 11 people put two and two together, that's my concern.

15 THE COURT: Right, right. Because I don't want
16 her just --

17 MR. ABOOD: And their two and two would be
18 (inaudible).

19 THE COURT: -- someone else know it.

20 MR. TOMSHECK: Especially in a case where you've
21 severed the murder away from the sex assaults (inaudible).

22 THE COURT: Right, so avoid that issue.

23 MR. BROWN: (Inaudible) believed that there was
24 some proper police work and wasn't charged with those.

25 MS. LUZAICH: Of course, of course.

1 MR. BROWN: (Inaudible) accurate. That's what
2 they would conclude.

3 MS. LUZAICH: Of course.

4 MR. BROWN: And then the problem, we tie that
5 into, maybe he's overcharged here, as well. Submit it, Judge.

6 THE COURT: I'm going to excuse her.

7 (Bench conference concludes)

8 THE COURT: All right, ma'am, we are going to go
9 ahead and excuse you at this time. I do thank you very much
10 for your time all day yesterday, and half a day today, being
11 willing to serve as a juror and perform you civic duty. I
12 know you were struggling with that role, but I thank you very
13 much for being here. You are excused.

14 PROSPECTIVE JUROR NO. 065: Thank you.

15 THE COURT: Okay. We'll go ahead and break till
16 1:30, then.

17 MR. BROWN: Thank you, Judge.

18 MS. LUZAICH: Thank you.

19 (Court recessed at 12:33 p.m. until)

20 (In the presence of the prospective jurors)

21 THE COURT: All right. Everybody can go ahead
22 and have a seat. Do we have everybody back, then?

23 THE MARSHAL: Yes, Judge.

24 THE COURT: Okay. All right. Before we get
25 started, Mr. Fernandez, what's the issue, sir?

1 PROSPECTIVE JUROR NO. 098: I had allergies
2 yesterday and it's a lot worse.

3 THE COURT: Allergies that you have. Have you
4 taken anything for them?

5 PROSPECTIVE JUROR NO. 098: I'm taking Zyrtec.

6 THE COURT: Does that make you drowsy at all?

7 PROSPECTIVE JUROR NO. 098: No.

8 THE COURT: No? But is that helping?

9 PROSPECTIVE JUROR NO. 098: It's not -- my runny
10 nose and that's about it.

11 THE COURT: So what's -- let me get the
12 microphone to you there. What symptoms do you have now that
13 are bothering you, then?

14 PROSPECTIVE JUROR NO. 098: Coughing, stuffy
15 nose. I'm getting stomach pains. I had a lot of headaches
16 last night, could barely sleep. I couldn't -- with my nose
17 stuffed, I can't sleep very well.

18 THE COURT: Is it -- but you think its allergy
19 symptoms? It's similar to what you had for allergies?

20 PROSPECTIVE JUROR NO. 098: Yeah, I've had that
21 before. If I had gone into work today, I would have called in
22 sick. That's what I could tell you, because I wasn't feeling
23 well from yesterday, but I thought I could fight through it.

24 THE COURT: I cannot hear you, I'm sorry.

25 PROSPECTIVE JUROR NO. 098: I wasn't feel well

1 yesterday. I thought I could fight through it, but I'm trying
2 today.

3 THE COURT: All right. So, I'm sorry if this is
4 an insensitive question, but how is it interfering with you
5 being here today, though?

6 PROSPECTIVE JUROR NO. 098: I'm having a tough
7 time following because I'm fatigued and I keep fading in and
8 out. And I -- just everything's clogged here and --

9 THE COURT: Right.

10 PROSPECTIVE JUROR NO. 098: -- I'm having a hard
11 time concentrating.

12 THE COURT: Okay. All right. All right, so --
13 let's -- I'm going to ask you to hang in a little longer and
14 we'll see how you're doing. I'll check back with you in a
15 little while. I do appreciate you letting us know.

16 All right. Let's go ahead and replace seat 14.

17 THE CLERK: Yes, Your Honor. Next in seat number
18 14 badge number 112, Matthew Scovill.

19 THE COURT: All right. Mr. Scovill, how are you
20 doing?

21 PROSPECTIVE JUROR NO. 112: Good and yourself?

22 THE COURT: I'm good. Is there any reason you
23 can't be a fair and impartial juror in this case?

24 PROSPECTIVE JUROR NO. 112: No.

25 THE COURT: Can you wait in forming your opinion

1 on the appropriate result until all the evidence has been
2 heard?

3 PROSPECTIVE JUROR NO. 112: Yes.

4 THE COURT: Excuse me, have you or anyone close
5 to you worked in law enforcement?

6 PROSPECTIVE JUROR NO. 112: My uncle is a retired
7 deputy sheriff from Los Angeles.

8 THE COURT: Okay. Do you think that as a result
9 of that, you would have any difficulty in weighing law
10 enforcement officers' testimony like any other testimony?

11 PROSPECTIVE JUROR NO. 112: No.

12 THE COURT: You don't think you'd give it greater
13 weight?

14 PROSPECTIVE JUROR NO. 112: Nope, they make
15 mistakes, too.

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

18 PROSPECTIVE JUROR NO. 112: No.

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

21 PROSPECTIVE JUROR NO. 112: No.

22 THE COURT: Is there anything about the charges
23 in this case that would make it difficult for you to be fair
24 and impartial?

25 PROSPECTIVE JUROR NO. 112: No.

1 THE COURT: Can you base your verdict solely on
2 the evidence brought out at the trial and the law that applies
3 as stated in my instructions to you without fear of criticism
4 or popular opinion?

5 PROSPECTIVE JUROR NO. 112: Yes.

6 THE COURT: Have you ever served as a juror
7 before?

8 PROSPECTIVE JUROR NO. 112: No.

9 THE COURT: If you were a party to this case,
10 would you be comfortable with jurors of a like frame of mind
11 as yourself sitting in judgment?

12 PROSPECTIVE JUROR NO. 112: Yes.

13 THE COURT: How old are you, sir?

14 PROSPECTIVE JUROR NO. 112: Thirty-eight.

15 THE COURT: And how long have you lived here?

16 PROSPECTIVE JUROR NO. 112: Five years.

17 THE COURT: Where did you live before?

18 PROSPECTIVE JUROR NO. 112: Bay Area, California.

19 THE COURT: Okay. Are you employed?

20 PROSPECTIVE JUROR NO. 112: Yes.

21 THE COURT: What do you do?

22 PROSPECTIVE JUROR NO. 112: I'm a chef.

23 THE COURT: Where?

24 PROSPECTIVE JUROR NO. 112: At the Luxor Hotel.

25 THE COURT: Okay. Are you married?

1 PROSPECTIVE JUROR NO. 112: Yes.

2 THE COURT: Is your spouse employed?

3 PROSPECTIVE JUROR NO. 112: Yes.

4 THE COURT: What does she do?

5 PROSPECTIVE JUROR NO. 112: She's a nurse at St.

6 Rose Hospital.

7 THE COURT: Sienna or Dominican?

8 PROSPECTIVE JUROR NO. 112: I believe it's

9 Sienna.

10 THE COURT: Do you have children?

11 PROSPECTIVE JUROR NO. 112: Yes.

12 THE COURT: You can't remember?

13 PROSPECTIVE JUROR NO. 112: He's a teenager.

14 Sometimes I try to forget about him.

15 THE COURT: How old is he?

16 PROSPECTIVE JUROR NO. 112: He's 16.

17 THE COURT: Okay. And what's the highest level
18 of education you completed?

19 PROSPECTIVE JUROR NO. 112: Culinary school.

20 THE COURT: Okay. Was that after high school?

21 PROSPECTIVE JUROR NO. 112: It was after high
22 school and it was a certificate in culinary arts and
23 restaurant management.

24 THE COURT: Okay. State?

25 MR. TOMSHECK: I always kind wondered when, in

1 watching people bounce out and other people bounce in, are you
2 kind of counting down to see if you're going to get in the hot
3 seat? How do you feel about being up there?

4 PROSPECTIVE JUROR NO. 112: It's my civic duty.
5 Of course, I, you know, have important things to do at work,
6 but you got to do what you got to do.

7 MR. TOMSHECK: Okay. If you were to just
8 attribute one way or the other, a positive or negative feeling
9 about serving as a juror in a murder case?

10 PROSPECTIVE JUROR NO. 112: It's a 50/50. Like I
11 said, I -- of course, I have things to do like everyone else
12 here does, but I think it's -- it's very intriguing to be part
13 of the process, and I think it's important, that you should do
14 it and do your part for the community and for the court
15 system.

16 MR. TOMSHECK: You understand it's really
17 important; right?

18 PROSPECTIVE JUROR NO. 112: Yes, I do.

19 MR. TOMSHECK: I mean, somebody died, somebody's
20 charged with killing them. You understand that that's an
21 important responsibility?

22 PROSPECTIVE JUROR NO. 112: Yes, I do.

23 MR. TOMSHECK: Are you up for it?

24 PROSPECTIVE JUROR NO. 112: Yep.

25 MR. TOMSHECK: Okay. You mentioned that you have

1 a 16-year-old son; is that right?

2 PROSPECTIVE JUROR NO. 112: That's correct.

3 MR. TOMSHECK: Does he live with you?

4 PROSPECTIVE JUROR NO. 112: Yes.

5 MR. TOMSHECK: Okay. Does he ever get in
6 trouble?

7 PROSPECTIVE JUROR NO. 112: Of course.

8 MR. TOMSHECK: How do you deal with it when a
9 situation comes up when he does something around the house,
10 nothing serious, but something where you have to talk to him
11 or discipline him?

12 PROSPECTIVE JUROR NO. 112: Nothing serious
13 involves in talking. I mean, he's past the age where the, you
14 know, the serious punishment happens. It's more of
15 negotiating now, now that he thinks he's becoming an adult.
16 It's more about, you know, taking things away, the allowance,
17 or the time to spend with friends and get him to focus on what
18 he needs to take care of, which is mostly homework and stuff
19 like that.

20 MR. TOMSHECK: It's probably different parenting
21 now than it was when he was, say, three, four or five?

22 PROSPECTIVE JUROR NO. 112: That's correct.

23 MR. TOMSHECK: He's a big boy now; right? Yes?

24 PROSPECTIVE JUROR NO. 112: Yes.

25 MR. TOMSHECK: Okay. Assuming that at the

1 conclusion of this trial, you're still on the panel and you're
2 a juror, the Judge is going to read you some instructions. I
3 think we all know that by now.

4 PROSPECTIVE JUROR NO. 112: Yes.

5 MR. TOMSHECK: Are you comfortable with that?

6 PROSPECTIVE JUROR NO. 112: Yes.

7 MR. TOMSHECK: Okay. The Judge is to instruct
8 you about what the law is, and the law doesn't say anything
9 one way or another about the age of someone. Would you
10 evaluate that, the age, in your determination? The age of the
11 accused?

12 PROSPECTIVE JUROR NO. 112: No, not really. They
13 should be held to the same standards as everyone else.

14 MR. TOMSHECK: Okay. You think the law is the
15 law and it applies to everybody regardless of color, religion,
16 race, age?

17 PROSPECTIVE JUROR NO. 112: That's correct.

18 MR. TOMSHECK: Everybody's equal?

19 PROSPECTIVE JUROR NO. 112: Yes.

20 MR. TOMSHECK: And you'll promise us that you'll
21 treat the defendant the same as you would anybody else in that
22 seat?

23 PROSPECTIVE JUROR NO. 112: That's correct.

24 MR. TOMSHECK: Pass for cause.

25 THE COURT: Thanks.

1 MR. ABOOD: Thank you, Your Honor.

2 THE COURT: Go ahead.

3 MR. ABOOD: Sir, can we count on you, obviously,
4 to make sure that Justin gets as fair a trial from you as
5 anybody else would sitting in his seat?

6 PROSPECTIVE JUROR NO. 112: That's correct.

7 MR. ABOOD: Okay, good. You know, we talked a
8 little bit about the State's duty in this case, the
9 proposition that they have to prove that someone is guilty of
10 a crime. You don't have any problems with that?

11 PROSPECTIVE JUROR NO. 112: Nope, it's their job
12 to prove their case, as I've been hearing.

13 MR. ABOOD: Okay. All right. And the proof that
14 they have to present is proof beyond a reasonable doubt.

15 PROSPECTIVE JUROR NO. 112: Correct.

16 MR. ABOOD: Okay. And we talked a little bit
17 about the fact that Curtis and I are not here to try to prove
18 to you that Justin didn't do something. Does that make sense?

19 PROSPECTIVE JUROR NO. 112: That's correct.

20 MR. ABOOD: And you know, the other day I put my
21 watch up here and I want to refresh your memory. I left my
22 watch here, and we came back from a break and it was missing.
23 So I'm alleging that you took it. Now, can you prove to me
24 that you didn't take my watch?

25 PROSPECTIVE JUROR NO. 112: I cannot.

1 MR. ABOOD: That would be difficult, wouldn't it?

2 PROSPECTIVE JUROR NO. 112: Yes.

3 MR. ABOOD: So that's one of the reasons why we
4 don't have to prove that someone didn't do something. People
5 who make allegations prove that someone did do something.

6 PROSPECTIVE JUROR NO. 112: Correct.

7 MR. ABOOD: You've got -- you're totally okay
8 with that?

9 PROSPECTIVE JUROR NO. 112: No problem.

10 MR. ABOOD: All right, good. Are you, sir, what
11 we would call, an opinionated person?

12 PROSPECTIVE JUROR NO. 112: I would say so. I
13 would say, I'm considerate of other people's feelings, but I
14 am opinionated and I believe morals have a lot to do with
15 that?

16 MR. ABOOD: Okay. The kinds of opinions that you
17 have are based on what?

18 PROSPECTIVE JUROR NO. 112: Experiences, mostly,
19 in life and learning, making mistakes, learning from those
20 mistakes and --

21 MR. ABOOD: Okay. Have you had opinions in the
22 past that were strongly held, but that changed over time?

23 PROSPECTIVE JUROR NO. 112: Of course. As you
24 grow up, your values change and you learn more things.

25 MR. ABOOD: And if you hold an opinion, and I

1 know that this is -- imagine with me if you can. If you hold
2 an opinion, but 11 people have a different opinion than you
3 do, if you believe you are sincerely correct, are you going to
4 be able to hold onto that opinion?

5 PROSPECTIVE JUROR NO. 112: Yes, I would. This
6 is a serious matter.

7 MR. ABOOD: Okay. And will you try to convince
8 them that you're right and maybe they're wrong?

9 PROSPECTIVE JUROR NO. 112: Of course.

10 MR. ABOOD: But if it turns out that they talk to
11 you reasonably, and they have good cause to have a different
12 opinion than you do, you're able to change that opinion as
13 well?

14 PROSPECTIVE JUROR NO. 112: That's correct.

15 MR. ABOOD: Okay. So it's okay to be
16 opinionated, but you've got to keep your ears open?

17 PROSPECTIVE JUROR NO. 112: That's correct.

18 MR. ABOOD: Okay. Is there anything that we
19 asked anybody else while you were listening that you have a
20 concern about?

21 PROSPECTIVE JUROR NO. 112: No, not at all.

22 MR. ABOOD: Okay. Thank you very much. Your
23 Honor, we'll pass for cause.

24 THE COURT: Thank you. All right, so let's come
25 back up front now.

1 (Pause in proceedings)

2 THE COURT: Okay. So we have Mr. Di Pasqualucci
3 now.

4 PROSPECTIVE JUROR NO. 101: Yeah.

5 THE COURT: Did I say that right?

6 PROSPECTIVE JUROR NO. 101: It's pretty close, Di
7 Pasqualucci.

8 THE COURT: Pasqualucci.

9 PROSPECTIVE JUROR NO. 101: Call me (inaudible).

10 THE COURT: Right.

11 PROSPECTIVE JUROR NO. 101: It's a lot easier.

12 THE COURT: Is there any reason why you cannot be
13 fair and impartial in this case?

14 PROSPECTIVE JUROR NO. 101: I don't think so.

15 THE COURT: Can you wait in forming your opinion
16 on the appropriate result until all the evidence has been
17 heard?

18 PROSPECTIVE JUROR NO. 101: I believe I can.

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

21 PROSPECTIVE JUROR NO. 101: Nobody close.

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

24 PROSPECTIVE JUROR NO. 101: I think my brothers
25 may have had some DUI charges in the past.

1 THE COURT: Okay. Would that affect your opinion
2 of the witnesses and evidence in this case?

3 PROSPECTIVE JUROR NO. 101: I don't believe it
4 would.

5 THE COURT: Do you -- you can still be fair to
6 police and prosecutors although police and prosecutors may
7 have brought charges against your brother?

8 PROSPECTIVE JUROR NO. 101: Yeah. I mean, I
9 really didn't have any, formulate any opinions based on those
10 interactions.

11 THE COURT: Okay. Aside from those interactions,
12 do you have any opinions of police or prosecutors that would
13 prevent you from being fair and impartial?

14 PROSPECTIVE JUROR NO. 101: I don't think
15 anything that would prevent me from being impartial or unfair.
16 I mean, I, like all people, have some opinions.

17 THE COURT: Um-hm. Okay.

18 PROSPECTIVE JUROR NO. 101: You want me to
19 elaborate some more? I know that police often make mistakes.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NO. 101: And I know there's
22 kind of a resistance sometimes when they do make mistakes to
23 admit to making mistakes. And this isn't based on, you know,
24 anything in the media. It's just been personal experience
25 with, like for example, my mother. She got in an accident

1 with a policeman.

2 THE COURT: Uh-huh.

3 PROSPECTIVE JUROR NO. 101: This was in Denver.
4 And by his own admission in court, he never saw the light. He
5 was busy watching these people in a parking lot. And he left
6 turned in front of my mom. But coincidentally enough, they
7 brought six off-duty officers that all were driving by or were
8 in the area that saw everything. That was my opinion. And
9 so, yes, can there sometimes be an associateness or
10 collegiality between them? Yes.

11 THE COURT: Okay. All right. But, so now, if
12 there are police officers that come and testify during the
13 course of this trial, you're going to listen to them and
14 evaluate what they say and, you know, evaluate credibility of
15 them like you would any other witness; right?

16 PROSPECTIVE JUROR NO. 101: Yeah. I mean, part
17 of my -- what I used to do is, you know, evaluate the
18 credibility of people.

19 THE COURT: In other words, you're not going to
20 kind of have a bias against them coming in, like, well,
21 they're probably lying, I better, you know, watch out.

22 PROSPECTIVE JUROR NO. 101: No, no.

23 THE COURT: Because you don't know. You'll have
24 to listen to their testimony --

25 PROSPECTIVE JUROR NO. 101: I'll have to listen.

1 THE COURT: -- and all the other testimony to be
2 able to evaluate what you think the truth is.

3 PROSPECTIVE JUROR NO. 101: That's correct.

4 THE COURT: Okay. Have you or anyone close to
5 you been the victim of a serious crime?

6 PROSPECTIVE JUROR NO. 101: A friend at work, she
7 was robbed at gunpoint. And my dad, a long time, he was
8 mugged.

9 THE COURT: Okay. That was a long time ago with
10 your dad?

11 PROSPECTIVE JUROR NO. 101: Yeah. I mean, before
12 I -- I mean, it was way, way long time ago.

13 THE COURT: Okay. Again, with respect to those
14 experiences, do you think that they would interfere with you
15 listening to the evidence and basing your decision on what's
16 presented here in court?

17 PROSPECTIVE JUROR NO. 101: No.

18 THE COURT: You're not going to be thinking about
19 those situations instead of what happened here?

20 PROSPECTIVE JUROR NO. 101: Oh, no. I mean, I
21 was sympathetic and I felt bad for them.

22 THE COURT: Sure.

23 PROSPECTIVE JUROR NO. 101: But I really didn't
24 know enough about the situation with them.

25 THE COURT: Okay. Is there anything about the

1 charges in this case that would make it difficult for you to
2 be fair and impartial?

3 PROSPECTIVE JUROR NO. 101: Not to be fair and
4 impartial, no.

5 THE COURT: Okay. Does it cause some other
6 problem for you?

7 PROSPECTIVE JUROR NO. 101: I just have some --
8 well, I appreciate the gravity of the situation.

9 THE COURT: And you should.

10 PROSPECTIVE JUROR NO. 101: I'll be honest with
11 you, I would prefer -- you know, I was hoping if I got chosen
12 it would be for a civil rather than criminal and especially a
13 crime like this, but I think I'm capable.

14 THE COURT: Okay. So, because it's a serious
15 situation and requires, you know, thoughtful consideration and
16 it's -- you know, you're going to have to think about what
17 you're going to do as a juror.

18 PROSPECTIVE JUROR NO. 101: Right.

19 THE COURT: I mean, and it's not a job to be
20 taken lightly --

21 PROSPECTIVE JUROR NO. 101: Right.

22 THE COURT: -- because it's important. Okay.
23 But you think you can do it if you're called upon to do it?

24 PROSPECTIVE JUROR NO. 101: Yes.

25 THE COURT: Okay. Can you base your verdict

1 solely on the evidence that comes out at trial and the
2 applicable law as stated in my instructions without fear of
3 criticism or popular opinion?

4 PROSPECTIVE JUROR NO. 101: I think I can.

5 THE COURT: Do you have any concerns about that
6 at all?

7 PROSPECTIVE JUROR NO. 101: No, no.

8 THE COURT: Have you ever served as a juror
9 before?

10 PROSPECTIVE JUROR NO. 101: No.

11 THE COURT: If you were a party to this case,
12 would you be comfortable with jurors of a like frame of mind
13 as yourself sitting in judgment?

14 PROSPECTIVE JUROR NO. 101: Yes.

15 THE COURT: How old are you, sir?

16 PROSPECTIVE JUROR NO. 101: Forty-three.

17 THE COURT: And how long have you lived here?

18 PROSPECTIVE JUROR NO. 101: Six years.

19 THE COURT: Where were you before that?

20 PROSPECTIVE JUROR NO. 101: Phoenix, Arizona.

21 THE COURT: Are you employed?

22 PROSPECTIVE JUROR NO. 101: Yes.

23 THE COURT: What do you do?

24 PROSPECTIVE JUROR NO. 101: I'm a liability
25 claims field trainer for Farmer's Insurance.

1 THE COURT: Oh, okay. Are you married?

2 PROSPECTIVE JUROR NO. 101: No.

3 THE COURT: Do you have any children?

4 PROSPECTIVE JUROR NO. 101: No.

5 THE COURT: What's the highest level of education
6 you completed?

7 PROSPECTIVE JUROR NO. 101: A B.A.

8 THE COURT: In?

9 PROSPECTIVE JUROR NO. 101: Social Science.

10 THE COURT: Okay. State.

11 MS. LUZAICH: Thank you. You said that you were,
12 if you got chosen, hoping for civil rather than criminal. Why
13 is that?

14 PROSPECTIVE JUROR NO. 101: It's just something,
15 you know, I'm more comfortable with. You know, I deal with --
16 whoops -- yeah, it's just something I've dealt with, you know,
17 as a profession for a while.

18 MS. LUZAICH: Working for Farmer's, you -- I
19 mean, are you the one that goes out and says yes, your claim
20 we're going to pay, yours we're not?

21 PROSPECTIVE JUROR NO. 101: I used to be.

22 MS. LUZAICH: How long have you been with
23 Farmer's? Or how long have you been in the insurance
24 business?

25 PROSPECTIVE JUROR NO. 101: Twelve years.

1 MS. LUZAICH: And have you done a bunch of
2 different things there?

3 PROSPECTIVE JUROR NO. 101: At Farmer's, or
4 throughout the 12 years?

5 MS. LUZAICH: Throughout the 12 years.

6 PROSPECTIVE JUROR NO. 101: Yeah, I've held
7 different positions. Claims handler, SIU Investigator,
8 Supervisor and now Field Trainer.

9 MS. LUZAICH: Have you ever had to go to court
10 and testify as part of your job?

11 PROSPECTIVE JUROR NO. 101: No.

12 MS. LUZAICH: Have you ever had to go to court
13 and testify outside your job?

14 PROSPECTIVE JUROR NO. 101: No.

15 MS. LUZAICH: You said earlier that what you do
16 helps you deal with evaluating credibility.

17 PROSPECTIVE JUROR NO. 101: Yeah.

18 MS. LUZAICH: And that's the claims adjusting
19 thing?

20 PROSPECTIVE JUROR NO. 101: That's the
21 investigation side of it, yeah. I mean, you know, you're
22 gathering information, and then you're gauging the credibility
23 of the witnesses or the participants.

24 MS. LUZAICH: Do you have training that helps you
25 do the investigation part of your job?

1 PROSPECTIVE JUROR NO. 101: Nothing formal. I
2 mean, it's kind of like on-the-job training. I mean -- yeah,
3 there's not anything formal that will take you step by step to
4 -- how to do an investigation or anything like that. But it's
5 done through experience and, you know, you follow what other
6 people have taught you.

7 MS. LUZAICH: Do you have any idea how many
8 claims you've investigated in your years?

9 PROSPECTIVE JUROR NO. 101: Thousands. I mean,
10 throughout the course of a year, you probably investigate and
11 handle -- depending on the company. I mean, some companies
12 you would have an inventory of like four or five hundred
13 claims in any given month. So, you know, thousands I would
14 just say.

15 MS. LUZAICH: Okay. And did you say that at some
16 point you were a supervisor as well?

17 PROSPECTIVE JUROR NO. 101: Yeah.

18 THE COURT: Did you have the ability to fire,
19 hire, things like that?

20 PROSPECTIVE JUROR NO. 101: Yeah, I had to fire
21 somebody.

22 MS. LUZAICH: And is that something that you -- I
23 mean, obviously, it's never a comfortable thing to do --

24 PROSPECTIVE JUROR NO. 101: No.

25 MS. LUZAICH: -- but it's something that you're

1 able to do?

2 PROSPECTIVE JUROR NO. 101: With a lot of
3 trepidation, yes, but I did do it, yes.

4 MS. LUZAICH: For what? What did you fire the
5 person for?

6 PROSPECTIVE JUROR NO. 101: She just wasn't
7 getting the job done.

8 MS. LUZAICH: Did you give her chance after
9 chance after chance?

10 PROSPECTIVE JUROR NO. 101: Yeah, we accommodated
11 her, allowed her extra time and tried to meet all her needs,
12 or the extra requirements and she couldn't do it.

13 MS. LUZAICH: And even after all that, you still
14 had a hard time firing her?

15 PROSPECTIVE JUROR NO. 101: Yeah, because, you
16 know, she's a person and, you know, people rely on her for
17 income, and that's never an easy decision to put somebody out
18 of a job. But, I mean, it comes down to that decision of
19 whether it's performance or not, and ultimately it could come
20 down to me being terminated if I didn't take the right action.

21 MS. LUZAICH: Okay. You talked for a minute
22 about police officers and an issue with your mom.

23 PROSPECTIVE JUROR NO. 101: Yeah.

24 MS. LUZAICH: Police officers are people; right?

25 PROSPECTIVE JUROR NO. 101: Yeah.

1 MS. LUZAICH: People make mistakes.

2 PROSPECTIVE JUROR NO. 101: Absolutely.

3 MS. LUZAICH: But there are some really good
4 police officers --

5 PROSPECTIVE JUROR NO. 101: Sure.

6 MS. LUZAICH: -- just like some bad police
7 officers; would you agree with that?

8 PROSPECTIVE JUROR NO. 101: Yes.

9 MS. LUZAICH: And everybody that comes in here to
10 testify, can you just evaluate all of their testimony the
11 same, don't treat anybody any different because of what they
12 do?

13 PROSPECTIVE JUROR NO. 101: I believe I can.

14 MS. LUZAICH: You talked also about your brothers
15 having been arrested in the past for DUI. Was that here or
16 somewhere else?

17 PROSPECTIVE JUROR NO. 101: In Colorado, I think.

18 MS. LUZAICH: And so --

19 PROSPECTIVE JUROR NO. 101: It was a while ago, I
20 mean.

21 MS. LUZAICH: Okay. They didn't come home and
22 yell and you know, yell and scream and kick, "I was wrongfully
23 arrested and those terrible people lied on me," or anything
24 like that?

25 PROSPECTIVE JUROR NO. 101: You know, at the time

1 that it occurred, we weren't living together or, you know, we
2 were apart. So it was something that took place in their
3 lives, you know, and they related it to me, but, you know, I
4 wasn't intimately involved in any of it or anything like that.

5 MS. LUZAICH: So it won't have any effect on how
6 you view this case?

7 PROSPECTIVE JUROR NO. 101: Not that I -- I don't
8 think so.

9 MS. LUZAICH: And, you know, the defendant
10 sitting there, you don't care whether he's African-American,
11 Caucasian, Latin, Asian or anything; right?

12 PROSPECTIVE JUROR NO. 101: No.

13 MS. LUZAICH: You'd give him a fair trial no
14 matter who was sitting there?

15 PROSPECTIVE JUROR NO. 101: I would.

16 MS. LUZAICH: And we represent the State of
17 Nevada. Would you give us the same fair trial that you give
18 the defense?

19 PROSPECTIVE JUROR NO. 101: I would.

20 MS. LUZAICH: Would you agree that the State of
21 Nevada is entitled to a fair trial just like the defense is?

22 PROSPECTIVE JUROR NO. 101: To a fair trial?
23 Sure.

24 MS. LUZAICH: With a fair and impartial jury?

25 PROSPECTIVE JUROR NO. 101: Right.

1 MS. LUZAICH: Okay. And you'll hold us to the
2 burden that the Court reads?

3 PROSPECTIVE JUROR NO. 101: Yeah. I mean, that
4 was one thing. Everybody, they were asking all these
5 questions about the reasonable doubt question, and I'm glad to
6 know that there will be instructions as, you know, as to what
7 is reasonable.

8 MS. LUZAICH: The Court's going to instruct you
9 on everything you need to know.

10 PROSPECTIVE JUROR NO. 101: Good, yeah.

11 MS. LUZAICH: You may not like the instructions,
12 but the Court is going to instruction you on everything you
13 need to know.

14 PROSPECTIVE JUROR NO. 101: Okay.

15 MS. LUZAICH: But, when you say she's -- the
16 Court's going to instruct you on what is reasonable. I mean,
17 reasonable is different for --

18 PROSPECTIVE JUROR NO. 101: Everybody.

19 MS. LUZAICH: -- everybody. There is no
20 definition for reasonable. Would you agree with that?

21 PROSPECTIVE JUROR NO. 101: Right. But I'm sure
22 there has to be some reference or measure for which we're
23 supposed to make a judgment upon.

24 MS. LUZAICH: For beyond a reasonable doubt,
25 right.

1 PROSPECTIVE JUROR NO. 101: Right, yeah.

2 MS. LUZAICH: Okay. Do you have common sense?

3 PROSPECTIVE JUROR NO. 101: I believe I do.

4 MS. LUZAICH: Will you bring it into the
5 courtroom?

6 PROSPECTIVE JUROR NO. 101: I think I will.

7 MS. LUZAICH: You won't leave it outside just
8 because there's a Judge and a flag?

9 PROSPECTIVE JUROR NO. 101: I don't think I
10 would.

11 MS. LUZAICH: Okay. You'll listen to both sides
12 before you make a decision?

13 PROSPECTIVE JUROR NO. 101: Yeah.

14 MS. LUZAICH: Is there anything that would
15 prevent you from being able to sit in judgment of someone?

16 PROSPECTIVE JUROR NO. 101: I don't think so.

17 MS. LUZAICH: At the conclusion of the evidence,
18 if you sit as a juror, if you are convinced beyond a
19 reasonable doubt the defendant committed the crimes he's
20 charged with, would you be able to say the word guilty?

21 PROSPECTIVE JUROR NO. 101: If proven beyond a
22 reasonable doubt.

23 MS. LUZAICH: And now, you're kind of qualifying
24 that there. I mean, that is the standard and absolutely we
25 expect you to hold us to that standard. Are you going to make

1 us prove more than that?

2 PROSPECTIVE JUROR NO. 101: No. I guess it just
3 goes back to my issue about what's reasonable doubt. And if
4 it's going to be explained to me, then I should be able to
5 follow along with that. Because I don't want to confuse -- at
6 this point, I don't know what the information is. I don't
7 want to confuse my layman's understanding of what reasonable
8 doubt is. You see what I'm saying? I mean, if it's clearly
9 defined to me or instructed to me, I don't think I'm going to
10 have any issues.

11 MS. LUZAICH: Okay. Well, what if it's not
12 clearly defined or instructed to you?

13 PROSPECTIVE JUROR NO. 101: Well, then, I'd have
14 to try to do my best of my abilities to come to that
15 conclusion.

16 MS. LUZAICH: Okay. Will you follow the
17 instructions that the Court reads?

18 PROSPECTIVE JUROR NO. 101: Yes.

19 MS. LUZAICH: Even if you don't agree with them?

20 PROSPECTIVE JUROR NO. 101: Yeah. I don't think
21 agreement is an issue. I'd just like to be clear, that's all.

22 MS. LUZAICH: You're a logical, analytical kind
23 of guy?

24 PROSPECTIVE JUROR NO. 101: Yeah, you could say
25 that. But, you know, I don't know if he's going to ask me --

1 MR. BROWN: I'll get to you.

2 PROSPECTIVE JUROR NO. 101: Yeah. Okay, we'll
3 address it then.

4 MS. LUZAICH: I'll pass for cause.

5 THE COURT: All right, go ahead.

6 MR. BROWN: Are you a thinker or a feeler?

7 PROSPECTIVE JUROR NO. 101: I'm a thinker.

8 MR. BROWN: Okay. I'm going to let you define
9 that for me.

10 PROSPECTIVE JUROR NO. 101: Depending on the
11 situation, if I have to think quickly, or react, or if it's
12 personal interaction, I'm probably more of feeler. And
13 consequently, I try to temper that with a little more of the
14 thinking analysis part of it.

15 MR. BROWN: Okay. So one of your concerns
16 frankly is just, you know, you just want a little guidance
17 from the Court and from the attorneys and -- in assisting you
18 to be able to apply the facts as you hear them --

19 PROSPECTIVE JUROR NO. 101: Right.

20 MR. BROWN: -- to the law that's given to you,
21 discussion with your fellow jurors and then you'll render a
22 verdict. And the question is, can you be fair to the State
23 when doing that process?

24 PROSPECTIVE JUROR NO. 101: I think I can be.

25 MR. BROWN: Can you be fair to Mr. Porter when

1 you're doing that process?

2 PROSPECTIVE JUROR NO. 101: I think I can be.

3 MR. BROWN: Okay. Following up on some of the
4 questions I've had, you know, I understand that you do
5 training. That leads me to believe that you probably have a
6 leadership quality about you. How would you characterize
7 yourself on the leadership/follower kind of scale?

8 PROSPECTIVE JUROR NO. 101: I like to lead the
9 way.

10 MR. BROWN: Okay. When you were in Phoenix, were
11 you working for Farmer's there, too? Did I understand that
12 right?

13 PROSPECTIVE JUROR NO. 101: No.

14 MR. BROWN: Okay. What were you doing when you
15 were in Phoenix?

16 PROSPECTIVE JUROR NO. 101: Prior to moving here,
17 I was an SIU investigator. Special investigations.

18 MR. BROWN: Okay. And so you have a background
19 and history in obtaining facts, and report writing, and what's
20 important to an investigation that needs to be in a report and
21 all that kind of stuff?

22 PROSPECTIVE JUROR NO. 101: Yes.

23 MR. BROWN: Okay. With the process, with the
24 legal process, I've asked a question about if there's a
25 decision made, if Mr. Abood and I decide that Mr. Porter

1 shouldn't take the stand, how do you feel about not hearing
2 from him from this witness stand during this trial?

3 PROSPECTIVE JUROR NO. 101: You know, without
4 really knowing anything, I wouldn't have any problems with it.
5 I mean, because I agree with what Mr. Abood said earlier, that
6 a defense can solely be based on picking apart the
7 prosecution's case.

8 MR. BROWN: Okay.

9 PROSPECTIVE JUROR NO. 101: If the prosecution
10 doesn't have a good case, then, you know, I don't see the
11 reason why he would need to.

12 MR. BROWN: I mean, is it -- it's fair to realize
13 that when an event happens, and witnesses are at an event,
14 that they're the witnesses. There aren't necessarily defense
15 witnesses and -- I mean, they're witnesses.

16 PROSPECTIVE JUROR NO. 101: Right.

17 MR. BROWN: I mean, the State goes first, so they
18 put on most of them.

19 PROSPECTIVE JUROR NO. 101: Right.

20 MR. BROWN: But when the defense is asking
21 questions through the cross-examination process, you realize
22 that the witnesses are there and they're just getting
23 questioned by everybody?

24 PROSPECTIVE JUROR NO. 101: Right.

25 MR. BROWN: Okay. And if the burden were

1 different, then maybe the defense would have to put on the
2 witnesses. But it's clearly on the State. So they -- you
3 agree that they're the ones that have to show you what
4 happened and convince you that that's what happened and that
5 it is a crime.

6 PROSPECTIVE JUROR NO. 101: Yeah, it's a similar
7 process with claims.

8 MR. BROWN: Yeah.

9 PROSPECTIVE JUROR NO. 101: I mean, if somebody
10 is making the claim, they have to prove it. But, you know, as
11 an insurance company, we'll investigate it because our insured
12 can't do it.

13 MR. BROWN: Okay. Have you ever served in the
14 military?

15 PROSPECTIVE JUROR NO. 101: No.

16 MR. BROWN: Okay. Have you ever had any training
17 in law or law classes or anything like that?

18 PROSPECTIVE JUROR NO. 101: No.

19 MR. BROWN: Follow any of the legal shows on
20 television?

21 PROSPECTIVE JUROR NO. 101: I use to be a big Law
22 and Order fan. My dad was Judge Advocate in the Air Force.

23 MR. BROWN: Oh, really. Okay. And anything
24 about the experience of discussions with your dad that give
25 you any kind of insight into the legal process?

1 you?

2 THE COURT: I'm good. There you are, okay. Ms.
3 Mundy, any reason you couldn't be fair and impartial in this
4 case?

5 PROSPECTIVE JUROR NO. 074: No.

6 THE COURT: Can you wait in forming your opinion
7 on the appropriate result until all the evidence has been
8 heard?

9 PROSPECTIVE JUROR NO. 074: Yes.

10 THE COURT: Excuse me, have you or anyone close
11 to you worked in law enforcement?

12 PROSPECTIVE JUROR NO. 074: Yes.

13 THE COURT: Who's that?

14 PROSPECTIVE JUROR NO. 074: My brother.

15 THE COURT: What did he do?

16 PROSPECTIVE JUROR NO. 074: He is a Commander in
17 the San Diego Sheriff's Department.

18 THE COURT: All right. Now, you know what I'm
19 going to ask next.

20 PROSPECTIVE JUROR NO. 074: And it's a long
21 story, but I haven't talked to him in about ten years.

22 THE COURT: Oh, okay. But it -- so it wouldn't
23 -- you wouldn't tend to give law enforcement officers any
24 greater weight than other witnesses?

25 PROSPECTIVE JUROR NO. 074: Absolutely not.

1 THE COURT: And you won't give them lesser weight
2 than other witnesses?

3 PROSPECTIVE JUROR NO. 074: Absolutely not.

4 THE COURT: You just listen to them and evaluate
5 them like any other witness?

6 PROSPECTIVE JUROR NO. 074: Yes.

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

9 PROSPECTIVE JUROR NO. 074: My daughter.

10 THE COURT: With what?

11 PROSPECTIVE JUROR NO. 074: She had a DUI about
12 five years ago.

13 THE COURT: Okay. And how did you feel about the
14 way that was handled by police and prosecutors?

15 PROSPECTIVE JUROR NO. 074: I don't know anything
16 about it. She lived with her husband at the time and she just
17 said she was drunk.

18 THE COURT: Okay. So, again, that wouldn't
19 affect how you view the roles of the police and prosecutors in
20 this case?

21 PROSPECTIVE JUROR NO. 074: No.

22 THE COURT: Have you or anyone close to you been
23 the victim of a serious crime?

24 PROSPECTIVE JUROR NO. 074: No.

25 THE COURT: Is there anything about the charges

1 in this case that would make it difficult for you to be fair
2 and impartial?

3 PROSPECTIVE JUROR NO. 074: No.

4 THE COURT: Can you base your verdict solely on
5 the evidence and the applicable law without fear of criticism
6 or popular opinion?

7 PROSPECTIVE JUROR NO. 074: Yes.

8 THE COURT: Have you ever served as a juror
9 before?

10 PROSPECTIVE JUROR NO. 074: No.

11 THE COURT: If you were a party to this case,
12 would you be comfortable with jurors of a like frame of mind
13 as yourself sitting in judgment?

14 PROSPECTIVE JUROR NO. 074: Yes.

15 THE COURT: How old are you, ma'am?

16 PROSPECTIVE JUROR NO. 074: Fifty-nine.

17 THE COURT: And how long have you lived here?

18 PROSPECTIVE JUROR NO. 074: Twenty-six years.

19 THE COURT: Are you employed?

20 PROSPECTIVE JUROR NO. 074: Yes, I am.

21 THE COURT: What do you do?

22 PROSPECTIVE JUROR NO. 074: I'm supervisor with
23 Marmax (phonetic).

24 THE COURT: What is that?

25 PROSPECTIVE JUROR NO. 074: Marmax is a

1 distribution company for Marshalls and TJ Maxx.

2 THE COURT: Oh, okay. Are you married?

3 PROSPECTIVE JUROR NO. 074: No.

4 THE COURT: Do you have children? Yes, you do.

5 PROSPECTIVE JUROR NO. 074: Yes.

6 THE COURT: Okay. How many children?

7 PROSPECTIVE JUROR NO. 074: Four.

8 THE COURT: How old are they?

9 PROSPECTIVE JUROR NO. 074: 36, 34, 28, and 25.

10 THE COURT: Okay. And what do they do for a
11 living?

12 PROSPECTIVE JUROR NO. 074: My oldest is manager
13 for Lowe's in Oregon. The second one is a metal framer. My
14 third one is a secretary, and my youngest works for a
15 apartment complex in Reno as maintenance.

16 THE COURT: Okay. And what's the highest level
17 of education you completed?

18 PROSPECTIVE JUROR NO. 074: Second year of junior
19 college.

20 THE COURT: Did you have any particular area of
21 focus or major?

22 PROSPECTIVE JUROR NO. 074: I was just going for
23 business admin.

24 THE COURT: Okay. State?

25 MR. TOMSHECK: I imagine you've probably been

1 sitting there listening to the same questions over and over
2 and over again. So you kind of knew what she was going to ask
3 you before she asked you?

4 PROSPECTIVE JUROR NO. 074: Yes.

5 MR. TOMSHECK: When the Judge asked the question
6 anything about the charges; do you remember that question a
7 moment ago?

8 PROSPECTIVE JUROR NO. 074: Yes, I do.

9 MR. TOMSHECK: And you kind of gave her the one-
10 word answer. I want to ask a question I've asked a couple
11 other people and that is when you heard the charges yesterday
12 when Ms. Luzaich stood up and said that this was a murder
13 case. I'm stealing a page from Mr. Brown's book, how did that
14 make you feel?

15 PROSPECTIVE JUROR NO. 074: It was just a case.

16 MR. TOMSHECK: You'll evaluate it just like every
17 other case?

18 PROSPECTIVE JUROR NO. 074: Absolutely, yes.

19 MR. TOMSHECK: Okay. Take the sympathy and
20 emotion out of and actually look at the evidence?

21 PROSPECTIVE JUROR NO. 074: Absolutely.

22 MR. TOMSHECK: And I imagine that, you can
23 understand this, that sometimes charges carry with them a
24 certain aspect of sympathy or emotion?

25 PROSPECTIVE JUROR NO. 074: Yes.

1 MR. TOMSHECK: Okay. In a case where somebody's
2 been killed, that's that type of (inaudible); correct?

3 PROSPECTIVE JUROR NO. 074: Yes.

4 MR. TOMSHECK: Do you agree that if the Judge
5 instructs you, that you're supposed to make your decision
6 without sympathy and emotion, that you should do your best to
7 do that?

8 PROSPECTIVE JUROR NO. 074: Absolutely.

9 MR. TOMSHECK: And you think you can?

10 PROSPECTIVE JUROR NO. 074: Yes.

11 MR. TOMSHECK: Okay. You mentioned that you're
12 not married, but you do have four children?

13 PROSPECTIVE JUROR NO. 074: Yes.

14 MR. TOMSHECK: And again, I hate asking these
15 personal questions, but were you married at one point?

16 PROSPECTIVE JUROR NO. 074: My husband died in
17 1987.

18 MR. TOMSHECK: Okay. And I apologize for having
19 to ask that question.

20 PROSPECTIVE JUROR NO. 074: No, that's okay.

21 MR. TOMSHECK: There's a reason for it, I assure
22 you. Anything that we asked someone else that you thought,
23 hey, I have a good answer for that and I wish they'd ask me
24 that question?

25 PROSPECTIVE JUROR NO. 074: No.

1 MR. TOMSHECK: Okay. And if you were the type of
2 person who, unfortunately, had to come into court and face
3 some charges, would you want someone like yourself to be on
4 the jury deciding your fate?

5 PROSPECTIVE JUROR NO. 074: Yes, I would.

6 MR. TOMSHECK: Okay. Why?

7 PROSPECTIVE JUROR NO. 074: I feel that I'm fair.
8 I feel that because of my, what my job is, I look at both
9 sides before I deal with anything. I feel that I'm honest.
10 And I just feel that I have the capability of listening.

11 MR. TOMSHECK: Okay. Thank you.

12 PROSPECTIVE JUROR NO. 074: Um-hum.

13 MR. TOMSHECK: Pass for cause, Judge.

14 MR. ABOOD: Hello, Ms. Mundy.

15 PROSPECTIVE JUROR NO. 074: Hi.

16 MR. ABOOD: Ma'am, have we asked anything of
17 anyone that you hope that we won't ask you?

18 PROSPECTIVE JUROR NO. 074: Like I'm going to
19 admit that; right? Not really.

20 MR. ABOOD: Not really?

21 PROSPECTIVE JUROR NO. 074: No.

22 MR. ABOOD: Have you learned a couple things in
23 the last two days, stuff maybe that you didn't know?

24 PROSPECTIVE JUROR NO. 074: Oh, absolutely.

25 MR. ABOOD: What did you find the most

1 interesting of what we've been talking about concerning how
2 his thing works?

3 PROSPECTIVE JUROR NO. 074: Well, it's just the
4 process.

5 MR. ABOOD: A process?

6 PROSPECTIVE JUROR NO. 074: The way of getting
7 the jurors and what the Judge has to say and what all you have
8 to say.

9 MR. ABOOD: Were you aware, before you came in
10 here, that the Judge explains the law and gives you everything
11 you need to know to make a decision in a case like this?

12 PROSPECTIVE JUROR NO. 074: No.

13 MR. ABOOD: Okay. She's going to -- the Judge is
14 going to read a great number -- not a great number, she's
15 going to read a set of instructions to you. It may take a
16 while. And those instructions are going to guide you through
17 what we call the deliberation process. And I guess I want to
18 make sure -- you know, in a case like this, the question may
19 be, has the State proven their case beyond a reasonable doubt.
20 In other words, do we have enough evidence to find Justin
21 Porter guilty.

22 But the question may also be, is he guilty of
23 what the State says he did. Does that make sense to you?

24 PROSPECTIVE JUROR NO. 074: Yes, it does.

25 MR. ABOOD: Okay. And those kinds of things are

1 all going to be contained in the instructions that the Judge
2 is going to read to you and give you.

3 PROSPECTIVE JUROR NO. 074: Okay.

4 MR. ABOOD: Okay. Now, you said that -- when I
5 asked you if there was anything that was asked of anybody
6 else, that you were hoping that we didn't ask you, was there
7 anything that we asked other people that you kind of hope that
8 we do ask you?

9 PROSPECTIVE JUROR NO. 074: No.

10 MR. ABOOD: No. Did anything strike you as
11 unusual in the last couple days?

12 PROSPECTIVE JUROR NO. 074: No.

13 MR. ABOOD: No. Okay, so all this makes perfect
14 sense to you?

15 PROSPECTIVE JUROR NO. 074: Yes.

16 MR. ABOOD: Okay, good. Ma'am, would you like to
17 be on a jury like this?

18 PROSPECTIVE JUROR NO. 074: I think it would be
19 quite interesting to to learn the process.

20 MR. ABOOD: Great. Very good. Thank you very
21 much. We're going to pass for cause also, Your Honor.

22 THE COURT: Thank you. Ms. Boyd-Dutt.

23 PROSPECTIVE JUROR NO. 075: Yes, ma'am.

24 THE COURT: How are you today?

25 PROSPECTIVE JUROR NO. 075: Good, thank you.

1 THE COURT: Is there any reason you can't be fair
2 and impartial in this case?

3 PROSPECTIVE JUROR NO. 075: No.

4 THE COURT: Can you wait in forming your opinion
5 on the appropriate result until all the evidence has been
6 heard?

7 PROSPECTIVE JUROR NO. 075: Yes, ma'am.

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

10 PROSPECTIVE JUROR NO. 075: Not close, but I come
11 in contact quite a bit with people. I grew up in a small
12 town, so eventually somebody's in law enforcement.

13 THE COURT: Right, okay. Do you think you'll
14 have a tendency to give greater weight to the testimony of law
15 enforcement personnel than other witnesses?

16 PROSPECTIVE JUROR NO. 075: Well, I was raised
17 that the police were above approach.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 075: And that I listened
20 and obeyed.

21 THE COURT: Sure.

22 PROSPECTIVE JUROR NO. 075: As I've gotten older,
23 I've learned that they make lots of mistakes and some bad
24 choices and --

25 THE COURT: Okay. Well, right. I mean, police

1 are human like anyone else.

2 PROSPECTIVE JUROR NO. 075: Correct.

3 THE COURT: And so, being an adult now and having
4 those experiences, do you think that you could weigh their
5 testimony as you would any other witness to determine how much
6 weight to give to the testimony?

7 PROSPECTIVE JUROR NO. 075: I believe so. I
8 believe so, yes.

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

11 PROSPECTIVE JUROR NO. 075: No, ma'am.

12 THE COURT: Have you or anyone close to you been
13 the victim of a serious crime?

14 PROSPECTIVE JUROR NO. 075: Yes, in the last day,
15 lots of things have come up. A couple years after we
16 graduated, a friend of mine, probably my best friend growing
17 up, was kidnaped and raped and killed and her naked body was
18 found about 200 miles west of where she was found.

19 And on obviously lesser points, our office that's
20 in North Las Vegas, my family's business, has been burglarized
21 at least twice.

22 THE COURT: Okay. The event that happened with
23 your friend --

24 PROSPECTIVE JUROR NO. 075: Yes, ma'am.

25 THE COURT: -- how long ago was that?

1 PROSPECTIVE JUROR NO. 075: It was 1986.

2 THE COURT: Okay. And now, understandably, just
3 listening to you talk about it, just having to talk about it
4 is emotional for you.

5 PROSPECTIVE JUROR NO. 075: Yes, ma'am.

6 THE COURT: I mean, that --

7 PROSPECTIVE JUROR NO. 075: Because they never
8 found who did it.

9 THE COURT: They never did, okay. Now, this
10 case, obviously, involves alleged murder now. And there's
11 going to be some pictures of somebody who was shot. Do you
12 think that you're going to be able to look at those pictures
13 and listen to the evidence fairly and impartially?

14 PROSPECTIVE JUROR NO. 075: I really don't know.
15 It would obviously, like a lot of people here, could probably
16 live my life very happily and never see anything like that.

17 THE COURT: Of course. I mean, it's not
18 something we want to look at necessarily.

19 PROSPECTIVE JUROR NO. 075: Yes, ma'am. Yes,
20 ma'am. I do pass out in hospitals.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NO. 075: I've handled animals
23 my whole life. I can handle that.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 075: I train horses and

1 have to kill things like that, but.

2 THE COURT: Okay. Do --

3 PROSPECTIVE JUROR NO. 075: But I don't do people
4 blood well, ma'am.

5 THE COURT: Right. Well, do you think, though,
6 that when we're -- when the evidence is coming in in this case
7 and if you were required to then go deliberate as a juror, do
8 you think you would be able to put aside the prior experience
9 with this, you know, terrible event with your friend to weigh
10 this case on its own merits?

11 PROSPECTIVE JUROR NO. 075: I would hope so, I
12 would hope so. I really don't know that I can answer that, so
13 I was --

14 THE COURT: Right. But I mean, intellectually --

15 PROSPECTIVE JUROR NO. 075: Like I said, this is
16 something I haven't thought about in a number of years.

17 THE COURT: Right, right. Just -- but being here
18 brought it for you.

19 PROSPECTIVE JUROR NO. 075: Correct, yes, ma'am.

20 THE COURT: But you -- obviously you know that
21 it's different people, different situations. And although
22 it's raised it for you, you think that you won't allow that to
23 interfere with your deliberations in this case?

24 PROSPECTIVE JUROR NO. 075: I would hope so, I
25 would hope so. I really don't know, I don't know.

1 THE COURT: Okay. And you said that you have a
2 business in North Las Vegas?

3 PROSPECTIVE JUROR NO. 075: My family, yes.

4 THE COURT: Your family does?

5 PROSPECTIVE JUROR NO. 075: Yes, ma'am.

6 THE COURT: And there's been burglaries there?

7 PROSPECTIVE JUROR NO. 075: Yes, ma'am.

8 THE COURT: Have they found anybody that's done
9 that?

10 PROSPECTIVE JUROR NO. 075: No, ma'am.

11 THE COURT: And do you think that that will
12 affect your ability to be fair and impartial here?

13 PROSPECTIVE JUROR NO. 075: I don't know. I
14 would hope so. I would hope that I would not, I would hope
15 that it would not because obviously, it's been quite a few
16 years ago, so obviously it's not the same individual, so I
17 would be able to remove that from the equation.

18 THE COURT: Right. There's certainly not going
19 to be any evidence presented here about the events at your
20 business.

21 PROSPECTIVE JUROR NO. 075: Correct, correct.

22 THE COURT: So there won't be any reason here to
23 connect anyone here to that.

24 PROSPECTIVE JUROR NO. 075: Correct.

25 THE COURT: And I appreciate, you know, that

1 you're trying to be honest about it. So I get that. And
2 you're saying, you know, you hope so. But you're -- can you
3 promise me that you're going to try your best to follow my
4 instructions on the applicable law, and how you're supposed to
5 look at the evidence, and what the respective burdens are?

6 PROSPECTIVE JUROR NO. 075: Yes, ma'am. Yes,
7 ma'am.

8 THE COURT: And you're not going to, you know,
9 find this man guilty of what's charged here because someone
10 broke into your business?

11 PROSPECTIVE JUROR NO. 075: Oh, no, ma'am, no.

12 THE COURT: You know, or because this terrible
13 thing happened to your friend quite a while ago. Okay. Is
14 there -- okay. So we've already covered this to some extent,
15 but other than what we've discussed, is there anything about
16 the charges in this case that would make it difficult for you
17 to be fair and impartial?

18 PROSPECTIVE JUROR NO. 075: (Inaudible).

19 THE COURT: Okay. Can you base your verdict on
20 the evidence and the applicable law without fear of criticism
21 or popular opinion?

22 PROSPECTIVE JUROR NO. 075: Yes, ma'am.

23 THE COURT: Have you ever served as a juror
24 before?

25 PROSPECTIVE JUROR NO. 075: No, ma'am.

1 THE COURT: If you are 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. 075: Yes, ma'am.

5 THE COURT: How old are you, ma'am?

6 PROSPECTIVE JUROR NO. 075: Forty-three.

7 THE COURT: And how long have you lived here?

8 PROSPECTIVE JUROR NO. 075: Three years.

9 THE COURT: Are you employed? Yes, you are.

10 PROSPECTIVE JUROR NO. 075: Well, I'm retired
11 from my family business.

12 THE COURT: Okay. And what was the nature of the
13 business?

14 PROSPECTIVE JUROR NO. 075: They had a tent
15 rental company, the really big tents for events.

16 THE COURT: I see.

17 PROSPECTIVE JUROR NO. 075: That's just my --
18 that's my -- then I retired from that years ago and I got --
19 was in the golf business and I retired from that business
20 about two years ago.

21 THE COURT: And the golf business, at a golf
22 course?

23 PROSPECTIVE JUROR NO. 075: Yes.

24 THE COURT RECORDER: I'm not hearing what she's
25 saying.

1 PROSPECTIVE JUROR NO. 075: Yes, I was in the
2 golf business. I was the personal assistant to Butch Harmon
3 here in town.

4 THE COURT: So in the course up by Anthem?

5 PROSPECTIVE JUROR NO. 075: Yes, ma'am. My
6 husband is the --

7 THE COURT: By the school.

8 PROSPECTIVE JUROR NO. 075: -- Vice-President of
9 golf operations for Harrah's, so he's up there now.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NO. 075: I left about -- right
12 about the time he got there, but I worked for Butch for -- I
13 opened Rio Secco and then worked for Butch for three years.

14 THE COURT: Okay. Do you have children?

15 PROSPECTIVE JUROR NO. 075: I do. I have a 26-
16 year-old daughter and a 24-year-old son and we have our 7-
17 year-old granddaughter with us full-time.

18 THE COURT: Okay. So I kind of skipped over
19 this, but so you told me your husband works up at the golf
20 course still then?

21 PROSPECTIVE JUROR NO. 075: Yes, ma'am.

22 THE COURT: Okay. All right. And so what do
23 your children do for a living?

24 PROSPECTIVE JUROR NO. 075: My daughter right now
25 is married to a young man in the military, and my son works in

1 the family's business.

2 THE COURT: Okay. That's the tent rental.

3 PROSPECTIVE JUROR NO. 075: Yes, ma'am.

4 THE COURT: Okay. All right. And what's the
5 highest level of education you completed?

6 PROSPECTIVE JUROR NO. 075: High school.

7 THE COURT: Okay. State.

8 MS. LUZAICH: Thank you, Your Honor. You know
9 what, I'm sorry. Apparently, I'm old and deaf. Your daughter
10 does something to do with the military?

11 PROSPECTIVE JUROR NO. 075: She's married to a
12 gentleman in the military. They just transferred to a new
13 base, so she's not doing much of anything except getting her
14 house together right now.

15 MS. LUZAICH: Does she work outside the home when
16 she's not in the process of transferring?

17 PROSPECTIVE JUROR NO. 075: Not right now. She
18 was diagnosed with MS a couple years ago, so they're still
19 trying to work on getting her --

20 MS. LUZAICH: Medical issues and stuff.

21 PROSPECTIVE JUROR NO. 075: -- medical issues
22 handled, yes, ma'am.

23 MS. LUZAICH: Well, you know, and I'm sure
24 they're going to ask you as well. Obviously, what happened to
25 your friend is horrible and the fact that it went unsolved is

1 even worse, but he obviously did not do it.

2 PROSPECTIVE JUROR NO. 075: Yes, ma'am.

3 MS. LUZAICH: So will we and the defense be able
4 to get a fair trial out of you?

5 PROSPECTIVE JUROR NO. 075: I would hope so, I
6 would hope so.

7 MS. LUZAICH: Would you consider yourself to be a
8 fair and impartial person?

9 PROSPECTIVE JUROR NO. 075: My kids don't think
10 so, but yeah, I would say yes, that I am.

11 MS. LUZAICH: My kids call me the meanest mother
12 ever, but that's what parents are for.

13 PROSPECTIVE JUROR NO. 075: Yes.

14 MS. LUZAICH: Objectively, in the real world.

15 PROSPECTIVE JUROR NO. 075: Oh, no, there's
16 nothing objective about being a parent.

17 MS. LUZAICH: But you don't care whether he sits
18 there being African-American, Caucasian, Asian, Latin,
19 anything. None of that means anything, does it?

20 PROSPECTIVE JUROR NO. 075: No, ma'am.

21 MS. LUZAICH: All you're going to pay attention
22 to is what the witnesses tell you about what they saw and what
23 they heard and what they did.

24 PROSPECTIVE JUROR NO. 075: Yes, ma'am.

25 MS. LUZAICH: You said that you have retired from

1 your family business, as well as Butch Harmon?

2 PROSPECTIVE JUROR NO. 075: Golf, Butch Harmon,
3 yes, ma'am.

4 MS. LUZAICH: Are you working at all these days?

5 PROSPECTIVE JUROR NO. 075: I train horses. My
6 family also has a ranch in Southern Idaho and I ride colts for
7 them here in winter to get them ready for selling or training,
8 further training in the summers up there.

9 MS. LUZAICH: Your family is very busy.

10 PROSPECTIVE JUROR NO. 075: Yes, ma'am.

11 MS. LUZAICH: Are the horses going to be okay
12 without for a couple days while you sit here?

13 PROSPECTIVE JUROR NO. 075: Well, I've got one
14 that's decided to hurt himself this morning, but by the time I
15 get home, it will be too late to deal with anyway, so. And
16 we'll see. I may have to ride him at night and come in all
17 bruised up --

18 PROSPECTIVE JUROR NO. 075: As long as you come
19 in in one piece; right? You've heard the questions that we've
20 asked over the last few days. Is there anything that you feel
21 the need to answer?

22 PROSPECTIVE JUROR NO. 075: Really, the only
23 thing that I feel I must tell you is that I been diagnosed and
24 been under treatment for adult ADHD. My medication lasts for
25 about eight hours. So after that I do tend to -- I'm classic

1 right along the line, so.

2 MS. LUZAICH: And when do you take your
3 medication?

4 PROSPECTIVE JUROR NO. 075: Usually about 7:00 in
5 the morning.

6 MS. LUZAICH: Do you take it again during the
7 day?

8 PROSPECTIVE JUROR NO. 075: I have a prescription
9 for it. I usually don't because then I have problems
10 sleeping.

11 MS. LUZAICH: Okay. Well, it's 2:30 now and you
12 seem to be perfectly with us here. Yesterday afternoon, did
13 you have any problems following what was going on?

14 PROSPECTIVE JUROR NO. 075: Yes, ma'am.

15 MS. LUZAICH: What? I mean, what happened?

16 PROSPECTIVE JUROR NO. 075: I -- when people are
17 talking and asking a very long, drawn out question, I -- yes,
18 sir. I tend to go somewhere else, so I get it fragmented,
19 yeah.

20 MS. LUZAICH: Okay. We're trying not to make too
21 much fun of Mr. Abood here. Bu also, yesterday, don't forget
22 you were just kind of sitting there, and people weren't
23 talking to you, so you weren't having to pay full attention.

24 PROSPECTIVE JUROR NO. 075: That part of it
25 doesn't matter, whether they're directly talking to me or not.

1 I can space out equally well.

2 MS. LUZAICH: Okay. Do you think that that's
3 going to be a problem listening to evidence?

4 PROSPECTIVE JUROR NO. 075: If it gets very
5 monotone and monotonous, it is very hard for me to
6 concentrate, especially later on in the day.

7 MS. LUZAICH: Okay. Jury selection is the most
8 boring thing ever. I would rather not do it myself. But, you
9 don't have much choice. The trial will be very exciting.

10 PROSPECTIVE JUROR NO. 075: Actually,
11 unfortunately, it has nothing to do with the excitement level.
12 It just has to do with -- monotone does make it worse, but it
13 doesn't -- it's not the only thing. It just can happen.

14 MS. LUZAICH: Okay. We'll try really --

15 PROSPECTIVE JUROR NO. 075: And I'm -- really,
16 I'm learning to understand this as I go, too. So this will be
17 a whole new experience for me.

18 THE COURT: Is it possible to wait a little bit
19 in the morning and try to take it closer to 9:00?

20 PROSPECTIVE JUROR NO. 075: Um-hm, yeah. And I
21 have a lull period. I don't know where -- I kind of know
22 where it is now.

23 THE COURT: Yeah.

24 PROSPECTIVE JUROR NO. 075: But, yes, ma'am.

25 THE COURT: Okay.

1 MS. LUZAICH: Okay. Otherwise, is there any
2 reason that you couldn't sit in this case?

3 PROSPECTIVE JUROR NO. 075: No, ma'am.

4 MS. LUZAICH: You have common sense?

5 PROSPECTIVE JUROR NO. 075: Yes, ma'am.

6 MS. LUZAICH: Can you bring it in here?

7 PROSPECTIVE JUROR NO. 075: I have horse sense
8 I've been told; but yes.

9 MS. LUZAICH: Horse sense is just as good. Is
10 there anything that prevents you from being able to sit in
11 judgment of someone?

12 PROSPECTIVE JUROR NO. 075: I would hope not, but
13 I've never been in this position, so I'd have to say no.

14 MS. LUZAICH: Well, you have kids. You've had to
15 discipline your kids over time; right?

16 PROSPECTIVE JUROR NO. 075: Yeah.

17 MS. LUZAICH: And in order to do that, you listen
18 to what they did and what they told you they did and when this
19 one says he did and she says she did it, you were able to
20 figure it out?

21 PROSPECTIVE JUROR NO. 075: If they -- that or
22 they both equally got punished.

23 MS. LUZAICH: Okay. So you can sit in judgment.

24 PROSPECTIVE JUROR NO. 075: Yes.

25 MS. LUZAICH: And if you sit as a juror in this

1 case and you listen to all the evidence, if you are convinced
2 beyond a reasonable doubt the defendant committed the crimes
3 he's charged with, would you be able to say guilty?

4 PROSPECTIVE JUROR NO. 075: Yes, ma'am.

5 MS. LUZAICH: Thank you. Pass for cause.

6 THE COURT: Thank you.

7 MR. ABOOD: All right. I don't want to lose you
8 in a half an hour, so I'm going to be quick and I'm not going
9 to be -- I'm not going to ask you long, drawn out questions.
10 Now, was there a question you didn't want me to ask you?

11 PROSPECTIVE JUROR NO. 075: Well, yeah, the one
12 of how my friends describe me because this morning, the friend
13 that's helping me with my granddaughter told me to tell you
14 that I hate people.

15 MR. ABOOD: I hate people, too. Okay. So I'm
16 not going to ask you that one. But let me ask you a few other
17 ones, though. I want to talk to you a little about -- a little
18 bit about what you remember about being raised concerning, you
19 know, with the police and stuff like that, because I was
20 really raised to respect police, too. And I just want to make
21 sure we address this issue real quick.

22 Now, we can -- you know, we can still respect
23 police, but conclude sometimes that they probably could have
24 done something differently. For example, in an investigation.
25 I mean, is that true?

1 PROSPECTIVE JUROR NO. 075: Yes.

2 MR. ABOOD: And we can still respect them, but
3 evaluate them?

4 PROSPECTIVE JUROR NO. 075: Yes.

5 MR. ABOOD: All right. Now, if it turns out that
6 maybe they could have done something differently, now that
7 doesn't make them bad people or anything. I mean, you agree
8 with me on that?

9 PROSPECTIVE JUROR NO. 075: Yes, sir.

10 MR. ABOOD: Okay. I don't want to talk too much
11 about this prior incident that you told us about, because I
12 think that we, you know, we get the idea and it's sad. I just
13 want to make sure, is there anything about this case in the
14 course of the next couple days that maybe you kind of would
15 wish that I should have told the Judge that I really didn't
16 want to do this?

17 PROSPECTIVE JUROR NO. 075: Again, just to say
18 that I could really probably live my life very happily without
19 having this put in front of my face --

20 MR. ABOOD: Yeah.

21 PROSPECTIVE JUROR NO. 075: -- anymore than it
22 has been. But yes, I could probably be just fine without
23 that.

24 MR. ABOOD: Would you rather not be here because
25 of the kind of case that it is?

1 PROSPECTIVE JUROR NO. 075: Yes.

2 MR. ABOOD: And the -- I'm sorry.

3 PROSPECTIVE JUROR NO. 075: Honestly, yes.

4 MR. ABOOD: Okay.

5 PROSPECTIVE JUROR NO. 075: But --

6 MR. ABOOD: Yeah, but you kind of -- you are
7 here.

8 PROSPECTIVE JUROR NO. 075: Yes.

9 MR. ABOOD: Okay. Do you think that, you know,
10 emotionally it might put you in a bad place --

11 PROSPECTIVE JUROR NO. 075: Yes.

12 MR. ABOOD: -- if you continue to involve
13 yourself in this case?

14 PROSPECTIVE JUROR NO. 075: I have no idea. I've
15 been a little shocked by the -- by my reaction as of the last
16 day and a half to it. So I really couldn't tell you what's
17 coming next.

18 MR. ABOOD: It could get worse?

19 PROSPECTIVE JUROR NO. 075: I have no idea. I
20 really -- I would hope it wouldn't. I would hope it wouldn't
21 but --

22 MR. ABOOD: Okay.

23 PROSPECTIVE JUROR NO. 075: -- when you don't
24 think about something for a long time and then all of a sudden
25 it's --

1 MR. ABOOD: All right. The burglaries that you
2 told us about, were things actually stolen?

3 PROSPECTIVE JUROR NO. 075: Yes, sir.

4 MR. ABOOD: Okay.

5 PROSPECTIVE JUROR NO. 075: Yes, sir. Our
6 personal things, gone through in my desk and my father's and
7 my mother's because again, it's a family business. So they
8 took not only business items, but personal items also.

9 MR. ABOOD: If you felt that the State had not
10 proved their case, obviously, you'd vote not guilty?

11 PROSPECTIVE JUROR NO. 075: Yes, sir.

12 MR. ABOOD: Okay. And would you be willing in
13 deliberations to convince other jurors that the State had not
14 proved their case if that's the way you feel?

15 PROSPECTIVE JUROR NO. 075: Yes, sir.

16 MR. ABOOD: Okay. And if Friday afternoon comes
17 and 11 people are all looking at you and they're saying, "Come
18 on, you know, guilty," but you felt it was not guilty, would
19 you be willing to hold your ground?

20 PROSPECTIVE JUROR NO. 075: Oh, yes, sir.

21 MR. ABOOD: I mean, you think this is important?

22 PROSPECTIVE JUROR NO. 075: Oh, yes, sir.

23 MR. ABOOD: Okay. I didn't ask you anything that
24 was too long or convoluted, did I?

25 PROSPECTIVE JUROR NO. 075: I stayed with you

1 pretty well, thank you.

2 MR. ABOOD: And I thank you very much. Your
3 Honor, I'm going to pass for cause.

4 THE COURT: Okay. All right. Mr. Baio?

5 PROSPECTIVE JUROR NO. 076: Yes, ma'am.

6 THE COURT: How are you doing?

7 PROSPECTIVE JUROR NO. 076: Fine, thank you.

8 THE COURT: Good. Is there any reason you
9 couldn't be completely fair and impartial in this case?

10 PROSPECTIVE JUROR NO. 076: Yes, there is.

11 THE COURT: What's that?

12 PROSPECTIVE JUROR NO. 076: Back in 1992, when
13 the Rodney King verdict came in --

14 THE COURT: Yes.

15 PROSPECTIVE JUROR NO. 076: -- I was pretty much
16 beat to an inch of my life.

17 THE COURT: Ah, okay. You were on the streets
18 down there?

19 PROSPECTIVE JUROR NO. 076: At the wrong place at
20 the wrong time, yes. In Van Nuys, California is where --
21 where my beating came. And the whole right side of my head is
22 all artificial.

23 THE COURT: Really.

24 PROSPECTIVE JUROR NO. 076: Yes. I have 11
25 plates.

1 THE COURT: Wow.

2 PROSPECTIVE JUROR NO. 076: All titanium, from
3 here all the way down to the right-hand -- my orbit, my cheek,
4 upper and lower jaw, 17 teeth and my nasal cavity.

5 THE COURT: Wow. Well, they did a great job
6 because you look just fine.

7 PROSPECTIVE JUROR NO. 076: \$800,000 to put my
8 face together.

9 THE COURT: Oh, my gosh. Well, okay. So that
10 happened to you, and I'm glad you are telling us about it.
11 You think that that experience, which was obviously big for
12 you, do you think that that will interfere with your ability
13 to be fair and impartial in weighing this case?

14 PROSPECTIVE JUROR NO. 076: It would be because
15 it happened in a pretty much dominant black neighborhood.

16 THE COURT: And you think that you would have a
17 tendency, because this defendant is African-American, to hold
18 it against him in some way?

19 PROSPECTIVE JUROR NO. 076: I'd have to be honest
20 and say yes.

21 THE COURT: Okay. You don't think you could put
22 aside that other experience and say, you know, I know this
23 many had nothing to do with that in 1993 and let me hear the
24 facts?

25 PROSPECTIVE JUROR NO. 076: He had nothing to do

1 with it and I know he had nothing to do with it, but still,
2 there's just -- I never -- there was never no justice in my
3 case.

4 THE COURT: Right.

5 PROSPECTIVE JUROR NO. 076: Nobody was ever
6 caught.

7 THE COURT: Understood.

8 PROSPECTIVE JUROR NO. 076: And I do get
9 emotional.

10 THE COURT: Sure. I can see that and that's, you
11 know, understandable given what happened to you.

12 PROSPECTIVE JUROR NO. 076: That's pretty much on
13 a day-to-day basis and when I moved out here in 2003, I got
14 into an industrial accident at the company that I work for,
15 and I got hit in the head with a lighting cable, shattering
16 the whole right side of my face again.

17 THE COURT: Oh, my gosh. Wow, you've had a tough
18 time there.

19 PROSPECTIVE JUROR NO. 076: Yes, I have.

20 THE COURT: All right. Counsel.

21 MR. BROWN: No objection, Judge.

22 MS. LUZAICH: No objection.

23 THE COURT: Okay. I'm going to go ahead and
24 excuse you, sir. I appreciate that you spent all day
25 yesterday and today until we got the opportunity to talk with

1 you.

2 PROSPECTIVE JUROR NO. 076: I've tried to hang in
3 through it to have a clear head and it just -- I can't do it.

4 THE COURT: Okay. I understand that. I'm going
5 to excuse you at this time and perhaps they'll be able to have
6 you sit as a juror in some different kind of case. But --

7 PROSPECTIVE JUROR NO. 076: Thank you, Your
8 Honor.

9 THE COURT: -- I understand your reasons at this
10 point. I'm going to excuse you for cause. Thank you.

11 THE CLERK: Next in seat number 22 badge number
12 115, Edward W. Wageman, II.

13 THE COURT: All right, sir, do you pronounce your
14 last name Wageman or Wageman?

15 PROSPECTIVE JUROR NO. 115: Wageman.

16 THE COURT: Wageman, all right. Mr. Wageman, how
17 are you doing today?

18 PROSPECTIVE JUROR NO. 115: Good.

19 THE COURT: Good. Is there any reason why you
20 cannot be fair and impartial in this case?

21 PROSPECTIVE JUROR NO. 115: No.

22 THE COURT: Can you wait in forming your opinion
23 on the appropriate result until all the evidence has been
24 heard?

25 PROSPECTIVE JUROR NO. 115: Yes.

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

3 PROSPECTIVE JUROR NO. 115: Yes.

4 THE COURT: Who's that?

5 PROSPECTIVE JUROR NO. 115: My brother.

6 THE COURT: Pardon?

7 PROSPECTIVE JUROR NO. 115: My brother.

8 THE COURT: Your brother. Does he work in that
9 area now or in the past?

10 PROSPECTIVE JUROR NO. 115: Yeah.

11 THE COURT: Both? Where does he work?

12 PROSPECTIVE JUROR NO. 115: He's a detective in
13 Wyoming.

14 THE COURT: Wyoming, okay. And do you think that
15 you have a tendency to give any greater weight to law
16 enforcement officers than you would other people?

17 PROSPECTIVE JUROR NO. 115: It's probably fair.

18 THE COURT: You think you would be fair about it?

19 PROSPECTIVE JUROR NO. 115: Yeah, I think so.

20 THE COURT: You can listen to their testimony
21 like the testimony of any other witness and weigh the
22 credibility of that particular witness?

23 PROSPECTIVE JUROR NO. 115: Yes, I think I can.

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

1 PROSPECTIVE JUROR NO. 115: I got a DUI before
2 the -- well, I was 23 years old.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 115: Before it ruined your
5 life.

6 THE COURT: Right. All right. And is there
7 anything about that experience that would affect you being
8 fair and impartial in this case?

9 PROSPECTIVE JUROR NO. 115: I don't think so.

10 THE COURT: You're not going to hold it against
11 the police or prosecutors involved here because somebody
12 charged you with DUI a while ago?

13 PROSPECTIVE JUROR NO. 115: No.

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

16 PROSPECTIVE JUROR NO. 115: Not close to me. I
17 had a roommate that got knocked over the head in California.

18 THE COURT: Okay. Okay. Was that roommate okay
19 afterwards?

20 PROSPECTIVE JUROR NO. 115: Yeah, he had to go to
21 court and testify.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NO. 115: But -- you know, he
24 was just mugged.

25 THE COURT: Okay. Again, though, that won't

1 affect your ability to be fair and impartial here, you don't
2 think?

3 PROSPECTIVE JUROR NO. 115: I don't think so.

4 THE COURT: Okay. Is there anything about the
5 charges in this case that would make it difficult for you to
6 be fair and impossible?

7 PROSPECTIVE JUROR NO. 115: What exactly is the
8 charge?

9 THE COURT: The charges that relate to homicide
10 as --

11 PROSPECTIVE JUROR NO. 115: Murder one, two,
12 three?

13 THE COURT: One.

14 PROSPECTIVE JUROR NO. 115: Murder one?

15 THE COURT: Uh-huh. That's one of the charges,
16 yeah.

17 PROSPECTIVE JUROR NO. 115: That's the charge?

18 THE COURT: Is there anything about that nature
19 of that charge that would make it difficult for you to be fair
20 and impartial?

21 PROSPECTIVE JUROR NO. 115: Carry the death
22 penalty?

23 THE COURT: No. It's not -- well, it's not an
24 issue in this case. Okay.

25 PROSPECTIVE JUROR NO. 115: Probably not, no.

1 THE COURT: Then you're okay?

2 PROSPECTIVE JUROR NO. 115: I'm okay with it.

3 THE COURT: Okay. Can you base your verdict
4 solely on the evidence that comes out at trial and the
5 applicable law without fear of criticism or popular opinion?

6 PROSPECTIVE JUROR NO. 115: No, I'm not afraid to
7 criticize.

8 THE COURT: Okay. So you'll be able to do that,
9 then? You'll be able to base it on the facts and the law?

10 PROSPECTIVE JUROR NO. 115: Yes.

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

13 PROSPECTIVE JUROR NO. 115: No.

14 THE COURT: If you were a party to this case,
15 would you be comfortable with jurors of a like frame of mind
16 as yourself sitting in judgment?

17 PROSPECTIVE JUROR NO. 115: Yes.

18 THE COURT: How old are you, sir?

19 PROSPECTIVE JUROR NO. 115: Fifty.

20 THE COURT: How long have you lived here?

21 PROSPECTIVE JUROR NO. 115: I've been in town a
22 couple times. First time I was here for 14, 15 years, went
23 back for five years. I came back here in the winter of 2004.

24 THE COURT: Okay. And when you say you had gone
25 back in between, where was that?

1 PROSPECTIVE JUROR NO. 115: North Dakota.

2 THE COURT: Is that where you grew up?

3 PROSPECTIVE JUROR NO. 115: Yeah.

4 THE COURT: Are you married?

5 PROSPECTIVE JUROR NO. 115: No.

6 THE COURT: I forgot to ask you about your
7 employment. Are you employed?

8 PROSPECTIVE JUROR NO. 115: Can I pass on that?

9 THE COURT: Can you pass?

10 PROSPECTIVE JUROR NO. 115: Can I say no comment?

11 THE COURT: No.

12 PROSPECTIVE JUROR NO. 115: Can I say I'm in
13 customer service?

14 THE COURT: Yeah. Counsel, approach. And you
15 can come on up here. We can do it privately if that helps.
16 Hold on.

17 (Bench conference begins)

18 THE COURT: Over here, thank you. Come on up.
19 Okay. What do you do?

20 PROSPECTIVE JUROR NO. 115: I'm a dice dealer at
21 the Gold Coast Hotel on day shift.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NO. 115: And I just don't want
24 everybody know that I work there. It's a small world and I
25 see people --

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NO. 115: -- even in this jury,
3 from the jury, I know two people.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 115: It's a small world.
6 I don't want to tell everybody exactly where I work and what I
7 do..

8 THE COURT: Okay. So you know other prospective
9 jurors?

10 PROSPECTIVE JUROR NO. 115: Not in this room.
11 Out in the pool.

12 THE COURT: Oh, oh, okay.

13 PROSPECTIVE JUROR NO. 115: That's why
14 (indiscernible).

15 THE COURT: Okay. So that's fine. So okay.

16 PROSPECTIVE JUROR NO. 115: That's the only
17 reason, I just don't want anybody to know. That's it.

18 THE COURT: Okay. Okay. Thanks, go ahead and
19 have a seat. Step back.

20 (Bench conference concluded)

21 THE COURT: All right. So I think I asked this
22 before I doubled back to your employment situation, but did
23 you say you are married?

24 PROSPECTIVE JUROR NO. 115: No.

25 THE COURT: No, you're not, okay. And do you

1 have children?

2 PROSPECTIVE JUROR NO. 115: No, I do not.

3 THE COURT: What's the highest level of education
4 you completed?

5 PROSPECTIVE JUROR NO. 115: Twelve.

6 THE COURT: High school?

7 PROSPECTIVE JUROR NO. 115: Yeah, but I got other
8 things. I've been a stock broker, I went through real estate
9 school (inaudible).

10 THE COURT: Right. So to be a stock broker, you
11 had to go through the training and everything.

12 PROSPECTIVE JUROR NO. 115: Yeah.

13 THE COURT: Did you obtain your Series 7?

14 PROSPECTIVE JUROR NO. 115: Yes.

15 THE COURT: Okay. All right. State.

16 MR. TOMSHECK: You mentioned that you've been out
17 in Vegas a couple times; is that right?

18 PROSPECTIVE JUROR NO. 115: Yeah.

19 MR. TOMSHECK: Okay. When did you come here the
20 first time?

21 PROSPECTIVE JUROR NO. 115: '86.

22 MR. TOMSHECK: And what brought you out here?

23 PROSPECTIVE JUROR NO. 115: A woman.

24 MR. TOMSHECK: Didn't work out?

25 PROSPECTIVE JUROR NO. 115: For 14 years, it

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1 his name, no.

2 THE COURT: Okay. Just what's the name of that
3 person?

4 PROSPECTIVE JUROR NO. 067: Long.

5 THE COURT: Long, okay. Now, having grown up
6 around lots of law enforcement people, apparently, do you
7 think that you'll have a tendency when a law enforcement
8 officer comes to testify, to give their testimony greater
9 weight than you would other people?

10 PROSPECTIVE JUROR NO. 067: No.

11 THE COURT: Okay. You think you'll still be fair
12 and impartial and wait to hear what they have to say?

13 PROSPECTIVE JUROR NO. 067: Yes.

14 THE COURT: Okay. They're not going to
15 automatically come in with extra credibility?

16 PROSPECTIVE JUROR NO. 067: Not at all.

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

19 PROSPECTIVE JUROR NO. 067: My husband had a DUI.

20 THE COURT: Okay. How long ago was that?

21 PROSPECTIVE JUROR NO. 067: Fifteen or more
22 years.

23 THE COURT: Was it here?

24 PROSPECTIVE JUROR NO. 067: No.

25 THE COURT: Did you -- how do you feel about the

1 way police and prosecutors handled that case?

2 PROSPECTIVE JUROR NO. 067: I wasn't involved. I
3 don't know what (inaudible).

4 THE COURT: Oh, it was -- were you not together
5 at the time?

6 PROSPECTIVE JUROR NO. 067: We were, but I wasn't
7 involved in it.

8 THE COURT: Okay. So you don't know?

9 PROSPECTIVE JUROR NO. 067: I was here and he was
10 elsewhere.

11 THE COURT: I see. So is there anything about
12 that experience of having him charged with that, that would
13 affect your ability to be fair and impartial here?

14 PROSPECTIVE JUROR NO. 067: Not at all.

15 THE COURT: Have you or anyone close to you been
16 the victim of a serious crime?

17 PROSPECTIVE JUROR NO. 067: 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. 067: No.

22 THE COURT: Can you base your verdict solely on
23 the evidence brought out at the trial and the law that applies
24 as stated in my instructions without fear of criticism or
25 popular opinion?

1 PROSPECTIVE JUROR NO. 067: Yes.

2 THE COURT: Have you ever served as a juror
3 before?

4 PROSPECTIVE JUROR NO. 067: 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. 067: Yes.

9 THE COURT: How long have you lived here in Clark
10 County?

11 PROSPECTIVE JUROR NO. 067: Almost 12 years.

12 THE COURT: And how old are you?

13 PROSPECTIVE JUROR NO. 067: Fifty-two.

14 THE COURT: Are you employed?

15 PROSPECTIVE JUROR NO. 067: Yes, I am.

16 THE COURT: What do you do?

17 PROSPECTIVE JUROR NO. 067: I work for Hewlett
18 Packard and I'm a regional service manager, customer service
19 manager.

20 THE COURT: Okay. Are you married?

21 PROSPECTIVE JUROR NO. 067: Yes, I am.

22 THE COURT: You told me that. What does your
23 spouse do?

24 PROSPECTIVE JUROR NO. 067: He's self-employed.

25 THE COURT: In what field?

1 PROSPECTIVE JUROR NO. 067: Automobiles.

2 THE COURT: Okay. And do you have children?

3 PROSPECTIVE JUROR NO. 067: I do.

4 THE COURT: How old?

5 PROSPECTIVE JUROR NO. 067: I have a 21-year-old
6 daughter and a 10-year-old son.

7 THE COURT: Okay. Does the 21-year-old work?

8 PROSPECTIVE JUROR NO. 067: Yes, she does. She
9 goes to school and she works.

10 THE COURT: Okay. What does she do for work?

11 PROSPECTIVE JUROR NO. 067: She's in a -- some
12 sort of stock broker.

13 THE COURT: Oh, okay. And what's the highest
14 level of education you completed?

15 PROSPECTIVE JUROR NO. 067: Thirteen years. I
16 have one year of college.

17 THE COURT: One year of college?

18 PROSPECTIVE JUROR NO. 067: Um-hum.

19 THE COURT: Were you taking just general courses
20 at that point?

21 PROSPECTIVE JUROR NO. 067: Yes.

22 THE COURT: Okay. State.

23 MR. TOMSHECK: You've got a lot of family in law
24 enforcement?

25 PROSPECTIVE JUROR NO. 067: Yes, I do.

1 MR. TOMSHECK: Your dad was a police officer; is
2 that right?

3 PROSPECTIVE JUROR NO. 067: Yes, at the time.

4 MR. TOMSHECK: And where was he employed at?

5 PROSPECTIVE JUROR NO. 067: Outside of Boston,
6 Massachusetts.

7 MR. TOMSHECK: Okay. Is that where you came
8 from?

9 PROSPECTIVE JUROR NO. 067: Yes, I did.

10 MR. TOMSHECK: You mentioned that your husband is
11 self-employed. What exactly does he do?

12 PROSPECTIVE JUROR NO. 067: Sells cars.

13 MR. TOMSHECK: And you work in kind of a customer
14 service field?

15 PROSPECTIVE JUROR NO. 067: I do.

16 MR. TOMSHECK: Deal with complaints?

17 PROSPECTIVE JUROR NO. 067: Yes, I do.

18 MR. TOMSHECK: Dealing with computers?

19 PROSPECTIVE JUROR NO. 067: Yes.

20 MR. TOMSHECK: So if you get picked as a juror
21 and my computer breaks down, can you tell me how to fix it?

22 PROSPECTIVE JUROR NO. 067: I hope so.

23 MR. TOMSHECK: When you deal with complaints from
24 people, is it kind of a situation where -- are you a fix-it
25 person, or are you a kind of, listen and make it happy kind of

1 person?

2 PROSPECTIVE JUROR NO. 067: I'm a fix-it person.

3 MR. TOMSHECK: Okay. Do you think those skills
4 would help or hamper you as a juror?

5 PROSPECTIVE JUROR NO. 067: Probably help. I'm,
6 you know, pretty analytical. I used to fix the computers
7 before. I have a team of people that do it now.

8 MR. TOMSHECK: Okay. So if you're picked as a
9 juror, you'd take in all the information and kind of go about
10 fixing out what your verdict should be?

11 PROSPECTIVE JUROR NO. 067: Yes, I can.

12 MR. TOMSHECK: Okay. And you think you can be
13 fair when you do that?

14 PROSPECTIVE JUROR NO. 067: Absolutely.

15 MR. TOMSHECK: Okay. And one of the other things
16 that we've asked a lot of the other jurors, and it's probably
17 painfully obvious, but you understand why I have to ask it.
18 You said you know some people that are employed with Metro
19 now.

20 PROSPECTIVE JUROR NO. 067: I know one person.

21 MR. TOMSHECK: Detective Long. Okay. You
22 understand that should you be picked as a juror, you can't
23 pick up the phone and say, "Hey, Dan, tell me about this
24 defendant in this case," and that kind of thing.

25 PROSPECTIVE JUROR NO. 067: Yes.

1 MR. TOMSHECK: Promise us you wouldn't do that.

2 PROSPECTIVE JUROR NO. 067: I promise.

3 MR. TOMSHECK: We'll pass for cause, Judge.

4 THE COURT: Thanks.

5 MR. ABOOD: Thank you, Your Honor.

6 (Pause in proceedings)

7 MR. ABOOD: Good morning.

8 PROSPECTIVE JUROR NO. 067: Good morning.

9 MR. ABOOD: You know, Curtis brought this concern
10 up a little bit earlier, and I think you know I'm going to
11 probably do the same thing. You know, the only reason we care
12 about whether or not people are related to police officers or
13 detectives, or whether they have close relationships with
14 them, is we just want to make sure that every witness who
15 testifies is getting the same kind of scrutiny from the jury
16 and that the jurors are asking themselves the same kinds of
17 questions about whether or not I agree with everything that
18 this person is saying is -- you know, does everything make
19 sense to me.

20 PROSPECTIVE JUROR NO. 067: Sure.

21 MR. ABOOD: Are you kind of with me?

22 PROSPECTIVE JUROR NO. 067: Yes.

23 MR. ABOOD: Okay. And, you know, the only reason
24 we care, again, is a lot of times when we're associated with
25 police or detectives, we tend to just believe that, well, you

1 know, if they're saying it, it's true. You know, they know
2 what they're doing and you know. That's the only reason we
3 care. How do you feel about that?

4 PROSPECTIVE JUROR NO. 067: How do I feel
5 about --

6 MR. ABOOD: My fault, right?

7 PROSPECTIVE JUROR NO. 067: Yeah.

8 MR. ABOOD: Okay. Let me fix it. You know
9 detectives, you know police.

10 PROSPECTIVE JUROR NO. 067: Yes, I do.

11 MR. ABOOD: Can we be assured that you're going
12 to scrutinized their testimony just like you would every other
13 witness?

14 PROSPECTIVE JUROR NO. 067: Yes.

15 MR. ABOOD: Okay. I mean, do they make mistakes
16 sometimes?

17 PROSPECTIVE JUROR NO. 067: Absolutely.

18 MR. ABOOD: And do they wish they might have done
19 things differently?

20 PROSPECTIVE JUROR NO. 067: Most likely, yes.

21 MR. ABOOD: Okay. All right. And sometimes they
22 just screw up?

23 PROSPECTIVE JUROR NO. 067: Possibly.

24 MR. ABOOD: I mean, because we all do.

25 PROSPECTIVE JUROR NO. 067: Sure.

1 MR. ABOOD: Okay. All right. So there's nothing
2 about your associations that needs to concern us?

3 PROSPECTIVE JUROR NO. 067: No.

4 MR. ABOOD: Okay, good. Mr. Porter, obviously
5 presumed not guilty.

6 PROSPECTIVE JUROR NO. 067: Correct.

7 MR. ABOOD: He's presumed innocent. Okay. Is he
8 entitled to jurors with all kinds of experience, all kinds of
9 different viewpoints, as far as you're concerned?

10 PROSPECTIVE JUROR NO. 067: Yes.

11 MR. ABOOD: Okay. So we want some people who are
12 young, and we want some people who are more experienced, and
13 people with education. And sometimes people with just street
14 smarts.

15 PROSPECTIVE JUROR NO. 067: Sure.

16 MR. ABOOD: Okay. Now, if everyone always
17 trusted the police, and always trusted prosecutors, for
18 example, and believed that they were always right, then people
19 in Justin's position would always be convicted; is that fair?

20 PROSPECTIVE JUROR NO. 067: Sure, yes.

21 MR. ABOOD: Okay. And we know in our system that
22 routinely people are found not guilty.

23 PROSPECTIVE JUROR NO. 067: Yes.

24 MR. ABOOD: All right. There was a point that
25 the Judge made with you. The Judge asked you a question. It

1 was something along these lines, and I'm sure she said it
2 better. But let me -- would you be comfortable having a juror
3 in a like frame of mind as yourself on your jury if you were
4 sitting where he sat.

5 PROSPECTIVE JUROR NO. 067: Yes.

6 MR. ABOOD: And you said yes. What -- I mean,
7 what is that frame of mind?

8 PROSPECTIVE JUROR NO. 067: Right now? I'm just
9 -- you know, it is -- I'd have to listen to everything they
10 have to tell and I'm an honest person and I take everything in
11 before I make a decision on anything.

12 MR. ABOOD: And if you were sitting between me
13 and Curtis over here charged with some kind of a crime, I
14 mean, you'd have certain expectations, for example, of the
15 jury?

16 PROSPECTIVE JUROR NO. 067: Of course.

17 MR. ABOOD: All right. And you'd have certain
18 expectations of your lawyers?

19 PROSPECTIVE JUROR NO. 067: Yes.

20 MR. ABOOD: Okay. And you would expect that the
21 jury would do everything in their power to make sure they are
22 scrutinizing this case --

23 PROSPECTIVE JUROR NO. 067: Yes.

24 MR. ABOOD: -- to his benefit. Or if you were
25 sitting here --

1 PROSPECTIVE JUROR NO. 067: Right.

2 MR. ABOOD: -- to your benefit.

3 PROSPECTIVE JUROR NO. 067: Yes.

4 MR. ABOOD: Okay, good. What kind of experience
5 have you had growing up with black folks?

6 PROSPECTIVE JUROR NO. 067: There wasn't many
7 where I grew up at all.

8 MR. ABOOD: Same with me.

9 PROSPECTIVE JUROR NO. 067: Small town.

10 MR. ABOOD: Right, same with me. At what point
11 in your life did you start having, you know, regular contact
12 and associations with black people?

13 PROSPECTIVE JUROR NO. 067: When I moved away
14 from home and moved to Philadelphia.

15 MR. ABOOD: Okay. And, I mean, what did you
16 think of that? I mean, was it surprising to you that they're
17 pretty much the same as you are, or how did that go?

18 PROSPECTIVE JUROR NO. 067: They're the same as
19 me.

20 MR. ABOOD: That's how you found --

21 PROSPECTIVE JUROR NO. 067: Definitely, yes.

22 MR. ABOOD: Okay.

23 PROSPECTIVE JUROR NO. 067: You know, we're all
24 -- they're the same and as different as we are.

25 MR. ABOOD: Right, exactly. I mean, in a lot of

1 ways they're just like me, but there are some things that are
2 just different.

3 PROSPECTIVE JUROR NO. 067: Sure.

4 MR. ABOOD: Like maybe the way we're raised from
5 different races. We just, we get raised a little bit
6 differently.

7 PROSPECTIVE JUROR NO. 067: Correct.

8 MR. ABOOD: Okay. And what about, you know, what
9 about the impression that people sometimes have? And again, I
10 want to be honest about this, and I don't think this has to be
11 -- you know, I don't think it has to be uncomfortable, but you
12 know, there is an impression out there, that we've got a
13 problem with young, black males and guns and things along
14 those lines. I mean, I'm not making this up, am I?

15 PROSPECTIVE JUROR NO. 067: No.

16 MR. ABOOD: No. I mean, it's out there. There's
17 an impression like that.

18 PROSPECTIVE JUROR NO. 067: There's an impression
19 about a lot of different races with that.

20 MR. ABOOD: Do you think maybe we get that kind
21 of impression sometimes because there might be some truth to
22 it?

23 PROSPECTIVE JUROR NO. 067: Can you explain it
24 again?

25 MR. ABOOD: Yeah, I mean, you know -- you know,

1 they say that, you know, when we have certain stereotypes, or
2 when we have certain prejudices that we might not even know
3 about --

4 PROSPECTIVE JUROR NO. 067: Right.

5 MR. ABOOD: -- that it's based on reality in some
6 cases. I mean, have you heard that before?

7 PROSPECTIVE JUROR NO. 067: Not really, I guess.

8 MR. ABOOD: Okay. All right.

9 PROSPECTIVE JUROR NO. 067: Maybe not in that
10 text.

11 MR. ABOOD: Maybe -- how have you heard it?

12 PROSPECTIVE JUROR NO. 067: I mean, there's -- I
13 believe there's -- and I hear stereotypes are all different --

14 MR. ABOOD: Um-hm.

15 PROSPECTIVE JUROR NO. 067: -- not just black or
16 white or anybody.

17 MR. ABOOD: Right. Where do they come from? I
18 mean, where do these stereotypes come from?

19 PROSPECTIVE JUROR NO. 067: Perception.

20 MR. ABOOD: Perception. And maybe what other
21 people tell us or maybe what we see on TV. I mean, all those
22 things.

23 PROSPECTIVE JUROR NO. 067: All those.

24 MR. ABOOD: Okay. So I guess, I mean, if you're
25 Justin, and you know you're entitled to a fair trial and you

1 look and you see that so far, there aren't even any black
2 people on my jury, I mean, how does that make you feel?

3 PROSPECTIVE JUROR NO. 067: I'd probably be
4 concerned.

5 MR. ABOOD: Yeah, probably be concerned. I wish
6 I could ask some of you people to pretend you were black and
7 then Justin might, you know, feel more comfortable about his
8 jury. But I know that that's going to be difficult to do.

9 But let me just ask if you can do this. During
10 the course of the deliberations, since you're not going to be
11 able to pretend you're black, and since obviously you not
12 going to be able to be black, will you at least try to take
13 Justin's viewpoint to the best you can into account in how
14 these facts all fit together. I mean, is that something you
15 can at least try?

16 PROSPECTIVE JUROR NO. 067: Yes.

17 MR. ABOOD: Okay. Thank you very much. Your
18 Honor, I'll pass for cause.

19 THE COURT: Thanks. Mr. Spring, how are you?

20 PROSPECTIVE JUROR NO. 069: I'm just fine, Your
21 Honor.

22 THE COURT: Good. Sorry, I was -- caught me
23 reading. Mr. Spring, is there any reason why you couldn't be
24 a complete fair and impartial juror in this case?

25 PROSPECTIVE JUROR NO. 069: No.

1 THE COURT: Can you wait in forming your opinion
2 on the appropriate result until all the evidence has been
3 heard?

4 PROSPECTIVE JUROR NO. 069: Yes.

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

7 PROSPECTIVE JUROR NO. 069: Grandfather and two
8 uncles.

9 THE COURT: Okay. So there's some people in your
10 family.

11 PROSPECTIVE JUROR NO. 069: A long time ago.

12 THE COURT: Long time ago, okay. But, you know,
13 growing up around people in law enforcement, do you think that
14 that would lead you to give greater weight to testimony of law
15 enforcement officers than other folks?

16 PROSPECTIVE JUROR NO. 069: No.

17 THE COURT: Think you'd listen to what they have
18 to say and weigh their credibility like any other witness?

19 PROSPECTIVE JUROR NO. 069: Yes.

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

22 PROSPECTIVE JUROR NO. 069: No.

23 THE COURT: Have you or anyone close to you been
24 the victim of a serious crime?

25 PROSPECTIVE JUROR NO. 069: No.

1 THE COURT: Is there anything about the charges
2 in this case that would make it difficult for you to be fair
3 and impartial?

4 PROSPECTIVE JUROR NO. 069: No.

5 THE COURT: Can you base your verdict solely on
6 the evidence and the applicable law without fear of criticism
7 or public opinion?

8 PROSPECTIVE JUROR NO. 069: Yes.

9 THE COURT: Have you ever served as a juror
10 before?

11 PROSPECTIVE JUROR NO. 069: Yes.

12 THE COURT: How many times?

13 PROSPECTIVE JUROR NO. 069: Three.

14 THE COURT: Okay. When was the last time?

15 PROSPECTIVE JUROR NO. 069: Maybe 2000, 2001.
16 It's been a while.

17 THE COURT: The three times that you served, were
18 those criminal or civil cases?

19 PROSPECTIVE JUROR NO. 069: First one was civil
20 and then two criminal.

21 THE COURT: Okay. Now, so, from serving in those
22 different cases, then, I'm sure you were instructed in those
23 cases and understood there's a difference in the burden in a
24 civil case versus a criminal case. You understand that?

25 PROSPECTIVE JUROR NO. 069: Yes.

1 THE COURT: And would you follow my instruction
2 on what the applicable burden is here?

3 PROSPECTIVE JUROR NO. 069: Yes.

4 THE COURT: Now, in those cases, without telling
5 us what the verdict was, was a verdict reached in all of those
6 cases?

7 PROSPECTIVE JUROR NO. 069: Yes.

8 THE COURT: Was the verdict unanimous in each of
9 those cases?

10 PROSPECTIVE JUROR NO. 069: Yes.

11 THE COURT: Were you the foreperson any of those
12 times?

13 PROSPECTIVE JUROR NO. 069: Last one.

14 THE COURT: The last one you were, okay. How was
15 that experience for you? Was that okay, being a foreperson?

16 PROSPECTIVE JUROR NO. 069: It wasn't bad.

17 THE COURT: Wasn't bad, okay. Is there anything
18 about those experiences that you had before as a juror that
19 would affect your ability to serve as a fair and impartial
20 juror here?

21 PROSPECTIVE JUROR NO. 069: No.

22 THE COURT: If you were a party to this case,
23 would you be comfortable with jurors with a like frame of mind
24 as yourself sitting in judgment?

25 PROSPECTIVE JUROR NO. 069: Yes.

1 THE COURT: How old are you, sir?

2 PROSPECTIVE JUROR NO. 069: Seventy.

3 THE COURT: How long have you lived here in Clark
4 County?

5 PROSPECTIVE JUROR NO. 069: Since '83.

6 THE COURT: Okay. Are you employed?

7 PROSPECTIVE JUROR NO. 069: I'm a consultant,
8 work about eight hours a week.

9 THE COURT: What field do you consult in?

10 PROSPECTIVE JUROR NO. 069: Data analysis.

11 THE COURT: And when you last worked full-time,
12 what did you do?

13 PROSPECTIVE JUROR NO. 069: Same thing.

14 THE COURT: Data analysis. Or consulting in that
15 area.

16 PROSPECTIVE JUROR NO. 069: Yes.

17 THE COURT: All right. Are you married?

18 PROSPECTIVE JUROR NO. 069: Yes.

19 THE COURT: Is your wife employed? No. Well,
20 homemaker.

21 THE COURT: Homemaker, okay. And do you have
22 children?

23 PROSPECTIVE JUROR NO. 069: Two.

24 THE COURT: How old are they?

25 PROSPECTIVE JUROR NO. 069: Forty-one and forty-

1 two.

2 THE COURT: And do they work?

3 PROSPECTIVE JUROR NO. 069: Yes.

4 THE COURT: What do they do?

5 PROSPECTIVE JUROR NO. 069: My son is a -- works
6 on the loading dock at one of the casinos. And my daughter's
7 CFO of a company.

8 THE COURT: Great. What's the highest level of
9 education you've completed?

10 PROSPECTIVE JUROR NO. 069: Two Baccalaureates.

11 THE COURT: What were they in?

12 PROSPECTIVE JUROR NO. 069: Mathematics and
13 computer science.

14 THE COURT: Okay. State.

15 MS. LUZAICH: You're a pretty logical guy?

16 PROSPECTIVE JUROR NO. 069: More or less.

17 MS. LUZAICH: More or less? With all of that
18 analysis in your background. As a consultant, is that
19 something that you've done your -- pretty much most of your
20 adult life?

21 PROSPECTIVE JUROR NO. 069: It's the same job as
22 I've had since I got here basically.

23 MS. LUZAICH: Would it be -- are you self-
24 employed? Do you have your own company?

25 PROSPECTIVE JUROR NO. 069: No, I just -- I work

1 as a contract worker.

2 MS. LUZAICH: Do people work for you, I guess
3 would have been a better question.

4 PROSPECTIVE JUROR NO. 069: No.

5 MS. LUZAICH: No? Okay. Your experiences as a
6 juror, were they all here in Clark County?

7 PROSPECTIVE JUROR NO. 069: Yes, ma'am.

8 MS. LUZAICH: Your two criminal cases that you
9 sat on, do you remember the nature of the charges?

10 PROSPECTIVE JUROR NO. 069: Yes, ma'am.

11 MS. LUZAICH: What were they?

12 PROSPECTIVE JUROR NO. 069: Murder.

13 MS. LUZAICH: Both?

14 PROSPECTIVE JUROR NO. 069: Both.

15 MS. LUZAICH: In those cases -- well, would you
16 have been required to sit as a -- in penalty if you had
17 reached a guilty verdict in those cases?

18 PROSPECTIVE JUROR NO. 069: I believe so.

19 MS. LUZAICH: What are the chances, three murder
20 trials that you get called for?

21 PROSPECTIVE JUROR NO. 069: No, just -- well,
22 okay, yes.

23 MS. LUZAICH: This is the third.

24 PROSPECTIVE JUROR NO. 069: This is the third.

25 MS. LUZAICH: Can you do the stats in your mind

1 that fast? Sorry, I am not a math person. Would you consider
2 your experiences overall in the three cases to be positive or
3 negative?

4 PROSPECTIVE JUROR NO. 069: I'd say positive.

5 MS. LUZAICH: What was the one thing that you
6 would have disliked?

7 PROSPECTIVE JUROR NO. 069: During the civil
8 trial, they carted us all over the city in a prison bus.

9 MS. LUZAICH: Oh, what was the nature of that
10 case?

11 PROSPECTIVE JUROR NO. 069: Pardon my way of
12 saying this, but it was a stupid attorney.

13 THE COURT: None of the people in this room,
14 though.

15 MS. LUZAICH: No, no, no. I won't --

16 PROSPECTIVE JUROR NO. 069: It should never have
17 come to trial.

18 MS. LUZAICH: Got it. Would you consider
19 yourself to be the kind of person who weighs everything before
20 you make a decision or you see it, you want it, you buy it
21 kind of thing?

22 PROSPECTIVE JUROR NO. 069: I weigh everything.

23 MS. LUZAICH: Just like you would in trial?

24 PROSPECTIVE JUROR NO. 069: (No audible response)

25 THE COURT: Yes?

1 PROSPECTIVE JUROR NO. 069: Yes, ma'am.

2 MS. LUZAICH: Oh, sorry, they're recording what
3 we say. Have you ever been in a situation where, I don't
4 know, you watch somebody run a red light?

5 PROSPECTIVE JUROR NO. 069: It happens in this
6 town all the time.

7 MS. LUZAICH: Yeah, yeah. But would you agree
8 that if three people were standing in the same place, three
9 different people would have seen three not quite exactly the
10 same things?

11 PROSPECTIVE JUROR NO. 069: Possibly.

12 MS. LUZAICH: Matter of perception?

13 PROSPECTIVE JUROR NO. 069: Yes, ma'am.

14 MS. LUZAICH: Different people have different
15 perceptions even though they see the same thing?

16 PROSPECTIVE JUROR NO. 069: That's why you do
17 instrumentation just to make sure.

18 MS. LUZAICH: Okay. But that wouldn't surprise
19 you hearing --

20 PROSPECTIVE JUROR NO. 069: No.

21 MS. LUZAICH: -- three people watching something
22 and seeing something different. How would you feel about
23 sitting as a juror in this case?

24 PROSPECTIVE JUROR NO. 069: Okay.

25 MS. LUZAICH: Okay. Doesn't matter to you

1 whether the defendant's Caucasian, African-American, Latin,
2 Asian?

3 PROSPECTIVE JUROR NO. 069: No.

4 MS. LUZAICH: Everybody treated the same?

5 PROSPECTIVE JUROR NO. 069: The same.

6 MS. LUZAICH: Is there anything that would
7 prevent you from being able to sit in judgment of someone?

8 PROSPECTIVE JUROR NO. 069: No.

9 MS. LUZAICH: So if you sit as a juror and you
10 listen to all the testimony, you see all the evidence, if you
11 are convinced beyond a reasonable doubt the defendant
12 committed the crimes he's charged with, would you be able to
13 say the word guilty?

14 PROSPECTIVE JUROR NO. 069: Absolutely.

15 MS. LUZAICH: Thank you. Pass for cause.

16 MR. ABOOD: Thank you, Your Honor. Sir, good
17 morning.

18 PROSPECTIVE JUROR NO. 069: Good morning.

19 MR. ABOOD: Having been involved in two prior
20 murder cases, sir, you kind of have an idea of what the Judge
21 is going to tell you later --

22 PROSPECTIVE JUROR NO. 069: Yes.

23 MR. ABOOD: -- about the laws of murder in
24 Nevada. You kind of remember that; don't you?

25 PROSPECTIVE JUROR NO. 069: Yeah, it's been a

1 while.

2 MR. ABOOD: Okay. Well, it's going to be a
3 refresher from this Judge if it turns out that you're on the
4 jury. You know, when we talk about -- and I'm not going to
5 spend a lot of time discussing this with you because you've
6 been through it. But when we talk about a burden to prove a
7 case in terms of proof beyond a reasonable doubt, have you had
8 experience with the fact that, look, the question sometimes
9 may be that even if someone did something wrong, we now have
10 to decide what it is that they did? Does that make some sense
11 to you?

12 PROSPECTIVE JUROR NO. 069: Yes.

13 MR. ABOOD: So when the Judge explains the law
14 that pertains to this particular case, you recognize that,
15 well, there are options based on people's conduct. I mean,
16 that's a concept that's familiar with you?

17 PROSPECTIVE JUROR NO. 069: Yes.

18 MR. ABOOD: Okay, good. You also told us that
19 you raised a couple children and they're in their 40s now.
20 Sir, do you recall what it was like for you when they were 16,
21 17, 18-years-old?

22 PROSPECTIVE JUROR NO. 069: Yeah.

23 MR. ABOOD: Was that a pleasant time?

24 PROSPECTIVE JUROR NO. 069: At times.

25 MR. ABOOD: At times it was? It was a lot more

1 fun when they were 3, 4 and 5; is that fair?

2 PROSPECTIVE JUROR NO. 069: For sure.

3 MR. ABOOD: Okay. All right. There's something
4 about -- tell me if you agree with me, there's something about
5 people when they're 16 and 17 and 18 that you -- I mean, you
6 wonder what planet they're from. Does that make sense?

7 PROSPECTIVE JUROR NO. 069: I've met 25-year-olds
8 with the same problem.

9 MR. ABOOD: With the same problem? All right.
10 So people change over time.

11 PROSPECTIVE JUROR NO. 069: At different rates.

12 MR. ABOOD: Okay. In different ways, yeah. I
13 mean, people at that young age, 16, 17, 18, are they
14 irrational sometimes?

15 PROSPECTIVE JUROR NO. 069: Everybody's
16 irrational sometimes.

17 MR. ABOOD: Uh-huh. Is there something about
18 being that age that makes you more prone to doing stupid
19 things?

20 PROSPECTIVE JUROR NO. 069: Up to a point.

21 MR. ABOOD: Up to a point. Certainly, you'd
22 expect more out of a person who's 25 and 26 than you would out
23 of someone who's 17; is that fair?

24 PROSPECTIVE JUROR NO. 069: Okay.

25 MR. ABOOD: Well, no. I don't want to tell you.

1 I want you to tell me.

2 THE COURT: Counsel, please approach.

3 MR. ABOOD: Yes.

4 (Bench conference begins)

5 THE COURT: All right. Now, it's one thing to
6 talk about, you know, go to the commonsense that people come
7 in with that, yeah, people might act a little differently at
8 those ages than at other ages. But they're not held to a
9 different standard under the law. The law is what the law is.

10 MR. ABOOD: Yeah.

11 THE COURT: And I don't want to imply to this man
12 that there's a different legal standard for committing crimes
13 for someone at one age than another age. The law is what the
14 law is.

15 MR. ABOOD: I agree, Judge. I don't think that's
16 where I was trying to go.

17 THE COURT: Okay. Okay, well --

18 MR. ABOOD: I think I just want to be clear
19 that --

20 THE COURT: You know, I mean, when you think
21 about how people act --

22 MR. ABOOD: -- people that are at that age --

23 THE COURT: Yeah, then they act a little
24 differently. But the law, the legal standard is the same
25 legal standard.

1 MR. ABOOD: Oh, I fully agree.

2 THE COURT: Okay.

3 MR. ABOOD: And the only point that I wanted to
4 make is that people that are younger, like 17, react to
5 circumstances differently. But you're completely right.
6 They're judged by the same standard.

7 THE COURT: Okay. So --

8 MR. ABOOD: But I mean, generally what I was
9 getting at is just the circumstances that confront us, people
10 at a younger age react differently than people who are more
11 mature. That's it.

12 THE COURT: Okay. Well, I guess I wanted to make
13 to be sure we're not implying that as a juror, he's going to
14 hold him to a different standard in some way.

15 MR. ABOOD: No, no. Absolutely not. Nothing --

16 THE COURT: All right. Go on. Step back.

17 MR. ABOOD: Thank you.

18 (Bench conference concluded)

19 , MR. ABOOD: Sir, do you remember the last
20 question that I asked you? Let me, let me -- let me try to
21 just repeat it for you. Sir, based on your recollection, and
22 you know, I might be wrong. Your kids might have been, you
23 know, very mature at 25 or 26. But I mean, did they act any
24 differently when they were, say, 17 or 18 than they were when
25 they were adults and had more experience?

1 PROSPECTIVE JUROR NO. 069: I would say yes.

2 MR. ABOOD: Okay, good. Yeah, that's the only
3 thing I want to get, I want to get at. Sir, do you want to be
4 a juror in this case with your prior experience?

5 PROSPECTIVE JUROR NO. 069: I don't care. If I'm
6 called, I'll serve.

7 MR. ABOOD: Okay. Thank you very much, sir.
8 We'll pass for cause, Your Honor.

9 THE COURT: Thank you. Anthony, Anthony. Move
10 the pitcher out of my way. It's right in my sight line.
11 Thank you.

12 Mr. Goldberg, how are you today?

13 PROSPECTIVE JUROR NO. 070: Okay.

14 THE COURT: Mr. Goldberg, is there any reason you
15 couldn't be a completely fair and impartial juror in this
16 case?

17 PROSPECTIVE JUROR NO. 070: Yes.

18 THE COURT: What's that reason?

19 PROSPECTIVE JUROR NO. 070: Well, twice, I've
20 been a victim of armed robbery.

21 THE COURT: Okay. And how long ago were those
22 incidents?

23 PROSPECTIVE JUROR NO. 070: Four or five years
24 ago. February of '04, February of '05.

25 THE COURT: Oh, wow. So they happened pretty

1 close together. Was that here?

2 PROSPECTIVE JUROR NO. 070: No, New York.

3 THE COURT: In New York, okay. When did you move
4 here?

5 PROSPECTIVE JUROR NO. 070: Three years ago.

6 THE COURT: And were the individuals who
7 committed those crimes against you, were they caught?

8 PROSPECTIVE JUROR NO. 070: No.

9 THE COURT: Neither one?

10 PROSPECTIVE JUROR NO. 070: No.

11 THE COURT: Okay. Now, the fact that that
12 happened to you, as a juror in this case, you'd be required to
13 put aside your prior experiences, sit here and listen to the
14 evidence presented about the facts and circumstances of this
15 case and make a decision based only on that evidence. Can you
16 do that?

17 PROSPECTIVE JUROR NO. 070: Definitely not. I
18 just believe --

19 THE COURT: Definitely not.

20 PROSPECTIVE JUROR NO. 070: -- anybody with a gun
21 in somebody's house, one of my things was a home invasion.

22 THE COURT: Uh-huh.

23 PROSPECTIVE JUROR NO. 070: So I just --
24 (inaudible) when I came in, my mind was made up.

25 THE COURT: Were a gun -- was a gun used in those

1 crimes against you?

2 PROSPECTIVE JUROR NO. 070: Both times, a gun to
3 my head.

4 THE COURT: A gun to your head, okay. And so you
5 think if you hear about a situation involving a shooting of a
6 person in a home, that that's going to bring back the memories
7 for you of your situations?

8 PROSPECTIVE JUROR NO. 070: Definitely.

9 THE COURT: Now, obviously, this defendant here
10 had nothing to do with the situations that occurred with you
11 in New York; right?

12 PROSPECTIVE JUROR NO. 070: I'm not sure.

13 THE COURT: You're not sure. Okay. Well, for
14 that matter, you don't know that I wasn't the one who held you
15 up in New York.

16 PROSPECTIVE JUROR NO. 070: No, it was a male
17 both times.

18 THE COURT: It was male, okay. So it's not me.

19 PROSPECTIVE JUROR NO. 070: Yeah.

20 THE COURT: Okay. I'm clear.

21 PROSPECTIVE JUROR NO. 070: Definitely.

22 THE COURT: Okay. But you understand my point.
23 The crimes that are alleged here aren't the crimes that
24 involved you personally. It's not the same people involved or
25 the same circumstances. You understand that; right?

1 PROSPECTIVE JUROR NO. 070: Right.

2 THE COURT: Okay. But you're concerned that even
3 though that's the case, that those past circumstances are
4 still, you know, emotional for you and would shape your point
5 of view about the case?

6 PROSPECTIVE JUROR NO. 070: I just, in my head,
7 somebody with a gun in somebody else's house is -- they're
8 there for bad intentions.

9 THE COURT: Okay. Now do you think -- now, we
10 haven't heard any evidence at all in this case yet; do you
11 understand that?

12 PROSPECTIVE JUROR NO. 070: Well, even if he
13 didn't actually do the murder, you know, he was -- in my mind,
14 he was there with a gun.

15 THE COURT: Okay. And that's before we hear any
16 evidence to see whether that's proven or not.

17 PROSPECTIVE JUROR NO. 070: Unfortunately.

18 THE COURT: That's the way you feel.

19 PROSPECTIVE JUROR NO. 070: Exactly.

20 THE COURT: And you don't think you can put that
21 aside to wait to hear the evidence to make a decision about
22 whether, in fact, this defendant is proven guilty or not?

23 PROSPECTIVE JUROR NO. 070: Unfortunately, it
24 wouldn't be fair to him, for me, because I would have it in my
25 mind that, you know, I'm against him. Not him particularly,

1 whoever happens to be sitting there.

2 THE COURT: And again, I'm going to ask you what
3 I asked the other gentleman. This is -- you're being honest
4 with me about your true feelings here today. You're not just
5 trying to get out of this room for the rest of the week?

6 PROSPECTIVE JUROR NO. 070: Oh, no. I have
7 nothing to do. I'm retired.

8 THE COURT: Okay. So you're concerned that you
9 could not be fair and impartial?

10 PROSPECTIVE JUROR NO. 070: Yeah, I believe that
11 his fairness, I'd be a bad person for him.

12 THE COURT: Yeah. Okay. No, I appreciate your
13 sharing that with me. I'm going to go ahead and excuse you at
14 this time. I do thank you for sharing that with me. I
15 appreciate you for being honest and forthright about it.

16 PROSPECTIVE JUROR NO. 070: You're welcome.

17 THE COURT: Thank you. You can just go ahead and
18 leave the microphone on the chair, okay?

19 THE CLERK: Next in seat number 17 will be badge
20 number 108, Samantha Yazzie.

21 THE COURT: All right. Ms. Yazzie, is that how
22 you say your name?

23 PROSPECTIVE JUROR NO. 108: Yes.

24 THE COURT: Okay. Ms. Yazzie, is there any
25 reason you couldn't be completely fair and impartial as a

1 juror in this case?

2 PROSPECTIVE JUROR NO. 108: No.

3 THE COURT: Can you wait in forming your opinion
4 on the appropriate result until all the evidence has been
5 heard?

6 PROSPECTIVE JUROR NO. 108: Yes.

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

9 PROSPECTIVE JUROR NO. 108: I have a friend who
10 is working with Metro.

11 THE COURT: A friend with Metro now?

12 PROSPECTIVE JUROR NO. 108: Yes.

13 THE COURT: As an officer?

14 PROSPECTIVE JUROR NO. 108: Um-hm.

15 THE COURT: Okay. And the individuals who are
16 potential witnesses or involved in the case, their names
17 weren't familiar to you?

18 PROSPECTIVE JUROR NO. 108: No.

19 THE COURT: No, okay.

20 THE COURT RECORDER: You need you to talk really
21 loud.

22 PROSPECTIVE JUROR NO. 108: Sorry, I don't feel
23 well.

24 THE COURT: Oh, what's the matter?

25 PROSPECTIVE JUROR NO. 108: Cough, sore throat

1 and then body aches.

2 THE COURT: Have you been to a doctor yet?

3 PROSPECTIVE JUROR NO. 108: I was fine yesterday
4 until about the end of the day. And then this morning, I
5 wasn't feeling so well.

6 THE COURT: Do you have a fever at all? Do you
7 know?

8 PROSPECTIVE JUROR NO. 108: No, not that I'm
9 aware of.

10 THE COURT: Have you been able to concentrate and
11 listen to the questions and the proceedings this morning?

12 PROSPECTIVE JUROR NO. 108: I've been trying. I
13 took some Dayquil this morning, and so my head is a little bit
14 cloudy.

15 THE COURT: And please don't be insulted by me
16 asking this, but have you been to Mexico lately?

17 PROSPECTIVE JUROR NO. 108: No, I haven't.

18 THE COURT: All right. All right. But you did
19 take medicine today and so you think it's affecting your
20 ability to concentrate on the proceedings?

21 PROSPECTIVE JUROR NO. 108: Yes.

22 THE COURT: Okay. And you say it kind of came on
23 last night?

24 PROSPECTIVE JUROR NO. 108: It came on late
25 yesterday and then this morning I woke up and I was feeling

1 worse than I was yesterday afternoon. So it's slowly creeping
2 up whatever it is on me.

3 THE COURT: Now, do you get allergies at all? Do
4 you think it's possibly that as opposed to some illness?

5 PROSPECTIVE JUROR NO. 108: It's not allergies.
6 I get allergies, it's not that.

7 THE COURT: Not that. All right. Counsel, any
8 -- come on up.

9 (Bench conference begins)

10 THE COURT: I've got to say, I'm inclined to let
11 her go.

12 MS. LUZAICH: You should have seen the look of
13 the one sitting next to her. (Inaudible) right away and she
14 is just like, looking in our direction and making the nastiest
15 face -- it's hilarious.

16 THE COURT: Well, I'm sitting here thinking,
17 great, now we're all exposed.

18 MS. LUZAICH: Yeah.

19 THE COURT: It may or may not be that. It may
20 just be an ordinary cold or flu.

21 MS. LUZAICH: I'm sure the rest of jurors
22 wouldn't like to get it.

23 MR. TOMSHECK: My wife and kids just had the
24 exact same thing, so.

25 THE COURT: Yeah. Nobody's going to want to sit

1 in the room with her.

2 MR. BROWN: And you also, I don't know whether
3 we'll have the opportunity to (inaudible), how's the juror
4 behind her doing today? Is she (indiscernible)? Is she still
5 (indiscernible)?

6 THE COURT: I'm not sure yet. I saw she just
7 stepped out of the room. I'm not sure what's going on. I
8 meant to go back to her and see how she's doing. I'm going to
9 let her go.

10 MS. LUZAICH: Just so you know, I get migraines
11 and I come to court, so.

12 THE COURT: Yes, you do.

13 MR. TOMSHECK: (Inaudible).

14 MR. BROWN: Lisa causes all of my headaches.

15 MR. TOMSHECK: We have no objection to
16 (indiscernible).

17 MS. LUZAICH: Oh, yeah. (Inaudible).

18 THE COURT: No objection. All right. Thanks.

19 (Bench conference concluded)

20 THE COURT: All right. All right, Ms. Yazzie,
21 I'm going to go ahead and excuse you at this time. I hope you
22 feel better soon.

23 (Pause in proceedings)

24 THE COURT: Actually, I want to talk to Ms. Grano
25 for just a second while we're waiting for the other one to

1 return. No, no, he'll give you the mic in just a second.

2 I just wanted to see how are you feeling today,
3 ma'am.

4 PROSPECTIVE JUROR NO. 095: Okay.

5 THE COURT: You don't have the headache like you
6 had yesterday when we talked to you?

7 PROSPECTIVE JUROR NO. 095: No. I've been eating
8 and drinking a lot so.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 095: I feel better.

11 THE COURT: Okay. So you're able to concentrate
12 and listen to what's going on today?

13 PROSPECTIVE JUROR NO. 095: Yeah.

14 THE COURT: Okay. Thank you, I appreciate that.

15 All right. Now, so the next gentleman is out of
16 the room? Okay. So let's go ahead and start talking to Ms.
17 Hutchinson, then. Oh, he's back. Sorry, go ahead and call
18 the next one up.

19 THE CLERK: Yes, Your Honor.

20 THE COURT: I misunderstood.

21 THE CLERK: Next in seat number 17 will be badge
22 number 110, Aldo Cavallo.

23 THE COURT: All right. Mr. Cavallo, how you
24 doing?

25 PROSPECTIVE JUROR NO. 110: Pretty good, thanks.

1 THE COURT: Good. Is there any reason why you
2 could not be a completely fair and impartial juror in this
3 case?

4 PROSPECTIVE JUROR NO. 110: Probably, yes.

5 THE COURT: Why?

6 PROSPECTIVE JUROR NO. 110: Well, I was
7 (indiscernible) education, maybe.

8 THE COURT: Pardon me?

9 PROSPECTIVE JUROR NO. 110: Maybe I'm --
10 education. My education.

11 THE COURT: Uh-huh.

12 PROSPECTIVE JUROR NO. 110: I got to have seven,
13 seven years of school.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 110: Excuse me, I'm not
16 use to this speaking public.

17 THE COURT: Understand.

18 PROSPECTIVE JUROR NO. 110: I am nervous.

19 THE COURT: That's fine.

20 PROSPECTIVE JUROR NO. 110: I think I see things
21 in different ways than most of the people here.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NO. 110: So --

24 THE COURT: Well, that's fine. But the real
25 question is can you listen to the evidence and weigh it fairly

1 and impartially to reach a verdict?

2 PROSPECTIVE JUROR NO. 110: I'm not sure about.

3 THE COURT: Why?

4 PROSPECTIVE JUROR NO. 110: The way I see things
5 is not in this case. But if the police been working so hard,
6 you know, trying to -- working so many hours to prove, they
7 get to court, prison court (inaudible) to me (inaudible).

8 THE COURT: Um-hum. Okay.

9 PROSPECTIVE JUROR NO. 110: Because if not, he
10 won't be here, period.

11 THE COURT: Okay. Now, and I understand that,
12 you know, you may be thinking that way. I do understand that.
13 But now -- but in court, we have to think about things a
14 little differently. In the courtroom and in our justice
15 system, not guilty -- I mean, you're innocent until you're
16 proven guilty beyond a reasonable doubt. Do you understand
17 that?

18 PROSPECTIVE JUROR NO. 110: I hear that, but it's
19 not my belief. That's the point.

20 THE COURT: Okay. If I tell you that as a juror,
21 that's the law you're required to follow, can you follow the
22 law?

23 PROSPECTIVE JUROR NO. 110: Probably, yes.

24 THE COURT: You know, an people may --

25 PROSPECTIVE JUROR NO. 110: But I'm not sure

1 about it because I already -- if I have a point of view, then
2 he's going to have to prove that he's innocent.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 110: That's my point.

5 THE COURT: All right. Now, you know, in our
6 day-to-day --

7 PROSPECTIVE JUROR NO. 110: I don't think it's
8 fair for a person that, you know -- the way I think is not
9 fair for him, if I be judging him. That's my point of view.

10 THE COURT: Uh-huh. Now, look, in our day-to-day
11 lives, we may read about things in the newspaper and find out
12 someone was arrested and you may think, oh my God, how could
13 that person do it; okay? But before someone can be convicted
14 of a crime in our country, one of our most fundamental
15 protections is that you're not guilty until the Government
16 proves with evidence that you're guilty beyond a reasonable
17 doubt.

18 PROSPECTIVE JUROR NO. 110: Yeah, that's the law.

19 THE COURT: Do you understand that?

20 PROSPECTIVE JUROR NO. 110: That's the law.

21 THE COURT: And that's an important protection;
22 would you agree?

23 PROSPECTIVE JUROR NO. 110: To a point.

24 THE COURT: To a point.

25 PROSPECTIVE JUROR NO. 110: Because in most of

1 THE COURT: Now, and can you put aside that
2 preconceived notion you may have to act as a juror and to say,
3 okay, we'll start right now, he's innocent and it's up to the
4 State to present evidence to prove that he's guilty beyond a
5 reasonable doubt. Will you hold them to that burden?

6 PROSPECTIVE JUROR NO. 110: To be honest with
7 you, I don't think so. I not going to change myself just to
8 comply with the law. That's the way I'm thinking. But if you
9 want me to sit in there and judge him, that is going to be --
10 I think unfair, for him, not for me.

11 THE COURT: Right. Well, I need you to be fair
12 in the sense that we're starting with a blank slate right now.
13 There's been no evidence. So right now we have no idea what
14 happened in this case, and who's involved in it, until the
15 evidence is presented, okay? All we've heard from is talk
16 from lawyers right now. We haven't heard any evidence yet.
17 Do you understand that?

18 PROSPECTIVE JUROR NO. 110: Yes.

19 THE COURT: Okay. And a charge, the fact that
20 somebody is charged isn't evidence one way or the other. It
21 just means a charge was brought. Until the evidence is
22 brought here in the courtroom, we don't know what happened.
23 Do you understand that?

24 PROSPECTIVE JUROR NO. 110: Yes.

25 THE COURT: Okay. And so, as a juror, you will

1 be required to wait and listen to that evidence and then
2 determine whether that evidence proves guilty beyond a
3 reasonable doubt. Would you be able to do that?

4 PROSPECTIVE JUROR NO. 110: Yes.

5 THE COURT: Okay. Have you or anyone close to
6 you worked in law enforcement?

7 PROSPECTIVE JUROR NO. 110: No.

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

10 PROSPECTIVE JUROR NO. 110: No.

11 THE COURT: Have you or anyone close to you been
12 the victim of a serious crime?

13 PROSPECTIVE JUROR NO. 110: No.

14 THE COURT: Is there anything about the charges
15 in this case that would make it difficult for you to be fair
16 and impartial?

17 PROSPECTIVE JUROR NO. 110: No.

18 THE COURT: Can you base your verdict solely on
19 the evidence and the law that applies as stated in my
20 instructions without fear of criticism or popular opinion?

21 PROSPECTIVE JUROR NO. 110: Probably no.
22 Probably yes, probably yes.

23 THE COURT: Yes, okay.

24 PROSPECTIVE JUROR NO. 110: I'm not sure.

25 THE COURT: You're not sure.

1 PROSPECTIVE JUROR NO. 110: I'm not sure.

2 THE COURT: Now, I understand that it's hard for
3 anyone to commit to exactly what they're going to do later on.

4 PROSPECTIVE JUROR NO. 110: Can I say my point of
5 view?

6 THE COURT: Yeah.

7 PROSPECTIVE JUROR NO. 110: In my country, I'm
8 from Argentina.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 110: We don't use a jury
11 to judge people. We use a judge. It's a three-judge panel
12 with professionals. They know what they're doing.

13 THE COURT: Right.

14 PROSPECTIVE JUROR NO. 110: I don't believe that,
15 you know, people like us should be judging another person,
16 because we don't know how to do it right. So he may be
17 (inaudible) can -- can manipulate us in the way they want to,
18 and then we say, nah, he's -- he didn't do it, he's not
19 guilty. But a judge knows about it. He's been trained this
20 way. That's my point of view.

21 THE COURT: Right. Well, and I understand that.
22 And I know that in some places that's the way it goes, is
23 there are judges making those decisions instead of juries.
24 Obviously, that's not our system. But we do have both sides
25 here in the courtroom able to present -- to question the

1 witnesses, and to argue to the jury about what they think the
2 evidence shows or doesn't show. And so, you know, one side
3 may argue about what they think it all shows, but the other
4 side is going to come back and try to make you see a different
5 side of it. You understand that?

6 PROSPECTIVE JUROR NO. 110: I understand, yes.

7 THE COURT: And so with the adversary system, the
8 idea is that by having the adversary system, it allows the
9 jurors to hear about all sides, weigh the evidence themselves,
10 and determine what they believe the truth to be.

11 PROSPECTIVE JUROR NO. 110: My point of view is
12 the best lawyer is going to win. That's the point.

13 THE COURT: Now, do you think that that would
14 happen to you? Do you think you're going to be convinced by
15 someone just because they're a good lawyer?

16 PROSPECTIVE JUROR NO. 110: Yes.

17 THE COURT: Even if the evidence doesn't support
18 what they say?

19 PROSPECTIVE JUROR NO. 110: Yes. That's --

20 THE COURT: I don't think you're that gullible.
21 Do you?

22 PROSPECTIVE JUROR NO. 110: It's hard to swallow,
23 but that's the reality of life.

24 THE COURT: And who do you think is the best
25 lawyer? No, just kidding. I really am just kidding. Now,

1 look, I mean, it's a serious case here, and serious
2 consequences for the people involved.

3 PROSPECTIVE JUROR NO. 110: I know, I know. And
4 to be honest, I've been hearing, you know, the people sitting
5 behind me. And to me, they're not fitted to be in that
6 position. I'm not agree with, you know, for them to be
7 sitting in there to just a person.

8 THE COURT: Now, so --

9 PROSPECTIVE JUROR NO. 110: In my case, you know,
10 and it's another foreign person in our city, and our language,
11 when, you know, you speak and I understand everything that is
12 going on. But, you understand what I'm saying? Eighty
13 percent of the conversation, and another twenty percent is
14 guessing. So now, our language. So some of the words, we
15 don't know what it means.

16 THE COURT: You mean because of legal
17 terminology?

18 PROSPECTIVE JUROR NO. 110: Or words that
19 (inaudible).

20 THE COURT: Oh, because of your language issues.

21 PROSPECTIVE JUROR NO. 110: Right.

22 THE COURT: What was your first language, then?

23 PROSPECTIVE JUROR NO. 110: Spanish.

24 THE COURT: Spanish in Argentina, right.

25 MR. BROWN: Your Honor, can we approach?

1 THE COURT: Yes.

2 (Bench conference begins)

3 MR. BROWN: I'll just let you off the hook and
4 stipulate to this guy.

5 MS. LUZAICH: Oh, God, no.

6 MR. BROWN: I know your concerns because
7 (inaudible).

8 MS. LUZAICH: Yes.

9 THE COURT: And you see, at first, at first I
10 was --

11 MS. LUZAICH: Are we on the record? Oh, okay.

12 THE COURT: Yeah, we're on the record. At first,
13 I was really hesitant about it because I thought he was just
14 trying to get out jury service, and I wasn't buying it, but.

15 MR. ABOOD: And I think he still is, but he's
16 wasting a lot of our time. But I --

17 THE COURT: He is. But, I mean, I guess as I
18 listened more, he -- I mean, he's got different issues. He's
19 got both the language issue, and the problem with judging, and
20 a problem with --

21 MR. ABOOD: The system in Argentina --

22 THE COURT: -- the presumption issue.

23 MR. TOMSHECK: And I think every fellow juror
24 would appreciate it if (inaudible).

25 THE COURT: Yeah, well, that's probably true.

1 MS. LUZAICH: Probably, yeah. (Inaudible)
2 something cry about. I mean, he's sitting there boohooing out
3 loud and a ton of tissues.

4 THE COURT: Who's that?

5 MR. BROWN: He's really that loud.

6 THE COURT: Who --

7 MR. BROWN: (Inaudible).

8 MS. LUZAICH: (Inaudible).

9 MR. BROWN: He's sniffing.

10 MS. LUZAICH: (Inaudible) -- the defendant's been
11 crying or sniveling.

12 MR. ABOOD: Oh, that was me. No, I'm just
13 kidding. No, (inaudible) I'll say something to him.

14 MS. LUZAICH: (inaudible) issue. He's just being
15 overt about it.

16 MR. BROWN: (Inaudible) cry about.

17 MS. LUZAICH: Hit him upside the head with a
18 baseball bat.

19 MR. BROWN: Please.

20 MR. ABOOD: I know -- I know this is (inaudible)
21 the State is upset by it. (Inaudible).

22 MS. LUZAICH: Yeah.

23 MR. BROWN: Something was upsetting him. Yeah,
24 this isn't a comfortable situation. He started crying. He
25 wasn't sobbing. Took some -- Joe gave him the tissues. And

1 he wiped himself and --

2 MS. LUZAICH: No, he's doing it again and again.

3 MR. BROWN: -- he gets upset (inaudible).

4 THE COURT: Someone needs to try to keep him in
5 control.

6 MR. ABOOD: I'll talk to him on break, but it's
7 hard to talk to him.

8 THE COURT: Right.

9 MS. LUZAICH: (Inaudible) hear him crying.

10 THE COURT: Right. So, look, we're going to be
11 here a long time.

12 MR. BROWN: We're actually doing pretty well.
13 (Inaudible).

14 THE COURT: Yeah, we -- so we still have the
15 whole front row of eight people. plus eight more. So we still
16 have 16 more seats to go.

17 MS. LUZAICH: We're not doing good.

18 THE COURT: So, I think I'm probably going to --
19 we're all going to end up having to replace this guy. We'll
20 go a couple more and we're going to end up taking a break for
21 lunch because we're going to be hours here. It just looks
22 that way. All right, thanks. Go ahead and step back.

23 (Bench conference concluded)

24 THE COURT: All right. All right, Mr. Cavallo --
25 Cavallo -- or Cavallo?

1 PROSPECTIVE JUROR NO. 110: Cavallo.

2 THE COURT: Okay. I do appreciate you sharing
3 that information with us today. I'm going to go ahead and
4 excuse you at this time. Thank you for your time here
5 yesterday and today.

6 PROSPECTIVE JUROR NO. 110: I'm sorry
7 (inaudible).

8 THE COURT: All right. Well, maybe there will be
9 a different case that will be better suited for you, sir.

10 PROSPECTIVE JUROR NO. 110: Thank you.

11 THE COURT: Thank you.

12 THE CLERK: Next in seat number 17 badge number
13 111, Kenneth Hildebrandt.

14 THE COURT: All right. Mr. Hildebrandt, how are
15 you today?

16 PROSPECTIVE JUROR NO. 111: Good, thanks.

17 THE COURT: Is there any reason why you cannot be
18 a completely fair and impartial juror in this case?

19 PROSPECTIVE JUROR NO. 111: None.

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. 111: Yes.

24 THE COURT: Have you ever worked in law
25 enforcement or has anyone close to you worked in that field?

1 PROSPECTIVE JUROR NO. 111: No.

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

4 PROSPECTIVE JUROR NO. 111: No.

5 THE COURT: Have you or anyone close to you been
6 the victim of a serious crime?

7 PROSPECTIVE JUROR NO. 111: No.

8 THE COURT: Is there anything about the charges
9 in this case that would make it difficult for you to be fair
10 and impartial?

11 PROSPECTIVE JUROR NO. 111: No.

12 THE COURT: Can you base your verdict solely on
13 the evidence that comes out at trial and the law that applies
14 as stated in my instructions without fear of criticism or
15 popular opinion?

16 PROSPECTIVE JUROR NO. 111: Yes.

17 THE COURT: Have you ever served as a juror
18 before?

19 PROSPECTIVE JUROR NO. 111: No.

20 THE COURT: If you were a party to this case,
21 would you be comfortable with jurors of a like frame of mind
22 as yourself sitting in judgment?

23 PROSPECTIVE JUROR NO. 111: Yes.

24 THE COURT: How old are you, sir?

25 PROSPECTIVE JUROR NO. 111: Thirty-eight.

1 THE COURT: How long have you lived here in Clark
2 County?

3 PROSPECTIVE JUROR NO. 111: Going on 24 years.

4 THE COURT: Are you employed?

5 PROSPECTIVE JUROR NO. 111: Yes.

6 THE COURT: What do you do?

7 PROSPECTIVE JUROR NO. 111: Plumbing at the
8 Luxor.

9 THE COURT: Okay. Are you married?

10 PROSPECTIVE JUROR NO. 111: No.

11 THE COURT: Do you have children?

12 PROSPECTIVE JUROR NO. 111: No.

13 THE COURT: What's the highest level of education
14 you've completed?

15 PROSPECTIVE JUROR NO. 111: Associates in Applied
16 Science.

17 THE COURT: Okay. State.

18 MR. TOMSHECK: You mentioned that you're not
19 married.

20 PROSPECTIVE JUROR NO. 111: Correct.

21 MR. TOMSHECK: Have you ever been married?

22 PROSPECTIVE JUROR NO. 111: No.

23 MR. TOMSHECK: Okay. Have you been in the same
24 line of work the whole time you've been in Clark County?

25 PROSPECTIVE JUROR NO. 111: No.

1 MR. TOMSHECK: What did you do prior to what you
2 do now?

3 PROSPECTIVE JUROR NO. 111: I was in a --
4 cooking.

5 MR. TOMSHECK: Okay. In a casino?

6 PROSPECTIVE JUROR NO. 111: Yes.

7 MR. TOMSHECK: You've heard some of the other
8 questions about having to do with the defendant and the fact
9 that he is an African-American. Did you listen to those
10 questions?

11 PROSPECTIVE JUROR NO. 111: Yes.

12 MR. TOMSHECK: Okay. Do you agree that
13 everyone's equal?

14 PROSPECTIVE JUROR NO. 111: Yes.

15 MR. TOMSHECK: You understand that at the end of
16 this case, whoever's picked to be on the jury is going to have
17 to listen to the lawyers argue about the instructions that the
18 Judge gives them on the law. Do you understand that?

19 PROSPECTIVE JUROR NO. 111: Yes.

20 MR. TOMSHECK: Okay. So you're not going to have
21 to, should you be picked to be a juror, make up the law. Do
22 you understand that?

23 PROSPECTIVE JUROR NO. 111: I understand that.

24 MR. TOMSHECK: Okay. Can you promise us that you
25 can follow the law that the Judge gives you?

1 PROSPECTIVE JUROR NO. 111: Yes.

2 MR. TOMSHECK: Do you personally, and
3 understanding that everyone comes from different backgrounds
4 and perspectives, if you're picked to be on this jury and the
5 law is read to you at the end of the case, can you promise
6 that you'll apply it the same regardless of who would be
7 sitting in the defendant's chair?

8 PROSPECTIVE JUROR NO. 111: Yes.

9 MR. TOMSHECK: In other words, if the person is
10 black, white, brown or purple, as long as it doesn't say
11 different in the instructions, you'll treat them the same?

12 PROSPECTIVE JUROR NO. 111: Yes.

13 MR. TOMSHECK: And we have your word that you'll
14 do that?

15 PROSPECTIVE JUROR NO. 111: Yes.

16 MR. TOMSHECK: Pass for cause, Judge.

17 THE COURT: Thanks.

18 MR. BROWN: Good afternoon, Mr. Hildebrandt.

19 PROSPECTIVE JUROR NO. 111: How are you today?

20 MR. BROWN: Doing wonderful, thank you. Before
21 you moved to Las Vegas, where were you from?

22 PROSPECTIVE JUROR NO. 111: Texas; Odessa, Texas.

23 MR. BROWN: Is that where you were raised
24 essentially?

25 PROSPECTIVE JUROR NO. 111: No. I lived in New

1 Mexico before that, and Minnesota before that.

2 MR. BROWN: Okay. You've heard me ask this
3 question. You guys -- you've been sitting around here, so
4 I'll ask you. How would people who are close to you describe
5 you?

6 PROSPECTIVE JUROR NO. 111: Funny, funny looking
7 sometimes, pretty much honest, straightforward. I don't pull
8 no punches.

9 MR. BROWN: Okay. You said you are a plumber at
10 the Luxor?

11 PROSPECTIVE JUROR NO. 111: Yes.

12 MR. BROWN: Is that part of a union, or are you
13 just employed by the Luxor?

14 PROSPECTIVE JUROR NO. 111: Union.

15 MR. BROWN: Okay. And how would someone who
16 works with you who maybe doesn't know you as well describe
17 you?

18 PROSPECTIVE JUROR NO. 111: Pretty much the same
19 way. Good guy to get along with. I do my job, I pull my
20 weight.

21 MR. BROWN: Okay. Is that how you would describe
22 yourself as well?

23 PROSPECTIVE JUROR NO. 111: Yeah, pretty much.

24 MR. BROWN: Okay. Would you characterize
25 yourself as more of a thinker or a feeler?

1 PROSPECTIVE JUROR NO. 111: Both.

2 MR. BROWN: Okay. Give me an example of a
3 scenario where you could say it makes you a thinker.

4 PROSPECTIVE JUROR NO. 111: Usually, when I'm
5 making a purchase or something, I see what I want and I want
6 it right away, but I have to stop myself from doing it.

7 MR. BROWN: That's Ms. Luzaich's question, you
8 know. I see it, I want it, I buy it.

9 PROSPECTIVE JUROR NO. 111: I want it, then I
10 stop and I think about before I do it, weigh the options of
11 whether I need it, if I have room for it.

12 MR. BROWN: Right.

13 PROSPECTIVE JUROR NO. 111: Stuff like that.

14 MR. BROWN: Sometimes an impulse buy. Sometimes,
15 but --

16 PROSPECTIVE JUROR NO. 111: Not usually.
17 Usually, I take a full day to think about --

18 MR. BROWN: Okay. All right.

19 PROSPECTIVE JUROR NO. 111: -- before I do it.

20 MR. BROWN: I mean, I've tried to do plumbing,
21 sprinklers and stuff around the house. I mean, I would
22 imagine that takes quite a bit of thinking, and a little bit
23 of work on how you're going to lay out everything and get that
24 all set up. So I get that. Give me an example of you as a
25 feeler, on something that you've just kind of felt through.

1 PROSPECTIVE JUROR NO. 111: Well, kind of like,
2 just emotionalized? Just something like just an emotion-
3 filled --

4 MR. BROWN: Well, you know, the felt process.
5 You know, your gut feeling on something. I mean, you talked
6 about sometimes, I go to the store and I see something and I
7 think through before I buy it. What is an example of a
8 situation where you just kind of followed your gut and done
9 something where you felt something's right. You know, I don't
10 mean curled up on the couch with a Julia Roberts movie, and a
11 pie and ice cream kind of feelings. Just --

12 PROSPECTIVE JUROR NO. 111: I haven't had too
13 many of those.

14 MR. BROWN: Yeah, I didn't think so.

15 PROSPECTIVE JUROR NO. 111: Just talking to
16 people sometimes. You get the right feeling from a person,
17 you talk to them.

18 MR. BROWN: Okay. All right. What area of town
19 generally do you live in right now?

20 PROSPECTIVE JUROR NO. 111: East side.

21 MR. BROWN: Okay. Is that like a gated
22 community?

23 PROSPECTIVE JUROR NO. 111: No.

24 MR. BROWN: Mr. Abood's asked this question. Are
25 you comfortable with the evenings if you wanted to just go for

1 a stroll or a walk, you just walk around your neighborhood and
2 not worry about things, or?

3 PROSPECTIVE JUROR NO. 111: I'm pretty much
4 comfortable wherever I go.

5 MR. BROWN: I would imagine. That's probably
6 true, as well. How do you feel about the question, whether
7 you've heard it or not, but I'll pose it now, that if the
8 police went to the trouble of arresting somebody, that they
9 must be guilty.

10 PROSPECTIVE JUROR NO. 111: Police are human,
11 humans are fallible.

12 MR. BROWN: The gentleman that was here just
13 before you, you know, basically, he was taking the approach
14 that if they put in an effort, they've got to be, you know,
15 they had to do something. What do you think about just that
16 saying?

17 PROSPECTIVE JUROR NO. 111: Everybody's
18 different. He has his beliefs, I have mine.

19 MR. BROWN: Okay. We've had some conversations
20 about Mr. Porter taking the witness stand and we all, in a
21 sense, learned that he doesn't have to, but how do you feel?
22 How do you think you would feel if during the course of the
23 trial, he doesn't get up there and testify and tell you what
24 happened?

25 PROSPECTIVE JUROR NO. 111: I'm indifferent.

1 MR. BROWN: What does indifferent mean here?

2 PROSPECTIVE JUROR NO. 111: I don't really care
3 if he takes the stand or not. It's not up to him, the burden
4 to prove his innocence.

5 MR. BROWN: Okay. You've ever been in the
6 military, sir?

7 PROSPECTIVE JUROR NO. 111: No.

8 MR. BROWN: How do you feel about sitting in
9 judgment of another person?

10 PROSPECTIVE JUROR NO. 111: Indifferent. Part of
11 my civic duty, I do what I can. It's part of being a citizen.

12 MR. BROWN: All right. I mean, we had -- I mean,
13 we've had some people that have talked about, you know, they
14 didn't sleep last night, or its troubling to think that they
15 have to do these kind of things. You don't see yourself
16 struggling with those personal conflicts?

17 PROSPECTIVE JUROR NO. 111: It's just based on
18 facts.

19 MR. BROWN: Do you watch television crime shows
20 and --

21 PROSPECTIVE JUROR NO. 111: Yeah, I do.

22 MR. BROWN: Which ones do you kind of lean
23 towards?

24 PROSPECTIVE JUROR NO. 111: Criminal Minds.

25 MR. BROWN: You like the Criminal Minds show.

1 Okay. The FBI profiler stuff?

2 PROSPECTIVE JUROR NO. 111: Yes.

3 MR. BROWN: All right. You don't -- how about
4 CSI?

5 PROSPECTIVE JUROR NO. 111: Sometimes, sometimes
6 not, give or take on that.

7 MR. BROWN: What do you think about the Criminal
8 Minds type show. They don't really have much court and the
9 lawyering going on. That's kind of the police working.

10 PROSPECTIVE JUROR NO. 111: Correct.

11 MR. BROWN: I've watched that show. I haven't
12 seen them make too many mistakes, but do you agree that it can
13 happen? That sometimes that somebody may be charged with
14 something, and they're guilty of something else, or not guilty
15 at all?

16 PROSPECTIVE JUROR NO. 111: Sure.

17 MR. BROWN: All right. Judge, I pass.

18 THE COURT: Thanks. Just so everybody knows, I'm
19 going to try to question one more here and then we will take a
20 lunch break, so sometimes people like to know that's coming.

21 Ms. Hutchison, how are you today?

22 PROSPECTIVE JUROR NO. 072: Good.

23 THE COURT: Good. Is there any reason why you
24 couldn't be a completely fair and impartial juror in this
25 case?

1 PROSPECTIVE JUROR NO. 072: 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. 072: Yes.

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

8 PROSPECTIVE JUROR NO. 072: No.

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

11 PROSPECTIVE JUROR NO. 072: No.

12 THE COURT: Have you or anyone close to you been
13 the victim of a serious crime?

14 PROSPECTIVE JUROR NO. 072: No.

15 THE COURT: Is there anything about the charges
16 in this case that would make it difficult for you to fair and
17 impartial?

18 PROSPECTIVE JUROR NO. 072: No.

19 THE COURT: Can you base your verdict solely on
20 the evidence brought out at the trial and the law that applies
21 as stated in my instructions without fear of criticism or
22 popular opinion?

23 PROSPECTIVE JUROR NO. 072: Yes.

24 THE COURT: Have you ever served as a juror
25 before?

1 PROSPECTIVE JUROR NO. 072: No.

2 THE COURT: If you were a party to this case,
3 would you be comfortable with jurors of a like frame of mind
4 as yourself sitting in judgment?

5 PROSPECTIVE JUROR NO. 072: Yes.

6 THE COURT: How long have -- I'm sorry, how old
7 are you?

8 PROSPECTIVE JUROR NO. 072: Thirty-three.

9 THE COURT: And how long have you lived here?

10 PROSPECTIVE JUROR NO. 072: Seventeen years.

11 THE COURT: Are you employed?

12 PROSPECTIVE JUROR NO. 072: I'm a stay-at-home
13 mom.

14 THE COURT: Okay. And that's fine. Are you
15 married?

16 PROSPECTIVE JUROR NO. 072: Yes.

17 THE COURT: Does your husband work?

18 PROSPECTIVE JUROR NO. 072: Yes.

19 THE COURT: What does he do?

20 PROSPECTIVE JUROR NO. 072: He works at Mandalay
21 Bay. He's a banquet supervisor.

22 THE COURT: A what?

23 PROSPECTIVE JUROR NO. 072: A banquet supervisor.

24 THE COURT: Oh, a banquet supervisor, okay. And
25 your children, then, how many children?

1 PROSPECTIVE JUROR NO. 072: I have four.

2 THE COURT: How old are they?

3 PROSPECTIVE JUROR NO. 072: Sixteen, eleven, nine
4 and four.

5 THE COURT: Okay. So yeah, you have your hands
6 full at home. What's the highest level of education you
7 completed?

8 PROSPECTIVE JUROR NO. 072: High school.

9 THE COURT: Okay. State.

10 MS. LUZAICH: Thank you. Having a bunch of
11 children, I know that being a stay-at-home mom is harder than
12 having a job outside the home. Do you watch CSI or anything
13 like that?

14 PROSPECTIVE JUROR NO. 072: No.

15 MS. LUZAICH: Why not?

16 PROSPECTIVE JUROR NO. 072: Because I don't like
17 to look at the gory stuff on there.

18 MS. LUZAICH: Icky stuff?

19 PROSPECTIVE JUROR NO. 072: Yeah.

20 MS. LUZAICH: Okay. Unfortunately there's going
21 to be icky stuff in the trial.

22 PROSPECTIVE JUROR NO. 072: Yeah.

23 MS. LUZAICH: Just because the nature of we have
24 to prove that somebody died and why they died, there's going
25 to be some graphic photographs. Not too many, but you going

1 to be able to look at a couple?

2 PROSPECTIVE JUROR NO. 072: I don't -- it's kind
3 of scary. I don't want to see somebody on screen that died.
4 I don't want to see all that, no.

5 MS. LUZAICH: You know, when you look at
6 somebody, you can't necessarily tell they're dead, but for the
7 fact that there's a couple of holes in them.

8 PROSPECTIVE JUROR NO. 072: Um-hm.

9 MS. LUZAICH: But these are not going to be
10 horrible, horrible like you would see on CSI. Does that make
11 you feel a little better? Very little better?

12 PROSPECTIVE JUROR NO. 072: A little, a little.
13 I mean, it's just you know that somebody's dead. So, I mean,
14 it doesn't really make you feel better and you know somebody
15 died, so.

16 MS. LUZAICH: Okay. Well, is that going to be a
17 problem for you? Something that is going to cause you to --

18 PROSPECTIVE JUROR NO. 072: I mean it is -- I
19 mean, it's scary. I've never -- just scary, so.

20 MS. LUZAICH: Okay. Other than the fact that you
21 don't like watching the gory stuff, do you recognize that CSI
22 is fake?

23 PROSPECTIVE JUROR NO. 072: Yeah, yeah, I know.

24 MS. LUZAICH: They make all that stuff up.

25 PROSPECTIVE JUROR NO. 072: Yeah.

1 MS. LUZAICH: It would be really nice if they
2 could do what they say they do on TV, but they don't.

3 PROSPECTIVE JUROR NO. 072: Yeah.

4 MS. LUZAICH: Okay. The defense asks a lot of
5 questions about if the police arrest somebody, they must have
6 done something or something along those lines. Do you think
7 that police sometimes work hard and investigate and that's why
8 they arrest people?

9 PROSPECTIVE JUROR NO. 072: I mean, it just makes
10 you wonder, I mean, why somebody -- I mean, they're
11 investigating it and they must have a reason and I just -- I
12 don't know.

13 MS. LUZAICH: I expect they always have a reason
14 for arresting somebody, but your job is going to be to decide
15 whether or not we've proven beyond a reasonable doubt that
16 somebody committed a crime.

17 PROSPECTIVE JUROR NO. 072: Yeah.

18 MS. LUZAICH: Okay. And there's a difference
19 between arresting somebody and proving beyond a reasonable
20 doubt that they did it; do you understand that?

21 PROSPECTIVE JUROR NO. 072: Yes, yes.

22 MS. LUZAICH: Okay. Have you ever worked outside
23 the home?

24 PROSPECTIVE JUROR NO. 072: Yes.

25 MS. LUZAICH: What did you do?

1 PROSPECTIVE JUROR NO. 072: I was a bank teller
2 and I worked -- me and my husband, we had a restaurant, so.

3 MS. LUZAICH: Okay. When you had the restaurant,
4 did you, I mean, participate in like managing and stuff?

5 PROSPECTIVE JUROR NO. 072: Not really. That was
6 my husband's job. I just kind of did whatever he told me to
7 do.

8 MS. LUZAICH: Okay. As a bank teller, how long
9 did you work there?

10 PROSPECTIVE JUROR NO. 072: Oh, it was brief. It
11 was three months.

12 MS. LUZAICH: How come you stopped working there?

13 PROSPECTIVE JUROR NO. 072: It was just too hard
14 with my family life. My kids were more important than go to
15 work at the bank and (inaudible).

16 MS. LUZAICH: Okay. Would you consider yourself
17 to be a fair and open-minded person?

18 PROSPECTIVE JUROR NO. 072: Yes.

19 MS. LUZAICH: Are you somebody who can wait until
20 you hear everything before you make up your mind?

21 PROSPECTIVE JUROR NO. 072: Yes.

22 MS. LUZAICH: In your day-to-day life, like when
23 dealing with your kids, are you somebody who weighs every
24 decision carefully or you see something, you want it, you buy
25 it?

1 PROSPECTIVE JUROR NO. 072: Sometimes I see
2 something, I want to buy it, so. But with my kids, I do
3 listen and compare the notes.

4 MS. LUZAICH: And weigh your decisions?

5 PROSPECTIVE JUROR NO. 072: Yeah.

6 MS. LUZAICH: Okay. If you were us representing
7 the State of Nevada, would you want you as a juror in this
8 case?

9 PROSPECTIVE JUROR NO. 072: I don't know.

10 MS. LUZAICH: How come?

11 PROSPECTIVE JUROR NO. 072: I don't know. I just
12 -- I don't know. I'm just kind of nervous, and scared, so I
13 don't know.

14 MS. LUZAICH: Okay. The graphic stuff I
15 understand. What else are you nervous about?

16 PROSPECTIVE JUROR NO. 072: Just, I mean, it's
17 just scary. This whole process is scary stuff. I didn't
18 sleep all night thinking about it, so.

19 MS. LUZAICH: Is that going to, I mean, prevent
20 you from being able to objectively listen to what people have
21 to say?

22 PROSPECTIVE JUROR NO. 072: No, but I'm just
23 going to be -- I'm just nervous. I just -- I don't know, I'm
24 just --

25 MS. LUZAICH: Okay. Well, remember, it's not

1 just you who has to make a decision.

2 PROSPECTIVE JUROR NO. 072: I know, I know.

3 MS. LUZAICH: There are 11 other people.

4 PROSPECTIVE JUROR NO. 072: Yeah.

5 MS. LUZAICH: Does that help any?

6 PROSPECTIVE JUROR NO. 072: Yeah. I mean, yeah,
7 it does.

8 MS. LUZAICH: Is there anything that would
9 prevent you from being able to sit in judgment?

10 PROSPECTIVE JUROR NO. 072: Just I have a four-
11 year-old, so she goes to preschool at 8:30 to 12:30, so.
12 Yesterday, I was scrambling to find for today to pick up my
13 kids and stuff.

14 MS. LUZAICH: Okay. Morally, philosophically and
15 on that plane, is there anything that would prevent you from
16 being able to sit in judgment of somebody else?

17 PROSPECTIVE JUROR NO. 072: No.

18 MS. LUZAICH: If you do sit in this case, if you
19 listen to the testimony and see the evidence, if you are
20 convinced beyond a reasonable doubt the defendant the crimes
21 he's charged with, would you be able to say the word guilty?

22 PROSPECTIVE JUROR NO. 072: Yes.

23 MS. LUZAICH: Thank you.

24 MR. BROWN: Thank you, Judge. Good morning, or
25 afternoon, Ms. Hutchison. If I hear you right, this is just

1 kind of a big deal, this whole process. You know, it's
2 troubled you a little bit, and it's making you be a little
3 reflective and think about this whole process?

4 PROSPECTIVE JUROR NO. 072: Yeah.

5 MR. BROWN: Don't you think that a jury should be
6 made up of a number of people, and of those people, we have
7 some that are more nervous than others about the task that
8 they have at hand? Do you think that seems reasonable?

9 PROSPECTIVE JUROR NO. 072: Yeah.

10 MR. BROWN: I'm sure there are people that are
11 more comfortable with situations and that's just based upon
12 who they are. Many of these jurors, it seems like, they'll be
13 more comfortable doing it. I mean Mr. Wayne (sic), here, sat
14 on two prior murder trials. And so he's kind of been through
15 this. So he probably has a little more comfort level than you
16 do. But that doesn't mean you can't sit and listen to the
17 evidence and be a fair and impartial juror. Is that an
18 accurate statement?

19 PROSPECTIVE JUROR NO. 072: Yes.

20 MR. BROWN: Okay. So how would those that know
21 you, other than your kids, describe you? Friends.

22 PROSPECTIVE JUROR NO. 072: Just normal. Just
23 normal, stay-at-home mom, I guess. I don't know, nice and
24 fun.

25 MR. BROWN: Nice and fun.

1 PROSPECTIVE JUROR NO. 072: Yeah.

2 MR. BROWN: Okay. What else?

3 PROSPECTIVE JUROR NO. 072: And just energetic
4 and spontaneous.

5 MR. BROWN: Okay. Do you like sports?

6 PROSPECTIVE JUROR NO. 072: Yeah.

7 MR. BROWN: Okay. On the thinker/feeler scale,
8 where do you land?

9 PROSPECTIVE JUROR NO. 072: I'm a little more a
10 feeler.

11 MR. BROWN: A feeler. We've got a lot of
12 thinkers. We've got a couple of both, but you're probably the
13 first dedicated feeler we've had.

14 PROSPECTIVE JUROR NO. 072: Yeah.

15 MR. BROWN: So you kind of -- you know, you work
16 on instinct, you see it, you buy it. You like it, you buy it
17 as Ms. Luzaich likes to ask.

18 PROSPECTIVE JUROR NO. 072: Yeah. Um-hum.

19 MR. BROWN: I think you indicated that. But with
20 important things, purchase of a house, having children,
21 purchasing of a car, would you think that you'd do more, a
22 little bit more of an analysis, a little bit more thinking
23 through it before you just jump in?

24 PROSPECTIVE JUROR NO. 072: Yeah.

25 MR. BROWN: Okay. Because, you know, the

1 criminal process probably is a little bit of both. I mean,
2 you're going to have to feel some things, but you really do
3 have to do some thinking, too. Are you capable of applying
4 that?

5 PROSPECTIVE JUROR NO. 072: Yeah.

6 MR. BROWN: All right. What area of town do you
7 live in, ma'am?

8 PROSPECTIVE JUROR NO. 072: In Summerland.

9 MR. BROWN: In Summerland, is it a gated
10 community?

11 PROSPECTIVE JUROR NO. 072: Yes.

12 MR. BROWN: You feel comfortable out strolling
13 with one or all of the kids, walking around?

14 PROSPECTIVE JUROR NO. 072: Yeah.

15 MR. BROWN: You don't have any concerns, you
16 know, about what might happen to you?

17 PROSPECTIVE JUROR NO. 072: No. I mean, my
18 daughter goes to Palo and she, last year, her friend, Chris
19 Privet (phonetic), got shot while walking to -- home from
20 school.

21 MR. BROWN: Who was her friend?

22 PROSPECTIVE JUROR NO. 072: Chris Privet.

23 MR. BROWN: Oh, Privet, that's what I thought I
24 heard you say. So that was friend of her's at Palo?

25 PROSPECTIVE JUROR NO. 072: She went to school

1 with him since elementary and she was -- he was in one of her
2 classes, so.

3 MR. BROWN: And what did you think about that,
4 when that happened?

5 PROSPECTIVE JUROR NO. 072: It was scary. I
6 mean, my daughter goes church in the mornings, and sometimes
7 when the weather's good because we'll walk to school. I mean,
8 it was really scary, so.

9 MR. BROWN: Did you change your patterns or
10 behavior or have her do anything differently in response to
11 that?

12 PROSPECTIVE JUROR NO. 072: I mean, I just don't
13 let her walk, I mean, you know, I'm not going to take that
14 chance.

15 MR. BROWN: Okay.

16 PROSPECTIVE JUROR NO. 072: She's my kid, so.

17 MR. BROWN: No, that makes sense.

18 PROSPECTIVE JUROR NO. 072: I drive her, I have a
19 car, I drive her.

20 MR. BROWN: When you sat in here before you -- I
21 think you were called up here originally and the Court and the
22 District Attorney announced that this was a homicide case, how
23 did that make you feel?

24 PROSPECTIVE JUROR NO. 072: I was scared.

25 MR. BROWN: Did it scare you in relation to what

1 happened in the Privet case, or was it just the overall --

2 PROSPECTIVE JUROR NO. 072: Just the overall.

3 MR. BROWN: Okay. Is there anything about what
4 happened in that Privet case that should concern either side
5 with you being a juror?

6 PROSPECTIVE JUROR NO. 072: No, I don't think so.

7 MR. BROWN: Okay. You don't like CSI?

8 PROSPECTIVE JUROR NO. 072: Um-um.

9 MR. BROWN: Do you watch any of the legal shows?

10 PROSPECTIVE JUROR NO. 072: No.

11 MR. BROWN: Okay. So if I asked you about what
12 your thoughts are if Mr. Porter doesn't take the witness stand
13 in his defense, what -- how would you answer?

14 PROSPECTIVE JUROR NO. 072: I don't know. I'd
15 kind of want to know his thoughts were.

16 MR. BROWN: That's fair.

17 PROSPECTIVE JUROR NO. 072: Just to see how --
18 what happened, or I don't know, just --

19 MR. BROWN: You want to hear his side.

20 PROSPECTIVE JUROR NO. 072: Yeah, yeah.

21 MR. BROWN: At least at some level.

22 PROSPECTIVE JUROR NO. 072: Yeah. Um-hum.

23 MR. BROWN: But if he doesn't take the witness
24 stand, are you going to be able to do a fair evaluation of the
25 evidence to him when you're in the jury room and put that

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2
3 JUSTIN JUG CAPRI PORTER,

) No. 54866

Electronically Filed
Apr 21 2010 09:09 a.m.
Tracie K. Lindeman

4 Appellant,

5 v.

6 THE STATE OF NEVADA,

7 Respondent.

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9
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1 Transcript of Proceedings, Sentencing
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DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

COPY

THE STATE OF NEVADA

Plaintiff,

vs.

JUSTIN PORTER,

Defendant.

CASE NO. C-174954

DEPT. NO. 6

**Transcript of
Proceedings**

*Office of
Clerk of Court*

JAN 27 2010

FILED

BEFORE THE HONORABLE ELISSA CADISH, DISTRICT COURT JUDGE

JURY TRIAL - DAY 2

TUESDAY, MAY 5, 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
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Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

1 LAS VEGAS, NEVADA, TUESDAY, MAY 5, 2009, 10:01 A.M.

2 (Outside the presence of prospective jurors)

3 THE COURT: -- I have to start with replacing
4 seat number one and --

5 THE COURT RECORDER: Do you want to be on record?

6 THE COURT: Yes, please. Replacing seat number
7 one and questioning the juror on that, and then we'll pick up
8 where we left off.

9 So I was thinking about how many we still have
10 left to talk to which is, even besides number one, it's about
11 20 more. And even at 10 minutes a person, that's over three
12 hours, close to three and a half hours. So we're going to be
13 into this afternoon before we're done, unless I'm missing
14 something or we cut it down to five minutes a person, so.

15 MR. BROWN: Well, I'd get reversed on post-
16 conviction at five minutes per juror.

17 THE COURT: And I understand. I mean, I don't --
18 questioning has to be done, I mean, so.

19 MR. BROWN: Your Honor, I think in that talking
20 it over and trying to do the analysis the Court's doing, we
21 figured probably openings after lunch is going to be closer to
22 3:00, it would be.

23 THE COURT: Yeah. Well, that's the thing, is you
24 know, we had talked about the possibility of going through and
25 taking a late lunch to finish. But if we're going to -- if

1 we're looking at three and a half hours to finish this, I'm
2 not sure I'm willing to hold them to 1:30 before lunch. We'll
3 see how it's going. If it's moving along swiftly, then I'm
4 willing to push into lunch to get it done. But we'll see how
5 we're looking when we get closer, I guess.

6 All right. All right. Let's go off until we get
7 the jury ready.

8 (Off record at 10:02 a.m. until 10:04 a.m.)

9 (In the presence of the prospective jurors)

10 THE COURT: You can go ahead and have a seat,
11 everybody. Mr. Russo, do we have everyone?

12 (Pause in proceedings)

13 THE MARSHAL: With the exception of Mr.
14 Brinkmann, yes, Judge, we have everybody else.

15 THE COURT: Okay, thank you. We will deal with
16 Mr. Brinkmann later.

17 All right. Let's go ahead and replace seat
18 number one for Mr. Anderson who we excused at the end of the
19 day.

20 THE CLERK: Yes, Your Honor. Next will be badge
21 number 106, Richard Landini.

22 (Pause in proceedings)

23 THE COURT: All right. Mr. Landini, how you
24 doing?

25 PROSPECTIVE JUROR NO. 106: Fine.

1 THE COURT: Good. Is there any reason why you
2 could not be a completely fair and impartial juror in this
3 case?

4 PROSPECTIVE JUROR NO. 106: No.

5 THE COURT: Can you wait until all the evidence
6 has come in before you decide what the right outcome should
7 be?

8 PROSPECTIVE JUROR NO. 106: Yes.

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

11 PROSPECTIVE JUROR NO. 106: I have a nephew who
12 married my niece that's a L.A. County Sheriff.

13 THE COURT: All right. And do you think that as
14 a result of that, you would have a tendency to give greater
15 weight to the testimony of law enforcement officers?

16 PROSPECTIVE JUROR NO. 106: No.

17 THE COURT: Do you think you could still weigh
18 each witness's testimony, even if they're law enforcement,
19 like any other?

20 PROSPECTIVE JUROR NO. 106: Yes.

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

23 PROSPECTIVE JUROR NO. 106: Reckless driving,
24 excessive speed.

25 THE COURT: Okay. Was that you or someone else?

1 PROSPECTIVE JUROR NO. 106: Me in the 70's.

2 THE COURT: Okay. All right. And as a result of
3 those charges, do you have any strong feelings one way or the
4 other about law enforcement officers?

5 PROSPECTIVE JUROR NO. 106: No, I deserved them
6 both.

7 THE COURT: Okay. All right. Have you or anyone
8 close to you been the victim of a serious crime?

9 PROSPECTIVE JUROR NO. 106: 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. 106: I don't believe so.

14 THE COURT: Can you base your verdict solely on
15 the evidence brought out at the trial and the law that applies
16 as stated in my instructions to you without fear of criticism
17 or popular opinion?

18 PROSPECTIVE JUROR NO. 106: Yes.

19 THE COURT: Have you ever served as a juror
20 before?

21 PROSPECTIVE JUROR NO. 106: Yes.

22 THE COURT: How many times?

23 PROSPECTIVE JUROR NO. 106: Three times.

24 THE COURT: Okay. Were those civil or criminal
25 cases?

1 PROSPECTIVE JUROR NO. 106: All drunk driving
2 cases.

3 THE COURT: All drunk driving, so that would be
4 criminal, then. How recently was the last one?

5 PROSPECTIVE JUROR NO. 106: '74, '75.

6 THE COURT: Oh, quite a while ago. Okay.
7 Without telling us what the verdicts were, did the jury reach
8 a verdict in all of those cases?

9 PROSPECTIVE JUROR NO. 106: Yes.

10 THE COURT: Okay. And were you the foreperson on
11 any of those juries?

12 PROSPECTIVE JUROR NO. 106: No.

13 THE COURT: Okay. Is there anything about your
14 experience being on a jury three times previously that would
15 affect your ability to serve as a juror in this case?

16 PROSPECTIVE JUROR NO. 106: I don't believe so.

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. 106: Yes.

21 THE COURT: How old are you, sir?

22 PROSPECTIVE JUROR NO. 106: 62.

23 THE COURT: And how long have you lived here in
24 Clark County?

25 PROSPECTIVE JUROR NO. 106: 32 years.

1 THE COURT: Are you employed?

2 PROSPECTIVE JUROR NO. 106: Yes.

3 THE COURT: What do you do?

4 PROSPECTIVE JUROR NO. 106: I'm a meat cutter.

5 THE COURT: Okay. Are you married?

6 PROSPECTIVE JUROR NO. 106: Yes.

7 THE COURT: Is your spouse employed?

8 PROSPECTIVE JUROR NO. 106: Yes.

9 THE COURT: What does she do?

10 PROSPECTIVE JUROR NO. 106: She's a dental
11 hygienist.

12 THE COURT: Okay. Do you have children?

13 PROSPECTIVE JUROR NO. 106: I've got three step-
14 daughters.

15 THE COURT: Three step-daughters. How old are
16 they?

17 PROSPECTIVE JUROR NO. 106: 42, 4 and 6.

18 THE COURT: And do any of them work outside the
19 home?

20 PROSPECTIVE JUROR NO. 106: All of them.

21 THE COURT: All of them. What do they do?

22 PROSPECTIVE JUROR NO. 106: One works for
23 Farmer's Insurance in California. The other one is a
24 registered nurse in town. And the other one works for a loan
25 company in Ohio.

1 THE COURT: Okay. All right. And what's the
2 highest level of education you've completed?

3 PROSPECTIVE JUROR NO. 106: Junior in college.

4 THE COURT: Okay. Did you have a major?

5 PROSPECTIVE JUROR NO. 106: Biological Science.

6 THE COURT: All right. State.

7 MS. LUZAICH: Good morning.

8 PROSPECTIVE JUROR NO. 106: Morning.

9 MS. LUZAICH: How are you?

10 PROSPECTIVE JUROR NO. 106: Fine.

11 MS. LUZAICH: You mentioned that you have a
12 daughter who's a nurse here in town. Where does she work?

13 PROSPECTIVE JUROR NO. 106: She does home health.

14 MS. LUZAICH: Home health. Has she ever worked
15 at a hospital or anything like that?

16 PROSPECTIVE JUROR NO. 106: Yes. Cardiac work.

17 MS. LUZAICH: Cardiac work? Okay, so not like
18 trauma or anything like that?

19 PROSPECTIVE JUROR NO. 106: No.

20 MS. LUZAICH: Okay. And you said your wife is a
21 dental hygienist?

22 PROSPECTIVE JUROR NO. 106: Yes.

23 MS. LUZAICH: Still working?

24 PROSPECTIVE JUROR NO. 106: Yes.

25 MS. LUZAICH: Okay. They're your step-daughters.

1 Have you been in their life since they were young or fairly --

2 PROSPECTIVE JUROR NO. 106: Since 14.

3 MS. LUZAICH: Since they were 14ish?

4 PROSPECTIVE JUROR NO. 106: Yeah.

5 MS. LUZAICH: So a long time.

6 PROSPECTIVE JUROR NO. 106: A long time.

7 MS. LUZAICH: Okay. The trials that you sat on
8 as a juror, were they elsewhere?

9 PROSPECTIVE JUROR NO. 106: California.

10 MS. LUZAICH: Okay. DUI's don't get juries here.
11 What did you think of your experience as a trial? As a juror.

12 PROSPECTIVE JUROR NO. 106: It was interesting.

13 MS. LUZAICH: Why's that?

14 PROSPECTIVE JUROR NO. 106: Well, California is
15 all week, you know, so you get more than one case. And I sat
16 on three juries.

17 MS. LUZAICH: Oh, so three all in one week?

18 PROSPECTIVE JUROR NO. 106: Yes.

19 THE COURT: Oh.

20 MS. LUZAICH: And they each deliberated and
21 reached a verdict?

22 PROSPECTIVE JUROR NO. 106: Yes.

23 MS. LUZAICH: When you say it was interesting,
24 was that because you got to do so much, or the process itself
25 or?

1 PROSPECTIVE JUROR NO. 106: Everything combined.

2 MS. LUZAICH: Would you consider it a positive or
3 negative experience?

4 PROSPECTIVE JUROR NO. 106: I thought it was
5 positive.

6 MS. LUZAICH: Okay. And what about the
7 deliberating? Was that something that -- you know, some
8 people find it very stressful, some people find it enjoyable.
9 Where do you feel on that?

10 PROSPECTIVE JUROR NO. 106: Well, at the time, I
11 thought it was very interesting because there's a lot of
12 different views, a lot of different opinions. And their
13 opinions differentiate between what the case was and what they
14 were based on.

15 MS. LUZAICH: Okay. And you noticed that people
16 are told you can't consider this, you can't consider that and
17 they go back in the jury deliberation room and they consider
18 what they're not supposed to?

19 PROSPECTIVE JUROR NO. 106: Well, they bring up
20 stuff that doesn't belong to the -- pertinent to the --

21 MS. LUZAICH: Was that frustrating for you?

22 PROSPECTIVE JUROR NO. 106: I kind of sit back
23 and watch.

24 MS. LUZAICH: Okay. So you, of all people,
25 understand the five to five question. With your prior

1 experience as a juror, if you are in the situation where 11
2 jurors feel one way and you feel the other way, whichever that
3 may be, how would you handle that?

4 PROSPECTIVE JUROR NO. 106: I stuck to my guns.

5 MS. LUZAICH: Did you? Okay.

6 PROSPECTIVE JUROR NO. 106: I was the one person.

7 MS. LUZAICH: Oh. But you won't change your mind
8 just because it's Friday, 5 to 5:00, and you want to go home?

9 PROSPECTIVE JUROR NO. 106: Nope.

10 MS. LUZAICH: When you got your summons this
11 time, what did you think?

12 PROSPECTIVE JUROR NO. 106: I get one every three
13 years.

14 MS. LUZAICH: And you have not gotten this far
15 here in this county before?

16 PROSPECTIVE JUROR NO. 106: Yeah, I got on a
17 couple, but they -- a couple of them were -- they put us out
18 in the hall and they negotiated a plea deal on one. And the
19 other ones were taken care of before we even got into the
20 courtroom.

21 MS. LUZAICH: When you heard that it was a murder
22 and a weapon, what did you think? Big difference from DUI.

23 PROSPECTIVE JUROR NO. 106: Yeah, I was -- I
24 didn't get on that jury, but I was on one, I don't know, nine
25 or ten years ago that was a murder.

1 MS. LUZAICH: Do you consider yourself to be a
2 fair and open-minded person?

3 PROSPECTIVE JUROR NO. 106: Yes.

4 MS. LUZAICH: Willing to listen to both sides
5 before you make up your mind?

6 PROSPECTIVE JUROR NO. 106: I always listen to
7 both sides first.

8 MS. LUZAICH: Having heard all the questions that
9 were asked all day yesterday, is there anything that you feel
10 the need to tell us?

11 PROSPECTIVE JUROR NO. 106: No.

12 MS. LUZAICH: Is there anything about you that
13 would prevent you from being able to sit in judgment?

14 PROSPECTIVE JUROR NO. 106: No.

15 MS. LUZAICH: So if you heard all the testimony,
16 viewed all the evidence that's admitted, if you were convinced
17 beyond a reasonable doubt the defendant committed the crimes
18 that he's charged with, would you be able to say guilty?

19 PROSPECTIVE JUROR NO. 106: Yes.

20 MS. LUZAICH: Oh, and in California, the law is
21 different. The Judge, at the end of the trial, is going to
22 read you a series of instructions, obviously you know from
23 your experience, and you have to follow the law that the Judge
24 reads you. It is different in Nevada than it is in
25 California. So if you remember anything from California, will

1 you promise to just put it out of your mind and only follow
2 the instructions as the Judge reads them?

3 PROSPECTIVE JUROR NO. 106: Yes.

4 MS. LUZAICH: Thank you. Pass for cause.

5 MR. ABOOD: Thank you, Your Honor. Good morning,
6 sir.

7 PROSPECTIVE JUROR NO. 106: Good morning.

8 MR. ABOOD: You know, the State said something
9 interesting. You know, they asked you how you felt about the
10 fact that this was a murder case. And I just want to make
11 sure we clear these things up. I mean, the allegation in this
12 case is murder. Do you know what I mean by that?

13 PROSPECTIVE JUROR NO. 106: It's only an
14 allegation.

15 MR. ABOOD: Right. In other words, that's what
16 he's charged with, but people get charged with things all the
17 time. And a jury gets to decide what he's actually guilty of.
18 Is that your mind-set?

19 PROSPECTIVE JUROR NO. 106: Yes.

20 MR. ABOOD: Okay. So when you hear someone say,
21 you know, murder case or something along those lines, well, we
22 recognize that's the charge, but the charge is no proof of
23 anything.

24 PROSPECTIVE JUROR NO. 106: That's true.

25 MR. ABOOD: Okay, good. The Judge asked you

1 about hearing all the evidence in this case before you make a
2 judgment. And I want to go into a little bit what the Judge
3 is talking about.

4 The evidence is going to come in over the course
5 of a couple or a few days. Obviously, you are aware of that.

6 PROSPECTIVE JUROR NO. 106: Yes.

7 MR. ABOOD: And we have a tendency when we hear
8 little bits and pieces of evidence, we have a tendency to sort
9 of start orienting ourselves into how we feel about that
10 evidence and how it affects the State and the defense. I
11 mean, that's only natural. You would agree with that?

12 PROSPECTIVE JUROR NO. 106: Yes.

13 MR. ABOOD: Okay. And what the Judge is getting
14 at is, you know, we don't have to change the way our human
15 brains work, but what we have to do is we have to keep
16 ourselves from making a judgment as to whether or not the
17 State has proved their charges by a -- or proved beyond a
18 reasonable doubt. That makes sense?

19 PROSPECTIVE JUROR NO. 106: Yes.

20 MR. ABOOD: Okay. Another thing I want to bring
21 up with you is, when we talk about proof beyond a reasonable
22 doubt. The question can be, number one, is Justin guilty of
23 anything based on the State's ability to prove it beyond a
24 reasonable doubt. That part makes sense; doesn't it?

25 PROSPECTIVE JUROR NO. 106: If they prove it.

1 MR. ABOOD: Okay. Now, the Judge has a very
2 important role coming up a little bit later. Once the trial
3 is over, she's going to read to you a series of laws. And the
4 question may end up being, all right, what is Justin actually
5 guilty of, if he's guilty of anything. Does that make sense?

6 PROSPECTIVE JUROR NO. 106: Yes.

7 MR. ABOOD: Okay. So are you the kind of person
8 that is going to be interested in exactly what the definitions
9 of the laws are, and how they apply to the facts of this case?

10 PROSPECTIVE JUROR NO. 106: Yes.

11 MR. ABOOD: Okay. So that's an exercise you're
12 familiar with?

13 PROSPECTIVE JUROR NO. 106: (No audible response)

14 MR. ABOOD: All right, very good. You also told
15 the Judge that -- or I beg your pardon, you told the District
16 Attorney, Ms. Luzaich, that you were able to stick to your
17 guns in your past experience. Did you have experience trying
18 to convince other jurors that your position was valid and you
19 were right?

20 PROSPECTIVE JUROR NO. 106: Yes.

21 MR. ABOOD: Okay. So that's a process you've
22 already been through?

23 PROSPECTIVE JUROR NO. 106: (No audible response)

24 MR. ABOOD: Okay, very good. Now, sir, one more
25 thing, and I don't want to, you know, because I'm not spring

1 chicken either, but you look like you've got a few years under
2 your belt. Obviously, you're experienced, and the -- your
3 knowledge of the ways of the world, those things are important
4 to us and they're important in a jury setting; would you
5 agree?

6 PROSPECTIVE JUROR NO. 106: Yes.

7 MR. ABOOD: Okay. So when we're talking about a
8 jury, we're looking for a cross section of people, may be
9 young, may be old, hopefully different races, things along
10 those lines, so we can get the best kind of experience of our
11 community as a whole; is that fair?

12 PROSPECTIVE JUROR NO. 106: Correct.

13 MR. ABOOD: Okay. Now, young people, people that
14 might not have as much experience as you, you know, real life
15 experience, might not be as educated as you are, do they have
16 opinions that are as valid as your own?

17 PROSPECTIVE JUROR NO. 106: More so sometimes.

18 MR. ABOOD: Sometimes more so. Okay, sir, I
19 thank you very much. Your Honor, we pass for cause.

20 THE COURT: Thank you.

21 THE MARSHAL: Just pass the microphone down to
22 Mr. Wight.

23 THE COURT: Yeah, okay. All right. Mr. Wight,
24 how you doing today?

25 PROSPECTIVE JUROR NO. 060: Very good.

1 THE COURT: Good. Is there any reason why you
2 could not be a completely fair and impartial juror in this
3 case?

4 PROSPECTIVE JUROR NO. 060: I believe after a lot
5 of thought, yes, there is.

6 THE COURT: Why?

7 PROSPECTIVE JUROR NO. 060: My family was
8 involved in a serious crime. My son was injured seriously.
9 And I don't feel the District Attorney's office used their
10 best effort in all of that, it didn't go to trial, but the
11 consequences of it.

12 THE COURT: Okay. So when did that occur?

13 PROSPECTIVE JUROR NO. 060: The -- it was a
14 shooting. The shooting occurred in December of 1999, and the
15 court proceedings were in 2000.

16 THE COURT: Okay. So, there was a shooting. Was
17 it at your home or elsewhere?

18 PROSPECTIVE JUROR NO. 060: No, it was at a bar.
19 My son was shot twice. His friend was shot once and killed.

20 THE COURT: I see. Okay. And was the friend
21 someone -- your son's friend someone that you knew?

22 PROSPECTIVE JUROR NO. 060: Yes, very well.

23 THE COURT: You knew him well, okay. And as a
24 result of that, charges were brought against the shooter?

25 PROSPECTIVE JUROR NO. 060: Yes, they were.

1 THE COURT: And was that shooter found guilty?

2 PROSPECTIVE JUROR NO. 060: He was -- it was plea
3 bargain situation. The charges of the attempted murder
4 against my son were dropped by the State, and the charges of
5 murder were dropped to a very low charge and yes, he was
6 incarcerated.

7 THE COURT: Okay. Based on what he pleaded to.

8 PROSPECTIVE JUROR NO. 060: Correct.

9 THE COURT: Okay. And you, as a result of that
10 experience, felt that the District Attorney's office didn't
11 handle it properly?

12 PROSPECTIVE JUROR NO. 060: That's correct.

13 THE COURT: And now, the Deputy District
14 Attorneys who are sitting here on this case, did they have any
15 involvement in that case?

16 PROSPECTIVE JUROR NO. 060: Not to my knowledge.

17 THE COURT: Not to your knowledge, okay. And --
18 but, so, the question is, could you put aside your bad
19 feelings about the outcome of that case and the murder
20 situation involved in that case to consider this case fairly
21 and impartially on its own merits?

22 PROSPECTIVE JUROR NO. 060: I would have a hard
23 time, Your Honor. The suspect, or the person that was
24 incarcerated was a young minority.

25 THE COURT: Um-hm.

1 PROSPECTIVE JUROR NO. 060: Okay, it was
2 obviously a gun involved. I have no use for guns.

3 THE COURT: Right.

4 PROSPECTIVE JUROR NO. 060: And the situation was
5 compounded by the fact that Metro officers did own the bar. I
6 believe that was also some of the reason why the trial did not
7 proceed. Subsequently, there was a civil trial and we did
8 prevail in that.

9 THE COURT: I see. So you think you would have a
10 tendency to want to find the defendant here guilty or you
11 might have a tendency to lean that way before you even hear
12 the evidence?

13 PROSPECTIVE JUROR NO. 060: I'm afraid I've
14 leaned that way. I feel unfortunate about that.

15 THE COURT: In the shooting that took place about
16 ten years ago, if you hear about evidence of a shooting here,
17 do you fee that that would bring back some of the memories of
18 what had occurred in that --

19 PROSPECTIVE JUROR NO. 060: It becomes very
20 emotional to me.

21 THE COURT: Yeah. When you hear about a
22 shooting, it brings back those issues for you?

23 PROSPECTIVE JUROR NO. 060: Yes.

24 THE COURT: And, you know, I have to ask this at
25 least once during every jury selection and I'm just going to

1 ask you, because it's very serious issues that you've dealt
2 with and I'm -- and a personal tragedy that you were exposed
3 to at that time. But obviously you're here, you're under oath
4 as a potential juror. So you're telling me this because you
5 are concerned, truly, that you may not be able to be fair and
6 impartial, not just because you don't want to serve here this
7 week?

8 PROSPECTIVE JUROR NO. 060: I did not sleep very
9 well last night because I knew this question was coming.

10 THE COURT: Okay. All right. At this time,
11 counsel, unless you object, I'm going to go ahead and excuse
12 Mr. Wight. I'm concerned that he could not be fair and
13 impartial under the circumstance. Thank you very much for
14 your honesty. I do appreciate you letting me know that right
15 up front.

16 PROSPECTIVE JUROR NO. 060: Thank you.

17 THE COURT: You can -- you are excused and you
18 can report down to the third floor. Just leave the mic there
19 on the chair.

20 THE CLERK: Next in seat number 11, badge number
21 107, Andrea Montgomery.

22 THE COURT: Ms. Montgomery, how are you?

23 PROSPECTIVE JUROR NO. 107: Fine, thank you. How
24 are you?

25 THE COURT: I'm good. Is there any reason why

1 you cannot be fair and impartial in this case?

2 PROSPECTIVE JUROR NO. 107: No.

3 THE COURT: Can you wait in forming your opinion
4 on the appropriate result until all the evidence has been
5 heard?

6 PROSPECTIVE JUROR NO. 107: Yes.

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

9 PROSPECTIVE JUROR NO. 107: Yes.

10 THE COURT: Who's that?

11 PROSPECTIVE JUROR NO. 107: My husband is a
12 Highway Patrol trooper and we are close family friends Captain
13 of the Gang Crimes Unit with Metro.

14 THE COURT: Okay. All right. So your husband's
15 with NHP?

16 PROSPECTIVE JUROR NO. 107: Yes, ma'am.

17 THE COURT: And what kinds of matters does he
18 deal with?

19 PROSPECTIVE JUROR NO. 107: Typically just
20 traffic.

21 THE COURT: Traffic, okay.

22 PROSPECTIVE JUROR NO. 107: Yeah.

23 THE COURT: And so -- and you're also friends
24 with other law enforcement officers. Do you think that your
25 -- you know, having your husband and other friends and

1 associates that are part of law enforcement, would that affect
2 your ability to consider the testimony of the witnesses fairly
3 and impartially?

4 PROSPECTIVE JUROR NO. 107: No, I don't think so.

5 THE COURT: You don't think you're going to kind
6 of, they're going to come in with a leg up because they're law
7 enforcement like your friends?

8 PROSPECTIVE JUROR NO. 107: No.

9 THE COURT: Or your husband?

10 PROSPECTIVE JUROR NO. 107: Right.

11 THE COURT: Okay. You weren't -- when the names
12 were read yesterday morning of the potential witnesses, none
13 of those individuals --

14 PROSPECTIVE JUROR NO. 107: No.

15 THE COURT: -- are people familiar to you?

16 PROSPECTIVE JUROR NO. 107: No.

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

19 PROSPECTIVE JUROR NO. 107: No.

20 THE COURT: Have you or anyone close to you been
21 the victim of a serious crime?

22 PROSPECTIVE JUROR NO. 107: No.

23 THE COURT: Is there anything about the charges
24 in this case that would make it difficult for you to be fair
25 and impartial?

1 PROSPECTIVE JUROR NO. 107: No.

2 THE COURT: Can you base your verdict solely on
3 the evidence brought out at the trial and the law that applies
4 as stated in my instructions without fear of criticism or
5 popular opinion?

6 PROSPECTIVE JUROR NO. 107: Yes.

7 THE COURT: Have you ever served as a juror
8 before?

9 PROSPECTIVE JUROR NO. 107: Yes, but not in
10 Nevada.

11 THE COURT: Okay. Where was it?

12 PROSPECTIVE JUROR NO. 107: It was in Michigan.

13 THE COURT: And was that just one time?

14 PROSPECTIVE JUROR NO. 107: Yes. About eight
15 years ago.

16 THE COURT: Eight years ago, okay. Was that a
17 civil or a criminal case?

18 PROSPECTIVE JUROR NO. 107: It was DUI, so I'm
19 guessing that means criminal.

20 THE COURT: Criminal, okay. And without telling
21 us what the verdict was, did the jury reach a verdict in that
22 case?

23 PROSPECTIVE JUROR NO. 107: Yes.

24 THE COURT: And were you the foreperson?

25 PROSPECTIVE JUROR NO. 107: No.

1 THE COURT: Is there anything about that
2 experience that would affect your ability to serve as a fair
3 and impartial juror in this case?

4 PROSPECTIVE JUROR NO. 107: 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. 107: Yes.

9 THE COURT: How old are you?

10 PROSPECTIVE JUROR NO. 107: I'm 28.

11 THE COURT: How long have you lived here?

12 PROSPECTIVE JUROR NO. 107: Five years.

13 THE COURT: Where did you live before?

14 PROSPECTIVE JUROR NO. 107: Michigan.

15 THE COURT: Michigan, obviously, okay. Are you
16 employed?

17 PROSPECTIVE JUROR NO. 107: Yes.

18 THE COURT: What do you do?

19 PROSPECTIVE JUROR NO. 107: I'm a teacher with
20 CCSD.

21 THE COURT: Okay. What level?

22 PROSPECTIVE JUROR NO. 107: Fourth grade.

23 THE COURT: Are you married?

24 PROSPECTIVE JUROR NO. 107: Yes.

25 THE COURT: Is your spouse employed?

1 PROSPECTIVE JUROR NO. 107: Yes, with NHP.

2 THE COURT: We just talked about that, I'm sorry.

3 You know, you get into the habit of the questions, I'm sorry.

4 Do you have children?

5 PROSPECTIVE JUROR NO. 107: One on the way.

6 THE COURT: One on the way. Congratulations.

7 PROSPECTIVE JUROR NO. 107: Thank you.

8 THE COURT: So what's the highest level of

9 education you completed?

10 PROSPECTIVE JUROR NO. 107: I have a Masters

11 degree.

12 THE COURT: In education?

13 PROSPECTIVE JUROR NO. 107: Yeah, curriculum and

14 instruction.

15 THE COURT: Okay. All right. State.

16 Mr. Tomsheck: You said you've been here five

17 years?

18 PROSPECTIVE JUROR NO. 107: Yes.

19 Mr. Tomsheck: And you came straight from

20 Michigan?

21 PROSPECTIVE JUROR NO. 107: Yes.

22 Mr. Tomsheck: I assume you got tired of the

23 snow?

24 PROSPECTIVE JUROR NO. 107: Yes. But now I'm

25 tired of the heat, so go figure.

1 Mr. Tomsheck: We're happy to have you.

2 PROSPECTIVE JUROR NO. 107: Thank you.

3 Mr. Tomsheck: How far along are you, may I ask?

4 PROSPECTIVE JUROR NO. 107: Four months.

5 Mr. Tomsheck: Any health concerns with that?

6 Are you getting sick a lot?

7 PROSPECTIVE JUROR NO. 107: I actually came just
8 off five weeks of bed rest. I've been back to work for two
9 weeks. So, but everything's fine now.

10 MR. TOMSHECK: Anything about the stresses of
11 having to sit through a murder trial for a week you think that
12 would impact -- I mean, obviously, your health and the baby's
13 health is the most important thing.

14 PROSPECTIVE JUROR NO. 107: Right. I teach, so I
15 kind of figure that's a lot of stress. But, no, I don't think
16 so. If anything, sitting down all day would be kind of nice,
17 but.

18 MR. TOMSHECK: If you can deal with fourth
19 graders, you can deal with four lawyers.

20 PROSPECTIVE JUROR NO. 107: Yeah.

21 MR. TOMSHECK: Any specialty in your teaching or
22 is it just a general fourth grade class?

23 PROSPECTIVE JUROR NO. 107: Just general fourth
24 grade.

25 MR. TOMSHECK: You understand, obviously, that if

1 you're picked to be a juror, you'd have to promise us that you
2 can't go home and talk to your husband about the case?

3 PROSPECTIVE JUROR NO. 107: I understand.

4 MR. TOMSHECK: Okay. Anybody who works in the
5 Gang Unit say, hey, what kind of case you one, you can't tell
6 them, only that it's a criminal case.

7 PROSPECTIVE JUROR NO. 107: I understand.

8 MR. TOMSHECK: Can you promise us you'd do that?

9 PROSPECTIVE JUROR NO. 107: Yes.

10 MR. TOMSHECK: Promise us that if you're picked,
11 you'll be fair to the defendant and fair to the State?

12 PROSPECTIVE JUROR NO. 107: Yes.

13 MR. TOMSHECK: And that if we prove the case
14 beyond a reasonable doubt as the Judge defines, you'll be able
15 to find the defendant guilty?

16 PROSPECTIVE JUROR NO. 107: Yes.

17 THE COURT: Pass for cause?

18 MR. TOMSHECK: Pass for cause, Judge.

19 MR. BROWN: Good morning.

20 PROSPECTIVE JUROR NO. 107: Good morning.

21 MR. BROWN: Thanks for coming back.

22 PROSPECTIVE JUROR NO. 107: Thanks.

23 MR. BROWN: You kind of know immediately what I'm
24 concerned about; don't you?

25 PROSPECTIVE JUROR NO. 107: Law enforcement?

1 MR. BROWN: Yeah. Okay, I need to be honest with
2 you. My concern is more directed towards, and not that you're
3 going to believe any, you know, the officers are automatically
4 telling the truth or anything like that, but I guess the best
5 way to put it is I would call it, a home field advantage?

6 PROSPECTIVE JUROR NO. 107: Understood.

7 MR. BROWN: Go to a friend's house and you don't
8 have any interest in the ball game, but the Mets are your best
9 friend's favorite team, you just kind of sit there and root
10 for the Mets just because that's who he's rooting for.

11 PROSPECTIVE JUROR NO. 107: Right.

12 MR. BROWN: And so that's my concern with, you
13 know, your husband being in law enforcement, associated with
14 the State through prosecutions and the Gang Unit friend.

15 PROSPECTIVE JUROR NO. 107: Right.

16 MR. BROWN: And you said a very close friend.

17 PROSPECTIVE JUROR NO. 107: Yeah, they're kind of
18 like my Las Vegas parents.

19 MR. BROWN: So is it fair to say, and you tell me
20 that you've had discussions about his job?

21 PROSPECTIVE JUROR NO. 107: You know, to be
22 honest with you, I don't like to hear about it because I'm a
23 worry-wart and so I try to keep -- I try to keep it separate.

24 MR. BROWN: Okay.

25 PROSPECTIVE JUROR NO. 107: As unfair as that is

1 to him, not to be able to talk about work at home, I try to
2 keep it separate, so.

3 MR. BROWN: So no stories, no --

4 PROSPECTIVE JUROR NO. 107: Not usually.

5 MR. BROWN: -- things like that?

6 PROSPECTIVE JUROR NO. 107: Nope.

7 MR. BROWN: Well let me ask -- you know, I asked
8 this question a couple times yesterday, and I'll ask you to
9 tell me what you think about this statement from the
10 perspective that you're in which is, the saying that an
11 accused or criminals have too many rights?

12 PROSPECTIVE JUROR NO. 107: You know, I honestly
13 actually have never heard that before.

14 MR. BROWN: Okay. But now, what do you think
15 about that, if I were to say that to you, that --

16 PROSPECTIVE JUROR NO. 107: I guess the best way
17 for me to explain it is I pride myself on being impartial.
18 You kind of have to be when you're working with kids everyday.
19 You know, you get a great mix of kids, lots of things happen
20 and you kind of have to hear both sides and go with that. So,
21 you know, everybody has their chance to tell their side of the
22 story or not tell their side of the story, whatever, you know.
23 But I feel like if they're proven innocent or proven guilty,
24 that's, you know, it's in the evidence. I don't know if that
25 even made any sense, what I just said.

1 MR. BROWN: Actually, it did. When you're with
2 the kids, for example, I mean, do you ever notice that -- I
3 mean, they're obviously fourth graders, but they're subject to
4 some level of manipulation by more authoritative people or
5 adults. You know, they can suggest things to them and the
6 kids are more in a position to kind of agree with that instead
7 of just stand up for themselves.

8 PROSPECTIVE JUROR NO. 107: Yeah, I don't think
9 I'm that kind of person though. I know that there's --

10 MR. BROWN: No, I'm not accusing --

11 PROSPECTIVE JUROR NO. 107: -- situations like
12 that --

13 MR. BROWN: Sure.

14 PROSPECTIVE JUROR NO. 107: -- for sure, but I
15 give my kids a fair chance to tell whatever it is they've got
16 to say.

17 MR. BROWN: But do you generally agree with what
18 I was talking about, that --

19 PROSPECTIVE JUROR NO. 107: That the accused have
20 too many rights?

21 MR. BROWN: No, no, no, no.

22 PROSPECTIVE JUROR NO. 107: I'm sorry.

23 MR. BROWN: I'm sorry. That younger people, you
24 know, I was using kids as an example for you, that more -- are
25 more subjected to suggestion. I mean, they're more --

1 PROSPECTIVE JUROR NO. 107: That's true.

2 MR. BROWN: -- manipulation.

3 PROSPECTIVE JUROR NO. 107: Yeah.

4 MR. BROWN: Okay. Well, how about, how about the
5 saying and maybe this you've heard of, if the police arrested
6 him, he must be guilty of something.

7 PROSPECTIVE JUROR NO. 107: No, because I think
8 everybody makes mistakes.

9 MR. BROWN: As your -- unofficially here, but has
10 your husband ever told you any mistakes he's made?

11 PROSPECTIVE JUROR NO. 107: No.

12 MR. BROWN: Okay. He just hasn't told you of
13 them. How would those that are close to you, how would they
14 describe you?

15 PROSPECTIVE JUROR NO. 107: I'm kind, I'm fair,
16 compassionate, I don't know. That's a hard question.

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

19 PROSPECTIVE JUROR NO. 107: Probably the same.

20 MR. BROWN: We're going to assume those other
21 things, but anything else?

22 PROSPECTIVE JUROR NO. 107: No.

23 MR. BROWN: Okay. When you were serving as a
24 juror in Michigan, was that a full panel of 12 people?

25 PROSPECTIVE JUROR NO. 107: Yes.

1 MR. BROWN: And you deliberated?

2 PROSPECTIVE JUROR NO. 107: Yes.

3 MR. BROWN: And it was on a DUI case, similar to
4 what Landini was doing?

5 PROSPECTIVE JUROR NO. 107: Yes. Except just
6 one. We only did one.

7 MR. BROWN: You did one, but it went from
8 start --

9 PROSPECTIVE JUROR NO. 107: Yes.

10 MR. BROWN: -- through deliberation and somebody
11 in the jury came out and rendered a verdict?

12 PROSPECTIVE JUROR NO. 107: Correct.

13 MR. BROWN: Okay. I think Mr. Landini was
14 speaking of some of them, that there was negotiations or some
15 things didn't follow through completely. While in the jury
16 room, describe that experience to me. Without telling us the
17 details of what the verdict was or anything like that, just
18 the general experience.

19 PROSPECTIVE JUROR NO. 107: You know, actually, I
20 think we were a group of people that really listened well to
21 each other, and there was a lot of discussion, a lot of going
22 over the evidence that was presented and, you know, just
23 trying to figure out where everybody stood and passing a
24 verdict.

25 MR. BROWN: Would you agree that a critically

1 important element in the jury room is mutual respect?

2 PROSPECTIVE JUROR NO. 107: Definitely.

3 MR. BROWN: That although differing, everybody's
4 opinions have some value?

5 PROSPECTIVE JUROR NO. 107: Definitely.

6 MR. BROWN: There's no place for browbeating or
7 shame or --

8 PROSPECTIVE JUROR NO. 107: Exactly.

9 MR. BROWN: -- anything like that.

10 PROSPECTIVE JUROR NO. 107: Right.

11 MR. BROWN: And you didn't experience any of
12 that?

13 PROSPECTIVE JUROR NO. 107: Nope.

14 MR. BROWN: Okay. Have you ever had any negative
15 experiences with a member of the black race?

16 PROSPECTIVE JUROR NO. 107: No.

17 MR. BROWN: Okay. Judge, pass for cause.

18 THE COURT: Thank you. Go ahead and pass the
19 microphone. Mr. Cole.

20 PROSPECTIVE JUROR NO. 092: Yes.

21 THE COURT: All right. Mr. Cole, how are you
22 doing today?

23 PROSPECTIVE JUROR NO. 092: Fine.

24 THE COURT: Is there any reason you cannot be
25 fair and impartial in this case?

1 PROSPECTIVE JUROR NO. 092: 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. 092: Yes.

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

8 PROSPECTIVE JUROR NO. 092: No.

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

11 PROSPECTIVE JUROR NO. 092: I was arrested and
12 charged with a DUI many years ago.

13 THE COURT: Okay. As a result of that, do you
14 have any strong feelings one way or the other about the police
15 or prosecutors in that case?

16 PROSPECTIVE JUROR NO. 092: No.

17 THE COURT: And would that affect your ability to
18 be fair and impartial in this case?

19 PROSPECTIVE JUROR NO. 092: No.

20 THE COURT: Have you or anyone close to you been
21 the victim of a serious crime?

22 PROSPECTIVE JUROR NO. 092: No.

23 THE COURT: Is there anything about the charges
24 in this case that would make it difficult for you to be fair
25 and impartial?

1 PROSPECTIVE JUROR NO. 092: No.

2 THE COURT: Can you base your verdict solely on
3 the evidence brought out at the trial and the law that applies
4 without fear of criticism or popular opinion?

5 PROSPECTIVE JUROR NO. 092: I can.

6 THE COURT: Have you ever served as a juror
7 before?

8 PROSPECTIVE JUROR NO. 092: I have.

9 THE COURT: How many times?

10 PROSPECTIVE JUROR NO. 092: Once.

11 THE COURT: Where was that?

12 PROSPECTIVE JUROR NO. 092: Here.

13 THE COURT: Here in Las Vegas?

14 PROSPECTIVE JUROR NO. 092: Yes.

15 THE COURT: And was that a civil or a criminal
16 case?

17 PROSPECTIVE JUROR NO. 092: Medical malpractice.

18 THE COURT: So it would be civil, okay. Now,
19 without telling us what the verdict was, did the jury reach a
20 verdict in that case?

21 PROSPECTIVE JUROR NO. 092: Yes, we did.

22 THE COURT: Was the verdict unanimous?

23 PROSPECTIVE JUROR NO. 092: Yes, it was.

24 THE COURT: Okay. Now, in a civil case, there's
25 a different burden of proof than the burden in a criminal

1 case. Would you follow my instructions in this case about
2 what the burden of proof is in this criminal case?

3 PROSPECTIVE JUROR NO. 092: Yes.

4 THE COURT: Okay. Is there anything about your
5 prior experience as a juror that would make it difficult for
6 you to serve as a fair and impartial juror in this case?

7 PROSPECTIVE JUROR NO. 092: No, I don't believe
8 so.

9 THE COURT: If you were a party to this case,
10 would you be comfortable with jurors of a like frame of mind
11 as yourself sitting in judgment?

12 PROSPECTIVE JUROR NO. 092: I would.

13 THE COURT: All right. How old are you, sir?

14 PROSPECTIVE JUROR NO. 092: Fifty-nine.

15 THE COURT: How long have you lived here?

16 PROSPECTIVE JUROR NO. 092: Fifty-four years.

17 THE COURT: Okay. Are you employed?

18 PROSPECTIVE JUROR NO. 092: Retired.

19 THE COURT: What did you do before retirement?

20 PROSPECTIVE JUROR NO. 092: Worked for Clark
21 County.

22 THE COURT: As what?

23 PROSPECTIVE JUROR NO. 092: Land surveyor.

24 THE COURT: Okay. And are you married?

25 PROSPECTIVE JUROR NO. 092: I am.

1 THE COURT: Does your wife work?

2 PROSPECTIVE JUROR NO. 092: No.

3 THE COURT: Do you have children?

4 PROSPECTIVE JUROR NO. 092: No.

5 THE COURT: What's the highest level of education
6 you completed?

7 PROSPECTIVE JUROR NO. 092: Fourteen years.

8 THE COURT: Okay. So you went to a couple years
9 of college?

10 PROSPECTIVE JUROR NO. 092: Correct.

11 THE COURT: Did you have a major in college?

12 PROSPECTIVE JUROR NO. 092: Civil Engineering.

13 THE COURT: All right. State.

14 MS. LUZAICH: Thank you. Good morning.

15 PROSPECTIVE JUROR NO. 092: Good morning.

16 MS. LUZAICH: So what did you think about your
17 prior jury service?

18 PROSPECTIVE JUROR NO. 092: It was interesting to
19 go through the legal system and find that out, but it was over
20 30 years ago, so it was a long time ago.

21 MS. LUZAICH: You probably don't remember a whole
22 lot?

23 PROSPECTIVE JUROR NO. 092: No, I don't.

24 MS. LUZAICH: When you got this summons, what did
25 you think?

1 MS. LUZAICH: Willing to listen to all the
2 evidence before you make up your mind?

3 PROSPECTIVE JUROR NO. 092: Yes.

4 MS. LUZAICH: If you were one of the jurors back
5 in the deliberation room and it's 11 to 1, what would you do?

6 PROSPECTIVE JUROR NO. 092: I would go over the
7 evidence again and talk it over, and if I was the only one
8 against it, I would have to be -- it would have to be proven
9 to me why I was wrong.

10 MS. LUZAICH: Okay. You're assuming that you're
11 wrong. Is it possible that you're right and they're wrong?

12 PROSPECTIVE JUROR NO. 092: Absolutely.

13 MS. LUZAICH: Okay. Not that there's a right or
14 wrong answer. Would you try and persuade them of your point
15 of view?

16 PROSPECTIVE JUROR NO. 092: I would point it out,
17 yes.

18 MS. LUZAICH: However, if they were able to point
19 out something that you maybe missed or some such, it's
20 possible you could change your mind?

21 PROSPECTIVE JUROR NO. 092: Yes.

22 MS. LUZAICH: But you wouldn't change it just to
23 go home on Friday at 5 to 5:00?

24 PROSPECTIVE JUROR NO. 092: No.

25 MS. LUZAICH: Okay. As a juror in the old case,

1 and I recognize that it was a long time ago, were you called
2 upon to evaluate the testimony of witnesses, or was it more of
3 just a money thing?

4 PROSPECTIVE JUROR NO. 092: What I remember, it
5 was more of a money thing.

6 MS. LUZAICH: Okay. So, in here, in a criminal
7 case, I mean, what you're going to do is evaluate the
8 testimony of witnesses and make sure people are telling the
9 truth, trying to figure out what actually happened.

10 PROSPECTIVE JUROR NO. 092: Right.

11 MS. LUZAICH: How do you think you might go about
12 doing something like that?

13 PROSPECTIVE JUROR NO. 092: Well, I think I have
14 a logical mind and I would listen to the evidence.

15 MS. LUZAICH: Okay. See how -- what one person
16 says compares to what somebody else says?

17 PROSPECTIVE JUROR NO. 092: Correct.

18 MS. LUZAICH: All right. See if they corroborate
19 each other, or?

20 PROSPECTIVE JUROR NO. 092: Right.

21 MS. LUZAICH: Okay. Having sat here for the last
22 day and a bit, is there any question that you feel that you
23 would like to answer?

24 PROSPECTIVE JUROR NO. 092: No.

25 MS. LUZAICH: Is there anything that we need to

1 know about you that we haven't asked about?

2 PROSPECTIVE JUROR NO. 092: No.

3 MS. LUZAICH: Thank you. Pass -- well, is there
4 any reason that you could not sit in judgment of someone?

5 PROSPECTIVE JUROR NO. 092: No, there's not.

6 MS. LUZAICH: And if you sat as a juror in this
7 case, if you were convinced beyond a reasonable doubt the
8 defendant committed the crimes he's charged with, would you be
9 able to say guilty?

10 PROSPECTIVE JUROR NO. 092: I could.

11 MS. LUZAICH: Thank you.

12 MR. BROWN: Thank you, Your Honor. Good morning,
13 Mr. Cole. With the land surveying and the civil engineering
14 background, I'm going to kind of stereotype you as a thinker,
15 but I don't want to sell you short. Is that accurate?

16 PROSPECTIVE JUROR NO. 092: Yes, it is.

17 MR. BROWN: And the logical mind thinking. Would
18 you consider yourself a leader or a follower, though?

19 PROSPECTIVE JUROR NO. 092: I think you can be
20 both depending on the situation.

21 MR. BROWN: Give for me an example of a time in
22 life where you may be more the leader of something.

23 PROSPECTIVE JUROR NO. 092: I was a crew leader
24 at work, so we had to make decisions in construction.

25 MR. BROWN: And you, did you supervise or you

1 were in charge of a number of individuals?

2 PROSPECTIVE JUROR NO. 092: Yes, I was.

3 MR. BROWN: Responsible for making sure that they
4 do what they're supposed to do?

5 PROSPECTIVE JUROR NO. 092: And their safety,
6 yes.

7 MR. BROWN: And their safety. And if somebody
8 didn't comply with something, were you also responsible for
9 the discipline?

10 PROSPECTIVE JUROR NO. 092: Yes, I was.

11 MR. BROWN: Okay. Did those situations ever
12 arise where somebody needed to be disciplined for something?

13 PROSPECTIVE JUROR NO. 092: Yes, they did.

14 MR. BROWN: Okay. Give me an example of a time
15 where you would consider yourself you were a follower. Other
16 than with your wife.

17 PROSPECTIVE JUROR NO. 092: I just don't really
18 like confrontations. So therefore, I try to avoid them. So
19 that makes me a follower instead of a leader.

20 MR. BROWN: Okay. But to follow up on what Ms.
21 Luzaich was talking about, and hopefully, you know, after our
22 discussions with Ms. Montgomery, we don't have a
23 confrontational situation in the deliberation room, but, you
24 know, it occurs where people have different opinions. And
25 just by the nature of the definition, it appears to be

1 confrontational. Similar to the trial itself. It is a
2 confrontational process where you confront the evidence, you
3 confront the witnesses and you question. Do you think that
4 you'll be able to take a position, if it's backed up with the
5 logic and the thinking that supports it and still be able to
6 maintain that?

7 PROSPECTIVE JUROR NO. 092: Yes, I do.

8 MR. BROWN: Okay. In, you know, these criminal
9 trials and these cases, they take on all kinds of different
10 directions, and the State puts on witnesses and they're asked
11 questions and cross-examine. And the defense has no burden
12 whatsoever. We've already talked about that and you've heard
13 all that.

14 But how do you feel, what would you feel or think
15 if Mr. Porter doesn't sit up here on this witness stand and
16 tell you, tell you his side of the story. What do you think
17 about that?

18 PROSPECTIVE JUROR NO. 092: I know its their
19 burden to prove beyond a reasonable doubt. I know that's the
20 legal system, so. I know that he has a right not to.

21 MR. BROWN: What do you feel about that right?

22 PROSPECTIVE JUROR NO. 092: That's his right.
23 That's fine.

24 MR. BROWN: And what do you feel about exercising
25 it, not doing that. I mean, what do you think about that? Do

1 you think it's a good idea, bad idea, you don't know?

2 PROSPECTIVE JUROR NO. 092: I think you've
3 mentioned it before. Some people are bad public speakers and
4 sometimes they can do more harm than good to be up there. So
5 it's a choice that you guys will have to make.

6 MR. BROWN: I mean, you want to hear his side one
7 way or another, but you understand that he -- if he doesn't
8 specifically take the stand, that you're not supposed to hold
9 that against him.

10 PROSPECTIVE JUROR NO. 092: I do understand that.

11 MR. BROWN: I mean, go with me for a second in
12 the magical world of the deliberation room, and you're in
13 there and there's the 12 of you and you're thinking and you're
14 talking about this case, and one of your fellow jurors says,
15 "He didn't even take the stand. He should have taken the
16 stand. If what you're saying is true, Mr. Cole, he should
17 have taken the stand." How do you respond to that person?

18 PROSPECTIVE JUROR NO. 092: He doesn't have to
19 take the stand. Legally he doesn't have to. It's his choice.
20 It's their burden of proof.

21 MR. BROWN: We understand, you know, we don't
22 live in a world where we can actually just start switching
23 things off. I mean, you have to put on your juror hat and
24 actually think your way through some of these things,
25 presumption of innocence, doesn't take the stand. And you

1 think you're the type of person that can not only do that, but
2 could remind fellow jurors, if they need it, that that's the
3 proper process?

4 PROSPECTIVE JUROR NO. 092: I believe so, yes.

5 MR. BROWN: Okay. Have you ever serve in the
6 military, sir?

7 PROSPECTIVE JUROR NO. 092: No.

8 MR. BROWN: Have you ever had any experiences,
9 negative, positive, one way or another with members of the
10 black race?

11 PROSPECTIVE JUROR NO. 092: No.

12 MR. BROWN: Okay. What are your feelings about
13 sitting in judgment of another person?

14 PROSPECTIVE JUROR NO. 092: I'm capable of it by
15 listening to the facts and making a rational decision.

16 MR. BROWN: Have you got a nickname?

17 PROSPECTIVE JUROR NO. 092: No.

18 MR. BROWN: We'll see if we can come up with
19 something. Pass for cause, Judge.

20 THE COURT: Thank you. Mr. Flynn.

21 PROSPECTIVE JUROR NO. 099: Yes.

22 THE COURT: How are you doing?

23 PROSPECTIVE JUROR NO. 099: Well, thank you.

24 THE COURT: Good. Is there any reason why you
25 can't be fair and impartial in this case?

1 PROSPECTIVE JUROR NO. 099: 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. 099: Yes.

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

8 PROSPECTIVE JUROR NO. 099: No.

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

11 PROSPECTIVE JUROR NO. 099: Yes.

12 THE COURT: Who's that?

13 PROSPECTIVE JUROR NO. 099: I had a DUI about 11
14 years ago.

15 THE COURT: Okay. Was that here?

16 PROSPECTIVE JUROR NO. 099: Yes.

17 THE COURT: Do you have any strong feelings one
18 way or the other about the police or prosecutors as a result
19 of that charge being brought against you here?

20 PROSPECTIVE JUROR NO. 099: I have a favorable
21 view. I did it, you know.

22 THE COURT: Okay. And so you're not going to
23 either be biased for or prejudiced against law enforcement
24 officers as a result of that experience?

25 PROSPECTIVE JUROR NO. 099: No.

1 THE COURT: And the same with prosecutors, not
2 going favor or be opposed to them because of what happened in
3 your other experience?

4 PROSPECTIVE JUROR NO. 099: No.

5 THE COURT: Okay. Have you or anyone close to
6 you been the victim of a serious crime?

7 PROSPECTIVE JUROR NO. 099: My sister was killed
8 by a drunk driver, but that was like 30 years ago, 35 years
9 ago.

10 THE COURT: Okay. And where was that?

11 PROSPECTIVE JUROR NO. 099: Apple Valley,
12 California.

13 THE COURT: Okay. And was there a prosecution of
14 the driver?

15 PROSPECTIVE JUROR NO. 099: Yeah.

16 THE COURT: There was? Okay. Anything about
17 that experience or your connection to that event that would
18 affect your ability to be fair and impartial in this case?

19 PROSPECTIVE JUROR NO. 099: No.

20 THE COURT: Okay. Is there anything about the
21 charges in this case that would make it difficult for you to
22 be fair and impartial?

23 PROSPECTIVE JUROR NO. 099: No.

24 THE COURT: Can you base your verdict solely on
25 the evidence that comes out at 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. 099: Yes.

4 THE COURT: Have you ever served as a juror
5 before?

6 PROSPECTIVE JUROR NO. 099: 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. 099: Yes.

11 THE COURT: How old are you?

12 PROSPECTIVE JUROR NO. 099: Forty-six.

13 THE COURT: How long have you lived here?

14 PROSPECTIVE JUROR NO. 099: About 16 years.

15 THE COURT: Okay. Are you employed?

16 PROSPECTIVE JUROR NO. 099: Yes, I am.

17 THE COURT: What do you do?

18 PROSPECTIVE JUROR NO. 099: I'm a salesman.

19 THE COURT: What kind?

20 PROSPECTIVE JUROR NO. 099: Interior design, a
21 flooring company.

22 THE COURT: Okay. Are you married?

23 PROSPECTIVE JUROR NO. 099: No.

24 THE COURT: Do you have children?

25 PROSPECTIVE JUROR NO. 099: Not that I'm aware

1 of.

2 THE COURT: Okay. All right, that's fair.

3 What's the highest level of education you've completed?

4 PROSPECTIVE JUROR NO. 099: High school.

5 THE COURT: Okay. State.

6 MR. BROWN: You mentioned that you, yourself, had
7 a DUI about 11 years ago?

8 PROSPECTIVE JUROR NO. 099: Yes, sir.

9 MR. TOMSHECK: And the word you used to describe
10 that, I think, was favorable; is that right?

11 PROSPECTIVE JUROR NO. 099: Yes.

12 MR. TOMSHECK: And what did you mean by
13 favorable?

14 PROSPECTIVE JUROR NO. 099: I don't think I was
15 unjustly treated and the policeman wasn't like rude to me or,
16 you know, and I did it.

17 MR. TOMSHECK: So you had a few drinks, got
18 behind the wheel, got caught and you --

19 PROSPECTIVE JUROR NO. 099: Yes.

20 MR. TOMSHECK: -- were willing to accept the
21 punishment.

22 PROSPECTIVE JUROR NO. 099: Yes.

23 MR. TOMSHECK: Because you felt, hey, I'm guilty,
24 I did it; right?

25 PROSPECTIVE JUROR NO. 099: Um-hm.

1 MR. TOMSHECK: The incident involving your sister
2 and this has got to be a record, I think it's like the fifth
3 person who's had a family member die in some kind of type of
4 criminal activity in this short panel. So same questions that
5 we asked before. I mean, you understand that that crime is
6 completely separate and apart from what Mr. Porter's facing;
7 right?

8 PROSPECTIVE JUROR NO. 099: Yes.

9 MR. TOMSHECK: Happened a long time ago. You
10 understand that that's a different kind of crime?

11 PROSPECTIVE JUROR NO. 099: Yeah, I was 14 when
12 it happened. So it's a long time ago.

13 MR. TOMSHECK: Okay. Nothing about that
14 situation at all would impact your ability to weigh the
15 evidence in this case; right?

16 PROSPECTIVE JUROR NO. 099: No.

17 MR. TOMSHECK: You're not currently married;
18 correct?

19 PROSPECTIVE JUROR NO. 099: I've never been
20 married.

21 MR. TOMSHECK: Pass for cause, Judge.

22 MR. BROWN: Morning, Mr. Flynn.

23 PROSPECTIVE JUROR NO. 099: Good morning.

24 MR. BROWN: How -- when was this DUI that you
25 picked up?

1 PROSPECTIVE JUROR NO. 099: About 11 years ago.

2 MR. BROWN: Eleven years ago, okay. With respect
3 to that whole process, and you recall your interactions with
4 the police. Is it just a patrol officer that pulled you over?

5 PROSPECTIVE JUROR NO. 099: I rear-ended
6 somebody.

7 MR. BROWN: I'm sorry?

8 PROSPECTIVE JUROR NO. 099: I rear-ended
9 somebody.

10 MR. BROWN: You got into an accident, okay. And
11 so the police officer arrives on the scene. Was anybody hurt?

12 PROSPECTIVE JUROR NO. 099: Not that I'm aware
13 of.

14 MR. BROWN: Okay. And so did he ask you any
15 questions?

16 PROSPECTIVE JUROR NO. 099: He asked me if I was
17 drinking.

18 MR. BROWN: And you, of course, told him that you
19 were and okay. But other than that, was there much of a
20 prolonged process with you, with your interaction with the
21 police officer?

22 PROSPECTIVE JUROR NO. 099: No. They took me
23 back, they gave me a Breathalyzer test, spent about eight
24 hours in jail and then I got an attorney.

25 MR. BROWN: Fair to say that the whole kind of

1 experience was scary?

2 PROSPECTIVE JUROR NO. 099: Very scary.

3 MR. BROWN: Even just your confrontation -- and
4 that's probably not the right word, your discussions with the
5 police officer, your associations, a bit intimidating?

6 PROSPECTIVE JUROR NO. 099: No.

7 MR. BROWN: You were scared?

8 PROSPECTIVE JUROR NO. 099: I was scared because
9 of what I had done, but I wasn't afraid of the policeman.

10 MR. BROWN: Okay. So he didn't -- you didn't
11 need to be questioned or interrogated? He didn't read you
12 Miranda rights or any of that stuff?

13 PROSPECTIVE JUROR NO. 099: You know, the lawyer
14 asked me that and I said I think he did, but I don't know.

15 MR. BROWN: Okay.

16 PROSPECTIVE JUROR NO. 099: It just didn't bother
17 me, because (indiscernible).

18 MR. BROWN: But it wasn't that kind of process.
19 You're like, this is easy. I drank too much, I ran into this
20 person, I'm sorry it happened.

21 PROSPECTIVE JUROR NO. 099: I wouldn't call it
22 easy.

23 MR. BROWN: Okay. All right. And I don't mean
24 to trivialize the process for you particularly in light of
25 what happened to your sister, but you didn't have a trial?

1 PROSPECTIVE JUROR NO. 099: No.

2 MR. BROWN: Okay. You ended up pleading guilty
3 and doing what they asked you to do?

4 PROSPECTIVE JUROR NO. 099: Yes.

5 MR. BROWN: Okay. You indicated that you don't
6 have any kids that you know of. With respect to that, let's
7 assume somebody walks up to you now, you know, a 17-year-old
8 young man and says, "Hey, dad, you know, I need a college
9 fund." Are you just going to assume that that person's your
10 son, or you going to ask them to provide you some level of
11 proof that that actually is the case?

12 PROSPECTIVE JUROR NO. 099: You know, I don't
13 know what I would do.

14 MR. BROWN: You mean --

15 PROSPECTIVE JUROR NO. 099: I'm going back 25
16 years when I was in the Marine Corp. And you know, different
17 countries. And I was quite a different person back then than
18 I am today.

19 MR. BROWN: That's a good point. You were a
20 young man in the Marine Corp.?

21 PROSPECTIVE JUROR NO. 099: Yes.

22 MR. BROWN: Made a lot of decisions that Mr.
23 Flynn of today probably wouldn't make?

24 PROSPECTIVE JUROR NO. 099: Yes.

25 MR. BROWN: In looking back, you realize that at

1 that particular age, you know, it's a different world. You
2 know, we're not as responsible, we're not as conscientious.
3 We just do -- self-preservation and survival is kind of one of
4 the things that we're operating under.

5 PROSPECTIVE JUROR NO. 099: I look back and I was
6 just irresponsible.

7 MR. BROWN: Irresponsible, stupid kid. Different
8 person. Okay. I think everybody in this room probably can do
9 that to at least a couple of experiences in their life. How
10 would someone who knows you now would describe you to me, now?

11 PROSPECTIVE JUROR NO. 099: Funny, generous and a
12 very, very good salesperson.

13 MR. BROWN: Okay. How would you describe
14 yourself?

15 PROSPECTIVE JUROR NO. 099: A very good
16 salesperson.

17 MR. BROWN: Okay. Not so funny?

18 PROSPECTIVE JUROR NO. 099: And funny.

19 MR. BROWN: Okay.

20 PROSPECTIVE JUROR NO. 099: Not so much today,
21 though, I'm not funny.

22 MR. BROWN: Well, no. There's a right time and
23 place, huh. Would you characterize yourself as a more thinker
24 type or feeler?

25 PROSPECTIVE JUROR NO. 099: I'm definitely a

1 thinker.

2 MR. BROWN: And what about leader or follower?

3 PROSPECTIVE JUROR NO. 099: Both right now.

4 MR. BROWN: Both right now? Give me an example,
5 as I've asked others, of a time when you were -- you had a
6 leadership type of obligation.

7 PROSPECTIVE JUROR NO. 099: The last ten years,
8 I've been manager of carpet stores. I set the tone on dress
9 code, had a sale, had to talk to customers, had to handle
10 problems. I've worked at a different company now for two
11 years. There was a nice lady that I worked with, but now she
12 is the manager. And I'm trying to -- I told her, however you
13 want the store, it's got to be done your way. I don't want to
14 fight with her on it or, you know, I just -- she's the
15 manager, so I'm more of a follower now.

16 MR. BROWN: Okay. I understand. So you take
17 what the situation calls for. So if you're selected as a
18 juror in this room, and your fellow jurors think that you
19 might be the foreman that they want to elect, you could take
20 on the leadership role. But if somebody might be the foreman
21 or better suited for it, then you could be maybe a follower
22 type role?

23 PROSPECTIVE JUROR NO. 099: Yes.

24 MR. BROWN: And I don't know it necessarily mean
25 that jurors are followers. It's just one person has to have

1 the command. Everybody's opinion is independently important;
2 you realize that?

3 PROSPECTIVE JUROR NO. 099: Yes.

4 MR. BROWN: Okay. What do you think if Mr.
5 Porter never gets on the witness stand and tells you what
6 happened?

7 PROSPECTIVE JUROR NO. 099: I don't have a feel
8 one way or the other.

9 MR. BROWN: Do you think it's something that
10 might affect how you evaluate the evidence later?

11 PROSPECTIVE JUROR NO. 099: No.

12 MR. BROWN: How do you feel about the saying if
13 the police arrested him, he must be guilty?

14 PROSPECTIVE JUROR NO. 099: No, not necessarily
15 true.

16 MR. BROWN: You were guilty. But that doesn't
17 mean that everybody who gets arrested is automatically guilty
18 of what they arrest him for?

19 PROSPECTIVE JUROR NO. 099: That's correct.

20 MR. BROWN: Okay. Your Honor, I have no further
21 questions. I pass.

22 THE COURT: Thank you. Pass the mic. How do you
23 pronounce your last name?

24 PROSPECTIVE JUROR NO. 065: Hidrosollo.

25 THE COURT: Hidrosollo. All right. Ms.

1 Hidrosollo, how are you doing today?

2 PROSPECTIVE JUROR NO. 065: Good, Your Honor.

3 THE COURT: Is there any reason why you could not
4 be completely fair and impartial in this case?

5 PROSPECTIVE JUROR NO. 065: No.

6 THE COURT: Can you wait in forming your opinion
7 on the appropriate result until all the evidence has been
8 heard?

9 PROSPECTIVE JUROR NO. 065: Yes.

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

12 PROSPECTIVE JUROR NO. 065: No, but I work at UMC
13 emergency room.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 065: And everyday I
16 encounter police officer.

17 THE COURT: Sure.

18 PROSPECTIVE JUROR NO. 065: Inmates, so this is
19 every day.

20 THE COURT: Sure. Okay. Do you think that your
21 interactions with the police or with inmates would affect your
22 ability to be fair and impartial in this case?

23 PROSPECTIVE JUROR NO. 065: No.

24 THE COURT: You're not going to tend to give
25 greater or lesser weight to one side or the other because of

1 that?

2 PROSPECTIVE JUROR NO. 065: No.

3 THE COURT: You'd be able to base your decision
4 on the evidence that's presented here in the courtroom?

5 PROSPECTIVE JUROR NO. 065: Yes.

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

8 PROSPECTIVE JUROR NO. 065: My nephew, DUI.

9 THE COURT: Okay. How long ago was that?

10 PROSPECTIVE JUROR NO. 065: Four years ago.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NO. 065: He lost his job, his
13 wife, and he's back in the Philippines.

14 THE COURT: Wow.

15 PROSPECTIVE JUROR NO. 065: He got depressed.

16 THE COURT: Because of the DUI? Did he injure
17 somebody?

18 PROSPECTIVE JUROR NO. 065: No.

19 THE COURT: No.

20 PROSPECTIVE JUROR NO. 065: He can't drive, so he
21 can't --

22 THE COURT: He lost his license, I see. Okay.
23 And do you feel -- how do you feel about the way the police
24 handled that DUI situation?

25 PROSPECTIVE JUROR NO. 065: Well, I didn't know

1 until, you know, I asked him why he went back to the
2 Philippines.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 065: He didn't tell me.

5 THE COURT: Okay. Do you have a feeling about
6 whether the police acted appropriately or inappropriately in
7 that circumstance?

8 PROSPECTIVE JUROR NO. 065: Probably.

9 THE COURT: Which way?

10 PROSPECTIVE JUROR NO. 065: They probably did
11 their -- the right thing.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 065: I been at work, you
14 know, there's some good guys and bad guys.

15 THE COURT: Right. So although that DUI charge
16 had a significant impact on this person in your family, you're
17 not going to hold that against the police or prosecutors here?

18 PROSPECTIVE JUROR NO. 065: No.

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

21 PROSPECTIVE JUROR NO. 065: No.

22 THE COURT: Is there anything about the charges
23 in this case that would make it difficult for you to be fair
24 and impartial?

25 PROSPECTIVE JUROR NO. 065: I just don't like to

1 put people down.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 065: For me, everybody has
4 a chance to improve.

5 THE COURT: Right.

6 PROSPECTIVE JUROR NO. 065: Or change. So I
7 don't want to say to somebody guilty.

8 THE COURT: You don't? Now, what if the evidence
9 that's presented --

10 PROSPECTIVE JUROR NO. 065: Unless I see it in
11 front of me.

12 THE COURT: Okay. So if you see the evidence,
13 and the evidence convinces you that beyond a reasonable doubt,
14 would you, then, be comfortable rendering that verdict?

15 PROSPECTIVE JUROR NO. 065: Maybe.

16 THE COURT: Maybe. So, it's going to be
17 important as a juror. You need to be able to follow my
18 instructions on the law. And that will include that if the
19 particular crimes charged are proven beyond a reasonable
20 doubt, then you are to find guilty. Can you do that?

21 PROSPECTIVE JUROR NO. 065: It's going to be
22 hard, but I guess I will.

23 THE COURT: Why is it hard?

24 PROSPECTIVE JUROR NO. 065: Well, I'm a very
25 soft, kindhearted person, religious. And I don't like these

1 murder cases. I don't want to put people, you know, to say
2 guilty.

3 THE COURT: Okay. Now --

4 PROSPECTIVE JUROR NO. 065: I'm very religious.

5 THE COURT: Very religious, okay. Do you have
6 any children?

7 PROSPECTIVE JUROR NO. 065: Yes, three boys.

8 THE COURT: Three boys. And were there times
9 that your boys did things they weren't supposed to do?

10 PROSPECTIVE JUROR NO. 065: They're all good
11 boys.

12 THE COURT: Well, I didn't mean to imply that
13 they weren't.

14 PROSPECTIVE JUROR NO. 065: They don't swear or
15 curse.

16 THE COURT: Okay. Did they ever hit each other?

17 PROSPECTIVE JUROR NO. 065: No, not really.

18 THE COURT: No. Did they ever take snacks when
19 they weren't supposed to?

20 PROSPECTIVE JUROR NO. 065: Yeah.

21 THE COURT: Okay. Did you ever punish them for
22 anything they did wrong, that violated the rules they were
23 supposed to follow?

24 PROSPECTIVE JUROR NO. 065: Not too bad. Just,
25 they're not cleaning their rooms.

1 THE COURT: Okay. So if they didn't clean their
2 rooms, did you punish them in some way for that?

3 PROSPECTIVE JUROR NO. 065: They don't get no
4 allowance.

5 THE COURT: Okay. All right. So that was a
6 punishment. And you were comfortable imposing the punishment
7 because they didn't do what they were suppose to do; right?

8 PROSPECTIVE JUROR NO. 065: Yes.

9 THE COURT: Okay. Now, obviously, this is a much
10 more serious situation here. But, well, we have a system
11 where the defendant is presumed innocent as he sits here
12 today; you understand that?

13 PROSPECTIVE JUROR NO. 065: Yes.

14 THE COURT: Okay. And it's the State's burden to
15 present evidence here in this courtroom that will try and
16 convince you beyond a reasonable doubt that the defendant is
17 guilty of those charges. Now, if you were convinced that
18 that's the case, would you be able to find him guilty?

19 PROSPECTIVE JUROR NO. 065: They really have to
20 prove it.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NO. 065: I really have to --

23 THE COURT: It's a tough burden, and you need to
24 hold them to that burden. But if they meet the burden, would
25 you be able to render the verdict?

1 PROSPECTIVE JUROR NO. 065: Yes.

2 THE COURT: Now, on the other hand, if they don't
3 meet that burden, you'd be required to find the defendant not
4 guilty. Would you be able to do that?

5 PROSPECTIVE JUROR NO. 065: Yes.

6 THE COURT: Can you base your verdict solely on
7 the evidence that's brought out at the trial and the law that
8 applies as stated in my instructions without fear of criticism
9 or popular opinion?

10 PROSPECTIVE JUROR NO. 065: Yes.

11 THE COURT: Have you ever served as a juror
12 before?

13 PROSPECTIVE JUROR NO. 065: No.

14 THE COURT: If you were a party to this case,
15 would you be comfortable with jurors of a like frame of mind
16 as yourself sitting in judgment?

17 PROSPECTIVE JUROR NO. 065: Well, I'm not
18 comfortable sitting in court.

19 THE COURT: Not comfortable.

20 PROSPECTIVE JUROR NO. 065: I use to do a sexual
21 assault examiner.

22 THE COURT: Uh-huh.

23 PROSPECTIVE JUROR NO. 065: And I stopped that
24 because, you know, you have to go to court and I don't like
25 that.

1 THE COURT: Right. You had to testify? Or did
2 you ever have to testify?

3 PROSPECTIVE JUROR NO. 065: No. I was just in
4 training and I have to follow somebody, so --

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NO. 065: -- and I see them.
7 You know, I saw what they're doing, so I didn't pursue that
8 course.

9 THE COURT: I see. You decided not to pursue
10 that career because you didn't want to have to testify.

11 PROSPECTIVE JUROR NO. 065: Right.

12 THE COURT: Okay. I understand. Right. It can
13 be stressful to have to come into court and testify; right?

14 PROSPECTIVE JUROR NO. 065: Yes.

15 THE COURT: Okay. Okay. Right. So the
16 courtroom, you know, for most people, obviously, most of you
17 aren't in a courtroom most of the time. And so it's not a
18 comfortable place for you. We understand that. But you'd be
19 able to follow my instructions on the law and listen to the
20 evidence and weigh it to come to a verdict, though?

21 PROSPECTIVE JUROR NO. 065: Yes, ma'am.

22 THE COURT: Okay. How old are you, ma'am?

23 PROSPECTIVE JUROR NO. 065: Fifty-six.

24 THE COURT: Okay. And how long have you lived
25 here in Clark County?

1 PROSPECTIVE JUROR NO. 065: Thirty years.

2 THE COURT: And are you working at UMC now?

3 PROSPECTIVE JUROR NO. 065: Yes. Emergency room.

4 THE COURT: Emergency room nurse?

5 PROSPECTIVE JUROR NO. 065: Yeah.

6 THE COURT: Okay. Are you married?

7 PROSPECTIVE JUROR NO. 065: Yes.

8 THE COURT: Does your husband work?

9 PROSPECTIVE JUROR NO. 065: He manage a gift
10 store.

11 THE COURT: Okay. Do you have children? You
12 told me you did. How old are the children?

13 PROSPECTIVE JUROR NO. 065: My oldest is 28, 25
14 and 23.

15 THE COURT: And what do they do for a living?

16 PROSPECTIVE JUROR NO. 065: Two has lost their
17 job, so they're a full-time student.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 065: And the other one
20 works as a graphic designer.

21 THE COURT: What's the highest level of education
22 that you've completed?

23 PROSPECTIVE JUROR NO. 065: Nursing.

24 THE COURT: Nursing degree, right. Okay. State.

25 MS. LUZAICH: Morning, ma'am. You said that

1 you're kind and softhearted and religious. Meaning no
2 disrespect whatsoever, does your religion prevent you in
3 anyway from sitting in judgment or from being able to sit in
4 judgment?

5 PROSPECTIVE JUROR NO. 065: No.

6 MS. LUZAICH: Then, I mean, when you talk about
7 not being comfortable doing that, why do you say religious?

8 PROSPECTIVE JUROR NO. 065: I go to church every
9 Sunday. I have a devotion to Mary that I do every Wednesday.
10 We pray rosary almost every night with the family.

11 MS. LUZAICH: How does that affect your ability
12 to sit as a juror in a case like this?

13 PROSPECTIVE JUROR NO. 065: I just don't want to
14 put people, say guilty.

15 MS. LUZAICH: Like I said before, I don't mean to
16 beat a dead horse, but why?

17 PROSPECTIVE JUROR NO. 065: Because for me,
18 everybody, you know, has a chance to improve or change.

19 MS. LUZAICH: Right. And absolutely in the
20 future, people can change their ways and improve their
21 lifestyle and whatnot.

22 PROSPECTIVE JUROR NO. 065: If they brought up
23 the right way, they should put them (indiscernible).

24 MS. LUZAICH: Right. But when people do bad
25 things, shouldn't they be held accountable?

1 PROSPECTIVE JUROR NO. 065: Yes.

2 MS. LUZAICH: And here, the way we hold people
3 accountable is we come to court and we let a jury decide
4 whether or not they did what we say they did. So, what's
5 going to happen if you sit as a juror in this case? Are you
6 going to go back in the deliberation room, and then what?

7 PROSPECTIVE JUROR NO. 065: Well, if I'm forced
8 to do it, I will.

9 MS. LUZAICH: Nobody wants to force you to do
10 anything.

11 PROSPECTIVE JUROR NO. 065: Well, as a citizen,
12 you know, you have to be here. That's why I'm here.

13 MS. LUZAICH: Right. You believe in your civic
14 duty.

15 PROSPECTIVE JUROR NO. 065: Yes.

16 MS. LUZAICH: Do you vote?

17 PROSPECTIVE JUROR NO. 065: Yes.

18 MS. LUZAICH: So if you do get selected to sit on
19 this jury and you go back in the deliberation room, are you
20 going to participate in deliberations?

21 PROSPECTIVE JUROR NO. 065: Yes.

22 MS. LUZAICH: And if you listen to evidence, and
23 you watch all the things that come in, would you be able to
24 say guilty if you were convinced?

25 PROSPECTIVE JUROR NO. 065: It's going to be

1 hard, but I will.

2 MS. LUZAICH: How hard?

3 PROSPECTIVE JUROR NO. 065: They have to show a
4 lot of evidence and prove.

5 MS. LUZAICH: Okay. The Judge is going to read
6 you an instruction that defines reasonable doubt for you. And
7 I absolutely expect you to hold us to that standard. But are
8 you going to hold us to a higher standard because of your
9 discomfort?

10 PROSPECTIVE JUROR NO. 065: Maybe.

11 MS. LUZAICH: I would challenge.

12 MR. BROWN: Judge, I don't think -- how could she
13 hold her to a higher standard when she doesn't know the
14 standard? If she doesn't -- you know, she has not been
15 instructed and you don't discuss reasonable doubt, so her
16 standard that she's saying might actually be lower than the
17 reasonable doubt standard. So I think it's an inappropriate
18 challenge for cause.

19 THE COURT: Right. Well --

20 PROSPECTIVE JUROR NO. 065: That's why I said
21 maybe.

22 THE COURT: Okay. So the question, ma'am, is,
23 you know, it's going to be important, and you'll be obligated
24 as a juror to follow my instructions as the law. That's going
25 to be part of your oath as a juror.

1 PROSPECTIVE JUROR NO. 065: Yes.

2 THE COURT: So if I tell you, this is what it
3 means to prove someone guilty beyond a reasonable doubt, and
4 this is what we mean when we say guilty beyond a reasonable
5 doubt. Would you follow that instruction?

6 PROSPECTIVE JUROR NO. 065: Yes.

7 THE COURT: And if that burden was met, you would
8 be able to find the defendant guilty?

9 PROSPECTIVE JUROR NO. 065: Yes.

10 THE COURT: And if the burden wasn't met, you'd
11 be able to find the defendant not guilty?

12 PROSPECTIVE JUROR NO. 065: Yes.

13 THE COURT: Okay. I'm going to deny the
14 challenge.

15 MS. LUZAICH: Are you the kind of person who very
16 carefully weighs everything before you make a decision about
17 something, or do you just, ooh, I see it, I like it, I want it
18 and don't bother weighing the options?

19 PROSPECTIVE JUROR NO. 065: I still have the same
20 purse.

21 MS. LUZAICH: So you weigh things carefully both
22 ways?

23 PROSPECTIVE JUROR NO. 065: (No audible response)

24 MS. LUZAICH: As a nurse at UMC, you see a lot of
25 trauma patients?

1 PROSPECTIVE JUROR NO. 065: No, we have the
2 trauma.

3 MS. LUZAICH: Okay. So you're just emergency
4 room?

5 PROSPECTIVE JUROR NO. 065: Yes.

6 MS. LUZAICH: You talked about being a sexual
7 assault nurse for a while. Or just training?

8 PROSPECTIVE JUROR NO. 065: I did the training.

9 MS. LUZAICH: But that was too stressful? The
10 idea of having --

11 PROSPECTIVE JUROR NO. 065: Right.

12 MS. LUZAICH: -- to go to court.

13 PROSPECTIVE JUROR NO. 065: I did. I met Debbie
14 Love. We have a lot of, you know, the one that was mentioned.

15 MS. LUZAICH: Could we approach?

16 THE COURT: Yes.

17 (Bench conference began)

18 THE COURT: Okay. I didn't hear her. She just
19 said that she met --

20 MR. TOMSHECK: It's the sexual assault detective.

21 THE COURT: The sexual assault detective.

22 MR. TOMSHECK: She probably (inaudible).

23 THE COURT: So she probably knows that he's a
24 sexual assault offender.

25 MS. LUZAICH: I don't know which one Debbie Love

1 is. She just said, I met Debbie Love.

2 THE COURT: You know, which of course, you didn't
3 ask. (Inaudible).

4 MS. LUZAICH: Yeah, I mean --

5 MR. TOMSHECK: Well, we're probably not going to
6 call her so it will be a non-issue. Our concern for the same
7 reasons for yesterday. Find out more about how she knows her
8 and what she knows about her.

9 MS. LUZAICH: Because she was in training to be a
10 sexual assault nurse and she met Debbie Love, the sexual
11 assault detective. That's where I stopped.

12 THE COURT: Right. So will she put it together
13 that, you know, there was a sexual -- it's sexual assault
14 nurse -- or a detective who's on the witness list.

15 MS. LUZAICH: Well, she's a detective, Debbie
16 Love, who's the detective.

17 THE COURT: The person -- she's a detective,
18 okay. And that person is coming in and testifying, or may
19 come and testify?

20 MS. LUZAICH: Well, we're not sure she's --

21 THE COURT: May come and testify.

22 MR. BROWN: She might not come in and testify,
23 but her name may be mentioned.

24 MS. LUZAICH: It did yesterday.

25 THE COURT: I mean, right, it was on the list.

1 Okay. And --

2 MS. LUZAICH: She's the one that collected his
3 buccal. That's the problem.

4 THE COURT: Okay.

5 MR. BROWN: So what do you want to do? Do you
6 want to talk to her more later on?

7 THE COURT: I mean, we can question her up here
8 perhaps rather than in front of everybody.

9 MR. BROWN: Yeah. Or we can pass on her for now
10 and whenever you take your break, she can stick around for a
11 couple of minutes and we'll ask her some questions, you know.

12 MR. TOMSHECK: I prefer to do that rather than at
13 the bench because I don't think she probably whispers.

14 MS. LUZAICH: Yeah.

15 THE COURT: Apparently we don't either. Okay.

16 MR. BROWN: (Inaudible).

17 THE COURT: Well, then finish your questioning on
18 whatever other matters you have and then we'll just --
19 whenever we do take a break, we'll take up that issue
20 separately.

21 MR. BROWN: And you can tell her (inaudible).

22 THE COURT: And what's the name?

23 MS. LUZAICH: Debbie Love.

24 THE COURT: Okay.

25 MR. TOMSHECK: She knows she's an SA nurse.

1 MR. ABOOD: (Inaudible) you can say, you know,
2 you've identified a witness who's on the witness list without
3 mentioning it's a sexual assault detective.

4 THE COURT: Oh, yeah.

5 MR. ABOOD: And let the other jurors know, you
6 know, that we just need to ask her about how she knows that
7 witness.

8 MS. LUZAICH: We know how she knows the witness.
9 She told us.

10 THE COURT: She said when she was training to be
11 a sexual assault nurse, that's how. She just blurted it out.

12 MR. TOMSHECK: I don't think you want somebody --

13 MR. BROWN: Yeah, I don't (Inaudible).

14 THE COURT: I wouldn't say anything about that in
15 front of everybody. I'll just ask her to stay behind a
16 second. Okay. All right. So -- but finish your questioning
17 on other matters with her.

18 (Bench conference concluded)

19 MS. LUZAICH: So if you were me, representing the
20 State of Nevada in a case where we're prosecuting somebody for
21 murder, would you want you to serve on this jury?

22 PROSPECTIVE JUROR NO. 065: No. If I have a
23 choice, then no.

24 MS. LUZAICH: Okay. Thank you.

25 THE COURT: Okay. Counsel.

1 MR. ABOOD: Thank you, Your Honor. Thank you for
2 your patience, Your Honor.

3 THE COURT: Sure.

4 MR. ABOOD: Good morning, ma'am.

5 PROSPECTIVE JUROR NO. 065: Morning, sir.

6 MR. ABOOD: My -- the sense that I get is that
7 this just isn't easy for you; is that right?

8 PROSPECTIVE JUROR NO. 065: Exactly.

9 MR. ABOOD: And, I mean, do you feel like it's
10 supposed to be easy? I mean, is something like this supposed
11 to be easy?

12 PROSPECTIVE JUROR NO. 065: No, sir.

13 MR. ABOOD: Okay. So, I mean, it's okay that you
14 have these feelings that you do that you want to make sure you
15 get it right; am I --

16 PROSPECTIVE JUROR NO. 065: Yes.

17 MR. ABOOD: Okay. Now, you're the only one who
18 can decide whether or not you get it right. Is that also
19 fair?

20 PROSPECTIVE JUROR NO. 065: Yes, sir.

21 MR. ABOOD: Okay. And you just want to make sure
22 that you do everything you can to make sure that if you have
23 to judge someone else, that you do it properly; fair?

24 PROSPECTIVE JUROR NO. 065: Right.

25 MR. ABOOD: And next week, you'll still be proud

1 of the decision that you made; is that right?

2 PROSPECTIVE JUROR NO. 065: Yes, sir.

3 MR. ABOOD: Okay. Under those circumstances,
4 knowing that you're in charge, does it become a little bit
5 more palpable for you? I mean, can you do it understanding
6 that?

7 PROSPECTIVE JUROR NO. 065: Yes, sir.

8 MR. ABOOD: Okay. All right. And you know, it's
9 not going to be easy for anybody, okay?

10 PROSPECTIVE JUROR NO. 065: I understand.

11 MR. ABOOD: All right. You've never had to
12 evaluate the facts about the killing of a human being before
13 obviously.

14 PROSPECTIVE JUROR NO. 065: No.

15 MR. ABOOD: Okay. And --

16 PROSPECTIVE JUROR NO. 065: I don't watch news, I
17 don't read the papers.

18 MR. ABOOD: No, I understand. Do you -- I mean,
19 do you get the idea that maybe everybody else on the jury
20 might be in the same position you are? Maybe they've never
21 had to do something like this either.

22 PROSPECTIVE JUROR NO. 065: Yes.

23 MR. ABOOD: So -- I mean, it's new for everybody
24 to some extent.

25 PROSPECTIVE JUROR NO. 065: Yes.

1 MR. ABOOD: Okay. Now, are you looking forward
2 to understanding what the laws are before you decide what
3 someone is guilty of?

4 PROSPECTIVE JUROR NO. 065: Yes.

5 MR. ABOOD: So that's something that you can do?

6 PROSPECTIVE JUROR NO. 065: Yes, sir.

7 MR. ABOOD: Okay. Now, you don't strike me as
8 someone who's going to make a rash decision. Am I right about
9 that? Do you understand what I'm saying?

10 PROSPECTIVE JUROR NO. 065: Not really.

11 MR. ABOOD: Well, you know, a couple of very nice
12 people here, we've known them for a long time. You know, it's
13 easy to throw your hands up and say, well, these folks say he
14 did it, he must have done it. I mean, that's kind of a rash
15 decision. That's not who you are?

16 PROSPECTIVE JUROR NO. 065: No.

17 MR. ABOOD: Okay. Now, let me just ask you one
18 more question, ma'am. Mr. Porter, our client, I mean, do you
19 feel like he's entitled to people like you, for example, on
20 his jury? I mean, people who have reservations and who know
21 that this is serious. I mean, do you think that maybe he's
22 entitled to someone like you?

23 PROSPECTIVE JUROR NO. 065: Yes.

24 MR. ABOOD: Okay. Thank you very much. I'm
25 going to pass for cause, Your Honor.

1 THE COURT: Okay. Thank you. Go ahead and pass
2 the microphone. Ms. Luce?

3 PROSPECTIVE JUROR NO. 067: That's correct.

4 THE COURT: How you doing today?

5 PROSPECTIVE JUROR NO. 067: I'm fine, thank you.

6 THE COURT: Is there any reason why you could not
7 be a completely fair and impartial juror in this case?

8 PROSPECTIVE JUROR NO. 067: No.

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. 067: Yes.

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

15 PROSPECTIVE JUROR NO. 067: Yes.

16 THE COURT: Who's that?

17 PROSPECTIVE JUROR NO. 067: My dad, my ex-husband
18 and his dad and my mother. And I have an acquaintance that's
19 a homicide detective here in Vegas.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NO. 067: We're not really
22 close.

23 THE COURT: Okay. But that acquaintance wasn't
24 one of the individuals identified?

25 PROSPECTIVE JUROR NO. 067: Don't believe I heard