

1 telephone number and give them to the jury commissioner
2 downstairs and then we will review those tomorrow and maybe
3 you can call in, those of you that have that kind of
4 problem, but it has to be a compelling problem why you could
5 not sit as jurors between now and the 27th of September.

6 So, ladies and gentlemen of the prospective
7 jury panel, badge numbers 101 and above, you are hereby
8 excused from these proceedings until tomorrow at the hour
9 of 2:00. We will be at ease while you depart the confines
10 of the courtroom.

11 (Off the record discussion not reported.)

12 THE COURT: Do we have any sitting area left
13 over at this point? No.

14 All right, what I'm going to do then is
15 who's got the lowest juror number here?

16 (Off the record discussion not reported.)

17 THE COURT: Just to make sure, 91 and above
18 are excused under the conditions I have just mentioned. 91
19 and above.

20 All right, the parties have announced ready
21 to proceed. Ladies and gentlemen of the prospective jury
22 panel, my name is Bill Maupin. I'm the District Court
23 Judge here in Department VII. I will be the presiding
24 judge in this trial.

25 In this case, the State of Nevada has

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1 brought charges against Mr. William Patrick Castillo
2 charging him with conspiracy to commit burglary and/or
3 robbery, burglary, robbery, victim 65 years of age or
4 older, murder with use of a deadly weapon, conspiracy to
5 commit burglary and arson, and first degree arson, all of
6 which are felonies under the laws of the State of Nevada.
7 This is a jury trial to determine whether or not the State
8 can establish beyond a reasonable doubt the charges against
9 this defendant.

10 The courthouse staff that you will be
11 dealing with this morning are the bailiff, Mr. Roy Burrell,
12 who is in the back of the room. If you have any
13 communications you need to make to the Court, you should
14 make those communications through Mr. Burrell.

15 The deputy court clerk is Ms. Tina Hurd.
16 She is the officer of the Court charged with the keeping of
17 the jury list, making the minutes of the Court, the
18 ministerial processes of admitting and marking evidentiary
19 exhibits and the like.

20 The court reporter today is Ms. Patsy
21 Smith. She is taking down everything that is being said
22 stenographically and, as I indicated before, the attorneys
23 for the State of Nevada are Mr. Stewart Bell and Mr. Mel
24 Harmon. The defense attorneys are Mr. Peter LaPorta and
25 Mr. David Schieck.

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1 By now, I think you figured out whoever
2 designed this courtroom had never sat through a jury
3 trial. Otherwise, they would not have designed it like
4 this. So please understand that we understand that, from
5 time to time, you may need to stand up or stretch,
6 particularly those of you sitting on the wooden benches.
7 You will not bother us in the slightest if you feel the
8 need to do that or get up and use the facilities during the
9 jury selection process unless you are sitting actually in
10 the box during individual voir dire.

11 A couple of points for all of you, just in
12 terms of some reminders. It is a fact of life in this
13 courthouse that we will not be starting trial proceedings
14 until usually after 10:00 in the morning. That's because
15 we have law and motion calendars in both civil and criminal
16 cases which we resolve preliminary matters of all kinds.
17 We have to get through those calendars before we can
18 actually start trial proceedings. So we will not actually
19 be starting trial proceedings until usually after 10:00 in
20 the morning. I will be making whatever attempts I can to
21 expedite those calendars in the morning so that we can get
22 started as soon as we possibly can.

23 So there will be some delays in getting
24 started in the morning. There will be delays during the
25 day. There will be recesses, we will take breaks. There

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1 will be also times when the attorneys will be meeting with
2 me outside your presence to set that day's order of battle
3 in terms of which witnesses will be called, what
4 accommodations we have to make for them, and the like.

5 Often times we will also be meeting outside
6 your presence to resolve legal issues as the time comes
7 up. As the trial goes on, it's important that we do that
8 so that the evidence you have received in this trial is
9 legally admissible evidence. So I would recommend that you
10 bring a book, magazine, work from work, work from home,
11 something to abide your time during the down times.

12 We won't be having long side bar discussions
13 like in the recent proceedings in the State of California,
14 but it will help you if you do bring something like that
15 with you. It will help the time pass better. It will keep
16 you more alert unless you want to go downstairs and watch
17 daytime television or work the puzzles that don't have all
18 the pieces in them. So that's just a word of advice.

19 Also, please try to eat light at lunch. I
20 know that sounds kind of fanciful, but the fact of the
21 matter is about 3:45, 4:00, we have a nap going on in the
22 jury box. Cases are not as interesting at times as others
23 and lawyers sometimes aren't as interesting as they might
24 be at other times, but please eat light at lunch.

25 Try to remain as alert as you can. It's

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1 very embarrassing for the bailiff to come and ask you to
2 rejoin us during the sessions. Also, it's very
3 embarrassing for the attorneys, who have worked very hard
4 to get the case to trial, and if you fall asleep while they
5 are talking or asking questions, they will have to know for
6 the rest of their lives that they were so interesting and
7 persuasive and provocative, that they stuck anesthetic in
8 the jury.

9 So with that in mind, it is important that
10 you remain as alert as possible. These are very important
11 proceedings to the State of Nevada and to the defense. The
12 jury system in this country is the highest form of dispute
13 resolution that we have. This is a dispute between the
14 State of Nevada and this defendant. The burdens are all in
15 place. You will be instructed on the law that applies to
16 the case and, in a few minutes, I will go through some
17 preliminary instructions, but what we ask that you do first
18 and foremost is to pay the same kind attention and respect
19 to these proceedings as you would like to have paid to one
20 of your own, if you were involved in a proceeding of this
21 type or of any type.

22 So with that in mind, I would ask at this
23 time whether either of the parties desire to present a
24 challenge to the prospective jury panel as a whole?

25 MR. BELL: The State does not, your Honor.

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1 MR. LaPORTA: Defense does not, your Honor.

2 THE COURT: All right, thank you.

3 At this time I would ask the Deputy District
4 Attorney or District Attorney to stand, introduce his
5 colleague, make a brief statement of the nature of the
6 action, and identify the list of witnesses that the State
7 intends to call in support of the State's case.

8 MR. HARMON: I will do that, your Honor.

9 THE COURT: Thank you, Mr. Harmon.

10 MR. HARMON: Good afternoon, ladies and
11 gentlemen.

12 My name is Mel Harmon. I'm the Deputy
13 District Attorney employed by the Clark County District
14 Attorney's Office. My partner in this case is Mr. Stewart
15 Bell, the District Attorney of Clark County.

16 This is a criminal case, as the Court has
17 informed you. The Court has also explained the various
18 crimes that the State charges Mr. William Castillo with
19 committing. The offenses occurred early Sunday morning on
20 December the 17th, 1995 at the residence located at 13
21 North Yale Street. That is somewhere near the Expressway
22 and Decatur Boulevard for your frame of reference. The
23 victim was an 86 year old woman who lived at 13 North
24 Yale. Her name is Isabel Berndt, B-E-R-N-D-T.

25 The State will call witnesses from among the

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1 following persons: Kathy Adkins, employed by the Las Vegas
2 Metropolitan Police Department, Michael Bechler,
3 B-E-C-H-L-E-R, also of Metro, Tammy Jo Bryant, B-R-Y-A-N-T,
4 Las Vegas, Robert Bucklin, B-U-C-K-L-I-N of the Coroner
5 Medical Examiner's Office, Jeff Donovan, Las Vegas, William
6 Gazza, G-A-Z-Z-A, also of the coroner's office, Joseph
7 Giles, Las Vegas, Scott Hardy, Metropolitan Police
8 Department, Ken Hefner of the Metropolitan Police
9 Department, Ben Hoge, H-O-G-E, Las Vegas Fire Department,
10 Jean Marie Hosking, H-O-S-K-I-N-G, Granada Hills,
11 California, Sean Houtrouw, H-O-U-T-R-O-U-W, of the F.B.I.,
12 Robert Jordan, Dr. Robert Jordan of the Coroner Medical
13 Examiner's Office, Harry Kumma, K-U-M-M-A, Las Vegas,
14 Nevada, Donald Larson, dentist practicing in Las Vegas,
15 Thomas Lau, L-A-U, Metropolitan Police Department, Charles
16 McDonald, Las Vegas, Cliff Mitchell, Las Vegas Fire
17 Department, Dwayne Morgan, Metropolitan Police Department,
18 Nick Nordblom, N-O-R-D-B-L-O-M, Las Vegas Fire Department,
19 Sheree Norman, Metropolitan Police Department, Kirk
20 Rasmussen, R-A-S-M-U-S-S-E-N, Las Vegas, Gary Reed,
21 R-E-E-D, Metropolitan Police Department, John Russo,
22 R-U-S-S-O, Las Vegas, Steve Scarborough,
23 S-C-A-R-B-O-R-O-U-G-H, Metropolitan Police Department, Meg
24 Sharbach, S-H-A-R-B-A-C-H, Las Vegas, Donald Tremel,
25 T-R-E-M-E-L, Metropolitan Police Department, Dwayne Wright,

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1 Las Vegas, Kathy Atiyeh, A-T-I-Y-E-H, Clark County Juvenile
 2 Services, Mark Berg, Nevada Department of Prisons, Michael
 3 Blandford, B-L-A-N-D-F-O-R-D, National Park Service, Robert
 4 Carnes, C-A-R-N-E-S, National Park Service, Paul Ehlers,
 5 E-H-L-E-R-S, Metropolitan Police Department, Michael Eylar,
 6 E-Y-L-A-R, Metropolitan Police Department, Lisa Keimach,
 7 K-E-I-M-A-C-H, Irvine, California, Bruce Kennedy, Clark
 8 County Juvenile Services, W. Kolar, K-O-L-A-R, Clark County
 9 Fire Department, Ronda La Licata, last name L-A capital
 10 L-I-C-A-T-A, Leucadia, California, Kathryn Loomey,
 11 L-O-O-M-E-Y, Clark County Juvenile Services, Bruce Marlowe,
 12 M-A-R-L-O-W-E, Department of Prisons, Marilyn Mills, Las
 13 Vegas, Jeannie O'Brien, Henderson, Nevada, William Pacatte,
 14 P-A-C-A-T-T-E, Department of Prisons, Norma Price, Las
 15 Vegas, Brett Primas, P-R-I-M-A-S, Metropolitan Police
 16 Department, Patricia Rizzo, R-I-Z-Z-O, Ramsey, New Jersey,
 17 Michael Rose, Las Vegas, Jill Russell and Julie Russell,
 18 Las Vegas, L. Ryness, Clark County Fire Department,
 19 R-Y-N-E-S-S, Charmaine Smith, Las Vegas, and Nancy Tulner,
 20 T-U-L-N-E-R, Hawthorne, New Jersey.

21 Thank you.

22 THE COURT: Thank you, Mr. Harmon.

23 Mr. LaPorta, I ask that you stand, introduce
 24 your colleague and your client, and although the defense is
 25 not required to put on a defense, you may want to identify

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1 any witnesses you may consider putting on.

2 MR. LaPORTA: Thank you, your Honor.

3 My name is Peter LaPorta. I'm a trial
4 deputy with the Nevada State Public Defender's Office.
5 This is Mr. David Schieck, who is co-counsel in this. He
6 is an attorney in private practice here. This is Mr.
7 William Castillo, the defendant in this particular case.

8 Any witnesses we may put on the defense are
9 still influx right now. So it would not be really fair to
10 state them at this time. So I will refrain from doing so.

11 Thank you very much.

12 THE COURT: Thank you, Mr. LaPorta.

13 At this time I would ask the clerk to call
14 the roll of the panel of prospective jurors.

15 THE CLERK: Almas Shaikh Mohammed?

16 A Yes.

17 THE CLERK: Please answer here or present
18 when your name is called.

19 Lee O'Reilly?

20 A Present.

21 Q Jacqueline White Arberg?

22 A Present.

23 Q Roseanne Wood?

24 A Present.

25 Q Charles Louis Bertram?

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1	A	Present.
2	Q	Jean V. Capitanelli?
3	A	Present.
4	Q	Vesta Louella Woodhouse?
5	A	Present.
6	Q	Haunani D. Magalianes?
7	A	Present.
8	Q	Mark Steven Carpenter?
9	A	Present.
10	Q	Robert J. Deering?
11	A	Here.
12	Q	Carmen Rivero Henle?
13	A	Here.
14	Q	Patrick T. Clark?
15	A	Here.
16	Q	Susan M. Goodman?
17	A	Here.
18	Q	Katherine Dorothy Puffer?
19	A	Present.
20	Q	Debra Burgos?
21	A	Present.
22	Q	Stephanie Ann Thoma?
23	A	Present.
24	Q	Peter R. Tedeschi?
25	A	Here.

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1 Q Mark W. Smith?
2 A Here.
3 Q Wade Garrett Hamlin?
4 A Here.
5 Q Darrell Jack Townsend?
6 A Here.
7 Q James V. Devita, Jr.?
8 A Here.
9 Q Marsha Diane Reznick?
10 A Here.
11 Q Sherry Denice Hale?
12 A Here.
13 Q Nancy S. Kim?
14 A Here.
15 Q Constance T. Craig?
16 A Here.
17 Q Saundra Howington Ferraro?
18 A Here.
19 Q Marcia A. Kouche-Ellis?
20 A Here.
21 Q Susan A. Ruggieri?
22 A Here.
23 Q Arthur R. Stern?
24 A Here.
25 Q Kathleen Edian Spurling?

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1	A	Here.
2	Q	James E. Davis?
3	A	Present.
4	Q	Melvin C. Burke, Jr.?
5	A	Here.
6	Q	Edward Patrick Killian?
7	A	Here.
8	Q	Marykate Prudhomme?
9	A	Here.
10	Q	Mathew J. Manzanares?
11	A	Here.
12	Q	John James Foley?
13	A	Here.
14	Q	Gail Millicent Rucker?
15	A	Here.
16	Q	Kathleen Lopez Ambrosio?
17	A	Here.
18	Q	Patti L. Rakita?
19	A	Here.
20	Q	Michelle Lynne McClain?
21	A	Here.
22	Q	Carolyn S. Davis?
23	A	Here.
24	Q	Von A. Thompson?
25	A	Here.

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1	Q	Tami Godbehere Coffman?
2	A	Here.
3	Q	Sultan H. Akbari?
4	A	Here.
5	Q	Lillian Marie White?
6	A	Here.
7	Q	Roger James Rogers?
8	A	Here.
9	Q	Cassandra Dixon?
10	A	Present.
11	Q	George Rhue West?
12	A	Here.
13	Q	Brenda Sue Roser?
14	A	Here.
15	Q	Douglas Eugene Allen?
16	A	Here.
17	Q	Diane Marie Hanke?
18	A	Here.
19	Q	Gregory Fred Abernathy?
20	A	Here.
21	Q	Vicki Lynn Buckley?
22	A	Present.
23	Q	Sidney Kaprelian?
24	A	Here.
25	Q	Scott W. Angus, Sr.?

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1	A	Here.
2	Q	Victoria Lynn Pfeifer?
3	A	Here.
4	Q	Charles Clayton King?
5	A	Here.
6	Q	Lourdes Ramos?
7	A	Here.
8	Q	Christine Ann Boudreaux?
9	A	Here.
10	Q	Norman Paul Goldman?
11	A	Here.
12	Q	Toni Ann Rossi?
13	A	Here.
14	Q	Mainard Mills, III?
15	A	Here.
16	Q	Jill Darlene Morgan?
17	A	Here.
18	Q	Richard Serna Preciado?
19	A	Here.
20	Q	Peter Blake Bachran?
21	A	Here.
22	Q	Kyong Hui Hauver?
23	A	Here.
24	Q	Tamora Laree Moton?
25	A	Here.

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1 Q Robert Miles Stirling?
2 A Here.
3 Q Badge number 74, Robert Miles Stirling?
4 A Here.
5 Q Allison Mary Inglett?
6 A Here.
7 Q Kevin Ray Dalton?
8 A Here.
9 Q Marilyn Ann Caprose?
10 A Here.
11 Q Charlene G. McGlasson?
12 A Here.
13 Q Rose M. Loper?
14 A Here.
15 Q Betty Frances Brown?
16 A Here.
17 Q Dianna M. Williams?
18 A Here.
19 Q Robin Lewis Mickelson?
20 A Here.
21 Q James C. Wainscott, Jr.?
22 A Here.
23 Q Linda Ann Jones?
24 A Here.
25 Q Kimberly Ann Brasher?

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1 A Present.

2 (Off the record discussion not reported.)

3 THE COURT: Is there anyone whose name was
4 not called?

5 Yes, ma'am.

6 JUROR NO. 997: I'm badge number 997, Lisa
7 Ferguson.

8 (Off the record discussion not reported.)

9 THE COURT: And your name?

10 JUROR NO. 996: Kristine McKenzie, 996.

11 THE COURT: Right, okay. Since we have room
12 enough for you to sit down just barely, since your numbers
13 fall outside the other rotation.

14 Will counsel agree and stipulate that I may
15 have the entire panel sworn at the same time to answer
16 truthfully all questions propounded to them as to their
17 qualifications to serve as jurors, as I might ask the
18 questions collectively and so it won't be necessary to
19 administer the oath to each replacement?

20 MR. BELL: State so stipulates, your Honor.

21 MR. LaPORTA: Stipulate, your Honor.

22 THE COURT: Thank you very much for that
23 accommodation, counsel.

24 At this time, ladies and gentlemen of the
25 prospective jury panel, would you please stand, raise your

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1 right hands, and be sworn.

2 (At this time the prospective jury panel was
3 duly sworn.)

4 THE COURT: Ladies and gentlemen of the
5 prospective jury panel, at this time I'm going to read to
6 you a series of orientational jury instructions. I would
7 rather extemporize rather than read to you, but the points
8 have to be made quite extensively, so I'm going to read to
9 you these carefully prepared orientational instructions.

10 What we are about to commence is what is
11 called voir dire examination of the prospective jurors in
12 this case. The term voir dire means, loosely translated,
13 to tell the truth. During this process, you will be asked
14 questions bearing on your ability to sit as fair and
15 impartial jurors. To accomplish this result, various
16 questions will be asked of you by me or counsel for the
17 parties.

18 On occasion, some of these questions will
19 seem somewhat personal and we do not wish to unnecessarily
20 pry into your personal lives. However, the questions are
21 necessary so that counsel and the Court can make an
22 intelligent determination as to your capabilities to serve
23 fairly and impartially.

24 I want you to know that I and the attorneys
25 and all other persons involved in this case are deeply

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1 concerned with having this matter tried by 12 people who
2 are completely open minded, neutral, objective, and
3 unbiased in their thinking.

4 Wide discretion is vested in the trial judge
5 as to the method of examination of jurors. As I stated
6 previously, I will conduct the voir dire, but I must give
7 the attorneys the opportunity to participate in this
8 questioning.

9 The following areas of inquiry are not
10 properly within the scope of your voir dire examination by
11 counsel. One, questions already asked and answered by the
12 Court and other counsel, two, questions touching upon
13 anticipated instructions on the law, three, questions
14 touching upon the verdict a juror would return when based
15 upon hypothetical facts, and, four, questions that are, in
16 substance, arguments of the case.

17 Ladies and gentlemen, it is important that
18 you know the significance of full, complete, and honest
19 answers to all the questions we are about to ask you. I
20 caution you not to try and hide or withhold anything which
21 might indicate bias or prejudice of any sort by any of
22 you.

23 Should you fail to answer truthfully or if
24 you hide or withhold anything touching upon your
25 qualifications, that fact may tend to contaminate your

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1 verdict and subject you to further inquiry even after your
2 discharge as jurors.

3 Your decision should be based upon all the
4 evidence presented during the trial and not based upon
5 preconceived prejudice or bias. Prejudice is an irrational
6 predisposition against something or someone and bias is an
7 irrational predisposition in favor of something or
8 someone.

9 I'm going to conduct a general voir dire
10 examination of all of you while you are seated in the
11 audience. After those general questions, the clerk will
12 call 16 names using the order provided to us by the jury
13 commissioner to fill the jury box.

14 At some point during the process of
15 selecting a jury, the attorneys for both sides will have a
16 right to ask that a particular person not serve as a
17 juror. These requests are called challenges. There are to
18 types of challenges, challenges for cause and peremptory
19 challenges. A challenge for cause means that a juror has
20 been excused because his or her answers to some of the voir
21 dire questions indicate that he or she would have a
22 difficult time in giving a fair and impartial hearing to
23 the case. A peremptory challenge means that a juror can be
24 excused from duty without counsel having to give a reason
25 for the excusal. Please do not be offended should you be

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1 excused by either of the challenge procedures. They are
2 simply a part of the procedures designed to protect the
3 rights of the parties under our system of government.

4 Ladies and gentlemen of the prospective jury
5 panel, if you wish to respond to a question individually
6 and in the affirmative, please raise your hand, give your
7 name, and indicate the number you have been given on your
8 badge.

9 First, is there anyone who has such a
10 sympathy, prejudice or bias relating to age, religion,
11 race, creed, sex or national origin that they feel would
12 effect their ability to be open minded, fair, and
13 impartial?

14 Let the record reflect a uniform negative
15 response.

16 Are any of you acquainted with the defendant
17 or his attorneys, Mr. LaPorta and Mr. Schieck?

18 Yes, sir. If you'd stand and give your
19 badge number and your name.

20 JUROR NO. 10: Badge number 10, Mark
21 Carpenter. From the Southern Desert Correctional Center, I
22 dealt with Mr. Castillo when he was locked up the last
23 time.

24 THE COURT: You are excused from jury
25 service in this rotation.

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1 JUROR NO. 10: Thank you, sir.

2 THE COURT: Counsel approach the bench.

3 (Off the record discussion not reported.)

4 THE COURT: Defense has a motion?

5 MR. SCHIECK: Yes, your Honor. Quite
6 unfortunately, the first juror that was asked if he knew
7 any of the parties in this case has made a statement that
8 appears to have contaminated the entire jury panel without
9 fault either to the Court, the State or the defense in this
10 case. That being that Mr. Castillo has been previously
11 convicted of a crime and served time in prison.

12 That subject was the subject of a pretrial
13 motion that we filed in this case that the Court had
14 granted recognizing the importance that the jury decides
15 the guilt or innocence of Mr. Castillo not knowing of any
16 prior convictions that he had and, as unfortunate that it
17 is that we've wasted the time of the individuals that have
18 come down here, as well as the preparation time for the
19 Court and for the counsel in this case, we feel constrained
20 to move to disqualify this panel and start fresh tomorrow.

21 THE COURT: State of Nevada.

22 MR. BELL: Your Honor, on behalf of the
23 State, of course, they haven't contaminated the entire
24 panel. At most, we have contaminated those people here and
25 we still have the other half of the panel that was not

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1 exposed to that that we can start with in the morning and,
2 hopefully, we will lose a couple of hours at this stage of
3 the proceeding as opposed to trying this case twice, if an
4 appellate court agrees with Mr. Schieck.

5 THE COURT: Well, since the State and the
6 defense have taken this position and because of the
7 heightened standards of due process in a case when the
8 death penalty is being sought, the Court has no choice but
9 to grant this motion and continue jury selection with the
10 rest of the panel tomorrow. It is unfortunate that the
11 juror who ostensibly is trained in law enforcement would
12 have offered that statement.

13 I'm not convinced that, as a factual matter,
14 that it does contaminate this jury or that the jury, as a
15 practical matter, could not be admonished with regard to
16 the statement that was just made, but unhappily, under the
17 laws governing this type of proceeding, the Court is
18 compelled to dismiss this portion of the jury panel with
19 the thanks of the Court.

20 It is unfortunate that at times something
21 like this happens, ladies and gentlemen. You are dismissed
22 from further jury service in this rotation. In my opinion,
23 a waste of public and private resources has just taken
24 place by virtue of an inadvertent comment by an individual
25 who probably should have known better, but, unfortunately,

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1 that's the result. You have my thanks.

2 The fact that you were here was very
3 important to us. Your participation and commitment to the
4 process is very important because it doesn't work without
5 the candid commitment of citizens in the community to come
6 and assist in the dispute resolution process, which is what
7 this is. So you have my thanks and you are asked now to
8 return to the jury commissioner to process your vouchers.

9 I'm going to ask you not to interact at all
10 with anyone down in the jury room other than the jury
11 commissioner. Do not discuss this issue in front of any
12 other jurors that might be there or that might be waiting
13 for other panels, but, again, you have our thanks and while
14 the Court is not necessarily in agreement with the
15 proposition that this case has to be mistried as a matter
16 of philosophy, as a matter of judicial precedence, it must
17 be mistried at this point and, again, you are excused at
18 this point. We will be at ease while you depart the
19 confines of the courtroom.

20

21 (At this time the prospective jury panel
22 left the courtroom.)

23

24 THE COURT: We are in recess until 10:00
25 tomorrow morning.

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(Off the record at 3:03 p.m.)

* * * * *

ATTEST: FULL, TRUE AND ACCURATE TRANSCRIPT OF PROCEEDINGS.

Patsy K. Smith
PATSY K. SMITH, C.C.R. #190

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● ●

EXHIBIT 158

EXHIBIT 158

DISTRICT COURT

CLARK COUNTY, NEVADA

FILED IN OPEN COURT

AUG 28 1996 19

ORIGINAL

* * * * *

LORETTA BOWMAN, CLERK

BY *[Signature]* Deputy

THE STATE OF NEVADA,

Plaintiff,

Vs

WILLIAM PATRICK CASTILLO,

Defendant.

CASE NO. C133336

DEPT. NO. VII

DOCKET P

BEFORE THE HONORABLE:

A. WILLIAM MAUPIN DISTRICT JUDGE

TUESDAY, AUGUST 27, 1996, 2:10 P.M.

VOLUME II

APPEARANCES:

FOR THE STATE:

STEWART L. BELL

District Attorney

& MELVYN T. HARMON

Chief Deputy District Attorney

FOR THE DEFENDANT:

PETER R. LaPORTA

State Deputy Public Defender

& DAVID M. SCHIECK, ESQ.

REPORTED BY:

PATSY K. SMITH, C.C.R. #190

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CE

1 TUESDAY, AUGUST 27, 1996, 2:10 P.M.

2 THE COURT: C133336, State of Nevada versus
3 William Patrick Castillo.

4 Are the parties ready to proceed with the
5 jury trial?

6 MR. BELL: We're more than ready to proceed,
7 Judge.

8 MR. LaPORTA: Defense is ready, your Honor.

9 THE COURT: Is there anything that we need
10 to take up on the record before we proceed with another
11 attempt at jury selection?

12 MR. BELL: No, your Honor.

13 MR. LaPORTA: No, your Honor.

14 THE COURT: At this time, would you please
15 bring the prospective jury panel in and after we go through
16 the general questions and orientation, we excuse all jurors
17 with numbers above 150?

18 MR. BELL: Yes, your Honor, that's fine.

19 MR. LaPORTA: That's correct.

20 MR. BELL: I think, Judge, you probably owe
21 these people a little bit of an explanation, as we talked
22 about yesterday, as to why they are here without getting
23 into specifics.

24 THE COURT: All right.

25 THE CLERK: Gentlemen, so you know six

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1 people from the group coming in were excused yesterday. If
2 you want those numbers --

3 MR. BELL: Please.

4 THE CLERK: -- I can give them to you.

5 101, 113, 117, 131, 143, and 148.

6 (Off the record discussion not reported.)

7 THE COURT: We're in recess and that way you
8 will be here when we come back.

9
10 (Off the record at 2:14 p.m. and back on the
11 record at 2:38 p.m.)

12
13 THE COURT: C133336, State of Nevada versus
14 William Patrick Castillo.

15 This is the time set for the jury trial in
16 this matter. The record will reflect the presence of the
17 defendant represented by Mr. Schieck and Peter LaPorta.
18 State of Nevada is represented by Mr. Stewart Bell and Mr.
19 Melvyn Harmon.

20 Are the parties ready to proceed with the
21 jury trial?

22 MR. BELL: Yes, your Honor.

23 MR. LaPORTA: Yes, your Honor.

24 THE COURT: All right, thank you very much.

25 Ladies and gentlemen of the jury, you are in

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1 Department VII of the Eighth Judicial District Court of the
2 State of Nevada. This is a court of general trial
3 jurisdiction in this state. The general trial jurisdiction
4 includes both civil and criminal cases. The case that you
5 are sitting in on jury selection today is a criminal case
6 in which the State of Nevada is attempting to seek
7 convictions against Mr. William Patrick Castillo for the
8 charges of conspiracy to commit burglary and/or robbery,
9 burglary, robbery of a victim 65 years of age or older,
10 murder with use of a deadly weapon, conspiracy to commit
11 burglary and arson, and first degree arson, all of which
12 are felonies under the laws of the State of Nevada. The
13 State of Nevada has the burden of proving beyond a
14 reasonable doubt all of the essential elements of these
15 charges and that is the purpose of these proceedings and,
16 of course, this is a jury trial.

17 At this time, I would like to introduce the
18 Court staff. The court reporter is Patsy Smith. She is
19 taking down everything that is being said here in open
20 court stenographically. The court clerk is Ms. Tina Hurd.
21 She is the deputy court clerk who takes the roll of the
22 jurors, marshals the evidence, marks the evidence, and goes
23 through the ministerial functions of actually formally
24 admitting evidence into the record. My name is Bill
25 Maupin. I'm the District Court Judge in this particular

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1 Department.

2 Before we get started, I would like to give
3 you a couple of tips on your behavior. Some of you heard
4 this yesterday. The first thing is that in every trial of
5 this nature, there are some built-in delay mechanisms
6 that -- or mechani that you have to deal with, if you want
7 to be formal about my grammar this afternoon.

8 First, every morning we can't start
9 proceedings until after 10:00, sometimes until after 11:00
10 because under our procedure here in the Eighth Judicial
11 District. We hear preliminary matters each morning in
12 civil and criminal cases that have to be resolved before we
13 can start trials.

14 We also have an element of delay each day,
15 when we argue matters outside your presence, evidentiary
16 issues, scheduling issues involving witnesses, that sort of
17 thing, and then, of course, there are other recesses. My
18 recommendation to you during these down times is to bring
19 some work from work, work from home, some reading material,
20 something to occupy your time during these down times. It
21 will make the time pass more pleasantly for you. It will
22 keep you more alert as the day goes by unless, of course,
23 as I indicated to some of you yesterday, you want to go
24 downstairs and watch daytime television or work the puzzles
25 that don't have all the pieces in them.

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1 In any event, another piece of advice is
2 that I would request that you try to remain as alert as
3 possible. The room here is subject to varying
4 environmental changes. Some days you can store fish in
5 here and some days you can cook it and the thermostat has
6 been moved. So we can't predict how the weather in this
7 room is going to be from time to time. So one of the
8 things I request that you do, in the event it starts to get
9 warm in here, is tell us, but you are more than welcome to
10 get up and use the facilities. If you get uncomfortable
11 because of the hard benches or close confinement with one
12 another, stand up, stretch; you won't bother us in the
13 slightest.

14 Also, I would recommend at lunch that you
15 try to eat light at lunch. I know that sounds kind of
16 fanciful for proceedings as formal as this, but let me
17 assure you that some time after a nice warm meal somewhere
18 in this courthouse everyday we have got a nap going on in
19 one of the jury boxes. It's very embarrassing if we have
20 to come and ask you to rejoin us for the rest of the day
21 and, of course, unhappily, it's very embarrassing for the
22 lawyers, who work very hard to prepare this case, on behalf
23 of their respective interests, if they know that -- they'll
24 know for the rest of their lives, if you fall asleep while
25 they are talking or asking questions, they will have to

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1 live with that for knowing that they managed to stick
2 anesthetic in the jury.

3 Watching a trial in here is sometimes a
4 little bit like watching a baseball game in an old fashion,
5 outdated stadium because some of you are behind posts.
6 Please don't let that bother you. We are going to excuse a
7 good portion of you after we get through the initial
8 orientation session today and also screen those of you who
9 have compelling reasons why you cannot serve as jurors in
10 this case.

11 Now, at this point I would ask whether
12 either of the parties desire to present a challenge to the
13 prospective jury panel as a whole?

14 MR. BELL: The State does not, your Honor.

15 MR. LaPORTA: We do not, your Honor.

16 THE COURT: All right, thank you.

17 At this time I would ask the Deputy District
18 Attorney, Mr. Harmon, to stand, make a brief statement of
19 the nature of the action, introduce your colleague, and
20 identify for the members of the prospective jury panel the
21 prospective witnesses that the State intends to call in
22 this matter.

23 MR. HARMON: Thank you, your Honor.

24 Good afternoon, ladies and gentlemen. My
25 name is Mel Harmon. I'm a Deputy District Attorney

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1 employed by the Clark County District Attorney's Office.
2 My partner in this case is Mr. Stewart Bell, the District
3 Attorney within Clark County.

4 This is a criminal case. The Court has
5 outlined for you the nature of the charges that have been
6 filed against Mr. Castillo, the defendant.

7 The victim in this case was an 86 year old
8 woman, Isabelle Berndt. She was the victim in her
9 residence that will be identified as 13 North Yale Street
10 here in Las Vegas. For your frame of reference, that is
11 near the Expressway and Decatur Boulevard.

12 The crime occurred on December the 17th
13 shortly after midnight in 1995 on a Sunday morning.

14 The prosecution will call as witnesses
15 persons from among the following list. It's quite a
16 lengthy list. I want to assure you that we won't be
17 calling everyone, but we do want to outline the potential
18 witnesses. So if you are acquainted with anyone, you can
19 make the Court and the parties aware of that.

20 This is the list from which the witnesses
21 will be called. Kathy Adkins of the Las Vegas Metropolitan
22 Police Department, Michael Bechler also of the Metropolitan
23 Police Department, Tammy Jo Bryant, Las Vegas, Robert
24 Bucklin, Coroner Medical Examiner's Office, Jeff Donovan,
25 Las Vegas, William Gazza, coroner's office, Joseph Giles,

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1 Las Vegas, Scott Hardy, Metropolitan Police Department, Ken
2 Hefner, Las Vegas Metropolitan Police Department, Ben Hoge,
3 Las Vegas Fire Department, Jean Marie Hosking, Granada
4 Hills, California, Sean Houtrouw of the F.B.I. That is
5 H-O-U-T-R-O-U-W. Dr. Robert Jordan, Coroner Medical
6 Examiner's Office, Harry Kumma, Las Vegas, Donald Larson, a
7 dentist practicing here in Las Vegas, Thomas Lau,
8 Metropolitan Police Department, Charles McDonald, Las
9 Vegas, Cliff Mitchell, Las Vegas Fire Department, Dwayne
10 Morgan, Metropolitan Police Department, Nick Nordblom, Las
11 Vegas Fire Department, Sheree Norman, Metropolitan Police
12 Department, Kirk Rasmussen, Las Vegas, Gary Reed,
13 Metropolitan Police Department, John Russo, Las Vegas,
14 Steven Scarborough, Metropolitan Police Department, Meg
15 Sharbach, Las Vegas, Donald Tremel, Metropolitan Police
16 Department, Dwayne Wright, Las Vegas, Kathy Atiyeh,
17 A-T-I-Y-E-H, Clark County Juvenile Services, Mark Berg
18 employed with the State of Nevada, Michael Blandford,
19 National Park Service, Robert Carnes also with the National
20 Park Service, Paul Ehlers, Metropolitan Police Department,
21 Michael Eylar, Metropolitan Police Department, Lisa
22 Keimach, K-E-I-M-A-C-H, Irvine, California, Bruce Kennedy,
23 Clark County Juvenile Services, W. Kolar, Clark County Fire
24 Department, Ronda La Licata, capital L-A capital
25 L-I-C-A-T-A, Leucadia, California, Kathryn Loomey, Clark

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1 County Juvenile Services, Bruce Marlowe, State of Nevada,
2 Marilyn Mills, Las Vegas, Jeannie O'Brien, Henderson,
3 Nevada, William Pacatte, P-A-C-A-T-T-E, State of Nevada,
4 Norma Price, Las Vegas, Nevada, Brett Primas, Metropolitan
5 Police Department, Patricia Rizzo, Ramsey, New Jersey,
6 Michael Rose, Las Vegas, Jill Russell and Julie Russell,
7 Las Vegas, L. Ryness, Clark County Fire Department,
8 Charmaine Smith, Las Vegas, and Nancy Tulner, Hawthorne,
9 New Jersey.

10 Thank you.

11 THE COURT: Thank you, Mr. Harmon.

12 Mr. LaPorta or Mr. Schieck, if you would
13 care to supplement that information, if you need to,
14 introduce your client, your colleague, and indicate,
15 although you do not have the obligation to put on a case in
16 chief, any witnesses you may think the jury should know
17 about.

18 MR. LaPORTA: Yes, your Honor. Thank you.

19 My name is Peter LaPorta. I'm a Deputy
20 Public Defender in the Nevada State Public Defender's
21 Office. This is co-counsel right here, Mr. David Schieck.
22 He is an attorney here in private practice in Las Vegas.
23 The individual that sits between us is William Castillo,
24 our client.

25 At this point in time, our witnesses are a

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1 little bit influx, so I'll refrain from naming them at this
2 point.

3 Thank you very much.

4 THE COURT: All right, thank you, Mr.
5 LaPorta.

6 At this time I would ask the clerk to call
7 the roll of the panel of prospective jurors. When your
8 name is called, please respond by saying here or present.

9 THE CLERK: Robert I. Law?

10 A Here.

11 Q Iris Mike Daboda?

12 A Here.

13 Q Edward Richard Sheptow?

14 A Here.

15 Q Shirley Mae Stanton?

16 A Here.

17 Q Hazel Gotzinger?

18 A Here.

19 Q Thomas Donald Powers?

20 A Here.

21 Q Clarence K. Robbins?

22 A Here.

23 Q Earnest Milligan, Jr.?

24 A Here.

25 Q Mark R. Kruse?

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1 A Here.

2 Q Sharna Susler Blumenfeld?

3 A Here.

4 Q Howard Dale Cheney?

5 A Here.

6 Q Bernadette Bergeron?

7 A Here.

8 Q Suzanne Hilary Malmedal?

9 A Here.

10 Q Barbara Joann Hawkins?

11 A Here.

12 Q Joan Carver Wells?

13 A Here.

14 Q Travell L. Cotton?

15 A Here.

16 Q Lloyd Lebaron Black?

17 A Here.

18 Q Leonard Cruz Rosales?

19 A Here.

20 Q Clarence D. Zink?

21 A Yo.

22 Q Michelle Lee Lopez?

23 A Your.

24 Q Gwendolyn Anne Thorson?

25 A Here.

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1 Q Karl Michael Lantz?
2 A Here.
3 Q Leonda Adella Mann?
4 A Here.
5 Q John S. Murphy?
6 A Here.
7 Q Eric M. Korte?
8 A Here.
9 Q Richard Alan Sammons?
10 A Here.
11 Q Ernest Edward Irish?
12 A Here.
13 Q Larry Dean Price?
14 A Here.
15 Q Richard Bennett?
16 A Here.
17 Q Dawn Ellen Brown?
18 A Here.
19 Q Myong Kim Christian?
20 A Here.
21 Q Raymond Francis Dreshar?
22 A Here.
23 Q Sharynn Lee Sheldon?
24 A Here.
25 Q Pamela Brennan?

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1 A Here.

2 Q Arthur Gustavbutch Kavall?

3 A Here.

4 Q Milagros Manabat Lapid?

5 A Here.

6 Q Henry Lee Jones, Jr.?

7 A Here.

8 Q Kimberly Elaine Latty?

9 A Here.

10 Q Thomas Whitney Merkle?

11 A Present.

12 Q John R. Ruhlmann?

13 A Here.

14 Q Julia Ramos?

15 A Here

16 (Off the record discussion not reported.)

17 THE CLERK: Paul L. Hurley?

18 A Her.

19 Q Paul Andrew Bykowski?

20 A Here.

21 Q Kathryn Smith Schwendemann?

22 A Here.

23 Q Donna May Norman?

24 A Here.

25 Q Wendy Jane Parish?

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1	A	Here.
2	Q	Christopher Michael Ramsey?
3	A	Here.
4	Q	James J. Fracaro?
5	A	Here.
6	Q	Daniel Edward Guzy?
7	A	Here.
8	Q	Waltraud Ginn?
9	A	Here.
10	Q	Ninnette Baumgardner?
11	A	Here.
12	Q	Shirley Irene Wilbur?
13	A	Here.
14	Q	Dominador Manlapaz Ventura?
15	A	Here.
16	Q	Paul Grant McClanahan?
17	A	Here.
18	Q	Christopher F. Pagano?
19	A	Here.
20	Q	Robert Allen Motis?
21	A	Here.
22	Q	Diane Elaine Joas?
23	A	Here.
24	Q	Joann V. Clausse?
25	A	Here.

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1 Q Edward Mitchell Hester?
2 A Yes.
3 Q Sheldon Jean Bulgatz?
4 A Here.
5 Q Roy J. Kirk?
6 A Here.
7 Q James Richard Martin?
8 A Here.
9 Q David Eugene Wilms?
10 A Here.
11 Q Kelly Lynn Lee?
12 A Here.
13 Q Linda S. Minton?
14 A Here.
15 Q Myriah Lee Eggink?
16 A Here.
17 Q Cheri Lynn Shaine?
18 A Here.
19 Q Mary Ann Coffman?
20 A Here.
21 Q Jennie M. Williams?
22 A Here.
23 Q Lori L. Herren?
24 A Present.
25 Q Karen Sheets Ipson?

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1 A Here.

2 Q Fidel Ernesto Liriano?

3 A Here.

4 Q Nicholas Isadore Sandoval?

5 A Here.

6 Q Gina Marie Bascomb?

7 A Here.

8 Q Margaret G. Rex?

9 A Here.

10 Q Jeffrey Roger Caldwell?

11 A Here.

12 Q Theodore Mervin Moore?

13 A Here.

14 Q Cory Trent Pribble?

15 A Here.

16 Q Gary Geschke, Jr.?

17 A Here.

18 Q Dale Eric Murrell?

19 A Here.

20 Q Valerie Emord Reeb?

21 A Here.

22 Q Arthur Dennis Nelson?

23 A Here.

24 Q John Markham Moran?

25 A Here.

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1	Q	Barbara Ann Shafer?
2	A	Here.
3	Q	Jamie Lynne McCandlish?
4	A	Here.
5	Q	Karol Deann Ennis?
6	A	Here.
7	Q	James R. Felton?
8	A	Here.
9	Q	Ilene Joyce Peterson?
10	A	Here.
11	Q	Deborah Bueltel?
12	A	Here.
13	Q	Nancy Ruriko Spencer?
14	A	Here.
15	Q	John Charles Kupitz?
16	A	Here.
17	Q	Robert Wayne Brooks?
18	A	Here.
19	Q	Michael S. Gubler?
20	A	Here.
21	Q	Dwain A. Meyer?
22	A	Here.
23	Q	Raymond J. Mroz?
24	A	Here.
25	Q	Beverly Jean Broughton?

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1 A Here.

2 Q Thomas W. Bigley?

3 A Here.

4 THE COURT: Is there anyone whose name was
5 not called?

6 THE BAILIFF: Over here.

7 THE COURT: Yes, sir. What is your name?

8 JUROR NO. 146: Rhandolph Alonzo Mouton.

9 THE CLERK: What is your badge number, sir?

10 JUROR NO. 146: 146.

11 (Off the record discussion not reported.)

12 THE COURT: Have you filled out the
13 questionnaire?

14 JUROR NO. 146: Yes, I have.

15 THE COURT: Do you have him?

16 MR. HARMON: I assume we do. We had him
17 checked out.

18 MR. BELL: That's fine, Judge. We will
19 proceed.

20 MR. LaPORTA: Judge, we don't have his
21 questionnaire.

22 MR. BELL: Oh, I don't think we do because
23 he was excused.

24 THE COURT: Well, we may not need to get to
25 him right away. I don't know if we will get to him today.

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1 MR. BELL: That's fine.

2 THE COURT: He will be added to the jury
3 list and his questionnaire provided to counsel forthwith.

4 All right, that being the case, will counsel
5 agree and stipulate that I may have the entire panel sworn
6 at the same time to answer truthfully all questions
7 propounded to them as to their qualifications to serve as
8 jurors, as I might ask questions collectively so it will
9 not be necessary to administer the oath to each
10 replacement?

11 MR. BELL: State so stipulates, your Honor.

12 MR. LaPORTA: So stipulated, your Honor.

13 THE COURT: Thank you very much for that
14 accommodation.

15 Ladies and gentlemen of the prospective
16 jury, will you please stand, raise your right hands, and be
17 sworn.

18

19 (At this time the prospective jury panel was
20 duly sworn.)

21

22 THE COURT: At this time, ladies and
23 gentlemen, I'm going to read a series of brief preliminary
24 instructions to you. I'd like to extemporize, but the
25 points in these instructions have to be specifically made

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1 and so I will now commence the reading of these
2 instructions to you.

3 Ladies and gentlemen, we are about to
4 commence what is called voir dire examination of the
5 prospective jurors in this case. The term voir dire means,
6 loosely translated, to tell the truth. During this
7 process, you will be asked questions bearing on your
8 ability to sit as fair and impartial jurors.

9 To accomplish this result, various questions
10 will be asked of you by me or counsel for the parties. On
11 occasion, some of these questions will seem somewhat
12 personal and we do not wish to unnecessarily prior into
13 your personal lives. However, the questions are necessary
14 so that counsel and the Court can make an intelligent
15 determination as to your capabilities to serve fairly and
16 impartially.

17 I want you to know that I and the attorneys
18 and all other persons involved in the case are deeply
19 concerned with having this matter tried by 12 people who
20 are completely open minded, neutral, objective, and
21 unbiased in their thinking.

22 Wide discretion is vested in the trial judge
23 as to the method of examination of jurors. As I stated
24 previously, I may personally conduct the voir dire, but I
25 must give the attorneys the opportunity to participate in

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1 this questioning.

2 The following areas of inquiry are not
3 properly within your scope of voir dire examination by
4 counsel. One, questions already asked and answered by the
5 Court and other counsel. Two, questions touching upon
6 anticipated instructions on the law. Three, questions
7 touching upon the verdict a juror would return when based
8 upon hypothetical facts. Four, questions that are, in
9 substance, arguments of the case.

10 Ladies and gentlemen, it is important that
11 you know the significance of full, complete, and honest
12 answers to all the questions we are about to ask you. I
13 caution you not to try and hide or withhold anything which
14 might indicate bias or prejudice of any sort by any of
15 you.

16 Should you fail to answer truthfully or if
17 you hide or withhold anything touching upon your
18 qualifications, that fact may tend to contaminate your
19 verdict and subject you to further inquiry even after your
20 discharge as jurors. Your decision should be based upon
21 all the evidence presented during the trial and not based
22 upon preconceived prejudice or bias.

23 Prejudice is an irrational predisposition
24 against something or someone and bias is an irrational
25 predisposition in favor of something or someone.

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1 I'm going to conduct a general voir dire
2 examination of all of you while you are seated in the
3 audience. After those general questions, the clerk will
4 call 16 names using the order provided to us by the jury
5 commissioner to fill the jury box.

6 At some time during the process of selecting
7 a jury, the attorneys for both sides will have a right to
8 ask that a particular person not serve as a juror. These
9 requests are called challenges. There are two types of
10 challenges; challenges for cause and peremptory
11 challenges. A challenge for cause means that a juror has
12 been excused because his or her answers to some of the voir
13 dire questions indicate that he or she would have a
14 difficult time in giving a fair and impartial hearing to
15 the case. A peremptory challenge means that a juror can be
16 excused from duty without counsel having to give a reason
17 for the excusal.

18 Please do not be offended should you be
19 excused by either of the challenge procedures. They are
20 simply a part of the procedures designed to protect the
21 rights of the parties under our system of government.

22 Now before I proceed with the general voir
23 dire questioning, I must make a couple of comments and I
24 have been requested to do so by the parties. First,
25 whatever you do, unless we take you to the scene, do not

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1 visit the scene of the happenings described either in the
2 information or by counsel at any time. That would unwind
3 the whole proceeding.

4 Also, in responding to questions, please
5 understand that there are no wrong or right answers, only
6 candid answers. Our sole purpose is to find a fair and
7 impartial jury to give a fair trial to both the State of
8 Nevada and the defendant in this case.

9 Also, some of you have heard this opening
10 instruction process two times. The reason we're doing this
11 a second time, for those of you who were here yesterday to
12 hear this, is that we don't want to have to read the
13 general instructions again a third time because we are not
14 going to be keeping all of the prospective jurors here
15 today during the voir dire process or the jury selection
16 process.

17 For your convenience, we are going to be
18 sending numbers 150 and above or above 150, excuse me -- I
19 know 150 will be disappointed maybe to hear that -- so that
20 you can come back tomorrow for further examination, when we
21 feel we may get to you in this process.

22 There was a delay in these proceedings from
23 yesterday. Unhappily, the panel was disqualified because
24 of a very unfortunate statement made by a prospective juror
25 and so at this time we have started the jury process anew.

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1 It was not the fault of any of the parties in this case,
2 but it was an unsolicited, spontaneous statement by a
3 person who should have known better and, as a result, a
4 tremendous waste of public resources occurred. So at that
5 point -- either that or the person did not understand the
6 process well enough to understand the significance of what
7 he said.

8 So with that, we are going to start with a
9 general voir dire examination in this case and I will start
10 with this question, but before I do that, I have to advise
11 you that if you wish to respond to any of my questions in
12 this general voir dire individually and in the affirmative,
13 please raise your hand, give your name, and indicate the
14 number you have been given on your badge.

15 First, is there anyone who has such a
16 sympathy, prejudice or bias relating to age, religion,
17 race, creed, sex or national origin that they feel would
18 effect their ability to be open minded, fair, and
19 impartial?

20 Let the record reflect a uniform negative
21 response.

22 Are any of you acquainted with the defendant
23 and/or his attorneys? Anyone know Mr. LaPorta, Mr.
24 Castillo or Mr. Schieck?

25 Let the record reflect a uniform negative

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1 response.

2 Are any of you acquainted with Mr. Harmon of
3 the District Attorney's Office?

4 The record will reflect a uniform negative
5 response.

6 Are any of you personally acquainted with
7 Mr. Stewart Bell, the District Attorney of Clark County?

8 Let the record reflect a uniform negative
9 response.

10 The District Attorney's Office employs many
11 deputies and other personnel. Is there anyone who has such
12 a close relationship with either the District Attorney, his
13 deputies or other members of his staff that you feel might
14 effect your ability to serve as a fair and impartial juror
15 in this case? Anyone know anyone in the District
16 Attorney's Office that works in there?

17 Yes, sir, name and badge number.

18 JUROR NO. 133: Richard Bennett, badge 133.

19 THE COURT: Yes.

20 JUROR NO. 133: But I don't believe that is
21 going to effect my judgment.

22 THE COURT: Who is it you know that works
23 there?

24 JUROR NO. 133: It's a lady that works in
25 the DA's office in IA. Her name is Chris Morgan.

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1 THE COURT: But there is nothing about your
2 interaction with her that would effect you in this case?

3 JUROR NO. 133: Absolutely not.

4 THE COURT: Yes.

5 JUROR NO. 98: Thomas Powers, badge number
6 98. I have a business transaction currently underway with
7 the Deputy District Attorney Lester Qualm. It has
8 nothing --

9 THE COURT: Is it a real estate
10 transaction?

11 JUROR NO. 98: Pardon me?

12 THE COURT: Is it a real estate
13 transaction?

14 JUROR NO. 98: Banking transaction.

15 THE COURT: Anything about your interaction
16 with him that would effect your thinking in a case like
17 this one?

18 JUROR NO. 98: No, your Honor.

19 THE COURT: Thank you very much. You may be
20 seated.

21 Yes, sir.

22 JUROR NO. 339: I know somebody that works
23 in the District Attorney's Office, Chris Morgan also, and
24 it wouldn't effect me. She is just a friend of a friend.

25 THE COURT: Not a close personal

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1 relationship?

2 JUROR NO. 339: No, no.

3 THE COURT: You wouldn't be concerned about
4 discussing your verdict after the trial with her in a
5 social context?

6 JUROR NO. 339: No.

7 THE CLERK: Your number, sir?

8 MR. SCHIECK: Badge number?

9 JUROR NO. 339: 339.

10 THE COURT: Anyone else?

11 Let the record reflect a uniform negative
12 response.

13 Are any of you acquainted with any of the
14 witnesses whose names were previously mentioned by the
15 Deputy District Attorney this afternoon? Anyone know any
16 of the witnesses?

17 JUROR NO. 339: I'm a fireman with the Las
18 Vegas Fire Department. I knew three of the investigators
19 that he mentioned on his list.

20 THE COURT: All right. Have you worked
21 closely with these people or just passing acquaintances?

22 JUROR NO. 339: I don't work real close with
23 them. I know they investigate the scenes after we are done
24 with them, but --

25 THE COURT: Is your relationship with them

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1 such that you would give them more credibility than say --

2 JUROR NO. 339: No.

3 THE COURT: -- say some other witness in the
4 case?

5 JUROR NO. 339: No.

6 THE REPORTER: Your number again?

7 JUROR NO. 339: 339.

8 THE REPORTER: Thank you.

9 THE COURT: Anyone else know any of the
10 witnesses that have been read off from the Information in
11 this case?

12 Let the record reflect a uniform negative
13 response.

14 At this point, I would ask the members of
15 the prospective jury panel whether or not any of you have
16 any compelling personal reasons why you cannot serve on
17 this jury and, as a preface to this question, I would tell
18 you that your service in this case will have to be --
19 excuse me -- your service in this case may encompass
20 anywhere from now until the end of the month of September.

21 All right, we will start over on this side
22 of the room. Again, these are compelling circumstances of
23 a personal or business nature that would prohibit your
24 participation in this case.

25 MR. BELL: Excuse me, your Honor. It might

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1 be worthwhile to advise the jurors that it wouldn't take 30
2 days, but because the Court has other business, it could
3 take as many as nine or 10 or 11 out of the days.

4 THE COURT: The Court and the attorneys have
5 other intervening business actually.

6 MR. BELL: Right.

7 THE COURT: The schedule of this case will
8 be as follows. We will be trying this case this week
9 through Thursday afternoon, all of next week; that is
10 Tuesday through Friday because Monday is a holiday.
11 Because of the trial schedule of one of the attorneys in
12 this case, the trial will be adjourned between the -- from
13 the 6th of September through the 18th of September and then
14 we would conceivably continue on for the week of the 16th
15 of September and most likely the last day that the case
16 would be at issue would be the 27th of September.

17 Is that a fair statement, gentlemen?

18 MR. BELL: Yes, your Honor.

19 MR. LaPORTA: Yes, your Honor.

20 MR. SCHIECK: Yes, your Honor.

21 THE COURT: With that in mind, if you will
22 raise your hands, I will start at this side of the room and
23 work my way around the other side.

24 Yes, ma'am, over here. Give your name and
25 badge number.

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1 JUROR NO. 347: Valerie Reeb, badge number
2 347.

3 There is too much going on in my life. I
4 just recently separated, I have four children that I'm
5 going through, plus at work alone, they just terminated a
6 whole department that our department is replacing and they
7 really can't afford for me to take off that much time.

8 THE COURT: But I take it the primary
9 problem is --

10 JUROR NO. 347: Children.

11 THE COURT: -- financial assessment?

12 JUROR NO. 347: Yes.

13 THE COURT: And the need to deal with the
14 child care?

15 JUROR NO. 347: Yes.

16 THE COURT: Do we have a stipulation?

17 MR. BELL: Judge, the State will stipulate
18 that you can exercise your discretion with each one as you
19 think appropriate without having to ask us on an individual
20 basis.

21 MR. LaPORTA: We will so stipulate.

22 THE COURT: If that will be the
23 understanding, then I won't have to do that at each one.

24 MR. LaPORTA: Yes, sir.

25 THE COURT: Okay, I will go ahead and excuse

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1 you from jury service from this rotation. If you would
2 report back to jury service. You can get up.

3 JUROR NO. 347: Oh, I get up?

4 THE COURT: When I do this, once we are done
5 with this preliminary part of the process, that is the
6 general voir dire questioning, then I'm going to excuse the
7 better part of you and we will be doing individual voir
8 dire.

9 So you can be excused. Thank you. I
10 appreciate you coming in. Good luck.

11 JUROR NO. 347: Thank you.

12 THE COURT: All right next. Yes, ma'am.

13 JUROR NO. 352: I have two children that get
14 out at noon. I don't have anybody to watch them.

15 MR. HARMON: Badge number?

16 JUROR NO. 352: 352, Karol Ennis.

17 MR. LaPORTA: I'm sorry?

18 JUROR NO. 352: 352.

19 THE COURT: We will put her at the bottom of
20 the list and I may go ahead and excuse you anyway, but
21 under these circumstances, again, because of the necessity
22 to obtain a jury, best I can do right now is put you in a
23 priority position for being excused. Okay.

24 All right.

25 JUROR NO. 351: My name is Jamie McCandlish,

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1 351. Financial hardship. My company will not reimburse me
2 and I have a letter from them if you need it.

3 THE COURT: You have a -- well, it would be
4 a violation of state law for you to be terminated as a
5 result of your jury service. Do you understand that?

6 JUROR NO. 351: Right. It's not that, it's
7 a financial hardship. I'm a single person, single
8 paycheck, they won't reimburse me.

9 THE COURT: We will put you at the bottom of
10 the list.

11 JUROR NO. 349: John Moran, 349. I'm a
12 general manager of a video retail store and two of my
13 managers -- two out of three of my managers have vacations
14 in September.

15 THE COURT: All right, we will put you at
16 the bottom of the list.

17 Over here.

18 JUROR NO. 356: I have two. One, I have a
19 little boy that goes to school 12 to 6. I have nobody to
20 sit by him. I suffer panic attacks. I'm supposed to,
21 during this time, try four different types of anti
22 depressants and I have a cold and heat intolerance that
23 will put me into panic attacks. If you put me into a room
24 where it gets really colds, really hot, my chances are I
25 will be incoherent for you. I have to be able to eat on

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1 set schedules. If not, I can be thrown into a panic
2 attack.

3 THE CLERK: Badge number?

4 JUROR NO. 356: 356.

5 THE COURT: All right, I will excuse you
6 from jury service in this rotation.

7 Yes, ma'am. You have to go back to jury
8 services.

9 JUROR NO. 357: Nancy Spencer, badge number
10 357.

11 I forgot what I was going to say. I'm
12 sorry, I forgot what I was going to say.

13 Oh, my employer only pays for 10 days. My
14 husband is unemployed at this time. I also manage a
15 fast-food restaurant. I'm the manager. I cannot afford to
16 be out of my restaurant for any amount of time like that.

17 THE COURT: All right, we will put you at
18 the bottom of the list.

19 Anyone else in the front row here?

20 Anyone else over here?

21 All right, start over here.

22 JUROR NO. 136: My badge number is 136.

23 THE COURT: Just a second.

24 (Off the record discussion not reported.)

25 THE COURT: All right, yes, ma'am.

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1 JUROR NO. 136: My badge number is 136.
2 English is a second language. I cannot
3 understand. I have a problem.

4 THE COURT: Would you -- we could arrange to
5 have an interpreter, but would you prefer to have -- to be
6 excused because of that?

7 JUROR NO. 136: Yeah, one reason.

8 THE COURT: All right. Do you have another
9 reason?

10 No. All right, I will go ahead and excuse
11 you from jury service in this rotation. You can go back
12 to --

13 JUROR NO. 136: I can go home?

14 THE COURT: You can go back to the jury
15 commissioner. Yeah, not quite that fast.

16 All right, yes, ma'am.

17 JUROR NO. 106: Sharna Blumenfeld, 106.

18 I can serve except tomorrow morning. There
19 is a very important business meeting in my office. It
20 involves a five million dollar piece --

21 THE COURT: We are not going to need you
22 tomorrow morning.

23 JUROR NO. 106: You are not?

24 THE COURT: No. If we put you in the right
25 position in here, we won't need you in the morning.

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1 Already, yes, ma'am.

2 JUROR NO. 124: Leonda Mann, number 124.

3 THE COURT: Yes.

4 JUROR NO. 124: I am a property manager 4:15
5 properties. The man who owns those properties is in
6 Louisiana. I have to collect rents, make deposits, make
7 payments on those properties. The 1st through the 5th I'm
8 really tied up doing all that. There is no one else to do
9 it for me.

10 THE COURT: I have attempted to ask how many
11 people were here from Louisiana. We will put you at the
12 bottom of the list.

13 Yes, ma'am, in the back.

14 JUROR NO. 96: We just sold our house and we
15 are moving to Texas in two weeks. My husband has a job in
16 Dallas, Texas.

17 THE CLERK: Badge number, ma'am?

18 JUROR NO. 96: 96 and I have the paper from
19 the house sale I wanted to show you.

20 THE COURT: I believe you. You are excused
21 from jury service in this rotation.

22 Yes, sir.

23 JUROR NO. 115: Badge 1:15.

24 THE COURT: Why don't you stand up so I can
25 see you.

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1 JUROR NO. 115: I run my own business in the
2 indoor mall and I just bought a house and I can't afford to
3 be here for a long period of time.

4 THE COURT: We will put you at the bottom of
5 the list.

6 Yes, ma'am.

7 JUROR NO. 97: Hazel Gotzinger, number 97.

8 My employer will only pay for 10 days. I am
9 a manager over five employees supposedly, but I only have
10 two employees and one is in training and it is somewhat a
11 hardship for me not to be there for a period of time.

12 THE COURT: We will put you at the bottom of
13 the list.

14 Yes, anyone on this side of the room?

15 JUROR NO. 123: Yes, sir. My name is

16 Karl --

17 THE COURT: You are going to have to stand
18 up.

19 JUROR NO. 123: Badge number 123.

20 My employer will only pay 10 days of jury
21 service and --

22 THE COURT: Who is your employer?

23 JUROR NO. 123: Citizens Area Transit.

24 THE COURT: They have been cooperative in
25 the past with a little nudging. We will put you at the

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1 bottom of the list.

2 Back there.

3 JUROR NO. 138: Sharynn Sheldon, badge 138.

4 I'm not sure. It might put real a hardship
5 where I work. I'm a critical care nurse at Valley
6 Hospital.

7 THE COURT: Valley Hospital in the past has
8 been confronted with this situation before. So I think
9 everything will be fine.

10 Yes, ma'am.

11 JUROR NO. 142: Who do I talk to? Can I --

12 (Off the record discussion not reported.)

13 THE COURT: All right, if you'd approach the
14 bench with counsel.

15 MR. BELL: It's okay, Judge. Go ahead. We
16 will leave it to your discretion.

17 THE COURT: Her number is 142.

18 (Off the record discussion not reported.)

19 THE COURT: I'm convinced this juror should
20 be dismissed from jury service in this rotation. If you'd
21 go back to the jury commissioner.

22 MR. BELL: Your Honor, for those of you who
23 have the 10 day problem, we think 10 days is going to be
24 about the amount of days they will serve. We figure nine
25 to 11. Pete, do you agree that's pretty close? We figure

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1 three days this week, three days next week, and potentially
2 three or four extra days.

3 THE COURT: Of course, they have already
4 been --

5 MR. BELL: I understand, but 10 is going to
6 be pretty close. It isn't going to be 15. It may be nine,
7 maybe 11. It's going to be pretty close.

8 MR. LaPORTA: I agree, your Honor.
9 Certainly not more than 12.

10 THE COURT: In that case, with those people,
11 we will put them at the bottom of the list so there is a
12 chance that they won't have to serve.

13 All right, anyone else on this side of the
14 room? Going once, all right.

15 On this side of the room.

16 JUROR NO. 303: Paul Bykowski, badge 303.

17 I'm getting married on the 21st. I have a
18 prepaid honeymoon a week thereafter.

19 MR. BELL: What's compelling about that,
20 your Honor?

21 MR. LaPORTA: That's no excuse, Judge.

22 THE COURT: And you campaigned on family
23 values.

24 That isn't a wedding I'm performing because
25 I have got one of my college roommate's daughter getting

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1 married. You are excused from jury service. Good cause
2 does appear.

3 Yes.

4 JUROR NO. 147: Good afternoon, Judge. My
5 name is Thomas Merkle. Badge number 147.

6 I'm a retired Los Angeles police officer and
7 my daughter was a victim of a serial rapist. So I don't
8 think I can reach an impartial decision in this case.

9 THE COURT: I will excuse you from jury
10 service in this rotation.

11 Yes.

12 JUROR NO. 304: Kathryn Schwendemann, number
13 304, and we have a small business and I'm the bookkeeper.
14 So it would make it -- put a hardship on us down at the
15 office.

16 THE COURT: All right, we will put you at
17 the bottom of the list.

18 All right, yes, ma'am.

19 JUROR NO. 306: Donna Norman, badge number
20 309 -- 306, excuse me.

21 If I am not at work, I do not get paid, but
22 my primary reason is that my elderly aunt was murdered by
23 an 18 year old boy and I don't think I can be on this jury.

24 THE COURT: All right, I will excuse you
25 from jury service in this rotation.

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1 Yes, ma'am.

2 JUROR NO. 307: Badge number 307 and I do
3 payroll and everything at work. So to miss --

4 THE COURT: You do what at work?

5 JUROR NO. 307: I do payroll. To be gone
6 that long from my job --

7 THE COURT: Where do you work?

8 JUROR NO. 307: Best Products Warehouse.

9 THE COURT: We will put you at the bottom of
10 the list.

11 JUROR NO. 307: Thank you.

12 JUROR NO. 361: Dwain Meyer. My badge
13 number is 361.

14 Me myself being gone is already a hardship
15 on the hospital itself, but I'm also down to personnel. So
16 it would just be a problem with the business aspect of it
17 totally not being there.

18 THE COURT: I will put you at the bottom of
19 the list.

20 Yes.

21 JUROR NO. 365: Your Honor, my name is
22 Beverly Broughton. My badge number is 365. I have a
23 letter from my husband's doctor. He's had a five way
24 bypass and three strokes. He is totally and emotionally
25 dependent upon me. We don't have insurance for a caretaker

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1 while I'm here.

2 THE COURT: How long ago was his ---

3 JUROR NO. 365: Two years.

4 THE COURT: But he's been disabled ever
5 since?

6 JUROR NO. 365: Oh, yes. Total.

7 THE COURT: I will go ahead and dismiss you
8 from jury service in this rotation.

9 JUROR NO. 365: Thank you.

10 THE COURT: Yes, sir, in the back.

11 JUROR NO. 363: My name is Raymond Mroz. My
12 badge number is 363. I'll probably require next week two
13 mornings to pick up my prescriptions at the VA Medical.

14 THE COURT: What time of day do you do
15 that?

16 JUROR NO. 363: They open at 7:30.

17 THE COURT: You will be fine.

18 JUROR NO. 363: Fine. Thank you.

19 THE COURT: You will be fine.

20 Just so that I can reassure you on a point
21 and reassure the other members of the jury of the
22 prospective jury panel, in this district, we process cases
23 in the same way we've processed them for the last 35 years
24 and it's coming to the point because of the case load of
25 this district that we're going to have to re-assess how we

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1 process cases each morning and whether we should maintain
2 certain procedures that we have in place, such as our
3 morning calendars, but as of now, that is the practice
4 still in this district and, as a result, if you have
5 morning errands to run, generally speaking during the
6 trial, you will be free to do that until 10:00 in the
7 morning generally speaking.

8 So what we will do, if we are going to start
9 earlier than that or much later than that each day, I will
10 tell you what time we will start so that you will have a
11 good idea how to deal with your day-to-day interactions
12 outside the confines of the courthouse.

13 Anyone else in this section of the room?

14 Record reflect a uniform negative response.

15 We will go over to my far right and we'll
16 start back in the corner.

17 JUROR NO. 314: Badge number 314, Ninnette
18 Baumgardner.

19 MR. HARMON: What was her number?

20 THE COURT: We also have got a very nice
21 design in the courtroom.

22 THE CLERK: 314.

23 JUROR NO. 314: Your Honor, I raise exotic
24 birds and I have baby birds that need to be fed, some four
25 times a day, some five times a day. I don't have anyone to

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1 feed the birds for me. I don't have anyone to come to my
2 house four or five times a day to feed them. My baby
3 birds' lives are depending on me.

4 THE COURT: I'll go ahead and excuse you.

5 JUROR NO. 314: Thank you. My babies thank
6 you.

7 THE COURT: It was such an exotic
8 explanation.

9 Yes, ma'am.

10 JUROR NO. 315: Shirley Wilbur. I'm badge
11 number 315 and my employer is going through a great
12 transition right now. I just returned from a week's
13 vacation and it was rather chaotic to begin with.

14 THE COURT: Who is your employer?

15 JUROR NO. : Citibank Nevada at the end of
16 Sahara and it would be a hardship on me to have to be off
17 work and go back and try to keep things in some kind of
18 order.

19 THE COURT: Well, as you can tell, there are
20 extraordinary excuses and there is kind of the middle
21 category and some we haven't heard yet, but some I'm not in
22 the position to honor, but this, of course, falls in the
23 middle category. So I'm going to put you at the bottom of
24 the list.

25 Yes.

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1 JUROR NO. 318: My name is Dominador
2 Ventura. My badge number is 318.

3 My main reason why because I cannot speak
4 English fluently and also I might not understand some
5 things too. That is the reason why.

6 THE COURT: Is that an experience that you
7 have when you are listening to day-to-day transactions at
8 work and that sort of thing?

9 JUROR NO. 318: Sure.

10 THE COURT: So when you are functioning
11 day-to-day at work, you can understand everything going
12 on?

13 JUROR NO. 318: Maybe some. I'm not so sure
14 I might understand the complete explanation of whatsoever.

15 THE COURT: Oh, you feel like you might be
16 uncomfortable in the deliberation process, in listening to
17 the witnesses?

18 JUROR NO. 318: I'm not going to say yes.

19 THE COURT: I will go ahead and excuse you
20 from jury service in this rotation.

21 JUROR NO. 318: Thank you, sir.

22 JUROR NO. 319: 319, Paul McClanahan. I have
23 to close a house in California on Thursday that I have to
24 sign for that was sold and I also have, the following week,
25 to sign for a house that we bought in Green Valley next

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1 week. That would be this Thursday and the middle of next
2 week.

3 THE COURT: I will have to put you on the
4 bottom of the list.

5 Yes, anyone else over here? Yes, ma'am.

6 JUROR NO. 322: Your Honor, my name is Diane
7 Joas, badge number 322.

8 The reason why I'm so nervous, when I walked
9 in today, I didn't realize what type of trial this was. I
10 owned a store and it was robbed and I saw the devastation
11 it did to my employee. I was also a witness at a shooting
12 one night in a restaurant and I thought I was over it until
13 I started filling out that questionnaire today and I don't
14 think I can do this trial because I get very nervous about
15 it.

16 THE COURT: Well, you understand there is
17 really nothing to be nervous about. What you are asked to
18 do, as a fellow citizen, is to sit in judgment on the facts
19 of the case.

20 JUROR NO. 322: I understand that, but the
21 person that got killed that night happened to be a friend
22 of mine.

23 THE COURT: Are you concerned that if you
24 got in the jury room, you might go into some sort of an
25 emotional transference?

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1 JUROR NO. 322: Yes.

2 THE COURT: I will go ahead and excuse from
3 you jury service.

4 JUROR NO. 322: Thank you.

5 THE COURT: Still have someone down here.
6 Yes, ma'am.

7 JUROR NO. 330: Linda Minton, badge 330.
8 I have a scheduled vacation September 13th
9 through the 20th and I have my ticket already.

10 THE COURT: You have prepaid tickets?

11 JUROR NO. 330: Yes, I do.

12 THE COURT: All right, I will excuse you
13 from jury service in this rotation.

14 Next over here in the front row. Yes,
15 ma'am.

16 JUROR NO. 335: Me? I'm juror number 335.
17 I'm a single mother and I had to juggle the schedule, you
18 know, to get my daughter to school and stuff.

19 THE COURT: Make that special note of her.
20 We will put you at the bottom of the list.

21 Yes, ma'am.

22 JUROR NO. 336: Badge number 336. My name
23 is Lori Herren.

24 I have numerous things that I think are
25 important. I have two small children at home and I can't

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1 afford child care during that amount of time, but also I
2 sat on a murder trial. It's been 10 years ago, but I sat
3 on a murder trial and it was pretty graphic and I think
4 that emotionally, due to the nature of this crime, that I
5 don't think I could be very impartial or fair.

6 THE COURT: We will excuse from you jury
7 service.

8 Yes, ma'am.

9 JUROR NO. 337: Karen Ipson, badge 337.

10 I should stand up and show you. I'm
11 expecting my third child and I have a doctor's appointment
12 scheduled within that time frame. I also have two small
13 children at home. My husband will be going out of town
14 tomorrow and he's been helping with the child care. He
15 would be helping with child care while I would be serving.

16 THE COURT: All right, we will put you at
17 the bottom of the list.

18 JUROR NO. 338: My name is Fidel Liriano,
19 badge number 338 and the reason that I'm trying to get out
20 of being a juror is that I'm supposed to start my job today
21 and I'm in competition with five other people for a full
22 time shift and benefits and considering the length of the
23 trial, I will come out at the tail end.

24 THE COURT: So this means you are on a
25 probationary status?

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1 JUROR NO. 338: Exactly, starting as of
2 today.

3 THE COURT: All right, I will go ahead and
4 excuse you.

5 JUROR NO. 338: All right, thanks.

6 THE COURT: Yes.

7 JUROR NO. 340: My name is Gina Bascomb,
8 badge number 340.

9 I have a mother that suffered from four
10 strokes a week ago and she is partially blind and I have
11 two children that are moving to Alabama with their father.

12 THE COURT: Is she still in the hospital?

13 JUROR NO. : She is still in the hospital.
14 My children are moving to Alabama to move with their father
15 and I took this week off to spend time with them.

16 THE COURT: You are excused from jury
17 service.

18 Back row.

19 A VOICE: Which one?

20 A VOICE: Whoever stands up first.

21 THE COURT: No, as a matter of fact, whoever
22 raise his hand first.

23 JUROR NO. 325: Oh, I'm Sheldon Bulgatz,
24 325. I have a twofold problem. I have an elderly mother.
25 We are breaking up her home and moving her into a nursing

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1 care home. My father-in-law had a heart attack. My wife
2 is going back to Florida.

3 THE COURT: I will put you on the bottom of
4 the list.

5 Yes.

6 JUROR NO. 326: I have a question about the
7 time frame. We are going away in October. Is this going
8 to end by the end of September?

9 THE COURT: In the last trial I was in, we
10 made certain assurances, but we are reasonably satisfied,
11 from a very specific discussion of the nature of this case,
12 that you will be done with your jury service before the end
13 of September.

14 JUROR NO. 326: What happens if we are not
15 done with the jury?

16 THE COURT: Well, you are still here. It's
17 just not going to happen in this case. Am I right,
18 gentlemen?

19 MR. BELL: I think there's reasonable
20 assurances of that. Judge, you might want to tell them we
21 have alternates in the case if we ever ran into a problem.

22 THE COURT: That's why we are picking four
23 alternates.

24 Yes, sir.

25 JUROR NO. 327: James Martin, badge 327. I

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1 have a contract at work coming up in -- some photography in
2 September. I have got heavy deposits. I spent most of the
3 money. I'd hate to give the money back. So if it's
4 possible, I will come and serve --

5 THE COURT: We will put you on the bottom of
6 the list.

7 Okay.

8 JUROR NO. 328: Your Honor, my name is David
9 Wilms, badge 328.

10 I work for Coca Cola. I'm a route delivery
11 driver. This is our busiest time of the year and I also
12 drive the only truck in the fleet that sells bulk CO2. I
13 would like to do it maybe in the wintertime, but right now
14 is our busiest time.

15 THE COURT: We will put you at the bottom of
16 the list, but, unfortunately, one of the our most serious
17 obligations of citizenship is to do this and the best I can
18 do with that kind of a dilemma is to put you at the bottom
19 of the list and hope that we don't need your services.

20 All right, yes, ma'am.

21 JUROR NO. 112: Your Honor, from what --

22 THE COURT: I need your name.

23 JUROR NO. 112: My name is Barbara Hawkins.
24 My badge number is 112 and from what I can see, this is
25 going to be a very highly emotional-type trial. I just

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1 lost my daughter two months ago and I don't know if I'm
2 emotionally up to something like this right now.

3 THE COURT: I understand. I will go ahead
4 and excuse you from jury service.

5 MR. LaPORTA: Judge, badge number?

6 MR. BELL: 112.

7 THE CLERK: 112.

8 MR. LaPORTA: Thanks.

9 THE COURT: Yes, ma'am.

10 JUROR NO. 331: I have a really bad migraine
11 headache. As a matter of fact, I ran out and got sick. On
12 September 26, I'm going to have nasal surgery for it.

13 THE COURT: You are excused.

14 THE CLERK: Badge number?

15 JUROR NO. 331: 331.

16 (Off the record discussion not reported.)

17 THE COURT: Badge 352, Ms. Ennis, you are
18 excused from jury service in this rotation.

19 JUROR NO. 352: Thank you.

20 THE COURT: Badge number 351, Ms.
21 McCandlish.

22 JUROR NO. 351: Yes.

23 THE COURT: You are excused from jury
24 service in this rotation.

25 JUROR NO. 351: Thank you.

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1 THE COURT: Badge number 357, Nancy Ruriko
2 Spencer.

3 JUROR NO. 351: Here.

4 THE COURT: You are excused from jury
5 service in this rotation.

6 JUROR NO. 351: Thank you.

7 THE COURT: Badge number 115, Travell
8 Cotton, you are excused from jury service in this
9 rotation.

10 JUROR NO. 115: Thank you.

11 THE COURT: And badge number 97, Hazel
12 Gotzinger. I'm going to excuse you from jury service in
13 this rotation.

14 JUROR NO. 97: Thank you.

15 THE COURT: Badge number 97 -- badge number
16 335, Ms. Williams.

17 JUROR NO. 335: Right here.

18 THE COURT: Ms. Williams, you are excused
19 from jury service in this rotation.

20 Who is the juror sitting -- what is your
21 name again?

22 JUROR NO. 337: Karen Ipson, 337.

23 THE COURT: Ms. Ipson, you are excused from
24 jury service in this rotation.

25 MR. HARMON: What is that badge number?

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1 THE COURT: Oh, I'm sorry, that's 337.

2 (Off the record discussion not reported.)

3 JUROR NO. 325: 325.

4 THE COURT: What is your name?

5 JUROR NO. 325: Sheldon Bulgatz.

6 THE COURT: What is your badge number?

7 JUROR NO. 325: 325.

8 THE COURT: All right, you are excused from
9 jury service in this rotation.

10 (Off the record discussion not reported.)

11 THE COURT: All right, has anyone on this
12 panel been engaged in law enforcement work or have a spouse
13 or close relative that's ever been engaged in law
14 enforcement work?

15 Yes, sir, over in the corner. Stand up,
16 give me your name and badge number.

17 JUROR NO. 132: My name is Larry Price,
18 badge number 132.

19 I have a brother that was in the -- when he
20 was in the military, he was a military police.

21 THE COURT: Anything about his work or your
22 knowledge of it that would effect your thinking in a case
23 like this one?

24 JUROR NO. 132: No, I don't think so.

25 THE COURT: All right. Thank you. You may

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1 be seated.

2 Yes.

3 JUROR NO. 354: I have a son-in-law who is a
4 lieutenant with the state police in the State of Florida.

5 THE COURT: Anything about his work or your
6 knowledge of it that would effect your thinking in this
7 case?

8 MR. BELL: Judge, badge number.

9 THE CLERK: Badge number please, sir?

10 JUROR NO. 354: 354.

11 THE COURT: Any reason you can think of why
12 you would give more credibility to a police witness than
13 you would an ordinary witness?

14 JUROR NO. 354: No, sir.

15 THE COURT: Yes, sir, did you raise your
16 hand?

17 JUROR NO. 346: Well, I just started. I
18 just got a promotion in the detention enforcement and I
19 just started yesterday. So I really haven't been in that
20 job. I don't know if that would make a difference, but it
21 wouldn't change my opinion.

22 THE CLERK: Badge number?

23 JUROR NO. 346: Badge number 346, Dale
24 Murrell.

25 THE COURT: Yes, ma'am.

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1 JUROR NO. 341: Yes, my number is 341. It's
2 Margaret Rex.
3 My sister was an MP in the military.
4 THE COURT: Anything about her work that
5 would effect your thinking --
6 JUROR NO. 341: No.
7 THE COURT: -- about police witnesses in
8 this case?
9 JUROR NO. 341: No.
10 THE COURT: Thank you.
11 Yes, sir.
12 JUROR NO. 133: Yes, sir, Richard Bennett
13 again.
14 THE COURT: Yes.
15 JUROR NO. 133: Badge number 133.
16 I worked security a couple years, but
17 nothing would effect my --
18 THE COURT: Can you assess the credibility
19 of police witnesses just like all the other witnesses?
20 JUROR NO. 133: I believe so, yes, sir.
21 THE COURT: Thank you very much.
22 All right, this side of the room here, this
23 side of the room on this side of the post.
24 Yes, ma'am.
25 JUROR NO. 124: Leonda Mann, badge number

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1 124.

2 My brother-in-law is ex-F.B.I., but I don't
3 think that would effect what I would think.

4 THE COURT: There is nothing about his
5 experiences that would effect your thinking about whether
6 you would believe a police officer in a case like this
7 versus a civilian?

8 JUROR NO. 124: No.

9 THE COURT: Yes.

10 JUROR NO. 127: Badge number 127.

11 My brother is a security policeman in the
12 air force.

13 THE COURT: Anything about his work or
14 knowledge of it or attitude toward it that would effect
15 your thinking in a case like this?

16 JUROR NO. 127: No, sir.

17 THE COURT: Thank you.

18 Yes, sir.

19 JUROR NO. 128: Rich Sammons, badge 128.

20 I was a federal police officer for nine
21 years.

22 THE COURT: Anything about that work that
23 you think would effect your judgment in assessing the
24 credibility of police witnesses in this case?

25 JUROR NO. 128: No, sir.

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1 THE COURT: All right. Be seated.
2 Yes, sir.
3 JUROR NO. 130: Ernest Irish, 130.
4 My brother is a retired police officer.
5 THE COURT: Anything that would effect your
6 judgment in this case?
7 JUROR NO. 130: No, sir.
8 THE COURT: Yes, sir, blue shirt in the
9 back.
10 JUROR NO. 100: Clarence Robbins, badge
11 100.
12 My son is a Metro policeman.
13 THE COURT: Anything about your knowledge of
14 his work or attitude toward it that --
15 JUROR NO. 100: Hardly ever see him. No,
16 sir.
17 THE COURT: I guess that settles that then.
18 Thank you.
19 All right.
20 JUROR NO. 118: My name is Leonard Rosales,
21 badge 118.
22 Son is on the Santa Maria Sheriff Department
23 in California, but that wouldn't effect anything, though.
24 THE COURT: So you wouldn't have any
25 reservations about your sense of fairness with regard to

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1 assessing credibility of police witnesses?

2 JUROR NO. 118: No.

3 THE COURT: All right.

4 Anyone else on this side of the room on this
5 side of the post?

6 All right, over here? Yes, sir.

7 JUROR NO. 361: My name is Dwain Meyer,
8 badge number 361.

9 I was -- my brother is a MP in the service
10 now and I was also in the service and I was connected with
11 a prisoner transfer, but nothing that would interfere.

12 THE COURT: All right. Okay, nothing that
13 would effect your ability to fairly judge the credibility
14 of every witness in the case including police witnesses?

15 JUROR NO. 361: No.

16 THE COURT: Thank you. You may be seated.

17 Anyone else? Yes, sir.

18 JUROR NO. 146: Rhandolph Alonzo Mouton.

19 My mother is employed with the Metro Police
20 Department and I have met a few of her co-workers that work
21 with the Metro Police Department.

22 THE COURT: Anything about your interaction
23 that would effect your judgment in a case like this?

24 JUROR NO. 146: No. I mean I have heard
25 stories.

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1 THE COURT: They are pretty vague?

2 JUROR NO. 146: Yeah, I have heard some
3 stories.

4 THE COURT: Are you in school right now,
5 going to college right now?

6 JUROR NO. 146: I'm currently taking a
7 couple classes at Community College.

8 THE COURT: We have been advised by the jury
9 commissioner you had a little problem getting here
10 yesterday. What we are doing here isn't going to effect
11 your schedule, is it?

12 JUROR NO. 146: Well, I'm trying to work out
13 something with them. I don't have anything definite. I'm
14 trying to work out my schedule.

15 THE COURT: Thank you.

16 Anyone else on this side of the room have
17 any close relatives or friends in law enforcement?

18 Record reflect a uniform negative response.

19 Move to this side of the room.

20 JUROR NO. 319: Paul McClanahan, 319.

21 My sister is a L.A. police officer and my
22 brother-in-law is a CHP.

23 THE COURT: Anything about their work, your
24 knowledge of it or interaction that would effect your
25 judgment?

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1 JUROR NO. 319: Just a lot of stories.

2 THE COURT: Do you think you could be a fair

3 juror in the case?

4 JUROR NO. 319: Yes.

5 THE COURT: Yes, ma'am.

6 JUROR NO. 323: Badge number 323. I'm in

7 security.

8 THE COURT: Anything about your work in

9 security that would effect your thinking in a case like

10 this?

11 JUROR NO. 323: No.

12 THE COURT: Do you think you can be fair to

13 both sides in the case?

14 JUROR NO. 323: Yes.

15 THE COURT: Anyone else?

16 JUROR NO. 339: Badge number 339.

17 I have friends and relatives in law

18 enforcement.

19 THE COURT: Where?

20 JUROR NO. 339: Here in Las Vegas and in

21 California.

22 THE COURT: Anything about their work, your

23 knowledge of it that would effect your thinking in the

24 case?

25 JUROR NO. 339: No.

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1 THE COURT: Anyone else over here? Anyone
2 else in the jury panel want to answer this question in the
3 affirmative?

4 Let the record reflect a uniform negative
5 response.

6 Is there any of you sitting in the audience
7 that are prospective jurors that would have the tendency to
8 give more weight or credence to the testimony of a law
9 enforcement officer simply because the witness was a law
10 enforcement officer? Anyone have any problem at all
11 assessing the credibility of police witnesses?

12 Let the record reflect a uniform negative
13 response.

14 Is there anyone who may not be able to
15 follow all of the instructions of the Court on the law of
16 this case even if the instructions on the law differ from
17 their personal conceptions of what the law ought to be?
18 Anyone have any problem following the Court's Instructions
19 on the law?

20 Let the record reflect a uniform negative
21 response.

22 Let me expand on that for just a moment.
23 Prior to the actual presentation of this case and after the
24 presentation of this case, I will be reading to you
25 carefully prepared Jury Instructions on the law that

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1 applies to this case, the law that governs your
2 deliberations with regard to assessing the credibility of
3 witnesses, how you would regard expert witnesses, what the
4 elements of these charges are, what the burden of proof is
5 in the case, and a number of other issues will be covered.

6 Is there anyone that would have, as a matter
7 of philosophy, any trouble following my instructions on the
8 law? Because if you take the oath, your obligation is to
9 follow the law and apply them to the facts in coming to
10 your verdict.

11 Let the record reflect a uniform negative
12 response.

13 Also, I would ask if anyone has been
14 approached at or near the confines of the courthouse or in
15 this surrounding area by persons handing out information
16 regarding your jury service?

17 Yes, ma'am.

18 A VOICE: Yeah, I got a pamphlet yesterday
19 on my way to the courthouse.

20 THE COURT: Did the people try to talk to
21 you about jury service?

22 A VOICE: No.

23 THE COURT: Do you still have this
24 pamphlet?

25 A VOICE: No.

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1 THE COURT: Did you throw it away?

2 A VOICE: Yes.

3 THE COURT: Good.

4 These pamphlets are being generated by a
5 group of people -- of course, this is just my judgment --
6 with not enough time on their hands. These people are of
7 the impression that you can come to court and be a juror
8 and make up your own rules as you go along and, for
9 example, if you disagreed that some sort of conduct should
10 be made criminal under the laws of the state, you could
11 describe that that's an unfair law and then find
12 accordingly in a case.

13 The question is, of course -- I mean the
14 proposition, of course, is totally antithetical to what we
15 are trying to do here. We are a system of laws and in
16 rendering verdicts, jurors must follow the law as given in
17 the instructions.

18 Again, with all of that having been said, is
19 there anyone who would have any trouble following the
20 Court's Instructions?

21 Let the record reflect a uniform negative
22 response.

23 Under our system, there are certain
24 principles of law that apply in every criminal trial. They
25 are, one, that a person is presumed innocent. Two, that

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1 the Information or indictment, that is the charging
2 document filed in the case, is a mere accusation and is not
3 evidence of guilt and, third, the State must prove that the
4 defendant is guilty of the charges against him beyond a
5 reasonable doubt.

6 Is there anyone who does not understand or
7 believe in these basic precepts of American justice?

8 Let the record reflect a uniform negative
9 response.

10 Does anyone among the members of the
11 prospective jury panel know anything about this case in
12 advance of coming to court today? Anyone have any advance
13 knowledge of this case?

14 JUROR NO. 327: Your Honor, I did drive by
15 the scene.

16 THE COURT: Well, it does happen -- could
17 you give me you badge number.

18 JUROR NO. 327: 327.

19 THE COURT: And your name.

20 JUROR NO. 327: James Martin.

21 It wasn't to go check it out or anything,
22 just happened to be in the area.

23 THE COURT: From time to time, if you are
24 just driving by the area, that's fine, but don't make a
25 point of going there, but we don't want anybody to actually

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1 have any on scene analysis of what is going on. You just
2 happened to drive by. That's quite all right.

3 Yes, sir.

4 JUROR NO. 132: I have heard about it on the
5 news and read about it in the papers.

6 THE COURT: Is the information that you
7 obtained through the press anything different than what you
8 have really heard in court today?

9 JUROR NO. 132: No.

10 MR. HARMON: What is the badge number?

11 THE COURT: I'm sorry, what is your badge
12 number?

13 JUROR NO. 132: 132.

14 THE COURT: Basically, you have just heard
15 some general information about the case through the news
16 reportings?

17 JUROR NO. 132: Yes.

18 THE COURT: And do you think you can set all
19 that aside and listen to the evidence in this case and
20 judge this case solely on the evidence?

21 JUROR NO. 132: Yes.

22 THE COURT: All right. Anyone else?

23 I will say that this case did generate some
24 newspaper and even electronic media publicity. Anyone, now
25 that they think about -- and have had a chance now to think

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1 about the case and have had a chance to think on it or upon
2 it, is there anyone who has any specific recollections of
3 any media accounts of the events that are relevant to this
4 case?

5 Yes, ma'am.

6 JUROR NO. 355: Seems like I did hear
7 something on the news a long time ago.

8 THE COURT: But it was pretty vague?

9 JUROR NO. 355: Yeah.

10 THE COURT: Do you have any specific
11 recollection of any facts of the case?

12 JUROR NO. 355: No, just I remember hearing
13 about it on the news.

14 THE COURT: Anything about that that was
15 different than what you just heard the district attorney
16 summarize earlier today?

17 THE CLERK: Badge number, please, ma'am.

18 JUROR NO. 355: 155.

19 THE REPORTER: That was 355.

20 THE COURT: Yes, ma'am.

21 JUROR NO. 106: 106. I read it in the
22 paper, but all I remember is an elderly woman was burned.
23 That's it.

24 THE COURT: Anyone else? Yes, sir.

25 JUROR NO. 319: Newspaper and television. I

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1 seem to remember that the newspaper --

2 THE COURT: Don't tell us about it. Do you
3 remember specific facts about the case?

4 JUROR NO. 319: Yes, your Honor.

5 THE COURT: Is it anything different than
6 you learned from the district attorney's statement this
7 morning?

8 JUROR NO. 319: Yes, your Honor, a little
9 more descriptive from what I seem to remember.

10 THE COURT: Do you think you can put that
11 aside and judge them solely on the facts as you hear them
12 in the courtroom?

13 THE CLERK: Badge number, please.

14 JUROR NO. 319: 319.

15 THE COURT: Is there anything about the
16 newspaper reportings or media reportings that you believe
17 would cause you to prejudge the case or cause you to excuse
18 the State from making its burden in the matter?

19 JUROR NO. 319: No, your Honor.

20 THE COURT: All right. Thank you.

21 Yes, ma'am.

22 JUROR NO. 323: I saw newspaper accounts of
23 the crime when it was committed.

24 THE COURT: Anything different than what you
25 just heard?

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1 JUROR NO. 323: No, sir.

2 THE COURT: Do you think that would effect
3 your judgment in any way?

4 JUROR NO. 323: I don't think so.

5 THE COURT: Are you willing to wait until
6 all the evidence is in before coming to any conclusion
7 about the evidence in the case?

8 You have to answer out loud.

9 JUROR NO. 323: Yes, sir.

10 THE COURT: Yes, sir.

11 JUROR NO. 327: 327. I remember some facts
12 that weren't generated today.

13 THE COURT: Are they --

14 JUROR NO. 327: Should I approach you and
15 talk to you about it?

16 THE COURT: Yes, with counsel this time.

17 (Off the record discussion not reported.)

18 THE COURT: Can I have your name and badge
19 number again.

20 JUROR NO. 327: James Martin, 327.

21 THE COURT: All right, anyone else?

22 Yes, sir.

23 JUROR NO. 339: I'd like to mention that it
24 occurred in my district within a quarter mile of our
25 station, but with embarrassment, I don't recall any of it,

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1 but I wanted to let you know.

2 THE COURT: So if you are a juror in this
3 case, you are going to be making your judgment on what you
4 heard in the courtroom, not anything outside the
5 courtroom?

6 JUROR NO. 339: Right.

7 THE COURT: Anyone else? Yes, sir.

8 JUROR NO. 102: Ernest Milligan, badge 102.

9 May I approach the bench, your Honor?

10 THE COURT: Yes.

11 (Off the record discussion not reported.)

12 THE COURT: This gentleman is excused from
13 jury service for medical reasons.

14 All right, anyone else have advance
15 knowledge of the case?

16 Let the record reflect a uniform negative
17 response.

18 At this time I'm going to excuse from the
19 rest of the day and until tomorrow at the hour of 10:30
20 jurors with numbers -- is it 150?

21 THE CLERK: Yes, Judge.

22 THE COURT: 150.

23 MR. BELL: Jurors in the threes and jurors
24 in the ones would stay.

25 THE COURT: All right, all the jurors with

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1 numbers in the 300 series are going to be allowed to go
2 home and you are asked to return to the courthouse tomorrow
3 at 10:30 in the morning.

4 Ladies and gentlemen of the panel that is
5 going to be departing at this time, I'm going to admonish
6 you as follows. I would remind you it is your duty not to
7 converse among yourselves or with anyone else on any
8 subject connected with this trial or to read, watch, or
9 listen to any report of or commentary on this trial or any
10 person connected with this trial by any medium of
11 information, including, without limitation, newspapers,
12 television, or radio, and you are not to form or express an
13 opinion on any subject connected with this case until it is
14 finally submitted to you.

15 Actually, I believe we have enough jurors so
16 we can get into the afternoon session. Does everybody
17 agree with that?

18 MR. BELL: Well, you had indicated you
19 wanted to go to about 6 tonight and I'm not sure. You
20 know, we have been going kind of slow. Maybe we could have
21 them call in and verify.

22 THE COURT: What I was thinking of doing is
23 have them in the courthouse by 1:15 tomorrow. That should
24 give you enough time. We have a long calendar tomorrow.

25 MR. BELL: Maybe we can have an early lunch

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1 recess and start at 1 and go. We'd certainly like to be
2 able to pick the jury by tomorrow evening.

3 THE COURT: That's going to be the idea, but
4 I want to make sure we have enough in here.

5 (Off the record discussion not reported.)

6 THE COURT: We have 37 right now.

7 MR. BELL: Plenty.

8 (Off the record discussion not reported.)

9 THE COURT: There is still four more. I
10 think we have enough to get to noon tomorrow.

11 MR. BELL: Absolutely.

12 THE COURT: So rather than come back at
13 10:30, we will ask you to be in the courthouse at 1:15
14 tomorrow. We will be at ease while the 300 series jurors
15 depart the confines of the courtroom.

16 (Off the record discussion not reported.)

17 THE COURT: Mr. Martin, I'm going to excuse
18 you from jury service.

19 (Off the record discussion not reported.)

20

21 (At this time, jury panel members with 300
22 series numbers left the courtroom.)

23

24 THE COURT: All right, before we call the
25 jurors for individual voir dire at random, is the woman

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1 who's got to be some place tomorrow morning in that group
2 that has the closing?

3 MR. HARMON: Yeah, I think she is in this
4 group. Wasn't that 106?

5 A VOICE: She was here. She left. She went
6 to the bathroom.

7 THE COURT: All right, just so she doesn't
8 leave for day.

9 MR. HARMON: It is 106, your Honor.

10 THE COURT: That's 106.

11 At this time we are going to take an
12 afternoon recess for about 10, 15 minutes. Ladies and
13 gentlemen, I would remind you it is your duty not to
14 converse among yourselves or with anyone else on any
15 subject connected with this trial or to read, watch, or
16 listen to any report of or commentary on this trial or any
17 person connected with this trial by any medium of
18 information, including, without limitation, newspapers,
19 television, or radio, and you are not to form or express an
20 opinion on any subject connected with this case until it is
21 finally submitted to you.

22 We will be back in session at 4:15. So be
23 ready to be collected on the upper deck. All right, I'll
24 see counsel in chambers.

25

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1 (Off the record at 4 p.m. and back on the
2 record at 4:23 p.m.)

3
4 THE COURT: Counsel stipulate to the members
5 of the prospective jury panel?

6 MR. LaPORTA: Yes, your Honor.

7 MR. BELL: Judge, in all honesty, if we saw
8 the 12, I'm sure we wouldn't know. I don't have any
9 quarrel with going forward.

10 THE COURT: I said the prospective jury
11 panel.

12 MR. BELL: I know.

13 THE COURT: What's your concern?

14 MR. BELL: I said I'm not sure if they all
15 came back.

16 THE COURT: Well, why don't you just trust
17 us.

18 MR. BELL: If you are happy to go forward,
19 we are happy to go forward.

20 THE COURT: All right, ladies and gentlemen,
21 before we commence with individual voir dire, I have a
22 couple of more questions and by way of orientation in this
23 matter.

24 If this case goes all the way through to
25 conclusion, it may be divided into two phases. First, the

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1 jury will determine if the defendant is guilty of the
2 charges set forth in the charging document in this case,
3 the Indictment. If the defendant is found guilty of first
4 degree murder, then the jury will set the penalty on the
5 first degree murder charge and the Court will set the
6 penalty on the other charges. If the jury finds the
7 defendant guilty of first degree murder, then the law of
8 the State requires the jury to set the punishment, as I
9 just indicated. At that time, the Court will set a time
10 for the hearing of evidence on punishment.

11 In this particular case, the State of Nevada
12 has elected to seek the death penalty against this
13 defendant. So in the event that this matter were to go to
14 a penalty phase upon a finding of guilt of first degree
15 murder, then the jury would be charged with determining the
16 penalty and under the law of the State of Nevada, there are
17 three potential penalties, the death penalty, life
18 imprisonment without the possibility of parole and/or life
19 imprisonment with the possibility of parole.

20 Is there any members of the prospective jury
21 panel who does not understand the issue of the punishments,
22 three alternatives that could conceivably become part of
23 this case at some point in time?

24 Let the record reflect a uniform negative
25 response.

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1 Is there anyone among the prospective jury
2 panel that have a serious conscientious objection or
3 reservation about any of the three forms of penalties?

4 All right, that means we have three people.
5 Yes, ma'am, if you'd please stand and give your badge
6 number.

7 JUROR NO. 109: Bernadette Bergeron, badge
8 number 109.

9 I'm against the death penalty.

10 THE COURT: As a philosophical --

11 JUROR NO. 109: Just don't believe in
12 killing anybody.

13 THE COURT: So there is no set of
14 circumstances under which you could impose or vote for the
15 death penalty?

16 JUROR NO. 109: I could not vote for it.

17 THE COURT: Does anyone wish to traverse?

18 MR. BELL: No, your Honor.

19 MR. SCHIECK: No, your Honor.

20 THE COURT: Ms. Bergeron, you are excused
21 from jury service in this rotation.

22 This gentleman right here. If you'd give me
23 your name and badge number.

24 JUROR NO. 132: Larry Price, 132.

25 I'm also against the death penalty.

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1 THE COURT: In a proper case, could you,
2 upon reflection and hearing all the evidence, impose the
3 death penalty if you were instructed that it was one of the
4 three alternative penalties?

5 JUROR NO. 132: No, I couldn't.

6 THE COURT: Under no set of circumstances?
7 I understand you may have a philosophical issue with it,
8 but under the State of Nevada, it is one form of
9 punishment. With that in mind, there is no set of
10 circumstances in which you could impose a death penalty; is
11 that correct?

12 JUROR NO. 132: I couldn't. There is no
13 circumstances.

14 THE COURT: All right.

15 MR. BELL: Ask he be excused, please.

16 THE COURT: All right, he will be excused.
17 Report back to the jury commissioner.

18 JUROR NO. 133: Yes, sir, Richard Bennett,
19 juror 133.

20 There is no way, in good conscience,
21 assuming I'm on the jury finding an individual guilty, that
22 I could give parole.

23 THE COURT: So there is one form of penalty
24 you couldn't consider?

25 JUROR NO. 133: One of the three. I would

PATSY K. SMITH, OFFICIAL COURT REPORTER

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1 not even consider a chance of parole.

2 THE COURT: Let's assume for a second that
3 you are required to deliberate on the question of penalty.
4 You are going to hear a whole series of -- you will hear a
5 series of presentation from witnesses that have to do with
6 aggravating and possibly mitigating circumstances with
7 regard to penalty. The State of Nevada, through its
8 legislature, has determined, as a matter of its firm public
9 policy, that these are the three forms of punishment that
10 are available and each case is different just as every
11 human being is different.

12 Now with that in mind, could you listen to
13 all the evidence and at the end, even though you have a
14 philosophical issue with this, could you, knowing what you
15 know now and based on what I just told you, could you
16 consider a third alternative, that is life with the
17 possibility of parole?

18 JUROR NO. 133: No, sir, I would not.

19 THE COURT: All right.

20 MR. LaPORTA: Challenge for cause.

21 THE COURT: All right. Challenge is
22 allowed. You can report back to the jury commissioner.

23 JUROR NO. 133: Yes, sir.

24 THE COURT: With that, we will call the
25 first -- anyone else?

PATSY K. SMITH, OFFICIAL COURT REPORTER

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AA003226

1 Yes, sir.

2 JUROR NO. 146: Your Honor, I was wondering
3 if I might approach the bench.

4 THE COURT: All right, with counsel. State
5 your name for the record.

6 JUROR NO. 146: Rhandolph Mouton, number
7 146.

8 THE COURT: Yes.

9 (Off the record discussion not reported.)

10 THE COURT: The parties have -- the State
11 has moved to excuse this juror. The defense does not
12 oppose it. You are excused from jury service.

13 Let's call the first eight.

14 THE CLERK: Badge number 91, Robert I. Law,
15 L-A-W, badge number 92, Iris Mike Daboda, D-A-B-O-D-A ,
16 badge number 93, Edward Richard Sheptow, S-H-E-P-T-O-W,
17 badge number 98, Thomas Donald Powers, P-O-W-E-R-S, badge
18 number 100, Clarence K. Robbins, R-O-B-B-I-N-S, badge
19 number 104, Mark R. Kruse, K-R-U-S-E, badge number 106,
20 Sharna Susler Blumenfeld, B-L-U-M-E-N-F-E-L-D, badge number
21 108, Howard Dale Cheney, C-H-E-N-E-Y.

22 THE COURT: All right, to make sure that we
23 have everybody in their places, we have Mr. Law, L-A-W?

24 A Yes.

25 THE COURT: Ms. Daboda. Am I pronouncing

PATSY K. SMITH, OFFICIAL COURT REPORTER

1 your name correctly?

2 A Right.

3 THE COURT: Mr. Sheptow?

4 A Yes .

5 THE COURT: Mr. Powers?

6 A Yes.

7 THE COURT: Mr. Robbins?

8 A Yes.

9 THE COURT: Ms. Kruse -- Mr. Kruse, Mark
10 Kruse. Excuse me.

11 A Yes, sir.

12 THE COURT: I'm writing that down. I wrote
13 the name wrong off the jury list. Sorry about that.

14 Sharna Blumenfeld and Mr. Cheney.

15 All right, good afternoon, ladies and
16 gentlemen. We will start with individual voir dire with
17 Mr. Law.

18 Mr. Law, is there any reason that you can
19 think of why you couldn't be fair to both sides in the
20 case?

21 A No reasons.

22 THE COURT: Can you wait until all the
23 evidence is in before coming to any conclusions about any
24 issue in this case?

25 A Yes.

PATSY K. SMITH, OFFICIAL COURT REPORTER

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1 THE COURT: Have you, any member of your
2 family, close friends of yours ever been arrested?

3 A No.

4 THE COURT: You, members of your family,
5 close friends of yours ever been the victim of a crime?

6 A No.

7 THE COURT: Have you ever been on a jury
8 before?

9 A No.

10 THE COURT: Any concerns about adverse
11 public opinion that might occur as a result of the verdict
12 you might render?

13 A No.

14 THE COURT: Have you ever been a party to
15 lawsuit or witness in court in any kind of proceeding
16 before?

17 A No.

18 THE COURT: Do you have any conscientious,
19 moral or religious objections to the imposition of the
20 death penalty?

21 A I do not.

22 THE COURT: If you are selected as a juror,
23 would you be able to give fair consideration to all three
24 possible forms of punishments, that is if the jury
25 convicted the defendant of first degree murder?

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1 A Yes.

2 THE COURT: Again, the forms of punishment
3 are the death penalty, life with the possibility of parole,
4 and life without the possibility of parole?

5 A Yes.

6 THE COURT: And your answer is the same?

7 A Right.

8 THE COURT: If you were involved in this
9 case in any way, whether you were a party or a witness or a
10 member of the family or witnesses or parties, would you
11 feel comfortable with 12 people just like you sitting in
12 judgment in your case?

13 A Yes I would.

14 THE COURT: District Attorney may inquire.

15 MR. HARMON: I will do that, your Honor. If
16 the Court would like to make a note, I have the odd
17 prospective numbered jurors and Mr. Bell has the even.

18

19 VOIR DIRE EXAMINATION

20 BY MR. HARMON:

21 Q Mr. Law, having heard the profile at
22 least of the case and understanding the nature of the
23 charges, is there anything about the nature of the case
24 that you feel would make it difficult for you to sit as a
25 fair and impartial juror?

PATSY K. SMITH, OFFICIAL COURT REPORTER

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AA003230

1 A I don't believe so.

2 Q How do you feel about the opportunity
3 of serving as a juror in this type of case?

4 A The type is not -- doesn't make any
5 difference to me. It's a type of case just to sit here and
6 judge the facts.

7 Q You believe, sir, that persons who
8 commit serious, violent offenses should be held personally
9 responsible?

10 A I do.

11 Q As the Court has mentioned, potentially
12 there will be two phases to the trial. If it is necessary
13 to have a second phase, that would occur in the event the
14 jury had found Mr. Castillo guilty of murder of the first
15 degree. In that event, the jury would have the additional
16 responsibility of fixing punishment. Do you feel you are
17 the type of person who will be able to pass judgment on the
18 defendant, Mr. Castillo?

19 A Having not done it before, I can't
20 answer that affirmatively, but I believe so.

21 Q If, after you had heard all of the
22 evidence, you were convinced that he was guilty of murder
23 of the first degree and if you had sat through a penalty
24 hearing, you had become convinced that the appropriate
25 punishment was a death sentence, do you feel you are the

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AA003231

1 type of juror who would have the courage and intestinal
2 fortitude to come into the courtroom and look at the
3 defendant, Mr. Castillo, who is obviously a young man, and
4 vote according to your conviction?

5 A I believe so.

6 Q Now, the information we have indicates
7 that you have lived in Clark County for what, about one
8 year?

9 A A little over.

10 Q Where did you move from, sir?

11 A Chicago, Illinois.

12 Q What prompted your move to this
13 community?

14 A Change of employment.

15 Q Are you going to be able to devote your
16 full attention to these proceedings while the Court is in
17 session?

18 A Yes, sir.

19 MR. HARMON: Thank you. Pass for cause.

20 THE COURT: For the defense, Mr. Schieck.

21 MR. SCHIECK: Thank you, your Honor, and for
22 the Court's information, I have the odd numbers. So it
23 will be Mr. Harmon and I on odd.

24 . . .

25 . . .

PATSY K. SMITH, OFFICIAL COURT REPORTER

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1 VOIR DIRE EXAMINATION

2 BY MR. SCHIECK:

3 Q Mr. Law, you indicated you moved here
4 to Las Vegas because of a change of employment?

5 A That is correct.

6 Q What is your current employment?

7 A I'm a construction manager at the Yucca
8 Mountain project.

9 Q And what did you do in Chicago?

10 A I was an operations manager for a
11 construction firm in Chicago.

12 Q When you were in that position, were
13 you out actually doing the construction or you sort of
14 supervised?

15 A In that position, I supervised.

16 Q And here at Yucca Mountain?

17 A I'm a supervisor.

18 Q You have what, four children?

19 A Six.

20 Q Six children.

21 Are their grandparents still alive?

22 A Some.

23 Q You understand that the alleged victim
24 in this case was 86 years of age?

25 A That's what I heard.

PATSY K. SMITH, OFFICIAL COURT REPORTER

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1 Q Is there anything about the age of the
2 victim that you think may effect your ability to be
3 impartial in this case?

4 A I don't think so.

5 Q It's also quite possible that, during
6 the course of the case, you'll see some pictures that may
7 be graphic and somewhat troublesome. Do you think those
8 would effect your ability to be fair and impartial in the
9 case?

10 A I don't think so.

11 Q Would you characterize yourself as a
12 proponent of the death penalty?

13 A No.

14 Q Have you ever really sat and thought
15 about the death penalty?

16 A I have.

17 Q Under what circumstances?

18 A Just as news events have come about
19 where people have been executed.

20 Q What role do you think the death
21 penalty serves in the criminal justice system?

22 A As punishment for a crime.

23 Q Anything other than to punish?

24 A I don't see it as a deterrent.

25 Q Just simply as a form of punishment?

PATSY K. SMITH, OFFICIAL COURT REPORTER

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1 Is that yes?

2 A That's correct, yes.

3 MR. SCHIECK: Thank you. We would pass for
4 cause, your Honor.

5
6 (At this time, another court reporter took
7 over the proceedings.)

8
9 (Off the record at 4:41 p.m.)

10

11 * * * * *

12

13 ATTEST: FULL, TRUE AND ACCURATE TRANSCRIPT OF PROCEEDINGS.

14

15


PATSY K. SMITH, C.C.R. #190

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PATSY K. SMITH, OFFICIAL COURT REPORTER

EXHIBIT 159

EXHIBIT 159

CASTILLO0005-ORAM0145

DISTRICT COURT

COUNTY OF CLARK, STATE OF NEVADA

* * * * *

ORIGINAL

THE STATE OF NEVADA,)

Plaintiff,)

-vs-)

WILLIAM PATRICK CASTILLO,)

Defendant.)

Case No. C133336

Dept. No. VII

FILED

AUG 28 2 15 PM '91

LaPorta

REPORTER'S TRANSCRIPT

OF

JURY TRIAL VOLUME II 4:40 - 6:00

BEFORE THE HONORABLE A. WILLIAM MAUPIN, DISTRICT JUDGE

Tuesday, August 27, 1996

APPEARANCES:

For the State:

STEWART L. BELL, ESQ.

District Attorney

&

MELVYN T. HARMON, ESQ.

Deputy District Attorney

For the Defendant:

PETER R. LaPORTA, ESQ.

&

DAVID M. SCHIEK, ESQ.

Reported by: LISA BRENSKE, CCR No. 186

64CE

LAS VEGAS, CLARK COUNTY; TUESDAY, AUGUST 27, 1996

P R O C E E D I N G S

EXAMINATION

BY THE COURT:

Q Miss Daboda, good afternoon. Any reason that you couldn't be fair to both sides in this case?

A Not right now.

Q Can you wait until all the evidence is in before coming to any conclusion about any issue in the case?

A I hope so.

Q When you say that right now you can't think of any reason from that, I --

A I don't know. Just because he was talking about something being real graphic and this is my first time as a juror.

Q That's what I was getting at. If there's something later on in the case that comes about, the facts of the crime, for example, will you still be able to assess that evidence subjectively and determine whether first the State has proved that a crime has been committed, second who did it beyond a reasonable doubt? Will you be able to sit and measure your deliberation in that fashion and govern it according to those burdens of proof?

1 A I think so.

2 Q Now, later on in the trial if you see some
3 graphic photographs, which I anticipate that you will, will
4 you be able to maintain your objectivity?

5 A I really don't know how to answer that because
6 right now I'm trying to think of what kind of things it
7 would look like. But I can't really.

8 Q Well, let's assume that they would be graphic.

9 A Yes.

10 Q Will you be able to still assess that evidence
11 in terms of the State's burden of proof with regard to this?

12 A Yes.

13 Q And you can wait until all the evidence is in
14 before coming to any conclusion about the case?

15 A Yes.

16 Q Have you, any member of your family or any
17 close friends of yours ever been arrested?

18 A No. I didn't think about it when I did that
19 survey, but my dad was killed by a highway patrol in
20 Tonopah. But I don't remember that because he didn't raise
21 me.

22 Q Do you remember anything about the
23 circumstances of that?

24 A No, not really.

25 Q Anyone ever tell you anything other than that

1 that's what happened?

2 A Yeah.

3 Q Anything about that experience in your family's
4 life that would affect your ability to be fair to both sides
5 in this case?

6 A No.

7 Q Anyone in your family ever been arrested?

8 A No.

9 Q Anyone in your family ever been the victim of a
10 crime, you or friends of yours?

11 A No.

12 Q Have you ever been on a jury before?

13 A No.

14 Q Any concern about adverse public opinion that
15 might arise from any verdict you may render?

16 A No.

17 Q Ever been a participant in any legal proceeding
18 before?

19 A No.

20 Q Do you have any conscientious, moral or
21 religious objections to the imposition of the death penalty?

22 A No.

23 Q If you are selected as a juror in this case and
24 if at the end of the case the defendant has been found
25 guilty of first degree murder, will you be able to fairly

1 consider all three alternative forms of punishment?

2 A Yes.

3 Q Keep an open mind about all that evidence
4 before coming to any conclusion about which punishment
5 should be imposed?

6 A Yes.

7 Q If you were involved in this case would you
8 feel comfortable with 12 people just like you with your
9 sense of fairness sitting in judgment on the matter?

10 A Yes.

11 THE COURT: State may inquire.

12 MR. BELL: Thank you, Judge.

13
14 EXAMINATION

15 BY MR. BELL:

16 Q Miss Daboda, I note that you're from Moapa. Do
17 you still live there in Moapa?

18 A Yes.

19 Q Is that a geographic disparity if you have to
20 come in and go back --

21 A I was thinking about that but I didn't want to
22 feel like that was something I was -- I can't remember that
23 word -- compelled to make me feel like that was something I
24 couldn't do. But it is an hour's drive every day.

25 Q You understand what we're trying to do here,

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1 we're trying to get 12 people and four alternates that can
2 serve that are open-minded that give both sides --

3 A Yes.

4 Q And we try to look at physical conditions and
5 personal conditions and in this case geographical
6 conditions. If it's not a problem, it's not a problem. I
7 just was inquiring and what we need is your best honest
8 answer and the judge makes the decision on who stays and who
9 goes. Is that going to be a problem or is that something
10 that you can accommodate for, say, three days this week and
11 three or four days next week and then maybe potentially
12 three or four days thereafter down the road?

13 A I don't have a problem with it.

14 Q I noted that you indicated you were a tribal
15 employment rights officer?

16 A Yes.

17 Q Is that something like a lawyer or a judge?

18 A No. It just works with equal employment
19 opportunity commission.

20 Q Within the --

21 A Affirmative action.

22 Q Is that within the tribal context or is that
23 within the community context?

24 A Tribal context.

25 Q So you're not called upon to do any judging or

1 make any decision within your employment; is that correct?

2 A In a matter I am.

3 Q Not like Judge Maupin but --

4 A No.

5 Q -- but the decisions that business people make;
6 is that fair to say?

7 A Yes.

8 Q I noted there was a question that asked whether
9 people thought they were conservative or liberal, I thought
10 it was kind of an usual question, I didn't write it because
11 I think those things mean so many different things to
12 different people. I'd like to think of myself being liberal
13 meaning open-minded. I know you wrote liberal.

14 A That's what my intent was.

15 Q Some people think different things.

16 I also noted that you told Judge Maupin you
17 would consider all three punishments and I think it's become
18 obvious to everyone sitting here if the State is successful
19 in convicting Mr. Castillo we are going to ask the jury to
20 impose the death penalty. In your questionnaire you wrote
21 you would consider the death penalty but would have a hard
22 time. We are not trying to put you on the spot but we're
23 trying to get honest answers so that both sides have 16
24 people that are going to have the ability to do what's
25 necessary after all the evidence is in. Can you elaborate

1 on that a little bit more for us.

2 A I couldn't really think because I was reading
3 the question and trying to understand it to the best of my
4 ability and I don't know why I put I would have a hard time.
5 I really don't.

6 Q Do you feel like if you judged a particular set
7 of facts and after judging that facts you found a defendant
8 guilty of murder in the first degree and you heard all of
9 the evidence that there would be a set of facts where you
10 could come back and look at the defendant and say I think
11 this is the appropriate punishment?

12 A I think so.

13 Q And as the judge has told you earlier we're
14 really not allowed to talk about what are you going to do in
15 this particular set of facts, but is it the case that we
16 don't have to rise to the level of the Oklahoma bombing
17 before that consideration could come in, you'd look at each
18 individual case and make a fair decision?

19 A Yes.

20 Q Could you work with your fellow jurors and try
21 to listen to their point of view and give them your point of
22 view and do your best to come to a joint conclusion on
23 whatever the guilt or innocence decision should be and if
24 there's a penalty decision whatever that decision should be?

25 A Yes.

2
1 Q Is there any other reason why you can think of
2 that you might be unable to serve?

3 A The only thing is I think I am a new diabetic
4 and the medication that I'm taking kind of grogs me out
5 periodically but not something that is really dangerous.

6 Q And again I'm not trying to pry but we want to
7 make sure of the composition of the jury. Do you have
8 specific dietary requirements with that?

9 A Yes,
10

11 Q Are those dietary requirements able to be met
12 by some noon recess and being out by 5:30 or six and
13 starting at ten or so in the morning?

14 Q You don't need to --

15 A I'm supposed to be like eating at 4:30 every
16 day. And I've been doing that. So if I don't I think I
17 said that I think -- I would probably get a little dizzy and
18 shaky.

19 Q Is that sort of pursuant to doctor's orders,
20 4:30?

21 A It's just something I've done because I get
22 home from work and I go right in and go eat.

23 Q If you were to be required to sit here till
24 5:30 or six, and sometimes that'll happen, we usually work
25 eight to five or eight to 5:30, but the judge breaks at

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1 natural breaks, sometimes a witness is on the stand and the
2 judge doesn't want to break, is that going to cause you
3 medical or physical problems?

4 A No. If I have some candy in my purse which I
5 usually carry.

6 MR. BELL: Judge, I'd pass the juror for cause.

7 THE COURT: Thank you.

8
9 EXAMINATION

10 BY MR. LaPORTA:

11 Q Good afternoon, Miss Daboda.

12 A Good afternoon.

13 Q You filled out a questionnaire earlier this
14 week and in that questionnaire and I apologize but sometimes
15 my job requires that we ask information of a personal nature
16 and we certainly don't wish to embarrass you but we simply
17 are doing our job. But one of the questions was about what
18 you thought the cause of the crime problem was and what you
19 should do about it and your answer was not enough discipline
20 or parental guidance; is that correct?

21 A Yes.

22 Q Can you expand on that a little bit?

23 A Well, you know, I live on the Indian
24 reservation and we have a little treatment thing there and I
25 belong to that team and we're trying to do some things that

3
1 will help people to kind of direct them in areas that would
2 be helpful to them in the home as far as parental guidance
3 and building up self-esteem.

4 Q Now, is this part of your job?

5 A No. This is something that I was assigned to
6 do as part of --

7 Q So this is in addition, something you do for
8 the community?

9 A Right.

10 Q So would you say you're very involved in
11 helping family units?

12 A Yes.

13 Q Along these lines?

14 A Yes.

15 Q During your earlier voir dire with the judge
16 you indicated that your father was unfortunately killed by
17 the highway patrol and you did not know your dad. Can you
18 describe a little bit about what your family environment was
19 like growing up?

20 A I was raised by my great uncle and his wife and
21 my two sisters. And he had a real strong discipline
22 environment so we went to school and did our little thing.

23 Q You said your great uncle and his wife.

24 A They're both deceased now.

25 Q Your mother?

3
1 A Deceased.

2 Q She was deceased and your great uncle took over
3 the responsibilities of raising you?

4 A Yes.

5 Q How old were you when your mother passed away?

6 A About nine years old.

7 Q The victim in this case was an elderly woman in
8 her 80's. Does that present a problem for you, the fact
9 that the victim was that old?

10 A No.

11 Q Do you think that knowing the victim was that
12 age that do you think you can still be fair and impartial?

13 A I hope I can be.

14 Q You hope you can be or you can be?

15 A I am going to be.

16 Q Additionally a little later on in your
17 questionnaire there was a question -- and I'll read it
18 directly -- if the State goes to the trouble of bringing
19 someone to trial for a criminal offense the person is
20 probably guilty and you agreed with that statement. Do you
21 think that Mr. Castillo is probably guilty?

22 A I don't know. I haven't heard anything except
23 what was said today.

24 Q Well, how do you feel right now? Do you feel
25 that he's guilty at this point in time?

1 A If he killed someone?

2 Q No. I'm not asking you. I'm just asking you
3 the State has brought some charges forth, you have not heard
4 any evidence in this particular case, I'm asking you do you
5 feel at this point in time Mr. Castillo sitting right here
6 and now do you feel that he's guilty just by the mere fact
7 that the State has brought these allegations forward and
8 they've gone to the trouble of prosecuting up to this point?

9 A Yes.

10 Q You do feel he's probably guilty?

11 A Yes.

12 MR. LaPORTA: Your Honor, we'd challenge for
13 cause.

14 THE COURT: Traverse?

15 MR. BELL: No objection.

16 THE COURT: You may step down and go back to
17 the jury commissioner and you're excused. Thank you very
18 much for your time.

19 THE CLERK: Badge number 111, Suzanne Hilary
20 Malmedal, M-a-l-m-e-d-a-l.

21

22 EXAMINATION

23 BY THE COURT:

24 Q There is a method to our madness. From now on
25 we'll be keeping track of you by your seat designation so I

613

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No. 56176

Electronically Filed
Feb 01 2011 08:47 a.m.
Tracie K. Lindeman

E.K. McDANIEL, Warden, Ely State
Prison, CATHERINE CORTEZ MASTO,
Attorney General for Nevada,

Respondents.

Appeal from Order Denying Petition for Writ of Habeas Corpus (Post-Conviction)

VOLUME 13 of 21

FRANNY A. FORSMAN
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GARY A. TAYLOR
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Nevada Bar No. 11031C
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Las Vegas, Nevada 89101
(702) 388-6577
Counsel for Appellant

ORIGINAL

DISTRICT COURT
CLARK COUNTY, NEVADA

FILED

FEB 14 8 45 AM '96

BEFORE THE GRAND JURY IMPANELED BY ~~THE~~ *Brenda Anne Lee* ~~THE~~ *Brenda Anne Lee* FORESAID

DISTRICT COURT

CLERK

0133336

THE STATE OF NEVADA,

) Case No.

) 95GJ209AB

VII

P

Plaintiff,

vs.

) Conspiracy to

) Commit Burglary

) And/Or Robbery;

) Burglary;

) Robbery, Victim 65

) Years of Age, or

) Older; Murder With

) Use of a Deadly

) Weapon, etc.

WILLIAM PATRICK CASTILLO

#1153209

MICHELLE C. PLATOU

#1220743

Defendants.

Taken at Las Vegas, Nevada

Thursday, January 18, 1996

1:25 P.M.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

VOLUME II

Reported by: Brenda Anne Lee, C.C.R. No. 198

184

CE05

Castillo, William
Rev'd 10/20/04 8JDC-1157
8" JDC recs.

1 GRAND JURORS PRESENT ON JANUARY 18, 1996:

2
3 LAWRENCE D. STARKS, Deputy Foreman

4 PAMELA T. CHERRY, Secretary

5 RALPH T. BALLARD

6 BRETT V. BUNTON

7 STELLA M. DOERR

8 DEBORAH K. HOSTETTER

9 KENNETH J. HUTCHENS

10 CHOPIN S. KIANG

11 SHAWN H. KRUITBOSCH

12 POJAMAN SHOULDIS

13 KATHLEEN SKOPAL

14 KIM STUFF-LEE

15 DON K. THOMPSON

16 JANICE M. WEBB

17
18 Also present at the request of the Grand Jury:

19 WILLIAM T. KOOT,
20 Chief Deputy District Attorney

185

Castillo, William
Rev'd 10/20/04 8JDC-1158
8th JDC recs.

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ROBERT BUCKLIN

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KATHLEEN ADKINS

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Castillo, William
Rev'd 10/20/04 8JDC-1159
8th JDC recs.

028-8JDC0004

AA003002

WCastillo - 028-8JDC0004

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Castillo, William
Rev'd 10/20/04 BJDC-1160
8th JDC recs.

028-8JDC0005

AA003003

WCastillo - 028-8JDC0005

1 LAS VEGAS, NEVADA, JANUARY 18, 1996, 1:25 P.M.

2
3
4 MR. KOOT: I have another proposed
5 Indictment to supersede the first one, no different
6 charges. That would be Exhibit 1A. No different
7 charges, a little more specific language, and I'll
8 just let you know what that is.

9 On the -- I don't think I
10 touched the conspiracy count. The burglary count I
11 put a little more specific slang as to what the two
12 defendants did with regard to the -- with the
13 burglary, and that is that they both entered the
14 residence, and that Miss Platou aided and abetted
15 Mr. Castillo by furnishing the transportation so I
16 put that language in there.

17 The robbery count, I don't think
18 I changed any language in there.

19 The murder count, I was a little
20 more specific by incorporating count one by
21 reference as far as the burglary and robbery was
22 concerned. And felony murder is defined as
23 attempting to commit an underlying felony or the
24 actual completion of the underlying felony, so I was
25 a little more specific in following the statutory

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1 language, but the substantive offenses have not
2 changed and the elements remain basically the same.

3 Oh, one other change was, yeah,
4 on the robbery, at the end, because of some of the
5 testimony last time I thought it would be judicious
6 to include the remaining language of the statute of
7 the robbery statute and basically that goes to why
8 force was used.

9 At the end there you will see I
10 added the language defendants using force or fear to
11 obtain or retain possession of the property, and/or
12 to prevent or overcome resistance to the taking of
13 the property, and/or to facilitate escape with the
14 property.

15 All of this simply is to put --
16 in the event there's a true bill -- to put the
17 defense on notice as to the various theories of
18 prosecution that we intend to pursue.

19 Because our court reporter,
20 Brenda Lee, was able to produce a transcript, it
21 allowed me to read through the transcript last night
22 and after reading through it I want to be sure that
23 I give some cautionary instructions to you which I
24 think I gave comprehensibly last time.

25 Just to be sure so it doesn't

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1 come back to haunt me, there are -- there's one
2 photograph of the defendant Castillo in evidence and
3 two photographs of Miss Platou in evidence or
4 Platou -- however you pronounce it -- and the one of
5 Mr. Castillo predates the date of his arrest.
6 Certainly it's no secret he was arrested. That came
7 out in evidence. It predates that arrest, and that
8 is, in fact, a work card type related photo. It
9 came from Sheriff Civil.

10 You're not to assume any
11 criminal conduct or bad acts on the part of either
12 defendant as a result of those photos.

13 One of the photos of Miss Platou
14 was -- likewise predated the arrest in this
15 particular case. Again that was a work card.

16 And there were several
17 references by witnesses to prior bad acts or bad
18 conduct on the part of at least Mr. Castillo.
19 You're not to infer any bad character, and I would
20 ask you to ignore it for that purpose.

21 Now, with regard to the
22 testimony of Kirk Rasmussen. I think at one time I
23 told you you could accept his testimony. Kirk was
24 the gentleman who -- and I have the transcript of
25 last time here in case anyone needs to review it --

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1 but Kirk was the gentleman who was employed with the
2 defendant and went on that side job. He was the
3 blond headed kid.

4 In any event, I advised you that
5 you were to use his testimony only as it pertains to
6 Mr. Castillo. That is somewhat incorrect. You can
7 use his testimony only as it might incriminate Mr.
8 Castillo as to statements made by Mr. Castillo to
9 him.

10 But he had also testified to
11 other things such as observations. He had been at
12 that apartment, he had seen certain of the people
13 together. He was familiar with the automobile.
14 Things like that obviously can be used in your
15 deliberations as to both named defendants.

16 I have a tape player that I
17 brought with me. The tapes are in evidence -- the
18 three tapes -- and after the testimony of the last
19 two witnesses I will ask that you play those. I'll
20 excuse myself and then you can play those as you see
21 fit or however many times as you see fit.

22 In addition, at any time during
23 the deliberations if you need further clarification
24 on aiding and abetting or conspiracy or vicarious
25 liability, please let me know.

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1 I know you've been through this
2 before. You've been sitting for a long time. I
3 know you're familiar with the law. If you need any
4 assistance let me know.

5 At this time I will see if the
6 pathologist is ready and I'll call him and let him
7 go.

8 Dr. Bucklin.

9 Dr. Bucklin, stand here, raise
10 your right hand and be sworn in by the Foreman,
11 please.

12 THE DEPUTY FOREMAN: You do solemnly
13 swear that the testimony that you are about to give
14 upon the investigation now pending before this Grand
15 Jury shall be the truth, the whole truth and nothing
16 but the truth, so help you God?

17 DR. BUCKLIN: I do.

18 THE DEPUTY FOREMAN: You may be seated.
19 You're here today to give
20 testimony in the investigation pertaining to the
21 offenses of conspiracy to commit burglary and/or
22 robbery, burglary, robbery, victim 65 years of age
23 or older, murder with use of a deadly weapon,
24 conspiracy to commit burglary and arson, and first
25 degree arson involving William Patrick Castillo and

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1 Michelle C. Platou; correct?

2 DR. BUCKLIN: Yes, sir.

3 THE DEPUTY FOREMAN: Thank you.

4
5 ROBERT BUCKLIN,

6 having been first duly sworn by the
7 Deputy Foreman of the Grand Jury to
8 testify to the truth, the whole truth
9 and nothing but the truth, testified as
10 follows:

11
12 EXAMINATION

13
14 BY MR. KOOT:

15 Q. Would you state your name and spell
16 your last name, sir?

17 A. Dr. Robert Bucklin, B-u-c-k-l-i-n.

18 Q. What is your occupation or profession,
19 sir?

20 A. Doctor of medicine practicing as a
21 forensic pathologist.

22 Q. And could you -- since I know you have
23 not qualified before this Grand Jury, I wonder if we
24 could have the benefit of your formal education,
25 sir?

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1 A. I went to Loyola University in Chicago
2 and received a bachelor of medicine degree in 1938.
3 I continued in to medical school at Loyola and
4 graduated in 1940 with an M.D. degree.

5 I served an internship and
6 residency in pathology and was board qualified in
7 pathology. I took the examinations for anatomic and
8 clinical pathology in the mid 1940's.

9 I took the examination for
10 certification of forensic pathology in 1959, and I
11 passed all of those.

12 I went to law school starting in
13 1964 and graduated in 1967 and received a juris
14 doctorate degree in Texas. Passed the Texas bar.
15 So I have a law license in the state of Texas.

16 I'm licensed to practice
17 medicine in -- start off in Washington State,
18 Michigan, Texas, California and Nevada.

19 I've been practicing for 55
20 years, and I've done about 25,000 autopsies.

21 I've been associated with the
22 coroner's office in Saginaw, Michigan for 20 years,
23 in Harris County, Texas for 10 years, the L.A.
24 County Coroner for nine years, San Diego County
25 three years, Travis County, Austin, Texas one year,

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1 plus private work in pathology and general.

2 I've been with Clark County
3 Coroner's Office since August -- no, since September
4 1 of this year.

5 Q. And are you licensed in the state of
6 Nevada, Doctor?

7 A. Yes.

8 Q. And have you qualified in any courts
9 here in Clark County previously?

10 A. I testified -- I thought it was the
11 Grand Jury, but I must have been incorrect about
12 that about two months ago, and I was qualified based
13 on the credentials that I have given you.

14 Q. You have qualified, sir, apparently in
15 other courts in various states of the union; is that
16 correct, sir?

17 A. Yes, sir. At least 10 or 15 states.

18 Q. Those have been at the trial court
19 level?

20 A. Yes.

21 Q. Thank you.

22 MR. KOOT: Mr. Foreman, would the Grand
23 Jury accept Dr. Bucklin as an expert to render his
24 opinion as to related cause of death and pathology
25 of science?

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1 THE DEPUTY FOREMAN: Yes.

2 BY MR. KOOT:

3 Q. Did you, Dr. Bucklin, perform an
4 autopsy on a person identified to you as Isabelle
5 Berndt on December 17th, 1995?

6 A. Yes.

7 Q. And I'd like to show you some
8 photographs that have been marked. The first one is
9 Exhibit Number 59. The next one is 71, 72, and 73.

10 Are these four photographs for
11 all of the persons identified to you as Mrs. Berndt?

12 A. Yes.

13 Q. And do these photographs truly and
14 accurately depict Mrs. Berndt on the date in
15 question, December 17, 1995?

16 A. Yes.

17 Q. That is the same person upon whom you
18 performed your examination, sir?

19 A. Yes.

20 Q. Could you -- we're obviously interested
21 in cause of death and I wonder -- and I don't know
22 what procedure you'd like to follow yourself.

23 Could you tell us, sir, what the
24 cause of death was and outline for us the various
25 injuries relating to that?

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1 A. The cause of death of Isabelle Berndt
2 was intracranial bleeding due to blood forced trauma
3 to the face and to the head.

4 She had multiple injuries about
5 the face which you'll observe in these photos. They
6 were primarily in the area around the ears, the
7 eyes, and the front part of the face with some of
8 the upper part of the neck.

9 The result of these was massive
10 fracturing of the bones of the face. The force was
11 directed from front toward back and upward. The
12 instrument, I think, was something like a tire iron,
13 something heavy with a linear configuration. It did
14 not have any particular pattern such as a hammer
15 might, but it was a fairly heavy type instrument
16 based on the extent of the injuries.

17 The force was enough to be
18 transmitted into the head itself and to produce
19 massive hemorrhage along the base of the skull, the
20 skull, about the base of the eyes, just below the
21 eye level, and this was not fracture, but there was
22 extensive hemorrhage involving the soft tissues of
23 the brain involved at that point.

24 She had had some other minor
25 injuries about the body, but they were not lethal.

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1 Q. You have some photographs there in
2 front of you, Doctor, and the exhibit numbers are on
3 the back of those photographs.

4 Would those photographs assist
5 you in explaining and describing the various
6 injuries suffered by Mrs. Berndt?

7 A. Yes, they do.

8 Q. If you would use those photographs and
9 do so and refer to the exhibit number as you do?

10 A. Exhibit Number 59 is a rather distant
11 photo which shows the injuries about the left side
12 of the head. It shows the laceration of the ear.
13 It shows multiple lacerations around the left eye
14 and lacerations on the forehead.

15 These are better seen on 72
16 which is higher magnification, and it shows some of
17 the hemorrhage under the eye together with the blunt
18 crushing lacerations from the heavy instrument.

19 Number 73 is again a higher
20 magnification, somewhat more injury of the ear. The
21 wound is across the ear, from the top to the bottom
22 of the ear, which gives us the indication of the
23 type of instrument that had been used.

24 Number 71 is the right side of
25 the face and shows a lesser degree of injury here.

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1 Most of the injuries were on the left side of the
2 face.

3 BY MR. KOOT:

4 Q. And were you able to discern, Doctor,
5 any particular number of injuries or is it simply
6 just multiple numbers?

7 A. I made no attempt to count them because
8 I didn't think it would be very beneficial to do so.
9 The photos, of course, add to the written
10 descriptions in my report, but there are at least 15
11 or 20 various injuries about the body.

12 Q. Were there any injuries -- and if you
13 need to refer to your report, Doctor, I would ask
14 that you do so -- any injuries or bruising on the
15 arms, the hands?

16 A. Yes.

17 The upper extremities showed
18 contusions and ecchymoses involving the first finger
19 and portion of the fingers on the left hand and also
20 these were fresh. The left first finger was a
21 superficial laceration and the back of the right
22 hand showed subcutaneous hemorrhage to the base of
23 the knuckles.

24 She had arthritic deformities of
25 both hands.

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1 There were no injuries to the
2 lower extremities.

3 MR. KOOT: I have no further questions
4 if any members of the Grand Jury have questions.

5 THE DEPUTY FOREMAN: Any questions?

6 MR. KOOT: Oh, I did want to ask about
7 one further area. I might as well get it into
8 evidence.

9 BY MR. KOOT:

10 Q. On the toxicology report, did that show
11 anything with regard to foreign substances in Miss
12 Berndt's system?

13 A. Negative. No alcohol, no drugs
14 identified in the blood. There was no carbon
15 monoxide of any significance.

16 MR. KOOT: Thank you, sir.

17 BY MR. KOOT:

18 Q. The carbon monoxide, would that
19 indicate a nonsmoker to you, sir?

20 A. It would be a level of a person who did
21 not smoke. It was under 5 percent.

22 MR. KOOT: Nothing further.

23 I'm sorry, Mr. Foreman.

24 THE DEPUTY FOREMAN: By law, these
25 proceedings are secret, and you are prohibited from

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1 disclosing to anyone anything that transpired before
2 us including evidence presented to the Grand Jury,
3 any event occurring or a statement made in the
4 presence of the Grand Jury, or any information
5 obtained by the Grand Jury.

6 Failure to comply with this
7 admonition is a gross misdemeanor, punishable by a
8 year in the Clark County Detention Center and a
9 \$2,000 fine. In addition, you may be held in
10 contempt of court punishable by an additional \$500
11 fine and 25 days in the Clark County Detention
12 Center.

13 Thank you, Doctor.

14 THE WITNESS: Thank you.

15 (Witness excused.)

16 MR. KOOT: I don't know if I made a
17 record of this, but I had marked as Exhibits 69 and
18 70, I think they're simply duplicitous of what we
19 already have. They're certified copies of vehicle
20 registrations, but we'll pass those around,
21 nevertheless, and we passed the photos around.

22 The next to the last witness
23 would be Kathy Adkins.

24 THE DEPUTY FOREMAN: Would you raise
25 your right hand, please?

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1 You do solemnly swear that the
2 testimony that you are about to give upon the
3 investigation now pending before this Grand Jury
4 shall be the truth, the whole truth and nothing but
5 the truth, so help you God?

6 MS. ADKINS: I do.

7 THE DEPUTY FOREMAN: You may be seated.

8 You are here today to give
9 testimony in the investigation pertaining to the
10 offenses of conspiracy to commit burglary and
11 robbery, burglary, robbery of a victim 65 years of
12 age or older, murder with use of a deadly weapon,
13 conspiracy to commit burglary and arson, burglary
14 and first degree arson involving William Patrick
15 Castillo and Michelle C. Platou; correct?

16 MS. ADKINS: Yes, sir.

17
18 KATHY ADKINS,

19 having been first duly sworn by the
20 Deputy Foreman of the Grand Jury to
21 testify to the truth, the whole truth
22 and nothing but the truth, testified as
23 follows:
24
25

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EXAMINATION

BY MR. KOOT:

Q. State your name, please.

A. Kathleen Adkins, A-d-k-i-n-s.

Q. What is your occupation?

A. I'm a supervisor of crime scene analysts with the Las Vegas Metropolitan Police Department.

Q. And how long have you been employed in that capacity, Miss Adkins?

A. As a supervisor a year and three months. With the Las Vegas Metropolitan Police Department 25 years.

Q. And did you -- I'm going to go through some evidence now with you all of which was opened before the Grand Jury last week.

First of all, I'd like to direct your attention to December the 20th, 1995. On that date did you go to 1951 North Jones, Apartment G-106, and meet with detectives?

A. Yes, sir, I did.

Q. And would that have included Detectives Tremel and Morgan?

A. Yes, sir.

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1 Q. And was certain evidence packaged up by
2 you at that location and then placed into the
3 evidence vault?

4 A. Yes, sir, it was.

5 Q. And who did the actual directing and --
6 let's just say finding and directing so that you
7 would know what to place into evidence?

8 A. Detective Tremel located or pointed out
9 to me the items of evidence that they had located
10 prior to my arrival.

11 Q. And then you basically took it from
12 there and placed it into some sort of a bag?

13 A. First of all, I photographed it to show
14 its location for identification purposes, and then
15 packaged it, and took it to the evidence locker at
16 the Criminalistics Bureau.

17 Q. You have before you one -- a large
18 package which has been marked as Exhibit Number 53
19 and 53A which is the -- which is a dark box
20 containing silverware.

21 Do you recognize the evidence
22 bag?

23 A. Yes, sir, I do.

24 Q. And how do you recognize it?

25 A. I recognize it as an evidence bag that

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1 I filled out the front flap for. It contains my
2 initials, my last name, and my personnel number, and
3 it is my handwriting showing that in this bag is one
4 wooden box containing silverware.

5 Q. And then when we open -- well, the bag
6 is now open; is that correct?

7 A. Yes, sir.

8 Q. When you placed it in the evidence
9 vault was that bag sealed?

10 A. Yes, sir, it was.

11 Q. Are all of your seals presently intact,
12 yes or no?

13 A. Yes, sir, they are.

14 Q. And except for the large tear at one
15 end, is the bag in the same condition now as when
16 you last saw it when you placed it in the evidence
17 vault?

18 A. Yes, sir. Other than a chain of
19 custody signature I'm -- I can't quite read the name
20 here. It's personnel number 2038. It's in the same
21 condition as when I placed it in the evidence vault.

22 Q. Now, looking at the contents of it, I
23 don't know if you can independently recognize the
24 contents or not, but I'll remove 53A which is the
25 box.

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1 Just looking at it grossly, do
2 you recognize that box?

3 A. Yes, sir, I do.

4 Q. Is there any other way in which you
5 recognize that box?

6 A. Yes, sir.

7 I placed a piece of Scotch tape
8 on the box and with indelible ink pen I wrote my
9 initials and personnel number.

10 Q. That would be --

11 A. -- K900A.

12 Q. I'm going to replace that now -- 53A
13 into 53 and direct your attention to another bag,
14 Exhibit Number 52.

15 Do you recognize that exhibit
16 number or that exhibit, I'm sorry?

17 A. Exhibit Number 52 is a Las Vegas
18 Metropolitan Police Department evidence bag filled
19 out in my handwriting and my personnel number
20 containing one black wallet with miscellaneous ID,
21 one piece of paper with an inventory of silverware,
22 one notebook with handwriting, one Central Telephone
23 bill, one Nevada Power bill, and one check stub.

24 Q. And was the contents of Exhibit Number
25 52 recovered in the same manner in which you

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1 described the box of silverware?

2 Was it recovered and packaged in
3 the same -- following the same procedure?

4 A. Yes, sir, it was.

5 Q. That is photography first and then
6 pointed out by the detective, photography, and then
7 placed in the evidence bag by you?

8 A. Yes, sir.

9 Q. Is this evidence bag in the same
10 condition as when you first placed it into evidence
11 with the exception of the fact that it is now opened
12 at one end?

13 A. Being open. Also with the chain of
14 custody being signed by an individual with PN 2038.

15 Q. Looking at the contents of it, does the
16 contents appear to be the same items that you placed
17 into the bag based on the description as placed on
18 the -- in the evidence envelope?

19 A. Yes, sir, it does.

20 Q. There's the slip of paper that has the
21 inventory of silverware, the notebook that I
22 mentioned, a telephone bill from Central Telephone
23 of Nevada, a check stub in the name of William P.
24 Castillo, a Nevada Power bill, and a black wallet
25 with contents, and miscellaneous ID in the name of

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1 William Castillo.

2 Could you please return those
3 items then to the evidence bag?

4 And do those exhibits, including
5 the evidence bag, appear now to be in the same or
6 substantially the same condition as you noted
7 earlier?

8 A. Yes, sir.

9 Q. All right. Moving ahead one day to
10 December the 21st, 1995.

11 Did you on that date return to
12 the same location for the same purpose that you
13 previously described, you went to 1951 North Jones,
14 G-106?

15 A. Yes, I did.

16 Q. And on that occasion were you likewise
17 met by Homicide detectives?

18 A. Yes, sir, I was.

19 Q. Would that likewise include Detective
20 Don Tremel?

21 A. Yes, sir.

22 Q. Now, you have before you what's been
23 marked as Grand Jury Exhibit Number 51.

24 Do you recognize that exhibit?

25 A. Yes.

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1 Exhibit Number 51 is a Las Vegas
2 Metropolitan Police Department evidence bag in my
3 handwriting and my personnel number and signature
4 containing one red and white crocheted booty and one
5 plastic baggie containing eight green and white
6 booties, package of stickers, seven red and white
7 booties, and one gold colored metal ring with a
8 missing stone.

9 Q. With regard to this bag, again were the
10 items photographed before you placed them in the
11 evidence bag?

12 A. Yes, sir. Yes, sir, they were.

13 Q. With the exception of a large tear at
14 the bottom of the bag, and with that exception, is
15 that bag in the same condition now as when you first
16 placed it in evidence?

17 A. Yes, sir. Other than a chain of
18 custody by personnel number 2038.

19 Q. Would you look at the contents of
20 Exhibit Number 51 and examine the contents and tell
21 me if you recognize the contents.

22 A. Contents marked Exhibit Number 51A is a
23 white plastic baggie containing one red and white
24 booty, and Exhibit 51B is a plastic baggie
25 containing the -- if I can read this here, there's

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1 seven red and white booties, eight green and white
2 booties, a package of stickers, and a gold colored
3 ring with a missing stone.

4 Q. I'm not going to ask you to examine
5 that bag which is marked as 51B, but it is your
6 testimony that when you placed it into the evidence
7 bag it had the contents which you just described to
8 us?

9 A. Yes, sir.

10 Q. Does it appear to have the same
11 contents now without opening that bag?

12 A. Yes, sir, it does. And my initials do
13 appear on the bag showing this was the baggie it was
14 contained in.

15 Q. In fact, your initials are on the other
16 bag which contains the one single booty; is that
17 correct?

18 A. Yes, sir.

19 Q. Could you please return those items to
20 the evidence bag?

21 And the items that you removed
22 from the evidence bag, 51A and 51B, do they appear
23 to be in substantially the same condition as when
24 you placed them in 51?

25 A. Yes, they do.

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1 Q. Finally, again in connection with this
2 case, did you on December the 20th, 1995 have an
3 opportunity to go to a location where there was
4 located a white Mazda RX7?

5 A. Yes, sir, I did.

6 Q. And could you tell us about that?

7 A. Yes.

8 I was directed by Detective
9 Tremel to respond to 5620 West Charleston and at the
10 rear of that location there was a white Mazda parked
11 in the northwest parking area behind the business at
12 that location. And I photographed the vehicle for
13 identification purposes as well as its location, put
14 seals on the doors and on the trunk of the vehicle
15 showing that none of the contents could be tampered
16 with prior to me having it transported to the Crime
17 Lab to have it processed.

18 After putting the seals on, I
19 took additional photographs showing that the seals
20 were intact. The tow truck driver came, picked up
21 the vehicle. I followed the tow truck and the
22 vehicle back to the Crime Lab until it was put into
23 our garage and at that time I took additional
24 photographs showing that the seals were still
25 intact.

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1 I then opened up the vehicle and
2 started to process the vehicle meaning processing it
3 for fingerprints and looking for any evidence that
4 might be in connection with this incident.

5 Q. Showing you what's been marked as
6 State's or, I'm sorry, Grand Jury Exhibit 34.

7 Do you recognize what's shown in
8 that photograph?

9 A. Yes.

10 Exhibit Number 34 is a
11 photograph that I took at the northwest parking lot
12 area behind 5620 West Charleston of the Mazda that I
13 followed back to the Crime Lab later that evening.

14 Q. How about Exhibits Number 35 and 36?

15 A. Exhibit Number 35 is a photograph that
16 I took back at the Criminalistics Bureau after I
17 opened up the seals of the vehicle to process it for
18 the evidentiary value there, and it's a photograph
19 of the contents of the glove compartment.

20 Q. And how about Exhibit Number 36?

21 A. And Exhibit Number 36 is an additional
22 photograph of a plastic bag -- the contents of a
23 plastic bag that I took out of the glove compartment
24 containing six watches and an angel -- gold colored
25 angel pen on a piece of paper.

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1 Q. Did you cause those items subsequently
2 to be placed in the evidence vault?

3 A. Yes, sir, I did.

4 Q. Showing you what's been marked as Grand
5 Jury Exhibit Number 49.

6 Do you recognize that evidence
7 bag?

8 A. Yes, sir.

9 It's a Las Vegas Metropolitan
10 Police Department evidence bag with my handwriting,
11 my personnel number, and my signature containing one
12 baggie containing six watches and one angel pen.

13 Q. And other than the fact that this bag
14 has now obviously been opened, does it appear to be
15 in the same condition now as when you first placed
16 the bag with the contents into the evidence vault?

17 A. Yes, sir, other than the chain of
18 custody being signed by Personnel Number 2038.

19 Q. Could you please remove the contents?

20 And I would ask you to remove
21 the contents which have been marked as 49A and ask
22 you if you recognize the plastic baggie containing
23 the various items of jewelry?

24 A. Yes, sir.

25 This is the plastic bag that I

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1 took out of the glove compartment of the Mazda and
2 had the contents of the watches and the angel pen.

3 Q. That plastic baggie, likewise, contains
4 your initials and P Number; is that correct?

5 A. Yes, sir, it does.

6 Q. And is 49A now in substantially the
7 same condition as when you first placed it in
8 Exhibit Number 49 and caused both items to be placed
9 in the evidence vault?

10 A. Yes, sir, it is.

11 MR. KOOT: Thank you. I have no
12 further questions.

13 THE DEPUTY FOREMAN: Any members of the
14 Grand Jury have any questions?

15 (No response.)

16 THE DEPUTY FOREMAN: By law, these
17 proceedings are secret, and you are prohibited from
18 disclosing to anyone anything that transpired before
19 us including evidence presented to the Grand Jury,
20 any event occurring or a statement made in the
21 presence of the Grand Jury, or information obtained
22 by the Grand Jury.

23 Failure to comply with this
24 admonition is a gross misdemeanor, punishable by a
25 year in the Clark County Detention Center and a

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Castillo, William
Rev'd 10/20/04 SJDC-1187
8th JDC recs.

1 \$2,000 fine. In addition, you may be held in
2 contempt of court punishable by an additional \$500
3 fine and 25 days in the Clark County Detention
4 Center.

5 THE WITNESS: Thank you.

6 THE DEPUTY FOREMAN: Thank you.

7 (Witness excused.)

8 MR. KOOT: Okay. All that remains now
9 is for the Grand Jury to review Exhibits 54, 57 and
10 58 which are the tapes of the interviews. These
11 items were entered into evidence last time.

12 I think looking at them, I think
13 all of the little protective things have been
14 knocked off the tape so it can't be recorded over
15 it. I brought a recorder with me, and I'll leave
16 the recorder and the tapes with the Grand Jury so
17 that you can play them as you see fit.

18 I'll excuse myself. So for the
19 record I'll just excuse myself.

20
21
22 (All persons other than members
23 of the Grand Jury left the room at 2:00
24 p.m. and returned at 3:25 p.m.)

25
Castillo, William
Rev'd 10/20/04 SJDC-1188
8th JDC recs.

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1 THE DEPUTY FOREMAN: Mr. District
2 Attorney, we listened to all three of the tapes, the
3 entire -- all three of the tapes -- and by a vote of
4 12 or more Grand Jurors a true bill has been
5 returned against the defendants, William Patrick
6 Castillo and Michelle C. Platou, charging the crimes
7 of conspiracy to commit burglary and/or robbery,
8 burglary, robbery of a victim 65 years of age or
9 older, murder with use of a deadly weapon,
10 conspiracy to commit burglary and arson, burglary,
11 and first degree arson, and we instruct you to
12 prepare an Indictment in conformance with the
13 proposed Indictment previously submitted to us.

14 MR. KOOT: Thank you, sir.

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16 (End of proceedings.)
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Castillo, William
Rev'd 10/20/04 SJDC-1159
8th JDC recs.

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REPORTER'S CERTIFICATE

STATE OF NEVADA)
: ss
COUNTY OF CLARK)

I, Brenda A. Lee, C.C.R. 198, do hereby
certify that I took down in Shorthand (Stenotype)
all of the proceedings had in the before-entitled
matter at the time and place indicated and
thereafter said shorthand notes were transcribed at
and under my direction and supervision and that the
foregoing transcript constitutes a full, true and
accurate record of the proceedings had.

Dated at Las Vegas, Nevada, February 8, 1996.


BRENDA A. LEE, C.C.R. No. 198

Castillo, William
Rec'd 10/20/04 8JDC-1190
8th JDC recs.

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EXHIBIT 149

EXHIBIT 149

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DISTRICT COURT

CLARK COUNTY, NEVADA FILED IN OPEN COURT

SEP 04 1996 19

* * * * *

ORIGINAL

LORETTA BOWMAN, CLERK

BY *Lori Brown* Deputy

THE STATE OF NEVADA,

Plaintiff,

VS

WILLIAM PATRICK CASTILLO &
MICHELLE C. PLATOU,

Defendants.

CASE NO. C133336

DEPT. NO. VII

DOCKET P

BEFORE THE HONORABLE:

A. WILLIAM MAUPIN DISTRICT JUDGE

WEDNESDAY, JANUARY 24, 1996, 9:00 A.M.

APPEARANCES:

FOR THE STATE:

STEWART BELL, ESQ.
District Attorney

FOR THE DEFENDANT
CASTILLO:

PETER R. LaPORTA, ESQ.
State Deputy Public Defender

FOR THE DEFENDANT
PLATOU:

HOWARD S. BROOKS &
PHILIP J. KOHN, ESQ.
Deputy Public Defenders

REPORTED BY:

PATSY K. SMITH, C.C.R. #190

PATSY K. SMITH, OFFICIAL COURT REPORTER

Castillo, William
Rev'd 10/20/04 8JDC-12
8" JDC recs.

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CE41

WEDNESDAY, JANUARY 24, 1996, 9:00 A.M.

THE COURT: C133336, State of Nevada versus William Patrick Castillo and Michelle C. Platou.

Are the defendants present?

CORRECTION OFFICER: Stand up if your name is called.

THE COURT: Defendants are present in custody represented by counsel, State of Nevada represented by the Deputy District Attorney.

Are the parties ready to proceed with this arraignment?

MR. BELL: Yes, your Honor.

MR. LaPORTA: We are, your Honor.

THE COURT: Have the defendants been provided with a copy of the Indictment in this case?

MR. LaPORTA: Yes, your Honor, he has.

THE COURT: Mr. Kohn?

MR. KOHN: Your Honor?

THE COURT: Has your client been provided with a copy of the Indictment?

MR. KOHN: I don't believe she has been, your Honor.

THE COURT: There is copies right here. At this time we will have the defendants read them in open court.

PATSY K. SMITH, OFFICIAL COURT REPORTER

Castillo, William
Rev'd 10/20/04 SJDC-13
8th JDC recs.

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1 Will the defendant read the Indictment,
2 please.

3 MR. BROOKS: Yes, she's reading it now.

4 THE COURT: I note there are seven counts in
5 this Complaint. Do all of the counts apply to both
6 defendants?

7 MR. BELL: They do, your Honor. Let me say
8 this for the record. We have confession issues on both
9 defendants. Assuming that they are viable, which I think
10 is a fair assumption, we can't try them simultaneously
11 because of Bruton or, alternatively, we would not have to
12 use that evidence. We have talked to both defense counsel
13 and agreed that we will do separate trials.

14 THE COURT: All right.

15 MR. BELL: And my understanding, when we met
16 with your clerk to try to find your most available first
17 date and that was August 26th. That's the first criminal
18 stack you have without a capital murder trial. So that's
19 the date we'd go. What we discussed doing was setting them
20 both for that date, assuming they both go. We will try
21 Castillo and as soon as we are done with that, we will try
22 Platou.

23 THE COURT: That will be the order.

24 All right, have the defendants read the
25 Indictments?

Castillo, William
Rev'd 10/20/04 SJDC-14
5th JDC recs.

PATSY K. SMITH, OFFICIAL COURT REPORTER

1 MR. BROOKS: Ms. Platou has.
2 MR. LaPORTA: Mr. Castillo has, your Honor.
3 THE COURT: Let's proceed with
4 Mr. Castillo.

5 Mr. Castillo, do you waive the reading of
6 the Indictment in open court with the list of witnesses
7 attached?

8 THE DEFENDANT: Yes.

9 THE COURT: All right. Will you state your
10 true name for the record, please.

11 THE DEFENDANT: William Patrick Castillo.

12 THE COURT: If that is not your true name,
13 you must declare your true name to me or all proceedings in
14 this action will be under the name set forth in the
15 Indictment.

16 How old are you?

17 THE DEFENDANT: Twenty three years of age.

18 THE COURT: How far did you go in school?

19 THE DEFENDANT: High school diploma.

20 THE COURT: Do you read, write and
21 understand the English language?

22 THE DEFENDANT: Yes, sir, I do.

23 THE COURT: You have been provided with a
24 true copy of an Indictment charging you with conspiracy to
25 commit burglary and/or robbery, a felony, burglary, robbery

PATSY K. SMITH, OFFICIAL COURT REPORTER

Castillo, William
Rcv'd 10/20/04 8JDC-15
8th JDC recs.

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1 with a victim being 65 years of age or older, murder with
2 the use of a deadly weapon, conspiracy to commit burglary,
3 and arson and first degree arson, all felonies.

4 Do you understand the nature of these
5 charges?

6 THE DEFENDANT: Yes, sir, I do.

7 THE COURT: Have you discussed these charges
8 with your attorney?

9 THE DEFENDANT: Yes, sir, I have.

10 THE COURT: How do you plead to the charge
11 set forth in Count I of the Indictment, conspiracy to
12 commit burglary and/or robbery; guilty or not guilty?

13 THE DEFENDANT: Not guilty.

14 THE COURT: How do you plead to Count II
15 charging you with burglary?

16 THE DEFENDANT: Not guilty.

17 THE COURT: How do you plead to Count III,
18 robbery with a victim being 65 years of age or older?

19 THE DEFENDANT: Not guilty.

20 THE COURT: How do you plead to Count IV
21 charging you with murder with use of a deadly weapon?

22 THE DEFENDANT: Not guilty.

23 THE COURT: How do you plead to Count V
24 charging you with conspiracy to commit burglary and arson?

25 THE DEFENDANT: Not guilty.

PATSY K. SMITH, OFFICIAL COURT REPORTER

Castillo, William
Rev'd 10/20/04 SJDC-16
8th JDC recs.

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1 THE COURT: How do you plead to Count VI,
2 burglary?

3 THE DEFENDANT: Not guilty.

4 THE COURT: How do you plead to Count VII?

5 THE DEFENDANT: Not guilty.

6 THE COURT: Does the defendant waive his
7 rights to be tried within 60 days of the date of
8 arraignment?

9 MR. LaPORTA: Yes, he does.

10 THE COURT: Very well.

11 Moving onto Defendant Platou.

12 Ms. Platou, do you have a copy of the
13 Indictment?

14 THE DEFENDANT: Yes, I do.

15 THE COURT: Have you read it?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you waive the reading of this
18 Indictment with a list of witnesses attached in open
19 court?

20 THE DEFENDANT: Yes.

21 THE COURT: Will you state your true name
22 for the record.

23 THE DEFENDANT: Michelle Christine Platou.

24 THE COURT: If that is not your true name,
25 you must declare your true name to me or all proceedings in

PATSY K. SMITH, OFFICIAL COURT REPORTER

Castillo, William
Rev'd 10/20/04 8JDC-17
5th JDC recs.

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1 this action will be under the name set forth in the
2 Information.

3 How old are you?

4 THE DEFENDANT: Twenty six.

5 THE COURT: How far did you go in school?

6 THE DEFENDANT: Some college.

7 THE COURT: Do you read, write and
8 understand the English language?

9 THE DEFENDANT: Yes.

10 THE COURT: You have been provided with a
11 true copy of an Indictment charging you with conspiracy to
12 commit burglary and/or robbery, burglary, robbery with a
13 victim being 65 years of age or older, murder with use of a
14 deadly weapon, conspiracy to commit burglary and arson, and
15 first degree arson.

16 Do you understand the nature of these
17 charges?

18 THE DEFENDANT: Yes.

19 THE COURT: Have you discussed these charges
20 with your attorney?

21 THE DEFENDANT: Yes.

22 THE COURT: How do you plead to Count I
23 charging you with conspiracy to commit burglary and or
24 robbery; guilty or not guilty?

25 THE DEFENDANT: Not guilty.

Castillo, William
Rev'd 10/20/04 SJDC-18
8" JDC recs.

PATSY K. SMITH, OFFICIAL COURT REPORTER

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027-8JDC0017

AA003041

WCastillo - 027-8JDC0017

1 THE COURT: How do you plead to Count II,
2 burglary?

3 THE DEFENDANT: Not guilty.

4 THE COURT: How do you plead to Count III,
5 robbery with a victim being 65 years of age or older?

6 THE DEFENDANT: Not guilty.

7 THE COURT: How do you plead to Count IV,
8 murder with use of a deadly weapon?

9 THE DEFENDANT: Not guilty.

10 THE COURT: How do you plead to Count V
11 charging you with conspiracy to commit burglary and arson?

12 THE DEFENDANT: Not guilty.

13 THE COURT: How do you plead to Count VI
14 charging you with burglary?

15 THE DEFENDANT: Not guilty.

16 THE COURT: How do you plead to Count VII
17 charging you with first degree arson?

18 THE DEFENDANT: Not guilty.

19 THE COURT: Does the defendant waive her 60
20 day rights?

21 MR. BROOKS: She does, your Honor.

22 THE COURT: Trial dates.

23 THE CLERK: August 26th jury trial, 10:00
24 a.m. Calendar call August 21st, 9:00 a.m.

25 THE COURT: Per the stipulation of the

PATSY K. SMITH, OFFICIAL COURT REPORTER

Castillo, William
Rev'd 10/20/04 SJDC-19
8th JDC recs.

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027-8JDC0018

AA003042

1 District Attorney's Office, these matters are severed for
2 the purposes of trial and the Castillo matter will go first
3 trailed by the Platou matter.

4 MR. BELL: Judge, we ask if we can have a
5 status check on July 22 just to make sure a month out we
6 have all the loose ends tied up because there will be a
7 substantial effort to put the trial together. We want to
8 make sure we are ready to go.

9 THE COURT: That will be the order.

10 MR. KOHN: Your Honor, something we should
11 do is sit down and talk about how we are going to select a
12 jury. I just started thinking about we should sit down
13 and it's my understanding it's a notice to seek death on
14 one defendant and not the other. So I don't think both
15 juries will be picked at the same time because there are
16 certainly some issues that are relevant to one that won't
17 be relevant to the other.

18 THE COURT: I think the reason for the
19 severance we'd have to have different juries.

20 MR. BELL: Sure. We are not going to have
21 the same jury.

22 MR. KOHN: Obviously, but in selecting a
23 jury, I don't want to select it at the same time. I don't
24 want to select Platou at the same time. Everything will be
25 reported in the press. So we should pick both juries at

PATSY K. SMITH, OFFICIAL COURT REPORTER

Castillo, William
Rev'd 10/20/04 SJDC-20
8th JDC recs.

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1 the same time and then put the second jury in abeyance
2 until afterwards. Something we can sit down and talk about
3 it.

4 THE COURT: We can discuss that.

5 MR. BELL: We are willing to work out
6 something that is fair to the public and fair to each
7 defendant, Judge. I would be happy to meet with the Court
8 and both counsel to do that.

9 THE COURT: I don't know how the timing of
10 picking the jury is going to help.

11 MR. BELL: For the record, we have already
12 filed a notice of intent to seek death on Mr. Castillo. We
13 have determined not to file such notice on Ms. Platou. So
14 one will be a death case, one won't.

15 THE COURT: All right.

16 Anything further from the parties at this
17 time?

18 MR. KOHN: No, just so we meet later on how
19 to pick a jury.

20 THE COURT: Not a problem. If you need
21 assistance from me, I will be available.

22 MR. KOHN: Thank you, your Honor.

23 . . .

24 . . .

25 . . .

PATSY K. SMITH, OFFICIAL COURT REPORTER

Castillo, William
Rev'd 10/20/04 8JDC-21
8th JDC rec.

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WCastillo - 027-8JDC0021

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ATTEST: FULL, TRUE AND ACCURATE TRANSCRIPT OF PROCEEDINGS.


PATSY K. SMITH, C.C.R. #190

PATSY K. SMITH, OFFICIAL COURT REPORTER

Castillo, William
Rev'd 10/20/04 8JDC-22
3rd JDC recs.

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EXHIBIT 150

EXHIBIT 150

ORIGINAL

DISTRICT COURT

CLARK COUNTY, NEVADA

FILED IN OPEN COURT
SEP 04 1996 19

* * * * *

LORETTA BOWMAN, CLERK

BY *L. Bowman* Deputy

THE STATE OF NEVADA,

Plaintiff,

Vs

WILLIAM PATRICK CASTILLO,

Defendant.

CASE NO. C133336

DEPT. NO. VII

DOCKET P

BEFORE THE HONORABLE:

A. WILLIAM MAUPIN DISTRICT JUDGE

WEDNESDAY, MARCH 13, 1996, 9:00 A.M.

APPEARANCES:

FOR THE STATE:

KIMBERLY MAXSON
Deputy District Attorney

FOR THE DEFENDANT:

PETER R. LaPORTA
State Deputy Public Defender
& DAVID M. SCHIECK, ESQ.

Castillo, William
Rev'd 10/20/04 8JDC-663
8th JDC recs.

REPORTED BY: PATSY K. SMITH, C.C.R. #190

PATSY K. SMITH, OFFICIAL COURT REPORTER

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CE41

1 WEDNESDAY, MARCH 13, 1996, 9:00 A.M.

2 THE COURT: C133336, State of Nevada versus
3 William Patrick Castillo.

4 Defendant's motion for appointment of
5 co-counsel. Mr. LaPorta requested that David Schieck be
6 appointed as co-counsel for his capital case.

7 That will be the order.

8 MR. LaPORTA: Your Honor, may I approach
9 with the order?

10 THE COURT: Yes.

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12 * * * * *

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14 ATTEST: FULL, TRUE AND ACCURATE TRANSCRIPT OF PROCEEDINGS.

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17 PATSY K. SMITH, C.C.R. #190

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Castillo, William
Rev'd 10/20/04 SJDC-564
8th JDC recs.

PATSY K. SMITH, OFFICIAL COURT REPORTER

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EXHIBIT 151

EXHIBIT 151

DISTRICT COURT

CLARK COUNTY, NEVADA

FILED IN OPEN COURT

ORIGINAL

* * * * * SEP 04 1996 19

LORETTA BOWMAN, CLERK

BY *Lori Brown* Deputy
CASE NO. C133336

DEPT. NO. VII

DOCKET P

THE STATE OF NEVADA,

Plaintiff,

VS

WILLIAM PATRICK CASTILLO &
MICHELLE C. PLATOU,

Defendants.

BEFORE THE HONORABLE:

A. WILLIAM MAUPIN DISTRICT JUDGE

WEDNESDAY, APRIL 3, 1996, 9:00 A.M.

APPEARANCES:

FOR THE STATE:

ROBERT L. LANGFORD, ESQ.
Deputy District Attorney

FOR THE DEFENDANT
CASTILLO:

RICHARD PALMA, ESQ.
State Deputy Public Defender

FOR THE DEFENDANT
PLATOU:

HOWARD S. BROOKS, ESQ.
Deputy Public Defender

REPORTED BY: PATSY K. SMITH, C.C.R. #190

PATSY K. SMITH, OFFICIAL COURT REPORTER

Castillo, William
Rev'd 10/20/04 8JDC-550
8th JDC recd.

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CE41

1 WEDNESDAY, APRIL 3, 1996, 9:00 A.M.

2 THE COURT: State versus Castillo.

3 MR. BROOKS: Howard Brooks on behalf of
4 Ms. Platou.

5 MR. PALMA: Richard Palma representing
6 Mr. Castillo.

7 MR. BROOKS: Judge, on behalf of Ms. Platou,
8 I talked to Mr. Koot on the possibility of arguing this
9 case on the 17th and Mr. Koot said that it would be fine
10 with him.

11 THE COURT: The 17th per stipulation.

12 MR. BROOKS: If that's okay with the Court,
13 your Honor, for arguments.

14 MR. PALMA: Judge, for Mr. LaPorta, the
15 dates of 4/15 through 4/24 are bad dates. So I would ask
16 for a date after the 24th of April.

17 MR. BROOKS: We would not need to have them
18 argued at the same time.

19 THE COURT: I know, but it would still be
20 beneficial for both parties to be available so that they
21 can hear the arguments.

22 MR. BROOKS: I have to admit, after the
23 17th, I will be out of the state for a week and a half.

24 THE COURT: Well, the trial date isn't until
25 this summer.

PATSY K. SMITH, OFFICIAL COURT REPORTER

Castillo, William
Rev'd 10/20/04 SJDC-561
8th JDC recs.

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1 MR. BROOKS: If the Court wants to continue
2 it until the 29th or the 1st of May, that's fine with us.

3 THE COURT: Let's do that for all of these.
4 I'll hear them all at the same time.

5 MR. BROOKS: Okay.

6 MR. PALMA: What date?

7 THE CLERK: May 1 at 9:00 a.m.

8 MR. BROOKS: Thank you.

9 THE COURT: State's motion to amend the
10 indictment.

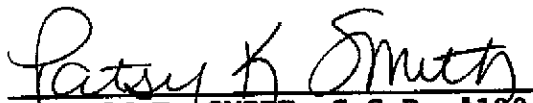
11 MR. BROOKS: Mr. Koot -- I discussed that
12 with him yesterday also. He said he would not mind that
13 being on calendar as well so we can be doing the
14 arguments. We are going to be objecting to it. They are
15 going to file it regardless.

16 THE COURT: Then we will have the hearing on
17 the same date as the hearing for the writ of habeas
18 corpus.

19 MR. BROOKS: Thank you.

20 * * * * *

21
22 ATTEST: FULL, TRUE AND ACCURATE TRANSCRIPT OF PROCEEDINGS.

23
24 
25 PATSY K. SMITH, C.C.R. #190

PATSY K. SMITH, OFFICIAL COURT REPORTER

Castillo, William
Rev'd 10/20/04 SJDC-362
5th JDC recs.

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EXHIBIT 152

EXHIBIT 152

ORIGINAL

FILED

DISTRICT COURT

CLARK COUNTY, NEVADA

MAY 9 3 06 PM '96

Loeth. L. Luman
CLERK

THE STATE OF NEVADA,

Plaintiff,

vs.

WILLIAM PATRICK CASTILLO,
MICHELLE C. PLATOU,

Defendant.

CASE NO. C133336

DEPT. NO. VII

DOCKET NO. "P"

BEFORE THE HONORABLE GENE T. PORTER, DISTRICT JUDGE

WEDNESDAY, MAY 1, 1996; 9:00 A.M.

RECORDER'S TRANSCRIPT RE:
DEFENDANT CASTILLO'S PETITION FOR WRIT OF HABEAS CORPUS
DEFENDANT PLATOU'S PETITION FOR WRIT OF HABEAS CORPUS
STATE'S MOTION TO AMEND INDICTMENT

APPEARANCES:

For the State:

DAVE BARKER, ESQ.
Deputy District Attorney

For Defendant Platou:

HOWARD BROOKS, ESQ.
Deputy Public Defender

Recorded by: JANICE R. LISTON, Court Recorder

Castillo, William
Rev'd 10/20/04 SJDC-158
8th JDC recs.

375

027-8JDC0158

AA003054

WCastillo - 027-8JDC0158

WEDNESDAY, MAY 1, 1996; 9:00 A.M.

THE COURT: Case No. C133336, State of Nevada versus William Patrick Castillo; State of Nevada versus Michelle Platou.

MR. BROOKS: Howard Brooks on behalf of Ms. Platou, your Honor. I believe that Mr. LaPorta will be here on behalf of Mr. Castillo, but I believe considering what's going to happen today I think they wouldn't mind my standing in for him.

THE COURT: All right. These are going to be set over to the 15th; is that correct?

MR. BROOKS: That's correct, your Honor.

THE CLERK: May 15th, 9:00 a.m.

MR. BROOKS: Thank you, Judge.

THE COURT: Thank you.

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the sound recording of the proceedings in the above-entitled case.

Janice R. Liston
JANICE R. LISTON
Court Recorder

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EXHIBIT 153

EXHIBIT 153

FILED

DISTRICT COURT
CLARK COUNTY, NEVADA

JUN 26 9 04 AM '96

Laitha Harmon
CLERK

THE STATE OF NEVADA, :

PLAINTIFF :

VS. :

WILLIAM PATRICK CASTILLO :

AND :

MICHELLE C. PLATOU, :

DEFENDANTS :

CASE NO. C133336
DEPARTMENT VII
DOCKET P

REPORTER'S TRANSCRIPT OF PROCEEDINGS IN RE: DEFENDANT
CASTILLO'S PETITION FOR WRIT OF HABEAS CORPUS AND DEFENDANT
PLATOU'S PETITION FOR WRIT OF HABEAS CORPUS

BEFORE THE HONORABLE A. WILLIAM MAUPIN, DISTRICT JUDGE

WEDNESDAY, MAY 29, 1996

9:00 A. M.

APPEARANCES:

FOR THE PLAINTIFF

MELVYN HARMON, ESQUIRE
DEPUTY DISTRICT ATTORNEY

FOR DEFENDANT CASTILLO

PETER LAPORTA, ESQUIRE
DEPUTY STATE PUBLIC DEFENDER

FOR DEFENDANT PLATOU

HOWARD BROOKS, ESQUIRE
DEPUTY PUBLIC DEFENDER

REPORTED BY: CONSTANCE MILLER, CCR NO. 270

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CE41

Castillo, William
Rev'd 10/20/04 8JDC-184
8th JDC recs.

1 LAS VEGAS, NEVADA, WEDNESDAY, MAY 29, 1996, 9:00 A. M.

2 ---oOo---

3 THE COURT: C133336, STATE OF NEVADA VS. WILLIAM
4 PATRICK CASTILLO AND MICHELLE C. PLATOU.

5 MR. BROOKS: HOWARD BROOKS ON BEHALF OF MICHELLE
6 PLATOU, YOUR HONOR.

7 THE COURT: THE DEFENDANTS ARE PRESENT IN CUSTODY,
8 REPRESENTED BY THEIR COUNSEL; THE STATE OF NEVADA REPRESENTED
9 BY THE DEPUTY DISTRICT ATTORNEY. THE DEFENDANTS MAY BE SEATED.
10 YOU DON'T NEED THE ASSISTANCE OF THE DEFENDANTS AT COUNSEL
11 TABLE?

12 MR. LAPORTA: NO, YOUR HONOR.

13 MR. BROOKS: NO, YOUR HONOR. WITH THE COURT'S
14 PERMISSION, JUDGE, MAY I PROCEED FIRST?

15 THE COURT: CERTAINLY. THIS IS BOTH DEFENDANTS
16 ORAL ARGUMENT ON THE PETITION FOR WRIT OF HABEAS CORPUS.

17 MR. BROOKS: ON BEHALF OF MICHELLE PLATOU, JUDGE,
18 I'VE RAISED ROUGHLY 5 ISSUES IN MY PETITION FOR WRIT OF
19 HABEAS CORPUS, AND IN MY DISCUSSIONS HERE I'D LIKE TO ADDRESS
20 2 OF THOSE ISSUES BRIEFLY AND SUBMIT THE OTHERS ON THE BRIEFS.

21 THE ISSUE WHICH WE'RE OBVIOUSLY CONCERNED MOST
22 ABOUT IS THE ALLEGATION IN COUNT IV AGAINST MICHELLE PLATOU,
23 THAT SHE COMMITTED MURDER WITH USE OF A DEADLY WEAPON. IT'S
24 OUT CONTENTION THAT IF THE GRAND JURY TESTIMONY IS EXAMINED
25 THERE IS NO TESTIMONY IN THAT TRANSCRIPT SUPPORTING THE IDEA

1 THAT MY CLIENT, MICHELLE PLATOU, EXERCISED ANY DOMINION OR
2 CONTROL OVER THE DEADLY WEAPON, THE TIRE IRON, AT THE TIME
3 OF THE CRIME.

4 THE COURT: YOU'RE SAYING STATE VS. WALTERS IS THE
5 DETERMINING AUTHORITY?

6 MR. BROOKS: THAT'S CORRECT, YOUR HONOR. FURTHER-
7 MORE, JUDGE, THE TESTIMONY THAT WAS PRESENTED TO THE GRAND
8 JURY WAS THAT MICHELLE PLATOU DID NOT EVEN KNOW HE HAD THE
9 TIRE IRON WHEN THEY ENTERED THE HOUSE BECAUSE CASTILLO HAD
10 IT HIDDEN UNDER HIS SHIRT.

11 THE STATE'S CONTENTION IN THEIR RESPONSE SEEMS TO
12 BE THAT IT WAS HER TIRE IRON FROM HER CAR; THEREFORE, BECAUSE
13 SHE OWNED THE TIRE IRON THAT'S ENOUGH FOR IT TO BE A JURY
14 QUESTION, AND IT'S OUR CONTENTION THAT MERE OWNERSHIP OF A
15 TIRE IRON IS NOT ENOUGH TO GET BEYOND THE REQUIREMENT OF THE
16 GRAND JURY THAT THERE BE SOME EVIDENCE SUPPORTING THE IDEA
17 THAT SHE HAD DOMINION AND CONTROL OVER THE TIRE IRON AT THE
18 TIME OF THE ACTUAL CRIME.

19 SO WE BELIEVE THE STATE HAS NOT MET THAT BURDEN
20 AND THE USE OF THE DEADLY WEAPON ALLEGATION AS TO MICHELLE
21 PLATOU IN THAT ONE COUNT SHOULD BE DISMISSED.

22 IF I MAY GO AHEAD AND APPROACH ONE OF THE OTHER
23 ISSUES, JUDGE, THE STATE'S ORIGINAL INDICTMENT PRESENTED TO
24 THE GRAND JURY ON THE MURDER COUNT AS FAR AS MICHELLE PLATOU
25 IS CONCERNED INCLUDED THREE THEORIES, A PREMEDITATION THEORY

1 A FELONY MURDER THEORY AND A CONSPIRACY THEORY. THEY WOULD
2 LIKE TO AMEND THEIR INDICTMENT NOW TO BASICALLY ADD AN AIDING
3 AND ABETTING THEORY. THE PROBLEM THAT WE HAVE, JUDGE, IS
4 THIS, AND I'LL QUOTE FROM THE RECENT CASE OF GORDON VS.
5 DISTRICT COURT, A RECENT NEVADA SUPREME COURT CASE AT
6 112 NEV. ADVANCE OPINION 31. THE SUPREME COURT HAS NOTED
7 THAT A CHARGING DOCUMENT MAY SET FORTH ALTERNATIVE MEANS OF
8 COMMITTING A CRIME WITHIN A SINGLE COUNT, BUT ALTERNATIVE
9 OFFENSES MUST BE CHARGED IN SEPARATE COUNTS.

10 CONSPIRACY TO COMMIT MURDER IS A SEPARATE CRIME
11 UNDER A SEPARATE STATUTE. IT IS NOT INCLUDED IN THE FIRST
12 DEGREE MURDER STATUTE AS GIVING LIABILITY. THEY HAVE A PRE-
13 MEDITATION THEORY. THEY HAVE A FELONY MURDER THEORY. AND I
14 THINK PERHAPS THEY HAVE AN AIDING AND ABETTING THEORY.

15 HOWEVER, CONSPIRACY IS A SEPARATE CRIME. IT'S NOT
16 THE SAME CRIME. THERE'S A DIFFERENT STATUTE PERTAINING TO
17 CONSPIRACY. IT SHOULD NOT BE ALLEGED IN THIS PLEADING AND
18 IT SHOULD BE STRICKEN AND SHOULD NOT BE INCLUDED IN THE
19 AMENDED INDICTMENT EITHER.

20 AS TO THE OTHER ARGUMENTS, JUDGE, I'LL SUBMIT
21 THOSE ON THE BRIEFS.

22 THE COURT: MR. LAPORTA.

23 MR. LAPORTA: YOUR HONOR, I HAVE TWO ISSUES WITHIN
24 MY WRIT. ONE OF THEM I WILL ADDRESS, AND THAT IS THE DATES
25 CONTAINED WITHIN THE MARCUM NOTICE. FOR THE RECORD,

1 MR. CASTILLO WAS ARRESTED ON DECEMBER 20. COUNSEL, MYSELF,
2 RECEIVED THE MARCUM NOTICE AND AS YOU CAN SEE FROM THE MARCUM
3 NOTICE WE ATTACHED IT SAID THAT THE MURDERS, THE BURGLARY,
4 THE ROBBERY ALL OCCURRED ON DECEMBER 26, CLEARLY 6 DAYS AFTER
5 HE WAS PLACED INTO CUSTODY.

6 YOUR HONOR, THE DEFENDANT IS ENTITLED TO CLEAR
7 NOTICE AS TO NOT ONLY CRIMES THAT WILL BE PRESENTED TO THE
8 GRAND JURY BUT ALSO THE TIMES AND DATES THAT THOSE CRIMES
9 OCCURRED.

10 THE COURT: THE STATE CONTENDS FIRST THERE WAS
11 NOTICE OF THE GRAND JURY HERE, NUMBER ONE.

12 NUMBER TWO, THAT A COMPLETE PACKAGE OF INFORMATION
13 HAD BEEN SUPPLIED TO THE DEFENSE WITH REGARD TO THE SUBJECT
14 OF THE GRAND JURY PROCEEDINGS AND THAT THE DATE ON THE MARCUM
15 NOTICE IS MERELY A CLERICAL ERROR. OBVIOUSLY, THE DEFENDANT
16 WAS IN CUSTODY AT THE TIME OF THE DATE SET FORTH IN THE
17 MARCUM NOTICE, BUT THEY'RE SAYING THAT HE COULD NOT HAVE
18 BEEN CONFUSED ABOUT WHY HE WAS IN THE CLARK COUNTY DETENTION
19 CENTER.

20 MR. LAPORTA: JUDGE, I DON'T KNOW WHAT MR. BROOKS'
21 EXPERIENCE WAS WITH THIS, BUT IF MY MEMORY SERVES ME CORRECT,
22 I WAS INVOLVED WITH THIS FROM THE VERY BEGINNING AND I DO
23 REMEMBER RECEIVING THIS INTENT TO SEEK INDICTMENT, BUT IT
24 WAS SOME DAYS AFTER I RECEIVED THIS NOTICE THAT I BEGAN RE-
25 CEIVING THE DISCOVERY IN BITS AND PIECES. IT TOOK ABOUT

1 ALMOST THE BETTER PART OF 30 DAYS TO GET ALL OF THE DISCOVERY.
 2 I GOT THE BULK OF IT WITHIN THE FIRST COUPLE WEEKS. BUT MY
 3 ARGUMENT AS SUCH IS THAT THIS IS A DEATH PENALTY CASE, YOUR
 4 HONOR, AND THE MARCUM NOTICE, THEY ARE REQUIRED TO GIVE
 5 CLEAR NOTICE, AND OUR CONTENTION IS THEY DID NOT GIVE CLEAR
 6 NOTICE, YOUR HONOR.

7 MR. BROOKS: JUDGE, MAY I ADD ONE ASPECT TO THAT
 8 ARGUMENT?

9 THE COURT: SURE.

10 MR. BROOKS: OUR POSITION ALSO, JUDGE, IS THAT THE
 11 MARCUM NOTICE MUST BE SERVED ON THE DEFENDANT AND SIMPLY
 12 NOTICE TO THE ATTORNEYS IS NOT A SUBSTITUTE FOR THE MARCUM
 13 NOTICE.

14 THEREFORE, OUR POSITION IS THE MARCUM NOTICE TO THE
 15 DEFENDANTS MUST BE SUCH THE DEFENDANT SITTING THERE IN JAIL
 16 KNOWS WHAT THEY'RE BEING CHARGED WITH AND THE DATE IT
 17 OCCURRED.

18 IN THIS CASE THEY GAVE CLEAR NOTICE TO OUR CLIENTS,
 19 BOTH OF THEM, THAT A CRIME OCCURRED ON A DATE WHEN THEY
 20 COULD NOT POSSIBLY HAVE COMMITTED THE CRIME BECAUSE THEY WERE
 21 IN JAIL.

22 THEREFORE, THE BURDEN IS ENTIRELY ON THEM. THE
 23 INDICTMENT SHOULD BE DISMISSED.

24 THE COURT: MR. HARMON IN RESPONSE,

25 MR. HARMON: YOUR HONOR, REGARDING THE MARCUM

1 NOTICE ISSUE, QUITE CANDIDLY, WITH DUE RESPECT TO THE COUNSEL,
 2 I THINK THAT'S TOTALLY FRIVOLOUS. OUR REPRESENTATION IN OUR
 3 RETURN, AND I STAND BY THAT REPRESENTATION, IS THAT FULL
 4 DISCOVERY HAD BEEN PROVIDED AT LEAST TWO WEEKS PRIOR TO THE
 5 GRAND JURY HEARING. THOSE POLICE REPORTS CONTAIN AN EVENT
 6 NUMBER. ALL OF THEM HAD A PARTICULAR EVENT NUMBER. AND
 7 IT'S THE SAME EVENT NUMBER WHICH WAS IDENTIFIED ON THE NOTICE.

8 FURTHER, JUDGE, WE DESCRIBED WITH SPECIFICITY THE
 9 VARIOUS OFFENSES CHARGED, INCLUDING TWO COUNTS OF BURGLARY,
 10 AND THE RE-ENTRY INTO THIS RESIDENCE, AND I'M SAYING THERE
 11 COULD HAVE BEEN NO MISUNDERSTANDING IF THERE'S ANY EFFORT
 12 AT ALL TO FOCUS ON THE NOTICE GIVEN.

13 REGARDING MS. PLATOU AND THE DEADLY WEAPON ---

14 THE COURT: LET ME INTERCEDE AT THIS POINT. I HAVE
 15 A QUESTION THAT I NEED TO HAVE YOU ADDRESS AT THIS POINT
 16 THAT HAS TROUBLED ME SINCE I FIRST SAW THESE APPLICATIONS.

17 FIRST, IS A TIRE IRON A DEADLY WEAPON WITHIN THE
 18 MEANING OF ZOMBIC? I KNOW THAT HASN'T BEEN BRIEFED IN THE
 19 CASE.

20 MR. HARMON: THIS IS UNDER THE NEW STATUTE, JUDGE.

21 THE COURT: THIS EVENT TOOK PLACE AFTER JULY 1?

22 MR. HARMON: IT MOST CERTAINLY DID. THIS WAS
 23 APRIL 15 OF THIS YEAR..

24 THE COURT: BUT LET'S READ ZOMBIC AND WALTERS
 25 TOGETHER FOR A SECOND JUST IN TERMS OF WHAT THE SUPREME

1 COURT'S OFFERINGS HAVE BEEN. THE QUESTION I HAVE IS WHETHER
 2 GIVEN THE NATURE OF THIS WEAPON -- IF THERE WAS A PISTOL,
 3 I'D SAY THAT THIS IS CLEARLY A CASE WHERE BOTH DEFENDANTS
 4 WOULD HAVE TO BE CHARGED WITH MURDER WITH THE USE OF A DEADLY
 5 WEAPON, BUT BECAUSE OF THE NATURE OF THIS WEAPON AND BECAUSE
 6 OF AT LEAST PHILOSOPHICAL STATEMENTS IN ZOMBIC, DO YOU HAVE
 7 A ROBBERY WITH A DEADLY WEAPON WHEN YOU READ WALTERS AND
 8 ZOMBIC; DO YOU HAVE MURDER WITH THE USE OF A DEADLY WEAPON
 9 BY MICHELLE PLATOU?

10 MR. HARMON: WELL, WALTERS INVOLVED A KNIFE, AS I
 11 REMEMBER, AND WHAT IN MY MIND DISTINGUISHES ---

12 THE COURT: WHAT THE DEFENDANT MIGHT ARGUE UNDER
 13 WALTERS IS, A FORTIORI, IF THAT'S A KNIFE CASE, IF THAT'S
 14 NOT A DEADLY WEAPON CASE THEN A TIRE IRON WOULDN'T BE A
 15 DEADLY WEAPON IN TERMS OF CONSTRUCTIVE POSSESSION BY THE
 16 PERSON WHO IS PRESENT BUT NOT ACTUALLY ADMINISTERING THE
 17 LETHAL BLOWS WITH THE WEAPON IN QUESTION.

18 MR. HARMON: I UNDERSTAND THE ARGUMENT, JUDGE.
 19 WHAT SEEMS TO DISTINGUISH WALTERS FROM ANDERSON AND FROM
 20 JONES IS THAT WALTERS DIDN'T SEEM TO BE SO MUCH A PLAN OR
 21 CONSPIRACY. IT STARTED IN A BAR AND IT'S SOMETHING THAT
 22 SEEMED TO EVOLVE. IT WASN'T AS THOUGH TWO PEOPLE WENT TO A
 23 SPECIFIC LOCATION WITH THE INTENTION, AS WE HAVE IN THIS
 24 CASE, TO ENTER A RESIDENCE, AND THERE HAD TO HAVE BEEN SOME
 25 PRE-PLANNING. I WOULD AGREE TO A LARGE MEASURE THAT WE ARE

1 LIMITED IN THIS ARGUMENT TO THE GRAND JURY EVIDENCE, BUT
2 THIS COURT IS NOT PRECLUDED FROM DRAWING THE REASONABLE
3 INFERENCES FROM THE EVIDENCE WHICH WAS PRESENTED.

4 THE COURT: MR. BROOKS, WHAT I'M GOING TO ASK YOU
5 TO DO IS TO DEFER YOUR COMMENTS UNTIL MR. HARMON HAS CON-
6 CLUDED.

7 MR. HARMON: YOUR HONOR, I DISTINGUISH WALTERS IN
8 THE WAY I'VE JUST DESCRIBED. I FEEL VERY COMFORTABLE WITH
9 DISTINGUISHING IT IN THAT WAY.

10 THE COURT: YOU'RE SAYING THAT WALTERS IS NOT
11 NECESSARILY THE NATURE OF THE WEAPON BUT THE CIRCUMSTANCES
12 UNDER WHICH THE WEAPON IS USED?

13 MR. HARMON: I'M SAYING THAT ABSOLUTELY, AND I'M
14 SAYING THAT IN ALL PROBABILITY THAT NEITHER WALTERS NOR HIS
15 ACCOMPLICE WENT TO THE BAR THAT DAY WITH THE INTENTION TO
16 GET IN A FIGHT AND FOR SOMEONE TO BE KILLED.

17 I'M NOT SAYING THAT NECESSARILY IN THIS CASE IT
18 WAS A PLAN TO MURDER, BUT THERE CERTAINLY IS EVIDENCE THAT
19 THERE WAS A CONSPIRACY TO COMMIT BURGLARY AND TO COMMIT
20 ROBBERY; THAT THESE PEOPLE WENT TO THE RESIDENCE FOR A PAR-
21 TICULAR PURPOSE.

22 NOW, REGARDING THE ZOMBIC RULE, YOUR HONOR, I UNDER-
23 STAND THAT THE COURT IN ZOMBIC GOT AWAY FROM THE FUNCTIONAL
24 TEST, BUT OUR LEGISLATURE QUITE CLEARLY CAME BACK TO THAT,
25 AND THE STATUTE IN EFFECT AT THE TIME OF THIS CRIME,

1 193.165 (5), DEFINED DEADLY WEAPON AS FOLLOWS: AS USED IN
 2 THIS SECTION DEADLY WEAPON MEANS (A) ANY INSTRUMENT WHICH IF
 3 USED IN THE ORDINARY MANNER CONTEMPLATED BY ITS DESIGN AND
 4 CONSTRUCTION WILL OR IS LIKELY TO CAUSE SUBSTANTIAL BODILY
 5 HARM OR DEATH, (B) ANY WEAPON, DEVICE, INSTRUMENT, MATERIAL
 6 OR SUBSTANCE WHICH UNDER THE CIRCUMSTANCES IN WHICH IT IS
 7 USED, IS ATTEMPTED TO BE USED OR THREATENED TO BE USED, IS
 8 READILY CAPABLE OF CAUSING SUBSTANTIAL BODILY HARM OR DEATH.

9 NOW, JUDGE, WHETHER WE CALL IT A BUMPER JACK OR A
 10 TIRE IRON, AS IT'S REFERRED TO MOST OFTEN IN THE GRAND JURY
 11 RECORD, IT IS A BLUNT FORCE INSTRUMENT AND, QUITE FRANKLY,
 12 IT'S ELEMENTARY WHEN YOU ENTER A RESIDENCE AND AN 86 YEAR OLD
 13 WOMAN IS ASLEEP AND SHE'S BLUDGEONED REPEATEDLY WITH THAT
 14 TYPE OF INSTRUMENT IN THE AREA OF HER HEAD, IT'S GOING TO
 15 HAVE A VERY PREDICTABLE RESULT.

16 SO I MOST DEFINITELY ARGUE AGAIN WITH TOTAL CON-
 17 FIDENCE, BASED UPON THE LANGUAGE WHICH NOW REINCORPORATES IN
 18 THIS JURISDICTION A FUNCTIONAL TEST THAT WE LOOK TO THE
 19 MANNER IN WHICH IT WAS USED, AND THIS TIRE IRON WAS USED IN
 20 A DEADLY MANNER.

21 NOW, I NOTICE IN HIS ARGUMENT THAT MR. BROOKS HAS
 22 FOCUSED UPON ONE PHRASE FROM THE ANDERSON CASE AND HE'S DIS-
 23 REGARDED THE OTHER LANGUAGE. IN FACT, HE HAS INCORRECTLY
 24 STATED THAT ONE PHRASE. HE TALKS ABOUT DOMINION OR CONTROL.
 25 THERE IS NOTHING IN ANDERSON, NOTHING IN JONES, NOTHING IN

1 WALTERS THAT REQUIRES DOMINION OVER THE DEADLY WEAPON BY THE
 2 UNARMED AIDER OR ABETTOR. THIS IS THE LANGUAGE OF ANDERSON,
 3 AND IT BEGINS WITH LANGUAGE AT PAGE 630 OF 95 NEV., THAT
 4 MR. BROOKS HAS TOTALLY IGNORED: "WHEN ONE OF TWO ROBBERS
 5 HOLDS A VICTIM AT BAY WITH A GUN AND THE OTHER RELIEVES THE
 6 VICTIM OF HIS PROPERTIES" -- NOW, UNDERSTANDING THAT THIS
 7 WAS A GUN AND THIS IS A TIRE IRON -- I COULD MAKE THE SAME
 8 ARGUMENT IN THIS CASE, JUDGE. THEY WERE BOTH INSIDE. WHILE
 9 HE USED THE WEAPON SHE DISCONNECTED THE VCR. WHILE HE'S
 10 DISARMING THE VICTIM SHE'S ABLE TO DO WHATEVER IS NECESSARY
 11 TO FURTHER THEIR AIM IN ENTERING THE RESIDENCE. SO THAT'S
 12 ONE CATEGORY. "OR, AS IN THE INSTANT CASE, THE UNARMED
 13 ASSAILANT HAS KNOWLEDGE OF THE USE OF THE GUN AND BY HIS
 14 ACTUAL PRESENCE PARTICIPATES IN THE ROBBERY, THE UNARMED
 15 OFFENDER BENEFITS FROM THE USE OF THE OTHER ROBBER'S WEAPON
 16 ADOPTING DERIVATIVELY ITS LETHAL POTENTIAL."

17 THERE'S NOTHING WHICH IS INDICATIVE IN THIS CASE
 18 THAT THAT LANGUAGE DOESN'T APPLY DIRECTLY.

19 NOW, MR. BROOKS FOCUSED ON LANGUAGE WHICH APPEARS
 20 AT THE BOTTOM OF THE SAME PAGE: "THEREFORE, IN OUR VIEW THE
 21 POSSESSION NECESSARY TO JUSTIFY STATUTORY ENHANCEMENT MAY
 22 BE ACTUAL OR CONSTRUCTIVE. IT MAY BE EXCLUSIVE OR JOINT.
 23 CONSTRUCTIVE OR JOINT POSSESSION MAY OCCUR ONLY WHERE THE
 24 UNARMED PARTICIPANT HAS KNOWLEDGE OF THE OTHER OFFENDER'S
 25 BEING ARMED AND WHERE THE UNARMED DEFENDANT HAS, AS HERE,

1 THE ABILITY TO EXERCISE CONTROL OVER THE FIREARM."

2 NOW, JONES INVOLVED AN APARTMENT. THE ANDERSON
3 CASE INVOLVED A ROBBERY WHICH OCCURRED INSIDE A CAR. AND WE
4 HAVE AN OFFENSE WHICH OCCURS INSIDE A HOUSE.

5 NOW, I KNOW THAT THE COURT IS FAMILIAR WITH THE
6 RECORD BUT ---

7 THE COURT: I DON'T THINK THOSE ARE DISTINGUISHING
8 FACTORS.

9 MR. HARMON: WELL, I DON'T KNOW FOR SURE.

10 THE COURT: I'M SAYING WHETHER IT'S IN A CAR,
11 WHETHER IT'S IN AN APARTMENT OR IN A HOUSE, I DON'T THINK
12 THAT'S THE ISSUE.

13 MR. HARMON: WE'RE TALKING ABOUT LANGUAGE THAT,
14 FRANKLY, IS IMPOSSIBLE FOR ME TO UNDERSTAND FOR SURE. IF
15 WE'RE GOING TO SAY, AS THE COURT AGREED IN THE ECHAVARRIA
16 GURRY CASE, THAT SOMEONE STANDING OUTSIDE A BANK AS A LOOK-
17 OUT WHO WAS UNARMED BY ALL OF THE TRIAL EVIDENCE IS STILL AN
18 AIDER AND ABETTOR AND STILL IN CONSTRUCTIVE POSSESSION OF A
19 FIREARM OF SOMEONE WHO WAS INSIDE THE BANK, THEN PERHAPS THE
20 EXACT LOCATION DOESN'T MATTER, BUT SURELY THE INTENTION OF
21 THE TWO PARTIES IN GOING TO THE SCENE DID. AND I DON'T
22 KNOW WHAT THE COURT MEANS WHEN THEY TALK ABOUT THE ABILITY
23 TO EXERCISE CONTROL.

24 THE COURT: THAT WAS MY NEXT QUESTION. HOW DO YOU
25 RECONCILE THAT GENERAL STATEMENT WITH REGARD TO CONSTRUCTIVE

1 OR JOINT POSSESSION WITH THE NEXT PARAGRAPH QUOTED IN YOUR
2 BRIEF, PAGE 7, WHERE IT TALKS ABOUT THE UNARMED OFFENDER
3 BENEFITING FROM THE USE OF THE WEAPON. I HAVE TROUBLE
4 RECONCILING THAT LANGUAGE MYSELF.

5 MR. HARMON: I THINK SHE DID BENEFIT JUST AS IN
6 THE GURRY ECHAVARRIA CASE. WHEN THESE CHARACTERS WENT TO
7 THE UNION SECURITY BANK NO ONE ARGUED THAT THEY INTENDED THAT
8 AN FBI AGENT WOULD BE MURDERED, BUT THE FACT IS THE EVIDENCE
9 INDICATED THAT GURRY KNEW THAT ECHAVARRIA HAD A WEAPON. HE
10 NEVER WENT IN. HE STAYED ON THE OUTSIDE. AND THE CONSPIRACY
11 TO ROB WAS FOILED. THE AGENT GOT INVOLVED. HE WAS IN THE
12 PROCESS OF ARRESTING ECHAVARRIA WHEN ECHAVARRIA RETRIEVED
13 HIS OWN GUN AND SHOT AND KILLED HIM.

14 THE COURT AGREED ON APPEAL THAT THAT WAS CONSTRUCTIVE
15 POSSESSION. YOUR HONOR, HOW WAS GURRY ABLE TO EXERCISE
16 CONTROL OUTSIDE? I'M SAYING IN MY OPINION IT HAS EVERYTHING
17 TO DO WITH THE PURPOSE FOR WHICH THE PARTIES GO THERE, AND
18 IT MAY HAVE SOMETHING TO DO, NOTWITHSTANDING THE COURT'S
19 COMMENT THAT THERE ARE CIRCUMSTANCES WHERE PEOPLE ARE
20 ACTUALLY THERE, THAT THE TWO CONSPIRATORS WERE INSIDE THE
21 CAR TOGETHER, THE CONSPIRATORS IN JONES.

22 THE COURT: WHAT I'M SAYING IS I DON'T KNOW THAT
23 I NECESSARILY AM DISAGREEING WITH YOU. MY COMMENT IS THAT
24 IF YOU READ ALL OF THESE CASES TOGETHER THE PHYSICAL LOCATION
25 DOESN'T SEEM TO BE THE DETERMINATIVE FACTOR.

1 MR. HARMON: WELL, I'M THINKING THAT IT MAY BE
2 BECAUSE WALTERS, OF COURSE, COMES TO A DIFFERENT CONCLUSION.

3 THE COURT: I SAY IT'S NOT THE DETERMINATIVE
4 FACTOR. IT IS A FACTOR.

5 MR. HARMON: I THINK IT IS A FACTOR. NOW, IN THIS
6 CASE THERE IS NO QUESTION BUT WHAT MS. PLATOU'S VEHICLE WAS
7 USED. WHETHER IT'S A BUMPER JACK OR TIRE IRON, IT'S FROM
8 HER CAR.

9 NOW, JUDGE, JUST TO LOOK AT THE REASONABLE
10 INFERENCES, PERHAPS IT CAN BE ARGUED THAT SHE HAD IT RIGHT
11 THERE IN THE FRONT SEAT -- THAT'S ALWAYS WHERE SHE KEPT IT --
12 BUT I DON'T THINK THAT'S THE REASONABLE CONCLUSION. MOST
13 PEOPLE KEEP BUMPER JACKS OR TIRE IRONS IN THEIR TRUNK, AND
14 IT SEEMS UNREALISTIC TO ME TO CONCLUDE THAT SOMETIME BETWEEN
15 MIDNIGHT AND THREE O'CLOCK IN THE MORNING THESE PEOPLE GO
16 TO ANOTHER PERSON'S RESIDENCE, AND THEY MUST SEE A CAR IN
17 THE DRIVEWAY, AND SHE PARKED A SHORT DISTANCE AWAY AND THEY
18 WENT TOGETHER TO THE BACK YARD AND THEN THEY GO IN, AND THE
19 ARGUMENT HAS BEEN MADE SHE DIDN'T KNOW HE WAS GOING TO TAKE
20 SOMETHING FROM HER VEHICLE TO USE TO SUBDUE A VICTIM IF A
21 PERSON WAS ENCOUNTERED INSIDE, I JUST DON'T THINK THAT IS
22 REASONABLE, AND I THINK THAT'S WHAT IS DEFINITIVE ABOUT THIS
23 CASE. THEY BOTH WERE INSIDE.

24 NOW, SHE ACKNOWLEDGES IN HER STATEMENT THAT AT
25 SOME POINT SHE BECAME AWARE INSIDE THAT HE HAD THE WEAPON,

1 AND SHE BENEFITED. SHE WAS RIGHT THERE WITH HIM. SHE CER-
 2 TAINLY DID TO THE EXTENT JONES OR ANDERSON OR GURRY HAD THE
 3 ABILITY TO EXERCISE CONTROL OVER IT. SHE IS THERE IN THE
 4 HOUSE. SHE IS BUSY DISCONNECTING A VCR. SHE KNOWS THAT
 5 SOMEONE IS THERE. SHE HEARD THE SNORING. THEN THEY LEAVE
 6 TOGETHER, JUDGE. THEY LEAVE WITH THE PROPERTY. WHEN THE
 7 SEARCH WARRANT IS EXECUTED JEWELRY IS FOUND IN HER VEHICLE.

8 WHEN THEY GOT BACK TO THE RESIDENCE MS. BRYANT,
 9 WHO TESTIFIED, SAID THAT PLATOU CAME INTO THE RESIDENCE WITH
 10 A BAG WHICH HAD THE CHRISTMAS BOOTIES INSIDE. THEN THERE
 11 WAS THE CONCERN THAT THERE WAS EVIDENCE LEFT AT THE SCENE.
 12 MS. PLATOU DID NOT ABANDON HER LINKAGE WITH THIS DEFENDANT.
 13 SHE DROVE HIM BACK, WHERE SHE WAITED OUTSIDE WHILE HE ATTEMPTED
 14 TO TORCH THE RESIDENCE.

15 WE'RE ONLY SAYING, JUDGE, THAT THERE IS A REASON-
 16 ABLE INFERENCE THAT THIS BECOMES A JURY QUESTION AND THE
 17 JURY SHOULD BE PERMITTED TO DECIDE UNDER APPROPRIATE INSTRU-
 18 TIONS. WHETHER THE ENHANCEMENT OF A DEADLY WEAPON SHOULD
 19 APPLY TO MICHELLE PLATOU.

20 THE COURT: DON'T YOU HAVE TO ARGUE, THOUGH, IF
 21 YOU'RE GOING TO APPLY ECHAVARRIA TO THIS CASE THAT THE
 22 SUPREME COURT HAS INDICATED THAT THE RELATIVE POSITION OF
 23 THE CO-PARTICIPANT ISN'T ALWAYS DETERMINATIVE OF WHETHER THE
 24 DEADLY WEAPON STATUTE SHOULD BE APPLIED?

25 MR. HARMON: I CERTAINLY AGREE WITH THAT. IT IS

1 NOT ALWAYS DETERMINATIVE. BUT I AM SAYING IT'S CERTAINLY ONE
2 OF THE FACTORS. I THINK IT WAS A FACTOR IN BOTH ANDERSON
3 AND JONES, AND I THINK IT SHOULD BE A FACTOR IN THIS CASE.

4 THE COURT: YOU'RE SAYING THAT ZOMBIC ACTUALLY HAS
5 NO LIFE AFTER THE 1995 AMENDMENT TO THE DEADLY WEAPON
6 STATUTE?

7 MR. HARMON: NO LIFE AS LONG AS THE COURT PRESUMES
8 THAT THE LEGISLATIVE ENACTMENT IS CONSTITUTIONAL. WELL,
9 THERE'S NO REASON TO THINK IT ISN'T. THE LEGISLATURE IS
10 ENTITLED TO APPLY A FUNCTIONAL TEST.

11 THE COURT: I'M ONLY SMILING BECAUSE OF THE IRONY
12 OF THAT STATEMENT. ANYTHING FURTHER?

13 MR. HARMON: NO, YOUR HONOR.

14 MR. BROOKS: JUDGE, BRIEFLY I WOULD LIKE TO ADDRESS
15 SOME OF MR. HARMON'S CONTENTIONS. THE CASES CITED BY
16 MR. HARMON ARE ALL INCREDIBLY DIFFERENT FROM THIS CASE HERE.
17 THE CASES HE TALKS ABOUT ARE CASES WHERE PEOPLE PLAN A CRIME.
18 FOR EXAMPLE, THE ECHAVARRIA GURRY CASE. ONE PERSON ENTERS
19 WITH A WEAPON AND BOTH PEOPLE HAVE KNOWLEDGE OF THE WEAPON.
20 THE STATE'S MOTION IN FACT CITES LANGUAGE THAT SAYS THAT.

21 IN THIS CASE HERE THE EVIDENCE PRESENTED TO THE
22 GRAND JURY IS THAT MICHELLE PLATOU HAD NO KNOWLEDGE THAT
23 WILLIAM CASTILLO HAD A TIRE IRON WHEN HE ENTERED THE RESIDENCE.
24 THE PROBLEM THAT MR. HARMON HAS HERE IS THAT THEY WOULD
25 BASICALLY LIKE TO SAY, WELL, OBVIOUSLY, THE EVIDENCE THEY

1 PRESENTED TO THE GRAND JURY IS WRONG, AND YOU HAVE TO INFER
2 THE EXACT OPPOSITE THING; SHE MUST HAVE KNOWN. THE SIMPLE
3 FACT IS THE EVIDENCE PRESENTED TO THE GRAND JURY BY THE
4 STATE IS THAT SHE HAD NO KNOWLEDGE THAT THERE WAS A TIRE
5 IRON HERE. THERE WAS NO KNOWLEDGE BY HER THERE WAS A TIRE
6 IRON WHEN THEY ENTERED THE HOUSE AND, THEREFORE, SHE COULD
7 NOT HAVE HAD DOMINION AND CONTROL.

8 AT SOME POINT WE HAVE TO SAY THE STATE HAS TO LIVE
9 WITH THEIR OWN EVIDENCE, AND HERE THEY'RE SAYING, WELL, WE
10 PRESENTED THAT BUT THE INFERENCE HAS TO BE THE EXACT
11 OPPOSITE. AND THAT'S WRONG.

12 THE COURT: DOES THE MATTER STAND SUBMITTED?

13 MR. HARMON: YES, YOUR HONOR.

14 MR. LAPORTA: YES, YOUR HONOR.

15 THE COURT: FIRST OF ALL, I WANT TO SAY I APPRE-
16 CIATE THE BRIEFING THAT WENT ON IN THIS CASE AND THE ORAL
17 ARGUMENT THIS MORNING.

18 IT'S MY CONCLUSION BASED UPON THIS RECORD THAT
19 THERE IS A REASONABLE INFERENCE THAT BOTH DEFENDANTS SHOULD
20 STAND TRIAL FOR MURDER WITH THE USE OF A DEADLY WEAPON. I
21 DO NOTE, HOWEVER, THAT BOTH SIDES HAVE HAD TO WRESTLE WITH
22 THE LANGUAGE IN THE ANDERSON CASE, WHICH GOES FROM THE
23 GENERAL TO THE SPECIFIC. MY SENSE IS THAT FROM READING THE
24 ANDERSON, WALTERS, ECHAVARRIA AND JONES CASES TOGETHER THAT
25 THE NEVADA SUPREME COURT BELIEVES THIS KIND OF A SITUATION

1 AT LEAST GIVES RISE TO AN INFERENCE THAT THE ENHANCEMENT
2 PROVISION OF THE DEADLY WEAPON STATUTE SHOULD BE IMPOSED.

3 I AGREE WITH THE STATE OF NEVADA THAT UNTIL THE
4 NEVADA SUPREME COURT HAS REVISITED THE NEW DEADLY WEAPON
5 STATUTE IN LIGHT OF ZOMBIC THAT ZOMBIC DOESN'T HAVE ANY
6 FURTHER CONCEPTUAL LIFE WITH REGARD TO ACTIONS BROUGHT
7 REGARDING INCIDENTS SUBSEQUENT TO JULY 1, 1995.

8 ANYTHING FURTHER FROM THE PARTIES AT THIS TIME?

9 MR. BROOKS: JUDGE, FOR THE RECORD WE DO OBJECT TO
10 THE AMENDMENT OF THE INDICTMENT AND WE WOULD ASK THAT IF THE
11 COURT DOES ALLOW THE STATE TO AMEND THE INDICTMENT THAT THE
12 LANGUAGE INVOLVING CONSPIRACY, WHICH IS A SEPARATE CRIME,
13 BE STRICKEN.

14 MR. HARMON: YOUR HONOR, WE'RE STILL ASKING FOR
15 PERMISSION TO FILE AN AMENDED INDICTMENT. MOST RECENTLY IN
16 THE RIPPO CASE, THE DOUBLE MURDER TRIED EARLIER THIS YEAR
17 IN DEPARTMENT 4, THE TRIAL JUDGE, JUDGE BONGIOVANNI,
18 ORIGINALLY DENIED OUR MOTION TO CONFORM WE THOUGHT TO BARON
19 AND TO CLARIFY OUR THEORIES OF LIABILITY. IT ENDED UP
20 HAVING TO GO BEFORE THE STATE SUPREME COURT ON A WRIT OF
21 MANDAMUS.

22 THE COURT: WHAT'S THE STATUS OF THAT?

23 MR. HARMON: WELL, THE COURT ENDED UP GRANTING OUR
24 WRIT. IT DIRECTED JUDGE BONGIOVANNI TO PERMIT THE AMENDMENT.
25 IT WAS AMENDED. WE WENT TO TRIAL AND MR. RIPPO WAS CON-

1 VICTED OF TWO COUNTS OF MURDER OF THE FIRST DEGREE. THAT
2 ISN'T PUBLISHED BUT IT CLEARLY REFLECTS THE POSITION OF THE
3 COURT.

4 THE COURT: WHAT I'M GOING TO DO IS I'M GOING TO
5 ALLOW THE AMENDMENT BUT AT THE TIME THE JURY IS INSTRUCTED
6 I WILL REVISIT THE ISSUE AS TO WHETHER OR NOT THE STATE OF
7 NEVADA GETS TO GO TO THE JURY ON THE QUESTION.

8 MR. HARMON: ON WHAT QUESTION?

9 THE COURT: THE CONSPIRACY.

10 MR. HARMON: WELL, JUDGE, I WANT TO POINT OUT AGAIN
11 PERHAPS INADVERTENTLY I THINK THAT MR. BROOKS IS MISCHARACTER-
12 IZING WHAT WE'RE TRYING TO DO. WE HAVEN'T ALLEGED ANY
13 SEPARATE OFFENSE OF CONSPIRACY.

14 WHEN YOU LOOK AT 195.020 IT TALKS ABOUT PERSONS
15 WHO ARE ACTUALLY INVOLVED IN THE COMMISSION OF THE OFFENSE;
16 IT TALKS ABOUT THOSE WHO AID OR ABET, OR BASICALLY THOSE
17 WHO GO OUT AND PROCURE OR AGREE OR ENTICE OTHERS TO COMMIT
18 AN OFFENSE.

19 IT SEEMS LIKE THERE ARE THREE CATEGORIES. WE HAD
20 PREVIOUSLY IN THE ORIGINAL INDICTMENT PLED IN COUNT I CON-
21 SPIRACY TO COMMIT BURGLARY AND/OR ROBBERY. THAT'S THE SUB-
22 STANTIVE OFFENSE OF CONSPIRACY. AND THE ONLY PLACE THAT
23 CONSPIRACY APPEARS IN OUR PROPOSED AMENDED INDICTMENT IS IN
24 COUNT IV, MURDER WITH USE OF A DEADLY WEAPON, AND IT'S AT
25 LINES 19 AND 20, AND WE HAVE ADDED THIS LANGUAGE, SUB-HEADING

1 3: AS AIDERS OR ABETTORS AND AS CONSPIRATORS.

2 JUDGE, THAT IS NOT CHARGING CONSPIRACY IN A MURDER
3 COUNT. IT'S NOT A SEPARATE OFFENSE. IT IS JUST AN EFFORT
4 TO CLARIFY THAT THERE ARE VARIOUS THEORIES OF LIABILITY.
5 IT'S SIMPLY A VEHICLE FOR NOTICE.

6 MR. BROOKS: MAY I RESPOND, JUDGE?

7 THE COURT: YES. YOUR COMPLAINT ABOUT THIS PRO-
8 POSED PLEADING IS THAT YOUR CLIENTS ARE CHARGED WITH MURDER
9 ON ONE HAND AND THEN CONSPIRACY TO COMMIT MURDER ON THE OTHER
10 HAND.

11 MR. BROOKS: WELL, OUR POINT IS THIS, JUDGE.
12 THERE IS A STATUTE THAT DEFINES FIRST DEGREE MURDER LIABILITY
13 AND THERE ARE WAYS TO GET TO FIRST DEGREE MURDER. CONSPIRACY
14 IS NOT ONE OF THOSE WAYS PURSUANT TO OUR STATUTE.

15 I CALLED BILL KOOT UP AND ASKED HIM. I SAID, "HOW
16 CAN YOU DO THIS?" HE SAID, "WELL, IT'S COMMON LAW."
17 WELL, OUR STATUTES HERE GOVERN AND IT'S NOT COMMON LAW
18 LIABILITY.

19 IF THEY'RE GOING TO TRY TO GET TO FIRST DEGREE
20 MURDER USING A CONSPIRACY THEORY, THAT'S WRONG. THEY CAN DO
21 AN AIDING AND ABETTING.

22 THE COURT: YOU MEAN TO SAY CONSPIRACY TO COMMIT
23 MURDER, A PROVED CONSPIRACY THAT ENDS UP IN THE ACTUAL
24 COMMISSION OF A MURDER, THAT IS NOT EVIDENCE OF PREMEDITATION?

25 MR. BROOKS: YOU HAVE TWO SEPARATE CRIMES THERE, .

1 JUDGE, AND THEY MAY IN FACT BE, BUT UNDER THE FIRST DEGREE
2 MURDER STATUTE YOU CANNOT USE THE CONSPIRACY THEORY TO GET
3 THIS.

4 MR. HARMON: THAT'S ALL WE'RE SAYING, JUDGE.
5 WE'RE NOT GOING TO BE SUBMITTING ANY SEPARATE VERDICT TO
6 THIS JURY WHICH ALLEGES CONSPIRACY TO COMMIT MURDER. THE
7 CHARGES ARE CONSPIRACY TO COMMIT BURGLARY AND/OR ROBBERY,
8 THE OTHER OFFENSES, AND COUNT IV, MURDER WITH THE USE OF A
9 DEADLY WEAPON. CONSPIRACY IS SIMPLY AN EFFORT TO CLARIFY
10 THE BASIS UPON WHICH WE ARE ARGUING THAT BOTH OF THESE
11 DEFENDANTS ARE LIABLE FOR MURDER IN THE FIRST DEGREE.

12 MR. BROOKS: I WOULD SUGGEST, JUDGE, THAT WHAT IT
13 ACTUALLY DOES IS CONFUSES THE ISSUE. WHAT THEY SHOULD BE
14 DOING IS ALLEGING AIDING AND ABETTING, AND THEY SHOULD DROP
15 THE CONSPIRACY AS PART OF THE MURDER COUNT. AIDING AND
16 ABETTING IS WHAT APPLIES HERE. THE CONSPIRACY ONLY MUDDIES
17 IT BECAUSE THEN WE HAVE A NON-STATUTORY ISSUE BEING INJECTED.

18 MR. HARMON: IT DOESN'T MUDDY IT. IT CLARIFIES.

19 THE COURT: I DON'T NEED TO HEAR ANY FURTHER ARGU-
20 MENT. I'M GOING TO GRANT THE AMENDMENT.

21 MR. HARMON: THANK YOU. MAY I APPROACH THE BENCH,
22 YOUR HONOR?

23 THE COURT: YES.

24 MR. HARMON: MAY THE STATE FILE THE AMENDED INDICT-
25 MENT IN OPEN COURT?

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THE COURT: IT MAY. ORDERED. SIGNED IN OPEN COURT.
GENTLEMEN, THANK YOU VERY MUCH FOR YOUR ORAL ARGUMENTS THIS
MORNING.

---oOo---

ATTEST: FULL, TRUE AND CORRECT TRANSCRIPT OF PROCEEDINGS.


CONSTANCE MILLER, CCR NO. 270

● ●

EXHIBIT 154

EXHIBIT 154

WCastillo - 027-8JDC0564

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DISTRICT COURT

CLARK COUNTY, NEVADA

FILED IN OPEN COURT

SEP 04 1996 19

ORIGINAL

* * * * *

LORETTA BOWMAN, CLERK

BY *Lori Brown* Deputy

THE STATE OF NEVADA,

Plaintiff,

CASE NO. C133336

Vs

DEPT. NO. VII

WILLIAM PATRICK CASTILLO &
MICHELLE C. PLATOU,

DOCKET P

Defendant.

BEFORE THE HONORABLE:

A. WILLIAM MAUPIN DISTRICT JUDGE

MONDAY, JULY 22, 1996, 9:00 A.M.

APPEARANCES:

FOR THE STATE:

JENNIFER P. TOGLIATTI
Deputy District Attorney

FOR THE DEFENDANT
CASTILLO:

DAVID M. SCHIECK, ESQ.

FOR THE DEFENDANT
PLATOU:

HOWARD S. BROOKS
Deputy Public Defender

REPORTED BY:

PATSY K. SMITH, C.C.R. #190

PATSY K. SMITH, OFFICIAL COURT REPORTER

420

Castillo, William
Rev'd 10/20/04 SJDC-565
8" JDC recs.

CE41

1 MONDAY, JULY 22, 1996, 9:00 A.M.

2 THE COURT: C133336, State of Nevada versus
3 William Patrick Castillo and Michelle Platou.

4 The record -- at least the calendar reflects
5 the State Public Defender is representing Mr. Castillo.

6 MR. SCHIECK: I'm co-counsel with Mr.
7 LaPorta on that case, your Honor.

8 THE COURT: All right.

9 MR. BROOKS: Howard Brooks on behalf of Ms.
10 Platou, your Honor.

11 THE COURT: So there have been scenarios
12 where the State Public Defender is bringing in other
13 lawyers in death penalty cases?

14 MR. SCHIECK: Correct, your Honor.

15 THE COURT: Has there been any activity like
16 that in other first degree murder cases? It has nothing to
17 do with this case, but I've got another situation where I'm
18 considering doing the same thing.

19 MR. SCHIECK: Currently, Judge Huffaker has
20 done that in a case and so has Judge Bonaventure and Judge
21 Becker --

22 THE COURT: All right.

23 MR. SCHIECK: -- that I'm personally aware
24 of. I believe there are other cases besides those.

25 THE COURT: So are you waiving Mr. LaPorta's

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Castillo, William
Rev'd 10/20/04 8JDC-565
8" JDC recs.

421

1 appearance at this time?

2 MR. SCHIECK: Yes, your Honor. He is out of
3 town.

4 THE COURT: All right, this is on for a
5 status check regarding the trial status. Where are we in
6 terms of whether this case is going to trial or not?

7 MR. SCHIECK: I think that we are all ready
8 to go.

9 MR. BROOKS: On behalf of Ms. Platou, we
10 will be ready to go.

11 MS. TOGLIATTI: Your Honor, I have a note
12 from Mr. Harmon's secretary, witnesses are presently being
13 subpoenaed and served.

14 THE COURT: Very well, if that is the case
15 since that's got a priority. Any sense, though, that an
16 application for continuance might be submitted between now
17 and then?

18 MR. BROOKS: Not on behalf of Ms. Platou,
19 Judge.

20 MR. SCHIECK: No, your Honor.

21 THE COURT: All right. Thank you very
22 much.

23 * * * * *

24 ATTEST: FULL, TRUE AND ACCURATE TRANSCRIPT OF PROCEEDINGS.

25 *Patsy K. Smith*
PATSY K. SMITH, C.C.R. #190

PATSY K. SMITH, OFFICIAL COURT REPORTER

Castillo, William
Rev'd 10/20/04 8JDC-567
8th JDC recs.

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EXHIBIT 155

EXHIBIT 155

FILED

DISTRICT COURT
CLARK COUNTY, NEVADA

Aug 21 8 45 AM '96

Lois Locomon
CLERK

THE STATE OF NEVADA,

PLAINTIFF

VS.

WILLIAM PATRICK CASTILLO,

DEFENDANT

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CASE NO. C133336
DEPARTMENT VII
DOCKET P

REPORTER'S TRANSCRIPT OF PROCEEDINGS IN RE: MOTIONS
BEFORE THE HONORABLE A. WILLIAM MAUPIN, DISTRICT JUDGE

MONDAY, AUGUST 12, 1996

9:00 A. M.

APPEARANCES:

FOR THE PLAINTIFF

MELVYN HARMON, ESQUIRE
DEPUTY DISTRICT ATTORNEY

FOR THE DEFENDANT

DAVID SCHIECK, ESQUIRE
PETER LAPORTA, ESQUIRE

REPORTED BY: CONSTANCE MILLER, CCR NO. 270

CE41

Castillo, William
Rev'd 10/20/04 SJDC-497
8th JDC recs.

400

1 LAS VEGAS, NEVADA, MONDAY, AUGUST 12, 1996, 9:00 A. M.

2 ----oOo----

3 THE COURT: C133336, STATE OF NEVADA VS. WILLIAM
4 PATRICK CASTILLO. THE DEFENDANT IS PRESENT IN CUSTODY, REP-
5 RESENTED BY HIS COUNSEL; THE STATE OF NEVADA REPRESENTED BY
6 THE DEPUTY DISTRICT ATTORNEY. THIS IS THE HEARING ON THE
7 DEFENDANT'S MOTION TO EXCLUDE OTHER BAD ACTS AND IRRELEVANT
8 PRIOR CRIMINAL ACTIVITY AND EVIDENCE WHERE PREJUDICE OUT-
9 WEIGHS PROBATIVE VALUE, DEFENDANT'S MOTION TO EXCLUDE OTHER
10 BAD ACTS AND IRRELEVANT PRIOR CRIMINAL ACTIVITY, DEFENDANT'S
11 MOTION FOR DISCOVERY OF POTENTIAL PENALTY HEARING EVIDENCE,
12 DEFENDANT'S MOTION TO ALLOW JURY QUESTIONNAIRE, DEFENDANT'S
13 MOTION IN LIMINE TO PRECLUDE AUTOPSY PHOTOGRAPHS, AND
14 DEFENDANT'S MOTION TO LIMIT STATE'S PENALTY HEARING ARGUMENT.

15 THE COURT HAS READ ALL OF THE BRIEFS IN THIS MATTER.
16 DO EITHER OF THE PARTIES HAVE ANYTHING TO ADD TO THE POINTS
17 AND AUTHORITIES, WHICH I THOUGHT WERE FAIRLY COMPLETE?

18 MR. LAPORTA: NO, YOUR HONOR, WE HAVE NOTHING TO
19 ADD.

20 MR. SCHIECK: NO, YOUR HONOR.

21 MR. HARMON: NO, YOUR HONOR.

22 THE COURT: ON THE DEFENDANT'S MOTION TO EXCLUDE
23 OTHER BAD ACTS AND IRRELEVANT PRIOR CRIMINAL ACTIVITY AND
24 EVIDENCE WHERE PREJUDICE OUTWEIGHS PROBATIVE VALUE, I WILL
25 REFER TO THE ITEMS BY THEIR NUMBER.

1 THE MOTION TO EXCLUDE THAT MR. CASTILLO HAS BEEN
2 IN PRISON PREVIOUSLY IS GRANTED AS TO THE GUILT PHASE PER THE
3 CONCESSIONS MADE IN THE STATE'S RESPONSE.

4 THAT THE DEFENDANT OBTAINED HIS TATTOOS WHILE HE
5 WAS IN PRISON, THAT'S GRANTED AS TO THE GUILT PHASE, AND

6 3. THAT THE DEFENDANT HAD PENDING CRIMINAL MATTERS
7 AND THAT HE NEEDED MONEY TO PAY HIS ATTORNEY TO HANDLE SUCH
8 MATTERS, THAT IS GRANTED IN PART AT THE GUILT PHASE EXCEPT
9 THAT THE DEFENDANT'S DEBTS TO THE ATTORNEYS OR THE FACT OF
10 THAT WILL BE ALLOWED AT THE GUILT PHASE ON THE ISSUE OF
11 MOTIVE. EVIDENCE OF WHY THE FEES WERE INCURRED WILL, PER
12 THE STATE'S RESPONSE, NOT BE ADMITTED.

13 THAT'S THE RULING ON THAT PARTICULAR MOTION.

14 THE MOTION TO EXCLUDE OTHER BAD ACTS AND IRRELEVANT
15 PRIOR CRIMINAL ACTIVITY, I'LL REFER IN MAKING MY RULING TO
16 THE ITEMS SOUGHT TO BE EXCLUDED BY THEIR NUMBER, WHICH
17 ARE ARTICULATED AT PAGE 4 OF THE BRIEF FILED JULY 30, 1996.

18 PARAGRAPH 1. THE AUTOPSY PHOTOGRAPHS THAT ARE
19 GRUESOME AND UNDULY PREJUDICIAL. THE COURT WILL EXAMINE
20 AN OFFER OF PROOF BY THE STATE AND DETERMINE WHICH OF THE
21 AUTOPSY PHOTOGRAPHS WILL BE LET IN.

22 THAT MOTION, THEREFORE, IS DENIED IN PART AND
23 GRANTED IN PART. IF THERE ARE ANY PHOTOGRAPHS THAT THE
24 COURT FEELS ARE CUMULATIVE OR UNDULY PREJUDICIAL IN COMPARI-
25 SON WITH THEIR PROBATIVE VALUE, THE COURT WILL EXCLUDE THOSE

1 PHOTOGRAPHS, BUT IT'S MY UNDERSTANDING PER THE USUAL PRACTICE
2 THE STATE WILL BRING ITS COLLECTION OF PHOTOGRAPHS FOR THE
3 COURT TO DECIDE ON ADMISSIBILITY DURING THE TRIAL. I DON'T
4 THINK THAT'S GOING TO HAVE ANY EFFECT ON YOUR OPENING STATE-
5 MENTS, IS IT?

6 MR. SCHIECK: NO, YOUR HONOR.

7 MR. LAPORTA: NO, YOUR HONOR.

8 THE COURT: WE CAN DO THAT WHEN WE'RE READY TO
9 MARSHALL THE EVIDENCE AND GET IT MARKED AT THE TIME OF TRIAL,
10 CORRECT?

11 MR. HARMON: THAT WILL BE FINE.

12 THE COURT: 2. THAT THE DECEDENT KNITTED BOOTIES
13 TO GIVE HER GRANDCHILDREN AND OTHER CHILDREN AND THE SAME
14 WERE STOLEN DURING THE BURGLARY, AND A PHOTOGRAPH OF THE
15 DECEASED WITH HER GRANDCHILD.

16 THOSE MOTIONS -- WELL, THE MOTION THAT THE DECEDENT
17 KNITTED BOOTIES TO GIVE TO HER GRANDCHILDREN AND OTHER CHILD-
18 REN AND THE SAME WERE STOLEN DURING THE BURGLARY, THAT MOTION
19 IS DENIED.

20 THE PHOTOGRAPH OF THE DECEASED WITH HER GRAND-
21 CHILDREN AND THAT THE DECEDENT KNITTED BOOTIES, NUMBERS 2
22 AND 3, THOSE MOTIONS ARE DENIED.

23 4. INFORMATION ABOUT THE EMPLOYMENT HISTORY OF
24 THE DECEDENT AS A TEACHER IN THE CLARK COUNTY SCHOOL DISTRICT,
25 THAT IS DENIED IN PART. THE FACT THAT SHE WAS A SCHOOL

1 TEACHER WILL BE, PER THE STATE'S RESPONSE, ADMISSIBLE. THE
2 JURY IS ENTITLED TO KNOW WHO THIS PERSON WAS, WITHOUT
3 FURTHER ELABORATION ON HER EMPLOYMENT RECORD, AND AS I UNDER-
4 STAND IT, THAT'S CONSISTENT WITH THE STATE'S RESPONSE; IS
5 THAT CORRECT?

6 MR. HARMON: IT IS, YOUR HONOR.

7 THE COURT: THE MOTION FOR DISCOVERY OF POTENTIAL
8 PENALTY HEARING EVIDENCE IS GRANTED. I WOULD ALSO AT THIS
9 POINT, SO THAT WE CAN AVOID SOME OF THE PROBLEMS WE'VE
10 EXPERIENCED IN OTHER MATTERS, I WOULD LIKE TO HAVE THE
11 PENALTY WITNESSES ENDORSED PRIOR TO THE GUILT PHASE OF THE
12 TRIAL IF THERE'S ANY OTHER ONES THAT HAVEN'T ALREADY BEEN
13 ENDORSED.

14 MR. HARMON: WE WILL DO THAT BY FRIDAY OF THIS
15 WEEK.

16 THE COURT: THEN THAT WILL BE THE ORDER. THE
17 PENALTY PHASE WITNESSES NEED TO BE ENDORSED BY THIS FRIDAY.

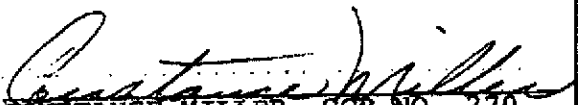
18 THE MOTION TO ALLOW JURY QUESTIONNAIRE IS GRANTED.
19 THE PARTIES ARE INSTRUCTED TO INTERACT TO MAKE SURE THAT
20 THEY CAN DEVELOP A JURY QUESTIONNAIRE THAT SATISFIES EVERYONE.
21 GENERALLY SPEAKING, WE'VE BEEN ABLE TO COME TO AN AGREEMENT
22 ON ALL OF THAT. MR. SCHIECK AND MR. HARMON WENT THROUGH
23 THIS BEFORE, SO I DON'T THINK THERE'S GOING TO BE A PROBLEM
24 IN THAT REGARD, IS THERE, COUNSEL?

25 MR. HARMON: NO, YOUR HONOR.

1 MR. SCHIECK: NO, YOUR HONOR.
2 THE COURT: SO THAT MOTION IS GRANTED.
3 THERE IS ANOTHER MOTION IN LIMINE TO PRECLUDE
4 AUTOPSY PHOTOGRAPHS, WHICH I BELIEVE IS SIMPLY DUPLICATIVE
5 OF THE MOTION TO EXCLUDE PHOTOGRAPHS THAT WAS IN ONE OF THE
6 OTHER MOTIONS, AND SO THE SAME RULING IS MADE WITH REGARD
7 TO THAT MOTION.
8 AND THE LAST MOTION IS THE MOTION TO LIMIT STATE'S
9 PENALTY HEARING ARGUMENT. THAT MOTION IS DENIED. I WILL
10 ALLOW EVIDENCE TO BE INTRODUCED WITHIN THE CONFINES OF
11 EMMONS AND RILEY, AS DISCUSSED IN THE REDMON DECISION.
12 ANYTHING FURTHER FROM THE PARTIES AT THIS TIME ON
13 THESE MOTIONS?
14 MR. HARMON: NO, YOUR HONOR.
15 MR. SCHIECK: NO, YOUR HONOR.
16 THE COURT: THANK YOU. BY THE WAY, CAN WE ASSUME
17 AT THIS POINT THAT THIS CASE IS GOING TO PROCEED AS SCHEDULED?
18 MR. HARMON: YES, YOUR HONOR.
19 MR. SCHIECK: YES, YOUR HONOR.
20 MR. LAPORTA: YES, YOUR HONOR.

21 ---OOO---

22 ATTEST: FULL, TRUE AND CORRECT TRANSCRIPT OF PROCEEDINGS.
23
24
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CONSTANCE MILLER, CCR NO. 270

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EXHIBIT 156

EXHIBIT 156

DISTRICT COURT

CLARK COUNTY, NEVADA

FILED IN OPEN COURT

SEP 04 1996 19

ORIGINAL

LORETTA BOWMAN, CLERK

BY *Lori Brown* Deputy

THE STATE OF NEVADA,

Plaintiff,

Vs

WILLIAM PATRICK CASTILLO &
MICHELLE C. PLATOU,

Defendants.

CASE NO. C133336

DEPT. NO. VII

DOCKET P

BEFORE THE HONORABLE:

A. WILLIAM MAUPIN DISTRICT JUDGE

WEDNESDAY, AUGUST 21, 1996, 9:00 A.M.

APPEARANCES:

FOR THE STATE:

STEWART L. BELL
District Attorney
& MELVYN T. HARMON
Chief Deputy District Attorney

FOR THE DEFENDANT
CASTILLO:

PETER R. LAPORTA
State Deputy Public Defender

FOR THE DEFENDANT
PLATOU:

HOWARD S. BROOKS &
PHILIP J. KOHN
Deputy Public Defenders

REPORTED BY:

PATSY K. SMITH, C.C.R. #190

PATSY K. SMITH, OFFICIAL COURT REPORTER

Castillo, William
Rev'd 10/20/04 8JDC-568
8th JDC recs.

1394 CE41

1 WEDNESDAY, AUGUST 21, 1996, 9:00 A.M.

2 THE COURT: C133336, State of Nevada versus
3 William Patrick Castillo and Michelle C. Platou.

4 MR. BROOKS: Howard Brooks on behalf of
5 Michelle Platou, your Honor.

6 MR. BELL: Your Honor, if it please the
7 Court, the State is prepared to proceed with the trial on
8 Mr. Castillo.

9 THE COURT: All right.

10 MR. BROOKS: Defense is in the Michelle
11 Platou case. This case is trailing.

12 MR. BELL: Right. We'll finish Castillo and
13 start Platou.

14 THE COURT: The matters have been severed.
15 Defendant Castillo has filed a motion to dismiss based upon
16 a medical condition of a penalty hearing witness.

17 MR. BELL: Motion to dismiss, your Honor?

18 THE COURT: Motion to continue, sorry.

19 MR. BELL: Thank you.

20 THE COURT: The defendant Platou has filed a
21 motion based upon the -- to continue based upon their
22 trailing status of the Castillo matter; is that correct?

23 MR. KOHN: Yes, your Honor.

24 MR. BELL: Well, we had agreed earlier that
25 Mr. Kohn's client could trail. So we don't see any reason

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Castillo, WPKam
Rev'd 10/20/04 SJDC-568
8th JDC recs.

1395

WCastillo - 027-8JDC0569

1 that that should change. We need to deal with Castillo and
2 then what ever happens to Castillo will happen to Platou.

3 THE COURT: Right. The Court has read the
4 defense motion. It is the Court's intention, at least
5 based upon a projection of how long this is going to take,
6 that the penalty hearing in this case is not going to occur
7 until a sufficient period has past after this witness is
8 going to be released from the hospital.

9 MR. LaPORTA: Judge, so you are thinking the
10 penalty hearing may go after the 9th?

11 THE COURT: We are going to do the guilt
12 phase on Castillo -- into the guilt phase and into the
13 actual trial of the Platou matter.

14 MR. LaPORTA: All right.

15 THE COURT: That's my intention at this
16 point based on the history of these cases.

17 Also, I had entered a pretrial order that
18 motions to endorse penalty phase witnesses would be
19 foreclosed after last Friday, I believe; is that correct,
20 Mr. Harmon?

21 MR. HARMON: Yes, you did, your Honor.

22 THE COURT: That was at the stipulation of
23 the parties.

24 MR. LaPORTA: Yes, your Honor, and I have
25 received those witnesses.

Castillo, William
Rev'd 10/20/04 8JDC-570
8th JDC recs.

PATSY K. SMITH, OFFICIAL COURT REPORTER

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1 MR. BELL: There's a problem with that.

2 MR. LaPORTA: Well, there is a problem in
3 that Mr. Seaton and I start a death penalty hearing in
4 Judge Leavitt's on September the 9th.

5 MR. BELL: McKenna and that is --

6 MR. LaPORTA: McKenna.

7 MR. BELL: And they have made herculean
8 efforts for that case to go and all the security stuff.
9 Judge Leavitt is going to insist Mr. LaPorta and Mr. Seaton
10 be there unless the wind blows the courthouse over.

11 THE COURT: Unless you can defy the laws
12 of --

13 MR. BELL: Well, there is some logistical
14 problems in that case. It was scheduled in August. Judge
15 Leavitt scheduled it for that date. We're ready to go. We
16 want to go. I've got to be honest. He's going to have to
17 be there during the week of September 9th in Judge
18 Leavitt's court now. We had hoped we could go on Castillo
19 the next two weeks, if Mr. LaPorta is done, and we pick up
20 with Mr. Kohn's guilt phase.

21 THE COURT: Well, when is it you want to try
22 this case?

23 MR. BELL: Well, we wanted to try this case
24 starting forthwith and we were hoping that the witness that
25 Mr. LaPorta needed would be done by videotape so that we

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Castillo, William
Rev'd 10/20/04 8JDC-571
8th JDC rec.

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1 could conclude it within the next two weeks.

2 THE COURT: I will give you that option.
3 Under the current antiquated rules, I can't force the
4 defense to present that kind of witness through a
5 videotaped deposition.

6 MR. LaPORTA: We would object to a
7 videotaped deposition. We want a live witness. This is
8 the defendant's penalty hearing. His life is at stake. We
9 want this witness on the stand.

10 THE COURT: Well, how do we solve this issue
11 of the conflicting schedules? It sounds to me like you can
12 go to trial in this case for two weeks.

13 MR. BELL: Correct.

14 THE COURT: And then he's got to move
15 forward with this other matter and he can come back to
16 this.

17 MR. BELL: Correct.

18 THE COURT: How long?

19 MR. BELL: Would it be fair to say six,
20 seven judicial days on that case, Pete?

21 MR. LaPORTA: That looks right. We may on
22 the following Monday or Tuesday or the 16th and 17th move
23 up to White Pine County to finish the trial up there.

24 MR. BELL: 9th through the 17th or so is
25 when they are going to do that. That's a pretty fair

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Castillo, William
Rev'd 10/20/04 8JDC-572
8th JDC recs.

1308

1 estimate.

2 THE COURT: So we have a week down and then
3 pick up again.

4 MR. BELL: We could do that if that works
5 for you.

6 THE COURT: It will work for me, but I have
7 set aside all of the month of September, if need be, to try
8 these two cases one after the other. What are you
9 suggesting with regard to Mr. LaPorta's encumbrances in the
10 McKenna case in terms of when you want to start this
11 trial? It's going to be difficult to -- it's going to add
12 a different twist, excuse me, to jury selection in terms of
13 finding people who can commit to that time frame.

14 MR. LaPORTA: Judge, there's one additional
15 problem we need to throw into this equation here and that
16 is Mr. Schieck. Mr. Schieck is one of the two attorneys
17 that represents Mr. Meegan in Judge Loehrer's courtroom.
18 As you know, there was the incident yesterday that may
19 delay this. I have been trying to find out.

20 MR. BELL: We just went by, Mr. Kohn and
21 myself, and while Mr. Meegan was injured, her best
22 information -- her last information is he would make
23 court. Now --

24 MR. KOHN: That just doesn't make sense. I
25 know he had surgery last night. We talked to --

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Castillo, William
Rev'd 10/20/04 8JDC-573
5th JDC recd.

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1 MR. BELL: Is that correct?

2 MR. KOHN: That's what the secretary said.
3 I just don't know right now.

4 THE COURT: Well, the ultimate information
5 on this, the most solid information, of course, was on the
6 radio this morning that said they were going forward.

7 MR. LaPORTA: You can't bank on that,
8 Judge. It may be delayed.

9 THE COURT: We are burdening the record with
10 this discussion. So at this point why don't counsel
11 approach the bench.

12 (Off the record discussion not reported.)

13 THE COURT: All right, the Castillo matter
14 will start Monday at the hour -- jury selection -- want to
15 start in the afternoon rather than try to deal with it for
16 an hour or just do jury orientation for an hour? Do you
17 want to start at 11 or 1:30 on Monday?

18 MR. HARMON: 1:30.

19 MR. LaPORTA: 1:30 is fine, Judge.

20 THE COURT: 1:30 it is.

21 The Platou case will trail this. The Court
22 is going to deny the motion to continue the trial. Both
23 motions to continue the trials. The Platou case will
24 proceed after the conclusion of proceedings in Castillo.

25 MR. BROOKS: For the record, that is after

PATSY K. SMITH, OFFICIAL COURT REPORTER

Castillo, William
Rev'd 10/20/04 SJDC-574
8* JDC recs.

143

1 the conclusion of the penalty hearing, if that does occur?

2 THE COURT: Yes.

3 MR. BROOKS: Judge, there is one other
4 matter I need to bring to the Court's attention --

5 THE COURT: Also, the time frame within
6 which this is going to occur is such that the Court
7 believes the defense will be able to have its penalty
8 witness mentioned in the motion to continue at the penalty
9 hearing.

10 MR. LaPORTA: Yes, your Honor.

11 MR. BROOKS: There is one other matter. I
12 don't think the State is going to oppose this part. We are
13 going to stipulate to a part in the case as to identity in
14 regards to Ms. Platou.

15 THE COURT: To what?

16 MR. BROOKS: Identity. We are not
17 contesting identity at all in the Platou matter. Although
18 we would like to have her hair all one color and the jail
19 needs a Court order for her to do it. We are going to give
20 her a Clairol natural.

21 THE COURT: Not L'oreal?

22 MR. BROOKS: No. I'm hoping the State
23 doesn't oppose that, Judge.

24 MR. BELL: We don't care, Judge.

25 THE COURT: It is so ordered.

PATSY K. SMITH, OFFICIAL COURT REPORTER

Castillo, William
Rev'd 10/20/04 8JDC-575
8th JDC recs.

MR. BROOKS: Thank you, Judge.

* * * * *

ATTEST: FULL, TRUE AND ACCURATE TRANSCRIPT OF PROCEEDINGS.


PATSY K. SMITH, C.C.R. #190

Castillo, William
Rev'd 10/20/04 8JDC-576
8th JDC recs.

PATSY K. SMITH, OFFICIAL COURT REPORTER

1400

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10 DISTRICT COURT
11 CLARK COUNTY, NEVADA

12 WILLIAM P. CASTILLO,

13 Petitioner,

14 vs.

15 E. K. McDANIEL, Warden, and
16 CATHERINE CORTEZ MASTO,
17 Attorney General of the State of Nevada,

18 Respondents.

Case No. C133336
Dept. No. XVIII

EXHIBITS TO
PETITION FOR WRIT
OF HABEAS CORPUS

(Death Penalty Habeas Corpus Case)

19 VOLUME 10 OF 15
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FILED

SEP 18 2009

John L. Hill
CLERK OF COURT

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17 CLARK COUNTY, NEVADA

18 WILLIAM P. CASTILLO,

19 Petitioner,

20 vs.

21 E. K. McDANIEL, Warden, and
22 CATHERINE CORTEZ MASTO,
23 Attorney General of the State of Nevada,

24 Respondents.

Case No. C133336
Dept. No. XVIII

**EXHIBITS TO
PETITION FOR WRIT
OF HABEAS CORPUS**

(Death Penalty Habeas Corpus Case)

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Exhibit No.	Description
1.	Judgment of Conviction, <u>State v. Castillo</u> , Clark County, Case No. C133336, November 12, 1996
2.	Indictment, <u>State v. Castillo</u> , Clark County, Case No. C133336, January 19, 1996
3.	Order of Appointment of Counsel, <u>State v. Castillo</u> , Clark County, Case No. C133336, March 14, 1996
4.	Amended Indictment, <u>State v. Castillo</u> , Clark County, Case No. C133336, May 29, 1996
5.	Special Verdict, <u>State v. Castillo</u> , Clark County, Case No. C133336, September 25, 1996

- 1 6. Special Verdict, State v. Castillo, Clark County, Case No. C133336,
2 September 25, 1996
 - 3 7. Verdict, State v. Castillo, Clark County, Case No. C133336, September 25,
4 1996
 - 5 8. Guilty Plea Agreement, State v. Michele C. Platou, Clark County, Case No.
6 C133336, September 26, 1996
 - 7 9. Notice of Appeal, State v. Castillo, Clark County, Case No. C133336,
8 November 4, 1996
 - 9 10. Appellant's Opening Brief, Castillo v. State, Nevada Supreme Court, Case No.
10 29512, March 12, 1997
 - 11 11. Appellant's Reply Brief, Castillo v. State, Nevada Supreme Court, Case No.
12 29512, May 2, 1997
 - 13 12. Petition for Rehearing, Castillo v. State, Nevada Supreme Court, Case No.
14 29512, August 21, 1998
 - 15 13. Order Denying Rehearing, Castillo v. State, Nevada Supreme Court, Case No.
16 29512, November 25, 1998
 - 17 14. Petition for Writ of Habeas Corpus, Castillo v. State, Clark County, Case No.
18 C133336, April 2, 1999
 - 19 15. Opinion, Castillo v. State, Nevada Supreme Court, Case No. 29512, April 2,
20 1998
 - 21 16. Supplemental Brief In Support of Defendant's Petition for Writ of Habeas
22 Corpus (Post-Conviction), Castillo v. State, Clark County, Case No. C133336,
23 October 12, 2001
 - 24 17. Notice of Appeal, Castillo v. State, Clark County, Case No. C133336,
25 February 19, 2003
 - 26 18. Findings of Fact, Conclusions of Law and Order, Castillo v. State, Clark
27 County, Case No. C133336, June 11, 2003
 - 28 19. Appellant's Opening Brief, Castillo v. State, Nevada Supreme Court, Case No.
40982, October 2, 2003
 20. Order of Affirmance, Castillo v. State, Nevada Supreme Court, Case No.
40982, February 5, 2004
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21. Notice of Intent to Seek Indictment, LVMPD Event No. 951217-0254,
December 26, 1996
 22. Notice of Intent to Seek Death Penalty, State v. Castillo, Clark County, Case
No. C133336, January 23, 1996

- 1 23. Instructions to the Jury, State v. Castillo, Clark County, Case No. C133336,
2 September 4, 1996
- 3 24. Verdict, State v. Castillo, Clark County, Case No. C133336, September 4,
4 1996
- 5 25. Instructions to the Jury, State v. Castillo, Clark County, Case No. C133336,
6 September 25, 1996
- 7 26. Lewis M. Etcoff, Psychological Evaluation, July 14, 1996
- 8 27. Declaration of Herbert Duzant
- 9 28. Declaration of Joe Castillo
- 10 29. Declaration of Barbara Wickham
- 11 30. Declaration of Regina Albert
- 12 31. Declaration of Cecilia Boyles
- 13 32. Declaration of Ramona Gavan-Kennedy
- 14 33. Declaration of Michael Thorpe
- 15 34. Declaration of Yolanda Norris
- 16 35. Declaration of Lora Brawley
- 17 36. Evaluation Report by Rebekah G. Bradley, Ph.D.
- 18 37. Curriculum Vitae of Rebekah G. Bradley, Ph.D.
- 19 38. Confidential Forensic Report by Jonathan H. Mack, Psy.D.
- 20 39. Curriculum Vitae of Jonathan H. Mack, Psy.D.
- 21 **VOLUME 3 OF 15**
- 22 40. Declaration of Kelly Lynn Lea
- 23 41. Declaration of Dale Eric Murrell
- 24 42. Declaration of Lewis M. Etcoff, Ph.D.
- 25 43. Declaration of Mary Kate Knowles
- 26 44. Declaration of Herbert Duzant
- 27 45. David M. Schieck, Esq. Client Billing Worksheet (2/29/96-11/4/96)
- 28 46. Affidavit of Vital Statistics, Barbara Margaret Thorpe v. William Patrick
Thorpe, Sr., State of Missouri, County of St. Louis, September 14, 1973

- 1 47. William P. Thorpe, Sr. Missouri Department of Corrections with Fulton State
Hospital records
- 2 48. Catholic Services for Children and Youth, Catholic Charities, Archdiocese of
3 St. Louis, records of Max Allen Becker, Yolanda Becker, and Barbara Becker,
children of Allegria Dehry-Becker and Robert Becker
- 4 49. Divorce proceedings, Barbara Castillo v. Joe Castillo, Clark County, Nevada,
5 Case No. D121396
- 6 50. Charles Sarkison, Attorney at Law, records of representation of Barbara M.
Wickham, formerly, Barbara Becker-Thorpe-Castillo-Sullivan:
- 7
- 8 • Custodial proceedings regarding William Patrick Thorpe, Jr. (now
William Patrick Castillo), pages 2-25
- 9 • Divorce proceedings regarding William Patrick Thorpe, Sr., pages 26-
48
- 10 • Personal injury lawsuit for accident on 4/10/74, pages 49-69

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- 12 51. Missouri Certification of Death, William P. Thorpe, Sr. (Date of Death: July
17, 1984)
- 13 52. Missouri Criminal Court records Re: William Patrick Thorpe, Sr.
- 14 53. Arturo R. Longoro, M.D. - Medical records of Yolanda Norris, formerly
Yolanda Becker
- 15 54. Lewis M. Etcoff, Ph.D. records Re: William Patrick Castillo

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- 18 55. Order for Adoption, In the Matter of the Adoptive Petition of Joe L. Castillo
19 and Barbara Castillo, Clark County, Nevada, Case No. D40017, January 15,
1982
- 20 56. St. Louis Post-Dispatch, news article "Police Keeping Their Eyes Peeled At
New Downtown Massage Parlor," September 19, 1976
- 21 57. St. Louis Globe-Democrat news article, "His home is a prison cell and his life
22 is a waste," November 7, 1973
- 23 58. Children's Hospital of St. Louis medical records on William P. Thorpe, Jr.
- 24 59. Oasis Treatment records, 6/9/81-9/11/81
- 25 60. Coordinator's Contact Record, 9/14/81-12/15/81
- 26 61. Confidential Psychological Evaluation, performed May 24, 1982
- 27 62. Las Vegas Mental Health Center, Psychiatric Evaluation, dated July 7, 1982
- 28

- 1 63. Abandonment proceedings, In the Interest of William P. Thorpe, Jr., Family
2 Court of St. Louis, Case No. 56644
- 3 64. State of Nevada, Department of Human Resources, Division of Child and
4 Family Services, Child Abuse reports
- 5 65. Nevada Youth Training Center Records
- 6 66. Catholic Services for Children and Youth, Catholic Charities, Archdiocese of
7 St. Louis, records of William P. Thorpe, Jr.
- 8 67. Independence High School records of William Patrick Castillo
- 9 68. Missouri Baptist Hospital, medical records of Barbara M. Thorpe, 8/11/76
- 10 69. State of Nevada Children's Behavioral Health Services records of William
11 Patrick Castillo (formerly William Patrick Thorpe, Jr.)
- 12 70. Castillo Family Video Recordings: 12/25/1983, 12/28/83 (William P.
13 Castillo's birthday), 12/24/84, 12/25/84, 12/28/84 (William P. Castillo's
14 birthday) - MANUALLY FILED
- 15 71. Acadia Neuro-Behavioral Center, P.A., Richard Douyon, M.D. records of
16 Yolanda Norris (formerly Yolanda Becker)
- 17 72. News article, "Police hunt Florissant gang members"
- 18 73. William P. Castillo's family tree
- 19 **VOLUME 6 OF 15**
- 20 74. Historical View, Life of William Castillo
- 21 75. State of Nevada Department of Health and Human Services Health Division
22 letter dated May 11, 2008
- 23 76. Las Vegas Metropolitan Police Department Detention Bureau Record of
24 Visitors
25 12/21/95-8/16/96
- 26 77. Ely State Prison Visiting Record 1997-2008
- 27 78. Jeffrey Fagan, Deterrence and the Death Penalty: A Critical Review of New
28 Evidence, January 21, 2005, at <http://www.deathpenaltyinfo.org>
- 29 79. Juvenile Division, In the Matter of William P. Castillo aka William P. Thorpe,
30 Clark County, Nevada, Case No. J26174
- Order, July 30, 1982, pg. 1
 - Parents Treatment Agreement, July 30, 1982, pgs. 2-3
 - Reporter's Transcript of Hearing in Re: Report and Disposition, July
29, 1982, pgs. 4-9
 - Transcript of Proceedings, Report and Disposition, December 7, 1982,

- 1 pgs. 10-18
2 • Dispositional Report, January 25, 1983, pgs. 19-21
3 • Transcript of Proceedings, Report and Disposition, January 25, 1983,
4 pgs. 22-26
- 5 80. Family Court of St. Louis County, Missouri, juvenile records, 6/4/85-9/13/85
6 81. Motion to Exclude Other Bad Acts and Irrelevant Prior Criminal Activity,
7 State v. Castillo, Clark County, Case No. C133336, July 30, 1996
8 82-100 Omitted
- 9 101. Bennett v. State, No. 38934 Respondent's Answering Brief (November 26,
10 2002)
11 102. State v. Colwell, No. C123476, Findings, Determinations and Imposition of
12 Sentence (August 10, 1995)
13 103. Doleman v. State, No. 33424 Order Dismissing Appeal (March 17, 2000)
14 104. Farmer v. Director, Nevada Dept. of Prisons, No. 18052 Order Dismissing
15 Appeal (March 31, 1988)
16 105. Farmer v. State, No. 22562, Order Dismissing Appeal (February 20, 1992)
17 106. Farmer v. State, No. 29120, Order Dismissing Appeal (November 20, 1997)
18 107. Feazell v. State, No. 37789, Order Affirming in Part and Vacating in Part
19 (November 14,
20 2002)
21 108. Hankins v. State, No. 20780, Order of Remand (April 24, 1990)
22 109. Hardison v. State, No. 24195, Order of Remand (May 24, 1994)
23 110. Hill v. State, No. 18253, Order Dismissing Appeal (June 29, 1987)
24 111. Jones v. State, No. 24497 Order Dismissing Appeal (August 28, 1996)
25 112. Jones v. McDaniel, et al., No. 39091, Order of Affirmance (December 19,
26 2002)
27 113. Milligan v. State, No. 21504 Order Dismissing Appeal (June 17, 1991)
28 114. Milligan v. Warden, No. 37845, Order of Affirmance (July 24, 2002)
115. Moran v. State, No. 28188, Order Dismissing Appeal (March 21, 1996)
116. Neuschafer v. Warden, No. 18371, Order Dismissing Appeal (August 19,
1987)
117. Nevius v. Sumner (Nevius I), Nos. 17059, 17060, Order Dismissing Appeal
and Denying Petition (February 19, 1986)

- 1 118. Nevius v. Warden (Nevius II), Nos. 29027, 29028, Order Dismissing Appeal
and Denying Petition for Writ of Habeas Corpus (October 9, 1996)
- 2 119. Nevius v. Warden (Nevius III), Nos. 29027, 29028, Order Denying Rehearing
3 (July 17, 1998)
- 4 120. Nevius v. McDaniel, D. Nev. No. CV-N-96-785-HDM-(RAM), Response to
Nevius' Supplemental Memo at 3 (October 18, 1999)
- 5 121. O'Neill v. State, No. 39143, Order of Reversal and Remand (December 18,
6 2002)
- 7 122. Rider v. State, No. 20925, Order (April 30, 1990)
- 8 123. Riley v. State, No. 33750, Order Dismissing Appeal (November 19, 1999)
- 9 **VOLUME 7 OF 15**
- 10 124. Rogers v. Warden, No. 22858, Order Dismissing Appeal (May 28, 1993),
Amended Order
11 Dismissing Appeal (June 4, 1993)
- 12 125. Rogers v. Warden, No. 36137, Order of Affirmance (May 13, 2002)
- 13 126. Sechrest v. State, No. 29170, Order Dismissing Appeal (November 20, 1997)
- 14 127. Smith v. State, No. 20959, Order of Remand (September 14, 1990)
- 15 128. Stevens v. State, No. 24138, Order of Remand (July 8, 1994)
- 16 129. Wade v. State, No. 37467, Order of Affirmance (October 11, 2001)
- 17 130. Williams v. State, No. 20732, Order Dismissing Appeal (July 18, 1990)
- 18 131. Williams v. Warden, No. 29084, Order Dismissing Appeal (August 29, 1997)
- 19 132. Ybarra v. Director, Nevada State Prison, No. 19705, Order Dismissing Appeal
20 (June 29, 1989)
- 21 133. Ybarra v. Warden, No. 43981, Order Affirming in Part, Reversing in Part, and
Remanding (November 28, 2005)
- 22 134. Ybarra v. Warden, No. 43981, Order Denying Rehearing (February 2, 2006)
- 23 135. Rippo v. State; Bejarano v. State, No. 44094, No. 44297, Order Directing Oral
24 Argument (March 16, 2006)
- 25 136. State v. Rippo, Case No. C106784, Supplemental Brief in Support of
26 Defendant's Petition for Writ of Habeas Corpus (Post-Conviction), February
10, 2004
- 27 137. State v. Rippo, Case No. C106784, Findings of Fact, Conclusions of Law and
Order, December 1, 2004
- 28

- 1 138. Rippo v. State, S. C. Case No. 44094, Appellant's Opening Brief, May 19,
2005
- 2 139. Rippo v. State, S. C. Case No. 44094, Respondent's Answering Brief, June 17,
3 2005
- 4 140. Rippo v. State, S. C. Case No. 44094, Appellant's Reply Brief, September 28,
5 2005
- 6 141. Rippo v. State, S. C. Case No. 44094, Appellant's Supplemental Brief As
Ordered By This Court, December 12, 2005

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- 8 142. Nevada Department of Corrections Confidential Execution Manual,
9 Procedures for Executing the Death Penalty, Nevada State Prison, Revised
February 2004
- 10 142-A. Nevada Department of Corrections Confidential Execution Manual, Revised
October 2007 with transmittal letter dated June 13, 2008
- 11 143. Brief of Amici Curiae in Support of Petitioner, United States Supreme Court
12 Case No. 03-6821, David Larry Nelson v. Donal Campbell and Grantt
13 Culliver, October Term, 2003
- 14 144. Killer makes final requests, LAS VEGAS SUN, March 18, 2004
- 15 145. Leonidas G. Koniaris, Teresa A. Zimmers, David A. Lubarsky, and Jonathan
16 P. Sheldon, Inadequate Anaesthesia in Lethal Injection for Execution, Vol.
365, April 16, 2005, at <http://www.thelancet.com>
- 17 146. Declaration of Mark J. S. Heath, M.D., May 16, 2006, including attachments
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- 19 147. Reporter's Transcript of Proceedings, Volume I, Castillo v. State, Clark
20 County, Grand Jury, Case No. C133336, January 11, 1996
- 21 148. Reporter's Transcript of Proceedings, Volume II, Castillo v. State, Clark
County, Grand Jury, Case No. C133336, January 18, 1996
- 22 149. Transcript (Arraignment), Castillo v. State, Clark County, Case No. C133336,
23 January 24, 1996
- 24 150. Transcript, Castillo v. State, Clark County, Case No. C133336, March 13,
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- 25 151. Transcript, Castillo v. State, Clark County, Case No. C133336, April 3, 1996
- 26 152. Recorder's Transcript Re: Defendant Castillo's Petition for Writ of Habeas
27 Corpus, Defendant Platou's Petition for Writ of Habeas Corpus, State's
Motion to Amend Indictment, Castillo v. State, Clark County, Case No.
- 28

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153. Reporter's Transcript of Proceedings in Re: Defendant Castillo's Petition for Writ of Habeas Corpus and Defendant Platou's Petition for Writ of Habeas Corpus, Castillo v. State, Clark County, Case No. C133336, May 29, 1996
154. Transcript, Castillo v. State, Clark County, Case No. C133336, July 22, 1996
155. Reporter's Transcript of Proceedings In Re: Motions, Castillo v. State, Clark County, Case No. C133336, August 12, 1996
156. Transcript, Castillo v. State, Clark County, Case No. C133336, August 21, 1996

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157. Trial Transcript, Volume I, Castillo v. State, Clark County, Case No. C133336, August 26, 1996
158. Trial Transcript, Volume II, Castillo v. State, Clark County, Case No. C133336, August 27, 1996 2:10 PM
159. Trial Transcript, Volume II, Castillo v. State, Clark County, Case No. C133336, August 27, 1996 4:40 PM
160. Trial Transcript, Volume III, Morning Session, Castillo v. State, Clark County, Case No. C133336, August 28, 1996

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161. Reporter's Transcript of Trial, Volume III, Afternoon Session, Castillo v. State, Clark County, Case No. C133336, August 28, 1996
162. Trial Transcript, Volume IV - Morning Session, Castillo v. State, Clark County, Case No. C133336, August 29, 1996 9:30 A.M.
163. Reporter's Transcript of Jury Trial, Volume IV - Afternoon Session, Castillo v. State, Clark County, Case No. C133336, August 29, 1996 1:15 P.M.

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164. Trial Transcript, Volume V - Morning Session, Castillo v. State, Clark County, Case No. C133336, September 3, 1996 9:35 A.M.
165. Reporter's Transcript of Trial, Volume V, Afternoon Session, Castillo v. State, Clark County, Case No. C133336, September 3, 1996
166. Trial Transcript, Volume VI, Castillo v. State, Clark County, Case No. C133336, September 4, 1996 11:35 A.M.

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167. Penalty Hearing Transcript, Castillo v. State, Clark County, Case No. C133336, September 19, 1996
168. Reporter's Transcript, Penalty Hearing, Volume I-Afternoon Session, Castillo v. State, Clark County, Case No. C133336, September 19, 1996
169. Reporter's Transcript, Penalty Hearing, Volume II - Morning Session, Castillo v. State, Clark County, Case No. C133336, September 20, 1996

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170. Reporter's Transcript, Penalty Hearing, Volume II - Afternoon Session, Castillo v. State, Clark County, Case No. C133336, September 20, 1996
171. Reporter's Transcript, Penalty Hearing - Volume III - Morning Session, Castillo v. State, Clark County, Case No. C133336, September 24, 1996
172. Reporter's Transcript, Penalty Hearing - Volume III - Afternoon Session, Castillo v. State, Clark County, Case No. C133336, September 24, 1996

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173. Reporter's Transcript, Penalty Hearing - Volume IV, Castillo v. State, Clark County, Case No. C133336, September 25, 1996
174. Reporter's Transcript, Castillo v. State, Clark County, Case No. C133336, November 4, 1996
175. Reporter's Transcript of Motion to Withdraw, Castillo v. State, Clark County, Case No. C133336, December 16, 1996
176. Transcript, Motion for Appointment of Psychiatrist and Co-Counsel, Castillo v. State, Clark County, Case No. C133336, December 6, 1999
177. Reporter's Transcript, State's Motion to Place on Calendar, Castillo v. State, Clark County, Case No. C133336, October 23, 2000
178. Reporter's Transcript, Confirmation of Counsel, Castillo v. State, Clark County, Case No. C133336, October 26, 2000
179. Recorder's Transcript, Defendant's Motion for Extension of Time to File Defendant's Supplemental Brief in Support of Defendant's Petition for Writ of Habeas Corpus, Castillo v. State, Clark County, Case No. C133336, March 12, 2001
180. Recorder's Transcript Re: Argument, Castillo v. State, Clark County, Case No. C133336, March 4, 2002
181. Recorder's Transcript Re: Request of the Court: Argument, Castillo v. State, Clark County, Case No. C133336, April 10, 2002

- 1 182. Recorder's Transcript Re: request of the Court: Argument, Castillo v. State,
Clark County, Case No. C133336, May 8, 2002
- 2
3 183. Recorder's Transcript Re: Evidentiary Hearing, Castillo v. State, Clark
County, Case No. C133336, August 2, 2002
- 4 184. Recorder's Transcript Re: Evidentiary Hearing, Castillo v. State, Clark
County, Case No. C133336, January 22, 2003
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OFFICE OF THE DISTRICT ATTORNEY



CERTIFICATE OF MAILING

Catherine Cortez Masto, Nevada Attorney General
Heather D. Procter, Deputy Attorney General
Attorney General's Office
100 North Carson Street
Carson City, Nevada 89701-4717

An employee of the Federal Public Defender

EXHIBIT 157

EXHIBIT 157

DISTRICT COURT FILED IN OPEN COURT
AUG 27 1996
CLARK COUNTY, NEVADA
LORETTA BOWMAN, CLERK

BY

[Signature]
Deputy

Original

THE STATE OF NEVADA,

Plaintiff,

Vs

WILLIAM PATRICK CASTILLO,

Defendant.

CASE NO. C133336
DEPT. NO. VII
DOCKET P

BEFORE THE HONORABLE:

A. WILLIAM MAUPIN DISTRICT JUDGE

MONDAY, AUGUST 26, 1996, 2:12 P.M.

VOLUME I

APPEARANCES:

FOR THE STATE:

STEWART L. BELL
District Attorney &
MELVYN T. HARMON
Chief Deputy District Attorney

FOR THE DEFENDANT:

PETER R. LaPORTA, ESQ.
State Deputy Public Defender
& DAVID M. SCHIECK, ESQ.

REPORTED BY:

PATSY K. SMITH, C.C.R. #190

PATSY K. SMITH, OFFICIAL COURT REPORTER

1 MONDAY, AUGUST 26, 1996, 2:12 P.M.

2 THE COURT: C133336, State of Nevada versus
3 William Patrick Castillo.

4 This is the time set for the jury trial.
5 The defendant is present represented by his counsel, Mr.
6 LaPorta, Mr. Schieck. State of Nevada represented by Mr.
7 Harmon and Mr. Stewart Bell.

8 We have some preliminary matters to take up
9 prior to the commencement of jury selection.

10 MR. LaPORTA: Judge, this is defense's
11 request to be heard outside the presence of the jury at
12 this point in time. As the Court is well aware, we have
13 just received, both the State and ourselves, the jury
14 questionnaires and we have been working on them for about
15 approximately the last 10 to 15 minutes. We would ask --

16 THE COURT: Well, the Court will note at
17 this point that the final form of the jury questionnaire
18 without confirmation that had been approved by both sides
19 was delivered to my office after 2:00 on Friday and I then
20 sent it back to the jury commissioner for reprinting and
21 distribution to the jurors this morning. So it is the time
22 frame within which the -- one of the parties has generated
23 this document that causes us to be in this particular
24 situation this afternoon.

25 MR. LaPORTA: And, Judge, that was us.

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1 Now I was instructed to -- and I may have
2 been mistaken, but as of Wednesday afternoon, I believe I
3 was instructed, once Mr. Harmon and I had agreed on this
4 and the Court gave us its opinion as to one of the
5 questions that we were doing, then my office prepared a
6 hundred forty questionnaires, we had that delivered to
7 court services or jury services on Thursday and then in
8 calling -- I was in Ely on Friday. I asked that a copy of
9 what we had sent to court services be sent to you on
10 Thursday. Apparently that was overlooked and one finally
11 made it to you on Friday, but in talking to court services,
12 they had nobody to give this to until this morning simply
13 because there was -- a jury hadn't been cut out yet that
14 they could distribute it to either Thursday or Friday.

15 So what I'm saying is that --

16 THE COURT: Well, the parties were suppose
17 to arrange for that in advance, but we're here now.

18 MR. LaPORTA: But, Judge, as I said, both
19 the State and the defense has received these questionnaires
20 at this point in time. We have had about 15 minutes to go
21 through them. These questionnaires are not only valuable
22 to the defense individually, but collectively and to not be
23 allowed an opportunity to have reviewed them all so that we
24 can look at them individually against the background of the
25 whole jury pool, we can't make a really valid determination

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1 as to the value of that particular juror to the defense and
2 I believe the same would be true for the State, although
3 they can argue for themselves.

4 At this juncture, it's 2:15, I would suspect
5 we would go to around somewhere between 5 and 6:00 today in
6 attempts to begin to select this jury. What I ask for is a
7 short continuance until tomorrow morning so that we can
8 review all of these.

9 In addition to that, I believe that will
10 assist both sides in speeding up the process. I really
11 feel if we are allowed that opportunity, we can speed it up
12 to the point that if we can get started first thing in the
13 morning, we can probably have a jury sat before the end of
14 the day.

15 So what we are really asking for --

16 THE COURT: Mr. Harmon.

17 MR. LaPORTA: -- is two or three hours.

18 MR. BELL: Actually, I rather agree with Mr.
19 LaPorta that in selecting a jury, you need to look at the
20 big picture and it's hard to say yes or no on a particular
21 juror without putting that juror in the puzzle of the
22 entire jury.

23 THE COURT: Can we do this in order to save
24 some time for these people and for everyone concerned, can
25 we do the basic orientational instructions this morning and

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1 we do general voir dire of the jury this afternoon?

2 MR. BELL: If I can finish, Judge.

3 However, I don't think we're limited much in
4 inquiring of jurors just because we are sort of on a short
5 leash with the questionnaires as long as we didn't have to
6 make any striking decisions. It's my feeling we could
7 inquire the first eight or 10, as long as we didn't have to
8 say aye or nay and then tonight and tomorrow morning we can
9 prepare and look at the big picture and, hopefully, make
10 all our striking decisions tomorrow. I just hate to waste
11 another half of day.

12 THE COURT: No, it was the Court's intention
13 to start today at 1:30. Unhappily, the process of
14 transferring all the questionnaires from court
15 administration and the jury commissioner to here --

16 MR. BELL: No, we understand, we
17 understand.

18 THE COURT: What I intend to do is at least
19 go through the orientation and the general voir dire of the
20 panel as a whole. The reason I want to at least do that,
21 there are going to be some jurors that will have compelling
22 reasons why they shouldn't stay through the entire
23 proceedings and let's get those people home and dismissed
24 so that they can go about their business and I'll -- we'll
25 see how long that takes. That usually takes about an

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1 hour. So by that time, it will be 3:30 and we have another
2 matter, I take it, before we get started.

3 MR. BELL: I don't know that that's correct,
4 Judge. Mr. Harmon and I talked to Mr. LaPorta and Mr.
5 Schieck and they have agreed with the deletions we have
6 proposed.

7 For the record, there was a confession or a
8 tape or some admissions were made by Mr. Castillo, but it
9 also had thereon some references to other acts, which would
10 independently be inadmissible. We have suggested that both
11 the tape itself and the transcript be edited to eliminate
12 those, but we don't want to then face the objection that
13 somehow the tape has been tampered with. They agree we can
14 go ahead and edit those things, which would be consistent
15 to your prior rulings. We have agreed what to delete and
16 what to edit. So I don't think there is an issue for the
17 Court.

18 THE COURT: All right.

19 MR. LaPORTA: Judge, we were given an
20 opportunity to review both the statements, first and second
21 one, and Mr. Schieck and I agree there doesn't appear to be
22 any tampering or anything that would effect our objecting
23 to introducing them.

24 THE COURT: Now, Mr. Bell has suggested
25 that, perhaps, we could commence the examination process of

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1 individual veniremen today and maybe get through several of
2 them. Maybe that will solve some of your problem.

3 MR. LaPORTA: It could possibly, your
4 Honor. Depends how far we have to get into them.

5 THE COURT: Here's what my sense is. Let's
6 get through the general voir dire. Let's see if we have
7 any problems with the voir dire process and if it looks
8 like a review of -- a more close review of the
9 questionnaires will facilitate the process, then we will
10 recess and start tomorrow.

11 MR. BELL: That's fine.

12 MR. LaPORTA: Thank you, Judge.

13 MR. HARMON: One matter for clarification.

14 How will we proceed, Judge? Are we going to
15 be asked to assert our peremptory challenges after we seat
16 12?

17 THE COURT: No.

18 MR. HARMON: Are we going to be able to
19 pass?

20 THE COURT: It's my understanding that
21 everybody here is use to the Arizona method and although I
22 don't particularly care for it myself, you are in trial and
23 I want you to be comfortable with it.

24 Mr. Schieck, are you more than comfortable
25 with the Arizona method?

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1 MR. SCHIECK: Yes, your Honor.

2 THE COURT: So we will do the Arizona
3 method.

4 MR. HARMON: How many alternates are we
5 going to select?

6 THE COURT: I think three alternates.

7 MR. HARMON: Are we certain of that, three
8 or four?

9 THE COURT: Three, four?

10 MR. SCHIECK: Three or four.

11 THE COURT: Four it is.

12 MR. HARMON: Then we will be passing 36 for
13 cause; is that correct?

14 THE COURT: Correct, that's right.

15 All right, at this time, are the parties
16 ready to proceed?

17 MR. HARMON: Yes, your Honor.

18 MR. LaPORTA: Yes, your Honor.

19 THE COURT: All right, Roy, if you'd bring
20 in the prospective jury panel.

21 What I'm going to be doing, by the way, we
22 will go through the basic process and then I'm going to
23 send half of the jurors home before we -- when we get into
24 individual voir dire because there is no way we are going
25 to get into the bulk of them and the courtroom has too few

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1 places for the jurors to sit.

2 (Off the record discussion not reported.)

3 THE COURT: Will counsel approach the
4 bench?

5 (Off the record discussion not reported.)

6 THE BAILIFF: Your Honor, we are not going
7 to get them all in here.

8 THE COURT: I'm afraid not. We still have
9 that many out there?

10 THE BAILIFF: Yeah.

11 (Off the record discussion not reported.)

12 THE COURT: All right, ladies and gentlemen,
13 we're going to be starting this process in just a second.
14 I have to call this case. Shortly thereafter, we will be
15 making some arrangements relative to the number of jurors
16 that will be required to actually attend proceedings
17 today.

18 This is case number C133336, State of Nevada
19 versus William Patrick Castillo.

20 Is the State ready to proceed?

21 MR. BELL: Yes, your Honor.

22 THE COURT: Is the defense ready to
23 proceed?

24 MR. LaPORTA: Yes, your Honor.

25 THE COURT: The State of Nevada is

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1 represented by the District Attorney, Mr. Stewart Bell, and
2 Assistant District Attorney, Mr. Mel Harmon. The defense
3 is represented by Mr. Peter LaPorta of the State Public
4 Defender's Office and David Schieck, a private practitioner
5 here in Las Vegas.

6 The parties have announced ready to proceed
7 with this jury trial. We have summoned 150 prospective
8 jurors. At this time, because of the time constraints that
9 have been set for this afternoon and because we will not
10 need all 150 jurors today, but we may need all 150 jurors
11 at some point in time, we need to have at least that many
12 to make sure that we can get a varied panel in this case.

13 What I will do is excuse all jury members --
14 prospective jurors whose numbers are 101 and above. You
15 are instructed to return tomorrow at the hour of 1:30 to
16 the jury holding area to determine whether or not you will
17 be needed during the jury selection process and is there
18 some way we can have them call in rather than have to come
19 down?

20 (Off the record discussion not reported.)

21 THE COURT: Now if those of you in the
22 category 101 to 150, if you have compelling reasons of a
23 personal, emergency-type nature that would cause you
24 difficulty in sitting as jurors in this case, I would ask
25 that you write those down with your name, address, and

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