

VOIR DIRE EXAMINATION

BY MR. BELL:

Q When we started today, we had a lady stand up in the audience and say, your Honor, I have always said that I believe in the death penalty and I guess I do, but it's bothered me all night and if it comes down to me, I'm not sure I can deal with it, even though I don't have a philosophical problem with it.

I assume you have no trouble coming to grips with the distinction that you can agree with it and, yet, you don't want to share that responsibility?

A I understand.

Q You feel like you are a person that if that is your belief, if you believe it, you have no problem assuming the responsibility?

A I have no problem.

MR. BELL: Pass the juror for cause, Judge.

THE COURT: All right, for the defense.

MR. LaPORTA: Thank you, Judge.

VOIR DIRE EXAMINATION

BY MR. LaPORTA:

Q Mr. Irish, good afternoon.

A Good afternoon.

Q The victim in this is an 85 year old,

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1 ex-school teacher. Does that create a problem for you and
2 what I mean by that, does that so abhor you, shock your
3 sense of sensibilities that it would render you biased in
4 this case?

5 A I don't believe it would.

6 Q So you can keep a fair and open mind?

7 A Yes.

8 Q In your questionnaire, you noted that
9 the worst possible punishment was death and you explained
10 it with one word, irreversible.

11 A An example of that would be the
12 recent --

13 Q Excuse me?

14 A An example would be the recent advances
15 of D.N.A. typing that have reversed a number of
16 convictions.

17 Q I see.

18 Well, let me ask you about this. You know
19 there are three possible forms of punishments that if you
20 sit on the jury you will be asked to consider by all the
21 parties?

22 A Yes.

23 Q Can you consider all three?

24 A Yes, I can.

25 Q Do you believe that somebody can

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1 actually be guilty of murder and still be deserving of a
2 possibility of parole some time in the future?

3 A Yes.

4 MR. LaPORTA: Pass for cause, your Honor.

5 THE COURT: All right, at this time, Mr.
6 Sammons and Mr. Irish, if you would take your seat back in
7 the audience, we will call the next one, two, three, four,
8 five, six, seven, eight, nine, 10, 11, 12.

9 (Off the record discussion not reported.)

10 THE COURT: Bring the next eight.

11 THE CLERK: Badge number 134, Dawn Ellen
12 Brown, badge number 137, Raymond Francis Dreshar,
13 D-R-E-S-H-A-R.

14 (Off the record discussion not reported.)

15 THE COURT: Counsel approach the bench

16 (Off the record discussion not reported.)

17 THE COURT: Mr. Dreshar, you are excused
18 from jury service in this rotation. Please report back to
19 the jury commissioner.

20 JUROR NO. 137: Thank you.

21 THE COURT: Thank you very much.

22 THE CLERK: Badge number 138, Sharynnly
23 Sheldon, S-H-E-L-D-O-N, badge number 140, Pamela Brennan,
24 B-R-E-N-N-A-N, badge number 141, Arthur Gustavbutch
25 Kavall.

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1 JUROR NO. 141: Kavall.
2 THE CLERK: Kavall.
3 THE COURT: How do you spell it?
4 THE CLERK: K-A-V-A-L-L. Badge number 144,
5 Henry Lee Jones, Jr., badge number 145, Kimberly Elaine
6 Latty, L-A-T-T-Y, badge number 149, John R. Ruhlmann,
7 R-U-H-L-M-A-N-N.
8 THE COURT: Ms. Brown, good afternoon.
9 A Good afternoon.
10 THE COURT: Any reason you can think of why
11 you couldn't be fair to both sides in this case?
12 A No.
13 THE COURT: Can you wait until all the
14 evidence is in before coming to any conclusion about any
15 evidence in this case?
16 A Yes, sir.
17 THE COURT: Have you, any member of your
18 family or any close friends of your ever been arrested?
19 A Yes, they have.
20 THE COURT: Tell us about that.
21 A Before I was married, my husband was
22 arrested. My brother was arrested about 10 years ago and
23 my nephew was arrested about three and a half years ago.
24 THE COURT: All right, what were the types
25 of charges that were filed?

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1 A My husband was arrested for stealing,
2 my brother for not paying traffic tickets, and my nephew
3 for drunk driving.

4 THE COURT: Anything about those
5 confrontations or what you know about them that would
6 effect your thinking in a case like this one?

7 A No.

8 THE COURT: So you don't have any feelings
9 one way or the other about law enforcement or prosecution
10 authorities as a result of those experiences that those
11 people went through?

12 A No.

13 THE COURT: Anyone in your family, any close
14 friends of yours or you ever been the victim of a crime?

15 A Yes.

16 THE COURT: Tell us about that.

17 A Last year we went to Disneyland. We
18 had our car stolen while we were there and about a year and
19 a half ago, some neighborhood kids came in and burglarized
20 our house while we were gone.

21 THE COURT: Police respond on both
22 occasions?

23 A Yes.

24 THE COURT: Anything about the way the
25 police handled either of those situations that would effect

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1 your thinking in a case like this?

2 A No.

3 THE COURT: Give the police witnesses the
4 same benefits of your judgment as you would other
5 witnesses --

6 A Yes.

7 THE COURT: -- when assessing credibility?

8 A Uh-huh.

9 THE COURT: Ever been on a jury before?

10 A No, I have not.

11 THE COURT: Any concern about adverse public
12 opinion that might occur from a judgment you might render?

13 A No, I do not.

14 THE COURT: Ever been a participant, whether
15 as a party or a witness, in any kind of court proceeding?

16 A No, I have not.

17 THE COURT: Any conscientious, religious or
18 moral objections to the death penalty?

19 A No.

20 THE COURT: If you were called upon to
21 deliberate on the question of penalty, would you be able to
22 give fair consideration to all three forms of penalty?

23 A Yes, I would.

24 THE COURT: And do you have any problem with
25 the notion that the defendant doesn't have to prove his

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1 innocence, it's the State's obligation to prove, beyond a
2 reasonable doubt, the elements of the charges that are
3 before the Bar at this time?

4 A Right.

5 THE COURT: If you were involved in this
6 case yourself, would you feel comfortable with 12 people in
7 your sense of fairness and judgment sitting on the matter?

8 A Yes, I would.

9 THE COURT: The State of Nevada may
10 inquire.

11 MR. BELL: Thank you, your Honor.

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13 VOIR DIRE EXAMINATION

14 BY MR. BELL:

15 Q Mrs. Brown, I notice you have three
16 children, eight through 12?

17 A And 10.

18 Q I'm sorry, I said eight to 12.

19 A Oh, yes.

20 Q That was the range.

21 Is it you are normally charged to watch
22 those children when they are not at school?

23 A No, my husband takes responsibility
24 also.

25 Q So from 8 to 5, roughly a workday, the

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1 time of trial is not going to be -- it's always an
2 inconvenience, but it's something you can accommodate your
3 kids and schedule?

4 A Yes, I have plenty of family here
5 also.

6 Q You indicated you had been a victim of
7 a burglary, which am I fair in understanding that somebody
8 breaks into someplace with the intent to commit a crime of
9 some kind?

10 A Right.

11 Q Could be somebody to break-in your
12 house to steal the T.V., whatever?

13 A Right.

14 Q You understand the defendant is charged
15 with burglary --

16 A Right.

17 Q -- one of the charges.

18 Your experience in any way effect your
19 ability to judge somebody for a crime for which you have
20 been a victim?

21 A No.

22 Q You heard the lady and you heard my
23 previous question, that said, Judge, I believe in the death
24 penalty, but please don't dare to ask me to bear that
25 responsibility. Very fair, there is a very big distinction

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1 in believing in it and being the one that has to make that
2 decision.

3 A Right.

4 Q Do you feel you are the kind of person,
5 if you believe in the appropriate decision, you can walk in
6 the room and announce that is your decision?

7 A I feel I can.

8 MR. BELL: Pass the juror for cause.

9 THE COURT: For the defense.

10 MR. LaPORTA: Thank you, Judge.

11

12 VOIR DIRE EXAMINATION

13 BY MR. LaPORTA:

14 Q Good afternoon.

15 A Good afternoon.

16 Q Tell me a little bit how you feel about
17 the death penalty in the terms of the role it plays?

18 A Well, I don't feel it's a deterrent,
19 but I feel that if it fits the crime, that, yes, we should
20 be punished that way.

21 Q So you believe that certain individuals
22 who are convicted of the crime of murder should suffer the
23 death penalty?

24 A If under the circumstances, yes, I do.

25 Q So, in other words, it's a case by

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1 case --

2 A Exactly.

3 Q -- situation for you?

4 A Exactly.

5 Q Do you think you could consider giving
6 somebody an opportunity at parole?

7 A Oh, yes.

8 Q If you just found them guilty of
9 murder?

10 A If they showed that -- yes, I feel like
11 it depends on the circumstances, but, yes, I feel that
12 people can be rehabilitated.

13 Q What do you do for a living?

14 A Right now I'm unemployed.

15 Q You are unemployed.

16 What did you do prior to this?

17 A I was a 21 dealer.

18 Q Where at?

19 A The Sands.

20 Q For how long?

21 A Two and a half years.

22 Q Two and a half years.

23 Are you looking for work at present?

24 A I started to before the trial, but now
25 I'm not.

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1 Q What kind of work are you looking for
2 now?

3 A Dealing.

4 Q 21?

5 A Uh-huh.

6 MR. LaPORTA: Pass for cause, your Honor.

7 THE COURT: All right, thank you.

8 Ms. Sheldon, good afternoon.

9 A Hi.

10 THE COURT: Any reason you can think of why
11 you couldn't be fair to both sides in this case?

12 A No, sir.

13 THE COURT: Can you wait until all the
14 evidence is in before coming to any conclusion about any
15 issue in this case?

16 A Yes, sir.

17 THE COURT: Have you, any member of your
18 family or any friends of yours ever been arrested?

19 A No, sir.

20 THE COURT: You, any member of your family
21 or any friends of yours ever been the victim of a crime?

22 A Yeah. I was accosted once or he tried
23 anyway.

24 THE COURT: Were the police called?

25 A Yeah, after.

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1 THE COURT: Is there anything about the way
2 the police handled that situation that would effect your
3 ability to be fair in this case?

4 A No.

5 THE COURT: That was then, this is now and
6 different people, different issues completely?

7 A Absolutely.

8 THE COURT: Ever been on a jury before?

9 A I got excused from the last one because
10 I knew somebody who was going to testify.

11 THE COURT: But that's your only experience
12 with the jury system?

13 A Uh-huh.

14 THE COURT: Anything about that that would
15 effect your thinking?

16 A Huh-uh.

17 THE REPORTER: Is your answer no?

18 THE JUROR: No.

19 THE COURT: You have to answer yes or no
20 when answering.

21 Any concern about adverse public opinion
22 that might result from a verdict in this case?

23 A No.

24 THE COURT: Ever been a participant as a
25 witness or a participant in any court proceeding?

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1 A No.

2 THE COURT: Have any problem or notion that
3 the defendant has no obligation to prove his innocence in
4 this case, but the State has the burden of proof to prove
5 the elements of the charges beyond a reasonable doubt?

6 A No.

7 THE COURT: You have no problem with that?

8 A No.

9 THE COURT: You can follow the instructions
10 in that regard?

11 A Yes.

12 THE COURT: Any conscientious, religious or
13 moral objection to the death penalty?

14 A No, sir.

15 THE COURT: Will you be able to give fair
16 consideration to all forms -- excuse me -- three forms,
17 life with, life without the possibility of parole, and the
18 death penalty?

19 A Yes.

20 THE COURT: If you were involved in this
21 case, would you feel comfortable with 12 jurors with your
22 sense of fairness sitting on the matter?

23 A Yes, sir.

24 THE COURT: State may inquire.

25 MR. BELL: Thank you, your Honor.

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VOIR DIRE EXAMINATION

3 BY MR. BELL:

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Q Ms. Sheldon, I read in your
questionnaire, it says you are going on vacation Thursday.
Are you going out of town?

A No.

Q This is going to kind of get in the way
of your own personal time.

A Well, it won't really be in the way
because I just hang around during the day anyway.

Q So those plans aren't going to effect
your ability at this time?

A No.

Q Have you ever had the experience where
you see somebody and you think, you know, I know that
person from somewhere and then either can't place them or
it turns out to be somebody else?

A Yes, sir.

Q I mean, the reason I ask that is
because it seems to me like I know you from somewhere and I
can't place it and I just want to make sure we don't have
some personal relationship that I can't remember. You
don't ever remember meeting me?

A No. Actually the Judge looks more

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1 familiar than you do.

2 Q Well, he is probably more familiar than
3 I am.

4 Okay, you just looked familiar to me and I
5 wanted to make sure that we didn't later come to find out
6 that we had a problem that didn't exist.

7 A No, I don't know any lawyers.

8 MR. BELL: All right, thanks.

9 Pass the juror for cause, your Honor.

10 MR. LaPORTA: Thank you, Judge.

11

12 VOIR DIRE EXAMINATION

13 BY MR. LaPORTA:

14 Q Good afternoon.

15 A Good afternoon.

16 Q I will ask you a question that I have
17 asked most prospective jurors here over the last day or so
18 and that is your attitude towards the death penalty or,
19 more specifically, how you think it plays a role in the
20 criminal justice system, where do you see it fitting in?

21 A Just one of the punishments for one of
22 the severe crimes.

23 Q I'm sorry, for which crimes?

24 A Severe.

25 Q The more severe crimes.

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1 So you believe that the death penalty should
2 be reserved for the most severe crimes. How about the
3 individual himself, will you consider the individual or
4 will you consider just the nature of the crime, when it
5 comes to determining a punishment, if Mr. Castillo is
6 convicted of first degree murder?

7 A I don't follow you.

8 Q What I'm asking is, would you consider
9 Mr. Castillo as an individual or would you just consider
10 the nature of the crime in determining one of the three
11 punishments?

12 A Oh, that would depend on the
13 circumstances. Depends on the circumstances.

14 Q All right, but my question is would you
15 just consider just the crime or would you consider the
16 crime and who Mr. Castillo is as an individual?

17 A It would depend on the circumstances on
18 what happened, how the crime was, you know, done. I don't
19 understand the differentiation.

20 THE COURT: Let me intercede here. I think
21 the question is, in addition to the circumstances of the
22 crime, would you also, in assessing penalty, consider his
23 background, the kind of person he is, that sort of thing?

24 A Yes, sir.

25 THE COURT: Is that your question?

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1 MR. LaPORTA: Yes, your Honor. That is my
2 question. Thank you.

3 Q What is it you do now for a living?

4 A I'm a nurse.

5 Q A nurse.

6 And where do you work at?

7 A Valley Hospital.

8 Q And your specialty or area is?

9 A Coronary care.

10 Q How long have you been at Valley?

11 A Valley? Seven and a half years.

12 Q How long have you been a nurse?

13 A Twenty five years.

14 MR. LaPORTA: Pass for cause.

15 THE COURT: I'm just going to ask, were you
16 a nurse ever at University Medical Center?

17 THE JUROR: No, only Valley.

18 THE COURT: Ms. Brennan, good afternoon.

19 A Good afternoon.

20 THE COURT: Any reason you can think of why
21 you couldn't be fair to both sides in this case?

22 A No, sir.

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

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1 A Yes, sir.

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

4 A No.

5 THE COURT: You, any member of your family
6 or friends of yours ever been the victim of a crime?

7 A Yes.

8 THE COURT: Tell us about that.

9 A Myself personal.

10 THE COURT: Is this something you would
11 rather not talk about?

12 A Purse stolen.

13 THE COURT: I thought you said personal.

14 A No, no. My purse was stolen.

15 THE COURT: Anything about that incident or
16 the way the police handled it that would effect your
17 thinking in this case?

18 A No, sir.

19 THE COURT: Have you ever been on a jury
20 before?

21 A Yes, I have.

22 THE COURT: How many times?

23 A Twice.

24 THE COURT: Were they criminal civil cases
25 or one of each?

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1 A Actually one of each.

2 THE COURT: So you have been instructed on
3 the different burden of proofs in a civil case rather than
4 a criminal case?

5 A Yes.

6 THE COURT: You understand the burden of
7 proof in a civil case is less stringent than a criminal
8 case?

9 A Yes.

10 THE COURT: Do you have any problem with
11 that?

12 A No.

13 THE COURT: Do you have any problem with
14 distinguishing the two burdens when you are assessing the
15 jury instructions?

16 A No, I understand.

17 THE COURT: Anything about your prior jury
18 service that would effect your thinking in this case?

19 A No, not at all.

20 THE COURT: So you don't come to court with
21 any preconceived notions about the guilt or innocence of
22 this defendant or how the procedures should be imposed
23 because of a prior jury duty?

24 A No, sir.

25 THE COURT: Without telling us what the

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1 verdicts were, would you tell us whether you were able --

2 A Actually, they ended in mistrial for
3 various evidentiary purposes.

4 THE COURT: And the Judge got with you
5 afterwards and told you what the basis of the mistrials
6 were?

7 A Just in very brief terms that I don't
8 recall.

9 THE COURT: Any concern about any adverse
10 public opinion as a result of your verdict in this case?

11 A No.

12 THE COURT: Any concern about the defendant
13 has no obligation to prove his innocence, but it's the
14 State's burdens to prove these elements beyond a reasonable
15 doubt?

16 A No, I understand.

17 THE COURT: Any conscientious, moral or
18 religious objection to the death penalty?

19 A No, sir.

20 THE COURT: Will you be able to give fair
21 consideration to all three statutory forms of punishment?

22 A Yes.

23 THE COURT: If you were involved in this
24 case, would you feel comfortable with 12 people sitting on
25 the jury like you?

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1 A Yes.

2 THE COURT: State may inquire.

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VOIR DIRE EXAMINATION

5 BY MR. BELL:

6 Q I notice on the questionnaire you
7 indicate the death penalty is the most severe because it is
8 final and the defendant can't harm again. You wrote that?

9 A Right.

10 Q We have had some questions to people
11 about whether they think the death penalty is a deterrent.
12 Do you?

13 A I think maybe it's intended to be, but
14 I don't really believe that it serves that ultimate
15 purpose.

16 Q Would it be your philosophy, taking
17 that together then, it may deter the world, but it
18 certainly deters the person who is executed?

19 A Well, in the sense that it is final.
20 There are no more options.

21 MR. BELL: No further questions. Pass the
22 juror for cause.

23 THE COURT: For the defense, Mr. LaPorta.

24 MR. LaPORTA: Thank you, Judge.

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VOIR DIRE EXAMINATION

BY MR. LaPORTA:

Q Good afternoon, Ms. Brennan.

Do I understand right, you have a sister or relative who is an attorney?

A Yes.

Q Without telling us who that attorney is, what's the nature of your sister's practice?

A She is a corporate attorney. Works for a larger company.

Q So she doesn't delve in this area?

A No, not at all.

Q If you are selected to sit on this jury, you know that there are three possible punishments that you would be asked and you would be asked to impose one of them. Do you believe, in your heart, that if you had just convicted an individual of first degree murder, that there's also a distinct possibility that you could next give him life imprisonment with the possibility of parole?

A Yes, I could.

Q Would you also take into consideration not only the nature of the crime, the circumstances, the facts surrounding it, but would you also consider who that individual or who Mr. Castillo is, his life, his

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1 background?

2 A Yes, I would.

3 Q You would take that into consideration
4 along with the facts?

5 A And the facts.

6 Q In determining the penalty?

7 A Right.

8 MR. LaPORTA: Pass for cause, your Honor.

9 THE COURT: All right, thank you.

10 Is it Mr. Kavall (sic)?

11 A Kavall.

12 THE COURT: Kavall, I'm sorry. Sometimes we
13 have a 50/50 percent chance in getting it right.

14 A Correct.

15 THE COURT: My name is mispronounced three,
16 four times a day.

17 A They usually call me Kavall (sic) like
18 Koval Street.

19 THE COURT: Oh.

20 Is there any reason you can think why you
21 couldn't be fair in this case?

22 A No.

23 THE COURT: Can you wait until all the
24 evidence is in before forming any opinion in the case?

25 A Yes.

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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, member of your family,
5 close friends of yours ever been a victim of a crime?

6 A Myself.

7 THE COURT: Tell us.

8 A Just an auto stolen.

9 THE COURT: Anything about the way the
10 police handled that that would effect your judgment?

11 A The police never showed up.

12 THE COURT: Do you have any remaining
13 thoughts from that incident?

14 A No. They found the car, my Suburban a
15 week later and they called us immediately. They took the
16 report over the phone.

17 THE COURT: Ever been on a jury before?

18 A No, sir.

19 THE COURT: Anything concern about adverse
20 public opinion?

21 A No.

22 THE COURT: Ever been involved in a court
23 proceeding as a witness or a party?

24 A Yes.

25 THE COURT: Tell us about that.

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1 A Myself, family matter, child abuse
2 against myself. My wife and now her ex-husband tried to
3 file charges against me and against my children, my step
4 daughters and that was thrown out of court. The judge
5 turned around and says, "There is no evidence, there is
6 nothing, he is just a strict father."

7 THE COURT: So you maintained your rights
8 and stated them to the court and the case was ultimately
9 dismissed?

10 A It was dismissed. The Court said,
11 "Quit using the court system to sit there and argue
12 between yourselves," and now we get along just great.

13 THE COURT: Anything about that experience
14 that would effect your thinking in this case in terms of
15 assessing the credibility of police witnesses or siding
16 with the prosecution or the defense?

17 A No.

18 THE COURT: Ever been on a jury before?

19 A No, I have not.

20 THE COURT: Any concern about adverse public
21 opinion?

22 A No.

23 THE COURT: I think I asked you that. We
24 are getting back to that issue.

25 Any conscientious, moral or religious

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1 objections to the death penalty?

2 A No.

3 THE COURT: Would you be able to give fair
4 consideration to all three statutory forms of punishment if
5 you were asked to deliberate on that issue?

6 A Yes.

7 THE COURT: Would you feel comfortable with
8 12 people just like you sitting on the case if you were
9 involved in the case?

10 A Yes, I would.

11 THE COURT: State of Nevada.

12 MR. HARMON: Thank you, Judge.

13

14 VOIR DIRE EXAMINATION

15 BY MR. HARMON:

16 Q Good afternoon, Mr. Kavall.

17 A Good afternoon.

18 Q You have indicated in the questionnaire
19 that you are a conservative?

20 A Yes.

21 Q What does that word mean to you?

22 A I'm open, I'm very open minded, I
23 listen to the facts the way everything is presented.

24 Q I noticed several times in your answers
25 that you stressed the necessity of persons involved in the

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1 criminal justice system of getting a fair shake?

2 A Correct.

3 Q What did you have in mind?

4 A Everybody is innocent until they are
5 proven guilty the way I feel. They deserve a fair shake in
6 the trial.

7 Q How do you feel about the opportunity
8 being extended you to serve as a juror in this type of
9 case?

10 A Can you repeat that again? I'm sorry.

11 Q How do you feel about serving on this
12 case? You have been made aware that the charges are
13 serious, burglary, murder, robbery, arson?

14 A The way I feel?

15 Q Yeah.

16 A Well, I'm honored to sit as a juror,
17 it's my civic duty and I think my opinion is I will do the
18 very best I can with the facts and what the attorney and
19 district attorney come up with the facts. I feel very
20 comfortable.

21 Q You've explained to the Court these
22 allegations which were tossed out of court concerning child
23 abuse. How long ago was it?

24 A My children are 17. This was when they
25 were seven, 10 years ago.

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1 Q Did that occur here in Clark County?

2 A Yes, it did.

3 Q What agency, what police agency
4 investigated?

5 A The Clark County Juvenile Detention.
6 They came out and investigated it at one time and they said
7 that there was no cause for it going to court. Then the
8 allegations came in. I'm just a strict father. I love my
9 children and the judge says there is no cause and he
10 dismissed it and there hasn't been anything since then.

11 Q And I realize you've explained to the
12 Court, but you don't harbor any ill feelings towards
13 anyone --

14 A No.

15 Q -- as a result of the allegations?

16 A No, I have no -- my wife's ex-husband,
17 now we get along just great.

18 Q How do you feel, sir, about punishment
19 in the event that was a responsibility of a juror in this
20 case? If it was left solely up to you, would we have the
21 three punishments which are on the statute books for first
22 degree murder?

23 A Yes. If it was up to me, yes. I think
24 we need the three, yes.

25 Q You think we need the death penalty and

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1 the life sentences?

2 A And one with possible parole, yes.

3 Q Why do you think we need life with the
4 possibility of parole?

5 A You can always help somebody.
6 Everybody can be helped.

7 Q Well, why life without parole?

8 A With the life without parole, if the
9 person committed the crime that bad, let them sit in jail
10 and think about it. That right there is enough
11 punishment.

12 Q In fact, you indicated in the
13 questionnaire that your personal belief was if you were the
14 one being punished, life without is the worst?

15 A Correct, yes.

16 Q Are you willing, nevertheless, if
17 selected as a juror in this case and if called upon to
18 impose punishment to select a punishment consistent with
19 the evidence in this case and with the Court's
20 instructions?

21 A Yes, I could sit there and come to a
22 conclusion.

23 Q Why do you think we should have capital
24 punishment?

25 A Why should we?

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1 Q Yes.

2 A My opinion on that, capital punishment,
3 if the person committed a severe crime that bad, then, yes,
4 that person should be put away.

5 Q Are you the type of person, if you felt
6 in this case -- I'm not asking you to prejudge the
7 evidence, you really know very little about the
8 circumstances, but just assuming for a moment that you felt
9 this crime was sufficiently heinous, that all the
10 circumstances dictated that the proper punishment was the
11 death sentence, would you have the intestinal fortitude to
12 return to the courtroom and vote for that penalty?

13 A Yes, I could.

14 Q You are a truck driver by occupation?

15 A Yes.

16 Q How long have you been driving trucks?

17 A I have been driving a beer truck now
18 for three years, but I drove a truck for seven years for
19 U.P.S.

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

21 THE COURT: For the defense.

22 MR. SCHIECK: Thank you.

23

24 VOIR DIRE EXAMINATION

25 BY MR. SCHIECK:

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1 Q Mr. Kavall, we don't mean to pry, but
2 let me see if I understand the situation with your kids.
3 The allegation was made by your wife's ex-husband?

4 A Correct.

5 Q So you are the stepfather to these
6 children?

7 A Correct of three of them.

8 Q And the allegations were that you were
9 somehow physically abusing the children?

10 A No, just verbally because I'm a very
11 strict father. I use my voice. I don't -- I don't think
12 the children need a spanking. They just need harsh
13 discipline over a voice.

14 Q By harsh discipline, what was the
15 allegation that you were doing that was improper?

16 A Just a little bit too strict on the
17 children. They didn't like it.

18 Q You mean going out?

19 A You got it.

20 Q Doing homework?

21 A Taking T.V. away, taking phone away,
22 when you have all girls.

23 Q Did they complain to their father then?

24 A Oh, definitely, yes, uh-huh.

25 Q Was this right after you had gotten

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1 together with their mother?

2 A Yes, it was.

3 Q So it was sort of the transition period
4 to the new stepfather?

5 A It was about a year and a half after my
6 wife and I got together.

7 Q Was this brought to court because the
8 ex-husband was trying to get custody of the kids?

9 A No, because he had custody of the
10 children and then the children was living with us at the
11 time. It was just that they didn't like the rules. I
12 mean, the children were five and seven -- seven, five, and
13 two at the time.

14 Q But everything has settled down now?

15 A Oh, yeah.

16 Q And everything is fine?

17 A Except the phone calls.

18 Q You still have problems, restricting
19 use of the phone?

20 A Yes.

21 Q In your questionnaire, you indicated
22 that a defendant should be required to prove his
23 innocence. You strongly agreed with that?

24 A Yes.

25 Q You still believe that?

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1 A Yes.

2 Q You've heard the Judge instruct the
3 jury that the defendant is presumed to be innocent?

4 A Correct.

5 Q And that the defendant has no burden
6 whatsoever in a criminal case?

7 A Correct.

8 Q If Mr. Castillo does not present any
9 evidence, are you going to convict him because you believe
10 he has to prove his innocence?

11 A No, no. I need to know the facts is
12 the way I look at it.

13 Q Well, are you going to require Mr.
14 Castillo prove anything to you in this case?

15 A Oh, no, no. This is for the District
16 Attorney's Office to prove.

17 Q Which gets me back to my original
18 question, why would you then say that you strongly agreed?

19 A Everybody is innocent until proven
20 guilty. The District Attorney's Office has to prove that
21 other.

22 Q Why, in your questionnaire, did you
23 strongly agree that a defendant should be required to prove
24 his innocence?

25 A I might have misunderstood the

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1 question, but that's the way I felt.

2 MR. SCHIECK: Thank you.

3 We would pass for cause, your Honor.

4 THE COURT: Thank you.

5 Mr. Jones?

6 A Yes.

7 THE COURT: I keep looking in the wrong
8 place here because you see, the grid here doesn't match
9 where you are sitting.

10 Mr. Jones, any reason you can think of why
11 you couldn't be fair in this case?

12 A No.

13 THE COURT: Can you wait until all the
14 evidence is in before coming to any conclusion about any
15 issue in the case?

16 A Yes.

17 THE COURT: Have you, any member of your
18 family or any friends of yours ever been arrested?

19 A No.

20 THE COURT: You, any member of your family
21 or any friends of yours ever been the victim of a crime?

22 A No.

23 THE COURT: Ever been on a jury before?

24 A Yes, I have.

25 THE COURT: How many times?

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1 A Once.

2 THE COURT: Was it a criminal or civil case?

3 A Criminal.

4 THE COURT: Was your jury able to reach a
5 verdict?

6 A Yes, it was.

7 THE COURT: Anything about that experience
8 that would effect your thinking in this case?

9 A No.

10 THE COURT: Ready to be a juror again?

11 A Yes.

12 THE COURT: If you have to?

13 A Yes.

14 THE COURT: Any concern about adverse public
15 opinion?

16 A No.

17 THE COURT: Ever been involved in a court
18 proceeding of any kind as a party or a witness?

19 A No.

20 THE COURT: Any conscientious, moral,
21 religious objections to the imposition of the death
22 penalty?

23 A No.

24 THE COURT: If you are selected as a juror
25 in this case and have to deliberate on the issue of

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1 punishment, will you be able to give fair consideration to
2 all three forms of punishment?

3 A Yes.

4 THE COURT: Any problem with the fact that
5 the defendant does not have to prove his innocence? It's
6 the burden of the prosecution to establish the elements of
7 the crime beyond a reasonable doubt?

8 A I understand that.

9 THE COURT: You take no issue with that?

10 A No.

11 THE COURT: You believe that is the
12 process?

13 A Yes.

14 THE COURT: If you were involved in this
15 case, would you feel comfortable with 12 people just like
16 you sitting in judgment on this matter?

17 A Yes, I would.

18 THE COURT: State of Nevada may inquire.

19

20 VOIR DIRE EXAMINATION

21 BY MR. BELL:

22 Q Mr. Jones, I understand that you were
23 in the United States Marine Corps?

24 A Yes, sir.

25 Q How long were you in the Marine Corps?

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1 A Three years.

2 Q What years were those?

3 A 1965 through 1968.

4 Q And what was your function there?

5 A I was a radio repairman and operator.

6 Q No military police?

7 A No.

8 Q How long ago was it that you sat on the

9 criminal jury?

10 A Fifteen years ago.

11 Q Was that here in Clark County, Nevada?

12 A No, it wasn't. It was Lake County,

13 Indiana.

14 Q Was that a capital case? Was it a case

15 where murder was involved?

16 A No, it wasn't.

17 Q So you haven't been in a jury situation

18 where you've ever been asked to sit in judgment of another

19 person in terms of what their consequence would be?

20 A No, I haven't.

21 Q I asked this to a couple people. You

22 heard the lady stand up today and say, Judge, I believe in

23 the death penalty, but it's been bothering me all night. I

24 don't think I could be the one to say anything, even if I

25 thought it were appropriate and I don't quarrel with that.

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1 Do you feel, if you felt it was appropriate, could you come
2 back and look at the defendant in the eye and say I think
3 that's the appropriate punishment, I found you guilty and I
4 have looked at all the circumstances?

5 A Yes, I could.

6 Q Have you heard anything or read
7 anything about this case, as it seems to have unfolded a
8 little bit here?

9 A No, I haven't.

10 Q How long have you lived in Las Vegas?

11 A One year.

12 MR. BELL: Pass for cause, Judge.

13 THE COURT: For the defense.

14 MR. LaPORTA: Thank you, Judge.

15

16 VOIR DIRE EXAMINATION

17 BY MR. LaPORTA:

18 Q Mr. Jones?

19 A Yes.

20 Q Good afternoon.

21 A Good afternoon.

22 Q Mr. Jones, I think all the attorneys in
23 this case anticipate that there may be some photos that are
24 particularly gruesome, difficult to look at. Do you
25 believe that in your mind you will, after reviewing those,

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1 be able to maintain your independence of thought and still
2 render a fair decision?

3 A Yes, sir, I think so.

4 Q Does the fact that the victim in this
5 was 85 years of age, does that bother you at all?

6 If I may add to that, to the extent that it
7 will make it difficult for you to remain fair and
8 impartial?

9 A I think I can be fair and impartial.

10 Q The death penalty, what role do you see
11 it playing?

12 A In society in general?

13 Q In society, in the criminal justice
14 system.

15 A I see it for the most heinous crimes.

16 Q So you believe that there is a class of
17 murder that it should be reserved for?

18 A Yes, I do.

19 Q It's not for every murder?

20 A No, it's not.

21 Q Do you believe that if you had just
22 found an individual guilty of first degree murder, that you
23 could possibly consider life with the possibility of
24 parole?

25 A Yes, I could.

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1 Q You believe that there is a class of
2 murders that are deserving of that particular punishment?

3 A Yes, I do.

4 Q Will you take into consideration Mr.
5 Castillo's background and just who he is and the life that
6 he's lived in also determining the range of punishments?

7 A Yes, I will.

8 MR. LaPORTA: Pass for cause, your Honor.

9 THE COURT: Thank you.

10 Ms. Latty, am I pronouncing your name
11 correctly?

12 A Yes, sir, you are.

13 THE COURT: Any reason you can think of why
14 you could not be fair to both sides in this case?

15 A No, sir.

16 THE COURT: Can you wait until all the
17 evidence is in before coming to any conclusion with any
18 issue in this case?

19 A Yes, sir.

20 THE COURT: Have you, any member of your
21 family, or any close friends of yours ever been arrested?

22 A No, sir.

23 THE COURT: You, any member of your family
24 or close friends of yours ever been the victim of a crime?

25 A Just my future brother-in-law with a

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1 burglary.

2 THE COURT: Anything about the circumstances
3 to the extent that you know about it would effect your
4 thinking in this case?

5 A No, sir.

6 THE COURT: Ever been on a jury before?

7 A No, sir.

8 THE COURT: Any concern about adverse public
9 opinion?

10 A No, sir.

11 THE COURT: Ever been involved in a court
12 proceeding of any kind as a party or witness?

13 A No, sir.

14 THE COURT: Any conscientious, moral or
15 religious objections to the imposition of the death
16 penalty?

17 A No, sir.

18 THE COURT: If selected as a juror and if
19 you are called to deliberate on the question of penalty,
20 will you be able to give fair consideration to all three
21 forms of punishment?

22 A Yes, sir.

23 THE COURT: Do you have any problem with the
24 notion that the defendant is under no obligation to prove
25 his innocence, but the fact that State's obligation is to

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1 establish the essential elements of the charges beyond a
2 reasonable doubt?

3 A Yes, I understand.

4 THE COURT: If you were involved in this
5 case, would you feel comfortable with 12 people sitting on
6 the case like you?

7 A Yes.

8 THE COURT: State of Nevada.

9 MR. HARMON: Thank you, your Honor.

10

11 VOIR DIRE EXAMINATION

12 BY MR. HARMON:

13 Q How long have you lived in Clark
14 County?

15 A A little over three years.

16 Q Where did you move from?

17 A Atlanta, Georgia.

18 Q Is that where you were born and raised?

19 A Yes, sir.

20 Q How does a Georgia girl move out to Las
21 Vegas?

22 A I moved out with my fiance. He was
23 transferred with his company. I thought I would come and
24 see what it was like.

25 Q You have described yourself in the

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1 questionnaire as a liberal?

2 A Yes, sir.

3 Q What does that mean to you?

4 A Meaning that I am open minded. To me
5 being conservative is being narrow minded and maybe having
6 your ideas and not willing to listen to other things. I
7 consider myself liberal because I will listen and listen to
8 the options and think about the options.

9 Q Is there anything about your
10 circumstances now that would seriously detract your ability
11 to focus on the trial if you are selected as a juror?

12 A No, sir.

13 Q How do you feel about the opportunity
14 to serve on this type of case?

15 A Interesting. I don't feel one way or
16 the other. It's interesting.

17 Q Do they have capital punishment in the
18 State of Georgia?

19 A To be quite honest with you, I'm not
20 sure.

21 Q As a new resident in Nevada, if it was
22 solely up to you, would we have it in this state?

23 A I do agree wit it, yes, sir.

24 Q Why do you agree that it's appropriate
25 to have it on the statute books?

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1 A I have always felt like it should be an
2 option as one of the punishments. Being here and listening
3 to everything, I find that maybe there isn't always an
4 instance where it should be appropriate. Maybe you should
5 weigh the others, you know, as equally.

6 Normally I would say the death penalty all
7 the time for murder, but I do also believe there are
8 instances where it shouldn't be.

9 Q You are able, as you sit here in court
10 this afternoon, to say to us with confidence that you will
11 have the ability to consider all three of the punishments
12 for murder of the first degree, if there is a penalty :
13 hearing?

14 A Yes, sir.

15 Q In terms of the jury instructions, at
16 one point in the questionnaire, you indicated you would use
17 your common sense. It turns out the common sense is not so
18 common. So I have to congratulate you, but do you
19 understand that jurors have a duty, whether they agree or
20 disagree with the Court's instructions, of following it?

21 A Right. What I would do is what the law
22 instructs me to do, but I would also use my common sense in
23 hearing all the evidence before accusing anyone of
24 anything.

25 Q If the jury does have to fix a

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1 punishment, are you going to be the type of person who is
2 not only able to say, in the abstract, I believe in severe
3 punishments for serious crimes, but, as a juror, would you
4 be able to follow through and act upon that belief?

5 A Yes, sir, I believe I would.

6 MR. HARMON: Thank you.

7 Pass for cause.

8 THE COURT: For the defense.

9 MR. SCHIECK: Thank you.

10

11 VOIR DIRE EXAMINATION

12 BY MR. SCHIECK:

13 Q Ms. Latty, let me follow-up on one of
14 Mr. Harmon's questions and your answer. Did you say that
15 normally for murder you think the death penalty is the
16 appropriate punishment, but then maybe you would consider
17 the other; something like that?

18 A What I should say is that before being
19 in this situation, I always thought for a murder charge,
20 yes, the death penalty should be issued, but in thinking
21 about it, being here in the courtroom, I believe there are
22 instances where someone should not receive the death
23 penalty, whether you should look at the options, whether
24 there are a repeat offender, how brutal the crime was. I
25 think there are options.

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1 Q What about the background of the
2 defendant, is that something you think that should be
3 considered in deciding the options?

4 A I don't think so. A bad background
5 would be very unfortunate, but I think a person should be
6 responsible for their actions regardless.

7 Q What about something like the age of
8 the defendant, do you think that is something that should
9 be taken into consideration?

10 A Not necessarily, no, sir.

11 Q Now there are certain things known as
12 aggravating and mitigating circumstances that the Judge
13 would instruct you on at some point, if we got to the
14 penalty hearing. If the Judge was to instruct you that a
15 mitigating circumstance is the youth of the defendant as a
16 factor that you should consider, would you be able to
17 follow the Judge's instructions and consider that as a
18 factor?

19 MR. HARMON: Your Honor, I object to the
20 form of the question. In the first place, he's asking
21 about the wording of an instruction.

22 THE COURT: He is asking about a specific
23 issue. On that basis, the objection is sustained.

24 However, because of the way these questions
25 have been framed, she may be answering them based upon a

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1 premise that's not really an extent of the question. So
2 I'll let you go back and reconstruct the line of
3 questioning, Mr. Schieck.

4 MR. SCHIECK: I'll attempt to do so, your
5 Honor.

6 Q We were talking about age as a factor
7 in considering whether or not what the appropriate
8 punishment is. What the appropriate punishment would be I
9 suppose my question is, is that something that you are just
10 going to disregard, as coming in your consideration, the
11 age of the person that has been convicted or is it
12 something that you may consider?

13 A I haven't really thought about it.

14 THE COURT: I think, perhaps, the question
15 and the premise of this question is confusing. I think
16 what the thrust of this examination is, Ms. Latty, if I
17 instruct you that there are certain mitigating factors that
18 you can consider in assessing punishment in this case, will
19 you be able to assess those along with, for example, the
20 severity of the crime?

21 THE JUROR: Yes, sir.

22 THE COURT: And would that include anything
23 from age, social background, personal history, and that
24 sort of thing?

25 THE JUROR: I would think about all of it

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1 before reaching a decision, yes, sir.

2 THE COURT: Does that solve the inquiry?

3 MR. SCHIECK: I think it does, yes, sir.

4 Thank you.

5 Q What is your employment?

6 A Oasis Golf Club in Mesquite, Nevada.

7 Q Would you be commuting from Mesquite
8 everyday for trial?

9 A We do have friends that live off Craig
10 Road. Maybe I could stay with them some.

11 Q Is that going to impose a hardship with
12 you that would interfere with your ability to listen and
13 pay attention?

14 A No, sir.

15 Q You indicate that you do not feel the
16 laws are tough enough in the United States?

17 A I had a feeling you might ask about
18 that. That goes back to when I did think before that the
19 death penalty was not used enough. I think I was not
20 really thinking open minded about that until I got into a
21 certain situation where I do believe in a unique situation
22 instead of being so eager, instead of saying the death
23 penalty should be issued.

24 Q That gets back to framing you as a
25 liberal. Perhaps your eyes are opened a little bit. Will

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1 you be considering different things than the way you
2 thought before?

3 A Yes, sir.

4 MR. SCHIECK: Thank you.

5 We would pass for cause, your Honor.

6 THE COURT: Thank you.

7 Mr. Ruhlmann, am I pronouncing your name
8 correctly?

9 A Yes, sir.

10 THE COURT: Any reason you can think of why
11 you couldn't be fair in this case?

12 A No.

13 THE COURT: Can you wait until all the
14 evidence is in before coming to any conclusion about any
15 issue in this case?

16 A Yes, sir.

17 THE COURT: Have you, any member of your
18 family or any friends of yours ever been arrested?

19 A My daughter was as a juvenile matter.

20 THE COURT: And just generally state what
21 the nature of the problem was.

22 A Very general, I'm in the air force and
23 when I was in Korea, she ran away from home. She was gone
24 for a period of time. When she returned with some friends,
25 they robbed the house.

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1 THE COURT: How long ago was that?

2 A Two weeks ago.

3 THE COURT: Everything's been all right
4 since then?

5 A I wish they would have kept her
6 longer. She is pregnant now.

7 THE COURT: She is not involved in anything?

8 A No, sir, we are beyond that.

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

11 A Just my daughter. She did burglarize
12 our home.

13 THE COURT: Is there anything about those
14 experiences that would effect your thinking in this case?

15 A No, sir.

16 THE COURT: Ever been on a jury before?

17 A No, sir, I have not.

18 THE COURT: Any concern about adverse public
19 opinion as a result of any verdict in this case?

20 A No.

21 THE COURT: Have you ever been involved in
22 any kind of court proceedings as a party or a witness?

23 A Just in a juvenile matter.

24 THE COURT: Again, that's behind you now?

25 A Right.

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1 THE COURT: And that event in your life
2 won't enter into your thinking in this case?

3 A No, sir.

4 THE COURT: Any problem with the notion that
5 the defendant has no obligation to prove his innocence, but
6 that it's the State's burden to prove the essential
7 elements of these charges beyond a reasonable doubt?

8 A I understand that.

9 THE COURT: Any conscientious, moral or
10 religious objections to the death penalty?

11 A No.

12 THE COURT: If you are called upon to
13 deliberate on the subject of penalty, will you be able to
14 give fair consideration to all three statutory forms of
15 punishment?

16 A Yes, I would.

17 THE COURT: So in a proper case, you believe
18 and with an assessment of the evidence, you could render
19 the death penalty?

20 A Yes, sir.

21 THE COURT: In a proper case, you could
22 render life with or without the possibility of parole?

23 A Yes, sir.

24 THE COURT: If you were involved in this
25 case yourself or a member of your family was somehow

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1 involved in this case, would you feel comfortable with 12
2 jurors with your sense of fairness and judgment sitting on
3 the matter?

4 A I would.

5 THE COURT: State may inquire.

6 MR. HARMON: Thank you, Judge.

7

8 VOIR DIRE EXAMINATION

9 BY MR. HARMON:

10 Q Good afternoon, Mr. Ruhlmann.

11 How do you feel about the chance of serving
12 as a juror on this type of case?

13 A I'm eager to do so. I think everybody
14 should be involved in our justice system in any way they
15 can serve.

16 Q You have lived in this area about five
17 years?

18 A Five years next month.

19 Q What causes you to be living in
20 southern Nevada?

21 A Air force. I have been in 19 years.
22 I'm stationed at Nellis.

23 Q Are you still in the air force?

24 A Yes, sir. I have got a year to go.

25 Q If it was left solely up to you, would

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1 we have capital punishment in the State of Nevada?

2 A Yes, we would.

3 Q Can you think of circumstances where
4 you believe that it is an appropriate punishment?

5 A Yes.

6 Q Are you going to be able to devote your
7 full attention to these proceedings while the Court is in
8 session?

9 A Certainly.

10 Q If, after you had heard all the
11 evidence, you were convinced that a death sentence was
12 proper, would you vote for it, sir?

13 A If I believe so, yes I would.

14 MR. HARMON: Thank you.

15 Pass for cause.

16 THE COURT: All right, thank you.

17 MR. SCHIECK: Thank you.

18

19 VOIR DIRE EXAMINATION

20 BY MR. SCHIECK:

21 Q Mr. Ruhlmann?

22 A Yes.

23 Q With respect to the questionnaire, I'm
24 going to ask which punishment you thought was the worst.
25 You stated loss of life affects more than one person?

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1 A It certainly does.

2 Q Can you explain that a little bit.

3 A I could. I lost my wife in 1983. I
4 had a four year old daughter at the time. A lot of people
5 suffer when a death is involved, the family, siblings, the
6 extended family, relatives, everybody is affected by a
7 death, yes.

8 Q When you were answering this question,
9 were you thinking about how the loss of the defendant's
10 life would affect his family or thinking of the victim's
11 family?

12 A I actually was thinking on just death
13 in general, not at any particular person.

14 Q And we hate to pry. You indicated you
15 lost your wife in 1983?

16 A Yes, car accident.

17 Q Car accident.

18 Were there any criminal charges --

19 A No.

20 Q -- that arose out of that?

21 And you are still in the air force now you
22 say?

23 A Yes, sir.

24 MR. SCHIECK: Thank you.

25 We would pass for cause, your Honor.

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1 THE COURT: Thank you.

2 At this time, we will take a fifteen minute
3 recess while we bring in the other jurors. Ladies and
4 gentlemen of this prospective jury panel, I would remind
5 you it is your duty not to converse among yourselves or
6 with anyone else on any subject connected with this trial
7 or to read, watch, or listen to any report of or commentary
8 on this trial or any person connected with this trial by
9 any medium of information, including, without limitation,
10 newspapers, television, or radio, and you are not to form
11 or express an opinion on any subject connected with this
12 case until it is finally submitted to you.

13 It appears that we are going to be able to
14 complete jury selection today. So what I'm going to ask
15 you to do, those of you who have already been through the
16 qualification process, you can remain downstairs in the
17 jury holding area until you are resummoned, but, at some
18 point in time, we are going to re-assemble everyone who has
19 been qualified for cause so we can go through the challenge
20 procedures and, ultimately, give you pretrial instructions
21 and depends how quickly we go, possibly even opening
22 statements, but we haven't discussed that as of yet.

23 So we will be at ease while you depart the
24 confines of the courtroom. I will see counsel in the
25 hallway for just a moment and we are in recess.

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1 (Off the record at 2:30 p.m. and back on the
2 record at 2:55 p.m.)

3
4 THE COURT: Do we need to call the roll of
5 the prospective jurors or just proceed?

6 Just leave it the way it is.

7 Again, this is the afternoon session of
8 C133336, State of Nevada versus William Patrick Castillo.

9 Mr. Schieck and Mr. LaPorta are representing
10 Mr. Castillo. They are present in the courtroom. The
11 State of Nevada attorneys are Mr. Stewart Bell and Mr. Mel
12 Harmon.

13 At this time we will recommence voir dire
14 examination of this jury. I'd ask the clerk at this time
15 to pull the next eight names out of the rotation.

16 THE CLERK: Badge number 302, Paul L.
17 Burley, H-U-R-L-E-Y.

18 JUROR NO. 302: Here.

19 THE CLERK: You need to come up here, sir.

20 THE COURT: As you can see, the architect of
21 this courthouse did not win any awards.

22 JUROR NO. 302: I thought you were just
23 calling the roll.

24 THE CLERK: Badge number 308, Christopher
25 Michael Ramsey, R-A-M-S-E-Y, badge number 310, James J.

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1 Fracaro, F-R-A-C-A-R-O, badge number 312, Daniel Edward
2 Guzzy, J -- excuse me -- G-U-Z-Z-Y, badge number 313,
3 Waltraud Ginn, G-I-N-N, badge number 320, Christopher F.
4 Pagano, P-A-G-A-N-O, badge number 321, Robert Allen Motis,
5 M-O-T-I-S, badge number 323, Joann V. Clausse,
6 C-L-A-U-S-S-E.

7 THE COURT: All right, to make sure we have
8 everyone in their right places, we have Mr. Hurley, Mr.
9 Ramsey, Mr. Fracaro, Mr. Guzzy, Ms. Ginn or is it Ginn
10 (sic)?

11 JUROR NO. 313: Ginn.

12 THE COURT: Ginn, all right.

13 Mr. Pagano Mr. Motis, and Ms. Clausse. Am I
14 pronouncing it correctly?

15 JUROR NO. 324: Clausse.

16 THE COURT: All right, we will start with
17 Mr. Hurley. Just so that everybody's numbering is correct,
18 I have him as the 24th juror to be qualified.

19 MR. HARMON: Yes.

20 THE COURT: Mr. Hurley, any reason you can
21 think of why you could not be fair to all the parties in
22 this case?

23 A No reason.

24 THE COURT: Can you wait until all the
25 evidence is in before coming to any conclusion about any

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1 issue in this case?

2 A Yes.

3 THE COURT: Have you, any member of your
4 family or any close friends of yours ever been arrested?

5 A I don't think so.

6 THE COURT: You, any member of your family
7 or close friends of yours ever been the victim of a crime?

8 A Close friends of the victim?

9 THE COURT: No, I'm sorry. Have you, any
10 member of your family or any close friends of yours ever
11 been the victim of a crime?

12 A Don't think so.

13 THE COURT: Ever been on a jury before?

14 A Yes.

15 THE COURT: How many times?

16 A Once about 20, 22 years ago.

17 THE COURT: Was it a criminal or a civil
18 case?

19 A Civil.

20 THE COURT: And you understand that the
21 burden of proof in a civil case is less stringent than it
22 is in a criminal case?

23 A Yes.

24 THE COURT: Will you have any problem with
25 following a different set of instructions in this case?

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82'

1 A No.

2 THE COURT: Anything about that prior jury
3 service that would effect your ability to be fair and
4 impartial in this matter?

5 A No.

6 THE COURT: Was your jury in that case able
7 to reach a verdict without telling us what it was?

8 A Well, yeah.

9 THE COURT: Did the jury come to a verdict?

10 A They came to a verdict, yes.

11 THE COURT: And did you find that a
12 productive experience?

13 A What?

14 THE COURT: Did you find that a productive
15 experience?

16 A Yes. Yes, it was.

17 THE COURT: Now I don't mean to be too
18 personal in my inquiries of you, but do you have any
19 problem hearing?

20 A Yes. I was a pilot and never wore
21 earplugs. It's still taking it's toll.

22 THE COURT: Now I probably speak as loud as
23 anybody in this courtroom or the courthouse and are you
24 having any trouble hearing me?

25 A Well, I have had some trouble hearing

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1 you, yes.

2 THE COURT: Now, because softer voices will
3 take the witness stand and you might have trouble hearing
4 them.

5 A Yes.

6 THE COURT: Do you think that this
7 difficulty is going to have any significant or create any
8 significant impairment on your ability to digest all the
9 evidence?

10 A Well, yes, it could because I imagine
11 once we retired, there would be points that I could not
12 comprehend or hear.

13 THE COURT: If you were in the jury room, it
14 would be the confines of a smaller room where you can hear
15 everything.

16 A Yes, definitely.

17 THE COURT: My concern is, are you going to
18 be able to hear everything in the courtroom?

19 A Well, that I can't say yes or no on
20 that because I'm afraid since I have had some difficulty
21 understanding what you are saying, well, I might not have
22 that same ability and it could effect me, yes.

23 THE COURT: Well, of course, you may have
24 trouble understanding what I'm saying because of what I'm
25 saying, but I'm more concerned about your ability to hear

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1 everything.

2 A Yes, yes, I understand that.

3 THE COURT: Do you think you will be okay or
4 now is the time to tell us if you feel comfortable or
5 uncomfortable. If you feel uncomfortable --

6 A Well, I feel a little embarrassed.

7 THE COURT: Well, I certainly never meant to
8 do that.

9 A Well, I know you didn't. I know that.

10 THE COURT: That's not a problem.

11 A Well, maybe if I sat on the front row,
12 it might be okay.

13 THE COURT: That's a good point.

14 A Since you said I might be an alternate,
15 well, maybe you won't have to call on me.

16 THE COURT: Well, nobody will know who the
17 alternates are until the end. So that's kind of a dirty
18 trick we play on everybody.

19 A I understand.

20 THE COURT: I just wanted to know right now,
21 this is not meant to embarrass you, it is simply a question
22 designed to be sure you are going to be able to hear
23 everything. Do you feel comfortable?

24 A Well, not really.

25 THE COURT: All right, would you prefer it

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1 if we excused you from jury service?

2 A Well, it probably would be best for
3 your own sake because, as I say, I'm just having
4 difficulty.

5 THE COURT: All right, in that case I will
6 go ahead and excuse you. We have plenty of jurors.

7 A Well, I'm sorry.

8 THE COURT: No problem at all. Thank you
9 for coming.

10 A Okay.

11 THE COURT: You can go back to the jury
12 commissioner.

13 A 302.

14 THE CLERK: Badge 324, Edward Mitchell
15 Hester, H-E-S-T-E-R.

16 THE COURT: All right, Mr. Hester, good
17 afternoon.

18 A Yes, sir.

19 THE COURT: Any reason you can think of why
20 you couldn't be fair to both sides?

21 A No, sir.

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

25 A Yes.

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1 THE COURT: Can you -- strike that.

2 Have you, any member of your family or any
3 close friends of yours ever been arrested?

4 A No.

5 THE COURT: Have you, any member of your
6 family or close friends of yours ever been the victim of a
7 crime?

8 A Robbery, one time, 1981.

9 THE COURT: Was this a face to face robbery
10 or a house burglary?

11 A Household burglary.

12 THE COURT: Anything about the way the
13 police handled that situation or a prosecuting agency
14 handled that situation that would effect your judgment here
15 in this matter?

16 A They were never found, but that
17 wouldn't effect my judgment.

18 THE COURT: So you don't carry with you any
19 ill feelings toward any police agency?

20 A No.

21 THE COURT: Or prosecutors because of that
22 event?

23 A No.

24 THE COURT: Have you ever been on a jury
25 before?

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020

1 A No.

2 THE COURT: Ever been a party or a
3 participant in any court action?

4 A In January of this year, I was a
5 prosecution witness to a accident that happened in 1990, I
6 believe.

7 THE COURT: Was that a civil case?

8 A It was a civil case.

9 THE COURT: So one party was trying to seek
10 damages from another?

11 A I'm sorry?

12 THE COURT: One party was trying to seek
13 damages from another, money damages?

14 A Yes.

15 THE COURT: Anything about your role in that
16 case that would effect your thinking here?

17 A No.

18 THE COURT: In other words, you carry no
19 preconceptions into this case from that case --

20 A No.

21 THE COURT: -- about whether somebody should
22 be found guilty or how the system works or how it should
23 work?

24 A No.

25 THE COURT: Any concern about adverse public

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1 opinion that might result from any verdict you might render
2 in the matter?

3 A I'm a building inspector. I'm use to
4 that adverse public opinion.

5 Q As a public official called upon to
6 resolve things like that from time to time, I have no
7 comment.

8 Any philosophical, religious or moral
9 objections to the imposition of the death penalty?

10 A No, sir.

11 Q You understand that in a criminal case,
12 the defendant is not obligated in any sense to prove his or
13 her innocence. It's up to the State of Nevada to prove
14 beyond a reasonable doubt the element of all the charges.

15 Take any issue with that?

16 A No.

17 THE COURT: Could you follow the
18 instructions on that regard?

19 A Yes.

20 THE COURT: And you are willing to do so?

21 A Right.

22 THE COURT: And if you were called upon to
23 deliberate on the issue of penalty in this case and that
24 would only occur in the event that the defendant is
25 convicted of first degree murder, would you be able to

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023

1 consider fairly all three forms of punishment, the death
2 penalty, life with the possibility of parole, and life
3 without the possibility of parole?

4 A Yes.

5 THE COURT: So when you got in the jury
6 room, after you heard all the evidence, you could weigh the
7 mitigating and aggravating factors that are present in this
8 case and you could fairly consider all three forms of
9 punishment?

10 A I could consider all three, your
11 Honor. I will have to tell you it's my own philosophy that
12 proven beyond a shadow of a doubt, in my own opinion, I
13 lean toward the stronger punishment.

14 THE COURT: That's not an unusual reaction,
15 but you have and everyone has their own personal
16 philosophies and they have certain views generally about
17 the types of punishments that should be imposed for certain
18 types of crimes, but we have to understand that every case
19 is different. The facts of each case --

20 A Right.

21 THE COURT: -- each case are clearly
22 unique. The factors in a defendant's life are clearly
23 unique to that case.

24 So given your general feelings, do you feel
25 that you can put those aside in the sense that you could

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1 follow the instructions and give fair consideration to life
2 with the possibility of parole along with life without
3 along with the death penalty and base a verdict on the
4 facts of this case?

5 A Yes, I would do.

6 THE COURT: And do you think you could do
7 that even though you do have some general feelings about
8 the imposition of stronger penalties?

9 A It would be hard, your Honor.

10 THE COURT: I understand. What we have
11 called you here to do is not an easy process. What I'm
12 really trying to get at is we all have these general
13 feelings about different types of offenses and how people
14 should be punished for them.

15 Now the question I have is, can you, in the
16 jury room, fairly consider all of those forms of punishment
17 after you've heard the instructions on mitigation,
18 mitigating factors and aggravating factors?

19 A In the jury room I could. I wouldn't
20 hold onto a stronger punishment if everyone else were in
21 favor of --

22 THE COURT: You are going to be instructed
23 on that issue and the issue is if you feel a strong belief
24 in a position in the case, you are not to change your mind
25 simply because the other jurors are of a different mind

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030

1 because the State of Nevada and the defense are entitled to
2 each juror's individual judgment in the deliberations.

3 The real question is will you get involved
4 in the give and take and will you yourself fairly consider
5 the three alternate forms of punishment?

6 A Yes, I will and I will follow the
7 Court's instructions.

8 THE COURT: If you were involved in this
9 case yourself, whether you were a member of the defendant's
10 family, for example, or whether you were a member of the
11 victim's family in this case, the alleged victim's family,
12 would you feel comfortable with 12 people like you sitting
13 as jurors?

14 A Yes.

15 THE COURT: State of Nevada may inquire.

16

17 VOIR DIRE EXAMINATION

18 BY MR. BELL:

19 Q Mr. Hester, you are a building
20 inspector?

21 A Yes, sir.

22 Q For whom are you employed?

23 A Clark County.

24 Q How long have you been so employed?

25 A Six and a half years.

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03

1 Q And what did you do before that?

2 A I was a director of a building
3 department in Texas.

4 Q Anything about your employment that
5 would cause you any difficulties to sit on the jury?

6 A I am assigned to the mobile home
7 section with the Building Department and I'm the only lone
8 inspector in the county. I really don't know what kind of
9 problem that's creating down there.

10 Q Would it be county policy that if you
11 are selected as a juror, you are going to sit as a juror?

12 A Yes, sir.

13 Q And they will get the job done somehow?

14 A Right.

15 MR. BELL: Pass the juror for cause, your
16 Honor.

17 THE COURT: All right.

18 For the defense.

19 MR. LaPORTA: Thank you, Judge.

20

21 VOIR DIRE EXAMINATION

22 BY MR. LaPORTA:

23 Q Good afternoon, Mr. Hester.

24 A Good afternoon.

25 Q Mr. Hester, I will start off with one

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001

1 simple question for you. Tell me if you agree or disagree
2 with this statement. A person who has just been convicted
3 of first degree murder should never have an opportunity to
4 be paroled. Do you agree or disagree with that?

5 Honest answer, sir.

6 A Other than a yes or no answer, could I
7 say it depends on the mitigating or circumstantial evidence
8 or how we arrived at that guilty verdict?

9 Q Are you saying then that it would be
10 circumstantial -- I mean it would depend on the
11 circumstances?

12 THE COURT: I think that's what he said.

13 THE WITNESS: Yeah, premeditated murder to
14 me, here I go, warrants a death penalty, if it's
15 premeditated. I hope I didn't mean to evade the question.

16 THE COURT: There is no such thing as a
17 wrong answer.

18 MR. LaPORTA: That's correct.

19 Q So you believe that if somebody is
20 convicted of first degree murder, in your mind, they
21 deserve the death penalty?

22 A Yes, sir.

23 Q No other options?

24 A Well, according to the Court, we have
25 two others.

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1 Q Would you follow those options?

2 A Yes, if that were the Court's
3 instructions, I would follow the instructions of the
4 Court. There's 11 other people up here that -- 12 of us,
5 along with the Court that would have to decide what the
6 punishment would be set at.

7 Q And if you are selected to sit on the
8 jury and Mr. Castillo is convicted of first degree murder,
9 you will be asked to choose one of three possible
10 punishments, life with or without the possibility of
11 parole, and possibly impose the death penalty. In
12 determining that, you'll look at the facts of the case, but
13 would you also look at Mr. Castillo's background and who he
14 is as an individual?

15 A Would this be first degree murder,
16 second degree murder?

17 Q If you were to consider one of the
18 three possible punishments, yes, he would be convicted of
19 first degree.

20 A First degree. I would look at the
21 three options.

22 Q Well, my next question is -- the
23 question, though, I had before you was in addition to the
24 facts of the case, the crime itself, would you also look at
25 Mr. Castillo and the influences that have had an effect on

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634

1 him through his life? In other words --

2 A Yes, I would.

3 Q His background?

4 A What led him to that point?

5 Q Yes.

6 A I would.

7 Q Sir, can you tell me what you did

8 before you were a building inspector?

9 A I owned my steel contracting business
10 here in Las Vegas.

11 Q And you've been a building inspector
12 for how long?

13 A Six and a half years here, three years
14 in Texas. Nine and a half years.

15 MR. LaPORTA: Pass for cause, your Honor.

16 THE COURT: Thank you.

17 Mr. Ramsey, good afternoon. Any reason you
18 can think of why you couldn't be fair to both sides in this
19 case?

20 A None.

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

24 A Yes.

25 THE COURT: Have you, any member of your

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1 family or any close friends of yours ever been arrested?

2 A No.

3 THE COURT: Have you, any member of your
4 family or close personal friends of yours ever been the
5 victim of a crime?

6 A Property stolen, car radio.

7 THE COURT: Anything about how that was
8 handled by the authorities that would effect your thinking
9 in this case?

10 A No.

11 THE COURT: Ever been on a jury before?

12 A No.

13 THE COURT: Any concern for adverse public
14 opinion by virtue of a verdict you might render in this
15 case?

16 A No.

17 THE COURT: Any philosophical, moral or
18 religious objections to the imposition of the death
19 penalty?

20 A No.

21 THE COURT: If you were called upon to
22 deliberate on the subject of penalty, and again this would
23 only happen if the defendant was convicted of first degree
24 murder, would you be able to give fair consideration to all
25 three statutory forms of punishment?

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000

1 A Yeah.

2 THE COURT: And you understand that the
3 defendant is presumed innocent. You've already indicated,
4 by general acknowledgment, that you agree with that
5 proposition. You understand the defendant has no
6 obligation to prove himself innocent?

7 A Sure.

8 THE COURT: And do you understand that it's
9 the State's burden to prove the essential elements of the
10 charge beyond a reasonable doubt?

11 A Uh-huh.

12 THE COURT: And do you take any issue with
13 that?

14 A No.

15 THE COURT: If you were involved in this
16 case yourself, for example, you were a member of the
17 defendant's family or you were a member of the alleged
18 victim's family in this case, would you feel comfortable
19 with 12 people with your sense of justice and fairness
20 sitting on the jury?

21 A Yes.

22 THE COURT: State of Nevada may inquire.

23 MR. BELL: Thank you, Judge.

24 . . .

25 . . .

PATSY K. SMITH, OFFICIAL COURT REPORTER

1 VOIR DIRE EXAMINATION

2 BY MR. BELL:

3 Q Mr. Ramsey, how do you feel about the
4 opportunity to sit as a juror in this case?

5 A I wouldn't say I'm excited, but I would
6 have no problem doing it.

7 Q How about your personal schedule. You
8 heard the Judge go through the schedule tentatively through
9 the trial. Personal schedule accommodate your ability to
10 sit?

11 A Yes.

12 MR. BELL: Pass the juror for cause, your
13 Honor.

14 THE COURT: Thank you.

15 For the defense.

16 MR. LaPORTA: Yes, thank you, Judge.

17

18 VOIR DIRE EXAMINATION

19 BY MR. LaPORTA:

20 Q Mr. Fracaro, good afternoon.

21 A Ramsey.

22 Q Oh, Ramsey is it? I'm sorry. Picked
23 the one up just after you. It's getting late.

24 What do you believe the role of the death
25 penalty in the criminal justice system, what do you believe

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030

1 its role is? Is it a deterrent or is it useful?

2 A I don't know if I'd call it a
3 deterrent. It would deter that individual from ever
4 committing another crime. I see it that way, but I believe
5 it's a proper punishment in certain cases, first degree
6 murder, you know, with special circumstances or whatever.

7 Q Do you believe that it's applicable any
8 time somebody is convicted of first degree murder?

9 A Not necessarily, no.

10 Q So what you are saying is that only
11 under special circumstances?

12 A I'd have to hear the facts of the case
13 and -- I would have to hear the facts of the case and I'd
14 have to be of the opinion that the defendant was guilty and
15 pass the conviction and then come to my judgment on the
16 penalty.

17 Q Well, my question is now, would you
18 reserve the imposition of the death penalty for the worst
19 of murderers and the worst of defendants?

20 A Yes.

21 Q So you would not impose it in every
22 situation?

23 A No.

24 Q Would you consider life with the
25 possibility of parole after you had found somebody guilty

PATSY K. SMITH, OFFICIAL COURT REPORTER

030

1 of first degree murder? Could you give that sentence?

2 A I would, yes. I think I would be able
3 to.

4 MR. LaPORTA: Pass for cause, your Honor.

5 THE COURT: Thank you.

6 We will take a moment while the court
7 reporters engage and disengage their machines.

8

9 (At this time, another court reporter took
10 over the proceedings.)

11

12 (Off the record at 3:21 p.m.)

13

14 * * * * *

15

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

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

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DISTRICT COURT
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WILLIAM P. CASTILLO,

Petitioner,

vs.

E. K. McDANIEL, Warden, and
CATHERINE CORTEZ MASTO,
Attorney General of the State of Nevada,

Respondents.

Case No. C133336
Dept. No. XVIII

**EXHIBITS TO
PETITION FOR WRIT
OF HABEAS CORPUS**

(Death Penalty Habeas Corpus Case)

VOLUME 11 OF 15

FILED

SEP 18 2003

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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)

VOLUME 1 OF 15

Exhibit No. Description

1. Judgment of Conviction, State v. Castillo, Clark County, Case No. C133336, November 12, 1996
2. Indictment, State v. Castillo, Clark County, Case No. C133336, January 19, 1996
3. Order of Appointment of Counsel, State v. Castillo, Clark County, Case No. C133336, March 14, 1996
4. Amended Indictment, State v. Castillo, Clark County, Case No. C133336, May 29, 1996
5. Special Verdict, State v. Castillo, 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
- VOLUME 2 OF 15**
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,
September 4, 1996
- 2 24. Verdict, State v. Castillo, Clark County, Case No. C133336, September 4,
3 1996
- 4 25. Instructions to the Jury, State v. Castillo, Clark County, Case No. C133336,
5 September 25, 1996
- 6 26. Lewis M. Etcoff, Psychological Evaluation, July 14, 1996
- 7 27. Declaration of Herbert Duzant
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- 1 182. Recorder's Transcript Re: request of the Court: Argument, Castillo v. State,
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EXHIBIT 161

EXHIBIT 161

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COPY

DISTRICT COURT

CLARK COUNTY, NEVADA

FILED IN OPEN COURT

AUG 29 1996 19

LORETTA BOWMAN, CLERK

BY TINA HURD

Deputy

THE STATE OF NEVADA,

Plaintiff,

-vs-

WILLIAM PATRICK CASTILLO,

Defendant.

Case No. C133336

Dept. No. VII

Docket: P

REPORTER'S TRANSCRIPT

OF

TRIAL

Volume III
Afternoon Session

BEFORE THE HONORABLE A. WILLIAM MAUPIN, DISTRICT JUDGE

WEDNESDAY, AUGUST 28, 1996

3:25 p.m.

APPEARANCES:

For the State:

Stewart Bell, Esq.
District Attorney

&

Melvyn Harmon, Esq.
Deputy District Attorney

For the Defendant:

Peter LaPorta, Esq.
Deputy State Public Defender

&

David Schieck, Esq.
Attorney at Law

Reported by: Danette L. Antonacci, CCR #222
Certified Court Reporter

DANETTE L. ANTONACCI, CCR #222

1 LAS VEGAS, CLARK COUNTY; WEDNESDAY, AUGUST 28, 1996

2 ---ooOoo---

3
4
5 BY THE COURT:

6 Q Mr. Fracaro, good afternoon,

7 A Good afternoon.

8 Q Any reason you can think of why you couldn't be
9 fair to both sides in this case?

10 A No.

11 Q Can you wait until all the evidence is in before
12 coming to any conclusion about issues in this case?

13 A Yes.

14 Q Have you or any family members or close friends
15 ever been arrested?

16 A No.

17 Q Have you or any members of your family or any
18 close friends of yours ever been the victim of a crime?

19 A Yes, I have.

20 Q Tell us about that.

21 A It was a burglary. It was a home invasion.

22 Q Did the police respond?

23 A Yeah.

24 Q And is there anything about the way the police
25 handled that situation that might affect your thinking in

DANETTE L. ANTONACCI, CCR #222

1 this case?

2 A No.

3 Q Have you been on a jury before?

4 A No.

5 Q Any concern about adverse public opinion that
6 might result from any verdict in this case?

7 A No.

8 Q Ever involved in any court action as a party or
9 a witness?

10 A No.

11 Q Any conscientious, moral or religious objections
12 to the imposition of the death penalty?

13 A No.

14 Q If you were called upon to deliberate on the
15 question of penalty, and once again for the benefit of
16 everybody present that only occurs if the jury finds the
17 defendant guilty of first degree murder, would you be able
18 to give fair consideration to all three statutory forms of
19 punishment?

20 A Yes.

21 Q Do you have any problem with the notion that the
22 defendant does not have to prove his innocence in this
23 case, but the State must prove the essential elements of
24 the charges beyond a reasonable doubt?

25 A Pardon me, your Honor.

DANETTE L. ANTONACCI, CCR #222

5 A No, I have not problem.

11 A Yes.

13 MR. BELL: Thank you.

17 BY MR. BELL:

23 A I believe that that would be very difficult on a
24 person. My only personal feelings is sometimes with the
25 death penalty it's the easy way out. They do what they did

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1 and they get the penalty and they're gone. But someone who
2 is put in prison for life without parole, it could be a lot
3 harder for them to live the rest of their life in prison.

4 Q You understand the law sort of sees it death,
5 life without, life with?

6 A Yeah.

7 Q You're kind of giving us your flavor if you were
8 convicted what you would want to happen to you; is that a
9 fair summary, the one you want least is life without?

10 A Yeah, definitely.

11 Q Earlier today, and I don't think you folks were
12 here when we first started this proceeding, just as we were
13 getting going a lady stood up in the audience and addressed
14 his Honor and she said, "Your honor, yesterday you asked me
15 if I believed in the death penalty and I said I did and I
16 still do, but I haven't been able to sleep all night.
17 While I believe in it philosophically I don't believe I
18 could be one of the people to make that decision." And the
19 judge and all of us respected her opinion and she was
20 excused. There is an inferential leap between
21 philosophical belief and participating in the process. Do
22 you feel you're the kind of person that if you think that
23 is the appropriate punishment you will be able to
24 participate in that decision?

25 A Yes, definitely.

DANETTE L. ANTONACCI, CCR #222

1 MR. BELL: Pass the juror for cause, your Honor.

2 THE COURT: Thank you.

3 MR. LaPORTA: Thank you, Judge.

4

5

EXAMINATION

6

7 BY MR. LaPORTA:

8 Q Now Mr. Fracaro, in this case the victim was 85
9 years of age. Does that single fact so shock you or you
10 have problems with that that you think it may cloud your
11 ability to impartially judge this case?

12 A I don't think so.

13 Q Additionally in this case we anticipate that the
14 jurors that are selected will see some rather gruesome
15 photos. Do you believe that you would react to these
16 gruesome photos that you're asked to view as part of the
17 evidence, do you believe you would react to these in such a
18 way that you would cease being impartial as to Mr.
19 Castillo?

20 A I think everybody will have some kind of a
21 reaction to what they might see but I don't think, that
22 would not hinder my judgment on the total evidence of the
23 whole case.

24 MR. LaPORTA: Pass for cause, your Honor.

25 THE COURT: Thank you.

DANETTE L. ANTONACCI, CCR #222

EXAMINATION

BY THE COURT:

Q Mr. Guzy?

A Yes.

Q Am I pronouncing it right?

A Either way, Guzy, Guzy. It's pronounced both ways.

Q Mr. Guzy, is there any reason that you can think of why you couldn't be fair to both sides?

A No.

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

A Yeah.

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

A My dad that I know of, that I just remembered about it.

Q What was the arrest for?

A Drunk driving.

Q Anything about his experience that would affect your thinking here?

A No.

Q Have you or any member of your family or close friends of yours ever been the victim of a crime?

DANETTE L. ANTONACCI, CCR #222

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1 A Yeah, my parents' car got stolen one time.

2 Q Anything about the way that was handled by the

3 police that left you with a negative feeling toward law

4 enforcement or the prosecution?

5 A Huh-uh.

6 Q Your answer is no?

7 A No.

8 Q Have you ever been on a jury before?

9 A No.

10 Q Any concern about adverse public opinion --

11 A Huh?

12 Q Any concern about adverse public opinion that

13 might flow from any verdict in this case?

14 A No.

15 Q Have you ever been a participant in any court

16 proceeding as a witness or a party or otherwise?

17 A Huh-uh.

18 Q Is your answer no?

19 A No.

20 Q Okay. Thank you.

21 Any philosophical, moral or religious

22 objections to the imposition of the death penalty?

23 A Huh-uh. No.

24 Q If you were called upon to deliberate the issue

25 of penalty after a verdict of first degree murder, would

1 you be able to consider fairly all three forms of
2 punishment?

3 A Yes.

4 Q Do you have any problem with the notion that the
5 defendant is not required to prove his innocence?

6 A No.

7 Q You believe it's up to the State to prove their
8 case before you can convict the defendant?

9 A Yeah.

10 Q And if you were involved in this case in any way
11 would you feel comfortable with twelve people like you
12 sitting on the panel?

13 A Yes.

14 THE COURT: State of Nevada may inquire.

15 MR. BELL: Thank you, your Honor.

16

17 EXAMINATION

18

19 BY MR. BELL:

20 Q Mr. Guzy, I take it having heard what we've done
21 here you understand the process, to-wit, we have a trial
22 and it's up to the twelve jurors to say that the State has
23 proven its case and the defendant is guilty, or the State
24 has not proven its case to their satisfaction and the
25 defendant is not guilty; correct?

DANETTE L. ANTONACCI, CCR #222

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1 A Yes.

2 Q And then of course if the defendant is found not
3 guilty that's the end of the process. But if the defendant
4 is found guilty of the crime of murder in the first degree,
5 which is one of the charges, then we have another little
6 bit of proceeding where evidence is put on by both sides
7 and the jury has to decide the punishment. Are you with
8 me?

9 A Yeah.

10 Q And the three punishments available are life
11 with parole possibility, life with no parole possibility
12 and the death penalty; is that correct?

13 A Yeah.

14 Q Now you told the Court that you could consider
15 all three of those and you could in an appropriate
16 circumstance impose any one of those; is that correct?

17 A Uh-huh.

18 Q The reason I ask that is because I read your
19 questionnaire to say that you couldn't consider all three.
20 Did you misunderstand the question or is it something that
21 you've developed as a result of this process or did I just
22 misread your questionnaire?

23 A I don't know. I must have misunderstood it.

24 Q Okay. So as you're sitting here today you're
25 comfortable, you can tell the Court and both sides that you

DANETTE L. ANTONACCI, CCR #222

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1 can consider all three punishments if it came to that and
2 you feel like you can make an appropriate decision?

3 A Yes.

4 Q I also notice in your questionnaire at one point
5 you wrote down that you didn't trust the courts.

6 A It's just my aunt who was going through a
7 divorce with her husband and stuff and he did things to
8 her, you know, like break into her car and stuff like that
9 and at one point he chased her right into the police
10 station. They did nothing about it. And when they brought
11 it up in court, all the stuff he's done to her, all he got
12 was like five months period where he had to go to drug
13 rehabilitation. He didn't go to jail or anything else like
14 that. Just --

15 Q So you felt in that particular situation the
16 legal system, the police, the courts, whatever, didn't do
17 enough to protect your aunt?

18 A Yeah.

19 Q Is that your only real personal incident upon
20 which you base that concern?

21 A Yeah.

22 Q Have you ever participated in high school or
23 college or whatever in any mock court proceedings or
24 pretend court proceedings in government class or anything
25 like that?

DANETTE L. ANTONACCI, CCR #222

1 A Huh-uh.

2 MR. BELL: Pass the juror for cause, your Honor.

3
4 EXAMINATION

5
6 BY MR. LaPORTA:

7 Q Good afternoon. In one of your answers you
8 stated that you strongly believe in capital punishment.

9 A Yes.

10 Q Is that true?

11 A Yes.

12 Q How strongly do you believe in it?

13 A Pretty strongly, but I can make a fair decision
14 if it came to that. I just --

15 Q Go ahead.

16 A I just am -- I don't know. I just believe in
17 it. Just save the prison systems. A lot of cut down on
18 prisoners and stuff a lot. That's all.

19 Q Do you believe in it so strongly that it could
20 be the exception for you to consider either life with or
21 without the possibility of parole?

22 A No. I mean I don't understand what you mean the
23 exception.

24 Q Well, it would be the unusual murder case where
25 somebody was convicted of murder that you would consider

DANETTE L. ANTONACCI, CCR #222

WCASTILL0002-ORAM0013
3
#CASTILL0002-ORAM0013

1 life with or without the possibility of parole?

2 A I can consider all three of them.

3 Q You can consider all three of them?

4 A Yeah.

5 Q Would the fact that, to follow-up on the comment
6 that you just made about it would free up the prison and
7 such --

8 A Yeah.

9 Q -- would you let that enter into your
10 decision-making process, the crowded conditions of prison?

11 A No. It depends on the circumstances about it.

12 Q Okay. What is it that you do now for a living.

13 A I'm a box boy for Lucky's.

14 Q How long have you been there?

15 A A little over a year.

16 MR. LaPORTA: Pass for cause, your Honor.

17

18 EXAMINATION

19

20 BY THE COURT:

21 Q All right. Miss Ginn, good afternoon.

22 A Good afternoon.

23 Q Any reason you can think of why you wouldn't be
24 fair to both sides in this case?

25 A No.

DANETTE L. ANTONACCI, CCR #222

WCASTILL0002-ORAN0014

- 3
- 1 Q Can you wait until all the evidence is in before
2 coming to any conclusion about any issue in this case?
- 3 A Yes.
- 4 Q Have you or any member of your family or any
5 friends of yours ever been arrested?
- 6 A No.
- 7 Q Have you or any member of your family or any
8 friends of yours ever been the victim of a crime?
- 9 A No. My bag was stoled.
- 10 Q Someone stole your purse?
- 11 A Yeah.
- 12 Q Anything about that incident that would affect
13 your thinking now?
- 14 A No.
- 15 Q Ever been on a jury before?
- 16 A No.
- 17 Q Any concern about adverse public opinion that
18 might be generated from any verdict in this case?
- 19 A No.
- 20 Q Ever been involved in any court proceeding?
- 21 A No.
- 22 Q As a witness or as a participant?
- 23 A No.
- 24 Q Any conscientious, philosophical, religious or
25 moral objections to the imposition of the death penalty?

DANETTE L. ANTONACCI, CCR #222

WCASTILL00002-GRAM0015

1 A I could not send somebody to death.

2 Q Under no set of circumstances?

3 A No.

4 Q Even though the law of the State of Nevada is
5 such you could not follow the Court's instructions?

6 A It would be hard.

7 Q Well, we've not asked you to come here and make
8 an easy judgment. This is not, this is always a very
9 difficult process and the task of jurors in cases like
10 this, it's not easy. Now there is a difference between
11 whether or not it would be difficult for you and that you
12 would have to deliberate on it very carefully before you
13 would, or would you be unable to under any circumstance.
14 So the question is would you be able to follow the Court's
15 instructions and consider fairly that form of punishment?

16 A You mean of death? No.

17 Q The answer is no?

18 A Uh-huh.

19 THE COURT: I'm satisfied, counsel.

20 MR. HARMON: We challenge for cause, your Honor.

21 MR. LAPORTA: Fine, your Honor.

22 THE COURT: Miss Ginn, thank you very much for
23 your candor. If you would report to the jury commission.
24 I'm sorry, we asked that question yesterday. Maybe you
25 didn't hear it. We could have maybe saved you today.

DANETTE L. ANTONACCI, CCR #222

JUROR #313: Oh, sorry.

THE COURT: Thank you.

Call the next juror.

THE CLERK: Badge number 326, Roy J. Kirk,
K-i-r-k.

MR. LaPORTA: I'm sorry, what was the badge
number again?

THE COURT: 326.

MR. LaPORTA: Thank you.

EXAMINATION

BY THE COURT:

Q Good afternoon, Mr. Kirk.

A Hi.

Q Any reason you can think of why you couldn't be
fair to both sides?

A No.

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

A Yes.

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

A Not that I know of.

Q Have you or any member of your family or close

DANETTE L. ANTONACCI, CCR #222

WCASTILL0002-ORAM0017

1 friends of yours ever been a victim of a crime?

2 A I was mugged in the nation's capital.

3 Q How long ago was there?

4 A Maybe ten years ago.

5 Q Anything about the way it was handled that would
6 affect your thinking in this case?

7 A No.

8 Q Anything about the fact that you were involved
9 in a violent criminal act that would make you not be fair
10 to both the defendant and the State?

11 A No.

12 Q That was then, this is now?

13 A That's right.

14 Q Ever been on a jury before?

15 A No.

16 Q Any concern about adverse public opinion as a
17 result of any verdict in this case?

18 A No.

19 Q Ever been involved in a court proceeding in any
20 way as a party or a witness?

21 A Not in court proceeding. I did sue a developer
22 at one time but we settled out of court.

23 Q Anything about your participation in the system
24 in that way that would affect your thinking?

25 A No.

DANETTE L. ANTONACCI, CCR #222

WCASTILL00002-ORAM0018

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

A No.

Q Could you in a proper case give fair consideration to the death penalty as well as the other two forms of punishment?

A Yes.

Q So in a proper, if given the circumstances of the case, you could consider any of the three possible penalties?

A Yes.

Q Do you have any problem with the notion that the defendant in any criminal trial in the United States does not have to prove his innocence?

A No problem.

Q And you understand it's the duty and the burden of the prosecution to prove each and every element of the charges in this case beyond a reasonable doubt?

A Yes.

Q No problem with that?

A No problem.

Q Comfortable with that notion?

A Yeah.

Q So of course you can follow my instructions in

DANETTE L. ANTONACCI, CCR #222

WCASTILL0002-DRAM0019

4
1 that regard?

2 A Yes.

3 Q If you were involved in this case for example as
4 a family member of Mr. Castillo or a family member of the
5 victim in this case, would you be comfortable with twelve
6 people just like you sitting over there?

7 A Yes.

8 THE COURT: State may inquire.

9
10 EXAMINATION

11
12 BY MR. BELL:

13 Q I'm sorry, Mr. Kirk, the judge usually asks this
14 and he probably did and I missed it. Have you had prior
15 jury service?

16 A No.

17 MR. BELL: Judge, we'll pass for cause.

18 THE COURT: Thank you.

19 MR. LaPORTA: Thank you, Judge.

20
21 EXAMINATION

22
23 BY MR. LaPORTA:

24 Q Mr. Kirk, what is it that you do for a living
25 right now?

DANETTE L. ANTONACCI, CCR #222

WCASTILL00002-ORAM0020

- 4
- 1 A I'm retired.
- 2 Q What did you do prior to this?
- 3 A I worked for the U.S. General Accounting Office
- 4 in Washington D.C.
- 5 Q In your questionnaire you stated that you agreed
- 6 with the statement that if an individual is charged or
- 7 charges are brought against that individual and it's
- 8 brought to this point that he's probably guilty; is that
- 9 true?
- 10 A No, I must have misread.
- 11 Q So you believe --
- 12 A I believe that the system and the court should
- 13 proceed and when the evidence is presented, then based on
- 14 the evidence make a decision.
- 15 Q So you believe that an individual is innocent
- 16 until --
- 17 A That's true.
- 18 Q -- the State has met their burden?
- 19 A Right.
- 20 Q If you sit on the jury panel if you're selected
- 21 and Mr. Castillo is eventually found to be guilty of first
- 22 degree murder, do you believe that life with the
- 23 possibility of parole is a possibility in your mind?
- 24 A If the circumstances are such in the case, yes.
- 25 Q Okay. And as to circumstances, are you talking

DANETTE L. ANTONACCI, CCR #222

WCASTILL0002-ORAM0021

1 about just the crime itself, the facts surrounding the
2 crime?

3 A No, I'd have to look at the whole picture what
4 happened and background.

5 Q Would that picture include the individual and
6 the facts surrounding his life?

7 A Yes.

8 MR. LaPORTA: Pass for cause, your Honor.

9 THE COURT: Thank you.

10

11 EXAMINATION

12

13 BY THE COURT:

14 Q Mr. Pagano?

15 A Yes.

16 Q Any reason that you can think of why you
17 couldn't be fair to both sides in this case?

18 A No.

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

21 A Yes.

22 Q Have you or any member of your family or friends
23 ever been arrested?

24 A Not that I can think of.

25 Q Have you or any member of your family or friends

DANETTE L. ANTONACCI, CCR #222

WCASTILL0002-ORAM0022

1 ever been the victim of a crime?

2 A No.

3 Q Ever been on a jury before?

4 A No, I haven't.

5 Q Any concerns about adverse public opinion?

6 A No.

7 Q Ever been a participant in a court proceeding as
8 a witness or a party?

9 A I was a witness, yes. I was bit by a dog when I
10 was twelve so we sued the person and then I was there to
11 testify.

12 Q Anything about that experience that would color
13 your thinking now?

14 A No.

15 Q Any conscientious, moral or religious objections
16 to the imposition of the death penalty?

17 A No.

18 Q If you were called upon to deliberate on the
19 question of penalty, that is if the defendant is convicted
20 of first degree murder, will you be able to give fair
21 consideration to all three statutory forms of punishment?

22 A Yes.

23 Q And do you have any problem with the notion that
24 the defendant has no obligation to prove his innocence in
25 the case?

DANETTE L. ANTONACCI, CCR #222

WCASTILL0002-GRAM0023

5

1 A Can you repeat that again please?

2 Q Do you have any problem with the notion, the
3 proposition in our justice system that a defendant does not
4 have to prove his innocence?

5 A No.

6 Q In other words, you understand that in order to
7 convict it's the State that must meet its burden of proof?

8 A Yes.

9 Q If you were involved in this case would you feel
10 comfortable with twelve people just like you sitting on the
11 jury?

12 A Yes, I would be.

13 THE COURT: State may inquire.

14 MR. BELL: Yes, your Honor. Thank you.
15

16 EXAMINATION

17
18 BY MR. BELL:

19 Q Mr. Pagano, do you remember sometime yesterday
20 Mr. Harmon got up and kind of gave you a little brief
21 recitation of what we were looking at here?

22 A Yes, I do.

23 Q And he indicated that the State has brought
24 charges of conspiracy, burglary, robbery, murder, burglary
25 and arson?

DANETTE L. ANTONACCI, CCR #222

WCASTILL0002-ORAM0024

5

1 A Yes.

2 Q Anything about any of those charges which would
3 give you any difficulty sitting in the jury seat?

4 A No.

5 Q How do you feel about the opportunity to
6 participant in the criminal process?

7 A I feel privileged. It's a learning experience,
8 you know, myself since I study criminal justice.

9 Q If you have that opportunity ultimately would
10 you want, if you were the State of Nevada, represented the
11 State of Nevada, people who have the same frame of mind as
12 you to make the decisions?

13 A Yes.

14 MR. BELL: Pass for cause, Judge.

15 THE COURT: Defense.

16 MR. LaPORTA: Thank you, Judge.

17

18 EXAMINATION

19

20 BY MR. LaPORTA:

21 Q Mr. Pagano, good afternoon.

22 A Good afternoon.

23 Q Criminal justice, are you still pursuing that
24 degree?

25 A I studied that in New Jersey. I moved out here

DANETTE L. ANTONACCI, CCR #222

WCASTILL0002-ORAM0025

5

1 a year ago and was not able to go to college.

2 Q What brought you out here?

3 A The jobs and the taxes were cheaper.

4 Q I can relate to that. What do you do right now?

5 A As of yesterday I was employed but when I went
6 to work they said I was no longer employed.

7 THE COURT: Does that have anything to do with
8 this?

9 JUROR #320: No, it does not. They said they
10 they needed someone with more qualifications. That's what
11 they told me so that's what I'm saying.

12 THE COURT: No, employer under the law of the
13 State of Nevada has the right to terminate your services
14 because of jury service. In fact it's a crime to do so.

15 JUROR #320: I understand that and I believe
16 they understand that also.

17 BY MR. LaPORTA:

18 Q Where is it that you do work?

19 A I did work at Harley Davidson Dealership.

20 Q What is it that you did with them?

21 A I was their partsman.

22 Q In your questionnaire you stated that one of the
23 reasons there is a crime problem these days is that no one
24 is willing to take responsibility for their actions. Can
25 you expand on that a little bit? Tell us a little more

DANETTE L. ANTONACCI, CCR #222

WCASTILL0002-ORAM0026

1 about your feelings.

2 A I don't believe that -- everyone wants to pass
3 the buck. A lot of people, they'll blame it on something
4 else and they're not willing to accept their actions as to
5 what they did. They'll blame it on music or they'll blame
6 it on T.V.

7 Q Tell us what you think the role of the death
8 penalty is in society today. When should it be used?

9 A It first started, from what I know it first
10 started as a deterrent and I don't believe it actually
11 works as a deterrent where there would be no crimes. If it
12 fits the crime then it's an option that I'll use.

13 Q Is everybody convicted of first degree murder
14 deserving of the death penalty in your mind?

15 A It depends. The State has to prove that or not.

16 Q So what you're saying is that you would listen
17 to both sides?

18 A I would listen to everything everybody had to
19 say before I made a judgment.

20 Q So you would listen to, not only to the facts
21 surrounding the particular crime, but you would also listen
22 to facts surrounding the life and the circumstances of Mr.
23 Castillo?

24 A Yes I would,

25 MR. LaPORTA: Pass for cause your Honor.

DANETTE L. ANTONACCI, CCR #222

THE COURT: Thank you.

EXAMINATION

BY THE COURT:

Q Mr. Motis, am I pronouncing your name correctly?

A Yes.

Q Any reason you can think of why you wouldn't be fair to both sides in this case?

A Yes, your Honor. After thinking about it last night and hearing the questions this morning I don't think I would be fair and impartial. My father five years ago was murdered and I think that would cloud my judgment and probably have an unfair bias towards the victims in this case.

MR. BELL: No objection, Judge.

MR. LaPORTA: No objection, Judge.

THE COURT: You're excused from jury service
Thank you very much. Good luck.

THE CLERK: Badge number 329, Kelly Lynn Lea,
L-e-a.

///

DANETTE L. ANTONACCI, CCR #222

EXAMINATION

WCASTILL0002-GRAM0028

BY THE COURT:

Q Miss Lea or is it Léa?

A Lea.

Q Any reason you couldn't be fair to both sides in this case?

A No.

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

A Yes.

Q Have you or any members of your family or any close personal friends of yours ever been arrested?

A No.

Q You or any member of your family or close friends ever been convicted of a crime?

A Yes.

Q How so?

A My sister and nephew were robbed at gunpoint in their home about two years ago and I was, about five years ago I was in my home and a burglar came in and I just locked the door and called 911. So nothing really happened to me.

Q Anything about those incidents that would affect your thinking here?

DANETTE L. ANTONACCI, CCR #222

WCASTILL0002-ORAM0029

6

1 A I don't think so.

2 Q You can put those aside and judge this case on
3 its particular facts?

4 A I think so.

5 Q You and your family have both been the victims
6 of intrusions into the privacy of your homes.

7 A Uh-huh.

8 Q That is one of the issues in this case. That is
9 going to be one of the issues in this case. Will you be
10 able to put those personal experiences aside and fairly
11 judge whether or not the State has met its burden in this
12 case and also fairly judge the question of penalty if it
13 gets that far?

14 A Yes.

15 Q Have you ever been on a jury before?

16 A No.

17 Q Any concern about adverse public opinion that
18 might result from any verdict you would render in the case?

19 A No.

20 Q Ever been involved in a court proceeding as a
21 party or as a witness?

22 A No.

23 Q Do you have any relatives in the legal
24 profession?

25 A My grandfather was a judge here in Clark County

DANETTE L. ANTONACCI, CCR #222

WCASTILL0002-ORAM0030

- 6
- 1 for several years and I have an uncle who is an attorney
2 here in attorney.
- 3 Q Is it Tom Lee?
- 4 A No. It was actually John Bonner.
- 5 Q John Bonner. Okay. And of course his son
6 Michael?
- 7 A Right.
- 8 Q Who was your grandfather?
- 9 A John Bonner.
- 10 Q He was a judge here?
- 11 A Uh-huh.
- 12 Q I tried the last case against him years ago.
- 13 A Years ago.
- 14 Q In any event anything about your knowledge of
15 their work that would affect your thinking about the case
16 in this?
- 17 A No.
- 18 Q They're essentially civil lawyers.
- 19 A Uh-huh.
- 20 Q You didn't have any discussion with those
21 gentlemen about the criminal justice system?
- 22 A No.
- 23 Q Any religious, conscientious or moral objections
24 to the death penalty?
- 25 A No.

DANETTE L. ANTONACCI, CCR #222

WCASTILL0002-ORAM0031

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1 Q Will you be able to fairly consider all three
2 forms of penalty if you're called upon to determine the
3 question of punishment in this case?

4 A I would lean towards the harsher type penalties
5 but I would be open to listening to why I should maybe. I
6 don't want to say lean the other way but, yes, I would
7 listen to everything.

8 Q So you have a general view first degree murder
9 should be dealt with harshly?

10 A Harshly, yes.

11 Q The legislature has created three penalties I
12 think that everyone can agree fall into that category. The
13 question is can you give fair consideration to any of these
14 three very serious penalties?

15 A Yes.

16 Q Any problem with the notion that the defense
17 does not have to establish that the defendant was innocent?

18 A No.

19 Q In other words before you can convict you'll put
20 the State to its burden of proof?

21 A Uh-huh.

22 Q If you were involved in this matter, say you
23 were a relative of the victim or a relative of Mr.
24 Castillo, would you feel comfortable with twelve people
25 with your sense of fairness sitting in the case as jurors?

DANETTE L. ANTONACCI, CCR #222

WCASTILL0002-DRAM0032

6 1 A If I were a member of Mr. Castillo's family I
2 might want someone maybe less inclined to, maybe to be more
3 lenient.

4 Q Well, you have to understand first of all you
5 have two, you may have two issues. It's not essential that
6 you would have two issues. First the State has to prove
7 its case on the issue of guilt of these charges.

8 A I understand all that.

9 Q So you have not prejudged this case in any way?

10 A No. In general I probably am not as lenient as
11 some people I know.

12 Q But that's a penalty issue.

13 A Okay. I just wanted to vocalize that.

14 Q I understand and we want you to.

15 Do you agree with that notion that what
16 we're talking about here in terms of your philosophy is a
17 penalty issue?

18 A Yes.

19 Q Not a guilt issue?

20 A Right.

7 21 Q That being said can you, knowing that the law in
22 the State of Nevada allows all three forms of penalty and
23 in fact compels the jury to consider all three forms of
24 penalty, will you be able to follow those instructions?

25 A Yes.

DANETTE L. ANTONACCI, CCR #222

WCASTILL0002-ORAM0033

7

1 Q And so again would you feel like you were
2 getting a fair trial if you were a juror in your case?

3 A Yes.

4 Q And you stood charged with something like this?

5 A Yes.

6 THE COURT: The State can inquire.

7 MR. HARMON: Thank you, your Honor.

8

9

EXAMINATION

10

11 BY MR. HARMON:

12 Q Good afternoon. You're indicating that you I
13 would gather think that persons who commit serious crimes
14 should be held personally responsible?

15 A Absolutely.

16 Q And if it's a serious crime ought to have a
17 harsher punishment?

18 A Absolutely.

19 Q But are you going to be objective about the way
20 you approach this case?

21 A I have no preconceived notions about anything.
22 I will listen to all the evidence. I will follow the
23 instructions given to me by the judge.

24 Q You're completely open-minded?

25 A Completely open-minded.

DANETTE L. ANTONACCI, CCR #222

WCASTILL0002-ORAM0034

7 1 Q Have you heard anything about this case before
2 you came to --

3 A I remember hearing something on it on the news
4 but I don't remember the specifics of it.

5 Q Do you agree that a true and just burden must be
6 based solely upon what evidence is introduced during the
7 trial?

8 A Yes, I do. Yes, I do.

9 Q Would you adhere to that principle?

10 A Yes, I would.

11 Q I note that you have a small child, a little
12 boy.

13 A Uh-huh.

14 Q Will he be taken care of while you're here?

15 A Yes. I'm a single mother and his day care, I
16 have him all set up. So hopefully we wouldn't be much
17 later than 5:30 or 6:00 every night if that were the case.

18 Q You're a paralegal by training?

19 A Uh-huh.

20 Q Is that going to give you any preconceived ideas
21 about what the law ought to be in this case?

22 A No.

23 Q Do you understand regardless of a juror's
24 background outside of the courtroom that the juror has an
25 obligation, a sworn duty to follow the Court's instruction?

DANETTE L. ANTONACCI, CCR #222

WCASTILL0002-ORAM0035

7 1 A Absolutely. I understand that our system is
2 probably not perfect but it's the best that there is and
3 that is the way the system works.

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

5 THE COURT: Mr. Schieck for the defense.

6 MR. SCHIECK: Thank you.

7
8 EXAMINATION

9
10 BY MR. SCHIECK:

11 Q Miss Lea, you took some paralegal training
12 courses?

13 A Uh-huh.

14 Q Is that yes?

15 A Yes.

16 Q You have to say yes or no for the court
17 reporter.

18 A I recall that. Yes.

19 Q Any of those classes involve criminal law or
20 criminal procedure?

21 A My major was in civil litigation.

22 Q And you're working for a firm now in town?

23 A Civil litigation.

24 Q What firm are you working for?

25 A Pico and Mitchell.

DANETTE L. ANTONACCI, CCR #222

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Respondents.

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

VOLUME 14 of 21

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3
1 need you up there.

2 Am I pronouncing your name correctly?

3 A You are.

4 Q Any reason you can think of why you couldn't be
5 fair to both sides in this case?

6 A No.

7 Q You can wait until all the evidence comes in
8 before coming to any conclusion about any issue?

9 A Absolutely.

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

12 A No.

13 Q You, any member of your family or close friends
14 of yours been the victim of a crime?

15 A No.

16 Q Ever been on a jury before?

17 A No.

18 Q Any concern about adverse public opinion?

19 A No.

20 Q Ever been involved in any kind of court
21 proceeding in any way prior to this?

22 A Just a divorce.

23 Q Anything about that interaction with the court
24 system that would affect your thinking in a case like this?

25 A No.

- 641

1 Q Do you have any moral, religious or
2 conscientious objections to the imposition of the death
3 penalty?

4 A No.

5 Q If you are selected to serve as a juror in this
6 case and you're called to deliberate on the question of
7 penalty, which would only occur if the defendant was
8 convicted of first degree murder, would you be able to give
9 fair consideration to all three statutory forms of
10 punishment, the death penalty, life with parole, life
11 without parole?

12 A Absolutely.

13 Q If you are involved in this particular case,
14 would you feel comfortable with 12 people with your sense of
15 fairness sitting on the matter?

16 A Yes.

17 THE COURT: State of Nevada may inquire.

18 MR. HARMON: Thank you, Your Honor.

19

20 EXAMINATION

21 BY MR. HARMON:

22 Q Mrs. Malmedal, you indicated in the
23 questionnaire that you were born in London, England?

24 A Correct.

25 Q How long have you been in this country?

642

4 1 A I've been in this country since 1968.

2 Q What occasioned your moving to the United
3 States?

4 A My mother and father were both English subjects
5 and they just decided to move to the United States. I was
6 nine years old. I didn't have much choice.

7 Q Are your parents still living?

8 A My mother is alive. My father passed away last
9 year.

10 Q You have an eight year old child?

11 A Yes.

12 Q Our information tells us that you are a manager
13 of --

14 A I'm the office manager for Dr. Wrightson and
15 Dr. Zak, OB/GYN doctors.

16 Q How long have you been doing that?

17 A I've been there seven years.

18 Q You indicated that you were probably
19 conservative. What does that mean?

20 A Well, I look conservative as I look at both
21 sides. That's the way I look at being conservative.

22 Q So you believe in this type of situation that
23 you can certainly be objective and look at the various
24 issues involved?

25 A Yes.

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1 Q And weigh them fairly and impartially?

2 A Yes.

3 Q Are you the type of person who is going to be

4 able to pass judgment upon the defendant Mr. Castillo?

5 A Can I pass judgment after I've heard the trial

6 you mean?

7 Q Yes. I'm not asking you to have a prejudgment.

8 A Right.

9 Q But after you have heard the evidence first of

10 all can you address the issue of guilt or not guilty?

11 A Yes, I can.

12 Q Assuming for the sake of my questions that Mr.

13 Castillo was found guilty beyond a reasonable doubt and

14 convicted of murder in the first degree, are you able to

15 consider the various punishments provided?

16 A Yes.

17 Q If the matter is left solely up to you and you

18 were a legislator, say, for a day, would we have capital

19 punishment in this state?

20 A Yes, we would.

21 Q Why would we?

22 A I believe that we should have capital

23 punishment because I feel that a person needs to be

24 responsible for their acts.

25 Q The defendant is obviously a young man. If

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1 you're selected on the jury and if there's a penalty hearing
2 and if the punishment must be selected, if you personally,
3 after you had heard all the evidence and considered what
4 there is that may aggravate this case and what mitigating
5 circumstances exist on behalf of the defendant, if you
6 conscientiously believed that a death sentence was proper,
7 would you have the strength of your conviction to come into
8 the courtroom and vote in that way?

9 A Yes, I would.

10 Q How do you feel about the opportunity of
11 serving as a juror on this type of case?

12 A I have wanted to be on a jury ever since I
13 became a citizen.

14 Q Now, you're one of a number of people who
15 indicated that from your particular point of view the worst
16 punishment is life without parole?

17 A Yes.

18 Q And of course you gave us your reasons for
19 that. However, as the court has informed you the sworn duty
20 of a juror is to follow the court's legal instructions. At
21 every phase of this trial whether it's the phase which
22 determines guilt or innocence or the penalty hearing the
23 court will give you legal instructions which serve as a
24 guidance to assist the jury and you have a responsibility to
25 follow. Given the instructions and the evidence when it

1 came to determining punishment, if that is to be the
2 responsibility of the jury, would you be able to set aside
3 your feelings about what might be personally the worst to
4 you and vote for the punishment that was appropriate to this
5 crime?

6 A Oh, absolutely. That was my feeling what I
7 would prefer done with me.

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

9 THE COURT: For the defense.

10 MR. SCHIECK: Thank you, Your Honor.

11
12 EXAMINATION

13 BY MR. SCHIECK:

14 Q Mrs. Malmedal, you indicated that you believe
15 that capital punishment is necessary because a person needs
16 to be responsible for a person's acts. Is there any other
17 roll that you feel capital punishment plays?

18 A I really haven't ever sat and thought about
19 capital punishment that much to be honest with you but I did
20 yesterday afternoon think about it when that question was
21 asked of me and I'm not sure it was a fast assessment or
22 not. But I've never really thought about capital punishment
23 that much. I just felt that people need to be responsible
24 for what they do and I am not against the death penalty.

25 Q Have you ever thought about other forms of

1 punishment, for instance whether someone that commits a
2 murder should ever be eligible for parole?

3 A Yes.

4 Q And what have you thought about that?

5 A I feel that depending on what the crime was I
6 feel that if after listening to all the evidence I would
7 listen to what a judge had to say and I would take all those
8 into consideration as what the crime was and what the
9 punishment should be.

10 Q Well, we know the crime is murder. The
11 question is what you're saying you'd have to take into
12 account the circumstances of the crime in deciding whether
13 or not you could consider a punishment that would allow for
14 parole?

15 A I have absolutely no idea what this case is
16 about so it's really hard for me to -- I didn't know who
17 this gentleman was until I saw him just now so I don't know
18 what the case is about.

19 Q As you're sitting here your mind is open to all
20 three possible punishments?

21 A Yes.

22 Q And do you understand that just because we're
23 talking to you about punishment doesn't mean we're conceding
24 that you should find Mr. Castillo guilty?

25 A (No oral response).

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1 Q Because of the nature of the system we have to
2 ask these questions at the beginning of the case?

3 A I understand that.

4 Q With respect to the cause of the crime problem
5 you indicate it starts with the kids, more parent
6 participation is needed.

7 A Yes. Being an active mother I find that a lot
8 of the times I'm taking other children whose parents just
9 don't have the time. Sometimes I wonder if the parents had
10 more time to spend with their children then the children
11 wouldn't get in trouble.

12 Q So do some of these children that you watch get
13 in trouble periodically?

14 A I wonder well they are a little bit naughtier
15 than my son, yes.

16 Q And you sort of blame that on the parents not
17 taking the time to participate with the children?

18 A I wonder whether or not that has something to
19 do with children doing certain things for attention.

20 Q You indicated that with respect to giving more
21 weight to the testimony of a police officer you said you
22 would hope that you could believe what he says and hopefully
23 trust them. Does that mean you're going to give more weight
24 to their testimony?

25 A I always group up with the -- my parents

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5 1 telling me if you get in trouble, you get lost, you find a
2 policeman. So I always looked at a policeman as being
3 somebody who I could trust.

4 Q It doesn't mean you're necessarily going to
5 believe their testimony over someone else's?

6 A Right.

7 MR. SCHIECK: We would pass for cause, Your
8 Honor.

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10 EXAMINATION

11 BY THE COURT:

12 Q Mr. Sheptow, any reason you can think of why
13 you couldn't be fair to both sides in this case?

14 A No, sir.

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

17 A Yes.

18 Q Have you or anybody in your family or close
19 friends ever been arrested?

20 A Brother-in-law. I had a brother-in-law for
21 income tax evasion.

22 Q In this state that may or may not be. Just if
23 you read the newspapers. I say that tongue in cheek, Mr.
24 Sheptow.

25 Anything about his experience with law

5 1 enforcement that would affect your judgment in this case?

2 A No, sir.

3 Q Anyone else that you can think of, any friends,
4 anybody been arrested?

5 A No.

6 Q Anyone in your family, friends of yours ever
7 been the victim of a crime?

8 A No.

9 Q Ever been on a jury before?

10 A No.

11 Q Any concern about adverse public opinion?

12 A No.

13 Q Have you ever been involved in any kind of
14 legal proceeding in any capacity whether a civil or criminal
15 case as a witness or party?

16 A No, sir.

17 Q Do you have any conscientious, moral or
18 religious objections to the death penalty?

19 A No.

20 Q If you were called to deliberate in this case
21 and to decide the issue of penalty, and again that would
22 occur only if the defendant was convicted of first degree
23 murder, would you be able to give fair consideration to all
24 three alternative forms of punishment?

25 A Yes, sir.

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6 1 Q If you were involved in this case yourself as a
2 witness or a family member of a witness or as a party or a
3 family member of a party to this incident, to this action,
4 would you feel comfortable with 12 people with your sense of
5 fairness and in your frame of mind sitting in judgment on
6 your case?

7 A Yes.

8 THE COURT: The State may inquire.

9 MR. HARMON: Thank you, Your Honor.

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11 EXAMINATION

12 BY MR. HARMON:

13 Q Are we pronouncing your name correctly,
14 Sheptow?

15 A Sheptow.

16 Q You are a five year resident of Clark County?

17 A Yes, sir.

18 Q Where did you move from?

19 A California.

20 Q Why did you come to Southern Nevada?

21 A Change of income.

22 Q Are you retired, sir?

23 A Yes.

24 Q What did you do during your active working
25 life?

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6 1 A What?

2 Q What was your employment prior to retirement?

3 A I was -- I had my own wholesale automobile
4 ignition parts company.

5 Q Are you in a circumstance now where you could
6 devote your full attention to this trial should you be
7 selected as trial juror?

8 A Yes, sir.

9 Q You mentioned that you have I believe it's four
10 children?

11 A Yes.

12 Q What are their ages?

13 A 48, 41, 40, 38.

14 Q The court inquired about any arrests that
15 involve family or close friends. How long ago was the
16 situation with your brother-in-law?

17 A Brother-in-law about 22 years ago, 23.

18 Q Do you harbor any type of ill-feeling toward
19 law enforcement or the courts because of that situation?

20 A No, sir.

21 Q I take it that that wouldn't have any affect at
22 all on this case?

23 A No.

24 Q How do you feel about the opportunity to serve
25 on this case as a juror?

6

1 A Looking forward to do jury duty.

2 Q If Mr. Castillo the defendant should be
3 convicted and you were involved in the process of fixing a
4 punishment, do you feel that you're the type of person who
5 would be able to pass judgment?

6 A Yes, sir.

7 Q Occasionally we encounter people who find that
8 easy at least in the abstract to make the tough decisions
9 required of passing judgment, but they have a different
10 attitude when they're seated in the jury box and it is their
11 personal responsibility. Do you feel you could carry it
12 out?

13 A Yes.

14 Q Is there anything about the age range of the
15 defendant or the age of the victim which we recited as being
16 an older lady which would affect your ability to be fair and
17 impartial?

18 A No.

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

20 THE COURT: You may inquire, Mr. Schieck.

21 MR. SCHIECK: Thank you.

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23 EXAMINATION

24 BY MR. SCHIECK:

25 Q Have you ever really thought about the death

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1 penalty?

2 A Yes.

3 Q What type of occasions caused you to think
4 about the death penalty?

5 A Just cases that I've read in the paper or TV.

6 Q What purpose do you think or what roll do you
7 think the death penalty plays in our justice system?

8 A A person has to be responsible for what they
9 do.

10 Q Do you think it serves as a deterrent?

11 A I'm not sure.

12 Q In your questionnaire you were asked a question
13 about what was wrong with the criminal justice system in the
14 State of Nevada and you indicated it's too slow. What do
15 you base that on?

16 A What I've read.

17 Q Any particular case that comes to mind?

18 A No, sir.

19 Q Now, you spent the majority of your adult life
20 in California; is that true?

21 A No.

22 Q The last place that you lived was in
23 California?

24 A Yes.

25 Q How long did you live there?

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1 A For 14 years.

2 Q Did you find that their criminal justice system
3 was slow?

4 A I don't know.

5 Q You have family members that are attorneys or
6 judges, you indicated nephews?

7 A Yes.

8 Q Where is that?

9 A One is in Wisconsin, one is in New Jersey now
10 and I think that's all.

11 Q You don't talk with them at all about their
12 work?

13 A No.

14 Q With respect to the crime problem you indicated
15 we need more education, more employment. Can you expand on
16 that a little bit and tell us how you think that'll solve
17 the crime problem.

18 A I think people in lower income bracket need
19 better employment to reduce crime. Education will help
20 anybody.

21 Q You said crime is having a financial factor to
22 it, though?

23 A Yes.

24 Q With respect to the three possible forms of
25 punishment there was a question about what you think is the

6 1 worst possible punishment and your answer was death and you
2 indicated death is final and then info may change. What
3 does that mean?

4 A If a person is in prison, sometimes they can
5 get out with the right information, new information. If
6 they got a chance.

7 Q Do you think that someone who is convicted of
8 first degree murder should have a chance to get out on
9 parole?

10 A I don't know.

11 Q That's one of the possible forms of punishment
12 in this case and you've told the judge that you could
13 consider that form of punishment equally. Could you?

14 A Yes.

15 Q Deep inside yourself say that if someone was
16 convicted of first degree murder, you could give equal
17 consideration of a sentence that would allow that person to
18 be allowed back to the streets?

19 A Yes.

20 Q And that's equal to the consideration of the
21 death penalty?

22 A Yes.

23 MR. SCHIECK: Thank you. We'd pass for cause,
24 Your Honor.

25 THE COURT: Thank you, Mr. Schieck.

EXAMINATION

BY THE COURT:

Q Mr. Powers, good afternoon.

A Good afternoon.

Q Any reason that you can think of why you couldn't be fair to both sides in this case?

A No, Your Honor.

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

A Yes, I would wait until the evidence is in.

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

A I've had a couple of children arrested for playing hooky and stuff like that.

Q They're still at large?

A They're still around.

Q Anything about their interaction with law enforcement that would affect your judgment in this case?

A No.

Q Only reason I tease a little bit about that if that's the most serious confrontation you have, I think you're in pretty good shape.

A So far.

Q Anyone in your family or friends of yours ever been the victim or you?

7
1 A I was assaulted when I was about 17 years old.
2 That's about it.

3 Q Anything about that interaction, the way the
4 police handled it that would affect your thinking about a
5 law enforcement agency or police department?

6 A No. Just an incident that took place 45 years
7 ago and it's out of my mind basically. But I was a victim
8 of a crime.

9 Q So that was then and this is now and you can
10 put that aside and render your judgment based upon what you
11 hear in the courtroom?

12 A Yes.

13 Q Ever been on a jury before?

14 A Never.

15 Q Ever been involved in legal proceedings?

16 A In the nature of my work from time to time I
17 get involved. I work in a bank and sometimes there's
18 litigation and I've had to testify in court.

19 Q Most commonly over a business transaction, one
20 of the bank's clients gets involved in and you have to come
21 and testify about the negotiations or something?

22 A Or there have been one or two cases where
23 there's been bank robberies. It just entered my mind so
24 that would be criminal cases. I've testified in those
25 cases.

1 Q Anything about your experiences in that regard
2 that would affect your judgment in assessing the facts of
3 this case and applying them to the State's burden of proof?

4 A No.

5 Q Any concern about adverse public opinion by
6 virtue of any verdict you might render?

7 A None.

8 Q Any conscientious, moral or religious
9 objections to the death penalty?

10 A None.

11 Q If you were to sit in judgment on the issue of
12 punishment in this case, would you be able to give fair
13 consideration to all three statutory forms of punishment?

14 A Yes. It's the law of the state and I would
15 have no trouble in dealing with that.

16 Q So based upon the facts as they come out you
17 could give fair consideration to all three forms of
18 punishment?

19 A I believe I could.

20 Q If you were involved in this case would you
21 feel comfortable with 12 people with your sense of fairness
22 and judgment sitting on the matter?

23 A I would feel comfortable, yes.

24 THE COURT: The State may inquire.

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EXAMINATION

BY MR. BELL:

Q The judge's last question if you were involved in this case would you want 12 people with a like mind as yourself, would that be wherever you're involved, for example, if you were a family member sitting in Mr. Castillo's chair, would you want 12 people of a like mind as yourself?

A Yes. I don't mean to ramble here but I think I have an opinion that the jury system has its inherent faults but I believe it's the best system we have and I would want that.

Q I agree with you. And likewise if you had the responsibility that Mr. Harmon and I have to represent the people and see that their interest in a particular circumstance is heard, likewise we would want 12 people of a like mind as yourself?

A Yes, I would.

Q And I noticed you had a stint with the Army. Was that a career stint or was that just an enlistment?

A 18 years old and wanted to get away from New York City and didn't want to go to college.

Q Any MP duty?

A None.

Q I also note that you indicated you considered

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1 yourself a very religious person and I don't intend to
2 inquire about that, I think that is primarily a private
3 matter. I would inquire whether anything about that would
4 affect your belief or your ability to serve as a juror?

5 A If I said very I didn't mean the word very. I
6 go to church and believe in my religion.

7 Q You also said that the criminal justice system
8 is broke. Now, without being too critical of us that work
9 in it what's wrong with it? What did you mean by that?

10 THE COURT: Maybe he can't answer that question
11 without being too critical but go ahead.

12 THE JUROR: I feel that it moves too slowly and
13 I feel that the -- I thoroughly believe in our constitution
14 and all the amendments to it, but I believe that the balance
15 given to the rights of a defendant are sometimes extreme.

16 BY MR. BELL:

17 Q Earlier you said you believe in the jury system
18 and you think it's the best. You can see where the jury
19 system itself adds in part to the time it takes to process
20 criminal cases, correct? I mean we're going to do this two
21 or three days. If we just tried this case to Judge Maupin
22 we'd be halfway through by now you can understand and you
23 wouldn't I take it abandon the jury system in favor of
24 expedition?

25 A No.

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1 Q Now, obviously a key question to every juror is
2 whether or not each side can have fair consideration given
3 to the penalty, if we get to that, as each is going to be
4 urged upon you?

5 A Yes.

6 Q You can consider all three, weigh them fairly
7 and whatever you in your mind -- if you are in agreement
8 with your other 12 jurors and believe what is the fair
9 punishment for the facts as they unfold before you, you have
10 no difficulty with coming in and looking at both sides and
11 saying this is my decision?

12 A Quite candidly I shutter at the responsibility
13 of someone's life, but it is the law and I can accept and
14 respect that and act accordingly.

15 Q And it is an awesome responsibility and believe
16 me there are some people that can't shoulder that and I
17 think all of us would agree that we respect that. You know,
18 I don't think I'd like to be in an operating room cutting
19 people with blood, we all do some things and find other
20 things difficult. What we need to do, however, is be sure
21 that the 12 people sitting up here can shoulder that
22 responsibility fairly for both sides so that the decision is
23 unbiased, unprejudiced and is fairly consistent with the
24 facts presented. Are you one of the people that are going
25 to be able to do that even though it's an awesome

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responsibility?

A I feel capable of that.

MR. BELL: Pass the juror for cause.

THE COURT: Thank you.

For the defense.

EXAMINATION

BY MR. LaPORTA:

Q Good afternoon, Mr. Powers. You were born and raised in New York City, is that not right?

A Yes.

Q And then you said that you joined the service to get away from New York City?

A Well, yes, to get into another form of life.

Q Was it to get away from anything else?

A No. I graduated high school and it was the thing my generation did.

Q What do you think the roll of the death penalty plays in society?

A I see it as a form of punishment that is the law of most states or a good number of the states and I haven't come to any conclusion as to whether it's a deterrent, but I think it's a severe punishment but I think it is appropriate in severe crimes.

Q Do you believe that if someone were convicted

1 of murder that that person's entitled to a consideration by
2 a jury panel for possibly parole, life with the possibility
3 of parole?

4 A Yes.

5 Q Could you consider that?

6 A I believe people under certain circumstances
7 can be made acceptable to society again.

8 Q Have you ever had any conversations with
9 anybody about the death penalty?

10 A Many times. Well, not -- it's an issue that
11 comes up in conversation and yes, I have had conversations
12 with people about it.

13 Q Did you seem to argue for it?

14 A I'm sorry?

15 Q Were you arguing for it in these times that you
16 can remember?

17 A If you want me to say I'm either opposed to it
18 or in support of it, I would have to say I'm a proponent, I
19 support it.

20 Q You stated in the questionnaire that you filled
21 out that the system favors the accused and totally ignores
22 the average working person. Explain what you mean by
23 totally ignores. Are you talking about the victim?

24 A I think sometimes the system doesn't recognize
25 the validity of the average citizen who gets up out of bed

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9 1 every morning, faces his or her responsibilities, goes to
2 work, is productive and plays according to the rules. I
3 think sometimes not enough credit and not enough of the
4 justice system is allocated to the concerns of that person.

5 MR. LaPORTA: Pass for cause, Your Honor.

6 THE COURT: Thank you.

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8 EXAMINATION

9 BY THE COURT:

10 Q Mr. Robbins, good afternoon.

11 A Good afternoon.

12 Q Any reason that you can think of why you
13 couldn't be fair to both sides in this case?

14 A No.

15 Q Can you wait till all the evidence is in before
16 coming to any conclusion about any issue in this case?

17 A Yes.

18 Q Have you, any member of your family or any
19 friends of yours ever been arrested?

20 A No.

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

23 A No.

24 Q Ever been on a jury before?

25 A No.

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1 Q Any concern about adverse public opinion that
2 might result from any verdict you might render?

3 A No.

4 Q Ever been involved in any kind of legal
5 proceeding in any way as a witness or a party --

6 A Witness for lawsuit against our company which
7 the company won.

8 Q Was it a personal injury case?

9 A Personal injury case.

10 Q So you were actually a witness to an incident?

11 A Yes.

12 Q And so you were what we would call it
13 liability?

14 A Yes.

15 Q On the issue of whether or not there was fault?

16 A Uh-huh.

17 Q Anything about that experience that would
18 affect your thinking in a case like this one?

19 A No, sir.

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

23 A No, sir.

24 Q If you are called upon to deliberate on the
25 issue of penalty, will you be able to give fair

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1 consideration to all three forms of punishment?

2 A Yes, sir.

3 Q You'll be able to listen to mitigating and
4 aggravating circumstances and then determine whether or not
5 any one of the three forms of punishment are appropriate?

6 A Yes, sir.

7 Q So in the proper case you could impose the
8 death penalty?

9 A Yes, sir.

10 Q And on the other hand in a proper case you
11 could impose a sentence of life with the possibility of
12 parole?

13 A Yes.

14 Q Could you impose life without?

15 A Yes.

16 Q In a proper case?

17 A Yes.

18 Q So you have a completely open mind about the
19 punishment issues in the case?

20 A Yes.

21 Q If you were involved in this case would you
22 feel comfortable with 12 people just like you sitting in
23 judgment of yourself?

24 A Yes, sir.

25 THE COURT: State may inquire.

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25EXAMINATION

BY MR. BELL:

Q Mr. Robbins, do you agree with the proposition that people should be held responsible and accountable for their actions?

A Yes, sir.

Q Do you think or do you agree with the proposition that the responsibility or the accountability, the level thereof, should be consistent with the level of the action?

A Yes, sir.

Q You have a son that's a Metro police officer?

A Yes, sir.

Q How long has he been employed by Metro?

A Approximately eight, eight and a half years.

Q Is he a uniformed patrol officer?

A Yes, sir.

Q He doesn't work in the detective bureau or anything like that?

A No, sir.

Q Has he during that eight and a half years always been on uniform patrol, in other words general police detail?

A Yes, sir. Training new cadets also.

Q Have you ever had occasion to discuss with your

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1 son capital punishment?

2 A No, sir.

3 Q You indicated in your questionnaire that you
4 considered yourself a conservative?

5 A Yes, sir.

6 Q I have the same question for you that I did the
7 lady that considered herself a liberal. I think those terms
8 are somewhat nebulous. What does that mean to you?

9 A I can take both sides and listen to whatever
10 the situation is and I can do it both ways and come to a
11 conclusion.

12 Q If the State in the performance of its duties
13 convinces you and 11 other people that Mr. Castillo has
14 committed the crime of murder in the first degree and if the
15 State later at the penalty hearing convinces you after
16 you've heard everything good and bad about the circumstances
17 and the parties involved that the death penalty fits his
18 conduct, can you come back in this room and look at him and
19 tell him that's the penalty he is going to have to suffer?

20 A Yes, sir.

21 MR. BELL: Pass the juror, Your Honor.

22 THE COURT: Defense, Mr. LaPorta.

23 MR. LaPORTA: Thank you.

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EXAMINATION

BY MR. LaPORTA:

Q Good afternoon, sir.

A Good afternoon.

Q You filled out a questionnaire in addition to all the other jurors. One of the questions in there that you answered was the defendant in a criminal trial should be required to prove his or her innocence. You stated that you strongly agree with that statement.

A Yes, sir.

Q Do you still feel that way?

A Yes, sir.

Q So would it be safe to say that Mr. Castillo in your mind needs to prove his innocence to you?

A It's -- he has to prove his innocence but I have to take everything in consideration, all the evidence and everything else. I'm not going to pass judgment on that gentleman because I do not know the case, I have to see all and hear all the witnesses and evidence.

Q At this juncture where the State has brought this case, filed the charges, brought everybody together here today and they've alleged that Mr. Castillo has committed a number of crimes, including murder, in your mind is he guilty?

A No, sir.

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1 Q Why would he need to prove his innocence?

2 A Maybe misconstrued but jury duty -- jury,
3 finding the evidence and everything else, you know, I cannot
4 make judgment or opinion until everything is heard and
5 everything else.

6 Q Are you saying you haven't prejudged him then?

7 A No. I never prejudged him.

8 Q So he's presumed innocent by you at this point
9 in time?

10 A Yes.

11 Q Have you engaged in any conversations with your
12 son the Metro officer or anybody else about the death
13 penalty?

14 A No. My son keeps his job to himself. But we
15 don't discuss it.

16 Q How about any other family members or friends,
17 have you ever discussed the death penalty with anybody in
18 just general conversation?

19 A Possibly general. Maybe over the years or
20 something like that. But maybe from newspapers or things
21 like that but nothing for setting judgment.

22 Q Do you believe that if a jury convicts a person
23 of murder that individual should be considered for life
24 without the -- with the possibility of parole?

25 A Would you restate that, sir.

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1 Q Do you believe that you could consider one of
2 the three possibilities, life with the possibility of
3 parole -- could you consider that for somebody you possibly
4 just found guilty of murder?

5 A Yes, sir, depending on the situation,
6 circumstances.

7 Q Can you talk a little bit what you believe the
8 roll the death penalty plays in society today.

9 A It serves justice in a way, it's a punishment,
10 it's just something that for society it's good. If that was
11 what was put on, it gets rid of the one environment, the
12 person if that was it. Right now if you read my
13 questionnaire the prisons, jails are overcrowded and I'm
14 sure a lot of people are on death row. It just all depends.

15 MR. LaPORTA: Pass for cause, Your Honor.

16 THE COURT: Thank you.

17
18 EXAMINATION

19 BY THE COURT:

20 Q Mr. Kruse, am I pronouncing your name
21 correctly?

22 A Correct.

23 Q Any reason that you can think of why you
24 couldn't be fair to both sides in this case?

25 A No.

672

10

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

3 A Yes.

4 Q Have you, any member of your family or any
5 close personal friends of yours ever been arrested?

6 A No.

7 Q Have you, any member of your family or any
8 close personal friends of yours ever been the victim of a
9 crime?

10 A No.

11 Q Ever been on a jury before?

12 A Yes.

13 Q How many times?

14 A Once.

15 Q Was it a criminal or civil case?

16 A Criminal.

17 Q Without telling us what the verdict was was
18 your jury able to reach a verdict ultimately?

19 A Yes.

20 Q Could you tell us the nature of the criminal
21 charge.

22 A It was a burglary charge.

23 Q Anything about your experience as a juror in
24 that case that would affect your thinking in this case?

25 A None.

673

10

1 Q Two separate issues, you are going to start
2 over from scratch and hear the State's evidence and see that
3 the State meets its burden of proof?

4 A Correct.

5 Q You understand in a criminal trial the
6 defendant does not have to put on a case?

7 A That's right.

8 Q The defendant does not have to prove his or her
9 innocence.

10 A Right.

11 Q So it's up to the State first before you can
12 find the defendant guilty to prove the essential elements of
13 the charge beyond a reasonable doubt.

14 A That is correct.

15 Q And you were instructed on those issues in the
16 case before; is that right?

17 A Yes.

18 Q Any problem serving again or following those
19 instructions yet again the second time?

20 A No problem.

21 Q There is nothing about that prior experience
22 that would affect your thinking in this case? This is a
23 clean slate?

24 A Yes.

25 Q Ever been involved in the legal system at all

-- 67A

11

11 1 as a party or witness in a civil or criminal case?

2 A No.

3 Q Any concern about adverse public opinion that
4 might result from any verdict you might render?

5 A No.

6 Q Do you have any moral, religious or
7 conscientious objections to the death penalty?

8 A None.

9 Q Could you give fair consideration in this case
10 in the event you got to the issue of punishment to all three
11 statutory forms of punishment?

12 A Yes.

13 Q You can keep an open mind on the penalties of
14 life with, life without the possibility of parole and the
15 death penalty?

16 A Yes.

17 Q If you were involved in this case yourself,
18 would you feel comfortable with 12 jurors just like you?

19 A Yes.

20 THE COURT: State may inquire.

21 MR. BELL: Thank you, Your Honor.

22

23 EXAMINATION

24 BY MR. BELL:

25 Q I noted from your questionnaire, Mr. Kruse,

675

11 1 that you were moving in three days. I assume since you're
2 still here you're not moving to Paris, I assume you're just
3 moving across town?

4 A To the other side of the complex actually.

5 Q So that experience will not make it difficult
6 for you to sit as a juror; is that correct?

7 A No.

8 Q I note that you are single and that you listed
9 your employment as laborer. If it should come to your
10 attention that Mr. Castillo through the evidence is single
11 and that Mr. Castillo may likewise have been a laborer, is
12 there something about that that would cause you to give
13 undue deference to Mr. Castillo as compared to the people of
14 the State of Nevada?

15 A No.

16 Q The judge has asked you if you will consider
17 all three penalties and we've been through this a whole
18 bunch of times so it gets to be a little bit monotonous and
19 routine but I assume you understand the necessity of that;
20 is that right?

21 A Yes.

22 Q Do you feel like in a proper case if you felt
23 the facts merit it you could impose the ultimate sanction of
24 the death penalty?

25 A Yes.

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1 MR. BELL: Judge, we'll pass this juror for
2 cause.

3 THE COURT: Thank you.

4 For the defense, Mr. LaPorta.

5 MR. LaPORTA: Thank you, Judge.

6
7 EXAMINATION

8 BY MR. LaPORTA:

9 Q Mr. Kruse, good afternoon.

10 A Good afternoon.

11 Q Mr. Kruse, this certainly isn't meant to
12 embarrass you or anything like that but in your
13 questionnaire you answered if the State goes to the trouble
14 of bringing us altogether filing the charges and so forth
15 and they bring someone to trial the question was do you
16 believe that the person is probably guilty and you answered
17 yes, you agree.

18 A Yes.

19 Q Do you agree with that statement?

20 A Well, I believe that if the State goes through
21 the problem -- or the situation to bring the accused to the
22 court of law, that if there was no evidence otherwise they'd
23 be wasting our taxpayer money if there wasn't some reason.

24 Q In your mind as you sit right now at the
25 juncture we're at do you believe that the defendant is

677

11
1 guilty?

2 A No.

3 Q Can you explain your answer then where you said
4 that you agree with the statement that if someone goes to
5 the trouble of bringing someone to trial for a criminal
6 offense the person probably is guilty.

7 A Like I elaborated if the prosecution is
8 pursuing a case against the defendant, then I believe there
9 must be some reason why they brought this individual into
10 the court of law and they haven't randomly picked someone
11 off the street.

12 Q So you believe that there's a likelihood that
13 they're guilty?

14 A I have not prejudged this individual, no.

15 Q Have you thought about the death penalty at
16 all?

17 A Sure.

18 Q What do you think its roll plays in society
19 today?

20 A Just as a penalty.

21 Q Just a penalty?

22 A I don't believe it's much of a deterrent.

23 Q Do you believe that or could you consider life
24 with the possibility of parole if you had just found
25 somebody guilty of first degree murder?

678

11 1 A That would be an option, yes.

2 Q Could you consider that option?

3 A Yes, I could.

4 MR. LaPORTA: I have no further questions, Your
5 Honor. Pass for cause.

6

7

EXAMINATION

8 BY THE COURT:

9 Q Miss Blumenfeld, good afternoon.

10 A Good afternoon.

11 Q Any reason that you can think of why you
12 couldn't be fair to both sides in this case?

13 A No.

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

17 A Yes.

18 Q Have you or any member of your family or any
19 friends of yours ever been arrested?

20 A Yes. My son and a nephew.

21 Q Tell us a little bit about that incident.

22 A Not at the same time, two different. My son I
23 think --

24 Q Without elaborating and we're not --

25 A They were both teenagers, but separate.

679

1 Q Tell us what the charge was.

2 A My son it was robbery. He was about 18. Do I
3 need to go further?

4 Q No.

5 A The only thing I -- I'll say it at the end. My
6 nephew was also young, maybe 17 or 18, I'm not sure, he
7 lived in California, we lived in Maryland at the time. He
8 was arrested for having hurt a woman, I think about a 40ish
9 age woman, he was under the influence of drugs.

10 If I may, both of them came out of their
11 experiences much better people. They both made a complete
12 turn-around in their lives.

13 Q They've gone to school, gotten into careers and
14 family and are functioning nicely?

15 A Well, my son is dead but that's another story,
16 but, yes, he did function quite well and has a family
17 remaining. And the nephew, the same, he's not quite as old
18 so he's not married but he's functioning.

19 Q So that was something that occurred as an
20 isolated event in both their lives?

21 A Yes.

22 Q Any friends of yours or you been the victim of
23 a crime?

24 A I have an uncle mugged years ago but I don't
25 know much about it.

12

1 Q Anything about those incidents, either the
2 situation with your son and your nephew or the other
3 incident that you just mentioned, that would affect your
4 judgment in this case?

5 A No.

6 Q Those were then and this is now essentially?

7 A Right.

8 Q You indicated during the general examination
9 that you would have a problem if we had to have you here
10 tomorrow?

11 A Tomorrow morning.

12 Q Because you're involved in a financial
13 transaction at work?

14 A Right.

15 Q That's just going to be tomorrow morning?

16 A Right.

17 Q So if you are excused tomorrow morning during
18 proceedings you will be able to come back and attend the
19 remainder of the proceedings?

20 A Right.

21 Q Have you ever been on a jury before?

22 A No.

23 Q Any concern about adverse public opinion that
24 might result from any verdict you might render?

25 A No.

691

1 Q Ever been involved in any legal proceeding in
2 any way whether it's a civil or criminal case as a witness
3 or party?

4 A Yes, we were in two adoptions. Our children
5 are adopted and we were in court for that and I've been in
6 small claims court for business purposes a couple of times.

7 Q For collections?

8 A One time actually. It was because we were
9 contesting the use of our business name by someone else and
10 that's all.

11 Q Anything about those interactions with the
12 court system that would affect your thinking in this case?

13 A No.

14 Q Do you have any religious, philosophical,
15 conscientious or moral objections to the death penalty?

16 A No.

17 Q Could you in this case, if you were asked to
18 deliberate on the question of punishment, fairly consider
19 all three statutory forms of penalty?

20 A Yes.

21 Q If you were involved in this case yourself,
22 would you feel comfortable with 12 people just like you?

23 A Yes.

24 THE COURT: State may inquire,
25

EXAMINATION

BY MR. BELL:

Q I note that you have a sister that is a judge.

A Right.

Q Have you ever had occasion to discuss with your sister the philosophical problems of the criminal justice system, the death penalty and how the system works and those kinds of things?

A We've discussed how the system works. We've never discussed the death penalty.

Q Is she a judge who operates in the criminal system as opposed to probate or civil or juvenile or something else?

A No. First of all it's not in the State of Nevada and it's a very recent appointment and it's -- no, it's not in the criminal division.

Q You indicated on your questionnaire you thought life without parole was the worst punishment. Did you hear me ask one of the other jurors about that concept and they indicated that they thought that would be the worst for them, that's what they'd see. Is your concept the same?

A Yes.

Q Because sometimes it doesn't seem to jive when we're reading it but I can certainly appreciate how somebody might feel that way personally. You understand that sort of

1 in the continuum of things as it's perceived in here the
2 death penalty is the most severe, life without in the middle
3 and life with is the least severe?

4 A Yes.

5 Q Do you feel like you can give both sides the
6 benefit of your consideration as to all three penalties
7 should we get to that point in this case?

8 A Yes, I do.

9 Q Is there any other reason you feel like you
10 might not be able to serve, anything else you need to share
11 with us in order to place us in a position, both sides, to
12 fairly proceed?

13 A No. Other than to say that when I filled out
14 that questionnaire I have to say I was -- I really didn't
15 want to be on this type of jury. I had a feeling what it
16 was and I was afraid of it. It is an awesome
17 responsibility. But after hearing what I've heard and after
18 thinking a lot about it I think I could be very fair.

19 Q And although that is an awesome responsibility
20 you recognize in our system if we're going to have the jury
21 system that citizens have to come in and perform that
22 responsibility?

23 A Right.

24 Q And you see yourself as one of the citizens
25 that can step up to the plate when it's your time to bat; is

13 1 that fair?

2 A Yes.

3 MR. BELL: Pass the juror for cause, Judge.

4 THE COURT: Thank you.

5 For the defense, Mr. LaPorta.

6 MR. LaPORTA: Thank you, Judge.

7
8 EXAMINATION

9 BY MR. LaPORTA:

10 Q Miss Blumenfeld, is that correct?

11 A Yes.

12 Q The victim in this case was a female, an
13 elderly lady who was I believe in her mid 80's. Does that
14 create a problem for you?

15 A No. As far as I'm concerned a victim is a
16 victim.

17 Q You mentioned during your earlier voir dire and
18 also on your questionnaire that your son was deceased and I
19 hate to inquire but I must. Can you tell us a little bit
20 about the circumstances, was it accidental, did somebody
21 intentionally harm him?

22 A He committed suicide.

23 Q I'm sorry, ma'am. I'm sorry to inquire.

24 Now, could you talk a little bit about the
25 death penalty and what you believe its roll plays in our

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13 1 society today.

2 A I believe its intent is as a deterrent. I
3 don't believe that's what it accomplishes. I think that it
4 is the ultimate punishment in the eyes of the law. I do
5 believe that. And I do think if that's the law, then jurors
6 have to abide by what the law is and I'm fully able to do
7 that, whether I personally agree with if that is the
8 ultimate punishment or not.

9 Q You also realize it's also the law you must
10 also consider life with the possibility of parole. Could
11 you consider that after having convicted somebody of first
12 degree murder if that becomes the case?

13 A Yes, because I have good evidence of how people
14 can change or that circumstances cannot be quite as earlier
15 presented. If the facts -- if the facts make that a
16 possibility, then I would be able to view that fairly.

17 MR. LaPORTA: Thank you very much. I apologize
18 again.

19
20 EXAMINATION

21 BY THE COURT:

22 Q Mr. Cheney, am I pronouncing your name
23 correctly?

24 A Cheney.

25 Q Any reason that you can think of why you

13

1 couldn't be fair to both sides in the case?

2 A No reason.

3 Q Can you wait till all the evidence is in before
4 coming to any conclusion about any issue in this case?

5 A Yes.

6 Q Have you, any member of your family, any
7 friends of yours ever been arrested?

8 A No.

9 Q You, any member of your family or friends of
10 yours ever been the victim of a crime?

11 A No.

12 Q Have you ever been on a jury before?

13 A Yes.

14 Q How many times?

15 A It goes back awhile. Maybe three or four.

16 Q Both criminal --

17 A In Los Angeles. Both criminal and civil.

18 Q So you have been through the process of being
19 instructed in both civil and criminal cases?

20 A Yes.

21 Q Do you have any problem distinguishing between
22 the two burdens of proof on the civil versus the criminal
23 case?

24 A No. I understand them rightly.

25 Q You understand that the burdens of proof in a

637

13

1 criminal case are more serious than a civil?

2 A More precise, more definite.

3 Q Take any issue with that?

4 A No.

5 Q You think that's the way the law ought to be?

6 A That's the way the system works and I'm for
7 that.

8 Q Anything about your jury service that would
9 affect your thinking in this case?

10 A No.

11 Q Anything about any of those jury experiences
12 that might cause you to prejudge this case one way or
13 another?

14 A None whatsoever.

15 Q You're ready to serve again?

16 A Yes. That's why I'm here. I had the over 65
17 thing, I had the option of not serving, but I chose to do my
18 job.

19 Q It is important that we are aware of this very
20 important obligation of citizenship and I'm glad to hear you
21 say that.

22 Mr. Cheney, have you ever been involved in any
23 kind of legal action whether it's a civil case or a criminal
24 case as a witness or a party?

25 A No.

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14

1 Q Any concern about adverse public opinion by
2 virtue of any verdict you might render?

3 A No.

4 Q Do you have any moral, religious, conscientious
5 or philosophical objections to the death penalty?

6 A No.

7 Q If you are called upon to deliberate in this
8 case, will you be able to give fair consideration to all
9 three forms of punishment?

10 A I believe I would.

11 Q So if the appropriate aggravating and
12 mitigating circumstances were presented and compared to one
13 another, you could impose the death penalty?

14 A Yes.

15 Q And under another set of circumstances you
16 could impose life with the possibility of parole?

17 A Yes.

18 Q And under yet another set of circumstances you
19 could impose life with the possibility of parole?

20 A Without the possibility of parole.

21 Q Excuse me. Do you understand that in a
22 criminal case as you've been oriented to before the defense
23 has no obligation to put on any evidence?

24 A I understand that.

25 Q It is the burden of proof of the State of

14

1 Nevada to establish the essential elements of these charges
2 beyond a reasonable doubt.

3 A Yes.

4 Q And do you agree with the proposition that
5 before you can convict this defendant you must find the
6 essential elements of the charges to have been proved beyond
7 a reasonable doubt?

8 A That's what it means to me.

9 Q And so even though the defendant stands charged
10 here today you will be able to at all times during this case
11 accord this defendant the benefits of the burden of proof?

12 A Yes. Everybody is on the same starting --

13 Q We start out with a clean slate and we work
14 toward the end result by virtue of the presentation of
15 evidence?

16 A Yes.

17 Q And you can wait till all that evidence is in
18 before coming to any of the appropriate conclusions that you
19 would be called upon to draw?

20 A Yes.

21 Q If you were involved in this case, would you
22 feel comfortable with 12 people just like you sitting on
23 your jury?

24 A Very much so.

25 THE COURT: State may inquire.

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EXAMINATION

BY MR. BELL:

Q Just as an aside, Mr. Cheney, I noted that you didn't have the most complimentary things to say about lawyers in the case. I hope that as the facts have a level playing field that Mr. Harmon and myself and Mr. LaPorta do too.

You indicated as a couple others did that you thought life without was the worst punishment.

A I would consider that to be the most severe in my mind.

Q And when you say that, are you relating to yourself how you would personalize it, what you'd like least to happen to you?

A I believe I approached it with that back thought.

Q And several people have indicated that they have.

A That that would be the most touching penalty to me.

Q You understand that isn't kind of the way the law judges the position?

A Yes.

Q Mr. Cheney, I'm not trying to curry favor but if we all saw a whole bunch of people that did their very

14 1 best not to have to serve in this jury capacity, and I agree
2 with the judge, I think it's honorable and I pass the juror
3 for cause.

4 THE COURT: Mr. LaPorta.

5 MR. LaPORTA: Thank you, Judge.

6
7 EXAMINATION

8 BY MR. LaPORTA:

9 Q Mr. Cheney, have you had any conversations
10 recently about the death penalty with anyone?

11 A Recently, no.

12 Q What do you believe the roll the death penalty
13 plays in society today?

14 A I believe it's there to perform a function of
15 punishment for a given crime as the law provides for.

16 Q You realize in this case that if the State is
17 successful and convicts Mr. Castillo that you'll be asked to
18 consider, if you're on the jury, one of three possible
19 punishments in this particular case and death is just one of
20 them.

21 A I'm sorry?

22 Q Death is one of the three possible forms of
23 punishment you could be asked to return.

24 A I'm not sure I understood what you asked me.

25 Q You understand that the State will ask you

14 1 you will be asked to consider life with the possibility of
2 parole, life without the possibility of parole or death?

3 A Yes.

15 4 Q Do you think after having convicted somebody of
5 first degree murder that you could consider life with the
6 possibility of parole?

7 A No question, yeah.

8 Q So there are situations where you could impose
9 and recommend that?

10 A Sure. I believe that needs to fit the
11 circumstances.

12 MR. LaPORTA: Pass for cause, Your Honor.

13 THE COURT: Counsel approach the bench.

14 (At this time, an
15 off-the-record
16 discussion was held.)

17 THE COURT: We are going to declare our evening
18 recess at this point and as I promised, Miss Blumenfeld, you
19 will not have to attend court tomorrow morning. We will
20 probably not need you until my best guess four o'clock
21 tomorrow afternoon. So what I would suggest that you do,
22 hopefully we can complete it tomorrow afternoon and if that
23 is the case you'll have to be back tomorrow. So you'll have
24 basically the whole day free but we'll need the whole day to
25 get it completed. Everybody get it?

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15

1 MR. BELL: We might be slightly ahead of that,
2 maybe three o'clock. We did fairly well with the eight and
3 that's a quarter and we've done everything else. If we work
4 from 10:30 to 12 and 1:30 to three we may be close.

5 THE COURT: We might take an abbreviated lunch
6 hour to make up for lost time. Three o'clock tomorrow
7 afternoon for the eight jurors that have just been qualified
8 for cause, everyone else needs to be here by 10:30 tomorrow
9 morning ready to be collected and come upstairs for jury
10 selection.

11 Ladies and gentlemen of the prospective jury,
12 during this recess it is your duty not to converse amongst
13 yourselves or with anyone else on any subject connected with
14 the trial, or to read, watch or listen to any report of or
15 commentary on the trial by any person connected with the
16 trial or by any medium of information including, without
17 limitation, newspapers, television and radio. And you are
18 not to form or express an opinion on any subject connected
19 with this case until it is finally submitted to you.

20 We will be at ease while the jury panel departs
21 the confines of the courtroom.

22

23

(Jurors left.)

24

25

THE COURT: We are in recess until tomorrow

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1 morning at 10:30. And I will do my best to make the
2 calendar sing like a bird.

3
4 (The proceedings in recess.)

5
6 * * * * *

7
8 ATTEST: Full, true and accurate transcript of
9 proceedings.

10
11 
12 LISA BRENSKE, CCR No. 186

EXHIBIT 160

EXHIBIT 160

DISTRICT COURT

CLARK COUNTY, NEVADA FILED IN OPEN COURT

ORIGINAL

AUG 29 1996 19

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

WEDNESDAY, AUGUST 28, 1996, 11:10 A.M.

VOLUME III - MORNING SESSION

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. SCHEICK, ESQ.

REPORTED BY:

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

PATSY K. SMITH, OFFICIAL COURT REPORTER

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CE

1 WEDNESDAY, AUGUST 28, 1996, 11:10 A.M.

2 THE COURT: Juror number 114.

3 JUROR NO. 114: Yes. Your Honor, I have
4 always considered that I have been in favor of the death
5 penalty all my adult life and yesterday I came face to face
6 with a real person and I have been up most of the night
7 thinking about this and I don't think I can vote yes. If I
8 were picked for the jury, I cannot find for the death
9 penalty.

10 THE COURT: What is your number again?

11 JUROR NO. 114: Joan Carver Wells.

12 THE COURT: Obviously, this is a very
13 important decision and commitment that we're asking jurors
14 to make in this case and our only objective is to obtain
15 candid answers to these questions.

16 Is it your judgment at this point,
17 notwithstanding your responses of yesterday, that you feel
18 you could not fairly consider all three forms of punishment
19 if we reach the issue of penalty in this case?

20 JUROR NO. 114: I could consider two, but I
21 could not consider the death penalty now.

22 THE COURT: All right, in that case, I'll
23 excuse you from jury service on this case.

24 JUROR NO. 114: Thank you, sir.

25 THE COURT: Thank you, ma'am, for your

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1 attendance.

2 All right, this is C133336, State of Nevada
3 versus William Patrick Castillo.

4 We are commencing with -- recommencing jury
5 selection. Ladies and gentlemen, I apologize for the late
6 start. However, I will state unequivocally it is the
7 result of the method by which the courthouse does its
8 business in the morning. We had a full calendar this
9 morning, but because of personnel problems in the detention
10 center, that is the lack of sufficient staff to be ready to
11 proceed today and, also, in terms of the prisoners we had
12 in the hearings this morning, we were late getting the
13 early morning hearings started, concluded, and concluded on
14 time. And so that's an unfortunate situation, but we have
15 to have the courtroom prepared for you before we can start
16 in the morning.

17 So the reason we're late this morning is
18 because of our inability to have sufficient personnel on
19 the sheriff staff to clear the courtroom this morning and
20 so that's why we're late and so I apologize to you for
21 that.

22 At this point we will call the next eight
23 names into the jury box.

24 THE CLERK: Badge number 116, Lloyd Lebaron
25 Black, B-L-A-C-K, back number 118, Leonard Cruz Rosales,

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1 R-O-S-A-L-E-S, badge number 119, Clarence D. Zink, Z-I-N-K,
2 badge number 120, Michelle Lee Lopez, L-O-P-E-Z.

3 Oh, Judge, that's the one that's not here.

4 THE COURT: She called in ill.

5 THE CLERK: Badge number 121, Gwendolyn Anne
6 Thorson, T-H-O-R-S-O-N, badge number 126, John S. Murphy,
7 M-U-R-P-H-Y, badge number 127, Eric M. Korte, K-O-R-T-E,
8 badge number 128, Richard Alan Sammons, S-A-M-M-O-N-S,
9 badge number 130, Ernest Edward Irish, I-R-I-S-H.

10 THE COURT: Parties ready to proceed?

11 MR. BELL: Yes, your Honor.

12 MR. SCHIECK: Yes, your Honor.

13 THE COURT: Mr. Black, good morning. Any
14 reason you can think of why you couldn't be fair to both
15 sides in this case?

16 A No.

17 THE COURT: Can you wait until all the
18 evidence is in before coming to any conclusion about any
19 issue in the case?

20 A Yes.

21 THE COURT: Have you, any member of your
22 family or any close friends of yours ever been arrested?

23 A No.

24 THE COURT: Have you, any member of your
25 family or any close friends of yours ever been the victim

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1 of a crime?

2 A No.

3 THE COURT: Ever been on a jury before?

4 A Yes.

5 THE COURT: How many times?

6 A Two times.

7 THE COURT: Civil or criminal or --

8 A Both criminal.

9 THE COURT: Both of them were criminal
10 cases?

11 A Yes, sir.

12 THE COURT: So you have been through the
13 instruction process before?

14 A Yes.

15 THE COURT: And sat through the evidence?

16 A Yes.

17 THE COURT: And without telling us what your
18 verdicts were in those two cases, will you tell me whether
19 the juries were able to reach verdicts?

20 A Yes, in both cases.

21 THE COURT: Was there anything about your
22 jury experience that would effect your thinking in this
23 particular case?

24 A No.

25 THE COURT: Ready to serve again now?

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1 A Yes.

2 THE COURT: If you have to?

3 A Yes.

4 THE COURT: Any concern about adverse public
5 opinion that might result from any verdict you might
6 render?

7 A Pardon?

8 THE COURT: Any concern about adverse public
9 opinion that might result from any verdict you might
10 render? For example, neighbors seeing the verdict in the
11 newspaper or hearing about it on the radio or television?

12 A No.

13 THE COURT: Ever been involved in any kind
14 of court proceeding as a witness or a party?

15 A No.

16 THE COURT: Do you have any philosophical,
17 religious, or moral objections to the death penalty?

18 A I'm not really in favor of the death
19 penalty.

20 THE COURT: But can you give fair
21 consideration to all three forms of penalty if you went to
22 the jury room to deliberate?

23 A Yes.

24 THE COURT: You indicated you have some
25 reservations about the death penalty; is that correct?

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1 A Yes.

2 THE COURT: Notwithstanding those
3 reservations, would you be able, in a case where you felt
4 the evidence suggested that that was appropriate, would you
5 be able to impose a death penalty?

6 A Yes.

7 THE COURT: Would you be able to impose, in
8 a case you felt was appropriate, life without the
9 possibility of parole?

10 A Yes.

11 THE COURT: And would you be able to impose,
12 in a case you felt was appropriate, life with the
13 possibility of parole?

14 A Yes.

15 THE COURT: Now you understand that the
16 State has the burden of proof in this case?

17 A Yes.

18 THE COURT: And that they have the burden of
19 proof of showing the defendant guilty beyond a reasonable
20 doubt before you could render a verdict of guilty. Do you
21 understand that?

22 A Yes.

23 THE COURT: Do you understand the defense
24 doesn't have to put on any evidence. Do you understand
25 that?

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1 A Yes.

2 THE COURT: And so the defendant doesn't
3 have to prove himself innocent. Do you agree with that
4 proposition?

5 A Yes.

6 THE COURT: So the burden in the case is the
7 State's to prove their case?

8 A Yes.

9 THE COURT: And you agree with that?

10 A Yes.

11 THE COURT: If you were involved in this
12 case, would you feel comfortable with 12 people just like
13 you sitting in judgment on the matter?

14 A Yes.

15 THE COURT: The State may inquire.

16 MR. BELL: Thanks, Judge.

17

18 VOIR DIRE EXAMINATION

19 BY MR. BELL:

20 Q Mr. Black, you have been through this
21 process a couple times before. So you are relatively
22 familiar with the questioning process, correct?

23 A Yes.

24 Q Do you understand that many of these
25 questions aren't right or wrong. It's just a matter of

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1 seeing how people feel so that we can get a main stream, a
2 cross section of society to be fair to both sides,
3 correct?

4 A Yes.

5 Q All right. You said you weren't really
6 in favor of the death penalty. What do you mean by that?
7 You mean it shouldn't be the law, the State shouldn't do
8 it, you shouldn't do it? What does that mean?

9 A The death penalty is like, you know,
10 like an escape or something. It's not really a penalty
11 penalized. It's more like escaping from pay back error
12 from what the case is.

13 Q So is it your thought that the law of
14 the State of Nevada or the State of California, the State
15 of Texas shouldn't have that as one of the considerations?
16 It's too easy on a defendant if he's done some things? Is
17 that my understanding? I'm not trying to put words in your
18 mouth. I'm just trying to get a flavor of where you are
19 coming from.

20 A Yeah, that's what I believe.

21 Q Notwithstanding that, do you accept the
22 proposition that it is the law of the State of Nevada and
23 it is the most severe sanction under our law?

24 A Yes.

25 Q And do you believe that if you felt

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1 that the facts of the particular crime wherein that was one
2 of the punishments merited the most severe sanction, that
3 you could come back and impose that sanction as part of a
4 group of 12 citizens notwithstanding your beliefs?

5 A Yes.

6 Q You had two prior criminal jury trial
7 experiences; is that correct?

8 A Yes.

9 Q Without telling me what the verdict
10 was, was a jury able to reach a verdict in both of those
11 cases?

12 A Yes.

13 Q And did you, in each case, participate
14 in the jury deliberations in the process?

15 A Yes.

16 Q And did you find that a positive
17 experience?

18 A Yes.

19 Q If you are selected as a juror in this
20 case, will you assure both the defense and the State that
21 you will deliberate with the other jurors to try to reach
22 the appropriate decisions that have to be made after being
23 instructed by the Judge?

24 A Yes.

25 MR. BELL: Pass the juror for cause, your

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1 Honor.

2 THE COURT: For the defense.

3 MR. LaPORTA: Thank you, Judge.

4

5 VOIR DIRE EXAMINATION

6 BY MR. LaPORTA:

7 Q Good morning, Mr. Black.

8 Mr. Black, I notice on your questionnaire
9 that you indicate that you are retired?

10 A Yes.

11 Q How long have you been retired?

12 A 1992.

13 Q '92.

14 And not to pry, but can you tell us a little
15 bit about what you like to do with your free time now?

16 A I'm working at the airport.

17 Q So you have a job at the airport right
18 now?

19 A Yes.

20 Q What is it that you do right now at the
21 airport?

22 A Porter.

23 Q How long have you been at the airport?

24 A Two years.

25 Q Sir, I also notice you were born in

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1 Mexico. Were you raised in Mexico also?

2 A No, I was raised in Eastern Arizona.

3 Q Raised in Eastern Arizona and your
4 family moved from Mexico to Eastern Arizona?

5 A Yes.

6 Q How long did you live in Eastern
7 Arizona?

8 A About 28 years.

9 Q Sir, the victim in this case is an 85
10 year old ex-female or I shouldn't say female, ex-school
11 teacher. Does that bother you at all to the point where
12 you couldn't be fair in your decision making process?

13 A I don't believe so.

14 MR. LaPORTA: Pass for cause, your Honor.

15 THE COURT: All right, thank you.

16 Mr. Rosales?

17 A Hi.

18 THE COURT: Am I pronouncing your name
19 correctly?

20 A Right.

21 THE COURT: Any reason you can think of why
22 you couldn't be fair to both sides in the case?

23 A No.

24 THE COURT: Can you wait until all the
25 evidence is in before coming to any conclusion about any

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1 issue in the case?

2 A Yes.

3 THE COURT: Have you, any members of your
4 family or any close personal friends of yours ever been
5 arrested?

6 A No.

7 THE COURT: Have you, any member of your
8 family or close personal friends of yours ever been the
9 victim of a crime?

10 A Yes.

11 THE COURT: Tell us a little bit about
12 that.

13 A Well, years ago, I lived in an
14 apartment and it was broken into. You know, just took a
15 few things here and there. My brother's house was broken
16 into a few months ago. It must be kids, took a couple
17 things and that's about it and my uncle is a barber, has
18 his own shop. He was broken into a few months ago. Again,
19 took a few things; couple young kids. That was about it.

20 THE COURT: Anything about the experiences
21 in your life or the lives of your family members that would
22 effect your thinking in a case like this?

23 A No.

24 THE COURT: That was then, this is now?

25 A Uh-huh.

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1 THE COURT: No ill will toward any law
2 enforcement agency about the way they handled any of those
3 issues?

4 A No.

5 THE COURT: Ever been on a jury before?

6 A Oh, yeah.

7 THE COURT: How many times?

8 A About eight, nine times.

9 THE COURT: Here in Las Vegas?

10 A No, no. This is the first time in Las
11 Vegas. All the others were in California.

12 THE COURT: Were those both civil and
13 criminal cases?

14 A Both, yes.

15 THE COURT: And you were instructed in all
16 of those cases, I take it?

17 A Uh-huh.

18 THE COURT: And in those civil cases, you
19 were instructed on the burden of proof to a preponderance
20 of the evidence?

21 A Uh-huh.

22 THE REPORTER: Is that answer yes?

23 THE WITNESS: Yes. Sorry.

24 THE COURT: Obviously, the burden of proof
25 in a criminal case is the same everywhere in the United

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1 States, that being beyond a reasonable doubt?

2 A Yeah.

3 THE COURT: Do you have any trouble
4 distinguishing between the two?

5 A No.

6 THE COURT: Are you ready to serve again?

7 A Yes.

8 THE COURT: Any reason you can think of why
9 your prior jury service might effect you in this case?

10 A No.

11 THE COURT: Any concern about adverse public
12 opinion?

13 A No.

14 THE COURT: Ever been a party to a legal
15 proceeding as a witness or a party or anything like that?

16 A No.

17 THE COURT: Any philosophical, moral or
18 religious objections to the imposition of the death
19 penalty?

20 A No.

21 THE COURT: Can you give fair consideration
22 to all three statutory forms of penalty in the event you
23 deliberate on that issue?

24 A Yes.

25 THE COURT: Do you understand that the State

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1 has the sole burden in the case, in terms of establishing
2 guilt, and that the defendant does not have to prove his
3 innocence?

4 A Yes.

5 THE COURT: Do you accept that basic
6 proposition of our system of trying cases?

7 A Yes.

8 THE COURT: If you are involved in this
9 case, would you feel comfortable with 12 people with your
10 sense of fairness sitting on the trial?

11 A Yes.

12 THE COURT: State may examine.

13 MR. BELL: Thank you.

14

15 VOIR DIRE EXAMINATION

16 BY MR. BELL:

17 Q Mr. Rosales, you've been the victim of
18 a burglary, your brother's been the victim of a burglary,
19 your uncle has been the victim of a burglary. This trial,
20 at least two of the charges involve burglaries.

21 A Uh-huh, yes.

22 Q Is your personal experiences going to
23 in any way inhibit your ability to be open minded and fair
24 on both sides?

25 A No.

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1 Q In any of those cases, were the
2 perpetrators apprehended?

3 A Pardon?

4 Q In any of the three burglaries that you
5 or family members have suffered, did law enforcement
6 apprehend the perpetrator?

7 A Yes.

8 Q Did they catch the guy?

9 Did you feel that, without telling us what
10 happened, that law enforcement and the justice system dealt
11 fairly with the problem and the situation?

12 A Yes, they did.

13 Q Nothing in terms of residual feelings
14 about that those experiences that would effect you here?

15 A No.

16 Q You've served eight or nine times as a
17 juror. In any of the eight or nine, were the juries always
18 able to reach a conclusion?

19 A Yes, sir.

20 Q In all the cases, the people
21 deliberated and came to whatever conclusion, they reached
22 the necessary verdict?

23 A Yes.

24 Q Any of those cases involve murder of
25 the first degree?

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1 A Yes.

2 Q Without telling me what happened in
3 that one case, I take it?

4 A Yes.

5 Q In that case, was the death penalty an
6 issue?

7 A Yes.

8 Q In the California experience, did the
9 jury participate in the penalty decision process?

10 A No.

11 Q So the jury in that case decided guilt
12 or innocence, but the process of punishment was left to the
13 Court?

14 A That's correct.

15 Q You don't feel that you'd have any
16 difficulty, however, being a part of the penalty decision
17 process if you heard the whole case and if you heard all
18 the circumstances surrounding the parties, if you were
19 fully informed?

20 A Yeah, I have no problem.

21 Q How about time wise, we are going to
22 work this week, be off 10 days, and may have to come back.
23 Does that schedule fit you okay?

24 A That's fine.

25 Q Any other reason that you might feel

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1 like you should share with us that would impact on your
2 ability to sit as a juror?

3 A Not that I'm aware of, no.

4 MR. BELL: Pass the juror.

5 THE COURT: For the defense.

6 MR. LaPORTA: Thank you, Judge.

7

8 VOIR DIRE EXAMINATION

9 BY MR. LaPORTA:

10 Q Good morning, sir.

11 A Good morning.

12 Q Eight or nine times you served as a
13 juror?

14 A Yes.

15 Q All in California?

16 A All in California.

17 Q Over what period of time did that take
18 place?

19 A Past 25 years.

20 Q So it didn't occur over a nine, 10 year
21 period or anything like that?

22 A No.

23 Q You have also noted that family members
24 or yourself have been victims of crime in the past?

25 A Right.

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1 Q Is that not correct?

2 A Yes.

3 Q About how many times once again?

4 A One each, myself my brother, and my
5 uncle. That's about it.

6 Q Let me ask you a little bit about
7 that. Were you satisfied with the results of --

8 A Yes.

9 Q -- of the investigations?

10 A Uh-huh.

11 Q Were the individuals brought to
12 justice?

13 A Yes.

14 Q How do you feel about defendant's
15 rights these days? Do you believe that they are overly
16 protected, they have just about the right amount of
17 protection? Can you characterize your feelings on that for
18 us.

19 A I believe they have the right amount.

20 Q I'm sorry?

21 A They have the right amount.

22 Q So they are not overly protected,
23 overly cuddled?

24 A Not what I have been through, no.

25 Q Your extensive jury service, has it

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1 left you with a feeling that the criminals are
2 overprotected?

3 A Not that I'm aware of, no.

4 Q What do you believe the role of the
5 death penalty is in modern day society?

6 A Just an ends to a crime.

7 Q I'm sorry?

8 A An ends to a crime. It's the solution
9 to whatever the crime at that point was dealt with.

10 Q Could you explain that a little bit?
11 Do you feel if somebody were to commit a murder, that they
12 deserve the death penalty and only the death penalty?

13 A Not only the death penalty. Apparently
14 in that case that was brought up that was considered, it
15 was appropriate.

16 Q But in general, how do you feel?

17 A It's kind of hard to say. The death
18 penalty is just another part of the law.

19 MR. LaPORTA: I have no further questions.

20 THE COURT: Thank you.

21 Mr. Zink?

22 A Yes.

23 THE COURT: Good morning.

24 A Good morning.

25 THE COURT: Any reason you can think of why

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1 you couldn't be fair to both sides in this case?

2 A No, sir.

3 THE COURT: Can you wait until all the
4 evidence is in before coming to any conclusion about any
5 issue in this case?

6 A Yes, sir.

7 THE COURT: Have you, any member of your
8 family or any friends of yours ever been arrested?

9 A No, sir.

10 THE COURT: You, any member of your family
11 or any close personal friends of yours ever been the victim
12 of a crime?

13 A No, sir.

14 THE COURT: Ever been on a jury before?

15 A No, sir.

16 THE COURT: Do you have any concern about
17 adverse public opinion as a result of any verdict you might
18 render?

19 A No, sir.

20 THE COURT: Ever been a party or a witness
21 in any kind of court action?

22 A No, sir.

23 THE COURT: Any -- I hope that is reflective
24 of a peaceful life otherwise?

25 A Yeah.

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1 THE COURT: Do you have any philosophical or
2 moral or religious objection to the death penalty?

3 A No, sir.

4 THE COURT: Can you give fair consideration
5 to all three forms of penalty if you have reach that issue?

6 A I hope so.

7 THE COURT: Now you say you hope so.
8 Obviously, you haven't heard anything to justify any of the
9 penalties yet, but, obviously, any number of things could
10 come up. Do you feel that under a set of circumstances
11 that you could give the death penalty to someone?

12 A Yes, sir.

13 THE COURT: Do you feel that you could give
14 life without the possibility of parole to someone under the
15 appropriate circumstances?

16 A Yes, sir.

17 THE COURT: And the same with life with the
18 possibility of parole, do you think you can, based upon the
19 appropriate circumstances, that you could give the death
20 penalty if a first degree murder conviction was rendered?

21 A Yes.

22 THE COURT: Have any problem with the notion
23 that the defendant doesn't have to prove his innocence, but
24 the burden is on the State of Nevada to do that?

25 A I understand that.

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1 THE COURT: You are in agreement with that
2 proposition and you could follow that instruction?

3 A Uh-huh.

4 THE COURT: Is that yes or no?

5 A Yes.

6 THE COURT: If you sat on a case yourself,
7 would you feel comfortable with 12 people sitting on your
8 behalf in the same frame of mind?

9 A Yes.

10 THE COURT: State of Nevada.

11 MR. HARMON: Thank you, Judge.

12

13 VOIR DIRE EXAMINATION

14 BY MR. HARMON:

15 Q Good morning, Mr. Zink.

16 A Good morning, Mr. Harmon.

17 Q How would you feel, sir, if the
18 opportunity were extended to you to serve as a juror on
19 this type of case?

20 A I'm glad to have the opportunity to do
21 so. I can learn a little more about the system.

22 Q You haven't been a juror before, have
23 you?

24 A No, sir.

25 Q Are you hoping that, if you can serve,

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1 it will be a positive experience?

2 A Yes, sir, you never get too old to
3 learn.

4 Q Do you think you are the type of person
5 who would be able to make the difficult decisions required
6 in a first degree murder case?

7 A Yes, sir.

8 Q Are you retired now?

9 A Yes, sir.

10 Q What did you do prior to your
11 retirement?

12 A With the culinary.

13 Q Do you describe yourself, in terms of
14 penalties for the crime of murder, as being for or against
15 the death sentence?

16 A What was that again, sir?

17 Q Are you for or against capital
18 punishment?

19 A If it fits the crime, I'm for it.

20 Q Do you believe that any penalty should
21 fit the offense perpetrated?

22 A Yes, sir.

23 Q Do you agree that persons who commit
24 serious, violent crimes should be held personally
25 responsible?

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1 A Yes, sir.

2 Q You gave some answers to the question
3 about defense attorneys and district attorneys and police.
4 I notice that you described defense attorneys as being
5 fine, D.A.s as being strict, and you said the police
6 biased?

7 A Yes, sir.

8 Q What did you mean by that, sir?

9 A Well, police are only human and if they
10 arrest you, to me that's like saying you are guilty.

11 As far as about the D.A.s or the prosecutors
12 being -- I might have used the wrong terminology there,
13 maybe I should have used severe or something like that
14 because they have got to prove all their cases. They have
15 got to probe and probe and probe. Whereas, the defendant's
16 lawyers, they just have to refute or try to refute whatever
17 you say.

18 Q From your answer, you obviously
19 appreciate that both the defense and prosecuting attorneys
20 have roles to perform in a criminal case?

21 A That's right.

22 Q Now there will be police who will be
23 witnesses in this case. Are you going to give any more or
24 less weight --

25 A No.

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1 Q -- to their testimony simply because
2 they are in law enforcement?

3 A No, sir.

4 Q You don't have any type of ill will
5 towards police officers, do you?

6 A No, sir, we need them.

7 Q In this case, if you were chosen, and
8 assuming for a moment that you found that the evidence had
9 proven beyond a reasonable doubt the guilt of Mr. Castillo
10 as being responsible for a first degree murder and if you
11 became involved in fixing punishment and assuming, after we
12 went through a penalty hearing, it was your conscientious
13 belief that the proper punishment was the death sentence,
14 would you have the strength of your conviction to come into
15 the courtroom to look at the defendant and to vote for
16 capital punishment?

17 A Yes, sir.

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

19 THE COURT: Mr. Schieck.

20

21 VOIR DIRE EXAMINATION

22 BY MR. SCHIECK:

23 Q Mr. Zink, you were in the Marine
24 Corps?

25 A Yes, sir.

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1 Q How long you were in the Marine Corps?

2 A Just trying to be in the second World
3 War. A year half and a half.

4 Q You never got to see any combat
5 duties?

6 A No.

7 Q One of the questions that you had
8 answered on the questionnaire had to do with what is the
9 causes of crime problem and you said parental upbringing.
10 How do you think that causes the crime problem?

11 A Well, I think if the parents don't
12 bring their kids up right, teach them right from wrong,
13 they are in trouble. If they just let them, more or less,
14 run wild, do what they want, by the time they are
15 teenagers, why they are going to be in a world of trouble.

16 Q And the second part of that question is
17 what should we do about it. You didn't give any solution
18 to the problem. Do you have one?

19 A I can't tell people how to raise their
20 kids.

21 Q Do you think sometimes the parents are
22 to blame for the actions of their children?

23 A Sometimes, yes.

24 Q In your questionnaire, you indicated
25 that life without the possibility of parole would be the

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1 worst possible punishment?

2 A That's right, sir.

3 Q Can you just explain a little bit what
4 you are thinking.

5 A Well, if it was me, I'd hate to get up
6 and have to put the rest of my life day after day thinking
7 about what I did. I would rather have the death penalty.

8 Q That's just you personally?

9 A That's me personally, yes. To me,
10 that's the worst one of the three.

11 MR. SCHIECK: Thank you.

12 We would pass for cause, your Honor.

13 THE COURT: Good morning, Ms. Thorson.

14 A Good morning.

15 THE COURT: Any reason you can think of why
16 you couldn't be fair to both sides in this case?

17 A No.

18 THE COURT: Can you wait until all the
19 evidence is in before coming to any conclusion about any
20 issue in the case?

21 A Yes.

22 THE COURT: Have you, any member of your
23 family, or any friends of yours ever been arrested?

24 A Yes.

25 THE COURT: Would you tell us a little bit

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1 about that?

2 A My oldest son, when he was in the
3 Marines, I believe they called it drunk and disorderly.

4 THE COURT: He was on leave, I take it?

5 A I think a long weekend.

6 THE COURT: All right. Anything about his
7 experience that would effect your thinking in a case like
8 this?

9 A No, I don't think so.

10 THE COURT: Anyone in your family, you or
11 your friends of yours ever been the victim of a crime?

12 A Yes. Our home was burglarized about 20
13 years ago I think.

14 THE COURT: Anything about how the police
15 responded to that or how they have investigated it or how
16 law enforcement dealt with it?

17 A No.

18 THE COURT: Or how any prosecuting agency
19 might have dealt with the situation that would effect your
20 thinking?

21 A No.

22 THE COURT: That was then, this is now?

23 A Uh-huh.

24 THE COURT: Totally different set of
25 circumstances, right?

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1 A It was a long time ago.

2 THE COURT: Any concern about adverse public
3 opinion that might result from any verdict you might render
4 in this case?

5 A No.

6 THE COURT: Ever been on a jury before?

7 A No.

8 THE COURT: Ever been a party or a witness
9 in any court proceeding?

10 A Yes.

11 THE COURT: Tell us a little bit about
12 that.

13 A In a malpractice suit, I was a witness
14 I believe and I think in a suit against a hospital. I
15 worked at the hospital and I was called in to testify.

16 THE COURT: Which hospital?

17 A RE Tomlinson in El Paso, Texas.

18 THE COURT: Because your name sounded
19 familiar to me with regard to that.

20 A Okay. No, it was many, many years
21 ago.

22 THE COURT: All right.

23 Anything about that experience that would
24 effect your thought processes as a juror in this case?

25 A No.

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1 THE COURT: Any philosophical, religious, or
2 moral conscientious objection to the death penalty?

3 A No.

4 THE COURT: If you were called upon to
5 deliberate on the subject of penalty in this case, do you
6 believe that you could give fair consideration to all three
7 statutory forms of punishment?

8 A Yes, I could.

9 THE COURT: Do you have any problem with the
10 proposition that the defendant does not have a burden in
11 the case? It's the State's burden to prove each and every
12 element of the charges beyond a reasonable doubt?

13 A No, no problem with that.

14 THE COURT: You take no issue with the fact
15 that the defendant is under no obligation to establish his
16 innocence in this case?

17 A No.

18 THE COURT: If you were involved in this
19 case yourself in some way, whether as a witness, family
20 member of a witness or family of the victim or family
21 member of the defendant, would you feel comfortable with 12
22 people of your sense of judgment sitting on your behalf?

23 A Yes.

24 THE COURT: State of Nevada may inquire.

25 MR. HARMON: Thank you, Judge.

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VOIR DIRE EXAMINATION

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BY MR. HARMON:

Q Good morning, Ms. Thorson.

A Good morning.

Q How do you feel about the chance to serve as a juror in this type of case?

A Ambivalent. I never served as a juror before. Part of me says it's my civic duty, but part of me says there is other things I would like to be doing.

Q I don't think the Court or any of the counsels would suggest to any of the prospective jurors that it's easy or pleasant to have to make the types of decisions required in a murder case, but do you feel, as you consider your philosophy and your personality, the type of individual that you are, that you are the type of individual who can make the difficult decisions required?

A Yes.

Q Suppose you are called upon to actually pass judgment on the defendant, Mr. Castillo. Will you have the strength, the intestinal fortitude to do that?

A Yes.

Q You are the mother of three children?

A Correct.

Q As I remember, you have a daughter and two sons?

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1 A Correct.

2 Q And I think your sons are 27 and 23?

3 A Uh-huh.

4 Q At some point you undoubtedly will

5 discover that Mr. Castillo is the same age as your younger

6 son. Is his relative youth going to make it more difficult

7 for you to carry out your duties as a juror?

8 A No, I don't think so.

9 Q Do you feel that persons who commit

10 violent offenses should be held personally responsible?

11 A I think people should be held

12 personally responsible whether it's violent or not

13 violent.

14 Q In fact, as I remember, when you were

15 asked the question about the crime problem, you mentioned

16 that that could be attributed, in large measure, to the

17 failure of individuals to accept personal responsibility?

18 A Yes, I did.

19 Q Did you feel strongly about that?

20 A Yes, I do think people are responsible

21 for their actions.

22 Q You are a registered nurse by

23 profession?

24 A Correct.

25 Q Where are you employed?

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1 A Right now I'm working for the Bureau of
2 Licensure and Certification.

3 Q How long have you worked there?

4 A About a year, year and a half.

5 Q And prior to that, where were you
6 working?

7 A State Industrial Insurance System.

8 Q You mentioned in the questionnaire,
9 that back in the 1970s, you were involved in mental health
10 counseling?

11 A Correct.

12 Q How long did you do that?

13 A I worked in the mental health area for
14 about 15 years.

15 Q What types of persons were you seeing?

16 A Originally, I worked with disturbed
17 adolescents and youngsters from the age two to 16 and their
18 families for about seven or eight years and then I switched
19 over and worked with the outpatient adult group.

20 Q In terms of punishment, if it was left
21 solely up to you, would we have capital punishment in this
22 state?

23 A Probably yes.

24 Q Why is your answer probably yes?

25 A Well, this process has convinced me on

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1 one argument against the death penalty and that is that it
2 seems to be harder to get juries and I have read that that
3 is an argument in favor of doing away with it, that it
4 would speed up the process of jury selection and make
5 things go smoother. It looks like that part may be true.

6 Q Do you think that to streamline the
7 system necessarily, though, equates to a just result?

8 A No.

9 Q Do you believe that the punishment
10 should fit the crime?

11 A Yes.

12 Q In this case, if a penalty hearing
13 became necessary and if, after you had carefully considered
14 all of the evidence and applied to that the Court's legal
15 instructions, if you thought that the punishment of death
16 was the proper penalty to vote for, would you do so?

17 A Yes.

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

19 THE COURT: Before I ask the defense to
20 commence the questioning, Ms. Thorson, when you were at the
21 State Industrial Insurance System, which division did you
22 work? Did you work at the Jean Hanna Clark Rehabilitation
23 Center?

24 A Initially and then I moved over to the
25 SIIS itself. In fact, I worked as the health care

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1 specialist.

2 THE COURT: Do you have any recollection of
3 any cases that either I or my firm have done on behalf of
4 the State Industrial Insurance System?

5 A The last two years I was putting
6 together the MCO program, so I didn't deal with any of the
7 attorneys at all.

8 THE COURT: Just wanted to make sure that
9 would not be a problem.

10 For the defense.

11 MR. SCHIECK: Thank you, your Honor.

12

13 VOIR DIRE EXAMINATION

14 BY MR. SCHIECK:

15 Q Mrs. Thorson, you indicate you believe
16 the criminal system in Nevada is overloaded in your
17 questionnaire. What did you mean by that?

18 A That there is too many people, not
19 enough facilities, probably not enough police officers
20 either or judges.

21 Q What do you base that opinion on?

22 A Probably what I read in the newspaper
23 and hear on television to an extent and the population
24 growth in the town.

25 Q Do you think that your concept that the

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1 prison system is overcrowded would effect your decision on
2 what penalty should be imposed in this case?

3 A No.

4 Q You would be willing to base, if we
5 reached a penalty hearing, your verdict on what is
6 appropriate for Mr. Castillo and not what may be best for
7 the system?

8 A Correct.

9 Q Now you have a BS from St. Joseph's?

10 A Correct.

11 Q In health care administration?

12 A Uh-huh, yes.

13 Q What type of psychology and sociology
14 classes did you have?

15 A During nursing school, you are required
16 to take psychology all of your years that you are in
17 training and I took my -- I went back and took
18 individualized training at St. Elizabeth Hospital in
19 Washington D.C. for individual and group therapy.

20 Q In the mental health work that you did,
21 where were you located when you did that?

22 A El Paso, Texas.

23 Q How long have you been here in Clark
24 County?

25 A About eight and a half, nine years I

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1 think.

2 Q Did you come from El Paso?

3 A With a small stop in Albuquerque, New
4 Mexico.

5 Q Did you do any mental health counseling
6 here in Las Vegas?

7 A No.

8 MR. SCHIECK: Thank you.

9 We pass for cause, your Honor.

10 THE COURT: Thank you.

11 Mr. Murphy, good morning.

12 A Yes.

13 THE COURT: Any reason you can think of why
14 you couldn't be fair to both sides in this case?

15 A None whatsoever.

16 THE COURT: Can you wait before all the
17 evidence is in before coming to any conclusion about the
18 case?

19 A Yes.

20 THE COURT: Have you, any member of your
21 family, or any close personal friends of yours ever been
22 arrested?

23 A No.

24 THE COURT: Have you, any member of your
25 family or any close personal friends of yours ever been the

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1 victim of a crime?

2 A My brother was.

3 THE COURT: Tell us about that.

4 A East St. Louis over near St. Mary's
5 Hospital, he just delivered a patient up from Cape Terodo
6 (phonetic) and was asking directions on how to get to East
7 St. Louis and he rolled down the window and asked a group
8 of people on the street corner how to get across the
9 bridge. It was enough to get a hand in, the opened the
10 door. There was four, five of them. They opened the door
11 and pistol whipped him, stole his wallet, took his keys to
12 the car. He thought they was going to kill him. They had
13 a gun and a knife. They didn't. Then they ran off and
14 left him.

15 THE COURT: Were the perpetrators of this
16 incident ever found?

17 A Never.

18 THE COURT: Do you or did your brother have
19 any ill feelings toward law enforcement about the way the
20 matter was investigated or handled?

21 A Not really because considering the area
22 of East St. Louis in which it occurred and the environment
23 there at the time, there is not really a whole lot they
24 could do with it because there weren't many witnesses other
25 than my brother.

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1 THE COURT: So is there anything about that
2 experience that your brother had that would effect your
3 thinking in a case like this?

4 A None whatsoever.

5 THE COURT: Still put the State to its
6 burden of proof --

7 A Yes.

8 THE COURT: -- before coming to any
9 decisions in the case?

10 A Yes.

11 THE COURT: Ever been on a jury before?

12 A I was selected for a jury and we were
13 told to report back the next day and then we waited to come
14 into the court for about an hour and a half and during that
15 time, the defendant plea bargained with the county court.
16 It was a drug related case.

17 THE COURT: So you never actually sat on the
18 case?

19 A We never heard the case.

20 THE COURT: Anything about that experience,
21 however, that might effect your thinking here?

22 A No, none whatsoever.

23 THE COURT: Any concern about adverse public
24 opinion that might result from any verdict you might
25 render?

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1 A None.

2 THE COURT: Have you or any member of your
3 family or friends ever been involved in legal proceedings
4 of any kind in court as witnesses or a party?

5 A Way back in the service, I served on a
6 summary court-martial board and at one time I was at
7 counsel for the defense. Another time I was the counsel
8 for the United States Army and then, as a principal, I was
9 an expert witness in family matter cases that go to trial
10 for custody or child support issues as they relate to the
11 effects of the school.

12 THE COURT: Anything about those experiences
13 that would effect your judgment in this case?

14 A None whatsoever.

15 THE COURT: You haven't developed any
16 preconceived notions about what you think of the burden of
17 proof other than what you are going to be told here in
18 court?

19 A That's right.

20 THE COURT: You know the defendant doesn't
21 have an obligation to prove his innocence and you accept
22 that?

23 A Yes.

24 THE COURT: Any conscientious, moral,
25 philosophical or religious objections to the death penalty?

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1 A None whatsoever.

2 THE COURT: Will you be able to, if you are
3 called upon the question of penalty, to consider all three
4 forms of statutory punishment?

5 A Yes.

6 THE COURT: If you were involved in this
7 case yourself in any way, would you be comfortable with 12
8 people just like you sitting on the case?

9 A Yes.

10 THE COURT: Thank you very much, Mr.
11 Murphy.

12 The State of Nevada may inquire.

13

14 VOIR DIRE EXAMINATION

15 BY MR. BELL:

16 Q That last question of his Honor, you
17 would be comfortable if you happened to be affiliated with
18 the family of the alleged victim and, likewise, if you
19 happened to be Mr. Castillo or somebody affiliated with Mr.
20 Castillo; is that true?

21 A True.

22 Q You indicated that you have testified
23 as an expert witness primarily in custody matters?

24 A Yes, as it relates to child growth and
25 development and academic development within the school

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1 setting.

2 Q I understand.

3 Have you ever testified in a criminal
4 proceeding including criminal charged proceedings against
5 juveniles?

6 A No.

7 Q How long have you lived in Las Vegas?

8 A Since December of this past year.

9 Q And from where did you move?

10 A St. Louis.

11 Q What brought you to Las Vegas by
12 chance?

13 A Retired.

14 MR. BELL: Pass the juror for cause, your
15 Honor.

16 THE COURT: For the defense.

17 MR. LaPORTA: Thank you, Judge.

18

19 VOIR DIRE EXAMINATION

20 BY MR. LaPORTA:

21 Q Good morning, sir.

22 A Good morning.

23 Q I have a few questions in one
24 particular area. In the questionnaire that you filled out,
25 you indicated that, where it asked you there are three

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1 possible punishments for a defendant to be convicted of a
2 capital crime, which do you believe the worst possible?

3 A Uh-huh.

4 Q You indicated that the death was the
5 worst possible punishment. You indicated death was and you
6 went onto further explain, "That with death, his or her
7 life is over, no free ride with medical care, minimal work
8 requirements and social," I believe this word is, "benefits
9 of being in prison."

10 Would it be fair to say that you believe
11 that prison is not so much a pleasant situation, but one
12 that is agreeable to a lot of people?

13 A Oh, yes, I think it is.

14 Q Do you believe that in a case where an
15 individual is convicted of murder, that putting them in
16 prison for life is a real drain on the system?

17 A I wouldn't say it's a drain on the
18 system because that's the way it's been structured.

19 Q Is it a waste of money?

20 A I think it depends upon the nature of
21 the crime and the severity of the crime, then, yes, it
22 would be a waste of money.

23 Q Well, let me ask you this. Would this
24 prevent you from being -- would this effect your decision
25 if Mr. Castillo is convicted of first degree murder, would

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1 you feel that he was getting a free ride if you were to
2 consider life without the possibility of parole under any
3 circumstances or with parole?

4 A It depends upon the circumstances. If
5 he is convicted and then everything in consideration, life
6 with parole may be a good option. Life without parole may
7 be a better option.

8 Q So you could consider all three
9 possible punishments?

10 A Yes.

11 MR. LaPORTA: Pass for cause.

12 THE COURT: All right, thank you.

13 Is it Mr. Korte?

14 A Yes.

15 THE COURT: Am I pronouncing it correctly?

16 A Yeah, that's fine.

17 THE COURT: Mr. Korte, can you think of any
18 reason why you could not be fair to both sides?

19 A No, sir.

20 THE COURT: Can you wait until all the
21 evidence is in before coming to any conclusion about the
22 case?

23 A Yes.

24 THE COURT: Have you, any member of your
25 family or friends of yours ever been arrested?

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1 A No sir.

2 THE COURT: Have you, any member of your
3 family or friends of yours ever been the victim of a crime?

4 A No.

5 THE COURT: Ever been on a jury before?

6 A No.

7 THE COURT: Any concern about adverse public
8 opinion?

9 A No, sir.

10 THE COURT: Ever been a party or a witness
11 in any court proceeding?

12 A No.

13 THE COURT: Any conscientious, moral or
14 religious objections to the death penalty?

15 A No.

16 THE COURT: In a proper case, would you be
17 able to consider the death penalty?

18 A Yes.

19 THE COURT: Life without the possibility of
20 parole?

21 A Yes.

22 THE COURT: Life with the possibility of
23 parole?

24 A Yes.

25 THE COURT: You could consider all three

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1 statutory forms of punishment?

2 A Yes.

3 THE COURT: Have any problem with the fact
4 that the defendant is not required to prove his innocence?

5 A No, sir.

6 THE COURT: You understand it's the State's
7 burden to establish the elements of these charges?

8 A Yes.

9 THE COURT: And that burden of proof is
10 beyond a reasonable doubt?

11 A Yes.

12 THE COURT: You agree with that proposition?

13 A Yes, I do.

14 THE COURT: And you can follow those
15 instructions?

16 A Yes.

17 THE COURT: If you were involved in this
18 case yourself, would you feel comfortable with 12 people in
19 your sense of mind sitting in judgment on the matter?

20 A Yes, sir.

21 THE COURT: State of Nevada may inquire.

22 MR. HARMON: Thank you, your Honor.

23

24 VOIR DIRE EXAMINATION

25 BY MR. HARMON:

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1 Q Good morning, sir.

2 A Good morning.

3 Q You apparently were born in Ohio?

4 A Yes, sir.

5 Q You lived in Clark County about 11

6 years?

7 A In Clark County?

8 Q Yes.

9 A No, sir. I lived here about four. I

10 was in the military and I have only been a resident about

11 one. I was in the military, not a resident, working at

12 Nellis Air Force Base.

13 Q I see.

14 You haven't served as a juror before?

15 A No, sir.

16 Q What's your attitude about the prospect

17 of serving on this case?

18 A I think it's very interesting. I've

19 never really seen or been around, experienced any court

20 proceedings or anything like this. It's educational,

21 interesting.

22 Q Is it an experience that you will

23 welcome if you are selected?

24 A Yes, sir.

25 Q You are what, 23, sir?

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1 A Yes, sir.

2 Q That will be the same age as the
3 defendant, Mr. Castillo. Is the similarity in age going to
4 be a problem?

5 A No, sir.

6 Q Do you feel that those who commit
7 crimes should be held personally responsible for what they
8 do?

9 A Yes, sir.

10 Q What are your attitudes about
11 punishment? If it was left up to you, would we have
12 capital punishment in the State of Nevada?

13 A Yes, sir.

14 Q What about life sentences for murder of
15 the first degree, would we have those as well?

16 A Yes, sir.

17 Q Why do you think we ought to have
18 capital punishment?

19 A I don't really think it serves as a
20 good deterrent, but in some, I think, extreme cases, it's
21 not -- you can't necessarily reform someone enough and if
22 the severity of the crime dictates it, I think it is an
23 adequate punishment.

24 Q You believe that the punishment ought
25 to fit the offense?

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1 A Yes, sir.

2 Q Now when asked about the crime problem
3 in the questionnaire, you indicated the lack of
4 deterrence. What did you mean by that?

5 A I don't think the death penalty itself
6 serves as a strong deterrence. I think sometimes the Court
7 is a little too lenient, as far as the punishments that
8 they set. It's just that there is such an overburdening on
9 the system, I think there is just no way to adequately
10 deter someone from committing a crime.

11 Q When asked to describe the attorneys,
12 defense attorneys and prosecution, you referred to the
13 defense as skilled, prosecutors as persistent, and police
14 as stressed. Is there any particular reason why you
15 selected those adjectives?

16 A No. It just -- I think I said that the
17 defendant's attorneys, excuse me, were more trustworthy and
18 I think that they need to be because the defendant has to
19 put, you know, his whole trust in them to help prove his
20 case and I think the prosecuting attorneys need to be
21 persistent in that it's their job, it's their profession,
22 you know, to get this conviction. And so them being
23 persistent would just go along with their profession and I
24 do think the police forces, they are overworked and they
25 are under a lot of pressure to maintain order and to

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1 accomplish their objectives.

2 Q Do you have any personal experience
3 that causes you to form a certain view about the roles of
4 the attorneys in a criminal case?

5 A No, sir.

6 Q At some point in these proceedings, the
7 attorneys will address the jury either in opening
8 statements or final argument. Are you of a frame of mind
9 now where you will give equal consideration of the
10 arguments of both sides?

11 A Yes, sir.

12 Q You aren't leaning in one direction or
13 the other?

14 A No, sir.

15 Q You indicated that your personal view
16 is, if it was you being punished for murder of the first
17 degree, you think life without parole would be the worst?

18 A Yes, sir.

19 Q As I remember, you said you would have
20 to live with the consequence of what your decisions were.
21 If we select you, will you follow the Court's
22 instructions?

23 A Yes, sir.

24 Q At all stages of the trial?

25 A Yes, sir.

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1 Q You understand you have a duty, as a
2 juror, to do that?

3 A Yes, sir.

4 Q Will you also be in favor, regardless
5 of what your personal view might be, if you were the person
6 being sentenced in this case, would you vote for the type
7 of punishment that seems appropriate if that becomes the
8 jury's responsibility?

9 A Yes, sir.

10 Q To the actual crime perpetrated in this
11 case?

12 A Yes, sir.

13 Q Are your parents living, sir?

14 A Yes, sir.

15 Q Do you have any grandparents living?

16 A Yes, sir.

17 Q Is there anything in your personal life
18 now that would detract from your ability to give your full
19 concentration on this case while the Court is in session?

20 A No, sir.

21 MR. HARMON: Thank you.

22 Pass for cause.

23 THE COURT: For the defense.

24 MR. SCHIECK: Thank you.

25

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VOIR DIRE EXAMINATION

1
2 BY MR. SCHIECK:

3 Q Mr. Korte, you've got brothers and
4 sisters?

5 A Yes, sir.

6 Q And how many?

7 A One brother and one sister.

8 Q And your brother is involved in some
9 type of police-type of job?

10 A He was. He was a security policeman in
11 the air force, but he has since cross trained into
12 mechanics.

13 Q So he is no longer with the security
14 police?

15 A No, sir.

16 Q Got a older brother?

17 A Yes, sir.

18 Q Were you in the air force at the same
19 time?

20 A Yes, sir.

21 Q Sort of follow -- did you follow him
22 into the air force type of situation?

23 A He's been in about -- he was in about
24 eight years after I went in and then he's still in and I
25 have since got out.

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1 Q Why did you join the air force?

2 A I'm from a really small town. I went
3 to college for a year. It didn't really suit my taste and
4 so I guess in order not to get caught in the routine like
5 so many people I do where I'm from, like get a job in a
6 factory and continue working, I decided to get a job in the
7 air force.

8 Q And then you were stationed at Nellis?

9 A Yes, sir.

10 Q And then when you got out, you decided
11 to stay in Las Vegas?

12 A Yes, sir.

13 Q Why did you decide to stay in Las
14 Vegas?

15 A Because I was already settled here, I
16 have friends here and stuff and to move back home, I think
17 my opportunity of finding a job, a better career, I have a
18 lot better opportunities here than I would back home.

19 MR. SCHIECK: Thank you.

20 We would pass for cause, your Honor.

21 THE COURT: All right. We are going to take
22 our noon recess at this time. Ladies and gentlemen of the
23 prospective jury panel, I would remind you it is your duty
24 not to converse among yourselves or with anyone else on any
25 subject connected with this trial or to read, watch, or

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1 listen to any report of or commentary on this trial or any
2 person connected with this trial by any medium of
3 information, including, without limitation, newspapers,
4 television, or radio, and you are not to form or express an
5 opinion on any subject connected with this case until it is
6 finally submitted to you.

7 Mr. Black, Mr. Rosales, Mr. Zink, Ms.
8 Thorson, Mr. Murphy, Mr. Korte, you may remain downstairs
9 in the jury holding area until we call you this afternoon
10 so you won't have to sit in the courtroom. We want you to
11 be back here at 1:30.

12 Can we start a little bit earlier this
13 afternoon?

14 MR. LaPORTA: Whatever is your pleasure.

15 MR. BELL: When you are ready, we are ready.

16 THE COURT: I need to give you enough time
17 to get back here for lunch. How about 1:15?

18 MR. BELL: Yes, sir.

19 MR. SCHIECK: All right, Judge.

20 THE COURT: All right, that will be the
21 order.

22 MR. BELL: Judge, may we leave our stuff
23 here?

24 THE COURT: Of course. We will lock it up.

25

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1 (Off the record at 12:07 p.m. back on the
2 record at 1:25 p.m.)

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

6 Continuation of jury selection. The
7 defendant is represented by his counsel, State of Nevada
8 represented by the District Attorney and Chief Deputy
9 District Attorney, Mel Harmon.

10 Parties ready to proceed again with jury
11 selection?

12 MR. BELL: Yes, your Honor.

13 MR. SCHIECK: Yes, your Honor.

14 MR. LaPORTA: Yes, your Honor.

15 THE COURT: I believe we're now ready to
16 examine Mr. Richard Alan Simmons?

17 A Sammons.

18 THE COURT: Simmons?

19 A Sammons.

20 THE COURT: What?

21 A Sammons.

22 THE COURT: Oh.

23 Any reason you can think of you why couldn't
24 be fair to both sides in this case?

25 A No.

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1 THE COURT: Can you wait until all the
2 evidence is in before coming to any conclusion about the
3 case?

4 A Yes, sir.

5 THE COURT: Have you, any member of your
6 family or close friends of yours ever been arrested?

7 A Yes.

8 THE COURT: Tell us about that.

9 A Myself, when I was in the service, for
10 shoplifting. It was over 18 years ago.

11 THE COURT: Anything about that experience
12 that would effect your judgment in a case like this?

13 A No.

14 THE COURT: Any ill feelings toward law
15 enforcement agencies or police agencies?

16 A No, sir.

17 THE COURT: Anyone in your family, you,
18 friends of yours ever been the victim of a crime?

19 A My brother-in-law and his wife were
20 robbed years ago. Different city, different state.

21 THE COURT: Was it a confrontational robbery
22 face to face?

23 A No.

24 THE COURT: Or was it a burglary?

25 A It was a burglary.

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1 THE COURT: So their house was broken into?

2 A Yes, sir.

3 THE COURT: Anything about your knowledge
4 about how the police handled that situation or how it was
5 handled in general or how it was handled itself that would
6 effect your thinking in this case?

7 A No, sir.

8 THE COURT: Ever been on a jury before?

9 A No, sir.

10 THE COURT: Any concern about adverse public
11 opinion that might result from any verdict you might
12 render?

13 A No, sir.

14 THE COURT: Ever been involved in any court
15 proceedings as a party or witness?

16 A Yes, sir, quite a few.

17 THE COURT: Tell us about that.

18 A I was a federal police officer for
19 eight years, sir. So I have made many arrests and have
20 testified as a witness.

21 THE COURT: So you were --

22 A Federal police officer.

23 THE COURT: Either U.S. Marshall --

24 A No, federal police with the DOD,
25 Department of Defense police.

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1 THE COURT: Oh, all right.

2 A I was a civilian on a military
3 installation.

4 THE COURT: I see.

5 A And we did all the law enforcement.

6 THE COURT: Anything at all about those
7 experiences that might have given you some preconceived
8 notions about the justice system with which we should be
9 aware?

10 A No, sir.

11 THE COURT: Any philosophical, religious or
12 moral objections to the imposition of the death penalty?

13 A No, sir.

14 THE COURT: If you were called upon to
15 deliberate on the question of penalty, will you be able to
16 give fair consideration to all three statutory forms of
17 punishment?

18 A Yes, sir.

19 THE COURT: And do you have any concerns or
20 reservations about the fact that the defendant does not
21 have to prove himself or prove anything in this case. It's
22 the State's burden to establish guilt of the charges beyond
23 a reasonable doubt?

24 A No, sir.

25 THE COURT: Do you have any doubt about

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1 that?

2 A No, sir.

3 THE COURT: If you were sitting on a case
4 yourself, would you feel comfortable with 12 people just
5 like you sitting on your jury?

6 A Yes, sir.

7 THE COURT: You may examine.

8 MR. BELL: Thank you, your Honor.

9

10 VOIR DIRE EXAMINATION

11 BY MR. BELL:

12 Q Not Richard Simmons?

13 A No, sir.

14 Q I note you attended college in the
15 field of criminal justice?

16 A Yes, sir.

17 Q Did you ever take any classes in
18 philosophy in the criminal justice?

19 A No, sir, it was mostly academy classes.

20 Q Did you ever take any classes which
21 taught you the function of, for example, the prosecution
22 and defense?

23 A Just general classes that we had at a
24 semester.

25 Q Mr. Korte, your predecessor who was

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1 inquired, said he thought that prosecutors were consistent
2 to get convictions. What I was getting at was would you
3 have any quarrel with the proposition that our ethical and
4 legal responsibility is not to get convictions, but to see
5 that justice is done?

6 A That's correct.

7 Q You indicated that you thought that the
8 life without was the worst punishment and now you have
9 heard us ask about this several times before, so maybe we
10 can just cut right to it and see what you think about
11 that.

12 A I looked at myself and what would
13 happen if I ever got punished and what I wouldn't want and
14 I think being in jail for life without a chance at parole
15 would be having to deal with the crime I did.

16 Q Gotcha. It makes sense and I don't
17 disagree with that.

18 You understand if you are seated as a juror,
19 your responsibility is going to be to figure out a
20 punishment, under the best circumstances and evidence
21 presented to you?

22 A Absolutely.

23 MR. BELL: Pass for cause. Thank you,
24 Judge.

25 THE COURT: For the defense.

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1 MR. LaPORTA: Thank you, Judge.

2

3 VOIR DIRE EXAMINATION

4 BY MR. LaPORTA:

5 Q Good afternoon.

6 A Good afternoon.

7 Q You indicated in your questionnaire
8 that you felt one of the major causes of the crime
9 situation is parents that lost control of their children?

10 A Yes.

11 Q Who do you think is at fault for that,
12 if you can lay the blame somewhere?

13 A I would lay the blame on the parents
14 for not controlling the kids.

15 Q So you consider lazy parents or
16 unconcerned parents to be the primary cause of the
17 situation that we're faced with today, for the most part --

18 A Yes, sir.

19 Q -- with the problem with crime? Okay.
20 You have been a federal police officer for
21 eight years did you say?

22 A Yes, sir.

23 Q You made many arrests?

24 A Yes, sir.

25 Q You came into contact with the criminal

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1 element quite a bit?

2 A Yes, sir.

3 Q As a result of that, has that jaded
4 your view towards people charged with crimes and do you
5 believe that a person charged with a crime is essentially
6 guilty?

7 A No, sir. I took it case by case and
8 was taught through the academy and utilized, when I made an
9 arrest, to have all my facts and let the prosecutor decide
10 whether or not he had enough evidence to take somebody to
11 trial.

12 Q There are three possible forms of
13 punishment here if Mr. Castillo is convicted of first
14 degree murder. Would you consider life with the
15 possibility of parole given the right factual situation?

16 A If the circumstances warranted it,
17 yes.

18 Q So you do believe that there are some
19 murders that occur where an individual is deserving of life
20 with the possibility of parole?

21 A I would have to decide that after I
22 hear all the evidence.

23 MR. LaPORTA: Pass for cause, your Honor.

24 THE COURT: All right, thank you.

25 Mr. Irish?

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1 A Yes.

2 THE COURT: Any reason you can think of why
3 you couldn't be fair to both sides in the case?

4 A No, sir.

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

8 A Yes.

9 THE COURT: Have you, any member of your
10 family or any close friends of yours ever been arrested?

11 A Yes.

12 THE COURT: Tell us about that.

13 A My sister was arrested for attacking a
14 police officer.

15 THE COURT: Anything about her experience
16 that would effect your thinking in this case?

17 A No.

18 THE COURT: Obviously that was a
19 confrontation between a member of your family and the
20 police establishment. You, yourself, don't have any views,
21 I take it, after all of this questioning, about the
22 credibility of police officers?

23 A Also, my brother was a career police
24 officer who is retired now.

25 THE COURT: So there is no question in your

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1 mind that you can fairly assess the credibility of police
2 witnesses and all the other witnesses in a case like this?

3 A Yes, I believe I can.

4 THE COURT: Anyone in your family, any close
5 personal friends of yours or you ever been the victim of a
6 crime?

7 A Yes, sir.

8 THE COURT: Tell us about that.

9 A My mother and stepfather's home was
10 burglarized some years ago. I myself have had my apartment
11 burglarized. I have had various property, car battery,
12 things like that stolen.

13 THE COURT: Anything about the way the
14 police handled that or any police agencies that handled
15 those matters that would cause you to have any problems
16 vis-a-vis police witnesses or the prosecution?

17 A No, sir.

18 THE COURT: You can set all that aside and
19 the history aside and judge the facts of this case on their
20 merit?

21 A Yes.

22 THE COURT: Any concern about adverse public
23 opinion?

24 A No.

25 THE COURT: Ever been on a jury before?

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1 A Yes, I have.

2 THE COURT: How many times?

3 A Once.

4 THE COURT: Was it a criminal or civil
5 case?

6 A It was civil and I did not deliberate.
7 I was an alternate juror.

8 THE COURT: But did you sit through the
9 instruction process?

10 A Yes, I did.

11 THE COURT: You understand the instructions
12 that were given in a civil case are somewhat different than
13 they are in the criminal case?

14 A Yes, I do.

15 THE COURT: The burden of proof in a
16 criminal case is a more stringent burden of proof, beyond a
17 reasonable doubt?

18 A Yes.

19 THE COURT: You will be able to draw
20 distinctions between those concepts?

21 A Yes, I can.

22 THE COURT: Ever been a party or a
23 participant in any court proceeding?

24 A I prosecuted my own patent
25 application.

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1 THE COURT: Anything about that experience
2 that would effect your thinking, cause you to go into
3 transference?

4 A No, sir.

5 THE COURT: Have any problem with the notion
6 that the defendant is presumed innocent?

7 A No, sir.

8 THE COURT: And you'll put the State to its
9 burden with the understanding the defense has no obligation
10 of presenting any evidence in a case like that?

11 A Yes, I can.

12 THE COURT: Any philosophical, religious or
13 moral objections to the death penalty?

14 A No.

15 THE COURT: Can you, if you are asked to
16 deliberate in this case, fairly give consideration to all
17 three statutory forms of punishment?

18 A Yes.

19 THE COURT: If you were involved in a case,
20 would you feel comfortable with 12 jurors like you sitting
21 on the jury?

22 A Yes, I would.

23 THE COURT: Stay may inquire.

24 MR. BELL: Thank you, Judge.

25

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