

about anything to do with this case until you have heard all the evidence, and I have instructed you on the law?

A. Yes.

Q. Do you have a fair, open-minded mind, neutral approach to your service as a juror in this case so that if you were one of -- on either one of the sides, the defense or the prosecution, you would be comfortable with a juror that has your frame of mind being on the jury?

A. Yes.

THE COURT: Okay. Ms. Kollins?

MS. KOLLINS: Thank you, Judge.

VOIR DIRE EXAMINATION OF JUROR HUERTA

BY MS. KOLLINS:

Q. Ms. Huerta, where did you live before you moved to Las Vegas?

A. I lived in Arizona.

Q. In Arizona.

And is that where you spent most of your adult life?

A. No, I have lived kind of all over.

Q. Kind of all over?

A. Yes.

Q. Okay. What have you done as an adult other than medical records?

A. I used to work at a mall, form medical records.

Q. Okay. As a programmer?

A. I did day care, for 15 years.

Q. That's what you did in Arizona then?

A. Yes.

Q. And what brought you to Nevada?

A. My husband's work.

Q. Anything, any obligations at work, anything over the next few days that would cause you to be distracted from your service?

A. No.

Q. I know the Judge asked you if you had known anyone that had been sexual assault victim or accused of any kind of sexual crime.

How about, have you been the victim of any other kind of crime?

A. Credit card theft.

Q. Credit card theft. Was that resolved to your satisfaction?

A. It was just with the bank.

Q. Nobody else close to you been the victim of any kind of a violent crime?

A. No.

MS. KOLLINS: Pass for cause, Judge.

THE COURT: Mr. Landis?

VOIR DIRE EXAMINATION OF JUROR HUERTA

BY MR. LANDIS:

Q. Do you want to be on the jury?

A. I used to think not, but I think it would be a good experience.

Q. What did you used to think that?

A. When I was younger.

Q. Okay.

A. When I got the jury summons. This would be a good experience.

Q. Things have changed?

A. Yes.

Q. Do you think it's just time that changed you?

A. Yes.

Q. How do you feel about Mr. Carney's senior citizens jury idea?

A. Actually, that's something I had talked to my husband about because there are a lot of people who retire, and, you know, could do it, and would be a compliment to work or retired.

Q. How do you feel our system deals with -- irrespective of, I doubt if you state -- let me rephrase. How do you feel about the burden of proof, too

high, too low, just right?

A. I think it is fine.

Q. How about the presumption of innocence?

A. Where you are innocent until you are proven guilty, yes.

Q. What about -- I talked about this before.

Do you think you are a person, who would want

to hear from a criminal Defendant in the case?

A. Do I want to hear direct evidence?

Q. No, hear them testify.

A. Oh, either way. Like I said, you pick up on that.

Q. Do you think you could sit in the middle,

and listen to what they say once they get on the stand?

To be honest with you, there is no right or wrong answer. I don't think that's --

A. I don't think that I would go either way. they shouldn't start from that position, the way they are telling you.

Q. Thank you.

A. You're welcome.

MR. LANDIS: Pass for cause, Judge.

THE COURT: Very good.

Okay, now approach the bench.

(Whereupon, a brief, informal discussion was

had at the bench between the Court and counsel.)

THE COURT: All right. We are going to ask the following two jurors to go ahead and go back to the third floor to the Jury Commissioner's floor in the Jury Commissioner's office, Mr. Howard Kenieutubbe and Ms. Elizabeth Martin.

(Juror Kenieutubbe and Juror Martin excused at this time.)

THE COURT: We are going to replace Mr. Kenieutubbe with Juror Becky Hansen, and replace Elizabeth Martin with Susan Gregg, okay?

Becky Hansen, I am going to ask you to have that middle seat in the back row, and, let's see, Susan, you are going to take that end chair. There you go.

VOIR DIRE EXAMINATION OF JUROR HANSEN

BY THE COURT:

Q. Becky Hansen, how long have you been in Las Vegas?

A. About 10 years.

Q. And what do you do for a living?

A. I am a paralegal with the Federal Public Defender's office.

Q. Oh really. How long have you done that?

A. About 10 years.

Q. About 10 years?

A. About 11 and a half.

Q. What exactly do you do over there?

A. I work in the capital appeals unit.

Q. Post conviction?

A. Federal appeals.

Q. Okay, interesting.

Do you think it is going to cause you a problem working in the Federal Public Defender's office to be sitting here on a jury on a criminal case over here?

A. I don't think, I mean, it's a fair system.

Q. You probably have a fair amount of experience with it, too.

What kind of training and background did you go through to become a paralegal?

A. First of all, I wanted to teach Latin so I went to graduate school, and then I got into the -- I left graduate school and went into -- then started working as a paralegal in the civil legal aid area, and in civil practice, I did that for about seven years, and then I got into the Federal Public Defender.

Q. Did you go through any specific training, legal and background type training?

A. I went through a paralegal program.

Q. That was outside of work?

A. That's right.

Q. An actual school?

A. Yes, that's right.

Q. How long was that education program?

A. It was about two years.

Q. Really.

A. It was night school.

Q. Why didn't you just go to law school?

A. I would not want to be involved with all

the legal writing.

Q. Really? That's all you do, isn't it?

A. No, actually, it's fact finding investigations,

and that's what I like.

Q. Oh, so you actually go out in the field?

A. Sometimes.

Q. Okay. 'You guys only represent criminal

defendants?

A. That's correct.

Q. You don't think that's going to be a problem

to be on a jury in a criminal case?

A. You know I thought about --

Q. What's your director's name, Fran --

MS. LUZAICH: Fran Forsum (phonetically)?

THE COURT: Fran Forsum.

Q. Does she know you are over here?

A. I think so. I would have to talk to her.

Q. Well, I didn't mean to interrupt you, you were about to tell me something.

What, what was it that --

A. Well, I think you asked because this is a criminal case.

Q. Right.

A. Could I serve? And I guess I would like to think I could. But that's entirely up to you, but that's my --

Q. Well, I mean, you are right, I mean, these guys are the ones that are going to be able to say whether they actually want you to sit on the jury or not.

But even before the question gets to them, it is kind of up to you.

You have got to, you know, tell us in all, you know, honesty, considering what you do for a living, and who you work for, if you think that you are so inundated with the process of working on criminal defense cases, that it would cause you, you know, if that's something that you are just, plain and simple, not going to be able to leave out in the hallway, sometimes, some things that go on in our lives, such as being an employee day in and day out in a particular line of work, might just become just so much of us that it is virtually impossible to say I am leaving that stuff out in the hall, and I am

going to sit here and be a fair and impartial juror, and I am not going to let anything that I do for a living come and enter into my -- this process of me being a juror. Sometimes it is just not possible.

So the first person I ask is you. Do you think it is possible or not?

A. Well, I mean, I think it's an interesting question because I think the life experience, for example, I worked with a private firm,, and I did large civil litigation cases.

Certainly, that person sitting here is different than me sitting here now with the more life experiences working now as I do in the capital unit.

And I don't think that, you know, there is an absorption of life experience that I think, you know, there are facts to, as you say, put out in the hallway some way what I am working on now, but as far as the absorption of that, I think that's a more, you know, difficult question to answer.

I mean, I think it would be, I mean, it's usually just black and white to say, that's, you know, that's a clean separation.

Q. Well, and actually, to a more pointed question.

When you go back into that jury deliberation

room to deliberate, and I have instructed you on the law, and they may ask questions of the instructions, and you give a simple definition.

What's defined as beyond a reasonable doubt, and you probably will have seen in your work many of the instructions and the statements of law as in your work as a pair legal.

Are you going to be able to take the instructions I give you and apply those instructions to the facts as you find them to be a juror and pay no attention to the information that you work with on a daily basis in terms of statements of different aspects of the law that you might do that?

A. Well, I believe in the jury system, and that means applying specific facts of this case to the instructions that you specifically give, and those are the parameters within which to --

Q. You understand exactly how it works, I mean, I just want you to be able to give us information to let you know that you can apply, you know, the law that I am telling you, and sit there as an impartial juror and be fair to both sides.

Would you be comfortable if you were the prosecution, primarily in this case, the prosecution, but the defense or the prosecution?

Would you be comfortable with somebody with your frame of mind being on the jury?

A. Well, I guess my answer is if I was sitting where the Defendant was sitting, and knowing my life experiences are quite different, I don't know that as a female white person sitting there where he is sitting if this was a jury pool of African American jurors, I don't know that I -- how I would feel.

Q. Well, I mean, I guess the basic question is:

Are you fair and impartial?

A. Well, I would like to think I am.

Q. Okay. I mean, I'm not going to just off the top, because of what you do for a living, say that you can't sit as a juror.

If somebody is willing to try, and then they can say with an honest, clear conscience that they can be fair and impartial, then I am not going to exclude you off the jury is what it comes down to.

Can you think of any other reason that I haven't really touched upon?

Have you ever been on a jury?

A. I have never been a juror.

Q. Have you ever been associated with or been the victim of, or accused of a sexual crime?

A. Nop.

Q. How about any other kind of crime?

A. I was -- this is about 20 years ago -- my house was burglarized a couple of times.

Q. Anybody ever prosecuted as a result of it?

A. No.

Q. Okay. Is that going to cause you problems?

A. I don't think so.

Q. Okay. Any friends in law enforcement?

A. No.

Q. Okay.

I guess you know all the rest of this.

Can you withhold forming any kind of opinions or judgments about any aspect of the case until you have heard all of the evidence and I instruct you on the law?

A. I would like to think so.

THE COURT: Okay. You guys are up.

MS. LUZAICH: The State is going to pass for cause.

Thank you.

THE COURT: Okay.

VOIR DIRE EXAMINATION OF JUROR HANSEN

BY MR. BANKS:

Q. Hi, Ms. Hansen, nice to meet you.

You heard me asking some of the stereotype questions earlier.

And would you agree, I guess, maybe you can draw, I mean, we all all draw from our experiences, life experiences, and I guess part of those life experiences may be employment experiences and, you know, just kind of leave yours.

Do you -- would you agree that those kinds of stereotypes are still kind of out there, based on your life experience, or your work experience, or kind of the whole picture.

Would you agree that those stereotypes we discussed are out there?

A. Yes, I think they are, to a certain degree.

Q. Okay.

Knowing that those are out there, well, what -- I mean, just off the top of your head, what are some of those stereotypes if you don't mind?

I mean, we talked about on that maybe somebody had an expensive car, an African American fellow at a red light. Somebody might think that that's a rapper.

Or what are some other stereotypes if you can think of any?

A. Well, I guess I think of it in terms of some of my African American friends, who I have talked

to, you know, they talk about their experiences of getting on an elevator, and having women clutch their -- more tightly to their purse, being followed in a store, and that kind of thing.

Q. Okay.

A. So I just don't know what that -- I've never had that experience.

Q. Okay. And I guess maybe for some people there -- it's more of an overt thing, and for some it may be subtle, or they may know of the existence of the stereotypes but maybe not put a lot of stock into it, or not put any stock into it.

Would you agree that some people might subconsciously put some stock into it?

A. Yes.

Q. Yeah, okay.

You know, everybody on both sides of the table, we all are just looking for a fair trial.

How -- do you have any thoughts one way or the other, with those stereotypes that are out there, do you think it makes it more difficult for a guy like Marcus Wesley to get a fair trial even in this day and age?

A. Well, I just think the jury of your peers, of the true peers, is not always so true.

Q. Okay.

And I think that's -- if I -- if I understood what you were saying earlier that if you -- I guess you were just kind of reversing the roles, as far as if you were in Mr. Wesley's shoes, and it was a jury not of your peers that you might -- that might cause you some concerns, and I guess this kind of a process that we are doing is how we kind of get these issues out and decide who is going to make the most -- the fairest juror, and I appreciate your honest answers today.

Thank you, Judge. Pass for cause.

THE COURT: Okay.

VOIR DIRE EXAMINATION OF JUROR GREGG

BY THE COURT:

Q. Then we have Susan Gregg, is that correct?

A. Yes.

Q. Susan, how long have you been in Las Vegas?

A. 30 years.

Q. What do you do for a living?

A. I'm a librarian.

Q. For?

A. College of Southern Nevada.

Q. Are you married?

A. Yes.

Q. What does your husband do?

A. He has a small business.

Q. In what field?

A. He sells dietary supplements to health food stores.

Q. Okay. Do you have children?

A. Yes.

Q. Grown and employed?

A. Yes.

Q. What do they do?

A. One 28 year old, and he works for Cox Communications.

Q. Okay. And that's it?

A. Yes.

Q. Okay. Have you ever been trained in law enforcement?

A. No.

Q. Anybody close to you?

A. No.

Q. Anybody, a relative, or anybody close to you, employed in any aspect of law enforcement?

A. No.

Q. Can you think of any reason why you would treat the testimony of a police officer any better or worse than the testimony of anybody else?

A. No.

Q. Not a police officer?

A. No.

Q. You would treat him just the same as anybody else?

A. Yes.

Q. Okay. Have you, or anybody close to you, ever been the victim of or accused of a sexual related offense?

A. No.

Q. Have you or anybody close to you ever been the victim of or accused of any other kind of criminal offense?

A. My husband was arrested. He was working in a direct sales company and --

Q. Was that in telemarketing?

A. Yes.

Q. Okay.

A. And this was at the time when there was a lot of focus on the telemarketing companies, and there was a bit of a tweak. They took everybody out of the company and arrested them.

Q. Who did he work for?

A. I can't -- I can't remember. It was over 10 years ago. I can't remember the company.

Q. Anything then result in terms of criminal prosecution as a result of this?

A. He pled, I would have to say under duress, because he was so upset and, you know, I have a lot of faith in his ethics.

That he was even arrested, and his lawyer advised him to plead guilty to a misdemeanor.

He didn't want to, but the stress was so much, and he had to spend a weekend in jail because he couldn't get a lawyer that quickly, and they didn't give him his medications, and so to pursue it and uphold his character, it just seemed the thing would be too stressful for him so he pled to a misdemeanor.

Q. Was this in the Federal system or was it in the State system?

A. It was in District Court.

Q. Federal District Court or here in the State District Court?

A. State.

Q. Okay. And this was about 10 years ago, or so?

A. Yeah.

Q. Obviously, it's your husband, so you were pretty intimately familiar with the whole proceedings?

A. Yes.

Q. Okay. So what was your impression?

A. Well, we went and watched the other Defendant

in court, and I think some of them said, guilty.

I don't think they all did, and like I said, his lawyer advised him that in this type of situation where there was so much focus on telemarketing, and cleaning up that industry, that he really didn't -- he wouldn't be listened to when he would protest or state his innocence in that situation.

Q. Well, it sounds like you didn't -- you weren't really impressed with the way the process worked?

A. I think it was just bad timing, I mean, if there was a bust of a company now, it would be a singular event, whereas, at that time there was so much focus.

Q. It was the whole industry that was being questioned?

A. Right, and, you know, telemarketing in itself is not a bad industry, but there can be bad people involved.

Q. Let me ask you this:

Can you disassociate that whole experience, what your husband and you went through, and sit as a juror in a criminal case like this?

A. I can, I can.

Q. I mean, this is a considerably different kind of case than what he went through in regards to

telemarketing 10 years ago, is that correct?

A. Yes.

Q. Anything about your experience that you think would make it difficult if not impossible for you to be a fair and impartial juror in this case?

A. No.

Q. Can you set that all aside and just concentrate on being a juror in this case?

A. Yes, I can.

Q. And not let any of that interfere?

A. Yes.

Q. Okay. Have you ever been on a jury before?

A. No.

Q. Okay.

Do you think that you can withhold forming an opinion about any aspect of this case until you have heard all the evidence and been instructed on the law?

A. Yes.

Q. Okay.

Do you think, considering your husband's experience yours and your husband's experience, do you think that you have a neutral, healthy perspective as you approach jury service so that if you were the defense or the prosecution, you would be comfortable being a juror on the jury that has your frame of mind?

A. Yes.

THE COURT: Okay. All right, that's fine.

Ms. Kollins?

VOIR DIRE EXAMINATION OF JUROR GREGG

BY MS. KOLLINS:

Q. Ms. Gregg, do you know what prosecution office handled your husband's case? Was it the D. A.'s office or the Attorney General?

A. I think it was the Attorney General. It was big. I think there was a task force.

Q. That would be the Attorney General. How did -- what did you think about how they handled the case?

A. I think that they wanted to make some headlines, and let the public know that, yes, they are attacking this problem.

There was news media there, and they took everybody out in handcuffs, and, you know, I think when it got into the courts, it was handled fairly, but I just think the mindset, it could have been just his lawyer saying, hey, you know, you are not going to get a fair shot here.

We didn't know. We don't know anything about, you know, never having been in that situation.

We have always just honorably, and it just --

it was a sad thing, you know, it took its toll on my husband.

Q. I understand.

Obviously, as a prosecutor's office, are you going to be able to -- I mean, it was difficult for your family, it was a difficult time.

Obviously, you feel a little bit politically targeted, if you will. This case has nothing to do with that, would you agree?

A. Oh I totally understand.

Q. Okay.

And so any feeling, you know, any unpleasant feelings you have towards that prosecutor's office, is it going to bleed over to the State's case?

A. No, no.

Q. You would give the State and these victims a fair trial?

A. Yes.

Q. As well as the Defendant?

A. Yes.

Q. The Judge gives you some instructions, and you swear under oath to follow those instructions.

Are you going to follow them even if you disagree with one or more of them?

A. Yes.

Q. Any obligations you have going on personally that would distract you for service to the end of this week and to the beginning of next?

A. No, no, otherwise -- I happen to be in a job that I love right now, you know, I have always wanted to be on a jury when I was working retail, you know. That would be nice but, you know.

Q. Just set me free here.

A. Yeah.

Q. You are clear? You won't have any problems with being here a few days?

A. No.

MS. KOLLINS: Pass for cause.

THE COURT: Mr. Landis?

MR. LANDIS: Thank you, Judge.

VOIR DIRE EXAMINATION OF JUROR GREGG

BY MR. LANDIS:

Q. I am sensing a little regret in that decision you guys or your husband made to plead guilty?

A. It was a hard decision.

Q. Is there some regret?

A. Regret in that there didn't seem to be a better choice.

Q. There is always one of these.

A. One of these what?

Q. Trials.

A. That's true.

But I -- it would have been harmful to my husband to go through that again.

Q. What do you mean harmful to your husband?

A. Harmful to his health. Too much stress.

Q. Okay.

A. But he is a real fighter, and if he at if he didn't think that he was being understood and having an opportunity to be heard, it would really upset him.

Q. And you guys, and I think you mentioned this, you had a lot of discussions with an attorney that you had in the case?

A. Yes.

Q. Regarding that decision?

A. Yes.

Q. Are you saying there is a risk associated with deciding to go to trial?

A. I think so. Based on this, yeah, you make a decision as to what is going to be best for a person.

Q. And kind of sometimes cutting your losses or reducing your risks, is that something that motivated his and your decision?

A. I think it -- no, it -- he never had a doubt about his innocence but it was more focused on

his health.

Q. Okay.

If he would have been in better health, do you think the decision might have been different?

A. Yes.

Q. What part of the system do you think was the greatest cause for that in being put in a position where pleading guilty seemed to be in his best interests?

A. I think it was the politics of the time, the timing of it, and he didn't even work there that long. He didn't make any of those big bucks, you know, harming innocent people. It's in our past, and, you know, and we are going along.

Q. Does -- is your view of the system different now as a result of what happened then?

Do you have any less faith in the system than you did before that?

A. I don't have any less faith. I have a little more insight.

Q. Do you think there might just be some wrinkles where it doesn't work, quite fairly if you wouldn't have one of those wrinkles?

A. Yes.

MR. LANDIS: Thank you.

Pass for cause, Judge.

THE COURT: All right. Approach the bench.
(Whereupon, a brief, informal discussion was
had at the bench between the Court and counsel.)

THE COURT: Okay.

We are going to ask the following two jurors to
go ahead and step down, and report back to the third floor
Jury Commissioner's office. That would be Becky Hansen
and Robert Franklin.

(Juror Hansen and Juror Franklin excused at
this time.)

THE COURT: We will replace Becky Hansen with
Aminne Menghisteab; how do you say it, Menghisteab?

JUROR MENGHISTEAB: Yes.

THE COURT: And we will replace Robert Franklin
with Barbara Wagner.

And then as soon as we get all situated here,
we are going to take a break.

We are getting very close.

Ms. Menghisteab, in the middle seat in the back
row, and Barbara Wagner, okay.

We are going to take a 10 minute break.

Everybody will get a chance during this 10 minute
break to go to the bathroom.

Within the next 10 minutes, just relax.

In the next 10 minutes, we have got to go through

this.

During the next 10 minutes, you are admonished that you can't talk or discuss not with anyone, or amongst yourselves anything having to do with this trial.

You are not to watch, listen to, or read any reports or commentaries on any aspect of this trial through the medium of information including radio, newspapers, television, internet, or form any opinion until such time as this case is being submitted to you.

You have got 10 minutes, and you will meet Joe outside.

(Whereupon, a brief recess was had.

After recess, all parties present, the following proceedings were had in open court in the presence of the jury pool:)

THE COURT: Bring them in? Is everybody all right?

All right. Okay. Have a seat there. Be seated. Anyone in the empty seats? We have one here. Great, all right.

All right. Now we have got all of the blank spots filled in?

Okay. Do the parties want to stipulate to the

presence of the jury pool?

MS. LUZAICH: Sure.

MR. BANKS: Yes, sir.

THE COURT: Let's see, I believe it's -- okay.

VOIR DIRE EXAMINATION OF JUROR MENGHISTEAB

BY THE COURT:

Q. It's Aminne -- and help me out here. It's Menghisteab?

A. Menghisteab.

Q. Menghisteab. Tell us about herself. How long have you been here in Las Vegas?

A. 14 years.

Q. What do you do for a living?

A. I am a taxi driver.

Q. Okay. And where are you from?

A. Originally from the jungle.

Q. From the jungle where?

A. A country called Atrios (phonetically).

It's in Africa.

Q. Okay. And how long have you been away from there?

A. Most of my life, 35 years.

Q. 35 years. What do you do for a living?

A. Taxi driver.

Q. Taxi driver is what you said? That's

what you have done all the time that you have been here?

A. In Las Vegas.

Q. Okay. Are you married?

A. Yes.

Q. And does your wife work?

A. Yes.

Q. What does she do?

A. Housekeeping at the Riviera.

Q. At the Riviera. Who do you drive for?

A. Whittlesea Cab.

Q. Whittlesea Cab? Okay. Do you have any grown children that are employed?

A. Yeah, I have a 10 year old boy.

Q. A 10 year old. Okay, and that's the only child you guys have?

A. Yes.

Q. Okay. Have you ever been trained in any type of law enforcement?

A. Old family was.

Q. Did you give you any special training?

A. What?

Q. Did they give you any special kind of training?

A. 30 hours of training.

Q. 30 hours of training?

A. Yes.

Q. Security, law enforcement type training?

A. No, just the Spanish on the roads, if you have a problem to work with it.

Q. Okay. How many years ago was this?

A. It was 1977.

Q. So almost 30 years ago?

A. Yes.

Q. Okay. Anybody close to you, relatives or close friends that are employed in law enforcement?

A. No.

Q. Okay.

Have you, or anyone close to you, ever been the victim of or accused of any kind of sexual related offense?

A. 1982, my brother was killed in Europe.

Q. He was killed, was murdered?

A. Yes.

Q. Okay. Did that result in some prosecution?

A. No.

Q. No one was ever caught or prosecuted for

that?

A. No.

Q. And that was just -- was it just a random, how did -- what were the circumstances?

A. He was working for Rateece (phonetically)

at that time, and he was assaulted at that time, and the Spanish, he was killed in New York when he was trying to escape, and they never find any body, and that was the end of it.

Q. That was the end of it. You just never heard anything else about it.

A. As far as leave Europe for the rest of my life.

Q. Do you think that you would harbor some animosity towards police or the prosecution because of the fact that no one was ever caught or prosecuted for that?

A. Not killed? Whatever it would be.

Q. It is a completely different case, nothing to do with this.

A. Yes.

Q. So the fact that that happened 26 years ago in where, New York you said?

A. Yes.

Q. You would not hold that against the Henderson Police Department or the District Attorney's office because no one was caught or prosecuted?

A. Not yet, but I have recently heard some report of Henderson police.

Q. You have been recently hearing bad things

about the Henderson police?

A. Yeab, but as to molesting some kids with the Henderson police. Help with the families, and they learn a lesson.

Q. Are you by any chance referring to the --

MS. LUZAICH: The inquest that's going on upstairs?

THE COURT: Yes.

Q. There is an inquest going on upstairs right now in regards to a --

A. Yes, I know.

Q. Is that one of the things you were referring to?

A. Yes.

Q. Do you understand that that doesn't involve any of the police officers in this case.

A. I don't know any of the police officers that were involved. I don't know.

Q. Okay. Well, I am just making a statement that none of the police officers in this case are involved in that particular incident that is going on right now at the inquest.

Would that cause you some kind of problem about sitting on a jury?

A. No.

Q. In a criminal case and seeing a police

officer from the Henderson Police Department testifying?

A. No.

Q. Would you hold anything against a police officer from the Henderson Police Department from the things that you may have heard?

A. No.

Q. Can you be fair and impartial to both the State and the Defense?

A. Yes.

Q. And set aside anything that you may have heard about some particular officer?

A. Yes.

Q. Okay. Any other incidents where anybody close to you has been the victim of a crime of any sort?

A. No.

Q. Okay. Have you ever been on a jury before?

A. I was called, but I was excused.

Q. Okay. So you were in a jury pool, but you never actually sat on the jury?

A. No.

Q. Okay. Can you think of any reason that I haven't touched upon that may bear upon your ability to sit as a juror in this case, and be fair and impartial to both sides?

A. Yeah, I have some problems in California,

and some of these from my ability listen to the medical issue.

Q. You said medical?

A. Yeah.

Q. What kind of medical issue are you referring to?

A. Well, my prostate, I'm having it corrected, and I have neck and back injuries from the car accident.

Q. Can you sit for like an hour, an hour and 15, 20 minutes?

A. I can sit, but it is very painful unless I take some pain pills.

Q. I haven't really explained this, but any time that you are sitting there, and you start to get stiff or sore, if you need to stand up and stretch, or whatever, that's certainly permissible. You don't have to sit there. You can stand up and stretch, and if you need to go to the restroom, or if you need to actually have a break, you can raise your hand, you let the bailiff know, and then we will take a break.

Would that help you out?

A. Yeah, definitely.

Q. Would you be able to sit as a juror under those circumstances?

A. I can do but my second thing, after an hour

or two, my ability to listen and to grasp the material in discussing because I cannot understand everything.

Q. You lose your ability to focus after an hour or two?

A. Yeah.

Q. Me, too.

A. That's why I was excused from the last jury pool.

Q. Well, I mean, I am serious. If you really have difficulty focusing, and being able to pay attention for a period of time, I mean, you really need to be able to focus on something for more than an hour.

If you really aren't able to do that, if you have a problem, either a medical problem or some other kind of an issue that prohibits you from being able to do that, I don't mean to make fun of it, I am not making fun of it. I am serious.

If you have a problem doing this, that's why I am asking you these questions because you should be able to do that even if we try to make arrangements so that you can stand up and take breaks, and we try to take breaks every hour, 15, 20, 30 minutes. I haven't been very good about it. But, I mean, if you have a problem, now is the time to say so.

A. Well, primarily for me, it is not with me,

and I don't discuss things I don't get in discussions if I miss several points, I cannot tell you or discuss.

Q. Well, once again, you will have the ability. You are going to have notepads, and you can take notes during the course of the trial if you want to make little notes on something, you will have a chance to do that?

A. Okay.

Q. And I will give you all kinds of instructions on that. Would that help you out?

A. Maybe.

Q. Okay. Would you be comfortable if you were the Defendant or the prosecution with somebody in your state of mind sitting on the jury? Would you be comfortable with that?

A. Yes.

THE COURT: Okay. Good enough.

VOIR DIRE EXAMINATION OF JUROR MENGHISTEAB

BY MS. LUZAICH:

Q. Sir, when you talked about your brother, it appeared that you were getting a tad upset. Is that something that you are going to relive through the course of the trial?

A. That doesn't have any relationship with the trial, just my watching it on tape.

Q. Okay?

A. That is a special person for me.

Q. Of course, of course.

A. It was my brother. With my family. But I have nothing to do with trial.

Q. Well, of course, that has nothing to do with the trial, but like the gentleman this morning, his mother was murdered. You know, that's a very traumatic event.

It's a traumatic event for you as well.

So is -- are you sure that you would be able to sit through the trial with that in the back of your mind?

A. Yes.

Q. Okay. You talked about not being able to focus and grasp things. What do you mean by that?

A. Well, the law, and I don't know if I can understand this.

Q. Okay. I mean, we are going to have 20 some witnesses come in here and tell you about events that happened one weekend in February?

A. Yes, that is what I was telling you.

I don't know about this. Perhaps I don't understand the terms and make a decision. From my viewpoint it would not be fair, and I want to be fair.

MS. LUZAICH: I would challenge.

MR. LANDIS: The Court's indulgence.

MR. LANDIS: We will submit it, Judge.

THE COURT: All right. I think under the circumstances, Aminne, we are going to go ahead and have you step down and go down to the third floor.

There are some other matters that are going on here that probably wouldn't be quite as taxing as this. So why don't you go down to the third floor. You go back to the Jury Commissioner's office, and they will work with you and reassign you, okay?

JUROR MENGHISTEAB: Thank you.

THE COURT: I appreciate it. Thank you very much.

(Juror Menghisteab excused at this time.)

THE COURT: We are going to replace Aminne Menghisteab with---

THE CLERK: Robbie Holley, badge 281.

THE COURT: Robbie Holley.

THE CLERK: R-o-b-b-i-e.

VOIR DIRE EXAMINATION OF JUROR HOLLEY

BY THE COURT:

Q. Mr. Holley?

A. Yes, sir.

Q. How long have you been here in Las Vegas?

A. 36 years.

Q. What do you do for a living?

A. I am a county dispatcher. I was with Whittlesea, and now I work with with Sierra Health.

Q. Do you know him?

A. Yes, sir.

Q. Really?

A. Yes.

Q. Not too long ago we had a wife and then five minutes later, we called her husband on the same jury panel. Okay. That didn't last long. How long have you worked for Whittlesea?

A. Whittlesea, I have worked for eight years.

Q. Okay.

A. And I have been with Sierra now for going on 10 years.

Q. That's fine. Are you married?

A. Yes, sir.

Q. And does your wife work?

A. Yes, sir.

Q. What does she do?

A. She works for Bank of America, something to do with computers.

Q. Okay. Do you have children?

A. Yes, sir, two.

Q. Grown?

A. Yes, they are both grown. One is assistant manager at Wal-Mart. The other one is in real estate, and he also rents his office for taxes for Hewitt Jackson, is that right, Hewitt?

Q. Right, good. Have you ever had any training in law enforcement?

A. No, sir.

Q. Has anybody, any close family or relatives, or friends, been employed or trained in law enforcement?

A. Well, I have two uncles in New York City, that retired, police officers.

Q. New York police?

A. Yes.

Q. Are you close to them?

A. Well, they are my uncles, yeah. Not really, real close. I don't talk to them maybe once a year when I go back and visit my mother.

Q. Okay. You don't discuss their work as police officers?

A. Not really.

Q. Anything about that relationship that would affect your ability to be on a criminal jury in a case like this, and be fair and impartial to both sides?

A. No.

Q. That or anything else you can think of in

your background that would cause you to give the testimony of a police officer any different weight, any greater or lesser weight than any other non police officer witness?

A. No.

Q. Have you, or anybody close to you, ever been accused of or the victim of any kind of a sexual related offense?

A. No.

Q. Have you, or anyone close to you, ever been the victim or accused of any other kind of criminal activity?

A. No.

Q. Okay. Have you ever been on a jury?

A. 18 months ago.

Q. Really?

A. Yes, sir, five day trial, criminal trial.

Q. Five day criminal trial?

A. Yes, and I was the alternate on the jury.

Q. And you were an alternate on the jury?

A. Yes, right.

Q. Okay. So I take it then that as a juror, they deliberated, and they held you in reserve?

A. Yes, exactly right.

Q. Did you -- you didn't actually participate then in the actual deliberation, or did you?

A. No, I didn't.

Q. Okay. You weren't called upon as the alternate to go, to help deliberate, okay.

Did you come in when the jury came back in? Did you come --

A. No, they called my.

Q. And they told you that the jury had reached a verdict?

A. Yes.

Q. Okay. And that wasn't very long ago either.

A. Five days was it.

Q. No, I mean, it was only a year and a half ago?

A. Yeah. For some reason, every 18 months I get called for jury duty. You know, for some reason, I don't know what it is, but, you know, I have been questioning this, because I work with 250 people, and two of us get called every 18 months for jury duty, and the others never get called so, I mean, I don't understand how that system works.

Q. Actually, I don't know enough even to give you an answer. I would love to but I don't know. I don't even know how it comes to pass.

So you actually have been called to jury duty on more than one occasion?

A. Oh yes, definitely, sir.

Q. But you only got in the box to hear a trial just the one time and then it was as an alternate.

Okay. Well, is there anything about that experience of being on that jury, or any of the vast experiences of being in the jury pool that would make it difficult for you to be on this jury, and sit as a juror in this case, and be fair and impartial to both sides?

A. No.

Q. Okay. Because it is important that whatever went on, even as a juror, as an alternate juror, you heard all the instructions. You heard everything.

So it's important that you set aside anything that you have in your mind about that experience, and any of those instructions. I don't know what kind of a case it was, and a lot of it may not apply here so you need to set aside all of that information, leave it outside. Don't think about it. Don't consider it and pay attention to just the evidence that you hear in this case, and the instruction that I give you about this case.

Can you do that?

A. Yes, Your Honor.

Q. Okay, that's all I wanted to know.

So can you think of anything else that I haven't touched upon that might bear upon your ability to be fair and impartial to both sides of this case?

A. No, but there is one thing you didn't mention that I wanted to.

Q. Go ahead.

A. I am an honorable discharged veteran, and I am very proud of that.

Q. You are an Army --

A. No, honorable.

Q. You are an honorable --

A. Discharged veteran.

Q. Discharged veteran?

A. Right.

Q. Okay.

A. Of the United States Air Force.

(Applause.)

Q. Congratulations. Good for you.

A. Thank you.

Q. Okay.

So, now listen, do you think that it you have -- well two things.

First of all, can you withhold forming any opinion about anything having to do with this case until all of the evidence has been presented, and I instruct you on the law.

Can you do that?

A. Yes.

Q. That is real important.

A. Yes, sir.

Q. Okay. If you were the Defendant or the prosecution in this case, would you be happy, satisfied with a juror sitting on the jury that has the frame of mind you have?

A. Yes, sir, I would.

THE COURT: Okay. Go ahead.

VOIR DIRE EXAMINATION OF JUROR HOLLEY

BY MS. LUZAICH:

Q. Mr. Holley, how long did you serve in the Air Force?

A. Four years.

Q. And in your time, well, what did you do with the Air Force?

A. I was a crew chief, which was basically I supervised work done on the jet aircraft.

Q. Okay. And in all your time with the service, did you ever have occasion to participate in a court martial, Article 15., or anything like that?

A. No.

Q. Not as a witness even?

A. No.

Q. You know, it's funny, once you serve, you are not supposed to get called for two more years. So you should complain to someone about that. But with all your

experience, you are getting better at this than I am.

When you sat as an alternate in the criminal jury, did that frustrate you, having to listen to sit there and listen for five days and not deliberate?

A. No.

Q. Are you worried that that might happen again now?

A. No.

Q. Okay. What were the nature of the charges in the case that you heard. Do you remember?

A. Yes, do you want me to tell you what the charges were?

Q. The charges. What was the person charged with?

A. Attempted murder, two counts.

Q. With a weapon?

A. Yes.

Q. Okay.

So you would have in that case heard a lot of evidence about, you know, weapons, and what not, and probably some medical evidence.

You know, you are going to be asked to listen to the witnesses, and the expert testimony, if there is any in this case, and kind of forget about what you learned in that case. Is that possible?

A. Yes.

Q. Okay.

There was no sexual assault, no sexual allegations, or anything like that, so no sexual assault instructions, or anything?

A. No.

Q. Okay. Additionally, the law in the State of Nevada -- well, the law everywhere, but especially in the State of Nevada is very fluid. It's ever changing. So it is possible that instructions that you received then may not be good law now, do you know what I mean?

A. Yes, I do.

Q. So when you hear the instructions from the Judge at the end of this trial, can you only rely on those instructions and not go back there, and say, well, you know, in the last trial I was in, they said, this and this instead?

A. Yes, I can. That's the backbone of the whole system.

Q. Absolutely.

A. In the instructions.

Q. Absolutely.

So when the Judge just read to you the instruction if there are any instructions that you don't agree with, what are you going to do?

A. Well, whether I agree with them or not doesn't matter. That's the law.

Q. And you will follow it?

A. Always.

Q. Whether or not you agree?

A. Yes.

Q. Write to the legislature if you have to?

A. Well, I mean, this -- we got the best system in the world in my opinion so --

Q. Okay.

As a dispatcher for like 18 years, you have dealt with many --

A. I did it a lot longer than that.

Q. In your experience of any of the cabbies that have worked for and with you, been victims of robbery?

A. Oh yes.

Q. And did you in any way participate in any of those investigations?

A. No.

Q. Any of them investigated, as far as you know, by the Henderson Police Department?

A. No.

Q. You mention that your wife does something with computers at Bank of America?

A. Yes.

Q. She is a computer person?

A. Right.

Q. Has she always worked with computers?

A. Yes.

Q. Okay.

If you served as a juror in this case, and you go back in the deliberation room, something you didn't get to do before, if 11 of your fellow jurors feel one way, and you feel the other way, what are you going to do?

A. Well, I will give my point, and you want me to elaborate and tell you why?

Q. Sure, sure.

A. Okay. One thing I do, I'm a devout Christian, and I believe that we all are going to be held accountable to a higher power one day, so whatever -- what I do is, I will -- I take things right down the middle because if I think that you guys proved your case, then that's the way it is going to go.

If I think you didn't prove your case, then it's going to go to the Defendant, and, you know, I am going to try to take myself out of it because I know one day someone is going to ask me, you know, why did you put yourself into this, and put your own personal opinion into it.

Do you understand what I am trying to say here?

In other words, I know the law is the law so we have to follow it. Otherwise the whole thing falls apart.

Q. Okay.

So if you feel differently, you are going to argue to them why you believe what you believe?

A. Right.

Q. Try to persuade them of your point of view?

A. Right.

Q. Now, if they are able to point out to you something that maybe you missed or misheard, is it possible that you could change your mind?

A. Yes, that's what it is all about, right?

Q. Uh-huh, well, yeah. But if you are sure about your position, you will stick to your guns?

A. Oh yes.

Q. Okay. Do you have any problem sitting in judgment of someone?

A. No, not because that is our system and, you know, it works.

Q. Okay.

So, if at the end of the trial, after you hear all the testimony and see the evidence, if you are convinced beyond a reasonable doubt the Defendant is guilty of the crimes he is charged with, would you be able to say, guilty?

A. Yes.

MS. LUZAICH: Thank you.

Pass for cause, Judge.

THE COURT: Who is next?

VOIR DIRE EXAMINATION OF JUROR HOLLEY

BY MR. BANKS:

Q. Hi, Mr. Holley.

A. Hi.

Q. Is it the Air Force that brought you to Las Vegas?

A. Yes.

Q. Okay.

What was your gut feeling when you heard this was a sex assault case?

A. Basically, when I hear sexual assault, a rape case, you know, but I didn't form an opinion guilty or not guilty, you know, of this.

Q. Okay.

A. It is what it is.

Q. Okay.

Do you think that whole presumption of innocence thing is maybe a little harder to implement than, say, you know, a case where somebody steals a candy bar, or something like that, in a case like this?

A. Well, yeah. It is just like earlier I heard you guys talking about the life experiences, and, you know,

the things that each and everyone of us have been through. You know we form certain opinions on different things, but you know the whole point of this is to set off on the other side.

Q. Okay.

A. And listen to just the evidence and go to that.

Q. Okay. I mean, it's a pretty explosive charge, I mean, you hear it, and it's like, you know, it hits you?

A. Yes.

Q. Is it harder in a case like this to do what you just said chair, which is set all of that stuff aside. It almost kind of defies common sense?

A. Yes.

Q. I mean, for part of our, I guess if in the end, we are just -- we are all made up of our experiences, and that's partially how we arrive at how we perceive things, isn't it hard to set that stuff aside?

A. Well, me, we are talking about me.

Like I said, I put my faith on a higher power, and my higher power says, do things the right way. Just do the right thing, and if you do the right thing, you won't have any problem.

See, this way I won't -- I take myself out of

it as much as possible.

Q. Okay.

A. And just go with the evidence --

Q. Okay. And --

A. -- or lack of evidence, or whatever.

Q. Okay.

And for you the right thing is whatever comes from the witness stand, look at the evidence, and that's what we've got to base it on?

A. Exactly.

Q. Okay.

Do you think that an accuser in a sex assault case needs to act a certain way?

A. Well, just like I heard someone say earlier, everyone is different.

Q. Okay.

A. And no, I don't think they have to act a certain way.

Q. Okay. So no preconceived notions about something like that?

A. No.

MR. BANKS: Okay. I think that's all I have. Thank you for your answers, sir.

JUROR HOLLEY: Sure.

MR. BANKS: Pass for cause, Your Honor.

VOIR DIRE EXAMINATION OF JUROR WAGNER

BY THE COURT:

Q. And then we have Barbara Wagner?

A. Correct.

Q. Barbara, how long have you been in Las Vegas?

A. Since I was two months old.

Q. Okay, good for you. What do you do for a living?

A. I am a high school registrar.

Q. At which high school?

A. Centennial. Way out on the north side.

Q. Is Janice Roland the principal?

A. No. She is at Cimarron.

Q. Cimarron, right. Carolyn Leavitt was the first principal.

Q. Okay, I know who that is. And how long have you worked there?

A. At Centennial, since the fall of 2000.

Q. Okay. How long have you been with the school?

A. 13 years.

Q. Excellent. Are you married?

A. Yes.

Q. And your husband does what?

A. We have an embroidery store, and he does custom embroidery on businesses, you know, their shirts, the left chest.

Q. Logos, and that kind of stuff?

A. Yes.

Q. Does he have one of those big computerized machines that does all that?

A. He has three.

Q. He has three?

A. Yes.

Q. He doesn't sit at a sewing machine doing that?

A. No.

Q. Okay. That's how I do it. And you have any grown children.

A. I have four boys grown.

Q. What do they do? Start with the oldest one down.

A. The oldest is 25, and he works in the store with my husband.

My second oldest is married and lives in Frado, Texas and is attending school there and working full-time.

And my third son, who is -- well, my second son is 24, the third son is 23, and he is at UNLV. He

works -- he goes to school full-time, and he works for Wright Engineering, and my youngest son is 21, and he attends UNLV, and he works part-time for Sierra there.

Q. Excellent. Have you ever been trained in any kind of law enforcement?

A. No.

Q. Have you, your close relatives, anybody close to you, employed in law enforcement?

A. My brother works, now he works for LAPD. He is a documents examiner. He retired from Metro here.

Q. He retired from Metro here after how many years?

A. 29.

Q. What's his name?

A. William Lieber (phonetically).

Q. Okay.

And then he moved into the L. A. area and works as a document examiner?

A. He did the same thing here as he does there.

Q. Oh, okay. Anything about that -- your brother, you are close to him, I believe?

A. Yes.

Q. Anything about that that your brother has been a police officer for Metro that would cause

you any difficulty with being on the jury and listening to a police officer's testimony?

A. No, I don't believe so..

Q. As a documents examiner, your brother probably spent a lot of time going to court?

A. Yes, he does.

Q. I take it you would be able to treat the testimony of a police officer witness the same as any other witness?

A. Sure, yes.

Q. Would you give their testimony any greater weight than anybody else?

A. No.

Q. Now, have you, or anyone close to you, ever been the victim of or accused of a sexual related offense?

A. I have a cousin, a cousin that's not very close to me, who was raped by an employer when she was about 16, but I didn't even know about it until probably 20 years after it happened 10 years ago. I'm not -- I haven't talked to her for 10 years.

Q. Is there anything about that incident involving your cousin that would cause you any difficulty in being a juror on a case like this?

A. I don't believe so, you know, I wasn't

involved and --

Q. You weren't involved with it at all at the time because you didn't know about it until 10 years after it happened?

A. Right.

Q. And can you set that all aside?

A. Yes.

Q. And just in a case like this, base it strictly on the evidence that you hear?

A. Yes.

Q. Okay. Have you ever been on a jury before?

A. No.

Q. Have you, or anybody close to you, ever been the victim of or accused of any other kind of a crime?

A. One of my sons was arrested for possession of drug paraphernalia.

Q. A misdemeanor?

A. Yes.

Q. I assume that he was young or was he over --

A. He was young. He wasn't super young. He was 18.

Q. So he was treated as an adult?

A. Yeah.

Q. Okay. Did you follow along what happened to him as a result of that?

A. You mean as far as letting him sit in jail before I bailed him out?

Q. Well --

A. Yes.

Q. I didn't think anybody did that. Well, in the actual prosecution of the case, did you follow along?

A. You know, we had an attorney that went in there, you know, and he --

Q. And made a deal?

A. Yes.

Q. Okay.

Was there anything about the way the case was handled that gave you a problem?

A. No, I don't think so.

Q. Do you think everybody was treated fairly?

A. Yes, I believe so.

Q. Did you see anything about the way the system works that you thought was out of line?

A. No.

Q. You wouldn't hold against the Police Department, or the prosecution, the fact that your son was charged with, and I presume you made some kind of an arrangement?

A. Yes.

Q. Or negotiated?

A. Yes, we did.

Q. As a resolution?

A. Yes, we did.

Q. Anything about any of that that would cause you to hold any animosity towards the Police Department or the District Attorney's office?

A. No.

Q. Okay. Did I ask you already if you have been on a jury?

A. Yes, you did ask, and no, I have not.

Q. I have asked that a couple of times.

Is there any reason why you would be unable to withhold forming an opinion until after you have heard all of the evidence and been instructed on the law?

A. No.

Q. Do you think that you have a healthy, neutral frame of mind approach to your job as a prospective juror in this case?

A. Yes, having the boys that close, you again try to listen to both stories.

Q. You listen to disputes amongst your boys?

A. Yes.

Q. And you pay attention, and you listen to everybody, and then figure out who is telling the truth

and is not?

A. Right..

Q. Good for you. Are you pretty good at it?

A. Well, you can't always be absolute with your children because, you know, they fib, and things like that but, you know, you try to do your best to --

Q. Sort it out?

A. Reason it out so that you can sort it out.

Q. All right. If you were the Defendant or the prosecution in this case, would you be comfortable with a juror being on the jury that has your frame of mind?

A. I believe so.

THE COURT: Okay.

MS. KOLLINS: Thank you, Judge.

VOIR DIRE EXAMINATION OF JUROR WAGNER

BY MS. KOLLINS:

Q. Good afternoon. How are you?

A. Good.

Q. Ready to get out of here?

A. I am sure everybody is.

Q. Let's cut right to the chase. You are -- you know Brian Murray?

A. I -- he worked at Western High School when I worked there.

Q. Were you a registrar?

A. I was a secretary, curriculum secretary.

Q. So what kind of interaction do you have with Mr. Murray?

A. Not very much interaction with him other than, you know, the students always want to know what their schedule is going to be ahead of time, you know, and who the instructor is going to be, if it is going to work better for them, or, you know, that kind of stuff, but generally, I get a lot of that with them.

Q. Did you socialize with him outside of school, unrelated school related?

A. No, I did not.

Q. If Mr. Murray comes in here and testifies, are you going to accept his testimony as you would would any other witness or hold him in a higher regard just because you know him professionally?

A. No, he would be the same as anyone else.

Q. So you weren't the kind of associates where you got to have coffee or lunch?

A. No.

Q. Or anything like that?

A. No.

Q. You just know him?

A. Yes.

MS. KOLLINS: Okay, thank you. Pass for cause,
Judge.

VOIR DIRE EXAMINATION OF JUROR WAGNER

BY MR. LANDIS:

Q. I want to talk just briefly about your son's arrest. I am guessing, and correct me if I'm wrong, you found out about it when he called from jail?

A. Correct.

Q. What did he say?

A. I don't like it here. Can you bail me out?

Q. Was the first thing he said, mom, I got arrested? Well, I assume from the --

A. Probably something to that effect.

Q. Probably from the recording, you knew where he was phoning from?

A. Yes, right.

Q. He said something like, mom, I got arrested. Was your first thought, how dare they arrest my son, or what did you do?

A. My first question to him was what were you arrested for?

Q. And his answer was drug paraphernalia?

A. Yes.

Q. What was the next question?

A. What did you do?

Q. And did he admit to it?

A. Yes.

Q. How long did you make him sit in jail?

A. Well, it was overnight night.

Q. You talked a little bit about settling a little bit about settling disputes amongst the kids and how sometimes kids like to fib?

A. Correct.

Q. What do you think motivates them to do that, at least with some of the reasons that kids use today?

A. Well, my two oldest are very competitive, and sometimes it's just their competitiveness.

The second oldest was bigger and older by my definition, so, I mean, you know, they are boys and like for many, many times earlier, boys will be boys, you should have little girls, and yeah, I know the difference, I mean, all of my boys are very different, and they different things, they express themselves differently, and, you know, you have to take that into account when they are trying to make their way through the mud.

MR. LANDIS: That's right. Thank you.

I will pass for cause.

THE COURT: All right. Folks, come on up.

(Whereupon, a brief, informal discussion was

had at the bench between the Court and counsel.)

THE COURT: All right.

We are going to ask the following two jurors to go ahead and step down, please, and that would be Susan Gregg and Mark Snelling.

We will replace them Susan Gregg with Stephanie Abernathy, and we will replace Mr. Mark Snelling with Bonnie Brunson.

(Juror Gregg and Snelling were excused at this time.)

THE COURT: And Stephanie, you will the chair in the back row to the left, and Bonnie, you will be taking the chair on the lower right.

VOIR DIRE EXAMINATION OF JUROR ABERNATHY

BY THE COURT:

Q. Okay. So it is Stephanie Abernathy, right?

A. Yes.

Q. Stephanie, and he, how long have you been in Las Vegas?

A. 22 years.

Q. Is that how old you are?

A. Yeah, but I wasn't born here.

Q. Okay. Where were you born?

A. In New Jersey.

Q. Okay. Do you work or do you go to school right now?

A. I am a free lance makeup artist. I work for myself, and I do showgirls, I do makeup, and I also work for a couple of real estate companies, but not right now because it's so bad.

Q. Okay. Real estate is pretty bad. All right, and are you married?

A. No.

Q. No children?

A. No.

Q. Okay. Have you ever been trained in law enforcement?

A. No.

Q. Have you, or anybody close to you employed in law enforcement?

A. No.

Q. Have you ever had any kind of experience with law enforcement that would have some effect upon your sitting as a juror in this kind of a case?

A. I have had experience with law enforcement, but not that way but not in that way as far as compared to judgment.

Q. Nothing that would make you give the testimony of a police officer any greater or lesser weight than non

police officer would have?

A. If you asked me a year ago, I would have said yes, but I was young and stupid, and I wouldn't choose them over anyone else.

Q. Okay. Have you ever been called for jury duty before?

A. No.

Q. Have you, or anybody close to you, ever been the victim of, or accused of any type of sexual related offense?

A. No.

Q. Okay. Have you, or anybody close to you, ever been the victim of or accused of any kind of a -- any other kind of criminal offense?

A. I was actually arrested in 2006, in Henderson, but it wasn't anything particularly formal arrest connected with that.

Q. Did anything happen as a result of the arrest?

A. I had to go to court, but it was amended to a lower -- a lesser charge.

Q. What was the charge?

A. It was assault and battery, but it got amended to a gross misdemeanor because it was with a roommate, from a relationship.

Q. Okay. You and a roommate got into a beef?

A. Yes.

Q. Okay. And were you the only one who got arrested?

A. Yes, I was, and I was also the one who called the police.

Q. You were the one who called the police, and you were the one that was arrested? Did that cause you any problems?

A. That is not funny. There is a reason. It is serious.

Q. No, I am sure of that. Did that cause you a problem?

A. No, it's always been good after, it was a year ago. I used to have the whole outlook about police not really doing their job, but I think I can now admit that I was drunk, and I did give up something, and I did what I had to do.

Q. But it wasn't like domestic violence?

A. Yes, it was. It wasn't an assault and battery. It was domestic violence.

Q. Okay. That's what it would normally be if they showed up in the room that you were having a -- but you pled guilty to disorderly conduct?

A. Actually, I was really distraught over

it, but then my attorney just gave me -- just told me to to take the deal, but I didn't like that.

Q. But you didn't plead guilty to domestic violence?

A. No.

Q. You only pled guilty to disorderly conduct? It was disorderly?

A. Disorderly, yes.

Q. Okay.

Anything about that entire scenario of events that is going to cause you any kind of difficulty sitting on the jury in a case like this?

A. No, this is a totally different situation.

Q. Well, it is totally different, but, again, it's going to be the Henderson Police Department who came out and arrested you, you know what I mean?

A. I would have arrested me, too, the way I was acting. So I don't hold it against them, the cops.

Q. Okay. You haven't been on a jury? I asked you already?

A. No, I haven't.

Q. Can you think of any other reason that would possibly cause you difficulty in being fair and impartial to both sides in a case like this that I haven't specifically asked you?

A. I'm sorry, what was the question?

Q. Well, I mean, is there anything else that I haven't specifically touched upon, anything that might affect your ability to be a juror in a case like that?

A. Yeah, I believe that I am pretty fair, and I am pretty open-minded.

That's why I don't hold the police responsible for what happened to me.

It was my fault.

Q. You wouldn't be a -- you won't go to the deliberation room --

A. I'm not biased at all.

Q. You won't go to the deliberation room and remember all of the things that were going through your mind when you got arrested, and let that interfere with your ability to just be a juror on this case and not bring in anything else from that other instance?

A. Not at all. I was just embarrassed for myself. So I am over that.

Q. You realize that there is going to be quite a few witnesses in this case that are going to be around your age?

A. What's the question?

Q. Is that going to cause you any problem?

A. No, not at all.

Q. You will still be able to listen to them and weigh their testimony, and weigh the credibility even if you weren't somebody that looks just like you, same age, and everything?

A. I don't think that age will have --

Q. It isn't going to have any effect on you?

A. No.

Q. All right. Can you withhold forming an opinion about this case -- this is pretty important -- until you have heard all of the evidence, and I have instructed you on the law?

Can you do that?

A. Absolutely.

Q. Do you think you would be comfortable if you were the prosecutor in this case or if you were the Defendant in this case if somebody that was sitting on the jury would have your frame of mind?

A. Yes, I would be.

THE COURT: Who is next?

MS. KOLLINS: Thank you, Judge.

VOIR DIRE EXAMINATION OF JUROR ABERNATHY

BY MS. KOLLINS:

Q. Good afternoon, Ms. Abernathy. How are you?

A. Good. How are you?

Q. Good. Who do you do freelance makeup work for, for like salons or --

A. Um, actually, showgirls, I have done a lot of showgirls, and stuff.

Q. Okay. So you go to each party, and you do their makeup?

A. Whatever calls me, once again, whatever it is.

Q. How long have you been doing this?

A. I have been doing makeup since I was 19 years old, and I have been working for myself for the last couple of years.

Q. Judge went through with you a lot of the stuff about the Henderson police, and I don't want to go on a drill on it, but I just want to ask you:

There is going to be some cops in this case, okay? Are you good with that?

A. Yeah, I don't have any problem with cops. Not all cops are the same. It doesn't matter. I don't feel there is anything about that.

Q. That situation, what happened happened, we will leave it alone?

A. Yeah.

Q. For our purposes here?

A. Yeah.

Q. The Judge is going to instruct you that the State's burden is prove our case beyond a reasonable doubt.

If you believe the victim and believe that we have proved our case beyond a reasonable doubt, according to the law, but you don't like the cops, you just don't like them on a personal level, can you still come back with a guilty?

A. Yes, I would, but I wouldn't hold that against the Henderson cops, or anybody. I can be fair to everyone, you know.

Q. I mean, and the victims just happened to be victimied in Henderson, and we didn't have any control over what happened, right, you know, whatever law enforcement, it was just --

A. (Interposing) As long as the evidence is there, there is no problem with finding him guilty.

Q. Where did you go to school?

A. El Dorado.

Q. And did you go to graduate school?

A. Yes.

Q. Any plans for further education?

A. Yes, I actually do have. I want to be a nurse so much.

MS. KOLLINS: Thank you. Pass for cause.

THE COURT: All right, Defense?

MR. BANKS: Yes, sir, thank you.

VOIR DIRE EXAMINATION OF JUROR ABERNATHY

BY MR. BANKS:

Q. Hi, Ms. Abernathy.

That situation in Henderson, now that you have had that experience, we will get back on it. Would you have done anything differently?

A. Well, because of my situation, would I do anything if I had not called the cops?

I would have just said it was my fault. I don't think that there is anything that I would have done different. If I had not done what I had done, I would have been in my car and out of there.

Q. Okay. So your emotions were running high?

A. Yes.

Q. Okay.

A. It was the most traumatic thing that ever happened to me, that would be it.

Q. Okay.

Looking back on it, and your emotions were running high, and you said that maybe if you had it to do all over again, you would tried not to act so erratic?

A. I would have tried nicely, but I was in a bad situation, and I just kind of freaked out, and my emotions came out. But if I had to do it again, I'm not

sure that it would have gone any different.

Q. Okay. A stressful situation. It's not like you had a training for that situation?

A. Exactly.

Q. Okay. You did the best you could with what you had?

A. Yes.

MR. BANKS: I think that's all I have, thank you.

Pass for cause, Your Honor.

VOIR DIRE EXAMINATION OF JUROR BRUNSON

BY THE COURT:

Q. We have Ronnie Brunson. Bonnie?

A. Yes.

Q. How long have you been in Las Vegas?

A. I was born and raised here.

Q. Wonderful. All right. What do you do for a living?

A. Pardon?

Q. What do you do for a living?

A. I am a realtor, and thank God, I have an event planning business, too.

Q. Not much going on with the real estate business right now these days.

A. Oh, it's doing good. It's picking up.

Q. It's getting back. We will be fine.

BY MR. LANDIS:

Q. Good afternoon.

A. Good afternoon.

Q. When you woke up yesterday to your alarm clock, or to your daughter hitting you in the head with cups, you knew there were issues.

A. It was just a cat biting a chipmunk.

Q. Hands on. There was a jury summons sitting on your desk. Did you wake up with a smile or a frown?

A. Actually a smile. I find it intriguing.

Q. Yeah?

A. Yeah, it was kind of -- I would like to be a part of the judicial system. I would like to be a part of the jury.

I would like to -- I have always been a mediator styles type, everyone would come to me with their problems, and I was always the person that would listen to both sides of the story, and bring the two parties together, and they work it out.

Q. Sure.

A. Apparently, it that me and my family, that's how I was raised.

Q. Let's say you came to the Courthouse yesterday, and they gave you two doors, one was a criminal trial, and one was a civil trial.

Obviously, which one would you choose?

A. Machs nichts. It wouldn't make any difference to me, I would say, I wouldn't really care, I mean, I would be more interested in the criminal trial just because of evidence, and, you know, if it's gray, you know, all they do is fight about money so I don't really care that much about civil.

Q. Just like those criminal defense attorneys?

A. But I think the criminal side would be a little bit more interesting than civil.

Q. Let's say that the door choices were either a less serious criminal trial, or a very serious criminal trial? Which door would you choose?

A. Again, probably the more serious.

Q. Why?

A. I like using my brain. I like using my head. I like thinking about things. I like pondering, figuring things out.

I am a strict believer in you are innocent until proven guilty.

Being able to see both sides of the story.

Something less, like, you know, hit a kid with a baseball bat as opposed to a murder trial, you know, there is going to be a whole lot more in depth.

Q. More complicated?

A. I am a more detailed kind of person.

Q. Do you think your role as a juror changes, depending on which one of those doors you choose?

A. No.

Q. How do you feel about the rights of a Defendant not to testify or to remain silent?

A. Well, that's his right. That's why we have this country.

Q. And are you okay with not hearing from the Defendant in a case. Do you think that you would take offense?

A. No.

Q. Do you think that would bother you?

A. No, it wouldn't.

Q. Okay.

A. No, I mean, honestly, I would love to make sure that we are able to hear from him to make sure that it was a fair trial, but it's his right, and, you know, he can exercise his rights.

MR. LANDIS: Thank you, sir.

I will pass for cause, Judge.

THE COURT: Very good.

JUROR BAIRD: You didn't ask me your favorite question.

MR. LANDIS: Can you ask me a question?

JUROR BAIRD: You didn't ask me your question.
I got a pass.

MR. LANDIS: May I renew it?

THE COURT: All right. Go ahead.

BY MR. LANDIS:

Q. I haven't used this question in this trial yet, but it is my favorite.

A. Uh-huh.

Q. Which one is worse, an innocent person getting convicted or a guilty person getting off?

A. If an innocent person gets convicted.

Q. I am going to have to ask you why now, too?

A. Because if a person is guilty, you are going to get caught sooner or later.

MR. LANDIS: Thank you. I will rephrase for cause.

THE COURT: Okay. Approach the bench.

(Whereupon, a brief, informal discussion was had at the bench between the Court and counsel.)

THE COURT: All right. We are going to ask that Debbie Deschaine and Maryjo Loretto to please step down, and report back to the third floor Jury Commissioner's office, and I appreciate your participation very much.

(Juror Deschaine and Juror Loretto excused at this time.)

THE COURT: And we will replace Debbie Deschaine with Denise Andalon, and we will replace Maryjo Loretto with Everett with Everett Carney.

So, Denise, you will take the last chair on the back row, and Everett, you will take the second chair on the middle row.

VOIR DIRE EXAMINATION OF JUROR ANDALON

BY THE COURT:

Q. Okay. Is it pronounced Andalon?

A. Andalon.

Q. Andalon. Now, Denise, give us a little background. How long have you been in Las Vegas?

A. 14 years.

Q. 14 years?

A. Yes.

Q. And what do you do for a living?

A. Administrative assistant.

Q. To whom, for whom?

A. Tool and equipment, irrigation company.

Q. Okay. Who do you work for? What is the name of the company?

A. Turf Equipment Supply.

Q. Turf, okay, I know them. Are you married?

A. He works in auto body, auto collision.

He is a writer.

Q. He does what?

A. He is a writer for an auto company, collision, for an auto body shop.

Q. Oh, an insurance company?

A. He works at an auto body shop.

Q. Oh, an auto body shop, I'm sorry.

Okay. Now, there is going to be some testimony from a nurse in this case?

Do you realize that as a nurse, you have to rely upon the evidence and the information that's presented to you on the witness stand, and not on the background that you have.

Is that going to cause you any problems?

A. No.

Q. If you hear testimony from a nurse on some technical aspects of evidence, you realize that you can't go back in the jury room and explain to everybody else what that meant because you have got to rely on what the witness testifies to and explains from the witness stand, and that applies to everybody else. That goes to any information outside of what comes in as evidence, you can't do that.

Do you understand that?

A. Yes.

Q. Okay. Any problems in doing that?

A. No, I understand.

Q. Okay. Now, have you or anyone -- have you ever been trained in any kind of law enforcement?

A. No.

Q. Anybody close to you ever been employed or engaged in any law enforcement activities?

A. No.

Q. Have you, or anyone close to you, ever been the victims of, or accused of a sexually related offense?

A. No.

Q. Have you, or anybody close to you, ever been the victim of or accused of any other kind of crime?

A. Yes, I have been the victim of a crime.

Q. You have been the victim of a crime?

A. It's -- you know, I'm assuming that a crime is like I had a bicycle stolen. I had a stereo stolen.

Q. Okay.

A. I have had my house burglarized once.

Q. That sounds like you have had a few incidents, some kind of minor, some a little bit more major?

A. Right.

Q. The times that your house was broken into, you were the victim of a burglary?

A. Uh-huh.

Q. Is that a yes?

A. Yes.

Q. Okay. Did those items get stolen from your home?

A. Yes.

Q. Nobody was home when that happened?

A. Nobody was home.

Q. Did you report it?

A. Yes, we did.

Q. Was anyone ever caught?

A. No.

Q. To your knowledge, nobody was ever prosecuted?

A. Correct.

Q. Okay. Did you ever get the return of any of your property?

A. No, I didn't.

Q. Would the fact that the Police Department never caught anybody for that offense, cause you to have -- harbor any kind of animosity or bad feelings towards the Police Department in Henderson?

A. No.

Q. That wouldn't affect you in the way you treat

the testimony of a police officer witness?

A. No, absolutely not.

Q. Okay.

You wouldn't, the fact that nobody got caught and prosecuted, that wouldn't cause you to harbor any hard feelings, or animosity towards the District Attorney's office because nobody ever got prosecuted, would it?

A. No, no.

Q. Okay. Have you -- was that the only -- was that the most serious incident, the home burglary?

A. Yes.

Q. Other than that, you had a bicycle stolen?

A. We had a car that was broken into at

UNLV.

Q. Was it ever --

A. It was recovered about two or three months later, we got it back.

Q. With damage to it?

A. Yes.

Q. Was anybody ever prosecuted for it?

A. No.

Q. Not to your knowledge?

A. No.

Q. That wouldn't cause you any problems?

A. No.

Q. That nobody ever got caught or prosecuted?

A. No.

Q. You wouldn't hold that against anybody in this case?

A. No.

Q. Okay. And have you ever been on a jury before?

A. No, I have not.

Q. Can you -- can you think of anything that I haven't touched upon that would bear upon your ability to be fair and impartial to both sides of this case?

A. No.

Q. Do you think you can withhold forming an opinion about anybody or anything having to do with this case until you heard all the evidence, and I instruct you on the law?

A. Yes.

Q. Do you think that you have a healthy, neutral frame of mind, as you approach jury duty, in such a fashion so that if you were the Defendant or the prosecution, and somebody was on the jury with your frame of mind that you would be comfortable?

A. Yes.

THE COURT: Okay. Ms. Kollins?

MS. KOLLINS: Thanks, Judge.

VOIR DIRE EXAMINATION OF JUROR WRIGHT

BY MS. KOLLINS:

Q. Ms. Wright, I don't know if the Judge asked you if you had children?

A. He did not.

THE COURT: Oops, sorry.

BY MS. KOLLINS:

Q. That's okay. Do you have any children?

A. I do have three. I have three and a stepson, so four.

Q. Okay. What are their ages?

A. My son is 25, and my daughter is 24 and my other son, 23, and my stepson is 20.

Q. Do they all live here in Las Vegas?

A. Three of them live here, and my stepson is in L. A.

Q. Quickly, where do they work?

A. My stepson, he works in L. A. My daughter, she is a civil engineer, and my son is snow instructor, slash used to be flight attendant. And my son is a forklift operator..

Q. You are an RN. In what capacity do you work at Spring Valley?

A. I work in the GI lab, gastrointestinal.

Q. You work ER?

A. No, I do not.

Q. To your knowledge, are sexual assault victims, or do you ever have occasion to see something like that?

A. I would assume so. I don't know. I work in GI. If it is not a GI case, I don't know about it.

Q. Okay. Did you recognize the name Linda Everett?

A. No, I didn't.

Q. Okay. Any reason why you can't be fair to both sides in this proceeding?

A. No, I think I can be fair.

MS. KOLLINS: Okay. Pass for cause.

THE COURT: Mr. Landis?

VOIR DIRE EXAMINATION OF JUROR WRIGHT

BY MR. LANDIS:

Q. Something tells me I'm the last barrier so I'll be short.

As a long time resident of this place do you think it's a good place for a criminal Defendant to stand trial? I don't know if that's a fair question.

A. I have no idea. I don't have any opinion on that.

Q. How about this? Do you think it's better or worse than, let's say, the national average?

A. As a Defendant? I have no idea? I don't

know.

Q. What kind of things do you think one would look for in making that determination? I don't know if that's a fair question.

A. I think you would have to know if he -- I really don't know what is going on in the law. I can't answer that at all.

Q. Do you think a diverse population, what effect do you think that would have?

A. What do you mean as to the Defendant?

Q. Yes, his ability to have a fair trial?

A. I don't know, more fair.

Q. More fair?

A. Yes.

Q. What about age, young, old?

A. I don't know, I don't know.

Q. I haven't went into it today so I will leave you with my, my favorite question.

Which ones are worse, if you have an innocent person being convicted or the guilty going free?

A. I would have to say the innocent being convicted.

Q. Why?

A. I don't know where to begin on that one.

MR. LANDIS: Thank you. I have nothing further,

Judge.

THE COURT: Okay.

We are going to take a break for the next hour and 20 minutes. We are getting very quickly here, we are going to enter the last phase of this jury selection process, and those of you out here in the jury pool are going to quickly see why we have so many of you here.

So, we are going to expand out into the jury pool that's sitting out here in the audience very quickly when we come back.

And so it will take us until 20 till. Do you want me to stay two o'clock?

MS. LUZAICH: Thank you.

THE COURT: Okay. We are going to have a break for the next hour and 20 minutes.

Now, again, don't leave, let me finish.

When you come back, we will all have to congregate, note where you are. You are going to get the same seat.

When Joe brings you in, meet Joe outside of the double doors here at two o'clock.

During the next hour and 20 minutes, I am going to instruct you not to talk or converse amongst yourselves, or with anyone else on any subject having to do with this trial.

You are not to watch, listen or read any reports

or commentaries about anything having to do with this trial through any medium of information which includes radio, television, newspapers, internet.

Don't form or express any opinions on any subject or about any person having anything to do with the trial until this case has been finally submitted to you.

You are in recess. You've an hour and 20 minutes.

(Whereupon, after the jury panel was excused, the following proceedings were had outside the presence of the jury:)

THE COURT: Okay. We are outside the presence of the jury.

Mr. Landis, you have some matters you want to address, sir?

MS. LUZAICH: Before he starts, for the record, I had my secretary prepare the amended.

I am not going yet going to file it. I have given a copy to the Defense so that they could look at it before I file it. The amended, that would only include this Defendant and not the other.

THE COURT: Only include the Defendant's name and not the other Defendant.

MS. KOLLINS: Correct, this one Defendant.

MR. BANKS: Judge, I don't recall, this is a housekeeping matter, but I just spoke to Ms. Luzaich and Ms. Kollins, and I think it would be the Defense's preference, and I think the State agrees that we open the first thing in the morning, and here is why.

We just received audio of our client's statement yesterday, and we have yet to receive 400 photographs that we just found out about today. So I think --

THE COURT: Photographs of what?

MS. LUZAICH: Of crime scene evidence, that's all, and, I mean, I don't know that we are going to get that to them today. They are getting them today.

MR. BANKS: Well, getting them today, without, and Mr. Landis's opening, I think it would be irresponsible at the Defense table to do an opening statement without at least being able to look at that stuff, synthesize it, see where it fits and where it doesn't, and I don't think that that's an unreasonable request, and that's why I asked the State.

I don't think that they feel it's an unreasonable request either, but that is our request.

THE COURT: You know, I would be --

MS. LUZAICH: We didn't care one way or another.

THE COURT: All right. I would be throwing a fit. If I had something that was stacked up behind this

case, I would be throwing a fit.

You guys have to move this thing along for us, but as it turns out, I would rather be in trial than not be in trial, and I have nothing else going on.

So, you know, you've got plenty of time to screw around, whatever you want.

MS. LUZAICH: It should have been, in fact, I don't think we are going to get -- if we start at two, I don't think we are getting the jury before four o'clock anyway.

THE COURT: I know, but we will definitely have a jury this afternoon.

MS. LUZAICH: This afternoon, and you can instruct them this afternoon.

Read the -- because the information --

THE COURT: Yes.

MS. LUZAICH: I mean, there is a lot of long counts.

THE COURT: There are, that's fine, and we will do that. We will do all of the instructions, I will read all of the information, I will do all of the instructions, and then we will break, and you guys can do your opening, and then we will get right into it. So we will do the opening, and then you --

MS. LUZAICH: And then we go right to witnesses.

THE COURT: Yes.

MS. LUZAICH: Yeah.

And then you said, oh, this doesn't have to be on the record, but you said you were going to quit slightly earlier tomorrow just so that we can line up our witnesses?

THE COURT: Yeah, yeah. We are off the record.

(Discussion off the record.)

(Whereupon, a brief recess was had.)

After recess, all parties present, the following proceedings were had in open court in the absence of the jury panel:)

THE BAILIFF: Remain seated. The Court is back in session.

THE COURT: Is everybody ready?

MS. LUZAICH: Sure, are you?

THE COURT: All right, I'm ready.

All right. We are back on the record in the matter of the State of Nevada v. Marcus Wesley.

MS. LUZAICH: And for the record, we have provided Defense counsel with a disk of the photographs.

THE COURT: Okay..

MS. LUZAICH: Oh, and Teri.

THE CLERK: Oh yeah.

MS. LUZAICH: The amended is right here, if you would, Defense counsel has a copy.

All we did is take out the Codefendant, and then wherever it says Defendants plural, I changed it to Defendant, singular.

THE CLERK: All right. Do you guys want your copies now?

MS. LUZAICH: Yeah.

THE CLERK: The Judge needs one, I need one, the court reporter needs one, one more.

THE COURT: Okay, bring the jury in.

(Whereupon, the following proceedings were had in the presence of jury panel:)

THE BAILIFF: Please be seated.

THE COURT: Do we need to call roll call or do you want to stipulate to the presence of the jury pool?

MR. LANDIS: The Defense will stipulate, Judge.

MS. LUZAICH: We will stipulate.

THE COURT: Does anybody see any empty seats that weren't there an hour and a half ago?

A JUROR: Yeah, right here.

THE COURT: Are we missing somebody right there?

JUROR LEAL: Yeah.

THE COURT: What is your number?

JUROR LEAL: 390.

THE CLERK: Here he is.

THE COURT: Okay, here we go. Any other spots that weren't vacant an hour and half?

All right. Is everybody satisfied?

Stipulate to the presence of the full jury panel?

MS. LUZAICH: Yes, Judge.

MR. LANDIS: Yes, Judge.

THE COURT: All right.

We have completed the first segment of the jury selection process, and we will now commence the process of jury challenges.

So if counsel would approach the bench?

(Whereupon, a brief, informal discussion was had at the bench between the Court and counsel.)

THE COURT: Okay. Now, here is the way that this works.

We are going to ask the following jurors to step down and report back to the third floor, to the Jury Commissioner's office, Nichole Dunmore and Gary Orta.

I appreciate your participation.

Go ahead and report to the third floor Jury Commissioner's office, and they will put you back into a later pool, okay?

(Juror Dunmore and Juror Orta excused at this time.)

THE COURT: And we will replace Nichole with Mark Snelling.

THE CLERK: And your badge is 208?

JUROR SNELLING: Yes.

THE COURT: Mark, can you take that first seat right there?

And Michael Baird, you need to -- where is Michael?

THE CLERK: Michael Baird is badge 210.

THE COURT: Michael Baird, you need to take the last chair in the middle row.

VOIR DIRE EXAMINATION OF JUROR SNELLING

BY THE COURT:

Q. Okay.

Now, Mr. Mark Snelling.

A. Yes.

Q. Tell us a little about yourself. How long have you been in Las Vegas?

A. Since 1981.

Q. And what do you do for a living?

A. I work for the signature at the MGM, maintenance.

Q. Okay. How long have you done that?

A. I have been with the MGM going on 14 years.

Q. Are you married?

A. Yes.

Q. Does your wife work?

A. Yeah, from home. She sells cruises.

Q. Oh, okay. Does she work for a travel agency?

A. Yeah, out of California.

Q. Okay. Do you have grown children?

A. I have two daughters, twins.

Q. Are they married?

A. No, they are 15 and a half, still in school.

Q. All right. Have you ever been trained in any type of law enforcement activities?

A. No.

Q. Have you, or anyone close to you?

A. No.

Q. Nobody, nobody related to you, or close to you, employed in law enforcement?

A. No.

Q. Okay.

Any reason that you can think of, by reason of

something that has happened to you in your past that would cause you to give the testimony of a police officer any greater or lesser weight than any other non police officer witness?

A. No.

Q. Okay.

Have you, or anyone close to you, ever been the victim or charged with any sexual related offense?

A. No.

Q. Have you, or anyone close to you, ever been charged or the victim of any kind of a crime?

A. No.

Q. Have you ever been on a jury before?

A. No.

Q. Can you think of anything that I haven't just touched upon that you think would cause you difficulty in sitting as a juror in a criminal case like this and being fair and impartial to both sides?

A. I can't think of any.

Q. Can you withhold forming an opinion about any aspect of this case until you've heard all the evidence, and I have instructed you on the law?

A. Yes.

Q. Do you think that you have a neutral, healthy approach, mentally, to your jury duty such that

if you were the Defendant or the prosecution in this case, you would be comfortable with somebody that has your frame of mind being on the jury?

A. Yes.

THE COURT: Okay.

Ms. Luzaich?

VOIR DIRE EXAMINATION OF JUROR SNELLING

BY MS. LUZAICH:

Q. Mr. Snelling, what about you would make you a good juror?

A. I have teenagers.

Q. Okay, me, too.

A. I have learned to deal with things under stress.

Q. Yes, deal with them, and teenage girls at that.

A. Teenage that fight over everything that's under the sun.

Q. Okay. Would you consider yourself to be a fair and open-minded person?

A. Yes.

Q. Are you somebody that waits until you hear everything before you make a decision?

A. Yes, I have to with the twins.

Q. Yes, that's true.

But also, in here, you have to wait until you hear absolutely everything --

A. Yes.

Q. -- before you make up your mind, do you understand that?

A. Hear all the facts, yes.

Q. Okay.

And if you sit as a juror in this case, after all of the evidence is presented to you before we argue, the Judge will read instructions, and that is what the law is.

You don't get to decide what the law is. He tells you what the law is.

What if there is an instruction that you don't agree with?

A. The law is the law.

Q. So you will follow it anyway?

A. Yes.

Q. Okay.

You would write to your legislature if you want, but you would follow it anyway?

A. Right.

Q. Fair enough. Do you have common sense?

A. Sure.

Q. Will you bring it into the courtroom?

A. Yes, I would.

Q. Having sat here for the last day and a half, or so, are there any questions that you feel a burning need to answer that you've heard already?

A. No.

Q. Is there any reason that you could not sit in this particular case?

A. Not that I can think of.

Q. Okay.

Knowing what you know about yourself, can you sit in judgment of someone?

A. Yes.

Q. And if you do sit as a juror in this case, and you listen to all the testimony and see all the evidence, if you are convinced beyond a reasonable doubt that the Defendant committed the crimes he is charged with, would you be able to say, guilty?

A. Pardon?

Q. Would you be able to say, guilty?

A. Yes.

MS. LUZAICH: Thank you, pass for cause.

THE COURT: Mr. Banks, is it your turn?

MR. BANKS: Yes, Your Honor.

VOIR DIRE EXAMINATION OF JUROR SNRILING

BY MR. BANKS:

Q. Mr. Snelling?

A. How are you?

Q. Good. How are you?

A. I'm good.

Q. I just want to ask you going to ask you the innocent man sitting at the table question, a couple of those.

Do you think that there are some areas where innocent people may be arrested?

A. Yes.

Q. Can you maybe describe one of those?

A. Offhand, about the only thing that I can think of is being in the wrong place at the right time.

Q. Okay.

You have heard about all of those, you know, exonerations, like years after the fact, DNA, and all that kind of stuff.

Are you the kind of guy that wants to see DNA evidence?

A. If it's facts for the case, I'd guess, yeah, yeah.

Q. Okay.

Some people want to consider it if it was available?

A. Yeah.

Q. Okay.

What did you think when you heard what the charges were in this case?

A. It was serious.

Q. Anything beyond that?

A. No.

Q. All right. Nothing -- let me ask you what I asked Mr. Gries, and you have got children that are, you know, teenagers.

A. Yes.

Q. And probably some more life experiences than somebody who, you know, hasn't had children and raised them.

What -- what's the most horrifying, stressful situation you have ever had in your life?

A. I guess sitting in the hospital, watching my mom die.

Q. All right. Puts some things in perspective?

A. Oh yeah.

Q. Okay.

Probably not the kind of situation that you get used to or that you train for?

A. You can never get used to it.

Q. Okay. And some situations are just like that, would you agree, they are hard, stressful situations

every time out of the gate?

A. No control, it's tough.

Q. And I suppose there are situations that people are trained for it, like police officers going into some sort of kind of a scary situation, I mean, those kinds of folks receive training, but would you agree that there are life situations for just normal folks that there is no training for?

A. Right.

Q. You just play the hand you are dealt with at the time, and you do, you do what you can?

A. Right.

Q. All right, all right. Do you want to serve?

A. If I had my choice, I would rather not.

Q. Okay.

A lot of people probably agree with you, you know, and it's just one of those things.

A. Yes.

MR. BANKS: Thank you for your answers today.

Pass for cause, Your Honor.

THE COURT: Okay.

VOIR DIRE EXAMINATION OF JUROR BAIRD

BY THE COURT:

Q. Michael Baird.

A. Yes, sir.

Q. Again, tell us a little about yourself.

How long have you been here in Las Vegas?

A. I have been here 14 years.

I am married, I have got two children, a 12 year old son and a five year old daughter.

Q. What do you do for a living?

A. I am self-employed. I have an site service computer company.

Currently, I run it from my home. My wife assists me with that.

Q. Okay.

A. And she also has the duty of taking care of our five year old little girl, which I adore, wow.

Oh, I tried it maybe for a week when she was out of town. That was hell. A son I can handle.

Q. Have you ever been trained in any type of law enforcement activity?

A. No.

Q. Anybody close to you employed or trained in law enforcement?

A. No.

Q. Any police officer friends that you are close to or associated with?

A. I have a friend that was in the Explorer's

Program for about four years.

Q. That's kind of a precursor to going into the Academy?

A. Yeah, for someone that's going in. Yeah, he's in the Metro Explorer's Program. He was in it since he was 16, and I think he just got accepted in the academy, I'm not sure. But I haven't talked to him in about a year.

Q. Okay.

A. A year or two.

Q. Nothing about that relationship that would cause you difficulty listening to the testimony of a police officer?

A. No, not at all.

Q. Anything else that you can think of that would cause you difficulty in regards to observing, or listening to the testimony of a police officer, and treating it differently than any other witness?

A. No.

Q. You would treat the testimony of a police officer just the same as anybody else?

A. Yes.

Q. No roots in the person?

A. No.

Q. Have you, or anyone close to you, ever been the victim of or accused of any sexual related crime?

A. No.

Q. Have you, or anyone close to you, ever been the victim of or accused of any kind, any other kind of crime?

A. Accused, yeah, from association, but nothing ever happened. I got pulled over in a car when I was a teenager.

Q. You had what?

A. When I was a teenager, I had been pulled over 27 times in a one week period because my car resembled a car that was going around robbing gas stations but it got to a point where they saw, as soon as they pulled me over, they knew who I was by name. Yeah, I got accused, but there were guys.

Q. But you never actually got charged?

A. No, I never got charged.

Q. Okay. Is that the only thing you can think of?

A. Yeah, that's pretty much it.

Q. Okay. Have you ever been on jury duty?

A. No.

Q. Can you think of anything that we haven't touched upon directly that might bear upon your ability to be a fair and impartial juror in this case?

A. Not at all.

Q. Can you withhold forming an opinion about anything that has to do with this case until you have heard all of the evidence, and I have instructed you on the law?

A. Yes.

Q. All right. Do you think that you come to this jury service with a healthy, neutral kind of frame of mind?

A. Yes.

Q. Do you think that if you were one of the litigants, the Defendant or the prosecution in this case that you would be comfortable with somebody being on this jury that has your frame of mind?

A. Absolutely.

THE COURT: Ms. Kollins, you are up.

MS. KOLLINS: Thank you.

VOIR DIRE EXAMINATION OF JUROR BAIRD

BY MS. KOLLINS:

Q. Good afternoon, Mr. Baird. We will not get your wife a transcript of the babysitting being voluntary.

A. I don't believe that she knows.

Q. So we are doing you a slight favor by keeping you here all week?

A. Yes.

Q. And I didn't hear the Judge ask you.

Have you ever known anyone who has been a victim of a sexual assault or any kind of sexual abuse, or any kind of sexual abuse charge?

A. He did ask. No, I don't.

Q. Okay.

And just very briefly, I talked to a couple of people about their expectations from witnesses, and what they know.

Do you have any expectations how a sexual assault or a robbery victim should act while they testify?

A. Not how they should act, no.

Q. Okay.

A. Everybody reacts differently to different situations.

Q. Okay. Anything going on, home life, personal life, that would distract from your service over the next few days?

A. No.

Q. No? No big projects due, or anything like that?

A. No.

MS. KOLLINS: Okay, good.

Pass for cause, Judge.

THE COURT: Mr. Landis?

VOIR DIRE EXAMINATION OF JUROR BAIRD

A. No.

Q. Do you have children?

A. No.

Q. And have you ever been trained in any type of law enforcement?

A. No.

Q. Is anyone close to you employed in law enforcement, any relatives, or close friends?

A. Ex-brother-in-law.

Q. Where is he employed?

A. He was kind of like at the Academy with Metro but after a while he dropped out.

Q. But he dropped out?

A. Yes.

Q. Okay. How long ago was that?

A. I would say less than a year.

Q. Oh, really, okay.

Did you ever discuss his training as a police officer?

A. No.

Q. And anything about the fact that your ex-brother-in-law was in the police academy that would affect your ability to be seated as a juror in a case like this?

A. No.

Q. Anything else that you could think of that would affect your ability to be a juror in the case, and listen to the testimony of a police officer, and treat him any differently than any other witness?

A. No.

Q. Can you listen to the testimony of a police officer and not give it any greater or lesser weight than any non police officer witness?

A. Yes.

Q. Have you, or anyone close to you, ever been the victim of a or accused of any type of sexual offense?

A. Yes.

Q. And who would that be?

A. Me.

Q. What? Tell me about that.

A. I was sexually molested by my stepdad.

Q. How old were you?

A. 12 or 13.

Q. And was it reported?

A. No.

Q. Have you ever told anybody?

A. Yes.

Q. Was there ever any criminal action taken as a result of this?

A. No.

Q. Did this result in any kind of a family dispute?

A. Yes.

Q. And was it the nature of any family breakup of any sort?

A. Yes.

Q. Did -- did it result in like a domestic dispute such that your stepdad and mom get divorced over it?

A. Do I have to say?

Q. No, I mean, we just wanted -- I just wanted to see what kind of an impact this all had, where this all went.

It didn't result in any kind of a criminal case?

A. No.

Q. But it resulted in other adverse consequences?

A. Nothing happened.

Q. Nothing really happened about it?

A. No.

Q. Did it cause any problems between you and your mom?

A. Yes.

Q. And have you been able to get past it?

A. Not really.

Q. So is it still something that it is a sore

spot for you to deal with?

A. Yes.

Q. Is it very emotionally stressful full for you?

A. It can get to that point, yes.

Q. Is that -- is this incident, what happened to you, is it something that would impact your ability to sit as a juror in a case where one of the charges is a sexual assault charge?

A. I don't know, but I think so.

MS. LUZAICH: I would stipulate, Your Honor.

THE COURT: Okay.

MR. BANKS: Stipulate.

THE COURT: Listen, I will tell you what.

There are lots of cases, lots of other litigation going on in this building that doesn't involve this, and why don't we just cut right to the chase. This is probably not the kind of case that you should sit on.

So why don't we go ahead and excuse you, and send you down to the third floor Jury Commissioner's office, and just tell them what happened, the nature of the case, and that you need to be reassigned to something else, okay?

A. Okay, thank you.

THE COURT: Thank you very much. I appreciate

your participation.

(Juror Andalon excused at this time.)

THE COURT: We are going to go ahead and replace Denise with --

THE CLERK: John Little, badge number 235.

THE COURT: John Little, if you will go ahead and take that end chair there in the back row.

VOIR DIRE EXAMINATION OF JUROR LITTLE

BY THE COURT:

Q. Mr. Little, why don't you fill us in a little bit about your background. How long have you been in Las Vegas?

A. Three and three-quarters years.

Q. Three and three-quarters years. Three years and nine months?

A. Yes.

Q. And where are you from originally?

A. Well, I spent a couple of decades in San Francisco.

Q. Would you call yourself a Californian, or a Nevadan?

A. That depends, I've been progressing in Nevada.

Q. Are you employed?

A. Yeah, I am a telemarketer.

Q. Are you somebody that calls my house at six o'clock?

A. Yes.

Q. What do you basically telemarket when you are doing your marketing?

A. What do I market? Home based businesses.

Q. Okay. How long have you been doing that?

A. Since November.

Q. Okay. Before that, have you always been in sales and marketing?

A. Just since I moved to Las Vegas I have.

Q. What did you do before that?

A. I was unemployed for about 10 years. I worked for 17 years at Pacific Medical.

Q. Okay. And what, in sales marketing or in some other type of other technical aspect?

A. Well, no, it was handling the paper.

Q. Okay. Are you married?

A. No.

Q. Do you have children?

A. No.

Q. Okay. Have you ever been trained in any aspect of law enforcement?

A. No.

Q. You have to answer out loud because he

needs to put your answer down.

A. No.

Q. And do you, or anyone close to you, relatives, close friends, employed in the area of law enforcement?

A. No..

Q. Okay. Have you, or anyone close to you, ever been the victim of, or accused of any type of sexual related offense?

A. Accused or a victim?

Q. Right.

A. My cousin was molested by two different people.

Q. And how long ago was this?

A. It was either two years or three years ago. He was the same age when it happened.

Q. Were there ever any criminal charges brought as a result of what happened to him?

A. I don't think so.

Q. You said this was quite a while back. You guys were just little kids.

A. Right.

Q. To your knowledge, no criminal action was ever taken as a result, is that right?

A. I don't believe so. I'm not certain, but I don't believe so.

Q. Were you pretty close? Was this your cousin?

A. Yes, but we lived in different cities.

Q. Okay. You weren't aware of this at the time it happened?

A. No.

Q. Okay.

Anything about that incident or relationship that would cause you difficulty in sitting on a jury in a criminal case of this nature?

A. No.

Q. Okay. Whatever information, or knowledge, that you experienced as a result of that would not affect your ability to be a juror in this case, is that what you are saying?

A. Yes. No, it wouldn't.

Q. Okay. And were you or anyone close to you been the victim of, or accused of, any other kind of criminal activity?

A. I have been burglarized and mugged.

Q. You have been burglarized and mugged? Does that mean that you were mugged, you mean robbed?

A. Yeah.

Q. Were these separate occurrences?

A. Yes.

Q. How long ago/?

A. In the '70's.

Q. In the '70's, so somewhere in excess of 20 years ago?

A. Yes.

Q. Anything more recent than that?

A. Nothing comes to mind.

Q. Okay.

Anything about the facts that you may have been the victim of a a mugging, or a robbery, and what else did you say?

A. I think that's all I said.

Q. A burglary? Did you say a burglary?

A. Oh yeah.

Q. Anything about your experience and being victimized in that respect that would cause you difficulty to sitting on the jury in a case like this?

A. I don't think so.

Q. Okay.

What we are looking for are people that can sit on the jury, leave all of that stuff outside. We don't want to leave your common sense outside, but we want to leave all of your past experiences outside so that you can just focus on the evidence that's presented to you in this case and reach a verdict based strictly upon what

you hear and see in this case and upon the instructions that I give you. Can you do that?

A. Well, I don't know if I can follow it. I have trouble focusing, understanding all of the actions.

Q. Is there a medical condition for that?

A. Well, I don't know. Well, my psychiatrist has said that I am manic depressive.

Q. Are you under the care of any psychiatrist?

A. No.

Q. Are you under the care of a doctor for any kind of a medical condition?

A. No.

Q. Do you take any kind of medications for any kind of condition?

A. No.

Q. You said that you have been diagnosed as manic depressive?

A. Yes.

Q. By -- who diagnosed you as manic depressive?

A. My psychiatrist for one day because I think he wants to get me declared for marketing.

Q. Did that work?

A. No. I don't even know. It costs a lot of money. I can't remember now.

Q. Do you have trouble in focusing your attention

on things?

A. Yes.

Q. Do you have trouble attending to matters where you have to recall, and focus, and then recall what you just heard or seen? Does that give you -- does that cause you problems?

A. I usually have to ask have them explained more than once before I understand them.

MS. LUZAICH: The Court's pleasure.

THE COURT: I think, under the circumstances, you probably are not appropriate for at least this kind of a trial.

I will go ahead and excuse you and have you go down to the third floor and report back to them, and just tell them that the Judge says you appeared that you may be unable to have the requisite amount of focus and attention to participate in the process. So just tell them, and if -- you really probably, if you don't want to serve on jury service, you might consider consulting with a physician that can better analyze your condition.

In that way, you can just avoid the whole process all together.

But go ahead, and go on down to the third floor, and you can explain it to them, and they will decide how they want to handle it, okay?

A. You mean, I should get a doctor's note?

Q. Well, you could get a doctor's note. That would be one way to look at it, yes. But I do appreciate your participation, and thank you very much. I know it has been a couple of days.

Thank you.

(Juror Little excused at this time.)

THE COURT: We will replace Mr. Little with --

THE CLERK: Elizabeth Martin, badge number 236.

THE COURT: Elizabeth, if you will take that last chair right there on the top row, I would certainly appreciate it.

VOIR DIRE EXAMINATION OF JUROR MARTIN

BY THE COURT:

Q. Elizabeth.

A. Yes.

Q. How long have you been in Las Vegas?

A. 21 years.

Q. How old are you?

A. 21.

Q. Another native. I don't think I have ever seen this many people from, actually from right here in Las Vegas. Where did you go to school?

A. I went to Truman Elementary.

Q. Where did you go to high school?

A. Las Vegas High School.

Q. That is the new Las Vegas High School?

A. Yes.

Q. Okay. Are you currently going to UNLV?

A. Yes.

Q. What year are you in?

A. First.

Q. Do you work also?

A. Yes.

Q. Where do you work?

A. I work at Clark County Government Center.

Q. The Clark County Government Center over

here?

A. It's at 1500 Grand Canyon.

Q. Yeah, that's right over here. If you look out the window, you can see it.

And what do you do for them?

A. I am an office assistant, and I do various things for them.

Q. All right. So you are not married?

A. No.

Q. No children?

A. No.

Q. Okay. Have you ever had any training in law enforcement?

A. No.

Q. Have you any friends that are employed or have been trained law enforcement?

A. No.

Q. Have you or anyone close to you ever been the victim of, or accused of a sexually related crime?

A. No.

Q. Have you, or anybody close to you, ever been accused of any other kind of crime?

A. No.

Q. Have you ever been on a jury before?

A. No.

Q. Can you think of any reason that would impugn or attack your ability to be on a jury in a case like this?

A. No.

Q. And to be fair and impartial?

A. No.

Q. You are 21 years old, did you say?

A. Yes.

Q. There are going to be some people that are going to testify from the State that are about your age. Will that cause you any problems?

A. I don't think it will if it is a short one.

Q. Have you ever been in any kind of -- have you, or any of your friends, ever been in any kind of a spot like anything that you have in this case is going to involve?

A. Not really, no.

Q. Have you, or your friends, ever been in trouble?

A. Not really.

Q. Not really. Not that sort of trouble?

A. No.

Q. Do you understand what I have been explaining about the importance of being able to be a juror in a case like this, and base a verdict on strictly the evidence that you hear in this case, that you hear and see in this courtroom, and on nothing else, and the instructions on the law that I give you.

Do you think that you can do that?

A. Yes.

Q. What is your major at UNLV?

A. English.

Q. What you are you going to do when you get out?

A. I don't know yet.

Q. Look for a job?

A. Yes.

Q. Do you think that -- you are pretty young. This might be a little stressful. Can you handle it?

A. I think I can.

Q. Okay. Can you withhold forming an opinion about anything having to do with this trial until you have heard all of the evidence and I instruct you on the law?

A. Yes.

Q. Do you think that you have a good, healthy, middle of the road, neutral frame of mind as you approach this jury duty service?

A. Yes.

Q. Do you think that you would be comfortable if you were the Defendant or the prosecutor in this case having somebody that was on the jury that has your frame of mind?

A. Yes.

THE COURT: Counsel?

VOIR DIRE EXAMINATION OF JUROR MARTIN

BY MS. LUZAICH:

Q. Ms. Martin, what do you think about you that would make you a good juror?

A. I don't know. I listen carefully. I'm pretty open-minded.

Q. Are you open-minded?

A. Yes.

Q. Listen to both sides?

A. Yes.

Q. Okay. And the fact at 21 you are already three years into college, that's huge, right?

A. Yes.

Q. Are you going to finish next year?

A. Hopefully.

Q. Next time for you for something is when it is 50 years so I take my hat off to you.

You know, it sounds like the Judge was trying to talk you out of it, but you have a good head on your shoulders?

A. Yes.

Q. You have common sense?

A. Yes.

Q. You are not going to not let anything sway you one way or another, you will just listen to the facts?

A. Yes.

Q. That's what we are looking for in jurors.

What happens if the Judge reads the law to you like he is going to, and you don't agree with some of the law? What are you going to do?

A. Follow the law.

Q. You said you will follow the law whether you agree with it or not?

A. Yes.

Q. Write to your legislature if you want to change it, but follow it anyway?

A. Yes.

Q. What are you studying in school?

A. Mostly college English.

Q. Did you ever take any criminal justice, or anything like that?

A. No.

Q. Not that interested in that?

A. Um, no.

Q. Political science at all?

A. No.

Q. I understand that. That's your opinion.

Is there anything about you that would prevent you from being able to sit in judgment of someone?

A. No.

Q. So if you sit as a juror in this case, and you listen to all the testimony, and see any evidence, if you are convinced beyond a reasonable doubt that the Defendant committed the crimes he is charged with, would you be able to say, guilty?

A. Yes.

MS. LUZAICH: Thank you. Pass for cause.

THE COURT: Mr. Banks, is it your turn?

MR. BANKS: I think it might be. Thank you,

Your Honor.

YOUR DIRECT EXAMINATION OF JUROR MARTIN

BY MR. BANKS:

Q. Ms. Martin? Hi, nice to meet you.

Are you the kind of -- let me ask you. Do you like to argue?

A. No.

Q. Not really?

A. No.

Q. Will you argue if you disagree with someone?

A. Yes.

Q. What if you disagree with 11 people. Let me ask you:

What if 11 people think that the finding should be not guilty, and you are the one person that thinks that Narcus is guilty of what they accused him of?

A. I know that I would want to know that he is guilty of that. I would want to be sure about it.

Q. Okay.

Are you the kind of person that will let other people know what it is you feel real strong about?

A. Yes, I would.

Q. Have you had a lot of those kinds of experiences?

A. No.

Q. What is the most stressful, scared situation that you have had?

A. I don't know, my car accident.

Q. Okay. Was it a real serious one?

A. No.

Q. It was one of those, you both kind of pull over to the side, and exchange information, and the police come kind of deal?

A. No, I was driving with my mom, and we had an accident.

Q. Okay.

So it was actually maybe a stressful situation that you were able to, I don't want to say be on the sidelines, but at least be there and not have to be the one feeling, the first person dealing with the situation?

A. Right.

Q. Okay. Sometimes there are situations, stressful ones, that like it would be your first rodeo, so to speak. Would you agree with that?

A. Yes.

Q. What do you think when you heard of the charges?

A. I thought that they were serious.

Q. Did it freak you out at all or --

A. No.

Q. No, okay.

Anything beyond thinking that it was a big deal, that things started running through your mind, or anything?

A. Flashes.

Q. Okay. What kind of flashes?

A. I don't know, the situation. I would want to think about it.

Q. All right. Do you want to serve on the jury?

A. A little bit.

Q. You can take it or leave it kind of a thing/?

A. Not like that, but it just looks like -- I kind of.

Q. Remember what Mr. Baird said that he wants to be part of the process, and part of the judicial process.

Do you have those kinds of feelings about it, or do you see it as a duty, as a citizen kind of thing?

A. I would like to do it kind of a thing.

MR. BANKS: Okay, okay. I appreciate your honesty, thank you.

Pass for cause, Your Honor.

THE COURT: Okay.

VOIR DIRE EXAMINATION OF JUROR CARNEY

BY THE COURT:

Q. Mr. Everett Carney, is that right?

A. Yes, sir.

Q. Everett, we finally got to you. How long have you been in Las Vegas?

A. 40 years.

Q. Excellent. What do you do for a living?

A. I'm a security guard.

Q. For who?

A. For Security Unlimited. I work at the Sand Creek Mobile Home, mostly senior citizens. I work graveyard. I am pretty much responsible for the entire property around there.

Q. Okay. Sand Creek is located?

A. Las Vegas and Lamb, or no, Sahara and Lamb, excuse me.

Q. Okay. On the east side?

A. Yes, right by the side of the Jerome V. Mack Middle School, which we stare at that wall every night.

Q. Did you get security type training?

A. No, sir, just -- the security in this town

is not quite what it sums up to be. They just grab you and put you to work. I was a little surprised they even accepted me when I went over there.

Q. Do you have a gun?

A. No, we don't. Don't like them.

Q. How long have you been in this line of work?

A. Oh, about two years. I guess I retired, and I wanted to do something so I figured I probably knew more about that than anything so --

Q. Well, what did you do before you retired?

A. Gee, I had my own pets to go business. I have done so many things, kind of a Jack of all trades in my life.

Q. Did any of those involve any kind of law enforcement?

A. Just the security job. I work security at the place called Santa Fe Hotel in Lincoln City, Oregon for about a year and a half. Actually it was a job, I was just grabbed, I was inbetween, and I wanted something to do. It was a very easy, very simple, and I did that, I didn't do something wrong, and so I did that job.

Q. But you never received any specific --

A. No, sir.

Q. -- law enforcement training?

A. No, sir.

Q. Okay. Are you married?

A. Yes, sir.

Q. Does your wife work?

A. She works in the Emergency Room at Valley Hospital as a maid.

Q. And is she --

A. For the Culinary Union.

Q. Okay, all right.

A. She has been there 14 years that she has worked there.

Q. Okay. So has anybody -- are you close to anybody in your family, or close friends, that are employed in the law enforcement field?

A. I have a son who has been on Metro, and he now is with NHP.

Q. Okay. Your son was on Metro?

A. My other son has been security and now works for Coca Cola.

Q. Okay. What did you say about NHP?

A. The Nevada Highway Patrol.

Q. Which one is that?

A. The same son. He was with Metro. He was with the Metro School Police.

Q. Okay.

A. Went from that to NHP.

Q. Okay. And that's your son, and so you are pretty close to him?

A. No, we are not close at all. I have never been close to people in my life because of my background. I have kind of a cold streak in me. I tend to be very analytical about things, and we don't talk a whole lot.

Q. So the fact that you have a son that's in law enforcement would not cause you any difficulty?

A. None at all. I am proud of him. I'm very proud of him. I worked hard to get over it.

Q. Good, good for you. It wouldn't bother you being on a jury in a case like this and listen to the testimony of police officers?

A. No, sir, because I have foster sons also. I have 21 foster sons. They were locked up at one time or another ion their lives, and I feel equally strong about them the same as my own sons.

Q. So you were a foster parent over the years?

A. Yes, sir.

Q. And you had like, you say over the course of years you have had about 21?

A. In lower California, in Sacramento. They were patrolled -- patrolled, they were paroled to me

while I was on parole actually in the California Youth Authority, and they were the worst cases they had. That's part of my I.D., I figured take the risk, you know, and they all made out, they all did quite good.

One was a crap dealer here at the Golden Nugget for years. They are all retired now. And I had a very lively contact with them. That was my purpose.

Q. So is there anything about all of those relationships that would cause you difficulty in sitting as a juror in a criminal case like this?

A. No, sir.

Q. Anything about that background being a responsible parent for these kids that were in youth parole status, anything about that that would cause you difficulty in sitting on a case like this?

A. No, for the same reason, my own blood sons and my foster sons are all friends and live together. All as equals. It didn't matter. Their backgrounds don't matter.

Q. Okay.

A. And that's it.

Q. All right. Have you ever been on a jury before?

A. Yes, sir.

Q. When was this?

A. I think it was in 1982. It's hard to remember the dates.

Q. Was it here in Nevada or was it --

A. Yeah, it was here.

Q. Here in Nevada?

A. Yes.

Q. The State of Nevada?

A. Yeah.

Q. Was it a criminal or a civil case?

A. It was a criminal case.

Q. And were you actually on the jury, or were you just in the jury pool?

A. No, I was the jury foreman, yes.

Q. You were the foreman?

A. Yes.

Q. All right. So you were in charge of that deliberation?

A. Yes, sir.

Q. All right. Without telling me what happened, did that jury deliberate?

A. Yes, sir.

Q. Did that jury return a verdict?

A. Yes, sir.

Q. Is there anything about that experience of being a juror, and especially being the foreman, being

in charge of deliberations.

Anything about that entire experience that would cause you difficulty in being on this criminal jury at this time?

A. No, I have been -- there were difficulties in the jury itself, but it would not affect me on other juries.

Q. That's really kind of what we are getting at. I am going to ask you to, and I am going to ask you if you can do this?

Can you set aside that experience, that whole scenario of being on jury duty, and that process of going through your deliberation, everything that you have been instructed that goes for that case, at that time.

Can you set all of that aside, and obviously, you are not going to be able to forget it, but for the purposes of this case, you have to leave that completely out of --

A. Not a problem.

Q. -- this whole process of being a jury before. If you are going to be a juror on this case, you have got to forget about that, listen to the evidence in this case, pay attention to the instructions I give you on the law in this case, and render a verdict strictly upon that information?

A. Yes, sir.

Q. Can you do that?

A. Certainly.

Q. Can you think of anything else that I haven't asked you about that might bear upon your ability to be a fair and impartial juror here?

A. No, sir.

Q. Can you withhold forming an opinion about any aspect of this case until you have heard all the evidence, and I instruct you on the law?

A. Definitely.

Q. Okay.

If you were sitting over here as the Defendant or as the prosecutor, would you be comfortable with a juror on the jury that has the frame of mind that you have?

A. Yes, sir.

THE COURT: All right. Ms. Kollins, I think that you are up.

MS. KOLLINS: Your Honor, the State is going to pass for cause.

THE COURT: Mr. Landis?

VOIR DIRE EXAMINATION OF JUROR

BY MR. LANDIS:

Q. Good afternoon.

You have probably got about as much experience with the criminal system as anybody in this room?

A. Not really. Maybe the wrong side for part of that but not that way.

Q. Do you think it's fair? Do you think it's fair?

A. Do I think what is fair?

Q. The criminal system.

A. Well, the system is fair, yes. It has been set up to be fair, and that's what it is for.

Q. I know.

A. If it always works out to be a fair situation for some people's lives, you know, but I think the idea is fair.

Q. Based on your experience, what do you think are some of the problems??

A. Do you have a couple of hours?

Q. I do.

A. I wouldn't do that to you.

Q. Give me the top two?

A. Well, I am a firm believer that we ought to have juries made up of people that are seniors so that they are retired, and you don't have the problem of having to lick more all the time, more of a special jury type.

Q. Yeah?

A. They'd love to work, it would give them something to do, you give them 20 bucks or 40 bucks. That adds to their retirement money. Those that get paid retirement money wouldn't care. We would save money, you know, I have got some ideas for this.

Q. Are you saying someone would sit on a jury let's say 180 days a year just different juries, and go from jury to jury?

A. Yeah, you could mix them up, you know, you can kind of scramble them up a little bit, you know, come in together, and all know each other.

You get what I'm saying. We have a biggest senior population of anywhere. It would fix your big problem. You've got wisdom, experience. You have got every peer group that's come along.

Q. I think you see that.

A. Yeah.

Q. Seniors tend to be more eager to be on juries. Do you think if we actually did that it would benefit the State or the defendants?

A. I think everybody would benefit.

Q. Yeah?

A. Everyone would, that's what we do. Because we have a lot of experience, I mean, I was on one about 10 years ago because I had experience then, but still, I

am a little smarter today than I was 20 years ago.

Q. Sure, sure. I have to give you one more?

A. Sure.

Q. I like you a whole lot.

A. Do you? Good.

Q. Another one?

A. We will work on it later.

Q. You said you don't like guns?

A. No, they are out. I'm a bit shy. You know, they bother me.

Q. Just because they are dangerous?

A. No, as right as you are, police shooting at me really damn well scared me, you know. I don't like guns. I don't have any objection to maybe having one, taking it home, or something like that, but I am not a gun person.

I have shotguns, I have used guns, but I am not in some manic fear of something like that. I wish we didn't have that.

Q. You think they do more harm than good, or more good than harm?

A. I think the gun laws are a problem, if you want my opinion on that.

I think in my background, period, I used to use a plug. To use a gun, I would rather have a bullet, not

a plug, you know, if you have a choice, if we all had guns, that would be a great equalizer.

Q. I agree with that. I agree with that.

You talked a little bit about your lack of experience.

Correct me if I am wrong, it kind of sounded like it was a tough jury deliberation?

A. Sounded like what?

Q. Your last jury experience, it sounded like it might have been a tough jury deliberation?

A. Yeah, kind of a back and forth thing, and, well, a lot of the questions that are asked now weren't asked of the jury when we are being polled, and these are good questions that you guys are asking now, you covered everything that I consider problematic then. It feels much better our system today than it was in '82.

Q. So you are saying that some people that were back there that maybe should not have been back there?

A. No, a lot of people said they had, like the Judge's question, your frame of mind, how you are thinking. Is there any reason why you wouldn't want to be here today.

People dig up and say, well, gee, I have a babysitting problem, or I have got a meeting, or birthdays.

Back then people would say anything. The Judge would ask them. He is guilty, wait a minute. We are supposed to discuss this, you know, oh no, he's guilty, and I said wait, man, we are supposed to discuss this, you know.

Q. How long did you --

A. And finally we did, and we got through it but it --

Q. How long did you deliberate, and I am not asking you what was the verdict.

A. I believe it was about a week and a half.

We was going pretty late at night, and we were ordered by the Judge to come to a decision. He got a little pushy after a while. A lot of things happened, you know, and they were uncomfortable.

Q. Yeah.

A. The situation was one where one of the questions asked earlier about, how would you feel if you felt in your heart the person was guilty, but they don't believe him. That was that kind of a problem.

They get out on that capacity because I thought, gee, this person is guilty but --

Q. I am going to stop you before I get in trouble. You are going somewhere where you are not supposed to.

A. Oh, I'm sorry.

Q. I think I am wrong so we are starting to scare these people about being on this jury.

I will pass for cause, Judge.

THE COURT: All right. Approach the bench.

(Whereupon, a brief, informal discussion was had at the bench between the Court and counsel.)

THE COURT: Okay.

We are going to excuse the following two jurors, and ask them to report back down to the third floor Jury Commissioner's office, Everett Carney and Wayne Daley.

THE COURT: We are going to replace Mr. Carney with Kelly Russo-Winn, and Wayne Daley with Bonnie Huerta.

And I appreciate your participation. Thank you very much.

JUROR CARNEY: Thank you, Your Honor. Appreciate it.

(Juror Carney and Juror Daley excused at this time.)

THE COURT: And Kelly?

JUROR CARNEY: Are we getting recycled?

THE COURT: Yes, you will be getting recycled down on the third floor, okay?

Kelly Russo-Winn, you will need to take the second chair down on the middle row, and second row in

the second chair, and then Bonnie Huerta, you will be in the top row, second chair.

VOIR DIRE EXAMINATION OF JUROR RUSSO-WINN

BY THE COURT:

Q. Kelly, Russo-Winn, is that right?

A. Yes.

Q. How long have you been in Las Vegas?

A. 45 years.

Q. Oh boy. What do you do for a living?

A. I am an administrative assistant for USA today, circulation office.

Q. Oh, how long have you been there?

A. I have been there eight years.

Q. Are you married?

A. Yes, I am.

Q. What does your husband do?

A. He is a home builder.

Q. What kind of an outfit does he work for?

A. He is a senior construction superintendent for American Homes.

Q. Okay. Do you have grown children?

A. 19 and a half year old daughter.

Q. Does she work or go to school?

A. Both, she is a the full-time student at UNLV, and also works part-time for an attorney's office,

but does it after school.

Q. Okay. Have you ever been trained in any kind of law enforcement activities?

A. No.

Q. Anybody close to you?

A. Friends from high school, but -- and we stay friends, but we see each other maybe once or twice a year.

Q. Okay.

That is the extent of your family or friends that are actually involved in law enforcement?

A. Yes.

Q. And have you, or anyone close to you, ever been accused of or the victim of any kind of sexual offense?

A. No.

Q. Have you, or anybody close to you, ever been the victim of or accused of any other crime?

A. I was the victim of like a credit card fraud, but it --

Q. How long ago was that?

A. About three years ago.

Q. Did that result in some kind of criminal action on somebody?

A. Possibly, once the bank had me sign

everything off, they released me and said we really can't answer any questions.

Q. Oh, okay.

A. So they took care of it.

Q. They took care of it, and whatever happened didn't involve you?

A. It took six months but --

Q. Well, all right. Is that the only thing that you know of that has ever happened?

A. I mean, I had my purse stolen like 15 years ago.

Q. Did you ever recover it?

A. Some of the stuff, yes. Somebody found parts of it, and I got some of it back.

I did identify -- Metro was involved with it.

I did identify the person that came into my place of business, and what happened after that I don't know.

Q. Okay.

A. I didn't look for it, or anything.

Q. You never went to court?

A. No.

Q. And you never were informed of any kind of prosecution?

A. No.

Q. I think she was wanted for a lot of stuff, and a lot of other people with her.

Q. When you think about that, is there anything about that would cause you difficulty in being a juror in a criminal case like this?

A. No.

Q. Would that or any other experience that you can think of affect your ability to sit as a juror and listen to the testimony of a police officer and give the testimony of -- the police officer's testimony greater weight or lesser weight than with any other witness?

A. No, sir.

Q. Can you listen to the testimony of a police officer and treat it just the same as anybody else? No greater weight, no lesser weight than anybody else.

Can you do that?

A. Yes, I can.

Q. Okay. And have you ever been on a jury before?

A. No.

Q. Can you think of anything that I haven't touched upon directly that may bear upon your ability to be a juror in a criminal case like this?

A. No.

Q. Can you withhold forming an opinion about anything having to do with this case until you have heard all the evidence and been instructed on the law?

A. Yes.

Q. Do you believe that you have an neutral kind of frame of mind that you would approach your jury service so that you would be comfortable if you were one of the litigants in this case?

A. Yes.

Q. A juror that has your frame of mind?

A. Yes, I do.

THE COURT: Okay. You are up.

VOIR DIRE EXAMINATION OF JUROR RUSSO-WINN

BY MS. LUZAICH:

Q. Good afternoon. Are you having fun yet?

A. Oh, joy?

Q. Would you consider yourself to be the kind of person that listened to absolutely everything and weighs everything before making up your mind?

A. I can, yes.

Q. Or do you jump to conclusions a little bit more in your daily life?

A. Sometimes in daily life I have to, but no, I believe that I could look at all options.

Q. Okay. Because that is what you are going to be asked to do. Wait until you hear and see absolutely everything before making up your mind.

A. Yes.

Q. You can do that?

A. Yes.

Q. And you have common sense?

A. Yes.

Q. You will bring it in the courtroom? You won't leave it outside?

A. No.

Q. And having raised a daughter, I expect you have used your common sense quite often?

A. I will do my best.

Q. You said she works for an attorney's as a runner. Do you know what kind of law that attorney practices?

A. I think they do a little bit of everything.

Q. Any criminal?

A. No, I don't know. We don't discuss it.

Actually, she was out about two months ago, so she works nights, the good life.

Q. Does she come over and get her laundry washed?

A. No, she is good at that. She doesn't.

I trained her well.

Q. All right. So if you do sit as a juror in this case, you are back in the deliberation room, and 11 of the jurors feel one way, and you feel a different way. What are you going to do?

A. I am going to stick to my guns, and I need to hear -- I need to go over, I guess, the evidence and it's --

Q. (Interposing) And try to persuade them?

A. Yeah, I am going to try to persuade them my way.

Q. Try to persuade them of your point of view?

A. Yes.

Q. Will you be --

A. (Interposing) Try to listen to it again.

Q. Okay. Listen to what they have to say?

A. Yes.

Q. Now, if they are able to point out that maybe there is something that you missed, or whatever, is it possible that you could change your mind?

A. It is possible if there is sufficient evidence.

Q. Right, if they really pointed out that you missed something --

A. Oh-huh.

Q. -- or what not, but if you are sure, I mean,

if you are confident in your position, will you stick to your guns?

A. Yes.

Q. Okay, good.

If the Judge reads to you the instructions at the end, and there is an instruction or two that you do not agree with, what are you going to do?

A. I will go with what I have been told, and I will write my letter to Congress later on.

Q. Everybody here is going to be writing letters to their Congressmen.

A. Yes.

Q. But you will. You will follow the law that the Court reads, because that was -- that's what the law is, right, even if you don't agree with it?

A. Yes.

Q. Okay.

Having sat here for the last day, or so, is there any question that you have a burning desire to answer?

A. No.

Q. Is there any reason you -- there's one?

A. I will ask, sure. When, I mean, this is all kept in your mind, you don't write anything down.

Q. You do actually. You are going to get, if you serve, you are going to get a notepad. You get

to take as many or little notes that you choose.

A. Okay, thank you.

Q. And then you get to bring it back in the deliberation room with you.

A. Absolutely.

Q. No, we actually expect you to remember absolutely everything?

A. It's hard to remember what I did yesterday.

Q. One of the jurors don't even know their kid's age.

A. Exactly.

Q. Is there any reason that you could not serve in a case like this?

A. No.

Q. Knowing what you know about yourself, is there any reason that you could not sit in judgment of someone?

A. No.

Q. And if you do sit as a juror, after listening to all the testimony, seeing any evidence, if you are convinced beyond a reasonable doubt that the Defendant committed the crimes he is charged with, would you be able to say, guilty?

A. Absolutely.

MS. LUZATCH: Thank you. Pass for cause.

THE COURT: Mr. Banks, your turn?

MR. BANKS: Yes, sir, thank you.

THE COURT: Okay.

VOIR DIRE EXAMINATION OF JUROR RUSSO-WINN

BY MR. BANKS:

Q. Hello.

A. How are you today.

Q. I'm fine, thanks.

And I ask you, you probably heard me ask this question of a few of the folks here:

Would you happen to walk into the courtroom yesterday, and say, oh, my God, they have got another innocent guy sitting at the Defense table that they've charged with a crime?

A. I didn't make any judgments when I walked in.

Q. Okay.

A. He had a suit on. He looked like one of your staff.

Q. Do you think some people might make those kind of judgments?

A. Yes.

Q. Okay.

Let me ask you this this. Something has popped into my head with that answer about he looked like one of

the staff.

A. Uh-huh.

Q. My client is African American. There is a female accuser in this case, who is white.

Do you think that might be an issue for some people?

A. It might be. Not for me.

Q. Okay.

Would you agree that there are certain stereotypes in this day and age still about African American males in society?

A. I believe there is.

Q. Okay.

A. I grew up in this town, and, I mean, you get stereotypes and --

Q. And this town --

A. I went to high school here.

Q. Okay. And this town has a west side?

A. Yes.

Q. Okay. And you know what some of the stereotypes probably are, right?

A. Yes.

Q. I mean, let's say you pull up to a red light, and you look over, and you see a young black guy driving in an 80,000 BMW, I mean, what's the first thing that pops into

your mind?

A. Rapper, but that's funny, i don't know.

Q. Do you remember the Susan Smith case, that lady that drowned her kids and killed her kids in --

A. Attacked did you say?

Q. -- in South Carolina maybe?

A. I -- part of it, yeah.

Q. Okay. You remember her saying that a black guy did it?

A. That's true, yes.

Q. Okay. Why do you think she said that?

A. She had to blame it on someone. She wouldn't accept it herself.

Q. But why specifically do you think she blamed it on some black guy?

A. Maybe because of where she is from.

Q. Okay. I am going to ask you Mr. Landis's question because I think it's a good one.

What, where do you -- what side of the fence are you on? Is it worse to see somebody who is guilty not be held accountable or worse to see someone who is innocent be wrongfully convicted?

A. Someone who is innocent be wrongfully convicted, and I agree because the guilty, there is something wrong with him.

Q. It's kind of a karma thing?

A. Unfortunately.

MR. BANKS: Okay. All right. Thank you so much for your honest answers today.

JUROR RUSSO-WINN: You're welcome.

MR. BANKS: Pass for cause, Your Honor.

THE COURT: Thank you. All right, approach the bench.

MS. LUZAICH: Well, one more.

THE COURT: Oh, excuse me, I'm sorry, you are absolutely right.

VOIR DIRE EXAMINATION OF JUROR HUERTA

BY THE COURT:

Q. Bonnie Huerta. Sorry, Bonnie. Bonnie?

A. Yes.

Q. How long have you been in Las Vegas?

A. 11 years.

Q. What do you do for a living?

A. I am a medical records clerk.

Q. Who for?

A. Desert Radiology.

Q. Okay, I am familiar with them. How long have you done that?

A. Four years.

Q. Okay. Are you married?

A. Yes.

Q. What does your husband do?

A. He works at Walgreen's.

Q. He works where?

A. At Walgreen's.

Q. Oh, okay. Do you have grown children?

A. I have two.

Q. How old?

A. My oldest son is 24, and my youngest one is 18.

Q. Do they work?

A. Yes.

Q. What do they do?

A. My youngest one works at Walgreen's, and my oldest one works at the Mirage.

Q. Okay. Have you ever been trained in any type of law enforcement activity?

A. No.

Q. Any relatives or close -- people close to you ever been trained or are they employed in law enforcement activities?

A. I have a nephew.

Q. That's a police officer?

A. Yes, with K-9.

Q. Where does he work?

A. In Arizona.

Q. Oh, okay. Do you talk to him quite often?

A. Not ever.

Q. Okay. And so you really haven't ever discussed his work with him?

A. No.

Q. Anything about having a nephew in law enforcement that would cause you difficulty being a juror in a case like there?

A. Not at all.

Q. Okay. Have you, or anyone close to you, ever been the victim of or accused of a sexual related offense?

A. I have two nieces. One has passed away, but two nieces, and a friend.

Q. Two nieces and --

A. And a friend.

Q. And a friend that were the victims?

A. Yes.

Q. Of a sexual what, sexual assault?

A. Yes.

Q. Do they live here in Las Vegas or --

A. No.

Q. Where do they live?

A. One, I lost -- my friend, I've lost contact.

I think she is still in Texas, and one moved that passed away just recently.

Q. How long ago was it that the incident you are referring to occurred?

A. Oh, years ago.

One, the niece, this was probably 40 years ago, and the other one, the friend, was five -- four or five years ago.

Q. Did these incidents result in any criminal prosecutions that you're aware of?

A. The friend did.

Q. The friend did?

A. Yes.

Q. Were you pretty close to that incident at the time when it happened?

A. No, it had already been over with and done.

Q. Okay.

And as far as your nieces were concerned, there was no criminal prosecution?

A. No.

Q. Were you pretty close to what had happened, or did you find out way after the fact?

A. This was way after the fact.

Q. Okay. So you didn't even know about it at the time?

A. No, not for a long time.

Q. Okay. Anything about knowing about those incidents now, years later, that would cause you difficulty in sitting on this jury, this criminal jury, in this kind of a case?

A. Not at all.

Q. Would you have any trouble setting aside any information or on any impressions that you got from any of those experiences?

A. No.

Q. Can you set those aside and be a fair and impartial juror in a case like this?

Is that a "yes"?

A. Yes.

Q. Okay. Have you ever been on a jury?

A. No.

Q. Okay. Can you -- is there anything that I haven't touched upon that would cause you difficulty in being fair and impartial to both sides?

A. No.

Q. Do you have any reason to treat the testimony of a police officer any differently than any other witness?

A. No.

Q. Okay. Can you withhold forming an opinion

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

2 NARCUS S. WESLEY

3 Appellant,

4 v.

5 THE STATE OF NEVADA,

6 Respondent.

Nevada Supreme Court Case No.: 52127

District Court Case No.: C232494

District Court Dept. No.: XXIV

FILED

AUG 05 2009

Sharon K. Thompson
Clerk of Supreme Court
637-6911

8 APPENDIX VOLUME III

9 (Appeal from Judgment of Conviction and
10 Sentence in the Eighth Judicial District Court)

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IN THE SUPREME COURT OF THE STATE OF NEVADA

NARCUS S. WESLEY

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

Nevada Supreme Court Case No.: 52127

District Court Case No.: C232494

District Court Dept. No.: XXIV

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(Appeal from Judgment of Conviction and
Sentence in the Eighth Judicial District Court)

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2 Submitted by:

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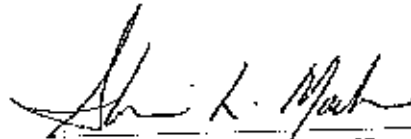
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CERTIFICATE OF SERVICE

The undersigned does hereby certify that the foregoing APPELLANT'S APPENDIX
VOLUME I thru VI duly served by forwarding a copy of the same, this 29th day of July, 2009, by
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1 kind of started taking that more seriously?

2 A. Yes.

3 Q. I have heard stories of how, you know,
4 in the early '80's, late '70's, almost impossible to
5 get arrested for it.

6 A. Yes.

7 Q. Now, it's kind of the opposite where I
8 think every time you get pulled over, you might get
9 arrested.

10 Let me give you some scenarios.

11 Let's say we are friends, I come up to your
12 house to pick you up, we are going to go out for the
13 night, and you have realized that I have had some
14 drinks, and you get in the car with me.

15 Do you think you somehow should be responsible
16 if I then get pulled over.

17 MS. LUZAICH: Objection. We talked about that.

18 MR. LANDIS: Could we approach?

19 THE COURT: Sure.

20 (Whereupon, a brief, informal discussion was
21 had at the bench between the Court and counsel.)

22 BY MR. LANDIS:

23 Q. I will be withdrawing that scenario.

24 A. Okay, fine.

25 Q. You said you spent some time in San Francisco,

1 right?

2 A. Yes, that's where I grew up.

3 Q. You have got some longtime friends from
4 there?

5 A. Oh, yes, family.

6 Q. Do you still spend some time with those
7 people from time to time?

8 A. I was up there last week.

9 Q. Okay.

10 And I am guessing you are like me, and when
11 you get together with old friends, the whole family, you
12 talk about old stories, things that happened in the past,
13 right?

14 A. Yes.

15 Q. And when, you know, you go over those
16 stories, a lot of times some people remember this, some
17 people remember that, and it kind of becomes a group
18 story?

19 A. Uh-huh.

20 Q. Would you agree with that?

21 A. Yes.

22 Q. Do you think those stories get more and
23 more accurate as time goes on, or do you think they
24 almost become a hybrid of what really happened?

25 A. Sometimes. Some people have better

1 memory or recollection than others. I think that would
2 be appropriate.

3 Q. Okay. I think what I am getting at is:

4 As you go back and think about, or something,
5 that a bunch of your friends experienced, and you
6 experienced 10, 20 years ago, and you've went over this
7 story every time you see each other because it was a
8 really great event or a really bad event, do you think
9 the story over time is very accurate to what really
10 occurred, or do you think it really becomes a creature
11 of you guys telling the story over and over again?

12 A. I wouldn't know. The situation is the
13 same. Some people have a better memory than others.

14 Q. Do you think if you were talking about
15 something that happened maybe 20 years ago, and then
16 you actually kind of take a time machine and go back
17 there to what did actually happen, do you think it
18 would be pretty accurate as you guys remembered it and
19 as you told the stories over the years?

20 A. With some modifications, yes, but --

21 Q. Okay, that's okay.

22 Di you, when you are telling those stories,
23 when you guys are talking about things that happened in
24 the past, do you think you kind of adopt as part of your
25 memory things that other people remember, things that

1 other people say they remembered about what did actually
2 occur?

3 A. Yes, but my personal experience, obviously,
4 would be more explicit.

5 Q. Okay, okay. I will give you my favorite
6 jury question, and you don't get a pass:

7 Which one is worse, the innocent person getting
8 convicted or the guilty person not getting off?

9 A. Well, out of my heart, it would be the
10 innocent person getting convicted.

11 MR. LANDIS: Thank you, Miss Bella. Pass for
12 cause.

13 THE COURT: Very good.

14 VOIR DIRE EXAMINATION OF JUROR DESCHAINED

15 BY THE COURT:

16 Q. Debbie, is it Deschaine?

17 A. That's right.

18 Q. Debbie, how long have you been in Las
19 Vegas?

20 A. I was born out at Nellis.

21 Q. Really, my word. A native.

22 Have you lived here all of your life?

23 A. No, I have lived part of the time here,
24 and part in California.

25 Q. Okay. Are you employed?

1 A. Yes.

2 Q. What do you do for a living?

3 A. I'm an executive assistant.

4 Q. Okay. For, in the hotel industry or --

5 A. Yes, the vice chairman of Harrah's

6 Entertainment.

7 Q. Okay. Are you married?

8 A. I'm divorced.

9 Q. Grown children?

10 A. Yes.

11 Q. What do they do for a living?

12 A. My daughter lives in California, works at
13 a winery, and my son lives here, and he is in construction.

14 Q. Okay. Have you or anybody close to you
15 ever been the victims of or accused of any kind of a
16 sexually related crime?

17 A. No.

18 Q. Have you or anybody close to you ever been
19 the victim of or accused of any kind of a crime?

20 A. Yes.

21 Q. What would that be?

22 A. My son, when he was younger, he was convicted,
23 and he actually served three years at Indian Springs.

24 Q. So that all occurred right here in Las Vegas?

25 A. Yes.

1 Q. How many years ago was that?

2 A. He was 18. He is 29 now.

3 Q. Was there anything -- I assume that you
4 followed what was going on very closely?

5 A. Yes.

6 Q. Was there anything about that whole process
7 as it unfolded and occurred that you felt was unfair to
8 your son?

9 A. I will say I have had some negative experiences
10 with law enforcement.

11 Q. You mean related to that?

12 A. Uh-huh.

13 Q. To that incident?

14 A. Yes.

15 Q. And that whole little scenario?

16 A. Yes.

17 Q. That was how many years ago did you say,
18 eight?

19 A. He was 18 at the time.

20 Q. Okay. So, is there anything about -- can
21 we ask this:

22 You realize that that was then?

23 A. Right.

24 Q. It was those people that were involved in
25 that matter.

1 Is there anything about that experience that
2 would cause you difficulty, difficulty from the point that
3 it might be impossible for you to be able to sit on a jury
4 in a case like this and be fair and impartial to both sides
5 of this case?

6 A. I think I could be fair.

7 Q. Can you set aside that whole experience,
8 leave it outside in the hallway, sit here and listen to
9 the testimony, and the evidence that's presented, and not
10 let anything that happened back then interfere with your
11 process about evaluating the witnesses, and the testimony,
12 and be able to be fair and impartial.

13 Can you still do that, do you think?

14 A. Yes.

15 Q. Nothing about the experiences with law
16 enforcement, if you hear the testimony of a police officer
17 as a witness, can you treat his testimony just like any
18 other witness that wasn't a police officer?

19 Can you not give it any lesser weight or not
20 give it any greater weight, just because he is a police
21 officer?

22 Can you do that?

23 A. Yes.

24 Q. Okay.

25 If you were the prosecution, which you said you

1 can do, if you were the prosecution or the defense, do
2 you think that you have a healthy approach to your duty
3 as a juror?

4 A. Yes.

5 Q. Do you think that you would be comfortable
6 if you were sitting on either one of these two tables
7 over here with somebody with your frame of mind on the
8 jury?

9 A. Yes.

10 Q. Can you think of anything else that I haven't
11 asked you about? I don't know if I got to this:

12 Have you ever been on a jury before?

13 A. I was excused because of that incident.

14 Q. Previously?

15 A. Yes.

16 Q. A criminal jury pool like --

17 A. Yes, it was a criminal case, and they decided
18 not to have me as a juror.

19 Q. Okay.

20 A. I was excused.

21 Q. Was there anything about that experience
22 of being in a jury pool, and then being excused out, that
23 would cause you difficulty from sitting on a jury in a
24 case like this?

25 A. No, that has nothing to do with this.

1 Q. Okay. How long ago was this?

2 A. 10 years.

3 Q. Okay. Obviously here in Clark County?

4 A. Yes.

5 Q. Okay. Well, when you lived in California,
6 where did you live?

7 A. Orange County.

8 THE COURT: Okay. Anything, questions?

9 MS. LUZAICH: Oh yes.

10 VOIR DIRE EXAMINATION OF JUROR DESCHaine

11 BY MS. LUZAICH:

12 Q. Ma'am, when you said that you were excused
13 because of that incident, did you tell them that you could
14 be fair?

15 A. He didn't ask so --

16 Q. Do you know, and probably this is over your
17 head, but there is a difference between a challenge for
18 cause and a peremptory challenge, I mean, do you know, did
19 they excuse you for cause before?

20 A. I don't remember.

21 Q. Okay. How long ago was that?

22 A. About 10 years.

23 Q. Oh, so it was right around the time of --
24 was your jury service where you were excused around the
25 same time of your son's incident?

1 A. No, it was after.

2 Q. Okay. What was he convicted of?

3 A. He and another boy were in a car, and he --
4 the driver, the other boy shot at another vehicle. They
5 were -- it was gang related with that.

6 Q. Was anybody hurt as a result of it?

7 A. Yes.

8 Q. Did your son go to trial or did he enter
9 a plea?

10 A. He entered a plea, he got three years.

11 Q. Did the other kid also?

12 A. I don't know what happened to him.

13 Q. Was it a friend of his?

14 A. I guess.

15 Q. Okay. When your son was part of that
16 incident, the agency that investigated, was it Henderson
17 Police or Metro?

18 A. It was probably Metro.

19 Q. So it didn't happen --

20 A. It happened on the freeway.

21 Q. Or potentially even NHP.

22 A. Uh-huh.

23 Q. All right. Well, in this case, there
24 aren't going to be any Metro officers, there aren't going
25 to be any NHP officers, it's just going to be Henderson

1 Police.

2 Do you think that deep down inside, you might
3 just kind of hold that against any of the officers that
4 come in here?

5 A. No.

6 Q. Because he was prosecuted, somebody from
7 the D. A.'s office would have handled it. That could have
8 been us. I doubt it was, but do you think that deep down
9 inside, you just might feel that you would have to hold
10 anything like that against us or the State of Nevada?

11 A. No.

12 Q. All right. And I have to ask these questions,
13 you understand that?

14 A. Sure.

15 Q. Do you think that you might feel sorry for
16 the Defendant because he is about the same age that your
17 son was at the time your son went through the incident,
18 that you may feel some sort of --

19 A. No.

20 Q. No connection with the Defendant?

21 A. No.

22 Q. Okay. And, really, all we want to do is
23 make sure that everybody who sits on the jury and hears
24 the testimony is fair and impartial because, you know,
25 the people that are coming in to testify deserve that.

1 A. Yes.

2 MS. LUZAICH: Thank you.

3 Pass for cause, Judge.

4 THE COURT: Mr. Banks?

5 VOIR DIRE EXAMINATION OF JUROR DESCHAINED

6 BY MR. BANKS:

7 Q. Ms. Deschaine?

8 A. Uh-huh.

9 Q. If you picture in your mind, rolling, green
10 hills, and the kind of faint sound of the ocean, and as
11 the night turns into the morning, kind of a fog rolls off
12 of that ocean onto that kind of -- on that green hill, and
13 the grapes on those green hills are just perfect, and they
14 get that -- is that kind of like the -- is that kind of
15 the winery that your daughter works at, or something like
16 that?

17 A. It seems immaculate so it's not like Napa,
18 no.

19 Q. So it's kind of like outside here?

20 A. Right.

21 Q. Okay, I am just -- I am just teasing you a
22 little. What did you think when you heard sexual assault?

23 A. That it was serious.

24 Q. Okay. I'm sure everybody agrees with you.
25 Anything beyond that, I mean, did it hit you on

1 a gut level, make you think one thing or another?

2 A. No.

3 Q. Not really?

4 A. No.

5 Q. What about the other charges, like the
6 robberies, and that stuff, is that -- how did that make
7 you feel?

8 A. It was serious.

9 Q. Do you think that people should be held
10 responsible for their actions?

11 A. Yes.

12 Q. And nothing more?

13 A. What do you mean by nothing more?

14 A. Well, I'm not --

15 MS. LUZAICH: Objection.

16 BY MR. BANKS:

17 Q. More than your actions.

18 THE COURT: It's all right. Go ahead.

19 BY MR. BANKS:

20 Q. Do you think you should be held for more
21 than your actions?

22 A. Well, that, I don't understand what you
23 mean by that.

24 Q. Should you be held responsible above and
25 beyond your actions?

1 A. In some cases, probably.

2 Q. In the right cases?

3 A. Yes.

4 Q. Okay. And circumstances differ, would you
5 agree with that?

6 A. Yes.

7 Q. Okay. And recounting of an incident can
8 be affected by circumstances, would you agree with that?

9 A. Yes.

10 Q. And then I suppose it's common sense, how
11 we react to situations depends on the circumstances, fair?

12 A. Yes.

13 Q. I am going to use Mr. Landis's question,
14 and I am going to ask you:

15 How do you feel? Do you think it's more of a
16 tragedy when someone who is innocent gets convicted?

17 A. Yes.

18 Q. Why?

19 A. Absolutely.

20 Q. And why?

21 A. I don't know.

22 I would put that -- myself in that place of
23 that person, and I would just agree that you you have
24 to give the person the benefit of a doubt.

25 MR. BANKS: I think that's all I have.

1 Thank you.

2 Pass for cause, Judge.

3 THE COURT: Thank you.

4 VOIR DIRE EXAMINATION OF JUROR ORTA

5 BY THE COURT:

6 Q. Is it Gary Orta?

7 A. Yes, Your Honor.

8 Q. Gary, how long have you been in Las Vegas?

9 A. 40 years.

10 Q. What do you for a living?

11 A. Sir?

12 Q. What do you for a living?

13 A. Rural mail carrier, USPS.

14 Q. So you work for the Post Office?

15 A. Yes, sir.

16 Q. How long have you done that?

17 A. 12 years.

18 Q. Are you married?

19 A. Yes, sir.

20 Q. Does your wife work?

21 A. Yes, sir.

22 Q. What does she do?

23 A. Nurse.

24 Q. With one of the hospitals?

25 A. Yeah, North Vista.

1 Q. Have you got grown children?

2 A. One daughter.

3 Q. How old is she?

4 A. 16.

5 Q. So she is not working?

6 A. Right.

7 Q. Okay.

8 Have you or anyone close to you each been the
9 victim of, or accused of a sexually related offense?

10 A. No, Your Honor.

11 Q. Have you or anybody close to you ever
12 been the victim of or accused of any kind of a criminal
13 offense?

14 A. Not that I know of.

15 Q. Have you ever been trained in any kind of
16 law enforcement?

17 A. No, Your Honor.

18 Q. Have you ever been employed -- anybody close
19 to you ever been trained or employed in law enforcement?

20 A. No.

21 Q. Okay. Have you ever been on a jury before?

22 A. Yes, Your Honor, three years ago.

23 Q. Three years ago?

24 A. I think it was three.

25 Q. Here in Clark County?

1 A. Yes, sir.

2 Q. Was it a criminal or a civil case?

3 A. Civil case.

4 Q. Civil case?

5 A. Yes.

6 Q. And you were actually on the jury?

7 A. I think I was a backup.

8 Q. Okay. So did you -- were you part of the
9 deliberations or not?

10 A. It never got to that point.

11 Q. Okay.

12 Did something happen the case got resolved before
13 then?

14 A. Yes, it ended up in a mistrial.

15 Q. Oh, okay. So, you didn't actually deliberate
16 on that case?

17 A. No, Your Honor.

18 Q. So you had a mistrial before you got a chance
19 to deliberate?

20 A. Yes.

21 Q. Okay. Anything about that experience of
22 being on that jury that would cause you any kind of
23 difficulty being on this kind of a jury in this criminal
24 case?

25 A. No, Your Honor.

1 Q. Can you set aside all of the information
2 and instructions that you got on that case, and just
3 forget about it, and pay attention to just the evidence
4 and the instructions that you are given in this case?

5 A. Yes, Your Honor.

6 Q. Can you do that?

7 A. I could.

8 Q. Okay.

9 Can you think of any relationships or background
10 incidents in your history that would cause you to give the
11 testimony of a police officer any greater or lesser weight
12 than anybody else?

13 A. No, Your Honor.

14 Q. How about a nurse? If a nurse gets on the
15 stand and testifies in this case because your wife is a
16 nurse, would that cause you to give her testimony any
17 greater or lesser weight than anybody else just because
18 your wife is a nurse?

19 A. No, Your Honor.

20 Q. Okay.

21 Can you think of anything that I haven't asked
22 you about that would cause you difficulty in -- you have
23 got a 16 year old daughter, is that what you said?

24 A. Yes, Your Honor.

25 Q. If you heard some teenagers on the witness

1 stand in a case like that, the fact that you have a teenage
2 daughter, would that affect your ability to sit as a juror
3 and listen to some young witnesses testify about information?

4 A. A little bit.

5 Q. Would that make you a little sensitive about --
6 would you continually inject the fact that you have a 16
7 year old daughter, and would that kind of be overpowering
8 in your mind, or can you set that aside and to be a juror,
9 and just listen to the evidence, and base a verdict on just
10 what you hear as the evidence and the instructions that I
11 give you.

12 Can you set the fact that you have got a 16 year
13 old daughter aside?

14 A. Yeah, I can do that.

15 Q. Can you do that?

16 A. Yes, Your Honor.

17 Q. But at the same time, you understand what
18 it's like for teenagers, and you understand that -- and
19 you are going to have to base your verdict on your assessment
20 of the credibility of all the witnesses?

21 A. Yes, Your Honor.

22 Q. That is going to be okay with you?

23 A. Yes.

24 Q. And you are not going to let the fact
25 that you have a 16 year old daughter interfere with that

1 process?

2 A. No, Your Honor.

3 Q. Okay, all right.

4 Can you think of anything that I haven't asked
5 you about that would cause you difficulty in sitting as a
6 juror in a case like this?

7 A. No, Your Honor.

8 Q. Okay.

9 Would you be comfortable as the prosecutor or
10 the Defendant in this case, if you were sitting over here
11 with somebody that has your frame of mind being on the
12 jury?

13 A. Yes. Your Honor.

14 THE COURT: Good. Go ahead.

15 MS. KOLLINS: Thank you, Judge.

16 VOIR DIRE EXAMINATION OF JUROR ORTA

17 BY MS. KOLLINS:

18 Q. Mr. Orta, are you aware of what caused the
19 mistrial in the previous case?

20 A. Yes.

21 Q. What was it, do you know?

22 A. We had -- the lady was suing the company.
23 She passed out.

24 Q. Oh, in front of the jury?

25 A. And before the break, after four weeks,

1 and on her way out to the parking lot she passed out, and
2 they asked -- the defense asked for a new trial.

3 Q. Your wife is a nurse. What kind of nursing
4 does she practice?

5 A. Medical surgical.

6 Q. If you know, does she have any involvement
7 with sexual assault examinations?

8 A. No.

9 Q. Do you discuss her job with her on a regular
10 basis?

11 A. Yes.

12 Q. And if you heard a nurse testify in here you
13 realize you couldn't go home and get your wife's input on
14 whatever she had to say in here.

15 You have to just save your opinions on that
16 testimony for deliberations?

17 A. Yes.

18 Q. Do you think a victim should act one way or
19 another?

20 Do you have any expectations of how someone who
21 has been the victim of a crime should come in here and
22 speak to you?

23 A. No.

24 Q. Do you think everybody can have a different
25 personalities when they are speaking in public?

1 A. Yes.

2 Q. Mr. Landis asked some questions earlier
3 about how you might adopt someone else's version of an
4 event over time.

5 A. Yes.

6 Q. You know, everybody would kind of come
7 to a consensus.

8 A. Yes.

9 Q. Do you think that everyone, if four people
10 or five people witnessed this same thing, do you think
11 they would describe it identically?

12 A. No.

13 Q. Based on things like their ability to
14 articulate, their memory, all different kinds of factors
15 like that?

16 A. Yes.

17 Q. Anything that would preclude you from
18 sitting in judgment of another?

19 A. No.

20 Q. If you believe that the State has proved
21 its case beyond a reasonable doubt against the Defendant,
22 can you return a verdict of guilty?

23 A. Yes.

24 MS. KOLLINS: Thank you.

25 Pass for cause, Judge.

1 THE COURT: Mr. Landis?

2 VOIR DIRE EXAMINATION OF JUROR ORTA

3 BY MR. LANDIS:

4 Q. I heard you say you worked with the USPS.
5 I had a hearing problem. Did you say you were a royal
6 post officer?

7 A. Rural.

8 Q. Oh, rural.

9 A. Yes, Post Office, rural.

10 Q. Okay. I was excited to find out what that
11 was. What's your route?

12 A. I work in Henderson.

13 Q. Okay. Where exactly?

14 A. By Gibson and Rutledge.

15 Q. That's my area. I am guessing as a postal
16 officer, it's all about the route, right?

17 The better the route, the better the job?

18 A. I think they are all the same now.

19 Q. They are?

20 A. Yes.

21 Q. Do you mind working in Pahrump?

22 A. Oh yes.

23 Q. Okay.

24 As soon as after you and everyone else walked
25 in here, maybe before the Judge even said it, you realized

1 that it's a criminal trial?

2 A. Yes.

3 Q. And you realized that Narcus here is a
4 criminal Defendant?

5 A. Yes.

6 Q. What's the first thing that pops in your
7 head when you come to that realization?

8 A. Nothing really.

9 Q. No?

10 A. Why?

11 Q. Correct me if I'm wrong, before you came in
12 the door, you didn't know if this was a criminal or a civil
13 trial?

14 A. No.

15 Q. Were you hoping for one or the other?

16 A. No, I was in a jury pool for a lot of times.
17 I am already here today to show up.

18 Q. Not as lucky as some other people, okay.

19 A. I got the picture.

20 Q. On that last jury you talked about, where
21 the lady passed out, or you did say passed out, or whatever
22 it was, I think you did say passed out.

23 Were you happy or disappointed that that mistrial
24 was declared?

25 A. It was okay. I wasn't happy, but I wasn't

1 looking forward to it, and I think they told us where to
2 go. So in a way, it was happy, but in a way, I was
3 disappointed.

4 Q. Well, correct me if I'm wrong. You're a
5 man who gets paid for his job when he is here, right?

6 A. Yes.

7 Q. You wanted to deliberate though, right,
8 especially after putting in four weeks of time?

9 A. Yes.

10 Q. Okay.

11 Do you think we as citizens of America, kind of
12 expect the State to only prosecute guilty people?

13 A. No.

14 Q. You don't think we expect that? Let me ask
15 you this:

16 Do you think we want that?

17 A. It just depends, you know, I mean, the
18 prosecutor where they think they are guilty, but eventually,
19 10 years, 12 years, they are not.

20 Q. Popular case recently has been our friend,
21 O. J. Simpson, who has pending charges here in Clark County.

22 Have you read about that?

23 A. No.

24 Q. You haven't read about that?

25 A. No.

1 Q. You might be the only one. They will probably
2 be calling you for jury service on that case.

3 I will tell you, I always ask my favorite question.
4 I give one person a pass.

5 The second person I always ask my favorite question,
6 and try not to give them a pass.

7 The third person I tend to ask it, and then after
8 they answer it, I surprise them with a why.

9 Somebody stole my thunder today so I won't ask you
10 my final question.

11 Thank you for your time.

12 Pass for cause, Judge.

13 THE COURT: Very good.

14 VOIR DIRE EXAMINATION OF JUROR LORETTO

15 BY THE COURT:

16 Q. Maryjo Loretto, is that correct?

17 A. Yes.

18 Q. Mary --

19 A. It's Maryjo.

20 Q. Maryjo, do you go by Jo or --

21 A. Do you go by Joe or?

22 A. I go by Jo.

23 Q. Jo, okay. All right, Jo. How long have
24 you been in Las Vegas?

25 A. 36 years.

1 Q. Good for you. Do you work?

2 A. Yes. .

3 Q. What do you do?

4 A. I am a third level tech. I work for a
5 company that resells software and hardware around the
6 world, and I take care of other property.

7 Q. So you are in an I T expert?

8 A. I don't know if I'm an expert but -- I know
9 my job.

10 Q. Who do you work for?

11 A. Genesis.

12 Q. Okay. Do you actually write software?

13 A. No.

14 Q. Okay. Are you married?

15 A. No. .

16 Q. Do you have grown people?

17 A. Yes, one daughter.

18 Q. And what does she do?

19 A. She works at Smith's as a bagger.

20 Q. Oh, okay. Have you or anyone close to you
21 ever been the victim of or accused of any kind of a sexually
22 related offense?

23 A. No.

24 Q. Do you or anyone close to you ever been the
25 victim of or accused of a crime?

1 A. No.

2 Q. Okay. Have you ever had any training in law
3 enforcement?

4 A. No.

5 Q. Have you ever been employed or anybody close
6 to you ever been employed in the capacity of law enforcement?

7 A. Yes.

8 Q. Who is that?

9 A. My youngest nephew is a police officer. I
10 have a nephew-in-law who is a police officer, and my other
11 nephew works at the Courthouse.

12 Q. Here? .

13 A. Yes.

14 Q. Police officers, who do they work for? You
15 have got two nephews?

16 A. Yes, a nephew-in-law, and my youngest nephew
17 are police officers at Metro.

18 Q. Both Metro?

19 A. Yes.

20 Q. And how long have they been on the department?

21 A. My youngest nephew has probably been 14
22 years, and my nephew-in-law is probably two.

23 Q. Two years?

24 A. Two.

25 Q. Are you pretty close to these guys?

1 Are they -- they are both nephews so that -- are
2 you pretty close to these guys?

3 A. They are pretty close, yes.

4 Q. Do you see them and talk to them a lot?

5 A. Yes.

6 Q. Do you talk to them about their jobs?

7 A. We do have discussions, yes.

8 Q. Now, do you understand that the police officers
9 that are going to be testifying in this case aren't Metro
10 officers.

11 They are from the Henderson Police Department.

12 But the fact that you have got two nephews that
13 you are pretty close to that are police officers, would
14 that cause you any difficulty in seeing a police officer
15 from the Henderson Police Department on the witness stand?

16 A. In no way.

17 Q. Would you treat the testimony of a police
18 officer from Henderson any differently than any non police
19 officer witness?

20 A. No.

21 Q. You could look at him and realize that you
22 are going to have to treat him just like any other witness,
23 can you do that?

24 A. Yes.

25 Q. Okay. Did I ask you if you have been on a

1 jury before?

2 A. I was -- I have been called before but I
3 wasn't picked.

4 Q. You never actually got on the jury. You were
5 just in the jury pool?

6 A. Right.

7 Q. Okay.

8 Anything about that experience having been on a
9 jury pool before that would cause you difficulty in sitting
10 on a jury in a case like this?

11 A. No.

12 Q. Okay.

13 Can you think of anything that I haven't actually
14 touched upon that might bear upon your ability to be fair
15 and impartial to both sides of this case, in this criminal
16 case?

17 A. No.

18 Q. Okay.

19 Do you think that you have a healthy, neutral
20 kind of mindset approach to your duty as a juror in this
21 case?

22 A. Yes.

23 Q. Do you think that you would be comfortable
24 if you were the Defendant or the prosecution with somebody
25 being on the jury that has your frame of mind being on the

1 jury?

2 A. Yes.

3 THE COURT: Okay. Good enough.

4 VOIR DIRE EXAMINATION OF JUROR LORETTO

5 BY MS. LUZAICH:

6 Q. Ms. Loretto, your daughter, how old is she?

7 A. 17.

8 Q. Does she work at Smith's while she goes to
9 school or is she done with school?

10 A. No, she is still at school. She graduates
11 this June.

12 Q. Congratulations. Is she going to go to
13 college?

14 A. Well, we are working on that one.

15 Q. Well, hopefully?

16 A. Yes.

17 Q. Okay. Now, you mentioned you have two
18 nephews in law enforcement, one is two years on, is he
19 patrol?

20 A. Yes.

21 Q. Yes. And your nephew that's 14 years on,
22 has he done more than patrol? Has he been in other types
23 of service?

24 A. Yes, he is applying right now for a sergeant.

25 Q. But has he been in the detective bureau,

1 work like property crimes, sex crimes, major crimes,
2 anything like that?

3 A. Yes.

4 Q. Do you know which?

5 A. Well, a little bit of everything. He is
6 kind of -- he is on TV a lot, too, so, I mean, he is the
7 one that goes out when there is a crime, and stuff, and
8 he gets everything ready for the reports, the reporters.

9 Q. Like the PIO, the public information officer?

10 A. Right.

11 Q. And then you also mentioned that you have
12 a close relative that works in the Courthouse?

13 A. Yes.

14 Q. Would it be like a bailiff, like Joe is?

15 A. Yes.

16 Q. Do you know for which Judge?

17 A. No.

18 Q. Are you allowed to know that?

19 A. No.

20 Q. Now, you know, of course, that you can't
21 talk to any of these guys about what's going on in here.
22 You can't ask them questions about what they are saying,
23 or anything like that, as hard as it might be, you can't
24 do that until it's done. Once it's done, you can talk
25 to whoever you want to.

1 Is that something that you think that you can
2 do or --

3 A. Yes.

4 Q. All right. Do you think that different
5 people react differently to the same set of circumstances?

6 A. Yes.

7 Q. That is not unusual.

8 And different people perceive the same set of
9 circumstances differently.

10 Would you agree with that, based on just perception
11 and age, and life experiences, and things like that?

12 A. Yes.

13 Q. Would you consider yourself to be the kind
14 of person who really carefully weighs everything you hear
15 or closer to somebody who might, you know, listen and maybe
16 jump to a conclusion?

17 A. I weigh things, I believe.

18 Q. Do you weigh everything?

19 A. Yes.

20 Q. And you will do that here, listen to everything
21 and not make any decisions until everything is all done
22 and submitted to you?

23 A. Yes.

24 Q. And if you are serving as a juror, and you
25 are back in the deliberation room, and everybody feels

1 one way, but you feel a different way, what will you do?

2 A. I would do it my way, and fight it.

3 Q. All right. Will you listen to what they
4 have to say?

5 A. Yes.

6 Q. Will you be open to at least the possibility
7 that maybe you had missed something?

8 A. Yes.

9 Q. And if that were actually shown to you, is
10 it possible that you could change your mind?

11 A. Yes.

12 Q. But if you were sure, would you stick to
13 your grounds?

14 A. Yes.

15 Q. Okay. Now, is there anything that would
16 prevent you from being able to sit in judgment of someone?

17 A. No.

18 Q. And if you do serve, and you hear all
19 the testimony, and you see the evidence, if you are
20 convinced beyond a reasonable doubt that the Defendant
21 committed the crimes he is charged with, would you be
22 able to say, guilty?

23 A. Yes.

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

25 THE COURT: Mr. Banks?

VOIR DIRE EXAMINATION OF JUROR LORETTO

BY MR. BANKS:

Q. How do you do.

A. Good.

Q. Let me ask you:

Did you walk in here today and say to yourself, oh, my God, they have got another innocent man being accused of a crime?

A. No.

Q. What did -- what did you think when you first walked in?

A. Nothing.

Q. But you didn't think that?

A. No.

Q. Do you think that sometimes -- do you think that just because somebody has been arrested, or accused, that they have necessarily done something wrong?

A. No.

Q. All right. What did you think of when you heard one charge, that it was a sexual assault charge?

A. That it was bad.

Q. Bad?

A. Yes.

Q. Yeah, it's one of our -- and like you heard me say, I'm sure everybody here agrees with that.

1 Anything beyond, wow, that's bad, that it turns
2 your stomach, I mean, anything, any, any other kind of a
3 reaction?

4 A. That's it, that's bad.

5 Q. Did you ever talk about sex assault cases
6 with your nephews that maybe if --

7 A. Not really, no.

8 Q. No? Okay. That's not something that you
9 just sit around and talk about and converse about everyday
10 I would imagine.

11 A. No.

12 Q. Okay. .

13 What do you see Mr. Landis's and my job in this
14 whole process, what do you think our job is?

15 A. To prove him innocent.

16 Q. Do you feel that if Mr. Landis and I have
17 not proven him innocent that we wouldn't have done our job
18 you realize?

19 A. Maybe so.

20 Q. Okay.

21 And you know, like I said before, there are no
22 right or wrong answers here.

23 And just like we have been talking about proceedings,
24 situations, and decisions, and all that kind of stuff, and
25 even His Honor talked about we bring our everyday life

1 experiences to this -- to this process, and I guess maybe
2 your, what you think Mr. Landis's and my job is is something
3 that has maybe evolved for you in your mind over the years,
4 is that fair?

5 A. Yes.

6 Q. Okay.

7 And because it has evolved over the years, it's
8 not something that we just set aside, it is something that
9 I guess is a part of you, that belief.

10 Is that fair?

11 A. Yes.

12 Q. Okay.

13 Do you think that you can be fair to the State
14 and to the Defense, if in your eyes Mr. Landis and I have
15 not done what you feel is our job, that is, prove our client
16 innocent?

17 A. Yes.

18 Q. Do you think -- should I have some concern
19 about that?

20 Because you believe that my job is, that I am
21 a professional, and I am going to do my job, and that is
22 to prove my client innocent.

23 Is that a fair characterization? Kind of where
24 your mind is at on that particular issue?

25 A. Yes.

1 (Discussion off the record.)

2 MR. BANKS: Judge, can we approach?

3 THE COURT: Sure.

4 (Whereupon, a brief, informal discussion was had
5 at the bench between the Court and counsel.)

6 THE COURT: Okay. Come here while we are here.

7 (Whereupon, another brief, informal discussion was
8 had at the bench between the Court and counsel.)

9 VOIR DIRE EXAMINATION OF JUROR LORETTO

10 BY THE COURT: (Continuing).

11 Q. Okay. I have got a couple of things
12 to explain to you.

13 This applies to everybody, and it's just important,
14 and when we go through this questioning process, sometimes
15 we get off on some philosophical areas, about what you think,
16 how you think about certain aspects of our criminal justice
17 system, and without having had any instruction, it is certainly
18 easy to have a variety of philosophies, but now I am going
19 to give you some instruction on the law on how it actually
20 works, and I want to see if you grasp it, and understand it,
21 and can bite into it, okay?.

22 As I said earlier, as Marcus Wesley sits here,
23 he is the Defendant. He has only been accused. He is an
24 innocent man.

25 The whole purpose of this trial is to determine

1 whether the State can meet their burden of proof of proving
2 that he is guilty beyond a reasonable doubt.

3 The Defense has certain privileges, one of which
4 is they don't have to prove anything.

5 It's the State's obligation to prove the Defendant
6 guilty.

7 It's not the Defense's obligation to prove the
8 Defendant's innocence.

9 So at the end of the trial if the State puts on
10 their case, and proves absolutely nothing, the jury will
11 decide whether the State has proven the Defendant guilty
12 beyond a reasonable doubt, and not one conclusion can be
13 simulated, or drawn by the fact that the Defense put on
14 not one witness.

15 That's the way the system works, and that's the
16 way the instruction in some fashion will be explained to
17 you.

18 Now, do you understand that?

19 A. Yes.

20 Q. So when you say in answer to these questions
21 that it is Defense counsel's job is to prove the Defendant
22 innocent, do you realize that in reality, the way it works
23 in the real courtroom, they don't have to prove anything.

24 They don't have to prove he is innocent.

25 They don't have to prove one single, solitary

1 thing.

2 They can sit there and do nothing but poke holes
3 in the State's case, and that's all they have to do, and
4 that's all that they are required to do.

5 The fact that they may or may not have proven
6 has absolutely nothing to do with what goes on in the
7 trial itself. They are permitted and allowed to do that,
8 just sit there.

9 Is that -- do you understand that?

10 A. Yes.

11 Q. Is that okay with you?

12 A. Yes.

13 Q. I mean, if I tell you that that's the law,
14 and you just say, I don't think that's right, I mean, they
15 have to do something.

16 Can you follow those instructions and understand
17 them, and abide by them?

18 A. Yes.

19 Q. So all of that discussion when you first
20 said to Mr. Banks, that, you know, their job was to prove
21 him innocent, you do understand that under our system,
22 they don't have to prove that he's innocent.

23 They don't have to prove a darn thing. Are you
24 okay with that?

25 A. I'm okay with that.

1 THE COURT: Okay. Any more questions, Mr. Banks,
2 that you want to ask?

3 I will give you a little leeway.

4 VOIR DIRE EXAMINATION OF JUROR

5 BY MR. BANKS: (Continuing)

6 Q. But that is a belief that has evolved
7 in your mind over several years that defense counsel's
8 obligation is to prove their client innocent?

9 A. Sure.

10 Q. Okay.

11 And sometimes, you know, human nature, I mean,
12 it's easy to say, can you set that aside, but, I mean, if
13 these are things that you've thought about, and values that
14 you held for years, should I be nervous for my client when
15 there is something that you, a thought that you had for
16 many years that you are able to say, you can just set it
17 aside and not consider and not think about it or do you
18 really think that you would be able to do that?

19 A. Yes.

20 MR. BANKS: Okay. No further questions.

21 THE COURT: Okay. We are going to take a break
22 here. We are going to take an overnight break here.

23 It's is almost 10 after. So here is what we
24 are going to do, a couple of things.

25 First of all, I want everybody to make close

1 note where you are sitting because, and you know what,
2 because tomorrow, we are not going to come back here. We
3 are going to be next door, and it's going to be a little
4 different, we have got enough jurors off that we have got
5 enough room next door to reconvene in the morning, okay?
6 Next door in Department 24.

7 So just as best you can, see who you are sitting
8 next to, and in the morning, Joe will meet you outside the
9 double doors and bring everybody in, and try the best you
10 can to because the jury box over there is completely different
11 than it is here.

12 Just know where you are sitting, and who you are
13 sitting between. And then Joe will get you all fixed up.

14 There is one more thing. We have gone through
15 the process, and we are going to do this now, okay?

16 We have gone through the process, and I have a
17 pretty good handle on the number of people that we have,
18 and the number of people that we are going to need to have.

19 So I am going to have the following jurors in the
20 pool excused. So when I call your names, just go down to
21 the third floor, and let them know that you were excused
22 off, and they will recycle you in three or four months
23 back onto jury duty:

24 Frances Franklin, Priscilla Rivera.

25 THE CLERK: Wait, wait, Judge, I need their number.

1 their badge number.

2 THE COURT: Okay. Frances Franklin is number

3 250.

4 THE CLERK: 250, right?

5 THE COURT: I think 250.

6 THE CLERK: Oh, I made a mistake, 258.

7 THE COURT: 258? Okay.

8 THE CLERK: 258.

9 THE COURT: Priscilla Rivera is 449.

10 THE CLERK: 449, okay.

11 THE COURT: Romeo Samblero.

12 THE CLERK: Number 384.

13 THE COURT: 384. Is it Cameron Sanchez?

14 THE CLERK: What number, Judge?

15 THE COURT: 372, all right.

16 JUROR SANCHEZ: Carmen.

17 THE COURT: Carmen, Carmen, Carmen Sanchez.

18 THE CLERK: We already let her go.

19 THE COURT: Oh, all right.

20 THE CLERK: She is the one that had child care

21 issues.

22 THE COURT: Elisa Scarrone.

23 JUROR SCARRONE. Scarrone.

24 THE COURT: Scarrone. The number is 389.

25 You guys go down to the third floor. We are going

1 to have enough people, and I appreciate it.

2 Thank you very much.

3 JURORS: Thank you, Your Honor.

4 (Above-referred to jurors excused at this time.)

5 THE COURT: All right. Now, as for the rest of
6 us, we will be here tomorrow, but we are getting close.

7 We are making really very good process. This
8 won't take too much longer.

9 We are going to start at 10 o'clock in the morning.

10 I have a calendar that starts at 8:30. I am sure
11 we will be done before ten o'clock.

12 So that having been said, when you leave, again,
13 I am going to say this kind of casually, but I will repeat
14 this, and please, please pay close attention.

15 Don't discuss this case with anybody, including
16 each other.

17 You are going to have family, friends, overnight
18 recess, you are going to tell them that you are on a jury
19 pool, the jury is being picked, and that's it.

20 Don't say anything else.

21 Don't discuss the kind of case it is.

22 Don't discuss any of the facts that have been
23 disclosed in this early process.

24 Just leave what's going on, and if anybody says
25 anything, just tell them that the Judge instructed us

1 repeatedly to not say anything to anybody about the case.

2 If you do that, we just can eliminate the possibility
3 of having problems.

4 That having been said, you are admonished not
5 to converse amongst yourselves, or with anyone else, on any
6 subject having to do with this trial, or any, including in
7 person, having had anything to do with this trial.

8 I am going to instruct you not to listen, listen
9 to any reports or commentaries on any aspect of this trial
10 through any medium of information, which includes radio,
11 television network, internet.

12 Don't form or express any opinions whatsoever on
13 any aspect of this trial until such time as this case has
14 been finally submitted to the jury.

15 That having been said, you are in overnight
16 recess.

17 Meet Joe outo in front of the doors tomorrow
18 morning about five till 10.

19 Again, please try to avoid contact with anybody
20 that doesn't have one of those juror badges on.

21 Don't talk to anybody that might be a witness.

22 If you have a question, ask Joe.

23 A JUROR: What time?

24 THE COURT: About five till 10.

25 A JUROR: Five to 10 tomorrow morning?

1 THE COURT: Right.

2 A JUROR: Thank you.

3 THE COURT: Thank you all.

4 *****

5 (Whereupon, a recess was taken until 10:45,
6 Thursday morning, April 10, 2008. At that time, all
7 parties present, the following proceedings were had in
8 open court in the absence of the jury panel.)

9 *****

CERTIFICATE

STATE OF NEVADA)

) ss.

CLARK COUNTY)

I, LEE M. BAHR, CP, CCR 173, do hereby certify that I reported the foregoing proceedings; that the same is true and correct as reflected by my original machine shorthand notes taken at said time and place before the Hon. James M. Bixler, District Judge, presiding.

Dated at Las Vegas, Nevada, this
15th day of November, 2008.



LEE M. BAHR, CP, CCR 173

in law enforcement?

A. My father was.

Q. Where was he employed?

A. Where was he employed?

Q. Yes.

A. Aurora, Illinois.

Q. How long was a police officer?

A. Probably 15 years.

Q. Did he retire from the Police Department?

A. He did.

Q. Okay. Did you ever discuss his work as a police officer with him?

A. No, I was young.

Q. Okay. Anything about the fact that you had a police officer for a father that would cause you difficulty being on a jury where you will be listening to the testimony of some police officers?

A. I am pro police.

Q. You know a lot of people are pro police, and you would expect -- you do understand, and this is the question:

If a police officer is a witness, he is just like any other witness, do you understand that?

A. I understand.

Q. Do you have any problem with that?

A. No.

Q. Would you tend to give the testimony of a police officer greater or lesser weight, or the same amount of weight as any other witness?

A. Probably greater, just because of their position.

Q. I mean, just because they have a badge, you think they are entitled to more --

A. That's how I feel.

Q. Now, let me just make sure you understand this. You, as a juror, have to look at every single witness, and you have to make a determination to the extent of the credibility, the believability as you would with every single witness, and in this case, every single witness, and you are not to start them ahead of the credibility game with any other witness?

A. And I wouldn't..

Q. If I tell you that, I need to ask you:
Can you do that?

A. Yes.

Q. So if a witness gets on the stand who is a police officer with a badge, you have got to judge his testimony starting at zero, and you after you have heard it, you want to give him high marks of credibility because you believe from everything that you witnessed, that's

fine.

But at the same time, it could be a police officer that tells the story that you may have to say, I don't give him high marks for credibility.

A. I understand.

Q. That's also possible, do you understand that?

A. I do.

Q. And you have to like approach that job of determining the amount of credibility that you give a police officer witness and every other witness exactly the same?

A. And I would.

Q. Can you do that?

A. I will.

Q. Okay. Have you ever been on a jury before?

A. Never made it to the box, no.

Q. You have been in the pool but never made it to the box?

A. Yes.

Q. How many times have you done that?

A. It seems like every year.

Q. Anything about that that's frustrating that you have taken off time and all of a sudden you are not selected?

A. No.

Q. Okay. Nothing about any of those prior experiences that would cause you difficulty actually sitting on the jury in a case like this?

That was a question, that was a poor question.

Is there anything about the prior experiences of being in a jury pool --

A. No.

Q. That would cause you difficult of being on a jury?

A. No.

Q. Okay.

Can you think of anything that I haven't asked you about that would bear upon your ability or inability to be a fair and impartial juror in this case?

A. You didn't ask me about the -- if I had been a victim.

Q. Oh, you are right. I don't even look at this stuff anymore.

Have you or anybody close to you ever been the victim of, or accused of any kind of a sexually related crime?

A. No.

Q. Have you, or anybody close to you, ever been charged or the victim of any kind of crime?

A. Yes.

Q. And who, and what kind of crime?

A. My mother was murdered in '93. It was a home invasion with a deadly weapon and robbery.

Q. And your mother was the victim of a murder?

A. She was murdered.

Q. Was anybody ever prosecuted as a result of that?

A. Yes.

Q. I suspect that you were intimately involved and followed those proceedings?

A. I did.

Q. Did that case go to a trial?

A. Yes, sir.

Q. Did you sit through and watch that trial?

A. Not all of it.

Q. But you sat through and watched a bunch of it?

A. Yes.

Q. That certainly is a tragedy, and that has to have created a lasting impression.

MR. BANKS: Judge, may we approach?

THE COURT: Sure.

(Whereupon, a brief, informal discussion was had at the bench between the Court and counsel.)

BY THE COURT:

Q. All right. You realize that we are going to go into this, and everybody is going to ask you some questions so it's kind of like within a few minutes, and we are just going to jump in.

What a horrible tragedy, first of all, that happened to you and your family.

How long did this whole process, between the time that the murder occurred, and the whole process, how long did that take?

A. It took the law enforcement a year to find the --

Q. To find the suspect?

A. Yes.

Q. And then after they found the suspect, they went through the whole prosecution process?

A. It was about another year.

Q. About another year?

A. Yes.

Q. So you are looking at something like about two years from the time it occurred until the time the case actually went to a trial. And how long did the actual trial take?

A. Three weeks.

Q. All right. And you say you didn't watch all

of it, but you watched part of it?

A. Yes.

Q. A good part of it?

A. Yes.

Q. And this was 15 years ago?

A. Uh-huh.

THE COURT REPORTER: Answer yes or no, please.

JUROR ROBERWEIS: Yes, I'm sorry.

BY THE COURT:

Q. All right. Now, John, here is what we want to know.

I can't think of too many things that have happened to somebody in their life that would cause them to have some issues in regards to being on a jury in a criminal case, having experienced what you have experienced, and here is what we are willing to do.

Are you going to be able to sit on a jury in a case like this, having experienced what you just told us happened, and not let that affect your process of listening to the evidence and deciding what you think the facts of the case are?

A. I don't think I would be a good juror. I didn't say anything yesterday because I thought about it last night, and I don't think that I would be impartial, maybe on a civil but not criminal.

Q. I don't think for a second that there is anybody who faults you for having those thoughts, and that's why we are going through this process because, you know, some things happen to people --

A. Right.

Q. -- if it is going to cause you too much of a problem, and I don't think that one person here would disagree with the idea the fact that you think that you would have difficulty setting that aside.

A. I don't think it would be fair to the Defense, Your Honor.

MS. LUZAICH: The State would stipulate, Your Honor.

THE COURT: Okay. So, that having been said, we are going to go ahead and let step back down and go to the third floor, to the Jury Commissioner's office, just let them know what happened, and they will reprocess you one more time in that pool, okay?

A. Yes.

THE COURT: All right.

(Juror Oberweis excused.)

THE COURT: And we are going to replace Mr. Oberweis with --

THE CLERK: Justin Gries, 204.

THE COURT: What was that name again, Justin Gries?

THE CLERK: Justin Gries, G-r-i-e-s.

JUROR GRIES: It's pronounced Gries.

THE CLERK: What is it, Gries?

JUROR GRIES: It is pronounced Gries.

THE CLERK: Is it Gries?

JUROR GRIES: Gries, okay.

THE COURT: And it's G-r-i-e-s?

THE CLERK: G-r-e-i-s.

JUROR GRIES: G-r-i-e-s.

THE COURT: G-r-i-e-s.

VOIR DIRE EXAMINATION OF JUROR GRIES

BY THE COURT:

Q. Mr. Gries, have you been following along here? Do you know how this works?

A. Yeah.

Q. All right. So what do you do for a living?

A. I'm a carpenter.

Q. How long have you been in Las Vegas?

A. 20 years.

Q. How old are you?

A. 20.

Q. All natives, that's great, that's great.

Are you married?

A. Yes.

Q. Do you have any children?

A. No.

Q. Okay. How long have you been a carpenter?

A. 16 weeks.

Q. Are you in some kind of an apprentice program, or something?

A. Yes.

Q. Okay. And have you ever any training in law enforcement?

A. No.

Q. Anybody close to you involved in law enforcement?

A. No.

Q. Have you ever been on a jury?

A. First time.

Q. First time.

Can you think of -- do you have any connections with anybody that is in law enforcement such that it would cause you difficulty in listening to the testimony of a police officer?

A. No.

Q. Could you treat the testimony of a police officer just like any other witness?

A. Yes.

Q. Have you, or anyone close to you, ever been the victim of or accused of any sexual related offense?

A. No.

Q. Have you, or anyone close to you, ever been the victim of or accused of any kind of criminal offense?

A. Yes.

Q. Who is that?

A. My cousin in California.

Q. What kind of -- was he accused of something, or the victim of something?

A. He was convicted of something.

Q. He was convicted of something?

A. Yes.

Q. What kind of offense was he convicted of?

A. It was a felony, I guess, he and some friends made a little Molotov cocktail and put in it front of someone's house. It didn't do any damage, but it was a threat so they prosecuted him for that.

Q. All right. And did you follow along with what happened to him during that whole process?

A. I didn't follow along, but my mom told me everything that was going on.

Q. This was your mother's brother's or sister's?

A. My mother's sister's son.

Q. Your mother's sister's son?

A. Yes.

Q. Did you ever discuss what was going on as

to your cousin and that charge?

A. She would talk to my aunt, and asked how she was doing, and my mom would tell me what was going on, and about the trial, and all of that stuff.

Q. Okay. Is that how you got most of your information, from your mom?

A. Yes.

Q. Is there anything about that, that whole incident, that would cause you difficulty with being on the jury in a criminal case like this?

A. Well, I guess they were trying to give him nine years. They got four felony offenses, and they were trying to give him nine years for each offense.

Q. Well, we won't go into that part.

A. Oh, well, at least, I thought that was --

Q. Did you think that he was treated fairly or do you think that he was treated a little harshly?

A. A little harshly.

Q. Do you understand that that's completely a different kind of scenario from what we are talking about here?

A. Oh, yes.

Q. Is there anything about that entire case, that scenario, that incident with your cousin's criminal case, that would make it difficult to the point that it

might make it impossible for you to be fair and impartial as a juror in a case like this?

A. No.

Q. Can you set that all aside, whatever -- whatever it you you were told, or the results that happened, will you set all that aside, and can you sit as a juror in a case like this, and render a verdict based strictly upon the evidence that you hear in this case, and what I tell you what the law is?

A. Yes.

Q. Did I ask you, have you been on a jury before?

A. Yes.

Q. You said no, right?

A. Right.

Q. All right. Can you withhold forming an opinion about any aspect of this case until you have heard all of the evidence, and I have instructed you on the law?

A. Yes.

Q. Do you think that you have -- as I have been describing -- do you think that you have a healthy, neutral, frame of mind as you approach your jury duty?

A. Yes.

Q. Do you think that you could be fair and

impartial such that if you were either a defendant in this case or the prosecution in this case, that you would be comfortable as a juror and have the frame of mind that you have?

A. Yes.

THE COURT: Okay. Ms. Luzaich, go ahead.

MS. LUZAICH: Thank you.

VOIR DIRE EXAMINATION OF JUROR GRIES

BY MS. LUZAICH:

Q. Now, not to beat a dead horse, or anything, but as far as your cousin's situation, the way you described it, it doesn't sound quite so tragic.

I assume that that's what you heard from your mother and, therefore, that's what she heard from her sister, right?

A. Yes.

Q. Do you think it's possible that you didn't get all of of the information?

A. Probably.

Q. Do you think it's possible that your mother also didn't get all of the information?

A. Probably.

Q. And do you think it's possible that her sister didn't get all of the information?

A. Possibly, yes.

prevent you from being able to sit in judgment?

A. No.

Q. And if you were convinced beyond a reasonable doubt that the Defendant committed the crimes he is charged with, would you be able to say, guilty?

A. Yes.

MS. LUZAICH: Okay. Thank you.

Pass for cause, Your Honor.

THE COURT: Mr. Banks?

VOIR DIRE EXAMINATION OF JUROR GRIES

BY MR. BANKS:

Q. Hi, Mr. Gries.

A. How are you doing.

Q. Nice to meet you. You heard the charges yesterday?

A. Yes.

Q. Okay. And I imagine you probably sit around all day, everyday, thinking about that kind of stuff, right?

A. No.

Q. Okay. Have you ever even thought about it before?

A. No.

Q. Okay. What did you think when you heard that stuff?

A. Wow.

Q. What's the most stressful situation you have ever been in in your lifetime?

A. Getting married.

Q. Getting married?

A. Yeah.

Q. Was that a -- did you have like a big wedding, or something? What was going on?

A. Yeah, it was kind of big.

Q. Okay.

What about the situation did you find so stressful?

A. It's just --

Q. Was it the lifelong commitment part of it?

A. Yeah, for the rest of my life.

Q. Okay.

But I reckon you were, bottom line, pretty confident in that decision?

A. Yes.

Q. Okay. That, that is a stressful situation. I am married myself. But that's also fused with a lot of joy. Would you agree with that?

A. Yes.

Q. Okay. And I don't want to speak for you, but it was for me personally, it was a lot more joy than a lot more stress. Is that how you --

A. Yeah.

Q. Okay. Let's take the wedding scenario out of the picture. Let's talk about a little more of a scary, traumatic kind of a thing.

What's the scariest, most traumatic, stressful event that you've had in your lifetime?

A. My mom was diagnosed with breast cancer. That was scary.

Q. Okay. Do you still thinking about a lot of things?

A. Yeah.

Q. Maybe start thinking about things a little differently than perhaps you did in the weeks or months before you heard that news?

A. Yeah.

Q. You approach things differently when you are in stressful situations, don't you?

A. Yes.

A. I do, yes.

Q. For better or for worse, would you agree with that?

A. Yes.

Q. Okay. Sometimes, scary, traumatic situations force you to really kind of, kind of step back, and look at the situations.

Would you agree that maybe there is scary situations that you just kind of fall into that you have to make snap judgments?

A. Yes.

Q. Yes. Sometimes you do the best with what you got at the time, don't you?

A. Yes.

MR. BANKS: I think that's all I have. Thank you. Pass for cause, Your Honor.

THE COURT: Okay.

VOIR DIRE EXAMINATION OF JUROR WRIGHT

BY THE COURT:

Q. Melinda Wright?

A. Yes.

Q. Melinda, how long have you lived in Las Vegas?

A. I moved here in 1980, a lot of years.

Q. A long time ago, that's for sure. What do you do for a living?

A. I am a registered nurse.

Q. Where do you work?

A. Spring Valley Hospital.

Q. And are you married?

A. Yes I am.

Q. What does your husband do?

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

NARCUS WESLEY,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

S.C. CASE NO. 57473

Electronically Filed
Sep 22 2011 03:02 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

APPEAL FROM DENIAL OF PETITION FOR WRIT OF HABEAS CORPUS
(POST-CONVICTION)
EIGHTH JUDICIAL DISTRICT COURT
THE HONORABLE JUDGE JAMES BIXLER, PRESIDING

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APPELLANT'S APPENDIX TO THE OPENING BRIEF  
VOLUME III  
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APPELLANT'S APPENDIX

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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on September ___, 2011. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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