

1 I say I'm going to ask, because I anticipate that some of
2 you will raise your hands. And I don't want them shooting
3 up in the air right away. I wanted to tell you beforehand
4 that, obviously, we've all got your questionnaires. We've
5 read through your questionnaires. I know you have
6 expressed some things in there about difficulty serving.
7 I will tell you that I realize this is an inconvenience.
8 Trust me. I very much realize that. As an attorney I
9 went through the jury selection process, not only
10 selecting a jury but seated just like you all.

11 Went down to jury services a few times
12 through the day. Went up to panels and so forth. I know
13 it takes a lot of time out of your lives to come down
14 here, whether it's one day or four or five days. Like
15 this case. Well, let me say five or six days, since
16 there's a possibility it spills over into next week.

17 That being said, I can tell you, however,
18 that the average trial anymore lasts about six days. So
19 this is right at, if not maybe a littler less than
20 average. And that's important, because if I excuse you
21 today and say all right, Mr. Madison, you raise this
22 reason for me -- and I'm not trying to pick on you,
23 Mr. Madison. You raised a reason to me, and I think it's
24 a decent reason. And I'm going to excuse you from jury
25 service. It's not that I'm giving the blessing to go

33

1 home. You've got to go back to jury services. Jury
2 services decides whether to send you out on another
3 panel.

4 They can send you out on another panel today. Ask
5 you to come back tomorrow. Whatever they want to do. We
6 have construction defect cases that take six months.
7 Medical malpractice cases that take a month or more. Try
8 a lot of those as well. As well as cases that take a day
9 or two. So you take the chance if you leave here that
10 you're going to get sent out to another panel. And that
11 judge may not like your reasoning for not being able to
12 serve, like I do. So it's not always that you look at a
13 case and think it's going to be five or six days that
14 it's that bad.

15 And I tell you all of this, I'm not
16 telling you not to answer the question, whether it's going
17 to be a burden. I just tell you so you'll have all the
18 information as to how we process jurors here so that when
19 you answer the question you'll have a little better
20 idea.

21 Obviously you all are intelligent folks.
22 You realize how important these proceedings are. They're
23 very serious proceedings. And we can't do these type
24 things without having folks willing to come in and serve
25 as a juror.

34

1 I don't know if any of you have been
2 involved in the justice system before. Some of you have
3 raised that individually you were accused of crimes. Or
4 some of you in your questionnaire that I recall have been
5 alleged to have been victims of crime. I'm sure if I
6 asked if anybody has ever been involved in the civil
7 justice system, some of you might have your hands up. I
8 got sued. I had to sue. I was in a car accident.
9 Whatever it may be.

10 Those of you that have been involved in
11 the justice system, you have a little bit of a better
12 understanding as to how the process works. And you may
13 have been through jury trials, so you know how important
14 this is. If you haven't ever been in the justice system,
15 odds are, before your time on this planet expires, you'll
16 probably come into contact with it in some fashion. Be it
17 civil or criminal. And it may give you a greater
18 appreciation.

19 But nonetheless, it is a very important
20 process. I thank you all for being here. I know it's
21 difficult. It's inconvenient. But to the extent you can
22 take part in the process and give us some of your time for
23 a few days, I know that everybody appreciates it.

24 So that being said, I will ask, is it
25 going to be an undo burden upon anybody to serve on this

35

1 jury for the next five to six days?

2 I'll start with Mr. Madison, badge number
3 102. What do you have, sir?

4 PROSPECTIVE JUROR: I'm a small business
5 owner. I'm in wedding photography. Last Wednesday I
6 almost missed a wedding due to the questionnaire that I
7 had to go shoot. I don't have a large staff of
8 photographers. It's a husband and wife team. They
9 requested our type of photography. I also do event
10 photography. I have a very full plate. I really just
11 don't have this kind of time. Whether it's the editing
12 process, designing photo albums, I have clients backed up
13 from last year, yet.

14 THE COURT: Thank you. Anybody else on
15 that top row. Yes, sir -- Mr. Sackmar, 003.

16 PROSPECTIVE JUROR: I'm a search engine
17 expert. And the livelihood of thousands of people depend
18 upon me doing my search engine work at a specified time
19 everyday. The companies which I'm under confidentiality
20 that I've been working for for the past eight years, if I
21 do not submit their sites at this specified time every
22 single day, the work that I've worked for for eight years
23 will go null and void.

24 THE COURT: Thank you. Anybody else on
25 that top row? No.

36

1 Middle row. You had you hand up, ma'am.
 2 PROSPECTIVE JUROR: Yeah, I don't have a
 3 car and there is no bus where I'm at.
 4 THE COURT: Let me get your name. Is that
 5 Ms. Labranch, badge number 019?
 6 PROSPECTIVE JUROR: Yes.
 7 THE COURT: All right.
 8 How did you get down here today?
 9 PROSPECTIVE JUROR: I had to take my
 10 husband's car. And he's stuck until midnight with a Jeep
 11 with a broken tranny (ph), leaking all over the place.
 12 So I hope he don't blow up.
 13 THE COURT: Thank you. Anybody else in
 14 the middle row? Yes, sir.
 15 PROSPECTIVE JUROR: I just had surgery.
 16 THE COURT: This is Mr. Petit.
 17 PROSPECTIVE JUROR: 021 -- the incision is
 18 right on the belt line. It's pretty difficult for me to
 19 sit for a long period of time.
 20 THE COURT: How long ago was that?
 21 PROSPECTIVE JUROR: Two weeks ago.
 22 THE COURT: Anybody else on that row?
 23 Bottom row? Yes, sir.
 24 PROSPECTIVE JUROR: I have community
 25 service time I need to turn in by March 14th.

37

1 THE COURT: I'm sorry, is this Mr. McKown,
 2 033.
 3 PROSPECTIVE JUROR: Yes, sir. I need to
 4 turn it in March 14th.
 5 THE COURT: What is that for?
 6 PROSPECTIVE JUROR: Possession of
 7 paraphernalia.
 8 THE COURT: How much time do you have left
 9 to do?
 10 PROSPECTIVE JUROR: I've done it all. I
 11 have to turn it in and pay the rest of my fees.
 12 THE COURT: That's down in municipal
 13 court?
 14 PROSPECTIVE JUROR: Yes.
 15 THE COURT: You have a court date?
 16 PROSPECTIVE JUROR: March 14th.
 17 THE COURT: 7:30, 8:00 o'clock in the
 18 morning?
 19 PROSPECTIVE JUROR: I'm not sure.
 20 THE COURT: One reason I bring that up
 21 with this gentleman -- I probably should have told you
 22 about how scheduling issues so that you can factor that in
 23 to whatever you talk to me about right now. I have
 24 morning calendars Monday through Thursday, which means
 25 other cases that need motions decided that are on the

38

1 morning calendar. Generally that means that on Mondays we
 2 get started by about 10:00 o'clock.
 3 Tuesdays and Thursdays are a little
 4 longer. Wednesday will probably be about 10:00 o'clock.
 5 But Tuesdays and Thursdays 10:30, maybe 11:00.
 6 In terms of how we go throughout the day,
 7 we take a lunch break of an hour to an hour-and-a-half,
 8 depending on how we do and what's going on. It's kind of
 9 fluid. We don't always stop right at noon and take off.
 10 We may have a witness on the stand and we'll finish that
 11 witness up and so forth.
 12 We break about 5:00 o'clock every night.
 13 I'm not going to keep you later than that, unless maybe
 14 you have somebody on the stand and we're trying to finish
 15 that person up. Or if it's the end of the case and you
 16 all are deliberating and you want to stay later, by all
 17 means, I'll stay here as well. But I know you have things
 18 you need to get done in the evenings as well.
 19 That's kind of how we schedule things when we're in
 20 court. We take a break about every ninety minutes or so,
 21 use the restroom. We'll come back into court and you may
 22 bring a bottle of water, soda in a Styrofoam cup, that's
 23 fine as well.
 24 So thank you, Mr. McKown. How about the
 25 front row. Sorry, what do you have?

39

1 PROSPECTIVE JUROR: 029 -- I work for a
 2 small business and the business is -- I'm one of four
 3 people. So I'm a single employee of the owners. The
 4 others are owners of the business. With me not being
 5 there it hinders them to work that much more. They have
 6 to drop work in order for me to come here. I'm only
 7 working six days a week for them. As well as this case, I
 8 have a big morale (sic) towards this case.
 9 THE COURT: We'll get into those issues
 10 later on. Thank you. And is it Ms. Pinon?
 11 PROSPECTIVE JUROR: Yeah, uh-huh.
 12 THE COURT: Badge 031.
 13 PROSPECTIVE JUROR: I've had two brothers
 14 killed in two separate incidents. And the first time he
 15 forgot to call me as a witness. They had to a subpoena.
 16 I'm very, very angry about that.
 17 And the second -- my second brother that
 18 was killed, we're in the trial process right now.
 19 THE COURT: Did this happen locally?
 20 PROSPECTIVE JUROR: Yeah, here in Las
 21 Vegas.
 22 THE COURT: There's a trial going on
 23 because of your brothers' death?
 24 PROSPECTIVE JUROR: Yes.
 25 THE COURT: Thank you. First row over

40

1 here. Yes, Ms. French.

2 PROSPECTIVE JUROR: 046 -- I'm a single
3 mother.

4 THE COURT: Thank you. Second row on the
5 end. Is that Ms. Carvelli?

6 PROSPECTIVE JUROR: Yes. I have a surgery
7 scheduled March 14th.

8 THE COURT: Thank you. Anybody else in
9 that row?

10 PROSPECTIVE JUROR: 052 -- I'm scheduled
11 to be in Los Angeles Thursday and New York all of next
12 week.

13 THE COURT: Business or pleasure?

14 PROSPECTIVE JUROR: Business.

15 THE COURT: Thank you. Anybody else on
16 that row? Yes, sir.

17 PROSPECTIVE JUROR: I have a flight that
18 was scheduled for LA today. I also have one tentatively
19 scheduled for Vancouver for business for a commercial
20 developer. I'm the only person in my position, so if I
21 don't make those flights it doesn't get done.

22 THE COURT: When are you supposed to leave
23 to Vancouver?

24 PROSPECTIVE JUROR: Tentatively Wednesday
25 morning. I don't have a firm date on that, pending the

41

1 outcome of this.

2 THE COURT: Thank you. Anybody else in
3 that row? Yes.

4 PROSPECTIVE JUROR: 056 -- I'm a single
5 parent. I have no family here. So being here makes it
6 very difficult to find someone to watch my son.

7 THE COURT: How old is your son?

8 PROSPECTIVE JUROR: Eight.

9 THE COURT: Thank you. Back row, yes.

10 PROSPECTIVE JUROR: 072 -- I have no
11 transportation. My husband dropped me off today because
12 he's off. I can only come Monday, Tuesday, Wednesday.

13 THE COURT: Thank you. Anybody else on
14 that row? How about over here? No. Thank you, very
15 much.

16 THE COURT: Sorry. Yes, sir?

17 PROSPECTIVE JUROR: 076 -- I'm a single
18 parent. My son just moved out here recently. I have no
19 family here. I have no daycare during the day.

20 THE COURT: How old is he?

21 PROSPECTIVE JUROR: Six.

22 THE COURT: Okay. Tell you what we're
23 going to do. Let's take a recess here. I'll talk to the
24 attorneys about some of the issues that have been brought
25 up. You all go ahead and get up and stretch, use the

42

1 restroom, get something to drink, if you wish. Then we'll
2 get into questions by the attorneys.

3 I need to tell you something every time we
4 take a recess.

5 JURY ADMONITION

6 During the recess, ladies and gentlemen,
7 you are admonished not to converse among yourselves or
8 with anyone else, including, without limitation, the
9 lawyers, parties and witnesses, on any subject connected
10 with this trial, or any other case referred to during it,
11 or read, watch, or listen to any report of or commentary
12 on the trial, or any person connected with this trial, or
13 any such other case by any medium of information
14 including, without limitation, newspapers, television,
15 internet or radio.

16 You are further admonished not to form or
17 express any opinion on any subject connected with this
18 trial until the case is finally submitted to you.

19 (Brief recess taken.)

20 THE COURT: We're on the record, outside
21 the presence of the jury.

22 I had a question. Maybe you can help out
23 on this. When I got to the point where I was telling them
24 about the principles of law involved in the trial, it's
25 not a guilt or innocence, presumed innocent, and so forth.

43

1 I think the only principle I really needed to discuss with
2 them was the State's burden.

3 If there is anything else that the defense
4 thinks I need to have brought up in that admonition, let
5 me know.

6 MR. SCHIECK: I don't think so, your
7 Honor.

8 THE COURT: All right. Let's look real
9 quick at everybody that raised some issues we can consider
10 right now.

11 First was Mr. Madison -- first guy, badge
12 number 102. Said he's a small business owner. Owns a
13 photography business. I mean, generally there is a lot of
14 slippery slopes involved in letting folks go for a
15 financial reason, which really isn't a good reason to get
16 off. Even though I have sympathy for them. We'd have to
17 let a lot of people go. I don't generally do that. But
18 if you all stipulate to release him, I'll do that.

19 MR. OWENS: Your Honor, we didn't think
20 there were that many of them with problems. We don't have
21 an objection to just pass them.

22 THE COURT: The ones that raised the
23 issues?

24 MR. OWENS: Right.

25 THE COURT: Twelve folks.

44

1 MR. OWENS: Right.
 2 THE COURT: Mr. Schieck.
 3 MR. OWENS: I was also going to suggest if
 4 they want to stipulate real quick to the three individuals
 5 that say they know us personally.
 6 THE COURT: Okay.
 7 MR. OWENS: I know that's a separate
 8 issue.
 9 THE COURT: I guess it's thirteen that
 10 raised issues of reasons they couldn't be here, or other
 11 reasons. It was Ms. Squires that indicated she knew
 12 Mr. Owens. Mr. Nakanishi that knew Mr. Patrick. And
 13 Mr. Rosehill that knew Mr. Schieck.
 14 What is the defense position as to those
 15 16 folks?
 16 MR. SCHIECK: We have no objection to the
 17 three that were acquainted with the attorneys, your Honor.
 18 I didn't break down my list separating out the ones that
 19 had financial hardship or other matters. Are we including
 20 within the hardship list the lady that has the ongoing
 21 murder case?
 22 THE COURT: I have her in mind, yes. I've
 23 got a nod from Mr. Owens and Ms. Weckerly as well.
 24 MR. SCHIECK: If I can have the court's
 25 indulgence for a minute.

45

1 THE COURT: Sure.
 2 MR. SCHIECK: Not including Mr. McKown,
 3 who just needs to check in for his community service.
 4 THE COURT: I have him on my list, because
 5 he raised a reason as to undue burden. I don't think
 6 that's a reason, to be quite honest.
 7 MR. OWENS: You know, we are proposing
 8 that we kick him and go through them one at a time and
 9 look at the reasons.
 10 THE COURT: Okay.
 11 MR. OWENS: Technically, some of these we
 12 can work around, obviously. But in the interest of
 13 expediting things --
 14 THE COURT: There are a couple of issues.
 15 Sometimes people want to go through it one at a time. A
 16 lot of times the attorney's do that, kick in mass, because
 17 they raise a reason indicating I don't want to be here
 18 anyway, as opposed to the folks willing to serve. So six
 19 of one, half a dozen of the other. If you want to kick
 20 them in mass, fine. If you want to go through each of them
 21 individually, we can do that as well.
 22 MR. SCHIECK: Court's indulgence,
 23 please.
 24 THE COURT: Okay.
 25 MR. SCHIECK: Your Honor, I don't have a

46

1 problem. We don't have a problem with doing it. I
 2 just -- I guess I'm too conservative. But if the next
 3 panel has the same sort of list I see us losing jurors --
 4 a lot of jurors. I don't want to run out. I would like
 5 to get a jury in place. I have no problem agreeing to
 6 stipulate to this stack.
 7 MR. OWENS: We are not going to run out.
 8 THE COURT: Well, I mean, I agree with Mr.
 9 Owens. I don't think we are going to run out. We may
 10 prolong things a bit, but that's okay. And sometimes
 11 maybe we learn from the first panel as to where we are
 12 going with things. But, I'll go ahead and excuse the
 13 sixteen folks, which is going to be Mr. Madison 102, Mr.
 14 Sackmary, 003, Ms. Labranch 019, Mr. Petit 021,
 15 Ms. Squires 025, Ms. Rosehill 027, Mr. Morales 029,
 16 Ms. Pinon 031, Mr. McKown 033, Ms. French 046, Carvelli
 17 048, Carr 052, Grindstaff 054, Johnson 056, Nakanishi 062,
 18 Sunga 072, and Sprosty 076.
 19 That's actually seventeen. I'm sorry.
 20 Instead of sixteen 16.
 21 If you all wish me to get more people up
 22 here to fill in those spots now, before my questioning
 23 with them before you all start.
 24 MR. OWENS: Yes.
 25 MS. WECKERLY: That's easier.

47

1 THE COURT: You don't think we'll get this
 2 all done with the remaining thirty-three people?
 3 MR. SCHIECK: Especially now they learn
 4 all they have to do is raise their hands. I've
 5 reconsidered.
 6 THE COURT: Leslie, go ahead and go back
 7 downstairs and get another seventeen of the group and
 8 bring them up.
 9 THE BAILIFF: Also the gentleman that has
 10 his own computer business, the search engine guy, he's all
 11 of a sudden remembering that maybe he saw something about
 12 this case.
 13 THE COURT: We're excusing him.
 14 Back on the record in C-131341, State of
 15 Nevada versus James Chappell. The record will reflect the
 16 presence of Mr. Chappell with his attorneys, the State's
 17 attorneys, in the presence of our prospective jurors.
 18 All right, ladies and gentlemen, based
 19 upon a combination of things, the jury questionnaires as
 20 well as some of the answers today, I'll thank and excuse a
 21 number of you. Let me get through all the names and you
 22 all can get up and report back down to jury services.
 23 I'll think and excuse Mr. Madison, badge
 24 number 102, Mr. Sackmary 003, Ms. Labranch 019, Mr. Petit
 25 021, Ms. Squires 025, Mr. Rosehill 027, Mr. Morales 029,

48

1 Ms. Pinon badge 031, McKown 033, French 046, Carvelli 048,
2 Carr 052, Grindstaff 054, Johnson 056, Nakanishi 062,
3 Sunga 072, and Mr. Sprosty 076.

4 I appreciate you all coming in and filling
5 out the questionnaire and coming and being patient with me
6 today. You all can report back to the Jury Commissioner's
7 office on the third floor.

8 We've got to get a few more folks to move
9 in from downstairs. In the mean time, what I need is
10 everybody to move down, please.

11 To my new folks, welcome. Thank you, very
12 much. My name is Douglas Herndon. I'm the presiding
13 judge here in Department 3, of the Eighth Judicial
14 District Court. You all have been summoned here to take
15 part in a criminal proceedings as prospective jurors.
16 It's the State of Nevada versus James Chappell.

17 I know you came in and filled out the
18 questionnaire. We're going to get into questions in a
19 minute. I'll have questions for you and the attorneys may
20 have questions as we get further in the proceedings.

21 Let me tell you a couple of things. Seated
22 in front of me is Sharon. Sharon is my court reporter.
23 So everything that is said, including what you say is
24 reported. So it's important that you speak up enough that
25 we can hear. Don't nod your head or shake your head.

49

1 Please don't use uh-huh or huh-uh. It's hard to type that
2 down correctly. Make sure you speak "yes" or "no."

3 If I don't ask you by name you badge
4 number, if I don't call on you by saying Mr. Smith, badge
5 number 100, please, identify yourself by name and badge
6 number so we know who it is that's speaking.

7 Additionally, seated to my left is Carol.
8 Carol is my court clerk. She's going to swear an oath to
9 you all in a minute, to make sure you're under oath when
10 you answer questions. She keeps track of court exhibits,
11 court minutes, everything that's going on in court.

12 Seated to her left is my law clerk, Steve.
13 Steve, who is present to help advise me with a lot of
14 legal issues that come up during the course of the
15 proceedings.

16 You have already met Leslie. Leslie is my
17 bailiff. What you're going to find out is everybody else
18 in the courtroom, attorneys, most of the court personnel
19 works under certain ethical obligations not to converse
20 with the jurors, other than the jury questioning
21 process.

22 Leslie doesn't have that obligation. So
23 to the extent you're outside and need to get information
24 to somebody, you can always talk to Leslie.

25 What I'm going to do now is ask the

50

1 attorneys to tell you quickly a little about the case.
2 They're going to introduce themselves, who they represent.
3 They'll speak to you about the witnesses, prospective
4 witnesses that may be called to testify here, so listen
5 closely as they do all that. Because some of the
6 questions will be designed to see if you know any of the
7 people, be it the attorneys, Mr. Chappell, any of the
8 witnesses. Or whether you've heard anything about the
9 case.

10 Mr. Owens, if you would please, again.

11 MR. OWENS: Thank you, your Honor.

12 Good morning. Again, some of you it's
13 going to be like de-ja-vue, so have some patience with us.
14 For the rest of you, my name is Chris Owens. This is pan
15 Weckerly. We're from the district attorney's office.
16 We're prosecutors prosecuting this case.

17 This case involves a number of charges
18 against James Chappell, for which he has already been
19 convicted in 1996, from a jury trial of that date. Those
20 include burglary, robbery with use of a deadly weapon,
21 first degree murder with use of a deadly weapon.

22 The purpose of this jury that we're
23 selecting now is to determine punishment for the charge of
24 first degree murder from that conviction. So the
25 Defendant already stands convicted of that charge.

51

1 The range of punishments that will be
2 available to this jury to select for that charge include;
3 the death penalty, life without the possibility of parole,
4 life with the possibility of parole after 40 years has
5 been served, and a term of 100 years with parole after 40
6 years.

7 This is an incident that involves a victim
8 Debra Panos. It occurred back in August 31, 1995 at the
9 Ballerina Mobile Home Park. It's a little east of
10 downtown, maybe about 3 miles east of this area, 839 East
11 Lamb.

12 It will also include some testimony about
13 some areas in the downtown, here, the jail, and Parole and
14 Probation. And the business at the time G.E. Capital,
15 where some of the witnesses worked.

16 Luanna Aires, Lisa Duran, Tanya Hobson,
17 LaDonna Jackson, Claire McGuire, Mike Pollard, Kimberly
18 Simpson, Sherry Smith, and Debra Turner, Laura Burfield,
19 Jerry Urnst, Dina Freeman, Michelle Moncha, Carol Munson,
20 Norma Penfield, and Paul Widner. From the Clark County
21 Coroner's office -- a retired coroner now -- a Dr. Green.
22 And then police department officers, Daniel Dersdorff,
23 Darren Heiner, Officer Art Lee, Paul Osich, Mike Perkins,
24 James McCarroll, Allen Williams, and Cal Winchells.

25 From Parole and Probation, Larry Arabe

52

1 (ph) Mike Compton, William Duffy, Ed Henderson, Chermaine
2 Smith.

3 And one other witness, potentially might
4 be called, is a psychiatrist, Thomas Bickert, from the
5 Reno area.

6 Appreciate your time and attention and
7 patience with us, and your candor after we address the
8 questions to you in a little bit.

9 Thank you.

10 THE COURT: Thank you, again, sir. Mr.
11 Schieck.

12 MR. SCHIECK: Thank you, your Honor.

13 Good morning, ladies and gentlemen. My
14 name is David Schieck. I'm with the special public
15 defender's office here in Clark County. Assisting me is
16 Clark Patrick, who's also with the special public
17 defender's office. This is our client who's been charged
18 in this case, James Chappell.

19 The list of witnesses from which we may
20 call during these proceedings are as follows: James Ford,
21 Ivory Morrell, Ben Dean, Charles Dean, Fred Dean, Willy
22 Chappell, Mira Chappell-King, Kisha Axton, Dennis Reffer,
23 Marabel Rosales, and Howard Brooks.

24 Additionally, Dr. Lewis Etkoff, Dr. Tod
25 Grey, and Dr. William Danton from Reno Nevada.

53

1 Thank you.

2 THE COURT: Thank you, Mr. Schick,
3 again.

4 To my new folks, as you can guess we have
5 gone through this process with your fellow jurors here. I
6 was explaining to them, as you all where on your way up, I
7 wish the court was big enough that we could bring in
8 enough people that filled in the questionnaire, which is
9 about 125 people, so that the attorneys only have to
10 repeat this once, in terms of introducing themselves,
11 telling what the case is about, naming witnesses to you,
12 then we can work through the process. But unfortunately
13 the courtroom is not big enough to do that. I apologize
14 to you in advance, if we have same thing that we had
15 earlier, where we excused some people and we kind of need
16 to get more in here before we move to the second part of
17 what we're trying to do. But nonetheless, we're trying to
18 do it in the most efficient way we can.

19 I'll ask for Carol to call the roll of the
20 jurors -- those of you that just arrived. Please listen
21 for your name and answer present or here when you hear
22 your name.

23 THE CLERK: Tamar Jackson.

24 PROSPECTIVE JUROR: Present.

25 THE CLERK: Judy Morris.

54

1 PROSPECTIVE JUROR: Present.

2 THE CLERK: Albert Parramore.

3 PROSPECTIVE JUROR: Here.

4 THE CLERK: Brianne Gernot.

5 PROSPECTIVE JUROR: Here.

6 THE CLERK: Donna Byrd.

7 PROSPECTIVE JUROR: Here.

8 THE CLERK: Joseph Schechter.

9 PROSPECTIVE JUROR: Here.

10 THE CLERK: Linda Duran.

11 PROSPECTIVE JUROR: Here.

12 THE CLERK: Laura Staley.

13 PROSPECTIVE JUROR: Here.

14 THE CLERK: Sharon Larsen.

15 PROSPECTIVE JUROR: Here.

16 THE CLERK: Mary Stio.

17 PROSPECTIVE JUROR: Here.

18 THE CLERK: Heather Cohen.

19 PROSPECTIVE JUROR: Here.

20 THE CLERK: John Wells.

21 PROSPECTIVE JUROR: Here.

22 THE CLERK: James Engelbrecht.

23 PROSPECTIVE JUROR: Here.

24 THE CLERK: Kary Kitchen.

25 PROSPECTIVE JUROR: Here.

55

1 THE CLERK: Brenda Berry.

2 PROSPECTIVE JUROR: Here.

3 THE CLERK: Bobby Franks.

4 PROSPECTIVE JUROR: Here.

5 THE CLERK: Terry Tetonis.

6 PROSPECTIVE JUROR: Here.

7 THE COURT: Is there anybody that just
8 came in whose name was not called? No. All right. Thank
9 you, very much.

10 Let me ask the seventeen or so of you that
11 just got here to stand and raise your hand for me please
12 so I can have Carol administer the oath to you all.

13 THE CLERK: You do solemnly swear that you
14 will well and truly answer such questions that may be put
15 to you, touching upon your qualifications to act as jurors
16 in the case at issue, so help you God.

17 PROSPECTIVE JUROR: (Choir of I do.)

18 THE CLERK: Be seated.

19 THE COURT: Let me tell you up front, you
20 answered the questionnaire. You came in and filled that
21 out. But there are still questions that need to be asked
22 by myself and by the attorneys as well. It's everyone's
23 desire that we get as fair, open-minded, impartial group of
24 people as we can to decide the issues in this case. So
25 there's going to be some questions, which, obviously, you

56

1 can tell from the questionnaire the questioning is
2 somewhat personal at times. It's not intended to
3 unnecessarily pry into your lives, but nonetheless, there
4 are issues that the attorneys need to learn about as they
5 go about the process of selecting a jury in this case.

6 So I have to tell you strenuously, please,
7 make sure that you give as full, complete, and honest
8 answers to any of the questions that are put forth to you.
9 If you try and hide or withhold something, that fact alone
10 can tend to contaminate your verdict if you're ultimately
11 chosen as a juror in this case.

12 So if your instinct tells you, you know
13 what, I wonder if they really need to know about this or
14 not, tell us about it, please. Every fact has some
15 bearing on your personal and professional life somehow
16 relates to your ability to hear this case is important for
17 the attorneys to know. So make sure you tell us about
18 it.

19 I have some general questions I'll ask of
20 the seventeen of you real quick. If you want to answer a
21 question, raise your hand and I'll work through everybody.

22 Have any of you been convicted of a
23 felony? No. Thank you.

24 Anybody who is not a U.S. citizens? No.
25 Thank you.

57

1 Do any of you believe you know or are
2 acquainted with Mr. Owens or Ms. Weckerly? No. Thank
3 you.

4 Anybody believe you know or are acquainted
5 with Mr. Schieck or Mr. Patrick, the defense attorneys?
6 No hands. Thank you.

7 Any of you all believe you know or are
8 acquainted with Mr. Chappell, the defendant. All right.

9 Anybody believe they are acquainted with
10 or know any of the witnesses spoken to you about, by
11 either Mr. Owens or Mr. Schieck? No hands. Thank you.

12 Anybody think they know anything about
13 this case, other than what the attorneys have stated to
14 you or from the jury questionnaire? I see no hands.
15 Thank you, very much.

16 Some of you mentioned in your
17 questionnaires, when you were asked about prior jury
18 service, that you had been jurors before. Were any of you
19 a foreperson of any of those juries? I see no hands.
20 Thank you.

21 Have any of you all or close family
22 members ever been accused of a crime? Yes, sir.

23 PROSPECTIVE JUROR: 094 -- my uncle was
24 accused of murder.

25 THE COURT: Okay. Was that -- how long

58

1 ago was that?

2 PROSPECTIVE JUROR: In '93 or '94.

3 THE COURT: Locally or somewhere else?

4 PROSPECTIVE JUROR: In California.

5 THE COURT: Thank you, sir. Next, is that

6 Ms. Cohen.

7 PROSPECTIVE JUROR: Never mind.

8 THE COURT: If you've got something, let
9 me know.

10 PROSPECTIVE JUROR: No.

11 THE COURT: Anybody over here I missed?

12 PROSPECTIVE JUROR: Ms. Jackson, 080, my
13 nephew, robbery.

14 THE COURT: Was that here?

15 PROSPECTIVE JUROR: In California.

16 THE COURT: Thank you. Anybody else over
17 there. Yes, badge number --

18 PROSPECTIVE JUROR: 88, myself, felony
19 1997.

20 THE COURT: All right. What was it?

21 PROSPECTIVE JUROR: Stolen property --
22 buying stolen property. It was reduced to a
23 misdemeanor.

24 THE COURT: Where was that?

25 PROSPECTIVE JUROR: Here in Las Vegas.

59

1 THE COURT: Thank you. Anybody else?

2 Yes.

3 PROSPECTIVE JUROR: 86 -- my sister in
4 California, shoplifting, receiving stolen goods, and drug
5 paraphernalia.

6 THE COURT: Anybody else?

7 PROSPECTIVE JUROR: Parking tickets and
8 stuff don't count?

9 THE COURT: Not unless you got a whole lot
10 of them. Then you probably don't want to tell me
11 anyway.

12 THE COURT: Thank you. Is there anybody
13 here of the seventeen of you all that just came in who
14 would tend to give more weight or less weight or credence
15 to the testimony of a police officer because they were a
16 police officers? I see no hands.

17 Does everybody believe they will be able
18 to follow the instructions on the law that I give you that
19 pertain to this case, rather than -- or I should say, if
20 those instructions differ from what your personal belief
21 is, as to what the law ought to be?

22 Essentially I'll give you legal
23 instructions on the case. A little at the beginning, a
24 lot at the end before the attorneys make their closing
25 arguments. What I need to know now is you are going to

60

1 agree to follow the law as I tell you the law exists in
2 the State of Nevada.

3 Your job is to find out what the facts
4 are. You apply the facts to the law as I tell you the law
5 exists. Is there anybody that cannot follow the law as I
6 tell you the law exists? I see no hands. Thank you, very
7 much.

8 And finally, there are certain principles
9 of law that apply to any criminal proceeding, and one of
10 those principles is that the State of Nevada has the
11 burden of proving all the elements necessary in this
12 proceeding beyond a reasonable doubt. Does everybody
13 understand that?

14 Anybody not understand that?

15 Does everybody agree that they could hold
16 the State to their burden in this case of proving the
17 things that are necessary to prove beyond a reasonable
18 doubt? Anyone who could not do that? I see no hands.
19 Thank you, very much.

20 Final question I have is about -- I'm
21 going to ask you whether it would be an undo burden upon
22 you to serve in this case for the next -- we anticipate
23 the case will last through Friday, maybe spills over into
24 Monday of next week. So I'll ask you if it would be an
25 undo burden upon anybody to serve that amount of time as

61

1 jurors in this case.

2 And before I ask the question, let me give
3 you a little bit of information.

4 Average trial in this building lasts about
5 six days. This is about average. Hopefully a little less
6 than average. If I excuse you today, base upon whatever
7 reason you give to me, you don't just get to leave and go
8 home. You got to go back to jury services and they decide
9 whether to send you out on another panel today or tell you
10 to come back next week. Whatever their pleasure is.

11 If you go to another panel, that judge may
12 not like your excuse. It's independent to each judge
13 whether he excuses a juror or not. We have medical
14 malpractice cases, including a couple of them starting
15 today, or a couple later days this week, that last six
16 months or more. We have medical malpractice cases that
17 last a couple of months. There's a variety of cases that
18 last a lot longer than this case is what I'm trying to
19 tell you.

20 So there's also cases that last a day or
21 two. Don't get me wrong. I'm not trying to tell you not
22 to answer the question. I'm trying to give you a little
23 information as to how the process works so you understand
24 when you tell me what the reasons are why you can't
25 serve.

62

1 And I understand it's inconvenient for
2 you. Trust me. I realize that you have things in your
3 life you'd rather be doing. It's a very important process
4 that we have here, and to not have jurors willing to serve
5 would mean you can't go forward this type of judicial
6 process that we have in this country. It's the best in
7 the world. A lot of judges come over from other counties
8 that wish they had this process.

9 I wish you would give strong consideration
10 to giving us a little bit of your time and serve in this
11 case.

12 That being said, is there anybody who it
13 would be an undo burden upon to serve for five or six days
14 here. All right. Yes, sir.

15 PROSPECTIVE JUROR: I own my own
16 company.

17 THE COURT: Your badge number, sir?

18 PROSPECTIVE JUROR: John Wells, badge
19 number 94. I have a small IT service that out-sources
20 services to several companies in Las Vegas valley. I have
21 taken nearly forty calls this morning I'm not able to
22 attend to, because of the daylight savings change. I have
23 one guy that works for my. We support 40 companies in the
24 valley. I'd go out of business if I couldn't attend to my
25 clients.

63

1 THE COURT: Anybody else? Yes, sir.

2 PROSPECTIVE JUROR: Badge 95. I'm
3 self-employed. I'm a house painter. Presently working
4 with my brothers, of which there are two. And if I don't
5 work, sir, I don't make money.

6 THE COURT: Thank you. Anybody else?
7 Yes, Ms. Jackson.

8 PROSPECTIVE JUROR: 80 -- I'm in retail.
9 My husband is a loan officer. He just started out. It's
10 just a burden for me to come due to financial situation.

11 THE COURT: Thank you. Anybody else over
12 there?

13 PROSPECTIVE JUROR: 86 -- I work graveyard
14 for starters. I'm a sole income and care giver to my
15 brother who lives with me. He's 80 years old. He
16 requires resources.

17 THE COURT: Anybody else?

18 PROSPECTIVE JUROR: 102 -- I'm currently
19 working graveyard. I'm the only source of income in my
20 house. My wife is going to school. And I'm supporting
21 five kids.

22 MR. OWENS: What is that number?

23 THE COURT: That's Mr. Tetonis, 102.

24 PROSPECTIVE JUROR: 102.

25 THE COURT: All right. Anybody else? No.

64

1 Thank you.

2 Counsel approach the bench real quick, please.

3 (Discussion held at the bench.)

4 THE COURT: At this time I'm going to

5 thank and excuse, Ms. Byrd 086, Mr. Wells 094, Mr.

6 Engelbrecht 095. I thank you all for coming down and

7 answering the questionnaire and coming up here today.

8 Please report back to the Jury Commissioner's before you

9 leave today, okay.

10 Ladies and gentlemen, we're going to move

11 on now with questions from the attorneys. We'll get into

12 this a little bit before we take our lunch break.

13 The most efficient and affective way for

14 the attorneys to do this is to go one by one with people.

15 The State's attorneys ask questions and the defense

16 attorneys ask some questions, and we'll move onto the next

17 juror.

18 It may be between each attorney, Mr. Owens

19 may have question for the first juror, Ms. Weckerly may

20 have questions for the second juror. The same thing with

21 Mr. Schieck and Mr. Patrick as they move back and forth

22 with you all.

23 What you'll find, especially you folks in

24 the audience right now, to the extent somebody gets

25 challenged and excused for cause and somebody else has to

65

1 move up, as you listen to the questions over and over

2 you'll be a lot quicker to answer things because you'll

3 able to understand what it is the attorneys are really

4 interested in trying to question you about. So kind of

5 pay attention as we're moving on, if you would, please.

6 All right. Mr. Owens, Ms. Weckerly.

7 MR. OWENS: If I could request, it might

8 be helpful to us to get a role call. I don't know if we

9 maintained -- I'm not sure if we know who is in which

10 seats at this point.

11 THE COURT: Seat number one is Mr. Perez

12 001, Mr. Brady 004, Ms. Kaleikini-Johnson 007, Mr. Taylor

13 009, Mr. Hibbard 010, Ms. Bailey 015, Ms. Mills 016,

14 Mr. Henck 020. My far right, Mr. Smith 022, Ms. Heyrick

15 023, Ms. Cardillo 026, Ms. Ramirez 034, Ms. Theus 035, Ms.

16 Noahr 036, Mr. Martino 038, Bundren 039, Ms. Smith 045,

17 Morin 050, Garcia 051, Salak 055. Correct?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Do you want me to keep going?

20 MR. OWENS: That's plenty for now.

21 THE COURT: All right. Mr. Owens.

22 MR. OWENS: Court's indulgence a moment.

23 THE COURT: Okay.

24 MR. OWENS: Mr. Perez, how are you doing?

25 PROSPECTIVE JUROR: Fine.

66

1 MR. OWENS: You had answered a number of

2 questions -- you can have a seat. You don't have to stand

3 up. It's uncomfortable enough giving us questions like

4 this.

5 You were asked a number of questions about the death

6 penalty. Have you had an opportunity to think about that

7 since you filled out the questionnaire? Do you understand

8 what I mean?

9 PROSPECTIVE JUROR: I speak Spanish.

10 MR. OWENS: Do you have a problem with the

11 language?

12 PROSPECTIVE JUROR: Yes.

13 MR. OWENS: You have a hard time

14 understanding English?

15 PROSPECTIVE JUROR: Yes.

16 MR. OWENS: So it would be hard for you to

17 understand what the witnesses are saying as they come up

18 to the stand?

19 PROSPECTIVE JUROR: Yes. It's hard.

20 MR. OWENS: Approach briefly.

21 THE COURT: Sure.

22 (Discussion held at the bench.)

23 THE COURT: Why don't we go ahead and move

24 to Mr. Brady. I'll contact the court interpreter's office

25 for Mr. Perez. Thank you, Mr. Perez. Stay for right now,

67

1 okay.

2 PROSPECTIVE JUROR: I can interpret,

3 Judge.

4 THE COURT: I appreciate that, but by rule

5 I need to have a certified court interpreter from the

6 interpreter's office.

7 MS. WECKERLY: May I proceed.

8 THE COURT: You may.

9 MS. WECKERLY: I guess it's not quite

10 morning anymore. Last week when you filled out your

11 questionnaire, you were asked several questions about the

12 death penalty. Do you recall that?

13 PROSPECTIVE JUROR: Sure.

14 MS. WECKERLY: One of the questions that

15 was asked, sort of alluded to, or asked you would you

16 automatically impose the death penalty if someone were

17 convicted of first degree murder. Do you recall a question

18 of that nature?

19 PROSPECTIVE JUROR: Sure.

20 MS. WECKERLY: As you know from Mr. Owens

21 this morning and probably you got that from the

22 questionnaire as well, we're sitting here and the

23 Defendant is convicted of first degree murder with use of

24 a deadly weapon. You understand that?

25 PROSPECTIVE JUROR: Correct.

68

1 MS. WECKERLY: Judge Herndon explained
2 that at the end of the case you'll be provided with the
3 law in the State of Nevada as to when jurors can consider
4 the death penalty, because it's not an automatic thing in
5 every case of first degree murder in the State of Nevada.
6 There are certain requirements that have to be met before
7 the jury can even consider the death penalty.

8 Would you be able to follow those instructions
9 provided by Judge Herndon and hold the State to those
10 legal requirements before you would consider the death
11 penalty as a potential punishment?

12 PROSPECTIVE JUROR: I guess the question
13 back -- is it going to be one of the options no matter
14 what, or is that what this is going to be determining to
15 see if that's even on the table?

16 MS. WECKERLY: Exactly.

17 PROSPECTIVE JUROR: If it's not on the
18 table.

19 MS. WECKERLY: The Judge will tell you
20 these are the requirements that must be met before a jury
21 can consider imposition of the death penalty. And you
22 wouldn't have any trouble following those instructions?

23 PROSPECTIVE JUROR: If he says it wasn't
24 an option, then it's not an option.

25 MS. WECKERLY: Another part of that

69

1 process is you'll be given information, obviously, about
2 the crime itself, but also information about the Defendant
3 and his background, that sort of thing. And the law is
4 that you are to consider all of that information in making
5 your decision with your fellow jurors. And I assume you
6 would have no trouble following that law as well,
7 considering all the information before you make a
8 decision?

9 PROSPECTIVE JUROR: I have to say
10 personally I don't feel that anybody's background is
11 justification for a crime that they commit.

12 MS. WECKERLY: Well, and we're not
13 necessarily talking about, in this situation,
14 justification for a crime. Because he's convicted of
15 first degree murder, and so the what you're to consider it
16 for in this case is what would be an appropriate
17 punishment. And the law doesn't tell you what weight you
18 must give certain factors. You must hear that information
19 and consider it before you make a sentencing decision
20 collectively in a group. Would you be able to do that?

21 PROSPECTIVE JUROR: Sure.

22 MS. WECKERLY: Do you have any other
23 concerns about your ability to following the judge's
24 instruction and make a decision about punishment that is
25 appropriate in this case?

70

1 PROSPECTIVE JUROR: Um --

2 MS. WECKERLY: You are put on the spot.

3 PROSPECTIVE JUROR: I guess, I definitely
4 lean toward the death penalty in any type of murder case,
5 or something like that. But it depends on the judge's
6 instructions. I could take that into account.

7 MS. WECKERLY: Thank you, sir.

8 THE COURT: Thank you. Pass for cause?

9 MR. OWENS: Yes. Sorry, your Honor.

10 THE COURT: Mr. Patrick.

11 MR. PATRICK: Mr. Brady, you indicated in
12 your questionnaire that you have a history of domestic
13 violence in your family.

14 PROSPECTIVE JUROR: Correct.

15 MR. PATRICK: If you come to find out
16 something about this case involves domestic violence,
17 would that color your opinion of the case?

18 PROSPECTIVE JUROR: Possibly.

19 MR. PATRICK: How do you feel about
20 domestic violence.

21 PROSPECTIVE JUROR: It's unacceptable.

22 MR. PATRICK: It was shown that Mr.
23 Chappell had a history of domestic violence would that
24 change your opinion about what penalty he should be given?

25 MR. OWENS: Objection, your Honor.

71

1 THE COURT: Well, I'll sustain the
2 objection. Ask specifically if he's going to do a certain
3 thing based upon a certain piece of evidence. I'll allow
4 you to explore the issue of domestic violence,
5 obviously.

6 MR. PATRICK: Who in your family had the
7 history of domestic violence?

8 PROSPECTIVE JUROR: My father and
9 mother.

10 MR. PATRICK: Who was the abuser?

11 PROSPECTIVE JUROR: My father.

12 MR. PATRICK: So how do you feel about --
13 again, how do you feel about domestic violence?

14 PROSPECTIVE JUROR: Unacceptable. I don't
15 know why my mother didn't put him in jail.

16 MR. PATRICK: Now, Ms. Weckerly talked to
17 you about if the death wasn't an option you'd consider
18 other forms of penalty?

19 PROSPECTIVE JUROR: If it wasn't an
20 option, yes.

21 MR. PATRICK: It's going to be an option.
22 The judge is not going to tell you you cannot impose the
23 death penalty.

24 PROSPECTIVE JUROR: Okay. Knowing that he
25 is convicted of murder, that would be the route that I

72

1 would choose to go, unequivocally.
 2 MR. PATRICK: If you learned things about
 3 Mr. Chappell's past, childhood, would any of that matter
 4 to you?
 5 PROSPECTIVE JUROR: Not at all.
 6 MR. PATRICK: We'd ask to strike for
 7 cause.
 8 THE COURT: Let me say this to the panel,
 9 and Mr. Brady as well. The death penalty is a sentencing
 10 option, a sentencing possibility as you enter this
 11 hearing. You have to discover certain facts, which you'll
 12 find in the legal instruction is what you find the facts
 13 to be will be what determines whether you can consider
 14 that as a possible punishment in your deliberation, okay.
 15 The instructions layout how you go through that process.
 16 Right now it's a possibility. It's certainly not
 17 something that you absolutely have to give. You don't
 18 have to give the most lenient sentence either. You have
 19 to determine what the facts are and if certain facts are
 20 met, then you can consider the death penalty as a possible
 21 punishment in your deliberation.
 22 So are you saying, Mr. Brady, you are automatically
 23 going to impose the death penalty if it's a possibility
 24 for you when you go back there, without knowing anything?
 25 Or are you going to consider everything and work with the

73

1 instructions and evidence, then decide what the
 2 appropriate sentence is?
 3 PROSPECTIVE JUROR: Well, I mean, I would
 4 have to say the very limited things I know about the case
 5 that he was convicted of first degree murder and abuse,
 6 yeah.
 7 THE COURT: Without any regard to what
 8 other evidence comes out?
 9 PROSPECTIVE JUROR: Whatever happened,
 10 drugs, whatever else was involved, wouldn't be a
 11 mitigating factor for me.
 12 THE COURT: Okay. I will take that issue
 13 under advisement right now.
 14 Approach the bench, counsel.
 15 (Discussion held at the bench.)
 16 THE COURT: Any other questions for
 17 Mr. Brady?
 18 MR. PATRICK: No.
 19 THE COURT: Mr. Owens or Ms. Weckerly as
 20 to Ms. Johnson.
 21 MR. OWENS: How are you?
 22 PROSPECTIVE JUROR: Good.
 23 MR. OWENS: How are you feeling about
 24 being here today?
 25 PROSPECTIVE JUROR: Truthfully, I wish I

74

1 wasn't. But I'm here. I'm supposed to be here.
 2 MR. OWENS: Are you nervous?
 3 PROSPECTIVE JUROR: A little bit.
 4 MR. OWENS: Just the context of being
 5 here, being on the spot?
 6 PROSPECTIVE JUROR: That's it.
 7 MR. OWENS: Something about the nature of
 8 the charge, murder, or the punishment that makes you feel
 9 uncomfortable?
 10 PROSPECTIVE JUROR: No.
 11 MR. OWENS: When we are asking the
 12 question about an eye for an eye, you said you didn't
 13 necessarily believe in that principle. It said, I don't
 14 feel I have the right to decide that. What did you mean
 15 by that?
 16 PROSPECTIVE JUROR: Basically, I don't
 17 think that I personally, myself, have a right to decide
 18 that. I can't say you did that to me, I'll do it back to
 19 you. In my own life. I know in this situation it's
 20 dependent upon circumstances.
 21 MR. OWENS: You don't have a problem of
 22 applying whatever standard you feel is appropriate here?
 23 PROSPECTIVE JUROR: No.
 24 MR. OWENS: We are looking for people
 25 outside of the situation, obviously, to be as fair and

75

1 impartial as they can be. We talked about the four
 2 options. Do you have any questions about the four options
 3 that are available?
 4 PROSPECTIVE JUROR: No.
 5 MR. OWENS: Obviously, if there was only
 6 one option on the table we wouldn't need a jury, right?
 7 PROSPECTIVE JUROR: Right.
 8 MR. OWENS: We're looking for people that
 9 can say that they're willing to keep an open mind and wait
 10 until they have heard the evidence to make a decision.
 11 Are you okay with that principle?
 12 PROSPECTIVE JUROR: Yes.
 13 MR. OWENS: So you don't feel you would
 14 jump the gun and say do this or do that without having
 15 heard anything about this?
 16 PROSPECTIVE JUROR: No.
 17 MR. OWENS: Do you think it's important to
 18 keep an open mind?
 19 PROSPECTIVE JUROR: Yes.
 20 MR. OWENS: How do you feel about the idea
 21 of deliberation, discussing these issues and keeping an
 22 open mind through that discussion?
 23 PROSPECTIVE JUROR: As long as everyone
 24 involved is willing to listen, and not jump to conclusions
 25 and not — be willing to listen to everybody else, it's

76

1 fine.
 2 MR. OWENS: You're okay with the idea of
 3 sharing your opinions and ideas?
 4 PROSPECTIVE JUROR: Yes.
 5 MR. OWENS: Listening to other people?
 6 PROSPECTIVE JUROR: Yes.
 7 MR. OWENS: Are you willing to adjust your
 8 ideas to correspond to what you feel is appropriate as
 9 that discussion progresses?
 10 PROSPECTIVE JUROR: If somebody makes a
 11 good point, yes.
 12 MR. OWENS: You don't have any
 13 philosophical problems with the death penalty itself?
 14 PROSPECTIVE JUROR: No.
 15 MR. OWENS: Do you feel that it's
 16 important to have a range of punishments for a crime such
 17 as this?
 18 PROSPECTIVE JUROR: Yes.
 19 MR. OWENS: Do you feel you could consider
 20 all those forms of punishment before selecting the one
 21 that is the most appropriate?
 22 PROSPECTIVE JUROR: Yes.
 23 MR. OWENS: We're not asking you to
 24 prejudge what you do here. You don't know anything about
 25 the case. But after you hear all the factors in

77

1 mitigation and aggravation, you're free, you're free to
 2 accept what you want to accept and reject what you don't
 3 want to accept, and come up with what you feel is
 4 appropriate in the end. Does that seem like a fair
 5 system?
 6 PROSPECTIVE JUROR: Yes.
 7 MR. OWENS: And if after hearing all the
 8 evidence in the case, both pro and con, you thought about
 9 all the range of punishment, if you are convinced of what
 10 the appropriate punishment and fair punishment was the
 11 death penalty, would you be able to come back with that
 12 verdict?
 13 PROSPECTIVE JUROR: Yes.
 14 MR. OWENS: How do you feel about the idea
 15 of sitting in judgment on another person?
 16 PROSPECTIVE JUROR: I personally don't
 17 like it, but the way the system is set up here this is the
 18 way it is done. I got the luck of the draw.
 19 MR. OWENS: I think most people feel
 20 uncomfortable judging other people, especially in the
 21 context like this. You appreciate the need to have
 22 judgments made from time to time in our society?
 23 PROSPECTIVE JUROR: Yes.
 24 MR. OWENS: You believe in the jury
 25 system?

78

1 PROSPECTIVE JUROR: Yes.
 2 MR. OWENS: If you felt that that was the
 3 appropriate punishment is that a judgment you could make
 4 on another human being?
 5 PROSPECTIVE JUROR: Unfortunately, yes.
 6 MR. OWENS: You say unfortunately.
 7 PROSPECTIVE JUROR: I don't relish having
 8 to do this, but it's part of living here.
 9 MR. OWENS: You feel that's something you
 10 could do?
 11 PROSPECTIVE JUROR: Yes.
 12 MR. OWENS: You haven't heard everything
 13 or anything right now.
 14 PROSPECTIVE JUROR: Right.
 15 MR. OWENS: What we're trying to find out
 16 is if people have problems judging other people, we want
 17 to find out now rather than the end of the next four or
 18 five days and they say, I can take this responsibility.
 19 You're okay, you feel you could hold up and do that?
 20 PROSPECTIVE JUROR: Yes.
 21 MR. OWENS: Thank you. I'll pass for
 22 cause.
 23 THE COURT: Thank you. Mr. Schieck.
 24 MR. SCHIECK: Thank you. Ms. Johnson, you
 25 indicated in your questionnaire that you'd never really

79

1 been exposed to someone who's got a history of substance
 2 abuse or domestic violence; is that correct?
 3 PROSPECTIVE JUROR: Correct.
 4 MR. SCHIECK: You've probably heard from
 5 the questioning may hear things about those two topics
 6 during the course of this hearing. Is that going to cause
 7 you to be less than fair and impartial to both sides of
 8 the case?
 9 PROSPECTIVE JUROR: No.
 10 MR. SCHIECK: Is that something you would
 11 want to hear about in this case, whether or not substance
 12 abuse might have been involved or alcohol abuse might have
 13 been involved?
 14 PROSPECTIVE JUROR: If it has bearing on
 15 the case, yes.
 16 MR. SCHIECK: When you say bearing on the
 17 case, we're just here to determine the penalty, so as it
 18 has a bearing on the potential penalty in the case?
 19 PROSPECTIVE JUROR: Yes.
 20 MR. SCHIECK: That's something you'd want
 21 to hear?
 22 PROSPECTIVE JUROR: Yes.
 23 MR. SCHIECK: One of your other questions,
 24 you were asked about friends that work in the justice
 25 system. You don't have any friends that work in law

80

1 enforcement whatsoever or the justice system?
 2 PROSPECTIVE JUROR: No.
 3 MR. SCHIECK: You do however have an
 4 opinion that sometimes the justice system can be a little
 5 to lenient. Did you have something in mind when you wrote
 6 that answer?
 7 PROSPECTIVE JUROR: No.
 8 MR. SCHIECK: Nothing that caused you to
 9 have that opinion?
 10 PROSPECTIVE JUROR: No.
 11 MR. SCHIECK: Is that still an opinion
 12 that you have that our system is too lenient?
 13 PROSPECTIVE JUROR: No. I guess there are
 14 some cases where there's been so much wrong done, it just
 15 doesn't fit what they were. But it's also outside looking
 16 in and listening to what the news puts out. I'm not
 17 getting everything. We're getting what they want us to
 18 have.
 19 MR. SCHIECK: Any cases where you can
 20 think of where perhaps the judge imposed a sentence and
 21 you thought to yourself that guy got off or lady got off
 22 too easy?
 23 PROSPECTIVE JUROR: No, because I don't
 24 like to listen to the news because it's depressing.
 25 MR. SCHIECK: We've had a lot of cases in

81

1 the news involving politicians. Sometimes it seems like
 2 they got a slap on the wrist, and sometimes they got a lot
 3 of time in prison. Any of those cases that caught your
 4 attention and you thought it was too lenient?
 5 MR. OWENS: Objection. Unless he's
 6 talking about specific cases.
 7 THE COURT: I'll sustained the objection
 8 as to a specific case in that regard.
 9 MR. SCHIECK: I just asked "yes" or "no."
 10 Did any of those cases catch your attention?
 11 PROSPECTIVE JUROR: No.
 12 MR. SCHIECK: You indicated with respect
 13 to the death penalty that you feel that it's used
 14 appropriately, as opposed to too often or not enough.
 15 Have you followed death penalty case or paid attention to
 16 how often it's imposed?
 17 PROSPECTIVE JUROR: No.
 18 MR. SCHIECK: Just a general impression,
 19 it's imposed appropriately.
 20 PROSPECTIVE JUROR: Yes.
 21 MR. SCHIECK: Thank you. We'd pass for
 22 cause, your Honor.
 23 THE COURT: Thank you. Ms. Weckerly, Mr.
 24 Owens.
 25 MR. OWENS: Thank you, your Honor.

82

1 Mr. Taylor.
 2 PROSPECTIVE JUROR: Yes.
 3 MR. OWENS: You had indicated that you
 4 knew some people that had some problem; was drugs, drug
 5 situations?
 6 PROSPECTIVE JUROR: A brother-in-law.
 7 MR. OWENS: One came out good and one not
 8 too good. I think you said one died or something.
 9 PROSPECTIVE JUROR: I can't remember
 10 now.
 11 MR. OWENS: You can't remember?
 12 PROSPECTIVE JUROR: No.
 13 MR. OWENS: Substance abuse, you said one
 14 died and the other recovered.
 15 PROSPECTIVE JUROR: It was my ex-wife.
 16 MR. OWENS: Was it because of substance
 17 abuse -- the death?
 18 PROSPECTIVE JUROR: Yes, it was.
 19 MR. OWENS: So you are kind of close to
 20 these situations?
 21 PROSPECTIVE JUROR: Yes.
 22 MR. OWENS: Anything about those that
 23 would make it difficult for you to sit in this particular
 24 case?
 25 PROSPECTIVE JUROR: No.

83

1 MR. OWENS: You weren't so close that you
 2 got prejudiced about drugs to get in the way of being
 3 fair?
 4 PROSPECTIVE JUROR: Well, I have prejudice
 5 against drugs.
 6 MR. OWENS: By prejudice, what I mean is
 7 that it would interfere with your ability to be fair. Of
 8 course you can consider these things and give weight to
 9 whatever you want.
 10 PROSPECTIVE JUROR: I need to consider it,
 11 absolutely. That's what -- you have to feed us
 12 information on both sides.
 13 MR. OWENS: Right. Now you said you
 14 thought you might have heard some media on this?
 15 PROSPECTIVE JUROR: I don't know if it was
 16 this case or not. It sounded familiar. I wasn't in
 17 here -- I didn't live here in '95. If it occurred in '93,
 18 it's not the same one.
 19 MR. OWENS: I'm reading Question 21, and
 20 your answer was it would be a different case.
 21 PROSPECTIVE JUROR: Right.
 22 MR. OWENS: Other than this one you don't
 23 remember another case?
 24 PROSPECTIVE JUROR: Nothing at all.
 25 MR. OWENS: You have a son involved in law

84

1 enforcement?
 2 PROSPECTIVE JUROR: He's an ex-police
 3 officer in Santa Monica. He was undercover.
 4 MR. OWENS: Retired now?
 5 PROSPECTIVE JUROR: Yes.
 6 MR. OWENS: Did you have a lot of talk
 7 about his job?
 8 PROSPECTIVE JUROR: Yes.
 9 MR. OWENS: You'll probably hear from
 10 police officers in this case, as we do in many cases. The
 11 question is would you want to give more credibility to
 12 them because they're police officers?
 13 PROSPECTIVE JUROR: None whatsoever.
 14 MR. OWENS: You'd weigh their testimony
 15 like you would anybody else?
 16 PROSPECTIVE JUROR: Absolutely.
 17 MR. OWENS: You had experience on a jury
 18 previously?
 19 PROSPECTIVE JUROR: A long time ago.
 20 MR. OWENS: So long ago you can't remember
 21 when.
 22 PROSPECTIVE JUROR: I can remember.
 23 MR. OWENS: So you can't remember if it
 24 was criminal or civil?
 25 PROSPECTIVE JUROR: Civil.

85

1 MR. OWENS: Let me --
 2 PROSPECTIVE JUROR: It was an insurance
 3 claim.
 4 MR. OWENS: Was it an okay experience for
 5 you?
 6 PROSPECTIVE JUROR: Yeah.
 7 MR. OWENS: Nothing that was bad or left a
 8 bad taste in your mouth.
 9 PROSPECTIVE JUROR: No.
 10 MR. OWENS: As far as discussion in the
 11 back here about punishments, you talked -- there was that
 12 question about an eye for an eye, tooth for a tooth, that
 13 maxim we've heard before. You said you had -- when you
 14 were asked about the death penalty, you said an eye for an
 15 eye. Are you meaning that the punishment should fit the
 16 crime. Or are you meaning literally you have to have quid
 17 pro quo?
 18 PROSPECTIVE JUROR: I was thinking that
 19 there should be a punishment set out. And in this
 20 situation we have four punishments set up. Again, it's up
 21 to the prosecution and defense to provide us with the
 22 facts to make that decision.
 23 MR. OWENS: You are right. And after
 24 hearing the information that you get, do you have any
 25 problem with the idea of passing judgment on another human

86

1 being?
 2 PROSPECTIVE JUROR: To some degree we all
 3 probably do. We're all God's children. You have to make
 4 that kind of decision. But what is set out that has to be
 5 done has got to be done. Again, we have to figure out
 6 which one of the four that has to be -- collectively.
 7 MR. OWENS: You feel that is something
 8 you'd be able to do?
 9 PROSPECTIVE JUROR: Sure.
 10 MR. OWENS: Would you be able to consider
 11 the full range of punishment before coming to a
 12 conclusion?
 13 PROSPECTIVE JUROR: Absolutely. That's
 14 only fair.
 15 MR. OWENS: You're not going to jump the
 16 gun and say I'm doing this automatically?
 17 PROSPECTIVE JUROR: I've got to hear
 18 everything first.
 19 MR. OWENS: You said that you felt the
 20 death penalty depends on the crime.
 21 PROSPECTIVE JUROR: Right.
 22 MR. OWENS: And you were concerned that it
 23 would have to be shown that the person was basically a
 24 hundred percent guilty?
 25 PROSPECTIVE JUROR: Correct.

87

1 MR. OWENS: You know that's where we're
 2 at?
 3 PROSPECTIVE JUROR: Right.
 4 MR. OWENS: We are not going to -- this
 5 man has been convicted. You were asked questions about
 6 factors that you might be told were factors in mitigation,
 7 and the defense hinted at some of those. Nobody is asking
 8 you if you would reject them, if you would consider them,
 9 or how much weight you'd give to them necessarily. But
 10 would you be willing to listen and keep an open mind?
 11 PROSPECTIVE JUROR: You have to.
 12 MR. OWENS: They said would you be willing
 13 to consider them, and you said, not sure. The law
 14 requires that you, at least, consider all the evidence
 15 here. You can't say I'm not going to listen to this. But
 16 after having heard it, it's up to you to determine how
 17 much weight you want to give it.
 18 PROSPECTIVE JUROR: It goes back to how
 19 well it's presented and whether I feel personally that
 20 that's the truth, in fact, coming from that person.
 21 MR. OWENS: Then you could decide how
 22 important that is and set -- or maybe it doesn't have any
 23 importance at all. But you'll wait to make that decision?
 24 PROSPECTIVE JUROR: Right.
 25 MR. OWENS: But you'd be willing to

88

1 consider it all?
 2 PROSPECTIVE JUROR: Yes.
 3 MR. OWENS: You are concerned about the
 4 time line here. We're going to do our best.
 5 PROSPECTIVE JUROR: Yes.
 6 MR. OWENS: If we run a little bit late,
 7 you're not going to take it out on one of the parties
 8 here?
 9 PROSPECTIVE JUROR: The judge.
 10 MR. OWENS: Everybody likes the judges.
 11 It's the attorneys that have to worry about that. If you
 12 felt after hearing all the evidence the death penalty was
 13 the right sentence, appropriate sentence, could you return
 14 that verdict?
 15 PROSPECTIVE JUROR: If that's the verdict,
 16 we have to pass that verdict.
 17 MR. OWENS: Thanks. I'll pass for
 18 cause.
 19 THE COURT: Mr. Schieck.
 20 MR. SCHIECK: Thank you, your Honor.
 21 Mr. Taylor, you understand that when we're
 22 talking about the death penalty, it's never required that
 23 a jury impose the death penalty?
 24 PROSPECTIVE JUROR: Correct.
 25 MR. SCHIECK: There's always that element

89

1 of discretion that factors into it?
 2 PROSPECTIVE JUROR: Sure.
 3 MR. SCHIECK: I made a comment about some
 4 of the factors that you would consider, you said it
 5 depends on how well it's presented. Are you going to be
 6 looking at if Mr. Owens presented his case smoothly and
 7 well, but the defense is kind of shoddy in some of their
 8 addresses or something, you're not going to take that into
 9 account in deciding the appropriate punishment?
 10 PROSPECTIVE JUROR: I'm not going to look
 11 at your suit and how much it cost. It's how it's
 12 presented, the factual information and how that can be
 13 backed up to be truth in fact.
 14 MR. SCHIECK: Okay. From both sides you
 15 want to consider that?
 16 PROSPECTIVE JUROR: Yes.
 17 MR. SCHIECK: And you would hold the State
 18 to that same standard of how well their evidence was
 19 backed up on certain allegations?
 20 PROSPECTIVE JUROR: That is correct.
 21 MR. SCHIECK: Now you attended General
 22 Motors Institute?
 23 PROSPECTIVE JUROR: Yes.
 24 MR. SCHIECK: Is that your area of
 25 occupation?

90

1 PROSPECTIVE JUROR: My Dad was in the car
 2 business. That's where I grew up, in the car business.
 3 Then went into the insurance business and retired from
 4 that.
 5 MR. SCHIECK: We did this questionnaire
 6 and nowhere does it ask for your occupation. You were in
 7 the insurance business.
 8 PROSPECTIVE JUROR: Yes.
 9 MR. SCHIECK: And is there anything you've
 10 heard so far in just the few hours we've been here that
 11 you've got any questions about that cause you some
 12 concern?
 13 PROSPECTIVE JUROR: No. No. Pretty open
 14 to what is all discussed so far.
 15 MR. SCHIECK: You indicated you thought
 16 you heard something about a girl getting killed over a
 17 drug deal.
 18 PROSPECTIVE JUROR: Right.
 19 MR. SCHIECK: There's no evidence that
 20 that was the facts of this case.
 21 PROSPECTIVE JUROR: That was just
 22 something I heard on the news. That been when we first
 23 moved here. As I told the other counsel that I'm sure it
 24 was the wrong case, but --
 25 MR. SCHIECK: If you were sitting here

91

1 going through a penalty hearing as the defendant is, would
 2 you want twelve people in your same state of mind severing
 3 on the jury?
 4 PROSPECTIVE JUROR: Absolutely.
 5 Open-minded and be able to discuss the options and what
 6 facts were presented to you that all weigh towards the
 7 final goal.
 8 MR. SCHIECK: Do you have any problem with
 9 the concept of all four of the possible punishments for
 10 first degree murder are in and of themselves harsh
 11 punishments?
 12 PROSPECTIVE JUROR: No.
 13 MR. SCHIECK: You wouldn't feel that by
 14 choosing one other than the death penalty you're giving a
 15 lenient sentence as opposed to a harsh sentence?
 16 MR. OWENS: You're asking him to project
 17 what he might do.
 18 THE COURT: I'll sustain the objection as
 19 to the question. I don't have a problem if you rephrase
 20 the question.
 21 PROSPECTIVE JUROR: Restate it.
 22 MR. SCHIECK: Do you think any of the
 23 sentences are lenient?
 24 PROSPECTIVE JUROR: I don't believe so.
 25 They're all pretty harsh sentences.

92

1 MR. SCHIECK: Thank you. I'll pass for
2 cause, your Honor.
3 THE COURT: Thank you. Ms. Weckerly.
4 MS. WECKERLY: Mr. Hibbard, as Mr. Schieck
5 just said, we neglected to ask people about occupation on
6 the questionnaire.
7 PROSPECTIVE JUROR: I'm a chief financial
8 officer for a construction company.
9 MS. WECKERLY: How long have you worked
10 that job?
11 PROSPECTIVE JUROR: Thirty years.
12 MR. OWENS: I read in your questionnaire
13 that you had an experience where someone close to you was
14 involved in some kind of substance abuse?
15 PROSPECTIVE JUROR: My son.
16 MR. OWENS: And was it a situation where
17 you and your family dealt with it kind of among
18 yourselves, or did it spill over where law enforcement was
19 involved?
20 PROSPECTIVE JUROR: We've just gone
21 through it. Just went through a period of time.
22 MS. WECKERLY: Was it a situation where it
23 was significant enough where he needed treatment?
24 PROSPECTIVE JUROR: No.
25 MS. WECKERLY: It's sounds experimental.

93

1 It sounds like he grew out of it.
2 PROSPECTIVE JUROR: Almost.
3 MS. WECKERLY: Sound good. You have a
4 son-in-law that's maybe in law enforcement?
5 PROSPECTIVE JUROR: Yes. He works for the
6 City of Henderson.
7 MS. WECKERLY: Is he an officer?
8 PROSPECTIVE JUROR: He is.
9 MS. WECKERLY: His association or work
10 wouldn't affect your ability to be fair?
11 PROSPECTIVE JUROR: My son is also in the
12 criminal justice system in Arizona with the state prison
13 system.
14 MS. WECKERLY: The fact that your son
15 works in the prison system, that wouldn't influence your
16 assessment of police officer's testimony or corrections
17 officer's testimony?
18 PROSPECTIVE JUROR: I don't think so.
19 MS. WECKERLY: You can evaluate that like
20 any other witness that you hear from?
21 PROSPECTIVE JUROR: I think so.
22 MS. WECKERLY: Would -- what are your
23 thoughts about the death penalty? If you could design the
24 laws in this state, would that be a punishment that was
25 available in some circumstances?

94

1 PROSPECTIVE JUROR: Yes.
2 MS. WECKERLY: You feel it serves some
3 purpose?
4 PROSPECTIVE JUROR: If the penalty fit the
5 crime.
6 MS. WECKERLY: In some instances I assume
7 from your answer you think that could be an appropriate
8 punishment?
9 PROSPECTIVE JUROR: Yes.
10 MS. WECKERLY: And you, of course,
11 understand sitting here a few hours there are four
12 possible punishments for someone convicted of first degree
13 murder?
14 PROSPECTIVE JUROR: Yes.
15 MS. WECKERLY: And you're going to be
16 hearing all kinds of information and you can take in that
17 information and decide whether to give it or not give it?
18 PROSPECTIVE JUROR: Yes.
19 MS. WECKERLY: Okay. And if it was
20 appropriate to you after hearing all of the information,
21 would you be able to vote to impose a sentence of death?
22 PROSPECTIVE JUROR: Yes.
23 MS. WECKERLY: Do you have any concerns at
24 all about you ability to be fair to the State of Nevada or
25 the defense in this case?

95

1 PROSPECTIVE JUROR: No.
2 MS. WECKERLY: Thank you, sir. Pass for
3 cause.
4 THE COURT: Mr. Patrick.
5 MR. PATRICK: Mr. Hibbard, you are a CFO
6 for a construction firm?
7 PROSPECTIVE JUROR: Yes.
8 MR. PATRICK: Does this involve firing and
9 hiring people?
10 PROSPECTIVE JUROR: Yes.
11 MR. PATRICK: Discipline employees?
12 PROSPECTIVE JUROR: Yes.
13 MR. PATRICK: Now, when you discipline an
14 employee or you've had to fire him, do you listen to both
15 sides, maybe, the employees side versus the employee's
16 manager's side before you make a decision?
17 PROSPECTIVE JUROR: Yes. Get the facts.
18 MR. PATRICK: You keep an open mind about
19 it?
20 PROSPECTIVE JUROR: Try.
21 MR. PATRICK: Listen to everything before
22 you make a decision?
23 PROSPECTIVE JUROR: Yes.
24 MR. PATRICK: Would you say you're
25 unlikely to make snap decisions off the top of your head?

96

1 PROSPECTIVE JUROR: I make snap decisions
2 too.
3 MR. PATRICK: Would you make a snap
4 decision in something as important as an employee's job?
5 PROSPECTIVE JUROR: No. It has to be
6 something based on facts.
7 MR. PATRICK: You mention that your son
8 was a corrections officer in Arizona?
9 PROSPECTIVE JUROR: Yes.
10 MR. PATRICK: Do you have occasion to talk
11 about his job a great deal?
12 PROSPECTIVE JUROR: Yes.
13 MR. PATRICK: Anything that you learned
14 from him about his job, does that give you a different
15 idea of people in prison versus people not in prison?
16 PROSPECTIVE JUROR: He's got the worst job
17 in the world.
18 MR. PATRICK: Just because somebody had
19 the chance to be incarcerated would you tend to be more or
20 less lenient with them?
21 PROSPECTIVE JUROR: I don't understand the
22 question.
23 MR. OWENS: Same objection. Trying to
24 predict what he'll do.
25 THE COURT: I didn't understand that

97

1 question.
2 MR. PATRICK: I didn't either, your
3 Honor.
4 THE COURT: With the objection in mind, go
5 ahead and rephrase it, if you would.
6 MR. PATRICK: As you know, out of the four
7 possibilities three of them include prison time. Just
8 because somebody is eligible for prison, would you look at
9 them less favorably?
10 PROSPECTIVE JUROR: No.
11 MR. PATRICK: And, again, because your son
12 is a corrections officer -- I know the judge asked those
13 questions -- would you give any more weight to the
14 testimony of somebody just because they were a corrections
15 officer or a police officer?
16 PROSPECTIVE JUROR: No.
17 MR. PATRICK: And, let's see, your
18 son-in-law is a clerk for Henderson.
19 PROSPECTIVE JUROR: Yes.
20 MR. PATRICK: Does he work in a courtroom?
21 Is he out at the front desk?
22 PROSPECTIVE JUROR: I'm not sure. He runs
23 the clerk's office. He sets up cases.
24 MR. PATRICK: Do you have occasion to talk
25 to him about his job frequently?

98

1 PROSPECTIVE JUROR: Not often. But we do
2 visit.
3 MR. PATRICK: Is there anything about his
4 job that would make you think less highly of somebody --
5 you'd still be able to keep an open mind?
6 PROSPECTIVE JUROR: Yes.
7 MR. PATRICK: Now you mentioned that your
8 son had some drug problems. I believe the answer to
9 Ms. Weckerly's question was it was never -- the system was
10 never involved. He was never arrested?
11 PROSPECTIVE JUROR: No.
12 MR. PATRICK: Is was just kind of a
13 experimental thing as teenagers do?
14 PROSPECTIVE JUROR: Pretty much.
15 MR. PATRICK: His drug experimentation, if
16 somebody was on drugs would that make you more or less
17 likely to believe what they had to say?
18 PROSPECTIVE JUROR: He was never on hard
19 drugs. I don't think I can answer that fairly.
20 MR. PATRICK: Just because somebody was on
21 drugs, would you still be able to keep an open mind about
22 things they had to say?
23 PROSPECTIVE JUROR: If you're asking if it
24 mitigates what they do, no it doesn't. They have to
25 control their actions and make decisions. They've got to

99

1 be accountable for those decisions.
2 MR. PATRICK: In your questionnaire when
3 they asked you what your feelings were about the death
4 penalty, you put, good.
5 PROSPECTIVE JUROR: If the penalty meets
6 the crime. That's what I'm trying to say, the penalty
7 should fit the crime.
8 MR. PATRICK: Again, on the mitigation,
9 you were asked there's mitigating circumstances and
10 aggravating circumstances. You wrote that you could
11 somewhat listen to both sides of that?
12 PROSPECTIVE JUROR: Yeah. Mitigation seems
13 to be a broad spectrum now a days to justify a lot of
14 things. I don't believe that mitigating circumstances for
15 death penalty murder. I would have a hard time accepting
16 mitigating circumstances for murder.
17 MR. PATRICK: So anything in a person's
18 background or any drug activity, doesn't make any
19 difference to you?
20 PROSPECTIVE JUROR: No.
21 MR. PATRICK: At all?
22 PROSPECTIVE JUROR: Not at all.
23 MR. PATRICK: Would you say you'd vote
24 automatically for the death penalty?
25 PROSPECTIVE JUROR: I would have to hear

100

1 the facts. Murder is a pretty severe action. Unless
2 there's insanity at the time of committing it, I don't
3 know how you justify that.

4 MR. PATRICK: So besides insanity, you
5 wouldn't be able to find any mitigating circumstances?

6 PROSPECTIVE JUROR: It would be
7 difficult.

8 MR. PATRICK: Court's indulgence.

9 THE COURT: Okay.

10 MR. PATRICK: I'll challenge at this
11 time.

12 THE COURT: Let me ask you a question, Mr.
13 Hibbard. The question isn't so much whether you think
14 there are mitigating circumstances for the murder that
15 justify a crime. The question here is sentence,
16 punishment. Are there things out there in your mind that
17 you would be able to consider that you think would be
18 appropriate consideration as to mitigate what sentence
19 somebody receives?

20 PROSPECTIVE JUROR: I think pretty hard
21 about the victim, not so much the person. The victim
22 doesn't have a lot of choices left.

23 THE COURT: I understand. But the
24 question in terms of how he gets punished, both sides
25 might be able to present evidence that they think --

101

1 PROSPECTIVE JUROR: The victim didn't
2 choose his or her punishment.

3 THE COURT: I realize that. Would you be
4 able to consider things that the defense brings up that
5 they argue in mitigation of what sentence somebody should
6 receive, or are you saying you wouldn't consider those at
7 all?

8 PROSPECTIVE JUROR: I'm saying that I
9 think that bringing up a cover for justifying committing
10 murder is very difficult for me to understand.

11 THE COURT: All right. Thank you.

12 Mr. Owens, as to Ms. Bailey.

13 MR. OWENS: Ms. Bailey, we talked about
14 the idea of an eye for and eye that we talked about a
15 little bit. And you said that you have been listening --
16 and we're trying to get people that won't prejudge the
17 case. There is nothing known about the facts, correct.
18 That's what 22 is. It says have you already formed an
19 opinion about the case, and you checked, yes. Then it
20 says what is the opinion, or what you described is an eye
21 for an eye. That was the answer you gave.

22 PROSPECTIVE JUROR: Right.

23 MR. OWENS: Then later on when you're
24 actually asked about the penalty you said you would be
25 able to keep an open mind about what the penalty should

102

1 be.

2 PROSPECTIVE JUROR: I believe that if
3 someone can take a life, then they should be willing to
4 give theirs. I try to be open as much as I can. I am
5 human though. I will have an opinion formed eventually.
6 I don't know how it would be possible to not judge. I
7 think I would try to see the facts and be open-minded as
8 possible, but I have to be honest. I have looked over and
9 seen him smirk and smile, or look at the questionnaire
10 that someone filled out and it kind of makes me form an
11 opinion about him already. I don't know the facts.

12 MR. OWENS: Okay. Well, you understand
13 that there's going to be a lot of things that happen in
14 the courtroom that are fair in considering your opinion.
15 The question is will you wait in forming that opinion
16 until you've heard everything?

17 PROSPECTIVE JUROR: I will try.

18 MR. OWENS: It says that in the death
19 penalty here, would you say you were generally in favor of
20 it or opposed to it? You'll consider it -- you didn't
21 select one end of the spectrum or the other. You said you
22 would consider it in certain circumstances. And you
23 actually said not all sentences should be death. It's a
24 case by case basis.

25 PROSPECTIVE JUROR: Yes.

103

1 MR. OWENS: Is that how you feel?

2 PROSPECTIVE JUROR: I feel that is open to
3 hearing, was there a struggle, was there -- was it
4 cold-blooded, were there other instances involved in
5 that.

6 MR. OWENS: We're not asking you to try to
7 come up with the scenario of what you would do.

8 PROSPECTIVE JUROR: It would just make me
9 have a changed opinion about how I think his fate should
10 be, as much as I don't want to be a part of someone's
11 fate.

12 MR. OWENS: Everyone has certain opinions
13 about things as to how important they are, the factors.
14 Some factors may have huge importance for you. The other
15 factors you listen to, and you say, well, I don't think
16 that's important at all. The question is would you be
17 willing to at least listen and weigh before you decide you
18 are going to throw them out?

19 PROSPECTIVE JUROR: Yes.

20 MR. OWENS: Things that are important,
21 would you be willing to listen?

22 PROSPECTIVE JUROR: I would be willing to
23 listen.

24 MR. OWENS: And you indicated that you had
25 been a victim on some occasion and you didn't like the way

104

1 it was handled. Didn't come out quite right.
 2 PROSPECTIVE JUROR: Basically being
 3 robbed, my home, my vehicle. Nothing ever came back to me
 4 in a positive way.
 5 MR. OWENS: Positive way meaning caught
 6 the guy?
 7 PROSPECTIVE JUROR: Right. I never did
 8 get anything back or any justice or anything.
 9 MR. OWENS: How many times has this happen
 10 to you?
 11 PROSPECTIVE JUROR: I have been robbed
 12 four times.
 13 MR. OWENS: That is amazing.
 14 PROSPECTIVE JUROR: Houston, New
 15 Orleans.
 16 MR. OWENS: So it wasn't here?
 17 PROSPECTIVE JUROR: No, not here.
 18 MR. OWENS: By robbed, you mean they stole
 19 something from your home or car?
 20 PROSPECTIVE JUROR: From myself, my
 21 vehicle, and my garage.
 22 MR. OWENS: Nothing was taken forcibly
 23 from you?
 24 PROSPECTIVE JUROR: Just my billfold.
 25 MR. OWENS: So was that a one on one?

105

1 PROSPECTIVE JUROR: Right.
 2 MR. OWENS: Was there a weapon used?
 3 PROSPECTIVE JUROR: I believe it was like
 4 hands in his pocket type thing.
 5 MR. OWENS: Like a pick-pocket?
 6 PROSPECTIVE JUROR: No. He had his hands
 7 in his pocket, so I don't know if there was or was not.
 8 MR. OWENS: You didn't want to take the
 9 chance.
 10 PROSPECTIVE JUROR: No.
 11 MR. OWENS: How long ago was that?
 12 PROSPECTIVE JUROR: About four years
 13 ago.
 14 MR. OWENS: It wasn't in this community?
 15 PROSPECTIVE JUROR: No.
 16 MR. OWENS: Do you feel like the police
 17 let you down on each one of these incidents?
 18 PROSPECTIVE JUROR: There are so many of
 19 those instances in New Orleans. The crime rate was
 20 ridiculous. And in downtown Houston, not much better.
 21 THE COURT: I'm from Houston. Hold on a
 22 second.
 23 PROSPECTIVE JUROR: There were so many
 24 little things like that that they just didn't have time to
 25 really -- you know, what can they do.

106

1 MR. OWENS: Did you feel like they could
 2 have done more than they did?
 3 PROSPECTIVE JUROR: You hope, wish. I
 4 don't know if there could have been anything.
 5 MR. OWENS: Well, your dissatisfaction
 6 about those experiences, is that something you'd take out
 7 on the police in this case?
 8 PROSPECTIVE JUROR: No.
 9 MR. OWENS: Take out on the defendant?
 10 PROSPECTIVE JUROR: No. He didn't rob
 11 me.
 12 MR. OWENS: You can determine his
 13 punishment based upon the factors that you hear, and you
 14 realize that that's a separate thing?
 15 PROSPECTIVE JUROR: Yes.
 16 MR. OWENS: You feel you can be fair and
 17 impartial to both the State and the defendant?
 18 PROSPECTIVE JUROR: Yes.
 19 MR. OWENS: If after hearing all the
 20 evidence in the case, you can keep an open mind and
 21 balancing it and giving it whatever attention you feel
 22 appropriate, it you felt the correct punishment and fair
 23 punishment and appropriate punishment was the death
 24 penalty, you could come back with that judgment?
 25 PROSPECTIVE JUROR: Yes!

107

1 MR. OWENS: You said something about
 2 judgment and you didn't feel comfortable in that position,
 3 is that something you could do?
 4 PROSPECTIVE JUROR: Yes. It's human
 5 nature. I'm judged and I judge.
 6 MR. OWENS: Thank you. Pass for cause.
 7 THE COURT: Thank you. Mr. Schieck.
 8 MR. SCHIECK: Thank you!
 9 Mrs. Bailey, we thank you for your candor.
 10 This is a very different thing to have attorneys ask you
 11 questions about things of a personal nature in a case
 12 that's going to be emotional in some points.
 13 In your questionnaire you were asked
 14 concerning the fact that Mr. Chappell was an
 15 African-American male, if that would effect your ability to
 16 be fair and impartial. You didn't answer that question.
 17 Then the next question was whether or not
 18 the fact that the victim was of a different racial
 19 background then the defendant, would that effect your
 20 ability to be fair and impartial, and you said possibly.
 21 Could you explain what you were thinking
 22 when you didn't answer the one question.
 23 PROSPECTIVE JUROR: I'm not sure why I
 24 didn't answer the first one. It could have been an
 25 accident. I just felt like I could possibly think -- I

108

1 mean, not necessarily -- I don't think I focused on a
2 specific race, but I thought maybe it could be a
3 possibility.

4 MR. SCHIECK: You had some negative
5 brushes with criminal contact in your life. Is there
6 anything about those that would factor into the racial
7 issue?

8 PROSPECTIVE JUROR: No.

9 MR. SCHIECK: With regard to public
10 defenders -- and Mr. Patrick and I are with the special
11 public defender's office -- you wondered how they sleep at
12 night. It was kind of a curious answer.

13 PROSPECTIVE JUROR: It's a rough job. I
14 couldn't do it. Whether you are defending someone you
15 don't believe in, or if you completely do and they're
16 guilty, I couldn't do it. I commend you.

17 MR. SCHIECK: You don't think the death
18 penalty is used enough?

19 PROSPECTIVE JUROR: I think that we
20 probably pay less in taxes, less people waiting for death
21 with the death penalty.

22 MR. SCHIECK: Is that something that's
23 going to factor into your decision?

24 PROSPECTIVE JUROR: No.

25 MR. SCHIECK: But you did indicate that if

109

1 someone takes a life they should forfeit their life.

2 PROSPECTIVE JUROR: I feel that if they
3 are so willing to take they should be so willing to
4 give.

5 MR. SCHIECK: That's just your personal
6 belief.

7 PROSPECTIVE JUROR: Yes.

8 MR. SCHIECK: There is no wrong answer to
9 those questions. So knowing that Mr. Chappell has been
10 convicted of first degree murder, which is an intentional
11 killing, that's what the jury is told before they consider
12 punishment. You're already thinking that the death
13 penalty is an appropriate punishment because it's an
14 intentional killing.

15 PROSPECTIVE JUROR: It's an option. I
16 think you're assuming that I feel that it's appropriate in
17 this case. I think it's a strong option. But, again, I
18 would need the facts before I made my decision in what I
19 think punishment should be.

20 MR. SCHIECK: When you say a strong
21 option, as opposed to the other three, why aren't they
22 strong options?

23 MR. OWENS: I object to the question
24 because there's no requirement that you put a weight on
25 any or it has to be equal.

110

1 THE COURT: I agree. But in light of her
2 answer, I'm going to allow her to answer this question.

3 PROSPECTIVE JUROR: Because I'm very open
4 to the death penalty. The fact I say if you can take a
5 life you can give it.

6 MR. SCHIECK: We pass for cause, your
7 Honor.

8 THE COURT: Thank you. Ms. Weckerly.
9 We'll get through the top row of folks, then we'll take
10 our lunch break.

11 Bear with me a few more minutes.

12 MS. WECKERLY: Ms. Mills, ma'am, you
13 indicated on your questionnaire that someone close to you,
14 similar to some of the other prospective jurors, had an
15 issue with substance abuse. Do you recall that?

16 PROSPECTIVE JUROR: Yes.

17 MS. WECKERLY: Who was that that we're
18 talking about?

19 PROSPECTIVE JUROR: My husband.

20 MS. WECKERLY: Was it a situation where
21 law enforcement or counseling or anything like that was
22 sought?

23 PROSPECTIVE JUROR: Counseling.

24 MS. WECKERLY: As someone -- were you
25 living with him at the time he had that problem?

111

1 PROSPECTIVE JUROR: Yes.

2 MS. WECKERLY: I know this is hard and
3 these are personal questions. I apologize. On your
4 questionnaire you said that your feelings about it were
5 negative and angry.

6 PROSPECTIVE JUROR: Yes.

7 MS. WECKERLY: Can you plain that a little
8 bit.

9 PROSPECTIVE JUROR: Well, I was negative
10 about it because it effected me and kind of ran my life.

11 MS. WECKERLY: How did it kind of run
12 your life?

13 PROSPECTIVE JUROR: I was a target. I was
14 the one that was abused.

15 MS. WECKERLY: Okay. And so sometimes, I
16 assume then, when he was under the influence you suffered
17 abuse.

18 PROSPECTIVE JUROR: Yes.

19 MS. WECKERLY: Did you have children at
20 the time that the substance abuse was occurring?

21 PROSPECTIVE JUROR: Yes.

22 MS. WECKERLY: Again, I know this is sure
23 not what you want to talk about in a group of people. Did
24 they witness any of the abuse?

25 PROSPECTIVE JUROR: Yes.

112

1 MS. WECKERLY: Having that experience, I
2 know you've been given a very brief description of the
3 facts in this case, but some of those issues -- those
4 kinds of circumstances are similar to the facts of this
5 case. Are your feelings about that experience and having
6 gone through all that, such that you don't feel you can be
7 a fair juror in this case, or are you able to kind of
8 separate your own experience and evaluate what you hear in
9 this courtroom on its own?

10 PROSPECTIVE JUROR: I can separate it.

11 MR. OWENS: You can separate it. And the
12 fact that you've gone through all that, would that cause
13 you to be in favor or less fair to one side or the other?

14 PROSPECTIVE JUROR: No.

15 MS. WECKERLY: In your experience, were
16 the police ever involved in the domestic violence?

17 PROSPECTIVE JUROR: Yes.

18 MS. WECKERLY: Were you the one who called
19 the police?

20 PROSPECTIVE JUROR: Yes.

21 MS. WECKERLY: Did you feel that their
22 treatment of you and your husband was appropriate?

23 PROSPECTIVE JUROR: Yes.

24 MS. WECKERLY: And did any of the cases go
25 through the criminal justice system?

113

1 PROSPECTIVE JUROR: Yes.

2 MS. WECKERLY: Were you called upon to
3 come in and testify?

4 PROSPECTIVE JUROR: No.

5 MS. WECKERLY: Were you ever subpoenaed or
6 anything like that?

7 PROSPECTIVE JUROR: No.

8 MS. WECKERLY: Anything about that
9 experience that would make it hard for you to be a fair
10 juror?

11 PROSPECTIVE JUROR: No.

12 MS. WECKERLY: Those issues with your
13 husband, did they -- how did they resolve themselves?

14 PROSPECTIVE JUROR: Time, counseling.

15 MS. WECKERLY: That worked in this case?

16 PROSPECTIVE JUROR: Yes.

17 MS. WECKERLY: So he obviously sort of
18 turned his behavior around?

19 PROSPECTIVE JUROR: Yes.

20 MS. WECKERLY: You are also asked
21 questions about the death penalty, like every other
22 prospective juror. As you sit here now, do you think that
23 the death penalty can be an appropriate punishment in some
24 cases?

25 PROSPECTIVE JUROR: Yes.

114

1 MS. WECKERLY: I think Mr. Owens and
2 Mr. Schieck touch on this. You realize, as a prospective
3 juror, you are going to be hearing information about this
4 crime, obviously, and you'll probably here information
5 about the defendant's background. All you're asked is to
6 sort of listen to the information, listen to both sides,
7 then give your best judgment or assessment of what you
8 think the appropriate punishment is. You wouldn't have
9 any problem with that?

10 PROSPECTIVE JUROR: No.

11 MS. WECKERLY: And I assure you wouldn't
12 have any problem expressing your opinion with other
13 members of the jury because collectively you are going to
14 be discussing the case.

15 PROSPECTIVE JUROR: No.

16 MS. WECKERLY: No problem with that?

17 PROSPECTIVE JUROR: No.

18 MS. WECKERLY: If your opinion is -- after
19 hearing all of the evidence -- is the death penalty is
20 appropriate, would you be able to actually mark that box
21 as the punishment in this case?

22 PROSPECTIVE JUROR: Yes. After the facts,
23 yes.

24 MS. WECKERLY: You mentioned in your
25 questionnaire that your son was a medical malpractice

115

1 victim and was that something that you and your family
2 pursued in terms of civil litigation?

3 PROSPECTIVE JUROR: Yes.

4 MS. WECKERLY: Anything about that --
5 obviously this is a total different situation -- but was
6 there anything about that experience, in terms of dealing
7 with lawyers or doctors, that would affect your ability to
8 be fair here?

9 PROSPECTIVE JUROR: Uh, it could. You know
10 I was angry at first with the lawyers and the judge.

11 MS. WECKERLY: Everybody. So I assume
12 then the lawsuit moved -- it didn't settle, it went at
13 some point to the court system?

14 PROSPECTIVE JUROR: Yes.

15 MS. WECKERLY: You're indicating you
16 weren't happy with the lawyer who was representing you or
17 the other side?

18 PROSPECTIVE JUROR: The other side.

19 MS. WECKERLY: Also you mentioned that you
20 weren't happy with the judge.

21 PROSPECTIVE JUROR: Yes.

22 MS. WECKERLY: Is your experience such
23 that that sort of left a taste in your mouth where you
24 don't have a lot of faith in the legal system in general?

25 PROSPECTIVE JUROR: Yes. I thought at the

116

1 time, around the beginning of the hike in the insurance
 2 rates, so I think that was the bad time.
 3 MS. WECKERLY: You mentioned a second ago
 4 that you thought it might effect your ability to be fair
 5 in this case. Can you explain that a little.
 6 PROSPECTIVE JUROR: Well, not so much not
 7 being able to make a decision. I wanted to see the facts
 8 and see how strong it is and how it happened.
 9 MS. WECKERLY: Okay. And as you've sort
 10 of explained, as we sit here, this man is convict of first
 11 degree murder with use of a deadly weapon. That's the
 12 starting point. So he's convict of an intentional murder
 13 of another person. And as jurors, what you'll be asked to
 14 do is determine the appropriate punishment.
 15 Now are you someone who can sort of accept our
 16 starting point where we're at here?
 17 PROSPECTIVE JUROR: Yes.
 18 MS. WECKERLY: And we've discussed, you're
 19 open to listening to all of the potential punishments?
 20 PROSPECTIVE JUROR: Yes.
 21 MS. WECKERLY: I think you have indicated
 22 that you don't -- you can be impartial, fair to both sides
 23 in terms of what information is presented to you?
 24 PROSPECTIVE JUROR: Yes.
 25 MR. OWENS: Thank you. Your Honor, pass

117

1 for cause.
 2 THE COURT: Thank you. Mr. Patrick.
 3 MR. PATRICK: Thank you.
 4 One of the questions you answered on your
 5 questionnaire, you said you don't like to talk much. I
 6 can see that. Would that -- because of that, do you think
 7 that you don't have a voice on the jury if you were
 8 picked?
 9 PROSPECTIVE JUROR: Most likely not.
 10 MR. PATRICK: You have a strong
 11 personality, you don't like to talk?
 12 PROSPECTIVE JUROR: Yes.
 13 MR. PATRICK: If you have something
 14 important to say, you'd make sure they heard it?
 15 PROSPECTIVE JUROR: Yes, absolutely.
 16 MR. PATRICK: Now you were saying that
 17 your husband had a drug problem and domestic violence
 18 problem also?
 19 PROSPECTIVE JUROR: Yes.
 20 MR. PATRICK: You think the two were
 21 related?
 22 PROSPECTIVE JUROR: Yes.
 23 MR. PATRICK: Then you said that he was
 24 able to turn his behavior around through counseling and
 25 time.

118

1 PROSPECTIVE JUROR: Yes.
 2 MR. PATRICK: And during the time he was
 3 in counseling, as he got his life turned around, did you
 4 stick by him?
 5 PROSPECTIVE JUROR: Yes.
 6 MR. PATRICK: Now, if you were to hear
 7 circumstances similar to yours, drug abuse, domestic
 8 violence, would that make you tend more or less to believe
 9 what somebody is saying?
 10 PROSPECTIVE JUROR: No.
 11 MR. PATRICK: Would you tend to be less --
 12 so you wouldn't be less believing of somebody because they
 13 went through what your husband went through?
 14 PROSPECTIVE JUROR: No.
 15 MR. PATRICK: You'd still keep an open
 16 mind through the process?
 17 PROSPECTIVE JUROR: Yes.
 18 MR. PATRICK: That's all we're asking,
 19 that you listen to both sides. Listen to all of the
 20 evidence. They're going to be putting on evidence. We're
 21 going to be putting on evidence. You'll listen to all of
 22 it and then decide?
 23 PROSPECTIVE JUROR: Yes.
 24 MR. PATRICK: Would you be able to look at
 25 things like drug abuse and domestic violence as mitigating

119

1 circumstances?
 2 PROSPECTIVE JUROR: Yes.
 3 MR. PATRICK: Now, also there was a
 4 question that asked something about if the victim was of a
 5 different racial background, if you'd think difficulty of
 6 the case, and you responded, probably so.
 7 PROSPECTIVE JUROR: I don't recall that.
 8 MR. PATRICK: So if the victim was of a
 9 different racial background than Mr. Chappell, you
 10 wouldn't have a problem with that?
 11 PROSPECTIVE JUROR: No.
 12 MR. PATRICK: It wouldn't make you
 13 automatically think that he was more or less guilty than
 14 he actually is?
 15 PROSPECTIVE JUROR: No.
 16 MR. PATRICK: As far as -- everybody has
 17 talked about the four penalties that can be given out.
 18 And you could look at all four of them, before you make a
 19 decision? You're not going in there with any one of them
 20 in mind, saying this is what has to happen?
 21 PROSPECTIVE JUROR: No.
 22 MR. PATRICK: That's all I have. I'll
 23 pass for cause.
 24 THE COURT: Thank you. Ms. Weckerly, as
 25 to Mr. Henck.

120

1 MS. WECKERLY: Good afternoon, sir.
 2 PROSPECTIVE JUROR: How are you doing
 3 today?
 4 MS. WECKERLY: Good. How are you?
 5 PROSPECTIVE JUROR: I'm all right.
 6 MS. WECKERLY: Is that a book or did you
 7 bring work with you?
 8 PROSPECTIVE JUROR: Just a book.
 9 MS. WECKERLY: You mentioned when Judge
 10 Herndon was questioning the entire panel that you had two
 11 cousins that had some drug related arrests?
 12 PROSPECTIVE JUROR: Both were convicted
 13 for selling drugs in school zones.
 14 MS. WECKERLY: Was that -- I missed it.
 15 I'm sure you said it. Was that here in Nevada?
 16 PROSPECTIVE JUROR: That was
 17 in Pennsylvania.
 18 MS. WECKERLY: Are you particularly close
 19 to these cousins?
 20 PROSPECTIVE JUROR: Yeah, actually. One,
 21 when he was arrested, was living with me. And the other
 22 was arrested shortly before that. He lived a mile from
 23 me. We all hung out together.
 24 MS. WECKERLY: And the fact that you're
 25 close relatives were arrest for pretty serious crimes --

121

1 PROSPECTIVE JUROR: No, I was not involved
 2 in that.
 3 MS. WECKERLY: That's not my question.
 4 But I'm glad you volunteered that. Did you feel they were
 5 treated fairly by law enforcement?
 6 PROSPECTIVE JUROR: Yes. They presented
 7 evidence and the jury found them guilty of what they were
 8 accused of.
 9 MS. WECKERLY: Did you attend the trial?
 10 PROSPECTIVE JUROR: NO. By the time they
 11 got to trial I had my first son, and I was busy making a
 12 living.
 13 MS. WECKERLY: Very busy with a new baby.
 14 Are they -- I mean, have you talked to them since they
 15 were convicted?
 16 PROSPECTIVE JUROR: Yeah. One of my
 17 cousins is released. He's doing well. And other one got
 18 a little longer sentence. He's still in state prison in
 19 Pennsylvania.
 20 MS. WECKERLY: So the one that was
 21 released, sounds like he kind of got his life on track.
 22 PROSPECTIVE JUROR: Yeah.
 23 MS. WECKERLY: He's doing okay.
 24 PROSPECTIVE JUROR: Yes.
 25 MS. WECKERLY: And the other one,

122

1 hopefully the same thing will happen.
 2 PROSPECTIVE JUROR: I hope so.
 3 MS. WECKERLY: You also wrote on your
 4 questionnaire that you have a close family member, maybe
 5 yourself who was a victim of a crime.
 6 PROSPECTIVE JUROR: Well, we just recently
 7 had the car broken into. Some guy decided he wanted to
 8 break into our car and try and steal things. He didn't
 9 leave anything or evidence. There's wasn't nothing that
 10 could be done. No big deal.
 11 MS. WECKERLY: Did you call the police?
 12 PROSPECTIVE JUROR: Yeah. The police come
 13 out and did a report. There was no way to find this guy.
 14 He was long gone. My car wasn't damaged.
 15 MS. WECKERLY: So in your case, not a lot
 16 of follow up.
 17 PROSPECTIVE JUROR: I mean, I couldn't go
 18 around the neighborhood stopping everyone.
 19 MS. WECKERLY: Did you feel like they
 20 treated you fairly?
 21 PROSPECTIVE JUROR: Absolutely.
 22 MS. WECKERLY: Your answers on your
 23 questionnaire regarding the death penalty sort of
 24 indicates that you are open to considering that as a
 25 potential punishment?

123

1 PROSPECTIVE JUROR: Right.
 2 MS. WECKERLY: You don't necessarily
 3 automatically feel like it would be appropriate in every
 4 case, but it could be in some cases?
 5 PROSPECTIVE JUROR: Right.
 6 MS. WECKERLY: And you're open to hearing
 7 all the information presented in this hearing or
 8 proceeding?
 9 PROSPECTIVE JUROR: Right. I want to make
 10 sure that I get this out and say it the right way. Both
 11 sides are going to give factors that were involved in
 12 this. And the judge will give instructions on what -- if
 13 we feel a certain way about the evidence they produce, and
 14 the way we are supposed to interpret the law.
 15 MS. WECKERLY: Right.
 16 PROSPECTIVE JUROR: I don't think there's
 17 nothing hard about that. You know, I don't understand
 18 what would be hard about that.
 19 MS. WECKERLY: You understand you are
 20 going to hear --
 21 PROSPECTIVE JUROR: There are four
 22 different punishments. Which ever is appropriate for the
 23 circumstances of what the crime he committed.
 24 MS. WECKERLY: I don't think it's easy for
 25 anybody, but are you someone who can make a judgment about

124

1 someone's life?
 2 PROSPECTIVE JUROR: If that's what is
 3 appropriate, yes.
 4 MS. WECKERLY: Well, you're going to make
 5 a judgment, regardless of what you decide. You're going
 6 to be imposing a punishment, regardless of which --
 7 PROSPECTIVE JUROR: Whichever is
 8 appropriate, that's what I will choose to deem
 9 appropriate.
 10 MS. WECKERLY: You'll make that decision
 11 collectively?
 12 PROSPECTIVE JUROR: Right, right, right.
 13 Yes. Absolutely.
 14 MS. WECKERLY: You're someone that can do
 15 that.
 16 PROSPECTIVE JUROR: Absolutely.
 17 MS. WECKERLY: If you feel that the death
 18 penalty is the appropriate punishment, after you've heard
 19 everything there is to hear about this situation, you
 20 could impose that punishment.
 21 PROSPECTIVE JUROR: Absolutely.
 22 MS. WECKERLY: Thank you.
 23 THE COURT: Thank you. Mr. Patrick.
 24 MR. PATRICK: Thank you, Judge. Mr.
 25 Henck.

125

1 PROSPECTIVE JUROR: How are you doing.
 2 MR. PATRICK: I'll be quick so we can get
 3 you to lunch.
 4 Now the fact that your cousins were
 5 prosecuted for trafficking drugs --
 6 PROSPECTIVE JUROR: Right.
 7 MR. PATRICK: -- if there was drug
 8 involvement in this case, would that change your --
 9 PROSPECTIVE JUROR: No.
 10 MR. SCHIECK: No. Okay. And your car
 11 broken into. They haven't found anybody, yet, no arrests
 12 have been made?
 13 PROSPECTIVE JUROR: They found a guy
 14 sleeping in another car that was broken into two days
 15 later. He fell asleep while he was breaking into the car.
 16 They can't tie them together, but, I mean, he did have
 17 thirty dollars worth of damage to the car. Not like, you
 18 know, he went out -- he didn't steal my car.
 19 MR. PATRICK: Anything about that
 20 experience that makes you feel that a policeman would be
 21 more or less believable on the stand?
 22 PROSPECTIVE JUROR: Not at all.
 23 MR. PATRICK: Now, you were asked if you
 24 could consider all the four types of punishment available
 25 in this case. Your answer, every person deserves a fair

126

1 trial where evidence can be presented in a proper verdict.
 2 You understand that part of the trial is already done.
 3 PROSPECTIVE JUROR: Right. But we're
 4 going to decide what punishment in general he should get
 5 given with what factors you give us and what factors they
 6 give us, correct?
 7 MR. PATRICK: Correct. Your answer is the
 8 same even though it's not--
 9 PROSPECTIVE JUROR: It's what's
 10 appropriate. What's appropriate after you give me your
 11 facts, they give me their facts, and the judge tells me
 12 what the law is. Where does he fall in that range of
 13 those four.
 14 MR. SCHIECK: So the basic answer is the
 15 same just a different phase of the trial?
 16 PROSPECTIVE JUROR: Yes.
 17 MR. PATRICK: You'll listen to
 18 everything, consider everything. Give whatever weight you
 19 decide it needs and make an informed decision from that?
 20 PROSPECTIVE JUROR: Correct.
 21 MR. PATRICK: Your Honor, I'll pass for
 22 cause.
 23 THE COURT: All right. Thank you.
 24 Ladies and gentlemen, we're going to take
 25 a lunch recess now. It's about 1:20. So try and be back

127

1 here and get started back up at 2:30.
 2 When you get back you don't have to go to
 3 jury services. Just come straight up here to the
 4 sixteenth floor and grab a seat. It's wishful thinking
 5 that the elevators will be prompt.
 6 JURY ADMONITION
 7 During the recess, ladies and gentlemen,
 8 you are admonished not to converse among yourselves or
 9 with anyone else, including, without limitation, the
 10 lawyers, parties and witnesses, on any subject connected
 11 with this trial, or any other case referred to during it,
 12 or read, watch, or listen to any report of or commentary
 13 on the trial, or any person connected with this trial, or
 14 any such other case by any medium of information
 15 including, without limitation, newspapers, television,
 16 internet or radio.
 17 You are further admonished not to form or
 18 express any opinion on any subject connected with this
 19 trial until the case is finally submitted to you.
 20 Thank you. See you back here at 2:30.
 21 (Lunch recess taken.)
 22 THE COURT: Just for the record, that was
 23 Mr. Tetonis that walked up to the bench before our recess,
 24 who is the last guy we have right now. He was asking if
 25 he could be excused because he is a police officer. I

128

1 told him he could not. He would need to call to his work,
2 if he had something coming up at work in the afternoon.

3 He's Badge No. 102.

4 Does anybody have anything outside the
5 presence?

6 MR. SCHIECK: We want to do Mr. Perez
7 now.

8 THE COURT: I need to get somebody from
9 the court interpreter's office, unless you want to
10 stipulate to excuse him. I'll call somebody from the
11 court interpreter's office.

12 MR. OWENS: You know, it's sad that they
13 don't have an opportunity to partake in the system. I
14 can't picture having a bunch of interpret's. Maybe it
15 will come to that some day. I'll stipulate to that. It's
16 up to him.

17 MR. SCHIECK: It's fine with us.

18 THE COURT: We'll go ahead and excuse Mr.
19 Perez. That's Badge No. 001. Leslie, make a note when we
20 comes back from lunch, tell Mr. Perez he can go downstairs
21 to jury services. Do you all want to talk about Mr. Brady
22 and Mr. Hibbard right now?

23 MR. SCHIECK: That would be fine, your
24 Honor.

25 THE COURT: Okay. I know the defense

129

1 challenged Mr. Brady and Mr. Hibbard for cause. Does the
2 State have any remarks as to Mr. Brady?

3 MS. WECKERLY: Well, yes. Your Honor,
4 when I was first questioning him, at least my recollection
5 is he indicate that he'd follow the instructions of the
6 court, which are, of course, that he would have to find --
7 we don't get that specific -- but you have to find
8 aggravating circumstance beyond a reasonable doubt. And
9 also you have to consider some mitigation evidence,
10 regardless of how much weight the prospective juror
11 decides to give it or not. And I think he indicated he
12 would be able to follow the court's instructions.

13 So I don't know if he got confused or just
14 said his natural inclination would be to vote for the
15 death penalty. But in light of the fact he said he would
16 follow the court's instructions, and also in terms of what
17 we have to prove, I think that he hasn't met the standard
18 for challenge for cause.

19 THE COURT: Patrick.

20 MR. PATRICK: Yes. Judge, I think he
21 perfectly understood what we were talking about. And as
22 you go through his questionnaire, there's no doubt he
23 believes in a murder case one should have the death
24 penalty. I think it's very clear how he feels and that no
25 matter what he says -- and he was not confused. I think

130

1 this guy, no matter what, has already made up his mind.

2 I think it's very clear what his decision is. And I don't
3 think he's going to follow any instructions, except his
4 own that he's made very clear, both in questioning and on
5 his questionnaire.

6 THE COURT: Well, I will note in the
7 questionnaire one of individuals that said, in terms of
8 the question about, since he's been convicted beyond a
9 reasonable doubt, would you say that -- colon -- then he
10 said, yes, to the question, your beliefs about the death
11 penalty, such that you'd automatically vote for the death
12 penalty, regardless of the facts and circumstances. He
13 answered, yes, to that question.

14 I do think during the initial questioning,
15 Ms. Weckerly, he'd indicated he'd follow the instructions
16 of the court. But towards the end there, when you
17 indicated to him that the death penalty would be a
18 possible punishment that he could consider, he then seemed
19 to say that, you know what, then I would give the death
20 penalty.

21 Earlier he said he'd follow the
22 instructions of the court and it would appear to me now
23 that basically he was saying I wouldn't give the death
24 penalty if the court instructed me that it wasn't a
25 possible punishment. That's why I asked the follow-up

131

1 question with him that I did. He's still got to find
2 certain facts. But after those last series of questions
3 he seemed to be indicating that if the death penalty was a
4 possible form of punishment, he was going to give the
5 death penalty. So I will sustain the challenge for cause
6 as to Mr. Brady.

7 THE COURT: How about has to Mr. Hibbard.
8 Any remarks by the State as to Mr. Hibbard?

9 MS. WECKERLY: Yes, your Honor I think
10 that Mr. Hibbard indicated that he could consider all four
11 possible punishments. He said he would be open to
12 listening to all the information presented in the case.

13 He did make a remark that it would be
14 difficult to impose what's sort of regarded as the most
15 lenient sentence. But I don't think there is a
16 requirement that they give any particular weight to any of
17 the possible punishments, as long as he said he'd consider
18 all four, which he did. And he did say he could consider
19 the mitigation evidence. There is no reason -- or legally
20 justifiable reason to accuse him for cause.

21 THE COURT: All right. Mr. Patrick.

22 MR. PATRICK: Yes, Judge.

23 He said he would look at the mitigating
24 evidence. But he said, nothing sort of insanity would
25 count as mitigation evidence. So therefore, no matter

132

1 what else we put on, he's automatically going to throw out
2 on a murder case.

3 Maybe if this is something besides murder
4 he may think about drug abuse or domestic violence as
5 mitigation, but he was very clear that in a murder case,
6 let alone first degree murder case, the only mitigation he
7 would consider is insanity. We don't have that here. So
8 therefore, he's basically flat-out telling us that none of
9 the mitigation that we could possibly put on would be
10 considered by him.

11 THE COURT: Well, I'm going to deny the
12 challenge as to Mr. Hibbard. There's a difference --
13 there's several levels of what they need to be able to do
14 here. Number one is can they consider -- do they
15 recognize and consider all four forms of punishment. And
16 he indicated he could.

17 Two, will you follow the instructions of
18 the court. He indicated he would. And will you consider
19 all the evidence. He indicate he would. Whether somebody
20 agrees or disagrees with whether or not they think, you
21 know, prospectively some type of mitigation is a good or
22 bad thing they're going to give weight to is really kind
23 of a little lower down because you can't tell them the
24 evidence yet. So they're kind of having to guess, well,
25 do I think there's mitigation for a murder or not, without

133

1 having heard any facts of the case.

2 I don't think the jurors need to say your
3 mitigation is going to be good or bad to make them
4 eligible to sit on the case. It's important that they
5 indicate they will consider all the evidence, consider all
6 forms of punishment and are not foreclosed to imposing
7 just one penalty or another. So I think that he
8 sufficiently answered things, so I'll deny the challenge
9 for cause as to Mr. Hibbard.

10 Anything further before we take our lunch
11 break.

12 MS. WECKERLY: Not on behalf of the
13 State.

14 THE COURT: When we get back we'll excuse
15 Mr. Brady and get somebody in his spot and start there at
16 the top and go to the bottom row -- or Mr. Perez and Mr.
17 Brady.

18 Thank you folks.

19 (Lunch recess taken.)

20 THE COURT: Back on the record in C131341,
21 State of Nevada versus James Chappell. The record will
22 reflect the presence of Mr. Chappell, with his attorneys,
23 the State's attorneys, in the presence of our prospective
24 jurors.

25 I need to get some folks to fill up the

134

1 two seats, since we excused Mr. Perez and Mr. Brady. I
2 would like, Candice Ruiz to come up here, please, Badge 81
3 and Davita Curtis, Badge 82.

4 We'll start with Ms. Ruiz. So Mr.
5 Owens.

6 MR. OWENS: Okay. We're with Ms. Ruiz.

7 THE COURT: Yes.

8 MR. OWENS: Hello.

9 PROSPECTIVE JUROR: Hello.

10 MR. OWENS: How are you doing?

11 PROSPECTIVE JUROR: Good.

12 MR. OWENS: Were you able to keep up with
13 everything this morning?

14 PROSPECTIVE JUROR: Yes.

15 MR. OWENS: In your questionnaire, you
16 indicated you like to watch Court TV and some of those
17 kinds of shows?

18 PROSPECTIVE JUROR: Yes.

19 MR. OWENS: You're a hobbyist or fan of
20 courtroom drama?

21 PROSPECTIVE JUROR: Yes.

22 MR. OWENS: That is a very popular thing.
23 A lot of people are into that. Do you have a problem
24 understanding there is a difference between real life and
25 TV when it comes to those kinds of shows?

135

1 PROSPECTIVE JUROR: No.

2 MR. OWENS: CSI, they do some futuristic
3 things with evidence and things like that. You are not
4 going to hold us to that kind of standard?

5 PROSPECTIVE JUROR: No.

6 MR. OWENS: And so you can try this based
7 on what you see in this courtroom, and what's presented
8 from the jury stand and analyze it in light of what is
9 going on here. Does that sounds fair to you?

10 PROSPECTIVE JUROR: Yes.

11 MR. OWENS: Now, you had indicated that
12 you had some relatives or a relative that was involved in
13 law enforcement?

14 PROSPECTIVE JUROR: Not law enforcement.

15 I have three cousins that are lawyers. One is an assist
16 DA -- it's out in California. I didn't specify that or
17 put it down.

18 MR. OWENS: One is in California.

19 PROSPECTIVE JUROR: All three are in
20 California.

21 MR. OWENS: One is an assistant DA?

22 PROSPECTIVE JUROR: One is an assistant
23 DA in San Mateo County, and a cousin and a brother, I'm
24 not sure exactly.

25 MR. OWENS: Do you see them often.

136

1 PROSPECTIVE JUROR: I see the girl cousin
2 who is married to the assist DA often, because her aunt
3 lives here. My aunt lives here -- her mom.

4 MR. OWENS: Do you talk about cases and
5 things like that?

6 PROSPECTIVE JUROR: No.

7 MR. OWENS: So kind of like a TV thing.
8 We need to make sure you'll try this case and make your
9 decision on what you hear from the courtroom here, rather
10 then something you might have heard from somebody else?

11 PROSPECTIVE JUROR: Yes.

12 MR. OWENS: You're involved in property
13 protection. That's not your thing?

14 PROSPECTIVE JUROR: No.

15 MR. OWENS: You indicated I think -- let
16 me see here -- something about shoplifters.

17 PROSPECTIVE JUROR: On a daily occasion.

18 MR. OWENS: That is just from working in
19 retail.

20 PROSPECTIVE JUROR: Yes.

21 MR. OWENS: You indicate that there is
22 nothing based upon your experience that would make you --
23 make it difficult for you to be fair and impartial to both
24 parties in this case. You could be fair?

25 PROSPECTIVE JUROR: Yes.

137

1 MR. OWENS: There weren't any issues race
2 or racial bias that would cause a problem here?

3 PROSPECTIVE JUROR: No.

4 MR. OWENS: And as far as the death
5 penalty goes, there are four options available to the
6 jury. Do you have a problem with the idea that there are
7 four choice a jury can choose from?

8 PROSPECTIVE JUROR: No problem.

9 MR. OWENS: Is it important to have
10 options, not all murders are the same.

11 PROSPECTIVE JUROR: Yes, it's important.

12 MR. OWENS: You feel you can wait and keep
13 an open mind until you've heard all the facts and
14 circumstances before you decide what should happen?

15 PROSPECTIVE JUROR: Yes.

16 MR. OWENS: You have no problem with the
17 idea of discussing your feelings with other members of the
18 jury?

19 PROSPECTIVE JUROR: In deliberation?

20 MR. OWENS: Yes.

21 PROSPECTIVE JUROR: No problem.

22 MR. OWENS: And you think it's important
23 to have that kind of process where there's a discussion of
24 facts and circumstances?

25 PROSPECTIVE JUROR: Yes.

138

1 MR. OWENS: We've got twelve instead of
2 one person, right. Are you willing to keep an open mind
3 until you've heard all the evidence and mitigation and
4 evidence in aggravation before you decide what is
5 appropriate?

6 PROSPECTIVE JUROR: Yes.

7 MR. OWENS: Can you consider all four
8 forms of punishment before you decide which one is the
9 right one?

10 PROSPECTIVE JUROR: I can consider it, but
11 I'm for the death penalty.

12 MR. OWENS: When you say you are for the
13 death penalty, you don't have a problem with that as one
14 of the options?

15 PROSPECTIVE JUROR: No.

16 MR. OWENS: And you don't -- you might be
17 leaning one way or the other already, that's okay. As
18 long as at this point you don't just say I'm not going to
19 consider everything, you know. You can't exclude things
20 and keep an open mind about all four at this point. You
21 understand that?

22 PROSPECTIVE JUROR: Yes.

23 MR. OWENS: At some point, after you have
24 heard the facts and circumstances, you are free to say,
25 I'm excluding those. You may decide that the death

139

1 penalty feels appropriate, but you need to be able to say
2 you'll consider all four, correct?

3 PROSPECTIVE JUROR: Yes.

4 MR. OWENS: Do you feel that you can come
5 back with the appropriate judgment in this case?

6 PROSPECTIVE JUROR: Yes.

7 MR. OWENS: Do you have a problem with the
8 idea of sitting in judgment of another person?

9 PROSPECTIVE JUROR: No.

10 MR. OWENS: If after hearing all of the
11 evidence in this case you felt that the death penalty was
12 the appropriate sentence, would you be able to do that?

13 PROSPECTIVE JUROR: Yes.

14 MR. OWENS: There was one question in here
15 where you were asked -- well, there were several about the
16 death penalty. And you were asked if you would
17 automatically vote for the death penalty or automatically
18 vote against the death penalty. On one of these
19 questions -- I think it's 49 -- you said you'd
20 automatically vote for the death penalty.

21 You may not have understood the question.
22 What that means, when you said I'd automatically vote for
23 it, that means you'd vote for it without hearing anything
24 or considering everything else.

25 PROSPECTIVE JUROR: No. I'd take into

140

1 consideration all of the evidence.

2 MR. OWENS: And, in fact, on the next
3 question you said just that, would consider but lien and
4 choose death penalty. That means you're leaning against
5 the death penalty, but would consider all four forms of
6 punishment?

7 PROSPECTIVE JUROR: Yes.

8 MR. OWENS: If you felt, after hearing all
9 of the evidence in the case, there were some things that
10 made you feel like the death penalty wasn't the
11 appropriate punishment, you would be able to return that
12 verdict as well?

13 PROSPECTIVE JUROR: Yes.

14 MR. OWENS: Now on question 54, you said
15 why would you not be able to serve on the jury, and you
16 said something about the race of the Defendant. You said
17 you already had some opinions. Are your opinions about
18 race such that it would make you unable to be fair to both
19 the Defendant and the State in this case?

20 PROSPECTIVE JUROR: No.

21 MR. OWENS: Because you were suggesting in
22 here that you might be might -- it make you biased. As
23 you sit here right now, do you think race is an issue for
24 you in the trial you hear?

25 PROSPECTIVE JUROR: No.

141

1 race tends to either come in and try to do some kind of a
2 con or some kind of shoplifting or threaten in some way
3 where I've already had my own opinions of them.

4 MR. SCHIECK: You talked about that in
5 your questionnaire also. You said I work in retail. In
6 90 to 95 percent of the time, they are shoplifters. Who
7 are you talking about.

8 PROSPECTIVE JUROR: Unfortunately,
9 African-American or Hispanic mainly.

10 MR. SCHIECK: I have been in retail for
11 over ten years and plainly do not trust them.

12 PROSPECTIVE JUROR: When it comes to
13 work.

14 MR. SCHIECK: Well -- and so in your
15 opinion 90 to 95 percent of the people that are minorities
16 that come in your shop are shoplifters?

17 PROSPECTIVE JUROR: Unfortunately, yes,
18 sir.

19 MR. SCHIECK: You haven't changed that
20 opinion when you got here? You still believe that?

21 PROSPECTIVE JUROR: When it comes to work,
22 yes.

23 MR. SCHIECK: You're saying you plainly do
24 not trust them?

25 PROSPECTIVE JUROR: Yes.

143

1 MR. OWENS: As you sit there now, you feel
2 you could be fair to both sides and judge this case on the
3 evidence?

4 PROSPECTIVE JUROR: Yes.

5 MR. OWENS: Thank you. Pass for cause,
6 your Honor.

7 THE COURT: Mr. Schieck.

8 MR. SCHIECK: Ms. Ruis, I just have a few
9 questions for you. Perhaps I'm confused by some of your
10 answers. But let me read this one answer to you and tell
11 me if this is correct. This is what you wrote when you
12 came in for your questionnaire.

13 Because of the race of the Defendant, I
14 already have opinions about them, based on appearance, and
15 it's not fair to the Defendant.

16 Okay. Was that your opinion when you
17 wrote your questionnaire?

18 PROSPECTIVE JUROR: At the time when I read
19 the questionnaire. This is my first time I have ever
20 severed on a jury, so I didn't -- I don't -- I didn't
21 understand the process.

22 MR. SCHIECK: What did you mean by because
23 of the race of the Defendant.

24 PROSPECTIVE JUROR: Where I work I have to
25 deal with a lot of different ethnic people and a specific

142

1 MR. SCHIECK: Okay.

2 PROSPECTIVE JUROR: When it comes to work.
3 Like I said, I didn't understand how this worked.

4 MR. SCHIECK: Well, you're talking about
5 people stealing from your work, correct?

6 PROSPECTIVE JUROR: Yes.

7 MR. SCHIECK: You don't trust them, and
8 you believe they are going to steal?

9 PROSPECTIVE JUROR: Yes.

10 MR. SCHIECK: And, again, in your other
11 question you indicated that it's not fair to the Defendant
12 because of his race. Do you think you can be a fair
13 juror, given what you told us?

14 PROSPECTIVE JUROR: With the -- if I have
15 to put work the work perspective. But with -- now that
16 I've seen and understand and heard different questions and
17 opinions I can be fair.

18 MR. SCHIECK: Now, you also, with respect
19 to the death penalty, said you would consider all forms of
20 punishment, but lean and choose the death penalty. Is
21 that what you wrote?

22 PROSPECTIVE JUROR: Yes.

23 MR. SCHIECK: So you already decided that
24 the death penalty was appropriate in this case?

25 PROSPECTIVE JUROR: Well -- well, I'm for

144

1 the death penalty. I didn't chose that that's what should
2 happen. I want to be able to hear all of the facts
3 first.

4 MR. SCHIECK: You said if someone is
5 convicted -- this is an eye for an eye question -- you
6 said the convict should receive the same crime as
7 punishment. So if someone commits murder you believe they
8 should lose their life as punishment?

9 PROSPECTIVE JUROR: Yes.

10 MR. SCHIECK: That's your brief?

11 PROSPECTIVE JUROR: Yes.

12 MR. SCHIECK: In this case you have
13 already been told Mr. Chappell has been convicted of
14 murder, so basically you made up your mind that the death
15 penalty is the appropriate punishment based on that?

16 PROSPECTIVE JUROR: Basically.

17 MR. SCHIECK: So with all of the factors
18 we've discussed, you pretty much said what your opinion
19 is?

20 PROSPECTIVE JUROR: My opinion --

21 MR. SCHIECK: Your opinion of punishment
22 in this case.

23 PROSPECTIVE JUROR: Yes.

24 MR. SCHIECK: We would challenge for
25 cause, your Honor.

145

1 all different people?

2 PROSPECTIVE JUROR: Yes.

3 MS. WECKERLY: So there's nothing about
4 that that would make you prejudge the facts of this case
5 or have an opinion about it already?

6 PROSPECTIVE JUROR: No.

7 MS. WECKERLY: You also mentioned, I think
8 it was in your questionnaire, that your husband's father
9 was abusive?

10 PROSPECTIVE JUROR: Yes.

11 MR. OWENS: Was that to his wife or your
12 mother-in-law?

13 PROSPECTIVE JUROR: Yes.

14 MS. WECKERLY: Was that something that you
15 experienced or something your husband grew up with?

16 PROSPECTIVE JUROR: No, just when he was a
17 child. They divorced when he was 8. I think just what he
18 told me.

19 MS. WECKERLY: Do you have contact with
20 your mother-in-law?

21 PROSPECTIVE JUROR: They are both deceased
22 now.

23 MS. WECKERLY: Did you ever have contact?

24 PROSPECTIVE JUROR: Yes.

25 MS. WECKERLY: When you were in contact

147

1 THE COURT: Thank you. As to Ms. Curtis.
2 Ms. Weckerly.

3 MS. WECKERLY: Ma'am, I read that you work
4 as a court clerk. Where is that?

5 PROSPECTIVE JUROR: North Las Vegas
6 municipal Court.

7 MS. WECKERLY: Are you in the courtroom or
8 in the records area?

9 PROSPECTIVE JUROR: The courtroom.

10 MS. WECKERLY: So you see a lot of
11 misdemeanor trials?

12 PROSPECTIVE JUROR: Yes.

13 MS. WECKERLY: Anything about -- I'm sure
14 you have a lot of experience seeing victims of domestic
15 violence come in and testify, or maybe not testify in some
16 situations. Anything about that that would make it hard
17 for you to be an impartial juror in this case?

18 PROSPECTIVE JUROR: No.

19 MS. WECKERLY: You can be impartial?

20 PROSPECTIVE JUROR: I don't think my
21 experience will make me not be impartial.

22 MS. WECKERLY: Well, I mean, you would
23 assume you've kind of seen the range of domestic violence
24 victims, some maybe have an agenda, some may be scared,
25 some may be coming in and testifying, all sorts of things,

146

1 with her was the abusive guy out of the picture at that
2 point?

3 PROSPECTIVE JUROR: Yes.

4 MS. WECKERLY: So nothing about that would
5 influence you in any way?

6 PROSPECTIVE JUROR: No.

7 MS. WECKERLY: You mentioned on the death
8 penalty that you could consider it in some circumstances?

9 PROSPECTIVE JUROR: I could consider it,
10 but frankly under the circumstances I would be leaning
11 against it.

12 MS. WECKERLY: Why is that?

13 PROSPECTIVE JUROR: It should be reserved
14 for the most heinous of circumstances, like Jeffery
15 Dahmer.

16 MS. WECKERLY: So serial killers?

17 PROSPECTIVE JUROR: Yes.

18 MS. WECKERLY: You understand in the State
19 of Nevada there are certain requirements that have to be
20 met before you can consider the death penalty. And it's a
21 potential punishment for more than serial killers?

22 PROSPECTIVE JUROR: Yes.

23 MS. WECKERLY: That's just the law. There
24 are certain factors that have to be present, but it's not
25 reserved for people that kill several people. Do you

148

1 accept that as -- is that how you would structure the law,
2 if you could, or more limiting than that?

3 PROSPECTIVE JUROR: If I was a
4 legislature, I might want to make it more limiting. But I
5 understand that it's not how it currently is.

6 MS. WECKERLY: And because you have these
7 feelings -- and you know their really aren't any right or
8 wrong answers here. But because you hold that opinion, do
9 you think you could consider it in a case like this?

10 PROSPECTIVE JUROR: I could consider it.
11 But the State would have to present a lot of evidence of a
12 lot of aggravating factors for me to think it was
13 appropriate before I could consider it. Yes.

14 MS. WECKERLY: And you are going to hear,
15 because of the nature of this hearing, that you'll hear
16 about the crime itself, obviously. And you'll hear some
17 background, I would assume, about the defendant. And other
18 factors related to the case. Are you someone who can take
19 in all that information and make a decision on what you
20 think is the appropriate punishment?

21 PROSPECTIVE JUROR: Based on the evidence
22 I hear, yes.

23 MS. WECKERLY: You said a moment ago --
24 maybe I misheard you. The State would have to present
25 several aggravating circumstances?

149

1 PROSPECTIVE JUROR: Well, not necessarily
2 several different things, but that -- I mean to show that
3 the aggravating circumstances were aggravating enough, you
4 know, to warrant the death penalty.

5 MS. WECKERLY: And you'll get a definition
6 of what those are from the judge, what the law is on that.
7 Would you be able to follow that, or maybe you have your
8 own standard of, this is what I consider aggravating,
9 versus what the law might be?

10 PROSPECTIVE JUROR: I believe I can follow
11 instructions.

12 MS. WECKERLY: If you believe the
13 aggravating circumstances have been proven beyond a
14 reasonable doubt that's when you start considering the
15 death penalty with your fellow juror members. And at that
16 point, do you think you could be the person that actually
17 marks the verdict form that says death penalty?

18 PROSPECTIVE JUROR: I would be
19 uncomfortable with it.

20 MS. WECKERLY: Sure. I don't think that
21 that's something everyone would ever take lightly. And
22 certainly it wouldn't be an easy decision for somebody. If
23 you believe that that's the appropriate punishment, could
24 you do that?

25 PROSPECTIVE JUROR: I believe I could,

150

1 yes.

2 MS. WECKERLY: Do you have concerns at all
3 about your ability to sit on a case like this, where it's
4 kind of a strange setting, I'm sure. You're not going to
5 hear a whole trial when you get picked for jury duty, but
6 it's a very narrow question we're asking here.

7 PROSPECTIVE JUROR: My main concern is
8 hearing evidence about the crime. And if it gets detailed
9 about violence, and I have a hard time processing that --

10 MS. WECKERLY: Can you talk more about
11 that. What do you mean a problem processing that?

12 PROSPECTIVE JUROR: I just, as someone
13 else mentioned, I don't like watching the news, especially
14 talking about violent crimes and things. I tend to
15 internalize and empathize with the victim. I just get
16 very depressed.

17 MS. WECKERLY: Well, you'll be -- in
18 presenting this situation to you, you'll be asked to look
19 at crime scene photographs, which are pretty graphic. And
20 also photographs from the autopsy. And they will be
21 displayed for you as part of the evidence in this case,
22 part of what the information you have to be evaluating.
23 Is that going to be too hard for you, or do you think
24 you're going to be able to do that?

25 PROSPECTIVE JUROR: It would be

151

1 disturbing.

2 MS. WECKERLY: It's kind of a hard
3 process, because we kind of have to ask you up front are
4 you going to be able to do it, and you kind of don't know
5 what you're going to see. But that's sort of the only way
6 to do it.

7 PROSPECTIVE JUROR: I would rather not.

8 MS. WECKERLY: I need to know if you can.

9 PROSPECTIVE JUROR: It would probably not
10 get sick seeing them.

11 MS. WECKERLY: Okay. Anything better than
12 not getting sick. Can you take in the information.

13 PROSPECTIVE JUROR: I think I could
14 separate logically how that pertains, how it would pertain
15 to this case and the decision we have to make. Separate
16 from my emotions about it.

17 MS. WECKERLY: You think you'd be able to
18 do that?

19 PROSPECTIVE JUROR: I think so.

20 MS. WECKERLY: You also mentioned -- I
21 don't want you to tell me what you remember, but you have
22 some memory of this case?

23 PROSPECTIVE JUROR: Yes.

24 MS. WECKERLY: Would that have been --
25 without saying what it was you remember about it --

152

1 through a news account?
 2 PROSPECTIVE JUROR: Yes.
 3 MS. WECKERLY: And you are able to
 4 separate whatever you may have heard and make your
 5 decision solely on what you hear in the courtroom?
 6 PROSPECTIVE JUROR: Yes.
 7 MS. WECKERLY: Knowing about what you
 8 heard about in the back of your mind.
 9 PROSPECTIVE JUROR: No -- for the verdict,
 10 no.
 11 MS. WECKERLY: You'll be able to make a
 12 verdict based on what you hear here?
 13 PROSPECTIVE JUROR: Yes.
 14 MS. WECKERLY: Earlier this morning you
 15 said you've had some family members who have had contact
 16 with law enforcement. Was that right?
 17 PROSPECTIVE JUROR: I have family members
 18 that have been convict of crimes, yes.
 19 MS. WECKERLY: Are those situations such
 20 that you think they were treated fairly?
 21 PROSPECTIVE JUROR: Yes.
 22 MS. WECKERLY: No bad feelings about what
 23 happened to some of those family members?
 24 PROSPECTIVE JUROR: No. Their treatment
 25 was appropriate.

153

1 MS. WECKERLY: And they're still under
 2 sentences and in custody?
 3 PROSPECTIVE JUROR: One is.
 4 MS. WECKERLY: Were they prosecuted by the
 5 DA's office?
 6 PROSPECTIVE JUROR: Actually the one, I
 7 think, is a felony and was actually in Utah. But he had
 8 had prior misdemeanors here. My sister-in-law lives here.
 9 We didn't have contact with her. I don't know -- she's
 10 actually deceased.
 11 MS. WECKERLY: But nothing about that
 12 causes you any concern about your ability to be fair?
 13 PROSPECTIVE JUROR: No.
 14 MS. WECKERLY: You wrote on your
 15 questionnaire that nobody is beyond redemption. Do you
 16 recall that?
 17 PROSPECTIVE JUROR: Yes. I would like to
 18 believe that nobody is beyond redemption.
 19 MS. WECKERLY: This is prying into your
 20 personal belief system. In this case it's important. Is
 21 that like a religious belief that you have?
 22 PROSPECTIVE JUROR: I think so, yes.
 23 MS. WECKERLY: Because you have that
 24 belief, is that something important that you would --
 25 would that make you unable to impose a death sentence?

154

1 PROSPECTIVE JUROR: I think it would have
 2 bearing on it. I don't know that I would be -- I wouldn't
 3 think I would become completely unable to do it. It's
 4 something I would be strongly considering.
 5 MS. WECKERLY: Even though you have that
 6 belief, you're telling us you'd still consider it?
 7 PROSPECTIVE JUROR: Yes.
 8 MS. WECKERLY: Thank you. Pass for cause,
 9 your Honor.
 10 THE COURT: Thank you. Mr. Patrick.
 11 MR. PATRICK: Thank you, your Honor.
 12 Ms. Curtis, I'd like to ask you a little
 13 more about what Ms. Weckerly was talking about, the photos
 14 that may be shown that may not be pretty to look at.
 15 Then you mentioned that you may you have a
 16 tendency to empathize with the victim.
 17 Do you think seeing those types of
 18 pictures and knowing that that's something you have a
 19 tendency to do, do you think that would stop you from
 20 making a fair decision and looking at all of the evidence?
 21 PROSPECTIVE JUROR: No, I don't think
 22 so.
 23 MR. PATRICK: Now, one of your family
 24 members you said was still under sentencing for a
 25 molestation charge?

155

1 PROSPECTIVE JUROR: Yes, sir.
 2 MR. PATRICK: If something like that were
 3 to come up would that make you think one way or the other
 4 about what penalty you should be imposing?
 5 PROSPECTIVE JUROR: No. That would be up
 6 to the crime.
 7 MR. PATRICK: Now, you say that your
 8 sister had the drug abuse problem, and when she was high
 9 she would act differently then when she wasn't high.
 10 PROSPECTIVE JUROR: Yes..
 11 MR. PATRICK: And you could attribute that
 12 to the drug use.
 13 PROSPECTIVE JUROR: Yeah, I think so.
 14 MR. PATRICK: Was she nicer, calmer,
 15 better when she wasn't high?
 16 PROSPECTIVE JUROR: She was usually more
 17 aggressive when she was high.
 18 MR. PATRICK: Then I think Ms. Weckerly
 19 touched upon this, about your husband's father was an
 20 abusive man?
 21 PROSPECTIVE JUROR: Yes.
 22 MR. PATRICK: You never had contact with
 23 him?
 24 PROSPECTIVE JUROR: No.
 25 MR. PATRICK: Have you ever had in depth

156

1 conversations with your husband about what he witnessed a
2 far as his father's abuse?

3 PROSPECTIVE JUROR: Not in detail, no. I
4 just -- actually I don't know that I have heard from him.
5 Maybe just my mother-in-law mention that her husband had
6 been abusive.

7 MR. PATRICK: Did you have detailed
8 conversations with her about that?

9 PROSPECTIVE JUROR: Not more than when he
10 was drunk he hit her. And once he took some possessions
11 she had and took them outside and burned them.

12 MR. PATRICK: Nothing about any of those
13 conversations would make you more or less likely to
14 believe somebody or more or less likely to give a certain
15 punishment?

16 PROSPECTIVE JUROR: No.

17 MR. PATRICK: You work in North Las Vegas
18 municipal Court?

19 PROSPECTIVE JUROR: Yes.

20 MR. PATRICK: So you hear the judge talk
21 about laws, and the judge is going to give you laws that
22 you are supposed to follow if you are on this jury.

23 PROSPECTIVE JUROR: Yes.

24 MR. PATRICK: And you'd be able to listen
25 to what he says and follow whatever he says, as far as

157

1 are you?

2 PROSPECTIVE JUROR: Fine.

3 MS. WECKERLY: Good. You were coughing
4 earlier, are you okay now?

5 PROSPECTIVE JUROR: I have allergies to
6 dirt.

7 MS. WECKERLY: You mentioned on your
8 questionnaire that -- I think it was a step-daughter had
9 some drug problems?

10 PROSPECTIVE JUROR: Yes.

11 MS. WECKERLY: Was she living with you at
12 the time these problems were going on?

13 PROSPECTIVE JUROR: No. But as a result
14 of her drug use, we ended up raising her two children.

15 MS. WECKERLY: So I assume that was sort
16 of a long term problem, if you ended up raising her
17 children?

18 PROSPECTIVE JUROR: Not after we were
19 given custody of her children. I have not seen her
20 since.

21 MS. WECKERLY: But you and your wife had
22 to take responsibility for the children?

23 PROSPECTIVE JUROR: Yes.

24 MS. WECKERLY: Do you have contact with
25 her now?

159

1 what the law would tell you to do as a juror?

2 PROSPECTIVE JUROR: Yes.

3 MR. PATRICK: You think that even though
4 you have some reservations on the death penalty, if that's
5 what the law requires and that's what you thought was
6 appropriate, you would be able to make that choice out of
7 those four choices if that's what you had to do?

8 PROSPECTIVE JUROR: Yes.

9 MR. PATRICK: Do you think you would be a
10 fair and impartial juror on this?

11 PROSPECTIVE JUROR: Unfortunately, yes.

12 MR. PATRICK: Unfortunately, yes?

13 PROSPECTIVE JUROR: Because I really don't
14 want to do it.

15 MR. PATRICK: You don't want to be on the
16 jury?

17 PROSPECTIVE JUROR: No.

18 MR. PATRICK: Can you sit in judgment of
19 Mr. Chappell with twelve people of your like mind and be
20 on this jury?

21 PROSPECTIVE JUROR: Probably, yes.

22 MR. PATRICK: Pass for cause.

23 THE COURT: Ms. Weckerly, George Smith,
24 Badge 22.

25 MS. WECKERLY: Good afternoon, sir. How

158

1 PROSPECTIVE JUROR: No.

2 MS. WECKERLY: You mentioned also a
3 grandson with problems with law enforcement.

4 PROSPECTIVE JUROR: One of the boys was in
5 the drug scene in California. He ended up doing time in
6 juvenile detention. He's out now, seeming doing fine.

7 MS. WECKERLY: A little more on track?

8 PROSPECTIVE JUROR: Absolutely.

9 MS. WECKERLY: Do you think he was treated
10 fairly?

11 PROSPECTIVE JUROR: Yes.

12 MS. WECKERLY: How about when your step
13 daughter -- was law enforcement ever involved with her?

14 PROSPECTIVE JUROR: No. She was in the
15 court system, but for negligent. That was the basis of
16 the charges.

17 MS. WECKERLY: So they never had any drug
18 charges against her even though that was the problem?

19 PROSPECTIVE JUROR: Not specifically,
20 no.

21 MS. WECKERLY: You wrote on your
22 questionnaire that you're someone that can consider the
23 death penalty as a potential punishment?

24 PROSPECTIVE JUROR: Yes.

25 MS. WECKERLY: You still feel that way

160

1 after sitting here during jury selection?
 2 PROSPECTIVE JUROR: Yes.
 3 MS. WECKERLY: And I assume, as I
 4 discussed with some of the jurors, that you can listen to
 5 what is present by both sides?
 6 PROSPECTIVE JUROR: Yes.
 7 MS. WECKERLY: Then make a decision?
 8 PROSPECTIVE JUROR: Yes.
 9 MS. WECKERLY: You're not someone who will
 10 automatically vote for the death penalty?
 11 PROSPECTIVE JUROR: Depends on the
 12 circumstances.
 13 MS. WECKERLY: You are able to evaluate
 14 those fairly?
 15 PROSPECTIVE JUROR: Yes.
 16 MS. WECKERLY: Thank you, sir. Pass for
 17 cause.
 18 THE COURT: Mr. Patrick.
 19 MR. PATRICK: Thank you, judge. Good
 20 afternoon, Mr. Smith.
 21 PROSPECTIVE JUROR: Good afternoon.
 22 MR. PATRICK: In your questionnaire you
 23 mentioned you worked in justice court?
 24 PROSPECTIVE JUROR: I do.
 25 MR. PATRICK: What do you do there?

161

1 PROSPECTIVE JUROR: Part-time legal
 2 assistant in the office.
 3 MR. PATRICK: Do you ever go in court and
 4 watch the proceedings?
 5 PROSPECTIVE JUROR: Yes.
 6 MR. PATRICK: Also I believe you are part
 7 of Metro volunteers?
 8 PROSPECTIVE JUROR: Yes.
 9 MR. PATRICK: What do you do with that?
 10 PROSPECTIVE JUROR: Well, Metro volunteers
 11 do a lot of things. We help direct traffic. River runs
 12 coming up. I'm exited about that. Just a lot of
 13 community activities that funnel through Metro, I come
 14 down to volunteer.
 15 MR. PATRICK: As a volunteer for Metro, do
 16 you carry a firearm?
 17 PROSPECTIVE JUROR: I'm not allow to.
 18 MR. PATRICK: Do you have authorization to
 19 make arrests.
 20 PROSPECTIVE JUROR: No.
 21 MR. PATRICK: Do you think with all of
 22 this involvement in law enforcement, you can be fair and
 23 impartial on this jury?
 24 PROSPECTIVE JUROR: I believe so, yes.
 25 MR. PATRICK: And let's say that you are

162

1 on this jury and for whatever reason the jury comes back
 2 with something besides the death penalty. Would you feel
 3 that you would have to explain those actions to members of
 4 Metro that you work with why you did that?
 5 PROSPECTIVE JUROR: No!
 6 MR. PATRICK: Okay.
 7 PROSPECTIVE JUROR: I might add that I was
 8 with the Flagstaff PD to get through college. That's why
 9 I went into that area, to do public service.
 10 MR. PATRICK: But none of that would make
 11 you feel strongly one way or the other whether or not the
 12 death penalty is imposed?
 13 PROSPECTIVE JUROR: Absolutely not.
 14 MR. PATRICK: You believe you could still
 15 be fair?
 16 PROSPECTIVE JUROR: Yes, sir.
 17 MR. PATRICK: Listen to all the evidence?
 18 PROSPECTIVE JUROR: Yes.
 19 MR. PATRICK: I'm sure as a police officer
 20 there was a lot of times where you were sent to calls and
 21 there were two sides?
 22 PROSPECTIVE JUROR: Yes.
 23 MR. PATRICK: Both side have a story?
 24 PROSPECTIVE JUROR: Yes.
 25 MR. PATRICK: Neither would tell the same

163

1 story?
 2 PROSPECTIVE JUROR: True.
 3 MR. PATRICK: It would be your job to
 4 figure out who is lying and who is telling the truth, who
 5 to believe?
 6 PROSPECTIVE JUROR: Yes.
 7 MR. PATRICK: Would you be impartial in
 8 bringing that experience to this case and do the same
 9 thing here?
 10 PROSPECTIVE JUROR: Absolutely.
 11 MR. PATRICK: Now, the fact that your
 12 step-daughter and grandson have involvement with drugs, is
 13 that — if it was to show in this case there was drug
 14 involvement, would that change your opinion as to what
 15 punishment should be given out?
 16 MR. OWENS: I would object. That's asking
 17 for a prediction.
 18 THE COURT: Why don't you rephrase what
 19 you're asking about.
 20 MR. PATRICK: If drugs -- if it's shown
 21 that drugs are a part of this case, would you give more or
 22 less weight to somebody's testimony regarding that because
 23 of the drug use?
 24 PROSPECTIVE JUROR: Possibly.
 25 MR. PATRICK: Which way do you think you

164

1 would tend to believe --
2 PROSPECTIVE JUROR: Depends on the
3 circumstances.
4 MR. OWENS: Same objection, your Honor.
5 THE COURT: I'll allow the answer. He got
6 halfway through the answer, anyway.
7 MR. PATRICK: So even though there was
8 some drug involvement, you'd still listen to both sides?
9 PROSPECTIVE JUROR: Absolutely.
10 MR. PATRICK: You wouldn't make a
11 determination until you heard all the evidence?
12 PROSPECTIVE JUROR: That's correct.
13 MR. PATRICK: Thank you. Pass for cause,
14 your Honor.
15 THE COURT: Thank you, very much.
16 Mr. Owens or Ms. Weckerly, Ms. Meyrick, 23.
17 MR. OWENS: How do you feel about the idea
18 of sitting in judgment on another person in this kind of
19 situation?
20 PROSPECTIVE JUROR: Judgment,
21 uncomfortable.
22 MR. OWENS: Do you feel it's necessary
23 from time to time?
24 PROSPECTIVE JUROR: Yes.
25 MR. OWENS: Do you feel comfortable

165

1 personally that you could do this?
2 PROSPECTIVE JUROR: Yes.
3 MR. OWENS: When you were answering
4 questions about the death penalty, you had inserted a word
5 in one of the questions. Do you remember that?
6 What are your feelings about the death
7 penalty. You said it depends on the case. I would be
8 preferable with the death sentence, then you put in,
9 "not", and underlined it and added it. Do you know what
10 that means. Do you want to take a look at that?
11 PROSPECTIVE JUROR: If I may.
12 MR. OWENS: May, I your Honor?
13 THE COURT: All right. Yes.
14 MR. OWENS: At the bottom right there.
15 PROSPECTIVE JUROR: It's uncomfortable not
16 comfortable with the death sentence.
17 MR. OWENS: What do you mean by that?
18 PROSPECTIVE JUROR: I don't like to pass
19 judgment on anyone.
20 MR. OWENS: Do you feel that that is
21 something you couldn't do under any circumstance in the
22 case?
23 PROSPECTIVE JUROR: I don't like to do it.
24 But I could do it.
25 MR. OWENS: So you're saying you wouldn't

166

1 be comfortable with it, but you feel like you could come
2 back with a death penalty if it's appropriate?
3 PROSPECTIVE JUROR: If the facts were
4 there.
5 MR. OWENS: And you indicated that you
6 would consider it with certain circumstances. In your
7 explanation you said a person who killed, I would consider
8 a death penalty.
9 PROSPECTIVE JUROR: Yes.
10 MR. OWENS: Is that what you're thinking
11 about, that's one situation?
12 PROSPECTIVE JUROR: Yes.
13 MR. OWENS: But there may be other
14 situations where it's appropriate also?
15 PROSPECTIVE JUROR: Based on the law.
16 MR. OWENS: You just have to look and see
17 what the law is about that.
18 PROSPECTIVE JUROR: Correct.
19 MR. OWENS: You indicated that you felt
20 that it was appropriate to consider all the facts and
21 circumstances before coming to a decision?
22 PROSPECTIVE JUROR: That's correct.
23 MR. OWENS: What does that mean to you.
24 PROSPECTIVE JUROR: Based on the evidence,
25 understanding the situation, make a decision based on

167

1 facts.
2 MR. OWENS: You had had some experience
3 with somebody that had some problems with violence or
4 drugs or something?
5 PROSPECTIVE JUROR: Yes.
6 MR. OWENS: Were you kind of close to that
7 situation at the time?
8 PROSPECTIVE JUROR: Yes.
9 MR. OWENS: How long was that?
10 PROSPECTIVE JUROR: My sister ran away at
11 16. I'm two years older then her. I'm 23.
12 MR. OWENS: So sometime ago.
13 PROSPECTIVE JUROR: Yes.
14 MR. OWENS: Do you harbor bad feelings
15 about what happened there?
16 PROSPECTIVE JUROR: Absolutely.
17 MR. OWENS: Are those feelings such that
18 it might surface and you'd take it out on one side or the
19 other maybe?
20 PROSPECTIVE JUROR: I would have to say, I
21 don't know.
22 MR. OWENS: So it might be possible you
23 are hearing facts and circumstances that triggers
24 something in you, that you think, well, I can't be fair to
25 both sides because of the feeling that I have?

168

1 PROSPECTIVE JUROR: No. I would be able
2 to separate it.
3 MR. OWENS: Okay. So you feel you could
4 be fair?
5 PROSPECTIVE JUROR: Yes.
6 MR. OWENS: Regardless of the feelings
7 that you have that arose from that circumstance?
8 PROSPECTIVE JUROR: Yes.
9 MR. OWENS: Okay. And if after hearing
10 all of the evidence in the case if you felt the death
11 penalty was the appropriate punishment, you feel that you
12 could come back with that judgment?
13 PROSPECTIVE JUROR: Base on the law,
14 yes.
15 MR. OWENS: That's something you feel -- I
16 don't mean you'd feel comfortable, do you feel like you
17 could do that if appropriate?
18 PROSPECTIVE JUROR: Yes.
19 MR. OWENS: Thank you. Pass for cause.
20 THE COURT: Thank you. Mr. Schieck.
21 MR. SCHIECK: Thank you.
22 Ms. Meyrick, a little information that we
23 have on occupation says manager. What type of business do
24 you manage?
25 PROSPECTIVE JUROR: I'm a production

169

1 manager for an advertising department.
2 MR. SCHIECK: So you have a number of
3 people that work under you?
4 PROSPECTIVE JUROR: Correct.
5 MR. SCHIECK: I take it in that position
6 you have to make decisions on a daily basis?
7 PROSPECTIVE JUROR: Correct.
8 MR. SCHIECK: And you're looking for as
9 much information as you can before you make a decision?
10 PROSPECTIVE JUROR: Have to.
11 MR. SCHIECK: In fact, one of your answers
12 states it pretty well. Deciding the appropriate
13 punishment, you said you would be able to decide, but want
14 to know the how, the when, the where, and the who.
15 PROSPECTIVE JUROR: Yes.
16 MR. SCHIECK: So you want all the
17 information you can get before you decide what's
18 appropriate.
19 PROSPECTIVE JUROR: That's correct.
20 MR. SCHIECK: As you sit here right now
21 you have an open mind to hearing everything and making a
22 decision based on the facts and not emotion?
23 PROSPECTIVE JUROR: Correct.
24 MR. SCHIECK: Thank you. Pass for cause,
25 your Honor.

170

1 THE COURT: Thank you. Ms. Weckerly, as
2 to Ms. Cardillo.
3 MS. WECKERLY: How are you doing.
4 PROSPECTIVE JUROR: Good.
5 MS. WECKERLY: You wrote on your
6 questionnaire sort of an interesting answer. You were
7 asked -- the question was, what are your feelings about
8 the criminal justice system. And you wrote, I believe a
9 person is innocent until proven guilty. Which is, of
10 course, a precept that we all accept. But you know now
11 from sitting here we are not at that point in this
12 proceedings. And you are comfortable with that?
13 PROSPECTIVE JUROR: Yes.
14 MS. WECKERLY: Your answer on whether or
15 not you can consider the death penalty, you wrote another
16 sort of interesting answer to me. The question about if
17 you believe in an eye for an eye, you wrote that those
18 statements are too broad. You feel like that?
19 PROSPECTIVE JUROR: Well, I believe each
20 case is specific.
21 MS. WECKERLY: Not every case of first
22 degree murder is the same?
23 PROSPECTIVE JUROR: Right.
24 MS. WECKERLY: So you're not someone who
25 is going to automatically vote one way or another in this

171

1 case?
2 PROSPECTIVE JUROR: No.
3 MS. WECKERLY: And from reading your
4 questionnaire you're someone who would want to hear all of
5 the information, then once you've heard it, you would be
6 able to consider all four possible punishments and make a
7 decision?
8 PROSPECTIVE JUROR: Yes.
9 MS. WECKERLY: Is there anything about the
10 prospect of considering the death penalty as a potential
11 punishment -- I don't want to say that makes you
12 uncomfortable, certainly that's not an easy decision. But
13 are you someone who can consider that as a punishment?
14 PROSPECTIVE JUROR: Yes.
15 MS. WECKERLY: Do you think the death
16 penalty serves a purpose?
17 PROSPECTIVE JUROR: Yes.
18 MS. WECKERLY: If you could be the sole
19 legislator, would you have that as a potential punishment?
20 PROSPECTIVE JUROR: Yes.
21 MS. WECKERLY: You are willing as a juror
22 to listen to both sides in this proceedings?
23 PROSPECTIVE JUROR: Yes.
24 MS. WECKERLY: I'm sure you could
25 communicate with your fellow jurors and make a decision?

172

1 PROSPECTIVE JUROR: Yes.
 2 MS. WECKERLY: Thank you. Pass for
 3 cause.
 4 THE COURT: Thank you. Mr. Patrick.
 5 MR. PATRICK: Good afternoon.
 6 PROSPECTIVE JUROR: Hi.
 7 MR. PATRICK: On the innocent until proven
 8 guilty, Ms. Weckerly said we're not at that point. You
 9 can apply the same principles here that we're basically
 10 starting with a clean slate and listen to all the
 11 evidence and make your decision?
 12 PROSPECTIVE JUROR: Yes.
 13 MR. PATRICK: And that you'd have an open
 14 mind, listen to everything before you decide on
 15 punishment?
 16 PROSPECTIVE JUROR: Yes.
 17 MR. PATRICK: And if you were sitting
 18 where Mr. Chappell was would you like twelve people that
 19 thought like you on the jury?
 20 PROSPECTIVE JUROR: Yes.
 21 MR. PATRICK: Pass for cause, your
 22 Honor.
 23 THE COURT: Thank you, very much.
 24 Ms. Weckerly as to Mr. Ramirez.
 25 MS. WECKERLY: Mr. Ramirez, on your

173

1 questionnaire you wrote that one of your daughters is a
 2 doctor and one is a mortgage banker?
 3 PROSPECTIVE JUROR: Yes.
 4 MS. WECKERLY: Do they live here locally?
 5 PROSPECTIVE JUROR: No. The mortgage
 6 broker does.
 7 MS. WECKERLY: Where does your other
 8 daughter live?
 9 PROSPECTIVE JUROR: Chicago. She works
 10 for Resident Medical.
 11 MS. WECKERLY: She's just completing her
 12 residency?
 13 PROSPECTIVE JUROR: This is her fifth
 14 year. She'll be done in May.
 15 MS. WECKERLY: Okay. You wrote on your
 16 questionnaire that you're someone who can consider the
 17 death penalty as a potential punishment?
 18 PROSPECTIVE JUROR: Yes.
 19 MS. WECKERLY: I'm sure you've listen all
 20 morning and part of the afternoon. It's not something
 21 that you would automatically vote for without hearing all
 22 the information in this case, is it?
 23 PROSPECTIVE JUROR: It's hard to say for
 24 me.
 25 MS. WECKERLY: Why is that?

174

1 PROSPECTIVE JUROR: Because I think that
 2 sometimes they don't enforce it enough.
 3 MS. WECKERLY: I think we have explained
 4 sort of the process. It's a little artificial asking you
 5 to commit now. But the judge is going to give you
 6 instructions at the end of the case. And those
 7 instructions will kind of tell you if you can consider the
 8 death penalty.
 9 PROSPECTIVE JUROR: It's a murder case, is
 10 it not?
 11 MS. WECKERLY: It is. But in the State
 12 of Nevada there are certain factors that have to be
 13 present before a jury can even consider a death sentence
 14 as a possible verdict.
 15 PROSPECTIVE JUROR: That's new to me. I'm
 16 not used to that.
 17 MS. WECKERLY: I don't think that -- I'm
 18 sure most people that come in for jury duty don't realize
 19 that not every case of first degree murder has that as a
 20 potential punishment. But this one does.
 21 PROSPECTIVE JUROR: Well, I come from the
 22 State that does.
 23 MS. WECKERLY: What state is that?
 24 THE COURT: Texas.
 25 MS. WECKERLY: I was going to guess that.

175

1 Will you be able to follow the judge's instructions and
 2 hold the State to its burden?
 3 PROSPECTIVE JUROR: Hard to say.
 4 MS. WECKERLY: Like I talked to this other
 5 lady. I know it's hard to say what you're feelings are
 6 now, but we sort of need you to commit up front that
 7 you'll follow the law.
 8 PROSPECTIVE JUROR: I'll try to.
 9 MS. WECKERLY: Can you convince us more
 10 than that that you will follow the law?
 11 PROSPECTIVE JUROR: Well, I'm just giving
 12 you my opinion.
 13 MS. WECKERLY: Sure.
 14 PROSPECTIVE JUROR: I can say that I can
 15 try to.
 16 MS. WECKERLY: I mean, it's sort of an
 17 unfair question at this point, because I think people have
 18 a general sense of if they're for or against the death
 19 penalty. But in this setting, you know very little about
 20 the facts of the case and you --
 21 PROSPECTIVE JUROR: I do know that there
 22 has been a conviction already.
 23 MS. WECKERLY: That's right. And you will
 24 assume that. And that is the case. But in terms of
 25 punishment, there are four punishments available for first

176

1 degree murder.
 2 PROSPECTIVE JUROR: Like I said, that's
 3 new to me.
 4 MS. WECKERLY: Are you telling us that you
 5 wouldn't be able to follow the judge's instructions?
 6 PROSPECTIVE JUROR: I could try.
 7 MS. WECKERLY: You'll be able to
 8 deliberate?
 9 PROSPECTIVE JUROR: I can try, ma'am.
 10 That's all I can say.
 11 MS. WECKERLY: Are you someone that can
 12 listen to all the information presented?
 13 PROSPECTIVE JUROR: I will try to do that,
 14 yes.
 15 MS. WECKERLY: You'll listen to the
 16 information presented from both sides?
 17 PROSPECTIVE JUROR: Yes, ma'am.
 18 MS. WECKERLY: Then I assume after that
 19 you'll make what you believe to be a fair decision?
 20 PROSPECTIVE JUROR: Yes, I can do that.
 21 MS. WECKERLY: And applying the law that
 22 the judge gives you?
 23 PROSPECTIVE JUROR: Yes.
 24 MS. WECKERLY: Thank you. Pass for
 25 cause.

177

1 THE COURT: Thank you. Mr. Patrick.
 2 MR. PATRICK: Good afternoon,
 3 Mr. Ramirez.
 4 PROSPECTIVE JUROR: Hello.
 5 MR. PATRICK: Do you have any prior
 6 military service?
 7 PROSPECTIVE JUROR: Yes.
 8 MR. PATRICK: What branch?
 9 PROSPECTIVE JUROR: Air force.
 10 MR. PATRICK: Tell me about what you
 11 did.
 12 PROSPECTIVE JUROR: I was assigned to a
 13 search and rescue squad.
 14 MR. PATRICK: Would that be considered
 15 something along the lines of special forces?
 16 PROSPECTIVE JUROR: Yes.
 17 MR. PATRICK: You've had a lot of extra
 18 training?
 19 PROSPECTIVE JUROR: Yes, sir.
 20 MR. PATRICK: What rank did you hold?
 21 PROSPECTIVE JUROR: Staff sergeant.
 22 MR. PATRICK: How long were you in?
 23 PROSPECTIVE JUROR: Six years.
 24 MR. PATRICK: That's impressive. In your
 25 questionnaire you said you were both strongly opposed to

178

1 drugs and domestic violence.
 2 PROSPECTIVE JUROR: Yes.
 3 MR. PATRICK: Have you known anybody that
 4 had a drug problem or domestic violence problems?
 5 PROSPECTIVE JUROR: I have known, where I
 6 used to work at, I used to have a lot of people reporting
 7 to me. And it seems to me it became very prevalent as I
 8 progressed up the chain of command.
 9 MR. PATRICK: Both drugs and domestic
 10 violence?
 11 PROSPECTIVE JUROR: Yeah. Some of the
 12 employees would have kids mixed up with drugs and violence
 13 and anger.
 14 MR. PATRICK: Did you ever talk to the
 15 employees about the problems they were having?
 16 PROSPECTIVE JUROR: Yes.
 17 MR. PATRICK: And would you -- if you
 18 learned that somebody was on drugs or had a history or
 19 domestic violence, would that make you tend to believe
 20 then more or less?
 21 PROSPECTIVE JUROR: They -- it probably
 22 colored my thinking on them.
 23 MR. PATRICK: Colored how?
 24 PROSPECTIVE JUROR: Negative.
 25 MR. PATRICK: You also mentioned in your

179

1 questionnaire the system is too soft.
 2 PROSPECTIVE JUROR: Yes.
 3 MR. PATRICK: And that punishment should
 4 be tougher down the line.
 5 PROSPECTIVE JUROR: Correct.
 6 MR. PATRICK: Could you expand on that?
 7 PROSPECTIVE JUROR: That little girl
 8 that's dead in Florida, that man that killed her. She
 9 would be alive today. Talking about that John Van Que
 10 case.
 11 MR. PATRICK: Was he tried for that?
 12 PROSPECTIVE JUROR: Yes.
 13 MR. PATRICK: Do you know what punishment
 14 he received?
 15 PROSPECTIVE JUROR: The death penalty.
 16 MR. PATRICK: Did you think that that was
 17 appropriate?
 18 PROSPECTIVE JUROR: Yes, sir.
 19 MR. PATRICK: If you were sitting on that
 20 jury you would have voted for that?
 21 PROSPECTIVE JUROR: Yes, sir.
 22 MR. PATRICK: So you say that you believe
 23 in the statement an eye for an eye. Strongly believe in
 24 that statement?
 25 PROSPECTIVE JUROR: Yes, I do.

180

1 MR. PATRICK: Your wife works for an
2 attorney?
3 PROSPECTIVE JUROR: Yes.
4 MR. PATRICK: Don't mention the attorneys
5 name. Do you know what kind of law the attorney
6 practices?
7 PROSPECTIVE JUROR: The lady is a medical
8 malpractice lawyer. And she is an insurance lawyer.
9 MR. PATRICK: So nothing to do with
10 criminal law?
11 PROSPECTIVE JUROR: No.
12 MR. PATRICK: Now, again, they were
13 talking about -- Ms. Weckerly was talking about four
14 punishments, you said that was new to you?
15 PROSPECTIVE JUROR: Yes.
16 MR. PATRICK: What did you mean by that?
17 PROSPECTIVE JUROR: Well, in Texas if
18 convicted of murder, they enforce the death penalty.
19 MR. PATRICK: You don't have four choice,
20 you have one choice?
21 PROSPECTIVE JUROR: Correct.
22 MR. PATRICK: Do you agree with that?
23 PROSPECTIVE JUROR: Yes, I do.
24 MR. PATRICK: If you were sitting where
25 Mr. Chappell was, would you want twelve people like you

181

1 sitting where you're at?
2 PROSPECTIVE JUROR: I doubt it.
3 MR. PATRICK: We challenge for cause.
4 THE COURT: Mr. Owens, as to Ms. Theus.
5 MR. OWENS: How are you?
6 PROSPECTIVE JUROR: Tired.
7 MR. OWENS: Seems like you are kind of
8 tired.
9 PROSPECTIVE JUROR: I work graveyard. I'm
10 good staying up. I work two jobs.
11 MR. OWENS: There's people that are sort
12 of conscientious objectors of the death penalty. They
13 don't think it's appropriate under any circumstances.
14 Seems from what you're writing that you're one of those
15 kinds of people. That you're opposed to the death
16 penalty.
17 PROSPECTIVE JUROR: I don't believe anybody
18 has the right to take somebody's life, period. And just
19 because you take a life doesn't mean you take theirs. I
20 don't believe that, but under certain circumstances, if I
21 have to vote for that, I have to see without a reasonable
22 doubt. But if I have a reasonable doubt, I could not vote
23 for a death penalty.
24 MR. OWENS: Now, you know in this case the
25 Defendant has committed a murder. And he has been found

182

1 guilty of first degree murder. Right?
2 PROSPECTIVE JUROR: Yes.
3 MR. OWENS: And I think you said in here
4 that thou shalt not kill is the law, man or jury. That's
5 kind of what you said a minute ago.
6 PROSPECTIVE JUROR: Right.
7 MR. OWENS: Is that based on religious
8 beliefs?
9 PROSPECTIVE JURORS: Religious and
10 morals.
11 MR. OWENS: Are you a religious person?
12 PROSPECTIVE JUROR: Yes.
13 MR. OWENS: You consider yourself a moral
14 person?
15 PROSPECTIVE JUROR: Yes.
16 MR. OWENS: So you're an individual that
17 tries to live according to your religious principles and
18 morals on a daily basis?
19 PROSPECTIVE JUROR: Yes. But I also
20 believe if you do the crime you should do the time. But
21 I'm one of those strong opinionated person. I believe in
22 doing what is right, no matter what.
23 MR. OWENS: You do the crime, you do the
24 time, that's not a death penalty thing?
25 PROSPECTIVE JUROR: Right.

183

1 MR. OWENS: When you say that thou shalt
2 not kill, man or jury. You're saying juries should not be
3 able to impose the death penalty?
4 PROSPECTIVE JUROR: Once again, I don't
5 like the idea of passing judgment. We all shouldn't pass
6 judgment. But on a certain circumstances, I can pass if I
7 have to.
8 MR. OWENS: Well, you put a couple of
9 exclamation points at the end to emphasize that?
10 PROSPECTIVE JUROR: Right.
11 MR. OWENS: You said you can't be
12 judgmental, but the kind of judgment you're talking about
13 would not include the death penalty?
14 PROSPECTIVE JUROR: You said --
15 MR. OWENS: You said if you had to you
16 could render a judgment, but it wouldn't include the death
17 penalty?
18 PROSPECTIVE JUROR: Under the law, I
19 could.
20 MR. OWENS: Other then the death penalty?
21 PROSPECTIVE JUROR: I can go for all of
22 them, except the death penalty. But, like what I'm saying
23 is if that's what the law says I have the choice of the
24 death penalty, I can. That's what I'm saying.
25 MR. OWENS: Well, the law doesn't say you

184

1 have to give the death penalty. It's just a choice. IF
2 you have a choice, what you are saying is you can't
3 consider the death penalty.

4 PROSPECTIVE JUROR: I didn't say I
5 couldn't consider it. I said I wouldn't like to. I don't
6 think we should. But I could.

7 MR. OWENS: On the section here where
8 you're asked about attitudes regarding the death penalty,
9 you didn't have to circle them, some did. But you circled
10 three of them.

11 PROSPECTIVE JUROR: All except the death
12 penalty.

13 MR. OWENS: You left the death penalty
14 off, right?

15 PROSPECTIVE JUROR: Yes.

16 MR. OWENS: And then down below that you
17 said B and C is okay, but thou shalt not kill. B and C
18 would not include the death penalty, correct?

19 PROSPECTIVE JUROR: All of it is strong
20 and harsh. I think 40 years, 100 hundred years. That's
21 all tough.

22 MR. OWENS: B and C would be okay, but not
23 the death penalty?

24 PROSPECTIVE JUROR: Correct.

25 MR. OWENS: And then where it talked about

185

1 strong moral and religious views about the death penalty,
2 and you said, is it right to say anybody should take life
3 from another person. What did you mean by that?

4 PROSPECTIVE JUROR: The same thing I have
5 been saying. That another human being doesn't have the
6 right to take somebody else's life.

7 MR. OWENS: And you feel that that would
8 include the jurors coming back with a judgment of death.

9 PROSPECTIVE JUROR: Yes.

10 MR. OWENS: They shouldn't be allowed to
11 do that?

12 PROSPECTIVE JUROR: They shouldn't be.

13 MR. OWENS: If you heard all of the
14 evidence in this case and you felt that death was the
15 appropriate verdict, would you be able to come back with
16 that judgment?

17 PROSPECTIVE JUROR: I would be, yes.

18 MR. OWENS: So even though religiously you
19 feel like the death penalty shouldn't be allowed, you feel
20 that that's something you could still do?

21 PROSPECTIVE JUROR: Correct.

22 MR. OWENS: You said that you had a number
23 of individuals close to you that had been involved in the
24 criminal justice system.

25 PROSPECTIVE JUROR: Yes.

186

1 MR. OWENS: I think -- did you say there
2 were four, a brother, a nephew, a husband, and a son?

3 PROSPECTIVE JUROR: Correct. If I keep
4 thinking, there might be more than that. In-laws, that
5 counts to, right, cousins, nephews.

6 MR. OWENS: Have you been close to these
7 people?

8 PROSPECTIVE JUROR: Definitely.

9 MR. OWENS: Now, some of these instances
10 occurred out of state, or are they all here in this area?

11 PROSPECTIVE JUROR: Most of them is right
12 here. A majority I would say is right here.

13 MR. OWENS: Did some of these go to trial?

14 PROSPECTIVE JUROR: All of them -- no, my
15 son hasn't been to trial yet. He's waiting for a trial.

16 MR. OWENS: In this jurisdiction,
17 awaiting trial?

18 PROSPECTIVE JUROR: Correct.

19 MR. OWENS: How old is your son?

20 PROSPECTIVE JUROR: 22.

21 MR. OWENS: When is that trial date coming
22 up?

23 PROSPECTIVE JUROR: I have no idea.

24 MR. OWENS: What's the charge there?

25 PROSPECTIVE JUROR: Assault, domestic

187

1 assault.

2 MR. OWENS: Domestic assault. Is he
3 currently in custody?

4 PROSPECTIVE JUROR: He's in prison.

5 MR. OWENS: He must have had a trial.

6 Unless he's in for something else.

7 PROSPECTIVE JUROR: He was on parole,
8 yeah.

9 MR. OWENS: They revoked him?

10 PROSPECTIVE JUROR: Yeah.

11 MR. OWENS: How often do you see him?

12 PROSPECTIVE JUROR: I just saw him
13 recently. I try every week. It's a recent case. When he
14 was a juvenile he had been in trouble off and on. I am
15 the one that asked the judge to lock him up and put him
16 away.

17 MR. OWENS: That didn't work for him back
18 then?

19 PROSPECTIVE JUROR: They didn't have a
20 work farm. But just in and out of what's that Spring
21 Mountain thing.

22 MR. OWENS: Youth camp. And your husband,
23 what was the situation with him?

24 PROSPECTIVE JUROR: In and out of jail
25 more than half of his life -- burglary, robbery.

188

1 MR. OWENS: Is he in our out.
 2 PROSPECTIVE JUROR: He's out now.
 3 MR. OWENS: When was the last time he had
 4 difficulty with the law?
 5 PROSPECTIVE JUROR: With him?
 6 MR. OWENS: Yeah.
 7 PROSPECTIVE JUROR: Since he got out he's
 8 been pretty good. He hasn't went back.
 9 MR. OWENS: Since he got out of prison.
 10 PROSPECTIVE JUROR: Right, in '98.
 11 MR. OWENS: That's pretty good. That's
 12 awhile ago. What sort of charges were those back then?
 13 PROSPECTIVE JUROR: Burglary, robbery.
 14 MR. OWENS: Anything violent, assault on
 15 anybody?
 16 PROSPECTIVE JUROR: No. I think they just
 17 passed that law at the time that had to do with senior
 18 citizens, so he got a lot of time for that.
 19 MR. OWENS: Then you said there was a
 20 nephew.
 21 PROSPECTIVE JUROR: My nephew is still in
 22 prison.
 23 MR. OWENS: Was that here in Clark County?
 24 PROSPECTIVE JUROR: Yes.
 25 MR. OWENS: What kind of charge was that?

189

1 PROSPECTIVE JUROR: That one was kind of
 2 messed up. I think he was accused of robbery, I believe.
 3 I don't know all the charges, but it was robbery. He was
 4 by himself and five Mexicans, he got accused of
 5 everything. So he was beaten up real bad. It was a bad
 6 case, a biased case.
 7 MR. OWENS: Well on question 32, when you
 8 were asked if you felt like the person was treated fairly
 9 you said yes on some members, not fair on some.
 10 PROSPECTIVE JUROR: That's one of them. I
 11 have been talking about his case. It was at an early age.
 12 He got a lot of time.
 13 MR. OWENS: Then you mentioned a
 14 brother.
 15 PROSPECTIVE JUROR: Yes, my brother.
 16 MR. OWENS: Was that here in town also?
 17 PROSPECTIVE JUROR: Yes.
 18 MR. OWENS: He actually went to prison,
 19 but it was something he didn't do. But because we was
 20 affiliate at the time with gang members, so that's what
 21 happen to him. But back in that situation he went to
 22 prison for my ex-boyfriend and my sister confessed doing
 23 it at the time -- sister boyfriend doing that crime that
 24 he spent the time for in jail.
 25 MR. OWENS: How long ago was that?

190

1 PROSPECTIVE JUROR: Years ago.
 2 MR. OWENS: How is he doing now.
 3 PROSPECTIVE JUROR: Staying out of jail.
 4 MR. OWENS: You said there was some other
 5 ones in your family. Any that are currently pending
 6 trial, other than maybe your son?
 7 PROSPECTIVE JUROR: That's the only one
 8 pending trial.
 9 MR. OWENS: As far as you know.
 10 PROSPECTIVE JUROR: Well, when he was in
 11 the county jail he said he had an assault case. He said
 12 it was self defense, that's why they gave him more time
 13 here. He's got to go back on that and get more time. He
 14 wanted me to check on that. He's not sure how it's
 15 going.
 16 MR. OWENS: That was an incident that
 17 happen in the jail?
 18 PROSPECTIVE JUROR: Yes, in the jail.
 19 MR. OWENS: And some of these had a trial,
 20 pleas of guilt or something. Did you appear in court with
 21 him at any time?
 22 PROSPECTIVE JUROR: Yes.
 23 MR. OWENS: Do you go to court? Did you
 24 ever testify?
 25 PROSPECTIVE JUROR: No. I haven't

191

1 testified for any of them. I was personally a victim one
 2 time and I went to court to testify. Then I was subpoena
 3 again because they did something else and I testified.
 4 MR. OWENS: The only time you've testified
 5 was in your own case?
 6 PROSPECTIVE JUROR: Right.
 7 MR. OWENS: How long ago was that one?
 8 PROSPECTIVE JUROR: That was in like
 9 the -- probably in late 80s, 90s.
 10 MR. OWENS: The other times you would go
 11 to court for family, relatives, sort of like moral
 12 support?
 13 PROSPECTIVE JUROR: Definitely.
 14 MR. OWENS: And the prosecutions against
 15 these people would have been in these courts in this
 16 building or the other building down the street before we
 17 moved?
 18 PROSPECTIVE JUROR: Right.
 19 MR. OWENS: The prosecutor on that case
 20 would have been prosecutors from our office, the DA's
 21 office?
 22 PROSPECTIVE JUROR: Right.
 23 MR. OWENS: It wasn't anything that
 24 Ms. Weckerly or I were involved in?
 25 PROSPECTIVE JUROR: I don't think so.

192

1 MR. OWENS: And you feel after hearing all
2 the facts and circumstances in the case if you thought
3 that the death was the right punishment that that's
4 something you could do?

5 PROSPECTIVE JUROR: Yeah. I know I could.
6 I can.

7 MR. OWENS: That's all I have, your
8 Honor.

9 THE COURT: Pass for cause?

10 MR. OWENS: Yes.

11 THE COURT: Thank you. Mr. Schieck.

12 MR. SCHIECK: Thank you, your Honor.

13 Ms. Theus, just a couple of questions,
14 just to be sure. I mean in the questionnaire you said you
15 would consider the death penalty under certain
16 circumstances.

17 PROSPECTIVE JUROR: Right.

18 MR. SCHIECK: And that's after you had
19 time to read everything that was in here and understood
20 what the questions are about. You want to hear all of the
21 evidence in the case?

22 PROSPECTIVE JUROR: Yes. I want to,
23 yes.

24 MR. SCHIECK: You would follow the law and
25 the instructions?

193

1 PROSPECTIVE JUROR: Definitely.
2 MR. SCHIECK: Thank you. We pass for
3 cause, your Honor.
4 THE COURT: Thank you. Ms. Noahr.
5 MS. WECKERLY: Ma'am, you wrote on your
6 questionnaire that there was experiences in your childhood
7 with your mother and substance abuse with alcohol.

8 PROSPECTIVE JUROR: My Mother, yeah.

9 MS. WECKERLY: Was she the one who was
10 abusing alcohol, or she was the victim of abuse?

11 PROSPECTIVE JUROR: Both my parents
12 were.

13 MS. WECKERLY: And was this something that
14 you were present for as a child, you'd see some of this?

15 PROSPECTIVE JUROR: I was eight years old.
16 My mother divorced my father at that point.

17 MS. WECKERLY: Did you go with your mom?

18 PROSPECTIVE JUROR: Yes.

19 MS. WECKERLY: This is kind of a hard
20 question, do you remember it. You said you were eight
21 years old or younger. Do you remember seeing that?

22 PROSPECTIVE JUROR: Yes. I had two
23 younger sibling that I took care of.

24 MS. WECKERLY: You were the protector?

25 PROSPECTIVE JUROR: Correct.

194

1 MS. WECKERLY: Because you grew up in that
2 setting or had that experience at kind of a young age or
3 very young age, do you think you can still be fair and
4 impartial in a case like this?

5 PROSPECTIVE JUROR: Yes.

6 MS. WECKERLY: I read in your
7 questionnaire that I think your son and your ex-husband or
8 both in law enforcement?

9 PROSPECTIVE JUROR: Correct.

10 MS. WECKERLY: Both in North Las Vegas.

11 PROSPECTIVE JUROR: Correct.

12 MS. WECKERLY: Your son is the
13 correction's officer.

14 PROSPECTIVE JUROR: Yes.

15 MS. WECKERLY: And the ex-husband, is he a
16 correction's officer?

17 PROSPECTIVE JUROR: No. He's captain over
18 the correction's officers right now. Temporary.

19 MS. WECKERLY: Okay. But the fact that
20 you have these two -- your ex-husband, obviously, your son
21 working in a law enforcement capacity, you can still be
22 fair to both sides?

23 PROSPECTIVE JUROR: I believe I can,
24 yes.

25 MS. WECKERLY: You indicated on your

195

1 questionnaire that you could consider the death penalty as
2 a potential punishment?

3 PROSPECTIVE JUROR: Correct.

4 MS. WECKERLY: You also said you are
5 someone that's pretty open-minded?

6 PROSPECTIVE JUROR: Correct.

7 MS. WECKERLY: As we've discussed with
8 several of the other prospective jurors, you don't have
9 any problem with listening to both sides and formulating
10 your opinion?

11 PROSPECTIVE JUROR: I have no problem.

12 MS. WECKERLY: Someone who wants to hear
13 all the evidence?

14 PROSPECTIVE JUROR: Most definitely.

15 MS. WECKERLY: Thank you. Pass for
16 cause.

17 THE COURT: Mr. Patrick.

18 MR. PATRICK: Ms. Noahr, is that correct?

19 PROSPECTIVE JUROR: Yes.

20 MR. PATRICK: Now the abuse that your
21 father did on your mother, you were old enough to remember
22 that?

23 PROSPECTIVE JUROR: Yes.

24 MR. PATRICK: Do you think that that was
25 any reason why your mother abused alcohol?

196

1 PROSPECTIVE JUROR: They both were
2 alcoholics. They both drank together.
3 MR. PATRICK: Do you think that that whole
4 history in any way would color the way you look at any of
5 the testimony you heard?
6 PROSPECTIVE JUROR: No. I don't believe
7 so.
8 MR. PATRICK: You'll remain open-minded.
9 PROSPECTIVE JUROR: Yes.
10 MR. PATRICK: Even if some of the
11 testimony you heard made you think back to when you were 8
12 years old?
13 PROSPECTIVE JUROR: It's not a problem.
14 MR. PATRICK: And you said you had two
15 younger siblings at this time?
16 PROSPECTIVE JUROR: Correct.
17 MR. PATRICK: And you were their care
18 giver?
19 PROSPECTIVE JUROR: Right.
20 MR. PATRICK: If there was something like
21 that, would that color your impressions of this case?
22 PROSPECTIVE JUROR: What do you mean?
23 MR. PATRICK: You were an older sibling
24 that had to take care of two younger siblings, basically
25 your situation, would that change your feelings?

197

1 PROSPECTIVE JUROR: I don't believe it
2 would.
3 MR. PATRICK: You could still keep and
4 open-mind?
5 PROSPECTIVE JUROR: Yes.
6 MR. PATRICK: You'd look at all of the
7 evidence and listen to everybody and make up your mind?
8 PROSPECTIVE JUROR: Most definitely.
9 MR. PATRICK: The fact that your son and
10 ex-husband are both in law enforcement -- and I know the
11 judge asked this -- would you tend to give more weight to
12 their testimony to a law enforcement officer, then to
13 somebody else?
14 PROSPECTIVE JUROR: No. They're just like
15 us.
16 MR. PATRICK: You can still be fair and
17 take their testimony for whatever it's worth, and give it
18 as much weight you thought necessary. It has nothing to
19 do with the fact they're police officers?
20 PROSPECTIVE JUROR: Correct.
21 MR. PATRICK: So basically you keep an
22 open mind. That's the best we can hope for, right?
23 PROSPECTIVE JUROR: Yes.
24 MR. PATRICK: Thank you. Pass for cause,
25 your Honor.

198

1 THE COURT: Thank you. Ms. Weckerly, as
2 to Ms. Martino.
3 MS. WECKERLY: Ma'am, you also mentioned
4 on your questionnaire that you grew up with some abuse?
5 PROSPECTIVE JUROR: Yes.
6 MS. WECKERLY: I think the way you put it
7 your dad beat your brother, your sister, and your mom, but
8 not you?
9 PROSPECTIVE JUROR: Right.
10 MS. WECKERLY: How did you escape that?
11 PROSPECTIVE JUROR: I was a coward. I ran
12 to the corner. I didn't talk back, they did.
13 MS. WECKERLY: How old were you when this
14 happened?
15 PROSPECTIVE JUROR: When it started, what
16 I remember, maybe five or six.
17 MS. WECKERLY: So you remember it?
18 PROSPECTIVE JUROR: I remember most of it.
19 MS. WECKERLY: So from what you are
20 describing, I assume at that age, it was sort of a fearful
21 place being in the home?
22 PROSPECTIVE JUROR: Yes.
23 MS. WECKERLY: To say the least.
24 PROSPECTIVE JUROR: Yes.
25 MS. WECKERLY: The fact that you have had

199

1 that experience and grew up in that setting, do you think
2 that you can put that out of your mind and make your
3 decision in this case on the information you hear in this
4 courtroom?
5 PROSPECTIVE JUROR: I think that as an
6 adult I can forget. But there's still that child in your
7 brain that remembers that.
8 MS. WECKERLY: Sure. And I don't think
9 that we can realistically expect anyone to forget, or --
10 that's not part of who I am anymore. Because that's such
11 a significant event. But what we need from you now is a
12 commitment that you can make a decision in this courtroom
13 and be fair to both sides.
14 PROSPECTIVE JUROR: I would like to think
15 so.
16 MS. WECKERLY: Okay. And you're someone,
17 I assume, who can follow the law in the judge's
18 instructions?
19 PROSPECTIVE JUROR: Yes.
20 MS. WECKERLY: And you can communicate and
21 give your opinion to your fellow jurors?
22 PROSPECTIVE JUROR: Yes.
23 MS. WECKERLY: Are you someone who can --
24 wants to hear all the information before you make a
25 decision?

200

1 PROSPECTIVE JUROR: Yes.
 2 MS. WECKERLY: As we've talked about with
 3 some of the other prospective jurors, you're not someone
 4 who has made up their mind as to going to sit here now and
 5 says I'm automatically giving this punishment rather than
 6 another one?
 7 PROSPECTIVE JUROR: No. But I lean toward
 8 the death penalty.
 9 MS. WECKERLY: There is no -- there is no
 10 issue with that, so long as you can tell us that you can
 11 consider, or be open to hearing information then consider
 12 all possible punishments.
 13 PROSPECTIVE JUROR: I could.
 14 MR. PATRICK: And you can consider what
 15 information is presented to you and take heed of what you
 16 think is important and disregard what you think doesn't
 17 have a whole lot of bearing?
 18 PROSPECTIVE JUROR: Yes.
 19 MR. PATRICK: Then make a decision.
 20 PROSPECTIVE JUROR: Yes.
 21 MS. WECKERLY: And I assume from your
 22 comments if you think the death penalty is appropriate in
 23 this case, you wouldn't have any trouble voting for that?
 24 PROSPECTIVE JUROR: Not at all.
 25 MS. WECKERLY: And likewise if you hear

201

1 something that makes you think that this should not be an
 2 appropriate sentence, you can pick another sentence from
 3 the remaining?
 4 PROSPECTIVE JUROR: See, I can't imagine
 5 any justification for murdering someone -- intentionally
 6 murdering someone.
 7 MS. WECKERLY: I mean, as we have
 8 discussed with some of the other jurors, not all cases of
 9 first degree murder are even eligible for the death
 10 penalty. There are certain legal requirements that have
 11 to be met before a jury can consider it as a potential
 12 punishment. Those requirements will be explained to you
 13 by Judge Herndon. He will give you the law on that. I
 14 assume you'll be able to follow that?
 15 PROSPECTIVE JUROR: Yes.
 16 MS. WECKERLY: Then once, assuming that
 17 those requirements are met, and I assume you'll hold us to
 18 our burden -- because that's what's required by law -- you
 19 will be able to follow that rule?
 20 PROSPECTIVE JUROR: Yes.
 21 MS. WECKERLY: Then you just, with your
 22 fellow jurors, make a determination what you think is
 23 appropriate. At that point you'll be able to do that?
 24 PROSPECTIVE JUROR: Yes.
 25 MS. WECKERLY: Thank you. Pass for

202

1 cause.
 2 THE COURT: Mr. Patrick.
 3 MR. PATRICK: Good afternoon, Ms. Martino.
 4 PROSPECTIVE JUROR: Hi.
 5 MR. PATRICK: Talking about your father
 6 and domestic violence, would that cover your opinion as to
 7 what would go on in this case if somebody had a history of
 8 domestic violence?
 9 PROSPECTIVE JUROR: It might.
 10 MR. PATRICK: Do you feel strongly about
 11 that?
 12 PROSPECTIVE JUROR: Yes.
 13 MR. PATRICK: Now, you were asked if you
 14 already formed an opinion about this case, and you checked
 15 the box mark, yes, correct?
 16 PROSPECTIVE JUROR: Yes.
 17 MR. PATRICK: And do you remember what you
 18 wrote underneath that?
 19 PROSPECTIVE JUROR: No. But what I would
 20 say now is he was convicted.
 21 MR. PATRICK: And therefore?
 22 PROSPECTIVE JUROR: And therefore --
 23 MR. PATRICK: Well, he was convicted an
 24 therefore is there any more to that sentence?
 25 PROSPECTIVE JUROR: No.

203

1 MR. PATRICK: Do you remember writing he
 2 should be put to death the same way he killed his
 3 girlfriend?
 4 PROSPECTIVE JUROR: Yes.
 5 MR. PATRICK: Do you believe that?
 6 PROSPECTIVE JUROR: Yes.
 7 MR. PATRICK: So that means if his
 8 girlfriend was shot, he should be taken out back and shot?
 9 PROSPECTIVE JUROR: Yes.
 10 MR. PATRICK: And if his girlfriend was
 11 strangled, he should be taken out back and strangled?
 12 PROSPECTIVE JUROR: Yes.
 13 MR. PATRICK: No questions asked?
 14 PROSPECTIVE JUROR: Nope.
 15 MR. PATRICK: Also the question, it talked
 16 about Mr. Chappell being an African-American male. You
 17 were asked if that would affect your ability to be fair
 18 and impartial? Do you remember what you wrote?
 19 PROSPECTIVE JUROR: It might.
 20 MR. PATRICK: Do you remember writing,
 21 yes, that it was programmed from childhood. Could you
 22 explain that.
 23 PROSPECTIVE JUROR: Yes. I come from a
 24 very small town in Ohio. I was born quite some time ago
 25 and things were different then.

204

1 MR. PATRICK: Then, again, on the question
2 what are your feelings about the death penalty, you wrote
3 a person should be put to death the same way he killed his
4 victim.

5 PROSPECTIVE JUROR: Yes.

6 MR. PATRICK: Another question where you
7 were asked if there was anything that would prevent you
8 from sitting as a fair and impartial juror. And you
9 checked, yes. I believe underneath it you said you would
10 be prone to go along with the group to avoid ridicule.

11 PROSPECTIVE JUROR: I would what? Yes,
12 sometimes I am.

13 MR. PATRICK: So you consider yourself a
14 follower than?

15 PROSPECTIVE JUROR: Yes.

16 MR. PATRICK: If your opinion was
17 unpopular with the rest of the jury you'd go along with
18 them so they wouldn't badger you or ridicule you?

19 PROSPECTIVE JUROR: I might.

20 MR. PATRICK: Then again on the question
21 where it said your beliefs about the death penalty, would
22 you vote automatically for it and you wrote, yes.
23 Remember that?

24 PROSPECTIVE JUROR: No.

25 MR. PATRICK: The last question was, do
205

1 you want to serve on this jury. Do you remember what you
2 wrote?

3 PROSPECTIVE JUROR: No.

4 MR. PATRICK: Did you write, no. I'm set
5 in my beliefs about killers, child and animal abusers.

6 PROSPECTIVE JUROR: Yes.

7 MR. PATRICK: So if you were sitting where
8 Mr. Chappell was, would you want twelve people like you on
9 this jury?

10 MR. OWENS: I'll object to that question.

11 THE COURT: I'll sustain the objection.

12 MR. PATRICK: Your Honor, we'd strike for
13 cause please.

14 THE COURT: Mr. Owens, as to Ms. Bundren.

15 MR. OWENS: How are you.

16 PROSPECTIVE JUROR: Fine.

17 MR. OWENS: You were a victim at some
18 point. What was that about?

19 PROSPECTIVE JUROR: As I stated earlier,
20 my uncle murdered my aunt.

21 MR. OWENS: Same case, same situation.

22 PROSPECTIVE JUROR: Correct.

23 MR. OWENS: How long was that.

24 PROSPECTIVE JUROR: I believe it was
25 November of 1990 I believe.
206

1 MR. OWENS: So about 16 years ago.

2 PROSPECTIVE JUROR: Yes.

3 MR. OWENS: Were you a witness? Were you
4 involved in that?

5 PROSPECTIVE JUROR: None, whatsoever.

6 MR. OWENS: Where did that occur?

7 PROSPECTIVE JUROR: It occurred at the
8 Lady Luck Hotel.

9 MR. OWENS: Were you living in town at the
10 time?

11 PROSPECTIVE JUROR: I was going to
12 graduate school in San Diego.

13 MR. OWENS: You're from the area, just
14 gone at the time it happened?

15 PROSPECTIVE JUROR: Correct.

16 MR. OWENS: Were you involved in the court
17 process at all?

18 PROSPECTIVE JUROR: I sat there and
19 observed and supported the family. Then when it came to a
20 point where the family had talked to the jurors to
21 convince the jurors why he shouldn't get the death
22 penalty, I chose not to participate in that.

23 MR. OWENS: So the decision was made not
24 the call you to testify?

25 PROSPECTIVE JUROR: That is correct.
207

1 MR. OWENS: Why was that?

2 PROSPECTIVE JUROR: In that particular
3 case I believed he should have received the death
4 penalty.

5 MR. OWENS: Was that something that you
6 felt from the beginning, or something that you came to as
7 you watched the process?

8 PROSPECTIVE JUROR: It was the result of
9 something I found that never made it to trial.

10 MR. OWENS: Some additional evidence?

11 PROSPECTIVE JUROR: Correct.

12 MR. OWENS: That you were aware of?

13 PROSPECTIVE JUROR: Correct.

14 MR. OWENS: That kind of may the
15 difference in your mind?

16 PROSPECTIVE JUROR: Correct.

17 MR. OWENS: What point did you discover
18 that?

19 PROSPECTIVE JUROR: I believe it was
20 approximately the 2 to 3 weeks after Doreen was killed.

21 MR. OWENS: Were other family members
22 aware of that?

23 PROSPECTIVE JUROR: They were.

24 MR. OWENS: But they were supportive of
25 him?
208

1 PROSPECTIVE JUROR: Correct.
 2 MR. OWENS: And you were there to be a
 3 support for the family, but you didn't --
 4 PROSPECTIVE JUROR: Absolutely.
 5 MR. OWENS: Would you say that that was a
 6 traumatic experience for you?
 7 PROSPECTIVE JUROR: Not traumatic,
 8 baffling.
 9 MR. OWENS: Baffling. You still find it
 10 that way?
 11 PROSPECTIVE JUROR: Yes. It reminds me of
 12 how your love and affection for somebody can be blinded by
 13 the facts, and it's hard to separate that -- your brother
 14 or cousin or someone close to you.
 15 MR. OWENS: So you found it sort of a
 16 curious thing that occurred?
 17 PROSPECTIVE JUROR: Well, I think because
 18 families -- the family members I was talking to are very
 19 educated people. And yet despite the education, they
 20 weren't able to step out of the box and look at the facts
 21 and kind of string all of the pearls together.
 22 MR. OWENS: You felt that you were able to
 23 do that?
 24 PROSPECTIVE JUROR: I felt based on the
 25 information I had, that I was very comfortable in my

209

1 conclusion about it. However, like I said, I took time
 2 off from graduate school to go down and listen in hopes
 3 that things would be different. And the conclusion was
 4 that was not the case for me.
 5 MR. OWENS: So it didn't make it any
 6 better by being there?
 7 PROSPECTIVE JUROR: Not for me. It didn't
 8 change my decision. I was there to support the family.
 9 MR. OWENS: You feel good you were there
 10 to be supportive?
 11 PROSPECTIVE JUROR: Absolutely.
 12 MR. OWENS: Is there anything about that
 13 experience that is still with you in a sense that might
 14 come out in an unfair manner in this proceedings?
 15 PROSPECTIVE JUROR: No. I have to say
 16 given everything I was pretty impressed with how fair and
 17 balanced everything was. And that if it started to sway
 18 one way there was somebody in the courtroom to make sure
 19 it got back on track.
 20 MR. OWENS: And your uncle did receive the
 21 death penalty?
 22 PROSPECTIVE JUROR: He received life in
 23 prison. The family was able to convince the jurors that
 24 he should not get the death penalty. So the decision was
 25 to give him life in prison, without the possibility of

210

1 parole.
 2 MR. OWENS: Okay. Was there any
 3 repercussions toward you from other family members?
 4 PROSPECTIVE JUROR: None, whatsoever.
 5 MR. OWENS: Do you discuss it with him
 6 very much?
 7 PROSPECTIVE JUROR: Do I discuss it with
 8 him being --
 9 MR. OWENS: No. Does it come up from time
 10 to time?
 11 PROSPECTIVE JUROR: It does. My mom is
 12 pretty religious about going out to prison, and we've just
 13 sort of taken a stance at this point being a sounding
 14 board. He believes what he believes. Nothing is going to
 15 change him. We just act as a sounding board, try to talk
 16 about other things with him.
 17 MR. OWENS: What is your feeling about the
 18 death penalty, generally?
 19 PROSPECTIVE JUROR: I don't believe in
 20 being cookie cutter about anything in my life. I think
 21 partly because of what I do for a living. I believe that
 22 anytime there's new information you have to run it through
 23 the equation so you may get a different outcome. I
 24 respect the process. I think that after listening to
 25 everything and weighing it, then listening to what the

211

1 judge said, if death penalty is appropriate, then okay.
 2 MR. OWENS: What you're describing is the
 3 process we talked about here?
 4 PROSPECTIVE JUROR: I wish I wasn't here,
 5 but it's what it is. And I'll always respect the process
 6 and follow the instructions.
 7 MR. OWENS: Okay. It's important to keep
 8 an open mind until you've heard all the facts and
 9 circumstances?
 10 PROSPECTIVE JUROR: Absolutely. Again,
 11 because I have administrative decisions on a daily base
 12 that affect people's livelihoods I understand the
 13 importance of listening to people and not making any
 14 decisions until I've heard everything. And treat people
 15 the way I want to be treated.
 16 MR. OWENS: There was one question here
 17 where you didn't want to give an explanation. Remember
 18 that?
 19 PROSPECTIVE JUROR: If you could tell me
 20 the question.
 21 MR. PATRICK: So -- all right with the
 22 court.
 23 THE COURT: Sure.
 24 MR. OWENS: You said you wouldn't
 25 automatically vote for either choice. And saying explain,

212

1 I don't know that required an explanation. You said you
2 didn't want to give one.

3 PROSPECTIVE JUROR: I guess because in my
4 mind my answer was longer than the space would allow. I
5 guess, again, if the circumstances and the fact support,
6 and the instruction was given -- in other words, if the
7 judge said to me if these four things are met you have no
8 choice but to find for the death penalty. That's what
9 I'll do. I'll respect the process. I wish I didn't have
10 to make that decision, but that's what I've been asked to
11 do. And I'm the kind of person who, again, when I make
12 decisions on my job I have to be able to look at that
13 person and feel confident in what I'm saying. I have to
14 live with myself.

15 MR. OWENS: You feel you can do that?

16 PROSPECTIVE JUROR: Yes. The only thing
17 that I think I hadn't thought about it until one of the
18 other jurors bought it up. I had never considered the
19 pictures. And I'll be honest with you, that might be
20 difficult. But again, I'll step out of that box and do
21 what I have to do.

22 MR. OWENS: All right. The process, at
23 some point you're going to learn the process isn't some
24 sort of if this and this and now you're on to the death
25 penalty. No matter what you do in following the law the

213

1 death penalty is always going to be an option. You
2 understand that?

3 PROSPECTIVE JUROR: Yes.

4 MR. OWENS: It's never compelled. Even if
5 you found everything you need to impose the death penalty,
6 you never have to do it. So in the end it's going to be a
7 judgment call. It's not like you're going to be able to
8 say, well, all these things are met so I have to impose
9 the death penalty. It's never going to happen.

10 More likely what's going to be, you'll look at it,
11 and based on all the facts and circumstances, this
12 particular crime it's appropriate. You understand that?

13 PROSPECTIVE JUROR: I do.

14 MR. OWENS: Given that full range that you
15 have, if after hearing all the facts and circumstances, if
16 you felt that the death penalty was the fair and
17 appropriate punishment, would you be able to come back
18 with that decision?

19 PROSPECTIVE JUROR: Yes.

20 MR. OWENS: You wouldn't be inclined to
21 settle for something less than that because you felt like
22 it was an easier choice?

23 PROSPECTIVE JUROR: No. Again, there are
24 a lot of times my job where I believe somebody has been
25 discriminated against, but the facts and circumstances

214

1 dictate that I cannot find in favor, that's what I need to
2 do.

3 MR. OWENS: You feel you can do what is
4 fair and appropriate to your mind and the rest of the
5 jurors at the end of the case?

6 PROSPECTIVE JUROR: Yes.

7 MR. OWENS: Thanks. Pass for cause.

8 THE COURT: Mr. Schieck.

9 MR. SCHIECK: Thank you, your Honor.

10 PROSPECTIVE JUROR: Correct.

11 MR. SCHIECK: On your court generated
12 information sheet it says investigator, but I see here
13 you're masters is in public administration.

14 PROSPECTIVE JUROR: Correct.

15 MR. SCHIECK: Are you in administration
16 here an investigator or whatever?

17 PROSPECTIVE JUROR: I'm an EEC
18 investigator and mediator.

19 MR. SCHIECK: You work for the Nevada
20 Equal Rights Commission?

21 PROSPECTIVE JUROR: Correct.

22 MR. SCHIECK: So a complaint comes in
23 about discrimination and the complaining employee follows
24 the proper steps and you're assigned to investigate
25 whether or not there has been discrimination in a

215

1 particular work place or environment?

2 PROSPECTIVE JUROR: I'm there to determine
3 whether or not there's been a violation of law based on
4 the facts presented, then I'm also a mediator.

5 MR. SCHIECK: A mediator between the
6 parties to the allegation?

7 PROSPECTIVE JUROR: We'd be a separate
8 case because of the fact you can't be a fact finder and
9 mediator for a different case.

10 MR. SCHIECK: You try to reach a
11 reasonable resolution?

12 PROSPECTIVE JUROR: My job is to help --
13 my job is to not make the decision, but to help both
14 parties better communicate and come to a conclusion or
15 settlement themselves.

16 MR. SCHIECK: And there was an unfortunate
17 case where your uncle was convicted of killing your aunt;
18 is that correct.

19 PROSPECTIVE JUROR: Correct.

20 MR. SCHIECK: You said that happened at
21 the Lady Luck?

22 PROSPECTIVE JUROR: It happened in the
23 parking lot of the Lady Luck as she was leaving work.

24 MR. SCHIECK: And you indicate that your
25 mother still goes out to see your uncle?

216

1 PROSPECTIVE JUROR: Correct.
 2 MR. SCHIECK: That would be, I assume, her
 3 brother?
 4 PROSPECTIVE JUROR: That's correct.
 5 MR. SCHIECK: So she goes out to visit her
 6 brother out in prison, correct?
 7 PROSPECTIVE JUROR: Correct.
 8 MR. SCHIECK: Do you ever go out?
 9 PROSPECTIVE JUROR: No. I went when he
 10 was in Elko. And just that whole scene and regurgitation
 11 of the whole trail, he just was relentless. I asked him
 12 I'd be happy to come out here to be moral support, but
 13 these are the ground rules and he wasn't willing to abide
 14 by those, so we just made the decision it would be best
 15 for me to no longer go out there to visit him.
 16 MR. SCHIECK: Is it a situation where he's
 17 indicating that he's not guilty of the charges?
 18 PROSPECTIVE JUROR: Correct.
 19 MR. SCHIECK: So he still hasn't accepted
 20 responsibility, in your mind, for having committed the
 21 homicide?
 22 PROSPECTIVE JUROR: It's his belief that
 23 he did not do it.
 24 MR. SCHIECK: Okay. Now, with your
 25 educational background and being a long-time resident

217

1 here, I assume you're familiar with other cases of
 2 homicide that happened in Clark County. Do you pay any
 3 attention to those?
 4 PROSPECTIVE JUROR: Just so I'm clear.
 5 From 1987 to 1993 I wasn't a resident here. And since
 6 then, I occasionally catch sort of glimpses on the news.
 7 But I don't follow anything per se.
 8 MR. SCHIECK: Would it be fair to say that
 9 you don't believe the death penalty is appropriate in
 10 every first degree murder case?
 11 PROSPECTIVE JUROR: That is correct.
 12 MR. SCHIECK: In a particular case that
 13 you had some personal knowledge of, you thought it was
 14 appropriate, but you don't necessarily think it's
 15 appropriate in every other case?
 16 PROSPECTIVE JUROR: Correct.
 17 MR. SCHIECK: You would have an open mind
 18 in wanting to hear all of the evidence before you made
 19 that decision?
 20 PROSPECTIVE JUROR: Absolutely.
 21 MR. SCHIECK: Thank you. We would pass
 22 for cause, your Honor.
 23 THE COURT: Thank you. Mr. Owens, as to
 24 Ms. Smith.
 25 MR. OWENS: Ms. Lori Smith?

218

1 PROSPECTIVE JUROR: Yes.
 2 MR. OWENS: You had some experience where
 3 you were a witness or something to a violent crime?
 4 PROSPECTIVE JUROR: Yes.
 5 MR. OWENS: How long ago was that?
 6 PROSPECTIVE JUROR: It was late '89 or
 7 early '90.
 8 MR. OWENS: You were actually a witness?
 9 PROSPECTIVE JUROR: Basically, yeah.
 10 MR. OWENS: Is that in this community?
 11 PROSPECTIVE JUROR: Yes.
 12 MR. OWENS: What was involved in that?
 13 PROSPECTIVE JUROR: It was a murder.
 14 MR. OWENS: What happened?
 15 PROSPECTIVE JUROR: A murder was committed
 16 in the same house I was in. I didn't see it with my own
 17 eyes, but I was there for the rest of it.
 18 MR. OWENS: Was that a traumatic thing for
 19 you?
 20 PROSPECTIVE JUROR: Yes, sir.
 21 MR. OWENS: Did you testify in a court
 22 case?
 23 PROSPECTIVE JUROR: Only in the
 24 preliminary.
 25 MR. OWENS: Preliminary hearing?

219

1 PROSPECTIVE JUROR: Yes.
 2 MR. OWENS: Was there a resolution after
 3 that?
 4 PROSPECTIVE JUROR: They didn't call me any
 5 more.
 6 MR. OWENS: Do you know what happen with
 7 the case?
 8 PROSPECTIVE JUROR: I believe he might
 9 have been let go for self-defense, maybe.
 10 MR. OWENS: Well, they didn't have a
 11 trial on it though?
 12 PROSPECTIVE JUROR: I think they did.
 13 MR. OWENS: But you weren't called?
 14 PROSPECTIVE JUROR: No.
 15 MR. OWENS: That's because you didn't
 16 actually see what happened?
 17 PROSPECTIVE JUROR: Right.
 18 MR. OWENS: Anything about that experience
 19 that gave you feelings that are so strong that they might
 20 spill over into this case in an unfair manner?
 21 PROSPECTIVE JUROR: No.
 22 MR. OWENS: You're not harboring any
 23 resentment about anything?
 24 PROSPECTIVE JUROR: No.
 25 MR. OWENS: Did you know the victim?

220

1 PROSPECTIVE JUROR: Yes.
 2 MR. OWENS: Were you close with the
 3 victim?
 4 PROSPECTIVE JUROR: No.
 5 MR. OWENS: You were asked a number of
 6 questions about the death penalty. You indicated that you
 7 don't have any problem with the death penalty as an
 8 option?
 9 PROSPECTIVE JUROR: Right.
 10 MR. OWENS: Do you understand that it's
 11 one of the four potential options that are available to
 12 the jury?
 13 PROSPECTIVE JUROR: Right.
 14 MR. OWENS: Are you okay with that?
 15 PROSPECTIVE JUROR: That there being other
 16 options?
 17 MR. OWENS: That there are four options.
 18 PROSPECTIVE JUROR: Yeah.
 19 MR. OWENS: That is something you can
 20 abide by?
 21 PROSPECTIVE JUROR: Yeah.
 22 MR. OWENS: Then one place in here, you
 23 were asked if you formed an opinion about the case. And
 24 you indicated, yes, that you already formed an opinion.
 25 Is that based upon the factual statement that he'd already
 221

1 been convicted?
 2 PROSPECTIVE JUROR: Yes.
 3 MR. OWENS: Of the crime?
 4 PROSPECTIVE JUROR: Yes.
 5 MR. OWENS: Now you understand that of the
 6 four options, not every first degree murder is
 7 automatically a death penalty. You understand that?
 8 PROSPECTIVE JUROR: I understand that.
 9 That's not my opinion.
 10 MR. OWENS: Your opinion is that first
 11 degree murder should be a death penalty?
 12 PROSPECTIVE JUROR: Yes, sir.
 13 MR. OWENS: So if you are a legislator,
 14 you might want to change the law to be more like Texas,
 15 that's what they got in Texas, where it's automatic?
 16 PROSPECTIVE JUROR: Yes.
 17 MR. OWENS: But you're not the legislator.
 18 And we are living by the rules of Nevada here.
 19 PROSPECTIVE JUROR: Right.
 20 MR. OWENS: And do you feel you can apply
 21 the procedure that we have in Nevada in this case, if you
 22 are selected for the jury?
 23 PROSPECTIVE JUROR: No.
 24 MR. OWENS: So even though you feel like
 25 it should be something different, and even though you
 222

1 understand that Nevada has a different set of rules, what
 2 you're saying is you don't think you can abide by those
 3 rules?
 4 PROSPECTIVE JUROR: No, sir.
 5 MR. OWENS: You would want to give the
 6 death penalty automatically?
 7 PROSPECTIVE JUROR: Yes, sir.
 8 MR. OWENS: You think it's important to
 9 hear all the facts and circumstances surrounding the
 10 murder before you decide which penalty should be
 11 appropriate?
 12 PROSPECTIVE JUROR: Yeah, it's important.
 13 But I'm not one of the people to do it. I have a very set
 14 thought, and what -- by the way the questioning is on the
 15 questionnaire, I have already formed the opinion.
 16 MR. OWENS: So even though you haven't
 17 heard all the facts and circumstances, you feel the death
 18 penalty was always appropriate and that's what you would
 19 do?
 20 PROSPECTIVE JUROR: Yes.
 21 MR. OWENS: No further questions, your
 22 Honor.
 23 THE COURT: Mr. Schieck.
 24 MR. SCHIECK: Challenge for cause, your
 25 Honor.
 223

1 THE COURT: All right. Let's take a
 2 recess for a few minutes, ladies and gentlemen.
 3 JURY ADMONITION
 4 During the recess, ladies and gentlemen,
 5 you are admonished not to converse among yourselves or
 6 with anyone else, including, without limitation, the
 7 lawyers, parties and witnesses, on any subject connected
 8 with this trial, or any other case referred to during it,
 9 or read, watch, or listen to any report of or commentary
 10 on the trial, or any person connected with this trial, or
 11 any such other case by any medium of information
 12 including, without limitation, newspapers, television,
 13 internet or radio.
 14 You are further admonished not to form or
 15 express any opinion on any subject connected with this
 16 trial until the case is finally submitted to you.
 17 (Brief recess taken.)
 18 THE COURT: You want to talk real quick
 19 about the challenges for cause?
 20 MR. OWENS: Okay.
 21 THE COURT: The State have any remarks to
 22 make as to the first, Ms. Ruis.
 23 MR. OWENS: Which are we looking at, your
 24 Honor?
 25 THE COURT: Ms. Ruis is up in seat number
 224

1 one -- Badge 81. The next one that was challenged for
2 cause was Mr. Ramirez -- Badge 034. Then Ms. Martino --
3 038. She's in the chair closest to you on the side of the
4 jury box. The last one is Ms. Smith -- 045.

5 MR. OWENS: Well, I don't have anything to
6 add on Ms. Ruis, I don't think.

7 THE COURT: Okay.

8 MR. OWENS: On Ms. Martino, there's a
9 disparity to what she's saying in court and in her
10 questionnaire. But people are free to expound and explain
11 their answers. She -- I think the way it was left was she
12 could consider the options, and that she may be a person
13 that tends to be a follower. But that's not a reason to
14 kick somebody for cause.

15 In regard to Mr. Ramirez -- number 24, you
16 know, he's not any different than Mr. Theus, I don't think
17 in the sense we didn't challenge that person for cause.
18 But it's the same thing. Basically what they were saying
19 was that they were looking at the way they would want to
20 have it, versus the way it is. And all through her
21 questionnaire she was saying she couldn't do it. And she
22 didn't believe in the death penalty and that kind of
23 thing. That was a 180 degree turn around. If you kick
24 Ramirez, in fairness in proportional responses, you have
25 to kick Ms. Theus as well. So I think that's the sum of

225

1 it, your Honor.

2 THE COURT: All right. What about
3 anything at to Ms. Smith, the last lady.

4 MR. OWENS: Nothing on that.

5 THE COURT: All right.

6 MR. OWENS: She's clear.

7 THE COURT: Mr. Schieck or Mr. Patrick any
8 of those folks. I'm going to excuse Ms. Ruis and
9 Ms. Smith.

10 The question in my mind is kind of I
11 excuse them now and put people there, or just ask if we
12 pass a little more than thirty-two for cause and let them
13 all go. I don't want people to continue to kind of figure
14 out this is a good reason to bring up. My intent, as I
15 sit here thinking, is to leave them there. Telling you
16 they're going to be excused for cause so you know. But
17 leave them there for now as we continue on with the
18 questioning.

19 How about as to Mr. Ramirez and Ms.
20 Martino?

21 MR. PATRICK: Yes, Judge. Ms. Martino, I
22 don't think there was really any question. Not only is
23 she going to automatically vote for the death penalty, but
24 she made it very clear that anybody that kills anybody
25 should be taken out and shot, stabbed, hung, whatever they

226

1 did to the victim.

2 I don't think there's any question as to
3 what her feelings are and to how she would vote. She's
4 certainly not going to look at anything but the fact that
5 Mr. Chappell was convicted of murder. And as far as she's
6 concern he should be taken out today and stabbed to
7 death.

8 Also whether or not -- that is a very
9 compelling reason, but even putting that aside, she's a
10 definite follower. She's not going to make up her own
11 mind. Whatever the group says, she's going to go with.
12 And I think something this important, we need to have
13 somebody that makes some semblance of having their own
14 mind in making up their own mind.

15 As far as Mr. Ramirez, well, I mean, he's
16 from Texas. He likes the way Texas does things. He
17 thinks that we should not even be here because
18 Mr. Chappell was found guilty of first degree murder.
19 According to him there is no option. The death penalty is
20 it, and that's it.

21 The other thing about him, not only is he
22 ex-military, but he's ex-special forces. His mind is made
23 up. There's nobody on that jury that's ever going to
24 change his mind. I mean, being ex-military myself, I know
25 his type. He's not going to change his mind. He's not

227

1 going to look at anything. He's by the book. He's very
2 rigid. He has his mind made up that first degree murder
3 only requires one sentence, nothing will ever -- if we
4 could sit here until next week and talk to him, he'll
5 never change his mind on that. He will absolutely vote
6 for the death penalty, no matter what we put on.

7 So I would say that both of those are
8 beyond redemption.

9 MR. OWENS: Your Honor, if I could comment
10 on a couple of things he mentioned.

11 THE COURT: As to who?

12 MR. OWENS: Well, first -- last gentleman,
13 Mr. Ramirez. Being military is not a reason to challenge
14 for cause. On Ms. Martino, her comment about him
15 suffering the same kind of death by stabbing or shooting,
16 I didn't take that to mean that the death penalty should
17 be automatic, but if they receive the death penalty it
18 should be administered in the same way they killed their
19 victim.

20 THE COURT: I agree. I had more problems
21 with Ms. Martino than I did with Mr. Ramirez, to be quite
22 honest. I'll grant the challenge to Ms. Martino.

23 I had a variety of problems with her questionnaire
24 and in questioning in court along racial lines, as well as
25 some of things she was saying. I don't think it's

228

1 appropriate to excuse somebody because they're a follower,
2 but to the extent they kind of indicate not only are they
3 are follower, they may not even vote their own belief in
4 the evidence is a little different.

5 But more than that there was an indication
6 in the questionnaire that she would automatically vote for
7 the death penalty. Meaning that she not only believed
8 that an eye for an eye, for a person who kills should be
9 put to death in the same way, but that she should impose
10 that penalty without question. I believe she readily
11 agreed to Mr. Patrick in questioning in that regard.

12 A lot of times we are balancing between
13 somebody asks a question and the questions were kind of
14 leading by nature and get one answer and get another
15 answer, but I think the answers from Ms. Martino where
16 enough to justify her being excused.

17 I'm going to deny as it pertains to Mr.
18 Ramirez. I agree that his personality would appear to be
19 what you would consider somebody with a hardcore military
20 veteran. But we can't kind of look at people and excuse
21 them because our personal opinions as to their type of
22 personality is such that we believe they'll never change
23 their minds.

24 His questionnaire was one which he
25 indicated he'd consider all forms of punishment. He did

229

1 not indicate that he would vote automatically one way or
2 the other. I think he's wrong about Texas. There are a
3 few forms of punishment that are available there. But
4 nonetheless, somebody that thinks the death penalty is an
5 appropriate form of punishment for first degree murder and
6 thinks that maybe or legislature should change things,
7 that's separate and apart from saying I realize that this
8 is what the law is and I'll consider them all before I
9 make any decision.

10 So I think he answered the questions
11 sufficiently in term of being able to consider everything
12 to not justify him being excused for cause. So I'll deny
13 as pertains to Mr. Ramirez.

14 But again, I'm going to leave Ms. Martino,
15 Ms. Smith and Ms. Theus for now in their places. We'll
16 continue on with the next in order, which is going to be
17 Mr. Morin when we get back.

18 Now, it's about coming up on 4:30 already.
19 I generally don't like to keep everybody after 5:00
20 o'clock the first day they're here because they don't
21 necessarily know how much longer we have.

22 Do you plan going until 5:00? I can go
23 longer if we want to.

24 MR. OWENS: Whatever the court wants.

25 MR. SCHIECK: I don't know if there's any

230

1 problems. They're all from High Desert. They've been
2 here all day, if they have staffing problems or not.

3 THE COURT: Well, Mr. Chappell is staying
4 here now, right?

5 MR. SCHIECK: He's still in their
6 custody.

7 THE COURT: All right. Can you all stay
8 until 5:30?

9 THE OFFICERS: Yes, sir.

10 THE COURT: Okay. We'll play it by ear.
11 But we won't go any later than 5:30.

12 We'll see if we can move through a few more people so
13 we can try and get -- tomorrow, at least, we can get the
14 jury finished up and you all can do openings, if nothing
15 else.

16 MR. PATRICK: I would like, if we could,
17 spend a second clarifying Mr. Owens' objection to my
18 asking whether or not the jury members would want to be on
19 a jury if they were sitting here.

20 THE COURT: I recall a case coming out
21 that indicated that was an improper question. I can't
22 think of the name.

23 MR. OWENS: I don't know if there is a
24 case. Since I have had judges correct this, but to say if
25 one side only would be comfortable having you as a juror

231

1 is not fair. It would have to be both sides, two sides,
2 because doth sides have different interests.

3 Frankly we want a jury of police officers if we have
4 a choice. He'd probably rather have a jury of jail
5 individuals. So you ask that question, it really isn't a
6 fair question if you are in the position of the State or
7 the Defendant, would you be comfortable. It's basically
8 like saying can you be fair to both sides.

9 But to say if you were in the position of the
10 Defendant, would you want somebody in your frame of mind
11 sitting on the jury is not a fair question. They can say,
12 yeah, I would vote his way every time, sure he would want
13 me.

14 THE COURT: I understand the argument
15 being made. That's why I seem to believe there's a case
16 that has come out talking about that issue, as to not
17 placing the jurors in a position of a certain party in the
18 litigation.

19 MR. SCHIECK: Well, your Honor, if I may,
20 I would think that that cuts to the heart of the whole
21 thing. If I only had one question to ask each and every
22 juror that's probably one of the most fair questions and
23 one of the most truthful questions they would answer. I
24 think it is probably very proper.

25 I mean, look at the way the death penalty

232

1 is administered in this state, and we're looking for
2 whether or not it's arbitrary and capricious. I think
3 that's a very direct, very good, very poignant question to
4 being asking the jury.

5 THE COURT: Let me look on the break and
6 see if I can find the case I'm thinking of that I think
7 spoke to the issue a little bit. And I'll let you know
8 when I get back out here.

9 We'll be in recess for ten minutes. Okay.
10 Thank you.

11 (Brief recess taken.)

12 THE COURT: Back on the record in
13 C-131341, State of Nevada versus James Chappell. The
14 record will reflect the presence of Mr. Chappell with his
15 attorneys, the State's attorneys. Outside the presence of
16 panel the jury.

17 I can't find the case right now that I'm
18 thinking of, so I'll allow you to ask the questions.
19 We'll only get through a couple more people this evening.
20 I'll see if I can find it this evening on Lexus.

21 MR. SCHIECK: We'll rephrase it to say
22 either party, as opposed to just the Defendant.

23 THE COURT: That's I think what Mr. Owens
24 was objecting to and that's my belief as to what I gleaned
25 from the case I was thinking of was you cannot ask them if

233

1 they can be fair to one side, it has to be fair to both
2 sides in terms of if you were on this jury.

3 Let's get going.

4 THE COURT: Back on the record in
5 C-131341, State of Nevada versus James Chappell. The
6 record will reflect the presence of Mr. Chappell with his
7 attorneys, the State's attorneys. In the presence of our
8 prospective jury.

9 MS. WECKERLY: As to Mr. Morin.

10 MS. WECKERLY: How are you employed?

11 PROSPECTIVE JUROR: Carpenter.

12 MS. WECKERLY: And you're the father of
13 three young girls?

14 PROSPECTIVE JUROR: Correct.

15 MS. WECKERLY: What does your wife do?

16 PROSPECTIVE JUROR: She's a janitor for
17 the school district.

18 MS. WECKERLY: When we were speaking this
19 morning you indicated that a family member had negative
20 contact with the police and the criminal justice system.

21 PROSPECTIVE JUROR: Correct.

22 MS. WECKERLY: Was it your brother?

23 PROSPECTIVE JUROR: My brother.

24 MS. WECKERLY: Was that locally?

25 PROSPECTIVE JUROR: Yes.

234

1 MS. WECKERLY: Were you close to your
2 brother -- or close to him at the time that happened?

3 PROSPECTIVE JUROR: Yes. Kind of, because
4 we kind of having a fallen out because of -- he was on
5 drugs and stuff, just stayed away.

6 MS. WECKERLY: And you think the charge
7 was attempt murder?

8 PROSPECTIVE JUROR: Yes.

9 MS. WECKERLY: Is that charge resolved or
10 was he --

11 PROSPECTIVE JUROR: He's in prison right
12 now.

13 MS. WECKERLY: Prison. Are you still in
14 contact with him? You visit and write; that sort of
15 thing.

16 PROSPECTIVE JUROR: Yes.

17 MS. WECKERLY: Do you feel that he was
18 treated fairly?

19 PROSPECTIVE JUROR: He himself also feels
20 like he was treated fairly. He takes responsibility for
21 what he did.

22 MS. WECKERLY: So I assume your family is
23 probably hoping he does his time and out he comes and
24 straightens out his live and is productive?

25 PROSPECTIVE JUROR: Yes.

235

1 MS. WECKERLY: Did you feel like that the
2 police handled the case fairly or the State prosecutors
3 did?

4 PROSPECTIVE JUROR: Yes.

5 MS. WECKERLY: You indicated on your
6 questionnaire that you are someone that can consider the
7 death penalty as a potential punishment?

8 PROSPECTIVE JUROR: Yes.

9 MS. WECKERLY: You wrote if it fits it
10 must be given?

11 PROSPECTIVE JUROR: Yes.

12 MS. WECKERLY: And Mr. Owens, I think said
13 to our last juror, that the death penalty is never
14 automatic. It's -- there are certain requirements that
15 have to be met before it is a possible punishment or one
16 you can consider. But you are never obligate to impose
17 it.

18 But if I'm reading your questionnaire correctly, you
19 can consider it in some circumstances?

20 PROSPECTIVE JUROR: Yes.

21 MS. WECKERLY: We've spoken to a lot of
22 the prospective jurors about this, and you also indicate
23 this on your questionnaire, you're not someone that is
24 obligated to vote for it or against it. It sounded like
25 you would want to hear information before you made a

236

1 decision.
 2 MS. WECKERLY: Correct.
 3 MS. WECKERLY: So you don't have any
 4 preconceived idea about what you're going to do because
 5 you haven't heard anything?
 6 PROSPECTIVE JUROR: Yes.
 7 MS. WECKERLY: And you could be fair to
 8 both sides.
 9 PROSPECTIVE JUROR: Yes.
 10 MS. WECKERLY: Thank you, sir. Pass for
 11 cause.
 12 THE COURT: Mr. Patrick.
 13 MR. PATRICK: Good afternoon, Mr. Morin.
 14 PROSPECTIVE JUROR: How are you doing.
 15 MR. PATRICK: Your brother was convicted
 16 of attempted murder?
 17 PROSPECTIVE JUROR: Correct.
 18 MR. PATRICK: Is the person that he was
 19 convict of trying to kill was it somebody he knew?
 20 PROSPECTIVE JUROR: No.
 21 MR. PATRICK: You answered yes, you knew
 22 somebody that had a drug abuse problems?
 23 PROSPECTIVE JUROR: Correct.
 24 MR. PATRICK: Was that your brother?
 25 PROSPECTIVE JUROR: I have a few other

237

1 family members, as well.
 2 MR. PATRICK: Does their drug abuse, would
 3 that make you give anymore or any less weight to testimony
 4 given by somebody that used drugs?
 5 PROSPECTIVE JUROR: No.
 6 MR. PATRICK: So you'd keep an open mind?
 7 PROSPECTIVE JUROR: Correct.
 8 MR. PATRICK: You mentioned that the
 9 system was fair, but had lots of loop holes. Can you
 10 expand on that for me.
 11 PROSPECTIVE JUROR: You see some cases get
 12 dismissed over the slightest things, it just doesn't seem
 13 fair.
 14 MR. PATRICK: The slightest thing.
 15 PROSPECTIVE JUROR: A drug trafficker gets
 16 caught and they didn't have the proper document to check
 17 his car.
 18 MR. PATRICK: So you believe that if they
 19 search his car and find these drugs, that those should be
 20 able to be used in trial, whether or not the search was
 21 lawful?
 22 PROSPECTIVE JUROR: Correct.
 23 MR. PATRICK: You mentioned you a cousin
 24 in law enforcement?
 25 PROSPECTIVE JUROR: Yes.

238

1 MR. PATRICK: What does he do?
 2 PROSPECTIVE JUROR: He's a SWAT member in
 3 San Bernardino.
 4 MR. PATRICK: You talk to him a lot?
 5 PROSPECTIVE JUROR: I spoke with him this
 6 weekend.
 7 MR. PATRICK: You're close?
 8 PROSPECTIVE JUROR: Somewhat. He lives in
 9 another state, so every time we go out there we talk.
 10 MR. PATRICK: Him being a police officer,
 11 would that cause you to give greater weight to the
 12 testimony given by a police officer?
 13 PROSPECTIVE JUROR: No. They're just as
 14 human as I am.
 15 MR. PATRICK: So you would be able to
 16 listen to both sides?
 17 PROSPECTIVE JUROR: Yes.
 18 MR. PATRICK: If you were on the jury and
 19 you decided not to impose the death penalty, is that
 20 something you'd have to explain to your cousin why you
 21 won't do that?
 22 PROSPECTIVE JUROR: Yes.
 23 MR. PATRICK: He's understand?
 24 PROSPECTIVE JUROR: He'd understand.
 25 MR. PATRICK: He'd know you listened to

239

1 both sides and felt it didn't fit and that's how you made
 2 your decision -- either way?
 3 PROSPECTIVE JUROR: Correct.
 4 MR. PATRICK: Again, like Ms. Weckerly
 5 said, you wrote down if it fits regarding the death
 6 penalty, if it fits it must be given. She explained
 7 there's never a time when it must be given. So if we
 8 changed that statement to if it fits, it may be given,
 9 could you explain if it fits, what makes it fit?
 10 PROSPECTIVE JUROR: The laws. It's an
 11 option and all options should be explored before giving.
 12 I think if it's an option, if it fit to be given, like if
 13 the crime were heinous enough, if the person was sane when
 14 they did it, or premeditated, I believe it should be
 15 given.
 16 MR. PATRICK: But you'd listen to
 17 everything before you make that decision?
 18 PROSPECTIVE JUROR: Sure.
 19 MR. PATRICK: Pass for cause, your
 20 Honor.
 21 THE COURT: Mr. Owens, as to Mr. Garcia.
 22 MR. OWENS: Thank you. Mr. Garcia, how
 23 are you.
 24 PROSPECTIVE JUROR: Fine.
 25 MR. OWENS: How long have you lived her in

240

1 Las Vegas?
2 PROSPECTIVE JUROR: Thirteen years.
3 MR. OWENS: You ever live off Oakey or
4 MLK?
5 PROSPECTIVE JUROR: No.
6 MR. OWENS: You had some unfortunate
7 situation with your son that you talked about in the
8 questionnaire.
9 PROSPECTIVE JUROR: Yes.
10 MR. OWENS: How long ago did this thing
11 happen, he went through?
12 PROSPECTIVE JUROR: In high school is when
13 he got caught, pot and stuff like that.
14 MR. OWENS: How long ago would that have
15 been?
16 PROSPECTIVE JUROR: He's 23 now.
17 MR. OWENS: Is this something he's still
18 working with?
19 PROSPECTIVE JUROR: He's still working on
20 it.
21 MR. OWENS: There was also an assault he
22 was a victim of with this thing with the drugs?
23 PROSPECTIVE JUROR: Yeah. Several years
24 ago he got hit over the head by one of his drug friends.
25 MR. OWENS: What were the consequences of

241

1 that?
2 PROSPECTIVE JUROR: The police said they
3 both got what they deserved, so they let them go.
4 MR. OWENS: Nothing happen?
5 PROSPECTIVE JUROR: To either one.
6 MR. OWENS: Was there permanent damage to
7 him?
8 PROSPECTIVE JUROR: No. But he got hit
9 pretty hard.
10 MR. OWENS: Is he okay now?
11 PROSPECTIVE JUROR: Yeah.
12 MR. OWENS: Has he turned a corner on his
13 drug use or is it still a problem that he wrestles with?
14 PROSPECTIVE JUROR: He wrestles with it.
15 But he's starting to turn.
16 MR. OWENS: He's doing better?
17 PROSPECTIVE JUROR: Yeah.
18 MR. OWENS: Anything about that experience
19 that kind of left a bad taste in your mouth that would
20 make it difficult for you to be fair here?
21 PROSPECTIVE JUROR: I wouldn't say a bad
22 taste, but it would make me more aware of the other
23 culture.
24 MR. OWENS: Other culture, you mean the
25 drug culture?

242

1 PROSPECTIVE JUROR: Yeah.
2 MR. OWENS: If you hear things about drugs
3 in this case would it make you want to punish one side or
4 the other a little bit or to use this case to even out
5 what happen with your son?
6 PROSPECTIVE JUROR: No.
7 MR. OWENS: You feel you'd try this case
8 on the facts of the case?
9 PROSPECTIVE JUROR: Yes.
10 MR. OWENS: You like to watch courtroom
11 dramas -- Boston Legal. Did you put that down here?
12 PROSPECTIVE JUROR: My wife likes that
13 stuff.
14 MR. OWENS: Maybe that's why you put that
15 down here. Might be the next one. All right. You say
16 you had a chance to be on a jury before. How long ago was
17 that?
18 PROSPECTIVE JUROR: Twenty-five year ago.
19 MR. OWENS: Was that in this community?
20 PROSPECTIVE JUROR: Yes.
21 MR. OWENS: Was that a good experience for
22 you?
23 PROSPECTIVE JUROR: The mechanics of it
24 was fine. Just hard to put somebody away that wasn't the
25 primary person that did the crime.

243

1 MR. OWENS: Nothing about that that would
2 interfere with your ability to be fair in this case?
3 PROSPECTIVE JUROR: No.
4 MR. OWENS: The process worked okay?
5 PROSPECTIVE JUROR: Everything was fine,
6 yeah.
7 MR. OWENS: You talked about your feelings
8 on the death penalty. Can you share those with us a
9 little bit.
10 PROSPECTIVE JUROR: There's a time when
11 it's an appropriate sentence. I believe in people being
12 redeemed. If a person is not repentant, or if the
13 person -- if the case is really that horrible, there's no
14 mercy, if you tell him to stop it and they don't stop
15 it -- so that's the situation. They deserve to die. They
16 have to die. If there's any way to salvage the person,
17 that's another situation.
18 MR. OWENS: Murder, you know, you kill
19 once and you don't stop it, there might be another murder.
20 Do you feel like they need to have a chance to see if they
21 are going to kill two before it's appropriate, or is the
22 first time appropriate?
23 PROSPECTIVE JUROR: In a murder situation,
24 99 out of 100, they should be allowed to come out of
25 prison. Evil has to be stopped. If it was an accident,

244

1 but for the grace of God any of us can go down the same
2 path.

3 MR. OWENS: You don't know what factors
4 the court is going to tell you about.

5 PROSPECTIVE JUROR: No idea.

6 MR. OWENS: You can appreciate that there
7 are factors you are going to hear about?

8 PROSPECTIVE JUROR: Yes.

9 MR. OWENS: If you feel after hearing the
10 facts the death penalty was appropriate, would you be able
11 to do that?

12 PROSPECTIVE JUROR: That would be my
13 responsibility.

14 MR. OWENS: Could you do that?

15 PROSPECTIVE JUROR: I would have to do
16 it.

17 MR. OWENS: Do you feel like you could
18 judge another person in that manner?

19 PROSPECTIVE JUROR: Yes.

20 MR. OWENS: Thank you. Pass for cause,
21 your Honor.

22 THE COURT: Thank you. Mr. Schieck.

23 MR. SCHIECK: Thank you, your Honor.

24 Mr. Garcia, you talked a lot about your
25 son in your questionnaire. You have done what you could

245

1 to try to help him, I take it, without being an enabler?

2 PROSPECTIVE JUROR: Correct.

3 MR. SCHIECK: You talked with him,
4 counseled with him, tried to guide him?

5 PROSPECTIVE JUROR: We forced him into the
6 drug program.

7 MR. SCHIECK: And you feel as a parent
8 that is a very important proper role to assume with your
9 son?

10 PROSPECTIVE JUROR: Absolutely.

11 MR. SCHIECK: You indicated that you hate
12 the death penalty, but at times it's required.

13 PROSPECTIVE JUROR: Yes, sir.

14 MR. SCHIECK: What is it about that you
15 hate with respect to the death penalty?

16 PROSPECTIVE JUROR: I think life is
17 precious, including the Defendant in this case. If there
18 is anyway possible to save him, I would appreciate it.
19 But if there's no saving him, then not much choice. But
20 it depends on the case.

21 MR. SCHIECK: You go on to explain that, I
22 guess. If you murder someone you've forfeited your right
23 to live. But then you qualify that but only mercy and
24 circumstances can redeem their life. That's the qualities
25 you are looking for?

246

1 PROSPECTIVE JUROR: I'm looking for is not
2 only what he has done but what he potentially doing in the
3 further.

4 MR. SCHIECK: The circumstances that lead
5 up to where he was at at that time?

6 PROSPECTIVE JUROR: Yes.

7 MR. SCHIECK: Your son's drug use was that
8 just marijuana or did he get involved with any serious
9 drugs?

10 PROSPECTIVE JUROR: He got into pill and
11 stuff like that.

12 MR. SCHIECK: Thank you. Pass for cause,
13 your Honor.

14 THE COURT: Thank you. Mr. Owens, as to
15 Mr. Salak.

16 MR. OWENS: Mr. Salak, you're the Boston
17 Legal fan.

18 PROSPECTIVE JUROR: Yes.

19 MR. OWENS: Law and Order?

20 PROSPECTIVE JUROR: Yeah.

21 MR. OWENS: You indicate that you don't
22 have any problem with the death penalty as an option?

23 PROSPECTIVE JUROR: No. I do feel I have
24 reservations.

25 MR. OWENS: You say you have reservations,

247

1 what do you mean?

2 PROSPECTIVE JUROR: Depends on the case.

3 MR. OWENS: Do you feel it's important to
4 keep an open mind?

5 PROSPECTIVE JUROR: Yes.

6 MR. OWENS: How do you feel about the idea
7 of being in judgment of another person?

8 PROSPECTIVE JUROR: Really uncomfortable in
9 passing judgment. I'll follow the law.

10 MR. OWENS: Do you feel that that is
11 something you could do?

12 PROSPECTIVE JUROR: Yes.

13 MR. OWENS: If you felt that the death
14 penalty was proper punishment for this case and these
15 facts, could you personally come back and announce that
16 verdict?

17 PROSPECTIVE JUROR: Once I hear the facts
18 and how it happened and why it happen, probably will.

19 MR. OWENS: If you thought the death
20 penalty was right, could you do that?

21 PROSPECTIVE JUROR: Yes.

22 MR. OWENS: You'd be able to live with
23 that decision?

24 PROSPECTIVE JUROR: Yes, I could.

25 MR. OWENS: You've been involved in the

248

1 court process before. Have you ever sued somebody or been
 2 sued?
 3 PROSPECTIVE JUROR: No.
 4 MR. OWENS: You have never been a victim
 5 of a crime?
 6 PROSPECTIVE JUROR: No.
 7 MR. OWENS: You have never had an
 8 opportunity to serve as a juror before?
 9 PROSPECTIVE JUROR: No.
 10 MR. OWENS: You've never had a family
 11 member or someone close to you charged with a crime?
 12 PROSPECTIVE JUROR: No.
 13 MR. OWENS: Question 42, you were asked
 14 about your feelings about the death penalty. You start to
 15 write something. I guess, I should have let us use a
 16 pencil on these. In pen you crossed it out.
 17 Unfortunately we notice things like that. If I can show
 18 this to him, your Honor.
 19 THE COURT: Sure.
 20 MR. OWENS: Says the punishment, what were
 21 you trying to say?
 22 PROSPECTIVE JUROR: The punishment should
 23 be appropriate for the crime itself.
 24 MR. OWENS: Okay.
 25 PROSPECTIVE JUROR: The death penalty only

249

1 in severe cases.
 2 MR. OWENS: But you felt that the
 3 punishment should fit the crime. That's the same thing as
 4 in severe cases?
 5 PROSPECTIVE JUROR: Right.
 6 MR. OWENS: All right. I'll pass.
 7 THE COURT: Thank you. Mr. Schieck.
 8 MR. SCHIECK: Thank you, your Honor.
 9 Mr. Salak, you are retired?
 10 PROSPECTIVE JUROR: Yes, sir.
 11 MR. SCHIECK: What was your occupation
 12 before you retired?
 13 PROSPECTIVE JUROR: I was a billing clerk
 14 and became a billing supervisor up until my retirement.
 15 MR. SCHIECK: Type of business?
 16 PROSPECTIVE JUROR: Steamship company.
 17 MR. SCHIECK: Steamship.
 18 PROSPECTIVE JUROR: Moving cargo to
 19 Hawaii.
 20 MR. SCHIECK: What caused you to come out
 21 here to Las Vegas? You've been here two-and-a-half years?
 22 PROSPECTIVE JUROR: In Clark County.
 23 MR. SCHIECK: Why did you come out here to
 24 retire?
 25 PROSPECTIVE JUROR: Nothing, just thought

250

1 I could get a house here.
 2 MR. SCHIECK: The steamship company you
 3 worked for, was that in Hawaii?
 4 PROSPECTIVE JUROR: No. It was
 5 headquarters in Oakland, California.
 6 MR. SCHIECK: Okay. You retired here from
 7 Oakland.
 8 PROSPECTIVE JUROR: Yes.
 9 MR. SCHIECK: One of your questions on the
 10 questionnaire you might not have understood to question.
 11 It says are your beliefs about the death penalty such that
 12 you would automatically vote against the death penalty
 13 regardless of the facts and circumstances. You say, no.
 14 Perhaps I'm confused. You would consider all the
 15 circumstances.
 16 PROSPECTIVE JUROR: Yes, I would.
 17 MR. SCHIECK: You haven't prejudged in
 18 your mind any possible punishments?
 19 PROSPECTIVE JUROR: No.
 20 MR. SCHIECK: I'll pass for cause, your
 21 Honor.
 22 THE COURT: Ms. Weckerly, as to Blayne
 23 White.
 24 MS. WECKERLY: You mention you had an
 25 experience with your sister, I think, 20 year ago.

251

1 PROSPECTIVE JUROR: There was an argument.
 2 I pushed her she fell and hit her head. It caused a
 3 bruise and a black eye. She called the police. I was
 4 arrested. I went to jail. My father got me out.
 5 MS. WECKERLY: I would imagine you were
 6 pretty young when this happened?
 7 PROSPECTIVE JUROR: Yes. I was 19.
 8 MS. WECKERLY: That technically falls into
 9 a domestic violence. Usually when we speak of it it's
 10 kind of a boyfriend girlfriend.
 11 PROSPECTIVE JUROR: I was charged under
 12 that.
 13 MS. WECKERLY: I guess because it was a
 14 family relationship.
 15 PROSPECTIVE JUROR: Family things.
 16 MS. WECKERLY: You ended up spending a
 17 night in jail?
 18 PROSPECTIVE JUROR: Yes.
 19 MS. WECKERLY: I'm sure that wasn't
 20 pleasant.
 21 PROSPECTIVE JUROR: Not at all.
 22 MS. WECKERLY: The fact you had that
 23 experience, does that cause you ill feelings toward law
 24 enforcement?
 25 PROSPECTIVE JUROR: Not at all.

252

1 MS. WECKERLY: And you also wrote in your
2 questionnaire you and your sister obviously have gotten
3 past this incident?

4 PROSPECTIVE JUROR: Yes.

5 MS. WECKERLY: You wrote on your
6 questionnaire that the death penalty, if needed, basically
7 should be used.

8 PROSPECTIVE JUROR: Absolutely.

9 MS. WECKERLY: I take it from your answer
10 you can conceive of circumstances where that is an
11 appropriate punishment?

12 PROSPECTIVE JUROR: Absolutely.

13 MS. WECKERLY: But you also wrote that you
14 could consider the Defendant's background or other factors
15 in making a decision?

16 PROSPECTIVE JUROR: Yes.

17 MS. WECKERLY: You're not someone to rush
18 to judgment?

19 PROSPECTIVE JUROR: No.

20 MS. WECKERLY: You'd consider all the
21 information you hear in this courtroom and make a
22 decision?

23 PROSPECTIVE JUROR: Yes.

24 MS. WECKERLY: You can be fair to both
25 sides?

253

1 PROSPECTIVE JUROR: Yes.

2 MS. WECKERLY: Thank you, sir. Pass for
3 cause.

4 THE COURT: Mr. Patrick.

5 MR. PATRICK: Good afternoon, Mr. White.

6 You mentioned your uncle was a cop.

7 PROSPECTIVE JUROR: Yes.

8 MR. PATRICK: In Long beach.

9 PROSPECTIVE JUROR: Yes, sir.

10 MR. PATRICK: Are you close to him?

11 PROSPECTIVE JUROR: We visit a couple
12 times a year.

13 MR. PATRICK: You don't talk on a regular
14 basis?

15 PROSPECTIVE JUROR: No.

16 MR. PATRICK: Like I've asked several
17 people, the fact that he's a cop would that make you give
18 more weight to the testimony given by another police
19 officer on the stand?

20 PROSPECTIVE JUROR: No.

21 MR. PATRICK: As Ms. Weckerly said, you
22 made it pretty clear that you wouldn't automatically pick
23 any special penalty in this case. You'd wait until all
24 the evidence was in.

25 PROSPECTIVE JUROR: Absolutely.

254

1 MR. PATRICK: And weigh both sides and
2 make the appropriate determination.

3 PROSPECTIVE JUROR: Yes.

4 MR. PATRICK: So if you were sitting where
5 I'm sitting or sitting where Mr. Owens and Ms. Weckerly
6 are, either side, would you want someone like you on this
7 jury?

8 PROSPECTIVE JUROR: Absolutely.

9 MR. PATRICK: Thank you. Pass for cause.

10 THE COURT: Mr. Owens, as to Mr. Davie,
11 059.

12 MR. OWENS: How are you doing. Your
13 mother has been a victim or you've been a victim --

14 PROSPECTIVE JUROR: My mother.

15 MR. OWENS: It was your mother that had
16 identity theft?

17 PROSPECTIVE JUROR: Right.

18 MR. OWENS: How long ago was that?

19 PROSPECTIVE JUROR: Six months ago.

20 MR. OWENS: And you've never been a
21 victim?

22 PROSPECTIVE JUROR: No.

23 MR. OWENS: You felt like they should have
24 done more for her case?

25 PROSPECTIVE JUROR: I wish they could. I

255

1 don't know what else you can do. She didn't have to pay
2 any money, so I don't know what else they could do.

3 MR. OWENS: Did she live in town here?

4 PROSPECTIVE JUROR: No.

5 MR. OWENS: So where does she live?

6 PROSPECTIVE JUROR: Pennsylvania.

7 MR. OWENS: So you feel that justice was

8 not served, but it wasn't necessarily the police involved?

9 PROSPECTIVE JUROR: True.

10 MR. OWENS: We have a very different type
11 of facts in this case. You understand that?

12 PROSPECTIVE JUROR: Yes.

13 MR. OWENS: So there's nothing about that
14 experience that could spill over into this case in a bad
15 way?

16 PROSPECTIVE JUROR: No.

17 MR. OWENS: You never had a chance to
18 serve as a juror before?

19 PROSPECTIVE JUROR: No.

20 MR. OWENS: Have you ever been involved in
21 the court process, been sued or sued somebody else?

22 PROSPECTIVE JUROR: No.

23 MR. OWENS: You said you liked to consider
24 everything. You feel it's important to get all the facts
25 before you make a decision in this process.

256

1 PROSPECTIVE JUROR: That's true.
 2 MR. OWENS: How do you feel about the idea
 3 of being on a jury?
 4 PROSPECTIVE JUROR: I really don't want to
 5 be on the jury. I don't want to pass judgment on someone.
 6 What I know about this case, I see the death penalty and I
 7 see life in prison, that's it. Parole is a second chance,
 8 even to someone who is a victim in this case, doesn't get
 9 a second chance. So I see two options myself.
 10 MR. OWENS: How do you feel about the idea
 11 of sitting in judgment on another person?
 12 PROSPECTIVE JUROR: I don't like it, but if
 13 I'm called to do it, I'll do it.
 14 MR. OWENS: Could you do that?
 15 PROSPECTIVE JUROR: Yes.
 16 MR. OWENS: Now, it sounds like you are
 17 leaning toward the death penalty or life without parole,
 18 based on what you just said. Is that fair?
 19 PROSPECTIVE JUROR: Those are the only two
 20 options I see.
 21 MR. OWENS: Down at question 54, you are
 22 asked if you wanted to serve on the jury, and you said I
 23 don't care what he gets. They all seem fair.
 24 PROSPECTIVE JUROR: I only think the first
 25 is fair.

257

1 MR. OWENS: You have a different opinion
 2 then a week ago when you were filling this out?
 3 PROSPECTIVE JUROR: Yes, I do.
 4 MR. OWENS: Last week you thought they
 5 all seemed fair.
 6 PROSPECTIVE JUROR: More I think about it
 7 I don't think he deserves a second chance to be out in
 8 public. If he did do it again, I would feel horrible.
 9 MR. OWENS: Last week you said you doesn't
 10 care what he does. What did you mean by that?
 11 PROSPECTIVE JUROR: I kind of -- I guess I
 12 was kind of hoping I wouldn't get picked.
 13 MR. OWENS: You started figuring that the
 14 answers last week were going to do that for you?
 15 PROSPECTIVE JUROR: I answered them
 16 honestly. But if I have to do it, I will do it.
 17 MR. OWENS: But the way you answered last
 18 week that was kind of to get picked. But today you don't
 19 want to be picked?
 20 PROSPECTIVE JUROR: I'm being honest.
 21 MR. OWENS: All right. Back then you say
 22 you liked to consider everything. So you don't feel that
 23 way today?
 24 PROSPECTIVE JUROR: I'll would be more
 25 interested in hearing whether or not he's guilty, as

258

1 opposed to what punishment he gets.
 2 MR. OWENS: Why is that?
 3 PROSPECTIVE JUROR: Because I think that
 4 it's more interesting to me.
 5 MR. OWENS: Okay. You know the jury is
 6 going to start out knowing that he's been found guilty?
 7 PROSPECTIVE JUROR: Exactly.
 8 MR. OWENS: Last week you said you could
 9 consider all four forms of punishment, depending on the
 10 facts of the case. Now you're feeling you can't consider
 11 all four forms of punishment.
 12 PROSPECTIVE JUROR: I don't think I can. I
 13 like to keep an open mine. I really don't think I can.
 14 MR. OWENS: Are you willing to wait until
 15 you hear the evidence before you make that decision?
 16 PROSPECTIVE JUROR: Yes.
 17 MR. OWENS: So you think that you could
 18 wait on deciding which one of the four until you've heard
 19 all the facts and circumstances?
 20 PROSPECTIVE JUROR: I think I owe that to
 21 everyone involved. So at least -- I'm feeling it would be
 22 very hard for me to pick the other two.
 23 MR. OWENS: The difference between saying
 24 you couldn't do it, or wouldn't do it, or it would be hard
 25 to do it, you know what I'm saying?

259

1 PROSPECTIVE JUROR: Exactly. I don't know
 2 yet. I don't know the facts.
 3 MR. OWENS: It's a serious matter
 4 obviously.
 5 PROSPECTIVE JUROR: Exactly.
 6 MR. OWENS: It's important, isn't it, that
 7 you hear the facts and circumstances before you come to a
 8 decision?
 9 PROSPECTIVE JUROR: Yes.
 10 MR. OWENS: Right now you're saying you
 11 don't know if you can wait to do that or not.
 12 PROSPECTIVE JUROR: Sorry?
 13 MR. OWENS: Right now you're saying you
 14 don't know if you can wait to hear the facts and
 15 circumstances or not.
 16 PROSPECTIVE JUROR: I will wait. But in
 17 my mind I feel there's only two options, in my mind. But
 18 based on what I know right now.
 19 MR. OWENS: So there's a possibility that
 20 there might be -- one of the other options may become
 21 attractive to you, if you hear more facts and
 22 circumstances.
 23 PROSPECTIVE JUROR: Possibly.
 24 MR. OWENS: Okay. I don't have anything
 25 further, your Honor.

260

1 THE COURT: Mr. Schieck.
 2 MR. SCHIECK: Thank you, your Honor.
 3 Mr. Davie, in the questionnaire it's probably a
 4 little unfair to ask you to tell us how you think without
 5 enough information to give us full answers.
 6 PROSPECTIVE JUROR: Yes.
 7 MR. SCHIECK: And the question that you
 8 indicated you really don't care was the last question on
 9 the questionnaire. You think that might have factored in
 10 your answer, that you just wanted to give that answer to
 11 be done?
 12 PROSPECTIVE JUROR: Yes, it may have.
 13 MR. SCHIECK: Everything else in your
 14 questionnaire indicates that you're a person that likes to
 15 have the information before giving an answer. In fact,
 16 one of the questions concerning whether the death penalty
 17 is given too much, not enough, you wrote I'd like to see
 18 the statistics.
 19 PROSPECTIVE JUROR: Correct. I wouldn't
 20 know whether it is or isn't.
 21 MR. SCHIECK: Would it be fair to say that
 22 you would be at least willing to listen to all the facts
 23 before you decided what the appropriate punishment would
 24 be in the case?
 25 PROSPECTIVE JUROR: I think I would have

261

1 to.
 2 MR. SCHIECK: With just the limited
 3 information you have, you perhaps would foreclosed the two
 4 possibilities and allow for parole after at least 40
 5 years, because you don't have all the information
 6 available to you?
 7 PROSPECTIVE JUROR: Correct. But I do
 8 know that someone was murdered.
 9 MR. SCHIECK: Correct. And there are four
 10 possible forms of punishment that the law says you need to
 11 be able to consider.
 12 PROSPECTIVE JUROR: That's what I'm having
 13 a hard time with. I can do that. I'll try to listen to
 14 everything. But in my head it's one or the other.
 15 MR. SCHIECK: In another place in the
 16 questionnaire you were asked about knowing someone close
 17 to you that has a substance abuse problem. You indicated
 18 that you're sympathetic. I take that to mean you're
 19 sympathetic to those types of problems that individuals
 20 might have. Is that a fair statement?
 21 PROSPECTIVE JUROR: Well, it's my Dad, so
 22 it's different. My Dad an alcoholic. And, yeah, I'm
 23 sympathetic to that.
 24 MR. SCHIECK: You also indicated you think
 25 police abuse their power frequently. Is there something

262

1 in your past that causes you to form that opinion?
 2 PROSPECTIVE JUROR: My problem with the
 3 police is it's like a couple of bad apples that ruin the
 4 whole bunch. I think they use force when it's not
 5 necessary a lot, and that really bothers me. I mean,
 6 there's more good police than bad police. Thank God for
 7 keeping us safe, but I don't like it when I see that.
 8 MR. SCHIECK: Was that situation here or
 9 back in Philadelphia?
 10 PROSPECTIVE JUROR: I've seen it here.
 11 MR. SCHIECK: Thank you. Pass for cause,
 12 your Honor.
 13 MR. OWENS: May we approach, your Honor.
 14 THE COURT: Yes.
 15 (Discussion held at the bench.)
 16 THE COURT: We'll take our evening recess.
 17 It's 5:25. Here's what we're going to do. We're going to
 18 come back tomorrow -- well, first off, Ms. Johnson,
 19 Mr. Taylor, Ms. Bailey, Ms. Mills, Mr. Henck, Mr. Hibbard,
 20 Ms. Curtis, Mr. Smith, Ms. Meyrick, Ms. Cardillo,
 21 Ms. Theus, Ms. Noahr, Ms. Bundren, Mr. Ramirez, Mr. Morin,
 22 Mr. Garcia, Mr. Salak, Mr. Davie, I'm going to tell you
 23 all -- excuse me Mr. White, I'm going to tell you all to
 24 come back tomorrow at 1:30, rather than coming back in the
 25 morning. Since you have been questioned, there's no need

263

1 for you all to come in in the morning when we finish up
 2 with everybody else and have to sit around.
 3 So you all can come back at 1:30.
 4 Everybody else I'm going to need to come back at 10:30
 5 tomorrow so we can finish with the attorneys' questioning
 6 of you all.
 7 Then once that's finished, I'm hopeful in
 8 the early afternoon, we'll be to the point we have enough
 9 jurors to begin the final part of the process where the
 10 attorneys are involved in seating actually 14 people and
 11 move forward from there.
 12 JURY ADMONITION
 13 During the recess, ladies and gentlemen,
 14 you are admonished not to converse among yourselves or
 15 with anyone else, including, without limitation, the
 16 lawyers, parties and witnesses, on any subject connected
 17 with this trial, or any other case referred to during it,
 18 or read, watch, or listen to any report of or commentary
 19 on the trial, or any person connected with this trial, or
 20 any such other case by any medium of information
 21 including, without limitation, newspapers, television,
 22 internet or radio.
 23 You are further admonished not to form or
 24 express any opinion on any subject connected with this
 25 trial until the case is finally submitted to you.

264

1 THE COURT: Outside the presence of the
2 jury. Still on the record. Mr. Owens, you wanted to make
3 a representation as to Mr. Davie.

4 MR. OWENS: Well, Mr. Davie, I don't know
5 if he just wants to get off the jury or what it is. His
6 answers to questioning was 180 degrees from what they were
7 a week ago. I think he's a flake. I think he's had news
8 if he gets on the jury. It's going to cause problems.

9 I don't think we got a good record now for keeping
10 him absent some tactical reason by the defense attorneys.
11 But we're challenging him for cause, based upon the fact
12 that he said several times there is only two options for
13 him.

14 I got him to kind of say he'd think about the other
15 ones. But then he, when pushed on it, he kept going back
16 saying there's two, death or life without. That was it
17 for him. So based upon that, we would challenge him for
18 cause.

19 THE COURT: Mr. Schieck.

20 MR. SCHIECK: We'll submit it, your Honor.

21 THE COURT: Well, I don't think he is 180
22 degrees. I feel where he was last week, 120 is not a bad
23 ballpark estimate. He indicated in his questionnaire he
24 likes to consider everything, that he would consider the
25 death penalty under certain circumstances. He would not

265

1 what we're asking for, that kind of gentleman may be the
2 type of person that the defense would want on the jury as
3 well. In addition to having some views on the police
4 department that might be in line with some defense
5 theories. I don't know.

6 Over all, I think that there is enough in
7 his answers to deny the challenge for cause. I'm going to
8 go ahead and let him stay.

9 MR. OWENS: Can I point out one thing for
10 the benefit of the record. The fact that this is a
11 tactical decision by the defense. Over on question 51 --
12 do you feel you would consider mitigating factors. And he
13 says not at all.

14 THE COURT: Mr. Schieck, anything.

15 MR. SCHIECK: No. Nothing else, your
16 Honor.

17 THE COURT: You still maintain your
18 position that you are not challenging him for cause,
19 correct?

20 MR. SCHIECK: Correct.

21 THE COURT: All right. 10:30 tomorrow
22 morning.

23

24

25

CERTIFICATE

267

1 vote automatically for or against it. It depends on the
2 facts of the case. They all seem to be very appropriate
3 answers.

4 I agree that he was a little more rigid
5 today in saying that, you know what, to me it's either
6 death or life without the possibly of parole, and I don't
7 think I would want to give somebody a second chance.
8 Nonetheless, he also seemed to indicate during the
9 questioning that he could consider the other forms of
10 punishment.

11 And it seems to the court that it was
12 clear, to me at least, he was kind of just thinking that
13 this case probably has certain facts about it that would
14 make those two appropriate, as opposed to anything else.
15 Which means you're kind of speculating in your own mind as
16 to what the facts are. I can see some reasons, I don't
17 want to get too far into things, but I can see reasons why
18 the defense would not want to challenge him for cause
19 based upon his statements about being fairly considerate
20 and about certain things, wanting to look at statistics
21 about death penalty cases. They were very thoughtful
22 answers about things.

23 If you're looking at a case in terms of we
24 know what our client's background is, we know what his
25 criminal history is, we know what is realistic in terms of

266

1 OF
2 CERTIFIED COURT REPORTER
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25

Sharon Howard
Sharon Howard
C.C.R. #745

268

< Dates >
August 31, 1995
52:8.
MARCH 12, 2007
1:30, 3:1.
March 14th
37:25, 38:4,
39:16,
41:7.
November 1990
27:22.
#745 1:42,
268:26.
'89 219:6.
'90 219:7.
'93 59:2,
84:17.
'94 59:2.
'95. 84:17.
'98 189:10.
-i'm 42:4.
< 0 >
001 66:12.
001. 129:19.
003 36:15,
47:14,
48:24.
004 66:12.
007 66:12.
009 66:13.
010 66:13.
015 66:13.
016 26:20,
66:13.
018 18:20.
019 37:5,
47:14,
48:24.
019. 25:24.
020 26:8.
020. 66:14.
021 37:17,
47:14,
48:25.
022 66:14.
022. 26:14.
023 66:15.
025 22:23,
47:15,
48:25.
026 66:15.
027 47:15,
48:25.
027. 23:12.
029 40:1,
47:15,
48:25.
031 40:12,
47:16,
49:1.
033 38:2,
47:16,
49:1.
034 66:15.
034. 225:2.
035 66:15.
035. 27:4.
036 66:16.
038 66:16.
038. 225:3.
039 27:18,
66:16.
040 20:5.
045 28:2,
66:16,
225:4.
046 41:2,
47:16,
49:1.
048 28:9,
47:17,
49:1.
050 66:17.
050. 28:14.
051 28:18,
66:17.
052 41:10,
47:17,
49:2.
054 47:17,
49:2.
055. 66:17.
056 42:4,
47:17,
49:2.
059 29:23,
255:11.
062 23:20,
47:17,
49:2.
069 30:2,
072 30:11,
42:10, 47:18,
49:3.
074 30:8.
075 21:21.
076 42:17,
47:18,
49:3.
080 22:7,
59:12.
082 24:20,
30:15.
086 65:5.
094 58:23,
65:5.
095. 65:6.
Owens 206:14.
< 1 >
100 11:20,
50:5, 52:5,
185:20,
244:24.
102 7:21,
47:13, 48:24,
64:18, 64:23,
64:24.
102. 36:3,
44:12,
129:3.
10:00 39:2,
39:4.
10:30 39:5,
264:4,
267:21.
11:00 39:5,
120 265:22.
125 12:8,
54:9.
14 264:10.
16 45:15,
47:20,
207:1.
16. 168:11.
17 17:11.
18 17:15.

269

196:20,
199:4,
237:22,
238:2,
262:17,
262:25.
abused 112:14,
196:25.
abuser 72:10.
abusers
206:5.
abusing
194:10.
abusive 147:9,
148:1,
156:20,
157:6.
accept 32:6,
32:9, 78:2,
78:3, 117:15,
149:1,
171:10.
accepted
217:19.
accepting
100:15.
accident 35:8,
108:25,
244:25.
accomplish
11:24.
According
183:17,
227:19.
account 71:6,
90:9,
153:1.
accountable
100:1.
accuse
132:20.
accused 25:16,
25:18, 26:3,
35:3, 58:22,
58:24, 122:8,
190:2,
190:4.
acquainted
22:19, 23:8,
24:9, 24:11,
24:15, 45:17,
58:2, 58:4,
58:8, 58:9.
act 16:18,
56:15, 156:9,
211:15.
action 101:1.
actions 99:25,
163:3.
activities
162:13.
activity 28:24,
30:12,
100:18.
actual 6:22.
Actually 15:13,
47:19,
102:24,
103:23,
115:20,
120:14,
121:20,
150:16,
154:6, 154:7,
154:10,
157:4,
190:18,
219:8,
220:16,
264:10.
add 163:7,
225:6.
added 166:9.
addition
267:3.
additional 5:4,
5:22,
208:10.
Additionally
5:22, 7:15,
14:3, 50:7,
53:24.
address 53:7.
addresses
90:8.
adjust 77:7.
administer 8:3,
56:12.
administered
228:18,
233:1.
administers
8:5.
administration
215:13,
215:15.
administrative
212:11.
admonished
43:7, 43:16,
128:8,
128:17,
224:5,
224:14,
264:14,
264:23.
AMMUNITION
43:5, 44:4,
128:6, 224:3,
264:12.
adult 200:6.
advance
54:14.
advertising
170:1.
advise 50:13.
advisement
74:13.
affect 94:10,
116:7,
204:17,
212:12.
affection
209:12.
affective
65:13.
affiliate
190:20.
affirmation
5:3.
African-american
108:15.
African-america
n 143:9,
204:16.
afternoon
13:17, 121:1,
129:2,
158:25,
161:20,

271

180 225:23,
265:6,
265:21.
19 29:17,
252:7.
1987 218:5.
1990 27:22,
206:25.
1993 218:5.
1996 51:19.
1996. 11:6.
1997 59:19.
1:20, 127:25.
1:30 263:24.
1:30. 264:3.
< 2 >
2 208:20.
20 29:14,
29:18,
251:25.
21 84:19.
22 102:18,
158:24,
187:20.
23 165:16,
241:16.
23. 168:11.
24 225:15.
2:30 128:1,
128:20.
< 3 >
3 1:3, 6:12,
49:13, 52:10,
208:20.
32 190:7.
< 4 >
40 11:19,
11:20, 52:4,
52:5, 63:23,
185:20,
262:4.
42 249:13.
49 140:19.
4:30 230:18.
< 5 >
51 267:11.
54 141:14,
257:21.
5:00 39:12,
230:19,
230:22.
5:25. 263:17.
5:30 231:8.
5:30. 231:11.
< 7 >
7:30 38:17.
< 8 >
8 197:11.
8. 147:17.
80 64:8,
64:15.
80a 192:9.
81 135:2.
81. 225:1.
82. 135:3.
839 12:7,
52:10.
86 60:3,
64:13.
88 59:18.
8:00 38:17.
< 9 >
90 143:6,
143:15.
90a 192:9.
94. 63:19.
95 143:6,
143:15.
95. 64:2.
99 244:24.
< A >
abide 217:13,
221:20,
223:2.

ability 16:1,
57:16, 70:23,
84:7, 94:10,
95:24,
108:15,
108:20,
116:7, 117:4,
151:3,
154:12,
204:17,
244:2.
absent
265:10.
absolutely
23:5, 73:17,
84:11, 85:16,
87:13, 92:4,
118:15,
123:21,
125:13,
125:16,
125:21,
160:8,
163:13,
164:10,
165:9,
168:16,
209:4,
210:11,
212:10,
218:20,
228:5,
246:10,
253:8,
253:12,
254:25,
255:8.
abuse 29:24,
74:5, 80:2,
80:12, 83:13,
83:17, 93:14,
111:15,
112:17,
112:20,
112:24,
119:7,
119:25,
133:4, 156:8,
157:2, 194:7,
194:10,
161:21,
173:5,
174:20,
178:2, 203:3,
237:13,
254:5,
264:8.
age 190:11,
195:2, 195:3,
199:20.
agenda
146:24.
aggravating
100:10,
130:8,
149:12,
149:25,
150:3, 150:8,
150:13.
aggravation
78:1,
139:4.
aggressive
156:17.
agree 32:19,
47:8, 61:1,
61:15, 111:1,
181:22,
228:20,
229:18,
266:4.
agreed
229:11.
agreeing
47:5.
agrees
133:20.
ahead 4:8,
42:25, 47:12,
48:6, 67:23,
98:5, 129:18,
267:8.
ahold 5:5,
9:22.
Air 14:20,
33:3,
178:9.
Aires 12:18,
52:16.
Albert 55:2.

270

albums 36:12.
alcohol 80:12,
194:7,
194:10,
196:25.
alcoholic
262:22.
alcoholics
197:2.
Alex 19:13.
alive 180:9.
allegation
216:6.
allegations
90:19.
alleged 35:5.
Allen 13:1,
52:24.
allergies
159:5.
allow 72:3,
111:2,
162:17,
165:5, 213:4,
233:18,
262:4.
allowed 186:10,
186:19,
244:24.
alluded
68:15.
Almost 36:6,
94:2.
alone 15:14,
57:9,
133:6.
already 50:16,
51:18, 51:25,
102:18,
103:11,
110:12,
127:2, 131:1,
139:17,
141:17,
142:14,
143:3,
144:23,
145:13,
147:5,
176:22,
203:14,
221:24,
221:25,
223:15,
230:18.
Amuro 20:4.
amazing
105:13.
among 43:7,
93:17, 128:8,
224:5,
264:14.
amount 61:25.
any 20:4.
analyze
136:8.
and/or 5:16.
Angel 20:15.
Angeles
41:11.
Angelo 20:13.
anger 179:13.
angry 40:16,
112:5,
116:10.
animal 206:5.
Ann 19:23.
Annette
19:21.
Annette
27:4.
announce
248:15.
answered 56:20,
67:1, 118:4,
131:13,
134:8,
230:10,
237:21.
258:15,
258:17.
answering 7:10,
65:7,
166:3.
answers 15:8,
48:20, 57:8,
123:22,
142:10,
149:8,
170:11,

272

225:11,
229:15,
258:14,
261:5, 265:6,
266:3,
266:22,
267:7,
anticipate
11:23, 33:1,
61:22,
antisocial
9:2,
anytime
211:22,
anyway 46:18,
60:11, 165:6,
246:18,
apart 230:7,
apologize
25:14, 54:13,
112:3,
appear 131:22,
191:20,
229:18,
appearances
142:14,
APPEARANCES
2:1,
apples 263:3,
apply 32:4,
32:9, 32:15,
61:4, 61:9,
173:9,
222:20,
applying 75:22,
177:21,
Appreciate
13:12, 49:4,
53:6, 68:4,
78:21, 245:6,
246:18,
appreciates
35:23,
appreciation
35:18,
Approach 65:2,
67:20, 74:14,
263:13,
appropriately
82:14,

82:19,
approximately
208:20,
Arabe 13:3,
52:25,
arbitrary
233:2,
area 12:5,
13:8, 52:10,
53:5, 90:24,
146:8, 163:9,
187:10,
207:13,
areas 12:3,
12:9,
52:13,
argue 102:5,
argument
232:14,
252:1,
arguments
31:25,
60:25,
Arizona 5:16,
26:1, 94:12,
97:8,
arose 169:7,
around 46:12,
114:18,
117:1,
118:24,
119:3,
123:18,
225:23,
264:2,
arrest
121:25,
arrested 26:3,
29:13, 99:10,
121:21,
121:22,
252:4,
arrests 121:11,
126:11,
162:19,
arrived
54:20,
Art 12:25,
52:23,
artificial

175:4,
aside 227:9,
asks 229:13,
Asleep
126:15,
Assault 17:9,
27:8, 107:25,
168:1, 188:2,
189:14,
191:11,
241:21,
assessment
94:16,
115:7,
assigned
178:12,
215:24,
assist 136:15,
137:2,
assistant 9:21,
23:17,
136:21,
136:22,
162:2,
Assisting
13:19,
53:15,
associated
12:10,
associating
23:16,
association
94:9,
assume 70:5,
95:6, 112:16,
115:11,
116:11,
146:23,
149:17,
159:15,
161:3,
176:24,
177:18,
199:20,
200:17,
201:21,
202:14,
202:17,
217:2, 218:1,
235:22,

273

229:12,
Ballerina 12:6,
52:9,
ballpark
265:23,
banker 174:2,
Base 62:6,
169:13,
212:11,
Based 46:18,
72:3, 97:6,
107:13,
136:6,
137:22,
142:14,
145:15,
149:21,
153:12,
167:15,
167:24,
167:25,
170:22,
183:7,
209:24,
214:11,
216:3,
221:25,
257:18,
260:18,
265:11,
265:17,
266:19,
basic 16:9,
127:14,
Basically
75:16, 87:23,
105:2,
131:23,
133:8,
145:14,
145:16,
173:9,
197:24,
198:21,
219:9,
225:18,
232:7,
253:6,
basis 103:24,
160:15,

170:6,
183:18,
254:14,
beach 254:8,
Bear 13:11,
111:11,
bearing 57:15,
80:14, 80:16,
80:18, 155:2,
201:17,
beat 199:7,
beaten 190:5,
became 179:7,
250:14,
become 155:3,
260:20,
beforehand
33:3,
begin 264:9,
beginning
20:21,
60:23, 117:1,
208:6,
behalf 10:25,
13:15,
134:12,
behavior
114:18,
118:24,
behind 3:19,
belief 60:20,
110:6,
154:20,
154:21,
154:24,
155:6,
217:22,
229:3,
233:24,
beliefs 31:11,
131:10,
183:8,
205:21,
206:5,
251:11,
believable
126:21,
believed 208:3,
229:7,
believes 22:18,
23:7, 24:8,

24:14,
130:23,
211:14,
believing
119:12,
belly 3:24,
below 185:16,
belt 37:18,
Ben 13:25,
53:21,
bench 65:2,
74:14,
128:23,
bench. 65:3,
67:22, 74:15,
263:15,
benefit
267:10,
Benjamin
20:21,
Bernardino
239:3,
Berry 56:1,
besides 101:4,
133:3,
163:2,
best 16:1,
16:8, 63:6,
89:4, 115:7,
198:22,
217:14,
better 6:19,
34:19, 35:11,
106:20,
152:11,
156:15,
210:6,
216:14,
242:16,
beyond 32:17,
61:12, 61:17,
130:8, 131:8,
150:13,
154:15,
154:18,
228:8,
bias 138:2,
biased 141:22,
190:6,
Bickert 13:7,

275

246:8,
assuming
110:16,
202:16,
assure 14:23,
attempt 28:15,
235:7,
attempted
26:22,
237:16,
attend 63:22,
63:24,
122:9,
attended
90:21,
attention 9:15,
9:16, 13:12,
53:6, 66:5,
82:4, 82:10,
82:15,
107:21,
218:3,
attitudes
185:8,
attorneys
54:9,
Attorney 4:23,
11:3, 14:13,
22:20, 33:8,
46:16, 51:15,
55:18, 181:2,
181:5,
attractive
260:21,
attribute
156:11,
audience
65:24,
aunt 27:20,
137:2, 137:3,
206:20,
216:17,
authorization
162:18,
automatic 69:4,
222:15,
228:17,
236:14,
automatically
68:16, 73:22,

87:16,
100:24,
120:13,
124:3,
131:11,
133:1,
140:17,
140:20,
140:22,
161:10,
171:25,
174:21,
201:5,
205:22,
212:25,
222:7, 223:6,
226:23,
229:6, 230:1,
251:12,
254:22,
266:1,
autopsy
151:20,
available
11:13, 52:2,
76:3, 94:25,
126:24,
138:5,
176:25,
221:11,
230:3,
262:6,
Average 33:18,
33:20, 62:4,
62:5, 62:6,
avoid 205:10,
awaiting
187:17,
aware 10:15,
208:12,
208:22,
242:22,
away 5:19,
33:3, 168:10,
188:16,
235:5,
243:24,
while
189:12,
Adam 14:1,

53:22,
< B >,
baby 122:13,
backed 36:12,
90:13,
90:19,
background
15:4, 70:3,
70:10,
100:18,
108:19,
115:5, 120:5,
120:9,
149:17,
217:25,
253:14,
266:24,
bad 16:6,
34:14, 86:7,
86:8, 117:2,
133:22,
134:3,
153:22,
168:14,
190:5,
242:19,
242:21,
256:14,
263:3, 263:6,
265:7,
265:22,
badger
205:18,
Baffling 209:8,
209:9,
Bailey 18:15,
66:13,
102:12,
102:13,
108:9,
263:19,
BAILIFF 8:14,
48:9,
50:17,
balanced
210:17,
balancing
107:21,

274

53:4,
big 15:2, 40:8,
54:7, 54:13,
123:10,
billfold
105:24,
billing 250:13,
250:14,
bit 6:19, 10:8,
12:5, 13:10,
35:11, 47:10,
53:8, 62:3,
63:10, 65:12,
75:3, 89:6,
102:15,
112:8, 233:7,
243:4,
244:9,
black 252:3,
Blayne 20:25,
251:22,
blessing
33:25,
blinded
209:12,
blow 37:12,
board 5:23,
211:14,
211:15,
Bobbie 18:10,
Bobby 56:3,
Bonanza 12:6,
12:11,
book 121:6,
121:8,
228:1,
born 204:24,
Boston 243:11,
247:16,
bothers
263:5,
bottle 39:22,
Bottom 27:2,
37:23,
134:16,
166:14,
bought
213:18,
box 115:20,
203:15,

209:20,
213:20,
225:4,
boyfriend
190:23,
252:10,
boys 160:4,
Brady 18:4,
66:12, 67:24,
71:11, 73:9,
73:22, 74:17,
129:21,
130:1, 130:2,
132:6,
134:15,
134:17,
135:1,
brain 200:7,
branch 178:8,
break 39:7,
39:12, 39:20,
45:18, 65:12,
111:10,
123:8,
134:11,
233:5,
breaking
126:15,
Brenda 56:1,
Brent 19:1,
Brianna 55:4,
Brief 4:21,
43:19, 113:2,
145:10,
224:17,
233:11,
briefly
67:20,
bring 5:16,
9:15, 15:10,
15:11, 38:20,
39:22, 48:8,
54:7, 121:7,
226:14,
bringing 102:9,
164:8,
brings 102:4,
Brinnon 22:2,
broad 100:13,
171:18,

broken 37:11,
123:7,
126:11,
126:14,
broker 174:6,
Brooks 14:2,
53:23,
Brother 25:20,
27:5, 28:15,
29:23, 30:8,
40:17, 64:15,
136:23,
187:2,
190:14,
190:15,
199:7,
209:13,
217:3, 217:6,
234:22,
234:23,
235:2,
237:15,
237:24,
brother-in-law
30:18,
83:6,
brothers 30:4,
40:13, 40:23,
64:4,
brothers-in-law
30:16,
brought 3:9,
42:24,
44:4,
bruise 252:3,
brushes
109:5,
Btu 130:15,
building 62:4,
192:16,
bunch 129:14,
263:4,
Burden 20:2,
27:19, 66:16,
206:14,
263:21,
burden 32:17,
32:20, 32:25,
34:17, 35:25,
44:2, 46:5,

276

61:11, 61:16,
61:21, 61:25,
63:13, 64:10,
176:2,
202:18.
Burfield 12:21,
52:18.
Burglary 11:7,
27:8, 30:8,
51:20,
188:25,
189:13.
burned
157:11.
bus 37:3.
Business 12:12,
12:13, 36:4,
40:2, 40:4,
41:13, 41:14,
41:19, 44:12,
44:13, 48:10,
52:14, 63:24,
91:2, 91:3,
91:7, 169:23,
250:15.
busy 122:11,
122:13.
buying 59:22.
Byrd 55:6,
65:5.
.
< C >.
C-131341 1:2,
3:5, 4:22,
6:8, 48:14,
233:13,
234:5.
C131341
134:20.
cafeteria
8:23.
Cal 13:2,
52:24.
calendar 22:17,
39:1.
calendars
38:24.
California
26:18, 59:4,

59:15, 60:4,
136:16,
136:18,
136:20,
160:5,
251:5.
call 5:24, 7:5,
9:24, 10:12,
12:17, 13:24,
17:20, 40:15,
50:4, 53:20,
54:19, 66:8,
123:11,
129:1,
129:10,
207:24,
214:7,
220:4.
called 5:7,
5:8, 10:11,
10:16, 10:20,
12:6, 13:7,
22:15, 31:20,
51:4, 53:4,
56:8, 113:18,
114:2,
120:13,
252:3,
257:13.
calling 7:15,
7:16.
calls 63:21,
163:20.
calmer
156:14.
camp 188:22.
Candice 22:9,
135:2.
candor 53:7,
108:9.
capacity
195:21.
Capital 12:11,
52:14.
capricious
233:2.
captain
195:17.
car 35:8, 37:3,
37:10, 91:1,

91:2, 105:19,
123:7, 123:8,
123:14,
126:10,
126:14,
126:15,
126:17,
126:18,
238:17,
238:19.
Cardillo 19:9,
66:15, 171:2,
263:20.
care 9:16,
64:14,
194:23,
197:17,
197:24,
257:23,
258:10,
261:8.
cargo 250:18.
Carol 8:2, 8:3,
12:22, 17:20,
50:7, 50:8,
52:19, 54:19,
56:12.
Carpenter
234:11.
Carr 20:17,
47:17,
49:2.
carry 162:16.
Carvalli 20:11,
28:9, 41:5,
47:16,
49:1.
cases 15:18,
32:15, 34:6,
34:7, 34:8,
38:25, 62:14,
62:16, 62:17,
62:20, 81:14,
81:19, 81:25,
82:3, 82:6,
82:10, 85:10,
98:23,
113:24,
114:24,
124:4, 137:4,

277

87:3, 112:19,
159:14,
159:17,
159:19,
159:22.
choice 138:7,
158:6,
181:19,
181:20,
184:23,
185:1, 185:2,
212:25,
213:8,
214:22,
232:4,
246:19.
choices 101:22,
158:7.
Choir 16:20,
56:17.
choose 73:1,
102:2, 125:8,
138:7, 141:4,
144:20.
choosing
92:14.
chose 145:1,
207:22.
chosen 57:11.
Chris 2:2,
11:2, 22:25,
51:14.
Christa 19:5.
Christina
27:18.
Christine
20:2.
circle 185:9.
circled
185:9.
circumstance
130:8,
166:21,
169:7.
citizen
17:19.
citizens 57:24,
189:18.
City 94:6.
Civil 15:19,

16:5, 35:6,
35:17, 85:24,
85:25,
116:2.
claim 86:3.
Claire 12:19,
52:17.
clarifying
231:17.
Clark 1:7, 2:6,
12:23, 13:19,
23:22, 52:20,
53:15, 53:16,
189:23,
218:2,
250:22.
clean 173:10.
clear 3:20,
130:24,
131:2, 131:4,
133:5, 218:4,
226:6,
226:24,
254:22,
266:12.
clearly 7:23.
client 10:5,
13:21, 53:17,
266:24.
clients 36:12,
63:25.
close 24:1,
25:16, 25:18,
58:21, 83:19,
84:1, 93:13,
111:13,
121:18,
121:25,
123:4, 168:6,
186:23,
187:6,
209:14,
221:2, 235:1,
235:2, 239:7,
249:11,
254:10,
262:16.
closely 10:18,
51:5.
closest

225:3.
closing 31:24,
60:24.
co-counsel
11:4.
Cohen 55:18,
59:6.
cold-blooded
104:4.
collectively
70:20, 87:6,
115:13,
125:11.
college
163:8.
colon 131:9.
color 71:17,
197:4,
197:21.
Colored 179:22,
179:23.
combination
48:19.
comes 9:13,
74:8, 129:20,
135:25,
143:12,
143:21,
144:2, 163:1,
215:22,
235:23.
comfortable
108:2,
165:25,
166:16,
167:1,
169:16,
171:12,
209:25,
231:25,
232:7.
coming 49:4,
49:5, 65:6,
65:7, 87:11,
88:20, 129:2,
146:25,
162:12,
167:21,
186:8,
187:21,

279

202:8, 218:1,
238:11,
250:1, 250:4,
266:21.
Cassandra
21:4.
catch 82:10,
218:6.
caught 82:3,
105:5,
238:16,
241:13.
caused 81:8,
250:20,
252:2.
causes 154:12,
263:1.
certain 32:14,
32:17, 50:19,
61:8, 69:6,
70:18, 72:2,
72:3, 73:11,
73:19, 90:19,
103:22,
104:12,
124:13,
132:2,
148:19,
148:24,
157:14,
167:6,
175:12,
182:20,
184:6,
193:15,
202:10,
232:17,
236:14,
265:25,
266:13,
266:20.
certainly
73:16,
150:22,
172:12,
227:4.
CERTIFICATE
267:25.
CERTIFIED 68:5,
268:2,

268:7.
certify
268:8.
cetera 14:18.
CFO 96:5.
chain 179:8.
chains 3:24.
chair 225:3.
challenge
101:10,
130:18,
132:5,
133:12,
134:8,
145:24,
182:3,
223:24,
225:17,
228:13,
228:22,
265:17,
266:18,
267:7.
challenged
65:25, 130:1,
225:1.
challenges
224:19.
challenging
265:11,
267:18.
chance 34:9,
97:19, 106:9,
243:16,
244:20,
256:17,
257:7, 257:9,
258:7,
266:7.
change 63:22,
71:24, 126:8,
164:14,
197:25,
210:8,
211:15,
222:14,
227:24,
227:25,
228:5,
229:22,

230:6.
changed 104:9,
143:19,
240:8.
Chappell-king
14:1,
53:22.
charge 4:5,
17:8, 51:23,
51:25, 52:2,
75:8, 155:25,
187:24,
189:25,
235:6,
235:9.
charged 13:21,
53:17,
249:11,
252:11.
charges 11:15,
51:17,
160:16,
160:18,
189:12,
190:3,
217:17.
Charles 13:25,
18:19,
53:21.
check 28:4,
46:3, 191:14,
238:16.
checked 102:19,
203:14,
205:9.
Chemaine 13:4,
53:1.
Cheryl 19:9.
Chicago
174:9.
chief 22:17,
93:7.
child 147:17,
194:14,
200:6,
206:5.
childhood 73:3,
194:6,
204:21.
children 26:15,

278

230:18,
231:20,
263:24.
command
179:8.
command
109:16.
comment 90:3,
228:9,
228:14.
commentary
43:11,
128:12,
224:9,
264:18.
comments
201:22.
commercial
41:19.
Commission
215:20.
Commissioner
49:6, 65:8.
commit 70:11,
175:5,
176:6.
commitment
200:12.
commits
145:7.
committed
124:23,
182:25,
217:20,
219:15.
committing
101:2,
102:9.
communicate
172:25,
200:20,
216:14.
community
37:24, 46:3,
106:14,
162:13,
219:10,
243:19.
companies
36:19, 63:20,

63:23.
company 63:16,
93:8, 250:16,
251:2.
compelled
214:4.
compelling
227:9.
complaining
215:23.
complaint
215:22.
complete 15:8,
57:7.
completely
109:15,
155:3.
completing
174:11.
Capton 13:4,
53:1.
computer
48:10.
can 78:8,
143:2.
conceive
253:10.
concept 92:9.
concern 91:12,
151:7,
154:12,
227:6.
concerned
87:22,
89:3.
concerning
108:14,
261:16.
concerns 70:23,
95:23,
151:2.
conclusion
87:12, 210:1,
210:3,
216:14.
conclusions
76:24.
confessed
190:22.
confident

213:13.
confidential
5:13.
confidentiality
36:19.
confused
130:13,
130:25,
142:9,
251:14.
connected 43:9,
43:12, 43:17,
128:10,
128:13,
128:18,
224:7,
224:10,
224:15,
264:16,
264:19,
264:24.
conscientious
182:12.
consequences
241:25.
conservative
47:2.
considerate
266:19.
consideration
11:15, 63:9,
101:18,
141:1.
considered
133:10,
178:14,
213:18.
considering
70:7, 103:14,
123:24,
140:24,
150:14,
155:4,
172:10.
considers
202:11.
construction
34:6, 93:8,
96:6.
contact 5:15,

280

10:2, 35:16,
67:24, 109:5,
147:19,
147:23,
147:25,
153:15,
154:9,
156:22,
159:24,
234:20,
235:14,
contacted 5:8,
5:23,
contaminate
15:15,
57:10,
contaminated
9:7,
context 75:4,
78:21,
continue
226:13,
226:17,
230:16,
control
99:25,
conversations
157:1, 157:8,
157:13,
converse 43:7,
50:19, 128:8,
224:5,
264:14,
conversing
8:20, 9:5,
convict 68:17,
117:10,
117:12,
145:6,
153:18,
237:19,
convicted 11:7,
16:25, 26:10,
26:22, 27:11,
27:19, 30:16,
51:19, 51:25,
57:22, 69:23,
70:14, 72:25,
74:5, 88:5,
95:12,

110:10,
121:12,
122:15,
131:8, 145:5,
145:13,
181:18,
203:20,
203:23,
216:17,
222:1, 227:5,
237:15,
conviction
51:24,
176:22,
convince 176:9,
207:21,
210:23,
convicted
78:9,
cookie
211:20,
cop 254:6,
254:17,
corner 199:12,
242:12,
Coroner 12:23,
12:24,
52:21,
correction
195:13,
195:16,
195:18,
corrections
94:16, 97:8,
98:12,
98:14,
correctly 50:2,
236:18,
correspond
77:8,
cost 90:11,
coughing
159:3,
Counsel 65:2,
74:14,
91:23,
counselled
246:4,
Counseling
111:21,

111:23,
114:14,
118:24,
119:3,
count 60:8,
132:25,
counties
63:7,
country 63:6,
counts 187:5,
County 1:7,
12:23, 13:19,
52:20, 53:15,
136:23,
189:23,
191:11,
218:2,
250:22,
couple 10:21,
25:6, 46:14,
49:21, 62:14,
62:15, 62:17,
184:8,
193:13,
228:10,
233:19,
254:11,
263:3,
course 7:3,
8:11, 9:6,
9:13, 10:2,
50:14, 80:6,
84:8, 95:10,
130:6,
171:10,
courtroom
50:18, 94:13,
98:20,
103:14,
113:9,
135:20,
136:7, 137:9,
146:7, 146:9,
153:5, 200:4,
200:12,
210:18,
243:10,
253:21,
courtroom.
6:5,

281

dealt 93:17,
Dean 13:25,
53:21,
Deborah 18:6,
Debra 12:20,
52:8,
52:18,
deceased
147:21,
154:10,
decent 33:24,
decide 15:1,
56:24, 62:8,
74:1, 75:14,
75:17, 88:21,
95:17,
104:17,
119:22,
125:5, 127:4,
127:19,
138:14,
139:4, 139:8,
139:25,
170:13,
170:17,
173:14,
223:10,
decided 38:25,
123:7,
144:23,
239:19,
261:23,
decides 34:2,
130:11,
Deciding 90:9,
170:12,
259:18,
decisions 15:5,
96:25, 97:1,
99:25, 100:1,
170:6,
212:11,
212:14,
213:12,
deem 125:8,
defect 34:6,
Defendant 1:19,
2:5, 4:24,
13:15, 24:9,
51:25, 58:8,

68:23, 70:2,
92:1, 107:9,
107:17,
108:19,
115:5,
141:16,
141:19,
142:13,
142:15,
142:23,
144:11,
149:17,
182:25,
232:7,
232:10,
233:22,
246:17,
253:14,
defender 13:18,
13:20, 53:15,
53:17,
109:11,
defenders
109:10,
defending
109:14,
defense 23:8,
44:3, 45:14,
58:5, 65:15,
86:21, 88:7,
90:7, 95:25,
102:4,
129:25,
191:12,
265:10,
266:18,
267:2, 267:4,
267:11,
definite
227:10,
Definitely
71:3, 187:8,
192:13,
194:1,
196:14,
198:8,
definition
150:5,
degree 11:8,
16:4, 17:9,

27:19, 29:4,
51:21, 51:24,
68:17, 68:23,
69:5, 70:15,
74:5, 87:2,
92:10, 95:12,
110:10,
117:11,
133:6,
171:22,
175:19,
177:1, 183:1,
202:9,
218:10,
222:6,
222:11,
225:23,
227:18,
228:2,
230:5,
degrees 265:6,
265:22,
deliberate
177:8,
deliberating
39:16,
deliberation
73:14, 73:21,
76:21,
138:19,
Dennis 14:1,
53:22,
deny 133:11,
134:8,
229:17,
230:12,
267:7,
Department
6:12, 6:14,
12:24, 49:13,
52:22, 170:1,
267:4,
depend 36:17,
dependent
75:20,
depending 39:8,
259:9,
Depends 71:5,
87:20, 90:5,
161:11,

283

courts
192:15,
cousin 26:21,
28:10,
136:23,
137:1,
209:14,
238:23,
239:20,
cousins 26:10,
121:11,
121:19,
122:17,
126:4,
136:15,
187:5,
cove 33:13,
cover 102:9,
203:6,
coward
199:11,
credence
60:14,
credibility
85:11,
crimes 11:7,
27:11, 35:3,
121:25,
151:14,
153:18,
criminal 6:16,
6:21, 15:19,
32:15, 35:17,
49:15, 61:9,
85:24, 94:12,
109:5,
113:25,
171:8,
181:10,
186:24,
234:20,
266:25,
crossed
249:16,
CSI 136:2,
culture 242:23,
242:24,
242:25,
cup 39:22,
curious 109:12,

209:16,
currently
64:18, 149:5,
188:3,
191:5,
Curtis 22:11,
135:3, 146:1,
155:12,
263:20,
custody 4:6,
154:2,
159:19,
188:3,
231:6,
cuts 232:20,
cutter
211:20,
< D >,
DA 136:16,
136:21,
136:23,
137:2, 154:5,
192:20,
Dad 24:1, 91:1,
199:7,
262:21,
262:22,
daily 137:17,
170:6,
183:18,
212:11,
damage 126:17,
242:6,
damaged
123:14,
Daniel 12:25,
52:22,
Danton 14:4,
53:25,
Darlene 21:8,
Darcen 12:25,
52:23,
date 30:15,
41:25, 51:19,
187:21,
DATED 1:30,
daughter 29:2,
29:5, 30:19,

160:13,
174:8,
daughters
174:1,
David 2:5,
13:18, 21:18,
53:14,
Davie 21:2,
29:22,
255:10,
261:3,
263:22,
265:3,
265:4,
Davita 22:11,
135:3,
Davy 19:23,
day 33:12,
33:14, 34:8,
36:22, 39:6,
42:19, 62:20,
129:15,
230:20,
231:2,
daycare
42:19,
daylight
63:22,
days 11:24,
33:14, 33:15,
33:18, 34:13,
35:23, 36:1,
40:7, 62:5,
62:15, 63:13,
79:18,
100:13,
126:14,
de-ja-vue
51:13,
dead 180:8,
deadly 11:8,
11:9, 51:20,
51:21, 68:24,
117:11,
deal 5:20,
91:17, 97:11,
123:10,
142:25,
dealing 16:5,
116:6,

282

165:2, 166:7,
246:20,
248:2,
266:1,
depressed
151:16,
depressing
81:24,
DEPT. 1:3,
depth 156:25,
Dersdorff
12:25,
52:22,
described
102:20,
describing
199:20,
212:2,
description
113:2,
Desert 231:1,
deserve
244:15,
deserved
242:3,
deserves
126:25,
258:7,
design 94:23,
designed 14:9,
15:23,
51:6,
designing
36:12,
desire 14:24,
56:23,
desk 98:21,
despite
209:19,
detail 157:3,
detailed 151:8,
157:7,
detention
160:6,
determination
11:11,
165:11,
202:22,
255:2,
determine

51:23, 73:19,
80:17, 88:16,
107:12,
117:14,
216:2,
determines
73:13,
determining
69:14,
developer
41:20,
dictate
12:25,
215:1,
die 244:15,
244:16,
died 83:8,
83:14,
Diego 207:12,
differ 31:11,
60:20,
difference
100:19,
133:12,
135:24,
208:15,
259:23,
different
15:21, 84:20,
97:14,
108:10,
108:18,
116:5, 120:5,
120:9,
124:22,
127:15,
142:25,
144:16,
147:1, 150:2,
204:25,
210:3,
211:23,
216:9,
222:25,
223:1,
225:16,
229:4, 232:2,
256:10,
258:1,
262:22,
differently

156:9,
difficult
35:21, 37:18,
42:6, 83:23,
101:7,
102:10,
132:14,
137:23,
213:20,
242:20,
difficultly
120:5,
difficulty
33:6,
189:4,
Dina 12:21,
52:19,
direct 162:11,
233:3,
direction
268:14,
dirt 159:6,
disagrees
133:20,
discipline
96:11,
96:13,
discover 73:11,
208:17,
discovered
15:13,
discretion
90:1,
discriminated
214:25,
discrimination
215:23,
215:25,
discuss 44:1,
92:5, 211:5,
211:7,
discussed
91:14,
117:18,
145:18,
161:4, 196:7,
202:8,
discussing
76:21,
115:14,

284

138:17.
Discussion
65:3, 67:22,
74:15, 76:22,
77:9, 86:10,
138:23,
263:15.
dislike 9:3.
dismissed
238:12.
disparity
225:9.
displayed
151:21.
disregard
201:16.
dissatisfaction
107:5.
District 1:6,
1:28, 6:13,
11:3, 22:20,
49:14, 51:15,
234:17.
disturbing
152:1.
divorced
147:17,
194:16.
do. 16:20,
56:17.
doctor 174:2.
doctors
116:7.
document
238:16.
doing 36:18,
47:1, 63:3,
66:24, 87:16,
121:2,
122:17,
122:23,
126:1,
135:10,
160:5, 160:6,
171:3,
183:22,
190:22,
190:23,
191:2,
237:14,

242:16,
247:2,
255:12.
dollars
126:17.
Domestic 29:3,
29:14, 29:24,
71:12, 71:16,
71:20, 71:23,
72:4, 72:7,
72:13, 80:2,
113:16,
118:17,
119:7,
119:25,
133:4,
146:14,
146:23,
179:1, 179:4,
179:9,
179:19,
187:25,
188:2, 203:6,
203:8,
252:9.
Donner
148:15.
Donald 21:20.
done 8:4,
11:25, 38:10,
39:18, 41:21,
48:2, 78:18,
81:14, 87:5,
107:2,
123:10,
127:2,
174:14,
245:25,
247:2,
255:24,
261:11.
Donna 55:6.
door 8:25.
Doreen 21:12,
208:20.
doth 232:2.
doubt 32:18,
61:12, 61:18,
130:8,
130:22,

131:9,
150:14,
182:2,
182:22.
Douglas 1:27,
6:13,
49:12.
Down 7:13,
8:15, 12:6,
33:11, 33:13,
37:8, 38:12,
45:18, 48:22,
49:10, 50:2,
65:6, 106:17,
133:23,
136:17,
162:14,
180:4,
185:16,
192:16,
210:2, 240:5,
243:11,
243:15,
245:1,
257:21.
downstairs
48:7, 49:9,
129:20.
downtown 12:10,
52:10, 52:13,
106:20.
dozen 46:19.
drama 135:20.
dramas
243:11.
drank 197:2.
draw 78:18.
drink 43:1.
drop 40:6.
dropped
42:11.
Drugs 26:4,
28:3, 28:19,
30:5, 30:17,
74:10, 83:4,
84:2, 84:5,
99:16, 99:19,
99:21,
121:13,
126:5,

285

136:13,
136:14,
153:16,
160:3,
160:13,
162:22,
195:8,
195:21,
198:10,
198:12,
238:24,
252:24.
Engelbrecht
59:22,
65:6.
engine 36:16,
36:18,
48:10.
English
67:14.
enough 7:6,
49:24, 54:7,
54:8, 54:13,
67:3, 82:14,
93:23,
109:18,
150:3, 175:2,
196:21,
229:16,
240:13,
261:5,
261:17,
264:8,
267:6.
enter 73:10.
entire
121:10.
entity 12:14.
environment
216:1.
EOC 215:17.
Equal 110:25,
215:20.
equation
211:23.
escape
199:10.
escorted 6:5.
Especially
3:18, 48:3,

65:23, 78:20,
151:13.
EQ 2:2, 2:3,
2:5, 2:6.
Essentially
31:17,
60:22.
estimate
265:23.
Esuebio
19:19.
et 14:18.
Etcoff 14:3,
53:24.
ethical 8:20,
9:4, 9:10,
50:19.
ethnic
142:25.
evaluate 94:19,
113:8,
161:13.
evaluating
151:22.
evening 233:19,
233:20,
263:16.
evenings
39:18.
event 36:9,
200:11.
eventually
103:5.
Everybody 5:24,
15:4, 16:13,
16:14, 17:21,
31:8, 32:18,
32:19, 32:20,
35:23, 44:9,
49:10, 50:17,
57:21, 60:17,
61:12, 61:15,
76:25, 89:10,
116:11,
120:16,
198:7,
230:19,
264:2,
264:4.
everyday

36:19.
Everyone 5:15,
56:22, 76:23,
104:12,
123:18,
150:21,
259:21.
evidentiary
6:20.
Evil 244:25.
ex-boyfriend
190:22.
ex-husband
195:7,
195:15,
195:20,
198:10.
ex-military
227:22,
227:24.
ex-police
85:2.
ex-special
227:22.
ex-wife
83:15.
Exactly 69:16,
136:24,
259:7, 260:1,
260:5.
example 16:9.
except 131:3,
184:22,
185:11.
exclamation
184:9.
exclude
139:19.
excluding
139:25.
excuse 33:20,
33:24, 47:12,
48:20, 48:23,
62:6, 62:12,
65:5, 129:10,
129:18,
134:14,
226:8,
226:11,
229:1,

287

164:12,
164:20,
164:21,
168:4, 179:1,
179:9,
179:12,
179:18,
235:5, 238:4,
238:19,
241:22,
243:2,
247:9.
drunk 157:10.
Duane 21:16.
due 5:17, 5:19,
36:6,
64:10.
Duffy 13:4,
53:1.
DUI 30:18.
Duran 12:18,
52:16,
55:10.
During 7:3,
8:10, 8:11,
9:5, 9:13,
10:14, 13:24,
42:19, 43:6,
43:10, 50:14,
53:20, 80:6,
119:2, 128:7,
128:11,
131:14,
161:1, 224:4,
224:8,
264:13,
264:17,
266:8.
duty 151:5,
175:18.
< E >
ear 231:10.
Earlier 54:15,
131:21,
153:14,
159:4,
206:19.
early 190:11,

219:7,
264:8.
easier 47:25,
214:22.
East 12:5,
12:7, 52:9,
52:10.
easy 81:22,
124:24,
150:22,
172:12.
Ed 13:4,
53:1.
editing
36:11.
educated
209:19.
education
209:19.
educational
217:25.
effect 15:25,
108:15,
108:19,
117:4.
effected
112:10.
efficient
54:18,
65:13.
Eight 36:20,
36:22, 42:8,
194:15,
194:20.
Eighth 6:13,
49:13.
either 5:19,
7:13, 50:11,
73:18, 98:2,
143:1,
212:25,
233:22,
240:2, 242:5,
255:6,
266:5.
element
89:25.
elements
61:11.
elevators 8:24,

128:5.
eligible 98:8,
134:4,
202:9.
Elko 217:10.
elsewhere
30:12.
emotion
170:22.
emotional
108:12.
emotions
152:16.
empathize
151:15,
155:16.
emphasize
184:9.
employed
234:10.
employee 40:3,
96:14, 96:15,
215:23.
employees
96:11, 96:15,
97:4, 179:12,
179:15.
enabler
246:1.
end 28:9, 30:7,
31:22, 39:15,
41:5, 60:24,
69:2, 78:4,
79:17,
103:21,
131:16,
175:6, 184:9,
214:6,
215:5.
ended 159:14,
159:16,
160:5,
252:16.
enforce 175:2,
181:10.
enforcement
31:2, 81:1,
85:1, 93:18,
94:4, 111:21,
122:5,

286

229:20,
263:23.
excused 54:15,
65:25,
128:25,
135:1,
226:16,
229:16,
230:12.
excuses
62:13.
excusing
48:13.
executive
9:21.
exhibits 8:6,
50:10.
exists 32:10,
61:1, 61:5,
61:6.
exited
162:12.
expand 180:6,
238:10.
expect 200:9,
expedite 14:9,
14:11.
expediting
46:13.
experience
85:17, 86:4,
93:13, 113:1,
113:5, 113:8,
113:15,
114:9, 116:6,
116:22,
126:20,
137:22,
146:14,
146:21,
164:8, 168:2,
195:2, 200:1,
209:6,
210:13,
219:2,
220:18,
242:18,
243:21,
251:25,
252:23,

256:14.
experienced
147:15.
experiences
107:6,
194:6.
experimental
93:25,
99:13.
experimentation
99:15.
expert 36:17.
expires
35:15.
explain 108:21,
117:5, 163:13,
204:22,
212:25,
225:10,
239:20,
240:9,
246:21.
explained 69:1,
117:10,
175:3,
202:12,
240:6.
explaining
54:6.
explanation
167:7,
212:17,
213:1.
explore 72:4.
explored
240:11.
exposed 80:1.
exposed
225:10.
express 43:17,
128:18,
224:15,
264:24.
expressed
33:6.
expressing
115:12.
expunged
17:5.
extent 25:17,

35:21, 50:23,
65:24,
229:2.
extra 178:17.
eye 75:12,
86:12, 86:14,
86:15,
102:14,
102:20,
102:21,
145:5,
171:17,
180:23,
229:8,
252:3.
eyes 219:17.
< F >
factor 38:22,
74:11, 109:6,
109:23.
factored
261:9.
factors 70:18,
77:25, 88:6,
90:1, 90:4,
104:13,
104:14,
104:15,
107:13,
124:11,
127:5,
145:17,
148:24,
149:12,
149:18,
175:12,
245:3, 245:7,
253:14,
267:12.
factual 90:12,
221:25.
fail 7:17,
7:24.
Fairly 99:19,
122:5,
123:20,
153:20,
160:10,

288

161:14, 190:8, 235:18, 235:20, 236:2, 266:19, fairness 225:24, faith 116:24, fall 127:12, fallen 235:4, falls 252:8, familiar 84:16, 218:1, families 209:18, fan 135:19, 247:17, far 8:25, 66:14, 86:10, 91:10, 91:14, 120:16, 138:4, 157:2, 157:25, 191:9, 227:5, 227:15, 266:17, farm 188:20, fashion 9:3, 35:16, fate 104:9, 104:11, father 29:2, 29:5, 72:8, 72:11, 147:8, 156:19, 157:2, 194:16, 196:21, 203:5, 234:12, 252:4, favor 103:19, 113:13, 215:1, favorably 98:9, fearful 199:20, feed 84:11,	feeling 74:23, 168:25, 211:17, 259:10, 259:21, feelings 100:3, 112:4, 113:5, 138:17, 149:7, 153:22, 166:6, 168:14, 168:17, 169:6, 171:7, 176:5, 197:25, 205:2, 220:19, 227:3, 244:7, 249:14, 252:23, feels 31:4, 130:24, 140:1, 235:19, fees 38:11, fell 126:15, 172:25, 202:22, 248:13, 252:2, fellow 54:5, 70:5, 150:15, 200:21, felon 16:25, felony 57:23, 59:18, 154:7, felt 79:2, 87:19, 89:12, 107:22, 108:25, 140:11, 141:8, 167:19, 169:10, 186:14, 190:8, 208:6, 209:22, 209:24,	214:16, 214:21, 240:1, 250:2, 255:23, fewerhammer 21:16, few 6:23, 14:12, 33:11, 35:23, 49:8, 91:10, 95:11, 111:11, 142:8, 224:2, 230:3, 231:12, 237:25, fold 23:16, fifth 174:13, fight 29:14, figure 32:3, 67:5, 164:4, 226:13, figuring 258:13, fill 11:13, 47:22, 134:25, filled 14:8, 15:7, 49:17, 54:8, 56:20, 67:7, 68:10, 103:2, filling 49:4, 258:2, filter 15:24, final 61:20, 92:7, 264:9, finally 43:18, 61:8, 128:19, 224:16, 264:25, financial 44:15, 45:19, 64:10, 93:7, find 8:16, 14:25, 15:2, 42:6, 50:17, 61:3, 65:23, 71:15, 73:12,	132:4, 150:17, 224:14, 230:5, 263:1, 264:23, formed 102:18, 103:5, 203:14, 221:23, 221:24, 223:15, forming 103:15, forms 72:18, 77:20, 133:15, 134:6, 139:8, 141:5, 144:19, 229:25, 230:3, 259:9, 259:11, 262:10, 266:9, formulating 196:9, forth 8:18, 15:9, 16:4, 31:20, 32:12, 39:11, 43:25, 57:8, 65:21, 268:11, forty 63:21, forward 63:5, 264:11, found 122:7, 126:11, 126:13, 182:25, 208:9, 209:15, 214:5, 227:18, 259:6, fourteen 9:18, 14:25, frame 232:10, Frankly 148:10, 232:3, Franks 56:3,	Fraud 28:11, Fred 13:25, 53:21, Frederick 17:23, free 78:1, 139:24, 225:10, Freeman 12:21, 52:19, French 20:9, 28:6, 41:1, 47:16, 49:1, frequently 98:25, 262:25, Friday 61:23, friends 23:2, 24:2, 80:24, 80:25, 241:24, front 6:25, 14:17, 39:25, 49:22, 56:19, 98:21, 152:3, 176:6, full 14:20, 15:8, 36:10, 57:7, 87:11, 214:14, 261:5, funnel 162:13, futuristic 136:2, < G >, gang 28:23, 30:11, 190:20, garage 105:21, Garcia 20:15, 28:18, 66:17, 240:21, 240:22, 245:24, 263:22,	gave 102:21, 191:12, 220:19, GE 12:11, Gene 21:6, General 57:19, 82:18, 90:21, 116:24, 127:4, 176:18, Generally 14:16, 39:1, 44:13, 44:17, 103:19, 211:18, 230:19, generated 215:11, gentleman 38:21, 48:9, 228:12, 267:1, Gentlemen 6:7, 6:12, 13:17, 14:7, 16:23, 43:6, 48:18, 53:13, 65:10, 127:24, 128:7, 224:2, 224:4, 264:13, geographically 12:3, George 19:3, 158:23, Gemot 55:4, gets 5:3, 65:24, 101:24, 151:8, 238:15, 257:23, 259:1, 265:8, getting 81:17, 91:16, 152:12, girl 91:16, 137:1, 180:7,
---	--	--	--	--	--

289

291

79:15, 79:17, 101:5, 123:13, 130:6, 130:7, 132:1, 209:9, 213:8, 215:1, 233:6, 233:17, 233:20, 238:19, finder 216:8, finders 32:2, fine 39:23, 46:20, 66:25, 77:1, 129:17, 129:23, 159:2, 160:6, 206:16, 240:24, 243:24, 244:5, finish 39:10, 39:14, 264:1, 264:5, finished 231:14, 264:7, fire 96:14, firearm 162:16, fixing 96:8, fix 41:25, 96:6, fit 81:15, 86:15, 95:4, 100:7, 240:1, 240:9, 240:12, 250:3, fits 236:9, 240:5, 240:6, 240:8, 240:9, five 5:6, 11:24, 17:6, 33:14, 33:15, 34:13, 36:1, 63:13, 64:21, 79:18, 190:4, 199:16,	flagstaff 163:8, flake 265:7, flat-out 133:8, flight 41:17, flights 41:21, floor 49:7, 128:4, Florida 180:8, fluid 39:9, focused 109:1, focusing 11:22, folks 10:22, 30:24, 34:21, 34:24, 44:14, 44:25, 45:15, 46:18, 47:13, 49:8, 49:11, 54:4, 65:23, 111:9, 134:18, 134:25, 226:8, follow 31:9, 60:18, 61:1, 61:5, 69:8, 123:16, 130:5, 130:12, 130:16, 131:3, 131:15, 131:21, 133:17, 150:7, 150:10, 157:22, 157:25, 176:1, 176:7, 176:10, 177:5, 193:24, 200:17, 202:14, 202:19,	212:6, 218:7, 248:9, follow-up 131:25, followed 82:15, follower 205:14, 225:13, 227:10, 229:1, 229:3, following 69:22, 70:6, 70:23, 213:25, follows 13:24, 53:20, 215:23, Forbes 21:18, force 178:9, 263:4, forced 246:5, forces 178:15, 227:22, forcibly 105:22, Ford 13:24, 53:20, foreclosed 134:6, 262:3, foregoing 268:10, 268:14, foreperson 25:10, 58:19, forfeit 110:1, forfeited 246:22, forgery 28:4, forgot 200:6, 200:9, form 22:20, 43:16, 103:10, 128:17,	girlfriend 204:3, 204:8, 204:10, 252:10, girls 234:13, Given 31:10, 70:1, 71:24, 113:2, 120:17, 127:5, 144:13, 159:19, 164:15, 210:16, 213:6, 214:14, 236:10, 238:4, 239:12, 240:6, 240:7, 240:8, 240:12, 240:15, 254:18, 261:17, giver 64:14, 197:18, gives 177:22, giving 33:25, 63:10, 67:3, 92:14, 107:21, 176:11, 201:5, 240:11, 261:15, glad 122:4, gleaned 233:24, glimpses 218:6, goal 92:7, God 16:19, 56:16, 245:1, 263:6, Gods 87:3, goods 60:4, gotten 253:2, grab 128:4, grace 245:1,	graduate 207:12, 210:2, Grand 26:14, grandson 160:3, 164:12, grant 228:22, graphic 151:19, graveyard 64:13, 64:19, 182:9, great 8:7, 15:21, 15:22, 16:2, 97:11, greater 35:17, 239:11, Green 12:24, 52:21, grew 91:2, 94:1, 147:15, 195:1, 199:4, 200:1, Grey 14:4, 53:25, Grindstaff 20:19, 28:22, 47:17, 49:2, ground 217:13, group 48:7, 56:23, 70:20, 112:23, 205:10, 213:5, 246:22, 249:15, 252:13, 258:11,	guide 246:4, guilt 11:14, 43:25, 191:20, guilty 87:24, 109:16, 120:13, 122:7, 171:9, 173:8, 183:1, 217:17, 227:18, 258:25, 259:6, gun 76:14, 87:16, guy 44:11, 48:10, 63:23, 81:21, 105:6, 123:7, 123:13, 126:13, 128:24, 131:1, 148:1, < H >, half 46:19, 188:25, halfway 165:6, hall 8:21, hand 14:15, 14:19, 14:21, 16:15, 28:6, 28:18, 28:22, 29:12, 37:1, 56:11, 57:21, handled 105:1, 236:2, hands 3:23, 3:25, 17:17, 24:10, 24:13, 27:17, 31:6, 32:11, 32:21, 33:2, 35:7, 48:4, 58:6, 58:11, 58:14, 58:19, 60:16,
--	---	---	---	---	---

290

292

61:6, 61:18, 106:4, 106:6, happen 40:19, 103:13, 105:9, 120:20, 123:1, 138:14, 145:2, 190:21, 191:17, 214:9, 220:6, 241:11, 242:4, 243:5, 248:18, happened 74:9, 117:8, 153:23, 168:15, 199:14, 207:14, 216:20, 216:22, 218:2, 219:14, 220:16, 235:2, 248:18, 252:6, happening 6:24, happy 116:16, 116:20, 217:12, harbor 168:14, harboring 220:22, Hard 7:10, 50:1, 67:13, 67:16, 67:19, 99:18, 100:15, 101:20, 112:2, 114:9, 124:17, 124:18, 146:16, 151:9,	151:23, 152:2, 174:23, 176:3, 176:5, 194:19, 209:13, 242:9, 243:24, 259:22, 259:24, 262:13, hardcore 229:19, hardship 45:19, 45:20, harsh 92:10, 185:20, hash 92:15, 92:25, hate 87:3, 246:11, 246:15, Haupt 18:12, 22:15, Hawaii 30:5, 250:19, 251:3, He'll 8:10, 97:24, 228:4, head 7:12, 49:25, 96:25, 241:24, 252:2, 262:14, headquarters 251:5, heart 232:20, Heather 55:18, head 201:15, Heiner 12:25, 52:23, heinous 148:14, 240:13, held 65:3, 67:22, 74:15, 263:15, Hello 135:8, 135:9,	178:4, help 8:10, 16:19, 43:22, 50:13, 56:16, 162:11, 216:12, 216:13, 246:1, helped 8:14, helpful 66:8, Henck 18:24, 26:6, 66:14, 120:25, 125:25, 263:19, Henderson 13:4, 53:1, 94:6, 98:18, henry 268:8, Hendon 1:27, 6:14, 49:12, 69:1, 69:9, 121:10, 202:13, hesitate 4:11, Hibbard 18:10, 66:13, 93:4, 96:5, 101:13, 129:22, 130:1, 132:7, 132:8, 132:10, 133:12, 134:9, 263:19, hide 57:9, High 14:21, 16:4, 156:8, 156:9, 156:15, 156:17, 231:1, 241:12, highly 99:4, hike 117:1, hinders 40:5, hinted 88:7, hiring 96:9, Hispanic	184:3, 214:5, 214:8, 229:9, 236:16, 239:19, imposed 81:20, 82:16, 82:19, 163:12, imposing 125:6, 134:6, 156:4, imposition 69:21, impressed 210:16, impression 82:18, impressions 197:21, impressive 178:24, improper 231:21, in-law 30:17, In-laws 187:4, in. 16:14, 219:16, incapacity 5:19, incarcerated 97:19, incident 52:7, 191:16, 253:3, incidents 40:14, 106:17, incision 37:17, inclination 130:14, inclined 214:20, include 12:18, 51:20, 52:2, 52:12, 98:7, 184:13, 184:16, 185:18, 186:8,	including 43:8, 43:14, 45:19, 46:2, 49:23, 62:14, 128:9, 128:15, 224:6, 224:12, 246:17, 264:15, 264:21, income 64:14, 64:19, inconvenience 33:7, inconvenient 35:21, 63:1, independent 62:12, indicate 20:5, 109:25, 130:5, 133:19, 134:5, 137:21, 216:24, 229:2, 230:1, 236:22, 247:21, 266:8, indicates 21:21, 22:8, 123:24, 261:14, indicating 46:17, 116:15, 132:3, 217:17, indication 229:5, individual 183:16, individually 35:3, 46:21, individuals 45:4, 131:7, 186:23, 232:5,	262:19, indulgence 4:20, 45:25, 46:22, 66:22, 101:8, influence 94:15, 112:16, 148:5, informed 127:19, initial 131:14, innocence 11:14, 35:25, innocent 43:25, 171:9, 173:7, insanity 101:2, 101:4, 132:24, 133:7, inserted 166:4, instance 16:5, instances 95:6, 104:4, 106:19, 187:9, Instead 47:20, 139:1, instinct 15:11, 57:12, Institute 90:22, instructed 131:24, instruction 70:24, 73:12, 213:6, Instructions 8:12, 8:13, 31:9, 31:10, 31:21, 32:1, 60:18, 60:20, 60:23, 69:8, 69:22, 71:6, 73:15, 74:1,
--	---	---	--	---	---

293

295

143:9, history 71:12, 71:23, 72:7, 80:1, 179:18, 197:4, 203:7, 266:25, hit 157:10, 241:24, 242:8, 252:2, hobbyist 135:19, Hobson 12:19, 52:16, Hold 32:20, 61:15, 69:9, 79:19, 90:17, 106:21, 136:4, 149:8, 176:2, 178:20, 202:17, holes 238:9, Home 12:6, 34:1, 52:9, 62:8, 105:3, 105:19, 199:21, homicide 217:21, 218:2, honest 8:8, 15:8, 46:6, 57:7, 103:8, 213:19, 228:22, 258:20, honestly 258:16, HONORABLE 1:27, hope 37:12, 107:3, 123:2, 198:22, hopeful 11:23, 264:7, Hopefully 12:1, 62:5, 123:1, hopes 210:2,	hoping 235:23, 258:12, horrible 244:13, 258:8, Hotel 207:8, hour 39:7, hour-and-a-half 39:7, hours 91:10, 95:11, house 64:3, 64:20, 219:16, 251:1, Houston 105:14, 106:20, 106:21, Howard 1:42, 14:2, 53:23, 268:25, huge 104:14, huh-uh 7:9, 50:1, human 79:4, 86:25, 103:5, 108:4, 186:5, 239:14, hundred 87:24, 185:20, hung 121:23, 226:25, husband 27:5, 36:8, 37:10, 42:11, 64:9, 111:19, 113:22, 114:13, 118:17, 119:13, 147:8, 147:15, 156:19, 157:1, 157:5, 187:2, 188:22, I > idea 34:20,	76:20, 77:2, 78:14, 86:25, 97:15, 102:14, 138:6, 138:17, 140:8, 165:17, 184:5, 187:23, 237:4, 245:5, 248:6, 257:2, 257:10, ideas 77:3, 77:8, identified 7:23, identify 7:25, 50:5, identity 255:16, ill 252:23, imagine 15:18, 202:4, 252:5, impartial 56:23, 76:1, 80:7, 107:17, 108:16, 108:20, 117:22, 137:23, 146:17, 146:19, 146:21, 158:10, 162:23, 164:7, 195:4, 204:18, 205:8, importance 88:23, 104:14, 212:13, impose 68:16, 72:22, 73:23, 89:23, 95:21, 125:20, 132:14, 154:25,	124:12, 130:5, 130:12, 130:16, 131:3, 131:15, 131:22, 133:17, 150:11, 175:6, 175:7, 176:1, 177:5, 193:25, 200:18, 212:6, insurance 86:2, 91:3, 91:7, 117:1, 181:8, integrity 16:4, intelligent 16:3, 34:21, intended 57:2, intent 226:14, intentional 110:10, 110:14, 117:12, intentionally 202:5, interest 46:12, interested 66:4, 258:25, interesting 171:6, 171:16, 259:4, interests 232:2, interfere 84:7, 244:2, internalize 151:15, internet 43:15, 128:16,	224:13, 264:22, interpret 31:15, 68:2, 124:14, 129:14, interpreter 67:24, 68:5, 68:6, 129:9, 129:11, introduce 6:24, 10:5, 51:2, introducing 54:10, investigate 215:24, investigator 215:12, 215:16, 215:18, involve 29:7, 96:8, involvement 126:8, 162:22, 164:12, 164:14, 165:8, involves 51:17, 52:7, 71:16, involving 82:1, issue 3:9, 16:19, 45:8, 56:16, 72:4, 74:12, 109:7, 111:15, 141:23, 201:10, 232:16, 233:7, issues 8:11, 31:22, 38:22, 40:9, 42:24, 44:9, 44:23, 45:10, 46:14, 50:14, 56:24, 57:4, 76:21, 113:3,	114:12, 138:1, itself 70:2, 77:13, 149:16, 249:23, Ivory 13:25, 53:21, J > Jackson 12:19, 22:6, 22:16, 52:17, 54:23, 59:12, 64:7, jail 12:10, 52:13, 72:15, 188:24, 190:24, 191:3, 191:11, 191:17, 191:18, 232:4, 252:4, 252:17, James 1:17, 3:6, 6:9, 11:5, 13:1, 13:22, 13:24, 20:19, 22:4, 48:15, 49:16, 51:18, 52:24, 53:18, 53:20, 55:22, 134:21, 233:13, 234:5, Jante 20:11, janitor 234:16, Jep 37:10, Jeffery 148:14, Jerry 12:21, 18:8, 52:19, Job 32:2, 61:3, 85:7, 93:10, 97:4, 97:11,
--	--	---	--	---	--

294

296

97:14, 97:16,
98:25, 99:4,
109:13,
164:3,
213:12,
214:24,
216:12,
216:13,
jobs 182:10,
John 55:20,
63:18,
180:9,
Johnson 20:23,
29:1, 47:17,
49:2, 74:20,
79:24,
263:18,
Joseph 55:8,
judged 108:5,
judges 63:7,
89:10,
231:24,
judging 78:20,
79:16,
Judgment 78:15,
79:3, 86:25,
107:24,
108:2, 115:7,
124:25,
125:5, 140:5,
140:8,
158:18,
165:18,
165:20,
166:19,
169:12,
184:5, 184:6,
184:12,
184:16,
186:8,
186:16,
214:7, 248:7,
248:9,
253:18,
257:5,
257:11,
judgmental
184:12,
judgments
78:22,
Judicial 6:13,
49:13,
63:5,
Judy 54:25,
jump 76:14,
76:24,
87:15,
juries 58:19,
184:2,
jurisdiction
187:16,
justice 15:19,
35:2, 35:7,
35:11, 35:14,
80:24, 81:1,
81:4, 94:12,
105:8,
113:25,
161:23,
171:8,
186:24,
234:20,
256:7,
justifiable
132:20,
justification
70:11, 70:14,
202:5,
justify 100:13,
101:3,
101:15,
229:16,
230:12,
justifying
102:9,
juvenile 17:13,
160:6,
188:14,
K >,
Kaleikini-johns
on 66:12,
Kaleikini-johns
n 18:6,
Karalee 19:7,
Mary 55:24,
keep 8:7,
14:19, 39:13,
66:19, 76:9,
76:18, 88:10,
96:18, 99:5,
99:21,
102:25,
107:20,
119:15,
135:12,
138:12,
139:2,
139:20,
187:3, 198:3,
198:21,
212:7,
230:19,
238:6, 248:4,
259:13,
keeping 76:21,
263:7,
265:9,
keeps 8:6,
50:10,
kept 265:15,
kick 46:8,
46:16, 46:19,
225:14,
225:23,
225:25,
kicks 64:21,
179:12,
kill 148:25,
183:4, 184:2,
185:17,
237:19,
244:18,
244:21,
killed 40:14,
40:18, 91:16,
167:7, 180:8,
204:2, 205:3,
208:20,
228:18,
killers 148:16,
148:21,
206:5,
killing 110:11,
110:14,
216:17,
kills 226:24,
229:8,
Kimberly 12:20,

297

230:14,
leaving
216:23,
Lee 13:1,
21:10,
52:23,
left 8:9, 30:8,
50:7, 50:12,
86:7, 101:22,
116:23,
185:13,
225:11,
242:19,
Legal 8:11,
8:12, 23:16,
23:17, 31:21,
50:14, 60:22,
69:10, 73:12,
116:24,
162:1,
202:10,
243:11,
247:17,
legally
132:19,
legislator
172:19,
222:13,
222:17,
legislature
149:4,
230:6,
lengthy 14:10,
31:25,
lenient 73:18,
81:5, 81:12,
82:4, 92:15,
92:23, 97:20,
132:15,
Leslie 8:14,
9:9, 9:12,
9:15, 9:17,
9:20, 48:6,
50:16, 50:22,
50:24,
129:19,
less 31:4,
33:19, 60:14,
62:5, 80:7,
97:20, 98:9,
99:4, 99:16,
109:20,
113:13,
119:8,
119:11,
119:12,
120:13,
126:21,
157:13,
157:14,
164:22,
179:20,
214:21,
238:3,
letting
44:14,
levels
133:13,
Lewis 14:3,
53:24,
Lexus 233:20,
lien 71:4,
141:3,
light 111:1,
130:15,
136:8,
lightly
150:21,
likely 99:17,
118:9,
157:13,
157:14,
214:10,
likes 89:10,
227:16,
243:12,
261:14,
265:24,
132:15,
likewise
201:25,
limitation
43:8, 43:14,
128:9,
128:15,
224:6,
224:12,
264:15,
264:21,
limited 74:4,
262:2,
limiting 149:2,
149:4,
Linda 55:10,
line 37:18,
89:4, 180:4,
267:14,
lines 31:3,
178:15,
228:24,
Lisa 12:18,
18:15, 18:17,
18:22, 20:9,
52:16,
list 10:10,
13:23, 45:18,
45:20, 46:4,
47:3,
53:19,
listened
239:25,
listening 77:5,
81:16,
102:15,
117:19,
132:12,
196:9,
211:24,
211:25,
212:13,
literally
86:16,
litigation
216:2,
232:18,
littler
33:19,
live 84:17,
174:4, 174:8,
183:17,
213:14,
235:24,
241:3,
246:23,
248:22,
256:3,
256:5,
lived 121:22,
240:25,
livelihood
36:17,

299

52:17,
kinds 95:16,
113:4,
135:17,
135:25,
182:15,
Kisha 14:1,
53:22,
Kitchen
55:24,
Knowing 72:24,
73:24, 110:9,
153:7,
155:18,
259:6,
262:16,
knowledge
218:13,
known 102:17,
179:3,
179:5,
knows 22:19,
24:9,
24:12,
L >,
LA 41:18,
Labbranch 18:22,
25:23, 37:5,
47:14,
48:24,
Ladies 6:6,
6:12, 13:17,
14:7, 16:22,
43:6, 48:18,
53:13, 65:10,
127:24,
128:7, 224:2,
224:4,
264:13,
Ladonna 12:19,
52:17,
Lady 45:20,
81:21, 176:5,
181:7, 207:8,
216:21,
216:23,
226:3,
Lamp 12:7,

52:11,
Land 16:6,
Language
67:11,
large 36:7,
Larry 13:3,
18:24,
52:25,
Larsen 55:14,
Las 3:1, 40:20,
59:25, 63:20,
146:5,
157:17,
195:10,
241:1,
250:21,
last 7:21,
36:5, 36:13,
61:23, 62:15,
62:17, 62:18,
62:20, 68:10,
128:24,
132:2, 189:3,
205:25,
225:4, 226:3,
228:12,
236:13,
258:4, 258:9,
258:14,
258:17,
259:8, 261:8,
265:22,
lasts 33:18,
62:4,
late 9:23,
9:24, 89:6,
192:9,
219:6,
later 8:13,
15:13, 17:5,
39:13, 39:16,
40:10, 62:15,
102:23,
126:15,
231:11,
Laura 12:21,
20:23, 52:18,
55:12,
lawful
238:21,

laws 32:7,
94:24,
157:21,
240:10,
lawsuit
116:12,
Lawyer 116:16,
181:8,
Lawyers 43:9,
116:7,
116:10,
128:10,
136:15,
224:7,
264:16,
layout 73:15,
lead 247:4,
leading
229:14,
leaking
37:11,
lean 144:20,
201:7,
leaning 139:17,
141:4,
148:10,
257:17,
learn 15:5,
47:11, 48:3,
57:4,
213:23,
learned 73:2,
97:13,
179:18,
least 5:7,
88:14,
104:17,
130:4,
139:18,
159:16,
168:9,
178:22,
190:25,
192:7,
201:10,
206:23,
219:5,
240:25,
241:10,
241:14,
243:16,

298

livelihoods
212:12,
lives 15:3,
15:25, 33:13,
57:3, 64:15,
137:3, 154:8,
239:8,
living 79:8,
111:25,
121:21,
122:12,
159:11,
207:9,
211:21,
222:18,
loan 64:9,
locally 25:24,
26:16, 26:23,
26:25, 27:13,
27:20, 28:4,
28:16, 28:20,
29:4, 29:19,
30:9, 30:21,
30:22, 40:19,
59:3, 174:4,
234:24,
lock 188:15,
logically
152:14,
long 17:10,
27:21, 37:19,
37:20, 58:25,
76:23, 85:19,
85:20, 93:9,
106:11,
123:14,
132:17,
139:18,
159:16,
168:9,
178:22,
190:25,
192:7,
201:10,
206:23,
219:5,
240:25,
241:10,
241:14,
243:16,
254:8,
255:18,
long-time
217:25,
longer 5:18,
39:4, 62:18,
122:18,
213:4,
217:15,
230:21,
230:23,
look 34:12,
44:8, 46:9,
90:10, 98:8,
103:9,
119:24,
120:18,
132:23,
151:18,
155:14,
166:10,
167:16,
197:4, 198:6,
209:20,
213:12,
214:10,
227:4, 228:1,
229:20,
232:25,
233:5,
266:20,
looked 103:8,
looking 75:24,
76:8, 81:15,
90:6, 155:20,
170:8,
224:23,
225:19,
233:1,
246:25,
247:1,
266:23,
loop 238:9,
Lori 20:7,
218:25,
Los 41:11,
lose 145:8,
losing 47:3,
lots 25:21,
238:9,

load 7:6,
7:14,
Lova 209:12,
lower 133:23,
Luanna 12:18,
52:16,
Luck 78:18,
207:8,
216:21,
216:23,
Luka 21:2,
Lunch 39:7,
65:12,
111:10,
126:3,
127:25,
128:21,
129:20,
134:10,
134:19,
Lusila 19:15,
lying 164:4,
M >,
Ma'am 24:19,
25:19, 26:20,
30:14, 37:1,
111:12,
146:3, 177:9,
177:17,
194:5,
199:3,
Madison 7:18,
7:19, 7:21,
16:25, 17:1,
17:3, 17:6,
17:9, 17:11,
17:14, 17:23,
33:21, 33:23,
36:2, 44:11,
47:13,
48:23,
mail 28:10,
main 151:7,
mainly 143:9,
maintain 4:12,
267:17,
maintained
66:9,

300

majority 4:5, 13:12, 69:13, 73:3, 120:25, 131:1, 132:25, 183:22, 213:25, 228:6, 260:3, man 88:5, 117:10, 156:20, 180:8, 183:4, 184:2, manage 169:24, manager 96:16, 169:23, 170:1, manner 210:14, 220:20, 245:18, Marabel 14:2, 53:23, marijuana 247:8, Mark 18:4, 115:20, 203:15, marks 150:17, married 137:2, Martino 19:25, 66:16, 199:2, 203:3, 225:2, 225:8, 226:20, 226:21, 228:14, 228:21, 228:22, 229:15, 230:14, Mary 55:16, mass 46:16, 46:20, masters 215:13, Mateo 136:23, matter 3:14,

4:5, 13:12, 69:13, 73:3, 120:25, 131:1, 132:25, 183:22, 213:25, 228:6, 260:3, matters 45:19, Mats 21:12, 30:3, 30:4, maxim 86:13, Mocarroll 13:1, 52:24, Moguirro 12:19, 52:17, Mokuwa 19:17, 38:1, 39:24, 46:2, 47:16, 49:1, Meaning 86:15, 86:16, 105:5, 229:7, means 38:24, 39:1, 39:17, 140:22, 140:23, 141:4, 166:10, 204:7, 266:15, mechanics 243:23, media 25:3, 84:14, mediator 215:18, 216:4, 216:5, 216:9, Medical 34:7, 62:13, 62:16, 115:25, 174:10, 181:7, medium 43:13, 128:14, 224:11, 264:20,

moets 100:5, member 31:2, 123:4, 234:19, 239:2, 249:11, members 25:16, 25:18, 50:22, 115:13, 138:17, 150:15, 153:15, 153:17, 153:23, 155:24, 163:3, 190:9, 190:20, 208:21, 209:18, 211:3, 231:18, 238:1, memory 152:22, mention 97:7, 157:5, 181:4, 251:24, mentioned 10:16, 58:16, 99:7, 115:24, 116:19, 117:3, 121:9, 147:7, 148:7, 151:13, 152:20, 155:15, 159:7, 160:2, 161:23, 179:25, 190:13, 199:3, 228:10, 238:8, 238:23, 254:6, mercy 244:14, 246:23, messed 190:2, met 8:14, 50:16, 69:6,

301

68:10, 68:21, 135:13, 153:14, 174:20, 234:19, 263:25, 264:1, 267:22, Morrell 13:25, 53:21, mortgage 174:2, 174:5, Mother 41:3, 72:9, 72:15, 194:7, 194:8, 194:16, 196:21, 196:25, 216:25, 255:13, 255:14, 255:15, mother-in-law 147:12, 147:20, 147:20, 157:5, motions 38:25, Motors 90:22, Mountain 188:21, mouth 86:8, 116:23, 242:19, move 5:20, 6:17, 6:20, 14:16, 14:20, 49:8, 49:10, 54:16, 65:10, 65:16, 65:21, 66:1, 67:23, 231:12, 264:11, moved 42:18, 91:23, 116:12, 192:17, Moving 66:5, 250:18, municipal 38:12, 146:6, 157:18, Munson 12:22, 52:19, murdered 206:20, 262:8, murdering 202:5, 202:6, murders 138:10, myself 56:22, 59:18, 75:17, 105:20, 213:14, 227:24, 257:9, < N >, Nakanishi 23:23, 45:12, 47:17, 49:2, Nakanushi 21:6, name 6:13, 7:17, 8:1, 11:2, 13:17, 22:14, 25:22, 37:4, 49:12, 50:3, 50:5, 51:14, 53:14, 54:21, 54:22, 56:8, 181:5, 231:22, names 10:13, 10:19, 12:18, 48:21, naming 54:11, Nancy 21:10, narcotics 26:10, narrow 151:6, natural 130:14, nature 10:19, 68:18, 75:7, 108:5, 108:11, 149:15, 229:14, nearly 63:21, necessarily 70:13, 75:13, 88:9, 109:1, 124:2, 150:1, 218:14, 230:21, 256:8, necessary 3:14, 4:12, 61:11, 61:17, 165:22, 198:18, 263:5, needed 4:7, 44:1, 93:23, 253:6, needs 46:3, 127:19, Negative 109:4, 112:5, 112:9, 179:24, 234:19, neglected 93:5, negligent 160:15, neighborhood 123:18, Nell 18:2, Neither 163:25, nephew 27:5, 28:23, 59:13, 187:2, 189:20, 189:21, nephews 187:5, nervous 75:2, neutral 15:1, Nevada 1:7, 1:10, 3:1, 3:6, 6:8, 14:4, 32:1, 48:15, 49:16, 53:25, 61:2,

303

69:20, 73:20, 130:17, 148:20, 202:11, 202:17, 213:7, 214:8, 236:15, Metro 162:7, 162:10, 162:13, 162:15, 163:4, Mexicans 190:4, Meyrick 19:5, 66:14, 165:16, 169:22, 263:20, Michael 19:17, 20:17, 21:23, Michelle 12:21, 52:19, Michigan 5:16, Middle 14:16, 37:1, 37:14, midnight 37:10, Mike 12:19, 13:1, 13:4, 52:17, 52:23, 53:1, mile 121:22, miles 52:10, military 178:6, 228:13, 229:19, Mills 18:17, 26:20, 66:13, 112:12, 263:19, minds 229:23, mine 24:2, 201:4, 259:13, minorities 143:15,

minute 10:21, 32:24, 45:25, 49:19, 50:9, 183:5, minutes 8:7, 39:20, 50:11, 111:11, 224:2, 233:9, Mira 14:1, 53:22, misdeanor 59:23, 146:11, misdeanors 154:8, misheard 149:24, missed 36:6, 59:11, 121:14, mitigate 101:18, mitigates 99:24, mitigating 74:11, 100:9, 100:14, 100:16, 101:5, 101:14, 119:25, 132:23, 267:12, Mitigation 78:1, 88:6, 100:8, 100:12, 102:5, 130:9, 132:19, 132:25, 133:5, 133:6, 133:9, 133:21, 133:25, 134:3, 139:3, mixed 179:12, MK 241:4, Mobile 12:6,

52:9, molestation 155:25, molesting 30:19, Molly 9:21, mom 137:3, 194:17, 199:7, 211:11, moment 8:4, 66:22, 149:23, momentarily 6:17, Moncha 12:22, 52:19, Monday 1:30, 3:1, 38:24, 42:12, 61:24, Mondays 39:1, money 64:5, 256:2, Monica 85:3, month 34:7, months 34:6, 62:16, 62:17, 255:19, moral 183:13, 186:1, 192:11, 217:12, morale 40:8, Morales 19:13, 47:15, 48:25, morals 183:10, 183:18, Morin 20:13, 28:14, 66:17, 230:17, 234:9, 237:13, 263:21, morning 6:6, 11:2, 38:18, 38:24, 39:1, 41:25, 51:12, 53:13, 63:21,

302

61:10, 69:3, 69:5, 95:24, 121:15, 134:21, 148:19, 175:12, 215:19, 222:18, 222:21, 223:1, 233:13, 234:5, 268:8, New 17:4, 41:11, 49:11, 54:4, 105:14, 106:19, 122:13, 175:15, 177:3, 181:14, 211:22, news 24:21, 81:16, 81:24, 82:1, 91:22, 151:13, 153:1, 218:6, 265:7, newspaper 24:24, newspapers 43:14, 128:15, 224:12, 264:21, Next 8:2, 11:24, 12:1, 26:5, 27:24, 28:21, 28:25, 33:16, 36:1, 41:11, 47:2, 59:5, 61:22, 61:24, 62:10, 65:16, 79:17, 108:17, 141:2, 225:1, 228:4, 230:16, 243:15, nicer 156:14, Nichole 18:12, night 39:12, 109:12, 252:17, ninety 39:20, Noehr 19:23, 22:16, 66:16, 194:4, 196:18, 263:21, Nobody 88:7, 154:15, 154:18, 227:23, nod 45:23, 49:25, nodding 7:12, non-appearing 22:17, None 8:21, 85:13, 133:8, 163:10, 207:5, 211:4, Nonetheless 10:13, 35:19, 54:17, 57:3, 230:4, 266:8, noon 39:9, Nope 204:14, Norma 12:22, 52:20, Norris 54:25, North 146:5, 157:17, 195:10, not 127:8, note 5:17, 129:19, 131:6, Nothing 81:8, 84:24, 86:7, 102:17, 105:3, 105:22, 123:9, 124:17, 132:24, 137:22, 147:3, 148:4, 154:11, 157:12, 181:9, 198:18, 211:14, 226:4, 228:3, 231:14, 242:4, 244:1, 250:25, 256:13, 267:15, notice 249:17, November 206:25, nowhere 91:6, null 36:23, numbers 7:21, 9:19, 9:20, < O >, O'clock 38:17, 39:2, 39:4, 39:12, 230:20, O'hartz 18:19, 18:21, 22:15, Oakley 241:3, Oakland 251:5, 251:7, oath 8:3, 8:5, 50:8, 50:9, 56:12, object 110:23, 164:16, 206:10, objecting 233:24, Objection 44:21, 45:16, 71:25, 72:2, 82:5, 82:7, 92:18, 97:23, 98:4, 165:4, 206:11, 231:17,

304

objections
268:12,
268:15.
objectors
182:12.
obligate
236:16.
obligated
236:24.
obligation
50:22.
obligations
8:20, 9:4,
9:10,
50:19.
observed
207:19.
obviously 4:9,
5:20, 13:11,
14:7, 14:20,
16:7, 33:4,
34:21, 46:12,
56:25, 70:1,
72:5, 75:25,
76:5, 114:17,
115:4, 116:5,
149:16,
195:20,
253:2,
260:4.
occasion 97:10,
98:24,
104:25,
137:17.
occasionally
218:6.
occupation
90:25, 91:6,
93:5, 169:23,
250:11.
occur 207:6.
occurred 12:8,
52:8, 84:17,
187:10,
207:7,
209:16.
occurring
112:20.
odds 35:15.
offence 17:13,

30:17,
offices 11:3,
12:23, 13:19,
13:21, 22:20,
49:7, 51:15,
52:21, 53:15,
53:17, 67:24,
68:6, 98:23,
109:11,
129:9,
129:11,
154:5, 162:2,
192:20,
192:21.
Officer 4:14,
12:25, 52:23,
60:15, 64:9,
85:3, 93:8,
94:7, 94:16,
94:17, 97:8,
98:12, 98:15,
128:25,
163:19,
195:13,
195:16,
198:12,
239:10,
239:12,
254:19.
OFFICERS 12:25,
31:5, 31:6,
52:22, 60:16,
85:10, 85:12,
195:18,
198:19,
231:9,
232:3.
often 82:14,
82:16, 99:1,
136:25,
137:2,
188:11.
Ohio 204:24.
old 29:16,
42:7, 42:20,
64:15,
187:19,
194:15,
194:21,
196:21,

197:12,
199:13.
older 29:15,
168:11,
197:23.
Once 9:18,
54:10,
157:10,
172:5, 184:4,
202:16,
244:19,
248:17,
264:7.
one. 243:15.
ones 10:15,
44:22, 45:18,
191:5,
265:15.
ongoing 29:3,
45:20.
open 76:9,
76:18, 76:22,
88:10, 91:13,
96:18, 99:5,
99:21,
102:25,
103:4, 104:2,
107:20,
111:3,
117:19,
119:15,
123:24,
124:6,
132:11,
138:13,
139:2,
139:20,
170:21,
173:13,
198:22,
201:11,
212:8,
218:17,
238:6, 248:4,
259:13.
open-mind
198:4.
Open-minded
15:1, 92:5,
103:7, 196:5,

305

264:9.
Part-time
162:1.
partake
129:13.
participate
207:22.
particular
12:7, 12:14,
32:15, 83:23,
132:16,
208:2,
214:12,
216:1,
218:12.
particularly
121:18.
parties 43:9,
89:7, 128:10,
137:24,
216:6,
216:14,
224:7,
264:16.
partly
211:21.
party 232:17,
233:22.
passage 5:17.
passed
189:17.
passing 5:19,
86:25, 184:5,
248:9.
past 3:19,
23:16, 24:4,
36:20, 73:3,
253:3,
263:1.
path 245:2.
patience 13:13,
51:13,
53:7.
patient 49:5.
Paul 12:22,
13:1, 52:20,
52:23.
pay 38:11,
66:5, 109:20,
218:2,

256:1.
PD 163:8.
pearls
209:21.
pen 249:16.
penalties
120:17.
pencil
249:16.
pending 41:25,
191:5,
191:8.
Penfield 12:22,
52:20.
Pennsylvania
26:11, 29:24,
121:17,
122:19,
256:6.
per 218:7.
percent 87:24,
143:6,
143:15.
Perez 17:25,
66:11, 66:24,
67:25, 129:6,
129:19,
129:20,
134:16,
135:1.
perfectly
130:21.
Perhaps 81:20,
142:9,
251:14,
262:3.
period 37:19,
93:21,
182:18.
Perkins 13:1,
52:23.
permanent
242:6.
personal 15:4,
15:25, 31:11,
57:2, 57:15,
60:20,
108:11,
110:5, 112:3,
154:20,

218:13,
229:21.
personality
118:11,
229:18,
229:22.
personally
23:17, 45:5,
70:10, 75:17,
78:16, 88:19,
166:1, 192:1,
248:15.
personnel 4:5,
8:19, 10:1,
50:18.
perspective
6:22,
144:15.
pertain 60:19,
152:14.
pertains
152:14,
229:17,
230:13.
Petit 19:1,
37:16, 47:14,
48:24.
ph 13:4, 37:11,
53:1.
phase 6:20,
127:15.
Philadelphia
29:24,
263:9.
philosophical
77:13.
phone 9:19,
9:20.
photo 36:12.
photographers
36:8.
photographs
151:19,
151:20.
photography
36:5, 36:9,
36:10,
44:13.
photos
155:13.

307

197:8.
open mind
56:23.
opening 8:25.
openings
231:14.
operating
12:12.
opinionated
183:21.
opinions 77:3,
104:12,
141:17,
142:14,
143:3,
144:17,
229:21.
opportunity
67:6, 129:13,
249:8.
opposed 46:18,
82:14, 92:15,
103:20,
110:21,
178:25,
182:15,
233:22,
259:1,
266:14.
option 69:24,
72:17, 72:20,
72:21, 73:10,
76:6, 110:15,
110:17,
110:21,
214:1, 221:8,
227:19,
240:11,
240:12,
247:22.
options 11:13,
69:13, 76:2,
92:5, 110:22,
139:5,
138:10,
139:14,
221:11,
221:16,
221:17,
222:6,

225:12,
240:11,
257:9,
257:20,
260:17,
260:20,
265:12.
Order 4:8,
4:12, 4:13,
40:6, 230:16,
247:19.
Orleans 105:15,
106:19.
ouch 13:1,
52:23.
Others 15:22,
40:4.
ought 31:11,
60:21.
out-sources
63:19.
outcome 42:1,
211:23.
Outside 3:7,
3:8, 4:16,
4:23, 43:20,
50:23, 75:25,
81:15, 129:4,
157:11,
233:15,
265:1.
owe 259:20.
own 34:4,
48:10, 63:15,
75:19, 113:8,
113:9, 131:4,
143:3, 150:8,
192:5,
219:16,
227:10,
227:13,
227:14,
229:3,
266:15.
owner 36:5,
44:12.
owners 40:3,
40:4.
Ows 44:12.

197:8.
P >.
paid 82:15.
Paige 19:11.
painter 64:3.
Pan 11:4,
51:14.
PAMELA 2:3.
panel 34:3,
34:4, 34:10,
47:3, 47:11,
62:9, 62:11,
73:8, 121:10,
233:16.
panels 33:12.
Panos 52:8.
paraphernalia
38:7, 60:5.
parent 42:5,
42:18,
246:7.
parents
194:11.
Park 12:6,
52:9.
Parking 60:7,
216:23.
Parole 11:18,
11:19, 11:20,
12:10, 13:3,
52:3, 52:4,
52:5, 52:13,
52:25, 188:7,
211:1, 257:7,
257:17,
262:4,
266:6.
Parramore
55:2.
part 6:19,
35:22, 49:15,
54:16, 69:25,
79:8, 104:10,
127:2,
151:21,
151:22,
162:6,
164:21,
174:20,
200:10,

306

pick 33:22,
202:2,
254:22,
259:22.
pick-pocket
106:5.
picked 118:8,
151:5,
258:12,
258:18,
258:19.
picture 129:14,
148:1.
pictures
155:18,
213:19.
piece 72:3.
pill 247:10.
Pinon 19:15,
40:10, 47:16,
49:1.
place 10:14,
37:11, 47:5,
199:21,
216:1,
221:22,
262:15,
268:11.
places
230:15.
placing
232:17.
plain 112:7.
plainly 143:11,
143:23.
Plaintiff
1:12.
plan 230:22.
planet 35:15.
plate 36:10.
play 231:10.
played 10:14.
pleas 191:20.
pleasant
252:20.
Please 7:24,
9:8, 10:18,
14:22, 17:20,
46:23, 49:10,
50:1, 50:5,

51:10, 54:20,
56:11, 57:6,
57:14, 65:2,
65:8, 66:5,
135:2,
206:13.
pleasure 41:13,
62:10.
plenty 66:20.
pocket 106:4,
106:7.
poignant
233:3.
point 5:2,
5:10, 9:18,
11:11, 43:23,
66:10, 77:11,
116:13,
117:16,
139:18,
139:23,
148:2,
150:16,
171:11,
176:17,
194:16,
202:23,
207:20,
208:17,
211:13,
213:23,
264:8,
267:9.
point. 117:12,
139:20,
173:8,
206:18.
points 108:12,
184:9.
policeman
126:20.
politicians
82:1.
Pollard 12:20,
52:17.
popular
135:22.
position 3:13,
4:6, 41:20,
45:14, 108:2,

170:5, 232:6,
232:9,
232:17,
267:18.
positive 105:4,
105:5.
possession
38:6.
possessions
157:10.
possibilities
98:7,
262:4.
possibility
11:18, 11:19,
11:20, 11:25,
33:16, 52:3,
52:4, 73:10,
73:16, 73:23,
109:3,
210:25,
260:19.
possible 15:1,
15:9, 15:16,
73:14, 73:20,
92:9, 95:12,
103:6, 103:8,
131:18,
131:25,
132:4,
132:11,
132:17,
168:22,
172:6,
175:14,
201:12,
236:15,
246:18,
251:18,
262:10.
Possibly 71:18,
108:20,
108:25,
133:9,
164:24,
260:23,
266:6.
pot 241:13.
potential 6:15,
10:23, 11:17,

308

69:11, 80:18,
117:19,
123:25,
148:21,
160:23,
172:10,
172:19,
174:17,
175:20,
196:2,
202:11,
221:11,
236:7.
potentially
13:6, 53:3,
247:2.
power 262:25.
practices
181:6.
preceding
6:14.
precept
171:10.
precious
246:17.
preconceived
237:4.
predict
97:24.
prediction
164:17.
preferable
166:8.
prejudice 77:24,
102:16,
147:4.
prejudged
251:17.
prejudice 3:9,
84:4, 84:6.
prejudiced
84:2.
prejudicial
3:17.
Preliminary
31:21,
219:24,
219:25.
prenitiated
240:14.

presence 3:8,
4:16, 4:23,
4:24, 6:10,
43:21, 48:16,
48:17, 129:5,
134:22,
134:23,
233:14,
233:15,
234:6, 234:7,
265:1.
Present 4:25,
17:22, 21:9,
22:14, 22:19,
50:13, 54:21,
54:24, 55:1,
101:25,
148:24,
149:11,
149:24,
161:5,
175:13,
194:14.
presented
88:19, 90:5,
90:6, 90:12,
92:6, 117:23,
122:6, 124:7,
127:1,
132:12,
136:7,
177:12,
177:16,
201:15,
216:4.
presenting
151:18.
Presently
64:3.
presiding
49:12.
presumed
43:25.
Pretty 3:20,
10:1, 37:18,
91:13, 92:25,
99:14, 101:1,
101:20,
121:25,
145:10.

151:19,
153:14,
170:12,
189:8,
189:11,
196:5,
210:16,
211:12,
242:9, 252:6,
254:22.
prevalent
179:7.
prevent
205:7.
previously
85:18.
primarily
26:15.
primary
243:25.
principle
32:16, 32:19,
44:1, 75:13,
76:11.
principles
32:14, 43:24,
61:8, 61:10,
173:9,
183:17.
prior 5:7,
25:8, 58:17,
154:8,
178:5.
Prison 30:19,
82:3, 94:12,
94:15, 97:15,
98:7, 98:8,
122:18,
188:4, 189:9,
189:22,
190:18,
190:22,
210:23,
210:25,
211:12,
217:6,
235:11,
235:13,
244:25,
257:7.

309

13:20, 53:14,
53:16, 109:9,
109:11,
163:9,
215:13,
258:8.
punish 243:3.
punished
101:24.
punishments
11:17, 52:1,
77:16, 86:11,
86:20, 92:9,
92:11, 95:12,
117:19,
124:22,
132:11,
132:17,
172:6,
176:25,
181:14,
201:12,
251:18.
purpose 11:10,
51:22, 95:3,
172:16.
pursuant
15:17.
pursued
116:2.
pushed 252:2,
265:15.
put 4:11, 15:8,
16:17, 56:14,
57:8, 71:2,
72:15, 100:4,
110:24,
133:1, 133:9,
136:17,
144:15,
166:8, 184:8,
188:15,
199:6, 200:2,
204:2, 205:3,
226:11,
228:6, 229:9,
243:11,
243:14,
243:24.
puts 81:16.

putting 119:20,
119:21,
227:9.
< Q >.
qualifications
16:18,
56:15.
qualify
246:23.
qualities
246:24.
Que 180:9.
questioned
263:25.
questioning
6:22, 8:4,
13:11, 15:23,
47:22, 50:20,
57:1, 80:5,
121:10,
130:4, 131:4,
131:14,
223:14,
226:18,
228:24,
229:11,
264:5, 265:6,
266:9.
questionnaires
33:4, 33:5,
48:19,
58:17.
quick 44:9,
45:4, 57:20,
65:2, 126:2,
224:18.
quicker 66:2.
quickly 51:1.
quid 86:16.
quite 8:8,
46:6, 68:9,
105:1,
204:24,
228:21.
quo 86:17.
< R >.

race 109:2,
138:1,
141:16,
141:18,
141:23,
142:13,
142:23,
143:1,
144:12.
racial 108:18,
109:6, 120:5,
120:9, 138:2,
228:24.
radio 43:15,
128:16,
224:13,
264:22.
raise 14:14,
16:15, 33:2,
33:21, 46:17,
48:4, 56:11,
57:21.
raised 33:23,
35:3, 44:9,
44:22, 45:10,
46:5.
raising 159:14,
159:16.
Ramirez 19:19,
66:15,
173:24,
173:25,
178:3, 225:2,
225:15,
225:24,
226:19,
227:15,
228:13,
228:21,
229:18,
230:13,
263:21.
ran 112:10,
168:10,
199:11.
range 52:1,
77:16, 78:9,
87:11,
127:12,
146:23,

311

pro 78:8,
86:17.
Probably 6:18,
10:12, 35:16,
38:21, 39:4,
60:10, 68:21,
80:4, 85:9,
87:3, 109:20,
115:4, 120:6,
152:9,
158:21,
179:21,
192:9, 232:4,
232:22,
232:24,
235:23,
248:18,
261:3,
266:13.
Probation
12:11, 13:3,
17:6, 52:14,
52:25.
problems 4:10,
44:20, 77:13,
79:16, 99:8,
159:9,
159:12,
160:3, 168:3,
179:4,
179:15,
228:20,
228:23,
231:1, 231:2,
237:22,
262:19,
265:8.
procedure
222:21.
proceed 31:19,
68:7.
proceeding
3:16, 6:16,
6:21, 11:10,
32:3, 32:16,
61:9, 61:12,
124:8.
proceedings
7:3, 8:12,
9:6, 9:14,

11:22, 13:24,
34:22, 34:23,
49:15, 49:20,
50:15, 53:20,
162:4,
171:12,
172:22,
210:14,
268:10,
268:12,
268:16.
processing
151:9,
151:11.
produce
124:13.
production
169:25.
productive
235:24.
professional
15:3, 15:25,
57:15.
program
246:6.
programmed
204:21.
progressed
179:8.
progresses
77:9.
prohibit 9:4.
prohibited
8:19.
prohibitions
9:11.
project
92:16.
prolong
47:10.
prompt 128:5.
prone 205:10.
proof 32:21,
proper 127:1,
215:24,
232:24,
238:16,
246:8,
248:14.
property 59:21,

59:22,
137:12.
proportional
225:24.
proposing
46:7.
prosecuted
30:17, 126:5,
154:4.
prosecuting
11:5,
51:16.
prosecution
86:21.
prosecutions
192:14.
prosecutor
11:3,
192:19.
prosecutors
51:16,
192:20,
236:2.
prospect
172:10.
prospectively
133:21.
protect 5:9.
protection
137:13.
protector
194:24.
prove 61:17,
130:17.
proven 150:13,
171:9,
173:7.
provide 15:16,
86:21.
provided 69:2,
69:9.
proving 32:17,
61:11,
61:16.
pry 57:3.
prying
154:19.
psychiatrist
13:7, 53:4.
public 13:18,

310

214:14.
rank 178:20.
rate 106:19.
rates 117:2.
rather 60:19,
63:3, 79:17,
137:9, 152:7,
201:5, 232:4,
263:24.
reach 216:10.
read 12:18,
31:25, 33:5,
43:11, 93:12,
128:12,
142:10,
142:18,
146:3,
193:19,
195:6, 224:9,
264:18.
readily
229:10.
reading 10:8,
24:21, 84:19,
172:3,
236:18.
ready 9:22.
real 10:6,
16:9, 31:21,
44:8, 45:4,
57:20, 65:2,
135:24,
190:5,
224:18.
realistic
266:25.
realistically
200:9.
realize 33:7,
33:8, 34:22,
63:2, 102:3,
107:14,
115:2,
175:18,
230:7.
Really 4:6,
36:10, 44:1,
44:15, 57:13,
66:3, 79:25,
106:25,

133:22,
149:7,
158:13,
226:22,
232:5,
244:13,
248:8, 257:4,
259:13,
261:8,
263:5.
reason 15:2,
17:14, 33:22,
33:23, 33:24,
38:20, 44:15,
46:5, 46:6,
46:17, 62:7,
132:19,
132:20,
163:1,
196:25,
225:13,
226:14,
227:9,
228:13,
229:17,
265:10.
reasonable
32:18, 61:12,
61:17, 130:8,
131:9,
150:14,
182:21,
182:22,
216:11.
reasoning
34:11.
reasons 45:10,
45:11, 46:9,
62:24,
266:16,
266:17.
recall 25:14,
35:4, 68:12,
68:17,
111:15,
120:7,
154:16,
231:20.
receive 31:19,
102:6, 145:6,
210:20,

228:17.
received 31:23,
180:14,
208:3,
210:22.
receives
101:19.
receiving
60:4.
recent
188:13.
recently 42:18,
123:6,
188:13.
recess 4:21,
6:3, 42:23,
43:4, 43:6,
43:19,
127:25,
128:7,
128:21,
128:23,
134:19,
224:2, 224:4,
233:9,
233:11,
263:16,
264:13.
recognize
133:15.
recollection
130:4.
reconsidered
48:5.
record 3:5,
3:7, 4:22,
4:23, 5:9,
6:8, 6:9,
7:23, 20:5,
43:20, 48:14,
48:15,
128:22,
134:20,
134:21,
233:12,
233:14,
234:4, 234:6,
265:2, 265:9,
267:10,

312

268:15.
recorded 7:2,
268:13.
records 17:3,
17:15,
146:8.
recovered
83:14.
redeem
246:24.
redneer
244:12.
redemption
154:15,
154:18,
228:8.
reduced
59:22.
refer 22:16.
referred 43:10,
128:11,
224:8,
264:17.
Reffer 14:1,
53:22.
reflect 3:7,
4:24, 6:9,
48:15,
134:22,
233:14,
234:6.
regard 74:7,
82:8, 109:9,
225:15,
229:11.
regarded
132:14.
regarding
123:23,
164:22,
185:8,
240:5.
Regardless
125:5, 125:6,
130:10,
131:12,
169:6,
251:13.
regular
254:13.

regurgitation
217:10.
reject 78:2,
88:8.
related 118:21,
121:11,
149:18.
relates
57:16.
relationship
252:14.
relative
136:12.
relatives
121:25,
136:12,
192:11.
release
44:18.
released
122:17,
122:21.
relentless
217:11.
Religious
154:21,
183:7, 183:9,
183:11,
183:17,
186:1,
211:12.
religiously
186:18.
relish 79:7.
remain 197:8.
remaining 48:2,
202:3.
remark.
132:13.
remarks 130:2,
132:8,
224:21.
Remember 24:20,
83:9, 83:11,
84:23, 85:20,
85:22, 85:23,
152:21,
152:25,
166:5,
194:20.

194:21,
196:21,
199:16,
199:17,
199:18,
203:17,
204:1,
204:18,
204:20,
205:23,
206:1,
212:17.
remembering
48:11.
remembers
200:7.
reminds
209:11.
render
184:16.
Reno 13:8,
14:4, 53:5,
53:25.
repeat 7:8,
54:10.
repentant
244:12.
repercussions
211:3.
rephrase 92:19,
98:5, 164:18,
233:21.
report 7:10,
43:11, 48:22,
49:6, 65:8,
123:13,
128:12,
224:9,
264:18.
REPORTED 1:42,
7:2, 49:24.
REPORTER 7:1,
7:24, 49:22,
268:2,
268:7.
REPORTER'S
1:12.
reporting
179:6.
represent 5:14,

313

30:7, 36:15,
36:25, 37:1,
37:14, 37:22,
37:23, 39:25,
40:25, 41:4,
41:9, 41:16,
42:3, 42:9,
42:14, 111:9,
134:16.
nude 9:2.
ruin 263:3.
Ruis 135:2,
135:4, 135:6,
142:8,
224:22,
224:25,
225:6,
226:8.
rule 68:4,
202:19.
rules 217:13,
222:18,
223:1,
223:3.
run 47:4, 47:7,
47:9, 89:6,
112:11,
211:22.
running 9:23,
9:24.
runs 98:22,
162:11.
rush 253:17.
< S >.
Sackmary 18:2,
36:15, 47:14,
48:24.
sad 129:12.
safe 263:7.
Salak 20:21,
66:17,
247:15,
247:16,
250:9,
263:22.
salvage
244:16.
San 136:23,

207:12,
239:3.
save 240:13.
Santa 85:3.
sat 207:18.
save 246:18.
saving
246:19.
savings
63:22.
saw 27:17,
48:11,
108:12.
Says 69:23,
102:18,
102:20,
103:18,
130:25,
150:17,
157:25,
169:23,
184:23,
201:5,
215:12,
227:11,
249:20,
251:11,
262:10,
267:13.
scared
146:24.
scenario
104:7.
scene 26:15,
151:19,
160:5,
217:10.
Schechter
55:8.
schedule
39:19.
scheduled 41:7,
41:10, 41:18,
41:19.
scheduling
38:22.
Schick 54:2.
school 26:11,
64:20,
121:13,

207:12,
210:2,
234:17,
241:12.
Scott 21:20,
22:2,
22:16.
se 218:7.
sealed 17:3,
17:13,
17:15.
search 36:16,
36:18, 48:10,
178:13,
238:19,
238:20.
Seat 31:18,
66:11, 67:2,
128:4,
224:25.
Seated 6:25,
8:2, 8:9,
15:13, 33:10,
49:21, 50:7,
50:12,
56:18.
seating
264:10.
seats 66:10,
135:1.
Second 14:17,
28:8, 40:17,
41:4, 54:16,
65:20,
106:22,
117:3,
231:17,
257:7, 257:9,
258:7,
266:7.
section
185:7.
seeing 146:14,
152:10,
155:17,
194:21.
seem 14:10,
78:4, 232:15,
238:12,
257:23,

315

5:23, 10:6,
51:2.
representation
265:3.
representing
116:16.
request 66:7.
requested
36:9.
required 89:22,
202:18,
213:1,
246:12.
requirement
110:24,
132:16.
requirements
69:6, 69:10,
69:20,
148:19,
202:10,
202:12,
202:17,
236:14.
requires 64:16,
88:14, 158:5,
228:3.
rescue
178:13.
resentment
220:23.
reservations
158:4,
247:24,
247:25.
reserved
148:13,
148:25.
residency
174:12.
Resident
174:10,
217:25,
218:5.
resolution
216:11,
220:2.
resolve
114:13.
resolved

235:9.
resources
64:16.
respect 82:12,
144:18,
211:24,
212:5, 213:9,
246:15.
responded
120:6.
responses
225:24.
responsibility
79:18,
159:22,
217:20,
235:20,
245:13.
rest 38:11,
51:14,
205:17,
215:4,
219:17.
Restate
92:21.
restrained
4:1.
restrains
3:24.
restraints
3:10, 3:11,
3:14, 3:16,
3:18, 3:21,
3:22, 4:9.
restroom 39:21,
43:1.
result 32:4,
159:13,
208:8.
retail 64:8,
137:19,
143:5,
143:10.
retire
250:24.
Retired 12:23,
52:21, 85:4,
91:3, 250:9,
250:12,
251:6.

retirement
250:14.
return 89:13,
141:11.
revealing
5:13.
reversed 5:6.
revoked
188:9.
ridicule
205:10,
205:18.
ridiculous
106:20.
Rights
215:20.
rigid 228:2,
266:4.
Rius 22:9.
River 162:11.
rob 107:10.
robbed 105:3,
105:11,
105:18.
robbery 11:8,
30:9, 51:20,
59:13,
188:25,
189:13,
190:2,
190:3.
Robert 21:25.
role 10:14,
66:8,
246:8.
roll 17:20,
54:19.
Rosales 14:2,
53:23.
Rosehill 19:11,
23:11, 45:13,
47:15,
48:25.
rough 109:13.
route 72:25.
row 14:16,
14:17, 14:18,
26:13, 26:19,
27:2, 27:17,
28:8, 29:22,

314

266:2.
seemed 131:18,
132:3, 258:5,
266:8.
seeding
160:6.
Seems 82:1,
100:12,
179:7, 182:7,
182:14,
266:11.
seen 24:24,
25:3, 103:9,
144:16,
146:23,
159:19,
263:10.
select 52:2,
103:21.
selected 9:19,
222:22.
selecting
33:10, 51:23,
57:5,
77:20.
selection 6:18,
8:16, 33:9,
161:1.
self 191:12.
self-defense
220:9.
self-employed
64:3.
selling
121:13.
semblance
227:13.
semi 34:2,
34:4, 62:9.
senior
189:17.
sense 176:18,
210:13,
225:17.
sent 34:10,
163:20.
sentence 73:18,
74:2, 81:20,
89:13, 92:15,
95:21,

101:15,
101:18,
102:5,
122:18,
132:15,
140:12,
154:25,
166:8,
166:16,
175:13,
202:2,
203:24,
228:3,
244:11.
sentences
92:23, 92:25,
103:23,
154:2.
sentencing
11:11, 70:19,
73:9, 73:10,
155:24.
Separate 40:14,
45:7, 107:14,
113:8,
113:10,
113:11,
152:14,
152:15,
153:4, 169:2,
209:13,
216:7,
230:7.
separating
45:18.
sergeant
178:21.
serial 148:16,
148:21.
series 132:2,
serious 13:12,
34:23,
121:25,
247:8,
260:3.
serve 32:25,
34:12, 34:24,
35:25, 46:18,
61:22, 61:25,
62:25, 63:4,

63:10, 63:13,
141:15,
206:1, 249:8,
256:18,
257:22.
served 52:5,
256:8.
serves 95:2,
172:16.
service 25:8,
33:25, 37:25,
46:3, 58:18,
63:19, 163:9,
178:6.
services 18:13,
18:20, 21:21,
22:7, 33:11,
34:1, 34:2,
48:22, 62:8,
63:20, 128:3,
129:21.
serving 33:6.
set 78:17,
86:19, 86:20,
87:4, 88:22,
206:4, 223:1,
223:13,
268:11.
sets 98:23.
setting 151:4,
176:19,
195:2,
200:1.
settle 116:12,
214:21.
settlement
216:15.
seventeen 48:7,
56:10, 57:20,
60:13.
seventeen.
Several 63:20,
68:11,
133:13,
140:15,
148:25,
149:25,
150:2, 196:8,
241:23,

316

254:16,
265:12,
severe 101:1,
250:1,
250:4,
severed
142:20,
severing
92:2,
shake 49:25,
shaking 7:12,
shalt 183:4,
184:1,
185:17,
share 244:8,
sharing 77:3,
Sharon 1:42,
6:25, 7:7,
19:25, 49:22,
55:14,
268:25,
She'll 7:7,
7:8,
174:14,
sheet 215:12,
Sherry 12:20,
52:18,
shocky 90:7,
shoot 36:7,
shooting 33:2,
228:15,
shop 143:16,
shoplifters
137:16,
143:6,
143:16,
shoplifting
60:4,
143:2,
short 10:6,
shortly
121:22,
shot 204:8,
226:25,
shouldn't
184:5,
186:10,
186:12,
186:19,
207:21.

show 150:2,
164:13,
249:17,
shown 71:22,
87:23,
155:14,
164:20,
shows 135:17,
135:25,
sibling 194:23,
197:23,
siblings
197:15,
197:24,
sic 40:8,
sick 152:10,
152:12,
side 96:15,
96:16,
113:13,
116:17,
116:18,
163:23,
168:18,
225:3,
231:25,
234:1, 243:3,
255:6,
sides 80:7,
84:12, 90:14,
96:15,
100:11,
101:24,
115:6,
117:22,
119:19,
124:11,
142:2, 161:5,
163:21,
165:8,
168:25,
172:22,
177:16,
195:22,
196:9,
200:13,
232:1, 232:2,
232:8, 234:2,
237:8,
239:16,

240:1,
253:25,
255:1,
significant
93:23,
200:11,
similar 111:14,
113:4,
119:7,
simply 31:5,
Simpsen 12:20,
52:18,
single 36:22,
40:3, 41:2,
42:4,
42:17,
sister 29:15,
30:17, 60:3,
156:8,
168:10,
190:22,
190:23,
199:7,
251:25,
253:2,
sister-in-law
30:16,
154:8,
sit 16:8,
37:19, 83:23,
114:22,
117:10,
134:4,
141:23,
142:1, 151:3,
158:18,
170:20,
201:4,
226:15,
228:4,
264:2,
sites 36:21,
sitting 3:20,
8:21, 68:22,
78:15, 91:25,
95:11, 140:8,
161:1,
165:18,
171:11,
173:17,

317

117:15,
123:23,
132:14,
132:24,
152:5,
159:15,
171:6,
171:16,
175:4, 176:6,
176:16,
182:11,
189:12,
192:11,
199:20,
209:15,
211:13,
213:24,
218:6,
235:14,
sorts 146:25,
sought
111:22,
Sound 94:3,
sounded 84:16,
236:24,
sounding
211:13,
211:15,
sounds 93:25,
94:1, 122:21,
136:9,
257:16,
source 25:2,
64:19,
space 12:7,
213:4,
Spanish 67:9,
speaking 7:23,
50:6,
234:18,
special 13:18,
13:20, 53:14,
53:16,
109:10,
178:15,
254:23,
specific 82:6,
82:8, 109:2,
130:7,
142:25,

171:20,
specifically
72:2,
160:19,
specified
36:18,
36:21,
specify
136:16,
spectrum
100:13,
103:21,
speculating
266:15,
spend 231:17,
spending
252:16,
spent 190:24,
spill 12:1,
93:18,
220:20,
256:14,
spills 33:16,
61:23,
spoke 233:7,
239:5,
spoken 4:10,
24:12, 24:16,
58:10,
236:21,
spot 71:2,
75:5,
134:15,
spots 47:22,
Spring
188:20,
Sprosty 21:23,
47:18,
49:3,
squad 178:13,
Squires 19:7,
22:24, 45:11,
47:15,
48:25,
stabbed 226:25,
227:6,
stabbing
228:15,
attack 47:6,
Staff 6:24,

9:5, 36:7,
178:21,
staffing
231:2,
stage 3:18,
stairs 8:15,
Staley 55:12,
stance
211:13,
stand 16:14,
39:10, 39:14,
56:11, 67:2,
67:18,
126:21,
136:8,
254:19,
standard 75:22,
90:18,
130:17,
136:4,
150:8,
stands 51:25,
start 9:22,
14:16, 36:2,
47:23,
134:15,
135:4,
150:14,
249:14,
259:6,
started 14:13,
31:17, 39:2,
64:9, 128:1,
199:15,
210:17,
258:13,
starters
64:14,
starting 62:14,
117:12,
117:16,
173:10,
242:15,
stated 58:13,
206:19,
statement
180:23,
180:24,
221:25,
240:8,

319

180:19,
181:24,
182:1, 205:8,
206:7,
231:19,
232:11,
255:4, 255:5,
257:11,
situation
64:10, 70:13,
75:19, 75:25,
86:20, 93:16,
93:22,
111:20,
116:5,
125:19,
151:18,
165:19,
167:11,
167:25,
168:7,
188:23,
190:21,
197:25,
206:21,
217:16,
241:7,
244:15,
244:17,
244:23,
263:8,
situations
5:20, 83:5,
83:20,
146:16,
153:19,
167:14,
Six 33:15,
33:18, 34:6,
34:13, 36:1,
40:7, 42:21,
46:18, 62:5,
62:15, 63:13,
178:23,
199:16,
255:19,
sixteen 47:13,
47:20,
sixteenth
128:4,

slap 82:2,
slate 173:10,
sleep 109:11,
sleeping
126:14,
slightest
238:12,
238:14,
slippery
44:14,
slopes 44:14,
small 8:22,
36:4, 40:2,
44:12, 63:19,
204:24,
smile 103:9,
smirk 103:9,
Smith 12:20,
13:5, 19:3,
20:7, 26:14,
27:25, 50:4,
52:18, 53:2,
66:14, 66:16,
158:23,
161:20,
218:24,
218:25,
225:4, 226:3,
226:9,
230:15,
263:20,
smoothly
90:6,
snap 96:25,
197:1, 97:3,
socialize
23:3,
socialized
24:3,
society
78:22,
soda 39:22,
soft 180:1,
sole 25:2,
64:14,
172:18,
solely 153:5,
solemnly 16:16,
56:13,
somehow 10:14,

24:15,
57:15,
sometime
168:12,
Sometimes
46:15, 47:10,
81:4, 82:1,
82:2, 112:15,
175:2,
205:12,
Somewhat 14:10,
57:2, 100:11,
239:8,
somewhere
26:16, 26:23,
27:14,
59:3,
son 27:5, 28:3,
28:19, 30:11,
42:6, 42:7,
42:18, 84:25,
93:15, 94:11,
94:14, 97:7,
98:11, 99:8,
115:25,
122:11,
187:2,
187:15,
187:19,
191:6, 195:7,
195:12,
195:20,
198:9, 241:7,
243:5,
245:25,
246:9,
247:7,
son-in-law
94:4,
98:18,
Sorry 38:1,
39:25, 42:16,
47:19, 71:9,
260:12,
sort 47:3,
68:15, 70:3,
114:17,
115:6,
116:23,
117:9,

318

262:20,
statements
171:18,
266:19,
states
170:12,
statistics
261:18,
266:20,
Stay 39:16,
39:17, 67:25,
231:7,
267:8,
stayed 235:5,
Staying 182:10,
191:3,
231:3,
steal 123:8,
126:18,
144:8,
stealing
144:5,
Steamship
250:16,
250:17,
251:2,
stenographically
268:13,
step 30:19,
160:12,
209:20,
213:20,
step-daughter
159:8,
164:12,
steps 215:24,
Steve 8:9,
50:12,
50:13,
stick 119:4,
Stio 55:16,
stipulate
44:18, 45:4,
47:6, 129:10,
129:15,
stole 105:18,
Stolen 59:21,
59:22,
60:4,
stop 39:9,

155:19,
244:14,
244:19,
stopped
244:25,
stopping
123:18,
story 163:23,
164:1,
straight
128:3,
straightens
235:24,
strange
151:4,
strangled
204:11,
street
192:16,
strenuously
57:6,
stretch
42:25,
strike 73:6,
206:12,
string
209:21,
strong 63:9,
110:17,
110:20,
110:22,
117:8,
118:10,
183:21,
185:19,
186:1,
220:19,
Strongly 155:4,
163:11,
178:25,
180:23,
203:10,
structure
149:1,
struggle
104:3,
stuck 37:10,
stuff 10:7,
60:8, 235:5,
241:13,

243:13,
247:11,
Styrofoam
39:22,
subject 43:9,
43:17,
128:10,
128:18,
224:7,
224:15,
264:16,
264:24,
submit 36:21,
265:20,
submitted
43:18,
128:19,
224:16,
264:25,
subpoena 40:15,
192:2,
subpoenaed
114:5,
Substance 80:1,
80:11, 83:13,
83:16, 93:14,
111:15,
112:20,
194:7,
262:17,
sudden 48:11,
sue 35:8,
sued 35:8,
249:1, 249:2,
256:21,
suffered
112:16,
suffering
228:15,
sufficiently
134:8,
230:11,
suggest 45:3,
suggesting
141:21,
suit 90:11,
sum 225:25,
summed 6:15,
49:14,
Sunga 21:14,

320

30:10, 47:18,
49:3.
supervisor
250:14.
support 4:7,
63:23,
192:12,
209:3, 210:8,
213:5,
217:12.
supported
207:19.
supporting
64:20.
supportive
208:24,
210:10.
supposed 41:22,
75:1, 124:14,
157:22.
surface
168:18.
surgery 37:15,
41:6.
surrounding
223:9.
sustain 72:1,
92:18, 132:5,
206:11.
sustained
82:7.
SWAT 239:2,
sway 210:17.
swear 16:14,
16:16, 50:8,
56:13.
sworn 5:3.
sympathetic
262:18,
262:19,
262:23.
sympathy
44:16.
synopsis
10:7.
system 15:19,
15:20, 35:2,
35:7, 35:11,
35:14, 78:5,
78:17, 78:25,

80:25, 81:1,
81:4, 81:12,
94:12, 94:13,
94:15, 99:9,
113:25,
116:13,
116:24,
129:13,
154:20,
160:15,
171:8, 180:1,
186:24,
234:20,
238:9.
T >.
table 3:20,
69:15, 69:18,
76:6.
tactical
265:10,
267:11.
taken 4:21,
43:19,
128:21,
134:19,
224:17,
233:11.
talked 72:16,
76:1, 86:11,
102:13,
102:14,
120:17,
122:14,
143:4, 176:4,
185:25,
201:2,
204:15,
207:20,
212:3, 241:7,
244:7,
245:24,
246:3.
Tamar 22:6,
54:23.
Tanya 12:19,
52:16.
target
112:13.

taste 86:8,
116:23,
242:19,
242:22.
taxes 109:20.
Taylor 18:8,
66:12, 83:1,
89:21,
263:19.
teach 24:2,
team 36:8.
Technically
46:11,
252:8.
teenagers
99:13.
television
43:14,
128:15,
224:12,
264:21.
tells 57:12,
127:11.
Templeton
21:25.
Temporary
195:18.
ten 143:11,
233:9.
tend 15:14,
57:10, 60:14,
97:19, 119:8,
119:11,
151:14,
165:1,
179:19,
190:11.
tendency
155:16,
155:19.
tends 143:1,
225:13.
Tentatively
41:18,
41:24.
term 11:20,
52:5, 159:16,
230:11.
terms 16:10,
39:6, 54:10,

321

today 6:19,
9:14, 15:9,
15:17, 18:14,
18:21, 20:6,
21:22, 22:8,
33:21, 34:4,
37:8, 41:18,
42:11, 48:20,
49:6, 62:6,
62:9, 62:15,
65:7, 65:9,
74:24, 121:3,
180:9, 227:6,
258:18,
258:23,
266:5.
together 23:4,
24:2, 24:3,
121:23,
126:16,
197:2,
209:21.
tomorrow 6:19,
9:14, 9:22,
34:5, 231:13,
263:18,
263:24,
264:5,
267:21.
took 157:10,
157:11,
194:23,
210:1.
tooth 86:12.
top 7:18,
36:15, 36:25,
96:25, 111:9,
134:16.
topics 80:5.
total 116:5.
touch 115:2.
touched
156:19.
touching 16:18,
56:15.
tough 185:21.
tougher
180:4.
toward 71:4,
201:7, 211:3,

252:23,
257:17.
towards 40:8,
92:6,
131:16.
town 190:16,
204:24,
207:9,
256:3.
track 8:6, 8:7,
50:10,
122:21,
160:7,
210:19.
traffic
162:11.
trafficker
238:15.
trafficking
26:10,
126:5.
trail 187:13,
217:11.
training
178:18.
TRAN 1:1.
transite
37:11.
transaction
16:6.
transcribed
266:14.
TRANSCRIPT
1:12, 7:24.
transportation
42:11.
traumatic
209:6, 209:7,
219:18.
treat 212:14,
treated 17:12,
122:5,
123:20,
153:20,
160:9, 190:8,
212:15,
235:18,
235:20.
treatment
93:23,

113:22,
153:24.
trials 35:13,
146:11.
tried 11:6,
29:3, 180:11,
246:4.
tries 183:17.
triggers
168:23.
trouble 25:21,
69:22, 70:6,
188:14,
201:23.
True 164:2,
256:9, 257:1,
268:15.
truly 16:17,
56:14.
Trust 15:11,
33:8, 63:2,
143:11,
143:24,
144:7.
truth 88:20,
90:13,
164:4.
truthful
232:23.
Truthfully
74:25.
Try 7:9, 31:15,
34:7, 57:9,
96:20, 103:4,
103:7,
103:17,
104:6, 123:8,
127:25,
136:6, 137:8,
143:1, 176:8,
176:15,
177:6, 177:9,
177:13,
188:13,
211:15,
216:10,
231:13,
243:7, 246:1,
262:13.
Trying 33:22,

323

101:24,
116:2, 116:6,
117:23,
130:16,
131:7,
176:24,
234:2,
266:23,
266:25.
Terry 56:5.
testified
192:1, 192:3,
192:4.
testify 5:18,
8:6, 10:11,
51:4, 114:3,
146:15,
191:24,
192:2,
207:24,
219:21.
testifying
146:25.
testimony 12:4,
31:5, 31:24,
52:12, 60:15,
85:14, 94:16,
94:17, 98:14,
164:22,
197:5,
197:11,
198:12,
198:17,
238:3,
239:12,
254:18,
268:11,
268:15.
Tetanus 56:5,
64:23,
128:23.
Texas 175:24,
181:17,
222:14,
222:15,
227:16,
230:2.
Thanks 89:17,
215:7.
theft 28:11,

255:16.
theirs 103:4,
182:19.
themselves
10:5, 51:2,
54:10, 92:10,
114:13,
216:15.
theories
267:5.
thereafter
268:13.
therein
268:11.
Thus 19:21,
27:4, 66:15,
182:4,
193:13,
225:16,
225:25,
230:15,
263:21.
They'll 10:10,
31:20, 51:3,
229:22.
They've 99:25,
231:1.
thinking 86:18,
108:21,
110:12,
128:4,
167:10,
179:22,
187:4,
226:15,
233:6,
233:18,
233:25,
266:12.
thinks 44:4,
227:17,
230:4,
230:6.
third 14:18,
29:22,
Thirteen 45:9,
241:2.
Thirty 93:11,
126:17.

thirty-three
48:2.
thirty-two
226:12.
Thomas 13:7,
53:4.
thou 183:4,
184:1,
185:17.
though 10:16,
14:9, 32:7,
44:16, 103:5,
127:8, 155:5,
158:3,
160:18,
165:7,
186:18,
220:11,
222:24,
222:25,
223:16.
thoughtful
266:21.
thoughts
94:23.
thousands
36:17.
threaten
143:2.
three 7:21,
45:4, 45:17,
98:7, 110:21,
136:15,
136:19,
185:10,
234:13.
throughout
10:2, 39:6.
throw 104:18,
133:1.
Thursday 38:24,
41:11.
Thursdays 39:3,
39:5.
tickets 60:7.
tie 126:16.
Tired 182:6,
182:8.
Tod 14:3,
53:24.

322

39:14, 54:17,
62:18, 62:21,
62:22, 66:4,
79:15, 97:23,
100:6,
102:16,
237:19.
Tuesday
42:12.
Tuesdays 39:3,
39:5.
turn 37:25,
38:4, 38:11,
118:24,
225:23,
242:15.
turned 114:18,
119:3,
242:12.
Turner 12:20,
52:18.
TV 24:24,
135:16,
135:25,
137:7.
Twelve 44:25,
92:2, 139:1,
158:19,
173:18,
181:25,
206:8.
Twenty-five
243:18.
Two 26:9,
30:15, 37:21,
40:13, 40:14,
80:5, 118:20,
121:10,
126:14,
133:17,
135:1,
159:14,
163:21,
168:11,
182:10,
194:22,
195:20,
197:14,
197:24,
232:1,

244:21,
257:9,
257:19,
259:22,
260:17,
262:3,
265:12,
265:16,
266:14.
two-and-a-half
250:21.
two. 34:9,
62:21,
64:4.
tying 249:21.
Type 15:21,
15:22, 26:2,
34:23, 36:9,
50:1, 63:5,
71:4, 106:4,
133:21,
169:23,
227:25,
229:21,
250:15,
256:10,
267:2.
types 15:18,
27:6, 126:24,
155:17,
262:19.
U >.
ultimately
57:10.
unable 5:5,
141:18,
154:25,
155:3.
Unacceptable
71:21,
72:14.
uncle 27:19,
58:23,
206:20,
210:20,
216:17,
216:25,
254:6.

uncomfortable
67:3, 75:9,
78:20,
150:19,
165:21,
166:15,
172:12,
248:8.
undercover
85:3.
underlined
166:9.
underneath
203:18,
205:9.
undersigned
268:7.
understandable
31:16.
understanding
35:12, 67:14,
135:24,
167:25.
understood
130:21,
140:21,
193:19,
251:10.
undo 35:25,
61:21, 61:25,
63:13.
undue 32:25,
46:5.
unequivocally
73:1.
unfair 176:17,
210:14,
220:20,
261:4.
unfortunate
216:16,
241:6.
Unfortunately
54:12, 79:5,
79:6, 143:8,
158:11,
158:12,
249:17.
Unless 39:13,

324

60:9, 82:5,
101:1, 129:9,
188:6.
unlikely
96:25.
unnecessarily
57:3.
unpopular
205:17.
until 6:3,
37:10, 43:18,
76:10,
103:16,
128:19,
138:13,
139:3,
165:11,
171:9, 173:7,
212:8,
212:14,
213:17,
224:16,
228:4,
230:22,
231:8,
250:14,
254:23,
259:14,
259:18,
264:25.
Urnst 12:21,
52:19.
Utah 154:7.
.
< V >.
valley 63:20,
63:24.
Van 180:9.
Vancouver
41:19,
41:23.
variety 8:11,
62:17,
228:23.
Vegas 3:1,
40:21, 59:25,
63:20, 146:5,
157:17,
195:10,
241:1,
250:21.
vehicle 105:3,
105:21.
verdict 9:7,
15:15, 57:10,
78:12, 89:14,
89:15, 89:16,
127:1,
141:12,
150:17,
153:9,
153:12,
175:14,
186:15,
248:16.
versus 3:6,
6:9, 48:15,
49:16, 96:15,
97:15,
134:21,
150:9,
225:20,
233:13,
234:5.
veteran
229:20.
victim 12:13,
29:8, 52:7,
101:21,
102:1,
104:25,
108:18,
116:1, 120:4,
120:8, 123:5,
151:15,
155:16,
192:1,
194:10,
205:4,
206:17,
220:25,
221:3, 227:1,
228:19,
241:22,
249:4,
255:13,
255:21,
257:8.
victimized

25:13.
victims 35:5,
146:14,
146:24.
Victor 17:25.
views 186:1,
267:3.
violation
216:3.
violence 29:3,
29:14, 71:13,
71:16, 71:20,
71:23, 72:4,
72:7, 72:13,
80:2, 113:16,
118:17,
119:8,
119:25,
133:4,
146:15,
146:23,
151:9, 168:3,
179:1, 179:4,
179:10,
179:12,
179:19,
203:6, 203:8,
252:9.
violent 151:14,
189:14,
219:3.
visit 99:2,
217:5,
217:15,
235:14,
254:11.
voice 118:7.
void 36:23.
volunteer
162:14,
162:15.
volunteered
122:4.
volunteers
162:7,
162:10,
votes 95:21,
100:23,
130:14,
131:11,

325

211:4.
whenever
4:12.
Whichever
125:7.
White 20:25,
29:12,
251:23,
254:5,
263:23.
whole 16:13,
60:9, 151:5,
197:3,
201:17,
217:10,
217:11,
232:20,
263:4.
Widner 12:22,
52:20.
wife 36:8,
64:20,
147:11,
159:21,
181:1,
234:15,
243:12.
William 13:4,
14:4, 53:1,
53:25.
Williams 13:2,
52:24.
willing 32:6,
34:24, 46:18,
63:4, 76:9,
76:24, 76:25,
77:7, 88:10,
88:12, 88:25,
103:3,
104:17,
104:21,
104:22,
110:3, 139:2,
172:21,
217:13,
259:14,
261:22.
Willy 13:25,
53:21.
Winchells 13:2,

52:24.
wish 43:1,
47:21, 54:7,
63:8, 63:9,
74:25, 107:3,
212:4, 213:9,
255:25.
wishful
128:4.
withhold
57:9.
within 45:20.
Without 5:12,
11:18, 34:24,
43:8, 43:14,
52:3, 73:24,
74:7, 76:14,
128:9,
128:15,
133:25,
140:23,
152:25,
174:21,
182:21,
210:25,
224:6,
224:12,
229:10,
246:1,
257:17,
261:4,
264:15,
264:21,
265:16,
266:6.
witness 10:12,
13:6, 39:10,
39:11, 40:15,
53:3, 94:20,
112:24,
207:3, 219:3,
219:8.
witnessed
157:1.
witnesses 5:4,
5:5, 5:6,
5:18, 8:5,
10:11, 10:20,
10:23, 12:17,
13:23, 24:12,

31:20, 43:9,
51:3, 51:4,
51:8, 52:15,
53:19, 54:11,
58:10, 67:17,
128:10,
224:7,
264:16.
wonder 57:13.
wondered
109:11.
word 166:4.
Words 213:6.
worked 12:13,
12:15, 31:2,
36:22, 52:15,
93:9, 114:15,
144:3,
161:23,
244:4,
251:3.
working 23:15,
36:20, 40:7,
64:3, 64:19,
137:18,
195:21,
241:18,
241:19.
works 35:12,
50:19, 62:23,
63:23, 94:5,
94:15, 174:9,
181:1.
world 63:7,
97:17.
worry 89:11.
worst 97:16.
worth 126:17,
198:17.
wrestles
242:13,
242:14.
wrist 82:2.
write 31:14,
206:4,
235:14,
249:15.
writing 182:14,
204:1,
204:20.

327

140:17,
140:18,
140:20,
140:22,
140:23,
161:10,
171:25,
174:21,
182:21,
182:22,
205:22,
212:25,
226:23,
227:3, 228:5,
229:3, 229:6,
230:1,
232:12,
236:24,
251:12,
266:1.
voted 180:20.
voting
201:23.
vs 1:15.
.
< W >.
waist 3:10,
3:11, 3:13,
3:16, 3:22.
wait 76:9,
88:23,
103:15,
138:12,
254:23,
259:14,
259:18,
260:11,
260:14,
260:16.
waiting 29:3,
109:20,
187:15.
walked
126:23.
walking 3:19.
wanted 5:3,
5:9, 5:15,
5:24, 33:3,
117:7, 123:7,
191:14,
257:22,
261:10,
265:2.
wanting 218:18,
266:20.
wants 196:12,
200:24,
230:24,
265:5.
Ware 21:4.
warrant
150:4.
Washington
21:8.
watch 42:6,
43:11,
128:12,
135:16,
162:4, 224:9,
243:10,
264:18.
watched
208:7.
watching
151:13.
water 39:22.
weapon 11:8,
11:9, 51:20,
51:21, 68:24,
106:2,
117:11.
wedding 36:5,
36:6.
Wednesday 36:5,
39:4, 41:24,
42:12.
week 11:25,
12:1, 12:2,
33:16, 40:7,
41:12, 61:24,
62:10, 62:15,
68:10,
188:13,
228:4, 258:2,
258:4, 258:9,
258:14,
258:18,
259:8, 265:7,
265:22.

weekend
239:6.
weeks 37:21,
208:20.
weigh 85:14,
92:6, 104:17,
255:1.
weighing
211:25.
weight 31:4,
60:14, 70:17,
84:8, 88:9,
88:17, 98:13,
110:24,
127:18,
130:10,
132:16,
133:22,
164:22,
198:11,
198:18,
238:3,
239:11,
254:18.
Welcome 6:12,
9:1, 49:11.
walls 55:20,
63:18,
65:5.
Wendelina
21:14.
Whatever 3:24,
4:7, 34:5,
35:9, 38:23,
62:6, 62:10,
74:9, 74:10,
75:22, 84:9,
107:21,
127:18,
153:4,
157:25,
163:1,
198:17,
215:16,
226:25,
227:11,
230:24.
whatsoever
81:1, 85:13,
207:5,

326

Wroblewski
22:4.
wrote 81:5,
100:10,
123:3,
142:11,
142:17,
144:21,
154:14,
160:21,
171:5, 171:8,
171:15,
171:17,
174:1,
174:15,
194:5,
203:18,
204:18,
205:2,
205:22,
206:2, 236:9,
240:5, 253:1,
253:5,
253:13,
261:17.
Wyoming 28:4.
.
< Y >.
year 36:13,
174:14,
243:18,
251:25,
254:12.
Years 3:16,
11:19, 11:20,
11:21, 17:7,
29:14, 36:20,
36:22, 52:4,
52:5, 52:6,
64:15, 93:11,
106:12,
143:11,
168:11,
178:23,
185:20,
191:1,
194:15,
194:21,
197:12,

207:1, 241:2,
241:23,
250:21,
262:5.
York 17:4,
41:11.
young 195:2,
195:3,
234:13,
252:6.
younger 194:21,
194:23,
197:15,
197:24.
yourself 7:8,
7:25, 31:1,
50:5, 81:21,
123:5,
183:13,
205:13.
yourselves
43:7, 93:18,
128:8, 224:5,
264:14.
Youth 188:22.

< Z >.
zones 26:11,
121:13.

328

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TRAN
CASE NO. C-131341
DEPT. NO. 3

FILED

JUL 16 9 23 AM '07

C. Raf
CLERK OF THE COURT

ORIGINAL

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * * *

STATE OF NEVADA,)
)
Plaintiff,)
)
vs.)
)
JAMES MONTELL CHAPPELL,)
)
Defendant.)

REPORTER'S TRANSCRIPT
OF
SENTENCING

BEFORE THE HONORABLE DOUGLAS HERNDON
DISTRICT COURT JUDGE

DATED: THURSDAY, MAY 10, 2007

REPORTED BY: SHARON HOWARD, C.C.R. NO. 745

RECEIVED
JUL 16 2007
CLERK OF THE COURT

1 APPEARANCES:

2 For the State: CHRIS OWENS, ESQ.

3

4 For the Defendant: CLARK PATRICK, ESQ.

5 DAVID SCHIECK, ESQ.

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1 LAS VEGAS, NEVADA; THURSDAY, MAY 10, 2007

2 P R O C E E D I N G S

3 * * * * *

4
5 THE COURT: Page 6, State of Nevada versus
6 James Chappell. Record will reflect the presence of
7 Mr. Chappell, in custody -- Mr. Schieck, Mr. Patrick, on
8 his behalf. Ms. Rinetti on behalf of the State.

9 Do you have the file, Ms. Rinetti?

10 MS. RINETTI: No, Judge. Mr. Owens and
11 Mr. Kephart will be here.

12 THE COURT: Mr. Owens is here. Mr. Owens
13 is present on behalf of the State.

14 This is time set for sentencing. Is there any legal
15 cause or reason why sentencing cannot take place.

16 MR. PATRICK: No, your Honor.

17 MR. OWENS: May we approach, your Honor.

18 THE COURT: Sure.

19 (Discussion held at the bench.)

20 THE COURT: Back on the record in State
21 versus Chappell. Anything the State wants to add in terms
22 of sentencing.

23 MR. OWENS: No, your Honor.

24 THE COURT: Mr. Chappell, is there
25 anything you want to tell the court before your attorney

1 speaks on your behalf?

2 THE DEFENDANT: No.

3 THE COURT: Thank you, sir.

4 Mr. Schieck, Mr. Patrick, anything you all want to
5 add before we pronounce sentence?

6 MR. SCHIECK: No, your Honor. The jury
7 has imposed a sentence in this case.

8 THE COURT: As to the burglary and robbery
9 with use of a deadly weapon counts, those were already
10 adjudicated and sentenced at the time of the original
11 trial. They aren't part of the sentencing today. This is
12 as to murder with use of a deadly weapon.

13 So, in accordance with the laws of the State of
14 Nevada, I do adjudicate you guilty of that crime,
15 Mr. Chappell, and pursuant to the jury's verdict at the
16 penalty hearing, I sentence you to death for Count (3),
17 murder with use of a deadly weapon.

18 The state has provided ad judgment of conviction. I
19 know normally the clerk's office prepares these now when
20 the defendant is in custody, but Counsel for the State and
21 defense have both looked at it. I think it's an
22 appropriate judgment of conviction, so I'll go ahead and
23 sign that.

24 I believe the defense also has a stay of execution to
25 present to the court, as well.

1 MR. SCHIECK: That's correct.

2 THE COURT: I'll sign that, as well.

3 Thank you.

4 MR. SCHIECK: We'll fill in the date to --
5 with the State's warrant.

6 THE COURT: Okay.

7 For the record I should add that judgment of
8 conviction includes the warrant of execution and order of
9 execution. Mr. Owens.

10 MR. OWENS: Thank you, your Honor. We'll
11 make copies of that.

12 THE COURT: Thank you.

13 MR. OWENS: We'll file that after we get
14 our copies.

15 THE COURT: Thank you, gentlemen.

16
17 * * * * *


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CERTIFICATE
OF
CERTIFIED COURT REPORTER

* * * * *

I, the undersigned certified court reporter in and for the
State of Nevada, do hereby certify:

That the foregoing proceedings were taken before me at the
time and place therein set forth; that the testimony and
all objections made at the time of the proceedings were
recorded stenographically by me and were thereafter
transcribed under my direction; that the foregoing is a
true record of the testimony and of all objections made at
the time of the proceedings.


Sharon Howard
C.C.R. #745

291

1 DISTRICT COURT

2 CLARK COUNTY, NEVADA

9 1
FILED

JUL 16 9 22 AM '07

3 * * * * *

4 **ORIGINAL**

5 STATE OF NEVADA,)

6 Appellant,)

CASE NO. C 131341
DEPT. NO. 3

7 vs.)

8 JAMES CHAPPELL,)

9 Respondent.)
10

11
12 CERTIFICATE ACKNOWLEDGING DELIVERY OF CERTIFIED
13 TRANSCRIPT

14
15 I hereby acknowledge that a certified
16 transcript of proceedings held on March 8, 2007; March 12,
17 2007; March 13, 2007, May 10, 2007 in the above-entitled
18 case has been produced, filed with the Clerk of the Court,
19 and delivered to Appellant and Respondent on July 16th,
20 2007.

21 Dated this 16th, day of July.

22
23 Sharon Howard, C.C.R. 745
Official Court Reporter
Department 3

RECEIVED
JUL 16 2007
CLERK OF THE COURT

1 I say I'm going to ask, because I anticipate that some of
2 you will raise your hands. And I don't want them shooting
3 up in the air right away. I wanted to tell you beforehand
4 that, obviously, we've all got your questionnaires. We've
5 read through your questionnaires. I know you have
6 expressed some things in there about difficulty serving.
7 I will tell you that I realize this is an inconvenience.
8 Trust me. I very much realize that. As an attorney I
9 went through the jury selection process, not only
10 selecting a jury but seated just like you all.

11 Went down to jury services a few times
12 through the day. Went up to panels and so forth. I know
13 it takes a lot of time out of your lives to come down
14 here, whether it's one day or four or five days. Like
15 this case. Well, let me say five or six days, since
16 there's a possibility it spills over into next week.

17 That being said, I can tell you, however,
18 that the average trial anymore lasts about six days. So
19 this is right at, if not maybe a littler less than
20 average. And that's important, because if I excuse you
21 today and say all right, Mr. Madison, you raise this
22 reason for me -- and I'm not trying to pick on you,
23 Mr. Madison. You raised a reason to me, and I think it's
24 a decent reason. And I'm going to excuse you from jury
25 service. It's not that I'm giving the blessing to go

33

1 home. You've got to go back to jury services. Jury
2 services decides whether to send you out on another
3 panel.

4 They can send you out on another panel today. Ask
5 you to come back tomorrow. Whatever they want to do. We
6 have construction defect cases that take six months.
7 Medical malpractice cases that take a month or more. Try
8 a lot of those as well. As well as cases that take a day
9 or two. So you take the chance if you leave here that
10 you're going to get sent out to another panel. And that
11 judge may not like your reasoning for not being able to
12 serve, like I do. So it's not always that you look at a
13 case and think it's going to be five or six days that
14 it's that bad.

15 And I tell you all of this, I'm not
16 telling you not to answer the question, whether it's going
17 to be a burden. I just tell you so you'll have all the
18 information as to how we process jurors here so that when
19 you answer the question you'll have a little better
20 idea.

21 Obviously you all are intelligent folks.
22 You realize how important these proceedings are. They're
23 very serious proceedings. And we can't do these type
24 things without having folks willing to come in and serve
25 as a juror.

34

1 I don't know if any of you have been
2 involved in the justice system before. Some of you have
3 raised that individually you were accused of crimes. Or
4 some of you in your questionnaire that I recall have been
5 alleged to have been victims of crime. I'm sure if I
6 asked if anybody has ever been involved in the civil
7 justice system, some of you might have your hands up. I
8 got sued. I had to sue. I was in a car accident.
9 Whatever it may be.

10 Those of you that have been involved in
11 the justice system, you have a little bit of a better
12 understanding as to how the process works. And you may
13 have been through jury trials, so you know how important
14 this is. If you haven't ever been in the justice system,
15 odds are, before your time on this planet expires, you'll
16 probably come into contact with it in some fashion. Be it
17 civil or criminal. And it may give you a greater
18 appreciation.

19 But nonetheless, it is a very important
20 process. I thank you all for being here. I know it's
21 difficult. It's inconvenient. But to the extent you can
22 take part in the process and give us some of your time for
23 a few days, I know that everybody appreciates it.

24 So that being said, I will ask, is it
25 going to be an undo burden upon anybody to serve on this

35

1 jury for the next five to six days?

2 I'll start with Mr. Madison, badge number
3 102. What do you have, sir?

4 PROSPECTIVE JUROR: I'm a small business
5 owner. I'm in wedding photography. Last Wednesday I
6 almost missed a wedding due to the questionnaire that I
7 had to go shoot. I don't have a large staff of
8 photographers. It's a husband and wife team. They
9 requested our type of photography. I also do event
10 photography. I have a very full plate. I really just
11 don't have this kind of time. Whether it's the editing
12 process, designing photo albums, I have clients backed up
13 from last year, yet.

14 THE COURT: Thank you. Anybody else on
15 that top row. Yes, sir -- Mr. Sackmar, 003.

16 PROSPECTIVE JUROR: I'm a search engine
17 expert. And the livelihood of thousands of people depend
18 upon me doing my search engine work at a specified time
19 everyday. The companies which I'm under confidentiality
20 that I've been working for for the past eight years, if I
21 do not submit their sites at this specified time every
22 single day, the work that I've worked for for eight years
23 will go null and void.

24 THE COURT: Thank you. Anybody else on
25 that top row? No.

36

1 Middle row. You had you hand up, ma'am.
 2 PROSPECTIVE JUROR: Yeah, I don't have a
 3 car and there is no bus where I'm at.
 4 THE COURT: Let me get your name. Is that
 5 Ms. Labranch, badge number 019?
 6 PROSPECTIVE JUROR: Yes.
 7 THE COURT: All right.
 8 How did you get down here today?
 9 PROSPECTIVE JUROR: I had to take my
 10 husband's car. And he's stuck until midnight with a Jeep
 11 with a broken tranny (ph), leaking all over the place.
 12 So I hope he don't blow up.
 13 THE COURT: Thank you. Anybody else in
 14 the middle row? Yes, sir.
 15 PROSPECTIVE JUROR: I just had surgery.
 16 THE COURT: This is Mr. Petit.
 17 PROSPECTIVE JUROR: 021 -- the incision is
 18 right on the belt line. It's pretty difficult for me to
 19 sit for a long period of time.
 20 THE COURT: How long ago was that?
 21 PROSPECTIVE JUROR: Two weeks ago.
 22 THE COURT: Anybody else on that row?
 23 Bottom row? Yes, sir.
 24 PROSPECTIVE JUROR: I have community
 25 service time I need to turn in by March 14th.

37

1 THE COURT: I'm sorry, is this Mr. McKown,
 2 033.
 3 PROSPECTIVE JUROR: Yes, sir. I need to
 4 turn it in March 14th.
 5 THE COURT: What is that for?
 6 PROSPECTIVE JUROR: Possession of
 7 paraphernalia.
 8 THE COURT: How much time do you have left
 9 to do?
 10 PROSPECTIVE JUROR: I've done it all. I
 11 have to turn it in and pay the rest of my fees.
 12 THE COURT: That's down in municipal
 13 court?
 14 PROSPECTIVE JUROR: Yes.
 15 THE COURT: You have a court date?
 16 PROSPECTIVE JUROR: March 14th.
 17 THE COURT: 7:30, 8:00 o'clock in the
 18 morning?
 19 PROSPECTIVE JUROR: I'm not sure.
 20 THE COURT: One reason I bring that up
 21 with this gentleman -- I probably should have told you
 22 about how scheduling issues so that you can factor that in
 23 to whatever you talk to me about right now. I have
 24 morning calendars Monday through Thursday, which means
 25 other cases that need motions decided that are on the

38

1 morning calendar. Generally that means that on Mondays we
 2 get started by about 10:00 o'clock.
 3 Tuesdays and Thursdays are a little
 4 longer. Wednesday will probably be about 10:00 o'clock.
 5 But Tuesdays and Thursdays 10:30, maybe 11:00.
 6 In terms of how we go throughout the day,
 7 we take a lunch break of an hour to an hour-and-a-half,
 8 depending on how we do and what's going on. It's kind of
 9 fluid. We don't always stop right at noon and take off.
 10 We may have a witness on the stand and we'll finish that
 11 witness up and so forth.
 12 We break about 5:00 o'clock every night.
 13 I'm not going to keep you later than that, unless maybe
 14 you have somebody on the stand and we're trying to finish
 15 that person up. Or if it's the end of the case and you
 16 all are deliberating and you want to stay later, by all
 17 means, I'll stay here as well. But I know you have things
 18 you need to get done in the evenings as well.
 19 That's kind of how we schedule things when we're in
 20 court. We take a break about every ninety minutes or so,
 21 use the restroom. We'll come back into court and you may
 22 bring a bottle of water, soda in a Styrofoam cup, that's
 23 fine as well.
 24 So thank you, Mr. McKown. How about the
 25 front row. Sorry, what do you have?

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1 PROSPECTIVE JUROR: 029 -- I work for a
 2 small business and the business is -- I'm one of four
 3 people. So I'm a single employee of the owners. The
 4 others are owners of the business. With me not being
 5 there it hinders them to work that much more. They have
 6 to drop work in order for me to come here. I'm only
 7 working six days a week for them. As well as this case, I
 8 have a big morale (sic) towards this case.
 9 THE COURT: We'll get into those issues
 10 later on. Thank you. And is it Ms. Pinon?
 11 PROSPECTIVE JUROR: Yeah, uh-huh.
 12 THE COURT: Badge 031.
 13 PROSPECTIVE JUROR: I've had two brothers
 14 killed in two separate incidents. And the first time he
 15 forgot to call me as a witness. They had to a subpoena.
 16 I'm very, very angry about that.
 17 And the second -- my second brother that
 18 was killed, we're in the trial process right now.
 19 THE COURT: Did this happen locally?
 20 PROSPECTIVE JUROR: Yeah, here in Las
 21 Vegas.
 22 THE COURT: There's a trial going on
 23 because of your brothers' death?
 24 PROSPECTIVE JUROR: Yes.
 25 THE COURT: Thank you. First row over

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1 here. Yes, Ms. French.
 2 PROSPECTIVE JUROR: 046 -- I'm a single
 3 mother.
 4 THE COURT: Thank you. Second row on the
 5 end. Is that Ms. Carvelli?
 6 PROSPECTIVE JUROR: Yes. I have a surgery
 7 scheduled March 14th.
 8 THE COURT: Thank you. Anybody else in
 9 that row?
 10 PROSPECTIVE JUROR: 052 -- I'm scheduled
 11 to be in Los Angeles Thursday and New York all of next
 12 week.
 13 THE COURT: Business or pleasure?
 14 PROSPECTIVE JUROR: Business.
 15 THE COURT: Thank you. Anybody else on
 16 that row? Yes, sir.
 17 PROSPECTIVE JUROR: I have a flight that
 18 was scheduled for LA today. I also have one tentatively
 19 scheduled for Vancouver for business for a commercial
 20 developer. I'm the only person in my position, so if I
 21 don't make those flights it doesn't get done.
 22 THE COURT: When are you supposed to leave
 23 to Vancouver?
 24 PROSPECTIVE JUROR: Tentatively Wednesday
 25 morning. I don't have a firm date on that, pending the

41

1 outcome of this.
 2 THE COURT: Thank you. Anybody else in
 3 that row? Yes.
 4 PROSPECTIVE JUROR: 056 -- I'm a single
 5 parent. I have no family here. So being here makes it
 6 very difficult to find someone to watch my son.
 7 THE COURT: How old is your son?
 8 PROSPECTIVE JUROR: Eight.
 9 THE COURT: Thank you. Back row, yes.
 10 PROSPECTIVE JUROR: 072 -- I have no
 11 transportation. My husband dropped me off today because
 12 he's off. I can only come Monday, Tuesday, Wednesday.
 13 THE COURT: Thank you. Anybody else on
 14 that row? How about over here? No. Thank you, very
 15 much.
 16 THE COURT: Sorry. Yes, sir?
 17 PROSPECTIVE JUROR: 076 -- I'm a single
 18 parent. My son just moved out here recently. I have no
 19 family here. I have no daycare during the day.
 20 THE COURT: How old is he?
 21 PROSPECTIVE JUROR: Six.
 22 THE COURT: Okay. Tell you what we're
 23 going to do. Let's take a recess here. I'll talk to the
 24 attorneys about some of the issues that have been brought
 25 up. You all go ahead and get up and stretch, use the

42

1 restroom, get something to drink, if you wish. Then we'll
 2 get into questions by the attorneys.
 3 I need to tell you something every time we
 4 take a recess.
 5 JURY ADMONITION
 6 During the recess, ladies and gentlemen,
 7 you are admonished not to converse among yourselves or
 8 with anyone else, including, without limitation, the
 9 lawyers, parties and witnesses, on any subject connected
 10 with this trial, or any other case referred to during it,
 11 or read, watch, or listen to any report of or commentary
 12 on the trial, or any person connected with this trial, or
 13 any such other case by any medium of information
 14 including, without limitation, newspapers, television,
 15 internet or radio.
 16 You are further admonished not to form or
 17 express any opinion on any subject connected with this
 18 trial until the case is finally submitted to you.
 19 (Brief recess taken.)
 20 THE COURT: We're on the record, outside
 21 the presence of the jury.
 22 I had a question. Maybe you can help out
 23 on this. When I got to the point where I was telling them
 24 about the principles of law involved in the trial, it's
 25 not a guilt or innocence, presumed innocent, and so forth.

43

1 I think the only principle I really needed to discuss with
 2 them was the State's burden.
 3 If there is anything else that the defense
 4 thinks I need to have brought up in that admonition, let
 5 me know.
 6 MR. SCHIECK: I don't think so, your
 7 Honor.
 8 THE COURT: All right. Let's look real
 9 quick at everybody that raised some issues we can consider
 10 right now.
 11 First was Mr. Madison -- first guy, badge
 12 number 102. Said he's a small business owner. Owns a
 13 photography business. I mean, generally there is a lot of
 14 slippery slopes involved in letting folks go for a
 15 financial reason, which really isn't a good reason to get
 16 off. Even though I have sympathy for them. We'd have to
 17 let a lot of people go. I don't generally do that. But
 18 if you all stipulate to release him, I'll do that.
 19 MR. OWENS: Your Honor, we didn't think
 20 there were that many of them with problems. We don't have
 21 an objection to just pass them.
 22 THE COURT: The ones that raised the
 23 issues?
 24 MR. OWENS: Right.
 25 THE COURT: Twelve folks.

44

1 MR. OWENS: Right.
 2 THE COURT: Mr. Schieck.
 3 MR. OWENS: I was also going to suggest if
 4 they want to stipulate real quick to the three individuals
 5 that say they know us personally.
 6 THE COURT: Okay.
 7 MR. OWENS: I know that's a separate
 8 issue.
 9 THE COURT: I guess it's thirteen that
 10 raised issues of reasons they couldn't be here, or other
 11 reasons. It was Ms. Squires that indicated she knew
 12 Mr. Owens. Mr. Nakanishi that knew Mr. Patrick. And
 13 Mr. Rosehill that knew Mr. Schieck.
 14 What is the defense position as to those
 15 16 folks?
 16 MR. SCHIECK: We have no objection to the
 17 three that were acquainted with the attorneys, your Honor.
 18 I didn't break down my list separating out the ones that
 19 had financial hardship or other matters. Are we including
 20 within the hardship list the lady that has the ongoing
 21 murder case?
 22 THE COURT: I have her in mind, yes. I've
 23 got a nod from Mr. Owens and Ms. Weckerly as well.
 24 MR. SCHIECK: If I can have the court's
 25 indulgence for a minute.

45

1 THE COURT: Sure.
 2 MR. SCHIECK: Not including Mr. McKown,
 3 who just needs to check in for his community service.
 4 THE COURT: I have him on my list, because
 5 he raised a reason as to undue burden. I don't think
 6 that's a reason, to be quite honest.
 7 MR. OWENS: You know, we are proposing
 8 that we kick him and go through them one at a time and
 9 look at the reasons.
 10 THE COURT: Okay.
 11 MR. OWENS: Technically, some of these we
 12 can work around, obviously. But in the interest of
 13 expediting things --
 14 THE COURT: There are a couple of issues.
 15 Sometimes people want to go through it one at a time. A
 16 lot of times the attorney's do that, kick in mass, because
 17 they raise a reason indicating I don't want to be here
 18 anyway, as opposed to the folks willing to serve. So six
 19 of one, half a dozen of the other. If you want to kick
 20 them in mass, fine. If you want to go through each of them
 21 individually, we can do that as well.
 22 MR. SCHIECK: Court's indulgence,
 23 please.
 24 THE COURT: Okay.
 25 MR. SCHIECK: Your Honor, I don't have a

46

1 problem. We don't have a problem with doing it. I
 2 just -- I guess I'm too conservative. But if the next
 3 panel has the same sort of list I see us losing jurors --
 4 a lot of jurors. I don't want to run out. I would like
 5 to get a jury in place. I have no problem agreeing to
 6 stipulate to this stack.
 7 MR. OWENS: We are not going to run out.
 8 THE COURT: Well, I mean, I agree with Mr.
 9 Owens. I don't think we are going to run out. We may
 10 prolong things a bit, but that's okay. And sometimes
 11 maybe we learn from the first panel as to where we are
 12 going with things. But, I'll go ahead and excuse the
 13 sixteen folks, which is going to be Mr. Madison 102, Mr.
 14 Sackmary, 003, Ms. Labranch 019, Mr. Petit 021,
 15 Ms. Squires 025, Ms. Rosehill 027, Mr. Morales 029,
 16 Ms. Pinon 031, Mr. McKown 033, Ms. French 046, Carvelli
 17 048, Carr 052, Grindstaff 054, Johnson 056, Nakanishi 062,
 18 Sunga 072, and Sprosty 076.
 19 That's actually seventeen. I'm sorry.
 20 Instead of sixteen 16.
 21 If you all wish me to get more people up
 22 here to fill in those spots now, before my questioning
 23 with them before you all start.
 24 MR. OWENS: Yes.
 25 MS. WECKERLY: That's easier.

47

1 THE COURT: You don't think we'll get this
 2 all done with the remaining thirty-three people?
 3 MR. SCHIECK: Especially now they learn
 4 all they have to do is raise their hands. I've
 5 reconsidered.
 6 THE COURT: Leslie, go ahead and go back
 7 downstairs and get another seventeen of the group and
 8 bring them up.
 9 THE BAILIFF: Also the gentleman that has
 10 his own computer business, the search engine guy, he's all
 11 of a sudden remembering that maybe he saw something about
 12 this case.
 13 THE COURT: We're excusing him.
 14 Back on the record in C-131341, State of
 15 Nevada versus James Chappell. The record will reflect the
 16 presence of Mr. Chappell with his attorneys, the State's
 17 attorneys, in the presence of our prospective jurors.
 18 All right, ladies and gentlemen, based
 19 upon a combination of things, the jury questionnaires as
 20 well as some of the answers today, I'll thank and excuse a
 21 number of you. Let me get through all the names and you
 22 all can get up and report back down to jury services.
 23 I'll think and excuse Mr. Madison, badge
 24 number 102, Mr. Sackmary 003, Ms. Labranch 019, Mr. Petit
 25 021, Ms. Squires 025, Mr. Rosehill 027, Mr. Morales 029,

48

STATE OF NEVADA vs. JAMES CHAPPELL 3/12/2007

1 Ms. Pinon badge 031, McKown 033, French 046, Carvelli 048,
2 Carr 052, Grindstaff 054, Johnson 056, Nakanishi 062,
3 Sunga 072, and Mr. Sprosty 076.

4 I appreciate you all coming in and filling
5 out the questionnaire and coming and being patient with me
6 today. You all can report back to the Jury Commissioner's
7 office on the third floor.

8 We've got to get a few more folks to move
9 in from downstairs. In the mean time, what I need is
10 everybody to move down, please.

11 To my new folks, welcome. Thank you, very
12 much. My name is Douglas Herndon. I'm the presiding
13 judge here in Department 3, of the Eighth Judicial
14 District Court. You all have been summoned here to take
15 part in a criminal proceedings as prospective jurors.
16 It's the State of Nevada versus James Chappell.

17 I know you came in and filled out the
18 questionnaire. We're going to get into questions in a
19 minute. I'll have questions for you and the attorneys may
20 have questions as we get further in the proceedings.

21 Let me tell you a couple of things. Seated
22 in front of me is Sharon. Sharon is my court reporter.
23 So everything that is said, including what you say is
24 reported. So it's important that you speak up enough that
25 we can hear. Don't nod your head or shake your head.

49

1 Please don't use uh-huh or huh-uh. It's hard to type that
2 down correctly. Make sure you speak "yes" or "no."

3 If I don't ask you by name you badge
4 number, if I don't call on you by saying Mr. Smith, badge
5 number 100, please, identify yourself by name and badge
6 number so we know who it is that's speaking.

7 Additionally, seated to my left is Carol.
8 Carol is my court clerk. She's going to swear an oath to
9 you all in a minute, to make sure you're under oath when
10 you answer questions. She keeps track of court exhibits,
11 court minutes, everything that's going on in court.

12 Seated to her left is my law clerk, Steve.
13 Steve, who is present to help advise me with a lot of
14 legal issues that come up during the course of the
15 proceedings.

16 You have already met Leslie. Leslie is my
17 bailiff. What you're going to find out is everybody else
18 in the courtroom, attorneys, most of the court personnel
19 works under certain ethical obligations not to converse
20 with the jurors, other than the jury questioning
21 process.

22 Leslie doesn't have that obligation. So
23 to the extent you're outside and need to get information
24 to somebody, you can always talk to Leslie.

25 What I'm going to do now is ask the

50

1 attorneys to tell you quickly a little about the case.
2 They're going to introduce themselves, who they represent.
3 They'll speak to you about the witnesses, prospective
4 witnesses that may be called to testify here, so listen
5 closely as they do all that. Because some of the
6 questions will be designed to see if you know any of the
7 people, be it the attorneys, Mr. Chappell, any of the
8 witnesses. Or whether you've heard anything about the
9 case.

10 Mr. Owens, if you would please, again.

11 MR. OWENS: Thank you, your Honor.

12 Good morning. Again, some of you it's
13 going to be like de-ja-vue, so have some patience with us.
14 For the rest of you, my name is Chris Owens. This is pan
15 Weckerly. We're from the district attorney's office.
16 We're prosecutors prosecuting this case.

17 This case involves a number of charges
18 against James Chappell, for which he has already been
19 convicted in 1996, from a jury trial of that date. Those
20 include burglary, robbery with use of a deadly weapon,
21 first degree murder with use of a deadly weapon.

22 The purpose of this jury that we're
23 selecting now is to determine punishment for the charge of
24 first degree murder from that conviction. So the
25 Defendant already stands convicted of that charge.

51

1 The range of punishments that will be
2 available to this jury to select for that charge include;
3 the death penalty, life without the possibility of parole,
4 life with the possibility of parole after 40 years has
5 been served, and a term of 100 years with parole after 40
6 years.

7 This is an incident that involves a victim
8 Debra Panos. It occurred back in August 31, 1995 at the
9 Ballerina Mobile Home Park. It's a little east of
10 downtown, maybe about 3 miles east of this area, 839 East
11 Lamb.

12 It will also include some testimony about
13 some areas in the downtown, here, the jail, and Parole and
14 Probation. And the business at the time G.E. Capital,
15 where some of the witnesses worked.

16 Luanna Aires, Lisa Duran, Tanya Hobson,
17 LaDonna Jackson, Claire McGuire, Mike Pollard, Kimberly
18 Simpson, Sherry Smith, and Debra Turner, Laura Burfield,
19 Jerry Urnst, Dina Freeman, Michelle Moncha, Carol Munson,
20 Norma Penfield, and Paul Widner. From the Clark County
21 Coroner's office -- a retired coroner now -- a Dr. Green.
22 And then police department officers, Daniel Dersdorff,
23 Darren Heiner, Officer Art Lee, Paul Osich, Mike Perkins,
24 James McCarroll, Allen Williams, and Cal Winchells.

25 From Parole and Probation, Larry Arabe

52

1 (ph) Mike Compton, William Duffy, Ed Henderson, Chermaine
2 Smith.

3 And one other witness, potentially might
4 be called, is a psychiatrist, Thomas Bickert, from the
5 Reno area.

6 Appreciate your time and attention and
7 patience with us, and your candor after we address the
8 questions to you in a little bit.

9 Thank you.

10 THE COURT: Thank you, again, sir. Mr.
11 Schieck.

12 MR. SCHIECK: Thank you, your Honor.

13 Good morning, ladies and gentlemen. My
14 name is David Schieck. I'm with the special public
15 defender's office here in Clark County. Assisting me is
16 Clark Patrick, who's also with the special public
17 defender's office. This is our client who's been charged
18 in this case, James Chappell.

19 The list of witnesses from which we may
20 call during these proceedings are as follows: James Ford,
21 Ivory Morrell, Ben Dean, Charles Dean, Fred Dean, Willy
22 Chappell, Mira Chappell-King, Kisha Axton, Dennis Reffer,
23 Marabel Rosales, and Howard Brooks.

24 Additionally, Dr. Lewis Etkoff, Dr. Tod
25 Grey, and Dr. William Danton from Reno Nevada.

53

1 Thank you.

2 THE COURT: Thank you, Mr. Schick,
3 again.

4 To my new folks, as you can guess we have
5 gone through this process with your fellow jurors here. I
6 was explaining to them, as you all where on your way up, I
7 wish the court was big enough that we could bring in
8 enough people that filled in the questionnaire, which is
9 about 125 people, so that the attorneys only have to
10 repeat this once, in terms of introducing themselves,
11 telling what the case is about, naming witnesses to you,
12 then we can work through the process. But unfortunately
13 the courtroom is not big enough to do that. I apologize
14 to you in advance, if we have same thing that we had
15 earlier, where we excused some people and we kind of need
16 to get more in here before we move to the second part of
17 what we're trying to do. But nonetheless, we're trying to
18 do it in the most efficient way we can.

19 I'll ask for Carol to call the roll of the
20 jurors -- those of you that just arrived. Please listen
21 for your name and answer present or here when you hear
22 your name.

23 THE CLERK: Tamar Jackson.

24 PROSPECTIVE JUROR: Present.

25 THE CLERK: Judy Morris.

54

1 PROSPECTIVE JUROR: Present.

2 THE CLERK: Albert Parramore.

3 PROSPECTIVE JUROR: Here.

4 THE CLERK: Brianne Gernot.

5 PROSPECTIVE JUROR: Here.

6 THE CLERK: Donna Byrd.

7 PROSPECTIVE JUROR: Here.

8 THE CLERK: Joseph Schechter.

9 PROSPECTIVE JUROR: Here.

10 THE CLERK: Linda Duran.

11 PROSPECTIVE JUROR: Here.

12 THE CLERK: Laura Staley.

13 PROSPECTIVE JUROR: Here.

14 THE CLERK: Sharon Larsen.

15 PROSPECTIVE JUROR: Here.

16 THE CLERK: Mary Stio.

17 PROSPECTIVE JUROR: Here.

18 THE CLERK: Heather Cohen.

19 PROSPECTIVE JUROR: Here.

20 THE CLERK: John Wells.

21 PROSPECTIVE JUROR: Here.

22 THE CLERK: James Engelbrecht.

23 PROSPECTIVE JUROR: Here.

24 THE CLERK: Kary Kitchen.

25 PROSPECTIVE JUROR: Here.

55

1 THE CLERK: Brenda Berry.

2 PROSPECTIVE JUROR: Here.

3 THE CLERK: Bobby Franks.

4 PROSPECTIVE JUROR: Here.

5 THE CLERK: Terry Tetonis.

6 PROSPECTIVE JUROR: Here.

7 THE COURT: Is there anybody that just
8 came in whose name was not called? No. All right. Thank
9 you, very much.

10 Let me ask the seventeen or so of you that
11 just got here to stand and raise your hand for me please
12 so I can have Carol administer the oath to you all.

13 THE CLERK: You do solemnly swear that you
14 will well and truly answer such questions that may be put
15 to you, touching upon your qualifications to act as jurors
16 in the case at issue, so help you God.

17 PROSPECTIVE JUROR: (Choir of I do.)

18 THE CLERK: Be seated.

19 THE COURT: Let me tell you up front, you
20 answered the questionnaire. You came in and filled that
21 out. But there are still questions that need to be asked
22 by myself and by the attorneys as well. It's everyone's
23 desire that we get as fair, open-minded, impartial group of
24 people as we can to decide the issues in this case. So
25 there's going to be some questions, which, obviously, you

56

1 can tell from the questionnaire the questioning is
2 somewhat personal at times. It's not intended to
3 unnecessarily pry into your lives, but nonetheless, there
4 are issues that the attorneys need to learn about as they
5 go about the process of selecting a jury in this case.

6 So I have to tell you strenuously, please,
7 make sure that you give as full, complete, and honest
8 answers to any of the questions that are put forth to you.
9 If you try and hide or withhold something, that fact alone
10 can tend to contaminate your verdict if you're ultimately
11 chosen as a juror in this case.

12 So if your instinct tells you, you know
13 what, I wonder if they really need to know about this or
14 not, tell us about it, please. Every fact has some
15 bearing on your personal and professional life somehow
16 relates to your ability to hear this case is important for
17 the attorneys to know. So make sure you tell us about
18 it.

19 I have some general questions I'll ask of
20 the seventeen of you real quick. If you want to answer a
21 question, raise your hand and I'll work through everybody.

22 Have any of you been convicted of a
23 felony? No. Thank you.

24 Anybody who is not a U.S. citizens? No.
25 Thank you.

57

1 Do any of you believe you know or are
2 acquainted with Mr. Owens or Ms. Weckerly? No. Thank
3 you.

4 Anybody believe you know or are acquainted
5 with Mr. Schieck or Mr. Patrick, the defense attorneys?
6 No hands. Thank you.

7 Any of you all believe you know or are
8 acquainted with Mr. Chappell, the defendant. All right.

9 Anybody believe they are acquainted with
10 or know any of the witnesses spoken to you about, by
11 either Mr. Owens or Mr. Schieck? No hands. Thank you.

12 Anybody think they know anything about
13 this case, other than what the attorneys have stated to
14 you or from the jury questionnaire? I see no hands.
15 Thank you, very much.

16 Some of you mentioned in your
17 questionnaires, when you were asked about prior jury
18 service, that you had been jurors before. Were any of you
19 a foreperson of any of those juries? I see no hands.
20 Thank you.

21 Have any of you all or close family
22 members ever been accused of a crime? Yes, sir.

23 PROSPECTIVE JUROR: 094 -- my uncle was
24 accused of murder.

25 THE COURT: Okay. Was that -- how long

58

1 ago was that?

2 PROSPECTIVE JUROR: In '93 or '94.

3 THE COURT: Locally or somewhere else?

4 PROSPECTIVE JUROR: In California.

5 THE COURT: Thank you, sir. Next, is that

6 Ms. Cohen.

7 PROSPECTIVE JUROR: Never mind.

8 THE COURT: If you've got something, let
9 me know.

10 PROSPECTIVE JUROR: No.

11 THE COURT: Anybody over here I missed?

12 PROSPECTIVE JUROR: Ms. Jackson, 080, my
13 nephew, robbery.

14 THE COURT: Was that here?

15 PROSPECTIVE JUROR: In California.

16 THE COURT: Thank you. Anybody else over
17 there. Yes, badge number --

18 PROSPECTIVE JUROR: 88, myself, felony
19 1997.

20 THE COURT: All right. What was it?

21 PROSPECTIVE JUROR: Stolen property --
22 buying stolen property. It was reduced to a
23 misdemeanor.

24 THE COURT: Where was that?

25 PROSPECTIVE JUROR: Here in Las Vegas.

59

1 THE COURT: Thank you. Anybody else?

2 Yes.

3 PROSPECTIVE JUROR: 86 -- my sister in
4 California, shoplifting, receiving stolen goods, and drug
5 paraphernalia.

6 THE COURT: Anybody else?

7 PROSPECTIVE JUROR: Parking tickets and
8 stuff don't count?

9 THE COURT: Not unless you got a whole lot
10 of them. Then you probably don't want to tell me
11 anyway.

12 THE COURT: Thank you. Is there anybody
13 here of the seventeen of you all that just came in who
14 would tend to give more weight or less weight or credence
15 to the testimony of a police officer because they were a
16 police officers? I see no hands.

17 Does everybody believe they will be able
18 to follow the instructions on the law that I give you that
19 pertain to this case, rather than -- or I should say, if
20 those instructions differ from what your personal belief
21 is, as to what the law ought to be?

22 Essentially I'll give you legal
23 instructions on the case. A little at the beginning, a
24 lot at the end before the attorneys make their closing
25 arguments. What I need to know now is you are going to

60

1 agree to follow the law as I tell you the law exists in
2 the State of Nevada.

3 Your job is to find out what the facts
4 are. You apply the facts to the law as I tell you the law
5 exists. Is there anybody that cannot follow the law as I
6 tell you the law exists? I see no hands. Thank you, very
7 much.

8 And finally, there are certain principles
9 of law that apply to any criminal proceeding, and one of
10 those principles is that the State of Nevada has the
11 burden of proving all the elements necessary in this
12 proceeding beyond a reasonable doubt. Does everybody
13 understand that?

14 Anybody not understand that?

15 Does everybody agree that they could hold
16 the State to their burden in this case of proving the
17 things that are necessary to prove beyond a reasonable
18 doubt? Anyone who could not do that? I see no hands.
19 Thank you, very much.

20 Final question I have is about -- I'm
21 going to ask you whether it would be an undo burden upon
22 you to serve in this case for the next -- we anticipate
23 the case will last through Friday, maybe spills over into
24 Monday of next week. So I'll ask you if it would be an
25 undo burden upon anybody to serve that amount of time as

61

1 jurors in this case.

2 And before I ask the question, let me give
3 you a little bit of information.

4 Average trial in this building lasts about
5 six days. This is about average. Hopefully a little less
6 than average. If I excuse you today, base upon whatever
7 reason you give to me, you don't just get to leave and go
8 home. You got to go back to jury services and they decide
9 whether to send you out on another panel today or tell you
10 to come back next week. Whatever their pleasure is.

11 If you go to another panel, that judge may
12 not like your excuse. It's independent to each judge
13 whether he excuses a juror or not. We have medical
14 malpractice cases, including a couple of them starting
15 today, or a couple later days this week, that last six
16 months or more. We have medical malpractice cases that
17 last a couple of months. There's a variety of cases that
18 last a lot longer than this case is what I'm trying to
19 tell you.

20 So there's also cases that last a day or
21 two. Don't get me wrong. I'm not trying to tell you not
22 to answer the question. I'm trying to give you a little
23 information as to how the process works so you understand
24 when you tell me what the reasons are why you can't
25 serve.

62

1 And I understand it's inconvenient for
2 you. Trust me. I realize that you have things in your
3 life you'd rather be doing. It's a very important process
4 that we have here, and to not have jurors willing to serve
5 would mean you can't go forward this type of judicial
6 process that we have in this country. It's the best in
7 the world. A lot of judges come over from other counties
8 that wish they had this process.

9 I wish you would give strong consideration
10 to giving us a little bit of your time and serve in this
11 case.

12 That being said, is there anybody who it
13 would be an undo burden upon to serve for five or six days
14 here. All right. Yes, sir.

15 PROSPECTIVE JUROR: I own my own
16 company.

17 THE COURT: Your badge number, sir?

18 PROSPECTIVE JUROR: John Wells, badge
19 number 94. I have a small IT service that out-sources
20 services to several companies in Las Vegas valley. I have
21 taken nearly forty calls this morning I'm not able to
22 attend to, because of the daylight savings change. I have
23 one guy that works for my. We support 40 companies in the
24 valley. I'd go out of business if I couldn't attend to my
25 clients.

63

1 THE COURT: Anybody else? Yes, sir.

2 PROSPECTIVE JUROR: Badge 95. I'm
3 self-employed. I'm a house painter. Presently working
4 with my brothers, of which there are two. And if I don't
5 work, sir, I don't make money.

6 THE COURT: Thank you. Anybody else?
7 Yes, Ms. Jackson.

8 PROSPECTIVE JUROR: 80 -- I'm in retail.
9 My husband is a loan officer. He just started out. It's
10 just a burden for me to come due to financial situation.

11 THE COURT: Thank you. Anybody else over
12 there?

13 PROSPECTIVE JUROR: 86 -- I work graveyard
14 for starters. I'm a sole income and care giver to my
15 brother who lives with me. He's 80 years old. He
16 requires resources.

17 THE COURT: Anybody else?

18 PROSPECTIVE JUROR: 102 -- I'm currently
19 working graveyard. I'm the only source of income in my
20 house. My wife is going to school. And I'm supporting
21 five kids.

22 MR. OWENS: What is that number?

23 THE COURT: That's Mr. Tetonis, 102.

24 PROSPECTIVE JUROR: 102.

25 THE COURT: All right. Anybody else? No.

64

1 Thank you.

2 Counsel approach the bench real quick, please.

3 (Discussion held at the bench.)

4 THE COURT: At this time I'm going to

5 thank and excuse, Ms. Byrd 086, Mr. Wells 094, Mr.

6 Engelbrecht 095. I thank you all for coming down and

7 answering the questionnaire and coming up here today.

8 Please report back to the Jury Commissioner's before you

9 leave today, okay.

10 Ladies and gentlemen, we're going to move

11 on now with questions from the attorneys. We'll get into

12 this a little bit before we take our lunch break.

13 The most efficient and affective way for

14 the attorneys to do this is to go one by one with people.

15 The State's attorneys ask questions and the defense

16 attorneys ask some questions, and we'll move onto the next

17 juror.

18 It may be between each attorney, Mr. Owens

19 may have question for the first juror, Ms. Weckerly may

20 have questions for the second juror. The same thing with

21 Mr. Schieck and Mr. Patrick as they move back and forth

22 with you all.

23 What you'll find, especially you folks in

24 the audience right now, to the extent somebody gets

25 challenged and excused for cause and somebody else has to

65

1 move up, as you listen to the questions over and over

2 you'll be a lot quicker to answer things because you'll

3 able to understand what it is the attorneys are really

4 interested in trying to question you about. So kind of

5 pay attention as we're moving on, if you would, please.

6 All right. Mr. Owens, Ms. Weckerly.

7 MR. OWENS: If I could request, it might

8 be helpful to us to get a role call. I don't know if we

9 maintained -- I'm not sure if we know who is in which

10 seats at this point.

11 THE COURT: Seat number one is Mr. Perez

12 001, Mr. Brady 004, Ms. Kaleikini-Johnson 007, Mr. Taylor

13 009, Mr. Hibbard 010, Ms. Bailey 015, Ms. Mills 016,

14 Mr. Henck 020. My far right, Mr. Smith 022, Ms. Heyrick

15 023, Ms. Cardillo 026, Ms. Ramirez 034, Ms. Theus 035, Ms.

16 Noahr 036, Mr. Martino 038, Bundren 039, Ms. Smith 045,

17 Morin 050, Garcia 051, Salak 055. Correct?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Do you want me to keep going?

20 MR. OWENS: That's plenty for now.

21 THE COURT: All right. Mr. Owens.

22 MR. OWENS: Court's indulgence a moment.

23 THE COURT: Okay.

24 MR. OWENS: Mr. Perez, how are you doing?

25 PROSPECTIVE JUROR: Fine.

66

1 MR. OWENS: You had answered a number of

2 questions -- you can have a seat. You don't have to stand

3 up. It's uncomfortable enough giving us questions like

4 this.

5 You were asked a number of questions about the death

6 penalty. Have you had an opportunity to think about that

7 since you filled out the questionnaire? Do you understand

8 what I mean?

9 PROSPECTIVE JUROR: I speak Spanish.

10 MR. OWENS: Do you have a problem with the

11 language?

12 PROSPECTIVE JUROR: Yes.

13 MR. OWENS: You have a hard time

14 understanding English?

15 PROSPECTIVE JUROR: Yes.

16 MR. OWENS: So it would be hard for you to

17 understand what the witnesses are saying as they come up

18 to the stand?

19 PROSPECTIVE JUROR: Yes. It's hard.

20 MR. OWENS: Approach briefly.

21 THE COURT: Sure.

22 (Discussion held at the bench.)

23 THE COURT: Why don't we go ahead and move

24 to Mr. Brady. I'll contact the court interpreter's office

25 for Mr. Perez. Thank you, Mr. Perez. Stay for right now,

67

1 okay.

2 PROSPECTIVE JUROR: I can interpret,

3 Judge.

4 THE COURT: I appreciate that, but by rule

5 I need to have a certified court interpreter from the

6 interpreter's office.

7 MS. WECKERLY: May I proceed.

8 THE COURT: You may.

9 MS. WECKERLY: I guess it's not quite

10 morning anymore. Last week when you filled out your

11 questionnaire, you were asked several questions about the

12 death penalty. Do you recall that?

13 PROSPECTIVE JUROR: Sure.

14 MS. WECKERLY: One of the questions that

15 was asked, sort of alluded to, or asked you would you

16 automatically impose the death penalty if someone were

17 convicted of first degree murder. Do you recall a question

18 of that nature?

19 PROSPECTIVE JUROR: Sure.

20 MS. WECKERLY: As you know from Mr. Owens

21 this morning and probably you got that from the

22 questionnaire as well, we're sitting here and the

23 Defendant is convicted of first degree murder with use of

24 a deadly weapon. You understand that?

25 PROSPECTIVE JUROR: Correct.

68

1 MS. WECKERLY: Judge Herndon explained
2 that at the end of the case you'll be provided with the
3 law in the State of Nevada as to when jurors can consider
4 the death penalty, because it's not an automatic thing in
5 every case of first degree murder in the State of Nevada.
6 There are certain requirements that have to be met before
7 the jury can even consider the death penalty.

8 Would you be able to follow those instructions
9 provided by Judge Herndon and hold the State to those
10 legal requirements before you would consider the death
11 penalty as a potential punishment?

12 PROSPECTIVE JUROR: I guess the question
13 back -- is it going to be one of the options no matter
14 what, or is that what this is going to be determining to
15 see if that's even on the table?

16 MS. WECKERLY: Exactly.

17 PROSPECTIVE JUROR: If it's not on the
18 table.

19 MS. WECKERLY: The Judge will tell you
20 these are the requirements that must be met before a jury
21 can consider imposition of the death penalty. And you
22 wouldn't have any trouble following those instructions?

23 PROSPECTIVE JUROR: If he says it wasn't
24 an option, then it's not an option.

25 MS. WECKERLY: Another part of that

69

1 process is you'll be given information, obviously, about
2 the crime itself, but also information about the Defendant
3 and his background, that sort of thing. And the law is
4 that you are to consider all of that information in making
5 your decision with your fellow jurors. And I assume you
6 would have no trouble following that law as well,
7 considering all the information before you make a
8 decision?

9 PROSPECTIVE JUROR: I have to say
10 personally I don't feel that anybody's background is
11 justification for a crime that they commit.

12 MS. WECKERLY: Well, and we're not
13 necessarily talking about, in this situation,
14 justification for a crime. Because he's convicted of
15 first degree murder, and so the what you're to consider it
16 for in this case is what would be an appropriate
17 punishment. And the law doesn't tell you what weight you
18 must give certain factors. You must hear that information
19 and consider it before you make a sentencing decision
20 collectively in a group. Would you be able to do that?

21 PROSPECTIVE JUROR: Sure.

22 MS. WECKERLY: Do you have any other
23 concerns about your ability to following the judge's
24 instruction and make a decision about punishment that is
25 appropriate in this case?

70

1 PROSPECTIVE JUROR: Um --

2 MS. WECKERLY: You are put on the spot.

3 PROSPECTIVE JUROR: I guess, I definitely
4 lean toward the death penalty in any type of murder case,
5 or something like that. But it depends on the judge's
6 instructions. I could take that into account.

7 MS. WECKERLY: Thank you, sir.

8 THE COURT: Thank you. Pass for cause?

9 MR. OWENS: Yes. Sorry, your Honor.

10 THE COURT: Mr. Patrick.

11 MR. PATRICK: Mr. Brady, you indicated in
12 your questionnaire that you have a history of domestic
13 violence in your family.

14 PROSPECTIVE JUROR: Correct.

15 MR. PATRICK: If you come to find out
16 something about this case involves domestic violence,
17 would that color your opinion of the case?

18 PROSPECTIVE JUROR: Possibly.

19 MR. PATRICK: How do you feel about
20 domestic violence.

21 PROSPECTIVE JUROR: It's unacceptable.

22 MR. PATRICK: It was shown that Mr.
23 Chappell had a history of domestic violence would that
24 change your opinion about what penalty he should be given?

25 MR. OWENS: Objection, your Honor.

71

1 THE COURT: Well, I'll sustain the
2 objection. Ask specifically if he's going to do a certain
3 thing based upon a certain piece of evidence. I'll allow
4 you to explore the issue of domestic violence,
5 obviously.

6 MR. PATRICK: Who in your family had the
7 history of domestic violence?

8 PROSPECTIVE JUROR: My father and
9 mother.

10 MR. PATRICK: Who was the abuser?

11 PROSPECTIVE JUROR: My father.

12 MR. PATRICK: So how do you feel about --
13 again, how do you feel about domestic violence?

14 PROSPECTIVE JUROR: Unacceptable. I don't
15 know why my mother didn't put him in jail.

16 MR. PATRICK: Now, Ms. Weckerly talked to
17 you about if the death wasn't an option you'd consider
18 other forms of penalty?

19 PROSPECTIVE JUROR: If it wasn't an
20 option, yes.

21 MR. PATRICK: It's going to be an option.
22 The judge is not going to tell you you cannot impose the
23 death penalty.

24 PROSPECTIVE JUROR: Okay. Knowing that he
25 is convicted of murder, that would be the route that I

72

1 would choose to go, unequivocally.
 2 MR. PATRICK: If you learned things about
 3 Mr. Chappell's past, childhood, would any of that matter
 4 to you?
 5 PROSPECTIVE JUROR: Not at all.
 6 MR. PATRICK: We'd ask to strike for
 7 cause.
 8 THE COURT: Let me say this to the panel,
 9 and Mr. Brady as well. The death penalty is a sentencing
 10 option, a sentencing possibility as you enter this
 11 hearing. You have to discover certain facts, which you'll
 12 find in the legal instruction is what you find the facts
 13 to be will be what determines whether you can consider
 14 that as a possible punishment in your deliberation, okay.
 15 The instructions layout how you go through that process.
 16 Right now it's a possibility. It's certainly not
 17 something that you absolutely have to give. You don't
 18 have to give the most lenient sentence either. You have
 19 to determine what the facts are and if certain facts are
 20 met, then you can consider the death penalty as a possible
 21 punishment in your deliberation.
 22 So are you saying, Mr. Brady, you are automatically
 23 going to impose the death penalty if it's a possibility
 24 for you when you go back there, without knowing anything?
 25 Or are you going to consider everything and work with the

73

1 instructions and evidence, then decide what the
 2 appropriate sentence is?
 3 PROSPECTIVE JUROR: Well, I mean, I would
 4 have to say the very limited things I know about the case
 5 that he was convicted of first degree murder and abuse,
 6 yeah.
 7 THE COURT: Without any regard to what
 8 other evidence comes out?
 9 PROSPECTIVE JUROR: Whatever happened,
 10 drugs, whatever else was involved, wouldn't be a
 11 mitigating factor for me.
 12 THE COURT: Okay. I will take that issue
 13 under advisement right now.
 14 Approach the bench, counsel.
 15 (Discussion held at the bench.)
 16 THE COURT: Any other questions for
 17 Mr. Brady?
 18 MR. PATRICK: No.
 19 THE COURT: Mr. Owens or Ms. Weckerly as
 20 to Ms. Johnson.
 21 MR. OWENS: How are you?
 22 PROSPECTIVE JUROR: Good.
 23 MR. OWENS: How are you feeling about
 24 being here today?
 25 PROSPECTIVE JUROR: Truthfully, I wish I

74

1 wasn't. But I'm here. I'm supposed to be here.
 2 MR. OWENS: Are you nervous?
 3 PROSPECTIVE JUROR: A little bit.
 4 MR. OWENS: Just the context of being
 5 here, being on the spot?
 6 PROSPECTIVE JUROR: That's it.
 7 MR. OWENS: Something about the nature of
 8 the charge, murder, or the punishment that makes you feel
 9 uncomfortable?
 10 PROSPECTIVE JUROR: No.
 11 MR. OWENS: When we are asking the
 12 question about an eye for an eye, you said you didn't
 13 necessarily believe in that principle. It said, I don't
 14 feel I have the right to decide that. What did you mean
 15 by that?
 16 PROSPECTIVE JUROR: Basically, I don't
 17 think that I personally, myself, have a right to decide
 18 that. I can't say you did that to me, I'll do it back to
 19 you. In my own life. I know in this situation it's
 20 dependent upon circumstances.
 21 MR. OWENS: You don't have a problem of
 22 applying whatever standard you feel is appropriate here?
 23 PROSPECTIVE JUROR: No.
 24 MR. OWENS: We are looking for people
 25 outside of the situation, obviously, to be as fair and

75

1 impartial as they can be. We talked about the four
 2 options. Do you have any questions about the four options
 3 that are available?
 4 PROSPECTIVE JUROR: No.
 5 MR. OWENS: Obviously, if there was only
 6 one option on the table we wouldn't need a jury, right?
 7 PROSPECTIVE JUROR: Right.
 8 MR. OWENS: We're looking for people that
 9 can say that they're willing to keep an open mind and wait
 10 until they have heard the evidence to make a decision.
 11 Are you okay with that principle?
 12 PROSPECTIVE JUROR: Yes.
 13 MR. OWENS: So you don't feel you would
 14 jump the gun and say do this or do that without having
 15 heard anything about this?
 16 PROSPECTIVE JUROR: No.
 17 MR. OWENS: Do you think it's important to
 18 keep an open mind?
 19 PROSPECTIVE JUROR: Yes.
 20 MR. OWENS: How do you feel about the idea
 21 of deliberation, discussing these issues and keeping an
 22 open mind through that discussion?
 23 PROSPECTIVE JUROR: As long as everyone
 24 involved is willing to listen, and not jump to conclusions
 25 and not — be willing to listen to everybody else, it's

76

1 fine.
 2 MR. OWENS: You're okay with the idea of
 3 sharing your opinions and ideas?
 4 PROSPECTIVE JUROR: Yes.
 5 MR. OWENS: Listening to other people?
 6 PROSPECTIVE JUROR: Yes.
 7 MR. OWENS: Are you willing to adjust your
 8 ideas to correspond to what you feel is appropriate as
 9 that discussion progresses?
 10 PROSPECTIVE JUROR: If somebody makes a
 11 good point, yes.
 12 MR. OWENS: You don't have any
 13 philosophical problems with the death penalty itself?
 14 PROSPECTIVE JUROR: No.
 15 MR. OWENS: Do you feel that it's
 16 important to have a range of punishments for a crime such
 17 as this?
 18 PROSPECTIVE JUROR: Yes.
 19 MR. OWENS: Do you feel you could consider
 20 all those forms of punishment before selecting the one
 21 that is the most appropriate?
 22 PROSPECTIVE JUROR: Yes.
 23 MR. OWENS: We're not asking you to
 24 prejudge what you do here. You don't know anything about
 25 the case. But after you hear all the factors in

77

1 mitigation and aggravation, you're free, you're free to
 2 accept what you want to accept and reject what you don't
 3 want to accept, and come up with what you feel is
 4 appropriate in the end. Does that seem like a fair
 5 system?
 6 PROSPECTIVE JUROR: Yes.
 7 MR. OWENS: And if after hearing all the
 8 evidence in the case, both pro and con, you thought about
 9 all the range of punishment, if you are convinced of what
 10 the appropriate punishment and fair punishment was the
 11 death penalty, would you be able to come back with that
 12 verdict?
 13 PROSPECTIVE JUROR: Yes.
 14 MR. OWENS: How do you feel about the idea
 15 of sitting in judgment on another person?
 16 PROSPECTIVE JUROR: I personally don't
 17 like it, but the way the system is set up here this is the
 18 way it is done. I got the luck of the draw.
 19 MR. OWENS: I think most people feel
 20 uncomfortable judging other people, especially in the
 21 context like this. You appreciate the need to have
 22 judgments made from time to time in our society?
 23 PROSPECTIVE JUROR: Yes.
 24 MR. OWENS: You believe in the jury
 25 system?

78

1 PROSPECTIVE JUROR: Yes.
 2 MR. OWENS: If you felt that that was the
 3 appropriate punishment is that a judgment you could make
 4 on another human being?
 5 PROSPECTIVE JUROR: Unfortunately, yes.
 6 MR. OWENS: You say unfortunately.
 7 PROSPECTIVE JUROR: I don't relish having
 8 to do this, but it's part of living here.
 9 MR. OWENS: You feel that's something you
 10 could do?
 11 PROSPECTIVE JUROR: Yes.
 12 MR. OWENS: You haven't heard everything
 13 or anything right now.
 14 PROSPECTIVE JUROR: Right.
 15 MR. OWENS: What we're trying to find out
 16 is if people have problems judging other people, we want
 17 to find out now rather than the end of the next four or
 18 five days and they say, I can take this responsibility.
 19 You're okay, you feel you could hold up and do that?
 20 PROSPECTIVE JUROR: Yes.
 21 MR. OWENS: Thank you. I'll pass for
 22 cause.
 23 THE COURT: Thank you. Mr. Schieck.
 24 MR. SCHIECK: Thank you. Ms. Johnson, you
 25 indicated in your questionnaire that you'd never really

79

1 been exposed to someone who's got a history of substance
 2 abuse or domestic violence; is that correct?
 3 PROSPECTIVE JUROR: Correct.
 4 MR. SCHIECK: You've probably heard from
 5 the questioning may hear things about those two topics
 6 during the course of this hearing. Is that going to cause
 7 you to be less than fair and impartial to both sides of
 8 the case?
 9 PROSPECTIVE JUROR: No.
 10 MR. SCHIECK: Is that something you would
 11 want to hear about in this case, whether or not substance
 12 abuse might have been involved or alcohol abuse might have
 13 been involved?
 14 PROSPECTIVE JUROR: If it has bearing on
 15 the case, yes.
 16 MR. SCHIECK: When you say bearing on the
 17 case, we're just here to determine the penalty, so as it
 18 has a bearing on the potential penalty in the case?
 19 PROSPECTIVE JUROR: Yes.
 20 MR. SCHIECK: That's something you'd want
 21 to hear?
 22 PROSPECTIVE JUROR: Yes.
 23 MR. SCHIECK: One of your other questions,
 24 you were asked about friends that work in the justice
 25 system. You don't have any friends that work in law

80

1 enforcement whatsoever or the justice system?
 2 PROSPECTIVE JUROR: No.
 3 MR. SCHIECK: You do however have an
 4 opinion that sometimes the justice system can be a little
 5 to lenient. Did you have something in mind when you wrote
 6 that answer?
 7 PROSPECTIVE JUROR: No.
 8 MR. SCHIECK: Nothing that caused you to
 9 have that opinion?
 10 PROSPECTIVE JUROR: No.
 11 MR. SCHIECK: Is that still an opinion
 12 that you have that our system is too lenient?
 13 PROSPECTIVE JUROR: No. I guess there are
 14 some cases where there's been so much wrong done, it just
 15 doesn't fit what they were. But it's also outside looking
 16 in and listening to what the news puts out. I'm not
 17 getting everything. We're getting what they want us to
 18 have.
 19 MR. SCHIECK: Any cases where you can
 20 think of where perhaps the judge imposed a sentence and
 21 you thought to yourself that guy got off or lady got off
 22 too easy?
 23 PROSPECTIVE JUROR: No, because I don't
 24 like to listen to the news because it's depressing.
 25 MR. SCHIECK: We've had a lot of cases in

81

1 the news involving politicians. Sometimes it seems like
 2 they got a slap on the wrist, and sometimes they got a lot
 3 of time in prison. Any of those cases that caught your
 4 attention and you thought it was too lenient?
 5 MR. OWENS: Objection. Unless he's
 6 talking about specific cases.
 7 THE COURT: I'll sustained the objection
 8 as to a specific case in that regard.
 9 MR. SCHIECK: I just asked "yes" or "no."
 10 Did any of those cases catch your attention?
 11 PROSPECTIVE JUROR: No.
 12 MR. SCHIECK: You indicated with respect
 13 to the death penalty that you feel that it's used
 14 appropriately, as opposed to too often or not enough.
 15 Have you followed death penalty case or paid attention to
 16 how often it's imposed?
 17 PROSPECTIVE JUROR: No.
 18 MR. SCHIECK: Just a general impression,
 19 it's imposed appropriately.
 20 PROSPECTIVE JUROR: Yes.
 21 MR. SCHIECK: Thank you. We'd pass for
 22 cause, your Honor.
 23 THE COURT: Thank you. Ms. Weckerly, Mr.
 24 Owens.
 25 MR. OWENS: Thank you, your Honor.

82

1 Mr. Taylor.
 2 PROSPECTIVE JUROR: Yes.
 3 MR. OWENS: You had indicated that you
 4 knew some people that had some problem; was drugs, drug
 5 situations?
 6 PROSPECTIVE JUROR: A brother-in-law.
 7 MR. OWENS: One came out good and one not
 8 too good. I think you said one died or something.
 9 PROSPECTIVE JUROR: I can't remember
 10 now.
 11 MR. OWENS: You can't remember?
 12 PROSPECTIVE JUROR: No.
 13 MR. OWENS: Substance abuse, you said one
 14 died and the other recovered.
 15 PROSPECTIVE JUROR: It was my ex-wife.
 16 MR. OWENS: Was it because of substance
 17 abuse -- the death?
 18 PROSPECTIVE JUROR: Yes, it was.
 19 MR. OWENS: So you are kind of close to
 20 these situations?
 21 PROSPECTIVE JUROR: Yes.
 22 MR. OWENS: Anything about those that
 23 would make it difficult for you to sit in this particular
 24 case?
 25 PROSPECTIVE JUROR: No.

83

1 MR. OWENS: You weren't so close that you
 2 got prejudiced about drugs to get in the way of being
 3 fair?
 4 PROSPECTIVE JUROR: Well, I have prejudice
 5 against drugs.
 6 MR. OWENS: By prejudice, what I mean is
 7 that it would interfere with your ability to be fair. Of
 8 course you can consider these things and give weight to
 9 whatever you want.
 10 PROSPECTIVE JUROR: I need to consider it,
 11 absolutely. That's what -- you have to feed us
 12 information on both sides.
 13 MR. OWENS: Right. Now you said you
 14 thought you might have heard some media on this?
 15 PROSPECTIVE JUROR: I don't know if it was
 16 this case or not. It sounded familiar. I wasn't in
 17 here -- I didn't live here in '95. If it occurred in '93,
 18 it's not the same one.
 19 MR. OWENS: I'm reading Question 21, and
 20 your answer was it would be a different case.
 21 PROSPECTIVE JUROR: Right.
 22 MR. OWENS: Other than this one you don't
 23 remember another case?
 24 PROSPECTIVE JUROR: Nothing at all.
 25 MR. OWENS: You have a son involved in law

84

1 enforcement?
 2 PROSPECTIVE JUROR: He's an ex-police
 3 officer in Santa Monica. He was undercover.
 4 MR. OWENS: Retired now?
 5 PROSPECTIVE JUROR: Yes.
 6 MR. OWENS: Did you have a lot of talk
 7 about his job?
 8 PROSPECTIVE JUROR: Yes.
 9 MR. OWENS: You'll probably hear from
 10 police officers in this case, as we do in many cases. The
 11 question is would you want to give more credibility to
 12 them because they're police officers?
 13 PROSPECTIVE JUROR: None whatsoever.
 14 MR. OWENS: You'd weigh their testimony
 15 like you would anybody else?
 16 PROSPECTIVE JUROR: Absolutely.
 17 MR. OWENS: You had experience on a jury
 18 previously?
 19 PROSPECTIVE JUROR: A long time ago.
 20 MR. OWENS: So long ago you can't remember
 21 when.
 22 PROSPECTIVE JUROR: I can remember.
 23 MR. OWENS: So you can't remember if it
 24 was criminal or civil?
 25 PROSPECTIVE JUROR: Civil.

85

1 MR. OWENS: Let me --
 2 PROSPECTIVE JUROR: It was an insurance
 3 claim.
 4 MR. OWENS: Was it an okay experience for
 5 you?
 6 PROSPECTIVE JUROR: Yeah.
 7 MR. OWENS: Nothing that was bad or left a
 8 bad taste in your mouth.
 9 PROSPECTIVE JUROR: No.
 10 MR. OWENS: As far as discussion in the
 11 back here about punishments, you talked -- there was that
 12 question about an eye for an eye, tooth for a tooth, that
 13 maxim we've heard before. You said you had -- when you
 14 were asked about the death penalty, you said an eye for an
 15 eye. Are you meaning that the punishment should fit the
 16 crime. Or are you meaning literally you have to have quid
 17 pro quo?
 18 PROSPECTIVE JUROR: I was thinking that
 19 there should be a punishment set out. And in this
 20 situation we have four punishments set up. Again, it's up
 21 to the prosecution and defense to provide us with the
 22 facts to make that decision.
 23 MR. OWENS: You are right. And after
 24 hearing the information that you get, do you have any
 25 problem with the idea of passing judgment on another human

86

1 being?
 2 PROSPECTIVE JUROR: To some degree we all
 3 probably do. We're all God's children. You have to make
 4 that kind of decision. But what is set out that has to be
 5 done has got to be done. Again, we have to figure out
 6 which one of the four that has to be -- collectively.
 7 MR. OWENS: You feel that is something
 8 you'd be able to do?
 9 PROSPECTIVE JUROR: Sure.
 10 MR. OWENS: Would you be able to consider
 11 the full range of punishment before coming to a
 12 conclusion?
 13 PROSPECTIVE JUROR: Absolutely. That's
 14 only fair.
 15 MR. OWENS: You're not going to jump the
 16 gun and say I'm doing this automatically?
 17 PROSPECTIVE JUROR: I've got to hear
 18 everything first.
 19 MR. OWENS: You said that you felt the
 20 death penalty depends on the crime.
 21 PROSPECTIVE JUROR: Right.
 22 MR. OWENS: And you were concerned that it
 23 would have to be shown that the person was basically a
 24 hundred percent guilty?
 25 PROSPECTIVE JUROR: Correct.

87

1 MR. OWENS: You know that's where we're
 2 at?
 3 PROSPECTIVE JUROR: Right.
 4 MR. OWENS: We are not going to -- this
 5 man has been convicted. You were asked questions about
 6 factors that you might be told were factors in mitigation,
 7 and the defense hinted at some of those. Nobody is asking
 8 you if you would reject them, if you would consider them,
 9 or how much weight you'd give to them necessarily. But
 10 would you be willing to listen and keep an open mind?
 11 PROSPECTIVE JUROR: You have to.
 12 MR. OWENS: They said would you be willing
 13 to consider them, and you said, not sure. The law
 14 requires that you, at least, consider all the evidence
 15 here. You can't say I'm not going to listen to this. But
 16 after having heard it, it's up to you to determine how
 17 much weight you want to give it.
 18 PROSPECTIVE JUROR: It goes back to how
 19 well it's presented and whether I feel personally that
 20 that's the truth, in fact, coming from that person.
 21 MR. OWENS: Then you could decide how
 22 important that is and set -- or maybe it doesn't have any
 23 importance at all. But you'll wait to make that decision?
 24 PROSPECTIVE JUROR: Right.
 25 MR. OWENS: But you'd be willing to

88

1 consider it all?
 2 PROSPECTIVE JUROR: Yes.
 3 MR. OWENS: You are concerned about the
 4 time line here. We're going to do our best.
 5 PROSPECTIVE JUROR: Yes.
 6 MR. OWENS: If we run a little bit late,
 7 you're not going to take it out on one of the parties
 8 here?
 9 PROSPECTIVE JUROR: The judge.
 10 MR. OWENS: Everybody likes the judges.
 11 It's the attorneys that have to worry about that. If you
 12 felt after hearing all the evidence the death penalty was
 13 the right sentence, appropriate sentence, could you return
 14 that verdict?
 15 PROSPECTIVE JUROR: If that's the verdict,
 16 we have to pass that verdict.
 17 MR. OWENS: Thanks. I'll pass for
 18 cause.
 19 THE COURT: Mr. Schieck.
 20 MR. SCHIECK: Thank you, your Honor.
 21 Mr. Taylor, you understand that when we're
 22 talking about the death penalty, it's never required that
 23 a jury impose the death penalty?
 24 PROSPECTIVE JUROR: Correct.
 25 MR. SCHIECK: There's always that element

89

1 of discretion that factors into it?
 2 PROSPECTIVE JUROR: Sure.
 3 MR. SCHIECK: I made a comment about some
 4 of the factors that you would consider, you said it
 5 depends on how well it's presented. Are you going to be
 6 looking at if Mr. Owens presented his case smoothly and
 7 well, but the defense is kind of shoddy in some of their
 8 addresses or something, you're not going to take that into
 9 account in deciding the appropriate punishment?
 10 PROSPECTIVE JUROR: I'm not going to look
 11 at your suit and how much it cost. It's how it's
 12 presented, the factual information and how that can be
 13 backed up to be truth in fact.
 14 MR. SCHIECK: Okay. From both sides you
 15 want to consider that?
 16 PROSPECTIVE JUROR: Yes.
 17 MR. SCHIECK: And you would hold the State
 18 to that same standard of how well their evidence was
 19 backed up on certain allegations?
 20 PROSPECTIVE JUROR: That is correct.
 21 MR. SCHIECK: Now you attended General
 22 Motors Institute?
 23 PROSPECTIVE JUROR: Yes.
 24 MR. SCHIECK: Is that your area of
 25 occupation?

90

1 PROSPECTIVE JUROR: My Dad was in the car
 2 business. That's where I grew up, in the car business.
 3 Then went into the insurance business and retired from
 4 that.
 5 MR. SCHIECK: We did this questionnaire
 6 and nowhere does it ask for your occupation. You were in
 7 the insurance business.
 8 PROSPECTIVE JUROR: Yes.
 9 MR. SCHIECK: And is there anything you've
 10 heard so far in just the few hours we've been here that
 11 you've got any questions about that cause you some
 12 concern?
 13 PROSPECTIVE JUROR: No. No. Pretty open
 14 to what is all discussed so far.
 15 MR. SCHIECK: You indicated you thought
 16 you heard something about a girl getting killed over a
 17 drug deal.
 18 PROSPECTIVE JUROR: Right.
 19 MR. SCHIECK: There's no evidence that
 20 that was the facts of this case.
 21 PROSPECTIVE JUROR: That was just
 22 something I heard on the news. That been when we first
 23 moved here. As I told the other counsel that I'm sure it
 24 was the wrong case, but --
 25 MR. SCHIECK: If you were sitting here

91

1 going through a penalty hearing as the defendant is, would
 2 you want twelve people in your same state of mind severing
 3 on the jury?
 4 PROSPECTIVE JUROR: Absolutely.
 5 Open-minded and be able to discuss the options and what
 6 facts were presented to you that all weigh towards the
 7 final goal.
 8 MR. SCHIECK: Do you have any problem with
 9 the concept of all four of the possible punishments for
 10 first degree murder are in and of themselves harsh
 11 punishments?
 12 PROSPECTIVE JUROR: No.
 13 MR. SCHIECK: You wouldn't feel that by
 14 choosing one other than the death penalty you're giving a
 15 lenient sentence as opposed to a harsh sentence?
 16 MR. OWENS: You're asking him to project
 17 what he might do.
 18 THE COURT: I'll sustain the objection as
 19 to the question. I don't have a problem if you rephrase
 20 the question.
 21 PROSPECTIVE JUROR: Restate it.
 22 MR. SCHIECK: Do you think any of the
 23 sentences are lenient?
 24 PROSPECTIVE JUROR: I don't believe so.
 25 They're all pretty harsh sentences.

92

1 MR. SCHIECK: Thank you. I'll pass for
2 cause, your Honor.
3 THE COURT: Thank you. Ms. Weckerly.
4 MS. WECKERLY: Mr. Hibbard, as Mr. Schieck
5 just said, we neglected to ask people about occupation on
6 the questionnaire.
7 PROSPECTIVE JUROR: I'm a chief financial
8 officer for a construction company.
9 MS. WECKERLY: How long have you worked
10 that job?
11 PROSPECTIVE JUROR: Thirty years.
12 MR. OWENS: I read in your questionnaire
13 that you had an experience where someone close to you was
14 involved in some kind of substance abuse?
15 PROSPECTIVE JUROR: My son.
16 MR. OWENS: And was it a situation where
17 you and your family dealt with it kind of among
18 yourselves, or did it spill over where law enforcement was
19 involved?
20 PROSPECTIVE JUROR: We've just gone
21 through it. Just went through a period of time.
22 MS. WECKERLY: Was it a situation where it
23 was significant enough where he needed treatment?
24 PROSPECTIVE JUROR: No.
25 MS. WECKERLY: It's sounds experimental.

93

1 It sounds like he grew out of it.
2 PROSPECTIVE JUROR: Almost.
3 MS. WECKERLY: Sound good. You have a
4 son-in-law that's maybe in law enforcement?
5 PROSPECTIVE JUROR: Yes. He works for the
6 City of Henderson.
7 MS. WECKERLY: Is he an officer?
8 PROSPECTIVE JUROR: He is.
9 MS. WECKERLY: His association or work
10 wouldn't affect your ability to be fair?
11 PROSPECTIVE JUROR: My son is also in the
12 criminal justice system in Arizona with the state prison
13 system.
14 MS. WECKERLY: The fact that your son
15 works in the prison system, that wouldn't influence your
16 assessment of police officer's testimony or corrections
17 officer's testimony?
18 PROSPECTIVE JUROR: I don't think so.
19 MS. WECKERLY: You can evaluate that like
20 any other witness that you hear from?
21 PROSPECTIVE JUROR: I think so.
22 MS. WECKERLY: Would -- what are your
23 thoughts about the death penalty? If you could design the
24 laws in this state, would that be a punishment that was
25 available in some circumstances?

94

1 PROSPECTIVE JUROR: Yes.
2 MS. WECKERLY: You feel it serves some
3 purpose?
4 PROSPECTIVE JUROR: If the penalty fit the
5 crime.
6 MS. WECKERLY: In some instances I assume
7 from your answer you think that could be an appropriate
8 punishment?
9 PROSPECTIVE JUROR: Yes.
10 MS. WECKERLY: And you, of course,
11 understand sitting here a few hours there are four
12 possible punishments for someone convicted of first degree
13 murder?
14 PROSPECTIVE JUROR: Yes.
15 MS. WECKERLY: And you're going to be
16 hearing all kinds of information and you can take in that
17 information and decide whether to give it or not give it?
18 PROSPECTIVE JUROR: Yes.
19 MS. WECKERLY: Okay. And if it was
20 appropriate to you after hearing all of the information,
21 would you be able to vote to impose a sentence of death?
22 PROSPECTIVE JUROR: Yes.
23 MS. WECKERLY: Do you have any concerns at
24 all about you ability to be fair to the State of Nevada or
25 the defense in this case?

95

1 PROSPECTIVE JUROR: No.
2 MS. WECKERLY: Thank you, sir. Pass for
3 cause.
4 THE COURT: Mr. Patrick.
5 MR. PATRICK: Mr. Hibbard, you are a CFO
6 for a construction firm?
7 PROSPECTIVE JUROR: Yes.
8 MR. PATRICK: Does this involve firing and
9 hiring people?
10 PROSPECTIVE JUROR: Yes.
11 MR. PATRICK: Discipline employees?
12 PROSPECTIVE JUROR: Yes.
13 MR. PATRICK: Now, when you discipline an
14 employee or you've had to fire him, do you listen to both
15 sides, maybe, the employees side versus the employee's
16 manager's side before you make a decision?
17 PROSPECTIVE JUROR: Yes. Get the facts.
18 MR. PATRICK: You keep an open mind about
19 it?
20 PROSPECTIVE JUROR: Try.
21 MR. PATRICK: Listen to everything before
22 you make a decision?
23 PROSPECTIVE JUROR: Yes.
24 MR. PATRICK: Would you say you're
25 unlikely to make snap decisions off the top of your head?

96

1 PROSPECTIVE JUROR: I make snap decisions
2 too.
3 MR. PATRICK: Would you make a snap
4 decision in something as important as an employee's job?
5 PROSPECTIVE JUROR: No. It has to be
6 something based on facts.
7 MR. PATRICK: You mention that your son
8 was a corrections officer in Arizona?
9 PROSPECTIVE JUROR: Yes.
10 MR. PATRICK: Do you have occasion to talk
11 about his job a great deal?
12 PROSPECTIVE JUROR: Yes.
13 MR. PATRICK: Anything that you learned
14 from him about his job, does that give you a different
15 idea of people in prison versus people not in prison?
16 PROSPECTIVE JUROR: He's got the worst job
17 in the world.
18 MR. PATRICK: Just because somebody had
19 the chance to be incarcerated would you tend to be more or
20 less lenient with them?
21 PROSPECTIVE JUROR: I don't understand the
22 question.
23 MR. OWENS: Same objection. Trying to
24 predict what he'll do.
25 THE COURT: I didn't understand that

97

1 question.
2 MR. PATRICK: I didn't either, your
3 Honor.
4 THE COURT: With the objection in mind, go
5 ahead and rephrase it, if you would.
6 MR. PATRICK: As you know, out of the four
7 possibilities three of them include prison time. Just
8 because somebody is eligible for prison, would you look at
9 them less favorably?
10 PROSPECTIVE JUROR: No.
11 MR. PATRICK: And, again, because your son
12 is a corrections officer -- I know the judge asked those
13 questions -- would you give any more weight to the
14 testimony of somebody just because they were a corrections
15 officer or a police officer?
16 PROSPECTIVE JUROR: No.
17 MR. PATRICK: And, let's see, your
18 son-in-law is a clerk for Henderson.
19 PROSPECTIVE JUROR: Yes.
20 MR. PATRICK: Does he work in a courtroom?
21 Is he out at the front desk?
22 PROSPECTIVE JUROR: I'm not sure. He runs
23 the clerk's office. He sets up cases.
24 MR. PATRICK: Do you have occasion to talk
25 to him about his job frequently?

98

1 PROSPECTIVE JUROR: Not often. But we do
2 visit.
3 MR. PATRICK: Is there anything about his
4 job that would make you think less highly of somebody --
5 you'd still be able to keep an open mind?
6 PROSPECTIVE JUROR: Yes.
7 MR. PATRICK: Now you mentioned that your
8 son had some drug problems. I believe the answer to
9 Ms. Weckerly's question was it was never -- the system was
10 never involved. He was never arrested?
11 PROSPECTIVE JUROR: No.
12 MR. PATRICK: Is was just kind of a
13 experimental thing as teenagers do?
14 PROSPECTIVE JUROR: Pretty much.
15 MR. PATRICK: His drug experimentation, if
16 somebody was on drugs would that make you more or less
17 likely to believe what they had to say?
18 PROSPECTIVE JUROR: He was never on hard
19 drugs. I don't think I can answer that fairly.
20 MR. PATRICK: Just because somebody was on
21 drugs, would you still be able to keep an open mind about
22 things they had to say?
23 PROSPECTIVE JUROR: If you're asking if it
24 mitigates what they do, no it doesn't. They have to
25 control their actions and make decisions. They've got to

99

1 be accountable for those decisions.
2 MR. PATRICK: In your questionnaire when
3 they asked you what your feelings were about the death
4 penalty, you put, good.
5 PROSPECTIVE JUROR: If the penalty meets
6 the crime. That's what I'm trying to say, the penalty
7 should fit the crime.
8 MR. PATRICK: Again, on the mitigation,
9 you were asked there's mitigating circumstances and
10 aggravating circumstances. You wrote that you could
11 somewhat listen to both sides of that?
12 PROSPECTIVE JUROR: Yeah. Mitigation seems
13 to be a broad spectrum now a days to justify a lot of
14 things. I don't believe that mitigating circumstances for
15 death penalty murder. I would have a hard time accepting
16 mitigating circumstances for murder.
17 MR. PATRICK: So anything in a person's
18 background or any drug activity, doesn't make any
19 difference to you?
20 PROSPECTIVE JUROR: No.
21 MR. PATRICK: At all?
22 PROSPECTIVE JUROR: Not at all.
23 MR. PATRICK: Would you say you'd vote
24 automatically for the death penalty?
25 PROSPECTIVE JUROR: I would have to hear

100

1 the facts. Murder is a pretty severe action. Unless
2 there's insanity at the time of committing it, I don't
3 know how you justify that.

4 MR. PATRICK: So besides insanity, you
5 wouldn't be able to find any mitigating circumstances?

6 PROSPECTIVE JUROR: It would be
7 difficult.

8 MR. PATRICK: Court's indulgence.

9 THE COURT: Okay.

10 MR. PATRICK: I'll challenge at this
11 time.

12 THE COURT: Let me ask you a question, Mr.
13 Hibbard. The question isn't so much whether you think
14 there are mitigating circumstances for the murder that
15 justify a crime. The question here is sentence,
16 punishment. Are there things out there in your mind that
17 you would be able to consider that you think would be
18 appropriate consideration as to mitigate what sentence
19 somebody receives?

20 PROSPECTIVE JUROR: I think pretty hard
21 about the victim, not so much the person. The victim
22 doesn't have a lot of choices left.

23 THE COURT: I understand. But the
24 question in terms of how he gets punished, both sides
25 might be able to present evidence that they think --

101

1 PROSPECTIVE JUROR: The victim didn't
2 choose his or her punishment.

3 THE COURT: I realize that. Would you be
4 able to consider things that the defense brings up that
5 they argue in mitigation of what sentence somebody should
6 receive, or are you saying you wouldn't consider those at
7 all?

8 PROSPECTIVE JUROR: I'm saying that I
9 think that bringing up a cover for justifying committing
10 murder is very difficult for me to understand.

11 THE COURT: All right. Thank you.

12 Mr. Owens, as to Ms. Bailey.

13 MR. OWENS: Ms. Bailey, we talked about
14 the idea of an eye for and eye that we talked about a
15 little bit. And you said that you have been listening --
16 and we're trying to get people that won't prejudge the
17 case. There is nothing known about the facts, correct.
18 That's what 22 is. It says have you already formed an
19 opinion about the case, and you checked, yes. Then it
20 says what is the opinion, or what you described is an eye
21 for an eye. That was the answer you gave.

22 PROSPECTIVE JUROR: Right.

23 MR. OWENS: Then later on when you're
24 actually asked about the penalty you said you would be
25 able to keep an open mind about what the penalty should

102

1 be.

2 PROSPECTIVE JUROR: I believe that if
3 someone can take a life, then they should be willing to
4 give theirs. I try to be open as much as I can. I am
5 human though. I will have an opinion formed eventually.
6 I don't know how it would be possible to not judge. I
7 think I would try to see the facts and be open-minded as
8 possible, but I have to be honest. I have looked over and
9 seen him smirk and smile, or look at the questionnaire
10 that someone filled out and it kind of makes me form an
11 opinion about him already. I don't know the facts.

12 MR. OWENS: Okay. Well, you understand
13 that there's going to be a lot of things that happen in
14 the courtroom that are fair in considering your opinion.
15 The question is will you wait in forming that opinion
16 until you've heard everything?

17 PROSPECTIVE JUROR: I will try.

18 MR. OWENS: It says that in the death
19 penalty here, would you say you were generally in favor of
20 it or opposed to it? You'll consider it -- you didn't
21 select one end of the spectrum or the other. You said you
22 would consider it in certain circumstances. And you
23 actually said not all sentences should be death. It's a
24 case by case basis.

25 PROSPECTIVE JUROR: Yes.

103

1 MR. OWENS: Is that how you feel?

2 PROSPECTIVE JUROR: I feel that is open to
3 hearing, was there a struggle, was there -- was it
4 cold-blooded, were there other instances involved in
5 that.

6 MR. OWENS: We're not asking you to try to
7 come up with the scenario of what you would do.

8 PROSPECTIVE JUROR: It would just make me
9 have a changed opinion about how I think his fate should
10 be, as much as I don't want to be a part of someone's
11 fate.

12 MR. OWENS: Everyone has certain opinions
13 about things as to how important they are, the factors.
14 Some factors may have huge importance for you. The other
15 factors you listen to, and you say, well, I don't think
16 that's important at all. The question is would you be
17 willing to at least listen and weigh before you decide you
18 are going to throw them out?

19 PROSPECTIVE JUROR: Yes.

20 MR. OWENS: Things that are important,
21 would you be willing to listen?

22 PROSPECTIVE JUROR: I would be willing to
23 listen.

24 MR. OWENS: And you indicated that you had
25 been a victim on some occasion and you didn't like the way

104

1 it was handled. Didn't come out quite right.
 2 PROSPECTIVE JUROR: Basically being
 3 robbed, my home, my vehicle. Nothing ever came back to me
 4 in a positive way.
 5 MR. OWENS: Positive way meaning caught
 6 the guy?
 7 PROSPECTIVE JUROR: Right. I never did
 8 get anything back or any justice or anything.
 9 MR. OWENS: How many times has this happen
 10 to you?
 11 PROSPECTIVE JUROR: I have been robbed
 12 four times.
 13 MR. OWENS: That is amazing.
 14 PROSPECTIVE JUROR: Houston, New
 15 Orleans.
 16 MR. OWENS: So it wasn't here?
 17 PROSPECTIVE JUROR: No, not here.
 18 MR. OWENS: By robbed, you mean they stole
 19 something from your home or car?
 20 PROSPECTIVE JUROR: From myself, my
 21 vehicle, and my garage.
 22 MR. OWENS: Nothing was taken forcibly
 23 from you?
 24 PROSPECTIVE JUROR: Just my billfold.
 25 MR. OWENS: So was that a one on one?

105

1 PROSPECTIVE JUROR: Right.
 2 MR. OWENS: Was there a weapon used?
 3 PROSPECTIVE JUROR: I believe it was like
 4 hands in his pocket type thing.
 5 MR. OWENS: Like a pick-pocket?
 6 PROSPECTIVE JUROR: No. He had his hands
 7 in his pocket, so I don't know if there was or was not.
 8 MR. OWENS: You didn't want to take the
 9 chance.
 10 PROSPECTIVE JUROR: No.
 11 MR. OWENS: How long ago was that?
 12 PROSPECTIVE JUROR: About four years
 13 ago.
 14 MR. OWENS: It wasn't in this community?
 15 PROSPECTIVE JUROR: No.
 16 MR. OWENS: Do you feel like the police
 17 let you down on each one of these incidents?
 18 PROSPECTIVE JUROR: There are so many of
 19 those instances in New Orleans. The crime rate was
 20 ridiculous. And in downtown Houston, not much better.
 21 THE COURT: I'm from Houston. Hold on a
 22 second.
 23 PROSPECTIVE JUROR: There were so many
 24 little things like that that they just didn't have time to
 25 really -- you know, what can they do.

106

1 MR. OWENS: Did you feel like they could
 2 have done more than they did?
 3 PROSPECTIVE JUROR: You hope, wish. I
 4 don't know if there could have been anything.
 5 MR. OWENS: Well, your dissatisfaction
 6 about those experiences, is that something you'd take out
 7 on the police in this case?
 8 PROSPECTIVE JUROR: No.
 9 MR. OWENS: Take out on the defendant?
 10 PROSPECTIVE JUROR: No. He didn't rob
 11 me.
 12 MR. OWENS: You can determine his
 13 punishment based upon the factors that you hear, and you
 14 realize that that's a separate thing?
 15 PROSPECTIVE JUROR: Yes.
 16 MR. OWENS: You feel you can be fair and
 17 impartial to both the State and the defendant?
 18 PROSPECTIVE JUROR: Yes.
 19 MR. OWENS: If after hearing all the
 20 evidence in the case, you can keep an open mind and
 21 balancing it and giving it whatever attention you feel
 22 appropriate, it you felt the correct punishment and fair
 23 punishment and appropriate punishment was the death
 24 penalty, you could come back with that judgment?
 25 PROSPECTIVE JUROR: Yes!

107

1 MR. OWENS: You said something about
 2 judgment and you didn't feel comfortable in that position,
 3 is that something you could do?
 4 PROSPECTIVE JUROR: Yes. It's human
 5 nature. I'm judged and I judge.
 6 MR. OWENS: Thank you. Pass for cause.
 7 THE COURT: Thank you. Mr. Schieck.
 8 MR. SCHIECK: Thank you!
 9 Mrs. Bailey, we thank you for your candor.
 10 This is a very different thing to have attorneys ask you
 11 questions about things of a personal nature in a case
 12 that's going to be emotional in some points.
 13 In your questionnaire you were asked
 14 concerning the fact that Mr. Chappell was an
 15 African-American male, if that would effect your ability to
 16 be fair and impartial. You didn't answer that question.
 17 Then the next question was whether or not
 18 the fact that the victim was of a different racial
 19 background then the defendant, would that effect your
 20 ability to be fair and impartial, and you said possibly.
 21 Could you explain what you were thinking
 22 when you didn't answer the one question.
 23 PROSPECTIVE JUROR: I'm not sure why I
 24 didn't answer the first one. It could have been an
 25 accident. I just felt like I could possibly think -- I

108

1 mean, not necessarily -- I don't think I focused on a
2 specific race, but I thought maybe it could be a
3 possibility.

4 MR. SCHIECK: You had some negative
5 brushes with criminal contact in your life. Is there
6 anything about those that would factor into the racial
7 issue?

8 PROSPECTIVE JUROR: No.

9 MR. SCHIECK: With regard to public
10 defenders -- and Mr. Patrick and I are with the special
11 public defender's office -- you wondered how they sleep at
12 night. It was kind of a curious answer.

13 PROSPECTIVE JUROR: It's a rough job. I
14 couldn't do it. Whether you are defending someone you
15 don't believe in, or if you completely do and they're
16 guilty, I couldn't do it. I commend you.

17 MR. SCHIECK: You don't think the death
18 penalty is used enough?

19 PROSPECTIVE JUROR: I think that we
20 probably pay less in taxes, less people waiting for death
21 with the death penalty.

22 MR. SCHIECK: Is that something that's
23 going to factor into your decision?

24 PROSPECTIVE JUROR: No.

25 MR. SCHIECK: But you did indicate that if

109

1 someone takes a life they should forfeit their life.

2 PROSPECTIVE JUROR: I feel that if they
3 are so willing to take they should be so willing to
4 give.

5 MR. SCHIECK: That's just your personal
6 belief.

7 PROSPECTIVE JUROR: Yes.

8 MR. SCHIECK: There is no wrong answer to
9 those questions. So knowing that Mr. Chappell has been
10 convicted of first degree murder, which is an intentional
11 killing, that's what the jury is told before they consider
12 punishment. You're already thinking that the death
13 penalty is an appropriate punishment because it's an
14 intentional killing.

15 PROSPECTIVE JUROR: It's an option. I
16 think you're assuming that I feel that it's appropriate in
17 this case. I think it's a strong option. But, again, I
18 would need the facts before I made my decision in what I
19 think punishment should be.

20 MR. SCHIECK: When you say a strong
21 option, as opposed to the other three, why aren't they
22 strong options?

23 MR. OWENS: I object to the question
24 because there's no requirement that you put a weight on
25 any or it has to be equal.

110

1 THE COURT: I agree. But in light of her
2 answer, I'm going to allow her to answer this question.

3 PROSPECTIVE JUROR: Because I'm very open
4 to the death penalty. The fact I say if you can take a
5 life you can give it.

6 MR. SCHIECK: We pass for cause, your
7 Honor.

8 THE COURT: Thank you. Ms. Weckerly.
9 We'll get through the top row of folks, then we'll take
10 our lunch break.

11 Bear with me a few more minutes.

12 MS. WECKERLY: Ms. Mills, ma'am, you
13 indicated on your questionnaire that someone close to you,
14 similar to some of the other prospective jurors, had an
15 issue with substance abuse. Do you recall that?

16 PROSPECTIVE JUROR: Yes.

17 MS. WECKERLY: Who was that that we're
18 talking about?

19 PROSPECTIVE JUROR: My husband.

20 MS. WECKERLY: Was it a situation where
21 law enforcement or counseling or anything like that was
22 sought?

23 PROSPECTIVE JUROR: Counseling.

24 MS. WECKERLY: As someone -- were you
25 living with him at the time he had that problem?

111

1 PROSPECTIVE JUROR: Yes.

2 MS. WECKERLY: I know this is hard and
3 these are personal questions. I apologize. On your
4 questionnaire you said that your feelings about it were
5 negative and angry.

6 PROSPECTIVE JUROR: Yes.

7 MS. WECKERLY: Can you plain that a little
8 bit.

9 PROSPECTIVE JUROR: Well, I was negative
10 about it because it effected me and kind of ran my life.

11 MS. WECKERLY: How did it kind of run
12 your life?

13 PROSPECTIVE JUROR: I was a target. I was
14 the one that was abused.

15 MS. WECKERLY: Okay. And so sometimes, I
16 assume then, when he was under the influence you suffered
17 abuse.

18 PROSPECTIVE JUROR: Yes.

19 MS. WECKERLY: Did you have children at
20 the time that the substance abuse was occurring?

21 PROSPECTIVE JUROR: Yes.

22 MS. WECKERLY: Again, I know this is sure
23 not what you want to talk about in a group of people. Did
24 they witness any of the abuse?

25 PROSPECTIVE JUROR: Yes.

112

1 MS. WECKERLY: Having that experience, I
2 know you've been given a very brief description of the
3 facts in this case, but some of those issues -- those
4 kinds of circumstances are similar to the facts of this
5 case. Are your feelings about that experience and having
6 gone through all that, such that you don't feel you can be
7 a fair juror in this case, or are you able to kind of
8 separate your own experience and evaluate what you hear in
9 this courtroom on its own?

10 PROSPECTIVE JUROR: I can separate it.

11 MR. OWENS: You can separate it. And the
12 fact that you've gone through all that, would that cause
13 you to be in favor or less fair to one side or the other?

14 PROSPECTIVE JUROR: No.

15 MS. WECKERLY: In your experience, were
16 the police ever involved in the domestic violence?

17 PROSPECTIVE JUROR: Yes.

18 MS. WECKERLY: Were you the one who called
19 the police?

20 PROSPECTIVE JUROR: Yes.

21 MS. WECKERLY: Did you feel that their
22 treatment of you and your husband was appropriate?

23 PROSPECTIVE JUROR: Yes.

24 MS. WECKERLY: And did any of the cases go
25 through the criminal justice system?

113

1 PROSPECTIVE JUROR: Yes.

2 MS. WECKERLY: Were you called upon to
3 come in and testify?

4 PROSPECTIVE JUROR: No.

5 MS. WECKERLY: Were you ever subpoenaed or
6 anything like that?

7 PROSPECTIVE JUROR: No.

8 MS. WECKERLY: Anything about that
9 experience that would make it hard for you to be a fair
10 juror?

11 PROSPECTIVE JUROR: No.

12 MS. WECKERLY: Those issues with your
13 husband, did they -- how did they resolve themselves?

14 PROSPECTIVE JUROR: Time, counseling.

15 MS. WECKERLY: That worked in this case?

16 PROSPECTIVE JUROR: Yes.

17 MS. WECKERLY: So he obviously sort of
18 turned his behavior around?

19 PROSPECTIVE JUROR: Yes.

20 MS. WECKERLY: You are also asked
21 questions about the death penalty, like every other
22 prospective juror. As you sit here now, do you think that
23 the death penalty can be an appropriate punishment in some
24 cases?

25 PROSPECTIVE JUROR: Yes.

114

1 MS. WECKERLY: I think Mr. Owens and
2 Mr. Schieck touch on this. You realize, as a prospective
3 juror, you are going to be hearing information about this
4 crime, obviously, and you'll probably here information
5 about the defendant's background. All you're asked is to
6 sort of listen to the information, listen to both sides,
7 then give your best judgment or assessment of what you
8 think the appropriate punishment is. You wouldn't have
9 any problem with that?

10 PROSPECTIVE JUROR: No.

11 MS. WECKERLY: And I assure you wouldn't
12 have any problem expressing your opinion with other
13 members of the jury because collectively you are going to
14 be discussing the case.

15 PROSPECTIVE JUROR: No.

16 MS. WECKERLY: No problem with that?

17 PROSPECTIVE JUROR: No.

18 MS. WECKERLY: If your opinion is -- after
19 hearing all of the evidence -- is the death penalty is
20 appropriate, would you be able to actually mark that box
21 as the punishment in this case?

22 PROSPECTIVE JUROR: Yes. After the facts,
23 yes.

24 MS. WECKERLY: You mentioned in your
25 questionnaire that your son was a medical malpractice

115

1 victim and was that something that you and your family
2 pursued in terms of civil litigation?

3 PROSPECTIVE JUROR: Yes.

4 MS. WECKERLY: Anything about that --
5 obviously this is a total different situation -- but was
6 there anything about that experience, in terms of dealing
7 with lawyers or doctors, that would affect your ability to
8 be fair here?

9 PROSPECTIVE JUROR: Uh, it could. You know
10 I was angry at first with the lawyers and the judge.

11 MS. WECKERLY: Everybody. So I assume
12 then the lawsuit moved -- it didn't settle, it went at
13 some point to the court system?

14 PROSPECTIVE JUROR: Yes.

15 MS. WECKERLY: You're indicating you
16 weren't happy with the lawyer who was representing you or
17 the other side?

18 PROSPECTIVE JUROR: The other side.

19 MS. WECKERLY: Also you mentioned that you
20 weren't happy with the judge.

21 PROSPECTIVE JUROR: Yes.

22 MS. WECKERLY: Is your experience such
23 that that sort of left a taste in your mouth where you
24 don't have a lot of faith in the legal system in general?

25 PROSPECTIVE JUROR: Yes. I thought at the

116

1 time, around the beginning of the hike in the insurance
 2 rates, so I think that was the bad time.
 3 MS. WECKERLY: You mentioned a second ago
 4 that you thought it might effect your ability to be fair
 5 in this case. Can you explain that a little.
 6 PROSPECTIVE JUROR: Well, not so much not
 7 being able to make a decision. I wanted to see the facts
 8 and see how strong it is and how it happened.
 9 MS. WECKERLY: Okay. And as you've sort
 10 of explained, as we sit here, this man is convict of first
 11 degree murder with use of a deadly weapon. That's the
 12 starting point. So he's convict of an intentional murder
 13 of another person. And as jurors, what you'll be asked to
 14 do is determine the appropriate punishment.
 15 Now are you someone who can sort of accept our
 16 starting point where we're at here?
 17 PROSPECTIVE JUROR: Yes.
 18 MS. WECKERLY: And we've discussed, you're
 19 open to listening to all of the potential punishments?
 20 PROSPECTIVE JUROR: Yes.
 21 MS. WECKERLY: I think you have indicated
 22 that you don't -- you can be impartial, fair to both sides
 23 in terms of what information is presented to you?
 24 PROSPECTIVE JUROR: Yes.
 25 MR. OWENS: Thank you. Your Honor, pass

117

1 for cause.
 2 THE COURT: Thank you. Mr. Patrick.
 3 MR. PATRICK: Thank you.
 4 One of the questions you answered on your
 5 questionnaire, you said you don't like to talk much. I
 6 can see that. Would that -- because of that, do you think
 7 that you don't have a voice on the jury if you were
 8 picked?
 9 PROSPECTIVE JUROR: Most likely not.
 10 MR. PATRICK: You have a strong
 11 personality, you don't like to talk?
 12 PROSPECTIVE JUROR: Yes.
 13 MR. PATRICK: If you have something
 14 important to say, you'd make sure they heard it?
 15 PROSPECTIVE JUROR: Yes, absolutely.
 16 MR. PATRICK: Now you were saying that
 17 your husband had a drug problem and domestic violence
 18 problem also?
 19 PROSPECTIVE JUROR: Yes.
 20 MR. PATRICK: You think the two were
 21 related?
 22 PROSPECTIVE JUROR: Yes.
 23 MR. PATRICK: Then you said that he was
 24 able to turn his behavior around through counseling and
 25 time.

118

1 PROSPECTIVE JUROR: Yes.
 2 MR. PATRICK: And during the time he was
 3 in counseling, as he got his life turned around, did you
 4 stick by him?
 5 PROSPECTIVE JUROR: Yes.
 6 MR. PATRICK: Now, if you were to hear
 7 circumstances similar to yours, drug abuse, domestic
 8 violence, would that make you tend more or less to believe
 9 what somebody is saying?
 10 PROSPECTIVE JUROR: No.
 11 MR. PATRICK: Would you tend to be less --
 12 so you wouldn't be less believing of somebody because they
 13 went through what your husband went through?
 14 PROSPECTIVE JUROR: No.
 15 MR. PATRICK: You'd still keep an open
 16 mind through the process?
 17 PROSPECTIVE JUROR: Yes.
 18 MR. PATRICK: That's all we're asking,
 19 that you listen to both sides. Listen to all of the
 20 evidence. They're going to be putting on evidence. We're
 21 going to be putting on evidence. You'll listen to all of
 22 it and then decide?
 23 PROSPECTIVE JUROR: Yes.
 24 MR. PATRICK: Would you be able to look at
 25 things like drug abuse and domestic violence as mitigating

119

1 circumstances?
 2 PROSPECTIVE JUROR: Yes.
 3 MR. PATRICK: Now, also there was a
 4 question that asked something about if the victim was of a
 5 different racial background, if you'd think difficulty of
 6 the case, and you responded, probably so.
 7 PROSPECTIVE JUROR: I don't recall that.
 8 MR. PATRICK: So if the victim was of a
 9 different racial background than Mr. Chappell, you
 10 wouldn't have a problem with that?
 11 PROSPECTIVE JUROR: No.
 12 MR. PATRICK: It wouldn't make you
 13 automatically think that he was more or less guilty than
 14 he actually is?
 15 PROSPECTIVE JUROR: No.
 16 MR. PATRICK: As far as -- everybody has
 17 talked about the four penalties that can be given out.
 18 And you could look at all four of them, before you make a
 19 decision? You're not going in there with any one of them
 20 in mind, saying this is what has to happen?
 21 PROSPECTIVE JUROR: No.
 22 MR. PATRICK: That's all I have. I'll
 23 pass for cause.
 24 THE COURT: Thank you. Ms. Weckerly, as
 25 to Mr. Henck.

120

1 MS. WECKERLY: Good afternoon, sir.
 2 PROSPECTIVE JUROR: How are you doing
 3 today?
 4 MS. WECKERLY: Good. How are you?
 5 PROSPECTIVE JUROR: I'm all right.
 6 MS. WECKERLY: Is that a book or did you
 7 bring work with you?
 8 PROSPECTIVE JUROR: Just a book.
 9 MS. WECKERLY: You mentioned when Judge
 10 Herndon was questioning the entire panel that you had two
 11 cousins that had some drug related arrests?
 12 PROSPECTIVE JUROR: Both were convicted
 13 for selling drugs in school zones.
 14 MS. WECKERLY: Was that -- I missed it.
 15 I'm sure you said it. Was that here in Nevada?
 16 PROSPECTIVE JUROR: That was
 17 in Pennsylvania.
 18 MS. WECKERLY: Are you particularly close
 19 to these cousins?
 20 PROSPECTIVE JUROR: Yeah, actually. One,
 21 when he was arrested, was living with me. And the other
 22 was arrested shortly before that. He lived a mile from
 23 me. We all hung out together.
 24 MS. WECKERLY: And the fact that you're
 25 close relatives were arrest for pretty serious crimes --

121

1 PROSPECTIVE JUROR: No, I was not involved
 2 in that.
 3 MS. WECKERLY: That's not my question.
 4 But I'm glad you volunteered that. Did you feel they were
 5 treated fairly by law enforcement?
 6 PROSPECTIVE JUROR: Yes. They presented
 7 evidence and the jury found them guilty of what they were
 8 accused of.
 9 MS. WECKERLY: Did you attend the trial?
 10 PROSPECTIVE JUROR: NO. By the time they
 11 got to trial I had my first son, and I was busy making a
 12 living.
 13 MS. WECKERLY: Very busy with a new baby.
 14 Are they -- I mean, have you talked to them since they
 15 were convicted?
 16 PROSPECTIVE JUROR: Yeah. One of my
 17 cousins is released. He's doing well. And other one got
 18 a little longer sentence. He's still in state prison in
 19 Pennsylvania.
 20 MS. WECKERLY: So the one that was
 21 released, sounds like he kind of got his life on track.
 22 PROSPECTIVE JUROR: Yeah.
 23 MS. WECKERLY: He's doing okay.
 24 PROSPECTIVE JUROR: Yes.
 25 MS. WECKERLY: And the other one,

122

1 hopefully the same thing will happen.
 2 PROSPECTIVE JUROR: I hope so.
 3 MS. WECKERLY: You also wrote on your
 4 questionnaire that you have a close family member, maybe
 5 yourself who was a victim of a crime.
 6 PROSPECTIVE JUROR: Well, we just recently
 7 had the car broken into. Some guy decided he wanted to
 8 break into our car and try and steal things. He didn't
 9 leave anything or evidence. There's wasn't nothing that
 10 could be done. No big deal.
 11 MS. WECKERLY: Did you call the police?
 12 PROSPECTIVE JUROR: Yeah. The police come
 13 out and did a report. There was no way to find this guy.
 14 He was long gone. My car wasn't damaged.
 15 MS. WECKERLY: So in your case, not a lot
 16 of follow up.
 17 PROSPECTIVE JUROR: I mean, I couldn't go
 18 around the neighborhood stopping everyone.
 19 MS. WECKERLY: Did you feel like they
 20 treated you fairly?
 21 PROSPECTIVE JUROR: Absolutely.
 22 MS. WECKERLY: Your answers on your
 23 questionnaire regarding the death penalty sort of
 24 indicates that you are open to considering that as a
 25 potential punishment?

123

1 PROSPECTIVE JUROR: Right.
 2 MS. WECKERLY: You don't necessarily
 3 automatically feel like it would be appropriate in every
 4 case, but it could be in some cases?
 5 PROSPECTIVE JUROR: Right.
 6 MS. WECKERLY: And you're open to hearing
 7 all the information presented in this hearing or
 8 proceeding?
 9 PROSPECTIVE JUROR: Right. I want to make
 10 sure that I get this out and say it the right way. Both
 11 sides are going to give factors that were involved in
 12 this. And the judge will give instructions on what -- if
 13 we feel a certain way about the evidence they produce, and
 14 the way we are supposed to interpret the law.
 15 MS. WECKERLY: Right.
 16 PROSPECTIVE JUROR: I don't think there's
 17 nothing hard about that. You know, I don't understand
 18 what would be hard about that.
 19 MS. WECKERLY: You understand you are
 20 going to hear --
 21 PROSPECTIVE JUROR: There are four
 22 different punishments. Which ever is appropriate for the
 23 circumstances of what the crime he committed.
 24 MS. WECKERLY: I don't think it's easy for
 25 anybody, but are you someone who can make a judgment about

124

1 someone's life?
 2 PROSPECTIVE JUROR: If that's what is
 3 appropriate, yes.
 4 MS. WECKERLY: Well, you're going to make
 5 a judgment, regardless of what you decide. You're going
 6 to be imposing a punishment, regardless of which --
 7 PROSPECTIVE JUROR: Whichever is
 8 appropriate, that's what I will choose to deem
 9 appropriate.
 10 MS. WECKERLY: You'll make that decision
 11 collectively?
 12 PROSPECTIVE JUROR: Right, right, right.
 13 Yes. Absolutely.
 14 MS. WECKERLY: You're someone that can do
 15 that.
 16 PROSPECTIVE JUROR: Absolutely.
 17 MS. WECKERLY: If you feel that the death
 18 penalty is the appropriate punishment, after you've heard
 19 everything there is to hear about this situation, you
 20 could impose that punishment.
 21 PROSPECTIVE JUROR: Absolutely.
 22 MS. WECKERLY: Thank you.
 23 THE COURT: Thank you. Mr. Patrick.
 24 MR. PATRICK: Thank you, Judge. Mr.
 25 Henck.

125

1 PROSPECTIVE JUROR: How are you doing.
 2 MR. PATRICK: I'll be quick so we can get
 3 you to lunch.
 4 Now the fact that your cousins were
 5 prosecuted for trafficking drugs --
 6 PROSPECTIVE JUROR: Right.
 7 MR. PATRICK: -- if there was drug
 8 involvement in this case, would that change your --
 9 PROSPECTIVE JUROR: No.
 10 MR. SCHIECK: No. Okay. And your car
 11 broken into. They haven't found anybody, yet, no arrests
 12 have been made?
 13 PROSPECTIVE JUROR: They found a guy
 14 sleeping in another car that was broken into two days
 15 later. He fell asleep while he was breaking into the car.
 16 They can't tie them together, but, I mean, he did have
 17 thirty dollars worth of damage to the car. Not like, you
 18 know, he went out -- he didn't steal my car.
 19 MR. PATRICK: Anything about that
 20 experience that makes you feel that a policeman would be
 21 more or less believable on the stand?
 22 PROSPECTIVE JUROR: Not at all.
 23 MR. PATRICK: Now, you were asked if you
 24 could consider all the four types of punishment available
 25 in this case. Your answer, every person deserves a fair

126

1 trial where evidence can be presented in a proper verdict.
 2 You understand that part of the trial is already done.
 3 PROSPECTIVE JUROR: Right. But we're
 4 going to decide what punishment in general he should get
 5 given with what factors you give us and what factors they
 6 give us, correct?
 7 MR. PATRICK: Correct. Your answer is the
 8 same even though it's not--
 9 PROSPECTIVE JUROR: It's what's
 10 appropriate. What's appropriate after you give me your
 11 facts, they give me their facts, and the judge tells me
 12 what the law is. Where does he fall in that range of
 13 those four.
 14 MR. SCHIECK: So the basic answer is the
 15 same just a different phase of the trial?
 16 PROSPECTIVE JUROR: Yes.
 17 MR. PATRICK: You'll listen to
 18 everything, consider everything. Give whatever weight you
 19 decide it needs and make an informed decision from that?
 20 PROSPECTIVE JUROR: Correct.
 21 MR. PATRICK: Your Honor, I'll pass for
 22 cause.
 23 THE COURT: All right. Thank you.
 24 Ladies and gentlemen, we're going to take
 25 a lunch recess now. It's about 1:20. So try and be back

127

1 here and get started back up at 2:30.
 2 When you get back you don't have to go to
 3 jury services. Just come straight up here to the
 4 sixteenth floor and grab a seat. It's wishful thinking
 5 that the elevators will be prompt.
 6 JURY ADMONITION
 7 During the recess, ladies and gentlemen,
 8 you are admonished not to converse among yourselves or
 9 with anyone else, including, without limitation, the
 10 lawyers, parties and witnesses, on any subject connected
 11 with this trial, or any other case referred to during it,
 12 or read, watch, or listen to any report of or commentary
 13 on the trial, or any person connected with this trial, or
 14 any such other case by any medium of information
 15 including, without limitation, newspapers, television,
 16 internet or radio.
 17 You are further admonished not to form or
 18 express any opinion on any subject connected with this
 19 trial until the case is finally submitted to you.
 20 Thank you. See you back here at 2:30.
 21 (Lunch recess taken.)
 22 THE COURT: Just for the record, that was
 23 Mr. Tetonis that walked up to the bench before our recess,
 24 who is the last guy we have right now. He was asking if
 25 he could be excused because he is a police officer. I

128

1 told him he could not. He would need to call to his work,
2 if he had something coming up at work in the afternoon.

3 He's Badge No. 102.

4 Does anybody have anything outside the
5 presence?

6 MR. SCHIECK: We want to do Mr. Perez
7 now.

8 THE COURT: I need to get somebody from
9 the court interpreter's office, unless you want to
10 stipulate to excuse him. I'll call somebody from the
11 court interpreter's office.

12 MR. OWENS: You know, it's sad that they
13 don't have an opportunity to partake in the system. I
14 can't picture having a bunch of interpret's. Maybe it
15 will come to that some day. I'll stipulate to that. It's
16 up to him.

17 MR. SCHIECK: It's fine with us.

18 THE COURT: We'll go ahead and excuse Mr.
19 Perez. That's Badge No. 001. Leslie, make a note when we
20 comes back from lunch, tell Mr. Perez he can go downstairs
21 to jury services. Do you all want to talk about Mr. Brady
22 and Mr. Hibbard right now?

23 MR. SCHIECK: That would be fine, your
24 Honor.

25 THE COURT: Okay. I know the defense

129

1 challenged Mr. Brady and Mr. Hibbard for cause. Does the
2 State have any remarks as to Mr. Brady?

3 MS. WECKERLY: Well, yes. Your Honor,
4 when I was first questioning him, at least my recollection
5 is he indicate that he'd follow the instructions of the
6 court, which are, of course, that he would have to find --
7 we don't get that specific -- but you have to find
8 aggravating circumstance beyond a reasonable doubt. And
9 also you have to consider some mitigation evidence,
10 regardless of how much weight the prospective juror
11 decides to give it or not. And I think he indicated he
12 would be able to follow the court's instructions.

13 So I don't know if he got confused or just
14 said his natural inclination would be to vote for the
15 death penalty. But in light of the fact he said he would
16 follow the court's instructions, and also in terms of what
17 we have to prove, I think that he hasn't met the standard
18 for challenge for cause.

19 THE COURT: Patrick.

20 MR. PATRICK: Yes. Judge, I think he
21 perfectly understood what we were talking about. And as
22 you go through his questionnaire, there's no doubt he
23 believes in a murder case one should have the death
24 penalty. I think it's very clear how he feels and that no
25 matter what he says -- and he was not confused. I think

130

1 this guy, no matter what, has already made up his mind.

2 I think it's very clear what his decision is. And I don't
3 think he's going to follow any instructions, except his
4 own that he's made very clear, both in questioning and on
5 his questionnaire.

6 THE COURT: Well, I will note in the
7 questionnaire one of individuals that said, in terms of
8 the question about, since he's been convicted beyond a
9 reasonable doubt, would you say that -- colon -- then he
10 said, yes, to the question, your beliefs about the death
11 penalty, such that you'd automatically vote for the death
12 penalty, regardless of the facts and circumstances. He
13 answered, yes, to that question.

14 I do think during the initial questioning,
15 Ms. Weckerly, he'd indicated he'd follow the instructions
16 of the court. But towards the end there, when you
17 indicated to him that the death penalty would be a
18 possible punishment that he could consider, he then seemed
19 to say that, you know what, then I would give the death
20 penalty.

21 Earlier he said he'd follow the
22 instructions of the court and it would appear to me now
23 that basically he was saying I wouldn't give the death
24 penalty if the court instructed me that it wasn't a
25 possible punishment. That's why I asked the follow-up

131

1 question with him that I did. He's still got to find
2 certain facts. But after those last series of questions
3 he seemed to be indicating that if the death penalty was a
4 possible form of punishment, he was going to give the
5 death penalty. So I will sustain the challenge for cause
6 as to Mr. Brady.

7 THE COURT: How about has to Mr. Hibbard.
8 Any remarks by the State as to Mr. Hibbard?

9 MS. WECKERLY: Yes, your Honor I think
10 that Mr. Hibbard indicated that he could consider all four
11 possible punishments. He said he would be open to
12 listening to all the information presented in the case.

13 He did make a remark that it would be
14 difficult to impose what's sort of regarded as the most
15 lenient sentence. But I don't think there is a
16 requirement that they give any particular weight to any of
17 the possible punishments, as long as he said he'd consider
18 all four, which he did. And he did say he could consider
19 the mitigation evidence. There is no reason -- or legally
20 justifiable reason to accuse him for cause.

21 THE COURT: All right. Mr. Patrick.

22 MR. PATRICK: Yes, Judge.

23 He said he would look at the mitigating
24 evidence. But he said, nothing sort of insanity would
25 count as mitigation evidence. So therefore, no matter

132

1 what else we put on, he's automatically going to throw out
2 on a murder case.

3 Maybe if this is something besides murder
4 he may think about drug abuse or domestic violence as
5 mitigation, but he was very clear that in a murder case,
6 let alone first degree murder case, the only mitigation he
7 would consider is insanity. We don't have that here. So
8 therefore, he's basically flat-out telling us that none of
9 the mitigation that we could possibly put on would be
10 considered by him.

11 THE COURT: Well, I'm going to deny the
12 challenge as to Mr. Hibbard. There's a difference --
13 there's several levels of what they need to be able to do
14 here. Number one is can they consider -- do they
15 recognize and consider all four forms of punishment. And
16 he indicated he could.

17 Two, will you follow the instructions of
18 the court. He indicated he would. And will you consider
19 all the evidence. He indicate he would. Whether somebody
20 agrees or disagrees with whether or not they think, you
21 know, prospectively some type of mitigation is a good or
22 bad thing they're going to give weight to is really kind
23 of a little lower down because you can't tell them the
24 evidence yet. So they're kind of having to guess, well,
25 do I think there's mitigation for a murder or not, without

133

1 two seats, since we excused Mr. Perez and Mr. Brady. I
2 would like, Candice Ruiz to come up here, please, Badge 81
3 and Davita Curtis, Badge 82.

4 We'll start with Ms. Ruiz. So Mr.
5 Owens.

6 MR. OWENS: Okay. We're with Ms. Ruiz.

7 THE COURT: Yes.

8 MR. OWENS: Hello.

9 PROSPECTIVE JUROR: Hello.

10 MR. OWENS: How are you doing?

11 PROSPECTIVE JUROR: Good.

12 MR. OWENS: Were you able to keep up with
13 everything this morning?

14 PROSPECTIVE JUROR: Yes.

15 MR. OWENS: In your questionnaire, you
16 indicated you like to watch Court TV and some of those
17 kinds of shows?

18 PROSPECTIVE JUROR: Yes.

19 MR. OWENS: You're a hobbyist or fan of
20 courtroom drama?

21 PROSPECTIVE JUROR: Yes.

22 MR. OWENS: That is a very popular thing.
23 A lot of people are into that. Do you have a problem
24 understanding there is a difference between real life and
25 TV when it comes to those kinds of shows?

135

1 having heard any facts of the case.

2 I don't think the jurors need to say your
3 mitigation is going to be good or bad to make them
4 eligible to sit on the case. It's important that they
5 indicate they will consider all the evidence, consider all
6 forms of punishment and are not foreclosed to imposing
7 just one penalty or another. So I think that he
8 sufficiently answered things, so I'll deny the challenge
9 for cause as to Mr. Hibbard.

10 Anything further before we take our lunch
11 break.

12 MS. WECKERLY: Not on behalf of the
13 State.

14 THE COURT: When we get back we'll excuse
15 Mr. Brady and get somebody in his spot and start there at
16 the top and go to the bottom row -- or Mr. Perez and Mr.
17 Brady.

18 Thank you folks.

19 (Lunch recess taken.)

20 THE COURT: Back on the record in C131341,
21 State of Nevada versus James Chappell. The record will
22 reflect the presence of Mr. Chappell, with his attorneys,
23 the State's attorneys, in the presence of our prospective
24 jurors.

25 I need to get some folks to fill up the

134

1 PROSPECTIVE JUROR: No.

2 MR. OWENS: CSI, they do some futuristic
3 things with evidence and things like that. You are not
4 going to hold us to that kind of standard?

5 PROSPECTIVE JUROR: No.

6 MR. OWENS: And so you can try this based
7 on what you see in this courtroom, and what's presented
8 from the jury stand and analyze it in light of what is
9 going on here. Does that sounds fair to you?

10 PROSPECTIVE JUROR: Yes.

11 MR. OWENS: Now, you had indicated that
12 you had some relatives or a relative that was involved in
13 law enforcement?

14 PROSPECTIVE JUROR: Not law enforcement.

15 I have three cousins that are lawyers. One is an assist
16 DA -- it's out in California. I didn't specify that or
17 put it down.

18 MR. OWENS: One is in California.

19 PROSPECTIVE JUROR: All three are in
20 California.

21 MR. OWENS: One is an assistant DA?

22 PROSPECTIVE JUROR: One is an assistant
23 DA in San Mateo County, and a cousin and a brother, I'm
24 not sure exactly.

25 MR. OWENS: Do you see them often.

136

1 PROSPECTIVE JUROR: I see the girl cousin
2 who is married to the assist DA often, because her aunt
3 lives here. My aunt lives here -- her mom.

4 MR. OWENS: Do you talk about cases and
5 things like that?

6 PROSPECTIVE JUROR: No.

7 MR. OWENS: So kind of like a TV thing.
8 We need to make sure you'll try this case and make your
9 decision on what you hear from the courtroom here, rather
10 then something you might have heard from somebody else?

11 PROSPECTIVE JUROR: Yes.

12 MR. OWENS: You're involved in property
13 protection. That's not your thing?

14 PROSPECTIVE JUROR: No.

15 MR. OWENS: You indicated I think -- let
16 me see here -- something about shoplifters.

17 PROSPECTIVE JUROR: On a daily occasion.

18 MR. OWENS: That is just from working in
19 retail.

20 PROSPECTIVE JUROR: Yes.

21 MR. OWENS: You indicate that there is
22 nothing based upon your experience that would make you --
23 make it difficult for you to be fair and impartial to both
24 parties in this case. You could be fair?

25 PROSPECTIVE JUROR: Yes.

137

1 MR. OWENS: There weren't any issues race
2 or racial bias that would cause a problem here?

3 PROSPECTIVE JUROR: No.

4 MR. OWENS: And as far as the death
5 penalty goes, there are four options available to the
6 jury. Do you have a problem with the idea that there are
7 four choice a jury can choose from?

8 PROSPECTIVE JUROR: No problem.

9 MR. OWENS: Is it important to have
10 options, not all murders are the same.

11 PROSPECTIVE JUROR: Yes, it's important.

12 MR. OWENS: You feel you can wait and keep
13 an open mind until you've heard all the facts and
14 circumstances before you decide what should happen?

15 PROSPECTIVE JUROR: Yes.

16 MR. OWENS: You have no problem with the
17 idea of discussing your feelings with other members of the
18 jury?

19 PROSPECTIVE JUROR: In deliberation?

20 MR. OWENS: Yes.

21 PROSPECTIVE JUROR: No problem.

22 MR. OWENS: And you think it's important
23 to have that kind of process where there's a discussion of
24 facts and circumstances?

25 PROSPECTIVE JUROR: Yes.

138

1 MR. OWENS: We've got twelve instead of
2 one person, right. Are you willing to keep an open mind
3 until you've heard all the evidence and mitigation and
4 evidence in aggravation before you decide what is
5 appropriate?

6 PROSPECTIVE JUROR: Yes.

7 MR. OWENS: Can you consider all four
8 forms of punishment before you decide which one is the
9 right one?

10 PROSPECTIVE JUROR: I can consider it, but
11 I'm for the death penalty.

12 MR. OWENS: When you say you are for the
13 death penalty, you don't have a problem with that as one
14 of the options?

15 PROSPECTIVE JUROR: No.

16 MR. OWENS: And you don't -- you might be
17 leaning one way or the other already, that's okay. As
18 long as at this point you don't just say I'm not going to
19 consider everything, you know. You can't exclude things
20 and keep an open mind about all four at this point. You
21 understand that?

22 PROSPECTIVE JUROR: Yes.

23 MR. OWENS: At some point, after you have
24 heard the facts and circumstances, you are free to say,
25 I'm excluding those. You may decide that the death

139

1 penalty feels appropriate, but you need to be able to say
2 you'll consider all four, correct?

3 PROSPECTIVE JUROR: Yes.

4 MR. OWENS: Do you feel that you can come
5 back with the appropriate judgment in this case?

6 PROSPECTIVE JUROR: Yes.

7 MR. OWENS: Do you have a problem with the
8 idea of sitting in judgment of another person?

9 PROSPECTIVE JUROR: No.

10 MR. OWENS: If after hearing all of the
11 evidence in this case you felt that the death penalty was
12 the appropriate sentence, would you be able to do that?

13 PROSPECTIVE JUROR: Yes.

14 MR. OWENS: There was one question in here
15 where you were asked -- well, there were several about the
16 death penalty. And you were asked if you would
17 automatically vote for the death penalty or automatically
18 vote against the death penalty. On one of these
19 questions -- I think it's 49 -- you said you'd
20 automatically vote for the death penalty.

21 You may not have understood the question.
22 What that means, when you said I'd automatically vote for
23 it, that means you'd vote for it without hearing anything
24 or considering everything else.

25 PROSPECTIVE JUROR: No. I'd take into

140

1 consideration all of the evidence.

2 MR. OWENS: And, in fact, on the next
3 question you said just that, would consider but lien and
4 choose death penalty. That means you're leaning against
5 the death penalty, but would consider all four forms of
6 punishment?

7 PROSPECTIVE JUROR: Yes.

8 MR. OWENS: If you felt, after hearing all
9 of the evidence in the case, there were some things that
10 made you feel like the death penalty wasn't the
11 appropriate punishment, you would be able to return that
12 verdict as well?

13 PROSPECTIVE JUROR: Yes.

14 MR. OWENS: Now on question 54, you said
15 why would you not be able to serve on the jury, and you
16 said something about the race of the Defendant. You said
17 you already had some opinions. Are your opinions about
18 race such that it would make you unable to be fair to both
19 the Defendant and the State in this case?

20 PROSPECTIVE JUROR: No.

21 MR. OWENS: Because you were suggesting in
22 here that you might be might -- it make you biased. As
23 you sit here right now, do you think race is an issue for
24 you in the trial you hear?

25 PROSPECTIVE JUROR: No.

141

1 race tends to either come in and try to do some kind of a
2 con or some kind of shoplifting or threaten in some way
3 where I've already had my own opinions of them.

4 MR. SCHIECK: You talked about that in
5 your questionnaire also. You said I work in retail. In
6 90 to 95 percent of the time, they are shoplifters. Who
7 are you talking about.

8 PROSPECTIVE JUROR: Unfortunately,
9 African-American or Hispanic mainly.

10 MR. SCHIECK: I have been in retail for
11 over ten years and plainly do not trust them.

12 PROSPECTIVE JUROR: When it comes to
13 work.

14 MR. SCHIECK: Well -- and so in your
15 opinion 90 to 95 percent of the people that are minorities
16 that come in your shop are shoplifters?

17 PROSPECTIVE JUROR: Unfortunately, yes,
18 sir.

19 MR. SCHIECK: You haven't changed that
20 opinion when you got here? You still believe that?

21 PROSPECTIVE JUROR: When it comes to work,
22 yes.

23 MR. SCHIECK: You're saying you plainly do
24 not trust them?

25 PROSPECTIVE JUROR: Yes.

143

1 MR. OWENS: As you sit there now, you feel
2 you could be fair to both sides and judge this case on the
3 evidence?

4 PROSPECTIVE JUROR: Yes.

5 MR. OWENS: Thank you. Pass for cause,
6 your Honor.

7 THE COURT: Mr. Schieck.

8 MR. SCHIECK: Ms. Ruis, I just have a few
9 questions for you. Perhaps I'm confused by some of your
10 answers. But let me read this one answer to you and tell
11 me if this is correct. This is what you wrote when you
12 came in for your questionnaire.

13 Because of the race of the Defendant, I
14 already have opinions about them, based on appearance, and
15 it's not fair to the Defendant.

16 Okay. Was that your opinion when you
17 wrote your questionnaire?

18 PROSPECTIVE JUROR: At the time when I read
19 the questionnaire. This is my first time I have ever
20 severed on a jury, so I didn't -- I don't -- I didn't
21 understand the process.

22 MR. SCHIECK: What did you mean by because
23 of the race of the Defendant.

24 PROSPECTIVE JUROR: Where I work I have to
25 deal with a lot of different ethnic people and a specific

142

1 MR. SCHIECK: Okay.

2 PROSPECTIVE JUROR: When it comes to work.
3 Like I said, I didn't understand how this worked.

4 MR. SCHIECK: Well, you're talking about
5 people stealing from your work, correct?

6 PROSPECTIVE JUROR: Yes.

7 MR. SCHIECK: You don't trust them, and
8 you believe they are going to steal?

9 PROSPECTIVE JUROR: Yes.

10 MR. SCHIECK: And, again, in your other
11 question you indicated that it's not fair to the Defendant
12 because of his race. Do you think you can be a fair
13 juror, given what you told us?

14 PROSPECTIVE JUROR: With the -- if I have
15 to put work the work perspective. But with -- now that
16 I've seen and understand and heard different questions and
17 opinions I can be fair.

18 MR. SCHIECK: Now, you also, with respect
19 to the death penalty, said you would consider all forms of
20 punishment, but lean and choose the death penalty. Is
21 that what you wrote?

22 PROSPECTIVE JUROR: Yes.

23 MR. SCHIECK: So you already decided that
24 the death penalty was appropriate in this case?

25 PROSPECTIVE JUROR: Well -- well, I'm for

144

1 the death penalty. I didn't chose that that's what should
2 happen. I want to be able to hear all of the facts
3 first.

4 MR. SCHIECK: You said if someone is
5 convicted -- this is an eye for an eye question -- you
6 said the convict should receive the same crime as
7 punishment. So if someone commits murder you believe they
8 should lose their life as punishment?

9 PROSPECTIVE JUROR: Yes.

10 MR. SCHIECK: That's your brief?

11 PROSPECTIVE JUROR: Yes.

12 MR. SCHIECK: In this case you have
13 already been told Mr. Chappell has been convicted of
14 murder, so basically you made up your mind that the death
15 penalty is the appropriate punishment based on that?

16 PROSPECTIVE JUROR: Basically.

17 MR. SCHIECK: So with all of the factors
18 we've discussed, you pretty much said what your opinion
19 is?

20 PROSPECTIVE JUROR: My opinion --

21 MR. SCHIECK: Your opinion of punishment
22 in this case.

23 PROSPECTIVE JUROR: Yes.

24 MR. SCHIECK: We would challenge for
25 cause, your Honor.

145

1 all different people?

2 PROSPECTIVE JUROR: Yes.

3 MS. WECKERLY: So there's nothing about
4 that that would make you prejudge the facts of this case
5 or have an opinion about it already?

6 PROSPECTIVE JUROR: No.

7 MS. WECKERLY: You also mentioned, I think
8 it was in your questionnaire, that your husband's father
9 was abusive?

10 PROSPECTIVE JUROR: Yes.

11 MR. OWENS: Was that to his wife or your
12 mother-in-law?

13 PROSPECTIVE JUROR: Yes.

14 MS. WECKERLY: Was that something that you
15 experienced or something your husband grew up with?

16 PROSPECTIVE JUROR: No, just when he was a
17 child. They divorced when he was 8. I think just what he
18 told me.

19 MS. WECKERLY: Do you have contact with
20 your mother-in-law?

21 PROSPECTIVE JUROR: They are both deceased
22 now.

23 MS. WECKERLY: Did you ever have contact?

24 PROSPECTIVE JUROR: Yes.

25 MS. WECKERLY: When you were in contact

147

1 THE COURT: Thank you. As to Ms. Curtis.
2 Ms. Weckerly.

3 MS. WECKERLY: Ma'am, I read that you work
4 as a court clerk. Where is that?

5 PROSPECTIVE JUROR: North Las Vegas
6 municipal Court.

7 MS. WECKERLY: Are you in the courtroom or
8 in the records area?

9 PROSPECTIVE JUROR: The courtroom.

10 MS. WECKERLY: So you see a lot of
11 misdemeanor trials?

12 PROSPECTIVE JUROR: Yes.

13 MS. WECKERLY: Anything about -- I'm sure
14 you have a lot of experience seeing victims of domestic
15 violence come in and testify, or maybe not testify in some
16 situations. Anything about that that would make it hard
17 for you to be an impartial juror in this case?

18 PROSPECTIVE JUROR: No.

19 MS. WECKERLY: You can be impartial?

20 PROSPECTIVE JUROR: I don't think my
21 experience will make me not be impartial.

22 MS. WECKERLY: Well, I mean, you would
23 assume you've kind of seen the range of domestic violence
24 victims, some maybe have an agenda, some may be scared,
25 some may be coming in and testifying, all sorts of things,

146

1 with her was the abusive guy out of the picture at that
2 point?

3 PROSPECTIVE JUROR: Yes.

4 MS. WECKERLY: So nothing about that would
5 influence you in any way?

6 PROSPECTIVE JUROR: No.

7 MS. WECKERLY: You mentioned on the death
8 penalty that you could consider it in some circumstances?

9 PROSPECTIVE JUROR: I could consider it,
10 but frankly under the circumstances I would be leaning
11 against it.

12 MS. WECKERLY: Why is that?

13 PROSPECTIVE JUROR: It should be reserved
14 for the most heinous of circumstances, like Jeffery
15 Dahmer.

16 MS. WECKERLY: So serial killers?

17 PROSPECTIVE JUROR: Yes.

18 MS. WECKERLY: You understand in the State
19 of Nevada there are certain requirements that have to be
20 met before you can consider the death penalty. And it's a
21 potential punishment for more than serial killers?

22 PROSPECTIVE JUROR: Yes.

23 MS. WECKERLY: That's just the law. There
24 are certain factors that have to be present, but it's not
25 reserved for people that kill several people. Do you

148

1 accept that as -- is that how you would structure the law,
2 if you could, or more limiting than that?

3 PROSPECTIVE JUROR: If I was a
4 legislature, I might want to make it more limiting. But I
5 understand that it's not how it currently is.

6 MS. WECKERLY: And because you have these
7 feelings -- and you know their really aren't any right or
8 wrong answers here. But because you hold that opinion, do
9 you think you could consider it in a case like this?

10 PROSPECTIVE JUROR: I could consider it.
11 But the State would have to present a lot of evidence of a
12 lot of aggravating factors for me to think it was
13 appropriate before I could consider it. Yes.

14 MS. WECKERLY: And you are going to hear,
15 because of the nature of this hearing, that you'll hear
16 about the crime itself, obviously. And you'll hear some
17 background, I would assume, about the defendant. And other
18 factors related to the case. Are you someone who can take
19 in all that information and make a decision on what you
20 think is the appropriate punishment?

21 PROSPECTIVE JUROR: Based on the evidence
22 I hear, yes.

23 MS. WECKERLY: You said a moment ago --
24 maybe I misheard you. The State would have to present
25 several aggravating circumstances?

149

1 PROSPECTIVE JUROR: Well, not necessarily
2 several different things, but that -- I mean to show that
3 the aggravating circumstances were aggravating enough, you
4 know, to warrant the death penalty.

5 MS. WECKERLY: And you'll get a definition
6 of what those are from the judge, what the law is on that.
7 Would you be able to follow that, or maybe you have your
8 own standard of, this is what I consider aggravating,
9 versus what the law might be?

10 PROSPECTIVE JUROR: I believe I can follow
11 instructions.

12 MS. WECKERLY: If you believe the
13 aggravating circumstances have been proven beyond a
14 reasonable doubt that's when you start considering the
15 death penalty with your fellow juror members. And at that
16 point, do you think you could be the person that actually
17 marks the verdict form that says death penalty?

18 PROSPECTIVE JUROR: I would be
19 uncomfortable with it.

20 MS. WECKERLY: Sure. I don't think that
21 that's something everyone would ever take lightly. And
22 certainly it wouldn't be an easy decision for somebody. If
23 you believe that that's the appropriate punishment, could
24 you do that?

25 PROSPECTIVE JUROR: I believe I could,

150

1 yes.

2 MS. WECKERLY: Do you have concerns at all
3 about your ability to sit on a case like this, where it's
4 kind of a strange setting, I'm sure. You're not going to
5 hear a whole trial when you get picked for jury duty, but
6 it's a very narrow question we're asking here.

7 PROSPECTIVE JUROR: My main concern is
8 hearing evidence about the crime. And if it gets detailed
9 about violence, and I have a hard time processing that --

10 MS. WECKERLY: Can you talk more about
11 that. What do you mean a problem processing that?

12 PROSPECTIVE JUROR: I just, as someone
13 else mentioned, I don't like watching the news, especially
14 talking about violent crimes and things. I tend to
15 internalize and empathize with the victim. I just get
16 very depressed.

17 MS. WECKERLY: Well, you'll be -- in
18 presenting this situation to you, you'll be asked to look
19 at crime scene photographs, which are pretty graphic. And
20 also photographs from the autopsy. And they will be
21 displayed for you as part of the evidence in this case,
22 part of what the information you have to be evaluating.
23 Is that going to be too hard for you, or do you think
24 you're going to be able to do that?

25 PROSPECTIVE JUROR: It would be

151

1 disturbing.

2 MS. WECKERLY: It's kind of a hard
3 process, because we kind of have to ask you up front are
4 you going to be able to do it, and you kind of don't know
5 what you're going to see. But that's sort of the only way
6 to do it.

7 PROSPECTIVE JUROR: I would rather not.

8 MS. WECKERLY: I need to know if you can.

9 PROSPECTIVE JUROR: It would probably not
10 get sick seeing them.

11 MS. WECKERLY: Okay. Anything better than
12 not getting sick. Can you take in the information.

13 PROSPECTIVE JUROR: I think I could
14 separate logically how that pertains, how it would pertain
15 to this case and the decision we have to make. Separate
16 from my emotions about it.

17 MS. WECKERLY: You think you'd be able to
18 do that?

19 PROSPECTIVE JUROR: I think so.

20 MS. WECKERLY: You also mentioned -- I
21 don't want you to tell me what you remember, but you have
22 some memory of this case?

23 PROSPECTIVE JUROR: Yes.

24 MS. WECKERLY: Would that have been --
25 without saying what it was you remember about it --

152

1 through a news account?
 2 PROSPECTIVE JUROR: Yes.
 3 MS. WECKERLY: And you are able to
 4 separate whatever you may have heard and make your
 5 decision solely on what you hear in the courtroom?
 6 PROSPECTIVE JUROR: Yes.
 7 MS. WECKERLY: Knowing about what you
 8 heard about in the back of your mind.
 9 PROSPECTIVE JUROR: No -- for the verdict,
 10 no.
 11 MS. WECKERLY: You'll be able to make a
 12 verdict based on what you hear here?
 13 PROSPECTIVE JUROR: Yes.
 14 MS. WECKERLY: Earlier this morning you
 15 said you've had some family members who have had contact
 16 with law enforcement. Was that right?
 17 PROSPECTIVE JUROR: I have family members
 18 that have been convict of crimes, yes.
 19 MS. WECKERLY: Are those situations such
 20 that you think they were treated fairly?
 21 PROSPECTIVE JUROR: Yes.
 22 MS. WECKERLY: No bad feelings about what
 23 happened to some of those family members?
 24 PROSPECTIVE JUROR: No. Their treatment
 25 was appropriate.

153

1 MS. WECKERLY: And they're still under
 2 sentences and in custody?
 3 PROSPECTIVE JUROR: One is.
 4 MS. WECKERLY: Were they prosecuted by the
 5 DA's office?
 6 PROSPECTIVE JUROR: Actually the one, I
 7 think, is a felony and was actually in Utah. But he had
 8 had prior misdemeanors here. My sister-in-law lives here.
 9 We didn't have contact with her. I don't know -- she's
 10 actually deceased.
 11 MS. WECKERLY: But nothing about that
 12 causes you any concern about your ability to be fair?
 13 PROSPECTIVE JUROR: No.
 14 MS. WECKERLY: You wrote on your
 15 questionnaire that nobody is beyond redemption. Do you
 16 recall that?
 17 PROSPECTIVE JUROR: Yes. I would like to
 18 believe that nobody is beyond redemption.
 19 MS. WECKERLY: This is prying into your
 20 personal belief system. In this case it's important. Is
 21 that like a religious belief that you have?
 22 PROSPECTIVE JUROR: I think so, yes.
 23 MS. WECKERLY: Because you have that
 24 belief, is that something important that you would --
 25 would that make you unable to impose a death sentence?

154

1 PROSPECTIVE JUROR: I think it would have
 2 bearing on it. I don't know that I would be -- I wouldn't
 3 think I would become completely unable to do it. It's
 4 something I would be strongly considering.
 5 MS. WECKERLY: Even though you have that
 6 belief, you're telling us you'd still consider it?
 7 PROSPECTIVE JUROR: Yes.
 8 MS. WECKERLY: Thank you. Pass for cause,
 9 your Honor.
 10 THE COURT: Thank you. Mr. Patrick.
 11 MR. PATRICK: Thank you, your Honor.
 12 Ms. Curtis, I'd like to ask you a little
 13 more about what Ms. Weckerly was talking about, the photos
 14 that may be shown that may not be pretty to look at.
 15 Then you mentioned that you may you have a
 16 tendency to empathize with the victim.
 17 Do you think seeing those types of
 18 pictures and knowing that that's something you have a
 19 tendency to do, do you think that would stop you from
 20 making a fair decision and looking at all of the evidence?
 21 PROSPECTIVE JUROR: No, I don't think
 22 so.
 23 MR. PATRICK: Now, one of your family
 24 members you said was still under sentencing for a
 25 molestation charge?

155

1 PROSPECTIVE JUROR: Yes, sir.
 2 MR. PATRICK: If something like that were
 3 to come up would that make you think one way or the other
 4 about what penalty you should be imposing?
 5 PROSPECTIVE JUROR: No. That would be up
 6 to the crime.
 7 MR. PATRICK: Now, you say that your
 8 sister had the drug abuse problem, and when she was high
 9 she would act differently then when she wasn't high.
 10 PROSPECTIVE JUROR: Yes..
 11 MR. PATRICK: And you could attribute that
 12 to the drug use.
 13 PROSPECTIVE JUROR: Yeah, I think so.
 14 MR. PATRICK: Was she nicer, calmer,
 15 better when she wasn't high?
 16 PROSPECTIVE JUROR: She was usually more
 17 aggressive when she was high.
 18 MR. PATRICK: Then I think Ms. Weckerly
 19 touched upon this, about your husband's father was an
 20 abusive man?
 21 PROSPECTIVE JUROR: Yes.
 22 MR. PATRICK: You never had contact with
 23 him?
 24 PROSPECTIVE JUROR: No.
 25 MR. PATRICK: Have you ever had in depth

156

1 conversations with your husband about what he witnessed a
2 far as his father's abuse?

3 PROSPECTIVE JUROR: Not in detail, no. I
4 just -- actually I don't know that I have heard from him.
5 Maybe just my mother-in-law mention that her husband had
6 been abusive.

7 MR. PATRICK: Did you have detailed
8 conversations with her about that?

9 PROSPECTIVE JUROR: Not more than when he
10 was drunk he hit her. And once he took some possessions
11 she had and took them outside and burned them.

12 MR. PATRICK: Nothing about any of those
13 conversations would make you more or less likely to
14 believe somebody or more or less likely to give a certain
15 punishment?

16 PROSPECTIVE JUROR: No.

17 MR. PATRICK: You work in North Las Vegas
18 municipal Court?

19 PROSPECTIVE JUROR: Yes.

20 MR. PATRICK: So you hear the judge talk
21 about laws, and the judge is going to give you laws that
22 you are supposed to follow if you are on this jury.

23 PROSPECTIVE JUROR: Yes.

24 MR. PATRICK: And you'd be able to listen
25 to what he says and follow whatever he says, as far as

157

1 are you?

2 PROSPECTIVE JUROR: Fine.

3 MS. WECKERLY: Good. You were coughing
4 earlier, are you okay now?

5 PROSPECTIVE JUROR: I have allergies to
6 dirt.

7 MS. WECKERLY: You mentioned on your
8 questionnaire that -- I think it was a step-daughter had
9 some drug problems?

10 PROSPECTIVE JUROR: Yes.

11 MS. WECKERLY: Was she living with you at
12 the time these problems were going on?

13 PROSPECTIVE JUROR: No. But as a result
14 of her drug use, we ended up raising her two children.

15 MS. WECKERLY: So I assume that was sort
16 of a long term problem, if you ended up raising her
17 children?

18 PROSPECTIVE JUROR: Not after we were
19 given custody of her children. I have not seen her
20 since.

21 MS. WECKERLY: But you and your wife had
22 to take responsibility for the children?

23 PROSPECTIVE JUROR: Yes.

24 MS. WECKERLY: Do you have contact with
25 her now?

159

1 what the law would tell you to do as a juror?

2 PROSPECTIVE JUROR: Yes.

3 MR. PATRICK: You think that even though
4 you have some reservations on the death penalty, if that's
5 what the law requires and that's what you thought was
6 appropriate, you would be able to make that choice out of
7 those four choices if that's what you had to do?

8 PROSPECTIVE JUROR: Yes.

9 MR. PATRICK: Do you think you would be a
10 fair and impartial juror on this?

11 PROSPECTIVE JUROR: Unfortunately, yes.

12 MR. PATRICK: Unfortunately, yes?

13 PROSPECTIVE JUROR: Because I really don't
14 want to do it.

15 MR. PATRICK: You don't want to be on the
16 jury?

17 PROSPECTIVE JUROR: No.

18 MR. PATRICK: Can you sit in judgment of
19 Mr. Chappell with twelve people of your like mind and be
20 on this jury?

21 PROSPECTIVE JUROR: Probably, yes.

22 MR. PATRICK: Pass for cause.

23 THE COURT: Ms. Weckerly, George Smith,
24 Badge 22.

25 MS. WECKERLY: Good afternoon, sir. How

158

1 PROSPECTIVE JUROR: No.

2 MS. WECKERLY: You mentioned also a
3 grandson with problems with law enforcement.

4 PROSPECTIVE JUROR: One of the boys was in
5 the drug scene in California. He ended up doing time in
6 juvenile detention. He's out now, seeming doing fine.

7 MS. WECKERLY: A little more on track?

8 PROSPECTIVE JUROR: Absolutely.

9 MS. WECKERLY: Do you think he was treated
10 fairly?

11 PROSPECTIVE JUROR: Yes.

12 MS. WECKERLY: How about when your step
13 daughter -- was law enforcement ever involved with her?

14 PROSPECTIVE JUROR: No. She was in the
15 court system, but for negligent. That was the basis of
16 the charges.

17 MS. WECKERLY: So they never had any drug
18 charges against her even though that was the problem?

19 PROSPECTIVE JUROR: Not specifically,
20 no.

21 MS. WECKERLY: You wrote on your
22 questionnaire that you're someone that can consider the
23 death penalty as a potential punishment?

24 PROSPECTIVE JUROR: Yes.

25 MS. WECKERLY: You still feel that way

160

1 after sitting here during jury selection?
 2 PROSPECTIVE JUROR: Yes.
 3 MS. WECKERLY: And I assume, as I
 4 discussed with some of the jurors, that you can listen to
 5 what is present by both sides?
 6 PROSPECTIVE JUROR: Yes.
 7 MS. WECKERLY: Then make a decision?
 8 PROSPECTIVE JUROR: Yes.
 9 MS. WECKERLY: You're not someone who will
 10 automatically vote for the death penalty?
 11 PROSPECTIVE JUROR: Depends on the
 12 circumstances.
 13 MS. WECKERLY: You are able to evaluate
 14 those fairly?
 15 PROSPECTIVE JUROR: Yes.
 16 MS. WECKERLY: Thank you, sir. Pass for
 17 cause.
 18 THE COURT: Mr. Patrick.
 19 MR. PATRICK: Thank you, judge. Good
 20 afternoon, Mr. Smith.
 21 PROSPECTIVE JUROR: Good afternoon.
 22 MR. PATRICK: In your questionnaire you
 23 mentioned you worked in justice court?
 24 PROSPECTIVE JUROR: I do.
 25 MR. PATRICK: What do you do there?

161

1 PROSPECTIVE JUROR: Part-time legal
 2 assistant in the office.
 3 MR. PATRICK: Do you ever go in court and
 4 watch the proceedings?
 5 PROSPECTIVE JUROR: Yes.
 6 MR. PATRICK: Also I believe you are part
 7 of Metro volunteers?
 8 PROSPECTIVE JUROR: Yes.
 9 MR. PATRICK: What do you do with that?
 10 PROSPECTIVE JUROR: Well, Metro volunteers
 11 do a lot of things. We help direct traffic. River runs
 12 coming up. I'm exited about that. Just a lot of
 13 community activities that funnel through Metro, I come
 14 down to volunteer.
 15 MR. PATRICK: As a volunteer for Metro, do
 16 you carry a firearm?
 17 PROSPECTIVE JUROR: I'm not allow to.
 18 MR. PATRICK: Do you have authorization to
 19 make arrests.
 20 PROSPECTIVE JUROR: No.
 21 MR. PATRICK: Do you think with all of
 22 this involvement in law enforcement, you can be fair and
 23 impartial on this jury?
 24 PROSPECTIVE JUROR: I believe so, yes.
 25 MR. PATRICK: And let's say that you are

162

1 on this jury and for whatever reason the jury comes back
 2 with something besides the death penalty. Would you feel
 3 that you would have to explain those actions to members of
 4 Metro that you work with why you did that?
 5 PROSPECTIVE JUROR: No!
 6 MR. PATRICK: Okay.
 7 PROSPECTIVE JUROR: I might add that I was
 8 with the Flagstaff PD to get through college. That's why
 9 I went into that area, to do public service.
 10 MR. PATRICK: But none of that would make
 11 you feel strongly one way or the other whether or not the
 12 death penalty is imposed?
 13 PROSPECTIVE JUROR: Absolutely not.
 14 MR. PATRICK: You believe you could still
 15 be fair?
 16 PROSPECTIVE JUROR: Yes, sir.
 17 MR. PATRICK: Listen to all the evidence?
 18 PROSPECTIVE JUROR: Yes.
 19 MR. PATRICK: I'm sure as a police officer
 20 there was a lot of times where you were sent to calls and
 21 there were two sides?
 22 PROSPECTIVE JUROR: Yes.
 23 MR. PATRICK: Both side have a story?
 24 PROSPECTIVE JUROR: Yes.
 25 MR. PATRICK: Neither would tell the same

163

1 story?
 2 PROSPECTIVE JUROR: True.
 3 MR. PATRICK: It would be your job to
 4 figure out who is lying and who is telling the truth, who
 5 to believe?
 6 PROSPECTIVE JUROR: Yes.
 7 MR. PATRICK: Would you be impartial in
 8 bringing that experience to this case and do the same
 9 thing here?
 10 PROSPECTIVE JUROR: Absolutely.
 11 MR. PATRICK: Now, the fact that your
 12 step-daughter and grandson have involvement with drugs, is
 13 that — if it was to show in this case there was drug
 14 involvement, would that change your opinion as to what
 15 punishment should be given out?
 16 MR. OWENS: I would object. That's asking
 17 for a prediction.
 18 THE COURT: Why don't you rephrase what
 19 you're asking about.
 20 MR. PATRICK: If drugs -- if it's shown
 21 that drugs are a part of this case, would you give more or
 22 less weight to somebody's testimony regarding that because
 23 of the drug use?
 24 PROSPECTIVE JUROR: Possibly.
 25 MR. PATRICK: Which way do you think you

164

1 would tend to believe --
2 PROSPECTIVE JUROR: Depends on the
3 circumstances.
4 MR. OWENS: Same objection, your Honor.
5 THE COURT: I'll allow the answer. He got
6 halfway through the answer, anyway.
7 MR. PATRICK: So even though there was
8 some drug involvement, you'd still listen to both sides?
9 PROSPECTIVE JUROR: Absolutely.
10 MR. PATRICK: You wouldn't make a
11 determination until you heard all the evidence?
12 PROSPECTIVE JUROR: That's correct.
13 MR. PATRICK: Thank you. Pass for cause,
14 your Honor.
15 THE COURT: Thank you, very much.
16 Mr. Owens or Ms. Weckerly, Ms. Meyrick, 23.
17 MR. OWENS: How do you feel about the idea
18 of sitting in judgment on another person in this kind of
19 situation?
20 PROSPECTIVE JUROR: Judgment,
21 uncomfortable.
22 MR. OWENS: Do you feel it's necessary
23 from time to time?
24 PROSPECTIVE JUROR: Yes.
25 MR. OWENS: Do you feel comfortable

165

1 personally that you could do this?
2 PROSPECTIVE JUROR: Yes.
3 MR. OWENS: When you were answering
4 questions about the death penalty, you had inserted a word
5 in one of the questions. Do you remember that?
6 What are your feelings about the death
7 penalty. You said it depends on the case. I would be
8 preferable with the death sentence, then you put in,
9 "not", and underlined it and added it. Do you know what
10 that means. Do you want to take a look at that?
11 PROSPECTIVE JUROR: If I may.
12 MR. OWENS: May, I your Honor?
13 THE COURT: All right. Yes.
14 MR. OWENS: At the bottom right there.
15 PROSPECTIVE JUROR: It's uncomfortable not
16 comfortable with the death sentence.
17 MR. OWENS: What do you mean by that?
18 PROSPECTIVE JUROR: I don't like to pass
19 judgment on anyone.
20 MR. OWENS: Do you feel that that is
21 something you couldn't do under any circumstance in the
22 case?
23 PROSPECTIVE JUROR: I don't like to do it.
24 But I could do it.
25 MR. OWENS: So you're saying you wouldn't

166

1 be comfortable with it, but you feel like you could come
2 back with a death penalty if it's appropriate?
3 PROSPECTIVE JUROR: If the facts were
4 there.
5 MR. OWENS: And you indicated that you
6 would consider it with certain circumstances. In your
7 explanation you said a person who killed, I would consider
8 a death penalty.
9 PROSPECTIVE JUROR: Yes.
10 MR. OWENS: Is that what you're thinking
11 about, that's one situation?
12 PROSPECTIVE JUROR: Yes.
13 MR. OWENS: But there may be other
14 situations where it's appropriate also?
15 PROSPECTIVE JUROR: Based on the law.
16 MR. OWENS: You just have to look and see
17 what the law is about that.
18 PROSPECTIVE JUROR: Correct.
19 MR. OWENS: You indicated that you felt
20 that it was appropriate to consider all the facts and
21 circumstances before coming to a decision?
22 PROSPECTIVE JUROR: That's correct.
23 MR. OWENS: What does that mean to you.
24 PROSPECTIVE JUROR: Based on the evidence,
25 understanding the situation, make a decision based on

167

1 facts.
2 MR. OWENS: You had had some experience
3 with somebody that had some problems with violence or
4 drugs or something?
5 PROSPECTIVE JUROR: Yes.
6 MR. OWENS: Were you kind of close to that
7 situation at the time?
8 PROSPECTIVE JUROR: Yes.
9 MR. OWENS: How long was that?
10 PROSPECTIVE JUROR: My sister ran away at
11 16. I'm two years older then her. I'm 23.
12 MR. OWENS: So sometime ago.
13 PROSPECTIVE JUROR: Yes.
14 MR. OWENS: Do you harbor bad feelings
15 about what happened there?
16 PROSPECTIVE JUROR: Absolutely.
17 MR. OWENS: Are those feelings such that
18 it might surface and you'd take it out on one side or the
19 other maybe?
20 PROSPECTIVE JUROR: I would have to say, I
21 don't know.
22 MR. OWENS: So it might be possible you
23 are hearing facts and circumstances that triggers
24 something in you, that you think, well, I can't be fair to
25 both sides because of the feeling that I have?

168

1 PROSPECTIVE JUROR: No. I would be able
2 to separate it.
3 MR. OWENS: Okay. So you feel you could
4 be fair?
5 PROSPECTIVE JUROR: Yes.
6 MR. OWENS: Regardless of the feelings
7 that you have that arose from that circumstance?
8 PROSPECTIVE JUROR: Yes.
9 MR. OWENS: Okay. And if after hearing
10 all of the evidence in the case if you felt the death
11 penalty was the appropriate punishment, you feel that you
12 could come back with that judgment?
13 PROSPECTIVE JUROR: Base on the law,
14 yes.
15 MR. OWENS: That's something you feel -- I
16 don't mean you'd feel comfortable, do you feel like you
17 could do that if appropriate?
18 PROSPECTIVE JUROR: Yes.
19 MR. OWENS: Thank you. Pass for cause.
20 THE COURT: Thank you. Mr. Schieck.
21 MR. SCHIECK: Thank you.
22 Ms. Meyrick, a little information that we
23 have on occupation says manager. What type of business do
24 you manage?
25 PROSPECTIVE JUROR: I'm a production

169

1 manager for an advertising department.
2 MR. SCHIECK: So you have a number of
3 people that work under you?
4 PROSPECTIVE JUROR: Correct.
5 MR. SCHIECK: I take it in that position
6 you have to make decisions on a daily basis?
7 PROSPECTIVE JUROR: Correct.
8 MR. SCHIECK: And you're looking for as
9 much information as you can before you make a decision?
10 PROSPECTIVE JUROR: Have to.
11 MR. SCHIECK: In fact, one of your answers
12 states it pretty well. Deciding the appropriate
13 punishment, you said you would be able to decide, but want
14 to know the how, the when, the where, and the who.
15 PROSPECTIVE JUROR: Yes.
16 MR. SCHIECK: So you want all the
17 information you can get before you decide what's
18 appropriate.
19 PROSPECTIVE JUROR: That's correct.
20 MR. SCHIECK: As you sit here right now
21 you have an open mind to hearing everything and making a
22 decision based on the facts and not emotion?
23 PROSPECTIVE JUROR: Correct.
24 MR. SCHIECK: Thank you. Pass for cause,
25 your Honor.

170

1 THE COURT: Thank you. Ms. Weckerly, as
2 to Ms. Cardillo.
3 MS. WECKERLY: How are you doing.
4 PROSPECTIVE JUROR: Good.
5 MS. WECKERLY: You wrote on your
6 questionnaire sort of an interesting answer. You were
7 asked -- the question was, what are your feelings about
8 the criminal justice system. And you wrote, I believe a
9 person is innocent until proven guilty. Which is, of
10 course, a precept that we all accept. But you know now
11 from sitting here we are not at that point in this
12 proceedings. And you are comfortable with that?
13 PROSPECTIVE JUROR: Yes.
14 MS. WECKERLY: Your answer on whether or
15 not you can consider the death penalty, you wrote another
16 sort of interesting answer to me. The question about if
17 you believe in an eye for an eye, you wrote that those
18 statements are too broad. You feel like that?
19 PROSPECTIVE JUROR: Well, I believe each
20 case is specific.
21 MS. WECKERLY: Not every case of first
22 degree murder is the same?
23 PROSPECTIVE JUROR: Right.
24 MS. WECKERLY: So you're not someone who
25 is going to automatically vote one way or another in this

171

1 case?
2 PROSPECTIVE JUROR: No.
3 MS. WECKERLY: And from reading your
4 questionnaire you're someone who would want to hear all of
5 the information, then once you've heard it, you would be
6 able to consider all four possible punishments and make a
7 decision?
8 PROSPECTIVE JUROR: Yes.
9 MS. WECKERLY: Is there anything about the
10 prospect of considering the death penalty as a potential
11 punishment -- I don't want to say that makes you
12 uncomfortable, certainly that's not an easy decision. But
13 are you someone who can consider that as a punishment?
14 PROSPECTIVE JUROR: Yes.
15 MS. WECKERLY: Do you think the death
16 penalty serves a purpose?
17 PROSPECTIVE JUROR: Yes.
18 MS. WECKERLY: If you could be the sole
19 legislator, would you have that as a potential punishment?
20 PROSPECTIVE JUROR: Yes.
21 MS. WECKERLY: You are willing as a juror
22 to listen to both sides in this proceedings?
23 PROSPECTIVE JUROR: Yes.
24 MS. WECKERLY: I'm sure you could
25 communicate with your fellow jurors and make a decision?

172

1 PROSPECTIVE JUROR: Yes.
 2 MS. WECKERLY: Thank you. Pass for
 3 cause.
 4 THE COURT: Thank you. Mr. Patrick.
 5 MR. PATRICK: Good afternoon.
 6 PROSPECTIVE JUROR: Hi.
 7 MR. PATRICK: On the innocent until proven
 8 guilty, Ms. Weckerly said we're not at that point. You
 9 can apply the same principles here that we're basically
 10 starting with a clean slate and listen to all the
 11 evidence and make your decision?
 12 PROSPECTIVE JUROR: Yes.
 13 MR. PATRICK: And that you'd have an open
 14 mind, listen to everything before you decide on
 15 punishment?
 16 PROSPECTIVE JUROR: Yes.
 17 MR. PATRICK: And if you were sitting
 18 where Mr. Chappell was would you like twelve people that
 19 thought like you on the jury?
 20 PROSPECTIVE JUROR: Yes.
 21 MR. PATRICK: Pass for cause, your
 22 Honor.
 23 THE COURT: Thank you, very much.
 24 Ms. Weckerly as to Mr. Ramirez.
 25 MS. WECKERLY: Mr. Ramirez, on your

173

1 questionnaire you wrote that one of your daughters is a
 2 doctor and one is a mortgage banker?
 3 PROSPECTIVE JUROR: Yes.
 4 MS. WECKERLY: Do they live here locally?
 5 PROSPECTIVE JUROR: No. The mortgage
 6 broker does.
 7 MS. WECKERLY: Where does your other
 8 daughter live?
 9 PROSPECTIVE JUROR: Chicago. She works
 10 for Resident Medical.
 11 MS. WECKERLY: She's just completing her
 12 residency?
 13 PROSPECTIVE JUROR: This is her fifth
 14 year. She'll be done in May.
 15 MS. WECKERLY: Okay. You wrote on your
 16 questionnaire that you're someone who can consider the
 17 death penalty as a potential punishment?
 18 PROSPECTIVE JUROR: Yes.
 19 MS. WECKERLY: I'm sure you've listen all
 20 morning and part of the afternoon. It's not something
 21 that you would automatically vote for without hearing all
 22 the information in this case, is it?
 23 PROSPECTIVE JUROR: It's hard to say for
 24 me.
 25 MS. WECKERLY: Why is that?

174

1 PROSPECTIVE JUROR: Because I think that
 2 sometimes they don't enforce it enough.
 3 MS. WECKERLY: I think we have explained
 4 sort of the process. It's a little artificial asking you
 5 to commit now. But the judge is going to give you
 6 instructions at the end of the case. And those
 7 instructions will kind of tell you if you can consider the
 8 death penalty.
 9 PROSPECTIVE JUROR: It's a murder case, is
 10 it not?
 11 MS. WECKERLY: It is. But in the State
 12 of Nevada there are certain factors that have to be
 13 present before a jury can even consider a death sentence
 14 as a possible verdict.
 15 PROSPECTIVE JUROR: That's new to me. I'm
 16 not used to that.
 17 MS. WECKERLY: I don't think that -- I'm
 18 sure most people that come in for jury duty don't realize
 19 that not every case of first degree murder has that as a
 20 potential punishment. But this one does.
 21 PROSPECTIVE JUROR: Well, I come from the
 22 State that does.
 23 MS. WECKERLY: What state is that?
 24 THE COURT: Texas.
 25 MS. WECKERLY: I was going to guess that.

175

1 Will you be able to follow the judge's instructions and
 2 hold the State to its burden?
 3 PROSPECTIVE JUROR: Hard to say.
 4 MS. WECKERLY: Like I talked to this other
 5 lady. I know it's hard to say what you're feelings are
 6 now, but we sort of need you to commit up front that
 7 you'll follow the law.
 8 PROSPECTIVE JUROR: I'll try to.
 9 MS. WECKERLY: Can you convince us more
 10 than that that you will follow the law?
 11 PROSPECTIVE JUROR: Well, I'm just giving
 12 you my opinion.
 13 MS. WECKERLY: Sure.
 14 PROSPECTIVE JUROR: I can say that I can
 15 try to.
 16 MS. WECKERLY: I mean, it's sort of an
 17 unfair question at this point, because I think people have
 18 a general sense of if they're for or against the death
 19 penalty. But in this setting, you know very little about
 20 the facts of the case and you --
 21 PROSPECTIVE JUROR: I do know that there
 22 has been a conviction already.
 23 MS. WECKERLY: That's right. And you will
 24 assume that. And that is the case. But in terms of
 25 punishment, there are four punishments available for first

176

1 degree murder.
 2 PROSPECTIVE JUROR: Like I said, that's
 3 new to me.
 4 MS. WECKERLY: Are you telling us that you
 5 wouldn't be able to follow the judge's instructions?
 6 PROSPECTIVE JUROR: I could try.
 7 MS. WECKERLY: You'll be able to
 8 deliberate?
 9 PROSPECTIVE JUROR: I can try, ma'am.
 10 That's all I can say.
 11 MS. WECKERLY: Are you someone that can
 12 listen to all the information presented?
 13 PROSPECTIVE JUROR: I will try to do that,
 14 yes.
 15 MS. WECKERLY: You'll listen to the
 16 information presented from both sides?
 17 PROSPECTIVE JUROR: Yes, ma'am.
 18 MS. WECKERLY: Then I assume after that
 19 you'll make what you believe to be a fair decision?
 20 PROSPECTIVE JUROR: Yes, I can do that.
 21 MS. WECKERLY: And applying the law that
 22 the judge gives you?
 23 PROSPECTIVE JUROR: Yes.
 24 MS. WECKERLY: Thank you. Pass for
 25 cause.

177

1 THE COURT: Thank you. Mr. Patrick.
 2 MR. PATRICK: Good afternoon,
 3 Mr. Ramirez.
 4 PROSPECTIVE JUROR: Hello.
 5 MR. PATRICK: Do you have any prior
 6 military service?
 7 PROSPECTIVE JUROR: Yes.
 8 MR. PATRICK: What branch?
 9 PROSPECTIVE JUROR: Air force.
 10 MR. PATRICK: Tell me about what you
 11 did.
 12 PROSPECTIVE JUROR: I was assigned to a
 13 search and rescue squad.
 14 MR. PATRICK: Would that be considered
 15 something along the lines of special forces?
 16 PROSPECTIVE JUROR: Yes.
 17 MR. PATRICK: You've had a lot of extra
 18 training?
 19 PROSPECTIVE JUROR: Yes, sir.
 20 MR. PATRICK: What rank did you hold?
 21 PROSPECTIVE JUROR: Staff sergeant.
 22 MR. PATRICK: How long were you in?
 23 PROSPECTIVE JUROR: Six years.
 24 MR. PATRICK: That's impressive. In your
 25 questionnaire you said you were both strongly opposed to

178

1 drugs and domestic violence.
 2 PROSPECTIVE JUROR: Yes.
 3 MR. PATRICK: Have you known anybody that
 4 had a drug problem or domestic violence problems?
 5 PROSPECTIVE JUROR: I have known, where I
 6 used to work at, I used to have a lot of people reporting
 7 to me. And it seems to me it became very prevalent as I
 8 progressed up the chain of command.
 9 MR. PATRICK: Both drugs and domestic
 10 violence?
 11 PROSPECTIVE JUROR: Yeah. Some of the
 12 employees would have kids mixed up with drugs and violence
 13 and anger.
 14 MR. PATRICK: Did you ever talk to the
 15 employees about the problems they were having?
 16 PROSPECTIVE JUROR: Yes.
 17 MR. PATRICK: And would you -- if you
 18 learned that somebody was on drugs or had a history or
 19 domestic violence, would that make you tend to believe
 20 then more or less?
 21 PROSPECTIVE JUROR: They -- it probably
 22 colored my thinking on them.
 23 MR. PATRICK: Colored how?
 24 PROSPECTIVE JUROR: Negative.
 25 MR. PATRICK: You also mentioned in your

179

1 questionnaire the system is too soft.
 2 PROSPECTIVE JUROR: Yes.
 3 MR. PATRICK: And that punishment should
 4 be tougher down the line.
 5 PROSPECTIVE JUROR: Correct.
 6 MR. PATRICK: Could you expand on that?
 7 PROSPECTIVE JUROR: That little girl
 8 that's dead in Florida, that man that killed her. She
 9 would be alive today. Talking about that John Van Que
 10 case.
 11 MR. PATRICK: Was he tried for that?
 12 PROSPECTIVE JUROR: Yes.
 13 MR. PATRICK: Do you know what punishment
 14 he received?
 15 PROSPECTIVE JUROR: The death penalty.
 16 MR. PATRICK: Did you think that that was
 17 appropriate?
 18 PROSPECTIVE JUROR: Yes, sir.
 19 MR. PATRICK: If you were sitting on that
 20 jury you would have voted for that?
 21 PROSPECTIVE JUROR: Yes, sir.
 22 MR. PATRICK: So you say that you believe
 23 in the statement an eye for an eye. Strongly believe in
 24 that statement?
 25 PROSPECTIVE JUROR: Yes, I do.

180

1 MR. PATRICK: Your wife works for an
2 attorney?
3 PROSPECTIVE JUROR: Yes.
4 MR. PATRICK: Don't mention the attorneys
5 name. Do you know what kind of law the attorney
6 practices?
7 PROSPECTIVE JUROR: The lady is a medical
8 malpractice lawyer. And she is an insurance lawyer.
9 MR. PATRICK: So nothing to do with
10 criminal law?
11 PROSPECTIVE JUROR: No.
12 MR. PATRICK: Now, again, they were
13 talking about -- Ms. Weckerly was talking about four
14 punishments, you said that was new to you?
15 PROSPECTIVE JUROR: Yes.
16 MR. PATRICK: What did you mean by that?
17 PROSPECTIVE JUROR: Well, in Texas if
18 convicted of murder, they enforce the death penalty.
19 MR. PATRICK: You don't have four choice,
20 you have one choice?
21 PROSPECTIVE JUROR: Correct.
22 MR. PATRICK: Do you agree with that?
23 PROSPECTIVE JUROR: Yes, I do.
24 MR. PATRICK: If you were sitting where
25 Mr. Chappell was, would you want twelve people like you

181

1 sitting where you're at?
2 PROSPECTIVE JUROR: I doubt it.
3 MR. PATRICK: We challenge for cause.
4 THE COURT: Mr. Owens, as to Ms. Theus.
5 MR. OWENS: How are you?
6 PROSPECTIVE JUROR: Tired.
7 MR. OWENS: Seems like you are kind of
8 tired.
9 PROSPECTIVE JUROR: I work graveyard. I'm
10 good staying up. I work two jobs.
11 MR. OWENS: There's people that are sort
12 of conscientious objectors of the death penalty. They
13 don't think it's appropriate under any circumstances.
14 Seems from what you're writing that you're one of those
15 kinds of people. That you're opposed to the death
16 penalty.
17 PROSPECTIVE JUROR: I don't believe anybody
18 has the right to take somebody's life, period. And just
19 because you take a life doesn't mean you take theirs. I
20 don't believe that, but under certain circumstances, if I
21 have to vote for that, I have to see without a reasonable
22 doubt. But if I have a reasonable doubt, I could not vote
23 for a death penalty.
24 MR. OWENS: Now, you know in this case the
25 Defendant has committed a murder. And he has been found

182

1 guilty of first degree murder. Right?
2 PROSPECTIVE JUROR: Yes.
3 MR. OWENS: And I think you said in here
4 that thou shalt not kill is the law, man or jury. That's
5 kind of what you said a minute ago.
6 PROSPECTIVE JUROR: Right.
7 MR. OWENS: Is that based on religious
8 beliefs?
9 PROSPECTIVE JURORS: Religious and
10 morals.
11 MR. OWENS: Are you a religious person?
12 PROSPECTIVE JUROR: Yes.
13 MR. OWENS: You consider yourself a moral
14 person?
15 PROSPECTIVE JUROR: Yes.
16 MR. OWENS: So you're an individual that
17 tries to live according to your religious principles and
18 morals on a daily basis?
19 PROSPECTIVE JUROR: Yes. But I also
20 believe if you do the crime you should do the time. But
21 I'm one of those strong opinionated person. I believe in
22 doing what is right, no matter what.
23 MR. OWENS: You do the crime, you do the
24 time, that's not a death penalty thing?
25 PROSPECTIVE JUROR: Right.

183

1 MR. OWENS: When you say that thou shalt
2 not kill, man or jury. You're saying juries should not be
3 able to impose the death penalty?
4 PROSPECTIVE JUROR: Once again, I don't
5 like the idea of passing judgment. We all shouldn't pass
6 judgment. But on a certain circumstances, I can pass if I
7 have to.
8 MR. OWENS: Well, you put a couple of
9 exclamation points at the end to emphasize that?
10 PROSPECTIVE JUROR: Right.
11 MR. OWENS: You said you can't be
12 judgmental, but the kind of judgment you're talking about
13 would not include the death penalty?
14 PROSPECTIVE JUROR: You said --
15 MR. OWENS: You said if you had to you
16 could render a judgment, but it wouldn't include the death
17 penalty?
18 PROSPECTIVE JUROR: Under the law, I
19 could.
20 MR. OWENS: Other then the death penalty?
21 PROSPECTIVE JUROR: I can go for all of
22 them, except the death penalty. But, like what I'm saying
23 is if that's what the law says I have the choice of the
24 death penalty, I can. That's what I'm saying.
25 MR. OWENS: Well, the law doesn't say you

184

1 have to give the death penalty. It's just a choice. IF
2 you have a choice, what you are saying is you can't
3 consider the death penalty.

4 PROSPECTIVE JUROR: I didn't say I
5 couldn't consider it. I said I wouldn't like to. I don't
6 think we should. But I could.

7 MR. OWENS: On the section here where
8 you're asked about attitudes regarding the death penalty,
9 you didn't have to circle them, some did. But you circled
10 three of them.

11 PROSPECTIVE JUROR: All except the death
12 penalty.

13 MR. OWENS: You left the death penalty
14 off, right?

15 PROSPECTIVE JUROR: Yes.

16 MR. OWENS: And then down below that you
17 said B and C is okay, but thou shalt not kill. B and C
18 would not include the death penalty, correct?

19 PROSPECTIVE JUROR: All of it is strong
20 and harsh. I think 40 years, 100 hundred years. That's
21 all tough.

22 MR. OWENS: B and C would be okay, but not
23 the death penalty?

24 PROSPECTIVE JUROR: Correct.

25 MR. OWENS: And then where it talked about

185

1 strong moral and religious views about the death penalty,
2 and you said, is it right to say anybody should take life
3 from another person. What did you mean by that?

4 PROSPECTIVE JUROR: The same thing I have
5 been saying. That another human being doesn't have the
6 right to take somebody else's life.

7 MR. OWENS: And you feel that that would
8 include the jurors coming back with a judgment of death.

9 PROSPECTIVE JUROR: Yes.

10 MR. OWENS: They shouldn't be allowed to
11 do that?

12 PROSPECTIVE JUROR: They shouldn't be.

13 MR. OWENS: If you heard all of the
14 evidence in this case and you felt that death was the
15 appropriate verdict, would you be able to come back with
16 that judgment?

17 PROSPECTIVE JUROR: I would be, yes.

18 MR. OWENS: So even though religiously you
19 feel like the death penalty shouldn't be allowed, you feel
20 that that's something you could still do?

21 PROSPECTIVE JUROR: Correct.

22 MR. OWENS: You said that you had a number
23 of individuals close to you that had been involved in the
24 criminal justice system.

25 PROSPECTIVE JUROR: Yes.

186

1 MR. OWENS: I think -- did you say there
2 were four, a brother, a nephew, a husband, and a son?

3 PROSPECTIVE JUROR: Correct. If I keep
4 thinking, there might be more than that. In-laws, that
5 counts to, right, cousins, nephews.

6 MR. OWENS: Have you been close to these
7 people?

8 PROSPECTIVE JUROR: Definitely.

9 MR. OWENS: Now, some of these instances
10 occurred out of state, or are they all here in this area?

11 PROSPECTIVE JUROR: Most of them is right
12 here. A majority I would say is right here.

13 MR. OWENS: Did some of these go to trial?

14 PROSPECTIVE JUROR: All of them -- no, my
15 son hasn't been to trial yet. He's waiting for a trial.

16 MR. OWENS: In this jurisdiction,
17 awaiting trial?

18 PROSPECTIVE JUROR: Correct.

19 MR. OWENS: How old is your son?

20 PROSPECTIVE JUROR: 22.

21 MR. OWENS: When is that trial date coming
22 up?

23 PROSPECTIVE JUROR: I have no idea.

24 MR. OWENS: What's the charge there?

25 PROSPECTIVE JUROR: Assault, domestic

187

1 assault.

2 MR. OWENS: Domestic assault. Is he
3 currently in custody?

4 PROSPECTIVE JUROR: He's in prison.

5 MR. OWENS: He must have had a trial.

6 Unless he's in for something else.

7 PROSPECTIVE JUROR: He was on parole,
8 yeah.

9 MR. OWENS: They revoked him?

10 PROSPECTIVE JUROR: Yeah.

11 MR. OWENS: How often do you see him?

12 PROSPECTIVE JUROR: I just saw him
13 recently. I try every week. It's a recent case. When he
14 was a juvenile he had been in trouble off and on. I am
15 the one that asked the judge to lock him up and put him
16 away.

17 MR. OWENS: That didn't work for him back
18 then?

19 PROSPECTIVE JUROR: They didn't have a
20 work farm. But just in and out of what's that Spring
21 Mountain thing.

22 MR. OWENS: Youth camp. And your husband,
23 what was the situation with him?

24 PROSPECTIVE JUROR: In and out of jail
25 more than half of his life -- burglary, robbery.

188

1 MR. OWENS: Is he in our out.
 2 PROSPECTIVE JUROR: He's out now.
 3 MR. OWENS: When was the last time he had
 4 difficulty with the law?
 5 PROSPECTIVE JUROR: With him?
 6 MR. OWENS: Yeah.
 7 PROSPECTIVE JUROR: Since he got out he's
 8 been pretty good. He hasn't went back.
 9 MR. OWENS: Since he got out of prison.
 10 PROSPECTIVE JUROR: Right, in '98.
 11 MR. OWENS: That's pretty good. That's
 12 awhile ago. What sort of charges were those back then?
 13 PROSPECTIVE JUROR: Burglary, robbery.
 14 MR. OWENS: Anything violent, assault on
 15 anybody?
 16 PROSPECTIVE JUROR: No. I think they just
 17 passed that law at the time that had to do with senior
 18 citizens, so he got a lot of time for that.
 19 MR. OWENS: Then you said there was a
 20 nephew.
 21 PROSPECTIVE JUROR: My nephew is still in
 22 prison.
 23 MR. OWENS: Was that here in Clark County?
 24 PROSPECTIVE JUROR: Yes.
 25 MR. OWENS: What kind of charge was that?

189

1 PROSPECTIVE JUROR: That one was kind of
 2 messed up. I think he was accused of robbery, I believe.
 3 I don't know all the charges, but it was robbery. He was
 4 by himself and five Mexicans, he got accused of
 5 everything. So he was beaten up real bad. It was a bad
 6 case, a biased case.
 7 MR. OWENS: Well on question 32, when you
 8 were asked if you felt like the person was treated fairly
 9 you said yes on some members, not fair on some.
 10 PROSPECTIVE JUROR: That's one of them. I
 11 have been talking about his case. It was at an early age.
 12 He got a lot of time.
 13 MR. OWENS: Then you mentioned a
 14 brother.
 15 PROSPECTIVE JUROR: Yes, my brother.
 16 MR. OWENS: Was that here in town also?
 17 PROSPECTIVE JUROR: Yes.
 18 MR. OWENS: He actually went to prison,
 19 but it was something he didn't do. But because we was
 20 affiliate at the time with gang members, so that's what
 21 happen to him. But back in that situation he went to
 22 prison for my ex-boyfriend and my sister confessed doing
 23 it at the time -- sister boyfriend doing that crime that
 24 he spent the time for in jail.
 25 MR. OWENS: How long ago was that?

190

1 PROSPECTIVE JUROR: Years ago.
 2 MR. OWENS: How is he doing now.
 3 PROSPECTIVE JUROR: Staying out of jail.
 4 MR. OWENS: You said there was some other
 5 ones in your family. Any that are currently pending
 6 trial, other than maybe your son?
 7 PROSPECTIVE JUROR: That's the only one
 8 pending trial.
 9 MR. OWENS: As far as you know.
 10 PROSPECTIVE JUROR: Well, when he was in
 11 the county jail he said he had an assault case. He said
 12 it was self defense, that's why they gave him more time
 13 here. He's got to go back on that and get more time. He
 14 wanted me to check on that. He's not sure how it's
 15 going.
 16 MR. OWENS: That was an incident that
 17 happen in the jail?
 18 PROSPECTIVE JUROR: Yes, in the jail.
 19 MR. OWENS: And some of these had a trial,
 20 pleas of guilt or something. Did you appear in court with
 21 him at any time?
 22 PROSPECTIVE JUROR: Yes.
 23 MR. OWENS: Do you go to court? Did you
 24 ever testify?
 25 PROSPECTIVE JUROR: No. I haven't

191

1 testified for any of them. I was personally a victim one
 2 time and I went to court to testify. Then I was subpoena
 3 again because they did something else and I testified.
 4 MR. OWENS: The only time you've testified
 5 was in your own case?
 6 PROSPECTIVE JUROR: Right.
 7 MR. OWENS: How long ago was that one?
 8 PROSPECTIVE JUROR: That was in like
 9 the -- probably in late 80s, 90s.
 10 MR. OWENS: The other times you would go
 11 to court for family, relatives, sort of like moral
 12 support?
 13 PROSPECTIVE JUROR: Definitely.
 14 MR. OWENS: And the prosecutions against
 15 these people would have been in these courts in this
 16 building or the other building down the street before we
 17 moved?
 18 PROSPECTIVE JUROR: Right.
 19 MR. OWENS: The prosecutor on that case
 20 would have been prosecutors from our office, the DA's
 21 office?
 22 PROSPECTIVE JUROR: Right.
 23 MR. OWENS: It wasn't anything that
 24 Ms. Weckerly or I were involved in?
 25 PROSPECTIVE JUROR: I don't think so.

192

1 MR. OWENS: And you feel after hearing all
2 the facts and circumstances in the case if you thought
3 that the death was the right punishment that that's
4 something you could do?

5 PROSPECTIVE JUROR: Yeah. I know I could.
6 I can.

7 MR. OWENS: That's all I have, your
8 Honor.

9 THE COURT: Pass for cause?

10 MR. OWENS: Yes.

11 THE COURT: Thank you. Mr. Schieck.

12 MR. SCHIECK: Thank you, your Honor.

13 Ms. Theus, just a couple of questions,
14 just to be sure. I mean in the questionnaire you said you
15 would consider the death penalty under certain
16 circumstances.

17 PROSPECTIVE JUROR: Right.

18 MR. SCHIECK: And that's after you had
19 time to read everything that was in here and understood
20 what the questions are about. You want to hear all of the
21 evidence in the case?

22 PROSPECTIVE JUROR: Yes. I want to,
23 yes.

24 MR. SCHIECK: You would follow the law and
25 the instructions?

193

1 PROSPECTIVE JUROR: Definitely.
2 MR. SCHIECK: Thank you. We pass for
3 cause, your Honor.
4 THE COURT: Thank you. Ms. Noahr.
5 MS. WECKERLY: Ma'am, you wrote on your
6 questionnaire that there was experiences in your childhood
7 with your mother and substance abuse with alcohol.

8 PROSPECTIVE JUROR: My Mother, yeah.

9 MS. WECKERLY: Was she the one who was
10 abusing alcohol, or she was the victim of abuse?

11 PROSPECTIVE JUROR: Both my parents
12 were.

13 MS. WECKERLY: And was this something that
14 you were present for as a child, you'd see some of this?

15 PROSPECTIVE JUROR: I was eight years old.
16 My mother divorced my father at that point.

17 MS. WECKERLY: Did you go with your mom?

18 PROSPECTIVE JUROR: Yes.

19 MS. WECKERLY: This is kind of a hard
20 question, do you remember it. You said you were eight
21 years old or younger. Do you remember seeing that?

22 PROSPECTIVE JUROR: Yes. I had two
23 younger sibling that I took care of.

24 MS. WECKERLY: You were the protector?

25 PROSPECTIVE JUROR: Correct.

194

1 MS. WECKERLY: Because you grew up in that
2 setting or had that experience at kind of a young age or
3 very young age, do you think you can still be fair and
4 impartial in a case like this?

5 PROSPECTIVE JUROR: Yes.

6 MS. WECKERLY: I read in your
7 questionnaire that I think your son and your ex-husband or
8 both in law enforcement?

9 PROSPECTIVE JUROR: Correct.

10 MS. WECKERLY: Both in North Las Vegas.

11 PROSPECTIVE JUROR: Correct.

12 MS. WECKERLY: Your son is the
13 correction's officer.

14 PROSPECTIVE JUROR: Yes.

15 MS. WECKERLY: And the ex-husband, is he a
16 correction's officer?

17 PROSPECTIVE JUROR: No. He's captain over
18 the correction's officers right now. Temporary.

19 MS. WECKERLY: Okay. But the fact that
20 you have these two -- your ex-husband, obviously, your son
21 working in a law enforcement capacity, you can still be
22 fair to both sides?

23 PROSPECTIVE JUROR: I believe I can,
24 yes.

25 MS. WECKERLY: You indicated on your

195

1 questionnaire that you could consider the death penalty as
2 a potential punishment?

3 PROSPECTIVE JUROR: Correct.

4 MS. WECKERLY: You also said you are
5 someone that's pretty open-minded?

6 PROSPECTIVE JUROR: Correct.

7 MS. WECKERLY: As we've discussed with
8 several of the other prospective jurors, you don't have
9 any problem with listening to both sides and formulating
10 your opinion?

11 PROSPECTIVE JUROR: I have no problem.

12 MS. WECKERLY: Someone who wants to hear
13 all the evidence?

14 PROSPECTIVE JUROR: Most definitely.

15 MS. WECKERLY: Thank you. Pass for
16 cause.

17 THE COURT: Mr. Patrick.

18 MR. PATRICK: Ms. Noahr, is that correct?

19 PROSPECTIVE JUROR: Yes.

20 MR. PATRICK: Now the abuse that your
21 father did on your mother, you were old enough to remember
22 that?

23 PROSPECTIVE JUROR: Yes.

24 MR. PATRICK: Do you think that that was
25 any reason why your mother abused alcohol?

196

1 PROSPECTIVE JUROR: They both were
2 alcoholics. They both drank together.
3 MR. PATRICK: Do you think that that whole
4 history in any way would color the way you look at any of
5 the testimony you heard?
6 PROSPECTIVE JUROR: No. I don't believe
7 so.
8 MR. PATRICK: You'll remain open-minded.
9 PROSPECTIVE JUROR: Yes.
10 MR. PATRICK: Even if some of the
11 testimony you heard made you think back to when you were 8
12 years old?
13 PROSPECTIVE JUROR: It's not a problem.
14 MR. PATRICK: And you said you had two
15 younger siblings at this time?
16 PROSPECTIVE JUROR: Correct.
17 MR. PATRICK: And you were their care
18 giver?
19 PROSPECTIVE JUROR: Right.
20 MR. PATRICK: If there was something like
21 that, would that color your impressions of this case?
22 PROSPECTIVE JUROR: What do you mean?
23 MR. PATRICK: You were an older sibling
24 that had to take care of two younger siblings, basically
25 your situation, would that change your feelings?

197

1 PROSPECTIVE JUROR: I don't believe it
2 would.
3 MR. PATRICK: You could still keep and
4 open-mind?
5 PROSPECTIVE JUROR: Yes.
6 MR. PATRICK: You'd look at all of the
7 evidence and listen to everybody and make up your mind?
8 PROSPECTIVE JUROR: Most definitely.
9 MR. PATRICK: The fact that your son and
10 ex-husband are both in law enforcement -- and I know the
11 judge asked this -- would you tend to give more weight to
12 their testimony to a law enforcement officer, then to
13 somebody else?
14 PROSPECTIVE JUROR: No. They're just like
15 us.
16 MR. PATRICK: You can still be fair and
17 take their testimony for whatever it's worth, and give it
18 as much weight you thought necessary. It has nothing to
19 do with the fact they're police officers?
20 PROSPECTIVE JUROR: Correct.
21 MR. PATRICK: So basically you keep an
22 open mind. That's the best we can hope for, right?
23 PROSPECTIVE JUROR: Yes.
24 MR. PATRICK: Thank you. Pass for cause,
25 your Honor.

198

1 THE COURT: Thank you. Ms. Weckerly, as
2 to Ms. Martino.
3 MS. WECKERLY: Ma'am, you also mentioned
4 on your questionnaire that you grew up with some abuse?
5 PROSPECTIVE JUROR: Yes.
6 MS. WECKERLY: I think the way you put it
7 your dad beat your brother, your sister, and your mom, but
8 not you?
9 PROSPECTIVE JUROR: Right.
10 MS. WECKERLY: How did you escape that?
11 PROSPECTIVE JUROR: I was a coward. I ran
12 to the corner. I didn't talk back, they did.
13 MS. WECKERLY: How old were you when this
14 happened?
15 PROSPECTIVE JUROR: When it started, what
16 I remember, maybe five or six.
17 MS. WECKERLY: So you remember it?
18 PROSPECTIVE JUROR: I remember most of it.
19 MS. WECKERLY: So from what you are
20 describing, I assume at that age, it was sort of a fearful
21 place being in the home?
22 PROSPECTIVE JUROR: Yes.
23 MS. WECKERLY: To say the least.
24 PROSPECTIVE JUROR: Yes.
25 MS. WECKERLY: The fact that you have had

199

1 that experience and grew up in that setting, do you think
2 that you can put that out of your mind and make your
3 decision in this case on the information you hear in this
4 courtroom?
5 PROSPECTIVE JUROR: I think that as an
6 adult I can forget. But there's still that child in your
7 brain that remembers that.
8 MS. WECKERLY: Sure. And I don't think
9 that we can realistically expect anyone to forget, or --
10 that's not part of who I am anymore. Because that's such
11 a significant event. But what we need from you now is a
12 commitment that you can make a decision in this courtroom
13 and be fair to both sides.
14 PROSPECTIVE JUROR: I would like to think
15 so.
16 MS. WECKERLY: Okay. And you're someone,
17 I assume, who can follow the law in the judge's
18 instructions?
19 PROSPECTIVE JUROR: Yes.
20 MS. WECKERLY: And you can communicate and
21 give your opinion to your fellow jurors?
22 PROSPECTIVE JUROR: Yes.
23 MS. WECKERLY: Are you someone who can --
24 wants to hear all the information before you make a
25 decision?

200

1 PROSPECTIVE JUROR: Yes.
 2 MS. WECKERLY: As we've talked about with
 3 some of the other prospective jurors, you're not someone
 4 who has made up their mind as to going to sit here now and
 5 says I'm automatically giving this punishment rather than
 6 another one?
 7 PROSPECTIVE JUROR: No. But I lean toward
 8 the death penalty.
 9 MS. WECKERLY: There is no -- there is no
 10 issue with that, so long as you can tell us that you can
 11 consider, or be open to hearing information then consider
 12 all possible punishments.
 13 PROSPECTIVE JUROR: I could.
 14 MR. PATRICK: And you can consider what
 15 information is presented to you and take heed of what you
 16 think is important and disregard what you think doesn't
 17 have a whole lot of bearing?
 18 PROSPECTIVE JUROR: Yes.
 19 MR. PATRICK: Then make a decision.
 20 PROSPECTIVE JUROR: Yes.
 21 MS. WECKERLY: And I assume from your
 22 comments if you think the death penalty is appropriate in
 23 this case, you wouldn't have any trouble voting for that?
 24 PROSPECTIVE JUROR: Not at all.
 25 MS. WECKERLY: And likewise if you hear

201

1 something that makes you think that this should not be an
 2 appropriate sentence, you can pick another sentence from
 3 the remaining?
 4 PROSPECTIVE JUROR: See, I can't imagine
 5 any justification for murdering someone -- intentionally
 6 murdering someone.
 7 MS. WECKERLY: I mean, as we have
 8 discussed with some of the other jurors, not all cases of
 9 first degree murder are even eligible for the death
 10 penalty. There are certain legal requirements that have
 11 to be met before a jury can consider it as a potential
 12 punishment. Those requirements will be explained to you
 13 by Judge Herndon. He will give you the law on that. I
 14 assume you'll be able to follow that?
 15 PROSPECTIVE JUROR: Yes.
 16 MS. WECKERLY: Then once, assuming that
 17 those requirements are met, and I assume you'll hold us to
 18 our burden -- because that's what's required by law -- you
 19 will be able to follow that rule?
 20 PROSPECTIVE JUROR: Yes.
 21 MS. WECKERLY: Then you just, with your
 22 fellow jurors, make a determination what you think is
 23 appropriate. At that point you'll be able to do that?
 24 PROSPECTIVE JUROR: Yes.
 25 MS. WECKERLY: Thank you. Pass for

202

1 cause.
 2 THE COURT: Mr. Patrick.
 3 MR. PATRICK: Good afternoon, Ms. Martino.
 4 PROSPECTIVE JUROR: Hi.
 5 MR. PATRICK: Talking about your father
 6 and domestic violence, would that cover your opinion as to
 7 what would go on in this case if somebody had a history of
 8 domestic violence?
 9 PROSPECTIVE JUROR: It might.
 10 MR. PATRICK: Do you feel strongly about
 11 that?
 12 PROSPECTIVE JUROR: Yes.
 13 MR. PATRICK: Now, you were asked if you
 14 already formed an opinion about this case, and you checked
 15 the box mark, yes, correct?
 16 PROSPECTIVE JUROR: Yes.
 17 MR. PATRICK: And do you remember what you
 18 wrote underneath that?
 19 PROSPECTIVE JUROR: No. But what I would
 20 say now is he was convicted.
 21 MR. PATRICK: And therefore?
 22 PROSPECTIVE JUROR: And therefore --
 23 MR. PATRICK: Well, he was convicted and
 24 therefore is there any more to that sentence?
 25 PROSPECTIVE JUROR: No.

203

1 MR. PATRICK: Do you remember writing he
 2 should be put to death the same way he killed his
 3 girlfriend?
 4 PROSPECTIVE JUROR: Yes.
 5 MR. PATRICK: Do you believe that?
 6 PROSPECTIVE JUROR: Yes.
 7 MR. PATRICK: So that means if his
 8 girlfriend was shot, he should be taken out back and shot?
 9 PROSPECTIVE JUROR: Yes.
 10 MR. PATRICK: And if his girlfriend was
 11 strangled, he should be taken out back and strangled?
 12 PROSPECTIVE JUROR: Yes.
 13 MR. PATRICK: No questions asked?
 14 PROSPECTIVE JUROR: Nope.
 15 MR. PATRICK: Also the question, it talked
 16 about Mr. Chappell being an African-American male. You
 17 were asked if that would affect your ability to be fair
 18 and impartial? Do you remember what you wrote?
 19 PROSPECTIVE JUROR: It might.
 20 MR. PATRICK: Do you remember writing,
 21 yes, that it was programmed from childhood. Could you
 22 explain that?
 23 PROSPECTIVE JUROR: Yes. I come from a
 24 very small town in Ohio. I was born quite some time ago
 25 and things were different then.

204

1 MR. PATRICK: Then, again, on the question
2 what are your feelings about the death penalty, you wrote
3 a person should be put to death the same way he killed his
4 victim.

5 PROSPECTIVE JUROR: Yes.

6 MR. PATRICK: Another question where you
7 were asked if there was anything that would prevent you
8 from sitting as a fair and impartial juror. And you
9 checked, yes. I believe underneath it you said you would
10 be prone to go along with the group to avoid ridicule.

11 PROSPECTIVE JUROR: I would what? Yes,
12 sometimes I am.

13 MR. PATRICK: So you consider yourself a
14 follower than?

15 PROSPECTIVE JUROR: Yes.

16 MR. PATRICK: If your opinion was
17 unpopular with the rest of the jury you'd go along with
18 them so they wouldn't badger you or ridicule you?

19 PROSPECTIVE JUROR: I might.

20 MR. PATRICK: Then again on the question
21 where it said your beliefs about the death penalty, would
22 you vote automatically for it and you wrote, yes.
23 Remember that?

24 PROSPECTIVE JUROR: No.

25 MR. PATRICK: The last question was, do
205

1 you want to serve on this jury. Do you remember what you
2 wrote?

3 PROSPECTIVE JUROR: No.

4 MR. PATRICK: Did you write, no. I'm set
5 in my beliefs about killers, child and animal abusers.

6 PROSPECTIVE JUROR: Yes.

7 MR. PATRICK: So if you were sitting where
8 Mr. Chappell was, would you want twelve people like you on
9 this jury?

10 MR. OWENS: I'll object to that question.

11 THE COURT: I'll sustain the objection.

12 MR. PATRICK: Your Honor, we'd strike for
13 cause please.

14 THE COURT: Mr. Owens, as to Ms. Bundren.

15 MR. OWENS: How are you.

16 PROSPECTIVE JUROR: Fine.

17 MR. OWENS: You were a victim at some
18 point. What was that about?

19 PROSPECTIVE JUROR: As I stated earlier,
20 my uncle murdered my aunt.

21 MR. OWENS: Same case, same situation.

22 PROSPECTIVE JUROR: Correct.

23 MR. OWENS: How long was that.

24 PROSPECTIVE JUROR: I believe it was
25 November of 1990 I believe.
206

1 MR. OWENS: So about 16 years ago.

2 PROSPECTIVE JUROR: Yes.

3 MR. OWENS: Were you a witness? Were you
4 involved in that?

5 PROSPECTIVE JUROR: None, whatsoever.

6 MR. OWENS: Where did that occur?

7 PROSPECTIVE JUROR: It occurred at the
8 Lady Luck Hotel.

9 MR. OWENS: Were you living in town at the
10 time?

11 PROSPECTIVE JUROR: I was going to
12 graduate school in San Diego.

13 MR. OWENS: You're from the area, just
14 gone at the time it happened?

15 PROSPECTIVE JUROR: Correct.

16 MR. OWENS: Were you involved in the court
17 process at all?

18 PROSPECTIVE JUROR: I sat there and
19 observed and supported the family. Then when it came to a
20 point where the family had talked to the jurors to
21 convince the jurors why he shouldn't get the death
22 penalty, I chose not to participate in that.

23 MR. OWENS: So the decision was made not
24 the call you to testify?

25 PROSPECTIVE JUROR: That is correct.
207

1 MR. OWENS: Why was that?

2 PROSPECTIVE JUROR: In that particular
3 case I believed he should have received the death
4 penalty.

5 MR. OWENS: Was that something that you
6 felt from the beginning, or something that you came to as
7 you watched the process?

8 PROSPECTIVE JUROR: It was the result of
9 something I found that never made it to trial.

10 MR. OWENS: Some additional evidence?

11 PROSPECTIVE JUROR: Correct.

12 MR. OWENS: That you were aware of?

13 PROSPECTIVE JUROR: Correct.

14 MR. OWENS: That kind of may the
15 difference in your mind?

16 PROSPECTIVE JUROR: Correct.

17 MR. OWENS: What point did you discover
18 that?

19 PROSPECTIVE JUROR: I believe it was
20 approximately the 2 to 3 weeks after Doreen was killed.

21 MR. OWENS: Were other family members
22 aware of that?

23 PROSPECTIVE JUROR: They were.

24 MR. OWENS: But they were supportive of
25 him?
208

1 PROSPECTIVE JUROR: Correct.
 2 MR. OWENS: And you were there to be a
 3 support for the family, but you didn't --
 4 PROSPECTIVE JUROR: Absolutely.
 5 MR. OWENS: Would you say that that was a
 6 traumatic experience for you?
 7 PROSPECTIVE JUROR: Not traumatic,
 8 baffling.
 9 MR. OWENS: Baffling. You still find it
 10 that way?
 11 PROSPECTIVE JUROR: Yes. It reminds me of
 12 how your love and affection for somebody can be blinded by
 13 the facts, and it's hard to separate that -- your brother
 14 or cousin or someone close to you.
 15 MR. OWENS: So you found it sort of a
 16 curious thing that occurred?
 17 PROSPECTIVE JUROR: Well, I think because
 18 families -- the family members I was talking to are very
 19 educated people. And yet despite the education, they
 20 weren't able to step out of the box and look at the facts
 21 and kind of string all of the pearls together.
 22 MR. OWENS: You felt that you were able to
 23 do that?
 24 PROSPECTIVE JUROR: I felt based on the
 25 information I had, that I was very comfortable in my

209

1 conclusion about it. However, like I said, I took time
 2 off from graduate school to go down and listen in hopes
 3 that things would be different. And the conclusion was
 4 that was not the case for me.
 5 MR. OWENS: So it didn't make it any
 6 better by being there?
 7 PROSPECTIVE JUROR: Not for me. It didn't
 8 change my decision. I was there to support the family.
 9 MR. OWENS: You feel good you were there
 10 to be supportive?
 11 PROSPECTIVE JUROR: Absolutely.
 12 MR. OWENS: Is there anything about that
 13 experience that is still with you in a sense that might
 14 come out in an unfair manner in this proceedings?
 15 PROSPECTIVE JUROR: No. I have to say
 16 given everything I was pretty impressed with how fair and
 17 balanced everything was. And that if it started to sway
 18 one way there was somebody in the courtroom to make sure
 19 it got back on track.
 20 MR. OWENS: And your uncle did receive the
 21 death penalty?
 22 PROSPECTIVE JUROR: He received life in
 23 prison. The family was able to convince the jurors that
 24 he should not get the death penalty. So the decision was
 25 to give him life in prison, without the possibility of

210

1 parole.
 2 MR. OWENS: Okay. Was there any
 3 repercussions toward you from other family members?
 4 PROSPECTIVE JUROR: None, whatsoever.
 5 MR. OWENS: Do you discuss it with him
 6 very much?
 7 PROSPECTIVE JUROR: Do I discuss it with
 8 him being --
 9 MR. OWENS: No. Does it come up from time
 10 to time?
 11 PROSPECTIVE JUROR: It does. My mom is
 12 pretty religious about going out to prison, and we've just
 13 sort of taken a stance at this point being a sounding
 14 board. He believes what he believes. Nothing is going to
 15 change him. We just act as a sounding board, try to talk
 16 about other things with him.
 17 MR. OWENS: What is your feeling about the
 18 death penalty, generally?
 19 PROSPECTIVE JUROR: I don't believe in
 20 being cookie cutter about anything in my life. I think
 21 partly because of what I do for a living. I believe that
 22 anytime there's new information you have to run it through
 23 the equation so you may get a different outcome. I
 24 respect the process. I think that after listening to
 25 everything and weighing it, then listening to what the

211

1 judge said, if death penalty is appropriate, then okay.
 2 MR. OWENS: What you're describing is the
 3 process we talked about here?
 4 PROSPECTIVE JUROR: I wish I wasn't here,
 5 but it's what it is. And I'll always respect the process
 6 and follow the instructions.
 7 MR. OWENS: Okay. It's important to keep
 8 an open mind until you've heard all the facts and
 9 circumstances?
 10 PROSPECTIVE JUROR: Absolutely. Again,
 11 because I have administrative decisions on a daily base
 12 that affect people's livelihoods I understand the
 13 importance of listening to people and not making any
 14 decisions until I've heard everything. And treat people
 15 the way I want to be treated.
 16 MR. OWENS: There was one question here
 17 where you didn't want to give an explanation. Remember
 18 that?
 19 PROSPECTIVE JUROR: If you could tell me
 20 the question.
 21 MR. PATRICK: So -- all right with the
 22 court.
 23 THE COURT: Sure.
 24 MR. OWENS: You said you wouldn't
 25 automatically vote for either choice. And saying explain,

212

1 I don't know that required an explanation. You said you
2 didn't want to give one.

3 PROSPECTIVE JUROR: I guess because in my
4 mind my answer was longer than the space would allow. I
5 guess, again, if the circumstances and the fact support,
6 and the instruction was given -- in other words, if the
7 judge said to me if these four things are met you have no
8 choice but to find for the death penalty. That's what
9 I'll do. I'll respect the process. I wish I didn't have
10 to make that decision, but that's what I've been asked to
11 do. And I'm the kind of person who, again, when I make
12 decisions on my job I have to be able to look at that
13 person and feel confident in what I'm saying. I have to
14 live with myself.

15 MR. OWENS: You feel you can do that?

16 PROSPECTIVE JUROR: Yes. The only thing
17 that I think I hadn't thought about it until one of the
18 other jurors brought it up. I had never considered the
19 pictures. And I'll be honest with you, that might be
20 difficult. But again, I'll step out of that box and do
21 what I have to do.

22 MR. OWENS: All right. The process, at
23 some point you're going to learn the process isn't some
24 sort of if this and this and now you're on to the death
25 penalty. No matter what you do in following the law the

213

1 death penalty is always going to be an option. You
2 understand that?

3 PROSPECTIVE JUROR: Yes.

4 MR. OWENS: It's never compelled. Even if
5 you found everything you need to impose the death penalty,
6 you never have to do it. So in the end it's going to be a
7 judgment call. It's not like you're going to be able to
8 say, well, all these things are met so I have to impose
9 the death penalty. It's never going to happen.

10 More likely what's going to be, you'll look at it,
11 and based on all the facts and circumstances, this
12 particular crime it's appropriate. You understand that?

13 PROSPECTIVE JUROR: I do.

14 MR. OWENS: Given that full range that you
15 have, if after hearing all the facts and circumstances, if
16 you felt that the death penalty was the fair and
17 appropriate punishment, would you be able to come back
18 with that decision?

19 PROSPECTIVE JUROR: Yes.

20 MR. OWENS: You wouldn't be inclined to
21 settle for something less than that because you felt like
22 it was an easier choice?

23 PROSPECTIVE JUROR: No. Again, there are
24 a lot of times my job where I believe somebody has been
25 discriminated against, but the facts and circumstances

214

1 dictate that I cannot find in favor, that's what I need to
2 do.

3 MR. OWENS: You feel you can do what is
4 fair and appropriate to your mind and the rest of the
5 jurors at the end of the case?

6 PROSPECTIVE JUROR: Yes.

7 MR. OWENS: Thanks. Pass for cause.

8 THE COURT: Mr. Schieck.

9 MR. SCHIECK: Thank you, your Honor.

10 PROSPECTIVE JUROR: Correct.

11 MR. SCHIECK: On your court generated
12 information sheet it says investigator, but I see here
13 you're masters is in public administration.

14 PROSPECTIVE JUROR: Correct.

15 MR. SCHIECK: Are you in administration
16 here an investigator or whatever?

17 PROSPECTIVE JUROR: I'm an EEC
18 investigator and mediator.

19 MR. SCHIECK: You work for the Nevada
20 Equal Rights Commission?

21 PROSPECTIVE JUROR: Correct.

22 MR. SCHIECK: So a complaint comes in
23 about discrimination and the complaining employee follows
24 the proper steps and you're assigned to investigate
25 whether or not there has been discrimination in a

215

1 particular work place or environment?

2 PROSPECTIVE JUROR: I'm there to determine
3 whether or not there's been a violation of law based on
4 the facts presented, then I'm also a mediator.

5 MR. SCHIECK: A mediator between the
6 parties to the allegation?

7 PROSPECTIVE JUROR: We'd be a separate
8 case because of the fact you can't be a fact finder and
9 mediator for a different case.

10 MR. SCHIECK: You try to reach a
11 reasonable resolution?

12 PROSPECTIVE JUROR: My job is to help --
13 my job is to not make the decision, but to help both
14 parties better communicate and come to a conclusion or
15 settlement themselves.

16 MR. SCHIECK: And there was an unfortunate
17 case where your uncle was convicted of killing your aunt;
18 is that correct.

19 PROSPECTIVE JUROR: Correct.

20 MR. SCHIECK: You said that happened at
21 the Lady Luck?

22 PROSPECTIVE JUROR: It happened in the
23 parking lot of the Lady Luck as she was leaving work.

24 MR. SCHIECK: And you indicate that your
25 mother still goes out to see your uncle?

216

1 PROSPECTIVE JUROR: Correct.
 2 MR. SCHIECK: That would be, I assume, her
 3 brother?
 4 PROSPECTIVE JUROR: That's correct.
 5 MR. SCHIECK: So she goes out to visit her
 6 brother out in prison, correct?
 7 PROSPECTIVE JUROR: Correct.
 8 MR. SCHIECK: Do you ever go out?
 9 PROSPECTIVE JUROR: No. I went when he
 10 was in Elko. And just that whole scene and regurgitation
 11 of the whole trail, he just was relentless. I asked him
 12 I'd be happy to come out here to be moral support, but
 13 these are the ground rules and he wasn't willing to abide
 14 by those, so we just made the decision it would be best
 15 for me to no longer go out there to visit him.
 16 MR. SCHIECK: Is it a situation where he's
 17 indicating that he's not guilty of the charges?
 18 PROSPECTIVE JUROR: Correct.
 19 MR. SCHIECK: So he still hasn't accepted
 20 responsibility, in your mind, for having committed the
 21 homicide?
 22 PROSPECTIVE JUROR: It's his belief that
 23 he did not do it.
 24 MR. SCHIECK: Okay. Now, with your
 25 educational background and being a long-time resident

217

1 here, I assume you're familiar with other cases of
 2 homicide that happened in Clark County. Do you pay any
 3 attention to those?
 4 PROSPECTIVE JUROR: Just so I'm clear.
 5 From 1987 to 1993 I wasn't a resident here. And since
 6 then, I occasionally catch sort of glimpses on the news.
 7 But I don't follow anything per se.
 8 MR. SCHIECK: Would it be fair to say that
 9 you don't believe the death penalty is appropriate in
 10 every first degree murder case?
 11 PROSPECTIVE JUROR: That is correct.
 12 MR. SCHIECK: In a particular case that
 13 you had some personal knowledge of, you thought it was
 14 appropriate, but you don't necessarily think it's
 15 appropriate in every other case?
 16 PROSPECTIVE JUROR: Correct.
 17 MR. SCHIECK: You would have an open mind
 18 in wanting to hear all of the evidence before you made
 19 that decision?
 20 PROSPECTIVE JUROR: Absolutely.
 21 MR. SCHIECK: Thank you. We would pass
 22 for cause, your Honor.
 23 THE COURT: Thank you. Mr. Owens, as to
 24 Ms. Smith.
 25 MR. OWENS: Ms. Lori Smith?

218

1 PROSPECTIVE JUROR: Yes.
 2 MR. OWENS: You had some experience where
 3 you were a witness or something to a violent crime?
 4 PROSPECTIVE JUROR: Yes.
 5 MR. OWENS: How long ago was that?
 6 PROSPECTIVE JUROR: It was late '89 or
 7 early '90.
 8 MR. OWENS: You were actually a witness?
 9 PROSPECTIVE JUROR: Basically, yeah.
 10 MR. OWENS: Is that in this community?
 11 PROSPECTIVE JUROR: Yes.
 12 MR. OWENS: What was involved in that?
 13 PROSPECTIVE JUROR: It was a murder.
 14 MR. OWENS: What happened?
 15 PROSPECTIVE JUROR: A murder was committed
 16 in the same house I was in. I didn't see it with my own
 17 eyes, but I was there for the rest of it.
 18 MR. OWENS: Was that a traumatic thing for
 19 you?
 20 PROSPECTIVE JUROR: Yes, sir.
 21 MR. OWENS: Did you testify in a court
 22 case?
 23 PROSPECTIVE JUROR: Only in the
 24 preliminary.
 25 MR. OWENS: Preliminary hearing?

219

1 PROSPECTIVE JUROR: Yes.
 2 MR. OWENS: Was there a resolution after
 3 that?
 4 PROSPECTIVE JUROR: They didn't call me any
 5 more.
 6 MR. OWENS: Do you know what happen with
 7 the case?
 8 PROSPECTIVE JUROR: I believe he might
 9 have been let go for self-defense, maybe.
 10 MR. OWENS: Well, they didn't have a
 11 trial on it though?
 12 PROSPECTIVE JUROR: I think they did.
 13 MR. OWENS: But you weren't called?
 14 PROSPECTIVE JUROR: No.
 15 MR. OWENS: That's because you didn't
 16 actually see what happened?
 17 PROSPECTIVE JUROR: Right.
 18 MR. OWENS: Anything about that experience
 19 that gave you feelings that are so strong that they might
 20 spill over into this case in an unfair manner?
 21 PROSPECTIVE JUROR: No.
 22 MR. OWENS: You're not harboring any
 23 resentment about anything?
 24 PROSPECTIVE JUROR: No.
 25 MR. OWENS: Did you know the victim?

220

1 PROSPECTIVE JUROR: Yes.
 2 MR. OWENS: Were you close with the
 3 victim?
 4 PROSPECTIVE JUROR: No.
 5 MR. OWENS: You were asked a number of
 6 questions about the death penalty. You indicated that you
 7 don't have any problem with the death penalty as an
 8 option?
 9 PROSPECTIVE JUROR: Right.
 10 MR. OWENS: Do you understand that it's
 11 one of the four potential options that are available to
 12 the jury?
 13 PROSPECTIVE JUROR: Right.
 14 MR. OWENS: Are you okay with that?
 15 PROSPECTIVE JUROR: That there being other
 16 options?
 17 MR. OWENS: That there are four options.
 18 PROSPECTIVE JUROR: Yeah.
 19 MR. OWENS: That is something you can
 20 abide by?
 21 PROSPECTIVE JUROR: Yeah.
 22 MR. OWENS: Then one place in here, you
 23 were asked if you formed an opinion about the case. And
 24 you indicated, yes, that you already formed an opinion.
 25 Is that based upon the factual statement that he'd already
 221

1 been convicted?
 2 PROSPECTIVE JUROR: Yes.
 3 MR. OWENS: Of the crime?
 4 PROSPECTIVE JUROR: Yes.
 5 MR. OWENS: Now you understand that of the
 6 four options, not every first degree murder is
 7 automatically a death penalty. You understand that?
 8 PROSPECTIVE JUROR: I understand that.
 9 That's not my opinion.
 10 MR. OWENS: Your opinion is that first
 11 degree murder should be a death penalty?
 12 PROSPECTIVE JUROR: Yes, sir.
 13 MR. OWENS: So if you are a legislator,
 14 you might want to change the law to be more like Texas,
 15 that's what they got in Texas, where it's automatic?
 16 PROSPECTIVE JUROR: Yes.
 17 MR. OWENS: But you're not the legislator.
 18 And we are living by the rules of Nevada here.
 19 PROSPECTIVE JUROR: Right.
 20 MR. OWENS: And do you feel you can apply
 21 the procedure that we have in Nevada in this case, if you
 22 are selected for the jury?
 23 PROSPECTIVE JUROR: No.
 24 MR. OWENS: So even though you feel like
 25 it should be something different, and even though you
 222

1 understand that Nevada has a different set of rules, what
 2 you're saying is you don't think you can abide by those
 3 rules?
 4 PROSPECTIVE JUROR: No, sir.
 5 MR. OWENS: You would want to give the
 6 death penalty automatically?
 7 PROSPECTIVE JUROR: Yes, sir.
 8 MR. OWENS: You think it's important to
 9 hear all the facts and circumstances surrounding the
 10 murder before you decide which penalty should be
 11 appropriate?
 12 PROSPECTIVE JUROR: Yeah, it's important.
 13 But I'm not one of the people to do it. I have a very set
 14 thought, and what -- by the way the questioning is on the
 15 questionnaire, I have already formed the opinion.
 16 MR. OWENS: So even though you haven't
 17 heard all the facts and circumstances, you feel the death
 18 penalty was always appropriate and that's what you would
 19 do?
 20 PROSPECTIVE JUROR: Yes.
 21 MR. OWENS: No further questions, your
 22 Honor.
 23 THE COURT: Mr. Schieck.
 24 MR. SCHIECK: Challenge for cause, your
 25 Honor.
 223

1 THE COURT: All right. Let's take a
 2 recess for a few minutes, ladies and gentlemen.
 3 JURY ADMONITION
 4 During the recess, ladies and gentlemen,
 5 you are admonished not to converse among yourselves or
 6 with anyone else, including, without limitation, the
 7 lawyers, parties and witnesses, on any subject connected
 8 with this trial, or any other case referred to during it,
 9 or read, watch, or listen to any report of or commentary
 10 on the trial, or any person connected with this trial, or
 11 any such other case by any medium of information
 12 including, without limitation, newspapers, television,
 13 internet or radio.
 14 You are further admonished not to form or
 15 express any opinion on any subject connected with this
 16 trial until the case is finally submitted to you.
 17 (Brief recess taken.)
 18 THE COURT: You want to talk real quick
 19 about the challenges for cause?
 20 MR. OWENS: Okay.
 21 THE COURT: The State have any remarks to
 22 make as to the first, Ms. Ruis.
 23 MR. OWENS: Which are we looking at, your
 24 Honor?
 25 THE COURT: Ms. Ruis is up in seat number
 224

1 one -- Badge 81. The next one that was challenged for
2 cause was Mr. Ramirez -- Badge 034. Then Ms. Martino --
3 038. She's in the chair closest to you on the side of the
4 jury box. The last one is Ms. Smith -- 045.

5 MR. OWENS: Well, I don't have anything to
6 add on Ms. Ruis, I don't think.

7 THE COURT: Okay.

8 MR. OWENS: On Ms. Martino, there's a
9 disparity to what she's saying in court and in her
10 questionnaire. But people are free to expound and explain
11 their answers. She -- I think the way it was left was she
12 could consider the options, and that she may be a person
13 that tends to be a follower. But that's not a reason to
14 kick somebody for cause.

15 In regard to Mr. Ramirez -- number 24, you
16 know, he's not any different than Mr. Theus, I don't think
17 in the sense we didn't challenge that person for cause.
18 But it's the same thing. Basically what they were saying
19 was that they were looking at the way they would want to
20 have it, versus the way it is. And all through her
21 questionnaire she was saying she couldn't do it. And she
22 didn't believe in the death penalty and that kind of
23 thing. That was a 180 degree turn around. If you kick
24 Ramirez, in fairness in proportional responses, you have
25 to kick Ms. Theus as well. So I think that's the sum of

225

1 did to the victim.

2 I don't think there's any question as to
3 what her feelings are and to how she would vote. She's
4 certainly not going to look at anything but the fact that
5 Mr. Chappell was convicted of murder. And as far as she's
6 concern he should be taken out today and stabbed to
7 death.

8 Also whether or not -- that is a very
9 compelling reason, but even putting that aside, she's a
10 definite follower. She's not going to make up her own
11 mind. Whatever the group says, she's going to go with.
12 And I think something this important, we need to have
13 somebody that makes some semblance of having their own
14 mind in making up their own mind.

15 As far as Mr. Ramirez, well, I mean, he's
16 from Texas. He likes the way Texas does things. He
17 thinks that we should not even be here because
18 Mr. Chappell was found guilty of first degree murder.
19 According to him there is no option. The death penalty is
20 it, and that's it.

21 The other thing about him, not only is he
22 ex-military, but he's ex-special forces. His mind is made
23 up. There's nobody on that jury that's ever going to
24 change his mind. I mean, being ex-military myself, I know
25 his type. He's not going to change his mind. He's not

227

1 it, your Honor.

2 THE COURT: All right. What about
3 anything at to Ms. Smith, the last lady.

4 MR. OWENS: Nothing on that.

5 THE COURT: All right.

6 MR. OWENS: She's clear.

7 THE COURT: Mr. Schieck or Mr. Patrick any
8 of those folks. I'm going to excuse Ms. Ruis and
9 Ms. Smith.

10 The question in my mind is kind of I
11 excuse them now and put people there, or just ask if we
12 pass a little more than thirty-two for cause and let them
13 all go. I don't want people to continue to kind of figure
14 out this is a good reason to bring up. My intent, as I
15 sit here thinking, is to leave them there. Telling you
16 they're going to be excused for cause so you know. But
17 leave them there for now as we continue on with the
18 questioning.

19 How about as to Mr. Ramirez and Ms.
20 Martino?

21 MR. PATRICK: Yes, Judge. Ms. Martino, I
22 don't think there was really any question. Not only is
23 she going to automatically vote for the death penalty, but
24 she made it very clear that anybody that kills anybody
25 should be taken out and shot, stabbed, hung, whatever they

226

1 going to look at anything. He's by the book. He's very
2 rigid. He has his mind made up that first degree murder
3 only requires one sentence, nothing will ever -- if we
4 could sit here until next week and talk to him, he'll
5 never change his mind on that. He will absolutely vote
6 for the death penalty, no matter what we put on.

7 So I would say that both of those are
8 beyond redemption.

9 MR. OWENS: Your Honor, if I could comment
10 on a couple of things he mentioned.

11 THE COURT: As to who?

12 MR. OWENS: Well, first -- last gentleman,
13 Mr. Ramirez. Being military is not a reason to challenge
14 for cause. On Ms. Martino, her comment about him
15 suffering the same kind of death by stabbing or shooting,
16 I didn't take that to mean that the death penalty should
17 be automatic, but if they receive the death penalty it
18 should be administered in the same way they killed their
19 victim.

20 THE COURT: I agree. I had more problems
21 with Ms. Martino than I did with Mr. Ramirez, to be quite
22 honest. I'll grant the challenge to Ms. Martino.

23 I had a variety of problems with her questionnaire
24 and in questioning in court along racial lines, as well as
25 some of things she was saying. I don't think it's

228

1 appropriate to excuse somebody because they're a follower,
2 but to the extent they kind of indicate not only are they
3 are follower, they may not even vote their own belief in
4 the evidence is a little different.

5 But more than that there was an indication
6 in the questionnaire that she would automatically vote for
7 the death penalty. Meaning that she not only believed
8 that an eye for an eye, for a person who kills should be
9 put to death in the same way, but that she should impose
10 that penalty without question. I believe she readily
11 agreed to Mr. Patrick in questioning in that regard.

12 A lot of times we are balancing between
13 somebody asks a question and the questions were kind of
14 leading by nature and get one answer and get another
15 answer, but I think the answers from Ms. Martino where
16 enough to justify her being excused.

17 I'm going to deny as it pertains to Mr.
18 Ramirez. I agree that his personality would appear to be
19 what you would consider somebody with a hardcore military
20 veteran. But we can't kind of look at people and excuse
21 them because our personal opinions as to their type of
22 personality is such that we believe they'll never change
23 their minds.

24 His questionnaire was one which he
25 indicated he'd consider all forms of punishment. He did

229

1 not indicate that he would vote automatically one way or
2 the other. I think he's wrong about Texas. There are a
3 few forms of punishment that are available there. But
4 nonetheless, somebody that thinks the death penalty is an
5 appropriate form of punishment for first degree murder and
6 thinks that maybe or legislature should change things,
7 that's separate and apart from saying I realize that this
8 is what the law is and I'll consider them all before I
9 make any decision.

10 So I think he answered the questions
11 sufficiently in term of being able to consider everything
12 to not justify him being excused for cause. So I'll deny
13 as pertains to Mr. Ramirez.

14 But again, I'm going to leave Ms. Martino,
15 Ms. Smith and Ms. Theus for now in their places. We'll
16 continue on with the next in order, which is going to be
17 Mr. Morin when we get back.

18 Now, it's about coming up on 4:30 already.
19 I generally don't like to keep everybody after 5:00
20 o'clock the first day they're here because they don't
21 necessarily know how much longer we have.

22 Do you plan going until 5:00? I can go
23 longer if we want to.

24 MR. OWENS: Whatever the court wants.

25 MR. SCHIECK: I don't know if there's any

230

1 problems. They're all from High Desert. They've been
2 here all day, if they have staffing problems or not.

3 THE COURT: Well, Mr. Chappell is staying
4 here now, right?

5 MR. SCHIECK: He's still in their
6 custody.

7 THE COURT: All right. Can you all stay
8 until 5:30?

9 THE OFFICERS: Yes, sir.

10 THE COURT: Okay. We'll play it by ear.
11 But we won't go any later than 5:30.

12 We'll see if we can move through a few more people so
13 we can try and get -- tomorrow, at least, we can get the
14 jury finished up and you all can do openings, if nothing
15 else.

16 MR. PATRICK: I would like, if we could,
17 spend a second clarifying Mr. Owens' objection to my
18 asking whether or not the jury members would want to be on
19 a jury if they were sitting here.

20 THE COURT: I recall a case coming out
21 that indicated that was an improper question. I can't
22 think of the name.

23 MR. OWENS: I don't know if there is a
24 case. Since I have had judges correct this, but to say if
25 one side only would be comfortable having you as a juror

231

1 is not fair. It would have to be both sides, two sides,
2 because both sides have different interests.

3 Frankly we want a jury of police officers if we have
4 a choice. He'd probably rather have a jury of jail
5 individuals. So you ask that question, it really isn't a
6 fair question if you are in the position of the State or
7 the Defendant, would you be comfortable. It's basically
8 like saying can you be fair to both sides.

9 But to say if you were in the position of the
10 Defendant, would you want somebody in your frame of mind
11 sitting on the jury is not a fair question. They can say,
12 yeah, I would vote his way every time, sure he would want
13 me.

14 THE COURT: I understand the argument
15 being made. That's why I seem to believe there's a case
16 that has come out talking about that issue, as to not
17 placing the jurors in a position of a certain party in the
18 litigation.

19 MR. SCHIECK: Well, your Honor, if I may,
20 I would think that that cuts to the heart of the whole
21 thing. If I only had one question to ask each and every
22 juror that's probably one of the most fair questions and
23 one of the most truthful questions they would answer. I
24 think it is probably very proper.

25 I mean, look at the way the death penalty

232

1 is administered in this state, and we're looking for
2 whether or not it's arbitrary and capricious. I think
3 that's a very direct, very good, very poignant question to
4 being asking the jury.

5 THE COURT: Let me look on the break and
6 see if I can find the case I'm thinking of that I think
7 spoke to the issue a little bit. And I'll let you know
8 when I get back out here.

9 We'll be in recess for ten minutes. Okay.
10 Thank you.

11 (Brief recess taken.)

12 THE COURT: Back on the record in
13 C-131341, State of Nevada versus James Chappell. The
14 record will reflect the presence of Mr. Chappell with his
15 attorneys, the State's attorneys. Outside the presence of
16 panel the jury.

17 I can't find the case right now that I'm
18 thinking of, so I'll allow you to ask the questions.
19 We'll only get through a couple more people this evening.
20 I'll see if I can find it this evening on Lexus.

21 MR. SCHIECK: We'll rephrase it to say
22 either party, as opposed to just the Defendant.

23 THE COURT: That's I think what Mr. Owens
24 was objecting to and that's my belief as to what I gleaned
25 from the case I was thinking of was you cannot ask them if

233

1 they can be fair to one side, it has to be fair to both
2 sides in terms of if you were on this jury.

3 Let's get going.

4 THE COURT: Back on the record in
5 C-131341, State of Nevada versus James Chappell. The
6 record will reflect the presence of Mr. Chappell with his
7 attorneys, the State's attorneys. In the presence of our
8 prospective jury.

9 MS. WECKERLY, as to Mr. Morin.

10 MS. WECKERLY: How are you employed?

11 PROSPECTIVE JUROR: Carpenter.

12 MS. WECKERLY: And you're the father of
13 three young girls?

14 PROSPECTIVE JUROR: Correct.

15 MS. WECKERLY: What does your wife do?

16 PROSPECTIVE JUROR: She's a janitor for
17 the school district.

18 MS. WECKERLY: When we were speaking this
19 morning you indicated that a family member had negative
20 contact with the police and the criminal justice system.

21 PROSPECTIVE JUROR: Correct.

22 MS. WECKERLY: Was it your brother?

23 PROSPECTIVE JUROR: My brother.

24 MS. WECKERLY: Was that locally?

25 PROSPECTIVE JUROR: Yes.

234

1 MS. WECKERLY: Were you close to your
2 brother -- or close to him at the time that happened?

3 PROSPECTIVE JUROR: Yes. Kind of, because
4 we kind of having a fallen out because of -- he was on
5 drugs and stuff, just stayed away.

6 MS. WECKERLY: And you think the charge
7 was attempt murder?

8 PROSPECTIVE JUROR: Yes.

9 MS. WECKERLY: Is that charge resolved or
10 was he --

11 PROSPECTIVE JUROR: He's in prison right
12 now.

13 MS. WECKERLY: Prison. Are you still in
14 contact with him? You visit and write; that sort of
15 thing.

16 PROSPECTIVE JUROR: Yes.

17 MS. WECKERLY: Do you feel that he was
18 treated fairly?

19 PROSPECTIVE JUROR: He himself also feels
20 like he was treated fairly. He takes responsibility for
21 what he did.

22 MS. WECKERLY: So I assume your family is
23 probably hoping he does his time and out he comes and
24 straightens out his live and is productive?

25 PROSPECTIVE JUROR: Yes.

235

1 MS. WECKERLY: Did you feel like that the
2 police handled the case fairly or the State prosecutors
3 did?

4 PROSPECTIVE JUROR: Yes.

5 MS. WECKERLY: You indicated on your
6 questionnaire that you are someone that can consider the
7 death penalty as a potential punishment?

8 PROSPECTIVE JUROR: Yes.

9 MS. WECKERLY: You wrote if it fits it
10 must be given?

11 PROSPECTIVE JUROR: Yes.

12 MS. WECKERLY: And Mr. Owens, I think said
13 to our last juror, that the death penalty is never
14 automatic. It's -- there are certain requirements that
15 have to be met before it is a possible punishment or one
16 you can consider. But you are never obligate to impose
17 it.

18 But if I'm reading your questionnaire correctly, you
19 can consider it in some circumstances?

20 PROSPECTIVE JUROR: Yes.

21 MS. WECKERLY: We've spoken to a lot of
22 the prospective jurors about this, and you also indicate
23 this on your questionnaire, you're not someone that is
24 obligated to vote for it or against it. It sounded like
25 you would want to hear information before you made a

236

1 decision.
 2 MS. WECKERLY: Correct.
 3 MS. WECKERLY: So you don't have any
 4 preconceived idea about what you're going to do because
 5 you haven't heard anything?
 6 PROSPECTIVE JUROR: Yes.
 7 MS. WECKERLY: And you could be fair to
 8 both sides.
 9 PROSPECTIVE JUROR: Yes.
 10 MS. WECKERLY: Thank you, sir. Pass for
 11 cause.
 12 THE COURT: Mr. Patrick.
 13 MR. PATRICK: Good afternoon, Mr. Morin.
 14 PROSPECTIVE JUROR: How are you doing.
 15 MR. PATRICK: Your brother was convicted
 16 of attempted murder?
 17 PROSPECTIVE JUROR: Correct.
 18 MR. PATRICK: Is the person that he was
 19 convict of trying to kill was it somebody he knew?
 20 PROSPECTIVE JUROR: No.
 21 MR. PATRICK: You answered yes, you knew
 22 somebody that had a drug abuse problems?
 23 PROSPECTIVE JUROR: Correct.
 24 MR. PATRICK: Was that your brother?
 25 PROSPECTIVE JUROR: I have a few other

237

1 family members, as well.
 2 MR. PATRICK: Does their drug abuse, would
 3 that make you give anymore or any less weight to testimony
 4 given by somebody that used drugs?
 5 PROSPECTIVE JUROR: No.
 6 MR. PATRICK: So you'd keep an open mind?
 7 PROSPECTIVE JUROR: Correct.
 8 MR. PATRICK: You mentioned that the
 9 system was fair, but had lots of loop holes. Can you
 10 expand on that for me.
 11 PROSPECTIVE JUROR: You see some cases get
 12 dismissed over the slightest things, it just doesn't seem
 13 fair.
 14 MR. PATRICK: The slightest thing.
 15 PROSPECTIVE JUROR: A drug trafficker gets
 16 caught and they didn't have the proper document to check
 17 his car.
 18 MR. PATRICK: So you believe that if they
 19 search his car and find these drugs, that those should be
 20 able to be used in trial, whether or not the search was
 21 lawful?
 22 PROSPECTIVE JUROR: Correct.
 23 MR. PATRICK: You mentioned you a cousin
 24 in law enforcement?
 25 PROSPECTIVE JUROR: Yes.

238

1 MR. PATRICK: What does he do?
 2 PROSPECTIVE JUROR: He's a SWAT member in
 3 San Bernardino.
 4 MR. PATRICK: You talk to him a lot?
 5 PROSPECTIVE JUROR: I spoke with him this
 6 weekend.
 7 MR. PATRICK: You're close?
 8 PROSPECTIVE JUROR: Somewhat. He lives in
 9 another state, so every time we go out there we talk.
 10 MR. PATRICK: Him being a police officer,
 11 would that cause you to give greater weight to the
 12 testimony given by a police officer?
 13 PROSPECTIVE JUROR: No. They're just as
 14 human as I am.
 15 MR. PATRICK: So you would be able to
 16 listen to both sides?
 17 PROSPECTIVE JUROR: Yes.
 18 MR. PATRICK: If you were on the jury and
 19 you decided not to impose the death penalty, is that
 20 something you'd have to explain to your cousin why you
 21 won't do that?
 22 PROSPECTIVE JUROR: Yes.
 23 MR. PATRICK: He's understand?
 24 PROSPECTIVE JUROR: He'd understand.
 25 MR. PATRICK: He'd know you listened to

239

1 both sides and felt it didn't fit and that's how you made
 2 your decision -- either way?
 3 PROSPECTIVE JUROR: Correct.
 4 MR. PATRICK: Again, like Ms. Weckerly
 5 said, you wrote down if it fits regarding the death
 6 penalty, if it fits it must be given. She explained
 7 there's never a time when it must be given. So if we
 8 changed that statement to if it fits, it may be given,
 9 could you explain if it fits, what makes it fit?
 10 PROSPECTIVE JUROR: The laws. It's an
 11 option and all options should be explored before giving.
 12 I think if it's an option, if it fit to be given, like if
 13 the crime were heinous enough, if the person was sane when
 14 they did it, or premeditated, I believe it should be
 15 given.
 16 MR. PATRICK: But you'd listen to
 17 everything before you make that decision?
 18 PROSPECTIVE JUROR: Sure.
 19 MR. PATRICK: Pass for cause, your
 20 Honor.
 21 THE COURT: Mr. Owens, as to Mr. Garcia.
 22 MR. OWENS: Thank you. Mr. Garcia, how
 23 are you.
 24 PROSPECTIVE JUROR: Fine.
 25 MR. OWENS: How long have you lived her in

240

1 Las Vegas?
2 PROSPECTIVE JUROR: Thirteen years.
3 MR. OWENS: You ever live off Oakey or
4 MLK?
5 PROSPECTIVE JUROR: No.
6 MR. OWENS: You had some unfortunate
7 situation with your son that you talked about in the
8 questionnaire.
9 PROSPECTIVE JUROR: Yes.
10 MR. OWENS: How long ago did this thing
11 happen, he went through?
12 PROSPECTIVE JUROR: In high school is when
13 he got caught, pot and stuff like that.
14 MR. OWENS: How long ago would that have
15 been?
16 PROSPECTIVE JUROR: He's 23 now.
17 MR. OWENS: Is this something he's still
18 working with?
19 PROSPECTIVE JUROR: He's still working on
20 it.
21 MR. OWENS: There was also an assault he
22 was a victim of with this thing with the drugs?
23 PROSPECTIVE JUROR: Yeah. Several years
24 ago he got hit over the head by one of his drug friends.
25 MR. OWENS: What were the consequences of

241

1 that?
2 PROSPECTIVE JUROR: The police said they
3 both got what they deserved, so they let them go.
4 MR. OWENS: Nothing happen?
5 PROSPECTIVE JUROR: To either one.
6 MR. OWENS: Was there permanent damage to
7 him?
8 PROSPECTIVE JUROR: No. But he got hit
9 pretty hard.
10 MR. OWENS: Is he okay now?
11 PROSPECTIVE JUROR: Yeah.
12 MR. OWENS: Has he turned a corner on his
13 drug use or is it still a problem that he wrestles with?
14 PROSPECTIVE JUROR: He wrestles with it.
15 But he's starting to turn.
16 MR. OWENS: He's doing better?
17 PROSPECTIVE JUROR: Yeah.
18 MR. OWENS: Anything about that experience
19 that kind of left a bad taste in your mouth that would
20 make it difficult for you to be fair here?
21 PROSPECTIVE JUROR: I wouldn't say a bad
22 taste, but it would make me more aware of the other
23 culture.
24 MR. OWENS: Other culture, you mean the
25 drug culture?

242

1 PROSPECTIVE JUROR: Yeah.
2 MR. OWENS: If you hear things about drugs
3 in this case would it make you want to punish one side or
4 the other a little bit or to use this case to even out
5 what happen with your son?
6 PROSPECTIVE JUROR: No.
7 MR. OWENS: You feel you'd try this case
8 on the facts of the case?
9 PROSPECTIVE JUROR: Yes.
10 MR. OWENS: You like to watch courtroom
11 dramas -- Boston Legal. Did you put that down here?
12 PROSPECTIVE JUROR: My wife likes that
13 stuff.
14 MR. OWENS: Maybe that's why you put that
15 down here. Might be the next one. All right. You say
16 you had a chance to be on a jury before. How long ago was
17 that?
18 PROSPECTIVE JUROR: Twenty-five year ago.
19 MR. OWENS: Was that in this community?
20 PROSPECTIVE JUROR: Yes.
21 MR. OWENS: Was that a good experience for
22 you?
23 PROSPECTIVE JUROR: The mechanics of it
24 was fine. Just hard to put somebody away that wasn't the
25 primary person that did the crime.

243

1 MR. OWENS: Nothing about that that would
2 interfere with your ability to be fair in this case?
3 PROSPECTIVE JUROR: No.
4 MR. OWENS: The process worked okay?
5 PROSPECTIVE JUROR: Everything was fine,
6 yeah.
7 MR. OWENS: You talked about your feelings
8 on the death penalty. Can you share those with us a
9 little bit.
10 PROSPECTIVE JUROR: There's a time when
11 it's an appropriate sentence. I believe in people being
12 redeemed. If a person is not repentant, or if the
13 person -- if the case is really that horrible, there's no
14 mercy, if you tell him to stop it and they don't stop
15 it -- so that's the situation. They deserve to die. They
16 have to die. If there's any way to salvage the person,
17 that's another situation.
18 MR. OWENS: Murder, you know, you kill
19 once and you don't stop it, there might be another murder.
20 Do you feel like they need to have a chance to see if they
21 are going to kill two before it's appropriate, or is the
22 first time appropriate?
23 PROSPECTIVE JUROR: In a murder situation,
24 99 out of 100, they should be allowed to come out of
25 prison. Evil has to be stopped. If it was an accident,

244

1 but for the grace of God any of us can go down the same
2 path.

3 MR. OWENS: You don't know what factors
4 the court is going to tell you about.

5 PROSPECTIVE JUROR: No idea.

6 MR. OWENS: You can appreciate that there
7 are factors you are going to hear about?

8 PROSPECTIVE JUROR: Yes.

9 MR. OWENS: If you feel after hearing the
10 facts the death penalty was appropriate, would you be able
11 to do that?

12 PROSPECTIVE JUROR: That would be my
13 responsibility.

14 MR. OWENS: Could you do that?

15 PROSPECTIVE JUROR: I would have to do
16 it.

17 MR. OWENS: Do you feel like you could
18 judge another person in that manner?

19 PROSPECTIVE JUROR: Yes.

20 MR. OWENS: Thank you. Pass for cause,
21 your Honor.

22 THE COURT: Thank you. Mr. Schieck.

23 MR. SCHIECK: Thank you, your Honor.

24 Mr. Garcia, you talked a lot about your
25 son in your questionnaire. You have done what you could

245

1 PROSPECTIVE JUROR: I'm looking for is not
2 only what he has done but what he potentially doing in the
3 further.

4 MR. SCHIECK: The circumstances that lead
5 up to where he was at at that time?

6 PROSPECTIVE JUROR: Yes.

7 MR. SCHIECK: Your son's drug use was that
8 just marijuana or did he get involved with any serious
9 drugs?

10 PROSPECTIVE JUROR: He got into pill and
11 stuff like that.

12 MR. SCHIECK: Thank you. Pass for cause,
13 your Honor.

14 THE COURT: Thank you. Mr. Owens, as to
15 Mr. Salak.

16 MR. OWENS: Mr. Salak, you're the Boston
17 Legal fan.

18 PROSPECTIVE JUROR: Yes.

19 MR. OWENS: Law and Order?

20 PROSPECTIVE JUROR: Yeah.

21 MR. OWENS: You indicate that you don't
22 have any problem with the death penalty as an option?

23 PROSPECTIVE JUROR: No. I do feel I have
24 reservations.

25 MR. OWENS: You say you have reservations,

247

1 to try to help him, I take it, without being an enabler?

2 PROSPECTIVE JUROR: Correct.

3 MR. SCHIECK: You talked with him,
4 counseled with him, tried to guide him?

5 PROSPECTIVE JUROR: We forced him into the
6 drug program.

7 MR. SCHIECK: And you feel as a parent
8 that is a very important proper role to assume with your
9 son?

10 PROSPECTIVE JUROR: Absolutely.

11 MR. SCHIECK: You indicated that you hate
12 the death penalty, but at times it's required.

13 PROSPECTIVE JUROR: Yes, sir.

14 MR. SCHIECK: What is it about that you
15 hate with respect to the death penalty?

16 PROSPECTIVE JUROR: I think life is
17 precious, including the Defendant in this case. If there
18 is anyway possible to save him, I would appreciate it.
19 But if there's no saving him, then not much choice. But
20 it depends on the case.

21 MR. SCHIECK: You go on to explain that, I
22 guess. If you murder someone you've forfeited your right
23 to live. But then you qualify that but only mercy and
24 circumstances can redeem their life. That's the qualities
25 you are looking for?

246

1 what do you mean?

2 PROSPECTIVE JUROR: Depends on the case.

3 MR. OWENS: Do you feel it's important to
4 keep an open mind?

5 PROSPECTIVE JUROR: Yes.

6 MR. OWENS: How do you feel about the idea
7 of being in judgment of another person?

8 PROSPECTIVE JUROR: Really uncomfortable in
9 passing judgment. I'll follow the law.

10 MR. OWENS: Do you feel that that is
11 something you could do?

12 PROSPECTIVE JUROR: Yes.

13 MR. OWENS: If you felt that the death
14 penalty was proper punishment for this case and these
15 facts, could you personally come back and announce that
16 verdict?

17 PROSPECTIVE JUROR: Once I hear the facts
18 and how it happened and why it happen, probably will.

19 MR. OWENS: If you thought the death
20 penalty was right, could you do that?

21 PROSPECTIVE JUROR: Yes.

22 MR. OWENS: You'd be able to live with
23 that decision?

24 PROSPECTIVE JUROR: Yes, I could.

25 MR. OWENS: You've been involved in the

248

1 court process before. Have you ever sued somebody or been
 2 sued?
 3 PROSPECTIVE JUROR: No.
 4 MR. OWENS: You have never been a victim
 5 of a crime?
 6 PROSPECTIVE JUROR: No.
 7 MR. OWENS: You have never had an
 8 opportunity to serve as a juror before?
 9 PROSPECTIVE JUROR: No.
 10 MR. OWENS: You've never had a family
 11 member or someone close to you charged with a crime?
 12 PROSPECTIVE JUROR: No.
 13 MR. OWENS: Question 42, you were asked
 14 about your feelings about the death penalty. You start to
 15 write something. I guess, I should have let us use a
 16 pencil on these. In pen you crossed it out.
 17 Unfortunately we notice things like that. If I can show
 18 this to him, your Honor.
 19 THE COURT: Sure.
 20 MR. OWENS: Says the punishment, what were
 21 you trying to say?
 22 PROSPECTIVE JUROR: The punishment should
 23 be appropriate for the crime itself.
 24 MR. OWENS: Okay.
 25 PROSPECTIVE JUROR: The death penalty only

249

1 in severe cases.
 2 MR. OWENS: But you felt that the
 3 punishment should fit the crime. That's the same thing as
 4 in severe cases?
 5 PROSPECTIVE JUROR: Right.
 6 MR. OWENS: All right. I'll pass.
 7 THE COURT: Thank you. Mr. Schieck.
 8 MR. SCHIECK: Thank you, your Honor.
 9 Mr. Salak, you are retired?
 10 PROSPECTIVE JUROR: Yes, sir.
 11 MR. SCHIECK: What was your occupation
 12 before you retired?
 13 PROSPECTIVE JUROR: I was a billing clerk
 14 and became a billing supervisor up until my retirement.
 15 MR. SCHIECK: Type of business?
 16 PROSPECTIVE JUROR: Steamship company.
 17 MR. SCHIECK: Steamship.
 18 PROSPECTIVE JUROR: Moving cargo to
 19 Hawaii.
 20 MR. SCHIECK: What caused you to come out
 21 here to Las Vegas? You've been here two-and-a-half years?
 22 PROSPECTIVE JUROR: In Clark County.
 23 MR. SCHIECK: Why did you come out here to
 24 retire?
 25 PROSPECTIVE JUROR: Nothing, just thought

250

1 I could get a house here.
 2 MR. SCHIECK: The steamship company you
 3 worked for, was that in Hawaii?
 4 PROSPECTIVE JUROR: No. It was
 5 headquarters in Oakland, California.
 6 MR. SCHIECK: Okay. You retired here from
 7 Oakland.
 8 PROSPECTIVE JUROR: Yes.
 9 MR. SCHIECK: One of your questions on the
 10 questionnaire you might not have understood to question.
 11 It says are you beliefs about the death penalty such that
 12 you would automatically vote against the death penalty
 13 regardless of the facts and circumstances. You say, no.
 14 Perhaps I'm confused. You would consider all the
 15 circumstances.
 16 PROSPECTIVE JUROR: Yes, I would.
 17 MR. SCHIECK: You haven't prejudged in
 18 your mind any possible punishments?
 19 PROSPECTIVE JUROR: No.
 20 MR. SCHIECK: I'll pass for cause, your
 21 Honor.
 22 THE COURT: Ms. Weckerly, as to Blayne
 23 White.
 24 MS. WECKERLY: You mention you had an
 25 experience with your sister, I think, 20 year ago.

251

1 PROSPECTIVE JUROR: There was an argument.
 2 I pushed her she fell and hit her head. It caused a
 3 bruise and a black eye. She called the police. I was
 4 arrested. I went to jail. My father got me out.
 5 MS. WECKERLY: I would imagine you were
 6 pretty young when this happened?
 7 PROSPECTIVE JUROR: Yes. I was 19.
 8 MS. WECKERLY: That technically falls into
 9 a domestic violence. Usually when we speak of it it's
 10 kind of a boyfriend girlfriend.
 11 PROSPECTIVE JUROR: I was charged under
 12 that.
 13 MS. WECKERLY: I guess because it was a
 14 family relationship.
 15 PROSPECTIVE JUROR: Family things.
 16 MS. WECKERLY: You ended up spending a
 17 night in jail?
 18 PROSPECTIVE JUROR: Yes.
 19 MS. WECKERLY: I'm sure that wasn't
 20 pleasant.
 21 PROSPECTIVE JUROR: Not at all.
 22 MS. WECKERLY: The fact you had that
 23 experience, does that cause you ill feelings toward law
 24 enforcement?
 25 PROSPECTIVE JUROR: Not at all.

252

1 MS. WECKERLY: And you also wrote in your
2 questionnaire you and your sister obviously have gotten
3 past this incident?

4 PROSPECTIVE JUROR: Yes.

5 MS. WECKERLY: You wrote on your
6 questionnaire that the death penalty, if needed, basically
7 should be used.

8 PROSPECTIVE JUROR: Absolutely.

9 MS. WECKERLY: I take it from your answer
10 you can conceive of circumstances where that is an
11 appropriate punishment?

12 PROSPECTIVE JUROR: Absolutely.

13 MS. WECKERLY: But you also wrote that you
14 could consider the Defendant's background or other factors
15 in making a decision?

16 PROSPECTIVE JUROR: Yes.

17 MS. WECKERLY: You're not someone to rush
18 to judgment?

19 PROSPECTIVE JUROR: No.

20 MS. WECKERLY: You'd consider all the
21 information you hear in this courtroom and make a
22 decision?

23 PROSPECTIVE JUROR: Yes.

24 MS. WECKERLY: You can be fair to both
25 sides?

253

1 PROSPECTIVE JUROR: Yes.

2 MS. WECKERLY: Thank you, sir. Pass for
3 cause.

4 THE COURT: Mr. Patrick.

5 MR. PATRICK: Good afternoon, Mr. White.

6 You mentioned your uncle was a cop.

7 PROSPECTIVE JUROR: Yes.

8 MR. PATRICK: In Long beach.

9 PROSPECTIVE JUROR: Yes, sir.

10 MR. PATRICK: Are you close to him?

11 PROSPECTIVE JUROR: We visit a couple
12 times a year.

13 MR. PATRICK: You don't talk on a regular
14 basis?

15 PROSPECTIVE JUROR: No.

16 MR. PATRICK: Like I've asked several
17 people, the fact that he's a cop would that make you give
18 more weight to the testimony given by another police
19 officer on the stand?

20 PROSPECTIVE JUROR: No.

21 MR. PATRICK: As Ms. Weckerly said, you
22 made it pretty clear that you wouldn't automatically pick
23 any special penalty in this case. You'd wait until all
24 the evidence was in.

25 PROSPECTIVE JUROR: Absolutely.

254

1 MR. PATRICK: And weigh both sides and
2 make the appropriate determination.

3 PROSPECTIVE JUROR: Yes.

4 MR. PATRICK: So if you were sitting where
5 I'm sitting or sitting where Mr. Owens and Ms. Weckerly
6 are, either side, would you want someone like you on this
7 jury?

8 PROSPECTIVE JUROR: Absolutely.

9 MR. PATRICK: Thank you. Pass for cause.

10 THE COURT: Mr. Owens, as to Mr. Davie,
11 059.

12 MR. OWENS: How are you doing. Your
13 mother has been a victim or you've been a victim --

14 PROSPECTIVE JUROR: My mother.

15 MR. OWENS: It was your mother that had
16 identity theft?

17 PROSPECTIVE JUROR: Right.

18 MR. OWENS: How long ago was that?

19 PROSPECTIVE JUROR: Six months ago.

20 MR. OWENS: And you've never been a
21 victim?

22 PROSPECTIVE JUROR: No.

23 MR. OWENS: You felt like they should have
24 done more for her case?

25 PROSPECTIVE JUROR: I wish they could. I

255

1 don't know what else you can do. She didn't have to pay
2 any money, so I don't know what else they could do.

3 MR. OWENS: Did she live in town here?

4 PROSPECTIVE JUROR: No.

5 MR. OWENS: So where does she live?

6 PROSPECTIVE JUROR: Pennsylvania.

7 MR. OWENS: So you feel that justice was

8 not served, but it wasn't necessarily the police involved?

9 PROSPECTIVE JUROR: True.

10 MR. OWENS: We have a very different type
11 of facts in this case. You understand that?

12 PROSPECTIVE JUROR: Yes.

13 MR. OWENS: So there's nothing about that
14 experience that could spill over into this case in a bad
15 way?

16 PROSPECTIVE JUROR: No.

17 MR. OWENS: You never had a chance to
18 serve as a juror before?

19 PROSPECTIVE JUROR: No.

20 MR. OWENS: Have you ever been involved in
21 the court process, been sued or sued somebody else?

22 PROSPECTIVE JUROR: No.

23 MR. OWENS: You said you liked to consider
24 everything. You feel it's important to get all the facts
25 before you make a decision in this process.

256

1 PROSPECTIVE JUROR: That's true.
 2 MR. OWENS: How do you feel about the idea
 3 of being on a jury?
 4 PROSPECTIVE JUROR: I really don't want to
 5 be on the jury. I don't want to pass judgment on someone.
 6 What I know about this case, I see the death penalty and I
 7 see life in prison, that's it. Parole is a second chance,
 8 even to someone who is a victim in this case, doesn't get
 9 a second chance. So I see two options myself.
 10 MR. OWENS: How do you feel about the idea
 11 of sitting in judgment on another person?
 12 PROSPECTIVE JUROR: I don't like it, but if
 13 I'm called to do it, I'll do it.
 14 MR. OWENS: Could you do that?
 15 PROSPECTIVE JUROR: Yes.
 16 MR. OWENS: Now, it sounds like you are
 17 leaning toward the death penalty or life without parole,
 18 based on what you just said. Is that fair?
 19 PROSPECTIVE JUROR: Those are the only two
 20 options I see.
 21 MR. OWENS: Down at question 54, you are
 22 asked if you wanted to serve on the jury, and you said I
 23 don't care what he gets. They all seem fair.
 24 PROSPECTIVE JUROR: I only think the first
 25 is fair.

257

1 MR. OWENS: You have a different opinion
 2 then a week ago when you were filling this out?
 3 PROSPECTIVE JUROR: Yes, I do.
 4 MR. OWENS: Last week you thought they
 5 all seemed fair.
 6 PROSPECTIVE JUROR: More I think about it
 7 I don't think he deserves a second chance to be out in
 8 public. If he did do it again, I would feel horrible.
 9 MR. OWENS: Last week you said you doesn't
 10 care what he does. What did you mean by that?
 11 PROSPECTIVE JUROR: I kind of -- I guess I
 12 was kind of hoping I wouldn't get picked.
 13 MR. OWENS: You started figuring that the
 14 answers last week were going to do that for you?
 15 PROSPECTIVE JUROR: I answered them
 16 honestly. But if I have to do it, I will do it.
 17 MR. OWENS: But the way you answered last
 18 week that was kind of to get picked. But today you don't
 19 want to be picked?
 20 PROSPECTIVE JUROR: I'm being honest.
 21 MR. OWENS: All right. Back then you say
 22 you liked to consider everything. So you don't feel that
 23 way today?
 24 PROSPECTIVE JUROR: I'll would be more
 25 interested in hearing whether or not he's guilty, as

259

1 opposed to what punishment he gets.
 2 MR. OWENS: Why is that?
 3 PROSPECTIVE JUROR: Because I think that
 4 it's more interesting to me.
 5 MR. OWENS: Okay. You know the jury is
 6 going to start out knowing that he's been found guilty?
 7 PROSPECTIVE JUROR: Exactly.
 8 MR. OWENS: Last week you said you could
 9 consider all four forms of punishment, depending on the
 10 facts of the case. Now you're feeling you can't consider
 11 all four forms of punishment.
 12 PROSPECTIVE JUROR: I don't think I can. I
 13 like to keep an open mine. I really don't think I can.
 14 MR. OWENS: Are you willing to wait until
 15 you hear the evidence before you make that decision?
 16 PROSPECTIVE JUROR: Yes.
 17 MR. OWENS: So you think that you could
 18 wait on deciding which one of the four until you've heard
 19 all the facts and circumstances?
 20 PROSPECTIVE JUROR: I think I owe that to
 21 everyone involved. So at least -- I'm feeling it would be
 22 very hard for me to pick the other two.
 23 MR. OWENS: The difference between saying
 24 you couldn't do it, or wouldn't do it, or it would be hard
 25 to do it, you know what I'm saying?

259

1 PROSPECTIVE JUROR: Exactly. I don't know
 2 yet. I don't know the facts.
 3 MR. OWENS: It's a serious matter
 4 obviously.
 5 PROSPECTIVE JUROR: Exactly.
 6 MR. OWENS: It's important, isn't it, that
 7 you hear the facts and circumstances before you come to a
 8 decision?
 9 PROSPECTIVE JUROR: Yes.
 10 MR. OWENS: Right now you're saying you
 11 don't know if you can wait to do that or not.
 12 PROSPECTIVE JUROR: Sorry?
 13 MR. OWENS: Right now you're saying you
 14 don't know if you can wait to hear the facts and
 15 circumstances or not.
 16 PROSPECTIVE JUROR: I will wait. But in
 17 my mind I feel there's only two options, in my mind. But
 18 based on what I know right now.
 19 MR. OWENS: So there's a possibility that
 20 there might be -- one of the other options may become
 21 attractive to you, if you hear more facts and
 22 circumstances.
 23 PROSPECTIVE JUROR: Possibly.
 24 MR. OWENS: Okay. I don't have anything
 25 further, your Honor.

260

1 THE COURT: Mr. Schieck.
 2 MR. SCHIECK: Thank you, your Honor.
 3 Mr. Davie, in the questionnaire it's probably a
 4 little unfair to ask you to tell us how you think without
 5 enough information to give us full answers.
 6 PROSPECTIVE JUROR: Yes.
 7 MR. SCHIECK: And the question that you
 8 indicated you really don't care was the last question on
 9 the questionnaire. You think that might have factored in
 10 your answer, that you just wanted to give that answer to
 11 be done?
 12 PROSPECTIVE JUROR: Yes, it may have.
 13 MR. SCHIECK: Everything else in your
 14 questionnaire indicates that you're a person that likes to
 15 have the information before giving an answer. In fact,
 16 one of the questions concerning whether the death penalty
 17 is given too much, not enough, you wrote I'd like to see
 18 the statistics.
 19 PROSPECTIVE JUROR: Correct. I wouldn't
 20 know whether it is or isn't.
 21 MR. SCHIECK: Would it be fair to say that
 22 you would be at least willing to listen to all the facts
 23 before you decided what the appropriate punishment would
 24 be in the case?
 25 PROSPECTIVE JUROR: I think I would have

261

1 to.
 2 MR. SCHIECK: With just the limited
 3 information you have, you perhaps would foreclosed the two
 4 possibilities and allow for parole after at least 40
 5 years, because you don't have all the information
 6 available to you?
 7 PROSPECTIVE JUROR: Correct. But I do
 8 know that someone was murdered.
 9 MR. SCHIECK: Correct. And there are four
 10 possible forms of punishment that the law says you need to
 11 be able to consider.
 12 PROSPECTIVE JUROR: That's what I'm having
 13 a hard time with. I can do that. I'll try to listen to
 14 everything. But in my head it's one or the other.
 15 MR. SCHIECK: In another place in the
 16 questionnaire you were asked about knowing someone close
 17 to you that has a substance abuse problem. You indicated
 18 that you're sympathetic. I take that to mean you're
 19 sympathetic to those types of problems that individuals
 20 might have. Is that a fair statement?
 21 PROSPECTIVE JUROR: Well, it's my Dad, so
 22 it's different. My Dad an alcoholic. And, yeah, I'm
 23 sympathetic to that.
 24 MR. SCHIECK: You also indicated you think
 25 police abuse their power frequently. Is there something

262

1 in your past that causes you to form that opinion?
 2 PROSPECTIVE JUROR: My problem with the
 3 police is it's like a couple of bad apples that ruin the
 4 whole bunch. I think they use force when it's not
 5 necessary a lot, and that really bothers me. I mean,
 6 there's more good police than bad police. Thank God for
 7 keeping us safe, but I don't like it when I see that.
 8 MR. SCHIECK: Was that situation here or
 9 back in Philadelphia?
 10 PROSPECTIVE JUROR: I've seen it here.
 11 MR. SCHIECK: Thank you. Pass for cause,
 12 your Honor.
 13 MR. OWENS: May we approach, your Honor.
 14 THE COURT: Yes.
 15 (Discussion held at the bench.)
 16 THE COURT: We'll take our evening recess.
 17 It's 5:25. Here's what we're going to do. We're going to
 18 come back tomorrow -- well, first off, Ms. Johnson,
 19 Mr. Taylor, Ms. Bailey, Ms. Mills, Mr. Henck, Mr. Hibbard,
 20 Ms. Curtis, Mr. Smith, Ms. Meyrick, Ms. Cardillo,
 21 Ms. Theus, Ms. Noahr, Ms. Bundren, Mr. Ramirez, Mr. Morin,
 22 Mr. Garcia, Mr. Salak, Mr. Davie, I'm going to tell you
 23 all -- excuse me Mr. White, I'm going to tell you all to
 24 come back tomorrow at 1:30, rather than coming back in the
 25 morning. Since you have been questioned, there's no need

263

1 for you all to come in in the morning when we finish up
 2 with everybody else and have to sit around.
 3 So you all can come back at 1:30.
 4 Everybody else I'm going to need to come back at 10:30
 5 tomorrow so we can finish with the attorneys' questioning
 6 of you all.
 7 Then once that's finished, I'm hopeful in
 8 the early afternoon, we'll be to the point we have enough
 9 jurors to begin the final part of the process where the
 10 attorneys are involved in seating actually 14 people and
 11 move forward from there.
 12 JURY ADMONITION
 13 During the recess, ladies and gentlemen,
 14 you are admonished not to converse among yourselves or
 15 with anyone else, including, without limitation, the
 16 lawyers, parties and witnesses, on any subject connected
 17 with this trial, or any other case referred to during it,
 18 or read, watch, or listen to any report of or commentary
 19 on the trial, or any person connected with this trial, or
 20 any such other case by any medium of information
 21 including, without limitation, newspapers, television,
 22 internet or radio.
 23 You are further admonished not to form or
 24 express any opinion on any subject connected with this
 25 trial until the case is finally submitted to you.

264

1 THE COURT: Outside the presence of the
2 jury. Still on the record. Mr. Owens, you wanted to make
3 a representation as to Mr. Davie.

4 MR. OWENS: Well, Mr. Davie, I don't know
5 if he just wants to get off the jury or what it is. His
6 answers to questioning was 180 degrees from what they were
7 a week ago. I think he's a flake. I think he's had news
8 if he gets on the jury. It's going to cause problems.

9 I don't think we got a good record now for keeping
10 him absent some tactical reason by the defense attorneys.
11 But we're challenging him for cause, based upon the fact
12 that he said several times there is only two options for
13 him.

14 I got him to kind of say he'd think about the other
15 ones. But then he, when pushed on it, he kept going back
16 saying there's two, death or life without. That was it
17 for him. So based upon that, we would challenge him for
18 cause.

19 THE COURT: Mr. Schieck.

20 MR. SCHIECK: We'll submit it, your Honor.

21 THE COURT: Well, I don't think he is 180
22 degrees. I feel where he was last week, 120 is not a bad
23 ballpark estimate. He indicated in his questionnaire he
24 likes to consider everything, that he would consider the
25 death penalty under certain circumstances. He would not

265

1 what we're asking for, that kind of gentleman may be the
2 type of person that the defense would want on the jury as
3 well. In addition to having some views on the police
4 department that might be in line with some defense
5 theories. I don't know.

6 Over all, I think that there is enough in
7 his answers to deny the challenge for cause. I'm going to
8 go ahead and let him stay.

9 MR. OWENS: Can I point out one thing for
10 the benefit of the record. The fact that this is a
11 tactical decision by the defense. Over on question 51 --
12 do you feel you would consider mitigating factors. And he
13 says not at all.

14 THE COURT: Mr. Schieck, anything.

15 MR. SCHIECK: No. Nothing else, your
16 Honor.

17 THE COURT: You still maintain your
18 position that you are not challenging him for cause,
19 correct?

20 MR. SCHIECK: Correct.

21 THE COURT: All right. 10:30 tomorrow
22 morning.

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CERTIFICATE

267

1 vote automatically for or against it. It depends on the
2 facts of the case. They all seem to be very appropriate
3 answers.

4 I agree that he was a little more rigid
5 today in saying that, you know what, to me it's either
6 death or life without the possibly of parole, and I don't
7 think I would want to give somebody a second chance.
8 Nonetheless, he also seemed to indicate during the
9 questioning that he could consider the other forms of
10 punishment.

11 And it seems to the court that it was
12 clear, to me at least, he was kind of just thinking that
13 this case probably has certain facts about it that would
14 make those two appropriate, as opposed to anything else.
15 Which means you're kind of speculating in your own mind as
16 to what the facts are. I can see some reasons, I don't
17 want to get too far into things, but I can see reasons why
18 the defense would not want to challenge him for cause
19 based upon his statements about being fairly considerate
20 and about certain things, wanting to look at statistics
21 about death penalty cases. They were very thoughtful
22 answers about things.

23 If you're looking at a case in terms of we
24 know what our client's background is, we know what his
25 criminal history is, we know what is realistic in terms of

266

1 OF
2 CERTIFIED COURT REPORTER
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18

19

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Sharon Howard
Sharon Howard
C.C.R. #745

268

< Dates >
August 31, 1995
52:8.
MARCH 12, 2007
1:30, 3:1.
March 14th
37:25, 38:4,
39:16,
41:7.
November 1990
27:22.
#745 1:42,
268:26.
'89 219:6.
'90 219:7.
'93 59:2,
84:17.
'94 59:2.
'95. 84:17.
'98 189:10.
-i'm 42:4.
< 0 >
001 66:12.
001. 129:19.
003 36:15,
47:14,
48:24.
004 66:12.
007 66:12.
009 66:13.
010 66:13.
015 66:13.
016 26:20,
66:13.
018 18:20.
019 37:5,
47:14,
48:24.
019. 25:24.
020 26:8.
020. 66:14.
021 37:17,
47:14,
48:25.
022 66:14.
022. 26:14.
023 66:15.
025 22:23,
47:15,
48:25.
026 66:15.
027 47:15,
48:25.
027. 23:12.
029 40:1,
47:15,
48:25.
031 40:12,
47:16,
49:1.
033 38:2,
47:16,
49:1.
034 66:15.
034. 225:2.
035 66:15.
035. 27:4.
036 66:16.
038 66:16.
038. 225:3.
039 27:18,
66:16.
040 20:5.
045 28:2,
66:16,
225:4.
046 41:2,
47:16,
49:1.
048 28:9,
47:17,
49:1.
050 66:17.
050. 28:14.
051 28:18,
66:17.
052 41:10,
47:17,
49:2.
054 47:17,
49:2.
055. 66:17.
056 42:4,
47:17,
49:2.
059 29:23,
255:11.
062 23:20,
47:17,
49:2.
069 30:2,
072 30:11,
42:10, 47:18,
49:3.
074 30:8.
075 21:21.
076 42:17,
47:18,
49:3.
080 22:7,
59:12.
082 24:20,
30:15.
086 65:5.
094 58:23,
65:5.
095. 65:6.
Owens 206:14.
< 1 >
100 11:20,
50:5, 52:5,
185:20,
244:24.
102 7:21,
47:13, 48:24,
64:18, 64:23,
64:24.
102. 36:3,
44:12,
129:3.
10:00 39:2,
39:4.
10:30 39:5,
264:4,
267:21.
11:00 39:5.
120 265:22.
125 12:8,
54:9.
14 264:10.
16 45:15,
47:20,
207:1.
16. 168:11.
17 17:11.
18 17:15.

269

196:20,
199:4,
237:22,
238:2,
262:17,
262:25.
abused 112:14,
196:25.
abuser 72:10.
abusers
206:5.
abusing
194:10.
abusive 147:9,
148:1,
156:20,
157:6.
accept 32:6,
32:9, 78:2,
78:3, 117:15,
149:1,
171:10.
accepted
217:19.
accepting
100:15.
accident 35:8,
108:25,
244:25.
accomplish
11:24.
According
183:17,
227:19.
account 71:6,
90:9,
153:1.
accountable
100:1.
accuse
132:20.
accused 25:16,
25:18, 26:3,
35:3, 58:22,
58:24, 122:8,
190:2,
190:4.
acquainted
22:19, 23:8,
24:9, 24:11,
24:15, 45:17,
58:2, 58:4,
58:8, 58:9.
act 16:18,
56:15, 156:9,
211:15.
action 101:1.
actions 99:25,
163:3.
activities
162:13.
activity 28:24,
30:12,
100:18.
actual 6:22.
Actually 15:13,
47:19,
102:24,
103:23,
115:20,
120:14,
121:20,
150:16,
154:6, 154:7,
154:10,
157:4,
190:18,
219:8,
220:16,
264:10.
add 163:7,
225:6.
added 166:9.
addition
267:3.
additional 5:4,
5:22,
208:10.
Additionally
5:22, 7:15,
14:3, 50:7,
53:24.
address 53:7.
addresses
90:8.
adjust 77:7.
administer 8:3,
56:12.
administered
228:18,
233:1.
administers
8:5.
administration
215:13,
215:15.
administrative
212:11.
admonished
43:7, 43:16,
128:8,
128:17,
224:5,
224:14,
264:14,
264:23.
AMMUNITION
43:5, 44:4,
128:6, 224:3,
264:12.
adult 200:6.
advance
54:14.
advertising
170:1.
advise 50:13.
advisement
74:13.
affect 94:10,
116:7,
204:17,
212:12.
affection
209:12.
affective
65:13.
affiliate
190:20.
affirmation
5:3.
African-american
108:15.
African-america
n 143:9,
204:16.
afternoon
13:17, 121:1,
129:2,
158:25,
161:20,

271

180 225:23,
265:6,
265:21.
19 29:17,
252:7.
1987 218:5.
1990 27:22,
206:25.
1993 218:5.
1996 51:19.
1996. 11:6.
1997 59:19.
1:20, 127:25.
1:30 263:24.
1:30. 264:3.
< 2 >
2 208:20.
20 29:14,
29:18,
251:25.
21 84:19.
22 102:18,
158:24,
187:20.
23 165:16,
241:16.
23. 168:11.
24 225:15.
2:30 128:1,
128:20.
< 3 >
3 1:3, 6:12,
49:13, 52:10,
208:20.
32 190:7.
< 4 >
40 11:19,
11:20, 52:4,
52:5, 63:23,
185:20,
262:4.
42 249:13.
49 140:19.
4:30 230:18.
< 5 >
51 267:11.
54 141:14,
257:21.
5:00 39:12,
230:19,
230:22.
5:25. 263:17.
5:30 231:8.
5:30. 231:11.
< 7 >
7:30 38:17.
< 8 >
8 197:11.
8. 147:17.
80 64:8,
64:15.
80a 192:9.
81 135:2.
81. 225:1.
82. 135:3.
839 12:7,
52:10.
86 60:3,
64:13.
88 59:18.
8:00 38:17.
< 9 >
90 143:6,
143:15.
90a 192:9.
94. 63:19.
95 143:6,
143:15.
95. 64:2.
99 244:24.
< A >
abide 217:13,
221:20,
223:2.

ability 16:1,
57:16, 70:23,
84:7, 94:10,
95:24,
108:15,
108:20,
116:7, 117:4,
151:3,
154:12,
204:17,
244:2.
absent
265:10.
absolutely
23:5, 73:17,
84:11, 85:16,
87:13, 92:4,
118:15,
123:21,
125:13,
125:16,
125:21,
160:8,
163:13,
164:10,
165:9,
168:16,
209:4,
210:11,
212:10,
218:20,
228:5,
246:10,
253:8,
253:12,
254:25,
255:8.
abuse 29:24,
74:5, 80:2,
80:12, 83:13,
83:17, 93:14,
111:15,
112:17,
112:20,
112:24,
119:7,
119:25,
133:4, 156:8,
157:2, 194:7,
194:10,

270

161:21,
173:5,
174:20,
178:2, 203:3,
237:13,
254:5,
264:8.
age 190:11,
195:2, 195:3,
199:20.
agenda
146:24.
aggravating
100:10,
130:8,
149:12,
149:25,
150:3, 150:8,
150:13.
aggravation
78:1,
139:4.
aggressive
156:17.
agree 32:19,
47:8, 61:1,
61:15, 111:1,
181:22,
228:20,
229:18,
266:4.
agreed
229:11.
agreeing
47:5.
agrees
133:20.
ahead 4:8,
42:25, 47:12,
48:6, 67:23,
98:5, 129:18,
267:8.
ahold 5:5,
9:22.
Air 14:20,
33:3,
178:9.
Aires 12:18,
52:16.
Albert 55:2.
albums 36:12.
alcohol 80:12,
194:7,
194:10,
196:25.
alcoholic
262:22.
alcoholics
197:2.
Alex 19:13.
alive 180:9.
allegation
216:6.
allegations
90:19.
alleged 35:5.
Allen 13:1,
52:24.
allergies
159:5.
allow 72:3,
111:2,
162:17,
165:5, 213:4,
233:18,
262:4.
allowed 186:10,
186:19,
244:24.
alluded
68:15.
Almost 36:6,
94:2.
alone 15:14,
57:9,
133:6.
already 50:16,
51:18, 51:25,
102:18,
103:11,
110:12,
127:2, 131:1,
139:17,
141:17,
142:14,
143:3,
144:23,
145:13,
147:5,
176:22,

203:14,
221:24,
221:25,
223:15,
230:18.
Amuro 20:4.
amazing
105:13.
among 43:7,
93:17, 128:8,
224:5,
264:14.
amount 61:25.
any 20:4.
analyze
136:8.
and/or 5:16.
Angel 20:15.
Angeles
41:11.
Angelo 20:13.
anger 179:13.
angry 40:16,
112:5,
116:10.
animal 206:5.
Ann 19:23.
Annette
19:21.
Annette
27:4.
announce
248:15.
answered 56:20,
67:1, 118:4,
131:13,
134:8,
230:10,
237:21.
258:15,
258:17.
answering 7:10,
65:7,
166:3.
answers 15:8,
48:20, 57:8,
123:22,
142:10,
149:8,
170:11,

272

225:11,
229:15,
258:14,
261:5, 265:6,
266:3,
266:22,
267:7,
anticipate
11:23, 33:1,
61:22,
antisocial
9:2,
anytime
211:22,
anyway 46:18,
60:11, 165:6,
246:18,
apart 230:7,
apologize
25:14, 54:13,
112:3,
appear 131:22,
191:20,
229:18,
appearances
142:14,
APPEARANCES
2:1,
apples 263:3,
apply 32:4,
32:9, 32:15,
61:4, 61:9,
173:9,
222:20,
applying 75:22,
177:21,
Appreciate
13:12, 49:4,
53:6, 68:4,
78:21, 245:6,
246:18,
appreciates
35:23,
appreciation
35:18,
Approach 65:2,
67:20, 74:14,
263:13,
appropriately
82:14,

82:19,
approximately
208:20,
Arabe 13:3,
52:25,
arbitrary
233:2,
area 12:5,
13:8, 52:10,
53:5, 90:24,
146:8, 163:9,
187:10,
207:13,
areas 12:3,
12:9,
52:13,
argue 102:5,
argument
232:14,
252:1,
arguments
31:25,
60:25,
Arizona 5:16,
26:1, 94:12,
97:8,
arose 169:7,
around 46:12,
114:18,
117:1,
118:24,
119:3,
123:18,
225:23,
264:2,
arrest
121:25,
arrested 26:3,
29:13, 99:10,
121:21,
121:22,
252:4,
arrests 121:11,
126:11,
162:19,
arrived
54:20,
Art 12:25,
52:23,
artificial

175:4,
aside 227:9,
asks 229:13,
asleep
126:15,
Assault 17:9,
27:8, 107:25,
168:1, 188:2,
189:14,
191:11,
241:21,
assessment
94:16,
115:7,
assigned
178:12,
215:24,
assist 136:15,
137:2,
assistant 9:21,
23:17,
136:21,
136:22,
162:2,
Assisting
13:19,
53:15,
associated
12:10,
associating
23:16,
association
94:9,
assume 70:5,
95:6, 112:16,
115:11,
116:11,
146:23,
149:17,
159:15,
161:3,
176:24,
177:18,
199:20,
200:17,
201:21,
202:14,
202:17,
217:2, 218:1,
235:22,

273

229:12,
Ballerina 12:6,
52:9,
ballpark
265:23,
banker 174:2,
Base 62:6,
169:13,
212:11,
Based 46:18,
72:3, 97:6,
107:13,
136:6,
137:22,
142:14,
145:15,
149:21,
153:12,
167:15,
167:24,
167:25,
170:22,
183:7,
209:24,
214:11,
216:3,
221:25,
257:18,
260:18,
265:11,
265:17,
266:19,
basic 16:9,
127:14,
Basically
75:16, 87:23,
105:2,
131:23,
133:8,
145:14,
145:16,
173:9,
197:24,
198:21,
219:9,
225:18,
232:7,
253:6,
basis 103:24,
160:15,

170:6,
183:18,
254:14,
beach 254:8,
Bear 13:11,
111:11,
bearing 57:15,
80:14, 80:16,
80:18, 155:2,
201:17,
beat 199:7,
beaten 190:5,
became 179:7,
250:14,
become 155:3,
260:20,
beforehand
33:3,
begin 264:9,
beginning
20:21,
60:23, 117:1,
208:6,
behalf 10:25,
13:15,
134:12,
behavior
114:18,
118:24,
behind 3:19,
belief 60:20,
110:6,
154:20,
154:21,
154:24,
155:6,
217:22,
229:3,
233:24,
beliefs 31:11,
131:10,
183:8,
205:21,
206:5,
251:11,
believable
126:21,
believed 208:3,
229:7,
believes 22:18,
23:7, 24:8,

24:14,
130:23,
211:14,
believing
119:12,
belly 3:24,
below 185:16,
belt 37:18,
Ben 13:25,
53:21,
bench 65:2,
74:14,
128:23,
bench. 65:3,
67:22, 74:15,
263:15,
benefit
267:10,
Benjamin
20:21,
Bernardino
239:3,
Berry 56:1,
besides 101:4,
133:3,
163:2,
best 16:1,
16:8, 63:6,
89:4, 115:7,
198:22,
217:14,
better 6:19,
34:19, 35:11,
106:20,
152:11,
156:15,
210:6,
216:14,
242:16,
beyond 32:17,
61:12, 61:17,
130:8, 131:8,
150:13,
154:15,
154:18,
228:8,
bias 138:2,
biased 141:22,
190:6,
Bickert 13:7,

275

246:8,
assuming
110:16,
202:16,
assure 14:23,
attempt 28:15,
235:7,
attempted
26:22,
237:16,
attend 63:22,
63:24,
122:9,
attended
90:21,
attention 9:15,
9:16, 13:12,
53:6, 66:5,
82:4, 82:10,
82:15,
107:21,
218:3,
attitudes
185:8,
attorneys
54:9,
Attorney 4:23,
11:3, 14:13,
22:20, 33:8,
46:16, 51:15,
55:18, 181:2,
181:5,
attractive
260:21,
attribute
156:11,
audience
65:24,
aunt 27:20,
137:2, 137:3,
206:20,
216:17,
authorization
162:18,
automatic 69:4,
222:15,
228:17,
236:14,
automatically
68:16, 73:22,

87:16,
100:24,
120:13,
124:3,
131:11,
133:1,
140:17,
140:20,
140:22,
161:10,
171:25,
174:21,
201:5,
205:22,
212:25,
222:7, 223:6,
226:23,
229:6, 230:1,
251:12,
254:22,
266:1,
autopsy
151:20,
available
11:13, 52:2,
76:3, 94:25,
126:24,
138:5,
176:25,
221:11,
230:3,
262:6,
Average 33:18,
33:20, 62:4,
62:5, 62:6,
avoid 205:10,
awaiting
187:17,
aware 10:15,
208:12,
208:22,
242:22,
away 5:19,
33:3, 168:10,
188:16,
235:5,
243:24,
while
189:12,
Adam 14:1,

53:22,
baby 122:13,
backed 36:12,
90:13,
90:19,
background
15:4, 70:3,
70:10,
100:18,
108:19,
115:5, 120:5,
120:9,
149:17,
217:25,
253:14,
266:24,
bad 16:6,
34:14, 86:7,
86:8, 117:2,
133:22,
134:3,
153:22,
168:14,
190:5,
242:19,
242:21,
256:14,
263:3, 263:6,
265:7,
265:22,
badger
205:18,
Baffling 209:8,
209:9,
Bailey 18:15,
66:13,
102:12,
102:13,
108:9,
263:19,
BAILIFF 8:14,
48:9,
50:17,
balanced
210:17,
balancing
107:21,

274

53:4,
big 15:2, 40:8,
54:7, 54:13,
123:10,
billfold
105:24,
billing 250:13,
250:14,
bit 6:19, 10:8,
12:5, 13:10,
35:11, 47:10,
53:8, 62:3,
63:10, 65:12,
75:3, 89:6,
102:15,
112:8, 233:7,
243:4,
244:9,
black 252:3,
Blayne 20:25,
251:22,
blessing
33:25,
blinded
209:12,
blow 37:12,
board 5:23,
211:14,
211:15,
Bobbie 18:10,
Bobby 56:3,
Bonanza 12:6,
12:11,
book 121:6,
121:8,
228:1,
born 204:24,
Boston 243:11,
247:16,
bothers
263:5,
bottle 39:22,
Bottom 27:2,
37:23,
134:16,
166:14,
bought
213:18,
box 115:20,
203:15,

209:20,
213:20,
225:4,
boyfriend
190:23,
252:10,
boys 160:4,
Brady 18:4,
66:12, 67:24,
71:11, 73:9,
73:22, 74:17,
129:21,
130:1, 130:2,
132:6,
134:15,
134:17,
135:1,
brain 200:7,
branch 178:8,
break 39:7,
39:12, 39:20,
45:16, 65:12,
111:10,
123:8,
134:11,
233:5,
breaking
126:15,
Brenda 56:1,
Brent 19:1,
Brianna 55:4,
Brief 4:21,
43:19, 113:2,
145:10,
224:17,
233:11,
briefly
67:20,
bring 5:16,
9:15, 15:10,
15:11, 38:20,
39:22, 48:8,
54:7, 121:7,
226:14,
bringing 102:9,
164:8,
brings 102:4,
Brinnon 22:2,
broad 100:13,
171:18,

broken 37:11,
123:7,
126:11,
126:14,
broker 174:6,
Brooks 14:2,
53:23,
Brother 25:20,
27:5, 28:15,
29:23, 30:8,
40:17, 64:15,
136:23,
187:2,
190:14,
190:15,
199:7,
209:13,
217:3, 217:6,
234:22,
234:23,
235:2,
237:15,
237:24,
brother-in-law
30:18,
83:6,
brothers 30:4,
40:13, 40:23,
64:4,
brothers-in-law
30:16,
brought 3:9,
42:24,
44:4,
bruise 252:3,
brushes
109:5,
Btu 130:15,
building 62:4,
192:16,
bunch 129:14,
263:4,
Burden 20:2,
27:19, 66:16,
206:14,
263:21,
burden 32:17,
32:20, 32:25,
34:17, 35:25,
44:2, 46:5,

276

61:11, 61:16,
61:21, 61:25,
63:13, 64:10,
176:2,
202:18.
Burfield 12:21,
52:18.
Burglary 11:7,
27:8, 30:8,
51:20,
188:25,
189:13.
burned
157:11.
bus 37:3.
Business 12:12,
12:13, 36:4,
40:2, 40:4,
41:13, 41:14,
41:19, 44:12,
44:13, 48:10,
52:14, 63:24,
91:2, 91:3,
91:7, 169:23,
250:15.
busy 122:11,
122:13.
buying 59:22.
Byrd 55:6,
65:5.
.
< C >.
C-131341 1:2,
3:5, 4:22,
6:8, 48:14,
233:13,
234:5.
C131341
134:20.
cafeteria
8:23.
Cal 13:2,
52:24.
calendar 22:17,
39:1.
calendars
38:24.
California
26:18, 59:4,

59:15, 60:4,
136:16,
136:18,
136:20,
160:5,
251:5.
call 5:24, 7:5,
9:24, 10:12,
12:17, 13:24,
17:20, 40:15,
50:4, 53:20,
54:19, 66:8,
123:11,
129:1,
129:10,
207:24,
214:7,
220:4.
called 5:7,
5:8, 10:11,
10:16, 10:20,
12:6, 13:7,
22:15, 31:20,
51:4, 53:4,
56:8, 113:18,
114:2,
120:13,
252:3,
257:13.
calling 7:15,
7:16.
calls 63:21,
163:20.
calmer
156:14.
camp 188:22.
Candice 22:9,
135:2.
candor 53:7,
108:9.
capacity
195:21.
Capital 12:11,
52:14.
capricious
233:2.
captain
195:17.
car 35:8, 37:3,
37:10, 91:1,

91:2, 105:19,
123:7, 123:8,
123:14,
126:10,
126:14,
126:15,
126:17,
126:18,
238:17,
238:19.
Cardillo 19:9,
66:15, 171:2,
263:20.
care 9:16,
64:14,
194:23,
197:17,
197:24,
257:23,
258:10,
261:8.
cargo 250:18.
Carol 8:2, 8:3,
12:22, 17:20,
50:7, 50:8,
52:19, 54:19,
56:12.
Carpenter
234:11.
Carr 20:17,
47:17,
49:2.
carry 162:16.
Carvalli 20:11,
28:9, 41:5,
47:16,
49:1.
cases 15:18,
32:15, 34:6,
34:7, 34:8,
38:25, 62:14,
62:16, 62:17,
62:20, 81:14,
81:19, 81:25,
82:3, 82:6,
82:10, 85:10,
98:23,
113:24,
114:24,
124:4, 137:4,

277

87:3, 112:19,
159:14,
159:17,
159:19,
159:22.
choice 138:7,
158:6,
181:19,
181:20,
184:23,
185:1, 185:2,
212:25,
213:8,
214:22,
232:4,
246:19.
choices 101:22,
158:7.
Choir 16:20,
56:17.
choose 73:1,
102:2, 125:8,
138:7, 141:4,
144:20.
choosing
92:14.
chose 145:1,
207:22.
chosen 57:11.
Chris 2:2,
11:2, 22:25,
51:14.
Christa 19:5.
Christina
27:18.
Christine
20:2.
circle 185:9.
circled
185:9.
circumstance
130:8,
166:21,
169:7.
citizen
17:19.
citizens 57:24,
189:18.
City 94:6.
Civil 15:19,

16:5, 35:6,
35:17, 85:24,
85:25,
116:2.
claim 86:3.
Claire 12:19,
52:17.
clarifying
231:17.
Clark 1:7, 2:6,
12:23, 13:19,
23:22, 52:20,
53:15, 53:16,
189:23,
218:2,
250:22.
clean 173:10.
clear 3:20,
130:24,
131:2, 131:4,
133:5, 218:4,
226:6,
226:24,
254:22,
266:12.
clearly 7:23.
client 10:5,
13:21, 53:17,
266:24.
clients 36:12,
63:25.
close 24:1,
25:16, 25:18,
58:21, 83:19,
84:1, 93:13,
111:13,
121:18,
121:25,
123:4, 168:6,
186:23,
187:6,
209:14,
221:2, 235:1,
235:2, 239:7,
249:11,
254:10,
262:16.
closely 10:18,
51:5.
closest

225:3.
closing 31:24,
60:24.
co-counsel
11:4.
Cohen 55:18,
59:6.
cold-blooded
104:4.
collectively
70:20, 87:6,
115:13,
125:11.
college
163:8.
colon 131:9.
color 71:17,
197:4,
197:21.
Colored 179:22,
179:23.
combination
48:19.
comes 9:13,
74:8, 129:20,
135:25,
143:12,
143:21,
144:2, 163:1,
215:22,
235:23.
comfortable
108:2,
165:25,
166:16,
167:1,
169:16,
171:12,
209:25,
231:25,
232:7.
coming 49:4,
49:5, 65:6,
65:7, 87:11,
88:20, 129:2,
146:25,
162:12,
167:21,
186:8,
187:21,

279

202:8, 218:1,
238:11,
250:1, 250:4,
266:21.
Cassandra
21:4.
catch 82:10,
218:6.
caught 82:3,
105:5,
238:16,
241:13.
caused 81:8,
250:20,
252:2.
causes 154:12,
263:1.
certain 32:14,
32:17, 50:19,
61:8, 69:6,
70:18, 72:2,
72:3, 73:11,
73:19, 90:19,
103:22,
104:12,
124:13,
132:2,
148:19,
148:24,
157:14,
167:6,
175:12,
182:20,
184:6,
193:15,
202:10,
232:17,
236:14,
265:25,
266:13,
266:20.
certainly
73:16,
150:22,
172:12,
227:4.
CERTIFICATE
267:25.
CERTIFIED 68:5,
268:2,

268:7.
certify
268:8.
cetera 14:18.
CFO 96:5.
chain 179:8.
chains 3:24.
chair 225:3.
challenge
101:10,
130:18,
132:5,
133:12,
134:8,
145:24,
182:3,
223:24,
225:17,
228:13,
228:22,
265:17,
266:18,
267:7.
challenged
65:25, 130:1,
225:1.
challenges
224:19.
challenging
265:11,
267:18.
chance 34:9,
97:19, 106:9,
243:16,
244:20,
256:17,
257:7, 257:9,
258:7,
266:7.
change 63:22,
71:24, 126:8,
164:14,
197:25,
210:8,
211:15,
222:14,
227:24,
227:25,
228:5,
229:22,

230:6.
changed 104:9,
143:19,
240:8.
Chappell-king
14:1,
53:22.
charge 4:5,
17:8, 51:23,
51:25, 52:2,
75:8, 155:25,
187:24,
189:25,
235:6,
235:9.
charged 13:21,
53:17,
249:11,
252:11.
charges 11:15,
51:17,
160:16,
160:18,
189:12,
190:3,
217:17.
Charles 13:25,
18:19,
53:21.
check 28:4,
46:3, 191:14,
238:16.
checked 102:19,
203:14,
205:9.
Chemaine 13:4,
53:1.
Cheryl 19:9.
Chicago
174:9.
chief 22:17,
93:7.
child 147:17,
194:14,
200:6,
206:5.
childhood 73:3,
194:6,
204:21.
children 26:15,

278

230:18,
231:20,
263:24.
command
179:8.
command
109:16.
comment 90:3,
228:9,
228:14.
commentary
43:11,
128:12,
224:9,
264:18.
comments
201:22.
commercial
41:19.
Commission
215:20.
Commissioner
49:6, 65:8.
commit 70:11,
175:5,
176:6.
commitment
200:12.
commits
145:7.
committed
124:23,
182:25,
217:20,
219:15.
committing
101:2,
102:9.
communicate
172:25,
200:20,
216:14.
community
37:24, 46:3,
106:14,
162:13,
219:10,
243:19.
companies
36:19, 63:20,

63:23.
company 63:16,
93:8, 250:16,
251:2.
compelled
214:4.
compelling
227:9.
complaining
215:23.
complaint
215:22.
complete 15:8,
57:7.
completely
109:15,
155:3.
completing
174:11.
Corton 13:4,
53:1.
computer
48:10.
con 78:8,
143:2.
conceive
253:10.
concept 92:9.
concern 91:12,
151:7,
154:12,
227:6.
concerned
87:22,
89:3.
concerning
108:14,
261:16.
concerns 70:23,
95:23,
151:2.
conclusion
87:12, 210:1,
210:3,
216:14.
conclusions
76:24.
confessed
190:22.
confident

213:13.
confidential
5:13.
confidentiality
36:19.
confused
130:13,
130:25,
142:9,
251:14.
connected 43:9,
43:12, 43:17,
128:10,
128:13,
128:18,
224:7,
224:10,
224:15,
264:16,
264:19,
264:24.
conscientious
182:12.
consequences
241:25.
conservative
47:2.
considerate
266:19.
consideration
11:15, 63:9,
101:18,
141:1.
considered
133:10,
178:14,
213:18.
considering
70:7, 103:14,
123:24,
140:24,
150:14,
155:4,
172:10.
considers
202:11.
construction
34:6, 93:8,
96:6.
contact 5:15,

280

10:2, 35:16,
67:24, 109:5,
147:19,
147:23,
147:25,
153:15,
154:9,
156:22,
159:24,
234:20,
235:14,
contacted 5:8,
5:23,
contaminate
15:15,
57:10,
contaminated
9:7,
context 75:4,
78:21,
continue
226:13,
226:17,
230:16,
control
99:25,
conversations
157:1, 157:8,
157:13,
converse 43:7,
50:19, 128:8,
224:5,
264:14,
conversing
8:20, 9:5,
convict 68:17,
117:10,
117:12,
145:6,
153:18,
237:19,
convicted 11:7,
16:25, 26:10,
26:22, 27:11,
27:19, 30:16,
51:19, 51:25,
57:22, 69:23,
70:14, 72:25,
74:5, 88:5,
95:12,

110:10,
121:12,
122:15,
131:8, 145:5,
145:13,
181:18,
203:20,
203:23,
216:17,
222:1, 227:5,
237:15,
conviction
51:24,
176:22,
convince 176:9,
207:21,
210:23,
convicted
78:9,
cookie
211:20,
cop 254:6,
254:17,
corner 199:12,
242:12,
Coroner 12:23,
12:24,
52:21,
correction
195:13,
195:16,
195:18,
corrections
94:16, 97:8,
98:12,
98:14,
correctly 50:2,
236:18,
correspond
77:8,
cost 90:11,
coughing
159:3,
Counsel 65:2,
74:14,
91:23,
counselled
246:4,
Counseling
111:21,

111:23,
114:14,
118:24,
119:3,
count 60:8,
132:25,
counties
63:7,
country 63:6,
counts 187:5,
County 1:7,
12:23, 13:19,
52:20, 53:15,
136:23,
189:23,
191:11,
218:2,
250:22,
couple 10:21,
25:6, 46:14,
49:21, 62:14,
62:15, 62:17,
184:8,
193:13,
228:10,
233:19,
254:11,
263:3,
course 7:3,
8:11, 9:6,
9:13, 10:2,
50:14, 80:6,
84:8, 95:10,
130:6,
171:10,
courtroom
50:18, 94:13,
98:20,
103:14,
113:9,
135:20,
136:7, 137:9,
146:7, 146:9,
153:5, 200:4,
200:12,
210:18,
243:10,
253:21,
courtroom.
6:5,

281

dealt 93:17,
Dean 13:25,
53:21,
Deborah 18:6,
Debra 12:20,
52:8,
52:18,
deceased
147:21,
154:10,
decent 33:24,
decide 15:1,
56:24, 62:8,
74:1, 75:14,
75:17, 88:21,
95:17,
104:17,
119:22,
125:5, 127:4,
127:19,
138:14,
139:4, 139:8,
139:25,
170:13,
170:17,
173:14,
223:10,
decided 38:25,
123:7,
144:23,
239:19,
261:23,
decides 34:2,
130:11,
Deciding 90:9,
170:12,
259:18,
decisions 15:5,
96:25, 97:1,
99:25, 100:1,
170:6,
212:11,
212:14,
213:12,
deem 125:8,
defect 34:6,
Defendant 1:19,
2:5, 4:24,
13:15, 24:9,
51:25, 58:8,

68:23, 70:2,
92:1, 107:9,
107:17,
108:19,
115:5,
141:16,
141:19,
142:13,
142:15,
142:23,
144:11,
149:17,
182:25,
232:7,
232:10,
233:22,
246:17,
253:14,
defender 13:18,
13:20, 53:15,
53:17,
109:11,
defenders
109:10,
defending
109:14,
defense 23:8,
44:3, 45:14,
58:5, 65:15,
86:21, 88:7,
90:7, 95:25,
102:4,
129:25,
191:12,
229:17,
266:18,
267:2, 267:4,
267:11,
definite
227:10,
Definitely
71:3, 187:8,
192:13,
194:1,
196:14,
198:8,
definition
150:5,
degree 11:8,
16:4, 17:9,

27:19, 29:4,
51:21, 51:24,
68:17, 68:23,
69:5, 70:15,
74:5, 87:2,
92:10, 95:12,
110:10,
117:11,
133:6,
171:22,
175:19,
177:1, 183:1,
202:9,
218:10,
222:6,
222:11,
225:23,
227:18,
228:2,
230:5,
degrees 265:6,
265:22,
deliberate
177:8,
deliberating
39:16,
deliberation
73:14, 73:21,
76:21,
138:19,
Dennis 14:1,
53:22,
deny 133:11,
134:8,
229:17,
230:12,
267:7,
Department
6:12, 6:14,
12:24, 49:13,
52:22, 170:1,
267:4,
depend 36:17,
dependent
75:20,
depending 39:8,
259:9,
Depends 71:5,
87:20, 90:5,
161:11,

283

courts
192:15,
cousin 26:21,
28:10,
136:23,
137:1,
209:14,
238:23,
239:20,
cousins 26:10,
121:11,
121:19,
122:17,
126:4,
136:15,
187:5,
cove 33:13,
cover 102:9,
203:6,
coward
199:11,
credence
60:14,
credibility
85:11,
crimes 11:7,
27:11, 35:3,
121:25,
151:14,
153:18,
criminal 6:16,
6:21, 15:19,
32:15, 35:17,
49:15, 61:9,
85:24, 94:12,
109:5,
113:25,
171:8,
181:10,
186:24,
234:20,
266:25,
crossed
249:16,
CSI 136:2,
culture 242:23,
242:24,
242:25,
cup 39:22,
curious 109:12,

209:16,
currently
64:18, 149:5,
188:3,
191:5,
Curtis 22:11,
135:3, 146:1,
155:12,
263:20,
custody 4:6,
154:2,
159:19,
188:3,
231:6,
cuts 232:20,
cutter
211:20,
< D >,
DA 136:16,
136:21,
136:23,
137:2, 154:5,
192:20,
Dad 24:1, 91:1,
199:7,
262:21,
262:22,
daily 137:17,
170:6,
183:18,
212:11,
damage 126:17,
242:6,
damaged
123:14,
Daniel 12:25,
52:22,
Danton 14:4,
53:25,
Darlene 21:8,
Darren 12:25,
52:23,
date 30:15,
41:25, 51:19,
187:21,
DATED 1:30,
daughter 29:2,
29:5, 30:19,

160:13,
174:8,
daughters
174:1,
David 2:5,
13:18, 21:18,
53:14,
Davie 21:2,
29:22,
255:10,
261:3,
263:22,
265:3,
265:4,
Davita 22:11,
135:3,
Davy 19:23,
day 33:12,
33:14, 34:8,
36:22, 39:6,
42:19, 62:20,
129:15,
230:20,
231:2,
daycare
42:19,
daylight
63:22,
days 11:24,
33:14, 33:15,
33:18, 34:13,
35:23, 36:1,
40:7, 62:5,
62:15, 63:13,
79:18,
100:13,
126:14,
de-ja-vue
51:13,
dead 180:8,
deadly 11:8,
11:9, 51:20,
51:21, 68:24,
117:11,
deal 5:20,
91:17, 97:11,
123:10,
142:25,
dealing 16:5,
116:6,

282

165:2, 166:7,
246:20,
248:2,
266:1,
depressed
151:16,
depressing
81:24,
DEPT. 1:3,
depth 156:25,
Dersdorff
12:25,
52:22,
described
102:20,
describing
199:20,
212:2,
description
113:2,
Desert 231:1,
deserve
244:15,
deserved
242:3,
deserves
126:25,
258:7,
design 94:23,
designed 14:9,
15:23,
51:6,
designing
36:12,
desire 14:24,
56:23,
desk 98:21,
despite
209:19,
detail 157:3,
detailed 151:8,
157:7,
detention
160:6,
determination
11:11,
165:11,
202:22,
255:2,
determine

51:23, 73:19,
80:17, 88:16,
107:12,
117:14,
216:2,
determines
73:13,
determining
69:14,
developer
41:20,
dictate
12:25,
215:1,
die 244:15,
244:16,
died 83:8,
83:14,
Diego 207:12,
differ 31:11,
60:20,
difference
100:19,
133:12,
135:24,
208:15,
259:23,
different
15:21, 84:20,
97:14,
108:10,
108:18,
116:5, 120:5,
120:9,
124:22,
127:15,
142:25,
144:16,
147:1, 150:2,
204:25,
210:3,
211:23,
216:9,
222:25,
223:1,
225:16,
229:4, 232:2,
256:10,
258:1,
262:22,
differently

156:9,
difficult
35:21, 37:18,
42:6, 83:23,
101:7,
102:10,
132:14,
137:23,
213:20,
242:20,
difficultly
120:5,
difficulty
33:6,
189:4,
Dina 12:21,
52:19,
direct 162:11,
233:3,
direction
268:14,
dirt 159:6,
disagrees
133:20,
discipline
96:11,
96:13,
discover 73:11,
208:17,
discovered
15:13,
discretion
90:1,
discriminated
214:25,
discrimination
215:23,
215:25,
discuss 44:1,
92:5, 211:5,
211:7,
discussed
91:14,
117:18,
145:18,
161:4, 196:7,
202:8,
discussing
76:21,
115:14,

284

138:17.
Discussion
65:3, 67:22,
74:15, 76:22,
77:9, 86:10,
138:23,
263:15.
dislike 9:3.
dismissed
238:12.
disparity
225:9.
displayed
151:21.
disregard
201:16.
dissatisfaction
107:5.
District 1:6,
1:28, 6:13,
11:3, 22:20,
49:14, 51:15,
234:17.
disturbing
152:1.
divorced
147:17,
194:16.
do. 16:20,
56:17.
doctor 174:2.
doctors
116:7.
document
238:16.
doing 36:18,
47:1, 63:3,
66:24, 87:16,
121:2,
122:17,
122:23,
126:1,
135:10,
160:5, 160:6,
171:3,
183:22,
190:22,
190:23,
191:2,
237:14,

242:16,
247:2,
255:12.
dollars
126:17.
Domestic 29:3,
29:14, 29:24,
71:12, 71:16,
71:20, 71:23,
72:4, 72:7,
72:13, 80:2,
113:16,
118:17,
119:7,
119:25,
133:4,
146:14,
146:23,
179:1, 179:4,
179:9,
179:19,
187:25,
188:2, 203:6,
203:8,
252:9.
Donner
148:15.
Donald 21:20.
done 8:4,
11:25, 38:10,
39:18, 41:21,
48:2, 78:18,
81:14, 87:5,
107:2,
123:10,
127:2,
174:14,
245:25,
247:2,
255:24,
261:11.
Donna 55:6.
door 8:25.
Doreen 21:12,
208:20.
doth 232:2.
doubt 32:18,
61:12, 61:18,
130:8,
130:22,

131:9,
150:14,
182:2,
182:22.
Douglas 1:27,
6:13,
49:12.
Down 7:13,
8:15, 12:6,
33:11, 33:13,
37:8, 38:12,
45:18, 48:22,
49:10, 50:2,
65:6, 106:17,
133:23,
136:17,
162:14,
180:4,
185:16,
192:16,
210:2, 240:5,
243:11,
243:15,
245:1,
257:21.
downstairs
48:7, 49:9,
129:20.
downtown 12:10,
52:10, 52:13,
106:20.
dozen 46:19.
drama 135:20.
dramas
243:11.
drank 197:2.
draw 78:18.
drink 43:1.
drop 40:6.
dropped
42:11.
Drugs 26:4,
28:3, 28:19,
30:5, 30:17,
74:10, 83:4,
84:2, 84:5,
99:16, 99:19,
99:21,
121:13,
126:5,

285

136:13,
136:14,
153:16,
160:3,
160:13,
162:22,
195:8,
195:21,
198:10,
198:12,
238:24,
252:24.
Engelbrecht
59:22,
65:6.
engine 36:16,
36:18,
48:10.
English
67:14.
enough 7:6,
49:24, 54:7,
54:8, 54:13,
67:3, 82:14,
93:23,
109:18,
150:3, 175:2,
196:21,
229:16,
240:13,
261:5,
261:17,
264:8,
267:6.
enter 73:10.
entire
121:10.
entity 12:14.
environment
216:1.
EOC 215:17.
Equal 110:25,
215:20.
equation
211:23.
escape
199:10.
escorted 6:5.
Especially
3:18, 48:3,

65:23, 78:20,
151:13.
EQ 2:2, 2:3,
2:5, 2:6.
Essentially
31:17,
60:22.
estimate
265:23.
Esuebio
19:19.
et 14:18.
Etcoff 14:3,
53:24.
ethical 8:20,
9:4, 9:10,
50:19.
ethnic
142:25.
evaluate 94:19,
113:8,
161:13.
evaluating
151:22.
evening 233:19,
233:20,
263:16.
evenings
39:18.
event 36:9,
200:11.
eventually
103:5.
Everybody 5:24,
15:4, 16:13,
16:14, 17:21,
31:8, 32:18,
32:19, 32:20,
35:23, 44:9,
49:10, 50:17,
57:21, 60:17,
61:12, 61:15,
76:25, 89:10,
116:11,
120:16,
198:7,
230:19,
264:2,
264:4.
everyday

36:19.
Everyone 5:15,
56:22, 76:23,
104:12,
123:18,
150:21,
259:21.
evidentiary
6:20.
Evil 244:25.
ex-boyfriend
190:22.
ex-husband
195:7,
195:15,
195:20,
198:10.
ex-military
227:22,
227:24.
ex-police
85:2.
ex-special
227:22.
ex-wife
83:15.
Exactly 69:16,
136:24,
259:7, 260:1,
260:5.
example 16:9.
except 131:3,
184:22,
185:11.
exclamation
184:9.
exclude
139:19.
excluding
139:25.
excuse 33:20,
33:24, 47:12,
48:20, 48:23,
62:6, 62:12,
65:5, 129:10,
129:18,
134:14,
226:8,
226:11,
229:1,

287

164:12,
164:20,
164:21,
168:4, 179:1,
179:9,
179:12,
179:18,
235:5, 238:4,
238:19,
241:22,
243:2,
247:9.
drunk 157:10.
Duane 21:16.
due 5:17, 5:19,
36:6,
64:10.
Duffy 13:4,
53:1.
DUI 30:18.
Duran 12:18,
52:16,
55:10.
During 7:3,
8:10, 8:11,
9:5, 9:13,
10:14, 13:24,
42:19, 43:6,
43:10, 50:14,
53:20, 80:6,
119:2, 128:7,
128:11,
131:14,
161:1, 224:4,
224:8,
264:13,
264:17,
266:8.
duty 151:5,
175:18.
< E >
ear 231:10.
Earlier 54:15,
131:21,
153:14,
159:4,
206:19.
early 190:11,

219:7,
264:8.
easier 47:25,
214:22.
East 12:5,
12:7, 52:9,
52:10.
easy 81:22,
124:24,
150:22,
172:12.
Ed 13:4,
53:1.
editing
36:11.
educated
209:19.
education
209:19.
educational
217:25.
effect 15:25,
108:15,
108:19,
117:4.
effected
112:10.
efficient
54:18,
65:13.
Eight 36:20,
36:22, 42:8,
194:15,
194:20.
Eighth 6:13,
49:13.
either 5:19,
7:13, 50:11,
73:18, 98:2,
143:1,
212:25,
233:22,
240:2, 242:5,
255:6,
266:5.
element
89:25.
elements
61:11.
elevators 8:24,

128:5.
eligible 98:8,
134:4,
202:9.
Elko 217:10.
elsewhere
30:12.
emotion
170:22.
emotional
108:12.
emotions
152:16.
empathize
151:15,
155:16.
emphasize
184:9.
employed
234:10.
employee 40:3,
96:14, 96:15,
215:23.
employees
96:11, 96:15,
97:4, 179:12,
179:15.
enabler
246:1.
end 28:9, 30:7,
31:22, 39:15,
41:5, 60:24,
69:2, 78:4,
79:17,
103:21,
131:16,
175:6, 184:9,
214:6,
215:5.
ended 159:14,
159:16,
160:5,
252:16.
enforce 175:2,
181:10.
enforcement
31:2, 81:1,
85:1, 93:18,
94:4, 111:21,
122:5,

286

229:20,
263:23.
excused 54:15,
65:25,
128:25,
135:1,
226:16,
229:16,
230:12.
excuses
62:13.
excusing
48:13.
executive
9:21.
exhibits 8:6,
50:10.
exists 32:10,
61:1, 61:5,
61:6.
exited
162:12.
expand 180:6,
238:10.
expect 200:9,
expedite 14:9,
14:11.
expediting
46:13.
experience
85:17, 86:4,
93:13, 113:1,
113:5, 113:8,
113:15,
114:9, 116:6,
116:22,
126:20,
137:22,
146:14,
146:21,
164:8, 168:2,
195:2, 200:1,
209:6,
210:13,
219:2,
220:18,
242:18,
243:21,
251:25,
252:23,

256:14.
experienced
147:15.
experiences
107:6,
194:6.
experimental
93:25,
99:13.
experimentation
99:15.
expert 36:17.
expires
35:15.
explain 108:21,
117:5, 163:13,
204:22,
212:25,
225:10,
239:20,
240:9,
246:21.
explained 69:1,
117:10,
175:3,
202:12,
240:6.
explaining
54:6.
explanation
167:7,
212:17,
213:1.
explore 72:4.
explored
240:11.
exposed 80:1.
exposed
225:10.
express 43:17,
128:18,
224:15,
264:24.
expressed
33:6.
expressing
115:12.
expunged
17:5.
extent 25:17,

35:21, 50:23,
65:24,
229:2.
extra 178:17.
eye 75:12,
86:12, 86:14,
86:15,
102:14,
102:20,
102:21,
145:5,
171:17,
180:23,
229:8,
252:3.
eyes 219:17.
< F >
factor 38:22,
74:11, 109:6,
109:23.
factored
261:9.
factors 70:18,
77:25, 88:6,
90:1, 90:4,
104:13,
104:14,
104:15,
107:13,
124:11,
127:5,
145:17,
148:24,
149:12,
149:18,
175:12,
245:3, 245:7,
253:14,
267:12.
factual 90:12,
221:25.
fail 7:17,
7:24.
Fairly 99:19,
122:5,
123:20,
153:20,
160:10,

288

161:14, 190:8, 235:18, 235:20, 236:2, 266:19, fairness 225:24, faith 116:24, fall 127:12, fallen 235:4, falls 252:8, familiar 84:16, 218:1, families 209:18, fan 135:19, 247:17, far 8:25, 66:14, 86:10, 91:10, 91:14, 120:16, 138:4, 157:2, 157:25, 191:9, 227:5, 227:15, 266:17, farm 188:20, fashion 9:3, 35:16, fate 104:9, 104:11, father 29:2, 29:5, 72:8, 72:11, 147:8, 156:19, 157:2, 194:16, 196:21, 203:5, 234:12, 252:4, favor 103:19, 113:13, 215:1, favorably 98:9, fearful 199:20, feed 84:11,	feeling 74:23, 168:25, 211:17, 259:10, 259:21, feelings 100:3, 112:4, 113:5, 138:17, 149:7, 153:22, 166:6, 168:14, 168:17, 169:6, 171:7, 176:5, 197:25, 205:2, 220:19, 227:3, 244:7, 249:14, 252:23, feels 31:4, 130:24, 140:1, 235:19, fees 38:11, fell 126:15, 172:25, 202:22, 248:13, 252:2, fellow 54:5, 70:5, 150:15, 200:21, felon 16:25, felony 57:23, 59:18, 154:7, felt 79:2, 87:19, 89:12, 107:22, 108:25, 140:11, 141:8, 167:19, 169:10, 186:14, 190:8, 208:6, 209:22, 209:24,	214:16, 214:21, 240:1, 250:2, 255:23, Feuerhammer 21:16, few 6:23, 14:12, 33:11, 35:23, 49:8, 91:10, 95:11, 111:11, 142:8, 224:2, 230:3, 231:12, 237:25, field 23:16, fifth 174:13, fight 29:14, figure 32:3, 67:5, 164:4, 226:13, figuring 258:13, fill 11:13, 47:22, 134:25, filled 14:8, 15:7, 49:17, 54:8, 56:20, 67:7, 68:10, 103:2, filling 49:4, 258:2, filter 15:24, final 61:20, 92:7, 264:9, finally 43:18, 61:8, 128:19, 224:16, 264:25, financial 44:15, 45:19, 64:10, 93:7, find 8:16, 14:25, 15:2, 42:6, 50:17, 61:3, 65:23, 71:15, 73:12,	132:4, 150:17, 224:14, 230:5, 263:1, 264:23, formed 102:18, 103:5, 203:14, 221:23, 221:24, 223:15, forming 103:15, forms 72:18, 77:20, 133:15, 134:6, 139:8, 141:5, 144:19, 229:25, 230:3, 259:9, 259:11, 262:10, 266:9, formulating 196:9, forth 8:18, 15:9, 16:4, 31:20, 33:12, 39:11, 43:25, 57:8, 65:21, 268:11, forty 63:21, forward 63:5, 264:11, found 122:7, 126:11, 126:13, 182:25, 208:9, 209:15, 214:5, 227:18, 259:6, fourteen 9:18, 14:25, frame 232:10, Frankly 148:10, 232:3, Franks 56:3,	Fraud 28:11, Fred 13:25, 53:21, Frederick 17:23, free 78:1, 139:24, 225:10, Freeman 12:21, 52:19, French 20:9, 28:6, 41:1, 47:16, 49:1, frequently 98:25, 262:25, Friday 61:23, friends 23:2, 24:2, 80:24, 80:25, 241:24, front 6:25, 14:17, 39:25, 49:22, 56:19, 98:21, 152:3, 176:6, full 14:20, 15:8, 36:10, 57:7, 87:11, 214:14, 261:5, funnel 162:13, futuristic 136:2, < G >, gang 28:23, 30:11, 190:20, garage 105:21, Garcia 20:15, 28:18, 66:17, 240:21, 240:22, 245:24, 263:22,	gave 102:21, 191:12, 220:19, GE 12:11, Gene 21:6, General 57:19, 82:18, 90:21, 116:24, 127:4, 176:18, Generally 14:16, 39:1, 44:13, 44:17, 103:19, 211:18, 230:19, generated 215:11, gentleman 38:21, 48:9, 228:12, 267:1, Gentlemen 6:7, 6:12, 13:17, 14:7, 16:23, 43:6, 48:18, 53:13, 65:10, 127:24, 128:7, 224:2, 224:4, 264:13, geographically 12:3, George 19:3, 158:23, Germot 55:4, gets 5:3, 65:24, 101:24, 151:8, 238:15, 257:23, 259:1, 265:8, getting 81:17, 91:16, 152:12, girl 91:16, 137:1, 180:7,
---	--	---	--	--	---

289

291

79:15, 79:17, 101:5, 123:13, 130:6, 130:7, 132:1, 209:9, 213:8, 215:1, 233:6, 233:17, 233:20, 238:19, finder 216:8, finders 32:2, fine 39:23, 46:20, 66:25, 77:1, 129:17, 129:23, 159:2, 160:6, 206:16, 240:24, 243:24, 244:5, finish 39:10, 39:14, 264:1, 264:5, finished 231:14, 264:7, fire 96:14, firearm 162:16, firing 96:8, firm 41:25, 96:6, fit 81:15, 86:15, 95:4, 100:7, 240:1, 240:9, 240:12, 250:3, fits 236:9, 240:5, 240:6, 240:8, 240:9, five 5:6, 11:24, 17:6, 33:14, 33:15, 34:13, 36:1, 63:13, 64:21, 79:18, 190:4, 199:16,	Flagstaff 163:8, flake 265:7, flat-out 133:8, flight 41:17, flights 41:21, floor 49:7, 128:4, Florida 180:8, fluid 39:9, focused 109:1, focusing 11:22, folks 10:22, 30:24, 34:21, 34:24, 44:14, 44:25, 45:15, 46:18, 47:13, 49:8, 49:11, 54:4, 65:23, 111:9, 134:18, 134:25, 226:8, follow 31:9, 60:18, 61:1, 61:5, 69:8, 123:16, 130:5, 130:12, 130:16, 131:3, 131:15, 131:21, 133:17, 150:7, 150:10, 157:22, 157:25, 176:1, 176:7, 176:10, 177:5, 193:24, 200:17, 202:14, 202:19,	212:6, 218:7, 248:9, Follow-up 131:25, followed 82:15, follower 205:14, 225:13, 227:10, 229:1, 229:3, following 69:22, 70:6, 70:23, 213:25, follows 13:24, 53:20, 215:23, Forbes 21:18, force 178:9, 263:4, forced 246:5, forces 178:15, 227:22, forcibly 105:22, Ford 13:24, 53:20, foreclosed 134:6, 262:3, foregoing 268:10, 268:14, foreperson 25:10, 58:19, forfeit 110:1, forfeited 246:22, forgery 28:4, forgot 200:6, 200:9, Form 22:20, 43:16, 103:10, 128:17,	girlfriend 204:3, 204:8, 204:10, 252:10, girls 234:13, Given 31:10, 70:1, 71:24, 113:2, 120:17, 127:5, 144:13, 159:19, 164:15, 210:16, 213:6, 214:14, 236:10, 238:4, 239:12, 240:6, 240:7, 240:8, 240:12, 240:15, 254:18, 261:17, giver 64:14, 197:18, gives 177:22, giving 33:25, 63:10, 67:3, 92:14, 107:21, 176:11, 201:5, 240:11, 261:15, glad 122:4, gleaned 233:24, glimpses 218:6, goal 92:7, God 16:19, 56:16, 245:1, 263:6, Gods 87:3, goods 60:4, gotten 253:2, grab 128:4, grace 245:1,	graduate 207:12, 210:2, Grand 26:14, grandson 160:3, 164:12, grant 228:22, graphic 151:19, graveyard 64:13, 64:19, 182:9, great 8:7, 15:21, 15:22, 16:2, 97:11, greater 35:17, 239:11, Green 12:24, 52:21, grew 91:2, 94:1, 147:15, 195:1, 199:4, 200:1, Grey 14:4, 53:25, Grindstaff 20:19, 28:22, 47:17, 49:2, ground 217:13, group 48:7, 56:23, 70:20, 112:23, 205:10, 213:5, 227:11, guarantee 15:20, guess 45:9, 47:2, 54:4, 68:9, 69:12, 71:3, 81:13, 133:24, 175:25, 213:3, 213:5, 246:22, 249:15, 252:13, 258:11,	guide 246:4, guilt 11:14, 43:25, 191:20, guilty 87:24, 109:16, 120:13, 122:7, 171:9, 173:8, 183:1, 217:17, 227:18, 258:25, 259:6, gun 76:14, 87:16, guy 44:11, 48:10, 63:23, 81:21, 105:6, 123:7, 123:13, 126:13, 128:24, 131:1, 148:1, < H >, half 46:19, 188:25, halfway 165:6, hall 8:21, hand 14:15, 14:19, 14:21, 16:15, 28:6, 28:18, 28:22, 29:12, 37:1, 56:11, 57:21, handled 105:1, 236:2, hands 3:23, 3:25, 17:17, 24:10, 24:13, 27:17, 31:6, 32:11, 32:21, 33:2, 35:7, 48:4, 58:6, 58:11, 58:14, 58:19, 60:16,
---	---	---	---	--	---

290

292

61:6, 61:18, 106:4, 106:6, happen 40:19, 103:13, 105:9, 120:20, 123:1, 138:14, 145:2, 190:21, 191:17, 214:9, 220:6, 241:11, 242:4, 243:5, 248:18, happened 74:9, 117:8, 153:23, 168:15, 199:14, 207:14, 216:20, 216:22, 218:2, 219:14, 220:16, 235:2, 248:18, 252:6, happening 6:24, happy 116:16, 116:20, 217:12, harbor 168:14, harboring 220:22, Hard 7:10, 50:1, 67:13, 67:16, 67:19, 99:18, 100:15, 101:20, 112:2, 114:9, 124:17, 124:18, 146:16, 151:9,	151:23, 152:2, 174:23, 176:3, 176:5, 194:19, 209:13, 242:9, 243:24, 259:22, 259:24, 262:13, hardcore 229:19, hardship 45:19, 45:20, harsh 92:10, 185:20, hash 92:15, 92:25, hate 87:3, 246:11, 246:15, Haupt 18:12, 22:15, Hawaii 30:5, 250:19, 251:3, He'll 8:10, 97:24, 228:4, head 7:12, 49:25, 96:25, 241:24, 252:2, 262:14, headquarters 251:5, heart 232:20, Heather 55:18, head 201:15, Heiner 12:25, 52:23, heinous 148:14, 240:13, held 65:3, 67:22, 74:15, 263:15, Hello 135:8, 135:9,	178:4, help 8:10, 16:19, 43:22, 50:13, 56:16, 162:11, 216:12, 216:13, 246:1, helped 8:14, helpful 66:8, Henck 18:24, 26:6, 66:14, 120:25, 125:25, 263:19, Henderson 13:4, 53:1, 94:6, 98:18, henby 268:8, Hendon 1:27, 6:14, 49:12, 69:1, 69:9, 121:10, 202:13, hesitate 4:11, Hibbard 18:10, 66:13, 93:4, 96:5, 101:13, 129:22, 130:1, 132:7, 132:8, 132:10, 133:12, 134:9, 263:19, hide 57:9, High 14:21, 16:4, 156:8, 156:9, 156:15, 156:17, 231:1, 241:12, highly 99:4, hike 117:1, hinders 40:5, hinted 88:7, hiring 96:9, Hispanic	184:3, 214:5, 214:8, 229:9, 236:16, 239:19, imposed 81:20, 82:16, 82:19, 163:12, imposing 125:6, 134:6, 156:4, imposition 69:21, impressed 210:16, impression 82:18, impressions 197:21, impressive 178:24, improper 231:21, in-law 30:17, In-laws 187:4, in. 16:14, 219:16, incapacity 5:19, incarcerated 97:19, incident 52:7, 191:16, 253:3, incidents 40:14, 106:17, incision 37:17, inclination 130:14, inclined 214:20, include 12:18, 51:20, 52:2, 52:12, 98:7, 184:13, 184:16, 185:18, 186:8,	including 43:8, 43:14, 45:19, 46:2, 49:23, 62:14, 128:9, 128:15, 224:6, 224:12, 246:17, 264:15, 264:21, income 64:14, 64:19, inconvenience 33:7, inconvenient 35:21, 63:1, independent 62:12, indicate 20:5, 109:25, 130:5, 133:19, 134:5, 137:21, 216:24, 229:2, 230:1, 236:22, 247:21, 266:8, indicates 21:21, 22:8, 123:24, 261:14, indicating 46:17, 116:15, 132:3, 217:17, indication 229:5, individual 183:16, individually 35:3, 46:21, individuals 45:4, 131:7, 186:23, 232:5,	262:19, indulgence 4:20, 45:25, 46:22, 66:22, 101:8, influence 94:15, 112:16, 148:5, informed 127:19, initial 131:14, innocence 11:14, 43:25, innocent 43:25, 171:9, 173:7, insanity 101:2, 101:4, 132:24, 133:7, inserted 166:4, instance 16:5, instances 95:6, 104:4, 106:19, 187:9, Instead 47:20, 139:1, instinct 15:11, 57:12, Institute 90:22, instructed 131:24, instruction 70:24, 73:12, 213:6, Instructions 8:12, 8:13, 31:9, 31:10, 31:21, 32:1, 60:18, 60:20, 60:23, 69:8, 69:22, 71:6, 73:15, 74:1,
--	---	---	--	---	---

293

295

143:9, history 71:12, 71:23, 72:7, 80:1, 179:18, 197:4, 203:7, 266:25, hit 157:10, 241:24, 242:8, 252:2, hobbyist 135:19, Hobson 12:19, 52:16, Hold 32:20, 61:15, 69:9, 79:19, 90:17, 106:21, 136:4, 149:8, 176:2, 178:20, 202:17, holes 238:9, Home 12:6, 34:1, 52:9, 62:8, 105:3, 105:19, 199:21, homicide 217:21, 218:2, honest 8:8, 15:8, 46:6, 57:7, 103:8, 213:19, 228:22, 258:20, honestly 258:16, HONORABLE 1:27, hope 37:12, 107:3, 123:2, 198:22, hopeful 11:23, 264:7, Hopefully 12:1, 62:5, 123:1, hopes 210:2,	hoping 235:23, 258:12, horrible 244:13, 258:8, Hotel 207:8, hour 39:7, hour-and-a-half 39:7, hours 91:10, 95:11, house 64:3, 64:20, 219:16, 251:1, Houston 105:14, 106:20, 106:21, Howard 1:42, 14:2, 53:23, 268:25, huge 104:14, huh-uh 7:9, 50:1, human 79:4, 86:25, 103:5, 108:4, 186:5, 239:14, hundred 87:24, 185:20, hung 121:23, 226:25, husband 27:5, 36:8, 37:10, 42:11, 64:9, 111:19, 113:22, 114:13, 118:17, 119:13, 147:8, 147:15, 156:19, 157:1, 157:5, 187:2, 188:22, I > idea 34:20,	76:20, 77:2, 78:14, 86:25, 97:15, 102:14, 138:6, 138:17, 140:8, 165:17, 184:5, 187:23, 237:4, 245:5, 248:6, 257:2, 257:10, ideas 77:3, 77:8, identified 7:23, identify 7:25, 50:5, identity 255:16, ill 252:23, imagine 15:18, 202:4, 252:5, impartial 56:23, 76:1, 80:7, 107:17, 108:16, 108:20, 117:22, 137:23, 146:17, 146:19, 146:21, 158:10, 162:23, 164:7, 195:4, 204:18, 205:8, importance 88:23, 104:14, 212:13, impose 68:16, 72:22, 73:23, 89:23, 95:21, 125:20, 132:14, 154:25,	124:12, 130:5, 130:12, 130:16, 131:3, 131:15, 131:22, 133:17, 150:11, 175:6, 175:7, 176:1, 177:5, 193:25, 200:18, 212:6, insurance 86:2, 91:3, 91:7, 117:1, 181:8, integrity 16:4, intelligent 16:3, 34:21, intended 57:2, intent 226:14, intentional 110:10, 110:14, 117:12, intentionally 202:5, interest 46:12, interested 66:4, 258:25, interesting 171:6, 171:16, 259:4, interests 232:2, interfere 84:7, 244:2, internalize 151:15, internet 43:15, 128:16,	224:13, 264:22, interpret 31:15, 68:2, 124:14, 129:14, interpreter 67:24, 68:5, 68:6, 129:9, 129:11, introduce 6:24, 10:5, 51:2, introducing 54:10, investigate 215:24, investigator 215:12, 215:16, 215:18, involve 29:7, 96:8, involvement 126:8, 162:22, 164:12, 164:14, 165:8, involves 51:17, 52:7, 71:16, involving 82:1, issue 3:9, 16:19, 45:8, 56:16, 72:4, 74:12, 109:7, 111:15, 141:23, 201:10, 232:16, 233:7, issues 8:11, 31:22, 38:22, 40:9, 42:24, 44:9, 44:23, 45:10, 46:14, 50:14, 56:24, 57:4, 76:21, 113:3,	114:12, 138:1, itself 70:2, 77:13, 149:16, 249:23, Ivory 13:25, 53:21, J > Jackson 12:19, 22:6, 22:16, 52:17, 54:23, 59:12, 64:7, jail 12:10, 52:13, 72:15, 188:24, 190:24, 191:3, 191:11, 191:17, 191:18, 232:4, 252:4, 252:17, James 1:17, 3:6, 6:9, 11:5, 13:1, 13:22, 13:24, 20:19, 22:4, 48:15, 49:16, 51:18, 52:24, 53:18, 53:20, 55:22, 134:21, 233:13, 234:5, Jante 20:11, janitor 234:16, Jep 37:10, Jeffery 148:14, Jerry 12:21, 18:8, 52:19, Job 32:2, 61:3, 85:7, 93:10, 97:4, 97:11,
--	--	---	--	---	--

294

296

97:14, 97:16,
98:25, 99:4,
109:13,
164:3,
213:12,
214:24,
216:12,
216:13,
jobs 182:10,
John 55:20,
63:18,
180:9,
Johnson 20:23,
29:1, 47:17,
49:2, 74:20,
79:24,
263:18,
Joseph 55:8,
judged 108:5,
judges 63:7,
89:10,
231:24,
judging 78:20,
79:16,
Judgment 78:15,
79:3, 86:25,
107:24,
108:2, 115:7,
124:25,
125:5, 140:5,
140:8,
158:18,
165:18,
165:20,
166:19,
169:12,
184:5, 184:6,
184:12,
184:16,
186:8,
186:16,
214:7, 248:7,
248:9,
253:18,
257:5,
257:11,
judgmental
184:12,
judgments
78:22.

Judicial 6:13,
49:13,
63:5,
Judy 54:25,
jump 76:14,
76:24,
87:15,
juries 58:19,
184:2,
jurisdiction
187:16,
justice 15:19,
35:2, 35:7,
35:11, 35:14,
80:24, 81:1,
81:4, 94:12,
105:8,
113:25,
161:23,
171:8,
186:24,
234:20,
256:7,
justifiable
132:20,
justification
70:11, 70:14,
202:5,
justify 100:13,
101:3,
101:15,
229:16,
230:12,
justifying
102:9,
juvenile 17:13,
160:6,
188:14,
K >,
Kaleikini-johns
on 66:12,
Kaleikini-johns
n 18:6,
Karalee 19:7,
Mary 55:24,
keep 8:7,
14:19, 39:13,
66:19, 76:9,

76:18, 88:10,
96:18, 99:5,
99:21,
102:25,
107:20,
119:15,
135:12,
138:12,
139:2,
139:20,
187:3, 198:3,
198:21,
212:7,
230:19,
238:6, 248:4,
259:13,
keeping 76:21,
263:7,
265:9,
keeps 8:6,
50:10,
kept 265:15,
kick 46:8,
46:16, 46:19,
225:14,
225:23,
225:25,
kicks 64:21,
179:12,
kill 148:25,
183:4, 184:2,
185:17,
237:19,
244:18,
244:21,
killed 40:14,
40:18, 91:16,
167:7, 180:8,
204:2, 205:3,
208:20,
228:18,
killers 148:16,
148:21,
206:5,
killing 110:11,
110:14,
216:17,
kills 226:24,
229:8,
Kimberly 12:20,

297

230:14,
leaving
216:23,
Lee 13:1,
21:10,
52:23,
left 8:9, 30:8,
50:7, 50:12,
86:7, 101:22,
116:23,
185:13,
225:11,
242:19,
Legal 8:11,
8:12, 23:16,
23:17, 31:21,
50:14, 60:22,
69:10, 73:12,
116:24,
162:1,
202:10,
243:11,
247:17,
legally
132:19,
legislator
172:19,
222:13,
222:17,
legislature
149:4,
230:6,
lengthy 14:10,
31:25,
lenient 73:18,
81:5, 81:12,
82:4, 92:15,
92:23, 97:20,
132:15,
Leslie 8:14,
9:9, 9:12,
9:15, 9:17,
9:20, 48:6,
50:16, 50:22,
50:24,
129:19,
less 31:4,
33:19, 60:14,
62:5, 80:7,
97:20, 98:9,

99:4, 99:16,
109:20,
113:13,
119:8,
119:11,
119:12,
120:13,
126:21,
157:13,
157:14,
164:22,
179:20,
214:21,
238:3,
letting
44:14,
levels
133:13,
Lewis 14:3,
53:24,
Lexus 233:20,
lien 71:4,
141:3,
light 111:1,
130:15,
136:8,
lightly
150:21,
likely 99:17,
118:9,
157:13,
157:14,
214:10,
likes 89:10,
227:16,
243:12,
261:14,
265:24,
Likewise
201:25,
limitation
43:8, 43:14,
128:9,
128:15,
224:6,
224:12,
264:15,
264:21,
limited 74:4,
262:2,

limiting 149:2,
149:4,
Linda 55:10,
line 37:18,
89:4, 180:4,
267:4,
lines 31:3,
178:15,
228:24,
Lisa 12:18,
18:15, 18:17,
18:22, 20:9,
52:16,
list 10:10,
13:23, 45:18,
45:20, 46:4,
47:3,
53:19,
listened
239:25,
listening 77:5,
81:16,
102:15,
117:19,
132:12,
196:9,
211:24,
211:25,
212:13,
literally
86:16,
litigation
216:2,
232:18,
littler
33:19,
live 84:17,
174:4, 174:8,
183:17,
213:14,
235:24,
241:3,
246:23,
248:22,
256:3,
256:5,
lived 121:22,
240:25,
livelihood
36:17,

299

52:17,
kinds 95:16,
113:4,
135:17,
135:25,
182:15,
Kisha 14:1,
53:22,
Kitchen
55:24,
Knowing 72:24,
73:24, 110:9,
153:7,
155:18,
259:6,
262:16,
knowledge
218:13,
known 102:17,
179:3,
179:5,
knows 22:19,
24:9,
24:12,
K >,
L >,
LA 41:18,
Labbranch 18:22,
25:23, 37:5,
47:14,
48:24,
Ladies 6:6,
6:12, 13:17,
14:7, 16:22,
43:6, 48:18,
53:13, 65:10,
127:24,
128:7, 224:2,
224:4,
264:13,
Ladonna 12:19,
52:17,
Lady 45:20,
81:21, 176:5,
181:7, 207:8,
216:21,
216:23,
226:3,
Lamp 12:7,

52:11,
Land 16:6,
Language
67:11,
large 36:7,
Larry 13:3,
18:24,
52:25,
Larsen 55:14,
Las 3:1, 40:20,
59:25, 63:20,
146:5,
157:17,
195:10,
241:1,
250:21,
last 7:21,
36:5, 36:13,
61:23, 62:15,
62:17, 62:18,
62:20, 68:10,
128:24,
132:2, 189:3,
205:25,
225:4, 226:3,
228:12,
236:13,
258:4, 258:9,
258:14,
258:17,
259:8, 261:8,
265:22,
lasts 33:18,
62:4,
late 9:23,
9:24, 89:6,
192:9,
219:6,
later 8:13,
15:13, 17:5,
39:13, 39:16,
40:10, 62:15,
102:23,
126:15,
231:11,
Laura 12:21,
20:23, 52:18,
55:12,
lawful
238:21,

laws 32:7,
94:24,
157:21,
240:10,
lawsuit
116:12,
Lawyer 116:16,
181:8,
Lawyers 43:9,
116:7,
116:10,
128:10,
136:15,
224:7,
264:16,
layout 73:15,
lead 247:4,
leading
229:14,
leaking
37:11,
lean 144:20,
201:7,
leaning 139:17,
141:4,
148:10,
257:17,
learn 15:5,
47:11, 48:3,
57:4,
213:23,
learned 73:2,
97:13,
179:18,
least 5:7,
88:14,
104:17,
130:4,
139:18,
159:16,
168:9,
178:22,
190:25,
192:7,
201:10,
206:23,
219:5,
240:25,
241:10,
241:14,
243:16,

298

livelihoods
212:12,
lives 15:3,
15:25, 33:13,
57:3, 64:15,
137:3, 154:8,
239:8,
living 79:8,
111:25,
121:21,
122:12,
159:11,
207:9,
211:21,
222:18,
loan 64:9,
Locally 25:24,
26:16, 26:23,
26:25, 27:13,
27:20, 28:4,
28:16, 28:20,
29:4, 29:19,
30:9, 30:21,
30:22, 40:19,
59:3, 174:4,
234:24,
lock 188:15,
logically
152:14,
Long 17:10,
27:21, 37:19,
37:20, 58:25,
76:23, 85:19,
85:20, 93:9,
106:11,
123:14,
132:17,
139:18,
159:16,
168:9,
178:22,
190:25,
192:7,
201:10,
206:23,
219:5,
240:25,
241:10,
241:14,
243:16,

254:8,
255:18,
long-time
217:25,
longer 5:18,
39:4, 62:18,
122:18,
213:4,
217:15,
230:21,
230:23,
look 34:12,
44:8, 46:9,
90:10, 98:8,
103:9,
119:24,
120:18,
132:23,
151:18,
155:14,
166:10,
167:16,
197:4, 198:6,
209:20,
213:12,
214:10,
227:4, 228:1,
229:20,
232:25,
233:5,
266:20,
looked 103:8,
looking 75:24,
76:8, 81:15,
90:6, 155:20,
170:8,
224:23,
225:19,
233:1,
246:25,
247:1,
266:23,
loop 238:9,
Lori 20:7,
218:25,
Los 41:11,
lose 145:8,
losing 47:3,
lots 25:21,
238:9,

load 7:6,
7:14,
Lova 209:12,
lower 133:23,
Luanna 12:18,
52:16,
Luck 78:18,
207:8,
216:21,
216:23,
Luka 21:2,
Lunch 39:7,
65:12,
111:10,
126:3,
127:25,
128:21,
129:20,
134:10,
134:19,
Lusila 19:15,
lying 164:4,
M >,
Ma'am 24:19,
25:19, 26:20,
30:14, 37:1,
111:12,
146:3, 177:9,
177:17,
194:5,
199:3,
Madison 7:18,
7:19, 7:21,
16:25, 17:1,
17:3, 17:6,
17:9, 17:11,
17:14, 17:23,
33:21, 33:23,
36:2, 44:11,
47:13,
48:23,
mail 28:10,
main 151:7,
mainly 143:9,
maintain 4:12,
267:17,
maintained
66:9,

300

majority 4:5, 13:12, 69:13, 73:3, 120:25, 131:1, 132:25, 183:22, 213:25, 228:6, 260:3, man 88:5, 117:10, 156:20, 180:8, 183:4, 184:2, manage 169:24, manager 96:16, 169:23, 170:1, manner 210:14, 220:20, 245:18, Marabel 14:2, 53:23, marijuana 247:8, Mark 18:4, 115:20, 203:15, marks 150:17, married 137:2, Martino 19:25, 66:16, 199:2, 203:3, 225:2, 225:8, 226:20, 226:21, 228:14, 228:21, 228:22, 229:15, 230:14, Mary 55:16, mass 46:16, 46:20, masters 215:13, Mateo 136:23, matter 3:14,

301

69:20, 73:20, 130:17, 148:20, 202:11, 202:17, 213:7, 214:8, 236:15, Metro 162:7, 162:10, 162:13, 162:15, 163:4, Mexicans 190:4, Meyrick 19:5, 66:14, 165:16, 169:22, 263:20, Michael 19:17, 20:17, 21:23, Michelle 12:21, 52:19, Michigan 5:16, Middle 14:16, 37:1, 37:14, midnight 37:10, Mike 12:19, 13:1, 13:4, 52:17, 52:23, 53:1, mile 121:22, miles 52:10, military 178:6, 228:13, 229:19, Mills 18:17, 26:20, 66:13, 112:12, 263:19, minds 229:23, mine 24:2, 201:4, 259:13, minorities 143:15,

302

moets 100:5, member 31:2, 123:4, 234:19, 239:2, 249:11, members 25:16, 25:18, 50:22, 115:13, 138:17, 150:15, 153:15, 153:17, 153:23, 155:24, 163:3, 190:9, 190:20, 208:21, 209:18, 211:3, 231:18, 238:1, memory 152:22, mention 97:7, 157:5, 181:4, 251:24, mentioned 10:16, 58:16, 99:7, 115:24, 116:19, 117:3, 121:9, 147:7, 148:7, 151:13, 152:20, 155:15, 159:7, 160:2, 161:23, 179:25, 190:13, 199:3, 228:10, 238:8, 238:23, 254:6, mercy 244:14, 246:23, messed 190:2, met 8:14, 50:16, 69:6,

68:10, 68:21, 135:13, 153:14, 174:20, 234:19, 263:25, 264:1, 267:22, Morrell 13:25, 53:21, mortgage 174:2, 174:5, Mother 41:3, 72:9, 72:15, 194:7, 194:8, 194:16, 196:21, 196:25, 216:25, 255:13, 255:14, 255:15, mother-in-law 147:12, 147:20, 147:20, 157:5, motions 38:25, Motors 90:22, Mountain 188:21, mouth 86:8, 116:23, 242:19, move 5:20, 6:17, 6:20, 14:16, 14:20, 49:8, 49:10, 54:16, 65:10, 65:16, 65:21, 66:1, 67:23, 231:12, 264:11, moved 42:18, 91:23, 116:12, 192:17, Moving 66:5, 250:18, municipal 38:12, 146:6, 157:18, Munson 12:22, 52:19, murdered 206:20, 262:8, murdering 202:5, 202:6, murders 138:10, myself 56:22, 59:18, 75:17, 105:20, 213:14, 227:24, 257:9, < N >, Nakanishi 23:23, 45:12, 47:17, 49:2, Nakanishi 21:6, name 6:13, 7:17, 8:1, 11:2, 13:17, 22:14, 25:22, 37:4, 49:12, 50:3, 50:5, 51:14, 53:14, 54:21, 54:22, 56:8, 181:5, 231:22, names 10:13, 10:19, 12:18, 48:21, naming 54:11, Nancy 21:10, narcotics 26:10, narrow 151:6, natural 130:14, nature 10:19, 68:18, 75:7, 108:5,

108:11, 149:15, 229:14, nearly 63:21, necessarily 70:13, 75:13, 88:9, 109:1, 124:2, 150:1, 218:14, 230:21, 256:8, necessary 3:14, 4:12, 61:11, 61:17, 165:22, 198:18, 263:5, needed 4:7, 44:1, 93:23, 253:6, needs 46:3, 127:19, Negative 109:4, 112:5, 112:9, 179:24, 234:19, neglected 93:5, negligent 160:15, neighborhood 123:18, Nell 18:2, Neither 163:25, nephew 27:5, 28:23, 59:13, 187:2, 189:20, 189:21, nephews 187:5, nervous 75:2, neutral 15:1, Nevada 1:7, 1:10, 3:1, 3:6, 6:8, 14:4, 32:1, 48:15, 49:16, 53:25, 61:2,

303

61:10, 69:3, 69:5, 95:24, 121:15, 134:21, 148:19, 175:12, 215:19, 222:18, 222:21, 223:1, 233:13, 234:5, 268:8, New 17:4, 41:11, 49:11, 54:4, 105:14, 106:19, 122:13, 175:15, 177:3, 181:14, 211:22, news 24:21, 81:16, 81:24, 82:1, 91:22, 151:13, 153:1, 218:6, 265:7, newspaper 24:24, newspapers 43:14, 128:15, 224:12, 264:21, Next 8:2, 11:24, 12:1, 26:5, 27:24, 28:21, 28:25, 33:16, 36:1, 41:11, 47:2, 59:5, 61:22, 61:24, 62:10, 65:16, 79:17, 108:17, 141:2, 225:1, 228:4, 230:16, 243:15, nicer 156:14,

137:22, 147:3, 148:4, 154:11, 157:12, 181:9, 198:18, 211:14, 226:4, 228:3, 231:14, 242:4, 244:1, 250:25, 256:13, 267:15, notice 249:17, November 206:25, nowhere 91:6, null 36:23, numbers 7:21, 9:19, 9:20, < O >, O'clock 38:17, 39:2, 39:4, 39:12, 230:20, O'hartz 18:19, 18:21, 22:15, Oakey 241:3, Oakland 251:5, 251:7, oath 8:3, 8:5, 50:8, 50:9, 56:12, object 110:23, 164:16, 206:10, objecting 233:24, Objection 44:21, 45:16, 71:25, 72:2, 82:5, 82:7, 92:18, 97:23, 98:4, 165:4, 206:11, 231:17,

304

objections
268:12,
268:15.
objectors
182:12.
obligate
236:16.
obligated
236:24.
obligation
50:22.
obligations
8:20, 9:4,
9:10,
50:19.
observed
207:19.
obviously 4:9,
5:20, 13:11,
14:7, 14:20,
16:7, 33:4,
34:21, 46:12,
56:25, 70:1,
72:5, 75:25,
76:5, 114:17,
115:4, 116:5,
149:16,
195:20,
253:2,
260:4.
occasion 97:10,
98:24,
104:25,
137:17.
occasionally
218:6.
occupation
90:25, 91:6,
93:5, 169:23,
250:11.
occur 207:6.
occurred 12:8,
52:8, 84:17,
187:10,
207:7,
209:16.
occurring
112:20.
odds 35:15.
offence 17:13,

30:17,
offices 11:3,
12:23, 13:19,
13:21, 22:20,
49:7, 51:15,
52:21, 53:15,
53:17, 67:24,
68:6, 98:23,
109:11,
129:9,
129:11,
154:5, 162:2,
192:20,
192:21.
Officer 4:14,
12:25, 52:23,
60:15, 64:9,
85:3, 93:8,
94:7, 94:16,
94:17, 97:8,
98:12, 98:15,
128:25,
163:19,
195:13,
195:16,
198:12,
239:10,
239:12,
254:19.
OFFICERS 12:25,
31:5, 31:6,
52:22, 60:16,
85:10, 85:12,
195:18,
198:19,
231:9,
232:3.
often 82:14,
82:16, 99:1,
136:25,
137:2,
188:11.
Ohio 204:24.
old 29:16,
42:7, 42:20,
64:15,
187:19,
194:15,
194:21,
196:21,

197:12,
199:13.
older 29:15,
168:11,
197:23.
Once 9:18,
54:10,
157:10,
172:5, 184:4,
202:16,
244:19,
248:17,
264:7.
one. 243:15.
ones 10:15,
44:22, 45:18,
191:5,
265:15.
ongoing 29:3,
45:20.
open 76:9,
76:18, 76:22,
88:10, 91:13,
96:18, 99:5,
99:21,
102:25,
103:4, 104:2,
107:20,
111:3,
117:19,
119:15,
123:24,
124:6,
132:11,
138:13,
139:2,
139:20,
170:21,
173:13,
198:22,
201:11,
212:8,
218:17,
238:6, 248:4,
259:13.
open-mind
198:4.
Open-minded
15:1, 92:5,
103:7, 196:5,

305

264:9.
Part-time
162:1.
partake
129:13.
participate
207:22.
particular
12:7, 12:14,
32:15, 83:23,
132:16,
208:2,
214:12,
216:1,
218:12.
particularly
121:18.
parties 43:9,
89:7, 128:10,
137:24,
216:6,
216:14,
224:7,
264:16.
partly
211:21.
party 232:17,
233:22.
passage 5:17.
passed
189:17.
passing 5:19,
86:25, 184:5,
248:9.
past 3:19,
23:16, 24:4,
36:20, 73:3,
253:3,
263:1.
path 245:2.
patience 13:13,
51:13,
53:7.
patient 49:5.
Paul 12:22,
13:1, 52:20,
52:23.
pay 38:11,
66:5, 109:20,
218:2,

256:1.
PD 163:8.
pearls
209:21.
pen 249:16.
penalties
120:17.
pencil
249:16.
pending 41:25,
191:5,
191:8.
Penfield 12:22,
52:20.
Pennsylvania
26:11, 29:24,
121:17,
122:19,
256:6.
per 218:7.
percent 87:24,
143:6,
143:15.
Perez 17:25,
66:11, 66:24,
67:25, 129:6,
129:19,
129:20,
134:16,
135:1.
perfectly
130:21.
Perhaps 81:20,
142:9,
251:14,
262:3.
period 37:19,
93:21,
182:18.
Perkins 13:1,
52:23.
permanent
242:6.
personal 15:4,
15:25, 31:11,
57:2, 57:15,
60:20,
108:11,
110:5, 112:3,
154:20,

218:13,
229:21.
personality
118:11,
229:18,
229:22.
personally
23:17, 45:5,
70:10, 75:17,
78:16, 88:19,
166:1, 192:1,
248:15.
personnel 4:5,
8:19, 10:1,
50:18.
perspective
6:22,
144:15.
pertain 60:19,
152:14.
pertains
152:14,
229:17,
230:13.
Petit 19:1,
37:16, 47:14,
48:24.
ph 13:4, 37:11,
53:1.
phase 6:20,
127:15.
Philadelphia
29:24,
263:9.
philosophical
77:13.
phone 9:19,
9:20.
photo 36:12.
photographers
36:8.
photographs
151:19,
151:20.
photography
36:5, 36:9,
36:10,
44:13.
photos
155:13.

307

197:8.
open mind
56:23.
opening 8:25.
openings
231:14.
operating
12:12.
opinionated
183:21.
opinions 77:3,
104:12,
141:17,
142:14,
143:3,
144:17,
229:21.
opportunity
67:6, 129:13,
249:8.
opposed 46:18,
82:14, 92:15,
103:20,
110:21,
178:25,
182:15,
233:22,
259:1,
266:14.
option 69:24,
72:17, 72:20,
72:21, 73:10,
76:6, 110:15,
110:17,
110:21,
214:1, 221:8,
227:19,
240:11,
240:12,
247:22.
options 11:13,
69:13, 76:2,
92:5, 110:22,
139:5,
138:10,
139:14,
221:11,
221:16,
221:17,
222:6,

225:12,
240:11,
257:9,
257:20,
260:17,
260:20,
265:12.
Order 4:8,
4:12, 4:13,
40:6, 230:16,
247:19.
Orleans 105:15,
106:19.
ouch 13:1,
52:23.
Others 15:22,
40:4.
ought 31:11,
60:21.
out-sources
63:19.
outcome 42:1,
211:23.
Outside 3:7,
3:8, 4:16,
4:23, 43:20,
50:23, 75:25,
81:15, 129:4,
157:11,
233:15,
265:1.
owe 259:20.
own 34:4,
48:10, 63:15,
75:19, 113:8,
113:9, 131:4,
143:3, 150:8,
192:5,
219:16,
227:10,
227:13,
227:14,
229:3.
266:15.
owner 36:5,
44:12.
owners 40:3,
40:4.
Ows 44:12.

197:8.
P >.
paid 82:15.
Paige 19:11.
painter 64:3.
Pan 11:4,
51:14.
PAMELA 2:3.
panel 34:3,
34:4, 34:10,
47:3, 47:11,
62:9, 62:11,
73:8, 121:10,
233:16.
panels 33:12.
Panos 52:8.
paraphernalia
38:7, 60:5.
parent 42:5,
42:18,
246:7.
parents
194:11.
Park 12:6,
52:9.
Parking 60:7,
216:23.
Parole 11:18,
11:19, 11:20,
12:10, 13:3,
52:3, 52:4,
52:5, 52:13,
52:25, 188:7,
211:1, 257:7,
257:17,
262:4,
266:6.
Parramore
55:2.
part 6:19,
35:22, 49:15,
54:16, 69:25,
79:8, 104:10,
127:2,
151:21,
151:22,
162:6,
164:21,
174:20,
200:10,

306

pick 33:22,
202:2,
254:22,
259:22.
pick-pocket
106:5.
picked 118:8,
151:5,
258:12,
258:18,
258:19.
picture 129:14,
148:1.
pictures
155:18,
213:19.
piece 72:3.
pill 247:10.
Pinon 19:15,
40:10, 47:16,
49:1.
place 10:14,
37:11, 47:5,
199:21,
216:1,
221:22,
262:15,
268:11.
places
230:15.
placing
232:17.
plain 112:7.
plainly 143:11,
143:23.
Plaintiff
1:12.
plan 230:22.
planet 35:15.
plate 36:10.
play 231:10.
played 10:14.
pleas 191:20.
pleasant
252:20.
Please 7:24,
9:8, 10:18,
14:22, 17:20,
46:23, 49:10,
50:1, 50:5,

51:10, 54:20,
56:11, 57:6,
57:14, 65:2,
65:8, 66:5,
135:2,
206:13.
pleasure 41:13,
62:10.
plenty 66:20.
pocket 106:4,
106:7.
poignant
233:3.
point 5:2,
5:10, 9:18,
11:11, 43:23,
66:10, 77:11,
116:13,
117:16,
139:18,
139:23,
148:2,
150:16,
171:11,
176:17,
194:16,
202:23,
207:20,
208:17,
211:13,
213:23,
264:8,
267:9.
point. 117:12,
139:20,
173:8,
206:18.
points 108:12,
184:9.
policeman
126:20.
politicians
82:1.
Pollard 12:20,
52:17.
popular
135:22.
position 3:13,
4:6, 41:20,
45:14, 108:2,

170:5, 232:6,
232:9,
232:17,
267:18.
positive 105:4,
105:5.
possession
38:6.
possessions
157:10.
possibilities
98:7,
262:4.
possibility
11:18, 11:19,
11:20, 11:25,
33:16, 52:3,
52:4, 73:10,
73:16, 73:23,
109:3,
210:25,
260:19.
possible 15:1,
15:9, 15:16,
73:14, 73:20,
92:9, 95:12,
103:6, 103:8,
131:18,
131:25,
132:4,
132:11,
132:17,
168:22,
172:6,
175:14,
201:12,
236:15,
246:18,
251:18,
262:10.
Possibly 71:18,
108:20,
108:25,
133:9,
164:24,
260:23,
266:6.
pot 241:13.
potential 6:15,
10:23, 11:17,

308

69:11, 80:18,
117:19,
123:25,
148:21,
160:23,
172:10,
172:19,
174:17,
175:20,
196:2,
202:11,
221:11,
236:7,
potentially
13:6, 53:3,
247:2,
power 262:25,
practices
181:6,
preceding
6:14,
precept
171:10,
precious
246:17,
preconceived
237:4,
predict
97:24,
prediction
164:17,
preferable
166:8,
prejudice 77:24,
102:16,
147:4,
prejudged
251:17,
prejudice 3:9,
84:4, 84:6,
prejudiced
84:2,
prejudicial
3:17,
Preliminary
31:21,
219:24,
219:25,
prenitiated
240:14,

presence 3:8,
4:16, 4:23,
4:24, 6:10,
43:21, 48:16,
48:17, 129:5,
134:22,
134:23,
233:14,
233:15,
234:6, 234:7,
265:1,
Present 4:25,
17:22, 21:9,
22:14, 22:19,
50:13, 54:21,
54:24, 55:1,
101:25,
148:24,
149:11,
149:24,
161:5,
175:13,
194:14,
presented
88:19, 90:5,
90:6, 90:12,
92:6, 117:23,
122:6, 124:7,
127:1,
132:12,
136:7,
177:12,
177:16,
201:15,
216:4,
presenting
151:18,
Presently
64:3,
presiding
49:12,
presumed
43:25,
Pretty 3:20,
10:1, 37:18,
91:13, 92:25,
99:14, 101:1,
101:20,
121:25,
145:10,

151:19,
153:14,
170:12,
189:8,
189:11,
196:5,
210:16,
211:12,
242:9, 252:6,
254:22,
prevalent
179:7,
prevent
205:7,
previously
85:18,
primarily
26:15,
primary
243:25,
principle
32:16, 32:19,
44:1, 75:13,
76:11,
principles
32:14, 43:24,
61:8, 61:10,
173:9,
183:17,
prior 5:7,
25:8, 58:17,
154:8,
178:5,
Prison 30:19,
82:3, 94:12,
94:15, 97:15,
98:7, 98:8,
122:18,
188:4, 189:9,
189:22,
190:18,
190:22,
210:23,
210:25,
211:12,
217:6,
235:11,
235:13,
244:25,
257:7,

309

13:20, 53:14,
53:16, 109:9,
109:11,
163:9,
215:13,
258:8,
punish 243:3,
punished
101:24,
punishments
11:17, 52:1,
77:16, 86:11,
86:20, 92:9,
92:11, 95:12,
117:19,
124:22,
132:11,
132:17,
172:6,
176:25,
181:14,
201:12,
251:18,
purpose 11:10,
51:22, 95:3,
172:16,
pursuant
15:17,
pursued
116:2,
pushed 252:2,
265:15,
put 4:11, 15:8,
16:17, 56:14,
57:8, 71:2,
72:15, 100:4,
110:24,
133:1, 133:9,
136:17,
144:15,
166:8, 184:8,
188:15,
199:6, 200:2,
204:2, 205:3,
226:11,
228:6, 229:9,
243:11,
243:14,
243:24,
puts 81:16,

putting 119:20,
119:21,
227:9,
< Q >,
qualifications
16:18,
56:15,
qualify
246:23,
qualities
246:24,
Que 180:9,
questioned
263:25,
questioning
6:22, 8:4,
13:11, 15:23,
47:22, 50:20,
57:1, 80:5,
121:10,
130:4, 131:4,
131:14,
223:14,
226:18,
228:24,
229:11,
264:5, 265:6,
266:9,
questionnaires
33:4, 33:5,
48:19,
58:17,
quick 44:9,
45:4, 57:20,
65:2, 126:2,
224:18,
quicker 66:2,
quickly 51:1,
quid 86:16,
quite 8:8,
46:6, 68:9,
105:1,
204:24,
228:21,
quo 86:17,
< R >.

race 109:2,
138:1,
141:16,
141:18,
141:23,
142:13,
142:23,
143:1,
144:12,
racial 108:18,
109:6, 120:5,
120:9, 138:2,
228:24,
radio 43:15,
128:16,
224:13,
264:22,
raise 14:14,
16:15, 33:2,
33:21, 46:17,
48:4, 56:11,
57:21,
raised 33:23,
35:3, 44:9,
44:22, 45:10,
46:5,
raising 159:14,
159:16,
Ramirez 19:19,
66:15,
173:24,
173:25,
178:3, 225:2,
225:15,
225:24,
226:19,
227:15,
228:13,
228:21,
229:18,
230:13,
263:21,
ran 112:10,
168:10,
199:11,
range 52:1,
77:16, 78:9,
87:11,
127:12,
146:23,

311

pro 78:8,
86:17,
Probably 6:18,
10:12, 35:16,
38:21, 39:4,
60:10, 68:21,
80:4, 85:9,
87:3, 109:20,
115:4, 120:6,
152:9,
158:21,
179:21,
192:9, 232:4,
232:22,
232:24,
235:23,
248:18,
261:3,
266:13,
Probation
12:11, 13:3,
17:6, 52:14,
52:25,
problems 4:10,
44:20, 77:13,
79:16, 99:8,
159:9,
159:12,
160:3, 168:3,
179:4,
179:15,
228:20,
228:23,
231:1, 231:2,
237:22,
262:19,
265:8,
procedure
222:21,
proceed 31:19,
68:7,
proceeding
3:16, 6:16,
6:21, 11:10,
32:3, 32:16,
61:9, 61:12,
124:8,
proceedings
7:3, 8:12,
9:6, 9:14,

11:22, 13:24,
34:22, 34:23,
49:15, 49:20,
50:15, 53:20,
162:4,
171:12,
172:22,
210:14,
268:10,
268:12,
268:16,
processing
151:9,
151:11,
produce
124:13,
production
169:25,
productive
235:24,
professional
15:3, 15:25,
57:15,
program
246:6,
programmed
204:21,
progressed
179:8,
progresses
77:9,
prohibit 9:4,
prohibited
8:19,
prohibitions
9:11,
project
92:16,
prolong
47:10,
prompt 128:5,
prone 205:10,
proof 32:21,
proper 127:1,
215:24,
232:24,
238:16,
246:8,
248:14,
property 59:21,

59:22,
137:12,
proportional
225:24,
proposing
46:7,
prosecuted
30:17, 126:5,
154:4,
prosecuting
11:5,
51:16,
prosecution
86:21,
prosecutions
192:14,
prosecutor
11:3,
192:19,
prosecutors
51:16,
192:20,
236:2,
prospect
172:10,
prospectively
133:21,
protect 5:9,
protection
137:13,
protector
194:24,
prove 61:17,
130:17,
proven 150:13,
171:9,
173:7,
provide 15:16,
86:21,
provided 69:2,
69:9,
proving 32:17,
61:11,
61:16,
pry 57:3,
prying
154:19,
psychiatrist
13:7, 53:4,
public 13:18,

310

214:14,
rank 178:20,
rate 106:19,
rates 117:2,
rather 60:19,
63:3, 79:17,
137:9, 152:7,
201:5, 232:4,
263:24,
reach 216:10,
read 12:18,
31:25, 33:5,
43:11, 93:12,
128:12,
142:10,
142:18,
146:3,
193:19,
195:6, 224:9,
264:18,
readily
229:10,
reading 10:8,
24:21, 84:19,
172:3,
236:18,
ready 9:22,
real 10:6,
16:9, 31:21,
44:8, 45:4,
57:20, 65:2,
135:24,
190:5,
224:18,
realistic
266:25,
realistically
200:9,
realize 33:7,
33:8, 34:22,
63:2, 102:3,
107:14,
115:2,
175:18,
230:7,
Really 4:6,
36:10, 44:1,
44:15, 57:13,
66:3, 79:25,
106:25,

133:22,
149:7,
158:13,
226:22,
232:5,
244:13,
248:8, 257:4,
259:13,
261:8,
263:5,
reason 15:2,
17:14, 33:22,
33:23, 33:24,
38:20, 44:15,
46:5, 46:6,
46:17, 62:7,
132:19,
132:20,
163:1,
196:25,
225:13,
226:14,
227:9,
228:13,
229:17,
265:10,
reasonable
32:18, 61:12,
61:17, 130:8,
131:9,
150:14,
182:21,
182:22,
216:11,
reasoning
34:11,
reasons 45:10,
45:11, 46:9,
62:24,
266:16,
266:17,
recall 25:14,
35:4, 68:12,
68:17,
111:15,
120:7,
154:16,
231:20,
receive 31:19,
102:6, 145:6,
210:20,

228:17,
received 31:23,
180:14,
208:3,
210:22,
receives
101:19,
receiving
60:4,
recent
188:13,
recently 42:18,
123:6,
188:13,
recess 4:21,
6:3, 42:23,
43:4, 43:6,
43:19,
127:25,
128:7,
128:21,
128:23,
134:19,
224:2, 224:4,
233:9,
233:11,
263:16,
264:13,
recognize
133:15,
recollection
130:4,
reconsidered
48:5,
record 3:5,
3:7, 4:22,
4:23, 5:9,
6:8, 6:9,
7:23, 20:5,
43:20, 48:14,
48:15,
128:22,
134:20,
134:21,
233:12,
233:14,
234:4, 234:6,
265:2, 265:9,
267:10,

312

268:15.
recorded 7:2,
268:13.
records 17:3,
17:15,
146:8.
recovered
83:14.
redeem
246:24.
redneer
244:12.
redemption
154:15,
154:18,
228:8.
reduced
59:22.
refer 22:16.
referred 43:10,
128:11,
224:8,
264:17.
Reffer 14:1,
53:22.
reflect 3:7,
4:24, 6:9,
48:15,
134:22,
233:14,
234:6.
regard 74:7,
82:8, 109:9,
225:15,
229:11.
regarded
132:14.
regarding
123:23,
164:22,
185:8,
240:5.
Regardless
125:5, 125:6,
130:10,
131:12,
169:6,
251:13.
regular
254:13.

regurgitation
217:10.
reject 78:2,
88:8.
related 118:21,
121:11,
149:18.
relates
57:16.
relationship
252:14.
relative
136:12.
relatives
121:25,
136:12,
192:11.
release
44:18.
released
122:17,
122:21.
relentless
217:11.
Religious
154:21,
183:7, 183:9,
183:11,
183:17,
186:1,
211:12.
religiously
186:18.
relish 79:7.
remain 197:8.
remaining 48:2,
202:3.
remark.
132:13.
remarks 130:2,
132:8,
224:21.
Remember 24:20,
83:9, 83:11,
84:23, 85:20,
85:22, 85:23,
152:21,
152:25,
166:5,
194:20.

194:21,
196:21,
199:16,
199:17,
199:18,
203:17,
204:1,
204:18,
204:20,
205:23,
206:1,
212:17.
remembering
48:11.
remembers
200:7.
reminds
209:11.
render
184:16.
Reno 13:8,
14:4, 53:5,
53:25.
repeat 7:8,
54:10.
repentant
244:12.
repercussions
211:3.
rephrase 92:19,
98:5, 164:18,
233:21.
report 7:10,
43:11, 48:22,
49:6, 65:8,
123:13,
128:12,
224:9,
264:18.
REPORTED 1:42,
7:2, 49:24.
REPORTER 7:1,
7:24, 49:22,
268:2,
268:7.
REPORTER'S
1:12.
reporting
179:6.
represent 5:14,

313

30:7, 36:15,
36:25, 37:1,
37:14, 37:22,
37:23, 39:25,
40:25, 41:4,
41:9, 41:16,
42:3, 42:9,
42:14, 111:9,
134:16.
nude 9:2.
ruin 263:3.
Ruis 135:2,
135:4, 135:6,
142:8,
224:22,
224:25,
225:6,
226:8.
rule 68:4,
202:19.
rules 217:13,
222:18,
223:1,
223:3.
run 47:4, 47:7,
47:9, 89:6,
112:11,
211:22.
running 9:23,
9:24.
runs 98:22,
162:11.
rush 253:17.
< S >.
Sackmary 18:2,
36:15, 47:14,
48:24.
sad 129:12.
safe 263:7.
Salak 20:21,
66:17,
247:15,
247:16,
250:9,
263:22.
salvage
244:16.
San 136:23,

207:12,
239:3.
save 240:13.
Santa 85:3.
sat 207:18.
save 246:18.
saving
246:19.
savings
63:22.
saw 27:17,
48:11,
108:12.
Says 69:23,
102:18,
102:20,
103:18,
130:25,
150:17,
157:25,
169:23,
184:23,
201:5,
215:12,
227:11,
249:20,
251:11,
262:10,
267:13.
scared
146:24.
scenario
104:7.
scene 26:15,
151:19,
160:5,
217:10.
Schechter
55:8.
schedule
39:19.
scheduled 41:7,
41:10, 41:18,
41:19.
scheduling
38:22.
Schick 54:2.
school 26:11,
64:20,
121:13,

207:12,
210:2,
234:17,
241:12.
Scott 21:20,
22:2,
22:16.
se 218:7.
sealed 17:3,
17:13,
17:15.
search 36:16,
36:18, 48:10,
178:13,
238:19,
238:20.
Seat 31:18,
66:11, 67:2,
128:4,
224:25.
Seated 6:25,
8:2, 8:9,
15:13, 33:10,
49:21, 50:7,
50:12,
56:18.
seating
264:10.
seats 66:10,
135:1.
Second 14:17,
28:8, 40:17,
41:4, 54:16,
65:20,
106:22,
117:3,
231:17,
257:7, 257:9,
258:7,
266:7.
section
185:7.
seeing 146:14,
152:10,
155:17,
194:21.
seem 14:10,
78:4, 232:15,
238:12,
257:23,

315

5:23, 10:6,
51:2.
representation
265:3.
representing
116:16.
request 66:7.
requested
36:9.
required 89:22,
202:18,
213:1,
246:12.
requirement
110:24,
132:16.
requirements
69:6, 69:10,
69:20,
148:19,
202:10,
202:12,
202:17,
236:14.
requires 64:16,
88:14, 158:5,
228:3.
rescue
178:13.
resentment
202:23.
reservations
158:4,
247:24,
247:25.
reserved
148:13,
148:25.
residency
174:12.
Resident
174:10,
217:25,
218:5.
resolution
216:11,
220:2.
resolve
114:13.
resolved

235:9.
resources
64:16.
respect 82:12,
144:18,
211:24,
212:5, 213:9,
246:15.
responded
120:6.
responses
225:24.
responsibility
79:18,
159:22,
217:20,
235:20,
245:13.
rest 38:11,
51:14,
205:17,
215:4,
219:17.
Restate
92:21.
restrained
4:1.
restrains
3:24.
restraints
3:10, 3:11,
3:14, 3:16,
3:18, 3:21,
3:22, 4:9.
restroom 39:21,
43:1.
result 32:4,
159:13,
208:8.
retail 64:8,
137:19,
143:5,
143:10.
retire
250:24.
Retired 12:23,
52:21, 85:4,
91:3, 250:9,
250:12,
251:6.

retirement
250:14.
return 89:13.
141:11.
revealing
5:13.
reversed 5:6.
revoked
188:9.
ridicule
205:10,
205:18.
ridiculous
106:20.
Rights
215:20.
rigid 228:2,
266:4.
Rius 22:9.
River 162:11.
rob 107:10.
robbed 105:3,
105:11,
105:18.
robbery 11:8,
30:9, 51:20,
59:13,
188:25,
189:13,
190:2,
190:3.
Robert 21:25.
role 10:14,
66:8,
246:8.
roll 17:20,
54:19.
Rosales 14:2,
53:23.
Rosehill 19:11,
23:11, 45:13,
47:15,
48:25.
rough 109:13.
route 72:25.
row 14:16,
14:17, 14:18,
26:13, 26:19,
27:2, 27:17,
28:8, 29:22,

314

266:2.
seemed 131:18,
132:3, 258:5,
266:8.
seeding
160:6.
Seems 82:1,
100:12,
179:7, 182:7,
182:14,
266:11.
seen 24:24,
25:3, 103:9,
144:16,
146:23,
159:19,
263:10.
select 52:2,
103:21.
selected 9:19,
222:22.
selecting
33:10, 51:23,
57:5,
77:20.
selection 6:18,
8:16, 33:9,
161:1.
self 191:12.
self-defense
220:9.
self-employed
64:3.
selling
121:13.
semblance
227:13.
semi 34:2,
34:4, 62:9.
senior
189:17.
sense 176:18,
210:13,
225:17.
sent 34:10,
163:20.
sentence 73:18,
74:2, 81:20,
89:13, 92:15,
95:21,

101:15,
101:18,
102:5,
122:18,
132:15,
140:12,
154:25,
166:8,
166:16,
175:13,
202:2,
203:24,
228:3,
244:11.
sentences
92:23, 92:25,
103:23,
154:2.
sentencing
11:11, 70:19,
73:9, 73:10,
155:24.
Separate 40:14,
45:7, 107:14,
113:8,
113:10,
113:11,
152:14,
152:15,
153:4, 169:2,
209:13,
216:7,
230:7.
separating
45:18.
sergeant
178:21.
serial 148:16,
148:21.
series 132:2,
serious 13:12,
34:23,
121:25,
247:8,
260:3.
serve 32:25,
34:12, 34:24,
35:25, 46:18,
61:22, 61:25,
62:25, 63:4,

63:10, 63:13,
141:15,
206:1, 249:8,
256:18,
257:22.
served 52:5,
256:8.
serves 95:2,
172:16.
service 25:8,
33:25, 37:25,
46:3, 58:18,
63:19, 163:9,
178:6.
services 18:13,
18:20, 21:21,
22:7, 33:11,
34:1, 34:2,
48:22, 62:8,
63:20, 128:3,
129:21.
serving 33:6.
set 78:17,
86:19, 86:20,
87:4, 88:22,
206:4, 223:1,
223:13,
268:11.
sets 98:23.
setting 151:4,
176:19,
195:2,
200:1.
settle 116:12,
214:21.
settlement
216:15.
seventeen 48:7,
56:10, 57:20,
60:13.
seventeen.
34:19.
Several 63:20,
68:11,
133:13,
140:15,
148:25,
149:25,
150:2, 196:8,
241:23,

316

254:16,
265:12,
severe 101:1,
250:1,
250:4,
severed
142:20,
severing
92:2,
shake 49:25,
shaking 7:12,
shalt 183:4,
184:1,
185:17,
share 244:8,
sharing 77:3,
Sharon 1:42,
6:25, 7:7,
19:25, 49:22,
55:14,
268:25,
She'll 7:7,
7:8,
174:14,
sheet 215:12,
Sherry 12:20,
52:18,
shocky 90:7,
shoot 36:7,
shooting 33:2,
228:15,
shop 143:16,
shoplifters
137:16,
143:6,
143:16,
shoplifting
60:4,
143:2,
short 10:6,
shortly
121:22,
shot 204:8,
226:25,
shouldn't
184:5,
186:10,
186:12,
186:19,
207:21.

show 150:2,
164:13,
249:17,
shown 71:22,
87:23,
155:14,
164:20,
shows 135:17,
135:25,
sibling 194:23,
197:23,
siblings
197:15,
197:24,
sic 40:8,
sick 152:10,
152:12,
side 96:15,
96:16,
113:13,
116:17,
116:18,
163:23,
168:18,
225:3,
231:25,
234:1, 243:3,
255:6,
sides 80:7,
84:12, 90:14,
96:15,
100:11,
101:24,
115:6,
117:22,
119:19,
124:11,
142:2, 161:5,
163:21,
165:8,
168:25,
172:22,
177:16,
195:22,
196:9,
200:13,
232:1, 232:2,
232:8, 234:2,
237:8,
239:16,

240:1,
253:25,
255:1,
significant
93:23,
200:11,
similar 111:14,
113:4,
119:7,
simply 31:5,
Simpsen 12:20,
52:18,
single 36:22,
40:3, 41:2,
42:4,
42:17,
sister 29:15,
30:17, 60:3,
156:8,
168:10,
190:22,
190:23,
199:7,
251:25,
253:2,
sister-in-law
30:16,
154:8,
sit 16:8,
37:19, 83:23,
114:22,
117:10,
134:4,
141:23,
142:1, 151:3,
158:18,
170:20,
201:4,
226:15,
228:4,
264:2,
sites 36:21,
sitting 3:20,
8:21, 68:22,
78:15, 91:25,
95:11, 140:8,
161:1,
165:18,
171:11,
173:17,

317

117:15,
123:23,
132:14,
132:24,
152:5,
159:15,
171:6,
171:16,
175:4, 176:6,
176:16,
182:11,
189:12,
192:11,
199:20,
209:15,
211:13,
213:24,
218:6,
235:14,
sorts 146:25,
sought
111:22,
Sound 94:3,
sounded 84:16,
236:24,
sounding
211:13,
211:15,
sounds 93:25,
94:1, 122:21,
136:9,
257:16,
source 25:2,
64:19,
space 12:7,
213:4,
Spanish 67:9,
speaking 7:23,
50:6,
234:18,
special 13:18,
13:20, 53:14,
53:16,
109:10,
178:15,
254:23,
specific 82:6,
82:8, 109:2,
130:7,
142:25,

171:20,
specifically
72:2,
160:19,
specified
36:18,
36:21,
specify
136:16,
spectrum
100:13,
103:21,
speculating
266:15,
spend 231:17,
spending
252:16,
spent 190:24,
spill 12:1,
93:18,
220:20,
256:14,
spills 33:16,
61:23,
spoke 233:7,
239:5,
spoken 4:10,
24:12, 24:16,
58:10,
236:21,
spot 71:2,
75:5,
134:15,
spots 47:22,
Spring
188:20,
Sprosty 21:23,
47:18,
49:3,
squad 178:13,
Squires 19:7,
22:24, 45:11,
47:15,
48:25,
stabbed 226:25,
227:6,
stabbing
228:15,
attack 47:6,
Staff 6:24,

9:5, 36:7,
178:21,
staffing
231:2,
stage 3:18,
stairs 8:15,
Staley 55:12,
stance
211:13,
stand 16:14,
39:10, 39:14,
56:11, 67:2,
67:18,
126:21,
136:8,
254:19,
standard 75:22,
90:18,
130:17,
136:4,
150:8,
stands 51:25,
start 9:22,
14:16, 36:2,
47:23,
134:15,
135:4,
150:14,
249:14,
259:6,
started 14:13,
31:17, 39:2,
64:9, 128:1,
199:15,
210:17,
258:13,
starters
64:14,
starting 62:14,
117:12,
117:16,
173:10,
242:15,
stated 58:13,
206:19,
statement
180:23,
180:24,
221:25,
240:8,

319

180:19,
181:24,
182:1, 205:8,
206:7,
231:19,
232:11,
255:4, 255:5,
257:11,
situation
64:10, 70:13,
75:19, 75:25,
86:20, 93:16,
93:22,
111:20,
116:5,
125:19,
151:18,
165:19,
167:11,
167:25,
168:7,
188:23,
190:21,
197:25,
206:21,
217:16,
241:7,
244:15,
244:17,
244:23,
263:8,
situations
5:20, 83:5,
83:20,
146:16,
153:19,
167:14,
Six 33:15,
33:18, 34:6,
34:13, 36:1,
40:7, 42:21,
46:18, 62:5,
62:15, 63:13,
178:23,
199:16,
255:19,
sixteen 47:13,
47:20,
sixteenth
128:4,

slap 82:2,
slate 173:10,
sleep 109:11,
sleeping
126:14,
slightest
238:12,
238:14,
slippery
44:14,
slopes 44:14,
small 8:22,
36:4, 40:2,
44:12, 63:19,
204:24,
smile 103:9,
smirk 103:9,
Smith 12:20,
13:5, 19:3,
20:7, 26:14,
27:25, 50:4,
52:18, 53:2,
66:14, 66:16,
158:23,
161:20,
218:24,
218:25,
225:4, 226:3,
226:9,
230:15,
263:20,
smoothly
90:6,
snap 96:25,
197:1, 97:3,
socialize
23:3,
socialized
24:3,
society
78:22,
soda 39:22,
soft 180:1,
sole 25:2,
64:14,
172:18,
solely 153:5,
solemnly 16:16,
56:13,
somehow 10:14,

24:15,
57:15,
sometime
168:12,
Sometimes
46:15, 47:10,
81:4, 82:1,
82:2, 112:15,
175:2,
205:12,
Somewhat 14:10,
57:2, 100:11,
239:8,
somewhere
26:16, 26:23,
27:14,
59:3,
son 27:5, 28:3,
28:19, 30:11,
42:6, 42:7,
42:18, 84:25,
93:15, 94:11,
94:14, 97:7,
98:11, 99:8,
115:25,
122:11,
187:2,
187:15,
187:19,
191:6, 195:7,
195:12,
195:20,
198:9, 241:7,
243:5,
245:25,
246:9,
247:7,
son-in-law
94:4,
98:18,
Sorry 38:1,
39:25, 42:16,
47:19, 71:9,
260:12,
sort 47:3,
68:15, 70:3,
114:17,
115:6,
116:23,
117:9,

318

262:20,
statements
171:18,
266:19,
states
170:12,
statistics
261:18,
266:20,
Stay 39:16,
39:17, 67:25,
231:7,
267:8,
stayed 235:5,
Staying 182:10,
191:3,
231:3,
steal 123:8,
126:18,
144:8,
stealing
144:5,
Steamship
250:16,
250:17,
251:2,
stenographically
268:13,
step 30:19,
160:12,
209:20,
213:20,
step-daughter
159:8,
164:12,
steps 215:24,
Steve 8:9,
50:12,
50:13,
stick 119:4,
Stio 55:16,
stipulate
44:18, 45:4,
47:6, 129:10,
129:15,
stole 105:18,
Stolen 59:21,
59:22,
60:4,
stop 39:9,

155:19,
244:14,
244:19,
stopped
244:25,
stopping
123:18,
story 163:23,
164:1,
straight
128:3,
straightens
235:24,
strange
151:4,
strangled
204:11,
street
192:16,
strenuously
57:6,
stretch
42:25,
strike 73:6,
206:12,
string
209:21,
strong 63:9,
110:17,
110:20,
110:22,
117:8,
118:10,
183:21,
185:19,
186:1,
220:19,
Strongly 155:4,
163:11,
178:25,
180:23,
203:10,
structure
149:1,
struggle
104:3,
stuck 37:10,
stuff 10:7,
60:8, 235:5,
241:13,

243:13,
247:11,
Styrofoam
39:22,
subject 43:9,
43:17,
128:10,
128:18,
224:7,
224:15,
264:16,
264:24,
submit 36:21,
265:20,
submitted
43:18,
128:19,
224:16,
264:25,
subpoena 40:15,
192:2,
subpoenaed
114:5,
Substance 80:1,
80:11, 83:13,
83:16, 93:14,
111:15,
112:20,
194:7,
262:17,
sudden 48:11,
sue 35:8,
sued 35:8,
249:1, 249:2,
256:21,
suffered
112:16,
suffering
228:15,
sufficiently
134:8,
230:11,
suggest 45:3,
141:21,
suit 90:11,
sum 225:25,
summed 6:15,
49:14,
Sunga 21:14,

320

30:10, 47:18,
49:3.
supervisor
250:14.
support 4:7,
63:23,
192:12,
209:3, 210:8,
213:5,
217:12.
supported
207:19.
supporting
64:20.
supportive
208:24,
210:10.
supposed 41:22,
75:1, 124:14,
157:22.
surface
168:18.
surgery 37:15,
41:6.
surrounding
223:9.
sustain 72:1,
92:18, 132:5,
206:11.
sustained
82:7.
SWAT 239:2,
sway 210:17.
swear 16:14,
16:16, 50:8,
56:13.
sworn 5:3.
sympathetic
262:18,
262:19,
262:23.
sympathy
44:16.
synopsis
10:7.
system 15:19,
15:20, 35:2,
35:7, 35:11,
35:14, 78:5,
78:17, 78:25,

80:25, 81:1,
81:4, 81:12,
94:12, 94:13,
94:15, 99:9,
113:25,
116:13,
166:12, 83:1,
129:13,
154:20,
160:15,
171:8, 180:1,
186:24,
234:20,
238:9.
T >.
table 3:20,
69:15, 69:18,
76:6.
tactical
265:10,
267:11.
taken 4:21,
43:19,
128:21,
134:19,
224:17,
233:11.
talked 72:16,
76:1, 86:11,
102:13,
102:14,
120:17,
122:14,
143:4, 176:4,
185:25,
201:2,
204:15,
207:20,
212:3, 241:7,
244:7,
245:24,
246:3.
Tamar 22:6,
54:23.
Tanya 12:19,
52:16.
target
112:13.

taste 86:8,
116:23,
242:19,
242:22.
taxes 109:20.
Taylor 18:8,
66:12, 83:1,
89:21,
263:19.
teach 24:2,
team 36:8.
Technically
46:11,
252:8.
teenagers
99:13.
television
43:14,
128:15,
224:12,
264:21.
tells 57:12,
127:11.
Templeton
21:25.
Temporary
195:18.
ten 143:11,
233:9.
tend 15:14,
57:10, 60:14,
97:19, 119:8,
119:11,
151:14,
165:1,
179:19,
198:11.
tendency
155:16,
155:19.
tends 143:1,
225:13.
Tentatively
41:18,
41:24.
term 11:20,
52:5, 159:16,
230:11.
terms 16:10,
39:6, 54:10,

321

today 6:19,
9:14, 15:9,
15:17, 18:14,
18:21, 20:6,
21:22, 22:8,
33:21, 34:4,
37:8, 41:18,
42:11, 48:20,
49:6, 62:6,
62:9, 62:15,
65:7, 65:9,
74:24, 121:3,
180:9, 227:6,
258:18,
258:23,
266:5.
together 23:4,
24:2, 24:3,
121:23,
126:16,
197:2,
209:21.
tomorrow 6:19,
9:14, 9:22,
34:5, 231:13,
263:18,
263:24,
264:5,
267:21.
took 157:10,
157:11,
194:23,
210:1.
tooth 86:12.
top 7:18,
36:15, 36:25,
96:25, 111:9,
134:16.
topics 80:5.
total 116:5.
touch 115:2.
touched
156:19.
touching 16:18,
56:15.
tough 185:21.
tougher
180:4.
toward 71:4,
201:7, 211:3,

252:23,
257:17.
towards 40:8,
92:6,
131:16.
town 190:16,
204:24,
207:9,
256:3.
track 8:6, 8:7,
50:10,
122:21,
160:7,
210:19.
traffic
162:11.
trafficker
238:15.
trafficking
26:10,
126:5.
trail 187:13,
217:11.
training
178:18.
TRAN 1:1.
transite
37:11.
transaction
16:6.
transcribed
266:14.
TRANSCRIPT
1:12, 7:24.
transportation
42:11.
traumatic
209:6, 209:7,
219:18.
treat 212:14,
treated 17:12,
122:5,
123:20,
153:20,
160:9, 190:8,
212:15,
235:18,
235:20.
treatment
93:23,

113:22,
153:24.
trials 35:13,
146:11.
tried 11:6,
29:3, 180:11,
246:4.
tries 183:17.
triggers
168:23.
trouble 25:21,
69:22, 70:6,
188:14,
201:23.
True 164:2,
256:9, 257:1,
268:15.
truly 16:17,
56:14.
Trust 15:11,
33:8, 63:2,
143:11,
143:24,
144:7.
truth 88:20,
90:13,
164:4.
truthful
232:23.
Truthfully
74:25.
Try 7:9, 31:15,
34:7, 57:9,
96:20, 103:4,
103:7,
103:17,
104:6, 123:8,
127:25,
136:6, 137:8,
143:1, 176:8,
176:15,
177:6, 177:9,
177:13,
188:13,
211:15,
216:10,
231:13,
243:7, 246:1,
262:13.
Trying 33:22,

323

101:24,
116:2, 116:6,
117:23,
130:16,
131:7,
176:24,
234:2,
266:23,
266:25.
Terry 56:5.
testified
192:1, 192:3,
192:4.
testify 5:18,
8:6, 10:11,
51:4, 114:3,
146:15,
191:24,
192:2,
207:24,
219:21.
testifying
146:25.
testimony 12:4,
31:5, 31:24,
52:12, 60:15,
85:14, 94:16,
94:17, 98:14,
164:22,
197:5,
197:11,
198:12,
198:17,
238:3,
239:12,
254:18,
268:11,
268:15.
Tetanus 56:5,
64:23,
128:23.
Texas 175:24,
181:17,
222:14,
222:15,
227:16,
230:2.
Thanks 89:17,
215:7.
theft 28:11,

255:16.
theirs 103:4,
182:19.
themselves
10:5, 51:2,
54:10, 92:10,
114:13,
216:15.
theories
267:5.
thereafter
268:13.
therein
268:11.
Thesus 19:21,
27:4, 66:15,
182:4,
193:13,
225:16,
225:25,
230:15,
263:21.
They'll 10:10,
31:20, 51:3,
229:22.
They've 99:25,
231:1.
thinking 86:18,
108:21,
110:12,
128:4,
167:10,
179:22,
187:4,
226:15,
233:6,
233:18,
233:25,
266:12.
thinks 44:4,
227:17,
230:4,
230:6.
third 14:18,
29:22,
Thirteen 45:9,
241:2.
Thirty 93:11,
126:17.

thirty-three
48:2.
thirty-two
226:12.
Thomas 13:7,
53:4.
thou 183:4,
184:1,
185:17.
though 10:16,
14:9, 32:7,
44:16, 103:5,
127:8, 155:5,
158:3,
160:18,
165:7,
186:18,
220:11,
222:24,
222:25,
223:16.
thoughtful
266:21.
thoughts
94:23.
thousands
36:17.
threaten
143:2.
three 7:21,
45:4, 45:17,
98:7, 110:21,
136:15,
136:19,
185:10,
234:13.
throughout
10:2, 39:6.
throw 104:18,
133:1.
Thursday 38:24,
41:11.
Thursdays 39:3,
39:5.
tickets 60:7.
tie 126:16,
49:7.
Tired 182:6,
182:8.
Tod 14:3,
53:24.

322

39:14, 54:17,
62:18, 62:21,
62:22, 66:4,
79:15, 97:23,
100:6,
102:16,
237:19.
Tuesday
42:12.
Tuesdays 39:3,
39:5.
turn 37:25,
38:4, 38:11,
118:24,
225:23,
242:15.
turned 114:18,
119:3,
242:12.
Turner 12:20,
52:18.
TV 24:24,
135:16,
135:25,
137:7.
Twelve 44:25,
92:2, 139:1,
158:19,
173:18,
181:25,
206:8.
Twenty-five
243:18.
Two 26:9,
30:15, 37:21,
40:13, 40:14,
80:5, 118:20,
121:10,
126:14,
133:17,
135:1,
159:14,
163:21,
168:11,
182:10,
194:22,
195:20,
197:14,
197:24,
232:1,

244:21,
257:9,
257:19,
259:22,
260:17,
262:3,
265:12,
265:16,
266:14.
two-and-a-half
250:21.
two. 34:9,
62:21,
64:4.
tying 249:21.
Type 15:21,
15:22, 26:2,
34:23, 36:9,
50:1, 63:5,
71:4, 106:4,
133:21,
169:23,
227:25,
229:21,
250:15,
256:10,
267:2.
types 15:18,
27:6, 126:24,
155:17,
262:19.
U >.
ultimately
57:10.
unable 5:5,
141:18,
154:25,
155:3.
Unacceptable
71:21,
72:14.
uncle 27:19,
58:23,
206:20,
210:20,
216:17,
216:25,
254:6.

uncomfortable
67:3, 75:9,
78:20,
150:19,
165:21,
166:15,
172:12,
248:8.
undercover
85:3.
underlined
166:9.
underneath
203:18,
205:9.
undersigned
268:7.
understandable
31:16.
understanding
35:12, 67:14,
135:24,
167:25.
understood
130:21,
140:21,
193:19,
251:10.
undo 35:25,
61:21, 61:25,
63:13.
undue 32:25,
46:5.
unequivocally
73:1.
unfair 176:17,
210:14,
220:20,
261:4.
unfortunate
216:16,
241:6.
Unfortunately
54:12, 79:5,
79:6, 143:8,
158:11,
158:12,
249:17.
Unless 39:13,

324

60:9, 62:5,
101:1, 129:9,
188:6.
unlikely
96:25.
unnecessarily
57:3.
unpopular
205:17.
until 6:3,
37:10, 43:18,
76:10,
103:16,
128:19,
138:13,
139:3,
165:11,
171:9, 173:7,
212:8,
212:14,
213:17,
224:16,
228:4,
230:22,
231:8,
250:14,
254:23,
259:14,
259:18,
264:25.
Urnst 12:21,
52:19.
Utah 154:7.
.
< V >.
valley 63:20,
63:24.
Van 180:9.
Vancouver
41:19,
41:23.
variety 8:11,
62:17,
228:23.
Vegas 3:1,
40:21, 59:25,
63:20, 146:5,
157:17,
195:10,

241:1,
250:21.
vehicle 105:3,
105:21.
verdict 9:7,
15:15, 57:10,
78:12, 89:14,
89:15, 89:16,
127:1,
141:12,
150:17,
153:9,
153:12,
175:14,
186:15,
248:16.
versus 3:6,
6:9, 48:15,
49:16, 96:15,
150:10,
134:21,
150:9,
225:20,
233:13,
234:5.
veteran
229:20.
victim 12:13,
29:8, 52:7,
101:21,
102:1,
104:25,
108:18,
116:1, 120:4,
120:8, 123:5,
151:15,
155:16,
192:1,
194:10,
205:4,
206:17,
220:25,
221:3, 227:1,
228:19,
241:22,
249:4,
255:13,
255:21,
257:8.
victimized

25:13.
victims 35:5,
146:14,
146:24.
Victor 17:25.
views 186:1,
267:3.
violation
216:3.
violence 29:3,
29:14, 71:13,
71:16, 71:20,
71:23, 72:4,
72:7, 72:13,
80:2, 113:16,
118:17,
119:8,
119:25,
133:4,
146:15,
146:23,
151:9, 168:3,
179:1, 179:4,
179:10,
179:12,
179:19,
203:6, 203:8,
252:9.
violent 151:14,
189:14,
219:3.
visit 99:2,
217:5,
217:15,
235:14,
254:11.
voice 118:7.
void 36:23.
volunteer
162:14,
162:15.
volunteered
122:4.
volunteers
162:7,
162:10,
votes 95:21,
100:23,
130:14,
131:11,

325

211:4.
whenever
4:12.
Whichever
125:7.
White 20:25,
29:12,
251:23,
254:5,
263:23.
whole 16:13,
60:9, 151:5,
197:3,
201:17,
217:10,
217:11,
232:20,
263:4.
Widner 12:22,
52:20.
wife 36:8,
64:20,
147:11,
159:21,
181:1,
234:15,
243:12.
William 13:4,
14:4, 53:1,
53:25.
Williams 13:2,
52:24.
willing 32:6,
34:24, 46:18,
63:4, 76:9,
76:24, 76:25,
77:7, 88:10,
88:12, 88:25,
103:3,
104:17,
104:21,
104:22,
110:3, 139:2,
172:21,
217:13,
259:14,
261:22.
Willy 13:25,
53:21.
Winchells 13:2,

52:24.
wish 43:1,
47:21, 54:7,
63:8, 63:9,
74:25, 107:3,
212:4, 213:9,
255:25.
wishful
128:4.
withhold
57:9.
within 45:20.
Without 5:12,
11:18, 34:24,
43:8, 43:14,
52:3, 73:24,
74:7, 76:14,
128:9,
128:15,
133:25,
140:23,
152:25,
174:21,
182:21,
210:25,
224:6,
224:12,
229:10,
246:1,
257:17,
261:4,
264:15,
264:21,
265:16,
266:6.
witness 10:12,
13:6, 39:10,
39:11, 40:15,
53:3, 94:20,
112:24,
207:3, 219:3,
219:8.
witnessed
157:1.
witnesses 5:4,
5:5, 5:6,
5:18, 8:5,
10:11, 10:20,
10:23, 12:17,
13:23, 24:12,

31:20, 43:9,
51:3, 51:4,
51:8, 52:15,
53:19, 54:11,
58:10, 67:17,
128:10,
224:7,
264:16.
wonder 57:13.
wondered
109:11.
word 166:4.
Words 213:6.
worked 12:13,
12:15, 31:2,
36:22, 52:15,
93:9, 114:15,
144:3,
161:23,
244:4,
251:3.
working 23:15,
36:20, 40:7,
64:3, 64:19,
137:18,
195:21,
241:18,
241:19.
works 35:12,
50:19, 62:23,
63:23, 94:5,
94:15, 174:9,
181:1.
world 63:7,
97:17.
worry 89:11.
worst 97:16.
worth 126:17,
198:17.
wrestles
242:13,
242:14.
wrist 82:2.
write 31:14,
206:4,
235:14,
249:15.
writing 182:14,
204:1,
204:20.

327

140:17,
140:18,
140:20,
140:22,
140:23,
161:10,
171:25,
174:21,
182:21,
182:22,
205:22,
212:25,
226:23,
227:3, 228:5,
229:3, 229:6,
230:1,
232:12,
236:24,
251:12,
266:1.
voted 180:20.
voting
201:23.
vs 1:15.
.
< W >.
waist 3:10,
3:11, 3:13,
3:16, 3:22.
wait 76:9,
88:23,
103:15,
138:12,
254:23,
259:14,
259:18,
260:11,
260:14,
260:16.
waiting 29:3,
109:20,
187:15.
walked
126:23.
walking 3:19.
wanted 5:3,
5:9, 5:15,
5:24, 33:3,
117:7, 123:7,

191:14,
257:22,
261:10,
265:2.
wanting 218:18,
266:20.
wants 196:12,
200:24,
230:24,
265:5.
Ware 21:4.
warrant
150:4.
Washington
21:8.
watch 42:6,
43:11,
128:12,
135:16,
162:4, 224:9,
243:10,
264:18.
watched
208:7.
watching
151:13.
water 39:22.
weapon 11:8,
11:9, 51:20,
51:21, 68:24,
106:2,
117:11.
wedding 36:5,
36:6.
Wednesday 36:5,
39:4, 41:24,
42:12.
week 11:25,
12:1, 12:2,
33:16, 40:7,
41:12, 61:24,
62:10, 62:15,
68:10,
188:13,
228:4, 258:2,
258:4, 258:9,
258:14,
258:18,
259:8, 265:7,
265:22.

weekend
239:6.
weeks 37:21,
208:20.
weigh 85:14,
92:6, 104:17,
255:1.
weighing
211:25.
weight 31:4,
60:14, 70:17,
84:8, 88:9,
88:17, 98:13,
110:24,
127:18,
130:10,
132:16,
133:22,
164:22,
198:11,
198:18,
238:3,
239:11,
254:18.
Welcome 6:12,
9:1, 49:11.
walls 55:20,
63:18,
65:5.
Wendelina
21:14.
Whatever 3:24,
4:7, 34:5,
35:9, 38:23,
62:6, 62:10,
74:9, 74:10,
75:22, 84:9,
107:21,
127:18,
153:4,
157:25,
163:1,
198:17,
215:16,
226:25,
227:11,
230:24.
whatsoever
81:1, 85:13,
207:5,

326

Wroblewski
22:4.
wrote 81:5,
100:10,
123:3,
142:11,
142:17,
144:21,
154:14,
160:21,
171:5, 171:8,
171:15,
171:17,
174:1,
174:15,
194:5,
203:18,
204:18,
205:2,
205:22,
206:2, 236:9,
240:5, 253:1,
253:5,
253:13,
261:17.
Wyoming 28:4.
.
< Y >.
year 36:13,
174:14,
243:18,
251:25,
254:12.
Years 3:16,
11:19, 11:20,
11:21, 17:7,
29:14, 36:20,
36:22, 52:4,
52:5, 52:6,
64:15, 93:11,
106:12,
143:11,
168:11,
178:23,
185:20,
191:1,
194:15,
194:21,
197:12,

207:1, 241:2,
241:23,
250:21,
262:5.
York 17:4,
41:11.
young 195:2,
195:3,
234:13,
252:6.
younger 194:21,
194:23,
197:15,
197:24.
yourself 7:8,
7:25, 31:1,
50:5, 81:21,
123:5,
183:13,
205:13.
yourselves
43:7, 93:18,
128:8, 224:5,
264:14.
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TRAN
CASE NO. C-131341
DEPT. NO. 3

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CLERK OF THE COURT

ORIGINAL

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * * *

STATE OF NEVADA,)
)
Plaintiff,)
)
vs.)
)
JAMES MONTELL CHAPPELL,)
)
Defendant.)

REPORTER'S TRANSCRIPT
OF
SENTENCING

BEFORE THE HONORABLE DOUGLAS HERNDON
DISTRICT COURT JUDGE

DATED: THURSDAY, MAY 10, 2007

REPORTED BY: SHARON HOWARD, C.C.R. NO. 745

RECEIVED
JUL 16 2007
CLERK OF THE COURT

1 APPEARANCES:

2 For the State: CHRIS OWENS, ESQ.

3

4 For the Defendant: CLARK PATRICK, ESQ.

5 DAVID SCHIECK, ESQ.

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1 LAS VEGAS, NEVADA; THURSDAY, MAY 10, 2007

2 P R O C E E D I N G S

3 * * * * *

4
5 THE COURT: Page 6, State of Nevada versus
6 James Chappell. Record will reflect the presence of
7 Mr. Chappell, in custody -- Mr. Schieck, Mr. Patrick, on
8 his behalf. Ms. Rinetti on behalf of the State.

9 Do you have the file, Ms. Rinetti?

10 MS. RINETTI: No, Judge. Mr. Owens and
11 Mr. Kephart will be here.

12 THE COURT: Mr. Owens is here. Mr. Owens
13 is present on behalf of the State.

14 This is time set for sentencing. Is there any legal
15 cause or reason why sentencing cannot take place.

16 MR. PATRICK: No, your Honor.

17 MR. OWENS: May we approach, your Honor.

18 THE COURT: Sure.

19 (Discussion held at the bench.)

20 THE COURT: Back on the record in State
21 versus Chappell. Anything the State wants to add in terms
22 of sentencing.

23 MR. OWENS: No, your Honor.

24 THE COURT: Mr. Chappell, is there
25 anything you want to tell the court before your attorney

1 speaks on your behalf?

2 THE DEFENDANT: No.

3 THE COURT: Thank you, sir.

4 Mr. Schieck, Mr. Patrick, anything you all want to
5 add before we pronounce sentence?

6 MR. SCHIECK: No, your Honor. The jury
7 has imposed a sentence in this case.

8 THE COURT: As to the burglary and robbery
9 with use of a deadly weapon counts, those were already
10 adjudicated and sentenced at the time of the original
11 trial. They aren't part of the sentencing today. This is
12 as to murder with use of a deadly weapon.

13 So, in accordance with the laws of the State of
14 Nevada, I do adjudicate you guilty of that crime,
15 Mr. Chappell, and pursuant to the jury's verdict at the
16 penalty hearing, I sentence you to death for Count (3),
17 murder with use of a deadly weapon.

18 The state has provided ad judgment of conviction. I
19 know normally the clerk's office prepares these now when
20 the defendant is in custody, but Counsel for the State and
21 defense have both looked at it. I think it's an
22 appropriate judgment of conviction, so I'll go ahead and
23 sign that.

24 I believe the defense also has a stay of execution to
25 present to the court, as well.

1 MR. SCHIECK: That's correct.

2 THE COURT: I'll sign that, as well.

3 Thank you.

4 MR. SCHIECK: We'll fill in the date to --
5 with the State's warrant.

6 THE COURT: Okay.

7 For the record I should add that judgment of
8 conviction includes the warrant of execution and order of
9 execution. Mr. Owens.

10 MR. OWENS: Thank you, your Honor. We'll
11 make copies of that.

12 THE COURT: Thank you.

13 MR. OWENS: We'll file that after we get
14 our copies.

15 THE COURT: Thank you, gentlemen.

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17 * * * * *


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CERTIFICATE
OF
CERTIFIED COURT REPORTER

* * * * *

I, the undersigned certified court reporter in and for the
State of Nevada, do hereby certify:

That the foregoing proceedings were taken before me at the
time and place therein set forth; that the testimony and
all objections made at the time of the proceedings were
recorded stenographically by me and were thereafter
transcribed under my direction; that the foregoing is a
true record of the testimony and of all objections made at
the time of the proceedings.


Sharon Howard
C.C.R. #745

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DISTRICT COURT
CLARK COUNTY, NEVADA
JUL 16 9 22 AM '07

CPA
ORIGINAL COURT

STATE OF NEVADA,)
)
Appellant,)
)
vs.)
)
JAMES CHAPPELL,)
)
Respondent.)
_____)

CASE NO. C 131341
DEPT. NO. 3

CERTIFICATE ACKNOWLEDGING DELIVERY OF CERTIFIED
TRANSCRIPT

I hereby acknowledge that a certified transcript of proceedings held on March 8, 2007; March 12, 2007; March 13, 2007, May 10, 2007 in the above-entitled case has been produced, filed with the Clerk of the Court, and delivered to Appellant and Respondent on July 16th, 2007.

Dated this 16th, day of July.

Sharon Howard, C.C.R. 745
Official Court Reporter
Department 3

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JUL 16 2007
CLERK OF THE COURT

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Chaf. B. W.
CLERK OF THE COURT

1 DAVID M. SCHIECK
2 SPECIAL PUBLIC DEFENDER
3 Nevada Bar No. 824
4 CLARK W. PATRICK
5 Deputy Special Public Defender
6 Nevada Bar No. 9451
7 330 South Third Street, 8th Floor
8 Las Vegas, NV 89155-2316
9 (702) 455-6265
10 Attorneys for Defendant

11 DISTRICT COURT
12 CLARK COUNTY, NEVADA

13 THE STATE OF NEVADA,
14
15 Plaintiff,

CASE NO. C131341
DEPT. NO. III

16 vs.

17 JAMES CHAPPELL,

DATE OF HEARING: 5-10-07
TIME OF HEARING: 9:00 a.m.

18 Defendant.

19 DECLARATION OF MAILING

20 KATHLEEN FITZGERALD, an employee with the Clark County Special Public
21 Defender's Office, hereby declares that she is, and was when the herein described mailing
22 took place, a citizen of the United States, over 21 years of age, and not a party to, nor
23 interested in, the within action; that on the 23rd day of May, 2007, declarant deposited in the
24 United States mail at Las Vegas, Nevada, a copy of the certified Order to Stay Execution,
25 enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to:

District Attorney's Office
200 Lewis Ave., 3rd Floor
Las Vegas NV 89155

Warden, Ely State Prison
P.O. Box 1989
Ely NV 89301

James Chappell, No. 52338
Ely State Prison
P.O. Box 1989
Ely NV 89301

Nevada Department of Corrections
P.O. Box 7011
Carson City NV 89702

CLERK OF THE COURT

MAY 23 2007

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DEFENDER
CLARK COUNTY
NEVADA

1 That there is a regular communication by mail between the places of mailing and the places
2 so addressed.

3 I declare under penalty of perjury that the foregoing is true and correct.

4 EXECUTED on the 23rd day of May, 2007.

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7 KATHLEEN FITZGERALD
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SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

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CAS
DAVID M. SCHIECK
SPECIAL PUBLIC DEFENDER
Nevada Bar No. 824
CLARK W. PATRICK
Deputy Special Public Defender
Nevada Bar No. 9451
330 South Third Street, 8th Floor
Las Vegas, NV 89155-2316
(702) 455-6265
Attorneys for Defendant

CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,	)	CASE NO. C131341
	)	DEPT. NO. III
Plaintiff,)	
)	
vs.)	
)	
JAMES CHAPPELL,	)	DATE OF HEARING: N/A
	)	TIME OF HEARING: N/A
)	
Defendant.)	

CASE APPEAL STATEMENT

1. Appellant filing this case appeal statement: James Chappell.
2. Judge issuing the decision, judgment, or order appealed from: Douglas Herndon.
3. All parties to the proceedings in the district court (the use of et al. To denote parties is prohibited): The State of Nevada vs. James Chappell.
4. All parties involved in this appeal (the use of et al. To denote parties is prohibited): James Chappell, Appellant; The State of Nevada, Respondent.

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JUN 8 2007

CLERK OF THE COURT

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

S1

5. Name, law firm, address, and telephone number of all
counsel on appeal and party or parties whom they represent:

DAVID M. SCHIECK
Special Public Defender
330 S. Third St., Ste. 800
Las Vegas, Nevada 89155

Attorney for Appellant

DAVID ROGER
District Attorney
200 Lewis Ave., 3rd Floor
Las Vegas, Nevada 89155

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

Counsel for Respondent

6. Whether appellant was represented by appointed or retained
counsel in the district court: Appointed.

7. Whether appellant is represented by appointed or retained
counsel on appeal: Appointed.

8. Whether appellant was granted leave to proceed in forma
pauperis, and the date of entry of the district court order granting
such leave: N/A

9. Date proceedings commenced in the district court (e.g.,
date complaint, indictment, information, or petition was filed):
Information filed 10-11-1995.

DATED this 17 day of May, 2007.

DAVID M. SCHIECK
CLARK COUNTY SPECIAL PUBLIC DEFENDER

By 

DAVID M. SCHIECK
SPECIAL PUBLIC DEFENDER
330 S. THIRD ST., STE. 800
LAS VEGAS, NEVADA 89155-2316
(702) 455-6265

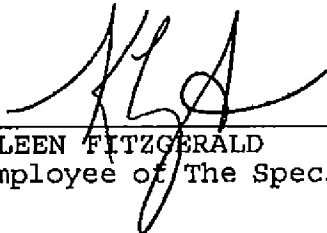
SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

CERTIFICATE OF MAILING

The undersigned employee with the Clark County Special Public Defender's Office, hereby certifies that on 6/8, 2007, a copy of the Case Appeal Statement was deposited in the United States mail at Las Vegas, Nevada, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to James Chappell, No. 52338, Ely State Prison, P.O. Box 1989, Ely, Nevada 89301, District Attorney's Office, 200 Lewis Ave., 3rd Floor, Las Vegas NV 89155; and the Nevada Attorney General's Office, 100 N. Carson, Carson City, NV 89701; that there is a regular communication by mail between the place of mailing and the place so addressed.

DATED: 6/8, 2007.


KATHLEEN FITZGERALD
An employee of The Special Public Defender

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CLERK OF THE COURT

NOAS
DAVID M. SCHIECK
SPECIAL PUBLIC DEFENDER
Nevada Bar No. 824
CLARK W. PATRICK
Deputy Special Public Defender
Nevada Bar No. 9451
330 South Third Street, 8th Floor
Las Vegas, NV 89155-2316
(702) 455-6265
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,	)	CASE NO. C131341	
	)	DEPT. NO. III	
Plaintiff,)		
)		
vs.)		
)		
JAMES CHAPPELL,	)	DATE OF HEARING:	N/A
	)	TIME OF HEARING:	N/A
)		
Defendant.)		

NOTICE OF APPEAL

TO: THE STATE OF NEVADA, Plaintiff;
TO: DAVID ROGER, DISTRICT ATTORNEY; and
TO: DEPARTMENT III OF THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK

NOTICE is hereby given Defendant JAMES CHAPPELL, presently incarcerated in the Nevada State Prison, appeals to the Supreme Court of the State of Nevada from the conviction and sentence entered on the 10th day of May, 2007 against said Defendant; whereby the Defendant JAMES CHAPPELL having previously been adjudicated guilty by reason of

...
...

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CLERK OF THE COURT

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

1 trial and verdict, the above-entitled Court did sentence Defendant,
2 by virtue of the jury's determination, to Death

3 DATED this 17 day of May, 2007.

4 DAVID M. SCHIECK
5 CLARK COUNTY SPECIAL PUBLIC DEFENDER

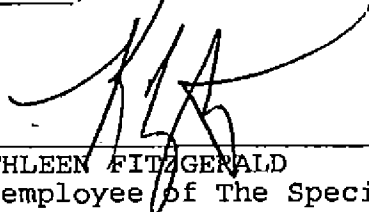
6 By 

7 DAVID M. SCHIECK
8 SPECIAL PUBLIC DEFENDER
9 NEVADA BAR #0824
10 330 S. THIRD ST., STE. 800
11 LAS VEGAS, NEVADA 89155-2316
12 (702) 455-6265

13 CERTIFICATE OF MAILING

14 The undersigned employee with the Clark County Special Public
15 Defender's Office, hereby certifies that on 6/8/07, 2007,
16 a copy of the Notice of Appeal was deposited in the United States mail
17 at Las Vegas, Nevada, enclosed in a sealed envelope upon which first
18 class postage was fully prepaid, addressed to James Chappell, #52338,
19 Ely State Prison, P.O. Box 1989, Ely, Nevada 89301, District
20 Attorney's Office, 200 Lewis Ave., 3rd Floor, Las Vegas NV 89155; and
21 the Nevada Attorney General's Office, 100 N. Carson, Carson City, NV
22 89701; that there is a regular communication by mail between the place
23 of mailing and the place so addressed.

24 DATED: 6/8, 2007.

25 
26 KATHLEEN FITZGERALD
27 An employee of The Special Public Defender
28

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

TRAN
CASE NO. C-131341
DEPT. NO. 3

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Cliff Smith
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * * *

STATE OF NEVADA,

Plaintiff,

vs.

JAMES CHAPPELL,

Defendant.

REPORTER'S TRANSCRIPT
OF
CALENDAR CALL

BEFORE THE HONORABLE DOUGLAS HERNDON
DISTRICT COURT JUDGE

DATED: THURSDAY, MARCH 8, 2007

REPORTED BY: SHARON HOWARD, C.C.R. NO. 745

RECEIVED
JUL 16 2007
CLERK OF THE COURT

1 APPEARANCES:

2 For the State: PAM WECKERLY, ESQ.

3
4 For the Defendant: CLARK PATRICK, ESQ.5 DAVID SCHIECK, ESQ.
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1 LAS VEGAS, NEVADA; THURSDAY, MARCH 8, 2007

2 P R O C E E D I N G S

3 * * * * *

4
5 THE COURT: Page 4, State of Nevada versus
6 James Chappell, C-131341.

7 The record will reflect the presence of
8 Ms. Weckerly on behalf of the State. Mr. Schieck on
9 behalf -- both counsel on behalf of the Defendant. Mr.
10 Chappell is not present.

11 MR. PATRICK: Yes, he is, your Honor.

12 THE COURT: Mr. Chappell is present. High
13 Desert told me they didn't transport him.

14 This is time set for calendar call. Are
15 you ready?

16 MR. PATRICK: Yes.

17 MS. WECKERLY: Yes, your Honor.

18 MR. SCHIECK: We understand the jury
19 questionnaires are ready also, your Honor.

20 THE COURT: Are you going to pick them up
21 now, or do you have other courts to go to? If you do, you
22 can come back by later. There should be 125 of them.

23 What I would like you all to do is get
24 together, and, prior to Monday morning, after you've had a
25 chance to review them, if there's any that are obvious to

1 you that we need to go ahead and excuse, we can, kind of,
2 filter those out before we get started Monday at 10:00
3 a.m.

4 MR. PATRICK: Your Honor, regarding Mr.
5 Chappell, during the trial we would like him remanded to
6 CCDC. However, between now and Monday morning, if he
7 could, go back to High Desert, that would be great.

8 THE COURT: The order will be that he can
9 return to High Desert, just come back and be present for
10 Monday morning. At that time, he will be remanded for the
11 duration of the case to CCDC.

12 MR. PATRICK: Thank you, your Honor.
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CERTIFICATE
OF
CERTIFIED COURT REPORTER

* * * * *

I, the undersigned certified court reporter in and for the
State of Nevada, do hereby certify:

That the foregoing proceedings were taken before me at the
time and place therein set forth; that the testimony and
all objections made at the time of the proceedings were
recorded stenographically by me and were thereafter
transcribed under my direction; that the foregoing is a
true record of the testimony and of all objections made at
the time of the proceedings.



Sharon Howard
C.C.R. #745

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TRAN
CASE NO. C-131341
DEPT. NO. 3

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Chaf
CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

STATE OF NEVADA,)
)
Plaintiff,)
)
)
vs.)
)
JAMES MONTELL CHAPPELL,)
)
Defendant.)
_____)

REPORTER'S TRANSCRIPT
OF
PENALTY HEARING

BEFORE THE HONORABLE DOUGLAS HERNDON
DISTRICT COURT JUDGE

DATED: TUESDAY, MARCH 13, 2007

REPORTED BY: SHARON HOWARD, C.C.R. NO. 745

RECEIVED
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CLERK OF THE COURT

1 TRAN
2 CASE NO. C-131341
3 DEPT. NO. 3

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5
6 DISTRICT COURT
7 CLARK COUNTY, NEVADA

8 * * * * *

9
10 STATE OF NEVADA,

11 Plaintiff,

12 vs.

13 JAMES MONTELL CHAPPELL,

14 Defendant.

15 REPORTER'S TRANSCRIPT
16 OF
17 PENALTY HEARING

18 BEFORE THE HONORABLE DOUGLAS HERNDON
19 DISTRICT COURT JUDGE

20 DATED: TUESDAY, MARCH 13, 2007

21
22
23
24 REPORTED BY: SHARON HOWARD, C.C.R. NO. 745
25

1

1 APPEARANCES:

2 For the State: CHRIS OWENS, ESQ.

3
4 For the Defendant: CLARK PATRICK, ESQ.

5 DAVID SCHIECK, ESQ.

6
7
8 * * * * *

2

1 LAS VEGAS, NEVADA; TUESDAY, MARCH 13, 2007

2 PROCEEDINGS

3 * * * * *

4
5 THE COURT: Welcome to Department 3, in
6 the trial of C-131341, State of Nevada versus James
7 Chappell.

8 The record will reflect the presence of
9 Mr. Chappell with his attorneys, the State's attorneys, in
10 the presence of our prospective jurors.

11 Ladies and gentlemen from yesterday,
12 welcome back. Thank you for your patience this morning.
13 We're starting late because we were missing a number of
14 people that were supposed to be back at 10:30. We need a
15 certain amount to finish up this process, so what we had
16 to eventually do is get 15 of your brethren from
17 downstairs and bring them up. Welcome to you all.

18 My name is Douglas Herndon. I'm the
19 presiding judge in District Court, Department 3. You all
20 have been subpoenaed here, as you know from filling out
21 the jury questionnaire, as potential jurors in a criminal
22 proceeding.

23 I'm going to tell you a few things and
24 then I'm going to have the attorneys give you a little bit
25 of introduction of the case and tell you about some

3

1 witnesses that may be called. Then we'll have some
2 questions for you all. Then we'll get back to the process
3 at the point we were yesterday.

4 Just so you understand, seated in front of
5 me is Sharon. Sharon is my court reporter. Everything
6 that I say, or the attorneys say, or any questions you are
7 asked to answer you give she reports. So it is going to
8 be really important that if you are asked questions that
9 you speak loud enough so we can hear you, and please
10 answer out loud. Don't just shake your head or nod your
11 head. And don't say Uh-huh or Huh-uh, because it's hard
12 to make sure we get that right in a report. So try and
13 answer "yes" or "no," if you could please.

14 Additionally, seat to my left is Carol.
15 Carol is the court clerk. She is going to administer an
16 oath to you all in a minute to we make sure you're sworn
17 in before you answer any questions. Seated to her left is
18 my law clerk, Steve, who helps me out with a lot of legal
19 things that come up during the trial.

20 You have already met Leslie. Leslie is my
21 bailiff. What you're going to find out is most of the
22 court personnel, as well as the attorneys are under
23 certain ethical and legal obligations not to converse with
24 the jury, other than in here during the jury selection
25 process. That means in the hallway, they're not going to

4

1 sit around and chat you up about the basketball tournament
2 or anything like that. They are not supposed to.

3 Nonetheless, there may be some things you
4 need to bring to the court's attention, so you can always
5 communicate with Leslie. You can tell her anything you
6 need to tell her, and she'll get it to my attention if
7 necessary.

8 What I'm going to do is ask you a series
9 of questions, as quickly as I can, so we can kind of move
10 forward. But before I do that, Mr. Owens, if you'd
11 introduce yourself and Ms. Weckerly and tell these new
12 folks about the case and the potential witnesses.

13 MR. OWENS: Thank you, your Honor.

14 I think for this group here it's a review,
15 right. So we'll be testing you on it in a minute. I
16 don't think you've heard this before, but if you have I
17 apologize.

18 My name is Chris Owens. This is Pam
19 Weckerly. We're prosecutors in the district attorney's
20 office. We're presenting this case for the State of
21 Nevada. This is a incident that occurred back on August
22 31st of 1995. It went to trial a little over a year
23 later, and the Defendant was convicted on charges of
24 burglary, robbery, with use of a deadly weapon, and first
25 degree murder with use of a deadly weapon. As he sits

5

1 here in court, he's been convicted of those charges.

2 The purposes of impaneling this jury is to
3 make a finding of a sentence regarding the Defendant, Mr.
4 Chappell. That's all that's going on with regard to the
5 jury here.

6 In regard to sentencing procedure, there
7 are four options that will be available. Those are the
8 death penalty, life without the possibility of parole,
9 life with the possibility of parole after 40 years, and a
10 term of years in prison with parole eligibility after 40
11 years. Those are the options.

12 The incident in question here was a murder
13 that occurred at the Ballerina Mobile Home Park. It was
14 at 839 North Lamb. Just a few miles to the east of here,
15 down Bonanza. You'll here facts that it occurred in the
16 trailer in that area, the trailer home. And also about
17 some things that happened in regard to the jail here
18 downtown and parole and probation.

19 Now, witnesses that the State may call in
20 this matter are as follows, I ask you to pay attention to
21 see if you might know or have heard of any of these people
22 for questions later: Luana Aires, Lisa Duran, Tayna
23 Hobson, LaDonna Jackson, Clairia McQuire, Mike Pollard, Kim
24 Simpson, Sherry Smith, Debra Turner, Laura Burfield,
25 Greg Urnst, Dena Freeman, Michell Munson, Carol Munson,

6

1 Norma Penfield, and Paul Widner. The victim's name in
2 this case was Debbie Panos.

3 We have a coroner that will testify. He's
4 actually a retired pathologist from the coroner's office,
5 Dr. Green.

6 Police officers who may testify:
7 Daniel Dersdorff, Darren Heiner, Art Lee, Paul Ocsuch,
8 Mike Perkins, James Viccarro, Alen Williams, and
9 Cal Winchells.

10 Parole and probation officers:
11 Larry Arava, Mike Compton, William Duffy, Bet Henderson,
12 Germaine Smith. And then a possible witness, a
13 psychiatrist from the North Reno area, Dr. Thomas Vicker.

14 I appreciate your patience with us through
15 this process, and your candor in answering our questions,
16 because this is obviously an important proceeding here.

17 THE COURT: Thank you, Mr. Owens.

18 Mr. Schieck.

19 MR. SCHIECK: Thank you, your Honor.

20 Good morning, ladies and gentlemen. My name is David
21 Schieck. I'm with the special public defender's office
22 here in Clark County, Nevada. Also with the office is
23 Clark Patrick, who will be assisting during the trial of
24 the case. This is James Chappell, the Defendant in the
25 case.

7

1 The list of witnesses we may call during
2 these proceedings are as follows: James Ford, Ivory
3 Morrell, Ben Dean, Charles Dean, Fred Dean, Willy
4 Chappell, Mira Chappell-King, Kisha Axida, Dennis Reffer,
5 Marabel Rosalez and Howard Brooks.

6 Additionally, we would hear testimony from
7 Dr. Lewis Etoeff, Dr. Tod Grey, and Dr. William Dan.
8 Thank you.

9 THE COURT: All right. Ladies and
10 gentlemen, I'll have Carol swear approximately fifteen of
11 you that just came. If you'd stand up and raise your
12 right hand and she'll swear you in.

13 THE CLERK: You do solemnly swear you will
14 well truly answer such questions that may be put to you
15 touching upon your qualifications to act as jurors in this
16 case at issue, so help you God.

17 PROSPECTIVE JURORS: (Choir of I do).

18 THE CLERK: You may be seated.

19 THE COURT: She's going to call the role
20 to make sure we have fifteen of you that we believe we
21 have. When you hear your name, answer present or here,
22 please.

23 THE CLERK: Joanne Camosino.

24 PROSPECTIVE JUROR: Present.

25 THE CLERK: Gary Rosenkrantz.

8

1 PROSPECTIVE JUROR: Present.
 2 THE CLERK: Craig Fuller.
 3 PROSPECTIVE JUROR: Present.
 4 THE CLERK: Lisa Bogner.
 5 PROSPECTIVE JUROR: Present.
 6 THE CLERK: Rene Vargas.
 7 PROSPECTIVE JUROR: Here.
 8 THE CLERK: Donna Morella-Krupa.
 9 PROSPECTIVE JUROR: Here.
 10 THE CLERK: David Mayorga.
 11 PROSPECTIVE JUROR: Here.
 12 THE CLERK: Jedediah Herring.
 13 PROSPECTIVE JUROR: Here.
 14 THE CLERK: Patricia Moran.
 15 PROSPECTIVE JUROR: Here.
 16 THE CLERK: Steven Leavitt.
 17 PROSPECTIVE JUROR: Here.
 18 THE CLERK: Alan Potter.
 19 PROSPECTIVE JUROR: Present.
 20 THE CLERK: Karen Meza.
 21 PROSPECTIVE JUROR: Here.
 22 THE CLERK: Charles Brooks.
 23 PROSPECTIVE JUROR: Here.
 24 THE CLERK: Michael Lomasney.
 25 PROSPECTIVE JUROR: Here.

9

1 you're ultimately selected as a jurors, then we find out
 2 about that, that could contaminate your verdict. And
 3 that's bad. So, please, if you have any feeling there's a
 4 question before, you think there's something that maybe
 5 you're not sure you should tell, should you not tell, let
 6 us know about it. There is no wrong answer of anything
 7 that happens during a jury selection process.

8 First off, what I would like to know is is
 9 there anybody, of the 15 of you, who has been convicted of
 10 a felon? I see no hands. Thank you.

11 Any of you all not U.S. citizens? I see
 12 no hands. Thank you.

13 Do any of you believe that you know or are
 14 acquainted with any of the attorneys here today, either
 15 Mr. Owens or Ms. Weckerly from the DA's office or
 16 Mr. Schieck or Mr. Patrick on behalf of Mr. Chappell? I
 17 see no hands. Thank you.

18 Any of you believe you know or are
 19 acquainted with Mr. Chappell? I see no hands. Thank
 20 you.

21 Any of you all believe you know or are
 22 acquainted with any of the witness spoken to you about by
 23 Mr. Owens or Mr. Schieck? I see no hands. Thank you.

24 Anybody believe they know anything about
 25 the case, other than the very short synopsis that Mr.

11

1 THE CLERK: Luz Cruz.
 2 PROSPECTIVE JUROR: Here.
 3 THE COURT: Anybody's name that is present
 4 whose name was not called? I see no hands. Thank you
 5 very much.

6 All right, ladies and gentlemen. As I
 7 said a minute ago, I'm going to ask a few quick questions
 8 then the attorneys will get back to their questioning of
 9 the prospective jurors. To those 15 of you that have just
 10 arrived, understand that it is my desire, as well as the
 11 attorneys' desire, to seat 14 people to hear this case who
 12 are as essentially as fair open-minded and neutral as
 13 possible base upon the facts of this case. There are a
 14 number of questions we need to ask you about today.

15 The questionnaires speeded this up a lot. I know it
 16 doesn't seem like that, because you were sitting around
 17 yesterday and you're back here again today. But in a case
 18 of this nature the questionnaire has really expedited a
 19 lot of things, but obviously, base upon some of the
 20 answers in there, there's a need to follow up and ask a
 21 few questions.

22 Please make sure that any questions you're
 23 asked today, you give as full, complete, and honest
 24 answers to those questions as possible. If you hide or
 25 withhold something that has reference to this process and

10

1 Owens just spoke to you about, as well as the synopsis that
 2 was in the jury questionnaire? I see no hands. Thank
 3 you.

4 Some of you indicated in your
 5 questionnaire, if I recall correctly, that you have been a
 6 juror before. To the extent you have been a juror before,
 7 did any of you serve as a foreperson of those juries? I
 8 see no hands. Thank you.

9 Have you or any of your close family
 10 members ever been accused of a crime? Yes, sir? What's
 11 your name, sir?

12 PROSPECTIVE JUROR: Donna Morella-Krupa.

13 THE COURT: Badge number, sir?

14 PROSPECTIVE JUROR: 0111.

15 THE COURT: Ms. Morella-Krupa?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Sorry. What's the crime?

18 When was it?

19 PROSPECTIVE JUROR: My sister. She was --
 20 she stole funds or money from the company she worked from.
 21 She was prosecuted.

22 THE COURT: Was that hear locally?

23 PROSPECTIVE JUROR: Chicago.

24 THE COURT: All right. Thank you, ma'am.

25 Anybody else? Yes. In the front row, tan shirt.

12

1 PROSPECTIVE JUROR: Badge number 050104.
 2 THE COURT: Mr. Rosenkrantz.
 3 PROSPECTIVE JUROR: Yes. My brother.
 4 THE COURT: What was that?
 5 PROSPECTIVE JUROR: Possession of
 6 marijuana with intent to sell, and methamphetamine.
 7 THE COURT: Was that locally?
 8 PROSPECTIVE JUROR: No, it was not.
 9 THE COURT: Thank you. Anybody else?
 10 Middle row, sir, in the dark shirt.
 11 PROSPECTIVE JUROR: 050126.
 12 THE COURT: Mr. Potter, what do you have?
 13 PROSPECTIVE JUROR: My son, statutory
 14 rape.
 15 THE COURT: Okay. Was that locally?
 16 PROSPECTIVE JUROR: Yes.
 17 THE COURT: Thank you. Back row.
 18 PROSPECTIVE JUROR: 050130.
 19 THE COURT: Ms. Cruz.
 20 PROSPECTIVE JUROR: It was my niece.
 21 Possession of controlled substance.
 22 THE COURT: Thank you. Next to you, is
 23 that Ms. Lomasney?
 24 PROSPECTIVE JUROR: Yes, sir.
 25 PROSPECTIVE JUROR: I have an uncle that

13

1 killed his wife.
 2 THE COURT: Was he convicted of that
 3 charge?
 4 PROSPECTIVE JUROR: He kill himself after
 5 that.
 6 THE COURT: Locally or elsewhere?
 7 PROSPECTIVE JUROR: California.
 8 THE COURT: Thank you. Any other hands
 9 up? Did I miss anybody? No. Thank you very much.
 10 Are there any of you that would tend to
 11 give more weight or credence or less weight or credence to
 12 the testimony of a police officer because that person was
 13 a police officer? Why am I not surprised to see you hand,
 14 Mr. Rosenkrantz.
 15 PROSPECTIVE JUROR: That's because I'm a
 16 police officer.
 17 THE COURT: Are you with Metro?
 18 PROSPECTIVE JUROR: Yes, your Honor.
 19 THE COURT: Thank you. Anybody else? No.
 20 Thank you.
 21 Is there anybody that believes they would
 22 not be able to follow the instructions on the law that I
 23 give you in this case, even if those instructions differ
 24 from what your personal beliefs of what the law ought to
 25 be?

14

1 I'm going to give you -- your job as
 2 jurors is to be fact finders. My job as a judge is to
 3 instruct you on the appropriate law in the State of Nevada
 4 that applies to this case. You then take the facts as you
 5 find them, apply the law and reach what you believe is an
 6 appropriate decision.
 7 You have to accept the law as I tell you
 8 it exists, even if you disagree with it, if you're going
 9 to be a juror.
 10 Is there anybody that thinks the would not
 11 be able to follow the law as I tell you it exists? I see
 12 no hands. Thank you very much.
 13 There are a number of principles of law
 14 that pertain to every criminal proceeding. In this
 15 proceeding one of those is the fact that the State has the
 16 burden of proof in proofing all of the elements necessary
 17 for certain things in this case related to the sentencing.
 18 Does everybody understand that principle? Proof beyond a
 19 reasonable doubt, does everybody agree with that
 20 principle? Anybody disagree with that? I see no hands.
 21 Anybody disagree with holding the State to
 22 their burden of proof? I see no hands. Thank you very
 23 much.
 24 All right. We will get back to our
 25 questioning of the prospective jurors, which I believe

15

1 puts us with Ms. Ware. Who is up in seat number one.
 2 Good morning, Ms. Ware. How are you?
 3 PROSPECTIVE JUROR: Fine.
 4 THE COURT: All right. Mr. Owens.
 5 MR. OWENS: Thank you. Good morning, Ms.
 6 Ware. You had -- there was quite a few of these questions
 7 you noted some sort of experience or knowledge about.
 8 One was about drugs. You had somebody you knew or were
 9 close to that had an experience with that?
 10 PROSPECTIVE JUROR: Experience in doing it
 11 or selling it?
 12 MR. OWENS: Well, I'm not sure.
 13 PROSPECTIVE JUROR: What are you asking,
 14 either doing it or selling it?
 15 MR. OWENS: It said what are your feelings
 16 and you said, did not deal with them. Was this somebody
 17 you were close to?
 18 PROSPECTIVE JUROR: Just a friends.
 19 MR. OWENS: How long ago was that?
 20 PROSPECTIVE JUROR: Two years ago.
 21 MR. OWENS: So there wasn't anything about
 22 that that would affect you ability to be fair here if the
 23 subject to drugs came up?
 24 PROSPECTIVE JUROR: I guess not.
 25 THE COURT: Speak up. I need to be able

16

1 to hear you.
 2 MR. OWENS: You indicated you had some
 3 contact with a situation of domestic violence. Was it a
 4 friend or something?
 5 PROSPECTIVE JUROR: Yes.
 6 MR. OWENS: There was also an aunt?
 7 PROSPECTIVE JUROR: Yes.
 8 MR. OWENS: Was that in town?
 9 PROSPECTIVE JUROR: No.
 10 MR. OWENS: How close were you to that
 11 situation when that was happening?
 12 PROSPECTIVE JUROR: I was told about it.
 13 MR. OWENS: Okay. So you didn't go to
 14 court? You didn't talk to people?
 15 PROSPECTIVE JUROR: No.
 16 MR. OWENS: What were your feelings about
 17 that at that time?
 18 PROSPECTIVE JUROR: I don't know.
 19 MR. OWENS: Down here you indicated
 20 that -- it said what are your feelings about this. And
 21 you wrote, eye for an eye. Are those your feelings at the
 22 time?
 23 PROSPECTIVE JUROR: Yeah.
 24 MR. OWENS: And what are your thoughts
 25 about it at this point?

17

1 PROSPECTIVE JUROR: The same.
 2 MR. OWENS: The same. Now, you were asked
 3 a number of questions about the death penalty. You said
 4 that you were supportive of the death penalty?
 5 PROSPECTIVE JUROR: Yes.
 6 MR. OWENS: You've heard about the four
 7 options that were talk about in this case. There was
 8 death, life with, life without, term of years. On
 9 question 22 you indicated that you'd already formed an
 10 opinion about what the results should be, right?
 11 PROSPECTIVE JUROR: Yes.
 12 MR. OWENS: Tell us about that.
 13 PROSPECTIVE JUROR: The opinion?
 14 MR. OWENS: Yeah. And why you had that
 15 opinion.
 16 PROSPECTIVE JUROR: If you take somebody's
 17 life --
 18 MR. OWENS: Yeah.
 19 PROSPECTIVE JUROR: The world is round.
 20 What goes around comes around. Eventually it comes
 21 back.
 22 MR. OWENS: You already formed an opinion,
 23 the opinion was the death sentence?
 24 PROSPECTIVE JUROR: Yes.
 25 MR. OWENS: When you say things come

18

1 around, what you're saying seems to be that somebody did
 2 something wrong something wrong is going to happen to them
 3 at some point.
 4 PROSPECTIVE JUROR: Yes.
 5 MR. OWENS: You feel that that's always
 6 the case?
 7 PROSPECTIVE JUROR: Yes.
 8 MR. OWENS: You feel with regard to this
 9 particular case that you've already made a judgment as to
 10 what the jury should do?
 11 PROSPECTIVE JUROR: Yes.
 12 MR. OWENS: So the comes around part would
 13 be this jury?
 14 PROSPECTIVE JUROR: Yes.
 15 MR. OWENS: I think you had said that you
 16 didn't feel that you could consider any of the other
 17 alternatives?
 18 PROSPECTIVE JUROR: No.
 19 MR. OWENS: Is that your feeling right
 20 now?
 21 PROSPECTIVE JUROR: Yes.
 22 MR. OWENS: You said your mind is made up?
 23 PROSPECTIVE JUROR: Yes.
 24 MR. OWENS: You said you would
 25 automatically vote for the death penalty?

19

1 PROSPECTIVE JUROR: Yes.
 2 MR. OWENS: So the feelings you express in
 3 your questionnaire on the subject are the same way you
 4 feel now?
 5 PROSPECTIVE JUROR: Yes.
 6 MR. OWENS: You didn't have a real high
 7 opinion of the system -- criminal justice and the lawyers,
 8 like that?
 9 PROSPECTIVE JUROR: No.
 10 MR. OWENS: A lot of people have those
 11 sorts of feelings today. You're not alone in that. Is
 12 that something that would make it different for you to be
 13 fair to all the parties in this case?
 14 PROSPECTIVE JUROR: Yes.
 15 MR. OWENS: You feel like you might have
 16 feelings against an attorney and might take it out on one
 17 side or the other?
 18 PROSPECTIVE JUROR: Yes.
 19 MR. OWENS: Have you had an experience
 20 where you were a victim of a crime?
 21 PROSPECTIVE JUROR: Yes.
 22 MR. OWENS: How many times has that
 23 happened?
 24 PROSPECTIVE JUROR: Once.
 25 MR. OWENS: How long ago was that?

20

1 PROSPECTIVE JUROR: 1994.
 2 MR. OWENS: What kind of crime was that?
 3 PROSPECTIVE JUROR: I was shot in the
 4 head.
 5 MR. OWENS: Was that in town here?
 6 PROSPECTIVE JUROR: No.
 7 MR. OWENS: Was there a prosecution of
 8 that?
 9 PROSPECTIVE JUROR: No.
 10 MR. OWENS: What happened? Did they not
 11 find the guy?
 12 PROSPECTIVE JUROR: They didn't do
 13 anything.
 14 MR. OWENS: They didn't do anything?
 15 PROSPECTIVE JUROR: Anything.
 16 MR. OWENS: Are you still upset about
 17 that?
 18 PROSPECTIVE JUROR: Yes.
 19 MR. OWENS: Where was that?
 20 PROSPECTIVE JUROR: In Mexico.
 21 MR. OWENS: You feel like there is
 22 something they could have done and they didn't do it?
 23 PROSPECTIVE JUROR: Exactly.
 24 MR. OWENS: Do you feel like there is some
 25 animosity from that, that you might take out on these

21

1 people?
 2 PROSPECTIVE JUROR: Yes.
 3 MR. OWENS: You really don't want to have
 4 anything to do with this?
 5 PROSPECTIVE JUROR: No.
 6 MR. OWENS: Do you?
 7 PROSPECTIVE JUROR: No.
 8 MR. OWENS: I don't have any more
 9 questions, your Honor.
 10 THE COURT: All right. Pass or challenge
 11 for cause?
 12 MR. SCHIECK: Just one question, your
 13 Honor. Ms. Ware, we've got all the things you wrote in
 14 your questionnaire. Do you still feel the same way after
 15 sitting here all day yesterday and listening to
 16 everything?
 17 PROSPECTIVE JUROR: Like what?
 18 MR. SCHIECK: You haven't changed your
 19 mind about how you'll feel about the case?
 20 PROSPECTIVE JUROR: No.
 21 MR. SCHIECK: We would challenge for
 22 cause. Thank you, ma'am.
 23 THE COURT: Mr. Owens, as to
 24 Ms. Washington.
 25 MR. OWENS: You've got friends in law

22

1 enforcement or people that you know?
 2 PROSPECTIVE JUROR: Yes.
 3 MR. OWENS: What is that relationship?
 4 PROSPECTIVE JUROR: I'm a pretrial officer
 5 for the City of Las Vegas. I know several police
 6 officers, judges, attorneys. Just miscellaneous. I'm
 7 been doing this for 24 years, so I know quite a few
 8 people.
 9 MR. OWENS: So you have contact with
 10 police officers all the time?
 11 PROSPECTIVE JUROR: Yes.
 12 MR. OWENS: Anything about your
 13 relationships there that would come over to this trial in
 14 a way that would create an unfair situation?
 15 PROSPECTIVE JUROR: No.
 16 MR. OWENS: You've never had a chance to
 17 serve on a jury before?
 18 PROSPECTIVE JUROR: No.
 19 MR. OWENS: Have you ever been involved in
 20 a court process, because of your job?
 21 PROSPECTIVE JUROR: Yes.
 22 MR. OWENS: What manner -- witness, go in
 23 and make reports?
 24 PROSPECTIVE JUROR: Well, we -- as
 25 pretrial officers we sometimes have to prepare reports for

23

1 the courts, for the judges. I have sat in on several
 2 trials. I never participated in one. I just watched what
 3 was going on.
 4 MR. OWENS: So you prepare the reports.
 5 And the judge reads those and makes decisions?
 6 PROSPECTIVE JUROR: Yes.
 7 MR. OWENS: This is about custody status?
 8 PROSPECTIVE JUROR: No. Our court, we do
 9 misdemeanors. We don't do that.
 10 MR. OWENS: Does it have to do with
 11 sentencing?
 12 PROSPECTIVE JUROR: Sentencing, prepare
 13 for the work program. If they completed whatever the
 14 judge told them they had to do, and they didn't do it.
 15 Any those types of things.
 16 MR. OWENS: You make recommendations to
 17 the court in those reports?
 18 PROSPECTIVE JUROR: On a limited basis.
 19 MR. OWENS: When the judge reviews those
 20 reports or reads them are you in court sometimes?
 21 PROSPECTIVE JUROR: Sporadically. Not to
 22 often.
 23 MR. OWENS: Does the judge ask you
 24 questions about them from time to time?
 25 PROSPECTIVE JUROR: They used to. Not

24

1 anymore. We're not in the Regional Justice Center
 2 anymore.
 3 MR. OWENS: You've never actually had to
 4 be sworn and give testimony in a case?
 5 PROSPECTIVE JUROR: In my own. I had a
 6 couple of trial matters, yeah.
 7 MR. OWENS: Okay. Just traffic?
 8 PROSPECTIVE JUROR: Yes.
 9 MR. OWENS: How long ago was that?
 10 PROSPECTIVE JUROR: '95, '96.
 11 MR. OWENS: So you testified for yourself?
 12 PROSPECTIVE JUROR: The officer gave me a
 13 ticket I pled not guilty and went to trial.
 14 MR. OWENS: Your word against the police
 15 officer?
 16 PROSPECTIVE JUROR: More or less.
 17 MR. OWENS: How did that come out.
 18 PROSPECTIVE JUROR: They took the word of
 19 the officer.
 20 MR. OWENS: That's a tough one.
 21 PROSPECTIVE JUROR: That generally
 22 happens.
 23 MR. OWENS: Anything about that experience
 24 that would make it difficult for you to be fair here?
 25 PROSPECTIVE JUROR: No.

25

1 MR. OWENS: Did you have some resentment
 2 against those particular police officers?
 3 PROSPECTIVE JUROR: No.
 4 MR. OWENS: What are your feelings about
 5 the death penalty?
 6 PROSPECTIVE JUROR: When I was younger I
 7 didn't know what the death penalty was, so I was against
 8 it. And in my later years and life experience, I now -- I
 9 support the death penalty.
 10 MR. OWENS: When did that change occur?
 11 PROSPECTIVE JUROR: I would say within the
 12 last 6 to 7 years. I'm 42 now. When I was younger I
 13 really didn't think about it. I thought everybody
 14 deserved a second chance in case they were convicted in
 15 time to fight or appeal the process. I don't feel that
 16 way anymore.
 17 MR. OWENS: And the death penalty doesn't
 18 have anything to do with the appellate process. Everybody
 19 has an opportunity to fight and to appeal everything. You
 20 understand that?
 21 PROSPECTIVE JUROR: Yes.
 22 MR. OWENS: But then you started feeling
 23 like the death penalty might be an appropriate thing in
 24 some circumstances?
 25 PROSPECTIVE JUROR: Yes.

26

1 MR. OWENS: You still feel that way now?
 2 PROSPECTIVE JUROR: Yes.
 3 MR. OWENS: When you were asked about your
 4 feelings about the death penalty, just generally here, you
 5 said I don't feel it's just. I would prefer life in
 6 prison over the death penalty for inmates. What did you
 7 mean by that?
 8 PROSPECTIVE JUROR: What was that again?
 9 MR. OWENS: It says, I don't feel it's
 10 just. I would prefer life in prison over death for an
 11 inmate.
 12 PROSPECTIVE JUROR: When I wrote that I
 13 was referring to the fact that when you're convicted there
 14 are sometimes you may or may not get a chance to appeal.
 15 I was speaking of the appeal process, not realizing it's
 16 two separate issues.
 17 MR. OWENS: I understand. Even if a
 18 person gets the death penalty, they can still appeal.
 19 PROSPECTIVE JUROR: Yes.
 20 MR. OWENS: You're okay with that?
 21 PROSPECTIVE JUROR: Yes.
 22 MR. OWENS: Okay. That's why you are
 23 saying you weren't sure it was just. Because you are
 24 thinking maybe they just execute them and they don't have
 25 a court review it?

27

1 PROSPECTIVE JUROR: Yes.
 2 MR. OWENS: Knowing that that doesn't
 3 happen, does that make you feel like it can be just under
 4 certain circumstances, base on the crime?
 5 PROSPECTIVE JUROR: Yes.
 6 MR. OWENS: Then you said -- you were
 7 asked about an eye for an eye, a tooth for a tooth. You
 8 said I believe it's fair if you murder someone you should
 9 be put to death immediately. Now that would mean if it's
 10 immediate, then you wouldn't get an appeal.
 11 PROSPECTIVE JUROR: I kind of contradicted
 12 myself when I was writing everything. Some of the
 13 questions were kind of --
 14 MR. OWENS: They're terrible questions.
 15 They give us sort of a starting point to talk about.
 16 The -- when you said immediately, because you kind of
 17 thought that's what the law was. But you understand that
 18 it's not?
 19 PROSPECTIVE JUROR: Exactly.
 20 MR. OWENS: Then you asked if you ever had
 21 a different views on the death penalty. You said you
 22 never had a different view on the death penalty. But
 23 today you're kind of explaining how you started off
 24 against it and you changed?
 25 PROSPECTIVE JUROR: Yes.

28

1 MR. OWENS: Were you not thinking of that
2 when you read the questionnaire?
3 PROSPECTIVE JUROR: No, I wasn't.
4 MR. OWENS: There has been an evolution in
5 your mind?
6 PROSPECTIVE JUROR: Yes.
7 MR. OWENS: Then you said, I would be
8 willing to consider all forms of punishment and deliberate
9 on the appropriateness of the outcome with other jurors.
10 Do you feel that way now, that you'd consider all four
11 forms of punishment?
12 PROSPECTIVE JUROR: Yes.
13 MR. OWENS: Death, life with parole, life
14 without parole. You're okay with that?
15 PROSPECTIVE JUROR: Yes.
16 MR. OWENS: And you'd select the one you
17 feel is appropriate or fair in light of what happened?
18 PROSPECTIVE JUROR: Yes.
19 MR. OWENS: Okay. You felt like it was
20 important to serve and you wanted to make a contribution
21 to the process.
22 PROSPECTIVE JUROR: Yes.
23 MR. OWENS: You do that a lot everyday in
24 what you do. You just never had the jury experience
25 before?

29

1 PROSPECTIVE JUROR: They've selected me a
2 couple of times. I never served on the jury.
3 MR. OWENS: In about three or four days,
4 Ms. Weckerly and myself are going to be standing up asking
5 the jury to return the death penalty. Do you feel that
6 that's something you could do?
7 PROSPECTIVE JUROR: Yes.
8 MR. OWENS: How do you feel about the idea
9 of sitting in judgment on another person?
10 PROSPECTIVE JUROR: Well, I think it goes
11 back to a moral issue. My mother always raised us to
12 treat people the way you want to be treated. Again, as I
13 wrote, do unto others as they would do unto you. If you
14 murder someone or steal their car, doesn't mean I have to
15 steal their care. What you do, at some point in time,
16 comes back to you. It doesn't always -- you're not always
17 going to get away with the things you do. You have to
18 take some responsibility for the consequences of your
19 actions, whether it's take a piece of bubble gum or
20 whatever it may be.
21 MR. OWENS: Part of that is why we have
22 juries. Particularly for the serious stuff, like this.
23 So you feel as you sit here now, in your present state of
24 mind, you could be fair and impartial to both sides in
25 this case?

30

1 PROSPECTIVE JUROR: Yes.
2 MR. OWENS: You'd consider all of the
3 alternatives?
4 PROSPECTIVE JUROR: Yes.
5 MR. OWENS: Pick the one that's
6 appropriate?
7 PROSPECTIVE JUROR: Yes.
8 MR. OWENS: Thank you.
9 THE COURT: Pass for cause, Mr. Owens?
10 MR. OWENS: Yes, your Honor.
11 THE COURT: Mr. Schieck.
12 MR. SCHIECK: Thank you, your Honor.
13 Ms. Washington, in your job with pretrial,
14 do you view yourself as an advocate on behalf of the
15 prosecution or on behalf of the Defendant, or sort of a
16 neutral person?
17 PROSPECTIVE JUROR: As a neutral person.
18 I can't make -- we have guidelines we have to follow. So
19 we follow the perimeters of the guidelines. If there is a
20 question as to fairness of it or the legality of it that's
21 why we have supervisors. But I feel I'm a neutral person,
22 making sure all the paperwork is where it needs to be.
23 MR. SCHIECK: And that you provide the
24 court as much information as you can so the court can make
25 the ultimate decision?

31

1 PROSPECTIVE JUROR: Yes.
2 MR. SCHIECK: Any particular thing that
3 caused you to change, what was your early view about the
4 death penalty, to what it was now. Anything in
5 particular?
6 PROSPECTIVE JUROR: Just life in general.
7 When I was younger I didn't really think about it. I had
8 a different view on things when I was younger. As I got
9 older my views changed. A lot of them, not just this, but
10 a lot of different things changed over the years. I
11 didn't realize that they had, until I examined it.
12 MR. SCHIECK: And you are of the belief
13 that someone commits a criminal act, there should be some
14 consequences for having done that? They should be
15 punished for it?
16 PROSPECTIVE JUROR: Criminal act, traffic,
17 whatever it is. Just like I got a ticket for what I did,
18 apparently, I was supposed to have it.
19 MR. SCHIECK: Even though you didn't
20 agree, you accepted your punishment, whatever that might
21 have been.
22 PROSPECTIVE JUROR: Yes.
23 MR. SCHIECK: Do you feel that the
24 sentence of life in prison is a punishment?
25 PROSPECTIVE JUROR: Is it a punishment --

32

1 yes, it is.

2 MR. SCHIECK: And in a first degree murder
3 case, would you be open to considering all of the forms of
4 punishment that the legislature says are available?

5 PROSPECTIVE JUROR: Yes, sir.

6 MR. SCHIECK: That would be not only the
7 death penalty but life without parole, life with parole?

8 PROSPECTIVE JUROR: Yes.

9 MR. SCHIECK: You could consider all of
10 those?

11 PROSPECTIVE JUROR: Yes.

12 MR. SCHIECK: You would consider all of
13 those forms of punishment?

14 PROSPECTIVE JUROR: Yes.

15 MR. SCHIECK: Would it be fair to say that
16 you would want to hear as much information, just as do you
17 in your job, as would hear as much information in court as
18 possible to make the decision as to what the correct
19 punishment should be?

20 PROSPECTIVE JUROR: Yes.

21 MR. SCHIECK: Thank you. We pass for
22 cause, your Honor.

23 THE COURT: Thank you. Mr. Owens, as to
24 Ms. Lee.

25 MR. OWENS: Thank you. How are you

33

1 doing.

2 PROSPECTIVE JUROR: Okay.

3 MR. OWENS: Have you been involved in the
4 criminal justice system before?

5 PROSPECTIVE JUROR: No.

6 MR. OWENS: Have you ever sued anybody or
7 been sued in court?

8 PROSPECTIVE JUROR: No.

9 MR. OWENS: You know somebody that's been
10 arrested or something?

11 PROSPECTIVE JUROR: I had a friend that
12 killed his wife.

13 MR. OWENS: How long ago was that?

14 PROSPECTIVE JUROR: Probably 20 years
15 ago.

16 MR. OWENS: Were you close to this
17 individual?

18 PROSPECTIVE JUROR: Yes.

19 MR. OWENS: Did you kind of watch that
20 process run its course?

21 PROSPECTIVE JUROR: Not really because he
22 did it and he knew it. And he just pled guilty going
23 through the whole process.

24 MR. OWENS: I see. So it's not like he
25 went to court or anything?

34

1 PROSPECTIVE JUROR: No.

2 MR. OWENS: How did you feel about that?

3 PROSPECTIVE JUROR: I was sad that he did
4 it. But actually it was, I guess, you could put it it was
5 an accident. They got in a fight and he lost it and
6 choked her. It was an accident. He shouldn't have done
7 it. But he shouldn't have been drinking and doing what
8 they were doing, fighting like that. But it happened. He
9 paid his price.

10 MR. OWENS: You know, question number 19

11 you were asked about domestic violence, which would be
12 like what you are talking about. And you're saying I have
13 no sympathy for spousal abusers.

14 PROSPECTIVE JUROR: I went through it.

15 MR. OWENS: Did you see that situation as
16 different from your situation?

17 PROSPECTIVE JUROR: I don't quite
18 understand.

19 MR. OWENS: Well, did you view that murder
20 that occurred, that killing, you said it was kind of an
21 accidental death. You don't view that as a domestic
22 violence situation?

23 PROSPECTIVE JUROR: Well, I guess you can
24 put it like that. He never physically abused her, but
25 they were always fighting constantly. But he never hit

35

1 her or anything. It was just that one particular time.

2 They had both been drinking. And she kicked him where she
3 shouldn't have kicked him. And he lost it.

4 MR. OWENS: So you just never viewed that
5 situation that way as domestic violence.

6 PROSPECTIVE JUROR: Probably not, because
7 it was just that one time.

8 MR. OWENS: So it could have been mental
9 abuse or emotional abuse, but not the physical kind of
10 abuse that you associate with your situation.

11 PROSPECTIVE JUROR: She was more mentally
12 abusive than him -- than he was to her.

13 MR. OWENS: But you had something in your
14 life that you thought was what you would consider domestic
15 violence. How long ago was that?

16 PROSPECTIVE JUROR: It lasted twelve
17 years. It was just verbal abuse. Took me thirty-four
18 years to get out, but I finally did.

19 MR. OWENS: When did you separate yourself
20 from that?

21 PROSPECTIVE JUROR: Almost a year year and
22 a -- months ago.

23 MR. OWENS: Are you feelings about that
24 whole thing kind of strong and upsetting to you.

25 PROSPECTIVE JUROR: Yeah, because he still

36

1 is abusive to me. But I don't have to live with it now.

2 I'm on my own.

3 MR. OWENS: Now, if in this trial you
4 heard facts about physical violence in a relationship,
5 that might trigger some unpleasant memories for you?

6 PROSPECTIVE JUROR: Probably. I'm open.
7 There's things that happened. I definitely don't agree
8 with violence toward children, abuse or anything like
9 that. Been there done that. But there's always different
10 sides, what you call it, opinions I guess. But there is
11 no need for violence.

12 MR. OWENS: Okay. So you feel that you
13 could separate your situation from --

14 PROSPECTIVE JUROR: Everybody's situation
15 is different.

16 MR. OWENS: Okay. Now you said your sort
17 of a conscientious objector. You don't believe in the
18 death penalty?

19 PROSPECTIVE JUROR: It's not that I don't
20 believe in it. Right now there is over 3000 people
21 sitting on death row, 79 in Nevada. There's only been,
22 what, 12 or 13 since 1976 actually put to death. You
23 convict them of the death penalty. You give them that
24 sentence. Then there is appeal, after appeal, after
25 appeal. So what does it -- I don't think it accomplishes

37

1 anything.

2 MR. OWENS: So it's kind of a practical
3 assessment there, that if we're not going to execute him
4 what's he doing?

5 PROSPECTIVE JUROR: You put them in jail
6 for the rest of their life basically. That's what it is
7 anyway, if they're allowed all the appeals, which is their
8 right, but just --

9 MR. OWENS: Are there other reasons,
10 religious or moral reasons, you'd be opposed to the death
11 penalty?

12 PROSPECTIVE JUROR: No. No. I'm for the
13 death penalty, because there are certain circumstances
14 that involve. There should be. But, in my opinion,
15 really, they get off easy if they get the death penalty.
16 The person that -- the relatives of the person that you
17 know was the victim, they still have to live with that.
18 These people should have to live with their conscience the
19 rest of their life that they did that.

20 MR. OWENS: That conscience, having to
21 live with that is a worse punishment then, maybe.

22 PROSPECTIVE JUROR: If they're no longer
23 living, they don't have to think about it anymore.

24 MR. OWENS: Right. And that would be true
25 if people commit crimes against others and have a

38

1 conscience that bothers them. If they don't would you

2 revise your opinion of that as punishment?

3 PROSPECTIVE JUROR: If they don't have a
4 conscience?

5 MR. OWENS: If it doesn't bother them for
6 the rest of their life. It's only a punishment if it
7 bothered them.

8 PROSPECTIVE JUROR: Good point. It would
9 bother me.

10 MR. OWENS: That would be the worst
11 punishment for you.

12 PROSPECTIVE JUROR: I guess if you could
13 commit a crime like that, you wouldn't have a conscience
14 anyway. Good point. Never thought of that.

15 MR. OWENS: Well, like you said there are
16 a lot of people that are doing appeals on death row. So
17 apparently their consciences aren't bothering them.

18 MR. SCHIECK: Objection. This is improper
19 questioning.

20 THE COURT: I'll sustain the objection as
21 to the issue of appeals.

22 MR. OWENS: You said your beliefs about
23 the death penalty are such that you would vote against the
24 death penalty, regardless of the facts and circumstances
25 of the case. You said, yes.

39

1 PROSPECTIVE JUROR: I said that?

2 MR. OWENS: Yes.

3 PROSPECTIVE JUROR: I must have read it
4 wrong. I wouldn't automatically vote against it. It
5 would determine the evidence and circumstances surrounding
6 the act.

7 MR. OWENS: You said the person should
8 have to spend their life behind bars, not to get off so
9 easy as to put to death. Is that what you were telling
10 us a moment ago.

11 PROSPECTIVE JUROR: Yes.

12 MR. OWENS: And so you said you were
13 generally opposed to it. And what we're trying to find
14 out is would that be a consideration for you -- if that's
15 a legitimate option in the case?

16 PROSPECTIVE JUROR: I could consider it
17 definitely. I'm not opposed to the death penalty. Not by
18 a long shot. There are certain people that deserve it.
19 But I'm not opposed to it. It would be a factor to be
20 considered.

21 MR. OWENS: All right. So you feel if you
22 could -- if you got on the jury you could fairly consider
23 all four forms of punishment?

24 PROSPECTIVE JUROR: Yes.

25 MR. OWENS: If this seemed like the

40

1 appropriate punishment, the death penalty, you would be
2 able to come back with that verdict?

3 PROSPECTIVE JUROR: Yes.

4 MR. OWENS: You could make that type of
5 judgment on a fellow human being?

6 PROSPECTIVE JUROR: Yes.

7 MR. OWENS: It's something you could live
8 with?

9 PROSPECTIVE JUROR: Yes.

10 MR. OWENS: Thanks. We'll pass for cause,
11 your Honor.

12 THE COURT: Thank you. Mr. Schieck.

13 MR. SCHIECK: Thank you, your Honor.

14 Ms. Lee, you talked about the unfortunate
15 situation with a friends that was killed by her husband, I
16 take it?

17 PROSPECTIVE JUROR: He was more my friend
18 than she was.

19 MR. SCHIECK: Was he convicted of first
20 degree murder?

21 PROSPECTIVE JUROR: Yes.

22 MR. SCHIECK: Did you think he should
23 serve the rest of his life in prison as opposed to getting
24 the death penalty?

25 PROSPECTIVE JUROR: For the situation, no,
41

1 I didn't. For what had happened and how it happened in
2 their -- no, I didn't. I guess because I knew him and I
3 knew what had happened and how it had happened. But he
4 spent ten years of his life in prison, and he wasn't a bad
5 person.

6 MR. SCHIECK: Did you think that that was
7 a sufficient penalty?

8 PROSPECTIVE JUROR: Yes.

9 MR. SCHIECK: Even though it was first
10 degree murder?

11 PROSPECTIVE JUROR: Yes.

12 MR. SCHIECK: So would you agree then that
13 there are some first degree murder cases that don't
14 deserve the death penalty?

15 PROSPECTIVE JUROR: Yes. I mean,
16 circumstances -- I don't know the circumstances
17 surrounding this. I can't make that decision right now.

18 MR. SCHIECK: When you are talking about
19 the death penalty and life in prison as being worse than
20 the death penalty, you're just talking in general terms
21 about punishment; is that fair to say?

22 PROSPECTIVE JUROR: I'm not quite sure.

23 MR. SCHIECK: Your philosophy of
24 punishment as opposed to a particular case.

25 PROSPECTIVE JUROR: I lost you.
42

1 MR. SCHIECK: In the case of your friend,
2 you thought ten years was sufficient for first degree
3 murder, right. You didn't think he should have to serve
4 the rest of his life in prison?

5 PROSPECTIVE JUROR: Because I knew the
6 circumstances surrounding it. I knew their relationship.
7 I knew the whole thing.

8 MR. SCHIECK: Which is what this hearing
9 is about, so the jury understands.

10 PROSPECTIVE JUROR: I understand because I
11 have no knowledge of what has happened or what transpired
12 so I can't sit here and say, yeah, I'm not going to give
13 the death penalty, life in prison. I have to know the
14 circumstances involved.

15 MR. SCHIECK: Right. And you gave figures
16 about people on death row, about the death penalty. Is
17 that something you are interested in or have done research
18 on?

19 PROSPECTIVE JUROR: I have to have a paper
20 done in nine weeks. About three weeks ago, before I got
21 called for jury duty, I did just a bit of research.

22 MR. SCHIECK: You are taking a class at
23 community college?

24 PROSPECTIVE JUROR: University of Phoenix
25 on criminal justice?
43

1 MR. SCHIECK: The paper is obviously on
2 the death penalty?

3 PROSPECTIVE JUROR: Yes.

4 MR. SCHIECK: That is a pretty good
5 coincidence for me.

6 Do you understand in a few days, this
7 judge is going to give you instructions on the law before
8 the jury goes back to deliberate. Would you have any
9 problem following instructions given to you by the judge,
10 even if they differ from any research you have done
11 concerning the death penalty.

12 PROSPECTIVE JUROR: Like I said, I haven't
13 got that far into the research. The judge knows the law
14 better than I. I have to follow that.

15 MR. SCHIECK: Would you be willing to base
16 your decision on the evidence presented to you here in
17 court, and the instructions on the law, as opposed to
18 research you had done?

19 PROSPECTIVE JUROR: Yes.

20 MR. SCHIECK: Thank you. Pass for cause,
21 your Honor.

22 THE COURT: Thank you. Mr. Owens, as to
23 Ms. Matts.

24 MR. OWENS: How are you doing. You
25 indicated you are opposed to the death penalty for
44

1 religious principles or moral principles?
2 PROSPECTIVE JUROR: Both.
3 MR. OWENS: You're feeling that you would
4 not be able to vote for the death penalty under any
5 circumstance?
6 PROSPECTIVE JUROR: Yes.
7 MR. OWENS: And that's based upon your
8 religious point of view?
9 PROSPECTIVE JUROR: That's the root of
10 it.
11 MR. OWENS: You consider yourself a fairly
12 religious person?
13 PROSPECTIVE JUROR: Somewhat, yes.
14 MR. OWENS: This particular facet of your
15 beliefs is something you feel is important to adhere to?
16 PROSPECTIVE JUROR: I have had this belief
17 for years. It's not changed.
18 MR. OWENS: You say that you would not be
19 able to vote for death in this particular case?
20 PROSPECTIVE JUROR: Correct.
21 MR. OWENS: That would be regardless of
22 the circumstances. It wouldn't be an option for you.
23 PROSPECTIVE JUROR: Correct.
24 MR. OWENS: You said you strongly oppose
25 the death penalty. You're pro life on all counts?

45

1 PROSPECTIVE JUROR: Right.
2 MR. OWENS: You weren't sure you would be
3 able to do life with parole. Am I misreading that? Are
4 you just saying life without parole is what you would
5 choose rather than death?
6 PROSPECTIVE JUROR: Correct.
7 MR. OWENS: But other than death, you
8 could consider the other three options?
9 PROSPECTIVE JUROR: Yes.
10 MR. OWENS: You made a comment about
11 violent relationships towards the end, remember that?
12 PROSPECTIVE JUROR: My uncle beat my
13 aunt.
14 MR. OWENS: Was that a situation you are
15 close to?
16 PROSPECTIVE JUROR: Yes.
17 MR. OWENS: How recent was that?
18 PROSPECTIVE JUROR: I was a young girl, 8
19 years old. I witnessed it for about five years.
20 MR. OWENS: So you have some pretty strong
21 feelings about that?
22 PROSPECTIVE JUROR: I do. But as an adult
23 I understand the whole scenario a little better.
24 MR. OWENS: Just in the matter of
25 potential punishment in this case, regardless of what are

46

1 the facts, violence, things like that, the death is not
2 something you could honestly consider?
3 PROSPECTIVE JUROR: I could not live with
4 myself.
5 MR. OWENS: You couldn't be a person that
6 could take responsibility for that kind of decision
7 either?
8 PROSPECTIVE JUROR: No.
9 MR. OWENS: Thank you. Appreciate your
10 candor on that. Challenge, your Honor.
11 THE COURT: Mr. Schieck.
12 MR. SCHIECK: No questions.
13 THE COURT: Thank you. Mr. Owens, as
14 to -- I apologize, sir -- Mr. Feuerhammer.
15 MR. OWENS: All right. You answered all
16 of the questions. There were a lot of them that didn't
17 tag anything in a lot of these areas. You have never been
18 involved in the criminal justice system before?
19 PROSPECTIVE JUROR: No, sir.
20 MR. OWENS: Never had an opportunity to be
21 a juror before?
22 PROSPECTIVE JUROR: No, sir.
23 MR. OWENS: Never been victimized?
24 PROSPECTIVE JUROR: No, sir.
25 MR. OWENS: You never been close to

47

1 anybody arrested or involved in the system at all?
2 PROSPECTIVE JUROR: I have been lucky,
3 sir.
4 MR. OWENS: You have done pretty good to
5 avoid all of those issues. You don't have any
6 prejudgments about this case based on what you have heard?
7 PROSPECTIVE JUROR: No, sir.
8 MR. OWENS: Do you consider yourself to be
9 an open-minded person?
10 PROSPECTIVE JUROR: Yes, sir.
11 MR. OWENS: Are you okay with the process
12 described here ad nauseam the past two days?
13 PROSPECTIVE JUROR: Yes, sir.
14 MR. OWENS: The idea for the jury
15 determining punishment on first degree murder?
16 PROSPECTIVE JUROR: Yes, sir.
17 MR. OWENS: Are you okay with the idea of
18 the deliberating process of sharing your ideas and
19 listening to opinions of others?
20 PROSPECTIVE JUROR: Absolutely.
21 MR. OWENS: Do you feel able to fairly
22 evaluate the evidence and render a decision that would be
23 fair to both sides?
24 PROSPECTIVE JUROR: Yes, sir.
25 MR. OWENS: You said that you are

48

1 supportive of the death penalty?
 2 PROSPECTIVE JUROR: I am.
 3 MR. OWENS: You wouldn't automatically
 4 impose it?
 5 PROSPECTIVE JUROR: No, sir.
 6 MR. OWENS: You're willing to keep an
 7 open-mind about all four punishments?
 8 PROSPECTIVE JUROR: I might have a problem
 9 with the one, considering the time served.
 10 MR. OWENS: What do you mean by that?
 11 PROSPECTIVE JUROR: If you give him 40
 12 years with the opportunity for parole, and ten years is
 13 already served, leave thirty, I have a problem with
 14 that.
 15 MR. OWENS: Well, you know, eligibility or
 16 time served, whatever, you don't know anything about that
 17 and that's really a matter up to the judge.
 18 PROSPECTIVE JUROR: I understand that.
 19 MR. OWENS: It's not something that get
 20 information on anyway.
 21 PROSPECTIVE JUROR: Yes, sir.
 22 MR. OWENS: I guess the questions is is
 23 with any one of these punishments you may, after hearing
 24 everything, just decide that that is not for you. You
 25 can't go along with that. The key point is will you wait

49

1 until you hear everything?
 2 PROSPECTIVE JUROR: Absolutely.
 3 MR. OWENS: Are you willing, at least at
 4 that point, to keep an open mind about all four
 5 punishments until you have heard everything?
 6 PROSPECTIVE JUROR: Yes, sir.
 7 MR. OWENS: And after you have heard
 8 everything can you come back with a punishment that is
 9 appropriate here?
 10 PROSPECTIVE JUROR: I can, sir.
 11 MR. OWENS: If you feel after hearing
 12 everything that the appropriate thing is the death
 13 penalty, would you be able to come back with that
 14 judgment?
 15 PROSPECTIVE JUROR: Yes, sir.
 16 MR. OWENS: You feel that that's something
 17 you can personally take responsibility for?
 18 PROSPECTIVE JUROR: Yes, sir.
 19 MR. OWENS: I will serve if called upon.
 20 I will not volunteer. Sounds like a good policy.
 21 PROSPECTIVE JUROR: I would rather not
 22 judge somebody.
 23 MR. OWENS: Sure. That's a very similar
 24 feeling. Thank you. Pass, your Honor.
 25 THE COURT: Thank you. Mr. Schieck.

50

1 MR. SCHIECK: Thank you, your Honor. I'm
 2 not going to try to pronounce your name. You're from
 3 Wisconsin.
 4 PROSPECTIVE JUROR: Yes, sir.
 5 MR. SCHIECK: Are you aware that Wisconsin
 6 doesn't have the death penalty?
 7 PROSPECTIVE JUROR: Yes, sir.
 8 MR. SCHIECK: We're here because Nevada
 9 does. You think Wisconsin should have the death penalty?
 10 PROSPECTIVE JUROR: I think it should be an
 11 option.
 12 MR. SCHIECK: Do you think it should be
 13 imposed in every case of first degree murder?
 14 PROSPECTIVE JUROR: No, sir.
 15 MR. SCHIECK: You think that it's
 16 appropriate to have all the options available that we
 17 talked about -- the four options?
 18 PROSPECTIVE JUROR: Yes, sir.
 19 MR. SCHIECK: Even the option that
 20 includes the possibility of parole?
 21 PROSPECTIVE JUROR: Yes, sir.
 22 MR. SCHIECK: You were in the marines?
 23 PROSPECTIVE JUROR: Yes, sir.
 24 MR. SCHIECK: Is that where you would
 25 serve if called upon, but not volunteer comes from. You

51

1 learn not to volunteer.
 2 PROSPECTIVE JUROR: Yes, sir.
 3 MR. SCHIECK: There was one area that I
 4 sort of picked up a difference in the answers. One is, I
 5 agree with the death penalty. And the next question is on
 6 an eye for an eye and a tooth for a tooth, you said do not
 7 agree. It's up to God to make that termination. Is there
 8 an inconsistency there, or am I missing something?
 9 PROSPECTIVE JUROR: Basically, the
 10 state -- we have to go by the laws of the state. That is
 11 where that comes in. It's not up to me to make take
 12 judgment. I leave that up to the state.
 13 MR. SCHIECK: If the state says we have a
 14 jury of 12 people to make that decision, you agree with
 15 that and will go along with that?
 16 PROSPECTIVE JUROR: Yes, sir.
 17 MR. SCHIECK: Okay. Thank you. Pass for
 18 cause, your Honor.
 19 THE COURT: Thank you. Ms. Weckerly, as
 20 to Mr. Forbes.
 21 MS. WECKERLY: You mentioned in your
 22 questionnaire that you had an experience with child abuse
 23 with a step dad.
 24 PROSPECTIVE JUROR: Sure.
 25 MS. WECKERLY: He was abusing you?

52

1 PROSPECTIVE JUROR: My Mom, myself, and
2 two sisters.
3 MS. WECKERLY: You said two sisters as
4 well as you?
5 PROSPECTIVE JUROR: Yes.
6 MS. WECKERLY: Did that situation go on
7 for several years?
8 PROSPECTIVE JUROR: 6 or 7 years.
9 MS. WECKERLY: How old were you at the
10 time?
11 PROSPECTIVE JUROR: 11 through 17, I put
12 an end to it at by the time I was 18.
13 MS. WECKERLY: By moving out?
14 PROSPECTIVE JUROR: I finally got big
15 enough and made him stop.
16 MS. WECKERLY: He left you alone?
17 PROSPECTIVE JUROR: Yes.
18 MS. WECKERLY: Because you had that
19 experience, it was a long term thing, and it ended because
20 you were able to defend yourself, do you think you would
21 have trouble in this case?
22 PROSPECTIVE JUROR: No.
23 MS. WECKERLY: You could be fair to both
24 sides?
25 PROSPECTIVE JUROR: Yes.

53

1 MS. WECKERLY: You also mentioned in your
2 questionnaire that -- I wasn't sure if it was you or
3 someone close to or you had some familiarity with
4 controlled substances or use of controlled substance.
5 PROSPECTIVE JUROR: Myself and the people
6 around me.
7 MS. WECKERLY: Was that something that was
8 in the past as well?
9 PROSPECTIVE JUROR: Again, another lifetime
10 ago.
11 MS. WECKERLY: You also said in your
12 questionnaire that you had some experience with the
13 criminal justice system and your opinion of it isn't
14 great.
15 PROSPECTIVE JUROR: I had a younger
16 brother, back in the late 70s early 80s, got railroaded
17 through the public defender's office. He was picked up by
18 a street walker who was on the street the next day. I had
19 some bitterness about that. But it's been 25, 30 years
20 ago.
21 MS. WECKERLY: So if I'm understanding you
22 felt like he wasn't well represented?
23 PROSPECTIVE JUROR: I felt guilty because
24 if I had had the money at the time, we could have went and
25 hired an attorney and he never would have went to prison.

54

1 Still feel that way.
2 MS. WECKERLY: You think generally an
3 outsider might do better job?
4 PROSPECTIVE JUROR: In that instance,
5 yes.
6 MS. WECKERLY: How about how your brother
7 was treat by the police.
8 PROSPECTIVE JUROR: You do the crime, you
9 get what you deserve, you know. I have no issue with
10 that.
11 MS. WECKERLY: But it sounds like maybe
12 you think that that outcome of the case wasn't just, that
13 justice wasn't served?
14 PROSPECTIVE JUROR: Well, yeah. He had
15 done so many things, but just that particular one that he
16 got convicted on. So he was going to go to prison. He was
17 going one way or the other. Whether it be on that case or
18 another case.
19 MS. WECKERLY: So you didn't think the
20 police treated him unfairly, even though he wasn't
21 necessarily guilty of the --
22 PROSPECTIVE JUROR: Not the police, once he
23 got into the system.
24 MS. WECKERLY: Okay. Maybe he got labeled
25 because of a history.

55

1 PROSPECTIVE JUROR: Sort of kind of.
2 MS. WECKERLY: Anything about that that
3 would cause you to be unfair to the state or the defense?
4 PROSPECTIVE JUROR: No.
5 MS. WECKERLY: On your questionnaire, you
6 indicated -- you said you were pro death penalty?
7 PROSPECTIVE JUROR: Yes.
8 MS. WECKERLY: You also indicate that an
9 eye for an eye, or a tooth for a tooth, if it fits.
10 PROSPECTIVE JUROR: Meaning, for example,
11 there are violent crimes, a crime of passion or something
12 to that affect. But with certain crimes, yeah, definitely
13 it fits.
14 MS. WECKERLY: I don't know if maybe the
15 question wasn't phrased that clearly. But you wrote that
16 your views are such that you would automatically vote for
17 the death penalty. I take it from what you're saying now,
18 maybe you misread that question, and your opinions aren't
19 so automatic, what you would do isn't so automatic.
20 PROSPECTIVE JUROR: I wrote that
21 truthfully thinking I put that I wouldn't be where I am
22 right now.
23 MS. WECKERLY: That's honest.
24 PROSPECTIVE JUROR: Two days later if I'm
25 obligated to, I'll do my duty. I would not -- I would not

56

1 automatically vote for that. I'd weigh everything and the
2 options also.

3 MS. WECKERLY: So you are, as you sit
4 here, you are someone who wants to hear all of the
5 information before you make a decision.

6 PROSPECTIVE JUROR: Yes.

7 MS. WECKERLY: You lead me to my next
8 question, you wrote that you were concerned about the
9 financial strain and that you wouldn't be able to
10 concentrate?

11 PROSPECTIVE JUROR: You get caught up in
12 your own life and it takes a minute to slow down. I've
13 been here two days now. I have had a chance, if I need to
14 do this, I can do this.

15 MS. WECKERLY: What if at the end of this
16 couple of days you feel that the death penalty is an
17 appropriate punishment for this Defendant, would you have
18 any trouble returning that kind of verdict?

19 PROSPECTIVE JUROR: Absolutely not.

20 MS. WECKERLY: Thank you, sir. Pass for
21 cause.

22 THE COURT: Thank you. Mr. Patrick.

23 MR. PATRICK: Good morning, Mr. Forbes.

24 PROSPECTIVE JUROR: Good morning.

25 MR. PATRICK: I would like to talk about

57

1 your step father and the abuse.

2 PROSPECTIVE JUROR: Sure.

3 MR. PATRICK: If this case had to do with
4 domestic violence and abuse, would that cause you to think
5 any — change your opinion upon what punishment should be
6 given?

7 PROSPECTIVE JUROR: No. Like I said, it's
8 30 years ago.

9 MR. PATRICK: You'll keep an open mind.

10 PROSPECTIVE JUROR: Yes.

11 MR. PATRICK: Same thing with the drug
12 use. If this case had any drug use, would that make you
13 think of a specific penalty or could you still keep an
14 open mind on that?

15 PROSPECTIVE JUROR: I'd still keep an open
16 mind.

17 MR. PATRICK: Now, was it your brother or
18 step brother?

19 PROSPECTIVE JUROR: Brother.

20 MR. PATRICK: You thought that he got
21 railroaded because he had a public defender?

22 PROSPECTIVE JUROR: It's not per se the
23 public defender. The system failed him in general. He
24 was a young kid, had a lot of little petty things. There
25 were youth camps around. It was his time.

58

1 MR. PATRICK: So you're not blaming the
2 railroad on the public defender totally, just
3 partially?

4 PROSPECTIVE JUROR: A little at the time.
5 I don't think the way he was convicted, I have, to this
6 day, I have an issue with that. Not enough to influence
7 my decision, something like this.

8 MR. PATRICK: So the fact that Mr.
9 Chappell is being defended by a public defender, that
10 wouldn't color your opinion?

11 PROSPECTIVE JUROR: Absolutely not.
12 That's Mr. Chappell's choice.

13 MR. PATRICK: On the question asked, if
14 the fact that Mr. Chappell was African-American, would
15 that affect your feelings on this case. You wrote, no
16 comment.

17 PROSPECTIVE JUROR: It's so irrelevant.
18 It makes no difference to me if Mr. Chappell is
19 African-American, Hispanic, Asian. I don't care. No
20 difference.

21 MR. PATRICK: Makes no difference to you
22 at all.

23 PROSPECTIVE JUROR: I can't acknowledge
24 that question.

25 MR. PATRICK: Ms. Weckerly mentioned the

59

1 question if you would automatically vote for the death
2 penalty. You checked yes.

3 PROSPECTIVE JUROR: I was wrong about
4 that. That doesn't sound like me.

5 MR. PATRICK: Well, I think you explained
6 it well to her. Last week you really didn't want to be
7 bothered with this.

8 I'm wondering about the question before
9 that. It asks if you'd automatically vote against the
10 death penalty, you didn't answer that. Was that an
11 oversight?

12 PROSPECTIVE JUROR: Probably an oversight.
13 Truthfully, I didn't have my glasses with me that day, so
14 I struggled with that.

15 MR. PATRICK: So basically some of the
16 answers in the questionnaire were — you were consciously
17 trying to get out of having to serve on this jury?

18 PROSPECTIVE JUROR: Yes.

19 MR. PATRICK: Now you've been here for
20 two days, you see how important it is?

21 PROSPECTIVE JUROR: Yes.

22 MR. PATRICK: You'd give your full
23 attention?

24 PROSPECTIVE JUROR: Yes, sir.

25 MR. PATRICK: And listen to everything

60

1 presented before you made any decision?
 2 PROSPECTIVE JUROR: Yes.
 3 MR. PATRICK: And I know you have heard
 4 this question many times, if you were sitting at this
 5 table or if you were sitting at this table, would you want
 6 somebody like you to be a juror on this panel?
 7 PROSPECTIVE JUROR: Absolutely. Without a
 8 doubt.
 9 MR. PATRICK: Thank you, sir. Pass for
 10 cause, your Honor.
 11 THE COURT: Mr. Owens, as to
 12 Mr. Tempelton.
 13 MR. OWENS: How are you feeling today after
 14 listening to this.
 15 PROSPECTIVE JUROR: I feel good.
 16 MR. OWENS: You stress concern in the
 17 question about judging somebody else.
 18 PROSPECTIVE JUROR: Yes.
 19 MR. OWENS: You thought about that more as
 20 you've been sitting here?
 21 PROSPECTIVE JUROR: Yeah, I wouldn't feel
 22 comfortable with myself judging someone, putting
 23 someone -- life in prison, or death. I'm not comfortable
 24 with that.
 25 MR. OWENS: You'd have a difficult time

61

1 living with that decision of life in prison or the death
 2 penalty. You're not opposed to the death penalty?
 3 PROSPECTIVE JUROR: No.
 4 MR. OWENS: You're not opposed to any of
 5 the range of potential punishments?
 6 PROSPECTIVE JUROR: No.
 7 MR. OWENS: Just that you thought you
 8 might not be able to make the decision of that magnitude?
 9 PROSPECTIVE JUROR: Yes.
 10 MR. OWENS: What's your feeling now? You
 11 said -- back then you said, it would be difficult. I
 12 think it's always going to be difficult. The question is
 13 as you thought about it, it's so difficult, you don't
 14 think you could do it.
 15 PROSPECTIVE JUROR: Well, if I had to do
 16 it, I could. But I still feel the same. It's difficult
 17 for me.
 18 MR. OWENS: If you get selected and you
 19 get sworn, you'd do it?
 20 PROSPECTIVE JUROR: Yeah.
 21 MR. OWENS: You are saying you could?
 22 PROSPECTIVE JUROR: Yes.
 23 MR. OWENS: So it wouldn't be a thing
 24 where you get down to the end and you are confronted with
 25 the choices and say, well, I really now I don't think I

62

1 can do it. Can you see that happening?
 2 PROSPECTIVE JUROR: No.
 3 MR. OWENS: So you rather not. But if you
 4 are select, you can do it?
 5 PROSPECTIVE JUROR: Yes, I could.
 6 MR. OWENS: Can you do the right thing,
 7 even if it's a hard thing to do?
 8 PROSPECTIVE JUROR: Yes.
 9 MR. OWENS: You can do it, right?
 10 PROSPECTIVE JUROR: Yes.
 11 MR. OWENS: If that includes the death
 12 penalty, would you be able to come back and announce that
 13 judgment on another human being?
 14 PROSPECTIVE JUROR: Yes. I wouldn't be
 15 comfortable, but I could do it.
 16 MR. OWENS: You mentioned you had some
 17 kind of situation involving an arrest in the past. You
 18 said -- you or a family member was arrested, charged with
 19 a crime. You said, yes. It said, do you feel the person
 20 was fairly treated. You said, yes. You know what that
 21 was about?
 22 PROSPECTIVE JUROR: Yeah. It was
 23 my Father for DUI.
 24 MR. OWENS: How long ago was that?
 25 PROSPECTIVE JUROR: Years ago.

63

1 MR. OWENS: Did that go to court?
 2 PROSPECTIVE JUROR: Yes.
 3 MR. OWENS: Was there a trial or
 4 something?
 5 PROSPECTIVE JUROR: Yes.
 6 MR. OWENS: Did that resolve in some
 7 manner?
 8 PROSPECTIVE JUROR: Yeah. It got
 9 resolved, suspended license for a year. He did all the
 10 classes.
 11 MR. OWENS: Sounds pretty serious.
 12 PROSPECTIVE JUROR: Yeah.
 13 MR. OWENS: How did you feel about that?
 14 PROSPECTIVE JUROR: I thought it was fair.
 15 It was dangerous to drive under the influence.
 16 MR. OWENS: Did you feel like he was
 17 treated fairly by the system?
 18 PROSPECTIVE JUROR: Yes.
 19 MR. OWENS: There wasn't anything about
 20 that that would interfere with your ability to be fair to
 21 both sides in this case?
 22 PROSPECTIVE JUROR: No.
 23 MR. OWENS: You also indicated that you
 24 had definite feelings about substance abuse or drugs or
 25 alcohol.

64

1 PROSPECTIVE JUROR: Yeah.
 2 MR. OWENS: Where does that come from?
 3 PROSPECTIVE JUROR: Well, my sister uses,
 4 and I don't like it when she's on controlled substances.
 5 She's different. I hate the stuff.
 6 MR. OWENS: Is that something she is
 7 grappling with?
 8 PROSPECTIVE JUROR: Yes.
 9 MR. OWENS: Are you fairly close to that
 10 situation?
 11 PROSPECTIVE JUROR: Yes.
 12 MR. OWENS: Is there something about that
 13 that you think might spill over into your decision making
 14 process here in an unfair manner?
 15 PROSPECTIVE JUROR: No.
 16 MR. OWENS: You are a young person?
 17 PROSPECTIVE JUROR: Yeah.
 18 MR. OWENS: 21.
 19 PROSPECTIVE JUROR: Yeah.
 20 MR. OWENS: I go back to that. I want to
 21 make sure you feel that you can take the weight of a
 22 decision process like this.
 23 PROSPECTIVE JUROR: Yeah, I could.
 24 MR. OWENS: Thank you. Pass for cause.
 25 THE COURT: Mr. Schieck.

65

1 MR. SCHIECK: Thank you.
 2 Mr. Templeton, you indicated that --
 3 you're asked your opinion on different people in law
 4 enforcement and prosecutes. You said you applaud them.
 5 Anything in particular that causes you to focus on your
 6 applause them as opposed to anyone else, like the judges
 7 or police officers?
 8 PROSPECTIVE JUROR: I just think this job
 9 you do is very good.
 10 MR. SCHIECK: Do you have any personal
 11 dealings with prosecutors?
 12 PROSPECTIVE JUROR: No.
 13 MR. SCHIECK: Just a general perception
 14 you have?
 15 PROSPECTIVE JUROR: Yes.
 16 MR. SCHIECK: Is that something you picked
 17 up watching crime on TV?
 18 PROSPECTIVE JUROR: I don't watch crime on
 19 TV.
 20 MR. SCHIECK: You watch Law and Order,
 21 shows like that?
 22 PROSPECTIVE JUROR: No.
 23 MR. SCHIECK: Have you really thought
 24 about the death penalty all that much?
 25 PROSPECTIVE JUROR: I haven't given it

66

1 much thought.
 2 MR. SCHIECK: Until you got this
 3 questionnaire and suddenly you're confronted with it?
 4 PROSPECTIVE JUROR: Yes.
 5 MR. SCHIECK: Since you filled out the
 6 questionnaire, have you had a chance to think about it
 7 more?
 8 PROSPECTIVE JUROR: Yes.
 9 MR. SCHIECK: Has your opinion changed or
 10 developed as you've been thinking about it?
 11 PROSPECTIVE JUROR: I still agree with the
 12 death penalty.
 13 MR. SCHIECK: But not in every case?
 14 PROSPECTIVE JUROR: Not in every case.
 15 MR. SCHIECK: Thank you, very much. Pass
 16 for cause.
 17 THE COURT: Thank you. Ms. Weckerly, as
 18 to Mr. Scott, 078.
 19 MS. WECKERLY: Thank you, your Honor.
 20 Hello.
 21 PROSPECTIVE JUROR: Hi.
 22 MS. WECKERLY: Sir, when you filled out
 23 your questionnaire, you wrote that death penalty was -- I
 24 think you wrote a necessary evil. Can you explain that?
 25 PROSPECTIVE JUROR: I just think it's an

67

1 acceptable punishment in some situations. But you know it
 2 is tough. I mean, it's not real a pleasant thought, but I
 3 think it's necessary in some situations.
 4 MS. WECKERLY: And certainly it's not a
 5 comfortable decision, I don't think for anybody.
 6 Certainly one that is not -- I don't think anyone ever
 7 takes lightly. But I take it from your answer, though,
 8 that you think there are some situations where that form
 9 of punishment is what is just or is correct?
 10 PROSPECTIVE JUROR: Yeah.
 11 MS. WECKERLY: And you're someone that
 12 could listen to all of the information before you make a
 13 decision of that magnitude?
 14 PROSPECTIVE JUROR: It was something I
 15 have to take into account, weighing the circumstances and
 16 things that are involved.
 17 MS. WECKERLY: Okay. You wrote on your
 18 questionnaire that you are a member of an organization
 19 that doesn't support the death penalty though. A
 20 religious group that doesn't --
 21 PROSPECTIVE JUROR: I mean, I think you
 22 can be affiliated with groups and disagree with certain
 23 rules. I have gone to Catholic school since I was a
 24 little kid, and they are opposed to the death penalty.
 25 But that's not something -- I don't personally agree with

68

1 their stance on that.
 2 MS. WECKERLY: Okay. I'm sure your
 3 religion is important, just to make sure I understand it.
 4 You're able to separate yourself from the church's view
 5 and make your own decision in a case like this?
 6 PROSPECTIVE JUROR: You have to. I think
 7 you have to develop your own opinions. Over time, you
 8 know, that's just not something I'm in line with them on.
 9 I think, like I said earlier, in some certain
 10 circumstances it's an acceptable punishment.
 11 MS. WECKERLY: And you also indicated that
 12 you would like to hear the circumstances surrounding this
 13 case?
 14 PROSPECTIVE JUROR: Yeah, I mean, I think
 15 if you're going to -- when you're dealing with somebody's
 16 life or dealing with something as heavy as this, it's
 17 important to hear all of the factors, basically,
 18 involved.
 19 MS. WECKERLY: Thank you, sir. Pass for
 20 cause, your Honor.
 21 THE COURT: Thank you. Mr. Patrick.
 22 MR. PATRICK: Good morning, Mr. Scott.
 23 You have been here for a day and a half now.
 24 PROSPECTIVE JUROR: Yeah.
 25 MR. PATRICK: You probably know every

69

1 question I'm going to ask you. You've heard them all.
 2 You've heard me ask them, Ms. Weckerly, and Mr. Owens ask
 3 them. Anything you've heard over the last day and a half
 4 that pops in your mind that you think I should ask you or
 5 Ms. Weckerly should ask you, or something you want to say
 6 about this whole thing about you being on this jury?
 7 PROSPECTIVE JUROR: Well, you know, when I
 8 was filling out the questionnaire and raising your hands
 9 and stuff, I have had interaction with the court system.
 10 I got in trouble for disorderly conduct.
 11 I didn't know if that was something I should put in
 12 there. I think I should right now, because when you're
 13 filling this out you don't know the context of what people
 14 want to know. I guess that's the only thing I would add.
 15 I felt it was very minor, but I had dealt with that. I
 16 felt it was fair.
 17 MR. PATRICK: You felt you were treated
 18 fair.
 19 PROSPECTIVE JUROR: Yeah.
 20 MR. PATRICK: So that wouldn't make you
 21 partial to one side or the other?
 22 PROSPECTIVE JUROR: No.
 23 MR. PATRICK: Your uncle had a problem
 24 with alcohol abuse?
 25 PROSPECTIVE JUROR: Yes.

70

1 MR. PATRICK: Is he still battling that?
 2 PROSPECTIVE JUROR: From talking to him, I
 3 think it's something you always battle with the disease.
 4 You are never quite over it. But he hasn't drank in
 5 twelve years.
 6 MR. PATRICK: That's very good. If this
 7 case had to do with alcohol abuse or drug abuse, because
 8 of your uncle, would that make you partial to one side or
 9 the other?
 10 PROSPECTIVE JUROR: As far as that
 11 question, I think it's tough to like -- not all alcoholics
 12 are the same, not all drug users are the same. It's like a
 13 factor, but I don't really see it as -- you know, my uncle
 14 has -- that's just one facet of his personality. I have a
 15 lot of respect for him, for a lot of other things. So
 16 that's a tough question. It would not influence me,
 17 because I don't see that -- all alcoholics are
 18 different.
 19 MR. PATRICK: You could still keep an open
 20 mind, even if something like that came up.
 21 PROSPECTIVE JUROR: Yes, sir.
 22 MR. PATRICK: In the statement that asks
 23 about an eye for an eye, you say that -- you mention that
 24 being a very emotional reaction?
 25 PROSPECTIVE JUROR: I think it's like

71

1 spanking your kid. You don't grab him and spank him,
 2 you've got to step back. That's acceptable punishment.
 3 An eye for an eye seems like a knee-jerk reaction. If you
 4 step back and you go and assess it and that seems like the
 5 acceptable punishment, then that's right.
 6 MR. PATRICK: Is that how you would
 7 approach this case, wait for all the evidence to come in
 8 and before you make a decision, not make a knee-jerk
 9 reaction?
 10 PROSPECTIVE JUROR: Yes.
 11 MR. PATRICK: Keep a fair and open mind
 12 throughout the process?
 13 PROSPECTIVE JUROR: Yes, sir.
 14 MR. PATRICK: In reading on the last
 15 question, it sounds to me like you actually want to be on
 16 the jury?
 17 PROSPECTIVE JUROR: Not really. But I
 18 think that we're all blessed living in this country. This
 19 is something that's not fun.
 20 It's 85 degrees outside. It's nice to be in here.
 21 But I think it's like if I was the Defendant I would want
 22 people who were taking it seriously. And I think it's a
 23 civic duty. I don't want to be here. It's -- I think
 24 it's a responsibility we have.
 25 MR. PATRICK: You'd take this seriously?

72

1 PROSPECTIVE JUROR: Of course.
 2 MR. PATRICK: And give it your utmost
 3 attention?
 4 PROSPECTIVE JUROR: Yes.
 5 MR. PATRICK: And be as fair as you
 6 possibly could?
 7 PROSPECTIVE JUROR: Yes.
 8 MR. PATRICK: Thank you, sir. Pass for
 9 cause.
 10 THE COURT: Ms. Weckerly, as to
 11 Ms. Jackson.
 12 MS. WECKERLY: Ms. Jackson, how are you?
 13 PROSPECTIVE JUROR: Okay.
 14 MS. WECKERLY: I bet you know what I'm
 15 going to ask you. You wrote out in your questionnaire
 16 that you have some questions about the fairness of the
 17 criminal justice system.
 18 PROSPECTIVE JUROR: Yes.
 19 MS. WECKERLY: To put it mildly, I
 20 guess.
 21 PROSPECTIVE JUROR: Yes.
 22 MS. WECKERLY: Is that all based on the
 23 experience with your nephew?
 24 PROSPECTIVE JUROR: Yes.
 25 MS. WECKERLY: Are your feelings such that

73

1 you had such a bad experience, or that left such a bad
 2 taste in your mouth that you don't feel you could be fair
 3 in this proceeding?
 4 PROSPECTIVE JUROR: I could.
 5 MS. WECKERLY: And you indicate on your
 6 questionnaire when asked about the criminal justice
 7 system, you said, it does not work. So you don't seem to
 8 have a lot of faith.
 9 PROSPECTIVE JUROR: No.
 10 MS. WECKERLY: Ma'am, you were also asked
 11 about the death penalty. You indicate on your
 12 questionnaire you don't agree?
 13 PROSPECTIVE JUROR: No. No.
 14 MS. WECKERLY: That would be under any
 15 circumstances?
 16 PROSPECTIVE JUROR: Correct.
 17 MS. WECKERLY: That's just -- if I'm
 18 understanding you correctly -- a punishment that you
 19 flat-out can't consider?
 20 PROSPECTIVE JUROR: Correct.
 21 MS. WECKERLY: Is it a personal belief of
 22 yours that that's just not a decision we should be making?
 23 PROSPECTIVE JUROR: Correct.
 24 MS. WECKERLY: So under no circumstances
 25 could you even consider it as a potential punishment?

74

1 PROSPECTIVE JUROR: No.
 2 MS. WECKERLY: Thank you. We'd challenge,
 3 your Honor.
 4 THE COURT: Thank you.
 5 MR. PATRICK: No questions, your Honor.
 6 THE COURT: Thank you, very much. Mr.
 7 Owens, as to Ms. Norris.
 8 MR. OWENS: Ms. Norris, how are you?
 9 PROSPECTIVE JUROR: Fine, thank you.
 10 MR. OWENS: You're another one of those
 11 rare individuals that hasn't bumped up against any of
 12 these questions that we've talked about. Have you ever
 13 been a victim, or sue someone, or been sued?
 14 PROSPECTIVE JUROR: I have had my car
 15 broken into. That's -- no. I have -- I had my horse
 16 stolen. Nothing --
 17 MR. OWENS: Well, that's a victim kind of
 18 thing.
 19 PROSPECTIVE JUROR: Well, okay. We came
 20 out ahead on that deal. We got the horse back.
 21 MR. OWENS: Did you find it or did the
 22 police find him?
 23 PROSPECTIVE JUROR: The police gave us
 24 clues, but I actually found him. I did the work.
 25 MR. OWENS: But the police helped a

75

1 little.
 2 PROSPECTIVE JUROR: Yes, they helped.
 3 MR. OWENS: It's good to see they solved
 4 one of these things we've been hearing about. Did it end
 5 up going to court or anything?
 6 PROSPECTIVE JUROR: Actually we went to
 7 small claims, and I won. This individual took us to the
 8 next court. And he wasn't supposed to, so, yes. Then we
 9 had a special case, so we had their Court TV. Very
 10 interesting. But I didn't want to go into this. But I
 11 don't know how to answer that question.
 12 MR. OWENS: You didn't want to talk about
 13 it. You don't want to talk about it now?
 14 PROSPECTIVE JUROR: No. I can talk about
 15 it.
 16 MR. OWENS: It's about the Court TV
 17 people?
 18 PROSPECTIVE JUROR: I didn't want to be on
 19 Court TV. I just wanted my horse back. End of story.
 20 MR. OWENS: So they found it an
 21 interesting case, of course.
 22 PROSPECTIVE JUROR: And it was very
 23 unusual.
 24 MR. OWENS: Okay. Did that all come out
 25 okay for you?

76

1 PROSPECTIVE JUROR: Yes, it did actually.
 2 It was very fair. Yes. The outcome was good.
 3 MR. OWENS: Okay. You ever been to court
 4 for other reasons? You know anyone that's been arrested,
 5 or that you had to go to court for support?
 6 PROSPECTIVE JUROR: No.
 7 MR. OWENS: You consider yourself to be a
 8 fair person?
 9 PROSPECTIVE JUROR: I would like to think
 10 so.
 11 MR. OWENS: You heard of all the possible punishments
 12 in this case that are available?
 13 PROSPECTIVE JUROR: Yes.
 14 MR. OWENS: Are you okay with all four of
 15 those?
 16 PROSPECTIVE JUROR: Yes.
 17 MR. OWENS: Are you willing to wait until
 18 you hear all of the evidence until you decide which one is
 19 the right one to pick?
 20 PROSPECTIVE JUROR: Yes.
 21 MR. OWENS: How do you feel about the idea
 22 of sitting in judgment on another person?
 23 PROSPECTIVE JUROR: You know, I feel I
 24 could do it. I would be helping out. It's not something
 25 that I'm incapable of doing at all.

77

1 MR. OWENS: You're willing to do that?
 2 PROSPECTIVE JUROR: I'd be very willing to
 3 do that.
 4 MR. OWENS: If after hearing all of the
 5 evidence in the case you felt the death penalty was the
 6 appropriate punishment, would you be able to come back
 7 with that verdict?
 8 PROSPECTIVE JUROR: I certainly would.
 9 But I would have to hear, you know, I would have to have
 10 all of the facts presented and take all of the
 11 circumstances, you know.
 12 MR. OWENS: Right. Okay.
 13 PROSPECTIVE JUROR: Into consideration.
 14 MR. OWENS: Perfect answer.
 15 PROSPECTIVE JUROR: Thank you.
 16 MR. OWENS: Thank you. Pass for cause.
 17 THE COURT: Thank you. Mr. Schieck.
 18 MR. SCHIECK: Thank you, your Honor.
 19 Ms. Norris, you said that someone stole your horse.
 20 PROSPECTIVE JUROR: Yes.
 21 MR. SCHIECK: Were they criminally
 22 prosecuted for that, or did you end up in civil court?
 23 PROSPECTIVE JUROR: No. You know, I
 24 bought the horse and -- here we go again. I didn't get,
 25 quote, unquote, like a pink slip. If you don't have that,

78

1 you just have a pet. You don't have a horse that you can
 2 show and so the horse is of no value.
 3 But I trusted the source that I bought it
 4 from. Anyway the source left town, and I was left with a
 5 horse without any papers.
 6 THE COURT: A horse with no name.
 7 PROSPECTIVE JUROR: So the individual --
 8 an individual showed up at my doorstep and said that this
 9 is my horse and so on and so forth. Well, I had the bill
 10 of sale. And he had nothing but he claimed he was -- so
 11 anyway, he took me to small claims.
 12 MR. SCHIECK: Let me interrupt you
 13 because --
 14 PROSPECTIVE JUROR: You don't have time
 15 for this.
 16 MR. SCHIECK: It's very interesting. I'm
 17 sure that everyone wants to listen to us talk. There was
 18 a question of ownership of the horse that came up and you
 19 ended up in small claims over it.
 20 PROSPECTIVE JUROR: Yes.
 21 MR. SCHIECK: Not a criminal type of
 22 procedure?
 23 PROSPECTIVE JUROR: No.
 24 MR. SCHIECK: Although you called the
 25 police to say what was going on -- and they helped you

79

1 find the horse.
 2 PROSPECTIVE JUROR: Right.
 3 MR. SCHIECK: Okay. You indicated that
 4 your feeling about the death penalty had changed over
 5 time.
 6 PROSPECTIVE JUROR: Yes!
 7 MR. SCHIECK: I think you indicated the
 8 increasing crime rate has caused that change of opinion?
 9 PROSPECTIVE JUROR: Yes.
 10 MR. SCHIECK: Anything in particular that
 11 you read or heard that caused you to have that belief?
 12 PROSPECTIVE JUROR: Well, no. But I watch
 13 TV -- and not -- I watch the news and read the paper.
 14 And, yes, I see a lot of crime.
 15 MR. SCHIECK: But have you heard or have
 16 any information whether we have the death penalty or don't
 17 have the death penalty, it really doesn't affect the crime
 18 rate?
 19 PROSPECTIVE JUROR: I think you have to --
 20 in order to give the death penalty you have to hear the
 21 consequences and be open to any circumstances before
 22 making any kind of judgment whether it's the death penalty
 23 or not.
 24 MR. SCHIECK: You agree that is a pretty
 25 serious decision to make. And you want all of the

80

1 evidence you could have before you make that decision?
 2 PROSPECTIVE JUROR: Absolutely.
 3 MR. SCHIECK: Thank you, Ms. Norris. Pass
 4 for cause, your Honor.

5 THE COURT: Thank you. Ms. Weckerly, as
 6 to Mr. Parramore.

7 MS. WECKERLY: Sir, you indicated on your
 8 questionnaire you had personal contact with law
 9 enforcement on a DUI?

10 PROSPECTIVE JUROR: Yes.

11 MS. WECKERLY: Was that a couple of years
 12 ago?

13 PROSPECTIVE JUROR: More than ten, less
 14 than 20.

15 MS. WECKERLY: Awhile ago.

16 PROSPECTIVE JUROR: Yes.

17 MS. WECKERLY: Did you think you were
 18 treated fairly by the police?

19 PROSPECTIVE JUROR: Yes.

20 MS. WECKERLY: Nothing about that would
 21 cause you to be unfair to either side in this case?

22 PROSPECTIVE JUROR: No.

23 MS. WECKERLY: You actually had a
 24 different opinion about our criminal justice system than
 25 this lady over here. You said it was generally good. And

81

1 that's still your feeling as you sat here for two days?
 2 PROSPECTIVE JUROR: Yes, ma'am.
 3 MS. WECKERLY: Slow, but good.
 4 PROSPECTIVE JUROR: It's fine.
 5 MS. WECKERLY: You said it wasn't perfect.
 6 I goes nothing probably is.

7 PROSPECTIVE JUROR: I'm not going to agree
 8 100 percent. Generally I think it is.

9 MS. WECKERLY: You indicated that when you
 10 talked about the potential range of punishments in this
 11 case. You said that you could consider all four possible
 12 punishments?

13 PROSPECTIVE JUROR: Yes, ma'am.

14 MS. WECKERLY: You also indicated that you
 15 are someone that is going to want to hear all the
 16 information before you make a decision?

17 PROSPECTIVE JUROR: Yes.

18 MS. WECKERLY: You're not going to
 19 automatically include or disregard a punishment before you
 20 hear any information?

21 PROSPECTIVE JUROR: No, ma'am.

22 MS. WECKERLY: Sounds to me like you can
 23 be fair to both side?

24 PROSPECTIVE JUROR: I would like to think
 25 so.

82

1 MS. WECKERLY: When you wrote about
 2 whether you could consider all four possible punishments,
 3 you said, yes, if the crime is so horrible, or so bad that
 4 the world would be better off without him, then maybe the
 5 death penalty. Did he commit the crime for an
 6 understandable reason. And you gave some examples.

7 PROSPECTIVE JUROR: Let me apologize. The
 8 hand writing may not be the easiest to read.

9 MS. WECKERLY: I can read it. I wanted
 10 to ask you a little about that. You said like greed or
 11 jealousy. I think you wrote, et cetera. Were you just
 12 trying to come up with examples?

13 PROSPECTIVE JUROR: Yes. First of all, in
 14 my opinion all four are the death penalty. I was sitting
 15 there with a little bit of information we had, that he's
 16 probably 18 years old. It's committed in -- found guilty
 17 in 1996. Committed in 1995, '96 somewhere around there.
 18 So now he's 28, at a minimum, probably 30. The smallest
 19 amount he can get is 40 years. And from what you pick up
 20 off the questionnaire, you think it's a pretty horrific
 21 crime, so chances get paroled after the first parole
 22 hearing are slim to none. So we're looking at a man
 23 that's in his 70s before he is eligible for parole.

24 With my opinion, all four are the death penalty. So
 25 to me the death penalty would be to send a message to

83

1 society that this crime is so horrible that, as a society,
 2 we can't stand and you have to do the ultimate.
 3 MS. WECKERLY: So from what you're saying,
 4 I mean, there are some circumstances that set certain
 5 crimes apart from other first degree murders, which may
 6 only get the minimum sentence in the State of Nevada,
 7 which is 40 years.

8 PROSPECTIVE JUROR: Yes, ma'am.

9 MS. WECKERLY: You can conceive of a
 10 situation where someone isn't deserving of a lenient
 11 sentence?

12 PROSPECTIVE JUROR: Yes, ma'am.

13 MS. WECKERLY: And they may be on the
 14 other end of the spectrum?

15 PROSPECTIVE JUROR: Yes, ma'am.

16 MS. WECKERLY: If you felt that way, I
 17 assume that you could return a verdict or mark a box like
 18 that?

19 PROSPECTIVE JUROR: It's no pleasure. I
 20 guess I could.

21 MS. WECKERLY: Certainly not. It's not
 22 ever an easy decision. But you are not someone who just,
 23 I can't make a decision like that. You could make that
 24 sort of decision?

25 PROSPECTIVE JUROR: I could.

84

1 MS. WECKERLY: Thank you, sir. Pass for
2 cause, your Honor.

3 THE COURT: Mr. Patrick.

4 MR. PATRICK: Good morning.

5 Who represented you in your DUI?

6 PROSPECTIVE JUROR: I have no idea. I
7 hired an attorney.

8 MR. PATRICK: You were happy with your
9 representation?

10 PROSPECTIVE JUROR: It was a lady. But,
11 yes.

12 MR. PATRICK: You thought you were treated
13 fair?

14 PROSPECTIVE JUROR: Yes.

15 MR. PATRICK: Got an appropriate
16 punishment?

17 PROSPECTIVE JUROR: Yes, sir.

18 MR. PATRICK: That was at least ten years
19 ago?

20 PROSPECTIVE JUROR: Yes.

21 MR. PATRICK: So that in no way would
22 influence you as to these proceeding?

23 PROSPECTIVE JUROR: No, sir.

24 MR. PATRICK: One comment I found
25 interesting was when you are put down you are not patient

85

1 with stupid. Could you explain that?

2 PROSPECTIVE JUROR: It's pretty much true
3 all of my life, not just since I've been here. I've seen
4 people too busy with their personal life to pay attention
5 to jury services. To get in line and not turn off their
6 telephone. Maybe stupid isn't the right word,
7 inconsiderate. This is very serious for Mr. Chappell, for
8 the rest of us. It's kind of rude, not to take it as
9 serious and not put down what you're doing and give it
10 your time and attention.

11 MR. PATRICK: You understand the
12 seriousness of this. And you would devote your full
13 attention to anything that goes on if you were picked as a
14 juror.

15 PROSPECTIVE JUROR: If you put me on the
16 jury, there's a good chance I might be taking my belt off
17 and spanking somebody for showing up late or not paying
18 attention.

19 MR. PATRICK: Well, if we pick you for the
20 jury, could you refrain from that at least until we're
21 done?

22 PROSPECTIVE JUROR: I could try.

23 MR. PATRICK: Now, on the question where
24 it asked whether or not it would make a difference whether
25 the victim in this case was of a different race, you

86

1 marked down if it was a hate crime.

2 PROSPECTIVE JUROR: If the victim was
3 chosen because of their race. Now, I know quite a bit --
4 we've all heard the stories about the gentleman that was
5 dragged behind the car because of his race. All of the
6 others, yes, that would make a difference.

7 MR. PATRICK: But if the victim was of a
8 difference race and it wasn't a hate crime, then it
9 wouldn't happen.

10 PROSPECTIVE JUROR: It would happen to be
11 just two people.

12 MR. PATRICK: Ms. Weckerly was talking
13 about the list you had. Jealousy and greed I think were
14 the two main ones. If this case had to do with either one
15 of those, would you automatically vote for the death
16 penalty?

17 PROSPECTIVE JUROR: I'm more understanding
18 of what I can understand of what motives were, as opposed
19 to the snipers -- the two gentlemen that were taking pot
20 shots out of their car for what I see to be no reason. I
21 could be more understanding of jealousy, more
22 understanding of greed then I could be of just somebody
23 for giggles getting in the back of the car and taking pot
24 shots at strangers for fun.

25 MR. PATRICK: You listed those as reasons

87

1 for the death penalty --

2 PROSPECTIVE JUROR: Maybe I put those down
3 as reasons I could oversee the death penalty, or not give
4 the death penalty.

5 MR. PATRICK: You still want to hear all
6 of the facts before you make a decision?

7 PROSPECTIVE JUROR: If I were to find out
8 that this was his motive -- this was his girlfriend, which
9 this doesn't say in here -- and she was cheating with
10 another man and he lost his temper and got jealous and
11 shot him. Then I could understand that. And I might be
12 more lenient, then if it was a perfect stranger and he
13 drove to her house and killed her.

14 MR. PATRICK: You'd listen to all the
15 evidence and keep an open mind throughout the whole
16 process before you made a decision?

17 PROSPECTIVE JUROR: Yes, sir.

18 MR. PATRICK: You'd make a decision that
19 you felt was the best one for the situation?

20 PROSPECTIVE JUROR: Yes, sir.

21 MR. PATRICK: Thank you, sir. Pass for
22 cause, your Honor.

23 THE COURT: Thank you. We'll take a --
24 it's about 12:45. We really need a very small number of
25 people to be questioned by the attorneys before we finish

88

1 up this part of the process, which will allow a bunch of
2 you to leave.

3 My preference is take a short recess. Bring you back
4 and finish up, rather than taking an hour-and-a-half lunch
5 break.

6 We'll take a ten minute recess.

7 JURY ADMONITION

8 During the recess, ladies and gentlemen,
9 you are admonished not to converse among yourselves or
10 with anyone else, including, without limitation, the
11 lawyers, parties and witnesses, on any subject connected
12 with this trial, or any other case referred to during it,
13 or read, watch, or listen to any report of or commentary
14 on the trial, or any person connected with this trial, or
15 any such other case by any medium of information
16 including, without limitation, newspapers, television,
17 internet or radio.

18 You are further admonished not to form or
19 express any opinion on any subject connected with this
20 trial until the case is finally submitted to you.

21 THE COURT: We're still on the record,
22 outside the presence of the jury.

23 As to the three challenges for cause raised this
24 morning. I'm going to grant all three of those. Ms. Ware
25 was the individual -- Badge number 061 -- that indicated

89

1 she would only consider the death penalty as a punishment
2 and was fairly firm on that. Ms. Matts, badge number 069,
3 indicated for religious reasons she would not consider the
4 death penalty under any circumstances. And similarly Ms.
5 Jackson, badge number 080, said the same thing.

6 So I'll grant the challenges for cause as to those
7 three. That puts us at 27 folks passed for cause so far.
8 So we only need five more passed for cause and you'll have
9 your panel of 32.

10 MR. SCHIECK: Are we going to fill those
11 slots directly back into those slots?

12 THE COURT: What it is, let's assume
13 nobody else gets passed for cause, then you will have
14 questioned 38 people. I'll excuse the six that have
15 already been challenged for cause and granted. You'll --
16 in order -- have the 32 people you can begin making
17 strikes on. Understood?

18 MR. SCHIECK: I think I understand.

19 MR. OWENS: Do us a favor and run the
20 names down to us.

21 THE COURT: I'm keeping a list so I'll
22 make a copy of it.

23 MR. OWENS: Could be ask about
24 scheduling.

25 THE COURT: Well, I want to kind of keep

90

1 going until we could get the next five passed for cause.

2 Then take a lunch break. You have your 32. I know the
3 other people from earlier today will be here at 1:30.
4 They have the whole morning off so they don't have to sit
5 around.

6 We'll take a lunch break. When we come back after
7 lunch break we should have the jury in place, I would
8 think. And you can still get to openings today.

9 MR. SCHIECK: Do the challenges after
10 lunch break, so we've got a lunch break to think about
11 it.

12 THE COURT: No, actually -- you want to do
13 it that way?

14 MR. OWENS: I think he wants to let jurors
15 go.

16 MS. WECKERLY: Could you maybe after we
17 get to that number take a ten minute break and confer
18 before we do the kicks?

19 THE COURT: Either or. If you want the
20 lunch break to kick over the 32 names and figure out what
21 you want to do.

22 MR. SCHIECK: Ten is fine for us. We just
23 take ten, do the strikes and send everybody home and go to
24 lunch and come back for openings.

25 THE COURT: All right.

91

1 We'll be in recess. Thank you.

2 (Brief recess taken.)

3 THE COURT: Back on record the record in
4 C-131341, State of Nevada versus James Chappell. The
5 record will reflect the presence of Mr. Chappell with his
6 attorneys, State's attorneys. We're in the presence of
7 our prospective jurors.

8 We'll continue on with questioning of our prospective
9 jury panel.

10 Mr. Owens, as to Ms. Gernot.

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Badge 085.

13 MR. OWENS: Ms. Gernot, how are you?

14 PROSPECTIVE JUROR: Good.

15 MR. OWENS: How's your parenting style?

16 PROSPECTIVE JUROR: Pretty strict.

17 MR. OWENS: You said in here, you don't
18 have any children.

19 PROSPECTIVE JUROR: I have a dog.

20 MR. OWENS: But you have animals, and
21 you're strict with your animals.

22 PROSPECTIVE JUROR: She's a very good dog.

23 She's a medical dog for my mother. I did her training.

24 MR. OWENS: You found that strict works
25 with her too?

92

1 PROSPECTIVE JUROR: You can't -- you have
2 to be the head of the pack, it says in training. But she
3 still gets treats and belly rubs, so she's a happy puppy.
4 I have a picture if anyone wants to see it later.

5 MR. OWENS: The -- you had a situation --
6 you're a very young person. I was talking about that
7 earlier. Do you feel you're prepared for this type of
8 experience, this weight of responsibility to consider
9 thinking about?

10 PROSPECTIVE JUROR: Well, I think it is a
11 good experience, helping me prepare for the future and
12 other hard decisions I'm going to have to make
13 eventually. This is our justice system. I have to uphold
14 to that. And being that that is one of the choices, I'm
15 willing to accept it and look at the circumstances and do
16 what I have to do.

17 MR. OWENS: You feel you can step up to
18 that responsibility and fulfill that?

19 PROSPECTIVE JUROR: Yes.

20 MR. OWENS: You consider yourself to be a
21 fairly strong person?

22 PROSPECTIVE JUROR: I try.

23 MR. OWENS: And you have been involved in
24 the trial programs and other things. Are you studying
25 that at the community college?

93

1 PROSPECTIVE JUROR: No. It's only -- when
2 I was in it, it was only a high school program. After
3 high school, you graduated and did whatever you wanted to
4 do. So I was in it in 10th and 12th grade.

5 MR. OWENS: You've taken some classes in
6 criminal justice, working toward a communications degree?

7 PROSPECTIVE JUROR: Yes.

8 MR. OWENS: Is that media or --

9 PROSPECTIVE JUROR: Well, I already have a
10 general communications degree. Now I'm either going to do
11 a bachelors in English, and a minor in marketing and
12 advertising.

13 MR. OWENS: All right. You must have had
14 a bad experience as a victim?

15 PROSPECTIVE JUROR: Yeah. Yes. It was
16 not good.

17 MR. OWENS: You didn't put a lot of
18 details in here.

19 PROSPECTIVE JUROR: I figured I could talk
20 to you about it. In September of last year -- September
21 18, 2006, I was -- I was robbed. And it was actually --
22 it was more of a con artist thing. It was supposed to be
23 a brother/sister situation, and it turns out that they go
24 around befriending people than months later they rob them.
25 And they're convicted felons. And they both got let off

94

1 very easy. I was subpoenaed, but they did plea bargain so
2 I never got to go to court or state my opinion. I got
3 maybe ten percent of the restitution owed. I haven't
4 received a check from that, yet. It was pretty harsh for
5 me. I'm an up-standing citizen with just like a parking
6 ticket on my record. And I thought that I knew some
7 things about the justice system. It was more like a
8 reality check for me that of the way things go, I
9 suppose.

10 MR. OWENS: How much money did you lose?

11 PROSPECTIVE JUROR: Over three thousand
12 dollars.

13 MR. OWENS: And you felt that a violation
14 of the trust you had was gone?

15 PROSPECTIVE JUROR: Yeah. It was hard.
16 In fact, in my witness statement I put like I felt like I
17 was raped. These were people I trusted, and I
18 befriended.

19 MR. OWENS: Like a personal invasion?

20 PROSPECTIVE JUROR: Exactly.

21 MR. OWENS: What did they plead guilty to?

22 PROSPECTIVE JUROR: Well, actually the
23 male was charged with five felonies. He plea bargained
24 after two weeks in jail to two misdemeanors and a year of
25 probation. And the girl was let off. The police officers

95

1 were great. They were arrested. They were booked and
2 everything. But the girl was released the next day and --
3 and even trying to speak with her DA, the DA didn't even
4 call me until after she put in the plea bargain and her
5 felony got reduced to a misdemeanor.

6 MR. OWENS: They both got misdemeanors?

7 PROSPECTIVE JUROR: Yes. When they are
8 previous felons. That's what hurt me, when we researched
9 into their background.

10 MR. OWENS: Was it for that same kind of
11 stuff?

12 PROSPECTIVE JUROR: Yeah -- yes.

13 MR. OWENS: You were hoping for a felony
14 conviction?

15 PROSPECTIVE JUROR: It can't be overturned
16 now.

17 MR. OWENS: That's what you were hoping
18 for?

19 PROSPECTIVE JUROR: I was hoping for
20 something more serious to happen, yes.

21 MR. OWENS: Are your feelings about that
22 such that it would create an unfair situation for us or
23 the Defendant? You might say now is my chance to get back
24 at somebody?

25 PROSPECTIVE JUROR: No. Because I don't

96

1 really hold vengeance. It's something I had to cope with
2 personally and get over and try to understand myself.
3 That situation has nothing to do with the situation at
4 hand here.

5 MR. OWENS: You can separate that in your
6 mind?

7 PROSPECTIVE JUROR: Yes.

8 MR. OWENS: You wouldn't hold that against
9 the State or the police?

10 PROSPECTIVE JUROR: No, definitely not.

11 MR. OWENS: Then you said you were okay
12 with the death penalty as one of the options here?

13 PROSPECTIVE JUROR: Yes.

14 MR. OWENS: You don't have any
15 philosophical problems with it?

16 PROSPECTIVE JUROR: No.

17 MR. OWENS: You felt that it might be
18 appropriate for brutal crimes?

19 PROSPECTIVE JUROR: Yes.

20 MR. OWENS: You haven't heard what the
21 criteria is from the court.

22 PROSPECTIVE JUROR: NO.

23 MR. OWENS: You're willing to keep an open
24 mind about it.

25 PROSPECTIVE JUROR: Yes.

97

1 MR. OWENS: And see what the law is and
2 what all circumstances are before you make your decision?

3 PROSPECTIVE JUROR: Yes.

4 MR. OWENS: If after hearing all of the
5 evidence in the case and you felt that the death penalty
6 was appropriate, would you be able to do that?

7 PROSPECTIVE JUROR: Yes.

8 MR. OWENS: Okay. There's a slight
9 hesitation there.

10 PROSPECTIVE JUROR: I mean, I would really
11 have to feel that that was a fair punishment, after
12 examining the evidence and taking in all the excruciating
13 circumstances. I would have to be very genuine that that
14 is what he should get. If I did feel that way, yes, I
15 could pass that judgment.

16 MR. OWENS: You talked about because of
17 your experience with the trial (sic) and the court type
18 situation you had, you look forward to being involved in
19 the process.

20 PROSPECTIVE JUROR: That was before we
21 waited like two days. But now we're getting to the point,
22 I still would like to be a part of the process. It's been
23 interesting.

24 MR. OWENS: You can appreciate that that
25 makes you unique in wanting to be on the jury.

98

1 PROSPECTIVE JUROR: Yes.

2 MR. OWENS: Your interest in the system
3 isn't such that you might want to get on so bad that you
4 are not worrying to much about what the consequences are
5 on that serious judgment?

6 PROSPECTIVE JUROR: I have had lots of
7 time to think of this in the room and speaking to it with
8 my mother and really questioning myself, if this was
9 something I can do. So I've thought about it.

10 MR. OWENS: Okay. Thank you. Pass for
11 cause, your Honor.

12 THE COURT: Thank you. Mr. Schieck.

13 MR. SCHIECK: Thank you, your Honor.

14 Ms. Gernot, you indicate that, with
15 respect to the death penalty, you didn't think that it was
16 used enough.

17 PROSPECTIVE JUROR: Well, more like what
18 the fellow juror was saying that not so much that it's not
19 used enough, but it's the time span is outrageous that
20 these people are sitting, and sitting, and sitting, and
21 like they are serving life. So not that it's not used
22 enough, but maybe it's not executed fast enough.

23 MR. SCHIECK: But you don't have any
24 problems deciding what the appropriate punishment is and
25 not worrying about the other things?

99

1 PROSPECTIVE JUROR: No.

2 MR. SCHIECK: And you say you are
3 generally in favor of the death penalty. Is that
4 something you thought about before you filled out the
5 questionnaire or just confronted you at that time?

6 PROSPECTIVE JUROR: I have done papers in
7 school and such, research. And I have formed an opinion
8 back in high school.

9 MR. SCHIECK: You did papers in high
10 school about the death penalty?

11 PROSPECTIVE JUROR: And in college.

12 MR. SCHIECK: What type of courses were
13 you taking?

14 PROSPECTIVE JUROR: It started in my
15 government classes. And then being with trial-by-peers
16 and doing misdemeanor cases, they still taught us about
17 all the types of penalties for the crimes. So basically
18 having to research it for my 12th grade government class
19 is what decided me.

20 MR. SCHIECK: In doing that paper, were
21 you required to take a position for or against, or was it
22 a paper where you are sort of giving general information
23 about it?

24 PROSPECTIVE JUROR: She asked us to take a
25 position.

100

1 MR. SCHIECK: What position did you take?
 2 PROSPECTIVE JUROR: For.
 3 MR. SCHIECK: Did you have a choice as to
 4 which position to take or was it assigned?
 5 PROSPECTIVE JUROR: There was no wrong
 6 answer.
 7 MR. SCHIECK: There was no wrong answer,
 8 in that you could choose whichever way you wanted to write
 9 the paper?
 10 PROSPECTIVE JUROR: Yes.
 11 MR. SCHIECK: Why did you back when you
 12 were a senior in high school choose to write in favor of
 13 the death penalty?
 14 PROSPECTIVE JUROR: Well, first of all
 15 because of the appeals process. If they are -- if they
 16 are sentenced to murder or death, they do get another
 17 chance to have their case overlooked. And because -- from
 18 what I researched -- this was like 7 years ago -- it
 19 seemed like the cases that did have the death penalty
 20 applied to them. I felt that it was substantiated.
 21 MR. SCHIECK: But you thought the process
 22 that we go through before that's ever considered as an
 23 appropriate punishment is a fair one?
 24 PROSPECTIVE JUROR: Yes.
 25 MR. SCHIECK: That's the one you want to

101

1 be part of, the one that considers all the factors and all
 2 the circumstances.
 3 PROSPECTIVE JUROR: That's important.
 4 MR. SCHIECK: In preparing your paper,
 5 back in high school, did you find that there were some
 6 cases that the death wasn't deserved, even though it was
 7 first degree murder, you felt the system worked in those
 8 cases also?
 9 PROSPECTIVE JUROR: Not being there
 10 first-hand, not knowing the families, not go to in depth
 11 with the case itself, I didn't even try to think to pass
 12 judgment like that at that time.
 13 MR. SCHIECK: Thank you, very much,
 14 Ms. Gernot. We pass for cause, your Honor.
 15 THE COURT: Mr. Owens, as to
 16 Mr. Schechter.
 17 MR. OWENS: How are you, sir?
 18 PROSPECTIVE JUROR: Fine.
 19 MR. OWENS: You feel you're an open minded
 20 person?
 21 PROSPECTIVE JUROR: Yes, I do.
 22 MR. OWENS: Are you okay with the idea of
 23 this process of listening to all the facts and
 24 circumstances before making up your mind as to what the
 25 appropriate punishment should be?

102

1 PROSPECTIVE JUROR: Yes, of course.
 2 MR. OWENS: You don't have a problem doing
 3 that?
 4 PROSPECTIVE JUROR: I have to listen
 5 first. How can I make up my mind when I have no
 6 information.
 7 MR. OWENS: You have no problem with the
 8 different types of punishment that are available?
 9 PROSPECTIVE JUROR: I know the jury coming
 10 in may have their voices heard, but, you know, I haven't
 11 decided personally. I think after what little I read on
 12 the case so far, I have yet to come up with all of that.
 13 MR. OWENS: Okay. Well, in that sense the
 14 majority has to agree to it, okay. And when you talk
 15 about this other range of punishment, on the one side it's
 16 life with the possibility of parole, you can't imagine a
 17 situation right now where that would be appealing to you?
 18 PROSPECTIVE JUROR: I cannot imagine it
 19 now, but --
 20 MR. OWENS: You'll leave it open to the
 21 possibility there may be one?
 22 PROSPECTIVE JUROR: Yeah.
 23 MR. OWENS: Once you've heard the
 24 evidence, there may be a circumstance where it may be
 25 appropriate?

103

1 PROSPECTIVE JUROR: Possibly.
 2 MR. OWENS: So you are willing to keep an
 3 open mind and wait until you've heard everything?
 4 PROSPECTIVE JUROR: Sure. I'll consider
 5 all four forms of punishment before rendering a
 6 decision.
 7 PROSPECTIVE JUROR: Yes, sir.
 8 MR. OWENS: You are not eliminating any up
 9 front?
 10 PROSPECTIVE JUROR: I'm not eliminating
 11 them, no. I'm leaning toward death.
 12 MR. OWENS: Leaning is okay.
 13 PROSPECTIVE JUROR: I haven't chosen it
 14 right off the bat.
 15 MR. OWENS: You've got to hear everything
 16 first. There was some things you said in here about your
 17 opinion at the time you filled out the questionnaire. You
 18 were asked your opinion about the case. You pointed out,
 19 appropriately, that you were told at the beginning of the
 20 questionnaire Mr. Chappell was convicted of these charges.
 21 You know that about the situation, right?
 22 PROSPECTIVE JUROR: Yes.
 23 MR. OWENS: Then you said his punishment
 24 ought to be the strictest. There makes it sound kind of
 25 like you have made up your mind. Is that what you meant?

104

1 PROSPECTIVE JUROR: No. I only mean I'm
2 leaning toward death. But I can't make a final
3 decision.

4 MR. OWENS: So you meant based upon what
5 you knew at the time?

6 PROSPECTIVE JUROR: Yes. What I know so
7 far, as little as that is.

8 MR. OWENS: You're willing to listen to
9 everything before coming to a decision in the case?

10 PROSPECTIVE JUROR: Yes, sir.

11 MR. OWENS: You have been involved or
12 somebody was involved in some kind of arrest, DUI or
13 something?

14 PROSPECTIVE JUROR: Yes.

15 MR. OWENS: What was that about?

16 PROSPECTIVE JUROR: He is still a friend
17 of mine. I think he is basically a decent guy. He
18 just -- it was a time of his life he was drinking too
19 much, and he wasn't -- he hadn't really thought it
20 through, even now. He's a nice guy. Not a thoughtful
21 person. I think he's learned his lesson. After that he
22 doesn't drink as much. He was out on the road and was
23 pulled over, caught, that kind of thing. Well, the
24 consequences thereof --

25 MR. OWENS: This was a person you felt

105

1 close to?

2 PROSPECTIVE JUROR: Not close. I mean, he
3 is a friend. Not one of my close friends.

4 MR. OWENS: Did you go to court or
5 participate in that process at all?

6 PROSPECTIVE JUROR: I heard about this all
7 after the fact.

8 MR. OWENS: In some of these questions on
9 the death penalty you were asked about what kind of
10 circumstances. You gave a number of different things.
11 Like most of the jurors say, they said, if I know a
12 hundred percent, of it it's a really brutal crime. Then I
13 think the thing that's important to remember here is you
14 may have certain ideas in your head as to what is
15 deserving of the death penalty, okay. But the court is
16 going to give you law about the factors that are set out
17 for consideration by law. Are you okay with that?

18 PROSPECTIVE JUROR: Yes, sir.

19 MR. OWENS: Can you follow the law that
20 the court gives you?

21 PROSPECTIVE JUROR: Yes.

22 MR. OWENS: And apply the factors that the
23 court instructs you on?

24 PROSPECTIVE JUROR: Yes, sir.

25 MR. OWENS: If after hearing all the

106

1 evidence in the case and all the facts and circumstanced
2 surrounding the event, you felt that the death penalty was
3 the appropriate sentence, would you be able to come back
4 with that verdict?

5 PROSPECTIVE JUROR: Yes, sir. I could.

6 MR. OWENS: How do you feel about the idea
7 of rendering judgment like that on a fellow human being?

8 PROSPECTIVE JUROR: It is not something
9 that I would take lightly. I mean, if I felt if after
10 thinking it through, as much as -- from every possible
11 angle, yes, if that's the judgment that needs to be
12 rendered, then yes.

13 MR. OWENS: That's something you can do?

14 PROSPECTIVE JUROR: Yes.

15 MR. OWENS: All right. Thank you. Pass
16 for cause.

17 THE COURT: Mr. Schieck.

18 MR. SCHIECK: Thank you, your Honor.

19 Mr. Schechter, do you have any problem
20 with the concept that not all first degree murder requires
21 a death penalty?

22 PROSPECTIVE JUROR: No.

23 MR. SCHIECK: You understand that there is
24 a system in place where there could be a first degree
25 murder conviction where the death penalty is not even an

107

1 option in that case?

2 PROSPECTIVE JUROR: Not even an option?

3 MR. SCHIECK: Let me explain. In order to
4 be eligible to receive the death penalty, the State has to
5 prove an aggravated circumstance or circumstances beyond a
6 reasonable doubt to the jury. If there is not such
7 aggravating circumstances in the case, even though it's
8 first degree murder, the death penalty is not an option in
9 that case.

10 PROSPECTIVE JUROR: Aggravating
11 circumstance?

12 MR. SCHIECK: Yes. The judge will define
13 those for you -- or the members of the jury when he gives
14 instructions to the jury. Do you have any problem with
15 that concept?

16 PROSPECTIVE JUROR: No.

17 MR. SCHIECK: You indicated that you're
18 leaning toward the death penalty as an appropriate
19 punishment for first degree murder?

20 PROSPECTIVE JUROR: Yes, I do.

21 MR. SCHIECK: But you can keep an open
22 mind.

23 PROSPECTIVE JUROR: I'm willing to listen.

24 I'm willing to listen.

25 MR. SCHIECK: Are you willing, if you

108

1 don't think the death penalty is appropriate, to check
2 that box also, the box that says a life sentence?
3 PROSPECTIVE JUROR: Yes, sir. I don't
4 think -- to be honest, I don't think that's necessarily
5 more lenient, because -- well, the death penalty, even
6 with all of the issues surrounding it, one thing is for
7 certain, a dead man is beyond harm, a life man is not.

8 Previously one of the questions you asked the jury,
9 no, I'm not -- no members of my family has gotten involved
10 in that sort of thing, but I met some characters in my
11 life. One or two I've known, former convicts. And you
12 know, I've never been to prison myself, but I have heard
13 about what goes on in there. And thinking even life in
14 prison is like, is that more lenient, after hearing about
15 it. That could be a death sentence itself. You could end
16 up killed in the yards. So I don't necessarily think
17 that's more lenient or just.

18 MR. SCHIECK: Thank you, very much. We
19 pass for cause, your Honor.

20 THE COURT: Thank you. Ms. Weckerly, as
21 to Ms. Bundren (sic).

22 MS. WECKERLY: You indicated on your
23 questionnaire that you know either lawyers or police
24 officers in the criminal justice system.

25 PROSPECTIVE JUROR: Yes.

109

1 MS. WECKERLY: What context?
2 PROSPECTIVE JUROR: Where I work they come
3 in for checks, the DA running for election. They
4 socialize with a couple of judges, police officers through
5 acquaintances. One is married to a friend of mine.

6 MS. WECKERLY: And the fact that you have
7 these relationships, would that cause you to favor or
8 disfavor one side or the other in this proceeding?

9 PROSPECTIVE JUROR: No.

10 MS. WECKERLY: You're able to separate
11 that?

12 PROSPECTIVE JUROR: Yes.

13 MS. WECKERLY: And you also mentioned on
14 your questionnaire that you or a close family member had
15 been arrested for --

16 PROSPECTIVE JUROR: Myself.

17 MS. WECKERLY: I think you mentioned that
18 yesterday. Can you explain that?

19 PROSPECTIVE JUROR: I like to shop. I
20 bought something from someone I shouldn't have. He was an
21 undercover police. So I went through the system.

22 MS. WECKERLY: Did you feel like you were
23 treated fairly?

24 PROSPECTIVE JUROR: I thought I was pretty
25 stupid.

110

1 MS. WECKERLY: But nothing about that
2 experience gives you a bad feeling about police officers?

3 PROSPECTIVE JUROR: No. No.

4 MS. WECKERLY: You wrote that you or
5 someone close to you had been the victim of a crime as
6 well.

7 PROSPECTIVE JUROR: We had our house
8 robbed a couple of times.

9 MS. WECKERLY: Were you home at the time?

10 PROSPECTIVE JUROR: No. No.

11 MS. WECKERLY: So you were away out for
12 the night?

13 PROSPECTIVE JUROR: Right. Right.

14 MS. WECKERLY: Was anyone ever caught?

15 PROSPECTIVE JUROR: No, because I kind of
16 knew who may have robbed me the first time, so there was
17 no catching her. The second time it was kids.

18 MS. WECKERLY: Did you call the police in
19 either case?

20 PROSPECTIVE JUROR: Yeah. They came out
21 to the house.

22 MS. WECKERLY: Were you happy with how
23 they investigated.

24 PROSPECTIVE JUROR: Sure. Sure.

25 MS. WECKERLY: Reading your questionnaire

111

1 you indicated that you can consider the death penalty as a
2 potential punishment.

3 PROSPECTIVE JUROR: Yes.

4 MS. WECKERLY: You're someone that would
5 like to hear all of the information that you could hear
6 before making that type of decision?

7 PROSPECTIVE JUROR: After reading that,
8 where a weapon was used, a person murdered, I just could
9 not see how it could go any other way except the death
10 penalty.

11 MS. WECKERLY: Well, the judge has talked
12 about it a little bit, and I think Mr. Schieck just
13 mentioned that there are certainly legal requirements that
14 have to be met before the jury can consider the death
15 penalty as a potential punishment. And Judge Herndon is
16 going to instruct you on that law at the end of this
17 proceeding. Would you be able to follow the judge's
18 instructions on that?

19 PROSPECTIVE JUROR: Probably not.

20 MS. WECKERLY: You wouldn't?

21 PROSPECTIVE JUROR: I would think just
22 reading what was on the paper, the questionnaire, I
23 really -- I don't bend easily, so ...

24 MS. WECKERLY: You think you'd
25 automatically pick out a punishment without hearing the

112

1 information?

2 PROSPECTIVE JUROR: I think I would.

3 MS. WECKERLY: And I take it, it didn't
4 matter what the judge's instructions would be, you do it
5 anyway?

6 PROSPECTIVE JUROR: I'd do what I thought
7 was right.

8 MS. WECKERLY: So there is no way you
9 could see yourself looking at all four punishments in this
10 situation?

11 PROSPECTIVE JUROR: I don't think so. I
12 can't say positive, but I don't think so.

13 MS. WECKERLY: That's sort of the
14 question.

15 PROSPECTIVE JUROR: I really don't think
16 so. I quite honestly cannot see how I could not
17 punishment somebody that committed a murder.

18 MS. WECKERLY: You understand that not all
19 murders are eligible for the death penalty?

20 PROSPECTIVE JUROR: I'm not familiar with
21 things like that. I was just, off the questionnaire it
22 said he used a weapon, things like that. And he murdered
23 her, so that's what I would be going by.

24 MS. WECKERLY: And there are people that
25 commit first degree murder with a weapon that are not

113

1 eligible, legally, for the death penalty. Is that
2 something you could accept?

3 PROSPECTIVE JUROR: I would have to, if
4 it's not an option.

5 MS. WECKERLY: Okay. So in that type of
6 situation, you're saying you'd follow the law?

7 PROSPECTIVE JUROR: I can follow the law,
8 sure.

9 MS. WECKERLY: And the law also tells you
10 in and penalty hearing or this type of situation that you
11 have to at least consider -- not telling you what weight
12 you have to give certain pieces of information -- but you
13 have to at least listen to information that's presented in
14 a hearing like this. Would you be able to do that?

15 PROSPECTIVE JUROR: I could always
16 listen.

17 MS. WECKERLY: After that, of course, the
18 decision is left to you and your fellow jurors. I assume
19 you can make a decision at that point?

20 PROSPECTIVE JUROR: I could.

21 MS. WECKERLY: Thank you, ma'am. Pass for
22 cause, your Honor.

23 THE COURT: Mr. Patrick.

24 MR. PATRICK: Ms. Bundren, Ms. Weckerly
25 asked you, you said you would automatically pick a

114

1 penalty.

2 PROSPECTIVE JUROR: I would automatically
3 pick a penalty -- just off the questionnaire.

4 MR. PATRICK: What penalty would you
5 automatically pick?

6 PROSPECTIVE JUROR: Death.

7 MR. PATRICK: In your questionnaire you
8 said you've always thought this way about the death
9 penalty?

10 PROSPECTIVE JUROR: I have.

11 MR. PATRICK: I think the last thing you
12 wrote on the questionnaire was that you are not open
13 minded enough to think there's an excuse?

14 PROSPECTIVE JUROR: I'm very narrow
15 minded about that.

16 MR. PATRICK: What you're telling us is
17 your mind is made up?

18 PROSPECTIVE JUROR: It pretty much is.

19 MR. PATRICK: There's not much chance
20 we'll change that, is there?

21 PROSPECTIVE JUROR: Not by going off the
22 questionnaire, no.

23 MR. PATRICK: We'd challenge for cause,
24 your Honor.

25 THE COURT: Let me ask you a question,

115

1 Ms. Bundren, because a couple of times you kind of put a
2 caveat to your statement about saying, off the
3 questionnaire. You understand there's going to be a
4 hearing where witnesses, evidence is going to come in.
5 Both sides have to present whatever they want to examine
6 the witnesses on. And that's the evidence that you're
7 going to rely upon to make a decision, not --

8 PROSPECTIVE JUROR: Not the questionnaire.
9 Right.

10 THE COURT: That being the case, can you
11 listen to the evidence presented in the hearing?

12 PROSPECTIVE JUROR: I could.

13 THE COURT: And after having listened to
14 that evidence, is it your statement today that you would
15 be able to consider all of the forms of punishment?

16 PROSPECTIVE JUROR: I could if it was
17 different from the statement.

18 THE COURT: I don't know that it's
19 different from the statement, but obviously it's more
20 expansive. You're going to get more information about
21 things during the penalty hearing. So I don't want to say
22 it's going to be different. I'm just going to say that I
23 would expect you'll receive more information about
24 everything involved here.

25 So what I need to know is if you'll be

116

1 able to consider all forms of punishment.
2 PROSPECTIVE JUROR: I could consider it.
3 THE COURT: Okay, yes or no?
4 PROSPECTIVE JUROR: Yes.
5 THE COURT: Does either side want to ask
6 any questions based on my questions to the juror?
7 MR. PATRICK: Court's indulgence. No,
8 your Honor.
9 THE COURT: All right. Mr. Owens, as to
10 Ms. Staley.
11 MR. OWENS: How are you?
12 PROSPECTIVE JUROR: Fine. I would like to
13 say something I didn't put in there.
14 MR. OWENS: Sure.
15 PROSPECTIVE JUROR: Just because of this
16 hearing and everything I have an uncle that I haven't seen
17 for 35 years was incarcerated. My father's -- my
18 husband's father was murdered in 1967.
19 MR. OWENS: All of these questions make
20 you think a lot more, don't they.
21 PROSPECTIVE JUROR: I forgot about that
22 when I was filling that out.
23 MR. OWENS: His uncle was murdered.
24 PROSPECTIVE JUROR: My husband's father
25 was murdered.

117

1 MR. OWENS: Were these so remote that they
2 are not something that you think about that much?
3 PROSPECTIVE JUROR: With my uncle, like I
4 said, I haven't seen him for in 35 years so that's pretty
5 remote.
6 MR. OWENS: Right.
7 PROSPECTIVE JUROR: My husband, it affects
8 him, of course. He lost his father. But it was 1967. So
9 for me it's more local folklore. It is talked about
10 because in the community we live in -- I would say the
11 community started in the mid 1800s -- these were the only
12 three murders at the same time committed until today, so
13 of course everybody knows.
14 MR. OWENS: So you remember them?
15 PROSPECTIVE JUROR: People remember
16 that.
17 MR. OWENS: This is the same community
18 where you live now.
19 PROSPECTIVE JUROR: Yes.
20 MR. OWENS: It comes up from time to
21 time.
22 PROSPECTIVE JUROR: It was a bank robbery,
23 so every time I enter the bank someone makes a comment
24 about it.
25 MR. OWENS: Do you get tired of hearing

118

1 about that?
2 PROSPECTIVE JUROR: It's more
3 uncomfortable for my in-laws and my husband and his
4 family. That's a fact of life.
5 MR. OWENS: So you experienced emotions
6 about this through your husband, but indirectly because of
7 the community.
8 PROSPECTIVE JUROR: It's not something the
9 community is going to forget.
10 MR. OWENS: What happen with that case?
11 Was someone prosecuted for it?
12 PROSPECTIVE JUROR: Yes. I believe he
13 died in prison from cancer. Does the family dwell on
14 that, more on the loss of a father figure. I believe they
15 felt the court handle it and police handle it quite well.
16 MR. OWENS: Is there anything about that
17 experience that would cause you not to be able to be fair
18 and impartial in this case.
19 PROSPECTIVE JUROR: Well, to be honest I
20 didn't think about it until last night when I was driving
21 home. I thought I better mention it.
22 MR. OWENS: I appreciate that. You said
23 the community you live in, you did mention it here. It's
24 quite a distance away from the court. Is it hard for you
25 to get here? Is that something you've dealt with?

119

1 PROSPECTIVE JUROR: It has been, because
2 we have one car. It's kind of -- get the kids off, get my
3 husband to work, then down here. But the car now is
4 running. I'm just worried that I'll late to court because
5 I can't control traffic.
6 MR. OWENS: Sure. That's the same problem
7 everybody's got. You got further to go.
8 PROSPECTIVE JUROR: Right.
9 MR. OWENS: Is that something you feel you
10 can deal with -- transportation issues?
11 PROSPECTIVE JUROR: Yes.
12 MR. OWENS: You're okay with the range of
13 punishments we've talked about in the case?
14 PROSPECTIVE JUROR: I'm very relieved
15 that's there's a range of options. I'm glad I don't live
16 in Texas.
17 MR. OWENS: If you had to make a decision
18 like this, you're glad you have a number of things to
19 choose from?
20 PROSPECTIVE JUROR: Right.
21 MR. OWENS: Sight unseen right now, you
22 don't really know what used do?
23 PROSPECTIVE JUROR: I don't have the full
24 facts. I can't make a decision. Especially of this
25 magnitude without having the full facts.

120

1 MR. OWENS: You feel like you are an open
2 minded person?

3 PROSPECTIVE JUROR: I hope so.

4 MR. OWENS: Are you okay with the idea of
5 deliberating with other people and sharing ideas?

6 PROSPECTIVE JUROR: Yes. That helps the
7 people, as you said. It would be extremely hard to have
8 the make this decision by yourself.

9 MR. OWENS: Like having moral support.

10 PROSPECTIVE JUROR: Exactly.

11 MR. OWENS: You know, in the end, one
12 person signs the verdict. A lot of times they poll the
13 jury and each has to say if that's their verdict. Is that
14 something you could do?

15 PROSPECTIVE JUROR: Yes. I would have to
16 really -- it would have to be a decision that I have to
17 live with, besides Mr. Chappell. Yes, that would be -- I
18 would have to agree and think of all of the options.

19 MR. OWENS: If you felt after hearing all the facts
20 and circumstances surrounding this event the appropriate
21 punishment was the death penalty, would you be able to
22 come back with that judgment?

23 PROSPECTIVE JUROR: Yes.

24 MR. OWENS: It's not the kind of thing
25 where you get up and say, I think it's the right thing, I
121

1 don't think I can do that.

2 PROSPECTIVE JUROR: I'm not sure how to
3 answer that question.

4 MR. OWENS: Best estimate right now, you
5 feel it's something you could do.

6 PROSPECTIVE JUROR: If that was -- after
7 hearing all of the facts that's what we arrive at, I have
8 to live by that decision. You can't second guess after
9 you've left the court room. There are other options. We
10 have to have heard the case.

11 MR. OWENS: Thank you. Pass for cause.

12 THE COURT: Mr. Schieck.

13 MR. SCHIECK: Thank you, your Honor.

14 Ms. Staley, there's a number of questions
15 you left blank in the questionnaire. Was that by
16 intention?

17 PROSPECTIVE JUROR: I wasn't sure how to
18 answer them. I have never been involved in the court
19 system. I have no basis to answer some of the questions,
20 which is probably why I left them blank.

21 MR. OWENS: One of questions asked about
22 strong moral or religious views about the death penalty
23 and its imposition. You didn't indicate one way or the
24 other. Do you have thoughts on that area?

25 PROSPECTIVE JUROR: I believe I'm a very
122

1 religious person. And in my religious viewpoint if a man
2 is punished here for his sins on earth, he will not be
3 held accountable in the next life, because he has been
4 punished for those sins already. That's how come I left
5 it blank, because if he's not punished here he will be
6 punished in the next life.

7 MR. OWENS: You understand and are pleased
8 that there are four different punishments for first degree
9 murder. You'd consider all four of those to be
10 punishment?

11 PROSPECTIVE JUROR: Yes. Like I stated
12 before, I'm glad there are more options because not every
13 crime is the same.

14 MR. OWENS: You don't have any problems
15 with the concept that really what we're doing here is
16 choosing between four very serious forms of punishment.
17 Just picking which punishment is the appropriate
18 punishment.

19 PROSPECTIVE JUROR: Picking which
20 punishment is the appropriate punishment for what was
21 done.

22 MR. OWENS: Everything you have known you
23 know from the questionnaire and have heard here in court,
24 you're open to all four possible punishments as you hear
25 more information?
123

1 PROSPECTIVE JUROR: That's correct.

2 MR. OWENS: Thank you. Pass for cause,
3 your Honor.

4 THE COURT: Thank you. Mr. Owens, as to
5 Ms. Larson.

6 MR. OWENS: You had indicated there might
7 be a hardship issue for you. Tell us about that? Have
8 you worked that out?

9 PROSPECTIVE JUROR: No. I don't think
10 that I could give my full attention to this proceeding.

11 MR. OWENS: That's because of the -- you'd
12 be worrying if you were someplace else, something is not
13 getting done. That has to do with your business?

14 PROSPECTIVE JUROR: Yes. And my work,
15 right.

16 MR. OWENS: You understand this is a
17 serious matter?

18 PROSPECTIVE JUROR: I do.

19 MR. OWENS: And you'd probably rather be
20 doing the work then being here?

21 PROSPECTIVE JUROR: I would rather be
22 doing the work then being here. And I'd rather be doing
23 anything then looking at pictures of anything. I really
24 would.

25 MR. OWENS: But if you -- if you were
124

1 selected to be on the jury knowing the seriousness of this
2 proceeding, you would be able to give a fair hearing and
3 focus and attention to what is going on here?

4 PROSPECTIVE JUROR: I don't know that.

5 That's why I put that down. I'm torn in a lot of
6 directions already, and that would be difficult for me to
7 shut that off.

8 MR. OWENS: But that's something you would
9 try to do?

10 PROSPECTIVE JUROR: Sure. I don't know if
11 I'd be successful, but I'd try.

12 MR. OWENS: You don't have a problem with
13 the death penalty?

14 PROSPECTIVE JUROR: Absolutely not. No.

15 MR. OWENS: You heard about the full range
16 of available punishments in this case?

17 PROSPECTIVE JUROR: Yes.

18 MR. OWENS: Then you feel that you could
19 keep an open mind until you've heard all of the evidence?

20 PROSPECTIVE JUROR: I would struggle with
21 that.

22 MR. OWENS: Okay.

23 PROSPECTIVE JUROR: In my corporate job, I
24 daily have to make decisions and judgments and over the
25 course of 18 years I had become -- have become quick to

125

1 make decisions, somewhat cynical. And I'm a judgmental
2 person, because of that. And I react quickly, and once
3 I've made a judgment I'm pretty firm with it. I have to
4 be.

5 MR. OWENS: This is a very different
6 situation then a business decision.

7 PROSPECTIVE JUROR: I understand that.

8 MR. OWENS: Are you okay with the idea of
9 waiting until you hear the circumstances before you make a
10 decision of this gravity?

11 PROSPECTIVE JUROR: Can I ask a question?

12 MR. OWENS: Sure. The judge will decide
13 if I can answer or not, but you're free to ask.

14 PROSPECTIVE JUROR: Is the death penalty
15 on the table?

16 MR. OWENS: That's what we're telling
17 people. It's one of the four possible punishments.

18 PROSPECTIVE JUROR: I can't conceive of
19 anything that anybody could tell me that would make me
20 pick anything different than that. My mind can't figure
21 anything out that makes it okay not to give him the death
22 penalty.

23 MR. OWENS: Even though you can't conceive
24 of one, can you leave open the possibility there could be
25 one out there you just haven't been thinking about it?

126

1 PROSPECTIVE JUROR: I can't imagine what
2 that would be.

3 MR. OWENS: Well, that's the whole point
4 of the question. You can't imagine right now, but can you
5 leave open the possibility that there may be a situation
6 where that might seem appropriate to you?

7 PROSPECTIVE JUROR: As my mind has run
8 through everything over the last two days anything that
9 could possibly have happened that would make that okay,
10 I've answered no to each one of those in my head. And to
11 think there's something else out there, I wouldn't want to
12 know what that was that a person was capable of doing
13 that.

14 MR. OWENS: So what you're saying is your
15 mind is close off. It doesn't matter what you hear. You
16 just feel like you'd vote for the death penalty?

17 PROSPECTIVE JUROR: I don't know that it's
18 close off. But I prefer not to clutter my mind with it.

19 MR. OWENS: You know, on question number
20 50 on the form here it says -- you are asked about what
21 you felt about the four forms of punishment. You said,
22 yes, it's part of the system. And to make that decision
23 it's only fair to hear sides before casting judgment.

24 PROSPECTIVE JUROR: Yes. That was
25 probably a weak moment.

127

1 MR. OWENS: I know you're worrying about
2 your business and everything of that nature.

3 PROSPECTIVE JUROR: I am. I just worry
4 about having to hear all of this stuff.

5 MR. OWENS: But back then you thought you
6 would consider everything, and now you're thinking, no, I
7 don't think I could consider everything. And I just want
8 to make sure we are getting a candid sense of where you
9 are at right now.

10 PROSPECTIVE JUROR: You're getting a
11 candid sense.

12 MR. OWENS: Then you felt open minded.
13 Today you're definitely sounding very closed minded.

14 PROSPECTIVE JUROR: Yeah. Yeah. Yeah.

15 MR. OWENS: All right. I don't have
16 anything further, Judge.

17 THE COURT: Thank you. Mr. Schieck.

18 MR. SCHIECK: Challenge for cause, your
19 Honor.

20 THE COURT: Thank you. Ms. Weckerly, as
21 to Ms. Stio.

22 MS. WECKERLY: Ms. Stio, correct?

23 PROSPECTIVE JUROR: Yes, correct.

24 MS. WECKERLY: Ma'am, you sort of have a
25 different opinion that you indicated in your questionnaire

128

1 from the lady next to you. You said that God was the only
2 person who could judge.

3 PROSPECTIVE JUROR: Yeah, in finality.
4 Yes.

5 MS. WECKERLY: So you know from sitting
6 here two days now that the death penalty is a potential
7 punishment in this case?

8 PROSPECTIVE JUROR: I know.

9 MS. WECKERLY: Knowing that you have these
10 religious beliefs, you indicate on your questionnaire that
11 it is up to God to make that type of decision. Are you
12 someone that can consider the death penalty?

13 PROSPECTIVE JUROR: Quite truthfully, I
14 think I could consider any of the three, but I don't think
15 I could consider the fourth.

16 MS. WECKERLY: That would be just a
17 religious belief that that's not something that we should
18 decide?

19 PROSPECTIVE JUROR: I don't feel that I
20 could judge. We're talking about a real person's life.
21 There have been so many people that have been convicted
22 and then so many years later they find out they were
23 innocent. And if that person were already put to death
24 and I was part of that judgment, I wouldn't be able to
25 live with myself.

129

1 MS. WECKERLY: So —

2 PROSPECTIVE JUROR: So I wouldn't want to
3 make that decision.

4 MS. WECKERLY: As you sit here now you
5 can't consider the death penalty as a potential
6 punishment?

7 PROSPECTIVE JUROR: No.

8 MS. WECKERLY: Challenge for cause.

9 THE COURT: Any questions Mr. Patrick?

10 MR. PATRICK: No, your Honor.

11 THE COURT: Thank you. Mr. Owens as to
12 Ms. Cohen.

13 MR. OWENS: Ms. Cohen, how are you?

14 PROSPECTIVE JUROR: Good. How are you.

15 MR. OWENS: Good. You've also got some
16 philosophical thoughts with the death penalty?

17 PROSPECTIVE JUROR: Right.

18 MR. OWENS: You don't think the death
19 penalty is something you can do?

20 PROSPECTIVE JUROR: Absolutely not.

21 MR. OWENS: Under any circumstances?

22 PROSPECTIVE JUROR: No.

23 MR. OWENS: Is this a moral belief or
24 religious belief?

25 PROSPECTIVE JUROR: Just a moral belief.

130

1 MR. OWENS: You can consider each of the
2 other types of punishment?

3 PROSPECTIVE JUROR: Right.

4 MR. OWENS: But there's no circumstance
5 which you would be able —

6 PROSPECTIVE JUROR: I would not be able to
7 change my mind on that.

8 MR. OWENS: I think you on here said you
9 would automatically vote against the death penalty
10 regardless of the situation.

11 PROSPECTIVE JUROR: Right.

12 MR. OWENS: There was no situation you
13 could do that.

14 PROSPECTIVE JUROR: Right.

15 MR. OWENS: Thank you. No further
16 questions, your Honor.

17 THE COURT: Mr. Schieck.

18 MR. SCHIECK: Did he pass for cause, your
19 Honor?

20 THE COURT: Pass or challenge?

21 MR. OWENS: I don't have any further
22 questions. I'll challenge.

23 THE COURT: Thank you.

24 MR. SCHIECK: No questions, your Honor.

25 THE COURT: Ms. Weckerly, as to Mr.

131

1 Kitchen.

2 MS. WECKERLY: How are you, sir?

3 PROSPECTIVE JUROR: Hello.

4 MS. WECKERLY: You work in law
5 enforcement?

6 PROSPECTIVE JUROR: Yes.

7 MS. WECKERLY: Probably most of your adult
8 life — you said 25 years?

9 PROSPECTIVE JUROR: Ever since two days
10 after my 21st birthday.

11 MS. WECKERLY: The fact that you have that
12 background, knowing this is a limited proceeding in this
13 case to determine punishment, do you think you can be fair
14 to both sides?

15 PROSPECTIVE JUROR: Yes. I don't believe
16 that practicing law enforcement people should sit on
17 juries, especially criminal. It's probably an appeal
18 waiting to happen if I reach that point.

19 MS. WECKERLY: Well, we ask those jurors
20 like everybody else, can you be fair to both sides in this
21 case.

22 PROSPECTIVE JUROR: I can fill a seat for
23 you, yes.

24 MS. WECKERLY: You indicated that you'd
25 considered the death penalty as a potential punishment?

132

1 PROSPECTIVE JUROR: Yes.
 2 MS. WECKERLY: I assume your mind is not
 3 made up. You want to hear all of the information before
 4 you make a decision about what's the appropriate
 5 punishment in the case?
 6 PROSPECTIVE JUROR: Yes.
 7 MS. WECKERLY: You can listen to the
 8 information that's presented by both sides and make that
 9 decision?
 10 PROSPECTIVE JUROR: Yes.
 11 MS. WECKERLY: You'll follow the judge's
 12 instructions?
 13 PROSPECTIVE JUROR: Yes.
 14 MS. WECKERLY: Thank you, sir. Pass for
 15 cause.
 16 THE COURT: Mr. Patrick.
 17 MR. PATRICK: Good afternoon, Mr. Wells
 18 (sic). You mentioned your aunt was killed by her husband?
 19 PROSPECTIVE JUROR: No.
 20 THE COURT: You've got the wrong one.
 21 MR. PATRICK: Mr. Kitchen?
 22 PROSPECTIVE JUROR: Right.
 23 THE COURT: How is your aunt today?
 24 PROSPECTIVE JUROR: I haven't checked.
 25 Hope she's okay.

133

1 MR. PATRICK: In your questionnaire you
 2 put down that we should be keeping up with Texas, correct?
 3 Is this the right questionnaire?
 4 PROSPECTIVE JUROR: That sounds familiar,
 5 yes.
 6 MR. PATRICK: What do you mean by that?
 7 PROSPECTIVE JUROR: Was that the death
 8 penalty portion of the question?
 9 MR. PATRICK: Yes, sir, it was.
 10 PROSPECTIVE JUROR: I believe in how the
 11 death penalty is used. I don't care for the delay
 12 process, the appeal process after the death penalty. It
 13 should be quicker.
 14 MR. PATRICK: Because you are in law
 15 enforcement, would you tend to give greater weight to
 16 testimony given by a law enforcement officer.
 17 PROSPECTIVE JUROR: Yes, definitely.
 18 MR. PATRICK: If two people were up here
 19 and told the same story but told it differently, and one
 20 was a police officer, you'd automatically believe him?
 21 PROSPECTIVE JUROR: Yes.
 22 MR. PATRICK: Would discount some or all
 23 of what the other person said because they are not a
 24 police officer?
 25 PROSPECTIVE JUROR: Quite possibly, yes.

134

1 MR. PATRICK: When asked what your general
 2 opinions with about the system, you say it was a good
 3 system, but imperfect because of the attorneys and the
 4 judges?
 5 PROSPECTIVE JUROR: Yes, sir.
 6 MR. PATRICK: What part of the system is
 7 good then?
 8 PROSPECTIVE JUROR: I believe it's a basic
 9 written system. You throw the human factor in, everyone
 10 has their own personal opinions and interpretations, and I
 11 think it's twisted.
 12 MR. PATRICK: Twisted more so the
 13 attorneys or the judges?
 14 PROSPECTIVE JUROR: Probably the
 15 attorneys.
 16 MR. PATRICK: More so either side?
 17 PROSPECTIVE JUROR: No.
 18 MR. PATRICK: Okay. Do you think you
 19 would be a fair juror to both sides in this case?
 20 PROSPECTIVE JUROR: Hopefully, yes.
 21 MR. PATRICK: Hopefully, yes. It took a
 22 long time to answer. Tell me your gut opinion. What was
 23 the first thing that came to mind?
 24 PROSPECTIVE JUROR: The same thing again.
 25 I'm a commissioned police officer. I have been most of my

135

1 adult life. It's my personal opinion I should not be a
 2 juror in this case or any other criminal case in this
 3 county or this state.
 4 MR. PATRICK: Thank you. I appreciate
 5 your honesty.
 6 PROSPECTIVE JUROR: You're welcome.
 7 MR. PATRICK: Your Honor, we challenge for
 8 cause.
 9 THE COURT: Thank you. Ms. Weckerly, as
 10 to Ms. Berry.
 11 MS. WECKERLY: Ma'am, you indicated on
 12 your questionnaire you don't believe in the death penalty.
 13 PROSPECTIVE JUROR: No.
 14 MS. WECKERLY: Would that be a religious
 15 belief?
 16 PROSPECTIVE JUROR: No. It's just don't
 17 want it on my conscience.
 18 MS. WECKERLY: Just a decision you don't
 19 want to be making?
 20 PROSPECTIVE JUROR: Yes.
 21 MS. WECKERLY: You wrote on your
 22 questionnaire, I don't want it on my conscience. Only the
 23 Lord has the right to say when.
 24 PROSPECTIVE JUROR: Well, I do believe
 25 that when something happens, someone does something, that

136

1 will come back to him in a different way. Not the same
2 way, come back to them. It's not for me to make that
3 decision when and where that's going to take place.

4 MS. WECKERLY: Because you have that
5 belief, I take it you could not consider the death penalty
6 ever as a potential punishment?

7 PROSPECTIVE JUROR: I don't know.

8 MS. WECKERLY: You wrote on your
9 questionnaire that basically you said, no death penalty,
10 try another punishment. To me that indicated that you are
11 not going to consider that as a potential punishment.

12 PROSPECTIVE JUROR: Well, I didn't mean it
13 like that. I meant, like I said, people get what they do
14 in life, so who am I to make that judgment.

15 MS. WECKERLY: Well, can you do that? Can
16 you serve as a juror in this case when you know the death
17 penalty is a potential punishment?

18 PROSPECTIVE JUROR: No.

19 MS. WECKERLY: On number 50, in your
20 questionnaire, you were asked would you consider all four
21 possible punishments. You said everything would, except
22 the death penalty.

23 PROSPECTIVE JUROR: Right.

24 MS. WECKERLY: You still feel the same?

25 PROSPECTIVE JUROR: I wouldn't want it on
137

1 circumstances of the case. Do you still feel that way?

2 PROSPECTIVE JUROR: Say that again. I'm
3 sorry.

4 MS. WECKERLY: On your questionnaire you
5 were asked are your beliefs about the death penalty such
6 that you would automatically vote against the death
7 penalty regardless of the facts and circumstances of the
8 case.

9 PROSPECTIVE JUROR: No.

10 MS. WECKERLY: You indicated on your
11 questionnaire --

12 PROSPECTIVE JUROR: I heard some things
13 the last three times that I didn't hear, so you get a
14 different perspective about things. Mostly because of the
15 things, like I said, I don't know, the unknown. And I
16 have never been involved in the court, anything like that.
17 Other than an automobile accident. So it's unknown.

18 MS. WECKERLY: What have you heard or
19 learned that would -- over the last few day or two -- that
20 cause you to change your opinion?

21 PROSPECTIVE JUROR: Well, I know that it
22 is my civil duty, which I knew that already. And I know
23 there possibly are probable cause for death -- well any of
24 the sentences -- all of them are health sentences, as far
25 as I'm concerned. I just don't want to -- I don't
139

1 my conscience.

2 MS. WECKERLY: So you wouldn't be able to
3 consider it?

4 PROSPECTIVE JUROR: I don't think I've
5 never experienced it. I don't know. Even though, like I
6 said, these few days sitting here, I hear things. You
7 know, it's a lot about the court system that I'm not
8 familiar with, because, you know, I try my best to get
9 away from any criminal, from the situation, period. So I
10 just don't associate myself with that.

11 But now it's here at hand, you know, it
12 has been brought to me. But, you know, personally I would
13 not like to be the one to make a judgment on somebody
14 else's life.

15 MS. WECKERLY: Well, I don't think anyone
16 wants to be that person. But the question we need you to
17 answer is do you think you can be the person that
18 considers all possible punishments including the death
19 penalty?

20 PROSPECTIVE JUROR: I can listen. But it's
21 a first experience, so I don't know. I honestly don't
22 know.

23 MS. WECKERLY: Okay. Another part of your
24 questionnaire you indicated that you would automatically
25 vote against the death penalty, about the facts and
138

1 particularly care for it on my conscience. But if it has
2 to be done, it can be done. I think. I never experienced
3 it. It's a new experience for me. All my adult life I
4 always just got away from courts or any of that, crime.

5 I'm not sure if I mentioned that I have had criminal
6 people in my family. But I don't know the ins and outs of
7 what happen and it's always through information through a
8 another family member like my sister. But I just steered
9 myself away from it. I wanted no involvement of it.

10 MS. WECKERLY: You kind of indicated some
11 of that in your questionnaire, that you didn't have a lot
12 of faith in the criminal justice system.

13 PROSPECTIVE JUROR: Well, I had an
14 incident that happened to me. And it didn't go as far as
15 I thought it should. But that is 25 years ago.

16 MS. WECKERLY: Explain just a little
17 bit.

18 PROSPECTIVE JUROR: I got robbed. And I
19 had a gun at my head. The only thing taken was like all
20 of my personal stuff was taken. I was body searched and
21 everything like that. And I reported it.

22 And it went through the procedures, whatever the
23 procedures were. And I went to set a court date. I went
24 and -- the policeman asked me to please follow through
25 with this, and this is why they get the people, they don't
140

1 show up to court.

2 I came to court. I got to court I went and signed
3 in. The defendant came in the door, saw that we did show
4 up, and they left. So I felt right there there was
5 nothing -- didn't go further than that. So I felt it
6 was -- I couldn't understand how the policeman told me --
7 it was a couple -- told me that they had a record as long
8 as your arm. I couldn't understand.

9 I know it was just me, but I couldn't understand if
10 they had such a long record how could they allow -- just
11 allow them to be on bail like that -- bailing out. You
12 know, I just have a problem understanding that.

13 MS. WECKERLY: And you are saying they
14 left the courtroom. Are you telling us they were never
15 caught again?

16 PROSPECTIVE JUROR: I don't know, because I
17 didn't hear anything else about it. I didn't get my
18 personal possessions back. Like I say, she -- it was some
19 of my identification. I was able to hopefully -- I didn't
20 have problems with it after that.

21 MS. WECKERLY: I mean, what you are
22 describing sounds like justice wasn't served because that
23 person or the couple that did this to you were never
24 punished.

25 PROSPECTIVE JUROR: I just feel like at

141

1 that time I don't know just steering myself away from it.
2 Just a lot of people in the --

3 MS. WECKERLY: So they got away?

4 PROSPECTIVE JUROR: Yes.

5 MS. WECKERLY: Did you think that they
6 were able to getaway with something because of something
7 that the police did or the prosecutors did. Or do you
8 think it was just -- sounds like they kind of absconded or
9 fled.

10 PROSPECTIVE JUROR: You know, I really
11 don't know what to think of it. All I can concentrate on
12 is that I was the victim, and, you know, I didn't take it
13 further, seek out -- see what happened. Once the
14 policeman told me that they had armed record -- record arm
15 length long, I figured they were doing this all a long.
16 Eventually it got to come to an end. But the system -- at
17 that time the system didn't -- didn't catch it.

18 MS. WECKERLY: Right.

19 PROSPECTIVE JUROR: Didn't do anything
20 about it.

21 MS. WECKERLY: It's sort of the opposite of
22 what you are saying earlier, if you do something bad
23 something bad comes back.

24 PROSPECTIVE JUROR: I believe, like I
25 said, it didn't happen at that time but it had to come

142

1 to -- you know had to come to an end. You can't keep

2 applying something -- applying throwing something up, and
3 up, and up and couldn't come down. Eventually. But I was
4 just saying who am I to say whether that's going to
5 happen. That's the only thing I'm saying.

6 MS. WECKERLY: What you're saying you are
7 not judging people. And this proceeding is unique in that
8 way because that's exactly what you are going to be doing.
9 We're not deciding guilt. He's guilty. So what the jury
10 will be doing in this case is judging and assessing which
11 punishment is appropriate, given that it's first degree
12 murder with use of a deadly weapon.

13 Are you someone who can make a judgment about those
14 four possible punishments?

15 PROSPECTIVE JUROR: I can make decisions,
16 but like I say I don't know if I can -- this particular
17 kind of decision, I don't -- I don't know if I can or not.

18 MS. WECKERLY: Well, I don't think anyone
19 here has been through this exact situation before so it's
20 hard to say. But we don't want to get into this and have
21 you say you know what, this is not what I can do.

22 PROSPECTIVE JUROR: Well, like I said the
23 judgment has really been made or the conviction. I think
24 I can. I would prefer not to.

25 MS. WECKERLY: Well, like a lot of fellow

143

1 jurors.

2 PROSPECTIVE JUROR: I think it will remain
3 on my conscience for awhile -- along time. Eventually
4 I'll work it out.

5 MS. WECKERLY: Well, that's not a decision
6 that you are comfortable with?

7 PROSPECTIVE JUROR: True. True.

8 MS. WECKERLY: If you thought it was
9 appropriate, could you mark that box?

10 PROSPECTIVE JUROR: I'm not sure. I'm
11 really not sure.

12 MS. WECKERLY: Thank you. We challenge
13 for cause.

14 THE COURT: Thank you. Mr. Patrick.

15 MR. PATRICK: No questions.

16 THE COURT: Let me ask you a question,
17 Ms. Berry. It really isn't what are you going to do when
18 you get in the jury room down the road. You haven't heard
19 anything yet. The question that is important today, as
20 you sit here, are you willing to consider all forms of
21 punishment?

22 PROSPECTIVE JUROR: Yes. I will do what
23 I'm supposed to do, your Honor.

24 THE COURT: Okay. If -- well, you'll
25 consider all forms of punishment and you'll listen to the

144

1 evidence. Then I'll give you legal instructions, and you
2 determine what you think is appropriate and reach your
3 conclusions on what you think is appropriate.

4 I need to know that going in you're open minded
5 enough to consider the possibility that any of those four
6 forms of punishment could be appropriate.

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: All right. Counsel approach,
9 please.

10 (Discussion held at the bench.)

11 THE COURT: Ladies and gentlemen,
12 Mr. Franks, Ms. Camosino, Mr. Rosenkrantz, Fuller,
13 Bogner, Vargas, Morella-Krupa, Mayorga, Herring, Moran,
14 Leavitt, Potter, Meza, Brooks, Lomasney, and Ms. Cruz, you
15 all are excused. Thank you very much for your patience
16 over several days it's taking us to get to this point.

17 Report back to jury services before you leave for the
18 day.

19 Everybody else, we'll take a recess for about fifteen
20 minutes for the attorney to go through the 32 people that
21 we have remaining. We'll get this whittled down to who
22 will hear our case and some of you will be excused as
23 well.

24 The rest of you, once we get to that point, we'll
25 take a recess and get something to eat. I know we have

145

1 been going late in the day before we've taken a lunch
2 recess. But nonetheless, I wanted to get you all out of
3 here.

4 JURY ADMONITION

5 During the recess, ladies and gentlemen,
6 you are admonished not to converse among yourselves or
7 with anyone else, including, without limitation, the
8 lawyers, parties and witnesses, on any subject connected
9 with this trial, or any other case referred to during it,
10 or read, watch, or listen to any report of or commentary
11 on the trial, or any person connected with this trial, or
12 any such other case by any medium of information
13 including, without limitation, newspapers, television,
14 internet or radio.

15 You are further admonished not to form or
16 express any opinion on any subject connected with this
17 trial until the case is finally submitted to you.

18 Thank you, very much.

19 (Brief recess taken.)

20 THE COURT: On the record, outside the
21 presence of the jury.

22 I'm going to deny the challenge for cause
23 as to Ms. Bundren (sic) Badge 088. I'll grant the
24 challenges for cause as to Ms. Larsen 091, Stio 092, Ms.
25 Cohen 093, Mr. Kitchen 096.

146

1 I'll deny the challenge for cause as to
2 Ms. Berry, 100.

3 So on your lists, after Mr. Parramore, the
4 next 5 passed for cause now would be, Brianne Gernot --
5 position 28 -- 085; Mr. Schechter 087; Ms. Bundren (sic)
6 088 -- 30; Ms. Staley 089 -- will be 31; Ms. Berry, badge
7 number 100 -- will be number 32.

8 (Brief recess taken.)

9 THE COURT: We will be back on the record
10 in C-131341, State of Nevada versus James Chappell.

11 The record will reflect the presence of
12 Mr. Chappell with his attorneys, the State's attorneys, in
13 the presence of our prospective jury pool.

14 Ladies and gentlemen, thank you all as
15 sincerely as I can for your patience and understanding
16 over the course of the last several days. I include, when
17 I say several days of having come in and filled out the
18 questionnaire. I wish there was a more efficient way and
19 we had a bigger courtroom so we could have accommodated
20 everybody all at once and have this run a little
21 smoother.

22 Nonetheless, we did the best that we
23 could. And the delays in getting this finished aren't
24 occasion by the attorneys. As I said I had calendar
25 issues in the morning and we needed to come in later. So

147

1 a lot of times it's such that sometimes you're trying to
2 work for the good of the many, which is most of you are
3 going to be leaving now, rather than the good of a few,
4 and that's why we didn't take our normal lunch break
5 today.

6 But the good news is I'm going to -- we
7 finish with the process. We have the 14 names that are
8 going to serve as our jurors. And rather than get you
9 sworn in and have me read all the instructions and remarks
10 and try to get through opening statements today, we just
11 going to get to my opening remarks, then release you for
12 the day. Rather than trying to do a late lunch hour. So
13 you get to go home early today and we'll come back
14 tomorrow morning at 10:00 o'clock to get started.

15 But what I'm going to do is read the 14
16 names of the folks that are going to stay with us and
17 serve as jurors. If I read your name, just -- once
18 everybody gets up to leave -- stay seated if I've read
19 your name. Everybody else, I thank you very much again.
20 You can report back to jury services.

21 The folks that are going to stay with us
22 are Badge number 007, Ms. Johnson; 009, Mr. Jerry Taylor;
23 020, Larry Henck; 022, George Smith; 026, Cheryl Cardillo;
24 036, Davy Noahr; 039, Christine Bundren; 050, Angelo
25 Morin; 058, Blayne White; 063, Darlene Washington; 073,

148

1 Duane Feuerhammer; 074, David Forbes; 078, Brannon Scott;
2 and 089, Laura Staley. The 14 of you will stay seated for
3 right now. Everybody else, I thank you again. You can
4 report back to jury services before you leave for the
5 day.

6 Ladies and gentlemen now that I've got
7 you comfortable and seated, I need for you to stand and
8 raise your right hand and be sworn in.

9 THE CLERK: You and each of you do
10 solemnly swear you will well and truly try the case at
11 issue and a true verdict render according to the evidence,
12 so help you God.

13 PROSPECTIVE JUROR: (Choir of I do.)

14 THE CLERK: Be seated.

15 THE COURT: As I said a little bit ago,
16 I'm going to read a bit of information to you now before
17 we release you for the evening. It will kind of serve as
18 an introduction to the trial with some very preliminary,
19 basic instructions on certain aspects of the law, as well
20 as a guideline as to how things will occur.

21 It is not a substitute for the
22 instructions I'll give you at the close of the case, after
23 you've heard all of the evidence.

24 This is a criminal proceeding commenced by
25 the State of Nevada, which I may sometimes refer to as the

149

1 State, against James Chappell, who I may sometimes refer
2 to as the Defendant.

3 The proceeding is based upon
4 Mr. Chappell's conviction of three charges, which are
5 contained in what's called a charging document, which is
6 an information. The information is not the evidence of
7 the charges, it just lists the charges.

8 I'll have Carol now read to you what the
9 charges were that Mr. Chappell was previously convicted
10 of.

11 THE CLERK: That James Montel Chappell,
12 the Defendant, having committed the crimes of burglary,
13 robbery with use of a deadly weapon, and murder, open,
14 with use of a deadly weapon, on or about the 31st day of
15 August 1995, at, and within the County of Clark, State of
16 Nevada contrary to the form, force, and effect of the
17 statutes in such cases made and provided and against the
18 peace and dignity of the State of Nevada.

19 Count (1), burglary, did then and there
20 willfully, unlawfully and feloniously enter with intent to
21 commit larceny; and/or assault; and/or battery; and/or
22 robbery; and/or murder, that certain building located at
23 839 North Lamb Boulevard, Las Vegas, Clark County Nevada,
24 Space No. 125, thereof occupied by Debra Panos.

25 Count (2), robbery with use of a deadly

150

1 weapon; did then and there willfully, unlawfully, and
2 feloniously take personal property, to wit, social
3 security cards and/or keys; and/or a motor vehicle from
4 the person of Debra Panos, or in her presence by means of
5 force or violence, or fear of injury to and without
6 consent and against the will of Debra Panos; said
7 Defendant using a deadly weapon, to wit, a knife, during
8 the commission of said crime.

9 Count (3), murder, open, with use of a
10 deadly weapon, did then and there, without authority of
11 law and with malice of forethought willfully and
12 feloniously kill Debra Panos, a human being, by stabbing
13 at and into the body of the said Debra Panos, with a
14 deadly weapon, to wit, a knife during the commission of
15 said crime.

16 Defendant committing said act with
17 premeditation and deliberation; and/or committing said act
18 during the perpetration of a burglary and/or a robbery.

19 THE COURT: All right, ladies and
20 gentlemen. As I explain to you when we were doing the
21 selection process we also talked about the principles of
22 law defined in a criminal proceeding, one is the State has
23 the burden of proof in a criminal proceeding.

24 The State is going to have a burden of
25 proving certain things in this case. And the attorneys

151

1 kind of talked to you about it, in regards to aggravating
2 circumstances before the death penalty can be a
3 consideration of you all when you go to deliberate.

4 The purpose of the trial -- or the
5 proceeding, rather, is to present evidence to you upon
6 which you can base a sentencing verdict. And the State
7 will have to meet the burden beyond a reasonable doubt as
8 to certain things, and will instruct about all of these
9 things at the each of the case as well.

10 It will be your primary responsibility, as
11 jurors, to find and determine what the facts are. You are
12 the sole judge of the facts that will be brought out
13 during the course of this proceeding. You'll determine
14 the facts from the testimony you hear and the other
15 evidence which will be brought before you, which include
16 exhibits introduced in this proceeding, as well as
17 possibly exhibits that were introduced in Mr. Chappell's
18 underlying trial. It will be your job to determine the
19 inferences which you feel may be drawn from those facts as
20 well.

21 During the course of this proceeding you
22 will also hear, in a somewhat different fashion than at a
23 trial, hearsay testimony that may come in in the form of
24 witnesses testifying about other things that other people
25 have said, as well as the reading of transcripts of people

152

1 that testified in the trial down below. In a criminal
2 proceeding such as this, a sentencing hearing, hearsay is
3 admissible evidence unlike it would be in a normal trial
4 setting. So that will be a little different.

5 At times during the proceeding I may
6 sustained objections or direct that you disregard certain
7 testimony or exhibits. You must not consider any evidence
8 to which an objection has been sustain or which I
9 instructed you to disregard. Anything you may have seen
10 or heard outside the courtroom is not evidence and must
11 also be disregarded.

12 You also must not be influenced in any
13 degree by any personal feelings of sympathy for or
14 prejudice against either the State or Defendant. Both
15 sides are entitled to the same fair and impartial
16 consideration.

17 In terms of witness testimony, in
18 considering the weight and value of such testimony, you
19 may take into consideration the appearance, attitude, and
20 behavior of the witness; the interest of the witness in
21 the outcome of the case, if any; the relation of the
22 witness to the Defendant or the State; the inclination of
23 the witness to speak truthfully or not, and the
24 probability or improbability of the witness's statements,
25 as well as all the other facts and circumstances in

153

1 evidence.

2 Thus, you may give the testimony of any
3 witness just such weight and value as you believe the
4 testimony of that witness entitled to receive.

5 There are two kinds of evidence, direct
6 and circumstantial evidence. Direct evidence is testimony
7 by a witness about what that witness personally saw or
8 heard or did. Circumstantial evidence is testimony or
9 exhibits which are proof of a particular fact from which
10 another fact may be proven. You can infer the existence
11 of that second fact, essentially.

12 You may consider both direct and
13 circumstantial evidence in deciding your sentencing
14 decision here. The law permits you to give equal weight
15 to both direct and circumstantial evidence. But it is for
16 you to decide how much weight to give any evidence.

17 As I mentioned during the selection
18 process, they'll be opening statements by attorneys as
19 well as closing arguments by the attorneys. The opening
20 statements and the closing arguments are intended to help
21 you in understanding the evidence and apply the law, but
22 they are not in and of themselves evidence. They are the
23 contentions of the parties as to what will be proven or
24 what has been proven, depending on whether we are talking
25 by opening statements or closing arguments.

154

1 Until the case is submitted to you you
2 must not discuss it with anyone, even with your fellow
3 jurors. After it is submit to you you must discuss it
4 only in the jury room with your fellow jurors. It is
5 important that you keep an open mind and not decide any
6 issue in the case until the entire case has been submitted
7 to you under the legal instructions from myself.

8 If during the course of the proceeding you
9 cannot hear a witness, please, raise your hand. And if
10 you need to use the restroom, or if you feel ill, raise
11 your hand as an indication.

12 I think I indicated yesterday that we'll
13 tend to take a break about every 90 minutes or so, for the
14 most part. You can count on that, give or take a few
15 minutes. You can bring drinks into the courtroom, bring a
16 cup of coffee in the morning, if you've got a Styrofoam
17 cup or something of that sort.

18 I may during the trial take notes of the
19 witnesses' testimony. Please don't make any inference
20 from that action. I have to be prepared for arguments of
21 the attorneys and the instructions given at the end of the
22 case, as well. So there are at lot of times where I'll be
23 taking notes. Sometimes I take them on a note pad.
24 Sometimes I type on the computer. I'll also tell you,
25 since the computer is here, a lot of times I'll send

155

1 e-mails to my secretary. That's the best way for me to
2 figure out what's on calendar the next day in the morning,
3 afternoon, and so forth. So I can kind of get a good idea
4 what time to bring you all back in the morning or
5 afternoon and so forth.

6 You will not have a transcript to consult
7 at the close of the case. But you will be given note pads
8 tomorrow and you'll be allow to take notes during the
9 course of the proceeding in your note pad. I would
10 caution you not to let overly copious note taking
11 interfere with your ability to watch and listen and
12 observe people as they're testifying. I will also tell
13 you that you will be given the opportunity to ask written
14 questions of any of the witnesses that are called to
15 testify in the case.

16 You are not encouraged to ask a large
17 number of questions, because that is the primary
18 responsibility of the attorneys. Only a limit number of
19 questions may be posed by jurors. And you will not be
20 allowed to become the quote, unquote third attorney or
21 advocate a certain position by your questions.

22 I have the discretion to preclude
23 individuals from an excessive number of questions.

24 Questions may be asked after both lawyers
25 have finished questioning a witness and only at that time.

156

1 For instance, Mr. Owens and Ms. Weckerly may call a
2 witness to the stand. They'll conduct a direct
3 examination of the witness. The defense attorney, Mr.
4 Schieck and Mr. Patrick may cross-examine that witness.
5 Sometimes it goes back, redirect examination and
6 recross-examination.

7 Once that process is finished, before I
8 tell a witness you're excused, thank you, I'll look over
9 to the jury to see if there's an indication anybody has
10 their hand in the air about wanting to ask questions.
11 Should you desire to ask a question, write it down in your
12 note pad with your juror number. We'll designate Ms.
13 Johnson is number one, all the way to Ms. Staley's number
14 14.

15 So when you write it in your sheet, write
16 down number one -- write juror number one and what your
17 question is. Raise your hand and I'll know you have a
18 question. The bailiff will pick up your question. Show
19 it to me. I'll consult with the attorneys. If it's a
20 legally proper question, I will ask it of the witness. It
21 has to be a legally factual question and it has to be
22 factual in nature.

23 It can't be direct towards me. It can't
24 be direct towards the attorneys. It has to be directed
25 towards the witness and designed to clarify information

157

1 attorneys may cross-examine the defense witnesses, as
2 well.

3 After all the evidence has been presented,
4 I will then instruct you on the law that applies to this
5 particular criminal proceeding. After the instructions on
6 the law have been read to you, each side will have the
7 opportunity to present oral arguments. What is said in
8 closing arguments is not evidence. The arguments are
9 designed to summarize and interpret the evidence and the
10 law. Since the State as the burden of proving the
11 essential elements, which we'll go through in those legal
12 instructions, the State will have the right to open and
13 close the arguments. That means the State will make a
14 closing argument. The defense will make a closing
15 argument in response to the State. Then the State will
16 make a rebuttal closing argument.

17 After all the arguments are completed, you
18 will retire to deliberate on your sentence. Let me remind
19 you that until the case is submitted to you, do not talk
20 to each other about the case or about anyone who has
21 anything to do with the case until the end of the case
22 when you go to the jury room to decide on your verdict.

23 Do not talk with anyone else about the
24 case or about anyone who has anything to do with the case
25 until the trial has ended and you have been discharged as

159

1 already presented.

2 Only questions permissible under the rules
3 of evidence will be asked, and you cannot draw any
4 inferences or conclusions if a question you submitted is
5 not asked of a witness. As I said, if you determine the
6 question is legally proper I'll go ahead and ask it of the
7 witness. Then the attorney will be allowed to ask
8 follow-up questions, as necessary.

9 The trial will proceed in the following
10 manner. The deputy district attorneys will make an
11 opening statement, which, as I said is an outline to help
12 you understand what they intend to put forth during the
13 course of this proceeding, the evidence which they intend
14 to put forth and prove to you.

15 Next the defense attorneys may, but do not
16 have to, make an opening statement. Opening statements, as
17 I said, serve as an introduction to the evidence which the
18 parties making the statement intends to put forth or
19 prove.

20 The State will then present its evidence.
21 Call its case in chief. Counsel for defense may
22 cross-examine the State's witnesses. Following the
23 State's case in chief the defense may present evidence,
24 but is not obligated to do so. That will be the defense
25 case in chief. And during that the deputy district

158

1 jurors.

2 Anyone else includes members of your
3 family, and your friends. You may tell them that you are
4 a juror in a criminal proceeding, but please do not tell
5 them anything else about it until have you been discharged
6 from your jury service by myself.

7 Don't let anyone talk to you about the
8 case or about anyone who has anything to do with it. If
9 someone should try to talk to you, report that to me
10 immediately by telling Leslie, my bailiff.

11 Don't read any news stories or articles,
12 or listen to any radio or television reports about the
13 case, or about anyone who has anything to do with it.
14 Maybe most importantly of all, do not visit the scene of
15 any of the events mentioned during the course of this
16 proceeding, or undertake any investigation or research on
17 your own. Everything you need to know to decide the case
18 you will learn from the testimony of the witnesses, the
19 exhibits introduced into court, the legal instructions,
20 and the arguments of the attorneys. Do not go to the
21 library, or go on the internet, or go searching for
22 anything, or look up legal terms. Anything about it,
23 okay. I can't emphasize that enough to you.

24 All right. That's all I have for you for
25 this evening. I'll release you and we'll get started

160

1 tomorrow morning at 10:00 o'clock. Leslie will change out
2 your badges as you walk out tonight. You can get rid of
3 those little paper badges for plastic badges.

4 When you come back to court, please make
5 sure you're wearing that in the court house so everybody
6 knows you are a juror in a trial and they'll avoid you.

7 And then just come on up here and have a
8 seat outside the courtroom and we'll get started as close
9 to 10:00 as we can.

10 Thank you all very much.

11 (Jury is dismissed.)

12 THE COURT: Outside the presence of the
13 jury. Anything outside the presence?

14 MR. PATRICK: No, your Honor.

15 MS. WECKERLY: No, your Honor.

16 MR. OWENS: Your Honor we do have one
17 thing. We have a couple of family members coming in
18 early. The mother and the aunt. They wanted to be able
19 to be present in the courtroom during the proceeding. I
20 wanted to advise the court of that.

21 THE COURT: Are they going to be witnesses?

22 MR. OWENS: Yeah, probably at some
23 point.

24 THE COURT: I don't have a problem.
25 Mr. Schieck?

161

1 MR. SCHIECK: As long as there is no
2 outward displays of emotion and things that could be
3 prejudicial, your Honor.

4 I acknowledge that the Supreme Court said the
5 exclusionary rule does not apply to penalty hearings.

6 THE COURT: I'll ask the State to talk to
7 them. And if you feel it's necessary, let me know, and
8 I'll admonish them as well.

9 MR. OWENS: They'll be fine.

10 MR. SCHIECK: I would assume the same for
11 our family members?

12 THE COURT: I have no problem either way.
13 Just everybody talk to their witnesses about that.

14 All right.

15 MR. PATRICK: One last thing. If we were
16 to hear witnesses on Friday, what time would you start?

17 THE COURT: Generally we can start at 8:30
18 Friday morning if we need to. I don't -- I specifically
19 don't set anything on calendar on Friday so that if we're
20 in trial we can get a day in.

21 You all have jury instructions?

22 MS. WECKERLY: We can have them
23 tomorrow.

24 THE COURT: I don't expect you all to have
25 gotten together and decided on them. But if you have a

162

1 packet you can give me that I can start looking at.

2 MS. WECKERLY: Okay.

3 THE COURT: Thank you.

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163

1 CERTIFICATE
2 OF
3 CERTIFIED COURT REPORTER

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8 I, the undersigned certified court reporter in and for the
9 State of Nevada, do hereby certify:

10

11 That the foregoing proceedings were taken before me at the
12 time and place therein set forth; that the testimony and
13 all objections made at the time of the proceedings were
14 recorded stenographically by me and were thereafter
15 transcribed under my direction; that the foregoing is a
16 true record of the testimony and of all objections made at
17 the time of the proceedings.

18

19

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22

23

24

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Sharon Howard
Sharon Howard
C.C.R. #745

164

< Dates >
 August 1995
 150:15.
 August 31st
 5:21.
 MARCH 13, 2007
 1:29, 3:1.
 September 18,
 2006 94:20.
 #745 164:27.
 '95 25:10,
 '96 25:10,
 83:17.
 (1) 150:19.
 (2) 150:25.
 (3) 151:9.
 .
 < 0 >.
 007 148:22.
 009 148:22.
 0111 12:14.
 020 148:23.
 022 148:23.
 026 148:23.
 036 148:24.
 039 148:24.
 050 148:24.
 050104 13:1.
 050126 13:11.
 050130 13:18.
 058 148:25.
 061 89:25.
 063 148:25.
 069 90:2.
 073 148:25.
 074 149:1.
 078 67:18,
 149:1.
 080 90:5.
 085 92:12,
 147:5.
 087 147:5.
 088 147:6.
 088. 146:23.
 089 147:6,
 149:2.
 091 146:24.
 092 146:24.
 093 146:25.

096. 146:25.
 < 1 >.
 100 82:8,
 147:2,
 147:7.
 10:00 148:14,
 161:1,
 161:9.
 10:30. 3:14.
 10th 94:4.
 11 53:11.
 12 37:22,
 52:14.
 125 150:24.
 12:45. 88:24.
 12th 94:4,
 100:18.
 13 37:22.
 14 10:11,
 148:7,
 148:15,
 149:2,
 157:14.
 15 3:16, 10:9,
 11:9.
 17 53:11.
 18 53:12,
 83:16,
 125:25.
 1800s 118:11.
 19 35:10.
 1967 117:18.
 1967. 118:8.
 1976 37:22.
 1994 21:1.
 1995 83:17.
 1995. 5:22.
 1996. 83:17.
 1:30. 91:3.
 < 2 >.
 20 34:14,
 81:14.
 21 65:18.
 21st 132:10.
 22 18:9.
 24 23:7.

25 54:19,
 132:8,
 140:15.
 27 90:7,
 28 83:18,
 147:5.
 < 3 >.
 3 1:3, 3:5.
 8. 3:19.
 80 54:19, 58:8,
 147:6.
 30. 83:18.
 3000 37:20.
 31 147:6.
 31st 150:14.
 32 90:9, 90:16,
 91:20,
 145:20,
 147:7.
 32. 91:2.
 35 117:17,
 118:4.
 38 90:14.
 < 4 >.
 40 6:9, 6:10,
 49:11, 83:19,
 54:7.
 42 26:12.
 < 5 >.
 5 147:4.
 50 127:20,
 137:19.
 < 6 >.
 6 26:12,
 53:8.
 < 7 >.
 7 26:12, 53:8,
 101:18.
 70s 54:16,
 83:23.

165

agree 15:19,
 32:20, 37:7,
 42:12, 52:5,
 52:7, 52:14,
 67:11, 68:25,
 74:12, 80:24,
 82:7, 103:14,
 121:18.
 ahead 75:20,
 158:6.
 air 157:10.
 Aives 6:22.
 Alan 9:18.
 alcohol 84:25,
 70:24,
 71:7.
 alcoholics
 71:11,
 71:17.
 Alen 7:8.
 allow 89:1,
 141:10,
 141:11,
 156:8.
 allowed 38:7,
 156:20,
 158:7.
 Almost 36:21.
 alone 20:11,
 53:16.
 already 4:20,
 18:9, 18:22,
 19:9, 49:13,
 90:15, 94:9,
 123:4, 125:6,
 129:23,
 139:22,
 158:1.
 alternatives
 19:17,
 31:3.
 Although
 79:24.
 among 89:9,
 146:6.
 amount 3:15,
 83:19.
 and/or 150:21,
 150:22,
 151:3.

151:17,
 151:18.
 Angelo
 148:24.
 angle 107:11.
 animals 92:20,
 92:21.
 animosity
 21:25.
 announce
 63:12.
 answer 4:7,
 4:10, 4:13,
 4:17, 8:14,
 8:21, 11:6,
 60:10, 68:7,
 76:11, 78:14,
 101:6, 101:7,
 122:3,
 122:18,
 122:19,
 126:13,
 135:22,
 138:17.
 answered 47:15,
 127:10.
 answering
 7:15.
 answers 10:20,
 10:24, 52:4,
 60:16.
 Anybody 10:3,
 11:9, 11:24,
 12:25, 13:9,
 14:9, 14:19,
 14:21, 15:10,
 15:20, 15:21,
 34:6, 48:1,
 68:5, 126:19,
 157:9.
 Anyway 38:7,
 39:14, 49:20,
 79:4, 79:11,
 113:5.
 apart 84:5.
 apologize 5:17,
 47:14,
 83:7.
 apparently
 32:18,

39:17.
 appeal 26:15,
 26:19, 27:14,
 27:15, 27:18,
 28:10, 37:24,
 37:25,
 132:17,
 134:12.
 appealing
 103:17.
 appeals 38:7,
 39:16, 39:21,
 101:15.
 appearance
 153:19.
 APPEARANCES
 2:1.
 appellate
 26:18.
 applaud 66:4.
 applause
 66:6.
 applied
 101:20.
 applies 15:4,
 159:4.
 apply 15:5,
 106:22,
 154:21,
 162:5.
 applying
 143:2.
 Appreciate
 7:14, 47:9,
 98:24,
 119:22,
 136:4.
 approach 72:7,
 145:8.
 appropriately
 104:19.
 appropriateness
 29:9.
 approximately
 8:10.
 Arave 7:11.
 area 6:16,
 7:13, 52:3,
 122:24.
 areas 47:17.

167

745 1:36.
 79 37:21.
 < 8 >.
 8 46:18.
 80s 54:16.
 839 6:14,
 150:23.
 85 72:20.
 8:30 162:17.
 .
 < 9 >.
 90 155:13.
 .
 < A >.
 ability 16:22,
 64:20,
 156:11.
 absconded
 142:8.
 Absolutely
 48:20, 50:2,
 57:19, 59:11,
 61:7, 81:2,
 125:14,
 130:20.
 abuse 36:9,
 36:10, 36:17,
 37:8, 52:22,
 58:1, 58:4,
 64:24, 70:24,
 71:7.
 abused 35:24.
 abusers
 35:13.
 abusing
 52:25.
 abusive 36:12,
 37:1.
 accept 15:7,
 93:15,
 114:2.
 acceptable
 68:1, 69:10,
 72:2, 72:5.
 accepted
 32:20.

accident 35:5,
 35:6,
 139:17.
 accidental
 35:21.
 accommodated
 147:19.
 accomplishes
 37:25.
 according
 149:11.
 account
 68:15.
 accountable
 123:3.
 accused
 12:10.
 acknowledge
 59:23,
 162:4.
 acquaintances
 110:5.
 acquainted
 11:14, 11:19,
 11:22.
 act 8:15,
 32:13, 32:16,
 40:6, 151:16,
 151:17.
 action
 155:20.
 actions
 108:19.
 Actually 7:4,
 25:3, 35:4,
 37:22, 72:15,
 75:24, 76:6,
 77:1, 81:23,
 91:12, 94:21,
 95:22.
 ad 48:12.
 add 70:14.
 Additionally
 4:14, 8:6.
 adhere 45:15.
 administer
 4:15.
 admissible
 153:3.
 admonish

162:8.
 admonished
 89:9, 89:18,
 146:6,
 146:15.
 AMMUNITION
 89:7,
 146:4.
 adult 46:22,
 132:7, 136:1,
 140:3.
 advertising
 94:12.
 advise
 161:20.
 advocate 31:14,
 156:21.
 affect 16:22,
 56:12, 59:15,
 80:17.
 affects
 118:7.
 affiliated
 68:22.
 African-america
 n 59:14,
 59:19.
 afternoon
 133:17,
 156:3,
 156:5.
 aggravated
 108:5.
 Aggravating
 108:7,
 108:10,
 152:1.
 ago 10:7,
 16:19, 16:20,
 20:25, 25:9,
 34:13, 34:15,
 36:15, 36:22,
 40:10, 43:20,
 54:10, 54:20,
 58:8, 63:24,
 63:25, 81:12,
 81:15, 85:19,
 101:18,
 140:15,
 149:15.

166

argument
 159:14,
 159:15,
 159:16.
 arguments
 154:19,
 154:20,
 154:25,
 155:20,
 159:7, 159:8,
 159:13,
 159:17,
 160:20.
 arm 141:8,
 142:14.
 armed 142:14.
 around 5:1,
 10:16, 18:20,
 19:1, 19:12,
 54:6, 58:25,
 83:17, 91:5,
 94:24.
 arrest 63:17,
 105:12.
 arrested 34:10,
 48:1, 63:18,
 77:4, 96:1,
 110:15.
 arrive 122:7.
 arrived
 10:10.
 Art 7:7.
 articles
 160:11.
 artist 94:22.
 Asian 59:19.
 asks 60:9,
 71:22.
 aspects
 149:19.
 assault
 150:21.
 assess 72:4.
 assessing
 143:10.
 assessment
 38:3.
 assigned
 101:4.
 assisting

7:23.
 associate
 36:10,
 138:10.
 assume 84:17,
 90:12,
 114:18,
 133:2,
 162:10.
 attention 5:4,
 5:6, 6:20,
 60:23, 73:3,
 86:4, 86:10,
 86:13, 86:18,
 124:10,
 125:3.
 attitude
 153:19.
 attorney 5:19,
 20:16, 54:23,
 85:7, 145:20,
 156:20,
 157:3,
 158:7.
 attorneys 3:9,
 3:24, 4:6,
 4:22, 10:8,
 10:11, 11:14,
 23:6, 88:25,
 92:6, 135:3,
 135:13,
 135:15,
 147:12,
 147:24,
 151:25,
 154:18,
 154:19,
 155:21,
 156:18,
 157:19,
 157:24,
 158:10,
 159:15,
 159:1,
 160:20.
 aunt 17:6,
 46:13,
 133:10,
 133:23,
 161:18.

authority
 151:10.
 automatic
 56:19.
 automatically
 19:25, 40:4,
 49:3, 56:16,
 57:1, 60:1,
 60:9, 82:19,
 87:15,
 112:25,
 114:25,
 115:2, 115:5,
 131:9,
 134:20,
 138:24,
 139:6.
 automobile
 139:17.
 available 6:7,
 33:4, 51:16,
 77:12, 103:8,
 125:16.
 avoid 48:5,
 161:6.
 aware 51:5.
 away 30:17,
 111:11,
 119:24,
 138:9, 140:4,
 140:9, 142:1,
 142:3.
 While 81:15,
 144:3.
 Avion 8:4.
 < B >.
 bachelors
 94:11.
 background
 96:9,
 132:12.
 bad 11:3, 42:4,
 74:1, 83:3,
 94:14, 99:3,
 111:2,
 142:22,
 142:23.
 Badge 12:13,

168

13:1, 89:25,
90:2, 90:5,
92:12,
146:23,
147:6,
148:22.
badges 161:2,
161:3.
bail 141:11.
bailiff 4:21,
157:18,
160:10.
bailing
141:11.
Ballerina
6:13.
bank 118:22,
118:23.
bargain 95:1,
96:4.
bargained
95:23.
bars 40:8.
base 10:13,
10:19, 28:4,
44:15,
152:6.
based 45:7,
48:6, 73:22,
105:4, 117:6,
150:3.
basic 135:8,
149:19.
Basically 38:6,
52:9, 60:15,
69:17,
100:17,
105:17,
137:9.
basis 24:18,
122:19.
basketball
5:1.
bat 104:14.
battery
150:21.
battle 71:3.
battling
71:1.
beat 46:12,
become 125:25,
156:20.
befriended
95:18.
befriending
94:24.
begin 90:16.
beginning
104:19.
behalf 11:16,
31:14,
31:15.
behavior
153:20.
behind 40:8,
87:5.
belief 32:12,
45:16, 74:21,
80:11,
129:17,
130:23,
130:24,
130:25,
136:15,
137:5.
beliefs 14:24,
39:22, 45:15,
129:10,
139:5.
believe 8:20,
11:13, 11:18,
11:21, 11:24,
15:5, 15:25,
28:8, 37:17,
37:20,
119:12,
119:14,
122:25,
132:15,
134:10,
134:20,
135:8,
136:12,
136:24,
142:24,
154:3.
believes
14:21.
belly 93:3.
below 153:1.

belt 86:16.
Ben 8:3.
bench.
145:10.
bend 112:23.
Berry 136:10,
144:17,
147:2,
147:6.
besides
121:17.
Best 88:19,
122:4, 138:8,
147:22,
156:1.
Bet 7:11,
73:14.
better 44:14,
46:23, 55:3,
83:4,
119:21.
beyond 15:18,
109:5, 109:7,
152:7.
big 53:14.
bigger
147:19.
bill 79:9.
birthday
132:10.
bit 3:24,
43:21, 83:15,
87:3, 112:12,
140:17,
149:15,
149:16.
bitterness
54:19.
blaming 59:1.
blank 122:15,
122:20,
123:5.
Blayne
148:25.
blessed
72:18.
body 140:20,
151:13.
Bogner 9:4,
145:13.

169

caution
156:10.
caveat 116:2.
Center 25:1.
certain 3:15,
4:23, 15:17,
28:4, 38:13,
40:18, 56:12,
68:22, 69:9,
84:4, 106:14,
109:7,
114:12,
149:19,
150:22,
151:25,
152:8, 153:6,
156:21.
Certainly 68:4,
68:6, 78:8,
84:21,
112:13.
CERTIFICATE
164:1.
CERTIFIED
164:3,
164:8.
certify
164:9.
cetera 83:11.
Challenge
22:10, 22:21,
47:10, 75:2,
115:23,
128:18,
130:8,
131:20,
131:22,
136:7,
144:12,
146:22,
147:1.
challenged
90:15.
challenges
89:23, 90:6,
91:9,
146:24.
chance 23:16,
26:14, 27:14,
57:13, 67:6,
86:16, 96:23,
101:17,
115:19.
chances
83:21.
change 26:10,
32:3, 58:5,
80:8, 115:20,
131:7,
139:20,
161:1.
changed 22:18,
26:24, 32:9,
32:10, 45:17,
67:9, 80:4.
Chappell 1:19,
3:7, 3:9,
6:4, 7:24,
8:4, 11:16,
11:19, 59:9,
59:12, 59:14,
59:18, 86:7,
92:4, 92:5,
104:20,
121:17,
147:10,
147:12,
150:1, 150:4,
150:9,
150:11,
152:17.
Chappell-king
8:4.
characters
109:10.
charge 14:3.
charged 63:18,
95:23.
charges 5:23,
6:1, 104:20,
150:4, 150:7,
150:9.
charging
150:5.
Charles 8:3,
9:22.
chat 5:1.
cheating
88:9.
check 95:4,

95:8,
109:1.
checked 60:2,
133:24.
checks 110:3.
Cheryl
148:23.
Chicago
12:23.
chief 158:21,
158:23,
158:25.
child 52:22.
children 37:8,
92:18.
choice 59:12,
101:3.
choices 62:25,
93:14.
Choir 8:17,
149:13.
choked 35:6.
choose 46:5,
101:8,
101:12,
120:19.
choosing
123:16.
chosen 87:3,
104:13.
Chris 2:2,
5:18.
Christine
148:24.
church 69:4.
circumstance
45:5, 103:24,
108:5,
108:11,
131:4.
circumstances
107:1.
Circumstantial
154:6, 154:8,
154:13,
154:15.
citizen 95:5.
citizens
11:11.
City 23:5.

171

Bonanza 6:15.
booked 96:1.
bother 39:5,
39:9.
bothered 39:7,
60:7.
bothering
39:17.
bothers 39:1.
bought 78:24,
79:3,
110:20.
Boulevard
150:23.
box 84:17,
109:2,
144:9.
break 89:5,
91:2, 91:6,
91:7, 91:10,
91:17, 91:20,
148:4,
155:13.
brethren
3:16.
Brianna
147:4.
Brief 92:2,
146:19,
147:8.
Bring 3:17,
5:4, 89:3,
155:15,
156:4.
Brinson
149:1.
broken 75:15.
Brooks 8:5,
9:22,
145:14.
Brother 13:3,
54:16, 55:6,
58:17, 58:18,
58:19.
brother/sister
94:23.
brought 138:12,
152:12,
152:15.
brutal 97:18,
106:12.
bubble 30:19.
building
150:22.
bumped 75:11.
bunch 89:1.
Burdens 109:21,
114:24,
116:1,
146:23,
147:5,
148:24.
burden 15:16,
15:22,
151:23,
151:24,
152:7,
159:10.
Burfield
6:24.
burglary 5:24,
150:12,
150:19,
151:18.
business
124:13,
126:6,
128:2.
busy 86:4.
< C >
C-131341 1:2,
3:6, 92:4,
147:10.
Cal 7:9.
calendar
147:24,
156:2,
162:19.
California
14:7.
call 6:19, 8:1,
8:19, 37:10,
96:4, 111:18,
157:1,
158:21.
called 4:1,
10:4, 43:21,
50:19, 51:25,

79:24, 150:5,
156:14.
camps 58:25.
cancer
119:13.
cardid 128:8,
128:11.
cardor 7:15,
47:10.
capable
127:12.
car 30:14,
75:14, 87:5,
87:20, 87:23,
120:2,
120:3.
Cardillo
148:23.
cards 151:3.
care 30:15,
59:19,
134:11,
140:1.
Carmosino 8:23,
145:12.
Carol 4:14,
4:15, 6:25,
8:10,
150:8.
cas 10:13.
cases 42:13,
100:16,
101:19,
102:6, 102:8,
150:17.
casting
127:23.
catch 142:17.
catching
111:17.
Catholic
68:23.
caught 57:11,
105:23,
111:14,
141:15.
caused 32:3,
80:8,
80:11.
causes 66:5.

170

civic 72:23.
civil 78:22,
139:22.
claimed
79:10.
claims 76:7,
79:11,
79:19.
Claire 6:23.
clarify
157:25.
Clark 1:8, 2:4,
7:22, 7:23,
150:15,
150:23.
class 43:22,
100:18.
classes 64:10,
94:5,
100:15.
clearly
56:15.
CLERK 4:15,
4:18, 8:13,
8:18, 8:23,
8:25, 9:2,
9:4, 9:6,
9:8, 9:10,
9:12, 9:14,
9:16, 9:18,
9:20, 9:22,
9:24, 10:1,
149:9,
149:14,
150:11.
close 12:9,
16:9, 16:17,
17:10, 34:16,
46:15, 47:25,
54:3, 65:9,
106:1, 106:2,
106:3,
110:14,
111:5,
127:15,
127:18,
149:22,
156:7,
159:13,
161:8.

closed
128:13.
closing 154:19,
154:20,
154:25,
159:8,
159:14,
159:16.
clues 75:24.
clutter
127:18.
coffee
155:16.
Cohen 130:12,
130:13,
146:25.
coincidence
44:5.
college 43:23,
93:25,
100:11.
color 59:10.
comes 18:20,
19:12, 30:16,
51:25, 52:11,
118:20,
142:23.
comfortable
61:22, 61:23,
63:15, 68:5,
144:6,
149:7.
coming 103:9,
105:9,
161:17.
commenced
149:24.
comment 46:10,
59:16, 85:24,
118:23.
commentary
89:13,
146:10.
commission
151:8,
151:14.
commissioned
135:25.
commit 38:25,
39:13, 83:5,

113:25,
150:21.
commit
32:13.
Committed
83:16, 83:17,
113:17,
118:12,
150:12.
committing
151:16,
151:17.
communicate
5:5.
communications
94:6,
94:10.
community
43:23, 93:25,
118:10,
118:11,
118:17,
119:7, 119:9,
119:23.
company
12:20.
complete
10:23.
completed
24:13,
159:17.
Campton 7:11.
computer
155:24,
155:25.
con 94:22.
conceive 84:9,
126:23.
concentrate
57:10,
142:11.
concept 107:20,
108:15,
123:15.
concern
61:16.
concerned 57:8,
139:25.
concerning

172

44:11.
conclusions
145:3,
158:4.
conduct 70:10,
157:2.
confer 91:17.
confronted
62:24, 67:3,
100:5.
connected
89:11, 89:14,
89:19, 146:8,
146:11,
146:16.
conscience
38:18, 38:20,
39:1, 39:4,
39:13,
136:17,
136:22,
138:1, 140:1,
144:3.
consciences
39:17.
conscientious
37:17.
consciously
60:16.
consent
151:6.
consequences
30:18, 32:14,
80:21, 99:4,
105:24.
consideration
40:14, 78:13,
106:17,
152:3,
153:16,
153:19.
considered
40:20,
101:22,
132:25.
considering
33:3, 49:9,
153:18.
considers
102:1,
138:18.
constantly
35:25.
consult 156:6,
157:19.
contact 17:3,
23:9, 81:8.
contained
150:5.
contaminate
11:2.
contentions
154:23.
context 70:13,
110:1.
continue
92:8.
contradicted
20:11.
contrary
150:16.
contribution
29:20.
control
120:5.
controlled
13:21, 54:4,
65:4.
converse 4:23,
89:9,
146:6.
convict
37:23.
convicted 5:23,
6:1, 11:9,
14:2, 26:14,
27:13, 41:19,
55:16, 59:5,
94:25,
104:20,
129:21,
150:9.
conviction
96:14,
107:25,
143:23,
150:4.
convicts
109:11.
cope 97:1.

173

deciding 99:24,
143:9,
154:13.
decisions 24:5,
93:12,
125:24,
126:1,
143:15.
defend 53:20.
Defendant 1:21,
2:4, 5:23,
6:3, 7:24,
31:15, 57:17,
72:21, 96:23,
141:3, 150:2,
150:12,
151:7,
151:16,
153:14,
153:22.
defended
59:9.
defender 7:21,
54:17, 58:21,
58:23, 59:2,
59:9.
defense 56:3,
157:3,
158:15,
158:21,
158:23,
158:24,
159:1,
159:14.
define
108:12.
defined
151:22.
definite
64:24.
definitely
37:7, 40:17,
56:12, 97:10,
128:13,
134:17.
degree 5:25,
33:2, 41:20,
42:10, 42:13,
43:2, 48:15,
51:13, 84:5,
94:6, 94:10,
102:7,
107:20,
107:24,
108:8,
108:19,
113:25,
123:8,
143:11,
153:13.
degrees
72:20.
delay 134:11.
delays
147:23.
deliberate
29:8, 44:8,
152:3,
159:18.
deliberating
48:18,
121:5.
deliberation
151:17.
Dena 6:25.
Dennis 8:4.
deny 146:22,
147:1.
Department 3:5,
3:19.
depending
154:24.
Dept. 1:3.
depth 102:10.
Deputy 158:10,
158:25.
Dersdorff
7:7.
described
48:12.
describing
141:22.
deserve 40:18,
42:14,
55:9.
deserved 26:14,
102:6.
deserving
84:10,
106:15.

designate
157:12.
designed
157:25,
158:9.
desire 10:10,
10:11,
157:11.
details
94:18.
determine 40:5,
132:13,
145:2,
152:11,
152:13,
152:18,
158:5.
determining
48:15.
develop 69:7.
developed
67:10.
devote 86:12.
died 119:13.
Differ 14:23,
44:10.
difference
52:4, 59:18,
59:20, 59:21,
86:24, 87:6,
87:8.
different
20:12, 28:21,
28:22, 32:8,
32:10, 35:16,
37:9, 37:15,
65:5, 66:3,
71:18, 81:24,
86:25, 103:8,
106:10,
116:17,
116:19,
116:22,
123:8, 126:5,
126:20,
128:25,
137:1,
139:14,
152:22,
153:4.

175

courses
100:12.
courtroom
141:14,
147:19,
153:10,
155:15,
161:8,
161:19.
courts 24:1,
140:4.
Craig 9:2.
create 23:14,
96:22.
credence
14:11.
crime 12:10,
12:17, 20:20,
21:2, 28:4,
39:13, 55:8,
56:11, 63:19,
66:17, 66:18,
80:8, 80:14,
80:17, 83:3,
83:5, 83:21,
84:1, 87:1,
87:8, 106:12,
111:5,
123:13,
140:4, 151:8,
151:15.
crimes 38:25,
56:11, 56:12,
84:5, 97:18,
100:17,
150:12.
Criminal 3:21,
15:14, 20:7,
32:13, 32:16,
34:4, 43:25,
47:18, 54:13,
73:17, 74:6,
79:21, 81:24,
94:6, 109:24,
132:17,
136:2, 138:9,
140:5,
140:12,
149:24,
151:22,
151:23,
153:1, 159:5,
160:4.
criminally
78:21.
criteria
97:21.
cross-examine
157:4,
158:22,
159:1.
Cruz 10:1,
13:19,
145:14.
cup 155:16,
155:17.
custody 24:7.
cynical
126:1.
< D >
DA 11:15, 96:3,
110:3.
dad 52:23.
daily 125:24.
Dan 8:7.
dangerous
64:15.
Daniel 7:7.
dark 13:10.
Darlene
148:25.
Darcen 7:7.
date 140:23.
DATED 1:29.
David 2:5,
7:20, 9:10,
149:1.
Davy 148:24.
day 22:15,
54:18, 59:6,
60:13, 69:23,
70:3, 96:2,
139:19,
145:18,
146:1,
148:12,
149:5,
150:14.

174

differently
134:19.
difficult
25:24, 61:25,
62:11, 62:12,
62:13, 62:16,
125:6.
dignity
190:18.
din't 139:13.
Direct 153:6,
154:5, 154:6,
154:12,
154:15,
157:2,
157:23,
157:24.
directed
157:24.
direction
164:15.
directions
125:6.
directly
90:11.
disagree 15:8,
15:20, 15:21,
68:22.
discharged
159:25,
160:5.
discount
134:22.
discretion
156:22.
discuss 155:2,
155:3.
Discussion
145:10.
disease 71:3.
disfavor
110:8.
dismissed.
161:11.
disorderly
70:10.
displays
162:2.
disregard
82:19, 153:6,
153:9.
disregarded
153:11.
distance
119:24.
District 1:7,
1:27, 3:19,
5:19, 158:10,
158:25.
do. 149:13.
document
150:5.
dog 92:19,
92:22,
92:23.
doing 16:10,
16:14, 23:7,
34:1, 35:7,
35:8, 38:4,
39:16, 44:24,
77:25, 86:9,
100:16,
100:20,
103:2,
123:15,
124:20,
124:22,
127:12,
142:15,
143:8,
143:10,
151:20.
dollars
95:12.
domestic 17:3,
35:11, 35:21,
36:5, 36:14,
58:4.
done 21:22,
32:14, 35:6,
37:9, 43:17,
43:20, 44:10,
44:18, 48:4,
55:15, 86:21,
100:6,
123:21,
124:13,
140:2.
Donna 9:8,
12:12.

door 141:3.
doorstep
79:8.
doubt 15:19,
61:8, 108:6,
152:7.
Douglas 1:26,
3:18.
Down 6:15,
17:19, 57:12,
62:24, 85:25,
86:9, 87:1,
88:2, 90:20,
120:3, 125:5,
134:2, 143:3,
144:18,
145:21,
153:1,
157:11,
157:16.
downstairs
3:17.
downtown
6:18.
dragged 87:5.
drank 71:4.
draw 158:3.
drawn 152:19.
drink 105:22.
drinking 35:7,
36:2,
105:18.
drinks
155:15.
drive 64:15.
driving
119:20.
drove 88:13.
drug 58:11,
58:12, 71:7,
71:12.
drugs 16:8,
16:23,
64:24.
Duane 149:1.
Duffy 7:11.
DUI 63:23,
81:9, 85:5,
105:12.
Duran 6:22.

176

<p>During 4:19, 4:24, 7:23, 8:1, 11:7, 89:8, 89:12, 116:21, 146:5, 146:9, 151:7, 151:14, 151:18, 152:13, 152:21, 153:5, 154:17, 155:8, 155:18, 156:8, 158:12, 158:25, 160:15, 161:19.</p> <p>duty 43:21, 56:25, 72:23, 139:22.</p> <p>dwell 119:13.</p> <p>< E >.</p> <p>e-mails 156:1.</p> <p>earlier 69:9, 91:3, 93:7, 142:22.</p> <p>early 32:3, 54:16, 148:13, 161:18.</p> <p>earth 123:2.</p> <p>easiest 83:8.</p> <p>easily 112:23.</p> <p>east 6:14.</p> <p>easy 38:15, 40:9, 84:22, 95:1.</p> <p>eat 145:25.</p> <p>effect 150:16.</p> <p>efficient 147:18.</p> <p>Either 11:14,</p>	<p>16:14, 47:7, 81:21, 87:14, 91:19, 94:10, 109:23, 111:19, 117:5, 135:16, 153:14, 162:12.</p> <p>election 110:3.</p> <p>elements 15:16, 159:11.</p> <p>eligibility 6:10, 49:15.</p> <p>eligible 83:23, 108:4, 113:19, 114:1.</p> <p>eliminating 104:8, 104:10.</p> <p>elsewhere 14:6.</p> <p>emotion 162:2.</p> <p>emotional 36:9, 71:24.</p> <p>emotions 119:5.</p> <p>emphasize 160:23.</p> <p>encouraged 156:16.</p> <p>end 46:11, 53:12, 57:15, 62:24, 76:4, 76:19, 78:22, 84:14, 109:15, 112:16, 121:11, 142:16, 143:1, 155:21, 159:21.</p> <p>ended 53:19, 79:19, 159:25.</p>	<p>enforcement 23:1, 66:4, 81:9, 132:5, 132:16, 134:15, 134:16.</p> <p>English 94:11.</p> <p>enough 4:9, 53:15, 59:6, 99:16, 99:19, 99:22, 115:13, 145:5, 160:23.</p> <p>enter 118:23, 150:20.</p> <p>entire 155:6.</p> <p>entitled 153:15, 154:4.</p> <p>equal 154:14.</p> <p>Especially 120:24, 132:17.</p> <p>ESQ 2:2, 2:4, 2:5.</p> <p>essential 159:11.</p> <p>essentially 154:11.</p> <p>estimate 122:4.</p> <p>et 83:11.</p> <p>Etcoff 8:7.</p> <p>ethical 4:23.</p> <p>evaluate 48:22.</p> <p>evening 149:17, 160:25.</p> <p>event 107:2, 121:20.</p> <p>events 160:15.</p> <p>Eventually 3:16, 18:20, 93:13, 142:16, 143:3.</p>	<p>120:24, 120:25, 121:19, 122:7, 138:25, 139:7, 152:11, 152:12, 152:14, 152:19, 153:25.</p> <p>factual 157:21, 157:22.</p> <p>failed 58:23.</p> <p>fairly 40:22, 45:11, 48:21, 63:20, 64:17, 65:9, 81:18, 90:2, 93:21, 110:23.</p> <p>fairness 31:20, 73:16.</p> <p>faith 74:8, 140:12.</p> <p>familiar 113:20, 134:4, 138:8.</p> <p>familiarity 54:3.</p> <p>families 102:10.</p> <p>family 12:9, 63:18, 109:9, 110:14, 119:4, 119:13, 140:6, 140:8, 160:3, 161:17, 162:11.</p> <p>far 44:13, 71:10, 90:7, 103:12, 105:7, 139:24, 140:14.</p> <p>fashion 152:22.</p> <p>fast 99:22.</p>	<p>Father 58:1, 63:23, 117:17, 117:18, 117:24, 118:8, 119:14.</p> <p>Favor 90:19, 100:3, 101:12, 110:7.</p> <p>fear 151:5.</p> <p>feeling 11:3, 19:19, 26:22, 45:3, 50:24, 61:13, 62:10, 80:4, 82:1, 111:2.</p> <p>Feelings 16:15, 17:16, 17:20, 17:21, 20:2, 20:11, 20:16, 26:4, 27:4, 36:23, 46:21, 59:15, 64:24, 73:25, 96:21, 153:13.</p> <p>Fellow 41:5, 99:18, 107:7, 114:18, 143:25, 155:2, 155:4.</p> <p>Felon 11:10.</p> <p>Felonies 95:23.</p> <p>Feloniously 150:20, 151:2, 151:12.</p> <p>Felons 94:25, 96:8.</p> <p>Felony 96:5, 96:13.</p> <p>Felt 29:19, 54:22, 54:23, 70:15, 70:16, 70:17, 78:5, 84:16, 88:19, 95:13, 95:16,</p>	<p>97:17, 98:5, 101:20, 102:7, 105:25, 107:2, 107:9, 119:15, 121:19, 127:21, 128:12, 141:4, 141:5.</p> <p>Feuerhammer 47:14, 149:1.</p> <p>few 3:23, 6:14, 10:7, 10:21, 16:6, 23:7, 44:6, 138:6, 139:19, 148:3, 155:14.</p> <p>Fifteen 8:10, 8:20, 145:19.</p> <p>Fight 26:15, 26:19, 35:5.</p> <p>fighting 35:8, 35:25.</p> <p>figure 91:20, 119:14, 126:20, 156:2.</p> <p>figured 94:19, 142:15.</p> <p>figures 43:15.</p> <p>fill 90:10, 132:22.</p> <p>filled 67:5, 67:22, 100:4, 104:17, 147:17.</p> <p>filling 3:20, 70:8, 70:13, 117:22.</p> <p>final 105:2.</p> <p>finality 129:3.</p> <p>finally 36:18,</p>
--	--	--	---	--	--

177

179

<p>144:3.</p> <p>Everybody 15:18, 15:19, 26:13, 26:18, 37:14, 91:23, 118:13, 120:7, 132:20, 145:19, 147:20, 148:18, 148:19, 149:3, 161:5, 162:13.</p> <p>everyday 29:23.</p> <p>everyone 79:17, 135:9.</p> <p>Everything 4:5, 22:16, 26:19, 28:12, 49:24, 50:1, 50:5, 50:8, 50:12, 57:1, 60:25, 96:2, 104:3, 104:15, 105:9, 116:24, 117:16, 123:22, 127:8, 128:2, 128:6, 128:7, 137:21, 140:21, 160:17.</p> <p>evil 67:24.</p> <p>evolution 29:4.</p> <p>exact 143:19.</p> <p>Exactly 21:23, 28:19, 95:20, 121:10, 143:8.</p> <p>examination 157:3, 157:5.</p> <p>examine 116:5.</p> <p>examined 32:11.</p>	<p>examining 98:12.</p> <p>example 56:10.</p> <p>examples 83:6, 83:12.</p> <p>except 112:9, 137:21.</p> <p>excessive 156:23.</p> <p>exclusionary 162:5.</p> <p>excommunicating 98:12.</p> <p>excuse 90:14, 115:13.</p> <p>excused 145:15, 145:22, 157:8.</p> <p>execute 27:24, 38:3.</p> <p>executed 99:22.</p> <p>exhibits 152:16, 152:17, 153:7, 154:9, 160:19.</p> <p>existence 154:10.</p> <p>exists 15:8, 15:11.</p> <p>expansive 116:20.</p> <p>expect 116:23, 162:24.</p> <p>expedited 10:18.</p> <p>Experience 16:7, 16:9, 16:10, 20:19, 25:23, 26:8, 29:24, 52:22, 53:19, 54:12, 73:23, 74:1, 93:8, 93:11, 94:14, 98:17, 111:2, 119:17, 138:21,</p>	<p>140:3.</p> <p>experienced 119:5, 138:5, 140:2.</p> <p>Explain 67:24, 86:1, 108:3, 110:18, 140:16, 151:20.</p> <p>explained 60:5.</p> <p>explaining 28:23.</p> <p>express 20:2, 89:19, 146:16.</p> <p>extent 12:6.</p> <p>extremely 121:7.</p> <p>eye 17:21, 28:7, 52:6, 56:9, 71:23, 72:3.</p> <p>< F >.</p> <p>facet 45:14, 71:14.</p> <p>fact 15:2, 15:15, 27:13, 59:8, 59:14, 95:16, 106:7, 110:6, 119:4, 132:11, 154:9, 154:10, 154:11.</p> <p>Factor 40:19, 71:13, 135:9.</p> <p>Factors 69:17, 102:1, 106:16, 106:22.</p> <p>Facts 6:15, 10:13, 15:4, 37:4, 39:24, 47:1, 70:10, 88:6, 102:23, 107:1,</p>	<p>53:14, 89:20, 146:17.</p> <p>financial 57:9.</p> <p>find 4:21, 11:1, 15:5, 21:11, 40:13, 75:21, 75:22, 80:1, 88:7, 102:5, 129:22, 152:11.</p> <p>finders 15:2.</p> <p>finding 6:3.</p> <p>Fine 16:3, 75:9, 82:4, 91:22, 102:18, 117:12, 162:9.</p> <p>finish 3:15, 88:25, 89:4, 148:7.</p> <p>finished 147:23, 156:25, 157:7.</p> <p>firm 90:2, 126:3.</p> <p>First 5:24, 11:8, 33:2, 41:19, 42:9, 42:13, 43:2, 48:15, 53:13, 83:13, 83:21, 84:5, 101:14, 102:7, 103:5, 104:16, 107:20, 107:24, 108:8, 108:19, 111:16, 113:25, 123:8, 135:23, 138:21, 143:11.</p> <p>first-hand 102:10.</p>	<p>Fits 56:9, 56:13.</p> <p>five 46:19, 90:8, 91:1, 95:23.</p> <p>flat-out 74:19.</p> <p>Fled 142:9.</p> <p>focus 66:5, 125:3.</p> <p>folklore 118:9.</p> <p>Folks 5:12, 90:7, 148:16, 148:21.</p> <p>follow 10:20, 14:22, 15:11, 31:18, 31:19, 44:14, 106:19, 112:17, 114:6, 114:7, 133:11, 140:24.</p> <p>follow-up 158:8.</p> <p>Following 44:9, 158:9, 158:22.</p> <p>follows 6:20, 8:2.</p> <p>Forbes 52:20, 57:23, 149:1.</p> <p>force 150:16, 151:5.</p> <p>Ford 8:2.</p> <p>foregoing 164:11, 164:15.</p> <p>foreperson 12:7.</p> <p>forethought 151:11.</p> <p>forget 119:9.</p> <p>Forgot 117:21.</p> <p>Form 68:8, 89:18, 127:20,</p>	<p>146:15, 150:16, 152:23.</p> <p>formed 18:9, 18:22, 100:7.</p> <p>former 109:11.</p> <p>forms 29:8, 29:11, 33:3, 33:13, 40:23, 104:5, 116:15, 117:1, 123:16, 127:21, 144:20, 144:25, 145:6.</p> <p>forth 79:9, 156:3, 156:5, 158:12, 158:14, 158:18, 164:12.</p> <p>forward 5:10, 98:18.</p> <p>found 75:24, 76:20, 83:16, 85:24, 92:24.</p> <p>four 6:7, 18:6, 29:10, 30:3, 40:23, 49:7, 50:4, 51:17, 77:14, 82:11, 83:2, 83:14, 83:24, 104:5, 113:9, 123:8, 123:9, 123:16, 123:24, 126:17, 127:21, 137:20, 143:14, 145:5.</p> <p>fourth 129:15.</p> <p>franks</p>
---	--	---	--	--	---

178

180

145:12.
Fred 8:3.
free 126:13.
Freeman 6:25.
Friday 162:16,
162:18,
162:19.
friend 17:4,
34:11, 41:17,
43:1, 105:16,
106:3,
110:5.
friends 16:18,
22:25, 41:15,
106:3,
160:3.
front 4:4,
12:25,
104:9.
fulfill
93:18.
full 10:23,
60:22, 86:12,
120:23,
120:25,
124:10,
125:15.
Fuller 9:2,
145:12.
fun 72:19,
87:24.
funds 12:20.
future 93:11.

< G >.

Gary 8:25.
gave 25:12,
43:15, 75:23,
83:6,
106:10.
general 32:6,
42:20, 58:23,
66:13, 94:10,
100:22,
135:1.
Generally
25:21, 27:4,
40:13, 55:2,
81:25, 82:8,

100:3,
162:17.
gentleman
87:4.
gentlemen 3:11,
7:20, 8:10,
10:6, 87:19,
89:8, 145:11,
146:5,
147:14,
149:6,
151:20.
genuine
98:13.
George
148:23.
Germaine
7:12.
Gernot 92:10,
92:13, 99:14,
102:14,
147:4.
getaway
142:6.
gets 27:18,
90:13, 93:3,
148:18.
getting 41:23,
87:23, 98:21,
124:13,
128:8,
128:10,
147:23.
giggles
87:23.
girl 46:18,
95:25,
96:2.
girlfriend
88:8.
give 3:24, 4:7,
10:23, 14:11,
14:23, 15:1,
25:4, 28:15,
37:23, 43:12,
44:7, 49:11,
60:22, 73:2,
80:20, 86:9,
88:3, 106:16,
114:12,

124:10,
125:2,
126:21,
134:15,
145:1,
149:22,
154:2,
154:14,
154:16,
155:14,
163:1.
given 44:9,
58:6, 66:25,
134:16,
143:11,
155:21,
156:7,
156:13.
gives 106:20,
108:13,
111:2.
giving
100:22.
glad 120:15,
120:18,
123:12.
glasses
60:13.
God 8:16, 52:7,
129:1,
129:11,
149:12.
gotten 109:9,
162:25.
government
100:15,
100:18.
grab 72:1.
grade 94:4,
100:18.
graduated
94:3.
grant 89:24,
90:6,
146:23.
granted
90:15.
grappling
65:7.
gravity

181

Herring 9:12,
145:13.
hesitation
98:9.
hide 10:24.
high 20:6,
94:2, 94:3,
100:8, 100:9,
101:12,
102:5.
hired 54:25,
85:7.
Hispanic
59:19.
history
55:25.
hit 35:25.
Hobson 6:23.
hold 97:1,
97:8.
holding
15:21.
Home 6:13,
6:16, 91:23,
111:9,
119:21,
148:13.
honest 10:23,
56:23, 109:4,
119:19.
honestly 47:2,
113:16,
138:21.
honesty
136:5.
HONORABLE
1:26.
Hope 121:3,
133:25.
Hopefully
135:20,
135:21,
141:19.
hoping 96:13,
96:17,
96:19.
horrible 83:3,
84:1.
horrific
83:20.

horse 75:15,
75:20, 76:19,
78:19, 78:24,
79:1, 79:2,
79:5, 79:6,
79:9, 79:18,
80:1.
hour 148:12.
hour-and-a-half
89:4.
house 88:13,
111:7,
111:21,
161:5.
Howard 1:36,
8:5,
164:26.
Huh-uh 4:11.
human 41:5,
63:13, 107:7,
135:9,
151:12.
hundred
106:12.
hurt 96:8.
husband 41:15,
117:18,
117:24,
118:7, 119:3,
119:6, 120:3,
133:18.
< I >.
I. 44:14.
idea 30:8,
48:14, 48:17,
77:21, 85:6,
103:22,
107:6, 121:4,
126:8,
156:3.
ideas 48:18,
106:14,
121:5.
identification
141:19.
ill 155:10.
imagine 103:16,
103:18,

127:1,
127:4.
immediate
28:10.
immediately
28:9, 28:16,
160:10.
impaneling
6:2.
impartial
30:24,
119:18,
153:15.
imperfect
135:3.
important 4:8,
7:16, 29:20,
45:15, 60:20,
69:3, 69:17,
102:3,
106:13,
144:19,
155:5.
importantly
160:14.
impose 49:4.
imposed
51:13.
imposition
122:23.
improbability
153:24.
improper
39:18.
in-laws
119:3.
in. 52:11,
116:4, 141:3,
162:20.
incapable
77:25.
incarcerated
117:17.
incident 5:21,
6:12,
140:14.
inclination
153:22.
include 82:19,
147:16,

183

126:10.
great 54:14,
96:1.
greater
134:15.
greed 83:10,
87:13,
87:22.
Green 7:5.
Greg 6:25.
Grey 8:7.
group 5:14,
68:20.
groups 68:22.
guess 16:24,
35:4, 35:23,
37:10, 39:12,
42:2, 49:22,
70:14, 73:20,
84:20,
122:8.
guideline
149:20.
guidelines
31:18,
31:19.
guilt 143:9.
guilty 25:13,
34:22, 54:23,
55:21, 83:16,
95:21,
143:9.
gun 30:19.
gun 140:19.
gut 135:22.
guy 21:11,
105:17,
105:20.
< H >.
half 69:23,
70:3.
hallway 4:25.
hand 8:12,
14:13, 83:8,
97:4, 138:11,
149:8, 155:9,
155:11,
157:10,

157:17.
handle
119:15.
hands 10:4,
11:10, 11:12,
11:17, 11:19,
11:23, 12:2,
12:8, 14:8,
15:12, 15:20,
15:22,
70:8.
happen 19:2,
28:3, 87:9,
87:10, 96:20,
119:10,
132:18,
140:7,
142:25,
143:5.
happened 5:17,
20:23, 21:10,
29:17, 35:8,
37:7, 42:1,
42:3, 43:11,
127:9,
140:14,
142:13.
happening
17:11,
63:1.
happens 11:7,
25:22,
136:25.
happy 85:8,
93:3,
111:22.
hard 4:11,
63:7, 93:12,
95:15,
119:24,
121:7,
143:20.
handshop
124:7.
ham 109:7.
hash 95:4.
hate 65:5,
87:1, 87:8.
head 4:10,
4:11, 21:4,

93:2, 106:14,
127:10,
140:19.
health
139:24.
HEARING 1:16,
43:6, 49:23,
50:11, 76:4,
78:4, 83:22,
98:4, 106:25,
109:14,
112:25,
114:10,
114:14,
116:4,
116:11,
116:21,
117:16,
118:25,
121:19,
122:7, 125:2,
153:2.
hearings
162:5.
hearsay 152:23,
153:2.
heavy 69:16.
Heiner 7:7.
held 123:3,
145:10.
Hello 67:20,
132:3.
help 8:16,
149:12,
154:20,
158:11.
helped 75:25,
76:2,
79:25.
helping 77:24,
93:11.
helps 4:18,
121:6.
Henck 148:23.
Henderson
7:11.
heraby 164:9.
Hernon 1:26,
3:18,
112:15.

182

152:15.
includes 51:20,
63:11,
160:2.
including
89:10, 89:16,
138:18,
146:7,
146:13.
inconsiderate
86:7.
inconsistency
52:8.
increasing
80:8.
indicate 56:8,
74:5, 74:11,
99:14,
122:23,
129:10.
indicated 12:4,
17:2, 17:19,
18:9, 44:25,
56:6, 64:23,
66:2, 69:11,
80:3, 80:7,
81:7, 82:9,
82:14, 89:25,
90:3, 108:17,
109:22,
112:1, 124:6,
128:25,
132:24,
136:11,
137:10,
138:24,
139:10,
140:10,
155:12.
indication
155:11,
157:9.
indirectly
119:6.
individual
34:17, 76:7,
79:7, 79:8,
89:25.
individuals
75:11,

156:23.
indulgence
117:7.
infer 154:10.
inference
155:19.
inferences
152:19,
158:4.
influence 59:6,
64:15, 71:16,
85:22.
influenced
153:12.
information
31:24, 33:16,
33:17, 49:20,
57:5, 68:12,
80:16, 82:16,
82:20, 83:15,
89:15,
100:22,
103:6, 112:5,
113:1,
114:12,
114:13,
116:20,
116:23,
123:25,
133:3, 133:8,
140:7,
146:12,
149:16,
150:6,
157:25.
injury 151:5.
innate 27:11.
innates 27:6.
innocent
129:23.
ins 140:6.
instance 55:4,
157:1.
instruct 15:3,
112:16,
152:8,
159:4.
instructed
153:9.
instructions

14:22, 14:23,
44:7, 44:9,
44:17,
108:14,
112:18,
113:4,
133:12,
145:1, 148:9,
149:19,
149:22,
155:7,
155:21,
159:5,
159:12,
160:19,
162:21.
instructs
106:23.
intend 158:12,
158:13.
intended
154:20.
intends
158:18.
intent 13:6,
150:20.
intention
122:16.
interaction
70:9.
interest 99:2,
153:20.
interested
43:17.
interesting
76:10, 76:21,
79:16, 85:25,
98:23.
interfere
64:20,
156:11.
internet 89:17,
146:14,
160:21.
interpret
159:9.
interpretations
135:10.
interrupt
79:12.

184

introduce 5:11.
introduced 152:16,
152:17,
160:19.
introduction 3:25, 149:18,
158:17.
invasion 95:19.
investigated 111:23.
investigation 160:16.
involve 38:14.
involved 23:19,
34:3, 43:14,
47:18, 48:1,
68:16, 69:18,
93:23, 98:18,
105:11,
105:12,
109:9,
116:24,
122:18,
139:16.
involvement 140:9.
involving 63:17.
irrelevant 59:17.
issue 8:16,
30:11, 39:21,
55:9, 59:6,
124:7,
149:11,
155:6.
issues 27:16,
48:5, 109:6,
120:10,
147:25.
itself 102:11,
109:15.
Ivory 8:2.
.
< J >.

Jackson 6:23,
73:11, 73:12,
90:5.
Jail 6:17,
38:5,
95:24.
James 1:19,
3:6, 7:8,
7:24, 8:2,
92:4, 147:10,
150:1,
150:11.
jealous 89:10.
jealousy 83:11,
87:13,
87:21.
Jehediah 9:12.
Jerry 148:22.
Joanne 8:23.
Job 15:1, 15:2,
23:20, 31:13,
33:17, 55:3,
66:8, 125:23,
152:18.
Johnson 148:22,
157:13.
Judge 1:27,
3:19, 15:2,
24:5, 24:14,
24:19, 24:23,
44:7, 44:9,
44:13, 49:17,
50:22,
108:12,
112:11,
112:15,
112:17,
113:4,
126:12,
128:16,
129:2,
129:20,
133:11,
152:12.
Judges 23:6,
24:1, 66:6,
110:4, 135:4,
135:13.

judging 61:17,
61:22, 143:7,
143:10.
judgment 19:9,
30:5, 41:5,
50:14, 52:12,
63:13, 77:22,
80:22, 98:15,
99:5, 102:12,
107:7,
107:11,
121:22,
126:3,
127:23,
129:24,
137:14,
138:13,
143:13,
143:23.
judgmental 126:1.
judgments 125:24.
juries 12:7,
30:22,
132:17.
JURORS 3:10,
3:21, 8:15,
8:17, 10:9,
11:1, 15:2,
15:25, 29:9,
91:14, 92:7,
106:11,
114:18,
132:19,
144:1, 148:8,
148:17,
152:11,
155:3, 155:4,
156:19,
160:1.
Justice 20:7,
25:1, 34:4,
43:25, 47:18,
54:13, 55:13,
73:17, 74:6,
81:24, 93:13,
94:6, 95:7,
109:24,
140:12.

185

123:4, 141:4,
141:14.
legal 4:18,
4:23, 112:13,
145:1, 155:7,
159:11,
160:19,
160:22.
legality 31:20.
legally 114:1,
157:20,
157:21,
158:6.
legislature 33:4.
legitimate 40:15.
length 142:15.
lenient 84:10,
88:12, 109:5,
109:14,
109:17.
Leslie 4:20,
5:5, 160:10,
161:1.
less 14:11,
25:16,
81:13.
lesson 105:21.
Lewis 8:7.
library 160:21.
license 64:9.
lifetime 54:9.
light 29:17.
lightly 68:7,
107:9.
limit 156:18.
limitation 89:10, 89:16,
146:7,
146:13.
limited 24:18,
132:12.
line 69:8,
86:5.

Lisa 6:22,
9:4.
list 8:1,
87:13,
90:21.
listed 87:25.
listen 60:25,
68:12, 79:17,
88:14, 89:13,
103:4, 105:8,
108:23,
108:24,
114:13,
114:16,
116:11,
133:7,
138:20,
144:25,
146:10,
156:11,
160:12.
listened 116:13.
listening 22:15, 48:19,
61:14,
102:23.
lists 147:3,
150:7.
little 3:24,
5:22, 46:23,
58:24, 59:4,
68:24, 76:1,
83:10, 83:15,
103:11,
105:7,
112:12,
140:16,
147:20,
149:15,
153:4,
161:3.
live 37:1,
38:17, 38:18,
38:21, 41:7,
47:3, 118:10,
118:18,
119:23,
120:15,
121:17,

122:8,
129:25.
living 38:23,
62:1,
72:18.
local 118:9.
locally 12:22,
13:7, 13:15,
14:6.
located 150:22.
Lomasney 9:24,
13:23,
145:14.
long 16:19,
20:25, 25:9,
34:13, 36:15,
40:18, 53:19,
63:24,
135:22,
141:7,
141:10,
142:15,
162:1.
longer 38:22.
look 93:15,
98:18, 157:8,
160:22.
looking 83:22,
113:9,
124:23,
163:1.
Lord 136:23.
lose 95:10.
loss 119:14.
lost 35:5,
36:3, 42:25,
88:10,
118:8.
lot 4:18,
10:15, 10:19,
20:10, 29:23,
32:9, 32:10,
39:16, 47:16,
47:17, 58:24,
71:15, 74:8,
80:14, 94:17,
117:20,
121:12,
125:5, 138:7,

187

141:22.
.
< K >.
Karen 9:20.
Keep 49:6,
50:4, 58:9,
58:13, 58:15,
71:19, 72:11,
88:15, 90:25,
97:23, 104:2,
108:21,
125:19,
143:1,
155:5.
keeping 90:21,
134:2.
key 49:25.
keys 151:3.
kick 91:20.
kicked 36:2,
36:3.
kicks 91:18.
kid 58:24,
68:24,
72:1.
kids 111:17,
120:2.
kill 14:4,
151:12.
killed 14:1,
34:12, 41:15,
88:13,
109:16,
133:18.
killing 35:20.
Kim 6:23.
kinds 154:5.
Kisha 8:4.
Kitchen 132:1,
133:21,
146:25.
knee-jerk 72:3,
72:8.
knife 151:7,
151:14.
Knowing 28:2,
102:10,
125:1, 129:9,

132:12.
knowledge 16:7,
43:11.
known 109:11,
123:22.
knows 44:13,
118:13,
161:6.
< L >.
labeled 55:24.
ladies 3:11,
7:20, 8:9,
10:6, 89:8,
145:11,
146:5,
147:14,
149:6,
151:19.
Ladonna 6:23.
Ladyl 81:25,
85:10,
68:24,
129:1.
Lamb 6:14,
150:23.
Larceny 150:21.
large 156:16.
Larry 7:11,
148:23.
Larsen 146:24.
Larson 124:5.
Las 3:1, 23:5,
150:23.
last 26:12,
60:6, 70:3,
72:14, 94:20,
115:11,
119:20,
127:8,
139:13,
139:19,
147:16,
162:15.
lasted 36:16.
late 3:13,
54:16, 86:17,

94:24, 120:4,
146:1,
148:12.
later 5:23,
6:22, 26:8,
56:24, 93:4,
129:22,
147:25.
Laura 6:24,
149:2.
laws 52:10.
lawyers 20:7,
89:11,
109:23,
146:8,
156:24.
lead 57:7.
Learning 104:11,
104:12,
105:2,
108:18.
learn 52:1,
160:18.
learned 105:21,
139:19.
least 50:3,
85:18, 86:20,
114:11,
114:13.
leave 49:13,
52:12, 89:2,
103:20,
126:24,
127:5,
145:17,
148:18,
149:4.
leaving 148:3.
Leavitt 9:16,
145:14.
Lee 7:7, 33:24,
41:14.
left 4:14,
4:17, 53:16,
74:1, 79:4,
114:18,
122:9,
122:15,
122:20,

186

140:11,
142:2,
143:25,
148:1,
155:22,
155:25.
lots 99:6.
loud 4:9,
4:10.
Luana 6:22.
lucky 48:2.
Lunch 89:4,
91:2, 91:6,
91:7, 91:10,
91:20, 91:24,
146:1, 148:4,
148:12.
Lux 10:1.
.
< M >.
Ma'am 12:24,
22:22, 74:10,
82:2, 82:13,
82:21, 84:8,
84:12, 84:15,
114:21,
128:24,
136:11.
magnitude 62:8,
68:13,
120:25.
main 87:14.
majority 103:14.
male 95:23.
malice 151:11.
mall 88:24.
man 83:22,
88:10, 109:7,
123:1.
manner 23:22,
64:7, 65:14,
158:10.
Marabal 8:5.
marijuana 13:6.
marines 51:22.

mark 84:17,
144:9.
marked 87:1.
marketing 94:11.
married 110:5.
matter 6:20,
46:24, 49:17,
113:4,
124:17,
127:15.
matters 25:6.
Matts 44:23,
90:2.
Mayorga 9:10,
145:13.
Mcquire 6:23.
mean 27:7,
28:9, 30:14,
42:15, 49:10,
68:2, 68:21,
69:14, 84:4,
98:10, 105:1,
106:2, 107:9,
134:6,
137:12,
141:21.
Meaning 56:10.
means 4:25,
151:4,
159:13.
meant 104:25,
105:4,
137:13.
media 94:8.
medical 92:23.
medium 89:15,
146:12.
meet 152:7.
member 63:18,
68:18,
110:14,
140:8.
members 12:10,
109:13,
109:9, 160:2,
161:17,

162:11.
memories 37:5.
mental 36:8.
mentally 36:11.
mention 71:23,
119:21,
119:23.
mentioned 52:21, 54:1,
59:25, 63:16,
110:13,
110:17,
112:13,
133:18,
140:5,
154:17,
160:15.
message 83:25.
met 4:20,
109:10,
112:14.
methamphetamine 13:6.
Metro 14:17.
Mexico 21:20.
Meza 9:20,
145:14.
Michael 9:24.
Michell 6:25.
mid 118:11.
middle 13:10.
Mike 6:23, 7:8,
7:11.
mildly 73:19.
miles 6:14.
mind 19:22,
22:19, 29:5,
30:24, 50:4,
58:9, 58:14,
58:16, 70:4,
71:20, 72:11,
88:15, 97:6,
97:24,
102:24,
103:5, 104:3,
104:25,
108:22,

188

115:17,
125:19,
126:20,
127:7,
127:15,
127:18,
131:7, 133:2,
135:23,
155:5,
minded 102:19,
115:13,
115:15,
121:2,
128:12,
128:13,
145:4,
mine 105:17,
110:5,
minimum 83:18,
84:6,
minor 70:15,
94:11,
minute 4:16,
5:15, 10:7,
57:12, 89:6,
91:17,
minutes 145:20,
155:13,
155:15,
Mira 8:4,
miscellaneous
23:6,
misdemeanor
96:5,
100:16,
misdemeanors
24:9, 95:24,
96:6,
misread
56:18,
misreading
46:3,
missing 3:13,
52:8,
Mobile 6:13,
Mom 53:1,
moment 40:10,
127:25,
money 12:20,
54:24,

95:10,
Montal
150:11,
MONTREAL 1:19,
months 36:22,
94:24,
moral 30:11,
38:10, 45:1,
121:9,
122:22,
130:23,
130:25,
Moran 9:14,
145:13,
Morella-Krupa
9:8, 12:12,
12:15,
145:13,
Morin 148:25,
morning 3:12,
7:20, 16:2,
16:5, 57:23,
57:24, 69:22,
85:4, 89:24,
91:4, 147:25,
148:14,
155:16,
156:2, 156:4,
161:1,
162:18,
Morrill 8:3,
Mostly
139:14,
mother 30:11,
92:23, 99:8,
161:18,
motive 88:8,
motives
187:18,
motor 151:3,
mouth 74:2,
move 5:9,
moving 53:13,
Munson 6:25,
murder 5:25,
6:12, 28:8,
30:14, 33:2,
35:19, 41:20,
42:10, 42:13,
43:3, 48:15,

51:13,
101:16,
102:7,
107:20,
107:25,
108:8,
108:19,
113:17,
113:25,
123:9,
143:12,
150:13,
150:22,
151:9,
murdered 112:8,
113:22,
117:18,
117:23,
117:25,
murders 84:5,
113:19,
118:12,
Myself 28:12,
30:4, 47:4,
53:1, 54:5,
61:22, 97:2,
99:8, 109:12,
110:16,
129:25,
138:10,
140:9, 142:1,
155:7,
160:6,
< N >,
name 3:18,
5:18, 7:1,
7:20, 8:21,
10:3, 10:4,
12:11, 51:2,
79:6, 148:17,
148:19,
names 90:20,
91:20, 149:7,
148:16,
narrow
115:14,
nature 10:18,
128:2,

189

10:19, 44:1,
116:19,
occasion
147:24,
occupied
150:24,
occur 26:10,
149:20,
occurred 5:21,
6:13, 6:15,
35:20,
Occuch 7:7,
office 5:20,
7:4, 7:21,
7:22, 11:15,
54:17,
officer 14:12,
14:13, 14:16,
23:4, 25:12,
25:15, 25:19,
134:16,
134:20,
134:24,
135:25,
officers 7:6,
7:10, 23:6,
23:10, 23:25,
26:2, 66:7,
95:25,
109:24,
110:4,
111:2,
often 24:22,
old 46:19,
53:9,
83:16,
older 32:9,
Once 20:24,
55:22,
103:23,
126:2,
142:13,
145:24,
147:20,
148:17,
157:7,
one. 16:1,
24:2,
ones 87:14,
open 33:3,

37:6, 50:4,
58:9, 58:14,
58:15, 71:19,
72:11, 80:21,
88:15, 97:23,
102:19,
103:20,
104:3,
108:21,
115:12,
121:1,
123:24,
125:19,
126:24,
127:5,
128:12,
145:4,
150:13,
151:9, 155:5,
159:12,
open-mind
142:21,
open-minded
48:9,
Opening 148:10,
148:11,
154:18,
154:19,
154:25,
158:11,
158:16,
openings 91:8,
91:24,
opinion 18:10,
18:13, 18:15,
18:22, 18:23,
20:7, 38:14,
39:2, 54:13,
58:5, 59:10,
66:3, 67:9,
80:8, 81:24,
83:14, 83:24,
89:19, 95:2,
100:7,
104:17,
104:18,
128:25,
135:22,
136:1,

139:20,
146:16,
opinions 37:10,
48:19, 56:18,
69:7, 135:2,
135:10,
opportunity
26:19, 47:20,
49:12,
156:13,
159:7,
oppose 45:24,
opposed 38:10,
40:13, 40:17,
40:19, 41:23,
42:24, 44:17,
44:25, 62:2,
62:4, 66:6,
68:24,
87:18,
opposite
142:21,
option 40:15,
45:22, 51:11,
51:19, 108:1,
108:2, 108:8,
114:4,
options 6:7,
6:11, 18:7,
46:8, 51:16,
51:17, 57:2,
97:12,
120:15,
121:18,
122:9,
123:12,
oral 159:7,
Order 66:20,
80:20, 90:16,
108:3,
organization
68:18,
others 30:13,
89:19, 95:2,
87:6,
ought 14:24,
104:24,
outcome 29:9,
55:12, 77:2,
153:21,

191

157:22,
nauseam
48:12,
necessarily
55:21, 109:4,
109:16,
necessary 5:7,
15:16, 67:24,
68:3, 158:8,
162:7,
need 3:14, 5:4,
5:6, 10:14,
10:20, 16:25,
37:11, 57:13,
88:24, 90:8,
116:25,
138:16,
145:4, 149:7,
155:10,
160:17,
162:18,
needed
147:25,
needs 31:22,
107:11,
nephew 73:23,
neutral 10:12,
31:16, 31:17,
31:21,
Nevada 1:8,
1:11, 3:1,
3:6, 5:21,
7:22, 15:3,
37:21, 51:8,
84:6, 92:4,
147:10,
149:25,
150:16,
150:18,
150:23,
164:9,
new 5:11,
140:3,
news 80:13,
148:6,
160:11,
newspapers
89:16,
146:13,
Next 13:22,

52:5, 54:18,
57:7, 76:8,
91:1, 96:2,
123:3, 123:6,
129:1, 147:4,
156:2,
158:15,
nice 72:20,
105:20,
niece 13:20,
night 111:12,
119:20,
nine 43:20,
No. 1:2, 1:3,
1:36, 14:9,
14:19, 24:8,
38:12, 58:7,
74:13, 75:15,
76:14, 78:23,
80:12, 94:1,
96:25,
104:11,
105:1, 111:3,
111:10,
124:9,
133:19,
136:16,
150:24,
Noah 148:24,
nobody 90:13,
nod 4:10,
none 83:22,
Nonetheless
5:3, 146:2,
147:22,
Norma 7:1,
normal 148:4,
153:3,
Norris 75:7,
75:8, 78:19,
81:3,
North 6:14,
7:13,
150:23,
note 155:23,
156:7, 156:9,
156:10,
157:12,
noted 16:7,
notes 155:18,

155:23,
156:8,
Nothing 75:16,
79:10, 81:20,
82:6, 97:3,
111:1,
141:5,
number 3:13,
10:14, 12:13,
13:1, 15:13,
16:1, 18:3,
35:10, 88:24,
89:25, 90:2,
90:9, 91:17,
106:10,
120:18,
122:14,
127:19,
137:19,
147:7,
148:22,
156:17,
156:18,
156:23,
157:12,
157:13,
157:16,
< O >,
o'clock 148:14,
161:1,
oath 4:16,
Objection
39:18, 39:20,
153:8,
objections
153:6,
164:13,
164:16,
objector
37:17,
obligated
56:25,
158:24,
obligations
4:23,
observe
156:12,
obviously 7:16,

190

outline
158:11,
outrageous
99:19,
outs 140:6,
Outside 72:20,
89:22,
146:20,
153:10,
161:8,
161:12,
161:13,
outsider
55:3,
outward
162:2,
overlooked
101:17,
overly
156:10,
oversee 88:3,
oversight
60:11,
60:12,
overturned
96:15,
owed 95:3,
own 25:5, 37:2,
57:12, 69:5,
69:7, 135:10,
160:17,
ownership
79:18,
< P >,
pack 93:2,
packet 163:1,
pad 155:23,
156:9,
157:12,
pads 156:7,
paid 35:9,
Pam 5:18,
panel 61:6,
90:9, 92:9,
Pancos 7:2,
150:24,
151:4, 151:6,
151:12,

151:13,
paper 43:19,
44:1, 80:13,
99:19,
outs 140:6,
Outside 72:20,
89:22,
146:20,
153:10,
161:8,
161:12,
161:13,
outsider
55:3,
outward
162:2,
overlooked
101:17,
overly
156:10,
oversee 88:3,
oversight
60:11,
60:12,
overturned
96:15,
owed 95:3,
own 25:5, 37:2,
57:12, 69:5,
69:7, 135:10,
160:17,
ownership
79:18,
< P >,
pack 93:2,
packet 163:1,
pad 155:23,
156:9,
157:12,
pads 156:7,
paid 35:9,
Pam 5:18,
panel 61:6,
90:9, 92:9,
Pancos 7:2,
150:24,
151:4, 151:6,
151:12,

45:14, 45:19,
55:15, 66:5,
80:10,
143:16,
154:9,
159:5,
Particularly
30:22,
140:1,
parties 20:13,
89:11, 146:8,
154:23,
158:18,
Pass 22:10,
31:9, 33:21,
41:10, 44:20,
50:24, 52:17,
57:20, 61:9,
65:24, 67:15,
69:19, 73:8,
78:16, 81:3,
85:1, 88:21,
98:15, 99:10,
102:11,
102:14,
107:15,
109:19,
114:21,
122:11,
124:2,
131:18,
131:20,
133:14,
passed 90:7,
90:8, 90:13,
91:1,
147:4,
passion
56:11,
past 48:12,
54:8,
63:17,
pathologist
7:4,
patience 3:12,
7:14, 145:15,
147:15,
patient
85:25,
Patricia

192

9:14.
Paul 7:1,
7:7.
pay 6:20,
86:4.
paying 86:17.
peace 150:18.
penalties
100:17.
Penfield 7:1.
per 58:22.
percent 82:8,
95:3,
106:12.
perception
66:13.
Perfect 78:14,
82:5,
88:12.
perimeters
31:19.
period 138:9.
Perkins 7:8.
permissible
158:2.
permits
154:14.
perpetration
151:18.
personal 14:24,
66:10, 74:21,
81:8, 86:4,
95:19,
135:10,
136:1,
140:20,
141:18,
151:2,
153:13.
personality
71:14.
personally
50:17, 68:25,
97:2, 103:11,
138:12,
154:7.
personnel
4:22.
perspective
139:14.

pertain
15:14.
pet 79:1.
petty 58:24.
philosophical
97:15,
130:16.
philosophy
42:23.
Phoneix
43:24.
phrased
56:15.
physical 36:9,
37:4.
physically
35:24.
Pick 31:5,
77:19, 83:19,
86:19,
112:25,
114:25,
115:3, 115:5,
126:20,
157:18.
picked 52:4,
54:17, 66:16,
86:13.
picking 123:17,
123:19.
picture 93:4.
pictures
124:23.
piece 30:19.
pieces
114:12.
pink 78:25.
place 91:7,
107:24,
137:3,
164:12.
plaintiff
1:13.
plastic
161:3.
plea 95:1,
95:23,
96:4.
plead 95:21.
pleasant

68:2.
Please 4:9,
4:13, 8:22,
10:22, 11:3,
140:24,
145:9, 155:9,
155:19,
160:4,
161:4.
pleased
123:7.
pleasure
84:19.
pled 25:13,
34:22.
point 4:3,
17:25, 19:3,
28:15, 30:15,
45:8, 49:25,
50:4, 98:21,
114:19,
127:3,
145:16,
145:24,
161:23.
point. 39:8,
39:14,
132:18.
pointed
104:18.
Police 7:6,
14:12, 14:13,
14:16, 23:5,
23:10, 25:14,
26:2, 55:7,
55:20, 55:22,
66:7, 75:22,
75:23, 75:25,
79:25, 81:18,
95:25, 97:9,
109:23,
110:4,
110:21,
111:2,
111:18,
119:15,
134:20,
134:24,
135:25,
142:7.

193

32:24, 41:23,
42:4, 42:19,
43:4, 43:13,
54:25, 55:16,
61:23, 62:1,
109:12,
109:14,
119:13.
pro 45:25,
56:6.
probability
153:24.
probable
139:23.
Probably 34:14,
36:6, 37:6,
60:12, 69:25,
82:6, 83:16,
83:18,
112:19,
122:20,
124:19,
127:25,
132:7,
132:17,
135:14,
161:22.
probation 6:18,
7:10,
95:25.
problem 44:9,
49:8, 49:13,
70:23, 103:2,
103:7,
107:19,
108:14,
120:6,
125:12,
141:12,
161:24,
162:12.
problems 97:15,
99:24,
123:14,
141:20.
procedure 6:6,
79:22.
procedures
140:22,
140:23.

processed
158:9.
proceeding
3:22, 7:16,
15:14, 15:15,
74:3, 85:22,
110:8,
112:17,
124:10,
125:2,
132:12,
143:7,
149:24,
150:3,
151:22,
151:23,
152:5,
152:13,
152:16,
152:21,
153:2, 153:5,
155:8, 156:9,
158:13,
159:5, 160:4,
160:16,
161:19.
proceedings
8:2, 164:11,
164:13,
164:17.
program 24:13,
94:2.
programs
93:24.
pronounce
51:2.
Proof 15:16,
15:18, 15:22,
151:23,
154:9.
proofing
15:16.
proper 157:20,
158:6.
property
151:2.
prosecuted
12:21, 78:22,
119:11.
prosecutes

66:4.
prosecution
21:7,
31:15.
prosecutors
5:19, 66:11,
142:7.
prove 108:5,
158:14,
158:19.
proven 154:10,
154:23,
154:24.
provide
31:23.
provided
150:17.
proving 151:25,
159:10.
psychiatrist
7:13.
public 7:21,
54:17, 58:21,
58:23, 59:2,
59:9.
pulled
105:23.
punished 32:15,
123:2, 123:4,
123:5, 123:6,
141:24.
punishments
49:7, 49:23,
50:5, 62:5,
77:11, 82:10,
82:12, 83:2,
113:9,
120:13,
123:8,
123:24,
125:16,
126:17,
137:21,
138:18,
143:14.
puppy 93:3.
purpose
152:4.
purposes 6:2.
put 8:14, 28:9,

195

policeman
140:24,
141:6,
142:14.
policy 50:20.
poll 121:12.
Pollard 6:23.
pool 147:13.
pops 70:4.
portion
134:8.
posed 156:19.
position
100:21,
100:25,
101:1, 101:4,
147:5,
156:21.
positive
113:12.
possession
13:5,
13:21.
possessions
141:18.
possibility
6:8, 6:9,
51:20,
103:16,
103:21,
126:24,
127:5,
145:5.
possible 7:12,
10:13, 10:24,
33:18, 77:11,
82:11, 83:2,
107:10,
123:24,
126:17,
137:21,
138:18,
143:14.
Possibly 73:6,
104:1, 127:9,
134:25,
139:23,
152:17.
pot 87:19,
87:23.

potential 3:21,
5:12, 46:25,
62:5, 74:25,
82:10, 112:2,
112:15,
129:6, 130:5,
132:25,
137:6,
137:11,
137:17.
Potter 9:18,
13:12,
145:14.
practical
38:2.
practicing
132:16.
preclude
156:22.
prefer 27:5,
27:10,
127:18,
143:24.
preference
89:3.
prejudgments
48:6.
prejudice
153:14.
prejudicial
162:3.
preliminary
149:18.
premeditation
151:17.
prepare 23:25,
24:4, 24:12,
93:11.
prepared 93:7,
155:20.
preparing
102:4.
presence 3:8,
3:10, 89:22,
92:5, 92:6,
146:21,
147:11,
147:13,
151:4,
161:12.

161:13.
Present 8:21,
8:24, 9:1,
9:3, 9:5,
9:19, 10:3,
30:23, 116:5,
152:5,
158:20,
158:23,
159:7,
161:19.
presented
44:16, 61:1,
78:10,
114:13,
116:11,
133:8, 158:1,
159:3.
presenting
5:20.
presiding
3:19.
pretrial 23:4,
23:25,
31:13.
Pretty 44:4,
46:20, 48:4,
64:11, 80:24,
83:20, 86:2,
92:16, 95:4,
110:24,
115:18,
118:4,
126:3.
previous
96:8.
Previously
109:8,
150:9.
prices 35:9.
primary 152:10,
156:17.
principle
15:18,
15:20.
principles
15:13, 45:1,
151:21.
prison 6:10,
27:6, 27:10,

194

35:4, 35:24,
37:22, 38:5,
40:9, 53:11,
56:21, 70:11,
73:19, 85:25,
86:9, 86:15,
88:2, 94:17,
95:16, 96:4,
116:1,
117:13,
125:5,
129:23,
134:2,
158:12,
158:14,
158:18.
put 16:1,
90:7.
putting
61:22.
< Q >.
qualifications
8:15.
questioned
88:25,
90:14.
questioning
10:8, 15:25,
39:19, 92:8,
99:8,
156:25.
questionnaires
10:15.
quick 10:7,
125:25.
quicker
134:13.
quickly 5:9,
126:2.
Quite 16:6,
23:7, 35:17,
42:22, 71:4,
87:3, 113:16,
119:15,
119:24,
129:13,
134:25.
quote 78:25,

156:20.
< R >.
race 86:25,
87:3, 87:5,
87:8.
radio 89:17,
146:14,
160:11.
railroaded
54:16,
58:21.
railroading
59:2.
Raise 8:11,
149:8, 155:9,
155:10,
157:17.
raised 30:11,
89:23.
raising 70:8.
range 62:5,
82:10,
103:15,
120:12,
120:15,
125:15.
rape 13:14.
raped 95:17.
rare 75:11.
rate 80:8,
80:18.
Rather 46:5,
50:21, 63:3,
89:4, 124:19,
124:21,
124:22,
148:3, 148:8,
148:12,
152:5.
reach 15:5,
132:18,
145:2.
react 126:2.
reaction 71:24,
72:3, 72:9.
read 29:2,
40:3, 80:11,
80:13, 83:8,

89:13,
103:11,
146:10,
148:9,
148:15,
148:17,
148:18,
149:16,
150:8, 159:6,
160:11.
Reading 72:14,
111:25,
112:7,
112:22,
152:25.
reads 24:5,
24:20.
ready 83:9.
real 20:6,
68:2,
129:20.
reality 95:8.
realize
32:11.
realizing
27:15.
really 4:8,
10:18, 22:3,
26:13, 32:7,
34:21, 38:15,
49:17, 60:6,
62:25, 66:23,
71:13, 72:17,
80:17, 88:24,
97:1, 98:10,
99:8, 105:19,
106:12,
112:23,
113:15,
120:22,
121:16,
123:15,
124:23,
142:10,
143:23,
144:11,
144:17.
reason 83:6,
87:20.
reasonable

196

15:19, 108:6,
152:7.
reasons 38:9,
38:10, 77:4,
87:25, 88:3,
90:3.
rebuttal
159:16.
recall 12:5.
receive 108:4,
116:23,
154:4.
received
95:4.
recent 46:17.
recess 89:3,
89:6, 89:8,
92:1, 92:2,
145:19,
145:25,
146:2, 146:5,
146:19,
147:8.
recommendations
24:16.
record 3:8,
89:21, 92:3,
92:5, 95:6,
141:7,
141:10,
142:14,
146:20,
147:9,
147:11,
164:16.
recorded
164:14.
recross-examina-
tion 157:6.
redirect
157:5.
reduced 96:5.
refer 149:25,
150:1.
reference
10:25.
referred 89:12,
146:9.
referring
27:13.

Reffer 8:4.
reflect 3:8,
92:5,
147:11.
refrain
86:20.
regard 6:4,
6:6, 6:17,
19:8.
regarding
6:3.
regardless
39:24, 45:21,
46:25,
131:10,
139:7.
regards
152:1.
Regional
25:1.
related
15:17.
relation
153:21.
relationship
23:3, 37:4,
43:6.
relationships
23:13, 46:11,
110:7.
relatives
38:16.
release 148:11,
149:17,
160:25.
released
96:2.
relieved
120:14.
religion
69:3.
religious
38:10, 45:1,
45:8, 45:12,
68:20, 90:3,
122:22,
123:1,
129:10,
129:17,
130:24,

136:14.
rely 116:7.
remain 144:2.
remaining
145:21.
remarks 148:9,
148:11.
remember 46:11,
106:13,
118:14,
118:15.
remind
159:18.
remote 118:1,
118:5.
render 48:22,
149:11.
rendered
107:12.
rendering
104:5,
107:7.
Rene 9:6.
Reno 7:13.
Report 4:12,
89:13,
145:17,
146:10,
148:20,
149:4,
160:9.
REPORTED 1:36,
140:21.
REPORTER 4:5,
164:3,
164:8.
REPORTER'S
1:14.
reports 4:7,
23:23, 23:25,
24:4, 24:17,
24:20,
160:12.
representation
85:9.
represented
54:22,
85:5.
required
100:21.

197

122:8,
154:11.
secretary
156:1.
security
151:3.
seek 142:13.
seen 10:16,
74:7,
127:6.
seemed 40:25,
101:19.
seems 19:1,
72:3, 72:4.
seen 86:3,
117:16,
118:4,
133:9.
select 29:16,
63:4.
selected 11:1,
30:1, 62:18,
125:1.
selection 4:24,
11:7, 151:21,
154:17.
sell 13:6.
selling 16:11,
16:14.
send 83:25,
91:23,
155:25.
senior
101:12.
sense 103:13,
128:8,
128:11.
sentence 6:3,
18:23, 32:24,
37:24, 84:6,
84:11, 107:3,
109:2,
109:15,
159:18.
sentenced
101:16.
sentences
139:24.
Sentencing 6:6,
15:17, 24:11,

24:12, 152:6,
153:2,
154:13.
separate 27:16,
36:19, 37:13,
69:4, 97:5,
110:10.
September
94:20.
series 5:8.
serious 30:22,
64:11, 80:25,
86:7, 86:9,
96:20, 99:5,
123:16,
124:17.
seriously
72:22,
72:25.
seriousness
86:12,
125:1.
serve 12:7,
23:17, 29:20,
41:23, 43:3,
50:19, 51:25,
60:17,
137:16,
148:8,
148:17,
149:17,
158:17.
served 30:2,
49:9, 49:13,
49:16, 55:13,
141:22.
service
160:6.
services 86:5,
145:17,
148:20,
149:4.
serving
99:21.
set 84:4,
106:16,
140:23,
162:19,
164:12.
setting

153:4.
several 23:5,
24:1, 53:7.
145:16,
147:16,
147:17.
shake 4:10.
sharing 48:18,
121:5.
Sharon 1:36,
4:5,
164:26.
she'll 5:6,
8:12.
sheet 157:15.
Sherry 6:24.
shirt 12:25,
13:10.
shop 110:19.
short 11:25,
89:3.
shot 21:3,
40:18,
88:11.
shots 87:20,
87:24.
shouldn't 35:6,
35:7, 36:3,
110:20.
Show 79:2,
141:1, 141:3,
157:18.
showed 79:8.
showing
86:17.
shows 66:21.
shut 125:7.
sic 98:17,
109:21,
133:18,
146:23,
147:5.
side 20:17,
70:21, 71:8,
81:21, 82:23,
103:15,
110:8, 117:5,
135:16,
159:6.
sides 30:24,

199

requirements
112:13.
requires
107:20.
research 43:17,
43:21, 44:10,
44:13, 44:18,
100:7,
100:18,
160:16.
researched
96:8,
101:18.
resentment
26:1.
resolve 64:6.
resolved
64:9.
respect 71:15,
99:15.
response
159:15.
responsibility
30:18, 47:6,
50:17, 72:24,
93:8, 93:18,
152:10,
156:18.
rest 38:6,
38:19, 39:6,
41:23, 43:4,
86:8,
145:24.
restitution
95:3.
restroom
155:10.
results
18:10.
retire
159:18.
retired 7:4.
return 30:5,
84:17.
returning
57:18.
review 5:14,
27:25.
reviews
24:19.

revise 39:2.
rid 161:2.
road 105:22,
144:18.
rob 94:24.
robbed 94:21,
111:8,
111:16,
140:18.
robbery 5:24,
118:22,
150:13,
150:22,
150:25,
151:18.
role 8:19.
room 99:7,
122:9,
144:18,
155:4,
159:22.
root 45:9.
Rosenkrantz
8:25, 13:2,
14:14,
145:12.
round 18:19.
row 12:25,
13:10, 13:17,
37:21, 39:16,
43:16.
rubs 93:3.
rude 86:8.
rule 162:5.
rules 68:23,
158:2.
run 34:20,
90:19, 127:7,
147:20.
running 110:3,
120:4.
S & S
pad 35:3.
sale 79:10.
sat 24:1,
82:1.
saw 141:3,

154:7.
saying 19:1,
27:23, 35:12,
46:4, 56:17,
62:21, 84:3,
99:18, 114:6,
116:2,
127:14,
141:13,
142:22,
143:4, 143:5,
143:6.
says 27:9,
33:4, 52:13,
93:2, 109:2,
127:20.
scenario
46:23.
scene 160:14.
Schedter
102:16,
107:19,
147:5.
scheduling
90:24.
school 68:23,
94:2, 94:3,
100:7, 100:8,
100:10,
101:12,
102:5.
Scott 67:18,
69:22,
149:1.
se 58:22.
searched
140:20.
searching
160:21.
seat 4:14,
10:11, 16:1,
132:22,
161:8.
Seated 4:4,
4:17, 8:18,
148:18,
149:2, 149:7,
149:14.
second 26:14,
111:17,

198

37:10, 48:23,
53:24, 64:21,
116:5,
127:23,
132:14,
132:20,
133:8,
135:19,
153:15.
Sight 120:21.
signed 141:2.
signs 121:12.
similar
50:23.
similarly
90:4.
Simpson 6:24.
sincerely
147:15.
sins 123:2,
123:4.
sister 12:19,
65:3,
140:8.
sisters 53:2,
53:3.
sit 5:1, 30:23,
43:12, 57:3,
91:4, 130:4,
132:16,
144:20.
sits 5:25.
sitting 10:16,
22:15, 30:9,
37:21, 61:4,
61:5, 61:20,
77:22, 83:14,
99:20, 129:5,
138:6.
situations
68:1, 68:3,
68:8.
six 90:14.
slight 98:8.
slim 83:22.
slip 78:25.
slots 90:11.
Slow 57:12,
82:3.
small 76:7,

79:11,
79:19.
smallest
83:18.
Smith 6:24,
7:12,
148:23.
smoother
147:21.
snipers
87:19.
social 151:2.
socialize
110:4.
society 84:1.
sole 152:12.
solemnly 8:13,
149:10.
solved 76:3.
somebody 16:8,
16:16, 18:16,
19:1, 34:9,
50:22, 61:6,
61:17, 69:15,
86:17, 87:22,
96:24,
105:12,
113:17,
138:13.
someone 28:8,
30:14, 32:13,
54:3, 57:4,
61:22, 61:23,
68:11, 75:13,
78:19, 82:15,
84:10, 84:22,
110:20,
111:5, 112:4,
118:23,
119:11,
129:12,
136:25,
143:13,
160:9.
someplace
124:12.
Sometimes
23:25, 24:20,
27:14, 148:1,
149:25,

150:1,
155:23,
155:24,
157:5.
Somewhat 45:13,
126:1,
152:22.
somewhere
83:17.
son 13:13.
Sorry 12:17,
139:3.
Sort 16:7,
28:15, 31:15,
37:16, 52:4,
56:1, 84:24,
100:22,
109:10,
113:13,
128:24,
142:21,
155:17.
sorts 20:11.
sound 60:9,
104:24.
sounding
128:13.
Sounds 50:20,
55:11, 64:11,
72:15, 82:22,
134:4,
141:22,
142:8.
source 79:3,
79:4.
Space 150:24.
span 99:19.
spank 72:1.
spanking 72:1,
86:17.
speaking 27:15,
99:7.
special 7:21,
76:9.
specific
58:13.
specifically
162:18.
spectrum
84:14.

200

speeded 10:15.
 spend 40:8.
 spent 42:4.
 spill 65:13.
 spoke 12:1.
 spoken 11:22.
 Sporadically 24:21.
 spousal 35:13.
 stabbing 151:12.
 Staley 117:10,
 122:14,
 147:6, 149:2,
 157:13.
 stance 69:1.
 stand 8:11,
 84:2, 149:7,
 157:2.
 standing 30:4.
 start 162:16,
 162:17,
 163:1.
 started 26:22,
 28:23,
 100:14,
 118:11,
 148:14,
 160:25,
 161:8.
 starting 3:13,
 28:15.
 stated 123:11.
 statement 71:22, 95:16,
 116:2,
 116:14,
 116:17,
 116:19,
 158:11,
 158:16,
 158:18.
 statements 148:10,
 153:24,
 154:18,
 154:20,
 154:25,
 158:16.
 status 24:7.
 statutes 150:17.
 statutory 13:13.
 stay 148:16,
 148:18,
 148:21,
 149:2.
 steal 30:14,
 30:15.
 steered 140:8.
 steering 142:1.
 stencographical 164:14.
 stop 52:23,
 58:1, 58:18,
 72:2, 72:4,
 93:17.
 Steve 4:18.
 Steven 9:16.
 Stic 128:21,
 128:22,
 146:24.
 stole 12:20,
 78:19.
 stolen 75:16.
 stop 53:15.
 stories 87:4,
 160:11.
 story 76:19,
 134:19.
 strain 57:9.
 stranger 88:12.
 strangers 87:24.
 street 54:18.
 stress 61:16.
 strict 92:16,
 92:21,
 92:24.
 strictest 104:24.
 strikes 90:17,
 91:23,
 strong 36:24,
 46:20, 93:21,
 122:22.
 strongly 45:24.
 struggle 125:20.
 struggled 60:14.
 studying 93:24.
 stuff 30:22,
 65:5, 70:9,
 96:11, 128:4,
 140:20.
 stupid 86:1,
 86:6,
 110:25.
 style 92:15.
 Styrofoam 155:16.
 subject 16:23,
 20:3, 89:11,
 89:19, 146:8,
 146:16.
 submit 155:3.
 submitted 89:20,
 146:17,
 155:1, 155:6,
 158:4,
 159:19.
 subpoenaed 3:20, 95:1.
 substance 13:21, 54:4,
 64:24.
 substances 54:4, 65:4.
 substantiated 101:20.
 substitute 149:21.
 successful 125:11.
 suddenly 67:3.
 sue 75:13.
 sued 34:6,
 164:14.
 therein 164:12.
 thereof 105:24,
 150:24.
 They'll 154:18,
 157:2, 161:6,
 162:9.
 They've 30:1.
 thinking 27:24,
 29:1, 56:21,
 67:10, 93:9,
 107:10,
 109:13,
 126:25,
 128:6.
 thinks 15:10.
 third 156:20.
 thirty 49:13.
 thirty-four 36:17.
 Thomas 7:13.
 though 32:19,
 42:9, 55:20,
 68:7, 68:19,
 102:6, 108:7,
 126:23,
 138:5.
 thoughtful 105:20.
 thoughts 17:24,
 122:24,
 130:16.
 thousand 95:11.
 three 30:3,
 43:20, 46:8,
 89:23, 89:24,
 95:11,
 118:12,
 129:14,
 139:13,
 150:4.
 three. 90:7.
 throughout 72:12,
 88:15.
 throw 135:9.
 throwing 143:2.
 ticket 25:13,
 32:17,
 95:6.
 tired 118:25.
 Tod 8:7.
 Today 10:14,
 10:17, 10:23,
 11:14, 20:11,
 28:23, 61:13,
 91:3, 91:6,
 116:14,
 118:12,
 128:13,
 133:23,
 144:19,
 148:5,
 148:10,
 148:13.
 together 162:25.
 tomorrow 148:14,
 156:8, 161:1,
 162:23.
 tonight 161:2.
 Took 25:18,
 36:17, 76:7,
 79:11,
 135:21.
 tooth 28:7,
 52:6, 56:9.
 torn 125:5.
 totally 59:2.
 touching 8:15.
 tough 25:20,
 68:2, 71:11,
 71:16.
 tournament 5:1.
 toward 37:8,
 94:6, 104:11,
 105:2,
 108:18.
 towards 46:11,
 157:23,
 157:24,
 157:25.
 town 17:8,
 21:5, 79:4.
 traffic 25:7,
 32:16,
 120:5.
 trailer 6:16.
 training 92:23,
 93:2.
 TRAN 1:1.
 transcribed 164:15.
 TRANSCRIPT 1:14,
 156:6.
 transcripts 152:25.
 transpired 43:11.
 transportation 120:10.
 treat 30:12,
 55:7.
 treated 30:12,
 55:20, 63:20,
 64:17, 70:17,
 81:18, 85:12,
 110:23.
 treats 93:3.
 trial 3:6,
 4:19, 5:22,
 7:23, 23:13,
 25:6, 25:13,
 37:3, 64:3,
 89:12, 89:14,
 89:20, 93:24,
 98:17, 146:9,
 146:11,
 146:17,
 149:18,
 152:4,
 152:18,
 152:23,
 153:1, 153:3,
 155:18,
 158:9,
 159:25,
 161:6,
 162:20.
 trial-by-peers 100:15.
 trials 24:2.

201

34:7,
 75:13.
 sufficient 42:7, 43:2.
 summarize 159:9.
 supervisors 31:21.
 support 26:9,
 68:19, 77:5,
 121:9.
 supportive 18:4, 49:1.
 suppose 95:9.
 supposed 3:14,
 5:2, 32:18,
 76:8, 94:22,
 144:23.
 Supreme 162:4.
 surprised 14:13.
 surounding 40:5, 42:17,
 43:6, 69:12,
 107:2, 109:6,
 121:20.
 suspended 64:9.
 sustain 39:20,
 153:8.
 sustained 153:6.
 swear 8:10,
 8:12, 8:13,
 149:10.
 sworn 4:16,
 25:4, 62:19,
 148:9,
 149:8.
 sympathy 35:13,
 153:13.
 synopsis 11:25,
 12:1.
 system 20:7,
 34:4, 47:18,
 48:1, 54:13,
 55:23, 58:23,
 64:17, 70:9,
 73:17, 74:7,
 81:24, 93:13,
 95:7, 99:2,
 102:7,
 107:24,
 109:24,
 110:21,
 122:19,
 127:22,
 135:2, 135:3,
 135:6, 135:9,
 138:7,
 140:12,
 142:16,
 142:17.
 < T >.
 table 61:5,
 126:15.
 tag 47:17.
 taken. 92:2,
 146:19,
 147:8.
 talked 41:14,
 51:17, 75:12,
 82:10, 98:16,
 112:11,
 118:9,
 120:13,
 151:21,
 152:1.
 tan 12:25.
 taste 74:2.
 taught 100:16.
 Taylor 148:22.
 Tayna 6:22.
 telephone 86:6.
 television 89:16,
 146:13,
 160:12.
 tells 114:9.
 Templeton 61:12.
 temper 88:10.
 Templeton 66:2.
 Ten 42:4, 43:2,
 49:12, 81:13,
 85:18, 89:6,
 91:17, 91:22,
 91:23,
 95:3.
 tend 14:10,
 127:22,
 134:15,
 155:13.
 term 6:10,
 18:8,
 53:19.
 termination 52:7.
 terms 42:20,
 153:17,
 160:22.
 terrible 28:14.
 testified 25:11,
 153:1.
 testify 7:3,
 7:6,
 156:15.
 testifying 152:24,
 156:12.
 testimony 8:6,
 14:12, 25:4,
 134:16,
 152:14,
 152:23,
 153:7,
 153:17,
 153:18,
 154:2, 154:4,
 154:6, 154:8,
 155:19,
 160:18,
 164:12,
 164:16.
 testing 5:15.
 Texas 120:16,
 134:2.
 th 12:1.
 Thanks 41:10.
 themselves 154:22.
 thereafter

202

164:14.
 therein 164:12.
 thereof 105:24,
 150:24.
 They'll 154:18,
 157:2, 161:6,
 162:9.
 They've 30:1.
 thinking 27:24,
 29:1, 56:21,
 67:10, 93:9,
 107:10,
 109:13,
 126:25,
 128:6.
 thinks 15:10.
 third 156:20.
 thirty 49:13.
 thirty-four 36:17.
 Thomas 7:13.
 though 32:19,
 42:9, 55:20,
 68:7, 68:19,
 102:6, 108:7,
 126:23,
 138:5.
 thoughtful 105:20.
 thoughts 17:24,
 122:24,
 130:16.
 thousand 95:11.
 three 30:3,
 43:20, 46:8,
 89:23, 89:24,
 95:11,
 118:12,
 129:14,
 139:13,
 150:4.
 three. 90:7.
 throughout 72:12,
 88:15.
 throw 135:9.
 throwing 143:2.
 ticket 25:13,
 32:17,
 95:6.
 tired 118:25.
 Tod 8:7.
 Today 10:14,
 10:17, 10:23,
 11:14, 20:11,
 28:23, 61:13,
 91:3, 91:6,
 116:14,
 118:12,
 128:13,
 133:23,
 144:19,
 148:5,
 148:10,
 148:13.
 together 162:25.
 tomorrow 148:14,
 156:8, 161:1,
 162:23.
 tonight 161:2.
 Took 25:18,
 36:17, 76:7,
 79:11,
 135:21.
 tooth 28:7,
 52:6, 56:9.
 torn 125:5.
 totally 59:2.
 touching 8:15.
 tough 25:20,
 68:2, 71:11,
 71:16.
 tournament 5:1.
 toward 37:8,
 94:6, 104:11,
 105:2,
 108:18.
 towards 46:11,
 157:23,
 157:24,
 157:25.
 town 17:8,
 21:5, 79:4.
 traffic 25:7,
 32:16,
 120:5.
 trailer 6:16.
 training 92:23,
 93:2.
 TRAN 1:1.
 transcribed 164:15.
 TRANSCRIPT 1:14,
 156:6.
 transcripts 152:25.
 transpired 43:11.
 transportation 120:10.
 treat 30:12,
 55:7.
 treated 30:12,
 55:20, 63:20,
 64:17, 70:17,
 81:18, 85:12,
 110:23.
 treats 93:3.
 trial 3:6,
 4:19, 5:22,
 7:23, 23:13,
 25:6, 25:13,
 37:3, 64:3,
 89:12, 89:14,
 89:20, 93:24,
 98:17, 146:9,
 146:11,
 146:17,
 149:18,
 152:4,
 152:18,
 152:23,
 153:1, 153:3,
 155:18,
 158:9,
 159:25,
 161:6,
 162:20.
 trial-by-peers 100:15.
 trials 24:2.

203

trigger 37:5.
 trouble 53:21,
 57:18,
 70:10.
 True 38:24,
 86:2, 144:7,
 149:11,
 164:16.
 truly 8:14,
 149:10.
 trust 95:14.
 trusted 79:3,
 95:17.
 Truthfully 56:21, 60:13,
 129:13,
 153:23.
 try 4:12, 51:2,
 86:22, 93:22,
 97:2, 102:11,
 125:9,
 125:11,
 137:10,
 138:8,
 148:10,
 149:10,
 160:9.
 trying 40:13,
 60:17, 83:12,
 96:3, 148:1,
 148:12.
 TUESDAY 1:29,
 3:1.
 turn 86:5.
 Turner 6:24.
 turns 94:23.
 TV 66:17,
 66:19, 76:9,
 76:16, 76:19,
 80:13.
 twelve 36:16,
 71:5.
 Twisted 135:11,
 135:12.
 Two 16:20,
 27:16, 48:12,
 53:2, 53:3,
 56:24, 57:13,
 60:20, 82:1,
 86:4, 87:11,
 87:14, 87:19,
 95:24, 98:21,
 109:11,
 127:8, 129:6,
 132:9,
 134:18,
 139:19,
 154:5.
 type 41:4,
 79:21, 93:7,
 98:17,
 100:12,
 112:6, 114:5,
 114:10,
 129:11,
 155:24.
 types 24:15,
 100:17,
 103:8,
 131:2.
 < U >.
 ultimate 31:25,
 84:2.
 ultimately 11:1.
 uncle 13:25,
 46:12, 70:23,
 71:8, 71:13,
 117:16,
 117:23,
 118:3.
 uncomfortable 119:3.
 undercover 110:21.
 underlying 152:18.
 undersigned 164:8.
 understand 4:4,
 10:10, 15:18,
 26:20, 27:17,
 28:17, 35:18,
 43:10, 44:6,
 46:23, 49:18,
 69:3, 86:11,
 87:18, 88:11,
 90:18, 97:2,
 107:23,
 113:18,
 116:3, 123:7,
 124:16,
 126:7, 141:6,
 141:8, 141:9,
 158:12.
 understandable 83:6.
 understanding 54:21, 74:18,
 87:17, 87:21,
 87:22,
 141:12,
 147:15,
 154:21.
 understands 43:9.
 understood 90:17.
 undertake 160:16.
 unfair 23:14,
 56:3, 65:14,
 81:21,
 96:22.
 unfairly 55:20.
 unfortunate 41:14.
 unique 98:25,
 143:7.
 University 43:24.
 unknown 139:15,
 139:17.
 unlawfully 150:20,
 151:1.
 unlike 153:3.
 unpleasant 37:5.
 unquote 78:25,
 156:20.
 unseen 120:21.
 Until 32:11,
 50:1, 50:5,
 67:2, 77:17,
 77:18, 86:20,

204

89:20, 91:1, 96:4, 104:3, 118:12, 119:20, 125:19, 126:9, 146:17, 155:1, 155:6, 159:19, 159:21, 159:25, 160:5. unto 30:13. unusual 76:23. up-standing 95:5. uphold 93:13. upset 21:16. upsetting 36:24. Urnst 6:25. users 71:12. uses 65:3. using 151:7. utmost 73:2. . < V >. value 79:2, 153:18, 154:3. Vargas 9:6, 145:13. Vegas 3:1, 23:5, 150:23. vehicle 151:3. vengeance 97:1. verbal 36:17. verdict 11:2, 41:2, 57:16, 78:7, 84:17, 107:4, 121:12, 121:13, 149:11, 152:6,	159:22. versus 3:6, 92:4, 147:10. Vicararo 7:8. Vicker 7:13. victim 7:1, 20:20, 38:17, 75:13, 75:17, 86:25, 87:2, 87:7, 94:14, 111:5, 142:12. victimized 47:23. view 28:22, 31:14, 32:3, 32:8, 35:19, 35:21, 45:8, 69:4. viewed 36:4. viewpoint 123:1. views 28:21, 32:9, 56:16, 122:22. violation 95:13. violence 17:3, 35:11, 35:22, 36:5, 36:15, 37:4, 37:8, 37:11, 47:1, 58:4, 151:5. violent 46:11, 56:11. visit 160:14. voices 103:10. volunteer 50:20, 51:25, 52:1. vote 19:25, 39:23, 40:4, 45:4, 45:19, 56:16, 57:1, 60:1, 60:9, 87:15, 127:16,	131:9, 138:25, 139:6. vs 1:16. . < W >. wait 49:25, 72:7, 77:17, 104:3. waited 98:21. waiting 126:9, 132:18. walk 161:2. walker 54:18. wan't 64:19. wanted 29:20, 76:19, 83:9, 94:3, 101:8, 140:9, 146:2, 161:18, 161:20. wanting 98:25, 157:10. wants 57:4, 79:17, 91:14, 93:4, 138:16. Ware 16:1, 16:2, 16:6, 22:13, 89:24. Washington 22:24, 31:13, 148:25. watch 34:19, 66:18, 66:20, 80:12, 80:13, 89:13, 146:10, 156:11. watched 24:2. watching 66:17. weak 127:25. weapon 5:24, 5:25, 112:8, 113:22, 113:25, 143:12,	128:1. worse 38:21, 42:19. worst 39:10. write 101:8, 101:12, 157:11, 157:15, 157:16. writing 28:12, 83:8. written 135:9, 156:13. wrote 17:21, 22:13, 27:12, 30:13, 56:15, 56:20, 57:8, 59:15, 67:23, 67:24, 68:17, 73:15, 83:1, 83:11, 111:4, 115:12, 136:21, 137:8. . < Y >. yards 109:16. year 5:22, 36:21, 64:9, 94:20, 95:24. yesterday 3:11, 4:3, 10:17, 22:15, 110:18, 155:12. Yo 34:9. young 46:18, 58:24, 65:16, 93:6. younger 26:6, 26:12, 32:7, 32:8, 54:15. yourself 5:11, 25:11, 31:14, 36:19, 45:11, 48:8, 53:20, 69:4, 77:7,	93:20, 113:9, 121:8. yourselves 89:9, 146:6. youth 58:25.
--	---	---	--	--

205

207

150:13, 150:14, 151:1, 151:7, 151:10, 151:14. wearing 161:5. week 60:6. weeks 43:20, 95:24. weigh 57:1. weighting 68:15. weight 14:11, 65:21, 93:8, 114:11, 134:15, 153:18, 154:3, 154:14, 154:16. Welcome 3:5, 3:12, 3:17, 136:6. Walls 133:17. whatever 24:13, 30:20, 32:17, 32:20, 49:16, 94:3, 116:5, 140:22. Whether 30:19, 55:17, 80:16, 80:22, 83:2, 86:24, 143:4, 154:24. whichever 101:8. White 148:25. whittled 145:21. whole 34:23, 36:24, 43:7, 46:23, 70:6, 88:15, 91:4, 127:3. Widher 7:1. wife 14:1, 34:12. willfully 150:20,	151:1, 151:11. William 7:11, 8:7. Williams 7:8. willing 29:8, 44:15, 49:6, 50:3, 77:17, 78:1, 78:2, 93:15, 97:23, 104:2, 105:8, 108:23, 108:24, 108:25, 144:20. Willy 8:3. Winchells 7:9. Wisconsin 51:3, 51:5, 51:9. wish 147:18. wit 151:2, 151:7, 151:14. withhold 10:25. within 26:11, 150:15. Without 6:8, 18:8, 29:14, 33:7, 46:4, 61:7, 79:5, 83:4, 89:10, 89:16, 112:25, 120:25, 146:7, 146:13, 151:5, 151:10. witness 7:12, 11:22, 23:22, 95:16, 153:17, 153:20, 153:22, 153:23, 153:24, 154:3, 154:4, 154:7, 155:9,	156:25, 157:2, 157:3, 157:4, 157:8, 157:20, 157:25, 158:5, 158:7. witnessed 46:19. witnesses 4:1, 5:12, 6:19, 8:1, 89:11, 116:4, 116:6, 146:8, 152:24, 155:19, 156:14, 158:22, 159:1, 160:18, 161:21, 162:13, 162:16. won 76:7. wondering 60:8. word 25:14, 25:18, 86:6. work 24:13, 74:7, 75:24, 110:2, 120:3, 124:14, 124:20, 124:22, 132:4, 144:4, 148:2. worked 12:20, 102:7, 124:8. working 94:6. works 52:24. world 18:19, 83:4. worried 120:4. worry 128:3. worrying 99:4, 99:25, 124:12,
---	--	---

206

289

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TRAN
CASE NO. C-131341
DEPT. NO. 3

FILED

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ORIGINAL

Chaf
CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

STATE OF NEVADA,

Plaintiff,

vs.

JAMES CHAPPELL,

Defendant.

REPORTER'S TRANSCRIPT
OF
PENALTY HEARING

BEFORE THE HONORABLE DOUGLAS HERNDON
DISTRICT COURT JUDGE

DATED: MONDAY, MARCH 12, 2007

REPORTED BY: Sharon Howard, C.C.R. #745

CLERK OF THE COURT

JUL 16 2007

RECEIVED

1 TRAN
2 CASE NO. C-131341
3 DEPT. NO. 3

4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7 * * * * *

8
9 STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 JAMES CHAPPELL,

13 Defendant.

REPORTER'S TRANSCRIPT
OF
PENALTY HEARING

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18 DISTRICT COURT JUDGE

19 DATED: MONDAY, MARCH 12, 2007

20
21
22
23
24
25 REPORTED BY: Sharon Howard, C.C.R. #745

1

1 APPEARANCES:

2 For the State:

CHRIS OWENS, ESQ.

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PAMELA WECKERLY, ESQ.

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5 For the Defendant:

DAVID SCHIECK, ESQ.

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CLARK PATRICK, ESQ.

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1 LAS VEGAS, NEVADA; MONDAY, MARCH 12, 2007

2 PROCEEDINGS

3 * * * * *

4
5 THE COURT: On the record in C-131341

6 State of Nevada versus James Chappell.

7 The record will reflect that Mr. Chappell is outside
8 right now. We're outside the presence of our jury.

9 There was the issue of prejudice brought up about
10 waist restraints on Mr. Chappell. You didn't want him to
11 come in in waist restraints.

12 MR. PATRICK: That's correct.

13 MR. SCHIECK: It's our position that waist
14 restraints aren't necessary in this matter, your Honor.

15 He hasn't been a problem. And I don't believe we had
16 waist restraints at the first proceeding some years ago.
17 And it would, in our opinion, be prejudicial to have the
18 jury see him in restraints. Especially at this stage
19 where we have jurors behind us walking past us while he's
20 sitting at the table. It's pretty clear they're going to
21 see those restraints.

22 I'm not sure what they mean by waist restraints.

23 He's back there and he has something on his hands now.

24 Whether it's just the belly chains or whatever restrains
25 his hands, the jury is going to be able to see. We'd ask

3

1 that he not be so restrained.

2 THE COURT: All right. Anything from the
3 State?

4 MR. OWENS: Your Honor, I always leave
5 this matter to the personnel who are in charge of his
6 custody. I don't — we really don't take a position. We
7 support whatever they think is needed.

8 THE COURT: I'll go ahead and order that
9 you take off the restraints for now. Obviously, if we
10 have any problems — I'm sure his attorneys have spoken
11 with him about that. We won't hesitate to put them back
12 on whenever we think it's necessary to maintain order.
13 But I'll order they be taken off for now.

14 THE OFFICER: Thank you, your Honor.

15 THE COURT: Thank you.

16 Anything outside the presence before we get the
17 jurors up here?

18 MR. SCHIECK: No, your Honor.

19 MR. OWENS: No, your Honor. Court's
20 indulgence. No.

21 (Brief recess taken.)

22 THE COURT: On the record in C-131341,
23 we're outside the presence of the jury. The record will
24 reflect the presence of the Defendant, Mr. Chappell, with
25 his attorneys. The State's attorney is present as well.

4

1 Mr. Owens.
 2 MR. OWENS: At some point before the jury
 3 gets sworn we wanted some kind of affirmation or something
 4 if there was any additional witnesses, or if they have
 5 been unable to get ahold of these witnesses. This thing
 6 was reversed because I believe five witnesses were not
 7 called at the prior hearing. At least one of them was
 8 contacted, but wasn't called.

9 So we just wanted to protect the record as
 10 much as we are able to at some point.

11 THE COURT: Mr. Schieck.

12 MR. SCHIECK: As much as I can, without
 13 revealing any confidential information, your Honor, I can
 14 represent to the court that, in fact, we have been in
 15 contact with everyone that we wanted to contact and speak
 16 to and/or bring in from Michigan and Arizona.

17 I would note that due to the passage of time there is
 18 a number of witnesses that are no longer able to testify
 19 either due to incapacity or due to passing away. So
 20 obviously those are situations we'll deal with as we move
 21 along.

22 Additionally, no additional -- I think we
 23 can represent that we have contacted and have on board
 24 everybody we wanted to call for the penalty hearing.

25 THE COURT: All right. Thank you.

5

1 court reporter. Everything that I say, or the attorneys
 2 say, or you say is going to be recorded -- or reported
 3 during the course of the proceedings. It's going to be
 4 very important that if you have something you need to tell
 5 me, if I call on you, or if the attorneys ask you a
 6 question make sure that you speak loud enough so that
 7 Sharon can hear. She'll let you know if she can't hear
 8 you, and she'll ask you to repeat yourself.

9 But also try not to say Uh-huh or Huh-uh, if you're
 10 answering "yes" or "no." That's hard to report, and we
 11 want to make sure we get it right.

12 Also nodding your head or shaking your head, we are
 13 not going to be able to get that down either. Make sure
 14 you answer out loud.

15 Additionally, if I'm calling on you to answer a
 16 question, or if the attorneys are calling on you and we
 17 fail to ask you by name and badge number, i.e., if I have
 18 a questions for Mr. Madison -- that's you on top, right?

19 MR. MADISON: Yes.

20 THE COURT: A lot of times I'll say Mr.
 21 Madison, badge number 102 -- the last three numbers on
 22 your badge -- so that we make sure that the person that's
 23 speaking, for the record, is clearly identified in the
 24 reporter's transcript. If we fail to do that, please,
 25 make sure before you answer that you identify yourself by

7

1 Anything from the State?

2 MS. WICKERLY: No. Thank you.

3 THE COURT: We'll be in recess until we
 4 get our jury in here.

5 (Prospective jurors escorted into the courtroom.)

6 THE COURT: Good morning, Ladies and
 7 gentlemen.

8 We will be on the record in C-131341, State of Nevada
 9 versus James Chappell. The record will reflect the
 10 presence of Mr. Chappell with his attorneys, the State's
 11 attorneys.

12 Welcome Ladies and Gentlemen to Department 3, of the
 13 Eighth Judicial District Court. My name is Douglas
 14 Herndon. I am the preceding judge in this department.
 15 And you all have been summoned here as potential jurors in
 16 a criminal proceeding.

17 What we're going to do momentarily is move into the
 18 jury selection process, which will probably take us the
 19 better part of today, if not a little bit of tomorrow as
 20 well. Then we move into the evidentiary phase of the
 21 criminal proceeding.

22 Before we get to actual questioning of perspective
 23 jurors, let me tell you a few things about what going to
 24 be happening and introduce you to some of my staff.

25 Seated right in front of me is Sharon. Sharon is my

6

1 your name and badge number.

2 Seated next to me is Carol. Carol is my court clerk.
 3 Carol is going to administer the oath to you all in a
 4 moment. Because all the jury questioning is done under
 5 oath. She administers the oath to witnesses before they
 6 testify, keeps track of all the exhibits, all the court
 7 minutes, and a great many things I can't keep track of, to
 8 be quite honest.

9 Seated to her left is Steve. Steve is my law clerk.
 10 He'll come in and out of court during time to help me with
 11 a variety of legal issues the come in during the course of
 12 the proceedings -- instructions to the jury, legal
 13 instructions we give later on.

14 Leslie is my bailiff. You met Leslie. She helped
 15 you kind of get up and down stairs. What you're going to
 16 come to find out is other than this process, the selection
 17 process, where we can all kind of talk to the jurors and
 18 ask you questions, and so forth, other than that, most of
 19 the court personnel and all the attorneys are prohibited
 20 by ethical obligations and the law from conversing with
 21 the jurors. So when you're sitting in the hall, none of
 22 the attorneys can come up and make small talk. They're
 23 not going to talk to you if you see them in the cafeteria
 24 or elevators.

25 As far as even opening the door for you, they're not

8

1 going to say thank you, you're welcome, things like that.
 2 They're not being rude or antisocial. It's not that they
 3 dislike you in any fashion. It's just that the law and
 4 ethical obligations prohibit the attorneys and most of the
 5 court staff from conversing with the jurors during the
 6 course of the proceedings, so as to not have anyone think
 7 that the verdict should be contaminated if anybody is
 8 talking to the jurors. Please understand that.

9 That being said, Leslie doesn't have those same
 10 obligations. She has ethical obligations, but she's not
 11 under the same prohibitions that we are. So you'll always
 12 be able to talk with Leslie.

13 If there is something that comes up during the course
 14 of the proceedings today or tomorrow or here on out, you
 15 can always bring it to Leslie's attention if you need to
 16 get something to the court's attention, we'll take care of
 17 it as we need to. But you can always talk to Leslie.

18 In fact, once we get to the point of having fourteen
 19 of you selected as jurors, we'll get some phone numbers
 20 from you, and Leslie will give you some phone numbers for
 21 my executive assistant, Molly, to make sure we're able to
 22 get ahold of you. If we're ready to start tomorrow and
 23 somebody is running late -- I also ask the same thing of
 24 you all -- if you're running late to call us and let us
 25 know so that we know you're on your way.

9

1 So that's pretty much most of the court personnel
 2 you'll come in contact with throughout the course of the
 3 trial.

4 What I'm going to do now is ask the attorneys to
 5 introduce themselves, introduce their client, who they
 6 represent. They're going to tell you a real short
 7 synopsis, maybe, of some of the stuff that this case is
 8 about. I know you got a little bit of it from reading the
 9 questionnaire.

10 They'll also list to you or speak to you about the
 11 witnesses they believe may be called to testify in this
 12 case. Probably won't call every witness that they talk to
 13 you about, but nonetheless, the names may come up and they
 14 may have played a role somehow in what takes place during
 15 this hearing. So you need to be aware of ones that might
 16 not even be called, even though they may be mentioned as
 17 well.

18 Please listen very closely as the
 19 attorneys speak to you with their names and the nature of
 20 the case and the witnesses that may be called, because I'm
 21 going to ask you a couple of questions in a minute as to
 22 whether you think you know any of these folks, the
 23 attorneys, Mr. Chappell, any potential witnesses, anything
 24 like that.

25 On behalf of the State.

10

MR. OWENS: Thank you, your Honor.

2 Good morning. My name is Chris Owens. And I work
 3 for the District Attorney's office. I'm a prosecutor
 4 there with Pam Weckerly, who is co-counsel in this case.
 5 We are prosecuting this case against James Chappell. This
 6 is a case that was tried to a jury back in 1996. At that
 7 time Mr. Chappell was convicted of the crimes of burglary,
 8 robbery with use of a deadly weapon, and first degree
 9 murder with use of a deadly weapon.

10 The purpose of this proceeding, at this
 11 point in time, is for sentencing. The determination of
 12 punishment. As you are told in the questionnaire that you
 13 fill out, there are four options that will be available to
 14 this jury making that decision. So guilt or innocence is
 15 not going to be a consideration as to those charges, just
 16 punishment.

17 And the potential punishments are the
 18 death penalty, life without the possibility of parole,
 19 life with the possibility of parole after 40 years, and a
 20 term of 100 years, with the possibility of parole after 40
 21 years. That's the only thing this jury is going to be
 22 focusing on in this proceedings.

23 We anticipate and are hopeful that we are
 24 going to accomplish this in the next five days or so.
 25 There's every possibility we'll be done this week. It

11

1 could spill over to next week, but hopefully we'll be able
 2 to do it this week.

3 The areas, geographically, that you are
 4 going to be hearing testimony about -- the information in
 5 this case -- the area is just a little bit to the east of
 6 here down Bonanza, called the Ballerina Mobile Home Park.
 7 That's at 839 East Lamb. And the particular space number,
 8 125, is where the murder occurred.

9 There's also some other areas you'll hear
 10 about associated with the downtown here, the jail, parole
 11 and probation was on Bonanza. Also GE Capital is a
 12 business operating back at that time. And that was a
 13 business where the victim worked. So you are going to
 14 hear some information about that particular entity as
 15 well. And you'll hear from some people that worked
 16 there.

17 The witnesses that the State may call --
 18 I'll read their names -- include Luanna Aires, Lisa Duran,
 19 Tanya Robson, LaDonna Jackson, Claire McGuire, Mike
 20 Pollard, Kimberly Simpson, Sherry Smith, and Debra Turner,
 21 Laura Burfield, Jerry Urnst, Dina Freeman, Michelle
 22 Moncha, Carol Munson, Norma Penfield, and Paul Widner.
 23 From the Clark County Coroner's office -- a retired
 24 coroner now -- a Dr. Green. And then police department
 25 officers, Daniel Dersdorff, Darren Heiner, Officer Art

12

1 Lee, Paul Osuch, Mike Perkins, James McCarroll, Allen
2 Williams, and Cal Winchells.

3 From Parole and Probation, Larry Arabe

4 (ph) Mike Compton, William Duffy, Ed Henderson, Chermaine
5 Smith.

6 And one other witness, potentially might
7 be called, is a psychiatrist, Thomas Bickert, from the
8 Reno area.

9 This is going to be something that will
10 take a little bit of time, as the judge indicated. We ask
11 you to bear with us in questioning. It's obviously a very
12 serious matter. And we appreciate your time and attention
13 and patience with us.

14 Thank you.

15 THE COURT: On behalf of the defendant.

16 MR. SCHIECK: Thank you, your Honor.

17 Good afternoon, ladies and gentlemen. My name is
18 David Schieck. I'm with the special public defender's
19 office here in Clark County. Assisting me is Clark
20 Patrick, who's also with the special public defender's
21 office. This is our client who's been charged in this
22 case, James Chappell.

23 The list of witnesses from which we may
24 call during these proceedings are as follows: James Ford,
25 Ivory Morrell, Ben Dean, Charles Dean, Fred Dean, Willy

13

1 Chappell, Mira Chappell-King, Kisha Axiom, Dennis Raffer,
2 Marabel Rosales, and Howard Brooks.

3 Additionally, Dr. Lewis Etcoff, Dr. Tod
4 Grey, and Dr. William Danton from Reno Nevada.

5 Thank you.

6 THE COURT: Thank you.

7 Ladies and gentlemen, obviously you all
8 came in and filled out the questionnaire, which is
9 designed to expedite this process. And even though the
10 process is going to seem somewhat lengthy at time, the
11 questionnaire does expedite the process.

12 I have a few questions I'm going to ask
13 you about before we get started with the attorney's
14 questions. And as you go through my questions, just raise
15 your hand if you want to answer a question. And I'll
16 generally start in the back row and move to the middle row
17 and to the front row, and then go over first row, second
18 row, third row, et cetera.

19 You don't have to keep your hand up in the
20 air the full time, obviously. Just make sure as I move
21 through you get your hand up and get it up high if you
22 would, please, so I can see you.

23 One of the things I can assure you of is
24 it is the desire of the court, as well as all the
25 attorneys, that we find fourteen people who are as fair,

14

1 open-minded, and neutral as possible to decide this case.

2 That's the reason you have this big questionnaire, to find
3 out the information about your lives, professional
4 background, personal background, so that everybody can
5 learn a little about you and make appropriate decisions.

6 It's very important therefore, just as
7 when you filled out the questionnaire, that you give as
8 full, complete, and honest answers to any questions put
9 forth to you today as possible. If you think there is
10 something there that might be important to bring out, then
11 trust your instinct and bring it out.

12 If you don't tell us about something and
13 that fact is later discovered, and you're actually seated
14 as a juror in this case, that fact alone could tend to
15 contaminate your verdict. So it's very important that you
16 provide everything with as much information as possible,
17 pursuant to the questions asked of you today.

18 As many types of cases as you can imagine
19 in the criminal justice system and the civil justice
20 system I guarantee you there's more. And some of you may
21 be great jurors for a different type of case than this
22 case. Others of you might be great jurors for this type
23 of case. But the questioning process is designed to
24 filter through that and see what is going on in your
25 professional and personal lives to might effect your

15

1 ability to be the best juror.

2 It doesn't mean you are not a great
3 person. It doesn't mean you are not intelligent, have a
4 high degree of integrity and so forth, it's just that if,
5 for instance, this was a civil case and it was dealing
6 with some land transaction gone bad and you were in the
7 process of going through something like that, obviously,
8 this might not be the best case to sit on. That's just a
9 real basic example. But you can kind of understand where
10 we're going in terms of the questions that are asked
11 here.

12 What I want to do first is ask to
13 everybody as a whole — what I'm going to ask first is for
14 my clerk to swear you in. I'll have everybody stand up
15 and raise your right hand.

16 THE CLERK: You do solemnly swear you will
17 well and truly answer such questions that may be put to
18 you, touching upon your qualifications to act as jurors in
19 the case at issue, so help you God.

20 PROSPECTIVE JURORS: (Choir of I do.)

21 THE CLERK: Thank you.

22 THE COURT: Thank you, ladies and
23 gentlemen.

24 Is there anybody here who has been
25 convicted of a felon? Mr. Madison.

16

1 MR. MADISON: Yes.
2 THE COURT: What was it, sir?
3 MR. MADISON: My records are sealed back
4 in New York.
5 THE COURT: Was it expunged later on?
6 MR. MADISON: I was on probation for five
7 years.
8 THE COURT: What was the charge?
9 MR. MADISON: First degree assault.
10 THE COURT: Okay. How long ago was it?
11 MR. MADISON: I was 17.
12 THE COURT: So was it treated as a
13 juvenile offence, then got sealed?
14 MR. MADISON: Yes. The reason was I was
15 under 18, so the records are sealed after that.
16 THE COURT: Thank you. Anybody else? No
17 more hands. Thank you, very much.
18 Is there anybody here who is not a U.S.
19 citizen? No. Thank you, very much.
20 Carol, if you would, please, call the roll
21 of the jurors to make sure we have everybody that we
22 believe we do. Answer present or here.
23 THE CLERK: Frederick Madison.
24 PROSPECTIVE JUROR: Here.
25 THE CLERK: Victor Perez.

17

1 PROSPECTIVE JUROR: Here.
2 THE CLERK: Neil Sacknary.
3 PROSPECTIVE JUROR: Here.
4 THE CLERK: Mark Brady.
5 PROSPECTIVE JUROR: Here.
6 THE CLERK: Deborah Kaleikni-Johnson.
7 PROSPECTIVE JUROR: Here.
8 THE CLERK: Jerry Taylor.
9 PROSPECTIVE JUROR: Here.
10 THE CLERK: Bobbie Hibbard.
11 PROSPECTIVE JUROR: Here.
12 THE CLERK: Nichole Haupt.
13 THE COURT: Jury services indicated she's
14 not in today.
15 THE CLERK: Lisa Bailey.
16 PROSPECTIVE JUROR: Here.
17 THE CLERK: Lisa Mills.
18 PROSPECTIVE JUROR: Here.
19 THE CLERK: Charles O'Hartz.
20 THE COURT: Badge 018, jury services
21 indicated that Mr. O'Hartz did not come in today.
22 THE CLERK: Lisa Labranch.
23 PROSPECTIVE JUROR: Here.
24 THE CLERK: Larry Henck.
25 PROSPECTIVE JUROR: Here.

18

1 THE CLERK: Brent Petit.
2 PROSPECTIVE JUROR: Here.
3 THE CLERK: George Smith.
4 PROSPECTIVE JUROR: Here.
5 THE CLERK: Christa Meyrick.
6 PROSPECTIVE JUROR: Here.
7 THE CLERK: Karalee Squires.
8 PROSPECTIVE JUROR: Here.
9 THE CLERK: Cheryl Cardillo.
10 PROSPECTIVE JUROR: Here.
11 THE CLERK: Paige Rosehill.
12 PROSPECTIVE JUROR: Here.
13 THE CLERK: Alex Morales.
14 PROSPECTIVE JUROR: Here.
15 THE CLERK: Lusila Pinoj.
16 PROSPECTIVE JUROR: Here.
17 THE CLERK: Michael McKown.
18 PROSPECTIVE JUROR: Here.
19 THE CLERK: Esuebio Ramirez.
20 PROSPECTIVE JUROR: Here.
21 THE CLERK: Annette Theus.
22 PROSPECTIVE JUROR: Here.
23 THE CLERK: Davy Ann Noahr.
24 PROSPECTIVE JUROR: Here.
25 THE CLERK: Sharon Martino.

19

1 PROSPECTIVE JUROR: Here.
2 THE CLERK: Christine Bundren.
3 PROSPECTIVE JUROR: Here.
4 THE CLERK: Amy Anaro.
5 THE COURT: The record will indicate 040
6 is not in today.
7 THE CLERK: Lori Smith.
8 PROSPECTIVE JUROR: Here.
9 THE CLERK: Lisa French.
10 PROSPECTIVE JUROR: Here.
11 THE CLERK: Jamie Carvelli.
12 PROSPECTIVE JUROR: Here.
13 THE CLERK: Angelo Morin.
14 PROSPECTIVE JUROR: Here.
15 THE CLERK: Angel Garcia.
16 PROSPECTIVE JUROR: Here.
17 THE CLERK: Michael Carr.
18 PROSPECTIVE JUROR: Here.
19 THE CLERK: James Grindstaff.
20 PROSPECTIVE JUROR: Here.
21 THE CLERK: Benjamin Salak.
22 PROSPECTIVE JUROR: Here.
23 THE CLERK: Laura Johnson.
24 PROSPECTIVE JUROR: Here.
25 THE CLERK: Blayne White.

20

1 PROSPECTIVE JUROR: Here.
 2 THE CLERK: Luke Davie.
 3 PROSPECTIVE JUROR: Here.
 4 THE CLERK: Cassandra Ware.
 5 PROSPECTIVE JUROR: Here.
 6 THE CLERK: Gene Nakanishi.
 7 PROSPECTIVE JUROR: Here.
 8 THE CLERK: Darlene Washington.
 9 PROSPECTIVE JUROR: Present.
 10 THE CLERK: Nancy Lee.
 11 PROSPECTIVE JUROR: Here.
 12 THE CLERK: Doreen Matts.
 13 PROSPECTIVE JUROR: Here.
 14 THE CLERK: Wendelina Sunga.
 15 PROSPECTIVE JUROR: Here.
 16 THE CLERK: Duane Feuerhammer.
 17 PROSPECTIVE JUROR: Here.
 18 THE CLERK: David Forbes.
 19 PROSPECTIVE JUROR: Here.
 20 THE CLERK: Donald Scott.
 21 THE COURT: 075, jury services indicates
 22 he's not in today.
 23 THE CLERK: Michael Sprosty.
 24 PROSPECTIVE JUROR: Here.
 25 THE CLERK: Robert Templeton.

21

1 PROSPECTIVE JUROR: Here.
 2 THE CLERK: Brinnon Scott.
 3 PROSPECTIVE JUROR: Here.
 4 THE CLERK: James Wroblewski.
 5 PROSPECTIVE JUROR: Here.
 6 THE CLERK: Tamar Jackson.
 7 THE COURT: Badge 080, jury services
 8 indicates she did not come in today.
 9 THE CLERK: Candice Rius.
 10 PROSPECTIVE JUROR: Here.
 11 THE CLERK: Davita Curtis.
 12 PROSPECTIVE JUROR: Here.
 13 THE CLERK: That's it.
 14 THE COURT: Anybody present whose name was
 15 not called? All right. Ms. Haupt, Mr. O'Hartz,
 16 Ms. Noahr, Mr. Scott, and Ms. Jackson I'll refer to the
 17 chief judge as non-appearing on jury calendar.
 18 Is there anybody here who believes they're
 19 acquainted with or knows Mr. Owens or Ms. Weckerly present
 20 from the district attorney's office?
 21 PROSPECTIVE JUROR: I know Mr. Owens.
 22 THE COURT: What's your badge number?
 23 PROSPECTIVE JUROR: 025.
 24 THE COURT: Ms. Squires, who do you know?
 25 PROSPECTIVE JUROR: Chris Owens.

22

1 THE COURT: How do you know him.
 2 PROSPECTIVE JUROR: Family friends.
 3 THE COURT: Socialize with him with your
 4 family together?
 5 PROSPECTIVE JUROR: Absolutely.
 6 THE COURT: Okay. Thank you. Anybody
 7 else? Anybody that believes they know Mr. Schieck or Mr.
 8 Patrick or are acquainted with them, the defense
 9 attorneys?
 10 PROSPECTIVE JUROR: I do.
 11 THE COURT: Mr. Rosehill, badge number
 12 027. Who do you know, sir?
 13 PROSPECTIVE JUROR: Mr. Schieck.
 14 THE COURT: How do you know Mr. Schieck?
 15 PROSPECTIVE JUROR: From working in the
 16 legal field in the past. And associating with him
 17 personally. I know his legal assistant as well.
 18 THE COURT: Thank you, sir. Anybody else?
 19 Yes, sir.
 20 PROSPECTIVE JUROR: 062.
 21 THE COURT: Thank you.
 22 PROSPECTIVE JUROR: Clark Patrick.
 23 THE COURT: Mr. Nakanishi?
 24 PROSPECTIVE JUROR: Correct.
 25 THE COURT: How do you know Mr. Patrick?

23

1 PROSPECTIVE JUROR: His dad was close
 2 friends with mine. They used to teach together.
 3 THE COURT: So you socialized together in
 4 the past?
 5 PROSPECTIVE JUROR: Yeah.
 6 THE COURT: Thank you. Anybody else?
 7 No.
 8 Is there anybody that believes they're
 9 acquainted or knows Mr. Chappell, the defendant? I see no
 10 hands. Thank you.
 11 Anybody believe they're acquainted with or
 12 knows any of the witnesses spoken to you about by Mr.
 13 Owens or Mr. Schieck? I see no hands. Thank you.
 14 Is there anybody that believes they're
 15 somehow acquainted with the facts of this case or know
 16 anything about the case other than what's been spoken to
 17 you about by the attorneys or what was in the jury
 18 questionnaire?
 19 Yes, ma'am.
 20 PROSPECTIVE JUROR: 082, I remember
 21 hearing about it and reading about it on the news at the
 22 time.
 23 THE COURT: Okay. Other than what you
 24 believe you may have seen in the newspaper and on the TV,
 25 do you know anything about it?

24

1 PROSPECTIVE JUROR: No, sir.
 2 THE COURT: Your sole source of
 3 information is what you may have seen in the media?
 4 PROSPECTIVE JUROR: Yes, sir.
 5 THE COURT: Thank you.
 6 A couple other questions I want to ask you all about.
 7 I know in the jury questionnaire there was a question
 8 about prior jury service. Some of you had indicated you
 9 had been jurors before. Have any of you that have been
 10 jurors before ever been a foreperson of a jury? No.
 11 Thank you.
 12 I believe their are questions in the
 13 questionnaire as to whether you have ever been victimized
 14 by crime. I don't recall -- and I apologize if it was
 15 there -- whether there was any questions of any of you or
 16 close family members had been accused of a crime. To the
 17 extent that question wasn't there, have any of you or
 18 close family members ever been accused of a crime?
 19 Ma'am.
 20 PROSPECTIVE JUROR: My brother has been in
 21 lots of trouble.
 22 THE COURT: What's your name?
 23 PROSPECTIVE JUROR: Labbranch.
 24 THE COURT: Badge number 019. Locally?
 25 PROSPECTIVE JUROR: No. He's in

25

1 Arizona.
 2 THE COURT: What type of things has he
 3 been arrested for or accused of?
 4 PROSPECTIVE JUROR: Drugs.
 5 THE COURT: Okay. Thank you. Next to
 6 you. Is it Mr. Henck?
 7 PROSPECTIVE JUROR: Yes, sir.
 8 THE COURT: 020.
 9 PROSPECTIVE JUROR: Yes. I have two
 10 cousins who were both convicted of trafficking narcotics
 11 in school zones in Pennsylvania.
 12 THE COURT: Thank you. Anybody else on
 13 that row? Yes, sir.
 14 PROSPECTIVE JUROR: Smith, 022. Grand
 15 children drug scene primarily.
 16 THE COURT: Okay. Locally or somewhere
 17 else?
 18 PROSPECTIVE JUROR: California.
 19 THE COURT: Anybody else on that row? No.
 20 Yes, ma'am. Ms. Mills, badge number 016.
 21 PROSPECTIVE JUROR: I have a cousin
 22 convicted of attempted murder.
 23 THE COURT: Was that locally or somewhere
 24 else?
 25 PROSPECTIVE JUROR: Locally.

26

1 THE COURT: Thank you. Anybody else on
 2 that row? Bottom row here? No. How about the first row,
 3 there?
 4 PROSPECTIVE JUROR: Annette Theus, 035.
 5 Brother, nephew, husband, son.
 6 THE COURT: What types of things are we
 7 talking about?
 8 PROSPECTIVE JUROR: Burglary, assault. I
 9 think that's about it.
 10 THE COURT: All right. Were any of them
 11 convicted of those crimes?
 12 PROSPECTIVE JUROR: Yes.
 13 THE COURT: Were those locally? Or
 14 somewhere else? Or both?
 15 PROSPECTIVE JUROR: Both.
 16 THE COURT: Okay. Anybody else on that
 17 row? I saw some more hands. Yes.
 18 PROSPECTIVE JUROR: 039, Christina
 19 Bundren. My uncle was convicted of first degree murder of
 20 my aunt here locally.
 21 THE COURT: How long ago was that?
 22 PROSPECTIVE JUROR: 1990 -- November
 23 1990.
 24 THE COURT: Thank you. Next to her, is
 25 that Ms. Smith?

27

1 PROSPECTIVE JUROR: Yes.
 2 THE COURT: 045.
 3 PROSPECTIVE JUROR: My son, drugs and
 4 check forgery in Wyoming and locally.
 5 THE COURT: Thank you. Did you have your
 6 hand up Ms. French?
 7 PROSPECTIVE JUROR: No.
 8 THE COURT: Thank you. Second row? On
 9 the end, is that Carvelli, 048?
 10 PROSPECTIVE JUROR: Yes. My cousin mail
 11 fraud and theft.
 12 THE COURT: Where was that?
 13 PROSPECTIVE JUROR: Here.
 14 THE COURT: Thank you. Mr. Morin, 050.
 15 PROSPECTIVE JUROR: My brother, attempt
 16 murder. Locally.
 17 THE COURT: Thank you. Did you have your
 18 hand up, Mr. Garcia? Badge number 051.
 19 PROSPECTIVE JUROR: My son, drugs,
 20 locally.
 21 THE COURT: Thank you. Next, you had your
 22 hand up over there, Mr. Grindstaff.
 23 PROSPECTIVE JUROR: My nephew as to gang
 24 activity.
 25 THE COURT: Thank you. Who is next over

28

1 there, Ms. Johnson.

2 PROSPECTIVE JUROR: My daughter's father,
3 ongoing domestic violence. He's waiting to be tried for
4 first degree murder, locally.

5 THE COURT: Your daughter's father.

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Does that involve you as a
8 victim?

9 PROSPECTIVE JUROR: No. Yeah. I take that
10 back, yes. Yes.

11 THE COURT: Thank you. Did you have your
12 hand up? Is that Mr. White.

13 PROSPECTIVE JUROR: Yes. I was arrested
14 like 20 years ago for domestic violence. I had a fight
15 with my older sister.

16 THE COURT: How old were you at the time?

17 PROSPECTIVE JUROR: I believe I was 19 or
18 20.

19 THE COURT: Was that locally?

20 PROSPECTIVE JUROR: Yes, sir.

21 THE COURT: Thank you. How about the
22 third row, Mr. Davie.

23 PROSPECTIVE JUROR: 059, my brother
24 domestic abuse in Philadelphia, Pennsylvania.

25 THE COURT: Thank you. What's your badge
29

1 number?

2 PROSPECTIVE JUROR: 069.

3 THE COURT: Thank you. Is it Matts?

4 PROSPECTIVE JUROR: Matts. Both brothers,
5 drugs in Hawaii.

6 THE COURT: Thank you. Anybody else in
7 that row. Yes, on the end.

8 PROSPECTIVE JUROR: 074, brother, burglary
9 robbery, locally.

10 THE COURT: Thank you. Ms. Sunga.

11 PROSPECTIVE JUROR: 072, my son with gang
12 activity elsewhere.

13 THE COURT: Thank you. Any of you all
14 over here? Yes, ma'am.

15 PROSPECTIVE JUROR: 082, my two
16 brothers-in-law and sister-in-law are convicted in an
17 offence. My sister in-law was prosecuted for drugs. One
18 brother-in-law was a DUI. And one brother-in-law is in
19 prison now for molesting his step daughter.

20 THE COURT: And were any or all of those
21 locally?

22 PROSPECTIVE JUROR: Locally.

23 THE COURT: Thank you very much.

24 All right, folks. Thank you.

25 Are there any of you -- I know the
30

1 questionnaire asked whether or not you have ever yourself
2 or a family member worked in law enforcement. Let me ask
3 another question along those lines. Is there anything who
4 feels they would give more weight or less weight to the
5 testimony of a police officers simply because they're
6 police officers? Anybody? No hands. Thank you, very
7 much.

8 Does everybody here believe that they
9 would be able to follow all of the instructions on the law
10 that will be given by the court, even if the instructions
11 differ from your personal beliefs as to what the law ought
12 to be?

13 Do you understand what I'm asking there?

14 I don't write the questions. I do
15 interpret them and try and make them a little more
16 understandable for you.

17 Essentially, before we get started, after
18 we seat a jury, I'll kind of tell you a little about how
19 the case will proceed and how you'll receive evidence, how
20 witnesses will be called and so forth. And they'll be
21 some real preliminary instructions in there on some legal
22 issues. But at the end of the case, after you have
23 received all of the evidence and heard all of the
24 testimony, but before the attorneys give their closing
25 arguments, I'll read you a little more lengthy
31

1 instructions on what the law is in the State of Nevada.

2 You're the fact finders. Your job is to
3 figure out what the facts are of this proceeding. And you
4 apply the law to those facts and you come up with a result
5 that you believe is appropriate. What I'm asking now is
6 you've got to be willing, as jurors, to accept that the
7 laws is as I tell you it is. And even though you may
8 think there is something else that should be the law, you
9 have to accept and apply the law as I tell you the law
10 exists. What I want to know is if there is anybody that
11 could not do that. Okay? See any hands? No. All
12 right.

13 Thank you.

14 All right. There are certain principles
15 of law that apply in criminal cases. In particular, to
16 this proceeding, the principle I want to ask you about is
17 the State has the burden of proving certain things beyond
18 a reasonable doubt. Okay. Does everybody understand that
19 principle? Does everybody agree to that principle? Does
20 everybody think they can hold the State to their burden of
21 proof? Anybody could not do that? Let's see your hands.
22 No.

23 All right. Thank you, very much.

24 All right. I'm going to ask, in a minute,
25 whether it's going to be an undue burden to serve. And I
32

CHRISTOPHER R. ORAM, LTD.
520 SOUTH 4TH STREET | SECOND FLOOR
LAS VEGAS, NEVADA 89101
TEL. 702.384-5563 | FAX. 702.974-0623

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

JAMES CHAPPELL,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

S.C. CASE NO. 61967

Electronically Filed
Nov 18 2013 02:28 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

APPEAL FROM DENIAL OF PETITION FOR WRIT OF HABEAS CORPUS
(POST-CONVICTION) AND SENTENCE OF DEATH
EIGHTH JUDICIAL DISTRICT COURT
THE HONORABLE JUDGE CAROLYN ELLSWORTH, PRESIDING

~~~~~  
APPELLANT'S APPENDIX TO THE OPENING BRIEF  
VOLUME XIX  
~~~~~

ATTORNEY FOR APPELLANT

CHRISTOPHER R. ORAM, ESQ.

Attorney at Law

Nevada Bar No. 004349

520 S. Fourth Street, 2nd Floor

Las Vegas, Nevada 89101

Telephone: (702) 384-5563

ATTORNEY FOR RESPONDENT

STEVE WOLFSON, ESQ.

District Attorney

Nevada Bar No. 001565

200 Lewis Avenue

Las Vegas, Nevada 89101

CATHERINE CORTEZ MASTO

Nevada Attorney General

Nevada Bar No. 0003926

100 North Carson Street

Carson City, Nevada 89701-4717

IN THE SUPREME COURT OF NEVADA

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APPENDIX

<u>VOLUME</u>	<u>PLEADING</u>	<u>PAGE NO</u>
11	ACKNOWLEDGMENT AND WAIVER (FILED 9/26/2003)	2622-2622
11	AFFIDAVITS IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS (FILED 3/7/2003)	2672-2682
11	AFFIDAVITS IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS (FILED 3/10/2003)	2683-2692
8	AMENDED JURY LIST (10/23/1996)	2062-2062
10	AMENDED ORDER APPOINTING COUNSEL (FILED 11/29/1999)	2359-2359
2	ANSWER TO MOTION TO COMPEL DISCLOSURE BY THE STATE OF ANY AND ALL INFORMATION (FILED 9/11/1996)	306-308
12	APPLICATION AND ORDER FOR DEFENDANT CHAPPELL (FILED 1/25/2007)	2901-2903
9	CASE APPEAL STATEMENT (FILED 1/23/1997)	2202-2204
11	CASE APPEAL STATEMENT (FILED 6/18/2004)	2754-2756
11	CASE APPEAL STATEMENT (FILED 6/24/2004)	2759-2760
20	CASE APPEAL STATEMENT (FILED 10/22/2012)	4517-4519
11	CERTIFICATE OF MAILING	

1	12	(FILED 7/23/2004) CERTIFICATE OF MAILING (FILED 9/21/2006)	2780-2781 2879-2880
2	1	CRIMINAL BINDOVER (FILED 10/10/1995)	001-037
3	20	COURT MINUTES	4644-4706
4	10	DECLARATION IN SUPPORT OF MOTION TO PERMIT PETITION (FILED 10/19/1999)	2324-2326
5	10	DECLARATION IN SUPPORT OF MOTION TO PROCEED IN FORMA PAUPERIS (FILED 10/19/1999)	2328-2332
6	9	DEFENDANT'S MOTION FOR STAT OF EXECUTION (FILED 12/27/1996)	2175-2177
7	2	DEFENDANT'S MOTION IN LIMINE REGARDING DETAILS OF DEFENDANT'S RELEASE (FILED 10/4/1996)	328-335
8	2	DEFENDANT'S MOTION IN LIMINE REGARDING EVENTS RELATED TO DEFENDANT'S ARREST FOR SHOPLIFTING ON SEPTEMBER 1, 1995 (FILED 10/4/1996)	336-341
9	2	DEFENDANT'S MOTION TO COMPEL PETROCELLI HEARING REGARDING ALLEGATIONS (FILED 9/10/1996)	297-302
10	5	DEFENDANT'S MOTION TO DISMISS ALL CHARGES BASED ON STATE'S VIOLATION (FILED 10/11/1996)	1070-1081
11	1	DEFENDANT'S MOTION TO STRIKE ALLEGATIONS OF CERTAIN AGGRAVATING CIRCUMSTANCES (FILED 7/30/1996)	250-262
12	1	DEFENDANT'S MOTION TO STRIKE STATE'S NOTICE OF INTENT TO SEEK DEATH PENALTY (FILED 7/23/1996)	236-249
13	1	DEFENDANT'S MOTION TO VACATE JUNE 3, 1996, TRIAL DATE AND CONTINUE TRIAL UNTIL SEPTEMBER (FILED 4/23/1996)	210-215
14	2	DEFENDANT'S OFFER TO STIPULATE TO CERTAIN FACTS (FILED 9/10/1996)	303-305
15	2	DEFENDANT'S OPPOSITION TO STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, WRONGS OR BAD ACTS (FILED 9/10/1996)	287-296
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			

1	12	DISTRICT COURT JURY LIST (FILED 3/13/2007)	3046-3046
2	20	DOCKETING STATEMENT (FILED 10/30/2012)	4520-4526
3			
4	9	ENTRY OF MINUTE ORDER (FILED 1/3/1997)	2199-2199
5	16	ENTRY OF MINUTE ORDER (FILED 5/10/2007)	3860-3860
6			
7	12	EX PARTE APPLICATION AND ORDER TO PREPARE TRANSCRIPTS (FILED 1/23/2007)	2898-2900
8			
9	11	EX PARTE APPLICATION AND ORDER TO PRODUCE DEFENDANT'S INSTITUTIONAL FILE (FILED 8/24/2007)	2798-2800
10			
11	2	EX PARTE APPLICATION FOR TRANSCRIPT (FILED 9/27/1996)	323-325
12	11	EX PARTE APPLICATION TO UNSEAL PSI (FILED 11/18/2002)	2629-2631
13			
14	11	EX PARTE MOTION FOR AN ORDER TO PRODUCE DEFENDANT'S INSTITUTIONAL FILE (FILED 4/8/2004)	2740-2743
15			
16	10	EX PARTE MOTION FOR APPOINTMENT OF INVESTIGATOR AND FOR EXCESS FEES (FILED 9/18/2002)	2550-2552
17			
18	11	EX PARTE MOTION FOR CHANGE OF INVESTIGATOR, EX PARTE MOTION FOR FEES IN EXCESS OF STATUTORY LIMIT, AND EX PARTE MOTION FOR CONTRACT VISITS (FILED 10/15/2002)	2623-2626
19			
20	10	EX PARTE MOTION FOR INTERIM PAYMENT OF EXCESS ATTORNEY'S FEES (FILED 7/13/2000)	2374-2381
21			
22	10	EX PARTE MOTION FOR INTERIM PAYMENT OF EXCESS ATTORNEY'S FEES (FILED 5/17/2001)	2385-2398
23			
24	10	EX PARTE MOTION FOR INTERIM PAYMENT OF EXCESS ATTORNEY'S FEES (4/11/2002)	2405-2415
25			
26	10	EX PARTE MOTION FOR INTERIM PAYMENT OF EXCESS ATTORNEY'S FEES (FILED 7/8/2002)	2521-2539
27			
28	11	EX PARTE MOTION FOR INTERIM PAYMENT OF EXCESS ATTORNEY'S FEES (FILED 12/11/2002)	2633-2649

1	11	EX PARTE MOTION FOR INTERIM PAYMENT OF EXCESS ATTORNEY'S FEES (FILED 2/3/2003)	2655-2670
2			
3	11	EX PARTE MOTION FOR INTERIM PAYMENT OF EXCESS ATTORNEY'S FEES (FILED 1/27/2004)	2728-2738
4			
5	10	EX PARTE MOTION FOR ORDER TO TRANSPORT PETITIONER (FILED 7/30/2002)	2541-2542
6			
7	11	EX PARTE MOTION FOR PAYMENT OF FINAL ATTORNEY FEES AND COSTS (FILED 7/6/2004)	2763-2772
8			
9	11	EX PARTE ORDER GRANTING CHANGE OF INVESTIGATOR, FEES IN EXCESS OF STATUTORY LIMIT, AND CONTACT VISIT (FILED 10/17/2002)	2627-2628
10			
11	11	EX PARTE ORDER TO PRODUCE INSTITUTIONAL FILE (FILED 4/12/2004)	2744-2744
12			
13	10	EX PARTE ORDER TO TRANSPORT PETITIONER (FILED 7/31/2002)	2543-2543
14	11	EX PARTE ORDER TO UNSEAL PSI (FILED 12/3/2002)	2632-2632
15			
16	11	FINDINGS OF FACTS, CONCLUSIONS OF LAW, AND ORDER (FILED 6/3/2004)	2745-2748
17			
18	20	FINDINGS OF FACTS, CONCLUSIONS OF LAW, AND ORDER (FILED 11/20/2012)	4527-4537
19			
20	1	INFORMATION (FILED 10/11/1995)	038-043
21	7	INSTRUCTIONS TO THE JURY (FILED 10/16/1996)	1701-1746
22			
23	9	INSTRUCTIONS TO THE JURY (FILED 10/24/1996)	2134-2164
24	15	INSTRUCTIONS TO THE JURY (FILED 3/21/2007)	3742-3764
25			
26	9	JUDGMENT OF CONVICTION (FILED 12/31/1996)	2190-2192
27	16	JUDGMENT OF CONVICTION (FILED 5/10/2007)	3854-3855
28			
	4	JURY LIST (FILED 10/9/1996)	843-843

1	1	MEDIA REQUEST (FILED 1/3/1996)	206-206
2			
3	5	MEDIA REQUEST (FILED 10/11/1996)	1068-1068
4	1	MOTION AND NOTICE OF MOTION TO ENDORSE NAMES ON INFORMATION	
5		(FILED 7/9/1996)	230-233
6	2	MOTION AND NOTICE OF MOTION TO ENDORSE NAMES ON INFORMATION	
7		(FILED 8/22/1996)	276-280
8	6	MOTION AND NOTICE OF MOTION TO ENDORSE NAMES ON INFORMATION	
9		(FILED 10/14/1996)	1347-1350
10	12	MOTION IN LIMINE TO LIMIT PENALTY HEARING EVIDENCE TO AVOID VIOLATION OF THE EIGHTH AMENDMENT	
11		(FILED 9/20/2006)	2831-2837
12			
13	20	MOTION FOR AUTHORIZATION TO OBTAIN A SEXUAL ASSAULT EXPERT	
14		(FILED 2/15/2012)	4556-4561
15	20	MOTION FOR AUTHORIZATION TO OBTAIN AN INVESTIGATOR AND FOR PAYMENT FEES	
16		(FILED 2/15/2012)	4550-4555
17	20	MOTION FOR AUTHORIZATION TO OBTAIN EXPERT SERVICES AND FOR PAYMENT FEES	
18		(FILED 2/15/2012)	4485-4490
19	12	MOTION TO ALLOW JURY QUESTIONNAIRE (FILED 9/20/2006)	2838-2842
20	12	MOTION TO BIFURCATE PENALTY PHASE (FILED 9/20/2006)	2843-2848
21			
22	2	MOTION TO COMPEL DISCLOSURE BY THE STATE OF ANY AND ALL INFORMATION RELATING TO AGGRAVATING OR MITIGATING FACTORS	
23		(FILED 7/31/1996)	263-270
24	2	MOTION TO COMPEL EXAMINATION OF DEFENDANT BY OPTOMETRIST AND OBTAIN EYE GLASSES IF NECESSARY	
25		(FILED 8/19/1996)	271-275
26			
27	12	MOTION TO DISMISS STAT'S NOTICE OF INTENT TO SEEK DEATH PENALTY	
28		(FILED 9/20/2006)	2849-2878

1	12	MOTION TO REMAND FOR CONSIDERATION BY THE CLARK COUNTY DISTRICT ATTORNEY'S DEATH REVIEW COMMITTEE (FILED 9/20/2006)	2817-2825
2			
3			
4	12	MOTION TO STRIKE SEXUAL ASSAULT AGGRAVATOR OF THE STATE'S NOTICE OF INTENT TO SEEK THE DEATH PENALTY (FILED 9/20/2006)	2801-2816
5			
6	10	NEVADA SUPREME COURT CLERK'S CERTIFICATE JUDGEMENT -AFFIRMED (FILED 11/4/1999)	2338-2353
7			
8	11	NEVADA SUPREME COURT CLERK'S CERTIFICATE JUDGEMENT-AFFIRMED (FILED 5/5/2006)	2782-2797
9			
10	9	NOTICE OF APPEAL (FIELD 1/17/1997)	2200-2201
11			
12	11	NOTICE OF APPEAL (FILED 6/18/2004)	2757-2758
13	20	NOTICE OF APPEAL (FILED 10/22/2012)	4515-4516
14			
15	9	NOTICE OF COMPLIANCE WITH SUPREME COURT RULE 250 (FILED 3/17/1997)	2205-2206
16			
17	11	NOTICE OF CROSS-APPEAL (FILED 6/24/2004)	2761-2762
18	12	NOTICE OF DEFENDANT'S EXPERT WITNESS (FIELD 2/15/2007)	2927-2977
19			
20	12	NOTICE OF DEFENDANT'S WITNESSES (FIELD 3/1/2007)	3043-3045
21	20	NOTICE OF DEFICIENCY (FILED 10/23/2012)	4430-4430
22			
23	11	NOTICE OF DECISION AND ORDER (FILED 6/10/2004)	2749-2753
24	20	NOTICE OF ENTRY OF FINDINGS OF FACT CONCLUSIONS OF LAW AND ORDER (FLED 11/20/2012)	4538-4549
25			
26	12	NOTICE OF EVIDENCE IN SUPPORT OF AGGRAVATING CIRCUMSTANCES (FILED 2/23/2007)	3032-3038
27			
28	12	NOTICE OF EXPERT WITNESSES (FILED 2/16/2007)	2978-3011

1	1	NOTICE OF INTENT TO SEEK DEATH PENALTY (11/8/1995)	044-046
2	12	NOTICE OF MOTION AND MOTION FOR DISCOVERY OF POTENTIAL PENALTY HEARING EVIDENCE (FILED 9/20/2006)	2826-2830
3			
4	1	NOTICE OF MOTION AND MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, WRONGS OR BAD ACTS (FILED 5/9/1996)	217-226
5			
6	10	NOTICE OF MOTION AND MOTION TO APPOINT COUNSEL FOR CAPITAL MURDER DEFENDANT TO HELP (FILED 11/2/1999)	2334-2337
7			
8	10	NOTICE OF MOTION AND MOTION TO PLACE ON CALENDAR (FILED 4/17/2001)	2383-2384
9			
10	2	NOTICE OF MOTION AND SUPPLEMENTAL MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, WRONG OR BAD ACTS (FILED 8/29/1996)	281-283
11			
12	12	NOTICE OF WITNESSES (FILED 2/28/2007)	3039-3042
13			
14	2	OPPOSITION TO MOTION FOR STRIKE ALLEGATIONS OF CERTAIN AGGRAVATING CIRCUMSTANCES (FILED 9/11/1996)	309-320
15			
16	2	ORDER (FILED 9/25/1996)	321-322
17			
18	2	ORDER (FILED 9/27/1996)	326-327
19	12	ORDER (FILED 1/29/2007)	2904-2905
20			
21	15	ORDER (FILED 3/20/2007)	3628-3629
22	10	ORDER APPOINTING COUNSEL (FILED 11/16/1999)	2357-2357
23			
24	10	ORDER APPOINTING INVESTIGATOR AND GRANTING EXCESS FEES (FILED 9/24/2002)	2553-2553
25			
26	16	ORDER FOR PRODUCTION OF INMATE (FILED 3/29/2007)	3831-3832
27	9	ORDER FOR STAY OF EXECUTION (FILED 12/30/1996)	2178-2178
28			
	2	ORDER FOR TRANSCRIPT (FILED 10/7/1996)	354-354

1	10	ORDER FOR TRANSCRIPT (FILED 11/19/1999)	2358-2358
2	11	ORDER GRANTING FINAL PAYMENT OF ATTORNEY'S FEES AND COSTS	
3		(FILED 7/12/2004)	2773-2773
4	10	ORDER GRANTING INTERIM PAYMENT OF EXCESS ATTORNEY'S FEES	
5		(FILED 7/24/2000)	2382-2382
6	10	ORDER GRANTING INTERIM PAYMENT OF EXCESS ATTORNEY'S FEES	
7		(FILED 6/7/2001)	2399-2399
8	10	ORDER GRANTING INTERIM PAYMENT OF EXCESS ATTORNEY'S FEES	
9		(FILED 4/12/2002)	2416-2416
10	10	ORDER GRANTING INTERIM PAYMENT OF EXCESS ATTORNEY'S FEES	
11		(FILED 7/10/2002)	2540-2540
12	11	ORDER GRANTING INTERIM PAYMENT OF EXCESS ATTORNEY'S FEES	
13		(FILED 12/12/2002)	2650-2650
14	11	ORDER GRANTING INTERIM PAYMENT OF EXCESS ATTORNEY'S FEES	
15		(FILED 1/28/2004)	2739-2739
16	1	ORDER GRANTING PERMISSION OF MEDIA ENTRY (FILED 1/3/1996)	207-207
17			
18	5	ORDER GRANTING PERMISSION OF MEDIA ENTRY (FILED 10/11/1996)	1069-1069
19	9	ORDER OF EXECUTION (FILED 13/31/1996)	2198-2198
20			
21	16	ORDER OF EXECUTION (FILED 5/10/2007)	3856-3856
22	10	ORDER RE: PETITION FOR WRIT OF HABEAS CORPUS (FILED 10/20/1999)	2333-2333
23			
24	1	ORDER TO ENDORSE NAMES ON INFORMATION (FILED 7/15/1996)	234-235
25	2	ORDER TO ENDORSE NAMES ON INFORMATION (FILED 9/4/1996)	284-286
26			
27	6	ORDER TO ENDORSE NAMES ON INFORMATION (FILED 10/14/1996)	1345-1346
28	16	ORDER TO STAY EXECUTION (5/14/2007)	3861-3861

1	1	ORDER TO TRANSPORT (FILED 4/26/1996)	216-216
2	9	PETITION FOR WRIT OF HABEAS CORPUS (FILED 10/19/1999)	2258-2316
3	10	PETITION FOR WRIT OF HABEAS CORPUS MOTION FOR APPOINTMENT OF COUNSEL (FILED 10/19/1999)	2317-2322
4	10	PETITION FOR WRIT OF HABEAS CORPUS MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS (FILED 10/19/1999)	2323-2323
5	10	PETITION FOR WRIT OF HABEAS CORPUS MOTION TO PERMIT PETITION TO CONTAIN LEGAL CITATIONS (FILED 10/19/1999)	2327-2327
6	11	POST EVIDENTIARY HEARING BRIEF (FILED 7/14/2003)	2693-2725
7	18	PRE-SENTENCE INVESTIGATION REPORT NOT FILED (CONFIDENTIAL)	
8	16	PROPOSED JURY VERDICTS NOT FILED	
9	20	RECEIPT FOR DOCUMENTS (FILED 10/24/2012)	4429-4429
10	20	RECORDER'S TRANSCRIPT RE: EVIDENTIARY HEARING: ARGUMENT MONDAY, OCTOBER 19, 2012 (FILED 10/29/2012)	4417-4428
11	20	RECORDER'S TRANSCRIPT RE: STATUS CHECK WEDNESDAY, AUGUST 29, 2012 (FILED 1/15/2013)	4413-4428
12	20	REPLY TO STATE'S RESPONSES TO SUPPLEMENTAL BRIEF (FILED 7/30/2012)	4491-4514
13	1	REPORTER'S TRANSCRIPT OF OCTOBER 3, 1995 PRELIMINARY HEARING (FILED 11/14/1995)	047-205
14	1	REPORTER'S TRANSCRIPT OF MAY 1, 1996 TRIAL SETTING (FILED 5/9/1996)	227-229
15	2	REPORTER'S TRANSCRIPT OF OCTOBER 7, 1996 VOLUME 1- MORNING SESSION (FILED 10/8/1996)	355-433

1	2-3	REPORTER'S TRANSCRIPT OF OCTOBER 7, 1996 VOLUME 1- AFTERNOON SESSION (FILED 10/8/1996)	434-617
2			
3	3-4	REPORTER'S TRANSCRIPT OF OCTOBER 8, 1996 VOLUME 2- MORNING SESSION (FILED 10/9/1996)	717-842
4			
5	3	REPORTER'S TRANSCRIPT OF OCTOBER 8, 1996 VOLUME 2-AFTERNOON SESSION (FILED 10/9/1996)	618-716
6			
7	4	REPORTER'S TRANSCRIPT OF OCTOBER 10, 1996 VOLUME 3-MORNING SESSION (FILED 10/11/1996)	846-933
8			
9	4	REPORTER'S TRANSCRIPT OF OCTOBER 10, 1996 VOLUME 3- AFTERNOON SESSION (FILED 10/11/1996)	934-1067
10			
11	5	REPORTER'S TRANSCRIPT OF OCTOBER 11, 1996 VOLUME 4- MORNING SESSION (FILED 10/14/1996)	1082-1191
12			
13	5	REPORTER'S TRANSCRIPT OF OCTOBER 11, 1996 VOLUME 4- AFTERNOON SESSION (FILED 10/14/1996)	1192-1344
14			
15	6	REPORTER'S TRANSCRIPT OF OCTOBER 14, 1996 VOLUME 5- MORNING SESSION (FILED 10/15/1996)	1472-1529
16	6	REPORTER'S TRANSCRIPT OF OCTOBER 14, 1996 VOLUME 5- AFTERNOON SESSION (FILED 10/15/1996)	1351-1471
17			
18	6-7	REPORTER'S TRANSCRIPT OF OCTOBER 15, 1996 VOLUME 6 (FILED 10/16/1996)	1530-1700
19			
20	7	REPORTER'S TRANSCRIPT OF OCTOBER 16, 1996 VOLUME 7 (FILED 10/17/1996)	1750-1756
21			
22	7	REPORTER'S TRANSCRIPT OF OCTOBER 21, 1996 PENALTY PHASE VOLUME 1- MORNING SESSION (FILED 10/22/1996)	1757-1827
23			
24	8	REPORTER'S TRANSCRIPT OF OCTOBER 21, 1996 PENALTY PHASE VOLUME 1- AFTERNOON SESSION (FILED 10/22/1996)	1828-1952
25			
26	8	REPORTER'S TRANSCRIPT OF OCTOBER 22, 1996 PENALTY PHASE VOLUME 2 (FILED 10/23/1996)	1953-2061
27			
28	9	REPORTER'S TRANSCRIPT OF OCTOBER 23, 1996 PENALTY PHASE VOLUME 3 (FILED 10/24/1996)	2063-2122

1	9	REPORTER'S TRANSCRIPT OF OCTOBER 24, 1996 PENALTY PHASE VOLUME 4 (FILED 10/24/1996)	2123-2133
2			
3	9	REPORTER'S TRANSCRIPT OF DECEMBER 11, 1996 (FILED 12/12/1996)	2172-2174
4	9	REPORTER'S TRANSCRIPT OF DECEMBER 30, 1996 (FILED 12/31/1996)	2179-2189
5			
6	10	REPORTER'S TRANSCRIPT OF NOVEMBER 8, 1999 STATE'S MOTIONS (FILED 1/13/2000)	2363-2365
7			
8	10	REPORTER'S TRANSCRIPT OF NOVEMBER 15, 1999 (FILED 11/16/1999)	2354-2356
9	10	REPORTER'S TRANSCRIPT OF DECEMBER 15, 1999 (FILED 12/16/1999)	2360-2362
10			
11	10	REPORTER'S TRANSCRIPT OF JANUARY 19, 2000 STATUS CHECK (FILED 2/29/2000)	2366-2370
12			
13	10	REPORTER'S TRANSCRIPT OF JUNE 27, 2000 (FILED 6/28/2000)	2371-2373
14	11	REPORTER'S TRANSCRIPT OF NOVEMBER 6, 2000 HEARING: WRIT (FILED 12/23/2002)	2651-2654
15			
16	10	REPORTER'S TRANSCRIPT OF JUNE 12, 2001 (FILED 6/13/2001)	2400-2402
17			
18	10	REPORTER'S TRANSCRIPT OF JULY 26, 2001 STATUS CHECK ON BRIEFING SCHEDULE (FILED 8/28/2001)	2403-2404
19			
20	10	REPORTER'S TRANSCRIPT OF JULY 25, 2002 HEARING: WRIT (FILED 8/19/2002)	2544-2549
21			
22	11	REPORTER'S TRANSCRIPT OF SEPTEMBER 13, 2002 (FILED 9/24/2002)	2554-2621
23	11	REPORTER'S TRANSCRIPT OF APRIL 2, 2004 DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS (FILED 7/23/2004)	2774-2779
24			
25			
26	12	REPORTER'S TRANSCRIPT OF JULY 17, 2006 STATE'S REQUEST PER SUPREME COURT REMITTITUR (FILED 2/13/2007)	2924-2926
27			
28	12	REPORTER'S TRANSCRIPT OF JULY 25, 2006 (FILED 2/9/2007)	2912-2914

1	12	REPORTER'S TRANSCRIPT OG OCTOBER 3, 2006 HEARING ON MOTIONS (FILED 2/9/2007)	2918-2920
2			
3	12	REPORTER'S TRANSCRIPT OF NOVEMBER 2, 2006 HEARING ON DEFENDANT'S MOTIONS (FILED 2/9/2007)	2921-2923
4			
5	12	REPORTER'S TRANSCRIPT OF NOVEMBER 16, 2006 RE: HEARING ON DEFENDANT'S MOTIONS (FILED 2/9/2007)	2915-2917
6			
7	12	REPORTER'S TRANSCRIPT OF JANUARY 11, 2007 PRE-PENALTY PHASE MOTIONS (FILED 2/20/2007)	3012-3031
8			
9	16	REPORTER'S TRANSCRIPT OF JANUARY 11 PRE-PENALTY MOTIONS (FILED 4/9/2007)	3833-3853
10			
11	13	REPORTER'S TRANSCRIPT OF MARCH 14, 2007 MORNING SESSION (FILED 3/15/2007)	3047-3166
12			
13	13	REPORTER'S TRANSCRIPT OF MARCH 14, 2007 AFTERNOON SESSION (FILED 3/15/2007)	3167-3222
14			
15	14	REPORTER'S TRANSCRIPT OF MARCH 15, 2007 MORNING SESSION (FILED 3/16/2007)	3268-3404
16			
17	13	REPORTER'S TRANSCRIPT OF MACH 15, 2007 AFTERNOON SESSION (FILED 3/16/2007)	3223-3267
18			
19	14-15	REPORTER'S TRANSCRIPT OF MARCH 16, 2007 MORNING SESSION (FILED 3/19/2007)	3450-3627
20			
21	14	REPORTER'S TRANSCRIPT OF MARCH 16, 2007 AFTERNOON SESSION (3/19/2007)	3405-3449
22			
23	15	REPORTER'S TRANSCRIPT OF MARCH 19, 2007 PENALTY HEARING (FILED 3/20/2007)	3630-3736
24			
25	16	REPORTER'S TRANSCRIPT OF MARCH 20, 2007 PENALTY HEARING (FILED 3/21/2007)	3765-3818
26			
27	16	REPORTER'S TRANSCRIPT OF MARCH 21, 2007 PENALTY HEARING VERDICT (FILED 3/22/2007)	3819-3830
28			

1	12	REQUEST FOR PREPARATION OF TRANSCRIPT OF PROCEEDINGS (FILED 2/6/2007)	2906-2911
2			
3	16	REQUEST FOR PREPARATION OF TRANSCRIPT OF PROCEEDINGS (FILED 5/17/2007)	3862-3866
4			
5	9	SPECIAL VERDICT (FILED 10/24/1996)	2168-2169
6	9	SPECIAL VERDICT (FILED 10/24/1996)	2170-2171
7			
8	15	SPECIAL VERDICT (FILED 3/21/2007)	3737-3737
9	15	SPECIAL VERDICT (FILED 3/21/2007)	3738-3738
10			
11	15	SPECIAL VERDICT (FILED 3/21/2007)	3739-3740
12	12	STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR DISCOVERY OF POTENTIAL PENALTY HEARING EVIDENCE (FILED 9/29/2006)	2888-2889
13			
14	12	STATE'S OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO LIMIT PENALTY HEARING EVIDENCE TO AVOID VIOLATION (FILED 9/29/2006)	2895-2897
15			
16	12	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO ALLOW JURY QUESTIONNAIRE (FILED 9/29/2006)	2886-2887
17			
18	12	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO BIFURCATE PENALTY PHASE (FILED 9/26/2006)	2893-2894
19			
20	12	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS STATE'S NOTICE OF INTENT TO SEEK DEATH PENALTY (FILED 9/29/2006)	2881-2883
21			
22	12	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO REMAND FOR CONSIDERATION BY THE CLARK COUNTY DISTRICT ATTORNEY'S DEATH REVIEW COMMITTEE (FILED 9/29/2006)	2884-2885
23			
24	12	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO STRIKE SEXUAL ASSAULT AGGRAVATOR (FILED 9/29/2006)	2890-2892
25			
26	20	STATE'S OPPOSITION TO MOTION FOR LEAVE TO CONDUCT DISCOVERY	
27			
28			

1	(FILED 5/16/2012)	4479-4485
2	20	
3	STATE'S OPPOSITION TO MOTION FOR AUTHORIZATION TO OBTAIN EXPERT SERVICES AND PAYMENT OF FEES (FILED 5/16/2012)	4468-4473
4	20	
5	STATE'S OPPOSITION TO MOTION FOR AUTHORIZATION TO OBTAIN SEXUAL ASSAULT EXPERT AND PAYMENT OF FEES, AND OPPOSITION TO MOTION FOR INVESTIGATOR AND PAYMENT FEES (FILED 5/16/2012)	4474-4478
6		
7	20	
8	STATE'S RESPONSE TO DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS AND DEFENDANT'S SUPPLEMENTAL BRIEF (FILED 5/16/2012)	4431-4467
9	10	
10	STATE'S RESPONSE TO DEFENDANT'S SUPPLEMENTAL PETITION FOR WRIT OF HABEAS CORPUS (FILED 6/19/2002)	2481-2520
11	9	
12	STIPULATION AND ORDER (FILED 5/27/1997)	2207-2257
13	11	
14	STIPULATION AND ORDER EXTENDING TIME (FILED 9/2/2003)	2726-2727
15	1	
16	STIPULATION REGARDING BRIEFING SCHEDULE (FILED 3/27/1996)	208-209
17	4	
18	STIPULATION TO CERTAIN FACTS (FILED 10/10/1996)	844-845
19	2	
20	SUMMARY OF JUROR QUESTIONNAIRE DEVELOPMENTS (FILED 10/4/1996)	342-353
21	20	
22	SUPPLEMENTAL BRIEF IN SUPPORT OF DEFENDANT'S WRIT OF HABEAS CORPUS (FILED 2/15/2012)	4562-4643
23	9	
24	SUPPLEMENTAL INSTRUCTION (FILED 10/24/1996)	2165-2166
25	10	
26	SUPPLEMENTAL PETITION FOR WRIT OF HABEAS CORPUS (FILED 4/30/2002)	2417-2480
27	9	
28	VERDICT (FILED 10/24/1996)	2167-2167
	15	
	VERDICT (FILED 3/21/2007)	3741-3741
	7	
	VERDICT-COUNT I (FILED 10/16/1996)	1747-1747
	7	
	VERDICT- COUNT II (FILED 10/16/1996)	1748-1748

1	7	VERDICT - COUNT III (FILED 10/16/1996)	1749-1749
2	9	WARRANT OF EXECUTION (FILED 12/31/1996)	2193-2197
3			
4	16	WARRANT OF EXECUTION (FILED 5/10/2007)	3857-3859
5			
6			
7			
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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on this 18th day of November, 2013. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

CATHERINE CORTEZ-MASTO
Nevada Attorney General

STEVE OWENS
Chief Deputy District Attorney

CHRISTOPHER R. ORAM, ESQ.

BY:

/s/ Jessie Vargas
An Employee of Christopher R. Oram, Esq.

CHRISTOPHER R. ORAM, LTD.
520 SOUTH 4TH STREET | SECOND FLOOR
LAS VEGAS, NEVADA 89101
TEL. 702.384-5563 | FAX. 702.974-0623