

IN THE SUPREME COURT OF THE STATE OF NEVADA

JEMAR MATTHEWS, vs. THE STATE OF NEVADA,	Appellant, Respondent,	Supreme Court No. 62241 APPELLANT'S APPENDIX VOLUME I	Electronically Filed Aug 14 2013 01:49 p.m. Tracie K. Lindeman Clerk of Supreme Court
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APPELLANT'S INDEX VOLUME I

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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of August, 2013, a true and copy of above and foregoing APPELANTS APPENDIX VOL. I was served on all counsel via the Court's electronic filing system to all counsel of record listed below:

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DISTRICT COURT
CLARK COUNTY, NEVADA

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THE STATE OF NEVADA,

Plaintiff

vs.

PIERRE JOSHLIN
JEMAR D. MATTHEWS,

Defendants
.....

CASE NO. C-228460

DEPT. NO. XVIII

**Transcript of
Proceedings**

BEFORE THE HONORABLE DAVID BARKER, DISTRICT COURT JUDGE

JURY TRIAL - DAY 1

MONDAY, MAY 7, 2007

APPEARANCES:

FOR THE PLAINTIFF:

LINDA Y. LEWIS
SAMUEL G. BATEMAN
Deputy District Attorneys

FOR DEFENDANT JOSHLIN:

PHILLIP SINGER, ESQ.

FOR DEFENDANT MATTHEWS:

DANIEL M. BUNIN, ESQ.
DAYNE J. FIGLER, ESQ.

COURT RECORDER:

RICHARD KANGAS
District Court

TRANSCRIPTION BY:

VERBATIM DIGITAL REPORTING, LLC
Littleton, CO 80120
(303) 798-0890

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

AA0001

1 LAS VEGAS, NEVADA, MONDAY, MAY 7, 2007, 1:08 P.M.

2 (Prospective jurors not present)

3 THE COURT: State of Nevada, plaintiff,
4 versus Pierre Joshlin and Jamar Matthews. Present for
5 the record -- state your appearances for the record,
6 please.

7 MS. LEWIS: Linda Lewis for the State.

8 MR. BATEMAN: Sam Bateman for the State.

9 MR. FIGLER: Dave Figler and Dan Bunin for
10 Mr. Matthews.

11 MR. SINGER: Philip Singer for Mr. Joshlin.

12 THE COURT: Record should reflect further
13 that we're outside the presence of any jury, any jury
14 panel.

15 I know when we had final calendar call on
16 Friday there were some issues that remain in terms of
17 witnesses on that supplemental witness list. Have those
18 issues been resolved?

19 MS. LEWIS: I believe so, Judge. I
20 contacted both the attorneys and told them exactly who
21 were the witnesses that we would call, and there were
22 about three or four names.

23 I gave them a list of all of our witnesses
24 from A to Z, basically, but off of that specific list
25 that there was an issue which I gave them the three or

1 four officers that we intended to call.

2 THE COURT: Is there anything we need to
3 address outside the presence of the jury prior to jury
4 selection as a consequence of that conversation,
5 Mr. Figler?

6 MR. FIGLER: I don't believe so, Judge. I
7 prepared as I do in every single case what I call a
8 bench brief.

9 It just has some issues that may come up
10 during the course of the case just to give the Court and
11 the prosecution a heads-up, but none of that would
12 impact the jury selection.

13 And I can give that in -- I'll file that in
14 open court, give that to them today. And if there's
15 anything that comes out of that, we could address,
16 Your Honor, tomorrow prior to the jury coming in.

17 THE COURT: And we had also an issue of the
18 DNA. Is that answers -- what's the situation there?

19 (Off-record colloquy)

20 MR. FIGLER: Again, Your Honor, we have an
21 objection to the introduction of any DNA evidence based
22 on notice requirements, statutory requirements.

23 We haven't had any reports that are
24 submitted to us which link Mr. Matthews, and I believe
25 Mr. Joshlin neither to any specific items in this

1 particular case. And as such, we're ready to go forward
2 and don't anticipate the State attempting to introduce
3 anything.

4 THE COURT: State.

5 MR. BATEMAN: Judge, it's my understanding
6 that over the course of a weekend we learned that we did
7 actually get the comparisons back between the buccal
8 swabs of the two codefendants and then whatever DNA was
9 found and whatever it is that was originally tested.
10 That's my understanding that it -- what were the
11 results?

12 MS. LEWIS: (Indiscernible).

13 MR. BATEMAN: I think the results -- and as
14 I sit here right now, I don't know exactly what it is,
15 but I think that it tied one of them to the gloves and
16 one of them couldn't be excluded to the other.

17 So I know the Court's already made its
18 ruling, and none of that's coming in. If there is
19 reference to it, though, by the defense --

20 THE COURT: Well, the concern that I had
21 that I expressed on Wednesday and Friday was the
22 potential Brady implications if the information wasn't
23 provided. What's the defense's position regarding that?

24 MR. FIGLER: Well, I mean, if there's some
25 exculpatory evidence that exists, then it certainly is

1 for us to contemplate and they'd have a duty to turn it
2 over. That's very different from the issue of
3 admissibility based on statutory compliance.

4 THE COURT: Well, I just don't want see
5 whatever happens in this case -- frankly, I don't care
6 what the verdict is, but whatever the verdict might be,
7 I want to make sure all the issues on potential appeal
8 are covered. So if there's a potential Brady issue, we
9 need to make sure the record's clear now.

10 MR. FIGLER: Well, so long as the State
11 provides us -- I appreciate Mr. Bateman's
12 representations to the Court.

13 If there is a formalized document that sums
14 up what Mr. Bateman made as an offer of proof to the
15 Court, we would, of course, be entitled to that, but
16 that doesn't change our position with regard to
17 admissibility.

18 THE COURT: All right. And as a consequence
19 of that, are both sides prepared to proceed?

20 MR. BATEMAN: Absolutely.

21 MR. FIGLER: Yes, Your Honor.

22 THE COURT: All right.

23 MR. SINGER: Yes, Your Honor.

24 THE COURT: Then we need to get the panel.
25 Oh, it appears that we're amending the information to

1 include on page 1 -- or at least there's a request to
2 amend the information on page 1, line 21, to
3 Pierre Joshlin and Jamar Matthews; is that correct?

4 MR. BATEMAN: I believe that's just a typo,
5 Judge, and that's why we're removing to include both.
6 If you look at the next word, it's "defendants". It was
7 just simply the name was left out.

8 At no time, you know, was there any
9 indication the State wasn't proceeding against both
10 defendants. Their name is defendants in each of the
11 counts so --

12 MR. FIGLER: I'm sorry. On which line,
13 Your Honor?

14 MR. BATEMAN: It would be 21 --

15 THE COURT: 21.

16 MR. BATEMAN: -- on the first page.

17 (Off-record colloquy)

18 THE COURT: -- of the information.

19 MR. FIGLER: We'd submit it, Your Honor.

20 We're on notice that we're --

21 THE COURT: Both.

22 MR. FIGLER: That's correct.

23 THE COURT: All right. With that, then, the
24 amendment will be approved and we'll --

25 MR. BATEMAN: The only other issue, Judge,

1 is I think we just E-mailed your court clerk what is
2 already kind of we started creating an exhibit list
3 because we're basically going to be bringing in a bunch
4 of firearm-related exhibits. They're in a multitude of
5 basically envelopes and packages. We're going to have
6 to do A, Bs and Cs and contents and thing like that.

7 So we've already kind of sent the E-mail out
8 so that it might be easier for your court clerk if and
9 when you choose to allow us to admit them or not that
10 she can track the evidence a little more easily, and I
11 wouldn't imagine the defense would have too much of a
12 problem with that.

13 THE CLERK: I've not received it yet, sir.

14 (Off-record colloquy)

15 MR. FIGLER: And I think --

16 MR. BATEMAN: We're working on it.

17 MR. FIGLER: And to that end, Your Honor, I
18 think that the parties can stipulate as to a lot of that
19 stuff to make it easier and more efficient for the court
20 clerk so --

21 THE COURT: All right.

22 MR. FIGLER: -- we're available for that.

23 THE COURT: That's great. The only final
24 thing that I wanted to bring up was, Mr. Figler, on
25 Friday you made an oral motion with respect to your

1 client's concern about me sitting as a judge based upon
2 my prior relationship with the District Attorney's
3 Office. I know you made a general statement.

4 Is there a specific area that you're more
5 concerned with than another so the record can be clear
6 on where your concern is, sir?

7 MR. FIGLER: Your Honor, just to sum up it
8 was kind of a two part concern because I hadn't been in
9 this situation before, and I'm certain that Your Honor
10 hasn't been the situation before either.

11 THE COURT: I haven't.

12 MR. FIGLER: Whereupon, we had a judge who
13 had ruled in the case on prior proceedings. And
14 pursuant to the district court rules, it's our
15 interpretation that absent exigent circumstances that
16 the initial judge is supposed to stay with a particular
17 case.

18 That said, I received notice on Friday prior
19 to the calendar call in this particular case. Actually,
20 I think it was even before then, yeah, Friday before the
21 calendar call, that my case or this case, rather, was
22 being reassigned to this honorable Court.

23 There was no -- and it was an E-mail,
24 basically, or a sheet that went out to everyone in the
25 bar. It wasn't personally addressed to me. It was

1 placed in my box on the third floor of the district
2 court courthouse.

3 It gave no explanation as to why
4 Judge Halverson was no longer going to be on the case,
5 and I'm not at liberty to speculate, obviously, and I
6 had made inquiry and none was provided to me.

7 I made inquiry of this Court, and the Court
8 obviously indicated that you had no knowledge of that
9 either. That you woke up, probably, the same time that
10 I did realizing that the case was now over here.

11 I had indicated initially that my primary
12 concern was the speedy-trial rights of my client, and
13 here we are ready to go to trial on Monday. So as such,
14 I can't make a record with regard to any possible error
15 or prejudice to my client because --

16 THE COURT: With regard to --

17 MR. FIGLER: With regard to that issue --

18 THE COURT: -- the transfer? All right.

19 MR. FIGLER: -- because I do know anything
20 about it and no one has provided me information. I can
21 only do what I'm told by the court clerk which is to
22 appear in this court and go forward in this court which
23 we did, and we announced ready at the calendar call.

24 With regard to the second part, there was an
25 initial concern by my client when he discovered that the

1 judge assigned was previously and recently employed by
2 the same entity that is prosecuting him in this
3 particular case. To that end, I made motion -- for a
4 motion for the Court to reveal any potential conflicts
5 that this Court might have with regard to hearing the
6 case.

7 Your Honor at that point graciously allowed
8 me to make that motion and responded to the motion
9 stating that you had a system in place with yourself and
10 your staff to basically vent through every file to make
11 sure that there was no conflict, that you did not have
12 personal knowledge of any of the facts of this
13 particular case, that you did not recall having any
14 conversations with any of the State actors or for that
15 matter, I would imagine, police officers who were
16 involved in this particular matter.

17 We had indicated that the matter was dual
18 tracked into two different tracks. One was
19 Department 2, Justice of the Peace Smith. The other was
20 Department 7, Justice of the Peace Bennett, and that it
21 wound up in front of initially Judge Siatta then
22 transferred to Judge Halverson, and then to this
23 honorable Court.

24 So upon the representations of the Court
25 that there was no conflict that existed, I felt that

1 apart from the other issues regarding transfer which
2 we're trying to preserve as much as we can, that
3 Your Honor had satisfied the request made of you by the
4 defendant and that we're ready to proceed.

5 THE COURT: Very good.

6 MR. FIGLER: Thank you, Your Honor.

7 THE COURT: I think that fairly states
8 everything that was said on Friday and addresses my
9 concern.

10 I just want the record to reflect that,
11 again, I had no idea that this transfer was happening on
12 your first point. And on the second point, I have no
13 memory or knowledge of this case whatsoever.

14 MR. BATEMAN: And, Judge, I think just for
15 the record as well, it wasn't singularly this case that
16 was --

17 THE COURT: No.

18 MR. BATEMAN: -- transferred.

19 THE COURT: Of course not.

20 MR. BATEMAN: I mean, basically
21 Judge Halverson's entire criminal calendar was
22 transferred.

23 THE COURT: Every case was transferred. All
24 right. Let's talk about scheduling.

25 I'd like to work hard and efficiently. And

1 to that end, my intent is to work tomorrow. I'd like to
2 start at -- because Mr. Singer gave me a look when I
3 said 9:30 of pain --

4 MR. SINGER: Yes.

5 THE COURT: -- I'd like to start at 10:00,
6 and I'd like to work hard. Lunch breaks are going to be
7 short. We're going to push through it.

8 My hope today is that we get a jury sworn,
9 maybe into openings based upon the fact that we have
10 eight and eight, and I just don't see us getting to
11 openings, but one never knows.

12 MR. FIGLER: Right. And that was our
13 position too, and we don't want to break up the openings
14 if at all possible.

15 THE COURT: Right. So hopefully we'll work
16 tonight until we get a jury. Tomorrow we'll begin with
17 the -- your openings, case in chief, and push forward.
18 How long do you anticipate case in chief taking if we
19 work -- if we start tomorrow at 10:00?

20 MR. BATEMAN: And then what are we looking
21 at on Wednesday, Your Honor?

22 THE COURT: Wednesday's a big calendar. I
23 wouldn't mind starting say 10:30 --

24 MR. BATEMAN: That's fine.

25 THE COURT: -- and taking a short lunch.

1 Maybe a half hour, 45 minutes for lunch and then pushing
2 through the afternoon. Thursday I should have a short
3 civil calendar. I'd like to start say at 10:00.

4 MR. BATEMAN: I would hope maybe
5 optimistically, Your Honor, to be done maybe by
6 lunchtime Thursday. I don't think any of these
7 witnesses are particularly long except for maybe some of
8 the witnesses relating to evidence and to testing,
9 but --

10 THE COURT: Okay.

11 MR. BATEMAN: -- I would say Thursday at the
12 latest, I would hope.

13 THE COURT: All right.

14 MR. BATEMAN: And we can't go past
15 2:00 o'clock on Thursday, correct?

16 THE COURT: I'd like to work until
17 2:00 o'clock on Thursday. I'm supposed to be across the
18 street for my proceeding on Thursday afternoon at 3:30,
19 so I'd like to break 2:00.

20 MR. BATEMAN: Do you plan on breaking at
21 5:00 p.m. every evening? Is that kind of --

22 THE COURT: Tonight if we go long, we go
23 long. I'd like to get that jury in tonight.

24 MR. SINGER: What about on the other days,
25 Judge, as far as ending?

1 THE COURT: Well, 5:00 o'clock, 5:30,
2 wherever we are that seems to be a natural break. I'm
3 not going to stop in the middle of a witness. If you
4 haven't crossed a witness, I'd prefer to complete the
5 task that we're in the middle of before we break, so I'm
6 going to keep that loose.

7 If it's 5:30, it's 5:30. If it's 5:00
8 o'clock -- I'd rather -- you can go long. I'd rather
9 take that extra half hour. It's amazing how much work
10 you can get done in a half hour. Does that work for
11 everybody?

12 MR. FIGLER: It works for Mr. Matthews.

13 MS. LEWIS: Again, on Wednesday we're in
14 6:00.

15 THE COURT: Oh, that's the other thing.
16 Since we're homeless, we're using this courtroom today
17 and tomorrow. On Wednesday we move to District Court 6.

18 My belief was this morning that District
19 Court 6 was available to us just like this department
20 has been, but I guess it's not the case.

21 So tomorrow, depending on the answers that
22 we get, we may not be able to start early on Wednesday
23 because Judge Bonaventure has his calendar, and then I
24 have my criminal calendar which means we'll start in the
25 afternoon. But that -- I know.

1 MR. BATEMAN: I mean, you plan -- on
2 Wednesday you plan on starting at 1:00?

3 THE COURT: Well, I'm going to -- if
4 Judge Bonaventure has to do his calendar first, and then
5 I have to do my calendar, and it's a 37-matter calendar,
6 there's no way I can get done to start in the morning,
7 but that question has not been answered yet.

8 MR. FIGLER: And that's on the 15th floor?

9 THE COURT: That's on the 15th floor. So
10 that --

11 MR. SINGER: (Indiscernible).

12 THE COURT: On Thursday?

13 MR. SINGER: Yeah.

14 THE COURT: Same situation. It's a smaller
15 calendar so we might be able to get some -- I haven't
16 seen the Thursday calendar yet, so we might be able to
17 get some time in in the morning. I'm sorry. I wish I
18 could be more definite than that, but being the --

19 MR. FIGLER: You don't want to say it.
20 Something about red-headed something or other?

21 THE COURT: That works.

22 THE CLERK: (Indiscernible).

23 THE COURT: 12 matters.

24 THE CLERK: (Indiscernible).

25 THE COURT: So it's a busy calendar.

1 MR. FIGLER: We'll work it through, Judge.

2 THE COURT: That's all we can do.

3 MR. FIGLER: Danny?

4 THE COURT: He's getting the panel.

5 MR. FIGLER: I was wondering if he had the
6 jury sheets yet.

7 THE COURT: No. He'll walk it up with the
8 panel.

9 MR. BATEMAN: And we're going to go one by
10 one and qualify a certain amount and then go back --

11 THE COURT: Yeah. I'm not doing -- I'm not
12 doing Arizona with this -- with eight and eight. I just
13 don't have enough room in the well, so we're just going
14 to walk them up. We'll qualify the full panel like we
15 always do, put 14 in the box.

16 MR. FIGLER: So you're going to do a general
17 inquiry of the entire panel. Is there anyone here who
18 et cetera, et cetera?

19 THE COURT: Yeah. I'll do the general
20 inquiry of the panel, then we'll put 14 in the box. The
21 last two will be the alternates, and I'll do the -- I'll
22 do general on those in the box, too, and then let you
23 have your opportunity to inquire.

24 MR. FIGLER: Great. Mr. Bunin and I are
25 going to alternate, if that's acceptable.

1 THE COURT: I'm just going to hand it to the
2 defense and --

3 MR. FIGLER: Okay. Is there something
4 special that you're intending to do with regard to the
5 exercise peremptories or --

6 THE COURT: I will do it in writing so you
7 don't have to announce them. We have a form that we've
8 prepared that's coming up with the panel. Other than
9 that, I'm not sure what you're referring to.

10 MR. FIGLER: Well, first of all, whether
11 it's writing or not. Also, whether or not since we have
12 codefendants how --

13 THE COURT: Well, normally it's eight total
14 by statute, correct?

15 MR. FIGLER: That's correct, unless we make
16 a request for additional peremptories based on
17 codefendants.

18 Do you want to make an additional request
19 between both sides, yeah?

20 (Off-record colloquy)

21 THE COURT: 175.045 says each side shall
22 have eight peremptory challenges.

23 MR. BATEMAN: Each side.

24 THE COURT: Each side shall have -- yeah.

25 MR. FIGLER: At this time, Judge, we'd ask

1 that the discretion of the Court be exercised to issue
2 an additional two peremptory challenges each for each
3 defendant so a total of four peremptory challenges
4 extra, in other words, 12 total, so 6 each.

5 THE COURT: Have you ever honestly heard of
6 that?

7 MR. FIGLER: Yeah. Oh, yeah. In --

8 THE COURT: Have you ever honestly heard of
9 that?

10 MR. BATEMAN: I've read the statute, and I
11 don't see any discretion in the statute.

12 THE COURT: I read 175.045. I see 175.051.
13 I even looked at it before I came up here just because I
14 figured that the issue would come up, and it says the
15 State and defendant shall exercise alternately. That
16 they shall have a total of eight peremptory challenges
17 per side.

18 MR. FIGLER: And I'll get the authority, but
19 it's my -- it's always been my understanding that we can
20 make the request. That it's certainly discretionary to
21 deny the request.

22 THE COURT: At this point, eight and eight.
23 Four and four on each side. I mean, you obviously can
24 confer, but I think the statute says --

25 (Off-record colloquy)

1 THE COURT: I mean, it's obvious that you
2 guys are consulting with each other right now. You're
3 developing strategy which is perfect.

4 MR. FIGLER: Right. Except that, you know,
5 our clients are very separate and we don't really want
6 to have the jury see us, you know, seem like we're on
7 somehow the same team when we're separate defendants.

8 THE COURT: I understand.

9 MR. FIGLER: That would have been the basis
10 for the request, but I appreciate it, Judge.

11 THE COURT: We're going to seat --
12 obviously, we're going to seat two alternates and
13 they'll be one peremptory challenge.

14 MR. FIGLER: And that will be jurors 13 and
15 14?

16 THE COURT: Correct.

17 MR. FIGLER: Okay. And are you telling them
18 prior to --

19 THE COURT: No. I don't think so. I like
20 them to pay attention --

21 MR. FIGLER: Just in case.

22 THE COURT: -- just in case. I'm going to
23 tell them there's going to be alternates, but I'm not
24 going to tell them who.

25 MR. FIGLER: With regard to the -- I'm

1 sorry, Judge, to make it complicated. It's just always
2 with codefendants. With regard to the exercise of the
3 -- what's always considered to be the ninth --

4 THE COURT: I'm going to give you two on the
5 -- for them they each get a peremptory challenge --

6 MR. SINGER: Thank you, Judge.

7 THE COURT: -- for the alternate.

8 MR. BATEMAN: Well --

9 MR. FIGLER: You read my mind.

10 THE COURT: There you go. I got one extra.

11 MR. BATEMAN: To be used only on the
12 alternate, Judge?

13 THE COURT: Yeah, on the alternate.

14 THE CLERK: (Indiscernible).

15 THE COURT: They get one. They get two.

16 THE CLERK: Oh, I see. Okay.

17 THE COURT: And you exercise one and then
18 Mr. Singer gets to exercise one.

19 MR. FIGLER: Oh, the one issue, Judge, that
20 we didn't discuss between the parties, and I think it
21 does come into play -- what's that?

22 MR. BATEMAN: Penalty phase?

23 MR. FIGLER: Yeah. Penalty phase. If we
24 don't stipulate to a penalty, then the line of inquiry
25 to the venire panel would necessarily include their

1 ability to impose a life sentence on the defendant.
2 Thereby, they'd be informed of what the possible
3 sentence would be.

4 Certainly, they'd be admonished to not
5 consider sentence in the guilt phase determination, but
6 they would have a right to know based on that. So can I
7 have a moment to talk to Mr. Bateman and --

8 THE COURT: Yes.

9 MR. FIGLER: -- Ms. Lewis?

10 (Off the record at 1:28 p.m. until 1:35 p.m.)

11 (Prospective jurors not present)

12 MR. FIGLER: -- come in. We don't know if
13 it will or it won't. I just wanted to give the Court a
14 heads-up what we're doing ahead of when we're doing it
15 and kind of put the State on notice that we might
16 object. So it's not a formal --

17 MS. LEWIS: Do you have an extra --

18 MR. BATEMAN: I got it.

19 MR. FIGLER: -- motion as much as it's just
20 for the efficiency of how the Court wants to administer
21 those rulings when we make objection contemporaneous to
22 the evidence coming in. I think it's fair to the State
23 to kind of know ahead of time what we might object to
24 based on what's kind of transpired.

25 MR. BATEMAN: Judge --

1 MR. FIGLER: None of it's formal motions.
2 Some of it might not even need to be made, but it's just
3 areas of concern.

4 MR. BATEMAN: Two issues, two things I would
5 note. Number one, we have attempted with our witnesses
6 to pretrial them in such a way as to avoid any reference
7 to anything related to gangs.

8 In some sense, we may be leading some of
9 these witnesses to avoid any of those references. So
10 I'll put the Court and counsel on notice that based upon
11 our questions, we'll do our best to avoid those kinds of
12 references.

13 MR. FIGLER: And I acknowledged that in the
14 brief that they said -- that that representation was
15 made, and we have no doubt that that's true.

16 MR. BATEMAN: My --

17 (Off-record colloquy)

18 MR. BATEMAN: My other concern here is
19 reference -- I think Your Honor's already made a ruling
20 on DNA evidence. I don't understand. I'm not quite
21 sure what the defense's position is on the
22 gunshot-residue test. Are they seeking to exclude the
23 results?

24 MR. FIGLER: Your Honor, on May 3rd, so that
25 was just last week, we received a report involving trace

1 evidence and microscopic particles that were allegedly
2 found on Mr. Matthews.

3 The defense was surprised in that we hadn't
4 received anything else with regard to that testing even
5 being done in its discovery. As such, first of all,
6 it's scientific evidence, so I think we're appropriately
7 allowed to make a challenge prior to its admission based
8 on --

9 THE COURT: Daubert (phonetic).

10 MR. FIGLER: -- Daubert and Evanfries
11 (phonetic). It still exists in Nevada and any other
12 appropriate Nevada cases that it doesn't come in. Also,
13 as Your Honor's aware, Daubert's still subject to a
14 48.035 analysis regarding the probative value against
15 the prejudicial impact.

16 The State's report indicated that the
17 particles found may indicate that he discharged a
18 firearm, handled or discharged firearm or was in close
19 proximity to a discharged firearm. It doesn't give any
20 more specific information.

21 It will ultimately be if the gunshot-residue
22 testing that was performed in this particular case meets
23 all the admissibility standards such as the chain of
24 custody, et cetera, and, additionally, has reliability
25 and it makes it through the Daubert analysis, that we

1 would suggest that the possibility of discharging a
2 firearm in some unknown time would be overly prejudicial
3 given its probative value that these microbes were even
4 present suggesting that he discharged the murder weapon
5 in question when we don't know that, and that's not the
6 finding of the scientific expert.

7 THE COURT: State.

8 MR. BATEMAN: The expert was, in fact,
9 noticed. As the Court is aware, we oftentimes don't get
10 reports 21 days out. Those aren't -- there's no
11 requirement that reports be turned over 21 days out.

12 We simply have to notice our expert as to
13 who they are, what they intend to testify to and
14 generally a curriculum vitae. I believe that was done
15 in this case.

16 We reference Mike Martinez. It's kind of
17 like the Torrey Johnson (phonetic) equivalent of the
18 Bexar County Crime Lab. In this case, Crystina Vachon
19 would be testifying as to gunshot residue.

20 As to its admissibility, I would take issue
21 with -- well, I'm a little -- I feel like I'm a little
22 bit at a disadvantage just receiving this here --

23 THE COURT: I agree.

24 MR. BATEMAN: -- right before the jury's
25 coming in. I would be more than happy to provide the

1 law. I've addressed this issue in the last murder trial
2 that I tried in front of Judge Lohrer.

3 Daubert is actually not the test in Nevada.
4 There's cases that specifically say we have not adopted
5 the Daubert test. It's basically governed by the
6 statute, and I don't have it off the top of my head. 51
7 or 50, whatever it is. I can provide the case law to
8 Your Honor.

9 But, you know, gunshot residue has generally
10 been allowed to be testified to in the Eighth Judicial
11 District since at least I've been here which isn't that
12 long. But I've seen it done multiple times. I've done
13 it myself.

14 I think that it's good science and been held
15 to be that. That's been the case. I would suggest that
16 it goes to weight and not admissibility as long as we
17 lay the appropriate foundations, Judge.

18 THE COURT: Well, let's wait for the
19 foundation to be laid.

20 MR. FIGLER: I think so, Judge. And,
21 obviously, it's going to just be our position that
22 whatever analysis is done with regard to admissibility
23 be done outside the presence of the jury.

24 THE COURT: Absolutely.

25 MR. FIGLER: Thank you, Judge. Again, just

1 a heads-up.

2 (Off-record colloquy)

3 THE COURT: Did you guys make a decision on
4 stipulating at the penalty phase?

5 MR. BATEMAN: Well, the position we would
6 have, of course, Your Honor, is that we would waive
7 penalty phase. I have no problem with Your Honor
8 sentencing the defendant and making arguments to
9 Your Honor.

10 I don't think it's the defense's position
11 that they want to waive so long as life without is still
12 on the table, so I'm not going to take it off. We're
13 just going to waive and put it in Your Honor's hands, so
14 that would be the State's position.

15 If the defense is not waiving, then it would
16 also be the State's position that we don't reference --
17 if we're going to reference penalty options in this
18 case, it's life without, life with, and a term of years.

19 I would move that we don't discuss what the
20 bottom end would be which would be 40 at this time, life
21 with, life without, and term of years, so that we don't
22 prejudice the jury at this point prior to hearing any
23 arguments at penalty phase.

24 I don't want to prejudice them with the
25 guilt phase, but what they're looking at if they return

1 a verdict of first-degree murder with use of a deadly
2 weapon. So that would be my position.

3 THE COURT: Response.

4 MR. FIGLER: Well, your -- I'm sorry. Go
5 ahead, Mr. Singer.

6 MR. SINGER: Judge, we would ask, first of
7 all, our first option is that we would ask Your Honor,
8 which has happened to me in the last two or three murder
9 cases -- I've never even got to the penalty phase. The
10 judge gave us a commitment on his own accord that if
11 there is a guilty verdict, that the Court would on its
12 accord sua sponte give us life with. Judge --

13 THE COURT: I don't even know the case. How
14 am I supposed -- I don't know. Assuming there's a
15 conviction, I don't know the history of your clients. I
16 don't know anything about the case aside from the quick
17 brief and the prelim that I head.

18 How can I stipulate or how can I agree to a
19 life with if I don't know the facts? I mean, I'm not
20 saying that -- I'm going to look at it reasonably. I'm
21 going to look at it fairly, but you're asking me to make
22 a decision that --

23 MR. SINGER: I'm just letting you know how
24 other judges in this courthouse have handled it.

25 (Off-record colloquy)

1 MR. SINGER: -- (indiscernible) last two
2 murder trials (indiscernible) but, you know, that's not
3 -- you're not required to (indiscernible). I'm just
4 letting you know what we would request.

5 If that's going to be denied, it's our
6 position that we -- there's no benefit to the defense to
7 go -- to stipulate, so we would (indiscernible).

8 (Off-record colloquy)

9 THE COURT: Mr. Figler.

10 MR. FIGLER: Yeah. Obviously, Judge, it's
11 in the both parties best interest to figure out a way to
12 keep the information outside of the jury. But it's
13 always in the defense best interest to find out if, you
14 know, you have jurors who understand the magnitude and
15 are able to impose whatever sentence there are.

16 You know, there's three possible sentences.
17 One is 20 to 50 years with an equal consecutive 20 to 50
18 years, the term of years, the life with with a
19 consecutive life with, and life without with a
20 consecutive life without. I think the jurors are
21 entitled to know the top for sure, and I think all
22 parties agree on that.

23 I don't see why the bottom is any different.
24 They have to be able to impose a 40-year sentence upon
25 defendants if they are going to contemplate that.

1 THE COURT: I think the appropriate
2 question, the question that's always asked, is whether
3 they can impose life without the possibility of parole
4 and an equal and consecutive life without the
5 possibility of parole, life with the possibility of
6 parole with an equal and consecutive life with the
7 possibility of parole, and a fixed term of years. Those
8 are the questions that are asked. In terms of the
9 bottom --

10 MR. FIGLER: I mean, with regard to the
11 fixed term of years, they don't know what that means.
12 It could mean to them 2 to 10. It could mean anything.
13 But in reality, it's 40 to 100 years.

14 So I think we have a right to get into that
15 with the jurors to make sure they do. Our offer of
16 compromise to the State was that we wouldn't be asking
17 for the bottom which is a term of years. They wouldn't
18 be asking for the top, and we'd all compromise on the
19 middle.

20 I reminded the State that in all likelihood
21 if my client's found guilty of Count II, he would likely
22 be found guilty of Counts I, III, IV, V, VI, VII, VIII,
23 IX, X, XI as well, and that that would add up to an
24 additional approximately 70 years on the bottom for --

25 THE COURT: And that's not acceptable with

1 the State?

2 MR. FIGLER: And that's not acceptable to
3 the State.

4 MR. BATEMAN: We'll waive, Judge. I mean,
5 we'll waive and give it to Your Honor.

6 MR. FIGLER: It does extend the jury
7 selection. I just don't see the point of the State
8 really -- my client has no prior felony convictions --
9 why they're not willing to do that, but that's their
10 option.

11 I think it would just make things go a lot
12 more smoothly and quicker if we were able to do that.
13 But if we can't come to an accord, we can't come to an
14 accord.

15 THE COURT: You want me to stipulate that
16 I'm going to give a life with?

17 MR. FIGLER: Well, I mean, that would solve
18 it, but I'm making that request of Your Honor. I
19 understand Your Honor's position.

20 I'm hoping that the State would hear my
21 argument and maybe confer that it's no loss to do them
22 to do life with with the consecutive life with.

23 THE COURT: Really, it's up to the parties.

24 MR. FIGLER: I appreciate that.

25 MR. BATEMAN: Your Honor, what's your

1 position, if I might, on whether they can reference 40
2 at the bottom?

3 THE COURT: I think they should be allowed
4 to reference 40 at the bottom. If they're talking about
5 life without the top, they should be able to reference
6 40 at the bottom.

7 (Off-record colloquy)

8 THE COURT: All right.

9 MR. FIGLER: I think the parties have
10 reached an accord, Your Honor.

11 THE COURT: All right. What's that accord
12 so the record is clear?

13 MR. BATEMAN: If the jury returns a verdict
14 of first-degree murder on Count II as to either the
15 defendants, the State will, and I believe the defense
16 will also stip that the sentence at that point or what
17 we would request from Your Honor would be the life
18 sentence with parole eligibility beginning after 20 plus
19 an equal and consecutive.

20 If they are also convicted of the deadly
21 weapon enhancement, obviously, Your Honor has complete
22 discretion as to run any of the other counts. If any of
23 the defendants are convicted of those other counts,
24 consecutive or concurrent, generally, I think that this
25 has to actually be in writing, so --

1 MR. FIGLER: Yes.

2 MR. BATEMAN: -- if everyone feels
3 comfortable, we can forward today, and we'll put it in
4 writing.

5 THE COURT: I'd like it in writing for
6 tomorrow so we can file it as a Court document.

7 MR. FIGLER: Thank you, Your Honor. And
8 that does need to be signed by the defendants as well as
9 their counsel.

10 THE COURT: Very good.

11 MR. BATEMAN: We might be able to get this
12 today as well so --

13 THE COURT: Fine.

14 MR. BATEMAN: -- we'll work on it.

15 THE COURT: Do we have the panel in the
16 hall?

17 (Off-record colloquy)

18 THE COURT: All right. Let's bring them in.
19 Jury's coming in.

20 (Off-record colloquy)

21 (Prospective jurors present)

22 THE BAILIFF: Jury's present, please.

23 (Off-record colloquy)

24 THE BAILIFF: Your Honor, (indiscernible)
25 panel's present.

1 THE COURT: Thank you.

2 This is the time set for trial in Case
3 No. C228460, State of Nevada, plaintiff, versus
4 Pierre Joshlin and Jamar Matthews, defendants.

5 The record will reflect presence of the
6 defendants, their counsel, counsel for the State, all
7 officers of the Court.

8 Are all parties ready to proceed?

9 MR. BATEMAN: Yes, Your Honor.

10 MS. LEWIS: Yes, Your Honor.

11 MR. FIGLER: Yes, Your Honor.

12 THE COURT: Ladies and gentlemen, my name is
13 David Barker. I'm a district judge, Department 18, and
14 I will be the presiding judge. I'd like to make a few
15 other introductions to you.

16 Seated right here in front of me is
17 Richard Kangas. He is the court recorder. This
18 gentleman takes down everything that happens in this
19 courtroom, and that's his job.

20 Seated next to me is Sharon Truwen
21 (phonetic). She is the court clerk. She maintains the
22 records, keeps the evidence, and makes sure everything
23 goes where it needs to go.

24 Behind you is Officer Dan Reichert. He is
25 the bailiff. He is the gentleman who showed you in. He

1 is your main contact should be selected to be on this
2 jury with this court and during this process. If you
3 have questions, he's the man you go to see.

4 On behalf of the State, please introduce
5 yourself and make a brief statement as to the case, the
6 name of the State's witnesses that you anticipate
7 calling.

8 MR. BATEMAN: Thank you, Your Honor.

9 Good afternoon now, ladies and gentlemen.
10 My name is Sam Bateman. I'm a deputy district attorney
11 here in Clark County. With me is my co-counsel,
12 Linda Lewis, also a deputy district attorney.

13 We are bringing the charges of the State of
14 Nevada against two defendants sitting here today,
15 Pierre Joshlin and Jamar Matthews.

16 State has alleged in an information that the
17 defendants have committed the following crimes:
18 Conspiracy to commit murder, murder with use of a deadly
19 weapon, three counts of attempt murder with use of a
20 deadly weapon, possession of short-barrel rifle,
21 conspiracy to commit robbery, two counts of robbery with
22 use of a deadly weapon, and two counts of assault with
23 use of a deadly weapon. We intend to present evidence
24 over the next few days with regards to these counts.

25 Just so you would note that these counts

1 allege from or these crimes allege from a number of
2 different scenes here in Las Vegas including 1271 Balzar
3 which is in the northwest or west Las Vegas. Those
4 would be -- that particular scene would relate to the
5 murder and attempt murder charges.

6 There's also another scene, 1284 Lawry, also
7 here in Las Vegas in the same vicinity. That scene
8 would relate to the charges of conspiracy to commit
9 robbery, robbery with use of a deadly weapon.

10 Finally, the assault with a deadly weapon
11 counts relate facts occurring at or around Doolittle
12 Avenue and Lexington here in Las Vegas, Clark County.

13 Some of the witnesses that the State would
14 intend to call in this case, Myniece Cook;
15 Michel'le Tolefree; Maurice Hickman; Geishe Orduna;
16 Melvin Bolden; Bradley Cupp, an officer of the Las Vegas
17 Metropolitan Police Department; Officer Chad Baker;
18 Officer Brian Walter; Officer Mike Calarco;
19 Officer Kenneth Rios; Officer Todd Conn; Officer Dave
20 Patrucci; Officer Cord Overson; CSA Amy Nemcek, CSA
21 Stephanie Smith; Marvis Walton, I believe also a CSA;
22 Jim Krylo from the Las Vegas Metropolitan Police
23 Department's criminalistics lab; Crystina Vachon, a
24 criminalist out of Bexar County, Texas; Fred Boyd also a
25 -- he's a latent print examiner; Randy McPhail, also a

1 CSA; William Speas, a CSA, CSA Washington; Officer Gary
2 Dale, another CSA Renhard; homicide detectives including
3 Jimmy Vaccaro; Detective Wildemann; Rob Wilson, a
4 detective with homicide; Dean O'Kelley, a detective with
5 homicide; Alane Olson, Dr. Alane Olson, from the
6 Las Vegas -- excuse me, the Clark County Coroner's
7 Office. That is it in total. Thank you.

8 THE COURT: On behalf of the defense, please
9 introduce yourselves, your clients, and identify
10 participating witnesses.

11 MR. FIGLER: Thank you, Your Honor.

12 My name is David Figler. With me is my
13 partner, Dan Bunin. We're private attorneys here in
14 Las Vegas, and we represent Jamar Matthews who sits here
15 accused of all these crimes.

16 The nature of the offense is such that
17 different things took place at different times, and it's
18 going to be the defense position that the witnesses that
19 need to be called are really going to depend upon what
20 the prosecution presents as far as their version of the
21 evidence goes.

22 I can tell you that Mr. Matthews and
23 Mr. Joshlin were not apprehended together. That they're
24 separate cases, and you'll be instructed by the Court to
25 keep things separate.

1 This does involve issues of identification,
2 cross-racial identification, and issues involved in
3 somebody being present somewhere or not being present
4 somewhere.

5 And so depending on how the evidence shows
6 up, that will determine what witnesses that we decide
7 that we'll need to call, if any, at the time that it's
8 appropriate for us to do that.

9 THE COURT: Ms. Clerk, please call the roll
10 of the panel. I'm sorry.

11 MR. SINGER: Thank you, Judge.

12 Good afternoon, ladies and gentlemen. Thank
13 you for being here.

14 My name is Philip Singer. I'm also a
15 private attorney, and I'm pleased and honored to be here
16 and represent my client, Pierre Joshlin (indiscernible)
17 who sits before all of you innocent as charged.

18 Thank you for your anticipated attention and
19 focus on all of the case, and I, too, would like to tell
20 you that at this point in time our defense does not
21 anticipate calling any witnesses, but we leave that open
22 to see what the prosecution will show you or not.

23 Thank you.

24 THE COURT: Ms. Clerk, would you please call
25 the roll.

1 THE CLERK: I will. I'm going to call the
2 last three digits of your badge number, and if I
3 mispronounce your name, please correct it as I'm
4 calling.

5 Badge No. 74, Marie Gatela. Answer yes,
6 present.

7 PROSPECTIVE JUROR NO. 74: (Indiscernible).

8 THE CLERK: Thank you.

9 75, Thomas Cicatello.

10 PROSPECTIVE JUROR NO. 99: Yes.

11 THE CLERK: Thank you.

12 99, Joseph Famulare.

13 No. 126, Aurora Pawlus-Baylon. Okay.

14 Please speak louder, too, please.

15 PROSPECTIVE JUROR NO. 126: Present.

16 THE CLERK: Thank you.

17 172, Matthew Patulski. I'm sorry.

18 PROSPECTIVE JUROR NO. 172: Present.

19 THE CLERK: 492, Danielle Ocampo.

20 PROSPECTIVE JUROR NO. 492: Present.

21 THE CLERK: 509, Randell Wilson.

22 PROSPECTIVE JUROR NO. 509: Present.

23 THE CLERK: 607, Jeffery Ashley.

24 PROSPECTIVE JUROR NO. 607: Present.

25 THE CLERK: 609, Gary Acosta.

1 PROSPECTIVE JUROR NO. 609: Present.
2 THE CLERK: 614: Jacky Sarti.
3 PROSPECTIVE JUROR NO. 614: Present.
4 THE CLERK: 617, Lee Porter.
5 PROSPECTIVE JUROR NO. 614: Here.
6 THE CLERK: Jennie Lee Porter.
7 PROSPECTIVE JUROR NO. 614: It's Jennie Lee
8 Porter.
9 THE CLERK: Thank you. 620, Edna Bisquera.
10 PROSPECTIVE JUROR NO. 620: Present.
11 THE CLERK: 621, Jay C. Tate.
12 PROSPECTIVE JUROR NO. 621: Present.
13 THE CLERK: 625, Kevin Wiener.
14 PROSPECTIVE JUROR NO. 625: Wiener, present.
15 THE CLERK: Wiener, thank you.
16 631, Warren Bradshaw.
17 PROSPECTIVE JUROR NO. 631: Present.
18 THE CLERK: 633, Michael Green.
19 PROSPECTIVE JUROR NO. 633: Present.
20 THE CLERK: 634, Karen Cloud.
21 PROSPECTIVE JUROR NO. 634: Present.
22 THE CLERK: 636, Tanya Jimmerson-Virgil.
23 PROSPECTIVE JUROR NO. 636: Present.
24 THE CLERK: 637, Jeanie Ready.
25 PROSPECTIVE JUROR NO. 637: Present.

1 THE CLERK: 638 Todd Parriott.
2 PROSPECTIVE JUROR NO. 638: Present.
3 THE CLERK: 639, Arthur Nadler.
4 PROSPECTIVE JUROR NO. 639: Present.
5 THE CLERK: 645, Brian Abeyta.
6 PROSPECTIVE JUROR NO. 645: Present.
7 THE CLERK: 647, Wendy Kahoaka-Wright.
8 PROSPECTIVE JUROR NO. 647: Present.
9 THE CLERK: 650, Gary Aylesworth.
10 PROSPECTIVE JUROR NO. 650: Present.
11 THE CLERK: 651, Robert Reyes.
12 PROSPECTIVE JUROR NO. 651: Present.
13 THE CLERK: 658, Donald Felske.
14 PROSPECTIVE JUROR NO. 658: Present.
15 THE CLERK: 660, Mario Espinoza.
16 PROSPECTIVE JUROR NO. 660: Present.
17 THE CLERK: 661, Jose Lomeli.
18 PROSPECTIVE JUROR NO. 661: Present.
19 THE CLERK: 661 (sic), Marissa Arroya (sic),
20 Arroyo.
21 PROSPECTIVE JUROR NO. 662: Present.
22 THE CLERK: Thank you.
23 667, Veronica Camara.
24 PROSPECTIVE JUROR NO. 667: Present.
25 THE CLERK: 670, Joe Ross.

1 PROSPECTIVE JUROR NO. 670: Present.
2 THE CLERK: 671, Patricia Noon.
3 PROSPECTIVE JUROR NO. 671: Present.
4 THE CLERK: 672, Lydia Guerrero.
5 PROSPECTIVE JUROR NO. 672: Present.
6 THE CLERK: 673, Robert Jaquez.
7 PROSPECTIVE JUROR NO. 673: Present.
8 THE CLERK: 675, Mark Tabb.
9 PROSPECTIVE JUROR NO. 675: Present.
10 THE CLERK: 676, Ryan Brewer.
11 PROSPECTIVE JUROR NO. 676: Present.
12 THE CLERK: 687, Gary Randall.
13 PROSPECTIVE JUROR NO. 678: Here, present.
14 THE CLERK: 695, Maflor Pengson.
15 PROSPECTIVE JUROR NO. 695: Present.
16 THE CLERK: 698, Lena Amburn.
17 PROSPECTIVE JUROR NO. 698: Present.
18 THE CLERK: 703, Tammy Clark.
19 PROSPECTIVE JUROR NO. 703: Present.
20 THE CLERK: 704, Gay Friesz.
21 PROSPECTIVE JUROR NO. 704: Present.
22 THE CLERK: Is that correct spelling?
23 707, Mary Heatherly.
24 PROSPECTIVE JUROR NO. 707: Present.
25 THE CLERK: 719, Cathy Bowser.

1 PROSPECTIVE JUROR NO. 719: Present.
2 THE CLERK: 720, John Diparvine.
3 PROSPECTIVE JUROR NO. 720: Present.
4 THE CLERK: 728, Edwin Kennedy.
5 PROSPECTIVE JUROR NO. 728: Present.
6 THE CLERK: 729, Debra Vogel.
7 PROSPECTIVE JUROR NO. 729: Present.
8 THE CLERK: 737, Lynn Ward.
9 PROSPECTIVE JUROR NO. 737: Present.
10 THE CLERK: 739: John D. Powell.
11 PROSPECTIVE JUROR NO. 739: Present.
12 THE CLERK: 742, Weena Castro.
13 PROSPECTIVE JUROR NO. 742: Present.
14 THE CLERK: 743, Sandra Williams.
15 PROSPECTIVE JUROR NO. 743: Present.
16 THE CLERK: 749, Michael Scott.
17 PROSPECTIVE JUROR NO. 749: Present.
18 THE CLERK: 762, Donya (sic) Robinson.
19 PROSPECTIVE JUROR NO. 762: Tanya.
20 THE CLERK: Tanya Robinson. Thank you.
21 767, Eve Tillack.
22 PROSPECTIVE JUROR NO. 767: It's Tillack.
23 THE CLERK: Tillack. Thank you.
24 PROSPECTIVE JUROR NO. 767: Present.
25 THE CLERK: Thank you. 774, Patricia

1 Pattiani.

2 PROSPECTIVE JUROR NO. 774: Present.

3 THE CLERK: 775, Lori Axler.

4 PROSPECTIVE JUROR NO. 775: Present.

5 THE CLERK: 776, Leisa M. Wagner.

6 PROSPECTIVE JUROR NO. 776: It's Leisa

7 Wagner.

8 THE CLERK: Leisa. Thank you.

9 777, Nicole Leonard.

10 PROSPECTIVE JUROR NO. 777: Present.

11 THE CLERK: 780, Vernon Stultz.

12 PROSPECTIVE JUROR NO. 780: It's Stultz.

13 Here, present.

14 THE CLERK: Stultz. Thank you.

15 783, Christine Crane.

16 PROSPECTIVE JUROR NO. 783: Present.

17 THE CLERK: 792, Joel Runkle.

18 PROSPECTIVE JUROR NO. 792: Present.

19 THE CLERK: Thank you.

20 THE COURT: Anyone whose name was not called

21 or who was called that is not present? Anybody here who

22 shouldn't be here? Because if your name wasn't called,

23 you shouldn't be here.

24 (No audible response)

25 THE COURT: All right. Ladies and

1 gentlemen, thank you for coming. Again, my name is
2 David Barker. I'm a district court judge, and I will be
3 presiding in this matter. I appreciate you taking the
4 time out of your day, out of your schedule to come here.

5 We're about to start jury selection. That
6 process is done under oath. I'd ask you all to rise and
7 raise your right hand.

8 (Prospective jurors sworn)

9 THE CLERK: You may be seated.

10 THE COURT: Unfortunately, during this
11 process you will be asked a series of questions. These
12 questions are not intended to intrude upon your personal
13 life, but they're intended to help us understand and
14 help the parties understand that you can be fair and
15 impartial jurors.

16 Again, some of these will be personal, but,
17 unfortunately, it's necessary so the Court and the
18 attorneys can make an intelligent determination as to
19 your capabilities to be, again, fair and impartial.

20 It is important for you to understand the
21 significance of full and complete and honest answers to
22 these questions. Should you fail to answer any of these
23 questions truthfully or hide or withhold any information
24 touching upon your qualifications, that fact may tend to
25 contaminate your verdict and subject you to further

1 inquiry.

2 I'm going to conduct a general examination
3 of all of you seated here with some general questions.
4 We're just going to use your names. We have very little
5 information about you other than your names. After I do
6 this general inquiry, ask you a few questions, then I'm
7 going to allow the attorneys to inquire of you as well.

8 What I need you to do is as I ask these next
9 series of questions, raise your hand if you have an
10 affirmative response, and you need to tell us about or
11 respond to that question.

12 Has anyone here been convicted of a felony?

13 (No audible response)

14 THE COURT: And if, by the way, you do have
15 to raise your hand, identify yourself by your badge
16 number so we can keep track.

17 Is anyone here not a citizen of the United
18 States?

19 (No audible response)

20 THE COURT: Is there anyone here with such
21 sympathy, prejudice or bias relating to age, religion,
22 race, gender, national origin that they feel they could
23 not be fair and impartial and open-minded jurors?

24 (No audible response)

25 THE COURT: Are any of you acquainted with

1 the defendant?

2 (No audible response)

3 THE COURT: Are any of you acquainted with
4 the district attorneys?

5 (No audible response)

6 THE COURT: Are any of you acquainted with
7 any of those witnesses that were read by the State?
8 That's very important to check and make sure that you
9 don't know any of the witnesses. Anybody heard any of
10 the names?

11 (No audible response)

12 THE COURT: This case is expected to last
13 approximately to the end of the week. For anyone, and
14 careful now, anyone would that be a problem serving for
15 that period of time, until the end of the week? That's
16 always the one that gets us going.

17 Let's start here in front, and identify
18 yourself by your badge number.

19 PROSPECTIVE JUROR NO. 614: (Indiscernible)
20 614.

21 THE COURT: 614.

22 THE COURT RECORDER: Hold on for just a
23 second, Judge.

24 THE COURT: Okay. This is part of --

25 THE COURT RECORDER: I have a hand-held mike

1 for you, but it needs to be pointed right at your mouth.
2 If you hold it in your lap or wave it out in here, it
3 doesn't work. It needs to be right up in front of your
4 mouth, and if you just remember to wait for the mike
5 before you start answering.

6 PROSPECTIVE JUROR NO. 614: My father's
7 currently in the hospital, and I help take care of him
8 so --

9 THE COURT: I want to say this right up
10 front. I'm very limited by the law on what we can
11 excuse you for. It has to be extremely pressing, and
12 we're going to listen to each and every one of you.

13 Is your father and the service you provide
14 for your father such that no one else can do that for
15 this week?

16 PROSPECTIVE JUROR NO. 614: Well, we take
17 turns because we all work.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 614: So it's -- I
20 don't know. I'd have to see.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NO. 614: (Indiscernible).

23 THE COURT: All right. At this point I
24 can't let you go on that, okay.

25 Next.

1 PROSPECTIVE JUROR NO. 617: 617.

2 THE COURT: 617.

3 PROSPECTIVE JUROR NO. 617: Jennie Lee
4 Porter. I don't have very good vehicle transportation.
5 My husband brought me today, and he does union
6 contracting and construction, so he's -- my vehicle's
7 not the best.

8 THE COURT: Okay. Would that impair your
9 ability to get here to Court every day? Is there some
10 arrangements that you can make? Maybe a taxi or
11 something that I might be able to work out with Jury
12 Services such that you could be able to serve on this
13 jury?

14 PROSPECTIVE JUROR NO. 617: I live on the
15 southwest side of town if you could figure out than
16 that, but no, guess not. I mean (indiscernible) --

17 THE COURT: Okay. And your husband was able
18 to take you today and pick you up today?

19 PROSPECTIVE JUROR NO. 617: He had to get
20 off today to take me, yes.

21 THE COURT: All right. Let's see where we
22 go. All right?

23 Next.

24 PROSPECTIVE JUROR NO. 126: 126, Aurora
25 Pawlus.

1 THE COURT: Ms. Pawlus.

2 PROSPECTIVE JUROR NO. 126: Yes. I'm the
3 sole care giver for my granddaughter. I pick her up
4 from school every day. I live in Henderson. In order
5 to get here I took three buses, so it's going to be
6 difficult.

7 THE COURT: So you don't have your own form
8 of independent transportation --

9 PROSPECTIVE JUROR NO. 126: No.

10 THE COURT: -- as well?

11 PROSPECTIVE JUROR NO. 126: I don't drive
12 anymore (indiscernible).

13 THE COURT: Okay. How do you get your
14 granddaughter to school?

15 PROSPECTIVE JUROR NO. 126: My daughter
16 takes her on the way to work and then I pick her up.

17 THE COURT: I see. And you --

18 PROSPECTIVE JUROR NO. 126: I walk to school
19 to pick her up.

20 THE COURT: You walk to school together.

21 All right. Let's see where we go. All right.

22 Next.

23 PROSPECTIVE JUROR NO. 492: 492, Danielle
24 Ocampo. I have finals this week for school that I can't
25 miss. If I miss the finals, I don't pass the class.

1 THE COURT: What days are your finals?

2 PROSPECTIVE JUROR NO. 429: Wednesday.

3 THE COURT: All on Wednesday?

4 PROSPECTIVE JUROR NO. 429: Yes.

5 THE COURT: Wednesday afternoon or Wednesday
6 morning?

7 PROSPECTIVE JUROR NO. 429: Wednesday
8 morning.

9 THE COURT: All Wednesday morning? How many
10 finals do you have?

11 PROSPECTIVE JUROR NO. 429: I have one
12 that's Wednesday morning. I took my other final today,
13 and then I have another one on Wednesday.

14 THE COURT: State.

15 MR. BATEMAN: Can I ask what time the final
16 is?

17 THE COURT: What time is your final?

18 PROSPECTIVE JUROR NO. 429: (Indiscernible).

19 THE COURT: Because, unfortunately, we might
20 be able to work around it.

21 PROSPECTIVE JUROR NO. 4:29: That one's at
22 8:00 o'clock.

23 THE COURT: What time?

24 PROSPECTIVE JUROR NO. 429: 8:00 o'clock --

25 THE COURT: And what time would you --

1 PROSPECTIVE JUROR NO. -- in the morning.

2 THE COURT: -- be done with it?

3 PROSPECTIVE JUROR NO. 429: 8:00 to 9:30.

4 THE COURT: I think we'll be fine, actually,
5 depending on our schedule, so at this point I can't let
6 you go.

7 Next. Let's pass it down to the audience
8 here.

9 Sir, your name and your badge number.

10 PROSPECTIVE JUROR NO. 638: 638, Todd
11 Parriott. I was scheduled to leave at -- Thursday at
12 1:00 o'clock with my wife for a trip.

13 THE COURT: For Hawaii?

14 PROSPECTIVE JUROR NO. 638: No, just for a
15 trip.

16 THE COURT: For a trip?

17 PROSPECTIVE JUROR NO. 638: Yeah.

18 THE COURT: Okay. Thursday evening?

19 PROSPECTIVE JUROR NO. 638: Thursday at 1:00
20 o'clock is our flight.

21 THE COURT: We may be able to work that in
22 the schedule.

23 Next.

24 PROSPECTIVE JUROR NO. 698: 698. I'm a
25 single parent, three children, so I just don't want to

1 be sequestered.

2 THE COURT: You're not going to be
3 sequestered.

4 PROSPECTIVE JUROR NO. 698: Okay. Thanks.

5 THE COURT: Next.

6 PROSPECTIVE JUROR NO. 695: 695.

7 THE COURT: 695. Yes, ma'am.

8 PROSPECTIVE JUROR NO. 695: Maflor Pengson.
9 I don't know how to drive. I'm taking care of
10 two-year-old granddaughter.

11 THE COURT: Okay. How did you get here
12 today?

13 PROSPECTIVE JUROR NO. 695: My husband. He
14 just drop me off.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 695: And he's working
17 in the construction.

18 THE COURT: Okay. Do you think we might be
19 able to do that if you're picked for this jury for a
20 couple more days?

21 PROSPECTIVE JUROR NO. 695: No.

22 THE COURT: Okay. Let me see where we go,
23 and we'll take it one step at a time. Appreciate your
24 honesty.

25 Next.

1 PROSPECTIVE JUROR NO. 671: No. 671. My
2 name is Patricia Noon. I have a plane ticket for 12:30
3 a.m. Thursday night, Friday morning for a pre-planned
4 trip.

5 THE COURT: We should be -- we'll note that,
6 and see if we -- if it impacts our schedule.

7 PROSPECTIVE JUROR NO. 695: Okay. Thanks.

8 THE COURT: Thank you. Next.

9 PROSPECTIVE JUROR NO. 776: 776, Leisa
10 Wagner. I watch a two-and-a-half-year-old every day
11 from 7:30 'til 6:00. I also have two kids to pick up
12 from school.

13 THE COURT: Who's watching them now, ma'am?

14 PROSPECTIVE JUROR NO. 776: Right now I have
15 my sister, but she won't be able to the rest of the
16 week.

17 THE COURT: Okay. We'll note that and see
18 where we go. Honestly, we're going to have 12 people --
19 or, excuse me -- 14 people in a jury box.

20 So next.

21 PROSPECTIVE JUROR NO. 672: My name is
22 Lydia Guerrero, Badge 672. I don't know if this make a
23 difference, but on Saturday morning I have plane ticket
24 to go to Washington just in case the case go longer than
25 this week, so I want to let you know in advance.

1 THE COURT: Thank you. Thank you very much
2 for that.

3 Next.

4 PROSPECTIVE JUROR NO. 729: Badge 729.
5 Debra Vogel. I have plane ticket for 6:00 a.m. on
6 Friday, and I have paperwork to prove it in my bag.
7 Confirmation.

8 THE COURT: All right. As we move along
9 through this process, remind me of the fact that you
10 have the ticket in your bag.

11 Next.

12 PROSPECTIVE JUROR NO. 670: 670, Joe Ross.
13 I take prescription medications for health issues. I'm
14 also a stay-at-home father that gives care to a
15 two-year-old and a four-year-old and a wife with also
16 special needs.

17 THE COURT: What type of medications? Does
18 it affect your ability to hear and understand the
19 process?

20 PROSPECTIVE JUROR NO. 670: No. I'm under
21 prescription medication Hydrocortisone, also Codeine,
22 Prohazmine (phonetic) for congestive heart failure,
23 Marphon (phonetic), high blood pressure, Lorazepam for
24 stress.

25 THE COURT: So you're taking a few

1 medications. That affect your ability to understand
2 this process, sir?

3 PROSPECTIVE JUROR NO. 670: No, it does not,
4 but I'm not supposed to be driving while under these
5 medications.

6 THE COURT: Sure. How did you get here
7 today?

8 PROSPECTIVE JUROR NO. 670: I drove, and I
9 have not had my medications as of yet.

10 THE COURT: So your health --

11 PROSPECTIVE JUROR NO. 670: (Indiscernible).

12 THE COURT: Are you telling me --

13 PROSPECTIVE JUROR NO. 670: (Indiscernible).

14 THE COURT: -- you're here and your health
15 is in danger as a consequence of you serving as a juror?

16 PROSPECTIVE JUROR NO. 670: If I start
17 getting stressed out, yes. I'll start to vomit, have
18 blood come out, then I'll go into a congestive heart
19 failure.

20 THE COURT: Let's -- State.

21 MR. BATEMAN: I'm okay with excusing, sure.

22 THE COURT: Defense.

23 MR. FIGLER: Same on our side.

24 THE COURT: Sir, thank you for coming and
25 head back down to Jury Services. They may assign you to

1 a civil case. It may be longer. It may be shorter than
2 this case, but you need to return to Jury Services
3 for --

4 PROSPECTIVE JUROR NO. 670: Okay. Thank
5 you, Your Honor.

6 THE COURT: Yes, ma'am.

7 PROSPECTIVE JUROR NO. 775: I don't know if
8 this matters -- oh, 775. I'm diabetic so I take insulin
9 every four to six hours, so sometimes I have to stop and
10 sometimes I have to break to take food, and so it's hard
11 for me to sit so --

12 THE COURT: I understand completely. If
13 there's a situation if you're picked for this jury and
14 that you need a quick personal break, just anybody,
15 raise your hand, and we'll make it happen. This is not
16 testing your endurance. This is testing your patience.

17 Next.

18 PROSPECTIVE JUROR NO. 774: 775 --

19 THE COURT: Yes, ma'am.

20 PROSPECTIVE JUROR NO. 774: -- or, excuse
21 me, 774. I have strong moral objections against serving
22 on a criminal trial.

23 THE COURT: I'll tell you what, we will get
24 to that area specifically in a few minutes. If you
25 could just hold that position. And if we put you on the

1 panel, then we'll take those up with more specifics at
2 that point.

3 PROSPECTIVE JUROR NO. 774: I have one more
4 issue.

5 THE COURT: Yes, ma'am.

6 PROSPECTIVE JUROR NO. 774: I'm working a
7 one-woman office for a mobile dentist. I coordinate all
8 activities. Today they're missing me, and there's no
9 one else to cover.

10 THE COURT: Okay. We'll make a note of
11 that. Unfortunately, employment is not an area by which
12 I'm permitted by law to let you -- to release you at
13 this point.

14 Next.

15 PROSPECTIVE JUROR NO. 777: Nicole Leonard,
16 badge 777.

17 THE COURT: Yes, ma'am.

18 PROSPECTIVE JUROR NO. 777: I'm a single
19 mother of a ten-year-old, and I don't have any family
20 here, and I pick him up every day at 3:30. I don't have
21 anybody to pick him up.

22 THE COURT: Okay. So what are you going to
23 do in an hour?

24 PROSPECTIVE JUROR NO. 777: I gave him a key
25 and told him to walk home, but I'm not really okay with

1 that. I had to do it because I had to come today --

2 THE COURT: Yes.

3 PROSPECTIVE JUROR NO. 777: -- because I
4 couldn't, you know, excuse myself, but I don't feel safe
5 with a ten-year-old going home and being home for two
6 hours by himself.

7 THE COURT: I appreciate that. Let's
8 continue with the process and see where we go.

9 PROSPECTIVE JUROR NO. 777: Okay. Thank
10 you.

11 THE COURT: Thank you. Next.

12 PROSPECTIVE JUROR NO. 783: 783. This
13 week's a financial burden for me. I'm a single mother
14 of three, and \$40 just doesn't pay my bills.

15 THE COURT: I completely understand.
16 Unfortunately, that's one of the specific reasons we're
17 not allowed to let you off. So we'll just have to see
18 where the process goes. Thank you so much.

19 Next.

20 (Off-record colloquy)

21 THE BAILIFF: Your Honor, I need to approach
22 with counsel.

23 (Off-record bench conference)

24 THE COURT: Record should reflect that
25 Juror No. 645, Brian Abeyta, has been excused from the

1 panel.

2 Has anyone on this panel ever been engaged
3 in law enforcement work or have a spouse or close
4 relative who's engaged in law enforcement work? This is
5 always another popular question.

6 Let's start over here.

7 PROSPECTIVE JUROR NO. 099: When you say law
8 enforcement, right now I --

9 THE COURT: Okay. Hang on. I got to get
10 you the microphone just because Mr. Kangas needs to get
11 everything down. Yes. What's your badge number, sir.

12 PROSPECTIVE JUROR NO. 099: 099.

13 THE COURT: 099.

14 PROSPECTIVE JUROR NO. 099: I don't know if
15 this counts. Right now I'm watch commander for the
16 security patrol up where I live. We're not part of
17 Henderson Police, but we work in conjunction with them.

18 THE COURT: Would that affect your ability
19 to be fair and impartial in this case in any way, the
20 fact that you work for security?

21 PROSPECTIVE JUROR NO. 099: I don't think
22 so.

23 THE COURT: All right.

24 PROSPECTIVE JUROR NO. 099: Just so you
25 know.

1 THE COURT: That's what we're interested in,
2 full disclosure.

3 Next.

4 Yes, sir.

5 PROSPECTIVE JUROR NO. 775: 775. I have a
6 brother that works for the highway patrol in Georgia.

7 THE COURT: Georgia Highway Patrol?

8 PROSPECTIVE JUROR NO. 775: Yes.

9 THE COURT: Does that relationship or would
10 that relationship affect your ability to be fair and
11 impartial in this case?

12 PROSPECTIVE JUROR NO. 775: No.

13 THE COURT: Next. Directly behind you.

14 PROSPECTIVE JUROR NO. 675: I believe it
15 might be 75, Judge.

16 THE COURT: Yes. That's makes sense. Since
17 we had 774 over here.

18 (Off-record colloquy)

19 THE COURT: Yes, sir. I need --

20 THE COURT RECORDER: 675.

21 THE COURT: 675. Next, please.

22 PROSPECTIVE JUROR NO. 667: Camara, 667.

23 THE COURT: 66 --

24 PROSPECTIVE JUROR NO. 667: I have a
25 brother-in-law that is Honolulu chief.

1 THE COURT: Honolulu chief of police?

2 PROSPECTIVE JUROR NO. 667: Yes.

3 THE COURT: Would that relationship with
4 your -- I'm sorry. He's your brother?

5 PROSPECTIVE JUROR NO. 667: My
6 brother-in-law.

7 THE COURT: Brother-in-law. Would that
8 relationship affect your ability to be fair here in this
9 case today?

10 PROSPECTIVE JUROR NO. 667: No, sir.

11 THE COURT: Thank you.

12 MR. BATEMAN: I apologize, again,
13 Your Honor. I didn't catch that number.

14 THE COURT: 667.

15 MR. BATEMAN: Thank you.

16 THE COURT: Next.

17 PROSPECTIVE JUROR NO. 636: 636. I have --

18 THE COURT: 6 --

19 PROSPECTIVE JUROR NO. 636: -- three uncles
20 that are police officers.

21 THE COURT: Would the fact that your uncles
22 are police officers affect your ability to be fair here?

23 PROSPECTIVE JUROR NO. 636: No.

24 THE COURT: Thank you for telling us.

25 PROSPECTIVE JUROR NO. 636: You're welcome.

1 THE COURT: Sir.

2 PROSPECTIVE JUROR NO. 631: I worked at
3 Southern Nevada Correctional facility for 19 months --

4 THE COURT: Would --

5 PROSPECTIVE JUROR NO. 631: -- as a
6 corrections officer and as a therapeutic recreation
7 specialist.

8 THE COURT: How long ago did you do this
9 kind of work, sir?

10 PROSPECTIVE JUROR NO. 631: From '88 to '89.

11 THE COURT: So it's --

12 PROSPECTIVE JUROR NO. 631: I'm currently a
13 therapeutic recreational specialist for the State of
14 Nevada at a mental health facility.

15 THE COURT: All right. Would that
16 employment affect your ability to be fair and impartial
17 in this case?

18 PROSPECTIVE JUROR NO. 631: I don't believe
19 so.

20 THE COURT: Thank you. Next.

21 PROSPECTIVE JUROR NO. 658: 658. My father
22 was a police officer from about 1958 to 1968 and my
23 uncle was a state patrolman in the State of Michigan for
24 25 years.

25 THE COURT: Would that relationship or those

1 relationships affect your ability to be fair here today,
2 sir?

3 PROSPECTIVE JUROR NO. 658: (Indiscernible)
4 I don't think so.

5 THE COURT: Next.

6 PROSPECTIVE JUROR NO. 743: 743. My son is
7 a corrections officer for the city.

8 THE COURT: Would that relationship with
9 your son affect your ability to be fair and impartial?

10 PROSPECTIVE JUROR NO. 743: No.

11 THE COURT: Next.

12 PROSPECTIVE JUROR NO. 776: 776. My nephew
13 is a (indiscernible).

14 THE COURT: Would the fact that your nephew
15 is a Metro policeman affect your ability to be fair in
16 the case?

17 PROSPECTIVE JUROR NO. 776: No --

18 THE COURT: Do you talk to --

19 PROSPECTIVE JUROR NO. 776: -- I don't think
20 so.

21 THE COURT: Okay. Very good. Thank you.

22 PROSPECTIVE JUROR NO. 634: 634. My father
23 was a constable in Illinois. My nephew is highway
24 patrol in (indiscernible).

25 THE COURT: Would that affect your ability

1 to be fair here?

2 PROSPECTIVE JUROR NO. 634: I don't think
3 so.

4 THE COURT: Thank you.
5 Next.

6 PROSPECTIVE JUROR NO. 783: 783. I used to
7 work for dispatch at LVMPD.

8 THE COURT: LVMPD dispatch. And when did
9 you do that work?

10 PROSPECTIVE JUROR NO. 783: 2000 to 2002.

11 THE COURT: So would that employment with
12 LVMPD affect your ability to be fair and impartial?

13 PROSPECTIVE JUROR NO. 783: Yes.

14 THE COURT: State.

15 MR. BATEMAN: Submit it.

16 THE COURT: Defense.

17 MR. FIGLER: We'll submit it
18 (indiscernible).

19 THE CLERK: What is that number again,
20 Your Honor?

21 THE COURT: Is that 783?

22 PROSPECTIVE JUROR NO. 783: Yes.

23 THE COURT: We'll discharge you at this
24 time, ma'am. Please return to Jury Services. They may
25 find a civil case or a different case --

1 PROSPECTIVE JUROR NO. 783: Okay.

2 THE COURT: -- for you to be assigned to.

3 Thank you.

4 Take 783 off the list. Is that all of our
5 -- yes, down front.

6 PROSPECTIVE JUROR NO. 792: My number is
7 792. (Indiscernible).

8 THE COURT: You don't think you'd be -- do
9 you think those relationships would affect your ability
10 to be fair here today?

11 PROSPECTIVE JUROR NO. 792: It depends on
12 where it goes and how it (indiscernible). I have a
13 (indiscernible) all the way (indiscernible).

14 THE COURT: Challenge for cause.

15 MR. BATEMAN: Yes, Your Honor.

16 MR. FIGLER: Yes, Your Honor.

17 THE COURT: You're excused. Please return
18 to Jury Services. They'll find you a civil case.

19 Anyone else?

20 (No audible response)

21 THE COURT: Is there anyone here who will
22 not be able to follow the instructions the Court gives
23 you on the law even if those instructions differ from
24 what you believe those instructions or what the law
25 should be? It's important for you to follow the law.

1 As a follow-up to that question, I must ask.
2 The fact that this is a criminal case it is your
3 responsibility to be the trier of facts. I am the trier
4 of the law. I sit up here. Frankly, I don't care what
5 decision is made. I'm here to make sure it's done
6 fairly.

7 You as the jurors decide what the law is.
8 Is there anyone here who feels they cannot be a fair
9 finder of fact and follow the instructions on the law
10 that I will give you at the close of this trial?

11 (No audible response)

12 THE COURT: Under our certain principles of
13 law in every criminal trial there are certain factors.
14 Mainly, that the defendant is presumed innocent until
15 the contrary is proved and the State must prove the
16 defendant guilty beyond a reasonable doubt. Does
17 anybody have a problem with that concept?

18 (No audible response)

19 THE COURT: Further, there's an -- what
20 you're going to hear is an information that has been
21 filed in this case that is simply a document. It's a
22 mere accusation and it's not evidence of guilt. Does
23 anybody have a problem with that concept?

24 (No audible response)

25 THE COURT: Does anyone understand that

1 these are the basic precepts of American justice and
2 that it's important for you to understand and follow
3 them?

4 (No audible response)

5 THE COURT: Does anyone know anything about
6 this case other than what has been stated here in court
7 today?

8 (No audible response)

9 THE COURT: All right. We've already put 14
10 in the jury box. I'm going to focus my questions on you
11 14 now for purposes of our continued process.

12 Ladies and gentlemen in the audience, please
13 listen to these questions because people will come and
14 go during this process.

15 We're going to start with the first juror.
16 Is that Marie Jasline (sic), Juror No. 74? Is that
17 right?

18 Ma'am, you're sitting in the first chair
19 which means you're the first one that gets to answer the
20 questions, so I apologize ahead of time, but we've got
21 to ask. Could you tell me briefly how long have you
22 been here in Las Vegas?

23 PROSPECTIVE JUROR NO. 74: Four years, sir.

24 THE COURT: And what do you do for a living?

25 PROSPECTIVE JUROR NO. 74: I work at the

1 front desk.

2 THE COURT: Where?

3 PROSPECTIVE JUROR NO. 74: Mandalay Bay.

4 THE COURT: All right. Could you tell us
5 are you married, children?

6 PROSPECTIVE JUROR NO. 74: Actually,
7 divorced.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NO. 74: Now I have my two
10 boys with me for like two months now.

11 THE COURT: All right. Have you ever been a
12 juror before?

13 PROSPECTIVE JUROR NO. 74: No, sir.

14 THE COURT: Has anyone closely associated to
15 you, a family member or a friend, ever been a victim of
16 crime?

17 PROSPECTIVE JUROR NO. 74: No, sir.

18 THE COURT: Has anyone closely associated to
19 you, family member or friend, ever been accused of a
20 crime?

21 PROSPECTIVE JUROR NO. 74: No, sir.

22 THE COURT: Would you have a tendency to
23 give more or less weight, credence, to a witness simply
24 because they're a police officer?

25 PROSPECTIVE JUROR NO. 74: No, sir.

1 THE COURT: Can you wait in forming your
2 opinion as to the guilt and innocence of these
3 defendants until all the evidence has been heard and
4 you've heard all of the instructions?

5 PROSPECTIVE JUROR NO. 74: Yes, sir.

6 THE COURT: Do you know of any reason why
7 you couldn't be a completely fair and impartial juror?
8 Can you be fair and impartial juror if you're selected?

9 PROSPECTIVE JUROR NO. 74: Yes, sir.

10 THE COURT: State.

11 MR. BATEMAN: Pass for cause, Judge.

12 THE COURT: Defense.

13 MR. FIGLER: Thank you, Your Honor.

14 Ms. Gatela, is that -- am I saying that
15 right?

16 PROSPECTIVE JUROR NO. 74: Yes, sir.

17 MR. FIGLER: Okay. Again, my name's
18 David Figler. I'm one of the two attorneys for
19 Jamar Matthews.

20 There's another person sitting at the table.
21 His name is Pierre Joshlin, and he has an attorney named
22 Phil singer.

23 Now, as this case unfolds, you're going to
24 be told that it's two separate things and some things
25 may be relevant to Mr. Matthews, other things may be

1 relevant to Mr. Joshlin. They happen to be in the same
2 courtroom, but they're not being tried as a pair. Do
3 you understand that?

4 PROSPECTIVE JUROR NO. 74: Yes.

5 MR. FIGLER: Okay. And do you believe that
6 you can keep that information separate, especially if
7 the Court instructs you that this is only about
8 Mr. Joshlin and this is only about Mr. Matthews? Do you
9 think you could keep those things separate in your mind?

10 PROSPECTIVE JUROR NO. 74. I'm going to try.

11 MR. FIGLER: Okay. What makes you think
12 that you might not be able to?

13 PROSPECTIVE JUROR NO. 74: (Indiscernible).
14 I'm going to try to (indiscernible).

15 MR. FIGLER: Okay. Is there anything about
16 your background that would cause you trouble to look at
17 a case like this?

18 PROSPECTIVE JUROR NO. 74: No, it's not.
19 Just like it's my first time here, and just like the
20 complication of the situation, stuff like that.

21 MR. FIGLER: Okay. You heard that this is a
22 case where a young woman lost her life, and it's being
23 charged as a murder case. You understand that?

24 PROSPECTIVE JUROR NO. 74: Correct.

25 MR. FIGLER: Okay. Is there anything in

1 that the nature of it being a murder case that gives you
2 any sort of concern or something that you think you
3 should share with us in determining whether or not you
4 could be a fair juror in this case?

5 PROSPECTIVE JUROR NO. 74: Yes.

6 MR. FIGLER: Okay. And what would that be?

7 PROSPECTIVE JUROR NO. 74: It's the -- it's
8 the Justice Court who is the guilty party.

9 MR. FIGLER: Okay. And I don't really
10 understand. Could you explain a little bit further?

11 PROSPECTIVE JUROR NO. 74: Yes. Who's the
12 guilty party? Who's in charge of the murder?

13 MR. FIGLER: Okay. And what about who would
14 be I'm guessing responsible for the murder issue?

15 PROSPECTIVE JUROR NO. 74: Responsible for
16 the murder --

17 MR. FIGLER: Yes.

18 PROSPECTIVE JUROR NO. 74: -- correct.

19 MR. FIGLER: And what about that gives you
20 concern in this particular case?

21 PROSPECTIVE JUROR NO. 74: Who's responsible
22 for that -- who's murdered and who is responsible for
23 that murder case.

24 MR. FIGLER: Okay. Let me ask you just a
25 couple of questions.

1 You understand in any criminal case, but
2 especially one that's as important as a murder case,
3 it's the prosecutors over there who have made an
4 accusation, and they have the burden of proving beyond a
5 reasonable doubt that someone is responsible for, in
6 this case, a murder. Do you understand that?

7 PROSPECTIVE JUROR NO. 74: Correct.

8 MR. FIGLER: Okay. And you agree with that.
9 That it should be their burden to prove beyond a
10 reasonable doubt? Do you agree with that?

11 PROSPECTIVE JUROR NO. 74: Yes.

12 MR. FIGLER: Okay. And the judge informed
13 you that the basic tenant of American justice system is
14 that my client, Jamar, as he sits over there is
15 completely innocent of all charges.

16 You haven't heard one piece of evidence and
17 he has that presumption of innocence. As you look at
18 him right now, can you look at him as an innocent person
19 of this case?

20 PROSPECTIVE JUROR NO. 74: No.

21 MR. FIGLER: Okay. And why not?

22 PROSPECTIVE JUROR NO. 74: Because I haven't
23 heard anything yet. I haven't -- I need to see evidence
24 of (indiscernible) some of his -- some of his
25 (indiscernible).

1 MR. FIGLER: Okay. So let me ask you this.
2 Do you understand (indiscernible) a person is presumed
3 to be innocent?

4 I mean, they walk into a courtroom
5 completely innocent unless the prosecutor proves beyond
6 a reasonable doubt. So if you've heard no evidence,
7 then you have to say that he's absolutely not guilty.
8 Do you understand that?

9 PROSPECTIVE JUROR NO. 74: Yes.

10 MR. FIGLER: So do you agree with that?
11 That right now as you look over at Jamar he is not
12 guilty of any offense?

13 PROSPECTIVE JUROR NO. 74: Yes.

14 MR. FIGLER: Okay. Is there anything about
15 looking over at Jamar that gives you any cause for
16 concern?

17 PROSPECTIVE JUROR NO. 74: Yes.

18 MR. FIGLER: Okay. And can you explain to
19 me what that is?

20 PROSPECTIVE JUROR NO. 74: If he's really
21 guilty or not or does he deserve to be penalized for
22 what you are accusing him.

23 MR. FIGLER: Okay. And so those thoughts
24 are in your mind right now of before we even start?

25 PROSPECTIVE JUROR NO. 74: Yes.

1 MR. FIGLER: Okay. And do you have a
2 feeling about him one way or another before we start
3 looking over at him?

4 PROSPECTIVE JUROR NO. 74: Yes.

5 MR. FIGLER: And what's that feeling?

6 PROSPECTIVE JUROR NO. 74: If he deserve to
7 be penalized or (indiscernible) or (indiscernible) need
8 to be, you know, like (indiscernible) for the stuff that
9 he (indiscernible).

10 MR. FIGLER: Okay. Now, you understand --
11 you said something about how you want to hear both
12 sides. You understand only one side, the prosecution,
13 has the burden of proving it.

14 That Mr. Matthews doesn't have to prove a
15 darn thing, and you could still find him to be not
16 guilty if you feel that the prosecutors haven't proved
17 their case beyond a reasonable doubt. Do you understand
18 that?

19 PROSPECTIVE JUROR NO. 74: (Indiscernible).

20 MR. FIGLER: Okay. Would you hold it
21 against Mr. Matthews if for whatever reason he does not
22 testify on his own behalf? Would you say, wow, one
23 side -- Mr. Matthews didn't say one way or another, so I
24 can't find him not guilty? Is that your opinion?

25 PROSPECTIVE JUROR NO. 74: Say that again,

1 please.

2 MR. FIGLER: Would you vote possibly guilty
3 against him simply because he doesn't give his side of
4 the story if it turns out that way?

5 PROSPECTIVE JUROR NO. 74: No.

6 MR. FIGLER: Okay. So you would follow the
7 judge's instruction that whether he testifies or not you
8 cannot hold that against him? You could follow that
9 instruction?

10 PROSPECTIVE JUROR NO. 74: Yes.

11 MR. FIGLER: So if you hear nothing from
12 myself or Mr. Bunin with regard to our own witnesses,
13 you can still find him not guilty if the prosecution has
14 not proven beyond a reasonable doubt that he is guilty
15 of some or all the offenses, you can do that?

16 PROSPECTIVE JUROR NO. 74: Yes.
17 (Indiscernible) hear both sides, both sides.

18 MR. FIGLER: Okay. And my question to you
19 is if you only hear one side, what will happen?

20 PROSPECTIVE JUROR NO. 74: To have to wait.
21 I still have to wait.

22 MR. FIGLER: Okay. And you'll still hold
23 the prosecution to the burden of proving beyond a
24 reasonable doubt?

25 PROSPECTIVE JUROR NO. 74: Correct.

1 MR. FIGLER: Okay. Now, obviously my client
2 is a young person. Is there anything about your
3 attitudes -- do you have any attitudes about young
4 people and crime or young people in our community that
5 would affect your ability to listen to the evidence in
6 this case?

7 PROSPECTIVE JUROR NO. 74: No.

8 MR. FIGLER: Okay. So you have no
9 prejudices at all against a young person like my client?

10 PROSPECTIVE JUROR NO. 74: Definitely not,
11 none.

12 MR. FIGLER: Okay.

13 PROSPECTIVE JUROR NO. 74: Not at all.

14 MR. FIGLER: Okay. Is there anything else
15 about this particular case or Mr. Matthews that gives
16 you any concern or that would impact your ability to be
17 a juror in this particular case?

18 PROSPECTIVE JUROR NO. 74: Not so far.

19 MR. FIGLER: Okay. If something does come
20 up, would you alert the judge or the bailiff? If you
21 hear some evidence or something impacts you if you're
22 selected as a juror, would you let us know that you are
23 not giving him the presumption of innocence anymore?
24 Would you let us know when that happens?

25 PROSPECTIVE JUROR NO. 74: Definitely.

1 MR. FIGLER: Okay. Thank you.

2 We'll pass for cause, Your Honor.

3 THE COURT: Thank you.

4 Mr. Singer.

5 MR. SINGER: Thank you, Judge.

6 Good afternoon. Now, just a little bit of a
7 follow-up. You were asked by Mr. Figler certain
8 questions about hearing certain sides. Let's just call
9 them sides, the prosecution side versus the defense
10 side.

11 Do you feel like you can fairly and
12 accurately and fairly listen to just the prosecution
13 side even if the defense and Mr. Pierre Joshlin
14 specifically presents no witnesses and doesn't get up on
15 the stand at all? Can you still be -- would you still
16 be able to come back if you're picked as a juror and
17 find him not guilty if only the prosecution just doesn't
18 prove their case?

19 PROSPECTIVE JUROR NO. 74: (Indiscernible).

20 MR. SINGER: So basically what I'm asking
21 you is that if Pierre sits there silently, and he and I
22 together choose not to call even one single witness, can
23 you still, if the prosecution fails to prove their case,
24 find him not guilty?

25 PROSPECTIVE JUROR NO. 74: I still need to

1 wait for how they will present their side and then how
2 you will prove your side too. I have to wait. I have
3 to listen to both sides.

4 MR. SINGER: Okay. So after the
5 prosecution's done with their case, you're going to want
6 to hear Mr. Joshlin, Pierre, prove his side or at least
7 give you an explanation for his actions?

8 PROSPECTIVE JUROR NO. 74: Correct.

9 (Off-record colloquy)

10 MR. SINGER: Do you think that just because
11 a person is here before you today they must have done
12 something wrong just because they're here?

13 PROSPECTIVE JUROR NO. 74: No.

14 MR. SINGER: So you believe it's possible
15 that an innocent person who's completely innocent and
16 hasn't done anything wrong can be brought before a
17 court?

18 PROSPECTIVE JUROR NO. 74: Yes.

19 MR. SINGER: Thank you.

20 Judge, I'm going to exercise a challenge for
21 cause.

22 THE COURT: (Indiscernible) traverse.

23 MS. LEWIS: Thank you, Judge.

24 Ma'am, do you understand that the way this
25 system of criminal justice works here is that it's up to

1 the State of Nevada, myself and Mr. Bateman, to present
2 all of the evidence to you? We're the ones who are
3 going to be doing all of the work. The defense doesn't
4 have to present anything. Do you understand that?

5 PROSPECTIVE JUROR NO. 74: Now that you're
6 telling me.

7 MS. LEWIS: Okay. So what I want to explain
8 to you is that that's how it works in a criminal trial.
9 The State of Nevada is the one making the accusations,
10 so, therefore, the State of Nevada has the burden.

11 That means Mr. Bateman and myself have to
12 prove to you everything that we're saying he's alleged
13 with having done. All those charges that you heard, we
14 have to prove that to you. The defense doesn't have to
15 do anything.

16 So we're going to present our case. You're
17 going to hear witnesses. People are going to testify.
18 You're going to see evidence.

19 And at the end, we're going to ask you to
20 make a decision on whether or not you think State of
21 Nevada, myself and Mr. Bateman, have met our burden of
22 proving to you those charges that were read to you
23 beyond a reasonable doubt. Do you understand that?

24 PROSPECTIVE JUROR NO. 74: Yes.

25 MS. LEWIS: Okay. So the defense doesn't

1 have to do anything. They can sit here. They don't
2 have to call any witnesses.

3 They don't even have to ask any questions.
4 I doubt that they would do that. I'm sure they're going
5 to be asking questions and doing what we call
6 cross-examination of the witnesses that we'll call, but
7 they don't have to do anything. Do you understand that?

8 PROSPECTIVE JUROR NO. 74: (Indiscernible).

9 MS. LEWIS: Okay. So now that you have that
10 understanding, do you still think that you're going to
11 want to hear from the defendants, that you want them to
12 give you their side or their version because that's what
13 you said earlier.

14 PROSPECTIVE JUROR NO. 74: I'm pretty much
15 new on this what's going on right now.

16 MS. LEWIS: Right. I understand, and that's
17 why I wanted to explain that to you. So now that I've
18 explained that to you, will you be able to sit here and
19 listen to all of the evidence and make a decision as to
20 whether or not you believe State has met its burden
21 without hearing from the defendants or the defense
22 attorneys, even?

23 PROSPECTIVE JUROR NO. 74: I'll be more than
24 happy to sit here, sit down and listen to what's going
25 on and start from there.

1 MS. LEWIS: Okay. So even if the defendants
2 don't testify, you'll still be able to sit and be fair
3 and listen to all of the evidence and make a decision at
4 the end?

5 PROSPECTIVE JUROR NO. 74: Yes, I will.

6 MS. LEWIS: Okay. Thank you.

7 THE COURT: Challenge for cause is noted.

8 Let's move onto Mr. -- is it Cicatello?

9 PROSPECTIVE JUROR NO. 75: Cicatello.

10 THE COURT: Cicatello. Mr. Cicatello, tell
11 us a little bit about yourself.

12 PROSPECTIVE JUROR NO. 75: Well, I think you
13 were asking my marital status. I'm divorced with two
14 children. I've been in Las Vegas for about 22 years,
15 and I work for a large bank in -- well, I work in the
16 management department.

17 THE COURT: Have you ever had any prior jury
18 experience, sir?

19 PROSPECTIVE JUROR NO. 75: I've never sat on
20 a jury. No.

21 THE COURT: Any close family member or
22 friends been victim of a crime?

23 PROSPECTIVE JUROR NO. 75: No.

24 THE COURT: Any close family member or
25 friends been accused of a crime?

1 PROSPECTIVE JUROR NO. 75: No.

2 THE COURT: Do you give the weight of a
3 police officer greater -- would you give the testimony
4 of a police officer greater weight simply because
5 they're a police officer?

6 PROSPECTIVE JUROR NO. 75: No, sir.

7 THE COURT: Can you wait in forming your
8 opinion as to the guilt or innocence of the defendants
9 until all the evidence and instructions are given to
10 you?

11 PROSPECTIVE JUROR NO. 75: Yes.

12 THE COURT: Do you know of any reason why
13 you couldn't be a fair and impartial juror?

14 PROSPECTIVE JUROR NO. 75: No, I do not.

15 THE COURT: State.

16 MR. BATEMAN: Sir, you said you were in
17 management at your bank. Can you tell me a little bit
18 about what your job duties are.

19 PROSPECTIVE JUROR NO. 75: I manage -- we
20 have a consumer loan center here in Las Vegas for the
21 west coast, and I supervise 12 underwriters.

22 MR. BATEMAN: Okay. About how many people
23 do you supervise?

24 PROSPECTIVE JUROR NO. 75: 12.

25 MR. BATEMAN: 12. Okay. As a manager you

1 have to make decisions about I assume, generally, your
2 division and the employees that are employed underneath
3 you; is that correct?

4 PROSPECTIVE JUROR NO. 75: Yes. That would
5 be correct.

6 MR. BATEMAN: How long have you been in a
7 management capacity with your current employer?

8 PROSPECTIVE JUROR NO. 75: With my current
9 employer about three years.

10 MR. BATEMAN: Okay. What did you do before
11 that?

12 PROSPECTIVE JUROR NO. 75: I've been in
13 banking for most of the 20 years I've been here. I was
14 an underwriter for a number of years. Before that I
15 worked in the branch on the retail side, so pretty much
16 I've always been in lending.

17 MR. BATEMAN: Were you actively trying to
18 get into a management position where you were kind of in
19 charge of other employees and had to make decisions
20 about those types of things?

21 PROSPECTIVE JUROR NO. 75: Oh, it was just
22 progression just based on my work ethic and the things
23 I've done.

24 MR. BATEMAN: On a regular basis you have to
25 make these kinds of decisions, right?

1 PROSPECTIVE JUROR NO. 75: Sure.

2 MR. BATEMAN: And sometimes difficult
3 decisions you have to make?

4 PROSPECTIVE JUROR NO. 75: Yeah. I guess
5 you could say that.

6 MR. BATEMAN: And with regard to dealing
7 with any of your employees or any sort of employee-type
8 decisions, when you make those types of decisions, do
9 you try to gather evidence so that you can be best
10 equipped or most educated about the decisions you have
11 to make?

12 PROSPECTIVE JUROR NO. 75: Sure. Of course
13 (indiscernible).

14 MR. BATEMAN: Okay. In this case,
15 ultimately, at the end of trial if you're a potential
16 juror the jury has to go back in the deliberation room
17 and choose a foreperson. Would you be comfortable being
18 the foreperson in this case?

19 PROSPECTIVE JUROR NO. 75: Sure. I could do
20 that.

21 MR. BATEMAN: The foreperson is, ultimately,
22 the individual that signs their name on the bottom of a
23 verdict form. Do you think you -- if the verdict in
24 this case was guilty of murder with regard to both of
25 these defendants, do you think you could sign your name

1 to the bottom of the verdict form?

2 PROSPECTIVE JUROR NO. 75: Sure.

3 MR. BATEMAN: Now, you said you had -- have
4 you ever had any negative contact with any sort of law
5 enforcement officers whether or not someone's been
6 accused of a crime or anything like that?

7 PROSPECTIVE JUROR NO. 75: No, I have not.

8 MR. BATEMAN: Okay. Sir, do you own any
9 firearms?

10 PROSPECTIVE JUROR NO. 75: I have a shotgun.
11 Yes.

12 MR. BATEMAN: Okay. Are you familiar with
13 firearms at all?

14 PROSPECTIVE JUROR NO. 75: Yes.

15 MR. BATEMAN: Okay. And can I just
16 generally ask what your experience is with firearms?
17 There's going to be testimony in this case with regard
18 to firearms and things like that --

19 PROSPECTIVE JUROR NO. 75: Right, and I
20 understand.

21 MR. BATEMAN: -- I'd like to engage how much
22 you already know.

23 PROSPECTIVE JUROR NO. 75: Well, I'm not a
24 real big user of firearms. I have -- my
25 ex-father-in-law he likes to go out and shoot at times

1 you know, in designated areas out in the desert. I've
2 gone with him on occasion just shooting, you know,
3 target shooting.

4 I -- years ago when I lived in New York
5 State I tried hunting for a couple of years, but that's
6 about it.

7 MR. BATEMAN: Okay. You heard a little bit
8 of -- a few questions of the previous juror about the
9 State and its burden to prove the case.

10 PROSPECTIVE JUROR NO. 75: Yes.

11 MR. BATEMAN: Do you have any problem at the
12 end of this trial if the State hasn't proved its case
13 beyond a reasonable doubt with finding these two
14 particular defendants not guilty?

15 PROSPECTIVE JUROR NO. 75: Not at all.

16 MR. BATEMAN: If at the end of the trial you
17 believe that State has proved its case beyond a
18 reasonable doubt, do you have any problem returning a
19 verdict of guilty?

20 PROSPECTIVE JUROR NO. 75: Not at all.

21 MR. BATEMAN: I'll pass it for cause, Judge.

22 THE COURT: Defense. Mr. Bunin.

23 MR. BUNIN: Mr. Cicatello; is that right?

24 PROSPECTIVE JUROR NO. 75: That's correct.

25 MR. BUNIN: (Indiscernible) me saying it

1 right. You just answered the question that if the State
2 doesn't prove the case beyond a reasonable doubt that
3 you could find the defendants not guilty in this case.

4 PROSPECTIVE JUROR NO. 75: That is correct.

5 MR. BUNIN: And if the prosecution if you
6 believe does prove it beyond a reasonable doubt, you
7 said that you could find them guilty; is that right?

8 PROSPECTIVE JUROR NO. 75: That's correct as
9 well.

10 MR. BUNIN: You know, eventually, you're
11 going to get an instruction from the Judge on what
12 reasonable doubt means, and you're going to be asked to
13 follow that instruction. But, you know, having not seen
14 it yet, have you thought about, you know, what
15 reasonable doubt means?

16 I know everybody knows. You know, they
17 watch TV and they've heard to prove beyond a reasonable
18 doubt. You have your own thoughts on what that may
19 mean?

20 MR. BATEMAN: Judge --

21 THE COURT: Well --

22 MR. BATEMAN: -- the local rules state
23 specifically in voir dire that we can't get into
24 ultimately what the instructions are going to be at the
25 end.

1 I would ask that the jury's entitled to hear
2 the instructions from the Court and are required,
3 obviously, to follow those instructions.

4 And I think Your Honor's asked some
5 questions about whether all of these individuals can
6 follow the law as the Court provides it, so I would
7 object to the line of questioning as to what their idea
8 of reasonable doubt is.

9 MR. BUNIN: And I'm not going to ask him to
10 do anything other than follow the instruction. I just
11 want to know, you know, see if he has maybe some
12 preconceived notion as to what may be (indiscernible).

13 THE COURT: All right. With that
14 understanding, Mr. Bunin, continue.

15 MR. BUNIN: Thank you, Your Honor.

16 Have you thought to you at least -- and,
17 obviously, we're going to ask that you follow the
18 instructions, the instructions that the judge gives if
19 you get on this jury.

20 PROSPECTIVE JUROR NO. 75: Right.

21 MR. BUNIN: But have you thought about what
22 reasonable doubt means? What would it mean to you?

23 PROSPECTIVE JUROR NO. 75: It would mean
24 they'd have to have an overabundance of evidence proven
25 that these --

1 MR. BUNIN: Overabundance? Do you think --

2 PROSPECTIVE JUROR NO. 75: Well --

3 MR. BUNIN: -- it should be -- based on what
4 you said, do you think reasonable doubt should be a
5 difficult standard to reach or do you think it should be
6 an easy standard to reach for --

7 THE COURT: Mr. Bunin, could you approach?
8 Parties approach.

9 (Off-record bench conference)

10 MR. BUNIN: Thank you. I do appreciate your
11 answer.

12 You know, I'm going to touch on a few topics
13 I think we touched on by Mr. Figler when he spoke to the
14 last person. I'm sure you were listening. And you're
15 going to hear some of this stuff over and over again so
16 we apologize to everybody in the room, but there are
17 certain topics we want to go over with you.

18 You understand Mr. Figler was talking about
19 with the first potential juror that the defense doesn't
20 have to put on any case whatsoever if they choose not
21 to. Do you understand that?

22 PROSPECTIVE JUROR NO. 75: Uh-huh.

23 MR. BUNIN: So your sole duty as a juror
24 will be to determine whether or not the prosecutors have
25 proven their case beyond a reasonable doubt.

1 PROSPECTIVE JUROR NO. 75: That's correct.

2 MR. BUNIN: If the State chooses -- after
3 hearing the prosecutor's case if the defense chooses not
4 to put on any case at all will that bother you?

5 PROSPECTIVE JUROR NO. 75: Not at all.

6 MR. BUNIN: And, you know, would have all
7 talked -- I know everybody's heard also about a Fifth
8 Amendment right not to testify, and you understand it's
9 possible in this case that Mr. Matthews may choose not
10 to testify or he may choose to testify. But if he
11 chooses not to testify, is that something that would
12 bother you as a potential juror?

13 PROSPECTIVE JUROR NO. 75: Not at all.

14 MR. BUNIN: Could you go back in the jury
15 room, you know, and strip aside -- you'd be instructed
16 again, but strip aside the possibility of thinking, gee,
17 I wish I would have heard directly from Mr. Matthews.
18 Can you set that aside and not wonder why maybe it
19 didn't happen?

20 PROSPECTIVE JUROR NO. 75: Yes. I could do
21 that.

22 MR. BUNIN: The prosecutor was asking you
23 questions about, you know, do you think you possibly
24 have the skills or maybe even the desire to be a foreman
25 of a jury. A lot of it has to do with your own

1 personality, whether or not that's something you'd be
2 comfortable with, and I know you're in management.

3 Do you think you have the personality to --
4 suppose you were instructed that you cannot consider
5 that say Mr. Matthews chose not to testify, and then you
6 hear another person in the back considering it. Do you
7 have the personality you think to remind them that they
8 cannot take that into consideration?

9 PROSPECTIVE JUROR NO. 75: Sure. I could do
10 that.

11 MR. BUNIN: Do you think you have the
12 personality to even maybe report him if somebody's not
13 doing what they're instructed -- the judge has
14 instructed? Could you possibly report to the extent
15 that you're allowed?

16 PROSPECTIVE JUROR NO. 75: Sure.

17 MR. BUNIN: Would you feel comfortable with
18 something like that?

19 PROSPECTIVE JUROR NO. 75: Sure.

20 MR. BUNIN: I'm going to pass for cause,
21 Judge.

22 THE COURT: Thank you.

23 Record should reflect that Juror No. 621,
24 Mr. Tate, has stepped away from the jury box. Do
25 parties wish to remain and wait for Mr. Tate?

1 MS. LEWIS: No, Judge. I think he went to
2 the bathroom, probably, so I don't see a problem --

3 MR. FIGLER: (Indiscernible), Your Honor.

4 THE COURT: Well, I want an objection or do
5 you object to the --

6 MR. FIGLER: No objection, Your Honor.

7 MR. BATEMAN: No objection, Judge.

8 THE COURT: Thank you. Proceed.

9 MR. SINGER: Have you ever been affected by
10 crime at all yourself since you've lived in Las Vegas?

11 PROSPECTIVE JUROR NO. 75: No, I have not.

12 MR. SINGER: Do you feel like because just
13 for simple fact that someone is brought to court by an
14 information or an accusation they must be guilty of
15 something?

16 PROSPECTIVE JUROR NO. 75: No.

17 MR. SINGER: So you believe in the concept
18 of being falsely accused. It's possible.

19 PROSPECTIVE JUROR NO. 75: Sure.

20 MR. SINGER: Now, since there's two
21 different young men, Pierre and Jamar, that are accused,
22 there's a possibility that the evidence possibly could
23 convince you beyond a reasonable doubt that one of them
24 is guilty and not the other one. Would you be able to
25 render a split verdict where you would find one guilty

1 but consider the evidence towards the other one which
2 may be not guilty?

3 PROSPECTIVE JUROR NO. 75: Sure. I could do
4 that.

5 MR. SINGER: So you wouldn't have to
6 consider them or in your mind you're not going to
7 consider them as a package, a team, cohorts or anything
8 like that?

9 PROSPECTIVE JUROR NO. 75: No.

10 MR. SINGER: Do you feel like just because
11 somebody comes up and takes the stand and has a uniform
12 and a badge that their word is any better than anybody
13 else's, any of ours, mine, yours or any of us without a
14 uniform?

15 PROSPECTIVE JUROR NO. 75: No, I do not.

16 MR. SINGER: Pass for cause, Judge.

17 THE COURT: Thank you.

18 Is it Mr. Famulare?

19 PROSPECTIVE JUROR NO. 99: Famulare.

20 THE COURT: Famulare. Tell us a little bit
21 about yourself. How long you've been in Las Vegas, what
22 do you do, your background, training, experience,
23 marital status.

24 PROSPECTIVE JUROR NO. 99: I've been living
25 in Nevada for a little over four years. I'm married.

1 I'm retired. I worked for IBM. Used to repair
2 computers and help design them, et cetera, et cetera.
3 What else?

4 THE COURT: Did we talk about you're
5 married, children?

6 PROSPECTIVE JUROR NO. 99: Yes, I'm married.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NO. 99: I have
9 stepchildren.

10 THE COURT: All right. Do they live with
11 you?

12 PROSPECTIVE JUROR NO. 99: No.

13 THE COURT: Are they adults?

14 PROSPECTIVE JUROR NO. 99: They're all
15 grown. Yep.

16 THE COURT: All grown. Do you have any
17 prior jury experience?

18 PROSPECTIVE JUROR NO. 99: Yes, I do.

19 THE COURT: Without telling us the verdicts,
20 could you tell us, first of all, whether they were civil
21 or criminal?

22 PROSPECTIVE JUROR NO. 99: Both.

23 THE COURT: How many civil? How many
24 criminal?

25 PROSPECTIVE JUROR NO. 99: I can't remember

1 exactly. More criminal than civil.

2 THE COURT: How many --

3 PROSPECTIVE JUROR NO. 99: I'd say
4 half-a-dozen cases. At least four criminal, two civil.

5 THE COURT: Where?

6 PROSPECTIVE JUROR NO. 99: New Mexico.

7 THE COURT: And, again, without telling us
8 what the verdicts were, were you able to reach verdicts
9 on all of them?

10 PROSPECTIVE JUROR NO. 99: One jury was
11 hung, not because of me. You know, you find the young
12 people, real young people are not good on the jury.

13 THE COURT: Of the jury experience you've
14 had, one of them you could not reach a verdict?

15 PROSPECTIVE JUROR NO. 99: Correct.

16 THE COURT: All right. Is there anything
17 about that experience that might affect your ability to
18 be fair and impartial here today?

19 PROSPECTIVE JUROR NO. 99: No.

20 THE COURT: All right. Do you have any
21 close family members or friends that have been victims
22 of crime?

23 PROSPECTIVE JUROR NO. 99: No.

24 THE COURT: Do you have any close family
25 members or friends who have been accused of crime?

1 PROSPECTIVE JUROR NO. 99: No.

2 THE COURT: Would you give any more or less
3 weight to a police officer, police officer's testimony,
4 simply because they're a police officer?

5 PROSPECTIVE JUROR NO. 99: Yes.

6 THE COURT: Why?

7 PROSPECTIVE JUROR NO. 99: I have -- I
8 worked with the police department, and I just have a lot
9 of faith in them. I know there's always a bad apple
10 here and there. But, in general, if a police officer
11 says something, I'm more inclined to believe him over
12 somebody else who would say the opposite.

13 THE COURT: You understand a police officer
14 is just a witness like anyone else?

15 PROSPECTIVE JUROR NO. 99: True.

16 THE COURT: All right. Can you hold for me
17 your opinion as to guilt or innocence until all of the
18 information is in and all the instructions have been
19 given to you?

20 PROSPECTIVE JUROR NO. 99: Yes, I can.

21 THE COURT: Do you know of any other reason
22 you cannot be completely fair and impartial?

23 PROSPECTIVE JUROR NO. 99: No.

24 THE COURT: State.

25 MS. LEWIS: You said that you were retired

1 from IBM. What did you do for IBM?

2 PROSPECTIVE JUROR NO. 99: I started out
3 repairing data-processing equipment and computers. Then
4 I helped engineering -- designing computers. Then I
5 worked with headquarters as a liaison between the
6 engineers that design and headquarters.

7 MS. LEWIS: Okay. And unless my notes are
8 wrong, I thought you had answered to an earlier question
9 that you worked security. Did I get that wrong?

10 PROSPECTIVE JUROR NO. 99: Yes.

11 MS. LEWIS: Got it wrong (indiscernible).

12 PROSPECTIVE JUROR NO. 99: I'm a watch
13 commander right now. Yes.

14 MS. LEWIS: Okay. So currently even though
15 you're retired, you work in security?

16 PROSPECTIVE JUROR NO. 99: Volunteer.

17 MS. LEWIS: Okay. For where?

18 PROSPECTIVE JUROR NO. 99: Up where I live.

19 We have a security for us that rides around 24/7. I
20 used to drive. Now I'm a watch commander.

21 MS. LEWIS: Okay. I got you.

22 PROSPECTIVE JUROR NO. 99: I have a
23 dispatcher under me and --

24 MS. LEWIS: Okay.

25 PROSPECTIVE JUROR NO. 99: -- drivers.

1 MS. LEWIS: Thank you, Mr. Famulare.

2 PROSPECTIVE JUROR NO. 99: Um-h'm. Boy, you
3 said that perfect.

4 MS. LEWIS: Pass for cause.

5 THE COURT: Mr. Figler.

6 MR. FIGLER: Mr. Famulare, okay.

7 PROSPECTIVE JUROR NO. 99: Great.

8 MR. FIGLER: Quick studies. I have some
9 questions, obviously, about your comments about the
10 police.

11 It's going to be no surprise to anybody
12 pretty quick that as far as the case against
13 Mr. Matthews that things come down to the testimony of
14 two police officers and what they were able to perceive
15 or not perceive, okay?

16 Now, understanding that those police
17 officers may have testimony, may not, that contradict
18 with lay witnesses, just people who aren't affiliated
19 with law enforcement.

20 It's my understanding of your position
21 because of your respect for the police, your connection
22 with the police, and rising all the way up to the level
23 of watch commander of your own area that you would give
24 deference to the police in that type of situation. Is
25 that about right?

1 PROSPECTIVE JUROR NO. 99: It's pretty true.
2 Yes.

3 MR. FIGLER: Okay. And it is your
4 understanding or it's your position -- and again, ladies
5 and gentlemen, there's no wrong answers. We just need
6 people to be truthful about their feelings because
7 that's important, and this might not be the type of case
8 that would be best suited for you.

9 You've obviously been on a lot of different
10 cases, but police testimony is going to be the key
11 thing, and they're going to be grilled pretty hard by
12 myself and Mr. Bunin. I can't speak for the other
13 person. We're not connected.

14 But given that you'll see that that type of
15 testimony is going to be given and that the defense
16 attorneys are going to go after it pretty hard, would
17 you have a sort of affinity or feel like maybe the
18 police are being treated unfairly if we're questioning
19 their every move and everything that they see, that sort
20 of thing?

21 PROSPECTIVE JUROR NO. 99: No. I would
22 assume they're used to being abused in different ways
23 so, yeah, I'm sure they're used to it.

24 MR. FIGLER: Okay. So you picked the word
25 "abuse", so that to me suggests that you have a little

1 bit of sympathy for those police officers.

2 PROSPECTIVE JUROR NO. 99: Probably not a
3 good word, okay?

4 MR. FIGLER: Okay. But that's your true
5 feeling.

6 PROSPECTIVE JUROR NO. 99. (Indiscernible).

7 MR. FIGLER: Okay. And you would give that
8 extra credit to the police officers because you have
9 that type and level of respect, and that's going to be
10 unshakable, pretty much?

11 PROSPECTIVE JUROR NO. 99: I'd say so.
12 Yeah.

13 MR. FIGLER: We'll make a cause challenge,
14 Your Honor.

15 THE COURT: All right. Challenge for cause
16 is granted.

17 Thank you, sir, for your honest answers.
18 You're excused from this panel.

19 We'll call the next name.

20 Please report back to the Jury Commissioner
21 for possible assignment to a different case.

22 PROSPECTIVE JUROR NO. 99: Thank you.

23 THE COURT: Thank you.

24 THE CLERK: Next will be No. 631,
25 Warren Bradshaw, please.

1 THE COURT: Mr. Bradshaw, if you could
2 approach and take seat No. 3.

3 PROSPECTIVE JUROR NO. 631: Thank you, sir.

4 THE COURT: Mr. Bradshaw, good afternoon.

5 PROSPECTIVE JUROR NO. 631: Good afternoon,
6 Judge.

7 THE COURT: How long have you been in
8 Las Vegas?

9 PROSPECTIVE JUROR NO. 631: Since May of
10 '88.

11 THE COURT: And tell me a little bit about
12 your background, employment, marital status.

13 PROSPECTIVE JUROR NO. 631: All right. I'm
14 married. I'm a veteran. After I got out of the Navy, I
15 worked at the Colorado State Hospital has a licensed
16 psychiatric technician working with criminally-insane
17 adult males.

18 When I moved to Las Vegas, I got a job with
19 the prison system first working as a correction officer
20 for a brief period of time. But before I got
21 postcertified, I was -- got an opportunity to become a
22 therapeutic recreational specialist because of my
23 college background, and I worked with them for 19 months
24 in the prison system at Southern Nevada Correctional
25 facility.

1 And since that period I've worked with kids.
2 Right now I work at Desert Willow Treatment Center in
3 charge of the therapeutic recreation department at that
4 facility.

5 THE COURT: Have you ever served as a juror,
6 sir?

7 PROSPECTIVE JUROR NO. 631: Yes, I have.

8 THE COURT: How many times?

9 PROSPECTIVE JUROR NO. 631: Once.

10 THE COURT: Without telling us the verdict
11 in that case, were you able to reach a verdict?

12 PROSPECTIVE JUROR NO. 631: Yes.

13 THE COURT: Was there anything about that
14 experience that might affect your ability to sit as a
15 fair and impartial juror in this case?

16 PROSPECTIVE JUROR NO. 631: No.

17 THE COURT: Do you have any close family
18 member or friends who have been accused of a crime?

19 PROSPECTIVE JUROR NO. 631: Yes.

20 THE COURT: Tell us about that.

21 PROSPECTIVE JUROR NO. 631: I have a nephew
22 who's in Colorado who's currently serving. I think he
23 got 60 years for false imprisonment.

24 THE COURT: Is anything about that
25 experience that might affect your ability to be fair and

1 impartial here?

2 PROSPECTIVE JUROR NO. 631: No.

3 THE COURT: Has any family member or friend
4 ever been victim of a crime?

5 PROSPECTIVE JUROR NO. 631: I have.

6 THE COURT: Of what type of crime, sir?

7 PROSPECTIVE JUROR NO. 631: I had my car
8 stolen three years ago.

9 THE COURT: Is there anything about that
10 experience that might affect your ability to be fair
11 here today?

12 PROSPECTIVE JUROR NO. 631: I hope not.

13 THE COURT: Okay. Would you have a tendency
14 to give more or less credence to a police officer's
15 testimony simply because they are a police officer?

16 PROSPECTIVE JUROR NO. 631: No, I would not.

17 THE COURT: Can you wait in forming your
18 opinion as to guilt or innocence of these two men after
19 the evidence, all the evidence, has been heard and all
20 the instructions have been given?

21 PROSPECTIVE JUROR NO. 631: I can certainly
22 try.

23 THE COURT: Do you have any reason that
24 these parties, these attorneys, would like to know that
25 might affect or any fact that might affect your ability

1 to be fair and impartial in this case?

2 PROSPECTIVE JUROR NO. 631: Only that I
3 worked in Colorado and here in Nevada with people who
4 have been convicted of the crimes that these gentlemen
5 are charged with.

6 THE COURT: And so do you believe that would
7 affect your ability to be fair here?

8 PROSPECTIVE JUROR NO. 631: I would hope
9 not.

10 THE COURT: All right. Little bit better
11 than a hope. Can you be fair and impartial?

12 PROSPECTIVE JUROR NO. 631: Yeah. I think I
13 could be fair and impartial.

14 THE COURT: State.

15 MR. BATEMAN: Sir, you first said you were
16 in the military; is that correct?

17 PROSPECTIVE JUROR NO. 631: Yes.

18 MR. BATEMAN: Okay. And what specifically?
19 The Navy I think is what you referred to?

20 PROSPECTIVE JUROR NO. 631: Navy. Yes.
21 Yes.

22 MR. BATEMAN: What years of service?

23 PROSPECTIVE JUROR NO. 631: I served active
24 duty from '77 to '80, active reserve from '80 to I think
25 '84 or '85, somewhere. I really don't remember, but the

1 reserves.

2 MR. BATEMAN: When you finally decided to go
3 to work with the correctional facility, what made you
4 make that decision?

5 PROSPECTIVE JUROR NO. 631: When I worked in
6 Colorado at the State Hospital I had to obtain my degree
7 in recreation, but there was a lot of people that were
8 obtaining the degree in recreation and there wasn't that
9 many jobs.

10 So I came to Nevada and took a job as a
11 correctional officer which I said didn't last long
12 because there was an opening for a therapeutic
13 recreational specialist at the mental health unit at
14 Southern Nevada Correctional facility, and I obtained
15 that position.

16 MR. BATEMAN: Can you tell me. I don't
17 know. What does a therapeutic recreational specialist
18 do?

19 PROSPECTIVE JUROR NO. 631: Well, we -- we
20 work in a -- right now at the prison there's a lot of
21 different jobs.

22 MR. BATEMAN: Tell me what you do at the
23 prison.

24 PROSPECTIVE JUROR NO. 631: At the prison I
25 was in charge of providing basically physical fitness

1 activities and other activities for the inmates that
2 were locked in the mental health unit at Southern Nevada
3 Correctional Center which is I took them to the gym
4 because they weren't allowed -- with the general
5 population we had to go to the gym separately, taught
6 them proper ways to lift weights, team sports, such as
7 that nature.

8 MR. BATEMAN: Those particular job duties,
9 were those different than what you expected to have been
10 doing when you got your degree --

11 PROSPECTIVE JUROR NO. 631: No.

12 MR. BATEMAN: -- in some other environment?

13 PROSPECTIVE JUROR NO. 631: No.

14 MR. BATEMAN: Okay. Were you happy kind of
15 with those particular job responsibilities in the
16 prison?

17 PROSPECTIVE JUROR NO. 631: Yes.

18 MR. BATEMAN: Okay. And you said also you
19 were working for the -- at the -- was it a facility for
20 the criminally insane? Was that postconviction?

21 PROSPECTIVE JUROR NO. 631: Yes. These men
22 are all convicted not guilty by reason of insanity and
23 sentenced to one day to life in the Colorado State
24 Hospital.

25 MR. BATEMAN: Okay. So they had a whole

1 different -- okay.

2 PROSPECTIVE JUROR NO. 631: It was a whole
3 different dynamic. It was more therapeutic environment
4 than correctional.

5 MR. BATEMAN: Okay.

6 PROSPECTIVE JUROR NO. 631: But they were
7 criminals.

8 MR. BATEMAN: I think you said that you were
9 on a jury before, and you returned a verdict, but I
10 don't want you to tell me what the verdict was. Can I
11 ask whether it was criminal or civil.

12 PROSPECTIVE JUROR NO. 631: Criminal.

13 MR. BATEMAN: Okay. And where was that and
14 when was that?

15 PROSPECTIVE JUROR NO. 631: Well, I think it
16 was 2000 and I'd like to say '3 or it might have been
17 '2, and it was a federal case.

18 MR. BATEMAN: Okay. So that was here in
19 town?

20 PROSPECTIVE JUROR NO. 631: Yes.

21 MR. BATEMAN: Okay. And now, you said you
22 had -- well, before I jump forward, your job duties and
23 your employment you've had in working with prisoners and
24 people convicted of crimes I think you kind of said
25 that, you know, you hoped you could be fair.

1 What are some of your concerns that you had
2 with regard to your background and how it might affect
3 your ability to sit as a juror in this case?

4 PROSPECTIVE JUROR NO. 631: Only that the
5 matter of, you know, similar ways people behave, you
6 know. Basically, it wouldn't be more than -- I would
7 see more similarity if this case had to do with sex
8 offenders because I have an extensive history of working
9 in Colorado and here with sex offenders.

10 MR. BATEMAN: Okay.

11 PROSPECTIVE JUROR NO. 631: Now, I don't see
12 no similarities between people accused of murder. I
13 wouldn't see any similarities.

14 MR. BATEMAN: So you've heard the charge in
15 this case.

16 PROSPECTIVE JUROR NO. 631: Yes. Yes.

17 MR. BATEMAN: Okay. That it has nothing to
18 do with any sort of a sexual offense, but you think,
19 otherwise, that you can be fair and maybe put some of
20 those experiences aside and listen to the evidence in
21 this case?

22 PROSPECTIVE JUROR NO. 631: Yes.

23 MR. BATEMAN: And you, like all of the
24 jurors, kind of come to jury service with your own
25 personal experiences, and, obviously, your mind set is

1 shaped by those experiences.

2 PROSPECTIVE JUROR NO. 631: Yes.

3 MR. BATEMAN: Okay. Based upon the
4 experiences you had and the work you've had, is there
5 any reason why myself or Ms. Lewis, the State, should be
6 concerned with having you on this jury?

7 PROSPECTIVE JUROR NO. 631: I don't see any
8 reason.

9 MR. BATEMAN: Okay. You said your nephew
10 currently was serving a sentence.

11 PROSPECTIVE JUROR NO. 631: Yes.

12 MR. BATEMAN: And you said you believe the
13 sentence to be 60 years?

14 PROSPECTIVE JUROR NO. 631: Yes.

15 MR. BATEMAN: Okay. In this case, you're
16 not going to be called on to make any decisions about
17 sentencing or punishment. Is that fair? You understand
18 that?

19 PROSPECTIVE JUROR NO. 631: Yes.

20 MR. BATEMAN: So the sentence that maybe
21 your nephew had do you see that and any feelings you
22 might have about that coming into play here in this
23 courtroom?

24 PROSPECTIVE JUROR NO. 631: No.

25 MR. BATEMAN: Okay. Do you feel like your

1 nephew was treated fairly by the system that he was
2 involved with?

3 PROSPECTIVE JUROR NO. 631: No. I don't
4 think he was treated fairly.

5 MR. BATEMAN: Okay. And, again, was this in
6 Colorado?

7 PROSPECTIVE JUROR NO. 631: Yes.

8 MR. BATEMAN: Okay. Without getting into
9 the specifics, do you feel like you would hold that
10 against myself or Ms. Lewis presenting the case --

11 PROSPECTIVE JUROR NO. 631: No.

12 MR. BATEMAN: Okay. You also said that you
13 were the victim of a stolen vehicle; is that correct.

14 PROSPECTIVE JUROR NO. 631: Yes.

15 MR. BATEMAN: Okay. And did the police come
16 out and you make a report about your vehicle?

17 PROSPECTIVE JUROR NO. 631: No, they did
18 not.

19 MR. BATEMAN: Did you call for them to come
20 out?

21 PROSPECTIVE JUROR NO. 631: I called it in.
22 Yes.

23 MR. BATEMAN: Okay. So you never made a
24 report?

25 PROSPECTIVE JUROR NO. 631: I made a report,

1 but it wasn't -- nobody came to the scene or did
2 anything like that.

3 MR. BATEMAN: Okay. You're going to hear a
4 number of police officers get up and testify here in
5 court today, and they're going to be Las Vegas
6 Metropolitan Police Department officers. Is that who
7 you called with regard to your case?

8 PROSPECTIVE JUROR NO. 631: Yes, I did.

9 MR. BATEMAN: Okay. Based upon that
10 experience, and obviously something that you weren't
11 particularly satisfied with, do you think that you would
12 be able to set that aside and just listen to the
13 testimony of the officers in this case?

14 PROSPECTIVE JUROR NO. 631: Of course.

15 MR. BATEMAN: Okay. We'll pass for cause,
16 Judge.

17 THE COURT: Defense.

18 MR. BUNIN: Thank you. How are you?

19 PROSPECTIVE JUROR NO. 631: Fine.

20 MR. BUNIN: Happy about being here?

21 PROSPECTIVE JUROR NO. 631: Not
22 particularly, but I'm here.

23 MR. BUNIN: I'd have been disturbed if you
24 said yes.

25 Is there anything about your experience -- I

1 know you were only a corrections officer for one year.

2 That was back in 19 (indiscernible) --

3 PROSPECTIVE JUROR NO. 631: No. I was only
4 a corrections officer about for one month.

5 MR. BUNIN: Oh, one month. I'm sorry. That
6 was back in the 1980s?

7 PROSPECTIVE JUROR NO. 631: That was in '88,
8 and then I got promoted to the therapeutic recreational
9 position.

10 MR. BUNIN: Okay. How long did you have
11 that position?

12 PROSPECTIVE JUROR NO. 631: In the prison?

13 MR. BUNIN: Yes.

14 PROSPECTIVE JUROR NO. 631: For 19 months.

15 MR. BUNIN: 19 months. And then from there
16 what was your next position?

17 PROSPECTIVE JUROR NO. 631: I work --
18 currently I work at Desert Willow Treatment Center with
19 adolescent kids doing the same job.

20 MR. BUNIN: For how long now have you been
21 working there?

22 PROSPECTIVE JUROR NO. 631: Since '89.

23 MR. BUNIN: '89. Okay. Is there anything
24 about your experience working in the prison that might
25 give you some bias one way or the other, towards the

1 prosecution side or towards maybe Mr. Matthew's side, of
2 the case?

3 PROSPECTIVE JUROR NO. 631: I don't think
4 so.

5 MR. BUNIN: Did you ever have to have an
6 occasion to testify in a case because of your job?

7 PROSPECTIVE JUROR NO. 631: No. No.

8 MR. BUNIN: You were never a witness to
9 anything where somebody tried to call you into court?

10 PROSPECTIVE JUROR NO. 631: No.

11 MR. BUNIN: Okay. Would you have been
12 comfortable if you had had to do that?

13 PROSPECTIVE JUROR NO. 631: I don't think
14 I'd have had a problem with it.

15 MR. BUNIN: I know briefly you just said
16 that you had your car stolen here. Was there anything
17 about that experience that might bias you one way or the
18 other?

19 PROSPECTIVE JUROR NO. 631: Well, not in
20 this case.

21 MR. BUNIN: Okay. Were you upset about,
22 maybe, how the investigation was handled when your car
23 was stolen?

24 PROSPECTIVE JUROR NO. 631: There was no
25 investigation.

1 MR. BUNIN: Despite that, would that change
2 your opinion of any of the witnesses in this particular
3 (indiscernible) --

4 PROSPECTIVE JUROR NO. 631: No.

5 MR. BUNIN: -- when they testify? And you
6 know police officers are going to testify here. Will
7 you be able to give their opinions or their statements
8 the same weight as anybody else as witnesses that are
9 not police officers?

10 PROSPECTIVE JUROR NO. 631: I believe so.

11 MR. BUNIN: You wouldn't hold it against
12 them that they're police officers?

13 PROSPECTIVE JUROR NO. 631: No.

14 MR. BUNIN: And you wouldn't say their
15 testimony is more credible because they have to be
16 police officers?

17 PROSPECTIVE JUROR NO. 631: No.

18 MR. BUNIN: Okay. I don't have any
19 follow-up. I'll pass for cause.

20 Thank you.

21 THE COURT: Thank you.

22 Ms. -- is it Pawlus?

23 PROSPECTIVE JUROR NO. 126: Judge, yes.

24 THE CLERK: Judge, Mr. Singer.

25 THE COURT: You know what? I'm sorry,

1 Mr. Singer.

2 MR. SINGER: I know. That's okay.

3 (Indiscernible).

4 THE COURT: You just jump up.

5 MR. SINGER: You heard the reference to
6 certain locations when the prosecution was giving you
7 their opening greetings. Do you remember that?

8 PROSPECTIVE JUROR NO. 631: Yes.

9 MR. SINGER: Are you familiar at all with
10 any of those locations?

11 PROSPECTIVE JUROR NO. 631: Maybe. I didn't
12 really pay that much attention, but if it's Vegas, I
13 probably know -- could figure out where they're at.

14 MR. SINGER: Okay. But nothing struck you
15 -- nothing rung a bell specifically as well --

16 PROSPECTIVE JUROR NO. 631: Well, the
17 mention of Doolittle, but I -- I'm a basketball ref. I
18 referee games at Doolittle rec center, but I don't -- I
19 think that was different. I think they're talking about
20 the street Doolittle.

21 MR. SINGER: Okay. Well, the street
22 Doolittle and the rec center, in that area, are you
23 familiar with that area?

24 PROSPECTIVE JUROR NO. 631: Yes, I am.

25 MR. SINGER: Other than being a basketball

1 referee do you -- do you have any other cause or
2 occasion to be in that neighborhood?

3 PROSPECTIVE JUROR NO. 631: I used to have
4 two uncles that lived down there when I first moved
5 here, but they have both passed away. I have no family
6 members that live down there anymore.

7 MR. SINGER: And you yourself don't live in
8 that neighborhood?

9 PROSPECTIVE JUROR NO. 631: No, I don't.

10 MR. SINGER: I'll pass for cause, Judge.

11 THE COURT: Thank you.

12 Ma'am --

13 PROSPECTIVE JUROR NO. 126: Yes.

14 THE COURT: -- you've already had your hand
15 on the mike once.

16 PROSPECTIVE JUROR NO. 126: (Indiscernible).

17 THE COURT: And it is Pawlus?

18 PROSPECTIVE JUROR NO. 126: Pawlus.

19 THE COURT: Pawlus. Is that how you like to
20 be addressed, ma'am?

21 PROSPECTIVE JUROR NO. 126: Aurora Pawlus.

22 THE COURT: All right. Ms. Pawlus, tell us
23 a little bit about yourself. How long have you been in
24 Las Vegas? What do you do for a living?

25 PROSPECTIVE JUROR NO. 126: I've been here

1 19 years. I'm a food server. I've been a food server
2 for 19 years. And I'm (indiscernible) daughter
3 (indiscernible) and granddaughter (indiscernible).

4 THE COURT: All right. And what does your
5 daughter do?

6 PROSPECTIVE JUROR NO. 126: She works for a
7 real estate company.

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

10 PROSPECTIVE JUROR NO. 126: No, I have not.

11 THE COURT: And has anyone close family
12 member or friend ever been a victim of a crime?

13 PROSPECTIVE JUROR NO. 126: Myself. I was
14 held up at gunpoint on the corner of (indiscernible) and
15 (indiscernible).

16 THE COURT: Is there anything about that
17 experience that might affect your ability to be fair
18 here today?

19 PROSPECTIVE JUROR NO. 126: I was held up by
20 two young black men, so it might have a little bit of
21 (indiscernible).

22 THE COURT: Are you telling me that based
23 upon that life experience that you couldn't be fair and
24 impartial here?

25 PROSPECTIVE JUROR NO. 126: I'm not sure I

1 could be.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 126: (Indiscernible).

4 THE COURT: It's important that you be sure.

5 If you're not sure, that's understandable.

6 Challenge for cause?

7 MR. BATEMAN: Yes, Your Honor.

8 MR. FIGLER: Yes, Your Honor.

9 THE COURT: Okay. Thank you for your
10 honesty. I'll excuse you at this time, ask you to
11 return to Jury Services. They'll find a civil case for
12 you.

13 Call the next name.

14 THE CLERK: Number 633, Michael Green
15 please.

16 THE COURT: Sir, tell me a little bit about
17 yourself.

18 PROSPECTIVE JUROR NO. 633: My name is
19 Michael Green. I have moved to the USA in 1998, and
20 I've -- I'm Las Vegas since 2003.

21 I work for Harrah's Entertainment and work
22 as a programmer analyst. My work is basically I'm
23 responsible for creating programs for some applications.

24 THE COURT: Are you married?

25 PROSPECTIVE JUROR NO. 633: Yes, I am

1 married. I have two kids, two daughters, five years old
2 and two years old.

3 THE COURT: All right. What is your country
4 of origin?

5 PROSPECTIVE JUROR NO. 633: Russia.

6 THE COURT: Are you comfortable -- you
7 appear to be very comfortable in English.

8 PROSPECTIVE JUROR NO. 633: That's the only,
9 probably, concern of mine because of the certain terms
10 related to -- to this system. That's the only concern I
11 have so far.

12 THE COURT: All right. Have you been doing
13 okay so far?

14 PROSPECTIVE JUROR NO. 633: Yes. Okay so
15 far. Yep.

16 THE COURT: All right. You understand that
17 if there's a term that you don't understand, you can
18 raise your hand --

19 PROSPECTIVE JUROR NO. 633: Yes.

20 THE COURT: Have you ever served as a juror
21 before?

22 PROSPECTIVE JUROR NO. 633: Nope.

23 THE COURT: Has any close family member or
24 friend been a victim of a crime?

25 PROSPECTIVE JUROR NO. 633: No.

1 THE COURT: Has any close family member or
2 friend ever been accused of a crime?

3 PROSPECTIVE JUROR NO. 633: No.

4 THE COURT: Would you tend to give a police
5 officer greater or lesser weight, credibility, simply
6 because they are a police officer? Their testimony?

7 PROSPECTIVE JUROR NO. 633: 30 minutes ago I
8 would answer yes, but as I've heard some of other
9 participants and I understood I was wrong, so right now
10 I would say no.

11 THE COURT: Do you understand why a police
12 officer's just a witness?

13 PROSPECTIVE JUROR NO. 633: Yes. I
14 understand.

15 THE COURT: All right. Would you and can
16 you wait in forming your opinion as to guilt or
17 innocence of these men until all of the evidence is
18 heard and all the instructions have been give you?

19 PROSPECTIVE JUROR NO. 633: Yep.

20 THE COURT: Is there anything that might
21 affect your ability to be completely fair and impartial
22 as a juror if you're selected in this case?

23 PROSPECTIVE JUROR NO. 633: I don't think
24 so.

25 THE COURT: State.

1 MR. BATEMAN: Just briefly. Sir, you said
2 you came in the states in 1998?

3 PROSPECTIVE JUROR NO. 633: Yes. That's
4 correct.

5 MR. BATEMAN: I'm sorry. Can I ask how old
6 you are?

7 PROSPECTIVE JUROR NO. 633: Yes. I'm 35
8 years old.

9 MR. BATEMAN: Okay. So did you live the
10 entirety of your life prior to 1998 in Russia?

11 PROSPECTIVE JUROR NO. 633: Yes.

12 MR. BATEMAN: Okay.

13 PROSPECTIVE JUROR NO. 633: Actually, it was
14 Ukraine, but I would prefer to say Russia because
15 Ukraine is a smaller country and not like a lot of
16 people here knows --

17 MR. BATEMAN: Okay.

18 PROSPECTIVE JUROR NO. 633: -- knows this
19 country so --

20 MR. BATEMAN: My geography --

21 PROSPECTIVE JUROR NO. 633: It's easier to
22 say Russia.

23 MR. BATEMAN: Okay.

24 PROSPECTIVE JUROR NO. 633: It's Russia.
25 Everybody knows Russia.

1 MR. BATEMAN: Okay. Can I ask where -- you
2 said you were a programmer. What does that entail?

3 PROSPECTIVE JUROR NO. 633: I'm sorry.
4 What --

5 MR. BATEMAN: What does your job duties
6 entail?

7 PROSPECTIVE JUROR NO. 633: Well, actually
8 I'm to be more detailed, I work with RPG 400 language,
9 and I program casino applications to help for repairing
10 or any screen requests that I get is my work. If
11 it's --

12 MR. BATEMAN: It's with regard to machines,
13 gambling machines or --

14 PROSPECTIVE JUROR NO. 633: It's not in
15 regarding -- no, no.

16 MR. BATEMAN: Okay. Computers?

17 PROSPECTIVE JUROR NO. 633: Yes. It's
18 computers.

19 MR. BATEMAN: Okay. And did you receive
20 education with regard to what you're currently doing or
21 training with regard to what you're --

22 PROSPECTIVE JUROR NO. 633: Yes, I did.

23 MR. BATEMAN: -- currently doing? Where did
24 you get that?

25 PROSPECTIVE JUROR NO. 633: Back in Ukraine.

1 MR. BATEMAN: Okay. Can I ask what kind of
2 education you have, what kind of educational background?

3 PROSPECTIVE JUROR NO. 633: Yes. It's BSA.

4 MR. BATEMAN: I'm sorry?

5 PROSPECTIVE JUROR NO. 633: It's a
6 university, five years of university.

7 MR. BATEMAN: Bachelors or a --

8 PROSPECTIVE JUROR NO. 633: Bachelor degree.

9 MR. BATEMAN: The equivalent here?

10 PROSPECTIVE JUROR NO. 633: Yeah, equivalent
11 of -- exactly. Okay.

12 MR. BATEMAN: I'm just asking this because I
13 don't know personally much about the justice system or
14 the criminal justice system that might be in place in
15 your part of the world --

16 PROSPECTIVE JUROR NO. 633: (Indiscernible).

17 MR. BATEMAN: -- where you grew up. Can you
18 tell me a little bit about that criminal justice system.

19 PROSPECTIVE JUROR NO. 633: It's just simply
20 -- to say it real simple way it's corrupted.

21 MR. BATEMAN: Okay.

22 UNIDENTIFIED SPEAKER: (Indiscernible) more
23 simple than that.

24 MR. BATEMAN: Since you've come to the
25 United States or have you learned about the criminal

1 justice system that we have here in the United States?

2 PROSPECTIVE JUROR NO. 633: Just a little.

3 I -- one of my programs that I really like to see on TV
4 is -- is a program about judge, different judges,
5 actually.

6 MR. BATEMAN: Is it fair to say that your
7 understanding of the criminal justice here in the United
8 States is in large part framed from watching television
9 shows?

10 PROSPECTIVE JUROR NO. 633: Yes.

11 MR. BATEMAN: Okay. Can I ask some of the
12 television shows that you've been watching?

13 PROSPECTIVE JUROR NO. 633: Judge Judy.

14 MR. BATEMAN: We have Judge Barker.

15 PROSPECTIVE JUROR NO. 633: But I don't
16 believe that she is a good judge.

17 MR. BATEMAN: Okay. Well --

18 PROSPECTIVE JUROR NO. 633: She is awesome
19 on TV, but as a judge she doesn't have respect for
20 people.

21 MR. BATEMAN: Do you watch any other court
22 type shows?

23 PROSPECTIVE JUROR NO. 633: Other judges and
24 some movies, but basically from TV. That's correct
25 answer. This is how I got educated --

1 MR. BATEMAN: Okay.

2 PROSPECTIVE JUROR NO. 633: -- as I said, a
3 little bit educated.

4 MR. BATEMAN: Is it fair to say that some of
5 the shows you've watched are or at least purport to be
6 real life or similar to what would happen in real life
7 as opposed to some shows that might be purely, you know,
8 fictional and made up? Does that make sense?

9 PROSPECTIVE JUROR NO. 633: Yes. That's --
10 yeah, it does.

11 MR. BATEMAN: And you watch a little of
12 both?

13 PROSPECTIVE JUROR NO. 633: Yes.

14 MR. BATEMAN: Okay.

15 PROSPECTIVE JUROR NO. 633: Just yes.

16 MR. BATEMAN: Based upon what you watch on
17 television alone, do you expect to see the same type of
18 thing here in this courtroom or do you have any
19 preconceived notions about how things are going to
20 happen in this courtroom just based upon what you've
21 seen on television?

22 PROSPECTIVE JUROR NO. 633: I would say 50
23 percent of what I've seen on television, yes. But, of
24 course, not -- not that excited, and I think it's going
25 to be --

1 MR. BATEMAN: Boring?

2 PROSPECTIVE JUROR NO. 633: Not boring.

3 It's not the word I was looking for, but it's not going
4 to be the same way --

5 MR. BATEMAN: Okay.

6 PROSPECTIVE JUROR NO. 633: -- as I've seen
7 on TV.

8 MR. BATEMAN: So this would be your first
9 experience with a jury trial here --

10 PROSPECTIVE JUROR NO. 633: That's correct.

11 MR. BATEMAN: -- is that -- okay. So you
12 can kind of keep an open mind about things?

13 PROSPECTIVE JUROR NO. 633: First experience
14 in my life.

15 MR. BATEMAN: Okay. Great. And based --
16 you ever see the show CSI?

17 PROSPECTIVE JUROR NO. 633: I may.

18 MR. BATEMAN: Okay. Since you haven't
19 watched it, I'll ask another juror. I'll save you the
20 questions.

21 Judge, I'll pass for cause.

22 MR. FIGLER: Thank you, Your Honor.

23 Mr. Green, are you excited, nervous --

24 PROSPECTIVE JUROR NO. 633. Nervous.

25 MR. FIGLER: -- neutral? Nervous?

1 PROSPECTIVE JUROR NO. 633: Yes.

2 MR. FIGLER: Okay. Well, it's neither my
3 intent nor my partner, Mr. Bunin --

4 PROSPECTIVE JUROR NO. 633: I understand.

5 MR. FIGLER: -- or I imagine the
6 prosecution, too, in any way make you feel
7 uncomfortable. It's just we have to ask these
8 questions. That's part of the system. You understand
9 that?

10 PROSPECTIVE JUROR NO. 633: Sure. I do.

11 MR. FIGLER: So you won't hold that against
12 us or them?

13 PROSPECTIVE JUROR NO. 633: Definitely not.

14 MR. FIGLER: Okay. Excellent. First I want
15 to talk to you about something that you said that, you
16 know, here in America a lot of us don't take the time to
17 learn the difference between Russia, Ukraine, Georgia,
18 et cetera. So you just say Russia because it's more
19 convenient.

20 PROSPECTIVE JUROR NO. 633: It's easier to
21 say. Yeah. It 's more convenient. Yes.

22 MR. FIGLER: Okay. Now, you would agree
23 with me that --

24 PROSPECTIVE JUROR NO. 633: I don't consider
25 this a lie because Ukraine was a part of Russia at the

1 time when I was born and raised for 25 years.

2 MR. FIGLER: Okay.

3 PROSPECTIVE JUROR NO. 633: So it was USSR
4 which is a short name for -- for the name. Right now
5 it's just called Russia, but, unfortunately, in 1998 it
6 was just broken up, so -- or fortunately. And right now
7 all the countries are separated.

8 MR. FIGLER: And I appreciate that, and
9 wasn't trying to catch you up on a lie. You're not my
10 witness. You're a potential juror.

11 So what I did want to ask you, though, is
12 just about that experience because every one comes into
13 this room with very different experiences than other
14 people.

15 That's the beauty of the American system is
16 that you get people from different backgrounds,
17 different life experiences, and then you bring them
18 together and they bring to the table if you will their
19 own special things that are very different from who's
20 next to you. You understand that?

21 PROSPECTIVE JUROR NO. 633: Yes. I
22 understood it --

23 MR. FIGLER: Okay.

24 PROSPECTIVE JUROR NO. 633: -- today.

25 MR. FIGLER: And a jury is actually another

1 word for 12 individual "jurors" or 14, in this case,
2 individual jurors. Everyone's different. Everyone's
3 independent. Everyone has their own ideas and you agree
4 that that's a good system?

5 PROSPECTIVE JUROR NO. 633: Yes. I agree
6 that's a good system, and I'm not kind of a person who
7 would stand up and explain my opinion.

8 But let's say if the other 13 judges would
9 have their opinions that, yes, it's guilty, and I have
10 my own opinions it's not guilty, I would still keep to
11 my own opinion and that -- but maybe I would not be able
12 to explain it clearly to the others because of my
13 language abilities, but I would not change my opinion
14 about that.

15 MR. FIGLER: And you would do your best to
16 express it the best that you can --

17 PROSPECTIVE JUROR NO. 633: I will do the
18 best I can, of course.

19 MR. FIGLER: Now, here's another question
20 about going with your background being from Ukraine.
21 You pretty much can pick up the accent of a fellow
22 Ukrainian more so than maybe I would be able to
23 distinguish between someone from Ukraine or Russia, et
24 cetera, correct?

25 PROSPECTIVE JUROR NO. 633: Yes.

1 MR. FIGLER: Okay. I guess that was the
2 easy question. Here comes the follow-up question. That
3 you would agree, then, that people who are outside that
4 knowledge of hearing that all the time would have more
5 of a difficulty in distinguishing between accents of
6 different parts of USSR, correct?

7 PROSPECTIVE JUROR NO. 633: That's correct.

8 MR. FIGLER: Okay. And would you agree that
9 the same is true with identification of people based on
10 any number of factors? The race that they belong to or
11 a group that they belong to, what part of the country,
12 et cetera, would you agree that that's true across the
13 board for everyone?

14 PROSPECTIVE JUROR NO. 633: Yes, I do.

15 MR. FIGLER: Okay. Now, you've been in
16 Las Vegas for sometime now. How do you like living here
17 in Las Vegas?

18 PROSPECTIVE JUROR NO. 633: Before Las Vegas
19 I did not -- I didn't mention that I -- since 1998 I was
20 living in Chicago, so it's -- it has its pluses and
21 minuses.

22 MR. FIGLER: Okay. Very different city,
23 Las Vegas from Chicago?

24 PROSPECTIVE JUROR NO. 633: Yeah.
25 Obviously, it's different, and it's not that I came from

1 Siberia which is most known place from Russia.

2 MR. FIGLER: Most known cold place in
3 Russia.

4 PROSPECTIVE JUROR NO. 633: Most known place
5 in Russia, so I would say it depends on the time of the
6 year.

7 MR. FIGLER: Okay.

8 PROSPECTIVE JUROR NO. 633: My answer would
9 depend on the time of the year.

10 MR. FIGLER: Did you live in Chicago proper
11 city or live in suburb?

12 PROSPECTIVE JUROR NO. 633: No. In Chicago.

13 MR. FIGLER: Okay. North side of the town
14 or --

15 PROSPECTIVE JUROR NO. 633: It was up north.
16 It was up town. I'm sorry.

17 MR. FIGLER: Up town?

18 PROSPECTIVE JUROR NO. 633: Yes.

19 MR. FIGLER: Okay. And your experiences in
20 Las Vegas, are they generally positive, negative,
21 neutral? How do you view our city as a whole?

22 PROSPECTIVE JUROR NO. 633: Related to what?

23 MR. FIGLER: Well, just compared to Chicago
24 say. Is it better? Is it worse? How is it different?

25 PROSPECTIVE JUROR NO. 633: To be honest,

1 people seem to be more open-minded and --

2 MR. FIGLER: Here in Las Vegas?

3 PROSPECTIVE JUROR NO. 633: Here in
4 Las Vegas.

5 MR. FIGLER: Okay.

6 PROSPECTIVE JUROR NO. 633: Comparing to
7 Chicago was. But they are less honest. This makes
8 sense --

9 MR. FIGLER: Okay.

10 PROSPECTIVE JUROR NO. 633: -- what I'm
11 saying?

12 MR. FIGLER: Sure. I mean, and there's no
13 wrong answer. It's how you believe.

14 PROSPECTIVE JUROR NO. 633: I mean -- yeah.
15 If it's about people, if it's about environment, again,
16 as I answered before it depends on the time of the year.
17 So if it's winter, anything except summer, it's totally
18 great here.

19 MR. FIGLER: Okay. Summer gets a little
20 hot.

21 PROSPECTIVE JUROR NO. 633: Yeah. What I
22 don't like here in Las Vegas that everything is -- has
23 walls and gated communities. This is something that's
24 not like that in Chicago.

25 MR. FIGLER: Okay. Let me ask you about

1 some earlier comment that you made. When you first
2 walked into the room, you felt that police maybe should
3 be viewed more reliable. But in listening to other
4 people talk, you basically changed that opinion?

5 PROSPECTIVE JUROR NO. 633: Yes, I did.

6 MR. FIGLER: And why do you think that you
7 -- what changed?

8 PROSPECTIVE JUROR NO. 633: Before I was
9 thinking that anyone can say I do, and it's not
10 necessarily the case. And I believe that police officer
11 would be more honest, but I think I was wrong.

12 I changed my opinion based on what I've
13 heard. That police officer's just another person. It
14 also has its own personality and its own life so he can
15 also lie or say someone is (indiscernible) --

16 MR. FIGLER: Or they can just get things
17 wrong and have an honest belief.

18 PROSPECTIVE JUROR NO. 633: You're right.
19 Exactly.

20 MR. FIGLER: Okay.

21 PROSPECTIVE JUROR NO. 633: Just another
22 person.

23 MR. FIGLER: Have you had any interaction
24 with young people here in Las Vegas that are like my
25 client, young --

1 PROSPECTIVE JUROR NO. 633: With this young
2 people or with --

3 MR. FIGLER: No. Not -- you already said
4 that you didn't know him.

5 PROSPECTIVE JUROR NO. 633: Right.

6 MR. FIGLER: I'm not saying that you did.
7 Just saying just young people in general in here in
8 Las Vegas. Have you interacted with young people?

9 PROSPECTIVE JUROR NO. 633: Not much. No.
10 No.

11 MR. FIGLER: All right. Thank you very much
12 for your time.

13 PROSPECTIVE JUROR NO. 633: Thank you.

14 MR. FIGLER: I'll pass for cause,
15 Your Honor.

16 THE COURT: Thank you.

17 MR. SINGER: Pass for cause, Judge.

18 THE COURT: Thank you. We're going to take
19 our afternoon recess at this point.

20 Ladies and gentlemen, I'm about to read to
21 you a phrase that you're going to hear if you're
22 selected for this jury every time because the law
23 requires that I read it to you, so here it goes for the
24 first time.

25 It is your duty not to converse among

1 yourselves or with anyone else on any subject connected
2 with this trial.

3 Further, you may not read, watch or listen
4 to any report of or commentary on the trial from any
5 medium of information including, without limitation,
6 newspapers, television, radio.

7 You are not to form or express any opinion
8 on any subject connected with this case until it is
9 finally submitted to you.

10 Please don't talk to each other about what
11 you've heard so far. Talk about the weather. Talk
12 about the parking. Talk about the elevators. Just
13 don't talk about the case.

14 We'll be in recess for ten minutes. Ten
15 minutes straight so we can continue this process.

16 Thank you.

17 THE BAILIFF: All right. Stay on the floor
18 up here here, folks. Do not go downstairs. You don't
19 have enough time.

20 (Off-record colloquy)

21 THE CLERK: Ms. Lewis, thank you. I got it.

22 THE BAILIFF: If you turn your phones on,
23 make sure you turn them back off. \$250 American dollars
24 if they go off in court.

25 (Off-record colloquy)

1 THE BAILIFF: Do not come back in the
2 courtroom, folks. Wait 'til I come and get you.

3 (Court recessed at 3:27 p.m. until 3:39 p.m.)

4 (Off-record colloquy)

5 (Prospective jurors present)

6 THE COURT: Thank you. Parties stipulate to
7 the presence of all members of the jury that were
8 impaneled --

9 MS. LEWIS: So stipulate.

10 THE COURT: -- in the jury box?

11 MR. BATEMAN: Yes, Your Honor.

12 MR. FIGLER: Yes, Your Honor.

13 THE COURT: All right. I believe we're
14 moving onto Mr. -- is it Patulski?

15 PROSPECTIVE JUROR NO. 172: Patulski.

16 THE COURT: Patulski. Mr. Patulski, tell us
17 how long you've been here in Las Vegas.

18 PROSPECTIVE JUROR NO. 172: I've been in
19 Las Vegas for five years now, moved here in 2001 from up
20 state New York.

21 THE COURT: And employment?

22 PROSPECTIVE JUROR NO. 172: Work for a
23 company called Fiberdyne Labs in which we manufacture
24 fiberoptic networking products.

25 THE COURT: And your background, training,

1 education?

2 PROSPECTIVE JUROR NO. 172: Associate degree
3 from a community school back in Utica, New York, and 64
4 credits towards a bachelor's degree.

5 THE COURT: Tell us are you married?

6 PROSPECTIVE JUROR NO. 172: Single, no
7 children.

8 THE COURT: Have you any prior jury
9 experience?

10 PROSPECTIVE JUROR NO. 172: No, sir.

11 THE COURT: Have you had any close family
12 members or friends that have been victimized by crimes?

13 PROSPECTIVE JUROR NO. 172: No, sir.

14 THE COURT: Have you had any close family
15 members or friends who have been accused of a crime?

16 PROSPECTIVE JUROR NO. 172: No, Your Honor.

17 THE COURT: Would you give the tendency or
18 the weight of a police officer greater or lesser --
19 would you give a police officer greater or lesser
20 credibility as a consequence of the fact they're simply
21 a police officer?

22 PROSPECTIVE JUROR NO. 172: No, Your Honor.

23 THE COURT: Can you wait in forming your
24 opinion as to the guilt or innocence of the defendants
25 until all of the evidence is in and the instructions

1 have been given you if you're selected as a juror?

2 PROSPECTIVE JUROR NO. 172: Yes, Your Honor.

3 THE COURT: Do you know of any reason why
4 you couldn't be a completely fair and impartial juror?

5 PROSPECTIVE JUROR NO. 172: No, sir.

6 THE COURT: State.

7 MR. BATEMAN: Pass for cause.

8 THE COURT: Defense.

9 MR. BUNIN: How are you?

10 PROSPECTIVE JUROR NO. 172: Good. How are
11 you?

12 MR. BUNIN: Good. Now, we've talked about a
13 lot of different legal contact with a lot of the
14 different people that we've spoken to so far. Maybe
15 I'll just go over one or two with you and see how you
16 feel about them --

17 PROSPECTIVE JUROR NO. 172: Sure.

18 MR. BUNIN: -- okay? One of them is -- and
19 I think I talked about this with somebody earlier --
20 that the judge is going to instruct that a person
21 accused of a crime, Jamar Matthews, does not have to
22 testify if he doesn't want to. Do you understand that?

23 PROSPECTIVE JUROR NO. 172: Yes.

24 MR. BUNIN: And has a constitutional right
25 not to testify if he chooses not too testify.

1 PROSPECTIVE JUROR NO. 172: Correct.

2 MR. BUNIN: Can you think of some reasons
3 maybe why an innocent person would choose not to testify
4 in a trial? I know, it's sticking you on the spot in
5 front --

6 PROSPECTIVE JUROR NO. 172: No. That's
7 fine.

8 MR. BUNIN: -- of 70 people. I apologize.

9 PROSPECTIVE JUROR NO. 172: Why an innocent
10 person would not (indiscernible) --

11 MR. BUNIN: Why wouldn't an innocent maybe
12 not want to get on the stand in a trial.

13 PROSPECTIVE JUROR NO. 172: Maybe
14 nervousness.

15 MR. BUNIN: Maybe they don't express
16 themselves very well --

17 PROSPECTIVE JUROR NO. 172: Correct.

18 MR. BUNIN: -- in front of a lot of people
19 in the courtroom?

20 PROSPECTIVE JUROR NO. 172: Um-h'm. A lot
21 of pressure.

22 MR. BUNIN: (Indiscernible) also
23 cross-examined by --

24 PROSPECTIVE JUROR NO. 172: Correct.

25 MR. BUNIN: -- very good prosecutors. You

1 never know. Are those legitimate reasons to --

2 PROSPECTIVE JUROR NO. 172: Yeah.

3 MR. BUNIN: Would you hold that against
4 Jamar if he chose not --

5 PROSPECTIVE JUROR NO. 172: No.

6 MR. BUNIN: -- to testify?

7 PROSPECTIVE JUROR NO. 172: No.

8 MR. BUNIN: Okay. Could you go back in the
9 jury room if he didn't testify and set aside any
10 feelings or any wonder why possibly Jamar chose not to
11 testify --

12 PROSPECTIVE JUROR NO. 172: Sure.

13 MR. BUNIN: -- at this trial?

14 PROSPECTIVE JUROR NO. 172: Yes.

15 MR. BUNIN: Okay. Wouldn't make it more
16 likely that you might find a verdict one way or the
17 other depending on whether or not Jamar testified?

18 PROSPECTIVE JUROR NO. 172: No.

19 MR. BUNIN: Okay. We've also talked a lot
20 about -- I'm going to hit the same subject again because
21 it's one that different people had different opinions
22 on. And the judge just asked you about a police
23 officer. Do you think a police officer can make a
24 mistake in this job?

25 PROSPECTIVE JUROR NO. 172: Yeah.

1 MR. BUNIN: Will it bother you to see say
2 myself or maybe Mr. Fig cross-examine a police officer
3 and possibly point out some mistakes that may have been
4 made?

5 PROSPECTIVE JUROR NO. 172: Yes.

6 MR. BUNIN: It will bother you?

7 PROSPECTIVE JUROR NO. 172: No. It won't
8 bother me, but I know the severity of the case, so it's
9 pretty important that -- to pay attention to details.

10 MR. BUNIN: Okay. And you think it's fair
11 for Mr. Figler or myself to maybe cross-examine about
12 the details of --

13 PROSPECTIVE JUROR NO. 172: Sure.

14 MR. BUNIN: -- of the investigation?

15 PROSPECTIVE JUROR NO. 172: Um-h'm.

16 MR. BUNIN: And can you consider the
17 possibility that even though a police officer may be
18 testifying, that he may have certain perceptions that
19 turn out not to be true? Is that something that's
20 possible?

21 PROSPECTIVE JUROR NO. 172: Yes.

22 MR. BUNIN: You know, if say two different
23 people testified, say one is a police officer and one's
24 not a police officer, and they both give a description
25 but the descriptions are different, would you give one

1 of those person's testimony more weight because he's a
2 police officer?

3 PROSPECTIVE JUROR NO. 172: No.

4 MR. BUNIN: You know, at that point, then I
5 guess you have to judge credibility; is that right?

6 PROSPECTIVE JUROR NO. 172: Correct.

7 MR. BUNIN: You know, are you comfortable
8 trying to do that, to possibly judge a person's
9 credibility when they're on the stand?

10 PROSPECTIVE JUROR NO. 172: I like to just
11 listen to the information, the details of it and just
12 kind of digest it and regurgitate it back to myself.

13 MR. BUNIN: Yeah? And see if what they're
14 saying --

15 PROSPECTIVE JUROR NO. 172: Right.

16 MR. BUNIN: -- makes the most sense?

17 PROSPECTIVE JUROR NO. 172: Correct.

18 MR. BUNIN: I mean, could you look at maybe
19 certain statements that are said in the context of all
20 the testimony you hear and determine whether or not what
21 they're saying may tend to be accurate or may tend not
22 to be accurate? Is that a kind of a way to judge
23 credibility in a case like this? Are you comfortable
24 doing that --

25 PROSPECTIVE JUROR NO. 172: Sure.

1 MR. BUNIN: -- when you're deciding, you
2 know, very important issues --

3 PROSPECTIVE JUROR NO. 172: Um-h'm.

4 MR. BUNIN: -- for both the prosecution and
5 for Jamar?

6 PROSPECTIVE JUROR NO. 172: Correct.

7 MR. BUNIN: His rights are at stake, and
8 you're comfortable sitting there in judgment in a
9 situation like that?

10 PROSPECTIVE JUROR NO. 172: Yes.

11 MR. BUNIN: Okay. I have no more questions.
12 Pass for cause.

13 THE COURT: Thank you.

14 MR. SINGER: Pass for cause.

15 THE COURT: Thank you.

16 Ms. Ocampo.

17 PROSPECTIVE JUROR NO. 492: Hello.

18 THE COURT: Hi. Tell us how long have you
19 been here in Las Vegas?

20 PROSPECTIVE JUROR NO. 492: I was born and
21 raised here in Las Vegas. I'm currently working at the
22 DMV.

23 THE COURT: All right.

24 PROSPECTIVE JUROR NO. 492: (Indiscernible).
25 I'm single. No children.

1 THE COURT: Any prior jury experience?

2 PROSPECTIVE JUROR NO. 492: Any what?

3 THE COURT: Have you ever been on a jury
4 before?

5 PROSPECTIVE JUROR NO. 492: No.

6 THE COURT: Any close family member or
7 friends been a victim of crime?

8 PROSPECTIVE JUROR NO. 492: No.

9 THE COURT: Any close family member or
10 friends been accused of a crime?

11 PROSPECTIVE JUROR NO. 492: Yes. A really
12 long time ago I had an ex-boyfriend who got charged with
13 a drive-by.

14 THE COURT: Did that experience or would
15 that experience affect your ability to be fair and
16 impartial in this case?

17 PROSPECTIVE JUROR NO. 492: No.

18 THE COURT: Would you have a tendency to
19 give more or less weight to a police officer's testimony
20 simply because they're a police officer?

21 PROSPECTIVE JUROR NO. 492: What was that
22 again? I'm sorry.

23 THE COURT: Would you give a police officer
24 more credibility if they're on the stand --

25 PROSPECTIVE JUROR NO. 49: Oh, no, no.

1 THE COURT: -- than any other witness simply
2 because they're a police --

3 PROSPECTIVE JUROR NO. 492: No.

4 THE COURT: -- officer? Can you wait in
5 forming your opinion on the facts of this case until
6 you've heard all the information including all the
7 instructions?

8 PROSPECTIVE JUROR NO. 492: Yes.

9 THE COURT: Do you know of any reason why
10 you couldn't be a completely fair and impartial juror
11 here today?

12 PROSPECTIVE JUROR NO. 492: No.

13 THE COURT: State.

14 MR. BATEMAN: Pass for cause, Judge.

15 THE COURT: Defense.

16 MR. FIGLER: Thank you, Your Honor.

17 Ms. Ocampo, you had indicated that you have
18 some final coming up on Wednesday?

19 PROSPECTIVE JUROR NO. 492: Um-h'm.

20 MR. FIGLER: And I presume you have to study
21 for that final?

22 PROSPECTIVE JUROR NO. 492: Yes.

23 MR. FIGLER: Okay.

24 PROSPECTIVE JUROR NO. 492: This is my study
25 time right now.

1 MR. FIGLER: Okay. It's not criminal
2 justice because we can help you with that one.

3 PROSPECTIVE JUROR NO. 492: It's actually
4 for forensics is what I want to get into.

5 MR. FIGLER: Forensics?

6 PROSPECTIVE JUROR NO. 492: Yes.

7 MR. FIGLER: And what was that class all
8 about?

9 PROSPECTIVE JUROR NO. 492: Forensics?

10 MR. FIGLER: Yeah.

11 PROSPECTIVE JUROR NO. 492: It's like CSI
12 stuff, but I'm still doing my associates. I haven't
13 went up doing the program at UNLV yet so --

14 MR. FIGLER: Okay, so --

15 PROSPECTIVE JUROR NO. 492: -- I don't know
16 (indiscernible).

17 MR. FIGLER: So in your course studies you
18 -- and I'm sorry to interrupt you. In your course
19 studies you studied about the different evidence
20 gathering that people like we see on TV do? That's
21 pretty much what your training is --

22 PROSPECTIVE JUROR NO. 492: Yeah. Well --

23 MR. FIGLER: -- or what you hope to be is?

24 PROSPECTIVE JUROR NO. 492: -- eventually,
25 yes. Um-h'm.

1 MR. FIGLER: Okay. And how much scientific
2 training have you had so far? I don't know where you
3 are in your --

4 PROSPECTIVE JUROR NO. 492: None.

5 MR. FIGLER: None?

6 PROSPECTIVE JUROR NO. 492: None yet.

7 Um-h'm.

8 MR. FIGLER: What kind of classes are you
9 taking right now?

10 PROSPECTIVE JUROR NO. 492: I'm still in my
11 associates.

12 MR. FIGLER: And so what kind of classes?
13 Is it just basics or --

14 PROSPECTIVE JUROR NO. 492: Just, yeah,
15 basic core classes.

16 MR. FIGLER: Like English and math and that
17 sort of stuff?

18 PROSPECTIVE JUROR NO. 492: Um-h'm.

19 MR. FIGLER: Okay. We need to make sure
20 that you could stay focused on the subject because
21 there's going to be a lot of different witnesses and
22 some are going to be in your area.

23 Do you think that you could put aside the
24 fact that you have a final pending in order to focus on
25 the witnesses because we, obviously, want you to hear

1 everything because Jamar over there absolutely deserves
2 your attention because this is a very important case and
3 there's a lot on the line here. You understand that?

4 PROSPECTIVE JUROR NO. 492: Yes, I do.

5 MR. FIGLER: Okay. Do you think you could
6 put aside the course work and the fact that you have an
7 upcoming final, and the fact that your study time is
8 getting cut into or not?

9 PROSPECTIVE JUROR NO. 492: No. That's
10 fine. I mean, I'll be fine with that.

11 MR. FIGLER: Okay. With regard to your
12 ex-boyfriend's case, was he your boyfriend at the time
13 or he was your ex-boyfriend?

14 PROSPECTIVE JUROR NO. 492: Yes. He was my
15 boyfriend at the time.

16 MR. FIGLER: Okay. Without getting too much
17 into details of what that was about, did he wind up
18 going to trial or not go to trial?

19 PROSPECTIVE JUROR NO. 492: He went to
20 trial.

21 MR. FIGLER: Okay. And do you believe that
22 he was fairly treated by the system?

23 PROSPECTIVE JUROR NO. 492: No.

24 MR. FIGLER: Okay. Whatever opinions you
25 have about that, do you think that you could set that

1 aside and view this case in a different -- because it's
2 a different case, you understand that?

3 PROSPECTIVE JUROR NO. 492: Yes. I do
4 understand.

5 MR. FIGLER: Okay. And you think you can
6 put that aside?

7 PROSPECTIVE JUROR NO. 492: Yes.

8 MR. FIGLER: And do you think that you can
9 listen to the question -- or, sorry, the instructions
10 that the judge here will give you and follow the law on
11 that?

12 PROSPECTIVE JUROR NO. 492: Yes.

13 MR. FIGLER: Okay. Is there any other
14 response to any of the questions that some of the other
15 potential jurors have been asked so far that you have
16 opinion about?

17 PROSPECTIVE JUROR NO. 492: I -- I didn't
18 know how a criminal case was processed until she had
19 said that they had to present all their evidence first.
20 I didn't know that that's how it worked, but, I mean,
21 you guys informed me of that.

22 MR. FIGLER: Okay.

23 PROSPECTIVE JUROR NO. 492: But, no.

24 MR. FIGLER: Is there anything about that
25 that changes your ability to serve as a juror here?

1 PROSPECTIVE JUROR NO. 492: No.

2 MR. FIGLER: Do you agree with that? That
3 the prosecution, just because they accuse somebody,
4 should be responsible for having to prove each and every
5 element beyond a reasonable doubt? Do you believe in
6 that?

7 PROSPECTIVE JUROR NO. 492: Yes.

8 MR. FIGLER: Okay. And you understand we're
9 going to ask lots and lots of questions. But at the end
10 of what they call their case, we may think, wow, they
11 haven't reached that burden, and so then we'd leave it
12 to you as the individual judge. You understand that's
13 how it works?

14 PROSPECTIVE JUROR NO. 492: Yes.

15 MR. FIGLER: Okay. And you're not going to
16 hold that against Jamar if we decide to make that
17 decision?

18 PROSPECTIVE JUROR NO. 492: No.

19 MR. FIGLER: And you understand that's the
20 decision that he makes with counsel, and that we're the
21 ones who are trained in the law and understand how
22 things work? You understand that?

23 PROSPECTIVE JUROR NO. 492: Yes. Um-h'm.

24 MR. FIGLER: Okay. Do you have an opinion
25 about prosecutors or defense attorneys one way or the

1 other?

2 PROSPECTIVE JUROR NO. 492: No.

3 MR. FIGLER: Okay. I'm sure some other
4 people do so --

5 PROSPECTIVE JUROR NO. 492: No. I have
6 no --

7 MR. FIGLER: -- (indiscernible).

8 PROSPECTIVE JUROR NO. 492: I have no
9 experience in the law or being a juror to form any type
10 of an opinion on anything --

11 MR. FIGLER: Okay.

12 PROSPECTIVE JUROR NO. 492: -- what you guys
13 do.

14 MR. FIGLER: All right. And do you have any
15 doubt in your mind that as he sits there right now he's
16 an innocent person because you have not heard any
17 evidence at all?

18 PROSPECTIVE JUROR NO. 492: Yes.

19 MR. FIGLER: And you agree with that --

20 PROSPECTIVE JUROR NO. 492: Yes. Um-h'm.

21 MR. FIGLER: -- principle? Thank you.

22 I'll pass for cause.

23 MR. SINGER: Pass for cause.

24 THE COURT: Thank you.

25 Mr. Wilson, tell us how long have you been

1 in Las Vegas, sir?

2 PROSPECTIVE JUROR NO. 509: Got to -- I got
3 to Vegas in '98. Air Force brought me here, and I've
4 been here working at Cox Communications since '99.
5 Divorced, one child, single dad. That's about it.

6 THE COURT: Prior jury experience?

7 PROSPECTIVE JUROR NO. 509: No.

8 THE COURT: Any close family member or
9 friend been accused of a crime?

10 PROSPECTIVE JUROR NO. 509: Yes.

11 THE COURT: Tell us about that.

12 PROSPECTIVE JUROR NO. 509: I have a first
13 cousin accused of a murder in Jersey.

14 THE COURT: Do you believe that was -- would
15 affect your ability to be fair and impartial in this
16 case?

17 PROSPECTIVE JUROR NO. 509: No.

18 THE COURT: Have you had any close family
19 members or friends that have been victims of crime?

20 PROSPECTIVE JUROR NO. 509: No.

21 THE COURT: Do you believe that you would
22 give more or less weight to the testimony of a police
23 officer simply because they are a police officer?

24 PROSPECTIVE JUROR NO. 509: No.

25 THE COURT: Can you hold off in forming your

1 opinion as to the guilt or innocence of these defendants
2 until all of the evidence and instructions is given to
3 you?

4 PROSPECTIVE JUROR NO. 509: Yes.

5 THE COURT: Do you believe that -- is there
6 any fact or any information that might affect your
7 ability to be completely fair and impartial if you're
8 selected for this jury?

9 PROSPECTIVE JUROR NO. 509: No.

10 THE COURT: State.

11 MR. BATEMAN: Just briefly. How long were
12 you in the Air Force, sir?

13 PROSPECTIVE JUROR NO. 509: Ten years.

14 MR. BATEMAN: Okay. What kind of things did
15 you do in the Air Force?

16 PROSPECTIVE JUROR NO. 509: Ground radar
17 maintenance.

18 MR. BATEMAN: Generally, maintenance work
19 type --

20 PROSPECTIVE JUROR NO. 509: Electrical.

21 MR. BATEMAN: Okay. And what made you leave
22 the Air Force?

23 PROSPECTIVE JUROR NO. 509: Higher tenure.
24 Didn't make rank. Had to get out.

25 MR. BATEMAN: Okay. And you said you moved

1 to Las Vegas when?

2 PROSPECTIVE JUROR NO. 509: '98.

3 MR. BATEMAN: '98. Where were you living
4 before '98?

5 PROSPECTIVE JUROR NO. 509: I was in Korea.

6 MR. BATEMAN: Oh, really? Okay. The only
7 real question I have is you talked a little bit about
8 your -- it was a first cousin and that the allegations
9 were made in Jersey. Is it a close cousin?

10 PROSPECTIVE JUROR NO. 509: Yes.

11 MR. BATEMAN: Okay. Did you talk about --
12 with him about -- and I don't want to get into, you
13 know, all the details, but did you kind of talk a lot
14 with him about what he was accused of?

15 PROSPECTIVE JUROR NO. 509: Yes.

16 MR. BATEMAN: Okay. Was that accusation
17 ever or did it ever get to the point where your cousin
18 was actually prosecuted for the --

19 PROSPECTIVE JUROR NO. 509: Yes.

20 MR. BATEMAN: -- allegations? And did he go
21 to trial?

22 PROSPECTIVE JUROR NO. 509: Yes.

23 MR. BATEMAN: Okay. Did you have -- you
24 weren't a witness or anybody called in that trial, were
25 you?

1 PROSPECTIVE JUROR NO. 509: Well, I didn't
2 know what he did, and he came from Jersey and stayed out
3 here in Vegas with me, so -- but I didn't know what he
4 had done, and they apprehended him from my apartment
5 here so --

6 MR. BATEMAN: So I guess you --

7 PROSPECTIVE JUROR NO. 509: -- I got
8 questioned a lot because of that.

9 MR. BATEMAN: You didn't testify at the
10 trial or --

11 PROSPECTIVE JUROR NO. 509: No.

12 MR. BATEMAN: Did you sit through the trial
13 or anything like that?

14 PROSPECTIVE JUROR NO. 509: No. It was in
15 New Jersey. I was here.

16 MR. BATEMAN: You had any communications
17 with your cousin since all that?

18 PROSPECTIVE JUROR NO. 509: No. But I get
19 -- through family.

20 MR. BATEMAN: Okay. Do you think based upon
21 whatever knowledge you might have had about the
22 situation that your cousin was treated fairly or
23 unfairly?

24 PROSPECTIVE JUROR NO. 509: It was fair.

25 MR. BATEMAN: Fair?

1 PROSPECTIVE JUROR NO. 509: It was fair.

2 MR. BATEMAN: Anything about that situation
3 that I should be concerned about, you know, as
4 representing the State (indiscernible) Ms. Lewis about
5 you being a juror in this case with a murder charge?

6 PROSPECTIVE JUROR NO. 509: No.

7 MR. BATEMAN: Nothing? You think you can be
8 fair?

9 PROSPECTIVE JUROR NO. 509: Yes.

10 MR. BATEMAN: Okay. I'll pass for cause,
11 Judge.

12 THE COURT: (Indiscernible).

13 MR. BUNIN: Thank you. (Indiscernible)
14 Mr. Wilson. I guess I would ask the same question. Is
15 there anything that Jamar Matthews should be concerned
16 about based on your experience through your cousin's
17 case?

18 PROSPECTIVE JUROR NO. 509: No.

19 MR. BUNIN: Okay. You said that you were
20 questioned here about that? And I don't want to get
21 into details of it, and I'm sorry to have to ask
22 personal questions in front of everybody, but you
23 understand we have to. We're trying to look for a jury
24 that can be most fair.

25 PROSPECTIVE JUROR NO. 509: Um-h'm.

1 MR. BUNIN: Is there anything about the
2 experience here being questioned that might give you
3 some sort of bias one way or the other?

4 PROSPECTIVE JUROR NO. 509: No. No.

5 MR. BUNIN: Was it a difficult situation
6 being questioned?

7 PROSPECTIVE JUROR NO. 509: Yeah.

8 MR. BUNIN: Yeah. And you just tried to
9 answer the questions the best you could?

10 PROSPECTIVE JUROR NO. 509: Exactly.

11 MR. BUNIN: Okay. Did that leave you --
12 have you formed any opinions of attorneys? And I know
13 everybody has (indiscernible) or another but against
14 maybe prosecutors or people that defend people that are
15 accused of crimes.

16 PROSPECTIVE JUROR NO. 509: No.

17 MR. BUNIN: No opinions at all that you
18 think would affect your ability whatsoever to be a juror
19 in this case?

20 PROSPECTIVE JUROR NO. 509: No.

21 MR. BUNIN: You know, you've heard us talk
22 about a lot different areas, and I promise I'll stop
23 asking the same questions over and over again at some
24 point very soon.

25 But have you heard any topics that you'd

1 like to talk about or maybe where you disagreed with
2 some of what was said here in court maybe about the
3 Fifth Amendment or police testimony or other types of
4 testimony?

5 PROSPECTIVE JUROR NO. 509: No.

6 MR. BUNIN: Nothing at all? Are you
7 comfortable being a juror if you have to be a juror in
8 this case?

9 PROSPECTIVE JUROR NO. 509: I'm all right.

10 MR. BUNIN: Yeah? Okay.

11 PROSPECTIVE JUROR NO. 509: \$40 is good.

12 MR. SINGER: 40 bucks and I'd pass for
13 cause.

14 Thank you, Judge.

15 THE COURT: Did you pass for cause?

16 MR. BUNIN: Pass for cause.

17 THE COURT: We're moving down to Mr. Ashley.

18 Mr. Ashley, tell us about yourself. How
19 long have you been in Las Vegas?

20 PROSPECTIVE JUROR NO. 607: Moved to Vegas
21 in June of 1974.

22 THE COURT: And employment?

23 PROSPECTIVE JUROR NO. 607: Employment,
24 currently I work for Perini Building Company at City
25 Center.

1 THE COURT: And what do you do for them?

2 PROSPECTIVE JUROR NO. 607: I'm what's
3 called -- they've established a position. Normally, in
4 the other businesses that I've been in I've been an
5 architect. Normally, they'll put architects and
6 builders.

7 So they put a title there of project design
8 coordinator. I'm the liaison between the design which
9 is not done on the project and the building which is
10 still commencing as you can see it coming up out of the
11 ground.

12 THE COURT: All right. Marital status?

13 PROSPECTIVE JUROR NO. 607: I'm currently
14 married. Been divorced. I've got three adult children.

15 THE COURT: Prior jury experience.

16 PROSPECTIVE JUROR NO. 607: Zero.

17 THE COURT: Do you know anyone or close
18 family member or a friend who's ever been accused of a
19 crime?

20 PROSPECTIVE JUROR NO. 607: Yeah, my son.

21 THE COURT: And is that experience or has
22 that experience -- strike that. Would that experience
23 affect your ability to be fair and impartial here?

24 PROSPECTIVE JUROR NO. 607: No.

25 THE COURT: And what about a victim of

1 crime? Have you or a close family member or friend ever
2 been a victim of crime?

3 PROSPECTIVE JUROR NO. 607: I've been a
4 victim. I was carjacked once.

5 THE COURT: And is there anything about that
6 experience that might affect your ability to be fair
7 here today?

8 PROSPECTIVE JUROR NO. 607: No.

9 THE COURT: Would you tend to give a police
10 officer more or less credibility weight in their
11 testimony simply because they are a police officer?

12 PROSPECTIVE JUROR NO. 607: I would like to
13 answer it that they should be under oath and they should
14 be telling the truth, but I wouldn't take it as anything
15 more than another person being on the stand.

16 THE COURT: Can you wait in forming your
17 opinion -- wait to form your opinion as to the guilt or
18 innocence of these individuals until after -- all the
19 evidence and instructions have been given to you?

20 PROSPECTIVE JUROR NO. 607: I would do my
21 best at that. Yes.

22 THE COURT: Very good. Do you know of any
23 reason why you couldn't be a completely fair and
24 impartial juror?

25 PROSPECTIVE JUROR NO. 607: The one thing

1 that I would like to say is that I suffer from sleep
2 apnea and Restless Leg Syndrome, RLS. And as that
3 effects me as an individual, I get very restless.

4 If I -- if I've had a bad couple nights of
5 sleeps, for example, I have a hard time. I'm very
6 fidgety, and I'm -- it affects my memory and, you know,
7 it helps -- it doesn't allow me to process stuff that
8 comes at me as well. I don't know when it affects me,
9 but it does affect me.

10 THE COURT: All right. State.

11 MR. BATEMAN: From what I gathered about
12 your occupation, they're building City Center without
13 actually having any plans. Is that what you're getting
14 at?

15 PROSPECTIVE JUROR NO. 607: Well, they have
16 plans, but in this -- if you've been in Vegas very long
17 and you've seen how fast they build, they build with
18 very minimal plans.

19 MR. BATEMAN: Build first, plan later?

20 PROSPECTIVE JUROR NO. 607: No comment.

21 MR. BATEMAN: Your son, you said he was
22 accused of a crime?

23 PROSPECTIVE JUROR NO. 607: Yes.

24 MR. BATEMAN: Was that here in Las Vegas?

25 PROSPECTIVE JUROR NO. 607: Yes.

1 MR. BATEMAN: How long ago?

2 PROSPECTIVE JUROR NO. 607: Probably five
3 years ago.

4 MR. BATEMAN: Was he prosecuted?

5 PROSPECTIVE JUROR NO. 607: No. I believe
6 the charges were dropped.

7 MR. BATEMAN: Okay. Was it the Office of
8 the District Attorney that prosecuted it? Was it a
9 different prosecuting agency? Do you know?

10 PROSPECTIVE JUROR NO. 607: It was the City
11 of Henderson. (Indiscernible) know the details. It
12 never went to the court, so it had to have been dropped.

13 MR. BATEMAN: You weren't a witness or
14 anything in that case?

15 PROSPECTIVE JUROR NO. 607: No.

16 MR. BATEMAN: Anything about that case that
17 would cause me or should cause myself and Ms. Lewis to
18 be concerned about having you as a juror in this case?

19 PROSPECTIVE JUROR NO. 607: No.

20 MR. BATEMAN: Okay. You said you were
21 carjacked. When did at that occur?

22 PROSPECTIVE JUROR NO. 607: Must have been
23 when my kids were about five, about 18 years ago.

24 MR. BATEMAN: Okay. And where were you when
25 that took place?

1 PROSPECTIVE JUROR NO. 607: Henderson.

2 MR. BATEMAN: Henderson? Okay. So that was
3 quite a long time ago.

4 PROSPECTIVE JUROR NO. 607: Yes.

5 MR. BATEMAN: Were the individuals that
6 committed the crime against you ever apprehended?

7 PROSPECTIVE JUROR NO. 607: No.

8 MR. BATEMAN: Okay. Did you make a police
9 report and all those kinds of things?

10 PROSPECTIVE JUROR NO. 607: Absolutely.

11 MR. BATEMAN: All right.

12 PROSPECTIVE JUROR NO. 607: And they did
13 come.

14 MR. BATEMAN: I'm sorry?

15 PROSPECTIVE JUROR NO. 607: And they did
16 come.

17 MR. BATEMAN. The Henderson -- okay.
18 Anything about the fact that those individuals weren't
19 located or they didn't develop suspects that could be
20 prosecuted that cause -- again, would cause the State to
21 be concerned with having you as a witness?

22 PROSPECTIVE JUROR NO. 607: No. I -- no.
23 Other than they found the car in the same area where the
24 crimes in that general vicinity. The car was -- the car
25 was damaged immensely, but, you know, it wouldn't affect

1 me in anything.

2 MR. BATEMAN: Okay. When you say carjacked,
3 are you implying that there were weapons used?

4 PROSPECTIVE JUROR NO. 607: No. Carjacked
5 in the terminology that I would be using was the car was
6 set idle. Somebody went in the vehicle and stole the
7 vehicle.

8 MR. BATEMAN: Okay. Lastly, your sleep
9 apnea, when were you diagnosed with that?

10 PROSPECTIVE JUROR NO. 607: Couple years
11 ago.

12 MR. BATEMAN: Okay. So you go through that
13 whole process of going in and having all the wires
14 hooked up and everything?

15 PROSPECTIVE JUROR NO. 607: Yes.

16 MR. BATEMAN: Okay. You said that
17 occasionally you kind of lose some ability to, I don't
18 know --

19 PROSPECTIVE JUROR NO. 607: Process.

20 MR. BATEMAN: -- process? And your memory
21 sometimes is not what you'd like it to be?

22 PROSPECTIVE JUROR NO. 607: Right. Yeah.
23 Go ahead.

24 MR. BATEMAN: I guess my only question is
25 how often do you find yourself suffering from those

1 symptoms? Once a week? Once a month?

2 PROSPECTIVE JUROR NO. 607: It could -- it
3 varies. It could be daily. It could -- it could be --
4 it could be, you know, every other week, you know. It's
5 not that there's any rhyme or reason to any of it.

6 It could be that I haven't slept well at
7 night time, and I'm good for the morning, and then in
8 the afternoon I get fidgety. And as I get fidgety, I
9 get -- it's just hard for me to, like the sponge, grab
10 the information and process it, remove it and, you know,
11 process more information.

12 MR. BATEMAN: Is there any medication that
13 you can take for that --

14 PROSPECTIVE JUROR NO. 607: I'm --

15 MR. BATEMAN: -- particular --

16 PROSPECTIVE JUROR NO. 607: -- currently
17 trying different medications.

18 MR. BATEMAN: Okay.

19 PROSPECTIVE JUROR NO. 607: Some of them I
20 didn't like at all.

21 MR. BATEMAN: Have you had any problem with
22 what's been going on here this afternoon?

23 PROSPECTIVE JUROR NO. 607: Other than I'm
24 fidgety, yeah.

25 MR. BATEMAN: And I'm sure during the course

1 of the trial, if you were a juror, the judge would have
2 no problem with maybe -- maybe you standing up or maybe
3 standing to the side just to maybe move a little bit and
4 get the blood flowing.

5 PROSPECTIVE JUROR NO. 607: That does help,
6 yes.

7 MR. BATEMAN: Okay. Do you have some
8 concerns about being a juror in this case based upon
9 your medical treatment?

10 PROSPECTIVE JUROR NO. 607: I'm ready to
11 retire on \$40.

12 MR. BATEMAN: I'll pass for the cause,
13 Judge.

14 MR. FIGLER: And they're talking about
15 raising it. It sounds like you're almost happy with the
16 40 bucks.

17 PROSPECTIVE JUROR NO. 607: You have no
18 idea.

19 MR. FIGLER: Let me ask you about the
20 incident when you were exposed to the (indiscernible).
21 Were you an actual witness of the event that occurred or
22 you just came out here and the car was gone?

23 PROSPECTIVE JUROR NO. 607: No. I was a
24 witness. I was very close to the vehicle.

25 MR. FIGLER: So you saw the individuals who

1 did this?

2 PROSPECTIVE JUROR NO. 607: No.

3 MR. FIGLER: You didn't see it?

4 PROSPECTIVE JUROR NO. 607. It was in -- it
5 was 5:30 in December as in it was -- the car was a pitch
6 black car with black tinted windows. You couldn't see
7 anything.

8 MR. FIGLER: Okay. But it's not like you
9 were asked to get out of the vehicle by someone who was
10 standing there?

11 PROSPECTIVE JUROR NO. 607: No. He didn't
12 ask me to get out of the vehicle, but he did ask my sons
13 to get out of the vehicle.

14 MR. FIGLER: Oh, so your sons got to see who
15 these people were?

16 PROSPECTIVE JUROR NO. 607: Yeah. They were
17 five and three at the time.

18 MR. FIGLER: Oh, that's not a really great
19 witness.

20 PROSPECTIVE JUROR NO. 607: No.

21 MR. FIGLER: Okay. Thank God they were out
22 of the car. Has there ever been another occasion when
23 you were a witness to a crime or criminal activity?

24 PROSPECTIVE JUROR NO. 607: No.

25 MR. FIGLER: Now, you've lived in Las Vegas

1 a long time, about the same time I've been here. Have
2 you noticed a changed in Las Vegas with regard to crime?
3 Has it gone up, down, in your opinion, or about the
4 same?

5 PROSPECTIVE JUROR NO. 607: It's a wave like
6 I think anything else. It comes and goes. I think in
7 the overall big picture, I think it's in the better
8 percentages now.

9 MR. FIGLER: Okay. And as you look over
10 there at Jamar, do you have an opinion about him one way
11 or the other or --

12 PROSPECTIVE JUROR NO. 607: No.

13 MR. FIGLER: -- have you formed an opinion?

14 PROSPECTIVE JUROR NO. 607: No.

15 MR. FIGLER: Okay.

16 PROSPECTIVE JUROR NO. 607: He's innocent
17 until proven guilty.

18 MR. FIGLER: Okay. Sometimes we'll say
19 unless proven guilty, too. Is that the same thing?

20 PROSPECTIVE JUROR NO. 607: (Indiscernible).

21 MR. FIGLER: Exactly. Let me ask you this
22 question. Have you ever had interactions with attorneys
23 before?

24 PROSPECTIVE JUROR NO. 607: Sure.

25 MR. FIGLER: Okay.

1 PROSPECTIVE JUROR NO. 607: I've been
2 divorced twice.

3 MR. FIGLER: Don't know if I want to ask the
4 next question, but I think I have to. As far as
5 criminal defense attorneys how would you rate your
6 opinion of them going from like say one would be very
7 negative ten would be very positive. Where do you view
8 criminal defense attorneys?

9 PROSPECTIVE JUROR NO. 607: Do I have to
10 have an opinion?

11 MR. FIGLER: You sound like an opinionated
12 person, and just because you don't want to give it all
13 the time --

14 PROSPECTIVE JUROR NO. 607: No. I don't
15 have an opinion. I treat everybody equally. I belong
16 to a 12-step program. Been a member for many years, and
17 I give everybody the benefit of the doubt.

18 MR. FIGLER: All right. Can't ask for more.
19 Pass for cause. Thank you.

20 MR. SINGER: Are your three adult children
21 employed currently?

22 PROSPECTIVE JUROR NO. 607: One of them, my
23 daughter, is currently at UNLV. My oldest son is
24 employed, and my youngest son is not.

25 MR. SINGER: And your oldest son, what does

1 he do for a living?

2 PROSPECTIVE JUROR NO. 607: He works for an
3 electrical engineering company.

4 MR. SINGER: And how old is he?

5 PROSPECTIVE JUROR NO. 607: 23.

6 MR. SINGER: And have you personally -- I'm
7 assuming -- I'll just direct this towards the Henderson
8 Police Department. Have you had any contact personally
9 with them?

10 PROSPECTIVE JUROR NO. 607: In what regards?

11 MR. SINGER: Any.

12 PROSPECTIVE JUROR NO. 607: No.

13 MR. SINGER: No interaction at all?

14 PROSPECTIVE JUROR NO. 607: No.

15 MR. SINGER: Never been questioned?

16 PROSPECTIVE JUROR NO. 607: Well, sure, I've
17 been pulled over by the -- you know, for something that,
18 you know, might have been a citation or something or
19 another, but --

20 MR. SINGER: Okay.

21 PROSPECTIVE JUROR NO. 607: -- and I know
22 the lead -- the head guy in the S.W.A.T. division out
23 there, but, and he -- just because I lived next door to
24 him for a few months.

25 MR. SINGER: Okay.

1 PROSPECTIVE JUROR NO. 607: Have any
2 interaction? No.

3 MR. SINGER: When you lived next door to the
4 chief of Henderson or ranking official, did you discuss
5 cases with him? Did you have a cordial relationship
6 with him as a neighbor?

7 PROSPECTIVE JUROR NO. 607: As a neighbor?

8 MR. SINGER: Yeah.

9 PROSPECTIVE JUROR NO. 607: As a neighbor.

10 MR. SINGER: Yes.

11 PROSPECTIVE JUROR NO. 607: That's my
12 answer.

13 MR. SINGER: Okay. I have nothing further.
14 Pass for cause.

15 Thank you.

16 THE COURT: Thank you. Mr. --

17 PROSPECTIVE JUROR NO. 607: (Indiscernible).

18 MR. SINGER: (Indiscernible) I hear you.

19 THE COURT: Mr. Acosta, tell us about -- how
20 long have you been in Las Vegas?

21 PROSPECTIVE JUROR NO. 609: Well, I came
22 here in August of 2001.

23 THE COURT: And tell us about your
24 employment?

25 PROSPECTIVE JUROR NO. 609: I own a

1 landscaping maintenance company, and I'm not married, no
2 kids.

3 THE COURT: Any prior jury experience?

4 PROSPECTIVE JUROR NO. 609: No.

5 THE COURT: Any close family member or
6 friend been a victim of a crime?

7 PROSPECTIVE JUROR NO. 609: No.

8 THE COURT: Any close family member or
9 friend been accused of a crime?

10 PROSPECTIVE JUROR NO. 609: No.

11 THE COURT: Would you give the weight of a
12 police officer any greater or lesser -- the testimony of
13 any police officer any greater or lesser weight simply
14 because they are a police officer?

15 PROSPECTIVE JUROR NO. 609: No, I would not.

16 THE COURT: Can you wait in forming your
17 opinion as to the guilt or innocence of these men until
18 all the evidence and instructions are given to you if
19 you're selected as a juror?

20 PROSPECTIVE JUROR NO. 609: Yes, I can.

21 THE COURT: Is there any reason why you
22 couldn't be a completely fair and impartial juror?

23 PROSPECTIVE JUROR NO. 609: None whatsoever.

24 THE COURT: State.

25 MR. BATEMAN: For all the questions that

1 have been asked, anything you would have wanted to
2 comment on?

3 PROSPECTIVE JUROR NO. 609: No. I got
4 everything.

5 MR. BATEMAN: Any negative police
6 interaction that you may have had?

7 PROSPECTIVE JUROR NO. 609: No.

8 MR. BATEMAN: Where did you live before you
9 came here to Las Vegas?

10 PROSPECTIVE JUROR NO. 609: Texas.

11 MR. BATEMAN: Okay. You own any firearms?

12 PROSPECTIVE JUROR NO. 609: I do not.

13 MR. BATEMAN: Okay. Anything that myself or
14 Ms. Lewis should be concerned about having you as a
15 juror?

16 PROSPECTIVE JUROR NO. 609: No.

17 MR. BATEMAN: Okay. Pass for cause.

18 THE COURT: Mr. Bunin.

19 MR. BUNIN: Thank you. I don't know. I
20 think I probably only have a few questions for you, too.
21 Do you have any -- have you formed any opinions about
22 attorneys that might be relevant today?

23 PROSPECTIVE JUROR NO. 609: None yet.

24 MR. BUNIN: It's not possible that none of
25 you have an opinion about attorneys. All right.

1 Nothing at all?

2 PROSPECTIVE JUROR NO. 609: Nothing yet.

3 MR. BUNIN: All right. Nothing about a
4 person who chose to be a prosecutor or a person that
5 chooses to defend people accused of crimes? Would that
6 bother you?

7 PROSPECTIVE JUROR NO. 609: Definitely not.

8 MR. BUNIN: Okay. You understand as Jamar
9 sits there today and you look at him, do you see him as
10 innocent?

11 PROSPECTIVE JUROR NO. 609: Yes, I do.

12 MR. BUNIN: As you sit there now without
13 hearing any evidence?

14 PROSPECTIVE JUROR NO. 609: (Indiscernible)
15 any evidence.

16 MR. BUNIN: Would you be comfortable -- I
17 know we've talked about this topic a little bit before,
18 but not in awhile, but would you be comfortable -- let's
19 talk about your personality a little bit.

20 You know, we call you a jury, but you're 12
21 individual jurors. You're each your own person. You
22 understand?

23 PROSPECTIVE JUROR NO. 609: (Indiscernible).

24 MR. BUNIN: All right. If you hear all the
25 testimony and you form an opinion and other people in

1 the jury room (indiscernible) form a different opinion,
2 certainly I assume you'd be open-minded. Would you be
3 able to talk about your different positions?

4 PROSPECTIVE JUROR NO. 609: Sure.

5 MR. BUNIN: If at some point that person was
6 unable to convince you to change your mind and you were
7 unable to convince them, would you still be comfortable?

8 PROSPECTIVE JUROR NO. 609: I would knowing
9 that we dwelled into it and we talked about it that we
10 can come to an agreement, then I would be comfortable
11 with that. But if we didn't talk about it, you know, we
12 just came -- we were just, you know, so forced in our
13 opinion, then I would have a problem with that.

14 MR. BUNIN: Do you feel like that as a jury
15 you have to come to an agreement between all of you?

16 PROSPECTIVE JUROR NO. 609: No. Not that
17 you have to, but it's important that you talk about all
18 the evidence in the case and try to reach an agreement.
19 If you can't, then you can't.

20 MR. BUNIN: Different people have different
21 opinions about (indiscernible)?

22 PROSPECTIVE JUROR NO. 609: Oh, sure. Sure.

23 MR. BUNIN: And so long as I guess everybody
24 listens to each other, then it's okay?

25 PROSPECTIVE JUROR NO. 609: Sure.

1 MR. BUNIN: Suppose in the end everybody
2 does listen to each other, but you just can't form an
3 opinion. Are you the type of person -- do you have the
4 personality to stick to your opinion if they can't
5 convince you that you were wrong?

6 PROSPECTIVE JUROR NO. 609: Yes.
7 (Indiscernible).

8 MR. BUNIN: Even if it was -- you know, I
9 used to ask the question I called the Friday question.
10 Suppose it's Friday afternoon (indiscernible) be here
11 that late in the week. But suppose it's Friday at 4:00
12 and nobody wants to come back on Monday and you know it,
13 and pretty much everybody has a different opinion than
14 the one you have, but you're just not convinced talking
15 to them that they're right. Could you maybe come back
16 on Monday?

17 PROSPECTIVE JUROR NO. 609: Since this is a
18 murder, I think I would have to.

19 MR. BUNIN: Okay. Are you comfortable being
20 in possibly confrontational situations like that where
21 you maybe have to -- having pretty big disagreements
22 with people over a very important issue?

23 PROSPECTIVE JUROR NO. 609: That's not what
24 I'm looking forward to, but if it comes to that, I'm
25 comfortable with it.

1 MR. BUNIN: Do you think you can do it?

2 PROSPECTIVE JUROR NO. 609: Yes.

3 MR. BUNIN: Okay. I'll pass for cause,
4 Judge.

5 THE COURT: Thank you.

6 MR. SINGER: Pass for cause.

7 THE COURT: Thank you.

8 Ms. Sarti, I note that your father's in the
9 hospital. Is that situation going to affect your
10 ability to sit as a juror here today?

11 PROSPECTIVE JUROR NO. 614: I don't -- well,
12 we went through a big -- my dad had a cardiac arrest
13 about three weeks ago, so my mind is obviously over
14 there more than here.

15 THE COURT: Okay. Are you going to be able
16 to set that aside and listen to the evidence fairly here
17 today or is it going to weigh on you to the point where
18 that you are going to be distracted from the evidence?

19 PROSPECTIVE JUROR NO. 614: It's kind of a
20 day-by-day being with him. You know, he's getting
21 better, so I think I'd be okay unless (indiscernible) --

22 THE COURT: Very good. How long have you
23 been here in Las Vegas?

24 PROSPECTIVE JUROR NO. 614: 13 years.

25 THE COURT: And what do you do for a living?

1 PROSPECTIVE JUROR NO. 614: I'm a purchasing
2 agent for Richmond American Homes.

3 THE COURT: And are you married?

4 PROSPECTIVE JUROR NO. 614: Engaged.

5 THE COURT: And have you ever served as a
6 juror before?

7 PROSPECTIVE JUROR NO. 614: No.

8 THE COURT: Any negative contacts with law
9 enforcement?

10 PROSPECTIVE JUROR NO. 614: No.

11 THE COURT: Any close family member or
12 friends that have been accused of a crime?

13 PROSPECTIVE JUROR NO. 614: My half-brother
14 went to jail for domestic violence.

15 THE COURT: Would that situation affect your
16 ability to be fair and impartial here?

17 PROSPECTIVE JUROR NO. 614: No. I'm not
18 that close to him so --

19 THE COURT: Close family member or friends
20 ever been a victim of crime?

21 PROSPECTIVE JUROR NO. 614: No.

22 THE COURT: Can you or would you give a
23 police officer more or less weight in their testimony
24 simply because they are a police officer?

25 PROSPECTIVE JUROR NO. 614: No.

1 THE COURT: Can you wait in forming your
2 opinion in this case if you're selected as a juror until
3 after you've heard all of the evidence and heard all of
4 the instructions?

5 PROSPECTIVE JUROR NO. 614: Yes.

6 THE COURT: Do you know of any reason why
7 you couldn't be a completely fair and impartial juror?

8 PROSPECTIVE JUROR NO. 614: No.

9 THE COURT: State.

10 MR. BATEMAN: Pass for cause, Judge.

11 THE COURT: Defense.

12 MR. FIGLER: Thank you.

13 Ms. Sarti?

14 PROSPECTIVE JUROR NO. 614: Yes.

15 MR. FIGLER: There's going to be no dispute
16 in this case that a very young woman lost her life
17 because of a bullet, okay? And you understand it's a
18 real thing.

19 It's a real dead body, and in all
20 likelihood, the prosecution's going to show you pictures
21 of that. Is there anything about that idea that gives
22 you cause or concern to be in this case?

23 PROSPECTIVE JUROR NO. 614: I don't think
24 so.

25 MR. FIGLER: Okay. You know, we have -- and

1 I meant to ask others, and of course, obviously, if it
2 comes up, you can say it. But sometimes it could be a
3 little bit brutal and we ask people, and you'll be
4 instructed to put aside your sympathies that a young
5 woman perished at somebody's hand, and you understand
6 that you'll be asked to do that and you think you can do
7 that?

8 PROSPECTIVE JUROR NO. 614: Yes.

9 MR. FIGLER: Okay. Now, conversely, another
10 young man is sitting here, and he's just a citizen
11 accused of doing this, and you understand that there's a
12 lot on the line for him as well. And does anything
13 about that cause you any concern to be a juror in this
14 particular case?

15 PROSPECTIVE JUROR NO. 614: No.

16 MR. FIGLER: Okay. Now, I had asked -- I
17 think it was Mr. Green -- before about the ability to
18 perceive differences on different factors like ethnicity
19 or race or country of origin, et cetera. Would you
20 agree that it's more likely for people of the same group
21 to be able to identify people within that group than
22 people outside the group?

23 PROSPECTIVE JUROR NO. 614: No. I don't
24 think it matters.

25 MR. FIGLER: Okay. So are you saying that

1 despite the fact that there's a familiarity that people
2 would have of certain characteristics, that someone from
3 outside that group would be just as good as someone
4 inside that group?

5 PROSPECTIVE JUROR NO. 614: Yeah. I don't
6 understand, really, what you're getting at.

7 MR. FIGLER: Okay. Have you ever heard the
8 expression "racial profiling" or anything like that?

9 PROSPECTIVE JUROR NO. 614: Well, I'm not
10 racist or anything like that.

11 MR. FIGLER: (Indiscernible). Trust me, I'm
12 not accusing you of that.

13 PROSPECTIVE JUROR NO. 614: Oh, I don't
14 think it matters whether -- you know, where you come
15 from or anything like that.

16 MR. FIGLER: Okay. So you would disagree
17 that sometimes it would be harder for a person of one
18 color to be able to distinguish between other people and
19 the characteristics of a different race?

20 PROSPECTIVE JUROR NO. 614: No.

21 MR. FIGLER: So you disagree with that
22 comment?

23 PROSPECTIVE JUROR NO. 614: Yeah. I
24 disagree.

25 MR. FIGLER: Okay. What sort of things do

1 you think would be important in identification or issues
2 of identification?

3 PROSPECTIVE JUROR NO. 614: What I think is
4 important?

5 MR. FIGLER: What would be important factors
6 to make sure that someone has a good identification of
7 someone versus not?

8 PROSPECTIVE JUROR NO. 614: You mean as far
9 as like the way they look or I don't -- you mean
10 their --

11 MR. FIGLER: I'm just asking you --

12 PROSPECTIVE JUROR NO. 614: -- personality
13 or --

14 MR. FIGLER: Let's assume if you were a
15 witness to an event --

16 PROSPECTIVE JUROR NO. 614: Um-h'm.

17 MR. FIGLER: -- what would be the factors
18 that would make your observations more credible or not?
19 What things would you look for for a witness testifying
20 from the stand?

21 PROSPECTIVE JUROR NO. 614: Well, obviously,
22 you'd listen to what they're saying, their answers, and
23 I don't know. I don't think I would -- sometimes people
24 go off of like their body language or, you know, some
25 people go off of what they feel towards that person or,

1 you know, the feeling you get, like your gut feeling or
2 something, but I think more important is how they answer
3 their questions and whether they're telling the truth or
4 not.

5 MR. FIGLER: Okay. Would you agree that the
6 amount of time someone saw someone would be an important
7 factor to determine whether or not they have a credible
8 identification of someone?

9 PROSPECTIVE JUROR NO. 614: Yeah.

10 MR. FIGLER: Okay. And would you agree that
11 the specificity that they give in the identification
12 would be an important factor with regard to credibility?

13 PROSPECTIVE JUROR NO. 614: Yes.

14 MR. FIGLER: Okay. And the proximity, the
15 closeness or the further away, that someone would be a
16 factor to evaluate credibility?

17 PROSPECTIVE JUROR NO. 614: Yes, depending
18 on how good you see.

19 MR. FIGLER: Okay. And then your vision,
20 too.

21 PROSPECTIVE JUROR NO. 614: Right. Yeah,
22 your vision.

23 MR. FIGLER: And whether it's unobstructed
24 or not, correct?

25 PROSPECTIVE JUROR NO. 614: Right.

1 MR. FIGLER: Okay. And whether or not
2 you're moving or you're stationary, correct?

3 PROSPECTIVE JUROR NO. 614: Right.

4 MR. FIGLER: Okay. And all those would be
5 important factors for credibility?

6 PROSPECTIVE JUROR NO. 614: Yes.

7 MR. FIGLER: And you agree with that?

8 PROSPECTIVE JUROR NO. 614: Yes.

9 MR. FIGLER: Okay. I'll pass for cause.

10 MR. SINGER: Just a quick follow-up. You
11 know that since there's going to be testimony and
12 evidence for sure that somebody perished, somebody died
13 because of a bullet, do you feel -- overall, do you feel
14 like you're a sympathetic person? Do you feel a
15 stronger sympathy than usual? Do people characterize
16 you as a sympathetic person?

17 PROSPECTIVE JUROR NO. 614: Probably a
18 little bit. Not, you know -- I think everybody's a
19 little bit sympathetic.

20 MR. SINGER: Right. Some more than others.

21 PROSPECTIVE JUROR NO. 614: Yeah.

22 MR. SINGER: I'm just asking about you
23 specifically.

24 PROSPECTIVE JUROR NO. 614: Yeah, a little
25 bit.

1 MR. SINGER: And if the judge asked you or
2 told you that the law says you have to leave all your
3 sympathies outside the door, kind of like a surgeon
4 leaves all their sympathies outside the operating
5 room --

6 PROSPECTIVE JUROR NO. 614: Um-h'm.

7 MR. SINGER: -- whether it's a child or
8 whatever, you just have to leave them outside, could you
9 do that?

10 PROSPECTIVE JUROR NO. 614: Yes.

11 MR. SINGER: And in this case, you're going
12 to hear about a young person that died. Are you going
13 to have an overwhelming feeling that you're going to
14 want to attribute blame to somebody and Pierre's sitting
15 here, so you might want to attribute blame to him?

16 PROSPECTIVE JUROR NO. 614: No.

17 MR. SINGER: Thank you. Pass for cause.

18 THE COURT: Thank you.

19 Ms. Porter.

20 PROSPECTIVE JUROR NO. 617: Hello.

21 THE COURT: Hello. You have some special
22 circumstance I recall as we began this process, but my
23 note is unclear as to what that was. I thought it
24 was --

25 PROSPECTIVE JUROR NO. 617: Transportation.

1 THE COURT: I thought it was transportation.
2 Are we going to be able to resolve those transportation
3 issues to get you here so you can participate if you are
4 selected as a member of this jury? Good. How long have
5 you been here in Las Vegas?

6 PROSPECTIVE JUROR NO. 617: Been in Vegas
7 since June of '01.

8 THE COURT: And what do you do for a living?

9 PROSPECTIVE JUROR NO. 617: I'm a bartender.

10 THE COURT: And how long have you been doing
11 that kind of work?

12 PROSPECTIVE JUROR NO. 617: For about four
13 years now.

14 THE COURT: And your marital status.

15 PROSPECTIVE JUROR NO. 617: Married.

16 THE COURT: Kids?

17 PROSPECTIVE JUROR NO. 617: No.

18 THE COURT: Have you ever served as a juror
19 before?

20 PROSPECTIVE JUROR NO. 617: No.

21 THE COURT: Any close family member or
22 friends been the victim of a crime?

23 PROSPECTIVE JUROR NO. 617: No.

24 THE COURT: Or yourself, for that matter?

25 PROSPECTIVE JUROR NO. 617: No.

1 THE COURT: Any close family member or
2 friends or you been accused of a crime?

3 PROSPECTIVE JUROR NO. 617: No.

4 THE COURT: Would you tend to give a police
5 officer more or less credibility in their testimony
6 simply because they are a police officer?

7 PROSPECTIVE JUROR NO. 617: No.

8 THE COURT: Can you wait and form your
9 opinion if you're selected as a juror in this case until
10 after you've heard all of the evidence and received all
11 the instructions from me?

12 PROSPECTIVE JUROR NO. 617: Yes.

13 THE COURT: Is there any reason why you
14 couldn't be a completely fair and impartial juror in
15 this case?

16 PROSPECTIVE JUROR NO. 617: No.

17 THE COURT: State.

18 MR. BATEMAN: Pass for cause.

19 THE COURT: Defense.

20 MR. BUNIN: Thank you, Your Honor.

21 Hello, Mrs. Porter. Now, do you watch law
22 or crime TV shows?

23 PROSPECTIVE JUROR NO. 617: I think
24 everybody does, but, yes.

25 MR. BUNIN: Like CSI --

1 PROSPECTIVE JUROR NO. 617: Yes.

2 MR. BUNIN: -- those type of shows? Do you
3 like those shows?

4 PROSPECTIVE JUROR NO. 617: They're
5 interesting. It passes time where there's really
6 nothing else on TV.

7 MR. BUNIN: What do you like about them
8 besides it just kills time?

9 PROSPECTIVE JUROR NO. 617: Just kills the
10 time.

11 MR. BUNIN: That's pretty much it?

12 PROSPECTIVE JUROR NO. 617: Yeah.

13 MR. BUNIN: Nothing in particular?

14 PROSPECTIVE JUROR NO. 617: No.

15 MR. BUNIN: You don't envision yourself
16 maybe on one side or the other --

17 PROSPECTIVE JUROR NO. 617: No. It's
18 just --

19 MR. BUNIN: -- or thinking about it?

20 PROSPECTIVE JUROR NO. 617: -- all TV. It's
21 all whatever they pull and want to do with it, so, no.

22 MR. BUNIN: Okay. You know, you've heard a
23 lot of different topics that we've talked about, so I'll
24 try to narrow it down and not repeat myself too much.

25 Is there anything we've discussed that you

1 would maybe like to follow up on? You comfortable with
2 all the different concepts we talked about, how it's the
3 prosecutor's sole burden to prove their case beyond a
4 reasonable doubt? Are you comfortable with that?

5 PROSPECTIVE JUROR NO. 617: Yes.

6 MR. BUNIN: And would you be comfortable if
7 the State put on their entire case, and maybe you didn't
8 believe after putting on their case they've proved it
9 beyond a reasonable doubt and the defense chose to put
10 on no evidence whatsoever, would you be comfortable at
11 that point then finding Jamar not guilty?

12 PROSPECTIVE JUROR NO. 617: I'd rather hear
13 his side, too, even if they prove their point. I would
14 rather hear his side even if he's guilty or not guilty.

15 MR. BUNIN: And do you think -- I mean, and
16 certainly you'll be instructed that you can't think that
17 way when you're on a jury. You can't take that into
18 consideration.

19 But we're not here to do anything other than
20 get really honest answers which I know are difficult to
21 some of these questions, and there's no right answer.
22 Like Mr. Figler said earlier, there's no wrong answer to
23 any question we ask you. Just whatever the honest truth
24 is is the right answer.

25 Do you think it's possible that despite the

1 instructions back in the jury room, if the prosecutors
2 have put their entire case on and the defense chose not
3 to put a case on whatsoever, that you might hold that
4 against Jamar in some subtle way? You might be upset
5 that they chose not to put any evidence on.

6 PROSPECTIVE JUROR NO. 617: No.

7 MR. BUNIN: You think that -- and I know you
8 just said that you would have liked to have heard from
9 them.

10 PROSPECTIVE JUROR NO. 617: I was always
11 been told if you're guilty or not guilty always tell
12 your story even if, you know, if it's going to hurt you
13 or not. At least people get to hear your side --

14 MR. BUNIN: Yeah.

15 PROSPECTIVE JUROR NO. 617: -- so that would
16 be my reason why I would want to hear Jamal's (sic) --

17 MR. BUNIN: And if Jamar, you know --

18 PROSPECTIVE JUROR NO. 617: Jamar, I'm
19 sorry.

20 MR. BUNIN: That's okay. So then if Jamar
21 spoke to his attorneys and we decided not to put any
22 evidence on whatsoever, then in the jury room you might
23 hold that against Jamar. You might say, well, that's
24 kind of a negative against him because he decided not to
25 get on the stand and talk about his side of the story.

1 PROSPECTIVE JUROR NO. 617: Not if they
2 proved themselves good enough, then I wouldn't have to
3 worry about his side of the story.

4 MR. BUNIN: If they prove their case?
5 Suppose they don't, and suppose it's a pretty close call
6 and you think, well, this is close, but I got this
7 instruction on what reasonable doubt is from the judge,
8 and I read it, and I don't think that the State -- that
9 the prosecutors have met that burden as to what
10 reasonable doubt is?

11 And now you're sitting there, they rest
12 their case, and you're waiting for Jamar to get up on
13 the stand, and one of us stands up and says defense
14 rests. That's going to bother you?

15 PROSPECTIVE JUROR NO. 617: I won't lose
16 sleep over it, but it won't -- no, it won't bother me.

17 MR. BUNIN: When I say bother you, I mean
18 bother you to the extent that it might affect your
19 ability to decide whether or not the prosecutors have
20 proved their case.

21 PROSPECTIVE JUROR NO. 617: Yeah, it would.

22 MR. BUNIN: And, you know, and to that
23 extent it would affect your ability to follow the
24 instruction about not taking into consideration whether
25 or not Jamar chose to testify?

1 I would challenge for cause, Your Honor.

2 THE COURT: Traverse.

3 MS. LEWIS: Ms. Porter, you heard me give
4 the explanation earlier about how the criminal justice
5 system works, and you're aware of how our system works,
6 right?

7 PROSPECTIVE JUROR NO. 617: Yes.

8 MS. LEWIS: Okay. And, you know, I don't
9 think anybody's asking you to leave your common sense
10 outside at the door. Certainly that's why we're asking
11 everybody all of these difficult questions because we
12 just want to pick the 12 people that -- or 14 people,
13 however many we're picking today, who can be fair and
14 impartial to both sides. Do you think you can do that?

15 PROSPECTIVE JUROR NO. 617: Yes.

16 MS. LEWIS: Okay. So even though you say
17 that your belief is even whether you're right or wrong
18 you still should say your peace and say your story,
19 that's your personal view. And even though that's your
20 belief, will you be able to follow the Court's
21 instructions on the law and follow the law in this case
22 and evaluate the facts of this case?

23 PROSPECTIVE JUROR NO. 617: Yes.

24 MS. LEWIS: So if one of those instructions
25 is as I explained earlier that the defense doesn't have

1 to do anything, they don't have to even ask a single
2 question of any witness, and, certainly, the defendants
3 don't have to testify in this case, will you be able to
4 still follow that instruction, despite what your belief
5 is?

6 And your preference may be that they would
7 testify, but would you be able to follow the
8 instructions that are given to you and make a
9 determination as to whether the State has met its
10 burden?

11 PROSPECTIVE JUROR NO. 617: Yes.

12 MS. LEWIS: I think that the question that
13 Mr. Bunin was asking you about is if it were a close
14 call one way or the other, are you going to use that
15 against the defendant?

16 PROSPECTIVE JUROR NO. 617: No.

17 MS. LEWIS: Okay. So if the State has met
18 its burden, you will find the defendants guilty? You'll
19 be able to do that?

20 PROSPECTIVE JUROR NO. 617: Yes.

21 MS. LEWIS: And if the State has not met its
22 burden, you'll be able to find them not guilty?

23 PROSPECTIVE JUROR NO. 617: Yes.

24 MS. LEWIS: And even though that's your
25 belief about wanting people to tell their story or say

1 their peace, you won't hold that against the --

2 PROSPECTIVE JUROR NO. 617: No.

3 MS. LEWIS: -- defendants in this case?

4 PROSPECTIVE JUROR NO. 617: No.

5 MS. LEWIS: Okay. Thank you, Judge. Pass
6 for cause.

7 THE COURT: Motion --

8 MR. BUNIN: May I follow up a little bit
9 more, Your Honor?

10 THE COURT: Absolutely.

11 MR. BUNIN: I appreciate that.

12 And, you know, I'm sorry, because I'm not
13 trying to pick on you at all.

14 PROSPECTIVE JUROR NO. 617: Oh, no. That's
15 fine.

16 MR. BUNIN: What we're trying to get are the
17 most honest answers, and sometimes you're asked
18 questions, and you kind of know what the people asking
19 the question want you to say, and it's very natural to
20 answer the question.

21 But I think it's very difficult for
22 everybody as potentially a juror to step back and really
23 think about whether or not your own personal beliefs --
24 everybody comes in here with, you know, personal beliefs
25 you may have had your entire life, whether these

1 personal beliefs might affect your ability to be a juror
2 on certain types of cases.

3 And, you know, I asked you a few moments ago
4 if it's a very close call and, you know, you were always
5 taught that guilty or innocent you should tell your
6 story. I said if it's a very close call and Jamar, you
7 know, decides not to tell his story, although you
8 wouldn't lose sleep over it, it might affect you.

9 PROSPECTIVE JUROR NO. 617: The instructions
10 are given to me. I'll go off the instructions.

11 MR. BUNIN: That's right. And everybody is
12 supposed to follow the instructions. You understand
13 that?

14 But do you think it's possible that despite
15 the instruction that you may -- your personal beliefs
16 might actually affect your ability as you sit and think
17 about it to follow that instruction perfectly? And
18 again, there's not a right answer. There's not a wrong
19 answer at all.

20 What we want everybody to do is really sit
21 back and think and say, okay, I know the law. I know
22 that instruction. I understand what it is.

23 But as I really sit and look at it, is Jamar
24 or maybe for some people is the prosecution going to get
25 a fair trial? Can I really follow this instruction

1 based on my beliefs coming in?

2 So if we go through this entire trial and
3 the prosecutors put their case on and in your mind it's
4 a very close call, you're not sure whether they met
5 their burden and Jamar chooses not to testify, are you
6 certain you can set that aside?

7 PROSPECTIVE JUROR NO. 617: Yes.

8 MR. BUNIN: Okay. Can you tell me what
9 makes you so certain of that because, obviously, it's --
10 this is something you kind of -- you're thinking it
11 through as we're talking about it and kind of giving
12 some different answers about different scenarios. What
13 makes you so certain that you can set aside your
14 personal beliefs based on the instruction?

15 PROSPECTIVE JUROR NO. 617: I don't know if
16 he's guilty or not guilty, so right now he's not guilty
17 until it comes down to hearing what the prosecution is
18 going to give. Then we go back in the room, think about
19 it, go off there, things might change. But I -- I -- it
20 won't -- no, if he doesn't testify, then that's fine.
21 It's not --

22 MR. BUNIN: You don't think there's any
23 chance that could affect you?

24 PROSPECTIVE JUROR NO. 617: No.

25 MR. BUNIN: Okay. Even though, you know,

1 your entire life you believe that you're supposed to
2 tell your story. You don't think that's something that
3 would bother you if he chooses not to, and I don't know
4 that he -- I don't know whether he is or not, but we
5 just kind of need to make sure we have a jury that's
6 going to be okay with it if he chooses not to.

7 PROSPECTIVE JUROR NO. 617: No. If he
8 chooses not to, that's fine.

9 MR. BUNIN: Okay. Or if the defense in
10 general chooses not to put any evidence whatsoever,
11 maybe we don't believe the State has met their burden
12 and we just say that's it, we're fine, we rest, go back
13 there, we don't think they've proven their case, would
14 you go back there concerned that maybe there are
15 questions unanswered that could have been answered by
16 Jamar or the defense?

17 PROSPECTIVE JUROR NO. 617: I guess it comes
18 down (indiscernible) questions get brought up, then
19 that's -- I mean, you'll have that question
20 (indiscernible) that should have been asked or it should
21 have been asked or he should have spoke on part of this,
22 but, no.

23 MR. BUNIN: Have you ever been -- not of a
24 crime -- but, you know, have you ever been accused of
25 doing anything you didn't do before by anybody?

1 PROSPECTIVE JUROR NO. 617: No.

2 MR. BUNIN: Never have? You can't think of
3 anyone that said, I don't know, you did X, and you had
4 to defend yourself?

5 PROSPECTIVE JUROR NO. 617: (Indiscernible).

6 MR. BUNIN: How would you, if somebody said
7 something? Do you think you would --

8 PROSPECTIVE JUROR NO. 617: Prove it.

9 MR. BUNIN: You would have to prove it?

10 PROSPECTIVE JUROR NO. 617: Um-h'm.

11 MR. BUNIN: And do you think that's how it
12 should be?

13 PROSPECTIVE JUROR NO. 617: Yes.

14 MR. BUNIN: And, you know, I'm not trying
15 not to go in circles, I promise, but in the courtroom
16 that's not how it is. In fact, a person accused of a
17 crime doesn't have to prove anything. You understand
18 that?

19 PROSPECTIVE JUROR NO. 617: Um-h'm.

20 MR. BUNIN: And you're comfortable with that
21 concept?

22 PROSPECTIVE JUROR NO. 617: Yeah.

23 MR. BUNIN: Is if the defense chooses to try
24 not to prove anything, you can sit back right now and
25 think there is no chance I'm going to make that any sort

1 of negative towards the defense because they made a
2 decision not to prove anything?

3 PROSPECTIVE JUROR NO. 617: Exactly.

4 MR. BUNIN: Okay. Thank you.

5 THE COURT: Challenge for cause is noted and
6 overruled.

7 Mr. Singer.

8 MR. SINGER: Pass for cause, Judge.

9 THE COURT: Thank you.

10 Ms. Edna -- pronounce your last name for me.
11 Please.

12 PROSPECTIVE JUROR NO. 620: Bisquera.
13 Bisquera, Your Honor.

14 THE COURT: Bisquera. Ms. Bisquera, you've
15 heard the questions we've been asking. How long have
16 you been in Las Vegas?

17 PROSPECTIVE JUROR NO. 620: I've been here
18 for three years.

19 THE COURT: And where did you come from?

20 PROSPECTIVE JUROR NO. 620: Originally, I'm
21 from the Philippines, and I came to -- went to
22 Los Angeles in 1977.

23 THE COURT: And what do you --

24 PROSPECTIVE JUROR NO. 620: And I'm --

25 THE COURT: I'm sorry.

1 PROSPECTIVE JUROR NO. 620: Yeah. I'm
2 married. I don't have no children, but -- and I'm a
3 registered nurse and working at (indiscernible), and
4 I've been a nurse for 28 years.

5 THE COURT: Children?

6 PROSPECTIVE JUROR NO. 620: No.

7 THE COURT: Do you have any prior jury
8 experience?

9 PROSPECTIVE JUROR NO. 620: No.

10 THE COURT: Have you ever, you, a close
11 member or friend ever been accused of a crime?

12 PROSPECTIVE JUROR NO. 620: No.

13 THE COURT: You, close family member or a
14 friend ever been a victim of crime?

15 PROSPECTIVE JUROR NO. 620: Well, my -- four
16 tires on my car was stolen from my house. They left my
17 car standing on bricks.

18 THE COURT: How long ago was that?

19 PROSPECTIVE JUROR NO. 620: That was like
20 ten years ago.

21 THE COURT: Is there anything about that
22 experience that might affect your ability to be fair
23 here?

24 PROSPECTIVE JUROR NO. 620: No.

25 THE COURT: All right. Would you give the

1 weight -- the testimony of a police officer greater or
2 lesser credibility simply because they are a police
3 officer?

4 PROSPECTIVE JUROR NO. 620: No.

5 THE COURT: Can you wait in forming your
6 opinion as to the guilt or innocence of these men until
7 after all the evidence and instructions is given to you
8 if you're selected as a member of this jury?

9 PROSPECTIVE JUROR NO. 620: Yes.

10 THE COURT: Do you know of any reason why
11 you couldn't be a completely fair and impartial juror?

12 PROSPECTIVE JUROR NO. 620: No.

13 THE COURT: State.

14 MR. BATEMAN: I just have a quick question
15 for you. I was asking Mr. Green about some of the
16 television shows. I saw you shake your head about CSI.

17 PROSPECTIVE JUROR NO. 620: Yes. I love
18 watching -- I love watching those kind of shows.

19 MR. BATEMAN: Okay. Why do you like those
20 shows?

21 PROSPECTIVE JUROR NO. 620: Because I -- I
22 like to watch how -- how the law -- how the law -- the
23 justice system is and how it works, and I like to see
24 how they collect evidence. I -- I'm fascinated. I've
25 been reading Perry Mason books before so --

1 MR. BATEMAN: You watch any other shows
2 other than CSI?

3 PROSPECTIVE JUROR NO. 620: I watch Cold
4 Case Files.

5 MR. BATEMAN: Based upon watching CSI and
6 how they get like a fingerprint off of the, you know,
7 head of a needle and all that kind of stuff, do you
8 expect to see that here in the courtroom?

9 PROSPECTIVE JUROR NO. 620: No.

10 MR. BATEMAN: Okay.

11 PROSPECTIVE JUROR NO. 620: Because --
12 because they try to make it more exciting on television,
13 so I'm aware of that.

14 MR. BATEMAN: Okay. So you think it might
15 be a little bit exaggerated?

16 PROSPECTIVE JUROR NO. 620: It is always
17 because even when I watch -- you know, if you watch ER,
18 they exaggerate things there, too, so I know.

19 MR. BATEMAN: Okay. And that's a good
20 analogy. You work in -- do you work in emergency rooms?

21 PROSPECTIVE JUROR NO. 620: In the intensive
22 care unit.

23 MR. BATEMAN: Okay. So sometimes when you
24 watch --

25 PROSPECTIVE JUROR NO. 620: They exaggerated

1 things, yes.

2 MR. BATEMAN: Sometimes it's not even close?

3 PROSPECTIVE JUROR NO. 620: Yes.

4 MR. BATEMAN: Okay. Pass for cause, Judge.

5 THE COURT: Next.

6 MR. FIGLER: Ms. Bisquera?

7 PROSPECTIVE JUROR NO. 620: Yes.

8 MR. FIGLER: Okay. And again, how long
9 education did you have to get your current position?

10 PROSPECTIVE JUROR NO. 620: I'm a bachelor
11 of -- bachelor of nursing.

12 MR. FIGLER: Okay.

13 PROSPECTIVE JUROR NO. 620: Bachelor of
14 science in nursing.

15 MR. FIGLER: And so what's your official
16 designation? Are you a --

17 PROSPECTIVE JUROR NO. 620: I'm a staff
18 nurse, intensive care unit.

19 MR. FIGLER: Staff nurse.

20 PROSPECTIVE JUROR NO. 620: Yes.

21 MR. FIGLER: Okay. I just want to ask you a
22 few questions. You grew up in the Philippines?

23 PROSPECTIVE JUROR NO. 620: Yes.

24 MR. FIGLER: So you consider yourself a
25 Filipino person?

1 PROSPECTIVE JUROR NO. 620: Well, I
2 assimilated here, and I'm an American.

3 MR. FIGLER: Okay. Would you agree with
4 this general proposition -- and again, we don't ask
5 these questions to embarrass someone. But having grown
6 up in the Philippines, I think it might be an
7 appropriate question.

8 Would you agree, just generally speaking,
9 that people from the Philippines would have different
10 physical characteristics than people who live like say
11 in Brazil or someone who lives in France or something
12 like that?

13 PROSPECTIVE JUROR NO. 620: I can recognize
14 that.

15 MR. FIGLER: Okay. But you would agree that
16 they have different physical characteristics.

17 PROSPECTIVE JUROR NO. 620: They do.

18 MR. FIGLER: Okay. And would you also agree
19 with the proposition that there are very subtle
20 differences in physical appearance that might be more
21 apparent to you in describing a Filipino person than,
22 perhaps, describing someone from Brazil, possibly?

23 PROSPECTIVE JUROR NO. 620: Possibly, yes.

24 MR. FIGLER: Okay. And no one's saying that
25 a racist thing. It's just we're all different. We all

1 are in the melting pot --

2 PROSPECTIVE JUROR NO. 620: Yes.

3 MR. FIGLER: -- of the world. Okay. So
4 that's not a judgment. That's just a truism.

5 PROSPECTIVE JUROR NO. 620: Yes.

6 MR. FIGLER: And you would agree with that?

7 PROSPECTIVE JUROR NO. 620: Yes.

8 MR. FIGLER: Okay. Now, there was a
9 question about the TV shows, and we like to know just
10 because sometimes people do expect things to be a
11 certain way because of television, and you understand
12 that there's different kinds of evidence in any given
13 case?

14 PROSPECTIVE JUROR NO. 620: Yes.

15 MR. FIGLER: And some is stronger than other
16 evidence?

17 PROSPECTIVE JUROR NO. 620: Yes.

18 MR. FIGLER: Okay. What kind of evidence do
19 you think would be the most influential to you?

20 PROSPECTIVE JUROR NO. 620: DNA.

21 MR. FIGLER: DNA evidence?

22 PROSPECTIVE JUROR NO. 620: Um-h'm.

23 MR. FIGLER: Okay. What other kind of
24 evidence you think would be influential to you?

25 PROSPECTIVE JUROR NO. 620: Fingerprints.

1 MR. FIGLER: Fingerprints? Okay. Anything
2 else?

3 PROSPECTIVE JUROR NO. 620: Those are the
4 most reliable --

5 MR. FIGLER: To you?

6 PROSPECTIVE JUROR NO. 620: -- that I can
7 think of, yes.

8 MR. FIGLER: Okay. All right. Now, what
9 other TV shows? Do you ever watch the Court TV shows?

10 PROSPECTIVE JUROR NO. 620: Occasionally.

11 MR. FIGLER: Sometimes you get caught up in
12 a trial that's going on?

13 PROSPECTIVE JUROR NO. 620: Well, not really
14 because I didn't have cable before so --

15 MR. FIGLER: Oh, okay. That's a good thing,
16 trust me. You can get caught up in that. Did you ever
17 watch any trials that came out of Las Vegas or anything
18 like that?

19 PROSPECTIVE JUROR NO. 620: No, but I
20 watched the OJ Simpson.

21 MR. FIGLER: You did watch OJ Simpson?
22 Okay. Without getting into OJ Simpson, you understand
23 that in a criminal case, especially one of this
24 importance and consequence, that it's very important for
25 you to scrutinize every single witness that goes up

1 there. You understand that?

2 PROSPECTIVE JUROR NO. 620: Yes, I
3 understand that.

4 MR. FIGLER: Okay. Now, there's some
5 witnesses that the prosecution said they intend on
6 calling. We anticipate that, so we have questions for
7 some of them and we may decide to, you know, question
8 their views on certain things, and it's up to you as an
9 individual person to judge that.

10 PROSPECTIVE JUROR NO. 620: Yes.

11 MR. FIGLER: And are you comfortable doing
12 that?

13 PROSPECTIVE JUROR NO. 620: Yes.

14 MR. FIGLER: Okay. Now, my colleague over
15 there, Mr. Bunin, always asks the Friday question. I
16 always ask the smoker question.

17 And I don't know if you're a smoker or not.
18 I heard somebody was a smoker, but the question is this.
19 Do you know anyone else that sits in this room as a
20 juror here today?

21 PROSPECTIVE JUROR NO. 620: No.

22 MR. FIGLER: Okay. And would you agree with
23 me that if somebody was sitting where Jamar is that you
24 wouldn't want to see a bunch of people who know each
25 other and who are friends sitting in judgment? Would

1 you agree with that?

2 PROSPECTIVE JUROR NO. 620: Yes.

3 MR. FIGLER: Okay. So you would agree that
4 it's very important for people to not have the
5 appearance of friendships or camaraderie or something
6 like that, especially in such an important matter.

7 PROSPECTIVE JUROR NO. 620: Yes.

8 MR. FIGLER: You would agree with that?

9 PROSPECTIVE JUROR NO. 620: Yes.

10 MR. FIGLER: Now, understanding that there's
11 only one place out there where people smoke or maybe go
12 to grab a drink or something like that, would you agree
13 that it's probably not fair to form strong friendships
14 or bonding? Even though it's natural, we're all human,
15 and you seem like a very social person --

16 PROSPECTIVE JUROR NO. 620: I agree.

17 MR. FIGLER: -- very nice, but you
18 understand that --

19 PROSPECTIVE JUROR NO. 620: Yes.

20 MR. FIGLER: -- that would be very important
21 to maintain --

22 PROSPECTIVE JUROR NO. 620: Yes.

23 MR. FIGLER: -- your individuality?

24 PROSPECTIVE JUROR NO. 620: Right.

25 MR. FIGLER: Okay. And that's only fair to

1 both sides. They don't want to see a group of friends
2 up here.

3 PROSPECTIVE JUROR NO. 620: Of course.

4 MR. FIGLER: They want to see individuals
5 who bring what they bring.

6 PROSPECTIVE JUROR NO. 620: Right.

7 MR. FIGLER: You agree with that?

8 PROSPECTIVE JUROR NO. 620: I agree.

9 MR. FIGLER: Okay. The last question. If
10 you're selected as a juror, there may be a time when
11 you're back discussing with the other individual jurors
12 something, and someone says something that you think
13 might be off base or not following the law.

14 PROSPECTIVE JUROR NO. 620: Um-h'm.

15 MR. FIGLER: Would you have any problem
16 informing the Court through the bailiff, Danny, over
17 there, that you had a concern about somebody not
18 following through with what's --

19 PROSPECTIVE JUROR NO. 620: No.

20 MR. FIGLER: -- proper in the case?

21 PROSPECTIVE JUROR NO. 620: No.

22 MR. FIGLER: You'd have no problem at all?

23 PROSPECTIVE JUROR NO. 620: No.

24 MR. FIGLER: Okay. Call that the tattletale
25 rule, but it's okay to tattle in a case like this.

1 PROSPECTIVE JUROR NO. 620: Yes.

2 MR. FIGLER: You understand that?

3 PROSPECTIVE JUROR NO. 620: Yes.

4 MR. FIGLER: Okay. Thank you.

5 We'll pass for cause.

6 MR. SINGER: Pass for cause.

7 THE COURT: Thank you.

8 Mr. Tate, tell us about yourself. How long
9 have you been here in Las Vegas?

10 PROSPECTIVE JUROR NO. 621: I've lived in
11 Las Vegas for 22 years.

12 THE COURT: And --

13 PROSPECTIVE JUROR NO. 621: Well, 25 years
14 off and on.

15 THE COURT: What do you do for a living,
16 sir?

17 PROSPECTIVE JUROR NO. 621: I'm a bartender.

18 THE COURT: And marital status?

19 PROSPECTIVE JUROR NO. 621: Divorced, single
20 parent.

21 THE COURT: And any jury -- prior jury
22 experience, sir?

23 PROSPECTIVE JUROR NO. 621: No.

24 THE COURT: Anyone -- close member of your
25 family or friend or yourself been a victim of crime?

1 PROSPECTIVE JUROR NO. 621: No.

2 THE COURT: Any close family member, friend
3 or yourself been accused of a crime?

4 PROSPECTIVE JUROR NO. 621: No.

5 THE COURT: Would you give the weight of
6 police officers' testimony any higher or greater degree
7 of weight as a consequence of simply because the fact --
8 I don't know why I'm having problems with this
9 question --

10 PROSPECTIVE JUROR NO. 621: No.

11 THE COURT: -- police officers -- give
12 police officers any greater credibility simply because
13 they're police officers?

14 PROSPECTIVE JUROR NO. 621: No.

15 THE COURT: All right. Can you hold off in
16 forming an opinion as to the facts of this case or the
17 guilt and innocence of this case until you've heard all
18 of the evidence and received all the instructions from
19 me?

20 PROSPECTIVE JUROR NO. 621: (Indiscernible).

21 THE COURT: Is there any reason you know of
22 where you couldn't be that would make you an unfair
23 juror? That you couldn't be completely fair and
24 impartial?

25 PROSPECTIVE JUROR NO. 621: No.

1 THE COURT: State.

2 MR. BATEMAN: Pass for cause, Judge.

3 THE COURT: Defense.

4 (Off-record colloquy)

5 MR. BUNIN: Sorry. Still deciding if we've
6 hit all of our topics, and you'll be happy to hear we've
7 probably hit almost everything, but how long have you
8 been a bartender?

9 PROSPECTIVE JUROR NO. 621: About ten years.

10 MR. BUNIN: Bartender here in Las Vegas?

11 PROSPECTIVE JUROR NO. 621: Yes.

12 MR. BUNIN: Where do you bartend?

13 PROSPECTIVE JUROR NO. 621: At Terrible's
14 Casino.

15 MR. BUNIN: On Paradise and --

16 PROSPECTIVE JUROR NO. 621: On Paradise --

17 MR. BUNIN: -- (indiscernible).

18 PROSPECTIVE JUROR NO. 621: -- right across
19 from (indiscernible).

20 MR. BUNIN: Okay. You ever been a witness
21 to a crime there?

22 PROSPECTIVE JUROR NO. 621: (Indiscernible).

23 MR. BUNIN: (Indiscernible).

24 PROSPECTIVE JUROR NO. 621: No.

25 MR. BUNIN: Back when it was the

1 Continental, maybe, but not --

2 PROSPECTIVE JUROR NO. 621: Oh, well, you
3 know, they get in arguments, people fight at the bar,
4 stuff like that.

5 MR. BUNIN: Small things?

6 PROSPECTIVE JUROR NO. 621: Small, little
7 stuff like that.

8 MR. BUNIN: You ever been called to testify?

9 PROSPECTIVE JUROR NO. 621: No.

10 MR. BUNIN: You ever been like questioned,
11 maybe, just during an investigation by the police or --

12 PROSPECTIVE JUROR NO. 621: No.

13 MR. BUNIN: -- anything like that? Okay.
14 Good. Now, have you thought about ways you can judge
15 people's credibility when they're on the stand
16 testifying?

17 PROSPECTIVE JUROR NO. 621: Ways that I can
18 judge people's credibility?

19 MR. BUNIN: As you're sitting there in a
20 jury, you're going to have to listen to every witness on
21 the stand. They're going to have to answer questions
22 under oath.

23 But just because they're under oath doesn't
24 necessarily mean their perceptions are accurate or
25 doesn't necessarily mean they're telling the truth. You

1 know, do you feel comfortable trying to judge a person's
2 credibility on the stand?

3 PROSPECTIVE JUROR NO. 621: Yeah.

4 MR. BUNIN: And what types of things could
5 you look for when judging credibility?

6 PROSPECTIVE JUROR NO. 621: Judging -- I'd
7 judge the evidence. I mean, credibility, you know,
8 anybody can come say anything, but it's more so evidence
9 speaks for itself.

10 MR. BUNIN: So, in other words, you listen
11 to what a person said, but you'd also pay attention to
12 everything else, the entirety of the case and decide if
13 what they said makes sense.

14 PROSPECTIVE JUROR NO. 621: Right.

15 MR. BUNIN: Do you think it's possible that
16 a police officer could make a mistake?

17 PROSPECTIVE JUROR NO. 621: Of course.

18 MR. BUNIN: And maybe he could say something
19 on the stand that turns out may not be accurate based on
20 the entirety of the case?

21 PROSPECTIVE JUROR NO. 621: It could happen.
22 It's happened before.

23 MR. BUNIN: You think it's possible?

24 PROSPECTIVE JUROR NO. 621: I guess. Yeah.

25 MR. BUNIN: I would pass for cause, Judge.

1 Thank you.

2 MR. SINGER: Pass for cause, Judge.

3 THE COURT: Thank you.

4 Mr. -- is it Wiener?

5 PROSPECTIVE JUROR NO. 625: Wiener.

6 THE COURT: Mr. Wiener, tell me about
7 yourself. How long have you lived in Las Vegas?

8 PROSPECTIVE JUROR NO. 625: Four years and I
9 work at a casino.

10 THE COURT: Where did you come from?

11 PROSPECTIVE JUROR NO. 625: Boston,
12 originally.

13 THE COURT: What do you do at your casino?

14 PROSPECTIVE JUROR NO. 625: I'm a dealer.

15 THE COURT: And are you married?

16 PROSPECTIVE JUROR NO. 625: Single.

17 THE COURT: And have you had any prior jury
18 experience?

19 PROSPECTIVE JUROR NO. 625: No.

20 THE COURT: Have you or any close family
21 member or friend been accused of a crime?

22 PROSPECTIVE JUROR NO. 625: No.

23 THE COURT: You or close family member or
24 friend been a victim of crime?

25 PROSPECTIVE JUROR NO. 625: Yes, I have,

1 actually. I was beaten up and robbed by two black men
2 just two years ago.

3 THE COURT: Would that experience affect
4 your ability to be fair and impartial in this case?

5 PROSPECTIVE JUROR NO. 625: Yes.

6 THE COURT: State.

7 MR. BATEMAN: Submit.

8 THE COURT: Sir, we're going to let you go.
9 Appreciate your honesty. We'll call the next --
10 actually, report back to Jury Services. They'll
11 probably have you come back, probably serve on a civil
12 case or a case not so closely associated.

13 PROSPECTIVE JUROR NO. 625: (Indiscernible).

14 THE COURT: And we'll call the next roll.

15 THE CLERK: Okay. That would be No. 634,
16 please, Karen Cloud.

17 THE COURT: 634.

18 THE CLERK: I have you going to seat 14.

19 (Off-record colloquy)

20 THE COURT: Ms. Cloud, I bet you thought you
21 missed it, huh? But --

22 PROSPECTIVE JUROR NO. 634: I didn't know
23 what happened.

24 THE COURT: -- we're not even halfway there
25 yet.

1 PROSPECTIVE JUROR NO. 634: I know.

2 THE COURT: How long have you been here in
3 Las Vegas, Ms. Cloud?

4 PROSPECTIVE JUROR NO. 634: How long have I
5 lived here?

6 THE COURT: Yes.

7 PROSPECTIVE JUROR NO. 634: I moved here in
8 '95.

9 THE COURT: And what do you do for a living?

10 PROSPECTIVE JUROR NO. 634: I'm a food
11 server.

12 THE COURT: And where do you work?

13 PROSPECTIVE JUROR NO. 634: A casino, hotel.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 634: Rio.

16 THE COURT: Rio Casino Hotel? How about are
17 you married?

18 PROSPECTIVE JUROR NO. 634: No.

19 THE COURT: Any children?

20 PROSPECTIVE JUROR NO. 634: I have three
21 grown children and four grandchildren from ages 18 to
22 6 months old.

23 THE COURT: All right. Any prior jury
24 experience?

25 PROSPECTIVE JUROR NO. 634: No.

1 THE COURT: Any close family member or
2 friends or yourself been a victim of crime?

3 PROSPECTIVE JUROR NO. 634: Yes.

4 THE COURT: Tell us about that.

5 PROSPECTIVE JUROR NO. 634: I was a victim
6 of a crime, abused, beat up by a male. I'm nervous.

7 THE COURT: It's all right. It's okay.

8 PROSPECTIVE JUROR NO. 634: It was a white
9 male.

10 THE COURT: Is there anything about that
11 experience -- well, first of all, how long ago was that?

12 PROSPECTIVE JUROR NO. 634: That was like in
13 the '70s, '80s.

14 THE COURT: So --

15 PROSPECTIVE JUROR NO. 634: In the '70s.

16 THE COURT: All right. Is there anything --

17 PROSPECTIVE JUROR NO. 634: The '70s were
18 real bad for me (indiscernible).

19 THE COURT: Anything about that experience
20 that might affect your ability to do your job here as a
21 juror?

22 PROSPECTIVE JUROR NO. 634: No.

23 THE COURT: All right. Have you ever been
24 accused of a crime?

25 PROSPECTIVE JUROR NO. 634: No.

1 THE COURT: Any close family member or
2 friend ever been accused of a crime?

3 PROSPECTIVE JUROR NO. 634: Yes. Well, can
4 I go back to the been a victim of a crime?

5 THE COURT: Yes.

6 PROSPECTIVE JUROR NO. 634: My children's
7 father, he wasn't a victim of a crime, but he was
8 murdered.

9 THE COURT: Okay. Is there -- how long ago
10 was that?

11 PROSPECTIVE JUROR NO. 634: That was 30 --
12 it will be 30 years in August.

13 THE COURT: And is there anything about that
14 experience that might affect your ability to be fair and
15 impartial in this case?

16 PROSPECTIVE JUROR NO. 634: I don't think
17 so.

18 THE COURT: All right. Can you hold your
19 opinions as to guilt or innocence until after you've
20 heard all of the evidence and received all the
21 instructions from me?

22 PROSPECTIVE JUROR NO. 634: Yes.

23 THE COURT: Do you believe that a police
24 officer deserves greater credibility simply because they
25 are a police officer when they're testifying?

1 PROSPECTIVE JUROR NO. 634: No. They're
2 just a human being.

3 THE COURT: There you go. Do you know of
4 any reason you couldn't be a completely fair and
5 impartial juror?

6 PROSPECTIVE JUROR NO. 634: I think I'm
7 fair.

8 THE COURT: And can you be fair here?

9 PROSPECTIVE JUROR NO. 634: I'm fair.

10 THE COURT: State.

11 MR. BATEMAN: Obviously, the charge in this
12 case is murder. You said your husband was murdered?

13 PROSPECTIVE JUROR NO. 634: But when I was
14 -- yeah, my husband was murdered. Yes.

15 MR. BATEMAN: Okay. And were you --

16 PROSPECTIVE JUROR NO. 634: There's
17 something else I should say because I was married, but
18 divorced to a man that murdered him.

19 MR. BATEMAN: Okay.

20 PROSPECTIVE JUROR NO. 634: Burglary and
21 murdered.

22 MR. BATEMAN: So --

23 PROSPECTIVE JUROR NO. 634: He was charged.

24 MR. BATEMAN: -- he was charged with -- when
25 you say murder, I guess the question is do you have

1 personal knowledge that he was murdered? Was the person
2 who murdered --

3 PROSPECTIVE JUROR NO. 634: My husband?

4 MR. BATEMAN: Correct. Was the person that
5 murdered your husband convicted?

6 PROSPECTIVE JUROR NO. 634: He killed
7 himself in the whole thing, so I was being held --

8 MR. BATEMAN: Okay.

9 PROSPECTIVE JUROR NO. 634: -- before --
10 right afterwards.

11 MR. BATEMAN: Okay. And this was how long
12 ago, 30 years?

13 PROSPECTIVE JUROR NO. 634: Um-h'm.

14 MR. BATEMAN: Okay. He was your husband at
15 the time?

16 PROSPECTIVE JUROR NO. 634: My husband, yes,
17 he was my husband.

18 MR. BATEMAN: And he's the father of your
19 three children?

20 PROSPECTIVE JUROR NO. 634: (Indiscernible).

21 MR. BATEMAN: Were you a witness at all with
22 regard to that case?

23 PROSPECTIVE JUROR NO. 634. No. They --
24 they mentioned my name. His friend, it was a co-worker,
25 but a friend of the family. They were construction

1 workers.

2 My husband (indiscernible), and it was a
3 friend of the family that killed him, so in the police
4 report it says -- it mentions my name and some things
5 that that gentleman stayed at our house (indiscernible)
6 our family.

7 MR. BATEMAN: Okay. But you weren't around
8 when the murder took place?

9 PROSPECTIVE JUROR NO. 634: Oh, no. I was
10 in another town --

11 MR. BATEMAN: Okay.

12 PROSPECTIVE JUROR NO. 634: -- at the time.

13 MR. BATEMAN: And the police questioned you
14 about it?

15 PROSPECTIVE JUROR NO. 634: No. In fact, I
16 didn't know until the next day. I just thought he
17 didn't show up.

18 MR. BATEMAN: And when I say --

19 PROSPECTIVE JUROR NO. 634: (Indiscernible)
20 never came home.

21 MR. BATEMAN: When I say questioned, I don't
22 mean like they think you did it. They asked you
23 questions just generally if you have any information
24 that might be relevant?

25 PROSPECTIVE JUROR NO. 634: No. They

1 already had the man arrested.

2 MR. BATEMAN: Okay. Did it take a long time
3 to kind of get over that?

4 PROSPECTIVE JUROR NO. 634: Yeah. I didn't
5 -- you never get over it. I mean, you never -- you
6 never get over it. I mean --

7 MR. BATEMAN: Was this the same
8 individual --

9 PROSPECTIVE JUROR NO. 634: I see him
10 growing up through my children and grandchildren.

11 MR. BATEMAN: Is this the same individual
12 that committed -- I think you suggested that there might
13 have been some domestic violence back in the '70s.

14 PROSPECTIVE JUROR NO. 634: No.

15 MR. BATEMAN: Okay. Not the same --

16 PROSPECTIVE JUROR NO. 634: (Indiscernible).
17 No, he was (indiscernible).

18 MR. BATEMAN: Okay. Okay. Between the
19 violence that you may have suffered from someone else or
20 this murder that occurred quite a ways back when, is
21 there any reason that the State, myself or Ms. Lewis,
22 you know, representing the State, should be concerned
23 with having you as a potential juror in this case?

24 PROSPECTIVE JUROR NO. 634: Just that I was
25 married but divorced to a gentleman that committed

1 murder and burglary.

2 MR. BATEMAN: Okay.

3 PROSPECTIVE JUROR NO. 634: You understand
4 what I'm saying? I mean, I --

5 MR. BATEMAN: I do.

6 PROSPECTIVE JUROR NO. 634 -- I was only
7 married to him for three months.

8 MR. BATEMAN: Were you at all involved or
9 around when any sort of police investigation was going
10 on?

11 PROSPECTIVE JUROR NO. 634: They came to my
12 home. I don't know (indiscernible). Did they come --
13 if they were going to have me (indiscernible).

14 MR. BATEMAN: A witness?

15 PROSPECTIVE JUROR NO. 634: As a witness,
16 State witness, because I wasn't married to him anymore.
17 So I guess if you're married to somebody, you don't have
18 to testify against them, so they asked me some questions
19 in my own home.

20 MR. BATEMAN: Okay. Anything --

21 PROSPECTIVE JUROR NO. 634: I was living
22 with my parents at the time.

23 MR. BATEMAN: Anything about any of this
24 that gives you or is going to become in the back of your
25 mind while you're listening to testimony or any evidence

1 in this case?

2 PROSPECTIVE JUROR NO. 634: You know, I -- I
3 think I seen the gentlemen on the news. I mean, I work
4 swing shift, and I only listen to the news for --
5 sometimes, and I -- I think I seen them on the news and
6 then at first I thought he worked at the Rio.

7 (Indiscernible). My favorite -- but I don't
8 watch CSI very often. My favorite show is Amazing Race.

9 MR. BATEMAN: Not CSI?

10 PROSPECTIVE JUROR NO. 634: (Indiscernible).

11 MR. BATEMAN: Okay.

12 PROSPECTIVE JUROR NO. 634: But I watch -- I
13 watch (indiscernible).

14 MR. BATEMAN: Do you have any independent
15 recollection of what it is you saw on television?

16 PROSPECTIVE JUROR NO. 634: Just that --

17 MR. FIGLER: Well, Your Honor, I think that
18 would be appropriate bench.

19 THE COURT: Let's approach.

20 (Off-record bench conference)

21 THE COURT: All right. Stipulation for
22 cause having been entered, Ms. Cloud, you're thanked by
23 the Court. We're going to excuse you, ask you to head
24 back to the jury deliberation -- or Jury Services area,
25 and they'll find you a different case or maybe even

1 process you out, who knows. Thank you, again, very
2 much.

3 We'll call the next name on the roll,
4 please.

5 THE CLERK: No. 636, Tanya Jimerson-Virgil,
6 please.

7 (Off-record colloquy)

8 PROSPECTIVE JUROR NO. 636: Hi.

9 THE COURT: Is it Ms. Jimerson?

10 PROSPECTIVE JUROR NO. 636: Yes.

11 THE COURT: Or how would you like me to
12 address you?

13 PROSPECTIVE JUROR NO. 636: It doesn't
14 matter.

15 THE COURT: Ms. Jimerson?

16 PROSPECTIVE JUROR NO. 636: That's fine.

17 THE COURT: All right. Tell me a little bit
18 about yourself.

19 PROSPECTIVE JUROR NO. 636: I'm married.
20 I've been married for five years. No children. Going
21 to school right now to get my degree in RN, nursing, and
22 I work at a doctor's office.

23 THE COURT: All right. Just checking my
24 conflicts list here. Any prior jury experience?

25 PROSPECTIVE JUROR NO. 636: No.

1 THE COURT: Any close member of your family,
2 friend, yourself been a victim of a crime?

3 PROSPECTIVE JUROR NO. 636: Yes.

4 THE COURT: Tell us about that.

5 PROSPECTIVE JUROR NO. 636: Just our house
6 was broken into what I was younger. I probably was in
7 middle school, and my mom was -- when she went to go
8 into the house, it was a young man pointing a gun in her
9 face when she opened the door.

10 THE COURT: All right. Anything about that
11 experience that might affect your ability to be fair
12 here today?

13 PROSPECTIVE JUROR NO. 636: No.

14 THE COURT: Any close family member or
15 friend been accused of a crime?

16 PROSPECTIVE JUROR NO. 636: Yes.

17 THE COURT: Tell us about that.

18 PROSPECTIVE JUROR NO. 636: My brother was
19 convicted of a murder.

20 THE COURT: All right. Is that experience
21 going to affect your ability to be fair and impartial
22 here?

23 PROSPECTIVE JUROR NO. 636: No.

24 THE COURT: How long ago was that?

25 PROSPECTIVE JUROR NO. 636: It's going to be

1 eleven years.

2 THE COURT: All right. Would you give the
3 weight of a police officer any greater or less credence
4 as a consequence of the fact that they're just a police
5 officer?

6 PROSPECTIVE JUROR NO. 636: They're just a
7 person just like me.

8 THE COURT: All right. Can you wait in
9 forming your opinion as to the guilt or innocence of
10 these defendants until after all of the evidence is
11 heard and all the instructions are given to you?

12 PROSPECTIVE JUROR NO. 636: Yes.

13 THE COURT: Do you know of any reason why
14 you couldn't be a completely fair and impartial juror?

15 PROSPECTIVE JUROR NO. 636: No.

16 THE COURT: State.

17 MR. BATEMAN: Just two areas. One, you said
18 -- were you home when the burglary took place?

19 PROSPECTIVE JUROR NO. 636: No. I came --

20 MR. BATEMAN: Okay.

21 PROSPECTIVE JUROR NO. 636: -- home from
22 school.

23 MR. BATEMAN: So mom just kind of told --

24 PROSPECTIVE JUROR NO. 636: My mom. It was
25 just my mom, yeah.

1 MR. BATEMAN: Okay. Do you know anything
2 about that case? About whether anybody was --

3 PROSPECTIVE JUROR NO. 636: No one was
4 caught. I don't think it was anything done.

5 MR. BATEMAN: Okay.

6 PROSPECTIVE JUROR NO. 636: I was young. I
7 was in middle school so I really didn't know much about
8 (indiscernible) so --

9 MR. BATEMAN: Nothing about that incident
10 that would affect your ability to be a juror here --

11 PROSPECTIVE JUROR NO. 636: No.

12 MR. BATEMAN: -- you think? Okay. Your
13 brother was convicted of murder. Where was your brother
14 convicted of murder?

15 PROSPECTIVE JUROR NO. 636: Las Vegas,
16 Nevada.

17 MR. BATEMAN: Okay. About how long ago?

18 PROSPECTIVE JUROR NO. 636: Eleven years.

19 MR. BATEMAN: Okay. I'm guessing that it
20 was my office, myself and Ms. Lewis' office that
21 probably prosecuted your brother; is that right?

22 PROSPECTIVE JUROR NO. 636: I have no idea.
23 Back then I was only like 14 or 13 years old so --

24 MR. BATEMAN: Did know anything -- and I'm
25 not asking you to tell me, but did you know anything

1 about the facts, the underlying facts, of the case that
2 involved your brother? Just did you know?

3 PROSPECTIVE JUROR NO. 636: Yes. Okay
4 (indiscernible).

5 MR. BATEMAN: You weren't a witness in that
6 case?

7 PROSPECTIVE JUROR NO. 636: No.

8 MR. BATEMAN: Everything you knew might have
9 come from other people?

10 PROSPECTIVE JUROR NO. 636: Yes, and just
11 from my TV or whatever. We really weren't brought up to
12 be put in a position where -- I mean, we were told to
13 understand, you know, he was going away, he did this,
14 this is what he was accused of, but it wasn't like we
15 were brought in front of all these people and they were
16 like, you know, he did this. It wasn't nothing like
17 that.

18 MR. BATEMAN: Okay. Did you have occasion
19 back when you were young to interact with police
20 officers with regard to your brother's case at all?

21 PROSPECTIVE JUROR NO. 636: No.

22 MR. BATEMAN: Okay. Do you feel -- and I
23 know you were only 14 at the time, but based upon what
24 you talked to probably with your other family members,
25 do you feel your brother was treated fairly or unfairly?

1 PROSPECTIVE JUROR NO. 636: Honesty, I don't
2 know because at the time I didn't -- I really didn't
3 understand it. I just knew it happened, and he was
4 going away.

5 MR. BATEMAN: Okay. Do you know whether
6 there was a trial or whether --

7 PROSPECTIVE JUROR NO. 636: Yes. There
8 was --

9 MR. BATEMAN: Okay.

10 PROSPECTIVE JUROR NO. 636: -- and he was
11 convicted.

12 MR. BATEMAN: Okay. Any reason that -- I
13 mean, obviously, we're dealing with a murder charge
14 here. Any reason the State should be concerned with
15 having you as a juror on this case?

16 PROSPECTIVE JUROR NO. 636: No. I didn't
17 know much about it, so it's not like I can
18 (indiscernible) back in any way or another on either
19 side. I mean, I was only 14, so I really didn't know
20 much about it.

21 MR. BATEMAN: Do you still keep in contact
22 with your brother at all?

23 PROSPECTIVE JUROR NO. 636: I haven't talked
24 to him (indiscernible).

25 MR. BATEMAN: Okay. I'll pass for cause,

1 Judge.

2 THE COURT: Defense.

3 MR. FIGLER: Thank you, Your Honor.

4 Ms. Jimerson --

5 PROSPECTIVE JUROR NO. 636: Yes.

6 MR. FIGLER: -- let me ask you the converse
7 question about is there anything in your past or your
8 experiences that should give Mr. Matthews cause for
9 concern with regard to your sitting as a juror in this
10 case?

11 PROSPECTIVE JUROR NO. 636: No.

12 MR. FIGLER: Okay. Have you ever been a
13 witness to a crime?

14 PROSPECTIVE JUROR NO. 636: Yes, like a hit
15 and run or something like that, but not anything
16 major --

17 MR. FIGLER: Okay.

18 PROSPECTIVE JUROR NO. 636: --
19 (indiscernible).

20 MR. FIGLER: Were you ever called to
21 testify?

22 PROSPECTIVE JUROR NO. 636: No.

23 MR. FIGLER: Okay. And with regard to the
24 issue of serving as a juror, you understand that if
25 you're selected to be one of the jurors here that you

1 may have to go back and discuss different things with
2 the other jurors? You comfortable doing that?

3 PROSPECTIVE JUROR NO. 636: Yes.

4 MR. FIGLER: Are you a person who speaks her
5 mind --

6 PROSPECTIVE JUROR NO. 636: Yes.

7 MR. FIGLER: -- and so if you think
8 something differently than someone else --

9 PROSPECTIVE JUROR NO. 636: I'm going to
10 say --

11 MR. FIGLER: -- or you have your own
12 opinion --

13 PROSPECTIVE JUROR NO. 636: -- it.

14 MR. FIGLER: -- you would do that?

15 PROSPECTIVE JUROR NO. 636: Yeah.

16 MR. FIGLER: Okay. And as a juror there
17 might come a time when things are happening in the case
18 that to you might appear to be not following the law, in
19 other words, what I said about just letting the Court
20 know. Do you have any problem doing something like
21 that?

22 PROSPECTIVE JUROR NO. 636: I don't have a
23 problem letting anybody know anything. I state my
24 opinion. I don't care what nobody says. It doesn't
25 matter who you are. I don't care who you are. I'm

1 going to say what I have to say no matter if you like it
2 or not.

3 MR. FIGLER: Okay. Now, again, when you're
4 back there, someone may come up and say a very young
5 woman, somebody about your age --

6 PROSPECTIVE JUROR NO. 636: Um-h'm.

7 MR. FIGLER: -- is dead, and that's the
8 bottom line here. We can't get over it, and we have to
9 punish somebody for this person's death and these are
10 the people sitting there. Would you jump up immediately
11 and explain how that's not the law here?

12 PROSPECTIVE JUROR NO. 636: Yeah. I mean,
13 you can't say that they did it if you don't know, if you
14 weren't there.

15 MR. FIGLER: Okay.

16 PROSPECTIVE JUROR NO. 636: You know, that
17 -- you just can't.

18 MR. FIGLER: You're going to listen to all
19 the evidence --

20 PROSPECTIVE JUROR NO. 636: I'm going to
21 listen to everything. I'm going to listen to what they
22 have to say, and if I don't like it, I'll let them know,
23 you know, I don't think they're guilty or if I think
24 they're guilty, I'll tell you.

25 I'm not going to care what no one has to

1 say. If he says they're innocent, okay, that's your
2 opinion, but what I think and my opinion is my opinion.
3 I don't care what nobody says.

4 MR. FIGLER: I will withdraw my question and
5 ask you if you have the ability to express your
6 opinions. I know (indiscernible).

7 PROSPECTIVE JUROR NO. 636: I'm sorry.

8 MR. FIGLER: No. That's good. I appreciate
9 that.

10 PROSPECTIVE JUROR NO. 636: Sorry.

11 MR. FIGLER: No, no. That's absolutely
12 perfect.

13 MR. SINGER: You stated earlier that you
14 have three uncles who are police officers?

15 PROSPECTIVE JUROR NO. 636: Uh-huh.

16 MR. SINGER: Where?

17 PROSPECTIVE JUROR NO. 636: Here.

18 MR. SINGER: In Metro?

19 PROSPECTIVE JUROR NO. 636: I have one in
20 corrections, one that was in the military and
21 (indiscernible), and there's one in Henderson.

22 MR. SINGER: And do you ever have cause to
23 talk to them in the last couple months about their
24 cases?

25 PROSPECTIVE JUROR NO. 636: No.

1 MR. SINGER: Never?

2 PROSPECTIVE JUROR NO. 636: No.

3 MR. SINGER: Okay. Thank you.

4 Pass for cause.

5 PROSPECTIVE JUROR NO. 636: You're welcome.

6 MR. SINGER: Pass for cause, Judge.

7 THE COURT: Thank you. Seeing there are no
8 further challenges for cause, we will begin a process
9 known as peremptory challenges.

10 Ladies and gentlemen, peremptory challenges
11 are basically the attorney's decisions to ask that
12 certain members of the panel be removed. They don't
13 need to state a reason for it. It's simply they're
14 feeling. They go -- it's a tactical decision. There's
15 lots of reasons.

16 Please don't take offense to that process if
17 you're named. It's not personal. It's about picking a
18 jury.

19 State, exercise your first peremptory
20 challenge.

21 MR. BATEMAN: Can we have the Court's
22 indulgence just one moment?

23 THE COURT: Yes.

24 (Off-record colloquy)

25 MR. BATEMAN: State would waive its first,

1 Judge.

2 THE COURT: State waives first.

3 Defense.

4 MR. FIGLER: The defense would thank and
5 excuse.

6 (Off-record colloquy)

7 MR. SINGER: Judge, can we have a side bar?

8 THE COURT: Yes.

9 MR. SINGER: Thank you.

10 THE COURT: Approach.

11 (Off-record bench conference)

12 THE COURT: All right. We'll be at ease for
13 a few minutes, ladies and gentlemen.

14 (Off the record at 4:59 p.m. until 5:02 p.m.)

15 (Prospective jurors present)

16 THE COURT: Record should reflect the return
17 of all counsel. It's time for defense first peremptory
18 challenge.

19 MR. FIGLER: Thank you, Your Honor. The
20 defense would thank and excuse juror number -- let's see
21 if I can get the actual badge number -- Court's
22 indulgence -- juror No. 617, sitting in seat 11,
23 Ms. Porter who seems excited.

24 THE COURT: Thank you, Ms. Porter.

25 We'll call the next name on the roll.

1 Ms. Porter, you're directed to report back
2 to Jury Services, please.

3 PROSPECTIVE JUROR NO. 617: No problem.
4 Have a great one, you guys.

5 THE CLERK: And that would be 637,
6 Jeanie Ready, please.

7 THE COURT: Ms. Ready, you're going to get a
8 microphone here in second. You ready?

9 PROSPECTIVE JUROR NO. 637: Ready?

10 THE COURT: Ready. Tell us a little bit
11 about yourself. How long have you been here in
12 Las Vegas?

13 PROSPECTIVE JUROR NO. 637: I've been here
14 six years this month, long years.

15 THE COURT: Long years. What have you been
16 doing during your six long years here in Las Vegas?

17 PROSPECTIVE JUROR NO. 637: Well I've --
18 right now I work for the schools, but prior to that my
19 mother was very ill, and I've taken care of her for many
20 years.

21 THE COURT: All right. And what do you do
22 for the schools?

23 PROSPECTIVE JUROR NO. 637: I'm in
24 management training for food service.

25 THE COURT: All right. And how about

1 marriage? Children?

2 PROSPECTIVE JUROR NO. 637: No, not married,
3 and I don't have any children. I have a Bassett hound.

4 THE COURT: Okay. Prior jury experience?

5 PROSPECTIVE JUROR NO. 637: Pardon?

6 THE COURT: Prior jury experience?

7 PROSPECTIVE JUROR NO. 637: No. None.

8 THE COURT: Have you ever -- have you or a
9 close family member or friend ever been accused of a
10 crime?

11 PROSPECTIVE JUROR NO. 637: Yes.

12 THE COURT: Tell us about that.

13 PROSPECTIVE JUROR NO. 637: Well, I've --
14 twice I've had cars stolen.

15 THE COURT: Okay. So you want to talk about
16 you've been a victim of a crime?

17 PROSPECTIVE JUROR NO. 637: Yes.

18 THE COURT: Okay. Twice car stolen. Tell
19 us a little bit about that.

20 PROSPECTIVE JUROR NO. 637: Nobody was ever
21 caught.

22 THE COURT: Anything about those --

23 PROSPECTIVE JUROR NO. 637: They were
24 reported.

25 THE COURT: Anything about those experiences

1 that might affect your ability to be fair here?

2 PROSPECTIVE JUROR NO. 637: No.

3 THE COURT: Now, what about being accused of
4 a crime, close family member or friend?

5 PROSPECTIVE JUROR NO. 637: Somebody used
6 our name to buy a car that happened to live in Las Vegas
7 with the same name which is really unusual, and so we've
8 had to put up with collectors coming to the door --

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 637: -- trying to
11 collect a car that we didn't have.

12 THE COURT: All right. Anything about that
13 experience that might affect your ability to be fair
14 here today?

15 PROSPECTIVE JUROR NO. 637: (Indiscernible).

16 THE COURT: Would you give a police officer
17 greater or lesser weight in their testimony simply
18 because they're a police officer?

19 PROSPECTIVE JUROR NO. 637: Nope.

20 THE COURT: Is or can you hold or hold in
21 forming your opinion in this case until you've heard all
22 of the evidence and received all the instructions from
23 me?

24 PROSPECTIVE JUROR NO. 637: (Indiscernible).

25 THE COURT: Can you think of any reason why