

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * *

JASON JONES,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

CASE NO. 63136

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APPELLANT'S APPENDIX

VOLUME 4

Direct Appeal From A Judgment of Conviction
Eighth Judicial District Court
The Honorable Valerie Adair, District Court Judge
District Court No. C285488

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1 PROSPECTIVE JUROR NO. 204: Yes.

2 MR. PANDELIS: Did I pronounce that correctly,
3 Uriarte?

4 PROSPECTIVE JUROR NO. 204: Yes.

5 MR. PANDELIS: You indicated you own a firearm.

6 PROSPECTIVE JUROR NO. 204: Yes.

7 MR. PANDELIS: And I'd ask you the same questions I
8 just asked Mr. Buzzard. How many firearms do you own?

9 PROSPECTIVE JUROR NO. 204: Two.

10 MR. PANDELIS: And are -- do you go out and use them
11 at the range often or...

12 PROSPECTIVE JUROR NO. 204: Yeah, like
13 [Unintelligible.]

14 MR. PANDELIS: Okay. So it's a hobby of yours?

15 PROSPECTIVE JUROR NO. 204: Right.

16 MR. PANDELIS: And like Mr. Buzzard, do you
17 understand that different types of firearms operate and
18 function in different ways?

19 PROSPECTIVE JUROR NO. 204: Yeah, pretty much. Yeah.

20 MR. PANDELIS: Okay. So every gun -- every gun isn't
21 the same?

22 PROSPECTIVE JUROR NO. 204: Right.

23 MR. PANDELIS: Okay. And the next hand, Mr. Luttner.

24 PROSPECTIVE JUROR NO. 211: Yes.

25 MR. PANDELIS: Badge No. 211.

1 PROSPECTIVE JUROR NO. 211: Yes. My father used to
2 own a gun shop years ago. Well, he passed away in '85, and so
3 I know quite a bit about firearms. But I use to own some
4 myself. It's been since the '80s since I even owned one. So
5 I don't keep any around and I no longer own them, but I've
6 used them for, you know, shooting practice and stuff at the
7 range.

8 MR. PANDELIS: Based on that, well, the previous, the
9 earlier contact you had, or the contact earlier in your life
10 that you've had with firearms, would you agree with these
11 other two gentlemen that different types of firearms operate
12 in different ways?

13 PROSPECTIVE JUROR NO. 211: Oh, yes, absolutely.

14 MR. PANDELIS: All right. And not all guns are the
15 same?

16 PROSPECTIVE JUROR NO. 211: Right.

17 MR. PANDELIS: And actually, there was one more hand
18 in the front row. Ms. Allen, correct?

19 PROSPECTIVE JUROR NO. 202: Yes.

20 MR. PANDELIS: Badge No. 202?

21 PROSPECTIVE JUROR NO. 202: Yes. I own a firearm,
22 but it's not in my possession.

23 MR. PANDELIS: Like these other -- do you use it
24 often, or is it something that you just own but don't really
25 think about?

1 PROSPECTIVE JUROR NO. 202: It's in Cedar City with
2 my daughter and son-in-law.

3 MR. PANDELIS: Okay. Are you as familiar as these
4 other two gentlemen sound with firearms --

5 PROSPECTIVE JUROR NO. 202: Yes.

6 MR. PANDELIS: -- Mr. Uriarte and Mr. Buzzard?

7 PROSPECTIVE JUROR NO. 202: Mm-hmm.

8 MR. PANDELIS: And like them, do you understand that
9 different types of firearms operate and function in different
10 manners?

11 PROSPECTIVE JUROR NO. 202: Yes.

12 MR. PANDELIS: And I believe that was it for the
13 bottom row, correct? Top row, I saw some hands. All right.
14 I'm going to start over with Mr. Martinez, Badge No. 220.

15 PROSPECTIVE JUROR NO. 220: Yeah. Well, they've
16 shown me how to use them since I was like 10 or 11. So I grew
17 up using firearms, so now I [inaudible].

18 MR. PANDELIS: Who's they?

19 PROSPECTIVE JUROR NO. 220: My uncles, family
20 members.

21 MR. PANDELIS: And they showed you how to use
22 different types, or just shotguns?

23 PROSPECTIVE JUROR NO. 220: No. Different types.

24 MR. PANDELIS: So you understand handguns operate in
25 a different manner than shotguns?

1 PROSPECTIVE JUROR NO. 220: Of course.

2 MR. PANDELIS: Okay. And the next hand I believe I
3 saw was Mr. Langworthy.

4 PROSPECTIVE JUROR NO. 225: Yes.

5 MR. PANDELIS: Badge No. 225?

6 PROSPECTIVE JUROR NO. 225: Yes.

7 MR. PANDELIS: You own firearms as well?

8 PROSPECTIVE JUROR NO. 225: Yes, sir.

9 MR. PANDELIS: Anything to add other than what you've
10 heard these other individuals say?

11 PROSPECTIVE JUROR NO. 225: No.

12 MR. PANDELIS: Okay. And any other hands, top row?

13 Has anybody here seen or dealt with a person who's
14 been under the influence of drugs or alcohol? Throughout the
15 morning we've heard of people who have had family members
16 who've had drug issues or alcohol issues. But has someone
17 here been close to a person with those types of issues? Ms.
18 Green.

19 PROSPECTIVE JUROR NO. 265: As I said before, my
20 daughter was very involved with drugs.

21 MR. PANDELIS: And it sounds like -- and if I -- I
22 apologize if I don't remember this correctly, but she's making
23 some strides in the right direction?

24 PROSPECTIVE JUROR NO. 265: Oh, yeah. In the past
25 four years she's been clean and sober.

1 MR. PANDELIS: Okay. You're going to hear from some
2 of the witnesses in this case, and some of them may be
3 struggling with issues similar to your daughter, drugs or
4 alcohol in the past.

5 Now, with your daughter, when she was struggling with
6 these issues, did you discount everything about her just
7 because of these issues? Like you didn't listen to anything
8 she said or value her opinions, or did you just discount
9 everything about her, or did you still listen to her and value
10 her opinion at times?

11 PROSPECTIVE JUROR NO. 265: It wasn't a matter of
12 valuing her opinion. It was a matter of getting her help.

13 MR. PANDELIS: Okay. But would you agree with me
14 that -- I mean, your daughter, even though she was struggling
15 with these issues, she could still -- she still had eyes and
16 could see things, correct?

17 PROSPECTIVE JUROR NO. 265: Mm-hmm.

18 MR. PANDELIS: Your daughter, she still had ears, she
19 could hear things?

20 PROSPECTIVE JUROR NO. 265: Mm-hmm.

21 MR. PANDELIS: And that's a yes?

22 PROSPECTIVE JUROR NO. 265: Yes.

23 MR. PANDELIS: And she still had a mouth, she could
24 still talk to you?

25 PROSPECTIVE JUROR NO. 265: Yes.

1 MR. PANDELIS: Now, when she would talk to you, would
2 you discount everything she said, or would you still listen to
3 her sometimes? Again, my question is: Would you discount
4 everything she said simply because she had these issues?

5 PROSPECTIVE JUROR NO. 265: No, I didn't discount
6 everything she said, but a lot of the things she said were out
7 of proportion because of the drugs.

8 MR. PANDELIS: But you would -- okay.

9 PROSPECTIVE JUROR NO. 265: I just spent a couple of
10 years really suffering trying to get her help.

11 MR. PANDELIS: But she was still able to communicate
12 with you is what I'm getting at.

13 PROSPECTIVE JUROR NO. 265: Yeah. Oh, yes.

14 MR. PANDELIS: And Mr. Martinez, I saw your hand go
15 up as well.

16 PROSPECTIVE JUROR NO. 220: Yeah. My [inaudible].

17 MR. PANDELIS: And Badge No. 220.

18 PROSPECTIVE JUROR NO. 220: But they've sobered up
19 for awhile now and [inaudible].

20 MR. PANDELIS: Okay. Do you still have contact with
21 these people?

22 PROSPECTIVE JUROR NO. 220: Yeah. They're my
23 parents.

24 MR. PANDELIS: Oh. Okay. I didn't hear. I'm sorry.
25 I didn't hear you. I heard you say --

1 PROSPECTIVE JUROR NO. 220: I kind of mumbled it.

2 MR. PANDELIS: Okay. But your parents. Growing up,
3 I mean, obviously they were your parents, you still spoke to
4 them, you still listened to them, correct?

5 PROSPECTIVE JUROR NO. 220: Of course.

6 MR. PANDELIS: Even though they were struggling those
7 issues, you didn't discount everything else about them, did
8 you?

9 PROSPECTIVE JUROR NO. 220: No.

10 MR. PANDELIS: Okay. Anybody else? Ms. Allen.

11 PROSPECTIVE JUROR NO. 202: Both my brothers died of
12 massive heart attacks at young ages, 46 and 49, alcohol
13 related, cirrhosis of the liver.

14 MR. PANDELIS: And what -- when you're brothers were
15 dealing with these issues, what was your relationship with
16 them like?

17 PROSPECTIVE JUROR NO. 202: My older brother was
18 living in Oakland. He was the policeman. He went through a
19 lot of depression during that time, and he even threatened the
20 mayor of that town, Oakland, California.

21 MR. PANDELIS: And then you had another brother as
22 well?

23 PROSPECTIVE JUROR NO. 202: I had a younger brother,
24 yes.

25 MR. PANDELIS: He dealt with those same issues?

1 PROSPECTIVE JUROR NO. 202: Yes.

2 MR. PANDELIS: While they were dealing with these
3 issues, what was your relationship with them like?

4 PROSPECTIVE JUROR NO. 202: Understanding, learning.
5 Learning from their mistakes.

6 MR. PANDELIS: So you understood that they were going
7 through some struggles?

8 PROSPECTIVE JUROR NO. 202: Oh, yes.

9 MR. PANDELIS: Were you still able to have
10 conversations with them?

11 PROSPECTIVE JUROR NO. 202: Yes.

12 MR. PANDELIS: And like I asked some of the other
13 individuals in the jury box, they had eyes, they could still
14 see things?

15 PROSPECTIVE JUROR NO. 202: Mm-hmm.

16 MR. PANDELIS: Could they tell you about things that
17 they saw?

18 PROSPECTIVE JUROR NO. 202: You mean under a drunken
19 state?

20 MR. PANDELIS: Well, I mean to a lesser extent
21 certainly, but still whether or not they're drunk I mean, they
22 could still see things. Whether or not they can communicate
23 to you what they see is a whole other story. But do you
24 understand what I'm saying?

25 PROSPECTIVE JUROR NO. 202: Not really.

1 MR. PANDELIS: They had -- assuming that they weren't
2 in that drunken state, I mean, they could still see things,
3 correct?

4 PROSPECTIVE JUROR NO. 202: Yes.

5 MR. PANDELIS: But even if they were and they're not
6 in a complete drunken state, if they're telling you a story,
7 how do you assess their credibility when they're telling you a
8 story?

9 PROSPECTIVE JUROR NO. 202: Well --

10 MR. PANDELIS: They're telling you about something
11 they saw when they're in a drunken state; how would you assess
12 their credibility?

13 PROSPECTIVE JUROR NO. 202: I grew up as a good
14 listener. I just listened.

15 MR. PANDELIS: So would you listen to --

16 PROSPECTIVE JUROR NO. 202: If they asked for advice,
17 I would give them advice, which wasn't often.

18 MR. PANDELIS: When you're assessing whether or not
19 what they're telling you is credible, you said you'd listen.
20 Would you listen for the small details to see if it made sense
21 to you?

22 PROSPECTIVE JUROR NO. 202: Yes.

23 MR. PANDELIS: And would you listen for those small
24 details to see if it made sense with other things that you
25 know, if what they're telling you conforms --

1 PROSPECTIVE JUROR NO. 202: I tried.

2 MR. PANDELIS: -- to reality as you know it?

3 PROSPECTIVE JUROR NO. 202: Yeah, I tried.

4 MR. PANDELIS: And if you heard from witnesses like I
5 described in this case who dealt with those same issues, would
6 you do that as well? Would you use your common sense to
7 decide whether or not it makes sense, what they're telling
8 you?

9 PROSPECTIVE JUROR NO. 202: Absolutely. I would --

10 MR. PANDELIS: And use your common --

11 PROSPECTIVE JUROR NO. 202: I would try to understand
12 with common sense.

13 MR. PANDELIS: And use your common sense to see if
14 what they're telling you, even if they're dealing with those
15 issues, conforms or matches with what else you know to be
16 true?

17 PROSPECTIVE JUROR NO. 202: Right.

18 MR. PANDELIS: Okay. Is there anybody else who
19 disagrees with what Ms. Allen is saying? Anybody who
20 disagrees? Okay. Mr. Langworthy, not that you disagree, but
21 I saw you raising your hand and you had something you
22 wanted to --

23 PROSPECTIVE JUROR NO. 225: Yeah. My father was an
24 alcoholic. He used pharmaceuticals to help with his back. He
25 had back surgeries often and, you know, he was just quite

1 impaired, and so to deal with that had to, you know, take a
2 lot of drugs and alcohol to try to keep sane, I guess, you
3 know, and deal with that pain.

4 MR. PANDELIS: Like we talked about with some of the
5 other ladies and gentlemen up here, has two eyes, two ears, a
6 mouth, can communicate, see and hear things, but because of
7 his condition sometimes might not be able to communicate as
8 effectively with you as he would if he wasn't suffering from
9 those problems, correct?

10 PROSPECTIVE JUROR NO. 225: True.

11 MR. PANDELIS: That said, do you agree with what
12 Ms. Allen said, that when you're assessing what your father's
13 telling you as credible, you listen to the details, see if it
14 makes sense to you, see if it conforms or matches with reality
15 as you know it?

16 PROSPECTIVE JUROR NO. 225: Correct.

17 MR. PANDELIS: All right. And the other -- some of
18 the witnesses in this case that are called to the stand to
19 testify and you hear that in the past they have dealt with
20 issues like that, would you do the same thing, just apply your
21 common sense to what they're telling you?

22 PROSPECTIVE JUROR NO. 225: Yes, sir.

23 MR. PANDELIS: Thank you. Any other hands that have
24 something to add on that question?

25 All righty. Anybody here a fan of shows on TV like

1 CSI, Law & Order? You don't have to be embarrassed to
2 admit it. Ms. Green, I saw your hand. What shows do you
3 watch?

4 PROSPECTIVE JUROR NO. 265: I watch Law & Order, just
5 about all of them.

6 MR. PANDELIS: Anybody else?

7 PROSPECTIVE JUROR NO. 265: There's so many of them.

8 MR. PANDELIS: Mr. Martinez, you like those shows as
9 well?

10 PROSPECTIVE JUROR NO. 220: Yes, yes. Bones.

11 MR. PANDELIS: Bones, that's another one?

12 PROSPECTIVE JUROR NO. 220: Yeah.

13 MR. PANDELIS: I'll confess. I don't watch them, so
14 I am not familiar with Bones. Ms. Bernhardt, you had your
15 hand raised?

16 PROSPECTIVE JUROR NO. 221: CIS and Bones.

17 MR. PANDELIS: Anyone else? Mr. Uriarte.

18 PROSPECTIVE JUROR NO. 204: Yes. CIS.

19 MR. PANDELIS: Same shows?

20 PROSPECTIVE JUROR NO. 204: Same shows.

21 MR. PANDELIS: And I believe, Mr. Luttner, you had
22 your hand raised?

23 PROSPECTIVE JUROR NO. 211: CSI once in awhile with
24 family.

25 MR. PANDELIS: What is it you like about these shows?

1 PROSPECTIVE JUROR NO. 211: Just the realism, the
2 drama.

3 MR. PANDELIS: What do you mean by realism?

4 PROSPECTIVE JUROR NO. 211: Well, the way they act,
5 what happens and how they arrive at the conclusions, you know.

6 MR. PANDELIS: Now, when you use the word "realism,"
7 I want to ask you, do you understand that reality is actually
8 quite a bit different than what you see on those television
9 shows?

10 PROSPECTIVE JUROR NO. 211: Yeah. I know it's a
11 show, but you always got to keep that in your mind.

12 MR. PANDELIS: Is there anybody up here who disagrees
13 and thinks that those shows are just accurate portrayals of
14 real life?

15 THE COURT: They've figured out already it's not. I
16 think it would have been canceled.

17 MR. PANDELIS: Everyone agrees that a lot of the
18 things they see on those shows aren't realistic, aren't even
19 possible a lot of times, but it's just good entertainment?

20 Okay. And when you watch those things, it's just
21 you're watching them solely for entertainment and not -- you
22 don't think it's an accurate portrayal of what a crime scene
23 investigator does for example? Okay.

24 And again, just to follow up, you're going to hear
25 from some crime scene analysts in this case, people who are

1 real life CNI -- CSIs. And for one, they're not going to look
2 like movie stars. But furthermore, their job, when you --
3 they come in here and you hear them testify, their job's not
4 going to seem nearly as exciting as what you see on TV.

5 Are you going to hold that against these witnesses,
6 that their job just doesn't measure up to what you see on TV,
7 anybody? All right. Seeing no hands.

8 Judge Adair asked each of you what you do for a
9 living. And I apologize, I don't remember offhand what each
10 of you answered. But do any of you have jobs wherein on a
11 regular basis you're resolving conflicts between coworkers or
12 dealing with customers? Mr. Pryor, Badge No. 240, you have a
13 job. What did you do again?

14 PROSPECTIVE JUROR NO. 240: I manage a group of
15 people. I manage a pretty large staff, so they've got
16 conflicts sometimes with one another or with clients.

17 MR. PANDELIS: When you have two employees that are
18 going at each other, how do you address that?

19 PROSPECTIVE JUROR NO. 240: You know, typically
20 it's -- I mean, initially it's just separating them and
21 getting the conflict resolved immediately as far as that. But
22 then it's working with the human resources department to
23 figure out what the appropriate steps of action are depending
24 on what happened.

25 MR. PANDELIS: When you have to deal with it, I mean,

1 have there been occasions when you have to deal with it
2 directly rather than sending it off to human resources?

3 PROSPECTIVE JUROR NO. 240: Yeah.

4 MR. PANDELIS: Okay. And when you're dealing with
5 two employees who are going at each other, will you listen to
6 what each one of them has to say?

7 PROSPECTIVE JUROR NO. 240: Yeah.

8 MR. PANDELIS: Okay. And after you listen to what
9 each one of them has to say, what do you do to resolve the
10 strife that they're having?

11 PROSPECTIVE JUROR NO. 240: Well, luckily I tend to
12 know my employees well enough and know the situations well
13 enough that they are facing that it typically becomes pretty
14 clear what happened.

15 MR. PANDELIS: Just by listening to --

16 PROSPECTIVE JUROR NO. 240: Yeah.

17 MR. PANDELIS: -- what each of them has to say?

18 PROSPECTIVE JUROR NO. 240: Yeah.

19 MR. PANDELIS: And would it be fair to say that once
20 you listen to what each one of them has to say, you use your
21 knowledge as an upper level employee of the company as well as
22 your common sense in deciding who's right and who's wrong?

23 PROSPECTIVE JUROR NO. 240: Yeah.

24 MR. PANDELIS: What comes to mind, Mr. Pryor, when
25 I -- I just used the word "common sense." What comes to mind

1 when I use that term?

2 PROSPECTIVE JUROR NO. 240: I don't know. It --
3 common sense, I think some were born with it, some people
4 aren't. But I think a lot of it just comes from experience
5 and being able to determine what's right, what's wrong, and be
6 able to read between the lines a little bit of what's been
7 said and give a listen to what's going on.

8 MR. PANDELIS: Now, based on that definition, if
9 you're selected as a juror in this case, can you use your
10 common sense in listening to the evidence and then later
11 deliberating in this case?

12 PROSPECTIVE JUROR NO. 240: Yeah.

13 MR. PANDELIS: Thank you.

14 Anybody else have a job in which they resolve
15 conflicts, whether it be between employees or customers? And
16 Mr. Langworthy, you raised your hand.

17 PROSPECTIVE JUROR NO. 225: Yeah. Working at MGM, we
18 are constantly around the customers and, you know, if they
19 seem like they're frustrated or upset, we try to calm them and
20 be courteous, kind, and try to offer them something that would
21 help them be appeased.

22 And if we can't resolve the conflict, then we get
23 supervisors, managers and security involved. But most of the
24 time when we speak to them gently and kind and courteous that,
25 you know, most of the conflicts are resolved.

1 MR. PANDELIS: So a little bit different than
2 Mr. Pryor's situation where he's dealing with people
3 internally. Where he's just trying to figure out who in his
4 organization is right, you're dealing with customers, and we
5 hear the old saying that the customer is always right, and
6 generally MGM is just trying to make their customers happy,
7 correct?

8 PROSPECTIVE JUROR NO. 225: Yes, sir.

9 MR. PANDELIS: And that's the approach you take in
10 resolving a conflict?

11 PROSPECTIVE JUROR NO. 225: Yeah. We try to figure
12 out what their problem is, you know, and if it's on our part,
13 you know, we try to tell them, hey, I'm sorry and, you know,
14 how can we make it up to you. You know, if it's something
15 that they're not pleased with like maybe their hotel room or
16 whatever, then we get other people involved.

17 MR. PANDELIS: Even though it's a different type of
18 situation than Mr. Pryor, would you agree with Mr. Pryor that
19 common sense goes a long way in resolving those conflicts?

20 PROSPECTIVE JUROR NO. 225: Yes, sir.

21 MR. PANDELIS: All right. Anybody else? Ms. Allen,
22 I believe.

23 PROSPECTIVE JUROR NO. 202: Yes. For 11 to 12 years
24 I was line captain at the Folies Bergere, the Tropicana Hotel,
25 and I had to keep the show straight. That meant people in

1 their places, and sometimes they didn't take constructive
2 criticism. I would have to go [inaudible] watch the show. I
3 was also a dancer, and it was -- I wasn't in a popularity
4 contest, let's say, because I was a line captain.

5 MR. PANDELIS: So sometimes you had to tell people
6 that you worked with that they just weren't seeing things the
7 right way?

8 PROSPECTIVE JUROR NO. 202: They weren't doing their
9 job.

10 MR. PANDELIS: And a lot of times after, like we
11 heard, using your common sense and talking to them, were you
12 able to make them see the light?

13 PROSPECTIVE JUROR NO. 202: Yes, along with a
14 superior.

15 MR. PANDELIS: Okay. Now, at the conclusion of this
16 trial, if you're selected as a juror, after the State presents
17 all the evidence, Judge Adair is going to instruct you on the
18 law. And is there anybody -- and the law is the law. You're
19 not here to decide whether or not a law makes sense or the
20 wisdom behind the law.

21 But is there anybody here that would have a problem
22 following the law as given to you by Judge Adair even if you
23 disagreed with the law? And I see no hands. So everyone's
24 answering no?

25 Can anyone here think of a reason why a person might

1 be hesitant or reluctant or just not want to talk to the
2 police? Anybody?

3 And Mr. Buzzard, Badge No. 198, I saw you just kind
4 of smiling on that one. Can you think of some reasons why
5 somebody might, if the police are near your home investigating
6 a crime, not you necessarily, but can you -- if the police are
7 outside a home investigating a crime, can you think of why a
8 person might not want to talk to the police?

9 PROSPECTIVE JUROR NO. 198: They're inches away from
10 being in jail themselves.

11 MR. PANDELIS: Any other reasons?

12 PROSPECTIVE JUROR NO. 198: Just nervous.

13 MR. PANDELIS: So some people can be nervous.
14 Anybody else? Mr., is it Chapin?

15 PROSPECTIVE JUROR NO. 261: Mm-hmm.

16 MR. PANDELIS: All right. Mr. Chapin, Badge No. 261,
17 you had another reason?

18 PROSPECTIVE JUROR NO. 261: Yeah. The stigma of
19 being a snitch or a rat.

20 MR. PANDELIS: What do you mean by that, sir?

21 PROSPECTIVE JUROR NO. 261: It's in some cultures
22 it's kind of looked down upon to be a rat or a snitch, or to
23 call the police when there's a problem in your neighborhood,
24 or in your gang or in your group of friends or whatever it is,
25 so.

1 MR. PANDELIS: If you see something, you just kind of
2 turn a blind eye and keep it to yourself, is that what you're
3 saying?

4 PROSPECTIVE JUROR NO. 261: That's not what I do, but
5 some people do.

6 MR. PANDELIS: But your answer is that's one reason
7 you can think of why people might be hesitant to talk to
8 police, even though it doesn't necessarily make sense to you?

9 PROSPECTIVE JUROR NO. 261: Correct.

10 MR. PANDELIS: Anybody else that has any other
11 reasons?

12 One moment, Your Honor.

13 (Pause in proceedings)

14 MR. PANDELIS: We'll pass for cause.

15 THE COURT: All right. Thank you.

16 Defense, you may question the panel.

17 MR. CANO: Thank you, Your Honor.

18 Good afternoon. This is the only opportunity that
19 the defense and the State has to speak directly to you. As
20 you heard earlier from the judge, if you see us in the
21 hallways or in the elevators, walking around, our ethics
22 doesn't allow us to talk to you. And the reason why we have
23 this opportunity here is to try to have an open free
24 discussion. That's what voir dire is about.

25 There's no wrong answers that you can give here.

1 What we're asking for is your personal opinions and thoughts,
2 because what we're looking for here is 12 fair people to
3 listen to the evidence in this case. Would everybody agree
4 with me that that's what we want here?

5 (Prospective jurors respond affirmatively.)

6 MR. CANO: Yes?

7 (Prospective jurors respond affirmatively.)

8 MR. CANO: Okay. So that being said, there are no
9 wrong answers. Okay. So if I ask the question, just please
10 volunteer and let me know what your thoughts are behind them
11 and I'll try not to pick on you. If you feel like I'm picking
12 on you, I apologize ahead of time, but I'm not. Okay.

13 By a show of hands, how many of you guys walked in,
14 when you walked in and you got that jury notice selection,
15 said, oh, my God, there goes the State prosecuting another
16 innocent person? No hands are being shown.

17 Okay. Why did you not think that?

18 PROSPECTIVE JUROR NO. 225: You're not guilty until
19 you're proven guilty.

20 MR. CANO: But you didn't think initially, when you
21 received that jury notice, you didn't think -- and I'm
22 speaking -- for the record, oh, I'm sorry, to Mr. Langworthy,
23 correct?

24 PROSPECTIVE JUROR NO. 225: Yes, sir.

25 MR. CANO: Okay. Juror No. 225. But when you

1 received that jury notice, it didn't initially come off the
2 top of your head that this person may be innocent, correct?

3 What was your initial thought?

4 PROSPECTIVE JUROR NO. 225: My initial thought?

5 MR. CANO: Other than I don't want to go to jury
6 duty, or I don't want to have jury service.

7 PROSPECTIVE JUROR NO. 225: Just losing money at my
8 job. That's the only thought.

9 MR. CANO: Okay. Well, I want to talk about this
10 concept of this presumption of innocence. We said you're not
11 guilty until you've been proven guilty. Why is that so
12 important, do you think?

13 PROSPECTIVE JUROR NO. 225: Well, everybody has a
14 life and unless you have facts, you know, you can't judge, you
15 know. Like the Bible says, you cannot judge a matter unless
16 you have two or more witnesses. And so based on the Bible, I
17 believe the way we go about it in America, you're innocent
18 until you're proven guilty, and we need to have more witnesses
19 or more evidence to show that you're guilty.

20 MR. CANO: Does everybody agree with that? Is that a
21 yes? I see everybody nodding, so does everybody agree with
22 that?

23 (Prospective jurors respond affirmatively.)

24 MR. CANO: So then as you look over to the table and
25 you see Jason over there sitting down there, right now, if you

1 had to go back to the jury room and vote, what would your
2 guys' vote be? Anybody?

3 PROSPECTIVE JUROR NO. 198: We don't have one.

4 MR. CANO: You don't have one. And that was
5 Mr. Buzzard?

6 PROSPECTIVE JUROR NO. 198: Buzzard, yeah.

7 MR. CANO: Buzzard. Mr. Buzzard, Number 198, for the
8 record. You don't have a vote?

9 PROSPECTIVE JUROR NO. 198: I don't have any -- I
10 don't have any clue what's going on, so I can't vote either
11 way.

12 MR. CANO: Would everybody agree with that?

13 (Prospective jurors respond affirmatively.)

14 MR. CANO: Okay. Well, not to pick on you, but
15 there's been no evidence presented to you, correct?

16 PROSPECTIVE JUROR NO. 198: Correct.

17 MR. CANO: So if there's been no evidence presented
18 to you, has the State proven his guilt beyond a reasonable
19 doubt?

20 PROSPECTIVE JUROR NO. 198: No.

21 MR. CANO: So what should your vote be then right
22 now?

23 PROSPECTIVE JUROR NO. 198: Well, I would abstain.

24 MR. CANO: Okay. Well, can you see the point that
25 I'm trying to make though?

1 PROSPECTIVE JUROR NO. 198: I see --

2 MR. CANO: Without any evidence presented in front of
3 you right now, if you had to go deliberate and vote, you
4 should return a verdict of not guilty.

5 PROSPECTIVE JUROR NO. 198: I see your point.

6 MR. CANO: Because the State has the burden of proof
7 in this case. That's one of the fundamental tenets that we
8 have in the criminal justice system, that someone is presumed
9 innocent until proven guilty beyond a reasonable doubt. Would
10 you agree with that?

11 PROSPECTIVE JUROR NO. 198: I see your point, yeah.

12 MR. CANO: So would everybody change their vote now
13 and not abstain? Is that a yes or is that a no?

14 (No audible response.)

15 MR. CANO: Well, I mean, that's why we're having the
16 discussion, I think, a little bit right now, to try to get
17 people that are fair and open minded and to understand the
18 burden of proof and understand the presumption of innocence.
19 I think that's very important at the outset, that as Mr. Jones
20 is sitting over there, nothing has been presented against him.
21 He's innocent as anyone else were.

22 If you were switching places with him, wouldn't you
23 want jurors to be open minded and to have that presumption
24 prior to listening to the evidence?

25 (Inaudible response.)

1 MR. CANO: Okay. That seems fair, doesn't it?

2 PROSPECTIVE JUROR NO. UNKNOWN: Mm-hmm.

3 MR. CANO: Okay. Now, along those lines as well,
4 there's a burden of proof. I mentioned that a little bit
5 briefly. But the State has the burden of proof, of proving
6 every material element beyond a reasonable doubt. Okay. That
7 burden rests solely with the State. That's Mr. Pandelis and
8 Ms. Christensen here.

9 If they haven't met that burden of proof, I mean,
10 you're required by law, you have to return a verdict of not
11 guilty. Is everybody comfortable with that? Can everybody
12 raise their hand if they're comfortable with that, so I know
13 who is and who isn't. Okay. Everybody raised their hand, for
14 the record.

15 So that being said, since they have the burden of
16 proof, that means there's no obligation by the defense to
17 prove anything. Does that make sense? The State has to prove
18 it. The defense doesn't have to prove him innocent, so to
19 speak. Does that make sense?

20 (Affirmative responses.)

21 MR. CANO: So if they presented their whole entire
22 case and they sat down, they thought that they had enough
23 evidence, but as the defense we felt that they didn't show
24 enough evidence and we didn't present anything, didn't ask any
25 questions, didn't present anything, you know, they just didn't

1 prove their case though, would you guys be comfortable
2 returning a verdict of not guilty if they haven't met that
3 burden of proof beyond a reasonable doubt? Is that yes?

4 (Affirmative responses.)

5 MR. CANO: Okay. Now, there are a couple things that
6 may come up, and we're trying to find -- like I said, we're
7 trying to find fair jurors here. So if there's any prejudices
8 or biases, I mean, that's what we're trying to fetter out
9 here, to make sure that we get the 12 fairest people that we
10 can to listen to the evidence in this case.

11 And that doesn't mean that, you know, if you don't
12 agree with any of the points that I'm making or any of the
13 things that I'm saying, that doesn't mean that you can't be a
14 good juror, maybe just not the proper juror for this case. So
15 that being said, one of the fears that the defense may have
16 here in this case is that obviously this is a murder case.
17 It's a very serious case.

18 There will be some testimony regarding the deceased
19 and the manner of how he died, and you may hear from his
20 family and the loss that they have had in this case. The
21 defense fears that that may emotionally impact you to the
22 point where it can color you from looking at the evidence.
23 Can everyone understand what I'm trying to say there?

24 (Affirmative responses.)

25 MR. CANO: How do you think that you would be able to

1 deal with like pictures they may show of the deceased person?
2 I don't know who's familiar with that. Because you're not
3 accustomed to that, that can have a very traumatic effect on a
4 person. Does anybody think that being exposed to that may
5 affect them in being able to sit in this case?

6 Is everybody okay with that? Well, I mean, maybe not
7 okay with that, but is everybody willing to accept, you know,
8 their duty as a juror and listen to all the evidence, I guess,
9 is a better way to say that. Is that a yes?

10 (Affirmative responses.)

11 MR. CANO: Okay. And if you feel that you're being
12 emotionally overwhelmed perhaps by some of the images that you
13 may see in this case, would you let the Court know? I thought
14 I could do this case but, you know, I really can't. I can't
15 be fair, because once I saw these pictures I stopped
16 listening. Would you be willing to let the Court know that
17 this case wouldn't be proper for you? Is that a yes?

18 (Affirmative responses.)

19 MR. CANO: Now, I know that there were some gun
20 owners here, correct?

21 PROSPECTIVE JUROR NO. UNKNOWN: Yeah.

22 MR. CANO: So we do know that there are some people
23 that are okay with the use of guns. Is there anybody on the
24 other side of the spectrum that just can't stand guns, that
25 because someone may possess a gun or own a gun or have used a

1 gun in a crime they automatically do not like that person?

2 (No audible response.)

3 MR. CANO: Then no one has those feelings whatsoever?

4 No? Okay.

5 I'm going to ask a similar question regarding drug or
6 alcohol use. I know some of you have had some experience with
7 drug and alcohol, or people and their family members who have
8 had drug and alcohol uses. You may hear some mention of that
9 in this case or not. Does anybody have some strong feelings
10 in favor of or against drugs or alcohol? No?

11 (No audible response.)

12 MR. CANO: I'm going to follow up on a few particular
13 people who had mentioned that. Mr. Martinez, I believe you
14 had mentioned that your parents had issues with drug and
15 alcohol while you were growing up.

16 PROSPECTIVE JUROR NO. 220: Yeah, with alcohol.

17 MR. CANO: With alcohol?

18 PROSPECTIVE JUROR NO. 220: Yeah.

19 MR. CANO: And as you were going through that
20 growing up, would you agree with me that depending on the
21 amount of alcohol that they had ingested, it affected their
22 behavior or their demeanor?

23 PROSPECTIVE JUROR NO. 220: Of course.

24 MR. CANO: And it could be either positive or
25 negative?

1 PROSPECTIVE JUROR NO. 220: Yeah, either way
2 depending on how they're feeling.

3 MR. CANO: Depending on how they're feeling?

4 PROSPECTIVE JUROR NO. 220: Yes.

5 MR. CANO: Okay. Would you agree with me that not
6 only did it affect them emotionally, it sometimes could affect
7 their perceptions?

8 PROSPECTIVE JUROR NO. 220: Of course. [inaudible].

9 MR. CANO: I'm sorry?

10 PROSPECTIVE JUROR NO. 220: Perception of reality.
11 They think they can do something they can't.

12 THE COURT RECORDER: I'm sorry. I'm not picking
13 you up, sir.

14 PROSPECTIVE JUROR NO. 220: Oh. Their perception of
15 reality, they think they can do something they can't.

16 MR. CANO: Okay. Or do they think that they saw
17 something they didn't?

18 PROSPECTIVE JUROR NO. 220: Yeah, sometimes.

19 MR. CANO: Or did something that they didn't do?

20 PROSPECTIVE JUROR NO. 220: That they didn't do
21 [inaudible].

22 MR. CANO: And was that your experience with them
23 growing up, I mean, that the alcohol impacted them to that
24 point, where they'd drink to that point where it would impact
25 them?

1 PROSPECTIVE JUROR NO. 220: No. They only drunk to
2 the point where they would like speed on the street or
3 something, but never to the point where they were
4 hallucinating or something like that.

5 MR. CANO: Okay. I want to speak with Ms. Green
6 regarding that. You said you had some issues with your
7 daughter growing up. Would you agree with Mr. Martinez and
8 his characterization that drugs can affect someone's
9 perceptions?

10 PROSPECTIVE JUROR NO. 265: Definitely.

11 MR. CANO: Okay. And have you had that experience
12 with your daughter?

13 PROSPECTIVE JUROR NO. 265: Yes.

14 MR. CANO: Okay. So despite the fact that she might
15 have eyes and ears and can speak to you about things, when she
16 is under the influence of drugs, that doesn't necessarily mean
17 what she's reporting to you is accurate; would that be a fair
18 statement?

19 PROSPECTIVE JUROR NO. 265: Yes. Yes.

20 MR. CANO: Would it affect her demeanor as well?

21 PROSPECTIVE JUROR NO. 265: Yes.

22 MR. CANO: Both positively and negatively?

23 PROSPECTIVE JUROR NO. 265: Mm-hmm.

24 MR. CANO: Okay. And was that your experience with
25 her the entire time that she was using drugs?

1 PROSPECTIVE JUROR NO. 265: No. There were times
2 that were worse than others depending on, you know, how much
3 she had or how long she'd been taking them for at that period.
4 Some days were really bad and other days were just a little
5 bit out of control.

6 MR. CANO: Would you consider her to be like an
7 addict or a chronic user?

8 PROSPECTIVE JUROR NO. 265: There was a time there
9 that I felt she was kind of like an addict, yes.

10 MR. CANO: And when she was -- unfortunately, when
11 she was going through that period of time in her life, would
12 it be fair to say that she was not perhaps the most
13 responsible person?

14 PROSPECTIVE JUROR NO. 265: Definitely, yes.

15 MR. CANO: And maybe a person that you wouldn't have
16 a lot of credibility with?

17 PROSPECTIVE JUROR NO. 265: Yeah, there were times
18 that she didn't have much credibility.

19 MR. CANO: Right. And I hate to relive this. I'm
20 sorry to ask you these questions.

21 PROSPECTIVE JUROR NO. 265: Mm-hmm.

22 MR. CANO: Would it be fair to say that sometimes
23 when a person has these type of addictive personalities or
24 this chronic behavior, the most important thing for them is
25 probably to get that high or to use those drugs?

1 PROSPECTIVE JUROR NO. 265: Yes.

2 MR. CANO: Okay. And would it be fair to say that
3 sometimes they'll do anything in order to achieve that goal?

4 PROSPECTIVE JUROR NO. 265: Yes, and she did.

5 MR. CANO: Okay. Sometimes --

6 PROSPECTIVE JUROR NO. 265: She did things that she
7 wouldn't normally have done had she not been on drugs.

8 MR. CANO: Not the normal character you were used to
9 her being, correct?

10 PROSPECTIVE JUROR NO. 265: Right.

11 MR. CANO: So when someone is under the influence, it
12 does affect them in many different levels, you'd agree with
13 that?

14 PROSPECTIVE JUROR NO. 265: Yes. Yeah, she stole
15 from me and she sold every possession that she had that was
16 worth any money, her jewelry, her television set, anything she
17 could get her hands on.

18 MR. CANO: I'm sorry that you went through that, but
19 thank you for your honesty.

20 Ms. Allen, you said that your brothers had some
21 issues with alcohol as well.

22 PROSPECTIVE JUROR NO. 202: Yes.

23 MR. CANO: Would you agree with Ms. Green a little
24 bit in the sense that when they were under the influence of
25 alcohol, that that would change their behaviors?

1 PROSPECTIVE JUROR NO. 202: Yes.

2 MR. CANO: Yes?

3 PROSPECTIVE JUROR NO. 202: Most definitely.

4 MR. CANO: Most definitely. I think you had even
5 mentioned that one of your brothers had threatened the mayor.

6 PROSPECTIVE JUROR NO. 202: Yes.

7 MR. CANO: Was that while he was under the influence?

8 PROSPECTIVE JUROR NO. 202: Yes.

9 MR. CANO: Yes. So sometimes, like we said, it
10 affects people positively and negatively. I guess that would
11 be a negative, kind of a violent effect that alcohol would
12 have on him?

13 PROSPECTIVE JUROR NO. 202: Right, to a point.

14 MR. CANO: Not that I'm saying that it happened every
15 time, but at least that one --

16 PROSPECTIVE JUROR NO. 202: To the point where he had
17 to be put into a mental institution.

18 MR. CANO: So alcohol and drug uses can have a very
19 serious impact on a person's life; would everybody agree with
20 that?

21 (Affirmative responses.)

22 MR. CANO: Okay. So when evaluating someone's
23 credibility and they're an admitted drug user or alcohol user
24 to a chronic stage, would you all take that into consideration
25 in judging the credibility, that their perceptions can be

1 affected? Yes?

2 PROSPECTIVE JUROR NO. 202: Yes.

3 MR. CANO: That would be important information for
4 you to know when evaluating if this person is credible or not
5 credible; would you agree with that?

6 (Affirmative responses.)

7 MR. CANO: Yes?

8 There were some questions asked regarding if anyone
9 is familiar with law enforcement agencies. I know Ms. Allen's
10 brother, I think, was a police officer in Oakland, or high up
11 in the ranks, I believe, in Oakland.

12 PROSPECTIVE JUROR NO. 202: Yes.

13 MR. CANO: Now, would anybody hold the word of a
14 police officer to, I guess, a higher level of credibility
15 compared to say someone who is an admitted chronic alcoholic?
16 And it's okay if you say yes. I mean --

17 PROSPECTIVE JUROR NO. 202: Possibly.

18 PROSPECTIVE JUROR NO. UNKNOWN: Say that again.

19 PROSPECTIVE JUROR NO. UNKNOWN: Yeah.

20 PROSPECTIVE JUROR NO. UNKNOWN: Possibly, yes.

21 MR. CANO: My question was: Would you hold the word
22 of a police officer higher over the word of a chronic
23 alcoholic?

24 PROSPECTIVE JUROR NO. 198: In the grounds of common
25 sense, it's possible.

1 PROSPECTIVE JUROR NO. 221: It's possible. I
2 couldn't say yes or no on that.

3 MR. CANO: Okay. And I got it -- I just want to make
4 sure I got a good record here, so I'm going to go through this
5 one at a time. That was Ms. Bernhardt, correct? You said
6 that it was possible?

7 PROSPECTIVE JUROR NO. 221: Well, I mean, I just
8 think it's tough to make a decision like that without hearing
9 the police officer and an alcoholic [inaudible].
10 Unfortunately, plenty of functioning alcoholics in this world
11 that run businesses, doctors, attorneys. So I just -- I think
12 it's hard to say yes or no.

13 MR. CANO: Okay. Would you hold their credibility a
14 little bit higher solely because of the fact that they're
15 police officers?

16 PROSPECTIVE JUROR NO. 221: I don't know. I think it
17 would depend on that person and what they were saying and the
18 incident.

19 MR. CANO: And as a defense -- from the defense
20 perspective, you can understand -- I appreciate your honesty,
21 but I can also be a little -- it kind of gives me a little
22 pause if you would hold the word of a police officer that of
23 another witness.

24 And I give you extremes, but the reason why I ask
25 that is that if a police officer were to come up here and

1 testify and you'd take their word over anyone else's, that
2 wouldn't necessarily be fair, would it?

3 PROSPECTIVE JUROR NO. 221: No, but I didn't say
4 that. I said --

5 MR. CANO: I know you didn't say that.

6 PROSPECTIVE JUROR NO. 221: -- it would depend.

7 MR. CANO: It would depend --

8 PROSPECTIVE JUROR NO. 221: It would depend, yes.

9 MR. CANO: -- on what they said in conjunction with
10 other evidence?

11 PROSPECTIVE JUROR NO. 221: Yes.

12 MR. CANO: So that being said then, you would take
13 their word or their testimony into account along with the
14 testimony of any other witnesses?

15 PROSPECTIVE JUROR NO. 221: Yes.

16 MR. CANO: Depend -- despite the fact that that
17 person may have some issues?

18 PROSPECTIVE JUROR NO. 221: I would have to listen to
19 both and make a judgment. I would say that I'm not going to
20 hold a police officer -- there's also been police officers
21 that are crooked. So not every police officer is an honest
22 John, Joe, whatever.

23 MR. CANO: Okay.

24 PROSPECTIVE JUROR NO. 221: So I know that.

25 MR. CANO: Well, thank you. Not everybody feels that

1 way, so I do appreciate that.

2 Would everybody agree with what Ms. Bernhardt said?

3 (Affirmative responses.)

4 MR. CANO: That you got to kind of take a police
5 officer's word in account along with anyone else, and kind of
6 evaluate what the evidence is presenting?

7 (Affirmative responses.)

8 MR. CANO: Okay. Because as in any profession, you
9 know, there's good and bad police officers, lawyers, you know.
10 In any profession there can be good and bad.

11 Now, because the State has the burden of proof in
12 this case of proving beyond a reasonable doubt, we have no
13 burden, my client can choose to take the stand or not take the
14 stand. Is everyone comfortable with that concept? Have you
15 heard of that before?

16 (Affirmative responses.)

17 MR. CANO: Yes?

18 (Affirmative responses.)

19 MR. CANO: Okay. Does anybody here have any
20 hesitation or like would -- if my client chose not to take the
21 stand, would hesitate or have some pause, or take that into
22 consideration in evaluating this case because he chose not to
23 take the stand? Does anybody have a problem with that?

24 Is everybody okay with that, that he chose not to
25 take the stand? Yes?

1 PROSPECTIVE JUROR NO. 202: It's his choice.

2 MR. CANO: It is his choice. Right. He can't be
3 forced to take the stand. It's his right if he chooses not to
4 take the stand, and that shouldn't be held against him. Does
5 everybody agree with that?

6 (Affirmative responses.)

7 MR. CANO: Okay. Can anybody think of any reasons
8 why someone would not want to get up on that stand to testify
9 if you were accused of a crime?

10 PROSPECTIVE JUROR NO. 265: Be nervous.

11 MR. CANO: That's a very good point.

12 PROSPECTIVE JUROR NO. 265: Just be nervous.

13 MR. CANO: Someone may not be use to speaking in
14 public.

15 PROSPECTIVE JUROR NO. 265: Mm-hmm.

16 MR. CANO: So they may get nervous. Those nerves
17 from just not being able to speak in public may come across as
18 something different. Would that be correct?

19 PROSPECTIVE JUROR NO. 265: Right.

20 PROSPECTIVE JUROR NO. 221: He could implicate
21 himself not intentionally.

22 MR. CANO: Okay. So there are other reasons then
23 perhaps that that person did it as to whether they didn't take
24 the stand; would everybody agree with that?

25 (Affirmative responses.)

1 MR. CANO: There could be other reasons why they
2 chose not to testify?

3 (Affirmative responses.)

4 MR. CANO: And all of you are comfortable with the
5 fact that if my client chooses not to testify, you won't hold
6 that against him? And there will be some instructions from
7 the Court as well regarding that. But all of you are
8 comfortable with that concept, yes?

9 (Affirmative responses.)

10 MR. CANO: The Court's indulgence. Sorry.

11 There's some questions regarding like CSI. Basically
12 essentially what that is, is forensic science. You may hear
13 from some witnesses that testify regarding that count. Does
14 everybody believe that forensic science is accurate? Does
15 everybody agree with that statement?

16 Yes, no. I hear some mixed reactions here. Mr.
17 Langworthy.

18 PROSPECTIVE JUROR NO. 225: Yes.

19 MR. CANO: I think you didn't agree with that
20 statement.

21 PROSPECTIVE JUROR NO. 225: I don't think every
22 system is perfect, so neither do I think that that could be
23 perfect as well, you know. There might be something that's
24 flawed, maybe overlooked or under-looked. You know, so I
25 don't think every particular thing's --

1 MR. CANO: Okay. That's a fair assumption of a -- an
2 evaluation of that area. Does anybody agree with
3 Mr. Longworthy [phonetic]?

4 PROSPECTIVE JUROR NO. 225: Langworthy.

5 MR. CANO: Langworthy. My apologies, sir.

6 Who would agree with him? Mr. Martinez,
7 Ms. Bernhardt, you would?

8 PROSPECTIVE JUROR NO. 221: Mm-hmm.

9 MR. CANO: I think Mr. Luttner, as well. Anyone
10 else?

11 Okay. Everybody else think that it is fairly
12 accurate and right on, dead on the money?

13 PROSPECTIVE JUROR NO. 198: I'm not going to say dead
14 on the money, but I mean, they've learned to correlate
15 information and see trends and...

16 MR. CANO: Would it be a fair statement to say that
17 forensic science attempts to be accurate?

18 (Affirmative responses.)

19 MR. CANO: But there can be some mistakes in that?

20 (Affirmative responses.)

21 MR. CANO: For the most part? Okay. Fair enough.
22 Mr. Zercher.

23 PROSPECTIVE JUROR NO. 208: Yes, sir.

24 MR. CANO: You're sitting in a little bit different
25 position than probably some of the other jurors in the fact

1 that you've had some contact with the criminal justice system,
2 correct?

3 PROSPECTIVE JUROR NO. 208: Right.

4 MR. CANO: And anybody that has some experience with
5 that -- how do you view the system?

6 PROSPECTIVE JUROR NO. 208: Think it just, you know,
7 like anything else, it's not perfect, but it is what it is.

8 MR. CANO: Okay. So it's not perfect in what way?

9 PROSPECTIVE JUROR NO. 208: I'm sure mistakes are
10 made. Everybody's human in the system, some mistakes made
11 somewhere.

12 MR. CANO: Okay. Do you think that you were treated
13 fairly as you went through the criminal justice system?

14 PROSPECTIVE JUROR NO. 208: Yes, I do.

15 MR. CANO: When you were initially charged with
16 whatever allegations there were at the time, did you think
17 that the police officers involved in the investigation treated
18 you fairly or properly?

19 PROSPECTIVE JUROR NO. 208: Yes.

20 MR. CANO: Yes. And past that point, when the case
21 was passed on to district attorneys to prosecute the case and
22 you had to go out and hire your own defense attorney, do you
23 think that the district attorneys treated the case fairly?

24 PROSPECTIVE JUROR NO. 208: Yes.

25 MR. CANO: Now, do you think that you -- the

1 favorable results you got were based upon the fact that you
2 had good defense counsel?

3 PROSPECTIVE JUROR NO. 208: Possibly, maybe.

4 MR. CANO: Okay. What about the court, when you had
5 to deal with the court. I know you still have some pending
6 matters, but do you think you were being treated fairly by the
7 courts, the system?

8 PROSPECTIVE JUROR NO. 208: Everything that I've
9 experienced, it's a possibility that I would have. I mean, I
10 was treated fairly by everybody else. You know, but who
11 knows. Maybe there's one exception, you never know. But
12 everybody was fair with me.

13 MR. CANO: Okay. And do you think that you were the
14 exception, or do you think that you were the rule?

15 PROSPECTIVE JUROR NO. 208: I just think it is what
16 it is. You asked me if I was treated fairly, I was treated
17 fairly.

18 MR. CANO: Okay. This is kind of a hard question to
19 ask, but I would appreciate your honesty on this.

20 PROSPECTIVE JUROR NO. 208: All right.

21 MR. CANO: Do you think the fact that you're a white
22 male had an impact on how you were treated in this case?

23 PROSPECTIVE JUROR NO. 208: Absolutely not.

24 MR. CANO: No? Do you think that someone who's
25 African-American may have a different perspective from the

1 criminal justice system than you do?

2 PROSPECTIVE JUROR NO. 208: Possibly.

3 MR. CANO: Does anybody believe that the criminal
4 justice system may be unfair to an African-American male?

5 PROSPECTIVE JUROR NO. 261: Yes.

6 MR. CANO: Yes. I got a yes from Mr. Chapin. What
7 do you mean by that?

8 PROSPECTIVE JUROR NO. 261: The system of unfairness
9 has existed for a lot longer than we've been alive. It's kind
10 of ingrained everywhere, the police system, the court system,
11 everywhere. It's not gone, but even though it's a lot less
12 than it used to be.

13 MR. CANO: What's not gone, the prejudices?

14 PROSPECTIVE JUROR NO. 261: Prejudice, bias, it's all
15 still there. Not necessarily in this case, not necessarily in
16 every case, but it still exists somewhere.

17 MR. CANO: Okay. I wouldn't disagree with that
18 statement. That makes some sense. If for some reason you're
19 seated as a juror in this case and you felt that maybe some
20 other jurors were demonstrating some of this prejudice or some
21 of this bias, would you make the Court cognizant of that?

22 PROSPECTIVE JUROR NO. 261: Yes.

23 MR. CANO: Okay. That wouldn't be fair, would it, to
24 make a judgment on someone solely based upon their race or
25 their appearance?

1 PROSPECTIVE JUROR NO. 261: No.

2 MR. CANO: Does everybody agree with that?

3 (Affirmative responses.)

4 MR. CANO: But can you all understand why my client
5 may be hesitant considering the racial makeup of the jury that
6 we have in front of you? Is that a yes?

7 (Affirmative responses.)

8 MR. CANO: But do all of you, if you see any kind of
9 prejudices being exhibited by the way that people are speaking
10 about the case or the way they're speaking about Mr. Jones,
11 would you make the Court aware of that --

12 (Affirmative responses.)

13 MR. CANO: -- that a juror's acting improperly?

14 Thank you.

15 The Court's indulgence.

16 (Pause in proceedings)

17 MR. CANO: Could we approach?

18 THE COURT: Sure.

19 (Off-record bench conference.)

20 MR. CANO: I'll pass the panel, Your Honor.

21 THE COURT: All right. Is everyone on the panel okay
22 going a little bit longer without a break, everyone on the
23 panel?

24 Okay. For those of you in the audience, just if you
25 need to take a break, just communicate with the bailiff.

1 Ladies and gentlemen, you've been questioned thus far
2 relating to your service as jurors during what's called the
3 guilt phase of the trial. During the guilt phase, as you've
4 heard us talk, the State has the burden of proof. They have
5 the burden to prove, you know, that the crime that they've
6 charged was committed and that the defendant is the person who
7 committed the crime. And in that phase of the case they
8 present evidence related to that, and then the jury goes in
9 the back and deliberates.

10 In a case of murder, it's a little bit different than
11 all other types of criminal cases, because in all other types
12 of criminal cases, if an accused is convicted of a crime, it
13 becomes the duty of the Court to pronounce sentence. In this
14 kind of a case, if you or whomever is selected to serve on the
15 jury finds the defendant guilty of murder in the first degree,
16 then we move into what's called the penalty phase. And unlike
17 in all other types of cases, it becomes the duty of the jury
18 to pronounce sentence.

19 Now, in this type of a case, if in fact the defendant
20 is convicted of murder in the first degree and we move to a
21 penalty phase, the jury will have the opportunity to determine
22 which penalty is appropriate among three potential penalties.

23 Those potential penalties are life without the
24 possibility of parole, life with the possibility of parole
25 with the parole eligibility beginning after 20 years has been

1 served, and a term of years of 20 years at the bottom and a
2 maximum of 50 years, so a period of 20 to 50 years, parole
3 eligibility beginning after 20 years has been served.

4 The attorneys would now like to ask you some
5 questions relating to that phase of the trial. We might never
6 get there, but they have to consider the possibility that we
7 may get there. Although that's, you know, in no way a
8 certainty, and so they may ask you questions that does not of
9 course reflect a belief on the part of the attorneys that they
10 think we'll ever get to a penalty phase.

11 But this is the only opportunity that the lawyers
12 have to question you, the prospective jurors, so they do need
13 to address whatever questions they have regarding the penalty
14 portion of this trial, if we ever get there, at this time.

15 And Mr. Cano, does the defense wish to go first?

16 MR. CANO: Sure, Your Honor.

17 THE COURT: All right. Since the State started off
18 first last time, we'll let the defense go first, and then the
19 State will be able to ask you some questions as well.

20 MR. CANO: Actually, Mr. Pike will go.

21 THE COURT: Oh, all right. Mr. Pike.

22 MR. PIKE: Thank you.

23 Good afternoon, ladies and gentlemen of the jury.
24 I'm Randy Pike. I along with Mr. Cano am going to be acting
25 as Jason's attorney in this.

1 Now, the Court has outlined that if you serve on this
2 jury and if you return a verdict of first degree murder, that
3 you then are going to be a sentencing body. You are going to
4 consider evidence that would be presented concerning who Jason
5 is, his history, and impact on the family of the deceased, and
6 the evidence that's appropriate to try and make that decision.

7 Coming into this jury selection process, I imagine
8 that most of you didn't know that you were buying into being a
9 sentencing jury and this may turn into not just a guilt trial,
10 but then a penalty phase to follow that.

11 Is there anybody on the jury panel that believes as a
12 result of closely held and well-held personal or religious
13 convictions that they cannot sit in sentencing as opposed to
14 not sitting on -- and not making a decision as to guilt or
15 innocence? I see no hands.

16 So everybody here feels that they can make a
17 decision, if a verdict is returned as to first, amongst those
18 three decisions? And again, if I -- if you don't understand
19 my questions, raise your hand. Because we want to make sure
20 that the jury understands what we're asking and that we are
21 communicating.

22 In fact, during the trial, you'll actually find out
23 that every time a witness finishes testifying, you'll be able,
24 if you feel that you have additional questions, the jury
25 members can write a question and provide it to the judge. And

1 the judge, if appropriate, will ask that witness the question.
2 So you have a right to be actively involved in this case.

3 Now, the judge outlined three specific sentences. In
4 the State of Nevada we have a truth in sentencing law. Life
5 without the possibility of parole means exactly that. Is
6 there anybody here that believes if a sentence of life without
7 the possibility means anything other than the person that is
8 sentenced to that will spend every day of the rest of their
9 life in prison until they die?

10 Okay. If everybody understands that and understands
11 that penalty, would you raise your hand. Indicates everybody
12 agrees to that.

13 Similarly, as the judge indicated, life, a life
14 sentence in the State of Nevada with the possibility of parole
15 does not entitle somebody to parole. Do you -- does anybody
16 here believe that somebody that is given life with the
17 possibility of parole will automatically at some day be
18 paroled? Okay. Everybody believes that. And tell me if
19 you do. Okay. Sir, that -- you're Mr. Uriarte?

20 PROSPECTIVE JUROR NO. 204: Yes.

21 MR. PIKE: Okay. You believe if somebody is given
22 the possibility of parole that they will be paroled; is that
23 correct?

24 PROSPECTIVE JUROR NO. 204: Yes.

25 MR. PIKE: Okay. If the judge instructs you that

1 that is not the law, or if we bring on a witness to testify
2 that that is not the law, or you're instructed on that, would
3 that change your mind?

4 PROSPECTIVE JUROR NO. 204: Yes.

5 MR. PIKE: And that somebody can apply to be paroled
6 only after they have served 20 years. That's 20, 365-day
7 years, and only after 20 years have elapsed, then they can
8 make an application to be paroled. And if the -- as the judge
9 has instructed you, that is the law. Does anybody believe
10 anything different about that in the State of Nevada?

11 And similarly, the 20 to 50 means that 20 consecutive
12 years must be served before somebody can apply for parole, and
13 it would only expire after the 50 years have elapsed.

14 Okay. Has anybody here ever visited a prison? Okay.
15 Go ahead, raise your hand.

16 PROSPECTIVE JUROR NO. 225: Back when we were little
17 [unintelligible], right before they had the Scared Straight
18 program, we were allowed to go as a field trip to like a
19 prison farm, where you got to see the inmates and you got to
20 eat some of their food and stuff like that.

21 MR. PIKE: Was that here in Nevada?

22 PROSPECTIVE JUROR NO. 225: Yeah.

23 MR. PIKE: Okay. And how long ago was that?

24 THE COURT: I did that.

25 PROSPECTIVE JUROR NO. 225: A long, long time ago.

1 MR. PIKE: A long, long time ago. Have you ever been
2 up to max prison? Have you ever been up to something besides
3 a farm or a camp? They don't let children in those
4 facilities. Does anybody here watch -- well, you said Scared
5 Straight. Does anybody watch Locked Up, or any of the prison
6 shows that show what it's actually like in different prisons
7 around the United States?

8 (Negative responses.)

9 PROSPECTIVE JUROR NO. 225: I've seen that show.

10 MR. PIKE: You've seen that. Again, that's
11 Mr. Langworthy. Is there anybody here that doesn't believe
12 that being locked up into prison with a life sentence is a
13 scary thing? Nobody believes that.

14 Now, I said all that to ask you this: Understanding
15 the possible severity of this, and understanding that there
16 would be a separate hearing in relation to that if you
17 returned a verdict of first degree murder, is there anybody
18 here that feels that they cannot sit in judgment as to a
19 sentence in this case?

20 And if you -- if your gut just says I don't want to
21 raise my hand but I don't want to do it, now is the time to
22 say I just can't do it. Sir, would you state your badge
23 number. And this is Mr. Pacheco?

24 PROSPECTIVE JUROR NO. 251: Pacheco, yeah. It's
25 Badge 14-0251. I just feel overwhelming and it's my first

1 experience here, so, you know, I'm not sure if -- there's so
2 many things that I can question. You know, I can understand
3 you clearly, you know, I know how to express myself, but
4 that's my impression right now.

5 MR. PIKE: And you feel that this is -- and not just
6 putting words in your mouth. Lawyers tend to do that. You're
7 probably noticing it a lot, but if I'm understanding what
8 you're saying, you want to make sure you understand each and
9 every word and the import of each and every word in order to
10 make this decision, this tough decision?

11 PROSPECTIVE JUROR NO. 251: Absolutely, yeah.

12 MR. PIKE: So you feel that you -- because so much is
13 on the line, you feel hesitant here. You wouldn't feel real
14 comfortable sitting on this jury?

15 PROSPECTIVE JUROR NO. 251: No.

16 MR. PIKE: Okay.

17 THE COURT: Is that because English isn't your first
18 language?

19 PROSPECTIVE JUROR NO. 251: Yes. That English is to
20 understand and, you know, like -- you know, like all this kind
21 of overwhelming.

22 THE COURT: It's an overwhelming responsibility in
23 the whole process.

24 PROSPECTIVE JUROR NO. 251: Yes.

25 THE COURT: Okay. Now, as Mr. Pike said, if you have

1 questions or something's done that you don't -- this goes
2 obviously for everyone, you don't understand, you can write
3 that down and then, you know, the witness can be asked the
4 question, or if it's, you know, something else, if we can
5 answer it, we'll try to do that.

6 So go on, Mr. Pike.

7 MR. PIKE: Okay. Thank you.

8 Ms. Allen, did you have a --

9 PROSPECTIVE JUROR NO. 202: Yes.

10 MR. PIKE: -- feeling about that?

11 PROSPECTIVE JUROR NO. 202: I suffer from anxiety and
12 panic disorder, and I'm feeling real anxious at this point.
13 Not because of a lack of understanding, but it's because I do
14 understand.

15 MR. PIKE: And that anxiety --

16 PROSPECTIVE JUROR NO. 202: It's really --

17 THE COURT: Now, let me ask you this: You felt okay
18 with participating and potentially being a juror for the guilt
19 phase, but is it the idea that you then might have to
20 participate in a penalty phase that's causing you anxiety?

21 PROSPECTIVE JUROR NO. 202: Yes.

22 THE COURT: Okay. And just can you tell us, you
23 know, why that is?

24 PROSPECTIVE JUROR NO. 202: Well, that would only
25 come after 20 years, right?

1 MR. PIKE: That's correct.

2 THE COURT: Well, is it because --

3 PROSPECTIVE JUROR NO. 202: Would he serve 20 years
4 and then be up for parole?

5 THE COURT: Right. That's the sentence. But is
6 it a -- I guess my question to you is, you feel more anxiety
7 with the possibility of having to make a determination of the
8 sentence than you would just participating in the guilt phase,
9 where your role is to determine whether the State has proven
10 the defendant's guilt beyond a reasonable doubt; is that what
11 I'm hearing from you?

12 PROSPECTIVE JUROR NO. 202: No. I guess I'm not
13 expressing myself. I think in 20 years a whole person can
14 change.

15 THE COURT: Well, here's the thing. The legislature
16 has set what the potential penalties are. So those are the
17 only penalties that can be considered, because that has been
18 set by the legislature as what the potential penalties. So
19 the --

20 PROSPECTIVE JUROR NO. 202: The three?

21 THE COURT: -- role of the jury -- right -- isn't to
22 say, well, we think that the legislature got it right or
23 wrong, or to consider whether or not somebody should make
24 parole in 20 years. Those are all determinations made by
25 other bodies.

1 The only determination, if we get to a penalty phase,
2 that the jury makes is that there will be additional evidence
3 presented, other things to consider, and then the jury says,
4 well, between these three penalties that the legislature has
5 set, this is the one that we think is appropriate.

6 And of course, that's done collectively. You all go
7 back, you deliberate, you discuss again and collectively
8 determine what the appropriate punishment should be, but you
9 only are given three things that have been enacted by the
10 legislature as the potential punishments.

11 In other -- just so you understand, in other cases
12 that are not first degree murder cases, in other cases the
13 potential penalty also is set by the legislature, but in those
14 cases it's the role of the Court to determine what the
15 punishment should be from the range of punishment that is set
16 by the legislature.

17 In all cases the legislature says this is the
18 punishment that you can choose from, and then, you know,
19 typically it's the role of the Court. But in a case where
20 it's a first degree murder, then it becomes the duty of the
21 jury, and that's the only type of case, in this state anyway,
22 where the jury has that function and the function is taken
23 away from the Court and given to the jury.

24 Hopefully that clarifies maybe a little better what
25 the role is.

1 PROSPECTIVE JUROR NO. 202: Okay.

2 THE COURT: And again, you know, as Mr. Cano, I
3 think, said, there is no wrong -- right or wrong answer.
4 Don't -- you know, basically when you're talking about your
5 feelings, you know, there can be no right or wrong answer.
6 The only wrong answer is a dishonest answer. And so, you
7 know, just please speak freely.

8 You know, this isn't a math test where you come out
9 with the correct number and everything else is wrong. We just
10 want you all to share as honestly as you can what your
11 feelings are. And of course, you know, we understand that,
12 you know, this is a very serious matter and it's a big
13 responsibility to serve on a jury, any jury, but especially,
14 you know, a jury in a matter such as this.

15 So go on, Mr. Pike.

16 MR. PIKE: So in making a decision amongst those
17 three, if you were to come back with first degree, you want to
18 know about possibility of rehabilitation or ability to change
19 or any possibility of redemption; that's what would be
20 important to you?

21 PROSPECTIVE JUROR NO. 202: Yes.

22 MR. PIKE: Okay. Is there anybody here believes that
23 certainty of punishment is an aspect of punishment that would
24 have to be discussed? Did we answer those questions when the
25 Court told you what the possible penalties were?

1 Is there anyone amongst you that at this point in
2 time, besides Mr. Pacheco, that feels that for any reason that
3 at this point in time you would not feel comfortable serving
4 on this jury?

5 Okay. There being no hands raised, Your Honor, I'll
6 submit it.

7 Thank you very much, ladies and gentlemen, for your
8 patience and time.

9 THE COURT: Thank you, Mr. Pike.

10 The State may follow up.

11 MS. CHRISTENSEN: Thank you, Your Honor.

12 Ladies and gentlemen, was anybody surprised when the
13 judge told you that for killing someone, for murdering someone
14 you might spend life in prison, or you might spend life in
15 prison with the possibility of parole after 20 years? Was
16 that a shock to anybody when they heard those as the possible
17 sentences?

18 PROSPECTIVE JUROR NO. 202: Not those two.

19 MS. CHRISTENSEN: Ms. Allen, not those two? What was
20 the one that was shocking to you?

21 PROSPECTIVE JUROR NO. 202: That we would -- we would
22 be as a jury to --

23 MS. CHRISTENSEN: So when you came in here, you knew
24 you were going to hear a trial, but maybe not that you were
25 going to possibly do a sentencing as well?

1 PROSPECTIVE JUROR NO. 202: Right.

2 MS. CHRISTENSEN: It's clear that that's made you
3 uncomfortable.

4 PROSPECTIVE JUROR NO. 202: Absolutely.

5 MS. CHRISTENSEN: Yeah. I've noticed your demeanor
6 changed. That's something that's not sitting well with you.

7 Is there anybody else up here right now who, besides
8 the people who have already said so, that that same reaction
9 took place inside of you when you heard about the possibility
10 of a sentencing part of this trial?

11 Okay. One thing that both sides need to know from
12 each one of the jurors in this case is that they could
13 consider all three potential sentences in some kind of
14 situation, in some kind of murder. And obviously it's very
15 hard for you to know right now because you don't know the
16 facts of the murder, you don't know this man's history, you
17 don't know the victim. So it's hard to say that.

18 But is there anyone who's absolutely closed off and
19 could not consider one of those potential sentences? So
20 everyone here could -- Ms. Allen.

21 PROSPECTIVE JUROR NO. 202: The last one.

22 MS. CHRISTENSEN: Which one was the last one?

23 PROSPECTIVE JUROR NO. 202: Well, that we would be
24 the body of people who would sentence him.

25 MS. CHRISTENSEN: Okay. I'm asking about the three

1 potential sentences that he could face in this case. Life in
2 prison without the possibility of parole; is there anybody in
3 this box right now that could not consider that as a potential
4 sentence in a case of first degree murder? Anyone up here
5 think, no, I just couldn't sign on that no matter what the
6 facts were? Okay. Nobody.

7 Anybody similarly for the bottom part, the lowest
8 sentence that you could receive for first degree murder in
9 this state, 50 years with parole eligibility at 20 years,
10 anyone think on the opposite end, you know what, no way, you
11 kill someone, that's just not enough?

12 Okay. So everybody up here could consider all three
13 of those sentences; is that correct?

14 Okay. And you kind of heard a little bit from
15 Mr. Pike about some of the things you may be considering in a
16 sentencing hearing. You would hear how it's affected the
17 family of the victim. Is there anything about that and the
18 nature of hearing that, that doesn't sit well with you?

19 And there would be things presented about all kinds
20 of different things about the people involved in this at the
21 sentencing hearing. Can you keep an open mind as to all those
22 things and consider everything that you hear and give it the
23 weight that you deem appropriate in determining the sentence
24 that you think is appropriate in this case? Anybody that
25 can't do that?

1 Another thing that the judge is going to instruct you
2 is this conversation that we just had about sentencing, you
3 can't consider the sentence when you're determining whether
4 he's guilty. If there is something in your ear saying, wow,
5 this is a life -- possibility for life sentence, you can't
6 consider that.

7 You have to just consider the facts that we present
8 and hold us to our burden beyond a reasonable doubt, determine
9 whether we've met that. Is there anybody here who thinks that
10 they could not put aside the thought of the possible sentence
11 in this case in the first phase of the trial, the guilt phase?
12 Everybody would be able to do that?

13 Okay. A little -- I'm getting the sense a little bit
14 that people are in shell shock a little bit. That might just
15 be because we're here a little bit late, because I've heard a
16 couple other people say that. Is there anybody else who's in
17 this box right now who is feeling extremely uncomfortable
18 about the role as jurors, as Ms. Allen has described that she
19 is?

20 Okay. We don't know exactly how long it would last,
21 the trial would last. Typically the sentencing hearing is
22 shorter than the main portion of the trial. Is there anything
23 about that, the fact that we don't present as much evidence at
24 the sentencing hearing that would make you think it wasn't --
25 that we don't believe this is serious in any way? Okay. I

1 don't see anybody saying yes.

2 Thank you for your time. I appreciate it.

3 THE COURT: All right. Thank you, Ms. Christensen.

4 Both sides pass for cause?

5 MS. CHRISTENSEN: Yes.

6 MR. CANO: Actually, Your Honor, we have a --

7 THE COURT: So you need to approach?

8 MR. CANO: Yes.

9 (Off-record bench conference.)

10 THE COURT: State, exercise your first challenge.

11 MS. CHRISTENSEN: Your Honor, the State would like to
12 thank and excuse Number 265, Ms. Green.

13 THE COURT: Ms. Green, thank you very much for being
14 here and your willingness to serve as a juror. You are
15 excused at this time. You are free to leave. You need to go
16 back downstairs and check out -- check in with jury services.

17 PROSPECTIVE JUROR NO. 265: Okay. Thank you.

18 THE COURT: All right. Thank you, and if you have
19 any questions, the bailiff will be at the rear door.

20 And the clerk will call the name of the next
21 prospective juror.

22 THE CLERK: Rafael Reynoso, Badge No. 277.

23 THE COURT: Good afternoon, Mr. Reynoso. We talked
24 to you a little bit before about what you do for a living and
25 all of that, and you just need to make sure you can drop your

1 daughter off in the morning. Have you ever been a juror
2 before?

3 PROSPECTIVE JUROR NO. 277: No, ma'am.

4 THE COURT: Okay. Have you or anyone close to you
5 ever been arrested, charged or accused of a crime?

6 PROSPECTIVE JUROR NO. 277: My wife's cousin.

7 THE COURT: Okay. What crime is that?

8 PROSPECTIVE JUROR NO. 277: He was trafficking drugs.

9 THE COURT: Okay. Was that here in Clark County?

10 PROSPECTIVE JUROR NO. 277: It was in California.

11 THE COURT: In California. Are you close with this
12 cousin?

13 PROSPECTIVE JUROR NO. 277: Yes.

14 THE COURT: Okay. And how long ago was his contact
15 or was his problem?

16 PROSPECTIVE JUROR NO. 277: Three years.

17 THE COURT: Three years. Do you know if your cousin,
18 or your wife's cousin went to trial?

19 PROSPECTIVE JUROR NO. 277: He did.

20 THE COURT: And what was the outcome of that trial?

21 PROSPECTIVE JUROR NO. 277: He was guilty.

22 THE COURT: Okay. Did you or your wife attend any
23 court proceedings or anything like that?

24 PROSPECTIVE JUROR NO. 277: No, ma'am.

25 THE COURT: Have you talked to this cousin and gotten

1 his impressions about the whole event so to speak, his contact
2 with law enforcement, or what happened in the court proceeding
3 or anything like that?

4 PROSPECTIVE JUROR NO. 277: Very vaguely.

5 THE COURT: Okay. Have you, as a result of any talks
6 you may have had either with him or other family, formed any
7 opinions as to how he was treated in the system?

8 PROSPECTIVE JUROR NO. 277: No, ma'am.

9 THE COURT: Was this -- do you know, was it like
10 California Highway Patrol that arrested him, or was it --

11 PROSPECTIVE JUROR NO. 277: It was federal.

12 THE COURT: It was a federal. Okay. And I don't
13 mean to pry, but did he get probation, or did he go to
14 prison or...

15 PROSPECTIVE JUROR NO. 277: He went to prison.

16 THE COURT: He went to prison. Okay. And so that
17 would be a federal prison obviously, in California.

18 PROSPECTIVE JUROR NO. 277: Yes, ma'am.

19 THE COURT: Was it in California?

20 PROSPECTIVE JUROR NO. 277: Yes, ma'am.

21 THE COURT: Have you ever visited him in prison?

22 PROSPECTIVE JUROR NO. 277: No.

23 THE COURT: Okay. Do you know if your wife's ever
24 visited him in prison?

25 PROSPECTIVE JUROR NO. 277: No.

1 THE COURT: No. Okay. Have you ever been the victim
2 of a crime?

3 PROSPECTIVE JUROR NO. 277: No, ma'am.

4 THE COURT: Anyone close to you ever been the victim
5 of a serious crime?

6 PROSPECTIVE JUROR NO. 277: No, ma'am.

7 THE COURT: Any friends or family in law enforcement?

8 PROSPECTIVE JUROR NO. 277: My brother-in-law.

9 THE COURT: And this is your wife's brother?

10 PROSPECTIVE JUROR NO. 277: No. It's my sister's
11 husband.

12 THE COURT: Sister's husband. Okay. And where is
13 your brother-in-law in law enforcement?

14 PROSPECTIVE JUROR NO. 277: In Dallas-Fort Worth.

15 THE COURT: Okay. What does he do there?

16 PROSPECTIVE JUROR NO. 277: He's a homicide
17 detective.

18 THE COURT: Okay. And that would be what, the
19 Dallas-Fort Worth Police Department?

20 PROSPECTIVE JUROR NO. 277: Yes, ma'am.

21 THE COURT: Does he talk to you about his work or
22 cases or anything like that very much?

23 PROSPECTIVE JUROR NO. 277: You know what. He was
24 actually on Another 48 [sic] -- The First 48 show.

25 THE COURT: Oh, The First 48 hours or whatever?

1 PROSPECTIVE JUROR NO. 277: Yes, ma'am.

2 THE COURT: Okay. And I'm assuming you watched it?

3 PROSPECTIVE JUROR NO. 277: Yes.

4 THE COURT: Now, you've heard us all talking with the
5 other prospective jurors about the fact that the State has the
6 burden of proving the defendant's guilt beyond a reasonable
7 doubt, and that the defense doesn't have to do anything. They
8 don't have to call any witnesses. The defendant doesn't have
9 to testify. Are you comfortable with that concept?

10 PROSPECTIVE JUROR NO. 277: Yes.

11 THE COURT: Now, if you're selected to serve as a
12 juror, and you sit and listen to all of the evidence and you
13 and the other jurors go back in the jury room and you discuss
14 it and you feel like you know what, the State just didn't
15 prove the defendant's guilt beyond a reasonable doubt, there
16 were pieces missing or whatever, would you have any problem
17 with raising your hand in the back and voting not guilty?

18 PROSPECTIVE JUROR NO. 277: [No audible response.]

19 THE COURT: Do you have any problems talking to your
20 brother-in-law and saying you know what, I sat on a jury in a
21 murder case and I voted not guilty?

22 PROSPECTIVE JUROR NO. 277: No.

23 THE COURT: Any -- no problems at the family barbecue
24 or anything like that?

25 PROSPECTIVE JUROR NO. 277: No.

1 THE COURT: And you heard us talking a little bit ago
2 about the penalty phase in the trial, and the fact that if it
3 gets to that and if there is a penalty phase, that the jury
4 has to consider three potential penalties. Would you have any
5 problem considering all three penalties?

6 PROSPECTIVE JUROR NO. 277: No.

7 THE COURT: Did any of us ask, either me or the
8 lawyers ask any question of any of the other prospective
9 jurors that you thought, well, I'd have to raise my hand and I
10 would have to say yes, that pertains to me or to a family
11 member or anything like that?

12 PROSPECTIVE JUROR NO. 277: No.

13 THE COURT: Any familiarity with guns?

14 PROSPECTIVE JUROR NO. 277: No.

15 THE COURT: Do you have guns? No?

16 PROSPECTIVE JUROR NO. 277: I don't care for them.

17 THE COURT: Okay. What about anyone that you're
18 close with that's had any issues with drug abuse or alcoholism
19 or anything like that?

20 PROSPECTIVE JUROR NO. 277: I mean, everybody knows
21 somebody that has issues with drugs and alcohol.

22 THE COURT: Anyone close, like a member of your
23 immediate family, anything like that?

24 PROSPECTIVE JUROR NO. 277: No.

25 THE COURT: Is there anything at all, anything in

1 your background or your family background that would impact
2 your ability to be a completely fair and impartial juror in
3 this case?

4 PROSPECTIVE JUROR NO. 277: Just my relationship with
5 my brother-in-law. That's it.

6 THE COURT: All right. And do you feel -- I mean, do
7 you feel any leaning toward the law enforcement, towards the
8 DA's side of this because of your brother-in-law?

9 PROSPECTIVE JUROR NO. 277: Every situation's
10 different.

11 THE COURT: Okay. Now, if you were seated over there
12 with Mr. Pike and Mr. Cano and their client, would you be
13 comfortable having somebody like yourself as a juror in this
14 case? I mean, as they sit there, can they feel comfortable
15 that you'll give them a fair -- a fair shake and not be biased
16 against them as we start out in any way?

17 PROSPECTIVE JUROR NO. 277: Yeah, I mean...

18 THE COURT: All right. Thank you.

19 State, you may follow up.

20 MS. CHRISTENSEN: Thank you.

21 Is there any reason that if we were sitting at our
22 table that we would think you would be biased in any way
23 against our case just simply because that we're DAs or law
24 enforcement is involved or anything like that?

25 PROSPECTIVE JUROR NO. 277: No.

1 MS. CHRISTENSEN: Okay. Now, your cousin, or your
2 wife's cousin who had the trafficking case, you said you knew
3 him. Was he actually doing the crime?

4 PROSPECTIVE JUROR NO. 277: He got convicted.

5 MS. CHRISTENSEN: Did you have actual knowledge
6 of it, like did you know he was dealing drugs?

7 PROSPECTIVE JUROR NO. 277: [No audible response.]

8 MS. CHRISTENSEN: Okay. Did you think it was fair
9 that that happened to him?

10 PROSPECTIVE JUROR NO. 277: Yeah.

11 MS. CHRISTENSEN: So you think that he must have been
12 doing it because the jury found him guilty of it, and so
13 that's the extent of your knowledge of it?

14 PROSPECTIVE JUROR NO. 277: Yeah. I mean, from the
15 specifics of the story, I mean, they caught him with it, so.

16 MS. CHRISTENSEN: Oh, okay. So there wasn't anything
17 that you thought about that, that was unfair in any way?

18 PROSPECTIVE JUROR NO. 277: No.

19 MS. CHRISTENSEN: Other than that, have you ever had
20 contact with law enforcement?

21 PROSPECTIVE JUROR NO. 277: Just my brother-in-law.

22 MS. CHRISTENSEN: Okay. What about like you
23 yourself, driving down the street, pulled over for a traffic
24 ticket?

25 PROSPECTIVE JUROR NO. 277: No.

1 MS. CHRISTENSEN: You've never been pulled over for
2 speeding?

3 PROSPECTIVE JUROR NO. 277: Yeah, when I was in
4 school a long time ago.

5 MS. CHRISTENSEN: Okay.

6 PROSPECTIVE JUROR NO. 277: It was actually on my
7 motorcycle, but --

8 MS. CHRISTENSEN: On your motorcycle?

9 PROSPECTIVE JUROR NO. 277: Yeah.

10 MS. CHRISTENSEN: And was there anything about that,
11 that, you know, you had a bad taste in your mouth about police
12 officers?

13 PROSPECTIVE JUROR NO. 277: Just possibly that
14 they're abrasive.

15 MS. CHRISTENSEN: Okay. When they first contacted
16 you they were abrasive?

17 PROSPECTIVE JUROR NO. 277: Yeah, profiling.

18 MS. CHRISTENSEN: Okay. That's what you felt was
19 happening?

20 PROSPECTIVE JUROR NO. 277: Mm-hmm.

21 MS. CHRISTENSEN: If you have different officers come
22 on the stand and testify, detectives who are investigating
23 this case, can you judge them independently of those
24 circumstances where you maybe had some abrasive police
25 officers?

1 PROSPECTIVE JUROR NO. 277: I don't know who they
2 are, so I don't know.

3 MS. CHRISTENSEN: That's kind of my point. You don't
4 know them.

5 PROSPECTIVE JUROR NO. 277: Right.

6 MS. CHRISTENSEN: So will you be able to judge them
7 completely independently and not just think, you know, because
8 of the previous experience with the police officer, these guys
9 are all alike?

10 PROSPECTIVE JUROR NO. 277: I would -- I'd be fine
11 with it.

12 MS. CHRISTENSEN: So you'd be able to be fair to them
13 and judge --

14 PROSPECTIVE JUROR NO. 277: Sure.

15 MS. CHRISTENSEN: -- them based on their testimony?

16 PROSPECTIVE JUROR NO. 277: Yes.

17 MS. CHRISTENSEN: Okay. You said that your
18 brother-in-law was actually on The First 48.

19 PROSPECTIVE JUROR NO. 277: Mm-hmm.

20 MS. CHRISTENSEN: And before that had you watched
21 that show?

22 PROSPECTIVE JUROR NO. 277: Mm-hmm.

23 MS. CHRISTENSEN: Okay.

24 THE COURT: You have to answer yes or no for the
25 record.

1 PROSPECTIVE JUROR NO. 277: Oh, yes. Sorry.

2 MS. CHRISTENSEN: And do you have some interest in
3 some of those shows, crime scene shows or law related shows?

4 PROSPECTIVE JUROR NO. 277: No.

5 MS. CHRISTENSEN: Okay. But The First 48 you had
6 watched --

7 PROSPECTIVE JUROR NO. 277: Yeah. I have a vested
8 interest. I mean, that's a family member getting paid for
9 what they do. Extra money, so.

10 MS. CHRISTENSEN: Now, I'm not actually familiar with
11 The First 48. I assume it means first 48 hours. Was the
12 entire show about him, or just one episode?

13 PROSPECTIVE JUROR NO. 277: I can't honestly tell
14 you. Several episodes.

15 MS. CHRISTENSEN: Oh, okay. So you watched several
16 episodes of it to see --

17 PROSPECTIVE JUROR NO. 277: Yes.

18 MS. CHRISTENSEN: -- what he did? Okay.

19 And did you talk to him about the case afterwards or
20 anything like that?

21 PROSPECTIVE JUROR NO. 277: No. He wasn't
22 allowed to.

23 MS. CHRISTENSEN: Not allowed to talk about it.
24 Okay. So you actually haven't had discussions with him
25 about it?

1 PROSPECTIVE JUROR NO. 277: No.

2 MS. CHRISTENSEN: Okay. You said when you were asked
3 about if you own any firearms, you said you don't -- I don't
4 remember the exact words.

5 PROSPECTIVE JUROR NO. 277: I don't care for them.

6 MS. CHRISTENSEN: Don't care for them --

7 PROSPECTIVE JUROR NO. 277: No.

8 MS. CHRISTENSEN: -- is what you said.

9 And what does that stem from?

10 PROSPECTIVE JUROR NO. 277: One of my friends killed
11 himself when I was growing up.

12 MS. CHRISTENSEN: Sorry to hear that. And since then
13 it's just you stay away from them --

14 PROSPECTIVE JUROR NO. 277: Yeah.

15 MS. CHRISTENSEN: -- stay away from guns?

16 PROSPECTIVE JUROR NO. 277: Mm-hmm.

17 MS. CHRISTENSEN: Okay. So you don't have any
18 familiarity specifically with guns before that?

19 PROSPECTIVE JUROR NO. 277: I don't.

20 MS. CHRISTENSEN: When you got your jury summons in
21 the mail, what was your first reaction?

22 PROSPECTIVE JUROR NO. 277: Damn.

23 THE COURT: Was that like damn, I'm happy?

24 PROSPECTIVE JUROR NO. 277: Well, no. No, it's
25 because of my work and what I do.

1 MS. CHRISTENSEN: Oh, okay.

2 PROSPECTIVE JUROR NO. 277: And how many people rely
3 on me.

4 MS. CHRISTENSEN: Now, believe it or not, I've asked
5 people that question before and they've said that they were
6 excited to come in to serve their duty, their jury duty. And
7 a lot of people who have your same opinion later, after they
8 serve on a jury, are very happy that they did it, because it
9 is a good experience for most people.

10 When you had that reaction, it was simply because you
11 have a lot of things that you need to take care of in your
12 life, right?

13 PROSPECTIVE JUROR NO. 277: Yeah.

14 MS. CHRISTENSEN: Okay. Are those things that are
15 going to be on your mind the entire time, to make it so that
16 you can't even pay attention in here, or do you think that
17 you're -- I don't know what the word is, but smart enough,
18 good enough to be able to pay attention if you're -- you know,
19 against your desires? If you're on this jury, would you be
20 able to pay attention that's due the witnesses and keep track
21 of the information?

22 PROSPECTIVE JUROR NO. 277: I can honestly say
23 probably 50/50.

24 MS. CHRISTENSEN: Do you mean it's a 50/50 chance, or
25 you're going to only understand 50 percent of it?

1 PROSPECTIVE JUROR NO. 277: No. Understand 100
2 percent, but I mean, you always have the back of your mind
3 your responsibilities, so.

4 MS. CHRISTENSEN: Yes. We understand that. But you
5 will pay attention to understand everything that's presented
6 to you --

7 PROSPECTIVE JUROR NO. 277: Sure.

8 MS. CHRISTENSEN: -- witnesses? Okay.

9 Did you listen to -- and I know it's been a long
10 time, but did you listen to all of the questions that were
11 asked of the previous jurors?

12 PROSPECTIVE JUROR NO. 277: Mm-hmm. Yes, ma'am.

13 MS. CHRISTENSEN: Okay. Was there anything that got
14 you really interested that you were -- more so than other
15 parts of it that you were interested in listening about?

16 PROSPECTIVE JUROR NO. 277: Just interesting
17 listening to everybody's perspectives, where they come from
18 and what kind of issues they have.

19 MS. CHRISTENSEN: Just the different things that
20 people face?

21 PROSPECTIVE JUROR NO. 277: Mm-hmm.

22 MS. CHRISTENSEN: And so you understand everybody
23 comes from a different place, different backgrounds?

24 PROSPECTIVE JUROR NO. 277: Yeah. Mm-hmm.

25 MS. CHRISTENSEN: Did you hear one of the potential

1 jurors say that one reason somebody might not want to talk to
2 the police is because they might get what's called a snitch
3 jacket?

4 PROSPECTIVE JUROR NO. 277: Mm-hmm.

5 MS. CHRISTENSEN: Have you heard that term before?

6 PROSPECTIVE JUROR NO. 277: Yes, ma'am.

7 MS. CHRISTENSEN: Is that ever something that you
8 thought about before from where you're from, that you wouldn't
9 want to talk to police because of that, or you wouldn't want
10 people to know that you were talking to police or testifying?

11 PROSPECTIVE JUROR NO. 277: No.

12 MS. CHRISTENSEN: Okay. Do you understand that's
13 true of some groups of people in some neighborhoods even in
14 Las Vegas?

15 PROSPECTIVE JUROR NO. 277: Yes, ma'am.

16 MS. CHRISTENSEN: Is there anything that you can tell
17 us that would -- either side needs to know about whether you
18 could be a fair and impartial juror in this case?

19 PROSPECTIVE JUROR NO. 277: No.

20 MS. CHRISTENSEN: Pass for cause.

21 THE COURT: All right. Thank you.

22 Ladies and gentlemen, we're going to go ahead and
23 take a brief recess right now. We'll be in recess until 3:55.
24 And once again you are reminded, during this recess you're not
25 to discuss anything relating to the case or do anything else

1 relating to the case. Please again, remember where you're
2 seated, and follow the marshal through the double doors.

3 (Court recessed at 3:44 p.m. until 3:58 p.m.)

4 (In the presence of the prospective jury panel.)

5 THE COURT: Court is now back in session, and the
6 defense may question Mr. Reynoso.

7 MR. CANO: Good afternoon, Mr. Reynoso. You've heard
8 some of the questions that we said earlier. I guess you were
9 paying attention to some of the answers. Is there anything
10 that was asked previously that kind of comes to your mind,
11 anything, hey, I wish I could answer that question?

12 PROSPECTIVE JUROR NO. 277: No.

13 MR. CANO: You're comfortable with holding the State
14 to their burden of proof?

15 PROSPECTIVE JUROR NO. 277: Yes.

16 MR. CANO: And if they're not able to meet their
17 burden of proof, what would your verdict be?

18 PROSPECTIVE JUROR NO. 277: Innocence. Not guilty.

19 MR. CANO: Not guilty. Okay. If you had to vote
20 right now, what would your verdict be?

21 PROSPECTIVE JUROR NO. 277: Not guilty. [Inaudible.]

22 MR. CANO: All right. Now, one of the main concerns
23 that I have with you is obviously your brother-in-law is a
24 detective in Dallas-Fort Worth?

25 PROSPECTIVE JUROR NO. 277: Mm-hmm. Yes, sir.

1 MR. CANO: And is it a homicide detective?

2 PROSPECTIVE JUROR NO. 277: He first started off as
3 patrol, and then moved his way up the ranks through ICE and
4 then obviously homicide.

5 MR. CANO: And are you close with your
6 brother-in-law?

7 PROSPECTIVE JUROR NO. 277: I am.

8 MR. CANO: How often would you speak with him?

9 PROSPECTIVE JUROR NO. 277: Once a month.

10 MR. CANO: And obviously when he got the opportunity
11 to highlight one of his cases on a national TV show, you must
12 have been proud of him.

13 PROSPECTIVE JUROR NO. 277: Yeah. The whole family
14 was.

15 MR. CANO: The whole family.

16 PROSPECTIVE JUROR NO. 277: My sister called
17 everybody.

18 MR. CANO: I can imagine. Is that her little brother
19 or older brother?

20 PROSPECTIVE JUROR NO. 277: Whose?

21 MR. CANO: Is that her little brother or older
22 brother?

23 THE COURT: It's her husband.

24 PROSPECTIVE JUROR NO. 277: That's her husband.

25 MR. CANO: I'm sorry. Your sister's husband. I

1 got it.

2 PROSPECTIVE JUROR NO. 277: It's okay.

3 MR. CANO: So your sister was very happy about her
4 husband obviously. Now, that kind of a connection with the
5 police force, can you understand from the defense perspective
6 why we'd be hesitant to have you on the jury?

7 PROSPECTIVE JUROR NO. 277: Sure.

8 MR. CANO: Because it would appear just from the
9 surface of this, you know, if you're going to lean any
10 direction as opposed to being neutral and right in the middle,
11 you may lean towards, you know, the side of law enforcement.
12 Would that be a fair statement?

13 PROSPECTIVE JUROR NO. 277: Sure.

14 MR. CANO: And now, some of the officers that are
15 going to be testifying here obviously are going to be homicide
16 detectives. This is a homicide case.

17 PROSPECTIVE JUROR NO. 277: Yes.

18 MR. CANO: And some of the fears that we're going to
19 have is that, well, you kind of know what the process is.
20 You've actually seen your brother-in-law go through it in the
21 show. You share -- has he ever spoken to you about other
22 cases that he may have done?

23 PROSPECTIVE JUROR NO. 277: In the past, but nothing
24 current.

25 MR. CANO: So you're a little bit familiar with what

1 homicide detectives have to go through in trying to close a
2 case so to speak. So that obviously if we've gotten to this
3 point of the system, of the game, of the criminal justice
4 system, you know, that you are going to take into
5 consideration all the [inaudible] of the homicide detectives
6 and hold that, I think give that a little bit more weight than
7 you would other witnesses in this case. Is that a fair
8 assumption from the defense's side?

9 PROSPECTIVE JUROR NO. 277: Not necessarily. I mean,
10 you would have to -- I'm a firm believer you have to give
11 everybody due process.

12 MR. CANO: Okay.

13 PROSPECTIVE JUROR NO. 277: Right.

14 MR. CANO: All right. So then you believe that
15 detectives can make mistakes?

16 PROSPECTIVE JUROR NO. 277: We all make mistakes.

17 MR. CANO: The question was: Do you believe
18 detectives can make mistakes?

19 PROSPECTIVE JUROR NO. 277: Sure, maybe.

20 MR. CANO: Okay. Do you think cases where detectives
21 are not as thorough or have made mistakes to get to the point
22 where we're actually sitting here in trial?

23 PROSPECTIVE JUROR NO. 277: Maybe.

24 MR. CANO: Maybe? You were a little bit more
25 hesitant on that one. Why is that?

1 PROSPECTIVE JUROR NO. 277: Just from what you see in
2 the news, I guess.

3 MR. CANO: So you think that if we've gotten to this
4 stage of the criminal justice system, that a detective's case
5 is very strong and that's pretty much, you know, that should
6 be the outcome of the case; is that what you're saying?

7 PROSPECTIVE JUROR NO. 277: No.

8 MR. CANO: What are you saying?

9 PROSPECTIVE JUROR NO. 277: Every case is different.
10 But, you know, you never know how many people are involved
11 with it, so. If you're going to put your -- you're going to
12 put your opinion on one person or pass judgment on one person,
13 on what they say --

14 Everybody's going to have their due process on what
15 their opinions were and obviously based on their profession
16 what they think of what took place, and they're going to paint
17 you a pretty big picture of what took place, and you have to
18 take that all in and make the right judgment call.

19 MR. CANO: Okay. And so just because they have this
20 certain picture in their minds of what they think happened,
21 that doesn't necessarily make it so, does it?

22 PROSPECTIVE JUROR NO. 277: No.

23 MR. CANO: Okay. And you're comfortable in this case
24 here, if the detectives aren't able to paint that picture to
25 your satisfaction, and they aren't -- and the State's not able

1 to prove their case beyond a reasonable doubt, you're
2 comfortable telling those detectives, these district attorneys
3 you didn't do it?

4 PROSPECTIVE JUROR NO. 277: True.

5 MR. CANO: You know, something may have happened, but
6 not enough to find this man guilty, so I have to give the vote
7 of not guilty, are you comfortable with that?

8 PROSPECTIVE JUROR NO. 277: Yes.

9 MR. CANO: Okay. And are you -- do you feel like
10 it's going to -- if you did vote that way, that it would
11 impact how you had to explain yourself to your brother-in-law?

12 PROSPECTIVE JUROR NO. 277: No.

13 MR. CANO: No?

14 PROSPECTIVE JUROR NO. 277: No.

15 MR. CANO: Do you think he would understand?

16 PROSPECTIVE JUROR NO. 277: Absolutely.

17 MR. CANO: All right. Do you consider yourself a
18 fair and open minded person?

19 PROSPECTIVE JUROR NO. 277: Yes.

20 MR. CANO: Okay. Could you be fair to Mr. Jones in
21 this case?

22 PROSPECTIVE JUROR NO. 277: Sure.

23 MR. CANO: Okay. As he sits there, do you see him
24 cloaked with like his veil of innocence?

25 PROSPECTIVE JUROR NO. 277: I don't know him from

1 you, so I don't -- I can't make that determination on him.

2 MR. CANO: Well, I'm not being charged with anything.

3 PROSPECTIVE JUROR NO. 277: I know you're not.

4 MR. CANO: He is unfortunately. Unfortunately, he's
5 being charged with something. I mean, the allegations are
6 against him.

7 PROSPECTIVE JUROR NO. 277: Sure.

8 MR. CANO: But the way our system works is he's
9 presumed innocent.

10 PROSPECTIVE JUROR NO. 277: Correct.

11 MR. CANO: Are you comfortable with the fact that
12 he's presumed innocent?

13 PROSPECTIVE JUROR NO. 277: Yes.

14 MR. CANO: Can you hold on to that presumption all
15 the way out through this case, all the way out through all the
16 evidence, until the judge gives you the instructions at the
17 end of the trial phase to determine whether or not, you know,
18 to make your decision on whether or not you think that the
19 State's met their burden of proof?

20 PROSPECTIVE JUROR NO. 277: Yes.

21 MR. CANO: Okay. A couple questions on the penalty
22 phase, if we get to that phase. Are you comfortable with the
23 punishments that are -- well, comfortable's not the right
24 word.

25 Are you able to take into consideration all the three

1 different punishments --

2 PROSPECTIVE JUROR NO. 277: Yes.

3 MR. CANO: -- that are being offered in this case?

4 Okay. What would be important for you to know in
5 order to make a determination as to which is the appropriate
6 punishment?

7 PROSPECTIVE JUROR NO. 277: That's a pretty
8 open-ended question.

9 MR. CANO: It is?

10 PROSPECTIVE JUROR NO. 277: Make sure that the truth
11 was -- valid points were made and that the evidence was
12 subjective, and it's either yes or a no.

13 MR. CANO: Okay. Well, maybe explain a little bit
14 about the second phase, if we get to that phase. And we only
15 get to that phase if he's found guilty of first degree murder.
16 Okay. Two phases here. After the first phase, the trial
17 phase, the same jury gets to make the determination as to what
18 the proper punishment is.

19 So the State will obviously present evidence
20 regarding how the death of Mr. Corona impacted this family,
21 things of that nature. We present evidence on behalf of
22 Mr. Jones regarding his background, how he grew up, things of
23 that nature for you to take into consideration. Then it's up
24 to each individual juror to make a decision as to what they
25 think is proper punishment.

1 You all come to a decision together, but each
2 individual person makes the decision as to what they think is
3 proper.

4 PROSPECTIVE JUROR NO. 277: Right.

5 MR. CANO: One person may think life without is
6 proper, another person may think 20 to 50 is proper, and both
7 are very valid. Okay. But you get to make that decision
8 yourself based upon whatever evidence is presented to you at
9 that penalty phase. Are you comfortable with that?

10 PROSPECTIVE JUROR NO. 277: Yes.

11 MR. CANO: Are you able to make that kind of
12 decision?

13 PROSPECTIVE JUROR NO. 277: Yes.

14 MR. CANO: That being said, what is it that you'd
15 want to know about Mr. Jones's background in order to make
16 that decision? When you're making the decision do I send this
17 guy away for life forever or do I give him a chance at parole
18 after 20 years, that's a very important decision. The other
19 decision you made prior to that was also very important. I
20 mean, there would be some information that you'd want to --

21 PROSPECTIVE JUROR NO. 277: Well, with the case
22 that's going to be presented, obviously there's going to be
23 evidence.

24 MR. CANO: But the background of him doesn't
25 necessarily get presented to you in the trial phase. You

1 understand they're two different phases?

2 PROSPECTIVE JUROR NO. 277: I understand.

3 MR. CANO: Would you want to know as much about
4 Mr. Jones as you could, or does that not matter to you at all?

5 PROSPECTIVE JUROR NO. 277: It doesn't matter to me.

6 MR. CANO: It doesn't matter to you?

7 PROSPECTIVE JUROR NO. 277: No.

8 MR. CANO: What is more important? The deceased and
9 how -- his background, is that more important to you?

10 PROSPECTIVE JUROR NO. 277: No. Just the truth of
11 what happened.

12 MR. CANO: Well, by that point you would have made
13 your decision as to what you believe the truth is of what
14 happened is, and you would have convicted Mr. Jones. So
15 you've already made that determination.

16 PROSPECTIVE JUROR NO. 277: Right.

17 MR. CANO: Is there any additional information that
18 you would need in order to make the decisions for punishment?

19 PROSPECTIVE JUROR NO. 277: [No audible response.]

20 MR. CANO: [Inaudible.]

21 THE COURT: All right. Thank you.

22 The defense may exercise their first challenge.

23 MR. CANO: We'd thank and excuse Juror No. 198, Your
24 Honor.

25 THE COURT: All right. That is --

1. MR. CANO: Mr. Buzzard.

2 THE COURT: I'm sorry?

3 MR. CANO: Mr. Buzzard.

4 THE COURT: Mr. Buzzard, thank you very much for
5 being here and your willingness to serve as a juror. Sir, you
6 are excused at this time. And if you'd just go check out back
7 through jury services.

8 And the clerk will call up the next prospective
9 juror.

10 THE CLERK: Gerald Gage, Badge No. 282.

11 THE COURT: Mr. Gage, if you'd have that empty chair
12 there in the bottom corner, please. Good afternoon, Mr. Gage.
13 What do you do for a living, sir?

14 PROSPECTIVE JUROR NO. 282: I'm retired.

15 THE COURT: From what type of work?

16 PROSPECTIVE JUROR NO. 282: Construction.

17 THE COURT: All right. Was that here in Clark
18 County?

19 PROSPECTIVE JUROR NO. 282: Yes.

20 THE COURT: All right. And what did you do in
21 construction?

22 PROSPECTIVE JUROR NO. 282: Project manager,
23 estimator.

24 THE COURT: And are you married?

25 PROSPECTIVE JUROR NO. 282: No.

1 THE COURT: Any children?
2 PROSPECTIVE JUROR NO. 282: Two.
3 THE COURT: Grown and...
4 PROSPECTIVE JUROR NO. 282: Oh, yeah.
5 THE COURT: Okay. Have you ever been a juror before?
6 PROSPECTIVE JUROR NO. 282: No.
7 THE COURT: Anyone close to you ever been arrested,
8 charged, accused of a crime, anything like that?
9 PROSPECTIVE JUROR NO. 282: None that I'm aware of.
10 THE COURT: Have you ever been the victim of a crime?
11 PROSPECTIVE JUROR NO. 282: Yes.
12 THE COURT: Tell me about that.
13 PROSPECTIVE JUROR NO. 282: '05.
14 THE COURT: Okay.
15 PROSPECTIVE JUROR NO. 282: I was kidnapped at
16 gunpoint, and the kidnappers shot and killed my owner of the
17 company that I was working for.
18 THE COURT: Okay. Was this a kidnap robbery
19 situation?
20 PROSPECTIVE JUROR NO. 282: Kidnap murder.
21 THE COURT: Okay. And were you at the like an office
22 location or something like that?
23 PROSPECTIVE JUROR NO. 282: Mm-hmm.
24 THE COURT: You have to say it. I'm sorry.
25 PROSPECTIVE JUROR NO. 282: Oh, yes. I'm sorry.

1 Yes.

2 THE COURT: Was it just you and your -- the company
3 owner that were present, or were other people there at the
4 time?

5 PROSPECTIVE JUROR NO. 282: When I got to the office
6 I was by myself, and they jumped me and held me until, you
7 know, and then he came to work, and that's when they shot him
8 and then they left me.

9 THE COURT: All right. And was property taken?

10 PROSPECTIVE JUROR NO. 282: No.

11 THE COURT: How many people were involved? I mean,
12 how many perpetrators were there, do you know?

13 PROSPECTIVE JUROR NO. 282: It could be as many as
14 three, four.

15 THE COURT: Okay. Obviously that was reported to the
16 police. What agency was it? Was it Las Vegas --

17 PROSPECTIVE JUROR NO. 282: Henderson.

18 THE COURT: Henderson PD?

19 PROSPECTIVE JUROR NO. 282: Mm-hmm.

20 THE COURT: Okay. And do you know if anyone was ever
21 arrested in connection with that?

22 PROSPECTIVE JUROR NO. 282: No.

23 THE COURT: Okay. Do you know if there were ever any
24 suspects, meaning did they think it was somebody who knew your
25 boss, or strangers?

1 PROSPECTIVE JUROR NO. 282: None that I was aware of.

2 THE COURT: Okay. Did you form any opinions as to
3 how the matter was handled by the Henderson Police Department?

4 PROSPECTIVE JUROR NO. 282: No. They handled it
5 quite well.

6 THE COURT: Anything about your experiences in
7 connection with that, that would impact your ability to be
8 fair and impartial and keep an open mind in this case?

9 PROSPECTIVE JUROR NO. 282: I was here, I'm thinking
10 in '10, 2010, and it was a similar kind of a case. And I kind
11 of put everything behind me, but that just was happening now,
12 and I had to end up going to a doctor. Now I'm taking
13 medication because of stress and anxiety, et cetera, et
14 cetera, so.

15 THE COURT: Now, the other case that you came for
16 in 2010, you weren't selected as a juror, you just went --

17 PROSPECTIVE JUROR NO. 282: I was -- yeah. I think I
18 was up here in this room, in this courtroom.

19 THE COURT: And then what happened? Because you said
20 you hadn't been a juror before.

21 PROSPECTIVE JUROR NO. 282: I was immediately
22 dismissed.

23 THE COURT: Okay. Were you dismissed because you
24 were having anxiety, or were you just --

25 PROSPECTIVE JUROR NO. 282: The judge asked me if I

1 could be impartial and I said I didn't think I could be,
2 because --

3 THE COURT: Oh, it was me?

4 PROSPECTIVE JUROR NO. 282: Yes.

5 THE COURT: Oh, okay.

6 PROSPECTIVE JUROR NO. 282: I know. You said, Maybe
7 you should do a real estate trial next time.

8 THE COURT: And did they send you to a real estate
9 trial?

10 PROSPECTIVE JUROR NO. 282: No. They brought me back
11 here.

12 THE COURT: Like Groundhog Day or something.

13 Okay. So as you sit here, it's kind of that you're
14 going through the same thing?

15 PROSPECTIVE JUROR NO. 282: Mm-hmm.

16 THE COURT: Are you feeling now the anxiety?

17 PROSPECTIVE JUROR NO. 282: My heart's going
18 about 150 miles an hour right now.

19 THE COURT: Okay. May I see counsel at the bench.

20 (Off-record bench conference.)

21 THE COURT: All right. What we're going to do,
22 Mr. Gage, is we're going to excuse you from this proceeding.
23 You are eligible now to serve either on a civil case, real
24 estate, construction, what have you, or on another type of a
25 criminal case involving, you know, forgery --

1 PROSPECTIVE JUROR NO. 282: Outstanding.

2 THE COURT: -- or bad checks or something of that
3 nature.

4 PROSPECTIVE JUROR NO. 282: I would be happy to
5 serve.

6 THE COURT: All right. And go ahead and go back down
7 through jury service. If there's something available for
8 today, they'll send you there today.

9 PROSPECTIVE JUROR NO. 282: Okay.

10 THE COURT: If not, again, there are other types of
11 trials that you certainly can serve on.

12 PROSPECTIVE JUROR NO. 282: Thank you.

13 THE COURT: All right. Thank you.

14 The clerk will please call up the next prospective
15 juror.

16 THE CLERK: Terrance Donigan, Badge No. 284.

17 THE COURT: Mr. Donigan, if you'd have that empty
18 chair there in the bottom corner, please. Good afternoon,
19 Mr. Donigan. What do you do for a living, sir?

20 PROSPECTIVE JUROR NO. 284: I'm retired. Plumber.

21 THE COURT: From what type of work?

22 PROSPECTIVE JUROR NO. 284: Plumbing.

23 THE COURT: Okay. Was that here in Clark County?

24 PROSPECTIVE JUROR NO. 284: New York.

25 THE COURT: All right. Did you have your own

1 business, or did you work for some --

2 PROSPECTIVE JUROR NO. 284: No. I worked for a local
3 union.

4 THE COURT: Okay. And then are you married?

5 PROSPECTIVE JUROR NO. 284: Yes, I am.

6 THE COURT: What does your wife do?

7 PROSPECTIVE JUROR NO. 284: Stay at home.

8 THE COURT: Okay. Any children?

9 PROSPECTIVE JUROR NO. 284: Two.

10 THE COURT: Grown children? Okay.

11 PROSPECTIVE JUROR NO. 284: Grown.

12 THE COURT: How long have you lived here in Clark
13 County?

14 PROSPECTIVE JUROR NO. 284: I couldn't hear that.

15 THE COURT: How long have you lived here in Clark
16 County?

17 PROSPECTIVE JUROR NO. 284: Seven years.

18 THE COURT: Okay. Are you having trouble, a little
19 bit hard of hearing?

20 PROSPECTIVE JUROR NO. 284: Yeah, a little bit.

21 THE COURT: Okay. Have you had trouble hearing
22 what's been going on today?

23 PROSPECTIVE JUROR NO. 284: No.

24 THE COURT: Okay. We have earphones and I'm told
25 they work very well. So if you have trouble hearing, we can

1 give you the earphones. Okay.

2 Have you ever been a juror before?

3 PROSPECTIVE JUROR NO. 284: No.

4 THE COURT: You or anyone close to you ever been
5 arrested, charged or accused of a crime?

6 PROSPECTIVE JUROR NO. 284: No.

7 THE COURT: Have you ever been the victim of a crime?

8 PROSPECTIVE JUROR NO. 284: No.

9 THE COURT: Has anyone close to you ever been the
10 victim of a serious crime?

11 PROSPECTIVE JUROR NO. 284: No.

12 THE COURT: Any friends or family in law enforcement?

13 PROSPECTIVE JUROR NO. 284: No.

14 THE COURT: Okay. You've heard us talking about the
15 fact that the State has the burden of proving the defendant's
16 guilt beyond a reasonable doubt, and if the State fails to
17 meet their burden, the defendant is entitled to a verdict of
18 not guilty, and that the accused in a criminal case doesn't
19 have to present any evidence or anything like that. Are you
20 comfortable with those concepts?

21 PROSPECTIVE JUROR NO. 284: Yes.

22 THE COURT: Okay. You also heard us discussing with
23 the other prospective jurors the fact that if the jury in this
24 case convicts the defendant of murder in the first degree,
25 then it becomes the duty of the jury to pronounce sentence and

1 choose between -- choose among, I should say, three possible
2 sentences.

3 Would you -- is there anything about that, that
4 causes you any concern or pause, or do you feel like you would
5 be able to -- if it got there, to fulfill that role as well?

6 PROSPECTIVE JUROR NO. 284: No. I'm fine with that.

7 THE COURT: Okay. You're fine with that.

8 Is there anything that we should know about you or
9 your family background in making the determination as to
10 whether or not you would be a good juror in this case?

11 PROSPECTIVE JUROR NO. 284: No, not really.

12 THE COURT: Do you feel like you would be a good
13 juror?

14 PROSPECTIVE JUROR NO. 284: I feel like I would, yes.

15 THE COURT: And why is that, sir?

16 PROSPECTIVE JUROR NO. 284: Well, I'm retired for one
17 thing. I got a lot of time.

18 THE COURT: All right. State, you may follow up with
19 this prospective juror.

20 MS. CHRISTENSEN: Thank you, Your Honor.

21 Mr. Donigan, you stated that you were able to hear
22 the questioning before. Was there any questions that were
23 asked of other jurors, potential jurors before that you would
24 have had a strong opinion one way or the other about?

25 PROSPECTIVE JUROR NO. 284: No. This is my first

1 time here, you know, and everything's coming in, you know. I
2 think it's fine the way it's going.

3 MS. CHRISTENSEN: Okay. Do you have any opinions one
4 way or the other about police officers, law enforcement in
5 general?

6 PROSPECTIVE JUROR NO. 284: No.

7 MS. CHRISTENSEN: No. Okay. Are you a gun owner?

8 PROSPECTIVE JUROR NO. 284: I am.

9 MS. CHRISTENSEN: How many?

10 PROSPECTIVE JUROR NO. 284: Four.

11 MS. CHRISTENSEN: What kinds?

12 PROSPECTIVE JUROR NO. 284: Two are collectibles and
13 two are target shooters.

14 MS. CHRISTENSEN: And are those revolvers or
15 semi-automatics?

16 PROSPECTIVE JUROR NO. 284: Semi-automatic and two
17 revolvers.

18 MS. CHRISTENSEN: So you go shooting with those
19 sometimes?

20 PROSPECTIVE JUROR NO. 284: Yes.

21 MS. CHRISTENSEN: When was the last time you went
22 shooting?

23 PROSPECTIVE JUROR NO. 284: Just before Christmas.

24 MS. CHRISTENSEN: Now, you said you're from New York?

25 PROSPECTIVE JUROR NO. 284: Yes.

1 MS. CHRISTENSEN: And where in New York?

2 PROSPECTIVE JUROR NO. 284: Syracuse, New York,
3 upstate.

4 MS. CHRISTENSEN: And you never were a victim of a
5 crime there?

6 PROSPECTIVE JUROR NO. 284: No.

7 MS. CHRISTENSEN: Did you retire to Las Vegas?

8 PROSPECTIVE JUROR NO. 284: I did. I retired in New
9 York, and then I come down to Las Vegas and I got a job at
10 City Center.

11 MS. CHRISTENSEN: Okay.

12 PROSPECTIVE JUROR NO. 284: And then the recession
13 hit and I retired again.

14 MS. CHRISTENSEN: Okay. And your wife came as well,
15 but she didn't work out here?

16 PROSPECTIVE JUROR NO. 284: No. She's never worked
17 here, no.

18 MS. CHRISTENSEN: What did you do at City Center?

19 PROSPECTIVE JUROR NO. 284: Plumbing and heating.

20 MS. CHRISTENSEN: Okay. And what year did you move
21 here?

22 PROSPECTIVE JUROR NO. 284: '05.

23 MS. CHRISTENSEN: What brought you to Las Vegas?

24 PROSPECTIVE JUROR NO. 284: The work.

25 MS. CHRISTENSEN: Oh. That was --

1 PROSPECTIVE JUROR NO. 284: See, you could retire in
2 New York and you could still work at a different state as long
3 as you're out of your --

4 MS. CHRISTENSEN: So you had to leave New York to be
5 able to work and still --

6 PROSPECTIVE JUROR NO. 284: That's right.

7 THE COURT: That was to get your union pension and
8 still be a union --

9 PROSPECTIVE JUROR NO. 284: That's correct. You
10 got it.

11 THE COURT: -- plumber, pipe fitter?

12 PROSPECTIVE JUROR NO. 284: That's right.

13 THE COURT: Okay.

14 MS. CHRISTENSEN: Double-dipping.

15 PROSPECTIVE JUROR NO. 284: Double-dipping.

16 MS. CHRISTENSEN: And so in 2005, it was work that
17 brought you out here?

18 PROSPECTIVE JUROR NO. 284: That's right.

19 MS. CHRISTENSEN: And had you visited Las Vegas or
20 had any ties to Las Vegas before that?

21 PROSPECTIVE JUROR NO. 284: I have. I lived in
22 Carlsbad before and we used to come out on vacation, maybe
23 twice when we lived there.

24 MS. CHRISTENSEN: Okay. Is there anything that you
25 think either side needs to know about you that would make you

1 anything but fair and impartial as a juror?

2 PROSPECTIVE JUROR NO. 284: Not that I know of,
3 unless somebody knows something I don't.

4 MS. CHRISTENSEN: Well, who are those people? Give
5 me their names so I can call them.

6 PROSPECTIVE JUROR NO. 284: I don't know.

7 MS. CHRISTENSEN: Okay. Thank you. I'll pass for
8 cause.

9 THE COURT: All right. Thank you.

10 Defense may question Mr. Donigan.

11 MR. PIKE: Mr. Donigan, good afternoon.

12 PROSPECTIVE JUROR NO. 284: Good afternoon.

13 MR. PIKE: It's a little bit odd, when you're picking
14 a jury to make a decision on guilt or innocence on a case, to
15 talk about penalty. It's kind of like putting a cart before
16 the horse. But and by asking these questions, we're not
17 conceding that the State can prove its case beyond a
18 reasonable doubt. We're not conceding that we're ever going
19 to reach that part.

20 But because of the peculiar laws of the State of
21 Nevada, we have to ask those questions to see if you can fit
22 in potentially those two parts. And so the fact that we've
23 been asking questions about punish -- possible punishments, do
24 you feel that that in any way has been sort of a concession,
25 or do you feel like we've abandoned the fact that the State is

1 not going to prove its case beyond a reasonable doubt?

2 PROSPECTIVE JUROR NO. 284: Not really.

3 MR. PIKE: Okay. Not really. I want to make sure
4 that you understand that clearly, because we have not conceded
5 any of those things. We just have to make sure that the
6 possible juror can fit both parts. Okay. So in -- is there
7 anything, any health issues or anything that would stop you
8 from being a juror, or have any concerns in the back of your
9 mind so you couldn't pay close attention to the witnesses in
10 this case?

11 PROSPECTIVE JUROR NO. 284: No.

12 MR. PIKE: You've probably had to deal with a lot of
13 different people, having worked one entire career and starting
14 a new one in another state. Do you -- would you consider
15 yourself a pretty good judge of if somebody is lying to you or
16 if they're telling you the truth?

17 PROSPECTIVE JUROR NO. 284: Pretty much, yeah, you
18 can tell.

19 MR. PIKE: Okay. And you understand the evidence
20 that's going to be presented in this case is either done
21 directly by the testimony from the witnesses that will answer
22 questions, and that you individually have to make a decision
23 of whether they're telling the truth or whether they're
24 confused and are incapable of telling the truth, or if they're
25 lying. Do you feel like you're a good judge of character and

1 you could do that?

2 PROSPECTIVE JUROR NO. 284: Yes.

3 MR. PIKE: And you'll only consider the actual
4 evidence that you consider to be credible coming from this,
5 this witness stand?

6 PROSPECTIVE JUROR NO. 284: Yes.

7 MR. PIKE: And if you found yourself in deliberations
8 where you felt that you were right and some of the other
9 members of the jury had a different opinion, but you felt
10 strongly about that you were right, would you be able to stand
11 firm on your convictions, whether it's for guilt or for
12 innocence?

13 PROSPECTIVE JUROR NO. 284: I would, yes.

14 MR. PIKE: Okay. I imagine you probably had to
15 stand up against some pretty tough characters working your
16 career.

17 PROSPECTIVE JUROR NO. 284: Some of them.

18 MR. PIKE: Okay. And will you devote your full
19 attention to this case and be fair to the State and fair to --
20 to Jason?

21 PROSPECTIVE JUROR NO. 284: Yes.

22 MR. PIKE: Thank you very much, sir.

23 THE COURT: Pass for cause?

24 MR. PIKE: We'll pass for cause.

25 THE COURT: All right. I believe we're on State's

1 second.

2 MS. CHRISTENSEN: Your Honor, the State would like to
3 thank and excuse Number 208, Mr. Zercher.

4 THE COURT: Sir, thank you for being here and your
5 willingness to serve as a juror. You are excused at this
6 time. You need to go back to jury services.

7 And the clerk will call the next prospective juror.

8 THE CLERK: Brenda Pelayo, Badge No. 290.

9 MR. PIKE: May we approach the bench, Your Honor?

10 THE COURT: Sure.

11 Ma'am, have a seat there in the front.

12 (Off-record bench conference.)

13 THE COURT: Good afternoon, Ms. Pelayo. What do you
14 do for a living?

15 PROSPECTIVE JUROR NO. 290: Bank of America, customer
16 service.

17 THE COURT: All right. Are you married?

18 PROSPECTIVE JUROR NO. 290: Married, but separated.

19 THE COURT: And what does your husband do?

20 PROSPECTIVE JUROR NO. 290: I haven't spoke to him in
21 a few years. We're separated.

22 THE COURT: Okay. But you're not divorced, just
23 legally separated?

24 PROSPECTIVE JUROR NO. 290: Not yet. Mm-hmm.

25 THE COURT: Okay. And any children?