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2 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

3 EVARISTO JONATHAN GARCIA,

4 Appellant,

5 vs.  
6

7 THE STATE OF NEVADA,

8 Respondent.  
9

Supreme Court Case No.: 64221

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11 **APPELLANT'S APPENDIX**

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13 **VOLUME 3 OF 11**

14 **(BATES 386-586)**  
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1           A.     No.

2           Q.     Okay. I was just wondering. All right.  
3 Go ahead and tell me about yourself.

4           A.     I've been here about eight years in Clark  
5 County. I lived in Long Beach, Florida. Three  
6 weeks ago I just got my MSN, my master's in nursing.

7           Q.     What type of nurse are you?

8           A.     I'm an ICU nurse, but I got my master's  
9 with an emphasis in nursing education. So I'm also  
10 an adjunct faculty at Roseman University, as well as  
11 a staff nurse. I still work at Mountainview  
12 Hospital.

13          Q.     In what department in Mountainview?

14          A.     I'm in the float so I kind of work all  
15 over.

16          Q.     Okay.

17          A.     But primarily ICOPCU (phonetic). I am  
18 married, and my husband is in law enforcement.

19          Q.     What does he do?

20          A.     He works for the City of Las Vegas in  
21 corrections.

22          Q.     Okay.

23          A.     We have no children.

24          Q.     I guess I should go back. Obviously he's  
25 in corrections and he's in law enforcement. Would

1 you be able to sit and listen if law enforcement  
2 testified and listen to the credibility of that  
3 witness like any other witness in this case?

4 A. Yes.

5 Q. All right, thank you. Go ahead.

6 A. I've never been on a -- I've never been a  
7 juror before. No one's ever been convicted of a  
8 crime. I guess I was a victim but of personal  
9 identity theft. That was over 15 years ago.

10 Q. Did they ever catch who did it?

11 A. Yes.

12 Q. Did you ever have to testify?

13 A. No.

14 Q. Were you involved in any court  
15 proceedings?

16 A. No.

17 Q. And was that here in Las Vegas or  
18 somewhere else?

19 A. That was in Long Beach, Florida.

20 Q. Where?

21 A. Florida.

22 Q. Florida. Is there anything about that  
23 identity theft case that you'd hold either against  
24 the State or the defense in this case?

25 A. No.

1 Q. Okay. Go ahead.

2 A. And yes, I can wait in forming my  
3 opinion.

4 Q. All right, ma'am. If the defendant in  
5 this case chose to invoke his Fifth Amendment right  
6 not to testify at trial, do you promise that you  
7 would not discuss that as a juror and that you would  
8 not hold that against him?

9 A. Yes.

10 Q. All right. This is a murder case. If  
11 the jury came back with a verdict of murder in the  
12 first degree, could you consider all three forms of  
13 punishment; that is life without possibility of  
14 parole, life with the possibility of parole after 20  
15 years, or a term of 50 years with the possibility of  
16 parole after 20 years?

17 A. Yes.

18 Q. All right, thank you.

19 EXAMINATION

20 BY THE COURT:

21 Q. Hold on one second. Sorry. Got to get  
22 my computer to start up.

23 A. It's No. 83.

24 Q. You are Angelica --

25 A. Angelica Numez-Morarez.

1 Q. Okay. And you're Badge No. 83?

2 A. Yes, ma'am.

3 Q. All right. Go ahead and tell me a little  
4 bit about yourself.

5 A. I've been in Clark County for over 20  
6 years, I was raised here in Vegas. I went to Las  
7 Vegas High School. I am not currently employed.  
8 I'm doing a background check. They're doing a  
9 background check on me.

10 Q. Okay. What are you gonna be employed --

11 A. For the Monra (phonetic), the company  
12 that will hire me or that will -- is going to hire  
13 me.

14 Q. What type of company is that?

15 A. A deco (phonetic). It's a staffing  
16 agency.

17 Q. Okay.

18 A. And they're doing a background check on  
19 me. I have a relationship. I've been in that  
20 relationship for over three years. We have a one  
21 and a half year old son.

22 Q. What does your significant other do?

23 A. He is employed by the Monorail company.  
24 He's a supervisor for the -- for janitors there.

25 Q. Okay. And you have a baby?



1           A.     A one and a half year old son. No law  
2 enforcement in my family. Never been a juror. My  
3 family's never been a victim of a crime that I know  
4 of. And in February 27th of 2010, I was convicted  
5 of DUI.

6           Q.     Okay. And that's a misdemeanor?

7           A.     Yeah.

8           Q.     Was there anything about the way the  
9 police or the district attorney or city attorney  
10 handled that case that you would hold against the  
11 State or the defense in this case?

12          A.     No, ma'am.

13          Q.     Okay.

14          A.     And I would -- I definitely would wait  
15 for all the evidence to be, to be heard before  
16 forming my opinion.

17          Q.     Okay, thank you. And if the defendant  
18 invoked his Fifth Amendment right not to testify at  
19 trial, would you promise not to discuss that as a  
20 juror and that you would not hold that against him?

21          A.     Yes, Your Honor.

22          Q.     And if you were selected as a juror in  
23 this case and as a jury collectively, the jury came  
24 back with murder in the first degree, would you be  
25 able to consider all three forms of punishment; that

1 is life without the possibility of parole, life with  
2 the possibility of parole after 20 years, or a term  
3 of 50 years with the possibility of parole after 20  
4 years?

5 A. Yes, Your Honor.

6 Q. All right, thank you.

7 EXAMINATION

8 BY THE COURT:

9 Q. All right. One second. I know you've  
10 talked to me. Hold on one sec. It's Jason Latham?

11 A. Yes.

12 Q. And you're Badge No. --

13 A. 085.

14 Q. -- 0085. Yes, sir. Go ahead and tell me  
15 about yourself.

16 A. I've lived in Clark County for 12 years.  
17 I have a bachelor's in communications. As I said, I  
18 work for Fox 5. I'm the assistant news director.  
19 My wife is public relations manager at a property on  
20 the strip. We have a one year old daughter.

21 I do not have any family in law  
22 enforcement. I have not served as a juror. The  
23 only crime that I've been a victim of is auto  
24 burglary like three years ago.

25 Q. Three years ago here in Las Vegas?

1 A. Yes.

2 Q. Did they ever catch who did it?

3 A. No.

4 Q. Is there anything about that situation  
5 that you'd hold against the State or the defense in  
6 this case?

7 A. No.

8 Q. Okay.

9 A. I do not have any -- no on the charge of  
10 ever been a victim of a crime and I can wait in  
11 forming my opinion.

12 Q. If the defendant was -- invoked his right  
13 to remain silent at trial and he chose not to  
14 testify, would you promise not to discuss that as a  
15 juror and you would not hold that against him?

16 A. Yes.

17 Q. And if selected as a juror and  
18 collectively the jury came back with a verdict of  
19 murder in the first degree, and only in that  
20 situation, would you be able to consider all three  
21 forms of punishment: That being number one, life  
22 without the possibility of parole; two, life with  
23 the possibility of parole after 20 years; or three,  
24 a term of 50 years with the possibility of parole  
25 after 20 years?

1 A. Yes, ma'am.

2 Q. Thank you.

3 EXAMINATION

4 BY THE COURT:

5 Q. Hold on. Can you bring it down to Ray  
6 Morgan. Okay. Hold on one second. You're badge  
7 number, just so I have this right, you're 088,  
8 right?

9 A. Yes, ma'am.

10 Q. Okay. Go ahead.

11 A. I've lived here approximately 20 years.  
12 I have an associates in general studies. I'm a  
13 licensed worber (phonetic) and slot technician. I'm  
14 now retired. I'm married. I have one child. She's  
15 about 46 now.

16 Q. What does she do for a living?

17 A. She works for United Airlines.

18 Q. What does she do for United?

19 A. She works the front desk and ramp.

20 Q. And you said -- I'm sorry. Is it your  
21 wife that's retired?

22 A. We are both retired.

23 Q. Okay. What did your wife do?

24 A. She worked in the medical field in a  
25 doctor's office front and in back office.

1 Q. Okay. Go ahead.

2 A. As far as members in the law enforcement,  
3 I have a brother who works for the sheriff's  
4 department in Lake Charles, Louisiana, my mother  
5 worked as a dispatcher in West Lake, Louisiana  
6 before she died, I have a cousin that works in South  
7 Carolina as a deputy for the sheriff's department,  
8 and I worked for the Texas Department of Corrections  
9 for two years about 45 years ago.

10 Q. Okay. So obviously yourself and also you  
11 have a lot of family members that are involved in  
12 law enforcement?

13 A. Yes.

14 Q. And you heard me ask the other  
15 individuals as well, would you be able to sit and  
16 listen if law enforcement testified, listen to their  
17 credibility and give their testimony the same weight  
18 as anyone else on the stand?

19 A. Oh, yes, yes.

20 Q. Okay.

21 A. I've served on a coroner's inquest.

22 Q. Oh, you did. Hold on. I've got to go  
23 slower. How long ago?

24 A. Two years ago.

25 Q. Uhm.

1 A. Here.

2 Q. Okay. And -- well, there are  
3 different -- that's a different kind of -- you  
4 understand the attorneys are gonna tell you that  
5 that's a completely different -- I mean, you're  
6 clear that's a completely different process than  
7 what we're going through today?

8 A. Right.

9 Q. But thank you for bringing that up.

10 A. Okay. I've never had any family members,  
11 close families members that I know of, for any  
12 crime.

13 Q. Okay.

14 A. None of -- I don't know of anybody that's  
15 been arrested. And I can form my opinion after all  
16 the information.

17 Q. After listening to all the evidence?

18 A. Yes.

19 Q. You'd wait though in forming that  
20 opinion?

21 A. Yes, yes.

22 Q. Okay. And if the defendant chose to  
23 invoke his Fifth Amendment right not to testify, do  
24 you promise that you would not hold that against him  
25 as a juror and you would not discuss that as a

1 juror?

2 A. Yes.

3 Q. If you were selected as a juror, and only  
4 in the event that the jury came back with a verdict  
5 of murder in the first degree, would you be able to  
6 consider all three forms of punishment; that is life  
7 without the possibility of parole, life with the  
8 possibility of parole after 20 years, a term of 50  
9 years with the possibility of parole after 20 years?

10 A. Yes.

11 Q. All right. Thank you, sir.

12 EXAMINATION

13 BY THE COURT:

14 Q. Hold on one second. It's Yvette, Yvette  
15 Belisle; is that right?

16 A. Belisle.

17 Q. Okay. And you are Badge No. 089?

18 A. Yes.

19 Q. Okay. Go ahead and tell me about  
20 yourself.

21 A. I have lived in Clark County for 11  
22 years. I went to UNLV, graduated with a degree in  
23 communication broadcasting and a minor in theatre.  
24 I am employed at Fox 5 News.

25 Q. Hey, do you guys know each other?

1 A. Yes.

2 PROSPECTIVE JUROR LATHAM: Yes.

3 BY THE COURT:

4 Q. Well, we ask that, too, because  
5 sometimes, and I guess I'll go back to him, too, is  
6 if jurors have worked together, for example, would  
7 you feel comfortable being on a jury with that  
8 individual or if your opinion was different, you  
9 know, would this cause you any kind of fights or  
10 concerns if you were on a jury together?

11 A. I don't think so.

12 Q. Okay. What do you do for Fox 5?

13 A. I'm a senior marketing director. So I  
14 basically promote the news and write news topical  
15 and promos for the news.

16 Q. Is he your boss?

17 A. No.

18 Q. Well, you know, that's what I'm saying.  
19 You know, if he was your boss and you were on a jury  
20 together --

21 A. Yeah.

22 Q. -- you know, can he pound you into a  
23 decision one way or another. So we're kind of  
24 looking at stuff like that.

25 A. We're in different departments.



1 Q. Okay. Different departments?

2 A. Uh-huh.

3 Q. So you don't care what he thinks, right?

4 A. Well, I do because he's the assistant  
5 news director.

6 Q. Okay.

7 A. I promote his newscasts.

8 Q. You still want to impress him. See,  
9 we've got to find these things out. It's important.

10 A. Yeah.

11 Q. It sounds so, I'm being, you know, so nit  
12 picky, but --

13 A. No, I would definitely.

14 Q. -- some things can be important. You'd  
15 be surprised, you know, when people get on a jury  
16 and they know each other. We don't generally have  
17 that in Las Vegas either. You know, it's generally  
18 big enough that you're not gonna know or work  
19 together.

20 We've already got two from  
21 Mountainview, right, and I probably need to go back  
22 and ask those same questions. Go ahead.

23 A. I am not married or in a relationship, I  
24 do not have children. My grandfather, who is  
25 deceased, worked for NSA and my uncle is a cop in

1 D.C. I am not close with him. So I don't know what  
2 department or what he really does.

3 Q. There's nothing about those family  
4 members who are in law enforcement -- I mean,  
5 obviously most people, most people are raised to  
6 respect law enforcement, but what we're looking for  
7 is to see would you be able, if you're selected as a  
8 juror, to sit and listen to the testimony of law  
9 enforcement, determine their credibility like you  
10 would any other witness in a case?

11 A. Yes.

12 Q. Okay.

13 A. My family, I don't believe they've been a  
14 victim of a crime. And my step-uncle was charged  
15 for drugs here in Nevada in Las Vegas.

16 Q. How long ago?

17 A. It was about four years ago.

18 Q. Uh-huh.

19 A. Maybe longer.

20 Q. Is there -- go ahead.

21 A. And he hasn't had that long extensive  
22 trouble with the law.

23 Q. Is there anything about the way the  
24 police or the district attorney's office handled  
25 your, your step-uncle's charge that would cause you

1 to -- well, that you would hold against either the  
2 State or the defendant in this case?

3 A. No.

4 Q. Okay.

5 A. No. And I can wait to form an opinion.

6 Q. Okay. If the defendant invoked his Fifth  
7 Amendment right not to testify, do you promise not  
8 to discuss that as a juror and that you will not  
9 hold that against him?

10 A. Yes.

11 Q. And if selected as a juror in this case,  
12 and if the jury came back with murder in the first  
13 degree, would you be able to consider all three  
14 forms of punishment; that is life without the  
15 possibility of parole, life with the possibility of  
16 parole after 20 years, a term of 50 years with the  
17 possibility of parole after 20 years?

18 A. Yes.

19 Q. All right, thank you.

20 THE COURT: And let me hand that back to  
21 Mr. Latham and just ask you real quick, is there  
22 anything about your friendship or employment that  
23 would cause you any concern with this young lady --

24 PROSPECTIVE JUROR LATHAM: No.

25 THE COURT: -- Miss Belisle? All right.

1 I just want to make sure.

2 And the two Mountainview nurses. I  
3 have one nurse -- let me go back to her. Is that  
4 Ms. Wiese?

5 PROSPECTIVE JUROR WIESE: Jackie Wiese.

6 THE COURT: Do you know the other person  
7 that said that they worked at Mountainview?

8 PROSPECTIVE JUROR WIESE: I know she  
9 looked familiar to me, but I really couldn't --

10 THE COURT: It's Miss Norris, right?

11 PROSPECTIVE JUROR NORRIS: Uh-huh.

12 THE COURT: You two both work at  
13 Mountainview. Do you guys know each other?

14 PROSPECTIVE JUROR NORRIS: No.

15 PROSPECTIVE JUROR WIESE: No.

16 THE COURT: Okay, thank you. I just want  
17 to make sure we had a record of that. Thank you.

18 EXAMINATION

19 BY THE COURT:

20 Q. All right. All right. Hold on one  
21 second. Let me see. Hold on one second. Can you  
22 send it down to Erich Eichenbrenner. I'm skipping  
23 around. I may go back to people, too. So don't  
24 feel too sure of yourselves. I'm just skipping  
25 around here.

1                   Okay. So you are Badge No. 092,  
2 right?

3           A.       Yes, Your Honor.

4           Q.       Okay. Go ahead, sir.

5           A.       I've lived in Clark County for 35 years.  
6 I've been through only level 12 of general  
7 education. A little bit of junior college.

8                   My present -- I'm presently employed  
9 with a parent company of HCA or Sunrise Hospital.  
10 I've been there 35 years this month.

11          Q.       What do you do there?

12          A.       I'm a patient transporter, patient  
13 sitter, courier. I am not married. I'm divorced,  
14 but we're still significant friends.

15          Q.       What did your wife do?

16          A.       She was -- she's retired, but she was an  
17 LPN at Sunrise also.

18          Q.       Okay.

19          A.       We had no children between us. As far as  
20 I know, no members of my family are in law  
21 enforcement or have they been. I have never served  
22 on a jury.

23                   As far as I know, myself or no  
24 family member have been a victim of a crime. And no  
25 family member that I'm aware of has been arrested or

1 charged with a crime, misdemeanor or felony. And I  
2 can wait to form an opinion after all evidence has  
3 been presented.

4 Q. All right, sir. Can you also if the  
5 defendant chose to invoke his Fifth Amendment right  
6 and not testify, would you be -- do you promise not  
7 to discuss that as a juror and you must not hold  
8 that against him?

9 A. Yes.

10 Q. All right. This is a murder case. If  
11 you are selected as a juror and only in the event of  
12 the jury coming back with a verdict of murder in the  
13 first degree, would you be able to consider all  
14 three forms of punishment which are life without the  
15 possibility of parole; life with the possibility of  
16 parole after 20 years, a term of 50 years with the  
17 possibility of parole after 20 years?

18 A. Yes.

19 Q. Thank you, sir.

20 EXAMINATION

21 BY THE COURT:

22 Q. All right. So this is Lukas Larson; is  
23 that right?

24 A. That's right. No. 94.

25 Q. No. 94. Yes, sir. Go ahead and tell me

1 about yourself.

2 A. All right. I've lived in Clark County  
3 for two years now.

4 Q. Where are you from?

5 A. I'm originally from Oklahoma City. I  
6 spent seven years before this in Los Angeles. I  
7 have a degree in marketing, a Bachelor's. And I'm  
8 self-employed. I do freelance web presence  
9 management and I'm also a hook suspension  
10 practitioner.

11 Q. What's that?

12 A. I'm one of the people who sticks hooks  
13 through people's skin and hangs them from them. I  
14 was on the cover of the newspaper yesterday if you  
15 want to see it.

16 Q. That's cool. Okay. Well, we were on  
17 vacation. That's why I was saying don't have kids.  
18 For nine hours. So anyway, sorry I missed that.

19 A. Okay. I am married, my wife works in  
20 medical records processing. We have four children;  
21 three cats and a dog.

22 Q. How old are your kids?

23 A. I'm sorry. They're, they're my cats and  
24 dog.

25 Q. Oh.

1 A. I apologize. I was making a --

2 Q. I'm sorry. I thought you were saying you  
3 had four kids plus your cats and dog?

4 A. They are my children.

5 Q. All right. So they're not currently  
6 employed, these children of yours?

7 A. No. I do not have any family members in  
8 law enforcement. I've never served as a juror.  
9 I've been the victim of multiple crimes. I've had  
10 my home burglarized severely. They took everything.

11 Q. How long ago?

12 A. This was 12 -- or I guess about 10 years  
13 ago now.

14 Q. Here in Las Vegas?

15 A. It was in Oklahoma City.

16 Q. Is there -- did they catch who did it?

17 A. They did not.

18 Q. Is there anything about the way the  
19 police handled that case that you would hold against  
20 either the State of Nevada or the defense in this  
21 case?

22 A. Not in Nevada. The police were a joke,  
23 but they were in Oklahoma.

24 Q. Okay.

25 A. I've also had my car burglarized. I have



1 been assaulted with a firearm.

2 Q. Okay. Let's go to car burglary first.  
3 So your car burglarized, how long ago?

4 A. This was also about same 10 years ago.  
5 Same apartment I was in.

6 Q. And did they ever find who did that?

7 A. That was a joke as well.

8 Q. Okay. So you were pretty upset with  
9 obviously the Oklahoma police?

10 A. Law enforcement. Oklahoma is absolutely  
11 ridiculous.

12 Q. Do you think that despite your feelings,  
13 and obviously strong feelings towards the Oklahoma  
14 police department, that you could set that aside if  
15 you were selected as a juror in this case and be  
16 fair and impartial to both the State and the defense  
17 in this case?

18 A. I understand there wasn't much that they  
19 could do there so it's hard for me to really hold it  
20 against them. I was just treated very  
21 disrespectfully and profiled. So I have trouble  
22 feeling any level of respect for law enforcement.

23 Q. What do you mean "profiled"?

24 A. They just sort of treated me like this  
25 was something that I had coming to me like I was

1 some sort of criminal who essentially, you know,  
2 same with the gun assault. They wouldn't even send  
3 a cop car to my house.

4 Q. And so you were assaulted how long ago?

5 A. This was 11 years ago.

6 Q. And you were assaulted with a gun?

7 A. Yes.

8 Q. Did they ever find out who did that?

9 A. They wouldn't even send a cop car to take  
10 my statement. They said I had to come into the  
11 police station. At that point I decided it wasn't  
12 worth my time.

13 Q. Okay. All right.

14 A. Yes, I have been charged with a couple of  
15 crimes. I've been arrested for driving under the  
16 influence. That was 12 years ago. Charges were  
17 dropped.

18 And I was arrested for possession of  
19 a counterfeit instrument. Also dropped.

20 Q. Is there anything about -- since they  
21 were dropped and things weren't proceeded on, is  
22 there anything -- and let me ask you: Is that in  
23 Oklahoma as well?

24 A. Yeah. The cops were caught lying about  
25 the arrest so the charges were dropped.

1 Q. All right. Is there anything -- well,  
2 obviously you stated that they were lying?

3 A. Uh-huh.

4 Q. Is there anything about the way that the  
5 police handled your cases that you would hold  
6 against either the State or the defense in this  
7 case?

8 A. It's hard for me to honestly say I won't  
9 operate with some level of bias, but I think I'm an  
10 objective enough person that I can probably  
11 separate --

12 Q. You can probably keep the -- separate the  
13 two intellectually?

14 A. Yeah, intellectually I can. I'm getting  
15 emotional even talking about the things that  
16 happened to me.

17 Q. Right.

18 A. So it's hard for me to know exactly how  
19 I'll feel hearing the details of the case.

20 Q. All right. Okay. Keep going.

21 A. Yeah, like I said, I mean, as far as  
22 forming my opinion on guilt, I feel like I'm an  
23 objective, rationale person. I think I could do  
24 that.

25 Q. Oh, sorry.

1 A. I'm sorry. Am I done?

2 Q. I'm just typing away here.

3 A. Okay.

4 Q. Okay. Sir, if you were selected as a  
5 juror and the defendant invoked his right at trial  
6 not to testify, do you promise not to discuss that  
7 as a juror and you would not hold that against him?

8 A. Yes.

9 Q. And if you were selected as a juror and  
10 the jury came back with murder in the first degree  
11 as a verdict, would you be able to consider all  
12 three forms of punishment; that is, life with the  
13 possibility of parole -- I'm sorry. Life without  
14 the possibility of parole, life with the possibility  
15 of parole after 20 years, or a term of 50 years with  
16 the possibility of parole after 20 years?

17 A. Yes.

18 Q. Okay, thank you.

19 EXAMINATION

20 BY THE COURT:

21 Q. All right. Let's go to Kristina Beber.

22 A. Beber.

23 Q. Beber. Is it Beber or do I just --

24 A. It's Beber like Justin, yeah.

25 Q. Okay.

1           A.     I've lived -- oh, I'm Badge No. 96. I've  
2 lived in Clark County for 35 years. I went to UNLV  
3 for two semesters.

4           Q.     What'd you study?

5           A.     Medicine. I'm not employed. I'm a  
6 foster mom.

7           Q.     Being a foster mom, do you have to go to  
8 any of the court proceedings for your foster  
9 children?

10          A.     On occasion we're asked to go to the  
11 family court.

12          Q.     Right. Have you had to testify as a  
13 foster parent on any issues?

14          A.     No.

15          Q.     Okay.

16          A.     No, ma'am.

17          Q.     How long have you been a foster parent?

18          A.     This will be our fourth year.

19          Q.     Okay.

20          A.     I'm married, my husband works at a  
21 construction company with my father-in-law. We have  
22 four children. Their ages are 14, 18, 20 and 25.

23          Q.     What do the 20 and 25 -- well, let me  
24 see. Let's start with the 18. What does the 18  
25 year old do?

1           A.     The 18 year old, my son, he works for a  
2 bakery. My 20 year old does not work. My daughter.  
3 And my 25 year old works for a law firm. And they  
4 do --

5           Q.     Where?

6           A.     I don't know what the name of it is.  
7 They do construction litigation.

8           Q.     It's construction litigation?

9           A.     (Positive nod of the head.)

10          Q.     Okay. And what do they do there?

11          A.     Well, she works as a legal secretary.

12          Q.     As a legal secretary?

13          A.     (Positive nod of the head.)

14          Q.     Okay.

15          A.     And we also have four foster kids.

16          Q.     Okay. And they're all under 18 though,  
17 right?

18          A.     Yeah, they're 5 and under.

19          Q.     Okay.

20          A.     The father of my 20 year old is a Metro  
21 officer. We were never married.

22          Q.     Okay. Is there -- could you sit if  
23 you're selected as a juror and listen to a law  
24 enforcement testify, give their -- the same  
25 credibility as any other witness in this case?

1 A. Yes.

2 Q. All right, thank you.

3 A. Have I ever served as a juror, yes. It  
4 was a civil trial, it was a personal injury. It was  
5 about four years ago here in Nevada, Clark County.

6 Q. Were you and your fellow jurors, without  
7 telling us what your verdict was, were you able to  
8 reach a verdict?

9 A. Yes, ma'am.

10 Q. And were you the foreperson?

11 A. No, ma'am. There were only four of us.  
12 It was a short Friday mini trial.

13 Q. Oh, short trial program?

14 A. (Positive nod of the head.)

15 Q. Right. Okay. Those are really  
16 different?

17 A. They're really different.

18 Q. Those are really different.

19 A. They're fast.

20 Q. Yeah, they're really fast, but pretty  
21 much the rules of evidence are the same and of  
22 course it was a civil case so --

23 A. (Positive nod of the head.)

24 Q. -- there are obviously differences  
25 between the two, but you were a juror and you were

1 able to render a verdict in that case?

2 A. Yes, Your Honor.

3 Q. Okay.

4 A. Have any of us -- no one in my family's  
5 ever been convicted of a crime.

6 Q. Anyone a victim?

7 A. No, not other than like car break-ins and  
8 stuff like that, but nothing -- no one's ever  
9 been --

10 Q. Car break-ins?

11 A. Yeah.

12 Q. All right. Is there anything about the  
13 car break-ins that you'd hold either against the  
14 State or the defense in this case?

15 A. No, ma'am.

16 Q. Okay.

17 A. And I could wait until all the evidence  
18 has been heard to form an opinion.

19 Q. Okay.

20 EXAMINATION

21 BY THE COURT:

22 Q. Hold on. All right. The next one is  
23 Erika Villanueva.

24 A. Badge No. 98. I've lived here in Clark  
25 County for a year. I used to --



1 Q. Where are you from?

2 A. I'm originally from California, from Los  
3 Angeles, but I lived in Mexico for eight years in  
4 Michoacan. I finished high school there. I'm an  
5 agriculture technician.

6 Q. Wait. So wait. I'm sorry. Did you go  
7 to high school or --

8 A. In Mexico.

9 Q. In Mexico.

10 A. Yeah. In Michoacan. Yeah. I finished  
11 high school. I'm an agriculture technician. I'm  
12 currently employed in Harbor Freight Tools. I'm a  
13 cashier there. I'm not married, I'm a single mom.  
14 I have a one year old.

15 I have no family in law enforcement,  
16 I've never been a juror before. No family member  
17 has ever been a victim of a crime. No family member  
18 ever arrested.

19 And yes, I can wait to form my  
20 opinion after all the evidence has been heard.

21 Q. All right. And I think I forgot to ask  
22 you all those -- I'll come back. I'm going, you  
23 know, I'm almost ready for lunch and I need food.

24 Do you promise if the defendant  
25 invoked his rights at trial and chose not to

1 testify, do you promise not to discuss that as a  
2 juror and you would not hold that against him?

3 A. Yes, I promise.

4 Q. And if you were selected as a juror, and  
5 only in the event that the jury came back with  
6 murder in the first degree, could you consider all  
7 three forms of punishment; that is, life without the  
8 possibility of parole, life with the possibility of  
9 parole after 20 years, and a term of 50 years with  
10 the possibility of parole after 20 years?

11 A. Yes.

12 Q. All right, thank you.

13 EXAMINATION

14 BY THE COURT:

15 Q. Let me go back really quick to Ms. Beber  
16 and ask you because I think I forgot. If the  
17 defendant chose not to testify at trial and invoked  
18 his Fifth Amendment right, do you promise not to  
19 discuss that as a juror and you would not hold that  
20 against him?

21 A. Yes.

22 Q. And if you were selected as a juror and  
23 if the jury came back with murder in the first  
24 degree, could you consider all three forms of  
25 punishment; that is life with the possibility of

1 parole, life with the possibility of parole after 20  
2 years, or a term of 50 years with the possibility of  
3 parole after 20 years?

4 A. Yes, ma'am.

5 THE COURT: Okay. This is a good time  
6 then, 12:30, to take our break. Ladies and  
7 gentlemen, we are gonna take -- we're gonna convene  
8 again at 2 o'clock. We're gonna take an hour and a  
9 half for lunch.

10 During this recess, you're  
11 admonished not to talk or converse among yourselves  
12 or with anyone else on any subject connected with  
13 this trial.

14 Or read, watch or listen to any  
15 report of or commentary on the trial or any person  
16 connected with this trial by any medium of  
17 information, including, without limitation,  
18 newspapers, television, radio or internet. Don't do  
19 any of that stuff.

20 Or form or express any opinion on  
21 any subject connected with the trial until the case  
22 is finally submitted to you.

23 Just line up and you'll see my  
24 marshal at 2 o'clock and we'll start promptly then.  
25 Thank you. Attorneys stay on record.

1                   (Whereupon, the jury panel exited the  
2                   courtroom.)

3                   THE COURT: Okay. We're back on the  
4 record, we're outside the presence of the jurors and  
5 go ahead and have a seat because I think this is  
6 gonna take a while for us to go over. I've had more  
7 people with issues than I've ever had I think in any  
8 other --

9                   MR. GOODMAN: Well, can I go to the  
10 restroom then, Your Honor, before I do that?

11                  THE COURT: Yeah. I'm sorry. Yeah.  
12 Let's take a five-minute break and then I want to go  
13 back on the record because I want to let some people  
14 go and not ask them a bunch of questions and just  
15 move right into other people.

16                   So if you need five minutes, I'm  
17 sorry, go ahead and do that.

18                   (Whereupon, a short recess was had.)

19                   THE COURT: All right. So we'll go back  
20 on the record. State of Nevada versus Evaristo  
21 Garcia. C262966. I generally only give an hour  
22 lunch, but I really need to go over some of these,  
23 I'd like to go quicker through jury selection. And  
24 I've never skipped over people like I did today.  
25 And I think I'd rather just again cut to the chase.

1                   Here's what I have and then I'm  
2 gonna ask you guys how you feel and we'll put each  
3 one on the record. But before I do, I want to say  
4 I'm inclined anybody who raises their hand and says  
5 English is a second language and they haven't -- you  
6 know, we'll go over each one, but I'm inclined if I  
7 do one, I pretty much let them all off because  
8 you've got complicated jury instructions. If they  
9 can't read and they don't understand English,  
10 they're gonna miss certain words during the trial.

11                  So I'll listen to objections and I'll be  
12 open-minded, but I'm generally inclined to let those  
13 people go. So having said that, we'll go over each  
14 one that I have written down.

15                  MR. FIGLER: Your Honor, if it saves  
16 time, we can just give you a general statement on  
17 the defense position on that issue.

18                  THE COURT: No. Let's just go over each  
19 one because she's got to write down each one. And  
20 if I have no opposition, then guess what, there's  
21 no -- nothing to talk about. Let's just move.

22                  MR. FIGLER: Okay.

23                  MS. DEMONTE: All right.

24                  THE COURT: So the first one I have  
25 down -- well, let me start with -- I'm gonna start

1 in order of your list here, okay. That's where I  
2 wrote them on, okay.

3 So Trudy Farrell has a wedding. I'm  
4 inclined to let her go.

5 MR. FIGLER: No objection, Your Honor.

6 MS. DEMONTE: No objection.

7 THE COURT: All right. Trudy Farrell,  
8 Badge No. 0064 will be excused.

9 The next one is Cheng Ren. Any  
10 objection? She's Asian, single mom.

11 MS. DEMONTE: None by the State.

12 MR. FIGLER: She seemed to be having real  
13 actual legitimate struggles. So no objection from  
14 the defense.

15 THE COURT: Okay. Cheng Ren, 0066 is now  
16 excused by the court.

17 The next one I had down was Caroline  
18 Ivan, 0073. She has sympathy for the defendant,  
19 she's got a son that's 22 years old. She also has a  
20 short sale and she's getting kicked out of her home.

21 You know, the fact that she just  
22 stood up and said she can't sit as a juror because  
23 she has a sympathy for the defendant, I'm inclined  
24 to let her go.

25 What is each side's position?

1 MR. GOODMAN: I'd like to explore that a  
2 little bit more, Your Honor.

3 MS. DEMONTE: State of course probably  
4 would have challenged her for cause based on that  
5 alone if that came up during our questioning.

6 THE COURT: I'm gonna excuse her. She  
7 stood right in the beginning and said she had such a  
8 great sympathy during my questioning. So I'm not,  
9 with all due respect, gonna waste time on her.  
10 0073. And she has some other issues.

11 MR. FIGLER: That's fine, Your Honor.  
12 Did Mr. Ross make a -- I just dealt with a client, I  
13 didn't hear Mr. Ross.

14 Did he make a sufficient objection?

15 THE COURT: No, make your record.

16 MR. FIGLER: No, no, that's it.  
17 Objection to that.

18 THE COURT: Yeah, objection. And I'm  
19 just making a record as to why I felt that despite  
20 an objection I would still release her from duty  
21 based on what she stated.

22 MR. FIGLER: That's fine. I just want to  
23 make sure we preserve the record. Thank you, Your  
24 Honor.

25 THE COURT: Absolutely. So Caroline

1 Ivan, 0073 is now let go.

2 The next one is Vicenta Martinez.  
3 She is -- oh, I want to just go back really quick on  
4 Cheng Ren. She's an Asian female.

5 Going back to Vicenta Martinez,  
6 she's a female Hispanic from Mexico. And she said  
7 she has trouble.

8 Does either side have an objection?

9 MS. DEMONTE: No, Your Honor.

10 MR. FIGLER: And we'll just make a  
11 general comment, Your Honor. With regard to the  
12 Hispanic voir dire people, obviously they share the  
13 same ethnicity with my client which is a concern,  
14 although it does cut both ways since the victim in  
15 this case appears to be Hispanic as well.

16 More of a concern, we'll just leave  
17 it to the court at that point and I'll just say  
18 ditto on the others because it's the same thing.  
19 They all indicated they've been in this country for  
20 a very long time. They almost all indicated that  
21 they interact with customers on a regular basis.

22 And I think Miss Martinez indicated  
23 that she worked in -- she made change for people she  
24 said in the cashier booth. So she'd have to  
25 interact with people. And she'd been here for 25



1 years. So to the degree that it appears as though  
2 she might just be saying that to get out of jury  
3 duty, we'd want to explore that and we'd object to  
4 her automatic object -- removal.

5 THE COURT: You know, if I hadn't heard  
6 all of their accents, which will not show up in a  
7 transcript, and how hard I was saying what, say that  
8 again, it's clear to me -- I realize that that's why  
9 I go into it, what do you do.

10 Some people come here and it's a  
11 second language but they're fluent in English. And  
12 they come here to this country very fluent.

13 It appears to me that the ones I'm  
14 going to release have a great deal of trouble  
15 verbally communicating even with me just asking them  
16 questions. And she along with the others and I  
17 realize making change, I'd still be inclined to just  
18 let her go. And again, it does cut both ways. The  
19 victim in this case is Hispanic, too.

20 MS. PANDUKHT: As well as the majority of  
21 our witnesses.

22 THE COURT: I'm sorry?

23 MS. PANDUKHT: The majority of our  
24 witnesses as well.

25 THE COURT: I'm still going to release

1   them because I think that it is a problem based on  
2   what I heard.

3               MR. FIGLER:   Thank Your Honor.

4               THE COURT:   Thanks.   So Vicenta Martinez,  
5   0080, is gonna be released.

6               I would just note for the record  
7   that Angelica Numez-Morarrez is a Hispanic female.  
8   She's still on.

9               The next one is Abigail  
10   Diaz-Barriga.

11              MR. FIGLER:   Same objection.

12              THE COURT:   She can't read, she's a  
13   porter at the Flamingo, but I am inclined to let her  
14   go.

15              MS. DEMONTE:   No objection.

16              MR. GOODMAN:   Well -- yes, Your Honor,  
17   just for the record for Ms. Diaz, she was in this  
18   country for 30 years. I think she said that she  
19   could speak Eng -- she could speak English but she  
20   can't read it as well.

21              So based on those specific facts for  
22   Ms. Diaz, I'll, I'll object. Because again, even  
23   though Mr. Figler pointed it out, these are Hispanic  
24   females. A large majority of the people that we  
25   just examined on the panel seem to have English as a

1 second language and so we would object based on  
2 that.

3 THE COURT: Well, why don't I do this:  
4 Why don't I redo Vicenta Martinez and I'll leave you  
5 Abigail Diaz-Barriga, too. You know, if you want  
6 people that can't read on a jury, then I mean, it's  
7 a pretty straight forward case as I recall where  
8 somebody comes up, shoots the victim and it's a  
9 matter of who done it. I don't think there's a  
10 whole lot of technical complexities to this case.

11 And so if you're gonna object, I'm  
12 not gonna make an issue on it. Because it does cut  
13 both ways. They may very well align themselves with  
14 the victim in this case, the victim's family as well  
15 or those witnesses. So I don't see --

16 MR. FIGLER: The actual concern for the  
17 defense and not to --

18 THE COURT: I mean --

19 MR. FIGLER: We're not disagreeing with  
20 you.

21 THE COURT: Here's the thing: You guys  
22 are making objections. Why am I putting an issue in  
23 here when I don't need to have an issue.

24 MR. FIGLER: Well, we just look at it  
25 this way: And that's why I just want to do a

1 general -- and I don't disagree with you.

2 THE COURT: No, no, no. If you want them  
3 here, then I'm gonna let them stay. You guys keep  
4 people on.

5 MR. FIGLER: What I'm saying is that they  
6 may very well be ineligible because of the language  
7 thing. It just seems as though everyone's saying  
8 I've been here a really long time. I just want to  
9 explore it a little bit further. But if you feel  
10 that, and there is a complexity because one the  
11 State's theories of prosecution, I just want to make  
12 sure that people are being truthful with the court.  
13 The court isn't --

14 THE COURT: You know what, you're right.  
15 I'm not gonna make them -- I'm not just gonna let  
16 them go then. If you guys want those people on  
17 there, I think the fact that you're objecting to it,  
18 you know, Hispanic female, I'm gonna let you keep  
19 exploring them.

20 And if you want to keep them on,  
21 then I'm gonna take back my ruling on just Vicenta  
22 Martinez. She's gonna remain since there's an  
23 defense objection. You know, it doesn't mean that  
24 in the future she may not after her big --

25 MR. FIGLER: I agree, Your Honor. I

1 don't disagree with a thing what Your Honor said so  
2 far.

3 THE COURT: Right. I just don't -- I'm  
4 thinking to myself, you know, I'm inclined to let  
5 all of these people go who clearly sounded like  
6 they're having problems communicating with me.

7 But if you want to sit and talk to  
8 them some more, then I'm not gonna -- if he's  
9 convicted of murder in the first degree, I don't  
10 really want an issue on appeal that I somehow let a  
11 bunch of Hispanics off when you objected to that.

12 MR. FIGLER: Right. I just --

13 THE COURT: I'll just leave them on.

14 MR. FIGLER: It's like just premature.  
15 That was kind of the objection.

16 THE COURT: Okay. All right. So I  
17 won't --

18 MR. FIGLER: But of course there are some  
19 who, you know, some of the voir dire people who  
20 really look like they were struggling with the  
21 language and obviously we're not --

22 THE COURT: I can't remember to be  
23 honest. Most of them did. So, you know, I'm just  
24 gonna leave them on.

25 I'm not worried about Cheng Ren

1 since she was from Asia or China anyway.

2 All right. The next one is I want  
3 to let Bryan Norton go because he's got custody of  
4 his kids for only two weeks in the summer.

5 MR. FIGLER: No objection.

6 MS. DEMONTE: No objection.

7 THE COURT: Bryan Norton, No. 090 is  
8 going to be let go.

9 The next one I was going to let go  
10 was Francisco Celis-Valdivia. What's the defense  
11 position on that? I mean, he was really bad. Not a  
12 lot of English but.

13 MS. PANDUKHT: He also repeatedly yawned  
14 during voir dire. We noticed that because it was  
15 very loud yawning.

16 THE COURT: Yeah, somebody yawned. I  
17 thought it was my court reporter, but.

18 MS. PANDUKHT: He did it so often that I  
19 noticed so.

20 THE COURT: I thought it was my court  
21 reporter.

22 THE COURT REPORTER: Never.

23 THE COURT: Well, let's ask the defense,  
24 you know.

25 MR. GOODMAN: I mean, Your Honor, the way

1 that I took my notes down is that he was in the  
2 country for 20 years, he works at a restaurant and  
3 that he --

4 THE COURT: But he does not know a lot of  
5 English.

6 MR. GOODMAN: Well, my notes say that he  
7 understands most words.

8 THE COURT: Okay. So you object.

9 MR. GOODMAN: So I'd like to explore that  
10 a little bit more.

11 THE COURT: All right. I won't, I won't  
12 kick him.

13 All right. And I'm not worried  
14 about Christina Beber in family court. If she's  
15 selected as a juror, I can get her out of any  
16 subpoena.

17 MS. PANDUKHT: Okay.

18 THE COURT: The next one I saw is Donna  
19 Vinocur. She's got child care issues with a five  
20 and an eight year old.

21 Is there any objection?

22 MR. FIGLER: No objection, Your Honor.

23 MS. DEMONTE: None, Your Honor.

24 THE COURT: All right. So I'm gonna  
25 release Donna Vinocur, 0099.

1                   The next one is Theresa Umstadter.  
2 She stood up several times, but her brother was  
3 killed in a gang related --

4                   MR. FIGLER: No objection, Your Honor.

5                   THE COURT: Any objection?

6                   MS. DEMONTE: No objection.

7                   THE COURT: Theresa Umstadter, 102, is  
8 gonna be released.

9                   I'm not gonna let the one who gets  
10 recruited every week leave. She can reschedule.

11                   However, Mark Caparas, he is in the  
12 Air Force.

13                   MR. FIGLER: No objection, Your Honor.

14                   MS. DEMONTE: None, Your Honor.

15                   THE COURT: All right. Mark Caparas,  
16 109, is released.

17                   The next one is Adam Hodson. You  
18 know, he's a CPA with a training conference. Does  
19 anyone have an objection to just letting him go?

20                   MR. FIGLER: No objection, Your Honor.

21                   MS. DEMONTE: No, Your Honor.

22                   THE COURT: Adam Hodson, 110, is  
23 released.

24                   All right. I'll just ask does  
25 anybody have an objection with Xavier Olivares?



1 MS. DEMONTE: Not by the State.

2 THE COURT: Does the defense?

3 MR. GOODMAN: No, Your Honor.

4 THE COURT: So you have no objection to  
5 him being released?

6 MR. GOODMAN: No, I do not.

7 MR. FIGLER: Yeah, that's --

8 THE COURT: He's from Nicaragua.

9 MR. FIGLER: Yeah, he had a -- we, we,  
10 we --

11 THE COURT: I'd just as soon let him go  
12 then. Xavier Olivares, 129, will be let go.

13 Bradley Hargrove, he's leaving to  
14 vacation on Friday to South Carolina. Is there any  
15 objection?

16 MR. FIGLER: No objection, Your Honor.

17 MS. DEMONTE: No, none.

18 THE COURT: All right. Bradley Hargrove,  
19 131, will be released.

20 How about Figler's poetry readings,  
21 okay? Oh, I guess I should go back really quick  
22 to -- we do have --

23 MS. DEMONTE: Ross's future  
24 sister-in-law?

25 THE COURT: The future Mrs. Goodman.

1 MR. FIGLER: For, for now.

2 THE COURT: Which one is she now?

3 MR. FIGLER: Blonde, front row.

4 MS. DEMONTE: 095, Jeneva Avina.

5 THE COURT: 095 is Geneva Avina. 095.

6 Now, I didn't question her. I just want to put it  
7 to you, you know, because it can cut both ways. I  
8 haven't talked to my sister in two years. So I  
9 wouldn't personally keep anyone that dated my  
10 sister.

11 MS. DEMONTE: Me neither.

12 MS. PANDUKHT: Me neither.

13 THE COURT: I would be like kick them,  
14 they're crazy, but I don't know where you all -- you  
15 know, she dates a judge. That doesn't mean she  
16 automatically doesn't get to be a juror, okay.

17 MS. DEMONTE: Right.

18 THE COURT: Because everyone has the  
19 right to be a juror. She just happened to stand up  
20 and tell everybody well, I didn't want to tell  
21 anybody, but by the way, I am dating the brother.

22 MR. GOODMAN: So what's the State's  
23 position, Your Honor?

24 THE COURT: I was gonna ask -- I don't  
25 care about the State. They're not gonna appeal me

1 on this. I'm more concerned about you.

2 MR. FIGLER: I don't know if there's a --

3 THE COURT: The State, they can object  
4 and, you know, if he gets convicted, they don't  
5 care.

6 MR. FIGLER: I don't know if it's cause.

7 THE COURT: Because if he gets convicted  
8 and you're objecting and you want the future Mrs.  
9 Goodman now, you know, I mean, she does have a  
10 right.

11 MR. GOODMAN: Everybody's being  
12 presumptuous here, Your Honor.

13 THE COURT: Listen, you don't know what  
14 Eric could do to the middle of this trial. So I'm  
15 just saying, you know.

16 MR. FIGLER: Does Mr. --

17 MS. PANDUKHT: I didn't --

18 THE COURT: He's a man, flesh and blood.  
19 So there's always that chance, you know.

20 MR. FIGLER: Since Mr. Goodman's never --  
21 Mr. Ross Goodman's never met her before, we just  
22 don't know that there's a cause.

23 THE COURT: You let me know. I'm  
24 considering letting her go only because, you know,  
25 it's one of those things where I would just let her

1 go.

2 MR. FIGLER: I think we'll let it roll  
3 for now. That's our --

4 THE COURT: You're gonna take -- no,  
5 that's fine.

6 MR. FIGLER: Thank you.

7 THE COURT: That's fine. I want to put  
8 it out there.

9 And it looks like your poetry reader  
10 doesn't know you that good, Jeneva Avina.

11 MR. FIGLER: It was when I was a judge  
12 that I did the wedding. So it was that long ago.

13 THE COURT: Right.

14 MS. DEMONTE: Okay.

15 THE COURT: And for the record, he was a  
16 judge for me, right?

17 MR. FIGLER: Yes.

18 MS. DEMONTE: Yes, he was.

19 MS. PANDUKHT: That's right.

20 THE COURT: And Eric took my spot too in  
21 justice court. Interesting.

22 MR. FIGLER: Yeah. You're connected.

23 THE COURT: I'm connected.

24 MR. FIGLER: You're our Kevin Bacon.

25 THE COURT: Yeah, I am. I do call myself

1 that. All right. The next one I have is Khin Lam.  
2 It's an Asian male.

3 No wait. I'm sorry. I skipped a  
4 whole bunch. Hold on. Let me go back.

5 MS. PANDUKHT: Yeah, Phillip Marco.

6 THE COURT: The next one I have is Khin  
7 Lam, 189. He's an Asian male.

8 Do you have any objection to him  
9 getting kicked? He was very hard to understand.

10 MR. FIGLER: And he was very hard to  
11 understand. No objection, Your Honor.

12 MS. DEMONTE: No objection.

13 THE COURT: We're gonna kick Khin Lam.  
14 I'll just ask either side, but we do have those  
15 hearing aids.

16 Does either side have a problem with  
17 Cindy Paul?

18 MR. FIGLER: No.

19 MS. DEMONTE: No, Your Honor.

20 THE COURT: The next one is Anthony  
21 Buddecke. His son is being deployed.

22 MR. FIGLER: No objection, Your Honor.

23 MS. DEMONTE: No objection.

24 THE COURT: All right. We're gonna allow  
25 Anthony Buddecke to leave.

1                   The next page, I have Rosa  
2 Corral-De-Cepeda. Hispanic female. What's your  
3 position?

4                   MR. FIGLER: We're gonna stay consistent  
5 so.

6                   THE COURT: Okay. All right. I'll leave  
7 her on for now.

8                   The next one is Curtis Blevins, 242.  
9 He's the only one that stood up, felt that he can't  
10 sit in judgment. And he said that he has a problem  
11 sending somebody to jail, but he said he has a  
12 problem sitting in judgment.

13                  MR. FIGLER: We'd like to explore a  
14 little. He's a Presbyterian.

15                  THE COURT: I know, that was weird.

16                  MR. FIGLER: Yeah.

17                  THE COURT: But he still had a personal  
18 belief that he couldn't sit in judgment and he's the  
19 only one that raised his hand to that.

20                  MR. FIGLER: He's way back in the jury  
21 panel. I don't know that --

22                  THE COURT: Well, not the way this  
23 panel's looking.

24                  MR. FIGLER: We would just -- we would  
25 like to explore a little bit more. So at this time

1 we'll object.

2 THE COURT: What's the State's position?

3 MS. PANDUKHT: We don't object to  
4 removing him.

5 MS. DEMONTE: We don't object to removing  
6 him.

7 THE COURT: Say again. So you do object  
8 or --

9 MS. PANDUKHT: We don't object.

10 THE COURT: Okay.

11 MS. DEMONTE: We don't object.

12 THE COURT: Okay. I'm gonna release him.  
13 He said he couldn't sit in judgment it was pretty  
14 clear to me. So I'm just gonna cut to the chase on  
15 him.

16 The next one is Theresa Law, 246,  
17 she's an Asian female from China. A dealer at  
18 Mirage.

19 MR. FIGLER: No object.

20 MS. DEMONTE: No objection.

21 THE COURT: No objection, I'm gonna allow  
22 her to go. So Curtis Blevins, 242 is removed.

23 And Theresa Law, 246, is removed.

24 Josh Bruce doesn't have a medical  
25 procedure until next Friday and we'd be done so I'm

1 not concerned about him.

2                   Going to the next page, Marichu  
3 Icarro, I don't have a problem with her at all. We  
4 can work around the child support issue if she has a  
5 court date. We can always start at 10 o'clock, they  
6 start at 9 if she gets on. I'll just make a note  
7 that she's a Hispanic female.

8                   Another one, Lorraine Jill Deborja  
9 is a Hispanic female. 314. She has a wedding in  
10 Monterey.

11                  MR. FIGLER: No objection.

12                  THE COURT: And she's actually leaving.

13                  MR. FIGLER: Yeah, no objection.

14                  MS. DEMONTE: No objection.

15                  MR. GOODMAN: Well, she wasn't flying out  
16 until Thursday.

17                  THE COURT: But Thursday of this week.

18                  MR. GOODMAN: Oh Thursday of this week?

19                  MR. FIGLER: Yeah.

20                  THE COURT: Thursday of this week.

21 Thursday and Friday. So she's a goner. No  
22 objection?

23                  MR. FIGLER: Right. I don't think she  
24 was Hispanic, was she?

25                  THE COURT: Yeah, she was Hispanic. I



1 wrote down she's Hispanic. Well -- yeah, Debra  
2 Deborja. I wrote down Hispanic by her.

3 MR. FIGLER: I didn't catch it.

4 THE COURT: But she appeared to be -- her  
5 outside appearance she appeared to be, but she spoke  
6 English fine.

7 All right. With no objection,  
8 Lorraine Deborja, 314, will be released.

9 The next one is Sherrill  
10 Hubrechtsen, 346, her son was killed nine years ago.

11 MR. FIGLER: No objection.

12 THE COURT: Any objection, State? Any  
13 objection?

14 MS. PANDUKHT: Well, yeah, we'll object  
15 just so that we can find out more about it. She  
16 didn't say it was gang related so.

17 THE COURT: I don't know.

18 MS. PANDUKHT: She didn't say it was  
19 murder, but.

20 THE COURT: She said she'd be biased.

21 MS. PANDUKHT: Oh, did she say she'd be  
22 biased?

23 THE COURT: She actually said the word  
24 biased.

25 MS. PANDUKHT: I didn't write that down.

1 Then no objection.

2 MR. GOODMAN: Yeah, she's the only one  
3 that said she was biased to your question.

4 MS. PANDUKHT: Okay. Then no objection.

5 THE COURT: Okay. All right.

6 Cindy Iniguez, she's Hispanic, 349.  
7 She said she can't follow the law.

8 MS. PANDUKHT: We have no objection.

9 MR. GOODMAN: With respect to  
10 prostitution and marijuana.

11 THE COURT: Well, she pretty much said if  
12 it's, if it's in light with her own personal belief.  
13 So if you object, I'll note your objection, but I'm  
14 gonna let her go because she clearly said she  
15 couldn't follow the laws.

16 MR. FIGLER: Yeah, that's fine, Your  
17 Honor. For the record, we'll object and submit.

18 THE COURT: All right. I'm gonna strike  
19 her. She's far enough down quite frankly, I don't  
20 think we'll get to her either. But in any event.

21 Kimberly Brito, 381, she's an  
22 African-American female. Her brother was killed in  
23 California, it was gang related, she said she  
24 couldn't be fair.

25 MR. FIGLER: No objection.

1 THE COURT: No objection.

2 MS. DEMONTE: No objection.

3 THE COURT: All right. Kimberly Brito,  
4 381, will be released.

5 Finally, Virginia Glass, her  
6 brother-in-law was executed in Louisiana and  
7 actually witnessed an execution.

8 MS. PANDUKHT: No objection

9 MS. DEMONTE: No objection.

10 MR. FIGLER: So weird.

11 THE COURT: Anyone? No?

12 MR. FIGLER: Well, no objection on that  
13 one.

14 THE COURT: It is weird.

15 THE COURT: All right. Virginia Glass,  
16 393, will be released.

17 And finally, I don't know what you'd  
18 call 402, Jason McClure.

19 MS. DEMONTE: I wrote crazy pants.

20 THE COURT: I'll keep my own comments to  
21 myself, but what's your position, defense?

22 MR. FIGLER: Well, you know, we don't  
23 disagree to him that the justice system in a lot of  
24 ways is flawed.

25 THE COURT: I think he just went on and

1 on. I just wanted to put -- I put like almost crazy  
2 on here, but I can't remember now because I was  
3 listening to him rattle about which question he  
4 answered that to.

5 MS. DEMONTE: Whether he can --

6 MR. FIGLER: About follow the law. It  
7 was follow the law question.

8 MS. DEMONTE: Yes. Because he said yes,  
9 the justice system.

10 THE COURT: Is there an objection then?

11 MR. FIGLER: We'll submit it, Your Honor.

12 THE COURT: I'm going to release him,  
13 Jason McClure. I think his record stands for itself  
14 that he could not be a fair and impartial juror in  
15 this case.

16 Okay. So we've gone down the list.

17 MR. FIGLER: There's a couple that you  
18 skipped. I don't know if you want to go back.

19 THE COURT: I'll go back now and listen  
20 to anybody's --

21 MR. FIGLER: Phillip Marco was one I  
22 think that you were looking at. 165.

23 MS. DEMONTE: Oh, he said he could change  
24 the flight.

25 MR. FIGLER: Oh, you took him off?

1 THE COURT: You know what, I don't have  
2 to keep him if you guys don't have a problem. You  
3 know, I hate to just release people.

4 MR. GOODMAN: Right.

5 THE COURT: But I mean, it's up to you.  
6 If you want to just set him free now, that's fine.

7 MR. FIGLER: I don't have a problem with  
8 that.

9 MR. GOODMAN: Okay.

10 THE COURT: Wait. What number is he?

11 MS. DEMONTE: 165.

12 THE COURT: 165.

13 MR. FIGLER: He seemed a little confused  
14 about the whole thing. His daughter was setting up  
15 the flight for him to go visit her and this --

16 THE COURT: I mean, it's a flight next  
17 Wednesday. We could be done. On Southwest you can  
18 technically change it. I mean, I'll let him go. If  
19 you guys want -- he's neither here nor there and  
20 he's far enough down that I'm not even sure we'd get  
21 to him.

22 MS. PANDUKHT: And you did bring a  
23 hundred jurors. So we're set up pretty good.

24 THE COURT: Yeah.

25 MS. PANDUKHT: So no objection.

1 THE COURT: I'd rather let somebody go  
2 who has a vacation.

3 MS. DEMONTE: That's fine.

4 THE COURT: All right. Let's let Mr.  
5 Phillip Marco go. Sometimes I just say that, so  
6 that the jury knows I'm not messing around with  
7 change your flight. And that's fine. Let's let him  
8 go. So Phillip Marco, 165, is gone.

9 Is there anyone else I need to  
10 address? And then I guess I can go over it one more  
11 time with my clerk to make sure and my marshall to  
12 make sure we have everybody.

13 MR. FIGLER: That's fine. Your Honor,  
14 did you ask the panel if they knew any of the  
15 witnesses?

16 THE COURT: I didn't. You know what, let  
17 me ask that, too. I'm sorry.

18 MR. GOODMAN: And, Your Honor, just on a  
19 related note, I notice that when you're asking the  
20 jurors whether or not that they, you know, with the  
21 three forms of penalty, you're saying 20 years to  
22 life. And in this case it would be --

23 THE COURT: I took it from the statute.

24 MR. GOODMAN: In this case --

25 THE COURT: I read it exactly from the

1 statute.

2 MR. GOODMAN: But this case it would be  
3 40 years to life. It would be --

4 MS. DEMONTE: Because of the enhancement.

5 MR. GOODMAN: -- because there's an  
6 enhancement. And I just don't want the jury to be  
7 misled in that fashion. I know the court's just  
8 talking about whether or not they can --

9 THE COURT: On murder.

10 MR. GOODMAN: Right. But we might as  
11 well be accurate as far as what the number is.

12 MR. FIGLER: Because there's gonna be no  
13 question as --

14 THE COURT: I mean, I take it right from  
15 the statute.

16 MR. FIGLER: Yeah.

17 THE COURT: So --

18 MS. PANDUKHT: No, it's actually but the  
19 enhancement is something they don't decide.

20 THE COURT: Yeah. I mean, no --

21 MR. GOODMAN: Well --

22 THE COURT: -- gonna find an enhancement  
23 although it's obvious. I mean, in this case they  
24 would either find him guilty with the enhancement --

25 MR. GOODMAN: Right.

1 THE COURT: -- if it's a who done it or  
2 not.

3 MR. FIGLER: Right. So we don't want  
4 them -- and that was the one I submitted to Your  
5 Honor, those questions, that was my concern.  
6 Because if they well, think well, you know, 20 years  
7 is too light or 40 years is okay, I mean, if he's  
8 convicted of first-degree murder, he's not gonna be  
9 eligible until 40 years. And that's true  
10 information. There's no doubt about that. That's  
11 undisputed. So as far as --

12 THE COURT: I'll allow you to ask that  
13 part I guess.

14 MS. PANDUKHT: Well, actually the State  
15 does object to that because I don't believe that  
16 that's a correct statement of the law because  
17 they're not to determine the punishment for  
18 enhancement. Only for first-degree murder.

19 So they're only supposed to  
20 determine the punishment for first-degree murder.

21 THE COURT: And not on the gun.

22 MS. PANDUKHT: Not on the gun.  
23 Enhancement or the gang enhancement.

24 MR. FIGLER: But they are making -- I  
25 know that they're making -- look, it's undisputed



1 that the shooter, if he's found, is gonna get that  
2 enhancement. It's the --

3 THE COURT: I understand.

4 MR. FIGLER: So it is doubled.

5 THE COURT: I took it exactly from the  
6 statute. I'm gonna stick with that. If you object  
7 to that, I'll --

8 MR. FIGLER: It's our preference to do it  
9 the way that gives them the accurate assessments, so  
10 that when they're evaluating those three penalties,  
11 they know exactly what the defendant --

12 THE COURT: But they're not giving them  
13 the gun enhancement. That's the difference.

14 MS. PANDUKHT: And it's a big difference,  
15 Your Honor.

16 MR. FIGLER: Well, but here's where we  
17 run the risk of misleading them if they're thinking  
18 oh well, he would then be out after 20 years and  
19 that can't possibly be true.

20 THE COURT: You know, not only that, but  
21 they can convert -- a parole board can convert a  
22 life without to a life with which I've seen.

23 MR. FIGLER: Potentially.

24 THE COURT: So we can give a billion  
25 different things.

1 MR. FIGLER: But that's less likely.  
2 This is automatic.

3 THE COURT: Well, no, it's not less  
4 likely. I've seen a lot of -- I've seen a lot of  
5 people converted. I've seen death converted to life  
6 without, and I've seen death converted all the way  
7 into life with where I'll look on somebody's scope  
8 and I see death and it was like -- and they're like  
9 out on a new charge because they got really life  
10 with because of so many conversions.

11 So I can't account for all the  
12 possibilities. The court's gonna stick with what  
13 the statute reads. And can they consider in the --  
14 the only thing they're determining is murder in the  
15 first degree.

16 And I'll note your objection and  
17 that's a great appeal issue I suppose, but I think  
18 the only thing the court has to look at in asking  
19 them is can they consider the three forms of  
20 punishment.

21 MR. FIGLER: Okay, that's fine. But the  
22 one distinct characteristic, and I'll just leave it  
23 for that --

24 THE COURT: Okay.

25 MR. FIGLER: -- is that there's a zero

1 percent chance that if he's found guilty of first  
2 degree that it wouldn't be doubled under the old  
3 statutes by, by this court.

4 THE COURT: I understand.

5 MR. FIGLER: Okay.

6 THE COURT: It's just that any case that  
7 I've ever seen they asked the three forms of  
8 punishment. It's right from the statute. I took  
9 the wording right from the statute so I wasn't wrong  
10 on anything. You've seen me exactly reading it  
11 because I try to read it exactly from the statute  
12 and I'm just gonna stick with that.

13 MR. FIGLER: Okay. Thanks, judge.

14 MS. PANDUKHT: May I ask you a procedural  
15 question?

16 THE COURT: Sure. And by the way, I've  
17 seen people switch defenses at trial. And it's  
18 happened on first degree murder.

19 MS. PANDUKHT: Yeah.

20 THE COURT: And I tried cases all the  
21 time. So I don't want to get in to all that, too,  
22 but that's a whole nother --

23 MR. FIGLER: You think they might drop  
24 the weapon enhancement?

25 THE COURT: No. You know, I've seen

1 people say -- I don't want to go into the Edward Lee  
2 Jones case. It's going on its third trial run and I  
3 did the second trial. I won't even go into it, but  
4 if you look at the history, it switches defenses  
5 each time from a who done it to, you know, was it a  
6 who done it, I didn't do it. By the time I did the  
7 second trial, I did it, but it was murder in the  
8 second degree, you know.

9 MR. FIGLER: Right.

10 THE COURT: So go ahead.

11 MS. PANDUKHT: Oh, I just had a  
12 procedural question that I've already asked defense  
13 counsel. I thought I heard with one of the jurors  
14 you mentioned that on Wednesday you might be  
15 quitting at 3:30.

16 THE COURT: Yeah. I'm sorry, I forgot  
17 this appointment.

18 MS. PANDUKHT: Okay.

19 THE COURT: And I apologize. I need to  
20 tell you guys now.

21 MS. PANDUKHT: Is that a firm 3:30 or  
22 maybe a 4?

23 THE COURT: No, it's a really firm 3:30.  
24 I have to be somewhere at 4 for an appointment which  
25 I made a long time ago and I didn't see that when I

1 was giving you guys --

2 MS. PANDUKHT: Okay.

3 MR. FIGLER: So day after tomorrow?

4 THE COURT: It's Wednesday. If I leave  
5 here around, you know, 3:30. I'm not gonna cut  
6 somebody off if they can be done by 3:40, but I've  
7 got to be across town by 4.

8 MS. PANDUKHT: Okay. And then we are  
9 starting at 9 that day. So we'll move our witnesses  
10 up.

11 THE COURT: Yeah. We're starting at 9  
12 that day so we'll have a full day.

13 MS. PANDUKHT: Great.

14 THE COURT: And I'll make the -- on that  
15 day since we're leaving a little early, I'll make it  
16 like 10 minutes on the morning and afternoon breaks.  
17 I'll make it real short.

18 MS. PANDUKHT: Okay.

19 THE COURT: But they usually get an hour  
20 for lunch for clerks.

21 MS. PANDUKHT: Okay. That was my only  
22 question.

23 THE COURT: Okay. All right. So you  
24 guys still have a good 50 minutes or so for --

25 MR. FIGLER: Now, I may or may not be

1 back after the afternoon, Your Honor. I already  
2 told you about that.

3 THE COURT: That's fine.

4 MR. FIGLER: Okay.

5 THE COURT: Thanks.

6 (Whereupon, a lunch break was had.)

7 THE COURT: All right. Go ahead and be  
8 seated. We are back on the record on State of  
9 Nevada versus Evaristo Garcia. C262966.

10 Let the record reflect the  
11 defendant's present with his attorneys, Mr. Figler,  
12 Mr. Goodman. And for the State, Ms. Demonte and  
13 also Ms. Pandukht.

14 All right. We're in the presence of  
15 the jurors. And I forgot one question. And I need  
16 to ask it of everybody which is when the State and  
17 the defense mentioned some people's names as  
18 possible witnesses, did anybody remember or did  
19 anybody know or recognize any of the names?

20 Okay. Let's start with back there  
21 real quick. Your name. Hold on. Let me get the  
22 mic. Go ahead. Name and badge number.

23 PROSPECTIVE JUROR VONDRACEK: 207. Susan  
24 Vondracek.

25 THE COURT: Uh-huh.

1 PROSPECTIVE JUROR VONDRACEK: I know Dr.  
2 Lary Simms from the Clark County coroner's office.

3 THE COURT: Doctor who?

4 PROSPECTIVE JUROR VONDRACEK: Dr. Lary  
5 Simms from the Clark County coroner's office.

6 THE COURT: How do you know him?

7 PROSPECTIVE JUROR VONDRACEK: I work  
8 there.

9 THE COURT: Okay. What do you do there?

10 PROSPECTIVE JUROR VONDRACEK: Forensic  
11 pathology technician.

12 THE COURT: Okay, thank you.

13 Anyone else notice any of the  
14 witnesses names? One more person. Right behind  
15 you, Marshal Ellis.

16 PROSPECTIVE JUROR BRUCE: 288.

17 THE COURT: I'm sorry. 2?

18 PROSPECTIVE JUROR BRUCE: 288.

19 THE COURT: 288. Hold on.

20 PROSPECTIVE JUROR BRUCE: I thought I  
21 heard --

22 THE COURT: Josh Bruce, is that you?

23 PROSPECTIVE JUROR BRUCE: That's correct.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR BRUCE: I thought I'd

1 heard Dr. Derek Duke.

2 THE COURT: Dr. Derek Duke. Okay. How  
3 do you know him?

4 PROSPECTIVE JUROR BRUCE: I had gone to  
5 see him for a neck issue.

6 THE COURT: Okay. A doctor?

7 PROSPECTIVE JUROR BRUCE: Yes.

8 THE COURT: Okay, thank you.

9 EXAMINATION

10 BY THE COURT:

11 Q. All right. We will go back and I'm gonna  
12 start with Juror No. 4, Namit Bhatnagar?

13 A. That's me.

14 Q. Yes, sir. You're juror number 112.  
15 Welcome to the box. Tell us a little bit about  
16 yourself.

17 A. Well, I was -- is this thing on? Well I  
18 don't know if you need it. Well, I've been in Las  
19 Vegas for like 32 years. I was born in India, I was  
20 raised here. I went to -- I went to high school  
21 here. I did some college, but I didn't get my  
22 diploma, but I'm finishing a web design certificate  
23 right now.

24 Q. Is that where you studied, at UNLV?

25 A. Right. And then I'm not employed right



1 now, but I'm just doing some side stuff like I'm in  
2 photography and my dad's into real estate so I'm  
3 helping him out.

4 Q. Okay.

5 A. And then I'm single, I'm not married or  
6 anything. I don't have any children. My family has  
7 never been involved in any -- my family aren't  
8 involved in any enforcement or anything like that.  
9 I've never served as a juror.

10 Let's see. None of my family  
11 members have ever been a victim of a crime or  
12 anything like that.

13 Q. Okay.

14 A. Never been arrested, never been convicted  
15 for a crime. And --

16 Q. Well, and that goes for, and this is for  
17 everybody, we're not only asking you yourself, but  
18 we're also asking, you know, was your best friend,  
19 close friend, family members, things like that where  
20 you may have a lot of perhaps feeling one way or  
21 another, you know, if -- and I'm just throwing it  
22 out there for everyone. You know, we've heard some  
23 people whose siblings or sons or daughters may have  
24 been arrested. You know, sometimes people have bad  
25 experiences. So that's what we're looking for.

1 Also not only yourself but anyone close to you.

2 A. Well, that's good you pointed that out  
3 because I know my cousins have been convicted in  
4 California for possession of marijuana. And --

5 Q. Okay.

6 A. -- and he got convicted. And he's out  
7 now so.

8 Q. Anything about that case that you'd hold  
9 against the State or the defense in this case?

10 A. No.

11 Q. Okay.

12 A. And, and the last --

13 Q. And again, we're not asking that -- when  
14 I say this to everybody, we're not asking it to pry  
15 into anybody's world so to speak, but some people  
16 have had good or bad experiences in the court system  
17 or law enforcement. We just need to know that.

18 A. And then can I wait in forming my opinion  
19 until all evidence has been heard. I can.

20 Q. All right. And, sir, if the defendant in  
21 this case invoked his right to remain silent and not  
22 testify, do you promise not to discuss that with him  
23 as a juror and would not hold that -- I'm sorry.

24 Do you promise not to discuss it  
25 with your fellow jurors and you must not hold that

1 against him?

2 A. Sure.

3 Q. Additionally, that if you were selected  
4 as a juror and if the jury came back with a verdict  
5 of murder in the first degree, could you consider  
6 all three forms of punishment; that being life  
7 without possibility of parole, life with the  
8 possibility of parole after 20 years, and a term of  
9 50 years with a possibility of parole after 20  
10 years?

11 A. Yes.

12 Q. All right. Thank you, sir.

13 EXAMINATION

14 BY THE COURT:

15 Q. Okay. Mr. Michael Arcana, Badge No. 117.  
16 All right, sir.

17 A. Hello, Your Honor.

18 Q. Hi?

19 A. Is it on?

20 Q. Welcome to the box.

21 A. It's good to be in a safe place.

22 Q. All right.

23 A. My name is Michael Arcana, No. 117. I've  
24 lived in -- this isn't on, is it? I've lived in  
25 Clark County --

1 Q. Is it working?

2 A. Yes, it is.

3 Q. Hold it close. There you go.

4 A. Okay. I've lived in Clark County for 17  
5 years. Before that I was born in Pomona, New  
6 Jersey. I went to high school here. And I am  
7 currently enrolled at UNLV.

8 Q. What are you studying?

9 A. I'm studying political science. I hope  
10 to go to law school. I'm currently employed by  
11 Golden Gaming. I work at PT's as a bartender. I'm  
12 not married, I do not have children. None of my  
13 family is involved in law enforcement. I've never  
14 been a juror before.

15 My family has never been a -- none  
16 of my family members have ever been the victim of a  
17 crime. And none of my family has been charged,  
18 arrested or convicted.

19 And yes, I would be able to wait to  
20 form an opinion after all the evidence is presented.

21 Q. All right, sir. If the defendant chose  
22 to invoke his Fifth Amendment right at trial and not  
23 testify, do you promise not to discuss that as a  
24 juror and that you would not hold that against him?

25 A. Yes, I do, Your Honor.

1           Q.     And if the jurors came back in this case  
2 and you were selected as a juror, came back with a  
3 verdict of murder in the first degree, could you  
4 consider the three options of punishment; that being  
5 life without the possibility of parole, life with  
6 the possibility of parole after 20 years, or a term  
7 of 50 years with the possibility of parole after 20  
8 years?

9           A.     Yes, I could.

10          Q.     All right. Thank you.

11                               EXAMINATION

12 BY THE COURT:

13          Q.     Okay. Going to No. 9, Pamela Olson on  
14 the second row. Juror No. 121. Go ahead and tell  
15 us a little bit about yourself.

16          A.     Hi. I've lived in Clark County for 15  
17 years. I have a Bachelor of Science in business  
18 administration from Mankato State University.

19                       I'm employed by Delta Airlines.  
20 I've worked for the airlines for 30 years. And --

21          Q.     What do you do there for them?

22          A.     I work at the airport, customer service  
23 mostly. I'm not married, but I'm in a significant  
24 relationship. I've lived with my boyfriend for  
25 about 10 years.

1 Q. What does he do for a living?

2 A. He's self-employed. He used to own an  
3 insurance agency. Now he sells sporting goods  
4 online.

5 I have no children. I have no  
6 family members in the law enforcement. I have never  
7 been on a jury.

8 We've had a burglary two years ago  
9 and --

10 Q. Here in town?

11 A. Here in town. Our alarm system scared  
12 the guy off but he got a few things.

13 Q. Did they ever catch who did it?

14 A. They never told us.

15 Q. All right. So you've never been involved  
16 in any court proceedings or anything like that?

17 A. Correct.

18 Q. And there's nothing about that burglary  
19 that you'd hold against the State or the defense in  
20 this case?

21 A. That is correct.

22 Q. Okay.

23 A. And I'm not sure if this applies, but  
24 when I was 25, so about 1985, I had a DUI.

25 Q. Anything about that experience that you'd

1 hold against the State or the defense in this case?

2 A. No. And I can wait in forming an opinion  
3 as to the guilt or innocence of the defendant until  
4 all the evidence has been heard.

5 Q. All right. If the defendant invoked his  
6 Fifth Amendment right to -- at trial and not to  
7 testify, do you promise not to discuss that as a  
8 juror and you must not hold that against him?

9 A. Yes, I promise.

10 Q. Additionally, if you were selected as a  
11 juror and only if the jury came back as -- with a  
12 verdict of murder in the first degree, could you  
13 consider all three forms of punishment; that being  
14 life without the possibility of parole, life with  
15 the possibility of parole after 20 years, or a term  
16 of 50 years with the possibility after 20 years?

17 A. Yes.

18 Q. Okay. Thank you very much.

19 EXAMINATION

20 BY THE COURT:

21 Q. All right. Ms. Martinez, Vicenta  
22 Martinez. She's next to you. Ma'am, you're juror  
23 No. 80?

24 A. Yes.

25 Q. I know you said that English was a second

1 language. Can you, can you read English?

2 A. A little bit more than understand.

3 Q. Okay. Can I get my little questions? I  
4 need to look at them. I don't have them right here  
5 in front of me. Can I just grab one and I'll ask  
6 her. But you speak English, right?

7 A. Yes. A little.

8 Q. All right. You're an MGM booth cashier?

9 A. I'm not working right now. I, I --

10 Q. But I mean you worked at the MGM before.

11 A. Before.

12 Q. You were a cashier.

13 A. Yes.

14 Q. So you understand English?

15 A. (Positive nod of the head.)

16 Q. All right. So, ma'am, how long have you  
17 lived here in Clark County?

18 A. Since '92.

19 Q. '92?

20 A. Uh-huh.

21 Q. All right. And where did you live before  
22 moving here?

23 A. In Los Angeles.

24 Q. And did you ever -- how far did you go in  
25 school?



1           A.     In Mexico, just six years over there.  
2     It's an elementary.  
3           Q.     Okay.  
4           A.     Uh-huh.  
5           Q.     And you're not employed right now, right?  
6           A.     (Negative nod of the head.)  
7           Q.     Okay. Is that -- you have to answer yes  
8     or no for the record.  
9           A.     No.  
10          Q.     All right. And are you married or do you  
11     have a significant relationship?  
12          A.     I am married, yes.  
13          Q.     And what does your husband do?  
14          A.     He's a guest attendant at the Mandalay  
15     Bay at slots.  
16          Q.     Okay. And do you have any children?  
17          A.     Six.  
18          Q.     Okay. Are --  
19          A.     Well, actually four, but two of them I  
20     just raised them, but they're not my kids.  
21          Q.     Okay.  
22          A.     They're from --  
23          Q.     What are their ages?  
24          A.     29.  
25          Q.     What does the 29 year old do?

1           A.     The older one?  
2           Q.     Yeah.  
3           A.     29, and then --  
4           Q.     What does the 29 year old do for a  
5 living?  
6           A.     Oh, she's like medical assistant.  
7           Q.     Okay. Your next one?  
8           A.     She's 27.  
9           Q.     What does she do?  
10          A.     Same, same thing.  
11          Q.     Medical assistant?  
12          A.     Yes.  
13          Q.     Okay. Next one?  
14          A.     She's 22.  
15          Q.     22. What does that one do?  
16          A.     She works at the Cricket store, phones.  
17          Q.     For phones. Okay.  
18          A.     Uh-huh.  
19          Q.     Okay. Go ahead.  
20          A.     And the other one, she's 20 --  
21          Q.     She's how old?  
22          A.     21.  
23          Q.     21?  
24          A.     21.  
25          Q.     What does that one do?

1 A. She -- (unintelligible.)

2 Q. She what?

3 A. She works, she works with that place with  
4 the dogs.

5 UNIDENTIFIED PROSPECTIVE JUROR:  
6 Veterinarian.

7 PROSPECTIVE JUROR MARTINEZ: Yeah.

8 BY THE COURT:

9 Q. Okay. As a vet. Okay. Any other kids?

10 A. And my 17 years old, he just graduate  
11 from Valley High School for IV program.

12 Q. Is he working?

13 A. Right now he's working with his uncles.

14 Q. Okay.

15 A. Uh-huh.

16 Q. Okay. And what does he do with his  
17 uncles?

18 A. He's landscaping. He's helping them.

19 Q. Okay. Have you or any family members or  
20 friends, do you have any law enforcement experience?  
21 Police officers? Any of your family, friends?

22 A. If they are police or?

23 Q. Right. You or your family or friends  
24 have any law enforcement experience?

25 A. Like problems or?

1 Q. Oh, no. Like is any of your family a  
2 police officer?

3 A. Oh, no.

4 Q. No?

5 A. No, no, no.

6 Q. Okay. And have you ever served as a  
7 juror before?

8 A. Just the last time I remember I came  
9 here, but then they --

10 Q. They let you go?

11 A. (Positive nod of the head.)

12 Q. Okay.

13 A. They didn't ask me these questions.

14 Q. I'm so mean. You must have had a really  
15 nice judge before.

16 Q. Okay. Have you or any family  
17 members or friends ever been a victim of a crime?

18 A. Well, he's not my family, but he's  
19 stepson from my father-in-law. Something with  
20 drugs.

21 Q. Okay.

22 A. He was here, but he, he's out.

23 Q. He got in trouble then?

24 A. Yes.

25 Q. Okay. But he's out?

1           A.     Yeah.

2           Q.     Were you ever involved in the court  
3 system with him?

4           A.     No.

5           Q.     Okay. If you are selected as a juror,  
6 could you wait in forming your opinion as to the  
7 guilt or innocence of the defendant until all the  
8 evidence has been heard?

9           A.     Can you slow down the question, please?

10          Q.     Okay. I'm gonna -- can I see counsel  
11 again at the bench? Can I have a bench conference?

12                   (The following proceedings were had in  
13 open court outside the presence of the  
14 prospective jury panel.)

15          THE COURT: Do you still want to the keep  
16 questioning her? She can't even answer the  
17 questions. So I guess my first -- I guess my first  
18 thing was -- okay. Can I just cut to the chase?  
19 Because it's 2:30. It's up to you.

20          MR. GOODMAN: We'll submit it.

21          THE COURT: I don't want an objection if  
22 you want to sit there and keep questioning her. She  
23 can't even answer the question in waiting to form an  
24 opinion as to the guilt or innocence of somebody.  
25 So if you want somebody like that on the jury, I'm

1 gonna leave her on. I'll let you guys decide.

2 MS. PANDUKHT: And I just wanted to -- I  
3 know you all have noticed this, but we have so many  
4 other Hispanics that can speak English. There's a  
5 lot more. Because we want them, too, but.

6 THE COURT: I mean, I'd only written down  
7 people that really had a problem. And as you can  
8 see, another judge let her go, too.

9 Because it's gonna take me another  
10 10 minutes to get through penalty is what I'm  
11 telling you.

12 MR. FIGLER: Based on the court's further  
13 inquiry of this voir dire person, we find that  
14 there's sufficient evidence to remove the  
15 individual.

16 THE COURT: Any objection?

17 MS. DEMONTE: No.

18 (Whereupon, the bench conference ended.)

19 THE COURT: Ms. Martinez, we're gonna  
20 thank and excuse you. Thank you so much.

21 PROSPECTIVE JUROR MARTINEZ: Thank you.

22 THE COURT: Let's call the next juror.

23 THE CLERK: It's going to be Antoinette  
24 Schiavone, Badge 144. Can somebody give her this,  
25 please.

## EXAMINATION

BY THE COURT:

Q. Hi, Ms. Schiavone. Welcome. And why don't you tell us a little bit about yourself.

A. I've lived in Vegas for 23 years, born and raised. I got my GED and went to cosmetology school. I'm currently employed. I work at Wal-Mart as a cashier. I'm not married, but I just got engaged.

Q. Congratulations. What does your significant other do?

A. He's currently unemployed, but he's seeking work.

Q. What did he do?

A. He recently just got out of jail so.

Q. Okay. And I guess I'll get to that, but I may as well just cut to the chase. Since you have a significant other who got out of jail, what was he in jail for?

A. It was a second charge of possession of a stolen vehicle.

Q. Okay. And that's here in Vegas?

A. Yes, ma'am.

Q. All right. Did you attend any of the court proceedings or?

1 A. All of them.

2 Q. All of them?

3 A. (Positive nod of the head.)

4 Q. Okay. Is there anything about the way  
5 the State of Nevada or the police handled the case  
6 that you would hold against the State of Nevada in  
7 this case or the defense?

8 A. Meaning like the public defender didn't  
9 really treat him well, but I don't know if that's to  
10 do with this case.

11 Q. So you were mad more at his attorneys?

12 A. Yeah.

13 Q. Okay.

14 A. I didn't like the way they treated him.

15 Q. Okay. Well the defense attorneys in this  
16 case, would you hold that against the defense  
17 attorneys in this case just -- and by the way, were  
18 they the same attorneys?

19 A. No.

20 Q. All right. So these are different  
21 attorneys, different attorneys defending an  
22 individual.

23 Could you separate the two? I mean,  
24 you wouldn't hold it against Mr. Goodman or Mr.  
25 Figler your feelings about what happened in your



1 fiance's case?

2 A. No, Your Honor.

3 Q. Okay. All right.

4 A. I don't have any children. I don't have  
5 any family that are police. I've never been a juror  
6 before. I think we just answered the next question,  
7 right? Or, no.

8 Q. After a juror, I think we got --

9 A. No, my family hasn't been --

10 Q. Any other family members ever been a  
11 victim of a crime or friends or yourself?

12 A. No, none of my family's been a victim of  
13 a crime.

14 Q. And besides your fiance, any family  
15 members or friends or yourself ever been arrested,  
16 charged or convicted of a crime?

17 A. No, Your Honor.

18 Q. Okay.

19 A. And I can wait in forming an opinion  
20 until I've heard all the evidence.

21 Q. Okay. All right. If the defendant in  
22 this trial, like any criminal defendant, invoked his  
23 right not to testify, his Fifth Amendment right, do  
24 you promise not to discuss that if you were selected  
25 as a juror and that you would not hold that against

1 him?

2 A. Yes, Your Honor.

3 Q. Also, if you were selected as a juror and  
4 the jury did come back with a verdict of murder in  
5 the first degree, could you consider all three  
6 possible punishments; that is life without the  
7 possibility of parole, life with the possibility of  
8 parole after 20 years, a term of 50 years with the  
9 possibility of parole after 20 years?

10 A. Yes.

11 Q. All right. Thank you, ma'am.

12 EXAMINATION

13 BY THE COURT:

14 Q. Can you pass it down to Abigail  
15 Diaz-Barriga. Juror No. 86. All right. Good  
16 morning, ma'am.

17 A. Good morning.

18 Q. Okay. Can you read off this?

19 A. No.

20 Q. You can't read it?

21 A. No.

22 Q. Okay. Let me ask you, I have you down  
23 for that you've been here 30 years, you're a porter  
24 at the Flamingo, right?

25 A. Yeah, the Flamingo.

1 Q. Okay. You said you're originally from  
2 Mexico?  
3 A. Yes.  
4 Q. How long again -- have you been here  
5 again?  
6 A. 30 years.  
7 Q. Three or 30?  
8 A. 30.  
9 Q. Three?  
10 A. 30.  
11 Q. 30 years. Sorry. How far did you go in  
12 school, ma'am?  
13 A. Excuse me?  
14 Q. How far did you go in school?  
15 A. Six years in Mexico.  
16 Q. Six years?  
17 A. Yes.  
18 Q. Okay. Are you married?  
19 A. Yes.  
20 Q. And what does your husband do?  
21 A. Room service, cook.  
22 Q. Room service, okay. And do you have any  
23 children?  
24 A. No.  
25 Q. No kids?

1 A. Huh-uh.

2 Q. Okay. Do you or any family members or  
3 friends have any law enforcement experience?

4 A. I don't understand what you're talking  
5 about.

6 Q. Any of your friends or family police  
7 officers?

8 A. No.

9 Q. Have you ever served as a juror before?

10 A. No, I don't understand.

11 Q. You don't understand?

12 A. No.

13 THE COURT: Can I see counsel at the  
14 bench?

15 (Whereupon, the following proceedings  
16 were had in open court outside the  
17 presence of the prospective jury panel.)

18 THE COURT: Do you want me to keep going?  
19 Because I think we're gonna have the same problem --

20 MR. FIGLER: Yeah.

21 THE COURT: -- with law enforcement.

22 MR. FIGLER: I get it.

23 THE COURT: She's not even understanding  
24 what I'm asking when I say have you ever been a  
25 juror before.

1           MR. FIGLER: And this is David Figler.  
2 You know, I think that now the cat's out of the bag  
3 that they say they don't understand to a couple of  
4 your questions.

5           With this one I think is, is  
6 probably the stronger case than the last one. So  
7 we'll submit to Your Honor. We're not gonna object  
8 anymore.

9           I hear what you're saying and I  
10 think we're gonna hear that they're gonna go for a  
11 little bit and then say I don't understand that  
12 question. The cat's out of the bag.

13          THE COURT: They're all under oath. So  
14 if you're saying that they're gonna lie, then  
15 anybody here is gonna lie to get out, too.

16          MR. FIGLER: This is a concern on our  
17 part, but there's nothing that I can object to at  
18 this point that that person is not comprehending  
19 based on the expressed language barrier and there's  
20 nothing that I can object on that. I can't.

21          THE COURT: Right. I mean, they can't  
22 even tell whether or not they can be jurors.

23          MR. GOODMAN: You've asked the question  
24 of the panel.

25          THE COURT: And I maybe -- as I recall,

1 you know, some of the only, you know, unless things  
2 have changed over the years, a lot of judges just do  
3 it out and out, okay, and you can see exactly how to  
4 leave. So the fact that I do it the way that I do  
5 it is way more secret.

6 It's late in the day and I don't  
7 want to keep prolonging something. I'd rather get  
8 somebody up there so it doesn't get more complicated  
9 than it is.

10 MR. FIGLER: Sure.

11 THE COURT: All right. Having said that,  
12 I'm gonna excuse her. Thanks.

13 (Whereupon, the bench conference ended.)

14 THE COURT: Ms. Diaz-Barriga, we're gonna  
15 excuse you. We'll call the next juror.

16 THE CLERK: Harry Shenk. Badge 148.

17 EXAMINATION

18 BY THE COURT:

19 Q. Good afternoon, Mr. Shenk. I know you've  
20 got all the forms there. Can you tell us a little  
21 bit about yourself.

22 A. Good afternoon, judge. My name's Harry  
23 Shenk, Juror No. 148. Lived in Clark County since  
24 2005. I have a master's degree in management.  
25 Currently retired.

1 Q. What did you do with your management  
2 degree before? What were you doing?

3 A. I spent 30 years in the Navy. Currently  
4 living with my ex-wife. We get along.

5 Q. Obviously.

6 A. It's a matter of convenience. But we  
7 have one, we have one daughter.

8 Q. How old is your daughter?

9 A. She's 27.

10 Q. What does she do?

11 A. I'm not sure. We're on -- we're not on  
12 speaking terms.

13 Q. Okay.

14 A. But she lives in Las Vegas also.

15 Q. Okay.

16 A. I don't have any family members with any  
17 law experience. I have not served as a juror  
18 before. Been called before but not served.

19 Q. Have you ever come up into this area?

20 A. No. Haven't advanced this far.

21 Q. Okay. Where people have, yeah, talked to  
22 you before.

23 A. And been victims of minor crimes living  
24 overseas, but nothing that I would -- just came with  
25 the territory.

1 Q. Nothing you'd hold against the State or  
2 the defense in this case?

3 A. No, no, not at all.

4 Q. Okay.

5 A. Nobody's been arrested or convicted. I  
6 can wait 'til the end of the trial before I form an  
7 opinion. I would not have any trouble with the  
8 sentencing.

9 Q. All right. So you could consider all  
10 three forms of punishment if selected?

11 A. Yes, I could.

12 Q. And you would not hold it against any  
13 defendant, including this defendant, if he invoked  
14 his right, Fifth Amendment right?

15 A. No, I would not hold it against him.

16 Q. Okay. Thank you very much, sir.

17 EXAMINATION

18 BY THE COURT:

19 Q. No. 17, Amy Hopkins.

20 A. 122, Your Honor.

21 Q. Oh, I'm sorry. I've got you in sitting  
22 as Juror No. 17. Sorry.

23 A. Okay.

24 Q. Thank you for your badge number. Go  
25 ahead.



1           A.       I've lived in Clark County for since  
2 1964. I graduated from Las Vegas High. I'm  
3 employed at the Luxor with the company Circus Circus  
4 for 29 years.

5           Q.       What do you do there?

6           A.       I'm a slot ambassador. My husband is a  
7 slot tech at one of the casinos in town. We've been  
8 married for 37 years as of last week.

9           Q.       Congratulations.

10          A.       No children, ours have four legs and  
11 we're adopting one today. My sister was a court  
12 reporter in a county where Phoenix is for about 15  
13 years. I was a juror, I think it was like late  
14 '70's, early '80's.

15          Q.       Here in town?

16          A.       Yes. And it was about a week.

17          Q.       Was it criminal or civil?

18          A.       It was a robbery.

19          Q.       Robbery. Okay. Without telling us what  
20 your verdict was, were you and your fellow jurors  
21 able to --

22          A.       Yes.

23          Q.       -- reach a verdict?

24          A.       Yes.

25          Q.       Were you the foreperson?

1           A.     No.    Never a victim of a crime.   Got a  
2   DUI like 22, 23 years ago.

3           Q.     Anything about that experience that you'd  
4   hold --

5           A.     No.

6           Q.     -- against the State?

7           A.     It was my stupidity.

8           Q.     Okay.

9           A.     And I can wait to find out the verdict.

10          Q.     All right.

11          A.     At the time.

12          Q.     And, ma'am, if the defendant in this case  
13   chose to invoke his Fifth Amendment right at trial  
14   and not testify, do you promise not to discuss that  
15   as a juror and you would not hold that against him?

16          A.     Correct, yes.

17          Q.     And if you were selected as a juror and  
18   the jury came back with a murder in the first degree  
19   conviction, could you consider all three forms of --

20          A.     Yes.

21          Q.     -- punishment?

22          A.     Yes.

23          Q.     Okay, thank you.

24                               EXAMINATION

25   BY THE COURT:

1 Q. All right. Next to you I have Mr.  
2 Francisco Celis-Valdivia.

3 A. Yes.

4 Q. All right, sir. You're badge number 091.  
5 Go ahead and tell us about yourself.

6 A. I live in Las Vegas for six years and  
7 about 13 years in California. I went to school in  
8 Mexico for nine years. I didn't, I didn't graduate.  
9 I'm unemployed right now.

10 Q. Did you -- I put you did work for 20  
11 years in a restaurant, right?

12 A. Yeah.

13 Q. What were you doing in the restaurants?

14 A. Server and then assistant kitchen  
15 manager.

16 Q. Okay. Which restaurant?

17 A. Applebee's.

18 Q. Okay.

19 A. If you are without -- I don't understand  
20 too much this question, if you are retired or an  
21 employee, what sort of work, how do you --

22 Q. Oh, you're not retired, but you --

23 A. Okay.

24 Q. You used to be a restaurant manager,  
25 right?

1           A.     Okay.

2           Q.     Are you married, sir?

3           A.     Yes.

4           Q.     What does your wife do?

5           A.     Nothing.

6           Q.     Okay.

7           A.     Home. I'm sorry to be honest.

8           Q.     I'm sure she appreciates that answer.

9           A.     It's okay.

10          Q.     How much for that transcript?

11          A.     Are you married on or in a significant

12 relationship. What that means are you married or in

13 a significant relationship?

14          Q.     Any children?

15          A.     Yes, I have two. One's --

16          Q.     What are their ages?

17          A.     One 20 years.

18          Q.     What does he do for a living or she do

19 for a living?

20          A.     My 20 year teaches for Palo Verde High

21 School, and I just have a baby six months old after

22 I'm 47 years old. So about time I got my second

23 one. And I --

24          Q.     Do you have any law enforcement

25 experience?

1 A. No.

2 Q. Or any family --

3 A. No.

4 Q. -- or friends? Okay. Have you ever  
5 served as a juror before?

6 A. No.

7 Q. Have you or any family member ever been a  
8 victim of a crime?

9 A. No.

10 Q. Have you or a family member or friend  
11 ever been charged, arrested or convicted of a crime?

12 A. Can you repeat that question?

13 Q. Have you or a family member or friend  
14 ever been charged, arrested or convicted of a crime?

15 A. No.

16 Q. Could you wait in forming your opinion as  
17 to the guilt or innocence of the defendant until all  
18 the evidence has been heard?

19 A. That's my hardest question I think  
20 because I don't understand nothing in the last  
21 question.

22 Q. Could you wait -- if you were selected as  
23 a juror --

24 A. Uh-huh.

25 Q. -- could you listen to the whole trial?

1 A. Yeah.

2 Q. Listen to all the witnesses, look at the  
3 evidence and then make your decision, wait 'til it's  
4 all over --

5 A. Over.

6 Q. -- until you make that decision?

7 A. Okay.

8 Q. You could do that?

9 A. Yes.

10 Q. Okay. And if you were selected as a  
11 juror, a defendant in every criminal case --

12 A. Uh-huh.

13 Q. -- has a right, a Fifth Amendment right,  
14 they don't have to testify at trial. They don't --  
15 the defense has no burden at all.

16 A. Uh-huh.

17 Q. It's the government's burden to prove a  
18 case beyond a reasonable doubt.

19 A. Okay.

20 Q. Okay. If he chose not to testify, would  
21 you promise not to discuss that? I would direct you  
22 and instruct you not to consider that.

23 Could you do that?

24 A. Yes.

25 Q. Okay. And if you were selected as a

1 juror and if the jury came back --

2 A. Uh-huh.

3 Q. -- with a verdict of murder in the first  
4 degree --

5 A. Okay.

6 Q. -- would you be able to sentence the  
7 defendant to one of three punishments?

8 A. Uh-huh.

9 Q. Could you consider either life without  
10 the possibility of parole?

11 A. Uh-huh.

12 Q. Life with the possibility of parole after  
13 20 years?

14 A. Uh-huh.

15 Q. Or a term of 50 years with the  
16 possibility of parole after 20 years?

17 A. In that question, I'm not sure so I'm not  
18 gonna make decision because I don't know what to  
19 answer. Because I don't understand the question.

20 Q. Right. Well, nobody's heard any evidence  
21 at all. So nobody knows --

22 A. Right.

23 Q. -- number one, if the defendant would  
24 even be convicted. He could be found not guilty.

25 A. Okay.

1 Q. And then if he's found not guilty, that's  
2 the end of the trial. It's, it's only in the case  
3 of a verdict of murder in the first degree.

4 A. Okay.

5 Q. So when I'm asking these questions, could  
6 you consider all of the forms of punishment? Some  
7 people can only consider life without, that's it.

8 A. Yes.

9 Q. Throw away the key, that's it. No  
10 possibility of parole.

11 (Whereupon, a cell phone rang.)

12 UNIDENTIFIED PROSPECTIVE JUROR: I'm  
13 sorry. I thought it was off.

14 THE COURT: That's all right. Don't  
15 worry. It's fine. It happens to everyone.

16 PROSPECTIVE JUROR CELIS-VALDIVIA: Yes.

17 THE COURT: Check your cell phones,  
18 though. Make sure they're off.

19 BY THE COURT:

20 Q. But you know, some people can't. Some  
21 people cannot consider life with the possibility of  
22 parole.

23 A. Yeah.

24 Q. So what I ask is if, if -- could you  
25 consider all forms of punishment --



1 A. Yes.

2 Q. -- in that event?

3 A. Yes.

4 Q. Okay.

5 A. Yes.

6 Q. All right. Thank you, sir.

7 A. No problem. Did I finish?

8 Q. I think you're good. Yeah, I'm just  
9 entering my information. Sorry.

10 BY THE COURT:

11 Q. Okay. No. 21, Ms. Avina, can you tell us  
12 a little bit about yourself?

13 A. Yes. I have lived in Clark County for  
14 almost 20 years. I am a cosmetologist. I went to  
15 school when I was like -- that's almost 18 years  
16 now, too. So I am currently self-employed.

17 Q. Where at?

18 A. At a place called Studio Salons. I have  
19 my own studio.

20 Q. Okay.

21 A. So I do hair. I am no longer married,  
22 I'm divorced. I do, I have two children.

23 Q. What does your ex do?

24 A. He, he used to do elec -- he was an  
25 electrician. A union electrician.

1 Q. Okay.

2 A. I have two children. They are three and  
3 six.

4 Q. Okay.

5 A. None of my families do law enforcement,  
6 they're not in law enforcement. I've never served  
7 as a juror before.

8 My sister is currently a criminal.  
9 She is -- she got a DUI in December. And then --  
10 she's a criminal.

11 I was arrested in 19 for underage  
12 drinking. And --

13 Q. Is there anything about your sister's  
14 cases or your underage drinking which --

15 A. No, I don't really know anything about  
16 her case right now. I mean, she'll probably talk to  
17 me about it so.

18 Q. There's nothing about those instances  
19 that you would hold against the defense or the State  
20 in this case?

21 A. No.

22 Q. Okay.

23 A. And then I could -- I can form my own  
24 opinion for the last one.

25 Q. Have you ever been a juror before?

1 A. I've never been a juror before.

2 Q. And no victim of a crime that -- have you  
3 or --

4 A. Just my arrest at 19. That's it. That's  
5 all.

6 Q. Okay. And if the defendant chose to  
7 invoke his right not to testify, do you promise not  
8 to discuss that as a juror and you must not hold  
9 that against him?

10 A. I promise not to.

11 Q. And if you were selected as a juror,  
12 could you consider the three options for punishment?

13 A. Yes.

14 Q. Okay. Thank you, ma'am.

15 A. You're welcome.

16 EXAMINATION

17 BY THE COURT:

18 Q. Okay. Hold on. Just one second. Is it  
19 Shilora Hudlow? Uh-oh. I skipped somebody. Hold  
20 on.

21 I haven't questioned you, ma'am,  
22 have I?

23 A. No, I haven't.

24 Q. Go ahead and tell me your name and badge  
25 number.

1 A. Elizabeth Gemmill.

2 Q. What's your badge number?

3 A. 143.

4 Q. Yes, ma'am. Go ahead and tell me about  
5 yourself.

6 A. I have lived in Clark County since -- for  
7 11 years. I'm from Boston. I finished high school  
8 and have some college. I work doing fund-raising  
9 for nonprofit organizations. And I'm the assistant  
10 registrar at the Clark County museum on Boulder  
11 Highway.

12 I am divorced. My ex-husband is a  
13 musician, as far as I know, many years ago. I don't  
14 know what he's doing now. I have no, no children.

15 No family members in law  
16 enforcement.

17 I was on a federal jury in Boston.  
18 It was a fraud case and was settled out of court.

19 Q. So you never got to deliberate?

20 A. Never, no.

21 Q. Okay.

22 A. Unfortunately.

23 Q. And was that criminal or was that civil?

24 A. It was --

25 Q. For money damages or was it for

1 convicting somebody? Because fraud can be either  
2 one. You can sue somebody for fraud for money  
3 damages or --

4 A. You know, I don't -- my impression was  
5 that it was for convicting --

6 Q. Okay.

7 A. -- him, but I can't -- sorry. I can't  
8 say that for sure.

9 Q. Okay. How long ago was that?

10 A. Oh, 30 years ago.

11 Q. Okay.

12 A. A long time ago.

13 Q. Yeah.

14 A. And I have been a victim of a number of  
15 minor crimes in Boston. House breaking, but there  
16 was never any resolution to it. You know, it was  
17 kind of par for the course where I lived.

18 Q. And so there's nothing about those minor  
19 crimes, theft related it sounds like, that you would  
20 hold against the State or the defense?

21 A. No, not at all.

22 Q. Okay.

23 A. No one in the family or nor have I ever  
24 been charged, arrested, convicted of a crime. And I  
25 certainly would wait until all the evidence is heard

1 until I form my opinion.

2 Q. All right, ma'am. And if the defendant  
3 chose to invoke his right at trial and not to  
4 testify, do you promise not to discuss it as a juror  
5 and that you would not hold that against him?

6 A. Yes.

7 Q. If you were selected as a juror and the  
8 jury came back with a verdict of murder in the first  
9 degree, could you consider all three options of  
10 punishment?

11 A. Yes.

12 Q. All right. Thank you, ma'am.

13 A. Uh-huh.

14 EXAMINATION

15 BY THE COURT:

16 Q. Okay. So let me go back. I'm sorry.  
17 Let me get your name then. And let me start with  
18 your badge number.

19 What's your badge number?

20 A. Oh, 100.

21 Q. 100?

22 A. Uh-huh.

23 Q. All right. So you are Shilora Hudlow; is  
24 that right?

25 A. That's correct.

1           Q.     Okay. Go ahead and tell me about  
2 yourself.

3           A.     I've lived in Clark County for 10 and a  
4 half years. Prior to that I lived my entire life in  
5 Illinois. I went to high -- graduated high school  
6 and have some college.

7                     I am retired.

8           Q.     Retired from what?

9           A.     I spent 31 and a half years in law  
10 enforcement. 20 as a sworn officer, 11 as a  
11 civilian records supervisor.

12                    I am married. My husband worked in  
13 data processing for a title insurance company. We  
14 have no children.

15                    Obviously I have no other family  
16 involved in law enforcement.

17           Q.     I have you -- were you in the civil part?  
18 Did you say were you ever a commissioned police  
19 officer?

20           A.     Yes, I was.

21           Q.     I'm sorry.

22           A.     Yeah.

23           Q.     I thought you said that in the beginning  
24 part.

25           A.     20 years as a sworn officer on the street

1 and then 11 as a civilian.

2 Q. Okay. So were you in patrol?

3 A. Yes, I was.

4 Q. Okay. Were you ever assigned to any  
5 divisions at all?

6 A. We didn't have divisions.

7 Q. Okay.

8 A. It was a small community of 28,000 people  
9 back in Illinois. A Chicago suburb.

10 Q. Okay.

11 A. And we had a -- at the time when I  
12 retired seven-and-a-half years ago, we had just 50  
13 officers so.

14 Q. Did you have any specialization or  
15 education in the field of gangs?

16 A. No. The main area where I worked  
17 originally was in juvenile.

18 Q. Okay.

19 A. And then but we worked in all the areas.

20 Q. Juvenile can involve gangs as well?

21 A. Right, right.

22 Q. Okay. And obviously being an officer  
23 yourself, could you listen -- if law enforcement  
24 testified, could you sit and listen to their  
25 testimony and give it the same credibility as any



1 other witness that testifies?

2 A. I believe I could.

3 Q. Okay. Go ahead.

4 A. I've never served as a juror before. To  
5 my knowledge, none of my family has been involved or  
6 a victim of a crime. And I say that because I come  
7 from a large family and we're all over the country  
8 so.

9 And I think I can wait in forming an  
10 opinion.

11 Q. Oh, and I guess I should ask you, too,  
12 did you testify as a police officer before as well?

13 A. Several times, yes.

14 Q. Okay. And if the defendant chose to  
15 invoke his Fifth Amendment right at trial, do you  
16 promise not to discuss it as a juror and that you  
17 would not hold that against them?

18 A. I do.

19 Q. And also, if you were selected as a juror  
20 and the jury came back with murder in the first  
21 degree as a verdict, would you be able to consider  
22 the three options of punishment that I've mentioned?

23 A. I believe I could.

24 Q. Okay, thank you.

25 EXAMINATION

1 BY THE COURT:

2 Q. Okay. Let me get your juror badge  
3 number.

4 A. 101.

5 Q. One what?

6 A. 101.

7 Q. Okay. And that would be Katherine  
8 Kaempfer?

9 A. Yes.

10 Q. All right. Go ahead and tell --

11 A. -- my maiden name. My last name is  
12 Fischer now.

13 Q. Oh. 101?

14 A. Yes. I have both Kaempfer and juror  
15 badge numbers so.

16 Q. Okay. So what do you go by?

17 A. Fischer.

18 THE CLERK: Spell it.

19 PROSPECTIVE JUROR KAEMPFER: F as in  
20 Frank, i, s as in Sam, C as in cat, h-e-r.

21 BY THE COURT:

22 Q. We'll change that. It's showing a  
23 different last name. Sorry.

24 A. That's fine.

25 Q. So this is why I'm glad I asked you. I'd

1 really be messed up on here. Okay. Go ahead and  
2 tell us a little bit about yourself.

3 A. I was born and raised in Clark County,  
4 and lived there -- or lived here until I went to  
5 school. Came back to get my master's degree and  
6 then --

7 Q. Hold on.

8 A. Sorry.

9 Q. When you went to school, where'd you go?

10 A. Syracuse University.

11 Q. Okay. And what were you studying there?

12 A. Psychology.

13 Q. Okay. And did you get your degree in  
14 that?

15 A. Yes.

16 Q. So you came back for your master's?

17 A. Yes.

18 Q. Okay. Go ahead.

19 A. My master's in educational psychology  
20 from UNLV. And then moved to Alameda, California to  
21 get my doctorate in clinical psychology. And I  
22 actually recently graduated and live there currently  
23 and have a job there. I was told to go through this  
24 whole process and then tell you that when it was my  
25 turn to speak.

1 Q. Okay. So that's very interesting. So  
2 have you, have you ever been involved in any  
3 criminal proceedings as a clinical psychologists?

4 A. No. Some of my clients have, but I have  
5 not. I have never been a fact witness or an expert  
6 witness for any of them.

7 Q. Okay.

8 A. Yeah.

9 Q. So how long have you been a doctor now  
10 with --

11 A. I've been a doctor for two years. I've  
12 been licensed since May.

13 Q. So are you practicing here in Las Vegas?

14 A. No. I'm practicing in California.

15 Q. I'm sorry.

16 MR. FIGLER: Can we approach, Your Honor?

17 THE COURT: Huh?

18 MR. FIGLER: Can we approach? There  
19 might be a jurisdiction issue.

20 THE COURT: Okay.

21 BY THE COURT:

22 Q. Yeah. You're living in California?

23 A. Yes. I received my jury summons between  
24 the time --

25 Q. Oh, hold on.

1           A.       Sorry. It was my intent to come back  
2 here and I received my jury summons between the time  
3 of coming here --

4           Q.       You're talking about --

5           A.       Yeah. They told me to come back here,  
6 you're still a Nevada resident, come back here,  
7 but --

8           Q.       Okay. When was the last time you were a  
9 resident of Clark County?

10          A.       2007.

11          Q.       Yeah. Okay. Well, we're gonna thank and  
12 excuse you. And I'm not so sure -- so did you fly  
13 out here for this?

14          A.       Yes.

15          Q.       Oh, my gosh.

16          A.       I was told that I could not be excused  
17 unless I came here.

18          Q.       Oh, they are so much worse than me. And  
19 you told them you haven't been a resident since  
20 2007?

21          A.       Yes, ma'am. They said you're still a  
22 student, you need to --

23          Q.       That's not right.

24          A.       -- you need to come.

25          Q.       Make a note on that. I'm gonna call jury

1 services. That's not right if you're a resident  
2 somewhere else.

3 A. Well, my family still lives here so I got  
4 to see them.

5 Q. Well, we're gonna thank you and excuse  
6 you. And you can take all this great experience  
7 with you and the psychology of jury selection and  
8 how horrific it is and enjoy. Well, thank you for  
9 coming in.

10 THE CLERK: Can we get Joseph Catello,  
11 Badge 151, please.

12 EXAMINATION

13 BY THE COURT:

14 Q. All right. Mr. Catello, sir, tell us a  
15 little bit about yourself.

16 A. I've been a resident of Clark County for  
17 45 years and got my master's in business.

18 Q. Where from?

19 A. Vanguard University, Southern California.  
20 Currently I'm self-employed. Tile and marble  
21 contractor.

22 Q. What do you do?

23 A. A tile and marble contractor. I am  
24 currently divorced.

25 Q. What did she do?

1           A.     She was actually a -- she worked in the  
2 flooring business as well.

3           Q.     Okay.

4           A.     As a distributor.

5           Q.     Do you guys know each other from Carpets  
6 N More?

7           A.     Actually we do. I've known him for --

8           Q.     See how --

9           A.     I've know him for a number of years.

10          Q.     See how that works.

11          A.     Yeah. We're all -- known him for years.

12          Q.     Yeah, I know it's a small industry, the  
13 flooring industry. That's how I know Steve Chesin,  
14 too. Okay.

15          A.     Uh-huh.

16          Q.     Okay. So he's not your boss and you're  
17 not his boss and --

18          A.     No. We've never worked together.  
19 Different companies.

20          Q.     I should say on the record that's Juror  
21 No. 3 is Mr. Armstrong. Okay. Just so I've made a  
22 record of that.

23                   Okay. And if you were selected as a  
24 juror together, neither one of you see any problems  
25 with that as well?

1           A.     No, not at all. No.

2           THE COURT: You either, Mr. Armstrong?

3           PROSPECTIVE JUROR ARMSTRONG: Not at all.

4 BY THE COURT:

5           Q.     Go ahead.

6           A.     I have a 15 year old son. And no law  
7 enforcement experience. I have served as a juror  
8 before about 20 years ago.

9           Q.     Here in Las Vegas?

10          A.     Here in Las Vegas, uh-huh.

11          Q.     And was that for criminal or civil?

12          A.     It was for criminal.

13          Q.     And without telling us what your verdict  
14 was, were you and your fellow jurors able to reach a  
15 verdict?

16          A.     Yes, we did.

17          Q.     And were you the foreperson?

18          A.     No, I wasn't.

19          Q.     Okay. Thank you.

20          A.     Uh-huh. My home was broken into three  
21 years ago in Henderson.

22          Q.     Did they find who did it?

23          A.     They did, uh-huh.

24          Q.     And did you have to go to court for  
25 anything?



1 A. Yes, I did.

2 Q. Did you have to testify?

3 A. Yeah.

4 Q. Okay. In Henderson Justice Court?

5 A. Yes.

6 Q. Okay. Did it ever come to district  
7 court?

8 A. No.

9 Q. So it didn't go to a jury trial?

10 A. No.

11 Q. Is there anything about that experience  
12 that you would hold either against the police or the  
13 State of Nevada or the defendant in this case?

14 A. No.

15 Q. Okay.

16 A. Nobody I know of in my family been  
17 arrested. And yes, I can wait before forming my  
18 opinion.

19 Q. And if the defendant invoked his Fifth  
20 Amendment right and did not testify at trial, would  
21 you promise not to discuss it as a juror and that  
22 you would not hold that against him?

23 A. Yes.

24 Q. And if selected as a juror and the jury  
25 came back with a verdict of murder in the first

1 degree, could you consider all three options of  
2 punishment that I've discussed?

3 A. Yes, I can.

4 Q. Thank you.

5 A. Uh-huh.

6 EXAMINATION

7 BY THE COURT:

8 Q. All right. Okay. We will move around to  
9 this gentleman right here. And I'm gonna need to  
10 ask you what's your badge number, sir, and then your  
11 name.

12 A. Me?

13 Q. Yup.

14 A. It's --

15 Q. Wake up.

16 A. I'm trying.

17 Q. We're moving into the audience now.

18 A. Sure. It's 139.

19 Q. Okay.

20 A. My name is David McCallum.

21 Q. Okay. Go ahead, sir, tell us about  
22 yourself.

23 A. I've lived in Clark County for 21 years.  
24 And I'm a high school graduate with some college. I  
25 didn't graduate, some trade school.

1 Q. What'd you study in college?

2 A. I went to college to become an optician.  
3 Someone who fixes and repairs eyeglasses.

4 Q. Okay.

5 A. I'm currently employed at United Parcel  
6 Service, U.P.S., as a driver. And I've been there  
7 for 13 years. And I'm married. I've been married  
8 for 20 years.

9 Q. Does she work?

10 A. She worked in child care up until a few  
11 years ago, but she quit to -- she quit to become --  
12 to stay at home with the kids and go back to school  
13 to be a teacher. So she's currently in college.

14 Q. Okay.

15 A. I have four kids. 19, 15, eight and 17  
16 months.

17 Q. And what does the 19 year old do?

18 A. He's currently serving his country in the  
19 National Guard. And the other two, the two older  
20 kids are students. And obviously the baby, he  
21 wrecks the house. I have three boys and a girl.

22 Nobody in my immediate family's had  
23 law enforcement experience. I have a brother-in-law  
24 who served as a correction officer in Utah.

25 Q. If you were selected as a juror and you

1 heard law enforcement testify, could you sit and  
2 listen to their testimony and give it the same  
3 weight as other witnesses in the case?

4 A. Yes, ma'am.

5 Q. Okay.

6 A. Yeah, I've been a juror before. It was  
7 actually in this building three or four years ago.  
8 And it was a civil case and we were able to reach a  
9 verdict.

10 Q. You were the foreperson or no?

11 A. No, ma'am. To my knowledge no one in my  
12 family has been the victim of a crime. And none of  
13 my immediate family's ever been charged, arrested or  
14 convicted. I have a half brother who's been in and  
15 out of jail since he was 17. I don't know what his  
16 status is at the moment. I haven't seen him in 15  
17 years. So I don't know.

18 Yeah, I can wait to form my, form an  
19 opinion after all the evidence has been heard.

20 Q. Okay. If the defendant chose not to  
21 testify in this trial and invoke his Fifth Amendment  
22 right, do you promise not to discuss that as a juror  
23 and you would not hold that against him?

24 A. Yes, I understand.

25 Q. And if you were selected as a juror and

1 the jury came back with the verdict of murder in the  
2 first degree, could you consider all three forms of  
3 punishment that I've discussed?

4 A. Yes, ma'am.

5 Q. All right. Thank you, sir.

6 EXAMINATION

7 BY THE COURT:

8 Q. Moving on to the next young lady. Can  
9 you state your -- I had you written down. Are you  
10 Elizabeth Uhrle?

11 A. Yes, I am.

12 Q. Okay. Tell us a little bit about  
13 yourself.

14 A. I just want to state first that about  
15 that thing I said on Thursday, I made a phone call  
16 during lunch and it's okay. So it's clear. Just so  
17 I just wanted to --

18 Q. Okay, good. Thank you.

19 A. Sorry.

20 Q. Since you're still here, you figured I  
21 didn't fall for it. You've noticed it's slendered  
22 out, the group, right?

23 A. Uh-huh.

24 Q. Okay.

25 A. I've lived here for six years, but it was

1 on and off. I mean, like I kept coming back and  
2 leaving. I've graduated from Del Sol High School in  
3 2011. I have some college. And I'm not employed,  
4 but I was --

5 Q. What were you doing?

6 A. I was a housekeeper in Landmark Inn in  
7 Fort Irwin, California. I'm not married and I don't  
8 have any children.

9 I have an uncle that was a police  
10 officer in Hawaii, but he no longer works there.

11 Q. Would you give law enforcement, if they  
12 testified, could you listen to their testimony the  
13 same as any other witness and give them -- listen --  
14 give their testimony the same weight as anyone else?

15 A. Yes.

16 Q. Okay.

17 A. I've never served as a juror before. And  
18 no one in my family's ever been the victim of a  
19 crime. My brother-in-law was arrested and he went  
20 to jail, but I don't know what for.

21 Q. Here in Las Vegas or somewhere else?

22 A. Somewhere else.

23 Q. Okay. So you weren't involved with  
24 anything?

25 A. No.

1 Q. And there's nothing about that that  
2 you've heard about that you'd hold against the State  
3 or the defense in this case?

4 A. No, ma'am.

5 Q. Okay.

6 A. And yes, I can wait in forming my  
7 opinion.

8 Q. Okay. If the defendant invoked his right  
9 not to testify, do you promise not to discuss that  
10 as a juror and you would not hold that against him?

11 A. No.

12 Q. And if you were selected as a juror and  
13 the jury came back with a verdict of murder in the  
14 first degree, could you consider all three forms of  
15 punishment that I've mentioned?

16 A. Yes.

17 Q. Okay, thank you.

18 EXAMINATION

19 BY THE COURT:

20 Q. Okay. Sir, can you give me your badge  
21 number first?

22 A. 107.

23 Q. Okay. And you're Mr. Henry Gonzales?

24 A. Yes, ma'am.

25 Q. Okay. Mr. Gonzales, tell us about

1   yourself.

2           A.     I've lived here in Clark County for four  
3   years. Before that I came from Guam.

4           Q.     From Guam?

5           A.     Yes, Guam. Graduated high school there.  
6   Currently unemployed. Not married.

7           Q.     What did you do before?

8           A.     Planet Nissan.

9           Q.     I'm sorry?

10          A.     I worked at Planet Nissan.

11          Q.     Okay. What'd you do there?

12          A.     Appraiser.

13          Q.     Okay.

14          A.     No children, I'm not married. My dad is  
15   an ex-cop for Guam airport police.

16          Q.     If you heard law enforcement testify in  
17   this case, could you give their testimony the same  
18   weight as any other witness?

19          A.     Yes. Never been a juror before. I got  
20   summoned, but I missed it so that is my  
21   rescheduling.

22          Q.     Okay.

23          A.     My family has never been a victim of a  
24   crime. I do have a misdemeanor for disturbing the  
25   peace.



1 Q. How long ago was that?

2 A. Last year.

3 Q. And was there anything about the way the  
4 police handled that or the DA or city attorney that  
5 you'd hold against the State or the defense in this  
6 case?

7 A. No, Your Honor.

8 Q. Okay.

9 A. And yes, I can wait in forming my opinion  
10 until after the evidence is heard.

11 Q. All right, sir. And if the defendant  
12 chose to invoke his right not to testify, do you  
13 promise not to discuss it as a juror and you would  
14 not hold that against him?

15 A. I promise.

16 Q. And if the -- if you were selected as a  
17 juror and the defendant was convicted of murder in  
18 the first degree, would you be able as a juror to  
19 consider the three forms of punishments that I've  
20 already discussed?

21 A. No, Your Honor.

22 Q. Okay. Can you explain?

23 A. I don't like the first option with life  
24 without parole.

25 Q. I'm sorry. Say again.

1           A.     I don't like the first option, life  
2 without parole.

3           Q.     So you think in every murder in the first  
4 degree case there's no situation in that you could  
5 envision life without the possibility of parole?

6           A.     I do believe that, yes.

7           Q.     I'm sorry?

8           A.     I do believe that, yes. I do believe  
9 everyone deserves a second chance.

10          Q.     Okay. All right. Thank you, sir.

11          A.     You're welcome.

12                               EXAMINATION

13 BY THE COURT:

14          Q.     Hold on. I'm sorry. I need your badge.

15          A.     140.

16          Q.     Okay. And what's your name?

17          A.     Sandra Gomez.

18          Q.     Okay.

19          A.     I've lived in Clark County for 19 years.

20 I have an associates degree in business  
21 administration. I am currently employed with Citi  
22 Group. I am a compliance analyst. I've worked  
23 there for about 16 years.

24                       I am unmarried. I have no children.  
25 I have no family member in any type of law

1 enforcement. I have served as a juror before.

2 Q. Here in Las Vegas?

3 A. Yes.

4 Q. Okay. And criminal or civil?

5 A. It was a criminal. It was -- I was in a  
6 pool where we had to fill out a questionnaire.

7 Q. So it was -- was it a capital murder case  
8 then?

9 A. Yeah. So we had to sit in the pool while  
10 the rest of the jurors were in here and we had to  
11 kind of wait to see who they selected. And we never  
12 got called in. They took a whole group of people.

13 Q. So you filled out the questionnaire, but  
14 you never even got to come in?

15 A. No, no.

16 Q. Okay.

17 A. And then --

18 Q. And that was your only time as a juror?

19 A. No. This is my fourth time actually.

20 Q. Wow. Okay. So that was one time you did  
21 a questionnaire on a murder case but did not come  
22 in?

23 A. Correct.

24 Q. So the second time?

25 A. The second time was a civil case and I

1 was excused.

2 Q. She was what?

3 A. I was excused. And they interviewed me  
4 like you're doing now and I was excused.

5 Q. Okay.

6 A. And the first time I was on a jury and we  
7 did come to a decision.

8 Q. So the third time you were on a jury?

9 A. The first time. The first time I was on  
10 a jury. The last time was the questionnaire.

11 Q. Okay. So the first time you were, was  
12 that a civil or criminal?

13 A. It was a criminal.

14 Q. Okay. And did -- you came to a decision.  
15 Were you the foreperson?

16 A. I was not.

17 Q. Okay. Go ahead.

18 A. Any family member ever been a victim of a  
19 crime. Yes, I have been a victim of a crime. I had  
20 my, my vehicle stolen.

21 Q. How long ago?

22 A. This was many years ago.

23 Q. Here in town?

24 A. No, this is when I was living in  
25 California.

1           Q.     Is there anything about that experience  
2     that you'd hold against the State or the defendant  
3     in this case?

4           A.     Not at all.

5           Q.     Okay, thank you.

6           A.     I have family members that have been  
7     charged and arrested of a crime. I've had -- kind  
8     of embarrassed. I had three brothers.

9           Q.     Okay. And the three brothers, what were  
10    they arrested for?

11          A.     One for DUI, another one for drugs and  
12    then another one for stealing.

13          Q.     Were you -- was this a long time ago or  
14    recent?

15          A.     Actually they still kind of -- they  
16    haven't gotten their life --

17          Q.     Okay.

18          A.     They haven't gotten their act together.

19          Q.     Are they in another state?

20          A.     They all live in California.

21          Q.     And were you involved in any of the court  
22    proceedings?

23          A.     Not at all. I'm not involved at all.

24          Q.     There's nothing about your brothers --

25          A.     Not at all.

1 Q. -- instances that you'd hold against the  
2 State or the defense here?

3 A. No. I don't know anything about it  
4 because I'm just kind of the outsider of the family.  
5 I don't know what they did.

6 Q. Okay.

7 A. And I can wait in forming an opinion once  
8 the evidence has been heard.

9 Q. All right.

10 A. Okay.

11 Q. Well, let me ask you: If the defendant  
12 invoke his Fifth Amendment right and remained silent  
13 and did not testify, do you promise that as a juror  
14 you would not hold that against him?

15 A. Absolutely.

16 Q. And if you were selected as a juror and  
17 you and your fellow jurors came back with a verdict  
18 of murder in the first degree, could you consider  
19 the three forms of punishment that I've discussed?

20 A. Yes.

21 Q. Thank you, ma'am.

22 A. Thank you.

23 EXAMINATION

24 BY THE COURT:

25 Q. All right. Our next juror in line, can

1 you give me your badge number?

2 A. 143.

3 Q. Yes, sir. Your name?

4 A. Scott Abodeely.

5 Q. All right, sir. Tell us a little bit  
6 about yourself.

7 A. I've lived in Clark County for 29 years,  
8 I've been employed with Smith Food and Drug in  
9 management for 28 of the 29 years.

10 Q. Clark County. I'm sorry where? In  
11 Clark --

12 A. Here in Las Vegas.

13 Q. No. Before --

14 A. I've been with -- oh, I've been in Clark  
15 County 29 years.

16 Q. But with Smiths Food?

17 A. Smiths Food and Drug 29 years.

18 Q. What do you with them?

19 A. In management, a manager almost the whole  
20 28 years.

21 I am married. Been married 13 years  
22 we have 5 children, blended marriage. Two are 23,  
23 oldest son, he does not work currently. My oldest  
24 daughter works for Smith's in the customer service  
25 booth. And then I have a 20 year old daughter that

1 also works for Smith's in customer service booth.  
2 And then we have a 21 year old son that works in  
3 Home Depot in Salt Lake City. And we have a 17 year  
4 old that works for Smith's also.

5 I don't have any other family  
6 members in law enforcement. I have been selected in  
7 a jury before.

8 No family members have been a  
9 victim -- or excuse me. My daughter was a victim of  
10 a crime approximately last September. She was  
11 robbed at gun point here in North Las Vegas. It was  
12 kind of a house gathering. And that did go to trial  
13 here I believe somewhere around February and I  
14 believe she had to come testify.

15 Q. Is there anything about that experience  
16 that you would hold against the State or the defense  
17 in this case?

18 A. No. Any family members been charged or  
19 arrested. I had a DUI in 1997. And that's it  
20 there. And I can wait to form an opinion.

21 Q. Okay. And if the defendant chose to  
22 invoke his right not to testify, do you promise not  
23 to discuss it as a juror and you would not hold that  
24 against him?

25 A. Yes.



1           Q.     And if you were selected as a juror and  
2 the jury rendered a verdict of murder in the first  
3 degree, could you consider all three forms of  
4 punishment in this case?

5           A.     Yes, I could.

6           Q.     Thank you, sir.

7           A.     Uh-huh.

8                               EXAMINATION

9 BY THE COURT:

10          Q.     All right, ma'am. What's your badge  
11 number?

12          A.     111. Andrea Stewart.

13          Q.     All right. Ma'am, go ahead and tell us  
14 about yourself. It's 111?

15          A.     111.

16          Q.     Okay. Andrea Stewart?

17          A.     Yes.

18          Q.     Go ahead.

19          A.     I've lived here since 1994. I've got a  
20 bachelor's degree in business administration. I'm  
21 employed. I'm a bookkeeper.

22          Q.     Where at?

23          A.     For D & A Rigsby, Inc. Been married for  
24 26 years. Three children. Girl, boy, girl. Girl  
25 24, 18 and 16.

1 Q. Okay, wait. What does your husband do?

2 A. He is IT professional.

3 Q. And I'm sorry, say the ages of your kids  
4 again.

5 A. 24, 18, 16.

6 Q. What does the 18 year old do?

7 A. The two adult children do not work.

8 Q. Do not. Okay. Is the 24 year old in any  
9 kind of schooling?

10 A. Art Institute. Las Vegas Art Institute.

11 Q. Okay.

12 A. No law enforcement experience. Never  
13 served for a jury.

14 Been a victim, my daughter, the 16  
15 year old. We just finished our trial January where  
16 she was molested.

17 Q. Okay.

18 A. So.

19 Q. And were you involved in obviously in the  
20 court system with that?

21 A. Yes.

22 Q. Okay. Did she have to testify?

23 A. No, did not. I wouldn't put her on the  
24 stand. He, he got -- he got his sentencing this  
25 past June. So we just finished that up.

1           Q.     Is there anything about the way the  
2 police or the district attorney's handled that case  
3 that you would hold against the State in this case?

4           A.     No.

5           Q.     Okay. Anything about that case that  
6 you'd hold against the defendant in this case?

7           A.     No.

8           Q.     Thank you.

9           A.     I've been arrested 2003, domestic  
10 violence. The case was dismissed.

11          Q.     Is there anything about that case, the  
12 way the police handled that case or the DA's office  
13 or city attorney's office?

14          A.     No.

15          Q.     Okay.

16          A.     I can wait before forming my opinion 'til  
17 the end of the case. And I have no problem with the  
18 Fifth Amendment.

19          Q.     All right. So you'd never hold it  
20 against a defendant --

21          A.     No.

22          Q.     -- if they chose not to testify?

23          A.     No.

24          Q.     And if you were called as a juror and the  
25 jury came back with a verdict of murder in the first

1 degree, could you consider all three forms of  
2 punishment?

3 A. Yes.

4 Q. All right, thank you.

5 Can I see the attorneys at the  
6 bench, please?

7 (Whereupon, the following proceedings  
8 were had in open court outside the  
9 presence of the prospective jury panel.)

10 THE COURT: You have to talk in the mic.  
11 Right now, unless you guys have a motion for cause,  
12 the one juror who cannot consider all three forms of  
13 punishment, I'm considering right now letting him  
14 go.

15 Is there a -- I mean, I just would  
16 rather ask my last question and me qualify before we  
17 take our break and let the State start after the  
18 break.

19 But I just brought you guys up here  
20 since the one already said he can't consider all  
21 forms.

22 MS. PANDUKHT: Yeah.

23 THE COURT: What's your position?

24 MR. GOODMAN: Well, I mean, you know my  
25 position.

1 THE COURT: You have to talk in the mic.

2 MR. GOODMAN: My motion is we're at this  
3 stage, and I'd like to explore that with him, see  
4 if -- where we can go.

5 THE COURT: Okay. I'm gonna -- did you  
6 have a formal motion?

7 MS. PANDUKHT: Yeah. We were gonna  
8 challenge for cause on that one.

9 THE COURT: I'm gonna grant their motion  
10 for motion for a challenge for cause and we'll pick  
11 another juror. He can't consider all three forms of  
12 punishment.

13 So my decision is already made and I  
14 don't think you can rehabilitate based upon what he  
15 said. He was very clear about it.

16 So I'm gonna put another person on  
17 where basically I'll ask a couple of questions of  
18 this next one and then take a 10-minute break and  
19 then we'll start with the State and then you guys.

20 MS. PANDUKHT: Absolutely. Thanks.

21 THE COURT: Thank you.

22 (Whereupon, the bench conference ended.)

23 THE COURT: The court is gonna thank and  
24 excuse Mr. Gonzales, Juror No. 107, and we're gonna  
25 replace him with?

1 THE CLERK: It's gonna be Sarah Morasco.  
2 Badge 163.

3 EXAMINATION

4 BY THE COURT:

5 Q. Ma'am, tell us a little bit about  
6 yourself.

7 A. I was born and raised here.

8 Q. Okay. Keep going.

9 A. I'm -- I have a bachelor's degree in  
10 internation business. I'm employed at IGT.

11 And I do actually apologize. I  
12 forget to mention that I do have and also paid for  
13 education program that I have to go to on Wednesday  
14 of this week.

15 Q. What do you have?

16 A. It's called emergenetics that I have to  
17 attend for IGT. They actually paid for me to attend  
18 this class. And it's only offered just once this  
19 year.

20 Q. So there's some class for work?

21 A. Correct.

22 Q. And the class is only once a year?

23 A. Correct. We have two locations in Reno  
24 and Las Vegas. Reno had done theirs and we get to  
25 do ours in Las Vegas.

1 Q. Okay. And so you had forgot to mention  
2 that before?

3 A. Correct. I called my boss during the  
4 break and I said I might be here for awhile. And  
5 she said I just want to remind you that you have  
6 this class that we have on Wednesday that we already  
7 paid for your spot. So okay, I don't remember.

8 Q. Okay. Keep going.

9 A. I am married. My husband is a nurse. We  
10 have two daughters. They are four and 16 months.

11 Q. Does your husband have a certain  
12 specialty as a nurse?

13 A. He's an ER.

14 Q. Okay.

15 A. No family in law enforcement. I've never  
16 served as a juror before.

17 Just small crimes that we've been  
18 victims of. My brother-in-law has been convicted of  
19 crimes. He had illegal possession of weapons, drug  
20 paraphernalia.

21 Q. Where? Here in Las Vegas?

22 A. Yes.

23 Q. Did you attend or were you involved in  
24 any of the court proceedings?

25 A. No. He chose to be a criminal.

1           Q.     And there's nothing about that, your  
2 brother-in-law's situation, that you'd hold against  
3 the State or the defense in this case?

4           A.     No.

5           Q.     Okay.

6           A.     And I can wait to form my opinion until  
7 the end.

8           Q.     All right. If the defendant chose not to  
9 testify and invoked his right not to testify, do you  
10 promise not to discuss it as a juror and that you  
11 would not hold that against him?

12          A.     I do.

13          Q.     And if you were selected as a juror in  
14 this case and the jury came back with murder in the  
15 first degree as a verdict, could you consider all  
16 three forms of punishment in this case?

17          A.     I can.

18          Q.     All right, thank you.

19                THE COURT: All right. What we're gonna  
20 do, ladies and gentlemen, is we are gonna take a  
21 10-minute break. Stay on this floor. Don't go down  
22 the elevator. There are restrooms out at the end,  
23 there's also a smoking area, a balcony right across  
24 over here if you need to smoke. Stay up here  
25 because it's just a short break. We're gonna come



1 right back on the record within 10 minutes.

2 So ladies and gentlemen of the jury,  
3 during this recess, you're admonished not to talk or  
4 converse among yourselves or with anyone else on any  
5 subject connected with this trial.

6 Or read, watch or listen to any  
7 report of or commentary on the trial or any person  
8 connected with this trial by any medium of  
9 information, including, without limitation,  
10 newspapers, television, radio or internet.

11 Or form or express any opinion on  
12 any subject connected with the trial until the case  
13 is finally submitted to you.

14 We'll see you back in 10 minutes.

15 (Whereupon, the jury exited the  
16 courtroom.)

17 THE COURT: All right. We're still on  
18 the record, we're outside the presence of the  
19 jurors.

20 And I'm really not inclined to let  
21 Ms. Morasco go because she didn't even remember she  
22 had such an important class. It's only once a year,  
23 that her employer had to remind her that oh, don't  
24 forget you have a class on Wednesday.

25 I'm not really inclined because it

1 was just that unimportant that she remembered. So  
2 she can take it again unless you guys feel really  
3 strongly you want to let her go, but I'm not really  
4 inclined to.

5 MS. PANDUKHT: The State is not inclined  
6 to ask you to let her go.

7 MR. FIGLER: Would the court consider  
8 calling her employer and seeing if this is a real  
9 deal or not?

10 THE COURT: No.

11 MR. FIGLER: Or if she's not being candid  
12 or if she is being candid?

13 THE COURT: No, no, no. I think she's  
14 being candid. I just don't think it's this very  
15 important when you have to call your employer and go  
16 I'm gonna be here for awhile, and they go, oh, just  
17 don't forget you've got that class. That can't be a  
18 class which really means a lot to her to get ahead.

19 Some people that if they really like  
20 it's once in a life time promotion or opportunity,  
21 I'm not gonna do that to somebody. But it can't be  
22 that important if she forgot about the class. It's  
23 like one of those oh, gees, you should go to it.  
24 Yeah, I get those too. I should go to judge's  
25 meetings all the time to and I don't always do that.

1 So, you know, oh, did I forget or oh, it's important  
2 I need to show up and vote. So it's obviously not  
3 that important to her. I'm not inclined to do it.  
4 So I think we've qualified 32 at least for now  
5 before I start moving on to --

6 MR. GOODMAN: Start examining them, Your  
7 Honor.

8 THE COURT: Start examining them. Okay.  
9 All right. We'll see if we can get a jury by the  
10 end of the day.

11 MS. PANDUKHT: We're not gonna take that  
12 long.

13 THE COURT: Yeah.

14 MS. PANDUKHT: Ours is short.

15 THE COURT: We'll see how long theirs is.  
16 Thanks.

17 MR. GOODMAN: Thank you.

18 (Whereupon, a recess was had.)

19 THE COURT: We'll go on the record.  
20 State of Nevada versus Evaristo Garcia. C262966.  
21 Let the record reflect that we're outside the  
22 presence of the jurors. Just want -- I got the  
23 attorneys in here with the defendant.

24 Juror No. 011 (sic), Francisco  
25 Celis-Valdivia, said he has a doctor's appointment

1 for his son at 9 a.m. on July 9th. He forgot to  
2 tell me. Which would be tomorrow. Oh, perfect. No  
3 problem because we won't be in session. Okay. I  
4 just thought I'd put that on the record, okay.

5 And that was relayed by the marshal.  
6 (Whereupon, the jury entered the  
7 courtroom.)

8 THE COURT: All right. We are back on  
9 the record in the presence of the jurors. Go ahead  
10 and have a seat. On case of State of Nevada versus  
11 Evaristo Garcia. Case No. C262966.

12 Let the record reflect the  
13 defendant's present with his attorneys, Mr. Goodman  
14 and Mr. Figler. For the State, Ms. Pandukht and Ms.  
15 Demonte.

16 So at this time I'm gonna allow the  
17 State to go ahead and ask any questions you'd like  
18 to the jury.

19 MS. DEMONTE: Thank you.

20 EXAMINATION

21 BY MS. DEMONTE:

22 Q. Good afternoon, everybody. Now these  
23 questions are gonna be directed -- actually, you  
24 know what, let me start with a few follow-ups I had  
25 with just a couple of you before I move to everybody

1 else.

2 Mr. Sprenz, Badge No. 60, seat  
3 number one, you indicated that your law practice  
4 practices some smaller criminal.

5 What do you mean by that?

6 A. Very short people. Kidding. I'm  
7 kidding. I do a lot of -- well, I do DUI's,  
8 possession. No murders or anything like that.

9 Q. Okay. So pretty much is it fair to say  
10 you stay on the misdemeanor level?

11 A. Yes.

12 Q. Have you ever prosecuted -- I mean,  
13 sorry. Have you ever defended a felony case?

14 A. Yes.

15 Q. And how long ago was that?

16 A. Last year. It was possession, theft.

17 Q. So possession of stolen property type  
18 case?

19 A. Prescription drugs, yes.

20 Q. Oh, prescription drugs. Okay. Is that  
21 the most serious case that you've ever defended?

22 A. In that, in that regard, yes.

23 EXAMINATION

24 BY MS. DEMONTE:

25 Q. Okay. And Badge No. 85, Mr. Latham?

1 A. Yes.

2 Q. You had indicated that you think possibly  
3 you wrote about this case back in 2006?

4 A. Yes. It was at the time a news producer,  
5 we write the news for a newscast.

6 Q. And is that just -- like was there an in  
7 depth coverage or was it just a small blurb if you  
8 can recall.

9 A. I can't recall. I just recognize when  
10 you start reading details into the case, I remember  
11 that case and the defendant's face from his mug  
12 shot.

13 Q. Okay. And you think that's from 2006?

14 A. It's back when I worked at Channel 3.

15 Q. Is there anything about that experience  
16 that you're gonna bring with you to the jury room  
17 and is it gonna taint your decision making in any  
18 way?

19 A. I don't know. I mean, we -- we're at the  
20 news, we're not supposed to be biased, but we get a  
21 lot of arrest reports, we hear a lot of details,  
22 trouble from the police, things like that.

23 Q. And are you able to just sit and listen  
24 to the evidence as you hear it come through the  
25 witnesses here and forget about anything you may

1 have gotten back in 2006 to generate a news story?

2 A. Yeah. Yeah, I can do that. I don't  
3 recall the -- all the details of the police report.

4 Q. Okay. And is that fairly common that you  
5 get a police report from Las Vegas Metropolitan  
6 Police Department?

7 A. If there's a crime, we get that incident  
8 report. If there's an arrest, we get the arrest  
9 report. And then we'll get -- what's it called?  
10 Indictment.

11 Q. Okay.

12 A. Things like that.

13 Q. All right.

14 A. So those come through every --

15 Q. And those come through fairly daily?

16 A. Yeah. I mean, and they give them out to  
17 our news room so yeah.

18 MS. DEMONTE: Okay. Now, these questions  
19 are gonna be generally asked to generally everyone.  
20 Show of hands. Any of you fans of CSI or any of its  
21 spin offs? One, two, three, four, five, six, seven,  
22 eight.

23 Okay. The people with their hands  
24 up, can you all agree with me that that is just TV  
25 and not reality? Does anyone disagree with me on

1 that?

2 THE COURT: Let the record reflect a  
3 negative response.

4 MS. DEMONTE: Thank you, Your Honor.  
5 Next question. And this is directed to everybody.  
6 If the court gives you an instruction defining what  
7 criminal gang means, does everyone here promise to  
8 apply the definition in this case and don't go back  
9 in the jury room and come up with your own?

10 Let the record reflect everyone  
11 seems to be nodding their heads.

12 Does anyone disagree with that?

13 And let the record reflect negative  
14 response.

15 Finally, would any of you  
16 automatically discount the testimony of a witness if  
17 you learn that that person was either associated  
18 with or a member of a criminal gang?

19 And negative response.

20 Thank you. State will pass the  
21 panel for cause.

22 THE COURT: All right. The State's now  
23 passed for cause.

24 Defense.

25 MR. FIGLER: Thank you, Your Honor. With



1 the court's permission, Mr. Goodman and I are gonna  
2 split up a little bit if that's okay. I'm gonna ask  
3 the panel questions and then we'll just split up any  
4 of the individual followup questions from what the  
5 court asked.

6 THE COURT: Sure.

7 MR. FIGLER: Thank you, Your Honor.

8 EXAMINATION

9 BY MR. FIGLER:

10 Q. Good afternoon, everybody. Obviously  
11 it's our client who's in the mix here so we have  
12 just a few more questions than maybe the  
13 prosecutor's had. I appreciate everyone's patience  
14 in bearing with us. I think everyone here  
15 understands how important this process is.

16 And as the judge said, we just want  
17 to make sure we get the right people to fit this  
18 particular case.

19 Now, I have just a couple of  
20 sensitive questions. We're not looking for what you  
21 think you want us to hear. You can never go wrong  
22 just telling the truth. And when we ask the  
23 questions, we're asking a very broad and open-ended  
24 question. So I just want to make sure that you  
25 think about it for a second.

1                   And if there's anything that this  
2 triggers, if you could share with us, that's great.  
3 If you feel embarrassed about sharing with us, let  
4 us know that and then the court will decide what to  
5 do with that information, okay.

6                   So as long as everyone just doesn't  
7 try to please us or sound politically correct,  
8 that's fantastic.

9                   Here's the questions that we have to  
10 start for everybody. So I want everybody to listen.  
11 Is there anyone here who has ever had a memorably  
12 negative experience with a Hispanic person?

13                  THE COURT: Let the record reflect a  
14 negative response.

15                  MR. FIGLER: Okay. All right.

16                  PROSPECTIVE JUROR GEMMILL: May I ask a  
17 question?

18                  MR. FIGLER: Yeah.

19                  PROSPECTIVE JUROR GEMMILL: Does the  
20 nationality --

21                  THE COURT: Wait. I'm sorry. You've got  
22 to say your name and badge number, so that the  
23 record -- so that the record can reflect who's  
24 speaking.

25                  PROSPECTIVE JUROR GEMMILL: Elizabeth

1 Gemmill, No. 134. Does the nationality have  
2 anything to do with it? Is the memorable experience  
3 because a person was Hispanic or simply that the  
4 person was Hispanic?

5 MR. FIGLER: That's a very good question.  
6 May I respond to that very briefly, Your Honor?

7 THE COURT: Sure.

8 MR. FIGLER: Thank you.

9 EXAMINATION

10 BY MR. FIGLER:

11 Q. You know, we talk about our community  
12 today. And a lot of people will agree that there  
13 are issues of racism or trouble or difficulties  
14 between races. It's all out there.

15 But whenever we ask the question to  
16 jurors, it's always a hundred percent everybody gets  
17 along and there's no racism and no one's ever had  
18 any negative experiences with anyone of a different  
19 race ever.

20 So we try to figure out ways to ask  
21 the question, so at least we're starting a dialogue,  
22 so people can talk and feel comfortable talking in  
23 this space. Otherwise we don't really get the  
24 information that we need.

25 And while it may very well be true

1 that the race didn't matter in the experience, by  
2 talking about the experience maybe some other people  
3 would open up about theirs so that we can, you know,  
4 evaluate it and have that dialogue. So I hope that  
5 answered your question.

6 Did it?

7 A. Yes, it did.

8 Q. So if in other words, if a person was  
9 walking into an elevator and there were Hispanic  
10 people in there and they haven't had a lot of  
11 interaction with Hispanic people and they felt  
12 uneasy or anxious or something, that's something  
13 we'd want to hear about.

14 Whether or not it's legitimate or  
15 not legitimate, they felt guilty about it or not  
16 guilty about it, we just want to know about the  
17 experience. And that's why the question said about  
18 a memorably negative experience that involved what  
19 appeared to be Hispanic people. So that was the  
20 question.

21 A. Yes.

22 THE COURT: There's actually a couple  
23 hands now raised, Mr. Figler, if you want to take  
24 some.

25 MR. FIGLER: Thank you. We'll go right

1 here in the front row. I'm sorry. Did you want to  
2 follow up?

3 PROSPECTIVE JUROR GEMMILL: I'd have to  
4 reply yes.

5 BY MR. FIGLER:

6 Q. And I'm sorry. We're still with Juror  
7 No. 134?

8 A. 134, yes.

9 Q. Thank you, ma'am.

10 A. Shall I describe the experience?

11 Q. If you feel comfortable, please do.

12 A. Sure. A family in my apartment complex  
13 were very noisy and I would ask them to be quiet and  
14 they wouldn't and I kept after them. I had called  
15 the police a couple of times. There were some shady  
16 goings on with drinking and younger people. And  
17 they -- when I confronted them again about the  
18 noise, I was -- it was they said that I was  
19 prejudiced and that I was only doing this because  
20 they were Spanish.

21 Q. Okay. Let me ask a followup.

22 A. Certainly.

23 Q. Is there anything about that experience  
24 that would cause you to have a bias or prejudice in  
25 a case where the defendant, the decedent, the person

1 who died and actually a majority of the witnesses  
2 who are Hispanic?

3 A. No. It was, it was specific to the  
4 people that I was dealing with.

5 Q. Okay, great. And that's exactly what  
6 we're looking for that information. I do appreciate  
7 that. Thank you.

8 EXAMINATION

9 BY MR. FIGLER:

10 Q. Ms. Schiavone, was that you that had your  
11 hand up?

12 A. Schiavone.

13 Q. Schiavone. I'm sorry. But I remembered  
14 who you were.

15 A. I'm not particularly against any Hispanic  
16 people, but when I was 15 I was raped by five  
17 Hispanic men.

18 Q. Okay. And that obviously was a very  
19 negative experience. Do you have a concern when you  
20 see that there's someone who is Hispanic who was  
21 charged with an offense that you might tilt that he  
22 could be guilty just because of that?

23 A. No, it doesn't go on race. No, sir.

24 Q. So that doesn't play into it at all?

25 A. No.

1           Q.     So do you think that in a case like this  
2 where pretty much everyone, all the lay people -- in  
3 other words the people who aren't professional  
4 people, witnesses, people who are out there, the  
5 person who was shot, most of them are gonna be  
6 Hispanic.

7                     Is there anything about that fact  
8 that would cause you to have any biases or prejudice  
9 in this particular case?

10          A.     No, sir.

11          Q.     Okay. Thank you for sharing that.

12                     EXAMINATION

13 BY MR. FIGLER:

14          Q.     Who's next? Okay. Down here in front.

15          A.     Ray Morgan, 88.

16          Q.     88, Mr. Morgan.

17          A.     Yes. I was on a cruise and I had a room  
18 steward at the end of the cruise caught me as I was  
19 leaving, getting on the elevator and accused me of  
20 not leaving a tip for him. And when I told him I  
21 left it on the com -- with the credit card, he still  
22 called me a liar and said I didn't. And he was just  
23 that type of a person and he walked off and then he  
24 got on the elevator and left, but that was mine  
25 Hispanic.

1           Q.     I appreciate, sir. And then let me ask  
2 you to that followup; is there anything about that  
3 experience that would cause you to have a bias or a  
4 prejudice in this case whereas I mentioned many  
5 people involved in this case are Hispanic?

6           A.     I don't think so. No, no.

7                               EXAMINATION

8 BY MR. FIGLER:

9           Q.     Is there anybody else? Up here in the  
10 front, ma'am.

11          A.     When I was in --

12          Q.     You have to say your name.

13          A.     Do I stand up?

14          Q.     You don't have to if you don't want to.

15          A.     Okay. I don't really want to.

16          Q.     Okay. Then don't.

17          A.     Jeneva Avina, Badge 95. When I was at  
18 the end of high school, I had a gun pulled on me by  
19 a -- there was a main guy in the car, but they were  
20 like checking me out and I had just moved here and I  
21 flipped the guy off and the whole group of them  
22 parked behind my car. And the guy came up to my car  
23 with a gun and pulled a gun out on me and the whole  
24 group of them were Hispanic.

25          Q.     And then the followup on that, which is



1 obviously a scary experience, is there anything  
2 about that experience --

3 A. Scary experience. No, but that is my  
4 memory.

5 Q. Okay. So no bias or prejudice --

6 A. No.

7 Q. All right. Thank you for sharing.

8 A. Uh-huh.

9 EXAMINATION

10 BY MR. FIGLER:

11 Q. Is there anybody else? Okay, thanks.  
12 Now I'm gonna ask the exact same question, except  
13 I'm gonna swap out a word.

14 Have any of you ever had a memorably  
15 negative experience with a young person or a group  
16 of young people under the age of 18?

17 Okay. There's one right there first  
18 and then we'll come back down here.

19 Mr. Latham, No. 85.

20 A. No. 85. Did this have to happen as I was  
21 an adult or just --

22 Q. Doesn't matter.

23 A. I was beat up by a gang when I was  
24 younger.

25 Q. Okay.

1           A.     But it was in high school.

2           Q.     Could you give me a little bit more  
3 details of that experience?

4           A.     Yeah. My friends and I were walking away  
5 from a park and the -- okay. So they started  
6 following us. And they had a problem with one of my  
7 friends and I don't know why. But they took his hat  
8 and I turned around and I was like come on, man,  
9 give his hat back. And they wouldn't give me the  
10 hat.

11                     And the next thing, we kept on  
12 walking and turned around and one clocked me right  
13 here and then another one hit me and I fell down.  
14 You know, they just kind of kicked me and stuff like  
15 that, but then my friends kind of got involved and.

16           Q.     Now, you're gonna hear that most of the  
17 individuals who are witnesses, my client was 16 at  
18 the time, everybody else was about 15, 17, 18.

19                     Is there anything about the  
20 experience that you had -- I think the State even  
21 indicated that there's gonna be some testimony  
22 regarding a fight of some sort that occurred in a  
23 park near a school.

24                     Is there anything about those  
25 experience -- of those facts or your experience that

1 you had that would make this difficult for you to be  
2 free of bias and prejudice in this particular case?

3 A. Like prejudice against -- I just don't  
4 like gangs.

5 Q. Let me put it this way: Is there  
6 anything that if you're going to see those witnesses  
7 come in and hear those witnesses talk, is there a  
8 possibility that your prior experience could sort of  
9 creep in and impact your ability to view each  
10 witness sort of in a neutral stance?

11 A. Yeah, that'd be a little possibility  
12 because I don't like gangs.

13 Q. Okay. So you would think that you might  
14 have an automatic prejudice against -- and I'm not  
15 saying that there's been -- there's been no evidence  
16 or proof given to you that my client is in a gang,  
17 but there might be some evidence of gangs being  
18 around.

19 Just hearing that type of fact  
20 pattern, would you automatically tend to think that  
21 a person should not be credible or that a person  
22 could be guilty or something like that? You know  
23 where I'm going with this?

24 A. I know where you're going. I wouldn't  
25 say that somebody would not be credible, but I just

1 have a negative feeling when it comes to that kind  
2 of --

3 Q. Okay.

4 A. -- criminal behavior.

5 Q. I guess in a way is do your negative  
6 feelings as you've described them, do you believe  
7 that they would impact your ability to be a fair and  
8 impartial juror in a case that involves the same or  
9 similar type of circumstances?

10 A. Possibly.

11 Q. Okay.

12 MR. FIGLER: Your Honor, we would move  
13 for cause for Mr. Latham. We're worried that his  
14 prior experience would impact his ability to.

15 THE COURT: We'll take things at the  
16 bench.

17 MR. FIGLER: Okay. Thank you, Your  
18 Honor.

19 Would you like me to continue with  
20 my voir dire?

21 THE COURT: I would.

22 MR. FIGLER: Okay.

23 THE COURT: Keep going.

24 MR. FIGLER: Thank you.

25 EXAMINATION

1 BY MR. FIGLER;

2 Q. So that was Mr. Latham. There was  
3 someone else here with dealing with young people.  
4 Is there anybody who's had a memorably negative  
5 experience with a young person or a group of young  
6 under the age of 18?

7 A. Yeah. My name is Lucas Larson. I'm No.  
8 94.

9 Q. Okay. Mr. Larson?

10 A. Yeah. They were my neighbors. This was  
11 less than a year ago and it actually, it was such  
12 horrible disturbance. And they were -- they  
13 weren't -- they were like gang bangers in training.  
14 They were like all little kids, but they'd sag their  
15 pants and roll dice on the sidewalk in front of my  
16 apartment and just in general would, you know, just  
17 be harassing to basically anyone who wasn't  
18 obviously part of their part of the community.

19 Q. Okay. Is there anything about that  
20 experience that caused you to have a bias or  
21 prejudice in this case where pretty much everybody  
22 is a person under 18?

23 A. I don't think so. I mean, this was -- it  
24 was, it was negative to the point where I had to  
25 move. I mean, like I, I still carry those, you

1 know, that, that like disgust for that behavior of  
2 just simply opposing anyone who's, you know, not a  
3 part of your gang.

4                   So it's hard for me to think that  
5 that doesn't really have any effect, but I really do  
6 feel I'm an objective and rationale person and I can  
7 evaluate cases, you know, separately without  
8 bringing that influence.

9           Q.       Okay. So you believe you can put that  
10 aside?

11          A.       I believe so.

12          Q.       Okay, thank you.

13                               EXAMINATION

14 BY MR. FIGLER:

15          Q.       Anyone else? Up here in the front row.

16          A.       Yes. Shilora Hudlow, No. 100.

17          Q.       Thank you.

18          A.       In my 20 years, 30 years experience in  
19 law enforcement, I've dealt with several different  
20 times when I was a sworn officer, but I wouldn't say  
21 any of them were memorable that, that they would be  
22 negative or anything like that. It's just because  
23 of my profession I did deal with groups of children  
24 and that.

25          Q.       Okay. Well, let me ask you then: Do you

1 have such strong opinions about young people perhaps  
2 in general that you would tend to automatically  
3 discount their testimony?

4 A. No.

5 Q. Okay. The word gang gets thrown around a  
6 lot. And I think it's been explained to you that  
7 for our purposes or legal purposes the judge is  
8 going to instruct you and you're gonna have to  
9 follow that judge's instruction.

10 So with the exception of the people  
11 who already mentioned something, has anyone had an  
12 interaction with what they believe to be a gang in  
13 Las Vegas or what later turned out to be a gang in  
14 Las Vegas or anywhere really? We don't need to  
15 limit to Las Vegas.

16 THE COURT: Negative response.

17 MR. FIGLER: Negative response. Thank  
18 you.

19 EXAMINATION

20 BY MR. FIGLER:

21 Q. Ms. -- just want to make sure I have the  
22 right person. Juror No. 100, Miss --

23 A. Me.

24 Q. Ms. Hudlow?

25 A. Uh-huh.

1           Q.     Okay. Thank you, Ms. Hudlow. Because  
2 you're law enforcement, I want to ask you a  
3 follow-up question. Actually just a couple.

4                     There might be witnesses who come in  
5 from law enforcement. You understand that, correct?

6           A.     Right.

7           Q.     Okay. And you understand like everyone  
8 else that they're just human, that they make errors  
9 or some are more thorough than others?

10                    You understand all that, correct?

11          A.     Absolutely.

12          Q.     However, if a police officer comes in and  
13 makes an assessment, would you automatically  
14 accept -- I'm sorry. Would automatically accept  
15 that assessment as being accurate or true based on  
16 their law enforcement experience?

17          A.     Not entirely, no. You have to take  
18 everything else under consideration; other witnesses  
19 and evidence.

20          Q.     Okay. So if a person came in and said  
21 you know, X, is a gang for sure, you would wait to  
22 find out what the facts are and what the instruction  
23 is, you wouldn't automatically just accept that  
24 police officer's testimony simply because that  
25 police officer is a police officer, would you?



1           A.     That's correct.

2           Q.     Now, the judge had also asked you about  
3 police officer credibility, and if you would treat  
4 them like any other witness.

5                     Understanding that, you know, a lot  
6 of people do trust police officers. We've all been  
7 trained to do that. But when they come into the  
8 courtroom, we want to make sure that no one's gonna  
9 give them just a little extra credibility knowing  
10 what it's like out there on the streets, et cetera.  
11 We want to make sure that it's not any extra  
12 credibility.

13                    When a witness comes in identifying  
14 themselves as law enforcement, do they start a  
15 little higher than a lay witness with you?

16          A.     No, not -- you know, they have to give  
17 their testimony and it bears what everybody else has  
18 said also.

19          Q.     So a police officer might be mistaken  
20 about something?

21          A.     Absolutely. I mean, we're human beings  
22 so.

23          Q.     Especially if they didn't witness it with  
24 their own eyes. Is that a possibility?

25          A.     Yes.

1 Q. Okay. Now, in your -- you're in a small  
2 town in the suburbs of Chicago.

3 Was it Elk Grove Village?

4 A. Actually it was Bloomingdale.

5 Q. Okay. That's the only one that I know  
6 outside of Chicago so I just wondered.

7 A. We were close by --

8 Q. Right there.

9 A. -- Park.

10 Q. I could have said Schaumburg, too, you  
11 know. Did you in your police department have crime  
12 scene analysts or basically the people who are out  
13 there taking pictures and handling evidence and  
14 maybe testing evidence, stuff like that? Was  
15 that --

16 A. Not until the last five years I was  
17 there.

18 Q. Okay. So those people were out there as  
19 well?

20 A. Right.

21 Q. Okay. And do you assign the same, based  
22 on your law enforcement, the same sort of scrutiny  
23 to those individuals as well to make sure they did  
24 everything right, make sure they didn't miss  
25 anything?

1                   And if they did, you'd hold them  
2 accountable for that, wouldn't you?

3           A.     Correct.

4           Q.     And you understand, too, that it's really  
5 important to scrutinize them because they can't be  
6 given any slack because so much depends on what they  
7 do; isn't that correct?

8           A.     Absolutely.

9           Q.     Okay. So if they fail to do something or  
10 do something wrong, that could put everything in  
11 jeopardy, so you're willing to be the person to be  
12 the check on them, correct?

13          A.     Absolutely.

14          Q.     Okay. And there's nothing about your law  
15 enforcement that would stop you from doing that or  
16 feel akin or bias towards that, correct?

17          A.     Correct.

18          Q.     Okay. Thank you, ma'am. I appreciate  
19 that.

20                   This is a question for everybody  
21 again. Have any of you ever had a significant  
22 interaction with a person who has had a brain trauma  
23 or a significant or a severe brain trauma?

24                   Oh, way, way, way in the back. Do  
25 you want me to --

1 THE COURT: No.

2 MR. FIGLER: Okay.

3 THE COURT: Just the 32.

4 MR. FIGLER: We're gonna start with the

5 first 32.

6 THE COURT: We can always go back if they

7 come up.

8 MR. FIGLER: Right.

9 THE COURT: Can you just state your name?

10 PROSPECTIVE JUROR GALINDO: Wanda

11 Galindo, 345 (sic).

12 THE COURT: Where is that person?

13 PROSPECTIVE JUROR GALINDO: 345 (sic).

14 THE COURT: Okay.

15 MR. FIGLER: 347.

16 THE COURT: Just mark it down, attorneys.

17 MR. FIGLER: Got it.

18 THE COURT: And if she comes up, we'll

19 worry about it.

20 MR. FIGLER: And that goes with anyone.

21 If somebody leaves the box and someone else comes in

22 the box --

23 THE COURT: You know what we're gonna do

24 is just be listening to these questions. Because as

25 you can see, ladies and gentlemen, I can take a

1 break and like five of you are back up here.

2                   So you need to listen to all these  
3 questions because, you know, even though they're not  
4 asking it, you could come up here in the box and you  
5 should remember and tell the attorneys hey, you  
6 asked that question about I knew somebody with a  
7 traumatic brain injury, okay. Thanks. Go ahead.  
8 So it should just be the 32 we're gonna get  
9 questions and answers.

10                   MR. FIGLER: Thank you, Your Honor.

11                   EXAMINATION

12 BY MR. FIGLER:

13           Q.     We'll go there. If you can just identify  
14 your name and your number.

15           A.     Amy Hopkins, 122.

16           Q.     Thank you, Ms. Hopkins.

17           A.     I got ran over by a car when I was a  
18 little girl, major brain damage. Four brain  
19 operations.

20           Q.     You did yourself personally?

21           A.     Yeah. Ran over by a car.

22           Q.     Okay. Thank you, ma'am.

23                   EXAMINATION

24 BY MR. FIGLER:

25           Q.     Next, next to you.

1 A. Yvette Belisle, 89.

2 Q. Thank you.

3 A. My father has had a brain aneurism and  
4 two strokes and he had to have brain surgery twice.  
5 So he's received much head trauma medically.

6 Q. Okay. Thank you, ma'am.

7 EXAMINATION

8 BY MR. FIGLER:

9 Q. Anyone else? In the back row. Let me  
10 grab that for you, sir.

11 A. No, it's okay. Oscar Ramirez, 71. My  
12 dad also suffered an aneurism.

13 Q. Aneurism?

14 A. Yeah.

15 Q. Have you had to deal with caring for him  
16 or any special care?

17 A. No. Well, unfortunately he's in Mexico  
18 so I send him like money twice a month.

19 EXAMINATION

20 BY MR. FIGLER:

21 Q. Was there anyone else? Anyone else over  
22 here? Okay. We had a couple of medical  
23 practitioners or people involved with medicine.

24 Was there anyone there who's dealt  
25 with people with significant brain injury?

1                   Okay. Ma'am, here you go.

2           A.       No. 81, Jacque Wiese.

3           Q.       Yes, ma'am. And what was that  
4 experience?

5           A.       Not personal in my family or friends,  
6 but, you know, patients in the hospital, yes.

7           MR. FIGLER: Okay. By a show of hands,  
8 and this is just what I'd ask you to do is just to  
9 shout out your number and then I'm gonna write down  
10 your numbers. There's not gonna be a followup, but  
11 I just wonder who of you possess or own firearms.  
12 Just by show of hands.

13           UNIDENTIFIED PROSPECTIVE JUROR:  
14 Presently?

15           MR. FIGLER: Currently. Okay. So just  
16 can you -- I'm just gonna go down the line. If you  
17 can just shout out the number.

18           PROSPECTIVE JUROR RAMIREZ: 71.

19           MR. FIGLER: Thank you, sir.

20           PROSPECTIVE JUROR JOHNSON: 69.

21           MR. FIGLER: Thank you, ma'am.

22           PROSPECTIVE JUROR SPRENZ: 60.

23           MR. FIGLER: No. 60. Second row?  
24 Anyone, firearm owner?

25           PROSPECTIVE JUROR WIESE: I don't own

1 one, but there is one in the house.

2 MR. FIGLER: In your home? That's fine,  
3 ma'am. If you could --

4 PROSPECTIVE JUROR WIESE: 81.

5 PROSPECTIVE JUROR OLSON: Oh, me, too.

6 MR. FIGLER: Okay.

7 PROSPECTIVE JUROR OLSON: 121. In my  
8 home.

9 MR. FIGLER: Okay. If it's just in your  
10 home, if you can just indicate that, that's great.  
11 81 and 121.

12 Third row, right here.

13 PROSPECTIVE JUROR MORGAN: 88.

14 MR. FIGLER: 88. Thank you, sir. And  
15 right here, ma'am.

16 PROSPECTIVE JUROR BEBER: 96.

17 MR. FIGLER: Thank you, ma'am. On the  
18 end.

19 PROSPECTIVE JUROR CATELLO: 151.

20 MR. FIGLER: Thank you, sir. In the  
21 front room there.

22 PROSPECTIVE JUROR ABODEELY: 143.

23 MR. FIGLER: Anyone else? Okay.

24 MR. GOODMAN: I think she just wants you  
25 to wait though, Dave.



1 THE COURT: The people in the --

2 MR. FIGLER: Yeah, that's why I stopped  
3 at 32.

4 Okay. General question to everyone.  
5 Is there anyone here who engages in any degree of  
6 activism or belongs to any organization involving or  
7 advocating rights under the U.S. Constitution or  
8 criticism of the government or the courts or jury  
9 duty? How about that one?

10 So it's okay to be -- I mean, it's  
11 okay to be anything. But for this particular  
12 question, the activism or the organization has to  
13 involve those specific areas I outlined.

14 So rights under the U.S.  
15 Constitution, criticism of the government or the  
16 courts or juries.

17 Okay. Negative response.

18 PROSPECTIVE JUROR LARSON: Well, I'm  
19 sorry. Like what do you mean by like activism? I  
20 mean, like do you need to like be formally a part of  
21 some, you know, group of people acting towards  
22 something?

23 MR. FIGLER: Yeah, I think that's what I  
24 mean by activism. In other words, everyone has  
25 their own opinions. And we're not getting into

1 that, but if you get to the next step where you join  
2 an organization or go to public protests or  
3 something along the lines, that's the kind of  
4 question that we're asking.

5 PROSPECTIVE JUROR LARSON: I've been to  
6 protests.

7 MR. FIGLER: Okay.

8 PROSPECTIVE JUROR LARSON: But I mean,  
9 this is sort of like in college and stuff. It  
10 wasn't -- I mean, we protest all kinds of things,  
11 but those were among them. I mean, fight for the  
12 constitutional rights and things like this.

13 MR. FIGLER: Do you remember which rights  
14 in particular?

15 PROSPECTIVE JUROR LARSON: I fought for  
16 gay rights, I fought for first amendment, freedom of  
17 expression rights, and against unlawful search and  
18 seizure.

19 MR. FIGLER: Perfect. Thank you. Anyone  
20 else? Oh, and I'm sorry. Your juror number?

21 PROSPECTIVE JUROR LARSON: 94.

22 MR. FIGLER: Thank you, sir. Anyone  
23 else?

24 PROSPECTIVE JUROR EICHENBRENNER: I just  
25 had a question. Juror No. 92.

1 MR. FIGLER: Yes, sir.

2 PROSPECTIVE JUROR EICHENBRENNER: When  
3 you say activist, would you possibly be including  
4 groups such as Green Peace, tea party type people?

5 MR. FIGLER: If you feel that the group  
6 that you participated with or belonged to engaged in  
7 any of the things that I mentioned, then yes.

8 PROSPECTIVE JUROR EICHENBRENNER: No, I'm  
9 not a member of any of those. I was just curious.

10 MR. FIGLER: Okay. Anyone else?

11 All right. This is a fun one. Do  
12 any of you have any bumper stickers on your car that  
13 involve rights under the U.S. Constitution or  
14 criticism of the government or the courts or juries?  
15 It's a bumper sticker question.

16 Does anyone have a particularly  
17 funny bumper sticker they want to share?

18 THE COURT: That's a negative response.

19 MR. FIGLER: Oh, wait, there's --

20 PROSPECTIVE JUROR HOPKINS: I'm a tea  
21 party patriot.

22 MR. FIGLER: You have that bumper  
23 sticker?

24 PROSPECTIVE JUROR HOPKINS: Yeah.

25 MR. FIGLER: All right. Thank you,

1 ma'am. And you're Juror No. --

2 PROSPECTIVE JUROR HOPKINS: Amy Hopkins,  
3 122.

4 MR. FIGLER: 122. Thank you, ma'am.  
5 Anyone else?

6 Your Honor, can we approach for one  
7 sec because I'm gonna switch over to Mr. Goodman  
8 now.

9 THE COURT: You can --

10 MR. FIGLER: I just want to ask you one  
11 question if I can do my -- the followup on something  
12 that we had discussed before.

13 THE COURT: Why don't you have him finish  
14 and then you can follow up.

15 MR. FIGLER: Okay, that's fine.

16 MR. GOODMAN: Thank Your Honor.

17 EXAMINATION

18 BY MR. GOODMAN:

19 Q. I'm Ross Goodman. I'm not gonna have as  
20 many fun questions as my co-counsel just did. I'm  
21 gonna be brief.

22 But at the very beginning, the judge  
23 asked everybody a host of questions. And that's  
24 really why we're here. And so it's important for my  
25 client -- it's important for this process that we

1 talk about some of those concepts. To make sure  
2 when everybody said yes, that they understood what  
3 they were acknowledging.

4 And one of the questions is can  
5 everybody wait to form an opinion as to whether or  
6 not my client is guilty or innocent, and does  
7 everybody understand why that's important?

8 EXAMINATION

9 BY MR. GOODMAN:

10 Q. Mr. Armstrong, I want to pick on you for  
11 a second. And you're badge number 062?

12 A. Yes, sir.

13 Q. Okay. You just talked about a process,  
14 that's why we're here. Otherwise we don't need  
15 juries, we don't need judges and we can all go home.  
16 This is a process. This is a first step in a  
17 process.

18 And the second part of the process  
19 is once we select the jury, the people who are gonna  
20 hear the witnesses and, and the evidence during a  
21 trial, is the last process is you all, the jury goes  
22 back into a room and makes a decision.

23 And we talked about you have to wait  
24 to form an opinion. And you heard about that you  
25 understand that my client has a Fifth Amendment

1 right not to testify. And let's talk about those  
2 two together.

3 I want to talk to you about that,  
4 Mr. Armstrong, and then maybe talk to a few more  
5 people about it.

6 The reason why, and I want you to  
7 know, or ask you if you agree with me, the reason  
8 why you have to wait to form an opinion is because  
9 guess who gets to go first in presenting the  
10 evidence out of the prosecutor's and the defense?  
11 Who?

12 A. The defense?

13 Q. No. These two ladies. The State gets to  
14 present their evidence first. So Mr. Figler and  
15 myself have to sit here for the first week, the  
16 first couple days, prosecutors get to call all their  
17 witnesses and they get to testify to whatever they  
18 saw. And we can't really do anything about that.  
19 We can't put on our case.

20 So if you sit there in a jury box  
21 and you, and you say well, wait a minute, this isn't  
22 looking very good to the defense because all these  
23 witnesses are kind of saying that my client did  
24 something.

25 So you understand why you have to

1 wait to form an opinion. You're not legally allowed  
2 to form an opinion during the process, the first  
3 part of the process or during this stage of when the  
4 State is putting on their case.

5 Do you understand that?

6 A. Yes, sir.

7 Q. And does it make sense?

8 A. Oh, yeah.

9 Q. Okay. So let me ask you the follow-up  
10 question. The judge asked everybody if you  
11 understand that my client has a Fifth Amendment  
12 right, which means that he doesn't have to testify.  
13 And legally we can't hold that against somebody who  
14 chooses not to testify. Chooses not to testify.

15 One reason the constitution requires  
16 that is because the State has a burden of proof,  
17 correct?

18 A. Yes, sir.

19 Q. So you've heard about beyond a reasonable  
20 doubt?

21 A. (Positive nod of the head.)

22 Q. And you know the State goes first,  
23 correct?

24 A. Yeah.

25 Q. Because we just talked about that. So

1 the State has to prove that my client did something  
2 beyond a reasonable doubt, correct?

3 A. Correct.

4 Q. Okay. And if my client chooses, once the  
5 State has done their case, you've heard from all  
6 their witnesses, my client feels that he doesn't  
7 have to testify because he doesn't believe the State  
8 has met their burden, you can't hold that against  
9 him, correct?

10 A. No.

11 Q. Are you just saying that or do you  
12 believe that?

13 A. No, I just, I just -- if he doesn't want  
14 to do it, he doesn't have to do it.

15 Q. Okay.

16 EXAMINATION

17 BY MR. GOODMAN:

18 Q. Once the State gets done -- and you can  
19 pass the mic to Patricia Johnson. That's a real  
20 smile, right? Okay. That's Badge No. 69?

21 A. Yes, uh-huh.

22 Q. Okay. Are you entitled to form an  
23 opinion once we get done presenting our case?

24 A. I hope you're gonna say no because I  
25 watched a lot of trials on TV.



1           Q.     Well, you heard the judge say that  
2 everybody has to wait to form an opinion?

3           A.     Right.

4           Q.     So it's fair for everybody and fair for  
5 my client. You can't even form an opinion when we  
6 do our case. You have to wait until all the  
7 evidence is admitted before the jury can start to,  
8 to go back in the room and talk amongst yourselves,  
9 correct?

10          A.     Correct.

11          Q.     Okay. So it's just not an empty phrase,  
12 you have to wait to form an opinion. That's the  
13 whole reason why we're here. Everybody has to be  
14 fair to the process. It has to be fair to my  
15 client. Otherwise again, we don't have to be here  
16 and there's really not a need for a jury. So I just  
17 want to make sure that everybody understands the  
18 process.

19                   Now, when a jury is selected,  
20 everybody's gonna go back into a room, once the  
21 evidence is submitted, and talk about what you  
22 thought about the evidence. And there's gonna be 12  
23 jurors back there, okay, and you're gonna be  
24 instructed that in order to come back with a verdict  
25 you're gonna have to have a unanimous decision.

1 Meaning that all 12 of you are gonna have to agree.

2 Now, after a week and a half trial,  
3 for example, and everybody's waiting to go home and  
4 you're back in the room and there's people disputing  
5 or disagreeing about different pieces of evidence of  
6 what it means, can everybody honestly sit here and  
7 tell me that they're not gonna compromise with what  
8 the other jurors want just because they want to go  
9 home, but you're gonna really gonna sit there and  
10 evaluate the evidence. Miss Johnson?

11 A. I'm not a compromiser. I'm very  
12 analytical.

13 Q. Because in order to convict somebody or  
14 to return a verdict of not guilty, everybody has to  
15 agree and everybody has to weigh the evidence. And  
16 sometimes jurors want to leave or there are some  
17 jurors in the jury room that are gonna be leaders  
18 and some people are gonna try to out argue the other  
19 person and some people might think it's easier just  
20 to go along with those people rather than stay their  
21 ground.

22 And that's an important protection  
23 that not only my client has, but this process has.  
24 And I want to make sure that everybody understands  
25 that.

1                   That's an affirmative answer.

2                   So as my client sits here today,  
3 does everybody agree that he's preserved -- he's  
4 presumed to be innocent?

5                   That's an affirmative answer.

6                   Once the State gets done with their  
7 case, does everybody agree that my client is  
8 presumed to be innocent?

9                   Okay. That's all I have. Thank  
10 you.

11                  THE COURT: Thank you. Before Mr. Figler  
12 proceeds, can I see everybody at the bench? Thanks.

13                  (Whereupon, the following proceedings  
14 were had in open court outside the  
15 presence of the prospective jury panel.)

16                  THE COURT: Mr. Figler, is that the only  
17 challenge for cause, just that, or do you have  
18 something else, too, you want to bring up?

19                  MR. FIGLER: That's all I have so far.

20                  THE COURT: We'll just redo somebody  
21 right now because he said he -- I'd just as soon --  
22 do you want to traverse on the news guy? News guys?

23                  MS. PANDUKHT: Do I want to do something  
24 with Latham?

25                  THE COURT: He did a, he did a motion for

1     cause.

2                 MR. FIGLER:   He was beat up by a gang  
3     when he was a young guy.

4                 THE COURT:   He's the press liberal.  
5     You're gonna traverse him?

6                 MS. PANDUKHT:  No.   But I, the only thing  
7     I was thinking is I'm not gonna use all of my  
8     preempts.

9                 THE COURT:   Oh, I don't care about that.

10                MS. PANDUKHT:  It would just be quicker  
11    if we just preempted him.

12                THE COURT:   Oh, I see what you're saying.

13                MS. PANDUKHT:  We're gonna waive a bunch.  
14    We'll kick him if you want.

15                MS. DEMONTE:  We'll use one if you want.

16                THE COURT:   Will you accept that if they  
17    do that?

18                MR. FIGLER:   Yeah.

19                THE COURT:   The record will be that I  
20    would have granted a motion for cause through the  
21    defense right now to just cut to the chase instead  
22    of traversing when somebody said that they are not  
23    sure -- possibly they could be biased if they start  
24    hearing gang evidence.

25                         So I would have granted that motion,

1 but the State is promising to use one of their  
2 preempts on them.

3 MS. PANDUKHT: Yeah.

4 THE COURT: So if anything changes,  
5 they'll stand up, they just want to be able right  
6 now then once he's gone and preempted, do you  
7 have -- is this the panel, pass for cause?

8 MR. FIGLER: Right. Well, I just have a  
9 couple, the last follow-up questions, and then that  
10 was it, but that's fine.

11 MS. PANDUKHT: Do you think we'll finish  
12 today, judge?

13 THE COURT: Yes. I want to let these  
14 people go.

15 MR. FIGLER: And any cause challenges.

16 THE COURT: So for sure you just have  
17 some followup?

18 MR. FIGLER: And I wanted to see if I can  
19 ask that penalty question to the one juror who said  
20 I can never vote for --

21 THE COURT: No. Because he's gone. He's  
22 gone.

23 MR. FIGLER: I can't ask them the  
24 opposite question I wanted to ask them?

25 THE COURT: No. I just asked them can

1 you consider all three. That's all they have to do  
2 to be qualified.

3 MR. FIGLER: Okay.

4 MS. PANDUKHT: Is your followup regarding  
5 the guy that poles people with their skin?

6 MR. FIGLER: No.

7 MS. PANDUKHT: Okay. Just checking.

8 THE COURT: I'll let you ask some more  
9 questions.

10 MS. PANDUKHT: I wouldn't bother with  
11 him. Okay.

12 THE COURT: Okay. Okay. You know what,  
13 can you come back up here? One more thing. I got  
14 this from my marshal and I'm not inclined to let her  
15 go. So it's basically so I've made a record.

16 MR. FIGLER: Okay.

17 THE COURT: Patricia Johnson is claiming  
18 a hardship. She just started a new job, but she did  
19 not say anything before. I just want you guys to  
20 know in case anybody wanted to use a preempt on her,  
21 but she didn't mention anything and I'm not inclined  
22 to do it at this point.

23 MR. FIGLER: Okay.

24 MS. PANDUKHT: Okay.

25 MR. FIGLER: Thank you.

1                   (Whereupon, the bench conference ended.)

2                   THE COURT: All right. Proceed, Mr.  
3 Figler.

4                                   EXAMINATION

5 BY MR. FIGLER:

6           Q. All right. The concern is this, just  
7 slightly, is that we really don't -- this is our  
8 only chance to talk with you. This is the only  
9 chance that we get to go back and forth when I say  
10 talking with you.

11                               We get to talk at you quite a bit.  
12 There's gonna be opening statements and there will  
13 be evidence, they'll be cross-examination, they'll  
14 be closing statements, but this is the only time  
15 that I get to know who you are.

16                               So a lot of you haven't really  
17 spoken that much, haven't really given a lot of  
18 information to us and so we're doing the best that  
19 we can here.

20                               If again there's anything that has  
21 come up during you hearing other people talk about  
22 their experiences or their answers to questions or  
23 anything that doesn't seem to be right or make sense  
24 to you or that you have questions about, this is the  
25 time to do it.

1                   So is there anyone who falls into  
2 that category? And then I'll ask a few more  
3 questions for a few more people. The back row.

4           A.       It's Oscar. 071. Well, I'm hearing a  
5 lot of stories. I've had certain similarities, for  
6 example, of getting jumped by a gang which was  
7 almost identical.

8                   When I was in a neighborhood in the  
9 year 2000, my best friend Cesar Berber, Clark High  
10 School got shot. So but I didn't bring him up  
11 because I didn't think any of that would affect me  
12 in my decision.

13          Q.       Okay. That's a key, okay. And  
14 explaining that or giving us this information is  
15 amazing and I really do appreciate that from  
16 everybody. So thank you for sharing that.

17                   The key is number two, can you put  
18 those feelings aside? Do you think that you would  
19 be able --

20          A.       Yes.

21          Q.       -- to evaluate the evidence and the  
22 information that comes to you in this case? Because  
23 as my colleague and co-counsel stated, it can't be  
24 about conjecture or your gut feelings or something  
25 like that.



1                   The prosecutor has to prove things  
2 beyond a reasonable doubt. We just want to make  
3 sure that based upon your experiences that you'll be  
4 able to hold them to that standard. And if they  
5 don't make that, you'll have no problem whatsoever  
6 in returning a not guilty because that's what the  
7 court's gonna direct you to do.

8                   So based on your prior experience,  
9 would you have any problem saying not guilty if you  
10 felt that the prosecution --

11                  THE COURT: Wait. Woe, woe, woe.

12                  MR. FIGLER: If you felt the  
13 prosecution --

14                  THE COURT: No, no, no. It's improper.  
15 Given hypothetical is improper under EDCR. So  
16 don't, don't continue that question.

17                  MR. FIGLER: Okay.

18                  THE COURT: That line of questioning on a  
19 hypothetical verdict, okay?

20                  MR. FIGLER: All right. I'll rephrase it  
21 then.

22                                   EXAMINATION

23 BY MR. FIGLER:

24                  Q.     Is there any problem for you holding the  
25 prosecution to their burden based on your experience

1 that you just related?

2 A. No.

3 Q. I'm sorry?

4 A. No.

5 Q. Okay. Thank you very much.

6 EXAMINATION

7 BY MR. FIGLER:

8 Q. Up in the front row.

9 A. Juror No. 92.

10 Q. Yes, sir.

11 A. I don't mean to be disrespectful or  
12 transcend the scope of my potential service, but  
13 when the, the defendant, if I understood correctly,  
14 he was age 16 when he potentially committed this  
15 crime?

16 Q. At the time that a person was killed, in  
17 that -- if you take that date and time, my client  
18 was 16 years old.

19 A. Okay. Again, not to be presumptuous, but  
20 I'm just wondering why he's being tried in an adult  
21 court when he was potentially maybe under age? But  
22 because he's considered maybe beyond the age of  
23 reason, is that the correct analogy, with why he's  
24 here?

25 THE COURT: Here's the deal: We're gonna

1 just leave that as a big mystery right now, okay.  
2 Things happen at trial. And if you're selected as a  
3 juror, you're gonna hear evidence in the case and  
4 there you go.

5 MR. FIGLER: Okay. And my colleague just  
6 corrected me. He was actually 15.

7 MS. PANDUKHT: 16.

8 THE COURT: Yeah. You can't do  
9 anything --

10 MR. FIGLER: He was 15 at the time.

11 THE COURT: I got it.

12 MR. FIGLER: It's right there.

13 THE COURT: I got it.

14 MR. FIGLER: Thank you.

15 EXAMINATION

16 BY MR. FIGLER:

17 Q. Can you pass it down? Ms. Belisle?

18 A. Yes. 89.

19 Q. Thank you.

20 A. I just have to be honest and saying I'm  
21 having this problem with the opinion part.

22 THE COURT: With the what?

23 PROSPECTIVE JUROR BELISLE: With about  
24 forming an opinion before all the evidence. I mean,  
25 I'm having a hard time with that and I feel like I

1 should say it. And I know before I said that I  
2 didn't feel like that I could do it, but now like  
3 I'm really just having a hard time with it.

4 BY MR. FIGLER:

5 Q. Okay. Can --

6 A. And I'm a very opinionated person. And I  
7 hate to sound so judgmental, but I just have to let  
8 you know that. I would feel bad if I didn't let you  
9 know that.

10 Q. Okay. So is the fear that you are going  
11 to -- that you are already starting to form that  
12 opinion right now as you're sitting even though  
13 you're trying real hard to do what the court's  
14 telling you to do, but --

15 A. Yes.

16 Q. -- you know you better than we know you  
17 and you're saying you're already starting to form  
18 that opinion right now?

19 A. Unfortunately, yeah. And I hate to say  
20 that.

21 Q. Okay. Is there anything that you could  
22 do that you have within you to be able to put that  
23 aside or is it just that you're gonna be struggling  
24 with and you're really concerned that we're not  
25 gonna be able to have a fair trial?

1           A.     I am, I am concerned because I know me  
2 and I again hate to sound so judgmental, but, you  
3 know, in my profession, I keep it down the line and  
4 that's my job. But in, you know, personal life  
5 and --

6           Q.     And you're saying your profession in news  
7 media?

8           A.     Yes.

9           Q.     Okay.

10          A.     And it is my job not to, you know, to be  
11 biased, but in my professional and under oath and  
12 everything and when I'm forced to be honest, it is  
13 difficult.

14          Q.     Okay. I appreciate your candor, Ms.  
15 Belisle. That's very appreciative.

16          A.     No problem.

17                               EXAMINATION

18 BY MR. FIGLER:

19          Q.     Is there anyone else who feels like Ms.  
20 Belisle? Or who's mirroring that, who's struggling  
21 right now in -- even right now in forming an opinion  
22 or feels that just as soon as they start to hear any  
23 evidence that it's over for our client?

24                       Is there anyone else who feels that  
25 way right now as we sit here in the first 32?

1 THE COURT: Negative response.

2 MR. FIGLER: Okay, thank you. Okay.

3 Generally speaking, anyone else on that general  
4 question that I'd last thrown out there? All right.  
5 Just a couple more --

6 THE COURT: Wait, wait. I'm sorry.  
7 There's one lady.

8 BY MR. FIGLER:

9 Q. In the front. Okay. Thank you, ma'am.  
10 Thank you.

11 A. Juror 111, Andrea Stewart. Not on the  
12 general question. It's based on what the judge said  
13 as far as are you stating that you guys want to get  
14 to know a little bit about us.

15 Q. That's correct.

16 A. I grew up in Los Angeles in Watts,  
17 California. So I'm very experienced with gangs and  
18 been around a lot of violence. And so I just want  
19 you to know that I don't hold that I'm not biased  
20 towards anyone whether or not they've been in a gang  
21 or not.

22 I don't watch any CSI shows so I  
23 don't know anything about any jury proceedings or  
24 anything like that. I've only been in the courtroom  
25 a couple of times, but I just want you to know that

1 I would be able to listen to the prosecution present  
2 their side as well as the defense present their side  
3 and wait until it's all done to form an opinion.

4 Q. Okay.

5 A. And that's it.

6 Q. I appreciate that. And, ma'am, let me  
7 just ask you a couple of follow up and I'll get  
8 right to you, sir.

9 So you understand also that while we  
10 do present a case, we also cross-examine the  
11 prosecution's witnesses? Pretty much every single  
12 one of them gets some cross-examination.

13 You appreciate that, correct?

14 A. Yes.

15 Q. And you have the ability to take that  
16 into consideration, too, correct?

17 A. Yes.

18 Q. Now, as far as the gang thing that you  
19 just indicated, you understand that in addition to  
20 the instructions we just talked about, there's no  
21 one saying that automatically you have to say yes  
22 this was a gang.

23 You understand that, correct?

24 A. Yes.

25 Q. You'll be instructed about that, right?

1 A. Yes.

2 Q. Okay. And no one is gonna ask you to  
3 automatically say well, of course, because he's  
4 standing trial he must be in the gang.

5 You understand that's not correct  
6 either?

7 A. Yes.

8 Q. Okay. And in fact, someone's also gonna  
9 have to show you that this was even gang involved or  
10 related to gangs.

11 You understand that, correct?

12 A. Yes.

13 Q. So your experiences aren't gonna impact  
14 your ability to listen to the instructions and  
15 follow those instructions and not make any of those  
16 decisions or opinions until you've heard everything,  
17 correct?

18 A. That's correct.

19 Q. Okay. Thank you, ma'am.

20 EXAMINATION

21 BY MR. FIGLER:

22 Q. And then, sir, your badge number?

23 A. 143, Scott Abodeely. I just want to  
24 chime a little bit on kind of what she said too, but  
25 as you want to get to know us, being a manager in



1 the grocery business, we deal with a lot of  
2 gatherings of young kids, shoplifters. I mean,  
3 through the years, 28 years I've seen it and it's  
4 not just Hispanics. It's all races.

5 Q. Sure.

6 A. But we deal with a lot of that.

7 Q. Okay. And is there anything about those  
8 experiences, especially in that business, especially  
9 in retail that's going to prevent you from following  
10 the instructions of the court or create any sort of  
11 higher burden for my client or giving the  
12 prosecution a break and not holding them to their  
13 burden?

14 A. I don't think it will affect anything  
15 here in the courtroom. You know, being a manager I  
16 can decipher the two. I can just let you know my  
17 feelings. It is a bit frustrating what we kind of  
18 go through day by day.

19 Q. I can appreciate that, sir. I just want  
20 to make sure that that frustration doesn't impact  
21 what happens in this courtroom.

22 A. Right.

23 Q. Because this is real deal stuff.

24 A. Exactly.

25 Q. I appreciate that. Not to discount that

1 your stuff is real deal, too.

2 A. Yeah.

3 EXAMINATION

4 BY MR. FIGLER:

5 Q. Anyone else. Up here in the front.

6 A. My name is Jackie Wiese, No. 81. Just  
7 with the negative experiences with gangs, I did  
8 trigger a memory then back from the year 2000. I  
9 was a travel nurse in Albuquerque and I did have a  
10 young a man, a patient there. He was shot several  
11 times in the abdomen. And he purposely, purposely  
12 was not shot dead but was meant to be shot to  
13 suffer.

14 And it's still kind of hard for me  
15 now when I think back, you know, watching him over  
16 three-to-four months even trying to walk or get out  
17 of bed. And doing abdominal wound dressings where  
18 he was wide opened, you know, just -- it was just  
19 really horrible. It was quite awhile ago, but now I  
20 remember it was gang related.

21 Q. Okay. And again, you understand that  
22 that has not been decided in this particular case?

23 A. Yes. But I guess over the years, you  
24 know, too, I get to say that I've seen violent, the  
25 result of violent acts on people as they were taking

1 care of them in the hospital and you try to set your  
2 emotional self aside or you would lose your mind  
3 over the years, especially in ICU it's always, you  
4 know, death and dying a lot of the time and you have  
5 to have a sense of humor.

6 And sometimes people don't  
7 understand nurses that why are they laughing or  
8 whatever, but to maintain their sanity, when you  
9 deal with dying quite frequently every day, you have  
10 to try to set yourself, your personal feelings  
11 aside. Sure you're going to be empathetic, but it's  
12 still very difficult. These are people, there's  
13 family and how it affects them both emotionally, not  
14 just physically.

15 Q. Sure.

16 A. So I just wanted to let you know about  
17 that negative experience that I saw.

18 Q. Okay. First question is: Is there  
19 anything about that as you're sitting here today and  
20 recollecting on those things in gangs, obviously a  
21 little emotional about that, that would impact your  
22 ability to serve on this jury, be fair and impartial  
23 party or have any biases or prejudices against  
24 either side?

25 A. You know, I would hope not. I would like

1 everyone to, you know, have a fair trial for a  
2 chance in life, but, you know, it was to the point  
3 where that young man, they even -- they had to  
4 change his name as an alias, so they wouldn't come  
5 in and find him in which hospital and possibly shoot  
6 him dead.

7 Q. And I think we have enough details about  
8 that situation. I'm just trying to get that --

9 A. All right.

10 Q. No, no, and I don't want to cut you off,  
11 we're running kind of late in the day. I'd like to  
12 try to cope, but at the same token I just want to  
13 try to make sure that taking into account that  
14 ultimate question that I asked you is if this would  
15 be the proper jury for you to sit upon?

16 A. You know, maybe not. Maybe not.

17 Q. Thank you, Ms. Wiese. I appreciate that.  
18 I'm just gonna throw this out to you just because it  
19 just got brought up. And if anyone else has a  
20 reaction to it, that's great. You know, just as a  
21 nature of these type of cases, and Mr. Goodman and I  
22 have done so many of these and so have the  
23 prosecutors here so we all know what's coming, but  
24 you guys don't. There would be a coroner who's  
25 going to testify.

1                   And in all likelihood, while we try  
2 to remain as restrained as possible, the prosecution  
3 controls what evidence is seen. So there might be  
4 some graphic photos, there might be some pictures  
5 that are fairly unfavorable to look at, but for the  
6 fact that you're not --

7                   THE COURT: I'm not gonna have you go  
8 into that right now.

9                   MR. FIGLER: Okay.

10                  THE COURT: That wasn't a question on the  
11 voir dire so --

12                  MR. FIGLER: It was a followup based on  
13 what she said so.

14                  THE COURT: Ask another question.

15                  MR. FIGLER: Okay. All right. I'm done  
16 with Ms. Wiese.

17                                   EXAMINATION

18 BY MR. FIGLER:

19           Q.       Sir, I'm sorry. Your badge number again?

20           A.       88.

21           Q.       88. Sir, in response to the judge's  
22 question about considering all the penalties in the  
23 event it even gets to a first degree, and you  
24 understand that if it's something other than a first  
25 degree or a not guilty that the jury doesn't even