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Case No. 64515

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DISTRICT COURT
CLARK COUNTY, NEVADA

CASE NO. C-11-272657-1

DEPT. V

ROUGH DRAFT TRANSCRIPT

Defendant.

BEFORE THE HONORABLE KATHY HARDCASTLE, SENIOR DISTRICT COURT JUDGE
WEDNESDAY, MAY 1, 2013

RECORDER'S ROUGHT DRAFT TRANSCRIPT
REQUEST: QUASHING OUTSTANDING BENCH WARRANT

APPEARANCES:

For the State:

JOHN FATTIG, ESQ.
Chief Deputy District Attorney

For the Defendant:

ERIKA D. BALLOU, ESQ.
Deputy Public Defender

RECORDED BY: LARA CORCORAN, COURT RECORDER

1
2 Las Vegas, Nevada - Wednesday, May 1, 2013, 9:54 a.m.

3 * * * * *

4 THE COURT: Case number C272657, State of Nevada versus Anthony Castaneda.

5 MS. BALLOU: Erika Ballou, the Clark County Public Defender's Office, on his
6 behalf. He is present, out of custody. This is our motion to quash the bench warrant. He has
7 been present at almost all of his other -- all of his other court appearances, except when his
8 presence was waived.

9 I am -- my -- I believe he just misunderstood the court date. He came for his
10 trial, but not the calendar call.

11 THE COURT: And why was your office not in contact with him to get ready for
12 trial?

13 MS. BALLOU: We had been in contact with him. We didn't know that he didn't
14 know that -- the calendar call date.

15 THE DEFENDANT: Your Honor, I actually was on a plane. I was delayed until
16 about 11:00 in the morning. It was supposed to be in at 6.

17 MR. FATTIG: Your Honor, we're opposing the motion to quash. The defendant was
18 originally arraigned in this case in April of '11, so the case has been lingering and lingering.
19 It's been continued by the defense numerous times over our objection. We were ready to go
20 last time in February. In fact, Judge Elsworth set it for trial, and we prepared and we were
21 ready to go on the day of the trial, and it was continued on the day of the trial with the jury in
22 the hallway over our objection by the defense.

23 MS. BALLOU: And that was because of some discovery issues.

24 THE COURT: Don't interrupt.

25 MR. FATTIG: The Court gave -- the defendant was here. The Court gave the

1 gentleman the calendar call date and the trial date. He's been here on the other dates. He
2 knew to be here on the calendar call date. He wasn't here, you know. Now, that was the
3 22nd. Now we're May 1st, and he's finally here, and they're putting in on to quash the
4 warrant, but, you know, this is all of the defense's cause for continuances repeatedly over the
5 last two years, and we were ready to go, and we would ask that he be remanded so we don't
6 have this problem in the future. We could be prepared to do this trial forthwith, within the
7 next --

8 THE COURT: Two weeks?

9 MR. FATTIG: -- few weeks. Yes.

10 THE COURT: Do we have a trial date in two weeks?

11 THE CLERK: No -- well, if it can go to overflow.

12 THE COURT: Oh, no, well, all right, what's the first avail- -- what's the first week,
13 and the next day?

14 THE CLERK: Need to do it May 15th, but it would have to go to overflow.

15 THE COURT: No. What's the first week, and the next day?

16 THE CLERK: Okay.

17 MS. BALLOU: And, Your Honor --

18 THE COURT: Just a minute.

19 THE CLERK: June 24th at 1:30 for jury trial.

20 MS. BALLOU: I'm sorry, what's the date?

21 THE CLERK: June 24th at 1:30 for jury trial. June 17th at 9 a.m. for calendar call.

22 THE COURT: All right. Mr. Castaneda, if you do not appear, if you're not ready for
23 trial, we're gonna put you in custody and you're going to sit there until this case gets to trial.
24 This has been dragged out too long. There's been too many continuances by the defense, not
25 gonna be another one by the defense. Understand? So you be here on your calendar call

1 date. If you're out of state, you fly in the day before. No excuses will be accepted, none.
2 The only thing that'll get you out of trial is a death certificate that's certified.

3 MS. BALLOU: Thank you, Your Honor.

4 THE CLERK: So the bench warrant is quashed?

5 THE COURT: I'll quash the bench warrant this one last time. This is it.

6 THE CLERK: Is that a firm setting?

7 THE COURT: It's a firm setting. The case is going.

8 THE CLERK: And how long will it take for trial?

9 MR. FATTIG: I believe it was expected to be three to four days.

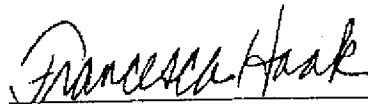
10 THE CLERK: Three to four days, okay.

11 THE COURT: All right. Thank you.

12 [Proceeding concluded at 11:08 a.m.]

13 * * *

14 ATTEST: Pursuant to Rule 3C(d) of the Nevada Rules of Appellate Procedure, I
15 acknowledge that this is a rough draft transcript, expeditiously prepared, not
16 proofread, corrected, or certified to be an accurate transcript.

17 

18 FRANCESCA HAAK
19 Recorder/Transcriber
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DISTRICT COURT
CLARK COUNTY, NEVADA

CASE NO. C-11-272657-1

DEPT. V

ROUGH DRAFT TRANSCRIPT

Defendant.

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE
MONDAY, MAY 20, 2013

RECORDER'S ROUGHT DRAFT TRANSCRIPT
STATE'S NOTICE OF HEARING MOTION AND MOTION TO
MOVE THE TRIAL DATE

For the State:

JOHN FATTIG, ESQ.
Chief Deputy District Attorney

For the Defendant:

ERIKA D. BALLOU, ESQ.
Deputy Public Defender

RECORDED BY: LARA CORCORAN, COURT RECORDER

1
2 Las Vegas, Nevada - Monday, May 20, 2013, 9:29 a.m.

3 * * * * *

4 THE COURT: Case number C272657, State of Nevada versus Anthony Castaneda.

5 MS. BALLOU: He is present. He is out of custody.

6 THE COURT: All right.

7 MS. BALLOU: This was on for the State's motion to move the trial date.

8 THE COURT: Correct. I looked at those other cases, and so I had a question, if you
9 know, Mr. Fattig. On C284324, which is the Lorenzo Ritchie case, are all offers revoked on
10 that one, do you know, 'cause that's been --

11 MR. FATTIG: Your Honor, I --

12 THE COURT: -- continued.

13 MR. FATTIG: -- actually don't know.

14 THE COURT: You don't? I mean, I realize she's got three cases all set for the
15 same --

16 MR. FATTIG: She does.

17 THE COURT: -- and she can't do three, and I think what we're looking at is the
18 balance of -- the other case has some people at liberty, but if there are three defendants and
19 there's one person though in custody, and the dates that are suggested by counsel, July 22nd
20 and July 29th, won't work with the Court's schedule because I'll be attending the Bar
21 conference the week of the 22nd. I don't know how long this case is gonna be, but --

22 MR. FATTIG: I believe --

23 MS. BALLOU: I think three days.

24 MR. FATTIG: -- we thought around four days or so --

25 THE COURT: Yeah, so.

1 MR. FATTIG: -- last time.

2 THE COURT: So I won't be -- you know, I have to travel --

3 MR. FATTIG: July -- the week --

4 THE COURT: -- on Wednesday.

5 MR. FATTIG: The week of July 8th would work as well with her schedule.

6 THE COURT: July 8th.

7 MS. BALLOU: I didn't bring my calendar. I had only looked at the two dates that

8 she suggested. I think I've got something else in this department on July 8th.

9 THE COURT: July 29th is my start -- start of my civil stack.

10 MR. FATTIG: Oh.

11 THE COURT: So that's the reason that date's out. Otherwise I could do it, but.

12 MS. BALLOU: Yeah, I had only looked at the two dates that she suggested in her

13 motion and didn't bring my trial schedule, and, as you know, I'm moving to a different track

14 starting in June.

15 THE COURT: All right. You're keeping this case, right?

16 MS. BALLOU: I keep the ones that go before August, or August or before.

17 THE COURT: Okay. So do you have your calendar on your phone?

18 MS. BALLOU: No, I didn't bring it. I only looked at the dates that she suggested,

19 and both of those were open for me, so I --

20 THE COURT: Okay.

21 THE CLERK: And what dates were those?

22 THE COURT: The 22nd of June and the 29th -- or I mean July, and the 29th of July,

23 but July 29th is the start of our civil stack.

24 THE CLERK: All right.

25 MS. BALLOU: If I can just take a second to talk to the clerk, I just don't remember

1 what I have on July 8th, and if it's something that's out of custody, I can move it. So if we
2 can just -- just can you tell me the names of what trials you've got on July 8th, please.

3 THE CLERK: Yeah.

4 MS. BALLOU: That are PD.

5 THE CLERK: Yeah, that are PD?

6 MS. BALLOU: M-hmm.

7 THE CLERK: Rouleau, R-O-U-L-E-A-U.

8 MS. BALLOU: That's me, and he's out of custody, so if that's the only one I've got
9 it and I can do it.

10 THE CLERK: Lana Slogavlo [phonetic].

11 MS. BALLOU: That got taken away from me.

12 THE CLERK: Joe Sanchez.

13 MS. BALLOU: No.

14 THE CLERK: All of these are PD. Leslie Mann [phonetic].

15 MS. BALLOU: No.

16 THE CLERK: Zee Quin Woo [phonetic]. I think that's it.

17 MS. BALLOU: Okay. So Michael Rouleau is -- I believe that's a first trial setting,
18 and he's out of custody, so I can do the 8th.

19 THE COURT: All right. And is that -- that's fine --

20 MR. FATTIG: Yes.

21 THE COURT: -- also.

22 MR. FATTIG: That appears to work with her schedule, so.

23 THE COURT: All right. We'll move it to the 8th.

24 THE CLERK: Okay. July 1st at 9 a.m. is the calendar call. And is it back to being a
25 firm setting? I'm not sure, but I think this one might be -- we do actually have a firm setting

1 already, so.

2 MS. BALLOU: Oh.

3 THE COURT: Okay. So it may have to go to overflow. I think --

4 MS. BALLOU: Okay.

5 THE COURT: -- we did that before, right, it went to overflow and then it came back?

6 MS. BALLOU: I don't think it ever went to overflow. The day we started trial -- or
7 we were supposed to start trial he wasn't here.

8 THE COURT: Oh, that was it.

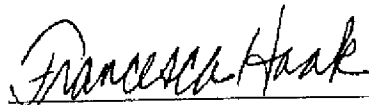
9 MR. FATTIG: You bench warranted at the calendar call.

10 THE COURT: Right, okay, all right.

11 [Proceeding concluded at 9:34 a.m.]

12 * * *

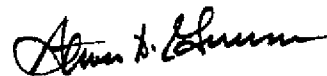
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15 proofread, corrected, or certified to be an accurate transcript.

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18 Recorder/Transcriber
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CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,
Plaintiff,

vs.

ANTHONY CASTANEDA,
Defendant.

CASE NO. C272657
DEPT NO. V

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

JURY TRIAL - DAY 1

MONDAY, JULY 8, 2013

APPEARANCES:

For the State:

ALEXANDER G. CHEN, ESQ.
Deputy District Attorney
MICHELLE ANTHONY, ESQ.
Deputy District Attorney

For the Defendant:

P. DAVID WESTBROOK, ESQ.
Deputy Public Defender
ERIKA D. BALLOU, ESQ.
Deputy Public Defender

RECORDED BY LARA CORCORAN, COURT RECORDER
TRANSCRIBED BY: KARR Reporting, Inc.

UNCERTIFIED ROUGH DRAFT

1 LAS VEGAS, NEVADA, MONDAY, JULY 8, 2013, 1:18 P.M.

2 * * * * *

3 (Outside the presence of the prospective jury panel.)

4 THE COURT: All right. We're on the record in State
5 of Nevada v. Anthony Castaneda. Case No. C11272657.
6 Defendant is present with his counsel. The Deputies District
7 Attorney prosecuting the case have been asked to step outside
8 the courtroom because we're going to conduct the Hernandez
9 canvass and hearing outside their presence.

10 And it's my understanding that the Defense is
11 anticipating that there is going to be some concession of
12 guilt as to some aspect of this case?

13 MR. WESTBROOK: Well, Your Honor, we'll be conceding
14 to one of the elements of the charged offenses, and that's
15 that the pictures that were collected by the State in this
16 case do meet the statutory definition of child pornography.

17 THE COURT: All right.

18 MR. WESTBROOK: We're not challenging the
19 authenticity of the pictures inasmuch as they do depict sexual
20 acts being performed by minors. In exchange for that -- and I
21 know Your Honor has a stipulation in front of her -- the State
22 has agreed to stipulate that we will not be publishing these
23 to the jury. They will be put into evidence, naturally, but
24 the jury will have the option, if they're -- if they're back
25 in the deliberation of looking at the pictures or not looking

UNCERTIFIED ROUGH DRAFT

1 at the pictures.

2 So they'll be available, but they will not be
3 published, and the jury will not be required to look at them
4 because we have chosen to concede that they are, indeed, child
5 pornography.

6 THE COURT: Okay. And so they won't be published in
7 open court, but you understand that they will go to the jury
8 and the jury can look at those photos, sir? Mr. Castaneda?

9 THE DEFENDANT: Yes, I know.

10 THE COURT: Okay. All right. So have you consented
11 after consulting with your lawyers in this case, that they can
12 enter into this stipulation regarding these photographs?

13 THE DEFENDANT: Yes.

14 THE COURT: All right. And you understand that under
15 normal circumstances the State would have to, in fact prove
16 every element of the crime, including the photographs
17 themselves, and what they depict and that what they depict
18 meets the statutory requirement for the crime?

19 THE DEFENDANT: Yes.

20 THE COURT: And that is what your lawyers are
21 stipulating to and agreeing. And you understand that you're
22 basically conceding that as an element of proof, now, that the
23 State will not have to meet? Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: Okay. And you understand what the

UNCERTIFIED ROUGH DRAFT

1 strategy is that -- that you've discussed this with your
2 counsel and that the -- there's a strategic reason for you
3 doing that, I assume, that -- because you don't want the jury
4 to be enraged by actually seeing the photos, which are pretty
5 graphic; is that true?

6 THE DEFENDANT: I understand that's my --
7 representatives.

8 THE COURT: And your consent in this regard is
9 voluntarily made and knowingly? No one has threatened you to
10 make this --

11 THE DEFENDANT: Yes.

12 THE COURT: -- concession? And you're doing it with
13 your eyes wide open?

14 THE DEFENDANT: Yes.

15 THE COURT: All right. Okay. Very -- very well.
16 We'll bring the State back in, put this stipulation on the
17 record.

18 MR. WESTBROOK: Thank you, Your Honor.

19 THE COURT: Thank you.

20 (Pause in the proceedings.)

21 THE COURT: All right. The record will reflect that
22 the prosecutors have rejoined us. And there are two
23 stipulations that have been signed and given to the Court.

24 The first is stipulation order regarding reference
25 to bestiality, and the parties have stipulated and agreed that

UNCERTIFIED ROUGH DRAFT

1 there will be no references to bestiality made at trial unless
2 the Court determines that the Defense has opened the door
3 through the presentation of character evidence, which would
4 then allow the State to bring in potential evidence of
5 bestiality; is that correct?

6 MS. BALLOU: Yes, Your Honor.

7 MS. ANTHONY: Yes, Your Honor.

8 THE COURT: And this stipulation has been signed, and
9 by all -- by counsel for all the parties and by the Court. It
10 will be filed in open court.

11 The second stipulation is the stipulation order
12 regarding composition and dissemination of child pornographic
13 materials. It indicates that it's stipulated and agreed by
14 both parties that the images in counts -- that are referred
15 to, specifically in Counts 1 through 15 of the second amended
16 information that was filed in open court this morning -- or
17 this afternoon, constitutes a film, photograph, or other
18 visual presentation depicting a person under the age of 16 as
19 the subject of a sexual portrayal or engaging in or simulating
20 in or assisting others to engage in or simulate sexual
21 conduct.

22 And then it's further stipulated and agreed that
23 those same images referred to in Counts 1 through 15 will not
24 be published to the jury during the course of the trial. It's
25 my understanding that by that you mean in open court, and

1 that, further, it's agreed that the photographs which are
2 referenced in Counts 1 through 15 will be entered into
3 evidence as State's Exhibits.

4 They'll be placed into an envelope that will go to
5 the jury room along with the other exhibits admitted in this
6 case, and the jury will be instructed regarding the
7 stipulation as follows: That each of the photographs meets
8 the statutory definition of a photograph or other visual
9 presentation, depicting a person under the age of 16 years as
10 the subject of a sexual portrayal or engaging in or simulating
11 or assisting others to engage in or simulate sexual conduct.

12 And that the jury should so find -- and the
13 photographs have been entered into evidence -- and that the --
14 the envelope that the jury will have containing these
15 photographs will not be sealed.

16 Correct, Counsel?

17 MS. ANTHONY: Correct.

18 THE COURT: And they will be able to look at the
19 photographs, should they so desire, as they will be in
20 evidence, correct?

21 MS. ANTHONY: Yes.

22 THE COURT: So the main purpose, obviously, is to
23 keep from having to show them in open court?

24 MS. ANTHONY: Yes.

25 MS. BALLOU: Yes, Your Honor.

UNCERTIFIED ROUGH DRAFT

1 THE CLERK: And do you want "bestiality" to be
2 spelled correctly? It's best-iality.

3 THE COURT: Yes.

4 MS. BALLOU: Is there a problem?

5 THE COURT: Yeah, we mis -- you misspelled
6 "bestiality" in both places.

7 MS. BALLOU: Actually, you know --

8 THE COURT: Isn't there --

9 MS. BALLOU: -- I looked it up in my law dictionary
10 --

11 THE COURT: -- is -- are there two -- it's not B-E-A?

12 MS. BALLOU: No. I looked it up, and --

13 THE COURT: Oh, okay.

14 MS. BALLOU: -- because I -- it told me that B-E-A
15 was wrong on Microsoft Word --

16 THE COURT: Oh --

17 MS. BALLOU: -- and so I asked someone --

18 THE COURT: -- you looked?

19 MS. BALLOU: -- in my office and they told me, B-E-A
20 was correct, and then it -- when I took out the A, it said
21 that that was correct. So I looked it up in the law
22 dictionary.

23 THE CLERK: Okay.

24 THE COURT: All right. Then we're good.

25 MS. BALLOU: Yeah, it's actually best-iality is how

UNCERTIFIED ROUGH DRAFT

1 it looks --

2 THE COURT: Bestiality, bestiality --

3 MS. BALLOU: -- like it's spelled.

4 THE COURT: -- so I wonder if the pronunciation is
5 different too?

6 MS. BALLOU: I've always pronounced it bestiality,
7 so I thought it had the "A," and when Microsoft Word told me
8 that was wrong, I did some --

9 THE COURT: You looked it up.

10 MS. BALLOU: -- research. All right. Okay.

11 MR. WESTBROOK: If you do it with a British accent
12 it's pretty much the same --

13 THE COURT: Okay.

14 MR. WESTBROOK: -- bestiality.

15 THE COURT: I see. All right. Okay.

16 MS. BALLOU: I think that --

17 THE COURT: Are we ready, then, other-wised to
18 proceed? We're going to file the second --

19 MS. BALLOU: Actually, I think that there are a
20 couple of additional issues. As soon as Denise has gotten up
21 to No. 71 on -- I've got an issue with one of the State's
22 exhibits. And also, Your Honor, there are additional
23 uncharged porn -- child porn images, and I wanted to -- you
24 know, the -- there's been no proper Petrocelli hearing, so I
25 wanted to try and make sure that the State isn't allowed to

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1 bring in anything other than Counts 1 through 15.

2 So I wanted to talk about that. There were
3 additional --

4 THE COURT: Okay.

5 MS. BALLOU: -- images. So we're not quite ready.

6 THE COURT: All right. So do you want to go off the
7 record until the clerk catches up and gets to those, or --

8 MS. BALLOU: Or we can talk about the additional
9 uncharged things --

10 THE COURT: All right.

11 MS. BALLOU: -- first, and then we can talk about No.
12 71 when she --

13 THE COURT: Okay.

14 MS. BALLOU: -- catches up.

15 THE COURT: So you have some kind of motion -- oral
16 motion you're making?

17 MS. BALLOU: Yeah, I wanted to make an oral motion in
18 limine, Your Honor, to -- to disallow the State from
19 mentioning -- my understanding is it was either 402 or 404
20 images, and there are only 15 that are charged here. You
21 know, there has been no proper Petrocelli hearing. These are
22 basically considered uncharged bad acts.

23 NRS 48.045 Subsection 2 prohibits the introduction
24 of evidence of other crimes, wrongs, or acts as proof of a
25 person's character, but allows such evidence to prove motive,

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1 opportunity, intent, preparation, plan, knowledge, identity,
2 or absence of mistake or accident. The Nevada Supreme Court
3 has often looked upon the admission of prior bad acts evidence
4 with disfavor because the evidence is often irrelevant and
5 prejudicial.

6 I feel that it would be specifically prejudicial in
7 this matter, and it forces the defendant to defend against
8 vague and unsubstantiated charges. It's presumed to be
9 inadmissible, these uncharged bad acts. The State has the
10 burden of proving the -- at a Petrocelli hearing that it's
11 relevant to the crime charged, that it's proved by clear and
12 convincing evidence, and that the probative value of the
13 evidence is not substantially outweighed by the danger of
14 unfair prejudice.

15 In this case the State hasn't sought a Petrocelli
16 hearing. If the State is allowed to proceed with the
17 additional child pornography, Mr. Castaneda will be forced to
18 defend himself against not only the charges at bar, but also
19 the hundreds of other images the State alleges were on the
20 computers, without the Defense having ever seen or verified
21 these images.

22 NRS 48.035 reads, in pertinent part, Although
23 relevant evidence is not admissible, if its probative value is
24 substantial -- although relevant -- sorry -- evidence is not
25 admissible, if its probative value is substantially outweighed

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1 by the danger of unfair prejudice, of confusing the issues, or
2 of misleading the judge -- the jury.

3 Here, the probative value is going to be outweighed
4 by the danger of unfair prejudice. The Nevada Supreme Court
5 in Richmond v. State, which the citation is 118 Nevada 924 at
6 932 or 59P 3rd 1249 at 1254, 1255, from 2002 says -- and this
7 is a direct quote "Our concern has been that this evidence
8 will unduly influence the jury to convict the defendant
9 because based on that evidence the jury believes the defendant
10 is a bad person."

11 And the res gestae doctrine does not apply because
12 the State's witnesses don't need to mention a specific number
13 of images in order to tell the complete story. In Bellon v.
14 State, from 2005, the Nevada Supreme Court stated that, The
15 government may present a full and accurate account of the
16 crime, but res gestae or a complete story of the crime must be
17 construed narrowly.

18 And this is a direct quote, "The crime must be so
19 interconnected to the act in question, that a witness cannot
20 describe the act in controversy without referring to the other
21 crime." And, "We now reiterate that admission of evidence
22 under NRS 48.035 Subsection 3 is limited to the statute's
23 express provision."

24 That was -- I only had it as a Nevada advanced
25 reporter. It was 121 Nevada Advance Reporter 45 from 2005.

1 It's 117 P.3d 176. And here again, no specific number of
2 images or reference to any that are not charged can be
3 excluded without the State damaging its case.

4 And so I don't believe that we need to have any
5 specific number mentioned, and that's my motion in limine.

6 THE COURT: State?

7 MS. ANTHONY: First -- it's the first I'm hearing of
8 it this morning, but first off, I suspect that the Defense is
9 going to -- we have two detectives who are coming in to
10 testify, and I defend -- I suspect that the Defense is going
11 to attack their reliability and the methods of their forensic
12 evaluation of these computers. And that's where these numbers
13 are going to come from.

14 That, here's what we did. This is how we did it.
15 And we went through -- and first off, it's not -- it's res
16 gestae, it's not that we're trying to put out, you know, other
17 crimes or anything like that, but we are going to go through
18 here are the computer experts, we have Detective Ramirez and
19 Detective Ehlers, both of them are noticed as experts, both of
20 them did forensic examination of both the USB and then two
21 other additional computers, are going to be the testimony
22 regarding child pornography.

23 They actually did other things, but those aren't
24 relevant to the 15 charges that we have. So regarding those
25 three things, Detective Ehler does two and Detective Ramirez

1 does one. And basically, I believe that the Defense is going
2 to, you know, that's really what this case is going to boil
3 down to is to what these two experts did, and how we as the
4 State can prove his possession.

5 And what they did, step by step, is absolutely
6 relevant and it's res gestae. It's not that we're going into
7 all of these other crimes, it's what they found, how many
8 files, where they found it, and then how they broke it down.
9 It's absolutely relevant and that -- we don't have to have a
10 Petrocelli hearing regarding res gestae. We don't have to.
11 And that's not what this is about.

12 It's -- due to the fact that they're going to attack
13 those experts, you can't just limit, oh, you found things
14 there. I mean, we've already agreed -- and we spoke to the
15 Defense, I already agreed to take out "bestiality." Quite
16 frankly, I could have done a Petrocelli, included some of this
17 bestiality stuff, and it -- it probably is res gestae as well,
18 and I don't have to do that because it talks about his
19 possession.

20 To make it clean, I did it. I just agreed, okay, we
21 won't go there regarding, you know, specific -- regarding the
22 bestiality. To make it clean, I just agreed, fine. But I do
23 think it's absolutely relevant. It's the res gestae regarding
24 how they went through and determined which 15 to charge, how
25 they started their investigation of these computers, and how

1 they kind -- broke it down. I think it's absolutely relevant.

2 THE COURT: Well, there were some 400 images that
3 were on the computer, were -- were all of these child
4 pornography? Were some of them not child pornography? I
5 don't know what they were, so I --

6 MS. ANTHONY: They -- how he does it and -- Ehlers is
7 one of the ones to point to first. He goes through the
8 computer and he bookmarks things. These are the ones that I
9 suspect are child pornography. And the first book marking,
10 which is his first preview -- well, it's actually his second
11 preview of the computer is using a program and it bookmarks
12 them. And the first bookmark is of 404 images.

13 And then he goes through those 404 and does
14 additional processing of them. Some are duplicates and things
15 like that, and then he goes through and he comes up with a
16 second number of 207. And then -- of all three items. And
17 then he goes down and breaks it down further to 48 images, and
18 then we have the 15 that we've charged. But he's narrowing it
19 down as to doing his investigation, using this computer, and
20 doing additional searches. And he keeps narrowing it down
21 into where we have the numbers that we have right now.

22 THE COURT: All right. Now, I'm assuming that when
23 you say, He's doing these searches --

24 MS. ANTHONY: Correct.

25 THE COURT: -- he's looking at the titles of the

1 files, I mean, through this --

2 MS. ANTHONY: Well, it's a --

3 THE COURT: -- program --

4 MS. ANTHONY: -- it's the --

5 THE COURT: -- right?

6 MS. ANTHONY: -- the computer program is doing it,
7 and they're actually --

8 THE COURT: Yes.

9 MS. ANTHONY: -- going through and looking at -- it's
10 more of a thumbprint, not necessarily the titles.

11 THE COURT: Oh, all right. Well --

12 MS. ANTHONY: It's a thumbprint and a whole
13 computer-generated number, and they all have their own
14 thumbprint, fingerprint and it's not just necessarily the --
15 the titles. Because some of the -- our charged counts are,
16 like, new 22. And so that necessarily wouldn't lead you to
17 the idea that it's child pornography.

18 THE COURT: Okay.

19 MS. ANTHONY: So it's not just the titles.

20 THE COURT: So -- well, I think it is, obviously,
21 important for the State to be able to show how it is that they
22 went about searching this because if the argument of the
23 defense is going to be, I didn't get these, then they've got
24 to prove -- the State has to prove that he possessed them, and
25 that he is the one who downloaded them onto his computer or

1 got them onto his computer.

2 MR. WESTBROOK: Your Honor, if I may, I -- the State
3 cannot have their expert or anybody else stand up there and
4 say that there were 402 images of child pornography on the
5 computer. There were 15 images of child pornography on the
6 computer. We have admitted there are 15 images, that was
7 stipulated to.

8 He cannot get up there and say, there were 402
9 images but we just charged 15, but there was a ton more.

10 THE COURT: No, I --

11 MR. WESTBROOK: Because --

12 THE COURT: -- I didn't say that, but --

13 MR. WESTBROOK: -- well, but that's what they're
14 saying --

15 THE COURT: -- right -- well --

16 MR. WESTBROOK: -- that they think that he's allowed
17 to say.

18 THE COURT: -- maybe not.

19 MR. WESTBROOK: That's my problem.

20 THE COURT: Maybe not. Because I think that the
21 explanation of how the computer was searched can say we were
22 searching for -- for images and describe without saying there
23 were --

24 MR. WESTBROOK: But it can't be identified as child
25 pornography.

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1 THE COURT: -- 400 as child pornography. How are
2 they going to --

3 MS. ANTHONY: Suspected is how he's -- that's how he
4 has it phrased in his report.

5 THE COURT: -- all right. But just because something
6 is, you know, just because something is suspected does not
7 mean it is, and --

8 MR. WESTBROOK: And they charged 15. These are the
9 ones that are.

10 THE COURT: Exactly. And that's fine. But -- but
11 you can also say, well, I -- say it was people. I had 15
12 suspects when this case started, and I narrowed it down, and I
13 did X, Y, Z, in my investigation and I interviewed these
14 people and I did this and that and fingerprints and DNA and
15 that's when I came down to I've eliminated all these other
16 suspects and it's the defendant.

17 MR. WESTBROOK: Right. And, Your Honor, I --

18 THE COURT: And that's --

19 MR. WESTBROOK: -- have no problem with that. I
20 would have a problem with him referring to the other 402
21 images as child pornography. In fact, the evidence is there
22 were thousands of images that were involved in this initial
23 search. And I have no problem talking about that because the
24 vast majority of them were regular adult pornography.

25 Furthermore, we have no problem with the State

1 talking about the massive quantity of adult pornography on
2 the -- on the computer because that's legal. I mean, you
3 know, it might -- people might have an idea about the morality
4 of it, which is something I'm sure we're going to cover in
5 voir dire, but that's all legal.

6 The problem is calling the other images -- any other
7 images that were not charged, suspected child pornography or
8 child pornography would be a violation of my client's rights.
9 And it would be massively prejudicial, and it's certainly not
10 necessary for the story.

11 If they want to say there were thousands of images
12 on the server, we used such and such software program to
13 narrow down the images, ultimately we identified certain
14 images as child pornography, based in part on their -- they
15 have this invisible number attached to the files, she was
16 talking about the thumbprint. That's what it is.

17 Every file that's created has some kind of a long,
18 you know, code of 1's and 0's that's attached to it -- that
19 travels with the file whenever it's transferred. It has
20 nothing to do with the title that you see on the screen in
21 front of you. It's something that you have to go and look up.
22 And every file has that.

23 You can explain that entire story, as I just did,
24 without once saying, we suspected there were thousands of
25 child pornography images. Or, there may be some images out

1 there that we haven't verified as child pornography, these are
2 the only -- only 15 that we verified.

3 That would be prejudicial and it would be against my
4 client's rights according to the law that was cited by my
5 co-counsel. And that -- that would be our objection. But we
6 have no problem with them saying, you know, there were
7 thousands of images on the computer, these are the 15 that we
8 pulled out as child pornography because that's exactly what
9 happened. These are the 15 we have here. I just don't want
10 to fight cases against images that we're not charged.

11 MS. ANTHONY: Your Honor, this -- the way that
12 defense counsel -- and this is exactly my argument -- the way
13 that defense counsel just argued it, I can totally see in
14 closing. You know where he's going? He's going to stand up
15 and say, thousands of images, only these 15 are child porn.
16 But that is totally misleading.

17 So it's not that I want to bring out there's all
18 this child porn out there, but it was suspected child porn.
19 They narrowed it down. But it's not the fact that he can just
20 stand up here and say the whole argument of here's all of this
21 out here, adult porn, it's all legal. I mean, this right here
22 the way that he came about, it -- I see the problem.

23 THE COURT: All right. Yeah, I see the -- there's a
24 problem. There is a problem here as far as -- because -- are
25 you saying they're going to say, well, there could -- that

1 there's -- there was suspected child porn? I mean, that --
2 I --

3 MS. ANTHONY: It's a program that's looking for it.
4 I mean --

5 THE COURT: I know. I know. That's fine. You can
6 -- you can say -- I mean, we know that they're investigators
7 and that's what they do. They're going to explain that's what
8 they do. They're going to explain how the program works. And
9 -- but what I'm concerned about is you having them testify
10 that there were -- there were other child pornography images,
11 which you are not charging --

12 MS. ANTHONY: But I --

13 THE COURT: -- unless we do a Petrocelli hearing --

14 MS. ANTHONY: -- I have never said that --

15 THE COURT: -- which we could.

16 MS. ANTHONY: -- I've never said that that's what we
17 were going to say.

18 THE COURT: No -- yeah, I --

19 MS. ANTHONY: But -- I mean, I've never said that.

20 THE COURT: I know.

21 MS. ANTHONY: It's the suspected child pornography.

22 I don't think that we have to keep that out. It was
23 suspected, they looked through it, and they moved through
24 their process. That's the issue. I mean, I don't --

25 THE COURT: Yes.

1 MS. ANTHONY: -- see a problem with that.

2 THE COURT: As long as that's what you're saying.

3 And I think that's why they brought the motion, just to make
4 sure that --

5 MS. ANTHONY: Well, and even --

6 THE COURT: -- you don't --

7 MS. ANTHONY: -- the report --

8 THE COURT: -- cross over the line.

9 MS. ANTHONY: -- the report that I'm reading from,
10 Your Honor, says --

11 THE COURT: What does it say?

12 MS. ANTHONY: -- Identified in book mark 404 images
13 of suspected child pornography. I mean, it's how he couches
14 it. It's exactly how he explains it.

15 THE COURT: All right. And -- but then he's going to
16 go further and say, and then from there I narrowed it down,
17 and the only ones we have are the 15. Is that what he's going
18 to say? Or no?

19 MS. ANTHONY: I was never going there. It's their
20 -- they might cross him on these are your only 15. I mean,
21 obviously I have to -- I'm going to go through each and every
22 image that we have over there, where did you get this from?
23 And that's --

24 MR. WESTBROOK: Of the 15?

25 MS. ANTHONY: -- how did you get this and where did

1 you get it from?

2 THE COURT: Right. Okay. But if they cross and say,
3 Were these -- I mean, if you open the door for something like
4 that that would be --

5 MR. WESTBROOK: Well, I don't know how --

6 THE COURT: -- not good.

7 MR. WESTBROOK: -- I would open the door to --

8 THE COURT: But --

9 MR. WESTBROOK: -- stuff that's not child
10 pornography. I mean, it's been --

11 THE COURT: -- if you say, Did you find any other
12 child pornography, that would open the door.

13 MR. WESTBROOK: That's correct, Your Honor. And I
14 would -- I should be fired immediately by my counsel if I said
15 that. Or disbarred.

16 MS. ANTHONY: Or is this all you found?

17 THE COURT: I've seen that happen, so...

18 MS. ANTHONY: Or is this --

19 MR. WESTBROOK: Right. And I won't say --

20 MS. ANTHONY: -- all you --

21 MR. WESTBROOK: -- is this all you --

22 MS. ANTHONY: -- found?

23 MR. WESTBROOK: -- yeah. No, I won't say that --

24 THE COURT: I mean --

25 MR. WESTBROOK: -- either.

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1 THE COURT: -- right. Or did he expect to find more
2 --

3 MR. WESTBROOK: Yeah.

4 THE COURT: -- I mean, don't open the door for
5 somebody to inadvertently -- at -- trying to answer your
6 question --

7 MR. WESTBROOK: Right. And that's -- I mean, what I
8 would ask, Your Honor, is for the State to caution its
9 witnesses not to say there were other images of child
10 pornography that we haven't verified yet, or there were 402
11 images of suspected child pornography because that makes the
12 jury think that there's something that that witness knows that
13 isn't being shared with them, and when -- to have a State
14 actor put that in front of the jury gives it this air of
15 credibility. It makes them think the ball is being hid from
16 them. It's very prejudicial.

17 THE COURT: Well, I --

18 MR. WESTBROOK: So if they just don't say that --

19 THE COURT: -- I disagree --

20 MR. WESTBROOK: -- I'm fine.

21 THE COURT: -- with that. I disagree with --

22 MS. ANTHONY: I mean --

23 THE COURT: -- that because, I mean, when he says,
24 This is my process, you know, we run this program and it comes
25 up with 402 images --

1 MR. WESTBROOK: Images.

2 THE COURT: -- of suspected child pornography, that
3 doesn't mean they've proved it. That's only the beginning of
4 his -- his investigation. And that, as I say, that's no
5 different than saying, you know, initially we had 15 suspects,
6 and then we did this, and we did this, and we narrowed it
7 down.

8 That's what you're going to have here, just because
9 initially you have -- when you run the program the first time
10 you have 400 suspected images, it -- the question, then, is
11 okay, well, what was the next step? Well, then we had to go
12 further because that's just an initial --

13 MR. WESTBROOK: Well, Your Honor, I just don't see
14 why suspicions that didn't bear out are relevant in any way?
15 All he has to say is --

16 THE COURT: They're also not prejudicial.

17 MR. WESTBROOK: -- well --

18 THE COURT: They are relevant to show how the -- how
19 they did their job, and it -- the police are often attacked
20 and -- by the defense as to did you do a thorough enough job,
21 and I don't think it's inappropriate for the State to show
22 that they tried to do as thorough a job as they possibly
23 could. And maybe you'll be able to show that they didn't, but
24 they need to be able to show that they did do a thorough job.

25 That's why it's relevant and it's not prejudicial,

1 if it wasn't borne out -- if they weren't borne out to be, in
2 fact, child pornography, and they're explaining that as part
3 of the investigation.

4 MR. WESTBROOK: Or the jury will --

5 THE COURT: -- well, okay, originally --

6 MR. WESTBROOK: -- I'm sorry to interrupt, Your
7 Honor.

8 THE COURT: Okay.

9 MR. WESTBROOK: Or the jury will think it's a
10 technicality, and they were kept out for some technical
11 reason, as they often do.

12 THE COURT: Well, we can't -- if we had to speculate
13 about every potential thing that goes through a juror's mind
14 as to things that they're instructed not to consider, et
15 cetera, et cetera, and then, try and think, well, what are
16 they making of all this, I -- I mean, where -- that would --
17 that would be unending because --

18 MR. WESTBROOK: Sure.

19 THE COURT: -- we can't -- that's just gross
20 speculation to say, well, they're going to assume that this
21 was kept out. I don't see how they would assume that, based
22 upon what I'm being told that these witnesses are going to
23 talk about as far as how they have to go and sort through
24 millions of pieces of data, really, that are 1's and 0's, to
25 do a search, and that's what has to be explained to a lay

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1 jury, and it's not easy.

2 MR. WESTBROOK: No, it's not. It's computers --

3 THE COURT: Right.

4 MR. WESTBROOK: -- so I think everyone's head is
5 going to be swimming. I understand that completely, Judge,
6 and I wouldn't want to restrict them from getting their full
7 explanation of the process out. I just think calling it
8 suspected child pornography is prejudicial because it makes
9 the jury think other stuff is out there, but I understand your
10 point of view, Your Honor.

11 Could I try to summarize my understanding of what's
12 going on now?

13 THE COURT: Yes.

14 MR. WESTBROOK: Thank you. My understanding is that
15 they are not allowed to allege that there is other child
16 pornography out there that hasn't been charged; is that
17 correct?

18 THE COURT: Right. I mean, that's not my
19 understanding of what you're trying to do here. You're --

20 MS. ANTHONY: I want --

21 THE COURT: -- you're not going to be saying -- or
22 eliciting question through -- through -- questions to your
23 witness, you're not going to be eliciting responses that are
24 going to say, well, yeah, there's other -- there may be other
25 images of child pornography that I -- we didn't find. That

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1 would be completely inappropriate.

2 MS. ANTHONY: Well, let me -- let me just -- because
3 I'm still quite -- I'm confused. I mean, I don't want -- both
4 of these two witnesses are mine, and I don't want to ask a
5 question that's going to cause a mistrial. That's not -- so I
6 need to make sure that I understand, and I'm not totally on
7 the same page.

8 THE COURT: Are they here?

9 MS. ANTHONY: The --

10 THE COURT: Are these witnesses here?

11 MS. ANTHONY: -- no, they are not here. Tomorrow.

12 And they are towards the end. But my question is I want them
13 to go through the process, how did you get to, like, how did
14 you find these items on there? And this -- they have this
15 report, they've had it the whole time. This one -- this
16 report, the way that it explains it doesn't include the child
17 pornography actual pictures, but it goes through, and he talks
18 about the analysis of it, and one of the things is that this
19 program also marks known child pornography.

20 That's the center for NCMEC, the -- or actually, I
21 don't have it memorized at the moment, but --

22 MS. BALLOU: The National Center for Missing and --

23 MS. ANTHONY: -- Exploited Children.

24 MS. BALLOU: -- Exploited Children.

25 MS. ANTHONY: Yes. And it -- from January 2008, it's

1 loaded into this program, it's the same program that they all
2 use, and it identifies child pornography that's floating
3 around the Internet that's known. And some of these images
4 that we have are those. It's part of the process in how they
5 find it. I mean, I don't see any problem with me getting into
6 that, but I can kind of see how they might think that I'm
7 going to go there.

8 I mean --

9 THE COURT: That doesn't --

10 MS. ANTHONY: -- it's the --

11 THE COURT: -- that does not sound improper, what
12 you've just said.

13 MS. ANTHONY: -- so it's the process. It's -- here's
14 --

15 THE COURT: It's the process.

16 MS. ANTHONY: -- how we do it. We go through all of
17 the images, there's lots of them. Some are suspected.
18 There's children. Some ages, you know, children of ages --
19 it's a range. Sometimes they look older or younger than they
20 are, then we narrow it down, and then we put it through this
21 program. Then they come back, and it says, these are known
22 child pornography. We have those. And then we take a look,
23 and we scan, and we visually look, and we pick the ones that
24 we are going to charge, which are the ones that are more
25 obvious.

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1 MR. WESTBROOK: Now, that's the problem, right there,
2 Judge. We've picked -- from this large selection of child
3 porn we've picked the 15 that are the most obvious. We
4 haven't charged the other ones because of technical reasons,
5 or just our choice. We just charged these 15. That alleges
6 that others are out there. If they go there that's a
7 mistrial. That's my opinion.

8 THE COURT: Well --

9 MS. ANTHONY: It's the process though. I mean --

10 MR. WESTBROOK: It's the process is --

11 MS. ANTHONY: -- so if I limit these detectives, it's
12 going to be very hard to question them. I mean, I -- I just
13 need to have a clear understanding of it. I mean, I don't
14 think that it's prejudicial, I think it's part of res gestae.

15 THE COURT: Well --

16 MS. ANTHONY: But I also --

17 THE COURT: -- if it's not --

18 MS. ANTHONY: -- want to make sure that I'm --

19 THE COURT: -- if they look at an image and they make
20 -- they then make a decision from that that it is not child
21 pornography, the implication is that it is either not
22 pornographic at all, or it's legal because it's adult. Okay?
23 And that --

24 MR. WESTBROOK: But --

25 THE COURT: -- seems to me is to what she's saying.

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1 MS. ANTHONY: Well, then --

2 MR. WESTBROOK: But what she just said, Your Honor,
3 is of the many child pornography images that we thought were
4 child pornography, we just picked the 15 best. That's what
5 she just said. And that's a problem. If that happens, what's
6 happening is they're bringing in uncharged bad acts, alleging
7 to the jury that this guy had lots of child pornography out
8 there, we just picked the 15 best examples, but you better
9 convict him because he had a wealth of child pornography that
10 we could have charged, but we didn't.

11 If they wanted to charge him with 402 images --

12 THE COURT: Well, we could --

13 MR. WESTBROOK: -- they should have.

14 THE COURT: -- we could have a Petrocelli hearing.

15 MR. WESTBROOK: At this late date, Your Honor --

16 MS. ANTHONY: We --

17 THE COURT: Sure.

18 MR. WESTBROOK: -- I don't believe that we can. I
19 think it would be a violation of my client's due process
20 rights. It's way too late for a Petrocelli.

21 MS. ANTHONY: It just has to be before the witness
22 testifies, the witness that's going to -- both of them will
23 testify tomorrow.

24 MR. WESTBROOK: I would be --

25 THE COURT: What I don't know what they're going to

1 say. I don't know what they're going to say. So I -- I'm
2 having a difficulty ruling on what you're telling me without
3 knowing exactly what you believe they're going to say. I know
4 you -- you're telling me there's this process, and I
5 understand that --

6 MS. ANTHONY: Right.

7 THE COURT: -- but --

8 MS. ANTHONY: It's very complicated.

9 THE COURT: -- if it's a -- if it's a question of,
10 well, it was a close call because we -- we didn't -- couldn't
11 tell whether this child was actually underage or not, so we
12 didn't charge this, that's problematic as to what he's saying
13 is because there's an implication that maybe it was.

14 MS. ANTHONY: I didn't plan on asking questions like
15 that, Your Honor. I don't. But what I -- what my problem is,
16 obviously they're going to talk about the process and this is
17 how it works, and this is how we -- we go through it, and
18 based on these being -- these two witnesses being,
19 essentially, the crutch of our case, I don't want to have it
20 limited to the fact where I can't even get the direct out of
21 them as to actually how the process happened.

22 I mean, I can't sanitize it exactly as to, you only
23 found these 15 images, and how did you get these --

24 THE COURT: I'm not --

25 MS. ANTHONY: -- 15 images?

1 THE COURT: -- suggesting that you do that.
2 MS. ANTHONY: No, I know --
3 THE COURT: I'm just --
4 MS. ANTHONY: -- that, I'm trying to --
5 THE COURT: -- suggesting --
6 MR. WESTBROOK: Yeah, you're --
7 MS. ANTHONY: -- I'm trying to follow, and I --
8 MR. CHEN: Could I have the Court's indulgence to
9 consult with my co-counsel for a moment?
10 THE COURT: Yes.
11 MR. CHEN: Thank you.
12 (Pause in the proceedings.)
13 MR. WESTBROOK: May I approach your clerk, Your
14 Honor?
15 THE COURT: Yes.
16 (Pause in the proceedings.)
17 MS. ANTHONY: All right. Your Honor, well -- after
18 speaking with my co-counsel, I mean, I'm the one who is
19 directing both of these witnesses, so I will lead them, and I
20 will avoid the suspected child pornography, but I can tell you
21 that on cross, if the Defense goes there and starts attacking
22 their ability to, and how thoroughly they did these computers,
23 and the job to have been done, we're going to be back here and
24 we're going to ask that we go into exactly what they did.
25 I mean, this is --

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1 THE COURT: Well, and I --

2 MS. ANTHONY: -- this is kind of where I'm at.

3 THE COURT: -- I'm not saying that you -- you can't
4 say that we ran a program designed to find suspected child
5 pornography.

6 MS. ANTHONY: Right.

7 THE COURT: You can say that. It's just that you
8 can't have them say, well, then we -- we narrowed it down and
9 we had some that were close calls, so we didn't charge those.
10 I mean, basically you can have them summarize it a little
11 more. Why not -- can't you have them say, and working with --
12 with those images we did further investigation and we have the
13 15 that are charged?

14 MS. ANTHONY: Right. And that's -- that's -- but on
15 cross-examination once they start asking them --

16 THE COURT: Right.

17 MS. ANTHONY: -- more questions that's --

18 THE COURT: And if they open the door -- I've already
19 told them if they open the door and solicit an answer that's
20 going to --

21 MR. WESTBROOK: To be fair, Your Honor, I have no
22 idea how I could -- I'm sorry, let me get to a microphone.
23 Hang on. I don't -- I'm not going to ask a question, like,
24 well, I'm sure there was other child pornography on the
25 computer that you didn't find, right? So you weren't

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1 thorough. That's just not going to happen.

2 I will question, you know, their thoroughness in,
3 you know, what they learned -- without giving too much away, I
4 will press the question of their thoroughness, absolutely, but
5 I'm not going to be opening a door to them talking about
6 uncharged child pornography.

7 There's just -- I can't even imagine a question that
8 would open that door. I certainly don't want them
9 volunteering unresponsive answers to my questions, like, well,
10 you know, there's some other stuff we could have charged. I
11 think that would be a problem as well. But, you know,
12 obviously any time you have a stipulation, or a line of
13 questioning and one party opens the door, then that's
14 something that happens in trial and we consider it in trial.
15 I have no problem with that.

16 I just don't want them, in their direct, talking
17 about stuff that wasn't charged. So it -- it's --

18 THE COURT: All right.

19 MR. WESTBROOK: -- pretty simple, really.

20 THE COURT: Well, here, I'll give you an example of
21 something that actually happened in trial where a lawyer on
22 cross-examination for the defense asked the question of a
23 police officer, did you find everything you expected to find
24 when you did your search warrant?

25 MR. WESTBROOK: That's a terrible question. I won't

1 be asking that, Your Honor. Thank you.

2 THE COURT: So -- and for the answer was, I don't
3 understand the question. Asked again. Well, did you -- did
4 you find everything you thought you'd find? And he says, no,
5 actually we expected to find drugs and we didn't find any.
6 Didn't find any.

7 MR. WESTBROOK: Right.

8 THE COURT: And so that, then, you know -- motion for
9 mistrial craziness. Okay. So that is an example of -- one of
10 our Supreme Court Justices actually asked that. He wasn't at
11 the time. He was a defense lawyer, but he asked that question
12 on cross. And so -- and the judge granted a mistrial.
13 Believe me, if you do that -- something like that, I'm not
14 going to grant a motion for a mistrial because I think that
15 was -- would be invited error.

16 It sounds to me like you would agree with me?

17 MR. WESTBROOK: I absolutely agree --

18 THE COURT: Okay.

19 MS. BALLOU: Yeah.

20 MR. WESTBROOK: -- with you, Judge. I won't be
21 asking a general silly question like that.

22 THE COURT: Okay.

23 MR. WESTBROOK: And that's no problem. I mean, I'm
24 going to be asking questions that challenge the process, but
25 I'm not going to be referencing any image that's not in this

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1 second amended information that's been turned over, not one.

2 THE COURT: Okay.

3 MR. WESTBROOK: And since we've already agreed to the
4 authenticity of these images, I won't be questioning their
5 process as far as determining authenticity. We agree that
6 they're authentic. So I think that that would be a real
7 door-opener is if we were questioning the authenticity. We're
8 not. So I don't think it's going to be a problem. I
9 understand the State's point of view, I think, now.

10 You know, we're just concerned about uncharged bad
11 acts coming in, and it sounds like we are going to be able to
12 avoid that, so...

13 THE COURT: All right.

14 MS. ANTHONY: I'm still concerned about cross, which
15 has been my -- but we'll cross the bridge when we get there,
16 Your Honor.

17 THE COURT: All right.

18 MS. ANTHONY: I will try to narrow it down -- it
19 never was my intention to say, well, there was others out
20 there that you didn't, you know, get. I mean, that was --

21 MS. BALLOU: And I didn't think it was your
22 intention. I just am worried about what some police officers
23 may do, based on a question that's not --

24 MS. ANTHONY: Well, I can't control --

25 MR. WESTBROOK: Well, you --

1 MS. ANTHONY: -- I mean, obviously I will --
2 MR. WESTBROOK: -- can.
3 MS. ANTHONY: -- no. I will tell them that that was
4 the basis of the ruling, but based on cross-examination, I
5 mean, I was just in front of you when defense counsel with
6 their own client brought out he was a drug dealer. And so
7 I'm --
8 THE COURT: That was kind of surprising.
9 MS. ANTHONY: -- I'm --
10 MR. WESTBROOK: How did that go? Was that good?
11 MS. ANTHONY: -- I --
12 THE COURT: Not for the defendant.
13 MS. ANTHONY: -- this is -- this is what I'm
14 foreseeing is cross-examination becoming the issue. So that's
15 why I'm having a difficulty --
16 THE COURT: Okay.
17 MS. ANTHONY: -- trying to --
18 THE COURT: All right.
19 MS. ANTHONY: -- understand it, so...
20 THE COURT: Well, as -- as you say, we'll have to
21 cross that bridge when we get to it --
22 MS. ANTHONY: Okay.
23 THE COURT: -- and --
24 MR. WESTBROOK: And we'll bridge that cross when we
25 get to it.

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1 THE COURT: Right.

2 MS. ANTHONY: The -- there's one issue, though, in

3 --

4 THE COURT: Okay.

5 MS. ANTHONY: -- I -- we have provided a redacted
6 defense -- defendant's interview, and we've provided it to the
7 Defense. We've also -- they have the -- where I had
8 underlined things that were being taken out. We've gone over
9 that. In addition to that, we actually have the Word document
10 that follows it that we took the redacted from.

11 But in that defendant's statement he -- the
12 detective does reference 56 images we found, and we found 56
13 images. And so that's in here. And the defendant, himself,
14 starts talking about numbers of images. There are more than
15 15. I mean, I don't -- this -- this is part of it. I mean,
16 it's part of her interview process. It's in there. She
17 talked to him, and then he gives this interview.

18 I just don't think that I have -- that's where we
19 are.

20 THE COURT: And --

21 MS. ANTHONY: I mean --

22 THE COURT: -- what does he say? There are 56
23 images? I don't --

24 MS. ANTHONY: Yes.

25 MR. WESTBROOK: Would you mind reading that part into

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1 the record, perhaps?

2 MS. ANTHONY: Well --

3 MR. WESTBROOK: Just so I know what we're -- you're
4 talking about.

5 MR. CHEN: Your Honor, if I may?

6 THE COURT: Yeah?

7 MR. CHEN: He basic -- the detective confronts the
8 defendant in the interview and says, We found 56 images. Now,
9 whether that's even an accurate number or not, I don't think
10 any of us knows because none of us have actually looked at the
11 USB drive, but they reference 56 images, and the defendant
12 comments on, Well, if it's 56 images, I'd be surprised if that
13 were mine, you know, that belonged to me because I don't think
14 I would have ever downloaded something like that.

15 And so they talk about the number and whether that's
16 relevant or not. One of the things the detective also says
17 is, look, in the grand scheme of all the files that are on
18 this USB drive, 56 is a very small number of the total number
19 of files. There's other things that are on that USB drive
20 that are not child pornography. She only talks about the 56.

21 So that's where we're at. That's the redacted
22 portion that we provided to defense counsel, and only because
23 they're raising this issue now, we wanted to bring it before
24 Your Honor because that was one of the things that's mentioned
25 in the interview.

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1 THE COURT: Okay.

2 MR. WESTBROOK: Do they say specifically 56 images of

3 child pornography?

4 MS. ANTHONY: It's in here in --

5 MR. CHEN: Yeah.

6 MS. ANTHONY: -- various different -- it's in here

7 several times. One of the time --

8 MS. BALLOU: What pages?

9 MS. ANTHONY: -- there's one page on 68.

10 Question: So obviously, and, you know, 56 image of

11 child sexualization which is child pornography.

12 Defendant: 56?

13 It's in his interview. There's also -- it's on page

14 76. It's on page 77.

15 MS. BALLOU: What was the first page you said?

16 MS. ANTHONY: 68.

17 MS. BALLOU: 68.

18 THE COURT: But in an interview, police are often --

19 make representations in interrogations that aren't accurate,

20 and they're not precluded from doing that.

21 MR. CHEN: And that would be --

22 THE COURT: It's a tactical --

23 MR. CHEN: -- our position, Your Honor.

24 THE COURT: -- interrogation.

25 MS. ANTHONY: Right.

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1 MR. WESTBROOK: And if I can come back on
2 cross-examination and say, he was charged with 15 images,
3 then, you know, that's different than having an expert sitting
4 up there saying, we found 402 images that we thought were
5 child pornography, we only charged 15. I mean, it's a
6 difference between something that is being quoted as part of
7 an interview versus something that an expert has determined.

8 So I think it's two different issues to tell you the
9 truth.

10 MR. CHEN: Perfectly fine, Your Honor. If he has no
11 problem with it, or Defense has no problem with it, then I
12 don't think we need to do any further redacting on this tape.

13 MR. WESTBROOK: And I didn't say I didn't have a
14 problem with it, necessarily. I'm going to view their
15 redactions, Your Honor, but if we have a motion on that we'll
16 bring it. I just -- we just got it this morning, right?

17 MS. ANTHONY: No, you've had it. We've -- I've had
18 the redactions, they've been done since the last trial
19 setting.

20 THE COURT: Right.

21 MR. WESTBROOK: Oh, they haven't changed at all? I
22 thought there were four changes this morning; is that wrong?

23 MS. BALLOU: That was on the jury instructions.

24 MR. WESTBROOK: That was on the instructions, okay.
25 Your Honor, at this point, you know, if I find something

1 objectionable, I'll object it at the time. I just think these
2 are two separate issues at this point, and --

3 THE COURT: Well -- wait --

4 MR. WESTBROOK: -- you know.

5 THE COURT: -- if you're going to put the statement
6 on, what -- how are you -- what's the mechanism by which
7 you're going to get this statement in?

8 MS. ANTHONY: We are still going -- tactically we're
9 still trying to decide --

10 THE COURT: Oh.

11 MS. ANTHONY: -- if we're going to use defendant's
12 statement, how, and all of that.

13 THE COURT: Okay.

14 MS. ANTHONY: But in the event that we do, it's
15 prepared, it's redacted, and it's audio.

16 THE COURT: It's on tape -- oh, okay.

17 MS. ANTHONY: It's audio.

18 THE COURT: All right.

19 MS. ANTHONY: It's been redacted, I took out all of
20 the reference to the bestiality --

21 THE COURT: Okay.

22 MS. ANTHONY: -- and we also -- there's a transcript
23 that follows along with --

24 THE COURT: All right.

25 MS. ANTHONY: -- the audio.

1 THE COURT: So -- yeah. You can't -- if you've got
2 an objection to make, which it doesn't sound like there is
3 a -- there would be a valid basis for one --

4 MR. WESTBROOK: Yeah.

5 THE COURT: -- you need to make it now because it --

6 MR. WESTBROOK: Well, Your Honor, I don't even know
7 if they're --

8 THE COURT: -- if they --

9 MR. WESTBROOK: -- using it and neither do they.

10 THE COURT: -- right. But if they do use it you know
11 the format that it's in, and they won't have time to go make a
12 change when -- when it comes time. You've got to -- we're
13 already -- we're already half an hour past starting time.

14 MR. WESTBROOK: Can I have just two seconds with my
15 counsel?

16 (Pause in the proceedings.)

17 MR. WESTBROOK: Thank you, Your Honor. At this time
18 we don't have a general objection to the as redacted
19 transcript.

20 THE COURT: All right.

21 MR. WESTBROOK: We do have one more objection as far
22 as what the State has submitted, as far as pictures go.
23 Picture No. 71, which is as marked --

24 MS. ANTHONY: Your Honor, we'll just agree.

25 MR. CHEN: Your Honor, to save time the State is not

1 objecting to withdrawing the admission of State's Proposed 71.

2 MR. WESTBROOK: Then there we go.

3 THE COURT: All right. Anything else before we bring
4 the jury in?

5 MR. WESTBROOK: Should I return this to your clerk
6 now?

7 THE COURT: Yes, please.

8 MR. WESTBROOK: This one is not being admitted.

9 THE COURT: Any further matters outside the presence?

10 MR. WESTBROOK: No, Your Honor.

11 MR. CHEN: No, Your Honor.

12 MS. ANTHONY: No, Your Honor.

13 THE COURT: All right.

14 MS. ANTHONY: Thank you.

15 THE COURT: Let's bring the jury in. Have a seat,
16 everybody. We don't know whether he's got them out there or
17 he still has to --

18 MS. ANTHONY: Okay.

19 THE COURT: -- take the roll.

20 (Pause in the proceedings.)

21 (Prospective jury panel entering at 2:17 p.m.)

22 THE COURT: Thank you. Please be seated.

23 THE CLERK: Are we going to wait for the rest to come
24 in or no?

25 THE COURT: Oh, where is everybody? I thought they

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1 were still coming in.

2 THE CLERK: I think they didn't realize they were
3 supposed to come in.

4 MS. ANTHONY: Is that in order?

5 THE MARSHAL: Yes, they are.

6 MS. ANTHONY: They should be in the front, then,
7 because they'll be called up first.

8 THE MARSHAL: You know what? She's right. Ma'am, if
9 you would, please, just go to the front chairs. Everybody in
10 the first five rows here, to the front, please. There you go.

11 All right, Your Honor.

12 THE COURT: Please be seated. All right. This is
13 Case No. C11272657, State of Nevada v. Anthony Castaneda. And
14 the defendant is present, with his counsel, as are the
15 Deputies District Attorney prosecuting the case, and all
16 officers of the court. Will counsel so stipulate?

17 MS. BALLOU: Yes, Your Honor.

18 MS. ANTHONY: Yes, Your Honor.

19 THE COURT: Is the State ready?

20 MS. ANTHONY: Yes, Your Honor.

21 THE COURT: Is the Defense ready?

22 MR. WESTBROOK: We are.

23 MS. BALLOU: Yes, Your Honor.

24 THE COURT: Thank you. Ladies and gentlemen,
25 welcome. You are here in Department 5, having been summonsed

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1 to serve as jurors in a criminal case, and I'd like to welcome
2 you all.

3 This morning both parties have announced ready, and
4 the Deputy District Attorney that's assigned to prosecute the
5 case is now going to explain to you the nature of the charges
6 and read a list of witnesses to you. Please pay close
7 attention because you'll be asked later whether you recognize
8 any of these names, and she'll also introduce her co-counsel,
9 then the Defense will do the same.

10 Thank you.

11 MS. ANTHONY: Thank you, Your Honor.

12 My name is Michelle Anthony. I'm a Deputy District
13 Attorney for the State of Nevada. We are prosecuting this
14 case, myself along with my co-counsel, Alex Chen.

15 This is a case where the defendant is charged with
16 15 counts of possession of visual presentation, depicting
17 sexual conduct of a child from November 25, 2008, through
18 April 7, 2010. The child pornography in this case was located
19 on the defendant's USB thumb drive, laptop, and desktop
20 computer, and it was located at his residence at 2205 Beverly
21 Way, here in Las Vegas, Nevada.

22 We anticipate calling the following witnesses. This
23 is a list of potential witnesses, we may not call all of them.
24 There's Tami Hines, Michael Landeau, members of the F.B.I. is
25 Alex Bustillos, Andrew Gruninger, and Shawna Partridge.

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1 Members of the Las Vegas Police Department, Officer Barrett,
2 Officer Brandon, Detective Carpenter, Officer Cody, Detective
3 Ehlers, Detective Ramirez, Officer Rowe, Officer Shumate,
4 Officers Smith, Solomon, Tafoya, and Detective Tooley.
5 There's also a possibility of Keith Gross [phonetic] who is an
6 investigator with the District Attorney's Office.

7 THE COURT: Thank you. Ms. Ballou?

8 MS. BALLOU: Good afternoon, ladies and gentlemen.
9 My name is Erika Ballou, and I along with my law partner David
10 Westbrook have the honor of representing Anthony Castaneda.
11 We also have an associate here, Michael Van Loven. And we may
12 call Investigator Doug Dahman [phonetic], Mariah Carney, and
13 Craig Castaneda as witnesses, we may.

14 And we're confident that you will return a verdict
15 of not guilty. Thank you.

16 THE COURT: All right. Now, ladies and gentlemen,
17 the lawyers involved in the case, as well as the Court, is
18 very interested in finding 12 jurors who can be fair,
19 impartial, and unbiased arbiters of the facts of this case.
20 And so in doing that we have to ask you questions. And we do
21 that under oath in a process which is called the voir dire
22 process. You are now considered to be the venire panel. And
23 until you -- such time as you would be chosen to be a juror
24 and then sworn in.

25 So this questioning process, the voir dire is done

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1 under oath. If you'll please all stand and the clerk will
2 swear you in.

3 THE MARSHAL: All rise, please.

4 THE CLERK: Everybody please raise your right hand.

5 (Clerk administers the oath.)

6 THE CLERK: Please be seated.

7 THE COURT: All right. Ladies and gentlemen, our
8 legislature has decided who will be excused from jury duty and
9 who will not in terms of by law people who have exemptions
10 from service. And those used to be a lot broader than they
11 are now. Now the legislature has decided they want everybody
12 to serve. There are two exceptions to this.

13 The first exception is if you are over the age of 70
14 years, and you do not wish to serve as a juror, you cannot be
15 compelled to do so. And so is there anyone that is over the
16 age of 70 that does not wish to serve?

17 All right. We have someone raising their hand in
18 the back.

19 PROSPECTIVE JUROR NO. 749: Camille Dentry.

20 THE COURT: If you'll come up to the podium here?

21 THE MARSHAL: Just step behind the podium, right
22 there. Thank you.

23 THE COURT: Now, if you'd state your name and the
24 last three digits of your badge?

25 PROSPECTIVE JUROR NO. 749: Camille Dentry, 0749.

1 THE COURT: And, Ms. Dentry, you're 70 and you don't
2 wish to serve?

3 PROSPECTIVE JUROR NO. 749: I'm 75.

4 THE COURT: Okay. Do you wish to be excused just --

5 PROSPECTIVE JUROR NO. 749: Yes, ma'am. Yes.

6 THE COURT: -- could I just finish?

7 PROSPECTIVE JUROR NO. 749: Yes, go ahead.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NO. 749: I'm sorry.

10 THE COURT: Because you can either be completely
11 exempt you from ever serving again, or just today. I mean,
12 you may feel that you would like to in the future, but today
13 is not a good time for you. Do you want to be taken off the
14 rolls because --

15 PROSPECTIVE JUROR NO. 749: Please --

16 THE COURT: -- all right.

17 PROSPECTIVE JUROR NO. 749: -- please do, yeah.

18 THE COURT: Okay. So you need to go over across the
19 way to the jury commissioner's office where you checked in,
20 show them your identification and that you're over 70 and you
21 don't wish to serve and they'll remove your name from the
22 rolls.

23 PROSPECTIVE JUROR NO. 749: Okay.

24 THE COURT: Thank you.

25 PROSPECTIVE JUROR NO. 749: Thank you, Your Honor.

1 THE COURT: All right. Have a good day.

2 PROSPECTIVE JUROR NO. 749: And you too.

3 THE COURT: All right. No one else? Of course, we
4 wish our seniors to serve and -- if they want to they always
5 are welcome.

6 Additionally, the other exception is if you are 65
7 years of age or older, and you live 65 miles from the
8 courthouse, which means you live in Mesquite, then you also
9 can be exempted from services. Is there anyone who lives in
10 Mesquite and is 65 or older?

11 All right. The record will reflect a negative
12 response.

13 Is everyone that's sitting out here, now known as
14 the venire panel, a United States citizen? Is there anyone
15 who is not a United States citizen, raise your hand.

16 The record will reflect a negative response.

17 Is there anyone who has been convicted of a felony,
18 but has not had their civil rights restored?

19 The record will reflect a negative response. All
20 right.

21 Now, ladies and gentlemen, I think as I told you
22 that our goal is to find 12 impartial jurors in this matter,
23 and we'll also be selecting some alternates, but through this
24 process it's very important for you to understand that
25 although we don't want to pry into your personal life and

1 affairs, to some extent we have to in order to ask you these
2 questions to determine whether you can be fair and impartial.

3 And it's very important that you answer the
4 questions fully, and you don't try and withhold any
5 information or hide anything because that could reflect on
6 your ability to serve, and we really need to know this
7 information.

8 So if in answer to a question you're so concerned
9 that you need to give us the answer outside the presence of
10 the other prospective jurors, then you can let me know and,
11 you know, we'll handle it that way. I don't -- generally that
12 does not happen. We're not asking you those kinds of
13 questions generally, but -- I can't guarantee that, but I want
14 you to know that if you -- if you feel that way then you -- we
15 will take your question outside the presence of the others if
16 it becomes necessary.

17 What I'm going to do now is I'm going to be
18 conducting a general voir dire of everybody -- everyone in the
19 box and everyone that's sitting out in the gallery, and you'll
20 respond just like you have before, with a show of hands, and
21 we can do some additional follow-up questioning based upon
22 your responses. But at this time it will be just a show of
23 hands that I'm asking for.

24 So is there anyone who believes that they are
25 associated with or know the defendant in this case, Mr.

1 Castaneda?

2 All right. The record will reflect a negative
3 response.

4 Are there any of you that are acquainted with the
5 defendant's attorneys who were introduced to you?

6 The record will reflect a negative response.

7 Are there any of you that are acquainted with either
8 of the Deputies District Attorney prosecuting the case?

9 The record will reflect a negative response.

10 Are there any of you who believe that you may be
11 acquainted with any of the witnesses whose names were read?

12 All right. We have one person with a hand up. If
13 you could come up and give us your name and the last three
14 digits of your badge?

15 And we record everything in this court. We don't
16 have a court reporter, we have a court recorder. So that's
17 why we have to have you in front of a microphone. So go ahead
18 and give us your name and the last three digits of your badge
19 number.

20 PROSPECTIVE JUROR NO. 810: My name is Jennifer
21 Dale, and the last three of my Badge No. is 810.

22 THE COURT: Okay. And who do you think you might be
23 acquainted with?

24 PROSPECTIVE JUROR NO. 810: Officer Troy Barrett was
25 the best man at my wedding last year. And he also helped

1 convict my ex-husband who is serving a 24 year life sentence
2 for child pornography.

3 THE COURT: All right. Will counsel stipulate that
4 she's probably, due to her acquaintance and with the
5 percipient witness in this case?

6 MS. ANTHONY: Yes, Your Honor.

7 MS. BALLOU: Yes, Your Honor.

8 MR. WESTBROOK: We will so stipulate, Your Honor.

9 THE COURT: Thank you.

10 Thank you very much, and you're excused. Just go
11 over and report to the jury commissioner and let him know that
12 you were not able to serve in this case.

13 PROSPECTIVE JUROR NO. 810: Okay.

14 THE CLERK: And what was your badge number again?
15 I'm sorry.

16 PROSPECTIVE JUROR NO. 810: 810.

17 THE CLERK: Okay.

18 PROSPECTIVE JUROR NO. 810: Thanks.

19 THE COURT: Thank you. And there was no one else
20 that was acquainted with any of the witnesses?

21 All right. The record will reflect that there are
22 no other hands.

23 Are there any of you who believe you may have heard
24 or read about this case before coming here to court today?

25 All right. There's one hand in the box, one hand in

UNCERTIFIED ROUGH DRAFT

1 the back. Counsel, was there any media coverage of this case?

2 MS. ANTHONY: I don't believe so, Your Honor.

3 THE COURT: Defense Counsel, do you --

4 MS. BALLOU: Not that I --

5 THE COURT: -- know of any? All right. So let's --

6 you don't have to move, sir, but we need you to project your

7 voice to the microphone that is right there.

8 THE MARSHAL: And actually, Your Honor, that mike is
9 not working.

10 THE COURT: Oh.

11 THE MARSHAL: If you'll state your name, sir, and the
12 last three digits of your badge?

13 PROSPECTIVE JUROR NO. 699: My name is Billy
14 Whiteford, it's 699. And some way or another the face looks
15 familiar from the media. I'm not sure -- like I say, just by
16 looks of it, and that's --

17 THE COURT: Okay. But you don't remember -- I mean,
18 counsel of both sides are telling me there was no media
19 coverage.

20 PROSPECTIVE JUROR NO. 699: Like I said, I'm just
21 looking by the -- by the -- by his face. That's all I'm
22 looking at right now.

23 THE COURT: Okay. And do you remember -- do you have
24 any -- any connection, the face with something?

25 PROSPECTIVE JUROR NO. 699: Not --

UNCERTIFIED ROUGH DRAFT

1 THE COURT: No?
2 PROSPECTIVE JUROR NO. 699: -- not entirely, no.
3 THE COURT: He just looks kind of familiar?
4 PROSPECTIVE JUROR NO. 699: Exactly.
5 THE COURT: All right. So he may just have a
6 familiar looking face?
7 PROSPECTIVE JUROR NO. 699: A possibility, yes, Your
8 Honor.
9 THE COURT: All right. Thank you, sir. And --
10 THE MARSHAL: All the way in the back?
11 THE COURT: The gentleman in the back? Is that hand
12 mike working?
13 THE COURT RECORDER: It's okay. It's --
14 THE MARSHAL: Doesn't sound like it.
15 THE COURT RECORDER: -- they have to get --
16 THE MARSHAL: Can you hear, Your Honor?
17 THE COURT RECORDER: -- really --
18 THE COURT: Yes.
19 THE COURT RECORDER: -- really close to it.
20 THE COURT: Okay.
21 THE MARSHAL: Just speak close to the mike, sir.
22 PROSPECTIVE JUROR NO. 815: Okay.
23 THE MARSHAL: Go ahead and stand up. State your last
24 name, and your three-digit badge number, please.
25 PROSPECTIVE JUROR NO. 815: Last name is Jones,

UNCERTIFIED ROUGH DRAFT

1 Badge No. 815.

2 THE COURT: All right. And, Mr. Jones, what did you
3 think -- you recognized something from the media?

4 PROSPECTIVE JUROR NO. 815: Yes, I thought I did
5 through one of the local media channels, either Review Journal
6 or KTNV, regarding the last name, Castaneda.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NO. 815: But I'm not 100 percent
9 sure if it was actually this.

10 THE COURT: All right. Again, counsel indicates to
11 me that there was no media coverage, so it must not be the
12 same. And Castaneda is a fairly common name, all right?

13 MR. WESTBROOK: Your Honor, may we inquire what he
14 believed the time period might be because this is quite an old
15 case?

16 THE COURT: Yes. When do you think you might have
17 seen this?

18 PROSPECTIVE JUROR NO. 815: Approximately three
19 months ago.

20 THE COURT: No? All right. There hasn't been any
21 coverage of this in that time. Thank you.

22 THE MARSHAL: Anyone else?

23 THE COURT: All right. Ladies and gentlemen, the
24 case is expected to last five days. Our schedule during these
25 five days would be the following: Today, we'll go 'til 5.

UNCERTIFIED ROUGH DRAFT

1 Sometimes, if we're very close to picking a jury, but we
2 haven't been able to pick one, rather than sending everyone
3 home and bringing them back the next day, we've stayed a half
4 an hour over, but generally, the time limit is 5:00.

5 Then, on -- tomorrow we would go 9 until 5, with, of
6 course, recess in the afternoon, the morning and a -- short
7 recesses for you to use the facilities and stretch and
8 whatnot, and we have -- always have a lunch break of at least
9 an hour.

10 Then, on Wednesday you'd come back in again at 1 and
11 go 1 'til 5. Thursday would be a full day, 9 to 5. And
12 Friday would be 1 to 5.

13 So that's our schedule, that's our anticipated time
14 frame for this trial. What I'd like to say before I ask the
15 question, is that there are many trials, in fact, we just
16 concluded one last week that started in April and just ended
17 last week. So this five-day trial is a relatively short
18 trial, and I'm going to ask you if there is a reason that you
19 can't -- you feel that you absolutely cannot serve for this
20 amount of time, and then you'll have to give us the reason.

21 But before I ask that question, get a show of hands,
22 this is just the question -- not whether you can be fair and
23 impartial, but for whatever the reason is you can't serve for
24 this amount of time. And we'll get to the other questions
25 after this.

1 So if you're a full-time student enrolled in class,
2 for instance, that might be a -- a reason, that you just can't
3 afford to miss five days of class and still pass your class.

4 That you have nonrefundable airplane tickets to
5 Europe or some other great place, that would be one of those
6 types of things you should tell me. If you are about to
7 deliver your child within the next five days, or close to
8 that. Or you have a significant other, who you can prove to
9 me is going to deliver a child within the next five days, that
10 could be an example of an excuse.

11 But the --- just the fact that you're working may not
12 be enough of an excuse, because most people on jury service
13 have to work for a living, most of us do.

14 So with that being said, a show of hands of the --
15 those people who feel that for whatever reason they could not
16 serve for that period of time, five days?

17 All right. Seeing nobody here, and --

18 THE MARSHAL: Your Honor, the quality of this
19 microphone, can we bring it forward?

20 THE COURT: Right. We're going to bring you up each
21 time.

22 THE MARSHAL: Hands, please. All right. Sir, you're
23 first. Please state your name and the last three digits of
24 your badge number, please.

25 PROSPECTIVE JUROR NO. 756: My name is Glen Minnick,

1 Badge No. 756. And I work just part-time right now. Yeah, I
2 just can't miss work.

3 THE COURT: Okay. Where do you work?

4 PROSPECTIVE JUROR NO. 756: At the Vdara.

5 THE COURT: Okay. The Vdara is a --

6 PROSPECTIVE JUROR NO. 756: One of the MGM --

7 THE COURT: -- MGM. They pay for jury service, are
8 you aware of that?

9 PROSPECTIVE JUROR NO. 756: No.

10 THE COURT: Okay. All of the large casino, hotel,
11 properties, and the corporations that run them pay their
12 employees while they're in jury service.

13 PROSPECTIVE JUROR NO. 756: Oh.

14 THE COURT: So you should inquire of that. I'm
15 pretty -- feel pretty confident that's the case, even with --
16 are you on call, or are you just --

17 PROSPECTIVE JUROR NO. 756: No, I'm just --

18 THE COURT: -- part-time?

19 PROSPECTIVE JUROR NO. 756: -- part-time, yeah.

20 THE COURT: Okay. Yeah, they're probably going to
21 pay you according to -- is it a regular schedule of part-time
22 work?

23 PROSPECTIVE JUROR NO. 756: Yeah.

24 THE COURT: Yeah.

25 PROSPECTIVE JUROR NO. 756: Do you mean, like, the

1 hourly wage that I get?

2 THE COURT: Yes, and then, they usually have a
3 requirement that the daily amount that you would receive for
4 jury duty, that you would have to give back to the company,
5 but you'd receive your wages.

6 PROSPECTIVE JUROR NO. 756: I see.

7 THE COURT: That's generally how they do that. You
8 can certainly inquire when we take a break, but I'm pretty
9 sure that's what they're going to tell you.

10 PROSPECTIVE JUROR NO. 756: That's --

11 THE COURT: Because they want to encourage their
12 employees to serve because they understand what an important
13 responsibility it is.

14 PROSPECTIVE JUROR NO. 756: That's -- that's good to
15 know.

16 THE COURT: All right. Thank you, sir.

17 PROSPECTIVE JUROR NO. 756: Thank you.

18 THE MARSHAL: The next person in the back, please?
19 Next person in line. Ma'am?

20 THE COURT: Oh, you guys didn't put up your hands
21 before, so you're forever barred.

22 THE MARSHAL: Oh, we got another one --

23 THE COURT: No, I'm just kidding.

24 THE MARSHAL: -- you want new ones? We have new ones
25 now?

UNCERTIFIED ROUGH DRAFT

1 THE COURT: Yes. Okay.

2 THE MARSHAL: We have three.

3 THE COURT: Just wait. You'll have to wait, now.

4 All right.

5 PROSPECTIVE JUROR NO. 862: Hi. My name is Adriana
6 Mendoza, and my Badge No. 0862.

7 THE COURT: Okay. And I'm sorry, I didn't hear your
8 first name.

9 PROSPECTIVE JUROR NO. 862: Adriana, A-D-R-I-A-N-A.

10 THE COURT: Adriana, okay. And you -- why can't you
11 serve?

12 PROSPECTIVE JUROR NO. 862: Because I have a
13 three-day intense counseling that I have to attend Wednesday,
14 Thursday, and Friday, and these -- these pass are
15 nonrefundable. I have a --

16 THE COURT: Okay. You have something for me? Great.

17 PROSPECTIVE JUROR NO. 862: Yeah. Can I --

18 THE COURT: Yes, give it to the Marshal, and he'll
19 bring it to me.

20 THE MARSHAL: Thank you. And, oh, I -- I should tell
21 you I'm just taking your -- what you're telling me, and then
22 we'll -- I'll bring counsel to the bench and then we'll go
23 through everybody's names at one time. So just go back and
24 have a seat.

25 PROSPECTIVE JUROR NO. 862: Thank you.

UNCERTIFIED ROUGH DRAFT

1 THE MARSHAL: All right. Judge, you want to start up
2 here?

3 THE COURT: Okay.

4 THE MARSHAL: Who was the first person?

5 THE COURT: I need your name and your badge number.

6 PROSPECTIVE JUROR NO. 059: Christina Virzi, and it
7 is 059.

8 THE COURT: Okay. And why can't you serve?

9 PROSPECTIVE JUROR NO. 059: I have a couple things.
10 I'm self-employed, I have some --

11 THE COURT RECORDER: Ma'am?

12 PROSPECTIVE JUROR NO. 059: -- I have a job tomorrow
13 that I won't --

14 THE COURT: All right.

15 PROSPECTIVE JUROR NO. 059: -- be released for it.

16 THE COURT: Microphone has to be right up.

17 PROSPECTIVE JUROR NO. 059: I'm self-employed. I
18 have a job tomorrow that I don't think I can be replaced for.
19 I also have an anxiety disorder which I'm on medication for,
20 and I just don't feel comfortable having to be here for five
21 days.

22 THE COURT: Okay. Where -- what are you
23 self-employed doing?

24 PROSPECTIVE JUROR NO. 059: I model, and I have a
25 photo shoot tomorrow.

UNCERTIFIED ROUGH DRAFT

1 THE COURT: All right. And did you bring any proof
2 that -- of the medication you're on?

3 PROSPECTIVE JUROR NO. 059: I have -- well, I have
4 the medication on me.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NO. 059: And I have frequent
7 panic attacks, and I just don't feel comfortable being here
8 for five days.

9 THE COURT: All right. But you can model? It's --

10 PROSPECTIVE JUROR NO. 059: Well, it's, like, a
11 couple hours a day, and I don't have -- I don't work every
12 day.

13 THE COURT: I see. Okay.

14 PROSPECTIVE JUROR NO. 059: I pick and choose my
15 jobs.

16 THE COURT: Okay. Show the marshal your medication.

17 PROSPECTIVE JUROR NO. 059: Okay.

18 THE MARSHAL: Yes, Your Honor.

19 THE COURT: Thank you. All right. Thank you. And
20 who else up here?

21 PROSPECTIVE JUROR NO. 103: Hi, Your Honor.

22 THE COURT: Hi.

23 PROSPECTIVE JUROR NO. 103: My name is Linda Razo,
24 the last three is 103. And I'm trying to get out of this.
25 I'm a single mother of four, and I can't survive on \$40 a day,

UNCERTIFIED ROUGH DRAFT

1 and my company wouldn't pay for my jury duty.

2 THE COURT: Where do you work?

3 PROSPECTIVE JUROR NO. 103: C&A Contractors.

4 THE COURT: What do they do?

5 PROSPECTIVE JUROR NO. 103: Electricians.

6 THE COURT: And what -- what's your job with them?

7 PROSPECTIVE JUROR NO. 103: I'm the secretary.

8 THE COURT: Okay. You have no other source of

9 income?

10 PROSPECTIVE JUROR NO. 103: No, none.

11 THE COURT: Thank you.

12 PROSPECTIVE JUROR NO. 103: Thank you.

13 THE COURT: Sir?

14 PROSPECTIVE JUROR NO. 427: My name is Juan Galvez,
15 my badge is 0427.

16 THE COURT: 0427?

17 PROSPECTIVE JUROR NO. 427: 0427. And my English,
18 no is good.

19 THE COURT: Okay. And I'm sorry, what's -- why can't
20 you serve, sir?

21 PROSPECTIVE JUROR NO. 427: Maybe tomorrow, I have
22 appointment for my doctor for my accident. Maybe it is this
23 week that surgery.

24 THE COURT: Okay. And you also have a language
25 problem?

UNCERTIFIED ROUGH DRAFT

1 PROSPECTIVE JUROR NO. 427: Yeah, a lot of...

2 THE COURT: Are you scheduled for surgery, or are you
3 just going to go see your doctor?

4 PROSPECTIVE JUROR NO. 427: (Speaking in Spanish.)

5 THE COURT: Right. We have to -- we have to speak in
6 English because it's recording. We don't have an official
7 court interpreter.

8 UNIDENTIFIED PROSPECTIVE JUROR: No, he's saying
9 that they're going to do surgery, but -- sometime this week,
10 he's not sure when.

11 THE COURT: Okay. All right. And that's on -- on
12 your arm that's in the sling?

13 PROSPECTIVE JUROR NO. 427: Yeah, and my -- my
14 shoulder.

15 UNIDENTIFIED PROSPECTIVE JUROR: His shoulder.

16 THE COURT: Ah, shoulder. Okay. All right. Thank
17 you.

18 PROSPECTIVE JUROR NO. 493: Yes, my name is Merlinda
19 Flores.

20 THE COURT: Okay. What's your --

21 PROSPECTIVE JUROR NO. 493: My Badge No. 050493.

22 THE COURT: Okay. And, Ms. Flores, why can't you
23 serve?

24 PROSPECTIVE JUROR NO. 493: I'm having a hard time
25 to understand a little English, and writing English.

UNCERTIFIED ROUGH DRAFT

1 THE COURT: All right. Well, you're -- you're not
2 required to write in English during the trial. How long have
3 you lived here in Clark County?

4 PROSPECTIVE JUROR NO. 493: Since 1990.

5 THE COURT: 1990?

6 PROSPECTIVE JUROR NO. 493: Yes.

7 THE COURT: And do you work?

8 PROSPECTIVE JUROR NO. 493: Yes, I have a business.
9 It's a karaoke bar which I run.

10 THE COURT: And what --

11 PROSPECTIVE JUROR NO. 493: And still, my English is
12 not that well. It's kind of...

13 THE COURT: So you own a bar and restaurant?

14 PROSPECTIVE JUROR NO. 493: Yes.

15 THE COURT: Do you operate that by yourself?

16 PROSPECTIVE JUROR NO. 493: Yes, I am the --

17 THE COURT: You don't have any children or a husband
18 that helps with that business?

19 PROSPECTIVE JUROR NO. 493: No, I'm just the
20 managing owner in my business.

21 THE COURT: Okay. You have employees?

22 PROSPECTIVE JUROR NO. 493: Yes.

23 THE COURT: How many employees do you have?

24 PROSPECTIVE JUROR NO. 493: Include me is five.

25 THE COURT: And what are your operating hours?

UNCERTIFIED ROUGH DRAFT

1 PROSPECTIVE JUROR NO. 493: From 6 p.m. to 5:00 in
2 the morning.

3 THE COURT: And what kind of food do you serve?

4 PROSPECTIVE JUROR NO. 493: Phillipino foods, ma'am
5 -- Your Honor, Phillipino food.

6 THE COURT: Okay. And where is the restaurant
7 located?

8 PROSPECTIVE JUROR NO. 493: 4300 West, Spring
9 Mountain Road, close by China Town.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NO. 493: Yes.

12 THE COURT: And do you have many customers? Is it a
13 good business?

14 PROSPECTIVE JUROR NO. 493: Right now, compared last
15 year or a few years is suffering because the economy, but it's
16 still a survivor.

17 THE COURT: All right. Well, it sounds like your
18 English skills are excellent, actually.

19 PROSPECTIVE JUROR NO. 493: I'm just worried --

20 THE COURT: And so --

21 PROSPECTIVE JUROR NO. 493: -- I'm just worried that
22 if there's any question that I don't -- you know.

23 THE COURT: Well, of course, we try and avoid using
24 legalese as they call it, you know, words that -- that common
25 -- with -- that are not used in common everyday speaking

1 because lots of people, even if their -- their first language
2 is English, they may not understand complicated legal terms,
3 but we try to avoid those to the best of our ability, and so
4 we will endeavor to continue doing that, that we're -- we'll
5 try and keep the language straightforward, and it sounds to me
6 as -- as I say that your -- your English skills are --

7 PROSPECTIVE JUROR NO. 493: I'm doing good?

8 THE COURT: -- are vastly superior to my Tagalog
9 skills, that's for sure. All right.

10 PROSPECTIVE JUROR NO. 493: Okay.

11 THE COURT: Thank you. And I've noted that you are
12 self-employed and your operating hours. All right.

13 Anyone else that's sitting up here?

14 PROSPECTIVE JUROR NO. 013: My name is Kenneth Chen,
15 my Badge No. is 0013.

16 THE COURT: Yes, Mr. Chen? Why can't you serve?

17 PROSPECTIVE JUROR NO. 013: Well, I have urine
18 problem, you know, I have to go, you know, break off -- often.
19 That's why, you know, I've been getting discharged from my job
20 often because I've got problem.

21 THE COURT: I'm sorry, I'm having a hard time hearing
22 you. That microphone is just not very good.

23 THE MARSHAL: Very close.

24 THE COURT: You're have --

25 PROSPECTIVE JUROR NO. 013: I have --

UNCERTIFIED ROUGH DRAFT

1 THE COURT: -- you're worried about what?

2 PROSPECTIVE JUROR NO. 013: I have prostate problem.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 013: I -- you know, I have to
5 go, you know, every now -- or then I'm afraid that I cannot
6 serving for, you know, a long period of time.

7 THE COURT: Well, we try not to torture our jurors.
8 We do let them use the rest rooms and we -- I know you -- the
9 chairs are not very comfortable, and so I try and take
10 frequent breaks. And, of course, if anyone has a medical
11 condition or something that we need to know about where you
12 need to take a break, all you have to do is raise your hand
13 and we can take a break.

14 You just let our marshal know. So I don't want you
15 to worry about that. We can accommodate any disability you
16 have like that. Is -- was there anything else that you were
17 concerned about?

18 PROSPECTIVE JUROR NO. 013: That was it.

19 THE COURT: All right.

20 PROSPECTIVE JUROR NO. 013: Yeah.

21 THE COURT: Thank you.

22 PROSPECTIVE JUROR NO. 013: Thank you.

23 THE MARSHAL: Anyone else? Please pass it down.

24 Please hold the mike very close to you.

25 PROSPECTIVE JUROR NO. 691: My name is Matthew

1 Elfberg, and the last three digits of my number are 691.

2 THE COURT: Yes, Mr. Elfberg?

3 PROSPECTIVE JUROR NO. 691: I work at a family-owned
4 radiator shop, which is actually located on Bonanza and Main
5 Street, and we consist of five employees and we do industrial
6 equipment, radiators, and I'm one of their main radiator
7 technicians.

8 THE COURT: Okay. And you said it's a family
9 business?

10 PROSPECTIVE JUROR NO. 691: Yes, family owned.

11 THE COURT: Okay. All right. Thank you. I've made
12 that note. All right.

13 PROSPECTIVE JUROR NO. 766: My name is Edna, and my
14 Badge No. is 050766.

15 THE COURT: I just need the last three digits.

16 PROSPECTIVE JUROR NO. 766: Oh, 766.

17 THE COURT: 766? Okay. Edna Canodemeza. Okay. Why
18 can't you serve now?

19 PROSPECTIVE JUROR NO. 766: Because I work in the
20 morning, and then I -- I don't have babysitter. I get off at
21 2:00 and after that I don't have a babysitter. I have two
22 kids.

23 THE COURT: And what are their ages?

24 PROSPECTIVE JUROR NO. 766: Seven and nine.

25 THE COURT: Who watches them in the morning?

UNCERTIFIED ROUGH DRAFT

1 PROSPECTIVE JUROR NO. 766: My aunt.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 766: But she work on swing
4 shift.

5 THE COURT: And do you live with your aunt?

6 PROSPECTIVE JUROR NO. 766: No, I live with my
7 children.

8 THE COURT: Okay. Do you have any other relatives
9 who don't work and can watch the children for --

10 PROSPECTIVE JUROR NO. 766: No.

11 THE COURT: -- a few hours each day?

12 PROSPECTIVE JUROR NO. 766: No, I don't know.

13 THE COURT: So --

14 PROSPECTIVE JUROR NO. 766: That's why I work early
15 and she work late, so she can help me.

16 THE COURT: Where do you work?

17 PROSPECTIVE JUROR NO. 766: Suncoast Casino.

18 THE COURT: Which coast casino?

19 PROSPECTIVE JUROR NO. 766: Suncoast. Oh, I don't
20 know where that is.

21 MS. BALLOU: Suncoast, Your Honor?

22 THE COURT: Oh, Suncoast, I'm sorry.

23 PROSPECTIVE JUROR NO. 766: Suncoast, yeah.

24 THE COURT: Suncoast.

25 PROSPECTIVE JUROR NO. 766: Yeah.

UNCERTIFIED ROUGH DRAFT

1 THE COURT: Thank you. The microphone is terrible.

2 All right. And what hours do you work?

3 PROSPECTIVE JUROR NO. 766: 6 ;til 2 in the p.m.

4 THE COURT: 6 a.m. to 2 p.m.?

5 PROSPECTIVE JUROR NO. 766: Yes.

6 THE COURT: All right. Thank you.

7 THE MARSHAL: Pass it down to the next person,
8 please.

9 PROSPECTIVE JUROR NO. 762: My name is Hawa Warsame,
10 my Badge No. is 762.

11 THE COURT: 762, okay. And, Ms. Warsame, why can't
12 you serve?

13 PROSPECTIVE JUROR NO. 762: Because my English not
14 good for -- and then, tomorrow I start the --

15 THE COURT: I can't hear. Can you have her come up

16 --

17 MS. BALLOU: Your Honor, she said tomorrow is
18 Ramadan.

19 PROSPECTIVE JUROR NO. 762: Is Ramadan and I'm
20 counting.

21 THE COURT: Oh, okay. All right. Still, we -- I'm
22 not getting it. I don't know if the court recorder is getting
23 it. Tomorrow -- go ahead. Tomorrow is Ramadan --

24 PROSPECTIVE JUROR NO. 762: Ramadan.

25 THE COURT: -- so are --

1 PROSPECTIVE JUROR NO. 762: I have to fast all day.

2 THE COURT: Right.

3 PROSPECTIVE JUROR NO. 762: And after I come home I
4 cook for the family.

5 THE COURT: Okay. Well, we won't let you eat while
6 you're here.

7 PROSPECTIVE JUROR NO. 762: I know, but after I get
8 off work when I come home I have to cook a lot of food for the
9 family because we have to fast sunup and sundown.

10 THE COURT: Right. Okay. All right. I'll make that
11 note. Thank you.

12 PROSPECTIVE JUROR NO. 762: You're welcome.

13 THE MARSHAL: Okay. Folks, who's next? Anybody here
14 in front? We're going to go this way [inaudible].

15 PROSPECTIVE JUROR NO. 733: My name is Matthew
16 Howard, last three numbers of my Badge No. are 733.

17 THE COURT: All right. Mr. Howard, why can't you
18 serve?

19 PROSPECTIVE JUROR NO. 733: I am a college student,
20 attending University of Nevada Las Vegas, and within the next
21 couple days I shall start my internship with Cirque Cirque De
22 Soleil Soleil.

23 THE COURT: All right. When does it start?

24 PROSPECTIVE JUROR NO. 733: It starts on Saturday at
25 8 in the morning.

UNCERTIFIED ROUGH DRAFT

1 THE COURT: All right. So after this trial will be
2 over.

3 PROSPECTIVE JUROR NO. 733: Well, I just clearly
4 made an idiot out of myself.

5 THE COURT: I'm sorry? What?

6 MS. BALLOU: He said he made an idiot of himself.

7 PROSPECTIVE JUROR NO. 733: Nevermind.

8 THE COURT: Oh, all right. Thank you. All right.
9 Was -- okay.

10 PROSPECTIVE JUROR NO. 815: My name is George Jones,
11 Badge No. 815.

12 THE COURT: Mr. Jones, why can't you serve?

13 PROSPECTIVE JUROR NO. 815: I do have nonrefundable
14 travel reservations from the 9th until the 12th of this month.

15 THE COURT: So leaving tomorrow?

16 PROSPECTIVE JUROR NO. 815: That is correct.

17 THE COURT: Oh. And did you bring your tickets?

18 PROSPECTIVE JUROR NO. 815: Yes, I have them right
19 here.

20 THE COURT: All right. Let's show those to the
21 marshal. Okay. So it's a nice trip. I wish I was going to
22 go.

23 PROSPECTIVE JUROR NO. 815: Oh, yeah. Yeah, it's
24 for a celebration.

25 THE COURT: Okay. All right. So it doesn't look

UNCERTIFIED ROUGH DRAFT

1 like you're flying, but you've got reservations?

2 PROSPECTIVE JUROR NO. 815: That is correct.

3 THE COURT: All right.

4 PROSPECTIVE JUROR NO. 815: Hotel reservations.

5 THE COURT: Okay. Okay. Is that it?

6 THE MARSHAL: Hold it very close to your mouth, speak
7 very loudly, that goes there, yes.

8 PROSPECTIVE JUROR NO. 819: My name is Maria
9 Scapellato, my Badge No. is --

10 THE CLERK: I'm sorry, what is your badge number?

11 MS. BALLOU: She didn't say yet.

12 THE CLERK: Oh.

13 PROSPECTIVE JUROR NO. 819: -- 819.

14 THE COURT: 819, okay.

15 PROSPECTIVE JUROR NO. 819: My problem is I don't
16 know how to speak very well English.

17 THE COURT: Okay. And what is your first language?

18 PROSPECTIVE JUROR NO. 819: Spanish.

19 THE COURT: Okay. How long have you lived here in
20 Clark County?

21 PROSPECTIVE JUROR NO. 819: 10 years.

22 THE COURT: And do you work?

23 PROSPECTIVE JUROR NO. 819: Yes.

24 THE COURT: Where do you work?

25 PROSPECTIVE JUROR NO. 819: In the school district.

UNCERTIFIED ROUGH DRAFT

1 THE COURT: Oh, what's your job with the school
2 district?

3 PROSPECTIVE JUROR NO. 819: [Inaudible] I am nurse
4 assistant --

5 THE COURT: Oh.

6 PROSPECTIVE JUROR NO. 819: -- first aid safety
7 assistant, I am nursing my country, but I cannot do here about
8 my language, you know, this is a problem.

9 THE COURT: Okay. But you're employed by the Clark
10 County School District as a nurse's assistant here --

11 PROSPECTIVE JUROR NO. 819: Yes.

12 THE COURT: -- and as part of that job, do you have
13 to speak with students?

14 PROSPECTIVE JUROR NO. 819: Yes, my student is the
15 person is speaking Spanish only.

16 THE COURT: Okay. So you --

17 PROSPECTIVE JUROR NO. 819: I working in Charleston
18 and Medical Parkway.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR NO. 819: The -- all the people is
21 Hispanic. About this I don't have any trouble, you know?

22 THE COURT: Okay. Have you had any trouble
23 understanding so far?

24 PROSPECTIVE JUROR NO. 819: Sometime I no
25 understand.

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1 THE COURT: Okay.

2 PROSPECTIVE JUROR NO. 819: When you start today's,
3 you know, I no understand 100 percent. I understand only the
4 50 percent what you say.

5 THE COURT: Okay. All right. Well, usually what we
6 do in those circumstances is we kind of wait until we're
7 further along in the process and you can give us a -- tell us
8 how you're doing.

9 PROSPECTIVE JUROR NO. 819: Okay.

10 THE COURT: All right?

11 PROSPECTIVE JUROR NO. 819: Okay. No problem.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 819: Thank you.

14 THE MARSHAL: Who's next?

15 THE COURT: Okay. Counsel --

16 MS. BALLOU: We've got the one and her son.

17 THE COURT: I thought we were done.

18 THE MARSHAL: Okay. Please move forward, then,
19 that's what we'll do. We'll get you closer so you can hear.

20 PROSPECTIVE JUROR NO. 840: Sorry.

21 THE MARSHAL: That's okay. Just your name and the
22 last three digits, please.

23 PROSPECTIVE JUROR NO. 840: My name is Tina Barker,
24 my digits are 840.

25 THE COURT: Okay.

UNCERTIFIED ROUGH DRAFT

1 PROSPECTIVE JUROR NO. 840: I have two things.

2 THE COURT: Yes?

3 PROSPECTIVE JUROR NO. 840: I have my son who is --
4 had six heart surgeries. He's craniofacial syndrome. If he
5 goes into any kind of breathing problems they will have to
6 call me. I have to be constantly aware of what's going on.
7 Another thing is I am single, and I have three kids. I have
8 my own business and if -- being here today, I've lost money.
9 I have to pay out more than I'm making.

10 So if I'm here more than one day, I'm going to go
11 bankrupt, basically.

12 THE COURT: Okay. So you're self-employed, and
13 what's your business?

14 PROSPECTIVE JUROR NO. 840: I'm -- I work at TM
15 Barker Cleaning. I'm contracted out through Stoneys
16 Entertainment, at both Rockin' Taco, that's open 24-hours a
17 day, and Stoney's Rockin' Country. I have one girl that works
18 there, and I work with her, it takes 12 hours to do the job.
19 If she works by herself then that's -- I don't make enough to
20 pay her, and then I have somebody else at Rockin' Taco that
21 works four or five hours over there, then, if I have to bring
22 them over to SRC, that's another five to help her out. I
23 don't make that -- plus my babysitter is costing me \$50 a day.

24 THE COURT: Okay. So what are the ages of your
25 children?

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1 PROSPECTIVE JUROR NO. 840: I'm sorry?

2 THE COURT: What are the ages of your children?

3 PROSPECTIVE JUROR NO. 840: I have two twins that
4 are 5, and then I have a 10 year old.

5 THE COURT: Okay. And -- and then the -- so is the
6 son one of the 5 year olds, or the 10 year old?

7 PROSPECTIVE JUROR NO. 840: Yes -- no, it's the 5
8 year old. He's been through 6 heart surgeries --

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 840: -- with Dr. Evans at the
11 Children's Heart Center.

12 THE COURT: Okay. So who watches these kids when
13 you're working?

14 PROSPECTIVE JUROR NO. 840: I have a babysitter that
15 comes to my house, and she watches all three of them. And she
16 charges me \$50 for 8 hours, and then it goes up after 8.

17 THE COURT: So you have two employees only? Two
18 employees, right?

19 PROSPECTIVE JUROR NO. 840: Two boys that are twins,
20 yes.

21 THE COURT: No, two employees? In your business you
22 have two employees?

23 PROSPECTIVE JUROR NO. 840: Yes, I do.

24 THE COURT: And then, you're working --

25 PROSPECTIVE JUROR NO. 840: And then I work --

UNCERTIFIED ROUGH DRAFT

1 THE COURT: -- as well?

2 PROSPECTIVE JUROR NO. 840: -- yes.

3 THE COURT: And you work -- do you do that at night?

4 Or in the daytime? It sounds like --

5 PROSPECTIVE JUROR NO. 840: I work in the daytime.

6 THE COURT: -- daytime.

7 PROSPECTIVE JUROR NO. 840: I go to work about 5:00
8 in the morning, and I end at 5 at night.

9 THE COURT: Okay. Okay.

10 PROSPECTIVE JUROR NO. 840: My other employee starts
11 at 3, so I'm on call from 3:00 on in the morning because
12 Rockin' Taco closes, and then, somebody has to be there from
13 3:00 until the cook comes in at 9:00, and that's what we do.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 840: So...

16 THE COURT: All right. Thank you.

17 PROSPECTIVE JUROR NO. 840: All right. Thank you.

18 THE COURT: Okay. Is that it? All right. Counsel,
19 approach.

20 (Off-record bench conference.)

21 THE COURT: We're going to read the following names,
22 those folks will leave and go across the way, and let the jury
23 commissioner know that you've been excused from service, that
24 you'll have to serve on another time, and as soon as I do
25 that, then, I'll admonish you, and we'll take a break.

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1 All right. So the following people are excused:
2 Adriana Mendoza, Badge No. 862, Christina Virzi, Badge No.
3 059, Linda Razo, Badge No. 103, Juan Valenzuela, Badge No.
4 427, Edna Canodemeza, Badge No. 766, Hawa Warsame, Badge No.
5 762, George Jones, Badge No. 815, and, Tina Barker, Badge No.
6 840. If I haven't read your name, then you haven't been
7 excused yet. All right.

8 Ladies and gentlemen, I'm going to read to you an
9 admonition that I have to read to you every time we take a
10 break. So you'll get used to hearing it. We are going to
11 take a 10-minute recess.

12 During this recess, it is your duty not to converse
13 among yourselves or with anyone else on any subject connected
14 with the trial; or to read, watch, or listen to any report of
15 or commentary on the trial by any person connected with the
16 trial or by any medium of information, including without
17 limitation, newspaper, television, radio, or Internet -- that
18 includes smart phones -- and you are not to form or express an
19 opinion on any subject connected with this case until it is
20 finally submitted to you.

21 We'll be in recess for the next 10 minutes.

22 THE MARSHAL: All rise. Ladies and gentlemen, in the
23 box first, please.

24 (Prospective jury panel recessed at 3:12 p.m.)

25 THE COURT: All right. The record will reflect the

1 venire panel has left the courtroom. And is there anything
2 outside the presence?

3 MS. BALLOU: I just wanted to make sure I got them
4 all correct from the list: Christina Virzi, Linda Razo, Juan
5 Galvez-Valenzuela, Camille Dentry was earlier, Hawa Warsame,
6 Edna Canodemeza, Jennifer Dale was earlier, George Jones --

7 THE COURT: Okay. You're -- you're -- you're
8 skipping all around.

9 THE CLERK: Yeah.

10 MS. BALLOU: Oh, I just went through the list.

11 MR. CHEN: So far, I'm on the same page as you, just
12 for --

13 THE COURT: All right. Well, I --

14 THE CLERK: But I'm not.

15 THE COURT: -- yeah, but I read it off, and so I have
16 my list. I don't have it on a --

17 MS. ANTHONY: She's going in order of the list.

18 MS. BALLOU: I'm going --

19 THE COURT: Okay.

20 MS. BALLOU: -- in order of the --

21 THE COURT: If you'd like to compare to my list, you
22 can come on up here and do that, and I'm going to --

23 MS. BALLOU: Okay.

24 THE COURT: -- give it to the clerk. The other thing
25 is, if you need to use the rest room, since I haven't

1 admonished them yet about talking to you guys, you can just
2 use the facilities back here.

3 MR. WESTBROOK: Thanks, Judge.

4 THE COURT: And then, I'll do that when we come back
5 in, but we had five hands needing to go to the rest room,
6 so...

7 All right. We're on -- in recess.

8 (Court recessed at 3:14 p.m. to 3:35 p.m.)

9 (Outside the presence of the prospective jury panel.)

10 THE COURT: All right. We're back on the record.
11 The defendant is present with his Counsel, Deputies District
12 Attorney prosecuting the case are present, all officers of the
13 court. We are outside the presence of the venire panel,
14 except for Mr. Kenneth Chen, Badge No. 013.

15 And, Mr. Chen, the reason we brought you in without
16 the rest of your fellow venire people was we wanted to make
17 sure that your -- your issue you brought to the -- the
18 attention of the Court was not so severe, and we wanted to ask
19 you some additional questions about that, but we didn't want
20 to embarrass you in front of the other folks.

21 PROSPECTIVE JUROR NO. 013: Okay.

22 THE COURT: So how often would you need to take a
23 break?

24 PROSPECTIVE JUROR NO. 013: Depends, you know,
25 sometimes every 15 minutes.

UNCERTIFIED ROUGH DRAFT

1 THE COURT: Oh, okay.

2 PROSPECTIVE JUROR NO. 013: Yeah.

3 THE COURT: All right. Well --

4 PROSPECTIVE JUROR NO. 013: Course I'm -- you know,
5 I'm taking Flomax, you know, and -- you know, I have a little
6 prostrate enlargement problem.

7 THE COURT: Enlargement, and then the medication --

8 PROSPECTIVE JUROR NO. 013: Yeah.

9 THE COURT: -- makes you need to go more often --

10 PROSPECTIVE JUROR NO. 013: Right.

11 THE COURT: -- right?

12 PROSPECTIVE JUROR NO. 013: Yeah.

13 THE COURT: Okay. All right. So if it was, you
14 know, every couple of hours or every hour even, we could
15 probably handle that, but if it -- if you think it -- it could
16 be every 15 minutes -- and also, do you have advance warning,
17 or, like, in other words, when you need to go you've got to go
18 immediately?

19 PROSPECTIVE JUROR NO. 013: Yeah, otherwise it will
20 get on me.

21 THE COURT: Right. Okay. All right. Counsel, the

22 --

23 MS. ANTHONY: No objection, Your Honor.

24 THE COURT: -- stipulate to --

25 MR. WESTBROOK: We --

UNCERTIFIED ROUGH DRAFT

1 MS. BALLOU: Stipulated.
2 MR. WESTBROOK: -- we stipulate --
3 THE COURT: -- excusing him?
4 MR. WESTBROOK: -- Judge.
5 THE COURT: All right. Thank you, Mr. Chen. We'll
6 excuse you. So you can go across and let the jury
7 commissioner know that you've been excused.
8 PROSPECTIVE JUROR NO. 013: Okay. Thank you.
9 THE COURT: Thank you.
10 PROSPECTIVE JUROR NO. 013: I appreciate it.
11 (Pause in the proceedings)
12 (Prospective jury panel entering at 3:45 p.m.)
13 THE MARSHAL: Please be seated in your old seats.
14 THE CLERK: Do you want me to do that right now?
15 THE COURT: Yeah.
16 THE CLERK: Bill?
17 THE MARSHAL: Yes?
18 THE COURT: We're going to --
19 THE CLERK: Why don't we have -- oh, you go.
20 THE COURT: -- we're going to go ahead and put the
21 people that are back here to fill the vacant seats in the box,
22 so that will free us up some --
23 THE MARSHAL: Yes, it will, Judge.
24 THE COURT: -- seats.
25 THE CLERK: Teresa Sanchez, you'll be in Seat 1.

UNCERTIFIED ROUGH DRAFT

1 THE MARSHAL: Teresa Sanchez, ma'am?

2 THE CLERK: Kai Lau, you'll be in Seat 2. Matthew
3 Howard, you'll be in Seat 3. And Gabriel Chavez, you'll be in
4 Seat 4.

5 THE COURT: No, not Seat 4.

6 MS. BALLOU: Should be 5, Denise, right?

7 THE CLERK: I'm sorry, Seat --

8 THE COURT: There's 5.

9 THE CLERK: -- 5, it is 5. I just wrote wrong one.

10 THE MARSHAL: All the way up and in the very back.

11 THE CLERK: I had it right, before I remembered.

12 THE COURT: Okay. Please be seated.

13 All right. Ladies and gentlemen, we've had 12
14 additional jurors -- prospective jurors -- join us, and I'm
15 going to have them be sworn, but first, since they haven't
16 heard the introduction by the State and Defense Counsel, I
17 need you to do that again for the benefit of our newest venire
18 members.

19 MS. ANTHONY: Thank you, Your Honor.

20 My name is Michelle Anthony. I am prosecuting this
21 case with my co-counsel Alex Chen on behalf of the State of
22 Nevada. This case, the defendant is charged with 15 counts of
23 possession of visual presentation depicting sexual conduct of
24 a child. It occurred from November 25, 2008, through
25 September 7, 2010.

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1 The child pornography was located on the defendant's
2 USB thumb drive, laptop, and desktop computer, which was
3 located at his residence at 2205 Beverly Way, here in Las
4 Vegas, Nevada.

5 The State intends to call the following witnesses,
6 we may not call all of these witnesses, but they are potential
7 witnesses. Tami Hines, Michael Landeau, members of the F.B.I.
8 which are Alex Bustillos, Andrew Gruninger, and Shawna
9 Partridge. Members of the Las Vegas Police Department,
10 Officer Barrett, Officer Brandon, Detective Carpenter, Officer
11 Cody, Detective Ehlers, Detective Ramirez, Officer Rowe,
12 Officer Shumate, Officer Smith, Officer Solomon, Officer
13 Tafoya, and Detective Tooley. Additionally, we may call Keith
14 Gross [phonetic] an investigator with the District Attorney's
15 Office.

16 THE COURT: Thank you. Ms. Ballou?

17 MS. BALLOU: Thank you. My name is Erika Ballou. I
18 along with my law partner David Westbrook have the honor of
19 representing Anthony Castaneda and we have our partner here,
20 Michael Van Loven. Sorry about that. He's new. We're -- we
21 may call our Investigator Doug Dahman [phonetic], Mariah
22 Carney -- not Carey, and we may call Craig Castaneda.

23 And we're confident that you will return a verdict
24 of not guilty. Thank you.

25 THE COURT: All right. And if the 12 new folks who

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1 have joined us will please stand, and the clerk will swear you
2 in.

3 THE MARSHAL: Please stand, folks. Please raise your
4 right hand.

5 (Clerk administers the oath.)

6 THE COURT: All right. Please be seated.

7 And the record will reflect that we are within the
8 presence of the venire panel. The defendant is present with
9 his Counsel, as are the Deputy District Attorneys prosecuting
10 the case and all officers of the court.

11 Ladies and gentlemen of -- those of you who have
12 just joined us, welcome to Department 5. We are expecting
13 this case to last the -- the entire week, and our schedule for
14 the trial is anticipated to be until 5:00 this evening. That
15 we would resume Tuesday at 9:00, and go until 5. Wednesday
16 would be 1:00 until 5. Thursday 9 to 5. And Friday, again, 1
17 to 5.

18 I'm going to be asking you questions here, this --
19 we are very concerned about coming up with 12 members of the
20 jury who are fair and impartial, and we have to ask questions
21 in order to come up with those impartial jurors. I'm going to
22 be asking questions, and these are just directed to the 12 new
23 people who have joined us because the other folks who are here
24 have already been through this part of the selection process.

25 So I'm going to ask these questions, and ask you by

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1 a show of hands just to raise your hands and let me know
2 whether you have a response to these questions.

3 So as to the 12 new people who have joined us, are
4 there any of you who are acquainted with the defendant in this
5 case, Mr. Castaneda?

6 The record will reflect a negative response.

7 Is there anyone who is acquainted with either of the
8 Deputy DAs who are prosecuting this case?

9 The record will reflect a negative response.

10 Is there anyone who has been -- who believes they're
11 acquainted with either of the Defense lawyers, or any of the
12 Defense team?

13 The record will reflect a negative response.

14 Are -- is there anyone who believes that they may
15 know, or be acquainted with any of the witness's names who
16 were called?

17 The record will reflect a negative response.

18 All right. Based upon the time table that I gave
19 you, that being the five days, and the schedule that we're
20 going to keep, is there anyone who believes -- these are the
21 12 new people only -- that they cannot serve that amount of
22 time for whatever the reason is?

23 Now, knowing before you answer that I'm going to --
24 going to accept your explanation as to why you can't serve,
25 and then, counsel will approach, so I'm not making an

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1 immediate decision on whether you should be excused for that
2 reason, but the reasons I'm looking for are serious reasons.
3 Like, you have nonrefundable airline tickets for a vacation,
4 and then, you brought the proof of that with you.

5 That you have surgery scheduled. That you are about
6 to deliver a child, or that your significant other is about to
7 deliver a child during the trial or close to the trial? Those
8 types of excuses is what I'm looking for. Not that it's just
9 inconvenient.

10 All right. That being said, are there any persons
11 among the 12 new folks who feel that they cannot serve for the
12 week?

13 All right. We have one hand. If you'll come on up
14 to the podium.

15 THE MARSHAL: Ma'am, you're -- you'll be first. Sir,
16 let her go first. That will make it easier for you to get
17 back in. Come on, ma'am. All right.

18 If you would, ma'am, just state your name and the
19 last three digits on your badge number.

20 PROSPECTIVE JUROR NO. 302: Cristina Miranda, 1302.

21 THE COURT: Okay. All right. Ms. Miranda, tell me
22 why you believe you can't serve?

23 PROSPECTIVE JUROR NO. 302: It's because of my
24 language barrier. I can understand just simple English, but
25 that's really the deeper one.

1 THE COURT: All right. How long have you lived here
2 in Clark County?

3 PROSPECTIVE JUROR NO. 302: 15 years.

4 THE COURT: And do you work?

5 PROSPECTIVE JUROR NO. 302: I work -- yeah. I work
6 in Sunset Station.

7 THE COURT: Sunset Station. What do you do there?

8 PROSPECTIVE JUROR NO. 302: Auditing slot machines.

9 THE COURT: Oh, auditing slot machines.

10 PROSPECTIVE JUROR NO. 302: Yeah, I'm a slot
11 auditor.

12 THE COURT: Okay. What -- what does that entail?
13 What do you have to do to audit a slot machine?

14 PROSPECTIVE JUROR NO. 302: Oh, the payings and
15 the -- the pay cables.

16 THE COURT: Okay. Do you have to go into this --
17 inside of the machine, or do you do it remotely?

18 PROSPECTIVE JUROR NO. 302: No, we do the
19 paperworks. We do the reports.

20 THE COURT: I see.

21 PROSPECTIVE JUROR NO. 302: It's only the slot
22 persons, it's the technicians. Just doing the -- the, you
23 know, the machines.

24 THE COURT: Okay. So then, they bring you the
25 paperwork and you do that in your office?

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1 PROSPECTIVE JUROR NO. 302: Yes.

2 THE COURT: And do you have co-workers?

3 PROSPECTIVE JUROR NO. 302: Yes.

4 THE COURT: How many co-workers do you have?

5 PROSPECTIVE JUROR NO. 302: Because we've been
6 consolidated for two years already, so I think close to -- all
7 the game auditors are in one place.

8 THE COURT: Oh.

9 PROSPECTIVE JUROR NO. 302: Yeah. There are more
10 than 30 to 40 auditors.

11 THE COURT: I see. And do you audit for all of the
12 Coast properties, or just the one?

13 PROSPECTIVE JUROR NO. 302: Yes, all the properties.

14 THE COURT: Oh, I see.

15 PROSPECTIVE JUROR NO. 302: Small properties and the
16 large properties of Station Casinos.

17 THE COURT: And -- oh, Station Casinos, I'm sorry.
18 And where -- where are those offices located?

19 PROSPECTIVE JUROR NO. 302: You mean, my -- where I
20 work now?

21 THE COURT: Yeah, where you physically work?

22 PROSPECTIVE JUROR NO. 302: Sunset Station,
23 Henderson.

24 THE COURT: Oh, okay. So they're right on the Sunset
25 property? And all of those people, all those, you said, more

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1 than 30 people work --

2 PROSPECTIVE JUROR NO. 302: Yes --

3 THE COURT: -- all at that one place?

4 PROSPECTIVE JUROR NO. 302: -- only the gaming
5 people --

6 THE COURT: Auditors?

7 PROSPECTIVE JUROR NO. 302: -- and then [inaudible]
8 mean, I think they're working at -- by Palace Station.

9 THE COURT: All right. Well, it sounds like your
10 English skills are pretty -- pretty good, so --

11 PROSPECTIVE JUROR NO. 302: Yeah, it's just -- just
12 only this one, but --

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 302: -- well, it means that
15 only simple English.

16 THE COURT: All right. Well, yes, but we're going to
17 use simple English. We -- we're not in --

18 PROSPECTIVE JUROR NO. 302: Okay.

19 THE COURT: -- into trying to baffle everybody with a
20 --

21 PROSPECTIVE JUROR NO. 302: Okay.

22 THE COURT: -- legal jargon.

23 PROSPECTIVE JUROR NO. 302: I'm just scared that I
24 might be, you know, I might not understand some, you know, a
25 very hard terms, or, you know?

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1 THE COURT: Well, you might not be alone, then, with
2 the Native English speakers in that regard. All right? Thank
3 you very much.

4 PROSPECTIVE JUROR NO. 302: Okay.

5 THE COURT: So you can be seated.

6 THE MARSHAL: Please, sir. Your last name, sir, and
7 your last three digits?

8 PROSPECTIVE JUROR NO. 1271: Montebello,
9 M-O-N-T-E-B-E-L-L-O.

10 THE COURT: Okay. And 1271 is your badge --

11 PROSPECTIVE JUROR NO. 1271: That's me --

12 THE COURT: -- number?

13 PROSPECTIVE JUROR NO. 1271: Yes.

14 THE COURT: Okay. Mr. Montebello, why can't you
15 serve?

16 PROSPECTIVE JUROR NO. 1271: Oh, I have a son, who
17 years ago was --

18 THE COURT: All right. But we -- the question was,
19 is there a reason you can't --

20 PROSPECTIVE JUROR NO. 1271: That would be the only
21 reason --

22 THE COURT: -- just --

23 PROSPECTIVE JUROR NO. 1271: -- why I feel, maybe I
24 might not be impartial.

25 THE COURT: Okay. That -- we'll get to that question

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PROSPECTIVE JUROR NO. 1271: Okay.

THE COURT: -- next, but later, but this is just can you serve for that amount of time?

PROSPECTIVE JUROR NO. 1271: No problem, that's not a problem.

THE COURT: Okay. We'll ask you those other questions further into the --

PROSPECTIVE JUROR NO. 1271: Okay. Well, thanks.

THE COURT: -- questions. Thank you. All right. Okay. That catches us up to where --

THE MARSHAL: What?

THE COURT: -- yes, ma'am?

THE MARSHAL: Ma'am, stand up, walk this way. Can you say your last name, the last three digits of your badge number, and what you'd like us to catch.

PROSPECTIVE JUROR NO. 731: Last name is Lau.

THE MARSHAL: Okay.

PROSPECTIVE JUROR NO. 731: Last name.

THE MARSHAL: And you were asked who did this.

PROSPECTIVE JUROR NO. 731: My name is good?

THE COURT: Yeah, that's good.

PROSPECTIVE JUROR NO. 731: My name is Kai Lau. It's the number, right?

THE MARSHAL: Yes, the last three.

1 PROSPECTIVE JUROR NO. 731: 7 -- 731.
2 THE COURT: 7701?
3 PROSPECTIVE JUROR NO. 731: I said, 731.
4 THE CLERK: 731, she --
5 THE COURT: 7 -- what is it?
6 MS. BALLOU: 731.
7 THE CLERK: 731, it should be.
8 THE COURT: 731?
9 THE MARSHAL: 731, Your Honor.
10 THE COURT: Okay. All right. So -- and why -- why
11 are you raising your hand at this point in time?
12 PROSPECTIVE JUROR NO. 731: Before you told me, I
13 don't want to sit there and raise my hands. I want -- hands
14 so, I -- I hand -- I have the reason I want to put down hand.
15 I don't want you release.
16 THE COURT: You're not understanding --
17 PROSPECTIVE JUROR NO. 731: This is a mother
18 talking. I have that -- whether easy or no. You that -- you
19 talking everything, I don't understand.
20 THE COURT: All right.
21 PROSPECTIVE JUROR NO. 731: I just make the people
22 together go in there, put it down, put it down. I don't know.
23 I just missed everybody. Could I ask him, you asked my
24 number, he said, oh, sit down here. I took over here. Yeah.
25 THE COURT: Oh, okay. So what is your native

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1 language?

2 PROSPECTIVE JUROR NO. 731: I talking Chinese.

3 THE COURT: Chinese? Okay. And how long have you
4 lived here?

5 PROSPECTIVE JUROR NO. 731: Five years.

6 THE COURT: Five years. Do you work? Do you work?

7 PROSPECTIVE JUROR NO. 731: Yeah, sometimes.

8 THE COURT: Okay. Where do you work?

9 PROSPECTIVE JUROR NO. 731: I sometimes go in the
10 Chinese restaurant.

11 THE COURT: And what -- what do you do when you go
12 into the Chinese restaurant?

13 PROSPECTIVE JUROR NO. 731: And so then they
14 [inaudible] they put it down there, what's this say? They put
15 it down the -- I don't know, probably release.

16 THE COURT: Okay. So you wait on tables? You --

17 PROSPECTIVE JUROR NO. 731: Yes, and sometimes the
18 tables are the -- taking [inaudible] before the customers come
19 do.

20 THE COURT: Okay. All right. And are you married?

21 PROSPECTIVE JUROR NO. 731: Yeah, I'm married
22 before.

23 THE COURT: Okay. Do you have children?

24 PROSPECTIVE JUROR NO. 731: Yeah, I have children.

25 My children are the -- they stayed at Hong Kong, not here.

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1 He's 30 years old.

2 THE COURT: Oh, okay. Grown children?

3 PROSPECTIVE JUROR NO. 731: I want them [inaudible]
4 go into America and keep a momma -- keep me.

5 THE COURT: All right. And so, have you been able to
6 understand what'd he questions that we've been asking? He
7 doesn't speak Chinese, so -- I mean, he can only --

8 PROSPECTIVE JUROR NO. 731: I don't know him.

9 THE COURT: -- say the same thing.

10 PROSPECTIVE JUROR NO. 731: You -- you are crazy so
11 me, I don't --

12 THE COURT: Unless you -- marshal, you don't speak
13 Chinese, do you?

14 THE MARSHAL: Negative.

15 THE COURT: Okay. Just checking. I thought he might
16 have some hidden talents he hadn't told me about.

17 All right. So have you been able to understand
18 what's been going on?

19 PROSPECTIVE JUROR NO. 731: Mm-hmm.

20 THE COURT: Yes or no? No, it doesn't sound like it.

21 All right. Counsel, stipulate?

22 MR. WESTBROOK: We'll stipulate, Judge.

23 THE COURT: All right.

24 MS. ANTHONY: Yes, Your Honor.

25 THE COURT: All right. Thank you. Ma'am, you are

1 excused.

2 THE CLERK: Badge 751, Laura Clauson. You want me to
3 just update it then?

4 THE COURT: Yeah. All right. Okay. Now, we're back
5 to the next question, and, gosh, is there anyone who feels
6 that for whatever reason they would be unable to serve as a
7 fair and impartial juror in this case?

8 We need a show of hands, and we're going to start
9 with the box. Anyone in the box that feels they could not be
10 fair and impartial juror?

11 Okay. All right. Let's see that -- the hands.

12 THE MARSHAL: Hands get --

13 THE COURT: Have we just got two?

14 THE MARSHAL: Go ahead and --

15 THE COURT: All right.

16 THE MARSHAL: -- stand up, state your name, the last
17 three digits of your badge. Keep the mike close to your
18 mouth.

19 PROSPECTIVE JUROR NO. 691: My name is Matthew
20 Elfberg and 691.

21 THE COURT: Okay. Mr. Elfberg?

22 PROSPECTIVE JUROR NO. 691: I feel like I would be
23 kind of biased toward the defendant's side because I do have
24 two younger nieces, one younger nephew and also a little
25 brother.

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1 THE COURT: All right. So you have relatives that
2 are children, but --

3 PROSPECTIVE JUROR NO. 691: Yes.

4 THE COURT: -- okay.

5 PROSPECTIVE JUROR NO. 691: Yes, many of them.

6 THE COURT: Well, yes, but you understand that the
7 defendant is presumed innocent unless and until the State
8 proves that he is guilty beyond a reasonable doubt.

9 PROSPECTIVE JUROR NO. 691: Understood.

10 THE COURT: All right. So would you be able to
11 listen to the evidence and make the State prove their case?

12 PROSPECTIVE JUROR NO. 691: Possibly.

13 THE COURT: All right. Well, that's -- that's what
14 we are going to determine, so -- I mean, most everyone is
15 going to know, or have known in their lifetime a child, so --

16 PROSPECTIVE JUROR NO. 691: Right.

17 THE COURT: -- the fact that you have relatives that
18 are children, there's no one here that's not going to have
19 that.

20 PROSPECTIVE JUROR NO. 691: I understand.

21 THE COURT: So we'll have to, you know, go through
22 and as we get further along -- so, but thank you.

23 PROSPECTIVE JUROR NO. 691: Okay.

24 THE COURT: All right.

25 THE MARSHAL: You good? Okay. Looks like we're

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1 going to the audience, Your Honor.

2 THE COURT: Okay.

3 THE MARSHAL: Sir --

4 THE COURT RECORDER: The -- can we bring them up?

5 It's --

6 THE MARSHAL: Absolutely.

7 THE COURT: Yeah.

8 THE MARSHAL: Is it bad?

9 THE COURT: Let's bring them up to the --

10 THE COURT RECORDER: -- not picked up and not faring

11 very well from there. I'm just --

12 THE MARSHAL: Sir, if you would, just step up,
13 please? Just go ahead, please. The last name and the last
14 three digits of your badge number.

15 PROSPECTIVE JUROR NO. 326: Joel Delgado, 326.

16 THE CLERK: It's what?

17 THE COURT: 326, Joel Nevada?

18 PROSPECTIVE JUROR NO. 326: Delgado.

19 THE COURT: Delgado?

20 PROSPECTIVE JUROR NO. 326: Yep. I mean, I don't
21 think I'll be -- I'll do a fair -- because as soon as they
22 said, "child pornography," he's already guilty in my head,
23 so...

24 THE COURT: Okay. You -- you have not heard any
25 evidence in this case --

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1 PROSPECTIVE JUROR NO. 326: I haven't heard
2 anything.

3 THE COURT: -- right?

4 PROSPECTIVE JUROR NO. 326: Nope.

5 THE COURT: And you understand the the State is
6 required under our system of justice to prove the case beyond
7 a reasonable doubt. That the defendant is presumed innocent,
8 not guilty, until the State meets its burden and not in -- not
9 before? You understand that?

10 PROSPECTIVE JUROR NO. 326: I understand, but --

11 THE COURT: Would you -- all right. So you
12 understand that there will be witnesses presented?

13 PROSPECTIVE JUROR NO. 326: Yeah.

14 THE COURT: You don't feel that you could reserve
15 your judgment until you've --

16 PROSPECTIVE JUROR NO. 326: Probably not.

17 THE COURT: -- heard all of the evidence?

18 PROSPECTIVE JUROR NO. 326: No.

19 THE COURT: You don't know anything about this case?

20 PROSPECTIVE JUROR NO. 326: I don't know nothing
21 about this case.

22 THE COURT: All right. Counsel -- would counsel like
23 to inquirer further?

24 MR. WESTBROOK: I don't think so, Judge. I think we
25 would move for cause.

1 THE COURT: State, would you like to inquire further?
2 MS. ANTHONY: No, Your Honor.
3 THE COURT: All right. You'll be excused for cause.
4 Let -- go over and let the jury commissioner know you'll need
5 to be reassigned to a different case.
6 PROSPECTIVE JUROR NO. 326: Okay.
7 THE COURT: Thank you.
8 PROSPECTIVE JUROR NO. 326: Okay.
9 THE MARSHAL: Do I have anyone else in the next row?
10 Anybody else in the second row?
11 Ma'am, please step forward. Just your last name,
12 ma'am, and the last three digits of your badge.
13 PROSPECTIVE JUROR NO. 1264: Hankderson, and it's
14 1264.
15 THE COURT: 12, what?
16 THE MARSHAL: 64 --
17 PROSPECTIVE JUROR NO. 1264: 64.
18 THE MARSHAL: -- Your Honor.
19 THE COURT: 64?
20 THE MARSHAL: 264.
21 THE CLERK: I don't see -- well --
22 THE COURT: What's your name?
23 PROSPECTIVE JUROR NO. 1264: Hankerson.
24 THE COURT: Your first name?
25 PROSPECTIVE JUROR NO. 1264: Jolene.

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1 THE COURT: Jolene Hankerson.
2 THE MARSHAL: Okay.
3 THE COURT: Okay. And why do you feel you could not
4 be a fair and impartial juror?
5 MS. ANTHONY: I don't see a --
6 PROSPECTIVE JUROR NO. 1264: My -- I'm a potential
7 witness, as of now. Debbie Marriott is the DA that I'm
8 dealing with. My daughter is a victim of -- of abuse as of
9 November, so I don't even know why they brought me in here.
10 THE COURT: You don't have her on the list?
11 MS. ANTHONY: Nope.
12 MS. BALLOU: Nope.
13 MS. ANTHONY: I have her, Your Honor. She's on the
14 bottom, page 2 of 3, the second --
15 THE COURT RECORDER: We don't have that page.
16 MR. WESTBROOK: Which one? I don't have that
17 numbers.
18 MR. CHEN: That's the new one.
19 THE MARSHAL: That's the new discarded page.
20 MS. BALLOU: Right. That was one that we weren't
21 supposed to --
22 MS. ANTHONY: But she's on the bottom of it.
23 MR. WESTBROOK: I think that's probably why she's
24 here, but she shouldn't be.
25 THE CLERK: But she shouldn't be.

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1 PROSPECTIVE JUROR NO. 1264. Oh.

2 THE CLERK: Yeah, because that's the two-week pages
3 that we discarded.

4 THE COURT: Oh. Right.

5 THE COURT: You were brought over in error. So if
6 you could go over, back to the jury commissioner and let her
7 know that you weren't supposed to be sent over. They told us
8 that they were sending 12 and you're not on the twelve...

9 PROSPECTIVE JUROR NO. 1264: Thank you.

10 THE COURT: Thank you. All right. And that was it?

11 THE MARSHAL: Anyone else, folks?

12 THE COURT: All right. Thank you. Now, the next
13 questions that are going to be just directed to people who are
14 sitting in the box, and are -- is there anyone sitting in the
15 box who has served as a juror before?

16 All right. Let's get that microphone.

17 THE MARSHAL: Yes, Your Honor. Who's first?

18 THE COURT: Well, no, let's -- let's go in some kind
19 of reasonable order. Didn't we have this gentleman on the
20 end? Okay. Yes?

21 PROSPECTIVE JUROR NO. 702: HI, my name is Larry
22 Lamb, 702.

23 THE COURT: All right. Mr. Lamb, when did you serve
24 as a juror?

25 PROSPECTIVE JUROR NO. 702: It's been four or five

1 years.

2 THE COURT: Was that here in Clark County?

3 PROSPECTIVE JUROR NO. 702: Yes, it was.

4 THE COURT: Was it a criminal or a civil case?

5 PROSPECTIVE JUROR NO. 702: Civil case.

6 THE COURT: Without telling us what the verdict was,

7 did the jury reach a verdict?

8 PROSPECTIVE JUROR NO. 702: Yes.

9 THE COURT: Were you the foreman?

10 PROSPECTIVE JUROR NO. 702: Yes.

11 THE COURT: Thank you. Sir?

12 PROSPECTIVE JUROR NO. 699: Billy Whiteford, 699.

13 THE COURT: Mr. Whiteford, what was your jury
14 experience?

15 PROSPECTIVE JUROR NO. 699: That was like, oh, about
16 two and a half, three years ago.

17 THE COURT: And was that here in Clark County?

18 PROSPECTIVE JUROR NO. 699: Yes, ma'am.

19 THE COURT: Were -- was that a criminal case or a
20 civil case?

21 PROSPECTIVE JUROR NO. 699: Criminal.

22 THE COURT: Did the jury reach a verdict, without
23 telling us what it is?

24 PROSPECTIVE JUROR NO. 699: Yes, ma'am.

25 THE COURT: And were you the foreman?

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1 PROSPECTIVE JUROR NO. 699: No, ma'am.

2 THE COURT: All right. Thank you. Anyone else that
3 served?

4 Okay. If you'd hand the microphone down?

5 PROSPECTIVE JUROR NO. 707: My name is Lani Roberts,
6 707.

7 THE COURT: Ms. Roberts, what was your jury
8 experience?

9 PROSPECTIVE JUROR NO. 707: I had it, I think, about
10 two years ago with the federal court.

11 THE COURT: Federal court, all right. Was it a
12 criminal case?

13 PROSPECTIVE JUROR NO. 707: Yes.

14 THE COURT: And without telling us what the verdict
15 was, did the jury reach a verdict?

16 PROSPECTIVE JUROR NO. 707: Yes.

17 THE COURT: And were you the foreperson of the jury?

18 PROSPECTIVE JUROR NO. 707: No.

19 THE COURT: All right. Thank you. No other jurors?
20 Okay.

21 Is there anyone sitting in the box that has -- is
22 involved in law enforcement, or has anyone closely associated
23 with them involved in law enforcement, employed in law
24 enforcement in any way? All right.

25 THE MARSHAL: Hold it close to your mouth.

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1 PROSPECTIVE JUROR NO. 691: Matthew Elfberg, 691.

2 THE COURT: Mr. Elfberg, who has been involved in law
3 enforcement?

4 PROSPECTIVE JUROR NO. 691: My brother -- my older
5 brother works for CCSD.

6 THE COURT: Okay. Is he a corrections officer?

7 PROSPECTIVE JUROR NO. 691: He's a school police
8 officer.

9 THE COURT: Oh, CCSD, okay.

10 PROSPECTIVE JUROR NO. 691: Yes.

11 THE COURT: And how long has he done that job?

12 PROSPECTIVE JUROR NO. 691: Three years.

13 THE COURT: Do you talk to him about his work?

14 PROSPECTIVE JUROR NO. 691: Every once in a while.

15 THE COURT: Do you feel that you would give -- tend
16 to give more weight to a police officer's testimony just
17 because they were a police officer, and for no other reason?

18 PROSPECTIVE JUROR NO. 691: Only because I -- that's
19 what I also want to do, and I have applied twice to be an
20 officer.

21 THE COURT: All right. So you've tried to get into
22 what police force?

23 PROSPECTIVE JUROR NO. 691: The city marshals, and I
24 have recently applied for Metro.

25 THE COURT: Okay. Are you studying criminal justice?

1 PROSPECTIVE JUROR NO. 691: No.

2 THE COURT: No? Do you have a degree in criminal
3 justice or anything like that?

4 PROSPECTIVE JUROR NO. 691: No, ma'am.

5 THE COURT: Okay. All right. Do you understand that
6 -- that the witnesses who take the stand are -- you'll hear
7 testimony from them, and what I'm trying to determine is
8 whether you'll take into consideration their testimony, what
9 they're actually saying, in totality with all of the other
10 evidence and weigh it carefully, as opposed to just saying,
11 well, it's a -- it's a police officer, therefore, I don't need
12 to hear anything more if the police officer says, then that's
13 it?

14 PROSPECTIVE JUROR NO. 691: In my eyes, for the most
15 part I believe that the officer is right 95 percent of the
16 time.

17 THE COURT: Okay. Would you believe that -- or
18 concede then, that it's possible an officer makes a mistake?

19 PROSPECTIVE JUROR NO. 691: Every once so often,
20 yes.

21 THE COURT: Okay. Because they're human? All right.
22 And so would you -- knowing that that at least by your
23 estimation, 5 percent of the time they could be wrong, if 95
24 percent they're right. Would you be able to listen to the
25 testimony then, and make a decision based upon what they're

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1 saying, not just who they are.

2 PROSPECTIVE JUROR NO. 691: To be honest, no.

3 THE COURT: All right. Would the State like to
4 inquire further?

5 MS. ANTHONY: Yes, Your Honor.

6 Mr. Elfberg, the State and the Defense when -- in
7 selecting jurors, we're looking for people who can be fair to
8 both sides, and that's what these questions that I'm going to
9 ask you about are trying to get a feel for, kind of how you
10 think and kind of along those lines.

11 You said that police officers, you believe, 95
12 percent of the time are correct?

13 PROSPECTIVE JUROR NO. 691: Yes, ma'am.

14 MS. ANTHONY: Okay. And then, there's a 5 percent of
15 the time that they might not be, correct?

16 PROSPECTIVE JUROR NO. 691: Yes, ma'am.

17 MS. ANTHONY: If a police officer were to get into
18 this case some more, to take the stand because I'd write off a
19 list of possible witnesses and many of them are police
20 officers. If the police officer were to take the stand --
21 when they testify you'll be able to listen to everything that
22 they're saying, correct?

23 PROSPECTIVE JUROR NO. 691: Yes.

24 MS. ANTHONY: Okay. And when you're taking into
25 consideration what they're saying, it's possible that when

1 you're listening to it you can evaluate what they're saying as
2 they're testifying, correct?

3 PROSPECTIVE JUROR NO. 691: Yes.

4 MS. ANTHONY: Okay. And from that you'll be able to
5 determine their credibility and they weight, not necessarily
6 just because it's a police officer taking the stand, right?

7 PROSPECTIVE JUROR NO. 691: Yes.

8 MS. ANTHONY: Okay. And your brother is a police
9 officer.

10 PROSPECTIVE JUROR NO. 691: Yes, ma'am.

11 MS. ANTHONY: Okay. Do you hang out with your
12 brother?

13 PROSPECTIVE JUROR NO. 691: Not a lot.

14 MS. ANTHONY: Does he roll out -- does your brother
15 hang out with police officers?

16 PROSPECTIVE JUROR NO. 691: Yes.

17 MS. ANTHONY: Okay. And you understand that -- I'm
18 assuming that there are some police officers that you might
19 not like?

20 PROSPECTIVE JUROR NO. 691: I never had a problem.

21 MS. ANTHONY: You like them all?

22 PROSPECTIVE JUROR NO. 691: I've never had a problem
23 with one.

24 MS. ANTHONY: Okay. But when a police officer is
25 ready to take the stand, you'll be able to listen to what they

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1 have to say, and waive that testimony after they took the
2 stand?

3 PROSPECTIVE JUROR NO. 691: As far as I can say, if
4 you're in this kind of a position the officer is right because
5 there would be no need for you to be in this position if you
6 weren't found doing something wrong.

7 MS. ANTHONY: Okay. When you say "being in this
8 position" that wouldn't -- when you say -- you say "this
9 position" I'm assuming you're talking about the defendant, not
10 your position in --

11 PROSPECTIVE JUROR NO. 691: Yes.

12 MS. ANTHONY: -- the jury box?

13 PROSPECTIVE JUROR NO. 691: Yes.

14 MS. ANTHONY: Okay. And you understand that I, as
15 the State, and my co-counsel, we have a burden to prove?

16 PROSPECTIVE JUROR NO. 691: Yes.

17 MS. ANTHONY: And that it's beyond a reasonable
18 doubt, right?

19 PROSPECTIVE JUROR NO. 691: Yes.

20 MS. ANTHONY: And that the system that we have is set
21 up to pick 12 people -- 12 jurors, and 12 jurors are to decide
22 whether or not the State has met that burden, correct?

23 PROSPECTIVE JUROR NO. 691: Yes.

24 MS. ANTHONY: Okay. And in order for the State to
25 meet its burden, right, people have to sit and listen to

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1 witnesses that take the stand?

2 PROSPECTIVE JUROR NO. 691: Yes.

3 MS. ANTHONY: So it's the State that has the burden,
4 that the defendant is innocent as he sits there today, do you
5 agree with that?

6 PROSPECTIVE JUROR NO. 691: Yes.

7 MS. ANTHONY: Okay.

8 MS. BALLOU: Your Honor, can we approach briefly?

9 THE COURT: Yes.

10 (Off-record bench conference.)

11 MS. BALLOU: Thank you, Your Honor.

12 THE COURT: Defense?

13 MR. WESTBROOK: Have you ever heard the term "benefit
14 of the doubt?"

15 PROSPECTIVE JUROR NO. 691: Yes.

16 MR. WESTBROOK: From what I've been listening to, it
17 sounds to me like you would be giving the benefit of the doubt
18 to whatever officer happens to be testifying; is that fair to
19 say?

20 PROSPECTIVE JUROR NO. 691: Yes.

21 MR. WESTBROOK: You wouldn't be giving the benefit of
22 the doubt to someone who is accused of a crime; is that fair
23 to say?

24 PROSPECTIVE JUROR NO. 691: Depending on what it
25 was, yes.

1 MR. WESTBROOK: Then the crime that's been charged
2 is, Possession of child pornography. That's what everyone's
3 been told already.

4 PROSPECTIVE JUROR NO. 691: Yes.

5 MR. WESTBROOK: You're not going to give the person
6 who is accused of that crime -- accused of that crime, the
7 benefit of the doubt, right?

8 PROSPECTIVE JUROR NO. 691: No.

9 MR. WESTBROOK: I mean, you already mentioned that
10 you think about relatives of yours or acquaintances that are
11 children, right?

12 PROSPECTIVE JUROR NO. 691: Yes.

13 MR. WESTBROOK: And that bothers you?

14 PROSPECTIVE JUROR NO. 691: Yes.

15 MR. WESTBROOK: It bothers you so much that you're
16 not going to be fair and impartial; is that fair to say?

17 PROSPECTIVE JUROR NO. 691: Yes.

18 MR. WESTBROOK: Your Honor, I'd move for cause.

19 THE COURT: So it's -- sir, you're saying that you
20 could not, even though you want to be a police officer and
21 uphold justice, that you -- you can't afford justice as a
22 juror in this case?

23 PROSPECTIVE JUROR NO. 691: I feel like if that
24 person was accused of possession of child pornography -- they
25 were accused of it, but why did they have possession of it?

1 THE COURT: Okay. But that hasn't been proved.
2 There's nothing. There has been absolutely no evidence. Do
3 you understand that?

4 PROSPECTIVE JUROR NO. 691: Yes.

5 THE COURT: No evidence has --

6 PROSPECTIVE JUROR NO. 691: Yes.

7 THE COURT: -- come out. And it is the State's
8 burden to prove all of the elements of crimes that are
9 charged. Defendant doesn't have to prove anything. He's
10 presumed to be innocent.

11 PROSPECTIVE JUROR NO. 691: Yes.

12 THE COURT: You understand that?

13 PROSPECTIVE JUROR NO. 691: Yes.

14 THE COURT: All right. And so, you're not going to
15 hold the State to that burden? You're just going to assume
16 he's guilty because he's charged. Is that what you're saying?

17 PROSPECTIVE JUROR NO. 691: N o.

18 THE COURT: What are -- what is it you're saying,
19 then?

20 PROSPECTIVE JUROR NO. 691: It just bothers me
21 really deeply, this kind of subject.

22 THE COURT: Well, that's understandable, but that
23 doesn't mean that the State is excused of its burden of proof.
24 They're still going to have to prove the case. What if the
25 State puts on its case and you don't believe that the

1 defendant did what he's accused of. Then what would you do?

2 PROSPECTIVE JUROR NO. 691: That's fair enough.

3 THE COURT: Well, if the State did not prove its
4 case, would you -- you'd have to quit the defendant, wouldn't
5 you?

6 PROSPECTIVE JUROR NO. 691: Yes.

7 THE COURT: Do you feel that you could do that if
8 they didn't prove their case?

9 PROSPECTIVE JUROR NO. 691: No.

10 THE COURT: I'm sorry?

11 PROSPECTIVE JUROR NO. 691: No.

12 THE COURT: So even if they didn't prove their case,
13 you would convict a person that you did not believe was
14 guilty?

15 PROSPECTIVE JUROR NO. 691: No.

16 THE COURT: Okay. So I'm not -- maybe there is a
17 double-negative here, but can you explain what you're saying
18 to me, in your own words?

19 PROSPECTIVE JUROR NO. 691: It's hard to explain.
20 Having before heard anything that was a -- that he had been
21 accused of, before getting into all this, I feel like, in my
22 mind anyone accused of that is guilty because to me that's --
23 it's heinous, and it's really -- it sickens me. I feel like I
24 would not be fair to sit up here and listen to everyone say
25 what they had to say about it.

1 THE COURT: All right. This -- the Court will excuse
2 you for cause. You'll need to report to the jury commission,
3 and perhaps they can find a civil case for you. I think
4 there's one that's going and it's going to be about a month,
5 but -- but you're probably more suited for that one.

6 Thank you.

7 PROSPECTIVE JUROR NO. 691: Thank you.

8 THE COURT: All right. Let's call the next in order
9 to fill that empty seat.

10 THE CLERK: Badge 756, Glen Minnock -- Minnick?

11 PROSPECTIVE JUROR NO. 756: It's Minnick.

12 THE COURT: Minnick.

13 THE CLERK: Sorry. Names aren't my forte.

14 THE COURT: All right. Thank you. All right. When
15 we left off we were asking were there any people in the box
16 that had any law enforcement experience, or were involved in
17 law enforcement, or anyone closely associated with them. Did
18 we have any other hands raised?

19 MS. BALLOU: And, Your Honor, did we ask Mr. Minnick
20 if he'd been on a jury panel because I think that question had
21 been before --

22 THE COURT: Yeah, I'll -- I'll get it --

23 MS. BALLOU: Okay. Thank you.

24 THE COURT: -- but I wanted to make sure they we
25 covered that. So there were no -- no other affirmative

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1 responses. All right.

2 And, Mr. Minnick, have you ever served on a jury
3 before?

4 PROSPECTIVE JUROR NO. 756: No.

5 THE COURT: All right. Thank you. All right. So as
6 to everyone that's sitting in the box, has anyone sitting in
7 the box been the victim of a crime?

8 All right. No one has ever had their car stolen,
9 their purse taken, their wallet taken?

10 PROSPECTIVE JUROR NO. 751: My car was stolen.

11 THE COURT: Okay. Is there -- are there hands?

12 Okay. All right. So obviously everybody's here that's
13 raising their hand. Let's see the hands up so we can make
14 notes, okay? Counsel can make notes. You obviously didn't
15 feel that they were serious enough that they even crossed your
16 mind.

17 So now, the next question is is there anyone sitting
18 in the box who feels that they are the victim of a serious
19 crime?

20 How about anyone sitting in the box -- and that was
21 a negative response from people sitting in the box.

22 Anyone who feels that they -- they -- they closely
23 associated with someone, a family member, a close friend, who
24 has been the victim of a serious crime?

25 We have, it looks like two. Let's start at the top

1 row.

2 PROSPECTIVE JUROR NO. 751: Laura Clauson, 751.

3 THE COURT: Ms. Clauson, tell us what -- what your
4 response is to that question.

5 PROSPECTIVE JUROR NO. 751: My brother was murdered
6 last year.

7 THE COURT: Oh, I'm so sorry.

8 PROSPECTIVE JUROR NO. 751: But it is -- it hasn't
9 been proven yet. And so -- and that's all I can say. The
10 case is still opened, and it's on -- ongoing and it's in
11 Texas, so --

12 THE COURT: Okay. So it's outside the jurisdiction?

13 PROSPECTIVE JUROR NO. 751: Correct.

14 THE COURT: And the person -- there is a person who
15 is suspected of this murder, but the trial hasn't happened?

16 PROSPECTIVE JUROR NO. 751: It isn't even to that
17 point yet.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 751: It's -- he -- it was
20 stated that it was suicide, but then, after autopsy and
21 everything, they stated that it is undetermined.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NO. 751: Whatever you call it. I
24 don't know. But -- and they do have a couple of suspects that
25 they -- has not -- it's been a year and it just is a lengthy

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1 row.

2 PROSPECTIVE JUROR NO. 751: Laura Clauson, 751.

3 THE COURT: Ms. Clauson, tell us what -- what your
4 response is to that question.

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6 last year.

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10 case is still opened, and it's on -- ongoing and it's in
11 Texas, so --

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14 THE COURT: And the person -- there is a person who
15 is suspected of this murder, but the trial hasn't happened?

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20 stated that it was suicide, but then, after autopsy and
21 everything, they stated that it is undetermined.

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23 PROSPECTIVE JUROR NO. 751: Whatever you call it. I
24 don't know. But -- and they do have a couple of suspects that
25 they -- has not -- it's been a year and it just is a lengthy

1 process.

2 THE COURT: I see. All right. Is there anything
3 about that experience that makes you feel that you could not
4 be fair and impartial in this case?

5 PROSPECTIVE JUROR NO. 751: I don't think so. I
6 just -- it's frustrating because --

7 THE COURT: Of course.

8 PROSPECTIVE JUROR NO. 751: -- you know, over a year
9 and there's still no -- we haven't gone any further, but --
10 and this case we're to this point, and so that's kind of
11 encouraging to know that, you know, the cases do move along,
12 and we get to a point where we do have a jury. So I can't
13 think of anything that would --

14 THE COURT: Right. You would be able to set that
15 aside and focus on the facts in evidence that's presented in
16 this case, and consider the evidence in this case without
17 thinking about what happened to your brother?

18 PROSPECTIVE JUROR NO. 751: I could wait.

19 THE COURT: Oh, thank you. And then on --

20 THE MARSHAL: Is there anyone else in the third
21 row --

22 THE COURT: On the second row, yes.

23 PROSPECTIVE JUROR NO. 542: Hi, I'm Monica.

24 THE COURT: Hello.

25 PROSPECTIVE JUROR NO. 542: By badge number is 542.

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1 THE COURT: Yes.

2 PROSPECTIVE JUROR NO. 542: One of my -- like, our
3 closest family friend, she was living with us for the moment
4 -- it happened about two years ago, though, and she went to
5 Jack in a Box while she was pregnant -- I don't know why shed
6 did that, and she got robbed, hit in the face, so she was down
7 for a while, and when she gained xconscience [sic] she called
8 the police and that's about it.

9 THE COURT: Okay. That happened here in town?

10 PROSPECTIVE JUROR NO. 542: Yeah, North Las Vegas.

11 THE COURT: North Las Vegas. All right. So was
12 anyone ever apprehended for that robbery? It was -- they kind
13 of got out of their car, punched her in the face, she was kind
14 of struggling trying to fight them, but other than that she
15 was knocked out consccious and thy took her bag. Did you feel
16 that the police did an adequate job of investigating?

17 PROSPECTIVE JUROR NO. 542: I think they -- they
18 did, as much as they possibly can. I mean, she didn't get the
19 driver license number, she couldn't.

20 THE COURT: I see. Okay. Is there anything about
21 that that makes you think, well, I can't be fair and impartial
22 in this case?

23 PROSPECTIVE JUROR NO. 752: No, I don't think so.

24 THE COURT: Thank you. And there were no other
25 people in the box that answered -- oh, yes we have one more

1 and that's the second row.

2 PROSPECTIVE JUROR NO. Larry Lamb, 702.

3 THE COURT: Mr. Lamb?

4 PROSPECTIVE JUROR NO. 702: My wife -- now ex wife
5 was molested as a child. She never reported it, but I just
6 wanted to mention it.

7 THE COURT: All right. So she -- since she never
8 reported it, I take it nobody was ever --

9 PROSPECTIVE JUROR NO. 702: We talked about it.

10 THE COURT: -- prosecuted?

11 PROSPECTIVE JUROR NO. 702: Right. Absolutely..

12 THE COURT: So she's just related this to you?

13 PROSPECTIVE JUROR NO. 702: Yes?

14 THE COURT: All right. Anything about that that
15 makes you feel like you couldn't be fair and impartial in this
16 case?

17 PROSPECTIVE JUROR NO. 702: No.

18 THE COURT: No? All right. Thank you. All right.

19 Is there anyone sitting in the box who has ever been
20 accused of a crime?

21 The record will reflect a negative response. Anyone
22 in the box who has a family member, someone very close to them
23 that has been accused of a crime? All right. Start on the
24 top row.

25 PROSPECTIVE JUROR NO. 751: Laura Clauson, 751. I

1 have a brother and a sister who have been in jail multiple
2 times, and don't -- please don't expect me to tell you why
3 they've been there because I Never get the full story, but
4 they have spent many years in and out of jail for different
5 issues.

6 THE COURT: All right. Do you know, at all, what
7 type of crimes --

8 PROSPECTIVE JUROR NO. 751: I know nothing violent.
9 I think it's more, probably, things to themselves. Probably
10 harmful things to themselves. Probably drug-related, maybe
11 have to get the drugs, I'm not quite sure. But --

12 THE COURT: Are you not -- are you not close to these
13 siblings?

14 PROSPECTIVE JUROR NO. 751: I'm close to them, I
15 mean, and we talk, but I just don't know if I ever get the
16 full story. Oh, okay. So you're --

17 PROSPECTIVE JUROR NO. 751: That's not saying. I --

18 THE COURT: They tell you things, but you're just not
19 sure they're credible?

20 PROSPECTIVE JUROR NO. 751: Exactly.

21 THE COURT: I see. Okay. Anything about that
22 experience that causes you to think I would not be able to be
23 fair and impartial in this case?

24 PROSPECTIVE JUROR NO. 751: No.

25 THE COURT: Thank you. And we had --

1 THE MARSHAL: One more, Your Honor.

2 THE COURT: Mr. Lamb?

3 PROSPECTIVE JUROR NO. 750: Yes. My brother the
4 last 20 or 30 years has just been in and out. The same kind
5 of problem with theft and drugs and theft and writing bad
6 checks, all for -- basically because of drugs.

7 THE COURT: All right. Is that here in Clark County?

8 PROSPECTIVE JUROR NO. 750: No, it's in Texas

9 THE COURT: Okay. Anything about that experience
10 that makes you feel you could not be fair and impartial in
11 this case?

12 PROSPECTIVE JUROR NO. 750: No.

13 THE COURT: All right. Thank you. Okay.

14 All right. Is there anyone who feels that they
15 would be unable to follow the instructions of the Court on the
16 law, even if those instructions that I give you are something
17 different than what you think the law ought to be? Will
18 everyone be able to follow the instructions of the Court? Is
19 there anyone who feels they could not follow the instructions
20 of the Court on the law?

21 The record will reflect --

22 PROSPECTIVE JUROR NO. 756: I can't --

23 THE COURT: Wait a minute.

24 PROSPECTIVE JUROR NO. 756: Sorry.

25 THE COURT: Wait a minute.

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1 THE MARSHAL: One more, Your Honor.

2 THE COURT: Mr. Lamb?

3 PROSPECTIVE JUROR NO. 750: Yes. My brother the
4 last 20 or 30 years has just been in and out. The same kind
5 of problem with theft and drugs and theft and writing bad
6 checks, all for -- basically because of drugs.

7 THE COURT: All right. Is that here in Clark County?

8 PROSPECTIVE JUROR NO. 750: No, it's in Texas

9 THE COURT: Okay. Anything about that experience
10 that makes you feel you could not be fair and impartial in
11 this case?

12 PROSPECTIVE JUROR NO. 750: No.

13 THE COURT: All right. Thank you. Okay.

14 All right. Is there anyone who feels that they
15 would be unable to follow the instructions of the Court on the
16 law, even if those instructions that I give you are something
17 different than what you think the law ought to be? Will
18 everyone be able to follow the instructions of the Court? Is
19 there anyone who feels they could not follow the instructions
20 of the Court on the law?

21 The record will reflect --

22 PROSPECTIVE JUROR NO. 756: I can't --

23 THE COURT: Wait a minute.

24 PROSPECTIVE JUROR NO. 756: Sorry.

25 THE COURT: Wait a minute.

1 PROSPECTIVE JUROR NO. 756: I can't make a
2 decision --

3 THE COURT: Wait.

4 THE MARSHAL: Hold it. Hold it.

5 PROSPECTIVE JUROR NO. 756: -- sorry.

6 THE CLERK: And state who you are?

7 THE COURT: State your --

8 PROSPECTIVE JUROR NO. 756: Glen --

9 THE COURT: -- name.

10 PROSPECTIVE JUROR NO. 756: -- Minnick.

11 THE COURT: Okay. Mr. Minnick, 756.

12 PROSPECTIVE JUROR NO. 756: 7 -- it's 756.

13 THE COURT: All right.

14 PROSPECTIVE JUROR NO. 756: Without information for
15 me to look at and make my -- make my decisions, I can't answer
16 that.

17 THE COURT: All right. Okay. So here's the thing.
18 The Court, that's me in this case, personified in this case,
19 tells you what the law is. I read the jury instructions to
20 you. These instructions are settled with the lawyers, and
21 it's the law in this state and we give it to you. And you
22 have to be able to follow the law. Even if it's not what you
23 think it should be, you have to trust that we're telling you
24 what the law is. So you don't get to look at it and say, nah,
25 I don't think so. I don't -- I don't think that this is

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1 right.

2 So that's what I'm asking you. Can you follow the
3 instructions?

4 PROSPECTIVE JUROR NO. 756: Yes.

5 THE COURT: All right. Okay. Thank you. Okay.

6 All right. Now, as I think I stated before, in our
7 system of justice, an accused is presumed to be innocent
8 unless and until the contrary is proved beyond a reasonable
9 doubt by the State.

10 Is there anyone who disagrees with that premise of
11 the presumption of innocence?

12 The record will reflect a negative response.

13 Is there anyone who feels that the defendant must
14 prove his innocence?

15 The record will reflect a negative response.

16 All right. There are -- in our system a defendant
17 does not have to present any evidence he does not wish to. In
18 other words, it is the State's burden to prove the case beyond
19 a reasonable doubt. Is there anyone who disagrees with that
20 statement?

21 Okay. All right. At this point in time, I'm going
22 to allow the -- the lawyers, now, to ask general questions of
23 the panel as a whole. They're not going to follow up, they're
24 just going to take notes and they'll follow up when we get to
25 the individual question. State?

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1 MS. ANTHONY: All right.

2 THE COURT RECORDER: Do you want to --

3 THE MARSHAL: Oh, would you like to use the podium?

4 THE DEFENDANT: -- would you like us to move that for
5 you?

6 MS. ANTHONY: No, I'm fine.

7 THE CLERK: Okay.

8 MS. ANTHONY: Thank you. I can do it from here. You
9 just have to be able to say thanks.

10 All right. I have a couple of questions for the
11 jury panel as a whole, so when I ask a question, please raise
12 your hand. I'll just take a note, then I'll ask the next
13 question.

14 First question, does anybody who is sitting up here
15 in the jury box, does anybody know anybody else?

16 Seeing no responses.

17 THE COURT: The record will so reflect.

18 MS. ANTHONY: All right. Does anybody work in the
19 computer field?

20 So raise your hands. I'm just going to make a note,
21 and I'll follow up at the next -- the next chance we get.

22 THE COURT: Okay. So --

23 MS. ANTHONY: So, if I could have Badge No. 702, Mr.
24 Lamb?

25 THE COURT: And --

1 MS. ANTHONY: I just have to go at something. What.

2 PROSPECTIVE JUROR NO. 542: Do you mean by computers
3 like work with computers, or like Or -- technological with
4 computers.

5 MS. ANTHONY: Hold on. I need your badge number.
6 What's your badge number, just for the record?

7 PROSPECTIVE JUROR NO. 542: 542.

8 MS. ANTHONY: Computer filled me in that you have
9 experience with computers?

10 PROSPECTIVE JUROR NO. 542: Yeah.

11 MS. ANTHONY: Okay. So just raise of hands, and I'll
12 come back and ask some additional questions at the next
13 chance. So I'd have Mr. Lamb at Badge 702. Is it Mr.
14 Whiteford, Badge 699?

15 PROSPECTIVE JUROR NO. 699: Yes, ma'am.

16 MS. ANTHONY: Thank you. And did you raise your
17 hand?

18 PROSPECTIVE JUROR NO. 542: Yes.

19 MS. ANTHONY: Okay. What's your badge number, I'm
20 sorry, are you --

21 PROSPECTIVE JUROR NO. 542: 542.

22 MS. ANTHONY: Thank you.

23 PROSPECTIVE JUROR NO. 542: The last name's Sound.

24 MS. ANTHONY: Thank you. And in the back, Ms.
25 Clauson, did you also raise your hand?

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1 PROSPECTIVE JUROR NO. 751: I mean, I work on a
2 computer every day.

3 MS. ANTHONY: Okay. He said, who is that? Mr.
4 Howard, as well. Thank you.

5 Did I miss anybody? Oh, yes. Is it -- Mrs.
6 Roberts. Thank you.

7 The next question is, anybody, even if you aren't
8 working in a computer field, do you have, you know, any
9 degrees or specialized certificates leading to computers?
10 Anybody other than us that raises their hands -- I'll follow
11 up. Anybody else? Nope. Okay. Thank you.

12 Anybody play online computer games? Oh, same and
13 then additional. So let's see. All right. Keep your hands
14 up, I have to write notes here. All right.

15 In the back, let's see. I have additionally, Badge
16 No. 194, and Badge No. 736, and then help me out, is there
17 anybody [inaudible]? Nope, okay. I'm going to guess instead
18 of asking who uses social networking, I'm going to ask the
19 inverse.

20 Is there anybody in here that doesn't use social
21 networking, LinkedIn, Facebook? Anybody that doesn't? Mr. -

22 PROSPECTIVE JUROR NO. 756: 756.

23 MS. ANTHONY: -- Minnick, 756. Anybody else?

24 And Badge No. 12. so 722, Mr. Virtuoso.

25 All right. That's all that I have for a general

1 extension.

2 THE COURT: Thank you. Defense, general questions?

3 MR. WESTBROOK: Court's indulgence.

4 Just let me finish my note. Hi, I'm David
5 Westbrook, for the defense. I'll start here, you can --

6 THE MARSHAL: No. No. No. No, I'm sorry. You stay
7 right there. You're fine.

8 MR. WESTBROOK: Okay.

9 THE MARSHAL: You're fine. There you go.

10 MR. WESTBROOK: Extension cords. My general
11 questions. When you heard that this was a case about child
12 pornography, and whether or not child pornography was in my
13 client's possession, is there anyone here who did not cringe
14 inwardly when they heard this was about child pornography?
15 Show of hands? Okay.

16 Obvious question. Everybody cringed inwardly when
17 they heard this was about child pornography.

18 Is there anyone here that is so disturbed and upset
19 by the subject matter of this case, that they can't fairly
20 listen to the evidence and evaluate it properly?

21 Also no hands. Good.

22 THE COURT: The record will so reflect.

23 MR. WESTBROOK: As the Court just informed you, my
24 client may or may not testify. Is there anybody here who
25 would have a problem if my client chooses to exercise his

1 right not to testify? I when I say, "have a problem," are you
2 going to in any way hold that against him?

3 Okay.

4 THE COURT: The record will reflect a negative
5 response.

6 MR. WESTBROOK: Is there anyone here who is having a
7 hard time understanding the State's burden of proof in this
8 case?

9 Negative response.

10 Did you have something to say, sir?

11 PROSPECTIVE JUROR NO. 756: Well, I want -- I
12 wanted -- could you clarify that, what we --

13 THE COURT: Well -- well -- wait, no --

14 MR. WESTBROOK: Stop. Stop. Stop.

15 PROSPECTIVE JUROR NO. 756: -- we --

16 THE COURT: No. Stop.

17 PROSPECTIVE JUROR NO. 756: -- oh, Glen --

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 756: -- Minnick, 756.

20 THE COURT: Stop, though. Stop. Okay. You haven't
21 been instructed yet on the burden --

22 MR. WESTBROOK: Oh.

23 THE COURT: -- of proof. You will be instructed, and
24 that's why I asked the general question, could you follow the
25 law? You will be instructed exactly what the burden of proof

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1 is --

2 MR. WESTBROOK: Great.

3 THE COURT: -- later.

4 MR. WESTBROOK: Now, this is slightly different. Who
5 here considers themselves a computer expert? I have two
6 responses. It's Mr. Lamb and Mr. Whiteford, correct? Great.

7 Who here considers themselves to be competent in
8 using a computer, but does not consider themselves a -- as
9 lofty as a computer expert? Competent in using computers?

10 Okay. I've actually got all but three of the panel
11 here, okay? So did anyone record who -- who raised their
12 hands?

13 MS. BALLOU: I couldn't see all of them so --

14 MR. WESTBROOK: Could you raise them real high?

15 Pretend like you're Arnold Horshack from Welcome Back Kotter.

16 PROSPECTIVE JUROR NO. 736: Competent, meaning
17 so-so?

18 MR. WESTBROOK: You're competent. In other words,
19 you've got your computer at work, you can type away on it, you
20 can make a Word document, if it freezes up you might be able
21 to do something with it, right?

22 PROSPECTIVE JUROR NO. 736: Mm-hmm.

23 MR. WESTBROOK: Okay. So all but two.

24 Does anyone here consider themselves to be a
25 complete computer novice? It's a box on the desk, I have no

1 idea what to do with it.

2 No one's a novice. All right.

3 Does anyone here have somebody, a friend, or a
4 relative, or an acquaintance, that they call when their
5 computer is broken? And I don't mean the Geek Squad,
6 someone's commercial, I'm talking about a friend or a
7 relative.

8 Okay. I've got 1, 2, 3, 4, 5, 6. If you could just
9 raise your hand for a second, my --

10 MS. BALLOU: Yeah.

11 MR. WESTBROOK: -- my partner is -- is absorbing all
12 this information. All right.

13 Is there anyone here who has a deeply felt moral
14 opposition to regular adult pornography? I'm not talking
15 about child pornography, which we know everybody is opposed
16 to, but regular adult pornography. Does anyone have a deep
17 moral opposition to that?

18 One in the back, one in the front. Do you have
19 them?

20 MS. BALLOU: I saw the one in the back and the one in
21 the front okay.

22 MR. WESTBROOK: Okay. Thank you.

23 MR. CHEN: And, I'm sorry, could counsel specify who
24 has it in the front, or who has an objection?

25 MR. WESTBROOK: I'm sorry.

1 MR. CHEN: Thanks you.

2 MR. WESTBROOK: Could you state your number, again?

3 PROSPECTIVE JUROR NO. 707: It's 707.

4 MR. WESTBROOK: 707. All right. There we go.

5 Earlier we heard someone say that they feel that if
6 someone is accused of a crime, they must have done something
7 wrong. Is there anyone on the jury that believes that?

8 Showing no hands.

9 THE COURT: The record will so reflect.

10 MR. WESTBROOK: Well, I think that does it for my
11 general questions. Thank you, Your Honor.

12 THE COURT: Thank you, Mr. Westbrook.

13 All right. So we've got 15 minutes
14 til 5, but -- and this is kind of the start of what is my
15 favorite part of the voir dire process because I get to kind
16 of hear about you and what you do.

17 So I'm going to be asking you this question, Tell me
18 about yourself. When I ask you that question, these are the
19 things I want you to tell me. I want you to tell me how long
20 you've lived here in Clark County. I want you to tell me if
21 you're married, single, significant other, if you have any
22 children. If you have children, their ages, and if they're
23 adult children, what do they do for a living if they work.

24 Also, I want to know where you work, if you work.
25 And if you have a spouse or a significant other, partner, that

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1 -- what that person does for a living. And don't worry if you
2 forget any of these things, I'll prompt you and you'll get it
3 as you go along and hear the other jurors.

4 So starting with the Seat No. 1, Ms. Sanchez. Tell
5 us about yourself.

6 PROSPECTIVE JUROR NO. 730: Okay. My name is Teresa
7 Sanchez, and I been in United States for 20 -- 28 -- 29 years.
8 And I'm not working right now, I mean, in this building. I
9 have four kids, 31, 28, 22, and 16. Three of them, they
10 already working. They went to school, social work here, the
11 other one restaurant, but he -- he is studying criminal
12 justice. And the other one -- they both are studying, the
13 other one is in high school, right now, so...

14 Three grandkids and -- what else? So divorced.

15 THE COURT: Divorced.

16 PROSPECTIVE JUROR NO. 730: I'm being already nine
17 years divorced.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 730: Yeah.

20 THE COURT: And you said that you -- you're on
21 disability now, but you've worked in the past. What did you
22 do?

23 PROSPECTIVE JUROR NO. 730: Actually, I was a -- my
24 whole time at work was a -- on the restaurant.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR NO. 730: Been 15 years, money
2 men, and I have, like, year -- one year, eight months I'm not
3 working right now, coupled by my kids right now. Yeah. So --

4 THE COURT: You seem to have a brace on your back?

5 PROSPECTIVE JUROR NO. 730: Yeah, I get it injured
6 in 1993 and then, I get another injure, like, I -- I fell, so
7 it get more worse. And I was working in 2011, and then in a
8 cold room. So that made more problems in my -- my thoughts
9 and my body, so yeah.

10 THE COURT: All right.

11 PROSPECTIVE JUROR NO. 730: So that's when we try
12 and [inaudible].

13 THE COURT: All right.

14 PROSPECTIVE JUROR NO. 730: So know what else she
15 say? Do you want to have a problems?

16 THE COURT: Your ex-husband, I know you've been
17 divorced for nine years, but what did he do?

18 PROSPECTIVE JUROR NO. 730: He worked in
19 construction.

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

21 PROSPECTIVE JUROR NO. 730: Yes

22 THE COURT: Thank you very much. You can have a seat

23 --

24 PROSPECTIVE JUROR NO. 730: Thank you.

25 THE COURT: -- and wait, don't -- don't let go of

1 that microphone yet, give it back to her.

2 PROSPECTIVE JUROR NO. 730. I just didn't want you
3 to have to -- no, no.

4 THE MARSHAL: No. No, you hold it until then.

5 THE COURT: -- keep it. Keep it, it's --

6 PROSPECTIVE JUROR NO. 730: Oh, okay.

7 THE COURT: -- it's yours still. But you don't have
8 to stand. If you would -- if you would feel more comfortable
9 standing that'; that's fine, but if you'd like to sit, you may
10 sit because the -- the state is now going to ask you some
11 questions, and then the defense.

12 MR. CHEN: Thank you, Your Honor.

13 THE COURT: And if you're going to stand, you've got
14 to make sure you keep that microphone up there.

15 PROSPECTIVE JUROR NO. 730: Okay.

16 MR. CHEN: Good afternoon, Ms. Sanchez.

17 PROSPECTIVE JUROR NO. 730: Good afternoon. my name
18 is Alex Chen, again, I'm one of the prosecuting attorneys here
19 today.

20 PROSPECTIVE JUROR NO. 730: Okay. I'd like to ask
21 you a little bit about your children. You mentioned they're
22 grown and -- and they are working. One of them is studying
23 criminal justice, you mentioned?

24 PROSPECTIVE JUROR NO. 730: He -- he did -- he's
25 still not working yet, but -- in the -- in the field, but

1 he -- he studied.

2 MR. CHEN: Do you know what his plan -- or how he
3 plans on using that degree?

4 PROSPECTIVE JUROR NO. 730: His plan is being a
5 police.

6 MR. CHEN: Okay. Do you know if he's started
7 applying to any of those places?

8 PROSPECTIVE JUROR NO. 730: I think he did.

9 MR. CHEN: Okay. But you're not sure at this point?

10 PROSPECTIVE JUROR NO. 730: No.

11 MR. CHEN: And you also mentioned one of your
12 children is in the social worker field, correct?

13 PROSPECTIVE JUROR NO. 730: He's a social worker,
14 yes, but he's in Washington, D.C.

15 MR. CHEN: He's in D.C.?

16 PROSPECTIVE JUROR NO. 730: He's there now.

17 MR. CHEN: So he studied social work?

18 PROSPECTIVE JUROR NO. 730: He's studying here in
19 Nevada --

20 MR. CHEN: --

21 PROSPECTIVE JUROR NO -- -- but he -- she's living
22 over there right now. She's over there.

23 MR. CHEN: Is she using her social work degree now?

24 PROSPECTIVE JUROR NO. 730: Yes.

25 MR. CHEN: Okay. And what kind of job, specifically,

1 is she working --

2 PROSPECTIVE JUROR NO. 730: I really don't know.

3 MR. CHEN: You're not sure? Okay. That's fine. You
4 also mentioned before you became disabled you were working as
5 a restaurant manager; is that correct?

6 PROSPECTIVE JUROR NO. 730: Yes.

7 MR. CHEN: What kind of restaurant were you working
8 at?

9 PROSPECTIVE JUROR NO. 730: I was in a fast food
10 restaurant.

11 MR. CHEN: Did you deal with -- I assume there are a
12 lot of people that probably went there?

13 PROSPECTIVE JUROR NO. 730: Yes. it got busy. Did
14 you deal with any disgruntled customers as a manager?

15 PROSPECTIVE JUROR NO. 730: Yes.

16 MR. CHEN: Okay. When a customer would be upset
17 about something, how would you approach that situation?

18 PROSPECTIVE JUROR NO. 730: Well, we tried to, you
19 know, talk to him and make him, you know, happy.

20 MR. CHEN: Okay.

21 PROSPECTIVE JUROR NO. 730: And I'll curious, so...

22 MR. CHEN: Did you feel listening was a big part of
23 it?

24 PROSPECTIVE JUROR NO. 730: Yes, I left my -- that's
25 part of my job --

UNCERTIFIED ROUGH DRAFT

1 MR. CHEN: Did you ever get into any arguments with
2 customers who would have been mad?

3 PROSPECTIVE JUROR NO. 730: No.

4 MR. CHEN: So generally, you just try to listen --

5 PROSPECTIVE JUROR NO. 730: Yes.

6 MS. BALLOU: And solve the problem?

7 PROSPECTIVE JUROR NO. 730: Yes.

8 MR. CHEN: Okay.

9 Pass for cause. Thank you.

10 THE COURT: Thank you. Defense?

11 MR. WESTBROOK: I just have a quick question for you,

12 and that's involving your back. Are you going to be okay

13 sitting in that chair during the trial?

14 PROSPECTIVE JUROR NO. 730: I can -- I can try do

15 it. I mean --

16 MR. WESTBROOK: Okay.

17 PROSPECTIVE JUROR NO. 730: I mean, I don't think I

18 can have a big problem with that.

19 Okay. Now, I know that the Judge has no problem,

20 I'm sure, Your Honor, with you standing up and stretching if

21 you need to, even --

22 PROSPECTIVE JUROR NO. 730: Because I don't think

23 the misses kisses.

24 MR. WESTBROOK: Okay. I just want to make sure that

25 you're physically able to do it. No, that's fine.

UNCERTIFIED ROUGH DRAFT

1 Okay. Pass for cause. Thank you, Judge.

2 THE COURT: Thank you. All right. Now, you can be
3 seated and pass the microphone over to Ms. Clauson, Badge No.
4 751. Would you tell me about yourself.

5 PROSPECTIVE JUROR NO. 751: I've lived in Henderson
6 for 7 years. I am married and have 5 stepchildren and 6
7 children of my own.

8 THE COURT: Oh, my goodness.

9 PROSPECTIVE JUROR NO. 751: And my -- that's 11 for
10 those of you who can count. I have my --

11 THE COURT: Are they all -- all living in your house?

12 PROSPECTIVE JUROR NO. 751: No.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 33 just graduated from high
15 school, so I'm soon to be an empty nester. Do you want me to
16 tell the ages of all the stepkids too, on down, or do you --
17 cause it -- I'll probably be kind of lying, I don't think I
18 can --

19 THE COURT: All right.

20 PROSPECTIVE JUROR NO. 751: But I can kind of guess.
21 The adult children, and --which they're all adult now -- .
22 Okay. So the ones that are working, tell us what they do.

23 PROSPECTIVE JUROR NO. 751: Okay. The oldest of my
24 husband's -- she's 33 and she works for a dermatologist and --
25 and all of his five children live in Utah. So she --

UNCERTIFIED ROUGH DRAFT

1 dermatologists doing the billing.

2 Next one is a stay-at-home mom. And the next one is
3 a stay-at-home mom. And the next daughter is a stay at home
4 mom. And then, his son is -- his youngest is -- he's 23, has
5 graduated from college, and works in a construction company as
6 a project manager. And is married. And then, my children --
7 my oldest lives here, he's 31, and he is the manager of a
8 credit union in Henderson.

9 My second son is 28, 29, and he lives in Phoenix,
10 and he works for The University of Phoenix as a enrollment
11 counselor. My daughter, who is 26, lives in Boise -- not
12 Boise, Rexburg, Idaho, and goes to school, is married, and is
13 just working toward her degree in family counseling.

14 My next son, who is 22, does online schooling and
15 works for a target company, traveling around the United
16 States, helping to build targets for military and F.B.I.

17 My 20-year-old son lives in Utah, just works in a
18 fast food place and goes to school. And my daughter, who is
19 18, will be going to school in Rexburg, Idaho in September.

20 THE COURT: In -- at college or --

21 PROSPECTIVE JUROR NO. 751: At college, yes, she's a
22 graduate so...

23 THE COURT: So before you came to Las Vegas, then,
24 did you live in Utah?

25 PROSPECTIVE JUROR NO. 751: No. I had --

UNCERTIFIED ROUGH DRAFT

1 THE COURT: When?

2 PROSPECTIVE JUROR NO. 751: -- never lived there,
3 other than --

4 THE COURT: Oh.

5 PROSPECTIVE JUROR NO. 751: -- a little bit of
6 schooling.

7 THE COURT: Okay. So where did you live before?

8 PROSPECTIVE JUROR NO. 751: I was in Roseville,
9 California before here, for two and a half years. And then --

10 THE COURT: What about before then?

11 PROSPECTIVE JUROR NO. 751: Colorado, New Mexico,
12 Colorado, and then, California. I'm from California,
13 originally.

14 THE COURT: Okay. So you -- you've done a lot of
15 moving?

16 PROSPECTIVE JUROR NO. 751: Yes.

17 THE COURT: All right. And how long have you been
18 married to your husband?

19 PROSPECTIVE JUROR NO. 751: Almost 10 years, and I
20 was married 22 years to my first husband.

21 THE COURT: And your first husband, what did he do
22 for a living?

23 PROSPECTIVE JUROR NO. 751: Did he do or does he do
24 now?

25 THE COURT: What did he do when you were married?

1 PROSPECTIVE JUROR NO. 751: He was a baker.
2 THE COURT: Okay. A banker, did you say?
3 PROSPECTIVE JUROR NO. 751: Baker.
4 THE COURT: Baker, okay. I thought that's --
5 PROSPECTIVE JUROR NO. 751: We owned --
6 THE COURT: -- what I heard.
7 PROSPECTIVE JUROR NO. 751: -- doughnut shops and
8 bakeries.
9 THE COURT: All right. And is he still a baker?
10 PROSPECTIVE JUROR NO. 751: No, he is not. He and
11 his wife work for a retirement company, I don't know,
12 something like that, for -- for old folks.
13 THE COURT: Okay. And -- careful about that --
14 PROSPECTIVE JUROR NO. 751: I know. Sorry.
15 THE COURT: -- I'm getting more sensitive.
16 PROSPECTIVE JUROR NO. 751: Well, I -- I've hit
17 there myself, sorry.
18 THE COURT: You're as young as you feel, right?
19 PROSPECTIVE JUROR NO. 751: Exactly.
20 THE COURT: Okay. And so your husband, your current
21 husband, what does he do?
22 PROSPECTIVE JUROR NO. 751: He is a chief estimator
23 for a general contractor in Henderson.
24 THE COURT: Okay. Is he working now? Or they have a
25 project, an --

UNCERTIFIED ROUGH DRAFT

1 PROSPECTIVE JUROR NO. 751: He has many projects --

2 THE COURT: -- ongoing project?

3 PROSPECTIVE JUROR NO. 751: -- yes.

4 THE COURT: Okay. All right.

5 PROSPECTIVE JUROR NO. 751: Want to know what I do?

6 THE COURT: Yes. Yes.

7 PROSPECTIVE JUROR NO. 751: I work for Children's
8 Specialty Center of Nevada. It's for cancer for kids and
9 blood disorders and I am the medical director's assistant.

10 THE COURT: Okay. And so that's a -- that's a biog
11 job?

12 PROSPECTIVE JUROR NO. 751: Yeah, he's crying right
13 now that I'm here.

14 THE COURT: Okay. And how long have you had that
15 job?

16 PROSPECTIVE JUROR NO. 751: I've been with him for
17 seven years, for the entire time I worked and --

18 THE COURT: So you work --

19 PROSPECTIVE JUROR NO. 751: -- we lived here.

20 THE COURT: -- do you -- do you have interaction with
21 the children who are patients?

22 PROSPECTIVE JUROR NO. 751: Yes, I do.

23 THE COURT: And what is the age range that that
24 clinic treats?

25 PROSPECTIVE JUROR NO. 751: From birth up until --

1 the cancer patients up until they're -- we do -- continue with
2 long-term follow up, but we see patient -- we see rheumatology
3 patients, genetic disorders, and hematologic. -- he is the
4 director of the only hemophilia treatment center in Nevada,
5 also.

6 THE COURT: All right. Thank you. Would the State
7 like to inquire further?

8 MS. ANTHONY: Yes, Your Honor.

9 Hi, Ms. Clauson.

10 PROSPECTIVE JUROR NO. 751: Hi.

11 MS. ANTHONY: I only have a few questions for you.
12 Your brother and your sister, and you told us a little bit
13 about their history. Do they live here in Nevada?

14 PROSPECTIVE JUROR NO. 751: No, they do not.

15 MS. ANTHONY: Okay. So none of their troubles have
16 been with Clark County?

17 PROSPECTIVE JUROR NO. 751: No.

18 MS. ANTHONY: Okay. And you mentioned what happened
19 to your brother?

20 PROSPECTIVE JUROR NO. 751: Yes.

21 MS. ANTHONY: And I have a couple questions, kind of,
22 about the whole situation, without prying too much.
23 Obviously, there's a -- a state agency or a county agency that
24 would be involved in your brother's situation, and you
25 indicated that you were a little bit frustrated with how the

1 system was progressing?

2 PROSPECTIVE JUROR NO. 751: Correct.

3 MS. ANTHONY: And obviously, and it's not my office,
4 but with the prosecuting agency is there anything that's going
5 on with that that's going to effect, maybe your ability at
6 this case, or effect your opinion of the stage or the country
7 here in Las Vegas?

8 PROSPECTIVE JUROR NO. 751: I don't believe so. My
9 frustrations are coming from the fact that I'm just emailing
10 the detective, and we've had a few phone calls, and I get
11 updates, maybe every two months.

12 MS. ANTHONY: Okay.

13 PROSPECTIVE JUROR NO. 751: And the suspect doesn't
14 even realize that -- that we are aware that there is -- that
15 this case is opened, or that we have any details. And we
16 really can't talk to her to let her know that, and it's --
17 that's the frustrating part.

18 MS. ANTHONY: Okay. And you -- that won't affect any
19 of the officers that came in in this case. Obviously they're
20 not involved, but that won't affect your opinion or anything
21 --

22 PROSPECTIVE JUROR NO. 751: No. No.

23 MS. ANTHONY: -- like that? Okay. And the same
24 about your brother and sister in and out of jail, that won't
25 have any effect what's going on here as well?

1 PROSPECTIVE JUROR NO. 751: No.

2 MS. ANTHONY: Okay. All right. Thank you so much.

3 Pass for cause, Judge.

4 THE COURT: Thank you. Defense?

5 MR. WESTBROOK: I'm sorry for the loss of your
6 brother. That's a -- a terrible situation and it must be
7 difficult for you to continue with it without getting some
8 kind of resolution, or at least getting the ball rolling on
9 resolution; is that fair to say?

10 PROSPECTIVE JUROR NO. 751: It's difficult, but to
11 me it -- nothing is going to bring him back and so I'm not a
12 vengeful person to -- I'd, you know, heard other people in my
13 family say, well, we're not going to let this guy -- well, to
14 me, if the police and the detectives in Texas can't figure it
15 out, that's as far as I'm going. I'm not going any further.
16 I have a life to live. It doesn't matter what I do, it's not
17 going to bring him back. And I can't, you know, obviously you
18 can't do anything about that.

19 It is difficult. I mean, you can't -- I can't -- I
20 can't -- I'd be a cold-hearted person if I would -- to say
21 that it wasn't difficult.

22 MR. WESTBROOK: Absolutely. And you would hate to
23 see someone who was innocent of the crime convicted?

24 PROSPECTIVE JUROR NO. 751: Correct.

25 MR. WESTBROOK: Okay.

1 I pass for cause. Thank you, Judge. Thank you.

2 THE COURT: Well, thank you. All right. Ladies and
3 gentlemen, it's about 2 minutes until 5, and we obviously do
4 not have a jury selected yet. And so I need everyone that's
5 here today in the courtroom to come back tomorrow at 9:00.

6 We had hoped to get a jury picked today, but some --
7 you know, we -- we can only go as fast as we can given the
8 answers that we receive and we're doing our best to try and
9 get through this and get a jury of 12 impartial, fair-minded
10 people. So I'm going to have an overnight recess.

11 I'd ask you to be here tomorrow, but we should not
12 -- it should not be as crowded as it was on Monday morning to
13 get into the courthouse, but still, don't wait until the last
14 minute to try and get here. You're not having to get here as
15 early, but make sure you're assembled by, you know -- that
16 you're -- you're here. Don't wait until 9:00 to figure that
17 you can walk through the door, because there could still be a
18 line in the morning.

19 Now, Marshal --

20 THE MARSHAL: Yes, Your Honor?

21 THE COURT: -- would they be able to, since they're
22 not jurors yet, will they still have -- where will they be
23 able to come in, the south entrance?

24 THE MARSHAL: No, ma'am.

25 THE COURT: North?

1 THE MARSHAL: Yes, ma'am.

2 THE COURT: Okay. All right. So you all came in
3 through the north entrance, and you'll have to continue to do
4 that once -- if you make it onto the jury, then you'll be able
5 to come in the south entrance because you'll have your juror,
6 and you'll be jurors, and we give the jurors that are sworn
7 jurors, the opportunity to come in through the south entrance,
8 but sorry, we're not there yet.

9 All right. Ladies and gentlemen, we're taking an
10 overnight recess. During this recess, it is your duty not to
11 converse among yourselves or with anyone else on any subject
12 connected with the trial; or to read, watch, or listen to any
13 report of or commentary on the trial by any person connected
14 with the trial or by any medium of information, including
15 without limitation, newspaper, television, radio, or Internet
16 and you are not to form or express an opinion on any subject
17 connected with this case until it is finally submitted to you.
18 Now, wait, one more thing.

19 That is this, the ladies and gentlemen who are the
20 lawyers in this case, as well as the officers of the court are
21 not allowed to speak to you during the trial or any process
22 leading up to the trial.

23 And so while, normally if you passed them in the
24 hall and you spoke to them, they would greet you warmly
25 because they're all very lovely people. They are not allowed

1 to do that for ethical reasons. And for that reason I'd ask
2 you please do not attempt to engage in conversation because
3 they would feel very badly if they thought that you were
4 thinking they were rude, when they're not being rude, they
5 just are not allowed to speak with you. So to avoid that,
6 just don't try and engage them if you see them.

7 Thank you very much. We'll be in recess until
8 tomorrow, 9:00.

9 THE MARSHAL: All rise, ladies and gentlemen of the
10 jury. Do the box first, please.

11 (Prospective jury panel recessed for the evening at 5:00 p.m.)

12 (Outside the presence of the prospective jury panel.)

13 THE COURT: All right. The record will reflect that
14 the jury venire panel has departed the courtroom. Are there
15 any matters outside the presence?

16 MS. ANTHONY: I'm just wondering, first witness, do
17 you think 11? Why are you laughing? Am I being optimistic?
18 We had somebody at 4, so we're trying to roll. 1:00?

19 THE COURT: I would like to think that we'll get the
20 jury picked in the morning, and -- but remember, you've got to
21 make your opening statements before you put your first witness
22 on. 1:00?

23 MR. WESTBROOK: You know, I honestly think 1:00 might
24 be okay. I mean --

25 THE COURT: I mean -- yeah, I'm --

UNCERTIFIED ROUGH DRAFT

1 MR. WESTBROOK: -- it obviously depends on how --

2 THE COURT: -- hopeful.

3 MR. WESTBROOK: -- yeah.

4 MS. ANTHONY: Okay. One at -- well, what I don't
5 want, obviously we don't want a, all right, call your first
6 witness, we're like oh, crap. Okay.

7 THE COURT: Yeah, well, 9. We'll go three hours
8 before we break for lunch, unless -- if we don't have a jury
9 and we're close, you know, I'd rather --

10 MS. ANTHONY: Okay.

11 THE COURT: -- and then, we'd take a later lunch
12 break.

13 MS. ANTHONY: Right. Right.

14 THE COURT: But I'll coordinate, obviously, around
15 your witnesses because I'm -- I don't want people waiting in
16 the hall or --

17 MS. ANTHONY: Okay.

18 THE COURT: -- you know, just -- you just have to --
19 we just have to play it by ear a little bit. Do you have some
20 witnesses that you could call, you know, as we -- as we
21 progress in the morning, where you could say, okay?

22 MS. ANTHONY: Sort of but not really. I would just
23 kind of give them a time. But we'll start at 1:00.

24 MR. WESTBROOK: I forget, you didn't have any on
25 estates, did you?

UNCERTIFIED ROUGH DRAFT

1 MS. ANTHONY: No, but I do have some scheduling
2 issues with some witnesses, so we'll -- okay. Okay. I mean,
3 it's possible that we might start earlier, if -- if things
4 kind of smooth out. They seem to be a little bit, but we've
5 only got, what 2 cleared for --

6 MS. ANTHONY: I know.

7 THE COURT: -- and that are in the box, cleared.

8 MS. ANTHONY: -- I'm very bad at guessing time.

9 THE COURT: And so, we've still got to clear the rest
10 of them, and then we've got peremptory challenges. So --

11 MS. ANTHONY: Okay. Thank you.

12 THE COURT: -- okay.

13 THE MARSHAL: Excuse me, Judge, before everyone
14 leaves. We have two other -- actually, yeah, we have two
15 other jurors that just informed me that they also are Muslim,
16 and they're going to be observing Ramadan starting tomorrow,
17 and I told them they must return --

18 THE COURT: Are we on the record?

19 THE MARSHAL: -- in the morning, before we could
20 proceed. Are you on the record?

21 MS. ANTHONY: Yeah, but you got to -- you can't be
22 way back there.

23 THE COURT: All right. So the marshal has just
24 informed the Court that two of the venire panel have just
25 informed him out in the hall that they're Muslim that they're

1 observing Razadon and yes, they'll need to come back, and
2 we'll have to make a formal record of that --

3 MR. WESTBROOK: Yes, Your Honor.

4 THE COURT: -- and whether they feel that they need
5 to be excused or not, I don't understand why they didn't
6 answer.

7 MR. WESTBROOK: Are they part of the first 12 though,
8 that's a possibility.

9 THE MARSHAL: Nrhsyibr.

10 MR. CHEN: Oh, I'm sorry, I meant the last 13 --

11 THE MARSHAL: Well, the last 12, yes.

12 THE COURT: They're the last 12. Did we not ask them
13 the question is, are they -- is there anyone who feels they
14 can't serve?

15 THE MARSHAL: I don't think they understood, Your
16 Honor. I don't think they -- they considered the religious
17 part of that involved in the question. So it dawned on them
18 when -- as they were leaving that tomorrow begins Ramadan and
19 they have to start their fasting. And I told them that it was
20 too late to go back into the courtroom and reconsider their
21 situation. That they would have to return tomorrow by 8:50,
22 so that we can go ahead and proceed in the selection.

23 THE COURT: All right. So we'll take that up
24 tomorrow, and just -- and make sure that they're -- they're
25 fasting, but they can eat before the sun rises, so --

UNCERTIFIED ROUGH DRAFT

1 THE MARSHAL: Yes, ma'am.

2 THE COURT: 2-- I'm sure they're used to dealing with
3 that, so that hopefully they'll eat breakfast before the sun
4 is up.

5 THE MARSHAL: Yes, ma'am.

6 MR. WESTBROOK: That's my hope as well.

7 THE COURT: All right. All right. Thank you.

8 We're in recess.

9 (Court recessed for the evening at 5:06 p.m.)

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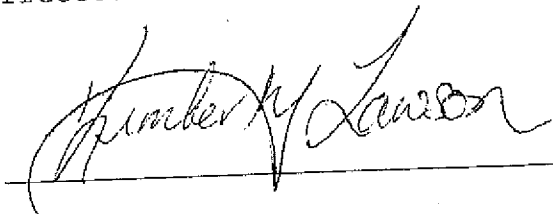
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ACKNOWLEDGMENT:

Pursuant to Rule 3C(d) of Nevada Rules of Appellate Procedure, this is a rough draft transcript expeditiously prepared, not proofread, corrected or certified to be an accurate transcript.

A handwritten signature in cursive script, reading "Kimberly Lawson", is written over a horizontal line.

KIMBERLY LAWSON
TRANSCRIBER

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No. 64515

Appellant,

vi.

THE STATE OF NEVADA,

Respondent.

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