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No. 64515

Electronically Filed
Jun 03 2014 08:52 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

v.

Respondent.

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Case No. 64515

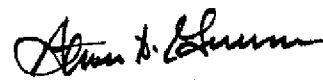
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CLERK OF THE COURT

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 2

TUESDAY, JULY 9, 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

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UNCERTIFIED ROUGH DRAFT

1 LAS VEGAS, NEVADA, TUESDAY, JULY 9, 2013, 9:13 A.M.

2 * * * * *

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

4 THE COURT: Thank you. Please be seated. All right.
5 The record will reflect that this is a continuation of the
6 trial of State of Nevada versus Anthony Castaneda. The record
7 will reflect that the Defendant is present with his Counsel,
8 as are the Deputy District Attorneys prosecuting the case, all
9 officers of the Court, and we are in the presence of the
10 venire panel.

11 Will counsel so stipulate?

12 MS. ANTHONY: Yes.

13 MR. WESTBROOK: We do.

14 THE COURT: Good morning, ladies and gentlemen. How
15 are you doing? Problems at the gate this morning? Long
16 lines? Yes, some people say yes. Okay. Well, tomorrow
17 should be better, but hopefully you all won't be here tomorrow
18 since we hope to get the jury today.

19 And, Ms. Carrington, Badge No. 795? I understand you
20 had a death in your family. We're very sorry to hear that.

21 PROSPECTIVE JUROR NO. 795: Yeah. My grandma passed
22 away last night.

23 THE COURT: Oh, I'm so sorry. So you're leaving for
24 California?

25 PROSPECTIVE JUROR NO. 795: Yes, for California.

UNCERTIFIED ROUGH DRAFT

1 THE COURT: All right. You're excused. Thank you
2 very much. Just check in with the Jury Commissioner before
3 you leave and let him know you've been excused for the death
4 in a family.

5 PROSPECTIVE JUROR NO. 795: Thank you.

6 THE COURT: All right. Okay. And, let's see, we
7 left off yesterday about to ask Mr. Howard about himself. Do
8 we have the microphone?

9 MS. BALLOU: Your Honor, can we approach briefly?

10 THE COURT: Yes.

11 (Off-record bench conference.)

12 THE COURT: Mr. Howard, tell us about yourself.

13 PROSPECTIVE JUROR NO. 733: I am a full-time student
14 over at the University of Nevada Las Vegas. I am studying
15 theater design and technology. I have a significant other,
16 and she is also a full-time student actually at Cornell
17 College for studio art and theater. I've lived here for 13
18 years now. And what else would you like to know?

19 THE COURT: You've lived here 13 years. How old are
20 you?

21 PROSPECTIVE JUROR NO. 733: I am 21 in August.

22 THE COURT: So and where did you live before?

23 PROSPECTIVE JUROR NO. 733: I lived in a little town
24 called Northfield, and that is in the State of New Jersey.

25 THE COURT: Did your parents move here?

UNCERTIFIED ROUGH DRAFT

1 PROSPECTIVE JUROR NO. 733: Yes.

2 THE COURT: And that's how you got here. What do
3 they do?

4 PROSPECTIVE JUROR NO. 733: My father right now is a
5 estimator for a theming company called Forte Design; and my
6 mother currently is unemployed.

7 THE COURT: So the design, Forte Design, is that
8 similar to what you're studying?

9 PROSPECTIVE JUROR NO. 733: Yes.

10 THE COURT: So family business?

11 PROSPECTIVE JUROR NO. 733: Yes.

12 THE COURT: All right. And do you have any siblings?

13 PROSPECTIVE JUROR NO. 733: Yes. I have 10 siblings
14 in total.

15 THE COURT: Wow.

16 PROSPECTIVE JUROR NO. 733: I have six brothers and
17 four sisters. I'm the youngest. My oldest brother is a boat
18 mechanic out in Atlantic City, New Jersey. My -- one of my
19 sisters -- actually all of my sisters are stay-at-home moms.
20 One of my brothers currently is working at a restaurant as a
21 barback at Red Robin. And one of my brothers actually passed
22 away. And another one of my brothers I actually do not know
23 because I haven't seen him since I was, like, five.

24 THE COURT: All right. Thank you very much. Would
25 the State like to inquire further?

UNCERTIFIED ROUGH DRAFT

1 MR. CHEN: Thank you, Your Honor. Good morning, Mr.
2 Howard.

3 PROSPECTIVE JUROR NO. 733: Good morning. How are
4 you?

5 MR. CHEN: Doing well, thank you. You had mentioned
6 yesterday just that you had -- you were into online computer
7 games or that you did play some online computer games. What
8 type of games do you play, if you don't mind sharing?

9 PROSPECTIVE JUROR NO. 733: I -- almost anything that
10 I can think of. I play -- I like to play strategy games, turn
11 [sic] based in realtime. I play some RBG games.

12 MR. CHEN: Okay.

13 PROSPECTIVE JUROR NO. 733: Maybe some first person
14 shooter, kind of depends.

15 MR. CHEN: So is it -- do you play games with what's
16 on your computer as well as, like, a Playstation or Xbox?

17 PROSPECTIVE JUROR NO. 733: I -- I strictly play all
18 my games on my computer.

19 MR. CHEN: Okay. Do you play against other people
20 online as well?

21 PROSPECTIVE JUROR NO. 733: Yes.

22 MR. CHEN: All right. Now you mentioned just a
23 moment ago that you're studying theater design; is that right?

24 PROSPECTIVE JUROR NO. 733: Yes, sir.

25 MR. CHEN: And that's what your internship has to do

1 with Cirque de Soleil?

2 PROSPECTIVE JUROR NO. 733: Yes, sir.

3 MR. CHEN: That's great. In -- in theater design,
4 how do you go about creating -- I assume that you try to
5 design a stage that is going to -- to be seen by the public;
6 is that right?

7 PROSPECTIVE JUROR NO. 733: Yes.

8 MR. CHEN: Okay. So how do you, like, go about
9 designing it? Is it a drawing? Do you use a computer
10 graphics program? How do you do that?

11 PROSPECTIVE JUROR NO. 733: Well, get -- first you
12 get the concept from your director; and then from there you
13 would either have a drawing concept or you can use computer
14 graphics for your concept. It's kind of the beauty of it.
15 But then after that when you actually start creating your
16 paperwork you do get computer -- you do get computer heavy by
17 using software to create lighting plots and electric plots,
18 like, how things are going to get circuited into the power
19 source.

20 MR. CHEN: And so will you be using those programs
21 and whatnot in your job when you become a --

22 PROSPECTIVE JUROR NO. 733: Yes.

23 MR. CHEN: -- full time -- okay. All right. Pass
24 for cause. Thank you.

25 THE COURT: Thank you. Defense?

UNCERTIFIED ROUGH DRAFT

1 MR. WESTBROOK: What computer graphics programs have
2 you used?

3 PROSPECTIVE JUROR NO. 733: I -- preferably for me,
4 as far as designing concepts, I don't really go into computer
5 graphics. I prefer more hand-drawn things. I feel like it
6 would -- it kind of grasps my concept of the design better.

7 But as far as computer software to create plots, I use
8 software like Lightwright or Backtoworks and some -- maybe if
9 you want to do graphics design, maybe some Photoshop.

10 MR. WESTBROOK: What do you plan on doing with Cirque
11 de Soleil during your internship?

12 PROSPECTIVE JUROR NO. 733: I'm going to be working
13 on the lighting, the automation, and the rigging of the show.

14 MR. WESTBROOK: Sounds -- sounds complicated.

15 PROSPECTIVE JUROR NO. 733: It -- it definitely is.

16 MR. WESTBROOK: I think -- I think I can figure out
17 lighting and -- I'm sorry. You said automation, right? Tell
18 me what rigging is.

19 PROSPECTIVE JUROR NO. 733: Rigging is pretty much
20 how everything will get put up into the air. A good part of
21 rigging is, say, somebody -- Cirque de Soleil, we'll put that
22 in the example -- one of the people that get suspended in the
23 air, they have to have a safety harness on; and it's the job
24 of a rigging person to make sure that their harness is OSHA
25 certified and the rigging is physically capable of holding

1 that person.

2 MR. WESTBROOK: So you're talking about really
3 detail-oriented work, right?

4 PROSPECTIVE JUROR NO. 733: Exactly.

5 MR. WESTBROOK: What happens if you overlook a detail
6 in a show like Cirque du Soleil when people are flying around?

7 PROSPECTIVE JUROR NO. 733: Actually, a great example
8 was recently in the show KA at MGM. Somebody passed away
9 because somebody didn't look into harness detail quite --
10 quite enough and that person was one of the -- was one of the
11 -- I don't really know the name of it. She was highly
12 suspended in the air and then the carabiner broke from her
13 attachment and she plummeted to her death.

14 MR. WESTBROOK: So you overlook a small detail.

15 PROSPECTIVE JUROR NO. 733: And the biggest
16 catastrophe could happen.

17 MR. WESTBROOK: So this kind of work, it's important
18 that you -- you follow all the steps that are outlined in OSHA
19 and in your training, right?

20 PROSPECTIVE JUROR NO. 733: Exactly.

21 MR. WESTBROOK: And if you don't follow the steps,
22 mistakes are made and people could die?

23 PROSPECTIVE JUROR NO. 733: Yes.

24 MR. WESTBROOK: Pass for cause, Judge.

25 THE COURT: Thank you. All right. If you pass the

1 microphone over. And Ms. Marquez, Badge No. 194, correct?

2 PROSPECTIVE JUROR NO. 194: That's right.

3 THE COURT: All right. Tell us about yourself.

4 PROSPECTIVE JUROR NO. 194: I'm a registered nurse.

5 I work in a [inaudible] long-term care and behavioral facility

6 here in Las Vegas. I'm from California --

7 THE COURT RECORDER: Ma'am?

8 THE COURT: You need to speak up a little bit.

9 THE COURT RECORDER: She needs to put it a little
10 closer to her, I think.

11 PROSPECTIVE JUROR NO. 194: Okay. I live here in
12 Nevada for nine years, and I move from California in 1999, and
13 I have a 15-year-old daughter.

14 THE COURT: All right. And that's your only child?

15 PROSPECTIVE JUROR NO. 194: Yes, Your Honor.

16 THE COURT: Okay. Are you married? Single?
17 Significant other?

18 PROSPECTIVE JUROR NO. 194: I am engaged and soon to
19 be married.

20 THE COURT: And what does your fiance do?

21 PROSPECTIVE JUROR NO. 194: He works in healthcare
22 too, and they have a foster home in Oregon.

23 THE COURT: So he doesn't live here yet?

24 PROSPECTIVE JUROR NO. 194: No, no.

25 THE COURT: Okay. So is he going to move here or are

1 you going to move there?

2 PROSPECTIVE JUROR NO. 194: I will probably move
3 there.

4 THE COURT: All right. And what did you do when you
5 were in California?

6 PROSPECTIVE JUROR NO. 194: In California I went to
7 school and I work as an assistant librarian -- I mean, library
8 aide in Los Angeles unified school district.

9 THE COURT: All right. So were you actually in a
10 school?

11 PROSPECTIVE JUROR NO. 194: That's right, yeah.
12 Actually, I -- nursing is my second course. I -- first course
13 I took a -- it's an associate degree in computer office
14 assistant. And then I work in a -- in a DME company. And
15 then I move here in Las Vegas; I work in a home-health agency.
16 And then I -- I went back to school and took BS nursing and
17 now I'm a registered nurse.

18 THE COURT: Well, that's very -- that's a lot of hard
19 study.

20 PROSPECTIVE JUROR NO. 194: Uh-huh, yeah.

21 THE COURT: Well, when you worked at the school as a
22 library assistant, did you work with children?

23 PROSPECTIVE JUROR NO. 194: Yes, I did.

24 THE COURT: What ages?

25 PROSPECTIVE JUROR NO. 194: Elementary, like, from

1 one to -- one to -- I mean, kinder to fourth grade.

2 THE COURT: Okay. Would the State like to inquire
3 further?

4 MS. ANTHONY: Yes, Your Honor. Tell me what kind of
5 online games you play.

6 PROSPECTIVE JUROR NO. 194: I only play like Candy
7 Crush, [inaudible].

8 MS. ANTHONY: So apps on, like, your iPhone?

9 PROSPECTIVE JUROR NO. 194: Yeah.

10 MS. ANTHONY: Okay. So did you say Candy Crush?

11 PROSPECTIVE JUROR NO. 194: Yeah.

12 MS. ANTHONY: All right. I hear that's addicting.
13 So you don't play, like, on the computer, like, role-playing
14 games or anything like that?

15 PROSPECTIVE JUROR NO. 194: No, not really.

16 MS. ANTHONY: Okay. As far as your associate's
17 degree in -- did you say Office?

18 PROSPECTIVE JUROR NO. 194: Computerized office
19 assistant.

20 MS. ANTHONY: Office assistant. Okay. And did you
21 learn, like, how to use Microsoft Word, things like that?

22 PROSPECTIVE JUROR NO. 194: Yes, I did.

23 MS. ANTHONY: Okay. Are you -- do you use the
24 Internet a lot?

25 PROSPECTIVE JUROR NO. 194: Yes, uh-huh.

1 MS. ANTHONY: And what do you use the Internet for?

2 PROSPECTIVE JUROR NO. 194: Shopping, searching.

3 MS. ANTHONY: Okay. Do you do downloads?

4 PROSPECTIVE JUROR NO. 194: Yes, I do.

5 MS. ANTHONY: And what types of things do you
6 download?

7 PROSPECTIVE JUROR NO. 194: Like, music.

8 MS. ANTHONY: So do you use maybe iTunes?

9 PROSPECTIVE JUROR NO. 194: Yes.

10 MS. ANTHONY: Any other types of software?

11 PROSPECTIVE JUROR NO. 194: Not really, no.

12 MS. ANTHONY: Okay. Is there anything going on in
13 your life right now that would cause you not to pay full
14 attention to what's going on in this case and the witnesses
15 that will take the witness stand?

16 PROSPECTIVE JUROR NO. 194: [Inaudible.]

17 MS. ANTHONY: Okay. Pass for cause, Your Honor.

18 THE COURT: Thank you. Defense.

19 MR. WESTBROOK: Well, you play Candy Crush so
20 congratulations on making it to court on time this morning.
21 You've used computers. Ever had a virus on your computer?

22 PROSPECTIVE JUROR NO. 194: Yes.

23 MR. WESTBROOK: Ever wonder where it came from or
24 were you able to determine where it came from?

25 PROSPECTIVE JUROR NO. 194: I think -- that's why I

1 stopped playing -- like, downloading, you know, something from
2 the Internet because my computer gets virus, you know, all the
3 time. I change my computer, like, three times already.

4 MR. WESTBROOK: How badly did it mess up your
5 computer when you got the virus?

6 PROSPECTIVE JUROR NO. 194: You know, it's so slow I
7 couldn't start it; and when I go to a web page it's
8 redirecting, I couldn't get the right page.

9 MR. WESTBROOK: When you got -- when you got the
10 virus did you have, you know, like a virus scanner attached?

11 PROSPECTIVE JUROR NO. 194: Yeah, I do.

12 MR. WESTBROOK: But you got it anyway?

13 PROSPECTIVE JUROR NO. 194: Yeah. For some reason it
14 doesn't work.

15 MR. WESTBROOK: You -- you were talking about you've
16 done online shopping, you search the Internet. Did you ever
17 use anything like a Google image search?

18 PROSPECTIVE JUROR NO. 194: Yes.

19 MR. WESTBROOK: Did you ever search for something and
20 then get something unexpected when you used Google image
21 search?

22 PROSPECTIVE JUROR NO. 194: Yeah, yes.

23 MR. WESTBROOK: Something unpleasant and not
24 expected?

25 PROSPECTIVE JUROR NO. 194: Yes, yes.

UNCERTIFIED ROUGH DRAFT

1 MR. WESTBROOK: Okay. Have you ever used -- like a
2 news net [phonetic], or something called a BBS, or unused
3 group where you're -- to search for anything, or is it just
4 basically the Worldwide Web search engines?

5 PROSPECTIVE JUROR NO. 194: Yeah, just basic.

6 MR. WESTBROOK: Okay. So the simple user interface,
7 Google, Yahoo, that sort of thing?

8 PROSPECTIVE JUROR NO. 194: That's right.

9 MR. WESTBROOK: Okay. Do you know there's a safe
10 search feature on Google?

11 PROSPECTIVE JUROR NO. 194: I'm sorry?

12 MR. WESTBROOK: There's a safe search feature on
13 Google which is [inaudible] effective?

14 PROSPECTIVE JUROR NO. 194: I'm not sure about that.

15 MR. WESTBROOK: You haven't heard that?

16 PROSPECTIVE JUROR NO. 194: Huh-huh. All I know if I
17 shop I should look for like HTTPS for security.

18 MR. WESTBROOK: Right, HTTPS, and in front of the
19 address as opposed to just the HTTP?

20 PROSPECTIVE JUROR NO. 194: Right.

21 MR. WESTBROOK: Okay. Thank you. I'll pass for
22 cause.

23 THE COURT: Thank you. Will you pass the microphone
24 over?

25 And this is Ms. Chavez?

UNCERTIFIED ROUGH DRAFT

1 PROSPECTIVE JUROR NO. 736: Yes.

2 THE COURT: Badge No. 736. Tell us about yourself.

3 PROSPECTIVE JUROR NO. 736: I currently work at the
4 Bellagio as a cashier at Cafe Gelato. I've been living in Las
5 Vegas for 15 years. Came from California, raised, and born in
6 Rosemead, California. Married. My husband is a maintenance
7 technician for -- in an apartment complex. It's a company and
8 they have about 15 properties here in Las Vegas. I have an
9 eight-year-old son. What else?

10 THE COURT: That's it in a nutshell?

11 PROSPECTIVE JUROR NO. 736: Yeah.

12 THE COURT: Do you have -- do you come from a big
13 family or --

14 PROSPECTIVE JUROR NO. 736: I have two -- one older
15 sister, a younger brother, and a younger sister, [inaudible].

16 THE COURT: Okay. And do they live here in Las
17 Vegas?

18 PROSPECTIVE JUROR NO. 736: No. I have my brother in
19 Las Vegas, my oldest sister in California, and the youngest in
20 [inaudible].

21 THE COURT: Is there any reason that you think you
22 could not be fair and impartial in this case?

23 PROSPECTIVE JUROR NO. 736: No.

24 THE COURT: All right. I'll let the State inquire
25 further if they would like.

UNCERTIFIED ROUGH DRAFT

1 MR. CHEN: Thank you, Your Honor. Good morning, Ms.
2 Chavez.

3 PROSPECTIVE JUROR NO. 736: Good morning.

4 MR. CHEN: If my notes indicate correctly, I think
5 you're the last person who at least admitted to playing online
6 games earlier.

7 PROSPECTIVE JUROR NO. 736: Yes.

8 MR. CHEN: What type of games do you play online?

9 PROSPECTIVE JUROR NO. 736: Candy Crush.

10 MR. CHEN: Do you know if you've ever played Ms.
11 Marquez?

12 PROSPECTIVE JUROR NO. 736: No.

13 MR. CHEN: I think I need to check this out.

14 MR. WESTBROOK: I don't.

15 MR. CHEN: Okay. Is that game through your phone?
16 Is that an app or can you do it on a computer?

17 PROSPECTIVE JUROR NO. 736: Well, no, I didn't have
18 the app on my phone, so I did it on my computer with my
19 Facebook.

20 MR. CHEN: Okay.

21 PROSPECTIVE JUROR NO. 736: I got it through there.

22 MR. CHEN: Okay. So was it one of those ads that
23 shows up on, like, your Facebook, news feed and then --

24 PROSPECTIVE JUROR NO. 736: Yes.

25 MR. CHEN: -- you click it and --

1 PROSPECTIVE JUROR NO. 736: And then, yeah, you start
2 playing.

3 MR. CHEN: Okay. So you had to download it to get it
4 onto your computer then?

5 PROSPECTIVE JUROR NO. 736: Yes.

6 MR. CHEN: All right. Is -- is that one of those
7 games that also kind of shows everyone else how you did?

8 PROSPECTIVE JUROR NO. 736: Yes.

9 MR. CHEN: Like, all your Facebook friends know if
10 you're good or bad at this game, is it one of those type?

11 PROSPECTIVE JUROR NO. 736: It will just tell them
12 the score that I hit --

13 MR. CHEN: Okay.

14 PROSPECTIVE JUROR NO. 736: -- the score I hit when I
15 passed.

16 MR. CHEN: Okay. And when you downloaded that, did
17 you know that that was going to happen that other people will
18 know your score?

19 PROSPECTIVE JUROR NO. 736: It pretty much tells you,
20 let's you know, yeah, some information will go --

21 MR. CHEN: To others.

22 PROSPECTIVE JUROR NO. 736: -- to others.

23 MR. CHEN: And you looked -- you read that and you
24 still --

25 PROSPECTIVE JUROR NO. 736: Yes.

1 MR. CHEN: -- agreed to download it and everything?
2 PROSPECTIVE JUROR NO. 736: Yes.
3 MR. CHEN: Okay. All right. Now you mentioned that
4 you also have an eight-year-old son. Only child then?
5 PROSPECTIVE JUROR NO. 736: Only child.
6 MR. CHEN: Okay. Has your child ever come to you
7 where he basically said that he got in an argument with maybe
8 another student, a child in the neighborhood, anything like
9 that?
10 PROSPECTIVE JUROR NO. 736: No, but he tells me
11 about, like, others in classroom, if they're misbehaving, what
12 they did --
13 MR. CHEN: Okay.
14 PROSPECTIVE JUROR NO. 736: -- or you know --
15 MR. CHEN: Okay. So he kind of reports to what his
16 day --
17 PROSPECTIVE JUROR NO. 736: Yes, yes. He does.
18 MR. CHEN: -- and just tells you.
19 PROSPECTIVE JUROR NO. 736: [Inaudible.]
20 MR. CHEN: He seems like he gets along with everyone
21 then?
22 PROSPECTIVE JUROR NO. 736: He pretty much -- yeah,
23 that I know of.
24 MR. CHEN: Perfect. All right. Well, I'll pass for
25 cause. Thank you, ma'am.

UNCERTIFIED ROUGH DRAFT

1 THE COURT: Thank you. Defense?

2 MR. WESTBROOK: When you're done with a Candy Crush
3 and you knew that your scores would be shared with your
4 Facebook friends?

5 PROSPECTIVE JUROR NO. 736: Yes.

6 MR. WESTBROOK: Your triumphs and your humiliations?

7 PROSPECTIVE JUROR NO. 736: Yes.

8 MR. WESTBROOK: Okay. Did you also know that your
9 personal information would be shared with marketing
10 organizations?

11 PROSPECTIVE JUROR NO. 736: I'm pretty sure it said
12 that my personal information would be shared; but I'm not sure
13 it said marketing.

14 MR. WESTBROOK: Third-party sources?

15 PROSPECTIVE JUROR NO. 736: Yes.

16 MR. WESTBROOK: Okay. Did you know about that, or
17 did you just sort of not think about it?

18 PROSPECTIVE JUROR NO. 736: I didn't think about it.

19 MR. WESTBROOK: Do you know who it's being shared
20 with?

21 PROSPECTIVE JUROR NO. 736: No.

22 MR. WESTBROOK: No. Do you know that when you sign
23 into Facebook and play something like Candy Crush that it
24 changes the ads Facebook gives you?

25 PROSPECTIVE JUROR NO. 736: No.

UNCERTIFIED ROUGH DRAFT

1 MR. WESTBROOK: You were not aware of that when you
2 signed up for it?

3 PROSPECTIVE JUROR NO. 736: No.

4 MR. WESTBROOK: After you started playing Candy
5 Crush, did you start receiving any emails regarding other
6 games or from Facebook?

7 PROSPECTIVE JUROR NO. 736: Oh, yeah.

8 MR. WESTBROOK: Probably from the marketing stuff,
9 right?

10 PROSPECTIVE JUROR NO. 736: Yes.

11 MR. WESTBROOK: Okay. So just that interaction
12 online with your Facebook and your Candy Crush caused you to
13 be on a bunch of lists you didn't know about?

14 PROSPECTIVE JUROR NO. 736: Yes.

15 MR. WESTBROOK: Okay. How do you feel about that?

16 PROSPECTIVE JUROR NO. 736: Since I'm not on it very
17 -- now that I have my phone, [inaudible] on my phone so I
18 don't use the computer as much, but I didn't really think
19 about -- think about it.

20 MR. WESTBROOK: Sure, that Candy Crush overwhelmed --

21 PROSPECTIVE JUROR NO. 736: It did. It really did.

22 MR. WESTBROOK: I understand. So you've been on
23 Facebook. Have you ever seen a link on Facebook from a friend
24 of yours or relative that seemed really out of character?

25 PROSPECTIVE JUROR NO. 736: Like?

1 MR. WESTBROOK: Like, for example, like you're
2 looking at, you know, your mom's Facebook page, for example.
3 I don't know if your mom's on Facebook.

4 PROSPECTIVE JUROR NO. 736: No.

5 MR. WESTBROOK: Okay. And you see a link like: Look
6 at Uma Thurman's bikini in this picture.

7 PROSPECTIVE JUROR NO. 736: Oh, yes. I've seen
8 those.

9 MR. WESTBROOK: Okay. Did you wonder why this friend
10 would post something like that?

11 PROSPECTIVE JUROR NO. 736: No, because usually your
12 Facebook, sometimes it just appears on it, so it could either
13 have just been there or not.

14 MR. WESTBROOK: What -- what do you think of --

15 PROSPECTIVE JUROR NO. 736: Unless they like it, then
16 I'll be like, Well, why did they like it?

17 MR. WESTBROOK: So stuff can just appear randomly
18 without your knowledge?

19 PROSPECTIVE JUROR NO. 736: Yes.

20 MR. WESTBROOK: All right. I'll pass for cause.
21 Thanks.

22 THE COURT: Thank you. Pass the microphone all the
23 way back down.

24 Good morning, Ms. Flores.

25 PROSPECTIVE JUROR NO. 493: Good morning.

1 THE COURT: Badge No. 493, is that right?

2 PROSPECTIVE JUROR NO. 493: Yes.

3 THE COURT: Tell us about yourself.

4 PROSPECTIVE JUROR NO. 493: My name is Merlinda
5 Flores again. I'm married and I run the business for almost
6 17 years, the [inaudible] bar and restaurant. I have four
7 kids. They are grown up already. Three married and one
8 single. The youngest boy is 24 years old and my oldest is 37.
9 The second one is 30 years old, and the other one is 26, and
10 my youngest boy is 24.

11 THE COURT: Do they work?

12 PROSPECTIVE JUROR NO. 493: They're all working, and
13 my youngest boy is manager AT&T Company.

14 THE COURT: What do the other three boys do?

15 PROSPECTIVE JUROR NO. 493: They're all boys.

16 THE COURT: I know. What do they -- what do they
17 work at? What are their jobs?

18 PROSPECTIVE JUROR NO. 493: My youngest boy is
19 manager at AT&T Company. The other one is -- is DJ
20 [inaudible] music, his own business; and the other one is
21 shampoo carpet business; and the eldest is worker at casino, a
22 chef cook at casino, Gulfcoast Casino.

23 THE COURT: Okay. So you have this karaoke place.
24 So do you sing in the karaoke?

25 PROSPECTIVE JUROR NO. 493: Sometime when my customer

1 request and then I give them, you know, make them happy for my
2 service.

3 THE COURT: So you must be a good singer?

4 PROSPECTIVE JUROR NO. 493: I learn from the
5 customers.

6 THE COURT: Okay. All right. And I can't remember.
7 Did you say whether you were married, single, significant
8 other?

9 PROSPECTIVE JUROR NO. 493: Yes, I been married 10
10 years. My first marriage -- I divorce once, and then I been
11 single for five years, and then I get married again. And my
12 husband is working right now at the -- at the Palazzo, Palazzo
13 Casino. He's valet parking.

14 THE COURT: All right. Is there any reason you think
15 that you could not be fair and impartial in this case?

16 PROSPECTIVE JUROR NO. 493: This case because I --
17 I'm still observing and I just -- fair.

18 THE COURT: You can be fair?

19 PROSPECTIVE JUROR NO. 493: Yes.

20 THE COURT: Okay. Well, yeah, everybody -- no one's
21 heard any evidence yet, and you'll have to wait to hear that
22 and then decide, correct?

23 PROSPECTIVE JUROR NO. 493: Correct.

24 THE COURT: All right. Thank you. The State like to
25 inquire further?

1 MS. ANTHONY: Yes, Your Honor. Earlier when I asked
2 about computers you indicated that you don't use computers,
3 correct?

4 PROSPECTIVE JUROR NO. 493: Once in a while. My
5 husband mostly is using the computer.

6 MS. ANTHONY: Okay. So you have a computer in your
7 home?

8 PROSPECTIVE JUROR NO. 493: Yes.

9 MS. ANTHONY: And how many do you have in your home?

10 PROSPECTIVE JUROR NO. 493: Just have one.

11 MS. ANTHONY: You have one. And is it yours or your
12 husband's?

13 PROSPECTIVE JUROR NO. 493: My husband's computer.

14 MS. ANTHONY: And do you use it once in a while?

15 PROSPECTIVE JUROR NO. 493: Yes. Sometime he tell me
16 what I -- you know, because I don't really -- it's too much
17 for me when doing computer when I'm running the business, so
18 he's always the one who is, you know, using the computer; but
19 he tell me what to do for a -- especially my bank account
20 [inaudible] use for, you know, check on my account.

21 MS. ANTHONY: So does he sit with you and help you
22 use a computer if you use it?

23 PROSPECTIVE JUROR NO. 493: Yes.

24 MS. ANTHONY: Okay. You don't use a computer by
25 yourself?

1 PROSPECTIVE JUROR NO. 493: No, because sometime if I
2 -- you know, I don't want to mess up the computer. I just
3 want to make sure that I don't want to, you know, make a
4 mistake, so he always with me when I'm using the computer.

5 MS. ANTHONY: And he tells you how to use it?

6 PROSPECTIVE JUROR NO. 493: Yes.

7 MS. ANTHONY: Okay. What does your husband use the
8 computer for?

9 PROSPECTIVE JUROR NO. 493: He's using for
10 especially, like, the important [inaudible].

11 MS. ANTHONY: I'm sorry?

12 PROSPECTIVE JUROR NO. 493: For, like, the account
13 and also for, like, you know, to -- or using for -- what do
14 you call this -- to call -- to talk to the family in the
15 Philippines.

16 MS. ANTHONY: Oh, right, right. Okay.

17 PROSPECTIVE JUROR NO. 493: And it's free instead to
18 use the, you know, long distance that there's charge back. If
19 you're using for the [inaudible] computer, something like
20 [inaudible] talk to your family.

21 MS. ANTHONY: Okay. And do you also talk to your
22 family using the computer?

23 PROSPECTIVE JUROR NO. 493: Yes.

24 MS. ANTHONY: Obviously when your husband's always
25 present?

1 PROSPECTIVE JUROR NO. 493: Uh-huh, yes.

2 MS. ANTHONY: Okay. All right. Is there -- you
3 described earlier your work schedule, so it's -- is it -- it's
4 in the evening until 5:00 in the morning?

5 PROSPECTIVE JUROR NO. 493: Yes, starts six o'clock
6 p.m. until five o'clock in the morning. Sometime busy we stay
7 until, like, seven o'clock in the morning.

8 MS. ANTHONY: Okay. And during this case are you
9 going to be working at night and coming here to have jury
10 selection -- or listen to the trial?

11 PROSPECTIVE JUROR NO. 493: After five o'clock I go
12 straight to my business and often six o'clock and then I work,
13 like, until eleven o'clock at night; because I felt that I --
14 my responsibility to come here for jury duty --

15 MS. ANTHONY: Okay.

16 PROSPECTIVE JUROR NO. 493: -- so I have somebody
17 running my business.

18 MS. ANTHONY: So they can run the business while you
19 -- if you were selected as a juror?

20 PROSPECTIVE JUROR NO. 493: Yes.

21 MS. ANTHONY: Okay. Pass for cause, Your Honor.

22 THE COURT: Thank you. Defense?

23 MR. WESTBROOK: That was my big question too. I
24 wanted to make sure that you weren't going to have to work a
25 -- until six o'clock in the morning and then truck over here;

1 but it sounds like you're covered for that?

2 PROSPECTIVE JUROR NO. 493: Yes.

3 MR. WESTBROOK: Okay.

4 PROSPECTIVE JUROR NO. 493: I have no problem with
5 it.

6 MR. WESTBROOK: Will it be really important for you
7 to get out right at five o'clock?

8 PROSPECTIVE JUROR NO. 493: Yes, because I -- I am
9 the one have the key to open my business because it's not --
10 I, you know, only small business [inaudible] and, you know, I
11 have to go there and open the business; and then I work for a
12 few hours, like, five, six hours.

13 MR. WESTBROOK: Is that something that someone else
14 could cover or are you the only person that can do that?

15 PROSPECTIVE JUROR NO. 493: My husband, when he's
16 off, he's the one.

17 MR. WESTBROOK: What about Wednesday, Thursday and
18 Friday of this week?

19 PROSPECTIVE JUROR NO. 493: Only me that's, you know,
20 running the business; but in the middle night I have my
21 bartender that we -- he's the one managing it.

22 MR. WESTBROOK: Okay. I guess I'm more concerned
23 about the opening. You know, if we ended up having a
24 situation where we ran late one night, would there be anybody
25 this week who could open your business for you?

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1 PROSPECTIVE JUROR NO. 493: Yes, I have my -- my
2 [inaudible] like my cousin. My cousin, he can run the
3 business just in case that I can't make it for --

4 MR. WESTBROOK: Okay. Good. So you have coverage.
5 Good.

6 PROSPECTIVE JUROR NO. 493: Yeah.

7 MR. WESTBROOK: Good. You were talking about your
8 computer and you seemed like you had a little bit of anxiety
9 about computers; is that fair to say?

10 PROSPECTIVE JUROR NO. 493: Yeah, because my husband
11 is trying to tell me to, you know, but he tell me to do this
12 and sometime it's not -- I don't know -- because it's too much
13 in my mind that I run the business. I can't remember what
14 he's -- you know, so he always -- he's always there with me
15 when I need the computer to check on the account. That's all
16 I -- that's --

17 MR. WESTBROOK: When he tries to explain computer
18 stuff to you -- and he does that from time to time, right? He
19 actually tries to explain to you how the computer works?

20 PROSPECTIVE JUROR NO. 493: Yes.

21 MS. ANTHONY: Okay. What language does he do it in?

22 PROSPECTIVE JUROR NO. 493: He's Philippino also.

23 MR. WESTBROOK: Okay. So does he do it in your
24 native language, or does he try to explain computer stuff to
25 you in English?

1 PROSPECTIVE JUROR NO. 493: Philippino, English
2 sometimes; but mostly Philippino [inaudible].

3 MR. WESTBROOK: Is there a problem with the
4 translation of computer terms to English sometimes -- or I'm
5 sorry -- to the Philippino language sometimes?

6 PROSPECTIVE JUROR NO. 493: No.

7 MR. WESTBROOK: Okay. Do you feel comfortable that,
8 you know, if there's somebody on the witness stand talking
9 about how computers work that you're going to be able to
10 follow it, or are you concerned that you're not going to be
11 able to follow it?

12 PROSPECTIVE JUROR NO. 493: If somebody with me to
13 give me the instruction or, you know, to guide me how to do it
14 I will try my best.

15 MR. WESTBROOK: Okay. Well, what about if it's in
16 this trial and there was somebody sitting on that witness
17 stand talking about access files and computer logs, do you
18 think you would be able to follow that, or are you worried
19 that you wouldn't understand what was going on?

20 PROSPECTIVE JUROR NO. 493: That's the problem with
21 me that I -- sometime I can't, you know, so.

22 MR. WESTBROOK: Do you think that's a language-
23 barrier problem because English is not your first language, or
24 do you think it's just not knowing about computers or what?

25 PROSPECTIVE JUROR NO. 493: Yeah, that's the

1 important, the language. Sometimes I'm kind of confused
2 English.

3 MR. WESTBROOK: Okay.

4 PROSPECTIVE JUROR NO. 493: I [inaudible] in the
5 computer English, sometimes I can't understand the whole
6 thing, that I'm maybe confused.

7 MR. WESTBROOK: Did you have any problems -- I know I
8 speak quickly sometimes. It's a problem with me. Did you
9 have any problems during our conversation just now
10 understanding what I was saying?

11 PROSPECTIVE JUROR NO. 493: Little, little bit. You
12 know, not hundred percent I understand everything. I try; but
13 maybe about 90 percent I understand.

14 MR. WESTBROOK: Okay. If you're selected for the
15 jury would you feel more comfortable if you had an interpreter
16 who could interpret things into your native language?

17 PROSPECTIVE JUROR NO. 493: That's much better, yeah.
18 I feel comfortable with somebody.

19 MR. WESTBROOK: Okay. So I know you've used the
20 computer under -- under adult supervision, I guess. Do you
21 know all the software that's on the computer?

22 PROSPECTIVE JUROR NO. 493: No, sir.

23 MR. WESTBROOK: Do you know what software is?

24 PROSPECTIVE JUROR NO. 493: Is that the one --

25 MR. WESTBROOK: It's like the programs that are on

1 the computer.

2 PROSPECTIVE JUROR NO. 493: Yeah, yeah.

3 MR. WESTBROOK: Like, so, if you're going to type a
4 letter then you might have a piece of software like Microsoft
5 Word. Do you have Microsoft Word on your computer?

6 PROSPECTIVE JUROR NO. 493: Yes, yes.

7 MR. WESTBROOK: Okay. So do you know -- are you
8 comfortable that you know everything that's on the computer or
9 you just know the stuff that you use?

10 PROSPECTIVE JUROR NO. 493: The one I use, yes; but
11 some other, you know, I don't know.

12 MR. WESTBROOK: So there could be things on your
13 computer that your husband put on there that you know nothing
14 about; is that fair to say?

15 PROSPECTIVE JUROR NO. 493: No.

16 MR. WESTBROOK: But it's -- it is fair to say that
17 you don't know everything on your computer?

18 PROSPECTIVE JUROR NO. 493: Some of it, yes; and I
19 don't know what else he's, you know --

20 MR. WESTBROOK: Okay. Does your computer have a
21 password that you have to type in?

22 PROSPECTIVE JUROR NO. 493: Yes, yes. Put in
23 password.

24 MR. WESTBROOK: Okay. And you and your husband both
25 know it?

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1 PROSPECTIVE JUROR NO. 493: [Inaudible]; you know,
2 when I'm done I have to log off.

3 MR. WESTBROOK: Okay. And you and your husband both
4 know the password?

5 PROSPECTIVE JUROR NO. 493: Yes.

6 MR. WESTBROOK: Okay. All right. I'll pass for
7 cause.

8 THE COURT: Thank you.

9 MR. WESTBROOK: Well, actually, Your Honor, can we
10 approach for a second [inaudible]? I'm sorry.

11 THE COURT: Yes.

12 (Off-record bench conference.)

13 MR. WESTBROOK: Pass for cause. Thanks, Judge.

14 THE COURT: Thank you. If you pass the microphone
15 over.

16 And this is Monica --

17 PROSPECTIVE JUROR NO. 542: Soun.

18 THE COURT: -- Soun, Badge No. 542.

19 PROSPECTIVE JUROR NO. 542: Yes.

20 THE COURT: Tell us about yourself.

21 PROSPECTIVE JUROR NO. 542: I'm Monica. I'm 21 years
22 old. I'm a full-time student and I a full time -- I have a
23 full-time job. Three brothers and one sister. Three of them
24 -- well, actually two of them now is in, like, the car
25 business. So my sister is a warranty clerk; and my brother

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1 used to be the car wash, but not -- I think he's like the
2 detail. They both work at Mercedes. My oldest brother, he is
3 a printer tech; and my other brother, which is the twin, he is
4 a bartender. I work at [Inaudible] Hill Healthcare Center.
5 I'm the rehab assistant. It's a skilled nursing facility.
6 I've lived here for nine years. I originally came from
7 California, Vanise. And I don't know what else you want.

8 THE COURT: You're a valley girl?

9 PROSPECTIVE JUROR NO. 542: Yes.

10 THE COURT: Okay. And so this rehab assistant job,
11 do you assist the rehab nurses?

12 PROSPECTIVE JUROR NO. 542: Well, actually I'm in the
13 therapy department. I'm trying to transition to that
14 position. I originally came on as a rehab tech; but right now
15 I'm doing clerical stuff. So I actually set up the schedule
16 for them and if -- if they need a transfer or [inaudible]
17 wheelchair follow then I do that; but that's about it.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 542: It's more of a scheduling
20 part, trying to --

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NO. 542: -- [inaudible].

23 THE COURT: Okay. Do you -- are you married?
24 Single? Significant --

25 PROSPECTIVE JUROR NO. 542: I am single.

1 THE COURT: Okay. No children?
2 PROSPECTIVE JUROR NO. 542: No children.
3 THE COURT: And do you live at home with your
4 parents?
5 PROSPECTIVE JUROR NO. 542: Yes.
6 THE COURT: What do they do?
7 PROSPECTIVE JUROR NO. 542: My dad is an auto
8 technician and my mom is a stay-at-home.
9 THE COURT: All right. Any reason you feel you could
10 not be fair and impartial in this case?
11 PROSPECTIVE JUROR NO. 542: No.
12 THE COURT: All right. Thank you. Would the State
13 like to inquire further?
14 MR. CHEN: Thank you, Your Honor. Good morning.
15 PROSPECTIVE JUROR NO. 542: Good morning.
16 MR. CHEN: Thanks for being here. When the Judge
17 just asked you if you could be fair and impartial in this
18 case, what exactly does that mean to you in terms of being
19 fair and impartial on a jury?
20 PROSPECTIVE JUROR NO. 542: Listen to both sides of
21 the situation and try to evaluate and choose wisely.
22 MR. CHEN: Okay. And I think that that's fair. And
23 you said listen to both sides. Do you agree that sometimes
24 you can only maybe assess from one side and try to make a
25 decision based upon that?

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1 PROSPECTIVE JUROR NO. 542: No. I always try to look
2 at both sides of the situation because I know I've been
3 through situations where I only looked at one point of view;
4 and then from now on I'm, like, kind of trying to look at both
5 sides before I even jump to conclusion.

6 MR. CHEN: Okay. And that's fair. And here we're
7 here for a trial, as you know, and you've heard a little bit
8 about the charges only. But we do agree that if -- if my
9 counsel, co-counsel and I, if we put someone on the stand that
10 said that Donald Duck -- let's just assume -- was guilty of --
11 of speeding, or something like that, you would agree that if
12 Mr. Westbrook were to get up and say that my client didn't do
13 anything and all we presented is Donald Duck, you would have
14 to find the Defendant not guilty in this case; would you agree
15 with that?

16 PROSPECTIVE JUROR NO. 542: Yes, yes.

17 MR. CHEN: Okay. So you can still listen basically
18 to what we present and you could at least make a decision
19 based upon the information that you have?

20 PROSPECTIVE JUROR NO. 542: Yes.

21 MR. CHEN: Okay. Let's see, you mentioned you're a
22 student as well. What exactly are you studying?

23 PROSPECTIVE JUROR NO. 542: I originally was going
24 for nursing, but actually switched last fall to kinesiology
25 because I'm trying to be an occupational therapist.

1 MR. CHEN: Okay. Couple more years to go on that?

2 PROSPECTIVE JUROR NO. 542: Yes.

3 MR. CHEN: All right. Let's see. I'll pass for
4 cause. Thank you, Your Honor.

5 THE COURT: Thank you. Defense?

6 MR. WESTBROOK: If you're studying kinesiology,
7 please don't judge me for my terrible posture. You just
8 talked about not jumping to conclusions.

9 PROSPECTIVE JUROR NO. 542: Yes.

10 MR. WESTBROOK: Earlier you heard from Mr. Howard --
11 sorry, Mr. Howard, right? Thank you. I remembered the name.
12 About being detail-oriented and if you miss a small detail
13 then later on you could miss the biggest detail of all. When
14 you examine the evidence, are you going to be focused on the
15 details?

16 PROSPECTIVE JUROR NO. 542: Yes.

17 MR. WESTBROOK: Okay. Forget the topic of this case.
18 In general, what would you expect a police officer to do when
19 investigating a case? And just to make it a little bit easier
20 maybe --

21 PROSPECTIVE JUROR NO. 542: Okay.

22 MR. WESTBROOK: -- let's say that it's an alleged
23 7-Eleven robbery. Someone went into a 7-Eleven and they said,
24 Give me all the money in the drawer, and they left. What
25 would you expect the police officer to do in investigating the

1 case?

2 PROSPECTIVE JUROR NO. 542: Look for details around
3 the store and check the surveillance camera.

4 MR. WESTBROOK: Surveillance camera, that's a good
5 start. Surveillance cameras are down that day for repairs.
6 No surveillance. What else would you expect?

7 PROSPECTIVE JUROR NO. 542: Witness, like try to find
8 eye witnesses.

9 MR. WESTBROOK: Eye witnesses.

10 PROSPECTIVE JUROR NO. 542: Whether it's inside the
11 store or outside.

12 MR. WESTBROOK: So the --

13 PROSPECTIVE JUROR NO. 542: See how the person looks
14 like.

15 MR. WESTBROOK: Okay. So you -- you start with eye
16 witnesses, see if you can get a description of the person who
17 robbed the store?

18 PROSPECTIVE JUROR NO. 542: Yeah.

19 MR. WESTBROOK: What other kind of information do you
20 think that they should get?

21 PROSPECTIVE JUROR NO. 542: I'm not so sure.

22 MR. WESTBROOK: Tell you what, I'll give you a
23 description from the eye witness. The man came in, he was
24 6'2". He was white. He had light-brown hair, it was thinning
25 in the front. He was not wearing any gloves. He had size 12

1 feet with black dress shoes on, okay? Now what information
2 are you looking for?

3 PROSPECTIVE JUROR NO. 542: Well, his build.

4 MR. WESTBROOK: Two hundred twenty-five pounds, he's
5 trying to lose weight.

6 PROSPECTIVE JUROR NO. 542: He's actually -- his
7 clothing wear because you only mentioned the shoes.

8 MR. WESTBROOK: Okay. So not wearing gloves, would
9 you look for fingerprints maybe?

10 PROSPECTIVE JUROR NO. 542: Yes.

11 MR. WESTBROOK: Okay. Size 12 shoes, would you look
12 for footprints maybe?

13 PROSPECTIVE JUROR NO. 542: Yes.

14 MR. WESTBROOK: Okay. So now -- so now you're back
15 in the jury box and you're looking at the police talk about
16 the case. Let's say they didn't look for fingerprints; how
17 would you feel about that?

18 PROSPECTIVE JUROR NO. 542: I'm not so sure. It
19 depends, I think.

20 MR. WESTBROOK: Sure, on the circumstances.

21 PROSPECTIVE JUROR NO. 542: Yeah.

22 MR. WESTBROOK: Let's say they got a guy who is 5'6".
23 How would you feel about that?

24 PROSPECTIVE JUROR NO. 542: I would kind of question
25 it.

1 MR. WESTBROOK: Okay.

2 PROSPECTIVE JUROR NO. 542: [Inaudible.]

3 MR. WESTBROOK: Let's say there were five witnesses,
4 but they only talked to two of them; how would you feel about
5 that?

6 PROSPECTIVE JUROR NO. 542: I would wonder why they
7 didn't talk to the rest of the witnesses.

8 MR. WESTBROOK: Okay. Now it's going to be -- it's a
9 police officer. The police officer is saying that the person
10 charged is guilty. Are you going to give extra credit just
11 because it's a police officer, or are you going to be able to
12 analyze what they actually did and didn't do?

13 PROSPECTIVE JUROR NO. 542: I'm going to analyze it.

14 MR. WESTBROOK: Treat the witness like a witness?

15 PROSPECTIVE JUROR NO. 542: Yeah.

16 MR. WESTBROOK: I'll pass for cause.

17 THE COURT: Thank you. Pass the microphone over.
18 Mr. Whiteford, Badge No. 691.

19 PROSPECTIVE JUROR NO. 756: 756.

20 THE COURT: Oh, I'm sorry.

21 PROSPECTIVE JUROR NO. 756: Glen Minnick, 756.

22 THE COURT: Glen -- oh, okay. I'm sorry. I was in
23 the wrong box on my -- that's right. How could I forget Mr.
24 Minnick, 756? Tell us about yourself.

25 PROSPECTIVE JUROR NO. 756: Well, I was born and

1 raised in Hawaii until I was about 15 years old. My dad
2 passed on. We lived on two islands at the time while I was
3 growing up in Hawaii; one was Lanai and the other was
4 Honolulu, Oahu. Did a lot of surfing. Learned to play golf.

5 Then he passed away and we moved to California.
6 Lived in a place called Marin County and I went to school
7 there. Didn't really -- I had, like, a year and a half of
8 college. I was more interested in doing things with my hands,
9 working for an antique refinishing company. And eventually
10 moved to San Diego, and then got into the hotel business; and
11 then also was a tour guide in San Diego taking folks all
12 around and learning about the history and -- and explaining to
13 them a lot of the background of San Diego and the people that
14 helped create that place.

15 Then got into a premier hotel there called the
16 Intercontinental and started off as a bellman, graveyard. I
17 hated it, you know; but then moved into the door staff and --
18 and I've been doing guest service ever since. I -- I moved --

19 THE COURT: How long did you live here in Clark
20 County?

21 PROSPECTIVE JUROR NO. 756: About 14, 15 years --
22 since 1996 --

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NO. 756: -- from San Diego.

25 THE COURT: And you've always been in the hotel

1 industry since you've been here?

2 PROSPECTIVE JUROR NO. 756: Pretty much, yes. I -- I
3 -- what enticed me was --

4 THE COURT: Wait, wait, wait. Where are you
5 currently employed?

6 PROSPECTIVE JUROR NO. 756: At the Vdara.

7 THE COURT: Oh, that's right, the Vdara. And what do
8 you do there?

9 PROSPECTIVE JUROR NO. 756: I'm a spa attendant
10 there.

11 THE COURT: A spa attendant?

12 PROSPECTIVE JUROR NO. 756: Yeah.

13 THE COURT: All right. Are you married? Single?

14 PROSPECTIVE JUROR NO. 756: I'm single.

15 THE COURT: Okay. Significant other?

16 PROSPECTIVE JUROR NO. 756: No.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR NO. 756: I have a sister --

19 THE COURT: Children?

20 PROSPECTIVE JUROR NO. 756: I have a sister here.

21 THE COURT: All right. Children?

22 PROSPECTIVE JUROR NO. 756: No children.

23 THE COURT: Okay. All right. Thank you. Would the
24 State like to inquire further?

25 MS. ANTHONY: Thank you, Your Honor. When you were

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1 in college did you have a major? Did -- were you studying any
2 particular subject?

3 PROSPECTIVE JUROR NO. 756: Really I -- I had no
4 guidance. I had no passion for any specific subject. I
5 actually was just doing it because I thought it was the best
6 thing for me to do; so it was just general education and I
7 just lost interest.

8 MS. ANTHONY: Okay. So you hadn't declared a major
9 or anything, you were just getting into the process?

10 PROSPECTIVE JUROR NO. 756: Yeah.

11 MS. ANTHONY: Okay. Earlier you said -- I guess
12 yesterday, earlier yesterday, I asked about social networking
13 and I believe you raised your hand that you don't do social
14 networking?

15 PROSPECTIVE JUROR NO. 756: No.

16 MS. ANTHONY: So you're not on Facebook?

17 PROSPECTIVE JUROR NO. 756: Well, I -- I have the
18 Facebook, I'm on there; but once I saw how this thing worked I
19 -- it just didn't interest me.

20 MS. ANTHONY: And what do you mean by that, how it
21 works?

22 PROSPECTIVE JUROR NO. 756: Communicating constantly
23 with old friends and stuff. I mean, I just -- it just didn't
24 -- I've always kind of been in my own little world, you know,
25 just interested in other things like rocks and -- and crushing

1 them up, looking for metals, things like that. I mean,
2 [inaudible], making jewelry out of them, learning about how
3 things develop in, you know, through history. I'm more
4 interested in history and other things besides --

5 MS. ANTHONY: So if you're spending time on Facebook
6 you can't do your other hobbies?

7 PROSPECTIVE JUROR NO. 756: Right, I just don't --
8 it's not interesting to me.

9 MS. ANTHONY: What are some of the hobbies that you
10 do?

11 PROSPECTIVE JUROR NO. 756: Well, I like to go out
12 investigating rocks and learning to identify that -- what's in
13 them. In fact, I -- I did that a while back when I -- I found
14 something that resembled jadeite [phonetic].

15 MS. ANTHONY: It resembled what?

16 PROSPECTIVE JUROR NO. 756: Jade.

17 MS. ANTHONY: Jade. Okay.

18 PROSPECTIVE JUROR NO. 756: And it had these sparkles
19 in it; and every expert that I took it to, they said it was
20 nothing, it was just -- so I had it crushed up and I took it
21 to [inaudible] places, and he says, Did you salt this, and I
22 said, No.

23 MS. ANTHONY: I'm sorry. Did you what?

24 PROSPECTIVE JUROR NO. 756: Salt it, which means
25 contaminate it or make it look better than it is --

1 MS. ANTHONY: Okay.

2 PROSPECTIVE JUROR NO. 756: -- with -- with a
3 precious metal of some kind, and I said, No, this is -- this
4 is what's in it; and he just couldn't believe what -- what he
5 saw.

6 MS. ANTHONY: So did you find out what it was?

7 PROSPECTIVE JUROR NO. 756: But I tried to pursue it,
8 but there's just not any open door for that sort of thing, you
9 know.

10 MS. ANTHONY: And when you do these things, do you do
11 them with friends or do you do them by yourself?

12 PROSPECTIVE JUROR NO. 756: I did it with friends
13 down in San Diego. A lot of them -- a lot of the information
14 that I learned about the creation of these metamorphic rocks
15 and things were from old Army Corp of Engineers during World
16 War II, scientists that worked on -- that were a part of the
17 gem society that I belong to, worked on the hydrogen project.
18 I mean, they were into a lot of really cool stuff, you know.

19 MS. ANTHONY: Do you belong to that society here as
20 well?

21 PROSPECTIVE JUROR NO. 756: No.

22 MS. ANTHONY: No. Different. Okay. Is there
23 anything going on in your life right now that would cause you
24 not to be able to pay full attention to this case?

25 PROSPECTIVE JUROR NO. 756: Look, you know, I -- I

1 studied -- I've read so much about how we developed to
2 becoming where we are right now as a society. I -- I -- I
3 read over old rules that helped benefit society, like the
4 Magna Carta and then the Constitution; and then saw how all
5 those things got re-interpreted by man, you know, the things
6 that should actually guide us as a -- as a race and -- and I
7 just -- you let a lot of the things that we have going on here
8 seem to perpetuate the problem rather than remedying it or
9 correcting it. You know, no harm, no force, no property
10 damage. I feel that that person can go, you know. I'm just
11 -- that's how I believe.

12 MS. ANTHONY: Okay. So when earlier Your Honor said
13 that -- she asked each and everybody, you know, if you were
14 given a law can you follow the law; and obviously you are in
15 the box because you answered you could. And from -- when
16 gathering from your last question [sic] was when you were to
17 look at a case -- and obviously you're in a criminal case --
18 one of the things you would look at is there was injury or
19 property injury or something like that, and if there isn't,
20 then when you say, Let him go, I'm going to assume you meant
21 not guilty; am I right?

22 PROSPECTIVE JUROR NO. 756: Yeah.

23 MS. ANTHONY: Okay. So even though if you were given
24 the law you couldn't follow it then?

25 PROSPECTIVE JUROR NO. 756: No, I could because --

1 MS. ANTHONY: Okay. So explain to me. I'm having a
2 hard time understanding. I'm trying to understand.

3 PROSPECTIVE JUROR NO. 756: I'm just -- I have my own
4 personal beliefs, that's what I'm trying to just tell you.
5 That's all.

6 MS. ANTHONY: Okay.

7 PROSPECTIVE JUROR NO. 756: But when it comes to
8 following directions and whatever you ask me, yes, I can
9 follow those, definitely, because I haven't ever been
10 arrested. I've never had a speeding ticket. I've driven for
11 over 40, 50 years. Just, you know, perfect record.

12 MS. ANTHONY: And even if you disagreed with the law
13 you could still follow it?

14 PROSPECTIVE JUROR NO. 756: I'd still have to follow
15 it, yeah.

16 MS. ANTHONY: You might not like it; but you could
17 follow it?

18 PROSPECTIVE JUROR NO. 756: Absolutely.

19 MS. ANTHONY: Okay. And is that what you were trying
20 to explain to me?

21 PROSPECTIVE JUROR NO. 756: Yeah.

22 MS. ANTHONY: Okay.

23 PROSPECTIVE JUROR NO. 756: I just -- this is an open
24 book. I just, you know --

25 MS. ANTHONY: And absolutely, and that's -- that's

1 what we need. We need people to answer honestly so we can
2 figure out from both sides to select jurors that are going to
3 be the best in this particular case. So there's no right or
4 wrong and that's why I'm trying to make sure that I understand
5 your answer. So I guess it kind of goes along the lines of in
6 this particular case would you like to be a juror?

7 PROSPECTIVE JUROR NO. 756: I feel uncomfortable
8 here.

9 MS. ANTHONY: And -- and --

10 PROSPECTIVE JUROR NO. 756: But -- but -- but I will
11 do it.

12 MS. ANTHONY: What makes you uncomfortable?

13 PROSPECTIVE JUROR NO. 756: Well, the \$500 fine for
14 not showing up. That's force, you know.

15 MS. ANTHONY: I think everybody in the room
16 understands that nobody is here by choice. You didn't wake up
17 and say, Yes, I'm going to go to jury selection today, right?

18 PROSPECTIVE JUROR NO. 756: You bet I did. I mean,
19 I'm not going to rock the boat in my life, at least. I'm not
20 going to, you know, cause harm or anything to anybody or --
21 or, you know, go against the law, no.

22 MS. ANTHONY: So the question was: Do you want to be
23 a juror?

24 PROSPECTIVE JUROR NO. 756: To be a part of making a
25 judgment on someone?

1 MS. ANTHONY: Yes.

2 PROSPECTIVE JUROR NO. 756: Not really.

3 MS. ANTHONY: And could you do it if you had to?

4 PROSPECTIVE JUROR NO. 756: Yes.

5 MS. ANTHONY: All right. I'll pass for cause.

6 THE COURT: Thank you. Defense?

7 MR. WESTBROOK: You just made me think of Gandoff, by
8 the way. Probably not intentionally. You said something
9 about people always wish that they weren't living in the
10 tortured times that they're in but they have no choice but to
11 live in the times they're in and given the challenges that
12 they are given, face the challenges that they are given; do
13 you agree with that?

14 PROSPECTIVE JUROR NO. 756: I do.

15 MR. WESTBROOK: To the extent that I said it at all
16 intelligently?

17 PROSPECTIVE JUROR NO. 756: Correct.

18 MR. WESTBROOK: You're a rock hound?

19 PROSPECTIVE JUROR NO. 756: Yeah.

20 MR. WESTBROOK: Did they ever identify what that was,
21 that crushed rock that you found that you thought was jadeite?

22 PROSPECTIVE JUROR NO. 756: Well, the -- they're so
23 -- they seem to be very, very stuck on what is known. And
24 when this came up it was something they'd never seen before
25 and -- and you can take that stone -- if you're a stone

1 cutter, every gem stone has a certain feel to it when you're
2 cutting it and the dust from it. And when you use regular
3 jade that we all know, and then this material that has all
4 these metals in it, precious metals, and you cut it and you
5 feel the feeling of that -- if you were a blind Chinese man
6 that did stone cutting you would say this is jade, this is
7 another form of jade.

8 MR. WESTBROOK: So it sounds like the experts -- the
9 experts -- I'll put quotes around that, air quotes, for the
10 record air quotes -- that you took this stone to kind of make
11 a surface determination based on what they knew?

12 PROSPECTIVE JUROR NO. 756: Absolutely.

13 MR. WESTBROOK: Jump to conclusions?

14 PROSPECTIVE JUROR NO. 756: Calling the metals mica,
15 and when you take it to the wheel, precious metals streak gray
16 on the wheel.

17 MR. WESTBROOK: So once they had an answer that they
18 were comfortable with they didn't look any further?

19 PROSPECTIVE JUROR NO. 756: No.

20 MR. WESTBROOK: But you looked further. Do you think
21 that despite your discomfort at being here -- which I'm sure
22 is shared by lots of people -- that when you're analyzing this
23 evidence you could look further?

24 PROSPECTIVE JUROR NO. 756: Yeah.

25 MR. WESTBROOK: Pass for cause.

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1 THE COURT: Thank you. Would you pass the
2 microphone?

3 And are you Billy Whiteford?

4 PROSPECTIVE JUROR NO. 699: Yes, ma'am.

5 THE COURT: My chart is accurate. 691 Badge number.
6 Tell us about --

7 PROSPECTIVE JUROR NO. 699: 699. It's Badge No. 699.

8 THE COURT: Oh, 699. Okay. Another error. All
9 right. Go ahead. Tell us about yourself.

10 PROSPECTIVE JUROR NO. 699: My name is Billy
11 Whiteford and I work at the LBH. I'm a room reservation
12 supervisor and also PDX, which is telecommunication. And I
13 have one son, single father. He'll be 16. And I have one
14 sister, which lives in California. And I've lived in Las
15 Vegas about 14 years now.

16 THE COURT: Sixteen, is he driving yet?

17 PROSPECTIVE JUROR NO. 699: No, but he's been talking
18 about it.

19 THE COURT: Okay. And you -- I think I remember you
20 saying that you thought you were -- considered yourself a
21 computer expert.

22 PROSPECTIVE JUROR NO. 699: Yes, ma'am.

23 THE COURT: And what do you base that on?

24 PROSPECTIVE JUROR NO. 699: I was a computer engineer
25 also, basically from working -- like I said before, Microsoft

1 Word and all that stuff. I used to use DOS, which was very --
2 I guess the very beginning of it, and take a computer apart
3 also, assemble it.

4 THE COURT: So -- so you worked as a computer
5 engineer?

6 PROSPECTIVE JUROR NO. 699: I used to.

7 THE COURT: Where?

8 PROSPECTIVE JUROR NO. 699: [Inaudible], I mean, I
9 was -- I was -- basically I got my degree. I was --
10 scholarship before, I had a scholarship at Indiana University,
11 but I declined that and I chose the Air Force. So I served,
12 did my time there and then after Desert Storm.

13 THE COURT: Did you use your computer skills in the
14 Army?

15 PROSPECTIVE JUROR NO. 699: Air Force.

16 THE COURT: Air Force, excuse me. Air Force.

17 PROSPECTIVE JUROR NO. 699: Yes, ma'am.

18 THE COURT: Pardon me?

19 PROSPECTIVE JUROR NO. 699: Yes, ma'am, I did.

20 THE COURT: What was your assignment in the Air
21 Force?

22 PROSPECTIVE JUROR NO. 699: Well, it -- I did it
23 afterwards because I was -- I was a parachuter for the Air
24 Force, which was equivalent to -- I guess they call it Navy
25 Seals; that's what I did when I was in Desert Storm.

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1 THE COURT: Okay. So not -- not using computers in
2 the Air Force?

3 PROSPECTIVE JUROR NO. 699: Afterwards -- I guess you
4 can say I did it partially as far as that's concerned, that's
5 what I did, you know, when I was going to school; when I was
6 working also. So I [inaudible] just the fact I love computers
7 and during that time it was still new, and so I, you know, I
8 still continued as a hobby; but never actually did it as a job
9 outside.

10 THE COURT: Okay. So you -- you like computers as a
11 hobby now?

12 PROSPECTIVE JUROR NO. 699: Not as much as I used to.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 699: I guess now I'm more
15 aware. Like I say, I try to track what my son does now on his
16 free time on the computer.

17 THE COURT: All right. So how do you -- how do you
18 do that? How do you track what he does?

19 PROSPECTIVE JUROR NO. 699: With a lot of time and
20 patience. Pretty much I'm watching what he does and what
21 sites he goes to and making sure that, you know, what he can
22 and cannot go to, which most of the time I block it so that
23 way I know what he can only go to.

24 THE COURT: Okay. And he hasn't figured out how to
25 get around the blocks yet?

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1 PROSPECTIVE JUROR NO. 699: No, because I have the --
2 I guess you could say a password log-in to his system.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 699: So he can't do anything
5 without me knowing it.

6 THE COURT: All right. Okay. Thank you. Would the
7 State like to inquire further?

8 MR. CHEN: Thank you. Good morning, sir. First off,
9 thank you for your service and in sharing that with us. We
10 were just celebrating the 4th of July weekend. Did you do
11 anything special in particular on that day?

12 PROSPECTIVE JUROR NO. 699: Besides work, no.

13 MR. CHEN: Okay. So you were actually working at the
14 LBH on that day?

15 PROSPECTIVE JUROR NO. 699: Yes. Yes, sir.

16 MR. CHEN: Okay. As you know, you and everyone else
17 is here to potentially be on a jury. Do you think it's a good
18 thing that we have that system of justice here in the States,
19 that a person has a right to be tried by people in the
20 community?

21 PROSPECTIVE JUROR NO. 699: Absolutely.

22 MR. CHEN: Okay. And why do you think that that's a
23 good system that we have?

24 PROSPECTIVE JUROR NO. 699: Just the fact that we
25 have to know -- as far as I'm concerned, to me it's like who

1 knows more about, I guess, the area itself, the [inaudible]
2 community itself rather than going outside not knowing, you
3 know, that -- [inaudible] over the community.

4 MR. CHEN: Okay. So you basically get a lot of
5 different input basically from the community rather than just
6 one person, right?

7 PROSPECTIVE JUROR NO. 699: Exactly.

8 MR. CHEN: And do you think it's good, for instance,
9 that you've described that you actually have a pretty
10 extensive knowledge of computers and how to block your son
11 from doing certain things versus some of the other members who
12 have said that they really don't know much about computers
13 other than basic usage, do you think that that could be
14 beneficial to a jury as well to have different levels of
15 experience, for instance?

16 PROSPECTIVE JUROR NO. 699: I would think so.

17 MR. CHEN: Okay. I'll pass for cause. Thank you.

18 THE COURT: Defense?

19 MR. WESTBROOK: You probably are among the people in
20 this room who have the most computer experience as far as I
21 can tell, fair to say?

22 PROSPECTIVE JUROR NO. 699: Yes.

23 MR. WESTBROOK: All right. Have you ever gotten a
24 virus?

25 PROSPECTIVE JUROR NO. 699: Very beginning, yes. Not

1 anymore.

2 MR. WESTBROOK: Not anymore? What -- what kind of
3 safety did you put in place after you got your first bad
4 virus?

5 PROSPECTIVE JUROR NO. 699: It's -- I mean,
6 [inaudible] lot of research what the virus was, and after
7 knowing what the virus was, I basically put a block on it.
8 There's -- I guess you can say there's things that I have on
9 my computer that a lot of people don't have on theirs due to
10 the fact that just like my [inaudible] protection, what I have
11 is a lot of -- I guess a lot of individuals have a virus in
12 their computer I guess every year that they have described,
13 mine doesn't. I have [inaudible].

14 MR. WESTBROOK: Did you say -- so this is not like a
15 free virus scanner that you've downloaded off the Internet.
16 This is serious --

17 PROSPECTIVE JUROR NO. 699: Exactly.

18 MR. WESTBROOK: -- the Arnold Schwarzenegger in his
19 prime of virus protection?

20 PROSPECTIVE JUROR NO. 699: I would say 50 years
21 [inaudible] suitable, yes.

22 MR. WESTBROOK: Yeah, sounds like it. Do you -- do
23 you have to update the -- the virus -- what are they called?

24 PROSPECTIVE JUROR NO. 699: Virus scan, it's
25 automatic.

1 MR. WESTBROOK: Okay. But --

2 PROSPECTIVE JUROR NO. 699: Because it pretty much --
3 every 30 minutes.

4 MR. WESTBROOK: Every 30 minutes. Why does it do
5 that?

6 PROSPECTIVE JUROR NO. 699: Just in case because the
7 thing about the virus is there's a lot of virus wires [sic]
8 that goes especially [inaudible]. There's a lot of them that
9 goes on in there. Even though you have a specific virus,
10 that's not a virus basically that comes and jumps in there.

11 MR. WESTBROOK: Okay.

12 PROSPECTIVE JUROR NO. 699: And then if that one
13 doesn't work, another one will try to filter to your system
14 and [inaudible] goes through.

15 MR. WESTBROOK: All right. So there's constantly an
16 onslaught of viruses out there that are looking for a way in
17 and you've got to plug the holes?

18 PROSPECTIVE JUROR NO. 699: Exactly.

19 MR. WESTBROOK: And your software does that
20 automatically, right?

21 PROSPECTIVE JUROR NO. 699: It does.

22 MR. WESTBROOK: Does it also scan the files in your
23 computer automatically?

24 PROSPECTIVE JUROR NO. 699: Yes.

25 MR. WESTBROOK: Okay. So -- so your virus scanner is

1 constantly accessing files on your computer?

2 PROSPECTIVE JUROR NO. 699: Yes.

3 MR. WESTBROOK: Just to make sure everything is
4 secure?

5 PROSPECTIVE JUROR NO. 699: That's correct.

6 MR. WESTBROOK: Do you also have firewalls?

7 PROSPECTIVE JUROR NO. 699: Yes.

8 MR. WESTBROOK: And then are you always connected to
9 the Internet?

10 PROSPECTIVE JUROR NO. 699: I do, like I said,
11 because I always, like I said, not only [inaudible] same time
12 I'm on for my son.

13 MR. WESTBROOK: Okay.

14 PROSPECTIVE JUROR NO. 699: And that's one of the
15 reasons why I go in there --

16 MR. WESTBROOK: Now you --

17 PROSPECTIVE JUROR NO. 699: -- to see what he does.

18 MR. WESTBROOK: I'm sorry to interrupt. You son
19 can't do certain things with a computer because he doesn't
20 have a password?

21 PROSPECTIVE JUROR NO. 699: That is correct.

22 MR. WESTBROOK: Is there only one account on the
23 computer or are there multiple accounts?

24 PROSPECTIVE JUROR NO. 699: There's multiple
25 accounts. I basically created his own account.

UNCERTIFIED ROUGH DRAFT

1 MR. WESTBROOK: He has his own account?
2 PROSPECTIVE JUROR NO. 699: That's correct.
3 MR. WESTBROOK: So he doesn't have your master
4 password?
5 PROSPECTIVE JUROR NO. 699: Not at all.
6 MR. WESTBROOK: You're -- you're probably the only
7 one who has what's called administrative privileges, right?
8 PROSPECTIVE JUROR NO. 699: That's right.
9 MR. WESTBROOK: Can you tell me what administrative
10 privileges are?
11 PROSPECTIVE JUROR NO. 699: It -- basically it -- I
12 guess you could say controls everybody else as to whatever --
13 whatever names that you have in there. Like, if you have a
14 son, your wife, or you know, mother, father, whichever files
15 that you have in there that's able to use access to your
16 computer, that's basically to have control of what they can
17 and can't get into.
18 MR. WESTBROOK: Okay. So there are certain functions
19 that he just won't be able to do with his level of access, but
20 he would be able to do if he had your password?
21 PROSPECTIVE JUROR NO. 699: That is correct.
22 MR. WESTBROOK: All right. Pass for cause. Thanks.
23 THE COURT: Thank you. Pass that over. Mr. Lamb,
24 Badge No. 702; is that right?
25 PROSPECTIVE JUROR NO. 702: Yes.

UNCERTIFIED ROUGH DRAFT

1 THE COURT: All right. Tell us about yourself.

2 PROSPECTIVE JUROR NO. 702: My name is Larry Lamb. I
3 go by my middle name, which is Dwayne, but I get -- I answer
4 to Larry as well. I have an older brother and a younger
5 sister who both are -- my sister lives in Texas. My -- we
6 don't know where my brother is. I graduated in '91 with a
7 bachelor of science in computer science from Texas State
8 University. Moved here in '94, so I've been here for about 18
9 and a half years. Divorced. My ex-wife had a five-year-old
10 when we got together, so basically raised him. I'm in a
11 relationship now for about three years now. She's also in the
12 computer field. She does project management. I'm a database
13 [inaudible]. Anything else?

14 THE COURT: Any children of your own?

15 PROSPECTIVE JUROR NO. 702: No.

16 THE COURT: All right. So where do you work?

17 PROSPECTIVE JUROR NO. 702: Acres [phonetic] 4.0. We
18 do software [inaudible].

19 THE COURT: So do you design the software?

20 PROSPECTIVE JUROR NO. 702: Databases, yes.

21 THE COURT: Okay. So do you do database management
22 for, say, tracking gaming?

23 PROSPECTIVE JUROR NO. 702: Yes. We -- in -- before
24 I was there I was with IGT and we -- I was a database
25 developer and we created a database for their accounting

UNCERTIFIED ROUGH DRAFT

1 system, the casino's player management system and their cage
2 and credit system.

3 THE COURT: Okay. And do you know as -- as a
4 computer programmer how to search databases?

5 PROSPECTIVE JUROR NO. 702: Sure.

6 THE COURT: Okay. All right. Thank you. The State
7 like to inquire further?

8 MS. ANTHONY: Just briefly. Do you have anything
9 going on right now in your life though that would cause you
10 not to be able to pay full attention to the witnesses and the
11 evidence that comes from the witness stand?

12 PROSPECTIVE JUROR NO. 702: Just work.

13 MS. ANTHONY: Just work. So --

14 PROSPECTIVE JUROR NO. 702: Well, I got a little -- I
15 can work at home.

16 MS. ANTHONY: Okay. So if you're coming here and
17 you're selected as a juror, so during this week you'll be
18 sitting as a juror and at home you'll be working at night?

19 PROSPECTIVE JUROR NO. 702: Yes.

20 MS. ANTHONY: Okay. Sorry. Thank you, they're
21 recording it.

22 PROSPECTIVE JUROR NO. 702: Right.

23 MS. ANTHONY: So how long would you be working at
24 night?

25 PROSPECTIVE JUROR NO. 702: Not that long. Last

1 night I got all my work done before 10:00.

2 MS. ANTHONY: So it's not something that's going to
3 make you so tired that when you come in the next day you won't
4 be able to pay attention?

5 PROSPECTIVE JUROR NO. 702: No.

6 MS. ANTHONY: Okay. Would you like to be a juror in
7 this case?

8 PROSPECTIVE JUROR NO. 702: Honestly, no; but I will.

9 MS. ANTHONY: You will if you have to?

10 PROSPECTIVE JUROR NO. 702: Yeah, sure.

11 MS. ANTHONY: And when you say, Honestly, no, what do
12 you mean?

13 PROSPECTIVE JUROR NO. 702: Sorry. The subject
14 matter mostly.

15 MS. ANTHONY: So it's obviously something that most
16 people [inaudible] are uncomfortable with.

17 PROSPECTIVE JUROR NO. 702: Sure.

18 MS. ANTHONY: But if you were selected you would be
19 able to do it?

20 PROSPECTIVE JUROR NO. 702: Sure.

21 MS. ANTHONY: Okay. I'll pass for cause, Your Honor.

22 THE COURT: Defense?

23 MR. WESTBROOK: Yeah, I want to follow up with you,
24 if it's all right, on the subject matter. You know, we're
25 talking about pornographic images of children, and the

1 question that's going to be put to all the jurors is a
2 relatively simple one, despite the subject matter, and that's
3 whether or not Mr. Castaneda willfully and knowingly possessed
4 it.

5 Taken to that clinical a term, are you going to be
6 able to set aside the revulsion that everyone feels, and even
7 the -- you don't have to see them -- at the thought of
8 pornographic images of children, can you set that aside and
9 analyze the evidence that the government presents concerning
10 that narrow question?

11 PROSPECTIVE JUROR NO. 702: Yes.

12 MR. WESTBROOK: Okay. And that's true despite I
13 think you mentioned that you had an ex-wife who was a victim
14 of -- of crime when she was younger?

15 PROSPECTIVE JUROR NO. 702: That's true.

16 MR. WESTBROOK: Okay. All right. Regarding your
17 computer experience, have you ever done any user support, help
18 desk?

19 PROSPECTIVE JUROR NO. 702: Yes.

20 MR. WESTBROOK: Okay. What's the dumbest thing a
21 computer user has ever done that's caused a problem that you
22 had to fix?

23 PROSPECTIVE JUROR NO. 702: Wow.

24 MR. WESTBROOK: Is this a long list?

25 PROSPECTIVE JUROR NO. 702: Yeah.

1 MS. ANTHONY: You can just give me an example of
2 something.

3 PROSPECTIVE JUROR NO. 702: Printer won't work, it's
4 off.

5 MR. WESTBROOK: It's off.

6 PROSPECTIVE JUROR NO. 702: Yeah. Just silly, silly
7 stuff.

8 MR. WESTBROOK: Is that why whenever you call the
9 help desk they're, like, Is it plugged in?

10 PROSPECTIVE JUROR NO. 702: Yeah. Absolutely, and
11 it's not that stupid a question.

12 MR. WESTBROOK: Yeah, because sometimes it's not
13 plugged in.

14 PROSPECTIVE JUROR NO. 702: A lot of times it's not.

15 MR. WESTBROOK: All right. Have you ever had to
16 clean up a virus from a user computer?

17 PROSPECTIVE JUROR NO. 702: Yes.

18 MR. WESTBROOK: How about your own computer?

19 PROSPECTIVE JUROR NO. 702: Yes.

20 MR. WESTBROOK: Okay. How do viruses get on
21 computers anyway? I know you can't just sneeze on a computer
22 and get it on there.

23 PROSPECTIVE JUROR NO. 702: Right. They -- they
24 attack the software basically.

25 MR. WESTBROOK: Okay. But where do they come from?

UNCERTIFIED ROUGH DRAFT

1 PROSPECTIVE JUROR NO. 702: Outside.

2 MR. WESTBROOK: Do you know why people even create
3 viruses in the first place?

4 PROSPECTIVE JUROR NO. 702: Just to be malicious, for
5 one; to attack your computer and get information.

6 MR. WESTBROOK: Are there different kinds of viruses?

7 PROSPECTIVE JUROR NO. 702: Sure.

8 MR. WESTBROOK: Like what kind?

9 PROSPECTIVE JUROR NO. 702: I'm not an expert on
10 viruses.

11 MR. WESTBROOK: You're not an expert on viruses. But
12 you've had experience with them and tried to clean them up
13 before?

14 PROSPECTIVE JUROR NO. 702: Sure.

15 MR. WESTBROOK: All right. Are you always concerned
16 about viruses attacking your computer?

17 PROSPECTIVE JUROR NO. 702: Sure. I have software.

18 MR. WESTBROOK: Yeah. Okay. Court's indulgence.
19 You were asked whether you wanted to serve on the jury. I
20 think everyone probably had a similar response to that.

21 PROSPECTIVE JUROR NO. 702: I think so.

22 MR. WESTBROOK: No one wants to do it, but everyone
23 wants to do their civic duty and everyone is willing to do it,
24 especially with 500 big ones on the line. But my question is
25 a little bit different.

1 What I'm trying to do is I'm trying to make sure that
2 the evidence gets analyzed fairly and that the inherent
3 prejudicial nature of this evidence, you know, of this charge,
4 isn't held against my client, that instead you look at the
5 evidence and that you're fair in evaluating it; and then at
6 the end of the day if you have any doubt at all, any
7 reasonable doubt as to whether or not the government has
8 proven their case, that you will give the benefit of that
9 doubt to my client.

10 If there were 12 people in this jury box that were
11 just like you and you had to sit in that chair behind the sign
12 that said "defendant" on it, kind of a loaded word to begin
13 with, would you feel comfortable sitting in that chair with 12
14 of you up here?

15 PROSPECTIVE JUROR NO. 702: I think so, yeah.

16 MR. WESTBROOK: Okay. Pass. Thanks.

17 THE COURT: Thank you. And I'd just like to admonish
18 the jury that you will be instructed on the standard of proof,
19 that being beyond a reasonable doubt, and so anything that you
20 may have implied from questions by Defense, you're to
21 disregard that. You'll get the instruction on what reasonable
22 doubt is at the time of the instruction.

23 MR. WESTBROOK: Your Honor, I apologize if I
24 overstepped there.

25 THE COURT: Just a little.

UNCERTIFIED ROUGH DRAFT

1 MR. WESTBROOK: Thank you.

2 THE COURT: All right. We're going to take a short
3 recess and then we're going onto what we call peremptory
4 challenges where the lawyers will be able to excuse jurors
5 without cause, without a reason basically, and we'll do that
6 after our short recess. I want to give you a little break
7 here since it's already 10:30. So we're going to be in recess
8 10 minutes, that will actually put us at quarter to 11:00.

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

17 We'll be in recess until quarter to 11:00.

18 (Prospective jury panel recessed at 10:33 a.m.)

19 THE COURT: The record will reflect we're outside the
20 presence of the venire panel. I realize we still have the two
21 down here to do. I'm so used to having six in each row. So
22 we've still got two more to clear for cause and then we can
23 start our peremptory challenges. Do you want to pick two
24 alternates just in case?

25 MS. ANTHONY: Yes, please.

1 MR. WESTBROOK: Yes, definitely.

2 THE COURT: Sounds good. All right. We're in
3 recess.

4 (Court recessed at 10:35 a.m. until 10:53 a.m.)

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

6 THE COURT: Please be seated. Thank you. All right.
7 The record will reflect that we are back within the presence
8 of the venire panel. The Defendant is present with his
9 counsel, Deputy District Attorneys prosecuting the case are
10 present, as are all officers of the court. Will Counsel so
11 stipulate?

12 MR. WESTBROOK: We do.

13 MS. ANTHONY: Yes, Your Honor.

14 THE COURT: All right. I was premature in telling
15 you we were going to go right to peremptory challenges because
16 I forgot about our last two people down in the box. You're
17 sort of blocked from my -- this computer screen, I have to
18 lean way over here and I'm used to a courtroom with six chairs
19 on each aisle, each row so and alternates usually being down
20 there. So you get to tell us about yourselves too. We
21 wouldn't want to deprive you of that fun opportunity.

22 So, Ms. Roberts, correct? You are Badge No. 707; is
23 that right?

24 PROSPECTIVE JUROR NO. 707: Right.

25 THE COURT: Tell us about yourself.

UNCERTIFIED ROUGH DRAFT

1 PROSPECTIVE JUROR NO. 707: My name is Lani Roberts,
2 and I'm married with two grown-up kids. I work at the Palms
3 Casino in the accounting department. And I've been here in
4 Las Vegas for the past 28 years.

5 THE COURT: Twenty-eight?

6 PROSPECTIVE JUROR NO. 707: Yes.

7 THE COURT: Long time. Okay. Are you married?
8 Single?

9 PROSPECTIVE JUROR NO. 707: Yes, I'm married.

10 THE COURT: Married.

11 PROSPECTIVE JUROR NO. 707: And my husband is
12 retired.

13 THE COURT: What did he do before he retired?

14 PROSPECTIVE JUROR NO. 707: He used to be a lawyer
15 for the FCC.

16 THE COURT: Did he do that here in Clark County or
17 out of state?

18 PROSPECTIVE JUROR NO. 707: No, out of state.

19 THE COURT: How long have you been married?

20 PROSPECTIVE JUROR NO. 707: Twenty-eight years.

21 THE COURT: All right. Very good. Okay. And so
22 your two grown children, what do they do?

23 PROSPECTIVE JUROR NO. 707: They're both in -- in the
24 Army -- yeah, they're both in the Army right now; and one is
25 out of the country and the other one is here.

UNCERTIFIED ROUGH DRAFT

1 THE COURT: You must be very proud of them?

2 PROSPECTIVE JUROR NO. 707: I am.

3 THE COURT: All right. And now your husband was a
4 lawyer and obviously the type of work he did was different
5 from a criminal case, correct?

6 PROSPECTIVE JUROR NO. 707: Yes, yes.

7 THE COURT: Okay. Did you talk with him a lot about
8 his work when he was a lawyer?

9 PROSPECTIVE JUROR NO. 707: Now and then.

10 THE COURT: Okay. So you know that the -- the
11 standards in a criminal case are different from a civil case?

12 PROSPECTIVE JUROR NO. 707: Yes.

13 THE COURT: And you won't try and apply what you
14 learned from your husband here, right?

15 PROSPECTIVE JUROR NO. 707: Yes.

16 THE COURT: Okay. You'll be able to follow the law
17 as I instruct you?

18 PROSPECTIVE JUROR NO. 707: Yes.

19 THE COURT: All right. Very good. Thank you. The
20 State may inquire further.

21 MR. CHEN: Thank you. Good morning, ma'am.

22 PROSPECTIVE JUROR NO. 707: Good morning.

23 MR. CHEN: What's the age difference between your two
24 children?

25 PROSPECTIVE JUROR NO. 707: Just two years.

UNCERTIFIED ROUGH DRAFT

1 MR. CHEN: Two years. So throughout the time that
2 they were growing up I guess they probably spent a lot of time
3 together?

4 PROSPECTIVE JUROR NO. 707: Yes.

5 MR. CHEN: Playing, or whatever they were doing?

6 PROSPECTIVE JUROR NO. 707: Yes.

7 MR. CHEN: And when you were -- when the two kids
8 were growing up and -- and they would -- would they ever get
9 into arguments or anything like that?

10 PROSPECTIVE JUROR NO. 707: Yeah, a lot of times.

11 MR. CHEN: Would they come to you telling you what
12 had happened?

13 PROSPECTIVE JUROR NO. 707: Sometimes.

14 MR. CHEN: Okay. Did you ever have to decide kind of
15 who was in the wrong between your two sons?

16 PROSPECTIVE JUROR NO. 707: Yes, a lot of times.

17 MR. CHEN: Okay. And a lot of times I'm assuming you
18 probably weren't able to actually be there to see what had
19 happened, right?

20 PROSPECTIVE JUROR NO. 707: Yes.

21 MR. CHEN: So when they would come to you with a
22 problem and you hadn't seen what had happened, how would you
23 try to determine kind of who was right and who was wrong in
24 the situation?

25 PROSPECTIVE JUROR NO. 707: Well, I usually ask --

1 talk to one and then, you know, get his side and then talk to
2 the other one and then just make decision.

3 MR. CHEN: Did their sides kind of differ from time
4 to time on what had happened?

5 PROSPECTIVE JUROR NO. 707: Yeah, a lot of times.

6 MR. CHEN: And when one says one thing and the other
7 says another, how would you try to determine between the two
8 sons, you know, what had happened?

9 PROSPECTIVE JUROR NO. 707: Because, you know, I know
10 my sons so I know who is telling the truth or not. Sometimes
11 [inaudible].

12 MR. CHEN: Was it -- was it always the same one who
13 was causing problems or was it kind of equal?

14 PROSPECTIVE JUROR NO. 707: Both.

15 MR. CHEN: Both of them?

16 PROSPECTIVE JUROR NO. 707: Yeah, equal.

17 MR. CHEN: Okay. I understand. Now you also
18 mentioned yesterday that you don't really work with computers
19 very much.

20 PROSPECTIVE JUROR NO. 707: No. At work I used the
21 computer a lot.

22 MR. CHEN: Okay.

23 PROSPECTIVE JUROR NO. 707: And at home I do that
24 too, but it's just for watching [inaudible], but, you know.

25 MR. CHEN: So you use the Internet, for instance?

UNCERTIFIED ROUGH DRAFT

1 PROSPECTIVE JUROR NO. 707: Yes.

2 MR. CHEN: Okay. And you surf the Internet to find
3 different things?

4 PROSPECTIVE JUROR NO. 707: Yes.

5 MR. CHEN: Do you download music or anything like
6 that?

7 PROSPECTIVE JUROR NO. 707: No.

8 MR. CHEN: No? Okay. All right. I'll pass for
9 cause. Thank you, Your Honor.

10 THE COURT: Okay. Defense?

11 MR. WESTBROOK: Good morning.

12 PROSPECTIVE JUROR NO. 707: Good morning.

13 MR. WESTBROOK: You thought you escaped, right?

14 Almost. If I remember correctly, and please correct me if I'm
15 wrong, when I asked a general question about whether anybody
16 in the jury box was offended by adult pornography -- we know
17 everyone is offended by child pornography -- adult
18 pornography, you were one of the people that raised your hand;
19 is that right?

20 PROSPECTIVE JUROR NO. 707: Correct.

21 MR. WESTBROOK: Okay. Could you expand on that?
22 What do you find offensive about adult pornography?

23 PROSPECTIVE JUROR NO. 707: Well, I'm a Christian,
24 so, you know, that says it.

25 MR. WESTBROOK: So you have a religious opposition to

1 that kind of --

2 PROSPECTIVE JUROR NO. 707: Yes.

3 MR. WESTBROOK: -- image? And maybe to the acts that
4 are behind it?

5 PROSPECTIVE JUROR NO. 707: [Inaudible.]

6 MR. WESTBROOK: The acts that are behind it, if
7 there's a pornographic image there must be a pornographic act?

8 PROSPECTIVE JUROR NO. 707: Yes.

9 MR. WESTBROOK: So you -- what's your objection to
10 the acts?

11 PROSPECTIVE JUROR NO. 707: Well, you know, that kind
12 of -- it's supposed to be for private. I mean, it's just
13 between two -- I mean two adults but are married, you know,
14 within the bounds of marriage.

15 MR. WESTBROOK: Okay. So it's outside the bonds of
16 marriage probably? I guess conceivably there are probably
17 married porn stars, fair to say?

18 PROSPECTIVE JUROR NO. 707: But do they have to show
19 it? No.

20 MR. WESTBROOK: So it's both the presentation of it
21 and then the act itself that you have a real moral problem
22 with?

23 PROSPECTIVE JUROR NO. 707: Both.

24 MR. WESTBROOK: Okay. Is that going to affect how
25 you look at the evidence in this case? Are you going to be so

UNCERTIFIED ROUGH DRAFT

1 uncomfortable that you can't fairly evaluate the evidence?

2 PROSPECTIVE JUROR NO. 707: No, not really.

3 MR. WESTBROOK: You can sort of separate your -- your
4 stance on that from looking at the evidence in the case?

5 PROSPECTIVE JUROR NO. 707: Yes.

6 MR. WESTBROOK: Okay. What do you think of somebody
7 who downloads adult pornography from the Internet? Or goes
8 into a grocery store and buys pornography?

9 PROSPECTIVE JUROR NO. 707: Well, I don't usually
10 judge -- as long as I don't do it; but if I see somebody --
11 it's, like, as long as it doesn't affect the children or
12 [inaudible].

13 MR. WESTBROOK: So you wouldn't hold a judgment
14 against them for making that legal choice even though it's not
15 one that you would ever make; is that fair to say?

16 PROSPECTIVE JUROR NO. 707: Yes, yes.

17 MR. WESTBROOK: Okay. Pass for cause.

18 THE COURT: Thank you. Mr. Virtucio, how do you say
19 it?

20 PROSPECTIVE JUROR NO. 722: Virtucio.

21 THE COURT: Virtucio. You're Badge No. 722?

22 PROSPECTIVE JUROR NO. 722: Yes, I am.

23 THE COURT: All right. Tell us about yourself.

24 PROSPECTIVE JUROR NO. 722: My name is Erick
25 Virtucio. I'm married, two daughters, 9 and 16. I work at

1 the [inaudible] and my wife works in Valley Hospital
2 [inaudible]. I live in Vegas for 12 years now, came from
3 California, Bay area. Been here for 10 years [inaudible] all
4 my life.

5 THE COURT: And you've worked in where?

6 PROSPECTIVE JUROR NO. 722: Medical field.

7 THE COURT: In the medical field. Okay. And what
8 specifically do you do now in the medical field?

9 PROSPECTIVE JUROR NO. 722: Dialysis.

10 THE COURT: Yes. Oh, dialysis. And do you operate
11 the machine?

12 PROSPECTIVE JUROR NO. 722: Yes, ma'am.

13 THE COURT: And do you connect the patient to the
14 machine?

15 PROSPECTIVE JUROR NO. 722: Yes, Your Honor.

16 THE COURT: And monitor it?

17 PROSPECTIVE JUROR NO. 722: Yes, Your Honor.

18 THE COURT: Do you use computers in any of this?

19 PROSPECTIVE JUROR NO. 722: Yes, Your Honor.

20 THE COURT: All right. Do you use computers at home
21 as well as at work?

22 PROSPECTIVE JUROR NO. 722: Not really unless -- just
23 important matters.

24 THE COURT: Like banking?

25 PROSPECTIVE JUROR NO. 722: Music.

UNCERTIFIED ROUGH DRAFT

1 THE COURT: Your daughter likes to download music?
2 PROSPECTIVE JUROR NO. 722: Yeah, she download it for
3 me.
4 THE COURT: And how many children do you have?
5 PROSPECTIVE JUROR NO. 722: Two.
6 THE COURT: What were their ages?
7 PROSPECTIVE JUROR NO. 722: Nine and 15. My
8 [inaudible], she going to turn 16 this Saturday.
9 THE COURT: Is she going to get her driver's license?
10 PROSPECTIVE JUROR NO. 722: She's -- I mean,
11 practicing right now. She got permit.
12 THE COURT: And are you -- are you instructing her?
13 PROSPECTIVE JUROR NO. 722: Yes.
14 THE COURT: How is that going?
15 PROSPECTIVE JUROR NO. 722: She's [inaudible].
16 THE COURT: All right. So you must have nerves of
17 steel then?
18 PROSPECTIVE JUROR NO. 722: [Inaudible.]
19 THE COURT: Holding on? Okay. State like to inquire
20 further?
21 MS. ANTHONY: Thank you, Your Honor. I believe when
22 I asked yesterday about social networking, I believe you
23 answered that you don't do social networking.
24 PROSPECTIVE JUROR NO. 722: I used to -- I used to
25 have a Facebook.

UNCERTIFIED ROUGH DRAFT

1 MS. ANTHONY: Okay.

2 PROSPECTIVE JUROR NO. 722: But I stopped it like
3 years, years ago.

4 MS. ANTHONY: And why did you stop?

5 PROSPECTIVE JUROR NO. 722: I don't like it.

6 MS. ANTHONY: What didn't you like about it?

7 PROSPECTIVE JUROR NO. 722: Sometimes go deeper,
8 sometimes go personal.

9 MS. ANTHONY: So you didn't want to know about
10 everybody's business?

11 PROSPECTIVE JUROR NO. 722: I don't know -- I don't
12 want to know that.

13 MS. ANTHONY: Okay. And you didn't want to share
14 yours?

15 PROSPECTIVE JUROR NO. 722: Huh-huh.

16 MS. ANTHONY: All right. So you obviously -- did you
17 use this on the Facebook on the computer or did you use it on
18 your phone?

19 PROSPECTIVE JUROR NO. 722: The computer at home. I
20 just have -- I just have a phone that [inaudible] years ago.

21 MS. ANTHONY: I'm sorry. You have a phone. Does it
22 have the Internet on your phone?

23 PROSPECTIVE JUROR NO. 722: Yeah, but I don't do
24 Facebook [inaudible].

25 MS. ANTHONY: Okay. Facebook was years ago, but not

UNCERTIFIED ROUGH DRAFT

1 on your phone. Okay. You said that you used Pandora for
2 music?

3 PROSPECTIVE JUROR NO. 722: Yes.

4 MS. ANTHONY: And did you know how to use Pandora on
5 your own or did somebody help you?

6 PROSPECTIVE JUROR NO. 722: My daughter download it
7 and then I know how to play [inaudible] wifi and I know how to
8 play it and just listen.

9 MS. ANTHONY: Okay. Is that all you use the computer
10 for?

11 PROSPECTIVE JUROR NO. 722: Sometimes I look
12 something, like, recipe.

13 MS. ANTHONY: Okay.

14 PROSPECTIVE JUROR NO. 722: You know, [inaudible] to
15 help my wife to, you know, we do together to reserve
16 [inaudible].

17 MS. ANTHONY: To make reservations. How many
18 computers do you have in your home?

19 PROSPECTIVE JUROR NO. 722: We have I think four or
20 three -- three or four.

21 MS. ANTHONY: Three or four. So fair to say that
22 your wife and your children use the computers more?

23 PROSPECTIVE JUROR NO. 722: Yeah, they both -- yeah,
24 three. I don't have one, but my two daughters and my wife.

25 MS. ANTHONY: Okay. Is there anything going on right

1 now in your life that would cause you not to be able to pay
2 full attention to what's going on here?

3 PROSPECTIVE JUROR NO. 722: Nothing.

4 MS. ANTHONY: Okay. I'll pass for cause, Your Honor.

5 THE COURT: Thank you. Defense?

6 MR. WESTBROOK: During the whole time you've been
7 sitting here -- it seems like forever -- have you heard any
8 question that's been asked by either me or by the District
9 Attorneys that you've been, like, I got a great answer to that
10 question, I'd love to share it?

11 PROSPECTIVE JUROR NO. 722: [Inaudible.]

12 MR. WESTBROOK: Nothing comes to mind?

13 PROSPECTIVE JUROR NO. 722: [Inaudible.]

14 MR. WESTBROOK: Do you trust social networking?

15 PROSPECTIVE JUROR NO. 722: No.

16 MR. WESTBROOK: Why not?

17 PROSPECTIVE JUROR NO. 722: Because I, you know, I'm
18 not in that. I'm not in -- I used to, I used to have
19 Facebook, but I cut it off; and then you see now sometimes
20 goes personal and I don't like that.

21 MR. WESTBROOK: So you're sitting here blissfully
22 unaware of what all your friends had for breakfast this
23 morning, no idea? Do you think it's like a security risk?

24 PROSPECTIVE JUROR NO. 722: No. It's, like, let's
25 say, it's like a food that you don't like it. You know, maybe

1 you like it [inaudible] -- maybe you like it or you don't like
2 it [inaudible].

3 MR. WESTBROOK: What about computers in general? Do
4 you think that computers are helping us advance as a society
5 or do you think we're better off without them?

6 PROSPECTIVE JUROR NO. 722: [Inaudible.] I use it at
7 work. [Inaudible.]

8 MR. WESTBROOK: Okay.

9 PROSPECTIVE JUROR NO. 722: I just [inaudible].

10 MR. WESTBROOK: Have you ever gotten a virus on your
11 computer?

12 PROSPECTIVE JUROR NO. 722: I don't know.

13 MR. WESTBROOK: You don't know? You don't even know
14 if there's a virus on your computer. Did you ever have your
15 computer run super slow?

16 PROSPECTIVE JUROR NO. 722: You know, sometimes at
17 work, but they announce it; they going to upgrade the
18 computer, like, this time and then you don't use it, you just
19 use paper.

20 MR. WESTBROOK: Okay. I'll pass for cause. Thanks.

21 THE COURT: All right. So this is now the time that
22 we're going to do the peremptory challenges and each side gets
23 four peremptory challenges, so if you are excused in a
24 peremptory challenge then you'll just report over to the Jury
25 Commissioner to check out and let them know you've been

1 excused.

2 So it will be the State's first peremptory challenge.

3 MS. ANTHONY: Thank you, Your Honor. The State would
4 like to thank and excuse Mr. Glen Minnick.

5 THE COURT: Thank you, Mr. Minnick. Call the next
6 juror.

7 THE CLERK: Badge 761, Renee Losey.

8 THE COURT: Hello. Ms. Losey, so have you ever been
9 a juror before?

10 PROSPECTIVE JUROR NO. 761: I have not.

11 THE COURT: All right. Have you ever been the victim
12 of a crime, a serious crime?

13 PROSPECTIVE JUROR NO. 761: No, Your Honor.

14 THE COURT: Anyone closely associated with you ever
15 been the victim of a serious crime?

16 PROSPECTIVE JUROR NO. 761: Yes.

17 THE COURT: Who is that?

18 PROSPECTIVE JUROR NO. 761: My cousin was sexually
19 abused as a child by her father.

20 THE COURT: And was -- how long ago was that?

21 PROSPECTIVE JUROR NO. 761: I was seven, so that
22 would make her -- she was a teenager, so over 20 years ago.

23 THE COURT: All right. Anything about that
24 experience that makes you feel that you could not be fair and
25 impartial in this case?

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1 PROSPECTIVE JUROR NO. 761: No.

2 THE COURT: Have you ever been involved in law
3 enforcement?

4 PROSPECTIVE JUROR NO. 761: No.

5 THE COURT: Anyone closely associated with you in law
6 enforcement?

7 PROSPECTIVE JUROR NO. 761: Working in law
8 enforcement, is that your question?

9 THE COURT: Or somehow related to it?

10 PROSPECTIVE JUROR NO. 761: No, ma'am.

11 THE COURT: Okay. Have you ever been accused of a
12 crime?

13 PROSPECTIVE JUROR NO. 761: No.

14 THE COURT: Anyone closely associated with you or
15 friends been accused of a crime?

16 PROSPECTIVE JUROR NO. 761: My brother, yes.

17 THE COURT: What type of crime was he accused of?

18 PROSPECTIVE JUROR NO. 761: Mostly drug-related and
19 theft-related. I mean, he was in and out of juvy and prison
20 up until his early twenties; but now he's doing much better.

21 THE COURT: Well, that's good. Did you feel that
22 when he was involved with the justice system that he was
23 fairly treated?

24 PROSPECTIVE JUROR NO. 761: Yes.

25 THE COURT: Did you ever go and watch any of the

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1 proceedings that he was involved in?

2 PROSPECTIVE JUROR NO. 761: No.

3 THE COURT: Do you have any moral beliefs or personal
4 beliefs that would cause you -- or religious beliefs that
5 would cause you to feel that you could not sit in judgment on
6 another person?

7 PROSPECTIVE JUROR NO. 761: No, ma'am.

8 THE COURT: Do you believe in the presumption of
9 innocence?

10 PROSPECTIVE JUROR NO. 761: I do.

11 THE COURT: Tell us about yourself.

12 PROSPECTIVE JUROR NO. 761: Well, Renee Losey. I've
13 lived in Las Vegas pretty much my whole life, so I've gone
14 through school here. I'm still a student, studying psychology
15 at Nevada State College. I plan on going into occupational
16 therapy like my fellow juror here. I work right now as a
17 behavioral therapist slash developmental specialist for
18 children with developmental delays, so they keep me on my
19 toes.

20 THE COURT: What age group of children do you work
21 with?

22 PROSPECTIVE JUROR NO. 761: Right now my age group --
23 my age range is 9 months to 10 years.

24 THE COURT: And what type of developmental delays do
25 they have?

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1 PROSPECTIVE JUROR NO. 761: Mainly autism is what I'm
2 assigned because that's kind of my specialty, but it's
3 varying. It could be Down Syndrome or cerebral palsy or
4 hydrocephaly or -- I mean, it's just a wide array,
5 Dandy-Walker. I mean, you name it, it's been thrown at me.

6 THE COURT: Okay. All right. And are you married?
7 Single? Significant --

8 PROSPECTIVE JUROR NO. 761: Married.

9 THE COURT: Married. And how long?

10 PROSPECTIVE JUROR NO. 761: Married for four years.

11 THE COURT: Okay. What does your husband do?

12 PROSPECTIVE JUROR NO. 761: My husband is a project
13 manager for an HVAC company here in town. So he works on the
14 housing development, making sure all of that gets up to code
15 and ready to go for the developers.

16 THE COURT: So does he respond -- this time of year
17 there's a lot of demand on HVAC specialists it seems because
18 everybody's air-conditioner always fails in the hottest times.
19 Is he more busy or does he not do that kind of work?

20 PROSPECTIVE JUROR NO. 761: Right now he's not in the
21 maintenance part of it. It's more of the developmental aspect
22 as far as new construction.

23 THE COURT: All right. Does he use a computer in
24 that work?

25 PROSPECTIVE JUROR NO. 761: Not so much.

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1 THE COURT: How about you? Do you use a computer in
2 your work?

3 PROSPECTIVE JUROR NO. 761: Absolutely.

4 THE COURT: What do you use it for?

5 PROSPECTIVE JUROR NO. 761: Well, research, if I'm
6 stuck on strategies to offer the families I'm working with or
7 researching. Maybe I have a new client and I'm not super
8 familiar with their diagnosis, I'll kind of research to have
9 an idea of what I'm looking at. For all of my documentation,
10 correspondence via email, all of that.

11 THE COURT: Do you ever take work home?

12 PROSPECTIVE JUROR NO. 761: I do work from home. I
13 do home visits and then I come home and do everything else at
14 home. I don't have an office.

15 THE COURT: So do you -- do you use your home
16 computer for your work then?

17 PROSPECTIVE JUROR NO. 761: I do.

18 THE COURT: Do you remotely access any other
19 computers, like, from a central location, a -- your -- the
20 business you work for or anything?

21 PROSPECTIVE JUROR NO. 761: Yeah, we have a secure
22 server where I can access confidential documents.

23 THE COURT: Okay. Do you ever take -- download
24 documents from your computer to a transportable mode of --
25 like a thumb drive, or a disk, or anything like that?

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1 PROSPECTIVE JUROR NO. 761: If needed I will; but
2 typically I'll just print the document and hand it to the
3 client if they're requesting it, or I'll email it; but, no,
4 not -- not necessarily.

5 THE COURT: All right. Is there any reason you think
6 that you could not be a fair and impartial juror in this case?

7 PROSPECTIVE JUROR NO. 761: No.

8 THE COURT: All right. Would the State like to
9 inquire further?

10 MR. CHEN: Thank you, Your Honor. Good morning,
11 ma'am.

12 PROSPECTIVE JUROR NO. 761: Good morning.

13 MR. CHEN: First off, do you know anyone else on the
14 jury venire at all?

15 PROSPECTIVE JUROR NO. 761: No, aside from small
16 conversation outside.

17 MR. CHEN: The thing you had just met yesterday maybe
18 or this morning?

19 PROSPECTIVE JUROR NO. 761: Yeah. Prior to that, no.

20 MR. CHEN: Okay. Perfect. Now you said -- you
21 mentioned just a moment ago that you are studying psychology.
22 How far along in your studies are you?

23 PROSPECTIVE JUROR NO. 761: I'm a senior.

24 MR. CHEN: Senior. And I assume that in order to
25 become a psychology major you've probably taken a wide variety

1 of psychology courses and surveys and different --

2 PROSPECTIVE JUROR NO. 761: Absolutely.

3 MR. CHEN: -- course work? During the course of your
4 studies did you study anything along the lines of kind of what
5 this case has, child pornography, or anything related to the
6 mind on that?

7 PROSPECTIVE JUROR NO. 761: No, not necessarily.

8 MR. CHEN: Okay.

9 PROSPECTIVE JUROR NO. 761: No.

10 MR. CHEN: So it wasn't a topic that ever came in
11 crossing [sic] a 101 course or anything?

12 PROSPECTIVE JUROR NO. 761: No.

13 MR. CHEN: Okay. So you would be coming to this case
14 with a clean slate of knowledge, like --

15 PROSPECTIVE JUROR NO. 761: Tabula rasa.

16 MR. CHEN: I'm sorry.

17 PROSPECTIVE JUROR NO. 761: That's a blank slate.

18 MR. CHEN: Oh. Okay. Learn something everyday here
19 too I suppose. And it seems like you're going to do a great
20 job once you become a professional as well.

21 PROSPECTIVE JUROR NO. 761: Thank you.

22 MR. CHEN: Okay. Now so if -- basically would you
23 feel comfortable with someone such as yourself on the jury if
24 -- if you were seated either at my table or defense table?

25 PROSPECTIVE JUROR NO. 761: I absolutely would.

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1 MR. CHEN: Why do you feel that way?

2 PROSPECTIVE JUROR NO. 761: I'm very detail-oriented
3 based on my work. I do a lot of behavior modification, so I
4 pay attention to detail and the small things that maybe nobody
5 else would pick up on. It's just part of my job, so I think
6 it's just ingrained at this point where even if I tried to get
7 rid of it I couldn't.

8 MR. CHEN: And if you were selected as a member of
9 this jury, would you feel comfortable sharing those details
10 that you might pick up on with the rest of your -- we'll call
11 them colleagues in this situation?

12 PROSPECTIVE JUROR NO. 761: Yes, I'm outspoken.

13 MR. CHEN: Okay. Thank you. I'll pass for cause.

14 THE COURT: Thank you. Defense?

15 MS. BALLOU: Bet you guys thought you weren't going
16 to hear from me, huh? I actually didn't know the way that
17 this Judge did jury selection, so we were expecting a
18 different way.

19 So, Ms. Losey, you said you've been married for four
20 years and that your husband is a project manager for heating
21 and air-conditioning? What does that mean?

22 PROSPECTIVE JUROR NO. 761: That means he's basically
23 driving around to the different housing developments and
24 composing material lists for the crews, ordering all of that
25 stuff, and making sure that it's delivered in a timely manner.

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1 MS. BALLOU: And he doesn't use computers doing that?

2 PROSPECTIVE JUROR NO. 761: At home I know he's not.

3 I'm sure he is as far as maybe emailing at the office; but
4 from what it looks like from what I've seen what he brings
5 home, it looks like PO orders that are handwritten.

6 MS. BALLOU: Okay. Because I couldn't figure out how
7 he could do that without a computer, but I guess now that you
8 explained it a little better. And, Ms. Losey, you're also a
9 psychology major. You're a senior?

10 PROSPECTIVE JUROR NO. 761: Uh-huh.

11 MS. BALLOU: And -- I'm sorry?

12 PROSPECTIVE JUROR NO. 761: Yes.

13 MS. BALLOU: Yes. Okay. I was just going to say
14 she's taking that down so. Have you ever had to do any -- do
15 you do research projects or anything like that?

16 PROSPECTIVE JUROR NO. 761: I haven't yet.

17 MS. BALLOU: Okay. Have you ever observed any
18 research projects?

19 PROSPECTIVE JUROR NO. 761: I have not.

20 MS. BALLOU: Okay. Have you ever read about any
21 research projects as to how stress affects people?

22 PROSPECTIVE JUROR NO. 761: Absolutely.

23 MS. BALLOU: Okay. And you know that if you put
24 someone in a room with no stress they're going to react
25 differently than how they do if they're in a stressful

1 situation?

2 PROSPECTIVE JUROR NO. 761: Yeah. And I've seen it
3 firsthand also, so, yeah.

4 MS. BALLOU: Can you tell me a little bit about -- it
5 wasn't an experiment, but just --

6 PROSPECTIVE JUROR NO. 761: I mean, just when we get
7 children in for assessment, they're going to react based on
8 environment, being around different people. You know, their
9 anxiety is a little bit higher so they may not perform as well
10 as they typically would in a natural environment like their
11 home.

12 MS. BALLOU: Okay.

13 PROSPECTIVE JUROR NO. 761: So I see that a lot.

14 MS. BALLOU: Okay. And that's especially true with
15 -- you said you work with autistic kids a lot, so that's
16 especially true in that population, correct?

17 PROSPECTIVE JUROR NO. 761: Absolutely.

18 MS. BALLOU: Okay. I don't remember if you answered,
19 do you have any kids yourself?

20 PROSPECTIVE JUROR NO. 761: I do. I have a
21 two-and-a-half-year-old son.

22 MS. BALLOU: Okay. And Court's indulgence. Okay.
23 Pass for cause.

24 THE COURT: Thank you. All right. It will be the
25 Defense first peremptory challenge.

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1 MR. WESTBROOK: Your Honor, we would like to thank
2 and excuse 751.

3 THE CLERK: Could you go by their seat number now for
4 me?

5 MR. WESTBROOK: Yeah. Two.

6 THE CLERK: Thank you.

7 THE COURT: Thank you, Ms. Clauson. If you'll report
8 to the Jury Commissioner.

9 Call the next in order.

10 THE CLERK: Badge 764, Timothy Stalling.

11 THE COURT: Mr. Stalling, welcome.

12 PROSPECTIVE JUROR NO. 764: Hi.

13 THE COURT: Have you ever served as a juror before?

14 PROSPECTIVE JUROR NO. 764: Yes.

15 THE COURT: Was that here in Clark County?

16 PROSPECTIVE JUROR NO. 764: No, ma'am.

17 THE COURT: Where was it?

18 PROSPECTIVE JUROR NO. 764: It was in New Orleans,
19 Louisiana.

20 THE COURT: All right. And how long ago was that?

21 PROSPECTIVE JUROR NO. 764: I don't know. Long time
22 ago. Might have been in -- might have been 2003.

23 THE COURT: Was it a criminal case or a civil case?

24 PROSPECTIVE JUROR NO. 764: Might have been a civil
25 case. I don't remember that far.

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1 THE COURT: All right. Were they asking you to award
2 money?

3 PROSPECTIVE JUROR NO. 764: Yes. It was a long time
4 ago.

5 THE COURT: Gosh, 2003 doesn't sound like that long
6 ago to me, but I realize it was ten years ago. But you don't
7 remember anything about it then?

8 PROSPECTIVE JUROR NO. 764: No.

9 THE COURT: Do you remember whether the jury came to
10 a verdict without telling us what it was?

11 PROSPECTIVE JUROR NO. 764: Yes.

12 THE COURT: Did they?

13 PROSPECTIVE JUROR NO. 764: Uh-huh.

14 THE COURT: Is that a yes?

15 PROSPECTIVE JUROR NO. 764: Yes, ma'am.

16 THE COURT: All right. Were you the foreperson of
17 the jury?

18 PROSPECTIVE JUROR NO. 764: No, ma'am.

19 THE COURT: Okay. Have you ever been involved in law
20 enforcement?

21 PROSPECTIVE JUROR NO. 764: No, ma'am.

22 THE COURT: Anyone in your family or closely
23 associated with you in law enforcement?

24 PROSPECTIVE JUROR NO. 764: My mother worked for
25 Orleans Parish Police Department.

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1 THE COURT: Did you grow up in New Orleans?
2 PROSPECTIVE JUROR NO. 764: Yes, ma'am.
3 THE COURT: And how long ago did you move to Las
4 Vegas, did you say?
5 PROSPECTIVE JUROR NO. 764: 2005, two months before
6 Katrina hit.
7 THE COURT: Oh my goodness. And so you had a lot of
8 friends that were affected by Katrina that were still there?
9 PROSPECTIVE JUROR NO. 764: Yes, ma'am.
10 THE COURT: Family there still?
11 PROSPECTIVE JUROR NO. 764: Family there still.
12 THE COURT: So what do you do here?
13 PROSPECTIVE JUROR NO. 764: I work at Home Depot. I
14 work in freight and receiving.
15 THE COURT: Okay. Are you married?
16 PROSPECTIVE JUROR NO. 764: No, ma'am.
17 THE COURT: Any children?
18 PROSPECTIVE JUROR NO. 764: No, ma'am.
19 THE COURT: Have you ever been the victim of a
20 serious crime?
21 PROSPECTIVE JUROR NO. 764: No, ma'am.
22 THE COURT: How about anyone closely associated with
23 you? Family members or friends?
24 PROSPECTIVE JUROR NO. 764: No, ma'am.
25 THE COURT: Have you ever been accused of a crime?

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1 PROSPECTIVE JUROR NO. 764: No, ma'am.

2 THE COURT: Anyone closely associated with you?
3 Family or friends?

4 PROSPECTIVE JUROR NO. 764: No, ma'am.

5 THE COURT: Okay. Do you have any moral or religious
6 beliefs that would keep you from being able to sit in judgment
7 on another person?

8 PROSPECTIVE JUROR NO. 764: No.

9 THE COURT: Let's see. Trying to think if we didn't
10 cover anything. I don't think so. I'll let the State inquire
11 further.

12 MS. ANTHONY: Thank you. Do you know anybody else
13 that's on the jury -- that's on the jury panel?

14 PROSPECTIVE JUROR NO. 764: No.

15 MS. ANTHONY: No. Okay. And what about computers?
16 Do you use computers?

17 PROSPECTIVE JUROR NO. 764: Yes, I do.

18 MS. ANTHONY: And do you use them at home or at work?

19 PROSPECTIVE JUROR NO. 764: Both. I'm A Plus
20 certified.

21 MS. ANTHONY: You're A Plus certified.

22 PROSPECTIVE JUROR NO. 764: Yes.

23 MS. ANTHONY: So what does that mean?

24 PROSPECTIVE JUROR NO. 764: That means I dissect and
25 take apart computers and put them back together again.

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1 MS. ANTHONY: Okay. And where did you get --- is it a
2 certificate or is it a degree?

3 PROSPECTIVE JUROR NO. 764: It's a certificate.

4 MS. ANTHONY: And where did you get that from?

5 PROSPECTIVE JUROR NO. 764: Las Vegas Professional
6 Institute of Technology.

7 MS. ANTHONY: Okay. Do you have any other
8 certificates or degrees or certificates relating to computers?

9 PROSPECTIVE JUROR NO. 764: No, I don't.

10 MS. ANTHONY: Okay. And why did you get that
11 certificate?

12 PROSPECTIVE JUROR NO. 764: Something I wanted to do.
13 I mean, I have other things I want to do, but I just said I'm
14 just going to do computers, study the material, and get a
15 certificate, passed it. There you go.

16 MS. ANTHONY: How long did it take you?

17 PROSPECTIVE JUROR NO. 764: A while. I would say
18 about eight months to learn the material, I mean, because it's
19 -- it's a lot of work.

20 MS. ANTHONY: Did you go to classes for it as well?

21 PROSPECTIVE JUROR NO. 764: Yes.

22 MS. ANTHONY: Or did you do, like, home study?

23 PROSPECTIVE JUROR NO. 764: Had to go to classes. We
24 had labs, so I did a lot of lab work, of course, taking apart
25 the computer, learning about the basic knowledge of it.

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1 MS. ANTHONY: And did you just pick A Plus, that's
2 what you're going to do, or how did you get into I'm going to
3 take the certificate?

4 PROSPECTIVE JUROR NO. 764: Just -- just something
5 that I wanted to do back -- you know, I wanted to do, learn
6 about computers; but I also had other things that I wanted to
7 do on the side that I also liked, but computers was one thing
8 I wanted to do.

9 MS. ANTHONY: Okay. And was this A Plus certificate,
10 have you ever used it as a job or anything?

11 PROSPECTIVE JUROR NO. 764: No. I mean, I have
12 friends that have computers that break down and then they ask
13 me what I do with it or, you know, my parents who couldn't --
14 don't know how to turn on the computer, would ask me to turn
15 on the computer for them, and I would turn it on for them, you
16 know.

17 MS. ANTHONY: So you help support for friends and
18 family?

19 PROSPECTIVE JUROR NO. 764: Yeah.

20 MS. ANTHONY: Okay. And when you said, Take it apart
21 and put it together, is it kind of the inner workings of it or
22 is it software? What does -- I'm sorry. I'm not familiar
23 with A Plus.

24 PROSPECTIVE JUROR NO. 764: It's basically just if
25 you need RAM or anything, you trying to do partitions, you do

1 -- you take it apart, you add memory, add RAM. You know, if
2 you need to do this or upgrade Windows, needed to look at how
3 many megabytes, see how much RAM you need to put in there, and
4 then you start doing the partition drives.

5 MS. ANTHONY: Okay. Have you ever run programs on
6 the computer -- obviously this is more building computers,
7 rights?

8 PROSPECTIVE JUROR NO. 764: Yes. This is from the
9 ground up.

10 MS. ANTHONY: Okay. Have you ever ran programs on
11 the computer, like, forensic programs on computers?

12 PROSPECTIVE JUROR NO. 764: Yeah. I run -- ran some
13 of them; but I usually just like to go in and just dissect
14 that thing and just, you know, just take it apart and I, like,
15 analyze what I have to do with it, and I get some help, a
16 second opinion about, you know.

17 MS. ANTHONY: Okay. So do you usually take them
18 apart and build and start from scratch?

19 PROSPECTIVE JUROR NO. 764: Yeah, yeah. I can
20 basically build a super computer right now if I wanted to.

21 MS. ANTHONY: Okay. And you obviously use computers
22 at work and at home. Tell us what you do, besides building
23 computers, what you do at home with computers?

24 PROSPECTIVE JUROR NO. 764: Well, like, since I'm
25 into music I have programs that I do to help me produce some

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1 music that I do.

2 MS. ANTHONY: Okay. And do you -- so you cut and
3 slice and put together different types of music?

4 PROSPECTIVE JUROR NO. 764: Yeah. I -- I play the
5 trumpet and bass saxophone, so I use those -- the programs I
6 use, those techniques and put it together.

7 MS. ANTHONY: Okay. What else do you do with it
8 besides making music? What else do you do with your computer?

9 PROSPECTIVE JUROR NO. 764: I play League of Legends.

10 MS. ANTHONY: What do you play?

11 PROSPECTIVE JUROR NO. 764: League of Legends.

12 MS. ANTHONY: Is it an online game?

13 PROSPECTIVE JUROR NO. 764: Yes.

14 MS. ANTHONY: Is it, like, a role-playing game?

15 PROSPECTIVE JUROR NO. 764: Yes.

16 MS. ANTHONY: Yes.

17 PROSPECTIVE JUROR NO. 764: Awesome.

18 MS. ANTHONY: You don't play Candy Crush?

19 PROSPECTIVE JUROR NO. 764: Yes.

20 MS. ANTHONY: You do play Candy Crush?

21 PROSPECTIVE JUROR NO. 764: It devours your soul.

22 MS. ANTHONY: Are we talking League of Legends or are
23 we talking Candy Crush?

24 PROSPECTIVE JUROR NO. 764: Candy Crush.

25 MS. ANTHONY: Okay. Just making sure. The ladies in

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1 the back row are laughing. I think they understand what
2 you're saying.

3 PROSPECTIVE JUROR NO. 764: Yeah, it devours your
4 soul.

5 MS. ANTHONY: Okay. Do you do a lot of downloading?

6 PROSPECTIVE JUROR NO. 764: Yes.

7 MS. ANTHONY: And, let's see, do you plan to take any
8 other certificate programs like the A Plus?

9 PROSPECTIVE JUROR NO. 764: I plan to go back and
10 take some more security plus, do the security aspect of it.
11 Once I'm done with that, I want to get back into, you know,
12 get some music done because I want to start, you know, playing
13 some jazz, you know, because I love -- I love jazz music.
14 Since I'm from Louisiana, that's a big part of my heritage is
15 jazz music.

16 MS. ANTHONY: Would you like to sit on this jury?

17 PROSPECTIVE JUROR NO. 764: I don't have anything
18 else better to do.

19 MS. ANTHONY: Besides going and working at Home
20 Depot, right?

21 PROSPECTIVE JUROR NO. 764: Well, I work at Home
22 Depot. I mean, they -- they need me for certain things, but,
23 you know, I mean, I -- apparently I can't get excused because
24 it's my birthday Thursday. Just letting you know.

25 MS. ANTHONY: If you were the State or the Defense,

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1 would you like someone such as yourself sitting on the jury?

2 PROSPECTIVE JUROR NO. 764: Why not?

3 MS. ANTHONY: Okay. What qualities do you have that
4 would make a good juror?

5 PROSPECTIVE JUROR NO. 764: As long as you hear both
6 sides of the story, analyze what it is, and, you know, you --
7 you brainstorm and you go with which one is the better, you
8 know, better party.

9 MS. ANTHONY: Well, you're going to be instructed on
10 the law that Your Honor is going to give when -- if you were
11 selected as a juror, and you would be able to follow the law?

12 PROSPECTIVE JUROR NO. 764: Yes.

13 MS. ANTHONY: Even if you didn't agree with it?

14 PROSPECTIVE JUROR NO. 764: Yeah.

15 MS. ANTHONY: Anything we should know about you that
16 we haven't already learned -- especially if your birthday is
17 Thursday -- before I sit down and try to select the jury?

18 PROSPECTIVE JUROR NO. 764: Well, the New Orleans
19 Saints are playing Atlanta for the first home game, so you
20 should watch the football game with the Saints, if you like
21 football.

22 MS. ANTHONY: All right. Thank you.

23 THE COURT: Defense?

24 MS. BALLOU: Thank you, Your Honor. So, Mr.

25 Stalling, it sounds like this A Plus certification is mostly

1 about hardware; is that true?

2 PROSPECTIVE JUROR NO. 764: Yes.

3 MS. BALLOU: Okay. What do you know about Windows?

4 PROSPECTIVE JUROR NO. 764: They open.

5 MS. BALLOU: The Windows software.

6 PROSPECTIVE JUROR NO. 764: Oh, Windows, oh, Windows

7 7. Windows 7, Windows 8, applications that you use to

8 research. I don't recommend Windows 8. I recommend Windows

9 7.

10 MS. BALLOU: What other software do you use?

11 PROSPECTIVE JUROR NO. 764: Program I use is Dream
12 Weaver.

13 MS. BALLOU: What kind of program is that?

14 PROSPECTIVE JUROR NO. 764: Dream Weaver is a -- it's
15 for when you want to build websites. It's basically used for
16 CIS, which is computer information systems, and it's a -- it's
17 a good program to use if you want to start building
18 [inaudible] from scratch [inaudible] putting a program in use.

19 MS. BALLOU: Okay. Any other software?

20 PROSPECTIVE JUROR NO. 764: Besides TurboTax and
21 other stuff I -- [inaudible] from school.

22 MS. BALLOU: Okay. Great. Thank you. Pass for
23 cause, Your Honor.

24 THE COURT: Thank you. That brings us to the State's
25 second peremptory challenge.

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1 MS. ANTHONY: Court's indulgence. Your Honor, the
2 State waives.

3 THE COURT: Thank you. Defense?

4 THE CLERK: I'm sorry. [Inaudible.]

5 THE COURT: Waives. Defense?

6 MR. WESTBROOK: Your Honor, we thank and excuse -- I
7 believe it's Juror No. 9, 699, Whiteford.

8 THE COURT: All right. Thank you, Mr. Whiteford.
9 Call the next in order.

10 THE CLERK: Badge 779, Abdul Chaudry.

11 THE COURT: Welcome, Mr. Chaudry.

12 PROSPECTIVE JUROR NO. 779: Thank you.

13 THE COURT: Have you ever served as a juror before?

14 PROSPECTIVE JUROR NO. 779: No.

15 THE COURT: Have you ever been the victim of a
16 serious crime?

17 PROSPECTIVE JUROR NO. 779: No.

18 THE COURT: Has anyone in your family ever been the
19 victim of a serious crime?

20 PROSPECTIVE JUROR NO. 779: No.

21 THE COURT: Anyone in your family involved in law
22 enforcement?

23 PROSPECTIVE JUROR NO. 779: No.

24 THE COURT: How about yourself? Have you ever been
25 in law enforcement?

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1 PROSPECTIVE JUROR NO. 779: Not in this country.

2 THE COURT: All right. But you were in law
3 enforcement in another country?

4 PROSPECTIVE JUROR NO. 779: I was in the Army.

5 THE COURT: And what -- what country did you serve?

6 PROSPECTIVE JUROR NO. 779: I'm from -- born and
7 raised in Pakistan.

8 THE COURT: How long were you in the Army in
9 Pakistan?

10 PROSPECTIVE JUROR NO. 779: I served 33 years.

11 THE COURT: So did you retire?

12 PROSPECTIVE JUROR NO. 779: Yes.

13 THE COURT: And then you came to this country after
14 you retired from the service?

15 PROSPECTIVE JUROR NO. 779: Yes, I did. I basically
16 immigrated to Canada, and after there we moved here because my
17 wife, she started job here so we can.

18 THE COURT: How long were you in Canada before you
19 came to the United States?

20 PROSPECTIVE JUROR NO. 779: We were there about four
21 years.

22 THE COURT: And how long have you been here now?

23 PROSPECTIVE JUROR NO. 779: About eleven, ten.

24 THE COURT: Do you have any moral or religious
25 beliefs that would cause you to be unable to sit in judgment

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1 on another person?

2 PROSPECTIVE JUROR NO. 779: Definitely. I am a
3 practicing Muslim and this is the month of Ramadan started,
4 like, now today, and I have very strong religious beliefs and
5 [inaudible] and other things.

6 THE COURT: Okay. You're going to have to keep your
7 voice up. I caught some of that. It's Ramadan. You're a
8 practicing Muslim. You have strong moral beliefs?

9 PROSPECTIVE JUROR NO. 779: Yes, I do.

10 THE COURT: Okay. And do you have any moral or
11 religious beliefs against sitting in judgment on another
12 person?

13 PROSPECTIVE JUROR NO. 779: Sitting on judgment for
14 that you have to be very qualified, that's what I think. Of
15 course, [inaudible] been people give, only then cases are
16 decided.

17 THE COURT: All right. You have to still keep your
18 voice up. You start out and then you kind of fade away.

19 PROSPECTIVE JUROR NO. 779: I'm sorry.

20 THE COURT: That's all right.

21 PROSPECTIVE JUROR NO. 779: Is it better now?

22 THE COURT: Not too close. That microphone is so
23 touchy.

24 PROSPECTIVE JUROR NO. 779: I don't --

25 THE COURT: There. Okay.

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1 PROSPECTIVE JUROR NO. 779: Is it good?

2 THE COURT: Yes.

3 MR. WESTBROOK: Your Honor, I'm sorry to interrupt,
4 but would it be better if we pulled this one? I think it
5 would reach.

6 THE COURT RECORDER: It reaches, but it's going to be
7 wrapped around people's necks.

8 THE COURT: We'll do with this one for now.

9 MR. WESTBROOK: All right. Okay.

10 THE COURT: All right. I'm sorry to interrupt.

11 PROSPECTIVE JUROR NO. 779: Yes, ma'am. As I was --
12 that's what I was telling that I have strong religious beliefs
13 about a person's moral behavior and -- and about practicing
14 and having your [inaudible], I do have that.

15 THE COURT: All right.

16 PROSPECTIVE JUROR NO. 779: And as far as the
17 question about the judgment.

18 THE COURT: Yes.

19 PROSPECTIVE JUROR NO. 779: I feel that a person has
20 to be really at a very high pedestal to judge somebody,
21 someone.

22 THE COURT: Do you feel that you are qualified to sit
23 as a juror and deliberate with your fellow jurors and listen
24 to the facts and apply the law and come to a decision?

25 PROSPECTIVE JUROR NO. 779: Honestly, I'm not

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1 confident.

2 THE COURT: Why is that?

3 PROSPECTIVE JUROR NO. 779: Because I -- I basically
4 feel I don't have that kind of knowledge and, secondly, the
5 case, the criminal case which we are talking about today, and
6 that -- I feel uncomfortable about maybe I'll be going --
7 checking, you know, different things on computer or other
8 things.

9 THE COURT: No. That's absolutely not allowed. You
10 can't do any independent research while you're a juror.

11 PROSPECTIVE JUROR NO. 779: No, no, no. Not -- in --
12 in the courtroom I'm talking.

13 THE COURT: Oh, okay.

14 PROSPECTIVE JUROR NO. 779: In the courtroom I'm
15 talking about because, you know, maybe that historically
16 against, like, my belief, you know, like, I don't want to look
17 at the photography or something.

18 THE COURT: Okay. So your moral and religious
19 beliefs, you are opposed to pornography of any kind?

20 PROSPECTIVE JUROR NO. 779: Yes, yes.

21 THE COURT: And you understand that this particular
22 case involves a certain type of pornography, that's what's
23 alleged, child pornography?

24 PROSPECTIVE JUROR NO. 779: Yes, I understand.

25 THE COURT: That's what makes it the crime, you

1 understand that?

2 PROSPECTIVE JUROR NO. 779: I understand.

3 THE COURT: And do you feel that you could not be
4 fair and impartial in -- in the case even though you haven't
5 heard any evidence yet?

6 PROSPECTIVE JUROR NO. 779: Yeah. This is what is my
7 feeling that I will -- not very comforting.

8 THE COURT: Well, no one is comfortable. I -- I
9 don't think anyone would say they're comfortable with the
10 subject matter. The question I have for you is: Can you
11 listen to the evidence and hold the State to their burden of
12 proof in this case and make them prove their case?

13 PROSPECTIVE JUROR NO. 779: I'm not really sure
14 about.

15 THE COURT: Okay. What -- what are you not sure
16 about?

17 PROSPECTIVE JUROR NO. 779: I don't know how it's
18 going to unfold, you know, how it's going to --

19 THE COURT: Well, no one does yet because we haven't
20 heard any evidence at all. So that's the question: Can you
21 wait to make a decision until you've heard all of the
22 evidence? Because that's what we're looking for, people who
23 are willing to keep an open mind until they've heard all of
24 the evidence; and then they take all of the evidence they've
25 heard and go back into the jury room, discuss it amongst their

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1 fellow jurors, and then come to a decision that's based upon
2 the facts that you heard in the courtroom, the evidence you
3 heard from the witness stand and put into evidence, and then
4 apply the law as the Court instructs you to come to a
5 decision? Can you do that?

6 PROSPECTIVE JUROR NO. 779: I don't think because I
7 think my religious beliefs are going to be in the way to do
8 that.

9 THE COURT: So you've already made up your mind just
10 because of the nature of the charges?

11 PROSPECTIVE JUROR NO. 779: I don't know. I've never
12 been in this kind of situation. I've never, you know, been on
13 jury. And where I'm born and raised there is no jury, so I
14 don't know how it is done. Look, maybe I'm sitting here and I
15 do -- I [inaudible], you know, but I'm not sure.

16 THE COURT: Well, it's a new experience for you.

17 PROSPECTIVE JUROR NO. 779: Yes.

18 THE COURT: And it would be a new experience for
19 anyone that hasn't already been on a jury.

20 PROSPECTIVE JUROR NO. 779: You're right.

21 THE COURT: All we can ask that you do is do your
22 best, promise to do your best to be fair and impartial, and
23 give us some assurance that you can do that. So I know I'm
24 not asking you to make a decision now because you couldn't
25 possibly make a decision that -- when you have no evidence

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1 before you. In fact, if you don't have any evidence and you
2 were asked to make a decision in this case, you'd have to
3 acquit the Defendant because there's no evidence to convict
4 him. So at this point in time you don't know anything. Can
5 you wait and hear the evidence before you consider it?

6 PROSPECTIVE JUROR NO. 779: Yes. You know, if it is
7 -- if it was, like, some other type of case, like, burglary or
8 the other things, you know, I would feel more confident. And
9 in this case I'll try my best what I can do, you know.

10 THE COURT: All right. Well, in a -- if it was a
11 burglary case you'd be asked to decide from all of the
12 evidence whether or not the burglary was committed. And in
13 this case it's just a different charge, but you still have to
14 do the same work. You have to listen to all of the evidence
15 and make a decision based upon that as opposed to some kind of
16 preconceived notion that you have, all right? And that's what
17 we're trying to determine. Have you already made up your mind
18 in this case, or can you keep an open mind and wait until you
19 hear the evidence?

20 PROSPECTIVE JUROR NO. 779: I can wait.

21 THE COURT: All right. Tell us about yourself, if
22 you haven't -- you know, I know you were in the military in
23 Pakistan, you've been here a number of years, your wife came
24 here for work. What does she do?

25 PROSPECTIVE JUROR NO. 779: My wife is a physician.

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1 She's a doctor.

2 THE COURT: And what is her speciality?

3 PROSPECTIVE JUROR NO. 779: She's a dentist.

4 THE COURT: Okay. Does she work on children patients
5 or just adults?

6 PROSPECTIVE JUROR NO. 779: Adults.

7 THE COURT: And are you working here too?

8 PROSPECTIVE JUROR NO. 779: For few years I didn't
9 work because of my visa problem because I was H4 [phonetic]
10 and could not work. Then I did my master's here, and I
11 started as a adjunct professor [inaudible].

12 THE COURT: What do you teach?

13 PROSPECTIVE JUROR NO. 779: Crisis management,
14 emergency management. That's [inaudible] my subject. And
15 then I, you know, I'm not -- I'm no more teaching, I'm
16 volunteer with the Red Cross for the disaster action team; and
17 recently I've joined pharmacy, [inaudible] pharmacy for the
18 marketing here; and I volunteer with mosque.

19 THE COURT: You are a man of many talents. What is
20 your master's degree in?

21 PROSPECTIVE JUROR NO. 779: That is emergency and
22 crisis management.

23 THE COURT: And so that obviously must be great
24 assistance to the Red Cross since they do that?

25 PROSPECTIVE JUROR NO. 779: Yes, for the disaster

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1 action team, yes. [Inaudible], that is part of it.

2 THE COURT: All right. Do you have any children?

3 PROSPECTIVE JUROR NO. 779: I have four children. I
4 have three daughters, one son.

5 THE COURT: And are they all grown?

6 PROSPECTIVE JUROR NO. 779: Yes, they're all grown.
7 My youngest daughter is 37 years of age.

8 THE COURT: Does she work?

9 PROSPECTIVE JUROR NO. 779: Yeah, my -- my eldest
10 daughter, she's married to a physician in Dallas. My son is
11 in New York, he's married to. And then I have a daughter who
12 has done her master's here in economics. She's here working
13 in a company. And then the youngest one, she -- she's a
14 doctor too. She graduated, and now she's doing her residency
15 in [inaudible].

16 THE COURT: All right. And, let's see, you're -- did
17 you tell me what your eldest son did?

18 PROSPECTIVE JUROR NO. 779: No. My eldest daughter,
19 and then the son.

20 THE COURT: Then the son. What does he do?

21 PROSPECTIVE JUROR NO. 779: He's a -- he's in --he's
22 in banking. He's vice-president of JP Morgan in Manhattan.

23 THE COURT: All right. Very impressive. Very
24 impressive.

25 PROSPECTIVE JUROR NO. 779: Yes. [Inaudible] I have

1 very good kids. His wife is -- they both are Yale graduates.
2 His wife is a -- is a lawyer.

3 THE COURT: You must be very proud.

4 PROSPECTIVE JUROR NO. 779: I am.

5 THE COURT: Would the State like to inquire further?

6 MR. CHEN: Thank you, Judge.

7 MR. WESTBROOK: Your Honor, before we do, can we
8 approach?

9 THE COURT: Yes.

10 (Off-record bench conference.)

11 MR. CHEN: You just mentioned both your wife is a
12 physician, your kids are physicians, some of them. Do you
13 ever talk to them about their work or about kind of their day,
14 a day in the life of a doctor, whatnot?

15 PROSPECTIVE JUROR NO. 779: Yes, I do.

16 MR. CHEN: Okay. Do they talk to you about kind of
17 what problems some of their patients were experiencing?

18 PROSPECTIVE JUROR NO. 779: No, we don't talk about
19 patients; but I talk about was it tough, you know, too much
20 tired, you know, their schedules. These are the things, but
21 not about patients.

22 MR. CHEN: But not like they came across a very
23 strange --

24 PROSPECTIVE JUROR NO. 779: No, they never talk to me
25 about that.

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1 MR. CHEN: Okay. They don't talk to you about that.
2 Okay. I see. Now and please realize that there is no right
3 or wrong answer to any of the questions that anyone asks,
4 we're simply trying to get to know you. You mentioned earlier
5 a little bit about your beliefs and that you have very strong
6 beliefs.

7 PROSPECTIVE JUROR NO. 779: I do.

8 MR. CHEN: Religious beliefs and whatnot. I, for
9 instance, talk to individuals who have said that they wouldn't
10 feel comfortable being on a jury simply because they don't
11 want to pass judgment on another person's actions. Do you
12 feel that that applies to you at all?

13 PROSPECTIVE JUROR NO. 779: I think this question was
14 asked before also.

15 MR. CHEN: Well, I think -- and what I'm trying to
16 understand is she did ask some questions about that; but I
17 couldn't gather if you were the type who wouldn't feel
18 comfortable passing any judgment on another person's actions,
19 or if you felt that your religious beliefs were so strong that
20 you weren't -- you were going to maybe ignore some of the
21 evidence in order to go along with your religious beliefs.
22 And do you see the distinction there? I wasn't quite certain
23 based upon the Judge's questions where you lied on that
24 spectrum of -- of thought.

25 PROSPECTIVE JUROR NO. 779: You know, I'm not really

1 very good at this language of English; but at the same time to
2 me, you know, passing judgment on somebody is -- well, I --
3 I'm not very clear about it. But as far as my religious
4 belief is concerned, okay, I feel that, you know, the final
5 [inaudible] to pass any judgment is [inaudible] Allah.

6 MR. CHEN: Okay.

7 PROSPECTIVE JUROR NO. 779: And, of course, there are
8 ways for that thing to be transferred to people, so that's why
9 we have judges, we have emirs, we have kings, you know, who
10 pass that then; but they are given the authority. But a
11 normal person like me, I don't think I have the capacity or
12 knowledge to pass any judgment on anybody.

13 MR. CHEN: And that goes to -- I mean, at least under
14 this system if you were selected for the jury you would be
15 given that authority to judge someone else's actions. Would
16 that present a problem to you that you would have to decide
17 whether or not the State has proven the charges that are
18 alleged?

19 PROSPECTIVE JUROR NO. 779: You know, sitting on a
20 jury is not a problem, it's rather an honor to be here,
21 sitting here; but to be, you know, be confident that I can
22 [inaudible] that I'm not.

23 MR. CHEN: And as the Court, I think, mentioned, none
24 of us know how we're going to react to the situation.

25 PROSPECTIVE JUROR NO. 779: Yes, [inaudible].

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1 MR. CHEN: Thank you. Pass for cause. Thank you.

2 THE COURT: Defense?

3 MR. WESTBROOK: What are your responsibilities in the
4 observance of Ramadan?

5 PROSPECTIVE JUROR NO. 779: I have -- I've been
6 volunteer with the mosque for the last four years and I -- for
7 30 days I arrange all food [inaudible], and, you know, I send
8 them all information, you know. That's what I do, you know.
9 Every evening at the time of breaking fast in the mosque we
10 all get together when we get together and they break the fast
11 and after that, say a prayer, and then they have food and all
12 that stuff; so just like a volunteer job.

13 MR. WESTBROOK: As far as getting together and
14 breaking the fast together, that's a religious requirement for
15 you; is it not? Is that a yes for the record? That's a
16 religious requirement for you?

17 PROSPECTIVE JUROR NO. 779: It's not a requirement
18 for me. You know, this is our obligation to be in mosque and
19 say our prayer there together, and this is more -- it is
20 better you can say. You can have it at your home also, no
21 problem.

22 MR. WESTBROOK: You're deeply religious?

23 PROSPECTIVE JUROR NO. 779: I am. I don't say deeply
24 religious. I just follow my ability as it is written in the
25 book.

1 MR. WESTBROOK: All right. Do you have activities
2 scheduled this week in connection with Ramadan?

3 PROSPECTIVE JUROR NO. 779: Yes, I am doing it.

4 MR. WESTBROOK: Can you tell me what the activities
5 are that you're doing and what time they take place?

6 PROSPECTIVE JUROR NO. 779: I go -- maybe I have to
7 go in the evening, like, 7:00 or 7:30 to the mosque, make sure
8 that, you know, everything is [inaudible], and after that I
9 say a prayer, and after that we have -- if you have an
10 [inaudible], we have, like, a prayer [inaudible], which goes
11 by [inaudible], and then we get up in the morning at about
12 three o'clock and start -- that's normal thing, you know,
13 every Muslim does.

14 MR. WESTBROOK: Okay. Do you have things that you
15 were planning to do during the day between, you know, nine
16 o'clock and five o'clock that being in this jury would
17 interfere with?

18 PROSPECTIVE JUROR NO. 779: Well, as I told -- I
19 recently joined a company, you know, I started a job with
20 them, and to be honest, the energy level is not that much, you
21 know, all day you don't drink, you don't, you know, eat or
22 smoke or whatever; so maybe, you know, I can use that two,
23 four hours in my day for the job that I just started that I
24 work two weeks.

25 MR. WESTBROOK: Okay. If you were in this jury all

1 week you'd be fasting, right?

2 PROSPECTIVE JUROR NO. 779: Yes.

3 MR. WESTBROOK: Okay. And also abstaining from
4 drinking anything?

5 PROSPECTIVE JUROR NO. 779: Nothing.

6 MR. WESTBROOK: Absolutely nothing?

7 PROSPECTIVE JUROR NO. 779: Absolutely nothing.

8 MR. WESTBROOK: Okay. And that would be from sun up
9 till sun down?

10 PROSPECTIVE JUROR NO. 779: It starts, like, four
11 o'clock in the morning and goes, like, to 8:00 in the evening.

12 MR. WESTBROOK: Okay. And you'll be awake at three
13 or four o'clock in the morning?

14 PROSPECTIVE JUROR NO. 779: What?

15 MR. WESTBROOK: You'll be -- you'll be awake at three
16 or four o'clock in the morning every day?

17 PROSPECTIVE JUROR NO. 779: Yes, we have to get up
18 and then have food and say a prayer and then after that start
19 doing our job.

20 MR. WESTBROOK: Okay. And so you would stay awake
21 until about what time?

22 PROSPECTIVE JUROR NO. 779: Well, that's what I say,
23 depends. You know, your energy level is not there that much;
24 naturally you are tired and maybe feel sleepy or all that
25 stuff.

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1 MR. WESTBROOK: Is that going to affect your ability
2 to concentrate on this trial if you're here?

3 PROSPECTIVE JUROR NO. 779: Yes, [inaudible]
4 definitely.

5 MR. WESTBROOK: Okay. If you were asked to abstain
6 from fasting and getting up early in the morning --

7 THE COURT: Which we're not -- we're not going to be
8 asking him to do that.

9 MR. WESTBROOK: Okay.

10 PROSPECTIVE JUROR NO. 779: Even if I'm asked to do
11 that --

12 MR. WESTBROOK: [Inaudible] that would make you
13 deeply uncomfortable, correct?

14 PROSPECTIVE JUROR NO. 779: It will not happen
15 because that's my own thing, you know. Nobody's watching me
16 if I'm fasting. Nobody bugging me. I can go to the washroom
17 and start drinking water. That's not the problem. Somebody
18 else is watching.

19 MR. WESTBROOK: Someone is watching you. All right.
20 You find pornography of any kind to be morally reprehensible;
21 is that correct?

22 PROSPECTIVE JUROR NO. 779: Very bad.

23 MR. WESTBROOK: Even though you recognize that
24 downloading pornography that doesn't feature children in
25 America is legal; under the law you can download or look at

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1 adult pornography, you recognize that right?

2 PROSPECTIVE JUROR NO. 779: I don't know about it.

3 MR. WESTBROOK: You don't know anything about that?

4 PROSPECTIVE JUROR NO. 779: I don't know if it's
5 legal or not. I just don't.

6 MR. WESTBROOK: Okay. Does it matter to you whether
7 it's legal or not?

8 PROSPECTIVE JUROR NO. 779: It does matter. It
9 should not be. [Inaudible.]

10 MR. WESTBROOK: Even if you found -- let me put it a
11 different way. Even if you did find that downloading
12 pornography that was made between consenting adults is illegal
13 -- or I'm sorry -- is legal, that wouldn't change your opinion
14 of it as far as the morality of it, would it?

15 PROSPECTIVE JUROR NO. 779: No, it would not change.

16 MR. WESTBROOK: If you found out that someone
17 downloaded or looked at adult pornography, what would your
18 opinion of them be? I'm not talking at all about child
19 pornography. I'm talking about adult -- consenting adult
20 pornography. What would your opinion of them be?

21 PROSPECTIVE JUROR NO. 779: Opinion of those people?

22 MR. WESTBROOK: Yes.

23 PROSPECTIVE JUROR NO. 779: Well, I think that is
24 morally -- even -- I mean, looking at that thing is not --
25 it's not part of my -- it's not part of my upbringing, it's

1 not part of my culture, that's it.

2 MR. WESTBROOK: Will you find a person who downloaded
3 adult pornography or looked at adult pornography to be less
4 believable or less trustworthy?

5 PROSPECTIVE JUROR NO. 779: I can't pass that
6 judgment.

7 MR. WESTBROOK: You can't pass the judgment?

8 PROSPECTIVE JUROR NO. 779: I can't pass the
9 judgment.

10 MR. WESTBROOK: Okay.

11 PROSPECTIVE JUROR NO. 779: Because, you know, that
12 must be his own belief, must be his own [inaudible], culture,
13 his environment. I don't know.

14 MR. WESTBROOK: And speaking of passing judgment, it
15 sounds like you have an opposition in general to just passing
16 judgment because you don't feel qualified; is that correct?

17 PROSPECTIVE JUROR NO. 779: Yes.

18 MR. WESTBROOK: Okay. Tell me about the system of
19 justice in Pakistan because I know nothing about it. You
20 mentioned that there were no juries.

21 THE COURT: You need to hold the microphone though
22 close when you answer.

23 PROSPECTIVE JUROR NO. 779: Sorry. Sorry.

24 THE COURT: Thank you.

25 PROSPECTIVE JUROR NO. 779: There's no justice

1 involved. You know, [inaudible]. In third world countries
2 you know how it happens; but anyway, our system is like that
3 that, you know, we have judge, we have lawyers, and, you know,
4 they plead a case in front of the judge and judgment is
5 determined by the -- by the judge only. There's no jury.
6 There's no jury system. And, of course, there are witnesses
7 who are bought and sold all the time.

8 MR. WESTBROOK: In this country you've been told
9 several times, everybody has, that someone is always
10 considered innocent until they are proven guilty beyond a
11 reasonable doubt.

12 PROSPECTIVE JUROR NO. 779: Yes.

13 MR. WESTBROOK: Is that the way it is in Pakistan?

14 PROSPECTIVE JUROR NO. 779: At least on paper, yes.

15 MR. WESTBROOK: But you know only how it really
16 works?

17 PROSPECTIVE JUROR NO. 779: It doesn't work over
18 there.

19 MR. WESTBROOK: If you're on this jury, is that how
20 -- are you comfortable with the innocent until proven guilty
21 standard?

22 PROSPECTIVE JUROR NO. 779: That's what I believe,
23 and that's what -- you know, actually, it is the right thing.
24 You know, this is what is even told over there also; but I
25 don't say that every court is like that or every case is like

1 that. Of course, a person is given full chance to prove his
2 innocence.

3 MR. WESTBROOK: Well, he's given full chance to prove
4 his innocence; but you recognize that you don't have to prove
5 your innocence in this country, right?

6 PROSPECTIVE JUROR NO. 779: You have to prove your
7 innocence in this country [inaudible]. I'm sorry if I have
8 not -- I have understood that question right about -- please
9 can you repeat it?

10 MR. WESTBROOK: Okay. I'll try to make it simpler.
11 Do you believe that someone who is accused of a crime should
12 have to prove his innocence?

13 PROSPECTIVE JUROR NO. 779: Yes.

14 MR. WESTBROOK: Okay. In this country someone is
15 always considered to be innocent until the State, the
16 government, the District Attorneys, prove that they are guilty
17 and you don't have to prove that you're innocent, okay? Do
18 you understand the distinction between those two things?

19 PROSPECTIVE JUROR NO. 779: A little bit. I think
20 what you are trying to tell me is that, you know, that every
21 person has to -- I mean, he's innocent till it is proven that
22 he's guilty. That's what I got out of it.

23 MR. WESTBROOK: That is correct.

24 PROSPECTIVE JUROR NO. 779: I don't know it's right
25 or wrong.

1 MR. WESTBROOK: Okay. And I'm not asking you a legal
2 question at all. I'm asking if you're comfortable with the
3 standard and if you think you can apply it.

4 PROSPECTIVE JUROR NO. 779: Yeah, yeah.

5 MR. WESTBROOK: Okay.

6 PROSPECTIVE JUROR NO. 779: I am comfortable with
7 that stuff. Yes, everybody should get a chance to prove
8 himself.

9 MR. WESTBROOK: And again, your response was everyone
10 should get a chance to prove himself?

11 PROSPECTIVE JUROR NO. 779: Yes.

12 MR. WESTBROOK: Let me expand on that a little bit.
13 Let's say we go this entire trial, all right? The State will
14 come up and they'll -- they'll say, We found some child
15 pornography. They'll -- they'll present evidence --

16 THE COURT: No. Okay. No, no. Counsel?

17 MR. WESTBROOK: Well, all I'm going to ask is: But
18 you don't hear anything from the Defense, that's all I'm going
19 to say.

20 THE COURT: Counsel, no, no applying the facts of
21 this case. Let's ask it in a general manner.

22 MR. WESTBROOK: Okay.

23 THE COURT: And let me just emphasize again in this
24 country, in our system of justice, the Defense does not have
25 to prove anything. It is completely -- the burden is

1 completely on the State. If the Defense chooses, they don't
2 have to put on any evidence. They don't -- they can make the
3 State prove their case. If the State doesn't prove their case
4 then you must acquit the Defendant. You understand that?
5 They do not prove their case.

6 PROSPECTIVE JUROR NO. 779: So it means that we don't
7 have any defense witnesses, somebody come for the defense?

8 THE COURT: It's up to the Defense.

9 PROSPECTIVE JUROR NO. 779: Oh.

10 THE COURT: They -- they may put on a defense if they
11 wish to, but they don't have to because if the State doesn't
12 prove it they don't have to put on a defense.

13 PROSPECTIVE JUROR NO. 779: Right.

14 THE COURT: It's up to the State to prove it; do you
15 understand that?

16 PROSPECTIVE JUROR NO. 779: Okay. I got it.

17 MR. WESTBROOK: Okay. And what if that's what
18 happens? You only hear from the State. You don't hear any
19 defense witnesses whatsoever. Mr. Castaneda does not take the
20 stand. He doesn't say anything to you the entire trial, all
21 you hear from is the State; would you hold that against Mr.
22 Castaneda? Would you think that he hadn't done a good enough
23 job proving his innocence?

24 PROSPECTIVE JUROR NO. 779: I can't [inaudible].

25 MR. WESTBROOK: I'm sorry. I couldn't understand

1 that.

2 PROSPECTIVE JUROR NO. 779: I can't say at this time.
3 I don't know.

4 MR. WESTBROOK: Would you expect him to get on that
5 stand and tell you his side of the story?

6 PROSPECTIVE JUROR NO. 779: I don't know if -- I have
7 no idea what -- procedurally if he goes there, yes, I
8 [inaudible], but I don't expect -- all I -- I expect or I
9 don't expect, I don't know anything about it.

10 MR. WESTBROOK: Okay.

11 PROSPECTIVE JUROR NO. 779: I have no knowledge
12 because I've now been in the city. I've never been to any
13 court, even in Pakistan. So this is the first time I'm
14 sitting in a court, you know, so I have no idea what purpose
15 [inaudible]. I'll be sitting here learning as everything --
16 as everybody's doing. I'll be going with that.

17 MR. WESTBROOK: Okay. Your Honor, I do have a motion
18 based on cause for several reasons in this case. Would you
19 like me to make the record up at the bench or here or at the
20 break?

21 THE COURT: We don't record at the bench, so you can
22 make it from there.

23 MR. WESTBROOK: Okay. My concern, Your Honor, is
24 three-fold. Number one, I think he's going to be tired, as he
25 said every single day while he's here. He's observing a

1 religious holiday, a religious holiday that someone else has
2 also been dismissed from the jury for because it's Ramadan and
3 there is a lot of responsibilities.

4 THE COURT: Counsel, I told you at the bench that the
5 other juror, there were different circumstances in that.

6 MR. WESTBROOK: I understand, Your Honor, and I
7 respect that.

8 THE COURT: All right.

9 MR. WESTBROOK: But I -- I know it's not recorded at
10 the bench so I had to say the same thing that I said, which is
11 why if you're more comfortable I can do it at the break,
12 either way. But he's going to be tired. It's going to be
13 very difficult for him to focus. He has to fast. He has to
14 be up at three o'clock in the morning. I know I would have a
15 hard time doing a trial if I had to get up at three o'clock in
16 the morning and not eat or drink anything all day.

17 The -- there's an issue about sitting in judgment.
18 There still seems, despite going over it repeatedly, that
19 there seems to be a disconnect on the concept of proving one's
20 innocence versus having the State prove guilt. It was
21 restated several times --

22 THE COURT: I think -- all right. All right.

23 MR. WESTBROOK: -- I'm still not sure we're on the
24 same page.

25 THE COURT: All right. Are those the three reasons?

1 MR. WESTBROOK: Oh, I'm sorry. And then there's also
2 the -- seemingly very deep-seated moral issue regarding
3 pornography of any kind. I think the allegation alone will
4 make it very difficult for him to overcome or for him to apply
5 the burden as a juror.

6 THE COURT: All right. Thank you. It appears to the
7 Court that the proposed prospective juror understands the
8 burden of proof. We've explained it extensively to him. He's
9 indicated that he can keep an open mind. He's also indicated
10 that while he has obligations in Ramadan, that these are
11 things that he's done for many years. Is that correct, sir,
12 you observed Ramadan since you've been an adult, correct?

13 PROSPECTIVE JUROR NO. 779: Yes, yes, I do.

14 THE COURT: And it lasts for a considerable period,
15 correct? How many days?

16 PROSPECTIVE JUROR NO. 779: Every year, 30 days
17 [inaudible].

18 THE COURT: Thirty days. And so that's part of the
19 sacrifice is that you -- that's part of the reason you observe
20 Ramadan is it is a sacrifice, correct?

21 PROSPECTIVE JUROR NO. 779: Yes, of course, it's
22 sacrifice.

23 THE COURT: All right.

24 PROSPECTIVE JUROR NO. 779: And [inaudible] it goes
25 with age, you know, it starts getting tougher, and but, you

1 know, this is what it is, you know, [inaudible]. That's why,
2 you know, most of the time either you are saying prayer or
3 you're reading Koran at home or, you know, for people like --
4 retired people like me, you know, we don't have to; but once
5 you are young, you [inaudible].

6 THE COURT: All right. And so when people are
7 younger they're working through Ramadan, correct?

8 PROSPECTIVE JUROR NO. 779: Yes, they do.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 779: Of course, everybody
11 does.

12 THE COURT: And you feel that you'll be able to, you
13 know, you're -- our schedule is pretty easy. Tomorrow we're
14 only going to be in session from one o'clock until 5:00. And
15 the following day will be 9:00 till 5:00, and we have breaks.
16 Do you feel that you'll be able to be attentive to the trial?

17 PROSPECTIVE JUROR NO. 779: I'll be here.

18 THE COURT: Okay. Do you feel that you'll be
19 attentive though? Can you -- have you been able to focus
20 while you've been here and listen to what is going on and be
21 attentive?

22 PROSPECTIVE JUROR NO. 779: You know, there's a
23 little bit of two problems. One is, you know, once I was
24 sitting there I was not really understanding because of my
25 hearing problems. I was a helicopter pilot and I had high

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1 frequency problem. And secondly, naturally one of my
2 experiences for the last three, four years of fasting, fasting
3 in the middle of the day, you know, you don't have your tea,
4 other things that, you know, you stop getting; but that's not
5 -- of course, you know, this is how you sacrifice, this is how
6 you get more, you know, benefit of that from Allah because,
7 you know, you are sacrificing.

8 THE COURT: Well, our -- our concern is, I mean,
9 everyone may get tired or bored even during the day in a trial
10 when it goes slowly like it's going today. But what we're
11 concerned about is that you can be attentive and --

12 PROSPECTIVE JUROR NO. 779: I will do what -- as much
13 as I can, that's what I can say, but I -- I don't say -- I'm
14 not a hundred percent, that's really -- that -- that should be
15 -- [inaudible] -- that is, of course, the [inaudible] thing
16 that I'm not a hundred percent. I'm not the only one.
17 There's [inaudible] we'll be sitting there, I'll try as much
18 as I can.

19 THE COURT: All right. Thank you. Well, that's all
20 we expect is that you -- if you felt like you were going to
21 faint during the day, obviously that wouldn't be good. But if
22 you -- you feel fine that -- I mean, as well as can be
23 expected given that you're not having lunch because you eat
24 your breakfast very early and you eat your evening meal later.

25 PROSPECTIVE JUROR NO. 779: Yeah, I'll just have to

1 -- that's all, with a gap of 15 hours.

2 THE COURT: All right. Thank you. Motion for cause
3 is denied. I just don't see that.

4 MR. WESTBROOK: Thank you, Your Honor.

5 THE COURT: We have the State's next peremptory
6 challenge.

7 MR. CHEN: State would waive. Thank you, Your Honor.

8 THE COURT: Defense, next peremptory challenge.

9 MR. WESTBROOK: Your Honor, we would thank and excuse
10 Mr. Lamb, 702. I think that's 10, right?

11 THE CLERK: Yes.

12 THE COURT: Thank you, Mr. Lamb. Call the next in
13 order.

14 THE CLERK: Reham Ahmed, Badge 790.

15 THE COURT: Welcome.

16 PROSPECTIVE JUROR NO. 790: Hi.

17 THE COURT: All right. Try and keep the microphone
18 close.

19 PROSPECTIVE JUROR NO. 790: Okay.

20 THE COURT: Ms. Ahmed, have you ever served as a
21 juror before?

22 PROSPECTIVE JUROR NO. 790: No, I have not.

23 THE COURT: Have you ever been in law enforcement?

24 PROSPECTIVE JUROR NO. 790: No.

25 THE COURT: Anyone closely associated with you or

1 family in law enforcement?

2 PROSPECTIVE JUROR NO. 790: No.

3 THE COURT: Have you ever been the victim of a
4 serious crime?

5 PROSPECTIVE JUROR NO. 790: No.

6 THE COURT: Have you -- anyone closely associated
7 with your family ever been the victim of a serious crime?

8 PROSPECTIVE JUROR NO. 790: No.

9 THE COURT: Have you ever been accused of a crime?

10 PROSPECTIVE JUROR NO. 790: No.

11 THE COURT: Anyone in your family or close associate
12 been accused of a crime?

13 PROSPECTIVE JUROR NO. 790: No.

14 THE COURT: Tell us about yourself.

15 PROSPECTIVE JUROR NO. 790: Well, my name is Reham
16 Ahmed. I just --

17 THE COURT: You have to keep your voice up.

18 THE COURT RECORDER: Speak up.

19 THE COURT: My recorder is not hearing you.

20 PROSPECTIVE JUROR NO. 790: I just graduated from the
21 University of Nevada Las Vegas with a degree in biological
22 sciences, and I'll be starting dental school next year in
23 September. And I have two younger brothers. Their ages are
24 19 and 13. My 19-year-old brother is a student and he's
25 studying engineering. And my mom is an accounting clerk. My

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1 father and my mother are divorced. My father used to be a
2 dentist in Egypt, but right now he's retired. He lives here.

3 THE COURT: All right. You said you're going to get
4 a doctorate?

5 PROSPECTIVE JUROR NO. 790: Yes.

6 THE COURT: In what subject?

7 PROSPECTIVE JUROR NO. 790: Dentistry.

8 THE COURT: And are you attending here at the dental
9 school?

10 PROSPECTIVE JUROR NO. 790: Yes.

11 THE COURT: Very well. That's very exciting indeed.
12 And how long have you lived here in Clark County?

13 PROSPECTIVE JUROR NO. 790: I've been here since I
14 was 13.

15 THE COURT: Where were you -- where did you live
16 before you came to Clark County?

17 PROSPECTIVE JUROR NO. 790: I was in Egypt with my
18 family.

19 THE COURT: All right. Do you still have family in
20 Egypt --

21 PROSPECTIVE JUROR NO. 790: Yes.

22 THE COURT: -- today? And so you're -- I'm sure
23 keeping track of all of the problems that are going on there
24 and --

25 PROSPECTIVE JUROR NO. 790: Yes, my family.

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1 THE COURT: All right. Do you have any religious or
2 moral beliefs that would make it difficult for you to sit in
3 judgment on another person?

4 PROSPECTIVE JUROR NO. 790: No.

5 THE COURT: Do you have any reason that you think you
6 could not be fair and impartial in this case?

7 PROSPECTIVE JUROR NO. 790: No.

8 THE COURT: Would the State like to inquire?

9 MS. ANTHONY: Yes, Your Honor. Just basic computer
10 questions. You have computers at home?

11 PROSPECTIVE JUROR NO. 790: Yes.

12 MS. ANTHONY: And do you do social networking?

13 PROSPECTIVE JUROR NO. 790: Yes.

14 MS. ANTHONY: And I heard you have a biology degree?

15 PROSPECTIVE JUROR NO. 790: Yes.

16 MS. ANTHONY: And do you have any special knowledge
17 regarding computers?

18 PROSPECTIVE JUROR NO. 790: Not special knowledge,
19 just basic knowledge.

20 MS. ANTHONY: From using computers?

21 PROSPECTIVE JUROR NO. 790: Yeah.

22 MS. ANTHONY: Any questions that we've asked already
23 that you were dying to give us an answer to?

24 PROSPECTIVE JUROR NO. 790: No.

25 MS. ANTHONY: All right. Pass for cause, Your Honor.

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1 THE COURT: Defense?

2 MR. WESTBROOK: Anything special you're doing this
3 week that can't be put on hold for three days for a trial?

4 PROSPECTIVE JUROR NO. 790: Well, I will also be
5 fasting this week -- I'm a Muslim -- but I don't think that
6 will keep me from making fair judgment.

7 MR. WESTBROOK: Okay. And you won't have to do a lot
8 of preparation of food or other events that --

9 PROSPECTIVE JUROR NO. 790: No.

10 MR. WESTBROOK: -- you have to put on hold? Okay.
11 The -- there's a question that I asked once before. If you
12 were sitting in the Defendant's chair and you were looking out
13 at the jury and there were 12 people just like you on the
14 jury, would you feel comfortable or uncomfortable?

15 PROSPECTIVE JUROR NO. 790: I would feel comfortable.

16 MR. WESTBROOK: Why?

17 PROSPECTIVE JUROR NO. 790: Because I think being a
18 biology major I'm very detail oriented, so I look at details
19 and I think a lot before I make any judgment and even before I
20 speak, so I think I will be very fair when it comes to making
21 decision for someone's life.

22 MR. WESTBROOK: Okay. And -- and you're not going to
23 have a problem with the being awake and the fasting?

24 PROSPECTIVE JUROR NO. 790: No. I'll be fine.

25 MR. WESTBROOK: Okay. All right then. Thank you.

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1 Pass.

2 THE COURT: Thank you. This brings us to the Defense
3 third peremptory challenge.

4 THE CLERK: State's fourth.

5 THE COURT: Oh, excuse me. Am I off?

6 THE CLERK: I show two, nine and ten.

7 THE COURT: All right.

8 MR. WESTBROOK: We're on four, I believe.

9 THE COURT: All right. State's fourth.

10 MR. CHEN: Thank you, Your Honor. State would like
11 to thank and excuse Juror No. 9, Mr. Chaudry.

12 THE COURT: Okay. Thank you, Mr. Chaudry. Badge No.
13 779, Seat 9. And call the next one.

14 THE CLERK: James Eberle, 791.

15 THE COURT: Thank you, Mr. Eberle. But, ladies and
16 gentlemen, how are we doing? Is everybody --

17 UNIDENTIFIED SPEAKER: Break time.

18 THE COURT: -- are we starting? Are we starting?
19 Those who are able to eat and not fasting, are you -- do you
20 want to push through for a little while longer? I know. I
21 know. That's why I'm asking. That's why I'm asking.

22 UNIDENTIFIED SPEAKER: Take a short break.

23 THE COURT: Yeah. Everybody up for maybe a 10-minute
24 break to use the restroom. All right. We'll take a 10-minute
25 recess and then we'll come back and we'll see if we can get

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1 our jury picked. All right. Wait, I have to read you the
2 admonition that we love to hear. You're going to take a
3 10-minute recess.

4 During this recess it is your duty not to converse
5 amongst yourselves or with anyone else on any subject
6 connected with the trial or read, watch or listen to any
7 report of or commentary on the trial by any person connected
8 with the trial or by any medium of information including
9 without limitation newspapers, television, the Internet or
10 radio, and you are not to form or express an opinion on any
11 subject connected with this trial until the case is finally
12 submitted to you.

13 We're in recess until 12:30.

14 (Court recessed at 12:19 p.m. until 12:38 p.m.)

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

16 THE COURT: Please be seated. All right. The record
17 will reflect we are back within the presence of the venire
18 panel. The Defendant is present with his counsel, Deputy
19 District Attorneys prosecuting the case are present, as are
20 all officers of the Court. Will the counsel so stipulate?

21 MS. ANTHONY: Yes, Your Honor.

22 MS. BALLOU: Yes, Your Honor.

23 THE COURT: Thank you. And Mr. Eberle?

24 PROSPECTIVE JUROR NO. 791: Eberle, 791. I am fully
25 employed. I have been in law enforcement before, Federal.

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1 I'm married, six years. Two kids, one black, one white, all
2 covered with fur, no children. Those are my dogs. Lived in
3 Las Vegas now for 13 years. Moved out here from Wisconsin.
4 And can't think of anything else.

5 THE COURT: Okay. So you said you're fully employed?

6 PROSPECTIVE JUROR NO. 791: Yes.

7 THE COURT: Doing what?

8 PROSPECTIVE JUROR NO. 791: I'm an airline pilot.

9 THE COURT: All right. And you were in law
10 enforcement before you were an airline pilot?

11 PROSPECTIVE JUROR NO. 791: No, while I was an
12 airline pilot.

13 THE COURT: Okay. In the service? No?

14 PROSPECTIVE JUROR NO. 791: Not in the service, no.

15 THE COURT: All right. I'm done guessing. Just tell
16 me.

17 PROSPECTIVE JUROR NO. 791: I am in the Federal
18 program for pilots.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR NO. 791: I can say more, but I'm
21 not supposed to.

22 THE COURT: All right. You have to kill us all if
23 you told us anything, so we won't ask about that. Tell me
24 though what airline do you fly for now?

25 PROSPECTIVE JUROR NO. 791: United Airlines.

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1 THE COURT: Okay. And how long have you done that?

2 PROSPECTIVE JUROR NO. 791: I've just started my
3 twenty-fifth year in March.

4 THE COURT: Long time. Great. And you're -- you
5 said you had a child?

6 PROSPECTIVE JUROR NO. 791: No. Two kids, but
7 they're dogs.

8 THE COURT: No, no children. Two dogs, right,
9 covered in fur, one black. Okay. And married you said?

10 PROSPECTIVE JUROR NO. 791: Married six years. My
11 wife works at the Thai restaurant at Bali's.

12 THE COURT: What does she do there?

13 PROSPECTIVE JUROR NO. 791: Waitress.

14 THE COURT: Now when you fly, obviously -- what --
15 what type of aircraft do you fly?

16 PROSPECTIVE JUROR NO. 791: I just moved to the 747
17 400.

18 THE COURT: Okay. And you've flown other Boeing
19 aircrafts, 737s?

20 PROSPECTIVE JUROR NO. 791: Correct.

21 THE COURT: And 57?

22 PROSPECTIVE JUROR NO. 791: No, never flown a 757.

23 THE COURT: Oh, okay.

24 PROSPECTIVE JUROR NO. 791: Just came off the 777.

25 THE COURT: Okay. So they are equipped with onboard

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1 computer systems for navigation, et cetera, correct?

2 PROSPECTIVE JUROR NO. 791: Correct.

3 THE COURT: So aside from operating computer systems
4 onboard your aircraft, you also have a computer at home?

5 PROSPECTIVE JUROR NO. 791: Yes, I do. I did go to
6 Apple about ten years ago just because of viruses. Now I
7 don't have any.

8 THE COURT: Actually Apple computers are pretty safe
9 from --

10 PROSPECTIVE JUROR NO. 791: I've never had a virus on
11 any Apple computers that I own.

12 THE COURT: Yeah. So have you ever served on a jury
13 before?

14 PROSPECTIVE JUROR NO. 791: No.

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

16 PROSPECTIVE JUROR NO. 791: No.

17 THE COURT: Have you ever had anyone closely
18 associated with you or family member victim of a serious
19 crime?

20 PROSPECTIVE JUROR NO. 791: Not serious crime, no.

21 THE COURT: How about anyone in your family or close
22 friends also involved in law enforcement?

23 PROSPECTIVE JUROR NO. 791: I do have friends that
24 are involved in law enforcement, yes.

25 THE COURT: Friends here in Clark County?

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1 PROSPECTIVE JUROR NO. 791: Correct.

2 THE COURT: What kind of law enforcement are they?

3 PROSPECTIVE JUROR NO. 791: One friend is a Henderson
4 SWAT. Another friend is a Metro police officer.

5 THE COURT: Would you as a result of those
6 friendships tend to give the testimony of a police officer
7 more weight than any other witness merely because they were a
8 police officer and for no other reason?

9 PROSPECTIVE JUROR NO. 791: No, not necessarily.

10 THE COURT: So you would be able to assess all the
11 witness's testimony and give it whatever weight you think is
12 appropriate based on ---

13 PROSPECTIVE JUROR NO. 791: Yes, I do believe so.

14 THE COURT: -- the testimony? Okay. Do you have any
15 reason to feel that you could not be a fair and impartial
16 juror in this case?

17 PROSPECTIVE JUROR NO. 791: No, I do not.

18 THE COURT: Do you have any religious or moral
19 beliefs that would keep you from being unable to sit in
20 judgment of another person?

21 PROSPECTIVE JUROR NO. 791: No, I do not.

22 THE COURT: State, would you like to inquire further?

23 MR. CHEN: Thank you, Your Honor. Sir, we've been
24 here for quite some time. Is there any other question that
25 you would have heard from myself or Defense counsel or my

1 co-counsel that you thought you had an answer to?

2 PROSPECTIVE JUROR NO. 791: No. I wish I did, but I
3 don't.

4 MR. CHEN: Okay. That's fair. Could you be fair,
5 sir?

6 PROSPECTIVE JUROR NO. 791: Yes.

7 MR. CHEN: All right. I'll pass for cause. Thank
8 you.

9 MR. WESTBROOK: Only one question. I think we're all
10 thinking this. We don't really have to turn our phones off.
11 It really doesn't affect anything when we're in the airplane,
12 right?

13 PROSPECTIVE JUROR NO. 791: That's not necessarily
14 true.

15 MR. WESTBROOK: Really? I thought it was a
16 [inaudible]. It's not?

17 PROSPECTIVE JUROR NO. 791: Certain airplanes do have
18 -- are controlled by radio signal, and it's a very, very
19 minute possibility that that could happen that it could
20 interrupt something, but it could.

21 MR. WESTBROOK: All right. I'll stop --

22 PROSPECTIVE JUROR NO. 791: And the biggest thing is,
23 since you brought it up, the people that have their cellphones
24 on, and they're talking on the cellphones while they're trying
25 to give the safety announcements -- we just saw the accident

1 this last weekend. You listen to that safety announcement,
2 your chances are going to be a lot better you're going to do
3 exactly what you're supposed to do in case of an emergency.

4 MR. WESTBROOK: I'll stop putting it on vibrate. And
5 I'll pass for cause.

6 THE COURT: All right. This is the Defense last
7 peremptory challenge.

8 MR. WESTBROOK: Okay. Your Honor, we would thank and
9 excuse --

10 MS. BALLOU: Hold on for a second. Wait.

11 MR. WESTBROOK: Court's indulgence. We will thank
12 and excuse Roberts, 707, which should be Number 11; is that
13 right?

14 THE COURT: Thank you, Ms. Roberts. Call the next in
15 order.

16 THE CLERK: Richard Nailling, Badge 794.

17 THE COURT: Is it Nailling?

18 PROSPECTIVE JUROR NO. 794: Yes, ma'am. Nailling.

19 THE COURT: All right. Nailling. Mr. Nailling, have
20 you ever been a juror before?

21 PROSPECTIVE JUROR NO. 794: No, ma'am.

22 THE COURT: Have you ever been the victim of a
23 serious crime?

24 PROSPECTIVE JUROR NO. 794: No, ma'am.

25 THE COURT: Has anyone in your family or closely

1 associated with you ever been a victim of a serious crime?

2 PROSPECTIVE JUROR NO. 794: No, ma'am.

3 THE COURT: Have you ever been in law enforcement?

4 PROSPECTIVE JUROR NO. 794: No, ma'am.

5 THE COURT: Anyone closely associated with you in law
6 enforcement?

7 PROSPECTIVE JUROR NO. 794: No, ma'am.

8 THE COURT: Okay. Any reason you feel you could not
9 be fair and impartial in this case?

10 PROSPECTIVE JUROR NO. 794: No, ma'am.

11 THE COURT: Do you have any religious or moral
12 beliefs that would make it unable -- make you unable to sit in
13 judgment of another person?

14 PROSPECTIVE JUROR NO. 794: No, ma'am.

15 THE COURT: Tell us about yourself.

16 PROSPECTIVE JUROR NO. 794: My name is Richard
17 Nailling. I'm born and raised in South Carolina, which I
18 think is a great state, but that's my opinion. Moved out here
19 21 years old, started my career job the very next day. Been
20 in that for almost seven years. Actually tomorrow is my
21 birthday, the 28th. No kids. Do have a significant other for
22 four and a half years. Never been married. I like outdoor
23 stuff.

24 THE COURT: What do you do for your career job?

25 PROSPECTIVE JUROR NO. 794: I work for a company

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1 called CSC, just got bought out by PAE. I'm a Teamster, but
2 we work for the government subcontract. It's a top-secret
3 clearance position I hold. It's about as far as I can get
4 into that.

5 THE COURT: Do you work with computers in your job?

6 PROSPECTIVE JUROR NO. 794: We use them on a daily
7 basis, but it's not [inaudible].

8 THE COURT: Okay. It's not something that -- that
9 you -- you don't work with it directly in your job?

10 PROSPECTIVE JUROR NO. 794: Not as a career field.
11 We have to use a computer throughout the day for certain
12 purposes, but --

13 THE COURT: There's hardly a job anymore that you
14 don't --

15 PROSPECTIVE JUROR NO. 794: Correct.

16 THE COURT: -- use a computer at some point, right?
17 All right. Do you have any computer at home that you use?

18 PROSPECTIVE JUROR NO. 794: Yes.

19 THE COURT: And what do you use it for?

20 PROSPECTIVE JUROR NO. 794: Pretty much [inaudible],
21 so pretty much anything car-, truck-related. I'm not a ganger
22 [phonetic] by any means. Just stuff like that, Netflix; you
23 know, obviously airline, buying tickets, reservations, stuff
24 of that nature.

25 THE COURT: What kind of computer do you have at

1 home?

2 PROSPECTIVE JUROR NO. 794: POS, piece of junk. It's
3 a compact, laptop.

4 THE COURT: All right. But it's a Windows-based
5 computer?

6 PROSPECTIVE JUROR NO. 794: Yes, ma'am.

7 THE COURT: Okay. What does your significant other
8 do?

9 PROSPECTIVE JUROR NO. 794: She's currently in school
10 with -- to be an RN. She works at Desert Springs Hospital in
11 the ER right now as a tech and a unit secretary. She's
12 currently in school right now.

13 THE COURT: All right. So how do you like Nevada
14 since you think South Carolina is the best state?

15 PROSPECTIVE JUROR NO. 794: Well, I would never hunt
16 in this state for one thing. I am a hunter, but I would never
17 pay the money to hunt in this state. It's ridiculous. But as
18 far as the state goes --

19 THE COURT: It's too expensive, is that the reason?

20 PROSPECTIVE JUROR NO. 794: Yes, it's very expensive.
21 And then you don't get to do it -- maybe it's a -- you know,
22 it's a -- they draw your name out of a hat, so to say. Yeah,
23 it's not worth my time. I can go back to South Carolina, hunt
24 cheaper and fish cheaper as a non-resident than I can in my
25 own state, that kind of sucks. But as the state goes, I mean,

1 I'm used to it. I love the convenience of anything at any
2 time. But other than that, I miss, you know, rivers and ponds
3 and, you know, stuff like that; but I'm going to be here for
4 another 30 years so. Bought my dream home two years ago so
5 I'm set.

6 THE COURT: Okay. You miss the humidity?

7 PROSPECTIVE JUROR NO. 794: No. I actually just got
8 back last week from it. I do not miss that, or the
9 mosquitoes.

10 THE COURT: Yeah, the mosquitoes. All right. Do you
11 feel that you could be a fair and impartial juror in this
12 case?

13 PROSPECTIVE JUROR NO. 794: Yes, ma'am.

14 THE COURT: Anything that brings you any pause about
15 or anything you want to tell us about your ability to serve as
16 a juror?

17 PROSPECTIVE JUROR NO. 794: No, ma'am.

18 THE COURT: Thank you.

19 PROSPECTIVE JUROR NO. 794: You're welcome.

20 THE COURT: State may inquire further.

21 MS. ANTHONY: Your Honor, we'll pass for cause.

22 THE COURT: Thank you.

23 MR. WESTBROOK: Sir, if there's anything else you'd
24 like to say, now is the time.

25 PROSPECTIVE JUROR NO. 794: I'm good.

1 MR. WESTBROOK: We'll pass for cause. Thank you.

2 THE COURT: All right. We have our jury. And we are
3 now at the part of the trial where we're going to select
4 alternate jurors. We're going to pick two alternates. The
5 alternate jurors serve a very, very important purpose, and
6 that is if something happens to one of our regular jurors,
7 they have to be able to step in and take over.

8 And so it's really important that the alternate
9 jurors pay attention during the trial because I can tell you
10 that since I've been a judge and doing these trials we have on
11 more occasions than not needed to use the alternate juror, at
12 least one if not more than one, because things happen in life
13 and people get ill or things happen and we've had to use
14 alternate jurors. So it's a very, very important role.

15 So we're going to call the next two in order and put
16 them up in the box and clear them for cause.

17 THE CLERK: Elizabeth Mahalik, Badge 800. And
18 Stephen Miller, Badge 801.

19 THE COURT: All right. Let's see. And, I'm sorry,
20 could you state your badge number and your name again?

21 PROSPECTIVE JUROR NO. 800: Elizabeth Mahalik, 800.

22 THE COURT: Ms. Mahalik, why don't you start by
23 telling us about yourself?

24 PROSPECTIVE JUROR NO. 800: I've lived in Las Vegas
25 since 1962, which is a really long time. I am married for 30

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1 years. We have one son, 21; and four dogs. I've been very
2 active in the business and professional community for many
3 years here in Las Vegas. I'm self-employed. I have my own
4 business. I do business in personal coaching, speaking
5 training. I'm involved in the Chamber of Commerce. I'm the
6 president of my rotary club. I stay very busy. And our son
7 is a junior, just completed his junior year at UMR, and he's
8 here for the summer. My husband just retired from 30 long
9 years at the phone company, and so that's a little about me.

10 THE COURT: So you saw a lot of change in the town
11 since 1962?

12 PROSPECTIVE JUROR NO. 800: You could say that, yes,
13 ma'am.

14 THE COURT: And phone company, I can't even think how
15 many different phone companies we've gone through in the last
16 30 years.

17 PROSPECTIVE JUROR NO. 800: It was Centel, and then
18 it was Sprint, and then it was Embarq, and then it was Century
19 Link, and really it's not even a phone company anymore. It's
20 a -- it's an Internet company that happens to service people's
21 phones.

22 THE COURT: Okay. Have you ever been a juror before
23 in all that time?

24 PROSPECTIVE JUROR NO. 800: Yes, I have.

25 THE COURT: More than one time?

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1 PROSPECTIVE JUROR NO. 800: One time.

2 THE COURT: Just one time?

3 PROSPECTIVE JUROR NO. 800: Uh-huh.

4 THE COURT: How long ago was that?

5 PROSPECTIVE JUROR NO. 800: Let's see, it was
6 probably over 25 years ago.

7 THE COURT: Now do you recall whether it was a
8 criminal or a civil case?

9 PROSPECTIVE JUROR NO. 800: Criminal.

10 THE COURT: Without telling us what the verdict was,
11 did the jury reach a verdict?

12 PROSPECTIVE JUROR NO. 800: We did.

13 THE COURT: Were you the foreperson?

14 PROSPECTIVE JUROR NO. 800: No, I was not.

15 THE COURT: Okay. Anything about that experience
16 that would make you say I never want to be on a jury again?

17 PROSPECTIVE JUROR NO. 800: It was really long. It
18 was two weeks. It was a murder trial, and it was here in
19 Clark County. It was very stressful. It's hard to sit and
20 know that the decision you make will affect someone's life for
21 the rest of their lives.

22 THE COURT: Okay. Have you ever been in law
23 enforcement?

24 PROSPECTIVE JUROR NO. 800: No.

25 THE COURT: And anyone in your family or close

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1 friends in law enforcement?

2 PROSPECTIVE JUROR NO. 800: No. I have a brother in
3 Reno that was a judge; but no one in law enforcement.

4 THE COURT: All right. And your brother in Reno, is
5 he a judge now?

6 PROSPECTIVE JUROR NO. 800: No, he's not.

7 THE COURT: Did he retire or?

8 PROSPECTIVE JUROR NO. 800: No, he got unelected.

9 THE COURT: Not re-elected.

10 PROSPECTIVE JUROR NO. 800: Not his choice.

11 THE COURT: So is he a lawyer?

12 PROSPECTIVE JUROR NO. 800: He was, yes. Now he is
13 serving as a tribal council judge for the Pyramid Lake Indian
14 tribe, and then doing some other judicial work.

15 THE COURT: So do you talk to him a lot about his
16 work?

17 PROSPECTIVE JUROR NO. 800: Very little. You know,
18 mostly just, How's it going; but never any specifics related
19 to cases or anything he's been involved with.

20 THE COURT: So you'll be able to follow the law as
21 you're instructed by this Court and not think about maybe what
22 you've talked about with your brother?

23 PROSPECTIVE JUROR NO. 800: Absolutely, yes.

24 THE COURT: All right. Have you ever been the victim
25 of a serious crime?

1 PROSPECTIVE JUROR NO. 800: My husband had his truck
2 stolen twice, but nothing -- no personal attacks or anything
3 of that sort.

4 THE COURT: Anyone in your family or close friends
5 been the victim of a violent or serious crime?

6 PROSPECTIVE JUROR NO. 800: No.

7 THE COURT: Okay. Ever been accused of a crime?

8 PROSPECTIVE JUROR NO. 800: No.

9 THE COURT: Anyone in your family or closely
10 associated with you?

11 PROSPECTIVE JUROR NO. 800: No.

12 THE COURT: Any reason you think that you could not
13 be a fair and impartial juror in this case?

14 PROSPECTIVE JUROR NO. 800: Nothing that I can think
15 of.

16 THE COURT: All right. Would the State like to
17 inquire further?

18 MR. CHEN: No, thank you, Your Honor. Pass for
19 cause.

20 MR. WESTBROOK: I'll just repeat to you. We've all
21 been here for a long time. Is there any question that has
22 been asked that you would like to give an answer to?

23 PROSPECTIVE JUROR NO. 800: I don't play Candy Crush
24 or -- I don't know what it is.

25 MR. WESTBROOK: So you're wise? I will pass for

1 cause.

2 PROSPECTIVE JUROR NO. 800: But I am on Facebook;
3 but, no, there's nothing that you've asked.

4 MR. WESTBROOK: Thank you very much. We'll pass for
5 -- or waive, I mean.

6 THE COURT: All right. Thank you. And if you would
7 hand the microphone. All right.

8 And, sir, your badge number and name for the record?

9 PROSPECTIVE JUROR NO. 801: Stephen Miller, 801.

10 THE COURT: All right. Mr. Miller, tell us about
11 yourself.

12 PROSPECTIVE JUROR NO. 801: I've been in Las Vegas
13 since '99. I was in the Air Force prior to that. Right now
14 I'm doing public relations. I've got a news media background
15 as well. I have a three-year-old daughter. I am divorced.
16 Two younger sisters; one is actually a former military police
17 officer in the Air Force as well. And that's about it.

18 THE COURT: What was your job while you were in the
19 Air Force?

20 PROSPECTIVE JUROR NO. 801: Broadcast journalist.

21 THE COURT: Oh, okay. That's an interesting job.
22 And then you took that into the civilian world?

23 PROSPECTIVE JUROR NO. 801: Yes.

24 THE COURT: All right. What company do you work for
25 now?

1 PROSPECTIVE JUROR NO. 801: Southwest Gas.

2 THE COURT: So doing the public relation for
3 Southwest?

4 PROSPECTIVE JUROR NO. 801: Public relations, I just
5 started last month. [Inaudible] and public relations, yes.

6 THE COURT: Okay. Ever been a juror before?

7 PROSPECTIVE JUROR NO. 801: I have. Three or four
8 years ago, it was a Federal case here in town. We did reach a
9 verdict after about four days longer than it should have been;
10 but, yes.

11 THE COURT: And were you the foreperson?

12 PROSPECTIVE JUROR NO. 801: I was not.

13 THE COURT: Was it a criminal or civil case?

14 PROSPECTIVE JUROR NO. 801: It was a criminal case.

15 THE COURT: Any reason you feel that you could not be
16 fair and impartial in this case?

17 PROSPECTIVE JUROR NO. 801: No, ma'am.

18 THE COURT: Do you feel that you have expert computer
19 skills of any kind?

20 PROSPECTIVE JUROR NO. 801: Expert is -- I can't do
21 coding or anything like that; but I can work my way around a
22 computer, yes. I know all types of software, everything from,
23 you know, Adobe programs, Photoshop, and Illustrator. Do a
24 lot on social media because of the nature of my job. Spend a
25 lot of time going to different news outlets, their websites,

1 things of that nature.

2 THE COURT: Social media, do you --

3 PROSPECTIVE JUROR NO. 801: Definitely.

4 THE COURT: -- Tweet?

5 PROSPECTIVE JUROR NO. 801: I do tweet, yes.

6 THE COURT: Sort of have to with the job you have,
7 right?

8 PROSPECTIVE JUROR NO. 801: Exactly, exactly.

9 THE COURT: Okay. Yes, will you be tweeting for
10 Southwest Gas?

11 PROSPECTIVE JUROR NO. 801: Yes.

12 THE COURT: Would the State like to inquire further?

13 MS. ANTHONY: No, Your Honor. Pass for cause.

14 THE COURT: Defense?

15 MR. WESTBROOK: Sir, is there anything else that
16 you'd like to say, feel free.

17 PROSPECTIVE JUROR NO. 801: We're all set.

18 MR. WESTBROOK: We'll pass for cause as well.

19 THE COURT: All right. So each side has one
20 peremptory challenge of the alternate. State may exercise.

21 MS. ANTHONY: Your Honor, at this point the State
22 waives.

23 THE COURT: All right.

24 MR. WESTBROOK: And we waive as well, Your Honor.

25 THE COURT: All right. Thank you. We have our jury

1 and we have our two alternates. And the jury first will
2 stand, and alternates remain seated, and the jurors will be
3 sworn.

4 THE MARSHAL: Just the jury please stand, raise your
5 right hand, please.

6 (Clerk administered the oath to the jury panel.)

7 THE CLERK: You may be seated.

8 THE COURT: And the alternates, please stand.

9 THE MARSHAL: Raise your right hand, please.

10 (Clerk administered the oath to the alternates.)

11 THE CLERK: You may be seated.

12 THE COURT: Thank you. Ladies and gentlemen still
13 remaining in the gallery, you will be excused and I --
14 Marshal, do they have to check out with the Jury Commissioner?

15 THE MARSHAL: No, Your Honor, they do not. I do not
16 believe that is necessary.

17 THE COURT: All right. Thank you very much for all
18 your attentiveness and patience.

19 All right. Ladies and gentlemen, it's one o'clock.
20 We're going to take our lunch recess and we'll be in recess
21 until 2:00. Don't go too far away from the courthouse. There
22 are some food outlets here, and then there are some
23 restaurants that are within walking distance; but since we
24 only have an hour don't stray too far.

25 I'm going to read you the admonition that you will

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1 hear every time we go on recess.

2 So during this 60-minute recess it is your duty not
3 to converse among yourselves or with anyone else on any
4 subject connected with the trial, or to read, watch, or listen
5 to any report of or commentary on the trial by any person
6 connected with the trial or by any medium of information,
7 including without limitation newspaper, television, radio or
8 Internet. That includes smartphones. And you are not to form
9 or express an opinion on any subject connected with this trial
10 until it is finally submitted to you.

11 We'll be in recess until two o'clock. Thank you.

12 (Jury recessed at 1:02 p.m.)

13 THE COURT: The record will reflect that the jury has
14 departed. Are there any matters outside the presence?

15 MR. WESTBROOK: Not for us, Your Honor.

16 MS. ANTHONY: Nothing [inaudible].

17 THE COURT: All right. See you at 2:00.

18 (Court recessed at 1:03 p.m. until 2:03 p.m.)

19 (Outside the presence of the jury panel.)

20 THE COURT: All right. We're back on the record in
21 State versus Castaneda, and we are outside the presence of the
22 jury. Are there any matters outside the presence?

23 MS. ANTHONY: No, Your Honor.

24 MR. WESTBROOK: No, Your Honor.

25 THE COURT: Bring them in.

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1 (Jury reconvened at 2:04 p.m.)

2 THE COURT: Thank you. Please be seated. The record
3 will reflect that we are back within the presence of all 12
4 members of the jury, as well as the two alternates. Defendant
5 is present with his counsel. The Deputy District Attorneys
6 prosecuting the case are present, as are all officers of the
7 Court.

8 Will Counsel so stipulate?

9 MS. ANTHONY: Yes, Your Honor.

10 MS. BALLOU: Yes, Your Honor.

11 THE COURT: Thank you. Ladies and gentlemen, this is
12 the time that I get to speak with you for a few minutes about
13 giving you some comments to introduce you to how the case will
14 flow. At the end of the trial I'll give you more detailed
15 instructions in writing, and those instructions are going to
16 control your deliberations in this case.

17 Now this is a criminal case brought by the State of
18 Nevada against the Defendant. It is based upon an indictment,
19 and the Clerk will now read that charging document and state
20 [inaudible].

21 (The Clerk read the Indictment.)

22 THE COURT: Thank you. Now you should distinctly
23 understand that this document which was just read to you is
24 simply a description of the charge made by the State against
25 the Defendant. It is not evidence of anything. It does not

1 prove anything. Therefore, the Defendant starts out with a
2 clean slate. The Defendant has plead not guilty and is
3 presumed innocent.

4 This is a criminal case and there are two basic rules
5 that you must keep in mind. First, the Defendant is presumed
6 innocent unless and until proved guilty beyond a reasonable
7 doubt. The Defendant is not required to present any evidence
8 or to prove his innocence. The law never imposes upon a
9 Defendant in a criminal case the burden of calling any
10 witnesses or introducing any evidence. Second, to convict the
11 State must prove beyond a reasonable doubt the crime was
12 committed and the Defendant is the person who committed the
13 crime.

14 It will be your duty to decide from the evidence to
15 be presented whether the Defendant is guilty or not guilty.
16 You are the sole judges of the facts. You will decide what
17 the facts are from the evidence which will be presented. The
18 evidence will consist of testimony of witnesses and documents
19 and other things received into evidence as exhibits.

20 You must apply the facts to the law which I shall
21 give you and in that way reach your verdict. It is important
22 you perform your duty of determining the facts diligently and
23 conscientiously for ordinarily there is no way of correcting
24 an erroneous determination of facts by the jury.

25 You should not take anything I may say or do during

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1 the trial as indicating my opinion as to how you should decide
2 the case or to influence you in any way in your determination
3 of the facts. At times I may even ask questions of witnesses.
4 If I do so, it is for the purpose of bringing out matters
5 which should be brought out and not in any way to indicate my
6 opinion about the facts or to indicate the weight or value you
7 should give to the testimony of a witness.

8 In deciding the facts of this case you may have to
9 decide which witnesses to believe and which witnesses not to
10 believe. You may believe everything a witness says or only
11 part of it or none of it.

12 In considering the weight or value of the testimony
13 of any witness, you may consider the appearance, attitude, and
14 behavior of the witness when testifying and number of other
15 things, including the witness's ability to see, or hear, or
16 know of the things the witness testifies to, the quality of
17 the witness's memory, the inclination of the witness to speak
18 truthfully, whether or not the witness has any interest in the
19 outcome of the case, or any motive, bias, or prejudice,
20 whether the witness is contradicted by anything the witness
21 said or wrote before the trial, and how reasonable is the
22 witness's testimony when considered with other evidence which
23 you believe.

24 In deciding whether or not to believe a witness keep
25 in mind people sometimes forget things. You need to consider

1 whether a contradiction is an innocent lapse of memory or an
2 intentional falsehood, and that may depend on whether it has
3 to do with an important fact or only a small detail.

4 The weight or value of evidence does not necessarily
5 depend on the number of witnesses testifying for one side.
6 You must consider all the evidence and you may decide the
7 testimony of a smaller number of witnesses on one side has
8 more weight or value than that presented by a larger number of
9 witnesses on the other side.

10 Now there are two kinds of evidence: Direct and
11 circumstantial. Direct evidence is testimony about a witness,
12 what a witness personally saw, heard, or did. Circumstantial
13 evidence is indirect evidence. It is proof of one or more
14 facts from which one can find another fact.

15 So by way of example, if you wake up in the morning
16 and the streets are -- gutters are running with water, there's
17 water dripping off the eaves of your house, you could from
18 those facts infer that, in fact, it rained during the night
19 because that's proof of one fact -- one or more facts from
20 which you could find another fact, the fact that it rained.

21 Now if you had been awake and you had gone outside
22 and observed the rain falling from the sky that would be
23 direct evidence, which is something that you personally saw
24 and maybe heard as well. You may consider both direct and
25 circumstantial evidence in deciding this case. The law

1 permits you to give equal weight or value to both, but it is
2 for you to decide how much consideration to give any of it.

3 Certain things are not evidence and you must not
4 consider them as evidence in deciding the facts of this case:
5 Statements and arguments by the attorneys, questions and
6 objections of the attorneys, testimony I instruct you to
7 disregard, anything that you may see or hear if the Court is
8 not in session, even if what you see or hear is done or said
9 by one of the parties or by one of the witnesses.

10 Remember, evidence is sworn testimony by a witness
11 while Court is in session and documents and other things
12 received into evidence as exhibits. There are rules of law
13 which controls what can be received into evidence. When a
14 lawyer asks a question or offers an exhibit into evidence and
15 the lawyer on the other side thinks that it is not permitted
16 by the rules, that lawyer may object.

17 If I overrule the objection, the question may be
18 answered or the exhibit received. If I sustain the objection,
19 the question cannot be answered and the exhibit cannot be
20 received. Whenever I sustain an objection to a question,
21 ignore the question. Do not guess what the answer might have
22 been.

23 Sometimes I may order evidence stricken from the
24 record and tell you to disregard or ignore that evidence.
25 This means when you're deciding the case you must not consider

1 any evidence that I've told you to disregard.

2 It is the duty of a lawyer to object to evidence
3 which the lawyer believes may not be permitted under the rules
4 and you should not be prejudiced in any way against the lawyer
5 who makes objections on behalf of the party the lawyer
6 represents.

7 Also I might find it necessary to admonish a lawyer.
8 If I do, you should not be prejudiced toward the lawyer or the
9 client because I have found it necessary to admonish the
10 lawyer.

11 You are not to concern yourself in any way with the
12 sentence which the Defendant might receive if you should find
13 the Defendant guilty. Your function is to decide whether the
14 Defendant is guilty or not guilty of the charge. If, and only
15 if, you find the Defendant guilty then it becomes the duty of
16 the Court to pronounce sentence.

17 At the end of the trial you'll have to make up your
18 -- your minds and your decision on what you recall of the
19 evidence. You will not have a written transcript to consult
20 and it's difficult and time-consuming for the court recorder
21 to play back lengthy testimony, so I urge you to pay close
22 attention to the testimony as it is given.

23 Now if you wish, you may take notes to help you
24 remember what a witness or witnesses have said. Now if you do
25 take notes, please keep them to yourself until you and your

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1 fellow jurors go to the jury room to decide the case.
2 However, please do not let notetaking distract you so that you
3 do not hear other answers by witnesses. You should rely upon
4 your own memory of what was said and not be overly influenced
5 by the notes of other jurors.

6 Until this case is submitted to you do not talk to
7 each other about it or about any -- you know, with it -- about
8 the case or talk about it with anyone else and do not talk
9 about anything that has anything to do with this case or the
10 people testifying until you have returned to the jury room to
11 decide on your verdict. Don't talk with each other about the
12 case.

13 Now when I say "anyone else," don't talk to anyone
14 else about this case that means your family and your friends
15 who will be very curious about what you're doing all week.
16 And when you get home they may say, So, tell me about the
17 trial. And you will say, Sorry, can't do that, the judge has
18 instructed us not to discuss the case and I cannot discuss it.

19 After the case is fully over and you have been
20 discharged as jurors then you will be relieved of that duty;
21 but in the meantime, you should not talk about the case to
22 anyone. If someone should try to talk to you, please report
23 it to me immediately by contacting the bailiff.

24 Do not read any news stories, listen to any radio
25 broadcasts, or watching television reports about the case or

1 about anyone that has anything to do with it. Do not do any
2 research or any investigation about the case on your own.
3 That means anything, any research on the Internet, on smart
4 phones at all, either about this case, about anyone involved
5 in this case, anything. Do not do research.

6 You might be tempted to visit the area, the address
7 that was read to you by the District Attorney in this case.
8 Please do not do so in view of the time that's elapsed since
9 this case has come to trial substantial changes could have
10 occurred at that location. And besides that, making an
11 unauthorized visit without the benefit of an explanation you
12 might get an erroneous impression; therefore, please just
13 avoid going near or past any location mentioned in this case
14 until after the case has been completed.

15 Now a juror may not declare to a fellow juror any
16 fact relating to this case of which the juror has knowledge.
17 If any juror discovers during the trial or after the jury has
18 retired and you're deliberating that the juror or any other
19 juror has personal knowledge of any fact that's in controversy
20 in the case then that juror shall disclose the situation to me
21 in the absence of the other jurors.

22 That means if you learn during the course of the
23 trial that you have personal knowledge of any fact which is
24 not presented by the evidence in the case, you must declare
25 that fact to me and you communicate with the Court through the

1 marshal.

2 Don't make up your mind about what the verdict should
3 be until after you have gone to the jury room to decide the
4 case and you and your fellow jurors have discussed the
5 evidence. It is very important that you keep an open mind.

6 Now the trial will proceed in this manner: The
7 Deputy District Attorney will make an opening statement, which
8 is an outline to help you understand what the State expects to
9 prove. Next the Defendant's attorney may, but does not have
10 to, make an opening statement. Opening statements serve as an
11 introduction to the evidence which the party making the
12 statement intends to prove.

13 State will then present its evidence and counsel for
14 the Defendant may cross-examine the witnesses. Following the
15 State's case, the Defendant may present evidence and the
16 Deputy District Attorney may cross-examine those witnesses.
17 However, as I have said, the Defendant is not obligated to
18 present any evidence.

19 After all of the evidence has been presented I will
20 instruct you on the law. After the instructions on the law
21 have been read to you then each side will have the opportunity
22 to present oral argument. Now what is said in these closing
23 oral arguments is not evidence. The arguments are designed to
24 summarize and interpret the evidence.

25 Since the State has the burden of proving the

1 Defendant guilty beyond a reasonable doubt the State has the
2 right to open and close the arguments. After the arguments
3 have been completed you will then retire to deliberate on your
4 verdict.

5 And as I've cautioned you before, during the course
6 of the trial the attorneys for both sides and all court
7 personnel, other than the marshal, are not permitted to
8 converse with members of the jury. These individuals are not
9 being anti-social. They're bound by ethics and the law from
10 communicating with you.

11 Your communications with the marshal are not to
12 communicate about the case at all. You may not discuss the
13 case with the marshal. Communicate with the marshal about
14 things like it's too hot, it's too cold, we need to take a
15 recess, I need to have time to stretch, those types of things.

16 Any concerns also that you have, as I told you, where
17 you think that you've learned something that you have personal
18 knowledge of or somebody has not complied with any of these
19 rules and you need to report it to me, you do that through the
20 marshal as well. All right.

21 The State may make its opening statement.

22 MS. ANTHONY: Thank you, Your Honor. May I have it
23 switched over, please?

24 STATE'S OPENING STATEMENT

25 MS. ANTHONY: The first witness in this case is going

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1 to be Tami Hines. She's going to come in here and she's going
2 to tell you how she came into possession of a USB stick, a USB
3 stick that belongs to the Defendant. She and her boyfriend at
4 the time, his name is Michael, had come into some hard times.
5 They were waiting on a disability check, and while they were
6 waiting on that check they moved in with the Defendant.

7 Tami, her four children, and Michael moved into a
8 house on Beverly Way with the Defendant, Anthony Castaneda.
9 They moved in on November -- in November of 2009. Mike and
10 Tami moved in with the Defendant. And again, Tami has four
11 daughters. She has two twins. She has a daughter named
12 Bethany. She has a daughter named Rebecca.

13 The check that they had been waiting on came in and
14 it came in on February of 2010. Once they received the check,
15 Tami and Mike, they moved out of the Defendant's house; and
16 when they moved out, they moved into a condo. While they were
17 at the condo, couple days later they were unpacking their
18 things, and Mike found a USB stick in the totes because they
19 had some, like, Tupperware totes that they had moved their
20 stuff into.

21 Mike found it. It was late at night. He saw it. He
22 saw it was an 8-gig USB stick. He said, Huh, all right, well,
23 I'm going to use this. And he puts it into the computer and
24 he finds the child pornography on that USB stick. He wakes up
25 Tami. When he wakes up Tami, they sit at the computer and

1 they go through the images that were on that USB stick. So
2 that happened February 7, 2010.

3 And the very next morning Tami and Mike take that USB
4 stick, the USB stick is turned over to the lead detective in
5 this case, who is Detective Tooley. You are also going to
6 hear from her. She takes possession of that USB stick. And
7 this is a photograph of it. This is the USB stick that had
8 initially got this case started.

9 She takes -- Detective Tooley takes possession of
10 this USB stick and -- well, let me back up for a moment. She
11 takes the USB stick and she gets a search warrant for it. She
12 gets a search warrant and Detective Ramirez is the first
13 detective who looks on that USB stick and he is the one who
14 does forensic analysis of that USB stick.

15 And during his forensic analysis he finds some items
16 on that USB stick that belong to the Defendant. This is not
17 all of the items that were found on the USB stick with the
18 Defendant's personal belongings, but these are some of the
19 main ones: A copy of the Defendant's driver's license, a copy
20 of the Defendant's UNLV Rebel card, the Defendant's Social
21 Security card, and the Defendant's Cal State University Fresno
22 Bachelor of Science in computers. I think it's a technical
23 name of -- let me make sure I don't get it wrong -- Industrial
24 Technology Manufacturing Industries.

25 That USB stick, forensic analysis was done on it.

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1 Detective Ramirez is going to come and talk to you about it.
2 And on that USB stick are images. Those images, one of them,
3 the title of that image, it's a jpg, 2girls01, EURO-001,
4 GIRL69, girlondick06, girlondick08, NEW-01, NEW-22, and
5 NEW-47. Each of those images -- those are the titles of them
6 on that -- on that USB stick -- each of those images have a
7 photograph.

8 And I guess at this point I should probably let you
9 all know that both the State and the Defense, you're going to
10 hear a stipulation, during this trial in this courtroom we are
11 not going to show you those photographs. They are going to be
12 admitted into evidence. You will have them in the jury room
13 to look at. We won't put them on the Elmo. We won't put them
14 up on the Powerpoint. They will be available for you back in
15 the jury room. And that's the stipulation you will be read.
16 All right.

17 So Detective Ramirez goes through the search warrant.
18 He finds these items on the USB stick, gives that information
19 to the lead detective, who is Detective Tooley. Detective
20 Tooley, April 7, 2010, she's in possession of a search warrant
21 and they go to the Defendant's house. They serve the search
22 warrant at the Defendant's home.

23 You will learn the Defendant, obviously it's his
24 home. He was living there and he will -- the son moved in
25 approximately three weeks prior to this April 7, 2010 date.

1 The Defendant's home. You will see some photographs. It's at
2 2205 Beverly Way. And one of the items they find in the home
3 to show that he lived there is a Cox Cable bill with his name
4 on it. All right.

5 So inside the home what do they find? They find --
6 this is in the main room. It's the Defendant's computer. And
7 you'll see one of the members of the FBI was present during
8 this search warrant and they put up through the house these
9 letters so that you can identify which rooms items were found
10 in. So on room where there's C, that's where the Defendant's
11 main computer was, and on that computer they found images of
12 child pornography.

13 On that computer the title of it is a shuttle, so
14 we'll often refer to it as a shuttle, the following images
15 were found: 2 girls01, 2 girls, EURO-002, EURO-001, GIRL69,
16 girlondick08, NEW-01, NEW-22, NEW-33, NEW-35, NEW-38, NEW-43.
17 Those were found on the Defendant's main computer, and like I
18 said, we'll refer to it as the shuttle. Additionally, NEW-44
19 and NEW-47.

20 Additionally in the house there was another computer,
21 it was a laptop, an HP notebook, and on that images of child
22 pornography were also found. Again, forensic analysis and the
23 items found on that computer were: 2girls01, 2girls,
24 EURO-002, EURO-001, GIRL69, girlondick06, girlondick08,
25 NEW-01, NEW-33, this is jpg, but it was also called

1 girlondick32, NEW-35, NEW-43, NEW-44, NEW-47.

2 You're going to hear, which I just kind of ran
3 through for you, during the presentation of evidence in this
4 case that USB stick that belonged to the Defendant had the
5 child pornography on it. Additionally, child pornography was
6 found on both of those two computers. We're going to go
7 through and talk about where they were found and how they were
8 found and how these items will tell you they were in the
9 Defendant's possession and he possessed the child pornography
10 in this case.

11 Additionally, some forensic analysis was done on this
12 computer and how it was connected to the Internet. You're
13 going to learn the Defendant's computer had search terms,
14 search terms that were used, one of them was "young". And the
15 search term "young" was placed into several different Internet
16 websites, and I'm not going to go through all of them right
17 now, but a couple of them and examples are: FUQ.com and
18 Pornsunami.

19 Ladies and gentlemen, we're going to present evidence
20 to you, myself and my co-counsel, Mr. Alex Chen, we're going
21 to be presenting you the evidence in this case, and after we
22 are done presenting the evidence in this case we're going to
23 ask that you find the Defendant guilty of 15 counts of
24 possession of visual presentation depicting sexual conduct of
25 a child. Thank you.

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1 THE COURT: Thank you. Defense, would you like to
2 make an opening?

3 MR. WESTBROOK: I would, Your Honor. Thank you.

4 THE COURT: Thank you.

5 DEFENDANT'S OPENING STATEMENT

6 MR. WESTBROOK: The smallest mistake can lead to the
7 biggest mistake of all. This is a case where the police and
8 the District Attorneys have made a variety of small mistakes
9 by overlooking details and failing to answer questions that
10 need to be answered, failing to ask questions that need to be
11 asked, and by jumping to conclusions and accepting things at
12 face value without taking one little peek underneath.

13 Mr. Castaneda is not guilty of possessing the
14 pictures in this case and at the end of your deliberations
15 that is exactly how I would expect you to find him: Not
16 guilty.

17 Let's talk about the little details that have already
18 been left out by the State. You heard that Tami is going to
19 testify about finding a thumb drive and that that thumb drive
20 had basically two things on it: Pornography and pictures and
21 identification of Mr. Castaneda; so pornography and pictures
22 of his license and his personal information and his birth
23 certificate, and other things like that.

24 Now you just heard that Tami was living in the house
25 from November, 2009 to 2010. That's actually the second time

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1 she's lived in the house. She's been Mr. Castaneda's roommate
2 on two different occasions. The first time was actually
3 February of 2009 through late April or May of 2009. Then she
4 was gone for a while and then she came back. A little detail,
5 but it was just overlooked.

6 You were also told just now that Tami will tell you
7 that this thumb drive belonged to Mr. Castaneda. She will
8 never tell you that because she doesn't know that. In fact,
9 nobody knows this thumb drive belongs to Mr. Castaneda and the
10 reason is because that is based on an assumption.

11 His driver's license picture was on it and some of
12 his personal documents were on it. That does not mean that he
13 owned it or that it belonged to him or that he ever even saw
14 it. It's an assumption. It's a conclusion that has been lead
15 to and not gotten to through careful analysis. That is what
16 the evidence will show.

17 So what is this case about? Well, as you just heard,
18 there's been a stipulation in this case. You don't often see
19 lawyers agree on something. In this case you have. There is
20 absolutely no question in anybody's mind that the images that
21 were seized by police are images of child pornography in the
22 most awful way.

23 They are images of child pornography. They meet the
24 statutory definition. And because of our stipulation we've
25 elected not to show them to you. They are in evidence. You

1 will have the option to view them if you like. But as far as
2 determining that they are, in fact, child pornography, we've
3 agreed that's a fact in this case and you can accept it as a
4 fact and the Court will read you a stipulation later. So
5 that's not an issue here. That's not an issue.

6 There is also no issue as to whether or not Mr.
7 Castaneda produced these images or took these pictures or knew
8 any of the people in the pictures. That is not an issue. He
9 did not. The State's own witnesses will tell you that these
10 pictures have been around for many, many years. They have
11 been the subject of many trials and they will probably
12 unfortunately be the subject of trials in the future.

13 They were developed five, six, seven years ago. Many
14 of the people inside the pictures are known because of FBI and
15 other investigations. And there's no question that Mr.
16 Castaneda is not responsible for taking these pictures. So
17 that is not before you. That is not an issue here. There's
18 no charges associated with that.

19 The one and only issue you're going to be deciding
20 based on the evidence, based on what was done by police and
21 what was not done, the only thing you'll be deciding is
22 whether or not Mr. Castaneda willfully and knowingly possessed
23 these images.

24 Now you're going to hear from some computer -- some
25 computer guys, police forensic computer guys. They're going

1 to present evidence to you in a way where they attempt to
2 leave little room for doubt. That's going to be how they
3 present things.

4 Listen to what they say to you and then make note of
5 all the things they didn't do. Take a look at every leap of
6 logic and every assumption they make and then decide whether
7 or not there's evidence to support that assumption and that
8 leap of logic. I think you'll find that there is not.

9 Someone once said -- probably recently, in fact --
10 that people can sometimes get stuck on what is known. That's
11 what happened to the police in this case. They were presented
12 with some really disturbing images. They were told by this
13 person Tami, who you're going to meet, that the images came
14 from Mr. Castaneda.

15 They were told this. They accepted it at face value.
16 They did no investigation of Tami whatsoever. The evidence
17 will show they didn't look at her computer. They didn't look
18 at her boyfriend's computer. They didn't question the source
19 at all. They took it at face value. They were stuck on what
20 is known.

21 And then after taking what is known, which is here we
22 have some really disturbing images of child pornography, they
23 then proceeded as if that was the fact and that was the truth
24 and they never questioned it again. Investigators who are
25 charged with the obligation to find the truth never questioned

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1 it after their initial assumptions. That is what you will
2 find when you hear their testimony.

3 And every time they make a leap of logic and every
4 time they rely on an assumption without questioning it, you
5 will have a reasonable doubt, a doubt in your mind as to
6 whether or not the State has proven that Mr. Castaneda
7 willfully possessed and knowingly possessed this child
8 pornography.

9 The smallest mistake can lead to the biggest
10 tragedies. What we're asking you to do in this case where the
11 smallest mistakes have already been made and some medium-sized
12 ones and some bigger ones, we're asking you to stop the
13 mistakes right now, to look at the evidence for what it is,
14 and to keep the final tragedy from happening to this man, Mr.
15 Castaneda. Thank you.

16 THE COURT: Thank you. State will call its first
17 witness.

18 MS. ANTHONY: State calls Tami Hines.

19 TAMI HINES, STATE'S WITNESS, SWORN

20 THE CLERK: Please be seated. Please state your name
21 and spell it for the record.

22 THE WITNESS: My name is Tami Hines, T-A-M-I; Hines,
23 H-I-N-E-S.

24 DIRECT EXAMINATION

25 BY MS. ANTHONY:

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1 Q Hi, Tami.

2 A Hi.

3 Q Right in front of you is a microphone there.

4 It's got the bright lights on it. Try to speak into that so

5 everybody can hear. And, obviously, yeses and nos instead of

6 uh-huh and nodding of heads, okay?

7 A Okay.

8 Q All right. Do you know Anthony Castaneda?

9 A Yes.

10 Q Okay. Do you see him in the courtroom today?

11 A Yes.

12 Q Can you point to him and tell us what he's

13 wearing today, please?

14 A He's wearing a blazer and a light blue t-shirt

15 next to the gentleman in the suit with the pink tie and shirt.

16 MS. ANTHONY: Your Honor, may the record reflect the

17 identification of the Defendant.

18 THE COURT: It will.

19 MS. ANTHONY: Thank you.

20 BY MS. ANTHONY:

21 Q How do you know the Defendant?

22 A I met Mr. Castaneda in roughly the summer of

23 2008 when I lived at the Budget Suites with my children; he

24 had resided there as well.

25 Q Okay. And children, how many do you have?

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1 A Four.

2 Q And are they all female?

3 A Yes.

4 Q And tell us their ages, start with their age and
5 name now; and then we'll go back.

6 A Their name and age, okay. Sonya and Sarah,
7 they're my twins, their age is 21. My middle child, her name
8 is Bethany and she is now 16. And my youngest is Rebecca and
9 she is now currently 10.

10 Q All right. So let's go back and I kind of want
11 to get age breakdown. So in 2010, how old would each of them
12 have been?

13 A The twins would have been 18 -- well, 2010,
14 early 2010 they would have only been 17.

15 Q Okay. And then Bethany?

16 A Would have been 13.

17 Q And then Rebecca?

18 A Six.

19 Q Okay. And you said you were living at the
20 Budget Suites?

21 A Yes.

22 Q And when you lived at the Budget Suites it was
23 you and your four children?

24 A Yes.

25 Q And you said Tony lived at the -- meaning the

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1 Defendant, correct?

2 A Yes.

3 Q He lived at Budget Suites as well?

4 A Yes.

5 Q Did he have his own room at Budget Suites?

6 A Yes.

7 Q The two of you guys didn't live together?

8 A No.

9 Q Okay. Did there come a time after the Budget
10 Suites that you moved in with the Defendant?

11 A Yes.

12 Q Okay. When was that?

13 A The -- roughly February, 2009.

14 Q And let's -- how many times have you lived with
15 the Defendant?

16 A Twice.

17 Q Okay. So the first one would be in February,
18 2009?

19 A Yes.

20 Q Okay. When you moved in with the Defendant,
21 what address was that?

22 A 2205 Beverly Way.

23 Q And when you moved in with him the second time,
24 was it the same address?

25 A Yes.

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1 Q And is Beverly Way here in Clark County, Nevada?

2 A Yes.

3 Q The first time when you moved in February, 2009,

4 who else was living in the house?

5 A Myself, Mr. Castaneda, and my children.

6 Q All four of them?

7 A Yes.

8 Q Okay. How long did you live there with them in

9 2009?

10 A Till the beginning of June, 2009, when I had

11 moved out.

12 Q Okay. And at that time why were you living with

13 the Defendant?

14 A I -- my current husband had taken off back to

15 the State of Maryland. I was a single mom with a very ill

16 stepdad, needed a place to currently stay, and Mr. Castaneda

17 offered.

18 Q Offered for you to live with him?

19 A Yes.

20 Q And your family?

21 A Yes.

22 Q And during that time, how was the relationship

23 with the Defendant?

24 A Fine.

25 Q Were the two of you friends?

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1 A We were friendly, yes. You could say we were
2 friends, yes.

3 Q Okay. And why did you move out in June of 2009?

4 A I wound up moving in with my sister.

5 Q And where was your sister living?

6 A Over by -- off of Las Vegas Boulevard, south
7 over by Silverton Casino.

8 Q Was she living in an apartment?

9 A Yes.

10 Q Okay. And you, your four children, did you move
11 in with your sister?

12 A Yes.

13 Q And how long did you live with your sister?

14 A Till November.

15 Q And are we still talking 2009?

16 A Yes.

17 Q Okay. And when you moved out with your sister,
18 out from your sister's apartment, where did you move into?

19 A Town and Country.

20 Q And what is Town and Country?

21 A Town and Country, weekly apartments down off of
22 Boulder Highway.

23 Q And who did you move into the weekly with?

24 A My current boyfriend, Michael, and my children.

25 Q And he was your current boyfriend at the time?

1 A Yes.

2 Q Okay. You no longer are dating him now?

3 A No.

4 Q Okay. So you moved into these weekly
5 apartments?

6 A Uh-huh.

7 Q How long did you stay in those apartments?

8 A For roughly four weeks, short period of time.

9 Q Okay. When you moved out of the -- I'm sorry.
10 I can't remember the name. What did you just tell me?

11 A Town and Country.

12 Q Okay. Town and Country. When you moved out of
13 Town and Country, where did you move?

14 A Back in with Mr. Castaneda.

15 Q Okay. And about what time was that?

16 A Thanksgiving time, few days before, I believe,
17 in November of 2009.

18 Q All right. And you moved back into the 2205
19 Beverly Way?

20 A Yes.

21 Q Who -- at the time, who moved into that house?

22 A Myself, Michael, and my four girls.

23 Q And then obviously the Defendant was living
24 there?

25 A Yes.

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1 Q Was anybody else living there at the time?

2 A No.

3 Q When you moved in in November of 2009, what were
4 the living arrangements like?

5 A Fine. We had made an agreement as far as
6 monetary to help out. Mr. Castaneda recently lost his
7 position at -- I believe it was Unisys, and he had told us
8 that he was in a financial situation himself because he was
9 only collecting Unemployment. He had offered for us to stay
10 if we would help him. It would help him as well, you know, it
11 would help us too.

12 Q And how was it going to help you out?

13 A Financially, 500 a month including utilities
14 seemed pretty reasonable.

15 Q And was there a check that you and Michael were
16 waiting on?

17 A Yes.

18 Q Okay. Tell us about that.

19 A Michael had applied for Disability two years
20 prior to that and was still playing -- he had recently then
21 received his Disability but they owed him his back money, so
22 his back money takes a period of time for them to give -- for
23 him to receive, that's what we were waiting for.

24 Q And did that money come through?

25 A Yes.

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1 Q And when did that money come through?
2 A The beginning of February.
3 Q And was that February, 2010?
4 A Yes.
5 Q Once that money came through, what happened?
6 A We moved.
7 Q And who is we?
8 A Michael, myself, and the girls.
9 Q So you moved out of the Defendant's house?
10 A Yes.
11 Q All right. When you moved out of the house,
12 where did you, Michael, and the girls go?
13 A We went to the condo on the southwest side of
14 town at Flamingo and Jones.
15 Q And February of 2010 is when you moved out?
16 A Yes.
17 Q And do you recall the exact date that you moved
18 out?
19 A No. I want to say roughly around the 3rd.
20 Q Okay. And when you moved out, how did you pack
21 your belongings?
22 A In totes.
23 Q Describe a tote for us.
24 A Big container, Rubbermaid-type, not necessarily
25 Rubbermaid. A lot of them were pink. They had the lids that

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1 went over the top of them.

2 Q Okay. And approximately how many did you and
3 your family have?

4 A Ten, 12.

5 Q And so that's how you moved out of the
6 Defendant's house?

7 A Yes.

8 Q When you moved into this condo, did you
9 immediately unpack those totes?

10 A No.

11 Q Okay. Did something happen a couple days later
12 after you moved that's caused you obviously to come here and
13 testify?

14 A Yes.

15 Q What happened?

16 A I was asleep on the sofa -- I was watching a
17 movie, I had fallen asleep, and Mike was on the computer in
18 our kitchen and he had awakened me to tell me --

19 MR. WESTBROOK: Objection, hearsay.

20 MS. ANTHONY: Your Honor, it's going to go to the
21 effect upon the listener. He tells her what happens, and it
22 wakes her up, and she comes in, participates in viewing as
23 well.

24 THE COURT: Overruled.

25 BY MS. ANTHONY:

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1 Q All right. So what did Mike tell you?

2 A Mike told me that I needed to see what was on
3 this flash drive.

4 Q Okay. And once he told you that, what did you
5 do?

6 A Got up, walked over, and sat down next to him
7 and we viewed the flash drive.

8 MS. ANTHONY: Your Honor, I actually need the Elmo.
9 If I could take a moment to bring the Elmo over and set it up.

10 THE COURT: Certainly.

11 MS. ANTHONY: [Inaudible.]

12 THE COURT: Andrew will assist.

13 BY MS. ANTHONY:

14 Q Let me ask you -- let me -- while they're
15 getting it together I think I can ask you a couple questions
16 and you can kind of -- I'll move through.

17 MR. WESTBROOK: Actually, Your Honor, before she goes
18 on with that I have another objection, and that's to the
19 relevance of the flash drive. I don't believe that there has
20 been any testimony whatsoever that indicates that it's Mr.
21 Castaneda's flash drive, so there's a foundational objection
22 and a relevance objection.

23 MS. ANTHONY: At the moment I'm not talking about the
24 flash drive. I'm going to ask other questions. I can clearly
25 lay a foundation that this USB drive is clearly the

1 Defendant's.

2 THE COURT: All right. So just let's wait though
3 till we get the technical difficulties ironed out.

4 MS. ANTHONY: Okay.

5 THE COURT: It's kind of distracting.

6 (Pause in proceedings.)

7 THE COURT: All right. The objection is overruled.
8 Proceed.

9 MS. ANTHONY: Thank you.

10 BY MS. ANTHONY:

11 Q All right. Let's back up for a moment so we can
12 get some more details from you. When you moved out in
13 February, 2010 from the Defendant's house? Yes?

14 A Yes, yes.

15 Q Thank you.

16 A Sorry.

17 Q When you moved out, what type of terms were you
18 on with the Defendant when you moved out?

19 A Mr. Castaneda had given me a notice asking for
20 us to leave in January. We weren't on the best of
21 circumstances, but even amongst my leaving I still provided
22 him with monetary value the day I moved out of the house.

23 Q So you said "monetary value," what do you mean
24 by that?

25 A \$400.

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1 Q So the day that you moved out you provided the
2 Defendant \$400?

3 A Yes.

4 Q How did that come about? How did you physically
5 give him that \$400?

6 A We had finished packing up the truck that was
7 sitting in the driveway.

8 Q And who is "we"?

9 A Michael and I. And Michael had handed me \$400
10 to walk into the house and hand it to Tony, of which I did. I
11 said "thank you," and I left.

12 Q And when you said you weren't on the best of
13 terms, did you have any animosity towards the Defendant?

14 A Mr. Castaneda was very much the uncle-type to
15 children and a lot of times when I had said, No, Uncle Tony
16 had said, Yes.

17 MR. WESTBROOK: Objection, this is non-responsive.

18 THE COURT: Overruled, but -- okay. Gentlemen,
19 technician's here. I want this, like, done. I can't have
20 people --

21 UNIDENTIFIED SPEAKER: Well, Your Honor, we have
22 problems with this equipment.

23 THE COURT: Okay. So do we need to get -- have a
24 recess for five minutes?

25 UNIDENTIFIED SPEAKER: Five minutes, Your Honor.

1 THE COURT: I can't have people crowding around here.

2 UNIDENTIFIED SPEAKER: This -- this Elmo seems to be
3 broken, Your Honor. It has a problem with the one that screws
4 in the back.

5 THE COURT: All right. And you need to use this so,
6 right?

7 MS. ANTHONY: Yes, Your Honor.

8 THE COURT: All right. Okay. So we're going to take
9 a 10-minute recess because I find that when I get a 5-minute
10 estimate on technical difficulties, it never takes only 5
11 minutes. So we're going to take a 10-minute recess.

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

21 We'll be in recess for 10 minutes.

22 (Court recessed at 3:04 p.m. until 3:06 p.m.)

23 (Out of the presence of the jury panel.)

24 MR. WESTBROOK: Okay. As the Court knows, I'm a
25 little under the weather and I really wasn't paying attention

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1 to this earlier and I'd forgotten about it when we first got
2 in otherwise I would have brought it up immediately.

3 But when I was downstairs getting a sandwich one of
4 the jurors, the pilot, saw me in line, and he said something
5 to me, but I don't know what it was, and I merely nodded at
6 him and went like this, putting my fingers to my lips to
7 indicate that I could not talk, and that was the entirety of
8 the -- of the interaction; and then I -- his reaction the
9 minute I did this was, like, oops. He didn't actually say
10 that. He didn't talk to me anymore. I think it's nothing
11 but, you know, I just wanted to report it so the State was
12 aware and everybody was aware. I just think he was being
13 courteous and I don't even know what he said.

14 THE COURT: All right. Thank you, Counsel.

15 MR. WESTBROOK: Thank you. I'm sorry I didn't bring
16 that up earlier.

17 THE COURT: Off the record.

18 (Court recessed at 3:06 p.m. until 3:19 p.m.)

19 (In the presence of the jury panel.)

20 THE COURT: Thank you. Please be seated. The record
21 will reflect that we are back within the presence of all 12
22 members of the jury, as well as the two alternates. The
23 Defendant is present with his Counsel. Deputy District
24 Attorneys prosecuting the case are present as are all officers
25 of the Court.

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1 Will Counsel so stipulate?

2 MS. ANTHONY: Yes, Your Honor.

3 MS. BALLOU: Yes, Your Honor.

4 THE COURT: Thank you. And you may proceed. You'll
5 have to re-ask the last question.

6 MS. ANTHONY: All right.

7 DIRECT EXAMINATION, resumed

8 BY MS. ANTHONY:

9 Q So when we last left off you were discussing
10 Uncle Tony and that your --

11 MR. WESTBROOK: Objection. That's an improper
12 question, Your Honor. And I also objected to that as being
13 non-responsive, so I move to strike both or half a response
14 and the State's question.

15 THE COURT: Well, she hasn't asked a question. I
16 don't know what the question was anymore that you objected to,
17 that's why I asked her to please restate the question. So
18 without commenting [inaudible] where we were, just ask the
19 next question.

20 MS. ANTHONY: Thank you.

21 THE COURT: Thank you.

22 BY MS. ANTHONY:

23 Q When you were living -- let's go back a little
24 bit. February of 2009 when you first -- the first time you
25 moved in with the Defendant.

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1 A Yes.

2 Q The first time you moved in with the Defendant,
3 he was helping you out, correct?

4 A Yes.

5 Q And how was he helping you out?

6 A He allowed myself and my children to stay there
7 and he didn't ask any monetary value for our staying there.

8 Q And during that time, that's when you discussed
9 your stepfather was having some problems?

10 A Yes.

11 Q And at that point how was the Defendant helping
12 you with the children?

13 A He was at home all the time. I, unfortunately,
14 wasn't able to be as much as I wanted to. I spent most of my
15 time in and out and at the hospital with my -- or hospice with
16 my stepdad.

17 Q And that was a nice gesture that the Defendant
18 was doing for you at that point?

19 A Yes.

20 Q And at that point there were no difficulties
21 between yourself and the Defendant?

22 A No.

23 MR. WESTBROOK: Objection, leading.

24 THE COURT: Sustained. Please ask direct questions.

25 BY MS. ANTHONY:

1 Q When the second time you moved in with the
2 Defendant, that's when yourself, Michael, and the four
3 children moved in with the Defendant?

4 A Yes.

5 Q You had a different rental arrangement, correct?

6 A Yes.

7 Q Okay. And that rental arrangement, how long did
8 you anticipate that arrangement was going to last?

9 A Just a few months.

10 Q And your plan was always to move out and when
11 would --

12 MR. WESTBROOK: Objection, leading.

13 THE COURT: Sustained.

14 BY MS. ANTHONY:

15 Q Was your plan always to move out?

16 A Yes.

17 Q And when were you going to move out?

18 A As soon as Michael received his back pay for
19 Disability.

20 Q Did Michael receive that check?

21 A Yes.

22 Q And how soon after that did you move out?

23 A A day or two.

24 Q Did you move out -- why did you move out at that
25 pont?

1 A We wanted our own place.

2 Q And you had received the check?

3 A Yes.

4 MR. WESTBROOK: Objection, leading.

5 THE COURT: Sustained.

6 BY MS. ANTHONY:

7 Q Okay. So you -- you moved out because you got
8 your own place and why else?

9 A Because it was time to go.

10 Q Was -- when you say, "It was time to go," why
11 was it time to go?

12 A There was just animosity.

13 Q Between who?

14 A Tony, myself, and Michael.

15 Q And when you say "animosity," what are you
16 describing?

17 A Because Mr. Castaneda wanted -- the monetary
18 amount that we agreed upon had seemed to have changed and we
19 should have had something in writing, I guess. There was just
20 no protection on either one of our ends as far as what he
21 expected.

22 Q And is that the only issues you had with the
23 Defendant is regarding this money?

24 A No.

25 Q And what were the other issues?

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1 A Mom said no; Uncle Tony said yes.

2 Q Regarding the children?

3 A Yes.

4 Q And describe -- when you talk about Uncle Tony,
5 describe what you mean.

6 MR. WESTBROOK: Objection to this phrase "Uncle
7 Tony." My client's name is Tony Castaneda or Mr. Castaneda.
8 I've not heard him being referred to by anybody as Uncle Tony
9 ever.

10 MS. ANTHONY: He --

11 THE COURT: What's your legal objection?

12 MR. WESTBROOK: My objection is that it's an improper
13 question and it's assuming facts not in evidence.

14 THE COURT: All right. Lay a better foundation.

15 MS. ANTHONY: Uncle Tony actually came from her
16 answer, Your Honor.

17 THE COURT: I know. Lay a foundation for that.

18 BY MS. ANTHONY:

19 Q All right. What do you mean by "Uncle Tony?"

20 A The girls all referred to Mr. Castaneda as Uncle
21 Tony.

22 Q All of your girls?

23 A All of my girls; all of -- all the children.

24 Q Referred to --

25 A Ali, Angie, Mariah, Sonya, Sarah, Bethany,

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1 Rebecca.

2 Q All referred to the Defendant as Uncle Tony?

3 A Yes.

4 Q And so there was a little bit of tension between
5 how to raise the children then?

6 A Yes.

7 Q And you had a problem when you were discussing
8 Uncle Tony, what was your problem?

9 A If my daughter wanted something at the store and
10 I would tell her no because at that point in time I didn't
11 feel like doing it, Mr. Castaneda would tell her yes, and he
12 would purchase it for her.

13 Q And this is when you guys were all living
14 together?

15 A Yes.

16 Q Okay. When you say "animosity," what -- when
17 you're saying the word "animosity," describe what you're
18 meaning by that.

19 A Frustration more than anything.

20 Q And the frustration came from what?

21 A Just the fact that being a mom you want your
22 children to have the respect that you give them; and the -- I
23 didn't want my children asking anybody for anything but me,
24 that's how I felt.

25 Q And when you were saying animosity, you didn't

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1 want any ill-will towards the Defendant, did you?

2 MR. WESTBROOK: Objection, leading.

3 THE COURT: Overruled.

4 THE WITNESS: No.

5 BY MS. ANTHONY:

6 Q So let's go back to USB stick. You described --
7 that's when we ended up having some Elmo difficulty here. You
8 described finding a USB stick, correct?

9 A Yes.

10 Q Okay. And when is the first time -- when you
11 had moved out, when is the first time you saw that USB stick?

12 A When Michael, my boyfriend, awakened me at some
13 ungodly hour to show me what he had found.

14 Q All right. And describe that USB stick.

15 MR. WESTBROOK: Objection, Your Honor. I think
16 that's the problem with the USB stick because she's now said
17 that she found it, but she's not the one who found it,
18 somebody else did. That person is not here. I think that's a
19 foundational problem and, again, a hearsay problem.

20 THE COURT: Overruled.

21 BY MS. ANTHONY:

22 Q Describe the USB stick.

23 A Eight-gig, black, red, silver.

24 MS. ANTHONY: Your Honor, may I approach?

25 THE COURT: Yes.

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1 MS. ANTHONY: I'm showing her what's previously been
2 marked State's Proposed Exhibit 16.

3 BY MS. ANTHONY:

4 Q Do you recognize this photograph?

5 A Yes.

6 Q Or what's depicted in this photograph?

7 A Yes.

8 Q And what's depicted in this photograph?

9 A The flash drive.

10 Q And is that the flash drive that you found?

11 A Yes.

12 Q And you found it in February of 2010?

13 A Yes.

14 Q And when you found this -- is that the exact
15 photocopy of -- I'm sorry. Is that an exact photograph of the
16 USB stick that you found?

17 A Yes.

18 Q And when you found that USB stick the very next
19 day, what did you do with it?

20 A I had contacted Officer Worthington and told her
21 that I had something in my possession that I did not like, did
22 not want, and needed to get rid of. She had asked me to come
23 down to her office on Belrose.

24 Q Okay. Hold on just a second. I want to get
25 back to the photograph here. So this is the USB stick that

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1 you found on February 10 -- February, 2010?

2 A Yeah.

3 MR. WESTBROOK: Objection, misstates the evidence.

4 She didn't find it.

5 THE COURT: Sustained, unless you want to lay a
6 better foundation.

7 MS. ANTHONY: All right.

8 THE COURT: That's not how I understood the
9 testimony.

10 BY MS. ANTHONY:

11 Q All right. So the USB stick that you saw on
12 February, 2010, correct?

13 A Yes.

14 Q It was early in February, 2010?

15 A Yes.

16 Q And the USB stick, you first found it or saw it
17 when?

18 A Michael woke me up when I was sleeping on the
19 couch.

20 Q And where were you located at?

21 A My condo on West Rochelle Avenue.

22 Q And this photograph, which is depicted in
23 State's Proposed Exhibit 16, is this a photograph of the USB
24 stick you found that day or you saw that day?

25 A Yes.

1 Q And is this a true and accurate picture of that
2 USB stick that you saw February, 2010?

3 A Yes.

4 MS. ANTHONY: Your Honor, State moves to admit
5 State's Proposed Exhibit 16.

6 MR. WESTBROOK: Same objection, Your Honor.

7 THE COURT: What is that objection?

8 MR. WESTBROOK: The foundational objection, and also
9 I don't believe that she can recognize that picture of a USB
10 stick as the USB stick that she saw on that day.

11 THE COURT: Do you want to take her on -- the witness
12 on voir dire about that?

13 MR. WESTBROOK: It's not necessary, Your Honor. I
14 can do it on cross.

15 THE COURT: All right. Overruled. It will be
16 admitted.

17 (State's Exhibit 16 admitted.)

18 MS. ANTHONY: Thank you. Permission to publish, Your
19 Honor.

20 THE COURT: Granted.

21 MS. ANTHONY: Thank you. I'll zoom in here.

22 BY MS. ANTHONY:

23 Q All right. So that's the USB stick that we're
24 talking about, correct?

25 A Yes.

1 Q This is a USB stick that you -- this USB stick
2 was placed in a computer at your residence?

3 A Yes.

4 Q And who placed it into that computer?

5 A Michael.

6 Q And whose computer was it?

7 A Michael's.

8 Q And you sat with Michael and viewed the contents
9 of this USB stick?

10 A Yes.

11 Q The two of you together?

12 A Yes.

13 Q When you viewed the contents of this USB stick,
14 let's talk about some possessory items. Were there possessory
15 items on this USB stick that you saw?

16 A I'm not sure I understand.

17 Q Okay. Were there items on this USB stick that
18 belonged to somebody?

19 MR. WESTBROOK: Objection, this is all leading.

20 THE COURT: What did you see?

21 THE WITNESS: Thank you.

22 MS. ANTHONY: Your Honor, may we approach for a
23 moment.

24 THE COURT: Without -- without --

25 MS. ANTHONY: Can we approach for a moment?

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1 THE COURT: Yes, go ahead.

2 (Off-record bench conference.)

3 THE COURT: Okay. I'm withdrawing my question.

4 Counsel.

5 MS. ANTHONY: Thank you.

6 BY MS. ANTHONY:

7 Q Were there items on this USB stick that you saw
8 which belonged to Anthony Castaneda?

9 A Yes.

10 Q What did you see on this USB stick that belonged
11 to him?

12 A A copy of a driver's license, birth certificate,
13 Social Security card, military records; those were the things
14 that told me this was his.

15 MS. ANTHONY: All right. So, Your Honor, may I
16 approach? Previously -- I'm going to show her State's
17 Proposed Exhibit 30 and 28, which have previously been shown
18 to Defense. May I approach the witness?

19 THE COURT: Yes, you may.

20 BY MS. ANTHONY:

21 Q All right. Take a quick look at these two
22 photographs. And do you recognize items in State's Proposed
23 Exhibit 28 and 30?

24 A Yes.

25 Q And are these exhibits the items that you've

1 just described seeing on the USB stick?

2 A Yes.

3 Q And are these true and accurate copies of what
4 you saw that was on that USB stick?

5 A Yes.

6 MS. ANTHONY: Your Honor, State moves to admit
7 State's Proposed Exhibit 28 and 30.

8 THE COURT: Any objection?

9 MR. WESTBROOK: No objection to those, Judge. Just
10 reserving my prior objection in total.

11 THE COURT: They'll be admitted.

12 (State's Exhibit 28 and 30 admitted.)

13 MS. ANTHONY: Permission to publish, Your Honor.

14 THE COURT: Granted.

15 BY MS. ANTHONY:

16 Q All right. So State's Exhibit 28, these are
17 items that you saw on the USB stick?

18 A Yes.

19 Q And at the top which I'm pointing to there are
20 three cards that are on this exhibit. The item at the very
21 top is what?

22 A Mr. Castaneda's driver's license.

23 Q Okay. And the middle card?

24 A A Rebel card from the University of Nevada.

25 Q And it belongs to who?

1 A Mr. Castaneda.
2 Q On the bottom of the three cards?
3 A Social Security.
4 Q And who does it belong to?
5 A Mr. Castaneda.
6 Q All right. And additionally, State's Exhibit
7 30. And what was this a document of?
8 A Birth certificate.
9 Q And you also found that on the USB card?
10 A Yes.
11 Q And this birth certificate is for who?
12 A Anthony Castaneda.
13 Q Okay. State's admitted Exhibit 16. This USB
14 stick, prior to seeing it beginning of February, 2010, where
15 else had you seen this USB stick before?
16 A In the house on Beverly Way.
17 Q And the house -- whose house was that?
18 A Mr. Castaneda's.
19 Q Where had you seen it in the house before?
20 A Usually attached to his key ring.
21 Q And who is he?
22 A Mr. Castaneda.
23 Q So you've seen this USB stick attached to the
24 keys that belong to the Defendant?
25 A Yes.

1 Q And where was this USB stick generally kept?

2 A In his possession.

3 Q And what do you mean by that?

4 A In his pockets, unless he was going to bed or
5 something. The keys were on the counter as well.

6 Q And the keys on the key ring, what other types
7 of keys were on the key ring?

8 A The keys to the Astra van.

9 Q And whose Astra van was it?

10 A Mr. Castaneda's.

11 Q So you knew this USB stick to belong to who?

12 A Mr. Castaneda.

13 MS. ANTHONY: Your Honor, may I approach the witness?

14 THE COURT: Yes.

15 MS. ANTHONY: I'm showing her what's been marked as
16 State's Proposed Exhibit No. 11. It's previously been shown
17 to Defense.

18 BY MS. ANTHONY:

19 Q Tami, on that USB stick you saw the possessory
20 items, which are some of them that we just spoke about and I
21 showed you two items. There were additional items on that USB
22 stick that belonged to the Defendant that I didn't show you
23 photographs of, right?

24 MR. WESTBROOK: Objection. "Belong to the
25 Defendant," I believe that's evidence that's not in the record

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1 right now.

2 THE COURT: I'll sustain it.

3 MS. ANTHONY: All right.

4 BY MS. ANTHONY:

5 Q So you previously described items with the
6 Defendant's name on them that were on the USB stick, correct?

7 A Yes.

8 Q And you described to us items other than the
9 driver's license, Social Security card, Rebel card, and the
10 birth certificate that we just saw?

11 A Yes.

12 Q You also saw those on the USB stick?

13 A Yes.

14 Q And when you went through the USB stick you also
15 found items that concerned you?

16 A Yes.

17 Q Okay. And those items that concerned you are
18 what caused you to deliver that USB stick to authorities,
19 correct?

20 A Correct.

21 Q When you looked into that USB stick, what else
22 was on the USB stick that caused you concern?

23 A A list of pictures of children.

24 Q And how -- let me just show you this photograph
25 and then I'll go back and ask some details. So I'm going to

1 show you State's Proposed Exhibit No. 11. Take a quick look
2 at this exhibit. And State's Proposed Exhibit 11, have you
3 seen that photograph before?

4 A Yes.

5 Q Where have you seen that photograph before?

6 A On the flash drive.

7 Q And is it one of the photographs that you saw
8 which caused you concern?

9 A Yes.

10 Q And why did it cause you concern?

11 A Because it's nasty. It's not normal.

12 Q Describe.

13 A It's vulgar. It's repulsive. It's scary.

14 Q What is it an image of?

15 A A little girl with a penis right in front of her
16 face.

17 Q And is it clearly a child?

18 A Yes.

19 Q And you saw other images of children on the USB
20 stick as well?

21 A Yes.

22 Q So you saw it one night, and the very next day
23 you took it to authorities?

24 A Yes.

25 Q What detective did you actually give this USB

1 stick to?

2 A Detective Tooley.

3 Q And where did you give her this USB stick?

4 A Right outside of the parole -- parole, probation
5 off of Belrose.

6 Q In the parking lot?

7 A In the parking lot, yes.

8 Q When you gave it to her, where was she?

9 A She had met me right outside at her vehicle.

10 Q And once you gave her the USB stick did you also
11 provide an interview?

12 A Yes, I did.

13 Q And your interview was tape recorded?

14 A Yes.

15 Q And you met with Detective Tooley the morning
16 after you looked at this USB stick?

17 A Yes.

18 Q Who else was with you when you turned over this
19 USB stick to Detective Tooley?

20 A Mike.

21 Q Your boyfriend?

22 A My boyfriend, yes.

23 Q And what's Mike's last name?

24 A Landeau, L-A-N-D-E-A-U.

25 Q Okay. All right. So let me ask you some

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1 questions about the house itself.

2 MS. ANTHONY: State's Proposed Exhibit 33, 36 and 40,
3 previously have been shown to Defense. Your Honor, may I
4 approach?

5 THE COURT: Yes.

6 BY MS. ANTHONY:

7 Q Take a quick look at these photographs.

8 A Okay.

9 Q All right. What are these photographs of?

10 A The first photograph is that of the front door,
11 the screen door to the house at 2205 Beverly Way.

12 Q And the other two photographs?

13 A The main computer that Mr. Castaneda used, one
14 that was closest to the kitchen; and the other computer that
15 was on the opposite wall.

16 Q Now these photographs truly and accurately
17 depict the house as it was when you last saw it?

18 A Yes.

19 Q And that would be February, 2010?

20 A Yes.

21 MS. ANTHONY: Your Honor, State moves to admit these
22 three photographs, which are State's Proposed Exhibits 40, 33,
23 and 36.

24 THE COURT: Any objection?

25 MR. WESTBROOK: No objection, Judge.

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1 THE COURT: They'll be admitted.

2 (State's Exhibit 33, 36, and 40 admitted.)

3 MS. ANTHONY: Permission to publish, Your Honor?

4 THE COURT: Granted.

5 BY MS. ANTHONY:

6 Q Showing you State's admitted 36. Describe to
7 the jury what this is.

8 A This is Mr. Castaneda's living room where his
9 computer is straight here. To the left would be the kitchen.

10 Q Actually in front of you on that monitor, if
11 it's working, if you touch on that monitor or circle or draw
12 the jury will be able to see what you're pointing and showing.

13 A Okay. This is Mr. Castaneda's computer.

14 MS. ANTHONY: And for the record she circled a
15 computer which is on the left-hand side of the exhibit.

16 THE WITNESS: Yes.

17 THE COURT: The record will so reflect.

18 BY MS. ANTHONY:

19 Q And what would you call this computer in the
20 house?

21 A That it was the main computer in the house.

22 Q And who mainly used this computer?

23 A Mr. Castaneda.

24 Q And did anybody use this computer?

25 A Yes.

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1 Q Okay. Did you use this computer?
2 A Yes.
3 Q How many times?
4 A Once.
5 Q And who else used this computer?
6 A My oldest twin, Sonya.
7 Q And how many times did she use that computer?
8 A Once.
9 Q And as far as you know, this was the Defendant's
10 computer?
11 A Yes.
12 Q With -- when would the Defendant -- you usually
13 see the Defendant on this computer using it?
14 A Every waking hour of the day.
15 Q What were his general habits time frame that he
16 would be on this computer?
17 A Mr. Castaneda did a lot of work [inaudible] so
18 he was on the computer early morning hours. He -- if he were
19 to sleep, he would sleep generally early, like, 7:00 in the
20 morning till 11:00. Most of his work was done early in the
21 morning or late at night.
22 Q And I'm showing you State's Exhibit 40. What is
23 this a picture of?
24 A The opposite desktop that was on the other side
25 of the living room.

1 Q Okay. And so this is opposite of the photograph
2 I just showed you?

3 A Yes.

4 Q All right. Is there a computer in this
5 photograph as well?

6 A Yes.

7 Q Circle it for the jury, please.

8 A (The witness complied.)

9 MS. ANTHONY: Again, towards the left-hand side of
10 the photograph, kind of the center towards the left-hand side.

11 THE COURT: Record will so reflect.

12 MS. ANTHONY: Thank you.

13 BY MS. ANTHONY:

14 Q Who generally used this computer?

15 A The children or myself.

16 Q And what would you use this computer for?

17 A Mainly games.

18 Q And what was your favorite game to play?

19 A Zuma.

20 Q And let me -- and when you said mainly the
21 children, which children are you talking about?

22 A All of them.

23 Q Who's all of them?

24 A Sonya, Sarah, Rebecca, Bethany, Mariah, Ali, and
25 Angie.

1 Q Who's Mariah?

2 A Mariah is -- Mariah thought of Tony as an uncle,
3 so to her that was her uncle.

4 Q So Mariah's not related to you?

5 A No.

6 Q And about how old was Mariah in 2010?

7 A Sixteen.

8 Q And why would she come over to the house?

9 A She visited often.

10 Q And she visited the Defendant?

11 A Yes.

12 Q Okay. You said your children also used the same
13 computer?

14 A Yes.

15 Q And what would they do on the computer?

16 A Download pictures, music videos, play games.

17 Q And when they were on the computer did you
18 supervise them?

19 A Yes.

20 Q And when you say "supervise them," how would you
21 do that?

22 A I knew what they were on, whether they were on
23 Facebook or MySpace, or whether they were uploading pictures
24 from playing or -- I always kept an eye on them.

25 MS. ANTHONY: Court's indulgence.

1 BY MS. ANTHONY:

2 Q All right. Let me change gears just for a
3 moment. I'm almost finished with questions. When you looked
4 through the USB stick, which is State's Exhibit 16, when you
5 went through this USB stick -- why did you feel the need to go
6 through that USB stick?

7 A I wanted to know if my children were on it.

8 Q And to do that you looked at every file that was
9 on that USB stick?

10 A Yes.

11 Q Did you find any photographs of your children on
12 there?

13 A No.

14 Q Okay. While using the computers we talked
15 about, mainly State's Exhibit 36, or any other computer at
16 that house, did you download any child pornography?

17 A No.

18 Q Did you download any child pornography on that
19 USB stick?

20 A No.

21 Q Did you see Mike download any child pornography?

22 A No.

23 Q On any of the computers at that house?

24 A No.

25 Q Or the USB stick?

UNCERTIFIED ROUGH DRAFT

1 A No.

2 Q Did you see any of your children, any of your
3 four children download any child pornography on that USB
4 stick?

5 A No.

6 Q Did you ever see your children download any
7 child pornography on any of the computers in that home?

8 A No.

9 Q And we're talking about the home on 2205 Beverly
10 Way?

11 A No.

12 MS. ANTHONY: Court's indulgence.

13 BY MS. ANTHONY:

14 Q All right. And what about adult porn? I'm not
15 talking about child porn. Let me ask the same -- similar
16 questions regarding that. Did you -- while you were at the
17 house, did you ever download any adult porn?

18 A No.

19 Q And did you ever see any adult porn on any of
20 those computers?

21 A No.

22 Q Did you see your children look at any adult
23 porn?

24 A No.

25 Q Did you see Mike look at any adult porn?

UNCERTIFIED ROUGH DRAFT

1 A No.

2 Q Did you see Mike download any adult porn?

3 A No.

4 Q Or the children?

5 A No.

6 Q Download any of the adult porn?

7 A No.

8 MS. ANTHONY: I'll pass the witness, Your Honor.

9 THE COURT: Cross.

10 CROSS-EXAMINATION

11 BY MR. WESTBROOK:

12 Q Do you remember swearing an oath just now to
13 tell the truth, the whole truth and nothing but the truth?

14 A Yes.

15 Q Not the first time you've taken that oath, is
16 it?

17 A No.

18 Q There was another hearing in this matter. You
19 also took an oath to tell the truth, the whole truth, and
20 nothing but the truth, right?

21 A Yes.

22 Q Who have you talked to in preparing for today's
23 case?

24 A Michelle.

25 Q The District Attorney?

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1 A Uh-huh.

2 Q Anyone else?

3 A No.

4 Q Have you talked to the police in preparing for
5 today's case?

6 A No.

7 Q Talk to your boyfriend, Mike?

8 A Yes.

9 Q Okay. Talk to any other witnesses in the case
10 besides Mike?

11 A No.

12 Q All right. Now besides talking or besides
13 answering questions under oath at a hearing in this case, you
14 also gave a statement to police in this case as well?

15 A Yes.

16 Q That was Officer Shannon, right? Shannon
17 Tooney?

18 A Detective Tooley?

19 Q Tooley, excuse me. I said Tooney. Tooley?

20 A Yes.

21 Q Okay. You told the detective the truth too,
22 right?

23 A Yes.

24 Q Of course. Well, I want to take you back to the
25 summer of -- was it 2007 or 2008 when you first met my client,

UNCERTIFIED ROUGH DRAFT

1 Mr. Castaneda?

2 A 2008.

3 Q When you met him, were you still living with
4 Richard, your husband who left, or -- or was he gone already?

5 A Richard was actually in the process of leaving.
6 He was only there for a matter of days.

7 Q Okay. And you were in a budget squeeze?

8 A Yes.

9 Q Would you consider Budget Suites permanent
10 housing?

11 A No, I considered it temporary housing.

12 Q Temporary, sure. And this man invited you into
13 his home, right?

14 A Yes.

15 Q Which was a house?

16 A Yes.

17 Q Correct? During that first stay, February,
18 2009, through -- I'm sorry, was it April or May of 2009?

19 A June of 2009.

20 Q June of 2009. During that stay he was gone a
21 lot, wasn't he?

22 A Who?

23 Q Mr. Castaneda, he was gone a lot?

24 A Not to my knowledge. I don't remember.

25 Q You don't remember?

1 A No.

2 Q Okay. So you don't remember that he was gone in
3 Iowa, on the east coast doing work?

4 A He had one business trip that I was aware of,
5 but until now I didn't even remember that.

6 Q Okay. Then after you left -- and I assume that
7 you left on good terms the first time?

8 A Yes.

9 Q Okay. You moved in with your sister?

10 A Uh-huh.

11 Q Then you left your sister?

12 A Uh-huh.

13 THE COURT: Is that a yes?

14 THE WITNESS: Yes. I'm sorry.

15 MR. WESTBROOK: Sorry. I should have said that too,
16 Judge.

17 BY MR. WESTBROOK:

18 Q Was there a fight with your sister or was it
19 just time to move on?

20 A No. My sister actually went to rent a house, so
21 we just went separate ways.

22 Q Okay. And you weren't invited to the new house?

23 A I didn't want to.

24 Q Okay. Instead you moved into another weekly?

25 A Yes.

UNCERTIFIED ROUGH DRAFT

1 Q This time with your boyfriend, right?
2 A Yes.
3 Q Boyfriend, Michael Landeau?
4 A Yes.
5 Q He was your boyfriend, he's not now?
6 A Correct.
7 Q And that was being paid for by his Disability
8 check?
9 A Yes.
10 Q So you lived with your husband, Richard, and
11 then he left. So then you lived with Mr. Castaneda for free,
12 correct?
13 A Yes.
14 Q All right. And then you moved in with your
15 sister. Were you paying her rent?
16 A Yes.
17 Q Okay. How much?
18 A Five hundred a month.
19 Q Okay. And then you were back with Mr.
20 Castaneda, correct?
21 A Yes.
22 Q So again you were out of the weekly and into a
23 house?
24 A Yes.
25 Q This is an upgrade for you, is it not? Is it

UNCERTIFIED ROUGH DRAFT

1 nicer being in a house, a home, than a weekly apartment?

2 A Yes.

3 Q All right. Now when you were originally asked
4 the question about -- about moving out of Mr. Castaneda's
5 house, you simply said that you moved, correct?

6 A Yes.

7 Q You didn't say that you were evicted, did you?

8 A No, I was not evicted.

9 Q You were not evicted? He didn't ask you to
10 leave?

11 A He provided a letter in January telling Mike and
12 I that we had to leave. That was not proper -- Mr. Castaneda
13 wanted more money than he had originally agreed upon with Mike
14 and myself, and there was no eviction. I didn't have anyone
15 escort me out. I left on my own free will.

16 Q The letter, did it say "notice of eviction" at
17 the top of it?

18 A Yes, it did, and Mr. Castaneda's letter, yes.

19 Q And you were pretty angry about getting that
20 letter?

21 A Yes, because I had already paid him monetary
22 money in January for my living expenses.

23 Q You don't have any receipts for that money, do
24 you?

25 A No, I do not.

UNCERTIFIED ROUGH DRAFT

1 Q In fact, you were so upset about it that you
2 went to a lawyer, didn't you?

3 A I have a lawyer friend of mine I contacted, yes,
4 and he told me that because we had agreed and had paid rent
5 and Mike had handed it to him, I thought that everything was
6 fine. And I told Mr. Castaneda that if he wanted us out he
7 would have to give me 30-days notice.

8 Q So you fought to stay in the house?

9 A Yes.

10 MR. WESTBROOK: Okay. I've been informed that my
11 pacing around the box is not appreciated. I apologize, Your
12 Honor.

13 THE COURT: It doesn't pick up on the microphone.

14 MR. WESTBROOK: I'm a pacer. Okay.

15 BY MR. WESTBROOK:

16 Q Do you -- when you handed this thumb drive or
17 flash drive over to the police, you gave the interview, you
18 didn't say anything about being evicted by Mr. Castaneda, did
19 you?

20 A It was never asked, and I was not evicted.

21 Q Right. You were asked to leave, correct?

22 A Yes.

23 Q All right. You were asked to leave over money,
24 right?

25 A Yes.

1 Q Money that you never paid, right?

2 A No.

3 Q In your opinion you didn't owe the money; is
4 that right?

5 A Mr. Castaneda was paid the entire time I was
6 there every month.

7 Q He was paid \$500 a month every single month that
8 you were there?

9 A Yes.

10 Q So he kicked you out, I guess, because he
11 doesn't need the money any more?

12 A No. He had a landlord that didn't want anybody
13 there.

14 Q Okay. Was this all explained in the letter?

15 A No.

16 Q Do you have a copy of the letter?

17 A No.

18 Q So you said that the kids and, I guess, friends
19 of the kids were using the computer, correct?

20 A My kids, and Mr. Castaneda's extended family
21 that call him Uncle Tony, yes.

22 Q Okay. And among the many things they were doing
23 was downloading stuff, software, games, correct?

24 A The software was already there.

25 Q Okay. You said they were downloading. Music?

UNCERTIFIED ROUGH DRAFT

1 A Downloading music, downloading pictures that
2 they had taken together.

3 Q Okay. Did they download any games at all?

4 A No.

5 Q Do you know this or are you guessing?

6 A Mr. Castaneda had everything you could imagine
7 on a computer.

8 Q Okay. But they were downloading?

9 A Yes.

10 Q All right. And they had his password, right?

11 A Yes.

12 Q Do you remember what the password was?

13 A No.

14 Q Dog-cat-123, does that sound familiar to you?

15 A Yes, but they changed often and the passwords
16 never remained the same.

17 Q But dog-cat-123 sounds familiar to you?

18 A Yes, it does.

19 Q That was the administrative password on Tony's
20 computer system, right?

21 A Yes.

22 Q In fact, it was -- there was a network of
23 computers, correct?

24 A Yes.

25 Q Okay. And you couldn't download software,

UNCERTIFIED ROUGH DRAFT

1 install anything without the administrative password, right,
2 without dog-cat-123?

3 A I have no idea.

4 Q Okay. But you did know it? You did know the
5 password?

6 A At that time the password also often changed.

7 Q So you just testified under oath that Mike found
8 the flash drive, right?

9 A Yes.

10 Q And you just testified under oath that you
11 recognized the flash drive, right?

12 A Yes.

13 Q That you had seen it in Mr. Castaneda's
14 possession, right?

15 A Yes.

16 Q In fact, you even testified that it was normally
17 in his pocket, right?

18 A Or laid out on the counter.

19 Q You saw it in his pocket?

20 A Well, when Mr. Castaneda empties his pockets, he
21 pulls his keys out, you pull your wallet out, you put it on
22 the counter. It's easy to -- easy to see, yeah.

23 Q So you can't see what's in his pocket while it's
24 in his pocket, right?

25 A No. Right.

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1 Q Okay. So you've seen this flash drive before,
2 you've seen it with Mr. Castaneda in his possession, and that
3 he always had it with him; I mean, you just testified to that,
4 right?

5 A Yes.

6 Q Do you remember talking to, as we just
7 mentioned, the detective in this case, Detective Tooley?

8 A Yes.

9 MR. WESTBROOK: May I approach?

10 MS. ANTHONY: What page, Counselor?

11 MR. WESTBROOK: Page 2.

12 MS. ANTHONY: Okay.

13 MR. WESTBROOK: I'm going to go ahead and mark this
14 as --

15 THE CLERK: No, Dave.

16 MR. WESTBROOK: I understand. I'm going to mark it
17 as Defense 1 or A. A, is that correct?

18 THE COURT: A.

19 MR. WESTBROOK: Defense A. Okay. I'm not submitting
20 it at this time, but I'm going to mark it.

21 THE CLERK: Could I have it?

22 MR. WESTBROOK: Oh, yeah. I'm sorry. Yeah,
23 [inaudible] mark. All right. Thanks.

24 BY MR. WESTBROOK:

25 Q Would you take a look at this? Go ahead and

1 look through it as much as you like and tell me if you
2 recognize that?

3 A Yes. This is my statement to Detective Tooley.

4 Q All right. So you've seen that before, haven't
5 you?

6 A Yes.

7 Q You've read it before?

8 A Yes.

9 Q These words that are written here, these are
10 your words, are they not?

11 A Yes.

12 Q This is what you told Officer Tooley?

13 A Yes.

14 Q Okay. Can I have it back for a second?

15 MR. WESTBROOK: This has been marked and identified.

16 I'm not submitting it at this time. I'll reserve that for
17 later, Your Honor.

18 BY MR. WESTBROOK:

19 Q This interview with officer -- I'm sorry -- with
20 Detective Tooley, this happened right after you saw the
21 contents of the flash drive, right?

22 A Yes.

23 Q Everything was fresh in your mind, right?

24 A Yes.

25 Q I mean, now it's been a couple years, hasn't it?

UNCERTIFIED ROUGH DRAFT

1 A Yes.

2 Q Okay. But it hadn't been a couple years when
3 you said these words, had it?

4 A No.

5 Q I'm going to read you this section and you tell
6 me if this is what you said.

7 MS. ANTHONY: Your Honor, I'm going to object to
8 that.

9 MR. WESTBROOK: What basis?

10 MS. ANTHONY: You're not the judge.

11 MR. WESTBROOK: You're right. I should shut up on
12 that. I apologize. Sorry, Judge.

13 THE COURT: That would be good. I wasn't going to
14 use such harsh language with you, but --

15 MR. WESTBROOK: Be as harsh as you like. I'm sorry.

16 THE COURT: Counsel, state your objection.

17 MS. ANTHONY: It's improper for him to read to her
18 from there. He hasn't impeached her with anything yet.

19 THE COURT: Sustained. You need to show her the
20 [inaudible] first.

21 BY MR. WESTBROOK:

22 Q Okay. Could you go ahead and look at the
23 highlighted section and read it to yourself?

24 A Okay.

25 Q Okay. Did you tell the officer in regards to

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1 the flash drive, "couldn't wait to hurry up and find my place,
2 which I did, and I moved on February 3rd. In my move I wound
3 up with his flash drive in the midst of my stuff. Didn't
4 realize it until Saturday, which would be the 6th of February,
5 2010, and I actually figured I have it and I was going to use
6 it." That's what you said, right?

7 A Yes.

8 Q You didn't say that your boyfriend found it,
9 right, not to the officer?

10 A No, I didn't.

11 Q You didn't say that he woke you up to show you
12 the pictures that were on that drive, did you?

13 A No.

14 Q You didn't say that you had seen this in Mr.
15 Castaneda's possession before, had you?

16 A No.

17 Q You said you found it in a bag, correct?

18 A No.

19 Q I'm sorry, you said you found it in your stuff?

20 A In a tote.

21 Q A tote. All right.

22 A But I didn't find it.

23 Q You just said under oath that you told the
24 officer the truth, didn't you?

25 A Yes.

UNCERTIFIED ROUGH DRAFT

1 Q Okay. Let's talk about another time that you
2 were under oath.

3 MR. WESTBROOK: Court's indulgence. May I approach,
4 Your Honor? This is page 10 of the hearing.

5 THE COURT: Yes.

6 BY MR. WESTBROOK:

7 Q I'm going to go ahead and give you this and you
8 can look through it as much as you like and I'll ask you some
9 questions about it.

10 A Okay. I've read this.

11 Q Is this from the hearing that you were in
12 earlier in this case?

13 A Yes.

14 Q Okay. Can I have that back for a second? When
15 you were in this hearing you also swore an oath to tell the
16 truth, the whole truth, and nothing but the truth so help you
17 God, correct?

18 A Yes.

19 Q All right. In this case the District Attorney
20 was asking you questions, correct? Wasn't it District
21 Attorney Vicky Monroe? You don't recall her name?

22 A No.

23 Q It wasn't the District Attorney that is here
24 today though?

25 A No.

UNCERTIFIED ROUGH DRAFT

1 Q All right. And I'm going to go ahead and direct
2 your attention to Number 10 right in the middle, and I'll draw
3 a little arrow so you can see what I'm talking about. It's
4 the highlighted section. Could you read that to yourself and
5 then I'll ask you a question about it? The District Attorney
6 asked you when you found the flash drive did you know right
7 away that it belonged to Mr. Castaneda? And what was your
8 answer?

9 A No.

10 Q So your answer wasn't, Yes, it was with him all
11 the time, it was his constant companion, it was always in his
12 pocket or on his key chain or on his desk, and I saw it a
13 million times?

14 MS. ANTHONY: Objection, Your Honor.

15 BY MR. WESTBROOK:

16 Q You didn't say any of that, did you?

17 THE COURT: There's an objection pending. State the
18 legal objection, please.

19 MS. ANTHONY: It's compound.

20 THE COURT: Sustained.

21 MR. WESTBROOK: Okay.

22 THE COURT: It's also argumentative.

23 BY MR. WESTBROOK:

24 Q You didn't say, Yes, did you?

25 A No.

UNCERTIFIED ROUGH DRAFT

1 Q You didn't say, I saw that with Mr. Castaneda
2 before, did you?

3 A No.

4 Q You didn't say, I recognized it instantly, did
5 you?

6 A No.

7 Q You didn't say, I saw it being taken out of his
8 pockets on many occasions, did you?

9 A No.

10 Q You said, No, that you hadn't seen it before,
11 didn't you?

12 A Yes.

13 Q You didn't recognize it?

14 A Actually I did recognize it.

15 Q So you lied under oath?

16 A I -- obviously, yes.

17 Q I'm sorry. Which time were you lying under
18 oath: Just now or back at the hearing? Are you trying to
19 decide which time you lied?

20 A No.

21 Q You seem slow in answering the question. Which
22 time did you lie under oath? Right now or back at the
23 hearing?

24 A I suppose back at the hearing.

25 Q You suppose?

1 A Yes.

2 Q Are you lying now?

3 A No.

4 Q Could you wave your hand when you're lying so we
5 know?

6 MS. ANTHONY: Objection, Your Honor, argumentative.

7 THE COURT: Sustained.

8 MR. WESTBROOK: Court's indulgence.

9 BY MR. WESTBROOK:

10 Q You mentioned that your boyfriend and you both
11 had a laptop; is that correct?

12 A Yes.

13 Q Did the police ever search your laptops?

14 A No.

15 Q Did they ever take the laptops into their
16 possession?

17 A No.

18 Q Did you use these laptops to view this thumb
19 drive?

20 A Yes.

21 Q But the police never even asked for them?

22 A No.

23 Q When it was time to leave Mr. Castaneda's
24 residence who packed the stuff?

25 A Myself and Michael and the children.

UNCERTIFIED ROUGH DRAFT

1 Q So everybody had a hand in that?

2 A Yes.

3 MR. WESTBROOK: Court's indulgence.

4 BY MR. WESTBROOK:

5 Q Prior to this night had you ever met Detective
6 Tooley?

7 A No.

8 Q So she wasn't a personal friend of yours?

9 A No.

10 MR. WESTBROOK: Nothing further right now, Judge.

11 Thank you.

12 THE COURT: Thank you. Redirect?

13 MS. ANTHONY: Yes, Your Honor.

14 REDIRECT EXAMINATION

15 BY MS. ANTHONY:

16 Q Tami, you remember the hearing that was in April
17 of 2011, April 11, 2011, where you previously testified?

18 A Yes.

19 Q Okay. Do you remember being asked: Do you know
20 how that flash drive got into your tote when you left Mr.

21 Castaneda's residence?

22 A Yes.

23 Q Do you remember what your answer was?

24 A Yes.

25 Q And what was your answer?

UNCERTIFIED ROUGH DRAFT

1 A My daughter, my youngest daughter, Rebecca used
2 to take things from Mr. Castaneda all the time. She even went
3 to school with his car keys in her pocket one day at school.
4 She loved to take things from him. We were trying to teach
5 otherwise, but somehow it wound up in -- in our tote.

6 MR. WESTBROOK: Objection, I think she's speculating
7 to the extent she's saying that her daughter might have taken
8 this and it somehow wound up in the tote, that's speculation
9 and I'd ask that it be stricken.

10 MS. ANTHONY: She's answering the question: Do you
11 remember how you answered it?

12 THE COURT: Overruled. The objection -- or the
13 question was about how she answered at the hearing.

14 MR. WESTBROOK: Okay.

15 BY MS. ANTHONY:

16 Q And at that preliminary hearing, April 11, 2011,
17 you were asked about -- and Defense counsel asked you about it
18 -- you were asked about when you found the flash drive did you
19 know right away that it belonged to Mr. Castaneda, you were
20 asked that question, correct?

21 A Yes.

22 Q Okay. And your answer at that hearing was, No?

23 A Correct.

24 Q Okay. And Defense counsel went into, well, you
25 were lying; you remember the line of questioning he [sic] just

1 answered?

2 A Yes.

3 Q On February -- or I'm sorry -- April 11, 2011,
4 is that the first time you had been in a courtroom?

5 A Yes.

6 Q And were you nervous on that day?

7 A Yes.

8 Q And on that date the answer to the question, you
9 knew who that USB belonged to, correct?

10 A Yes.

11 MR. WESTBROOK: Objection, leading.

12 THE COURT: Overruled.

13 BY MS. ANTHONY:

14 Q Who did the USB belong to?

15 A Mr. Castaneda.

16 Q And how did you know that?

17 A I lived in his house for months. I know what
18 the USB looks like.

19 Q And why did you answer, No, on April 11, 2011?

20 A I was nervous.

21 Q And, in fact, that USB drive that we've been
22 talking about, once you looked at it, the very next day who
23 did you give that USB stick to?

24 A Detective Tooley.

25 Q When you gave her that USB stick, who did you

1 tell her it belonged to?

2 A Mr. Castaneda.

3 Q And that's the very next day --

4 A Yes.

5 Q -- after looking at it? Defense counsel asked
6 you quite a bit of questions about -- and how you had wanted
7 to move out of the Defendant's home, and I'm talking about the
8 second time you lived with him.

9 A Yes.

10 Q When -- and he asked a lot of questions about
11 this eviction letter. This eviction letter, what was the
12 discrepancy over the amount of rent? What was the discrepancy
13 that was being discussed between yourself and the Defendant?

14 A A hundred dollar difference. Mr. Castaneda
15 originally made an agreement with us for 500 a month, now he
16 wanted 600 a month. Mike told him we were getting ready to
17 move out, we're looking for a place now because we knew
18 roughly when his check would be there the beginning of
19 February, and we had been compliant so we didn't think that it
20 was a fair notice that he had given to us.

21 Q And when you said you wanted to move out, you
22 were waiting on the check to move out?

23 A Yes.

24 Q Regarding -- let me change subjects just for a
25 moment and then I'll come back. Defense counsel asked you

1 about the password dog-cat-123.

2 A Yes.

3 Q You remember that password?

4 A Yes.

5 Q And that password was a password to what?

6 A To computers that were in the house.

7 Q And how many computers?

8 A I couldn't tell you.

9 Q Do you know which password that -- which
10 computer that password went to?

11 A Mr. Castaneda's main computer.

12 Q And that password, how long did that password --
13 how long was it working?

14 A Could not tell you.

15 Q And how did you know that password?

16 A Because Mr. Castaneda had me get on the computer
17 for him for work one day when he was away from the home.

18 Q And to use the password to help the Defendant?

19 A Yes.

20 Q And you used that password to get into that
21 computer?

22 A Yes.

23 Q And how many times did you use that password?

24 A Once.

25 Q After you used the password was it still, I

UNCERTIFIED ROUGH DRAFT

1 guess, valid?

2 A I have no idea.

3 Q And you don't know because why?

4 A Because I never used the computer again.

5 Q When you moved out of the Defendant's house,
6 Defense counsel painted a picture about this eviction letter.
7 When you moved out of the Defendant's house, did you hate the
8 Defendant?

9 A No.

10 Q And when you moved out did you purposely take
11 this USB stick?

12 A No.

13 Q Did you put anything on that USB stick?

14 A No.

15 Q And is your purpose to come in here to testify
16 today to get back at the Defendant?

17 A No.

18 Q Do you care what happens in this case to the
19 Defendant?

20 A No.

21 Q And why are you coming here to testify today?

22 A Because I was horrified and grossed out by what
23 I saw on that USB.

24 MS. ANTHONY: Court's indulgence.

25 BY MS. ANTHONY:

UNCERTIFIED ROUGH DRAFT

1 Q Defense counsel asked you about Detective
2 Tooley, if she was a friend of yours. She's not a friend of
3 yours?

4 A No.

5 Q And the only time you met Detective Tooley was
6 in relation to this case?

7 A Yes.

8 Q Once you found what was on that USB stick, the
9 child pornography, who did you first take that USB stick to,
10 who did you call?

11 A I called Officer Worthington.

12 Q Who is Officer Worthington?

13 A Officer Worthington was a parole or probation
14 officer for my sister's boyfriend.

15 Q And what types of subject did Officer
16 Worthington -- what types of probationers did Officer
17 Worthington supervise?

18 MR. WESTBROOK: Objection, relevance.

19 THE COURT: Approach.

20 (Off-record bench conference.)

21 BY MS. ANTHONY:

22 Q All right. So you knew Officer Worthington?

23 A Yes.

24 Q And you went to a law enforcement officer that
25 you knew?

1 A Yes.

2 Q And once you told Officer Worthington what was
3 on that USB stick, did Officer Worthington take possession of
4 the USB stick?

5 A No.

6 Q In fact, is Officer Worthington a female or
7 male?

8 A Female.

9 Q Okay. Would she even accept that USB stick from
10 you?

11 A Nope.

12 Q She required you to keep possession of the USB
13 stick?

14 A Yes.

15 Q Until who got there?

16 A Detective Tooley.

17 Q And once Detective Tooley got there, you
18 provided the USB stick to Detective Tooley?

19 A Yes.

20 MS. ANTHONY: Court's indulgence. I'll pass the
21 witness, Your Honor.

22 THE COURT: Recross?

23 MR. WESTBROOK: Just very briefly, Judge.

24 RECROSS--EXAMINATION

25 BY MR. WESTBROOK:

UNCERTIFIED ROUGH DRAFT

1 Q Is no the opposite of yes?

2 A No. Yes, it is.

3 Q No is the opposite of yes?

4 A Yes.

5 Q Are you nervous today?

6 A A little.

7 Q And when you said the opposite of the truth, I
8 guess, in a previous hearing you did so because you were
9 nervous?

10 MS. ANTHONY: Objection, Your Honor, argumentative
11 again.

12 MR. WESTBROOK: Direct response to her direct
13 question.

14 THE COURT: Well, you can ask questions that aren't
15 argumentative, but continue and I'll --

16 MR. WESTBROOK: Okay.

17 THE COURT: -- you'll -- you know, if there's another
18 objection I'll rule on that. Overruled at this time.

19 BY MR. WESTBROOK:

20 Q Your explanation to lying under oath was that
21 you were nervous?

22 A Yes.

23 Q So you tell lies when you're nervous?

24 A No.

25 Q When you spoke to Detective Tooley, were you

1 nervous?

2 A Yes.

3 Q And so being nervous, that's why you told her
4 that you found the stick and not your boyfriend; is that
5 right?

6 A Correct.

7 Q Because you were too nervous to tell the correct
8 story; is that right?

9 A I was very nervous. I had something in my
10 possession I didn't want in my possession.

11 Q All right. But today you're at ease enough that
12 you're telling the truth; is that right?

13 A Yes.

14 MR. WESTBROOK: All right. Nothing further.

15 MS. ANTHONY: Just briefly.

16 FURTHER REDIRECT EXAMINATION

17 BY MS. ANTHONY:

18 Q When you told Detective Tooley regarding the USB
19 stick you and Mike together went through that entire USB
20 stick, correct?

21 A Yes.

22 Q And together you learned of the information that
23 was on that USB stick?

24 A Yes.

25 Q And when you -- Defense counsel has asked you

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1 about the preliminary hearing and about lying. In that
2 preliminary hearing you also discussed about seeing the USB
3 stick with your daughter or the keys with your daughter?

4 A Yes.

5 Q And on the keys is where the USB stick was?

6 A Yes.

7 MS. ANTHONY: Nothing further, Your Honor.

8 THE COURT: Recross.

9 MR. WESTBROOK: Just briefly.

10 FURTHER RECROSS-EXAMINATION

11 BY MR. WESTBROOK:

12 Q The USB stick was on the keys?

13 A Yes.

14 Q Is that what you're saying? And that it ended
15 up in your bag from the keys -- I'm sorry -- your tote from
16 the keys?

17 A I have no idea how it wound up in my tote.

18 Q You told the detective that you couldn't wait to
19 hurry up and find your place -- I'll quote, I'm sorry --
20 "couldn't wait to hurry up and find my place, which I did and
21 I moved on February 3rd." You didn't mention anything about
22 evictions or being upset or having disagreements with Mr.
23 Castaneda, did you?

24 A Wasn't even a valid eviction.

25 Q You still seem upset about it?

UNCERTIFIED ROUGH DRAFT

1 A No, you're making some more of it than it is.

2 Q Okay. And you said, "I wound up with his flash
3 drive in the midst of my stuff." You do not mention Michael
4 Landeau, do you?

5 A No.

6 Q "Didn't realize it until Saturday," which would
7 be the 6th of February, 2010, "and I actually figured I had it
8 and I was going to use it." Those are your words, correct?

9 A Yes.

10 Q That is what you told Detective Tooley, correct?

11 A Yes.

12 Q You have said here that those words you told the
13 detective were honest, correct?

14 A Yes.

15 MR. WESTBROOK: Nothing further.

16 THE COURT: May this witness be excused?

17 MS. ANTHONY: Yes, Your Honor.

18 THE COURT: Thank you.

19 THE WITNESS: Thank you.

20 THE COURT: How's my jury doing? You need a break.

21 UNIDENTIFIED SPEAKER: Well, some Starbucks would be
22 nice.

23 THE COURT: I can't order in Starbucks, but we'll be
24 concluding today at 5:00, but would you like a brief restroom
25 break or are you good to go? Everybody's good. All right.

UNCERTIFIED ROUGH DRAFT

1 Call your next witness.

2 MR. CHEN: Thank you, Your Honor. The State would
3 call Shawna Partridge, please.

4 SHAWNA PARTRIDGE, STATE'S WITNESS, SWORN

5 THE CLERK: Please be seated. Please state your name
6 and spell it for the record.

7 THE WITNESS: Shawna Partridge, S-H-A-W-N-A,
8 Partridge, P-A-R-T-R-I-D-G-E.

9 MR. CHEN: May I proceed, Your Honor?

10 THE COURT: You may proceed.

11 MR. CHEN: Thank you.

12 DIRECT EXAMINATION

13 BY MR. CHEN:

14 Q Ma'am, how are you currently employed?

15 A I'm a photographer for the FBI.

16 Q How long have you been a photographer with the
17 FBI?

18 A Four years.

19 Q I'd like to direct your attention back to April
20 7th of 2010. Were you working for the FBI at that time?

21 A Yes, I was.

22 Q And were you tasked with taking photographs of
23 different scenes at that time as well?

24 A Yes, I was.

25 Q And specifically on April 7, 2010, were you

UNCERTIFIED ROUGH DRAFT

1 contacted to go to a 2205 Beverly Way located here in Clark
2 County, Nevada?

3 A Yes, I was.

4 Q All right. Did you, in fact, respond to that
5 location?

6 A Yes.

7 Q Did you come into contact with an individual who
8 would have been in lead of the law enforcement investigation
9 at that residence? Did you come into contact with a detective
10 at that residence?

11 A Yes.

12 Q All right. And which detective was that?

13 A I believe it was Detective Tooley.

14 Q Is that Shannon Tooley?

15 A Yes.

16 Q Have you worked with Detective Tooley before?

17 A Yes, I have.

18 Q All right. April 7, 2010, were you familiar
19 with Detective Tooley?

20 A Yes.

21 Q Now when you reported to that residence, what
22 type of things did you bring with you?

23 A I brought a small search kit, a photography
24 search kit, my camera, [inaudible]-issued camera, two lenses,
25 a flash, couple memory cards, a photo log, room designators.

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1 Q And room designators, what exactly are room
2 designators?

3 A They are basically pieces of paper with the
4 alphabet A through Z. Each room is given a letter designator
5 for identification.

6 Q Are these used so that you can later identify
7 what you had taken photos of?

8 A Absolutely.

9 Q And is this in part because I assume that you
10 take thousands of photographs for your occupations?

11 A Yes, I do.

12 Q And so these would help you remember things that
13 you might not necessarily have a memory of three years later?

14 A Yes.

15 Q Okay. Now when you go through and take pictures
16 of a site, is there a procedure that you generally follow to
17 do that?

18 A Yes.

19 Q All right. And basically what type of procedure
20 would you follow in order to take pictures?

21 A Once a residence or location is cleared usually
22 by armed law enforcement, I will go in with another person who
23 is my log writer who, as I enter a house, each room I'll
24 photograph the entire room and I have a person with me who
25 writes down what I'm photographing. So we will do an entire

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vi.

Respondent.

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