

1 A Yes.

2 Q To your understanding, is the small building we
3 see behind the car now, is that the information kiosk at the
4 university?

5 A Yes, it is.

6 Q You were talking about some additional blood
7 spatter being located on the car. Could you indicate now
8 where you found that?

9 A The majority of it was right in this area where
10 the L and the bottom of the door, and it radiates out from
11 there up into the door handle itself into the O, et cetera.

12 Q What do we mean when we're talking about blood
13 spatter?

14 A Blood spatter occurs generally when an
15 instrument of some type strikes blood, it causes the blood
16 to spatter, to come out in droplets, if you will, and they
17 course in a certain direction depending on the type of
18 impact; and where they land, you can actually do a stringing
19 and determine the angle of where the blood came from. So
20 it's blood droplets that are caused to fly and land on
21 something from some type of a concussion.

22 Q That was the blood spatter you were talking
23 about?

24 A Yes, it is.

25 THE CLERK: Exhibit 17-D marked.

1 (Exhibit No. 17-D marked.)

2 BY MR. GAMMICK:

3 Q Let me show you 17-D. You mentioned stringing
4 of blood spatter. What does that mean?

5 A What that is is it's a representation of where
6 the blood spatter droplets may have come from. And what
7 someone who is properly trained can do is use mathematical
8 formulas to do a stringing, actually take a string, attach
9 it to the surface where one small blood droplet might be,
10 and due to the mathematics, be able to bring it back to a
11 point. And if you do this to many of your blood spatter
12 droplets, you can bring those back to a common point which
13 would be the point where the bludgeoning most likely
14 occurred.

15 Q Do you know investigator David Ballew?

16 A Yes, I do.

17 Q Is he also an investigator with FIS?

18 A Yes, he is.

19 Q Does he have the expertise to do that?

20 A Yes, he does.

21 Q Do you know whether or not he did that in this
22 case?

23 A Yes, he did.

24 Q I show you 17-D and ask if you recognize that
25 photograph.

1 A Yes, I do. It is a photograph of the stringing
2 conducted by Investigator Ballew in the Forensic Science
3 Division garage.

4 MR. GAMMICK: Your Honor, I move for 17-D.

5 THE COURT: Mr. Specchio?

6 MR. SPECCHIO: No objection, Your Honor.

7 THE COURT: 17-D is admitted.

8 (Exhibit No. 17-D admitted.)

9 MR. GAMMICK: May I publish, Your Honor?

10 THE COURT: Are you going to do it on the
11 machine?

12 MR. GAMMICK: Yes.

13 THE COURT: Go ahead.

14 BY MR. GAMMICK:

15 Q If I understand correctly, you take from the
16 point where the blood spatter is, do the mathematics, and it
17 takes you back to the origin of the blood; and if you do
18 enough of those, it gives you a general area of where the
19 blood-letting event occurred?

20 A That is correct.

21 MR. GAMMICK: That is all the questions I have
22 at this time, Your Honor.

23 THE COURT: Mr. Specchio, do you want to use
24 the videotape?

25 MR. SPECCHIO: No.

1 THE COURT: Okay. We'll turn the lights back
2 up.

3 THE COURT: Cross-examination.

4 **CROSS-EXAMINATION**

5 BY MR. SPECCHIO:

6 Q Investigator Stevenson, you took me through the
7 walk-through, if you will, on the vehicle?

8 A Yes, I did.

9 Q Which was sometime back in January of last
10 year, I think.

11 A That's correct.

12 Q The vehicle at the time that I saw it, it was
13 different from the vehicle that was at the UNR lot. Only a
14 couple of pieces of metal were removed. Do you remember
15 that?

16 A Yes, I do. You viewed it in bay number 2 in
17 our garage.

18 Q Okay. That was -- other than that, the car was
19 the same; right?

20 A That's correct.

21 Q Tell me a little bit more about the Qs and the
22 Ps and the Ls here. The Qs are direct evidence that would
23 be picked up at the scene by somebody?

24 A That's correct.

25 Q And given a number, and that's how it gets a Q?

1 A That's correct. That is how it would initially
2 come into the evidence system if it was a normal piece of
3 evidence collected by other than a criminalist.

4 Q If the neighbor finds something tomorrow, then
5 they bring it in and that becomes a P?

6 A No, that will still be a Q.

7 Q Still a Q?

8 A Yes.

9 Q Okay. So it doesn't have to be at the time of
10 the incident?

11 A That's correct.

12 Q Now, let me ask you about the Sak n' Save bag.
13 You processed it -- is that the right word? -- processed it
14 for prints?

15 A The bag was actually processed by Technician
16 Leal.

17 Q And you did the comparisons?

18 A Yes, I did.

19 Q Now, you don't know, or can you look at that
20 chart and tell me if it's a Q number or a P number or L
21 number?

22 A Are we speaking of the bags?

23 Q The Sak n' Save bag.

24 A The Q number that I am familiar with is not on
25 this chart. The Q number for the bag I believe is 15153.

1 MR. GAMMICK: Your Honor, if I may just a
2 second. I don't believe I identified that chart. That's
3 Exhibit No. 30.

4 MR. SPECCHIO: That's what I was referring to,
5 Judge.

6 THE COURT: Thank you.

7 BY MR. SPECCHIO:

8 Q Do you know where the Sak n' Save bag came
9 from?

10 A I was told that it came out of an apartment on
11 Rock Boulevard.

12 Q 1098 Rock, Apartment A?

13 A Yes.

14 Q Do you know when it was taken out of Rock
15 Boulevard?

16 A I do not. _____

17 Q Your involvement with prints in this case, was
18 it limited to the bag, or did you have any involvement with
19 the fingerprint found on the patrol vehicle?

20 A I processed the patrol vehicle and lifted the
21 latent print from it.

22 Q Now, the print -- let's go back to the bag.
23 The bag, you found the Defendant Vanisi's print on the bag?

24 A One of them, yes.

25 Q One of them. There was another print

1 unidentified?

2 A It is still unidentified, correct.

3 Q Still unidentified. On the vehicle on the
4 officer's vehicle, there was an unidentified print?

5 A Actually there were two prints of no value.
6 And there was one print that was identified when compared to
7 an officer from UNR Police Department.

8 Q All right. Just so that I understand that.
9 The vehicle, there were three, two of no value?

10 A Correct.

11 Q No value meaning?

12 A No value means that you have a fingerprint that
13 does not have enough information in it in order to be able
14 to make a comparison. We have a certain minimum amount of
15 information in a print that must be there.

16 Q Is that like ridges or grooves or whatever you
17 guys call them?

18 A That is correct.

19 Q Would it be safe to say that you probably
20 compared or maybe tried to compare the unidentified bag
21 print to the unusable patrol car prints?

22 A The unidentified bag print was compared with
23 all of the fingerprints that were submitted to us for
24 comparison. Then it was also entered into the digital
25 computer system in an effort to try and search that database

1 for a print that might make an identification.

2 Q So you did an extensive search at least for a
3 comparison?

4 A Yes, we did.

5 Q You guys don't call it tongue and groove. Do
6 you call it ridges?

7 A They are friction ridge and points or details.

8 Q If I give you my fingerprint, you have to have
9 how many, how many things?

10 A In our laboratory it's generally seven.

11 Q And there can be a whole bunch; right?

12 A Yes, there can be many more than seven.

13 Q Let me go back to that Q, P, L stuff again.
14 I'm a little dense here.

15 The Q is direct evidence from the scene?

16 A Correct.

17 Q The P would be -- the L would be something that
18 you have looked at, you have logged and you are going to
19 send on to the lab for additional testing?

20 A Actually the L is strictly reserved for latent
21 prints. If we take a latent print off of any item, and we
22 lift it and we're going to keep it and file it, it will be
23 filed under an L number.

24 Q And the P number?

25 A The P number is if we have an evidence item

1 that was originally collected somewhere outside, maybe at a
2 scene, not necessarily the scene but anywhere else, it
3 initially comes into the system as a Q. If that is then
4 forwarded on to a criminalist, say for blood work or DNA
5 work, they might make a stain.

6 Let's say if it is a blood stain that's been
7 collected, or something that has a blood stain on it, that
8 particular item will be collected as a Q. If it's sent on
9 to a criminalist in order to take the blood off of it, if
10 they retrieve the blood from that item and make a stain,
11 they will put their own P number on it.

12 Q Let me just give you a hypothetical. Let's say
13 that an officer is killed at the University of Nevada
14 campus. And a pair of glasses are found at the scene. They
15 will have a Q number on it?

16 A Yes, it will.

17 Q Subsequent to that, let's assume that scouts
18 and military and all people are brought out there to comb
19 the lawns and the grass and the campus and the quad and all
20 that stuff looking for anything, and they pick up gum
21 wrappers, bottle caps, checkbooks. What would that -- what
22 number would that have?

23 A That would be a Q number.

24 Q Even if it is half a mile away from the scene?

25 A Yes. Anything at any time initially collected

1 that is an evidence item will receive a Q number.

2 Q The only way it will have a P number is after
3 it goes through a criminalist who looks at and it makes that
4 category?

5 A That is correct.

6 Q The L, it has to be a latent print?

7 A Correct.

8 Q I think you saved me some time.

9 MR. SPECCHIO: May I just have the Court's
10 indulgence, Your Honor?

11 THE COURT: Certainly.

12 BY MR. SPECCHIO:

13 Q Just one more time for my own education. We
14 have one unknown print on the bag?

15 A Correct.

16 Q And we have two unusable. What did you call
17 them?

18 A Prints of no value. There is not enough
19 information in either one of the prints to make an
20 identification.

21 Q Does that mean there is less than seven of the
22 identifying marks, ridges?

23 A Correct.

24 MR. SPECCHIO: Thank you, sir. I have nothing
25 further.

1 THE COURT: Thank you. Mr. Gammick, anything
2 further?

3 MR. GAMMICK: Pardon, Your Honor?

4 THE COURT: Anything further?

5 MR. GAMMICK: Yes, if I may quickly.

6 **REDIRECT EXAMINATION**

7 BY MR. GAMMICK:

8 Q You talked about a database in running these
9 unknown prints, the ones that you couldn't find an owner for
10 yet?

11 A Correct.

12 Q Through this database? What is that? Explain
13 the database.

14 A The database is called the WIN, W-I-N, AFIS,
15 A-F-I-S system. I believe it stands for Western
16 Identification Network, Automated Fingerprint Identification
17 System.

18 This system is a digital type computer based
19 system by which we can enter latent fingerprints,
20 fingerprints found at a crime scene into the system. In
21 approximately 24 hours, the system can compare that latent
22 print against almost 10 million other prints within the
23 system.

24 Q And you ran the print that you have not
25 identified from the plastic bag through that system?

1 A Yes, we did.

2 Q You know it doesn't belong to 10 million
3 people?

4 A Correct.

5 Q Do you know Jeffrey Riolo?

6 A Yes, I do.

7 Q Who is he?

8 A Jeffrey Riolo is a DNA criminalist with the
9 Washoe County Sheriff's crime lab.

10 Q Was he involved, if you know, in preparing this
11 chart that is Exhibit 30 and doing the DNA work in this
12 case?

13 A Yes, he was.

14 MR. GAMMICK: That's all I have at this time,
15 Your Honor. Thank you.

16 THE COURT: Mr. Specchio, anything further?

17 MR. SPECCHIO: No, Your Honor.

18 THE COURT: Thank you. You may step down.

19 (The witness was excused.)

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: Call your next witness.

22 MR. STANTON: Your Honor, the State would next
23 call Mele Maveni.

24

25

MELE MAVENI

called as a witness on behalf of the Plaintiff,
having been first duly sworn,
was examined and testified as follows:

DIRECT EXAMINATION

BY MR. STANTON:

Q Ma'am, could you please state your complete
name and spell your first, middle and last name for the
court reporter?

A M-E-L-E. M-A-V-E-N-I.

Q Ma'am, how old are you as you sit here today?

A Nineteen.

Q And do you live here in Reno?

A Yeah.

Q How long have you lived here in Reno?

A Twelve years.

Q I'm sorry. You have to speak up a little bit.

A Twelve years.

Q Ma'am, did you have occasion to be interviewed
by Reno police officers on January 27th, 1998?

A Yeah.

Q Do you recall that interview?

A Yeah.

THE COURT: I'm going to have you scoot a
little closer to the microphone. Can you say your name

1 again for me?

2 THE WITNESS: Mele.

3 THE COURT: I can hear you now. Thank you.

4 Go ahead, Mr. Stanton.

5 BY MR. STANTON:

6 Q Ma'am, do you recall or do you remember that
7 interview with the police being recorded?

8 A Yeah.

9 Q And have you had occasion to review a
10 transcript of that interview with the police?

11 A What?

12 Q Did you read a transcript of that interview
13 that you gave to police before you testified here today?

14 A Yeah.

15 Q And was that transcript accurate of what you
16 said and the questions the police asked you?

17 A Yeah.

18 Q I want to direct your attention to January of
19 1998. Did you know an individual at that time by the name
20 of Siaosi Vanisi?

21 A Yeah.

22 Q How did you know him?

23 A He's related to my cousin.

24 Q Which cousin is he related to?

25 A Renee.

1 Q What is Renee's last name, if you could spell
2 it please?

3 A P-E-A-U-A.

4 Q How do you pronounce it?

5 A Peaua.

6 Q Where does Renee Peaua live?

7 A Here in Reno?

8 Q Yes.

9 A I don't know her address.

10 Q Do you know if it's off Sterling?

11 A Yeah.

12 Q In a cul-de-sac? In a street that ends in a
13 circle?

14 A Yeah.

15 Q Is that near the university campus?

16 A Uh-huh. Yeah.

17 Q University of Nevada, Reno?

18 A Yeah.

19 Q Now, when was the first time you had ever met
20 Siaosi Vanisi?

21 A Maybe like three days before -- like the week
22 before the murder, I think.

23 Q Do you remember when the police officer was
24 murdered?

25 You need to speak real loud.

1 A What?

2 Q Do you remember when the police officer was
3 murdered?

4 A Yeah. When I first saw it on the news it was
5 like Wednesday, but it was maybe like Tuesday morning.

6 Q That was about a year ago?

7 A Uh-huh.

8 Q Now, using that frame of reference of when you
9 knew the police officer had been murdered, how long prior to
10 that had you first met Siaosi Vanisi?

11 A Can you repeat that?

12 Q Certainly. From the day that you learned that
13 a police officer at the University of Nevada was murdered,
14 how long prior to that day had you first met Siaosi Vanisi?

15 A Maybe like on the Tuesday before that Tuesday.

16 Q So maybe a week?

17 A Yeah. I think.

18 Q What name did you know him by when you first
19 met him? How you were introduced to him?

20 A Pe.

21 Q Pe?

22 A Pe.

23 Q Is Pe a Tongan name?

24 A I guess. That's the first time I have heard
25 it.

1 Q Is that the same person you had seen in the
2 parking lot?

3 A Yes, it was.

4 Q May I have you step down here for a minute to
5 show you Exhibit 7, which is a large photograph?

6 Now, if you could, please, I would like to --
7 we'll go through this real quickly again. Where did you
8 enter the parking lot at 12:08?

9 A Through this parking lot right here.

10 Q Where did you first see the man and the dog?

11 A Right in this parking lot. The dog was farther
12 away than the man was. The man must have been like right
13 here.

14 Q Can I put a little red dot there to show where
15 you are pointing at? Is that the place?

16 A Yeah.

17 Q And then you say you went and picked up your
18 dad. Where was that?

19 A I came into this parking lot through here,
20 through this little gate, and I parked right here. And I
21 waited for my dad. When he got off work, he came into the
22 car, and I went out the same way.

23 Q So if you would, just show the ladies and
24 gentlemen of the jury how you went back out of the parking
25 lot and what direction you were driving.

1 A Okay. I went out through the same gates to
2 this entrance right here, and I turned out on North Virginia
3 Street.

4 Q You mentioned a bridge over North Virginia.
5 Where is that?

6 A The bridge is right here, yeah, right there, I
7 believe.

8 Q Does that go between a couple dormitories?

9 A Yes.

10 Q And you say you saw the dog again once you got
11 to the bridge. Where was the dog?

12 A The dog was right underneath the bridge.

13 Q How about the man? Where did you see him?

14 A The last time I saw the man, he was right here
15 at the end of the parking.

16 Q You are showing a parking lot. Is that the Jot
17 Travis Student Union that you were talking about?

18 A Yes.

19 Q Can I put another dot there where you last saw
20 him? That is a correct location?

21 A Yes.

22 Q Could you tell what direction he was walking
23 the last time you saw him?

24 A He was walking forward the inside.

25 Q Inside of the campus?

1 A Inside of the campus, yes.

2 Q You can have a seat again. Thank you.

3 After this happened, did there come a time when
4 you talked to police officers?

5 A Uh-huh.

6 Q Did you explain to them what you had seen?

7 A Yes, I did.

8 Q Did they ask for your assistance?

9 A Yes. They called me the same day that I talked
10 to a detective on the phone. They called me to do a
11 composite of the man I saw in the parking lot.

12 Q You said a composite. What do you mean by
13 that?

14 A Well, they had me do a drawing. Well, not a
15 drawing. It was a computerized drawing where they showed me
16 like noses and eyes and faces where I could just choose and
17 make up a person that I saw that day.

18 Q Were you able to complete a close likeness of
19 the person you saw that night at both locations on campus?

20 A Yes.

21 Q Let me show you what's been marked as Exhibit 6
22 and ask if you recognize that.

23 A Yes.

24 Q Is that the composite you completed for police?

25 A Uh-huh.

1 Q Does that look like the man you saw that night
2 twice on campus at 12:08 and a few minutes later?

3 A Yes, except the color of his skin. When I was
4 doing the composite, I described the man as not white or
5 black. I said something in between. And the computer
6 couldn't give me the color that I wanted. So that's why --
7 that's the only thing.

8 Q Were you able to tell the police what
9 nationality you believe this person was?

10 A I said he could have been Hawaiian.

11 MR. GAMMICK: Move for 6 to be admitted,
12 please, Your Honor.

13 THE COURT: Any objection?

14 MR. SPECCHIO: No objection, Your Honor.

15 THE COURT: Exhibit 6 is admitted.

16 (Exhibit No. 6 admitted.)

17 MR. GAMMICK: May I publish?

18 THE COURT: Yes.

19 BY MR. GAMMICK:

20 Q This is the man you say scared you when you
21 first saw him?

22 A Yes, he did.

23 MR. GAMMICK: That is all the questions I have
24 at this time. Thank you.

25 THE COURT: Cross-examination.

1 MR. SPECCHIO: No questions, Your Honor.

2 THE COURT: Thank you. You may step down.

3 (The witness was excused.)

4 THE COURT: Call your next witness.

5 MR. GAMMICK: Your Honor, I'd like to call
6 Officer Carl Smith, please.

7 MR. GAMMICK: Your Honor, may we approach for
8 just a moment?

9 THE COURT: Yes.

10 (Whereupon, a bench conference was held among
11 Court and counsel as follows:)

12 MR. GAMMICK: I noticed the Court looking at
13 the officer's weapon, and I noticed the magazine is removed.

14 THE COURT: I was aware of that. I was really
15 looking to make sure everyone in the courtroom saw that.

16 (One witness sworn.)

17 **CARL H. SMITH**

18 called as a witness on behalf of the Plaintiff,

19 having been first duly sworn,

20 was examined and testified as follows:

21 **DIRECT EXAMINATION**

22 BY MR. GAMMICK:

23 Q Would you please state your name?

24 A Carl H. Smith, S-M-I-T-H.

25 Q And is it Mr. Smith now?

1 A I'm sorry?

2 Q Is it Mr. Smith now or Officer Smith?

3 A Well, it's still Officer Smith while in a duty
4 status, and this is kind of a duty status.

5 Q Did you recently retire?

6 A I did.

7 Q And you still work part time at University of
8 Nevada Police Department?

9 A I do.

10 Q How long had you worked there?

11 A About 13 years.

12 Q Did you know Sergeant George Sullivan?

13 A I did.

14 Q In what capacity?

15 A He was my training officer when I first came on
16 the department, and patrol supervisor for a period of almost
17 14 years.

18 Q How long had Sergeant Sullivan been with the
19 University of Nevada, Reno, Police Department?

20 A I believe 19 years.

21 Q I call your attention to -- well, wait. I show
22 you what's been marked as Exhibit No. 9 and ask if you
23 recognize that photograph.

24 A Yeah.

25 Q Is that Sergeant Sullivan?

1 A (Positive nod.)

2 MR. GAMMICK: Move for admission of No. 9, Your
3 Honor.

4 THE COURT: Any objection?

5 MR. SPECCHIO: No objection.

6 THE COURT: Exhibit 9 is admitted.

7 (Exhibit No. 9 admitted.)

8 MR. GAMMICK: May I publish quickly, Your
9 Honor?

10 THE COURT: Yes.

11 MR. GAMMICK: Just walk by.

12 BY MR. GAMMICK:

13 Q January of 1998, one year ago, were you and
14 Sergeant Sullivan working together?

15 A We were.

16 Q And what shift did the two of you work?

17 A The early morning graveyard shift.

18 Q What was the graveyard shift at the department
19 at that time?

20 A 11:00 or 2300 til 0700 in the morning.

21 Q Police department use what's known as military
22 time, when you say 2300?

23 A Yes, sir.

24 Q That is 11:00 p.m.?

25 A Yes, sir, it is.

1 Q So I call your attention specifically to
2 Monday, January 12th, 1998. Did you and Sergeant Sullivan
3 go to work that night?

4 A We did.

5 Q Both of you at 11:00 o'clock?

6 A Both at 11:00 o'clock.

7 Q Now, you are dressed in uniform today. Were
8 you wearing that uniform that night?

9 A I was.

10 Q And how was Sergeant Sullivan dressed?

11 A Similar but without the sweater.

12 Q Did he also have some type of designation of
13 his rank on his uniform?

14 A He had sergeant stripes on his uniform, he did.

15 Q When you talk about similar, are you wearing
16 what's known as a duty belt?

17 A Yes, I am.

18 Q What is on that duty belt? What's that do?

19 A Gun, handcuffs, the tools that we need.

20 Q That include things like radio, handcuffs?

21 A It does.

22 Q Was Sergeant Sullivan wearing his duty belt
23 that night?

24 A He was.

25 Q What type of weapon did you carry a year ago?

1 A A year ago?

2 Q Yes.

3 A A nine millimeter Sigsauer, but Sergeant
4 Sullivan was carrying --

5 MR. SPECCHIO: Objection, Your Honor. That is
6 not responsive to the question.

7 THE COURT: Sustained.

8 BY MR. GAMMICK:

9 Q What type of weapon was Sergeant
10 Sullivan carrying?

11 A Glock .45, model 21.

12 Q Is that a semiautomatic pistol?

13 A It is.

14 Q Let me call your attention to about 17 minutes
15 after midnight. Did Sergeant Sullivan become involved in
16 some type of police activity?

17 A He did. He made a traffic stop at Ninth and
18 Center.

19 Q What did you do with respect to that?

20 A Responded to the area to act as a backup unit.

21 Q And how many officers were on the graveyard
22 shift at UNR on that night?

23 A Two of us. Sergeant Sullivan and myself.

24 Q He was at Ninth and Center?

25 A He was at Ninth and Center, but actually on

1 Center Street down about a hundred fifty feet or so from the
2 corner of Ninth and Center.

3 Q When you arrived at the scene -- and we'll back
4 up in just a minute, but when you arrived at the scene, was
5 Sergeant Sullivan with someone?

6 A Yes.

7 Q Do you know who that was?

8 A A Mr. Woods, I believe.

9 Q Prior to your actually arriving at the scene
10 itself, with Sergeant Sullivan, did you see anyone else in
11 the area of Ninth and Center?

12 A I did.

13 Q How many other people?

14 A Just one.

15 Q Would you describe that person, please?

16 A Roughly six feet, maybe a little more, dark
17 complected. A dark three-quarter-length coat, appeared to
18 be leather, could have been brown or black. I couldn't be
19 sure because it was just a real brief flash. Hair down to
20 about here, and a reggae hairstyle like you would see
21 somebody that subscribed to the reggae music from Jamaica,
22 that general locale.

23 Q How about facial hair?

24 A He had kind of like a beard.

25 Q Let me show you what's been admitted as State's

1 Exhibit 6 and ask --

2 A Yes, that looks similar to the individual I
3 saw, except I don't know if he had on a cap or not. But
4 it's similar.

5 Q Aside from whether or not he was wearing a cap,
6 how about the rest of the face, the hair, all the other
7 things?

8 A Pretty close, yes, sir. Maybe the beard a
9 little thinner. But that's pretty close.

10 Q What was that person doing?

11 A As I drove down Ninth Street getting ready to
12 make the turn, he turned, squared off at me and gave me a
13 stare that drew my attention to him, like one of hatred, I
14 want to fight you, that kind of look. And of course, I was
15 going to back up Sergeant Sullivan. So I drove by.

16 Q Did you have the opportunity to get a good look
17 at this person's face?

18 A I did.

19 Q Is that person in this courtroom today?

20 A He is.

21 Q Would you please indicate where that person is
22 sitting and what he is wearing today?

23 A He is sitting to the left of you, and he looks
24 considerably different than he did that night.

25 Q What is he wearing, please?

1 A A jacket, cream-colored jacket or light-colored
2 jacket, yellow tie, white shirt.

3 MR. GAMMICK: May the record reflect the
4 identification of Defendant Vanisi, Your Honor?

5 THE COURT: Yes, the record will so reflect.
6 BY MR. GAMMICK:

7 Q Now, you made a comment that he looks quite a
8 bit different than he did that night. Has his appearance
9 changed?

10 A Yes, sir, it has.

11 Q In what ways?

12 A Hair, facial hair.

13 Q Is there any doubt in your mind that is the
14 same person?

15 A No doubt.

16 Q Now, when you pulled up, did you pull in behind
17 Sergeant Sullivan's car?

18 A I did.

19 Q And what direction on Center Street was he
20 parked facing?

21 A It's actually facing in a southbound direction.

22 Q So the back of his car was toward the
23 university?

24 A Yes, it was.

25 Q Did he have any kind of lighting on that would

1 identify it as a police car?

2 A He had his rear flashers on. Not the front
3 ones.

4 Q When you talk -- are you talking about what all
5 of us know on a car as the flashing lights that are also the
6 brake lights or some other type of flashers?

7 A There is overhead flashing lights from the
8 back, so that oncoming traffic knows that you are there.

9 Q Are those bright?

10 A Yes, they are.

11 Q About 25 minutes after midnight, did you and
12 Sergeant Sullivan complete your contact with Mr. Wood?

13 A Yes, we did.

14 Q Where did Sergeant Sullivan go?

15 A Sergeant Sullivan got in his car, turned
16 around, went back northbound on Center Street, turned right
17 to go up into the -- and turned right up into the campus.

18 Q Is there a particular parking lot or a building
19 located in that area that UNR police officers frequent?

20 A I'm sorry. Repeat the question, please?

21 Q You say he went back up into the campus.

22 A Right.

23 Q And then turned right. Is there a place there
24 where UNR police officers park?

25 A There is a place up by the kiosk where it's

1 fairly well lighted that we utilize that area from time to
2 time to fill out FI cards or do documentation that we need
3 to do.

4 Q What is an FI card?

5 A It's a small white card that has name, date of
6 birth, serial number, phone numbers, next of kin. General
7 trace information for an individual.

8 Q Is that a field interrogation card?

9 A It is.

10 Q Do you maintain those? Why do you complete
11 those?

12 A Well, we maintain them and keep them on file so
13 that we have a good idea who was in the area, who was around
14 at a particular time. It could be both for the good of the
15 person or --

16 Q Let me show you first of all what's been marked
17 as Exhibit 12 and ask you to look at that item. And do you
18 recognize that?

19 A Yeah.

20 Q What is that, sir?

21 A Sergeant Sullivan's notebook. Frequently --

22 Q Would you please turn to what appears to be a
23 broken rubber band in that? Do you see some writing on that
24 page?

25 A I do.

1 Q Does that reflect the stop that Sergeant
2 Sullivan had with Mr. Wood?

3 A It does.

4 Q Now, you mentioned an FI card. As a general
5 practice, would Sergeant Sullivan take notes in his book and
6 then use that to complete a field interrogation card?

7 A He did it consistently and religiously.

8 Q Let me show you what's been marked as item 13
9 and ask if you recognize that.

10 A Yes, and it is Sergeant Sullivan's handwriting.

11 Q Is that also in relationship to talking to
12 Mr. Wood?

13 A Yes, it is.

14 MR. GAMMICK: I'm going to move for 12 and 13,
15 Your Honor.

16 THE COURT: Mr. Specchio, any objection?

17 MR. SPECCHIO: No objection, Your Honor.

18 THE COURT: Exhibit 12 and Exhibit 13 are
19 admitted.

20 (Exhibit Nos. 12 and 13 admitted.)

21 BY MR. GAMMICK:

22 Q Officer Smith, may I have you step down here
23 for a minute, please, sir? I have Exhibit No. 7. Would you
24 please indicate to the ladies and gentlemen of the jury
25 where the contact with Mr. Wood was at?

1 A This is Ninth Street. Turn onto Center Street.
2 This is going in a southbound direction. It was just right
3 in front of it. There is a church located here. Just right
4 in front of the church.

5 Q Is there a red dot located where that stop is?

6 A There is a red dot located where the stop was.

7 Q Now, you described seeing Mr. Vanisi. Would
8 you please indicate and describe where you saw him?

9 A As I came down Ninth Street --

10 Q Excuse me, Officer Smith. You can move a
11 little bit so all the members of the jury can see.

12 A As I came down Ninth Street, coming in this
13 direction, there is the wheelbarrow is right here. There is
14 a line of trees right after that, and between the second two
15 trees, Mr. Vanisi was standing there.

16 Q I believe you have already testified he was
17 watching you and -- watching you anyway?

18 A He actually turned around, squared off at me
19 like this (indicating).

20 Q Did you see him again anymore that night?

21 A No, I did not.

22 Q Now, you mention after you were completed with
23 this stop, would you please indicate where Sergeant Sullivan
24 went?

25 A Sergeant Sullivan turned around in the street,

1 up here, and in -- like this, into the university and back
2 over to the kiosk.

3 Q Is that an information kiosk?

4 A That is the information booth.

5 Q Where did you go?

6 A There's a parking lot right here. You can see
7 it right here. And I drove right over, pulled right out,
8 right into there and pulled up and stopped right there and
9 was right there in that position for about 20 minutes.

10 Q And then where did you go?

11 A Because he had directed me to do some other
12 things, I left, went up and went over behind, actually came
13 in behind the old gym.

14 THE COURT: I'm going to stop you there. The
15 jury can't see.

16 THE WITNESS: Up to the Church of Fine Arts,
17 parked my car right here and checked the calibration on my
18 radar unit.

19 BY MR. GAMMICK:

20 Q If you would have a seat, please. Thank you.
21 What was your call sign that night?

22 A Union 129.

23 Q Do you recall Sergeant Sullivan's call sign?

24 A Union 140. I'm sorry. Union 130.

25 Q Union 130? When I asked about a call sign,

1 what does that mean? What is that used for?

2 A Indicates -- it's the officer's personal
3 identifier.

4 Q Is that used by dispatch to contact you?

5 A It is used by dispatch to contact you.

6 Q About 0057, just before 1:00 o'clock in the
7 morning, did you get a radio call?

8 A I did.

9 Q What was that?

10 A It was respond to the vicinity of the kiosk for
11 a trouble unknown.

12 Q Did you respond to that location?

13 A Yes, I did.

14 Q What did you discover when you got there?

15 A Sergeant Sullivan was on the ground, and there
16 was a white male bent over him.

17 Q Do you know who the white male was?

18 A I do.

19 Q Who is that?

20 A I know him as Drew.

21 Q Drew?

22 A Yes.

23 Q Student at the university?

24 A He is.

25 MR. GAMMICK: Excuse me just a moment, Your

1 Honor.

2 THE COURT: Okay.

3 BY MR. GAMMICK:

4 Q When you first pulled up, what did you see
5 occurring?

6 A Sergeant Sullivan was on the ground, his back
7 out. The door on his car was open. The car was running,
8 and there were no lights on, no overhead lights.

9 Q Where was Drew?

10 A He was bent over Sergeant Sullivan.

11 Q Did you check Sergeant Sullivan?

12 A I did.

13 Q And how did you find him?

14 A With his head in a pulverized state.

15 Q Was he still alive?

16 A No, he wasn't.

17 Q Did there come a time that you made a broadcast
18 concerning possible gunshot?

19 A I did.

20 Q Why did you say gunshot?

21 A Because the only time I have ever seen a
22 person's head in that kind of shape has been from a close
23 contact gun wound that literally implodes.

24 Q Were you able to recognize Sergeant Sullivan
25 looking at his face?

1 A I could recognize him because I have known him
2 for 14 years.

3 Q Let me show you what's been marked as
4 Exhibit 17-A. Do you recognize what's depicted in that
5 photograph?

6 A Yes. That's Sergeant Sullivan.

7 Q Was that his police unit in the scene as you
8 found it that morning?

9 A It is.

10 MR. GAMMICK: Your Honor, I move for 17-A.

11 MR. SPECCHIO: No objection.

12 THE COURT: 17-A is admitted.

13 (Exhibit No. 17-A admitted.)

14 MR. GAMMICK: May I publish?

15 THE COURT: Yes.

16 BY MR. GAMMICK:

17 Q Was there something missing from Sergeant
18 Sullivan?

19 A Yes, there was.

20 Q What was that?

21 A His gun belt was missing. Along with his
22 radio, his handcuffs, and I didn't see any keys at the
23 location.

24 Q Now, was there some of his equipment still at
25 the scene?

1 A Yes, there was.

2 Q There is a brass-looking object lying next to
3 Sergeant Sullivan in the pool of blood. Were you able to
4 determine what that is?

5 A His glasses were there, his key ring keeper,
6 his night stick and pepper gas container.

7 MR. GAMMICK: May I approach the witness, Your
8 Honor?

9 THE COURT: Yes.

10 BY MR. GAMMICK:

11 Q Were you able to determine what that object
12 right there was?

13 A Oh, yes, yes.

14 Q What was that, Officer Smith?

15 A Well, it was his belt buckle.

16 Q Is that the buckle --

17 A Specifically the one you are asking me, that's
18 his belt buckle.

19 Q Are you wearing a buckle such as that yourself?

20 A Yes.

21 Q Would you indicate what it is?

22 A It's right here.

23 Q The buckle for the weapons belt?

24 A Right.

25 Q I believe you testified that Sergeant Sullivan

1 carried a Glock Model 21, .45 caliber pistol?

2 A He did.

3 Q Let me show you what's been marked as item 15-A
4 and ask you if you recognize that.

5 A Yes. That's his handgun.

6 MR. GAMMICK: Move for its admission, Your
7 Honor.

8 THE COURT: Any objection?

9 MR. SPECCHIO: No objection.

10 THE COURT: 15-A is admitted.

11 (Exhibit No. 15-A admitted.)

12 BY MR. GAMMICK:

13 Q Did he have other items on his weapon belt that
14 were identified as belonging personally to Sergeant
15 Sullivan?

16 A Certainly any departmental equipment he had, he
17 always inscribed his name or personal identifier on it.

18 MR. GAMMICK: Your Honor, I have a box that's
19 been marked as Exhibit 16. Contained within that are a
20 couple of items that I would like to have marked as 16-A and
21 16-B, please. 16-A will be a radio and 16-B will be a
22 flashlight.

23 (Exhibit Nos. 16-A and 16-B marked.)

24 THE CLERK: 16-A marked; 16-B marked.

25 BY MR. GAMMICK:

1 Q Let me show you first of all, just ask you to
2 look in the box that's been marked as 16 and ask you if you
3 recognize the other items that are still in the box.

4 A I do.

5 Q Do you know who that -- first of all, what do
6 you see?

7 A I see his radio holder, his belt, his cuff
8 case, both his cuff cases, flashlight holder, and magazine
9 pouch holder.

10 Q Is there also a set of keys in that box?

11 A There's a set of keys, and those are his keys.

12 Q Are any of those marked by Sergeant Sullivan?

13 A I'm not sure if any of his keys are marked or
14 not.

15 Q Do you see his name engraved on a large brass
16 key I have shown you?

17 A Yes. That's a traffic control box. He is one
18 of the few people that had one.

19 Q Let me show you 16-A and ask you to look at
20 that item.

21 A That's his radio, and that's his name.

22 Q How do you know that is his radio?

23 A Because I have seen him put the tag on the back
24 of it.

25 Q Is there a name tag on there that says

1 Sullivan?

2 A There is.

3 Q Let me show you 16-B and ask you if you
4 recognize that item.

5 A Yes. That's his flashlight.

6 Q How do you know that?

7 A He and I engraved our names on our flashlights
8 at the same time.

9 Q That flashlight does have "Sullivan" engraved
10 on it?

11 A It does.

12 Q After -- first of all, to back up even a step
13 from there, are you aware of anyone at UNR or Sergeant
14 Sullivan ever having contact with the Defendant Vanisi prior
15 to that night?

16 A No, I'm not personally aware of that.

17 Q After this occurred, do you know whether there
18 was a check made or search made of the field interrogation
19 cards at UNR concerning Mr. Vanisi?

20 A I don't know.

21 Q Have you talked to other officers about any
22 possible contact with Mr. Vanisi prior to that night?

23 A As far as I know, nobody has had any prior
24 contact with him.

25 Q You say that you were Union 129 and Sergeant

1 Sullivan was Union 130 that night and that dispatch uses
2 those particular call signs for you.

3 A Yes.

4 Q Are there tape recordings made of dispatch
5 calls?

6 A Yes, there is.

7 Q And 911, what is that?

8 A 911 is the emergency number for emergencies to
9 Reno.

10 Q Are there also tape recordings made of 911
11 calls?

12 A All 911 calls are tape recorded.

13 Q Had you previously heard a tape of some of the
14 dispatch calls that were made that night and a 911 call?

15 A I'm sorry?

16 Q Have you previously listened to a tape of a 911
17 call and some dispatch calls that were made that night?

18 A Yes, I have.

19 MR. GAMMICK: Your Honor, I'd like to ask for
20 the admission of 18 and publish it, please.

21 THE COURT: Has he identified that one
22 particularly?

23 MR. GAMMICK: I'm not sure how the Court would
24 want to do this without actually hearing it.

25 THE COURT: Has he listened to it previously?

1 MR. GAMMICK: He has listened to another copy
2 of the same information. I would represent that to the
3 Court.

4 THE COURT: Counsel, do you want to stipulate
5 to the admission?

6 MR. SPECCHIO: No problem, Judge. Sure.

7 THE COURT: Exhibit 18. Did you say there were
8 two numbers, Mr. Gammick?

9 MR. GAMMICK: Exhibit 18, Your Honor.

10 THE COURT: It is admitted.

11 (Exhibit No. 18 admitted.)

12 (Exhibit No. 18 played.)

13 BY MR. GAMMICK:

14 Q Is that the person who you have stated earlier
15 you know as Drew who was at the scene when you arrived
16 there?

17 A That is Drew's voice.

18 (Exhibit No. 18 played.)

19 BY MR. GAMMICK:

20 Q Union 130 was Sergeant Sullivan?

21 A Yes, sir.

22 Q And Union 129, that was you responding?

23 A Yes, sir.

24 (Exhibit 18 played.)

25 BY MR. GAMMICK:

1 Q Was that Mr. Ciocca again?

2 A Yes, it was.

3 Q And Nora 136 I believe we heard, do you know
4 who that was, at least what agency?

5 A He's with Reno.

6 (Exhibit 18 played.)

7 BY MR. GAMMICK:

8 Q Does UNR Police Department and Reno Police
9 Department work on the same frequencies at night?

10 A We do.

11 Q And when she says green is closed, what does
12 that mean?

13 A It means the channel is closed except for those
14 officers actually involved in the call.

15 (Exhibit 18 played.)

16 BY MR. GAMMICK:

17 Q First of all, the screaming sound we hear in
18 the background, what is that?

19 A That's sirens.

20 Q When you say Union 129 or 129, 23, what does
21 that mean?

22 A It means I'm there, I have arrived.

23 Q That's when you arrived at the scene?

24 A Right.

25 (Exhibit 18 played.)

1 BY MR. GAMMICK:

2 Q We have heard several different numbers come up
3 during that last little bit. Are those different Reno units
4 arriving?

5 A They are.

6 Q We just heard I believe his comment set up a
7 perimeter. What does that mean?

8 A It means surround the area at all possible exit
9 routes.

10 (Exhibit 18 played.)

11 BY MR. GAMMICK:

12 Q What did you say at that time?

13 A I told the Reno dispatch operator to get FIS
14 there as soon as possible and to notify Chief Shone.

15 Q Who was Chief Shone?

16 A He is the chief of police for our department.

17 Q At this particular time, when you made this
18 radio call, had you determined that Sergeant Sullivan was
19 dead?

20 A Yes.

21 (Exhibit 18 played.)

22 BY MR. GAMMICK:

23 Q I believe at that time you state that officer
24 was shot.

25 A Apparently shot.

1 Q From the reason that you have already given
2 that you believed that at that time?

3 A Right.

4 (Exhibit 18 played.)

5 BY MR. GAMMICK:

6 Q What did you say then?

7 A I said, advise that his gun belt was gone.

8 Q You mentioned a couple of minutes ago to notify
9 FIS. Who is that?

10 A That is forensic science people that do crime
11 scene investigation. The quicker they get there.

12 (Exhibit 18 played.)

13 BY MR. GAMMICK:

14 Q You were asked if you had a witness on scene.
15 How did you respond to that?

16 A At first I -- because there was a person there
17 I said yes, but you know, not really because he found him.
18 I had no reason to disbelieve him at that point.

19 (Exhibit 18 played.)

20 BY MR. GAMMICK:

21 Q What did you say that time?

22 A I told them to get some units down by Ninth and
23 Evans Street right across from the agriculture building
24 because I felt like in my mind that would be the most likely
25 route someone would take if they were on foot.

1 Q Why do you say that?

2 A Because it's an area where we have had people
3 that have committed burglaries before escape, and we have
4 actually caught them in there.

5 Q Is that a dark area?

6 A It is.

7 Q What else is in that area that would facilitate
8 an escape?

9 A There's the railroad tracks, and there is a
10 clear path that's fairly smooth traveling. It's not
11 lighted. There are trees, there are bushes all along that
12 area with holes going back in them. Easy access to the
13 private fences that go back through that area. And there
14 are actually holes through the fences where someone can go.

15 Q Where is the Orr Ditch located with respect to
16 this path and the railroad tracks?

17 A The Orr Ditch comes up, goes underground, runs
18 along underground and comes out over by Highland.

19 Q Is that the area of Ninth and Evans where you
20 were talking about?

21 A Yes, it is.

22 Q Have you walked that area, that path, what you
23 are describing?

24 A Yes.

25 Q During your career with UNR?

1 A Oh, yes, I have.

2 Q Would you please step down here for just a
3 moment and indicate what you are talking about, what area
4 you asked to be covered and then where this trail path, that
5 type of stuff, is located?

6 If I can get you to step over just a little bit
7 further. Thank you.

8 First of all, if you would start with Ninth and
9 Evans, please, and what you were talking about there.

10 A This is Ninth.

11 Q Maybe we can turn this a little bit.

12 A Ninth Street. This is Ninth and Evans right
13 here. There is the Y. There is the ag building.

14 Q Now, from where you just indicated to get to
15 the trail we were just talking about that goes along the Orr
16 Ditch, do you have to cross Evans Avenue?

17 A Yes, you do. It goes right across, come right
18 in through here. Right on down.

19 Q Is there a chain link fence located along that
20 trail, too?

21 A Yes, there is.

22 Q Is that where you were talking about when you
23 said there were holes through the fence?

24 A Right.

25 Q Thank you, sir.

1 MR. GAMMICK: May I have just a moment, Your
2 Honor?

3 THE COURT: Yes.

4 BY MR. GAMMICK:

5 Q I'd like to show you what has been marked as
6 14-A and 14-B and ask you if you recognize those.

7 A Yes, those are Sergeant Sullivan's glasses.

8 Q 14-B, if you just feel? I think you mentioned
9 there was a lens laying there next to the car?

10 A Yes.

11 Q Does that feel like the lens?

12 A Yes.

13 Q Go ahead and take a look.

14 A That's a lens, yes.

15 MR. GAMMICK: Move for 14-A and B, Your Honor.

16 THE COURT: Mr. Specchio?

17 MR. SPECCHIO: No objection.

18 THE COURT: Exhibit 14-A and 14-B are admitted.

19 (Exhibit Nos. 14-A and 14-B admitted.)

20 BY MR. GAMMICK:

21 Q I have item number 11. We talked about
22 Mr. Vanisi wearing what you believed could be leather or
23 light material and a dark brown or black coat. Does this
24 appear to be --

25 A That appears to be the jacket, including the

1 sleeves that are not the button down type but the open type
2 sleeve.

3 Q And the length, sir?

4 A Absolutely correct there.

5 MR. GAMMICK: That's all the questions I have
6 at this time. Thank you, Officer Smith.

7 THE COURT: Cross-examination.

8 MR. SPECCHIO: Thank you, Your Honor.

9 **CROSS-EXAMINATION**

10 BY MR. SPECCHIO:

11 Q I'm sorry sir. I don't understand. Is it
12 Officer Smith or is it Mr. Smith? Are you working?

13 A Am I working? Yes, sir.

14 Q Are you still with the UNR Police Department?

15 A Yes, I am.

16 Q Are you working today?

17 A Any time I go to Court, yes, sir, we are.

18 Q Well, you're considering your appearance in
19 court today as part of your job?

20 A Right.

21 Q Is this part of your shift?

22 A No, it's not part of the shift.

23 Q Do you still work graveyard?

24 A No, I don't.

25 Q What hours do you work now?

1 A I'm on an on-call basis.

2 Q What does that mean?

3 A It means if they need somebody to fill in, they
4 call me.

5 Q You didn't work yesterday?

6 A No, I did not.

7 Q You don't know if you are going to work
8 tomorrow?

9 A No.

10 Q So the uniform is merely for effect rather than
11 because you have to have it on?

12 A No, sir, it is not.

13 Q Why are you wearing the uniform?

14 A Because our departmental guidelines suggest
15 that we wear a uniform to court whenever we go to testify.

16 Q I see. Even --

17 A On departmental matters. ,

18 Q Even if you are off duty?

19 A Even if you are off duty.

20 Q I notice you used your glasses sometimes and
21 sometimes you didn't. Were you wearing your glasses the
22 night of January 12th, sir?

23 A I use them for reading up close.

24 Q You use them for reading?

25 A Yes.

1 Q You didn't have them on on the night of
2 January 12th?

3 A No, sir. Not unless I had to read something.

4 Q Okay. You indicated that you were traveling on
5 Ninth Street going west to east?

6 A West to east is correct.

7 Q When you saw the defendant?

8 A Yes, sir.

9 Q Mr. Vanisi.

10 A Yes, sir.

11 Q How far away from you -- how far away from you
12 was Mr. Vanisi?

13 A Approximately 25 feet.

14 Q And how fast -- you were in your vehicle, I
15 assume?

16 A Yes, sir.

17 Q How fast were you going?

18 A Probably about four, five miles an hour at that
19 point.

20 Q And then you made a turn on Center Street?

21 A Yes, sir.

22 Q How far from the corner to Center Street did
23 you see Mr. Vanisi?

24 A About 31 feet.

25 Q About 31 feet?

1 A Yeah. I didn't get a tape measure and get out
2 and measure it.

3 Q You didn't?

4 A No, sir, I didn't.

5 Q But you got 31 feet?

6 A That's about what it would be. Between 30, 35
7 feet.

8 Q Okay. How long did you get to see this person?

9 A Two, maybe three seconds.

10 Q Have you had the opportunity to look at any
11 news accounts of the death of Sergeant Sullivan?

12 A As of now? Yes, sir.

13 Q How about in January and February, did you?

14 A For the first three days, no.

15 Q How many times have you seen pictures of
16 Mr. Vanisi since January 12th, 1998?

17 A Oh, quite a few times.

18 Q And you're basing your identification of him in
19 court not on the number of times that you have seen
20 likenesses or photographs of him, but based on your two- to
21 three-second view while you're in an automobile 25 feet
22 away?

23 A Yes, sir.

24 Q I assume at 12:00 o'clock it was still dark on
25 January 12th, 1998?

1 A It was.

2 Q Was he under a street light?

3 A That's a fairly well-lighted area, yes, sir.

4 Q That is not my question. Was he under a street
5 light when you saw him?

6 A Not directly under a street light.

7 Q Talk to me about these FI things, you want to
8 know where everybody is cards. Every cop fills these out?

9 That's a question. You can say yes or no.

10 A Yes, every cop on our department fills them
11 out.

12 Q Now, I just want to make sure that I understand
13 your testimony. Sergeant Sullivan is stopping Mr. and
14 Mrs. Wood around the corner?

15 A Right.

16 Q On Center Street. You are going to be, I think
17 you guys call it backup?

18 A Right.

19 Q And basically Wood is just lost; right? He
20 doesn't know where he is. Isn't that what happened with
21 Mr. and Mrs. Wood?

22 A He was looking for an address, yes, sir.

23 Q An address that didn't exist or was the church
24 or something like that?

25 A It was the church.

1 Q But you pass this guy that squares off to you
2 on the sidewalk?

3 A Right.

4 Q And this isn't the guy that you are
5 interested -- you didn't stop to do an FI, did you?

6 A No, because we already had an officer out on
7 someone.

8 Q So FI's aren't that important? If one cop is
9 busy, then no more FI's; is that what you are telling me?

10 A No, that's not what I'm telling --

11 Q How does it work? Why didn't you stop the
12 menacing-looking guy?

13 A Because I was going to assist Sergeant
14 Sullivan.

15 Q Okay. So when a cop is otherwise involved in
16 some activity, we stop the FI's?

17 A I wasn't there to stop Mr. Vanisi, to FI him.

18 Q Why not? You were 25 feet away from him. He
19 made a menacing look at you. And you determined this in two
20 minutes. And you know positively he's the one?

21 A Right.

22 Q You are amazing. Two seconds?

23 A Two to three seconds.

24 Q Three seconds. In the dark. Okay.

25 Let's forget that for a moment. You remember

1 giving statements to police officers, Reno police officers
2 in this case?

3 A Yes.

4 Q According to your -- do you remember giving a
5 statement to Detective Jenkins?

6 A Jenkins?

7 Q David Jenkins?

8 A I don't know that I gave one to David Jenkins.

9 Q Ron Dreher?

10 A Ron Dreher.

11 Q If I told you in their report that it says you
12 said the guy that was stopped in the menacing manner was a
13 black man, would that ring a bell with you?

14 A I said he appeared to have African American
15 features. I didn't say he was a black man.

16 Q Okay. But if their report says that you said
17 he's black, that report is incorrect?

18 A I said that he was --

19 Q Had African American features?

20 A Right.

21 Q If that same report said that you indicated
22 that the person you saw had red pants on, would that be
23 correct or incorrect?

24 A I don't recall telling anybody he had red
25 pants.

1 Q You don't remember saying that? Could be true,
2 though?

3 A I'm sorry?

4 Q It could be correct?

5 A I believe I said the guy had on dark trousers.

6 Q Well, do you remember testifying at the
7 preliminary hearing in this matter? Do you remember
8 testifying?

9 A Right.

10 Q We met one other time, didn't we?

11 A Right.

12 Q Do you remember testifying at that court?

13 A Right.

14 Q And didn't you say at that time that he had
15 dark trousers on?

16 A Right.

17 Q If the officer indicated that you said he had
18 red trousers on, that report would be incorrect; is that a
19 fair statement?

20 A I would think so. I don't recall telling
21 anybody he had on red trousers.

22 Q How long after January 12th, 1998, did you
23 first see a picture of Mr. Vanisi?

24 A Three -- I think maybe three, four days.

25 Q Do you remember testifying at the preliminary

1 hearing in February 1998? Do you remember testifying? I'll
2 do it one more time.

3 A Do I remember testifying? Yes, sir. I thought
4 you were coming up with another.

5 Q That is what I was looking for was a yes or a
6 no.

7 Do you remember indicating in that hearing --
8 do you remember testifying at that hearing in February that
9 you had never seen a picture of Mr. Vanisi on television or
10 otherwise?

11 A A picture of him? Is correct.

12 Q You didn't?

13 A A picture of him.

14 Q That you did see or did not see?

15 A Did not see.

16 Q See, when I was standing over here, right here,
17 you said you didn't see a picture until three days after the
18 death of Sergeant Sullivan. When I --

19 A There is a difference between a composite and a
20 picture of someone.

21 Q Oh, that's the difference. When is the first
22 time you saw a picture, you know, like film and cameras and
23 click?

24 A I can't be -- I'm not sure of the exact date.
25 But there's -- certainly it was sometime afterwards, quite a

1 while afterwards.

2 Q So it was after -- do you remember me asking
3 you whether or not you saw a likeness on television?

4 A No, I don't remember that.

5 Q Well, I did ask you that. I remember that
6 because it's written down.

7 A Whatever. I didn't watch the television.

8 Q What is the -- I want to go back to the
9 beginning. When you came on to work, came to work on
10 January 12th, Sergeant Sullivan was there. Where do you go?
11 Do they have a police department?

12 A We have a briefing room.

13 Q And is that over off of the street on the west,
14 the east side of the campus?

15 A It's in the station house, yes, sir. 1305
16 Evans to be exact.

17 Q You are the only two guys working graveyard?

18 A Right.

19 Q You get in your car at some point in time?

20 A Right.

21 Q And do you go -- do you follow each other or do
22 you go in different directions?

23 A We go in different direction.

24 Q Basically what you do is patrol until you make
25 a stop?

1 A Right.

2 Q Or somebody needs help or whatever; right?

3 A Right.

4 Q Do you know which direction Sergeant Sullivan
5 went when he left the police compound or whatever you call
6 it?

7 A I have absolutely no idea. I was not there
8 when he drove off.

9 Q You didn't do it at the same time then?

10 A No.

11 Q Who left first?

12 A That particular night?

13 Q Okay. We got to do what we have to do, and his
14 car is there --

15 A I left first.

16 Q And you went which direction?

17 A That particular night?

18 Q Yeah.

19 A Left.

20 Q Which would be through the campus? Did you
21 drive through the campus as opposed to stay on Evans Avenue?

22 A No, I was on Evans.

23 Q You came out this way, made a left on Evans?

24 A Yes.

25 Q Did you have different assignments? You had to

1 do this area of the campus and he had to do -- or did you
2 just both generally patrol everything?

3 A No, we both generally patrolled everything, and
4 he was the supervisor and provided assignments for specific
5 tasks.

6 Q So let's talk a minute about the gentleman that
7 was stopped. He had a blond lady with him, Mr. Wood and
8 Mrs. Wood?

9 A She appeared to be blond to me. I don't know
10 if it was Mrs. Wood or not.

11 Q The information they gave you at that time was
12 that they were looking for property to buy?

13 A It was.

14 Q And it's dark out?

15 A It's dark.

16 Q Was there anything unusual about that stop?

17 A I thought it was unusual.

18 Q Just because of trying to buy real estate at
19 midnight? Is that the reason?

20 A It's not often you encounter that.

21 Q I would imagine. Was there anything else
22 unusual about that stop?

23 A Well, they had the wrong address.

24 Q Right. He told you like 481, and then he
25 changed it and said no, it's 484, and finally ended up with

1 the church; right?

2 A Went back to the car and got a correct address
3 and came back and it was the church.

4 Q Now, assuming this is Center Street, I assume
5 the first vehicle stopped would be the Woods' vehicle, the
6 one furtherest to town, the furtherest south?

7 A Right.

8 Q Behind that would be Officer Sullivan's
9 vehicle?

10 A Sergeant Sullivan.

11 Q Then yours.

12 A Mine.

13 Q Now, how far is your vehicle from Ninth Street?

14 A From Ninth Street?

15 Q Did you make the turn on Ninth down on Center?

16 A It's about probably close to 60 feet.

17 Q Little longer than the courtroom here? Maybe
18 as long as the courtroom?

19 A About that distance. About from here to there.

20 Q Mr. Wood is out of the vehicle, his vehicle?

21 A Right.

22 Q The blond we think is Mrs. Wood is in the
23 vehicle?

24 A Right.

25 Q Sergeant Sullivan is out of his vehicle?

1 A Right.

2 Q How about you?

3 A I walked over by Sergeant Sullivan.

4 Q So you got out of the car?

5 A Right.

6 Q Did you ever look back to Ninth and Center to
7 see that person, Mr. Vanisi, that you say is Mr. Vanisi?
8 Did you ever look back at that person that gave you the
9 menacing look?

10 A No, I was too interested in the guy that was
11 directly in front of Sergeant Sullivan that was walking
12 around.

13 Q How big of a guy is Wood?

14 A Fairly good sized.

15 Q Good sized, like me, full figured, or tall?

16 A Well, he's full figured.

17 Q Matter of fact, you testified that you didn't
18 like the way Wood was answering questions; right?

19 A That's true.

20 Q But it's your testimony here today that on
21 January 12th, January 13th, sometime around midnight, you
22 are driving down Ninth Street west to east, see this
23 menacing figure through -- I assume you had the windows
24 rolled up. It had to be pretty cool out.

25 A No, I don't patrol with my windows rolled up.

1 Q You had the windows down?

2 A Oh, yes.

3 Q What about the prismatic effect you talked
4 about at the preliminary hearing? Do you remember
5 testifying about because of the prismatic effect of the
6 glass, he looked darker than he is?

7 A I didn't say anything about the glass.

8 Q Well --

9 A Prismatic effects come from a lot of things.

10 Q Does prismatic effect mean anything to you?

11 A Yes.

12 Q What does it mean?

13 A Protracting or bending of light.

14 Q Is that what was happening that night?

15 A I can't be for sure.

16 Q It can't be if you got your window rolled down?

17 A I'm sorry?

18 Q It couldn't be if you had your window rolled
19 down, could it? I'm at a loss here. I don't know what
20 you -- do you want me to give you the direct quote?

21 A I know what I said.

22 Q Okay. Well, maybe. Tell me what it means.

23 A Sometimes at night because of the prismatic
24 effect, reflecting lights coming off of patrol cars, with
25 the overhead lights on can make colors seem darker than what

1 they are. Or lighter.

2 Q But you didn't have any lights on; right?

3 A I didn't have any lights on.

4 Q And Sullivan was already down and around the
5 corner, so that wouldn't have created a prismatic effect?

6 A Not true because you could see the lights from
7 where he is at.

8 Q He is 60 feet down Center Street?

9 A Right.

10 Q You are 31 feet over on Ninth Street. And the
11 prismatic effect of these flashing lights caused you --

12 A They are not the only lights.

13 Q They caused you to say the person you saw was
14 black and red trousers?

15 A I didn't say he was black.

16 Q You didn't say he was black?

17 A I didn't say he was black.

18 MR. GAMMICK: That --

19 THE COURT: Wait, wait, wait. I'm sorry to
20 interrupt you, but if Mr. Specchio is speaking, sir, you
21 will have to wait until he is through.

22 And the same for you, Mr. Specchio. The court
23 reporter can't take you both down.

24 Go ahead. I think you were asking a question.

25 BY MR. SPECCHIO:

1 Q If that officer has that in his report, his
2 report is incorrect?

3 A I don't believe I said that.

4 Q It's your testimony that based on two to three
5 seconds a year ago, you can positively identify Mr. Vanisi?

6 A Absolutely.

7 Q No hesitation?

8 A No hesitation. None whatsoever.

9 Q You have a stake in this, don't you? You
10 really want to see this man die for what you think he did?

11 A Absolutely not.

12 MR. GAMMICK: Objection, Your Honor.

13 MR. SPECCHIO: I'll withdraw it. No more
14 questions.

15 THE COURT: Are you going to be asking
16 redirect, Mr. Gammick?

17 MR. GAMMICK: I have about two questions.

18 THE COURT: Okay.

19 MR. GAMMICK: Two areas.

20 THE COURT: Sir, you really have to wait until
21 the other person is through speaking before you say
22 anything. Okay?

23 THE WITNESS: Yes, ma'am.

24 THE COURT: Thank you. Mr. Gammick, redirect.

25 MR. GAMMICK: May I come up, Your Honor?

1 THE COURT: What are you showing him?

2 MR. GAMMICK: I mentioned to Mr. Specchio.
3 Preliminary hearing transcript starting at page 182, Your
4 Honor.

5 THE COURT: Thank you. You may.

6 **REDIRECT EXAMINATION**

7 BY MR. GAMMICK:

8 Q To yourself, please, if you would, would you
9 read starting on page 182, line 9, through the rest of that
10 page, and read page 183 to yourself?

11 Have you read those pages, Officer Smith?

12 A Yes, sir, I have.

13 Q Anywhere were you asked about a likeness,
14 having seen a likeness or a composite of the defendant?

15 A Yes, sir.

16 Q You were asked about a likeness or were you
17 asked about photographs?

18 A I was asked if I had seen any photographs.

19 Q Anywhere were you asked if you had seen a
20 likeness or a composite?

21 A Not a likeness nor a composite at all.

22 Q You were asked about photographs?

23 A I was asked about photographs.

24 Q And had you seen any photographs prior to the
25 first time you saw Mr. Vanisi in person after January 12th,

1 1998?

2 A Absolutely not.

3 Q Excuse me. 13th, 1998?

4 A Absolutely not.

5 Q You identified Mr. Vanisi at the prior hearing?

6 A I did.

7 Q Face-to-face?

8 A I did.

9 Q Did he appear the same as he does today?

10 A No.

11 Q What did he have that day that he does not have
12 today?

13 A Facial hair, hair was longer than what it is
14 now, dressed differently.

15 Q Let me show you what's been marked as 24-A and
16 24-B and ask you to look at those photographs. Defendant
17 appear closer to those photographs when you saw him
18 previously in court --

19 A Absolutely.

20 Q -- than he does today?

21 A That's him.

22 MR. GAMMICK: I move for admission, Your Honor.

23 THE COURT: Mr. Specchio?

24 MR. SPECCHIO: Hard for me to argue with
25 anybody, Judge. I'm all for it.

1 THE COURT: I'll take that as a stipulation.

2 MR. SPECCHIO: That will be a stipulation.

3 Well, I won't object. Let's put it that way.

4 THE COURT: Okay. 24-A and B are admitted.

5 (Exhibit Nos. 24-A and 24-B admitted.)

6 MR. GAMMICK: May I walk through the jury and
7 publish, Your Honor?

8 THE COURT: You may.

9 BY MR. GAMMICK:

10 Q The flashing lights on the back of Sergeant
11 Sullivan's patrol vehicle that he had illuminated that
12 night, do you have the same type of lights on your car?

13 A I do.

14 Q Do the other police cars at UNR have that type
15 of lighting?

16 A They do.

17 Q How far away have you seen those flashing
18 lights when you have been behind one of those cars with them
19 on?

20 A They are visible for 150, 200 feet easy,
21 further.

22 MR. GAMMICK: Thank you. That is all I have.

23 **RECROSS-EXAMINATION**

24 BY MR. SPECCHIO:

25 Q How about around corners? How far do you have

1 to be around corners so you can still see them?

2 Never mind. Don't even bother.

3 MR. SPECCHIO: I have no further questions.

4 THE WITNESS: I would be more than happy to
5 answer it.

6 MR. SPECCHIO: That is all right.

7 THE COURT: Withdraw the question?

8 MR. SPECCHIO: Yes, Your Honor.

9 THE COURT: Anything further?

10 Sir, thank you. You may step down. You are
11 excused.

12 (The witness was excused.)

13 THE COURT: Ladies and gentlemen of the jury,
14 we're going to take our afternoon recess now. During this
15 recess I'm going to remind you of the admonition that I have
16 given you at all other breaks. You are not to discuss this
17 case among yourselves or with anyone else, or any matter
18 having to do with this case.

19 It is further your duty not to form or express
20 any opinion regarding the guilt or innocence of the
21 defendant until the case is finally submitted to you for
22 decision. You are not to read, look at or listen to any
23 news media accounts relating to this case should there be
24 any.

25 Should any person attempt to discuss the case

1 with you or in any manner attempt to influence you with
2 respect to it, you are to advise the bailiff who in turn
3 will advise the Court.

4 Ladies and gentlemen of the jury, you may step
5 out at this time. The audience will be seated, please.

6 (Whereupon, the following proceedings were held
7 in open court, outside the presence of the
8 jury.)

9 THE COURT: Counsel, do you have anything that
10 you need to bring up at this stage in the proceedings
11 outside the presence of the jury?

12 MR. BOSLER: Your Honor, I have had the
13 opportunity since I haven't been doing the questioning to
14 see that there are several uniform armed officers who come
15 in and out of court, not particularly the bailiffs.

16 What I have noticed is they seem to, to a
17 person, look at Mr. Vanisi with a menacing glare, and maybe
18 that is understandable; but I think that if a juror were to
19 see an officer walk into court, giving a menacing glare to
20 Mr. Vanisi, that is the functional equivalent of them
21 wearing a badge saying he is to be convicted or something
22 like that.

23 I would just ask the Court if these people want
24 to come in and be spectators, as is their right, this is an
25 open courtroom, they try not to do anything that may be
considered disruptive by the jurors.

1 THE COURT: Is there anyone in the courtroom
2 that you would now identify as someone who has given a
3 menacing look to Mr. Vanisi?

4 MR. BOSLER: They were uniformed officers. Not
5 NHP. They have already left.

6 THE COURT: Nobody who is currently in the
7 courtroom, is who you are talking about?

8 MR. BOSLER: That is correct, Your Honor.

9 THE COURT: I'd appreciate it if you would on
10 this break see if you can find that person, if they are
11 still in the hall. The people in the courtroom now are the
12 people that I know that will be uniformed officers in and
13 out of this courtroom. So I don't know who you are talking
14 about.

15 You think they were in a blue uniform like a
16 Reno PD uniform?

17 MR. BOSLER: That would be my guess. I just
18 watched the faces coming in.

19 THE COURT: I did not see anybody come in and
20 out in a Reno PD uniform. Obviously, nobody from Reno PD is
21 involved in the security or the functioning of the court.
22 So I don't know who these people might be.

23 Do you think there was more than one person?

24 MR. BOSLER: Yes.

25 THE COURT: Does anybody, any of the other

1 attorneys involved in this case, have any idea who he is
2 referring to?

3 MR. GAMMICK: I have absolutely no idea, Your
4 Honor. I would ask if the Court has observed any
5 inappropriate behavior. The Court is in a better angle to
6 see these things. I'm not aware of anything going on that
7 is out of line.

8 THE COURT: The Court has not observed
9 anything. I am trying to keep a very good eye on what's
10 happening. I have not observed anything out of the ordinary
11 or any glares or any looks towards Mr. Vanisi.

12 Mr. Bosler, I don't want to imply anything, but
13 you are sure they are looking at the defendant? I haven't
14 paid attention to what they might be looking at.

15 MR. BOSLER: Your Honor, I know that you are
16 doing some paperwork. I have had the opportunity to not be
17 busy with paperwork.

18 THE COURT: Actually I'm not doing much
19 paperwork. I'm not doing anything that isn't involved in
20 this case, and I never don't look up every 30 seconds or so.

21 MR. BOSLER: Your Honor, for the record, I
22 guess I should indicate that I sit right next to Mr. Vanisi.
23 People who look at him have to necessarily look at me
24 because I'm the next person.

25 THE COURT: Deputy Uptain, you are my bailiff

1 here. You have been sitting here.

2 THE SHERIFF: I have watched everybody that
3 came in, and I haven't noticed anything.

4 THE COURT: Would you advise the Court, please,
5 if you notice anyone showing any particular demeanor, happy,
6 sad, anything at all that might in any way be distracting,
7 no matter who it is addressed to? I think we have talked
8 about that before.

9 If you see anything like that, please advise
10 the Court.

11 THE SHERIFF: Yes, Your Honor.

12 THE COURT: Clerk, Mrs. Stone, you are facing
13 in the same direction right next to Deputy Uptain. Have you
14 seen anything?

15 THE CLERK: I have not noticed anything.

16 THE COURT: You are working on your computer,
17 too. Okay.

18 Counsel, next time you see anybody, if you see
19 something, please call it to my attention as it happens so
20 that I can figure out who you are talking about.

21 These people aren't connected with the court.
22 If they are here, or doing anything, I don't know anything
23 about them. We'll watch for it.

24 Ask you also, Deputy Brokaw, to watch and let
25 me know if anybody comes in and out.

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THE SHERIFF: Yes, Your Honor.

MR. BOSLER: Thank you, Your Honor.

THE COURT: Anything further?

MR. GAMMICK: I have nothing else, Your Honor.

THE COURT: Okay. We'll give a break now until
3:15. I'll see you all back at that time.

Court is in recess.

(Recess taken at 3:02 p.m.)

RENO, NEVADA, WEDNESDAY, JANUARY 13, 1999, 3:22 P.M.

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(Whereupon, the following proceedings were held in open court, in the presence of the jury.)

THE COURT: Counsel stipulate to the presence of the jury?

MR. GAMMICK: Stipulate the presence of the jury, Your Honor.

MR. SPECCHIO: Yes, Your Honor.

THE COURT: You may call your next witness.

MR. GAMMICK: Call Andrew Ciocca, please.

THE COURT: Please step forward and face the woman standing, and she will administer the oath.

ANDREW GUY CIOCCA

called as a witness on behalf of the Plaintiff,

having been first duly sworn,

was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GAMMICK:

Q Would you please state your name and spell your last name, sir?

A Andrew Guy Ciocca, C-I-O-C-C-A.

Q Mr. Ciocca, are you a student at the University of Nevada, Reno?

1 A Yes, I am.

2 Q Were you a student up there January of 1998,
3 one year ago?

4 A Class was not in session, but I was a
5 continuing student, yes, sir.

6 Q I'll call your attention to Monday, January 12,
7 Tuesday, January 13th. Was school out at that time?

8 A Yes, it was.

9 Q You were still in the area?

10 A Yes, I was.

11 Q That night, where were you around midnight?

12 A Around midnight I was at the Days Inn at 701
13 East Seventh Street, the corner of Seventh and Wells,
14 visiting a friend.

15 Q Did you leave there?

16 A Yes, I did.

17 Q About what time?

18 A I would guess about 12:00. I remember that I
19 had to meet somebody around 1:15, 1:30. So I'd say I
20 probably left around 12:45ish, I believe, give or take.

21 Q Where were you headed?

22 A I was headed to my home at 1316 Buena Vista
23 Avenue.

24 Q Is that on -- what is in between where you were
25 at and your home?

1 A The University of Nevada, across campus.

2 Q What was your mode of transportation on that
3 night?

4 A I was on foot.

5 Q Did you walk to the university?

6 A Yes, I did.

7 Q Did you enter the campus?

8 A Yes, I did.

9 Q Where did you do that?

10 A At the stairs which come down at Ninth Street.
11 There is a large stairs that go over an irrigation ditch of
12 some nature.

13 Q Is that close to the intersection of Ninth and
14 Center?

15 A Yes, it is. About half a block.

16 Q Do you have to go uphill to get on to campus?

17 A Yes.

18 Q Did you?

19 A Yes, I did.

20 Q Once you crested the top of the hill, what did
21 you first see?

22 A What I first saw was a University of Nevada
23 police vehicle. I did not notice much that was strange
24 otherwise. And the parking lot makes a hump, and so a
25 portion of the vehicle was obstructed. A University of

1 Nevada police vehicle.

2 Q Have you seen other University of Nevada police
3 vehicles or maybe that one at that location before?

4 A I couldn't say which specific vehicles, but
5 yes, they are regularly parked there.

6 Q At night?

7 A Yes. I pass by there at that hour very
8 regularly.

9 Q As you got closer what did you observe?

10 A I observed what appeared to be a person looking
11 under the vehicle, which at my assumption I thought was the
12 vehicle was leaking fluid and the officer was looking under
13 trying to figure out what was wrong with the vehicle.

14 Q Did that impression change?

15 A Upon closer inspection, I realized the officer
16 was face down, yes, sir.

17 Q What was the fluid?

18 A The fluid was his blood.

19 Q What did you do then?

20 A I ran to the officer. This is 365-day stale
21 memory, but I ran to the officer. I checked his pulse on
22 his hand. He was still warm.

23 I went to I believe a visitor's information
24 kiosk which is located in the parking lot. Knocked on the
25 window. The light was on. That was the reason I went over.

1 Nobody, nobody was in there.

2 I went to a phone near Manzanita Lake a little
3 bit west of where he was parked and dialed 911.

4 Q If I can, 17-A which has already been admitted
5 into evidence. Can you see this all right from where you
6 are located?

7 A Yes, sir.

8 Q And does that appear to be what you found that
9 morning?

10 A As I noted in the preliminary trial, the
11 gentleman's shirt was not open. He was face down where the
12 bulk of the blood was by the door. His face being right
13 where the bulk of the blood was.

14 THE COURT: I'm going to stop you there,
15 Mr. Gammick.

16 Ladies and gentlemen of the jury, can you see
17 this? Can everyone see it? Thank you. .

18 Go ahead.

19 MR. GAMMICK: Thank you, Your Honor

20 BY MR. GAMMICK:

21 Q After you made the 911 call, did you move the
22 officer?

23 A Yes, I went back to the officer. I rolled him
24 over, checked his pulse again, attempted to resuscitate.
25 And then I used his police radio to attempt to contact the

1 police yet again.

2 Q Let me show you 17-B and 17-C. Do you
3 recognize that photograph, sir?

4 A Yes, I do. That is the south end of campus
5 where the visitor's information kiosk as well as the car was
6 parked.

7 Q And 17-C, ask if you recognize that.

8 A That's the interior of the car that the officer
9 was driving.

10 MR. GAMMICK: Your Honor, I move for 17-B and
11 17-C.

12 THE COURT: Mr. Specchio?

13 MR. SPECCHIO: No objection, Your Honor.

14 THE COURT: Okay. 17-B and C are admitted.

15 (Exhibit Nos. 17-B and 17-C admitted.)

16 BY MR. GAMMICK:

17 Q Now, we'll notice in the photograph that is on
18 the screen now, 17-A, that the car door is open.

19 A That is correct.

20 Q Was that the condition it was in when you first
21 found the car?

22 A To the best of my memory, yes.

23 Q I believe you started describing that
24 photograph, 17-B, I believe, as being in the area of the
25 south side of the university campus?

1 A That is correct.

2 Q And you mentioned an information kiosk. Is
3 that --

4 A I can't see too clearly, but that would be just
5 about the location, yes, sir.

6 Q Do you see what looks like a lot of liquid all
7 over the ground all in here?

8 A Yes.

9 Q Is that the location of the Sergeant Sullivan's
10 car --

11 A Approximately.

12 Q -- when you found it? You mentioned a
13 telephone, too. Do you see that in this photograph?

14 A Where the blue roof is at the lower left-hand
15 side of the corner a little bit north of that.

16 Q Right in that area?

17 A That vicinity, yes, sir.

18 Q Did there come a time when you discovered
19 something missing from Sergeant Sullivan that caught your
20 attention?

21 A Yes. His sidearm, his gun.

22 Q When did you discover that was gone?

23 A Upon rolling him over. In such a situation, I
24 was obviously fairly nervous and something that I'd be a
25 little more comfortable knowing it was nearby.

1 Q So at that time it concerned you that you
2 couldn't find his gun?

3 A Very much so, yes.

4 Q Did there come a time when you got into the
5 police car?

6 A Yes.

7 Q And did you ever find a coffee cup inside the
8 car?

9 A Yes. There was a coffee cup in the center
10 console located near the seat.

11 Q Let me show you what's been admitted as 17-C
12 and ask about a blue item right there and part of the top
13 there. Is that the coffee cup you are referring to?

14 A I can't see it too well, but I can say with
15 some certainty it was in that area.

16 Q Would you like to see the photograph? Would
17 that be helpful?

18 A That would be great. It would be this coffee
19 cup right there.

20 Q The item I was pointing to on the screen?

21 A Yes.

22 Q Also appears to be some type of notebook right
23 here on top of the dash. Do you recall seeing a notebook?

24 A A clipboard, yes, sir.

25 Q That is where it was located?

1 A I believe so, yes, sir.

2 Q Did any police officers arrive while you were
3 there?

4 A Yes. I would guess, it seemed far longer, but
5 my guess would maybe be within two, two and a half minutes
6 the police showed up after the 911 call.

7 Q Do you know Officer Smith from the University
8 of Nevada, Reno Police Department, Carl Smith?

9 A Yes, I have known him on prior occasions, and
10 he was the first one to arrive on the scene.

11 Q Have your prior meetings been congenial?

12 A No, they have not, unfortunately.

13 MR. GAMMICK: That is all the questions I have
14 at this time, Your Honor.

15 THE COURT: Cross-examination.

16 **CROSS-EXAMINATION**

17 BY MR. SPECCHIO:

18 Q Mr. Ciocca, did you ever see any eyeglasses
19 that night?

20 A I really do not recall. I believe there were
21 eyeglasses, though, with some uncertainty, in the blood
22 where he was down.

23 Q Do you remember giving a police report, making
24 a written statement?

25 A Yes, I do, that evening.

1 Q Do you remember saying that you kicked some
2 glasses out of the way?

3 A No, I don't. But that's very possible. My
4 memory at that time was far better than it is now.

5 Q Did you see anybody else on campus prior to
6 your coming upon Officer Sullivan, Sergeant Sullivan?

7 A No, no, I did not. I believe that I saw
8 shadows before really noticing the situation. But I cannot
9 say with any certainty whether they'd be people or what they
10 were. They were towards the nursing building on the east
11 end of campus, but like I said, with very limited certainty.

12 Q Do you remember telling the police that you
13 might have seen two people by the nursing school?

14 A Key word being might.

15 Q Did you also remember saying anything about
16 hearing some rustling in the bushes by the SAE house?

17 A Yes. It was a fairly calm night that evening
18 near the freeway. I did note some rustling. It didn't
19 really stand out to me, though.

20 Q So you didn't see anybody?

21 A No, I did not.

22 MR. SPECCHIO: Nothing further, Your Honor.

23 THE COURT: Anything further, Mr. Gammick?

24 MR. GAMMICK: No, Your Honor. Thank you.

25 THE COURT: You may step down.

1 THE WITNESS: Thank you.

2 (The witness was excused.)

3 THE COURT: Call your next witness.

4 MR. GAMMICK: I call Willie Stevenson, Your
5 Honor.

6 Your Honor, we will have a videotape to show.
7 I believe we will need to dim some of the lights.

8 THE COURT: That is fine. You all have talked
9 to the bailiff about this; right?

10 MR. GAMMICK: Yes.

11 **WILLIAM STEVENSON**

12 called as a witness on behalf of the Plaintiff,
13 having been first duly sworn,
14 was examined and testified as follows:

15 **DIRECT EXAMINATION**

16 BY MR. GAMMICK:

17 Q Would you please state your name and spell your
18 last name, sir?

19 A William Stevenson, S-T-E-V-E-N-S-O-N.

20 Q What is your profession or occupation?

21 A I'm a forensic investigator with the Washoe
22 County Sheriff's Crime Lab.

23 Q What does a forensic investigator do?

24 A We're primarily responsible for crime scene
25 investigation and documentation as well as processing in the

1 laboratory for latent fingerprints.

2 Q Do you also -- when you say processing a scene,
3 does that also mean collect evidence?

4 A Yes, it does.

5 Q FIS, what does that stand for?

6 A Stands for forensic investigation section.

7 Q That is where you are employed at this time?

8 A That's correct.

9 Q How long -- are you a sworn officer?

10 A Yes, I am.

11 Q How long have you been a sworn officer?

12 A Seventeen years.

13 Q How long have you been involved with FIS?

14 A Approximately eight years.

15 Q I call your attention to the early morning
16 hours of January 13th, 1998, one year ago. Were you called
17 to the area of the information kiosk at the University of
18 Nevada?

19 A Yes, I was.

20 Q Why did you respond there?

21 A I responded to assist Investigator Leal with
22 the investigation of a crime scene and the death of a
23 University of Nevada Police Department officer.

24 Q Investigator Leal, Toni Leal?

25 A That is correct.

1 Q Does she do the same basic type of work that
2 you do?

3 A Yes, she does.

4 Q Now, as a -- you mentioned also fingerprints.
5 As forensic investigators, do you have specialties besides
6 general working on crime scenes?

7 A Yes, we do.

8 Q What is your specialty?

9 A My specialty other than crime scene would be
10 latent fingerprints and photography.

11 Q As to latent fingerprints, what is your
12 education in that field?

13 A I have approximately seven weeks of training
14 from various agencies regarding fingerprints.

15 Q What do you do?

16 A As far as?

17 Q As far as having an expertise in fingerprints.
18 What do you do?

19 A We have a training, knowledge and background in
20 fingerprints, what a fingerprint is, how a fingerprint is
21 deposited. We have training in chemical processing of items
22 for fingerprints.

23 MR. SPECCHIO: I'll stipulate to the
24 qualifications of the witness, Your Honor.

25 BY MR. GAMMICK:

1 Q Have you qualified as an expert in fingerprint
2 comparison?

3 A Yes.

4 THE COURT: Is that what we're talking about?

5 MR. GAMMICK: Yes.

6 THE COURT: That is what you are stipulating
7 to?

8 MR. SPECCHIO: Yes.

9 THE COURT: The Court will accept the
10 stipulation that this witness is a fingerprint comparison
11 expert.

12 BY MR. GAMMICK:

13 Q As an expert in fingerprint comparison, what do
14 you do?

15 A We would take a latent fingerprint if located
16 on any item, compare it to an inked or known fingerprint to
17 determine whether the latent fingerprint might have been
18 made by the person who would have made an inked fingerprint.

19 Q Do you also collect -- what is a latent
20 fingerprint?

21 A A latent fingerprint is a fingerprint that is
22 normally not seen. It is a fingerprint -- for instance, if
23 you pick up a glass and set the glass back down, you may not
24 immediately see the print until you maybe hold it up to a
25 different light, or in our case we would process it with

1 powders or chemicals of some sort.

2 Q As a forensic investigator, do you search for
3 and, if they are found, collect latent fingerprints?

4 A Yes.

5 Q Does Investigator Leal also do that?

6 A Yes, she does.

7 Q And then you compare that latent to find who
8 the print belongs to, compare it to known fingerprints?

9 A That's correct.

10 Q How often do you even find latent fingerprints
11 at scenes?

12 A We find latent fingerprints approximately 10
13 percent of the time. If we worked a hundred scenes or if we
14 processed a hundred items, we would probably find 10
15 fingerprints, 10 latent fingerprints of value.

16 Q Out of those 10, how many are you successfully
17 comparing to someone else or to a person?

18 A As far as a suspect, it would be one percent of
19 the time or one case out of a hundred.

20 Q In this case, during the course of the
21 investigation, were you aware of any latent fingerprints
22 being collected?

23 A There were several latent fingerprints
24 collected.

25 Q Did you have information or were you asked to

1 compare a fingerprint that was collected from a white
2 plastic bag?

3 A Yes, I was.

4 Q That was by Investigator Leal?

5 A That is correct.

6 Q Did you make a comparison of that fingerprint?

7 A Yes, I did.

8 Q What were your results?

9 A I compared the fingerprint, the latent
10 fingerprint from a white plastic bag to an inked fingerprint
11 that was on a card which was collected by Salt Lake City
12 Sheriff'S Office. The results of my comparison were that
13 the latent fingerprint from the white plastic bag was made
14 by the same person who made the inked fingerprint on the
15 Salt Lake County card.

16 Q Was that person for the Salt Lake County Siaosi
17 Vanisi?

18 A That is the name that was on the card, yes.

19 Q That was a positive comparison, positive match?

20 A That's correct.

21 Q Do you know what that white plastic bag
22 contained at one time?

23 A I was informed that it contained the leather
24 gear from Sergeant Sullivan.

25 Q At the time you were at the scene, did you look

1 at or examine Sergeant Sullivan's car for blood spots?

2 A Yes, I did.

3 Q Did you find blood spots on the vehicle?

4 A Yes, I did.

5 Q In what general area?

6 A The general area of the driver's door, exterior
7 portion.

8 Q Did you find -- let me show you 17-A. You
9 notice that the car is there with the door open. Did you
10 find any blood spots at all inside of the car, on the seat,
11 inside of the door or anywhere else?

12 A There were a faint number of very small blood
13 spatters on the door sill itself, a rubber portion. But as
14 far as the doorjamb, the seat, any of the other major
15 portions, there were none.

16 Q You have already stated that you are involved
17 in the collection and marking of evidence. Would you please
18 turn the chart around there that is sitting next to you?
19 Just turn it around on the easel.

20 I believe in the left-hand column there are
21 descriptions of some items. What we see primarily are Q
22 numbers and P numbers. What do those mean to you?

23 A A Q number is an evidence control number. The
24 Q simply means that this was the original piece of evidence
25 collected. If I were to collect a piece of evidence at a

1 crime scene, when that piece of evidence is entered into our
2 system, it gets a Q number.

3 The P number is a number which means it's a
4 secondary type of evidence. For instance, if I pick an item
5 up at a crime scene, it gets a Q number. If that item comes
6 into the crime lab and is subsequently tested, say for DNA
7 or something of that nature, the criminalist who does that
8 particular work, if they get a result or if they get further
9 evidence from the initial item that I collect, they give it
10 a P number.

11 Q So the white plastic bag would have had a Q
12 number?

13 A Correct.

14 Q And then the latent fingerprint lifted from
15 that would have the P number?

16 A Actually the latent fingerprint.

17 Q Would that also be a Q?

18 A That would turn into an L number. Latent
19 prints are filed within the fingerprint section in an
20 envelope that has an L number on it. So a latent
21 fingerprint is collected from an item. The item may have an
22 original Q number on it. But it will be filed in an
23 envelope that has an L number on it.

24 Q Blood spots are removed from the car or from
25 any other items, what type of number would those have on

1 them?

2 A If the criminalist is the person collecting
3 those items directly, it will be a P number.

4 Q These different numbers are just a way of you
5 controlling the main item of evidence, anything that's
6 removed from that in anything that's tested?

7 A That's correct.

8 MR. GAMMICK: May I have just a moment, Your
9 Honor?

10 THE COURT: Yes, you may.

11 BY MR. GAMMICK:

12 Q If you look at that chart, you have Q numbers A
13 through E, I believe. Do you know whether or not those
14 were, those stains were ones collected from the car?

15 A I believe with the Q number series they
16 probably were.

17 Q As part of your duties, do you do videotapes of
18 crime scenes?

19 A Yes, I do.

20 Q Did you shoot a videotape of this crime scene?

21 A Yes, I did.

22 Q I know you can't particularly identify a tape,
23 but if you would look at number 19. Is that labeled
24 appropriately for this case?

25 A Yes, it is.

1 MR. GAMMICK: Your Honor, I move for 19. I
2 believe the defense has no objection. They do have a copy.

3 THE COURT: Mr. Specchio?

4 MR. SPECCHIO: No objection, Your Honor.

5 THE COURT: Exhibit 19 is admitted.

6 (Exhibit No. 19 admitted.)

7 MR. GAMMICK: If I could publish it at this
8 time, Your Honor.

9 THE COURT: Yes, you may.

10 (Exhibit 19 played.)

11 BY MR. GAMMICK:

12 Q Does this appear to be the videotape or at
13 least a copy of the videotape that you shot that night?

14 A Yes, it does.

15 Q The police car that we see in the forefront, do
16 you know if that was Officer Carl Smith's police vehicle?

17 A I was advised that was the vehicle that he
18 arrived in, yes.

19 Q Sergeant Sullivan's body was covered to include
20 his head while you shot this video?

21 A Yes, it was covered with a white sheet.

22 Q If I could ask you, Officer Stevenson, if you
23 would, please, you talked earlier about where you found
24 blood spatter and where you did not. Could you take this
25 laser button and indicate where you did find blood spatter

1 and where you did not find any?

2 A The primary blood spatter that was located on
3 scene was -- would be on the outside or front portion of
4 this door, which we will see better later on in the
5 videotape. This is the scene as it related as I arrived.
6 This is the way I found it when I was assigned to begin my
7 work.

8 A partial amount of blood spatter can be
9 located right in the area of the bottom of the I in police,
10 and it thins out going towards the C and the E.

11 On the door itself, the exterior portion where
12 the L would be located, towards the bottom edge is where a
13 majority of the spatter was located.

14 Q Did you find any -- we're looking in the
15 interior of the door now and just kind of catch the edge, we
16 don't see the interior of the door, but did you see any
17 blood spatter in any of those interior surfaces?

18 A None.

19 Q Is that Sergeant Sullivan's glasses depicted
20 there?

21 A Yes, it is.

22 Q Did you recover those?

23 A They were recovered at the scene.

24 Q The lights we see above the car in the
25 background, is that downtown Reno?

1 anything when she was --

2 A PROSPECTIVE JUROR: Kind of. I caught part
3 of it. The dog took the rest of it away.

4 MR. BOSLER: Have you had discussions with your
5 wife before you were called to serve on this case?

6 A PROSPECTIVE JUROR: (Shakes head negatively.)

7 MR. BOSLER: You indicated in your
8 questionnaire that, there's the boxes, I want to be a juror,
9 I don't want to be a juror, and you have the response, I
10 don't know. Could you explain?

11 A PROSPECTIVE JUROR: I don't know.

12 MR. BOSLER: You still don't know?

13 A PROSPECTIVE JUROR: No.

14 MR. BOSLER: After considering all the
15 questions of counsel, do you have any idea whether you are
16 the type of person who should be sitting in judgment of
17 another person and essentially deciding life and death
18 questions?

19 A PROSPECTIVE JUROR: I think I can do that.

20 MR. BOSLER: Something you are comfortable
21 with?

22 A PROSPECTIVE JUROR: Yeah. So far.

23 MR. BOSLER: So far? You are not going to give
24 me anything, are you? Thank you, Mr. McCargar.

25 Miss Cadena, you had some interesting things to

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1 say on your questionnaire. Have you had a chance to recall
2 what you had said?

3 A PROSPECTIVE JUROR: Yes. You read part of it
4 yesterday.

5 MR. BOSLER: Based upon things that you said in
6 your questionnaire, and I guess you said you formed an
7 opinion about the case, do you think you are the type of
8 person who should sit?

9 A PROSPECTIVE JUROR: No.

10 MR. BOSLER: No? You said that you would have
11 trouble listening to any evidence to the contrary. You have
12 already formed this opinion of guilt and you would have
13 trouble listening to any other evidence?

14 A PROSPECTIVE JUROR: I feel I'd have trouble
15 putting aside what I have already heard and being open about
16 it.

17 MR. BOSLER: And that's -- you have heard the
18 judge instruct you and the prosecutor instruct you, and I'm
19 not going to be the third person.

20 A PROSPECTIVE JUROR: I still sat there and
21 said I don't know if I can really put everything aside and
22 be a fair juror.

23 MR. BOSLER: I don't want to put words in your
24 mouth. Your opinion right now is you don't feel you can be
25 a fair juror?

1 A PROSPECTIVE JUROR: Right.

2 MR. BOSLER: Ma'am, give me a moment.

3 Miss Frandsen, I guess the same question has to
4 be asked of you. You said in court that you felt
5 prejudiced. Is that the case?

6 A PROSPECTIVE JUROR: When I came to court a
7 Monday ago, not yesterday, my heart was pounding, and my
8 heart still is pounding. And I have always tried to treat
9 people fairly my whole life. So I said I would not like to
10 sit on this jury.

11 I have now changed my mind. I think that I can
12 be open-minded, and I think that I would like to hear the
13 details of the case and also make up my mind later, that due
14 process should exist.

15 MR. BOSLER: And why do you think you have
16 changed your mind since yesterday?

17 A PROSPECTIVE JUROR: I put a lot of credence
18 on the judge, Judge Connie Steinheimer. I put a lot of
19 credence on you and also the other -- I don't know, defense
20 or the prosecutors. So I have just rethunk, although my
21 heart is still pounding.

22 MR. BOSLER: Do you think that that condition,
23 the heart pounding, is going to affect your abilities to sit
24 and fairly decide the case?

25 A PROSPECTIVE JUROR: No, I'm still here.

1 MR. BOSLER: Do you have any response to make
2 to the question about when you see photographs that may be
3 terribly unpleasant, is that going to affect your ability to
4 look objectively at the evidence?

5 A PROSPECTIVE JUROR: That's a really
6 interesting question to me because my mother's sister, she
7 passed away but lived in Czechoslovakia during World War II
8 with the atrocities that were going on. And so I feel that
9 that may not be easy, but I do think that I can be fair.

10 MR. BOSLER: Having been called to sit in this
11 type of case where you may have to decide the life and death
12 of a person, is that something you can do?

13 A PROSPECTIVE JUROR: Never before.

14 MR. BOSLER: Is this something you think you
15 could do with the thoughts inside of you?

16 A PROSPECTIVE JUROR: Yes.

17 MR. BOSLER: At this point?

18 A PROSPECTIVE JUROR: I can.

19 MR. BOSLER: Mr. Battaglia, I don't want to go
20 over old ground. You indicated you already formed an
21 opinion. You also indicate on your questionnaire that you
22 were not going to follow the Court's instructions if you had
23 a different opinion.

24 A PROSPECTIVE JUROR: At the time, opinion I
25 had formed was based on a year ago sitting on my couch

1 watching TV, and I had nothing to do with this. I think the
2 gravity of the situation, a man's life hangs in this
3 proceedings. I have been very introspective the last couple
4 of days, and I think I could be a very fair and impartial
5 juror.

6 MR. BOSLER: So you think the discussions of
7 counsel have had some impact on you?

8 A PROSPECTIVE JUROR: Yes, definitely.

9 MR. BOSLER: Taking that into consideration,
10 and again, the prosecutor said only you know what's inside
11 of you, you said that you had formed an opinion, you
12 wouldn't follow the Court's instructions if they disagreed
13 with you. You have said those things maybe over the last
14 couple weeks. The first instruction, the first question was
15 given to you sometime ago.

16 A PROSPECTIVE JUROR: I don't remember it or I
17 might have been confused about not following's the Court
18 instructions. I forget the exact line of questioning and
19 the answers that I gave. But I believe I can do that.

20 MR. BOSLER: You understand how important this
21 proceeding is?

22 A PROSPECTIVE JUROR: Oh, definitely.

23 MR. BOSLER: Miss Kizis, you indicated the same
24 thing, you had formed an opinion, and has that opinion gone
25 away, or do you still carry it with you?

1 A PROSPECTIVE JUROR: It hasn't gone away. And
2 as I said yesterday, I would need to hear everything, go
3 from there.

4 MR. BOSLER: Do you think it's fair for a juror
5 to walk into a case with a preformed opinion? Is that the
6 type of juror that should sit on a case?

7 A PROSPECTIVE JUROR: No.

8 MR. BOSLER: That taken into consideration, do
9 you think having formed an opinion you can be fair?

10 A PROSPECTIVE JUROR: Once everything is
11 presented, yes. But I can't make that go away.

12 MR. BOSLER: How easy do you think it is going
13 to be for you to try to separate those two things that you
14 already have a preformed opinion?

15 A PROSPECTIVE JUROR: I honestly don't know how
16 easy that would be. I really don't. I have never been
17 through this before.

18 MR. BOSLER: And knowing that this case --
19 there is the potential that at a later date you have to
20 entertain the idea that you are going to vote to put someone
21 to death, how does that affect your view on whether you are
22 a fair juror? Do you think the preformed opinion now is
23 more important, it is magnified based upon the circumstances
24 in this case?

25 A PROSPECTIVE JUROR: Uh-huh. Yes.

1 MR. BOSLER: And with that magnification, do
2 you think that you are the person who should sit in
3 judgment?

4 A PROSPECTIVE JUROR: Perhaps not. Yeah, no.

5 MR. BOSLER: Yeah, no?

6 A PROSPECTIVE JUROR: No.

7 MR. BOSLER: Is that your honest view?

8 A PROSPECTIVE JUROR: Yes, as honest as I can
9 be, yeah, because I have just mixed up. I feel mixed up. I
10 feel emotionally churning inside.

11 MR. BOSLER: And I don't want to put words in
12 your mouth. In view of all those things, you feel that you
13 can't be fair at this point, with these circumstances?

14 A PROSPECTIVE JUROR: No, that's not what I'm
15 saying. I'm saying the way I feel at this very moment in
16 time, once everything is presented, then I can -- once I see
17 both sides of the story. I have only seen one side of the
18 story.

19 MR. BOSLER: And I thank you for your candor.

20 Mr. Golbov, you indicated you had formed an
21 opinion based upon media.

22 A PROSPECTIVE JUROR: Right.

23 MR. BOSLER: Would it be safe to say that is
24 not an opinion that would be favorable to the defense?

25 A PROSPECTIVE JUROR: Safe to say.

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1 MR. BOSLER: You heard my other questions. Do
2 you think having formed that opinion you are the type of
3 person who should sit on a jury like this?

4 A PROSPECTIVE JUROR: Yes, I do.

5 MR. BOSLER: Why is that?

6 A PROSPECTIVE JUROR: The opinion was based on
7 media a long time ago. It's not necessarily a strong
8 opinion, not like an opinion that can't be turned around by
9 facts. So to me, once I know all the facts in the case,
10 I'll make up my final opinion then.

11 MR. BOSLER: As to issues of life and death, in
12 a case where you were to find a first degree murder
13 conviction, is death the only appropriate remedy?

14 A PROSPECTIVE JUROR: No, it's not. It depends
15 on other factors and the law.

16 MR. BOSLER: And you are willing to listen to
17 the Court's instructions on that?

18 A PROSPECTIVE JUROR: Yes.

19 MR. BOSLER: Your Honor, if I may have a
20 moment?

21 THE COURT: Yes.

22 MR. BOSLER: Just last couple questions, Your
23 Honor.

24 You have been here for hours, and I appreciate
25 the days you have spent. Thinking of all that's happened

1 yesterday, today, all the questions that have been asked,
2 either while you were sitting here or sitting out in the
3 crowd, anybody think that based upon those decisions, things
4 we have talked about, you can't afford Mr. Vanisi a
5 presumption of innocence, the burden of proof on the
6 prosecution and all the other protections we talked about?

7 Is there anybody who thinks based upon all
8 those things, you still can't afford those things to
9 Mr. Vanisi?

10 THE COURT: Was that can't?

11 MR. BOSLER: Can't.

12 THE COURT: Can't afford.

13 MR. BOSLER: Anybody think -- and I appreciate
14 those people that indicated they can't be fair. Does
15 anybody think based upon those questions they can't be fair
16 to decide the issues that need to be decided in this case?

17 THE PROSPECTIVE JURORS: No.

18 MR. BOSLER: Thank you very much. Thank you,
19 Your Honor.

20 THE COURT: Will Mrs. Nutter please raise your
21 hand? We have a note for you, good news.

22 Mrs. Kizis, we have talked about your
23 questionnaire, and you have been asked so many questions
24 yesterday and today. Are you able to put aside your
25 preconceived ideas in this case and follow the instructions

1 as I instruct you they are -- the law is?

2 A PROSPECTIVE JUROR: As I said yesterday, I
3 will do my best to do that.

4 THE COURT: Apart from what you might have
5 heard, the law is going to require you to decide this case
6 based on the evidence, and then there is all sorts of other
7 instructions I'm going to give you with regard to the law.

8 Do you have any problem following the
9 instructions about the law, the general principles of law?

10 A PROSPECTIVE JUROR: No.

11 THE COURT: And that general issue is not a
12 problem for you?

13 A PROSPECTIVE JUROR: No.

14 THE COURT: My inquiry require any additional
15 inquiry from either counsel?

16 MR. STANTON: No, Your Honor.

17 MR. BOSLER: No, Your Honor.

18 THE COURT: Pass for cause?

19 MR. STANTON: The State does, Your Honor.

20 MR. BOSLER: Your Honor, we pass for cause
21 except for the challenges we have already made, Your Honor,
22 people who are still on the panel.

23 THE COURT: Thank you.

24 Ladies and gentlemen of the jury panel, is
25 there anyone sitting in the jury panel right now that

1 believes they should not be a juror in this case? Please
2 raise your hand. Okay. Mr. Stephenson?

3 A PROSPECTIVE JUROR: Yeah. I just -- three
4 weeks is a long time for me to be out of work or whatever.
5 So that's the only reason that I have.

6 THE COURT: Well, you have already used up two
7 days, and I think it will probably be more like about two
8 weeks, maybe a little bit into the third week. So probably
9 talking about two weeks from today or so. Will you be able
10 to pay attention?

11 A PROSPECTIVE JUROR: Yeah.

12 THE COURT: Anyone else? Yes.

13 A PROSPECTIVE JUROR: If I found out with that
14 ticket that I have that I cannot get a refund?

15 THE COURT: Yes. If you found that out, I
16 would make some humanitarian accommodation for you. We do
17 have a heart, and I know about Hawaii. Anyone else?

18 Okay. Then ladies and gentlemen of the jury
19 panel, I want to thank you for your service. I know I have
20 been a little stern with you occasionally, and I have kept
21 you very cooped up. I promise you the reason I did all of
22 those things was to see that we could select a jury as
23 quickly as possible. I want you to know we all appreciate
24 your service.

25 Although you have not been called and normally

1 you would be subject to being recalled, none of you will be
2 recalled for a minimum of one year. You come back three
3 days, I think that's plenty. You have done your duty, and
4 we all appreciate it.

5 I hope that if you have any questions about
6 what's been going on that you ask the Jury Commissioner
7 staff or feel free to contact my office any time. Now that
8 you are not going to be selected as a juror in this case, we
9 can give you any information that you might want to know
10 about. Please feel free to come back and visit any time.

11 We're going to take a short recess in just a
12 few minutes, and then you may go as soon as we take the
13 recess. Thank you.

14 Ladies and gentlemen of the jury panel, we're
15 going to take a short recess so the attorneys can think
16 about all of you and make a decision about those challenges
17 I told you about in the very beginning. That was a long
18 time ago, but remember that I said that they were allowed to
19 make some challenges that they don't have to give me a
20 reason for. And those challenges are what they will make,
21 and that's how we're going to reduce your number down to who
22 is going to actually sit in our jury box for the trial.
23 There will be 16 of you sitting with us every day the
24 remainder of the trial.

25 So you must follow the instructions I have

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1 given you at all the other breaks. I think this break will
2 be 15, 20 minutes or so. We are going to select the jury
3 for sure today. It will be finalized, and once that
4 finalization is made, then I'm going to speak to you before
5 you are excused for the day. I still think we're going to
6 be close to 5:00 o'clock when you will be excused.

7 During this break, I ask that you go with Miss
8 Davis and Miss Lopshire down to the other department so that
9 you can stay together. If there is anyone who needs a
10 smoking break, they will arrange for someone to take you out
11 for the smoking break.

12 Do not discuss the case among yourselves during
13 this recess. Do not allow anybody to attempt to influence
14 you with regard to this case or any manner having to do with
15 this case.

16 Do not form or express any further opinions
17 with regard to this matter. And should anyone attempt to
18 influence you in any way about this case, please report it
19 to the officers who are in charge of you who in turn will
20 report it to me.

21 Thank you again, ladies and gentlemen. Court
22 is in recess for 15 minutes.

23 (Recess taken at 4:17 p.m.)
24
25

1 RENO, NEVADA, TUESDAY, JANUARY 12, 1998, 4:43 P.M.

2 -oCo-

3
4 (Whereupon, the following proceedings were held
5 in open court, in the presence of the jury
6 panel.)

7 THE COURT: Counsel stipulate to the presence
8 of the jury panel?

9 MR. STANTON: State will stipulate, Your Honor.

10 MR. SPECCHIO: So stipulated.

11 THE COURT: Thank you. Counsel, are you ready
12 to proceed with the exercising of peremptory challenges?

13 MR. STANTON: State is, Your Honor.

14 MR. BOSLER: We are, Your Honor.

15 THE COURT: State may exercise your first
16 peremptory challenge.

17 MR. GAMMICK: Your Honor, do you want the last
18 name and the number?

19 THE COURT: If you write legibly, name or
20 number will be fine.

21 MR. GAMMICK: Your Honor, we have exercised our
22 first peremptory with the last name and number. We'll pass
23 it to defense then.

24 THE COURT: Defense, exercise your first
25 peremptory challenge.

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1 MR. SPECCHIO: Thank you, Your Honor.

2 MR. SPECCHIO: The defense has exercised its
3 first peremptory, Your Honor.

4 THE COURT: State will exercise their second
5 peremptory.

6 MR. GAMMICK: Your Honor, the State has
7 exercised its second peremptory.

8 THE COURT: Defense, exercise your second
9 peremptory, please.

10 MR. SPECCHIO: Defense has exercised number
11 two, Your Honor.

12 THE COURT: Thank you, Mr. Specchio. The State
13 will exercise your third peremptory challenge.

14 MR. GAMMICK: State has exercised its third,
15 Your Honor.

16 THE COURT: Thank you. Defense exercise your
17 third.

18 MR. SPECCHIO: Defense has exercised number
19 three, Your Honor.

20 THE COURT: Thank you. State exercise number
21 four, please.

22 MR. GAMMICK: Your Honor, the State has
23 exercised its fourth peremptory.

24 THE COURT: Defense, exercise your fourth
25 peremptory challenge.

1 MR. SPECCHIO: May I have the Court's
2 indulgence for another couple minutes, Judge?

3 THE COURT: Okay.

4 MR. SPECCHIO: Your Honor, could we approach?

5 THE COURT: Yes.

6 (Whereupon, a bench conference was held among
7 Court and counsel as follows:)

8 MR. SPECCHIO: Just so that I understand, after
9 we exercise the eight, then we exercise two on the
10 alternates?

11 THE COURT: Correct.

12 MR. SPECCHIO: So we really exercise ten with
13 this panel?

14 THE COURT: Well, except that you may only
15 exercise your second two as to the eight people that could
16 be alternates. So what I'm going to do is I was going to
17 have Marci pick up the sheet, and what we need to do --

18 MR. SPECCHIO: After the eighth?

19 THE COURT: After the eighth. I will count up
20 one through 12, and then I'll say you may exercise your next
21 challenges as to anyone I didn't name.

22 MR. STANTON: Just so we can understand
23 correctly, everybody from Juror 29 and above are alternates
24 only.

25 THE COURT: No. Actually what I do is I will

1 let you exercise your eight to anybody. And then I'm just
2 going to start with juror 1, count to 12, and then I'm going
3 to say you can exercise your peremptories as to anybody
4 else.

5 You may exercise your alternates as to anybody
6 left. The alternates will be the next four people.

7 MR. STANTON: The last four people on the list?

8 THE COURT: No, the next four. So we don't --
9 sometimes I keep a blank in between the 12 and these four
10 people. I'm pointing to 36, 35, 34 and 33. I don't. The
11 jury is the first 12 that remain after you exercise your
12 eight peremptories and then the next four people that remain
13 after you have exercised your alternates.

14 MR. SPECCHIO: We'd stop that after eight?

15 THE COURT: Then I'll tell you the names.

16 MR. SPECCHIO: We get two each?

17 THE COURT: Two each.

18 (Whereupon, the following proceedings were held
19 in open court, in the presence of the jury
panel.)

20 THE COURT: Mr. Specchio, you are exercising
21 your fourth.

22 MR. SPECCHIO: Yes, Your Honor. We are in the
23 process of doing that as I speak, Your Honor.

24 We have done that, Your Honor.

25 THE COURT: Thank you. Mr. Gammick,

1 Mr. Stanton, Mr. -- nobody is listening to me -- go ahead
2 and exercise your fifth challenge.

3 MR. GAMMICK: Your Honor, we have exercised our
4 fifth peremptory.

5 THE COURT: Defense may exercise your fifth
6 peremptory challenge.

7 MR. SPECCHIO: We have exercised number five,
8 Your Honor.

9 THE COURT: Thank you. Mr. Barb, Mr. Gammick,
10 Mr. Stanton, you can exercise your sixth.

11 MR. GAMMICK: Your Honor, State has exercised
12 its sixth peremptory.

13 THE COURT: Thank you. Defense may exercise
14 its sixth.

15 MR. SPECCHIO: Defense has exercised number
16 six, Your Honor.

17 THE COURT: Thank you. State exercise seven.

18 MR. GAMMICK: Your Honor, the State has
19 exercised its seventh peremptory.

20 THE COURT: Thank you. Defense exercise your
21 seventh peremptory challenge.

22 MR. SPECCHIO: Defense has exercised number
23 seven, Your Honor.

24 THE COURT: The State, eighth challenge?

25 MR. GAMMICK: State has exercised its eighth

1 peremptory challenge, Your Honor.

2 THE COURT: Defense, eighth challenge.

3 MR. SPECCHIO: The Court's indulgence, Your
4 Honor.

5 THE COURT: Yes.

6 MR. SPECCHIO: Your Honor, I apologize. Just a
7 couple more minutes here.

8 THE COURT: Okay.

9 MR. SPECCHIO: Defense has exercised its final
10 peremptory, Your Honor.

11 THE COURT: Would you give that to the clerk,
12 please?

13 MR. STANTON: May I see it?

14 MR. SPECCHIO: Oh, yes.

15 THE COURT: The clerk is going to return the
16 sheet to the State for exercising the next two peremptory
17 challenges. They may be exercised as to jurors seated in
18 box numbers 29, 30, 31, 32, 33, 34, 35 and 36.

19 MR. GAMMICK: Your Honor, the State has
20 exercised its first alternate peremptory challenge.

21 THE COURT: Thank you.

22 MR. SPECCHIO: Defense has exercised number
23 one, Your Honor.

24 THE COURT: State exercise number two.

25 MR. GAMMICK: Your Honor, the State has

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1 exercised its final peremptory.

2 THE COURT: Thank you. Defense may exercise
3 its final peremptory.

4 MR. SPECCHIO: Thank you, Your Honor.

5 Defense has exercised its last, Your Honor.

6 THE COURT: Please give the list to the clerk.

7 Any motions anyone wants me to entertain prior
8 to solidifying the jury?

9 MR. STANTON: Not from the State.

10 MR. BOSLER: Your Honor, may we have a moment?

11 THE COURT: Yes.

12 MR. SPECCHIO: Your Honor, we have one motion
13 that has to be made outside the presence of the jury. So
14 maybe we can just do that before we start in the morning.

15 THE COURT: Counsel approach, please.

16 (Whereupon, a bench conference was held among
17 Court and counsel as follows:)

18 MR. SPECCHIO: Or now.

19 THE COURT: My concern, if it's a motion that
20 would affect the jury component, the composition of the
21 jury, I don't want to excuse people until I know for sure
22 we're okay.

23 MR. SPECCHIO: Well, we want to make the record
24 that by virtue of your denying some of the challenges, we're
25 not able to exclude some people on the jury that have

1 expressed opinions about this case.

2 THE COURT: That's fine. You have no objection
3 to the challenges that the State has exercised?

4 MR. SPECCHIO: No. No, no. I think we can
5 just do that -- we're talking five minutes on the record.

6 MR. STANTON: The State has no challenges along
7 any of the challenges on behalf of defense.

8 THE COURT: Thank you.

9 (Whereupon, the following proceedings were held
10 in open court, in the presence of the jury
panel.)

11 THE COURT: Thank you for patiently awaiting
12 that process. I know some of you are probably thinking, Why
13 couldn't they have done that while we were in the cooler
14 room?

15 But we didn't take your photographs, and
16 although the attorneys have paid very close attention to who
17 you are and what your names are, it's important for them to
18 be able to see who you are as they exercise these challenges
19 because they might forget, and they of course have no idea
20 of knowing who the other side is going to exercise their
21 challenges on.

22 So it's kind of a tedious process, but it is
23 important, and we appreciate your patience.

24 I want to thank all of you for your attention
25 in the last two days, plus coming in an extra day. You all

1 came in extra to fill out a questionnaire, and I appreciate
2 that, as do the parties. We all know that this has been
3 long, hot days and that you have given us your full
4 attention. So thank you.

5 The attorneys have exercised their challenges.
6 They have each exercised ten challenges. So if you
7 remember, there were 36 of you. I'm going to be excusing 20
8 of you, which will leave 16 left.

9 As I excuse you, please understand that you
10 leave with our appreciation. Tell the Jury Commissioner's
11 office that you have in fact been excused. Your statutory
12 fees will be in the mail, and if you have any questions
13 about what went on or if I can answer any questions for you
14 after you are excused, please do not hesitate to call my
15 office.

16 I want you to remember that if you were
17 excused, it's not because any answer that you gave was
18 wrong. It simply means that someone else according to the
19 attorneys's opinion was better suited to serve in this case.
20 Again, thank you.

21 I'm going to be excusing you by last name, and
22 we'll start in the back row, and we'll sort of go on down
23 the row. Please go ahead and stand up and leave but just
24 try to do it a little quietly. We'll do this as quickly as
25 we can.

1 Mrs. Guiler, you are excused.

2 Mr. Sotero, you are excused.

3 Mr. Adamson, you are excused.

4 Miss Springer, you are excused.

5 Mr. Hinxman, you are excused.

6 And Mr. Fox, you are excused.

7 And Mr. O'Daye, you are excused.

8 We'll go to the second row.

9 Mr. Sheets, Mr. Damoth and Mr. Barger, you are
10 excused. Thank you.

11 Third row. Miss Slocum, Miss Cadena, Miss
12 Frandsen, and Mr. Battaglia, you are all excused.

13 Fourth row, Mr. Furrie, Mr. Estey, Miss Kizis,
14 Miss Imasaki, Mr. Golbov, you are excused.

15 Front row, Miss Booth, you are excused.

16 Counsel, the jury made up the way you believe
17 the challenges were made?

18 MR. STANTON: From the State, yes, Your Honor.

19 THE COURT: Defense?

20 MR. BOSLER: Yes, Your Honor.

21 THE COURT: Thank you.

22 Ladies and gentlemen, you will be our jury to
23 try this case. I have a few comments I want to make to you
24 before I allow you to leave for today's -- from today.

25 First, I would like to briefly explain the role

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1 each person will play in the courtroom during these
2 proceedings. You will at the conclusion of the evidence
3 determine the facts in the case, apply to those facts the
4 law which will be stated to you by the Court and on this
5 basis reach a verdict consistent with the facts and the law.

6 It is the duty of the attorneys to present
7 their respective cases in the most favorable light
8 consistent with the truth and the law. But statements and
9 arguments of counsel made during the course of this trial
10 are not to be treated by you as evidence.

11 Keep an open mind. Refrain from forming or
12 expressing any opinion concerning the case until all the
13 evidence is in, the attorneys have made their closing
14 arguments, you have received the Court's instructions as to
15 the law, and you have retired to the jury room to find your
16 verdict.

17 During the trial, do not discuss the case among
18 yourselves or with any other person. Do not allow anyone to
19 speak of it in your presence. You are not to read, listen
20 to or observe any newspaper, radio or television account of
21 the trial while it is in progress.

22 The reason that you may not discuss this case
23 with anyone else is that you must decide this case based on
24 the evidence as it is presented here in the courtroom for
25 yourself. You may not be influenced by someone who didn't

1 even see the evidence.

2 For that reason, if you went home and you
3 talked about a particular witness or what you observed, the
4 person you are speaking with, about this with, might react
5 to what you describe, and then their reactions might
6 influence the way you look at the evidence, and that would
7 be improper.

8 When you are deliberating the other jurors will
9 discuss the evidence with you, and then you may all talk
10 about it. But it will be -- your decision will be
11 influenced by individuals who sat through the entire trial.

12 Not only must you conduct yourselves as jurors
13 above reproach, but you must avoid even the appearance of
14 any improper conduct. You may not speak to the defendant,
15 the attorneys, or the witnesses during the course of the
16 trial, even upon matters which are completely unconnected
17 with the case.

18 In the event any person should attempt to
19 discuss the case with you or in any manner attempt to
20 influence you with respect to it, you are to advise the
21 bailiff who in turn will advise the Court. You may feel
22 comfortable advising your family members and people you work
23 with that you cannot discuss the case with them.

24 Any rulings made by the Court during the course
25 of this trial will be based upon the controlling law of the

1 State of Nevada. Accordingly, you must not infer any
2 leaning on my part based upon such rulings or infer any
3 feeling on my part for or against either side in the case.

4 If any objection to the admission of evidence
5 is sustained, you must not speculate as to what the answer
6 might have been or draw any inference from the question
7 itself.

8 During the course of the trial matters may
9 arise which must be determined by me as matters of law
10 outside your presence. Again, you are not to speculate or
11 be concerned in any way for the reasons for such
12 occurrences. I assure you that they will be limited in
13 frequency and duration as much as the law permits.

14 Observe carefully each witness as they testify
15 and consider carefully all of the evidence as it is
16 presented, for it is you who must determine the credibility
17 of the witnesses and wherein the truth lies.

18 If during the examination of witnesses some
19 questions occur to you, be patient. The answers will
20 probably be given before the trial is concluded.

21 You may individually take notes during the
22 course of this trial, and for that purpose you will be
23 provided with pencils and note pads by the bailiff.

24 In the event of a conflict between the notes of
25 an individual juror during your deliberations, you are to

1 disregard the notes and proceed with your collective memory.
2 The court reporter's notes contain the complete and
3 authentic record of the trial.

4 Ladies and gentlemen of the jury, you are
5 admonished that no juror may declare to their fellow jurors
6 any fact relating to this case that they may find of their
7 own knowledge, and if any juror discovers during the trial
8 or after the jury has retired that they or any other juror
9 has personal knowledge of the facts in controversy in this
10 case, you shall disclose such situation to the Court outside
11 the presence of the other jurors immediately.

12 We have a jury room, although you all haven't
13 been able to use it because there's been so many of you.
14 Now you will be able to use it.

15 It has a separate entrance into the courtroom.
16 There is an outside door that will allow you into the jury
17 room. When you come in the morning, please identify
18 yourself to the individuals who are working the doors out
19 here, and they will remove the barricade and allow you into
20 the jury room.

21 Then you will remain in the jury room awaiting
22 us, and when court starts you will come into the courtroom
23 from your private entrance into the courtroom.

24 Please feel free to use this jury room at all
25 of our breaks and even at lunch if you need it or you'd like

1 to stay in during the lunch. The bailiff will see that it
2 is opened a few minutes before we expect you in the morning,
3 and at lunch.

4 In addition, it will be kept locked at all
5 other times. So you may feel comfortable leaving your
6 personal belongs in the jury room. No one will have access
7 to them while you are here in the courtroom.

8 If you should need anything for your personal
9 comfort during the course of this trial, please tell the
10 bailiff who will tell me, and we'll make every effort to
11 accommodate your needs.

12 If you have special nutritional issues or
13 needs, please bring it from home. We do provide snacks on a
14 daily basis, but I can't guarantee it's what you need or
15 want.

16 There is a refrigerator in the jury room. So
17 you can refrigerate items. There is a microwave often so
18 you can use that to heat things up. There is coffee,
19 chocolate, tea and bottled water. So that is what we can
20 provide. If you want anything else, bring it from home.

21 I won't let you walk around the courthouse on
22 our breaks. So you won't be able to just go down to the
23 vending machines in the first floor and get something.

24 In addition, as you have already discovered,
25 there is a smokeless building. Therefore cigarette smoking

1 is not allowed within the building. If any of you are
2 smokers, please be sure to tell the bailiff, and he will
3 make accomodation for you to get you to a place where you
4 can smoke during the day when we take our recesses.

5 We have reached the stage in the proceedings
6 now where you are to be sworn as jurors in this case, and
7 alternates. We don't know for sure which of you are going
8 to be doing which jobs, so I ask that you all remember that
9 all of you could sit as jurors in this case, and you won't
10 know until the very end, as I won't know who is actually
11 going to be the alternates. So remember that your duty
12 applies to all of you no matter where you end up seated.

13 Please stand, raise your right hand and be
14 sworn.

15 (Jury sworn.)

16 THE COURT: Thank you. Please be seated.

17 Tomorrow morning the trial will begin at 11:00
18 a.m. In the morning when you come to the courthouse, you'll
19 come into the jury room immediately. Don't wander around
20 the courthouse. Don't visit with anybody. Just come
21 straight to this floor and go on in the jury room.

22 Be sure to wear the badges. The bailiff has
23 more if you need more of these little badges, and he will
24 give them to you. Be sure you wear them on your outside of
25 your clothing at all times, especially when you are coming

1 and going from the courthouse.

2 Tomorrow's schedule is that you will be here
3 from 11:00 to 12:00, and I may go a few minutes past 12:00
4 but I doubt it. I think it will be 11:00 to 12:00. Then
5 you will be back at 1:30 in the afternoon, and you will go
6 until approximately 3:00 or 3:30, depending on how the
7 witnesses and the schedule works out. And then we'll have a
8 short break, and then you will come back in the courtroom,
9 and you continue with the trial until we leave tomorrow,
10 which will be approximately 5:00 o'clock. It could be a few
11 minutes after five, but it would be basically 5:00 o'clock.

12 Now that's tomorrow's schedule.

13 On a regular basis I'll try to tell you the
14 best I can what the schedule will be for the next day. I'll
15 try to keep you apprised of any changes in the schedule as
16 it occurs.

17 Please be aware that there are things that
18 happen both in the courthouse on other cases as well as this
19 case that may require some changes in the schedule. But we
20 will try our best to stay to the schedule once we tell you.
21 I understand your time is valuable and that you like to know
22 where you are going to be when. So we'll all be aware of
23 those concerns.

24 Tomorrow morning also when you come back, the
25 first thing you will hear is the Information, which is the

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1 charging document in this case will be read to you. You
2 will hear the defendant's plea, and then the State will make
3 their opening statement.

4 At all breaks you are going to be given an
5 admonition, and I'm going to give it to you this evening as
6 with all other breaks. Remember, I will see you back here
7 at 11:00 a.m. I'm going to excuse the jury but not counsel.

8 Ladies and gentlemen of the jury, during this
9 recess that we are about to take, you are admonished that it
10 is your duty not to discuss among yourselves or with anyone
11 else any matter having to do with this case.

12 It is your further duty not to form or express
13 any opinion regarding the guilt or innocence of the
14 defendant until the case has been finally submitted to you
15 for decision.

16 You are not to read, look at or listen to any
17 news media accounts relating to this case should there be
18 any. Should any person attempt to discuss the case with you
19 or in any manner attempt to influence you with respect to
20 it, you are to advise the bailiff who in turn will advise
21 the Court.

22 Ladies and gentlemen of the jury, you may go
23 with the bailiff and the court staff now through the jury
24 room door. I'll see you tomorrow.

1 (Whereupon, the following proceedings were held
2 in open court, outside the presence of the
jury.)

3 THE COURT: The audience will be seated,
4 please.

5 Some of you in the audience may be coming to
6 this trial on a regular basis. I don't know about that. I
7 allow counsel to stand when the jury comes and goes, but I
8 ask that the audience either remain seated or stand and
9 leave the courtroom. I don't want to have to be telling you
10 to sit down or stand up. So if you want to stay in the
11 courtroom, sit. If you want to leave at any other time, you
12 are welcome to stand up and leave, but please don't stand
13 around during the course of the trial.

14 Counsel, is there anything that we need to
15 discuss right now?

16 MR. STANTON: Your Honor, my understanding is
17 the Court is going to reconvene at 11:00 tomorrow?

18 THE COURT: Yes. Now, counsel, you had
19 indicated that you want to put something on the record
20 before the jury came back. Do you want to do that a few
21 minutes before 11:00? Do you want to try to do it now? It
22 doesn't matter to me.

23 MR. SPECCHIO: Could we do it in the morning,
24 Your Honor?

25 THE COURT: Yes. Can you be here by quarter to

1 11:00.

2 MR. SPECCHIO: I would think so. If not, these
3 gentlemen can start without me.

4 THE COURT: That's fine.

5 MR. SPECCHIO: They know what has to be done.

6 THE COURT: It's just this motion?

7 MR. SPECCHIO: Yes.

8 THE COURT: Outside the presence of the jury?

9 MR. SPECCHIO: Yes, Your Honor. There is also,
10 I don't know if you want to address it now, Your Honor, with
11 regard to the people in the courtroom that have been allowed
12 over the rule of exclusion to stay in the courtroom. I
13 think they should be admonished regarding any outbursts or
14 anything of that nature.

15 THE COURT: Are those people in the courtroom
16 now?

17 MR. SPECCHIO: I think they are all here,
18 Judge.

19 THE COURT: Ladies and gentlemen of the
20 gallery, I gave you one little discussion about standing and
21 coming and going. I ask that you be aware of the fact that
22 some of you may be called as witnesses in the penalty
23 hearing if a penalty hearing is required in this case.
24 Counsel has stipulated to you being allowed to be in the
25 courtroom during the trial on this case even though you

1 might ultimately be witnesses in the penalty hearing should
2 there be such a hearing.

3 I wanted to remind you that the attorneys on
4 each side, whoever was planning on calling you, have talked
5 to you about what your responsibilities are if you are to
6 remain in the courtroom. There may come a time when
7 evidence is difficult for family members to hear on either
8 side of this case, or friends.

9 I want to remind you that you may not make any
10 outward display of emotion during this period of time while
11 you are in the courtroom, not as a witness but as an
12 observer, and if there is anything that calls my attention
13 to you or the bailiff's attention to you, you are subject to
14 permanent exclusion from the hearing. So please keep that
15 in mind when you conduct yourselves.

16 I'm sure you all will do that, and I have seen
17 nothing today that would influence me that there would be
18 any problems with anyone. But this is just to make sure
19 that you all understand your obligation.

20 If you have any questions about how you are to
21 behave or what you are to do, please feel free to talk to
22 the attorney who has subpoenaed you for this case, and they
23 will be glad to discuss it more fully with you if they
24 haven't already done so.

25 Mr. Specchio.

1 MR. SPECCHIO: One more, Your Honor. There
2 seemed to be some concern with the security. We want our
3 investigators, one of which is present, Miss Calderon or
4 Mr. Novak, who are --

5 THE COURT: Rules in this department are if you
6 have a note that you want to pass to someone in the
7 audience, you get the bailiff's attention, and they will
8 pass the note for you. There is no crossing over the bar.
9 That is improper for anyone to cross over that bar, other
10 than the court staff and the bailiff.

11 So if you have a note for somebody, feel free
12 to pass it to the bailiff in this department. And Bailiff
13 Uptain has been trained on this also. They will be very,
14 very aware. And you just write your note and say what you
15 want. If the investigator wants a note to someone on the
16 defense side, just give it to the bailiff, and he will
17 immediately pass it to counsel.

18 I have observed that going on already with the
19 State. The bailiff intercepted a note that the State --
20 that someone on the State side wanted to pass to one of the
21 State attorneys earlier yesterday. So that's the rule. It
22 doesn't which side of the room you are sitting on.

23 MR. SPECCHIO: Well, we'll just bring some
24 envelopes tomorrow.

25 THE COURT: Or just fold it, fold the note, and

1 nobody will read it. You watch them, nobody reads it,
2 nobody looks at it. It's just they hand it to whomever you
3 tell them to hand it to.

4 MR. SPECCHIO: That's fine.

5 THE COURT: That would be the same for the
6 State. We just don't have investigators walking up in front
7 of the bar.

8 MR. SPECCHIO: Okay. That's fine, Your Honor.

9 THE COURT: Anything else?

10 MR. GAMMICK: Your Honor, what time will the
11 courtroom be available tomorrow morning?

12 THE COURT: Whatever time you want. We have
13 criminal hearings. Actually we have meetings with the press
14 at 7:00. We have meetings, criminal hearings beginning at
15 8:00. And those should be resolved by 10:30 or so. So
16 there should be a break there between 10:30 and 11:00 for
17 you to come in.

18 MR. GAMMICK: We do have quite a bit of
19 equipment to set up in the courtroom. We'll try and get in
20 as soon as you are done with your court matters and try to
21 have that completed before 11:00 o'clock.

22 THE COURT: I think we may have a break also
23 between the 8:00 and the 9:00 if you want to try then. Or
24 the clerk will just call you or whomever and notify you that
25 the courtroom is clear. I'm sure we will be done by 10:30,

1 maybe even 10:00. You may have an hour.

2 MR. GAMMICK: Thank you, Your Honor.

3 THE COURT: Does the defense wish to be
4 notified also when the courtroom is clear?

5 MR. BOSLER: Please, Your Honor.

6 THE COURT: The clerk will notify both sides.
7 Anything further?

8 We'll see you all back at a quarter to 11:00
9 tomorrow morning.

10 Thank you. Court is in recess.

11 (Court recessed for day at 5:36 p.m.)
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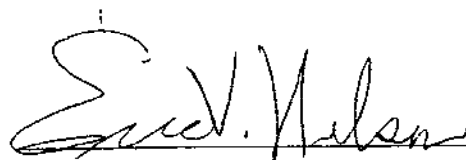
STATE OF NEVADA,)
)
COUNTY OF WASHOE.)

I, ERIC V. NELSON, Certified Shorthand Reporter
of the Second Judicial District Court of the State of
Nevada, in and for the County of Washoe, do hereby certify:

That I was present in Department No. 4 of the
above-entitled Court and took stenotype notes of the
proceedings entitled herein, and thereafter transcribed the
same into typewriting as herein appears;

That the foregoing transcript is a full, true
and correct transcription of my stenotype notes of said
proceedings.

DATED: At Reno, Nevada, this 13th day of
January, 1999.



ERIC V. NELSON, CCR No. 57

EXHIBIT 161

EXHIBIT 161

Case No. CR98-0516

Dept. No. 4

FILED

JAN 14 1999

AMY HARVEY
By: *ms*
DEPUTY CLERK

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
THE HONORABLE CONNIE STEINHEIMER, DISTRICT JUDGE

-oOo-

THE STATE OF NEVADA,
Plaintiff,
vs.
SIAOSI VANISI,
Defendant.

TRIAL
VOLUME 3
January 13, 1999
Reno, Nevada

APPEARANCES:

For the Plaintiff:

RICHARD A. GAMMICK
District Attorney
DAVID L. STANTON
and THOMAS BARB
Chief Deputies District Attorney
75 Court Street
Reno, Nevada 89520

For the Defendant:

MICHAEL R. SPECCHIO
Public Defender
STEPHEN GREGORY
and JEREMY BOSLER
Deputies Public Defender
One South Sierra Street
Reno, Nevada

The Defendant:

SIAOSI VANISI

ORIGINAL

Reported by:

ERIC V. NELSON, CCR No. 57

SIERRA NEVADA REPORTERS (702) 329-6560

AA04619

I N D E X

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WITNESSES:	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
BRENDA MARTINEZ	553			
CARL H. SMITH	563	591	608	610
ANDREW GUY CIOCCA	617	625		
WILLIAM STEVENSON	627	641	648	
MELE MAVENI	650	671	681	683

<u>EXHIBITS:</u>	<u>Marked for Identification</u>	<u>Admitted into Evidence</u>
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(Exhibits 1 - 37 previously marked or identification)

38		
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RENO, NEVADA, WEDNESDAY, JANUARY 13, 1999, 11:14 A.M.

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(Exhibits 1 through 37 previously marked off the record.)

(Whereupon, the following proceedings were held in open court, outside the presence of the jury.)

THE COURT: Counsel, your motion.

MR. BOSLER: Thank you, Your Honor. We previously made a motion for change of venue. That was denied by the Court.

I think I'd just like the record to reflect if you take into consideration the two days of voir dire that we have gone through, that motion should have been granted. Instead, at this point we're faced -- we're forced to make a motion for a mistrial. I think if you look at the jury composition today, it also includes people who have admittedly formed opinions about the case, people who have admittedly expressed they can't be fair to Mr. Vanisi as he sits here.

We have, based upon the Court's denial of our opportunity to have additional peremptory challenges, we have been forced to use our peremptory challenges to excuse people that need to be excused and leave those people on that should have been excused for cause. So we're still left at this point with a jury panel that includes people

1 who have expressed that they formed opinions and cannot be
2 fair to Mr. Vanisi.

3 Going forward with the trial at this point is
4 going to be kind of a farce. We move for mistrial, Your
5 Honor.

6 THE COURT: Mr. Stanton.

7 MR. STANTON: Yes. Your Honor, first of all,
8 counsel cites back to their motion for change of venue
9 apparently as authority today. No authority cited in their
10 motion speaks to the proposition that they are asking this
11 Court to claim a mistrial, or I'm assuming although
12 Mr. Bosler didn't reinvigorate the motion for change of
13 venue, but the relief they requested is not supported by any
14 legal authorities in the written motion for change of venue.
15 Nor does Mr. Bosler cite any new authority today.

16 Mr. Bosler says there are two bases for which
17 the jurors that I guess that they wanted to exclude but had
18 insufficient peremptory challenges. One is that the people
19 have already formed an opinion. That is not a legal basis
20 to exclude a juror for cause. Not in any of the authority
21 they previously cited; obviously they didn't cite any
22 authority this morning.

23 Counsel then cites the fact that there are some
24 jurors on this panel that have expressed an opinion that
25 they cannot be fair to Mr. Vanisi. I don't believe the

1 record reflects that. It is inaccurate summation of the
2 jurors' minds that are on this panel.

3 I don't believe there is a basis either to
4 declare a mistrial on that, for those reasons[, and if they
5 are, and I'm not sure they are, but if they are making a
6 motion for a change of venue, they haven't satisfied the
7 requirements of the legal authorities that they cited in
8 their opinions, in their motion and authorities for change
9 of venue. That is that a fair -- even assuming their
10 argument relative to the panel as it is currently comprised,
11 they fail to establish that the remaining members of this
12 jury somehow prevented them from getting a fair and
13 impartial trial save and except for the Court's rulings
14 previously. That's the basis to get a change of venue.

15 So it is two different motions that they are
16 making. One is that there is a motion based upon perceived
17 defects in the panel, and the exercise of the denial of the
18 motion for challenge for cause. Then there is a secondary
19 issue of whether or not they have met the requirements for
20 change of venue.

21 And Mr. Bosler hasn't made any argument
22 relative to the basis of the change of venue. I would
23 request that the original juror questionnaire and the
24 supplemental juror questionnaire be made a permanent part of
25 this record relative to the jurors that were called in this

1 case, to include obviously the members that are currently
2 comprised of the panel and the alternates.

3 In addition, Your Honor, I'd request that the
4 defense lay out on the record now or at sometime during the
5 pendency of this proceeding what jurors that are sitting on
6 this panel now, in original form or alternate form, that
7 they feel are imperfect based upon their previous motions
8 for challenges for cause.

9 Unless the Court had any other specific
10 questions of the State, that would be my response; and if
11 Mr. Bosler wants to develop the record any further relative
12 to if indeed he is making and renewing a motion for change
13 of venue, that I have an opportunity to respond specifically
14 to that argument.

15 THE COURT: Anything further, Mr. Bosler?

16 MR. BOSLER: We'll submit the matter, Your
17 Honor.

18 THE COURT: The motion for change of venue was
19 taken under submission and deferred until completion of jury
20 selection. Based upon the original motion for change of
21 venue and the Court's analysis of the circumstance at the
22 conclusion of the jury selection, I deny that motion.

23 With regard to your motion for mistrial, the
24 Court finds no legal basis to grant such a motion. I do not
25 agree with the factual representations. The record of

1 course will reflect the factual basis or lack thereof for
2 your motion. But I don't perceive it to be valid at this
3 time. So your motion is denied.

4 MR. BOSLER: Your Honor, in that regard we
5 don't object to the Court making part of the record the
6 questionnaires from people who are now sitting in the jury
7 pool and as alternates. This is the special questionnaire.

8 THE COURT: I thought we talked about that.
9 The clerk has marked those as an exhibit to the jury
10 selection, and they are filed under seal subject to being
11 opened at any time that someone might want to review it for
12 appellate purposes.

13 MR. BOSLER: Thank you, Your Honor.

14 MR. GAMMICK: Your Honor, I have one objection
15 to make this morning. Mr. Bosler did show me some
16 transparencies that he intends to use in his opening. They
17 do have some writing on them.

18 They are photographs of the defendant I believe
19 at younger times. They do have some writings on them that I
20 object to at this time. I don't see the relevancy with
21 respect to particularly the writing on the photographs.

22 THE COURT: Mr. Bosler?

23 MR. BOSLER: Your Honor, may I approach?

24 THE COURT: Yes.

25 MR. BOSLER: The record should reflect I'm

1 giving the Court a copy of the transparency sheet.

2 THE COURT: Can I see it on the transparency?

3 MR. BOSLER: Yes. What those are photos of --
 4 those are photos of George Tafuna, which is Siaosi's name he
 5 assumed when he was in San Bruno. The photographs are going
 6 to come into evidence through one of the witnesses who is on
 7 the defense witness list. That witness went to high school
 8 with Mr. Vanisi and is knowledgeable of the facts that
 9 Mr. Vanisi was elected to those things through high school
 10 voting. That witness is going to testify as to Mr. Vanisi's
 11 peaceful character, character consistent with what he's
 12 expressed in those photos.

13 THE COURT: That is going to come in in the
 14 guilt phase?

15 MR. BOSLER: Yes, Your Honor, the trial.

16 MR. GAMMICK: Your Honor, if we are talking
 17 high school, I have even got a question as to what length of
 18 time are we talking here, how many years past. I still have
 19 a problem seeing that relevancy for the guilt phase.

20 MR. BOSLER: Your Honor, certainly character is
 21 a relevant trait for a trial. The fact that they may think
 22 these people have not seen Mr. Vanisi in enough time to
 23 present strong evidence goes to the weight, not to the
 24 admissibility. I certainly expect them to bring that up in
 25 their cross-examination. But the statute doesn't have any

1 time limitations for character evidence.

2 THE COURT: But you can't put in evidence of
3 good character until he puts in evidence of bad character.

4 MR. BOSLER: I disagree, Your Honor. Character
5 evidence in itself can be a defense to a crime. The fact
6 that he is charged obviously means that they are saying he
7 is a bad character.

8 MR. GAMMICK: Your Honor, also I have some
9 concerns with how does the language show he is peaceful.
10 "Most gullible" on one photograph and "biggest mooch" on
11 another photograph.

12 THE COURT: Do you want to address that?

13 MR. BOSLER: Your Honor, I believe that would
14 be part of the foundation for the witness's ultimate
15 expression as to Mr. Vanisi's character for peacefulness,
16 including he has other traits that are consistent with that
17 peacefulness. That's part of that foundation.

18 MR. GAMMICK: Your Honor, we have no objection
19 to character evidence as long as it comports to the statute
20 as to specific instances of good character. But I do have
21 objection to the wording that is on those photographs.

22 THE COURT: So the specific character trait is
23 peacefulness?

24 MR. BOSLER: Yes, Your Honor.

25 THE COURT: You are offering that in this

trial?

MR. BOSLER: Yes, Your Honor.

THE COURT: I'm going to then at this time find that "biggest mooch" has no relevancy to character for peacefulness, and neither does "most gullible." I don't know about the pictures with the women in them, that that's necessary. You say that is necessary to establish?

MR. BOSLER: Those two photographs that say "biggest mooch," "most gullible," those are things that are character traits for -- of a peaceful person. Those would be the foundation that ultimately helps this witness who is going to be called lay a character defense because you can't talk about specific instances in character. It has to be reputation opinion evidence. In order to have a reputation, you have to have a foundation. That's part of the foundation.

THE COURT: Okay. I'll let -- I guess I'll let the witnesses testify if they are going to testify as to his reputation for peacefulness. But the "most gullible" and the "biggest mooch" will be deleted. You can do that probably just with a sticker or something so it doesn't show up on your transparency.

What is the necessity for the photograph from high school?

MR. BOSLER: The witness that is going to be

1 called knows him from high school.

2 THE COURT: She needs it for identification
3 purposes?

4 MR. BOSLER: Yes.

5 THE COURT: We better mark this exhibit.

6 MR. BOSLER: Thank you, Your Honor.

7 THE COURT: Had you planned on marking it?

8 MR. BOSLER: I guess I'd move to have it
9 introduced at this point.

10 THE COURT: We'll have it marked.

11 (Exhibit No. 38 marked.)

12 MR. GAMMICK: Your Honor, does the Court just
13 mark consecutive numbers for all evidence?

14 THE COURT: Yes.

15 THE CLERK: Exhibit 38 marked. Exhibits 1
16 through 37 previously marked.

17 THE COURT: Exhibit 38 has been marked.

18 Based upon the objection of the State and the
19 Court finding no relevance of being a mooch or gullible
20 necessarily for the purpose of opening statement and finding
21 the best evidence is in fact the witness's testimony and not
22 captions on photographs, and with the representation that
23 the defense will in fact be able to authenticate these
24 pictures and move forward with witnesses, based upon that I
25 will allow it to be used in opening statement.

1 MR. BOSLER: Thank you, Your Honor.

2 THE COURT: They are still subject to
3 authenticity and foundation through the witnesses before it
4 goes to the jury, in the jury room.

5 MR. GAMMICK: Your Honor, I had one other quick
6 matter. As we had marked Exhibit 37 this morning, which is
7 times of the various events that occurred on January 13th,
8 and I believe Mr. Specchio will stipulate to that being
9 admitted.

10 MR. SPECCHIO: That's fine, Your Honor.

11 THE COURT: Exhibit 37 is admitted.

12 (Exhibit No. 37 admitted.)

13 THE COURT: The bailiff approach, please.

14 MR. GAMMICK: Your Honor, if I may, Mr. Bosler
15 has shown me the transparencies with that particular
16 language either marked over or taped over. I have no
17 objection to that for the opening, and I would reserve the
18 right to object to it later on in the trial should we find a
19 basis.

20 THE COURT: That's fine. It's admitted subject
21 to the foundation being laid.

22 Are you ready, Mr. Bosler?

23 MR. BOSLER: Yes, Your Honor.

24 THE COURT: Anything further from counsel?

25 MR. GAMMICK: No.

1 THE COURT: Counsel, I have notified the jury
2 that we're going to go straight through opening statements.
3 It is my understanding opening statements will take
4 approximately an hour, maybe a little bit more than an hour.
5 Is that my understanding?

6 MR. SPECCHIO: An hour?

7 THE COURT: Between both of them. If it takes
8 that long. We're going to go straight through. Don't
9 expect to get your break at noon. We're going to go
10 straight through opening statements.

11 MR. GAMMICK: Very well, Your Honor.

12 THE COURT: Bring the jury in, please.

13 Audience please be seated.

14 (Whereupon, the following proceedings were held
15 in open court, in the presence of the jury.)

16 THE COURT: Counsel stipulate to the presence
17 of the jury?

18 MR. GAMMICK: Yes, Your Honor.

19 MR. SPECCHIO: Yes, Your Honor.

20 MR. BOSLER: Yes, Your Honor.

21 THE COURT: Thank you. Good morning, ladies
22 and gentlemen of the jury. Appreciate you all being here on
23 time. I know you were. At 11:00 you were all here. The
24 bailiff told me.

25 We have been here and working. I don't want

1 you to think we left you in there because we were ignoring
2 you. Hopefully our guesstimates will be better in the
3 future.

4 As the bailiff has instructed you, we will go
5 and hear opening statements today before you take your lunch
6 hour.

7 The first thing we will do, however, before we
8 hear opening statements, is the clerk will read the
9 Information and state the plea entered by the defendant.

10 THE CLERK: "Case No. CR98-0516, Department No.
11 4. In the Second Judicial District Court of the State of
12 Nevada, in and for the County of Washoe, The State of
13 Nevada, Plaintiff, versus Siaosi Vanisi, also known as Pe,
14 also known as George, defendant.

15 "Information: Richard A. Gammick, District
16 Attorney, within and for the County of Washoe, State of
17 Nevada, in the name and by the authority of the State of
18 Nevada, informs the above entitled Court that Siaosi Vanisi,
19 also known as Pe, also known as George, the defendant above
20 named, has committed the crimes of:

21 "Count I, murder in the first degree, a
22 violation of NRS 200.010 and NRS 200.030, and NRS 193.165, a
23 felony, in the manner following:

24 "That the said defendant, on the 13th day of
25 January, A.D., 1998 or thereabout and before the filing of

1 this Information, at and within the county of Washoe, state
2 of Nevada, did willfully, unlawfully, and with malice
3 aforethought, deliberation, and premeditation, kill and
4 murder Sergeant George Sullivan, a human being, by means of
5 repeated blows to the head and face with a hatchet, and/or
6 other implements, and or other blunt force trauma inflicted
7 to the head and upper torso thereby inflicting mortal
8 injuries upon the said Sergeant George Sullivan from which
9 he died on January 13, 1998; or

10 "That the said defendant during the course of,
11 and in furtherance of an armed robbery, did willfully and
12 unlawfully murder Sergeant George Sullivan in that the said
13 defendant on or about January 13, 1998, did kill and murder
14 Sergeant George Sullivan, a human being, in the perpetration
15 and/or the furtherance of an armed robbery at the University
16 of Nevada, Reno, at or near the information kiosk with the
17 use of a deadly weapon, to wit: a hatchet, and/or other
18 implements; or

19 "That the said defendant on or about January
20 13, 1998, did kill and murder Sergeant George Sullivan, a
21 human being, by lying in wait, in that the said defendant
22 did watch, wait and conceal himself from Sergeant George
23 Sullivan, with the intention of killing Sergeant George
24 Sullivan, in that he hid and waited until Sergeant George
25 Sullivan completed a traffic stop, then observed and

1 followed Sergeant George Sullivan to a location where he was
2 alone and then ambushed Sergeant George Sullivan, inflicting
3 mortal injuries to his person from which he died on
4 January 13, 1998.

5 "Count II, robbery with the use of a deadly
6 weapon, a violation of NRS 200.380 and NRS 193.165, a
7 felony, in the manner following:

8 "That the said defendant on the 13th day of
9 January A.D., 1998 or thereabout and before the filing of
10 this Information, at and within the county of Washoe, state
11 of Nevada, did willfully and unlawfully take personal
12 property, to wit: a Glock .45 caliber handgun; Glock
13 'magazines'; a flashlight; and handcuffs from the person of
14 Sergeant George Sullivan, at or near the information kiosk
15 located at the University of Nevada, Reno campus, Washoe
16 County, Nevada, against his will, and by means of force or
17 violence to his person and with the use of a hatchet, and/or
18 other implements, which the said defendant used to strike
19 Sergeant George Sullivan repeatedly in the head and face,
20 and/or other blunt force trauma inflicted to the head and
21 upper torso.

22 "Count III, robbery with the use of a firearm,
23 a violation of NRS 200.380 and NRS 193.165, a felony, in the
24 manner following:

25 "That the said defendant on the 13th day of

1 January A.D., 1998 or thereabout and before the filing of
2 this Information, at and within the county of Washoe, state
3 of Nevada, did willfully and unlawfully take personal
4 property, to wit: U.S. currency from the person of Patricia
5 Misito, the clerk at the 7-11 store located at 710 Baring
6 Boulevard, Washoe County, Nevada, against her will, and by
7 means of force or violence or fear of immediate or future
8 injury to her person and with the use of a large caliber
9 handgun which the said defendant displayed to the victim and
10 demanded money.

11 "Count IV, robbery with the use of a firearm, a
12 violation of NRS 200.380 and NRS 193.165, a felony, in the
13 manner following:

14 "That the said defendant on the 13th day of
15 January A.D., 1998 or thereabout and before the filing of
16 this Information, at and within the county of Washoe, state
17 of Nevada, did willfully and unlawfully take personal
18 property, to wit: U.S. currency from Diana Lynn Shouse, the
19 clerk at said establishment, at the Jackson Food Mart
20 located at 2595 Clearacre Lane, Washoe County, Nevada,
21 against her will, and by means of force or violence or fear
22 of immediate or future injury to her person and with the use
23 of a large caliber handgun which the said defendant
24 displayed to the victim and demanded money.

25 "Count V, grand larceny, a violation of NRS

1 205.220, a felony, in the manner following:

2 "That the said defendant on the 13th day of
3 January A.D., 1998, or thereabout, and before the filing of
4 this Information, at and within the county of Washoe, state
5 of Nevada, did willfully and unlawfully steal, take and
6 drive away the personal property of Louis D. Hill, to wit:
7 a certain black, four door, 1993, Toyota Camry bearing
8 Nevada license plate 029 HPY, with the intent then and there
9 to permanently deprive the owner thereof.

10 "All of which is contrary to the form of the
11 statute in such case made and provided, and against the
12 peace and dignity of the State of Nevada."

13 Richard A. Gammick, District Attorney, Washoe
14 County, Nevada.

15 David L. Stanton, Chief Deputy District
16 Attorney.

17 To which the defendant has entered pleas of not
18 guilty.

19 THE COURT: We have now come to the stage in
20 the proceedings when you may hear opening statements of
21 counsel. The law allows the State to go first.

22 Mr. Gammick.

23 MR. GAMMICK: If it please the Court, counsel,
24 ladies and gentlemen of the jury:

25 During the course of this trial we will prove

1 to you that Siasos Vanisi, this man sitting right here,
2 murdered Sergeant George Sullivan of the University of
3 Nevada, Reno, Police Department on January 13th, 1998, one
4 year ago today. We will also prove to you that Siasos
5 Vanisi robbed Sergeant Sullivan and Siasos Vanisi robbed the
6 7-11 in Sparks that night, still on the 13th; that that
7 night he also robbed another store in north Reno and that he
8 stole a car and fled this jurisdiction to go to Utah.

9 Let's talk about some of the things you will
10 see during this trial. First of all, let's set the scene.
11 This is an overhead photograph of the university campus.
12 You will hear evidence that Sergeant George Sullivan, on
13 Monday night, January 12th, 1998, reported for duty as he
14 had for 19 years as a police officer. He started his shift
15 at 11:00 p.m. that night, which you may see in some reports
16 as 2300. Law enforcement does use military time.

17 He started his shift that night with Officer
18 Carl Smith, also of the University of Nevada, Reno, Police
19 Department.

20 Quiet night. Not much going on. The campus on
21 winter break.

22 Sometime about 0017, which would be 17 minutes
23 after midnight, Sergeant Sullivan called in that he was
24 stopping to talk to some people in this area of Ninth and
25 Center just south of the university campus. Officer Smith

1 covered him.

2 While Officer Smith was going to that location,
3 he made a turn right here at Ninth and Center. At that time
4 he saw another individual standing next to a tree. That
5 individual was described as a large man with long dark hair,
6 with facial hair, wearing a coat. This individual looked at
7 Officer Smith in a manner that he will describe for you.

8 Officer Smith remembered that individual
9 because he stood out to him. What you will also hear is
10 just a little earlier, shortly after midnight, an individual
11 matching the same description was seen by another person in
12 the parking lot just south of Lawlor Events Center. That
13 person also caught the witness's attention, and I'll let her
14 describe why.

15 She was there to pick up her father who works
16 at the university. After she picked up her father, she came
17 back down Virginia Street and again saw that same person.
18 He was located in the area right here close to Manzanita
19 Lake. This is Manzanita Lake at the University of Nevada.
20 He was walking in a southbound direction. That was
21 approximately three or four minutes before Officer Smith saw
22 him here.

23 At 0025, eight minutes later after Sergeant
24 Sullivan had made this stop, he advised dispatch he was done
25 talking to the people who are named Wood.

1 Sergeant Sullivan went from this location to
2 this location, which is up by the information kiosk just
3 north of Ninth and Center on the university campus. An area
4 used by police officers all the time from UNR to go up and
5 write reports and do what they need to do because it's well
6 lit at night.

7 Officer Smith hung around the area for a few
8 minutes, and he left and went elsewhere on campus. While
9 this is going on, at approximately 20 minutes to 1:00 that
10 morning, we have another student at UNR who is in the area
11 of Seventh and Wells. He walks back to UNR. He goes to the
12 area of Ninth and Center. He goes up the stairs that lead
13 up that hill to the campus.

14 As he's approaching the kiosk, he sees a police
15 car sitting there. He sees an officer on the ground, and he
16 believes that there is some type of problem with the car
17 because he sees a large pool of fluid.

18 As he gets closer, he realizes that that pool
19 of fluid is blood and that the officer is injured. That
20 student, Mr. Andrew Ciocca, leaves that scene as soon as he
21 checks the officer and sees he is hurt bad, goes right next
22 door in that same immediate area and makes a 911 telephone
23 call to dispatch. He advises them they have a police
24 officer down.

25 Officer Smith, who was up in this area of the

1 campus, is notified of the problem, and he starts responding
2 to that scene, as do a lot of other Reno Police Department
3 officers.

4 They get to the scene. Mr. Ciocca, right after
5 he makes the phone call, goes back, rolls the officer over,
6 checks him, says he's still warm, but he does not find any
7 signs of life.

8 Officer Smith arrives at the scene. He checks.
9 He first reports that Sergeant Sullivan is found and he's
10 been shot, due to the damage that was done.

11 Mr. Ciocca, while Mr. Smith -- right before
12 Officer Smith got there, he gets on the radio and says that
13 it is Sullivan.

14 Reno Police Department officers are responding.
15 They start sealing off this entire area, and the manhunt is
16 on.

17 Let me digress here just a moment to explain to
18 you why we're here this morning, why we're doing what we're
19 doing now. If this was perfect, we could put a trial on for
20 you as it should go. We would start with item number 1,
21 witness number 1, and proceed right through chronologically.
22 That won't happen that way due to illness, putting witnesses
23 on, their schedules when we can get people in.

24 This is kind of like a road map. The opening
25 statement is to tell you what the evidence is going to be

1 showing you so you can put it in perspective and see where
2 various things go. When we're done with the trial, then we
3 will do closing and tell you exactly where everything fit.

4 It may get a little confusing because you will
5 hear the reference made Monday night and Tuesday night and
6 these different nights. Please keep in mind that all of the
7 charged crimes occurred on Tuesday, January 13th, 1998,
8 starting just after midnight and going til approximately
9 11:15 that night. It is almost a 24-hour crime spree.

10 The manhunt is on. At this time one year ago,
11 no one knew who did this that was involved with law
12 enforcement.

13 You will hear evidence about how a phone call
14 was made Tuesday evening, how a report was made to Secret
15 Witness, and the investigation started focusing. The
16 suspect was identified. Information was put out to the
17 media and broadcast. You'll see what was put out to the
18 media as far as a drawing of a person who was seen at the
19 scene. You will also see photographs that were used.

20 Once that information hit the media, then we
21 wind up with an armed robbery at the 7-11 on Baring next to
22 the YMCA. There is another armed robbery up close to the
23 area of where U.S. 395 and McCarran join each other.

24 You'll hear witnesses testify that this is the
25 man that committed those two armed robberies.

1 And listen for something else because there is
2 a link here. He was armed with a semiautomatic Glock
3 handgun. The same gun that was taken off the body of
4 Sergeant George Sullivan, along with the rest of his pistol
5 belt and his equipment that was ripped from his body.
6 You'll see the belt buckle laying in the pool of blood.

7 That equipment was recovered. After the
8 robberies there's an arrest warrant requested and a
9 nationwide broadcast that we're looking for this individual.
10 Salt Lake City, Utah, notifies law enforcement agencies here
11 that they believe they have him there. After a standoff
12 with the police there, Defendant Vanisi was taken into
13 custody.

14 You are going to see some different people
15 during the course of this trial. One of them is Vainga
16 Kinikini, cousin to Siaosi Vanisi. He lives in Salt Lake
17 City; Texas. Has quite a colorful history. He is a
18 convicted felon. And he knows a lot about street life.

19 He will give you a blow-by-blow description of
20 what happened between 0025 and 0057 when Mr. Ciocca made his
21 call to 911. Listen to the detail. Watch the descriptions
22 of the person involved in this. Look at the various things
23 that are done.

24 You will find that Mr. Vanisi came to Reno
25 wanting to kill a cop. He said that several times.

1 Listen to the witnesses. You will find that
2 Mr. Vanisi purchased a hatchet from Wal-Mart for \$7 and took
3 it with him, to even include a dance, and was swinging this
4 hatchet around, again making statements about wanting to
5 kill a cop.

6 Listen to the evidence, and you make a decision
7 who this individual was that was on campus and close to
8 campus and watching Sergeant Sullivan just minutes prior to
9 his death. You will also hear evidence that Mr. Vanisi,
10 after the killing, had the gun and made statements about
11 having killed a cop.

12 I don't want to get into want Vainga Kinikini
13 is going to tell you because, as I said, he will give you a
14 lot of detail, direct from the mouth of Mr. Vanisi.

15 Ladies and gentlemen, you need to pay
16 attention. There are a lot of small details in this case
17 that will come together. The defendant wearing a wig to
18 change his appearance. Listen to how that tracks because
19 the way it was found after he discarded it.

20 Listen to the weapon belt and the other
21 equipment that belonged to Sergeant Sullivan and how it
22 tracks. The gun of Sergeant Sullivan was recovered in Salt
23 Lake City from the house where Mr. Vanisi was arrested.

24 Again, listen to all this detail. His clothing
25 was recovered. Listen to whose blood was found on the

1 Defendant Vanisi's clothing.

2 Once you have heard all of this evidence, once
3 you have seen this entire case, return to this courtroom
4 with a verdict of guilty of first degree murder, guilty of
5 armed robbery, guilty of armed robbery, guilty of armed
6 robbery, and guilty of grand larceny. Thank you for your
7 time.

8 THE COURT: Thank you.

9 Mr. Bosler. Will the bailiff remove the
10 exhibit?

11 MR. BOSLER: Your Honor, the record should
12 reflect the District Attorney was pointing and approaching
13 the defense table and raising his voice for the last portion
14 of his argument, just for the record. You are not going to
15 say that?

16 THE COURT: What do you want me to say? You
17 just said it.

18 MR. BOSLER: The record will so reflect?

19 THE COURT: Do you want me to agree with it? I
20 don't understand. Did you want me to reflect --

21 MR. BOSLER: I made the record, Your Honor.
22 Thank you.

23 THE COURT: Go ahead.

24 MR. BOSLER: Ladies and gentlemen, paying
25 attention to details, being careful, being fair, all things

1 that we have promised to do. What I want to do is first do
2 this. Can everybody see those pictures at all?

3 The first thing I guess I need to do is explain
4 to you. You have heard Siaosi Vanisi, also known as George,
5 also known as Pe. I need to probably give you a little
6 explanation about that.

7 Siaosi Vanisi, that's his Tongan name. What
8 happens is that he was cared for by an aunt. Siaosi, George
9 is Siaosi in English. The name George. Tafuna was the
10 aunt's name. He took that name when he went to school in
11 San Bruno, California. He went to high school.

12 Pe, the other name that you have and you have
13 heard mentioned in the Information, Pe means baby in Tongan.
14 So those are the reasons that there are three names listed
15 on that Information.

16 These high school photos, typical in every high
17 school yearbook. What you are going to hear is that in high
18 school, his high school friend is going to come up, and you
19 will hear good student, good athlete. In fact, you are
20 going to hear in their high school, Cappuchino High School
21 in San Bruno, there is a Tongan community, there is a white
22 Caucasian community.

23 You are going to hear that if there was
24 problems between those communities, there was a person who
25 was a peace maker between those two groups. That person,

1 George Tafuna, the person reflected in that yearbook photo.
2 Again, George Tafuna is Siaosi Vanisi. Just like an assumed
3 name, to stay with the aunt. George and Siaosi are the same
4 things.

5 Why is that important? Well, I guess we all
6 have to wonder, how does this person end up sitting in a
7 chair in a courtroom in another city defending himself of an
8 accusation of first degree murder and in fact ultimately
9 fighting for his life?

10 Ladies and gentlemen, you are going to hear
11 other things.

12 MR. GAMMICK: Excuse me, Your Honor. I object
13 to this comment at this stage of the proceedings.

14 MR. BOSLER: I'll move on, Your Honor.

15 THE COURT: Go ahead. Thank you.

16 MR. BOSLER: What we're going to have to -- the
17 questions we have to answer are how does a person come to be
18 accused of killing a UNR police officer.

19 You are going to hear some information both
20 through the State's case and through the witnesses we are
21 going to put up.

22 There is another person, another person who
23 worked at UNR. There is another person who is a boyfriend
24 of one of Mr. Vanisi's relatives. That person was
25 interviewed by the police.

1 That person, the evidence and circumstances
2 will show that that person, through 80 pages of transcript
3 while they are talking to the police, isn't truthful. When
4 that person becomes ultimately truthful, that person admits,
5 Well, if you check that gun, the Glock that is mentioned,
6 you might find my fingerprints on it, too.

7 In fact, that person is going to admit that he
8 was out to kill a police officer, and he might have said
9 that to some people. But he doesn't really mean it now,
10 that he wants to back off that statement.

11 Why is that important? Because this case, you
12 are going to have to answer a question to yourself, how does
13 this person come to be accused of this crime? From what you
14 know about him, how does he become accused of this crime?

15 The Reno police detectives will tell you he
16 thinks there is another person involved. You are going to
17 hear that during the robberies, the witnesses to the
18 robberies are going to say that they believe they see
19 another person in the car. It isn't just Mr. Vanisi there.

20 Ladies and gentlemen, we're not going to offer
21 a defense to those robberies. But the bigger issue and the
22 issue that we need to talk about is knowing that the State
23 is going to present this evidence and knowing that there is
24 another person. Can we all be fair when we consider the
25 evidence and not make some decision before we hear what

1 every witness has to say?

2 All I can do is ask you to be fair and consider
3 some of these details before you decide how did this person
4 got to sit in that chair and have to do what's happening
5 now. All I can do is ask you to be fair. Thank you.

6 Thank you, Your Honor.

7 THE COURT: Thank you. Well, ladies and
8 gentlemen of the jury, I told the State to bring their
9 witnesses for after lunch. I didn't know how long opening
10 statements would take.

11 So it looks like we're back on schedule, and
12 we're going to be doing the rest of the day on our regular
13 schedule. So I'm going to let you go to lunch now, ask that
14 you return at 1:30 p.m. or a few minutes before so we can
15 actually start at 1:30.

16 During this recess, I ask that you remember the
17 admonition I'm going to be giving you at all breaks.

18 Counsel, I ask that you return at 1:15.

19 See the jury back and be ready to go to court
20 by 1:30, but I want counsel here at 1:15.

21 Ladies and gentlemen of the jury, during this
22 break, you are reminded by me and admonished by me that it
23 is your duty not to discuss among yourselves or with anybody
24 else any matter having to do with this case. It is your
25 further duty not to form or express any opinion regarding

1 the guilt or innocence of the defendant until the case has
2 been finally submitted to you for decision.

3 You are not to read, look at or listen to any
4 news media accounts relating to this case should there be
5 any. You should not allow anyone to attempt to influence
6 you with regard to this case or discuss it with you in any
7 manner. If anyone should attempt to influence you with
8 regard to it, in any way, advise the bailiff as soon as you
9 return to court, who in turn will advise the Court.

10 Ladies and gentlemen of the jury, we are in
11 recess. Please go with the bailiff.

12 Court is in recess.

13 (Recess taken at 11:56 a.m.)

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RENO, NEVADA, WEDNESDAY, JANUARY 13, 1999, 1:32 P.M.

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(Whereupon, the following proceedings were held in open court, in the presence of the jury.)

THE COURT: Counsel, can you stipulate to the presence of the jury?

MR. GAMMICK: Yes, Your Honor.

MR. BOSLER: Yes, Your Honor.

THE COURT: You may proceed. Call your first witness.

MR. GAMMICK: Your Honor, the State would call Brenda Martinez.

BRENDA MARTINEZ

called as a witness on behalf of the Plaintiff,

having been first duly sworn,

was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GAMMICK:

Q Would you please state your name and spell your last name?

A My first name is Brenda. Martinez. My last name is M-A-R-T-I-N-E-Z.

Q And Miss Martinez, are you a student at UNR?

A Yes, I am.

1 Q That is the University of Nevada, Reno?

2 A Yes.

3 Q How long have you a been student there?

4 A Three years. I'm a junior.

5 Q Do you have any relatives who work at the
6 university?

7 A My father works as a custodian at the
8 university.

9 Q And what shift does he work?

10 A He works graveyard. He works from 4:00 in the
11 afternoon until 12:00 midnight, quarter after 12:00.

12 Q How does that affect your life?

13 A Well, when I was living at home -- I'm not
14 currently with them anymore -- but when I was living at
15 home, I would pick my dad up every day, you know, after
16 work, because my dad doesn't have a car. So every day at
17 the same time, I will get off my house and go pick my dad up
18 at the same time, Monday through Friday.

19 Q That was at midnight?

20 A That was at midnight.

21 Q If you weren't there, what would happen?

22 A He will start walking and go take the bus.

23 Q And how long would he give you to get there?

24 A Probably about until 12:08 or 12:10 at the
25 most. If -- I knew that if I was one minute late, I will

1 not see him, and I will have to drive down Virginia Street
2 to go find him, because my dad is pretty stubborn.

3 Q Let me call your attention to Monday night,
4 January 12th, 1998, one year ago from yesterday.

5 A Uh-huh.

6 Q Did you pick up your dad that night?

7 A Yes, I did.

8 Q And where would you enter the campus in order
9 to go to pick him up?

10 A Through the parking lot that's between Lawlor
11 Events Center and Jot -- what is the name of that building?
12 The arts building, through that parking lot.

13 Q The Fine Arts Building?

14 A Fine Arts Building.

15 Q Is that up close to Lawlor Events Center?

16 A No. It's farther down.

17 Q On that night, what time did you enter that
18 parking lot?

19 A It was 12:08 when I went down to the parking
20 lot.

21 Q Eight minutes after midnight?

22 A Uh-huh.

23 Q Did you see anything unusual that night?

24 A A dog caught my attention. There was a dog in
25 the parking lot, and I took a good look at the dog because I

1 liked animals. And then I looked around to see if there was
2 somebody there, and there was a man walking in the parking
3 lot, and he caught my attention, too.

4 Q A big dog, small dog?

5 A It was a big dog.

6 Q And why the man? The man caught your
7 attention?

8 A Yes. He was walking funny, and he was walking
9 slanted towards Virginia Street. His appearance was
10 different.

11 Q Describe different.

12 A Well, he had a beanie cap, and he had long big
13 hair and a full-face beard. So he caught my attention the
14 way he was dressed, too. He had a long coat, and it was
15 tied with a rope.

16 I got to see him close because there was a
17 point where we kind of crossed, and I looked at him, and he
18 just scared me, because I always see the same people, same
19 cars, same everything, and he was not somebody that I would
20 see there at that time.

21 Q How close did you get to this man?

22 A Probably about I would say 15 feet.

23 Q And you were in your car?

24 A Yes, I was in my car.

25 Q He was walking?

1 A He was walking.

2 Q I believe you stated he scared you.

3 A Yes. When I was looking at the man and when we
4 crossed, I made eye contact with him, and I turned around
5 and started driving towards where I pick up my dad.

6 Q Okay. What did you do next?

7 A I went in through the other side of the parking
8 lot, and I waited for my father. It's right in front of the
9 social studies building, that little parking lot right
10 there.

11 Q Is that approximately the center of the campus?

12 A Approximately, yes. And I waited for my dad to
13 get off work.

14 Q Did you pick up your dad that night?

15 A Yes. My mom was with me in the car, but she
16 was asleep, and I had my dog with me in the car. By the
17 time I got off work, they were awake, my mom was awake.

18 Q Okay. Then after you picked up your dad, did
19 you leave the school or leave the parking lot?

20 A Yes.

21 Q What direction did you go when you left the
22 school?

23 A The same direction that I came in. I drove
24 south on North Virginia Street.

25 Q About how -- you say you came into the parking

1 lot at 12:08. How do you know that?

2 A Because like I said before, I had to be there
3 at that time so my dad would see me, would see my car parked
4 in front.

5 Q I mean, how do you know it was 12:08?

6 A I have a clock in front on -- in my car on the
7 board.

8 Q On the dashboard?

9 A Dashboard, yeah.

10 Q So when you left the parking lot to go back
11 south on Virginia, about how much time had passed from the
12 time you first entered it, from 12:08, about what time was
13 it you went back out on Virginia Street?

14 A Approximately about 10 minutes or less, a
15 little bit less than that.

16 Q Did you see the dog again?

17 A Yes. When I was walking -- when I was driving
18 out on South Virginia, I had mentioned the man I saw to my
19 parents, and the dog, and when we were driving down, I said,
20 look, there's the dog again. The dog was right underneath
21 the bridge, the North Virginia bridge. And I said, There is
22 the man again, too. And the man was walking inside the
23 little parking lot in front of the JTSU, the Student Union.

24 Q The Student Union?

25 A That is when I last saw him.

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

SIAOSI VANISI,

Appellant,

vs.

RENEE BAKER, WARDEN, and
CATHERINE CORTEZ MASTO,
ATTORNEY GENERAL FOR
THE STATE OF NEVADA,

Respondents.

No. 65774

Volume 19 of 26

Electronically Filed
Jan 14 2015 12:24 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

APPELLANT'S APPENDIX

Appeal from Order Denying Petition
for Writ of Habeas Corpus (Post-Conviction)

Second Judicial District Court, Washoe County

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CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 7th day of January, 2015. Electronic Service of the foregoing Appellant's Appendix shall be made in accordance with the Master Service List as follows:

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An employee of the Federal Public Defender's Office

1 The very back row and I'll work my way forward.
2 Yes, Miss Guiler.

3 A PROSPECTIVE JUROR: My husband and I own a
4 business. It's Drive Safe Driving School, and it's dealing
5 with the DMV and the MADD association, Mothers Against Drunk
6 Driving, that type of thing. So we do teach young people
7 the laws of the road and the rules of the road.

8 MR. BOSLER: Not that I would know this, but is
9 that where you go and get the merits off your record?

10 A PROSPECTIVE JUROR: No. This is teaching
11 young people how to drive.

12 MR. BOSLER: How do people get referred to this
13 group?

14 A PROSPECTIVE JUROR: It's not really a group.
15 It's just -- basically it's a business that we're selling
16 the classroom education and the driver education for a young
17 person under 18 to learn how to drive and teaching them the
18 rules of the road and to respect the police authority.

19 MR. BOSLER: The reason I asked is I would
20 think you get your license at 16. So if you are kind of
21 getting them at 18, is it people who have already been
22 tagged as problem drivers or people with problems?

23 A PROSPECTIVE JUROR: No, not anymore. The law
24 was passed October 1st, the NRS 285, 283 was passed that no
25 one under 18 can get their driver's license unless they go

1 through classroom instruction of 30 hours and six hours of
2 driving.

3 MR. BOSLER: So at 16 can they get it if they
4 go through that?

5 A PROSPECTIVE JUROR: Uh-huh.

6 MR. BOSLER: Probably a good idea. Anybody
7 else? Anybody else? Yes.

8 THE COURT: Mr. Decker.

9 MR. BOSLER: Mr. Decker.

10 A PROSPECTIVE JUROR: I'm a lodge member of
11 Nevada Rifle and Pistol Association; also American Rifleman,
12 life member.

13 MR. BOSLER: Does your enrollment or your
14 activities in that group bring you into contact with law
15 enforcement authorities?

16 A PROSPECTIVE JUROR: No. However, the
17 National Rifle Association is pretty involved in police
18 training and things of that nature.

19 MR. BOSLER: Police officers carry guns and go
20 to gun ranges and shoot.

21 A PROSPECTIVE JUROR: Yes.

22 MR. BOSLER: How many of your close friends do
23 you think are police officers, if you could?

24 A PROSPECTIVE JUROR: How many close friends I
25 have?

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AA04502

TQUALS01192

1 MR. BOSLER: Yes.

2 A PROSPECTIVE JUROR: Three or four.

3 MR. BOSLER: Close friends that you bring over
4 for dinner, go out for a drink with them?

5 A PROSPECTIVE JUROR: A couple of them I bring
6 over for dinner. Others are just casual acquaintances.

7 MR. BOSLER: Knowing that you have -- are these
8 local law enforcement officers or are these officers local
9 people?

10 A PROSPECTIVE JUROR: Yes.

11 MR. BOSLER: Reno Police Department?

12 A PROSPECTIVE JUROR: Sparks Police Department.

13 THE COURT: I think he told us their names
14 earlier.

15 A PROSPECTIVE JUROR: One of the Washoe County
16 court bailiffs is a very good friend of my son's.

17 MR. BOSLER: And I would imagine you have had
18 opportunities to talk to these officers about these
19 circumstances that bring you into court today?

20 A PROSPECTIVE JUROR: Not this particular case,
21 no. I haven't talked about that to any of them.

22 MR. BOSLER: Knowing that these people are
23 police officers, do you think you have some obligation or
24 how would you feel if you had to sit here as a juror and
25 eventually I would imagine you'd see these people again?

1 Do you feel that they, the fact that they are
2 your friends and you talk to them, you kind of have to take
3 into consideration that friendship when you make your
4 decisions?

5 A PROSPECTIVE JUROR: I don't think it would
6 have any bearing on our friendship, no. No matter what, how
7 I voted in a --

8 MR. BOSLER: Do you think that separation is
9 easy or hard for you?

10 A PROSPECTIVE JUROR: It would be relatively
11 easy. The past few years we haven't been that close. I
12 still see them occasionally.

13 MR. BOSLER: I appreciate that information.

14 Yes.

15 A PROSPECTIVE JUROR: I'm also a member of the
16 NRA.

17 MR. BOSLER: Same questions. Does that
18 relationship or that organization's activities bring you
19 into contact with law enforcement officers?

20 A PROSPECTIVE JUROR: No, it doesn't.

21 MR. BOSLER: You indicated you had formed an
22 opinion. We have kind of gone over this a few times. That
23 opinion is? The magic question, that opinion is?

24 A PROSPECTIVE JUROR: I have done a lot of soul
25 searching here in the last 24 hours, and I believe I have a

1 strong opinion about this case, and I have been really
2 looking at this level-headed, and I believe I could look at
3 the evidence in a fair fashion. But I do have to tell you
4 folks that I do have a strong opinion of this case.

5 MR. BOSLER: With that opinion in mind, do you
6 think you are the type of person that should be sitting on
7 this jury?

8 A PROSPECTIVE JUROR: Right now, to be honest
9 with you, I'm borderline. I'm on the opposite end of the
10 spectrum. I think that I would have to see innocence proven
11 to me. That's exactly where I stand right now.

12 MR. BOSLER: I appreciate your honesty. Again
13 there is no wrong answer. Has that changed since yesterday?
14 You said in the last 24 hours.

15 A PROSPECTIVE JUROR: You know, in retrospect
16 from yesterday, it has changed a little bit. I have a
17 little bit more time to think about it. I got hit with a
18 lot of questions.

19 Basically all I really wanted to get across to
20 you people is that what I just told you, how I feel inside,
21 and I don't know if that makes a good juror or a bad juror,
22 to be honest with you.

23 MR. BOSLER: We'll get back to that. I
24 still -- it's not clear to me. Have you -- has your opinion
25 become stronger over the last 24 hours or have you been able

1 to back off of it a little bit?

2 A PROSPECTIVE JUROR: No, I had the opinion
3 yesterday. I guess I probably didn't know how to express it
4 in the way the questions were.

5 MR. BOSLER: So it is the same? You can just
6 express it now?

7 A PROSPECTIVE JUROR: I just told you how I
8 feel.

9 MR. BOSLER: Thank you. Going down the line,
10 second row? Third row? Any groups, organizations related
11 to law enforcement, anything like that?

12 Fourth row? Front row?

13 Mr. Thomas, Sheriff's search and rescue? Other
14 organizations that are ancillary to that or related to that?

15 A PROSPECTIVE JUROR: Not having anything to do
16 with law enforcement.

17 MR. BOSLER: If you could, I had a friend when
18 I was a kid whose father was in search and rescue. You wear
19 uniforms; right, search and rescue uniforms?

20 A PROSPECTIVE JUROR: We have a uniform, but
21 I'm air squadron. We spend our time in the aircraft. We're
22 not held to wearing a formal uniform.

23 MR. BOSLER: Flight gear, something like that;
24 right?

25 A PROSPECTIVE JUROR: Yeah.

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AA04506

TQUALS01196

1 MR. BOSLER: The uniform that you have for
2 search and rescue, is that something supplied by the
3 Sheriff's Department?

4 A PROSPECTIVE JUROR: It is something that we
5 acquire.

6 MR. BOSLER: Do you buy it from the Sheriff's
7 Department?

8 A PROSPECTIVE JUROR: Yes. Well, the uniform
9 company here in town.

10 MR. BOSLER: And does the Sheriff's Department
11 tell you what uniform you are supposed to buy to meet the
12 requirements of the sheriff's search and rescue?

13 A PROSPECTIVE JUROR: Yes.

14 MR. BOSLER: Do you carry a gun as part of that
15 search and rescue stuff?

16 A PROSPECTIVE JUROR: We're not peace officers
17 as it were. We're strictly search. We're actually not even
18 rescue.

19 MR. BOSLER: You just kind of do the spotting,
20 spot plane?

21 A PROSPECTIVE JUROR: Yes.

22 MR. BOSLER: Anything about that, anything,
23 duty to that particular occupation other than I guess your
24 ability to fly an airplane?

25 A PROSPECTIVE JUROR: I like flying, and that

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AA04507

TQUALS01197

1 gives you a good reason to go out and do it.

2 MR. BOSLER: Do they pay you money?

3 A PROSPECTIVE JUROR: Reimbursement for costs.

4 MR. BOSLER: Gasoline, stuff like that?

5 A PROSPECTIVE JUROR: Yes.

6 MR. BOSLER: That comes from which department;
7 do you know? Does it come from the Sheriff's Department or
8 the County, the City?

9 A PROSPECTIVE JUROR: The County.

10 MR. BOSLER: I know it is kind of popular. How
11 many people in the jury find themselves kind of watching TV
12 and watching programs like "911," "Police Dispatch,"
13 "Unsolved Mysteries," "Top Cops," "America's Most Wanted"?
14 Fox carries most of them, if I'm not mistaken. Anybody
15 admit to watching those types of programs?

16 If you could, I'll try to keep track of these
17 people.

18 Miss Denton, I'll come back to you. Apologize.
19 This may take a little time. Miss Denton, which of those
20 programs do you find most -- that draws your attention the
21 most or you find yourself watching the most?

22 A PROSPECTIVE JUROR: Probably the rescue
23 programs on the learning channel and like Fox or whatever,
24 "911."

25 MR. BOSLER: Any particular reason you prefer

1 watching those programs as opposed to something on PBS, or
2 whatever, another channel?

3 A PROSPECTIVE JUROR: Action packed.

4 MR. BOSLER: Action packed? How often do you
5 find yourself in that time slot turning to the search and
6 rescue stuff as opposed to the local news or ESPN?

7 A PROSPECTIVE JUROR: If we are not watching a
8 movie, we just flip through the channels and see what's on.

9 MR. BOSLER: So of all the like variety type
10 entertainment things, that's probably the one you watch more
11 often than -- I can't think of any other sitcom names --
12 "Seinfeld," something like that?

13 A PROSPECTIVE JUROR: Yeah. We watch that.

14 MR. BOSLER: Miss Guiler.

15 A PROSPECTIVE JUROR: Guiler. In the past I
16 have watched "America's Most Wanted" and there was a man
17 that came in our shop that they caught. And --

18 MR. BOSLER: He was on "America's Most Wanted"?

19 A PROSPECTIVE JUROR: He was on "America's Most
20 Wanted." He was the one with the spider on his hand.
21 Anyway, he was caught. But now we have our grandson a lot,
22 we don't watch things like that. We mostly watch 45 or 36
23 or 37.

24 MR. BOSLER: When this person was caught, were
25 you actually in the shop at the same time? Did you make the

1 phone call for the reward?

2 A PROSPECTIVE JUROR: I made the phone call.
3 It was a Saturday afternoon. He stayed in the shop with his
4 niece and nephew for several hours. He kept buying things.
5 And I noticed the tattoo on his hand. And so that night
6 they happened to air that particular one, and I picked it
7 up.

8 MR. BOSLER: Were you part of any television
9 program or anything like that? Did they interview you?

10 A PROSPECTIVE JUROR: No, no.

11 MR. BOSLER: Just anonymous tip, I guess? Did
12 you make an anonymous tip?

13 A PROSPECTIVE JUROR: Yes.

14 MR. BOSLER: Enjoy reward money or anything
15 like that, personal satisfaction to know that you helped to
16 some extent?

17 A PROSPECTIVE JUROR: No. I just felt, I don't
18 know, there was an air about the man that was different than
19 most customers, and so when he aired, it was like he was --
20 I knew there was something wrong with him, is basically what
21 I said to my husband. I had told him that there is
22 something wrong with this guy. I don't know if he is going
23 to rob us or what, but there is just something wrong with
24 this man.

25 MR. BOSLER: Air, you are talking A-I-R, like

1 aura, energy about him?

2 A PROSPECTIVE JUROR: Uh-huh.

3 MR. BOSLER: Do you see energy about any of us
4 in the courtroom?

5 A PROSPECTIVE JUROR: No.

6 MR. BOSLER: Just checking. If I could go down
7 the line.

8 Yes, Mr. Sotero, please. What show do you find
9 yourself watching?

10 A PROSPECTIVE JUROR: I enjoy the real life,
11 the cop shows. I enjoy the sci-fi. I enjoy news and a good
12 movie.

13 MR. BOSLER: We all enjoy a good movie. Is it
14 "Real Life" or "Real Cops," something like that?

15 A PROSPECTIVE JUROR: Yeah. The cop shows,
16 whatever it is. I don't remember the exact name. There are
17 several.

18 MR. BOSLER: Any reason you find yourself
19 sitting for half hour, 20 minutes, watching that show
20 instead of going to the Nature Channel we all should be
21 watching or educational channels? No?

22 A PROSPECTIVE JUROR: Yes, I watch those also.

23 MR. BOSLER: I guess there is a general feeling
24 that when you watch "America's Most Wanted" and someone gets
25 caught, we generally feel that good things happen, or Clint

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AA04511

TQUALS01201

1 Eastwood movies, Charles Bronson movies. Do you find
2 yourself kind of engaging in that same type of whether it is
3 catharsis or whatever, the bad guy got his due?

4 A PROSPECTIVE JUROR: Yes.

5 MR. BOSLER: Taking those feelings into
6 consideration, how does that make you feel about sitting in
7 a criminal case where you have to make -- this is one of the
8 most profound decisions I think any person would have to
9 make in life, someone lives or dies?

10 A PROSPECTIVE JUROR: It is going to be tough.
11 But it's my duty, is it not?

12 MR. BOSLER: With that in mind, I can't tell
13 you what your duty is. I mean, we take oaths, and we are
14 all humans. We have human qualities that may transcend
15 things.

16 Do you think you are the type of person who
17 should be sitting on a case like this when someone's life is
18 at stake and you are going to have to make that profound
19 decision?

20 A PROSPECTIVE JUROR: Well, I feel I can do the
21 job as well as anyone else.

22 MR. BOSLER: All right. I appreciate that.

23 THE COURT: Mr. Bosler, Mr. Stanton, approach,
24 please.

1 (Whereupon, a bench conference was held among
2 Court and counsel as follows:)

3 THE COURT: You are going further than I
4 anticipated. You requested to ask them if they did this and
5 how often, not --

6 MR. BOSLER: You said follow-up questions.

7 THE COURT: I guess what I'm saying now is the
8 choice that you are making for follow-up is too broad, and
9 I'm not comfortable with it. The depth that you are going
10 into with these people's lives.

11 I think it is appropriate if you want to ask
12 the question if they watch these shows and how often they
13 watch the shows. But talking about whether they should be
14 watching the Nature Channel or, you know, whether it's good
15 to watch movies, all of that, we kind of really have to
16 tighten up on your question.

17 MR. BOSLER: I was trying to maybe cover two
18 things about the fairness because I'm going to have to cover
19 that at some point and just working -- I'll come back to
20 that later.

21 THE COURT: It is fine with me if the follow-up
22 is, Can you be fair, but let's not --

23 MR. BOSLER: All right.

24 (Whereupon, the following proceedings were held
25 in open court, in the presence of the jury.)

1 MR. BOSLER: If I could, thank you for your
2 response, Mr. Sotero.

3 The next person. Mr. Adamson, what show do you
4 find yourself watching?

5 A PROSPECTIVE JUROR: I have seen several shows
6 over the years. I don't generally watch all of them week
7 after week, but I like to watch the cop shows on occasion
8 and some of the -- those he was speaking of, over the
9 sitcoms, which are totally ridiculous. So I watch those
10 kind of shows all my life. "Dragnet," going back to
11 "Dragnet," highway patrol.

12 MR. BOSLER: "FBI" was one. Do you find
13 yourself watching -- is there like a Tuesday night where you
14 say, I got to go home because this crime show is on?

15 A PROSPECTIVE JUROR: No. I have no schedule.

16 MR. BOSLER: Nothing regular like that?

17 A PROSPECTIVE JUROR: No.

18 MR. BOSLER: Miss Springer, if you could, which
19 show do you find yourself watching?

20 A PROSPECTIVE JUROR: "America's Most Wanted"
21 and all of the ones they have mentioned once in a while.

22 MR. BOSLER: Fox lineup pretty much?

23 A PROSPECTIVE JUROR: Yeah.

24 MR. BOSLER: Do you find yourself watching
25 those regularly or an occasional thing?

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AA04514

TQALLS01204

1 A PROSPECTIVE JUROR: Usually when there is
2 nothing else on.

3 MR. BOSLER: More as a matter of default than
4 scheduling that in your nighttime viewing?

5 A PROSPECTIVE JUROR: Yeah.

6 MR. BOSLER: Mr. Hinxman?

7 A PROSPECTIVE JUROR: Is the question have I
8 ever or do I regularly watch? What is the question?

9 MR. BOSLER: Well, it is really do you watch.
10 I guess it encompasses both of those things.

11 A PROSPECTIVE JUROR: I have watched in the
12 past, but I don't set my VCR when I'm not going to be there
13 to make sure I see something.

14 MR. BOSLER: So not something you regularly
15 watch?

16 A PROSPECTIVE JUROR: It is not a regular
17 passion.

18 MR. BOSLER: I appreciate that.

19 Miss Kominek.

20 A PROSPECTIVE JUROR: I would have to answer
21 pretty much the same way. I have watched a lot of the
22 different shows. I don't watch them regularly.

23 MR. BOSLER: Just kind of by default or
24 something, this is my show, I want to watch it, see if the
25 guy got caught type of thing?

1 A PROSPECTIVE JUROR: No, I don't watch it for
2 that.

3 MR. BOSLER: Mr. Lafond.

4 A PROSPECTIVE JUROR: Well, the time I get off
5 at night, about the only thing they got on is "LAPD", CNN
6 News and Philippine news. I watch the Philippine news. I
7 work til midnight every night.

8 MR. BOSLER: Is it in English or native
9 dialect?

10 A PROSPECTIVE JUROR: It is in English. Some
11 of it is Tagalog.

12 MR. BOSLER: Do you get a chance to watch
13 anything but the Philippine news?

14 A PROSPECTIVE JUROR: If they have a movie on,
15 I stay up a little bit later.

16 MR. BOSLER: Nothing -- anything you watch
17 regularly every night?

18 A PROSPECTIVE JUROR: No. "LAPD" is only on
19 certain days after midnight.

20 MR. BOSLER: Mr. O'Daye, I didn't see you raise
21 your hand.

22 A PROSPECTIVE JUROR: I sometimes watch "Cops,"
23 whatever is on the tube.

24 MR. BOSLER: Just as a matter of default?

25 A PROSPECTIVE JUROR: Whatever is on. Whatever

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AA04516

TQUALLS01206

1 comes on.

2 MR. BOSLER: Mr. Barger?

3 A PROSPECTIVE JUROR: I have got other things
4 to do.

5 MR. BOSLER: Mr. Stephenson?

6 A PROSPECTIVE JUROR: I watch it if there is
7 nothing else on.

8 MR. BOSLER: Mr. Berg?

9 A PROSPECTIVE JUROR: I just watch it once in a
10 while. If I'm home. Usually I'm not home.

11 MR. BOSLER: Any particular show that you enjoy
12 watching?

13 A PROSPECTIVE JUROR: "America's Most Wanted."
14 They give you some tips on how to be safe.

15 MR. BOSLER: Mr. King?

16 A PROSPECTIVE JUROR: I watch most of them, but
17 not regularly.

18 MR. BOSLER: Nothing you schedule in your
19 nighttime viewing?

20 A PROSPECTIVE JUROR: Definitely not.

21 MR. BOSLER: Mr. Gerbatz?

22 A PROSPECTIVE JUROR: I never watch them.

23 MR. BOSLER: Mr. -- is it Damoth?

24 A PROSPECTIVE JUROR: "Trauma" and "E.R." on
25 Tuesday nights just for the emergency room thing.

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AA04517

TQUALS01207

1 MR. BOSLER: So you are more interested in the
2 medical angle?

3 A PROSPECTIVE JUROR: Yes.

4 MR. BOSLER: Mr. Sheets?

5 A PROSPECTIVE JUROR: No, I don't have time.

6 MR. BOSLER: I noticed you are wearing your
7 garb today. Are you scheduled to be in the Guard?

8 A PROSPECTIVE JUROR: I work there full time.

9 MR. BOSLER: Your work schedule, is it a day
10 shift, or is the Guard open 24 hours a day?

11 A PROSPECTIVE JUROR: I work from 7:30 til
12 about 5:00, 5:30. I don't have time. I work the horse.

13 MR. BOSLER: You live in an area where you have
14 a horse?

15 A PROSPECTIVE JUROR: Yes.

16 MR. BOSLER: You live in the city of Reno?

17 A PROSPECTIVE JUROR: Lemmon Valley.

18 MR. BOSLER: And how long have you had the
19 horse, if you don't mind my asking?

20 MR. STANTON: Your Honor, I would object at
21 this point.

22 THE COURT: I'm going to sustain it. I don't
23 think it matters how long he's had the horse.

24 MR. BOSLER: Thank you, Your Honor.

25 Mr. Decker.

1 A PROSPECTIVE JUROR: I watch most of them.
2 Probably I watch "Law and Order" the most of any.

3 MR. BOSLER: Anything regular you watch?

4 A PROSPECTIVE JUROR: "Law and Order."

5 MR. BOSLER: Is that just a regular show you
6 like to watch?

7 A PROSPECTIVE JUROR: Yeah. It's kind of
8 interesting.

9 MR. BOSLER: Enjoy the courtroom drama part of
10 it?

11 A PROSPECTIVE JUROR: Yes, I do. Also the
12 investigative part of it.

13 MR. BOSLER: If I could, do I have a lot of
14 hands in the bottom area, too? Miss Lyman.

15 A PROSPECTIVE JUROR: I watch "America's Most
16 Wanted," a lot of the different shows. As I stated
17 yesterday, my husband and son are both in law enforcement.
18 So my husband tends to watch them. Sometimes if I'm in
19 there, I'll sit down and watch a little bit, but I don't
20 watch them all the time.

21 MR. BOSLER: Something like a family activity?

22 A PROSPECTIVE JUROR: No, just happens to be he
23 is into it. He likes to stay on top of things because he
24 teaches crime intervention in the school district, so he
25 stays on top of everything. So sometimes I'll watch it with

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AA04519

TQUALS01209

1 him.

2 MR. BOSLER: I appreciate that. Next? Sir.
3 Mr. McCargar.

4 A PROSPECTIVE JUROR: I watch "Cops" and
5 "America's Dumbest."

6 MR. BOSLER: Do you watch "Dumbest Criminals"
7 regularly? How often do those shows play per week?

8 A PROSPECTIVE JUROR: Once a week.

9 MR. BOSLER: Any particular reason you feel you
10 are drawn to those programs?

11 A PROSPECTIVE JUROR: "America's Dumbest" is
12 funny.

13 MR. BOSLER: Any other ones besides kind of
14 humorous ones that you watch?

15 A PROSPECTIVE JUROR: No.

16 MR. BOSLER: No? Miss Frandsen?

17 A PROSPECTIVE JUROR: No.

18 MR. BOSLER: Mr. Jones? You had a knowing look
19 about you. Do you have something to say?

20 A PROSPECTIVE JUROR: I watch "Ally McBeal."

21 MR. BOSLER: "Ally McBeal"? Hopefully we can
22 keep up with them today. Anybody else? This row, second
23 row, anybody find themselves regularly watching crime
24 programs, police programs? Yes.

25 A PROSPECTIVE JUROR: I used to watch what was

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AA04520

TQALLS01210

1 mentioned here, "Dragnet", and I like -- because I like it,
2 provokes you to think. To think about it. Also I like
3 "Mystery" on PBS. It also does the same thing, makes you
4 think about the results.

5 MR. BOSLER: That is mostly English programs?

6 A PROSPECTIVE JUROR: Yes.

7 MR. BOSLER: Front row. Anybody admitted to
8 watching? Yes.

9 A PROSPECTIVE JUROR: Occasionally I'll watch
10 on Discovery Channel forensic science, and I watch a lot of
11 the channel "E.R."; and my husband watches them, so by
12 default I'll watch the cop shows.

13 MR. BOSLER: Do you find that he watches it a
14 lot in the household?

15 A PROSPECTIVE JUROR: Yeah.

16 MR. BOSLER: You think it is on pretty much
17 every night of the week?

18 A PROSPECTIVE JUROR: I think it is on
19 Saturdays, something like that.

20 MR. BOSLER: You find that he watches it
21 regularly then?

22 A PROSPECTIVE JUROR: Yeah, he does.

23 MR. BOSLER: But you may watch it with him?

24 A PROSPECTIVE JUROR: If I'm there, I'll peak
25 at it, but I don't watch it that much.

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1 MR. BOSLER: You have two TV sets?

2 A PROSPECTIVE JUROR: Yes.

3 MR. BOSLER: Anybody else in the front row?

4 A PROSPECTIVE JUROR: I just wanted to make it
5 clear that I don't watch "America's Most Wanted" every week
6 like they were saying, you know. It's not a regular thing.
7 I have caught the show a couple of times.

8 MR. BOSLER: Just kind of got lucky that the
9 guy came into your store?

10 A PROSPECTIVE JUROR: One time I did watch it
11 on purpose, and it was when they had all the missing
12 children.

13 MR. BOSLER: I'm not familiar with the episode.

14 A PROSPECTIVE JUROR: They had on there all the
15 missing children that had been abducted throughout the
16 certain time period. I don't know what time period it
17 covered.

18 MR. BOSLER: So it is pretty rarely that you
19 watch the show; would that be fair to say?

20 A PROSPECTIVE JUROR: Yes.

21 MR. BOSLER: If I could, I know several people
22 here have served on juries. Anybody ever been elected
23 foreperson of a jury of those people who had the privilege
24 of giving jury service?

25 Anyone think that they possess qualities that

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1 either should disqualify them from being a juror, a
2 foreperson, based upon all the questions that have been
3 asked over the last two days? Your quality of stubbornness
4 or whatever quality that may be? Does anybody feel they
5 have that quality that isn't really fair for this type of
6 case?

7 Miss Guiler.

8 A PROSPECTIVE JUROR: I feel inferior as to the
9 law, and if I can understand the law, the way it should be
10 presented or interpreted.

11 MR. BOSLER: Just kind of confusing the way the
12 lawyers talk, judges talk?

13 A PROSPECTIVE JUROR: Uh-huh.

14 MR. BOSLER: Any other quality that you think
15 disqualifies you from being a juror in this -- I'm really
16 talking this specific case, a case where you have to decide
17 guilt or innocence, and if it comes to a point, you will
18 have to decide whether the person lives or dies? Any
19 quality that is in you that says, Well, I'm not the person
20 who should be making this decision?

21 A PROSPECTIVE JUROR: No, I can't really say
22 that I could answer that at this point. Because I have
23 never had that opportunity to make a decision like that.

24 MR. BOSLER: Do you feel confident you can, or
25 are you just going to cross that bridge when you get to it

1 type sentiment?

2 A PROSPECTIVE JUROR: I feel I'm confident that
3 I can make a decision. It's not hard for me to make
4 decisions. Sometimes I make bad choices.

5 MR. BOSLER: I note the District Attorney asked
6 you point blank, Can you sign the warrant of death, the
7 verdict form?

8 Does anybody share her views that that is
9 something I would do with reluctance as personal thoughts
10 that have to go into that process before I affix my
11 signature? Anybody have any -- I don't know what the word
12 would be -- personal reservations about that?

13 Miss Imasaki.

14 A PROSPECTIVE JUROR: I think it would be
15 difficult to do.

16 THE COURT: I know it's getting warm and it's
17 hard to hear, but notice how I almost yell at everyone so
18 everybody can hear me? So please try to speak up. It is
19 hard for me to hear you, Miss Imasaki.

20 A PROSPECTIVE JUROR: It would be difficult but
21 I would probably be able to do it if necessary.

22 MR. BOSLER: Do you think you are the type of
23 person who could separate those emotions? Not that you have
24 to separate them, I guess. I can't really say that. But
25 those qualities taken into consideration, the type of person

1 who should sit on this type of jury?

2 A PROSPECTIVE JUROR: Yes.

3 MR. BOSLER: Anybody else have anything to say
4 about that? This is a pretty profound decision. Anybody
5 have any moral reservations about what's going on?

6 If I could, there is I guess some obvious
7 differences between the way I look and the way Mr. Vanisi
8 looks. He is Tongan. Anybody have any friends that are
9 Tongans?

10 The two in the back row. Let's start with Miss
11 Denton, if you could.

12 A PROSPECTIVE JUROR: I just went to high
13 school with quite a few at McQueen High School.

14 MR. BOSLER: Here locally?

15 A PROSPECTIVE JUROR: Yes. I don't keep in
16 contact. But just know of them. Friends with them in high
17 school. That's it.

18 MR. BOSLER: Characterize them as close friends
19 when you were in high school?

20 A PROSPECTIVE JUROR: No.

21 MR. BOSLER: Ever invited to Tongan community
22 type things? Cookouts, things like that?

23 A PROSPECTIVE JUROR: Just parties.

24 MR. BOSLER: Parties where they were at or
25 parties that were thrown by Tongans?

1 A PROSPECTIVE JUROR: There was -- they all
2 hung together, and had parties every Friday or Saturday
3 night or whatever, and if you show up, you hang out with
4 them.

5 MR. BOSLER: Anything about that experience
6 that you think impacts upon your ability to sit as a juror
7 today?

8 A PROSPECTIVE JUROR: No.

9 MR. BOSLER: Next?

10 A PROSPECTIVE JUROR: I had a friend back in
11 '87, and she moved away, and I don't even remember how to
12 say her last name. It was a very difficult name. But her
13 first name was Tua. She was from American Samoa.

14 She was a close friend. She named her sixth
15 child after me. But since then we lost contact through the
16 years. I haven't seen her.

17 MR. BOSLER: Anything -- do you know whether
18 she was American Samoan or Tongan or other islander?

19 A PROSPECTIVE JUROR: I believe she was
20 American Samoan.

21 MR. BOSLER: I guess you must have had a close
22 relationship with her if she named her daughter.

23 A PROSPECTIVE JUROR: Yeah. We did a lot for
24 the family, and I took her to the store because she didn't
25 drive. We were just friends like that. I mean just

1 acquaintances. Not really that close. I was surprised when
2 she named her baby girl after me.

3 MR. BOSLER: And top row, is there anybody
4 else? Second row? Third row? Second row? Yes, sir.

5 A PROSPECTIVE JUROR: I stated before that when
6 I was building my house, I'm not sure the person's name but
7 I think his name was Sioni (phonetic), that was a
8 contractor, the concrete contractor, and I do recognize the
9 defendant as one of the crew members, I think. There is a
10 resemblance.

11 MR. BOSLER: Was there other Tongans or people
12 who appeared to be islanders helping you with the crews or
13 just him?

14 A PROSPECTIVE JUROR: It was all Tongans.

15 MR. BOSLER: Did they come at your house to
16 pour the foundation, something like that?

17 A PROSPECTIVE JUROR: No. They did the
18 driveway concrete. They put up the forms and poured the
19 concrete.

20 MR. BOSLER: Any problems?

21 A PROSPECTIVE JUROR: No, no problems.

22 MR. BOSLER: No problems with behavior, things
23 missing?

24 A PROSPECTIVE JUROR: No.

25 MR. BOSLER: Driveway still a good driveway?

1 A PROSPECTIVE JUROR: A couple little cracks.

2 MR. BOSLER: How long has it been there?

3 A PROSPECTIVE JUROR: Four years now. Going on
4 four years.

5 MR. BOSLER: Not too bad. Third row? Fourth
6 row? Anybody else?

7 Miss Imasaki.

8 A PROSPECTIVE JUROR: I grew up with a number
9 of people of Polynesian descent. I don't recall if they
10 were necessarily Tongan or Samoan.

11 MR. BOSLER: The reason I ask that is to get to
12 the next question. If you have had contact with islanders,
13 Tongans, other minorities, some people say that there is
14 still a certain amount of racism that exists in the United
15 States. Some people say that it's pretty much all solved.
16 We have gone through the racial struggle in the '50s and
17 '60s, and now it is pretty much an equal field.

18 Anybody feel that they are in either of those
19 camps, either there are a lot of racism that needs to be
20 dealt with or it is a completely fair system right now?
21 Yes.

22 A PROSPECTIVE JUROR: I lived with an African
23 American for a couple years, and before that I was involved
24 with an American Indian as well. So I would say they have
25 had their -- there is still racism out there.

1 MR. BOSLER: Were you actually a witness to
2 this while you were in this relationship?

3 A PROSPECTIVE JUROR: Yeah.

4 MR. BOSLER: Was it by people that you expected
5 to be exhibiting racism?

6 A PROSPECTIVE JUROR: Just by people out in
7 general public. Being out together, African American, we
8 had to deal with some situations. Just from strangers,
9 people out in public.

10 MR. BOSLER: Anybody that shares Miss Booth's
11 idea about there is still a long ways to go? Miss Guiler
12 again.

13 A PROSPECTIVE JUROR: With a G. My daughter
14 was married to Guatemateco for seven years, and there were a
15 lot of people in the States that were very much against that
16 marriage. And they showed their prejudice towards them
17 being married.

18 And I don't know if you realize it or not but
19 in Central America, there is a caste system that people do
20 look down on ones that marry people from --

21 MR. BOSLER: Outside the group?

22 A PROSPECTIVE JUROR: -- outside of their
23 category basically, their money group.

24 MR. BOSLER: So you are talking about some
25 racism involved in that system?

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1 A PROSPECTIVE JUROR: Yeah.

2 MR. BOSLER: How about in the United States?
3 Have you experienced the same stuff?

4 A PROSPECTIVE JUROR: Yes, definitely.

5 MR. BOSLER: Any chance you could spell that
6 name for the court reporter?

7 A PROSPECTIVE JUROR: Guatemala.

8 MR. BOSLER: How long did this relationship go
9 on, if you could?

10 A PROSPECTIVE JUROR: My daughter was married
11 to him for seven years, and now she's dating an African
12 American man.

13 MR. BOSLER: And do you have the same --

14 A PROSPECTIVE JUROR: She said there is not as
15 much prejudice towards them as there are Central American.

16 MR. BOSLER: Anybody else raise their hand?
17 Mr. Sotero. You had your hand raised earlier.

18 A PROSPECTIVE JUROR: Well, I am a minority.
19 Both my parents came from another country. And
20 unfortunately, prejudice is alive and thriving in this
21 country. Anybody that doesn't believe that is living with
22 their head in the sand.

23 MR. BOSLER: How long have you lived in Washoe?
24 26 years?

25 A PROSPECTIVE JUROR: Approximately.

1 MR. BOSLER: And if you could share your
2 parent's native country is?

3 A PROSPECTIVE JUROR: Mexico.

4 MR. BOSLER: Have you actually been a witness
5 to open acts of racism?

6 A PROSPECTIVE JUROR: Many times.

7 MR. BOSLER: Locally?

8 A PROSPECTIVE JUROR: All my life, locally or
9 not.

10 MR. BOSLER: Sorry to hear that. Anybody else?
11 Miss Frandsen.

12 A PROSPECTIVE JUROR: I'm first generation
13 American. My mother came from Czechoslovakia, and my father
14 came from Hungary, and I know that there is prejudice in the
15 United States of America. But I'm not -- I just look at
16 everyone the way they are. I don't make preconceived
17 notions or feelings.

18 MR. BOSLER: I was going to ask you this
19 question because you work at UNR; right?

20 A PROSPECTIVE JUROR: My husband passed away in
21 June, worked for the system. He worked for the community
22 college. He was on campus sometimes.

23 And I taught in the system until 1990, and that
24 was teaching real estate, and it was in at Truckee Meadows
25 Community College. All my kids -- I shouldn't say all my

1 kids -- graduated from UNR.

2 MR. BOSLER: The reason I asked, I graduated
3 from UNR. I know there is a Frandsen Humanities Building.

4 A PROSPECTIVE JUROR: There is Frandsen
5 Humanities Building, and Dr. Frandsen unfortunately is not a
6 relative.

7 MR. BOSLER: Sorry to hear that.

8 With that in mind, anybody else have any
9 thoughts they'd like to share?

10 With that in mind, is there anybody thinks that
11 people of a different ethnic background or race, people of
12 color, deserve a separate legal system? Shall we have 12 or
13 16 white Caucasian people judging every minority, or should
14 the systems be put together where people have to sit in
15 judgment of other races?

16 THE COURT: I'm a little uncomfortable with the
17 phraseology of that question because there are some issues
18 that I'm concerned there may be a misunderstanding of that
19 question. Can you -- I don't know. I was a little confused
20 about where you are going. Can you rephrase that?

21 MR. BOSLER: I'll try. I don't know if I can.

22 Anybody thinks that there needs to be two
23 separate systems when there are people of different ethnic
24 backgrounds versus people of Caucasian backgrounds?

25 THE PROSPECTIVE JURORS: No.

1 MR. BOSLER: The Court talked a little bit
2 about constitutional rights. If I could just touch on it
3 briefly because I think she's covered most of it.

4 Anybody think that there needs to be -- the
5 system as it exists today, there is a presumption of
6 innocence, there is a burden of proof placed on the State,
7 the highest burden of proof of the law. Anybody think that
8 that isn't a system that they think should be in place in
9 the United States, there should be a different system?

10 And now is the time to talk. There is no right
11 or wrong answer. I saw a slight nod of the head,
12 Mr. Damoth.

13 A PROSPECTIVE JUROR: I believe the system is
14 fair and competent.

15 MR. BOSLER: Miss Guiler?

16 A PROSPECTIVE JUROR: I feel that people need
17 to be able to express themselves and whichever that they
18 believe, whichever their beliefs are as far as what is going
19 on and their knowledge and their schooling and so forth.
20 But there are different people from different countries
21 think differently than people in the United States. Their
22 customs are different, so therefore, their upbringing and
23 their thinking is different.

24 MR. BOSLER: Is that a thing that should be
25 considered in the justice system or not?

1 A PROSPECTIVE JUROR: Well, I think it should
2 be considered in each, in everyone's -- every case is
3 different. But a lot of times race has a lot to play in
4 what people, how people react to things.

5 MR. BOSLER: Your Honor, I'm getting kind of
6 warm. Is it possible to take a break at this point?

7 THE COURT: The court reporter and I kind of
8 hit a pact that we are going to break at 2:30. Are you
9 through everything that you wanted to ask except for a few
10 things?

11 MR. BOSLER: No. I actually have more specific
12 questions. I have a couple more general questions.

13 THE COURT: Why don't you go ahead and get
14 through whatever you can. We talked about taking a break at
15 2:30, maybe 20 to 3:00. So keeping in mind how long it
16 takes us to move everybody in and out.

17 Mr. Stephenson -- no, Mr. Jones, did you have
18 something?

19 A PROSPECTIVE JUROR: Were you finished with
20 that question?

21 MR. BOSLER: Do you have a response?

22 A PROSPECTIVE JUROR: I have a comment on that.
23 I defend our Constitution, and I believe in the theory of
24 the system. However, I don't believe it always works.

25 MR. BOSLER: And why is that, if you could?

1 A PROSPECTIVE JUROR: From my personal
2 experiences and just observations. I don't believe justice
3 is always served by the system.

4 MR. BOSLER: And those personal experiences, if
5 you could? If it is something you want to talk separately
6 about or something you feel comfortable with.

7 A PROSPECTIVE JUROR: Not good experiences.
8 Obviously, it wasn't necessarily my own cases. I was
9 involved through a previous marriage with the legal
10 profession. I saw a lot of shenanigans. That is the
11 simplest way to put it.

12 MR. BOSLER: And this marriage, the other
13 person was involved in the legal profession?

14 A PROSPECTIVE JUROR: Yes.

15 MR. BOSLER: A lawyer?

16 A PROSPECTIVE JUROR: Paralegal, works locally
17 through a local firm.

18 MR. BOSLER: And the firm, do you know what
19 types of cases they handle?

20 A PROSPECTIVE JUROR: Personal energy --
21 personal injury. Wrongful terms.

22 MR. BOSLER: Civil suits?

23 A PROSPECTIVE JUROR: Civil actions, yes.

24 MR. BOSLER: I mean, I can't help but ask you.
25 How has that affected your ability to look at lawyers,

1 attorneys when they argue cases? Obviously the question
2 needs to be asked.

3 A PROSPECTIVE JUROR: I think there's a lot of
4 showmanship. That's why I hold an impression of the whole
5 operation. Whoever puts on the best show here, whoever can
6 present the information, the evidence or whoever can
7 restrict it in some way.

8 MR. BOSLER: How is that going to affect --
9 obviously you may have some life experiences that are
10 different from other jurors. How does that affect your
11 ability to sit here?

12 A PROSPECTIVE JUROR: I'll watch the show.

13 MR. BOSLER: So you are just here for the show?

14 A PROSPECTIVE JUROR: I'll see what you guys do
15 and make my decision.

16 MR. BOSLER: I wish I could say I was
17 comfortable with that. The judge talked to you at length
18 about instructions and things like that.

19 A PROSPECTIVE JUROR: Absolutely. I understand
20 that, yes.

21 MR. BOSLER: In your mind, that is part of the
22 show?

23 A PROSPECTIVE JUROR: I hate to be cynical but
24 I am.

25 MR. BOSLER: You are honest. That is all we

1 can ask for.

2 Anybody else have any follow-up questions to
3 that? That is a pretty big subject area. No one has heard
4 a lawyer joke, anything like that?

5 THE COURT: Everybody has heard a lawyer joke.

6 MR. BOSLER: I thought it was going to be
7 dishonest.

8 THE COURT: You certainly may ask if anybody
9 has any feelings about attorneys that would impact their --
10 the case or the way it's presented. If anybody has those
11 concerns, please tell Mr. Bosler about it.

12 MR. BOSLER: Along with these other
13 constitutional rights, there is also a right that says that
14 when you are charged with a crime, no one can force you to
15 sit up at the witness stand for whatever reason because the
16 law doesn't force you to do it, have to defend yourself.
17 That is the presumption of innocence.

18 Anybody -- some people say that unless you take
19 the stand, you have something to hide. Some people say that
20 it's a choice you make through your lawyers. I can't put
21 any weight on it.

22 Anybody feel that they are in one of those two
23 camps? Anybody feel that they have to see Mr. Vanisi
24 testify in order to even consider his innocence to this
25 offense?

1 THE PROSPECTIVE JURORS: No.

2 MR. BOSLER: No positive responses? Does
3 anybody think that there should be a rule that says
4 everybody has to testify whether they are small witnesses,
5 big witnesses? I want to see every witnesses before I can
6 make a decision? Does anybody feel that that is the way the
7 law should be?

8 THE PROSPECTIVE JURORS: No.

9 MR. BOSLER: The State again asked you
10 individually whether you could sign your name to a death
11 warrant. Does anybody feel that that's something they would
12 gladly do at this point?

13 I know a lot of people have already expressed
14 they have formed opinions about the case. This is an honest
15 time. There is no right or wrong answer. Is that something
16 that -- something that anybody looks forward to at this
17 point?

18 A PROSPECTIVE JUROR: I don't feel, from my
19 viewpoints, I don't feel it's anything that anybody would
20 want to do voluntarily. It's something that if you do get
21 picked and you have to make that decision, then you have to
22 do what you have to do. But it's not something that is
23 enjoyable, pleasure.

24 MR. BOSLER: A decision that should be taken
25 lightly?

1 A PROSPECTIVE JUROR: No, sir, not at all.

2 MR. BOSLER: Your Honor, at this time I have
3 individual questions to ask. I don't know what the Court --

4 THE COURT: Go ahead.

5 MR. BOSLER: If I could, Mr. Adamson, you
6 indicated that you had formed an opinion on this case?

7 A PROSPECTIVE JUROR: Well, yes, I did. I
8 think a lot of jurors seem to have had the same comments. I
9 think it's unfortunate that you can't pull from jurors that
10 didn't have preformed opinions on this case. However, I
11 told you, I did have an opinion going in, and I would be
12 willing to look at all the evidence and weigh it and come up
13 with a --

14 MR. BOSLER: You also indicated that on your
15 questionnaire, that you are not sure you could be fair.

16 A PROSPECTIVE JUROR: That was the reason why.
17 It preformed a guilt and innocence before you come to the
18 trial. So I would like to -- I'd like to see all the
19 evidence, of course, and then form an opinion based on that
20 as well. All I'm basing this on is the media coverage, what
21 I talked with a friend about a year ago.

22 MR. BOSLER: So the opinion that you formed you
23 had formed over a year ago? Approximately a year ago?

24 A PROSPECTIVE JUROR: Yes.

25 MR. BOSLER: Is there anything that we have

1 said that has taken that opinion away from you?

2 A PROSPECTIVE JUROR: Not at this point, no.

3 MR. BOSLER: So you are going to wait to see if
4 your opinions match up at this point?

5 A PROSPECTIVE JUROR: I would have to weigh the
6 evidence and see all the evidence. It is all based on media
7 and from a year ago.

8 MR. BOSLER: The ultimate question is, if you
9 were charged with a similar crime, would you be the person,
10 would you want a person like you with a
11 previously-formed-year-ago opinion sitting as a juror? Are
12 you the type of person that can be fair in this case?

13 A PROSPECTIVE JUROR: I would rather not if it
14 was me being charged.

15 MR. BOSLER: Do you think you could be fair in
16 those circumstances?

17 A PROSPECTIVE JUROR: I think I can be fair. I
18 would rather not have someone that had a preformed opinion
19 if I was in trial personally.

20 MR. BOSLER: And I'm kind of confused. You
21 don't want someone that has a preformed opinion but you
22 would say right now you kind of had a preformed opinion?

23 A PROSPECTIVE JUROR: I had a year ago, like I
24 told you. Coming into the trial, I said I think it is
25 unfortunate you can't draw from a jury that doesn't come in

1 with preformed opinions on guilt and innocence. I think
2 that is unfortunate for the defendant.

3 I would weigh the evidence, like I said, and
4 form an opinion based on the evidence.

5 MR. BOSLER: So there a point where you have
6 lost that opinion, you had the opinion a year ago and
7 sometime during the last year you lost it? In the court
8 proceedings you lost it?

9 A PROSPECTIVE JUROR: We haven't looked at any
10 evidence or anything to change my opinion.

11 MR. BOSLER: I thank you for your honesty.

12 Miss Springer, you also had the same remark
13 that you had formed an opinion about the case.

14 A PROSPECTIVE JUROR: Yes, I have.

15 MR. BOSLER: Is that opinion based upon media,
16 or have you talked to people about the case?

17 A PROSPECTIVE JUROR: Well, media from before
18 and talking. I don't know Carolyn Sullivan, but she is a
19 member of my church. So there was a lot of things going on
20 there. But that was my opinion formed last year.

21 MR. BOSLER: And these things that happen in
22 your church, do they benefit Miss Sullivan? I mean, are you
23 involved in --

24 A PROSPECTIVE JUROR: I don't know her
25 personally. They have four or five services at that church,

1 and I never met her or seen her. It was just talked about.

2 MR. BOSLER: Fund raising activities, things
3 like that, are you involved in that type of stuff?

4 A PROSPECTIVE JUROR: No, I'm not involved in
5 that.

6 MR. BOSLER: But you have told us, and I thank
7 you for your honesty, you formed an opinion about the case?

8 A PROSPECTIVE JUROR: Yes, I have.

9 MR. BOSLER: Has anything -- have we done
10 anything to take that opinion away from you, or is it
11 something that you are going to carry into the case?

12 A PROSPECTIVE JUROR: It will probably be
13 something I carry into the case. There's been no evidence
14 or anything. I have only what was said before.

15 MR. BOSLER: So you are still going to carry
16 that opinion that you formed into the case?

17 A PROSPECTIVE JUROR: Yeah. I don't know how
18 you can get rid of it once you formed it.

19 MR. BOSLER: I don't know if it is possible
20 either. Do you think, the same question I asked before, do
21 you think that taking into consideration that you have a
22 preformed opinion, that you are the type of person who could
23 be fair in this case?

24 A PROSPECTIVE JUROR: Yes, I do.

25 MR. BOSLER: And what -- how easy is it for you

1 to say that I have made -- I made my mind up, I made this
2 opinion and maybe I have expressed it, but I can clear my
3 mind and be a fair juror when the judge says now is the time
4 to be a fair juror?

5 A PROSPECTIVE JUROR: Well, you have to hear
6 the evidence. I don't know if I can or not. All I can do
7 is try.

8 MR. BOSLER: There is no assurance you can give
9 to the Court or the parties you can actually put the opinion
10 aside, you will just try your best?

11 A PROSPECTIVE JUROR: I have never had to do it
12 before. So I can't honestly answer.

13 MR. BOSLER: Again, I appreciate your honesty.

14 Mr. Lafond, I notice that you had a particular
15 event happen to you where you broke up a fight, I guess?

16 A PROSPECTIVE JUROR: Yes, sir. It was at the
17 Nugget. The guy went crazy.

18 MR. BOSLER: The guy, I guess, I get the
19 impression was wrestling with police officers?

20 A PROSPECTIVE JUROR: We were the security
21 there. He grabbed one security officer, threw him into a
22 machine, and if I hadn't been in there he probably would
23 have got killed. The guy was really crazy.

24 So he put his hand in my mouth and starting
25 biting on me and wouldn't let it go. Then I went over to

1 court. We went twice. I guess he was a ward of the State.
2 And we were trying to get the max on him because four
3 security officers got hurt. And he ended up plea
4 bargaining, and he got six months.

5 MR. BOSLER: Were you actually involved as a
6 witness?

7 A PROSPECTIVE JUROR: I was actually involved
8 as one of the people hurt.

9 MR. BOSLER: Did you actually have to testify
10 in court?

11 A PROSPECTIVE JUROR: We told the story, but
12 like I said, they plea bargained. That is all we seen of
13 it. We didn't have to go again after that.

14 MR. BOSLER: Were you a security officer at
15 that point when you broke up the fight, or were you off
16 duty?

17 A PROSPECTIVE JUROR: I was a security officer
18 at that time.

19 MR. BOSLER: At the Nugget?

20 A PROSPECTIVE JUROR: At the Nugget. I have
21 been working there three years.

22 MR. BOSLER: You indicated that you wanted to
23 be a juror in this case, on your questionnaire.

24 A PROSPECTIVE JUROR: I want to be a what?

25 MR. BOSLER: You wanted to be a juror.

1 A PROSPECTIVE JUROR: Yes, sir.

2 MR. BOSLER: Why do you want to be a juror in
3 this case?

4 A PROSPECTIVE JUROR: Well, I don't know
5 anything about the case. But I can -- like I say in there,
6 I work nights. I never heard what actually happened. And I
7 don't watch Channel 2 news. It is always CNN.

8 MR. BOSLER: So you haven't saw media accounts?

9 A PROSPECTIVE JUROR: No, I haven't seen
10 nothing on it with the exception of somebody said a cop got
11 killed on campus. Being I work nights.

12 MR. BOSLER: Why do you think you would be a
13 good juror in this case other than the lack of exposure to
14 media?

15 A PROSPECTIVE JUROR: I don't know if I could
16 be a good juror, but I would be fair. I would weigh it.

17 MR. BOSLER: You would wait until all the
18 evidence is done?

19 A PROSPECTIVE JUROR: Right.

20 MR. BOSLER: Before you make a decision?

21 A PROSPECTIVE JUROR: Right.

22 MR. BOSLER: Mr. Decker.

23 A PROSPECTIVE JUROR: Yes.

24 MR. BOSLER: You also made the same response on
25 your questionnaire. It said, Would you like to be a juror?

1 And you checked the box yes.

2 A PROSPECTIVE JUROR: Yes, I did.

3 MR. BOSLER: But I don't think you put any
4 explanation that says why.

5 A PROSPECTIVE JUROR: Well, for one thing, I
6 haven't formed an opinion. I have heard relatively small
7 amounts of the media coverage and things that have gone on
8 since the incident happened.

9 MR. BOSLER: Any other qualities you think that
10 you have that make you the type person who is a good juror
11 in this case? Having not heard the evidence, of course.

12 A PROSPECTIVE JUROR: Well, I think I consider
13 myself a fair person, able to give equal weight to two
14 different situations.

15 MR. BOSLER: The State talked about the fact
16 that you may be presented with pictures that are unpleasant
17 at the least. Are you the type of person who could - not
18 everybody is - are you the type of person who could look at
19 that picture for evidentiary value and put that -- decide
20 that is one more thing that goes into the decision-making
21 process?

22 A PROSPECTIVE JUROR: I think I could, yes.

23 MR. BOSLER: Do you think that the presentation
24 of those pictures would emotionally handicap your ability to
25 think about the case?

1 A PROSPECTIVE JUROR: No, I don't believe it
2 would.

3 MR. BOSLER: Anybody --

4 A PROSPECTIVE JUROR: If I could explain --

5 MR. BOSLER: Please.

6 A PROSPECTIVE JUROR: -- why I feel this way.

7 MR. BOSLER: Please.

8 A PROSPECTIVE JUROR: I was raised in a farm,
9 ranch environment and I started very young butchering
10 livestock and things like that. So of course, a human being
11 is considerably different. At this time I really don't know
12 how I would react to seeing a human being in that condition,
13 but I have done things, like I said.

14 MR. BOSLER: Wanting to be a juror, do you
15 think it would be fair if you wanted to be a juror if you
16 had the idea that once you look at these pictures, they
17 would so handicap your ability to consider the other
18 evidence that --

19 THE COURT: Mr. Bosler, he said that they
20 wouldn't bother him. Why does it matter what he thinks
21 about if it would bother him? I mean, he said he didn't
22 have any concerns. I don't think you have to ask any more
23 questions.

24 MR. BOSLER: Your Honor, what I'm trying to do
25 is since he's been so honest and forthcoming, is to try to

1 see if I can ask questions of him that maybe some other
2 jurors might have responses to.

3 THE COURT: We got an awful -- we got specific
4 responses from Mr. Stanton's general question. If you
5 wanted to ask another general question similar to
6 Mr. Stanton's, you may do so.

7 MR. BOSLER: He didn't get any responses to his
8 questions.

9 THE COURT: Yes, he did. He got four
10 responses, and one person was actually excused. So if you
11 think there's more, go ahead. But let's not explore it with
12 this gentleman who says he has no problem.

13 MR. BOSLER: Mr. Berg, you indicated on your
14 questionnaire -- and obviously everybody has read the
15 questionnaires -- you could be a fair juror but -- and you
16 had kind of a caveat, equivocation.

17 A PROSPECTIVE JUROR: Yeah. Well, because I
18 had the -- preconceived the fact that I believe in the death
19 penalty, and I believe that a lot of people have kind of
20 slid through the cracks over the years on life in prison.
21 They plea bargain their way out of some of these things.

22 That is why the but was there, because I didn't
23 want to make the -- I'm involved in the jury, and I have a
24 set value system. And then I go in there and we end up with
25 a hung jury. I mean, after I have seen the evidence. I

1 mean, I can pretty much keep an open mind, but that's why I
2 put the but in there, because I have that feeling about
3 that. My own personal feeling.

4 MR. BOSLER: And again, I appreciate your
5 candor. There is nothing wrong.

6 If you reached the point in the jury room where
7 you thought that your personal ideas, value system
8 conflicted with the law, how do you resolve that?

9 A PROSPECTIVE JUROR: Well, like the judge
10 said, we have to follow her instructions, and if she said
11 that is out of the ruling because of the evidence, then I
12 have to go by what the judge tells me. She puts me in the
13 alley that I have to go in. I can't go too lean, can't go
14 too far. There is only one way down the middle.

15 MR. BOSLER: And I'm assuming in your opinion
16 that you believe not all first degree murder cases are death
17 penalty cases?

18 A PROSPECTIVE JUROR: Right.

19 MR. BOSLER: But you feel that maybe not enough
20 of them are?

21 A PROSPECTIVE JUROR: I feel in some cases it
22 is appropriate. You show me enough information that
23 convicts this gentleman and that is -- then that's where I'm
24 going to go.

25 MR. BOSLER: So it is really the evidence that

1 is part of the conviction part rather than additional
2 evidence that guides your decision? Someone could be really
3 guilty of first degree murder as opposed to just guilty of
4 first degree murder?

5 A PROSPECTIVE JUROR: Right.

6 MR. BOSLER: The court interrupted.

7 THE COURT: I thought he was through, and I
8 thought we were going to take a break then when he was
9 through. So I wasn't trying to stop his answers. I thought
10 it was time to take a break.

11 So are you ready? Did you have any follow-up
12 for Mr. Berg based on what he said?

13 MR. BOSLER: I'd be happy to let the jury have
14 a break and come back to this. There is a few follow-up
15 questions.

16 THE COURT: For Mr. Berg?

17 MR. BOSLER: Yes.

18 THE COURT: Why don't you finish up with him.

19 MR. BOSLER: Just again, I don't want to put
20 you on the spot or make you nervous.

21 A PROSPECTIVE JUROR: You're not.

22 MR. BOSLER: I understand your answer to be,
23 and please correct me if I'm wrong, that if you feel that
24 enough evidence has been presented in the case and it is a
25 murder case and you have reached that verdict of first

1 degree murder, that in your mind is the thing that says the
2 death penalty should be imposed?

3 A PROSPECTIVE JUROR: Sure. I mean, that's
4 what we're sitting here for, I thought. We're sitting here
5 to -- you're giving us information about what happened, and
6 if it goes that way, because that's why I wrote that down on
7 there, because I do believe in that. So if some people's
8 value systems are different. You have seen the people leave
9 the courtroom already. They were upset by it.

10 THE COURT: Mr. Berg, there are two parts of
11 the trial, though.

12 MR. BOSLER: Right.

13 THE COURT: There is the guilt or innocence
14 part and then the penalty part.

15 A PROSPECTIVE JUROR: Right.

16 THE COURT: There will be additional evidence
17 in your jury instructions before you determine penalty.

18 A PROSPECTIVE JUROR: Right.

19 THE COURT: Now, Mr. Bosler's question is,
20 would you decide penalty based on the guilt or innocence, or
21 would you reserve ruling until you heard the rest of the
22 instructions and the penalty evidence?

23 A PROSPECTIVE JUROR: Well, I have to wait til
24 the end, til you instructed us on what we could consider and
25 what we could not consider.

1 THE COURT: Thank you. Did you want to ask
2 more questions in that regard?

3 MR. BOSLER: On the general subject matter.
4 Just follow-ups of your questions, Your Honor.

5 Mr. Berg, if I could, you indicated that in
6 your opinion, some people have either gotten away or gotten
7 lesser penalties than you think they deserve? Is that a
8 fair statement?

9 A PROSPECTIVE JUROR: Well, I wasn't on the
10 trial. So I can't -- I mean, I understand how some of these
11 court systems work and to get them done with, they do their
12 plea bargaining or whatever it is. And I wasn't there. So
13 I can't say that.

14 I mean, I felt at the time that this person
15 shouldn't have gotten off. But you know, I wasn't sitting
16 on the jury, so I don't know all the information.

17 MR. BOSLER: Fair enough. Do you think that in
18 your mind, since you have these ideas about the criminal
19 justice system, is this your opportunity to correct the
20 problem?

21 A PROSPECTIVE JUROR: No, I don't think so. I
22 think we have a very good justice system. I think sometimes
23 we overlook a few of the little things. But as a whole, we
24 probably have the best system.

25 MR. BOSLER: And knowing that you have these

1 ideas, I kind of get a conflict here. You say some people
2 have maybe gotten -- have gotten what they deserved and the
3 next sentence saying that you think we have a good system.

4 A PROSPECTIVE JUROR: No. I mean what I saw on
5 TV. You get two feelings. I mean, you see like for
6 example, O.J. Simpson trial. You know, I mean, there is a
7 lot of people that thought that he was guilty, and I was
8 one, but I didn't hear all the information.

9 MR. BOSLER: Having those ideas about the O.J.
10 case, do you think that having those ideas you are the
11 person who should sit in judgment of another person and
12 decide whether they live or die?

13 A PROSPECTIVE JUROR: I think I could be fair.
14 I could listen to the information or to what's been given.
15 I mean, maybe there was something that I didn't hear on the
16 news. I didn't watch it every day.

17 THE COURT: We'll go ahead and take our break
18 now. Ladies and gentlemen of the audience who are on our
19 jury panel, you will be going with Miss Lopshire to
20 Department 3. There will be restrooms available. You will
21 remain in the courtroom, have a telephone, we'll make sure
22 that is available to you.

23 Don't leave yet because I have to tell other
24 people what they have to do, and it makes it very annoying.

25 Ladies and gentlemen of the jury in the jury

1 box, you will be going with Mrs. Davis. She will take you
2 to Department 9. Again, there will be restrooms and a
3 telephone available if you need it.

4 Ask that you remain with these officers of the
5 court. You will be gone -- I don't know exactly how long
6 you will be out of the courtroom. You may be out of the
7 courtroom anywhere from 15 to 30 minutes.

8 Counsel, I want to see you back here in a
9 little less than 15 minutes according to the clock. I want
10 you here back at 3:00, just counsel, though, and we'll take
11 up any matters we have to outside the presence of the jury
12 panel before we bring the panels back from their individual
13 courtrooms.

14 Miss Davis, raise your hand so everybody knows
15 who is going with you. And Miss Lopshire, raise your hand.

16 We'll let Miss Lopshire's group leave the
17 courtroom first. Court is in recess.

18 (Recess taken at 2:46 p.m.)
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1 RENO, NEVADA, TUESDAY, JANUARY 12, 1999, 3:21 P.M.

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4 (Whereupon, the following proceedings were held
5 in open court, outside the presence of the jury
6 panel.)

7 THE COURT: We are convened outside the
8 presence of the jury for the purpose of determining if there
9 is any further requests with regard to the voir dire process
10 from the defense.

11 MR. BOSLER: Your Honor, I have had an
12 opportunity to go over the questions that we talked about
13 this afternoon, and I appreciate the Court giving me an
14 opportunity to complete the record. In regards to the
15 alcohol and other issue that we were going to ask the Court
16 for an in camera hearing, after consulting with counsel,
17 Mr. Vanisi, we're not going to offer those subject matters
18 to the jury at this point.

19 The only other thing I would like the Court to
20 express to the jury, I think it may be a topic that needs to
21 be addressed or that needs to be brought up with the jury,
22 is the fact that they have options in death penalty cases.
23 It isn't just life or death. They have the life with, life
24 without is the other option.

25 What I want to do is ask people their opinions
about life without because certainly if a juror says that

1 life without means six weeks and an early parole, that's
2 going to impact their ability to judge the three options.
3 Normally the judge says life without in Nevada means life
4 without, life with is life with.

5 THE COURT: I'm required under the Sonner
6 decision to give that instruction at the penalty phase. Is
7 it really -- I don't see why it would really be necessary at
8 this juncture of the voir dire.

9 Do you have a position, Mr. Stanton?

10 MR. STANTON: Well, I believe the Supreme Court
11 has addressed that issue and has issued mandatory
12 instructions now regarding what a jury is advised regarding
13 punishments of life without and death. And that is the jury
14 is to consider that those punishments will be carried out.

15 THE COURT: I have the Sonner instruction on
16 the bench with me right now. But it's pretty lengthy, and
17 it all deals with the potential penalties. I intend to give
18 it at the penalty phase if we get to a penalty phase, but I
19 don't see how my instructing them on that would tell us
20 whether or not they'd automatically or not vote for the
21 death penalty.

22 MR. BOSLER: I think it is just akin to the
23 Weatherspoon analysis that we have, that there are opinions
24 on whether they would ever vote for life without because
25 they think it is meaningless. I think it is akin to the

1 same type of analysis we have already done, and that is my
2 point.

3 THE COURT: Okay. Well, I understand your
4 request, but I don't think it's necessary. So I'm going to
5 deny your request to do it at this stage. You will get that
6 instruction, however, absolutely at the penalty phase if we
7 get to it.

8 MR. BOSLER: Your Honor, for the Court's
9 education, I just wanted to finish up with specific areas of
10 concern that were on questionnaires. Hopefully be able to
11 wrap it up that way.

12 THE COURT: Okay. As I understand it, counsel
13 in chambers requested that we exercise peremptory challenges
14 in a slightly different manner than is normally the case in
15 cases in this district. Mr. Gammick and Mr. Specchio
16 requested that they be allowed to utilize a master sheet
17 provided by the court clerk that has boxes that say
18 plaintiff 1 and defendant 1 through the challenges, and they
19 wanted to exercise the peremptory challenges by marking the
20 seat number of the juror and initialing it in the
21 appropriate box and by passing this piece of paper back and
22 forth. So it won't verbally be on the record.

23 Do I understand that correctly?

24 MR. STANTON: Yes. That's the request of the
25 State. Although I would -- it may be unique for this Court,

1 but it's been my experience that's how it's been handled in
2 the Second Judicial District Court in cases like this.

3 THE COURT: I guess it's done somewhere else.
4 Mr. Specchio?

5 MR. SPECCHIO: Yes, Your Honor. I thought we
6 were going to use names, but I guess we can use juror
7 numbers.

8 THE COURT: Well, can you write small enough to
9 fit that name in that box?

10 MR. SPECCHIO: I think the clerk advised me she
11 was going to just make another one of these. We would write
12 the name in there, in these boxes.

13 THE COURT: It doesn't matter to me if you want
14 to put seat number or name.

15 MR. SPECCHIO: I'm liable to make a mistake
16 with the seat number, but I won't make a mistake with the
17 name.

18 THE COURT: You will get the whole sheet so you
19 can see the placement of each of the people. You will get
20 the sheet. She's made that up.

21 MR. SPECCHIO: Okay.

22 THE COURT: Now, Mr. Vanisi, your counsel are
23 not going to be saying out loud the name of the person that
24 you are striking from the jury panel. You are sitting with
25 your counsel. If for some reason they write down a name

1 that you disagree with and that isn't what you have agreed
2 to strike, be sure to either call it to my attention or
3 understand that you have waived any later objection.

4 THE DEFENDANT: Yes, I understand that, Judge.

5 THE COURT: Thank you. We have an issue with
6 Mr. Lafond and Miss Arlitz. I ask that the bailiff bring
7 both of those people, notify Mrs. Davis to get the panel
8 ready to come.

9 (Whereupon Prospective Juror Arlitz entered the
10 courtroom.)

11 THE COURT: Miss Arlitz, come on in. Go ahead
12 and have a seat. We're going to bring the rest of the panel
13 in. I'm not trying to single you out. It was a little bit
14 quicker to get you here. The bailiff indicated that you had
15 something that you felt we should know about that you hadn't
16 already told us.

17 A PROSPECTIVE JUROR: Yes. As the time goes,
18 on it makes it more difficult for me because I have a
19 business, and I am the only one that does the office work.
20 I have one person in the warehouse, and I'm in the office
21 taking care of the clients.

22 THE COURT: What business is that?

23 A PROSPECTIVE JUROR: Warehousing Distribution.

24 THE COURT: So when you said you worked with
25 Mr. Auld, it wasn't the same business?

1 A PROSPECTIVE JUROR: No, we have an interest
2 in his company.

3 THE COURT: I see. You just have a personal
4 interest in his?

5 A PROSPECTIVE JUROR: Yes.

6 THE COURT: So what's happening at work for
7 you?

8 A PROSPECTIVE JUROR: Not much. Nobody is
9 doing the paperwork. Nobody is calling the clients.
10 Because the guy at the warehouse, he loads and unloads the
11 freight. And I do the books, too, the quarterly reports and
12 the end-of-the-year reports for all the accounting.

13 THE COURT: Counsel, do you have any questions?

14 MR. SPECCHIO: We'll stipulate, Your Honor.

15 MR. STANTON: Yes.

16 THE COURT: Mr. Stanton.

17 MR. STANTON: State would stipulate.

18 THE COURT: Miss Arlitz, we're going to go
19 ahead and let you be excused. You may tell the Jury
20 Commissioner downstairs, one of the staff down on the first
21 floor.

22 A PROSPECTIVE JUROR: Where I came the first
23 time?

24 THE COURT: Yes.

1 (Whereupon Prospective Juror Arlitz was excused
2 from the courtroom.)

3 (Whereupon Prospective Juror LaFond entered the
4 courtroom.)

5 THE COURT: Go ahead and have a seat anywhere,
6 Mr. Lafond. The bailiff told me that you had a concern
7 about your wife. Can you tell me about that?

8 A PROSPECTIVE JUROR: Yes. My wife has
9 pigmentosus. I can't pronounce the name. She is legally
10 blind. She can handle me being gone maybe eight hours a day
11 when I work.

12 She is supposed to come back from Chicago on a
13 plane today. She is with a friend of hers now. If I'm
14 not -- like I go to work after I leave here, but I'm gone
15 all those hours, I'm worried about her. She can get around
16 the house, but that's about it.

17 THE COURT: Where are you working?

18 A PROSPECTIVE JUROR: I work at the Nugget.

19 THE COURT: The Nugget. Don't you think that
20 they will give you some time off if you tell them you are on
21 jury service?

22 A PROSPECTIVE JUROR: Well, the thing is, I
23 won't get paid for it.

24 THE COURT: Have you checked on that for sure?

25 A PROSPECTIVE JUROR: I could check on it.
They said -- one of my supervisors say only if it's on a

1 Nugget thing that's happened. You know, if something
2 happens in the casino, I got to go to court for it and that.

3 THE COURT: I see. They don't pay you for jury
4 service?

5 A PROSPECTIVE JUROR: No, they don't, as far as
6 I know. See, the thing is, I would be gone all these hours
7 from here. She can't go to the store, she can't do nothing
8 during the week.

9 THE COURT: What days do you normally work?

10 A PROSPECTIVE JUROR: I'm off Thursdays and
11 Fridays.

12 THE COURT: So it would be Monday, Tuesday and
13 Wednesday that would be a problem, if you worked those days?

14 A PROSPECTIVE JUROR: Yes. Well, actually,
15 yeah, it would be them days.

16 THE COURT: Is there some way that you might be
17 able to find someone to help you with your wife?

18 A PROSPECTIVE JUROR: See, we have been -- only
19 been here three years. We haven't got too many friends
20 around because we don't associate too much with people.

21 THE COURT: You have already lost Monday and
22 Tuesday of the first week.

23 A PROSPECTIVE JUROR: Yeah, but I worked last
24 night.

25 THE COURT: Did you?

1 A PROSPECTIVE JUROR: Since she's been gone.
2 I'll be working again tonight.

3 MR. BOSLER: Under these circumstances, we'll
4 stipulate.

5 MR. STANTON: I'll join in the stipulation,
6 Your Honor.

7 THE COURT: Mr. Lafond, then because the
8 counsel will stipulate to you being excused, I'm going to go
9 ahead and excuse you from service. Okay.

10 A PROSPECTIVE JUROR: I'm sorry I can't help
11 you.

12 THE COURT: Well, that's okay. We understand.
13 Thank you for bringing it to my attention.

14 (Whereupon Prospective Juror Lafond was excused
15 from the courtroom.)

16 THE COURT: Go ahead and bring the jurors in.
17 What I'm going to have the clerk do is draw two more names
18 while we're waiting for the jury so you can pull up their
19 questionnaires and know who they are. So be prepared to ask
20 any additional questions of them.

21 THE CLERK: Mary L. Slocum.

22 THE COURT: And Miss Slocum will take
23 Miss Arlitz' place.

24 THE CLERK: Joel M. Fox.

25 THE COURT: Mr. Fox will take Mr. Lafond's

1 place.

2 (Whereupon, the following proceedings were held
3 in open court, in the presence of the jury
panel.)

4 THE COURT: Mrs. Davis, have these jurors been
5 with you at all time since they left the courtroom?

6 THE CLERK: Yes.

7 THE COURT: Counsel stipulate to the presence
8 of the jury panel as it is constituted at this point in the
9 record?

10 MR. STANTON: At this point in the record, yes.

11 THE COURT: We'll take a short recess while the
12 remainder of the individuals come in and find a seat in the
13 back of the courtroom. Court is in recess. Everyone stay.

14 (Recess taken at 3:35 p.m.)

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1 RENO, NEVADA, TUESDAY, JANUARY 12, 1999, 3:40 P.M.

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4 (Whereupon, the following proceedings were held
5 in open court, in the presence of the jury
6 panel.)

7 THE COURT: Miss Lopshire, the main jury panel
8 has been with you during their recess?

9 MS. LOPSHIRE: Yes.

10 THE COURT: Have any of them left your presence
11 during the course of the break?

12 MS. LOPSHIRE: They did go on a smoke break,
13 but they were escorted by two of the deputies.

14 THE COURT: Okay.

15 MS. LOPSHIRE: And I did do a head count upon
16 them leaving and upon them returning.

17 THE COURT: Thank you very much.

18 Counsel stipulate to that procedure without
19 calling the roll?

20 MR. STANTON: State will, Your Honor.

21 MR. SPECCHIO: Yes, Your Honor.

22 THE COURT: Mr. Bosler, are you ready to
23 proceed?

24 MR. BOSLER: We are, Your Honor.

25 THE COURT: We have called the names of two
additional people to take the spots of some people who were

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1 excused, Mr. Joel Fox and Miss Mary Slocum.

2 Go ahead and review that witness list that you
3 have been handed.

4 Mr. Fox, are you acquainted with or familiar
5 with any of the individuals listed on that sheet?

6 A PROSPECTIVE JUROR: I do not recognize any of
7 them.

8 THE COURT: Miss Slocum?

9 A PROSPECTIVE JUROR: I do not recognize any.

10 THE COURT: Okay. My additional questions are
11 addressed to both of you. I'd ask that you answer the
12 questions independently however. Have you been able to hear
13 my questions through yesterday and today?

14 A PROSPECTIVE JUROR: Yes.

15 A PROSPECTIVE JUROR: Yes, I have.

16 THE COURT: Based upon my questions, would you
17 have wanted to raise your hand and answer any of my
18 questions affirmatively?

19 A PROSPECTIVE JUROR: No.

20 A PROSPECTIVE JUROR: I would have wanted to
21 answer quite a few of the questions, yes.

22 THE COURT: Did you make a mental or written
23 note of those questions?

24 A PROSPECTIVE JUROR: Mental note.

25 THE COURT: Go ahead.

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1 A PROSPECTIVE JUROR: Quite a few of them. As
2 I put on my sheet that I am familiar with some of the Reno
3 police officers. I work with some of their spouses in my
4 current employment.

5 So I didn't have any direct information, but
6 the only information I had through my co-worker whose
7 husband is a Reno police officer is that it was -- he was
8 disturbed over the case, and that was the extent of any
9 insider information. I do know him.

10 As to giving preferential treatment to
11 officers, I would give them honor just simply because of the
12 office that they hold, but I can judge independently as to
13 the testimony.

14 I would fit into the average category of
15 everybody with the exception that I do, to your questions on
16 law, the matter of law, I am extremely religious and hold
17 very religious viewpoints and believe that biblical law can
18 overshadow any law in any land. I have not found any reason
19 to believe that this case would do that, but just so you
20 know that I do hold that viewpoint. I am a minister in a
21 church here in Sparks, and I held this viewpoint for a
22 considerable time.

23 THE COURT: If there came a point in time --
24 you have heard the discussion about the potential exists in
25 this case for you as a member of the jury to be required to

1 determine the penalty?

2 A PROSPECTIVE JUROR: In the penalty part, of
3 course would determine if first degree murder was returned,
4 if that was --

5 THE COURT: That's right. The jury does not
6 even consider penalty unless that happens to be the verdict.
7 Then there will be a separate mini trial, at which point
8 evidence will be presented, and then I will give
9 instructions and I will tell the jury that the law requires
10 that certain things be considered by the jury prior to
11 making a decision with regard to the appropriate penalty.

12 Will you be able to follow that instruction?

13 A PROSPECTIVE JUROR: I believe so as long as
14 it doesn't conflict with any biblical laws, which I don't
15 know if it would or not, because I don't know what
16 instructions you'd be giving.

17 THE COURT: Do you believe that any time there
18 were a decision with regard to a case where the death
19 penalty was available, that you would always vote for the
20 death penalty no matter what the instructions or the law?

21 A PROSPECTIVE JUROR: In most circumstances I
22 would vote for the death penalty. There are some
23 mitigating, obviously. The reason why I would vote that way
24 is because I do believe that the biblical law does allow for
25 the death penalty in first degree murder cases.

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1 THE COURT: Do you believe that biblical law
2 allows you to consider mitigation before deciding the
3 appropriate penalty?

4 A PROSPECTIVE JUROR: Yes, in some instances.
5 Mental capacity, something like that. But if a first degree
6 murder was committed, then that would be my obvious choice.

7 THE COURT: Miss Slocum, did you hear my
8 questions with regard to the potential for the jury to have
9 to return a penalty decision?

10 A PROSPECTIVE JUROR: Yes.

11 THE COURT: And did you understand the
12 instruction that I read about what the jury will be required
13 to do?

14 A PROSPECTIVE JUROR: Yes.

15 THE COURT: Do you have any disagreement with
16 that instruction?

17 A PROSPECTIVE JUROR: No.

18 THE COURT: Would you be able to accept it and
19 follow it?

20 A PROSPECTIVE JUROR: Yes.

21 THE COURT: Do you believe that in every case
22 that you would vote for death no matter what the evidence or
23 the instructions?

24 A PROSPECTIVE JUROR: No.

25 THE COURT: Do you believe in every case you

1 would vote against the death penalty no matter what the
2 instructions or the evidence was?

3 A PROSPECTIVE JUROR: No.

4 THE COURT: Counsel, I will allow you to
5 inquire further.

6 Mr. Stanton, would you like to inquire?

7 MR. STANTON: Yes. Miss Slocum, were you able
8 to hear all my questions to the panel?

9 A PROSPECTIVE JUROR: Yes.

10 MR. STANTON: Is there any questions that I
11 asked that you would like to respond to?

12 A PROSPECTIVE JUROR: No.

13 MR. STANTON: Mr. Fox, were you able to hear
14 all my questions to the panel?

15 A PROSPECTIVE JUROR: Yes, I was.

16 MR. STANTON: Were there any questions that I
17 raised that would cause you concern and you need to address
18 at this juncture?

19 A PROSPECTIVE JUROR: Not at this point.

20 MR. STANTON: Miss Slocum, if you were selected
21 foreperson in this case, could you sign a verdict form if
22 according to the facts and the law you felt the death
23 penalty was appropriate to put that man to death?

24 A PROSPECTIVE JUROR: Could you repeat that,
25 please?

1 MR. STANTON: Certainly. Did you hear my
2 comments to you about that there is a foreperson that is
3 selected and the jury does that?

4 A PROSPECTIVE JUROR: Right.

5 MR. STANTON: If you were selected the
6 foreperson in this case - that person is the person that
7 signs the death verdict - could you do that in this case
8 that puts that man to death?

9 A PROSPECTIVE JUROR: Yes.

10 MR. STANTON: Pardon me?

11 A PROSPECTIVE JUROR: Yes.

12 MR. STANTON: Mr. Fox, same question to you.

13 MR. STANTON: Yes, I could, but I would only
14 add, though, in making such a decision, that I would be
15 liable to all mighty God above this Court. So I would be
16 extremely careful in making that decision.

17 MR. STANTON: Do you think that -- I know that
18 you said that you don't know what the laws are for this case
19 and thus can't give us a frame of reference if the biblical
20 law that you believe so intensely in would be inviolate of
21 the laws in this case. Is there any that you know of that
22 you have heard in a case that you could give us an example?

23 A PROSPECTIVE JUROR: Not from any case that I
24 have known. I just know that in the world different courts
25 have tried to mandate different things that do disagree with

1 the Bible, and in those cases I would stand on the biblical
2 viewpoint and not the law of the land.

3 MR. STANTON: Thank you. No further questions.

4 THE COURT: Mr. Bosler.

5 MR. BOSLER: Miss Slocum, any of the questions
6 that you heard me ask you'd like to give response to?

7 A PROSPECTIVE JUROR: Just the one where you
8 said on the TV shows. I don't necessarily watch those, but
9 I did watch the one that I was on.

10 MR. BOSLER: You were on a TV show?

11 A PROSPECTIVE JUROR: "Unsolved Mysteries." I
12 was a witness.

13 MR. BOSLER: I guess you were contacted by the
14 television group or whatever, the company that puts it
15 together? Anything about that involvement that you think
16 makes you unfair, makes you lean towards one side or the
17 other?

18 A PROSPECTIVE JUROR: No.

19 MR. BOSLER: Producers as opposed to someone
20 else? Police?

21 A PROSPECTIVE JUROR: No.

22 MR. BOSLER: You indicated that in your jury
23 questionnaire that you would like to be a juror but
24 you're -- you would not be so concerned because you could,
25 if you felt I guess some type of difficulty, you could

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1 compromise your view with other jurors. Does that sound
2 kind of an accurate way to describe what you said?

3 A PROSPECTIVE JUROR: Yeah.

4 MR. BOSLER: And the Court is going to give you
5 an instruction with regard to that.

6 I don't know if the Court wants to read the
7 Allen instruction or not.

8 THE COURT: I don't have it with me. I was
9 prepared for others. I didn't know you wanted this one.

10 MR. BOSLER: I appreciate the fact that most
11 people don't know what instructions they are going to have.
12 To that extent, your answer on your questionnaire is
13 probably pretty understandable.

14 THE COURT: You want the, "It is your duty"?

15 MR. BOSLER: To consult.

16 THE COURT: "It is your duty as jurors to
17 consult with one another and to deliberate
18 with a view of reaching an agreement if you
19 can do so without violence to your
20 individual judgment. You each must decide
21 the case for yourself but should do so only
22 after a consideration of the case with your
23 fellow jurors, and you should not hesitate
24 to change an opinion when convinced that it
25 is erroneous. However, you should not be

1 influenced to vote in any way on any
2 question submitted to you by the single fact
3 that a majority of the jurors or any of them
4 favor such decision. In other words, you
5 should not surrender your honest convictions
6 concerning the effect or weight of evidence
7 for the mere purpose of returning a verdict
8 or solely because of the opinion of the
9 other jurors."

10 Would you accept and follow that instruction?

11 A PROSPECTIVE JUROR: Yes.

12 THE COURT: Would everyone else accept and
13 follow that instruction?

14 THE PROSPECTIVE JURORS: Yes yes.

15 THE COURT: Thank you. You may proceed.

16 MR. BOSLER: That instruction in mind, I'm sure
17 it is pretty lengthy, and do you think you understand the
18 instruction now that you have heard it?

19 A PROSPECTIVE JUROR: Yes.

20 MR. BOSLER: With that in mind, if you were in
21 a situation where 11 jurors disagreed with you, would you
22 feel obligated to compromise if you are not convinced that
23 your position is erroneous?

24 A PROSPECTIVE JUROR: No. I guess I maybe
25 meant that in a different way, like I would stick with my

1 opinion, but I realize there are other opinions toward the
2 outcome of the case. I didn't mean changing what I view.

3 MR. BOSLER: I appreciate the clarification.

4 Anybody else have thoughts about that on
5 whether they think that it is kind of a democratic process
6 where the majority of the jurors agree, then that should be
7 the jurors' decision, or can each of you agree that you have
8 to individually be judges on this case?

9 THE COURT: After considering everyone else's
10 opinion.

11 MR. BOSLER: After considering everyone's else
12 opinion. Everybody can do that?

13 THE PROSPECTIVE JURORS: Yes.

14 MR. BOSLER: Mr. Fox, if you could, I notice
15 that you said in your questionnaire, I think it was a quote,
16 if there was a conviction, quote, Bible law says the person
17 must pay for the life.

18 A PROSPECTIVE JUROR: That has been the Bible
19 law from the Old Testament from the Christian era and
20 restated in the laws that Christ instituted, that if someone
21 is convicted by law, the law of the land, which is allowed
22 by the grace of God, then if it's cold-blooded murder, that
23 is an appropriate punishment.

24 MR. BOSLER: And I get the impression you take
25 religious views very seriously.

1 A PROSPECTIVE JUROR: Extremely seriously.

2 MR. BOSLER: In fact, you are a minister.

3 A PROSPECTIVE JUROR: Yes.

4 MR. BOSLER: If you were to find a case where
5 there was premeditated deliberate murder, is that the type
6 of case you think always deserves the death penalty,
7 premeditation, deliberation?

8 A PROSPECTIVE JUROR: That sounds like that
9 would be someone who would be sane in doing a murder, and in
10 that case I would lean towards that, yes.

11 MR. BOSLER: Is there a situation where you had
12 premeditated deliberated murder where you wouldn't vote for
13 the death penalty?

14 A PROSPECTIVE JUROR: There has to be some,
15 yes.

16 MR. BOSLER: Is there -- well, you said things
17 mental, if there is a mental problem, that may affect your
18 decision. But once you reach the verdict of first degree
19 murder, is it your opinion that Bible law which controls
20 everything else says the death penalty should be imposed?

21 A PROSPECTIVE JUROR: Yes, that is my belief.

22 MR. BOSLER: That belief system controls I
23 guess the way you are going to conduct yourself in your
24 life; right?

25 A PROSPECTIVE JUROR: Yes, it would.

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1 MR. BOSLER: No further questions, Your Honor.

2 THE COURT: Okay.

3 MR. BOSLER: We'll make a Weatherspoon
4 challenge.

5 THE COURT: Do you make that challenge?

6 MR. BOSLER: Yes, Your Honor.

7 MR. STANTON: I didn't hear what counsel said.

8 THE COURT: He makes a Weatherspoon challenge.

9 MR. STANTON: Your Honor, I don't believe that
10 he satisfied. In fact, I think Mr. Fox's views at least in
11 the answers to two questions turned with precision and that
12 is that it is an option, and that indeed, it is not an
13 automatic decision in Mr. Fox's mind. His viewpoints,
14 strong may they be, are not a basis to exclusion under the
15 authority cited by counsel.

16 THE COURT: I'm going to overrule your
17 objection, and I'm and not excusing Mr. Fox on that basis.

18 Mr. Bosler, we have got these people. I think
19 you have a few more questions you told me you wanted to ask.

20 MR. BOSLER: If I could.

21 Mr. Berg, get back to you. You said that in
22 some cases in the death penalty, you gave the example of the
23 O.J. Simpson case.

24 A PROSPECTIVE JUROR: Right. That was just my
25 view. I mean, I felt -- I mean, that was their view. You

1 asked me honestly, and I gave you an honest answer that I
2 thought in that particular case, I didn't hear it, but
3 that's just what I thought.

4 MR. BOSLER: That is the type of case you were
5 thinking about for the death penalty?

6 A PROSPECTIVE JUROR: I thought at that time,
7 but they proved me wrong. I mean, I wasn't there. It was
8 just something that I had thought.

9 MR. BOSLER: You indicated you can keep an open
10 mind despite the criminal justice system. Is that how you
11 feel today?

12 A PROSPECTIVE JUROR: Yes, I can. It was one
13 of those times that I thought that they were wrong.

14 MR. BOSLER: I appreciate your candor,
15 Mr. Berg.

16 Mr. Barger, you indicated that your wife knows
17 Mr. Sullivan's wife, or did?

18 A PROSPECTIVE JUROR: I said when she worked --
19 formerly worked with my wife. She was in charge of the lab
20 out there, and that how well she knew her, I do not know.

21 MR. BOSLER: So you don't have any contact
22 anymore?

23 A PROSPECTIVE JUROR: No, I mean -- excuse me.

24 MR. BOSLER: Go ahead.

25 A PROSPECTIVE JUROR: Our daughter has more

1 contact probably through the school with Mrs. Sullivan.

2 MR. BOSLER: Have you had a chance or have you
3 had occasion to talk to your wife about the case before you
4 came to court?

5 A PROSPECTIVE JUROR: She sanitizes the
6 newspaper, as the judge said.

7 MR. BOSLER: Before you came to court?

8 A PROSPECTIVE JUROR: No.

9 MR. BOSLER: Not before you came to court today
10 but before you came on Monday?

11 A PROSPECTIVE JUROR: We don't -- didn't
12 discuss it.

13 MR. BOSLER: So you wouldn't feel any pressure
14 knowing that your wife knew someone involved in the case,
15 you wouldn't feel any pressure that, I can't face my wife if
16 I do one thing?

17 A PROSPECTIVE JUROR: No.

18 MR. BOSLER: Mr. McCargar, you indicated that
19 you had talked to your wife about the case?

20 A PROSPECTIVE JUROR: No, I didn't talk to her.
21 She talked to me yesterday at my -- when I got home.

22 MR. BOSLER: You kind of listened?

23 A PROSPECTIVE JUROR: I didn't have time to
24 shut the door before she blurted it out.

25 MR. BOSLER: Did you manage to not hear