1	A Yes.	
2	Q To your understanding, is the small building we	
3	see behind the car now, is that the information kiesk 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	
<b>1</b> 5	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.	
	11	

25

		639
1		(Exhibit No. 17-D marked.)
2	BY MR. GAMM	ICK:
3	Q	Let me show you 17-D. You mentioned stringing
4	of blood spa	atter. What does that mean?
5	A	What that is is it's a representation of where
6	the blood s	patter 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

1			
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:		
<b>1</b> 5	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.		
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1	THE COURT: Okay. We'll turn the lights back			
2	up.			
3	THE COURT: Cross-examination.			
4				
5	CROSS-EXAMINATION			
6	BY MR. SPECCHIO:			
7	Q Investigator Stevenson, you took me through the			
8	walk-through, if you will, on the vehicle?			
9	A Yes, I did.			
	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?			
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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?		
<b>1</b> 8	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			
<b>1</b> 5	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			
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L	unidentified?
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- A It is still unidentified, correct.
- Q Still unidentified. On the vehicle on the officer's vehicle, there was an unidentified print?
- A Actually there were two prints of no value.

  And there was one print that was identified when compared to an officer from UNR Police Department.
- Q All right. Just so that I understand that. The vehicle, there were three, two of no value?
  - A Correct.
  - Q No value meaning?
- A No value means that you have a fingerprint that does not have enough information in it in order to be able to make a comparison. We have a certain minimum amount of information in a print that must be there.
- Q Is that like ridges or grooves or whatever you guys call them?
  - A That is correct.
- Q Would it be safe to say that you probably compared or maybe tried to compare the unidentified bag print to the unusable patrol car prints?
- A The unidentified bag print was compared with all of the fingerprints that were submitted to us for comparison. Then it was also entered into the digital 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?		
<b>1</b> 2	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		
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that was originally collected somewhere outside, maybe at a scene, not necessarily the scene but anywhere else, it initially comes into the system as a Q. If that is then forwarded on to a criminalist, say for blood work or DNA work, they might make a stain.

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

- Q Let me just give you a hypothetical. Let's say that an officer is killed at the University of Nevada campus. And a pair of glasses are found at the scene. They will have a Q number on it?
  - A Yes, it will.
- Q Subsequent to that, let's assume that scouts and military and all people are brought out there to comb the lawns and the grass and the campus and the quad and all that stuff looking for anything, and they pick up gum wrappers, bottle caps, checkbooks. What would that -- what number would that have?
  - A That would be a 0 number.
  - Q Even if it is half a mile away from the scene?
  - 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.		
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	010	
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?	
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1	A	Yes, we did.	
2			
		Q You know it doesn't belong to 10 million	
3	people?	e e ····e	
4 .	A	Correct.	
5	Ō	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,	
<b>1</b> 5	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			
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		650		
1	MELE MAVENI	:		
2	called as a witness on behalf	called as a witness on behalf of the Plaintiff,		
3	having been first du	having been first duly sworn,		
4	was examined and testifie	was examined and testified as follows:		
5	DIRECT EXAMINAT	DIRECT EXAMINATION		
6	BY MR. STANTON:			
7	Q Ma'am, could you please	state your complete		
8	name and spell your first, middle ar	name and spell your first, middle and last name for the		
9	court reporter?			
10	A M-E-L-E. M-A-V-E-N-I.			
11	Q Ma'am, how old are you	as you sit here today?		
12	A Nineteen.			
13	Q And do you live here in	n Reno?		
14	A Yeah.			
15	Q How long have you lived	I here in Reno?		
16	A Twelve years.			
17	Q I'm sorry. You have to speak up a little bit.			
18	A Twelve years.			
19	Q Ma'am, did you have oc	casion to be interviewed		
20	by Reno police officers on January 27th, 1998?			
21	A Yeah.			
22	Q Do you recall that int	erview?		
23	A Yeah.			
24	THE COURT: I'm going	to have you scoot a		
25	little closer to the microphone. C	an you say your name		
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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.	
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		032
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	А	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.
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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.	
	CICRON MELINDA DEPONERDA (TACA) DAG	

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 dcrmitories?	
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?	
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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	o 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 detecti	ve 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 a	nd eyes and faces where I could just choose and
17	make up a pe:	rson that I saw that day.
18	Q	Were you able to complete a close likeness of
19	the person yo	ou saw that right 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 yo	ou recognize that.
23	A	Yes.
24	Q	Is that the composite you completed for police?
25	A	Uh-huh.
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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?	
2.2	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.	
	SIERRA NEVADA REPORTERS (702) 329-6560	

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
<b>1</b> 1	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:
22 23	··
	BY MR. GAMMICK:
23	BY MR. GAMMICK:  Q Would you please state your name?

	H	204
1	A I	'm sorry?
2	QI	s it Mr. Smith now or Officer Smith?
3	A W	ell, it's still Officer Smith while in a duty
4	status, and th	is is kind of a duty status.
5	Ŏ D	id you recently retire?
6	A I	did.
7	Q A	nd you still work part time at University of
8	Nevada Police	Department?
9	A I	do.
10	Q H	ow long had you worked there?
11	A A	bout 13 years.
12	Q D	id you know Sergeant George Sullivan?
13	A I	did.
14	Q I	n what capacity?
15	A H	e 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 Ho	ow long had Sergeant Sullivan been with the
19	University of I	Nevada, Reno, Police Department?
20	A I	believe 19 years.
21	QI	call your attention to well, wait. I show
22	you what's been	n marked as Exhibit No. 9 and ask 1f you
23	recognize that	photograph.
24	A Ye	∍ah.
25	Q Is	s that Sergeant Sullivan?
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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	
9	MR. GAMMICK: May I publish quickly, Your Honor?
10	THE COURT: Yes.
11	
12	MR. GAMMICK: Just walk by. BY MR. GAMMICK:
13	
14	Q January of 1998, one year ago, were you and 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.
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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?
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1	А	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 responsi	ve to the question.
7		THE COURT: Sustained.
8	BY MR. GAMMI	CK:
9	Q	What type of weapon was Sergeant
10	Sullivan car	rying?
11	Ą	Glock .45, model 21.
12	Q	Is that a semiautomatic pistol?
13	А	It is.
14	Q	Let me call your attention to about 17 minutes
15	after midnig	ht. 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 cf us. Sergeant Sullivan and myself.
24	Q	He was at Ninth and Center?
25	A	He was at Ninth and Center, but actually on
	5	SIERRA NEVADA REPORTERS (702) 329-6560

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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
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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, yel	low tie, white shirt.
3		MR. GAMMICK: May the record reflect the
4	identificat:	ion of Defendant Vanisi, Your Honor?
5		THE COURT: Yes, the record will so reflect.
6	BY MR. GAMM	ICK:
7	Q	Now, you made a comment that he looks quite a
8	bit differer	nt 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 Sul	livan's car?
18	A	I did.
19	Q	And what direction on Center Street was he
20	parked facin	ıg?
21	A	It's actually facing in a southbound direction.
2.2	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
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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?
<b>1</b> 3	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
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fairly well lighted that we utilize that area from time to
time to fill out FI cards or do documentation that we need
to do.
Q What is an FI card?
A It's a small white card that has name, date of
birth, serial number, phone numbers, next of kin. General
trace information for an individual.
Q Is that a field interrogation card?
A It is.
Q Do you maintain those? Why do you complete
those?
A Well, we maintain them and keep them on file so
that we have a good idea who was in the area, who was around
at a particular time. It could be both for the good of the
person or
Q Let me show you first of all what's been marked
as Exhibit 12 and ask you to look at that item. And do you
recognize that?
A Yeah.
Q What is that, sir?
A Sergeant Sullivan's notebook. Frequently
Q Would you please turn to what appears to be a
broken rubber band in that? Do you see some writing on that
page?
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,
<b>1</b> 5	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?
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i	
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,
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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,
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	<u> </u>	9,5
1	what does th	nat 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	l 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 un	known.
12	Q	Did you respond to that location?
13	А	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		SIERRA NEVADA REPORTERS (702) 329-6560

	3//
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?
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Ţ	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?
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1	A	Yes, there was.
2	Q	There is a brass-looking object lying next to
3	Sergeant Sul	llivan in the pool of blood. Were you able to
4	determine wh	nat that is?
5	A	His glasses were there, his key ring keeper,
6	his night st	cick and pepper gas container.
7		MR. GAMMICK: May I approach the witness, Your
8	Honor?	
9	:	THE COURT: Yes.
10	BY MR. GAMMI	CK:
11	Q	Were you able to determine what that object
12	right there	was?
<b>1</b> 3	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 buc	kle.
19	Q	Are you wearing a buckle such as that yourself?
20	А	Yes.
21	Q	Would you indicate what it is?
22	Λ	It's right here.
23	Q	The buckle for the weapons belt?
24	A	Right.
25	Q	I believe you testified that Sergeant Sullivan
	;	SIERRA NEVADA REPORTERS (702) 329-6560

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:
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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
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	lf .	_ +-
1	Sullivan?	
2	A	There is.
3	Ω	Let me show you 16-B and ask you if you
4	recognize tha	at item.
5	A	Yes. That's his flashlight.
6	Ω	How do you know that?
7	A	He and I engraved our names on our flashlights
8	at the same t	cime.
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, a	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	Õ	After this occurred, do you know whether there
18	was a check m	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 cont	act 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
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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.
IJ	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?
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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:
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1	Q	Was that Mr. Ciocca again?
2	A	Yes, it was.
3	Ω	And Nora 136 I believe we heard, do you know
4	who that wa	as, at least what agency?
5	A	He's with Reno.
6		(Exhibit 18 played.)
7	BY MR. GAMM	IICK:
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 ac	ctually involved in the call.
15		(Exhibit 18 played.)
16	BY MR. GAMM	TICK:
17	Q ,	First of all, the screaming sound we hear in
18	the backgro	ound, what is that?
19	A	That's sirens.
20	Q	When you say Union 129 or 129, 23, what does
21	that mean?	
22		
	А	It means I'm there, I have arrived.
23	A Q	It means I'm there, I have arrived.  That's when you arrived at the scene?
23	Q	That's when you arrived at the scene?

.1	DI 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	$\Omega$ 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.
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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.
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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?
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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.
13	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
<b>1</b> 5	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.
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	<b>5</b> 55
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
б	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
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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?
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I,	A	I'm cn 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	А	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 wea	r 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 y	ou didn't. Were you wearing your glasses the
22	night of Ja	nuary 12th, sir?
23	A	I use them for reading up close.
24	Ď	You use them for reading?
25	A	Yes.
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	<u> </u>	593
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	А	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. Vani	si?
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	А	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?
	9	SIERRA NEVADA REPORTERS (702) 329-6560

1	
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	

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 y	ou saw him?
б	A	Not directly under a street light.
7	Q	Talk to me about these FI things, you want to
8	know where e	verybody 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 testimo	ny. Sergeant Sullivan is stopping Mr. and
14	Mrs. Wood ar	ound the corner?
15	A	Right.
16	Q	On Center Street. You are going to be, I think
17	you guys cal	l 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.
-		SIERRA NEVADA REPORTERS (702) 329-6560

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 FT, 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
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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 Ríght.
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.
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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
	SIERRA NEVADA REPORTERS (702) 329-6560

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
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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?
<b>8</b> 1	

1	А	Dich
		Right.
2	Ω	Or somebody needs help or whatever; right?
3	A	Right.
4	Q	Do you know which direction Sergeant Sullivan
5	went when h	e left the police compound or whatever you call
6	it?	<b>2</b>
7	A	I have absolutely no idea. I was not there
8	when he dro	•
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 ther	
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	gh the campus as opposed to stay on Evans Avenue?
22	А	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
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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?
<b>1</b> 5	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
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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 Righ	t.			
8	Q Behi	nd that would be Officer Sullivan's			
9	vehicle?				
10	A Serg	eant 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 Litt	le longer than the courtroom here? Maybe			
18	as long as the courtroom?				
19	A Abou	t that distance. About from here to there.			
20	Q Mr.	Wood is out of the vehicle, his vehicle?			
21	A Righ	t.			
22	Q The 1	blond we think is Mrs. Wood is in the			
23	vehicle?				
24	A Righ	t.			
25	Q Serg	eant Sullivan is out of his vehicle?			
ŀ	SIERRA	NEVADA REPORTERS (702) 329-6560			

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 Lhat 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.
<b>1</b> 5	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.
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	303
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?
<b>1</b> 5	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
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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?						
<b>1</b> 7	A I didn't say he was black.						
18	MR. GAMMICK: That						
19	THE COURT: Wait, wait. I'm sorry to						
20	intermpt 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:						
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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?								
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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,						
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		609
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 close	r to those photographs when you saw him
18	previously in	a court
19	А	Absolutely.
20	Q	than he does today?
21	А	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, Jud	ge. I'm all for it.
	5	SIERRA NEVADA REPORTERS (702) 329-6560

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
16	of lighting?
15	or righting:
15 16	A They do.
16	A They do.
16 17	A They do.  Q How far away have you seen those flashing
16 17 18	A They do.  Q How far away have you seen those flashing lights when you have been behind one of those cars with them
16 17 18 19	A They do.  Q How far away have you seen those flashing lights when you have been behind one of those cars with them on?
16 17 18 19 20	A They do.  Q How far away have you seen those flashing lights when you have been behind one of those cars with them on?  A They are visible for 150, 200 feet easy,
16 17 18 19 20 21	A They do.  Q How far away have you seen those flashing lights when you have been behind one of those cars with them on?  A They are visible for 150, 200 feet easy, further.
16 17 18 19 20 21 22	A They do.  Q How far away have you seen those flashing lights when you have been behind one of those cars with them on?  A They are visible for 150, 200 feet easy, further.  MR. GAMMICK: Thank you. That is all I have.
16 17 18 19 20 21 22 23	A They do.  Q How far away have you seen those flashing lights when you have been behind one of those cars with them on?  A They are visible for 150, 200 fcct easy, further.  MR. GAMMICK: Thank you. That is all I have.  RECROSS-EXAMINATION

	611						
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						
<b>1</b> 5	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						
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with you or in any manner attempt to influence you with respect to it, you are to advise the bailiff who in turn will advise the Court.

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

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

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

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

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

I would just ask the Court if these people want to come in and be spectators, as is their right, this is an 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
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attorneys	involved	in	this	case,	have	any	idea	who	he	is
referring	to?									

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

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

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

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

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

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

THE COURT: Deputy Uptain, you are my bailiff

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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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1	THE SHERIFF: Yes, Your Honor.
2	MR. BOSLER: Thank you, Your Honor.
3	THE COURT: Anything further?
4	MR. GAMMICK: I have nothing else, Your Honor.
5	THE COURT: Okay. We'll give a break now until
6	3:15. I'll see you all back at that time.
7	Court is in recess.
8	(Recess taken at 3:02 p.m.)
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1	RENO, NEVADA, WEDNESDAY, JANUARY 13, 1999, 3:22 P.M.
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4	(Whereupon, the following proceedings were held in open court, in the presence of the jury.)
5	in open court, in the presence of the jury.)
6	THE COURT: Counsel stipulate to the presence
7	of the jury?
8	MR. GAMMICK: Stipulate the presence of the
9	jury, Your Honor.
10	MR. SPECCHIO: Yes, Your Honor.
11	THE COURT: You may call your next witness.
12	MR. GAMMICK: Call Andrew Ciocca, please.
13	THE COURT: Please step forward and face the
14	woman standing, and she will administer the oath.
15	ANDREW GUY CIOCCA
15	ANDREW GUY CIOCCA
15 16	ANDREW GUY CIOCCA called as a witness on behalf of the Plaintiff,
15 16 17	ANDREW GUY CIOCCA  called as a witness on behalf of the Plaintiff,  having been first duly sworn,
15 16 17 18	and contact and co
15 16 17 18 19	called as a witness on behalf of the Plaintiff,  having been first duly sworn,  was examined and testified as follows:  DIRECT EXAMINATION
15 16 17 18 19 20	called as a witness on behalf of the Plaintiff,
15 16 17 18 19 20 21	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
15 16 17 18 19 20 21 22	called as a witness on behalf of the Plaintiff,
15 16 17 18 19 20 21 22 23	called as a witness on behalf of the Plaintiff,

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?	
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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	some nature.	
13	Q	Is that close to the intersection of Ninth and	
14	Center?		
15	Α	Yes, it is. About half a block.	
16	Ω	Do you have to go uphill to get on to campus?	
17	A	Yes.	
18	Ω	Did you?	
19	A	Yes, I did.	
20	Q	Once you crested the top of the hill, what did	
21	you first s	ee?	
22	A	What I first saw was a University of Nevada	
23	police vehi	cle. 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	
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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	klosk which is located in the parking lot. Knocked on the
25	window. The light was on. That was the reason I went over.
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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,
<b>1</b> 5	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
	II

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?	
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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
<b>1</b> 9	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.
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1	Q So at	t 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 b	lue item right there and part of the top
13	there. Is that t	he coffee cup you are referring to?
14	A I ca	n't see it too well, but I can say with
15	some certainty it	was in that area.
16	Q Woul	d 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 th	e dash. Do you recall seeing a notebook?
24	A Acl	ipboard, yes, sir.
25	Q That	is where it was located?
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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.
14 15	at this time, Your Honor.  THE COURT: Cross-examination.
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15	THE COURT: Cross-examination.
15 16	THE COURT: Cross-examination.  CROSS-EXAMINATION
15 16 17	THE COURT: Cross-examination.  CROSS-EXAMINATION  BY MR. SPECCHIO:
15 16 17 18	THE COURT: Cross-examination.  CROSS-EXAMINATION  BY MR. SPECCHIO:  Q Mr. Ciocca, did you ever see any eyeglasses
15 16 17 18 19	THE COURT: Cross-examination.  CROSS-EXAMINATION  BY MR. SPECCHIO:  Q Mr. Ciocca, did you ever see any eyeglasses that night?
15 16 17 18 19 20	THE COURT: Cross-examination.  CROSS-EXAMINATION  BY MR. SPECCHIO:  Q Mr. Ciocca, did you ever see any eyeglasses that night?  A I really do not recall. I believe there were
15 16 17 18 19 20 21	THE COURT: Cross-examination.  CROSS-EXAMINATION  BY MR. SPECCHIO:  Q Mr. Ciocca, did you ever see any eyeglasses that night?  A I really do not recall. I believe there were eyeglasses, though, with some uncertainty, in the blood
15 16 17 18 19 20 21	THE COURT: Cross-examination.  CROSS-EXAMINATION  BY MR. SPECCHIO:  Q Mr. Ciocca, did you ever see any eyeglasses that night?  A I really do not recall. I believe there were eyeglasses, though, with some uncertainty, in the blood where he was down.
15 16 17 18 19 20 21 22 23	THE COURT: Cross-examination.  CROSS-EXAMINATION  BY MR. SPECCHIO:  Q Mr. Ciocca, did you ever see any eyeglasses that night?  A I really do not recall. I believe there were eyeglasses, though, with some uncertainty, in the blood where he was down.  Q Do you remember giving a police report, making

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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.
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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:
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15	DIRECT EXAMINATION
15 16	DIRECT EXAMINATION  BY MR. GAMMICK:
16	BY MR. GAMMICK:
16 17	BY MR. GAMMICK:  Q Would you please state your name and spell your
16 17 18	BY MR. GAMMICK:  Q Would you please state your name and spell your last name, sir?
16 17 18 19	BY MR. GAMMICK:  Q Would you please state your name and spell your last name, sir?  A William Stevenson, S-T-E-V-E-N-S-O-N.
16 17 18 19 20	BY MR. GAMMICK:  Q Would you please state your name and spell your last name, sir?  A William Stevenson, S-T-E-V-E-N-S-O-N.  Q What is your profession or occupation?
16 17 18 19 20 21	BY MR. GAMMICK:  Q Would you please state your name and spell your last name, sir?  A William Stevenson, S-T-E-V-E-N-S-O-N.  Q What is your profession or occupation?  A I'm a forensic investigator with the Washoe
16 17 18 19 20 21 22	BY MR. GAMMICK:  Q Would you please state your name and spell your last name, sir?  A William Stevenson, S-T-E-V-E-N-S-O-N.  Q What is your profession or occupation?  A I'm a forensic investigator with the Washoe County Sheriff's Crime Lab.
16 17 18 19 20 21 22 23	BY MR. GAMMICK:  Q Would you please state your name and spell your last name, sir?  A William Stevenson, S-T-E-V-E-N-S-O-N.  Q What is your profession or occupation?  A I'm a forensic investigator with the Washoe  County Sheriff's Crime Lab.  Q What does a forensic investigator do?

1	laboratory for	latent fingerprints.
2	Q D	o you also when you say processing a scene,
3	does that also	mean collect evidence?
4	A Y	es, it does.
5	Q F	IS, what does that stand for?
6	A S	tands for forensic investigation section.
7	Q T	hat is where you are employed at this time?
8	АТ	hat's correct.
9	Q H	ow long are you a sworn officer?
10	A Y	es, I am.
11	Q H	ow long have you been a sworn officer?
12	A s	eventeen years.
13	Q H	ow long have you been involved with FIS?
14	A A	pproximately eight years.
15	QI	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 Y	es, I was.
20	Q W	hy 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	QI	nvestigator Leal, Toni Leal?
25	а т	hat is correct.
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11	· · · · · · · · · · · · · · · · · · ·
ī	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:
	II

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

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

- Q So the white plastic bag would have had a Q number?
  - A Correct.
- Q And then the latent fingerprint lifted from that would have the P number?
  - A Actually the latent fingerprint.
  - Q Would that also be a Q?
- A That would turn into an L number. Latent prints are filed within the fingerprint section in an envelope that has an L number on it. So a latent fingerprint is collected from an item. The item may have an original Q number on it. But it will be filed in an envelope that has an L number on it.
- Q Blood spots are removed from the car or from any other items, what type of number would those have on

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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.
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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	
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and where you did not find any?

A The primary blood:

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

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

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

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

- A None.
- Q Is that Sergeant Sullivan's glasses depicted there?
  - A Yes, it is.
  - Q Did you recover those?
  - A They were recovered at the scene.
- Q The lights we see above the car in the background, is that downtown Reno?

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

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

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

> A PROSPECTIVE JUROR: No.

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

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

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

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

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

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A PROSPECTIVE JUROR: Right.

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

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

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

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

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

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

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

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

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

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

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

A PROSPECTIVE JUROR: Never before.

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

A PROSPECTIVE JUROR: Yes.

MR. BOSLER: At this point?

A PROSPECTIVE JUROR: I can.

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

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

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

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

A PROSPECTIVE JUROR: Yes, definitely.

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

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

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

A PROSPECTIVE JUROR: Oh, definitely.

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

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

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

A PROSPECTIVE JUROR: No.

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

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

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

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

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

A PROSPECTIVE JUROR: Uh-huh. Yes.

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

A PROSPECTIVE JUROR: Perhaps not. Yeah, no.

MR. BOSLER: Yeah, no?

A PROSPECTIVE JUROR: No.

MR. BOSLER: Is that your honest view?

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

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

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

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

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

A PROSPECTIVE JUROR: Right.

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

A PROSPECTIVE JUROR: Safe to say.

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

A PROSPECTIVE JUROR: Yes, I do.

MR. BOSLER: Why is that?

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

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

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

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

A PROSPECTIVE JUROR: Yes.

MR. BOSLER: Your Honor, if I may have a

THE COURT: Yes.

MR. BOSLER: Just last couple questions, Your

Honor.

moment?

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

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

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

THE COURT: Was that can't?

MR. BOSLER: Can't.

THE COURT: Can't afford.

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

THE PROSPECTIVE JURORS: No.

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

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

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

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

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

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

A PROSPECTIVE JUROR: Yeah.

THE COURT: Anyone else? Yes.

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

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

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

Although you have not been called and normally SIERRA NEVADA REPORTERS (702) 329-6560

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

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

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

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

So you must follow the instructions I have

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

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

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

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

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

(Recess taken at 4:17 p.m.)

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### 499 RENO, NEVADA, TUESDAY, JANUARY 12, 1998, 4:43 P.M. -oCo-(Whereupon, the following proceedings were held in open court, in the presence of the jury panel.) THE COURT: Counsel stipulate to the presence of the jury panel? State will stipulate, Your Honor. MR. STANTON: MR. SPECCHIO: So stipulated. THE COURT: Thank you. Counsel, are you ready to proceed with the exercising of peremptory challenges? MR. STANTON: State is, Your Honor. MR. BOSLER: We are, Your Honor. State may exercise your first THE COURT: peremptory challenge. MR. GAMMICK: Your Honor, do you want the last

name and the number?

THE COURT: If you write legibly, name or number will be fine.

MR. GAMMICK: Your Honor, we have exercised our first peremptory with the last name and number. We'll pass it to defense then.

Defense, exercise your first THE COURT: 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.		
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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 7	(Whereupon, a bench conference was held among 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
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let you exercise your eight to anybody. And then I'm just going to start with juror 1, count to 12, and then I'm going to say you can exercise your peremptories as to anybody else.

You may exercise your alternates as to anybody left. The alternates will be the next four people.

MR. STANTON: The last four people on the list?

THE COURT: No, the next four. So we don't —
sometimes I keep a blank in between the 12 and these four
people. I'm pointing to 36, 35, 34 and 33. I don't. The
jury is the first 12 that remain after you exercise your
eight peremptories and then the next four people that remain
after you have exercised your alternates.

MR. SPECCHIO: We'd stop that after eight?

THE COURT: Then I'll tell you the names.

MR. SPECCHIO: We get two each?

THE COURT: Two each.

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

THE COURT: Mr. Specchio, you are exercising your fourth.

MR. SPECCHIO: Yes, Your Honor. We are in the process of doing that as I speak, Your Honor.

We have done that, Your Honor.

THE COURT: Thank you. Mr. Gammick,

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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		
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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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exercised its final peremptory.

THE COURT: Thank you. Defense may exercise its final peremptory.

MR. SPECCHIO: Thank you, Your Honor.

Defense has exercised its last, Your Honor.

THE COURT: Please give the list to the clerk.

Any motions anyone wants me to entertain prior to solidifying the jury?

MR. STANTON: Not from the State.

MR. BOSLER: Your Honor, may we have a moment?

THE COURT: Yes.

MR. SPECCHIO: Your Honor, we have one motion that has to be made outside the presence of the jury. So maybe we can just do that before we start in the morning.

THE COURT: Counsel approach, please.

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

MR. SPECCHIO: Or now.

THE COURT: My concern, if it's a motion that would affect the jury component, the composition of the jury, I don't want to excuse people until I know for sure we're okay.

MR. SPECCHIO: Well, we want to make the record that by virtue of your denying some of the challenges, we're not able to exclude some people on the jury that have

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expressed opinions about this case.

THE COURT: That's fine. You have no objection to the challenges that the State has exercised?

MR. SPECCHIO: No. No, no. I think we can just do that -- we're talking five minutes on the record.

MR. STANTON: The State has no challenges along any of the challenges on behalf of defense.

THE COURT: Thank you.

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

THE COURT: Thank you for patiently awaiting that process. I know some of you are probably thinking, Why couldn't they have done that while we were in the cooler room?

But we didn't take your photographs, and although the attorneys have paid very close attention to who you are and what your names are, it's important for them to be able to see who you are as they exercise these challenges because they might forget, and they of course have no idea of knowing who the other side is going to exercise their challenges on.

So it's kind of a tedious process, but it is important, and we appreciate your patience.

I want to thank all of you for your attention in the last two days, plus coming in an extra day. You all

came in extra to fill out a questionnaire, and I appreciate that, as do the parties. We all know that this has been long, hot days and that you have given us your full attention. So thank you.

The attorneys have exercised their challenges. They have each exercised ten challenges. So if you remember, there were 36 of you. I'm going to be excusing 20 of you, which will leave 16 left.

As I excuse you, please understand that you leave with our appreciation. Tell the Jury Commissioner's office that you have in fact been excused. Your statutory fees will be in the mail, and if you have any questions about what went on or if I can answer any questions for you after you are excused, please do not hesitate to call my office.

I want you to remember that if you were excused, it's not because any answer that you gave was wrong. It simply means that someone else according to the attorneys's opinion was better suited to serve in this case. Again, thank you.

I'm going to be excusing you by last name, and we'll start in the back row, and we'll sort of go on down the row. Please go ahead and stand up and leave but just try to do it a little quietly. We'll do this as quickly as we can.

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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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each person will play in the courtroom during these proceedings. You will at the conclusion of the evidence determine the facts in the case, apply to those facts the law which will be stated to you by the Court and on this basis reach a verdict consistent with the facts and the law.

It is the duty of the attorneys to present their respective cases in the most favorable light consistent with the truth and the law. But statements and arguments of counsel made during the course of this trial are not to be treated by you as evidence.

Keep an open mind. Refrain from forming or expressing any opinion concerning the case until all the evidence is in, the attorneys have made their closing arguments, you have received the Court's instructions as to the law, and you have retired to the jury room to find your verdict.

During the trial, do not discuss the case among yourselves or with any other person. Do not allow anyone to speak of it in your presence. You are not to read, listen to or observe any newspaper, radio or television account of the trial while it is in progress.

The reason that you may not discuss this case with anyone else is that you must decide this case based on the evidence as it is presented here in the courtroom for yourself. You may not be influenced by someone who didn't

even see the evidence.

For that reason, if you went home and you talked about a particular witness or what you observed, the person you are speaking with, about this with, might react to what you describe, and then their reactions might influence the way you look at the evidence, and that would be improper.

When you are deliberating the other jurors will discuss the evidence with you, and then you may all talk about it. But it will be -- your decision will be influenced by individuals who sat through the entire trial.

Not only must you conduct yourselves as jurors above reproach, but you must avoid even the appearance of any improper conduct. You may not speak to the defendant, the attorneys, or the witnesses during the course of the trial, even upon matters which are completely unconnected with the case.

In the event any person should attempt to discuss the case with you or in any manner attempt to influence you with respect to it, you are to advise the bailiff who in turn will advise the Court. You may feel comfortable advising your family members and people you work with that you cannot discuss the case with them.

Any rulings made by the Court during the course of this trial will be based upon the controlling law of the

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itself.

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24 25 occurrences.

arise which must be determined by me as matters of law outside your presence. Again, you are not to speculate or be concerned in any way for the reasons for such I assure you that they will be limited in frequency and duration as much as the law permits.

State of Nevada. Accordingly, you must not infer any

leaning on my part based upon such rulings or infer any

feeling on my part for or against either side in the case.

is sustained, you must not speculate as to what the answer

might have been or draw any inference from the question

If any objection to the admission of evidence

During the course of the trial matters may

Observe carefully each witness as they testify and consider carefully all of the evidence as it is presented, for it is you who must determine the credibility of the witnesses and wherein the truth lies.

If during the examination of witnesses some questions occur to you, be patient. The answers will probably be given before the trial is concluded.

You may individually take notes during the course of this trial, and for that purpose you will be provided with pencils and note pads by the bailiff.

In the event of a conflict between the notes of an individual juror during your deliberations, you are to

disregard the notes and proceed with your collective memory. The court reporter's notes contain the complete and authentic record of the trial.

Ladies and gentlemen of the jury, you are admonished that no juror may declare to their fellow jurors any fact relating to this case that they may find of their own knowledge, and if any juror discovers during the trial or after the jury has retired that they or any other juror has personal knowledge of the facts in controversy in this case, you shall disclose such situation to the Court outside the presence of the other jurors immediately.

We have a jury room, although you all haven't been able to use it because there's been so many of you.

Now you will be able to use it.

It has a separate entrance into the courtroom. There is an outside door that will allow you into the jury room. When you come in the morning, please identify yourself to the individuals who are working the doors out here, and they will remove the barricade and allow you into the jury room.

Then you will remain in the jury room awaiting us, and when court starts you will come into the courtroom from your private entrance into the courtroom.

Please feel free to use this jury room at all of our breaks and even at lunch if you need it or you'd like

to stay in during the lunch. The bailiff will see that it is opened a few minutes before we expect you in the morning, and at lunch.

In addition, it will be kept locked at all other times. So you may feel comfortable leaving your personal belongs in the jury room. No one will have access to them while you are here in the courtroom.

If you should need anything for your personal comfort during the course of this trial, please tell the bailiff who will tell me, and we'll make every effort to accommodate your needs.

If you have special nutritional issues or needs, please bring it from home. We do provide snacks on a daily basis, but I can't guarantee it's what you need or want.

There is a refrigerator in the jury room. So you can refrigerate items. There is a microwave often so you can use that to heat things up. There is coffee, chocolate, tea and bottled water. So that is what we can provide. If you want anything else, bring it from home.

I won't let you walk around the courthouse on our breaks. So you won't be able to just go down to the vending machines in the first floor and get something.

In addition, as you have already discovered, there is a smokeless building. Therefore cigarette smoking

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is not allowed within the building. If any of you are smokers, please be sure to tell the bailiff, and he will make accommodation for you to get you to a place where you can smoke during the day when we take our recesses.

We have reached the stage in the proceedings now where you are to be sworn as jurors in this case, and alternates. We don't know for sure which of you are going to be doing which jobs, so I ask that you all remember that all of you could sit as jurors in this case, and you won't know until the very end, as I won't know who is actually going to be the alternates. So remember that your duty applies to all of you no matter where you end up seated.

Please stand, raise your right hand and be sworn.

(Jury sworm.)

THE COURT: Thank you. Please be seated.

Tomorrow morning the trial will begin at 11:00 a.m. In the morning when you come to the courthouse, you'll come into the jury room immediately. Don't wander around the courthouse. Don't visit with anybody. Just come straight to this floor and go on in the jury room.

Be sure to wear the badges. The bailiff has more if you need more of these little badges, and he will give them to you. Be sure you wear them on your outside of your clothing at all times, especially when you are coming

and going from the courthouse.

Tomorrow's schedule is that you will be here from 11:00 to 12:00, and I may go a few minutes past 12:00 but I doubt it. I think it will be 11:00 to 12:00. Then you will be back at 1:30 in the afternoon, and you will go until approximately 3:00 or 3:30, depending on how the witnesses and the schedule works out. And then we'll have a short break, and then you will come back in the courtroom, and you continue with the trial until we leave tomorrow, which will be approximately 5:00 o'clock. It could be a few minutes after five, but it would be basically 5:00 o'clock.

Now that's tomorrow's schedule.

On a regular basis I'll try to tell you the best I can what the schedule will be for the next day. I'll try to keep you apprised of any changes in the schedule as it occurs.

Please be aware that there are things that happen both in the courthouse on other cases as well as this case that may require some changes in the schedule. But we will try our best to stay to the schedule once we tell you. I understand your time is valuable and that you like to know where you are going to be when. So we'll all be aware of those concerns.

Tomorrow morning also when you come back, the first thing you will hear is the Information, which is the

charging document in this case will be read to you. You will hear the defendant's plea, and then the State will make their opening statement.

At all breaks you are going to be given an admonition, and I'm going to give it to you this evening as with all other breaks. Remember, I will see you back here at 11:00 a.m. I'm going to excuse the jury but not counsel.

Ladies and gentlemen of the jury, during this recess that we are about to take, you are admonished that it is your duty not to discuss among yourselves or with anyone else any matter having to do with this case.

It is your further duty not to form or express any opinion regarding the guilt or innocence of the defendant until the case has been finally submitted to you for decision.

You are not to read, look at or listen to any news media accounts relating to this case should there be any. Should any person attempt to discuss the case with you or in any manner attempt to influence you with respect to it, you are to advise the bailiff who in turn will advise the Court.

Ladies and gentlemen of the jury, you may go with the bailiff and the court staff now through the jury room door. I'll see you tomorrow.

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

THE COURT: The audience will be seated, please.

this trial on a regular basis. I don't know about that. I allow counsel to stand when the jury comes and goes, but I ask that the audience either remain seated or stand and leave the courtroom. I don't want to have to be telling you to sit down or stand up. So if you want to stay in the courtroom, sit. If you want to leave at any other time, you are welcome to stand up and leave, but please don't stand around during the course of the trial.

Counsel, is there anything that we need to discuss right now?

MR. STANTON: Your Honor, my understanding is the Court is going to reconvene at 11:00 tomorrow?

THE COURT: Yes. Now, counsel, you had indicated that you want to put something on the record before the jury came back. Do you want to do that a few minutes before 11:00? Do you want to try to do it now? It doesn't matter to me.

MR. SPECCHIO: Could we do it in the morning, Your Honor?

THE COURT: Yes. Can you be here by quarter to

11:00.

MR. SPECCHIO: I would think so. If not, these gentlemen can start without me.

THE COURT: That's fine.

MR. SPECCHIO: They know what has to be done.

THE COURT: It's just this motion?

MR. SPECCHIO: Yes.

THE COURT: Outside the presence of the jury?

MR. SPECCHIO: Yes, Your Honor. There is also, I don't know if you want to address it now, Your Honor, with regard to the people in the courtroom that have been allowed over the rule of exclusion to stay in the courtroom. I think they should be admonished regarding any outbursts or anything of that nature.

THE COURT: Are those people in the courtroom now?

THE COURT: Ladies and gentlemen of the gallery, I gave you one little discussion about standing and coming and going. I ask that you be aware of the fact that some of you may be called as witnesses in the penalty hearing if a penalty hearing is required in this case. Counsel has stipulated to you being allowed to be in the courtroom during the trial on this case even though you

might ultimately be witnesses in the penalty hearing should there be such a hearing.

I wanted to remind you that the attorneys on each side, whoever was planning on calling you, have talked to you about what your responsibilities are if you are to remain in the courtroom. There may come a time when evidence is difficult for family members to hear on either side of this case, or friends.

I want to remind you that you may not make any outward display of emotion during this period of time while you are in the courtroom, not as a witness but as an observer, and if there is anything that calls my attention to you or the bailiff's attention to you, you are subject to permanent exclusion from the hearing. So please keep that in mind when you conduct yourselves.

I'm sure you all will do that, and I have seen nothing today that would influence me that there would be any problems with anyone. But this is just to make sure that you all understand your obligation.

If you have any questions about how you are to behave or what you are to do, please feel free to talk to the attorney who has subpoenaed you for this case, and they will be glad to discuss it more fully with you if they haven't already done so.

Mr. Specchio.

MR. SPECCHIO: One more, Your Honor. There seemed to be some concern with the security. We want our investigators, one of which is present, Miss Calderon or Mr. Novak, who are --

THE COURT: Rules in this department are if you have a note that you want to pass to someone in the audience, you get the bailiff's attention, and they will pass the note for you. There is no crossing over the bar. That is improper for anyone to cross over that bar, other than the court staff and the bailiff.

So if you have a note for somebody, feel free to pass it to the bailiff in this department. And Bailiff Uptain has been trained on this also. They will be very, very aware. And you just write your note and say what you want. If the investigator wants a note to someone on the defense side, just give it to the bailiff, and he will immediately pass it to counsel.

I have observed that going on already with the State. The bailiff intercepted a note that the State — that someone on the State side wanted to pass to one of the State attorneys earlier yesterday. So that's the rule. It doesn't which side of the room you are sitting on.

MR. SPECCHIO: Well, we'll just bring some envelopes tomorrow.

THE COURT: Or just fold it, fold the note, and SIERRA NEVADA REPORTERS (702) 329-6560

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nobody will read it. You watch them, nobody reads it, nobody looks at it. It's just they hand it to whomever you tell them to hand it to.

MR. SPECCHIO: That's fine.

THE COURT: That would be the same for the State. We just don't have investigators walking up in front of the bar.

MR. SPECCHIO: Okay. That's fine, Your Honor.

THE COURT: Anything else?

MR. GAMMICK: Your Honor, what time will the courtroom be available tomorrow morning?

THE COURT: Whatever time you want. We have criminal hearings. Actually we have meetings with the press at 7:00. We have meetings, criminal hearings beginning at 8:00. And those should be resolved by 10:30 or so. So there should be a break there between 10:30 and 11:00 for you to come in.

MR. GAMMICK: We do have quite a bit of equipment to set up in the courtroom. We'll try and get in as soon as you are done with your court matters and try to have that completed before 11:00 o'clock.

THE COURT: I think we may have a break also between the 8:00 and the 9:00 if you want to try then. Or the clerk will just call you or whomever and notify you that the courtroom is clear. I'm sure we will be done by 10:30,

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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 stenctype 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 1 4 1999

BY: 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

-000-

THE STATE OF NEVADA,

Plaintiff,

vs.

SIAOSI VANISI,

Defendant.

TRIAL VOLUME 3

January 13, 199@

Reno, Nevada

APPEARANCES:

For the Plaintiff:

RICHARD A. GAMMICK District Attorney DAVID L. STANTON and THOMAS BARB

Chief Deputies District Attorney

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For the Defendant:

MICHAEL R. SPECCHIO Public Defender

STEPHEN GREGORY and JEREMY BOSLER

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Reno, Nevada

The Defendant:

SIAOSI VANISI

ORIGINAL

Reported by:

ERIC V. NELSON, CCR No. 57

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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

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who have expressed that they formed opinions and cannot be fair to Mr. Vanisi.

Going forward with the trial at this point is going to be kind of a farce. We move for mistrial, Your Honor.

> THE COURT: Mr. Stanton.

MR. STANTON: Yes. Your Honor, first of all, counsel cites back to their motion for change of venue apparently as authority today. No authority cited in their motion speaks to the proposition that they are asking this Court to claim a mistrial, or I'm assuming although Mr. Bosler didn't reinvigorate the motion for change of venue, but the relief they requested is not supported by any legal authorities in the written motion for change of venue. Nor does Mr. Bosler cite any new authority today.

Mr. Bosler says there are two bases for which the jurors that I guess that they wanted to exclude but had insufficient peremptory challenges. One is that the people have already formed an opinion. That is not a legal basis to exclude a juror for cause. Not in any of the authority they previously cited; obviously they didn't cite any authority this morning.

Counsel then cites the fact that there are some jurors on this panel that have expressed an opinion that they cannot be fair to Mr. Vanisi. I don't believe the

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record reflects that. It is inaccurate summation of the jurors' minds that are on this panel.

I don't believe there is a basis either to declare a mistrial on that, for those reasons[, and if they are, and I'm not sure they are, but if they are making a motion for a change of venue, they haven't satisfied the requirements of the legal authorities that they cited in their opinions, in their motion and authorities for change of venue. That is that a fair -- even assuming their argument relative to the panel as it is currently comprised, they fail to establish that the remaining members of this jury somehow prevented them from getting a fair and impartial trial save and except for the Court's rulings previously. That's the basis to get a change of venue.

So it is two different motions that they are making. One is that there is a motion based upon perceived defects in the panel, and the exercise of the denial of the motion for challenge for cause. Then there is a secondary issue of whether or not they have met the requirements for change of venue.

And Mr. Bosler hasn't made any argument relative to the basis of the change of venue. request that the original juror questionnaire and the supplemental juror questionnaire be made a permanent part of this record relative to the jurors that were called in this

case, to include obviously the members that are currently comprised of the panel and the alternates.

In addition, Your Honor, I'd request that the defense lay out on the record now or at sometime during the pendency of this proceeding what jurors that are sitting on this panel now, in original form or alternate form, that they feel are imperfect based upon their previous motions for challenges for cause.

Unless the Court had any other specific questions of the State, that would be my response; and if Mr. Bosler wants to develop the record any further relative to if indeed he is making and renewing a motion for change of venue, that I have an opportunity to respond specifically to that argument.

THE COURT: Anything further, Mr. Bosler?

MR. BOSLER: We'll submit the matter, Your Honor.

THE COURT: The motion for change of venue was taken under submission and deferred until completion of jury selection. Based upon the original motion for change of venue and the Court's analysis of the circumstance at the conclusion of the jury selection, I deny that motion.

With regard to your motion for mistrial, the Court finds no legal basis to grant such a motion. I do not agree with the factual representations. The record of

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course will reflect the factual basis or lack thereof for your motion. But I don't perceive it to be valid at this time. So your motion is denied.

MR. BOSLER: Your Honor, in that regard we don't object to the Court making part of the record the questionnaires from people who are now sitting in the jury pool and as alternates. This is the special questionnaire.

THE COURT: I thought we talked about that.

The clerk has marked those as an exhibit to the jury selection, and they are filed under seal subject to being opened at any time that someone might want to review it for appellate purposes.

MR. BOSLER: Thank you, Your Honor.

MR. GAMMICK: Your Honor, I have one objection to make this morning. Mr. Bosler did show me some transparencies that he intends to use in his opening. They do have some writing on them.

They are photographs of the defendant I believe at younger times. They do have some writings on them that I object to at this time. I don't see the relevancy with respect to particularly the writing on the photographs.

THE COURT: Mr. Bosler?

MR. BOSLER: Your Honor, may I approach?

THE COURT: Yes.

MR. BOSLER: The record should reflect I'm

giving the Court a copy of the transparency sheet.

THE COURT: Can I see it on the transparency?

MR. BOSLER: Yes. What those are photos of — those are photos of George Tafuna, which is Siaosi's name he assumed when he was in San Bruno. The photographs are going to come into evidence through one of the witnesses who is on the defense witness list. That witness went to high school with Mr. Vanisi and is knowledgeable of the facts that Mr. Vanisi was elected to those things through high school voting. That witness is going to testify as to Mr. Vanisi's peaceful character, character consistent with what he's expressed in those photos.

THE COURT: That is going to come in in the guilt phase?

MR. BOSLER: Yes, Your Honor, the trial.

MR. GAMMICK: Your Honor, if we are talking high school, I have even got a question as to what length of time are we talking here, how many years past. I still have a problem seeing that relevancy for the guilt phase.

MR. BOSLER: Your Honor, certainly character is a relevant trait for a trial. The fact that they may think these people have not seen Mr. Vanisi in enough time to present strong evidence goes to the weight, not to the admissibility. I certainly expect them to bring that up in their cross-examination. But the statute doesn't have any

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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.
В	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	
23	THE COURT: So the specific character trait is peacefulness?
24	
25	MR. BOSLER: Yes, Your Honor.
	THE COURT: You are offering that in this

trial?

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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 SIERRA NEVADA REPORTERS (702) 329-6560

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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.			
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	53.
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.
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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			
	word and working. I don't want			
El .	SIERRA NEVADA REPORTERS (702) 329-6560			

you to think we left you in there because we were ignoring you. Hopefully our guesstimates will be better in the future.

As the bailiff has instructed you, we will go and hear opening statements today before you take your lunch hour.

The first thing we will do, however, before we hear opening statements, is the clerk will read the Information and state the plea entered by the defendant.

THE CLERK: "Case No. CR98-0516, Department No. 4. In the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, The State of Nevada, Plaintiff, versus Siaosi Vanisi, also known as Pe, also known as George, defendant.

"Information: Richard A. Gammick, District
Attorney, within and for the County of Washoe, State of
Nevada, in the name and by the authority of the State of
Nevada, informs the above entitled Court that Siaosi Vanisi,
also known as Pe, also known as George, the defendant above
named, has committed the crimes of:

"Count I, murder in the first degree, a violation of NRS 200.010 and NRS 200.030, and NRS 193.165, a felony, in the manner following:

"That the said defendant, on the 13th day of January, A.D., 1998 or thereabout and before the filing of

this Information, at and within the county of Washoe, state of Nevada, did willfully, unlawfully, and with malice aforethought, deliberation, and premeditation, kill and murder Sergeant George Sullivan, a human being, by means of repeated blows to the head and face with a hatchet, and/or other implements, and or other blunt force trauma inflicted to the head and upper torso thereby inflicting mortal injuries upon the said Sergeant George Sullivan from which he died on January 13, 1998; or

"That the said defendant during the course of, and in furtherance of an armed robbery, did willfully and unlawfully murder Sergeant George Sullivan in that the said defendant on or about January 13, 1998, did kill and murder Sergeant George Sullivan, a human being, in the perpetration and/or the furtherance of an armed robbery at the University of Nevada, Reno, at or near the information kiosk with the use of a deadly weapon, to wit: a hatchet, and/or other implements; or

"That the said defendant on or about January 13, 1998, did kill and murder Sergeant George Sullivan, a human being, by lying in wait, in that the said defendant did watch, wait and conceal himself from Sergeant George Sullivan, with the intention of killing Sergeant George Sullivan, in that he hid and waited until Sergeant George Sullivan completed a traffic stop, then observed and

followed Sergeant George Sullivan to a location where he was alone and then ambushed Sergeant George Sullivan, inflicting mortal injuries to his person from which he died on January 13, 1998.

"Count II, robbery with the use of a deadly weapon, a violation of NRS 200.380 and NRS 193.165, a felony, in the manner following:

"That the said defendant on the 13th day of January A.D., 1998 or thereabout and before the filing of this Information, at and within the county of Washoe, state of Nevada, did willfully and unlawfully take personal property, to wit: a Glock .45 caliber handgun; Glock 'magazines'; a flashlight; and handcuffs from the person of Sergeant George Sullivan, at or near the information kiosk located at the University of Nevada, Reno campus, Washoe County, Nevada, against his will, and by means of force or violence to his person and with the use of a hatchet, and/or other implements, which the said defendant used to strike Sergeant George Sullivan repeatedly in the head and face, and/or other blunt force trauma inflicted to the head and upper torso.

"Count III, robbery with the use of a firearm, a violation of NRS 200.380 and NRS 193.165, a felony, in the manner following:

"That the said defendant on the 13th day of

January A.D., 1998 or thereabout and before the filing of this Information, at and within the county of Washoe, state of Nevada, did willfully and unlawfully take personal property, to wit: U.S. currency from the person of Patricia Misito, the clerk at the 7-11 store located at 710 Baring Boulevard, Washoe County, Nevada, against her will, and by means of force or violence or fear of immediate or future injury to her person and with the use of a large caliber handgun which the said defendant displayed to the victim and demanded money.

"Count IV, robbery with the use of a firearm, a violation of NRS 200.380 and NRS 193.165, a felony, in the manner following:

"That the said defendant on the 13th day of January A.D., 1998 or thereabout and before the filing of this Information, at and within the county of Washoe, state of Nevada, did willfully and unlawfully take personal property, to wit: U.S. currency from Diana Lynn Shouse, the clerk at said establishment, at the Jackson Food Mart located at 2595 Clearacre Lane, Washoe County, Nevada, against her will, and by means of force or violence or fear of immediate or future injury to her person and with the use of a large caliber handgun which the said defendant displayed to the victim and demanded money.

"Count V, grand larceny, a violation of NRS

205.220, a felony, in the manner following: 2 "That the said defendant on the 13th day of January A.D., 1998, or thereabout, and before the filing of 3 4 this Information, at and within the county of Washoe, state of Nevada, did willfully and unlawfully steal, take and 5 drive away the personal property of Louis D. Hill, to wit: 6 7 a certain black, four door, 1993, Toyota Camry bearing Nevada license plate 029 HPY, with the intent then and there 8 9 to permanently deprive the owner thereof. 10 "All of which is contrary to the form of the statute in such case made and provided, and against the 11 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 The law allows the State to go first. 22 Mr. Gammick. 23 MR. GAMMICK: If it please the Court, counsel, ladies and gentlemen of the jury: 24 25 During the course of this trial we will prove

to you that Siaosi Vanisi, this man sitting right here, murdered Sergeant George Sullivan of the University of Nevada, Reno, Police Department on January 13th, 1998, one year ago today. We will also prove to you that Siaosi Vanisi robbed Sergeant Sullivan and Siaosi Vanisi robbed the 7-11 in Sparks that night, still on the 13th; that that night he also robbed another store in north Reno and that he stole a car and fled this jurisdiction to go to Utah.

Let's talk about some of the things you will see during this trial. First of all, let's set the scene. This is an overhead photograph of the university campus. You will hear evidence that Sergeant George Sullivan, on Monday night, January 12th, 1998, reported for duty as he had for 19 years as a police officer. He started his shift at 11:00 p.m. that night, which you may see in some reports as 2300. Law enforcement does use military time.

He started his shift that night with Officer Carl Smith, also of the University of Nevada, Reno, Police Department.

Quiet night. Not much going on. The campus on winter break.

Sometime about 0017, which would be 17 minutes after midnight, Sergeant Sullivan called in that he was stopping to talk to some people in this area of Ninth and Center just south of the university campus. Officer Smith

covered him.

While Officer Smith was going to that location, he made a turn right here at Ninth and Center. At that time he saw another individual standing next to a tree. That individual was described as a large man with long dark hair, with facial hair, wearing a coat. This individual looked at Officer Smith in a manner that he will describe for you.

Officer Smith remembered that individual because he stood out to him. What you will also hear is just a little earlier, shortly after midnight, an individual matching the same description was seen by another person in the parking lot just south of Lawlor Events Center. That person also caught the witness's attention, and I'll let her describe why.

She was there to pick up her father who works at the university. After she picked up her father, she came back down Virginia Street and again saw that same person. He was located in the area right here close to Manzanita Lake. This is Manzanita Lake at the University of Nevada. He was walking in a southbound direction. That was approximately three or four minutes before Officer Smith saw him here.

At 0025, eight minutes later after Sergeant Sullivan had made this stop, he advised dispatch he was done talking to the people who are named Wood.

23 .

Sergeant Sullivan went from this location to this location, which is up by the information kiosk just north of Ninth and Center on the university campus. An area used by police officers all the time from UNR to go up and write reports and do what they need to do because it's well lit at night.

Officer Smith hung around the area for a few minutes, and he left and went elsewhere on campus. While this is going on, at approximately 20 minutes to 1:00 that morning, we have another student at UNR who is in the area of Seventh and Wells. He walks back to UNR. He goes to the area of Ninth and Center. He goes up the stairs that lead up that hill to the campus.

As he's approaching the kiosk, he sees a police car sitting there. He sees an officer on the ground, and he believes that there is some type of problem with the car because he sees a large pool of fluid.

As he gets closer, he realizes that that pool of fluid is blood and that the officer is injured. That student, Mr. Andrew Ciocca, leaves that scene as soon as he checks the officer and sees he is hurt bad, goes right next door in that same immediate area and makes a 911 telephone call to dispatch. He advises them they have a police officer down.

Officer Smith, who was up in this area of the

campus, is notified of the problem, and he starts responding to that scene, as do a lot of other Reno Police Department officers.

They get to the scene. Mr. Ciocca, right after he makes the phone call, goes back, rolls the officer over, checks him, says he's still warm, but he does not find any signs of life.

Officer Smith arrives at the scene. He checks. He first reports that Sergeant Sullivan is found and he's been shot, due to the damage that was done.

Mr. Ciocca, while Mr. Smith -- right before Officer Smith got there, he gets on the radio and says that it is Sullivan.

Reno Police Department officers are responding. They start sealing off this entire area, and the manhunt is on.

Let me digress here just a moment to explain to you why we're here this morning, why we're doing what we're doing now. If this was perfect, we could put a trial on for you as it should go. We would start with item number 1, witness number 1, and proceed right through chronologically. That won't happen that way due to illness, putting witnesses on, their schedules when we can get people in.

This is kind of like a road map. The opening statement is to tell you what the evidence is going to be

showing you so you can put it in perspective and see where various things go. When we're done with the trial, then we will do closing and tell you exactly where everything fit.

It may get a little confusing because you will hear the reference made Monday night and Tuesday night and these different nights. Please keep in mind that all of the charged crimes occurred on Tuesday, January 13th, 1998, starting just after midnight and going til approximately 11:15 that night. It is almost a 24-hour crime spree.

The manhunt is on. At this time one year ago, no one knew who did this that was involved with law enforcement.

You will hear evidence about how a phone call was made Tuesday evening, how a report was made to Secret Witness, and the investigation started focusing. The suspect was identified. Information was put out to the media and broadcast. You'll see what was put out to the media as far as a drawing of a person who was seen at the scene. You will also see photographs that were used.

Once that information hit the media, then we wind up with an armed robbery at the 7-11 on Baring next to the YMCA. There is another armed robbery up close to the area of where U.S. 395 and McCarran join each other.

You'll hear witnesses testify that this is the man that committed those two armed robberies.

And listen for something else because there is a link here. He was armed with a semiautomatic Glock handgun. The same gun that was taken off the body of Sergeant George Sullivan, along with the rest of his pistol belt and his equipment that was ripped from his body.

You'll see the belt buckle laying in the pool of blood.

That equipment was recovered. After the robberies there's an arrest warrant requested and a nationwide broadcast that we're looking for this individual. Salt Lake City, Utah, notifies law enforcement agencies here that they believe they have him there. After a standoff with the police there, Defendant Vanisi was taken into custody.

You are going to see some different people during the course of this trial. One of them is Vainga Kinikini, cousin to Siaosi Vanisi. He lives in Salt Lake City; Texas. Has quite a colorful history. He is a convicted felon. And he knows a lot about street life.

He will give you a blow-by-blow description of what happened between 0025 and 0057 when Mr. Ciocca made his call to 911. Listen to the detail. Watch the descriptions of the person involved in this. Look at the various things that are done.

You will find that Mr. Vanisi came to Reno wanting to kill a cop. He said that several times.

Listen to the witnesses. You will find that Mr. Vanisi purchased a hatchet from Wal-Mart for \$7 and took it with him, to even include a dance, and was swinging this hatchet around, again making statements about wanting to kill a cop.

Listen to the evidence, and you make a decision who this individual was that was on campus and close to campus and watching Sergeant Sullivan just minutes prior to his death. You will also hear evidence that Mr. Vanisi, after the killing, had the gun and made statements about having killed a cop.

I don't want to get into want Vainga Kinikini is going to tell you because, as I said, he will give you a lot of detail, direct from the mouth of Mr. Vanisi.

Ladies and gentlemen, you need to pay attention. There are a lot of small details in this case that will come together. The defendant wearing a wig to change his appearance. Listen to how that tracks because the way it was found after he discarded it.

Listen to the weapon belt and the other equipment that belonged to Sergeant Sullivan and how it tracks. The gun of Sergeant Sullivan was recovered in Salt Lake City from the house where Mr. Vanisi was arrested.

Again, listen to all this detail. His clothing 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 you have seen this entire case, return to this courtroom 3 with a verdict of guilty of first degree murder, guilty of 4 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? 17 MR. BOSLER: Your Honor, the record should 12 reflect the District Attorney was pointing and approaching the defense table and raising his voice for the last portion 13 14 of his argument, just for the record. You are not going do 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? 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 attention to details, being careful, being fair, all things 25

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that we have promised to do. What I want to do is first do this. Can everybody see those pictures at all?

The first thing I guess I need to do is explain to you. You have heard Siaosi Vanisi, also known as George, also known as Pe. I need to probably give you a little explanation about that.

Siaosi Vanisi, that's his Tongan name. happens is that he was cared for by an aunt. Siaosi, George is Siaosi in English. The name George. Tafuna was the aunt's name. He took that name when he went to school in San Bruno, California. He went to high school.

Pe, the other name that you have and you have heard mentioned in the Information, Pe means baby in Tongan. So those are the reasons that there are three names listed on that Information.

These high school photos, typical in every high school yearbook. What you are going to hear is that in high school, his high school friend is going to come up, and you will hear good student, good athlete. In fact, you are going to hear in their high school, Cappuchino High School in San Brune, there is a Tongan community, there is a white Caucasian community.

You are going to hear that if there was problems between those communities, there was a person who was a peace maker between those two groups.

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George Tafuna, the person reflected in that yearbook photo. Again, George Tafuna is Siaosi Vanisi. Just like an assumed name, to stay with the aunt. George and Siaosi are the same things.

Why is that important? Well, I guess we all have to wonder, how does this person end up sitting in a chair in a courtroom in another city defending himself of an accusation of first degree murder and in fact ultimately fighting for his life?

Ladies and gentlemen, you are going to hear other things.

MR. GAMMICK: Excuse me, Your Honor. I object to this comment at this stage of the proceedings.

MR. BOSLER: I'll move on, Your Honor.

THE COURT: Go ahead. Thank you.

MR. BOSLER: What we're going to have to — the questions we have to answer are how does a person come to be accused of killing a UNR police officer.

You are going to hear some information both through the State's case and through the witnesses we are going to put up.

There is another person, another person who worked at UNR. There is another person who is a boyfriend of one of Mr. Vanisi's relatives. That person was interviewed by the police.

That person, the evidence and circumstances will show that that person, through 80 pages of transcript while they are talking to the police, isn't truthful. When that person becomes ultimately truthful, that person admits, Well, if you check that gun, the Glock that is mentioned, you might find my fingerprints on it, too.

In fact, that person is going to admit that he was out to kill a police officer, and he might have said that to some people. But he doesn't really mean it now, that he wants to back off that statement.

why is that important? Because this case, you are going to have to answer a question to yourself, how does this person come to be accused of this crime? From what you know about him, how does he become accused of this crime?

The Reno police detectives will tell you he thinks there is another person involved. You are going to hear that during the robberies, the witnesses to the robberies are going to say that they believe they see another person in the car. It isn't just Mr. Vanisi there.

Ladies and gentlemen, we're not going to offer a defense to those robberies. But the bigger issue and the issue that we need to talk about is knowing that the State is going to present this evidence and knowing that there is another person. Can we all be fair when we consider the evidence and not make some decision before we hear what

every witness has to say?

All I can do is ask you to be fair and consider some of these details before you decide how did this person got to sit in that chair and have to do what's happening now. All I can do is ask you to be fair. Thank you.

Thank you, Your Honor.

THE COURT: Thank you. Well, ladies and gentlemen of the jury, I told the State to bring their witnesses for after lunch. I didn't know how long opening statements would take.

So it looks like we're back on schedule, and we're going to be doing the rest of the day on our regular schedule. So I'm going to let you go to lunch now, ask that you return at 1:30 p.m. cr a few minutes before so we can actually start at 1:30.

During this recess, I ask that you remember the admonition I'm going to be giving you at all breaks.

Counsel, I ask that you return at 1:15.

See the jury back and be ready to go to court by 1:30, but I want counsel here at 1:15.

Ladies and gentlemen of the jury, during this break, you are reminded by me and admonished by me that it is your duty not to discuss among yourselves or with anybody else any matter having to do with this case. It is your further duty not to form or express any opinion regarding

the guilt or innocence of the defendant until the case has been finally submitted to you for decision.

You are not to read, look at or listen to any news media accounts relating to this case should there be any. You should not allow anyone to attempt to influence you with regard to this case or discuss it with you in any manner. If anyone should attempt to influence you with regard to it, in any way, advise the bailiff as soon as you return to court, who in turn will advise the Court.

Ladies and gentlemen of the jury, we are in recess. Please go with the bailiff.

Court is in recess.

(Recess taken at 11:56 a.m.)

1	RENO, NEVADA, WEDNESDAY, JANUARY 13, 1999, 1:32 P.M.			
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4	(Whereupon, the following proceedings were held			
5	in open court, in the presence of the jury.)			
6	THE COURT: Counsel, can you stipulate to the			
7	presence of the jury?			
8	MR. GAMMICK: Yes, Your Honor.			
9	MR. BOSLER: Yes, Your Honor.			
10	THE COURT: You may proceed. Call your first			
11	witness.			
12	MR. GAMMICK: Your Honor, the State would call			
13	Brenda Martinez.			
14	BRENDA MARTINEZ			
7.4	Brenda Martinez			
15	BRENDA MARTINEZ  called as a witness on behalf of the Plaintiff,			
15	called as a witness on behalf of the Plaintiff,			
15 16	called as a witness on behalf of the Plaintiff, having been first duly sworn,			
15 16 17	called as a witness on behalf of the Plaintiff,  having been first duly sworn,  was examined and testified as follows:			
15 16 17 18	called as a witness on behalf of the Plaintiff,  having been first duly sworn,  was examined and testified as follows:  DIRECT EXAMINATION			
15 16 17 18 19	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:			
15 16 17 18 19 20	called as a witness on behalf of the Plaintiff,			
15 16 17 18 19 20 21	called as a witness on behalf of the Plaintiff,			
15 16 17 18 19 20 21 22 23 24	called as a witness on behalf of the Plaintiff,			
15 16 17 18 19 20 21 22 23	called as a witness on behalf of the Plaintiff,			

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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			
ļ	SIERRA NEVADA REPORTERS (702) 329-6560			

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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	Λ 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	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				
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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?				
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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	the <b>re</b> .			
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			
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	336			
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.			
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## IN THE SUPREME COURT OF THE STATE OF NEVADA

\* \* \* \* \* \* \* \* \* \*

SIAOSI VANISI,

Appellant,

No. 65774

Electronically Filed Jan 14 2015 12:24 p.m. Tracie K. Lindeman Clerk of Supreme Court

vs.

RENEE BAKER, WARDEN, and CATHERINE CORTEZ MASTO, ATTORNEY GENERAL FOR THE STATE OF NEVADA,

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Respondents.

## APPELLANT'S APPENDIX

Appeal from Order Denying Petition for Writ of Habeas Corpus (Post-Conviction)

Second Judicial District Court, Washoe County

RENE L. VALLADARES Federal Public Defender

TIFFANI D. HURST Assistant Federal Public Defender Nevada State Bar No. 11027C 411 E. Bonneville, Suite 250 Las Vegas, Nevada 89101 (702) 388-6577 danielle\_hurst@fd.org

Attorneys for Appellant

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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:

Terrence P. McCarthy Washoe County District Attorney tmccarth@da.washoecounty.us

> Felicia Darensbourg An employee of the Federal Public Defender's Office

The very back row and I'll work my way forward. Yes, Miss Guiler.

A PROSPECTIVE JUROR: My husband and I own a business. It's Drive Safe Driving School, and it's dealing with the DMV and the MADD association, Mothers Against Drunk Driving, that type of thing. So we do teach young people the laws of the road and the rules of the road.

MR. BOSLER: Not that I would know this, but is that where you go and get the merits off your record?

A PROSPECTIVE JUROR: No. This is teaching young people how to drive.

MR. BOSLER: How do people get referred to this group?

A PROSPECTIVE JUROR: It's not really a group. It's just — basically it's a business that we're selling the classroom education and the driver education for a young person under 18 to learn how to drive and teaching them the rules of the road and to respect the police authority.

MR. BOSLER: The reason I asked is I would think you get your license at 16. So if you are kind of getting them at 18, is it people who have already been tagged as problem drivers or people with problems?

A PROSPECTIVE JUROR: No, not anymore. The law was passed October 1st, the NRS 285, 283 was passed that no one under 18 can get their driver's license unless they go

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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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MR. BOSLER: Yes.

A PROSPECTIVE JUROR: Three or four.

MR. BOSLER: Close friends that you bring over for dinner, go out for a drink with them?

A PROSPECTIVE JUROR: A couple of them I bring over for dinner. Others are just casual acquaintances.

MR. BOSLER: Knowing that you have -- are these local law enforcement officers or are these officers local people?

A PROSPECTIVE JUROR: Yes.

MR. BOSLER: Reno Police Department?

A PROSPECTIVE JUROR: Sparks Police Department.

THE COURT: I think he told us their names

earlier.

A PROSPECTIVE JUROR: One of the Washoe County court bailiffs is a very good friend of my son's.

MR. BOSLER: And I would imagine you have had opportunities to talk to these officers about these circumstances that bring you into court today?

A PROSPECTIVE JUROR: Not this particular case, no. I haven't talked about that to any of them.

MR. BOSLER: Knowing that these people are police officers, do you think you have some obligation or how would you feel if you had to sit here as a juror and eventually I would imagine you'd see these people again?

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Do you feel that they, the fact that they are your friends and you talk to them, you kind of have to take into consideration that friendship when you make your decisions?

A PROSPECTIVE JUROR: I don't think it would have any bearing on our friendship, no. No matter what, how I voted in a --

MR. BOSLER: Do you think that separation is easy or hard for you?

A PROSPECTIVE JUROR: It would be relatively easy. The past few years we haven't been that close. still see them occasionally.

> MR. BOSLER: I appreciate that information. Yes.

A PROSPECTIVE JUROR: I'm also a member of the

MR. BOSLER: Same questions. Does that relationship or that organization's activities bring you into contact with law enforcement officers?

A PROSPECTIVE JUROR: No, it doesn't.

MR. BOSLER: You indicated you had formed an We have kind of gone over this a few times. opinion is? The magic question, that opinion is?

A PROSPECTIVE JUROR: I have done a lot of soul searching here in the last 24 hours, and I believe I have a

strong opinion about this case, and I have been really looking at this level-headed, and I believe I could look at the evidence in a fair fashion. But I do have to tell you folks that I do have a strong opinion of this case.

MR. BOSLER: With that opinion in mind, do you think you are the type of person that should be sitting on this jury?

A PROSPECTIVE JUROR: Right now, to be honest with you, I'm borderline. I'm on the opposite end of the spectrum. I think that I would have to see innocence proven to me. That's exactly where I stand right now.

MR. BOSLER: I appreciate your honesty. Again there is no wrong answer. Has that changed since yesterday? You said in the last 24 hours.

A PROSPECTIVE JUROR: You know, in retrospect from yesterday, it has changed a little bit. I have a little bit more time to think about it. I got hit with a lot of questions.

Basically all I really wanted to get across to you people is that what I just told you, how I feel inside, and I don't know if that makes a good juror or a bad juror, to be honest with you.

MR. BOSLER: We'll get back to that. I still -- it's not clear to me. Have you -- has your opinion become stronger over the last 24 hours or have you been able

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to back off of it a little bit?

A PROSPECTIVE JUROR: No, I had the opinion yesterday. I guess I probably didn't know how to express it in the way the questions were.

MR. BOSLER: So it is the same? You can just express it now?

A PROSPECTIVE JUROR: I just told you how I feel.

MR. BOSLER: Thank you. Going down the line, second row? Third row? Any groups, organizations related to law enforcement, anything like that?

Fourth row? Front row?

Mr. Thomas, Sheriff's search and rescue? Other organizations that are ancillary to that or related to that?

A PROSPECTIVE JUROR: Not having anything to do with law enforcement.

MR. BOSLER: If you could, I had a friend when I was a kid whose father was in search and rescue. You wear uniforms; right, search and rescue uniforms?

A PROSPECTIVE JUROR: We have a uniform, but I'm air squadron. We spend our time in the aircraft. We're not held to wearing a formal uniform.

MR. BOSLER: Flight gear, something like that; right?

A PROSPECTIVE JUROR: Yeah.

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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				
5	acquire.				
6	MR. BOSLER: Do you buy it from the Sherif				
7	Department?				
8	A PROSPECTIVE JUROR: Yes. Well, the unif				
9	company here in town.				
10	MR. BOSLER: And does the Sheriff's Depart				
11	tell you what uniform you are supposed to buy to meet t				
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				
15	search and rescue stuff?				
16	A PROSPECTIVE JUROR: We're not peace offi				
17	as it were. We're strictly search. We're actually not				
18	rescue.				
19	MR. BOSLER: You just kind of do the spott				
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 y				
24	ability to fly an airplane?				
25	A PROSPECTIVE JUROR: I like flying, and t				
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pplied by the s something that we from the Sheriff's Well, the uniform Sheriff's Department to buy to meet the d rescue? a gun as part of that e not peace officers 're actually not even of do the spotting, it that, anything, er than I guess your ike flying, and that

gives you a good reason to go out and do it.

MR. BOSLER: Do they pay you money?

A PROSPECTIVE JUROR: Reimbursement for costs.

MR. BOSLER: Gasoline, stuff like that?

A PROSPECTIVE JUROR: Yes.

MR. BOSLER: That comes from which department; do you know? Does it come from the Sheriff's Department or the County, the City?

A PROSPECTIVE JUROR: The County.

MR. BOSLER: I know it is kind of popular. How many people in the jury find themselves kind of watching TV and watching programs like "911," "Police Dispatch," "Unsolved Mysteries," "Top Cops," "America's Most Wanted"? Fox carries most of them, if I'm not mistaken. Anybody admit to watching those types of programs?

If you could, I'll try to keep track of these people.

Miss Denton, I'll come back to you. Apologize. This may take a little time. Miss Denton, which of those programs do you find most — that draws your attention the most or you find yourself watching the most?

A PROSPECTIVE JUROR: Probably the rescue programs on the learning channel and like Fox or whatever, "911."

MR. BOSLER: Any particular reason you prefer SIERRA NEVADA REPORTERS (702) 329-6560

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watching those programs as opposed to something on PBS, or whatever, another channel?

A PROSPECTIVE JUROR: Action packed.

MR. BOSLER: Action packed? How often do you find yourself in that time slot turning to the search and rescue stuff as opposed to the local news or ESPN?

A PROSPECTIVE JUROR: If we are not watching a movie, we just flip through the channels and see what's on.

MR. BOSLER: So of all the like variety type entertainment things, that's probably the one you watch more often than -- I can't think of any other sitcom names -- "Seinfeld," something like that?

A PROSPECTIVE JUROR: Yeah. We watch that.

MR. BOSLER: Miss Guiler.

A PROSPECTIVE JUROR: Guiler. In the past I have watched "America's Most Wanted" and there was a man that came in our shop that they caught. And --

MR. BOSLER: He was on "America's Most Wanted"?

A PROSPECTIVE JUROR: He was on "America's Most Wanted." He was the one with the spider on his hand.

Anyway, he was caught. But now we have our grandson a lot, we don't watch things like that. We mostly watch 45 or 36 or 37.

MR. BOSLER: When this person was caught, were you actually in the shop at the same time? Did you make the

1 phone c

phone call for the reward?

A PROSPECTIVE JUROR: I made the phone call. It was a Saturday afternoon. He stayed in the shop with his niece and nephew for several hours. He kept buying things. And I noticed the tattoo on his hand. And so that night they happened to air that particular one, and I picked it up.

MR. BOSLER: Were you part of any television program or anything like that? Did they interview you?

A PROSPECTIVE JUROR: No, no.

MR. BOSLER: Just anonymous tip, I guess? Did you make an anonymous tip?

A PROSPECTIVE JUROR: Yes.

MR. BOSLER: Enjoy reward money or anything like that, personal satisfaction to know that you helped to some extent?

A PROSPECTIVE JUROR: No. I just felt, I don't know, there was an air about the man that was different than most customers, and so when he aired, it was like he was — I knew there was something wrong with him, is basically what I said to my husband. I had told him that there is something wrong with this guy. I don't know if he is going to rob us or what, but there is just something wrong with this man.

MR. BOSLER: Air, you are talking A-I-R, like SIERRA NEVADA REPORTERS (702) 329-6560

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aura, energy	about	him?
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A PROSPECTIVE JUROR: Uh-huh.

MR. BOSLER: Do you see energy about any of us in the courtroom?

A PROSPECTIVE JUROR: No.

MR. BOSLER: Just checking. If I could go down the line.

Yes, Mr. Sotero, please. What show do you find yourself watching?

A PROSPECTIVE JUROR: I enjoy the real life, the cop shows. I enjoy the sci-fi. I enjoy news and a good movie.

MR. BOSLER: We all enjoy a good movie. Is it "Real Life" or "Real Cops," something like that?

A PROSPECTIVE JUROR: Yeah. The cop shows, whatever it is. I don't remember the exact name. There are several.

MR. BOSLER: Any reason you find yourself sitting for half hour, 20 minutes, watching that show instead of going to the Nature Channel we all should be watching or educational channels? No?

A PROSPECTIVE JUROR: Yes, I watch those also.

MR. BOSLER: I guess there is a general feeling that when you watch "America's Most Wanted" and someone gets caught, we generally feel that good things happen, or Clint

please.

Eastwood movies, Charles Bronson movies. Do you find yourself kind of engaging in that same type of whether it is catharsis or whatever, the bad guy got his due?

A PROSPECTIVE JUROR: Yes.

MR. BOSLER: Taking those feelings into consideration, how does that make you feel about sitting in a criminal case where you have to make -- this is one of the most profound decisions I think any person would have to make in life, someone lives or dies?

A PROSPECTIVE JUROR: It is going to be tough. But it's my duty, is it not?

MR. BOSLER: With that in mind, I can't tell you what your duty is. I mean, we take oaths, and we are all humans. We have human qualities that may transcend things.

Do you think you are the type of person who should be sitting on a case like this when someone's life is at stake and you are going to have to make that profound decision?

A PROSPECTIVE JUROR: Well, I feel I can do the job as well as anyone else.

MR. BOSLER: All right. I appreciate that.

THE COURT: Mr. Bosler, Mr. Stanton, approach,

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

THE COURT: You are going further than I anticipated. You requested to ask them if they did this and how often, not --

MR. BOSLER: You said follow-up questions.

THE COURT: I guess what I'm saying now is the choice that you are making for follow-up is too broad, and I'm not comfortable with it. The depth that you are going into with these people's lives.

I think it is appropriate if you want to ask the question if they watch these shows and how often they watch the shows. But talking about whether they should be watching the Nature Channel or, you know, whether it's good to watch movies, all of that, we kind of really have to tighten up on your question.

MR. BOSLER: I was trying to maybe cover two things about the fairness because I'm going to have to cover that at some point and just working -- I'll come back to that later.

THE COURT: It is fine with me if the follow-up is, Can you be fair, but let's not --

MR. BOSLER: All right.

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

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MR. BOSLER: If I could, thank you for your response, Mr. Sotero.

The next person. Mr. Adamson, what show do you find yourself watching?

A PROSPECTIVE JUROR: I have seen several shows over the years. I don't generally watch all of them week after week, but I like to watch the cop shows on occasion and some of the — those he was speaking of, over the sitcoms, which are totally ridiculous. So I watch those kind of shows all my life. "Dragnet," going back to "Dragnet," highway patrol.

MR. BOSLER: "FB1" was one. Do you find yourself watching -- is there like a Tuesday night where you say, I got to go home because this crime show is on?

A PROSPECTIVE JUROR: No. I have no schedule.

MR. BOSLER: Nothing regular like that?

A PROSPECTIVE JUROR: No.

MR. BOSLER: Miss Springer, if you could, which show do you find yourself watching?

A PROSPECTIVE JUROR: "America's Most Wanted" and all of the ones they have mentioned once in a while.

MR. BOSLER: Fox lineup pretty much?

A PROSPECTIVE JUROR: Yeah.

MR. BOSLER: Do you find yourself watching those regularly or an occasional thing?

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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?
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	422
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
<b>1</b> 7	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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	423
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.

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?
14 15	a horse? A PROSPECTIVE JUROR: Yes.
15	A PROSPECTIVE JUROR: Yes.
15 16	A PROSPECTIVE JUROR: Yes.  MR. BOSLER: You live in the city of Reno?
15 16 17	A PROSPECTIVE JUROR: Yes.  MR. BOSLER: You live in the city of Reno?  A PROSPECTIVE JUROR: Lemmon Valley.
15 16 17 18	A PROSPECTIVE JUROR: Yes.  MR. BOSLER: You live in the city of Reno?  A PROSPECTIVE JUROR: Lemmon Valley.  MR. BOSLER: And how long have you had the
15 16 17 18 19	A PROSPECTIVE JUROR: Yes.  MR. BOSLER: You live in the city of Reno?  A PROSPECTIVE JUROR: Lemmon Valley.  MR. BOSLER: And how long have you had the horse, if you don't mind my asking?
15 16 17 18 19 20	A PROSPECTIVE JUROR: Yes.  MR. BOSLER: You live in the city of Reno?  A PROSPECTIVE JUROR: Lemmon Valley.  MR. BOSLER: And how long have you had the horse, if you don't mind my asking?  MR. STANTON: Your Honor, I would object at
15 16 17 18 19 20 21	A PROSPECTIVE JUROR: Yes.  MR. BOSLER: You live in the city of Reno?  A PROSPECTIVE JUROR: Lemmon Valley.  MR. BOSLER: And how long have you had the horse, if you don't mind my asking?  MR. STANTON: Your Honor, I would object at this point.
15 16 17 18 19 20 21 22	A PROSPECTIVE JUROR: Yes.  MR. BOSLER: You live in the city of Reno?  A PROSPECTIVE JUROR: Lemmon Valley.  MR. BOSLER: And how long have you had the horse, if you don't mind my asking?  MR. STANTON: Your Honor, I would object at this point.  THE COURT: I'm going to sustain it. I don't
15 16 17 18 19 20 21 22 23	A PROSPECTIVE JUROR: Yes.  MR. BOSLER: You live in the city of Reno?  A PROSPECTIVE JUROR: Lemmon Valley.  MR. BOSLER: And how long have you had the horse, if you don't mind my asking?  MR. STANTON: Your Honor, I would object at this point.  THE COURT: I'm going to sustain it. I don't think it matters how long he's had the horse.

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A PROSPECTIVE JUROR: I watch most of them. Probably I watch "Law and Order" the most of any.

MR. BOSLER: Anything regular you watch?

A PROSPECTIVE JUROR: "Law and Order."

MR. BOSLER: Is that just a regular show you

like to watch?

A PROSPECTIVE JUROR: Yeah. It's kind of interesting.

MR. BOSLER: Enjoy the courtroom drama part of it?

A PROSPECTIVE JUROR: Yes, I do. Also the investigative part of it.

MR. BOSLER: If I could, do I have a lot of hands in the bottom area, too? Miss Lyman.

A PROSPECTIVE JUROR: I watch "America's Most Wanted," a lot of the different shows. As I stated yesterday, my husband and son are both in law enforcement. So my husband tends to watch them. Sometimes if I'm in there, I'll sit down and watch a little bit, but I don't watch them all the time.

MR. BOSLER: Something like a family activity?

A PROSPECTIVE JUROR: No, just happens to be he is into it. He likes to stay on top of things because he teaches crime intervention in the school district, so he stays on top of everything. So sometimes I'll watch it with

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him.					
	MR. BOSLER:	I apprec	ciate that.	Next?	Sir.
Mr. McCargar	r.				
	A PROSPECTI	VE JUROR:	I watch "	Cops" an	d
"America's D	Dumbest."				

MR. BOSLER: Do you watch "Dumbest Criminals" regularly? How often do those shows play per week?

A PROSPECTIVE JUROR: Once a week.

MR. BOSLER: Any particular reason you feel you are drawn to those programs?

A PROSPECTIVE JUROR: "America's Dumbest" is funny.

MR. BOSLER: Any other ones besides kind of humorous ones that you watch?

A PROSPECTIVE JUROR: No.

MR. BOSLER: No? Miss Frandsen?

A PROSPECTIVE JUROR: No.

MR. BOSLER: Mr. Jones? You had a knowing look about you. Do you have something to say?

A PROSPECTIVE JUROR: I watch "Ally McBeal."

MR. BOSLER: "Ally McBeal"? Hopefully we can keep up with them today. Anybody else? This row, second row, anybody find themselves regularly watching crime programs, police programs? Yes.

A PROSPECTIVE JUROR: I used to watch what was SIERRA NEVADA REPORTERS (702) 329-6560

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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
4	A PROSPECTIVE JUROR: I just wanted to
5	clear that I don't watch "America's Most Wanted" ev
6	like they were saying, you know. It's not a regula
7	I have caught the show a couple of times.
8	MR. BOSLER: Just kind of got lucky th
9	guy came into your store?
10	A PROSPECTIVE JUROR: One time I did w
11	on purpose, and it was when they had all the missin
12	children.
13	MR. BOSLER: I'm not familiar with the
14	A PROSPECTIVE JUROR: They had on ther
15	missing children that had been abducted throughout
16	certain time period. I don't know what time period
17	covered.
18	MR. BOSLER: So it is pretty rarely the
19	watch the show; would that be fair to say?
20	A PROSPECTIVE JUROR: Yes.
21	MR. BOSLER: If I could, I know severa
22	here have served on juries. Anybody ever been elec
23	foreperson of a jury of those people who had the pr
24	of giving jury service?
25	Anyone think that they possess qualit
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es. se in the front row? just wanted to make it Most Wanted" every week 's not a regular thing. imes. of got lucky that the ne time I did watch it all the missing miliar with the episode. hey had on there all the ted throughout the hat time period it retty rarely that you o say? es. d, I know several people y ever been elected e who had the privilege possess qualities that

either should disqualify them from being a juror, a foreperson, based upon all the questions that have been asked over the last two days? Your quality of stubbornness or whatever quality that may be? Does anybody feel they have that quality that isn't really fair for this type of case?

Miss Guiler.

A PROSPECTIVE JUROR: I feel inferior as to the law, and if I can understand the law, the way it should be presented or interpreted.

MR. BOSLER: Just kind of confusing the way the lawyers talk, judges talk?

A PROSPECTIVE JUROR: Uh-huh.

MR. BOSLER: Any other quality that you think disqualifies you from being a juror in this -- I'm really talking this specific case, a case where you have to decide guilt or innocence, and if it comes to a point, you will have to decide whether the person lives or dies? Any quality that is in you that says, Well, I'm not the person who should be making this decision?

A PROSPECTIVE JUROR: No, I can't really say that I could answer that at this point. Because I have never had that opportunity to make a decision like that.

MR. BOSLER: Do you feel confident you can, or are you just going to cross that bridge when you get to it

type sentiment?

A PROSPECTIVE JUROR: I feel I'm confident that I can make a decision. It's not hard for me to make decisions. Sometimes I make bad choices.

MR. BOSLER: I note the District Attorney asked you point blank, Can you sign the warrant of death, the verdict form?

Does anybody share her views that that is something I would do with reluctance as personal thoughts that have to go into that process before I affix my signature? Anybody have any -- I don't know what the word would be -- personal reservations about that?

Miss Imasaki.

A PROSPECTIVE JUROR: I think it would be difficult to do.

THE COURT: I know it's getting warm and it's hard to hear, but notice how I almost yell at everyone so everybody can hear me? So please try to speak up. It is hard for me to hear you, Miss Imasaki.

A PROSPECTIVE JUROR: It would be difficult but I would probably be able to do it if necessary.

MR. BOSLER: Do you think you are the type of person who could separate those emotions? Not that you have to separate them, I guess. I can't really say that. But those qualities taken into consideration, the type of person

who should sit on this type of jury? 1 A PROSPECTIVE JUROR: Yes. 2 MR. BOSLER: Anybody else have anything to say 3 about that? This is a pretty profound decision. Anybody 4 have any moral reservations about what's going on? 5 If I could, there is I guess some obvious 6 differences between the way I look and the way Mr. Vanisi 7 looks. He is Tongan. Anybody have any friends that are 8 Tongans? 9 The two in the back row. Let's start with Miss 10 Denton, if you could. 11 A PROSPECTIVE JUROR: I just went to high 12 school with quite a few at McQueen High School. 13 MR. BOSLER: Here locally? 14 A PROSPECTIVE JUROR: Yes. I don't keep in 15 But just know of them. Friends with them in high 16 That's it. 17 school. MR. BOSLER: Characterize them as close friends 18 when you were in high school? 19 A PROSPECTIVE JUROR: No. 20 MR. BOSLER: Ever invited to Tongan community 21 type things? Cookouts, things like that? 22 A PROSPECTIVE JUROR: Just parties. 23 MR. BOSLER: Parties where they were at or 24 parties that were thrown by Tongans? 25 SIERRA NEVADA REPORTERS (702) 329-6560

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A PROSPECTIVE JUROR: There was -- they all hung together, and had parties every Friday or Saturday night or whatever, and if you show up, you hang out with them.

MR. BOSLER: Anything about that experience that you think impacts upon your ability to sit as a juror today?

> A PROSPECTIVE JUROR: No.

MR. BOSLER: Next?

A PROSPECTIVE JUROR: I had a friend back in '87, and she moved away, and I don't even remember how to say her last name. It was a very difficult name. But her first name was Tua. She was from American Samoa.

She was a close friend. She named her sixth But since then we lost contact through the child after me. I haven't seen her.

MR. BOSLER: Anything -- do you know whether she was American Samoan or Tongan or other islander?

A PROSPECTIVE JUROR: I believe she was American Samoan.

I guess you must have had a close MR. BOSLER: relationship with her if she named her daughter.

A PROSPECTIVE JUROR: Yeah. We did a lot for the family, and I took her to the store because she didn't drive. We were just friends like that. I mean just

acquaintances. Not really that close. I was surprised when she named her baby girl after me.

MR. BOSLER: And top row, is there anybody else? Second row? Third row? Second row? Yes, sir.

A PROSPECTIVE JUROR: I stated before that when I was building my house, I'm not sure the person's name but I think his name was Sioni (phonetic), that was a contractor, the concrete contractor, and I do recognize the defendant as one of the crew members, I think. There is a resemblance.

MR. BOSLER: Was there other Tongans or people who appeared to be islanders helping you with the crews or just him?

A PROSPECTIVE JUROR: It was all Tongans.

MR. BOSLER: Did they come at your house to pour the foundation, something like that?

A PROSPECTIVE JUROR: No. They did the driveway concrete. They put up the forms and poured the concrete.

MR. BOSLER: Any problems?

A PROSPECTIVE JUROR: No, no problems.

MR. BOSLER: No problems with behavior, things

missing?

A PROSPECTIVE JUROR: No.

MR. BOSLER: Driveway still a good driveway?

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four years.

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A PROSPECTIVE JUROR: A couple little cracks.

MR. BOSLER: How long has it been there?

A PROSPECTIVE JUROR: Four years now. Going on

MR. BOSLER: Not too bad. Third row? Fourth row? Anybody else?

Miss Imasaki.

A PROSPECTIVE JUROR: I grew up with a number of people of Polynesian descent. I don't recall if they were necessarily Tongan or Samoan.

MR. BOSLER: The reason I ask that is to get to the next question. If you have had contact with islanders, Tongans, other minorities, some people say that there is still a certain amount of racism that exists in the United States. Some people say that it's pretty much all solved. We have gone through the racial struggle in the '50s and '60s, and now it is pretty much an equal field.

Anybody feel that they are in either of those camps, either there are a lot of racism that needs to be dealt with or it is a completely fair system right now?

Yes.

A PROSPECTIVE JUROR: I lived with an African American for a couple years, and before that I was involved with an American Indian as well. So I would say they have had their -- there is still racism out there.

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MR. BOSLER: Were you actually a witness to this while you were in this relationship?

A PROSPECTIVE JUROR: Yeah.

MR. BOSLER: Was it by people that you expected to be exhibiting racism?

A PROSPECTIVE JUROR: Just by people out in general public. Being out together, African American, we had to deal with some situations. Just from strangers, people out in public.

MR. BOSLER: Anybody that shares Miss Booth's idea about there is still a long ways to go? Miss Guiler again.

A PROSPECTIVE JUROR: With a G. My daughter was married to Guatemateco for seven years, and there were a lot of people in the States that were very much against that marriage. And they showed their prejudice towards them being married.

And I don't know if you realize it or not but in Central America, there is a caste system that people do look down on ones that marry people from --

MR. BOSLER: Outside the group?

A PROSPECTIVE JUROR: -- outside of their category basically, their money group.

MR. BOSLER: So you are talking about some 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.
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MR. BOSLER: And if you could share your parent's native country is?

A PROSPECTIVE JUROR: Mexico.

MR. BOSLER: Have you actually been a witness to open acts of racism?

A PROSPECTIVE JUROR: Many times.

MR. BOSLER: Locally?

A PROSPECTIVE JUROR: All my life, locally or not.

MR. BOSLER: Sorry to hear that. Anybody else? Miss Frandsen.

A PROSPECTIVE JUROR: I'm first generation

American. My mother came from Czechoslovakia, and my father came from Hungary, and I know that there is prejudice in the United States of America. But I'm not -- I just look at everyone the way they are. I don't make preconceived notions or feelings.

MR. BOSLER: I was going to ask you this question because you work at UNR; right?

A PROSPECTIVE JUROR: My husband passed away in June, worked for the system. He worked for the community college. He was on campus sometimes.

And I taught in the system until 1990, and that was teaching real estate, and it was in at Truckee Meadows

Community College. All my kids -- I shouldn't say all my

kids -- graduated from UNR.

MR. BOSLER: The reason I asked, I graduated from UNR. I know there is a Frandsen Humanities Building.

A PROSPECTIVE JUROR: There is Frandsen Humanities Building, and Dr. Frandsen unfortunately is not a relative.

MR. BOSLER: Sorry to hear that.

With that in mind, anybody else have any thoughts they'd like to share?

With that in mind, is there anybody thinks that people of a different ethnic background or race, people of color, deserve a separate legal system? Shall we have 12 or 16 white Caucasian people judging every minority, or should the systems be put together where people have to sit in judgment of other races?

THE COURT: I'm a little uncomfortable with the phraseology of that question because there are some issues that I'm concerned there may be a misunderstanding of that question. Can you -- I don't know. I was a little confused about where you are going. Can you rephrase that?

MR. BOSLER: I'll try. I don't know if I can.

Anybody thinks that there needs to be two separate systems when there are people of different ethnic backgrounds versus people of Caucasian backgrounds?

THE PROSPECTIVE JURORS: No.

MR. BOSLER: The Court talked a little bit about constitutional rights. If I could just touch on it briefly because I think she's covered most of it.

Anybody think that there needs to be — the system as it exists today, there is a presumption of innocence, there is a burden of proof placed on the State, the highest burden of proof of the law. Anybody think that that isn't a system that they think should be in place in the United States, there should be a different system?

And now is the time to talk. There is no right or wrong answer. I saw a slight nod of the head,

Mr. Damoth.

A PROSPECTIVE JUROR: I believe the system is fair and competent.

MR. BOSLER: Miss Guiler?

A PROSPECTIVE JUROR: I feel that people need to be able to express themselves and whichever that they believe, whichever their beliefs are as far as what is going on and their knowledge and their schooling and so forth.

But there are different people from different countries think differently than people in the United States. Their customs are different, so therefore, their upbringing and their thinking is different.

MR. BOSLER: Is that a thing that should be considered in the justice system or not?

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the system.

A PROSPECTIVE JUROR: Well, I think it should be considered in each, in everyone's -- every case is different. But a lot of times race has a lot to play in what people, how people react to things.

MR. BOSLER: Your Honor, I'm getting kind of warm. Is it possible to take a break at this point?

THE COURT: The court reporter and I kind of hit a pact that we are going to break at 2:30. through everything that you wanted to ask except for a few things?

MR. BOSLER: No. I actually have more specific questions. I have a couple more general questions.

THE COURT: Why don't you go ahead and get through whatever you can. We talked about taking a break at 2:30, maybe 20 to 3:00. So keeping in mind how long it takes us to move everybody in and out.

Mr. Stephenson -- no, Mr. Jones, did you have something?

A PROSPECTIVE JUROR: Were you finished with that question?

MR. BOSLER: Do you have a response?

A PROSPECTIVE JUROR: I have a comment on that. I defend our Constitution, and I believe in the theory of

However, I don't believe it always works.

MR. BOSLER: And why is that, if you could?

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1	A PROSPECTIVE JUROR: From my personal
ļ	experiences and just observations. I don't believe justice
2	
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,
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attorneys when they argue cases? Obviously the question 1 2 needs to be asked. A PROSPECTIVE JUROR: I think there's a lot of 3 showmanship. That's why I hold an impression of the whole 4 Whoever puts on the best show here, whoever can 5 operation. present the information, the evidence or whoever can 6 restrict it in some way. 7 MR. BOSLER: How is that going to affect --8 obviously you may have some life experiences that are 9 different from other jurors. How does that affect your 10 ability to sit here? 11 A PROSPECTIVE JUROR: I'll watch the show. 12 MR. BOSLER: So you are just here for the show? 13 A PROSPECTIVE JUROR: I'll see what you guys do 14 and make my decision. 15 MR. BOSLER: I wish I could say I was 16 comfortable with that. The judge talked to you at length 17 about instructions and things like that. 18 A PROSPECTIVE JUROR: Absolutely. I understand 19 that, yes. 20 MR. BOSLER: In your mind, that is part of the 21 22 show? A PROSPECTIVE JUROR: I hate to be cynical but 23 I am. 24

MR. BOSLER:

You are honest. That is all we

can ask for.

Anybody else have any follow-up questions to that? That is a pretty big subject area. No one has heard a lawyer joke, anything like that?

THE COURT: Everybody has heard a lawyer joke.

MR. BOSLER: I thought it was going to be

dishonest.

THE COURT: You certainly may ask if anybody has any feelings about attorneys that would impact their -- the case or the way it's presented. If anybody has those concerns, please tell Mr. Bosler about it.

MR. BOSLER: Along with these other constitutional rights, there is also a right that says that when you are charged with a crime, no one can force you to sit up at the witness stand for whatever reason because the law doesn't force you to do it, have to defend yourself. That is the presumption of innocence.

Anybody -- some people say that unless you take the stand, you have something to hide. Some people say that it's a choice you make through your lawyers. I can't put any weight on it.

Anybody feel that they are in one of those two camps? Anybody feel that they have to see Mr. Vanisi testify in order to even consider his innocence to this offense?

THE PROSPECTIVE JURORS: No.

MR. BOSLER: No positive responses? Does anybody think that there should be a rule that says everybody has to testify whether they are small witnesses, big witnesses? I want to see every witnesses before I can make a decision? Does anybody feel that that is the way the law should be?

THE PROSPECTIVE JURORS: No.

MR. BOSLER: The State again asked you individually whether you could sign your name to a death warrant. Does anybody feel that that's something they would gladly do at this point?

I know a lot of people have already expressed they have formed opinions about the case. This is an honest time. There is no right or wrong answer. Is that something that — something that anybody looks forward to at this point?

A PROSPECTIVE JUROR: I don't feel, from my viewpoints, I don't feel it's anything that anybody would want to do voluntarily. It's something that if you do get picked and you have to make that decision, then you have to do what you have to do. But it's not something that is enjoyable, pleasure.

MR. BOSLER: A decision that should be taken lightly?

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A	PROSPECTIVE	JUROR:	No,	sir,	not	at	all.

MR. BOSLER: Your Honor, at this time I have individual questions to ask. I don't know what the Court --

THE COURT: Go ahead.

MR. BOSLER: If I could, Mr. Adamson, you indicated that you had formed an opinion on this case?

A PROSPECTIVE JUROR: Well, yes, I did. I think a lot of jurors seem to have had the same comments. I think it's unfortunate that you can't pull from jurors that didn't have preformed opinions on this case. However, I told you, I did have an opinion going in, and I would be willing to look at all the evidence and weigh it and come up with a --

MR. BOSLER: You also indicated that on your questionnaire, that you are not sure you could be fair.

A PROSPECTIVE JUROR: That was the reason why. It preformed a guilt and innocence before you come to the trial. So I would like to -- I'd like to see all the evidence, of course, and then form an opinion based on that as well. All I'm basing this on is the media coverage, what I talked with a friend about a year ago.

MR. BOSLER: So the opinion that you formed you had formed over a year ago? Approximately a year ago?

A PROSPECTIVE JUROR: Yes.

MR. BOSLER: Is there anything that we have

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	said	that	has	taken	that	opinion	away	from	you?
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A PROSPECTIVE JUROR: Not at this point, no.

MR. BOSLER: So you are going to wait to see if your opinions match up at this point?

A PROSPECTIVE JUROR: I would have to weigh the evidence and see all the evidence. It is all based on media and from a year ago.

MR. BOSLER: The ultimate question is, if you were charged with a similar crime, would you be the person, would you want a person like you with a previously-formed-year-ago opinion sitting as a juror? Are you the type of person that can be fair in this case?

A PROSPECTIVE JUROR: I would rather not if it was me being charged.

MR. BOSLER: Do you think you could be fair in those circumstances?

A PROSPECTIVE JUROR: I think I can be fair. I would rather not have someone that had a preformed opinion if I was in trial personally.

MR. BOSLER: And I'm kind of confused. You don't want someone that has a preformed opinion but you would say right now you kind of had a preformed opinion?

A PROSPECTIVE JUROR: I had a year ago, like I told you. Coming into the trial, I said I think it is unfortunate you can't draw from a jury that doesn't come in

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with preformed opinions on guilt and innocence. that is unfortunate for the defendant.

I would weigh the evidence, like I said, and form an opinion based on the evidence.

MR. BOSLER: So there a point where you have lost that opinion, you had the opinion a year ago and sometime during the last year you lost it? In the court proceedings you lost it?

A PROSPECTIVE JUROR: We haven't looked at any evidence or anything to change my opinion.

MR. BOSLER: I thank you for your honesty.

Miss Springer, you also had the same remark that you had formed an opinion about the case.

A PROSPECTIVE JUROR: Yes, I have.

MR. BOSLER: Is that opinion based upon media, or have you talked to people about the case?

A PROSPECTIVE JUROR: Well, media from before and talking. I don't know Carolyn Sullivan, but she is a member of my church. So there was a lot of things going on But that was my opinion formed last year.

MR. BOSLER: And these things that happen in your church, do they benefit Miss Sullivan? I mean, are you involved in --

A PROSPECTIVE JUROR: I don't know her personally. They have four or five services at that church,

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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
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to say that I have made -- I made my mind up, I made this opinion and maybe I have expressed it, but I can clear my mind and be a fair juror when the judge says now is the time to be a fair juror?

A PROSPECTIVE JUROR: Well, you have to hear the evidence. I don't know if I can or not. All I can do is try.

MR. BOSLER: There is no assurance you can give to the Court or the parties you can actually put the opinion aside, you will just try your best?

A PROSPECTIVE JUROR: I have never had to do it before. So I can't honestly answer.

MR. BOSLER: Again, I appreciate your honesty.

Mr. Lafond, I notice that you had a particular event happen to you where you broke up a fight, I guess?

A PROSPECTIVE JUROR: Yes, sir. It was at the Nugget. The guy went crazy.

MR. BOSLER: The guy, I guess, I get the impression was wrestling with police officers?

A PROSPECTIVE JUROR: We were the security there. He grabbed one security officer, threw him into a machine, and if I hadn't been in there he probably would have got killed. The guy was really crazy.

So he put his hand in my mouth and starting biting on me and wouldn't let it go. Then I went over to

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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.
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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
1.4	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?
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And you checked the box yes.

A PROSPECTIVE JUROR: Yes, I did.

MR. BOSLER: But I don't think you put any explanation that says why.

A PROSPECTIVE JUROR: Well, for one thing, I haven't formed an opinion. I have heard relatively small amounts of the media coverage and things that have gone on since the incident happened.

MR. BOSLER: Any other qualities you think that you have that make you the type person who is a good juror in this case? Having not heard the evidence, of course.

A PROSPECTIVE JUROR: Well, I think I consider myself a fair person, able to give equal weight to two different situations.

MR. BOSLER: The State talked about the fact that you may be presented with pictures that are unpleasant at the least. Are you the type of person who could - not everybody is - are you the type of person who could look at that picture for evidentiary value and put that -- decide that is one more thing that goes into the decision-making process?

A PROSPECTIVE JUROR: I think I could, yes.

MR. BOSLER: Do you think that the presentation of those pictures would emotionally handicap your ability to think about the case?

would.

A PROSPECTIVE JUROR: No, I don't believe it

MR. BOSLER: Anybody --

A PROSPECTIVE JUROR: If I could explain --

MR. BOSLER: Please.

A PROSPECTIVE JUROR: -- why I feel this way.

MR. BOSLER: Please.

A PROSPECTIVE JUROR: I was raised in a farm, ranch environment and I started very young butchering livestock and things like that. So of course, a human being is considerably different. At this time I really don't know how I would react to seeing a human being in that condition, but I have done things, like I said.

MR. BOSLER: Wanting to be a juror, do you think it would be fair if you wanted to be a juror if you had the idea that once you look at these pictures, they would so handicap your ability to consider the other evidence that --

THE COURT: Mr. Bosler, he said that they wouldn't bother him. Why does it matter what he thinks about if it would bother him? I mean, he said he didn't have any concerns. I don't think you have to ask any more questions.

MR. BOSLER: Your Honor, what I'm trying to do is since he's been so honest and forthcoming, is to try to

see if I can ask questions of him that maybe some other jurors might have responses to.

THE COURT: We got an awful -- we got specific responses from Mr. Stanton's general question. If you wanted to ask another general question similar to Mr. Stanton's, you may do so.

MR. BOSLER: He didn't get any responses to his questions.

THE COURT: Yes, he did. He got four responses, and one person was actually excused. So if you think there's more, go ahead. But let's not explore it with this gentleman who says he has no problem.

MR. BOSLER: Mr. Berg, you indicated on your questionnaire -- and obviously everybody has read the questionnaires -- you could be a fair juror but -- and you had kind of a caveat, equivocation.

A PROSPECTIVE JUROR: Yeah. Well, because I had the -- preconceived the fact that I believe in the death penalty, and I believe that a lot of people have kind of slid through the cracks over the years on life in prison. They plea bargain their way out of some of these things.

That is why the but was there, because I didn't want to make the -- I'm involved in the jury, and I have a set value system. And then I go in there and we end up with a hung jury. I mean, after I have seen the evidence. I

mean, I can pretty much keep an open mind, but that's why I put the but in there, because I have that feeling about that. My own personal feeling.

MR. BOSLER: And again, I appreciate your candor. There is nothing wrong.

If you reached the point in the jury room where you thought that your personal ideas, value system conflicted with the law, how do you resolve that?

A PROSPECTIVE JUROR: Well, like the judge said, we have to follow her instructions, and if she said that is out of the ruling because of the evidence, then I have to go by what the judge tells me. She puts me in the alley that I have to go in. I can't go too lean, can't go too far. There is only one way down the middle.

MR. BOSLER: And I'm assuming in your opinion that you believe not all first degree murder cases are death penalty cases?

A PROSPECTIVE JUROR: Right.

MR. BOSLER: But you feel that maybe not enough of them are?

A PROSPECTIVE JUROR: I feel in some cases it is appropriate. You show me enough information that convicts this gentleman and that is -- then that's where I'm going to go.

MR. BOSLER: So it is really the evidence that SIERRA NEVADA REPORTERS (702) 329-6560

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is part of the conviction part rather than additional evidence that guides your decision? Someone could be really guilty of first degree murder as opposed to just guilty of first degree murder?

A PROSPECTIVE JUROR: Right.

MR. BOSLER: The court interrupted.

THE COURT: I thought he was through, and I thought we were going to take a break then when he was through. So I wasn't trying to stop his answers. I thought it was time to take a break.

So are you ready? Did you have any follow-up for Mr. Berg based on what he said?

MR. BOSLER: I'd be happy to let the jury have a break and come back to this. There is a few follow-up questions.

THE COURT: For Mr. Berg?

MR. BOSLER: Yes.

THE COURT: Why don't you finish up with him.

MR. BOSLER: Just again, I don't want to put you on the spot or make you nervous.

A PROSPECTIVE JUROR: You're not.

MR. BOSLER: I understand your answer to be, and please correct me if I'm wrong, that if you feel that enough evidence has been presented in the case and it is a murder case and you have reached that verdict of first

degree murder, that in your mind is the thing that says the death penalty should be imposed?

A PROSPECTIVE JUROR: Sure. I mean, that's what we're sitting here for, I thought. We're sitting here to -- you're giving us information about what happened, and if it goes that way, because that's why I wrote that down on there, because I do believe in that. So if some people's value systems are different. You have seen the people leave the courtroom already. They were upset by it.

THE COURT: Mr. Berg, there are two parts of the trial, though.

MR. BOSLER: Right.

THE COURT: There is the guilt or innocence part and then the penalty part.

A PROSPECTIVE JUROR: Right.

THE COURT: There will be additional evidence in your jury instructions before you determine penalty.

A PROSPECTIVE JUROR: Right.

THE COURT: Now, Mr. Bosler's question is, would you decide penalty based on the guilt or innocence, or would you reserve ruling until you heard the rest of the instructions and the penalty evidence?

A PROSPECTIVE JUROR: Well, I have to wait til the end, til you instructed us on what we could consider and what we could not consider.

THE COURT: Thank you. Did you want to ask more questions in that regard?

MR. BOSLER: On the general subject matter. Just follow-ups of your questions, Your Honor.

Mr. Berg, if I could, you indicated that in your opinion, some people have either gotten away or gotten lesser penalties than you think they deserve? Is that a fair statement?

A PROSPECTIVE JUROR: Well, I wasn't on the trial. So I can't -- I mean, I understand how some of these court systems work and to get them done with, they do their plea bargaining or whatever it is. And I wasn't there. So I can't say that.

I mean, I felt at the time that this person shouldn't have gotten off. But you know, I wasn't sitting on the jury, so I don't know all the information.

MR. BOSLER: Fair enough. Do you think that in your mind, since you have these ideas about the criminal justice system, is this your opportunity to correct the problem?

A PROSPECTIVE JUROR: No, I don't think so. I think we have a very good justice system. I think sometimes we overlook a few of the little things. But as a whole, we probably have the best system.

MR. BOSLER: And knowing that you have these SIERRA NEVADA REPORTERS (702) 329-6560

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ideas, I kind of get a conflict here. You say some people have maybe gotten -- have gotten what they deserved and the next sentence saying that you think we have a good system.

A PROSPECTIVE JUROR: No. I mean what I saw on You get two feelings. I mean, you see like for example, O.J. Simpson trial. You know, I mean, there is a lot of people that thought that he was guilty, and I was one, but I didn't hear all the information.

MR. BOSLER: Having those ideas about the O.J. case, do you think that having those ideas you are the person who should sit in judgment of another person and decide whether they live or die?

A PROSPECTIVE JUROR: I think I could be fair. I could listen to the information or to what's been given. I mean, maybe there was something that I didn't hear on the news. I didn't watch it every day.

THE COURT: We'll go ahead and take our break Ladies and gentlemen of the audience who are on our jury panel, you will be going with Miss Lopshire to Department 3. There will be restrooms available. You will remain in the courtroom, have a telephone, we'll make sure that is available to you.

Don't leave yet because I have to tell other people what they have to do, and it makes it very annoying.

Ladies and gentlemen of the jury in the jury

box, you will be going with Mrs. Davis. She will take you to Department 9. Again, there will be restrooms and a telephone available if you need it.

Ask that you remain with these officers of the court. You will be gone -- I don't know exactly how long you will be out of the courtroom. You may be out of the courtroom anywhere from 15 to 30 minutes.

Counsel, I want to see you back here in a little less than 15 minutes according to the clock. I want you here back at 3:00, just counsel, though, and we'll take up any matters we have to outside the presence of the jury panel before we bring the panels back from their individual courtrooms.

Miss Davis, raise your hand so everybody knows who is going with you. And Miss Lopshire, raise your hand.

We'll let Miss Lopshire's group leave the courtroom first. Court is in recess.

(Recess taken at 2:46 p.m.)

RENO, NEVADA, TUESDAY, JANUARY 12, 1999, 3:21 P.M.

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

THE COURT: We are convened outside the presence of the jury for the purpose of determining if there is any further requests with regard to the voir dire process from the defense.

MR. BOSLER: Your Honor, I have had an opportunity to go over the questions that we talked about this afternoon, and I appreciate the Court giving me an opportunity to complete the record. In regards to the alcohol and other issue that we were going to ask the Court for an in camera hearing, after consulting with counsel, Mr. Vanisi, we're not going to offer those subject matters to the jury at this point.

The only other thing I would like the Court to express to the jury, I think it may be a topic that needs to be addressed or that needs to be brought up with the jury, is the fact that they have options in death penalty cases. It isn't just life or death. They have the life with, life without is the other option.

What I want to do is ask people their opinions about life without because certainly if a juror says that

life without means six weeks and an early parole, that's going to impact their ability to judge the three options. Normally the judge says life without in Nevada means life without, life with is life with.

THE COURT: I'm required under the Sonner decision to give that instruction at the penalty phase. Is it really -- I don't see why it would really be necessary at this juncture of the voir dire.

Do you have a position, Mr. Stanton?

MR. STANTON: Well, I believe the Supreme Court has addressed that issue and has issued mandatory instructions now regarding what a jury is advised regarding punishments of life without and death. And that is the jury is to consider that those punishments will be carried out.

THE COURT: I have the Sonner instruction on the bench with me right now. But it's pretty lengthy, and it all deals with the potential penalties. I intend to give it at the penalty phase if we get to a penalty phase, but I don't see how my instructing them on that would tell us whether or not they'd automatically or not vote for the death penalty.

MR. BOSLER: I think it is just akin to the Weatherspoon analysis that we have, that there are opinions on whether they would ever vote for life without because they think it is meaningless. I think it is akin to the

same type of analysis we have already done, and that is my point.

THE COURT: Okay. Well, I understand your request, but I don't think it's necessary. So I'm going to deny your request to do it at this stage. You will get that instruction, however, absolutely at the penalty phase if we get to it.

MR. BOSLER: Your Honor, for the Court's education, I just wanted to finish up with specific areas of concern that were on questionnaires. Hopefully be able to wrap it up that way.

in chambers requested that we exercise peremptory challenges in a slightly different manner than is normally the case in cases in this district. Mr. Gammick and Mr. Specchio requested that they be allowed to utilize a master sheet provided by the court clerk that has boxes that say plaintiff 1 and defendant 1 through the challenges, and they wanted to exercise the peremptory challenges by marking the seat number of the juror and initialing it in the appropriate box and by passing this piece of paper back and forth. So it won't verbally be on the record.

Do I understand that correctly?

MR. STANTON: Yes. That's the request of the State. Although I would -- it may be unique for this Court,

2<del>9</del>  but it's been my experience that's how it's been handled in the Second Judicial District Court in cases like this.

THE COURT: I guess it's done somewhere else.
Mr. Specchio?

MR. SPECCHIO: Yes, Your Honor. I thought we were going to use names, but I guess we can use juror numbers.

THE COURT: Well, can you write small enough to fit that name in that box?

MR. SPECCHIO: I think the clerk advised me she was going to just make another one of these. We would write the name in there, in these boxes.

THE COURT: It doesn't matter to me if you want to put seat number or name.

MR. SPECCHIO: I'm liable to make a mistake with the seat number, but I won't make a mistake with the name.

THE COURT: You will get the whole sheet so you can see the placement of each of the people. You will get the sheet. She's made that up.

MR. SPECCHIO: Okay.

THE COURT: Now, Mr. Vanisi, your counsel are not going to be saying out loud the name of the person that you are striking from the jury panel. You are sitting with your counsel. If for some reason they write down a name

that you disagree with and that isn't what you have agreed to strike, be sure to either call it to my attention or understand that you have waived any later objection.

THE DEFENDANT: Yes, I understand that, Judge.

THE COURT: Thank you. We have an issue with

Mr. Lafond and Miss Arlitz. I ask that the bailiff bring

both of those people, notify Mrs. Davis to get the panel

ready to come.

(Whereupon Prospective Juror Arlitz entered the courtroom.)

THE COURT: Miss Arlitz, come on in. Go ahead and have a seat. We're going to bring the rest of the panel in. I'm not trying to single you out. It was a little bit quicker to get you here. The bailiff indicated that you had something that you felt we should know about that you hadn't already told us.

A PROSPECTIVE JUROR: Yes. As the time goes, on it makes it more difficult for me because I have a business, and I am the only one that does the office work. I have one person in the warehouse, and I'm in the office taking care of the clients.

THE COURT: What business is that?

A PROSPECTIVE JUROR: Warehousing Distribution.

THE COURT: So when you said you worked with

Mr. Auld, it wasn't the same business?

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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.
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(Whereupon Prospective Juror Arlitz was excused from the courtroom.)

(Whereupon Prospective Juror LaFond entered the courtroom.)

THE COURT: Go ahead and have a seat anywhere, Mr. Lafond. The bailiff told me that you had a concern about your wife. Can you tell me about that?

A PROSPECTIVE JUROR: Yes. My wife has pigmentosus. I can't pronounce the name. She is legally blind. She can handle me being gone maybe eight hours a day when I work.

She is supposed to come back from Chicago on a plane today. She is with a friend of hers now. If I'm not -- like I go to work after I leave here, but I'm gone all those hours, I'm worried about her. She can get around the house, but that's about it.

THE COURT: Where are you working?

A PROSPECTIVE JUROR: I work at the Nugget.

THE COURT: The Nugget. Don't you think that they will give you some time off if you tell them you are on jury service?

A PROSPECTIVE JUROR: Well, the thing is, I won't get paid for it.

THE COURT: Have you checked on that for sure?

A PROSPECTIVE JUROR: I could check on it.

They said -- one of my supervisors say only if it's on a

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Nugget t	hir	ng th	nat's h	appe	ened.	. }	lou	kno	ow, if	some	ethi	ing	
happens	in	the	casino	, I	got	to	go	to	court	for	it	and	that.

THE COURT: I see. They don't pay you for jury service?

A PROSPECTIVE JUROR: No, they don't, as far as I know. See, the thing is, I would be gone all these hours from here. She can't go to the store, she can't do nothing during the week.

THE COURT: What days do you normally work?

A PROSPECTIVE JUROR: I'm off Thursdays and
Fridays.

THE COURT: So it would be Monday, Tuesday and Wednesday that would be a problem, if you worked those days?

A PROSPECTIVE JUROR: Yes. Well, actually, yeah, it would be them days.

THE COURT: Is there some way that you might be able to find someone to help you with your wife?

A PROSPECTIVE JUROR: See, we have been -- only been here three years. We haven't got too many friends around because we don't associate too much with people.

THE COURT: You have already lost Monday and Tuesday of the first week.

A PROSPECTIVE JUROR: Yeah, but I worked last night.

THE COURT: Did you?

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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 from the courtroom.)
15	THE COURT Comband and being the jumper in
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
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place.

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

THE COURT: Mrs. Davis, have these jurors been with you at all time since they left the courtroom?

THE CLERK: Yes.

THE COURT: Counsel stipulate to the presence of the jury panel as it is constituted at this point in the record?

MR. STANTON: At this point in the record, yes.

THE COURT: We'll take a short recess while the remainder of the individuals come in and find a seat in the back of the courtroom. Court is in recess. Everyone stay.

14 (Recess taken at 3:35 p.m.)

1	RENO, NEVADA, TUESDAY, JANUARY 12, 1999, 3:40 P.M.
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4	(Whereupon, the following proceedings were held in open court, in the presence of the jury
5	panel.)
6	THE COURT: Miss Lopshire, the main jury panel
7	has been with you during their recess?
8	MS. LOPSHIRE: Yes.
9	THE COURT: Have any of them left your presence
10	during the course of the break?
11	MS. LOPSHIRE: They did go on a smoke break,
12	but they were escorted by two of the deputies.
13	THE COURT: Okay.
14	MS. LOPSHIRE: And I did do a head count upon
15	them leaving and upon them returning.
16	THE COURT: Thank you very much.
17	Counsel stipulate to that procedure without
18	calling the roll?
19	MR. STANTON: State will, Your Honor.
20	MR. SPECCHIO: Yes, Your Honor.
21	THE COURT: Mr. Bosler, are you ready to
22	proceed?
23	MR. BOSLER: We are, Your Honor.
24	THE COURT: We have called the names of two
25	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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A PROSPECTIVE JUROR: Quite a few of them. As I put on my sheet that I am familiar with some of the Reno police officers. I work with some of their spouses in my current employment.

So I didn't have any direct information, but the only information I had through my co-worker whose husband is a Reno police officer is that it was -- he was disturbed over the case, and that was the extent of any insider information. I do know him.

As to giving preferential treatment to officers, I would give them honor just simply because of the office that they hold, but I can judge independently as to the testimony.

I would fit into the average category of everybody with the exception that I do, to your questions on law, the matter of law, I am extremely religious and hold very religious viewpoints and believe that biblical law can overshadow any law in any land. I have not found any reason to believe that this case would do that, but just so you know that I do hold that viewpoint. I am a minister in a church here in Sparks, and I held this viewpoint for a considerable time.

THE COURT: If there came a point in time -you have heard the discussion about the potential exists in
this case for you as a member of the jury to be required to

determine the penalty?

A PROSPECTIVE JUROR: In the penalty part, of course would determine if first degree murder was returned, if that was --

even consider penalty unless that happens to be the verdict. Then there will be a separate mini trial, at which point evidence will be presented, and then I will give instructions and I will tell the jury that the law requires that certain things be considered by the jury prior to making a decision with regard to the appropriate penalty.

Will you be able to follow that instruction?

A PROSPECTIVE JUROR: I believe so as long as it doesn't conflict with any biblical laws, which I don't know if it would or not, because I don't know what instructions you'd be giving.

THE COURT: Do you believe that any time there were a decision with regard to a case where the death penalty was available, that you would always vote for the death penalty no matter what the instructions or the law?

A PROSPECTIVE JUROR: In most circumstances I would vote for the death penalty. There are some mitigating, obviously. The reason why I would vote that way is because I do believe that the biblical law does allow for the death penalty in first degree murder cases.

Do you believe that biblical law THE COURT: 1 allows you to consider mitigation before deciding the 2 appropriate penalty? 3 A PROSPECTIVE JUROR: Yes, in some instances. 4 Mental capacity, something like that. But if a first degree 5 murder was committed, then that would be my obvious choice. 6 THE COURT: Miss Slocum, did you hear my 7 questions with regard to the potential for the jury to have 8 to return a penalty decision? 9 A PROSPECTIVE JUROR: Yes. 10 THE COURT: And did you understand the 11 instruction that I read about what the jury will be required 12 to do? 13 A PROSPECTIVE JUROR: Yes. 14 THE COURT: Do you have any disagreement with 15 that instruction? 16 A PROSPECTIVE JUROR: No. 17 THE COURT: Would you be able to accept it and 18 follow it? 19 A PROSPECTIVE JUROR: 20 THE COURT: Do you believe that in every case 21 that you would vote for death no matter what the evidence or 22 the instructions? 23 A PROSPECTIVE JUROR: No. 24 THE COURT: Do you believe in every case you 25 SIERRA NEVADA REPORTERS (702) 329-6560

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	would vote against the death penalty no matter what the
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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?
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MR. STANTON: Certainly. Did you hear my comments to you about that there is a foreperson that is selected and the jury does that?

A PROSPECTIVE JUROR: Right.

MR. STANTON: If you were selected the foreperson in this case - that person is the person that signs the death verdict - could you do that in this case that puts that man to death?

A PROSPECTIVE JUROR: Yes.

MR. STANTON: Pardon me?

A PROSPECTIVE JUROR: Yes.

MR. STANTON: Mr. Fox, same question to you.

MR. STANTON: Yes, I could, but I would only add, though, in making such a decision, that I would be liable to all mighty God above this Court. So I would be extremely careful in making that decision.

MR. STANTON: Do you think that -- I know that you said that you don't know what the laws are for this case and thus can't give us a frame of reference if the biblical law that you believe so intensely in would be inviolate of the laws in this case. Is there any that you know of that you have heard in a case that you could give us an example?

A PROSPECTIVE JURCR: Not from any case that I have known. I just know that in the world different courts have tried to mandate different things that do disagree with

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the Bible, and in those cases I would stand on the biblical viewpoint and not the law of the land.

MR. STANTON: Thank you. No further questions.

THE COURT: Mr. Bosler.

MR. BOSLER: Miss Slocum, any of the questions that you heard me ask you'd like to give response to?

A PROSPECTIVE JUROR: Just the one where you said on the TV shows. I don't necessarily watch those, but I did watch the one that I was on.

MR. BOSLER: You were on a TV show?

A PROSPECTIVE JUROR: "Unsolved Mysteries." was a witness.

MR. BOSLER: I guess you were contacted by the television group or whatever, the company that puts it together? Anything about that involvement that you think makes you unfair, makes you lean towards one side or the other?

> A PROSPECTIVE JUROR: No.

MR. BOSLER: Producers as opposed to someone else? Police?

> A PROSPECTIVE JUROR: No.

MR. BOSLER: You indicated that in your jury questionnaire that you would like to be a juror but you're -- you would not be so concerned because you could, if you felt I guess some type of difficulty, you could

compromise your view with other jurors. Does that sound kind of an accurate way to describe what you said?

A PROSPECTIVE JUROR: Yeah.

MR. BOSLER: And the Court is going to give you an instruction with regard to that.

I don't know if the Court wants to read the Allen instruction or not.

THE COURT: I don't have it with me. I was prepared for others. I didn't know you wanted this one.

MR. BOSLER: I appreciate the fact that most people don't know what instructions they are going to have. To that extent, your answer on your questionnaire is probably pretty understandable.

THE COURT: You want the, "It is your duty"?

MR. BOSLER: To consult.

THE COURT: "It is your duty as jurors to consult with one another and to deliberate with a view of reaching an agreement if you can do so without violence to your individual judgment. You each must decide the case for yourself but should do so only after a consideration of the case with your fellow jurors, and you should not hesitate to change an opinion when convinced that it is erroneous. However, you should not be

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influenced to vote in any way on any question submitted to you by the single fact that a majority of the jurors or any of them favor such decision. In other words, you should not surrender your honest convictions concerning the effect or weight of evidence for the mere purpose of returning a verdict or solely because of the opinion of the other jurors." A PROSPECTIVE JUROR: Yes.

Would you accept and follow that instruction?

THE COURT: Would everyone else accept and follow that instruction?

THE PROSPECTIVE JURORS: Yes yes.

THE COURT: Thank you. You may proceed.

MR. BOSLER: That instruction in mind, I'm sure it is pretty lengthy, and do you think you understand the instruction now that you have heard it?

A PROSPECTIVE JUROR: Yes.

MR. BOSLER: With that in mind, if you were in a situation where 11 jurors disagreed with you, would you feel obligated to compromise if you are not convinced that your position is erroneous?

A PROSPECTIVE JUROR: No. I guess I maybe meant that in a different way, like I would stick with my

opinion, but I realize there are other opinions toward the outcome of the case. I didn't mean changing what I view.

MR. BOSLER: I appreciate the clarification.

Anybody else have thoughts about that on whether they think that it is kind of a democratic process where the majority of the jurors agree, then that should be the jurors' decision, or can each of you agree that you have to individually be judges on this case?

THE COURT: After considering everyone else's opinion.

MR. BOSLER: After considering everyone's else opinion. Everybody can do that?

THE PROSPECTIVE JURORS: Yes.

MR. BOSLER: Mr. Fox, if you could, I notice that you said in your questionnaire, I think it was a quote, if there was a conviction, quote, Bible law says the person must pay for the life.

A PROSPECTIVE JUROR: That has been the Bible law from the Old Testament from the Christian era and restated in the laws that Christ instituted, that if someone is convicted by law, the law of the land, which is allowed by the grace of God, then if it's cold-blooded murder, that is an appropriate punishment.

MR. BOSLER: And I get the impression you take religious views very seriously.

1	A PROSPECTIVE J
2	MR. BOSLER: In
3	A PROSPECTIVE J
4	MR. BOSLER: If
5	there was premeditated delib
6	of case you think always des
7	premeditation, deliberation?
8	A PROSPECTIVE J
9	would be someone who would b
10	that case I would lean towar
11	MR. BOSLER: Is
12	premeditated deliberated mur
13	the death penalty?
14	A PROSPECTIVE J
15	yes.
16	MR. BOSLER: Is
17	mental, if there is a mental
18	decision. But once you read
19	murder, is it your opinion t
20	everything else says the dea
21	A PROSPECTIVE
22	MR. BOSLER: Th
23	guess the way you are going
24	life; right?
25	A PROSPECTIVE
	CIPODA MENZADA DE

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A P	ROSPECTIV	E JUROR:	Ext	reme.	Ly	seriously
MR.	BOSLER:	In fact	, you	are	a	minister.

MR. BOSLER: If you were to find a case where emeditated deliberate murder, is that the type think always deserves the death penalty,

A PROSPECTIVE JUROR: Yes.

That sounds like that A PROSPECTIVE JUROR: eone who would be sane in doing a murder, and in would lean towards that, yes.

MR. BOSLER: Is there a situation where you had deliberated murder where you wouldn't vote for nalty?

A PROSPECTIVE JUROR: There has to be some,

Is there -- well, you said things MR. BOSLER: here is a mental problem, that may affect your But once you reach the verdict of first degree t your opinion that Bible law which controls lse says the death penalty should be imposed?

A PROSPECTIVE JUROR: Yes, that is my belief.

MR. BOSLER: That belief system controls I y you are going to conduct yourself in your

> Yes, it would. A PROSPECTIVE JUROR:

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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
<b>1</b> 5	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
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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
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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
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