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Case No. 65935

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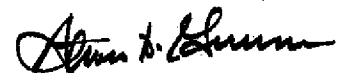
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CLERK OF THE COURT

1 RTRAN

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DISTRICT COURT
CLARK COUNTY, NEVADA

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STATE OF NEVADA,

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Plaintiff,

CASE NO. 08C245739
08C249693

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vs.

DEPT. I

11

STEVEN DALE FARMER

12

Defendant.

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BEFORE THE HONORABLE KEN CORY, DISTRICT COURT JUDGE

14

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***MONDAY, MARCH 7, 2011
RECORDER'S TRANSCRIPT RE:
ALL PENDING MOTIONS***

16

APPEARANCES:

17

18

For the State:

JAKE MERBACK, ESQ.
Deputy District Attorney

19

20

For the Defendant:

GREGORY COYER, ESQ.
JEFFREY MANINGO, ESQ.
Deputy Public Defenders

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RECORDED BY: BEV SIGURNIK, COURT RECORDER

1 Las Vegas, Nevada, Monday, March 7, 2011 at 10:11 a.m.

2
3 THE CLERK: Steven Farmer, case number C245739 and C249693. The
4 Defendant is present in custody.

5 MR. MANINGO: Jeff Maningo on behalf of Mr. Farmer along with Mr. Coyer.

6 THE COURT: I didn't receive an opposition. Is there an opposition from the
7 State?

8 MR. MERBACK: There is Judge; I was just going to respond orally.

9 THE COURT: All right.

10 MR. MANINGO: And I spoke with Mr. Merback. I knew that he was going to
11 object; however, we are asking to continue the trial date based on the fact that I just
12 cannot be ready on this matter this quickly. The amount of discovery is voluminous
13 because of the – the number of individuals and witnesses involved in the case, and I
14 think the Court knows some of the circumstances of what happened; the original
15 attorney for Mr. Farmer had to leave unexpectedly and immediately, and when that
16 happened, I took over a number of her cases, reassigned them to myself including
17 Mr. Farmer. I think she and probably Mr. Merback have had somewhere in the area
18 of about two years to prepare the case. I've had about three and a half months, and
19 I had just gotten to know Mr. Farmer and starting to get up to speed on the case. So
20 an April date would not be realistic for me.

21 THE COURT: What would be realistic?

22 MR. MANINGO: Well, I think we need to set it off probably towards the end of
23 the year, I think.

24 THE COURT: You could be ready at that point?

25 MR. MANINGO: I think I could be ready. I think if we set something in like a

1 November date then --

2 THE COURT: Mr. Merback.

3 MR. MERBACK: Judge I'm not -- I understand Mr. Maningo's position. I
4 understand he had just been put into this case.

5 The reason I'm objecting -- I kind of feel like I'm obligated to object is
6 the length of time the case has been around. The victims in the case are anxious
7 for the case to go forward. It's been continued before on multiple occasions for a
8 variety of reasons, so I'm objecting based upon that. But, at the same time, you
9 know, I can see where Mr. Maningo is coming from in this situation he's in.

10 THE COURT: Has there been able to be any testimony preserved. Is this a
11 case that that could be?

12 MR. MERBACK: There is -- there's one witness who we have actually had --
13 the Court granted our motion to do a videotape deposition.

14 THE COURT: Yeah.

15 MR. MERBACK: We haven't done that yet because Mr. Maningo has
16 indicated -- we've continued it a few times because he's been preparing for it and so
17 it's -- the motion has been done. The deposition needs to be taken at some point.
18 We just need to set that as well.

19 THE COURT: And is that a -- that was an aged witness was it?

20 MR. MERBACK: She's not necessarily extremely aged as much as she just
21 has bad health. Her health is just very poor.

22 THE COURT: When do you think you'd be able to take the deposition?

23 MR. MANINGO: We could do that anywhere in about -- I'd say about 45 days.

24 THE COURT: All right.

25 MR. MERBACK: Obviously whatever the Court rules we'll --

1 THE COURT: I'm going to continue to about November if we have room.
2 What's the estimate for trial time again?

3 MR. MERBACK: This is a two to three-week trial.

4 THE COURT: Okay. So we're going to log it as a three-week –
5 [Colloquy – the Court and the Clerk]

6 MR. MANINGO: We're looking at two to three weeks, and we're gonna
7 Thanksgiving.

8 MR. MERBACK: Can we do the beginning of November if we're gonna do
9 November?

10 MR. MANINGO: So yeah, we probably better go beginning of November.

11 THE COURT: Okay. Sort of a post-Halloween special.

12 MR. MANINGO: Uhuh. Is that going to work for you?

13 THE CLERK: Calendar call will be November 9th at 9 a.m. Trial will be
14 November 14th at 1:30 p.m. And you want to go 45 days after the video –

15 THE COURT: Well, we don't need to calendar, that's just between them.

16 THE CLERK: Okay.

17 THE COURT: But, I just wanted to get a handle on how far out that's going to
18 be.

19 MR. MERBACK: Can we just set it – we're actually going to do it as an in-
20 court hearing.

21 THE COURT: Yeah that's right, that's right. Are you – do you have your
22 calendar Mr. Maningo that we could –

23 MR. MANINGO: Yes. I can set that.

24 THE COURT: How much time do we need to allot?

25 MR. MANINGO: What did you think, like three hours?

1 MR. MERBACK: Yeah, probably two or three hours.

2 THE COURT: So, if we can do that and one of those -- if it's a criminal stack
3 and we can put it on a Monday afternoon -- but that won't work if we've got a, you
4 know, a full one-week trial that -- for that week and that's a -- It's kind of hard to pick
5 but --

6 MR. MERBACK: Judge, can I make a suggestion?

7 THE COURT: Sure.

8 MR. MERBACK: We've done this before where we've had a Monday set on
9 this hearing, and the Court has been in trial, so it's had to be pushed, what if we did
10 it toward the end of the week --

11 THE COURT: Okay.

12 MR. MERBACK: -- and we could leave it on. If the trial goes away or
13 something like that, then we could do it. And if it doesn't obviously, we could push it
14 again.

15 THE COURT: Well yeah, what we could do is this, we could do it on a
16 Thursday afternoon and then -- that may catch me in the middle of a trial, but I may
17 just let the jury go and come back Friday, which is a good pick up day for a trial. You
18 want to try that? Do it on a Thursday afternoon?

19 MR. MERBACK: That sounds great, Judge.

20 MR. MANINGO: That'd be fine, Judge.

21 [Colloquy -- the Court and the Clerk]

22 THE CLERK: We can put it on April 21st?

23 THE COURT: Is that criminal stack?

24 THE CLERK: Or May 5th?

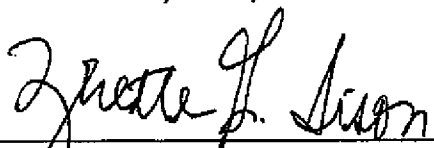
25 THE COURT: Which one suits you?

1 MR. MERBACK: Either one is fine, Judge.
2 MR. MANINGO: May 5th please if we could, is that okay?
3 MR. MERBACK: Uhuh.
4 MR. MANINGO: May 5th at 1:30?
5 THE CLERK: Yes. Is that three hours?
6 THE COURT: Three hours yeah.
7 MR. MANINGO: Thank you, Judge.
8 MR. MERBACK: Thank you, Judge.
9 THE COURT: You'll provide – if you're going to use a court reporter for it –
10 I'm not sure how you're going to do this but if you are, you'll need to provide it.
11 MR. MERBACK: Okay.
12 THE COURT: If it's a court recorder, of course we can do it.
13 MR. MERBACK: Oh, I thought we would just use the court recorder and then
14 –
15 THE COURT: Okay.
16 MR. MERBACK: Just the way the Court would normally do it for trials. So it
17 can be recorded on the video and –
18 THE COURT: So we'd have both the video and the transcript.
19 MR. MERBACK: Correct.
20 MR. MANINGO: Very good. Thank you.
21 THE COURT: All right. Thank you.

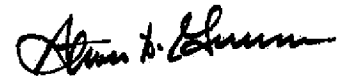
22 [Proceedings concluded at 10:17 a.m.]
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ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



Yvette G. Sison
Court Recorder/Transcriber



CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 THE STATE OF NEVADA,

6 Plaintiff,

7 vs.

8 STEVEN DALE FARMER,

9 Defendant.

CASE NO. C245739/C249693

DEPT. NO. V

10 BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

11
12 MONDAY, OCTOBER 17, 2011

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14
15 RECORDER'S TRANSCRIPT RE:
16 STATUS CHECK (BOTH)

17
18 APPEARANCES:

19 For the Plaintiff:

JESSICA WALSH
Deputy District Attorney

20 For the Defendant:

JEFFREY S. MANINGO
AMY A. FELICIANO
Deputy Public Defenders

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25 RECORDED BY: LARA CORCORAN, COURT RECORDER

1 LAS VEGAS, NEVADA, MONDAY, OCTOBER 17, 2011, 10:01 A.M.

2 * * * * *

3 THE COURT: Case Number C245739, State of Nevada versus Steven
4 Dale Farmer.

5 MR. MANINGO: Good morning, Judge, Jeff Maningo and Amy
6 Feliciano from the Public Defender's office, here representing Mr. Farmer, who's
7 present in custody.

8 THE COURT: Thank you. What's it on for?

9 MR. MANINGO: Judge we – Mr. Merback and I had put this back on
10 calendar because – for two reasons: one, we had set up a video examination of one
11 of the witnesses because she suffers from seizures, and she will still be expected at
12 trial, however, we would like to do a direct and cross on video beforehand just in
13 case, because if she has a seizure then she's unable to communicate for about 48
14 hours afterwards. So we want to have that as a backup.

15 Now, because of the shifting in courtrooms that was set for last week
16 and there was no courtroom ready to do that, so we set it on today for a status
17 check to reset that. However, before we reset that date we are also coming in, the
18 defense, and asking to continue the current trial date right now, which is in
19 November.

20 I know that Mr. Merback, and through Ms. Walsh, will oppose the
21 continuance today, but the reason we're doing so is because this case involves six
22 different accusers, all with extensive medical histories. Because Mr. Farmer was a
23 nurse working in a hospital there is voluminous discovery and, unfortunately, at the
24 beginning of this year the original counsel for Mr. Farmer was Stacey Roundtree,
25 who is no longer with the office, so I came in and took over and had to get caught up

1 to date. Well, co-counsel, who was handling half the trial and who had been on in
2 the beginning, was Greg Coyer. Mr. Coyer just recently left the Public Defender's
3 office for private practice and I have dragged Ms. Feliciano in here to help me out
4 and she's been great about it. The problem is we've got boxes and boxes of
5 discovery. She cannot be ready to go and up to speed in three weeks, and that's
6 when the trial date is set.

7 So we are asking, first, for the Court to continue the current trial date –
8 and Mr. Farmer's okay with that, we've spoke with him about that – and set it
9 ordinary course so that we have an opportunity to get Ms. Feliciano up to speed with
10 everything, and then once we get that new date reset, a time where Mr. Merback
11 and I can do our video examination.

12 THE COURT: State.

13 MS. WALSH: Good morning, Judge, Jessica Walsh for the State.

14 Judge, this case goes all the way back to May of 2008. I understand
15 there has been numerous continuances on the case. It was continued back in
16 March of this year because of the issue with Ms. Roundtree being the lead counsel
17 leaving the office and Mr. Maningo did take over. And it's now October of this year
18 and there's another defense attorney coming in to get ready on it.

19 And the State's position is we have three weeks. That it's October 17th
20 today. The trial is set November 14th. There's plenty of time to be prepared on this
21 case and go forward at trial and we would oppose a continuance. The case is very
22 old and the victims in this case really do need closure.

23 THE COURT: 2008? He's been in custody since 2008?

24 MR. MANINGO: That's correct, Judge. The case has been going on
25 since 2008. Unfortunately, I've only been on the case since this year. March of this

1 year is when I came in and took over for Ms. Roundtree. So Mr. Merback has been
2 on the case with Ms. Roundtree since 2008. I was a – well, Ms. Roundtree was on
3 the case since 2008. I came in as a new player in all of this as of March of this year
4 and now Ms. Feliciano, this is – she's just been put on about two weeks ago, so.
5 That's when she agreed to do it.

6 THE COURT: If we were going to continue this what would be the
7 earliest date?

8 THE CLERK: We have some dates in February, February 27th. We
9 have dates in December as well, December 5th, December 12th.

10 THE COURT: All right. A short continuance until December.
11 December 5th, is that –

12 MS. FELICIANO: I already –

13 THE COURT: Is that –

14 MS. FELICIANO: I already have a three-victim, two-week trial set in
15 December 5th in this department, actually.

16 THE COURT: Okay. Well, you know, I mean, we can hold the date we
17 have. What are the other –

18 THE CLERK: We have one on December 12th.

19 MR. MANINGO: I don't know –

20 THE COURT: No Christmas shopping.

21 THE DEFENDANT: Your Honor –

22 THE CLERK: Or we go into February. That's the next criminal stack.

23 MR. MANINGO: Oh, Mr. Famer – yeah, we're anticipating that this – to
24 be probably a three-week trial. We might be better off – I mean, for our schedules,
25 the Court's schedule and Mr. Merback's – and, Jessica, are you doing the trial with

1 Jake? No, okay. So just Mr. Merback's schedule -- to go into February. That way
2 at least we're all clear as far as -- I'm okay with February. December I've got a trial
3 set and I know that Amy has a trial also and this Court is doing that trial.

4 MS. FELICIANO: As well as Mr. Merback.

5 MS. WALSH: And --

6 MR. MANINGO: So.

7 MS. WALSH: I'm not familiar with Mr. Merback's schedule. He just
8 happened to be out sick this morning. I would suggest that if we could possibly set
9 the video deposition maybe within the next couple weeks and give the chance for
10 Mr. Merback and counsel to get with your clerk and come up with a date that would
11 be okay with everybody so you don't have to reset it a couple times, find a date
12 where the Court's available for three weeks of time. That might be the best course
13 of action in setting a trial date today.

14 THE COURT: I agree with that, and I want to get this evidentiary video,
15 you know, deposition taken -- testimony taken.

16 MR. MANINGO: Right. Let's get that taken. Okay.

17 THE COURT: So let's put it on -- can we put it back on Wednesday?

18 THE CLERK: This Wednesday?

19 THE COURT: I mean, this Wednesday for you to talk to each other?

20 MS. WALSH: That's fine, Judge.

21 MR. MANINGO: And so what will we set on Wednesday?

22 THE COURT: Well, we're going to try and set the -- we'll try and set
23 both if you guys can agree, but otherwise -- right now I'm not vacating that trial date.
24 So -- right now I want you to try and talk to each other and see if we can get a date
25 that's acceptable. But I don't -- I'm really loathe to put this in 2012 when this is a

1 2008 case.

2 MR. MANINGO: I agree, Judge. Unfortunately, it's not – you know, it
3 were – it was things that were beyond our control, as far as Mr. Farmer's counsel. I
4 would understand if I'd been on since 2008, then I'd have no excuse as to not be
5 ready of course, but because of the change in counsel we're sort of behind the eight
6 ball. We're just trying to catch up and be able to be effective in a case that has so
7 many people involved in it.

8 THE COURT: I understand. So what I'd like you to do is get with the
9 prosecutor's office and talk with the clerk to see what the availability is and come up
10 with the quickest date that we can set this on, and get your videotape testimony as
11 well. All right?

12 MR. MANINGO: Okay.

13 THE COURT: So Wednesday maybe you'll be a little better informed
14 about that. I mean, obviously, a trial date, all right, will drive the other date, so.

15 MR. MANINGO: Right. And there is – there are trial dates available in
16 February, correct?

17 THE CLERK: February 27th.

18 MR. MANINGO: Okay. And –

19 THE COURT: Three – saying it's a three-week trial?

20 THE CLERK: Yeah.

21 MR. MANINGO: Okay.

22 THE CLERK: And it – that starts the criminal stack.

23 THE COURT: Okay.

24 MR. MANINGO: Okay. And then – so we could then do the video
25 deposition on some of the dates in December, right? Okay.

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THE COURT: All right. So it'll be back on Wednesday at 9.

THE CLERK: At 9 o'clock.

MR. MANINGO: Okay.


THE CLERK: That'll be the 19th.

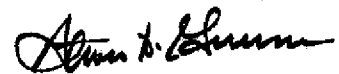
MR. MANINGO: Thanks.

THE COURT: Thank you.

PROCEEDING CONCLUDED AT 10:09 A.M.

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-video recording of this proceeding in the above-entitled case.


LARA CORCORAN
Court Recorder/Transcriber



CLERK OF THE COURT

1 **RTRAN**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5 **THE STATE OF NEVADA,**

CASE NO. C245739/C249693

6 **Plaintiff,**

7 **vs.**

DEPT. NO. V

8 **STEVEN DALE FARMER,**

9 **Defendant.**

10 **BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE**

11
12 **WEDNESDAY, OCTOBER 19, 2011**

13
14
15 **RECORDER'S TRANSCRIPT RE:**
16 **STATUS CHECK: TRIAL DATE AND VIDEO EXAM (BOTH)**

17
18 **APPEARANCES:**

19 **For the Plaintiff:**

WILLIAM "JAKE" MERBACK
Chief Deputy District Attorney

20
21 **For the Defendant:**

AMY A. FELICIANO
Deputy Public Defender

22
23
24
25 **RECORDED BY: LARA CORCORAN, COURT RECORDER**

1 LAS VEGAS, NEVADA, WEDNESDAY, OCTOBER 19, 2011, 10:14 A.M.

2 * * * * *

3 THE COURT: Case Number C245739 and 249693, State of Nevada
4 versus Steven Dale Farmer in both cases.

5 MS. FELICIANO: Good morning, Judge, Amy Feliciano on behalf of
6 Mr. Farmer, who's present in custody.

7 MR. MERBACK: And, Judge –

8 THE COURT: I brought this back, as you'll remember from Monday.

9 MS. FELICIANO: May we approach?

10 THE COURT: Yes.

11 MS. FELICIANO: Thank you.

12 (Off-record bench conference)

13 THE COURT: All right. This matter was continued from Monday's
14 calendar because we've got a trial date set in three weeks and we have new
15 defense counsel. Normally I would not want to continue this and I know that the
16 State is vehemently objecting to this case being continued because it's been
17 continued many times.

18 Mr. Farmer has been – you know, obviously, has waived his right to
19 speedy trial because he's been in custody about four years and – since 2008, is my
20 understanding. By the same token, I don't want this to end up as an ineffective
21 assistance of counsel because counsel didn't have adequate time to prepare.

22 The soonest dates that we have would be in December, but this, I'm
23 told, is a three-week trial with many victims. December is never an easy time, as we
24 all know, to select a jury – to get a jury that doesn't have other obligations over all of
25 the holiday periods, and by the same token, the victim's counsel.

1 And so what I'd like to do is continue this into my February stack, which
2 will be the earliest time that we can do this. But also I understand that there is a
3 evidentiary – well, it's not an evidentiary hearing, it's a preservation of witness
4 testimony, basically, that we're going to need to do in December.

5 And so, I'm going to ask the clerk to look at my calendar and see when
6 in December – as early in December as we can do it so we avoid the holiday issues.

7 MR. MERBACK: Judge, the only issue in December is Ms. Porray and I
8 are actually in trial that week of December 5th, so if it could not be that week, any
9 other time is fine.

10 THE COURT: Is that just a week-long trial you think?

11 MR. MERBACK: Yeah, that's just a week-long trial.

12 MS. FELICIANO: It could go into two weeks. That one is also a multi-
13 victim case, so.

14 MR. MERBACK: Toward the middle of December probably would work.

15 THE COURT: What do we have?

16 How long do you think that it will take for that? Because we could do it
17 after my calendar on the 14th of December –

18 MR. MERBACK: That should work. It –

19 THE COURT: – which is a Wednesday, or we could do it on Friday
20 after my civil.

21 MR. MERBACK: Either one of those is fine, Judge. A Friday afternoon
22 would work. I think it takes an afternoon. If we started at 1 o'clock/1:30, we would
23 be done by the end of the day with that hearing.

24 (Colloquy between Court and staff)

25 THE COURT: Okay. We're going to do it on December 14th after my

1 criminal calendar.

2 MR. MERBACK: Is that a Friday, Judge?

3 THE COURT: That's a Wednesday.

4 MR. MERBACK: Wednesday. Okay.

5 THE COURT: So we'll put it at the end of my criminal calendar, and my
6 calendar – not that I have a huge track record to look at, but the last two days, have
7 – we've been wrapping it up at about 10:30. So we could start and potentially be
8 done –

9 MR. MERBACK: Okay.

10 THE COURT: – by lunch.

11 MR. MERBACK: Okay.

12 THE COURT: And if the courtroom is needed then for trial –

13 MR. MERBACK: So –

14 THE COURT: – elsewhere it was –

15 MR. MERBACK: So 10:30 will be the time? Okay.

16 THE CLERK: December 14th at 10:30.

17 THE COURT: And the trial – new trial setting.

18 THE CLERK: Yes, we've got –

19 MS. FELICIANO: I think we had talked about the February 27th date.

20 It's the beginning of that stack.

21 THE CLERK: Yes. Okay.

22 MS. FELICIANO: Thank you.

23 THE CLERK: Calendar call will be February 22, 2012, at 9 o'clock.

24 Jury trial will be February 27, 2012, at 1:30.

25 MR. MERBACK: Thank you, Judge.

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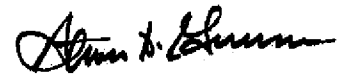
MS. FELICIANO: Thank you very much.

THE COURT: Thank you.

PROCEEDING CONCLUDED AT 10:22 A.M.

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-video recording of this proceeding in the above-entitled case.


LARA CORCORAN
Court Recorder/Transcriber



CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 THE STATE OF NEVADA,

6 Plaintiff,

7 vs.

8 STEVEN DALE FARMER,

9 Defendant.

CASE NO. C245739/C249693

DEPT. NO. V

10 BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

11
12 WEDNESDAY, DECEMBER 14, 2011

13
14
15 RECORDER'S TRANSCRIPT RE:
16 STATUS CHECK: HEARING: PRESERVATION OF WITNESS TESTIMONY
17 (BOTH)

18 APPEARANCES:

19 For the Plaintiff:

WILLIAM "JAKE" MERBACK
Chief Deputy District Attorney

20
21 For the Defendant:

RICHARD H. SCOW
Deputy Public Defender

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25 RECORDED BY: LARA CORCORAN, COURT RECORDER

1 LAS VEGAS, NEVADA, WEDNESDAY, DECEMBER 14, 2011, 9:43 A.M.

2 * * * * *

3 THE COURT: Case Number C245739 State of Nevada versus Steven
4 Dale Farmer. Show Mr. Farmer in custody with his counsel.

5 I apologize to counsel. We were – I was in a jury trial and then there
6 was a – one of the attorneys had a death in the family and we ended up having –
7 after two days of trying to get a jury we ended up having to continue it. And now is
8 there any way that we can still proceed on –

9 MR. MERBACK: Your Honor –

10 THE COURT: Or is it too late?

11 MR. MERBACK: Your Honor, unfortunately –

12 THE COURT: On Friday?

13 MR. MANINGO: Unfortunately, we cannot. And, Your Honor, the
14 defense attorney in this case is actually Mr. Maningo from the Public Defender's
15 office. He's in Henderson today and he and I have been communicating by text as
16 to some representations I'm going to make today in Court.

17 The reason we're attempting to have this hearing prior to the trial is
18 because the victim has a severe seizure disorder.

19 THE COURT: Right. And I understand that and so I'm – that's why I
20 say I'm so sorry that –

21 MR. MERBACK: And that's fine, but we can't do it today because if we
22 bring her down here today she would go – the trip would cause her to go into a
23 seizure and then she can't speak for about a 24-hour period. So what we're having
24 to do is, even though she lives in Las Vegas, she's having to come down here, we're
25 checking her into a hotel, she's spending a 24-hour-period in the hotel to recover

1 from the seizure and then we're going to bring her here in a wheelchair prior to
2 testimony so that she can testify.

3 THE COURT: Right.

4 MR. MERBACK: And I understand what happened with the Court. And
5 the only thing that I would request is when we reset this if we could reset it on a
6 completely firm setting so that – obviously, it's very difficult on her with her health
7 conditions to kind of be back and forth.

8 THE COURT: Well, that's why I was inquiring as to whether we could
9 do it on Friday. Would that give you sufficient time to make arrangements?

10 MR. MERBACK: It would –

11 THE COURT: Because it's Wednesday now.

12 MR. MERBACK: It would, Your Honor. I don't know how she would
13 react to that at this point. I know that when I spoke to her last she seemed – I could
14 tell in just the period of the conversation when I explained to her we weren't going to
15 be going forward today that she was deteriorating rapidly and potentially was going
16 to end up in that situation. I don't think at this point it would be smart to bring her
17 back in on kind of that roller coaster of this week.

18 And what I would ask – and I spoke to Mr. Maningo and he indicated
19 that any day in January is fine with him. And I was going to ask the Court about that
20 second week in January, maybe like the Wednesday or the Thursday or the Friday,
21 if any of those days in the afternoon or in the morning would work for the Court?

22 THE COURT: Right. I'm – I'll be in my civil cycle and actually we've
23 got a fairly light calendar. I think we've, in fact, got – or sort of planning on me doing
24 a criminal trial in there. So we could set it on a Friday morning perhaps.

25 (Colloquy between Court and clerk)

1 THE COURT: How about Friday the 20th of January? And that's
2 normally my civil calendar. I'll do my civil calendar first and then we'll go ahead and
3 do the evidentiary or the – you know, take the testimony. And so I'm thinking 10
4 o'clock?

5 MR. MERBACK: That's fine, Judge.

6 THE CLERK: And do you want me to put firm on it so –

7 THE COURT: Yes, put firm on it.

8 THE CLERK: Okay.

9 MR. MERBACK: And, Judge, my only other question was – and I
10 emailed briefly with your law clerk about this issue – I don't know if the Court knows
11 at this point, this is videotaped testimony that we're trying to preserve –

12 THE COURT: Correct.

13 MR. MERBACK: – potentially for the purposes of trial. Does the JAVS
14 system have the ability to record that video or do we need to bring equipment in for
15 that?

16 THE COURT: JAVS'll do it.

17 MR. MERBACK: Thank you, Judge.

18 THE COURT: Okay.

19 MR. SCOW: Thank you, Judge.

20 THE COURT: Thank you. February 20th at 10 o'clock.

21 MR. MERBACK: Thank you.

22 THE CLERK: And that will be for preservation of witness?

23 THE COURT: Yes.

24 THE CLERK: Okay.

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THE COURT: And that's a firm setting. Thank you.

PROCEEDING CONCLUDED AT 9:48 A.M.

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-video recording of this proceeding in the above-entitled case.


LARA CORCORAN
Court Recorder/Transcriber


CLERK OF THE COURT

1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,

9 Plaintiff,

CASE#: C245739

DEPT. V

10 vs.

11 STEVEN DALE FARMER,

12 Defendant.

13
14 BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE
15 FRIDAY, JANUARY 20, 2012

16 *RECORDER'S TRANSCRIPT OF PROCEEDINGS*
17 HEARING: PRESERVATION OF WITNESS TESTIMONY

18 APPEARANCES:

19 For the State:

WILLIAM JAKE MERBACK, ESQ.
Chief Deputy District Attorney

20 For the Defendant:

JEFFREY S. MANINGO ESQ.
AMY FELICIANO, ESQ.
Deputy Public Defenders

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25 RECORDED BY: LARA CORCORAN, COURT RECORDER

1 FRIDAY, JANUARY 20, 2012 AT 10:11 A.M.

2
3 THE COURT: All right. Case number C245739, State of Nevada versus
4 Steven Dale Farmer. We are here to havr a hearing to preserve the witness
5 testimony in this case. Is the State ready to proceed?

6 MR. MERBACK: We are Judge,

7 THE COURT: Proceed.

8 MR. MERBACK: Thank you. Does the Court want to swear in the witness?

9 THE COURT: Yes, of course.

10 MR. MERBACK: Okay.

11 THE COURT CLERK: Raise your right.

12 THE COURT: You're calling -- what's the witness's name?

13 MS. MERBACK: I'm sorry. The State's going to call Marcia Petersen, Judge.

14 THE COURT: Marcia Petersen.

15 **MARCIA PETERSON**

16 [having been called as a witness and being first duly sworn, testified as follows:]

17 THE COURT CLERK: Thank you. Could you please state your name and
18 spell it for the record?

19 THE WITNESS: Marcia Petersen, M-A-R-C-I-A P-E-T-E-R-S-E-N.

20 THE COURT: Thank you. Proceed.

21 MR. MERBACK: Thank you, Your Honor.

22 **DIRECT EXAMINATION**

23 BY MR. MERBACK:

24 Q Ms. Petersen, can you tell the Court something about your current
25 medical condition?

1 A I didn't hear your last part.

2 Q What is your current medical condition? Do you have any medical
3 issues right now?

4 A Yeah. I suffered brain trauma and its left me with seizures and
5 uncontrollable sensory overload so my senses don't connect correctly any longer.

6 Q Okay. And is that condition a result of the brain trauma that you
7 suffered?

8 A Yes.

9 Q Do you when it was when you suffered that brain trauma?

10 A March 12th of '08.

11 Q Of 2008 you said? Could you repeat that?

12 THE MARSHAL: Excuse me, counsel. Court's indulgence, Your Honor,
13 please.

14 THE COURT: There you go.

15 THE WITNESS: March 12th of '08.

16 MR. MERBACK: Is that better? Okay.

17 BY MR. MERBACK:

18 Q And as a result of your condition you said that sometimes you'll have
19 seizures; is that correct?

20 A Yes.

21 Q What kinds of things trigger you to have these seizures?

22 A Loudness, loud noises, riding in cars. I can't filter out the motion.
23 When the car stops my brain doesn't -- I keep feeling the motion and being startled;
24 things outside the norm of my world.

25 Q When you have a seizure, are you aware of how long they normally

1 last?

2 A No.

3 Q Okay. Will you normally just have one seizure at a time or will you have
4 multiple seizures?

5 A I have clonic-tonic style seizures and what that is is that I contract up,
6 all of my body contracts up. So, my hands curl up, my arms curl up. I can seize --
7 we've counted and I can seize anywhere from like minimum of maybe three times
8 up to 42 times.

9 Q Okay. Now you indicated that that's your current medical condition.
10 Now was that your condition as well back in 2008 after you had the brain trauma?

11 A It started with my hospitalization in May. That's when the seizures
12 started.

13 Q Okay. Now after you've had a seizure, what condition is your body in
14 after the seizure is over?

15 A I can't talk and I can't move for up to 24 hours.

16 Q Now when you're in that state, are you conscious? Can you -- do you
17 know what's going on around you or are you completely unconscious?

18 A No, I'm aware of everything going on around me. I just can't participate
19 in any of it.

20 Q Okay. Now are there times in that period after you had a seizure where
21 you will come in and out of sleep?

22 A Yes, uh-huh.

23 Q Okay. But when you're awake, you indicated that you're aware of
24 what's going on around you?

25 A Yes.

1 Q Now you talked about a hospitalization in May. Do you recall -- I'm
2 going to call your attention to May 13th of 2008. Were you admitted to Centennial
3 Hills Hospital on that day?

4 A Yes.

5 Q Okay.

6 A But I think I went there the 12th. I was admitted the 13th.

7 Q Okay. So, you went on the 12th and were admitted on the 13th?

8 A I believe so.

9 Q Okay. Is that Centennial Hills Hospital here in Las Vegas, Clark
10 County, Nevada?

11 A Yes, I believe so.

12 Q Why did you go to Centennial Hills Hospital on that day? What
13 occurred that caused you go there?

14 A I've been grocery shopping at Smith's and went out and felt funny. And
15 I called my son and actually started having a seizure in the parking lot and
16 Centennial is just down the parking lot from Smith's. And they called an ambulance
17 and that's where I was taken.

18 Q Do you recall how long you stayed or how you were admitted to
19 Centennial Hills Hospital on that occasion?

20 A I think it was about ten days.

21 Q If I said that you were there until May 20th, would that sound about
22 right?

23 A May 20th, 23rd, somewhere in there.

24 Q Okay. Now did something happen to you during that stay at the
25 hospital that causes you to be here in Court today?

1 A Yes.

2 Q What was that?

3 A Do you want me to --

4 Q What generally happened to you that causes you to be here today?

5 A I was assaulted by -- I believed him to be a nurse, nurse aide there.

6 Q Okay. Did you know the name of that person that assaulted you?

7 A He introduced himself as Steven.

8 Q Do you see that person here in this courtroom today?

9 A Yes.

10 Q Could you point to that person and describe something that they are
11 wearing?

12 A The white hair, and he's wearing red, and white beard and he's wearing
13 black glasses.

14 MR. MERBACK: Judge, can the record reflect the identification of the
15 Defendant?

16 THE COURT: Yes, it will.

17 BY MR. MERBACK:

18 Q Now, Ms. Petersen, you indicated that the Defendant introduced himself
19 as Steve; is that correct?

20 A Yes.

21 Q What, if anything else, did he say to you when he introduced himself to
22 you?

23 A He said: Hi, I'm Steve and I've been assigned to you tonight. So, I'll be
24 looking in on you.

25 Q Could you repeat that last phrase for me? I'm sorry.

1 A He said: So, I'll be looking in on you. That was the first thing he said.
2 He came back one other time, that my heart was in A-fib at that time and there were
3 a lot of people in my room.

4 Q Okay. Let's go back --

5 A Okay.

6 Q -- I'm just going to go back to that first time when he introduced himself.
7 When he said that to you that he was going to check in on you, what was your
8 condition at that point?

9 A I'd had a seizure the night before so I couldn't talk to him or move or
10 acknowledge him.

11 Q So, you could not speak or move at that point?

12 A No.

13 Q Okay. But you were able to hear and understand what he was saying?

14 A Yes.

15 Q And you said you believed him to be a nurse; is that correct?

16 A Yes.

17 Q Now you indicated that you were, I think you used the word attacked, by
18 the Defendant. Can you describe for the Court any of those instances -- actually let
19 me ask you this. Was there just one instance or were there multiple instances?

20 A Multiple.

21 Q Okay. Can you --

22 MR. MANINGO: Excuse me. Judge, may we approach for a moment?

23 [Bench conference -- not recorded]

24 THE COURT: Okay. The record will reflect that the exclusionary rule has
25 been invoked and a witness is leaving the courtroom.

1 BY MR. MERBACK:

2 Q Ms. Petersen, you indicated that there were multiple instances. Can
3 you describe one of those instances that you remember for the Court?

4 A One of -- I woke up and I was aware that my nipples were being
5 pinched, and I looked straight into his face because he was that close to me, and he
6 said: Oh, one the leads has come off on your heart monitor. But the thing about my
7 heart or the telemetry buttons that they put on, it makes a noise if one becomes
8 detached so that telemetry is advised as well. That was one instance.

9 Q Let me go back and ask you a few questions about that. You said the
10 Defendant said your leads were off. Do you recall where your leads were located
11 on your body at that point in time?

12 A Yes; they're not on my nipples.

13 Q Do you recall where they were?

14 A They have like one here and they have numerous ones underneath the
15 abdomen.

16 MR. MERBACK: And, Judge, for the record, she's pointing to it looks like
17 about the middle of her chest, kind of in the middle of her sternum, I would say.

18 THE COURT: Towards the right, yes, on her upper chest well above her
19 breasts.

20 THE WITNESS: And then underneath.

21 MR. MERBACK: And then he also has indicated -- I think she showed both
22 sides well beneath her breasts on kind of the side of her torso.

23 THE COURT: Correct; approximately at waist level.

24 BY MR. MERBACK:

25 Q Now could you feel or did you notice if any of the leads were actually off

1 of your body?

2 A No, I could not physically feel it and I couldn't move to, you know, to
3 find out but, again I didn't hear the beeping sound that, you know, that the telemetry
4 machine makes when a lead is off.

5 Q Okay. You've been in the hospital before; is that correct?

6 A Yes.

7 Q Have you had leads come off before and actually heard that sound?

8 A Yes.

9 Q And you didn't hear it this time?

10 A No.

11 Q You indicated that he was -- and I'll have you say it. What exactly was
12 he doing to your nipples?

13 A He was pinching them, rubbing them.

14 Q Had you had people, nurses or doctors place leads on your body
15 before?

16 A Yes.

17 Q Have you ever had anyone touch you in the same way that the
18 Defendant did on this occasion?

19 A No, never, never.

20 Q And do you recall was he touching -- was he pinching both of your
21 nipples or just one of them; do you recall?

22 A He pinched both.

23 Q When he was doing this, was it over your clothes or under your
24 clothes?

25 A Under.

1 Q Do you recall what you were wearing at the time?
2 A Just a hospital nightgown.
3 Q And do you know how -- could you tell how it was that his hands had
4 gotten underneath your nightgown?
5 A No.
6 Q Could you speak or move at this point in time?
7 A No, still not.
8 Q Do you recall whether the Defendant said anything to you besides that
9 your leads had come off?
10 A Nothing.
11 Q Do you recall about how long that lasted that he was pinching your
12 nipples?
13 A No.
14 Q And do you recall what if anything that caused him to stop doing it?
15 A I think me continually looking at him and me becoming awake.
16 Q And you continued to look at him, is that what you said?
17 A Yes, because like I said, I woke up and he was doing it.
18 Q Now was the only time, the only occasion on which he touched your
19 nipples or your chest in that way or were there other occasions?
20 A I'm sorry?
21 Q You just talked about an incident where he was pinching your nipples?
22 A Yes.
23 Q Was that the only time that you recall that happened or do you recall
24 whether there was other times that that occurred?
25 A That that specific pinching of my nipples occurred?

1 Q Or did he pinch your nipples on any other occasion?

2 A No, I believe that was -- I believe that was the one time.

3 Q Okay. Now were there any other instances that you can tell the Court
4 about besides when he pinched your nipples?

5 A Yes. I woke up and he was walking around the left side of my bed and
6 he pulled the sheets down off of me, and all I had on was my gown, and he lifted my
7 gown up. You know how you go to billow something, you know, a sheet, but he kept
8 it up high so that it was -- if I was laying down it was up high like that.

9 Q Now are you talking about the sheet or your gown?

10 A The sheet. He'd already pulled off of me my gown; he had lifted up
11 high enough to see my entire body.

12 MR. MERBACK: And, Judge, for the record, she made a hand movement
13 where she indicated with one hand her body would be laying flat and the other hand
14 where the gown would maybe like -- I don't know -- a forty-five degree angle or
15 based upon her hand movement.

16 THE COURT: Probably more like fifty-five degrees but, yes.

17 MR. MERBACK: That's why I'm lawyer because I don't do math; right?

18 THE WITNESS: You know, right like that. He brought it up like that.

19 MR. MERBACK. Thank you.

20 THE COURT: Okay.

21 BY MR. MERBACK:

22 Q Now when he lifted your gown like that, were you wearing anything
23 underneath?

24 A No.

25 Q You didn't have a bra on?

1 A No.

2 Q you didn't have any underwear on?

3 A No. He did it more than once, lifting my nightgown up and down.

4 Q Did he tell you at that point why he was taking up the sheets or what he
5 was doing? Did he say anything to you?

6 A No, not at that point. But he then walked around to my right, to the right
7 side of my bed and he said: Oh, you have some feces, and he took my right leg and
8 instead of rolling me to my side he took my right leg and brought it all the way up
9 and -- he had nothing to clean me with. He had not gotten new pads to put under
10 me or wipes or anything. And that's when I became aware of a very uncomfortable
11 feeling and realization that he had his thumb in my anus.

12 MR. MERBACK: Okay. Your Honor, for the record, she made a motion with
13 her finger showing the Defendant lifting her leg, about a 90 degree angle I would
14 say.

15 THE COURT: That's correct.

16 BY MR. MERBACK:

17 Q Now you said that he had indicated to you that there was some feces
18 on you?

19 A That's what he said.

20 Q But he had not done anything to change anything?

21 A Correct.

22 Q Is that correct? Was there a pad or anything of that nature that you had
23 in case you had a bowel movement?

24 A Yeah, a pad underneath me 'cause I also had a catheter so -- in case,
25 you know, there's a leak of any sort, I had a blue pad underneath me.

1 Q This blue pad, did he do anything to change that pad?

2 A No.

3 Q Were you wearing any underwear at the time?

4 A No.

5 Q Do he do anything to change your hospital gown?

6 A No.

7 Q Now you indicated that you felt his thumb go into your anus; is that

8 correct?

9 A Yes.

10 Q Was it just his thumb or was there fingers as well; do you recall?

11 A How many I couldn't tell you but -- is that what you're asking me.

12 Q You indicated that his thumb went into your anus.

13 A Right.

14 Q I'm asking did any of his fingers also go into your anus or was it just his
15 thumb?

16 A I couldn't -- I can't -- couldn't look down there but -- so I would have to
17 say it was his thumb.

18 Q Okay. Could you tell how far into your anus his thumb went?

19 A Probably as far as his thumb is long.

20 Q Okay. And how did it feel when he did that? Did you have any pain or
21 anything like that?

22 A Yes, it hurt and my -- him holding my leg as he was hurt and the next
23 thing he said to me -- one thing during this because then I felt pressure on my
24 vagina. And he said he was checking my catheter. But from knowledge, a catheter
25 is not inside your vagina, it's above it. But the pressure I was feeling was inside my

1 vagina.

2 Q When you felt this pressure on your vagina, was your leg still up or
3 brought your leg down?

4 A It was still up.

5 Q Did you feel whether or not -- do you know what was causing the
6 pressure on your vagina?

7 A Yes, I knew it was his hands, his fingers.

8 Q Do you know whether or not his hands stayed on the outside of your
9 vagina or did it ever go inside of your vagina?

10 A It was inside.

11 Q What part of his hands was inside your vagina?

12 A A finger.

13 Q His finger. Was there one finger, more than one finger; could you tell?

14 A No, I can't tell. I couldn't tell you that.

15 Q And could you tell how far his finger went inside your vagina?

16 A Maybe up to this knuckle.

17 MR. MERBACK: And, Judge, for the record, she's indicating it looks like the
18 second knuckle on one of her fingers.

19 THE COURT: Correct.

20 BY MR. MERBACK:

21 Q And I know this is a difficult question, but I'm going to have to ask you
22 again. What did you feel when that happened? Did it hurt? How did you feel?

23 A Yes, I felt pain. I felt a multitude of feeling, one feeling being that there
24 was absolutely nothing I could do. I couldn't ring the bell, I couldn't scream, I
25 couldn't move. I couldn't -- I just had to lay there. I was humiliated, I was

1 embarrassed. I was shocked that I'm in a hospital being taken care of and I'm
2 having things like this done to me and at the point in time I can't tell anybody.

3 Q Did you actually have a catheter in at that point?

4 A Yes.

5 Q And you indicated previously that as you have had previously, the
6 catheter was much higher on your body than where your vagina is located; is that
7 correct?

8 A Well, yes, it's right above. You don't have anything to do with the
9 vagina to put in a catheter.

10 Q When this whole incident occurred that you've talked about where he
11 lifted your gown and penetrated your anus and then penetrated your vagina, was
12 there anyone else in the room during that point in time?

13 A No.

14 Q Okay. And your condition, you indicated already, was the same that
15 you could not speak and you could not move; is that correct?

16 A Yes.

17 Q Now you had previously been to the hospital on multiple occasions; is
18 that correct?

19 A Yes.

20 Q Prior to this incident?

21 A You mean that year?

22 Q Yeah, in your life, you'd been to the hospital a number of times?

23 A Yes.

24 Q And you've been to the hospital a number of times since then?

25 A Yes.

1 Q Okay. Have you ever had anything like this occur to you on other
2 occasions at the hospital?

3 A Never.

4 Q Have you ever had a nurse or a doctor or anyone else do the things
5 you're talking about to you under these conditions in a hospital?

6 A No, never.

7 Q And this might be a difficult question to answer, but since that point in
8 time since this incident in May of 2008, how many times do you think you've been to
9 the hospital since then; can you guess?

10 A I was hospitalized every month May through December of '08 due to my
11 seizures and sometimes I was there for three days, sometimes ten days. I was in
12 the hospital just the night before last night for seizures. I was in the hospital
13 probably -- now it's down to maybe once, twice a year because I just stay home for
14 my seizures now.

15 Q You talk -- you just mentioned this, but just to talk about it briefly, so the
16 last time you actually had a seizure was two nights ago; is that correct?

17 A Yes, Wednesday night, Wednesday night.

18 Q And between then and now you've spent the time recovering in
19 preparation for testifying today; is that right?

20 A Yes.

21 Q Now let's go back to your stay in the hospital in May of 2008. Did there
22 come a point in time during that stay when you gained back the ability to speak?

23 A Yes, later -- later that morning.

24 Q So, there was a morning that you gained the ability to speak?

25 A Yeah, I believe it was morning.

1 Q Once you had ability to speak, did you tell anyone about what had
2 occurred?

3 A No, I didn't really have a chance 'cause my heart went into A-fib and
4 immediately they had me rushed down to a different floor because my heart was in
5 A-fib. While all that activity was going on though in my room, he stopped inside the
6 door and said: I'm not assigned to you today but I just wanted to see how you were
7 doing, and I thought was very bizarre.

8 Q That what you're talking about where he stopped and said that to you,
9 that was after these incidents that you've talked about occurred; is that right?

10 A Yes.

11 Q Okay. But before you moved to the other room?

12 A Right.

13 Q Now when you were moved to this other room because of your heart,
14 did you see the Defendant again at any point after that?

15 A No, I was on a different floor.

16 Q Did you eventually -- were you eventually able to tell anyone about the
17 things that had happened?

18 A I had told my two sons as soon as I could talk, but it was probably
19 another good 24 hours before my heart came out of A-fib. But as soon as it did, that
20 was the very first thing I told them, that there was a nurse on the other floor, his
21 name was Steve, he had white hair, and that he had put his thumb in my rectum and
22 he had been pinching my nipples. I did not tell them the rest because they're my
23 sons so --

24 Q Now your sons, what are their names?

25 A Marshall and Micah [phonetic] Petersen, both.

1 Q Did you tell anyone at the hospital about what had happened?

2 A No.

3 Q And why didn't you do that?

4 A Because it was kind of like not knowing who to trust or who to -- you go
5 to a hospital because you need to and your one expectation is to be safe and to be
6 treated humanly and decently and that had been taken away. And so I didn't trust
7 this hospital anymore. I didn't trust --

8 Q Now I'm going to call your attention to about a month later to sometime
9 in June of 2008. Actually strike that. Let me go back. You said you didn't tell
10 anyone at the hospital. Did you at that point in May call the police?

11 A No, because at that point in time, the start of those -- of that -- the
12 seizures in May, I seized, they told me, I think it was like nine times in the
13 ambulance from the Smith's parking lot to the hospital, which is just through the
14 parking lot, I seized nine times. And that started a series of seizures to where some
15 months I was seizing like every two days.

16 Q Now you didn't call the police at that point, but did there come a point in
17 time later on when the police were called?

18 A Yes.

19 Q Okay. Was that about a month later in June?

20 A Sounds right, yes.

21 Q So, if I said June 15th of 2008, would that sound about right to you?

22 A Yes, because my son had seen him on -- the Defendant, I guess, on TV
23 and he came and told me about it and that there are multiple women and at that
24 point in time, I said I have to do this no matter what my health is doing, I have to do
25 this. Of course, I didn't foresee -- I didn't foresee how bad my health would actually

1 get but, yes.

2 Q Who called the police? Was it you or was it someone else?

3 A I did.

4 Q Now you talked about your son seeing something about the Defendant
5 on the news. Did you also see something on the news or was it just your son told
6 you about it?

7 A He told me about it.

8 Q So, you personally didn't see it? Is that a no?

9 A No -- yeah, no.

10 Q And then a few days later after you called the police, did a detective
11 come out and interview you?

12 A Yes, somebody from the Sexual Crime Unit.

13 Q I'm going to go back just briefly. The incidents that you've talked about
14 that the Defendant did to you at the hospital, did you want him to do any of those
15 things to you?

16 A No.

17 Q Okay. Did you ever do anything to indicate to him that it was okay to do
18 any of those things to you?

19 A There'd be no way for me to indicate that, no.

20 Q I'm going to ask you -- I'm going to give you some names and I want to
21 know whether or not you know any of these people. Do you know an individual by
22 the name of Ledahlia Spurlock?

23 A No.

24 Q Do you know a people named Heather Shank?

25 A No.

1 Q Do you know a person named Denise Hanna?

2 A No.

3 Q Do you know a person named Roxanne Cagnina?

4 A No.

5 Q Are you aware of whether or not any of these individuals were at the
6 hospital around the same time you were?

7 A No.

8 Q Have you ever spoken with any of these people about the Defendant or
9 the things he did to you?

10 A No.

11 MR. MERBACK: Court's indulgence. Your Honor, I have no further questions
12 at this time.

13 MR. MANINGO: Judge, would the Court or counsel have any objection if I
14 were to remain seated during my examination.

15 THE COURT: Well would you be able to see him if he's sitting?

16 MR. MANINGO: I'll just slide over this way. I don't want to get in the way of
17 any cameras or anything.

18 THE COURT RECORDER: The camera's locked on the witness so we can't
19 see anyone.

20 THE COURT: No, I just want her to be able to see him.

21 THE COURT RECORDER: Oh, okay. If he stands, if he stands up, he's
22 going to be in the way and blocks her.

23 THE COURT: I know --

24 MR. MANINGO: Right. That's why it be best if I --

25 THE COURT RECORDER: Phil, can you move those two things out of the

1 way and then she can see him.

2 **CROSS-EXAMINATION**

3 BY MR. MANINGO:

4 Q Hello, Ms. Petersen. My name is Jeff Maningo and I'm just going to ask
5 you some questions to follow-up on what Mr. Merback was talking about; okay?

6 A Okay.

7 Q During the time period of May of 2008, you were having a lot of seizure
8 activity at that time; correct?

9 A It started May 12th.

10 Q Okay. During that time though you were having a lot of seizures;
11 correct?

12 A During what time? I don't --

13 Q May of 2008.

14 THE COURT: Her answer was it started May 12th, counsel.

15 MR. MANINGO: All right.

16 THE WITNESS: I guess I don't understand the timeframe. They started May
17 12th.

18 BY MR. MANINGO:

19 Q Now you were having seizures before May 12th, though; correct?

20 A No. I had seizures like five years ago. I hadn't had any seizures up
21 until I hit my head.

22 Q And you hit your head in March; correct?

23 A And then I had no seizures until in May 12th.

24 Q Okay.

25 A And that's when they started and everything else came with it.

1 Q Okay. Once they did start, was it common to have several seizures in a
2 single day?

3 A Explain what you mean.

4 Q Would you have more than one seizure in a day?

5 A Maybe I should explain my seizures again. Can I do that?

6 THE COURT: Yes.

7 THE WITNESS: Okay. I get an aura and a taste and then I know that a
8 seizure's coming. I will seize up, my whole body seizes up. I stop breathing while
9 I'm having one. My legs curl up, my arms curl up, and then I'll relax and then I'll curl
10 up again. But if what you're asking me is will I have this happen in the morning and
11 then maybe happen in the afternoon and the evening, no. I may have a seizure, you
12 know, in the morning and then I'm done for that entire day. I have to go to sleep and
13 take medicine and sleep because I'm in pain.

14 BY MR. MANINGO:

15 Q Okay. When you would have one of these seizures it would be very
16 traumatic for you; correct?

17 A Yes.

18 Q Okay. As you explained just a few minutes ago, you would seize up
19 and then relax and then seize up again and that could happen, you said I think, up
20 to 42 times?

21 A Yes.

22 Q Okay. And each time that you would seize up, you would be -- you
23 would become unaware of what was happening; is that fair to say?

24 A No. From the very -- from when I -- when I get that aura, I have like five
25 minutes and then as soon as the seizing starts, I'm not there.

1 Q Okay.

2 A So, even when I relax I will seize. I'm still not there until I come all the
3 way out of it and then I'll just start blinking and licking and -- my lips and looking
4 around and then I'm back.

5 Q Okay. But for the duration then while you're seizing, you're blacked
6 out?

7 A Right.

8 Q Okay. And then after the seizing stops and you start to come back from
9 that, it takes time to recover; correct?

10 A Yes.

11 Q And you have to rest?

12 A I normally have to go to sleep.

13 Q Okay. And you have to take medication, you said?

14 A Yes.

15 Q Okay. And when you first come out of it you said, you start blinking and
16 it takes a while to sort of realize where you're at; is that fair to say? Yes?

17 A Yes.

18 Q Okay. And so when you're first coming out of one of these episodes,
19 you're confused; correct?

20 A I can't say that.

21 Q Well you're certainly not thinking clearly right after you get done having
22 one of these seizure episodes; are you?

23 A Right, right.

24 Q Okay.

25 A For the first few seconds as they lay there and blink, I realize I've had a

1 seizure. And then as I look around, I know where I am. It's not like -- it doesn't take
2 me three hours to remember or to know.

3 Q Okay.

4 A I mean --

5 Q Okay.

6 A Only a matter of minutes.

7 Q Okay. Thank you. During the episode, you lose time though; correct?

8 A Right.

9 Q Okay. And when you're recovering from one of the episodes, you'll be
10 in and out of consciousness. You'll fall asleep and then wake up and fall asleep
11 easily again; correct?

12 A Well, yes, yes.

13 Q You're in and out of it?

14 A Normally if I'm at home I just pretty much sleep straight 12 hours
15 through.

16 Q Okay. Is it fair to say though that during recovery though you're in and
17 out of consciousness?

18 A In and out of sleep, yes.

19 Q Okay. Do you remember speaking to a detective about this case?

20 A Back in '08?

21 Q Yes.

22 A Yes.

23 Q Okay. And the words you used were in and out of consciousness?

24 A Okay.

25 Q Okay. So, is that fair to use?

1 A Yes.

2 Q Okay. Now you said that part of the recovery after you have one of
3 these seizures is that you have to take medication; correct?

4 A Correct.

5 Q And during the week of May 13th to May 20th, 2008 when you were in
6 Centennial Hills Hospital, you were on a number of different medications; correct?

7 A I believe so. I mean, my medications have changed since then so --

8 Q Would you be surprised to learn that based on your own medical
9 records, you are on Prozac, an anti-depressant; does that sound right?

10 A Yes.

11 Q Okay. You are also on Benzodiazapenes which is -- the most common
12 source would be like Valium; does that sound correct?

13 A I [Inaudible response].

14 Q You are also on sedatives; does that sound correct?

15 A Well to mean -- no.

16 Q Okay. So, if that's on your medical report and on your charts that the
17 doctors filled out. Do you think it's correct?

18 A Well, yes, I would.

19 Q Okay And you were also on an anti-seizure medication called Dilantin;
20 correct?

21 A Yes, they started me on that, yes.

22 Q Okay. And you're aware that with the anti-depressants such as Prozac
23 that it affects your brain chemistry; correct?

24 A Uh-hm.

25 Q Okay. And you also know that Dilantin will also affect your brain

1 chemistry?

2 A Dilantin is for epileptic seizures.

3 Q Yes.

4 A Yes, I didn't stay on Dilantin.

5 Q I'm asking about the time period though of May 13th to May 20th while
6 you were at Centennial Hills Hospital. At that time you were on Dilantin.

7 A Okay.

8 Q Are you aware that one of the side affects of Dilantin is confusion?

9 A No.

10 Q Are you aware that one of the side affects of Dilantin is delirium?

11 A No.

12 Q Besides being on the drugs I've already listed, you were also being
13 given doses of morphine; correct?

14 A It's the only pain medication I can take.

15 Q Okay. And you understand that morphine is a very strong narcotic?

16 A Yes.

17 Q Okay. And morphine can certainly cause a change in someone's
18 awareness; would you agree?

19 A No.

20 Q No?

21 A No.

22 Q So, you think that it would be okay for someone to drive while on
23 morphine?

24 A I take -- I can no longer drive because of the brain trauma.

25 Q That wasn't my question though. My question is: Do you think it's okay

1 for someone to drive then if they're taking seven doses of morphine in five days?

2 A It depends on the doses.

3 Q Okay. Do you think it makes any difference that the morphine is being
4 mixed with Prozac, Valium and Xanax?

5 MR. MERBACK: Judge, at this point, I'm going to object. I think the
6 questions are going beyond the scope of her knowledge. I mean, these are
7 questions that are for a doctor or someone of that nature to answer.

8 MR. MANINGO: Well it's going towards the witness's ability to perceive.

9 THE COURT: Right. Well you're asking her now her opinion as to the affects
10 of drugs, and she can't offer that kind of opinion testimony. She's not qualified as an
11 expert witness. I'll sustain the objection. Move on.

12 BY MR. MANINGO:

13 Q During this time then, you do realize that a number of different drugs
14 were being mixed together? You were taking more than one drug?

15 A When you say during this time, are you saying while I'm in the hospital?

16 Q Yes. Still talking about the hospital, May 13th to May 20th, 2008.

17 A Okay.

18 Q And do you remember that period of time that you were on more than
19 just one medication?

20 A Yes. What all medications I was on, no I couldn't tell you.

21 Q Okay.

22 A And especially since then, it took quite a while for them to actually dial
23 in the medications I actually needed.

24 Q Okay. Thank you. During this week long period at Centennial Hills in
25 2008, you spent that entire week recovering from the seizures; correct?

1 A And?

2 Q Is that correct?

3 A No. I spent most of the time -- I should say I spent more time
4 recovering from the A-fib.

5 Q Okay. And that happened while you were in the hospital recovering
6 from the seizures?

7 A Correct.

8 Q Okay. And also during this week long period, you were on a number of
9 different medications?

10 A Yes.

11 Q Okay. And it's from this one week period where you were covering
12 from the seizures, your heart went into A-fib, and you were on a number of different
13 medications that these allegations against Mr. Farmer come from, that one week
14 period; correct?

15 A Yes.

16 Q Okay. You discussed on your direct examination an incident where Mr.
17 Farmer he lifted up your gown?

18 A Yes.

19 Q Was that the first time that you met Mr. Farmer?

20 A Yes.

21 Q Okay. And he introduced himself to you?

22 A Yes.

23 Q Okay. And he told you what his name was?

24 A Yes.

25 Q Okay. He -- as it turned out he gave you the correct name; right? He

1 didn't give you a fake name or anything like that?

2 A Okay; yes.

3 MR. MERBACK: Actually, Judge, I'm going to object to that question. It's
4 beyond the scope of her knowledge. I mean, she doesn't know his name beyond
5 what he told her so I think that that's -- that question to her is objectionable.

6 MR. MANINGO: I'll re-ask.

7 THE COURT: Your objection is assumes facts not in evidence?

8 MR. MERBACK: Correct.

9 THE COURT: All right. Sustained.

10 BY MR. MANINGO:

11 Q Did he tell you that his name was Steve?

12 A Yes.

13 Q Okay.

14 A I believe he said Steven.

15 Q Steven. Okay. Now at that point you said he lifted up your gown;
16 correct? Is that correct?

17 A At some point, yes, he lifted up my gown.

18 Q Okay. And you had a catheter at that point; correct?

19 A Yes.

20 Q Okay. You also at this point in time you were unable to move?

21 A Yes.

22 Q Okay. Now you've -- I think you told Mr. Merback you've had quite a bit
23 of experience spending time in hospitals?

24 A Unfortunately.

25 Q Okay. Have you ever heard the term intimate care?

1 A No.

2 Q Okay. You do understand that nurses are asked to take care of
3 personal hygiene tasks at certain points?

4 A Yes.

5 Q Okay. You understand that nurses are asked to clean up any leaks or
6 bowel movements, that's part of their job; you know that?

7 A Yes.

8 Q Okay. You know that nurses are asked to check on a patient's catheter
9 if they have one?

10 A Yes.

11 Q Okay. During this incident where Mr. Farmer, you say, he lifted up your
12 gown, at this point you're also on medications; correct?

13 A Yes.

14 Q Okay. And one of the medications that you're on at that point is
15 Morphine?

16 A Yes.

17 Q You discussed another incident where you said Mr. Farmer had told
18 you that you had feces on you?

19 A Yes.

20 Q And that he lifted your leg up?

21 A Yes.

22 Q And his hand moved from your leg to your rectum?

23 A Yes.

24 Q Okay. Mr. Farmer explained to you that he was cleaning you?

25 A No.

1 Q No? Did he explain to you that he was checking your catheter?
2 A At one point he said that.
3 Q And you still had a catheter at that point --
4 A Yes.
5 Q -- during that incident?
6 A Yes.
7 Q Okay. You were still unable to move at that point?
8 A Yes.
9 Q You couldn't look down and see what was going on?
10 A No.
11 Q Okay. You couldn't look down to see if, you know, what Mr. Farmer
12 was doing; correct?
13 A Correct.
14 Q Okay.
15 A But I could feel that he was not wiping me. I could feel that nothing --
16 Q That wasn't my question, Ms. Petersen. We'll get to that. Thank you.
17 Because of your inability to move you couldn't sit up and see anything either
18 obviously; is that correct?
19 A Correct, but I was not laying flat.
20 Q Okay. So, you were at an angle?
21 A Yes.
22 Q Okay. Was -- at that point as he had your leg up, you had a gown on;
23 correct?
24 A Yes.
25 Q And you couldn't see past the gown; correct?

1 A See past --

2 Q You have a gown on and he lifts your leg up?

3 A Right.

4 Q Okay. You're not able to see what was going on?

5 A That's if you're assuming that he had the gown with my leg while it was
6 up, which it was not. The gown was across my lap.

7 Q Well actually I'm just assuming from you already testified to which is
8 you weren't able to see what was going on. You've already said that.

9 THE COURT: Counsel, you testifying? I don't hear a question

10 MR. MANINGO: My question is: Would you like to now change your testify?

11 MR. MERBACK: Objection, Judge, it's argumentative.

12 THE COURT: All right. So, I'm sustaining her -- the objection because you're
13 mischaracterizing her previous testimony. So, if you'd let her answer.

14 MR. MANINGO: Judge, her previous testimony is that she was not able to
15 see what was going on. I asked that direct question and that was her answer. Now
16 she's saying, well, the gown was down. So, I'm asking her again were you able to
17 see what was going on.

18 THE COURT: Rephrase the question and don't give me a narrative response
19 and argue with me about the testimony.

20 BY MR. MANINGO:

21 Q Ms. Petersen, were you able to see what was going on when Mr.
22 Farmer said he was checking your catheter?

23 A No.

24 Q Okay. Thank you. He had told you that you had a bowel movement or
25 that there was fecal matter?

1 A Yes.

2 Q Okay. You didn't notice any wipes or pads?

3 A No.

4 Q Okay. You didn't feel any -- you didn't feel yourself go to the bathroom?

5 A Right; no, I did not.

6 Q Okay. But before Mr. Farmer had come in to check it, you were

7 sleeping; correct?

8 A Off and on, yes.

9 Q You woke up and Mr. Farmer was already there?

10 A Yes.

11 Q And you were still on your medications during this incident, correct, to

12 the best of your knowledge?

13 A I would assume so if, I mean, I had just taken some, no, I don't believe I

14 did.

15 Q Do you remember?

16 A I don't remember taking any during this time, no. But some medications

17 I had through the IV as well.

18 Q Okay. But you had just awoken as Mr. Farmer was already there?

19 A Yes.

20 Q Okay. Based on your experience that you've talked about from being a

21 patient in hospitals you know that they will check patients who cannot move

22 themselves for bed sores; right?

23 A Yes.

24 Q Okay. And you know that date they look at different factors with

25 patients to see if you're at risk for bed sores such as whether or not you can feel

1 pain or discomfort; are you aware of that?

2 A Not so much, no.

3 Q Okay. Are you aware of the fact that your doctor noted that you have a
4 very limited ability to feel pain or discomfort during that time that you were there?

5 MR. MERBACK: Judge, I'll actually object to that question on a number of
6 reasons. I think it calls for a hearsay response because it's the statement of -- it's
7 an out of court statement of another witness and also it would be -- I guess that
8 would be my main objection at this point.

9 THE COURT: Well it also lacks foundation and assumes facts not in
10 evidence so I'll sustain it on those grounds.

11 BY MR. MANINGO:

12 Q Well let me ask you this, Ms. Petersen. Did you feel like you had full
13 feeling in your body that you could feel discomfort normally?

14 A Could I feel pain?

15 Q Well pain or discomfort.

16 A Yes.

17 Q Okay. I mean, on a normal level.

18 A I don't know how to answer that because -- I mean, on a normal level if
19 you feel discomfort or pain -- you know, like if your shoulder is getting tight, well you
20 move it; right? You move so you can get comfortable. I can't move, but I can feel
21 the discomfort. I just can't do anything about. So, I don't know how to answer your
22 question.

23 Q Now you mentioned one other incident, I believe. You said that there
24 was -- Mr. Farmer had come in and pinched your nipples?

25 A Yes.

1 Q Okay. And did you testify that that happened, how many times, once?
2 Once or more than once?

3 A Explain.

4 Q How many times did that happen where Mr. Farmer came in and
5 pinched your nipples or touched your nipples?

6 A I'm aware of him pinching my nipples a total of four times, two times
7 each.

8 Q I'm sorry. I'm not sure I understand.

9 MR. MERBACK: Judge, I think the question's vague. I mean, is the issue
10 that how many times he pinched her nipples on this one occasion or were there
11 multiple occasions and I think that's where the confusion's coming from so my
12 objection is vague.

13 MR. MANINGO: How many incidents.

14 THE COURT: Well I'll sustain that and let you rephrase.

15 BY MR. MANINGO:

16 Q How many incidents occurred where Mr. Farmer touched your breasts?

17 THE COURT: He's talking about separate incidents.

18 THE WITNESS: Like at the --

19 THE COURT: Not each touching at one time. He's asking you was there
20 more than one occurrence.

21 THE WITNESS: Two.

22 BY MR. MANINGO:

23 Q Two? Okay. Each of those times he stated that he was adjusting the
24 heart monitor leads?

25 A Yes.

1 Q Okay. Now you had approximately eight leads placed across your
2 torso; correct?

3 A I don't know if that's correct.

4 Q Okay. Was it -- did you have only one lead?

5 A I had more than one, but I don't know that I had eight; I didn't count.

6 Q Did you have more than two; do you remember?

7 A Yes, I know I had more than two. I just can't see that -- yes, I had
8 exactly eight.

9 Q Okay. And I just want to get an approximation. So, was it more than
10 four?

11 A Yes, probably.

12 Q Okay. Could it be more than eight?

13 A That's what I'm saying. I can't -- you said you had eight leads; did you
14 know that. Well, no, I don't know that. I don't know exactly how many I had.

15 Q Okay. I'm just asking you what you do remember. Do you remember if
16 there were more than five?

17 A No, I'm sure there were.

18 Q Okay. I'm sorry, Ms. Petersen. I'm just asking how many there were on
19 your body. It's not -- I'm not trying to trick you.

20 A You're asking me though a question that -- when these are put on me,
21 I'm in a seizure state. So, I can't -- I'm not around to count 'em. Does that make
22 sense to you? It's like being in a seizure --

23 Q It does make sense to me. However, you did speak to a detective and
24 told the detective quite easily without all this extra argument that it was seven to
25 eight leads on your chest; do you remember saying that to the detective?

1 A No.

2 Q Okay. You said that you know he wasn't adjusting the leads on your
3 chest because you didn't hear any beeping?

4 A Right.

5 Q Okay.

6 MR. MERBACK: Objection. That's misstates her testimony. She said she
7 knew the leads didn't come off because she didn't hear the beeping.

8 MR. MANINGO: I'm sorry. What did I say?

9 MR. MERBACK: You said you knew he wasn't adjusting the leads which is
10 different than what she testified to.

11 THE COURT: Well restate the question because she had answered so --

12 MR. MANINGO: I think --

13 THE COURT: Yeah.

14 MR. MANINGO: -- I think she understood.

15 BY MR. MANINGO:

16 Q Ms. Petersen, You believed that none of your leads had come loose
17 from your body because you didn't hear any alarm go off; correct?

18 A Correct.

19 Q Okay. Are you aware of the fact that at Centennial Hills Hospital in the
20 room that you were in the telemetry monitors are actually at the nursing station in
21 the hall and that's where the alarms go off; did you know that?

22 A I --

23 Q Were you aware of that?

24 A No.

25 Q Okay. It was your understanding that the -- there would be a telemetry

1 monitor and an alarm in your room; correct?

2 A Yes, from my recollection there was.

3 Q Okay. And so if I told you that there are pictures taken and research
4 done showing that the monitors aren't even the room, they're in the hallway so that
5 the patient wouldn't hear the alarm go off; could that change any of your testimony?

6 A No.

7 Q Okay.

8 A Because when my heart went into A-fib there was a machine by my bed
9 that did start going off and did when the all the nurses came running in, turned it
10 off --

11 Q Okay.

12 A -- and this machine actually went up to the room I went to for my A-fib.

13 Q When you said that Mr. Farmer was adjusting the leads on your chest,
14 before you noticed him doing that you had been asleep; correct?

15 A Yes.

16 Q And then you started to wake up?

17 A I woke up, yes.

18 Q Okay. And you were looking at him you said?

19 A Yes.

20 Q Okay. But before he had come in you were out if it, you were asleep?

21 A I was asleep.

22 Q Okay. So, you were not aware of him coming in in the first place?

23 A No.

24 Q Okay.

25 A You mean did I hear him walk in, you mean? No.

1 Q During the time of this incident you were still on your medications;
2 correct?

3 A I don't know. I mean, was I still being given medications; is that what
4 you mean?

5 Q Yes.

6 A Yes.

7 Q Okay. And you were still being given morphine?

8 A I think so. I mean, I honestly don't know what the medications all were
9 at that time, but I live on morphine every day of my life.

10 Q Okay. Now I know this sounds very obvious, but why you were at
11 Centennial Hills Hospital that week there were other people in the hospital around;
12 correct? You weren't the only patient obviously?

13 A I don't think so.

14 Q Okay. And you saw other staff members besides Mr. Farmer?

15 A Yes.

16 Q And there were doctors, nurses coming in and out of the room?

17 A Yes.

18 Q Okay. And what you testified to is that all these incidents that took
19 place with Mr. Farmer happened in a location where anyone would have walked into
20 your room and caught Mr. Farmer doing what he was doing; that was possible?

21 A Possible.

22 Q Nobody did that as far as you know?

23 A As far as I know.

24 Q Okay. And all the incidents that you described took place in a location
25 where someone else could have seen Mr. Farmer doing something inappropriate;

1 correct?

2 A I don't know if that's correct or not. I mean -- because what happened
3 was I was rushed down to another room after my heart went in A-fib and I'd been in
4 a seizure prior so, no, I don't know that -- I don't know the lay of the hospital floor no,
5 I don't. I don't know where the room was located or anything.

6 Q To the best of your knowledge though no one else saw Mr. Farmer do
7 anything inappropriate to you?

8 A I don't know if anybody saw or not.

9 Q No one's come to said: Ms. Petersen, I saw this happen?

10 A No, nobody's done that.

11 Q You did not come forward with any of these allegations until a month
12 after being released from the hospital; correct?

13 A Correct.

14 Q After this happened to you, the very first incident, when this happened
15 to you in the hospital, you didn't tell your doctors what had happened; did you?

16 A No.

17 Q Okay. And you didn't tell any of the other nurses what had happened?

18 A No.

19 Q Okay. You didn't ask to speak with the police or for the police to be
20 called and come to your room?

21 A No. I didn't even -- I didn't -- didn't -- didn't -- didn't --didn't -didn't --

22 THE MARSHAL: Your Honor.

23 THE COURT: Do you need to take a short rest, a recess? Yes?

24 THE WITNESS: Yes, yes, yes, yes, yes.

25 THE COURT: Okay. Court will be in recess for five minutes.

1 [Recess taken at 11:28 p.m.]

2 [Proceedings resumed at 12:03 p.m.]

3 THE COURT: All right. Are we ready to go back on the record? All right.
4 We're back on the record. Go ahead with your cross.

5 MR. MANINGO: Thank you.

6 BY MR. MANINGO:

7 Q Ms. Petersen, let's get this finished up now.

8 A Okay.

9 Q Do you remember what we were just talking about a minute ago?

10 A A lot of things.

11 Q That's true. I had asked you about the fact that you did not come
12 forward with any of these allegations until about a month after you were released
13 from the hospital?

14 A Correct.

15 Q Okay. And while you were still in the hospital between the dates of May
16 13th and May 20th of 2008, you didn't speak to any doctors at the hospital about what
17 happened with Mr. Farmer; correct?

18 A Correct.

19 Q Okay. And you did not speak with any of the other nurses about what
20 had happened; correct?

21 A Correct.

22 Q Okay. And did you not ask for the police to come to your room and
23 speak to them; correct?

24 A Correct.

25 Q Okay. Now earlier when you were speaking with Mr. Merback, you said

1 the reason you didn't talk to anybody from the hospital was because you didn't trust
2 the hospital anymore; right?

3 A Correct.

4 Q And do you remember saying that earlier?

5 A Yes.

6 Q Okay. However, do you remember that you went back to that same
7 hospital on June 19th, 2008 for an emergency room visit?

8 A Yes.

9 Q Do you remember that?

10 A Yes.

11 Q Okay. And then you also went back to that same hospital that you said
12 you no longer trust on June 24th of 2008 and stayed for a couple of days; do you
13 remember that?

14 A Yes, I was taken by ambulance both times and had no say in where
15 they would take me.

16 Q Okay.

17 A I asked to be taken to UMC and they would not take me. My -- both my
18 sons requested I be taken to UMC.

19 Q Okay.

20 A And the ambulance drivers did not do it.

21 Q Okay. Now do you remember speaking to the detective about this case
22 back in '08; correct?

23 A Yes.

24 Q Okay. And the detective asked you why you didn't tell anyone at the
25 hospital; do you remember that?

1 A Not specifically. We talked about a lot of things.

2 Q Okay. Do you remember telling the detective that the reason you didn't
3 tell anyone was because you couldn't speak?

4 A Which is true. At the time it was happening I could not speak.

5 Q Right. But during your visit you were able to speak?

6 A Right, and I told my sons.

7 Q Okay. After you told your sons, they did not report it to the hospital staff
8 as far as you know; correct?

9 A Correct.

10 Q And they did not call the police; correct?

11 A As far as my knowledge, no.

12 Q Okay. After you told your sons about what had happened, you still
13 remained in that hospital for the duration of your stay; correct?

14 A Correct; I believe I did, yes.

15 Q Okay. What I'm asking, I guess, Ms. Petersen, is your sons allowed
16 you to remain in Centennial Hills Hospital after you told them what happened with
17 Mr. Farmer; correct?

18 A Correct.

19 Q Okay. Now after May 20th you were released from Centennial Hills; is
20 that right?

21 A I believe so, yes.

22 Q Okay. And you went back home at that time?

23 A Yes.

24 Q Okay. Once you got home you still didn't contact the police, correct,
25 right away I should say? You didn't call the police right away when you got home?

1 A Correct.

2 Q All right. And you didn't call the hospital to inform them of what had
3 happened; correct?

4 A Correct. Part of the reason I didn't call the hospital is I had been in
5 Centennial previously for the flu and had several items stolen and making phone
6 calls to get resolution got me nowhere.

7 Q Okay. And, Ms. Petersen, I'm sorry, I didn't mean to interrupt. You
8 have to answer just from the questions I ask otherwise it gets confusing. And so
9 you did answer me and I appreciate it. Now once you did get home after May 20th
10 you were able to at least speak and communicate; correct?

11 A Yes.

12 Q And you were able to make phone calls if you needed to; correct?

13 A Yes.

14 Q Okay. But at that time you still chose not to contact anyone about what
15 had happened?

16 A At that time my body started experiencing -- when I hit my head and got
17 the brain trauma, all the sudden I could do Suduko in like two minutes; finish a
18 puzzle which was totally abnormal for me. And then when the seizure started in
19 May it's like all the sudden I was down the chute of a rollercoaster. I started
20 experiencing high blood pressure. All my --

21 Q Ms. Peterson, I'm going to interrupt you just for a second. I'm sorry,
22 Your Honor, but I think this is all non-responsive.

23 A No, I'm answering why I didn't call right away because my health
24 started deteriorating so fast that that was on the front burner at the time. I started
25 having seizures like every other day. I started experiencing uncontrollable sensory

1 overload and I had things happening I've never experienced before and my body
2 and health was just going down a sieve and that was my top priority at that point in
3 time.

4 Q You weren't concerned that if Mr. Farmer had assaulted you that he
5 may continue assaulting somebody else at the hospital?

6 MR. MERBACK: I object as to argumentative and not relevant.

7 THE COURT: Yeah, I think that's argumentative so I'll sustain that.

8 BY MR. MANINGO:

9 Q Well let me rephrase, Ms. Petersen. Once you got home from the
10 hospital, were you concerned that anyone else might get hurt at the hospital?

11 A Of course.

12 Q Yes?

13 A Yes, of course.

14 Q And yet you still didn't call and report anything about Mr. Farmer even
15 though you were concerned about that?

16 A Right.

17 Q Okay.

18 A But --

19 Q You answered the question. Thank you.

20 THE COURT: Well I'm going to allow her to explain her answer.

21 MR. MANINGO: Judge, I --

22 THE COURT: Are you trying to finish your answer?

23 THE WITNESS: Yes.

24 MR. MANINGO: Judge, I'm going to object because she answered the
25 question and now we're giving her free reign to make these narratives.

1 THE COURT: All right. The District Attorney can follow up if he wants to. Go
2 ahead.

3 BY MR. MANINGO:

4 Q It was a month later after release from the hospital around June 15th,
5 you were still concerned about your health at that point; correct?

6 A Yes.

7 Q It was still a priority for you; correct?

8 A Yes.

9 Q Okay. But at that time your son saw Mr. Farmer on the television;
10 right?

11 A Yes.

12 Q And it was seeing Mr. Farmer on the television that prompted you to
13 make the phone call to the police; correct?

14 A It was the story associated with him being on TV that prompted it; to
15 find out that I was not the only one.

16 Q Knowing that that was your nurse, that he was your nurse at the
17 hospital also?

18 A And the story went on to say that there were more victims than just one.

19 Q Uh-hm.

20 A So, at that point in time, yes, I called.

21 Q Okay. And you were -- you had the physical capacity to make the
22 phone call to the police yourself; correct?

23 A Yes.

24 Q Okay. You didn't have to have somebody else call for you?

25 A No.

1 Q Okay. And you could have made that phone call weeks earlier if you
2 wanted to? I mean, you were physically capable of making that phone call?

3 A I was capable --

4 Q Okay.

5 A -- physically.

6 Q Okay.

7 A But medically not so much.

8 Q Earlier you said that you -- that because of your medical condition you
9 live with Morphine every day?

10 A Yes.

11 Q Okay. Are you on morphine today?

12 A Yes.

13 Q Okay. What kind of dosage did you take today?

14 A My normal dosage. I take 7.5 milligrams three times a day.

15 Q Three times a day?

16 A Yes.

17 Q Okay. And at this point, how many doses -- how many 7.5 milligram
18 doses have you had?

19 A One.

20 Q One. And then you'll take one midday and then another one in the
21 evening?

22 A Yes.

23 Q Okay. While you were in the hospital, do you remember how many
24 times your doctor saw you?

25 A No.

1 Q Okay. Do you remember how many times the nurses came through to
2 check on you?

3 A No.

4 Q The incidents that you described to Mr. Merback, the incident where
5 you said Mr. Farmer had pinched your nipples, did that happen -- what time of the
6 day did that happen; do you remember?

7 A I believe it was nighttime.

8 Q Okay. Are you sure about that or --

9 A No.

10 Q Okay.

11 A Because it was dark in my room whether it was because the lights were
12 out or because it was nighttime. I do believe it was nighttime though because the
13 next morning when the day shift nurses came on is when my heart, I believe, went
14 into A-Fib.

15 Q Okay. Now do you remember how many days you were at the hospital
16 before you told your sons about Mr. Farmer?

17 A Well like I said earlier, it happened and I believe what he did to me was
18 at night. The next morning, my heart went into A-Fib. It took 24 hours for it to out of
19 A-Fib and the very first thing I said when I came to or came out of the A-Fib that was
20 the first thing I told my boys, the very first thing.

21 Q Okay. So, how many days was that -- how many days had you been in
22 the hospital at that point when you came out of A-Fib; do you remember?

23 A I had seizures on the second -- I mean, the 12th; I got admitted the 13th
24 and it's either the 14th or the 15th. I'm not quite certain.

25 Q Okay. Ms. Petersen, you currently have a pending lawsuit against

1 Centennial Hills Hospital regarding these allegations against Mr. Farmer; correct?

2 A Yes.

3 Q I'm sorry?

4 A Yes.

5 Q Okay. And that was filed in July of '09, July 23rd of 2009?

6 A Okay. Somewhere in there.

7 Q And in the lawsuit what you're seeking is money; correct?

8 MR. MERBACK: Your Honor, I would object to this point beyond -- I mean,
9 it's one thing -- I think it's not relevant at this point. It's one thing to ask the question
10 about the lawsuit, but questions beyond that aren't relevant.

11 THE COURT: Beyond the scope of direct.

12 MR. MANINGO: And, Judge, I think it goes directly towards motive and bias
13 especially if a witness has a financial motive regarding her testimony. I think it's
14 definitely -- and which my co-counsel is explaining -- is covered under *Chavez*
15 *versus* -- *v. State* -- that it does not need to be within the scope of the direct when
16 you're talking about the motive and bias of a witness.

17 THE COURT: Okay. So, the objection's overruled. Proceed.

18 BY MR. MANINGO:

19 Q Ms. Petersen, the question was are you aware that -- excuse me let me
20 rephrase that -- by filing a lawsuit what you're looking to accomplish is to receive
21 money damages from the hospital; correct?

22 A From --

23 Q From Centennial Hills Hospital?

24 A From this lawsuit here?

25 Q Because of what happened with Mr. Farmer you're suing the hospital?

1 A Right.

2 Q Okay. And you're suing the hospital for money; right?

3 A Right.

4 Q Okay.

5 A My attorney is.

6 Q And you're aware that a conviction in this criminal case will help the
7 lawsuit?

8 MR. MERBACK: Objection, Judge. That's clearly beyond her -- lack of
9 foundation. It's beyond her scope of knowledge and it's not relevant.

10 THE COURT: Lacks foundation and assumes facts not in evidence. It's
11 sustained.

12 MR. MANINGO: Court's indulgence.

13 BY MR. MANINGO:

14 Q Ms. Petersen, we're just about finished. You had started to mention a
15 situation where Centennial Hills Hospital, you had property stolen from you while
16 you were there?

17 A Yeah.

18 Q And did you ever file any kind of a complaint or anything with the
19 hospital?

20 A Yes.

21 Q Okay. And you did not receive any satisfaction from them regarding
22 that?

23 A No.

24 Q And did you pursue it by calling the police or just by contacting the
25 hospital?

1 A The hospital and their security department. I believe I did paperwork
2 with them.

3 Q Okay. And nothing ever came of it. You never found out anything or
4 received your property?

5 A No.

6 Q And that happened -- that all happened before any incidents with Mr.
7 Farmer?

8 A Yes.

9 MR. MANINGO: Okay. Thank you, Ms. Petersen. Pass the witness.

10 THE COURT: Redirect.

11 MR. MERBACK: No questions, Judge.

12 THE COURT: All right. May the witness then be excused?

13 MR. MERBACK: Yes, Your Honor.

14 THE COURT: Thank you. You're excused.

15 MR. MERBACK: Your Honor, can I slip out and get her son; is that okay?

16 THE COURT: Yes.

17 THE WITNESS: Do I have a chance to say anything or no?

18 THE COURT: No, you have to just answer questions of counsel so --

19 THE WITNESS: Okay.

20 THE COURT: -- you can speak to the District Attorney or anybody that you
21 wish to about this, but you don't have to speak to anybody that you do not wish to.

22 MR. MANINGO: Judge, actually -- are we on the record still?

23 THE COURT: Yes.

24 MR. MANINGO: Okay. Thanks. We're asking the Court to advise the
25 witness that this is actually trial testimony at this point and that the witness is not

1 allowed to discuss her testimony with anybody else or what went on here because
2 there are other potential witnesses, in particular her family members and her sons.

3 So --

4 THE COURT: Let me admonish her. All right.

5 MR. MANINGO: Yes, please.

6 THE COURT: All right. So, Ms. Petersen, because what we did today is in
7 order to preserve your testimony for trial and later your testimony will be played for
8 the jury. The reason your son was asked to step out into the hall and wait there was
9 because he will be a witness in the trial and so don't discuss your testimony here
10 today with your son. It's important that we maintain that exclusion of the witness
11 and so don't discuss your testimony with your son or other members of your family
12 who might be trial witnesses in this matter. All right.

13 THE WITNESS: Okay.

14 THE COURT: Thank you.

15 Anything further?

16 MR. MANINGO: Oh, no, Judge. Thank you.

17 THE COURT: Thank you. Court is adjourned.

18 MR. MERBACK: Thank you, Your Honor.

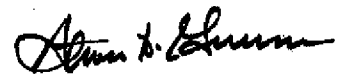
19
20 [Proceedings concluded at 12:24 p.m.]

21
22 ATTEST: I do hereby certify that I have truly and correctly transcribed the
23 audio/video proceedings in the above-entitled case to the best of my ability.
24
25

Patticia Slattery

PATRICIA SLATTERY
Court Transcriber

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CLERK OF THE COURT

1 **RTRAN**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 THE STATE OF NEVADA,

6 Plaintiff,

7 vs.

8 STEVEN DALE FARMER,

9 Defendant.

CASE NO. C245739/C249693

DEPT. NO. V

10 BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

11
12 MONDAY, FEBRUARY 6, 2012

13
14
15 RECORDER'S TRANSCRIPT RE:
16 STATUS CHECK: (BOTH)

17
18 APPEARANCES:

19 For the Plaintiff:

WILLIAM "JAKE" MERBACK
Chief Deputy District Attorney

20
21 For the Defendant:

AMY A. FELICIANO
Deputy Public Defender

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23
24
25 RECORDED BY: LARA CORCORAN, COURT RECORDER

1 LAS VEGAS, NEVADA, MONDAY, FEBRUARY 6, 2012, 10:36 A.M.

2 * * * * *

3 THE COURT: Case Number C245739, State of Nevada versus Steven
4 Dale Farmer, Mr. Farmer in custody with his counsel. So what's happening?

5 MR. MERBACK: Your Honor, may we approach?

6 THE COURT: Yes.

7 MR. MERBACK: Is that okay, Your Honor?

8 (Off-record bench conference)

9 THE COURT: All right. So due to some evidentiary issues that affect
10 this trial we need to vacate the current trial date. This is something that neither side
11 could have anticipated and there's good cause to vacate and reset the trial date.

12 And, Mr. Farmer, your counsel has recommended this. It would be in
13 your best interest. So we're continuing the trial until early September.

14 What's the date?

15 THE CLERK: September 4th at 1:30, which that is a Tuesday because
16 of the holiday, and August 27th at 9 for calendar call.

17 MS. FELICIANO: Thank you.

18 MR. MERBACK: Thank you very much, Your Honor.

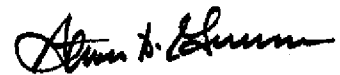
19 THE COURT: Thank you.

20 PROCEEDING CONCLUDED AT 10:42 A.M.

21 * * * * *

22 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-
23 video recording of this proceeding in the above-entitled case.

24 
25 LARA CORCORAN
Court Recorder/Transcriber



CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 THE STATE OF NEVADA,

6 Plaintiff,

7 vs.

8 STEVEN DALE FARMER,

9 Defendant.

CASE NO. C245739/C249693

DEPT. NO. V

10 BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

11
12 WEDNESDAY, APRIL 4, 2012

13
14
15 RECORDER'S TRANSCRIPT RE:
16 STATE'S MOTION TO CONSUME ENTIRE DNA SAMPLES FOR Y-STR TESTING
17 BY AN OUTSIDE LABORATORY (C245739)

18 APPEARANCES:

19 For the Plaintiff:

ELISSA LUZAICH
Chief Deputy District Attorney

20
21 For the Defendant:

JEFFREY S. MANINGO
Deputy Public Defender

22
23
24
25 RECORDED BY: LARA CORCORAN, COURT RECORDER

1 LAS VEGAS, NEVADA, WEDNESDAY, APRIL 4, 2012, 9:24 A.M.

2 * * * * *

3 THE COURT: C245739, State of Nevada versus Steven Dale Farmer,
4 the consolidated case. Good morning.

5 MR. MANINGO: Good morning, Your Honor.

6 THE COURT: This is on the State's motion to consume the entire DNA
7 samples for testing by an outside laboratory. And I read the pleadings, both sides.
8 And –

9 THE CLERK: Mr. Maningo, what was your bar number?

10 MR. MANINGO: 8845.

11 MS. LUZAICH: Lisa Luzaich for the State, just for the record.

12 I would submit on the motion.

13 MR. MANINGO: 8845.

14 THE CLERK: 50?

15 THE COURT: 8845.

16 THE CLERK: Oh.

17 MR. MANINGO: Sorry.

18 THE CLERK: Sorry.

19 THE COURT: And so, I guess my question was there's nothing that
20 was in the defense opposition that indicated that you were actually intending to test,
21 you know, more just you can't destroy the rest of the sample because then we won't
22 be able to but we don't really have any intention of testing.

23 MR. MANINGO: Well, the reason we don't know yet if we would want
24 to retest after a third testing by the State is because it would depend on what those
25 results would yield. Now, if it were to be consistent with specialist Paulette's initial

1 testing then it sort of, if we're keeping a tally, it racks up two consistent and one
2 inconsistent, in which case we may want to test at that time. Unfortunately, we
3 wouldn't be able to then because of the destructive nature of this third testing.

4 If the third testing came out, you know, somewhat similar to the second
5 testing that was done by the State, which was that there really wasn't anything that
6 was found, possibly because of not enough sample, well then we would have two
7 that way and we probably wouldn't test.

8 The dilemma we're in is that we don't know what that third testing would
9 result in.

10 THE COURT: And we're not going to know unless we do the test, and
11 if we do a test it's going to deplete the sample because there's not much of a
12 sample left.

13 MR. MANINGO: Exactly.

14 THE COURT: And it seems to me that, you know, the proper scientific
15 approach to this is, in fact, you've got the first questioned sample; you've got
16 reason, in fact, for the State to retest. In fact, it would have been irresponsible for
17 the State not to have that retested, given the facts concerning that forensic
18 specialist.

19 And so when you have the result of that second test showing numbers
20 that are different, the procedure would be to do another testing to determine whether
21 in fact there was an error in the second testing. And the only way to do that is, in
22 fact, this third test.

23 And the State has given the defense the ability to keep from being
24 prejudiced by allowing them to send their own expert. I know that you oppose that
25 on the grounds that it would go to an extra expense, but, obviously, that's an

1 expense the State will bear since the defendant is being defended at public expense
2 as it is.

3 So I'm going to grant the motion and the State will prepare the order.


4 MS. LUZAICH: Thank you.

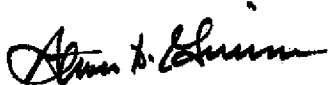
5 THE COURT: Thank you.

6 PROCEEDING CONCLUDED AT 9:28 A.M.

7 * * * * *

8 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-
9 video recording of this proceeding in the above-entitled case.

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11 LARA CORCORAN
12 Court Recorder/Transcriber
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CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 THE STATE OF NEVADA,

CASE NO. C245739/C249693

6 Plaintiff,

7 vs.

DEPT. NO. V

8 STEVEN DALE FARMER,

9 Defendant.

10 BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

11
12 MONDAY, JULY 23, 2012

13
14
15 RECORDER'S TRANSCRIPT RE:
16 DEFENDANT'S MOTION TO CONTINUE TRIAL DATE (C245739)

17
18 APPEARANCES:

19 For the Plaintiff:

WILLIAM "JAKE" MERBACK
Chief Deputy District Attorney

20 For the Defendant:

AMY A. FELICIANO
Deputy Public Defender

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25 RECORDED BY: LARA CORCORAN, COURT RECORDER

1 LAS VEGAS, NEVADA, MONDAY, JULY 23, 2012, 9:48 A.M.

2 * * * * *

3 THE COURT: Case Number C245739, State of Nevada versus Steven
4 Dale Farmer, who's present in custody with his counsel. Good morning.

5 MS. FELICIANO: Good morning, Your Honor.

6 THE COURT: Counsel, approach.

7 MS. FELICIANO: Thank you.

8 (Off-record bench conference)

9 THE COURT: All right. So I read the motion for continuance in this
10 case, and good cause appearing, the motion is granted. We're going to reset it for
11 the earliest date we can after the first of the year.

12 MS. FELICIANO: Thank you.

13 (Colloquy between the Court and clerk)

14 THE CLERK: March 4th.

15 THE COURT: My birthday.

16 THE CLERK: Your birthday?

17 THE COURT: That'll be a great day. Okay.

18 THE CLERK: At 1:30 for jury trial and February 25th at 9 a.m. for
19 calendar caller – for calendar caller – calendar call.

20 MS. FELICIANO: Thank you, Your Honor.

21 THE COURT: All right. Thank you.

22 PROCEEDING CONCLUDED AT 9:52 A.M.

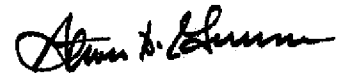
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1 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-
2 video recording of this proceeding in the above-entitled case.

3 Lara Corcoran
4 LARA CORCORAN
5 Court Recorder/Transcriber
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CLERK OF THE COURT

1 **RTRAN**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 THE STATE OF NEVADA,

6 Plaintiff,

7 vs.

8 STEVEN DALE FARMER,

9 Defendant.

CASE NO. C245739/C249693

DEPT. NO. V

10
11 BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

12
13 MONDAY, FEBRUARY 25, 2013

14
15 RECORDER'S TRANSCRIPT RE:
16 DEFENDANT'S MOTION TO CONTINUE TRIAL DATE (BOTH)

17
18 APPEARANCES:

19 For the Plaintiff:

OFELIA MONJE
Deputy District Attorney

20
21 For the Defendant:

JEFFREY S. MANINGO
AMY A. FELICIANO
Deputy Public Defenders

22
23 Also Present:

NEAL K. HYMAN, ESQ.
ROBERT E. MURDOCK, ESQ.

24
25 RECORDED BY: LARA CORCORAN, COURT RECORDER

1 LAS VEGAS, NEVADA, MONDAY, FEBRUARY 25, 2013, 11:38 A.M.

2 * * * * *

3 THE COURT: All right. I want to call Case Number C245739, State of
4 Nevada versus Steven Dale Farmer, also C249693.

5 MR. MANINGO: Good morning, Your Honor.

6 THE COURT: Good morning.

7 MR. MANINGO: Jeff Maningo and Amy Feliciano on behalf of Mr.
8 Farmer, who's present in custody. This matter is set for calendar call; however, we
9 did file a written motion to continue. Also, this is a matter where we met with the
10 Court and counsel for both sides in chambers and discussed the issues surrounding
11 the need for a continuance.

12 It's outlined in the written motion, but briefly, just for the record, we have
13 received a large amount of additional discovery coming from the pending civil
14 matters which we have to review which include in the neighborhood of thirty-some
15 transcripts of depositions and so forth. Those are things that we need to review and
16 then pass on to the District Attorney, Ms. Bluth. These are things that have been
17 discussed.

18 I think we had agreed that there was good cause for this request and
19 the only question left was a matter of when we would reset this. I believe Ms. Bluth
20 left some notes. Because of her maternity leave I think she's looking at November.
21 Is -

22 MS. MONJE: That's correct, Your Honor. Ms. Bluth was here. She
23 needed to leave. She stated that she has no opposition, as the defense is in
24 possession of approximately 16 boxes of depositions that the State has to go
25 through, as was stated.

1 She's asking that this matter be reset to the beginning of November
2 when she comes back from maternity leave. She believes it's going to be a six-
3 week trial, about – approximately 60 witnesses.

4 THE COURT: Okay. And both sides received the motion that was
5 filed?

6 MR. MANINGO: Yes.

7 MS. MONJE: Yes.

8 THE COURT: I just wanted to make sure. I noticed that you were
9 served with it. That the counsel for one of the alleged victims in this case has – who
10 was representing that alleged victim in a civil lawsuit against one of the medical
11 providers, filed a motion.

12 Is counsel here that filed that motion?

13 MR. HYMAN: Yes, Your Honor, Neal Hyman. If Your Honor would
14 entertain my response brief?

15 I represent one of the victims and actually Mr. Murdock is the other civil
16 attorney.

17 THE COURT: Okay, so no. Okay. Here's the thing, you are not a real
18 party in interest in a criminal case. The people of the State of Nevada – that's why
19 it's State of Nevada and not the individual victims' names. Of course, this Court, as
20 well as our legislature, has recognized that victims have an interest, certainly, in
21 criminal proceedings where they are alleged to be victims in the case, but the
22 burden of proof in your civil case and this criminal case are entirely different.

23 I know that you argue in that motion, which I did read, that the five-year
24 rule is coming up and you need to go forward and that the Discovery Commissioner
25 is going to lift the – a stay. Well – and that's fine.

1 I mean, if you try to take Mr. Farmer's deposition and he takes the Fifth,
2 that – and – you know, that's different. The effect of that in a civil case is entirely
3 different than the effect of that in a criminal case, and so it still comes in. Moreover,
4 I'm not sure that a conviction in this case would act to trigger the statute that says
5 you're entitled – that that proves liability, because it would prove liability only against
6 him not against – and he's – he was dismissed from your civil case.

7 So –

8 MR. MURDOCK: Your Honor –

9 THE COURT: There are hand gestures going on.

10 MR. MURDOCK: Yeah. Your Honor, just so we're clear.

11 THE CLERK: And your name?

12 MR. MURDOCK: Rob Murdock, 4013.

13 I'm counsel in Dill versus Farmer, et al. Mr. Farmer is a defendant in
14 my case.

15 The reason that I believe we have standing in this matter is the
16 discovery that they're claiming they have now –

17 (Colloquy between counsel and the court recorder)

18 MR. MURDOCK: The discovery that apparently was given to them by
19 defendants – all the defendants in my case is my discovery. It's mine. It's my
20 depositions. That's why I have some standing here.

21 I'm not – I don't care about a continuance. What I care about is I'm
22 being stopped in the civil case from getting all the discovery. I haven't seen one lick
23 of discovery from the DA's office. I've subpoenaed –

24 THE COURT: All right. But that's all –

25 MR. MURDOCK: I know. And I – I'm not trying to get –

1 THE COURT: – not for this Court to decide.
2 MR. MURDOCK: And I'm not trying to get this Court to do it.
3 What I'm saying is I'm doing their work. And it seems to me –
4 MR. MANINGO: We don't have any of his depositions.
5 MR. MURDOCK: I filed my case –
6 MS. FELICIANO: Yeah, if we can just stop this.
7 MR. MURDOCK: I filed my case –
8 THE COURT: Whoa, whoa, whoa, wait.
9 MR. MANINGO: The depositions we have are from –
10 THE COURT: Stop.
11 MR. MURDOCK: I filed my case –
12 THE COURT: All right. Stop.
13 MR. MURDOCK: – in 2009.
14 THE COURT: Stop.
15 MR. MANINGO: We don't even have a motion pending from this
16 attorney.
17 THE COURT: What do you not understand when this Court says stop?
18 We have a record, and my court recorder needs one person to speak at a time. I
19 don't want to hear – see that in this courtroom. I find that contemptuous. Please,
20 gentlemen. All right.
21 MR. MURDOCK: Your Honor –
22 THE COURT: Just let him finish and then I'll hear from you.
23 MR. MURDOCK: Your Honor, I filed this case in 2009. I've served
24 subpoenas on the DA's office. I've never heard from the Public Defender's office at
25 all. They certainly know we've been prosecuting the case. And for them to come

1 here and in their motion state that they have – they were just made aware of all of
2 these, I find somewhat incredulous.

3 I'm not trying to intervene in this case. I don't care whether there's a
4 continuance or not. It doesn't really affect my case. The problem is what they're
5 doing is affecting my case. That's the problem I'm having.

6 With what Your Court – what Your Honor just said with regard to what I
7 can hopefully get lifted, that's great, and that's what we will try and do now. But with
8 that said, for the victims' sake we disagree, with that said.

9 Thank you, Your Honor.

10 THE COURT: Right. And I understand the – your position. The
11 problem is, as I stated, there's a different burden of proof. The defense lawyers,
12 regardless of how they came into or when they came into possession of this
13 information – and I understand that there may even be some violation, potentially, of
14 a protective order and agreement, which needs to be taken up again in the civil
15 case –

16 MR. MURDOCK: Absolutely.

17 THE COURT: But they – as they explained what they believe to be
18 there, there's – in this additional discovery and depositions, goes to intent to the
19 testimony of the victims potentially. And I don't know what it is, you know, in any
20 detail. All I know is that it sounds as if it's something that should be explored.

21 And, yes, I think that perhaps if defense counsel had also practiced in
22 the civil arena they might have been more aware to make inquiries beforehand, but
23 they didn't, and I don't think that the defendant should be punished for that, if you
24 will. I mean, he's already waived and he has remained in custody all of this time in
25 the jail. He's been in custody in the jail since 2008.

1 So, as much as this is the case – one of the very first cases I got when I
2 was appointed to the bench – and I would like to move this case along, believe me.
3 It's languished far too long and I want to get this case tried, but I don't think I can
4 move forward and have defense counsel be entirely effective until they have looked
5 at this information, and, of course, the State has the right to look at it as well, you
6 know.

7 So, I am sorry that it may have an effect on your civil case but I would
8 think that the Discovery Commissioner, seeing that we're going to have a trial date
9 that's going to be – now is at – beyond your five years; is that right?

10 MR. HYMAN: At least my case, Your Honor.

11 MR. MURDOCK: Not mine.

12 THE COURT: Your case. Okay. Well, you know.

13 And as far as, you know, your renewal of motions to obtain discovery
14 from the State, that's also at play and may be further ruled upon in the civil case, but
15 it's not my case.

16 MR. MURDOCK: I appreciate that.

17 THE COURT: All right.

18 MR. MURDOCK: Thank you.

19 THE COURT: Thank you.

20 All right. So, the motion to continue appears to be made for good
21 cause, and good cause appearing, going to grant the motion. We're going to
22 continue it until sometime in November you said?

23 MS. MONJE: Yes, Your Honor.

24 THE CLERK: Now, I can tell you we have two murder trials set in
25 November, so if they want a firm setting we've got to go out to February.

1 THE COURT: All right.
2 THE CLERK: If they don't care about a firm setting I can put it –
3 THE COURT: We need a firm setting.
4 MR. MANINGO: We need a firm setting.
5 MS. FELICIANO: We need a firm setting.
6 THE COURT: We need a firm setting, so let's get the February date.
7 THE CLERK: Okay.
8 MS. FELICIANO: And I think six to eight weeks because the State's
9 noticed well over 60 witnesses. We would likely be calling an additional probably 20
10 to 30 witnesses. So I think six to eight weeks is a more realistic timeframe, Your
11 Honor.
12 THE COURT: Okay.
13 MS. FELICIANO: And I know we had discussed before in chambers
14 doing a jury questionnaire and we'll work with the State on getting that resolved so
15 we can find jurors who can actually accommodate that time period.
16 MR. MANINGO: And we spoke with Ms. Bluth and –
17 MS. FELICIANO: And she's agreeable.
18 MR. MANINGO: – I think they're in agreement with the amount of time
19 and the number of witnesses as well.
20 MS. FELICIANO: Yes.
21 THE CLERK: All right. February 3rd at 1:30 for jury trial, January 27th at
22 9 a.m. for calendar call.
23 THE COURT: All right.
24 All right. Mr. Farmer, you got that now, so –
25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: You're about due for another haircut and a trim.

2 THE DEFENDANT: Well, it'll be – what I do is I cut it and then I wait 'til
3 just before trial 'cause I want to get it styled or whatever, you know, fixed for court,
4 so. And as far as this, 'cause, you know, it's just a big hassle to shave. I just – you
5 know, I let it grow. It'll be – remember last time I cut it off? Well, when I go back to
6 over there right now I'll do the same thing, I'll cut it all off again and then let it grow.

7 MR. MANINGO: We'll get it –

8 THE DEFENDANT: This is like –

9 MR. MANINGO: We'll get it cleaned up right.

10 THE DEFENDANT: This is like the fifth time it's done this, but, you
11 know, if this is what it takes for me to get, you know, to get to trial and have them be
12 prepared then I'm prepared to just wait.

13 THE COURT: All right.

14 MR. MANINGO: Thank you, Judge.

15 MS. FELICIANO: Thank you.

16 THE COURT: Thank you.

17 PROCEEDING CONCLUDED AT 11:50 A.M.

18 * * * * *

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20 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-
21 video recording of this proceeding in the above-entitled case.

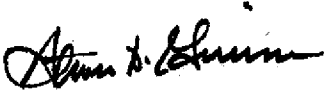
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LARA CORCORAN
Court Recorder/Transcriber


CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 THE STATE OF NEVADA,

6 Plaintiff,

7 vs.

8 STEVEN DALE FARMER,

9 Defendant.

CASE NO. C245739/C249693

DEPT. NO. V

10 BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

11
12 MONDAY, JANUARY 27, 2014

13
14
15 RECORDER'S TRANSCRIPT RE:
16 CALENDAR CALL/ALL PENDING MOTIONS

17
18 APPEARANCES:

19 For the Plaintiff:

JACQUELINE M. BLUTH
BRIAN J. KOCHVAR
Chief Deputy District Attorneys

20
21
22 For the Defendant:

JEFFREY S. MANINGO
RYAN J. BASHOR
Deputy Public Defenders

23
24
25 RECORDED BY: LARA CORCORAN, COURT RECORDER

1 LAS VEGAS, NEVADA, MONDAY, JANUARY 27, 2014, 9:04 A.M.

2 * * * * *

3 THE COURT: All right. Let's start with page 1, calendar calls, Case
4 Number C245739, State of Nevada versus Steven Dale Farmer.

5 THE CLERK: He's actually on page 1 and 2.

6 THE COURT: Oh. Yes, he's on page 1 and 2.

7 I show the presence of Mr. Farmer in custody with his counsel. Good
8 morning.

9 MR. MANINGO: Good morning, Judge, Jeff Maningo and Ryan Bashor
10 on behalf of Mr. Farmer.

11 MS. BLUTH: Good morning, Your Honor, Jacqueline Bluth and Brian
12 Kochevar on behalf of the State.

13 THE COURT: And are we ready to go on this?

14 MS. BLUTH: We are ready.

15 MR. MANINGO: We're ready.

16 THE COURT: All right. So we're going to start this case 1:30 in this
17 department on Monday. I've ordered for the first day a panel of 60, because we had
18 some yesterday, I think it was, media coverage, so —

19 MR. MANINGO: Well —

20 THE COURT: — which may impact our ability to get a jury.

21 MR. MANINGO: And I wanted to raise that, Your Honor. Because of
22 that our request right now is to push the start date back for one week in order to let
23 some of that die down. I don't think that that's unusual and I think one week should
24 be enough.

25 THE COURT: No. I can't — I'm—

1 MR. MANINGO: I'm – I am concerned about –

2 THE COURT: I understand, but this case is already going to take six
3 weeks on a five-week stack, so it's going to roll over as it is.

4 MR. MANINGO: We actually think four, Judge. Ms. Bluth and I have
5 discussed. And we've actually –

6 THE COURT: Okay. Well –

7 MR. MANINGO: We actually think it's going to be a four-week trial, if
8 that impacts any decision. And that's why I'm not asking for any longer delay.

9 However, the story that came out yesterday, obviously, it's front page of
10 the Metro with a mug shot. There were comments made by civil counsel that I
11 believe would taint a jury panel and I think make it difficult.

12 The request I have in the alternative, if the Court does not want to push
13 back a week, is that we do individual sequestered jury selection. I think that process
14 would actually –

15 THE COURT: All right. This is –

16 MR. MANINGO: – even take longer.

17 THE COURT: – this is my plan.

18 MR. MANINGO: Okay.

19 THE COURT: That when we ask the question about is there anyone
20 who believe they may have heard, that we'll at that point, once we've identified who
21 those people are, we will do individual – so it doesn't taint the rest of the panel, but
22 we will bring those people in. And that's, I think, the best way to handle it.

23 I can't use a whole 'nother week on this. And the case –

24 MS. BLUTH: And that was going to be the State's request, Judge. And
25 I think that's the most appropriate thing.

1 And I did speak with defense. It's going to be about 25 to 35 witnesses.
2 We do think it will take four weeks, but we're completely against pushing it back, you
3 know, another week. I think that we can take other precautions during jury selection
4 that will get us the same result that Mr. Maningo is seeking.

5 THE COURT: And, you know, additionally, as I say, I'm ordering this
6 large panel, so, you know, if we've got any concern that they've heard about this
7 we'll dismiss those jurors. And, obviously, there was one particular thing about the
8 victim – the deceased victim – the alleged victim that concerned me most. So, that's
9 what we've got to make sure that we don't have prejudice arising out of that report.

10 MS. BLUTH: Correct.

11 THE COURT: And, also, we're going to have a problem just because
12 the length of the trial. Even if it's only four weeks a lot of people aren't going to want
13 to serve and we're going to have a lot of hardship people, so.

14 THE CLERK: And, State, I'm sorry, I didn't catch your names.

15 MS. BLUTH: Jacqueline Bluth and Brian Kochevar.

16 THE COURT: All right.

17 MR. MANINGO: All right.

18 THE COURT: Any other concerns?

19 We've got a motion – let's see, oh, for recordation of all proceedings,
20 including bench conferences, contingent motion for stay.

21 Okay. So here's the thing with that. I granted a motion to record bench
22 conferences in a capital case fairly recently, you know, several months ago. Since
23 that time, of course, there – the transcripts were done. And even though I told
24 counsel you need to – because of course there were four counsel in that case as
25 well – and you need to identify yourselves when you speak, we're not used to doing

1 that, so it wasn't done very often. There was over- talking, and the transcripts,
2 because I specifically asked my recorder about it, how did the transcripts look on
3 that? A mess, you know there are whole sections where it says inaudible. And part
4 of that is because, of course, even with the white noise you don't want to talk so
5 loud that the jury can hear.

6 MR. MANINGO: Right.

7 THE COURT: And so, I'm just telling you that we could do it potentially,
8 but it may not have the result you're looking for.

9 MR. MANINGO: I understand, Your Honor. And it's – that puts –

10 THE COURT: And it's – certainly on – it's not something I'm going to
11 routinely do in every case. It's just not happening that we're going to do that,
12 because of that very thing. I would prefer that a better record be made outside the
13 presence of the jury that's clear than have a garbled record.

14 MR. MANINGO: And we – our request would be that you do record the
15 bench conferences for this trial. It'll put responsibility on us to make a clear record
16 and to identify ourselves. That's – and that will be – at that point Mr. Howard Brooks
17 from our appellate office can then take it up with each of us individually and say,
18 look, we've made the request as our office has preferred that we do, the judge
19 granted it and the record was still unclear, and that's because of what – you know,
20 how the attorneys handled it.

21 So it'll put the responsibility on us. We're willing to accept that. And we
22 would ask that the Court record the bench conferences.

23 THE COURT: All right. What – what's the State's position on it?

24 MS. BLUTH: We'll submit it, Your Honor.

25 THE COURT: You – we're fine. So what I'll do is I'm going to grant it.

1 and we'll see how it goes. If it – if you're not adhering to those specifications of
2 identifying yourself and speaking clearly and not over-talking each other then we'll
3 continue. If it looks like that's not happening then we'll just have to, you know, stop
4 and have a hearing outside the presence if it – if you need that. Okay?

5 MR. MANINGO: Yes, Your Honor. Thank you.

6 THE COURT: All right. Because I do want a clear record. I don't want
7 there to be – even if it's your fault, I don't want there to be later something, if there is
8 a conviction, that there was ineffective assistance because of that. All right.

9 THE CLERK: Did you grant the other one too, the videotape?

10 THE COURT: No.

11 Oh, and there is also a motion, the State's motion to use the videotaped
12 testimony of the victim, and there wasn't any opposition to that.

13 MR. BASHOR: Yes, Your Honor, we – I would hope the Court received
14 our filed opposition to that.

15 THE COURT: No, I did not, so tell me what it says.

16 MR. BASHOR: This was filed, just for the record, Your Honor, on
17 January 21st of this year.

18 THE COURT: All right.

19 MR. BASHOR: Your Honor, our concern was that at the time, while we
20 were aware of the limited amount of the mental health issues surrounding this
21 particular alleged victim, we did not [sic] aware of the extent which eventually led to
22 her taking her own life. And, therefore, we would submit that the cross-examination
23 at the time was not full and adequate and did not meet, what we would submit under
24 Crawford v. Washington, Davis v. Alaska, and Chavez v. State as a full and
25 appropriate time to cross-examine this particular victim.

1 THE COURT: But the case law, does it not, provides that you have the
2 opportunity for a full cross-examination. And as – my recollection of it was that it
3 went – it was quite a lengthy hearing.

4 MR. BASHOR: I believe it was about an hour/hour and a half total,
5 Your Honor. But I would quote from Chavez v. State at the adequacy of the
6 opportunity. It's not simply just an opportunity. Of course we would concede we
7 had an opportunity. We would just submit that it was not adequate given this
8 information.

9 THE COURT: State.

10 MS. BLUTH: Judge, the State completely disagrees. This is an
11 individual who testified at the Grand Jury, so they first had her transcript of the
12 Grand Jury to completely go through. They then had an hour and a half where they
13 had the opportunity to cross-examine her on any issues that they saw fit, including
14 how this had affected her mentally.

15 This – what they're trying to do here is get these counts struck because
16 she's a major – one of the only victims of the sexual assault charges. So I
17 understand why they're doing what they're doing, but they don't have a legal basis
18 for doing so. We have followed every rule, every statute to the tee, and we're
19 asking that Your Honor deny the motion because of that.

20 THE COURT: So – well it's your motion –

21 MS. BLUTH: Oh, grant –

22 THE COURT: – to use the videotape.

23 MS. BLUTH: Correct.

24 THE COURT: I'm granting that, so.

25 All right. Any further questions or matters that we need to discuss

1 before we – before Monday, next Monday?

2 MR. MANINGO: Just procedurally, Judge, do we typically do – start in
3 the afternoon?

4 THE COURT: Yes, because I have calendar on Monday.

5 MR. MANINGO: Right, right.

6 THE COURT: Right.

7 MR. MANINGO: No, that's fine. I just want to know from our
8 scheduling.

9 THE COURT: Right.

10 MR. MANINGO: And then –

11 THE COURT: Oh, not every other day, just Monday. Monday's start
12 will be 1:30.

13 MR. MANINGO: Right.

14 THE COURT: But I'll give you – in fact, I'll have my JEA email both of
15 you the – my anticipated schedule so you can plan –

16 MR. MANINGO: Oh, okay. Sure.

17 THE COURT: – for the week.

18 MS. BLUTH: Thank you.

19 MR. MANINGO: Sure. That's fine.

20 THE COURT: And we'll do that every week so you'll be able to
21 coordinate your witnesses, et cetera.

22 MR. MANINGO: Just to know if we're going to do mornings or
23 afternoons or how that'll work.

24 THE COURT: And it really depends on what I have, if I have other
25 evidentiary hearings. You know, normally I try not to – if I anticipate that I'm going to

1 be in trial I try not to set other things, but this case was going to be so long I couldn't
2 just clear the decks for everything, so.

3 MR. MANINGO: Right. No, that's fine. That's fine.

4 THE COURT: Sure. But we'll give you plenty of advance notice on
5 that. In fact, I'll send that out, like I say, today.

6 MR. MANINGO: Okay. Thank you.

7 THE COURT: All right.

8 MR. MANINGO: And my second question was, jury selection, do we do
9 jury selection as a panel? In other words, will we be – will counsel be addressing
10 questions to the panel as a whole as opposed to Juror Number 1, 2, 3?

11 THE COURT: How I do it is we'll start with the whole venire panel and
12 I'll do some of the common questions, you know, do you know the lawyers, do you
13 know any of the witnesses, those kinds of things, have you heard about the case,
14 and the – is there any reason you can't serve. Then we take all of the excuses
15 about is there any reason you can't serve and I just get them and then I have you
16 come up to the bench and we'll discuss which ones, you know, you agree that we
17 should let go and which ones we don't and which ones we're going to keep. Then I
18 read out those names, those people leave.

19 Then we – then we put 12 people in the box, okay. Then when I drill
20 down more I'll ask some general questions like, have you ever served on a jury
21 before, of the – just the people in the box, so we're not spending too much time on
22 all the other folks out here.

23 When I finish with those general questions I'll let you ask general
24 questions to the whole box, but let you do follow-up questioning. In other words, I
25 don't want you to – these are the kind of questions, it's a show of hands. And then

1 we do the individual you'll be able to go back and ask them any follow-up questions
2 you have, any questions that weren't covered that you feel are important, long as
3 they don't violate the rule.

4 MR. MANINGO: Just in any order though?

5 THE COURT: No. We'll go 1, 2, 3.

6 MR. MANINGO: Oh, okay.

7 THE COURT: Because we'll -- if we kick one for cause --

8 MR. MANINGO: Okay.

9 THE COURT: -- say Juror Number 1 that's sitting in seat 1 gets kicked
10 for cause, we call the next in order, so you always know who's coming up because
11 it's next in order out of the venire panel. Then we'll put that person in.

12 MR. MANINGO: Okay. Okay, great. Thank you.

13 MS. BLUTH: And, Your Honor, would you be inclined to allow four
14 alternates in this case because of the length of the trial?

15 THE COURT: Yes, we'll need more.

16 And if you would like to meet with me this week beforehand to discuss
17 this kind of housekeeping issues --

18 MS. BLUTH: Okay.

19 THE COURT: -- just schedule it with my JEA. I'd be happy to do that.

20 MR. MANINGO: Terrific.

21 MS. BLUTH: Thank you, Judge.

22 THE COURT: All right.

23 MR. BASHOR: Thank you.

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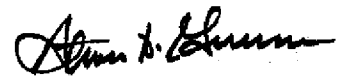
MR. MANINGO: Thank you.

THE COURT: Thank you.

PROCEEDING CONCLUDED AT 9:17 A.M.

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-video recording of this proceeding in the above-entitled case.


LARA CORCORAN
Court Recorder/Transcriber



CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,	.	CASE NO. C-245739
	.	CASE NO. C-249693
Plaintiff,	.	
	.	DEPT. NO. 5
v.	.	
	.	TRANSCRIPT OF
STEVEN DALE FARMER,	.	PROCEEDINGS
	.	
Defendant.	.	
.		

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

JURY TRIAL - DAY 1

MONDAY, FEBRUARY 3, 2014

APPEARANCES:

FOR THE STATE:	JACQUELINE M. BLUTH, ESQ. BRIAN J. KOCHVAR, ESQ. <i>Chief Deputy District Attorneys</i>
FOR THE DEFENDANT:	JEFFREY S. MANINGO, ESQ. RYAN J. BASHOR, ESQ. <i>Deputy Public Defenders</i>

COURT RECORDER:

LARA CORCORAN
District Court

TRANSCRIPTION BY:

VERBATIM DIGITAL REPORTING, LLC
Englewood, CO 80110
(303) 798-0890

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

1 LAS VEGAS, NEVADA, MONDAY, FEBRUARY 3, 2014, 1:37 P.M.

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

3 THE COURT: This is Case No. C-245739, consolidated
4 with C-249693. State of Nevada versus Steven Farmer. The
5 record will reflect the presence of Mr. Farmer with his
6 counsel, as well as the Deputies District Attorney prosecuting
7 the case.

8 Is the State ready to proceed?

9 MS. BLUTH: The State is, Your Honor.

10 THE COURT: And is the defense ready?

11 MR. MANINGO: We are, Your Honor.

12 THE COURT: Are there matters outside the presence
13 before we even bring in the venire?

14 MS. BLUTH: Did Your Honor want to handle that
15 motion right now, or would you like to do it at a later time,
16 the motion in limine?

17 THE COURT: Right. And refresh my recollection. I
18 read it, but that was like --

19 MS. BLUTH: That's okay. It was the motion in
20 limine in regard to Roxanne and Scott Cagnina's divorce, that
21 there was a lot of things that came out during their divorce,
22 a lot of mudslinging on both sides that we don't find is
23 relevant. Does that refresh --

24 THE COURT: All right. Let's do that after since, I
25 mean, there's no sense in keeping the jury --

1 MS. BLUTH: Sure.

2 THE COURT: -- waiting, or venire panel waiting.

3 And I'm sure we're not probably going to get a jury today
4 given the length of the trial. And I'm sure there's going to
5 be a lot of people wanting to leave.

6 MS. BLUTH: Okay.

7 THE COURT: So we'll take that up tomorrow maybe.

8 MR. MANINGO: Okay. That's fine.

9 THE COURT: But definitely before we do openings.

10 MS. BLUTH: Thank you.

11 MR. MANINGO: That's fine.

12 THE COURT: Anything else?

13 MR. MANINGO: We would ask for the Court to impose
14 the exclusionary rule throughout the trial.

15 THE COURT: Of course. We'll -- that's granted.

16 And so we'll bring in the venire as soon as we get them
17 assembled. I think we've got 50 today. I ordered 60, but
18 they had -- the jury commissioner had 700 jurors. There were
19 so many trials going on and they could only give us 50. I
20 think we've got -- I think we ordered up 100 for tomorrow.

21 MS. BLUTH: Okay.

22 THE CLERK: We do?

23 THE COURT: Yeah.

24 MS. BLUTH: Your Honor, do you plan on asking the --
25 if they had seen it in the media fairly soon in the

1 questioning? Because, you know, otherwise, I think we'll get
2 into stuff we don't need to get into with people that are just
3 going to take off early on.

4 THE COURT: Right. Now, that's a good question
5 because normally what I do before I would ask that question --
6 I do ask that question pretty early on, but we're talking
7 about, then, the ones that say yes, bringing them in
8 separately one at a time. I wonder if it might be better for
9 us to try and ask the ones that, you know, they have the
10 unrefundable airplane tickets or they're expecting a baby
11 during our trial or, you know, if they have surgery
12 scheduled --

13 MS. BLUTH: Sure.

14 THE COURT: -- and get rid of those people first.

15 MS. BLUTH: Okay.

16 THE COURT: Because what I do with that is I ask
17 them that question, take all the excuses from everybody at one
18 time, and then I call you up to the bench and we'll talk about
19 which ones we agree on or which ones you don't want to let go,
20 and then I'll just read off all the names that we're going to
21 let go at that point.

22 MS. BLUTH: Okay.

23 THE COURT: And that'll get us down and we won't
24 have to worry because there might be some cross over and no
25 sense in having those kind of people being brought in

1 individually --

2 MS. BLUTH: Right.

3 THE COURT: -- on an immediate issue.

4 MS. BLUTH: Okay.

5 MR. MANINGO: I agree.

6 THE COURT: All right.

7 MR. MANINGO: Thank you.

8 (Pause in the proceedings)

9 (Inside the presence of the prospective jury panel)

10 THE COURT: Please be seated. All right. This is
11 Case No. C245739, State of Nevada versus Steven Farmer. And
12 the record will reflect the presence of Mr. Farmer with his
13 counsel, as well as the Deputies District Attorney prosecuting
14 the case, and all officers of the court.

15 Will counsel so stipulate?

16 MS. BLUTH: Yes, Your Honor.

17 MR. MANINGO: Yes, Your Honor.

18 THE COURT: Good afternoon, ladies and gentlemen,
19 and welcome to Department 5 of District Court. Obviously, you
20 are here because you were summoned to see if you could serve
21 to be jurors in this case. And so I welcome you to
22 Department 5.

23 Now, the Deputy District Attorney that's prosecuting
24 this case is going to give you just a brief synopsis of what
25 type of case this is and she's going to read to you the list

1 of witnesses that she's expecting that will be called as
2 witnesses. I'd like you to please listen carefully to what
3 she's saying because you're going to be asked if you recognize
4 the names of any of these witnesses.

5 Ms. Bluth.

6 MS. BLUTH: Thank you, Your Honor.

7 Good afternoon. My name is Jacqueline Bluth, and
8 sitting beside me at counsel's table is Brian Kochevar. Both
9 of us are Chief Deputy District Attorneys within the Clark
10 County District Attorney's office. We are here to prosecute
11 the State of Nevada versus Steven Farmer, and the facts of
12 this case will show that in 2008 the defendant was working as
13 a certified nursing assistant at Centennial Hills Hospital.
14 During the time period of April 27, 2008, through May 20,
15 2008, he inappropriately touched and/or indecently exposed
16 and/or sexually assaulted five different victims who he was
17 treating at the hospital.

18 I am now going to read you a list of the potential
19 witnesses that could be called in this case. The following
20 individuals are doctors, Dr. Curtis Bazmore, Salvador
21 Borromeo, Damaj Nouhad, Hamid Haider, Darrin Houston, Alladin
22 Lajvard, Christopher Milford. Bhatti Muhammad, Amir Shuja, and
23 Kevin slaughter.

24 The following nurses could be called, Carol Butler,
25 chief nursing officer John Coldsmith, Kimberly Davis, Christen

1 Edwards, Karen Goodhart, Jeanine James, Julie Montero,
2 Christine Murray, Sandra Pagain, Julie Rackley, Pam Robertson,
3 Jackie Schumacher, Julie Rackley -- excuse me, I said that
4 twice -- Lorraine Wescott, Margaret Wolfe, and Linda Ebbert.

5 The following individual are employed at the Las
6 Vegas Metropolitan Police Department, Jennifer Bas, Michelle
7 Casper, Lora Cody, Luke Doty, Kellie Gauthier, Craig Jex,
8 Ronald Miller, Kim Murga, Julie Marschner, Kristina Paulette,
9 Misty Pence, Mike Saunders, Jeffery Smith, and Emily Jeskie.

10 The following individuals are lay witnesses, Roxanne
11 Cagnina, Scott Cagnina, Ada Dotson, Craig Fabert, Denise
12 Hanna, Thomas Hanna, Neil Hyman, Elaine Knepp, Tim Lehan,
13 Heather Shank, Ruth Leon, Marsha Peterson, Marcia Petersen,
14 Marshal Petersen, Micah Petersen, Heather Shank, Ernestine
15 Smith, and Ledahlia Spurlock.

16 Thank you, Your Honor.

17 THE COURT: Thank you, Bluth.

18 Mr. Maningo, would you like to introduce yourself
19 and your partner and your client.

20 MR. MANINGO: Yes. Thank you, Your Honor. Good
21 afternoon, everyone. My name is Jeff Maningo and my friend
22 and co-counsel here is Ryan Bashor, and we represent Steven
23 Farmer, who is down here on the end. They -- you heard the
24 State give a summary of what they hope to prove in this case.
25 The only thing that we would add to that is that Mr. Farmer

1 has entered pleas of not guilty to all of these charges
2 stating that he did not do this.

3 The witness list that the State read included many
4 witnesses that we may call ourselves. I think the only ones
5 that were left off the list that we would read to you in
6 addition would be Robert Murdock, I believe I heard Neal Hyman
7 already, both in Las Vegas. A Sandra Higelin from California,
8 and Jane Everett from Las Vegas. Thank you.

9 THE COURT: Thank you.

10 Well, ladies and gentlemen, the interest of all of
11 the lawyers that are involved, as well as this Court, is that
12 we get a jury of 12 people that are completely unbiased and
13 have an open mind and will listen to the facts and apply the
14 law as it's directed by the Court to come up with a fair and
15 just verdict. We don't want to pry into your personal lives,
16 but in order for us to determine whether you can be fair and
17 impartial in this case, we do have to ask you questions.

18 At this point in time you are considered to be the
19 venire panel, and as we go forward and eventually select a
20 jury, then you'll be known as the jury panel. But right now
21 you're known as the venire panel, and the process of asking
22 you the questions is known as the voir dire. So before we
23 begin that process of asking you questions, we have to swear
24 you in because this process is done under oath. So I'd ask
25 you all to stand, and the clerk will swear you in.

1 (Clerk swears the venire panel)

2 THE COURT: Thank you. Now, it's very important
3 that you understand how important your full and truthful
4 answers to these questions are. It's our only way of
5 determining whether you're qualified to be a juror in this
6 case. And so, obviously, if you withhold something or you
7 tell us something that's not actually truthful or what you're
8 not really thinking, that could contaminate your verdict and
9 that could be a problem for this trial. So please try and
10 answer the questions as fully and completely as possible.

11 I'm going to -- first I'm going to conduct a general
12 questioning of everybody in the audience, whether you're
13 sitting in the box or whether you're out here. And then we'll
14 go ahead and zero down, you know, more so later. But first of
15 all, let me ask to everyone seated in the courtroom in the
16 venire panel, is there anyone, and you'll answer with a show
17 of hands, who believes that they are acquainted with the
18 defendant Mr. Farmer? All right. The record will reflect a
19 negative response.

20 Are there any of you who are acquainted with either
21 of the defense attorneys, Mr. Maningo or Mr. Bashor? Okay.
22 The record will reflect a negative response.

23 How about is there anyone who believes they are
24 acquainted with either of the Deputies District Attorney Ms.
25 Bluth or Mr. Kochevar? The record will reflect a negative

1 response.

2 Are there any of you who believe that you may have
3 been acquainted with any of the witnesses? Okay. All right.
4 So let's start with -- I've got one, two, three, four five.
5 Okay. We're going to give you a hand-held microphone. Every
6 time you speak in answer to a question I need you to state
7 your name and I need you to state the last three digits of
8 your badge number. And the reason for that is because
9 everything that we do in this courtroom is recorded. That's
10 how we keep the record. We don't have a court reporter who
11 types into the machine. It's all recorded and a transcript
12 can be produced later. So we need to identify who is
13 speaking.

14 PROSPECTIVE JUROR NO. 762: My name is Cynthia Lo
15 Presti. The last numbers are 762.

16 THE COURT: And who do you think you know?

17 PROSPECTIVE JUROR NO. 762: Salvador Borromeo.

18 THE COURT: And how do you --

19 PROSPECTIVE JUROR NO. 762: I actually work with
20 him. I'm a medical contractor, a technician for ultrasound.

21 THE COURT: Okay. Are you friends?

22 PROSPECTIVE JUROR NO. 762: Well, I work with him
23 every day, basically.

24 THE COURT: Okay. So this is somebody that's a
25 co-worker that you see every day on the job and --

1 PROSPECTIVE JUROR NO. 762: Correct.

2 THE COURT: Because of that, do you feel that you
3 would give more credibility to his testimony than you would
4 any other witness?

5 PROSPECTIVE JUROR NO. 762: Yes.

6 THE COURT: Okay. Is there any additional
7 questioning that either counsel would like to make? I think
8 it's probably appropriate that she be excused since she knows
9 one of with the witnesses that well.

10 MS. BLUTH: Okay. That's fine with the State, Your
11 Honor.

12 MR. MANINGO: No objection.

13 THE COURT: Thank you. All right. If you would
14 just go across the way and ask -- and tell them that you need
15 to be reassigned to another case because you can't serve on
16 this one.

17 PROSPECTIVE JUROR NO. 762: Okay.

18 THE COURT: Thank you. And let's call the next in
19 order off the list.

20 THE CLERK: Okay. There will be someone else in the
21 seat. Lourdes Rodriguez.

22 THE COURT: We just want you to move up to that.
23 Thank you.

24 And did we have someone else that was in the box who
25 knew a witness?

1 Marshal, if you'll give the microphone --

2 THE MARSHAL: Who else raised their hand?

3 THE COURT: Thank you.

4 PROSPECTIVE JUROR NO. 864: My name is Uen Tuvida.
5 My number is 864.

6 THE COURT: And who do you think you know?

7 PROSPECTIVE JUROR NO. 864: I know Christopher
8 Milford. I work at Desert Springs Hospital. He's our
9 neurologist; I'm an ICU nurse.

10 THE COURT: Okay. And how well do you know him?

11 PROSPECTIVE JUROR NO. 864: I know him. I work with
12 him. He consults with our neuro patients.

13 THE COURT: Okay. How often do you see him?

14 PROSPECTIVE JUROR NO. 864: Once a week, twice a
15 week --

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 864: -- in our unit.

18 THE COURT: All right. Is this somebody that you
19 would, if he testified, you would give his testimony more
20 credibility because of your relationship with him?

21 PROSPECTIVE JUROR NO. 864: Yes.

22 THE COURT: Okay. Any traverse?

23 MR. MANINGO: No, Your Honor.

24 MS. BLUTH: Not by the State, Your Honor.

25 THE CLERK: And, I'm sorry, what badge number were

1 you?

2 PROSPECTIVE JUROR NO. 864: 864.

3 THE CLERK: All right.

4 THE COURT: And so we're going to likewise let you
5 be dismissed and you'll need to report to the jury
6 commissioner.

7 Okay. Out in the audience here.

8 PROSPECTIVE JUROR NO. 917: Hi. My name is Genice
9 Rojas. I am 917.

10 THE COURT: And which witness do you think you know?

11 PROSPECTIVE JUROR NO. 917: Darrin Houston.

12 THE COURT: How do you know Mr. Houston?

13 PROSPECTIVE JUROR NO. 917: We're close personal
14 friends, as well as church members.

15 THE COURT: Okay. And you're certain it's the same
16 person?

17 PROSPECTIVE JUROR NO. 917: Yes, he's a medical
18 doctor for Centennial Hills, ER Department.

19 THE COURT: Okay. And since you're close personal
20 friends, I assume that you would give his testimony more
21 weight than any other --

22 PROSPECTIVE JUROR NO. 917: Yes.

23 THE COURT: -- witness?

24 Any traverse?

25 MS. BLUTH: Not by the State, Your Honor.

1 MR. MANINGO: No, Your Honor.

2 THE COURT: You'll be excused. Thank you. Let the
3 jury commissioner know that you need to be reassigned if they
4 have another case for you.

5 PROSPECTIVE JUROR NO. 977: My name is Benedict
6 Moreno --

7 THE RECORDER: I can't hear him. Closer to --

8 PROSPECTIVE JUROR NO. 977: Hello.

9 THE COURT: There you go.

10 PROSPECTIVE JUROR NO. 977: My name is Benedict
11 Moreno and my Badge No. is 977, and I do know Dr. Borromeo.
12 I'm also a registered nurse. I used to work at Summerlin
13 Hospital, but that was two years ago. I haven't spoken to him
14 since.

15 THE COURT: All right. So when you did see him two
16 years ago, how often did you see him?

17 PROSPECTIVE JUROR NO. 977: Over three times a week,
18 maybe those three times a week.

19 THE COURT: So each day of that week, how much time
20 did you actually spend interacting directly with him?

21 PROSPECTIVE JUROR NO. 977: Only if he asked me
22 about a patient of his. Not that much, maybe five, ten
23 minutes.

24 THE COURT: All right. Do you think that you could
25 be fair and impartial even though you knew -- you know, you

1 knew the doctor sometime back?

2 PROSPECTIVE JUROR NO. 977: Not really. Not with
3 the doctor's statement, but as a nurse, you know, in regards
4 to the sexual abuse it might be a problem for me.

5 THE COURT: All right. Well, why don't you have a
6 seat and we'll follow up some more with you about that.

7 Counsel, have you got notes on that?

8 MS. BLUTH: Yes, Your Honor.

9 MR. MANINGO: Yes, Your Honor.

10 THE COURT: And, yes, ma'am? If you would stand.

11 PROSPECTIVE JUROR NO. 981: My name is Elizabeth
12 Lockamon, I'm 981, and I know Craig Fabert.

13 THE COURT: And how do you know --

14 PROSPECTIVE JUROR NO. 981: He's a close friend. My
15 husband and his wife and the four of us are close friends.

16 THE COURT: Okay. So you socialize on a regular
17 basis?

18 PROSPECTIVE JUROR NO. 981: Yes.

19 THE COURT: And as a result of that you feel you
20 could not --

21 Are you anticipating calling this witness?

22 MS. BLUTH: To be honest, Your Honor, no. He was a
23 potential witness at first, but no.

24 THE COURT: Okay. So the District Attorney is
25 telling me that he's not going to be called as a witness in

1 this case --

2 PROSPECTIVE JUROR NO. 981: Okay.

3 THE COURT: -- as it turns out. All right. Thank
4 you.

5 Okay. Now, the next question I have is this. Are
6 there any of you who believe that you may have heard or read
7 about this case before coming here today? All right. We've
8 got -- keep your hands up so I can get a count. Just three it
9 looks like over here. All right. So what I'm going to do is
10 I need everybody but the three people who raised their hands
11 to wait for us in the hall. And so if you'll just do that
12 right now.

13 (Outside the presence of the prospective jury panel)

14 THE COURT: All right. So the three that are
15 remaining, what I'm going to do is actually ask you -- one of
16 you will remain and the other two will wait in the hall. But
17 I wanted to say that I'm going to call you each back
18 individually, so kind of stay near the door so the marshal
19 will know. And after I question each of you and, you know, we
20 have done what we're going to do, please don't discuss any of
21 this with the other jurors out in the hall. Does everybody
22 understand that? Okay. Great. So our far left gentleman in
23 the yellow shirt, you can remain, and the other two out near
24 the door.

25 (Inside the presence of Prospective Juror No. 874)

1 THE COURT: Thank you. That'll work a little better
2 with -- oh, no. Stand right there by the podium because
3 there's a microphone that she just put there.

4 PROSPECTIVE JUROR NO. 874: I see that.

5 THE COURT: All right. Go ahead and tell us your
6 name and the last three digits of your badge number.

7 PROSPECTIVE JUROR NO. 874: I'm Dustin Scott, 874.

8 THE COURT: Mr. Scott, what do you think you've
9 heard about this case or know about this case?

10 PROSPECTIVE JUROR NO. 874: Well, I read about it in
11 the Review Journal, I think about a week ago, maybe. I know
12 that there was one victim that initially came out and after
13 that, more came out afterwards. And that one of them has died
14 since and is unable, obviously, to give testimony. And that's
15 about all I remember from the case.

16 THE COURT: Now, as a result of reading about the
17 case in the newspaper, do you feel that you've made up your
18 mind or formed opinions of the guilt or innocence of the
19 defendant in this case?

20 PROSPECTIVE JUROR NO. 874: I don't think so.

21 THE COURT: Do you feel that you could still remain
22 fair and impartial?

23 PROSPECTIVE JUROR NO. 874: Yes, ma'am.

24 THE COURT: All right. I'm going to let the
25 attorneys ask you some questions about that if they wish to.

1 You can just go ahead and stay where you are --

2 PROSPECTIVE JUROR NO. 874: Okay.

3 THE COURT: -- to do that because you're near a
4 microphone.

5 So, State, would you like to inquire further?

6 MS. BLUTH: Was that the first time that you had
7 heard about the case or read about the case?

8 PROSPECTIVE JUROR NO. 874: The first and only time.

9 MS. BLUTH: Okay. And so your immediate thoughts
10 after reading that were what?

11 PROSPECTIVE JUROR NO. 874: I didn't really have any
12 thoughts about it. I read the newspaper every morning. I
13 work in a bar so I don't have anything better to do so I just
14 read all the articles.

15 MS. BLUTH: Okay.

16 PROSPECTIVE JUROR NO. 874: And most of it sticks in
17 my head, but for the most part I -- I didn't have any feelings
18 about it.

19 MS. BLUTH: Okay. And you still feel like you can
20 be fair and impartial and listen to all of the evidence?

21 PROSPECTIVE JUROR NO. 874: Yes, ma'am.

22 MS. BLUTH: And then do you feel like you can based
23 your decision on this case in regards to what you see within
24 this courtroom versus what you read?

25 PROSPECTIVE JUROR NO. 874: Yes, ma'am.

1 MS. BLUTH: Do you recognize that, you know,
2 reporting agencies aren't perfect? Is that a yes?

3 PROSPECTIVE JUROR NO. 874: Yes.

4 MS. BLUTH: Sorry. They're -- they're --

5 PROSPECTIVE JUROR NO. 874: Sorry.

6 MS. BLUTH: -- recording everything we say. And so,
7 you know, everything you read might not have been true.

8 PROSPECTIVE JUROR NO. 874: Yes.

9 MS. BLUTH: And that you'll need to rely on the
10 evidence that you hear that's presented here in the courtroom?

11 PROSPECTIVE JUROR NO. 874: Yes.

12 MS. BLUTH: And you think you can do that?

13 PROSPECTIVE JUROR NO. 874: Yes, ma'am.

14 MS. BLUTH: Okay. Thank you.

15 Your Honor, I'll pass.

16 THE COURT: Defense.

17 MR. MANINGO: Hi, Mr. Scott.

18 PROSPECTIVE JUROR NO. 874: Hello.

19 MR. MANINGO: If it's easier you can just sort of go
20 around that side. There you go. It'll still pick it up.

21 PROSPECTIVE JUROR NO. 874: Right on.

22 MR. MANINGO: Okay. When you read the article in
23 the Review Journal, did you also see the picture?

24 PROSPECTIVE JUROR NO. 874: I do not remember a
25 picture.

1 MR. MANINGO: Okay. So you don't remember seeing
2 any picture?

3 PROSPECTIVE JUROR NO. 874: No.

4 MR. MANINGO: Okay. Do you remember in the article
5 any comments regarding his -- Mr. Farmer's attorneys?

6 PROSPECTIVE JUROR NO. 874: No.

7 MR. MANINGO: Okay. And you understand that
8 whatever is in that article, that's not evidence?

9 PROSPECTIVE JUROR NO. 874: Yes.

10 MR. MANINGO: Okay. When you typically read through
11 the newspaper and you see stories about cases going on here in
12 Las Vegas, do you make any assumptions regarding guilt or
13 innocence?

14 PROSPECTIVE JUROR NO. 874: No, sir.

15 MR. MANINGO: Okay. You -- you've heard of the
16 presumption of innocence?

17 PROSPECTIVE JUROR NO. 874: Yes.

18 MR. MANINGO: Okay. Do you know what that means?

19 PROSPECTIVE JUROR NO. 874: Well, when you read or
20 you take a piece of news and you just automatically side with,
21 you know, a victim or, you know, somebody that's being judged
22 against, something like that, I think.

23 MR. MANINGO: Right. And in our country, in our
24 constitution it says that everyone is presumed innocent --

25 PROSPECTIVE JUROR NO. 874: Right.

1 MR. MANINGO: -- unless they are proven guilty. And
2 do you believe that?

3 PROSPECTIVE JUROR NO. 874: Yes.

4 MR. MANINGO: Okay. So this article won't affect
5 how you look upon the evidence in this case?

6 PROSPECTIVE JUROR NO. 874: No, sir.

7 MR. MANINGO: Okay. Great. Thanks. No further
8 questions.

9 THE COURT: Thank you. All right. If you'll --
10 obviously, you may not discuss any of this, you know, or
11 reading the article. That's why we brought you in
12 individually. It's really important you don't discuss that
13 with any of your fellow potential jurors, even if you are
14 seated on the jury that you never discuss what you read in
15 that article. Do you understand that?

16 PROSPECTIVE JUROR NO. 874: Yes, ma'am.

17 THE COURT: All right. Thank you. If you'll wait
18 in the hall with the other jurors and we'll bring in the next
19 person.

20 (Outside the presence of Prospective Juror No. 874)

21 (Inside the presence of Prospective Juror No. 939)

22 THE COURT: Ma'am, if you'd just come up and sit in
23 the witness stand it'll be easier.

24 PROSPECTIVE JUROR NO. 939: Sure.

25 THE COURT: Then you won't have to mess around with

1 that hand-held mic. Okay. Can you tell me your name and the
2 last three digits of your badge number.

3 PROSPECTIVE JUROR NO. 939: Certainly. My name is
4 Bonita Batchelder. The last three are 939.

5 THE COURT: So tell us what you remember reading or
6 knowing about this case.

7 PROSPECTIVE JUROR NO. 939: Mostly what I know about
8 it was from the newspaper articles that I read, the
9 allegations.

10 THE COURT: Okay. What do you remember specifically
11 that the article said?

12 PROSPECTIVE JUROR NO. 939: Gosh, it's been a couple
13 three or four weeks ago. Just that it happened -- this
14 happened in a hospital environment and the nature of the
15 allegations against the defendant.

16 THE COURT: Do you remember seeing any photographs
17 along with the article?

18 PROSPECTIVE JUROR NO. 939: No, I did not.

19 THE COURT: So when you read the article, what was
20 your thought? Did you think, well, this person must be guilty
21 or did you form any opinions upon reading the article?

22 PROSPECTIVE JUROR NO. 939: I leaned toward the
23 thought that perhaps the person was guilty.

24 THE COURT: So obviously you didn't expect to be
25 called as a juror, but you're aware that in our system of

1 justice --

2 PROSPECTIVE JUROR NO. 939: Right.

3 THE COURT: -- a person is presumed innocent until
4 the State proves beyond a reasonable doubt otherwise?

5 PROSPECTIVE JUROR NO. 939: Yes, ma'am.

6 THE COURT: Would you be able to set aside what you
7 read and put that out of your mind and make your decision
8 based only on the evidence, or do you feel that you just
9 wouldn't be able to do that in this case?

10 PROSPECTIVE JUROR NO. 939: I can't say for sure. I
11 would try, but I can't say for sure that I wouldn't be
12 influenced by what I read before.

13 THE COURT: Was it your impression that the
14 newspaper article was saying that the defendant was guilty?

15 PROSPECTIVE JUROR NO. 939: Yes.

16 THE COURT: Would the State like to traverse?

17 MS. BLUTH: Yes, Your Honor. Thank you.

18 Good afternoon.

19 PROSPECTIVE JUROR NO. 939: Hi.

20 MS. BLUTH: Would you agree with me that sometimes
21 reporting, whether it be on television or in a newspaper,
22 they're not always 100 percent correct?

23 PROSPECTIVE JUROR NO. 939: Oh, absolutely.

24 MS. BLUTH: And if you are called or selected to a
25 juror, you will be tasked with listening to the evidence and

1 only taking into account the things that you hear in this
2 courtroom and the things that you see. So do you think that
3 you would be able to sit as a juror, listen to everything that
4 both sides present to you, photos, testimony, and then base
5 your opinion just on those things?

6 PROSPECTIVE JUROR NO. 939: I think so.

7 MS. BLUTH: All right. And when you say I think
8 so --

9 PROSPECTIVE JUROR NO. 939: I think so.

10 MS. BLUTH: So we can't get to the end of this trial
11 and then you say, yeah, well, I thought I could do it, but,
12 guys, sorry, I was wrong.

13 PROSPECTIVE JUROR NO. 939: I understand.

14 MS. BLUTH: And so -- and we only want you to be
15 honest.

16 PROSPECTIVE JUROR NO. 939: Yeah.

17 MS. BLUTH: And both sides just want a fair and
18 impartial juror, so I appreciate --

19 PROSPECTIVE JUROR NO. 939: Of course.

20 MS. BLUTH: -- your honesty, but at this point you
21 kind of have to know. So do you think you would be able to
22 sit and only consider the things presented that you hear
23 during this trial?

24 PROSPECTIVE JUROR NO. 939: No.

25 MS. BLUTH: Okay.

1 PROSPECTIVE JUROR NO. 939: No.

2 MS. BLUTH: Nothing further. Thank you.

3 THE COURT: Thank you. You'll be excused. If
4 you'll report across the street.

5 PROSPECTIVE JUROR NO. 939: Across the street?
6 Okay.

7 THE COURT: I think of it across the street. Across
8 the hall.

9 PROSPECTIVE JUROR NO. 939: That's how it feels.
10 Thank you.

11 THE COURT: Thank you.

12 (Outside the presence of Prospective Juror No. 939)

13 (Inside that presence of Prospective Juror No. 878)

14 THE COURT: And, sir, if you'll come up here and
15 take the witness stand. Thank you. If you'll please state
16 your name and tell us the last three digits of your badge
17 number.

18 PROSPECTIVE JUROR NO. 878: Troy Shaffer, 1878.

19 THE COURT: Mr. Shaffer, you said you thought you
20 had read something or heard something about this case?

21 PROSPECTIVE JUROR NO. 878: Initially I heard about
22 it on the news, of course. My wife is a therapist, my
23 mother-in-law is a nurse, and my sister-in-law is a nurse and
24 they have discussed different things that they had heard and
25 whatnot around my dining room table numerous times.

1 THE COURT: So, now, as a result of seeing this on
2 the news and discussing it around the dinner table, have you
3 formed an opinion in this case?

4 PROSPECTIVE JUROR NO. 878: I don't know that I have
5 formed an opinion. You know, most of it is like, well, I know
6 so-and-so and they said this, and I know so-and-so and they
7 said that. So I don't know if that's actually made up my mind
8 in any way, but, of course, it's hearsay, but you don't really
9 know what to believe, I guess.

10 THE COURT: Okay. Well, it's really important that
11 the jurors who make the decision in this case make it based
12 upon the evidence that they hear --

13 PROSPECTIVE JUROR NO. 878: Right.

14 THE COURT: -- in this courtroom --

15 PROSPECTIVE JUROR NO. 878: Absolutely.

16 THE COURT: -- and not from something that they
17 heard, which --

18 PROSPECTIVE JUROR NO. 878: Sure.

19 THE COURT: -- could be completely untrue.

20 PROSPECTIVE JUROR NO. 878: Absolutely.

21 THE COURT: Okay. And so what we have to figure out
22 is whether you can set aside these things that you've heard
23 and just listen to the evidence and make a decision on that.
24 And all we want to know from you, because we don't -- we don't
25 care whether -- what your answer is, we just need to know what

1 it is. In other words, there's not any pressure on you to
2 say, oh, yes, I could be fair if you feel you could not be
3 fair.

4 PROSPECTIVE JUROR NO. 878: I don't -- I don't know.
5 It may be a bit difficult considering some of the stuff that
6 I've heard. I like to think that I could be fair, but I don't
7 know if I could in all honesty say that I would be completely
8 unbiased.

9 THE COURT: So you've heard in addition to what you
10 saw on the news, you've heard from various sources --

11 PROSPECTIVE JUROR NO. 878: Right.

12 THE COURT: -- other employees --

13 PROSPECTIVE JUROR NO. 878: Yeah.

14 THE COURT: -- and nurses --

15 PROSPECTIVE JUROR NO. 878: So --

16 THE COURT: -- additional information that wasn't in
17 the article?

18 PROSPECTIVE JUROR NO. 878: Right. And then they
19 were not necessarily working at that hospital, but it was more
20 hearsay, so-and-so that I know said this, and you know how the
21 medical community, like anything, is kind of intertwined. And
22 so, yeah, I've heard some stuff besides what was in the media.

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

25 MS. BLUTH: Your Honor, the State is going to ask

1 that he be excused.

2 THE COURT: Okay.

3 MR. MANINGO: No objection.

4 PROSPECTIVE JUROR NO. 878: Thank you.

5 THE COURT: And if you'll report across the hall to
6 the jury commissioner.

7 PROSPECTIVE JUROR NO. 878: Sure. Thank you.

8 THE COURT: Thank you. And please don't mention
9 anything on your way out to any of the other jurors.

10 PROSPECTIVE JUROR NO. 878: Sure.

11 THE COURT: Thank you.

12 (Outside the presence of Prospective Juror No. 878)

13 THE COURT: All right. So I made the command
14 decision when asked -- because I asked that, I wanted to see
15 how many people so we could get that out of the way first.
16 Since it was only three, I did it that way instead of how we
17 discussed. So let's bring the rest back in.

18 MR. MANINGO: Oh, one -- one moment, please.

19 THE COURT: Oh, wait just one moment.

20 MR. MANINGO: And, Your Honor, I would just ask if
21 we could just -- I don't know the timing of when we would want
22 to do it, but now that they also know that there's been some
23 media about it, if we could make sure they don't -- with this
24 -- with the new age now they can go out and Google it and all
25 kinds of --

1 THE COURT: Okay. I'll ask them when they all come
2 back in if anyone did that while they were in the hall.
3 You're right. Thank you.

4 MR. MANINGO: Thank you.

5 (Inside the presence of the prospective jury panel)

6 THE COURT: All right. Please be seated. The
7 record will reflect we are back and in the presence of the
8 entire venire panel, and the presence of defendant with his
9 counsel, Deputies District Attorney prosecuting the case, and
10 all officers of the court.

11 Ladies and gentlemen, was there anyone who, while
12 they were out in the hall, got on their smart phone and
13 Googled this case? Okay. So the record will reflect a
14 negative response. Now, one of the things I want to caution
15 you about is, obviously, you know, before the Internet and
16 especially smart phones, we didn't have this issue come up,
17 but -- as much. But we have it come up quite frequently now,
18 and that is jurors who are actually seated or potential people
19 on a jury doing research and looking things up on the
20 Internet. Please do not do that.

21 The only thing that the jurors in this case will
22 hear as evidence will happen in this courtroom. No other
23 place. So it's really important because if you get other
24 information that is outside this courtroom, you could taint
25 the entire trial. We might have to start all over again or,

1 you know, someone, you know, could question a verdict that was
2 brought, and so we don't want that to happen. And the easiest
3 way to avoid it is to not try and research the case on your
4 own. All right. So that's just a continuing admonition to
5 you as we complete the afternoon.

6 All right. So the next thing I want to ask you is
7 going to be about your ability to serve during this trial, and
8 I'm going to tell you what the length of the trial is and what
9 our schedule, type of schedule is going to be. So we're
10 expecting -- you heard a very long list of witnesses. Not all
11 of them will be called, but we're still expecting quite a few
12 witnesses. So this case is expected to take between four and
13 five weeks to try. So it's -- it is a longer case in the big
14 scheme of things. I mean, it's not the longest case that's
15 been tried by far in this district, we've had cases that have
16 gone six months, but it is a lengthy time period.

17 So I'm going to be asking you if there is any reason
18 that you feel you can't serve for that length of time. But
19 before I see a show of hands, I kind of want to talk to you
20 about what kinds of things I'm looking for. The -- our
21 legislature has said that everybody is supposed to serve as
22 jurors if you're qualified to be a juror, and there are only
23 two exceptions to that.

24 In other words, it used to be that if you were a
25 doctor, you could get out. If you were a teacher, you could

1 claim an exemption and there were -- there were categories of
2 people who would routinely get out of jury service. And the
3 legislature said that's really not fair. We need juries of --
4 that reflect the diversity of our community, and that means
5 everybody should serve.

6 So right now there are only two exceptions for
7 service where you can absolutely get out. The first one is if
8 you are over 70 years of age, you're 70 or over and you do not
9 want to serve, you don't have to. But, of course, if you want
10 to serve, we would dearly love you to serve if you wish to.
11 But that is one of the exceptions. So is there anyone who
12 qualifies for that that does not want to serve? All right.
13 The record will reflect a negative response.

14 The other exception is if you are 65 years of age or
15 older and you live at least 65 miles from the courthouse,
16 which would mean you would have to live in Mesquite, Nevada,
17 in order to still live in the county and get a jury summons
18 but be that far away. Is there anyone that qualifies for
19 that? All right. The record will reflect a negative
20 response.

21 And so let me just kind of tell you about the
22 schedule. Now, like, for instance, for this week tomorrow we
23 would be going from 10:00 to 5:00 with a lunch break.
24 Wednesday we're going to go from 1:00 to 5:00 and there will
25 be no lunch break because we're not starting until 1:00. But

1 there would be -- I'm not out to torture people and make them
2 sit in these uncomfortable chairs for longer than is humanly
3 tolerable. So we do take breaks and, you know, you're allowed
4 to use the restroom and drink water, things like that that
5 sustain life, right. So don't -- don't worry that when I say,
6 oh, my gosh, we're going until 5:00, I'm going to be sitting
7 here for four hours and how am I going to do that? No, you
8 don't have to worry about that.

9 The Court does have other business it conducts as
10 well as these trials. So for instance, when I say to you on
11 Wednesday I can't start until 1:00, it's not because I'm
12 playing golf all morning. It's because I will be doing my
13 criminal calendar from 9:00 in the morning until noon. And
14 although I often skip lunch or eat at my desk, my staff does
15 need to take a break. They are very busy up here and they
16 need to eat their lunch. So that's why we would not start
17 until 1:00 on Wednesday.

18 On Thursday, depending -- I have an evidentiary
19 hearing on Thursday, so we won't be able to start right at
20 9:00, which we would normally do, or 8:30 on Thursdays. And
21 so it's going to be a little later depending on how long that
22 evidentiary hearing goes, but we won't go past 5:00. We'll
23 never go past 5:00 because we're not allowed to go past 5:00
24 and incur overtime because the County is on a budget. And so
25 we're mindful of taxpayer dollars, and I know you appreciate

1 that.

2 And so on Friday I have a civil calendar in the
3 morning, and Friday would also be probably 1:00 to 5:00.
4 Actually, on Friday I have another matter in the afternoon,
5 and so we'll be recessing a little early like at 4:00 on
6 Friday. But that's kind of the schedule that we'll be
7 keeping. So on Mondays and Wednesdays, every Monday and
8 Wednesday we're not going to be able to start until 1:00
9 because of the calendar in the morning. It usually goes --
10 well, it many times goes until noon and we never are sure.
11 It's a very busy calendar, and as well on Friday mornings.

12 So it's not going to be a sprint every day. It's
13 more like a marathon over the four to five weeks. The lawyers
14 are hoping it will take only four weeks, but I wanted to tell
15 you it could take five because then you know what your answers
16 are going to be to these -- these other considerations.

17 So, for instance, if you have surgery scheduled, I
18 need to know about that so you need to tell me that's --
19 that's why I can't serve because I'm going into the hospital
20 to have a knee replacement or whatever it is, or if you have a
21 very important doctor's appointment that you -- like a
22 pre-surgery doctor's appointment or something like that. Not
23 just a routine checkup that you could potentially reschedule,
24 but something where you can't reschedule it.

25 Prepaid airline tickets to either wonderful places

1 because you're going on vacation or on business where nobody
2 else can do this, okay. We need to know that. Don't -- don't
3 tell me that somebody else -- nobody else but you can do it if
4 really, you know, a coworker can do it, you know, if you were
5 tragically hit by a bus tomorrow. You know, they could
6 replace me, I'd tell you, like that if I got hit in the
7 crosswalk coming in from the Judge's parking lot. They would
8 get another judge to cover my docket. So as much as we'd like
9 to think we're indispensable, the sad truth of it is that many
10 times we can be -- have someone cover us. So think about that
11 when you're answering the question.

12 If you are expecting a baby to be delivered in this
13 five-week -- next five weeks or are the parent of a baby
14 that's going to be delivered and you're going to need to be at
15 the hospital, we need to know about that, as well. Know that
16 most major employers in Las Vegas pay their employees while
17 they're on jury service. So that would include, you know,
18 most major corporations, certainly all of the gaming
19 companies. So if you are worried about that, know that your
20 -- you would be paid your salary while you're on jury service.

21 You also cannot be fired if you serve on a jury.
22 It's illegal in the state of Nevada to punish someone or
23 retaliate against them and fire them for serving on a jury, so
24 you should not worry about that. And if you experience any
25 pressure from a boss about your jury service, then you let me

1 know and anybody that would need it we can give letters to --
2 to let them know that they're serving on a jury.

3 So all of that being said, now I'm going to be
4 asking for a show of hands. What I'm going to do when I get
5 the show of hands is I'm going to ask each person to stand,
6 tell me their name, the last three digits of their badge
7 number, and what their reason is that they could not serve on
8 this jury for that length of time. And this only has to do
9 with the timing. It's not about I don't think I can be fair
10 because the -- because I'll be asking you that question later,
11 all right. This is only the timing and your schedules.

12 Okay. Once we get the name -- we get everybody's
13 excuses as to why they can't serve, because I'm going to be
14 taking notes up here about each one of you that says that,
15 then I'll meet with the lawyers up here at the bench and then
16 we'll call the names of those, if any, who are excused.

17 All right. So, with that, is there anyone sitting
18 out there who believes that they cannot serve for the next
19 potentially five weeks on this jury? We're going to start in
20 the box.

21 PROSPECTIVE JUROR NO. 824: My name is Lourdes
22 Rodriguez, my number is 824, and the reason why I may not be
23 able because I have prepaid tickets to fly to Mexico on March,
24 first week of March.

25 THE COURT: Okay. All right. Prepaid tickets to

1 Mexico first week of March. Got it.

2 PROSPECTIVE JUROR NO. 824: Yes.

3 THE COURT: Thank you.

4 PROSPECTIVE JUROR NO. 778: My name is Krista Tryba,
5 my number is 778. My only concern would be for Tuesday,
6 Wednesday, Thursdays. I have a five month old and a two and a
7 half year old that go to daycare, so I would have to see if my
8 daycare would be able to accommodate the change in schedule,
9 so to speak. Right now they are Tuesday, Thursday half days,
10 which would be noon to 6:00, and Wednesday full day. So just
11 as long as they could change the schedule at my daycare I
12 would be fine.

13 THE COURT: Okay. And you could -- how would you
14 find out about that?

15 PROSPECTIVE JUROR NO. 778: I would have to call the
16 director and see if she would be able to accommodate me.

17 THE COURT: Okay. Thank you.

18 PROSPECTIVE JUROR NO. 779: My name is Cornelia
19 Fletcher. My badge number is 779. I just had a two days
20 problem because I babysit my grandson just born on Tuesday and
21 Thursday, but -- and I don't know, just --

22 THE COURT: Okay. So you babysit on Tuesday and
23 Thursday newborn grandson.

24 PROSPECTIVE JUROR NO. 779: Granddaughter.

25 THE COURT: Congratulations on that newborn

1 grandson.

2 PROSPECTIVE JUROR NO. 779: Granddaughter.

3 THE COURT: Granddaughter. Okay.

4 PROSPECTIVE JUROR NO. 779: And my daughter --
5 daughter-in-law goes to school.

6 THE COURT: Okay. Could you make other
7 arrangements?

8 PROSPECTIVE JUROR NO. 779: I'm not sure. I can ask
9 them, but that's the only -- they don't want somebody to watch
10 the baby, so --

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NO. 779: The first baby.

13 THE COURT: All right. Thank you.

14 PROSPECTIVE JUROR NO. 788: My name is Harold
15 Openshaw. My badge number is 788. The 21st I have a prepaid
16 air ticket to Miami. And on the 22nd I have a prepaid
17 seven-day cruise out of Miami.

18 THE COURT: So we're all jealous, of course. All
19 right. Okay. I got it. Thank you.

20 PROSPECTIVE JUROR NO. 801: My name is Kyung Oh. My
21 badge number is 801. I work at a very small company, family
22 owned, I'm the only one employer and I do design in the
23 printing shop. And if I have to be off that many days, the
24 shop cannot be operated.

25 THE COURT: Okay. So you -- it's a print shop you

1 said?

2 PROSPECTIVE JUROR NO. 801: Print shop.

3 THE COURT: Print shop. You're the only employee?

4 PROSPECTIVE JUROR NO. 801: Yeah.

5 THE COURT: It's your business.

6 PROSPECTIVE JUROR NO. 801: I'm the only employer.

7 I'm the only worker --

8 THE COURT: You're the --

9 PROSPECTIVE JUROR NO. 801: -- in the office.

10 THE COURT: -- only worker?

11 PROSPECTIVE JUROR NO. 801: Yeah.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 801: Besides me they're all

14 family and I'm the only capable designer.

15 THE COURT: Okay. And so what -- the people -- the

16 rest of the people in the family do other jobs other than

17 design?

18 PROSPECTIVE JUROR NO. 801: Yeah, they can do --

19 they run machines and we've got some -- a few more things

20 going on at the shop.

21 THE COURT: Okay. Do you do all that designing on

22 the computer?

23 PROSPECTIVE JUROR NO. 801: Yes, I do.

24 THE COURT: Okay. All right. I've got it. Thank

25 you.

1 PROSPECTIVE JUROR NO. 795: My name is Julieta
2 Ramirez, Badge No. 1795. And I have two problems, one of them
3 I work also for the healthcare system, Valley Healthcare
4 System. I don't know anything about this case. I don't know
5 anybody, but I work for that corporation. I don't think they
6 pay for the time being off, and five weeks is a long time for
7 me. And I'm single, so I cannot afford to be here six weeks.

8 THE COURT: Five.

9 PROSPECTIVE JUROR NO. 795: Five weeks. Yes, I
10 would need to use my vacation time and I don't think I have
11 enough time to cover my expenses.

12 THE COURT: Oh, gosh. Yeah, I wouldn't think that
13 you would have five weeks of vacation time. If you do --

14 PROSPECTIVE JUROR NO. 795: No, I don't.

15 THE COURT: -- then I want your job.

16 PROSPECTIVE JUROR NO. 795: Yes.

17 THE COURT: All right. So -- and where do you work?

18 PROSPECTIVE JUROR NO. 795: I work for the Valley
19 Healthcare Systems. I work from home, so I really don't know
20 anybody about this case. I have no idea about the case
21 because I don't want TV, but I work for these hospitals,
22 Centennial, Valley Hospital, all those hospitals from home.

23 THE COURT: Okay. So you work for Valley
24 Healthcare --

25 PROSPECTIVE JUROR NO. 795: Yes.

1 THE COURT: -- but you work from home, did you say?

2 PROSPECTIVE JUROR NO. 795: I work from home.

3 Uh-huh.

4 THE COURT: And you're the sole source of income for
5 yourself?

6 PROSPECTIVE JUROR NO. 795: Yes. Yes, I'm the only
7 one and I have three dogs that they get sick every week. I
8 cannot afford to -- to -- I mean, I work 68 hours a week to
9 cover my expenses as it is.

10 THE COURT: Okay. Okay. Who is next?

11 PROSPECTIVE JUROR NO. 795: Thank you.

12 PROSPECTIVE JUROR NO. 837: David Coffman. Is it
13 on?

14 THE COURT: Okay. What's your badge number?

15 PROSPECTIVE JUROR NO. 837: 837.

16 THE COURT: 837.

17 PROSPECTIVE JUROR NO. 837: I have two problems.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 837: The first one is on the
20 14th I have a doctor's appointment for surgery for my nose.
21 And I'm not sure if the surgery is going to be done that day
22 or not, but we will be discussing it. That's all I can tell
23 you about that.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 837: It's for 2:30 in the

1 afternoon.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 837: The other problem is the
4 potential over that time period for me to have a health issue
5 because of my diabetes.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NO. 837: I have a pretty severe
8 case of diabetes and I currently keep it under control most of
9 the time. However, sometimes my blood sugar gets too low,
10 most of the time it's the problem I have, which means I can go
11 -- I can faint and go into diabetic coma. So in order to not
12 interrupt your court because of those issues, because I need
13 to go a minimum of every four hours and check my blood sugars
14 and I don't want to interrupt your court, you know, unless we
15 can work around it.

16 THE COURT: Okay. Okay. Obviously, we try to
17 accommodate any kind of, you know, challenges like that,
18 health challenges, disabilities, because we want everybody to
19 be able to serve. And this I say -- I'm not trying to make
20 you -- you know, this isn't the death march so we would
21 certainly be able to accommodate your need to check your sugar
22 rates every four hours, and I'm sure you need to eat regularly
23 and those things.

24 PROSPECTIVE JUROR NO. 837: Yeah, I have to.

25 THE COURT: Okay. Right. All right. Thank you.

1 PROSPECTIVE JUROR NO. 837: The real reason why I
2 brought it up is I'm currently having some kind of issue going
3 on right now. I can tell by what's going on with my body.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 837: And I just checked my
6 blood sugar half an hour ago --

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NO. 837: -- and also ate, so I'm
9 not sure what it is without checking my blood.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NO. 837: But I feel okay, but
12 there is something going on right now, so --

13 THE COURT: Okay. Well, if you start feeling worse,
14 you'll signal the marshal; right?

15 PROSPECTIVE JUROR NO. 837: Yeah. I'm actually
16 starting to feel better now. It was over the last 15 minutes
17 I got worse and kind of dizzy and all kinds of stuff happens
18 with me when I -- I get weird.

19 THE COURT: Okay.

20 THE MARSHAL: I've got my eye on you.

21 THE COURT: All right. Thank you.

22 PROSPECTIVE JUROR NO. 837: You can watch the color
23 of my face, then.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 844: My name -- my name is

1 Karma Collins and 844 is the juror number.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 844: I'm employed by parents.
4 I work with their child that has severe disabilities and
5 special needs. I provide services within the home and at the
6 private school that he attends. And I'm a one-woman show, so
7 I don't have anybody else to support me if I'm not able to do
8 that. Hence, if I'm sick, he doesn't go to school or get
9 services, so I try not to get sick a lot. But so that amount
10 of time would not only -- it would affect someone else.

11 THE COURT: Okay. Okay. All right. What about --
12 so like when you -- do you ever get any vacation?

13 PROSPECTIVE JUROR NO. 844: Uh-huh.

14 THE COURT: And when you do, do they bring somebody
15 else in?

16 PROSPECTIVE JUROR NO. 844: No. My vacations
17 coincide with his vacations from school. So his parents
18 assist him at home, but I go to school. If I'm sick, he
19 doesn't go to school.

20 THE COURT: Oh, I see. So you go to school with
21 him?

22 PROSPECTIVE JUROR NO. 844: Uh-huh.

23 THE COURT: That's very interesting. Okay. Thank
24 you.

25 PROSPECTIVE JUROR NO. 844: Uh-huh.

1 THE COURT: Yes, ma'am.

2 PROSPECTIVE JUROR NO. 845: My name is Evelyn Jahr,
3 and my number is 845.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 845: And I am preparing for
6 surgery, so I have doctor appointments leading up to that
7 time, and I also have an appointment in California on the
8 19th.

9 THE COURT: Okay. So you have multiple
10 appointments?

11 PROSPECTIVE JUROR NO. 845: Yes.

12 THE COURT: Okay. Thank you.

13 PROSPECTIVE JUROR NO. 802: My name is Ivan Quiroz,
14 last three is 802, and I'm expecting my son to be born on
15 February 16th.

16 THE COURT: Congratulations. Okay. Thank you.

17 PROSPECTIVE JUROR NO. 868: My name is Jacqueline
18 Custis. My badge number is 868. And I have two appoint --
19 well, I have two appointments on the same day on February 13.
20 A doctor's appointment at the endocrinologist that I've been
21 waiting for for a month, and I have a foster care -- I have a
22 foster care license and I have an appointment on that same
23 day. And I keep my great-grandson who is six months old.
24 I've been keeping since he was born and his mother lives with
25 me, my granddaughter, and she has like three part-time jobs

1 and I'm the only one that keeps him.

2 THE COURT: Okay. All right. And when do you have
3 -- when do you keep him?

4 PROSPECTIVE JUROR NO. 868: I keep him Monday
5 through Friday, anywhere from 4:30 in the morning to 10:00 at
6 night depending on where she's working.

7 THE COURT: Okay. And how old is he?

8 PROSPECTIVE JUROR NO. 868: Six months old.

9 THE COURT: Oh. Six months. Okay. Thank you.

10 PROSPECTIVE JUROR NO. 874: Hello again. I'm Dustin
11 Scott, 874. Like I said earlier, I'm a bartender. I actually
12 have three jobs. I work about 80 hours a week. I was just
13 recently involved in a car accident two weeks ago that costs a
14 lot of money, and I also have an aunt that I take care of and
15 I pay for her rent, as well. That's why I work so much. So I
16 really cannot afford to take time off of all three of my jobs
17 for five weeks.

18 THE COURT: Okay. And how many hours did you say
19 you work a week?

20 PROSPECTIVE JUROR NO. 874: About 80.

21 THE COURT: Oh. Gosh, when do you sleep?

22 PROSPECTIVE JUROR NO. 874: I don't. I sleep about
23 four hours a day.

24 THE COURT: Okay. All right. Thank you.

25 PROSPECTIVE JUROR NO. 887: My name is Judy Sandeen.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NO. 887: Badge number is 887. My
3 husband is scheduled to have surgery on February 25th.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 890: My name is Hui Ding. My
6 badge number is 890.

7 THE COURT: Wait a minute. Wait, wait, wait. I'm
8 still making notes here.

9 PROSPECTIVE JUROR NO. 890: I have two problems.

10 THE COURT: Okay. I'm sorry, sir. Go ahead.

11 PROSPECTIVE JUROR NO. 890: Okay. They already send
12 a contract for the IRS because every day we get --

13 THE COURT: I didn't hear your name or badge number,
14 though.

15 PROSPECTIVE JUROR NO. 890: 890.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 890: So I work in the casino
18 dealer. We already signed the contract for the IRS. So every
19 day I have to -- every day I have to pay for like \$12 for hour
20 for the tax. So you do like for five weeks, I've got to pay
21 for my parking. Then today I know to come we get a pay \$40,
22 but I have to come to work, too. I work night time. I cannot
23 sleep, you know.

24 THE COURT: Oh, yeah. You -- you couldn't work at
25 night and then come and be here in the day because we need

1 everybody to be awake. And I had a juror one time who was
2 trying to -- he didn't tell us this, but he was trying to work
3 all night long and then come and listen to court in the day
4 time and he was falling asleep.

5 PROSPECTIVE JUROR NO. 890: Yeah.

6 THE COURT: And I had to -- we had to excuse the
7 rest of the jury and ask him about it. It turned out, yeah,
8 he was working all night long operating heavy machinery and,
9 you know, not getting any sleep. And this was not good for
10 either the Court or his health because he was operating heavy
11 machinery.

12 PROSPECTIVE JUROR NO. 890: Yeah.

13 THE COURT: So we can't have that. So what is it
14 that you do?

15 PROSPECTIVE JUROR NO. 890: Casino dealer.

16 THE COURT: Casino Theater?

17 PROSPECTIVE JUROR NO. 890: Yeah.

18 THE COURT: Like doing what?

19 PROSPECTIVE JUROR NO. 890: The card. The card.
20 Dealing the card.

21 THE COURT: You do a car?

22 PROSPECTIVE JUROR NO. 890: No, no, no.

23 THE COURT: Oh, I'm sorry.

24 PROSPECTIVE JUROR NO. 890: Casino game.

25 THE COURT: Oh, card games.

1 PROSPECTIVE JUROR NO. 890: Table game.

2 THE COURT: You're a dealer.

3 PROSPECTIVE JUROR NO. 890: Yeah. Yeah.

4 THE COURT: Okay. So you deal at night. You work
5 the graveyard shift?

6 PROSPECTIVE JUROR NO. 890: No, 8:00 to -- 8:00 to
7 4:00.

8 THE COURT: 8:00 to 4:00.

9 PROSPECTIVE JUROR NO. 890: 8:00 to 4:00.

10 THE COURT: 8:00 to 4:00. Swing shift.

11 PROSPECTIVE JUROR NO. 890: Yeah, swing shift.

12 THE COURT: Okay. But where do you work?

13 PROSPECTIVE JUROR NO. 890: Silverton.

14 THE COURT: Silverton. And you don't think the
15 Silverton will pay you?

16 PROSPECTIVE JUROR NO. 890: They pay me, but they
17 already --

18 THE COURT: They won't pay you tips.

19 PROSPECTIVE JUROR NO. 890: They doing it table by
20 table. So they already signed the contract, whatever you
21 make, you do work, you have to pay for tax for the IRS?

22 THE COURT: Well, right, but if they're paying
23 you --

24 PROSPECTIVE JUROR NO. 890: Yeah, but I signed a
25 contract for like a \$120 for the day.

1 THE COURT: Okay. But --
2 PROSPECTIVE JUROR NO. 890: So what am I going to
3 pay for \$120 for the other times?
4 THE COURT: Well, your -- in other words, they're
5 estimating your tips --
6 PROSPECTIVE JUROR NO. 890: Yes.
7 THE COURT: -- at \$120 a day?
8 PROSPECTIVE JUROR NO. 890: Yeah. But if I don't
9 work --
10 THE COURT: But when you're --
11 PROSPECTIVE JUROR NO. 890: -- I make nothing --
12 THE COURT: If you're on jury duty --
13 PROSPECTIVE JUROR NO. 890: -- I have to pay.
14 THE COURT: If you're on jury duty, do they still
15 not pool the tips for you while you're on?
16 PROSPECTIVE JUROR NO. 890: No. Nothing. I have to
17 pay my pocket if I don't work.
18 THE COURT: You have to pay your parking?
19 PROSPECTIVE JUROR NO. 890: No, pay for myself.
20 THE COURT: Okay. All right.
21 PROSPECTIVE JUROR NO. 890: And I not think, you
22 know, my language very -- it's bad. I think I don't
23 understand the case, you know.
24 THE COURT: Okay.
25 PROSPECTIVE JUROR NO. 890: Thank you.

1 THE COURT: Thank you.

2 PROSPECTIVE JUROR NO. 895: Ze Wu Li, and my badge
3 number is 687. I have purchased an air ticket to China on
4 February 26th.

5 THE COURT: That's not your badge number, so let
6 me --

7 THE CLERK: Yeah, something is wrong.

8 THE RECORDER: It's 895.

9 THE COURT: Okay. Your badge number is 895.

10 PROSPECTIVE JUROR NO. 895: My number is 687.

11 THE COURT: No.

12 THE CLERK: What is your name?

13 PROSPECTIVE JUROR NO. 895: Ze We Li.

14 THE COURT: Ze Li?

15 PROSPECTIVE JUROR NO. 895: Oh, I got it.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 895: 895.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 895: Sorry.

20 THE COURT: All right. Start again. You're going
21 to China?

22 PROSPECTIVE JUROR NO. 895: Yes, on February 26th.

23 THE COURT: Okay. Is that for business or pleasure?

24 PROSPECTIVE JUROR NO. 895: No, a vacation.

25 THE COURT: Vacation. Okay. All right. Thank you.

1 PROSPECTIVE JUROR NO. 899: Jennifer Doyle. My
2 badge number is 899. I have a pre-paid family vacation to
3 Buffalo, New York, February 13th through the 18th. I am also
4 a parole officer with the state of Nevada and I do supervise
5 an active case load, so I would be worried about the
6 supervision of my case load.

7 THE COURT: Okay. Thank you.

8 PROSPECTIVE JUROR NO. 923: My name is Liza
9 Baranski. My badge number is 923, and I'm self-employed.

10 THE COURT: Okay. What do you do?

11 PROSPECTIVE JUROR NO. 923: A hairdresser.

12 THE COURT: So you rent a --

13 PROSPECTIVE JUROR NO. 923: I rent, and I pay
14 whether I'm there or not.

15 THE COURT: Right. Okay. So you rent your station
16 and then you have a clientele?

17 PROSPECTIVE JUROR NO. 923: Not a station, but, yes.

18 THE COURT: Okay. Thank you.

19 PROSPECTIVE JUROR NO. 923: Thank you.

20 PROSPECTIVE JUROR NO. 929: Good afternoon. My name
21 is David Fehrmann, Badge No. 929. February 13th myself, my
22 wife, and my family is expecting to find out the gender of my
23 child. I work for Nevada Division of Forestry at High Desert
24 State Prison. I take about 150 inmates into my possession.
25 This Thursday I've got a training class to operate the semis

1 that we're going to be driving to transport them, as well as
2 three other classes in February through the state to qualify
3 me for fire season this year as a state firefighter.

4 THE COURT: Okay. So you work for the Department of
5 Forestry, did you say?

6 PROSPECTIVE JUROR NO. 929: Yeah, Division of
7 Forestry.

8 THE COURT: Division of Forestry. What's your job
9 title with them?

10 PROSPECTIVE JUROR NO. 929: Inmate crew supervisor.

11 THE COURT: Okay. And you've got training. And on
12 the 13th you have an appointment, your wife has an appointment
13 for an ultrasound? Is that --

14 PROSPECTIVE JUROR NO. 929: Correct.

15 THE COURT: -- what it is?

16 PROSPECTIVE JUROR NO. 929: Correct.

17 THE COURT: I guess you can just go in and get those
18 at, you know, like -- I found out I was going to be a
19 grandmother on Saturday, so I'm pretty excited about that.
20 But, yeah, because you can just go in. My daughter-in-law was
21 visiting and went in to surprise me with the picture of the
22 new baby.

23 PROSPECTIVE JUROR NO. 929: It's pretty exciting.

24 THE COURT: Yeah. Pretty exciting stuff. All
25 right. Thank you.

1 PROSPECTIVE JUROR NO. 935: My name is Ignacio
2 Flores. 935 is my badge number. I have a two year old and an
3 eight year old that I take care of on my days off, Wednesdays
4 and Thursday, and the mom takes care of them Sundays and
5 Mondays. Tuesday and Friday my -- my father-in-law and my
6 mother switch on and off, but my mom has emphysema so it's
7 been quite hard for her lately. And me missing Thursdays and
8 her picking up that babysitting, I don't think she'll be able
9 to do it. And also, I work for tips for Wyndham. I'm a
10 bellman there. Me missing five weeks is really going to hurt
11 us financially if I'm out of work for five weeks tip wise.

12 THE COURT: Okay. What is it you do there?

13 PROSPECTIVE JUROR NO. 935: I'm a bellman.

14 THE COURT: Oh. And which days do you have to
15 babysit for the kids? Which days are you babysitting?

16 PROSPECTIVE JUROR NO. 935: Wednesdays and
17 Thursdays, my days off.

18 THE COURT: Okay. Thank you.

19 PROSPECTIVE JUROR NO. 937: Hi. My name is Nicole
20 Rubino, Badge No. 937. I'm also a self-employed hair stylist.
21 I rent a station and I'm the sole supporter of my eight year
22 old son.

23 THE COURT: Okay. All right. Thank you.

24 PROSPECTIVE JUROR NO. 937: Thank you.

25 PROSPECTIVE JUROR NO. 908: Hello. I'm Erica

1 Perreira, Badge No. 908, and I'm scheduled for a pre-paid
2 flight to Miami on Sunday the 9th through the 13th.

3 THE COURT: Okay. Thank you.

4 PROSPECTIVE JUROR NO. 912: My name is Eduardo
5 Martinez, Badge No. 912. I'm a college student attending
6 University in Baltimore, Maryland, and the classes for the
7 spring semester come in exactly one week from today and this
8 Thursday I have a non-refundable flight out to Baltimore.

9 THE COURT: Okay. Off to college in Baltimore next
10 week. Okay. Thank you.

11 PROSPECTIVE JUROR NO. 943: My name is Clinton Luu,
12 Badge No. 943. Two things, the first thing is that I have a
13 wedding planned to go to Costa Rica February 13th through the
14 19th. And then the second is I'm a college student and I'm
15 only scheduled Mondays and Wednesdays. And essentially I'd be
16 missing about three classes for the five weeks --

17 THE COURT: Okay.

18 PROSPECTIVE JUROR NO. 943: -- if I was to do jury
19 service.

20 THE COURT: And where do you go to college?

21 PROSPECTIVE JUROR NO. 943: UNLV.

22 THE COURT: UNLV?

23 PROSPECTIVE JUROR NO. 943: Yeah.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 961: Hi. Derek Rodriguez,

1 Badge No. 1961. On February 17th I'll be traveling in
2 Northern California to lay my father to rest. He passed away
3 earlier this month.

4 THE COURT: I'm sorry to hear that.

5 PROSPECTIVE JUROR NO. 961: It's quite all right.

6 THE COURT: All right.

7 PROSPECTIVE JUROR NO. 965: Hello. My name is Dina
8 Reyes, Badge No. 965. I have my mom as my dependent and she's
9 scheduled to have surgery within this month.

10 THE COURT: Okay. So your mother is scheduled for
11 surgery?

12 PROSPECTIVE JUROR NO. 965: Yes. They will call me
13 with a date on these days.

14 THE COURT: Okay. And are you going to have to --

15 PROSPECTIVE JUROR NO. 965: I have to take care of
16 her. And I'm a single mom and she lives with me.

17 THE COURT: I see. Okay. Okay.

18 PROSPECTIVE JUROR NO. 977: My name is Benedict
19 Moreno, Badge No. 977. My main concern is I have a
20 kindergarten son. I bring him to school 8:10 in the morning,
21 picking him up around 2:30. He goes to a private school so he
22 don't use the bus system or the school bus. My wife also
23 works. I mean, she can bring my son to school, but there will
24 be a conflict in schedule because she works at nights, so she
25 sleeps during the day time. She's a nurse at St. Rose

1 Hospital.

2 THE COURT: Okay. But she would be able to pick --
3 pick him up?

4 PROSPECTIVE JUROR NO. 977: There are days that she
5 can, maybe when she's off, but, you know, Monday through
6 Friday, five weeks.

7 THE COURT: Okay. Do you work normally?

8 PROSPECTIVE JUROR NO. 977: I -- I'm also a nurse.
9 I do home health, which is the main reason I'm doing home
10 health because my hours are flexible. I work from like 8:00
11 to 5:00, but by 2:00, 2:30 -- I mean, 2:30 I pick my son up on
12 my way home.

13 THE COURT: Okay. And how old is your son?

14 PROSPECTIVE JUROR NO. 977: He's five.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 977: In kindergarten.

17 THE COURT: Oh, yes. Thank you. Anybody else?
18 Okay.

19 PROSPECTIVE JUROR NO. 981: My name is Elizabeth
20 Lockamon, Badge No. 981. I'm a stay at home mom. I have a
21 four year old and seven year old. So my four year old is not
22 in school all day, so my husband would have to ask off for
23 vacation or sick time for the next three to six weeks.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 981: I also have four doctor

1 appointments this month, two this week, two the week after
2 next, and the last Friday of the month we're scheduled to go
3 on a family trip to California.

4 THE COURT: Okay. Okay. I got all of that. Thank
5 you. All right. So, ladies and gentlemen, normally I do this
6 at the bench, but because we have so many what I'm going to do
7 is I send you on a break while I speak to the lawyers about
8 this. And so I'm going to read you an admonition. Before I
9 read it to you, I'm also going to tell you this other thing,
10 and that is that you may see the lawyers --

11 Yes, ma'am?

12 PROSPECTIVE JUROR NO. 779: I work grave yard, too,
13 10:00 to 6:00, 10:00 at night to 6:00 in the morning.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 779: My badge is 779.

16 THE COURT: Okay. Thank you.

17 PROSPECTIVE JUROR NO. 779: Thank you.

18 THE COURT: Okay. So the lawyers, you may see them
19 in the hallways walking to court. They are all very charming
20 individuals and would normally, as courteous and charming
21 individuals greet you if you greeted them. But they're not
22 allowed to speak to you because to do so might look like they
23 were trying to curry favor with a juror. And so please don't
24 try and engage them in conversation or even say hello to them
25 because they'll feel really bad when they have to just

1 completely ignore you, all right. So just avoid that.

2 If you have to communicate with the Court, you need
3 to do so through the marshal, just like we just did. That was
4 great. If you have anything you need to bring to the Court's
5 attention, do that. That's your contact. So, ladies and
6 gentlemen, we're going to take a 20 minute recess. I have ten
7 minutes after 3:00 right now.

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

17 So we'll be in recess for 20 minutes, and just wait
18 outside in the hall and the marshal will collect you when the
19 recess is over.

20 (Prospective jury recessed at 3:07 p.m.)

21 THE COURT: The record will reflect we're outside
22 the presence of the venire. Oh, my goodness. There's a lot
23 of people. Okay. My count is 27 people who are asking to be
24 excused at this point. All right. So I think maybe the best
25 way to do it is just kind of go down the list in the order

1 that they -- we did it.

2 So first one is Lourdes Rodriguez, Badge No. 824.
3 She's got prepaid tickets to Mexico the first week of March.
4 Anybody --

5 MR. MANINGO: I think that's good enough to go.

6 THE COURT: Right.

7 MR. MANINGO: I would have no objection.

8 MS. BLUTH: I would agree.

9 THE COURT: Okay. So she's a yes. And next one is
10 Krista Tryba, 778 badge number. She has the Tuesday,
11 Wednesday, Thursday daycare potential issue, although, she
12 could call.

13 MS. BLUTH: Right.

14 THE COURT: And I guess we should ask. Andrew, ask
15 the marshal if this Krista Tryba, 778, see if maybe she can
16 call while we're doing this.

17 MS. BLUTH: Your Honor, and after that Ms. Fletcher,
18 779, also said that she could call her, apparently it was her
19 daughter or her granddaughter and see if they can make other
20 arrangements.

21 THE COURT: Oh, yeah. Then she's also the one,
22 though, that came back and said she also works graveyard.

23 MS. BLUTH: Yeah, she did say that.

24 THE COURT: So what's the defense's feeling about
25 Ms. Fletcher? Do you want me to try and get her to --

1 MR. MANINGO: I'll submit it at this point on Ms.
2 Fletcher.

3 THE COURT: I mean, I think she's going to keep
4 giving us excuses until she gets off at this point.

5 MR. MANINGO: I have no objection to letting her go.

6 THE COURT: Okay. Let's let her go. The other gal,
7 Krista Tryba, she seemed more genuinely, I think, trying to
8 work it out.

9 Next one is Badge No. 788, Harold Openshaw. He has
10 got -- he's going to Miami on February 21st and he has the
11 prepaid cruise. Everybody agree --

12 MS. BLUTH: Yes.

13 THE COURT: -- to let him go?

14 MR. MANINGO: I agree.

15 THE COURT: Okay. The next one is 801, Kyung Oh.
16 He's the family business print shop. He's the only one that
17 knows how to run the design computer and so it's a hardship
18 for his family business. What do you think?

19 MR. MANINGO: Defense has no objection to -- to
20 letting him go. I mean, I understand his scenario. Certainly
21 I don't want to run someone out of business.

22 THE COURT: State?

23 MS. BLUTH: I'm fine with letting him go, Judge.

24 THE COURT: Okay. Next is 795, Julieta
25 Ramirez-Cossio. She is the person who works for Valley

1 Healthcare doing something from home, doesn't think she's
2 going to get paid, and she works 68 hours a week. That was a
3 little vague. I wasn't sure what she's doing from home for
4 Valley Healthcare. And she may or may not. I mean, if she's
5 working from Valley Healthcare from home, then she might not
6 actually be employed by them. She might be a contract worker
7 of some kind. We could ask her to find out whether she'll be
8 paid.

9 MS. BLUTH: Judge, my concern with her is two-fold.
10 The 68 hours of work thing was bothersome to me, but more of
11 the bigger picture is she does work for Valley Health System,
12 which is a major component in this entire thing.

13 THE COURT: Right.

14 MS. BLUTH: And I recognize she doesn't think she
15 knows anything or she doesn't think she knows somebody. I'd
16 just rather just let her go at this point. I don't want
17 someone to get on the stand and she recognizes them, etcetera.

18 THE COURT: Does defense agree?

19 MR. MANINGO: I agree.

20 THE COURT: Okay. Let's let her go. Next one, 837,
21 David Coffman. He is on February 14th, got the appointment
22 for the surgery on his nose, plus he has the severe diabetic
23 health problems and could collapse on us during the trial. I
24 think we should let him go.

25 MS. BLUTH: Yes, Your Honor.

1 MR. MANINGO: We agree.

2 THE COURT: Next is Karma Collins, Badge 844. She's
3 employed as the caretaker for the disabled child. She goes
4 with him to school every day.

5 MS. BLUTH: I think we should let her go.

6 THE COURT: Okay.

7 MR. MANINGO: That's fine.

8 THE COURT: Yeah, I think especially in light of
9 this case it might be a good idea. Evelyn Jahr is the next
10 person, and that's Badge No. 845, preparing for surgery. She
11 has multiple appointments and an appointment in California.
12 We need to let her go.

13 MS. BLUTH: Yes, Your Honor.

14 MR. MANINGO: We agree.

15 THE COURT: Okay. Number 802 is next, Ivan Quiroz.
16 He's expecting his son to be born on February 17th, so I think
17 we would be losing him even if the baby is late. He's
18 probably going to end up in the middle of the trial.

19 MS. BLUTH: Yes, Judge.

20 THE CLERK: Just for the note, February 17th is the
21 holiday.

22 THE COURT: Oh. The 17th is a holiday. We could,
23 if we were willing to gamble. Yeah. Babies never cooperate
24 that way, though, do they?

25 MR. MANINGO: I think he's going to have his hands

1 full for --

2 THE COURT: Yes.

3 MR. MANINGO: -- probably about the next 18 years,
4 so --

5 THE CLERK: Or more.

6 THE COURT: All right. So we'll let him go. Next
7 is 868, Jacqueline Custis. She's got appointments on February
8 13th at an endocrinologist, foster care appointment, and she
9 babysits her great-grandson every day who is six months old.
10 What's the defense's feeling?

11 MR. MANINGO: I have no objection to letting her go,
12 especially for the sole caretaker issue. If it's -- if we're
13 talking about doctor appointments on one day, we can always
14 accommodate by going dark that day or doing a half day one way
15 or the other or however it needs to work out, but --

16 THE COURT: Yeah, she's got multiple issues.

17 MR. MANINGO: I think there are other issues, so I
18 would have no objection to letting her go.

19 THE COURT: All right. I didn't try and suggest
20 that to any of these people because pretty soon -- I mean,
21 we've got 25 people were all trying to schedule around their
22 schedule. It's going to be a nightmare. It's hard enough to
23 just schedule around our own schedules. All right.

24 THE CLERK: Which one was that?

25 THE COURT: She's Jacqueline Custis, 868. All

1 right. Next one is --

2 THE CLERK: And she's excused?

3 THE COURT: -- Dustin Scott. Yes.

4 THE CLERK: Okay. I'm sorry.

5 THE COURT: That's okay. Dustin Scott, 874. He has
6 -- he's the bartender with three jobs and cares for his aunt
7 and he works 80 hours a week, plus he's also the gentleman who
8 read about the matter in the paper, so --

9 MS. BLUTH: Yeah, probably safer to let him go.

10 MR. MANINGO: No objection.

11 THE COURT: Okay. No. 887, Judy Sandeen. She's --
12 her husband is scheduled for surgery on February 25th. So
13 she's got to go to that and then take care of him afterwards,
14 I assume. So we should let her go. Anybody object?

15 MS. BLUTH: No objection.

16 MR. MANINGO: No objection.

17 THE COURT: 890, Hui Ding. Card dealer, 8:00 to
18 4:00 at the Silverton. Language barrier big time. I really
19 had a hard time.

20 MS. BLUTH: No objection.

21 THE COURT: Okay.

22 MR. MANINGO: No objection.

23 THE COURT: 895 is Ze Li. He's going to China
24 February 26th on vacation, so --

25 MS. BLUTH: No objection.

1 THE COURT: -- we need to let him go.

2 MR. MANINGO: No objection.

3 THE COURT: Okay. 899. Jennifer Doyle. She's got
4 the prepaid vacation from the 13th to the 18th, and then she
5 just let us know she is also a parole officer, so you probably
6 don't want her for that reason, as well.

7 MS. BLUTH: I like that reason, but no objection.

8 THE COURT: Yeah. Okay.

9 MR. MANINGO: No objection.

10 MR. KOCHVAR: I just want to know why she's going
11 to Buffalo in February.

12 THE COURT: I know. When she said -- I held my
13 tongue. I didn't say Buffalo for vacation? It's cold there
14 right now, I think, really cold. Okay. Next is 923, Liza
15 Baranski. She is the self-employed hairdresser. I mean, if
16 it was a couple day trial it would be one thing. But to have
17 somebody that -- I mean, the only way they make any money is
18 to be there. She could lose half her clientele being off five
19 weeks like that.

20 MS. BLUTH: No objection, Your Honor.

21 THE COURT: Okay.

22 MR. MANINGO: No objection.

23 THE COURT: Next is 929, David Fehrmann. He's got
24 the 2/13 ultrasound appointment. I was trying to suggest to
25 him that you can just -- you know, you can get those any time.

1 So it's not -- that's not that big of deal to me. He also,
2 though, indicated to us that he was an inmate crew supervisor
3 for the Division of Forestry and he had some upcoming
4 training. So how do you feel about him?

5 MR. MANINGO: My concern for his hardship issues was
6 not so much the ultrasound, but I think he said he has his
7 qualification testing that he needs to do during this time
8 period in order to be a firefighter for the upcoming --

9 THE COURT: Oh, that's right. He did say that and I
10 didn't write that down.

11 MR. MANINGO: So I think that's probably a greater
12 concern. I have no objection to -- to excusing him.

13 THE COURT: Okay. And does the State agree with
14 that, then?

15 MS. BLUTH: Well, I'm sorry. Was his -- did he have
16 the qualification, or was he training others to take part in
17 it?

18 THE COURT: He was --

19 MR. BASHOR: My recollection is he mentioned two
20 things, Your Honor.

21 THE COURT: Right.

22 MR. BASHOR: First was that he was training other
23 people to drive these inmate semi trucks.

24 THE COURT: Yes.

25 MR. BASHOR: But later he said that he had three or

1 four classes that require training to be a firefighter for the
2 state.

3 THE COURT: For the -- for the --

4 MS. BLUTH: If that is correct, then I have no
5 objection.

6 THE COURT: For the firefighting season that will be
7 upcoming.

8 MR. BASHOR: Correct.

9 THE COURT: Right. Okay. All right. So we'll let
10 him go. Next is 935, Ignacio Flores. He is the guy who
11 babysits the kids on Wednesdays and Thursdays which are his
12 days off from Wyndham where he works for tips. That's where
13 he is a bellman. I don't know about Wyndham as far as whether
14 they pay their folks, but, of course, bellman make a very low
15 wage. They really do work for tips. And while I wouldn't
16 mind letting somebody forego a week's worth of tips, five
17 weeks is another thing altogether.

18 MS. BLUTH: No objection.

19 MR. MANINGO: No objection.

20 THE COURT: Next is Nicole Rubino, Badge 937.
21 Another self-employed hair dresser and single parent sole
22 support.

23 MS. BLUTH: No objection.

24 MR. MANINGO: No objection.

25 THE COURT: Next is Erica Perreira, 908. And she's

1 got prepaid tickets to Miami on the 13th. The 9th --

2 MR. MANINGO: Right, the 9th.

3 THE COURT: The 9th through the 13th, right, is her
4 trip.

5 MS. BLUTH: No objection.

6 THE COURT: Okay.

7 MR. MANINGO: No objection.

8 THE COURT: Next is Eduardo Martinez, Badge 912. He
9 is leaving for college next week, so he's got to --

10 MS. BLUTH: No objection.

11 THE COURT: Yep.

12 MR. MANINGO: No objection.

13 THE COURT: Next is Clinton Luu, Badge 943. He is
14 going to Costa Rica February 13th through the 19th and he's
15 also a college student. So that must be, what, that's spring
16 break that week. And he's also a college student at UNLV, and
17 they're in class now so he'd miss class. And so that -- I
18 would excuse him.

19 MS. BLUTH: No objection.

20 MR. MANINGO: No objection.

21 THE COURT: Okay. Next is Derek or Derk Rodriguez.
22 Is it Derek or Derk?

23 MR. KOCHVAR: Derek.

24 THE COURT: Derek. And Badge No. 19 -- or 961. He
25 is -- let's see, on 2/17 he's traveling to California to bury

1 his father.

2 MS. BLUTH: No objection.

3 MR. MANINGO: No objection.

4 THE COURT: Okay. Dina Reyes, 965, mother is
5 scheduled for surgery. She cares for her mother as a single
6 mom and she'll have to take care of her mom after the surgery.

7 MS. BLUTH: No objection.

8 MR. MANINGO: No objection.

9 THE COURT: Benedict Moreno, he has a five year old
10 son he takes -- he takes to school and picks up. He's also a
11 nurse and his wife is a nurse who works at night.

12 THE CLERK: And he knew one of the doctors.

13 THE COURT: Oh. And he also, as my clerk reminds
14 me, knew one of the doctors.

15 MR. MANINGO: Yes.

16 MS. BLUTH: He has the issues with sexual abuse.

17 MR. MANINGO: Yes, he had problems with sexual
18 abuse, he knew one of the witnesses, worked with them.

19 He's --

20 THE COURT: So all in all we'll probably lose him
21 later, so we may as well let him go now.

22 MR. MANINGO: I -- I would think so.

23 MS. BLUTH: No objection.

24 THE COURT: Okay. And finally Elizabeth Lockamon,
25 981. She is a stay at home mom with a four year old, plus

1 multiple doctor's appointments. And the last Friday of
2 February she's leaving on a trip to California.

3 MS. BLUTH: No objection.

4 MR. MANINGO: No objection.

5 THE COURT: Okay.

6 THE CLERK: So do we have to find out about Seat No.
7 4 before -- so I can know who to put in.

8 THE COURT: So the only thing we need to know,
9 Marshal, is whether Ms. Tryba can contact her daycare.

10 THE MARSHAL: And I talked to her.

11 MR. JANZ: She said that she's going to call her
12 within the 20 minutes that you allowed.

13 THE COURT: Okay. Why don't you go out and see if
14 you can find out for us. And we'll be in recess so court
15 staff and lawyers can take a break.

16 MR. KOCHVAR: Thank you.

17 MS. BLUTH: Thank you, Your Honor.

18 MR. MANINGO: Thank you, Judge.

19 THE COURT: You're welcome.

20 (Court recessed at 3:24 p.m., until 3:31 p.m.)

21 (Inside the presence of the prospective jury panel)

22 THE COURT: Thank you. Please be seated. The
23 record will reflect we are back within the presence of the
24 venire panel. Defendant is present with his counsel, the
25 Deputies District Attorney prosecuting the case are present,

1 as are all officers of the court. Will counsel so stipulate?

2 MS. BLUTH: Yes, Your Honor.

3 MR. MANINGO: Yes, Your Honor.

4 THE COURT: Thank you. So, ladies and gentlemen,
5 what I'm going to do now is read off the name and badge
6 numbers of those people who have been excused. And as I read
7 your name you may get up and make your way across the hall to
8 the jury commissioner to let the jury commissioner know you've
9 been excused.

10 Lupe Rodriguez, 824; Cornelia Fletcher, 779, Harold
11 Openshaw, 788; Kyung Oh, 801; Julieta Ramirez-Cossio, 795;
12 David Coffman, 837; Karma Collins, 844; Evelyn Jahr, 845; Ivan
13 Quiroz, 802; Jacqueline Custis, 868; Dustin Scott, 874; Judy
14 Sandeen, 887; Hui Ding, 890; Ze Li, 895; Jennifer Doyle, 899;
15 Liza Bavanski or is it --

16 PROSPECTIVE JUROR NO. 923: Baranski.

17 THE COURT: -- Baranski -- I can't read my own
18 writing -- 923; David Fehrmann, 929; Ignacio Flores, 935;
19 Nicole Rubino, 937; Erica Perreira, 908; Eduardo Martinez,
20 912; Clinton Luu, 943; Derek Rodriguez, 961; Dina Reyes, 965;
21 Benedict Moreno, 977, and Elizabeth Lockamon, 981.

22 THE CLERK: So now we're going to fill in the seats.

23 THE COURT: Yes. The clerk is going to tell you
24 where she wants you to move to.

25 THE CLERK: Okay. For Seat No. 1, which is the top

1 right up there, Dawn Pratt, Badge 819. Seat No. 5 -- will
2 show them which one is 5 -- Douglas Sproul, 853.

3 I'm sorry. I was Melissa Mehl, 833. I'm sorry, Ms.
4 Pratt. You're already on there as Number 12. So I've got No.
5 5. I just called the wrong one.

6 For Spot No. 6, Michael Holder, 863. For Seat No.
7 8, 872, Patrick McCoy. For Seat No. 10, 902, Cory Walker.
8 And for Seat No. 11, 903, William McKelphin.

9 THE COURT: All right. Thank you. Okay. The next
10 question I have, and this will be to everybody that's in the
11 box and the rest of you that are remaining, those few people
12 back in the audience there. Is there anyone who believes for
13 whatever reason that they would be unable to serve as a fair
14 and impartial juror in this case raise your hand. All right.
15 The record will reflect a negative response.

16 So the next questions I'm going to ask I'm just
17 going to direct towards the individuals in the box and --
18 well, actually, you know, there's so few of you out in the
19 audience, I'm going to direct it to everybody just to get it
20 out of the way. So, are there any people who have served as a
21 juror before? All right. Nobody in the box. We've got two
22 out in the audience. Let's find out about those.

23 PROSPECTIVE JUROR NO. 967: My name is Wanda Brooks,
24 and Badge No. 967, and I served as a juror four years ago.

25 THE COURT: And was that here in Clark County?

1 PROSPECTIVE JUROR NO. 967: It was here.

2 THE COURT: Was it a criminal or a civil jury?

3 PROSPECTIVE JUROR NO. 967: It was criminal.

4 THE COURT: And without telling us what the verdict
5 was, did the jury ready a verdict?

6 PROSPECTIVE JUROR NO. 967: Yes.

7 THE COURT: Were you the foreperson?

8 PROSPECTIVE JUROR NO. 967: No.

9 THE COURT: Was there anything about that experience
10 that would make you think I never want to be on a jury again?

11 PROSPECTIVE JUROR NO. 967: No.

12 THE COURT: Did you find it to be a rewarding
13 experience?

14 PROSPECTIVE JUROR NO. 967: I did. I enjoyed it.

15 THE COURT: Thank you very much. And the lawyers
16 may ask you questions about that later, but not at this time.
17 We're not going to ask any further questions about that right
18 now.

19 PROSPECTIVE JUROR NO. 941: My name is Susan
20 Solorzano, and my badge number is 941. I served on a jury, I
21 think, two times, many years ago in Los Angeles, in Los
22 Angeles and in Santa Monica.

23 THE COURT: All right. And in those cases were they
24 criminal matters or civil?

25 PROSPECTIVE JUROR NO. 941: They were criminal.

1 THE COURT: And without telling us what the verdicts
2 were, did the jury reach verdicts in each of those cases?

3 PROSPECTIVE JUROR NO. 941: Yes, they did.

4 THE COURT: Were you the foreperson at any time?

5 PROSPECTIVE JUROR NO. 941: No, I was not.

6 THE COURT: Was there anything about that that would
7 make you think you would not want to be a juror again?

8 PROSPECTIVE JUROR NO. 941: No.

9 THE COURT: Was the experience rewarding?

10 PROSPECTIVE JUROR NO. 941: It was very interesting.

11 THE COURT: Okay. So you felt -- did you feel that
12 you did your civil duty as a citizen?

13 PROSPECTIVE JUROR NO. 941: Of course, yes.

14 THE COURT: Okay. Thank you very much.

15 PROSPECTIVE JUROR NO. 941: Uh-huh.

16 THE COURT: All right. Now, to the -- everybody, is
17 there anyone who is now involved in law enforcement as
18 employment? All right. The record will reflect a negative
19 response. How about anyone who has served in law enforcement
20 in the past? All right. We have one in the back.

21 PROSPECTIVE JUROR NO. 927: My name is Loran
22 Huffman, Juror No. 927. I retired after 20 years, a little
23 over 20 years in the air force as a special agent with the
24 office of special investigations.

25 THE COURT: Okay. And as a result of that, do you

1 feel that you would tend to give the testimony of a person who
2 was in law enforcement more weight than you would other -- or
3 other witnesses merely because they were in law enforcement
4 and for no other reason?

5 PROSPECTIVE JUROR NO. 927: No, ma'am.

6 THE COURT: So you could evaluate the testimony of
7 each witness, even if it was a law enforcement person and give
8 it the weight and credibility it deserves?

9 PROSPECTIVE JUROR NO. 927: I believe so.

10 THE COURT: All right. Thank you. And there were
11 no other affirmative responses, I believe, to that.

12 Let's see. Now, I'm going to just direct these
13 questions to the people that are sitting in the box. Is there
14 anyone that has -- in your family that is in law enforcement
15 that's -- of the people that are sitting in the box? Anyone
16 closely -- that's a negative response. Anyone closely
17 associated with you, close friends in law enforcement? Okay.
18 We've got two.

19 PROSPECTIVE JUROR NO. 778: My name is Krista Tryba.
20 The last three of my badge number is 778. My friend Lindsey
21 Bisch, her mom Laurie Bisch ran for sheriff. I've known her
22 since I was eight, really close friends. She just moved back
23 from college, actually, so we're doing a lot of family
24 barbeques and such.

25 THE COURT: Okay. So you're friends with Officer

1 Bisch's --

2 PROSPECTIVE JUROR NO. 778: Our families get
3 together.

4 THE COURT: Do you ever talk to your friend's mom
5 about her work as a police officer?

6 PROSPECTIVE JUROR NO. 778: We used to when she was
7 running for sheriff, but -- we'd converse a lot about it, but
8 not anymore now.

9 THE COURT: Okay. Do you feel that you could be
10 fair and impartial knowing that there may be law enforcement
11 individuals testifying?

12 PROSPECTIVE JUROR NO. 778: No, Your Honor.

13 THE COURT: You don't think you could be fair?

14 PROSPECTIVE JUROR NO. 778: Oh, no. I do think I
15 could be fair, Your Honor. I apologize.

16 THE COURT: All right. Do you feel that you would
17 give more weight or credibility to the testimony of someone in
18 law enforcement merely because they were in law enforcement
19 but for no other reason?

20 PROSPECTIVE JUROR NO. 778: No, Your Honor.

21 THE COURT: Do you feel you could listen to the
22 testimony of police officers or other law enforcement agency
23 officials and give their testimony equal consideration with
24 any other witness?

25 PROSPECTIVE JUROR NO. 778: Yes, Your Honor.

1 THE COURT: Okay. Thank you.

2 And I think we had someone down here. Sir?

3 PROSPECTIVE JUROR NO. 903: Hi. William McKelphin,
4 Badge No. 903. I just -- I have a couple of friends that are
5 police officers in North Las Vegas.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NO. 903: That fact alone really
8 doesn't have any bearing on, you know, my decision making,
9 so --

10 THE COURT: All right. You don't speak with them
11 about their work?

12 PROSPECTIVE JUROR NO. 903: Oh, all the time.

13 THE COURT: You do all the time?

14 PROSPECTIVE JUROR NO. 903: Yes.

15 THE COURT: But still knowing that you could still
16 evaluate the testimony of a police officer and give it the
17 same weight you would any other witness?

18 PROSPECTIVE JUROR NO. 903: Absolutely.

19 THE COURT: Thank you.

20 Has anyone sitting in the box ever been the victim
21 of a crime? And I'm just seeing two hands. Nobody else --
22 nobody else besides the two raising their hands ever had their
23 car stolen, their purse stolen, anything like that, their
24 house broken into? No? Okay. That's good. Let me hear from
25 the people that have been.

1 PROSPECTIVE JUROR NO. 778: Again, my name is Krista
2 Tryba, Badge No. 778. My home was burglarized a year ago.

3 THE COURT: That was here in Clark County?

4 PROSPECTIVE JUROR NO. 778: Here in Las Vegas. Yes,
5 ma'am.

6 THE COURT: Did the police respond? Did you call
7 them?

8 PROSPECTIVE JUROR NO. 778: They did respond.

9 THE COURT: And did they take a report?

10 PROSPECTIVE JUROR NO. 778: Of course they did.

11 THE COURT: Did they do anything else, process any
12 scene?

13 PROSPECTIVE JUROR NO. 778: No, they kind of just
14 took a glance around my house. They believed it was someone
15 who knew us because none of my cabinets or drawers were rifled
16 through. They knew exactly what they wanted and exactly where
17 it was.

18 THE COURT: Okay. Was anyone every apprehended for
19 that burglary?

20 PROSPECTIVE JUROR NO. 778: No, Your Honor.

21 THE COURT: Do you feel that police did everything
22 they could to do investigate?

23 PROSPECTIVE JUROR NO. 778: Yeah, there's -- there
24 was no real proof of anything other than my neighbors seeing a
25 white pickup truck, and we know a lot of people with white

1 pickup trucks, so --

2 THE COURT: All right. Anything about that
3 experience that makes you feel that you could not be fair and
4 impartial in this case?

5 PROSPECTIVE JUROR NO. 778: No, Your Honor.

6 THE COURT: Thank you. And down -- yes, thank you.

7 PROSPECTIVE JUROR NO. 819: Dawn Pratt, 819. My
8 vehicle was burglarized a couple years ago, and my bank
9 account compromised. She was caught.

10 THE COURT: Okay. So the person who got into your
11 vehicle got some identification and then got into your bank
12 account?

13 PROSPECTIVE JUROR NO. 819: Yes.

14 THE COURT: Okay. Did you have to testify in court?

15 PROSPECTIVE JUROR NO. 819: No.

16 THE COURT: Did you feel that the police that
17 investigated the crime did a good job?

18 PROSPECTIVE JUROR NO. 819: Yes.

19 THE COURT: Anything about that experience that
20 makes you feel you could not be fair and impartial in this
21 case?

22 PROSPECTIVE JUROR NO. 819: No.

23 THE COURT: Thank you. All right. Has anyone
24 sitting in the box had a family member or close friend that
25 was the victim of a serious violent type crime? The record

1 will reflect a negative response.

2 All right. Is there anyone sitting in the box who
3 feels that they would be unable to follow the instructions on
4 the law that the Court will give to you, even if your own
5 personal beliefs about what the law should be differs from
6 what the instructions will be that I will give you on the law?
7 Anyone that feels they could not follow the instructions? The
8 record will reflect a negative response.

9 Now, in our system of justice, obviously, we have
10 the presumption of innocence, which means that anyone that's
11 accused of a crime is presumed innocent until and unless that
12 is proved otherwise beyond a reasonable doubt by the
13 prosecution. Is there anyone who disagrees with that premise?
14 The record will reflect a negative response.

15 Is there anyone who feels that they -- that they
16 think that a person accused of a crime should have to explain
17 themselves, take the stand and explain themselves? The record
18 will reflect a negative response.

19 All right. Now, also the defendant does not have to
20 present any evidence in order for you to return a verdict of
21 not guilty. In other words, it's the State's burden to prove
22 that the defendant is guilty. He doesn't have to prove
23 anything, so unless the State proves to you beyond a
24 reasonable doubt that the crimes were committed that are
25 charged, then defense doesn't have to present any evidence.

1 Does anyone not understand that concept? The record will
2 reflect a negative response. Does anyone disagree with that
3 premise in our law? The record will reflect a negative
4 response.

5 Has anyone sitting in the box ever been accused of a
6 crime? The record will reflect a negative response.

7 Is there anyone who has had a close family member or
8 a friend accused of a crime? The record will reflect a
9 negative response.

10 Is there anyone who feels at this point in the
11 trial, I know I've asked this before but I'm going to ask
12 again, believes that they could not be fair and impartial in
13 this case? The record will reflect a negative response.

14 All right. I'm going to at this point give each of
15 the lawyers an opportunity to ask general questions where
16 there's a show of hands. You'll be able to follow up when we
17 do the individual voir dire. So at this point if they -- if
18 somebody raises their hand just make notes, and don't feel
19 like you're under any time pressure to make your notes. Take
20 the time you need to do that and then -- because you'll be
21 able to follow up and I want you to make sure that you've done
22 that.

23 MS. BLUTH: Your Honor, before we do that, may we
24 approach for a brief issue?

25 THE COURT: Yes.

1 (Bench conference)

2 THE COURT: Before we start our first bench
3 conference, this is recorded, however. And so I want you to
4 identify yourselves before you speak.

5 MS. BLUTH: Okay. Jacqueline Bluth, District
6 Attorney. Judge, do you have them, you know, introduce
7 themselves, where they work --

8 THE COURT: Yes.

9 MS. BLUTH: -- if they have kids. At one point?

10 THE COURT: After we finish this general
11 questions --

12 MS. BLUTH: Okay.

13 THE COURT: -- then we start with the individual.

14 MS. BLUTH: Got it. Okay.

15 THE COURT: And I'll ask them all to tell me about
16 yourself, you know, all those things that we -- on voir dire.
17 And then I'll follow up if something jumps out at me, and then
18 each of you will get to take each individual person and ask
19 them the questions you need to ask. Okay. So at this time,
20 at this point, it's just kind of to get a general -- if you
21 want to ask any general question where you'd want to follow up
22 with somebody when you get your individual time with them.

23 MS. BLUTH: Got it.

24 MR. MANINGO: Jeff Maningo. And we should direct
25 our general questions just to the box; correct?

1 THE COURT: Yes, because when we -- if we lose
2 somebody, we'll fill in and then I'll ask them these same
3 questions that I've only asked the box.

4 MS. BLUTH: Jacqueline Bluth, District Attorney.
5 But just to clarify, so when I ask my general questions, you
6 know, if they have a specific answer, can we -- I can go back
7 regarding that specific answer; correct?

8 THE COURT: Not at this time. But when you --

9 MS. BLUTH: Not at all. Okay.

10 THE COURT: -- when you get them on your -- on the
11 individual, you know, when you go through and I say tell me
12 about yourself, then -- and you get them and I'm done with
13 them, then you're going to get them to ask anything your heart
14 desires.

15 MS. BLUTH: Okay.

16 THE COURT: As long as it's within the rules and
17 proper.

18 MS. BLUTH: Sure.

19 THE COURT: And then that's when you'll follow up on
20 anything that you thought as a result of your general
21 question. Oh, I want to follow up with this person on --

22 MS. BLUTH: Understood. Okay.

23 THE COURT: It seems to work to help cut down the
24 time so you're not having to ask everybody the same question
25 over and over.

1 MS. BLUTH: Got it.

2 THE COURT: Okay.

3 (End of bench conference)

4 THE COURT: Does the prosecution -- would the
5 prosecution like to ask general questions of the box?

6 MS. BLUTH: Yes, Your Honor. Thank you.

7 THE COURT: And, again, this is a response by hands.

8 MS. BLUTH: And, Your Honor, would it be okay if I
9 ask the questions from here so I can --

10 THE COURT: Of course.

11 MS. BLUTH: -- use all my notes? Okay. Thank you.

12 During this trial if you are selected as a juror
13 you're going to be asked to sit in judgment of another
14 individual's actions, Mr. Farmer's actions. Is there anyone
15 here who feels uncomfortable, whether it be for religious
16 reasons, personal reasons, sitting in judgment of another
17 individual?

18 Okay. And, ma'am, if you could just state your name
19 and your badge number, please.

20 PROSPECTIVE JUROR NO. 772: My name is Aya Antonio.
21 The badge number is 772.

22 THE COURT: Thank you.

23 MS. BLUTH: Thank you.

24 THE COURT: And just have a seat. We'll follow up
25 with that later.

1 MS. BLUTH: Did anyone else have their hands raised
2 in response to that question?

3 THE COURT: This is just for the box.

4 MS. BLUTH: Just for the box. Thank you.

5 Is there anyone here who watches shows such as CSI
6 and CIS, those types of criminal shows? Okay. Now, those
7 people who have their hands raised, out of the four of you I
8 believe it was, now is there anyone who thinks that that's
9 real or has those types of expectations that those are the
10 things you should see in the courtroom?

11 I think all of the hands have gone down, Your Honor.

12 THE COURT: All right. The record will so reflect.

13 MS. BLUTH: Has anybody had a crime committed
14 against them or witnessed a crime and you did not report it
15 because you weren't sure what was going on at the time? Can I
16 have your badge number, sir?

17 PROSPECTIVE JUROR NO. 797: 797.

18 MS. BLUTH: Has there been anyone who has had
19 something like that happen to them or they witnessed something
20 like that and they reported it but later in time? Showing no
21 response.

22 THE COURT: The record will so reflect.

23 MS. BLUTH: If selected as a juror, you will see
24 graphic photos, or some may think that those are graphic
25 photos of different body parts. Is there anyone here who

1 would be offended by that or bothered by that? Showing no
2 response.

3 THE COURT: The record will so reflect.

4 MS. BLUTH: Is there anyone who knows any rape
5 victims? May I have your badge number, sir?

6 PROSPECTIVE JUROR NO. 903: William McKelphin, 903.

7 MS. BLUTH: At some point at the end of the trial
8 after you've heard all of the evidence you'll go back into a
9 room, you'll discuss your points of views with your fellow
10 jurors. Is there anyone who doesn't feel comfortable voicing
11 opinions or concerns in front of other individuals? Showing
12 no response.

13 THE COURT: The record will so reflect.

14 MS. BLUTH: Has anyone had negative contacts with
15 law enforcement? And when I mean negative contacts, I mean
16 you've ran into an officer or been involved with an officer
17 and left with kind of a bad taste in your mouth. You didn't
18 feel like you were treated correctly or a family member or
19 close friend was treated correctly. Showing no response.

20 THE COURT: The record will so reflect.

21 MS. BLUTH: Is there anyone who, when they received
22 their jury summons, was excited or happy about the thought of
23 being a juror? Showing no response.

24 THE COURT: The record will so reflect.

25 MS. BLUTH: Is there anyone who has a bumper sticker

1 on their vehicle? Ms. Pratt?

2 PROSPECTIVE JUROR NO. 819: Yes.

3 MS. BLUTH: And what's your badge number?

4 PROSPECTIVE JUROR NO. 819: 819.

5 MS. BLUTH: Is there anyone who has an issue with
6 the victim of a crime not only pursuing criminally, what we're
7 doing here, but also civilly? So suing the individual or the
8 entity that they work for for compensation? Showing no
9 response.

10 THE COURT: The record will so reflect.

11 MS. BLUTH: Is there anyone here who needs more than
12 the victim's testimony, you know, that they were raped or that
13 these things happened to them to find the defendant guilty?
14 You need fingerprints, you need DNA, you need something else
15 other than the victim's testimony? Okay.

16 MR. MANINGO: Excuse me, Your Honor. If we could
17 please ask, we have a number of hands, if we could keep those
18 up for just a second so we can make notes. Thanks.

19 MS. BLUTH: And if we could just -- yeah. Your
20 Honor, that's it for the general questions on behalf of the
21 State.

22 THE COURT: Thank you.

23 Would defense like to ask general questions?

24 MR. MANINGO: Thank you, Your Honor.

25 Hello again, everyone. As I said earlier, my name

1 is Jeff Maningo. I'm just going to ask a few general --
2 general questions for the moment. Anybody who's here today in
3 the jury box nervous about being placed on this jury?

4 Okay. Go ahead and raise your hand up, thanks, so
5 we can make a note of it.

6 THE COURT: That's Juror No. 3. And what's your
7 badge number?

8 PROSPECTIVE JUROR NO. 772: 772.

9 THE COURT: Thank you.

10 MR. MANINGO: Is there anyone -- well, let me ask it
11 this way. Raise your hand for me if you think that this
12 process of having a trial to determine an individual's --
13 whether they're guilty or not guilty, is this important, this
14 whole process? Raise your hand if you think this process is
15 important. Let the record reflect that all jurors raised
16 their hand.

17 THE COURT: It will.

18 MR. MANINGO: Thank you. Raise your hand if you
19 agree that the process is important enough to require this
20 much time from each of you as citizens. Thank you. Let the
21 record reflect that all potential jurors raised their hand.

22 THE COURT: It will.

23 MR. MANINGO: Does anyone here have any medical
24 background as far as working as a doctor, nurse, EMT, anything
25 like that?

1 And that is Mr. Sproul?

2 PROSPECTIVE JUROR NO. 853: Yeah.

3 MR. MANINGO: And what's your badge number, sir?

4 I'm sorry.

5 PROSPECTIVE JUROR NO. 853: 853.

6 MR. MANINGO: Thank you.

7 Could you raise your hand for me if you've ever
8 spent what you consider a significant amount of time in
9 hospitals? Whether it's for yourself or -- or for a close
10 family member. And we have three hands up.

11 THE COURT: Four.

12 MR. MANINGO: Oh, excuse me, four. We have four.
13 We have Juror No. 2, Mr. Miranda?

14 PROSPECTIVE JUROR NO. 768: Yes.

15 MR. MANINGO: Okay. And Juror No. 4, Ms. Tryba?

16 PROSPECTIVE JUROR NO. 778: Tryba.

17 MR. MANINGO: Tryba. And Juror No. 5, Mr. Sproul.
18 And Mr. Norris; correct?

19 PROSPECTIVE JUROR NO. 797: Yes, sir.

20 MR. MANINGO: Juror --

21 PROSPECTIVE JUROR NO. 797: 797.

22 MR. MANINGO: Thank you. No. 9.

23 A bit more specifically, please raise your hand if
24 you have experience, whether it's yourself, family member, or
25 one of your children who is someone who has seizure disorders.

1 If you have any sort of experience regarding seizure
2 disorders, head trauma, epilepsy, something like that. One
3 hand, Mr. Sproul, Juror No. 5.

4 And let me shift to -- shift gears to a different
5 type of profession. Does anyone here have any profession --
6 excuse me, any experience in the legal profession, whether it
7 is as an attorney, legal secretary, paralegal, anything like
8 that? All right. Ms. -- is it Reda?

9 PROSPECTIVE JUROR NO. 789: Reda. Uh-huh.

10 MR. MANINGO: Reda, Juror No. 7.

11 Is there anyone here who has experience -- and I
12 believe Ms. Bluth asked this. She might have asked something
13 about this question. Anyone here have any experience with
14 lawsuits as far as being a part of or involved in a lawsuit?
15 And let the record -- oh, yes ma'am. Okay. Yes, ma'am. One
16 hand, that was Ms. Reda, Juror No. 7.

17 Is there anyone here who believes that -- I know
18 that this will sound silly, but we're just asking general for
19 right now. Is there anyone who believes that in general
20 people are incapable of telling lies? All right. Let the
21 record reflect, please, there were no hands.

22 THE COURT: It will.

23 MR. MANINGO: Is there anyone here who believes that
24 while people may tell lies at a different time that they would
25 never tell a lie while on the stand under oath? Getting a

1 look like --

2 PROSPECTIVE JUROR NO. 778: Can you repeat the
3 question, please?

4 MR. MANINGO: Sure. Sure. In fact, let me -- let
5 me rephrase it. It was a little bit confusing. Raise your
6 hand if you believe that there are people who -- who have lied
7 under oath in a courtroom. Let the record reflect, please,
8 that all hands -- well, excuse me, all hands except for Ms.
9 Tryba.

10 THE COURT: It will.

11 MR. MANINGO: Thank you. Is there anyone here who
12 feels that they would not be able to judge a witness's
13 credibility? In other words, to sit and watch a witness and
14 decide whether or not they're telling the truth? Is there
15 anyone who feels incapable of doing that?

16 PROSPECTIVE JUROR NO. 768: I'm confused about the
17 question.

18 MR. MANINGO: I'm sorry?

19 PROSPECTIVE JUROR NO. 768: Can you repeat the
20 question?

21 MR. MANINGO: Sure, Mr. Miranda. Is there anyone
22 who feels that they would not be able to judge a witness's
23 credibility? And what I mean by that is there anyone who
24 would not be able to listen to what a witness has to say and
25 decide if they're telling the truth or not?

1 THE COURT: You're not -- you're not asking whether
2 they would accurately be able to predict that or --

3 MR. MANINGO: Right. No, no. Just if they would be
4 able to do that as your job, to basically listen to the
5 evidence and decide on whether or not you believe it yourself.
6 Is there anyone incapable of doing that? Okay. The record
7 reflect, please, no hands.

8 THE COURT: It will.

9 MR. MANINGO: Who here thinks that it would be
10 important in deciding whether or not someone is telling the
11 truth that their story remain consistent? Do you think that's
12 something that would be important to you? If so, raise your
13 hand. We have all hands raised except for Mr. McKelphin.

14 THE COURT: The record will so reflect.

15 MR. MANINGO: Thank you.

16 Raise your hand if you think that a witness's
17 ability to remember things with a clear memory, if that's
18 something that you would use in judging their truthfulness.

19 PROSPECTIVE JUROR NO. 903: Can you --

20 MR. MANINGO: To clarify, what I'm talking about is
21 their -- their ability to recall something that happened, if
22 there are -- whether or not there are spaces in their memory
23 or if it's -- or their memory is clear. Is that something
24 that you would look at and consider in trying to decide if
25 someone is telling the truth or not? If it is something that

1 you would consider, raise your hand for me, please. We have
2 all hands up except for Mr. Miranda, Juror No. 2.

3 THE COURT: The record will so reflect.

4 MR. MANINGO: Raise your hand if -- if when you're
5 trying to tell if someone is telling the truth or not if body
6 language is something that you consider, if that's something
7 that's important to you. All hands are raised.

8 THE COURT: The record will so reflect.

9 MR. MANINGO: Thank you.

10 In trying to determine if someone is telling the
11 truth or not, would you also look at whether or not there is
12 other evidence to back up the story? Would you -- in other
13 words, is other evidence, things to support what someone is
14 telling you, is that something that you're going to consider
15 whether or not they're telling the truth? And please let the
16 record reflect that all hands are raised.

17 THE COURT: It will.

18 MR. MANINGO: Thank you.

19 Raise your hand if you believe that memories can be
20 affected by later events. Please let the record reflect that
21 all hands are raised except for Juror No. 1, Ms. Mehl. Thank
22 you.

23 Raise your hand if you believe that -- if you
24 believe that the media can affect someone's memory. Please
25 let the record reflect that all hands are raised.

1 THE COURT: It will.

2 MR. MANINGO: Thank you.

3 Raise your hand if you -- if -- I'm sorry. Let me
4 start over on that before I get too confusing. If something
5 happened to -- a crime happened to you this morning, let's say
6 someone took your wallet or your purse, raise your hand if you
7 would report that right away today. Please let the record
8 reflect all hands are raised.

9 THE COURT: It will.

10 MR. MANINGO: Is there anyone here who would wait
11 one week, two weeks, a month before reporting that? Please
12 let the record reflect no hands.

13 THE COURT: It will.

14 MR. MANINGO: These types of cases, because they are
15 of a sexual nature, can oftentimes become emotional. What we
16 ask of the jury is to apply your logic, your experience, your
17 common sense. Is there anyone here who is concerned that they
18 will become too emotional or that emotions will take over your
19 judgment throughout a case where we're talking about these
20 types of charges? Ms. Mehl raised her hand.

21 The Judge had already spoken to you folks about some
22 of the really important rules, constitutional principles that
23 we all care a lot about in our system of justice, one of those
24 being the presumption of innocence, that a person is presumed
25 to be innocent. There's no right or wrong answers. This is

1 the time to speak the truth, so please don't feel embarrassed.
2 But raise your hand if when you came in here your thought was,
3 okay, who is the guilty guy, or he must have done it.
4 Anybody? Thank you, sir. That was Mr. Norris, Juror No. 9
5 raised his hand.

6 The Court also explained that the burden of proof is
7 on the prosecution. The government is doing the accusing, so
8 they have to do all the proving. Is there anyone who thinks
9 that that is not fair? Let the record reflect, please, that
10 no hands were raised.

11 THE COURT: It will.

12 MR. MANINGO: Along with those same lines that means
13 that whoever is accused that they don't need to testify, they
14 don't need to present evidence because all the proving is done
15 by the prosecution.

16 THE COURT: I already explained that, Counsel --

17 MR. MANINGO: Yes, Your Honor.

18 THE COURT: -- and asked them if anybody disagreed.
19 So let's not repeat what I've already asked.

20 MR. MANINGO: Yes, ma'am.

21 Let me just ask, is everyone okay, then, with the
22 concept that if Mr. Farmer does not testify or does someone
23 believe that they -- that he should testify?

24 THE COURT: The record will reflect a negative
25 response.

1 MR. MANINGO: Thank you.

2 THE COURT: Just as it was when I asked that.

3 MR. MANINGO: Yes, ma'am.

4 THE COURT: Okay.

5 MR. MANINGO: Court's indulgence. Thank you, Your
6 Honor. I'll pass to the next stage.

7 THE COURT: Thank you.

8 MR. MANINGO: Thank you.

9 THE COURT: All right. Ladies and gentlemen, this
10 is my next favorite part of our jury selection process because
11 I get to ask you about yourselves. And so I'm going to start
12 out, I'm going to ask each of you one at a time to tell me
13 about yourself. When I ask you that question, these are the
14 things I want to know about you. I want to know how long
15 you've lived here in Clark County, where you lived before if
16 you haven't lived here all your life, if you're married,
17 single, divorced, significant other, partner, whatever what
18 you do for a living, what your significant other, husband,
19 wife, partner does for a living, if you have a significant
20 other, partner, wife, etcetera, if you have any children and
21 their ages, if they're adult children, what they do for a
22 living. And don't worry that you might forget any of those
23 things because, believe me, once you've heard a few people go
24 through it, you will remember. But if you don't, no problem,
25 I'll ask you. So don't worry about it. And so we'll start

1 with Juror No. 1.

2 THE CLERK: Juror No. 1 is Melessa Mehl.

3 THE COURT: And would you tell us about yourself?

4 PROSPECTIVE JUROR NO. 833: Yes. I'm Melessa Mehl.
5 I'm No. 833.

6 THE COURT: Yes.

7 PROSPECTIVE JUROR NO. 833: I moved to Clark County
8 August 2012. I originally came from Southern California where
9 I went to school at UC Riverside for five years. Before that
10 I grew up in Central California. Currently I am a third grade
11 teacher for Clark County. I am single, no children, and --

12 THE COURT: Okay. And so when you studied did you
13 -- did you get your degree in education?

14 PROSPECTIVE JUROR NO. 833: Yes.

15 THE COURT: And you have some -- is it primary
16 school age --

17 PROSPECTIVE JUROR NO. 833: Yes.

18 THE COURT: -- emphasis? Have you ever taught any
19 other grades?

20 PROSPECTIVE JUROR NO. 833: I've taught second
21 grade, as well. And when I was student teaching I did second
22 and fifth grade.

23 THE COURT: How long have you taught school?

24 PROSPECTIVE JUROR NO. 833: I started last December,
25 so exactly a year.

1 THE COURT: And you, I believe, answered that you
2 would feel uncomfortable, perhaps, in this type of case?

3 PROSPECTIVE JUROR NO. 833: Depending on the nature
4 of the sexual harassment.

5 THE COURT: It's -- it's actually not -- sexual
6 harassment --

7 PROSPECTIVE JUROR NO. 833: Or sexual --

8 THE COURT: -- is a term that we use --

9 PROSPECTIVE JUROR NO. 833: I'm sorry.

10 THE COURT: -- in civil cases involving Title 7 and,
11 you know, that type of thing. This is an alleged sexual
12 assault --

13 PROSPECTIVE JUROR NO. 833: Alleged. Okay.

14 THE COURT: -- type of case, a crime.

15 PROSPECTIVE JUROR NO. 833: Okay.

16 THE COURT: And is there some particular reason that
17 you would be uncomfortable with that?

18 PROSPECTIVE JUROR NO. 833: Depending on whether it
19 was children involved.

20 THE COURT: Okay. So if the alleged victims were
21 adults, you feel that you would be better able emotionally to
22 handle that --

23 PROSPECTIVE JUROR NO. 833: Yes.

24 THE COURT: -- than if it was children?

25 PROSPECTIVE JUROR NO. 833: Uh-huh.

1 THE COURT: Is that because your -- you teach small
2 children?

3 PROSPECTIVE JUROR NO. 833: Yes.

4 THE COURT: All right. Anything else as you've been
5 hearing the questions that were asked and you thought, boy,
6 I'm not sure I can be fair and impartial in this case?

7 PROSPECTIVE JUROR NO. 833: No, nothing other than
8 just that.

9 THE COURT: All right. Thank you. You can have a
10 seat. You don't need to stand up. We can all see you, I
11 think, just fine. And I'm going to turn it over to the
12 District Attorney to ask you questions and then the defense
13 will ask.

14 Ms. Bluth.

15 MS. BLUTH: Thank you, Your Honor.

16 When I asked the question you would need more than
17 -- would you need more than a victim's word, you know, a
18 victim of sexual assault to find an individual guilty, you
19 stated yes. You raised your hand yes; right?

20 PROSPECTIVE JUROR NO. 833: Uh-huh.

21 MS. BLUTH: Okay. And why is that?

22 PROSPECTIVE JUROR NO. 833: I -- I consider physical
23 evidence, as well, because I consider the science of it, as
24 well, so I much rather the physical evidence. Because dealing
25 with children all day, they can come up with many answers, but

1 having that physical evidence helps with my decision making.

2 MS. BLUTH: Sure. And I guess there would be a
3 difference between it helping with your decision making and
4 then absolutely meaning it. So are you saying that it would
5 help you, that's one thing, or are you saying, no, I need it
6 in order to believe an individual on that stand?

7 PROSPECTIVE JUROR NO. 833: I believe I would need
8 it in this case.

9 MS. BLUTH: Okay.

10 PROSPECTIVE JUROR NO. 833: Yeah.

11 MS. BLUTH: So if an individual sexually assaulted
12 someone and maybe used a condom or something like that and
13 they did not leave any DNA --

14 PROSPECTIVE JUROR NO. 833: Uh-huh.

15 MS. BLUTH: -- you would then not believe that
16 person?

17 PROSPECTIVE JUROR NO. 833: It would be difficult
18 for me to come up with a final decision.

19 MS. BLUTH: Besides physical evidence, what other
20 things would help you in coming to that decision?

21 PROSPECTIVE JUROR NO. 833: I guess their testimony
22 and my judgment of whether or not they are being truthful in
23 that time and the body language and such.

24 MS. BLUTH: So just to clarify what the Judge was
25 asking you, you're not affected by the charges if it's adults,

1 just purely children?

2 PROSPECTIVE JUROR NO. 833: Uh-huh.

3 MS. BLUTH: Is that a yes?

4 PROSPECTIVE JUROR NO. 833: Yes.

5 MS. BLUTH: Sorry, we have to --

6 PROSPECTIVE JUROR NO. 833: Yes, I'm sorry.

7 MS. BLUTH: That's okay. It's hard to get used to.

8 We understand.

9 I don't have any other specific questions for this
10 juror, Your Honor.

11 THE COURT: Thank you.

12 Defense like to inquire?

13 MR. MANINGO: Yes, please, Your Honor.

14 Hello, Ms. Mehl. You had --

15 THE RECORDER: Mr. Maningo, can you grab a
16 microphone, please?

17 MR. MANINGO: Oh, sure. This one?

18 THE RECORDER: Yeah. Just make it over to the
19 podium before you go.

20 MR. MANINGO: Oh, okay. Sure. I'm not usually
21 accused of being too quiet.

22 THE RECORDER: I'm paranoid.

23 MR. MANINGO: Okay. Ms. Mehl, during the general
24 questioning you had stated that you would rely on different
25 things in order to tell if someone were telling the truth.

1 PROSPECTIVE JUROR NO. 833: Uh-huh.

2 MR. MANINGO: I'm sorry. You have to --

3 PROSPECTIVE JUROR NO. 833: Oh, yes. Yes.

4 MR. MANINGO: Thank you. As a -- as a third grade
5 teacher, do you have a number of occasions where you have to
6 tell who is telling the truth and who is not?

7 PROSPECTIVE JUROR NO. 833: Yes.

8 MR. MANINGO: Okay.

9 PROSPECTIVE JUROR NO. 833: Yes.

10 MR. MANINGO: Kids sort of get into a scuffle or
11 something, pointing at one another saying he did it?

12 PROSPECTIVE JUROR NO. 833: Uh-huh. Yes.

13 MR. MANINGO: Okay. What do you use to sort of tell
14 whether or not they're telling the truth?

15 PROSPECTIVE JUROR NO. 833: I look at their body
16 language and whether or not -- and also their facial features
17 because some of my students do have the guilt face that they
18 put on.

19 MR. MANINGO: Uh-huh.

20 PROSPECTIVE JUROR NO. 833: So I judge off of that,
21 and I also look around at other students that were around the
22 scene and look at how they're reacting to my questioning of
23 them, and that's how I make my final decision on who had done
24 it.

25 MR. MANINGO: Okay. Would you also look at whether

1 or not their -- their story sort of makes sense?

2 PROSPECTIVE JUROR NO. 833: Oh, yes. Yes.

3 MR. MANINGO: And whether or not their story stays
4 the same each time they tell it?

5 PROSPECTIVE JUROR NO. 833: Yes.

6 MR. MANINGO: Okay. You had said that you would be
7 concerned if -- if this -- about the emotional content if the
8 case involved children.

9 PROSPECTIVE JUROR NO. 833: Yes.

10 MR. MANINGO: Okay. It does not involve children,
11 okay.

12 PROSPECTIVE JUROR NO. 833: Okay.

13 MR. MANINGO: Knowing that, do you feel like you
14 will be able to sort of let that logical side of your head
15 control your decision making throughout, or will the sexual
16 nature of it or crying, something, you know, witnesses crying,
17 that sort of thing, do you think that that will have too much
18 of an impact on you?

19 PROSPECTIVE JUROR NO. 833: No.

20 MR. MANINGO: Okay.

21 PROSPECTIVE JUROR NO. 833: No.

22 MR. MANINGO: So you'll be able to -- to take that,
23 those witnesses in and listen to them without becoming
24 emotionally distraught?

25 PROSPECTIVE JUROR NO. 833: No. No, I'd be fine.

1 MR. MANINGO: Okay. The -- the prosecutor was
2 asking you -- asking you some questions about needing certain
3 types of evidence.

4 PROSPECTIVE JUROR NO. 833: Yes.

5 MR. MANINGO: Okay. And that's -- and you
6 understand that that's because they have to prove everything
7 beyond a reasonable doubt?

8 PROSPECTIVE JUROR NO. 833: Yes.

9 MR. MANINGO: Okay. Why do you -- why do you want,
10 you know, certain things like physical evidence to -- to back
11 up a story?

12 PROSPECTIVE JUROR NO. 833: I'm more of a see it to
13 believe type person.

14 MR. MANINGO: Okay.

15 PROSPECTIVE JUROR NO. 833: And plus the -- you
16 know, the science of you can see it and it can be -- it's
17 right there, then --

18 MR. MANINGO: Right.

19 PROSPECTIVE JUROR NO. 833: -- something like that
20 has to be true I believe.

21 MR. MANINGO: Okay. Okay. And that would make you
22 feel more comfortable?

23 PROSPECTIVE JUROR NO. 833: Making my final
24 decision, yes.

25 MR. MANINGO: Right. And you understand, obviously,

1 that as a juror you make big decisions.

2 PROSPECTIVE JUROR NO. 833: Absolutely.

3 MR. MANINGO: And you want to be sure about -- or
4 feel comfortable about your decision.

5 PROSPECTIVE JUROR NO. 833: Yes.

6 MR. MANINGO: Okay. You -- you heard me ask a
7 number of questions, as well as the Court and the prosecution.
8 Is there anything that you would like to tell me now that --
9 that you think is important as to whether or not you think you
10 can be a fair and impartial juror, anything that we didn't ask
11 you or didn't cover?

12 PROSPECTIVE JUROR NO. 833: There was mention
13 Centennial Hills, and I am a patient at Centennial Hills. And
14 so I do interact with some doctors there, but I don't know if
15 they've actually interacted with your client. So --

16 MR. MANINGO: Okay. You didn't --

17 PROSPECTIVE JUROR NO. 833: -- that's my --

18 MR. MANINGO: You didn't recognize any of the names
19 from the witness list?

20 PROSPECTIVE JUROR NO. 833: No.

21 MR. MANINGO: Okay. If -- if you hear about a
22 situation happening at Centennial Hills, is that going to have
23 any kind of effect on the way you listen to the trial?

24 PROSPECTIVE JUROR NO. 833: No. No.

25 MR. MANINGO: Okay. The fact that it is the same

1 hospital that you're a patient at, will that -- will you feel
2 uncomfortable about that being discussed in a way that will
3 sway whether or not you can be fair to both sides?

4 PROSPECTIVE JUROR NO. 833: No. No.

5 MR. MANINGO: Okay. One moment, please. Real
6 quickly, Ms. Mehl. You had said that during the general
7 questioning you didn't think that memory could be affected by
8 later events.

9 PROSPECTIVE JUROR NO. 833: Uh-huh.

10 MR. MANINGO: Is that right?

11 PROSPECTIVE JUROR NO. 833: Yes. Yes.

12 MR. MANINGO: Okay. And it's a little bit confusing
13 what I'm asking, but let's say something happens to you today.

14 PROSPECTIVE JUROR NO. 833: Uh-huh.

15 MR. MANINGO: Like being involved in this experience
16 right now --

17 PROSPECTIVE JUROR NO. 833: Uh-huh.

18 MR. MANINGO: -- and you remember it a certain way.
19 You remember me asking you questions a certain way. If three
20 weeks from now you gain new information about me or the
21 courtroom or something like that, do you think that that can
22 affect how you look back on things?

23 PROSPECTIVE JUROR NO. 833: Yes.

24 MR. MANINGO: Okay.

25 PROSPECTIVE JUROR NO. 833: Yes, I do.

1 MR. MANINGO: Okay. Do you think that -- well,
2 that's really -- that's really all I wanted to ask you. Thank
3 you.

4 No further questions of Ms. Mehl.

5 THE COURT: Thank you.

6 If you'd pass the microphone over to Mr. Miranda.

7 PROSPECTIVE JUROR NO. 768: Hi, Your Honor. My name
8 is Americo Miranda. I moved here in '05 with my wife Jamie.
9 We have three kids, a four year old, three year old, and a
10 newborn that was born at Centennial, actually, two weeks ago.

11 THE COURT: Congratulations.

12 PROSPECTIVE JUROR NO. 768: I'm a doorman at Wynn
13 and my wife is an executive director at Venetian.

14 THE COURT: At the Venetian, did you say?

15 PROSPECTIVE JUROR NO. 768: Venetian.

16 THE COURT: All right. Where did you move from?

17 PROSPECTIVE JUROR NO. 768: New York and New Jersey.

18 THE COURT: Were you in the -- involved in the
19 gaming industry there, as well?

20 PROSPECTIVE JUROR NO. 768: No, there's no gaming in
21 New York whatsoever, only in Connecticut, really.

22 THE COURT: But New Jersey there is; right?

23 PROSPECTIVE JUROR NO. 768: Yeah. My wife is from
24 Jersey. I'm from New York.

25 THE COURT: Okay. And what did you do in New York?

1 PROSPECTIVE JUROR NO. 768: I was a doorman, also,
2 at the Sheraton --

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 768: -- for 20 years.

5 THE COURT: 20 years? Wow. What caused you to come
6 to Las Vegas?

7 PROSPECTIVE JUROR NO. 768: Well, I went to Caesars
8 one time and I saw the doorman with thick pockets and I said,
9 wait a minute, I need to move out here. And that was it.
10 Financials, I guess.

11 THE COURT: Okay. And do you like it here?

12 PROSPECTIVE JUROR NO. 768: I love it here.

13 THE COURT: Do you like the weather better?

14 PROSPECTIVE JUROR NO. 768: A lot better, except
15 July and August. We go back to New York.

16 THE COURT: Okay. Yeah, that's a challenge. Well,
17 when you lived in New York, did you live in New York City,
18 then?

19 PROSPECTIVE JUROR NO. 768: I lived in the Bronx.

20 THE COURT: In the Bronx, okay.

21 PROSPECTIVE JUROR NO. 768: I worked in New York
22 City.

23 THE COURT: In Manhattan?

24 PROSPECTIVE JUROR NO. 768: Yes.

25 THE COURT: Okay. A big, big city.

1 PROSPECTIVE JUROR NO. 768: Yes.

2 THE COURT: Very different than here.

3 PROSPECTIVE JUROR NO. 768: Yes.

4 THE COURT: And all your kids are little kids, then?

5 PROSPECTIVE JUROR NO. 768: I have a four year old,
6 three year -- or and a one year old and a two week old.

7 THE COURT: And you said your wife was an executive
8 director?

9 PROSPECTIVE JUROR NO. 768: Director. She runs
10 groups, hotel ops, and also security.

11 THE COURT: Okay. Thank you.

12 Would the State like to inquire further?

13 MS. BLUTH: Thank you, Your Honor.

14 Mr. Miranda, I believe you raised your hand when Mr.
15 Maningo asked if you had spent -- or if anyone had spent
16 significant time in hospitals. Did you raise your hand to
17 that question?

18 PROSPECTIVE JUROR NO. 768: Yes, I did.

19 MS. BLUTH: Okay. And how much time have you spent
20 in hospitals and why?

21 PROSPECTIVE JUROR NO. 768: I did. I spent two
22 months. I had rheumatic fever twice.

23 MS. BLUTH: Okay.

24 PROSPECTIVE JUROR NO. 768: That was in New York,
25 though.

1 MS. BLUTH: And so you were hospitalized both times?

2 PROSPECTIVE JUROR NO. 768: Yes, ma'am.

3 MS. BLUTH: And how long were you in the hospital
4 each time?

5 PROSPECTIVE JUROR NO. 768: First time two months,
6 second time three months.

7 MS. BLUTH: Was there anything about your care, I
8 mean, besides being ill, of course, but anything other than
9 that that bothered you?

10 PROSPECTIVE JUROR NO. 768: When they took my blood.
11 That's about it.

12 MS. BLUTH: When they took your blood?

13 PROSPECTIVE JUROR NO. 768: Yeah, I didn't like
14 that, but that was -- everything was fine.

15 MS. BLUTH: Okay. And you were one of the
16 individuals who raised your hand to Mr. Maningo's question
17 about, you know, you would report the crime immediately?

18 PROSPECTIVE JUROR NO. 768: Yes.

19 MS. BLUTH: Could you see a set of situations where
20 perhaps you didn't know the surrounding circumstances so you
21 didn't report it immediately, but then later thought it was
22 appropriate to do so. Could you see a set of circumstances
23 where you would feel that was appropriate?

24 PROSPECTIVE JUROR NO. 768: Yes.

25 MS. BLUTH: Okay. You were also an individual who

1 stated you needed more than the victim's word in a sexual
2 assault type case.

3 PROSPECTIVE JUROR NO. 768: I don't think that was
4 the question. I don't -- I don't remember them saying in a
5 sexual case. Just in a case.

6 MS. BLUTH: Okay. Well, then, perhaps I should have
7 posed it as a sexual assault. Would you need more than the
8 sexual assault victim coming in here, swearing to tell the
9 truth, and saying this is what happened to me and I know who
10 did it? Would you need more than that?

11 PROSPECTIVE JUROR NO. 768: It would help my
12 decision, yes.

13 MS. BLUTH: Would you agree with me that most sexual
14 assaults don't happen in front of other people?

15 PROSPECTIVE JUROR NO. 768: Yes.

16 MS. BLUTH: Mostly, you know, behind closed doors or
17 in a type of situation where other individuals don't see it?

18 PROSPECTIVE JUROR NO. 768: I agree.

19 MS. BLUTH: And like I said with Ms. Mehl, if an
20 individual wore a condom, you know, and didn't leave some type
21 of evidence, you know, then there would not be that evidence.
22 So then do those people just get away with the crime?

23 PROSPECTIVE JUROR NO. 768: No, of course not.

24 MS. BLUTH: Could you judge the victim's demeanor
25 and the way she told the story and consider those types of

1 things?

2 PROSPECTIVE JUROR NO. 768: Yes, I would.

3 MS. BLUTH: Would those be as important to you as,
4 you know, DNA evidence or fingerprints or some of the things
5 that you see on TV?

6 PROSPECTIVE JUROR NO. 768: Yes.

7 MS. BLUTH: When you were in the hospital for the
8 rheumatic fever, did you have leads placed on your body? Do
9 you know what I'm talking about with leads?

10 PROSPECTIVE JUROR NO. 768: No, I didn't. No.

11 MS. BLUTH: So you never had any of the apparatus
12 attached to your body?

13 PROSPECTIVE JUROR NO. 768: No, only to my arm.

14 MS. BLUTH: Okay. The IV?

15 PROSPECTIVE JUROR NO. 768: Yes.

16 MS. BLUTH: Okay.

17 PROSPECTIVE JUROR NO. 768: And I had a port.

18 MS. BLUTH: And a port. Thank you, Mr. Miranda.
19 Nothing further.

20 THE COURT: Thank you.

21 Defense.

22 MR. MANINGO: Thank you, Your Honor.

23 HI, Mr. Miranda.

24 PROSPECTIVE JUROR NO. 768: Hi. How are you?

25 MR. MANINGO: I'm good. Thank you. You're from New

1 York and your wife is from Jersey?

2 PROSPECTIVE JUROR NO. 768: Yes.

3 MR. MANINGO: So the house is, what, Yankees or
4 Mets?

5 PROSPECTIVE JUROR NO. 768: I'm a Yankees fan.

6 MR. MANINGO: All right.

7 PROSPECTIVE JUROR NO. 768: She's a Yankee fan,
8 also.

9 MR. MANINGO: Oh. Okay. Converted her?

10 PROSPECTIVE JUROR NO. 768: No, most of South Jersey
11 is Yankees.

12 MR. MANINGO: Oh. Okay. Let me ask you about --
13 you said -- I was writing notes, so I didn't get it clearly,
14 some connection to Centennial Hills Hospital?

15 PROSPECTIVE JUROR NO. 768: My newborn was just born
16 there two weeks ago.

17 MR. MANINGO: Oh. Oh, okay. Congratulations.

18 PROSPECTIVE JUROR NO. 768: All our children were
19 born there.

20 MR. MANINGO: Oh, okay. So if you hear about
21 Centennial Hills being involved in -- in this case or involved
22 in lawsuits or anything like that, is that going to affect --
23 bless you -- will that affect your decision making on whether
24 or not you can be fair in this case?

25 PROSPECTIVE JUROR NO. 768: Not at all. It won't

1 affect me.

2 MR. MANINGO: Okay. You had mentioned that you
3 spent a total of about five months in the hospital yourself.

4 PROSPECTIVE JUROR NO. 768: Yes.

5 MR. MANINGO: During your -- your visits to the
6 hospital, were there a lot of other people around in the
7 hospital?

8 PROSPECTIVE JUROR NO. 768: Yes.

9 MR. MANINGO: Okay. Is it fair to say that
10 hospitals are busy places?

11 PROSPECTIVE JUROR NO. 768: Very busy. Too busy, if
12 you ask me.

13 MR. MANINGO: Okay. While you were in your hospital
14 room on your -- on your various visits, would nurses come in
15 and check on you on a regular basis?

16 PROSPECTIVE JUROR NO. 768: Yes.

17 MR. MANINGO: Would doctors also come in?

18 PROSPECTIVE JUROR NO. 768: Yes.

19 MR. MANINGO: So there was a lot of people going in
20 and out?

21 PROSPECTIVE JUROR NO. 768: Yes.

22 MR. MANINGO: Okay.

23 PROSPECTIVE JUROR NO. 768: Especially when you're
24 sleeping.

25 MR. MANINGO: Especially while you're sleeping?

1 PROSPECTIVE JUROR NO. 768: Yeah, they seem to time
2 it that way for some reason.

3 MR. MANINGO: Right. Okay. So it's -- it's
4 difficult to even get much sleep, is that fair?

5 PROSPECTIVE JUROR NO. 768: Yes.

6 MR. MANINGO: Okay. Because there's -- there's so
7 much activity going on in a hospital?

8 PROSPECTIVE JUROR NO. 768: Exactly. Yes.

9 MR. MANINGO: Okay. What about -- what do you
10 remember about a room layout in a hospital? Do they -- are
11 there call buttons in case you have an emergency if you need
12 someone?

13 PROSPECTIVE JUROR NO. 768: No, it was low budget.
14 It was Lincoln Hospital in New York. There was two other
15 patients next to me. Nothing like -- nothing like here.

16 MR. MANINGO: Okay. But you've seen like here at --
17 in fact, at Centennials Hills; right?

18 PROSPECTIVE JUROR NO. 768: Yes. It's a beautiful
19 hospital. It's --

20 MR. MANINGO: Okay. And they have call buttons if
21 you have an emergency or something like that?

22 PROSPECTIVE JUROR NO. 768: Yes.

23 MR. MANINGO: Okay. You were speaking with Ms.
24 Bluth a moment ago about having evidence to support someone --
25 someone's story; right?

1 PROSPECTIVE JUROR NO. 768: Yes.

2 MR. MANINGO: All right. If someone that you don't
3 know, you don't know anything about them and they come up to
4 you and they just tell you a story, do you just automatically
5 take their word for it?

6 PROSPECTIVE JUROR NO. 768: No.

7 MR. MANINGO: Okay. You would want them to back
8 that up?

9 PROSPECTIVE JUROR NO. 768: Of course.

10 MR. MANINGO: Okay.

11 PROSPECTIVE JUROR NO. 768: I mean, depending on the
12 story. If they told me the sun is shining, I would believe
13 that.

14 MR. MANINGO: Right.

15 PROSPECTIVE JUROR NO. 768: It depends what story
16 you told, you know.

17 MR. MANINGO: Right. If a stranger walks up to you
18 and said, hey, look, I've got a situation around the corner,
19 why don't you just -- if you could just loan me your wallet
20 and I'm going to run down and I'll bring it right back.

21 PROSPECTIVE JUROR NO. 768: Of course not. I'm from
22 New York.

23 MR. MANINGO: Right. That's something important to
24 you. You're not just going to take their word for it.

25 PROSPECTIVE JUROR NO. 768: Yes.

1 MR. MANINGO: On the general questions I had asked
2 about some of the things that -- that matter when deciding if
3 someone is telling the truth or not and you had raised your
4 hand to a number of them. But one of the things that you said
5 wouldn't really matter is if a witness can remember things
6 clearly or not or have a solid memory or being able to recall
7 things. Do you understand what I'm talking about?

8 PROSPECTIVE JUROR NO. 768: I think so. Well, I
9 think a case like this your memory can be a little -- it can
10 be affected.

11 MR. MANINGO: Okay. Okay. And would you expect
12 someone who was a witness to something you would consider a
13 really big deal, would you expect them to have a clear memory
14 of -- of things?

15 PROSPECTIVE JUROR NO. 768: For the most part, yes.

16 MR. MANINGO: Okay. Okay. I also had asked Ms.
17 Mehl this question, but is there anything that you feel you
18 haven't mentioned or that we haven't asked you about that
19 would impact whether you can be fair or impartial?

20 PROSPECTIVE JUROR NO. 768: No, sir.

21 MR. MANINGO: Okay. So if -- if this were a
22 situation and you were just an observer and you looked into
23 this jury box and you saw Mr. Miranda sitting there, you'd
24 feel comfortable with that person being a juror?

25 PROSPECTIVE JUROR NO. 768: Yes.

1 MR. MANINGO: Thank you, sir.

2 THE COURT: Thank you.

3 MR. MANINGO: Thank you, Judge.

4 THE COURT: You're welcome. Thank you.

5 If you'd hand the microphone to Ms. Antonio. Yes,
6 tell us about yourself.

7 PROSPECTIVE JUROR NO. 772: Okay. My name is Aya
8 Antonio. The badge number is 772. And I've been in Clark
9 County since 1996. I was born and grew up in Japan and I
10 moved to the United States for the opportunity of college,
11 CSN. And after I graduated college I start working with the
12 Japanese Tour Company and I met my husband, I'm married to
13 him.

14 And since he is Japanese American and I am working
15 at the Japanese Tour Company and almost 100 percent of our
16 customers are Japanese and all my coworkers are Japanese, too,
17 so it's kind of embarrassing, I've been in this country for a
18 long time, but I still don't understand English very well. I
19 mean, the usual conversation is okay, but this trial thing, I
20 don't understand quite well, like, I'm sorry I forgot her
21 title, but when she explained the trial in the beginning, I
22 don't quite understand the detail of the -- the case. That's
23 my main concern about doing this -- the jury.

24 Also, I became American citizen three years ago and
25 I do understand how important the jury is to the American.

1 citizens, to become American citizen. But I still quite
2 afraid I -- if I -- I won't be able to understand the details
3 to judge someone.

4 THE COURT: Okay. Well, you speak English very
5 well.

6 PROSPECTIVE JUROR NO. 772: Thank you.

7 THE COURT: And we -- the lawyers and -- you know,
8 I'm a lawyer. My background is a lawyer. I practiced law for
9 32 years. So we all learn how to speak legalese, they call
10 it. And we will try to avoid that because we realize that not
11 everybody does use that kind of language every day. And so,
12 of course, when witnesses are examined on the stand the
13 lawyers want to make sure the questions are clear. So they're
14 going to try and keep their questioning clear and simple
15 because if they don't, the questions aren't going to be
16 understood.

17 So I think some of your concern may be similar to
18 what your fellow English as their native language may also be
19 feeling, that you're -- you're hyper sensitive to it because
20 it's your second language, but you speak very well and very
21 fluently. Your vocabulary is quite impressive. And so we
22 will -- because for all the jurors we want to keep it simple
23 and clear and we're going to make sure we try and do that.

24 As we go on in the case, there will be more
25 explanation. And Ms. Bluth explained the nature of the

1 charge. It was very brief. She wasn't allowed to be anything
2 but brief. You will have the opportunity if you're seated as
3 a juror to hear all the charges read from the charging
4 document. All right? So does that make you feel a little
5 better about that?

6 PROSPECTIVE JUROR NO. 772: Yes.

7 THE COURT: Okay. So we might have got off track
8 and I didn't hear whether you had any children.

9 PROSPECTIVE JUROR NO. 772: I don't. I'm trying to,
10 but I don't think I can, so --

11 THE COURT: Oh. Well, we'll hope for the best. If
12 you want to have children, I hope you do. And what about --
13 you said you work for a tour company, but what actually do you
14 do for the tour company?

15 PROSPECTIVE JUROR NO. 772: Taking care of the
16 Japanese tourist who -- the company's headquarters in Japan
17 and they sell the package tour to the United States or
18 anywhere else. And those people come over to Las Vegas, we
19 come over to airport to pick up them and take -- take them to
20 the hotels, sometimes to the tour to Grand Canyon.

21 THE COURT: Okay. So you just make sure that they
22 have a good site seeing tour of Las Vegas --

23 PROSPECTIVE JUROR NO. 772: Yes.

24 THE COURT: -- and that they're cared for. And do
25 you actually take them around to all of these places? Do you

1 go with them?

2 PROSPECTIVE JUROR NO. 772: I'm working in the
3 office, so I don't take them by myself.

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

6 MS. BLUTH: Yes, Your Honor. Thank you.

7 Ms. Antonio, earlier you had stated that you were
8 somewhat nervous about being a juror.

9 PROSPECTIVE JUROR NO. 772: Yes.

10 MS. BLUTH: Is that due to what you felt was a
11 language issue?

12 PROSPECTIVE JUROR NO. 772: Yes.

13 MS. BLUTH: Were there any other reasons?

14 PROSPECTIVE JUROR NO. 772: No.

15 MS. BLUTH: Okay. Do you feel comfortable with the
16 system that we have here?

17 PROSPECTIVE JUROR NO. 772: Yes.

18 MS. BLUTH: Okay. And I know that the Judge just
19 asked you some questions regarding, you know, your ability to
20 understand. We're going to have some medical testimony in
21 this case so you'll hear from doctors and nurses. Do you feel
22 comfortable with listening to that type of testimony?

23 PROSPECTIVE JUROR NO. 772: If it's too -- too
24 medical language, I don't think I understand. The -- the
25 general things would be fine.

1 MS. BLUTH: In your employment, I think you just
2 said that you work within the office.

3 PROSPECTIVE JUROR NO. 772: Yes.

4 MS. BLUTH: So every day are you usually speaking or
5 are you usually --

6 PROSPECTIVE JUROR NO. 772: Japanese.

7 MS. BLUTH: Japanese.

8 PROSPECTIVE JUROR NO. 772: Uh-huh.

9 MS. BLUTH: So about what percentage of your day are
10 you speaking English?

11 PROSPECTIVE JUROR NO. 772: Maybe 1 or 2 percent
12 maybe.

13 MS. BLUTH: 1 or 2 percent?

14 PROSPECTIVE JUROR NO. 772: Yes.

15 MS. BLUTH: So nothing further than just the
16 language is your only issue, otherwise, you can be a juror and
17 you can be fair and impartial?

18 PROSPECTIVE JUROR NO. 772: Yes.

19 MS. BLUTH: Nothing further, Your Honor.

20 THE COURT: Thank you.

21 Mr. Maningo.

22 MR. MANINGO: Thank you, Judge.

23 Hi, Ms. Antonio.

24 PROSPECTIVE JUROR NO. 772: Hi.

25 MR. MANINGO: Earlier during the questioning I

1 thought that you had expressed some concern about being able
2 to judge others. Was -- was that something that you were
3 worried about?

4 PROSPECTIVE JUROR NO. 772: Yes.

5 MR. MANINGO: Okay. Could you explain that for me?

6 PROSPECTIVE JUROR NO. 772: Well, the main worry
7 about is my language abilities mainly. I mean, if this trial
8 is done in Japanese I will be much more comfortable. But
9 because it's in English, so I don't -- I might misunderstood
10 some of the statement and I -- it's really hard to judge with
11 the -- without the conflict of the understanding the
12 statement.

13 MR. MANINGO: Okay. And that's definitely a fair
14 concern. I appreciate you being honest about that. Do you
15 think that -- well, let me -- I'll come back to that in a
16 moment. You had raised your hand during the general questions
17 when I asked about why do people or do people tell lies.

18 PROSPECTIVE JUROR NO. 772: Yes.

19 MR. MANINGO: Okay. Can you -- can you think of any
20 reasons why people lie sometimes?

21 PROSPECTIVE JUROR NO. 772: To -- to make himself or
22 herself to telling the truth.

23 MR. MANINGO: I'm sorry? That's okay. Take your
24 time.

25 PROSPECTIVE JUROR NO. 772: To try to make people

1 believe.

2 MR. MANINGO: Okay. To try and impress somebody?

3 PROSPECTIVE JUROR NO. 772: Yes. Uh-huh.

4 MR. MANINGO: Okay. Do you think people ever tell
5 lies for money?

6 PROSPECTIVE JUROR NO. 772: Yes, I think so.

7 MR. MANINGO: Okay. Do you think people ever tell
8 lies to try and hurt someone else?

9 PROSPECTIVE JUROR NO. 772: Maybe, yes. Uh-huh.

10 MR. MANINGO: Okay. Do you think people ever tell
11 lies to try and get attention?

12 PROSPECTIVE JUROR NO. 772: Yes, I think so, too.

13 MR. MANINGO: Okay. Are you familiar with any of
14 the television lawyer shows?

15 PROSPECTIVE JUROR NO. 772: You said do I believe
16 that?

17 MR. MANINGO: No, are you -- do you ever watch any
18 of the TV shows that involve like American courtrooms or
19 anything like that?

20 PROSPECTIVE JUROR NO. 772: Yes. Well, when my
21 husband watches those TV show, I watch with him. But those TV
22 shows are quite difficult for me so I get bored and I stop
23 watching it, so --

24 MR. MANINGO: Right. They're definitely more
25 exciting than the real thing, though; right? Let me just ask

1 you, if -- if this case were for you, would you be concerned
2 about your language issues? If there were other jurors, you
3 know, standing in judgment of you?

4 PROSPECTIVE JUROR NO. 772: You mean the jury don't
5 understand it?

6 MR. MANINGO: Right. I mean, right, would you --
7 would you be concerned about that?

8 PROSPECTIVE JUROR NO. 772: Yes.

9 MR. MANINGO: You would?

10 PROSPECTIVE JUROR NO. 772: Yes.

11 MR. MANINGO: Okay. And do you think you would just
12 feel more comfortable on a -- on a different kind of case, one
13 that didn't have medical in it or something like that, or do
14 you think any type of case you would be concerned?

15 PROSPECTIVE JUROR NO. 772: Yes. I think so, yes.

16 MR. MANINGO: Which one? On any case?

17 PROSPECTIVE JUROR NO. 772: Yeah, any case.

18 MR. MANINGO: Okay. Thank you, Ms. Antonio.

19 PROSPECTIVE JUROR NO. 772: Thank you.

20 MR. KOCHEVAR: Court's indulgence.

21 (Pause in the proceedings)

22 MR. KOCHEVAR: Can we approach, Judge?

23 THE COURT: Yes.

24 MR. KOCHEVAR: Thank you.

25 (Bench conference)

1 MS. BLUTH: Jacqueline Bluth. Both sides have some
2 issues with the language barrier, and so we're going to
3 stipulate to release her and we didn't know if we needed to
4 approach to that, if Your Honor was okay with this.

5 THE COURT: You could have -- yeah, you could have
6 said it in front of me then, or from the counsel table.
7 That's fine.

8 MS. BLUTH: Okay.

9 THE COURT: You're both in agreement to excuse her?
10 That's fine.

11 MR. MANINGO: Jeff Maningo. Yes, I would agree,
12 Your Honor, to excuse this juror.

13 THE COURT: All right. Thank you.

14 MS. BLUTH: Thank you.

15 (End of bench conference)

16 THE COURT: All right. Ms. Antonio, the lawyers
17 have agreed to release you. They're both -- since you're
18 concerned, they're both concerned, and so that's fine. We'll
19 excuse you and if you'll report across the way to the jury
20 commissioner.

21 And, ladies and gentlemen, it's two minutes to 5:00
22 and so we're going to run out. We're going to see one person
23 in the empty seat.

24 THE CLERK: Badge 927, Loran Huffman.

25 THE COURT: All right. So, ladies and gentlemen,

1 we're going to recess for the evening. I need everybody
2 that's here to come back tomorrow because we're -- you know,
3 we knew it was going to take more than one day to pick a jury
4 in a case that's going to go this long. And with sensitive
5 charges like this, some people have difficulty with that. And
6 we've just got to take our time so we can get a fair and
7 impartial jury because that's what we need in this case.

8 So we'll see you tomorrow and we're going to start
9 tomorrow at 10:00. If you'll assemble outside the same
10 courtroom at 10:00 tomorrow. I'm going to read you the
11 admonition again that I've already read you and you'll come to
12 know and love.

13 Ladies and gentlemen, we're going to take an
14 overnight recess. During this recess it is your duty not to
15 converse amongst yourselves or with anyone else on any subject
16 connected with the trial, or to read, watch, or listen to any
17 report of or commentary on the trial by any person connected
18 with the trial or by any medium of information, including,
19 without limitation, television, newspaper, radio, or Internet,
20 and you are not to form or express an opinion on anything
21 connected with this case until it is finally submitted to you.

22 And, again, no research on any issue in this case or
23 anything having to do with this case or any person having to
24 do with this case, including the lawyers or court personnel.
25 Thank you. We'll be in recess until tomorrow at 10:00.

1 (Prospective jury recessed at 5:01 p.m.)

2 THE COURT: Okay. The record will reflect that the
3 venire has departed the courtroom. Are there any matters
4 outside the presence?

5 MS. BLUTH: Not on behalf of the State, Your Honor.

6 MR. MANINGO: No, Your Honor. Thank you.

7 THE COURT: All right. I'll see you tomorrow at
8 10:00.

9 MS. BLUTH: I'm sorry. I should have said one
10 thing. About that motion, when do you think Your Honor would
11 like to hear arguments on that? Would you like us to come a
12 little earlier tomorrow? I just want to make sure that it's
13 decided, you know, before openings.

14 THE COURT: Oh, yes. It definitely will be. I have
15 to go to the eye doctor tomorrow or we would be starting at
16 9:00.

17 MS. BLUTH: Oh, okay.

18 THE COURT: I've been, you know, putting it off for
19 like two years. So I really need to go.

20 MS. BLUTH: Sure.

21 THE COURT: So I had to schedule this and -- and so
22 I have an appointment at like 7:40 in the morning, but you
23 never know how long it's going to take.

24 MS. BLUTH: Sure.

25 THE COURT: So how long do you think your arguments

1 will last?

2 MS. BLUTH: Oh, gosh.

3 THE COURT: Is this something that we could do first
4 thing tomorrow?

5 MR. MANINGO: Yeah, that would be fine. I don't
6 think it's --

7 THE COURT: If we get here at 10:00 --

8 MS. BLUTH: Okay.

9 THE COURT: -- you know, if you're a little early
10 and I'm here, or you can even call and see if I'm here and I
11 can always take the bench early because it's -- I'm going to
12 come directly in.

13 MS. BLUTH: All right.

14 MR. MANINGO: I don't think -- it's not like a
15 hearing or anything. It's -- I think it'll be short, a couple
16 minutes before we bring in the venire.

17 THE COURT: Okay. Great. I'll see you tomorrow.
18 Thank you.

19 MS. BLUTH: Thank you.

20 MR. MANINGO: Thank you.

21 (Court recessed at 5:02 p.m., until Tuesday,
22 February 4, 2014, at 10:03 a.m.)

23 * * * * *

24

25

CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

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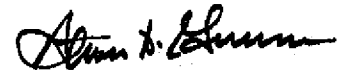
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DISTRICT COURT
CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA,	.	CASE NO. C-245739
	.	CASE NO. C-249693
Plaintiff,	.	
	.	DEPT. NO. 5
V.	.	
	.	TRANSCRIPT OF
STEVEN DALE FARMER,	.	PROCEEDINGS
	.	
Defendant.	.	
.....	.	

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

JURY TRIAL - DAY 2

TUESDAY, FEBRUARY 4, 2014

APPEARANCES:

FOR THE STATE:	JACQUELINE M. BLUTH, ESQ. BRIAN J. KOCHVAR, ESQ. <i>Chief Deputy District Attorneys</i>
FOR THE DEFENDANT:	JEFFREY S. MANINGO, ESQ. RYAN J. BASHOR, ESQ. <i>Deputy Public Defenders</i>

COURT RECORDER:

LARA CORCORAN
District Court

TRANSCRIPTION BY:

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produced by transcription service.

1 LAS VEGAS, NEVADA, TUESDAY, FEBRUARY 4, 2014, 10:03 A.M.

2 (Outside the presence of the prospective jury panel)

3 THE COURT: This is Case No. C245739, State of
4 Nevada versus Steven Dale Farmer. The record will reflect the
5 presence of the defendant with his counsel, the Deputies
6 District Attorney prosecuting the case, all officers of the
7 court, and we are outside the presence of the venire panel.

8 Good morning.

9 MS. BLUTH: Good morning, Your Honor.

10 MR. MANINGO: Good morning, Your Honor. Your Honor,
11 the first issue we'd like to raise from the defense is that
12 Mr. Farmer -- his clothes were not changed. We've purchased
13 three different suits for Mr. Farmer, a number of different
14 shirts and clothing so that it will not appear as obvious that
15 he's in custody.

16 He's in the same exact clothes. They didn't change
17 him from anything yesterday, so we called our investigator
18 just now and said at least let's get a change of shirt and
19 then we'll worry about the suits from here on out. And I'll
20 have her go in and make sure each morning that he's changed if
21 need be.

22 However, the COs are stating that for security
23 reasons they can't change his shirt in the holding cell. I'm
24 not sure what the issue is or what's -- why we can't do that,
25 but we're trying to get a different shirt on him today even

1 though it's the same suit and tie. We have the shirt, so
2 that's -- that's kind of our issue right now.

3 THE COURT: What's the problem with that?

4 OFFICER HAMM: For the record this is Officer Hamm.
5 This is Officer Hamm, P-number 6675. The way it works is any
6 items that an individual is going to wear for trial, they have
7 to be taken through post ten at the jail and screened first.
8 If the situation was that he needed to be changed, this
9 morning he wanted to wear a different suit, he's a grown man,
10 it's his responsibility to let us know that his suit needs to
11 be changed. If he has another one over there, we'll give him
12 a different one.

13 Otherwise, we give him a stack of clothes, and as an
14 adult he's afforded the opportunity to change -- to put on his
15 suit. If he didn't want to wear that suit this morning, all
16 he had to do was tell us I wore that yesterday, I have
17 different clothes here, we would have looked around and found
18 the suit that he had. He did not express to us that he needed
19 to change his suit for any strange reason.

20 We also have an abundance of white shirts over at
21 the Clark County Detention Center. If he wanted to change his
22 shirt, he merely has to let us know -- he merely has to let us
23 know that he wants to change his shirt and we change it. We'd
24 be more than happy to change his shirt for him. We can't hold
25 his hand and make him change his clothes. It's up to him to

1 change his clothes, and that's the way it works.

2 And we're not allowed to change his clothes over
3 here. That shirt, even though it's just a shirt, I understand
4 it may seem like a small -- small thing to us, but per policy
5 we have to take him over to the jail, that shirt has to go
6 through post ten. We'll be more than happy to take it back
7 over there if Your Honor wants us to and wait until that shirt
8 gets over to the jail and we'll change him out there. But we
9 can't take that shirt and change him in the back. We can't
10 change him -- make him take his clothes off outside of the
11 confines of the CCDC.

12 THE COURT: Okay. I had this same kind of issue in
13 my last trial where there was some issue with the shoes and
14 one of the defendants didn't have shoes on, she had her jail
15 slipper things. And we -- I had her daughter who was in the
16 courtroom give her boots, and then I found out afterwards the
17 corrections officer got written up for that. He didn't tell
18 me that it was a violation of policy and I didn't know that.
19 So I don't want these corrections officers to be written up
20 for their job because you guys didn't make sure what -- what
21 the procedures are.

22 MR. MANINGO: Well, Your Honor --

23 THE COURT: So what do you want to do? I mean, we
24 can send him back to the jail.

25 MR. MANINGO: And let me correct that. First of

1 all, we're not asking for any kind of handholding or anything
2 else, okay. We brought the clothes over. The thing is Mr.
3 Farmer has been in custody for about five years in Henderson,
4 so he had a lot of belongings there. We brought the suits and
5 everything over. He wasn't given the option of any changes.
6 He wasn't told as the corrections officer has stated on the
7 record that he's given an option and he refused to put on a
8 new clean pair of clothes. He was given only this pile --

9 THE COURT: Okay.

10 MR. MANINGO: -- of clothes to put on.

11 THE COURT: I don't care about all of that. I guess
12 the issue is do you want me to have him go take him back to
13 the jail?

14 MR. MANINGO: Yes.

15 THE COURT: How long will that take?

16 OFFICER HAMM: We can have him over there in five
17 minutes. It's -- the thing is how fast can she get that shirt
18 over to post ten.

19 THE INVESTIGATOR: Five minutes.

20 OFFICER HAMM: When we take him over there, we'll
21 check his name and if there's another white shirt over there
22 or suit over there, we can just change him out right now since
23 we're taking him all the way over there if that's -- it
24 that'll please them.

25 THE COURT: That sounds good.

1 OFFICER HAMM: Okay.

2 MR. MANINGO: That would. Thank you.

3 MR. BASHOR: Thank you.

4 THE COURT: Counsel, while he is gone, do you want
5 to argue this motion in limine, or do you feel --

6 MR. MANINGO: Steve --

7 THE COURT: -- he needs to be here?

8 MR. MANINGO: -- are you okay with us arguing the
9 motion while you go change your clothes?

10 THE DEFENDANT: I trust you guys.

11 MR. MANINGO: Okay. We will waive his presence for
12 the -- the discussion of the motion.

13 THE COURT: Thank you. All right. So the motion is
14 the motion in limine to limit cross-examination of Roxanne and
15 Scott Cagnina. I don't -- didn't get an opposition. You
16 didn't file an opposition; is that correct?

17 MR. MANINGO: That's correct, Your Honor.

18 THE COURT: Okay. So, obviously, the motion is, you
19 know, very short. It just indicates that the State is
20 concerned that you're going to cross-examine these two
21 witnesses regarding domestic violence or child abuse issues
22 that may have occurred during their relationship and reference
23 pornographic movies created by them or reference infidelity in
24 their relationship. And their objection is that it's not
25 relevant.

STEVEN DALE FARMER,) No. 65935
)
 Appellant,)
)
 vi.)
)
 THE STATE OF NEVADA,)
)
 Respondent.)

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I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 23rd day of Feb, 2014. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

CATHERINE CORTEZ MASTO
STEVEN S. OWENS

HOWARD S. BROOKS
DEBORAH WESTBROOK

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

STEVEN DALE FARMER
NDOC # 1121584
c/o ELY STATE PRISON
P.O. Box 1989
Ely, NV 89301

BY _____
Employee, Clark County Public Defender's Office